

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 29 2015 01:43 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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LUIS HIDALGO, III ,

CASE NO. 67640

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

APPELLANT'S APPENDIX, VOLUME V

**APPEAL FROM JUDGMENT DENYING
POST-CONVICTION HABEAS CORPUS**

Eighth Judicial District
State of Nevada

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1 THE COURT: All right. You can stay or go. It's up
2 to you.

3 (Off-record colloquy)

4 THE COURT: Is this on the record or just a bench
5 conference?

6 MR. DIGIACOMO: Well --

7 MR. GENTILE: You called us.

8 THE COURT: Oh, I called you. Well, that's --

9 MR. GENTILE: How would we know?

10 THE COURT: No, that was before we were going to
11 take a break. And the reason I called you up here, which I
12 can now ask you on the record, was before we were going to
13 take the break, you had earlier asked me to instruct the jury
14 any discussion with respect to rat poisoning and a plan to
15 cause death or harm to Mr. Zone, Mr. Taoipu and/or Mr. Counts
16 is not to be considered against Mr. Hidalgo, Jr. I think the
17 appropriate time to give that instruction --

18 MR. GENTILE: Would be now, yes.

19 THE COURT: -- would be now. And I just wanted to
20 verify with Mr. Gentile that it is your desire that I give
21 this instruction --

22 MR. GENTILE: It is.

23 THE COURT: -- now before we play the tape.

24 MR. GENTILE: It is my desire.

25 THE COURT: And then before we play any type, I'm

1 going to tell the jury, Ladies and gentlemen, as you've heard,
2 you heard blah, blah, blah, difficult to hear. You're going
3 to listen to it once without the transcript and then we have
4 two different transcripts. The Courts not attesting to the
5 accuracy of either one in my instruction.

6 MR. GENTILE: Right.

7 THE COURT: Okay. Now, logistics.

8 MR. DIGIACOMO: Well, they want to play it three
9 times. It can't be done by 5:00. It can be played twice by
10 5:00, but not three times.

11 THE COURT: Right. Well, you know, it is what it
12 is.

13 MR. GENTILE: So we do it twice by 5:00 and we do it
14 once tomorrow morning or -- you're going to go past 5:00 --

15 MR. DIGIACOMO: But the first time they're going to
16 hear it without transcript, the second time they're going to
17 hear it with my transcript, so --

18 THE COURT: Right.

19 MR. DIGIACOMO: -- and then you're going to go
20 overnight, which is the problem that they had.

21 MR. ARRASCADA: Aren't we staying until 6:00?

22 THE COURT: I had wanted to stay until 6:00, but
23 then Mr. Gentile had a conflict. My bailiff's going to ask --
24 okay.

25 MR. PESCI: Judge, if I could, I have a concern.

1 The juror seated in seat 13 I've seen doze off at least three
2 times.

3 MR. GENTILE: Which one is that?

4 MR. PESCI: He is the one from Hawaii.

5 THE COURT: Okay. I haven't seen her zone off. The
6 juror seated in Chair No. 5 is sick with a cold. She is here
7 today. I saw her shutting her eyes. I had my bailiff come
8 over. She appeared just to be closing her eyes and resting
9 because then she moved and --

10 MR. GENTILE: Right. She --

11 THE COURT: So I've been watching her. I did not
12 notice Juror No. 13 shutting her eyes.

13 MR. DIGIACOMO: She was sleeping yesterday.

14 THE COURT: Are you sure she was sleeping?

15 MR. DIGIACOMO: Yesterday there was no doubt.

16 MR. PESCI: Yeah.

17 MR. DIGIACOMO: I'd just ask that you keep
18 monitoring her.

19 THE COURT: Yeah, I mean, basically, Jeff, you need
20 to watch the jurors and if a juror looks like they're falling
21 asleep, you either need to get the juror next to them to wake
22 them up or you need to go over yourself to wake them up.
23 Okay.

24 THE MARSHAL: Okay.

25 THE COURT: Because I did not catch 13. I was so

1 fixated on watching five that I did not see that. So we'll
2 just be mindful of it. And then if anyone feels concern that
3 Juror No. 13 is not effectually participating, we'll raise
4 that issue another time.

5 MR. ARRASCADA: Judge, I have one issue on the
6 limiting instruction that you're giving. Can you insert
7 "allegation" where appropriate?

8 THE COURT: Okay. Where would that be?

9 MR. ARRASCADA: Can you provide it to me again?

10 THE COURT: All right. Here's what I was going to
11 say: You're instructed that any discussion with respect to
12 rat poisoning and/or a plan to cause death or harm to
13 Mr. Zone, Mr. Taoipu, and/or Mr. Counts is not being offered
14 as evidence against Mr. Hidalgo, Jr.

15 I mean, I could say "any alleged discussion," if you
16 want. I don't know where else --

17 MR. DIGIACOMO: Put "alleged plan."

18 THE COURT: Oh, that's good. Thank you.

19 MR. GENTILE: Well, it's --

20 MR. DIGIACOMO: Discussion of rat poisoning, we all
21 agree it says rat poisoning but --

22 MR. ARRASCADA: Any alleged --

23 THE COURT: That's better. Any alleged plan to
24 cause -- that's better.

25 MR. ARRASCADA: Yeah, I appreciate that. Thank you,

1 Counsel.

2 THE COURT: You're right. Thank you. That's good.

3 All right. Here are some juror questions.

4 This one -- I think there's one question we could
5 probably ask, one or two on the bottom; the top two, we
6 cannot.

7 Did you see these?

8 MR. PESCI: Judge, while we're looking at that, as
9 far as scheduling tomorrow, what should I tell my witnesses
10 what time we're starting?

11 THE COURT: 10:40.

12 MR. PESCI: Okay.

13 (Court recessed at 3:48 p.m. until 3:59 p.m.)

14 (Outside the presence of the jury.)

15 MR. GENTILE: Your Honor, you were going to ask
16 those questions before the tapes are played?

17 THE COURT: You mean the advisement?

18 MR. ARRASCADA: The admonishment.

19 MR. GENTILE: No, no. The questions that the jury
20 submitted.

21 THE COURT: Oh, I can ask those now. That's fine.

22 MR. GENTILE: Yeah, they might want to know.

23 THE COURT: All right.

24 (Off-record colloquy)

25 (Jury reconvened at 4:01 p.m.)

1 THE COURT: All right. Everyone may be seated. The
2 record will reflect that court is now back in session.

3 And right before our break, Mr. DiGiacomo had asked
4 to play the tape, but before we do that, we have a few juror
5 questions and I'm going to just ask those of you at this time.

6 THE WITNESS: Oh, wow.

7 THE COURT: All right. What was the time difference
8 between the execution of the two search warrants on the
9 houses? Was it within hours or minutes?

10 THE WITNESS: Probably close to an hour.

11 THE COURT: Close to an hour. Okay.

12 THE WITNESS: Yes, because -- do you want me to
13 explain that?

14 THE COURT: Sure.

15 THE WITNESS: Once you have a warrant for one house,
16 you can't just -- we can surround the house, but we can't make
17 entry into the house until we actually get on the phone and
18 get another warrant. So we had to get a judge, explain the
19 whole details, and then before they can execute the search
20 warrant, a minimum of an hour had gone by. But they had
21 encircled the house and made sure everybody was out of the
22 house.

23 THE COURT: Right. And nobody went in the house?

24 THE WITNESS: That's correct.

25 THE COURT: And then a juror wants to know why was

1 Carroll sent in for a second interview, a second -- wearing a
2 wire. Why was he sent in a second time?

3 THE WITNESS: Because the object of the whole case
4 was that we were looking for Mr. H on the wire, so on the
5 second case, he was -- ran in cold, basically, meaning that he
6 met with us, he put the equipment on, we said, Go there. So
7 there was no way that they knew that he was coming down to
8 Simone's so he just showed up there.

9 So we said, yeah, maybe we'll just catch him on the
10 second time. We didn't believe that we had enough on the
11 first conversation so we put it on him a second time the next
12 day.

13 THE COURT: All right. In conducting your interview
14 with the various people in this case, did you ask anyone about
15 the placement of the hat on the body of Timothy Hadland?

16 THE WITNESS: There was -- there was some
17 interviewing done about questions -- questions about the hat,
18 was he wearing a hat, was the hat around his neck. Those type
19 of questions were asked. However, I don't think we -- anyone
20 came up with -- specifically that he was wearing the hat when
21 he got out of the car.

22 THE COURT: And then don't tell us what anyone may
23 have said, but who did you ask about the hat, if you remember?

24 THE WITNESS: The only statements they reviewed
25 prior to this were Deangelo's and Mr. Zone's. I believe that

1 Mr. Zone was asked something about the hat.

2 THE COURT: Okay. And do you remember if you asked
3 anybody else, or you just don't remember?

4 THE WITNESS: I don't remember specifically about
5 the hat portion.

6 THE COURT: Okay.

7 THE WITNESS: Okay.

8 THE COURT: All right. And we'll just be at ease
9 for a moment.

10 Counsel, approach.

11 (Off-record bench conference)

12 THE COURT: All right. I have some questions --
13 more juror questions.

14 THE WITNESS: Okay.

15 THE COURT: Now, if any of these call for an answer
16 and you're not sure of an answer, obviously don't speculate or
17 guess.

18 THE WITNESS: Okay.

19 THE COURT: Why are the tapes not clear recordings?

20 THE WITNESS: I can answer that question.

21 THE COURT: All right. Please do.

22 THE WITNESS: Okay. A lot of times with recording
23 equipment, where they're placed on the body are important and
24 the type of recording device that it is. When someone's
25 walking, you can hear the people walking because their

1 clothes, you know, actually move and that creates some noise.
2 So as the person moves their body, there's some static
3 electricity and the clothing might hit the recording device or
4 just movement, you know, just might interrupt the recording.

5 THE COURT: All right. And the recording device,
6 meaning the microphone that picks up the sound, where was that
7 on Mr. Carroll's body, if you remember?

8 THE WITNESS: It was on his waistband.

9 THE COURT: Okay. And who makes the determination
10 of where to place it? Was that you or was that the FBI agent?

11 THE WITNESS: It's placed on the normal place. We
12 always place it on the same place.

13 THE COURT: Okay. And now if you know the answer to
14 this, the 28 minutes of blank tape at the end, can you explain
15 that? Do you know why it was blank at the end?

16 THE WITNESS: I would be only speculating as to what
17 I was told by --

18 THE COURT: Okay. Then don't speculate.

19 Do you know why so much time transpired when
20 Deangelo came out of Simone's after the second recording?

21 THE WITNESS: After like -- I don't understand the
22 question. Why the lapse was 28 minutes, is that what the
23 question's about?

24 MR. DIGIACOMO: Maybe I can ask the question --

25 THE COURT: Yeah, maybe you can clarify the

1 question, Mr. DiGiacomo.

2 BY MR. DIGIACOMO:

3 Q You've actually listened to the original from
4 5/24, correct?

5 A Yes.

6 Q Okay. And the original recording itself has a
7 lead in by the FBI Agent Bret Shields, basically what they're
8 doing?

9 A Yes.

10 Q And then it's placed on him activated and you
11 can actually hear him walk into Simone's, correct?

12 A Yes.

13 Q And then the conversation starts?

14 A Yes.

15 Q And then at some point during the conversation
16 the recording device no longer captures any more conversation,
17 correct?

18 A That's correct.

19 THE COURT: Now, can you tell if the device is
20 turned off or if it's just not capturing sound?

21 MR. DIGIACOMO: That was my next question.

22 BY MR. DIGIACOMO:

23 Q It's kept active during that 28-minute time
24 period, correct?

25 A Yes. We just cant hear any conversation.

1 Q You can't hear anything for 28 minutes and then
2 after 28 minutes you can hear Mr. Carroll walking out of
3 Simone's Auto Plaza?

4 A Yes.

5 Q And based upon that, do you have a belief in
6 your experience as to whether or not --

7 MR. ARRASCADA: Objection, Your Honor.

8 MR. DIGIACOMO: I haven't --

9 THE COURT: Well, let ask the question.

10 MR. DIGIACOMO: -- finished the question.

11 BY MR. DIGIACOMO:

12 Q -- whether or not the device was removed from
13 Mr. Carroll because can you -- let me rephrase that. Can you
14 hear anything during that 28 minutes related to talking
15 between two individuals?

16 A I could hear no talking.

17 Q During that 28 --

18 A During that 28 minutes.

19 Q And I think another witness will clear it up.

20 THE COURT: All right.

21 MR. DIGIACOMO: I have a couple of other questions.

22 Can I ask those before we play the --

23 THE COURT: All right. You can follow up. That's
24 fine.

25 BY MR. DIGIACOMO:

1 Q You had indicated that after listening to the
2 first recording, you decided that you wanted to gather more
3 evidence, and you sent Mr. Carroll in cold, is what you said?

4 A Yes.

5 Q The first recording that you did, was he being
6 sent in cold?

7 A No.

8 Q Okay. Had he received -- well, let me rephrase
9 this. Did he receive a call calling him to Simone's?

10 A Yeah.

11 MR. GENTILE: Objection. Hearsay.

12 THE COURT: Don't testify. If he witnessed it, then
13 he can answer. Other than that, he can't answer.

14 BY MR. DIGIACOMO:

15 Q Let me rephrase. When Deangelo Carroll went in
16 to the Palomino -- I'm sorry, into Simone's on the first day,
17 May 23rd, that Monday, did he have a particular vehicle that
18 he was driving?

19 A Yes.

20 Q What kind of vehicle was it?

21 A The Palomino.

22 Q The shuttle bus --

23 A The shuttle bus.

24 Q -- or the white Chevy Astro van? Do you
25 recall?

1 A I don't recall which one.

2 Q Well, let's try and explain the two for the
3 ladies and gentlemen of the jury.

4 A Okay.

5 Q There's a white Chevy Astro van, correct?

6 A Yes.

7 Q That's just a plain white vehicle?

8 A Yes.

9 Q And that's the vehicle that, based on your
10 investigation, was used in the homicide?

11 A Yes.

12 Q There's a second vehicle known as the shuttle
13 bus. Can you describe the shuttle bus to the ladies and
14 gentlemen of the jury?

15 A The shuttle bus is a large bus that you would
16 see similar to like a trolley type bus that multiple people
17 can get on the bus and be transported to wherever they need to
18 be transported. It's a big bus.

19 Q When Mr. Carroll leaves Simone's on that first
20 occasion and you guys meet and go over towards where Callaway
21 is over there and do the initial debrief, what kind of vehicle
22 is he driving now? Do you recall?

23 A I didn't --

24 Q Or is that one heck of a question? All right.
25 I'll leave that for another witness.

1 Getting back to the hat, when you were initially on
2 the scene before you found anybody who could tell you anything
3 about the crime, you find the hat placed on the chest or lying
4 on the chest of Mr. Hadland, correct?

5 A Yes.

6 Q During the course of your investigation, have
7 you ever been able to determine -- well, let me rephrase that.

8 Did you know at that time whether or not that's
9 where the hat fell or whether or not it was placed there? Do
10 you have any way of determining that solely from looking at
11 the scene itself?

12 A The only thing I can determine from looking at
13 the hat was that there was no defects in the hat, meaning that
14 the hat wasn't consistent with the wound on the head.

15 Q Okay. So there's a wound on the top of
16 Mr. Hadland's head and there's no corresponding blood or
17 anything on the top of the hat, correct?

18 A That's correct.

19 Q Okay. But other than that, from the scene
20 itself, you were not able to determine whether or not that hat
21 was -- fell on his body when he fell or if it was later placed
22 on his body, correct?

23 A That's correct.

24 Q During the course of the interviews that you've
25 conducted, have you, at this point, ever found anybody who

1 said the hat was placed on the body of Mr. Hadland?

2 A No, I have not.

3 Q So based upon your investigation, you can't
4 tell us -- well, let me rephrase that.

5 All of the information that you have is that's where
6 the hat fell?

7 A Yes.

8 Q Okay.

9 MR. DIGIACOMO: I guess we could play the recording.
10 Do we want to --

11 THE COURT: Right.

12 Ladies and gentlemen, in a moment Mr. DiGiacomo is
13 going to play the recording. The recording will be played.
14 As you've already heard -- you've heard some of the
15 recording -- you've heard testimony the recording is somewhat
16 difficult to understand. That's why it's going to be played
17 three times.

18 The first time you hear the recording you will not
19 be given a transcript to aid you. You'll just hear the
20 recording, and we're going to do that in a minute. After
21 that, the State is going to hand you a transcript that they've
22 prepared and play the recording and then the defense has
23 prepared a transcript of the recording.

24 There is dispute as to the contents of the tape and
25 therefore the contents of the transcript. The Court has made

1 no determination as to which transcript is accurate or which
2 transcript is more accurate.

3 The purpose in giving you the transcripts is to aid
4 you in listening to the tape and trying to understand what is
5 on the tape. The transcripts are not evidence. They will not
6 be back in the jury room with you. In fact, once you've
7 listened to the tape with the transcript, the transcript will
8 be collected and will not be given back to you.

9 Also, you will not have copies of either transcript
10 back in the jury deliberation room with you when you go back
11 there to decide the case.

12 Now, your collective hearing of the tape is what
13 should control in your deliberations. So if you have -- when
14 you listen to it with the transcript, if there's something on
15 the transcript that you do not hear, it is what you hear that
16 is important. Similarly, if you hear something and it's not
17 on the transcript, it is your hearing of what -- of what is in
18 the tape that should control in your deliberations.

19 The tape is evidence and you will have the tape back
20 in the jury deliberation room with you so that you can all
21 review it together when you begin your deliberations in this
22 case. Also, obviously, a device so that you can play the tape
23 will be provided for everyone. And I believe the earphones
24 have been passed out.

25 MR. DIGIACOMO: Correct. Can I tell a little bit

1 about the earphones or do you want --

2 THE COURT: I was going to, but if I miss something,
3 Mr. DiGiacomo, you can pick it up.

4 MR. DIGIACOMO: Thank you.

5 THE COURT: All right. Ladies and gentlemen,
6 earphones have been provided to assist you in hearing the
7 tape. Personally I find it easier to hear the tape without
8 the earphones. Some people find it easier to hear the tape
9 with the earphones. It's up to you. If you can benefit from
10 the earphones, great, but if not, feel free not to use the
11 earphones.

12 Additionally, on the tape, any discussion with
13 respect to rat poison and/or any alleged plan to cause harm or
14 death to Mr. Zone, Mr. Taoipu, and/or Mr. Counts is not being
15 admitted as evidence against Mr. Hidalgo, Jr.

16 Does the State wish the Court to add anything?

17 MR. DIGIACOMO: No, only that there's an on/off
18 switch on the headsets. There's a volume for each --

19 THE COURT: Right.

20 On one side of the headsets you'll see an on/off
21 switch and on the other side of the headsets you will see a
22 volume bottom. All of us are going to be very careful not to
23 speak while the tape is being played because it's picked up
24 from these microphones and can be very loud and jarring. So
25 be mindful of the volume because it can come in quite -- quite

1 loudly. So one switch is on one side and the volume's on the
2 other side.

3 Anything else, Mr. DiGiacomo?

4 MR. DIGIACOMO: I guess we'll have a break between
5 the first and the second playing; so, no. I have a couple of
6 questions for the detective I forgot, but then we can play the
7 tape.

8 THE COURT: Okay. You can follow back up after the
9 tape.

10 MR. DIGIACOMO: Well, there's a couple of things I
11 need --

12 THE COURT: Okay. Well, let me just ask, anything
13 else the defense would like me to cover recording the tape and
14 the transcripts?

15 MR. ARRASCADA: No, Your Honor.

16 MR. ARMENI: No, Your Honor.

17 MR. GENTILE: No, Your Honor.

18 THE COURT: All right. Mr. DiGiacomo, ask the next
19 couple of questions and then you may play the tape.

20 MR. DIGIACOMO: Okay.

21 BY MR. DIGIACOMO:

22 Q One of the things you said is the clothing made
23 it really hard to hear some of the information that's on the
24 tape, correct?

25 A Yes.

1 Q Does the volume of the speakers have anything
2 to do with the quality of the tape?

3 A Yes.

4 Q Can you explain that.

5 A Well, if someone's whispering versus if
6 someone's talking loud like I talk, you could hear my voice,
7 but you wouldn't hear it if someone was whispering. It
8 wouldn't capture that on the recording device. So the louder
9 the speaker, the easier it is to understand.

10 Q The recording device are created for capturing
11 everyday conversation between two individuals. Is that
12 basically what the device is --

13 A Yes.

14 Q All right. And if two people are not speaking
15 in that type of voice, the recording device is not as
16 effective?

17 A That's correct.

18 Q You also -- because I guess I should lay a
19 foundation for this, there's three voices on this tape,
20 correct?

21 A Yes.

22 Q All right. Deangelo Carroll's on there?

23 A Yes.

24 Q And Anabel Espindola is the female voice on
25 there, correct?

1 A Yes.

2 Q And the last person on there is Luis Hidalgo,

3 III, correct?

4 A Yes.

5 MR. ARRASCADA: Judge, that's an improper

6 foundation.

7 THE COURT: Yeah. Sustained.

8 MR. DIGIACOMO: Okay. I'll rephrase.

9 BY MR. DIGIACOMO:

10 Q Have you ever heard the voice of Luis Hidalgo,

11 III?

12 A Yes.

13 Q Do you see Luis Hidalgo, III here in court

14 today?

15 A Yes, he's here.

16 Q Can you point him out and describe something

17 he's wearing?

18 A He's wearing a white shirt. He's on the second

19 table here. He's seated in the middle.

20 MR. DIGIACOMO: May the record reflect the

21 identification of Luis Hidalgo, III.

22 THE COURT: It will.

23 BY MR. DIGIACOMO:

24 Q After listening to the tape, were you able to

25 identify the third voice as Luis Hidalgo, III?

1 A Yes.

2 MR. DIGIACOMO: Thank you very much.

3 THE COURT: All right. Go ahead and play the tape.

4 MR. DIGIACOMO: And this is May 23rd, 2005.

5 THE COURT: First tape.

6 (Playing tape)

7 MR. DIGIACOMO: Judge, I saw a juror pointing --

8 JUROR NO. 15: I don't have anything --

9 THE COURT: Okay. Then your speakers may not be on.

10 Make sure the on switch -- make sure -- I did the same thing.

11 And then again the volume. It's pretty loud so regardless of

12 where your volume setting is, you should be able to hear

13 something, but if you're not hearing anything, then they're

14 probably not on.

15 MR. DIGIACOMO: Should we do a testing?

16 Testing. Testing. Testing.

17 THE MARSHAL: Is everyone on? Turn it on here.

18 THE COURT: Basically if your speakers are on, my

19 voice should right now be coming out very, very loudly through

20 the earphones. Is there anybody who has the earphones on that

21 is not hearing my voice very, very loudly? Can you hear me?

22 Okay. Yeah, then --

23 (Off-record colloquy)

24 THE COURT: Is that better? Okay.

25 And Juror No. 2, can you hear now through the

1 speakers?

2 All right. Mr. DiGiacomo.

3 MR. DIGIACOMO: Thank you.

4 (Playing tape)

5 MR. DIGIACOMO: Judge, I think we can all -- not
6 listen to Deangelo Carroll walk out.

7 THE COURT: I think that's fine.

8 And, Mr. DiGiacomo, just for the record, you've
9 passed out the transcript that was prepared by the State; is
10 that right?

11 MR. DIGIACOMO: That's correct.

12 MR. ARRASCADA: Your Honor, may we approach?

13 THE COURT: You may.

14 (Off-record bench conference)

15 THE COURT: Ladies and gentlemen, we're going to
16 take a restroom break for about ten minutes.

17 And once again you're reminded about the admonition
18 not to discuss this case or anything relating to the case with
19 each other or anyone else. Don't read, watch, listen to any
20 reports of or commentaries on any subject matter relating to
21 the case. And please don't form or express an opinion on the
22 trial.

23 And ladies and gentlemen, notepads in your chairs.
24 If anyone has a question, they can give those to Jeff on their
25 way out the door and we'll just take a ten-minute recess.

1 And also, ladies and gentlemen, notepads and
2 transcripts in your chairs.

3 (Jury recessed at 4:57 p.m.)

4 MR. GENTILE: Mr. Hidalgo, I take it, can go to the
5 bathroom?

6 THE COURT: Yes, that's fine.

7 Basically here's the deal --

8 And can you make sure that outer door is closed.

9 Here's the deal. Even though the stuff on the
10 monitor is the same stuff that's in the transcript, the whole
11 point of passing out two transcripts is to not highlight one
12 transcript over the other and to make the jury sort of favor
13 one transcript over the other. So there's two ways we can do
14 this.

15 Number one, nobody gets to play the highlighted
16 fancy monitor transcript; or, number two, if you have the
17 defense's transcript on your computer already, then we can
18 play the defense's transcript when their transcript is passed
19 out.

20 MR. DIGIACOMO: I have absolutely no problem with
21 that. As soon as they send it to me in Word, I can put it in
22 there tonight, Judge.

23 THE COURT: Okay.

24 MR. DIGIACOMO: I don't have a problem with that.

25 It just seems to be ridiculous that the defense can stand up

1 here and suddenly say, Oh, well, now you're going to tell them
2 where in the transcript to follow. Well, of course, we're
3 going to tell them where in the transcript to follow, Judge.

4 THE COURT: Well, that's all fine and good, but the
5 reason, you know -- and I'll overlook that you're calling my
6 ruling ridiculous --

7 MR. DIGIACOMO: I didn't say your ruling was -- I
8 said the objection was.

9 THE COURT: Well, the reason I'm doing this is
10 because, again, the whole point of this is not to favor or
11 highlight, if you will, any particular transcript. So to me
12 the remedy is not to say they can't do it, but to give you the
13 opportunity to do the very same thing and put your transcript
14 up there and let your transcript play on the screen. That way
15 it's totally fair, everybody presents their transcript in the
16 same way.

17 And Mr. DiGiacomo has been kind enough to say he
18 will even put it on his computer. So I don't see any
19 prejudice if everybody's transcript is played. I just want an
20 even playing field and that makes it even and so everybody's
21 gets to be played that way.

22 MR. ARRASCADA: And, Judge, just so I'm clear, as
23 the Court has ruled, there's nothing ridiculous in our
24 objection. It wasn't that their toys are cool and we don't
25 have the toys. It was the overly suggestive -- or putting

1 emphasis on one transcript and --

2 THE COURT: Right. And if everybody does it on the
3 screen, then it's fair. Everybody does it on the screen. And
4 that will be the order. If you want to avail yourself of
5 either your own technology or their technology to play it on
6 the screen, then you can do that.

7 I'm going to put this juror question right here for
8 anyone who would like -- for anybody -- it's just right
9 there -- who would like to look at it.

10 (Court recessed at 5:00 p.m. until 5:06 p.m)

11 (In the presence of the jury.)

12 THE COURT: All right. Court is now back in
13 session. The record will reflect the presence of the State,
14 the defendants and their counsel, officers of the Court,
15 members of the jury.

16 And now, Mr. DiGiacomo, you've passed out the
17 State's transcripts and we're going to play it on the monitor.
18 And if the noise from the monitor interferes with anybody's
19 headphones or bothers them, then just raise your hand and
20 we'll address it.

21 All right.

22 MR. DIGIACOMO: I also understand that at least one
23 juror on the break asked to have the speaker turned up. I
24 turned it up, but if it's too loud now, if someone raises
25 their hand, I'll turn it down.

1 THE COURT: All right.

2 MR. DIGIACOMO: The other thing, Judge, is
3 apparently I offered 160. I didn't offer A through D, and
4 just for your clerk's sake, I'd offer 160 A through D, which
5 are actually the cards which were inside the package.

6 THE COURT: All right.

7 MR. ADAMS: I'm sorry. What were the numbers of
8 those, Your Honor?

9 THE CLERK: 160 A through D.

10 MR. ADAMS: Thank you.

11 (State's Exhibits 160 A through D admitted.)

12 THE COURT: All right.

13 BY MR. DIGIACOMO:

14 Q Lastly, before I hit return right here,
15 Detective, you have a copy of the transcript in front of
16 you --

17 A Yes.

18 Q -- from 5/23.

19 A Yes.

20 Q And the time actually starts 001 where it says,
21 Female, what's up, dude, correct?

22 A Yes.

23 Q Now, prior to that -- and on the FBI recording,
24 because the whole thing is on there, there's an intro from the
25 agent, correct?

1 A Yes.

2 Q And that is correctly transcribed because we're
3 not going to be playing that in here today, right?

4 A Right.

5 Q And then there's approximately 24 minutes where
6 they're driving to the location --

7 A Yes.

8 Q -- or Deangelo's driving to the location?

9 A Yes.

10 Q And then the first voice on the tape is a
11 female one, correct?

12 A Yes.

13 Q And you didn't recognize the female one?

14 A No.

15 Q Okay. Now, there was a question asked, and I
16 don't remember if the Judge has asked it, were you able to
17 identify Anabel's voice on the tape as well, you personally?
18 When you listen to the tape --

19 A Yeah. When I listen to the tape, I know it's
20 Anabel's voice.

21 Q And you've talked to Anabel in the past?

22 A Yes.

23 Q Okay. And you've talked to Little Lou in the
24 past, so when you heard Little Lou's voice, you're able to say
25 that was Little Lou, correct?

1 A Yes.

2 Q And when you've talked to Deangelo in the past,
3 obviously you can tell that's Deangelo?

4 A That's correct.

5 Q So the information as to whose voices are on
6 the tape is not supplied by Deangelo, but from your own
7 personal knowledge?

8 A That's correct.

9 (Tape being played)

10 THE COURT: All right. Can you pause that?

11 Do you need to approach?

12 MR. ARRASCADA: May we approach?

13 THE COURT: Yes.

14 (Off-record bench conference)

15 THE COURT: Ladies and gentlemen, you'll notice that
16 the numbers on the transcripts that you have in your hand on
17 the side here are different than the numbers that you see up
18 on the screen on the side. Disregard the numbers on the
19 screen that you see, the 117, the 118. Those numbers are,
20 irrelevant, so just disregard those.

21 MR. DIGIACOMO: Correct. And so they know, like, on
22 this white line jumped to Rico, that --

23 MR. ADAMS: Objection to that, Your Honor --

24 THE COURT: Yeah.

25 MR. ADAMS: -- I thought you explained it very

1 adequately.

2 MR. DIGIACOMO: I want to explain to them now when
3 it says the left side of the transcript that when this white
4 line jumped to Rico, it was 35 seconds, and at one minute and
5 18 seconds it will jump to male one. So if they want to make
6 notes about times, they now know that they can make the note
7 about that section from that --

8 THE COURT: Okay. And that will also be reflected
9 on the defense transcripts, and there's no commentary as to
10 the accuracy of those times or inaccuracy of the time.

11 But just everybody disregard what's on the big
12 screen in terms of the times. And once again, you won't have
13 the transcripts so any notes you want to make, you need to
14 make them in your notepads because we're going to take your
15 transcripts as soon as we're done playing the tape.

16 All right. Go ahead.

17 (Playing tape)

18 THE COURT: Mr. DiGiacomo, could you pause that for
19 a second.

20 I'll see counsel up at the bench, please.

21 (Off-record bench conference)

22 THE COURT: All right. Ladies and gentlemen, we're
23 going to go ahead and take our evening recess at this point.
24 We'll finish up listening to the tape with the State's
25 transcript tomorrow when we reconvene. We'll be reconvening

1 tomorrow at 10:30 a.m.

2 Once again you're reminded that during our evening
3 recess you're not to discuss this case, any person or subject
4 matter relating to the case with each other or anyone else.
5 Do not read, watch, listen to any reports of or commentaries
6 on any subject relating to the case. Don't do any independent
7 research on any subject connected with the trial. Don't visit
8 any of the locations at issue and please do not form or
9 express an opinion on the case.

10 If everyone could please leave their transcripts and
11 their notepads in their chairs. Anyone who's already written
12 a question can hand that to Jeff on your way out the door and
13 we'll see you all back here at 10:30 tomorrow. Remember,
14 notepads and transcripts are to remain in your chairs.

15 Detective, don't talk about your testimony during
16 the evening recess.

17 (Court recessed at 5:36 p.m. until the following
18 day, Thursday, February 5, 2009, at 10:57 a.m.)
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21
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-oOo-

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


KIMBERLY LAWSON
TRANSCRIBER

1031

10

COPY
DISTRICT COURT
CLARK COUNTY, NEVADA

FILED
NOV 24 2009

Alma L. Williams
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 8

THURSDAY, FEBRUARY 5, 2009

APPEARANCES:

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

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

I N D E X

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MICHAEL SEAN McGRATH

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1 **LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 5, 2009, 10:57 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 back in
5 session. The record will reflect the presence of the State
6 through the deputy district attorneys, the presence of the
7 defendants and their counsel, the officers of the Court and
8 the members of the jury.

9 And Ms. Husted, will you please give Sergeant
10 McGrath the oath again.

11 THE CLERK: Yes, Your Honor.

12 MICHAEL SEAN MCGRATH, STATE'S WITNESS, SWORN

13 THE CLERK: Please be seated, and please state and
14 spell your name.

15 THE WITNESS: Michael S. McGrath. The last name,
16 M-c-G-r-a-t-h.

17 THE COURT: All right. Thank you.

18 Mr. DiGiacomo.

19 MR. DIGIACOMO: Thank you, Judge. .

20 DIRECT EXAMINATION (Resumed)

21 BY MR. DIGIACOMO:

22 Q I just backed it up to 20:04 where Anabel
23 starts speaking again.

24 (Playing tape)

25 THE COURT: Thank you. Shall we play the tape

1 again -- was that the entire tape, or do you have a second?

2 MR. DIGIACOMO: That's -- no, I was just going to
3 play the 23rd the first time.

4 THE COURT: Okay. All right.

5 Ladies and gentlemen, what we're going to do is
6 we're going to have Mr. DiGiacomo collect the transcripts that
7 have been passed down. If everyone would just pass the
8 transcripts down to -- we'll go with the far end towards
9 counsel table.

10 And then, ladies and gentlemen, as I told you
11 yesterday, we're now going to listen to the tape again and
12 this time we will hand the transcript that was prepared by the
13 defense.

14 MR. GENTILE: Your Honor --

15 THE COURT: Yes.

16 MR. GENTILE: -- it was prepared by Mr. Hidalgo,
17 III.

18 THE COURT: Oh, by Mr. Hidalgo, III, and allow you
19 to listen to the tape with that transcript.

20 And do we have the transcripts ready to be
21 disseminated by Jeff to the jury?

22 All right. Mr. DiGiacomo, if you would please play
23 the tape again. And the jurors have all received copies of
24 the transcript prepared by the defense for Mr. Hidalgo, III.

25 MR. DIGIACOMO: Yes, Judge. And from the very

1 beginning, I'll leave it down. They're just talking in
2 [inaudible].

3 THE COURT: All right. Thank you.

4 (Playing tape)

5 THE COURT: All right.

6 MR. DIGIACOMO: Do you want to collect those now?

7 THE COURT: Yes.

8 If everyone would pass those down, Jeff will collect
9 them.

10 And, Mr. DiGiacomo, you may continue with your
11 direct examination of Sergeant McGrath.

12 MR. DIGIACOMO: Thank you.

13 BY MR. DIGIACOMO:

14 Q Sergeant, on there when Little Lou's voice is
15 identified during the course of the transcript that -- you had
16 chance to review the transcript when --

17 THE COURT: Do we need a break?

18 THE MARSHAL: Yes, a juror needs --

19 THE COURT: All right.

20 Ladies and gentlemen, let's go ahead and take a
21 ten-minute break and then we'll go maybe another 20 or 30
22 minutes and then we'll take our lunch break.

23 And once again, you're reminded of the admonition
24 that is still in place during our brief break. Notepads in
25 your chairs, please, and follow Jeff through the double doors.

1 We'll see you back here in -- let's make it seven minutes.

2 (Jury recessed at 11:49 a.m.)

3 THE COURT: We've got some jury questions if you
4 guys want to look at them. I put check marks by the ones that
5 I don't think we can ask. And the top three on this one, I
6 think, are okay. These are some good ones. I wanted to ask
7 that first one.

8 MS. ARMENI: Those were asked yesterday, right?

9 THE COURT: Which ones?

10 MS. ARMENI: The first one on top right there.

11 THE COURT: Yeah, this one was covered.

12 MS. ARMENI: Yeah.

13 THE COURT: So that's why I put a mark by it.

14 MR. GENTILE: Okay.

15 THE COURT: But what was not asked: Was live
16 bullets found at KC's house? What do you mean by live
17 bullets? So I'll ask -- I can ask that one.

18 MR. ADAMS: You've already instructed on that one.

19 THE COURT: Right. This one I can't asked.

20 (Court recessed at 11:51 a.m. until 12:04 p.m.)

21 (In the presence of the jury.)

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

24 And, Sergeant, before I turn it back over to
25 Mr. DiGiacomo, I've got a couple of juror questions stacked up

1 here and I'm going to ask them of you at this time.

2 THE WITNESS: Okay.

3 THE COURT: You testified that live bullets were
4 found at KC's house. What does the term "live bullets" mean?

5 THE WITNESS: Okay. A bullet means that -- a live
6 bullet is a shell casing, then the primer's inside, then the
7 bullet's at the end. When someone says live bullet, it means
8 that the entire thing is together with the bullet, with the
9 casing, with the primer inside. So it's basically like you
10 would just purchase it and that would be considered a live
11 bullet.

12 THE COURT: So, in other words, it's a bullet that
13 has not been fired?

14 THE WITNESS: Yes.

15 THE COURT: Okay. Let me ask you this: Is there
16 any -- were these bullets that would go in a semiautomatic or
17 in a revolver type gun?

18 THE WITNESS: Semiautomatic.

19 THE COURT: Okay. And was -- did anyone examine
20 them to see whether or not fingerprints could be recovered?

21 THE WITNESS: I don't know what processing was done
22 on those.

23 THE COURT: Okay. Maybe there's another witness on
24 that one.

25 All right. And then, Was Deangelo Carroll searched

1 prior to each recorded session?

2 THE WITNESS: Yes.

3 THE COURT: Okay. And when you searched him, did
4 you make sure -- or look to see whether he had any money in
5 his possession?

6 THE WITNESS: No.

7 THE COURT: After the recorded sessions, did you
8 collect money from him, from Deangelo?

9 THE WITNESS: Yes. Personally, I did.

10 THE COURT: Okay. And how much each time?

11 THE WITNESS: 14 -- on the first one, on the 23rd,
12 1400, and the second one was 800.

13 THE COURT: Okay. Now, but you didn't examine him
14 beforehand or search him beforehand to see whether he had --
15 the 1400 or the 800?

16 THE WITNESS: No. I searched him but I didn't
17 search him for money.

18 THE COURT: Okay. I guess the question is, if he
19 had money, would you have found it in a search or was the
20 search not that thorough of his pockets and wallet and stuff?

21 THE WITNESS: I mean, the search primarily was to
22 make sure he didn't have a firearm on him. So I could feel
23 that he had a wallet and some other keys and such in his
24 pocket, but I didn't go take his wallet out and see what was
25 in the wallet, but the large amount of money would have made

1 his wallet much bigger, which it didn't.

2 THE COURT: All right. Thank you.

3 I'm going to turn it back over to Mr. DiGiacomo to
4 resume his direct examination.

5 MR. DIGIACOMO: Thank you. I'll follow up on a
6 couple of those things.

7 BY MR. DIGIACOMO:

8 Q You said you searched the person of
9 Mr. Carroll. Did you search anything else of Mr. Carroll for
10 a firearm to make sure that he didn't have a firearm on the
11 23rd?

12 A Yes. This was the first time that we were
13 going to do something with Mr. Carroll, so we were going to
14 put the recording device on him, so common sense would say
15 make sure he doesn't have a firearm on him or in his vehicle
16 when we roll up and get out of the car and meet with him.

17 Q At this point in time, based on the information
18 you had, he's a suspect in a homicide, correct?

19 A Yes.

20 Q Who -- who is willing to wear a wire, so you
21 took advantage of that situation and put a wire on him,
22 correct?

23 A Yes.

24 Q Okay. Now, you said you patted him down and
25 you didn't see any obvious sign that he had a big wad of money

1 left there, correct?

2 A That's correct.

3 Q Okay. Now, when he comes back out of Simone's
4 Auto Plaza on the 23rd, you say he's got a bottle of
5 Tanqueray, correct?

6 A Yes.

7 Q You found no evidence that he had a bottle of
8 Tanqueray before he went in?

9 A No.

10 Q And then describe for the ladies and gentlemen
11 of the jury where the money that he hands you comes from. How
12 did that work?

13 A The money was in his pocket, in his front
14 pocket. And he just reached in his pocket and says, Here's
15 what they gave me.

16 Q And he pulls out a big wad of \$1,400?

17 A Yes.

18 Q Okay. Now, the second day, I guess you
19 listened to the recording and you make a determination that
20 you're going to go in the second day. Let me back up to the
21 first day. Have you reviewed reports to determine what
22 vehicle Mr. Carroll drove to the club and what vehicle he
23 drove away from the club -- sorry, to Simone's Auto Plaza and
24 away from Simone's Auto Plaza on May 23rd?

25 A Yes.

1 Q Okay. Tell the ladies and gentlemen of the
2 jury when you first meet Deangelo Carroll behind Jerry's
3 Nugget, what vehicle did he have?
4 A He's in his white Kia.
5 Q He has a little white Kia?
6 A Yeah, he has a little white Kia.
7 Q Okay. And then after you do the search of him,
8 put the recording device on him, what do you see him do?
9 A He's surveilled to the Palomino Club.
10 Q Once he gets to the Palomino Club, does he get
11 a different vehicle?
12 A Yeah, he gets the big shuttle bus.
13 Q And then he takes the shuttle bus to Simone's?
14 A Yes.
15 Q And then when he leaves Simone's, what's he
16 driving?
17 A He's driving the white Astro van.
18 Q The Chevy Astro van that we talked about?
19 A Yes.
20 Q Okay. Now, after you listened to the
21 recording, you wanted to see if you'd get more information and
22 so you take Mr. Carroll up on his offer or you ask him to do
23 it a second time?
24 A Yes.
25 Q And he agrees to do so?

1 A Yes.

2 Q And it works just like the last time, he goes
3 in and he comes back out?

4 A Yes.

5 MR. DIGIACOMO: Judge, I'd like to play the second
6 recording.

7 THE COURT: All right.

8 MR. DIGIACOMO: I believe we're doing this twice.

9 THE COURT: I'm sorry.

10 MR. DIGIACOMO: Can we approach?

11 THE COURT: Sure.

12 (Off-record bench conference)

13 THE COURT: Ladies and gentlemen, we're going to do
14 this the same way we did the last tape. We're going to listen
15 to it without a transcript and then we'll listen to it two
16 more times with the transcript prepared by the State, followed
17 by the transcript prepared by the defense. This tape is
18 substantially shorter than the last tape.

19 Is that right, Mr. DiGiacomo?

20 MR. DIGIACOMO: The speaking portion of it is.

21 THE COURT: Okay.

22 MR. DIGIACOMO: I wasn't planning on playing the
23 blank tape for 28 minutes.

24 THE COURT: Right. We don't need to play the blank
25 tape and we can cut right to the speaking portion.

1 MR. DIGIACOMO: Thank you.

2 THE COURT: Thank you.

3 (Playing second tape)

4 THE COURT: All right. Mr. DiGiacomo is now going
5 to play the tape again having distributed the State's version
6 of the transcript.

7 (Playing second tape)

8 THE COURT: All right. As soon as Jeff collects
9 those transcripts, we'll distribute defenses' transcripts.
10 All right.

11 (Playing second tape)

12 THE COURT: All right. Thank you, Mr. DiGiacomo.
13 This is probably an excellent time to take our lunch break.
14 If everyone would pass the transcripts down to the end there,
15 we'll pick those up.

16 Ladies and gentlemen, we're going to go ahead and
17 take a lunch recess until 1:35.

18 Once again you're reminded that the admonition is in
19 place during the lunch recess. You're not to discuss this
20 case or any subject matter relating to the case with each
21 other or with anyone else. You're not to read, watch, listen
22 to any reports of or commentaries on any subject relating to
23 the case. Don't do any independent research on any subject
24 connected with the trial. Don't visit any of the locations at
25 issue and please do not form or express an opinion on the

1 case.

2 If everyone will please leave their notepads in
3 their chairs and through the double doors there by our marshal
4 and we'll see you all back here at 1:35.

5 (Jury recessed at 12:34 p.m.)

6 THE COURT: All right. And everyone else other than
7 the parties, the lawyers, the police officers, and the DA
8 investigator needs to exit the courtroom for the lunch recess.

9 (Court recessed at 12:35 p.m. until 1:49 p.m.)

10 (In the presence of the jury.)

11 (Off-record bench conference)

12 THE COURT: All right. Court is now back in
13 session.

14 You may sit down.

15 The record will reflect the presence of the State
16 through the deputy district attorneys, the presence of the
17 defendants and their counsel, the officers of the Court and
18 the members of the jury.

19 And, Mr. DiGiacomo, you may resume your direct
20 examination of Sergeant McGrath.

21 MR. DIGIACOMO: Thank you.

22 BY MR. DIGIACOMO:

23 Q Sergeant, after the second recording on
24 May 24th -- I guess that makes it -- I guess it's a Tuesday,
25 May 24th -- was -- Deangelo Carroll, once again, the same

1 thing happened, he gives you money and everything else like
2 that, correct?

3 A Yes.

4 Q At some point later in that day, is there a
5 determination to make any arrests in the case?

6 A Yes.

7 Q Okay. Can you tell us who the first person who
8 is taken into custody is?

9 A Mr. Luis Hidalgo, III.

10 Q When you had contact with lose Hidalgo, III,
11 did he appear to have any -- did he have a cold?

12 A Yes.

13 Q And the coughing that we heard on the tape, was
14 it consistent with the contact you had with Luis Hidalgo, III?

15 A Yes.

16 Q After he was taken into custody, did there come
17 a point in time when a second individual was taken into
18 custody?

19 A Yes.

20 Q Who was that?

21 A Anabel Espindola.

22 Q After the two of them were taken into custody,
23 was there an execution, a simultaneous execution of search
24 warrants at the two locations?

25 A Yes.

1 Q What were the two locations?
2 A Simone's Auto Plaza and the Palomino Club.
3 Q And you eventually wind up at one of these
4 locations, correct?
5 A Yes. I ended up at the Palomino Club.
6 Q Let me back up just a second. I'm going to
7 show you what's been marked as State's Proposed Exhibit
8 No. 204. Do you recognize that?
9 A Yes.
10 Q What is it?
11 A This is the black purse, miscellaneous credit
12 cards, which was recovered from Anabel Espindola at the
13 homicide office when the homicide office was on west
14 Charleston.
15 Q Okay. So when she was taken into custody, her
16 purse was retained?
17 A Yes.
18 Q And then eventually you booked it into
19 evidence?
20 A Yes.
21 MR. DIGIACOMO: Move to admit 204.
22 THE COURT: Any objection?
23 MR. GENTILE: No objection.
24 MR. ARRASCADA: No objection.
25 THE COURT: All right. That will be admitted.

1 (State's Exhibit 204 admitted.)

2 BY MR. DIGIACOMO:

3 Q You said eventually you made it to the search
4 warrant that was executed at the Palomino Club, correct?

5 A Yes.

6 Q During the course of the execution of the
7 search warrant, were there also crime scene analysts and other
8 detectives present at the club?

9 A Yes.

10 Q And photographs taken by the crime scene
11 analysts?

12 A Yes.

13 Q I'm going to show you what's been marked as
14 State's Proposed Exhibits 135 through 144 as well as 205
15 through 219. Just briefly flip through those --

16 MR. GENTILE: Could you repeat those numbers. They
17 just went too fast for me, please.

18 MR. DIGIACOMO: 135 to 144 and 205 to 219.

19 BY MR. DIGIACOMO:

20 Q If you could, flip through those and tell me if
21 they all appear to be photographs that were taken at the
22 Palomino Club on the night of the 24th.

23 A (Complying.)

24 Q Are they all photographs taken of the Palomino
25 Club?

1 A Yes, they are.

2 MR. DIGIACOMO: Move to admit -- I can't remember
3 the numbers now anymore, but 135 through --

4 THE CLERK: 134 and 135.

5 MR. DIGIACOMO: 135 through 144 and 205 through 219.

6 THE COURT: Any objection to those?

7 MR. GENTILE: I haven't seen them, so I don't know.

8 (Pause in proceedings)

9 MR. GENTILE: No objection.

10 THE COURT: No objection?

11 MR. ARRASCADA: No objection.

12 THE COURT: All right. Those will all be admitted.

13 (State's Exhibits 135 to 144 and 205 to 219
14 admitted.)

15 BY MR. DIGIACOMO:

16 Q Detective, some of these might be somewhat
17 self-explanatory, but 135 is the external view of the Palomino
18 Club, for the record.

19 A Yes.

20 Q Now, in the Palomino Club, did there come -- is
21 there an area that you were able to identify as kind of
22 Mr. H's office?

23 A Yes.

24 Q Showing you State's Exhibit No. 207, does that
25 appear to be a portion of that office?

1 A Yes.

2 Q And then this is as you kind of pan around?

3 A Yes.

4 Q And then over in this area here, do you see

5 where my finger is, Detective?

6 A Yes.

7 Q Is 209 a close up of that general area?

8 A Yes.

9 Q And then is 210 a closeup of some paperwork

10 that's now even closer?

11 A Yes.

12 Q Okay. 243 is another office in the Palomino?

13 A Yes.

14 Q And can you tell me if that card meant anything

15 to you, where my finger is?

16 A Yes, it did.

17 Q And what was that?

18 MR. GENTILE: Can we have a foundation in terms of

19 what room it is?

20 THE COURT: Is this in the office?

21 THE WITNESS: This is downstairs.

22 THE COURT: Okay.

23 BY MR. DIGIACOMO:

24 Q There are many rooms in the Palomino?

25 A Yes, there are many rooms there.

1 Q This is a room downstairs?
2 A Yes.
3 Q Okay. And does that card -- well, let me ask
4 you this: Is Mr. H's office downstairs or upstairs?
5 A It's upstairs.
6 Q Okay. So his is upstairs. This one's
7 downstairs, correct?
8 A Yes.
9 Q And that card, what relevance did that card
10 have to you?
11 MR. GENTILE: Objection. Whoa. I have to object to
12 that question.
13 MR. DIGIACOMO: All right. I'll rephrase it.
14 THE COURT: All right. Mr. DiGiacomo's going to
15 rephrase.
16 BY MR. DIGIACOMO:
17 Q Does that card look familiar to you?
18 A Yes.
19 Q How does it look familiar to you?
20 A That's the card that was similar that was at
21 the crime scene.
22 Q Okay. Now, 144, what's depicted in that
23 photograph?
24 A Those are the VIP cards for the Palomino Club.
25 Q And those VIP cards, are they the same or

1 similar -- I guess same wouldn't be the same cards, but
2 similar to -- they're the same design as any -- other cards in
3 the case that were recovered?

4 A Yes.

5 Q What cards are those?

6 A The cards that were found at 1677 E Street.

7 Q In fact, Mr. H's office is 216. Another view
8 from Mr. H's office but the opposite direction?

9 A Yes.

10 Q And then do you see -- not that one. Let's go
11 back a little bit. 206, this doorway right here --

12 A Yes.

13 Q -- can you tell me what that doorway is?

14 A That doorway leads to a back area where there
15 was a safe located, but there's a little mini bar in there.

16 Q Okay. There's a little mini bar area and then
17 how far do you have to go around to get to the safe?

18 A Just through that and around the corner.

19 Q Okay. So which wall is the safe behind? Do
20 you know? Do you know if it's behind that wall, if it's
21 behind this wall?

22 A I believe it's behind the main wall. You go
23 down and around the corner.

24 Q So you go down through that little passageway,
25 you hang a left and it's back there?

1 A Yes.

2 Q Okay. And then -- I'm assume -- let me ask you
3 this: Was there more than one safe in the Palomino?

4 A Yes.

5 Q And the safe that we're talking about right now
6 that's behind that wall, State's Exhibit No. 217, is that that
7 safe?

8 A Yes, it is.

9 Q Once that safe was opened, what are we looking
10 at here?

11 A That's money. And then below that there's
12 another safe that's located down at the bottom.

13 Q Showing you 137.

14 A That's the bottom portion of the same safe.

15 Q And it has money as well?

16 A Yes, it does.

17 Q There's other safes in the Palomino as well,
18 correct?

19 A Downstairs, yes.

20 Q And eventually was the amount of money -- cash
21 money in the Palomino calculated?

22 A Yes.

23 Q How much did the -- were the police able to
24 count up?

25 A Just more than \$155,000.

1 Q Now, I showed you previously a photograph, and
2 I'm going to -- there were some items recovered out of the
3 Palomino, correct?
4 A Yes.
5 Q Okay. Do you remember specifically what was
6 taken?
7 A Paperwork. There was a firearm which was
8 taken. The cards were collected.
9 Q Okay. Let's talk about the firearm. Describe
10 for me the firearm that -- well, first of all, where was it
11 found?
12 A I believe in Mr. -- well, Mr. Hidalgo's office.
13 Q The upstairs office?
14 A Yes.
15 Q Can you describe that firearm for me?
16 A It was a black semiautomatic handgun, a handgun
17 that I had never seen. Through my experience of 16 years
18 working with Metro, I'd never seen that particular make or
19 model of a firearm.
20 Q What kind of rounds did it fire?
21 A It fired basically rounds that were consistent
22 with an AR15 ammunition, basically, or a rifle ammunition.
23 Q When you use the term AR15 --
24 A That's a --
25 Q -- in common parlance, what kind of weapon is

1 it?

2 A It's a rifle.

3 Q What type of rifle?

4 A A rifle that's used in the military or used in

5 SWAT teams and things like that.

6 Q So an assault rifle?

7 A Yeah, an assault rifle.

8 Q Okay. So there's a firearm that's capable of

9 firing a 223 round?

10 A It's close. It's close to a 223 round. I'm

11 not an expert at that. That was the first time I saw that

12 firearm.

13 Q And it was located upstairs in Mr. Hidalgo's --

14 or Mr. H's office?

15 A Yes.

16 Q Did you collect any computers?

17 A Yes.

18 Q All right. The computers were collected. And

19 were there some paperwork, as well, collected?

20 A Yes.

21 Q In addition to that, did you look for

22 videotapes so you could see if there was a video of who was

23 leaving and exiting the club at various times?

24 A Yes.

25 Q Can you explain to the ladies and gentlemen of

1 the jury whether or not you were able to find any video?

2 A We weren't able to recover any video inside the
3 Palomino Club.

4 Q Can you -- did you look at the video system
5 that was in there?

6 A Yes.

7 Q Can you describe that for the ladies and
8 gentlemen of the jury?

9 A There were video -- there was a video monitor
10 that was in Mr. Hidalgo's office and there were several video
11 monitors downstairs that basically could view different parts
12 of the club at one time or another, ie: the front door -- as
13 you make your way into the front door, as well as other parts
14 of the club.

15 Q Did you look to see where all those video
16 monitors all ran back to? Like, you know, an -- have you been
17 to scenes where it's recorded in some manner before?

18 A I've been to scenes where there's a tape or DVD
19 or something there where it can be recorded. However, there
20 was nothing there in the tape machines or any type of digital
21 tape recording device that I saw.

22 Q Okay. And did you also request -- or did you
23 request technicians to come out to check to see if there's any
24 way to find some sort of digital recording of what was going
25 on with the videotape at the Palomino?

1 A Yes.

2 Q And was there ever any videotape or any -- any

3 video that was able to be recovered?

4 A No.

5 Q Showing you what's been marked as State's

6 Proposed Exhibit 93 -- 193, excuse me, do you recognize that?

7 A Yes. This is two pieces of paper stapled

8 together. It's a phone list that was recovered at the

9 Palomino Club and the address is here with a corresponding

10 event number on top.

11 Q Okay. And have you previously looked inside

12 here and seen the list?

13 A Yes.

14 MR. DIGIACOMO: Move to admit 193.

15 MR. GENTILE: No objection.

16 MR. ARRASCADA: No objection.

17 THE COURT: All right. 193 is admitted.

18 (State's Exhibit 193 admitted.)

19 BY MR. DIGIACOMO:

20 Q Showing you 193A, does that appear to be the

21 phone list that was recovered out of Mr. H's office?

22 A Yes. This is the one that you showed me that

23 was on the wall. You can see where the tack mark right

24 here -- where it was actually on the board.

25 Q Okay. Now, on that particular phone list, it

1 has owner Luis Hidalgo, correct?

2 A Yes.

3 Q And it has a cell phone number?

4 A Yes.

5 Q Can you read that out --

6 MR. GENTILE: Can we get it into evidence before he

7 does that.

8 MR. DIGIACOMO: Oh, I'm sorry. Move to admit 193A.

9 THE COURT: Oh, any objection to 193A?

10 MR. GENTILE: No.

11 MR. ARRASCADA: No, Your Honor.

12 THE COURT: All right.

13 (State's Exhibit 193A admitted.)

14 BY MR. DIGIACOMO:

15 Q Can you tell us what the phone list says Luis

16 Hidalgo -- owner Luis Hidalgo cell says?

17 A Yeah. It says, owner Luis Hidalgo, cell number

18 is 604-4410.

19 Q Okay. And then it says general manager?

20 A General manager, Ms. Anabel, cell, 604-9646.

21 Q It says assistant general manager?

22 A Assistant general manager, Luis Hidalgo, III,

23 cell 604-6348.

24 Q Okay. And then if you go down there and it

25 says floor and it has Deangelo Carroll?

1 A Yes.

2 Q And it has a cell number, correct?

3 A Yes.

4 Q Okay. And what's that cell phone number?

5 A It's 266-2018.

6 Q Now, when Mr. Carroll was first interviewed,

7 did you take his Nextel that he had on him, his chirping

8 device?

9 A Yes.

10 Q Okay. And eventually did you request records

11 related to that Nextel device?

12 A Yes.

13 Q Okay. And was that device that you recovered

14 from him different than the 266 number that -- that's listed

15 there?

16 A Yes.

17 Q Okay. Can you tell us -- and I'm showing you

18 State's Exhibit 190. Can you tell us Deangelo Carroll's cell

19 number?

20 A 604-5322.

21 Q Okay. And, in fact, is this -- the

22 highlighting that's on 190, who put that highlighting there?

23 A I put the highlighting there.

24 Q Okay. And then there's some handwriting on

25 there. Who put the handwriting on there?

1 A Detective Wildemann.

2 Q Okay. Have you gone through -- Detective

3 Wildemann, who is he?

4 A He's another detective that responded to the

5 crime scene with me and he works in homicide, still works in

6 homicide.

7 Q And then have you gone through 190 and checked

8 the highlights against the handwritten notations to determine

9 that they appear to be correct annotations of the various

10 pieces of information that's on here?

11 A Yes.

12 MR. DIGIACOMO: All right. Judge, I reoffer 190 in

13 its entirety.

14 MR. GENTILE: Can I see it again?

15 THE COURT: Would you show that to Mr. --

16 MR. GENTILE: I'll come up there.

17 THE COURT: All right.

18 MR. ARRASCADA: So will I and so will Mr. Adams.

19 MR. GENTILE: Can I take Sergeant McGrath on voir

20 dire for just one question?

21 THE COURT: Sure.

22 MR. GENTILE: Or maybe Mr. -- [inaudible] --

23 MR. ARRASCADA: May I look at it before --

24 MR. DIGIACOMO: Oh, I'm sorry.

25 (Pause in proceedings)

1 MR. DIGIACOMO: I'm going to ask him one question
2 and then I'll reoffer them, Judge.

3 THE COURT: All right.

4 BY MR. DIGIACOMO:

5 Q Detective McGrath, on page 1 where you see --
6 in the blue, it says Hidalgo, Jr., correct?

7 A Yes.

8 Q And then later in here on the blue it says big?

9 A Yes.

10 Q Okay. Who is big referring to?

11 A Mr. Hidalgo, Jr.

12 Q Mr. H?

13 A Mr. H.

14 Q So where it references big instead of Mr. H,
15 that's who the document's talking about?

16 A Right. Basically the penciled in here is my
17 handwriting.

18 Q Oh, that there is your handwriting?

19 A This is all my handwriting. I highlighted this
20 and then Detective Wildemann went back and wrote the names
21 next to the numbers.

22 Q Okay. So he wrote Hidalgo, Jr. and you wrote
23 big?

24 A Yes. I went through it first and highlighted
25 all the particular ones that I was interested in looking at

1 and then once it was completed he wrote those names in there.

2 MR. DIGIACOMO: Okay. I reoffer 190 again.

3 MR. ARRASCADA: No objection.

4 MR. GENTILE: I'm not going to object to it. We'll
5 take it at cross.

6 THE COURT: Okay. It will be admitted then in its
7 entirety.

8 (State's Exhibit 190 admitted.)

9 BY MR. DIGIACOMO:

10 Q Now, Detective, Mr. Counts was arrested --
11 Saturday night is what you testified to, right?

12 A Yes.

13 Q Now, once a person gets arrested and booked
14 into the Clark County Detention Center, how much time is it
15 before it becomes public knowledge that somebody's been
16 arrested for murder?

17 A Less than 72 hours, I would think, but I'm not
18 100 percent.

19 MR. ARRASCADA: Objection, Your Honor. Speculation.

20 MR. GENTILE: I think it is. I object on the same
21 grounds.

22 THE COURT: Yeah, I mean, you can ask another
23 question as to what the policy is, if it's accessible or --

24 MR. DIGIACOMO: I'll rephrase.

25 THE COURT: Well, just --

1 MR. DIGIACOMO: Can I -- I'll rephrase the question.
2 THE COURT: Okay.
3 MR. DIGIACOMO: I'll rephrase the question.
4 BY MR. DIGIACOMO:
5 Q When you've booked suspects before in the --
6 well, how many homicide suspects do you think you've arrested
7 in your time?
8 A 75.
9 Q Okay.
10 MR. ARRASCADA: I'm going to object to the
11 relevance.
12 THE COURT: Well, I think -- go ahead.
13 MR. DIGIACOMO: Thank you, Your Honor.
14 BY MR. DIGIACOMO:
15 Q Once -- in your experience or in the time that
16 you've booked those 75 people, how long typically has it taken
17 for that information to get released to the public?
18 MR. GENTILE: My concern -- objection.
19 THE COURT: Yeah, I'll see everybody up here.
20 (Off-record bench conference)
21 BY MR. DIGIACOMO:
22 Q Detective, when you arrest somebody, do you
23 have to file --
24 MR. GENTILE: Mr. DiGiacomo, can I get --
25 [inaudible].

1 BY MR. DIGIACOMO:

2 Q Detective, when you arrest somebody for murder,
3 do you have to fill out a declaration of the information that
4 you have that gives you probable cause to believe that the
5 person has committed the crime that you arrested him for?

6 A Yes.

7 Q In your experience, is that a public document?

8 A Yes.

9 Q Sometimes when you arrest an individual, does
10 the Las Vegas Metropolitan Police Department issue a media
11 release?

12 A Yes.

13 Q And then lastly, when somebody is actually
14 booked into the Clark County Detention Center, at some point
15 the DA's office has to make a charging decision, correct?

16 A Yes.

17 Q And the charging decision has to be made within
18 72 hours, correct?

19 A Yes.

20 Q And that is filed by a criminal --

21 MR. ARRASCADA: Judge, I'm going to object. May we
22 approach?

23 THE COURT: Sure.

24 MR. ARRASCADA: Well, it's leading and it's --

25 MR. GENTILE: My objection is just general leading.

1 MR. ARRASCADA: -- a misstatement of the law.

2 THE COURT: It is leading. Well --

3 MR. ARRASCADA: It is.

4 THE COURT: You can ask him what the practice is
5 here.

6 BY MR. DIGIACOMO:

7 Q Generally three days, correct, to file a
8 criminal complaint?

9 A Yes.

10 Q And that criminal complaint is a public record?

11 MR. GENTILE: I still have an objection on leading.

12 THE COURT: You are --

13 MR. GENTILE: If Mr. DiGiacomo wants to clarify --

14 THE COURT: Mr. -- and I -- okay, you are leading.

15 BY MR. DIGIACOMO:

16 Q And is that a public proceeding?

17 A Yes.

18 Q Thank you.

19 That 72-hour time period that we're talking about,
20 did that cause you any concerns in this particular case once
21 Mr. Counts was arrested?

22 A Yes.

23 Q And what was that?

24 A It might have thrown a big wrench on the whole
25 putting the wire on Deangelo Carroll and send him in to

1 attempt to get the statements that he said that he could get.

2 Q So now Mr. Counts is in jail or has been
3 arrested, Ms. Espindola's been arrested, Little Lou's been
4 arrested. At that point, was there determination as to
5 whether or not to arrest any other people?

6 A Yes.

7 Q Who was that?

8 A Jayson Taoipu and Deangelo Carroll.

9 Q Now, were you able to locate Deangelo Carroll
10 immediately and arrest him?

11 A Yes.

12 Q And were you able to do so with Mr. Taoipu?

13 A No.

14 Q Okay. What did you have to do with Mr. Taoipu?

15 A We had to put a warrant of arrest together for
16 him. He was later located and arrested in California.

17 Q Mr. Pesci has a question, which is, the firearm
18 that was found in Mr. H's office, was it a handgun or was it a
19 rifle?

20 A A handgun.

21 Q A handgun that fired ammunition similar to a
22 rifle?

23 A Yes.

24 Q Okay. And was that handgun -- have you ever
25 heard of a Glock before?

1 A Yes.

2 Q Was that handgun a Glock?

3 A No.

4 Q Okay.

5 MR. DIGIACOMO: Judge, I pass the witness.

6 THE COURT: All right. Who would like to go next?

7 Mr. Gentile.

8 MR. GENTILE: I can't wait.

9 CROSS-EXAMINATION

10 BY MR. GENTILE:

11 Q Sergeant, let's start with the gun and then

12 we're going to go to the beginning.

13 A Okay.

14 Q Okay. Do you remember the manufacturer of the

15 handgun?

16 A I have the paperwork here somewhere. I don't

17 know -- I had seen one of those firearms later.

18 Q Right.

19 A I don't know the manufacturer of the firearm.

20 It was released to Mr. Hidalgo.

21 Q Right. And it was released to Mr. Hidalgo

22 because it was lawfully possessed by him, correct?

23 A It was not registered. All right.

24 Q He had a boot card for that gun, didn't he?

25 A Not to my knowledge, not that we could

1 determine at that time. So that's why that firearm was
2 impounded.

3 Q But ultimately it was released to him?

4 A Yes.

5 Q And it wouldn't be released to him if it hadn't
6 been registered, would it?

7 A I would assume so. It was released by firearms
8 detail.

9 Q And also you learned in the course of -- let me
10 take a step back. Obviously, seeing a handgun like that, one
11 that you had never seen before, if nothing else, it peaked
12 your interest in the gun; fair to say?

13 A Fair to say, yes.

14 Q Right. It's like finding a 454 Casull, all
15 right, not a gun that you see very often, right?

16 A I'm not familiar with that gun.

17 Q Okay. The -- it's a bit of an exotic handgun;
18 fair to say?

19 A Yes. I looked at one later on.

20 Q If you can get one for under 1100 bucks, you're
21 doing a pretty good job --

22 A You're doing a very good job.

23 Q -- right? How much is the gun worth?

24 A Over 1100.

25 Q Okay. See, we agree?

1 A We agree.

2 Q And clearly you wanted to know if that gun was
3 associated with the homicide. There's no way you wouldn't
4 want to know that?

5 A Well, clearly I didn't want a firearm to be in
6 possession of somebody that I might believe was involved in
7 this.

8 Q Right. But at that time when you seized that
9 gun, you did not arrest Luis Hidalgo, Jr.; am I right?

10 A That's right.

11 Q Okay. So you seized the weapon pursuant to the
12 warrant, correct?

13 A Correct.

14 Q Booked it into evidence?

15 A Yes.

16 Q Okay. Inquired as to whether -- well, I
17 shouldn't say inquired -- certainly held it until you found
18 out that that was not the size of the round that killed
19 Mr. Hadland?

20 A Yes.

21 Q You did find out that that was not the size of
22 the round that killed Mr. Hadland?

23 A Yes.

24 Q And then at that point in time because the gun
25 was ultimately lawfully possessed, you returned it to

1 Mr. Hidalgo, Jr.?

2 A I didn't return it. I released it to the

3 firearms detail.

4 Q For it to be returned?

5 A Yes.

6 Q Okay. And it was?

7 A Yes.

8 Q Okay. Now, let's start at the -- at your first

9 contact with this matter.

10 A Okay.

11 Q That would have been sometime after midnight on

12 the 20th of May --

13 A Yes.

14 Q -- of 2005, if I heard you right.

15 A Yes.

16 Q Okay. And you went to the scene?

17 A Yes.

18 Q And as you said, when you got to the scene, it

19 was very dark there. It was pitch black. There are no lights

20 that you didn't bring with you?

21 A 100 percent correct.

22 Q Okay. And so there was limitations in terms of

23 what you could do at that point in time?

24 A Yes.

25 Q But among the things that you could do at that

1 point in time was take photographs of the scene?

2 A Yes.

3 Q And when I say you at this point in time, I'm
4 using the second person plural, the collective you.

5 A Yes.

6 Q I'm not saying that you as an individual
7 took --

8 A That's correct.

9 Q Okay. We understand each other?

10 A Yes, we do.

11 Q If I get down to the singular you, I'll tell
12 you.

13 A Okay.

14 Q Okay?

15 Now, among the photographs that you had taken, some
16 of them had been admitted into evidence already, but you took
17 photographs of Mr. Hadland, his body and the scene as it
18 related to that; am I correct?

19 A Yes.

20 Q Okay. And I think one of those photographs --
21 MR. GENTILE: Did you say it was Exhibit 15, the
22 glasses?

23 THE CLERK: 13.

24 MR. GENTILE: 13. Let the record reflect that I was
25 addressing the clerk when I said that, did you see --

1 THE COURT: Which exhibit number?
2 MR. GENTILE: Right.
3 THE COURT: Right.
4 MR. GENTILE: I inquired of the clerk. Thank you
5 very much.
6 BY MR. GENTILE:
7 Q Okay. I want to show you State's Exhibit 13.
8 A Yes.
9 Q All right. Let me have it back because I don't
10 want --
11 A Okay.
12 Q State's Exhibit 13 is a pair of glasses; am I
13 correct?
14 A Yes.
15 Q And you saw these glasses at the scene?
16 A Yes.
17 Q All right. And I noticed that we don't have
18 the glasses here, I don't believe. Do we? No, okay.
19 It looks like, from looking at this photograph, that
20 the lenses are in the glass.
21 A I believe that, which would have been the right
22 eye, might have been missing part of the lens.
23 Q Oh, you see a bit of a reflection there? No,
24 I'm not saying that that's not a reflection from the ground,
25 but does it -- do you recall if both lenses were in the

1 glasses?

2 A I seem to recall -- I mean, this is a long time
3 ago and I haven't looked at this photograph -- that that glass
4 was broken.

5 Q All right. But then the left eye appears to
6 have a bloodstain on it; is that fair to say?

7 A Yeah, that would be fair to say.

8 Q Okay.

9 MR. GENTILE: Now, could I have this marked? I
10 guess it would be Defendant's 1, Defendant Luis Hidalgo Jr.'s
11 A. Do I have an A yet?

12 THE CLERK: No.

13 MR. GENTILE: Okay. You have to start somewhere.

14 BY MR. GENTILE:

15 Q I want to show you proposed Exhibit A --

16 MR. PESCI: Counsel, can we see that, please?

17 MR. DIGIACOMO: I'm assuming I know which one
18 that --

19 MR. ARRASCADA: Thank you.

20 BY MR. GENTILE:

21 Q Mr. Hidalgo Jr.'s exhibit, Proposed Exhibit A,
22 would you take a look at that?

23 A Yes.

24 Q Having looked at that photograph, can you say
25 that it was taken that night at the scene?

1 A Yes.

2 Q Okay. Because you saw what the image on this

3 is, you've seen it yourself firsthand?

4 A Yes.

5 Q Okay. Thank you.

6 MR. GENTILE: I would move it into evidence at this

7 time.

8 THE COURT: Any objection?

9 MR. DIGIACOMO: No, Judge.

10 THE COURT: And that's defense -- which letter?

11 MR. GENTILE: A.

12 THE COURT: Thank you.

13 MR. ARRASCADA: Objection, Your Honor, on behalf of

14 Luis Hidalgo, III.

15 THE COURT: Oh, I'm sorry. Thank you.

16 BY MR. GENTILE:

17 Q Now, ultimately you learned the caliber of the

18 weapon that caused Mr. Hadland's death; am I correct?

19 A I don't believe that the actual caliber was

20 100 percent determined. The type of firearm, I believe, was

21 determined.

22 Q And that would be a revolver?

23 A Yes.

24 Q Okay. And one of the things that you mentioned

25 when the sun came up and you went back out there was that

1 there weren't any expended casings.

2 A That's correct.

3 Q That would be indicative of one of two things:
4 Either a revolver was used or somebody was meticulous in
5 picking up the casings.

6 MR. DIGIACOMO: Objection; speculation. Or the
7 casing wound up in the tire tread or something. Who knows?
8 Objection; speculation.

9 THE COURT: Well, what would that indicate to you?

10 THE WITNESS: That would indicate that it was --
11 that it was a revolver, someone picked them up, they might
12 have got in a patrol car's tires or a passerby that -- in a
13 tire like that or we just didn't find them.

14 THE COURT: Go on.

15 BY MR. GENTILE:

16 Q Right. But you did cordon off that scene, so
17 it wasn't likely that once you got to the scene that could
18 have got in somebody's tires; fair to say?

19 A Yeah, fair to say.

20 Q Okay. Now, I want to show you this photograph.
21 This weapon, we know -- we know that the -- according to the
22 coroner, the medical examiner, the bullet entered the left
23 side of Mr. Hadland's head?

24 A Yes.

25 Q Okay. And we know that the left lens -- I'm

1 going to put 113 back up here. The left lens of the glasses
2 had blood on them?

3 A Yes.

4 Q Fair to say that that would indicate that he
5 had the glasses on when he was shot?

6 A I don't know if those glasses have been
7 identified by -- to my knowledge, as his glasses, per any
8 statements from his girlfriend or his family.

9 Q So you don't know if these were his glasses?

10 A I don't know if those were on him at the time
11 or they were in the roadway, you know, or anything like that.
12 There were glasses that were in the road that have apparent
13 blood on them.

14 Q Okay. And they were found near Mr. Hadland?

15 A Yes.

16 Q Almost in a straight line from his head?

17 A Yes.

18 Q And about how far away would you say they were?

19 A I would have to refer to the diagram as to
20 where exactly --

21 Q Do you have the crime scene diagram with you?

22 A I do not. The crime scene analysts would say
23 number one and what they used as their point of interest or
24 how far that item was from whatever they used as a reference
25 point. I would say it wasn't more than 10 feet.

1 Q All right. You wouldn't be surprised to learn
2 that these glasses were on Mr. Hadland?

3 A I wouldn't be surprised.

4 Q Okay. And you know that the entry of a bullet
5 at the type of range it appears to be more than 10 feet here
6 would be what's -- the kind of force that certainly could
7 knock glasses off of somebody. You've seen that before from
8 other homicide scenes; is that right?

9 A Yes. Yes.

10 Q All right. And it wouldn't be unusual for it
11 to knock those glasses 10 feet away?

12 A That's fair to say.

13 Q Okay. Now, there's a hat on Mr. Hadland's
14 chest?

15 A Yes.

16 Q Do you know how that hat got there?

17 A No.

18 Q When you were at the scene and you searched
19 Mr. Hadland's vehicle, did you search the vehicle yourself?

20 A Yes.

21 Q Okay. And you were sort of -- I don't want to
22 use the wrong words, but would it be fair to say that you were
23 in a supervisory capacity that night over what was going on as
24 far as the scene being searched?

25 A Typically the homicide controls the scene --

1 Q Right.

2 A -- the homicide detectives.

3 Q All right. And you were a homicide detective?

4 A Yes.

5 Q All right. Did you learn that Mr. Hadland --

6 well, how much money did you recover from the search of

7 Mr. Hadland's clothing and Mr. Hadland's vehicle that night?

8 A Right now I have no idea.

9 Q All right. Prior to your testifying, did you

10 have an opportunity to review certain documents? I mean, this

11 is -- like you say, it's almost four years ago.

12 A I didn't review what was taken out of his car,

13 in particular, the clothing or the wallet or what was in the

14 wallet or anything like that. I saw the ID with his name on

15 it and left it at that. So I didn't do any of the actual

16 impounding of those actual items.

17 Q So you'd have to rely on testimony -- I mean,

18 you can't rely on anything. The bottom line is if we had

19 testimony in this record as to how much was recovered and how

20 much Mr. Hadland had when he left the beech, then that's what

21 the record is?

22 A Yeah, whatever -- whoever went through the

23 wallet and did the impound of the wallet, it would have been

24 documented what was in the wallet and how much money was in

25 the wallet.

1 Q All right. Now, it sounds to me like you keep
2 your money in your wallet because you keep talking about
3 wallets and sizes of wallets based on how much is in the
4 wallet.

5 A I keep my money in my wallet.

6 Q Okay. I know it wouldn't come as a shock to
7 you to find that everybody doesn't and some people keep it in
8 their pants pocket?

9 A Some people might have a money clip and keep it
10 in their pants pocket --

11 Q Right.

12 A -- that's correct.

13 Q Okay. But in any case, you're satisfied that
14 the scene was thoroughly searched in terms of finding things
15 such as money if there was any money there?

16 A Yes. If there was money in that car or in
17 Mr. Hadland's wallet --

18 Q Or in his pant's pocket?

19 A His pant's pocket, he would have gone directly
20 like this to the coroner's office --

21 Q Right.

22 A -- and he'd be in the bag. The bag was sealed.
23 The seal would be opened at autopsy in mine and Detective
24 Vaccaro's presence and then the -- another crime scene analyst
25 would document exactly what was there, those items that were

1 on his person, ie: the bathing suit and any other items.

2 Q Okay. So if the coroner -- if the coroner's
3 office had it upon arrival, then it would have been their
4 responsibility to inventory it and report it?

5 A Right. Be --

6 Q That's all we need.

7 A That's correct.

8 Q Now, after -- how long were you with the
9 homicide bureau at the time that this event occurred?

10 A I believe three and a half years.

11 Q And you've said that in your career, up until
12 now, at least, you've arrested about 75 homicide -- people on
13 homicides?

14 A That's a fair statement.

15 Q That's an estimate you're making?

16 A Yes.

17 Q Now, it's also true that you don't make an
18 arrest in every homicide case?

19 A That's correct.

20 Q And there are some that go unsolved?

21 A Yes.

22 Q At least day-to-day, maybe someday they will
23 be?

24 A There is a percentile that's accurate year to
25 year and so the documents are kept as to how many are solved

1 and how many are unsolved.

2 Q Right. And, of course, there is no statute of
3 limitations with respect to murder --

4 A Yes.

5 Q -- am I correct?

6 A That's correct.

7 Q So if it takes 50 years, if it takes 100 years
8 and everybody's dead but they could put it together, then
9 they're going to put it together?

10 A I haven't had that in my career happen, so I
11 don't know if the DA's office would file charges on someone
12 that a suspect was -- had passed.

13 Q Well, no, I don't mean that and maybe I just
14 asked it the wrong way.

15 A Okay.

16 Q But the point is that there is such a thing as
17 a cold case file?

18 A Yes.

19 Q And a cold case file, for the most part, is a
20 homicide case?

21 A Yes.

22 Q Okay. Now, we have heard testimony here about
23 CSAs and forensics in general. We've actually had some people
24 testify before you came here.

25 A Okay.

1 Q Okay. And you've certainly, not just as a
2 homicide detective, but as a law enforcement officer, in
3 general, are well aware of various areas of forensics; fair to
4 say?

5 A Yes, fair to say.

6 Q Maybe you couldn't be a forensic assist
7 yourself, but you know what the areas are?

8 A Yes.

9 Q Okay. And one of the things that happens is in
10 a case such as this one, should -- should there have been no
11 arrests made, certainly the bullets that were recovered are
12 maintained; am I right?

13 A Yes.

14 Q Okay. And from time to time -- let me state
15 that a little differently. If I fire a handgun today and I
16 fire the same handgun five years from now and both of the
17 bullets are recovered, chances are a match can be made that --
18 not necessarily to the gun because they may not recover the
19 gun but that the two bullets were fired from the same gun;
20 fair to say?

21 A That's not fair to say and I can explain if you
22 want.

23 Q Sure.

24 A The type of barrel on the firearm would
25 determine, you know, the --

1 Q The lands and grooves?

2 A -- the lands and grooves on it, Ie: a Glock,
3 they can't determine a Glock .40 from -- with one serial
4 number from another Glock .40 with the same -- with a
5 different serial number unless it has the compensated barrel.
6 Then they can determine that this one is compensated, that one
7 is compensated. So with a Glock, we see very often that
8 nobody can determine which person fired and which person
9 didn't fire.

10 Q Okay. But it was your understanding in this
11 particular case, certainly your instincts told you that this
12 most likely was a revolver in this case?

13 A Yes.

14 Q And a Glock is a semiautomatic weapon?

15 A Yes.

16 Q Okay. And so let me change my hypothetical.

17 A Okay.

18 Q Let me take the hypothetical that you're
19 talking perhaps about a Ruger or a Smith & Wesson, okay, and
20 it's a revolver and maybe it's even a .357.

21 A Yes.

22 Q Okay. The likelihood is that if two rounds
23 were fired from that single gun and both were recovered so
24 that the testing could be done at all, in other words, one is
25 mangled, you could make a determination that they were both

1 fired by the same weapon, in a high percentage of cases?

2 A In a high percentage of cases, but...

3 Q So the answer's yes?

4 A Krylo, James Krylo will probably --

5 Q Don't tell me. That's hearsay. He's going to

6 come in here and we'll deal with him.

7 A Okay. He'd probably answer it better than I.

8 Q I'm sure he will. I'm just going through this

9 with you.

10 Now, you know that there's a reason I'm asking this,

11 don't you?

12 A Yes. Yes..

13 Q Okay. And the reason that I'm asking you this

14 is because after you left the scene you went back to your

15 office and you started typing up your report?

16 A Yes.

17 Q And reports are important?

18 A Yes.

19 Q Because, among other things, sometimes it may

20 take four years for a case to come to trial?

21 A Yes.

22 Q And as you say, this was a long time ago, and

23 so one of the things that you rely upon reports for is to

24 refresh your memory?

25 A That's correct.

1 Q It's not the only case you worked in the last
2 four years --

3 A No.

4 Q -- and you're not even working in the same
5 department right now -- I mean, you're in the same police
6 department, but you're not in the same division. You don't
7 have the same assignment?

8 A Yes.

9 Q Okay. And so you went back and you started
10 creating a narrative summary of what you had learned to that
11 point?

12 A By the time we left there at the scene, it was
13 more of me making sure I had what I needed to attend the
14 autopsy, which was going to be done the next morning.

15 Q Okay. But -- so you went to the autopsy?

16 A Yes.

17 Q And prior to you going to the autopsy, you
18 interviewed no one?

19 A No one.

20 Q Okay. Then after the autopsy, you returned to
21 your office and you started to create -- you started to
22 memorialize information?

23 A There were different detectives doing different
24 things, getting phone calls, running the scopes, calling
25 people. I was at the computer trying to do this.

1 Q So the answer's yes?
2 A Yes.
3 Q You can say yes.
4 A But there was other things I was doing.
5 Q I understand.
6 A I'm just trying to explain.
7 Q This time I'm using the singular you.
8 A Okay. The singular me?
9 Q The singular you.
10 A I was memorializing some and I was talking on
11 the phone quite.
12 Q All right. But there did come a point in time
13 when the plural you --
14 A Okay.
15 Q -- which I guess would be yourself and
16 Detective Vaccaro and Detective Wildemann, pretty much that
17 first early part, right, and Detective Kyger --
18 A Kyger, yes.
19 Q Okay.
20 -- the four of you were pretty much -- when I say
21 you, that's the four I'm talking about.
22 A Okay. Now we're talking a different you.
23 Q We're talking a -- well, we have to because
24 "you" is a funny word, you never know --
25 A Okay. I understand.

1 Q So -- plus, there's sort of a team mentality,
2 so sometimes when you use the word -- when you're talking
3 about you, you're talking about we. I'll rephrase that.
4 You were working as a team?
5 A Yes, we were working as a team.
6 Q All right. Now, there came a point in time
7 when you started to conduct interviews; am I correct?
8 A Yes.
9 Q Was your first interview Deangelo Carroll?
10 A No.
11 Q Who was your first interview?
12 A Arial.
13 Q Arial. Okay.
14 And when you interviewed Arial, you recorded on tape
15 your interview of her; am I correct?
16 A That's correct.
17 Q Okay. And then you -- as you were conducting
18 that very interview, Mr. Carroll came walking in, if I
19 understand correctly.
20 A Yeah, he came down the stairs to the basement.
21 Q Okay. The basement?
22 A Or the bottom floor.
23 Q I tell you what --
24 MR. GENTILE: Where's our -- can I have our blowup,
25 please?

1 Your Honor, do we have an easel or something?

2 THE COURT: Yeah. Jeff will get it.

3 MR. GENTILE: I need it placed where the jury can
4 see it and the Court can and Sergeant McGrath can.

5 THE WITNESS: I can move over here, if you'd like.

6 THE COURT: The only -- we're going to have Sergeant
7 McGrath step down or -- we can do that.

8 MR. GENTILE: Well, we may be referring to this from
9 time to time, but we might be able to do it seated. I'll be
10 happy to be his pointer if he wants to tell me where to move.

11 THE COURT: All right. If you can't see it,
12 Sergeant, you're free to step down.

13 THE WITNESS: Thank you.

14 BY MR. GENTILE:

15 Q First, let me ask you -- you've been on both
16 floors of the Palomino?

17 A I've been in the Palomino one time.

18 Q Yes, of course. And it was only on this
19 occasion?

20 A Yes.

21 Q Okay. We understand. You remember the layout
22 of the Palomino?

23 A I mean, pretty much. It would be hard for me
24 to look at that unless you said this is this office, this is
25 this office, this is where this safe is that corresponds with

1 the photographs that were taken at the scene. What we were
2 talking about before is where the offices are downstairs where
3 the two big safes were in that office --

4 Q You're answering a question I didn't ask.

5 A Okay. You asked me about -- I said downstairs
6 and you brought out the diagram.

7 Q I brought out the diagrams. Do you think if
8 you saw a diagram of the downstairs you might be able to
9 recognize it?

10 A No.

11 Q Oh, then there's no need to use it because I
12 can't testify.

13 A Okay.

14 Q Okay. Now, you were in a downstairs office,
15 not a basement, a main floor; fair to say?

16 A Fair to say. If there's two floors, then I was
17 in an office where the two big safes were where Arial's office
18 was.

19 Q Is your memory that that office had wood
20 paneling in it?

21 A I don't have.

22 Q You don't remember?

23 A I don't remember. I was seated at a desk. She
24 was behind the desk. I was at the corner of the desk.

25 Q Okay. But in any case, it was -- you were

1 taking her recorded statement when Deangelo came into your
2 life?

3 A Yes. We received a phone call that he was
4 entering the building.

5 Q Okay. From Detective Vaccaro?

6 A Yes.

7 Q Who was outside?

8 A Yes.

9 Q And so is it fair to say then that your second
10 interview was Deangelo Carroll?

11 A Yes.

12 Q And you video recorded that interview, did you
13 not?

14 A Yes, at the homicide office.

15 Q And then you did additional interviews in this
16 matter --

17 A Yes.

18 Q -- am I correct?

19 A Yes.

20 Q You interviewed how many people? Don't tell us
21 who they are, but how many people did you, yourself, interview
22 prior to -- let me give you a cutoff date because it could
23 have gone on forever.

24 Prior to making -- you interviewed Anabel Espindola
25 after you arrested her; am I right?

1 A At some time, yes.

2 Q All right. And you recorded that interview.

3 It was on videotape. Do you remember that?

4 A Yes, I remember.

5 Q All right. Because it was at the homicide

6 office?

7 A Yes.

8 Q And that was on the 24th of May, the day that

9 you arrested her?

10 A Yes.

11 Q As a manner of practice and procedure, when you

12 interviewed somebody at the homicide office, you recorded the

13 interview; am I right?

14 A You're right. That's correct.

15 Q And the reason for that is essentially the same

16 reason as you make reports, peoples' memories fade; am I

17 right?

18 A Yes.

19 Q Okay. And so if you want to have an accurate

20 record of what somebody said, the best thing to do is to

21 record it?

22 A Yes.

23 Q Okay. Now, during your recording of -- well,

24 the recording part's irrelevant. During your interview of

25 Mr. Carroll --

1 A Yes.

2 Q -- this is the one that took place on the --

3 late in the evening about 9:00 p.m. on the 20th of May, about

4 right there --

5 A Yes.

6 Q -- am I correct?

7 A That's correct.

8 Q Close enough?

9 A Close enough.

10 Q All right. And it lasted almost until

11 midnight?

12 A Yes.

13 Q During that recording -- excuse me. During

14 that interview, you learned some things from Mr. Carroll --

15 A Yes.

16 Q -- that were verifiable or capable of being

17 contradicted depending upon additional investigation?

18 A Yes.

19 Q Okay. And Mr. Carroll told you, did he not,

20 that the weapon that was used to kill Hadland was also used to

21 shoot another person?

22 A Yes.

23 Q And he told you the name of the person that

24 used the weapon to shoot another person?

25 A Yes.

1 Q And he told you that that person was in custody
2 at that time?
3 A Yes.
4 Q Did you order -- strike that. What did you do
5 to follow up on that?
6 A Me, particular, I didn't follow up on it. I
7 know what the followup was.
8 Q Well, was a -- was it verifiable?
9 MR. DIGIACOMO: Judge --
10 THE WITNESS: Yeah.
11 MR. DIGIACOMO: -- I'm going to object because it's
12 another witness who does the investigation. He'll be here and
13 Mr. Gentile is free to ask him questions, but unless he has
14 personal knowledge as to the investigation --
15 THE COURT: Okay.
16 MR. GENTILE: Well, let me ask him --
17 THE COURT: Ask it another way.
18 BY MR. GENTILE:
19 Q Let me ask it a different way. Who was it that
20 followed up on --
21 A Detective Wildemann, I believe.
22 Q Detective Wildemann?
23 A Yes.
24 Q Okay. And while you know what happened, you
25 can't testify about it; am I right?

1 A That's up to you guys.

2 Q That's something you heard from Wildemann.

3 Whatever you know you learned from Wildemann?

4 A Yes, and I was the primary case agent, so I

5 know.

6 Q Okay.

7 A Okay.

8 MR. GENTILE: Well, I'm certainly willing to ask

9 him.

10 MR. DIGIACOMO: I think Detective Wildemann can get

11 to the specifics of it.

12 THE COURT: All right. I'll sustain that objection.

13 MR. GENTILE: Okay. All right.

14 THE COURT: I'm sure Mr. Gentile will be asking

15 Mr. Wildemann -- or Detective Wildemann those questions.

16 BY MR. GENTILE:

17 Q Another thing you learned from Mr. Carroll was

18 where Mr. Counts lived in general?

19 A Yes.

20 Q And he also advised you about certain other

21 illegal activities that Mr. Counts was involved in; namely,

22 something you might be interested in today, narcotics?

23 A Yes.

24 Q Okay. And he told you where Mr. Counts kept

25 his drugs; am I right, or do you not recall?

1 A I don't recall that specific on --
2 Q He told you that there was a Suburban parked on
3 his driveway?
4 A Oh, yes.
5 Q And an old Chevy?
6 A Yes.
7 Q And he had like a little shed right there?
8 A Yes.
9 Q And that in that shed he kept a popcorn can.
10 It's coming back to you now?
11 A Yeah, now it is.
12 Q And you searched Mr. Counts' premises, did you
13 not?
14 A Yes.
15 Q And you searched that room?
16 A Yes. The shed, yes.
17 Q And did you find a popcorn can?
18 A No.
19 Q And Mr. Counts -- excuse me. I get them
20 confused. Mr. Carroll -- Mr. Carroll also advised you that
21 Mr. Counts was a gang member; am I right?
22 A He stated a gang that --
23 Q He stated the Keystone -- whatever?
24 A Yes.
25 Q Bloods?

1 MR. DIGIACOMO: Judge, at some point -- I understand
2 him asking certain questions that go to the investigation, but
3 at some point -- can we approach?

4 THE COURT: Sure.

5 (Off-record bench conference)

6 THE COURT: All right. Mr. Gentile is going to
7 rephrase his question.

8 BY MR. GENTILE:

9 Q Yesterday you testified that prior to your
10 going to execute the search warrant at Mr. Counts' home you
11 did some background. Do you remember that?

12 A Yes.

13 Q Because you were provided certain information
14 by Mr. Carroll?

15 A Yes.

16 Q And you needed to tie the initials KC into this
17 man at this specific address?

18 A Yes.

19 Q Okay. And in backgrounding that person, you
20 checked out the information that Mr. Carroll gave you; am I
21 correct?

22 A Yes.

23 Q Now, Mr. Shields, the FBI agent that worked
24 this case with you --

25 A He didn't work this part.

1 Q He helped you?
2 A No, not here.
3 Q Not Counts. I'm not talking --
4 A Oh, Mr. Shields in the recording?
5 Q Mr. Shields, yeah.
6 A Okay.
7 Q He's with the FBI gang unit; am I right, at
8 that time?
9 A I don't know where he -- he moved around from
10 place to place.
11 Q I'm talking about at that time. This was a
12 friend of yours, wasn't it?
13 A This was a friend of mine that worked with me
14 when I was in narcotics on a task force.
15 Q Okay. Were you aware that on May the 19th and
16 later in the month of May of the year 2005 he was assigned to
17 the FBI gang unit?
18 A I'm not -- I can't say with 100 percent
19 certainty that he was assigned to the gang unit.
20 Q You knew he was working west side at north
21 town, gangs?
22 A I knew that he had a lot of information on the
23 gang members in those particular areas.
24 Q All right. Thank you. That's -- and you
25 certainly wanted to be prepared for whatever contingency might

1 occur in executing the search warrant of Mr. Counts', what you
2 thought might be Mr. Counts' house and then ultimately made a
3 determination where it was; am I right?

4 A You lost me in that towards the end.

5 Q Okay. You wound up -- you didn't just walk in
6 there willy-nilly. You checked out Mr. Counts prior to going
7 there?

8 A Yes. I had his photograph, his prior arrest
9 record, many things of Mr. Counts'.

10 Q Including the information that Mr. Carroll
11 provided you, you sought to verify that?

12 A Yes.

13 Q And you did?

14 A Yes.

15 MR. GENTILE: Your Honor, I have my notes all over
16 the place so I'm taking a little longer than I usually would.

17 THE COURT: That's fine.

18 BY MR. GENTILE:

19 Q Now, when you actually made execution of the
20 search warrant at Mr. Counts' house and the house across the
21 street, Mr. Counts was not the easiest to capture you've ever
22 encountered, was he?

23 A No.

24 Q The truth of the matter was -- is that he was
25 hiding in the ceiling of this house, correct?

1 A Yes, that's correct.

2 Q The truth of the matter is that you sent the
3 dog up after him. Do you remember that?

4 A The dogs were placed many times into the attic.

5 Q And he actually fought off the dogs?

6 A I don't believe that he fought off the dogs. I
7 believe that once they located him, he was hit with a taser.

8 Q Well, but prior to that, did you not use -- I'm
9 going to call them explosive devices, but you know what I'm
10 talking about -- to get him out of that attic?

11 A There were many, many explosions that occurred
12 at that residence.

13 Q Tell us what it took to get him out of there.

14 A Every window was broken. There were multiple
15 holes in the ceiling where there were ladders going up in the
16 attic where different K-9 officers can pop their dog up there,
17 see if they can locate him, see if they can find out what
18 corner of the attic he was in. And eventually they located
19 him in a section of the attic.

20 Q All right. And we see photographs of the
21 condition of that house after he was captured; am I correct?

22 A Yes.

23 Q It's fair to say that it didn't look like that
24 when you first entered the house?

25 A That's fair to say.

1 Q Okay. And so your statement yesterday that you
2 were anticipating that Mr. Counts was an extremely violent
3 individual -- I wrote that down when you said it -- turned out
4 to be pretty true?

5 A Yes.

6 Q And you had to -- I think your words were, He
7 was extracted from the attic?

8 A Yes.

9 Q Now, after you interviewed Mr. Carroll, you
10 then interviewed Mr. Zone; am I correct?

11 A Yes.

12 Q And where was Mr. Carroll when you interviewed
13 Mr. Zone?

14 A At his residence.

15 Q All right. And when you dropped off
16 Mr. Carroll at his residence, did you instruct him at that
17 time -- well, let me take a step back. Let's kind of simplify
18 it.

19 You never promised Mr. Carroll anything?

20 A Never anything.

21 Q Other than that you would take him home?

22 A Yes.

23 Q Okay. And you did. You took him home?

24 A Yes.

25 Q All right. When you took him home, you were

1 concerned about his availability to you in the future, were
2 you not?

3 A Yes.

4 Q Okay. This was a man that told you that he
5 drove someone to the scene of a homicide and engineered it?

6 A Yes.

7 Q Okay. In your mind, you knew you were going to
8 go back and find him again?

9 A Yes.

10 Q You certainly wanted to?

11 A Yes.

12 Q And you knew that you wanted to have him go in
13 to interview whoever he could wearing -- I shouldn't say
14 whoever he could -- specifically three people, but most likely
15 one person, Mr. H, Mr. Luis Hidalgo, Jr.; am I right?

16 A Yes, that's correct.

17 Q And Anabel Espindola?

18 A Yes.

19 Q Okay. And you were concerned that he might
20 speak with them before you sent him in with a wire, were you
21 not?

22 A Yes.

23 Q And you directed him not to do that; am I
24 right? If the word "directed" is too strong a word for you --

25 A That's too strong a word.

1 Q Okay. You suggested to him that he not do it;
2 am I right?

3 A I suggested -- or Detective Wildemann, who was
4 doing more of the contact with --

5 MR. DIGIACOMO: Hold on. I'm going to object.
6 Let's let Detective Wildemann say exactly what he told
7 Mr. Carroll.

8 THE COURT: Unless this witness overheard it.

9 BY MR. GENTILE:

10 Q Were you present?

11 A I wasn't present.

12 Q Did you have discussions with Detective
13 Wildemann developing the strategy?

14 A Yes.

15 Q Okay. And during those discussions that you
16 had with Detective Wildemann, was the strategy to advise
17 Mr. Carroll that it would be best for him not to speak to
18 those people?

19 A That wasn't the direction that was given. The
20 direction was it would be better for him to stay away from
21 that club.

22 Q Right. And stay away from that club meant stay
23 away from Mr. Hidalgo and Anabel Espindola?

24 A Yes.

25 Q And Mr. Hidalgo, III?

1 A Yes.

2 Q Okay.

3 MR. GENTILE: Your Honor, I don't know if this would
4 be a good time -- if you're going to take a break this
5 afternoon -- I don't know if you are.

6 THE COURT: Well, we were. Is everybody okay?

7 Do you need to set something up or --

8 MR. GENTILE: No, I could keep going.

9 THE COURT: Okay.

10 MR. ADAMS: Judge, we have a request from the little
11 back table for a break.

12 THE COURT: Okay. Let's take our afternoon break.
13 We'll just take ten minutes, ladies and gentlemen.

14 And once again you're reminded of the admonition
15 that's in place not to discuss the case or do anything else
16 relating to the case on our brief break.

17 Notepads in your chairs and follow Jeff through the
18 double doors and we'll see you all back here in ten minutes.

19 (Jury recessed at 3:06 p.m.)

20 THE COURT: We have a number of juror questions.
21 Was there any other video nearby from another building that
22 night that could have picked up any outdoor activity? That
23 one's fine.

24 Were there any video cameras on the outside of the
25 Palomino --

1 (Audio off)

2 (Court recessed at 3:07 p.m. until 3:26 p.m.)

3 (In the presence of the jury.)

4 THE COURT: All right. Court is now back in
5 session. Everyone may be seated.

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

8 MR. GENTILE: Thank you.

9 BY MR. GENTILE:

10 Q Sergeant, by May of the year 2005, how long had
11 you been in law enforcement?

12 A In May, I want to say 12 or 13.

13 Q Okay. And you'd been in homicide about three
14 and a half years by that time?

15 A Yes.

16 Q Prior to that, what were you doing?

17 A I was --

18 Q Not prior to law enforcement. Prior to
19 homicide.

20 A Okay. Prior to homicide, I was a detective in
21 narcotics.

22 Q Okay. So it's fair to say, then, that on the
23 23rd of May of 2005 you had been involved in single party
24 consent recordings in the past?

25 A Yes.

1 Q Okay. Sometimes we call it a surreptitious
2 recording, a fancy word that lawyers and policemen use, right?
3 A Yes.
4 Q And what it means is a secret, more or less?
5 A Yes.
6 Q Okay. It means that somebody is going to be
7 wearing a device that either records or transmits to a remote
8 location --
9 A Yes.
10 Q -- right?
11 And that device is not going to be detectable or you
12 hope that it's not detectable?
13 A That's correct.
14 Q All right. And one of the reasons that you
15 hope that it's not detectable is because there is a safety
16 factor involved with respect to the person who's wearing the
17 device?
18 A Yes.
19 Q If he's -- or she is discovered as recording,
20 it could become problematic?
21 A Yes.
22 Q All right. And undercover police officers
23 sometimes wear such devices?
24 A Yes.
25 Q Okay. And clearly in those situations you have

1 a double problem because if they're discovered recording and
2 discovered to be a police officer, it could endanger the
3 policeman's life?

4 A Yes.

5 Q And so there are procedures that are employed
6 when a law enforcement officer is going to send somebody in
7 wearing a secret recording device?

8 A Yes.

9 Q And the procedures differ depending upon
10 whether the device is going to record locally, in other words,
11 in the device itself, or if the device is going to transmit to
12 a remote location; fair to say?

13 A Fair to say.

14 Q Because in a remote location when you've got a
15 transmitter on somebody, there's -- you can monitor what's
16 going on and in case something bad is developing you can send
17 as many people as you've got with you to help that guy out?

18 A That's correct.

19 Q But when you're dealing with a device that does
20 not transmit, that merely records locally, that is not
21 available to you; fair to say?

22 A That transmits so we can hear it?

23 Q No.

24 A Say it again.

25 Q Just the opposite. Just the opposite. A

1 device that is recording and isn't transmitting at the same
2 time.

3 A That was the type of device.

4 Q I understand that.

5 A Okay.

6 Q I'm getting there.

7 A Okay.

8 Q All right.

9 A I don't --

10 Q I'm getting there. If -- and this particular
11 device that Mr. Carroll had on was a digital recording device,
12 it did not transmit; am I correct?

13 A That's one -- correct.

14 Q All right. And so when Mr. Carroll went into
15 Simone's, you weren't able to monitor what was going on while
16 he was in there; is that fair to say?

17 A That's fair to say.

18 Q Okay. But that's not the same as saying you
19 didn't care if the guy got hurt. You definitely did care?

20 A Yes.

21 Q Okay. Also, when you are -- there's a question
22 that I have to ask you that I forgot. There's actually two.

23 A Okay.

24 Q Number one, I'm told by certain people here
25 that I did not have you say that the gun that you recovered

1 from Luis Hidalgo, Jr. that was ultimately returned to him was
2 not the murder weapon. It was not the murder weapon?

3 A That was not the murder weapon.

4 Q Okay. Good. The fact that you returned it to
5 him was enough for me.

6 In any case, by the time that you sent Deangelo
7 Carroll in wearing a recording device, your best estimate --
8 just give me your best estimate in terms of how many times you
9 had been involved, either yourself wearing a device or
10 monitoring somebody else wearing a device, in your law
11 enforcement career by that time.

12 A Hundreds.

13 Q Okay. And so -- and you did wear it yourself
14 from time to time, haven't you?

15 A Yes, I have.

16 Q Okay. Usually if a law enforcement officer's
17 walking in there, it's preferential to have a transmitter,
18 isn't it?

19 A . Yes.

20 Q In this instance, that's not what was used? I
21 think we've established that.

22 A Yes.

23 Q Okay. Now, you can't just send somebody
24 wearing a device into a situation without knowing something
25 about the history of the -- of what has taken place before you

1 do that; am I right?

2 A Yes.

3 Q A history -- in other words, if you've got

4 somebody that's going to wear a device and they have had prior

5 contact with the person that they're going to go in to record,

6 you need to know what that prior contact was?

7 A Yes.

8 Q Because if they walk in there and they say

9 something that is totally contrary to anything that had

10 happened before, it might provoke a response that you don't

11 want in a sense of danger? Shall I clear that up?

12 A Clear that up.

13 Q All right.

14 A Yeah, because I was listening from the

15 beginning. You lost me at the end.

16 Q All right. Let's take a situation where you

17 yourself have worn a recording device.

18 A Yes.

19 Q Just use that for a general background. When

20 you walk in and you're wearing a recording device, you know

21 what has transpired in the past between you and the person

22 that you're talking to?

23 A It could be and it could not be.

24 Q Well, it might be that you never had any

25 contact with them at all before?

1 A Yes.

2 Q But if you had had contact with them before,
3 then you know what has transpired?

4 A Yes.

5 Q If you did not have any contact with them
6 before, you at least have some kind of information that caused
7 you to go in there wired in the first place?

8 A Yes.

9 Q Okay. And so you know what the person that
10 you're going to be talking to and recording is expecting to
11 hear; fair to say?

12 A Yes.

13 Q Because if you say something that the person is
14 not expecting to hear, they're going to become puzzled as to
15 why you're saying that and might respond violently?

16 A That's a fair statement.

17 Q Okay. And so in this instance you had spoken
18 with Mr. Carroll?

19 A Yes.

20 Q And he had given you -- true or false, it
21 doesn't matter, he at least gave you some historic information
22 about his relationship with the people that he was going in to
23 record?

24 A Yes.

25 Q And you definitely did not want him to walk in

1 there and say something that was contrary to anything that had
2 happened in the past between them?

3 A No. My object was to have him basically go in
4 there and verify what he had already told us.

5 Q What he had told you. Exactly.

6 And you had told him when he left you on the 20th of
7 May -- I guess he might have left you on the 21st of May.
8 Yeah, 21st. You've already said that it was suggested to him
9 that he not have any contact with the Palomino Club and the
10 people there until you got in touch with him again. I think
11 you've already testified about that.

12 A Yes.

13 Q Okay. And it was your understanding on the
14 23rd that he had not had any contact except that he had
15 received a phone call?

16 A That's not correct.

17 Q That's not correct?

18 A That's not correct.

19 Q Okay. It was your understanding that he had
20 had contact?

21 A Yes.

22 Q And he told you the nature of the discussions
23 that had taken place?

24 A That was told to Detective Wildemann and
25 relayed to me.

1 Q All right. And so when you were sending him in
2 to speak with whoever it was that he could speak with, it was
3 certainly your contention that it be Luis Hidalgo, Jr., right?
4 A Yes.
5 Q And -- because he told you that he could do
6 that?
7 A Yes.
8 Q And Luis Hidalgo, III?
9 A Yes.
10 Q And Anabel Espindola?
11 A Yes.
12 Q Now, you gave him certain instructions in terms
13 of what it was that you wanted him to say -- something?
14 A What we wanted to hear.
15 Q What you wanted to hear, but you also gave him
16 some assistance in terms of setting up a scenario that would
17 be an introduction to the discussion?
18 A I don't believe that that was discussed. What
19 was discussed primarily was length of time, you know, distress
20 signals, things of that nature, something's going wrong, those
21 type of things.
22 Q Let's talk about distress signals.
23 A Yes.
24 Q You're on the outside of this place?
25 A Yes.

1 Q You can't see in through the place?

2 A Yes.

3 Q Was he wearing some sort of device that if he

4 set it off would let you know that there was a problem?

5 A No.

6 Q Okay. There was a way for him to communicate

7 to you that there was a problem?

8 A There was a way that we instructed him to

9 communicate with us that --

10 Q If there was a problem?

11 A -- if there was a distress that we would --

12 Q Was he supposed to yell out help real loud?

13 A He was supposed to scream and try to get to the

14 nearest exit and waive his arms straight up in the air so that

15 we can come and rescue him.

16 Q All right. But that never happened?

17 A That never happened.

18 Q All right. And I wanted -- one of the reasons

19 that you sent him in there was to determine if these things

20 that he had told you in the past were true or not true?

21 A Yes.

22 Q All right. Because it's fair to say that

23 everything he told you did not turn out to be true. That's

24 fair to say?

25 A That's fair to say.

1 Q Okay. And you had some doubts about this man's
2 truthfulness in general?

3 A Yes.

4 Q Now, he walked into -- I'm listening to the
5 first recording.

6 A Okay.

7 Q And if you want to use just as an aid for the
8 examination because the transcript, of course, is not evidence
9 in this case, the jury can't use it, but if you want to use it
10 for our question and answer, if it would be helpful to you --

11 A Well, let's go.

12 Q I don't know what the number is. Okay. There
13 is a -- at the very beginning there is some discussion about
14 Mr. Carroll being told by Anabel to go to Room 6. Do you
15 remember that?

16 A Yes, I remember that.

17 Q But you can't hear that on the tape?

18 A No, I can hear the knocking on the door.

19 Q You can hear the knocking on the door. So you
20 don't hear Mr. Carroll talking to Anabel Espindola and her
21 saying go to Room 6?

22 A Not that I can recall.

23 Q You do hear Mr. Carroll asking somebody, Where
24 is your brother?

25 A Yes.

1 Q And we can agree, can't we, that at least as
2 far as any of us know Anabel Espindola and Luis Hidalgo, III
3 are not brother and sister?

4 A That's correct.

5 Q And Anabel Espindola and Luis Hidalgo, Jr. are
6 not brother and sister?

7 A That's correct.

8 Q Okay.

9 (Off-record colloquy)

10 BY MR. GENTILE:

11 Q Now, Mr. Carroll is saying that -- well, never
12 mind. It appears from the tape that Mr. Carroll has not been
13 back to work at the Palomino like you told him he shouldn't
14 do. Is that accurate?

15 MR. DIGIACOMO: Objection.

16 MR. GENTILE: I don't --

17 THE COURT: Well, overruled. The tape speaks for
18 itself and --

19 MR. DIGIACOMO: Except for I thought that the Court
20 had ruled that the statements of Deangelo Carroll can't be
21 offered for the truth of the matter asserted.

22 MR. GENTILE: I'm not offering it for that. I'm
23 asking him if it is true. I'm asking him to tell the truth,
24 not Mr. Carroll.

25 THE COURT: All right. Well, it's not being offered

1 for that.

2 You had directed Mr. Carroll not -- or suggested
3 that he not return; is that right?

4 THE WITNESS: That's right.

5 THE COURT: And there's nothing on the tape to
6 suggest that, in fact, he had returned to work?

7 THE WITNESS: Nothing on the tape.

8 THE COURT: All right.

9 BY MR. GENTILE:

10 Q Among the things that you ask Mr. Carroll to do
11 was to verify that he was -- I'm going to use the word
12 "ordered," but there was an agreement that he was supposed to
13 go out and murder Mr. Hadland. Am I right?

14 A That he was to go out? That's what you said.

15 Q Well, let me rephrase -- let me just say this,
16 that he -- that there had been an agreement that he was a part
17 of and that the object of the agreement was the murder of
18 Mr. Hadland?

19 A Correct.

20 Q Okay. And Mr. Carroll knew that that's what he
21 was supposed to do. Am I right?

22 A Yes.

23 Q And as a matter of fact, in this initial
24 recording, Mr. Carroll says the words, What's done is done.
25 He wanted him fucking taken care of and we took care of him.

1 He says those words?

2 A Yes.

3 Q Which was a prompt to get the response that

4 would be to the effect of, Yeah, that's right. Fair to say?

5 A Fair to say.

6 Q All right. But that's not what happened.

7 That's not what the response was, was it?

8 A No.

9 Q And so when you said yesterday -- and I wrote

10 it down word for word --

11 A Okay.

12 Q -- We didn't believe we had enough the first

13 time so we sent him back in again, that's kind of what you're

14 talking about?

15 A Yes.

16 Q Now, what's your memory as to when it became

17 public knowledge that Palomino flyers were discovered at the

18 site of Mr. Hadland's death?

19 A When the crime scene analysts and myself

20 arrived.

21 Q Do you recall any media dissemination of that

22 information?

23 A I recall all of the media being there, but I

24 don't believe that that was disseminated.

25 Q It hadn't been disseminated until after the

1 arrest of Anabel Espindola; am I correct?

2 A Yeah. The press release was put up after that.

3 Q All right. And she was arrested on the 24th of

4 May?

5 A Yes.

6 Q Now, at some point in time, Mr. Carroll -- for

7 about 14 minutes or so, Mr. Carroll speaks, and he says, We

8 were going to call it quits and fucking KC fucking got mad and

9 I told you he went fucking stupid and fucking shot the dude,

10 nothing we could fucking do about it. Do you remember him

11 saying that?

12 A That's in there. That's in the recording.

13 Q Did you tell him to say that?

14 A No.

15 Q Did he tell you that he told somebody that this

16 guy went goofy and shot the dude?

17 A No.

18 Q So this was the first time that you're hearing

19 this on this tape recording?

20 A Yes.

21 Q Which is another reason why you didn't believe

22 you had enough the first time so you sent him back in again?

23 A Yes, which is one of the reasons.

24 Q I said another.

25 A Another.

1 Q We'll try to hit a few.

2 A Okay.

3 Q Now, Mr. Carroll says that after he spoke with

4 the homicide detectives he walked outside of the homicide

5 offices --

6 A Yes.

7 Q -- at about 1:30 and he says -- and he goes,

8 You can go home. When I walked outside the building, there

9 were two Metro cops. They fucking booked me on some fucking

10 misdemeanor tickets and I got in the van. Remember the

11 tickets we got that night? You had to come and get the van.

12 Did you tell him to say that?

13 A Yes.

14 Q And that was to explain why he hadn't been in

15 contact with them for so long?

16 A Yes.

17 Q Am I right?

18 A That's correct.

19 Q It was sort of a cover?

20 A Yes.

21 Q And so after hearing this recording, after you

22 went back, loaded it onto a computer and listened to it, it

23 became apparent to you that Mr. Carroll had had more

24 communication with Anabel Espindola than he admitted?

25 MR. DIGIACOMO: Objection.

1 THE COURT: State your question again. What was the
2 question?

3 BY MR. GENTILE:

4 Q After you listened to this recording the first
5 day, the first day, you could hear that there had been
6 communication between Mr. Carroll and Ms. Espindola?

7 MR. DIGIACOMO: Objection.

8 THE COURT: Overruled.

9 THE WITNESS: I mean, when I heard it, I heard the
10 female voice and his voice on there --

11 BY MR. GENTILE:

12 Q And you heard --

13 A -- and it was very --

14 Q -- what they were saying?

15 A But the tape was extremely --

16 Q I don't think you don't understand my question.

17 A I don't understand your question.

18 Q When you heard what you got on the 23rd, there
19 were certain things that Mr. Carroll was talking about that
20 you didn't know he had discussed before with these people. Am
21 I right?

22 A There were certain things I couldn't hear on
23 the tape.

24 Q By the way, when you arrested Anabel Espindola,
25 did you -- do you remember how much money you recovered from

1 her possession?

2 A I took custody of her purse, but not arrested
3 her.

4 Q I'm sorry, sir. You arrested her purse?

5 A I arrested her purse.

6 Q When you arrested her purse, how much was in
7 it? Do you remember?

8 A More than \$2000.

9 Q More than \$2300, right?

10 A Approximately 2300, I believe.

11 Q Okay. And then in addition to that, she also
12 gave \$800 to Mr. Carroll that day, as far as you know?

13 A Yes.

14 Q Now, this concluded, this first recording
15 concluded and you sent him back in a second time, right?

16 A Unexpected.

17 Q You sent him back in a second time because, A,
18 he had not spoken to Mr. Luis Hidalgo, Jr.?

19 A Correct.

20 Q Okay. And he said that he would --

21 A That's correct.

22 Q -- right?

23 And he did not obtain a statement. In fact, it was
24 to the contrary, the statement that he obtained was to the
25 contrary in terms of there being an intention for Mr. Hadland

1 to die?

2 MR. DIGIACOMO: Objection. One, that assumes a fact
3 not in evidence. Two, it's not true.

4 THE COURT: Well, no, that's overruled. First of
5 all, the tape speaks for itself and what's on the tape and
6 that's up to the jury to interpret the meaning on the tape.

7 Mr. Gentile, ask your question another way. I
8 understand what you're asking --

9 MR. GENTILE: I'll go back --

10 THE COURT: Ask it another way.

11 MR. GENTILE: I'll go back to this one and we'll do
12 it backward.

13 BY MR. GENTILE:

14 Q You already said that one of the reasons that
15 you sent him back in the second day was because when he said,
16 What's done is done, you wanted him fucking taken care of and
17 we took care of him, the response that he got was to the
18 contrary of that statement that he said, right?

19 A That was one of the responses that was on the
20 tape.

21 Q Right. Right. And so you sent him back in the
22 second day?

23 A Yes.

24 Q The second day, would it be fair to say that
25 you told him to stay his ground a little bit more if he was

1 contradicted?

2 A That's not accurate.

3 Q No?

4 A No.

5 Q Did you -- would you agree that Mr. Carroll is
6 more forceful and argumentative when he is contradicted about
7 what the reason was for his being with Mr. Hadland? Would you
8 agree with that?

9 A On this time?

10 Q On the second one.

11 A On the second one, he's more forceful, yes.

12 Q Forceful. But that wasn't because you told
13 him?

14 A No.

15 Q That was because he wanted to stay out of jail
16 and he needed to get this recording?

17 A That's not true.

18 Q I'm not saying that you told him he would stay
19 out of jail. You never made him that promise?

20 A Never made him that promise.

21 Q I understand that. Nobody's suggesting that.
22 I don't want that suggestion to be taken from my question to
23 you. That's not what I mean.

24 A I know what -- I know what we're talking about,
25 but that's not correct.

1 Q On the second day, he says, You know what I'm
2 saying? I did everything you guys asked me to do. You told
3 me to take care of the guy and I took care of him.

4 And then Anabel says to him, Talk to the guy, not
5 fucking take care of him.

6 Do you remember that?

7 A That's one of her lines.

8 Q That's one of her lines. And then he says, If
9 he's with somebody -- you said if he's with somebody, then
10 just beat him up.

11 And she said, I said to go to plan B, fucking,
12 Deangelo. And Deangelo, you're just minutes away. I told you
13 no. I fucking told you no.

14 That's what she's saying to him?

15 A That's what she's saying.

16 Q Now, he says at some point in time -- and I'm
17 only using this language because the courtroom is one place
18 you can say -- you have to say whatever's in there. Deangelo
19 says, Fucking KC is threatening to kill my wife and kid.

20 Did you tell him to say that to them?

21 A No.

22 Q On the first day, you met at Jerry's Nugget?
23 You met Deangelo at Jerry's Nugget?

24 A Yes.

25 Q Because the vehicle that he had to drive was

1 across the street?

2 A Across the street, down the road and around the
3 corner, Yale Street. Do you know where Yale Street is?

4 Q I do know where Yale Street is.

5 A So when you go behind Jerry's Nugget and you go
6 up one street, then you go northbound on Yale and there was
7 his -- there was his place, so it's not --

8 Q No, I didn't say his place.

9 A Oh, his house. You said --

10 Q No. You -- no, I didn't speak right.

11 A Okay.

12 Q I must have not done well trying to
13 communicate --

14 A Okay.

15 Q -- so let me try again.

16 If I understand you correctly, Deangelo's -- when he
17 called you, his orders, so to speak, were to pick up the van,
18 the Palomino Club van, and drive it to Simone's. Am I
19 correct?

20 A The shuttle bus.

21 Q Shuttle bus.

22 A That was a pre-arranged situation that was
23 discussed on the telephone.

24 Q Right. I understand that.

25 A Okay.

1 Q That was his -- that's what he told you he was
2 supposed to do?
3 A Yes.
4 Q Okay. And the shuttle bus was, of all places,
5 in the Palomino parking lot?
6 A Yes.
7 Q And the Palomino's across the street from
8 Jerry's Nugget?
9 A Yes.
10 Q And so the reason you met at Jerry's Nugget was
11 because it was close to where he was supposed to pick up the
12 shuttle bus?
13 A Yes.
14 Q Otherwise, you'd have this recorder on for even
15 longer than it was, right, wasting digital capacity?
16 A I mean, that's not the only reason, but that --
17 you know, that wasn't a consideration at the time.
18 Q Nevertheless, it was across the street from
19 Jerry's Nugget?
20 A Yes.
21 Q Okay. So he picked it up. Now, from the time
22 that you put this recording device on him, it was activated?
23 A Yes.
24 Q And he had no way to deactivate it?
25 A Yes. There is an on/off switch on the device.

1 Q Okay. But insofar as you can tell from having
2 downloaded it, that on/off switch was not used?

3 A That's correct.

4 Q And then it remained on until you collected it
5 back from him that day?

6 A Yes.

7 Q And the same is also true from the 24th of May?

8 A Yes.

9 Q Okay.

10 MR. GENTILE: I have nothing further.

11 Thank you.

12 THE WITNESS: Thank you.

13 THE COURT: All right. Mr. Arrascada.

14 MR. ARRASCADA: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. ARRASCADA:

17 Q Detective, I want to talk to you first about
18 the May 23rd wire, okay?

19 A Okay.

20 Q And when you testified yesterday on direct
21 examination, you said to these folks -- and I wrote it down
22 here -- the purpose of the wire, I believe you said, was to
23 get info on Mr. H. That's how you said it, correct?

24 A Yes.

25 Q Raised up to say Mr. H, right?

1 A Yes.

2 Q Okay. And it's because that day you wanted to

3 hear and verify Deangelo Carroll's story regarding Mr. H?

4 A Yes.

5 Q Okay. Now, before he goes in -- you spoke

6 about this with Mr. Gentile. I want to talk about a few other

7 points, okay?

8 A Okay.

9 Q Before he goes in, Deangelo Carroll, to do the

10 wire to get Mr. H, you brief him, correct, or you talk to him?

11 A Yes.

12 Q And some of the things that -- and you told

13 them all -- the folks here in the jury already that you told

14 him some prompts or things you would want him to say to gain

15 information and reactions, correct?

16 A Some things.

17 Q And some of those things were to tell them

18 untruths, right?

19 A Yes.

20 Q Or lies?

21 A Yes.

22 Q And those lies were, one, that Kenneth Counts

23 wanted more money, right? That was a lie at the time?

24 A That was a lie during the conversation, yes.

25 Q Because you knew that Kenneth Counts was in

1 jail?

2 A Yes.

3 Q And then the other was that Rontae Zone and
4 Jayson Taoipu were saying they were going to snitch or tell,
5 right?

6 A That's one of the things that's on the tape.

7 Q Okay. So that was something you told him as
8 lies to get reactions because Jayson and Rontae, at that
9 point, had already given statements, recorded statements, to
10 you and/or one of the other detectives, right?

11 A That wasn't a prompt to. That wasn't something
12 under my direction I told him to use.

13 Q I'm sorry. You're testifying now that you did
14 not prompt him or tell him to say that Jayson and -- Jayson
15 Taoipu and Rontae Zone were going to snitch or were going to
16 say they were going to snitch?

17 A I don't believe that those were the words that
18 I said.

19 MR. ARRASCADA: Court's indulgence.

20 BY MR. ARRASCADA:

21 Q Do you recall testifying in the Counts' trial,
22 correct?

23 A Yes.

24 Q And you testified as, you are here, under oath,
25 correct?

1 A Yes.

2 Q You were asked questions and you gave answers
3 under oath?

4 A Yes.

5 Q Okay. And it's your testimony today that you
6 did not tell Jayson -- that part of your ruse or part of the
7 lies that you prompted or gave to Deangelo Carroll, you did
8 not tell him to let the people he went to talk to on the
9 wire -- you did not tell him to tell lie about the fact that
10 Jayson and Rontae were going to be snitching on people; is
11 that right?

12 A I don't know if those were the words exactly
13 that I used. I mean, if you -- I haven't reviewed Kenneth
14 Counts' -- my testimony and his. Would you like to show it to
15 me?

16 MR. ARRASCADA: May I approach?

17 THE WITNESS: That sounds wonderful.

18 BY MR. ARRASCADA:

19 Q Okay. We're at page 97. I'm going to come up
20 around here. Is that all right?

21 A Okay. That sounds great. Don't hurt yourself.

22 Q I'll try not to.

23 Just so we're clear, here it is, testimony, State V
24 Kenneth Counts, correct?

25 A Okay. Yeah.

1 Q And you'll agree with me that Michael Shawn
2 McGrath, that is you?
3 A Yes, that's me.
4 Q And you are at page 79 through 116.
5 A Yep.
6 Q We're at page 97, correct?
7 A Okay.
8 Q And here it is. You were asked by the
9 prosecutor: Can I ask you a couple of questions --
10 A Okay.
11 Q -- about Deangelo -- about what Deangelo says
12 on here? In fact, you provided some information for Deangelo
13 to tell that wasn't true, correct?
14 And you said --
15 A Yes.
16 Q -- yes.
17 The next question was: I mean, for Mr. DiGiacomo.
18 I mean, KC wasn't looking for money because KC is already in
19 jail, right?
20 Answer: That is correct.
21 A That's what I testified to.
22 Q Next question: The kids, referring -- and the
23 kids in this case are Rontae and Jayson, correct? Is that
24 right?
25 A Yes.

1 Q The kids aren't talking or the two kids that
2 are in the car aren't talking about snitching. They've
3 already provided statements to the police about the crime.
4 Your answer: That's correct --
5 A Okay.
6 Q -- right?
7 A Yeah, let me just continue reading.
8 Q Are those -- those are my questions. I'm sure
9 they can clean it up. Okay?
10 A That's correct.
11 Q Okay. So it is correct and truthful?
12 A Yeah. As -- I mean, we're talking 2005. Okay.
13 So when --
14 Q The Counts trial was 2000 --
15 A No, I'm just saying where you --
16 Q Sir, let me ask questions. You give answers.
17 A Okay.
18 Q Is that all right?
19 A That sounds wonderful.
20 Q Okay. The Counts trial was February 6, 2008,
21 correct?
22 A Yes.
23 Q Okay. Last year?
24 A But you asked me on my questions that we were
25 discussing earlier today here when he asked me the question

1 that he asked me about being handcuffed and those types of
2 things. Were they -- was he arrested? That's what
3 Mr. Gentile asked me.

4 Q My questions are different.

5 A Okay.

6 Q My questions are regarding Deangelo Carroll
7 before he went in to get his information on the wire on
8 May 23rd. You spoke to him, correct?

9 A Yes.

10 Q And when you spoke to him, you told him to say
11 some things which were not true or lies, correct?

12 A Yes.

13 Q And one of those things was that Kenneth Counts
14 wanted more money, correct?

15 A I mean, I said a lot of things, but I don't
16 know if that's exactly how I worded it, how it was worded.

17 Q That was your prior testimony?

18 A That was my prior testimony.

19 Q And that was under oath?

20 A Yes.

21 Q Where you swore to tell the truth, correct?

22 A Yes.

23 Q And then the other statement under oath that
24 you told Deangelo Carroll to lie about was that Rontae and
25 Jayson were going to snitch, right?

1 A Right.

2 Q So those were some of the prompts, more of them

3 that were told to Deangelo Carroll before he went in to speak

4 to the people on the wire, correct?

5 A I don't recall exactly if those were the words.

6 I mean, we had a discussion. I searched his car, I searched

7 his person.

8 Q You didn't lie when you testified, right?

9 A No, I didn't lie when I testified.

10 Q Okay. Then can you agree that's what you said?

11 A Yes, that's what I said.

12 Q Okay. So there are things that you had yet --

13 that you gave information to Deangelo Carroll --

14 A Yes.

15 Q -- to bring up during the conversation in

16 Simone's which were lies, correct?

17 A On the first time?

18 Q May 23rd.

19 A Yes.

20 Q Okay. You did not tell him, as a lie, to tell

21 Little Lou you had nothing to do with it, did you?

22 A No.

23 Q That would not be a lie, would it?

24 A I don't know if it was a lie.

25 MR. DIGIACOMO: Object -- that's fine.

1 MR. ARRASCADA: Let me rephrase that.

2 THE COURT: Okay. He's rephrasing.

3 BY MR. ARRASCADA:

4 Q That would not be a lie that you provided to
5 Deangelo Carroll to tell -- provide or state at the wire
6 transfer, at the wire discussions, right?

7 A Yes.

8 Q Okay.

9 (Off-record colloquy)

10 BY MR. ARRASCADA:

11 Q You were the primary case agent; am I correct
12 on that?

13 A I was a crime scene -- in charge of the crime
14 scene, myself and Detective Kyger. We were co-case,
15 co-case --

16 Q Primary agents?

17 A Yeah.

18 Q Okay.

19 A Detectives.

20 Q Detectives. But you also executed the warrant,
21 and you previously testified to this, the warrant at the
22 Palomino, correct?

23 A Yes.

24 Q And part of that warrant included wanting to
25 get their payroll records, correct?

1 A Yeah, paperwork, payroll.
2 Q And you actually did obtain the payroll
3 records, correct?
4 A Yes.
5 Q And on those payroll records, let's talk about
6 what wasn't on those. When you reviewed those --
7 MR. ARRASCADA: Court's indulgence.
8 THE COURT: That's fine.
9 MR. ARRASCADA: I'm sorry.
10 THE COURT: That's all right. Take your time.
11 BY MR. ARRASCADA:
12 Q On those payroll records, you were able to
13 confirm that Deangelo Carroll was an employee?
14 A Yes.
15 Q Timothy Hadland was a former employee, correct?
16 A Yeah. I don't know if it said former. His
17 name was in there.
18 Q He was on the payroll?
19 A Yes.
20 Q Who was not on the payroll records for the
21 Palomino, Rontae Zone was not there, was he?
22 A No.
23 Q And Jayson Taoipu was not there, correct?
24 A That's correct.
25 Q So they were not employees on the records of

1 the Palomino Club?

2 A That's correct.

3 THE CLERK: 192 is the CD.

4 MR. ARRASCADA: We don't need it. We agree. I
5 apologize. I wrote down the wrong exhibit number.

6 THE COURT: He doesn't need it anymore.

7 BY MR. ARRASCADA:

8 Q Just to reconfirm for the clerk, Jayson Taoipu
9 was not on the payroll records of the Palomino Club, correct?

10 A That's correct.

11 Q Neither was Rontae Zone, right?

12 A That's correct.

13 Q Part of your investigation -- you spoke about
14 the involvement you had with the arrest of Kenneth Counts,
15 correct?

16 A Yes.

17 Q And one of the things you learned was that
18 Kenneth Counts was extremely violent, correct?

19 A Yes.

20 Q And the way that you learned that is that one
21 of the things you do is you can punch in on a computer that
22 will provide peoples' criminal histories, correct?

23 A Correct.

24 Q And so you can punch in Kenneth Counts with as
25 much identifying information and out comes -- spits out his

1 criminal history, correct?

2 A That's correct.

3 Q And he had been previously convicted of violent
4 felonies?

5 A Yes.

6 MR. DIGIACOMO: Objection. He had -- he was
7 never --

8 THE COURT: Hearsay.

9 MR. DIGIACOMO: Judge, can we approach?

10 THE COURT: All right.

11 (Off-record bench conference)

12 THE COURT: Just to clarify, when you ran Kenneth
13 Counts through the computer to see if he was dangerous and all
14 of that, the two priors, were those both drug related prior
15 convictions?

16 THE WITNESS: Yes.

17 THE COURT: All right. Thank you.

18 BY MR. ARRASCADA:

19 Q They were drug convictions. You also learned,
20 though, through your investigation that he was an extremely
21 violent person?

22 A Yes.

23 Q And Deangelo Carroll, you ran him on the
24 computer too, correct?

25 A Yes.

1 Q And you saw it come up that he had a prior
2 felony conviction, right?

3 A Yes.

4 Q And that was for robbery, wasn't it?

5 A Conspiracy --

6 Q Do you need to get the answer from someone
7 else?

8 A -- to commit or it might be --

9 MR. DIGIACOMO: Objection, Judge.

10 THE WITNESS: It was robbery.

11 THE COURT: All right. Sustained.

12 BY MR. ARRASCADA:

13 Q All right. Robbery's a violent crime, correct?

14 A Yes.

15 Q It's the taking of force or violent from
16 another person, right?

17 A Yes.

18 Q Now, when you ran Luis Hidalgo, III, he had no
19 record, did he?

20 A That's correct.

21 (Pause in proceedings)

22 BY MR. ARRASCADA:

23 Q You previously identified documents that were
24 taken from Kenneth Counts' house, correct?

25 A Yes.

1 Q And there were also photographs that were
2 taken, correct?

3 A Yes.

4 Q And when I mean photographs taken, that's --
5 I'm sorry. It's late in the day. They were photographs that
6 were seen at the scene --

7 A Yes.

8 Q -- that a crime scene analyst then took
9 photographs of?

10 A Yes.

11 Q And I'm showing you Exhibit 71. These are some
12 of those, correct, or two of those?

13 A Yes.

14 Q And you've been involved in narcotics, not
15 yourself personally, but as a detective?

16 A Yes.

17 Q And you head up the unit as a sergeant?

18 A Yes.

19 Q And one of the things that you became aware of
20 is gangs, correct?

21 A I have some knowledge of gangs.

22 Q You had a chance to look at the two gentlemen
23 in these pictures, correct?

24 A Yes.

25 Q And you know that gang members commonly will

1 show signs or gang signs with their hands, correct?

2 A I know that.

3 Q Okay. And did you look at the signs or the

4 hand signals that these two folks are giving in these

5 pictures?

6 A I didn't just look at those.

7 Q Those are gang signs, correct?

8 A I'm not an expert in actual signs. I mean, I

9 can say that they appear to be.

10 Q That's fine. They appear to be gang signs,

11 correct?

12 A Yes.

13 Q Those are photos that were taken from Kenneth

14 Counts' home, correct?

15 A Yes.

16 Q And they appear to be gang signs, correct?

17 A The one up top and the one on the bottom photo.

18 Q Yes?

19 A Yes.

20 Q Okay. And what we mean by that -- and I think

21 it was in the '60s during Vietnam where people would show two

22 fingers spread as a peace sign, correct?

23 A Yes, I've seen that.

24 Q Okay. That's not a gang sign, right, to your

25 knowledge?

1 A To my knowledge, no.

2 Q And we don't have peace signs here, right?

3 A Right.

4 Q They appear to be gang signs?

5 A Yes.

6 Q From Kenneth Counts' house?

7 A From Kenneth Counts' house.

8 Q You spoke to these folks about Exhibit 190

9 which are a series of Nextel phone records. Do you remember

10 that?

11 A Yes.

12 Q And you discussed the color coding, correct?

13 A Yes.

14 Q And that you are familiar with that color

15 coding, correct?

16 A Yes.

17 Q And what you've done with that is you've set up

18 color coding for Deangelo Carroll's phone number, correct?

19 A Yes.

20 Q And also his Nextel chirp number?

21 A Yes.

22 Q And Deangelo Carroll, in your records, is

23 yellow, right?

24 A Sure.

25 MR. ARRASCADA: May I approach?

1 THE WITNESS: Yes.

2 MR. ARRASCADA: Your Honor, may I --

3 THE COURT: Oh, yeah, you can move freely.

4 BY MR. ARRASCADA:

5 Q Deangelo Carroll is yellow?

6 A Yes.

7 Q Anabel Espindola is orange?

8 A Yes.

9 Q And then you also have Lou Hidalgo, III as

10 green?

11 A Yes.

12 Q And Luis Hidalgo, Jr. as blue, correct?

13 A Yeah.

14 Q I just want to talk to you right now about

15 orange, Anabel Espindola, okay?

16 A Okay.

17 Q And also the yellow, Deangelo Carroll, okay?

18 A Okay.

19 Q Now, what you did in color coding these, and

20 we'll put it up there in a second, we can go over it together;

21 is that all right?

22 A Yes.

23 Q Up here you have a yellow color code that

24 that's Deangelo Carroll's phone number, correct?

25 A Yes.

1 Q And all down this row they're all the same,
2 right?
3 A Yes.
4 Q Then over here we have these star 4 or star 13s
5 which are the chirps, correct?
6 A Yes.
7 Q Nextel, direct connect?
8 A Yes.
9 Q Okay. And here between Deangelo Carroll
10 attempting to connect to star 4, that's Anabel, right --
11 A Yes.
12 Q -- on May 19th, he attempted to connect to her
13 on one, two, three, four, five, six, seven, eight times,
14 correct?
15 A Yes.
16 Q And that is from -- I'm sorry. I missed -- I
17 counted wrong. One -- from the 19th, it's just one, two,
18 three, four times he attempted to chirp her correct, the 19th?
19 A Yes.
20 Q Okay. And that's reflected here at the top
21 where you have Deangelo Carroll as the yellow number, the
22 604-5322; is that right?
23 A Yeah, and I put -- that's my writing above
24 that.
25 Q Okay. And starting from the bottom, May 19th,

1 you know that the chirp that ends star 4 is Anabel Espindola,
2 correct?

3 A Yes.

4 Q And so on May 19th, Deangelo Carroll attempts
5 to chirp Anabel Espindola -- let me count it up -- one, two,
6 three, four times, correct?

7 A On the 19th, yes.

8 Q Okay. Now, here we have Anabel in orange,
9 correct?

10 A Yes.

11 Q And these are her chirps, correct?

12 A Yes.

13 Q And yellow's Deangelo Carroll, right?

14 A Yeah, DE.

15 Q Okay. On May 19th, Anabel attempts to direct
16 connect or chirp Deangelo and/or speaks to him on three times,
17 correct?

18 A Yes.

19 Q So, so far what we have --

20 MR. ARRASCADA: Judge, could we use the easel?

21 THE COURT: Of course. Do you need Jeff to assist
22 you?

23 MR. ARRASCADA: You know, it would probably be best.
24 I'd drop it on myself.

25 THE COURT: All right.

1 (Pause in proceedings)

2 BY MR. ARRASCADA:

3 Q Sergeant, one of the things on these records
4 that you have starting on May 19th, 22:42, that's military
5 time, correct?

6 A Yes.

7 Q And that is 10:42 in the evening; is that
8 right?

9 A 10:42 and seven seconds.

10 Q Okay. And you do not have the records from
11 10:42 at night backwards through the day of the 19th here, do
12 you?

13 A Not on this.

14 Q Not on this, your color coded chart, right?

15 A Yes.

16 Q Okay. And that's the same that holds true
17 regarding the Anabel chirp records, correct?

18 A Yes.

19 Q Okay. So these are actually incomplete records
20 that you have color coded for the entire day of the 19th; is
21 that right?

22 A Right. When -- when I got the records, my main
23 concern for that was who's doing what at what time that this
24 incident occurred.

25 Q Okay. When you say this incident, you are not

1 looking at cell phone records from prior in the day; is that
2 right?

3 A I was looking for on the 19th -- in and around
4 the 19th.

5 Q Okay. But you do not have, in and around --
6 you'd agree with me that 10:00 in the evening's almost the end
7 of the 19th, correct?

8 A Yes, this is -- yes.

9 Q Okay. So in and around the 19th, we're missing
10 from 12:01 a.m. all the way up to 10:39:00 p.m; is that right?

11 MR. DIGIACOMO: Objection. Assuming they exist.

12 THE COURT: Well, he can ask -- I mean --

13 BY MR. ARRASCADA:

14 Q We don't have that here, do we?

15 A We don't have -- we have -- on this particular
16 page that you show me, it's the 20th -- I mean, it's
17 May 20th at 20:18, which is 8:18, 29, to May 19th at the
18 bottom, 22:39.

19 Q Which is 10:39?

20 A 20 -- yeah, 10:39.

21 Q At night?

22 A Yes.

23 Q So we don't have records from 12:01 a.m. on the
24 19th up to -- through the day up to 10:39 at night, correct,
25 in what you have, your color codes?

1 A The color codes. This -- I haven't reviewed
2 this before today, just so you know.

3 Q Here we go again on the number that ends 9646,
4 10:41 is the early --

5 A Yes.

6 Q -- 10:41 at night is the earliest date, -- time
7 call you have?

8 A For Anabel?

9 Q Correct.

10 A Yes.

11 Q And the same can be said -- blue is
12 Mr. Hidalgo, Jr., correct?

13 A Yes.

14 Q Mr. H?

15 A Yes.

16 Q And your records on Mr. H begin on the 19th at
17 10:48 p.m., correct?

18 A Yes.

19 Q So again, we're missing almost -- we're missing
20 from --

21 MR. DIGIACOMO: I'm sorry, Counsel. Did you say
22 10:48?

23 BY MR. ARRASCADA:

24 Q I'm sorry, 8:48. 20:48 military's 8:48,
25 correct?

1 A Yes.

2 Q So from 8:48 p.m. all the way backwards to
3 12:01 a.m, the balance of the entire day, we don't have that
4 here, correct?

5 A That's correct.

6 Q Now, on this one, the green, which is Luis
7 Hidalgo, III --

8 A Yes.

9 Q -- this one you actually have the chirps that
10 go back to 3:25 in the afternoon on the 19th; is that right?

11 A Yes.

12 Q Okay. And they go forward, correct?

13 A Yes.

14 Q Again, on the green, on Luis Hidalgo, III, you
15 have all the way back to 3:23 in the afternoon, correct, on
16 the 19th? I'm sorry. Let's go over here. We don't have any
17 on the 19th on this one, correct?

18 A That page is the 20th through the 23rd.

19 Q Okay. And then for Anabel again this is a
20 page, the 20th through the 24th, correct?

21 A Yes.

22 Q So this document that the State has provided as
23 Exhibit 190 fails to provide phone records that existed prior
24 to 8:00 o'clock in the evening of the 19th; is that right?

25 MR. DIGIACOMO: Objection. Assumes that there are

1 any.

2 THE COURT: Well, that document --

3 MR. ARRASCADA: This document is what we're
4 discussing.

5 THE COURT: -- only has records from whatever the
6 time was on the 19th.

7 MR. DIGIACOMO: Right, but he suggested there aren't
8 any and --

9 THE COURT: Well, Mr. --

10 MR. ARRASCADA: That's not what I suggested.

11 THE COURT: That's why he rephrased -- or I phrased
12 the question for him.

13 BY MR. ARRASCADA:

14 Q You understand the question, correct?

15 A Yes.

16 Q And the answer is?

17 A They don't have the time before the 19th.

18 Q They don't have from 12:01 a.m. on the 19th all
19 the way up to --

20 A The 20th.

21 Q -- basically the 20th, right?

22 A Yes.

23 Q And this is the records that the State showed
24 you as their Exhibit 190 that you color coded, right?

25 A Yes.

1 MR. ARRASCADA: Court's indulgence.
2 THE COURT: That's fine.
3 MR. ARRASCADA: Thank you. Nothing further.
4 THE COURT: All right. I'm going to have some
5 juror -- I'm going to ask a few juror questions.
6 THE WITNESS: Sounds wonderful.
7 THE COURT: Okay. A juror wants to know, did you
8 find any records indicating that KC was ever on the payroll of
9 the Palomino Club?
10 THE WITNESS: He was not on the payroll.
11 THE COURT: All right. Was there any other video
12 near or from another building that might have picked up any
13 outdoor activity at the Palomino Club?
14 THE WITNESS: Video, no.
15 THE COURT: Okay. Were there any video cameras on
16 the outside of the Palomino Club? Did you look to see?
17 THE WITNESS: We looked, but I can't recall any.
18 THE COURT: Okay. Now, during the first recording,
19 was there a fourth person in the room?
20 THE WITNESS: Yes.
21 MR. ADAMS: Your Honor, may the record reflect if he
22 has personal knowledge.
23 THE COURT: Right. I was getting to that. Thank
24 you.
25 MR. ADAMS: Thank you, Judge.

1 THE COURT: All right. Now, do you have personal
2 knowledge of who that person was?

3 THE WITNESS: No.

4 THE COURT: And again, only if you know this, don't
5 guess, about 5:36 on one of the transcripts --

6 And if we need to show him that, Counsel can assist.

7 -- it says that the recording device was removed and
8 then retrieved. How was that -- how do you know that
9 information, if you know?

10 THE WITNESS: Because that was provided by --

11 THE COURT: It was somebody else, so you don't have
12 personal knowledge?

13 THE WITNESS: I wasn't inside the room. I was told
14 what happened.

15 THE COURT: All right. Any followup based on those
16 last -- and just so the jury knows, there's a number of
17 questions that have not been asked. Some of these questions
18 I'm stacking up here may be asked of other witnesses who may
19 have more information, so -- just so you know.

20 All right. Mr. Gentile.

21 FURTHER CROSS-EXAMINATION

22 BY MR. GENTILE:

23 Q Sergeant, this video issue, there were clearly
24 video cameras inside the Palomino Club?

25 A Yes.

1 Q And there were video monitors inside the --
2 actually in several locations in the Palomino Club. There
3 were some video monitors in the office that Anabel Espindola
4 and Mr. Hidalgo, Jr. occupied?

5 A Yes.

6 Q That's the executive office?

7 A Okay.

8 Q That's a split screen.

9 A Okay.

10 Q I don't know if you noticed it.

11 A I know we called a tech person out that --

12 Q All right.

13 A -- we were trying to determine -- so --

14 Q And then downstairs in that paneled room where
15 you interviewed Arial, there were also monitors?

16 A Yes.

17 Q All right. But there is not a recording
18 system? In other words, these are surveillance cameras, but
19 they don't -- they don't have a system for recording; am I
20 correct?

21 A We -- we didn't determine whether there was
22 some exterior web link where you could link into, so that
23 wasn't determined at the time. We did not discover any VHS
24 tape or any DVDs or anything like that at the --

25 Q Here's what I'm trying to get at, and I'll be

1 point blank at it.

2 A Okay.

3 Q There's nothing to indicate that any video
4 recordings were destroyed; am I correct?

5 A That's correct.

6 Q Okay.

7 THE COURT: All right. Mr. Arrascada, any questions
8 just based on those last juror questions?

9 MR. ARRASCADA: No, Your Honor.

10 THE COURT: All right. Mr. DiGiacomo, redirect.

11 REDIRECT EXAMINATION

12 BY MR. DIGIACOMO:

13 Q Detective, briefly going back to this issue of
14 the phone records, you sent a request for phone records,
15 correct?

16 A Yes.

17 Q These are the phone records you got back,
18 correct?

19 A Yes.

20 Q And do you have any other phone records that
21 have direct connect information in your case file that you're
22 aware of?

23 A No.

24 Q Okay. So the suggestion that somehow we --
25 this is all we got, right?

1 A That's what we got.

2 Q All right. Now, I also noticed that there's
3 some questions asked, and I want you to actually read the
4 record because -- tell me if I'm reading this right, and I'll
5 get it really close for you. All right.

6 6348, correct, at the very bottom there, the first
7 record shows May 19th of '05, correct?

8 A Yes.

9 Q At 3:25:14, that's not 3:00 o'clock in the
10 afternoon in military time, is it?

11 A No, that's 03.

12 Q So that's 3:00 o'clock in the morning?

13 A Yes.

14 Q And thereafter, the next one that's shown is
15 20:22:49, correct?

16 A That's correct.

17 Q There were a number of questions asked about
18 criminal history so let me see if you can identify that. Do
19 you know what that is?

20 A Yes.

21 Q What is it?

22 A It's what we call a scope. When you punch
23 someone in the scope, it gives them a local history as to what
24 they have been arrested in Clark County for.

25 MR. DIGIACOMO: I probably should have this marked.

1 BY MR. DIGIACOMO:

2 Q And who is that criminal history for?

3 A Kenneth Counts.

4 Q And so that could have been the document that
5 you used to determine kind of the criminal history of Kenneth
6 Counts?

7 A Yes.

8 Q Okay. And you also said something to the
9 effect of, I knew that Kenneth Counts was extremely violent,
10 or something to that effect, correct?

11 A Yes.

12 Q Some of that information was based upon your
13 knowledge of the crime itself?

14 A Yes.

15 Q Gathered from more than one witness?

16 A Yes.

17 Q And then the criminal history, and you put two
18 and two together, correct?

19 A Yes.

20 MR. ARRASCADA: Yeah, we're going to object to the
21 leading. It is redirect.

22 MR. DIGIACOMO: That's fine.

23 THE COURT: All right.

24 BY MR. DIGIACOMO:

25 Q Do you recall questions by Mr. Gentile about

1 Deangelo Carroll told you information about drug sales by
2 Kenneth Counts?

3 A Yes.

4 Q Was that information confirmed or disputed by
5 the criminal history of Kenneth Counts?

6 A It was confirmed.

7 Q Mr. Carroll -- sorry. Mr. Gentile asked you
8 questions about information about a gun that you could
9 possibly confirm or not confirm, correct?

10 A Yes.

11 Q And you're aware that Detective Wildemann did
12 that portion of the investigation?

13 A Yes.

14 Q You've learned -- or you heard questions about
15 what other verifiable facts you had in the interview of
16 Deangelo Carroll, correct?

17 A Yes.

18 Q And --

19 MR. GENTILE: There were -- objection. There were
20 specific -- I addressed specific facts, not in general, just
21 specific.

22 THE COURT: All right.

23 BY MR. DIGIACOMO:

24 Q Mr. Gentile was asking you questions about
25 whether -- what you could and could not confirm from that

1 particular interview, correct?

2 A Yes.

3 Q And then he went on, if you recall -- do -- you
4 recall the questionings you had about the wire and the
5 information that you were trying to confirm on the wire,
6 correct?

7 A Yes.

8 Q All right. And then there was the first one,
9 and he read you certain portions of the first one that you --
10 do you remember questions he read to you from the May
11 23rd wire itself, transcript?

12 A Yeah, most of them. If we could just --

13 Q And I'm going to go to them specifically. He
14 read you a portion where Anabel makes a statement, We want him
15 beat, not mother fucking dead. Do you remember that portion
16 he read?

17 A Yes.

18 Q Okay.

19 MR. GENTILE: I think he's misquoting the portion,
20 Your Honor, and I do have to object to that.

21 THE COURT: I think he read a different portion.

22 MR. GENTILE: I read -- well, at least it was
23 verbatim and that's my concern.

24 THE COURT: Right. Yeah, Mr. -- if you would read
25 it verbatim.

1 BY MR. DIGIACOMO:

2 Q Deangelo, Hey, what's done is done. You wanted
3 him fucking taken care of. We took care of him.

4 Anabel says: Listen.

5 Deangelo says: Don't worry.

6 And then Anabel says -- or Deangelo says: Don't
7 worry.

8 Anabel says: Why are you saying that shit? What --
9 we really wanted for him to be beat up -- and anything else
10 mother fucking dead.

11 Correct?

12 A Yes.

13 Q You heard that and that caused you concerns,
14 correct?

15 A Yes.

16 Q And based upon those concerns, you sent -- you
17 questioned Mr. Carroll about those, correct?

18 A Yes.

19 Q And then you sent him back in to see if you
20 could confirm what he told you -- the answer that he provided
21 you about that, correct?

22 A Right.

23 Q And he had actually talked to you about what
24 that -- the specific order was prior to this
25 May 23rd recording, correct?

1 A Yes.

2 Q And he specifically told you what the order
3 was, correct?

4 A Yes.

5 Q And then you told him, Confront them with the
6 actual order?

7 A Yes.

8 Q So on May 24th he goes back in, and you
9 remember questions about Deangelo that says, You know what I'm
10 saying? I did everything you guys asked me to do. You told
11 me to take care of a guy and I took care of him.

12 And then Anabel says: Okay. Listen, listen,
13 Deangelo. I'm not -- Anabel, talk to the guy, not fucking
14 take care of him. Goddamnit, I fucking called you.

15 And Deangelo's response was: Yeah, and when I
16 talked to you on the phone, Ms. Anabel, I said -- I
17 specifically said -- I said if he's by himself, do you still
18 want me to do him in? You said yeah.

19 And Anabel objects: I did not say yeah.

20 And then Deangelo says: If he is with somebody --
21 you said if he is with somebody else, then just beat him up.

22 A Yes.

23 Q And do you remember Anabel's response initially
24 is, I said to go to plan B, fucking Deangelo?

25 A Yes.

1 Q Right?

2 A Yes.

3 Q Okay. Now, the statement that he makes on

4 there, if he's alone, kill him, if he's with somebody else,

5 beat him up, that's consistent with the information he had

6 provided you earlier?

7 MR. GENTILE: Objection.

8 THE COURT: Sustained.

9 MR. GENTILE: Hearsay.

10 MR. DIGIACOMO: Judge, they're specifically

11 attacking his credibility.

12 MR. ADAMS: Your Honor, I'd ask it be stricken.

13 THE COURT: I'll see counsel up here.

14 (Off-record bench conference)

15 THE COURT: All right. Let's take a break. Let's

16 just do five -- well, a little over five minutes, until 4:45.

17 Notepads in your chairs. You're reminded of the

18 admonition and follow Jeff through the double doors.

19 (Jury recessed at 4:39 p.m.)

20 MR. DIGIACOMO: Mr. Gentile said, quote --

21 MR. GENTILE: Are we on the record?

22 THE COURT: Yes.

23 MR. DIGIACOMO: He said, quote, The information

24 received from Deangelo Carroll is that he engineered the

25 murder. That was a direct quote from Mr. Gentile, he

1 engineered it. You had some doubts about what he was telling
2 you, so you had him go in there and the information getting
3 back didn't confirm what he was telling you. He asked
4 those -- Mr. Gentile asked --

5 THE COURT: Right. The point of it wasn't to say
6 that Deangelo Carroll was a liar. The point I got out of
7 it -- the reason I overruled your objection is, to me, the
8 point was you -- that they had an agenda based on what
9 Deangelo Carroll said, that they wanted to get Mr. Hidalgo,
10 they wanted something incriminating against Mr. Hidalgo, and
11 they didn't get it the first time and that's why he sent him
12 back in a second time.

13 MR. GENTILE: You're speaking of Mr. Hidalgo, Jr.

14 THE COURT: Right. Not that Deangelo -- right.

15 MR. GENTILE: Yes.

16 THE COURT: Not that Deangelo Carroll was a liar,
17 but that the information that they were looking for, it didn't
18 pan out in the first tape.

19 MR. DIGIACOMO: The information he didn't tell him
20 was not true, that was the --

21 THE COURT: No, not that it wasn't true --

22 MR. DIGIACOMO: -- implication of the cross.

23 THE COURT: No, no, no, not that it wasn't true. I
24 got the implication of the cross -- well, I don't know.

25 Mr. Gentile, what was the implication of the cross?

1 MR. PESCI: It's not what the attorney's implication
2 is. It's what the jury can infer from the question.

3 THE COURT: I know, but if that's not the intention
4 and that that's one possible interpretation --

5 MR. GENTILE: It's certainly not --

6 THE COURT: -- then it doesn't open the door to you
7 guys. And the way I interpreted it at cross was basically
8 Deangelo Carroll gave them this information and they sent him
9 in and it didn't pan out the first time so they sent him back
10 in the second time and that they had him coached to elicit
11 certain information and that that was his -- that was
12 basically his function and when he didn't elicit the
13 information the first time, they encouraged him to be more, I
14 guess, demanding or what have you to get that information out.
15 That's what I took out of it.

16 MR. GENTILE: Your Honor, I specifically predicated
17 on, I think, three occasions, but at least two, by reading the
18 verbatim quote of Sergeant McGrath's direct examination
19 testimony, which I'm searching for right now. It was
20 basically to give color to that quote, which was that they
21 didn't get what they wanted the first time and --

22 THE COURT: That's what I got out of it.

23 MR. GENTILE: -- I'm paraphrasing it right now
24 because I don't have it in front of me, but that -- you know,
25 basically why they sent him back in the second time.

1 MR. DIGIACOMO: Judge --

2 THE COURT: That's what I took from it.

3 Yeah.

4 MR. DIGIACOMO: He started off with, Deangelo told
5 you that there was dope in Mr. Counts' house. You didn't find
6 dope. Lie.

7 MR. GENTILE: I didn't say lie.

8 MR. DIGIACOMO: Well, he didn't say lie, but that's
9 the implication, that that was a lie. Deangelo Carroll told
10 you that this gun was used -- and we didn't get to the answer
11 of that, but essentially that's not true. This is not true.
12 This is not true.

13 Now, you received information that he engineered
14 this crime, correct? And I certainly should be able to follow
15 up with he was ordered to do it, not that he engineered it,
16 because that was what the question was. And then he says to
17 him, okay, so when -- you want him to go in there and confirm
18 the information that he provided you --

19 THE COURT: Right.

20 MR. DIGIACOMO: -- and he didn't -- and he didn't.

21 THE COURT: Not to confirm it, but to get evidence
22 to support bringing in these other coconspirators on the tape.

23 MR. DIGIACOMO: And the evidence did not support the
24 information he provided you. I should be able to cross the
25 detective on the information that he provided you was

1 supported by, or I should be able to redirect the detective
2 that the information that he provided you on the 19th was
3 consistent with the information you provided on those
4 particular wires. How can I not be able to cross on -- how
5 can I not be able to do redirect on that?

6 THE COURT: Well, I mean, you can ask him some of
7 the -- what Mr. Gentile went through and some of the
8 information didn't pan out but other information did pan out,
9 and --

10 MR. DIGIACOMO: And we can't talk about what
11 information did, but they can talk about what didn't?

12 MR. GENTILE: I didn't bring up what did. I stayed
13 away from what did. That's the whole point.

14 MR. DIGIACOMO: But that's the whole point --

15 THE COURT: Well, they want to bring in --

16 MR. GENTILE: Can I, please -- please --

17 THE COURT: Go. Speak.

18 MR. GENTILE: I was really particular in terms of
19 the specific areas that I went into because I had a hunch that
20 they did not -- they were not verified. On one of them, I
21 believe, I ran into a blind alley because you said something
22 about -- I don't remember which one it was, but there was one
23 of them that the witness said was verified, okay. I'm
24 thinking it had something to do with the Keystone Rangers, the
25 gang thing, okay. That was verified. But the other two

1 things that I wanted answered were not.

2 THE COURT: Which was?

3 MR. GENTILE: The drugs in the popcorn can in the --

4 THE COURT: House.

5 MR. GENTILE: -- in the house of Counts, and let me
6 see what the other one is. I have it --

7 THE COURT: Well, what was the point of the drugs in
8 the popcorn can? I mean, I see the point of the other stuff.
9 You're targeting Mr. Hidalgo, Jr., it's not panning out, they
10 have enough to believe that, hey, if we send them back in
11 there, it's going to pan out. I see where you're going with
12 that.

13 But the drugs in the popcorn can, that's Kenneth
14 Counts, he's not on trial, so who cares if he had drugs --

15 MR. GENTILE: Well, no --

16 THE COURT: What was the point of that?

17 MR. GENTILE: Carroll told them -- if you see the
18 video, Carroll tells them --

19 THE COURT: Right. But, no, my question is --

20 MR. GENTILE: And the point was --

21 THE COURT: -- what's the point of that evidence
22 that he told him there was drugs in the popcorn can?

23 MR. GENTILE: The point of the line of
24 questioning -- it has two points to it. One is to
25 establish -- the primary one is to establish why they sent him

1 back in the second time.

2 THE COURT: Well, that was on the Hidalgos. I get
3 that, but on -- if Kenneth Counts had drugs in the popcorn can
4 in a search -- a search warrant, what's that got to do with
5 the Hidalgos?

6 MR. GENTILE: If you remember -- if you remember,
7 Sergeant McGrath conceded that he had problems himself with
8 the credibility of Carroll, all right. That was the -- and he
9 said that. He did say that. And so, you know, they can bring
10 up whatever they're -- might be bringing up, but the bottom
11 line to it is that it doesn't change the fact that he had
12 problems with Carroll's credibility. And I stayed away from
13 specific areas deliberately.

14 THE COURT: You did the drugs and the popcorn can.
15 What is the other one?

16 MR. GENTILE: I also did -- wait, I'll tell you what
17 I have.

18 MR. DIGIACOMO: The gun being used and --

19 MR. GENTILE: Yeah, right. The ability to match the
20 bullets from two different firings of the same weapon and
21 that's the blind alley. I guess Wildemann's going to come in
22 here and say that either there was no Javon Gay or --
23 whatever. Okay? Something like that.

24 MR. DIGIACOMO: But, I mean, what they --

25 THE COURT: No, I get it. Right. All right. Then

1 you can ask him -- I mean, I think then he did open the door
2 because the drugs and the popcorn can have nothing to do with
3 the Hidalgos. I mean, I see that you want to portray that
4 they were targeted and that's why they, you know, did these
5 things and he sent him back in and they're trying to elicit
6 information and everything like that, but then once you get
7 beyond that into what was consistent in the Counts' search,
8 who cares, other than that Deangelo Carroll's telling them
9 stuff --

10 MR. GENTILE: Well, it definitely goes to the
11 credibility of Carroll.

12 THE COURT: Right.

13 MR. GENTILE: You can't deny it.

14 THE COURT: There you go.

15 Mr. Arrascada.

16 MR. ARRASCADA: Judge, we'd ask for a limiting
17 instruction that it's not opening the door regarding Luis
18 Hidalgo, III. We didn't go that direction.

19 MR. DIGIACOMO: Well, you said -- this is the
20 questions: You provided them certain lies, and those lies
21 were this, this, this, and this. One of the lies you didn't
22 provide them was this statement. That question only has
23 relevance and I objected and you overruled it. That statement
24 only has relevance unless they're suggesting that that
25 statement is true.

1 MR. ARRASCADA: Judge --

2 MR. DIGIACOMO: That is the only basis for that
3 question. I objected to prevent it from happening. And the
4 first time he did it, he didn't even say, that's not a lie you
5 didn't provide them. He said -- he said, quote, And you know
6 that that statement is true. That's what he said.

7 And then I objected and you made him rephrase it.
8 Go back and play the tape again because I was sitting here
9 going, how do we have this -- how do we have this whole
10 discussion beforehand? How can he even be allowed to ask that
11 question if it's not for the truth of the matter asserted?

12 MR. ARRASCADA: Judge, I am permitted to go into
13 what he did, the sergeant --

14 THE COURT: Right. Sure.

15 MR. ARRASCADA: -- and some of the things he did --
16 and he testified to it on Mr. DiGiacomo's questioning at the
17 grand jury for Mr. H and at the Counts trial, that he sent
18 Deangelo Carroll in with lies.

19 THE COURT: Right. And that's fine.

20 MR. ARRASCADA: And I asked the lies --

21 MR. DIGIACOMO: Right, but --

22 MR. ARRASCADA: -- and I can ask, was one of the
23 lies --

24 THE COURT: You can ask --

25 MR. ARRASCADA: -- just tell Little Lou he wasn't

1 involved. That was my question.

2 MR. DIGIACOMO: That was the second question. The
3 first question was, You know that's not a lie. That's what --
4 he made a direct statement --

5 MR. ARRASCADA: Judge, you sustained --

6 MR. DIGIACOMO: -- it wasn't even a question. He
7 just said it to the jury.

8 THE COURT: And I sustained it.

9 MR. ARRASCADA: And I rephrased it.

10 MR. PESCI: Its impact is already there.

11 MR. DIGIACOMO: Are you going to instruct this jury
12 that that is actually not true?

13 THE COURT: No. Mr. DiGiacomo, I'm not going to
14 instruct this jury that that's not true. I sustained the
15 objection, and he rephrased it. And he's allowed to ask the
16 detective what -- I mean, what information did he tell
17 Deangelo Carroll to go in there with. I mean, that would be a
18 fair question. He didn't have to ask it that way because it's
19 cross-examination. That would have been the better question,
20 what did you tell him to say, then we wouldn't be in this
21 mess, but --

22 MR. DIGIACOMO: But the implication of that question
23 is only relevant if -- to whether or not that statement is
24 true or untrue. It's the only words that it's relevant and
25 you said that that statement's truth or the relevancy of the

1 truth or untruth of that statement is not in this case. The
2 only reason to ask the question is to establish the truth. I
3 should at least be able to ask the detective, based on your
4 prior interviews with Deangelo Carroll, is that statement
5 consistent with the prior interviews.

6 MR. ARRASCADA: No way.

7 THE COURT: No.

8 MR. DIGIACOMO: Because they've opened up the door
9 as to --

10 MR. ADAMS: Hasn't the Court ruled, Your Honor?
11 Hasn't there been a ruling on this issue?

12 THE COURT: Well --

13 MR. DIGIACOMO: There hasn't been --

14 THE COURT: All right.

15 MR. ARRASCADA: Judge, he can ask him and say, are
16 one of the lies that you told Deangelo Carroll to say Little
17 Lou you weren't involved. That's what I'm finding out, did he
18 tell him to say that, because he told him to say other lies.
19 That's permissible cross-examination.

20 THE COURT: All right. Here's what you can ask.
21 You can say -- okay. Going into the search warrant and what
22 was with Kenneth Counts, you can ask him, did you find
23 Mr. Gentile pointed out that you were lead to believe there
24 were drugs and you didn't find drugs. Did you find other
25 things that were consistent with what Deangelo Carroll told

1 you? Yes. What things did you find that were consistent with
2 what Deangelo Carroll told you in respect to the Kenneth
3 Counts' search?

4 Was there anything?

5 MR. DIGIACOMO: No, what was my point. It had to do
6 with the statement. Did you find other things in that
7 statement consistent with the other evidence in the case?
8 That's the question I want to ask.

9 THE COURT: Well, and what -- and then what's the
10 answer you're looking for?

11 Maybe you need to leave the room.

12 THE WITNESS: Okay.

13 MR. DIGIACOMO: Well, there's a number of --

14 MR. PESCI: Hold on a second.

15 MR. DIGIACOMO: That's all right. There's nothing
16 I'm going to tell him that he doesn't already know.

17 THE COURT: Well, I don't care.

18 MR. ARRASCADA: She's asked that he leave the room.

19 MR. PESCI: I'm telling him to hold on a second.

20 THE COURT: Or he can go in the back. I don't care
21 where he goes.

22 MR. DIGIACOMO: I --

23 THE COURT: Okay. You're going to say --

24 MR. DIGIACOMO: -- certainly wasn't going to get
25 into specifics, but I certainly was going to --

1 THE COURT: Okay. What is it that you want to ask
2 him?

3 MR. DIGIACOMO: I want to say to him, Detective, is
4 there -- in the interview with Deangelo Carroll, did you
5 recover other information which is consistent with the
6 interview that you conducted with Deangelo Carroll? Yes.

7 And then I'm going to go through some of the
8 specifics of what it is. And I can do it either generally. I
9 could say, look, in the interviewing of Rontae Zone, did you
10 receive information that was consistent with what -- Deangelo
11 Carroll? In listening to these recordings, was there
12 information that is consistent with some --

13 THE COURT: And then not have him say specifics?

14 MR. DIGIACOMO: I won't have him do specifics, but
15 I --

16 THE COURT: That's fine.

17 MR. DIGIACOMO: -- certainly should be entitled to
18 talk about --

19 THE COURT: If you do it that way, I'm fine with
20 that. If you do it what --

21 MR. GENTILE: I don't even have an objection to
22 that.

23 THE COURT: Mr. DiGiacomo, if you do it that way,
24 I'm totally fine with that, you know, in the search of the
25 Kenneth Counts' residence, did you find things that were

1 consistent with what Deangelo Carroll told you? Yes. That's
2 totally fine if you don't go into specifics. I'm fine with
3 that if you can do it that way.

4 MR. DIGIACOMO: That's with Mr. Gentile, but what do
5 I do about Mr. Arrascada? Can I at least ask the detective,
6 look, Mr. Arrascada asked you questions about, did you tell
7 Deangelo Carroll to tell lies? Yes. Are some of the lies you
8 told on the tape things you told him to say?

9 THE COURT: Well, no, because the other import of
10 that is that he didn't tell him to say it. That doesn't say
11 whether it's true or not --

12 MR. ARRASCADA: Exactly.

13 THE COURT: -- true or a lie or not a lie.

14 MR. ARRASCADA: Judge, he can --

15 MR. DIGIACOMO: Well --

16 MR. ARRASCADA: Judge, he can -- if you'll allow
17 me -- he can go all day --

18 MR. DIGIACOMO: I was in the middle of --

19 MR. ARRASCADA: -- saying what are the lies that you
20 told Deangelo Carroll to say in that briefing, what are the
21 statements you told Deangelo Carroll to say in that briefing.
22 He can't -- and that's what the contents -- and what I was
23 asking, Judge.

24 And one of the things he did not tell him to say was
25 that, and that's -- I can bring that up because it's not one

1 of the lies he told him to say and it doesn't open the door,
2 Judge. It's regarding what Detective McGrath has said, not
3 what Deangelo Carroll says.

4 MR. DIGIACOMO: What is relevant about that question
5 other than the truth of the assertion? What is the relevancy
6 of that question other than that that statement is true --

7 MR. PESCI: No reason to ask that.

8 MR. DIGIACOMO: -- particularly in the manner in
9 which he asked it? What other relevancy is there to that
10 question?

11 MR. ARRASCADA: Judge, the relevancy's been brought
12 out.

13 MR. PESCI: What is it?

14 MR. ARRASCADA: It's probing Detective -- Sergeant
15 McGrath regarding what he briefed Deangelo Carroll to say and
16 do when he went into the wire. That's what the questions are.

17 MR. PESCI: How's that relevant?

18 MR. DIGIACOMO: Yeah, but that's what relevant to?

19 MR. PESCI: Right.

20 MR. DIGIACOMO: What is that question relevant to
21 other than to establish the truth or the veracity of that?

22 THE COURT: I get it. What's it relevant to? I
23 mean, I think fair game is one of the lies you told Deangelo
24 Carroll to say. That's fair game.

25 MR. ARRASCADA: That's -- and that's what I did,

1 Your Honor.

2 MR. DIGIACOMO: But why can't I say there's other
3 information on there that appears to be untrue, correct, you
4 know, that he's intentionally telling lies to spark the
5 conversation?

6 MR. ARRASCADA: Judge, now he's asking for --

7 MR. DIGIACOMO: Because some of the stuff he didn't
8 specifically say. He just gives him a generalized statement.

9 And then certainly I should be able to -- because
10 the impression that was left with the jury -- I should be --
11 at least ask something to the effect, and you can make it
12 whatever wording you want, but I should be at least allowed to
13 ask that you're not suggesting by the answer that you gave
14 Mr. Arrascada that that statement is either true or untrue.

15 MR. ARRASCADA: Judge, he can't. He doesn't know.

16 MR. DIGIACOMO: I should be able to at least say,
17 look, you're not making a suggestion to this jury as to the
18 truth or the veracity of that statement. I can at least ask
19 that question, can't I?

20 MR. ARRASCADA: Judge, you've already ruled that
21 that wasn't the purpose and it wasn't how you interpreted the
22 cross-examination.

23 THE COURT: Well, I was talking about Mr. -- I was
24 talking about Mr. Gentile's cross-examination.

25 MR. DIGIACOMO: I should at least be able to ask

1 that question, that you're not implying by whatever answer you
2 gave Mr. Arrascada about the truth or the veracity --

3 THE COURT: Okay. Why don't you do this: Why don't
4 you say, you were asked other specific statements by
5 Mr. Arrascada as to whether or not you told Mr. Counts -- I'm
6 sorry, Mr. Carroll to lie about those. You're not here to
7 give an opinion as to whether or not those statements are
8 truthful.

9 MR. ARRASCADA: Judge, I think you should do the
10 question.

11 THE COURT: End of question.

12 MR. DIGIACOMO: That's fine.

13 THE COURT: All right. So then -- so phrase it that
14 way.

15 And then on the other things, you can go through
16 and, did Deangelo Carroll tell you things that were consistent
17 with what Rontae Zone told you? Yes. Did he tell you things
18 that were consistent as a result of the search?

19 MR. ADAMS: Judge, I have a point of clarification.

20 THE COURT: What?

21 MR. ADAMS: You had asked us when we objected to do
22 one word objections and to approach if there's anything else.
23 I believe this side of the room has been doing that. Over the
24 last day, day and a half, I have become concerned that the
25 responses to objections are not one word responses, but

1 they're growing increasingly longer. And I just wanted to
2 know if that is permitted when they object to me, or are you
3 asking us to approach rather than educating, speaking out to
4 the jury in a fashion that has been going on?

5 THE COURT: As a rule -- I mean, you know, if
6 they've done it -- as a rule, I would -- you know, unless it's
7 just something really brief and I may ask him -- obviously, if
8 I ask your side or their side something, they're free to
9 respond. If I catch it, I try to have everybody approach.
10 There have been a few side comments made both ways, not by
11 you, about -- editorial comments about the lawyers back and
12 forth. I've tried to reign that in when it's happened and
13 it's not you. I mean, Mr. Gentile's made comments about what
14 Mr. Pesci knows and doesn't know and then Mr. Pesci has
15 made --

16 MR. GENTILE: I've done that twice and --

17 MR. PESCI: Only twice?

18 MR. ADAMS: Well, I have no objection to that, just
19 when it's the other way.

20 MR. GENTILE: But he had it coming.

21 (Court recessed at 4:57 p.m. until 5:01 p.m.)

22 (In the presence of the jury.)

23 THE COURT: All right. Court is now back in
24 session. And, Mr. DiGiacomo, you may resume your redirect
25 examination.

1 MR. DIGIACOMO: Thank you.

2 BY MR. DIGIACOMO:

3 Q Detective, Mr. Gentile asked you a number of
4 questions about what you did or did not confirm from the
5 statement of Deangelo Carroll, correct?

6 A Yes.

7 Q Okay. Now, some of the information that
8 Deangelo Carroll gave you you were able to confirm, correct?

9 A Yes.

10 Q And you confirmed that through the statement of
11 Rontae Zone?

12 A Yes.

13 Q You confirmed it through the two separate
14 recordings?

15 A Yes.

16 Q And you confirmed it from some of the other
17 evidence in the case?

18 A Yes.

19 Q All right. Now, Mr. Arrascada asked you a
20 number of questions about what lies you told Deangelo Carroll
21 to tell when he's inside the room versus, I guess, what's
22 truthful, but do you have a specific recollection of exactly
23 what you told Deangelo Carroll to say in the room which you
24 knew not to be true?

25 A No.

1 Q Mr. Arrascada referenced a particular statement
2 by Deangelo Carroll.

3 A Yes.

4 Q Do you remember that?

5 A Yes.

6 Q Your answer -- let me rephrase -- let me phrase
7 it this way: Does your answer in any way suggest whether or
8 not that statement is true or untrue?

9 A No.

10 Q So it doesn't suggest -- you don't -- you --

11 MR. GENTILE: Asked and answered. Objection; asked
12 and answered.

13 THE COURT: Well, wait. So you're not making an
14 opinion one way or the other of the statements that you didn't
15 explicitly provide to Mr. Carroll?

16 THE WITNESS: Yes.

17 THE COURT: Okay.

18 BY MR. DIGIACOMO:

19 Q Okay. I showed you this before, State's
20 Proposed Exhibit No. 225. That's the criminal history of
21 Kenneth Counts, for lack of a better term, correct?

22 A Yes.

23 Q Okay. And based upon that criminal history,
24 can you tell what his felony prior is for?

25 A Yes, it's out of California for transport/sale

1 of narcotics, controlled substance, in 1996.

2 Q Okay. And then I'm going to show you 224. Is
3 that the criminal history of Deangelo Carroll?

4 A Yes.

5 Q Looking at the top there, can you tell me what
6 his felony priors were?

7 A Conspiracy to commit robbery.

8 Q Conspiracy to commit robbery, correct?

9 A Yes.

10 Q Okay. And then also in your criminal history,
11 does it also acknowledge what kind of work cards you have?

12 A Yes.

13 Q And does it indicate on there what kind of work
14 card that Deangelo Carroll -- or that he had a work card for a
15 particular company?

16 A Yes.

17 Q And is the Palomino Club one of the people who
18 had the work card?

19 A Yes.

20 Q Now, when you apply for a job where you're
21 required to have a work card, is the information concerning
22 your criminal history --

23 MR. ARRASCADA: Objection --

24 BY MR. DIGIACOMO:

25 Q -- provided to the club?

1 MR. GENTILE: Objection. Foundation.
2 THE COURT: All right. Ask him if he would know
3 that and then you can ask the follow-up question.
4 MR. DIGIACOMO: Well, it's not if, but how.
5 MR. ARRASCADA: And it's beyond the scope, Your
6 Honor.
7 MR. DIGIACOMO: Well, no, they specifically went
8 into --
9 THE COURT: Well, no, that's --
10 MR. DIGIACOMO: -- his priors. I --
11 THE COURT: No, it's overruled on that.
12 MR. DIGIACOMO: Thank you.
13 THE COURT: You just need to establish whether or
14 not this officer would have that information or know about
15 that.
16 BY MR. DIGIACOMO:
17 Q In your capacity as a police officer over a
18 prior time period, have you ever learned whether or not the
19 club -- an individual seeking a work card for a particular
20 club has to disclose his prior criminal history or whether or
21 not the club is informed of the prior criminal history before
22 issuance of a card?
23 MR. GENTILE: Objection. It is a compound question.
24 THE COURT: Overruled.
25 MR. GENTILE: And the foundation is dependent on

1 one, but not the other.

2 THE COURT: Can --

3 THE WITNESS: I've seen these. I've seen these
4 many, many times over the course of my almost 16 years. I can
5 take this and I can tell you exactly what it says on this and
6 what it wouldn't say, once you get a work card for a certain
7 place and what the dates are, once they were evaluated by the
8 people that issue the work cards, and I can tell you the date
9 the work card was issued and the date of the expiration of the
10 work card specifically for the Palomino Club.

11 BY MR. DIGIACOMO:

12 Q Okay. My question is --

13 MR. GENTILE: Objection. It was not responsive.
14 The question was, do they notify the club.

15 MR. DIGIACOMO: That's what I'm saying.

16 THE COURT: Okay. Well -- and then he's trying to
17 lay a foundation so he's asking broader questions as to what
18 the detective -- Sergeant's involvement would be with this
19 area.

20 MR. GENTILE: Oh, okay.

21 BY MR. DIGIACOMO:

22 Q My question for you is that during the course
23 of somebody seeking a work card for a particular club and an
24 investigation is conducted as to whether or not a person
25 qualifies for the work card, is there an exchange of

1 information between the club and the Las Vegas Metropolitan
2 Police Department related to that work card?

3 MR. GENTILE: Objection. Relevance. It's a
4 question of whether the club is notified of the felony
5 conviction.

6 THE COURT: Right.

7 MR. GENTILE: An exchange of information is
8 irrelevant.

9 MR. DIGIACOMO: That's the first question.

10 MR. GENTILE: The only information that's important
11 is if the club's notified of the felony conviction.

12 THE COURT: All right. So any objection to
13 Mr. DiGiacomo asking --

14 MR. GENTILE: No, if he knows.

15 THE COURT: -- that?

16 MR. GENTILE: If he can lay the foundation that this
17 officer worked in that division.

18 THE COURT: What familiarity, as a police officer
19 with Metro, do you have, if any, with the procedure for
20 granting of work cards in this community?

21 THE WITNESS: Well, I can tell you this, Your Honor:
22 This is North Las Vegas. North Las Vegas is different than
23 Metro, so I wouldn't have an expertise as to what North Las
24 Vegas -- how they do their system versus Metro does their
25 system.

1 THE COURT: Okay. And just to be clear, your
2 talking about that would be within the province or the ambit
3 of the North Las Vegas Police Department as opposed to the Las
4 Vegas Metropolitan Police Department?

5 THE WITNESS: Yes.

6 THE COURT: And it would be Las Vegas Metro that
7 would do a work card in the unincorporated county in the city
8 of Las Vegas, right?

9 THE WITNESS: Yes.

10 THE COURT: Okay.

11 BY MR. DIGIACOMO:

12 Q Detective, the last area I want to go to has to
13 do with questions that Mr. Gentile asked concerning -- from
14 listening to the two recordings, it appeared that there had
15 been contact between Anabel and Deangelo prior to the
16 recordings. Do you remember those questions?

17 A Yes.

18 Q If you don't, that's fine too. Do you or do
19 you not recall this?

20 A I recall there was that --

21 Q Okay. Now, the questions being posed to you
22 related -- do -- you recall the questions being posed to you
23 related to establishing that Anabel and Deangelo might have
24 had prior contact, correct?

25 A Yes.

1 Q And from reviewing that transcript, you
2 don't -- can you say whether or not Deangelo and Anabel had
3 contact or if Deangelo had contact with somebody else who had
4 contact with Anabel and therefore they all kind of know what
5 everybody said? Can you make that determination from the
6 transcript?

7 A I can't make that determination.

8 Q You'd have to ask Anabel?

9 A Yes.

10 Q Thank you very much.

11 Oh, one last question. You talked about -- a little
12 bit about -- you talked a little bit about the safety factors
13 that related to Deangelo Carroll, correct?

14 A Yes.

15 Q Okay. And you also talked about -- with
16 Mr. Gentile about warning Deangelo Carroll about going back to
17 either the club or having contact with the people that he's
18 now provided you information on, correct?

19 A Yes.

20 Q Okay. Specifically, what were your concerns?
21 Why would you tell Deangelo not to have contact with these
22 people?

23 A Because I didn't want to see Deangelo Carroll
24 get killed and not provide us with the information that we
25 were looking for to develop the entire case.

1 Q So the reason you tell Deangelo Carroll not to
2 go back to the club is a safety concern for him?

3 A Yes.

4 Q Okay. And did you tell him specifically who he
5 shouldn't have contact with?

6 A I -- that'd be a better question for Detective
7 Wildemann because he was the contact person that Deangelo was
8 calling all the time on the phone.

9 MR. DIGIACOMO: Pass the witness, Judge.

10 THE COURT: All right. Any recross?

11 MR. GENTILE: Just one area, brief.

12 THE COURT: Okay.

13 RECROSS-EXAMINATION

14 BY MR. GENTILE:

15 Q These phone records, and I'm not sure what
16 exhibit that is. I think you still have it in front of you,
17 don't you?

18 A I don't. It's the color coding one.

19 Q Yeah, that one. Here's what I'm trying to get
20 to.

21 A Okay.

22 Q Were you the person who sought those records
23 from Nextel?

24 A No.

25 Q Do you know what was requested? If you don't,

1 you don't.

2 A Well, I mean, there were different requests.
3 There were a couple of different requests that were made at
4 different times.

5 Q What -- was the requested time frame from the
6 19th of May to the 24th May?

7 A Yes.

8 Q So nothing was done to study the ordinary
9 non-homicide time frame in terms of how often these people
10 communicated with each other every day?

11 A No.

12 MR. GENTILE: Nothing further.

13 THE COURT: Mr. Arrascada.

14 MR. ARRASCADA: No questions, Your Honor.

15 THE COURT: Any juror questions? All right.

16 Did the State have any other questions?

17 MR. DIGIACOMO: Based on Mr. Gentile's recross, no.

18 THE COURT: You folks can come up to the bench.

19 (Off-record bench conference).

20 THE COURT: All right. Any other questions from the
21 State or the defense? All right.

22 Sergeant, thank you for your testimony.

23 THE WITNESS: Thank you very much.

24 THE COURT: Please don't discuss your testimony with
25 anyone else who may be a witness in this case. Thank you and

1 you are excused.

2 THE WITNESS: Thank you.

3 THE COURT: Ladies and gentlemen, we'll be taking
4 our evening recess. As I told you yesterday, we'll be
5 reconvening at 9:00 a.m. tomorrow morning and we'll finish up
6 around 1:00 or 1:30. We will not be taking a lunch break.
7 We'll just have a couple of restroom breaks or whatever and
8 then we'll send you on your way for lunch. That will be it
9 for the day.

10 So once again, I must remind you that during the
11 evening recess you're not to discuss this case or any subject
12 matter relating to the case with each other or anyone else.
13 You're not to read, watch, listen to any reports of or
14 commentaries on any subject connected with the case. Don't do
15 any independent research. Don't visit the locations at issue,
16 and please do not form or express an opinion on the trial.

17 Once again, if everyone will please leave their
18 notepads in their chairs. We will see you all back here
19 tomorrow morning at 9:00 a.m. Follow Jeff through the double
20 doors.

21 (Jury recessed at 5:13 p.m.)

22 THE COURT: Anything else for me?

23 MR. ARRASCADA: No, Your Honor. Have a good
24 evening.

25 MR. DIGIACOMO: Just a record from yesterday, just

1 that at no point did they ever provide me a Word document to
2 put in sanction to -- so that didn't get done.

3 THE COURT: All right.

4 MR. GENTILE: That is --

5 MR. ARRASCADA: That's accurate, Judge.

6 THE COURT: And I assumed when it wasn't up on the
7 screen that they had decided that they -- that it wasn't that
8 important to them after all?

9 MR. ARRASCADA: Judge, as I watched the jurors when
10 they had their TV screens --

11 THE COURT: Yeah, they were all looking at --

12 MR. ARRASCADA: -- they're all reading their
13 transcripts.

14 THE COURT: They were all reading their transcripts.

15 MR. ARRASCADA: Yeah, exactly.

16 THE COURT: The only person who got to enjoy the
17 thing on the monitor was me.

18 (Court recessed at 5:15 p.m. until the following
19 day, Friday, February 6, 2009, at 9:00 a.m.)
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21
22
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-oOo-

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.


KIMBERLY LAWSON
TRANSCRIBER

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COPY

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

NOV 24 2009

Alvin S. Blum
CLERK OF COURT

STATE OF NEVADA,)

Plaintiff,)

vs.)

LUIS ALONSO HIDALGO, aka)

LUIS ALONSO HIDALGO, III, and)

LUIS ALONSO HIDALGO, JR.,)

Defendants.)

CASE NO: C212667/C241394

DEPT NO: XXI

**Transcript of
Proceedings**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 9

FRIDAY, FEBRUARY 6, 2009

APPEARANCES:

FOR THE STATE:

MARC DIGIACOMO, ESQ.
Chief Deputy District Attorney
GIANCARLO PESCI, ESQ.
Deputy District Attorney

FOR LUIS ALONSO HIDALGO, JR.:

DOMINIC P. GENTILE, ESQ.
PAOLA M. ARMENI, ESQ.

FOR LUIS ALONSO HIDALGO, III:

JOHN L. ARRASCADA, ESQ.
CHRISTOPHER ADAMS, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER

TRANSCRIBED BY: KARReporting and Transcription Services

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I N D E X

WITNESSES FOR THE STATE:

ANABEL ESPINDOLA

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1 LAS VEGAS, NEVADA, FRIDAY, FEBRUARY 6, 2009, 9:38 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 Before we swear in the witness, ladies and
10 gentlemen, I know some of you asked my marshal if we could
11 work late tonight. I know there's frustration that we're not
12 getting a lot done each day. We cannot stay past about
13 1:00 o'clock today. However, what I am doing is for Monday
14 and Tuesday of next week, I'm trying to find another judge to
15 hear my calendars so we can start at 9:00 a.m., and if
16 everyone's available, we will work until 7:00 p.m. Monday and
17 Tuesday.

18 So if anyone has conflict with that, you're directed
19 to inform my marshal at the break. That's what I'm trying to
20 do, because I understand for people who take off, if we only
21 get three hours in, it's not a very productive day. So that's
22 my plan and hopefully that will work out.

23 And having said that, the State has called as their
24 next witness...

25 MR. DIGIACOMO: Anabel Espindola.

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1 THE COURT: All right. Ms. Espindola, I need you to
2 stand up and face this lady right here who will be
3 administering the oath to you.

4 ANABEL ESPINDOLA, STATE'S WITNESS, SWORN

5 THE CLERK: Please be seated and please state and
6 spell your name.

7 THE WITNESS: Anabel Espindola, A-n-a-b-e-l,
8 E-s-p-i-n-d-o-l-a.

9 THE CLERK: Thank you.

10 THE COURT: All right. Thank you.

11 DIRECT EXAMINATION

12 BY MR. DIGIACOMO:

13 Q Good morning, Ms. Espindola.

14 A Good morning.

15 Q What I need you to do is roll up right to that
16 microphone because I know you have a soft voice and not
17 everybody's going to hear you at all times, okay.

18 A Yes, sir.

19 Q I'm going to ask you to speak up when you're
20 talking, okay?

21 A Yes.

22 Q All right. You said your name is Anabel
23 Espindola, correct?

24 A Correct.

25 Q Okay. Can you tell the ladies and gentlemen of

1 the jury where you've been living for the better part of the
2 last four years.

3 A Clark County Detention Center.

4 Q And you're hear to testify about the events
5 that put you in that place?

6 A Correct.

7 Q All right. I want to talk to you a little bit
8 about your life before May 19th of 2005. Let's start with
9 the -- when you turned 18, where were you living?

10 A San Fran -- the bay area, California.

11 Q Bay area, California?

12 A Mm-hmm.

13 Q Is that a yes?

14 A Yes.

15 Q Okay. And what were you doing for a living?
16 Were you working?

17 A Yes, I was.

18 Q What were you doing?

19 A I worked for Mr. Hidalgo.

20 Q All right. How long prior to you turning 18
21 did you start working for Mr. Hidalgo?

22 A I was -- about six months after I turned 18.

23 Q Okay. So about six months after you turned 18,
24 you started working for Mr. Hidalgo?

25 A Yes.

1 Q And when we use the term Mr. Hidalgo, how did
2 you refer to Mr. Hidalgo?
3 A As Louie.
4 Q Louie?
5 A Mm-hmm, yes.
6 Q Is that a yes?
7 A Yes.
8 Q And is Louie here in court today?
9 A Yes, he is.
10 Q Can you point to him and describe something
11 he's wearing?
12 A He's wearing a black jacket.
13 Q So when you use the term Louie --
14 MR. GENTILE: May the record reflect that
15 Mr. Hidalgo stood for identification.
16 THE COURT: It will. Thank you.
17 MR. GENTILE: Thank you.
18 BY MR. DIGIACOMO:
19 Q And when you use the term Louie, you're
20 referring to Mr. Hidalgo, I guess, Jr.?
21 A Yes.
22 Q And had you ever heard other people refer to
23 him as something else?
24 A Yes.
25 Q What was that?

1 A Mr. H.
2 Q So he's Mr. H?
3 A Yes.
4 Q Okay. When you're working for Mr. H, what kind
5 of business was it?
6 A Auto shop, automotive repair.
7 Q And what were you doing for him?
8 A I was the secretary for him when I worked in
9 California.
10 Q And how long did you work for him in
11 California?
12 A Up until we moved to Las Vegas.
13 Q And when was that approximately?
14 A The beginning of 1999.
15 Q The beginning of 1999?
16 A Correct.
17 Q And I apologize for asking you your age, but
18 how old were you in 1999?
19 A I was 19 -- no, I'm sorry. I was --
20 Q I guess I could do this easier --
21 A Like 27, I'm sorry.
22 Q I apologize. So you're 36 today?
23 A Correct.
24 Q Okay. So you worked for Mr. H for eight years
25 approximately while you're in California, some of that time?

1 A Yes.

2 Q During that time period, were you solely an
3 employee of Mr. H?

4 A No.

5 Q How long after you started working for Mr. H
6 did your relationship with him change?

7 A I -- it was immediate.

8 Q Immediate?

9 A Mm-hmm, yes.

10 Q So you were with Mr. H from the time you were
11 18 kind of forward?

12 A Yes.

13 Q And how would you describe the relationship
14 that you had with Mr. H?

15 A I was his girlfriend.

16 Q Did you know about what his family life --
17 well, what -- do you know what his marital status was at the
18 time?

19 A Yes.

20 Q What was that?

21 A He was married. He was currently married.

22 Q Up until -- well, even after your arrest, but
23 at least up until your arrest in May of 2005, were you still
24 his girlfriend?

25 A Yes.

1 Q At any point during that time period, did you
2 physically live with Mr. H?
3 A No.
4 Q So you maintained your own residence and he
5 maintained his?
6 A Yes.
7 Q At some point in time did you learn about
8 Mr. H's children?
9 A Yes.
10 Q Okay. Let's talk about -- how many children
11 does Mr. H have?
12 A Three.
13 Q And let's -- can you name the oldest one for
14 me?
15 A Angelina Hidalgo.
16 Q Angelina?
17 A Yes.
18 Q Okay. And who's the second oldest?
19 A Luis Hidalgo, III.
20 Q And do you see Luis Hidalgo, III here in court
21 today?
22 A Yes, I do.
23 Q Is he the guy standing up?
24 A Yes.
25 MR. DIGIACOMO: May the record reflect the

1 identification of Luis Hidalgo, III.

2 THE COURT: It will.

3 BY MR. DIGIACOMO:

4 Q When you would refer to Luis Hidalgo, III, how
5 would you refer to him?

6 A As Luis or Little Luis.

7 Q Luis or Little Luis?

8 A Yes.

9 Q Have other people used the term Little Lou
10 before?

11 A Yes.

12 Q All right. What about -- is there a Spanish
13 term that you would sometimes use for him?

14 A Yes.

15 Q What is that?

16 A Luisito.

17 Q Luisito?

18 A Yes.

19 Q And then after Little -- after Little Lou or
20 Little Luis, who's the next child in Mr. --

21 A Rosa Hidalgo.

22 Q Rosa Hidalgo?

23 A Yes.

24 Q Can you tell me in -- maybe in relation to --
25 or maybe you know. Do you know the exact age of Little Lou?

1 A I think 27.

2 Q Okay. So he's younger than you?

3 A Yes.

4 Q Okay. You said that in 1999 you moved to Las
5 Vegas, correct?

6 A Yes.

7 Q And you indicated that Mr. H moved to Las
8 Vegas?

9 A Yes.

10 Q Did Little Lou and the rest of the family come
11 as well?

12 A Yes.

13 Q Okay. What -- what prompted the move to Las
14 Vegas?

15 A Louie wanted to -- we used to come and visit
16 quite often and he wanted to move.

17 Q And what was the plans for when you moved here?
18 What was going to happen?

19 A To open up another body shop.

20 Q How was the -- how was the body shop here --
21 and that's Simone's we've heard testimony about?

22 A Yes.

23 Q How was that financed?

24 A Through a friend of his, Dr. Simon Stertzner.

25 Q Who is Dr. Simon Stertzner? Do you know him at

1 all?

2 A Yes.

3 Q Who is he?

4 A He is a personal friend of Mr. Hidalgo's.

5 Q Now, in the time that you were with
6 Mr. Hidalgo, did he ever talk to you about his history?

7 A Yes.

8 Q Okay. Let's talk a little bit about -- did you
9 have discussions with him about the police and his involvement
10 with the police?

11 A Yes.

12 Q What did he tell you?

13 A That he was a retired police officer from the
14 San Bruno Police Department. He went to work for the
15 sheriff's department for a short period of time. His father
16 needed help at the body shop so he retired from the police
17 force and went to work at the body shop.

18 Q And his father, what did you call -- what was
19 his father's name?

20 A Luis Hidalgo, Sr.

21 Q And what did you call him?

22 A Pops.

23 Q Pops?

24 A Yes.

25 Q And has Pops passed on at this point?

1 A Yes.

2 Q And approximately when did he pass away?

3 A I believe it was two years ago.

4 Q Two years -- it's 2009. So 2007, 2006,
5 somewhere in that range?

6 A Yes.

7 Q Okay. Once you moved here -- let me ask you
8 this: Did you know about the finances of Mr. Hidalgo when you
9 moved -- when you moved here?

10 A Yes.

11 MR. ARRASCADA: Your Honor, I would just ask for
12 clarity of the record that we -- perhaps Mr. Hidalgo, Jr.,
13 Mr. Hidalgo, III, that we --

14 THE COURT: All right.

15 MR. ARRASCADA: -- put some qualifiers because we do
16 have the same names.

17 MR. DIGIACOMO: I'll call him Mr. H. How's that?

18 THE COURT: All right. And Mr. H refers to Hidalgo,
19 Jr.

20 MR. DIGIACOMO: Correct.

21 BY MR. DIGIACOMO:

22 Q Mr. H -- were you aware -- well, let me ask you
23 this: Mr. -- Dr. Stertzner -- and do you know what? I never
24 got you to answer that question. Who is Dr. Stertzner?

25 A He's a doctor -- he's a heart surgeon. He

1 works at Stanford now or -- as far as I know.

2 Q And at some point, him and Mr. Hidalgo or Mr. H
3 got -- formed a relationship?

4 A Yes.

5 Q And when Mr. Hidalgo moved from San Bruno -- or
6 Mr. H moved from San Bruno to Las Vegas, you said something
7 about Mr. Stertzner financing Simone's.

8 A Correct.

9 Q How did that work?

10 MR. GENTILE: Foundation. Objection. Foundation.

11 THE COURT: All right. Lay a foundation.

12 BY MR. DIGIACOMO:

13 Q Did Mr. H tell you how the financial
14 transaction related to Simone's worked?

15 A All I know is that --

16 MR. GENTILE: Objection.

17 BY MR. DIGIACOMO:

18 Q Let me ask you this --

19 MR. GENTILE: Foundation.

20 THE COURT: Well --

21 BY MR. DIGIACOMO:

22 Q -- did Mr. H ever describe to you how the
23 financial transaction for Simone's worked? Just answer yes or
24 no.

25 A No.

1 Q Okay. You never talked to him about it?
2 A No.
3 Q Okay. What capacity did you have at Simone's?
4 A I was the business administrator.
5 Q The business administrator?
6 A Yes.
7 Q Okay. And what does that mean you did at
8 Simone's?
9 A I ran the body shop. I took care of the
10 vehicles that were coming in, the paperwork, all billing. I
11 dealt with the customers, the insurance companies, the
12 employees.
13 Q When you left San -- or when there was a body
14 shop at San Bruno, did you have a similar job?
15 A Yes.
16 Q Okay. Were you involved or did you -- based
17 upon your financial involvement with the San Bruno shop, did
18 you know about how much money the San Bruno shop had or -- let
19 me rephrase this. Did they sell the San Bruno shop?
20 A Yes.
21 Q Okay. And ultimately their family moved here
22 and there was nothing left at San Bruno financially related to
23 the auto shop?
24 A Correct.
25 Q Okay. Were you aware of how much money the San

1 Bruno auto shop sold for?

2 MR. GENTILE: Objection. Foundation.

3 THE COURT: All right.

4 THE WITNESS: I don't remember.

5 MR. GENTILE: I'll withdraw the objection.

6 THE COURT: She doesn't know anyway, so...

7 BY MR. DIGIACOMO:

8 Q You don't remember?

9 A No.

10 Q Okay. When you got to Simone's -- well, let me

11 ask you this: Was it a dirt lot?

12 A No.

13 Q Was there already a building there?

14 A Yes.

15 Q Okay. You move into the building, you're doing

16 the billing, correct?

17 A Yes.

18 Q All right. Let's talk about the money coming

19 into Simone's. Well, let me ask it this way: Was Simone's

20 making money?

21 A No.

22 MR. GENTILE: Objection. Foundation.

23 THE COURT: All right. Lay a foundation as to how

24 she would know and then ask the question.

25 BY MR. DIGIACOMO:

1 Q Okay. Did you not testify that you -- you were
2 doing the books for Simone's?

3 A I did the books for Simone's.

4 Q Okay. You did all the -- you took -- you paid
5 the bills out and you found out the money coming in, correct?

6 A Yes.

7 Q All right. Was Simone's making money?

8 A No.

9 MR. GENTILE: Again, objection. Simone's was in
10 business for six years.

11 THE COURT: All right. I think the basis of the
12 objection is during what period of time are you inquiring
13 about as to whether or not Simone's was making money.

14 Is that your objection, Mr. Gentile?

15 MR. GENTILE: That's the objection.

16 THE COURT: All right. Mr. DiGiacomo, if you will
17 lay a foundation as to time frame, whether you're talking
18 about the entire six-year period or year by year or whatever.
19 Okay.

20 MR. DIGIACOMO: I could do it that way.

21 BY MR. DIGIACOMO:

22 Q Let's talk about it this way: When Simone's
23 first opened and it's the first couple of months, is Simone's
24 making any money?

25 A No.

1 Q At any point in time does it get to a point
2 where it's clearing a profit?

3 A It progressively got better.

4 Q Progressively got better?

5 A Yes.

6 Q At some point -- let's talk all the way up to
7 May of 2005 -- was it making enough money to sustain itself?

8 A We were sustaining ourselves. We were paying
9 all our bills.

10 Q You were paying your bills?

11 A Yes.

12 Q Okay. Was there any -- how much money was
13 there left over after paying all the bills?

14 A None.

15 Q Okay. Were you -- were you at all involved in
16 Mr. H's finances or was it just Simone's?

17 A I deposited his checks and wrote out all his
18 billing.

19 Q Okay. Did you have access to his bank
20 accounts?

21 A Yes.

22 Q Okay. And at some point in time did there come
23 a point in time in the years that you were living in Las Vegas
24 you learned about something happening up at the Palomino Club?

25 A Yes.

1 Q Okay. How did you initially find out that
2 something -- that somehow Mr. H or somebody else was going to
3 be involved in the Palomino Club?
4 A Mr. H was looking to start another business.
5 Q And who did -- what happened -- did he contact
6 anybody?
7 A He contacted Alex Gurde (phonetic) and they
8 were looking into a different types of business.
9 Q Okay. And who's Alex Gurde?
10 A He's a realtor.
11 Q What's -- is -- did Alex Gurde grow up an
12 American -- in America?
13 A Not as far as I know. He's Romanian.
14 Q Did he have an accent?
15 A Yes.
16 Q Okay. You said he contacted Alex but for a
17 different type of business. Did he ever wind up getting
18 involved in some other type of business?
19 A Yes.
20 Q What was it?
21 A A strip club.
22 Q And what strip club?
23 A The Palomino Club.
24 Q Okay. And who did he -- well, do you know who
25 he wound up getting into the strip club business with?

1 MR. GENTILE: Objection. Foundation. Also, add a
2 time predicate. I mean --

3 THE COURT: All right. Lay a bit of a foundation.
4 BY MR. DIGIACOMO:

5 Q What are we talking about? When does Mr. H
6 first get involved with the Palomino Club?

7 A 2000, 2001. I don't remember the exact year.

8 Q Okay. When Mr. H first gets involved in the
9 Palomino Club, is he the owner?

10 A No.

11 Q Okay. So at the point that Mr. H goes to the
12 Palomino Club, who's the owner?

13 A Dr. Stertzner.

14 Q Dr. Stertzner?

15 A Yes.

16 Q And did you learn through the conversations
17 through Mr. H about how Dr. Stertzner came into possession of
18 the club?

19 A Yes.

20 Q How was that?

21 A Dr. Stertzner purchased the club outright from
22 the Perrys.

23 Q Okay. And did you learn from Mr. H how much he
24 had paid for it?

25 A Yes.

1 Q How much?
2 A 13 million.
3 Q \$13 million?
4 A Yes.
5 Q And then you said Mr. H became involved. What
6 was his position at the Palomino Club at that point?
7 A He was a general manager.
8 Q Okay. And did you have anything to do with the
9 Palomino Club at that point?
10 A Yes.
11 Q What was that?
12 A I did all the books for the Palomino.
13 Q You did the books for the Palomino Club?
14 A Yes.
15 Q Even when Dr. Stertzner owned it?
16 A Yes.
17 Q Okay. How much was Mr. H getting paid to be
18 the general manager? Do you recall?
19 A I believe it was 2,500 a week. I'm not quite
20 sure. I know it was between 2,000 to 2,500.
21 Q Okay. Somewhere between 2,000 and 2,500 a
22 week, so -- okay. At some point in time, is there discussions
23 that you've had with Mr. H related to him getting the title of
24 owner?
25 A Yes.

1 Q Can you describe that for the ladies and
2 gentlemen of the jury?

3 MR. GENTILE: Can we have a time predicate?

4 BY MR. DIGIACOMO:

5 Q All right. Approximately when is that?

6 A Maybe a year after, a year and a half after
7 Dr. Stertzer had owned it.

8 Q So a year, year and a half. And let me ask you
9 this -- let's go backwards a little bit. From the time that
10 you're arrested, how long had Mr. H been the owner of the
11 Palomino Club?

12 A Maybe a year --

13 Q Okay.

14 A -- or so.

15 Q And what were -- what did Mr. H tell you about
16 the arrangements for the Palomino Club to pass from
17 Dr. Stertzer to Mr. Hidalgo or Mr. H?

18 MR. GENTILE: We have a -- Your Honor, again,
19 foundation. Was anybody present? That's appropriate
20 foundation. If he's going to talk about people talking about
21 things, there should be a time, place, and who was there.

22 THE COURT: Well, he --

23 MR. DIGIACOMO: I was asking -- I'll rephrase.

24 THE COURT: I mean, he can do it that way or -- I
25 mean, if --

1 MR. DIGIACOMO: And he's free to ask on cross
2 every --

3 THE COURT: I agree with you in terms of when the
4 conversation occurred, but I don't think Mr. DiGiacomo has to
5 find out everybody that was there as long as he indicates who
6 the speaker was and that she was the listener.

7 So go on, Mr. DiGiacomo.

8 MR. DIGIACOMO: Thank you, Judge.

9 BY MR. DIGIACOMO:

10 Q What did Mr. H tell you about the arrangement
11 between the passing of the club from Dr. Stertzner to Mr. H?

12 MR. GENTILE: Same objection. When?

13 THE COURT: All right. When did you have a
14 conversation with Mr. H about the passing of the Palomino Club
15 from Dr. Stertzner to Mr. H?

16 THE WITNESS: We spoke at the body shop. He
17 expressed that Dr. Stertzner no longer wanted the club.

18 THE COURT: And about when was this? When did he
19 start talking about that?

20 THE WITNESS: Like I said, maybe about a year after
21 Dr. Stertzner had owned it.

22 THE COURT: All right. Thank you.

23 Mr. DiGiacomo.

24 BY MR. DIGIACOMO:

25 Q So he told you that Dr. Stertzner no longer

1 wanted to own the club?

2 A Correct.

3 Q Did he tell you why Dr. Stertzler didn't -- no
4 longer wanted to own the club?

5 A Yes.

6 MR. GENTILE: Double hearsay. Objection.

7 THE COURT: Overruled.

8 BY MR. DIGIACOMO:

9 Q And what did Mr. H tell you was the reason why
10 Dr. Stertzler didn't want to own the club?

11 A Publicity. Dr. Stertzler didn't want any.

12 Q Okay. And did Mr. H tell you what the
13 arrangement was going to be with him and Dr. Stertzler?

14 A Yes.

15 Q And describe that for the ladies and gentlemen
16 of the jury.

17 A Dr. Stertzler was going to go ahead and do the
18 note for 15 -- 13 million, and on a weekly basis the club was
19 scheduled to pay the loan back.

20 Q On a weekly basis?

21 A On a weekly basis.

22 Q And what was the payment on a weekly basis?

23 A It was scheduled to be 10,000 a week.

24 Q So \$10,000 a week would be paid to Dr.

25 Stertzler?

1 A Correct.

2 Q And how did this work? Did you do the books
3 for the Palomino?

4 A Yes.

5 Q Okay. So explain to the ladies and gentlemen
6 how, let's say, at the end of the week when you've got to make
7 the payment, explain to them how the finances would work.

8 A I would make the deposits to the bank. I would
9 deposit all the money into the Bermuda Sands account. From
10 there, I would transfer the money into the Palomino and I
11 would transfer \$10,000, or if the club wasn't doing as well,
12 whatever was available to Dr. Stertzner which would be the
13 Windrock account.

14 Q Okay.

15 A That was Dr. Stertzner's account.

16 Q Let's back up a little bit because you talked
17 about a bunch of things. You said Bermuda Sands. What's the
18 Bermuda Sands account?

19 A It was a holding account for the Palomino,
20 Satin Saddle and Lacy's.

21 Q All right. And so you said that the money that
22 was made from those properties would be placed into that
23 account?

24 A Correct.

25 Q Okay. Then you talked about some earnings

1 being transferred to other accounts, and I'm sorry, I missed
2 those.

3 A It was to another account which was Windrock
4 Enterprises.

5 Q What's Windrock Enterprises?

6 A It was Dr. Stertzner's account.

7 Q Okay. And so you take the money from one, move
8 it to the other --

9 A Yes.

10 Q -- to pay Dr. Stertzner?

11 A Yes.

12 Q Now, you just mentioned the Satin Saddle and
13 Lacy's. What are you talking about?

14 A It was part of the purchase. They are two
15 other clubs.

16 Q And where are they located?

17 A Lacy's is within the Palomino Club.

18 Q Same building?

19 A Same building.

20 Q Okay.

21 A It's inside the same building.

22 Q And what's the Satin Saddle?

23 A Satin Saddle is a topless club and it's like
24 two doors down. Mm-hmm.

25 Q Is that a yes?

1 A Yes.

2 Q And what about their addresses? Were they the
3 same or different addresses?

4 A Different addresses.

5 Q Okay. And did you know anything about the
6 property that those two clubs sat on?

7 A Yes.

8 Q Okay. How did you know about the property that
9 those two clubs sat on?

10 A It all -- when Dr. Stertzner had purchased the
11 club, the whole block went with it.

12 Q So the whole block was this area that has both
13 Satin Saddle, Lacy's and Palomino on it?

14 A Correct. It also has Easy Pawn and a loan
15 shop.

16 Q Okay. Now, the Easy Pawn and the loan shop,
17 were they run by Dr. Stertzner?

18 A No.

19 Q Okay. They were leased out?

20 A Yes.

21 Q And did you have anything to do with the money
22 that came out of those or what happened to the money that came
23 out to those?

24 A They would pay their monthly rent. It would
25 be -- the check would be made out to Windrock. It would be

1 made to Simone's. Simone's Autoplaza was the corporate office
2 for the Palomino Club, and I would make the deposits.

3 Q I guess my question is: The money that's
4 coming out of this pawnshop and the other business that's
5 there, is that part of the 10,000 that's got to be paid from
6 the Palomino and Lacy's and Satin Saddle?

7 A No.

8 Q You mentioned something to the effect of every
9 month the 10,000 wasn't getting put into Dr. Stertzer's
10 account -- or every week. Sorry.

11 MR. GENTILE: Objection. Is that a question?

12 MR. DIGIACOMO: I was just directing her back to it.

13 THE COURT: He was -- I think he was setting up a
14 question.

15 MR. DIGIACOMO: Thank you.

16 BY MR. DIGIACOMO:

17 Q Did you -- all right. I'll make it a question.
18 Did you mention that not every week \$10,000 was going into
19 Dr. Stertzer's account?

20 A Yes.

21 Q Okay. Well, describe that. What did you mean
22 by that?

23 A If the club was doing poorly that week, I had
24 already spoken to Dr. Stertzer and less money would be
25 deposited. When the club was doing better, I would make up

1 the difference.

2 Q Okay. Let's talk about the time period gumming
3 up to May of 2005. Was the club ever -- almost always able to
4 cover the \$10,000 a week that was being paid out to
5 Dr. Stertzner?

6 A No.

7 Q Were you able to make up all of the money that
8 you were short for one week to cover Dr. Stertzner?

9 A No.

10 Q I didn't ask this, but other than the \$10,000 a
11 week that was being put into Dr. Stertzner's account, was there
12 any other monies paid for the Palomino Club?

13 A I don't understand the question.

14 Q Did Mr. H have to give Dr. Stertzner any
15 principle or was he just paying the \$10,000 a week?

16 A Just the 10,000 a week.

17 Q And once he took over -- well, let me ask you
18 this: Is it -- at what point does he become owner on the
19 documents that the jury's now seen? What date does that
20 occur?

21 MR. GENTILE: Objection. What documents?

22 THE COURT: All right. What exhibits are you
23 referring to?

24 MR. DIGIACOMO: The phone list that says Mr. H,
25 owner.

1 THE COURT: Okay. So -- and that's exhibit number?

2 MR. DIGIACOMO: I don't know off the top of my head.

3 THE COURT: All right. You're talking about the
4 phone list that was highlighted and testified to by the --

5 MR. DIGIACOMO: No. It was the phone list that was
6 hanging on the wall --

7 THE COURT: All right.

8 MR. DIGIACOMO: -- in the Palomino.

9 THE COURT: That was recovered in the search warrant
10 by Sergeant McGrath. So we're clear what you're talking
11 about.

12 MR. GENTILE: I object to the form of the question.
13 I mean, ownership documents referred to --

14 THE COURT: Right. That would refer to --

15 MR. GENTILE: -- deeds and mortgages and --

16 THE COURT: -- something filed with the business
17 licensing --

18 MR. GENTILE: Right..

19 THE COURT: -- and whatnot. So if it's clear that
20 that's what you're referencing.

21 MR. DIGIACOMO: Okay.

22 THE COURT: And, Deniece, why don't you find that.

23 BY MR. DIGIACOMO:

24 Q Were you involved at all in records having to
25 be filed that Dr. Stertzner was no longer the owner and

1 somebody else was the owner?

2 A I took care of all the paperwork.

3 Q All of the paperwork?

4 A Yes. I would hand it to the accountant.

5 Q Okay. And does title pass from one company to
6 the another or do you know?

7 MR. GENTILE: Objection. Foundation.

8 MR. DIGIACOMO: She said she handled all the
9 paperwork. I'm asking her whether or not there was paperwork
10 filed passing title from the Windrock account to another --

11 THE COURT: Okay.

12 MR. GENTILE: That's hearsay.

13 THE COURT: Did you prepare any paper demonstrating
14 the transfer from Windrock to Mr. H?

15 THE WITNESS: No.

16 THE COURT: All right. Did you see any paperwork
17 evidencing a transfer?

18 THE WITNESS: Yes.

19 THE COURT: All right. Go on, Mr. DiGiacomo.

20 BY MR. DIGIACOMO:

21 Q And where -- what was the transfer from and
22 what was the transfer to?

23 MR. GENTILE: Objection. Hearsay. That's an
24 out-of-court statement.

25 THE COURT: You mean the document, yeah.

1 MR. GENTILE: The document, yeah. She can't testify
2 to that. We need the document.

3 THE COURT: All right. Sustained.

4 MR. GENTILE: That's also a best evidence rule.

5 THE COURT: Thank you, Mr. Digia -- sorry.

6 Mr. Gentile.

7 MR. GENTILE: We all look alike sometimes.

8 BY MR. DIGIACOMO:

9 Q Without telling us --

10 THE COURT: Is that lawyers or Italians?

11 MR. GENTILE: Italians.

12 THE COURT: I think that's true for lawyers. Being
13 married to an Italian, I don't agree with the other one.

14 Go on, Mr. DiGiacomo.

15 MR. DIGIACOMO: Thank you, Judge.

16 BY MR. DIGIACOMO:

17 Q I guess it really doesn't matter, so let me
18 move forward a little bit.

19 In -- you said up until May that the \$10,000 wasn't
20 always being made, correct?

21 A Correct.

22 Q What about Simone's? Was Simone's making
23 enough money to cover the difference at the Palomino?

24 A No.

25 Q Let's talk a little bit about the people who

1 work at the Palomino. Let's talk -- when -- so that
2 Mr. Gentile has a foundation, let's talk about April of 2005.
3 Okay. What was your title at the Palomino Club?
4 A General manager.
5 Q What was Mr. H's title?
6 A Owner.
7 Q Did Little Luis have a title?
8 A Yes.
9 Q What was that?
10 A Manager.
11 Q All right. Were there other -- well, was there
12 a person named Arial?
13 A Yes.
14 Q What was her capacity?
15 A She was the office manager.
16 Q Was there a woman named Min?
17 A Yes.
18 Q Okay. Is she -- well, as of April 2005, was
19 she still at the Palomino?
20 A No.
21 Q Okay. What was her title prior to that?
22 A She was office assistant.
23 Q Okay.
24 A She helped Arial.
25 Q Was there an individual by the name of Deangelo

1 Carroll that worked there?

2 A Yes.

3 Q Okay. And what was his capacity at least as of
4 April, early May 2005?

5 A He did promotions. He helped -- he did DJ and
6 he helped on the floor when they were shorthanded.

7 Q Kind of a jack of all trades?

8 A Yes.

9 Q Showing you State's Exhibit Number --
10 THE COURT: It's not on.

11 MR. DIGIACOMO: It's not plugged in.

12 BY MR. DIGIACOMO:

13 Q State's Exhibit Number 198, who's that?

14 A Deangelo Carroll.

15 Q Did you know an individual by the name of
16 Timothy Hadland at the Palomino?

17 A Yes.

18 Q And how did you know him?

19 A He was the front doorman.

20 Q What about a guy named PK or Pilar Handly?

21 A Yes.

22 Q And what capacity did he have at the Palomino
23 Club?

24 A He was a consultant for DJs, lighting.

25 Q Is there anybody else I missed at the Palomino

1 Club? Probably not.

2 Let's talk a little bit about the relationship of
3 some of these people, okay?

4 A Yes.

5 Q Did you ever see Deangelo Carroll and Little
6 Luis do anything other than work together at the Palomino?

7 A No.

8 Q Did you ever have conversations with Little
9 Luis about them doing things other than working at the
10 Palomino?

11 A Yes.

12 Q Okay. What did he tell you they would do?

13 A They would go out bowling.

14 Q So they had a relationship separate away from
15 work, correct?

16 A Yes.

17 Q Did you ever see Deangelo Carroll have a
18 relationship with Mr. H other than what's at work?

19 A No.

20 Q Did you ever talk to Mr. H or did Mr. H ever
21 tell you that he had a relationship with Deangelo Carroll
22 other than a work related one?

23 A No.

24 Q What about Deangelo Carroll and TJ? What kind
25 of relationship did -- were you aware of at all of their --

1 what type of relationship they had?

2 A No.

3 Q Does there come a point in time when you become
4 aware at the club involving TJ?

5 A Yes.

6 Q And who was it -- or how is it that you first
7 become aware of the problem?

8 A Little Luis and Louie were having a
9 conversation upstairs in Louie's office.

10 Q And approximately --

11 MR. GENTILE: Could we get a time predicate, please?

12 MR. DIGIACOMO: That's what I'm doing. I'll lay a
13 foundation first.

14 BY MR. DIGIACOMO:

15 Q How long prior to the May 19th homicide was
16 this conversation between Luis and Mr. H?

17 A Approximately a week.

18 Q Okay. And what was the nature of the
19 conversation you were hearing between Mr. H and Little Lou?

20 A They believed that Mr. Hadland was writing
21 tickets, falsifying tickets and getting a kickback --

22 Q Okay.

23 A -- from the cab drivers.

24 Q I'm sure that the jury's pretty well educated
25 on most of this right now, but let's talk a little bit about

1 how it worked exactly at the Palomino Club.

2 When a cab driver brings customers to the Palomino
3 Club, if you could, once the cab driver pulls up, describe the
4 process that's involved with the cab drivers.

5 A The maitre'de or the front doorman would write
6 a ticket describing how many customers were coming in, whether
7 they were male or female. Once that is done, the front
8 doorman gives the ticket to -- back to the cab driver. He
9 goes to the back cab office and gets paid out per customer.

10 Q And what was the conversation between Luis and
11 Mr. H? What was TJ allegedly doing that they thought -- or
12 the conversation was related to being inappropriate?

13 MR. GENTILE: Objection. Asked and answered.

14 MR. DIGIACOMO: I hadn't asked that question.

15 THE COURT: Well, overruled, if there's any --

16 MR. GENTILE: She testified that the conversation
17 was -- that TJ was writing and falsifying tickets and getting
18 a kickback from cab drivers.

19 MR. DIGIACOMO: I asked her how.

20 THE COURT: Well, he can ask her to explain.

21 BY MR. DIGIACOMO:

22 Q Yeah. Explain to me how that works. What was
23 TJ doing?

24 MR. GENTILE: Objection, unless it was part of the
25 conversation.

1 THE COURT: All right. That's sustained.
2 MR. DIGIACOMO: Okay.
3 THE COURT: Or lay a foundation otherwise.
4 BY MR. DIGIACOMO:
5 Q Were you listening to the conversation between
6 Little Luis and Mr. H?
7 A Yes.
8 Q And were they describing what TJ was doing that
9 was inappropriate with the cab drivers?
10 A He was writing --
11 MR. GENTILE: Objection. The answer should be yes
12 or no. And, Judge --
13 THE COURT: All right. Thank you.
14 MR. GENTILE: -- we're entitled to have her testify
15 as to who said what. And what he's doing --
16 THE COURT: That's true. That's correct.
17 MR. GENTILE: -- is he's trying to lump it --
18 THE COURT: If you could be specific as to who was
19 saying what in the conversation that you overheard.
20 And the other objection was, Mr. Gentile?
21 MR. DIGIACOMO: That the answer was either yes or
22 no.
23 THE COURT: Yes. And then just try to answer yes or
24 no and then Mr. DiGiacomo will follow up and ask you to
25 explain or ask you a follow-up question.

1 THE WITNESS: Yes.

2 THE COURT: All right.

3 All right. Mr. DiGiacomo, go ahead.

4 BY MR. DIGIACOMO:

5 Q Do you remember what the question was?

6 A No.

7 Q All right. Let me go back to what the question
8 was. Just yes or no. Was part of the conversation a
9 description of what TJ was doing that was inappropriate at the
10 front door?

11 A Yes.

12 Q Okay. And do you recall specifically who was
13 describing what was going on? Do you recall if it was Little
14 Lou or Mr. H?

15 A Yes.

16 Q Who was it?

17 A Little Luis.

18 Q Okay. So Little Luis is describing something
19 that TJ does -- was doing to Mr. H?

20 A Yes.

21 Q All right. And what was Little Luis saying TJ
22 was doing?

23 A He was writing additional people on the -- on
24 the tickets so when he took it to the back cab office he could
25 get paid for those customers.

1 Q When -- so the cab driver would get paid for
2 those customers. Did he describe what the cab driver would
3 then do with the extra money that he got?
4 A Yes.
5 Q What did Little Luis say?
6 A The money would go to TJ.
7 Q Okay. Did Luis, Little Luis, explain how he
8 knew this information?
9 A No.
10 Q Okay. What was Mr. H's reaction to Little
11 Luis' explanation?
12 A To watch TJ.
13 Q So he told him to watch TJ?
14 A Yes.
15 Q Okay. At some point in time were you part of
16 any other conversation related to TJ?
17 A Yes.
18 Q Okay. And who was involved in that
19 conversation?
20 A Arial.
21 Q Okay. Was there anybody else?
22 A Mr. H.
23 Q Okay. And was the subject of -- what about TJ
24 came up first?
25 A He needed to be fired.

1 Q Okay. And was that statement being made by
2 Arial or Mr. H?

3 A Mr. H.

4 MR. GENTILE: Can we have a foundation in terms of
5 at least where and when?

6 THE COURT: Are we talking about the one
7 conversation?

8 MR. DIGIACOMO: No, it was the --

9 MR. GENTILE: No, the second.

10 MR. DIGIACOMO: -- second conversation.

11 THE COURT: All right. The second. All right.

12 BY MR. DIGIACOMO:

13 Q How long after the first conversation was the
14 second conversation?

15 A A day or two.

16 Q A day or two. Okay.

17 And when Mr. H said he had to be fired, what did
18 you -- or were you directed to do anything?

19 A Yes.

20 Q And what was that?

21 A Issue a final check.

22 Q And did you, in fact, go about issuing a final
23 check for TJ?

24 A Yes.

25 Q Was there any other paperwork that you

1 generated related to his termination from the club?

2 A There's supposed to be.

3 Q Okay. Did you fill out any?

4 A No.

5 Q After this conversation between Arial, Mr. H
6 and yourself, how long -- let me rephrase that.

7 At some point in time was there any other
8 conversations related to TJ before May 19th of 2005? Do you
9 understand my question?

10 A Can you repeat it, please.

11 Q Between the conversation with Arial and now
12 May 19th of 2005 were there any other conversations that you
13 had that involved either Mr. H or Little Lou related to TJ
14 that you can recall?

15 A Yes.

16 Q Okay. When did that occur?

17 A On the 19th.

18 Q Okay. So that's my question.

19 A Yes.

20 Q You're talking about a conversation on the
21 19th, but before the 19th and after the conversation with
22 Arial, was there any conversations --

23 A No.

24 Q -- involving TJ?

25 A No.

1 Q So let's move to the 19th. Does there come a
2 point in time on the 19th that you have a conversation with
3 anybody about TJ?

4 A Yes.

5 Q And who was it that you had the conversation
6 with?

7 A Deangelo Carroll.

8 Q Okay. And how is it that you had this
9 conversation, face to face or some other way?

10 A Some other way.

11 Q Okay. How did it happen?

12 A He called me on the phone.

13 Q Okay. And when you say he called you on the
14 phone, what phone did he call you on?

15 A I don't recall if it was my cell phone or the
16 phone at the body shop.

17 Q Okay. Do you recall whether or not you were
18 chirping or if you were actually talking?

19 A I was talking on the phone.

20 Q Actually talking on the phone?

21 A Yes.

22 Q Okay. And what is it that Mr. Carroll said
23 about TJ?

24 MR. GENTILE: Objection. Hearsay.

25 MR. DIGIACOMO: Not offered for the truth of the

1 matter.

2 THE COURT: It's not being offered for hearsay
3 purposes.

4 MR. DIGIACOMO: Thank you.

5 THE COURT: Just explain what course of events.

6 BY MR. DIGIACOMO:

7 Q What did Deangelo Carroll tell you about TJ?

8 A That TJ was going to another strip club and bad
9 mouthing the club, the Palomino.

10 Q And did he say specifically what TJ was saying?

11 A No.

12 Q Okay. Did he say what strip club that he had
13 gone to?

14 A No.

15 Q Okay. After you got off the phone with
16 Mr. Carroll, did you talk to anybody?

17 MR. GENTILE: Can we have a time predicate, Your
18 Honor?

19 MR. DIGIACOMO: Yeah.

20 BY MR. DIGIACOMO:

21 Q Approximately what time on the 19th was this?
22 Do you recall?

23 A It was in the afternoon.

24 Q Afternoon?

25 A Yes.

1 Q Okay. It was still light out?
2 A Yes, I believe so.
3 Q And where -- where were -- you said you were at
4 Simone's?
5 A Yes.
6 Q Okay. Was there anybody else present after you
7 got off the phone that you talked to?
8 A Yes.
9 Q And who was present?
10 A Mr. H and Little Luis.
11 Q And where was this conversation in Simone's
12 taking place?
13 A My office.
14 Q Let's talk a little bit about the way Simone's
15 is set up. We'll get to the pictures, but while they're
16 looking at them, let's ask a couple of questions here.
17 When you walk through -- well, let me ask you this:
18 Can you describe generally what Simone's looks like?
19 A Yes.
20 Q Okay. Describe that for the ladies and
21 gentlemen of the jury.
22 A The -- Simone's, as soon as you walk through
23 the front door, it has a large reception area. There's a set
24 of couches in front of the television. Large windows were --
25 through those windows would be my office.

1 Q Is your office on the left side or the right
2 side?
3 A Depends on --
4 Q Which way you're facing?
5 A -- where you're walking from.
6 Q All right. Bad question. If you walk through
7 the front door and you turn to face your office, is your
8 office left side or right side?
9 A I believe it's left.
10 Q Okay. And did anybody else have an office over
11 there by where your office was?
12 A Yes.
13 Q Who was that?
14 A Mr. H.
15 Q Okay. And was there any other -- what
16 connected your office to Mr. H's office?
17 A It was more of a closet.
18 Q Like a walk-in closet?
19 A Yes.
20 Q Okay. And could you pass through from your
21 office to Mr. H's office?
22 A Yes.
23 Q Okay. Where did the conversation -- I'll get
24 to the rest of the pictures in a second. Where did the
25 conversation occur between yourself, Mr. H and Little Luis

1 about what Deangelo Carroll's telling them?

2 A In my office.

3 Q And what -- what do you tell Mr. H and Little
4 Lou?

5 A That Deangelo just called and TJ had gone to
6 another strip club and was bad mouthing the Palomino.

7 Q Okay. And what was Mr. H's reaction initially?

8 A He really didn't react.

9 Q What about Little Lou?

10 A Angry.

11 Q Okay. What do you mean by angry? Describe his
12 demeanor for me.

13 A He started yelling at his father.

14 Q Okay. He was yelling -- he raised his voice?

15 A He raised his voice.

16 Q All right. And he's yelling at his father?

17 A (The witness nodded.)

18 Q Is that a yes?

19 A Yes.

20 Q Okay. And what was Little Lou saying to his
21 father?

22 A He made more of a statement, You're not going
23 to do anything? That's why nothing ever gets done. You'll
24 never be like Gilardi and Rizzolo. They take care of
25 business.

1 Q Let's back up a little bit. You said he made a
2 statement about -- and I apologize because I just missed it.
3 You said -- what's the first thing Luis said to him?
4 MR. GENTILE: Objection. That's asked and answered.
5 She just testified. If he wants her to repeat it, that's
6 cumulative.
7 THE COURT: Well, overruled.
8 MR. DIGIACOMO: Thank you.
9 THE COURT: He's clarifying.
10 MR. DIGIACOMO: I'm clarifying.
11 BY MR. DIGIACOMO:
12 Q What's the first thing Little Lou says to him?
13 A You're not going to do anything.
14 Q Okay. Then he mentions individuals by the name
15 of Rizzolo and Gilardi?
16 A Yes.
17 Q Did you know who these people were?
18 A Yes.
19 Q Who's Rizzolo?
20 A He owns a strip club.
21 Q What strip club was that?
22 A Crazy Horse II.
23 Q Okay. And what about Gilardi?
24 A He owns a strip club as well.
25 Q And what strip club was that?

1 A He owns Cheetah's, Jaguar's. I think there's
2 another one.

3 Q While Little Lou is making the statements about
4 not making the money because they take care of business, does
5 he reference anything that either Rizzolo or Gilardi had done
6 to anybody in the past?

7 A Yes.

8 Q And what does he say?

9 A He mentions that Rizzolo had sent one of his
10 employees to beat up a customer.

11 Q Was there any other talk about what dealing or
12 taking care of business meant from Little Luis during this
13 conversation?

14 A Just that.

15 Q What was Mr. H's reaction to his son at that
16 point?

17 A He started to get angry.

18 Q Okay. What -- how do you know he started to
19 get angry? What'd you see, hear?

20 A He raised his voice.

21 Q Okay.

22 A Told Luis to mind his own business.

23 Q And how does this argument end?

24 A Luis, again, rants at his father saying, You
25 will never be like Gilardi and Rizzolo, and he storms out.

1 Q So he makes another statement about he'll never
2 be like Rizzolo and Gilardi and storms out?
3 A Yes.
4 Q When Little Luis storms out, did you see where
5 he went?
6 A He left Simone's.
7 Q He left Simone's?
8 A Yes.
9 Q Let's talk about Little Luis and Simone's. Did
10 you know where Little Luis stayed?
11 A Yes.
12 Q Where?
13 A Room 6.
14 Q Of Simone's?
15 A Yes.
16 Q What about Mr. H? Where did he live?
17 A At that time he lived with his father --
18 Q Lived with --
19 A -- in a condo.
20 Q He lived with Pops in a condo?
21 A Yes.
22 Q Okay. And did you have your own place?
23 A Yes.
24 Q I'm going to ask you to look at what's been
25 marked for purposes of identification as State's Proposed

1 Exhibits 97 through 111. If you could, just briefly flip
2 through those.

3 A (Complying.)

4 Q Do you recognize what's depicted in those
5 photographs?

6 A Yes.

7 Q Do those appear to be true, fair, and accurate
8 depictions of Simone's on May 24th of 2005?

9 A Yes.

10 MR. DIGIACOMO: Move to admit 97 through 111.

11 THE COURT: Are there any objections to 97 through
12 111?

13 MR. GENTILE: No.

14 MR. ARRASCADA: No, Your Honor.

15 THE COURT: All right. Those will all be admitted.

16 (State's Exhibit 97 through 111 admitted.)

17 BY MR. DIGIACOMO:

18 Q Let's go through some of these. That's a -- 97
19 is an exterior view of Simone's. Where's the entrance or the
20 doorway that you would walk in?

21 A On the opposite side.

22 Q Opposite side of this building?

23 A Yes.

24 Q All right. And then 98, what are we looking
25 at?

1 A That is the front entrance.

2 Q Okay. That's where you would walk through the
3 front door?

4 A Yes.

5 Q And then 99, what are we looking at?

6 A It's a picture of the front reception area.

7 Q So -- let me ask you this: You said the front
8 reception area and you said it's a body shop. Is there like a
9 reception area versus where the work's being done?

10 A Yes.

11 Q Are they separate?

12 A Yes.

13 Q Okay. But they're all contained within one
14 building, though?

15 A Yes.

16 Q When you walk through the front door, you said
17 this is the front reception area, correct?

18 A Correct.

19 Q Can you see where your office was in that
20 photograph?

21 A Yes.

22 Q All right. Can you touch the screen to make a
23 little color for me?

24 A Right there (indicating.)

25 Q That was your office?

1 A Yes.

2 Q And can you see where Mr. H's office was?

3 A Yes.

4 Q Can you point that out?

5 A (Complying.)

6 Q Now, where those couches are, State's

7 Exhibit No. --

8 MR. DIGIACOMO: Can you clear that for me? Yeah,

9 there you go.

10 BY MR. DIGIACOMO:

11 Q Where those couches are, State's Exhibit No.

12 100, what is that that my finger's on right there?

13 A It's a TV.

14 Q Okay. 102, what are we looking at?

15 A My office, my desk.

16 Q Okay. And what's underneath your desk?

17 A My briefcase.

18 Q 105, can you read what we're looking at there?

19 A Yes.

20 Q What is it?

21 A It's the payroll check for Deangelo Carroll.

22 Q Now, after -- if you walk through the front

23 door and, you said, the reception area -- and the photograph

24 shows that it's to the right, correct?

25 A Correct.

1 Q What's in front of you as you walk through the
2 door initially? What's right there?
3 A The front desk.
4 Q After you get to the front desk, what's behind
5 the front desk?
6 A A walkway. It's an open space where you can
7 get to the other offices.
8 Q Is there any entertainment in that open
9 walkway?
10 A Yes.
11 Q What is it?
12 A Pool table.
13 Q State's Exhibit No. 106, is that the pool table
14 in the walkway area?
15 A Yes.
16 Q Now, do you recognize -- do you recognize
17 what's on the table there in the -- do you recognize the white
18 thing that's sitting on the pool table there?
19 A Yes.
20 Q What is it?
21 A It's a bullet proof vest.
22 Q And do you know who owned that bullet proof
23 vest?
24 A Yes.
25 Q Who was that?

1 A Mr. H.
2 Q Where did he normally keep that bullet proof
3 vest?
4 A At the Palomino.
5 Q The Palomino Club?
6 A Yes.
7 Q We've heard testimony earlier about some
8 weapons. Did you ever know Mr. Hidalgo, Mr. H, to own a
9 weapon?
10 A Yes.
11 Q What kind of weapon was it?
12 A A Glock.
13 Q And where did he keep that?
14 A He carried it with him.
15 Q Okay. On his person?
16 A Yes.
17 Q Did he have some sort of permit to allow him to
18 do so?
19 A Yes.
20 Q And when he was at the club, did he have that
21 weapon on him?
22 A Yes.
23 Q Did you ever see Mr. H wearing the vest?
24 A Yes.
25 Q And how often, prior to May 19 of 2005, would

1 he wear the vest?

2 A Only if he was going to -- I saw him put it on
3 when he went to a coalition meeting.

4 Q Okay. What's the coalition?

5 A It's where all the strip club owners or
6 managers get together and they meet at Piaro's.

7 Q Okay. When he --

8 MR. GENTILE: Can we have a time predicate?

9 THE COURT: All right. When did you --
10 BY MR. DIGIACOMO:

11 Q How often would the coalition members get
12 together and meet? Do you know?

13 A It varied. It --

14 MR. GENTILE: That's not -- Your Honor, I don't need
15 a time predicate for that. I need a time predicate for the
16 time that she saw him wear the vest.

17 THE COURT: Yeah. When did you see him wear the
18 vest?

19 THE WITNESS: He put it on before he went to a
20 meeting.

21 THE COURT: Okay. And when did you first observe
22 Mr. H going to these meetings?

23 THE WITNESS: It started after he had ownership of
24 the club.

25 THE COURT: All right. And then for how long did he

1 continue to go to the meetings?

2 THE WITNESS: Up until May.

3 THE COURT: All right. Thank you.

4 Mr. DiGiacomo.

5 BY MR. DIGIACOMO:

6 Q Who would be at the coalition meetings? Do you
7 recall?

8 MR. GENTILE: Objection. Foundation. Was she
9 there?

10 THE COURT: All right.

11 BY MR. DIGIACOMO:

12 Q Did Mr. H tell you who was present at the
13 found -- at the coalition meetings?

14 A Yes.

15 Q All right. Who did he tell you was there?

16 A Mr. Rizzalo. On occasion, they said -- he
17 mentioned that Mr. Gilardi went. There was an Alfred, I think
18 the name is, and I believe he was -- he worked with
19 Mr. Rizzalo. I don't know about the others.

20 Q Were there other people who owned strip clubs
21 in town?

22 A Yes.

23 Q And would he -- do you -- without telling us
24 what their names are, do you recall specifically what their
25 names were?

1 MR. GENTILE: Well, then I have to --
2 MR. ADAMS: Objection to me being confused.
3 MR. GENTILE: Irrelevance objection.
4 THE COURT: Right. Yeah. That's sustained.
5 MR. DIGIACOMO: I'll rephrase the question.
6 BY MR. DIGIACOMO:
7 Q Was there more than Mr. H -- according to what
8 Mr. H told you, were there more than just Mr. H, Mr. Rizzalo,
9 and Mr. Gilardi that would go to these coalition meetings?
10 A Yes.
11 Q Okay. And were these other people who -- that
12 you didn't mention, were they also owners of strip clubs?
13 A Yes.
14 Q If you go past the area of the pool tables,
15 State's Exhibit No. 111, what are we looking at?
16 A The hallway that leads to the -- to Room 6 and
17 the other offices.
18 Q Okay. Can you see the doorway to Room 6?
19 A Yes.
20 Q Can you point it out with a little mark there?
21 A (Complying.)
22 Q So that's Room 6 back there, correct?
23 A Yes.
24 Q And if you come in the front entrance, you kind
25 of go to the left and then walk down that hallway?

1 A Yes.

2 Q I'm going to back you up. You said that after
3 Luis and Mr. H got into this argument in front of you, Luis
4 left, correct?

5 A Yes.

6 Q Can you describe -- after Luis left, can you
7 describe for the ladies and gentlemen of the jury the demeanor
8 of Mr. H?

9 A He was angry. He walked out of my office.

10 Q Did you see where he went?

11 A Yes.

12 Q Where did he go?

13 A He went and sat on the couch at the reception
14 area.

15 Q And how long did he stay there?

16 A He waited for me to finish up my paperwork.

17 Q Now, when you say finish up your paperwork,
18 what is it that you have to do before you leave Simone's?

19 A I -- any repair orders that need to be
20 completed for a car to be released at Simone's, then clear off
21 anything that -- for the day that needs to be completed.
22 Before I leave for the Palomino, I gather up all of my
23 paperwork billing that needs to be filed at the Palomino.

24 Q And is this a -- is that your typical routine
25 or did anything special happen on May 19th?