

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.

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**APPELLANT'S APPENDIX, VOLUME VI**

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

**Eighth Judicial District**  
**State of Nevada**

**THE HONORABLE VALIERIE ADAIR, PRESIDING**

Richard F. Cornell, Esq.  
**Attorney for Appellant**  
150 Ridge Street  
Second Floor  
Reno, NV 89501  
775/329-1141

Clark County District Attorney's Office  
Appellate Division  
**Attorney for Respondent**  
200 Lewis Ave.  
Las Vegas, NV 89155  
702/671-2500

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1           A     That's my typical routine.

2           Q     And approximately what time did you -- well, I  
3 guess -- you finish up your paperwork and then where are you  
4 going to go when you're done with your paperwork?

5           A     To the Palomino.

6           Q     Okay. And did you finish up your paperwork on  
7 the 19th?

8           A     Yes.

9           Q     And then did you leave Simone's?

10          A     Yes.

11          Q     Now, that day, on May 19th, how many phone  
12 calls do you remember receiving from Deangelo Carroll?

13          A     Just the one.

14          Q     After -- well, let me ask you this: When you  
15 go to leave Simone's that day, who's with you?

16          A     Mr. Hidalgo.

17          Q     Mr. H?

18          A     Mr. H.

19          Q     Okay. And what's his demeanor like at this  
20 point?

21          A     He's angry.

22          Q     Okay. How do you know that?

23          A     He's not talking. He's just -- his mannerisms  
24 are again angry. When he gets like this, I know not to talk  
25 to him.

1 Q At this point, how many years had you been in a  
2 relationship with Mr. H?

3 A 15 years.

4 Q Okay. And during that time period you've seen  
5 how he reacts under different situations, correct?

6 A Yes.

7 Q When you leave Simone's, do you leave in a  
8 vehicle?

9 A Yes.

10 Q What kind of a vehicle is it?

11 A A Hummer.

12 Q What color is it?

13 A Black.

14 Q And who -- and is it just Mr. H with you?

15 A Yes.

16 Q Where do you go?

17 A To the Palomino.

18 Q Let's talk about a typical night for you at the  
19 Palomino. Where do you work when you're at the Palomino?

20 A Mr. H's office.

21 Q Okay. Do you have any responsibilities,  
22 day-to-day responsibilities, down on the floor with any of the  
23 people that work downstairs or in the other areas of the  
24 Palomino?

25 A Just the office personnel.

1 Q Just the office personnel?

2 A Yes.

3 Q So you -- how much time do you spend in the

4 office versus somewhere else at the Palomino Club?

5 A 98 percent of the time would be in the office.

6 Q So you stay up in this office?

7 A Yes.

8 Q Let's talk a little bit about Mr. H's office.

9 I think I might have said it as opposed to you, but it's

10 upstairs?

11 A Yes.

12 Q Okay. And then how many entrances to Mr. H's

13 office are there?

14 A Three.

15 Q I'm trying to get some pictures here. Let's

16 start with 208. This is Mr. H's office?

17 A Yes.

18 Q Okay. Can you see one of the entrances to the

19 office?

20 A No.

21 Q Okay. What's that stairway right there on the

22 far -- my right side? I guess it's your left.

23 A The stairway leads directly to a private

24 bathroom and if you turn left it goes into a kitchenette.

25 Q So if you go up that stairway, you actually go

1 into a private bathroom? It's not an entrance or an exit to  
2 the office?

3 A No.

4 Q And if you turn left, you go into a  
5 kitchenette?

6 A Correct.

7 Q Let's talk about Mr. H's access to the Palomino  
8 Club. Did Mr. H -- well, first of all, what did he do on a  
9 daily basis at the Palomino Club?

10 A He would be on the floor the majority of the  
11 time.

12 Q What about keys to the various rooms? Was he  
13 in possession of those?

14 A Yes.

15 Q Okay. What about the records of the Palomino?  
16 Did he have access to those?

17 A Yes.

18 Q Did he have knowledge of them?

19 A Knowledge of?

20 Q Employee records, would he know where they're  
21 at?

22 A Yes.

23 Q Okay. And would he be able to locate those for  
24 somebody?

25 A Yes.



1           Q     You said if you go through there, there's a  
2 little kitchenette on that door there. If you follow that  
3 kitchenette through, what happens when you come to the end of  
4 it?

5           A     There's a door.

6           Q     Okay. And what happens when you go through  
7 that door?

8           A     It's more of like a storage closet. It's also  
9 where the safe is.

10          Q     Okay. What color is the safe?

11          A     Gray.

12          Q     And then if you walked all the way down the end  
13 of that closet, was there any way to get out of that closet?

14          A     Yes.

15          Q     Okay. And which way was that?

16          A     If -- all the way straight through there was a  
17 door.

18          Q     Now, next to that stairway that we see there,  
19 if you kind of go off screen -- well, I'll just ask you this:  
20 Where was the entrance from the Palomino Club side into  
21 Mr. H's office? Was there from that direction?

22          A     Towards the right.

23          Q     Towards the right more?

24          A     Yes.

25          Q     Okay. And then you said there was a third

1 door, and where's the third door at?

2 A Off to this corner, that corner.

3 Q Let me see if I can show you some better  
4 pictures here. 207, can you see the stairway that leads to  
5 the --

6 A The front door would be right here  
7 (indicating.)

8 Q So it's all the way at the end there?

9 A Yes. And completely opposite of that door  
10 would be the last exit door.

11 Q So State's Exhibit No. 216 is the other exit  
12 door?

13 A Right here.

14 Q Was there surveillance in the Palomino Club?

15 A Yes.

16 Q Now, was it being recorded or was it just being  
17 able to be viewed?

18 A Viewed.

19 Q Okay. And could you, if you were in Mr. H's  
20 office, watch the surveillance?

21 A Yes.

22 Q And where would you have to sit in order to  
23 watch the surveillance?

24 A At his desk.

25 Q Was there any other room in the Palomino where

1 surveillance could be viewed from?

2 A Yes.

3 Q And where was that?

4 A Downstairs in the office opposite of Arial's.

5 Q So there's an office opposite of Arial's?

6 A Yes.

7 Q And whose office was that?

8 A Rudy Viarta's.

9 Q And who's Rudy Viarta?

10 A He used to be the technical supervisor/director

11 at the Palomino.

12 Q And was he there in May of 2005?

13 A No.

14 Q Approximately, if you can, tell us what time

15 you got to the Palomino on the evening of the 19th.

16 A We may have left Simone's at maybe 6:00 or

17 7:00.

18 Q And then what time -- how long would it take

19 you to get up to the Palomino?

20 A Depending on traffic, maybe 15, 20 minutes.

21 Q When you get to the Palomino, as you recall on

22 the 19th, do you remember if it's light or dark out?

23 A I don't remember.

24 Q Where do you go in the Palomino?

25 A Directly up to Louie's office.

1 Q And what does Louie do, Mr. H?

2 A He follows me.

3 Q Now, when you spend time doing what you need to

4 do at the Palomino, where do you sit in that office?

5 A At his desk.

6 Q And what does he do?

7 A He normally goes out to the floor.

8 Q Does there come a point in time when you see

9 Deangelo Carroll on the evening of the 19th?

10 A Yes.

11 Q And where do you first see him?

12 A At Louie's office.

13 Q And how do you first -- how do you know that

14 he's there initially?

15 A He knocks on the door.

16 Q Okay. Who's there besides yourself?

17 A Mr. H.

18 Q And does somebody let him in?

19 A Mr. H.

20 Q And after Mr. H let him in, do you hear the

21 conversation at all?

22 A No.

23 Q Okay. Were you paying attention to the

24 conversation at all?

25 A No.

1 Q What happens with Mr. H and Deangelo?  
2 A They walk out of the office.  
3 Q How long after you got to the Palomino do you  
4 recall Deangelo Carroll arriving to the office?  
5 A Not long.  
6 Q Not long. Are we talking five minutes, ten  
7 minutes, an hour, two hours?  
8 A Maybe half hour.  
9 Q Okay. After Deangelo Carroll leaves, does  
10 there come a point in time when you see Mr. H again?  
11 A Yes.  
12 Q And when he comes back, is he with anybody?  
13 A No.  
14 Q At some point in time does Mr. H give you some  
15 instructions?  
16 A Yes.  
17 Q At the time that he gives you the instructions,  
18 is there anybody else present in the office?  
19 A Yes.  
20 Q Who was that?  
21 A PK.  
22 Q Okay. I'm going to back up. You said Deangelo  
23 Carroll left and then by the time Mr. H gave you instructions  
24 PK's in the office. So you also said you saw him in between  
25 that time.

1 A Yes.

2 Q When you saw Mr. H in between that time, can  
3 you describe his demeanor for me?

4 A A little agitated, but overall he seemed a  
5 little more calm than he was earlier.

6 Q So it seemed like he had calmed down from the  
7 earlier conversation?

8 A Yes.

9 Q All right. And did he talk to you at all about  
10 anything related to what we're here testifying to now?

11 A No.

12 Q Okay. The time that he comes -- well, let me  
13 ask you this, because you didn't say that: You said PK's in  
14 the office. Do you see PK enter the office?

15 A He walked in with Louie -- or with Mr. H.

16 Q With Mr. H. Okay.

17 So PK walked in with Mr. H and is there a  
18 conversation with you at that point?

19 A He asked PK to have a seat. He was sitting in  
20 front of my desk and asked me to follow him into the  
21 kitchenette.

22 Q Okay. Did you follow him into the kitchenette?

23 A Yes.

24 Q And how far into the kitchenette did you go?

25 A Midway.

1 Q Did the kitchenette door remain open or closed?  
2 A Opened, I believe.  
3 Q What does Mr. H say to you at this point?  
4 A He asked me to go into the back room, call  
5 Deangelo and tell him to go to plan B.  
6 Q What was your response to that?  
7 A I said I would do it.  
8 Q Okay. Well, let me ask -- let me ask you this  
9 question: Did you query at all what he was talking about?  
10 A No.  
11 Q Had Mr. H ever used the term plan B with you in  
12 the past before?  
13 A No.  
14 Q Had you ever heard that term utilized at the  
15 club for anything before?  
16 A No.  
17 Q Okay. What do you do?  
18 A What do I do?  
19 Q Yeah.  
20 A I go into the back room and call Deangelo.  
21 Q Okay. Let's talk about where you go into the  
22 back room. Now, you're standing in the kitchenette. Where do  
23 you have to go to go to the back room?  
24 A I have to go through the door at the very end  
25 of the kitchenette.

1 Q Okay. And then what do you do?  
2 A I believe I Nextel'd Deangelo.  
3 Q Chirped him?  
4 A Tried to chirp him.  
5 Q Okay. Did you have any other way to get ahold  
6 of Deangelo other than chirping him?  
7 A No.  
8 Q Okay. So you chirp him. Do you have a  
9 conversation with him?  
10 A He calls.  
11 Q He calls on your chirper or on your regular  
12 phone?  
13 A On my regular phone.  
14 Q And what was your understanding of Deangelo's  
15 Nextel Palomino phone, was that capable of calling you on a  
16 regular phone?  
17 A Certain Nextels have phone capability.  
18 Q Okay.  
19 A I don't recall if Deangelo's -- or the one  
20 Deangelo had on him had phone capability or not.  
21 Q You don't know if the one that Deangelo had on  
22 that night -- let me ask you this question: Did Deangelo  
23 always have the same Nextel on him?  
24 A No.  
25 Q Okay. How would that work, the Nextel phones



1 at the club? How did that work? When people came in to work  
2 for a day, how would they get their Nextels that they need to  
3 use?

4 A They would be downstairs. Arial would issue  
5 them out when she issued out the banks.

6 Q Okay. So any given day, some of the other  
7 employees would have different Nextels, correct?

8 A Correct.

9 Q Did you always maintain the same Nextel?

10 A Yes.

11 Q Did Luis -- Mr. H always maintain the same  
12 Nextel?

13 A Yes.

14 Q What about Little Lou, did he always have the  
15 same Nextel?

16 A Yes.

17 Q Okay. Now, did Mr. H ever -- were you the --  
18 let me rephrase it this way: Were you the person, the only  
19 person, that ever used your Nextel?

20 A No.

21 Q Okay. What do you mean by that?

22 A My phone, I would have it on my desk. There's  
23 times that Mr. H would pick it up to make a phone call, to use  
24 the radio. It's the same thing, I would use his or I would  
25 answer his phone if the phone would ring.

1 Q You're in a relationship with Mr. H at that  
2 point?

3 A Yes.

4 Q Would you consider yourself couples?

5 A Yes.

6 Q You shared things?

7 A Yes.

8 Q So you go to the back room and you chirp  
9 Deangelo and he calls you back, correct?

10 A Yes.

11 Q Do you -- can you hear what Deangelo Carroll's  
12 saying to you?

13 A Yes.

14 Q Are you having any phone connection problems  
15 between you?

16 A Not at that point.

17 Q Okay. What is it that you recall Deangelo  
18 Carroll saying to you?

19 MR. GENTILE: Objection. Hearsay.

20 THE COURT: Overruled.

21 MR. DIGIACOMO: Thank you, Judge.

22 THE WITNESS: I call Deangelo. I tell him to go to  
23 plan B. He says, I'm already here. Again, I tell him to go  
24 to plan B and the phone gets disconnected.

25 MR. ADAMS: Your Honor, may we have a time

1 predicate, please?

2 MR. DIGIACOMO: That's my next question.

3 THE COURT: All right.

4 BY MR. DIGIACOMO:

5 Q Approximately what time in the evening are we  
6 at? Do you know?

7 A It's late evening.

8 Q Okay. Is it before midnight?

9 A Yes.

10 Q Okay. How long before midnight? Can you  
11 recall?

12 A No.

13 Q How many actual phone calls that evening were  
14 you actually physically talking to Deangelo on the phone do  
15 you have with Deangelo Carroll that night?

16 A I specifically know that one and then I tried  
17 chirping him and calling him back.

18 Q Okay. But actual speaking to --

19 A Once.

20 Q -- him on the phone that night, is that one  
21 call?

22 A Yes.

23 Q Okay. You said something about, We're here.  
24 Do you remember any other words he said?

25 A I'm alone.

1 Q All right. Anything else that you can recall  
2 that h said to you?

3 A No.

4 Q Okay. When you say, Go to plan B, and he's  
5 saying, But we're alone and I'm here, what --

6 MR. GENTILE: Objection. That's not what she said.  
7 She said, I'm alone. He's misstating the record.

8 THE COURT: All right.

9 BY MR. DIGIACOMO:

10 Q So did he say "I'm" or "we"? What did he say?  
11 Do you recall?

12 A I believe he said, I'm alone.

13 THE COURT: All right.

14 BY MR. DIGIACOMO:

15 Q When he says --

16 A I don't recall.

17 Q -- I'm alone, what about here? Did he say,  
18 We're here, I'm here? What kind of here?

19 MR. GENTILE: Objection. This is suggestive --

20 A I don't recall.

21 MR. GENTILE: -- and leading.

22 THE COURT: All right. That's sustained.

23 BY MR. DIGIACOMO:

24 Q What did he say to the word "here"? What did  
25 he say? Do you remember?

1           A     We're here. I'm -- I don't recall  
2 specifically.

3           Q     Okay. And you tell him to go to plan B and  
4 then you get cut off. Okay. And you try to call him back.  
5 At this point, what's going through your mind?

6           A     Something's happening to Mr. Hadland.

7           Q     Something's happening to Mr. Hadland?

8           A     Or going to happen to Mr. Hadland.

9           Q     Okay. Is it a good something or a bad  
10 something?

11          A     Bad.

12          MR. GENTILE: Objection. Her state of mind is  
13 really not relevant in terms of this telephone call.

14          MR. DIGIACOMO: Well, it's hugely relevant as to --

15          THE COURT: It's overruled. She answered the  
16 question.

17          MR. DIGIACOMO: Thanks.

18          THE COURT: Go on, Mr. DiGiacomo.

19 BY MR. DIGIACOMO:

20          Q     Something bad's going to happen to TJ?

21          A     Yes.

22          Q     You said you tried to call Deangelo back. Were  
23 you able to get connections with him?

24          A     No.

25          Q     What do you do?

1           A     I go back into the office. I tell Louie that I  
2 spoke to Deangelo and I told him to go to plan B.

3           Q     Okay. Is anybody still sitting there?

4           A     PK.

5           Q     And do you say anything else to Louie at this  
6 point or Mr. H at this point about what you now know in your  
7 head's going on?

8           A     No.

9           Q     Why not?

10          A     He walks out with PK.

11          Q     Did you pick up the telephone and call 911?

12          A     No.

13          Q     Why not?

14          A     I couldn't even tell you.

15          Q     How long -- well, let me ask you this: After  
16 you had this conversation with Mr. H where you tell him that  
17 you told him to go to plan B, what's Mr. H's reaction?

18          A     He's calm. He -- like I said, he walks out  
19 with PK.

20          Q     At some point in time do you see Mr. H in the  
21 company of Deangelo Carroll again?

22          A     Yes.

23          Q     And how does that come about?

24          A     Louie comes back into the office. He's sitting  
25 down watching TV and there's a knock at the door. Deangelo

1 comes in.

2 Q So Louie's already back in the office with you  
3 when Deangelo comes back in?

4 A Yes.

5 Q And when you say Louie, it's Mr. H?

6 A I'm sorry, Mr. H.

7 Q And let me ask you this: From the time you saw  
8 Little Luis leave Simone's after the argument, up until this  
9 point, have you seen Little Luis again?

10 A No.

11 Q Okay. When Mr. H is back in the office and  
12 Deangelo comes back to the door, had you seen Little Luis at  
13 this point?

14 A No.

15 Q Does Deangelo knock or does he walk in? What  
16 happens?

17 A He knocks.

18 Q Okay. When he knocks, can you describe for us  
19 what happens?

20 A He comes in. He sits down in front of Louie.  
21 I'm sitting behind the desk. He's -- there's two chairs in  
22 front of Louie's desk. He sits down in front of Louie and  
23 looks over at Louie and says, It's done.

24 Q And when he says, It's done, what does Mr. H  
25 say?

1           A     He looks at Deangelo. Deangelo says, He's  
2 downstairs. Louie looks at me and says, Go get 5 out of the  
3 safe.

4           Q     When you -- when Louie looks at you and says,  
5 Go get 5, what's your reaction?

6           A     I look at him and said, 5 what? \$500? And he  
7 gets angry and says, Go get \$5,000 out of the safe.

8           Q     So what do you do?

9           A     I get up and go get \$5,000 out of the safe.

10          Q     We've already seen both of these pictures --  
11 well, you've probably seen all of these pictures before, but  
12 State's Exhibit No. 217, is that the safe you're talking  
13 about?

14          A     Yes.

15          Q     Okay. Now, there's a -- pretty large stacks on  
16 the top row. Can you tell us what the denominations of those  
17 stacks are?

18          A     Ones.

19          Q     And what's the purpose of having all those  
20 ones?

21          A     Change for the bars.

22          Q     What about money down in this section? Was  
23 there different money down there?

24          A     Yes.

25          Q     And was that the club's money?



1 A No.

2 Q How much money approximately was in the bottom

3 safe?

4 A 100,000.

5 Q And did Mr. H tell you where that 100,000 came

6 from?

7 A Yes.

8 Q Where did it come from?

9 A Sale of the two condos.

10 Q What two condos?

11 A One was his. One was mine. They were both on

12 Lake Mead.

13 Q So a hundred thousand of the money found in the

14 Palomino after a search warrant wasn't the Palomino's money?

15 A Correct.

16 Q When you said, You mean 500, and he tells you

17 5,000 and you go and get the money, correct?

18 A Correct.

19 Q Was \$5,000 a big deal to you considering you're

20 doing the books at the Palomino Club?

21 A Yes.

22 Q Okay. Why is that?

23 A Because the club is not doing well.

24 Q After you get the \$5,000, what do you do?

25 A I place it in front of Deangelo on the desk.

1 Q What does Deangelo do?

2 A He picks up the money.

3 Q What does he do?

4 A He walks out.

5 Q During this interaction between Mr. H, Deangelo  
6 and you, do you remember any other conversations that happened  
7 between Mr. H, Deangelo and yourself?

8 A No.

9 Q After Deangelo walks out of the room, what do  
10 you do?

11 A I look at Louie and say, What have you done?

12 Q What's his response?

13 A He doesn't respond. He -- shortly after, he  
14 says to change the television and look for the news.

15 Q How many times did you ask him, What have you  
16 done?

17 A At that point I asked him the one time. As we  
18 were changing the television, he makes more of a statement as  
19 if -- did he do it.

20 MR. GENTILE: Objection to "as if." She can testify  
21 to what he says. She can't read his mind.

22 THE COURT: All right.

23 MR. DIGIACOMO: Okay.

24 BY MR. DIGIACOMO:

25 Q Well, do you remember the exact words he used?

1           A     Did he do it?

2           Q     Did he do it? As you were flipping through the  
3 stations, he's asking, Did he do it?

4           A     (The witness nodded.)

5           Q     Is that yes?

6           A     Yes.

7           Q     Okay. And did you question him about what he  
8 meant by that?

9           A     No.

10          Q     Did you -- while you're still at the club,  
11 anything ever come on TV related to this case?

12          A     No.

13          Q     Where do you go from there -- or maybe you  
14 don't. Let me back up. At some point do you wind up leaving  
15 the club?

16          A     Yes.

17          Q     Okay. How long after Deangelo leaves the room  
18 with the money did you leave the club?

19          A     We may have stayed no more than an hour.

20          Q     And during that time period do you ever see  
21 Deangelo again?

22          A     No.

23          Q     Do you ever talk to Deangelo again?

24          A     Not that night.

25          Q     Okay. What about Little Luis, did you talk to

1 him that night?

2 A No.

3 Q When you leave the club, who do you leave with?

4 A Mr. H.

5 Q And where do you go? Do you recall?

6 A The MGM.

7 Q Okay. And what did you do at the MGM?

8 A Gambled.

9 MR. GENTILE: Objection to the word "you" being used  
10 in this question unless Mr. DiGiacomo clarifies how he's using  
11 it.

12 THE COURT: All right. Do you mean --

13 MR. DIGIACOMO: I asked the question --

14 THE COURT: -- you, just you yourself, or you and  
15 Mr. H?

16 Is that your objection, Mr. Gentile?

17 MR. GENTILE: That's the objection.

18 THE COURT: All right.

19 MR. DIGIACOMO: Is that a legal objection?

20 MR. GENTILE: It is.

21 THE COURT: Well, I think he's objecting as to  
22 clarity.

23 MR. GENTILE: Form of the question. It needs  
24 clarity.

25 THE COURT: All right.

1 BY MR. DIGIACOMO:

2 Q What did you do at the MGM? You personally,  
3 what did you do?

4 A I gambled.

5 Q Okay. Gambled on what? What did you play?

6 A Machines.

7 Q Machines.

8 A (The witness nodded.)

9 Q Is that a yes?

10 A Yes.

11 Q Okay. What did Mr. H do at the MGM?

12 A Gambled as well.

13 Q On what?

14 A Machines as well.

15 Q Okay. After gambling at the MGM, where'd you  
16 go?

17 A To my house.

18 Q And once you got to your house, can you  
19 describe Mr. H's demeanor at this point?

20 A Nervous.

21 Q Okay. What kind of things is he saying to you?

22 A He hasn't really said much of anything. He  
23 just goes in and turns on the television.

24 Q Do you see anything before falling asleep that  
25 night related to the case?

1 A No.

2 Q Okay. Do you go to bed?

3 A Yes.

4 Q When you get up in the morning -- what house  
5 did you go home to?

6 A My house.

7 Q Did Mr. H stay at your house?

8 A That night, yes.

9 Q Had there been other occasions when he had  
10 stayed at your house before?

11 A Yes.

12 Q When you woke up the next morning, did you see  
13 Mr. H still there?

14 A Yes.

15 Q And where was he?

16 A He was in the room with me, the bedroom.

17 Q Okay. Was he already awake?

18 A Yes.

19 Q Can you describe his demeanor at this point?

20 A Still nervous, looked like he hadn't slept.

21 Q After -- well, when you see him looking still  
22 nervous, looked like he hadn't slept, do you talk to him at  
23 all?

24 A Yes.

25 Q And what's going on?

1           A     I asked him if he slept. He said no. So he  
2 says that he needs to watch TV. He's looking for the new.  
3           Q     Do you watch TV with him?  
4           A     Yes.  
5           Q     At some point do you see something that causes  
6 you some concern?  
7           A     Yes.  
8           Q     What do you see?  
9           A     They say there's a death at Lake Mead.  
10          Q     What happens when Mr. H sees the TV and there's  
11 a death at Lake Mead?  
12          A     He says he did it. He makes a statement saying  
13 he did it.  
14          Q     Mr. H says, quote, he did it?  
15          A     Yes.  
16          Q     And when he makes the quote -- statement,  
17 quote, he did it, do you have anything to say at that point?  
18          A     Again, I asked him, What have you done, what  
19 did he do. Then he says he needs to call his attorney.  
20          Q     At some point do you leave your house that day?  
21          A     Friday morning, yes.  
22          Q     Friday morning. Where do you go?  
23          A     Simone's.  
24          Q     Simone's Auto body [sic]?  
25          A     Yes.

1 Q And who's with you at Simone's?  
2 A Louie.  
3 Q Mr. H?  
4 A Yes, Mr. H. I'm sorry.  
5 Q At this point have you seen Little Luis?  
6 A No.  
7 Q Okay. You said something about Mr. H saying he  
8 needed to talk to his attorney. Did he call his attorney  
9 directly?  
10 A I know he called his attorney because I was  
11 with him on Saturday. If he spoke to his attorney prior to  
12 that, I don't know.  
13 Q Okay. So he makes a statement about -- on  
14 Friday morning that he needs to talk to his lawyer, but you  
15 don't actually see anything happen until Saturday, correct?  
16 A Correct.  
17 Q Okay. While you're at Simone's with Mr. H, did  
18 you become aware of a phone call Mr. H received from the  
19 police department?  
20 A No.  
21 Q At some point did you become aware that Mr. H  
22 had to leave Simone's?  
23 A He did leave, yes.  
24 Q Did you know where -- did he tell you where he  
25 was going?



1 A I don't remember.

2 Q How long was he gone?

3 A A few hours, I believe. Friday is somewhat of

4 a blur.

5 Q Friday's somewhat of a blur for you?

6 A Yes.

7 Q Okay. At some point do you get back together

8 with Mr. H on Friday?

9 A Yes.

10 Q And do you know where it is you finally saw

11 Mr. H again after he left Simone's?

12 A I don't recall. I think I went to the club

13 with him on Friday. I don't recall.

14 Q At --

15 MR. ADAMS: Could she please repeat that answer. I

16 couldn't hear because of the gail force winds.

17 BY MR. DIGIACOMO:

18 Q You said something about that night you think

19 you went to the club --

20 MR. GENTILE: Can we get a read back maybe or --

21 THE COURT: You know, we can't get a read back.

22 MR. GENTILE: Can't do a read back?

23 THE COURT: No, I'm sorry, because it's on the tape

24 and it takes a long time to --

25 MR. ADAMS: I withdraw.

1 THE COURT: -- find it.

2 MR. ADAMS: I withdraw my request.

3 BY MR. DIGIACOMO:

4 Q At some point you said you think you went to  
5 the club that night, correct?

6 A Yes.

7 Q Was Mr. H with you?

8 A Yes.

9 Q How long do you think you stayed there?

10 A Not long.

11 MR. GENTILE: I'm going to object that it's  
12 speculation at this point. She said Friday's a blur --

13 THE COURT: Don't --

14 MR. GENTILE: -- she doesn't remember --

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

16 Don't speculate or guess. If you don't remember,  
17 then don't --

18 THE WITNESS: Yes, ma'am.

19 THE COURT: -- you know, don't guess as to what you  
20 may not remember.

21 MR. DIGIACOMO: I'll rephrase.

22 BY MR. DIGIACOMO:

23 Q Do you remember how long you stayed there?

24 A No.

25 Q Okay. Do you -- did -- at some point did you

1 leave the club?

2 A Yes.

3 Q Who'd you leave with?

4 A Mr. H.

5 Q Can you describe Mr. H's demeanor at this  
6 point?

7 A Still nervous.

8 Q Okay. I'm going to jump ahead to Saturday.  
9 You said at some point on Saturday he calls his lawyer. Can  
10 you tell the ladies and gentlemen how that happens.

11 MR. ADAMS: Your Honor, at this point may we  
12 approach?

13 THE COURT: Yes.

14 (Off-record bench conference)

15 THE COURT: Ladies and gentlemen, we're going to  
16 take a break. I want this to be a breakfast break of ten  
17 minutes and that will be 11:15 for the break.

18 And once again, you're reminded of the admonition  
19 which obviously is still in effect. Note pads in your chairs,  
20 follow Jeff through the double doors.

21 And the witness, you are instructed not to discuss  
22 your testimony with anyone during the break.

23 (Court recessed at 11:05 a.m. until 11:14 a.m.)

24 (Outside the presence of the jury.)

25 THE COURT: You know what, I want to bring them in

1 on time, so we'll start and then if they make an objection,  
2 we'll rule on it then.

3 MR. ADAMS: We do have objections to two photos.

4 THE COURT: Which one -- which two?

5 MR. ARRASCADA: Actually, it's several, Your Honor.  
6 Exhibits 122, 123, 117, and 118 that are proposed.

7 THE COURT: And the basis of your objection?

8 MR. ARRASCADA: One, they're irrelevant, Your Honor.  
9 And two, they -- one is of a cane and then the cane -- the  
10 knife is -- comes out of it. The other -- that's 122.

11 123, I think, was in Room 6.

12 117 and 118, there's an array of stuff on a desk,  
13 but within that array, there's some brass knuckles.

14 THE COURT: Okay. Would you bring me the photos,  
15 please, Mr. DiGiacomo. And what's the relevancy of these?

16 MR. DIGIACOMO: Well, one, their claim is that those  
17 show some sort of character for violence, and I was sitting  
18 here yesterday when I heard for maybe the first time in my  
19 career where there's evidence of other violence of an  
20 individual, then ask a question, he has no criminal history.  
21 The only reason that's offered is for his good character and  
22 we're allowed to rebut it with anything. So to say it's not  
23 relevant is probably not true. However -- and I don't know at  
24 some point how -- what is going to come in and not come in.  
25 There are descriptions of Luis Hidalgo, Jr. -- I mean, the

1 III's behavior in that room related to those items --

2 MR. ARRASCADA: Judge, we'd ask the witness not be  
3 in during this conference -- discussion.

4 THE COURT: Do you know what -- okay. Clearly 118  
5 or 110 -- I can't read it -- 118 can come in. That's just  
6 showing that he's living there and --

7 MR. ADAMS: Judge, at the top of the photo are brass  
8 knuckles.

9 MR. ARRASCADA: Right.

10 MR. ADAMS: They have no relevance at all and  
11 they're prejudicial.

12 MR. PESCI: It was counsel for Little Lou who  
13 specifically asked the detective about the criminal history of  
14 his clients.

15 THE COURT: I don't know that having brass knuckles  
16 shows that you have a criminal history.

17 MR. DIGIACOMO: No, but the implication of that  
18 question is that he doesn't do anything criminal, so any  
19 evidence to suggest that he may do something criminal is now  
20 admissible, clearly admissible.

21 MR. ARRASCADA: Judge, may I? First, that area of  
22 questioning was going into the completeness of their  
23 investigation and what they did to have information regarding  
24 the various people that they checked upon, nothing to do with  
25 Mr. Hidalgo, III's character. The door has not been opened

1 under any stretch of the evidence code or any rules. And  
2 these photos are very prejudicial and they should not come in.

3 MR. DIGIACOMO: This is the similar argument to  
4 saying he didn't do it is true, right. That's a similar  
5 argument, well, I didn't intend it. It doesn't matter what he  
6 intended. It came in as evidence that this individual doesn't  
7 have a history of doing bad things.

8 It's my position that anything now that would  
9 suggest that he'd done anything bad is admissible, but  
10 moreover, these items are in the room, they are photographed  
11 in the room. I didn't intend to offer it for purposes of the  
12 brass knuckles but to suggest one -- there's nothing unlawful  
13 about being in possession of the brass knuckles.

14 MR. ARRASCADA: Yes, it is. It's a gross  
15 misdemeanor, Your Honor.

16 MR. DIGIACOMO: Possession of a brass knuckle?

17 MR. ARRASCADA: Yes.

18 MR. DIGIACOMO: No.

19 MR. ARRASCADA: Yes, it is.

20 MR. DIGIACOMO: Unless a brass knuckle is in your  
21 pocket, it's probably a gross misdemeanor. Just possession of  
22 brass knuckles, period?

23 MR. ARRASCADA: It's a --

24 THE COURT: Is it? I don't know off the top of my  
25 head.

1 THE MARSHAL: To be in your possession, gross  
2 misdemeanor for brass knuckles.

3 MR. DIGIACOMO: Makes my argument even better. They  
4 just argued he had no criminal history. We have evidence of a  
5 crime. Thank you very much.

6 MR. GENTILE: Not if you've got it locked in a safe  
7 or something like that.

8 THE MARSHAL: It has to be on your possession, a  
9 dangerous weapon on your possession.

10 MR. GENTILE: It has to be on your person. It's got  
11 to be on your person.

12 MR. PESCI: I think what was very telling, Judge, is  
13 the question you received late yesterday from Juror No. 9  
14 which specifically asked, Can we hear now what Mr. DiGiacomo  
15 was talking about, the specific instances of what was  
16 truthful. Remember, we fought over what the implication was?

17 THE COURT: Yeah, and we may let Detective Wildemann  
18 answer that.

19 MR. PESCI: Well, no, I don't mean that. What I'm  
20 trying to say is we had an argument yesterday about whether  
21 they intended versus what the jury understood, and clearly the  
22 jury's understanding and implication other than what they're  
23 telling you their intention is --

24 THE COURT: All right. You can put 118 in because,  
25 to me, it's mainly of the possessory interest of the

1 certificate of birth and his Social Security thing.

2 MR. ADAMS: Well, can we cut that part out, then,  
3 Your Honor --

4 THE COURT: No.

5 MR. ADAMS: -- the prejudicial part?

6 THE COURT: I don't -- I think this is a little bit  
7 of overkill in terms of all of these photos and it just kind  
8 of shows he's sloppy.

9 MR. DIGIACOMO: Well, yeah, except we're going to  
10 get to the liquor bottles which was actually the import --  
11 that just happens to be laying there.

12 THE COURT: Yeah, that's not a Tanqueray bottle,  
13 though.

14 MR. DIGIACOMO: No, I know, because there's a  
15 variety of liquors in the room. He takes the Tanqueray  
16 bottle, but he obviously has access to the other liquor from  
17 the club.

18 THE COURT: Or he went to --

19 MR. GENTILE: We're in trouble now.

20 THE COURT: He goes to Lee's Liquor and buys a  
21 bottle of --

22 MR. DIGIACOMO: Sure. But he's in possession of  
23 liquor bottles. That's obviously relevant.

24 THE COURT: Well, and so am I.

25 MR. DIGIACOMO: I didn't charge you with giving it



1 to anybody. If you did, I might --

2 THE COURT: I don't see the relevance of the liquor  
3 bottle, frankly. I mean, I think that pretty much everyone  
4 has liquor except for Mr. Pesci and certain members of the  
5 Court's staff in their homes.

6 MR. PESCI: Right, Judge, but if you recall during  
7 the jury selection, there was lots of questions by defense  
8 counsel about people being drunk and what they might do when  
9 they're drunk. And so it's out there as far as people being  
10 drunk. And so if there's going to be an argument that he was  
11 somehow drunk at the time --

12 MR. DIGIACOMO: Who?

13 MR. PESCI: Your client.

14 THE COURT: All right. Well, if it comes out he was  
15 drunk at the time, you can introduce -- I mean, the police  
16 took these pictures so you can get them in through the police  
17 as well if they don't come in through Ms. Espindola.

18 MR. DIGIACOMO: Well, I wasn't planning on actually  
19 offering them through Ms. Espindola, but those are all similar  
20 pictures of what I showed them.

21 THE COURT: Oh, okay. Well, if you're not going to  
22 offer them through Ms. Espindola, let's bring the jury back  
23 in.

24 MR. ARRASCADA: Thank you, Your Honor.

25 THE COURT: 118, I have no problem with. Some of

1 these are duplicative, like 117. I don't know that that adds  
2 anything to 118, which is the better picture.

3 Bring in the witness and then bring in the jury.

4 Ma'am, just come on back up here and have a seat  
5 again at the witness stand.

6 (Jury reconvened at 11:22 a.m.)

7 THE COURT: All right. Court is now back in  
8 session.

9 Mr. DiGiacomo, you may resume your direct  
10 examination of Ms. Espindola.

11 MR. DIGIACOMO: Thank you, Judge.

12 BY MR. DIGIACOMO:

13 Q Ms. Espindola, I think I was at Saturday at  
14 this point.

15 A Yes.

16 Q Okay. And if the 19th was a Thursday, we're  
17 talking the 21st, correct?

18 A Yes.

19 Q You said earlier something to the effect of you  
20 knew that on Saturday Mr. H contacted his lawyer.

21 A Correct.

22 Q How did that come about?

23 A We were at the body shop, Mr. H called Steve  
24 Stern -- or had me call Steve Stern first.

25 Q He had you call Steve Stern?

1 A Yes.

2 Q And what phone did you use?

3 A I don't recall.

4 Q You don't recall if it was the body shop or  
5 your Nextel?

6 A No.

7 Q Okay. And then who's Steve Stern?

8 A He was the public relations for the Palomino  
9 Club.

10 Q After -- and don't tell us what Mr. Stern told  
11 you -- well, let me ask you this: Did Mr. H say why, if he's  
12 calling his lawyer, he's going to call his PR guy first?

13 A No, he just said he wanted to talk to him.

14 Q All right. After you talked to Steve Stern,  
15 what happens? Well, let me ask you this -- let me back up.  
16 Did you talk to Steve Stern?

17 A No. Mr. Hidalgo -- or Mr. H had a -- was in  
18 the kitchen of Simone's Autoplaza and they spoke in there. I  
19 walked in and he had Mr. Stern -- Mr. H had Mr. Stern call his  
20 attorney.

21 Q And at some point do you receive information  
22 back about his attorney?

23 A We are scheduled to go see a different attorney  
24 because his attorney's out of town.

25 Q At this point did you know who his attorney

1 was?

2 A Yes.

3 Q And who was that?

4 A Dominic Gentile.

5 Q Okay. And you see Mr. Gentile here in court  
6 today, right?

7 A Yes.

8 MR. DIGIACOMO: I think the record will reflect that  
9 Mr. Gentile raised his hand.

10 THE COURT: All right. Thank you.

11 BY MR. DIGIACOMO:

12 Q And had you had prior contact with Mr. Gentile  
13 in the past?

14 A Yes.

15 Q Let's talk about the -- that prior contact.  
16 Approximately -- I want to direct your attention to  
17 approximately a year prior to this incident. Do you remember  
18 an individual by the name of Tony Moore?

19 A Yes.

20 Q All right. Who's Tony Moore?

21 A He used to be the manager at Simone's  
22 Autoplaza.

23 Q And what was the relationship between Tony  
24 Moore and Mr. H?

25 A They were friends.

1 Q Did there come a point in time when that  
2 situation changed?

3 A Yes.

4 Q And without telling us specifically what  
5 Mr. Moore did, was there a conflict that was created between  
6 Mr. H and Mr. Moore?

7 A Yes.

8 Q Based upon that conflict, did you have contact  
9 with Mr. Gentile?

10 A I did not have contact. Mr. H had contact with  
11 him.

12 Q At some point were you directed to do anything?

13 A Yes.

14 Q And did you go to the Las Vegas Metropolitan  
15 Police Department?

16 A Yes.

17 Q Did you go with Mr. H?

18 A Yes.

19 Q And did you make a report of a reported  
20 extortion?

21 A Yes.

22 Q Jump back forward now. You said that  
23 Mr. Gentile was out of town. Do you know -- did you -- were  
24 you told at all by Mr. H what Mr. Gentile was doing out of  
25 town?

1 A He was working on another case in California.  
2 Q Okay. Did you know anything about that case?  
3 A Yes.  
4 Q What was it?  
5 MR. GENTILE: Objection. Hearsay.  
6 Can we approach?  
7 THE COURT: Yeah.  
8 (Off-record bench conference)  
9 THE COURT: All right. I believe it's been  
10 stipulated that Mr. Gentile flew in from San Diego; is that  
11 right?  
12 MR. GENTILE: I flew in on Sunday afternoon  
13 around -- well, never mind. I flew in on Sunday.  
14 THE COURT: All right. Thank you.  
15 Mr. DiGiacomo, move on.  
16 MR. DIGIACOMO: Thank you.  
17 BY MR. DIGIACOMO:  
18 Q So on Saturday did you -- was there somebody  
19 else for you to meet with?  
20 A Yes.  
21 Q And do you remember that lawyer's name?  
22 A Yes.  
23 Q And what was his name?  
24 A Mr. DePalma.  
25 Q Okay. Had you ever met Mr. DePalma before?

1 A No.

2 Q And who did you go to Mr. DePalma's office  
3 with?

4 A Mr. H.

5 Q Now, you've previously testified at the grand  
6 jury in this case, correct?

7 A Yes.

8 Q Okay. And you've had a chance now to review  
9 your testimony?

10 A Yes.

11 Q In review of your testimony, did you notice  
12 some dates that were wrong?

13 A Yes.

14 Q And can you explain that to the ladies and  
15 gentlemen of the jury?

16 A I went ahead and believed that I saw  
17 Mr. Gentile with Mr. H on Saturday, but it was actually  
18 Sunday.

19 Q How did you figure out that you were wrong  
20 about that?

21 A Because I was accumulating all the days  
22 together. I believe I lost track of Friday. As I said  
23 earlier, Friday was somewhat of a blur.

24 Q Okay. Well, when you went to Mr. DePalma's  
25 office, can you describe the parking lot for us, not like the

1 physical, but was there any other cars in the parking lot?  
2 A It was empty.  
3 Q Okay. And based upon that did you draw a  
4 conclusion?  
5 A Yes.  
6 Q What conclusion did you draw?  
7 A That it was the weekend.  
8 Q That it was Saturday?  
9 A That it was Saturday.  
10 Q Okay.  
11 MR. GENTILE: Objection. Wait a minute. Are we  
12 talking about her visit with DePalma now?  
13 MR. DIGIACOMO: Yeah, on Saturday.  
14 MR. GENTILE: Okay.  
15 MR. DIGIACOMO: Right.  
16 THE COURT: All right.  
17 BY MR. DIGIACOMO:  
18 Q When you get to Mr. DePalma's office, do you go  
19 in the office with Mr. H?  
20 A Yes.  
21 Q And are you instructed to do anything?  
22 A Yes.  
23 Q What was that?  
24 A To leave.  
25 Q Okay. And did Mr. H remain?



1 A Yes.

2 Q And what do you do?

3 A I walk out to the car.

4 Q And do you remain in the car?

5 A Yes.

6 Q Okay. At some point does Mr. H come back?

7 A Yes.

8 Q And does he talk to you?

9 A Not really, not about the conversation that he

10 had. He does mention that he is -- that Mr. DePalma would be

11 calling Mr. Gentile about what they spoke about.

12 Q Where do you go from Mr. DePalma's place?

13 A To the Silverton.

14 Q Okay. Why do you go to the Silverton if you

15 have a house here?

16 A Louie -- or excuse me. Mr. H did not want to

17 go back to the house.

18 Q What was he scared of?

19 A He just said he didn't want to go back to the

20 house.

21 Q Okay. And do you go and check into the

22 Silverton?

23 A Yes.

24 Q Who stayed in the Silverton with you?

25 A Mr. H.

1 Q And while you're at the Silverton, does there  
2 come a point in time when you see Little Lou or Luis?

3 A Yes.

4 Q Okay. Where do you see him at?

5 A He comes up to the room.

6 Q And who's in the room at the time he comes up  
7 to the room?

8 A Mr. H.

9 Q Okay. And you?

10 A Yes.

11 Q Okay. And when Little Lou comes in the door --  
12 let me ask you this: Is this the first time that you've seen  
13 him since the argument between his father and him at the --  
14 Simone's on the 19th?

15 A Yes.

16 Q Okay. When Luis comes through the door, can  
17 you describe for me the conversation?

18 A Yes. He tells his father that, Don't worry, I  
19 already talked to Deangelo. He said he's not going to say  
20 anything. He's dealt with the police before.

21 Q And what was Mr. H's reaction?

22 A He's calm but he said he wants to talk to his  
23 father. He wants to see his father.

24 Q Pops?

25 A Yes.

1 Q Okay. Do you remember anything else that  
2 Little Luis said at this point?

3 A He told his father not to worry. I already  
4 spoke the Deangelo. He's dealt with -- he's been arrested  
5 before or he's dealt with the police.

6 MR. ADAMS: Objection. Asked and answered, Your  
7 Honor.

8 MR. ARRASCADA: It's nonresponsive to the --

9 THE WITNESS: He's had run-ins.

10 MR. ARRASCADA: -- question asked, Your Honor.

11 THE COURT: Right. All right. The question was  
12 what was the conversation between Little Lou and Mr. H. So  
13 just refer to what --

14 MR. DIGIACOMO: That's what --

15 MR. ARRASCADA: That's already been asked and  
16 answered, Your Honor.

17 THE COURT: All right. All right. Well, that's  
18 overruled. She can say what was discussed.

19 MR. ARRASCADA: Well, Your Honor, she's already  
20 answered that, and now he asked -- the question was: After  
21 that, what occurred.

22 MR. DIGIACOMO: I didn't say that.

23 THE COURT: All right. Well, she's allowed to  
24 testify as to what she overheard Mr. H and Little Lou say to  
25 one another, so it's overruled.

1 BY MR. DIGIACOMO:

2 Q Do you remember the question?

3 A Again, he said, Don't worry, he's had --  
4 Deangelo's had run-ins with the police before. He's not going  
5 to talk.

6 Q And Mr. H's response was, I want to see Pops?

7 A Yes.

8 Q Is Pops contacted in some manner?

9 A Yes.

10 Q Do you know who?

11 A I believe I'm the one who contacted Pops. It  
12 might have been by the Nextel radios.

13 Q Okay. You contact Pops. Do you remember what  
14 number Pops had, as you sit here four years later?

15 A No.

16 Q Okay. And then what happens?

17 A Pops comes to the Silverton and we all go eat  
18 at the cafe.

19 Q When you say "we all," who's there?

20 A Pops, Mr. H, Little Luis and myself.

21 Q And what's the conversation going on?

22 A Pops sees Louie's demeanor. He's nervous.

23 He's withdrawn. He asks him what's wrong. Louie says he's --  
24 there's some things going on. It's bad. And Pops responds by  
25 telling him, Whatever it is, I'm behind you.

1 Q Okay. Any specifics at that dinner discussed?  
2 A No.  
3 Q Do you remember if Little Luis said anything at  
4 that particular dinner? You just told us what Mr. H said.  
5 Anything that Little Luis said?  
6 A Little Luis said not to -- he doesn't have to  
7 go back to the club, that he would be bringing the paperwork.  
8 Q When you talk about he doesn't have to go, who  
9 doesn't have to go back to the club?  
10 A Mr. H.  
11 Q Okay. And what paperwork was he talking about?  
12 A The daily banks, that he would bring them to  
13 me.  
14 Q Okay. So Little Luis is saying Mr. H and you  
15 don't have to go back to the club?  
16 A He's directing the conversation to Mr. H, to  
17 his father.  
18 Q Let's talk about your relationship with Little  
19 Lou. Have the two of you -- or how close were the two of you  
20 over the course of the years?  
21 A We were close.  
22 Q Okay. Friends?  
23 A Yes.  
24 Q At the end of this dinner or whatever, how does  
25 the situation end? Do you recall?

1 A Pops leaves and I don't recall any more than  
2 that.  
3 Q Okay. Did Luis stay or did he go?  
4 A I believe Luis went back to the club. I know  
5 he left.  
6 Q Luis left?  
7 A His father wanted him to stay.  
8 Q His father wanted him to stay?  
9 A Yes.  
10 Q And Luis didn't?  
11 A Correct.  
12 Q Okay. And how many nights do you recall  
13 staying at the Silverton?  
14 A One. It may have been two. Like I said,  
15 Friday's a blur.  
16 Q After the night at the Silverton, we're now at  
17 Sunday?  
18 A Mm-hmm.  
19 Q Do you remember anything happening on Sunday?  
20 A Yes.  
21 Q What happened?  
22 A Louie and I went to meet with Mr. Gentile.  
23 Q And you say Louie. Mr. H, right?  
24 A Yes, I'm sorry.  
25 Q And you met with Mr. Gentile and where did you

1 meet him?

2 A At his office.

3 Q And then after -- did you and Mr. H go

4 together?

5 A Yes.

6 Q And did you enter the building together?

7 A Yes.

8 Q And describe for us how that worked.

9 A We walked into the building. We walked in with

10 Mr. Gentile and he walked us directly into a conference room.

11 Q And then once you guys were in the conference

12 room, was there conversation with all of you or did something

13 else happen?

14 A Mr. Gentile directed me to his private office.

15 He wanted to talk to Mr. H.

16 Q Alone?

17 A Alone.

18 Q And did you agree with that request and did you

19 go sit in a different office?

20 A Yes.

21 Q Let me back up here and show you State's

22 Proposed Exhibit No. 230. Have you seen that before?

23 A Yes.

24 Q Whose signature is at the bottom of that?

25 A Mine.

1 Q Okay. And then the second page of this, you  
2 recognize that credit card?

3 A Yes.

4 Q And who is that?

5 A Mine.

6 Q Does this appear to be the record that you  
7 signed on -- in May of 2005 for staying at the Silverton?

8 A Yes.

9 MR. DIGIACOMO: Move to admit 230, Judge.

10 THE COURT: Any objection?

11 MR. GENTILE: I'm going to object to the relevance  
12 of it because it doesn't indicate -- it indicates and it does  
13 corroborate that she was there.

14 THE COURT: Right.

15 MR. GENTILE: It says nothing about how long she was  
16 there.

17 MR. DIGIACOMO: It says arrival date 2/21 --

18 MR. GENTILE: It's the registration slip. That's  
19 got nothing to do with how long she remained there.

20 THE COURT: All right. Well, overruled. I mean, I  
21 think that goes to the weight of the document it shows.

22 MR. DIGIACOMO: Thank you, Judge.

23 (State's Exhibit 230 admitted.)

24 BY MR. DIGIACOMO:

25 Q After spending some time in his office --



1 what'd you do while you were in Mr. Gentile's office?

2 A I was trying to watch television and I was  
3 playing with the remotes because I thought I broke his  
4 television.

5 Q Okay. At some point in time does somebody come  
6 back and get you?

7 A Yes. Actually, one of his secretaries walked  
8 in to try to help me. He had several remotes.

9 Q And eventually does somebody come get you?

10 A Yes.

11 Q And do you wind up in a meeting with  
12 Mr. Gentile?

13 A Yes.

14 Q And who else is present?

15 A Mr. H and Mr. Dibble.

16 Q And who did you know Mr. Dibble to be?

17 A He was introduced as an investigator.

18 Q For Mr. Gentile?

19 A For Mr. Gentile.

20 Q Who was doing the talking during this meeting  
21 at this point?

22 A Mr. Gentile.

23 Q What did he tell you?

24 MR. GENTILE: I think we need to approach.

25 THE COURT: I think that's true.

1 (Off-record bench conference)

2 THE COURT: All right. Mr. DiGiacomo, you may  
3 continue.

4 MR. DIGIACOMO: Thank you.

5 BY MR. DIGIACOMO:

6 Q Did -- during the course of this conversation  
7 with Mr. H and yourself present, did Mr. Gentile provide any  
8 advice to you?

9 A Yes.

10 Q And did he provide it to just you or you or  
11 anybody else?

12 A Me and Mr. H.

13 Q And what did he tell you?

14 A He said, Do not talk to Deangelo Carroll.

15 Q And did he tell you why -- why you shouldn't be  
16 talking to Deangelo Carroll?

17 A Yes.

18 Q And what did he say?

19 A He may be wired.

20 Q At the conclusion of that interview, did you  
21 and Mr. H leave?

22 A Yes.

23 Q And do you recall where you went?

24 A That evening we went to my house.

25 Q After you left Mr. Gentile's office, what's

1 Mr. H's demeanor like?

2 A At first he seems a little more calm, but as  
3 the night progresses, he's starting to get nervous again.

4 Q When you say he's starting to get nervous,  
5 what's he doing?

6 A Pacing.

7 Q Is he saying anything?

8 A Not really.

9 Q How long does this last for?

10 A I sleep that night and it's -- he's worse by  
11 morning.

12 Q Still nervous?

13 A Yes.

14 Q Upset?

15 A Extremely.

16 Q Worried?

17 A Very.

18 Q Does he make any statements to you?

19 A The next morning I wake up and I find him at  
20 the kitchen table and he is completely distraught. He -- he  
21 tells me he doesn't know what he told him to do.

22 Q When he says he didn't know what he told him to  
23 do, is that the words he used or did he use names?

24 A No, those are the words he used.

25 MR. GENTILE: Um --

1 THE WITNESS: He said it in first person.

2 MR. GENTILE: Thank you. At least she's listening.

3 THE COURT: All right. Go on.

4 BY MR. DIGIACOMO:

5 Q So he says, I don't know what I told him to do?

6 A Correct.

7 Q Okay. And what is your response to that?

8 A I look at Louie again and I said, What have you  
9 done? He says, I don't know what I told him to do. And as I  
10 said, he was completely distraught. He said, I feel like  
11 killing myself.

12 Q And how are you doing at this point?

13 A At this point I am completely -- I'm nervous  
14 because I don't know what's happening with Louie. I've never  
15 seen him this way.

16 Q Okay. When you say you're nervous, how is  
17 it -- his behavior, how is it affecting you?

18 A Again, he's still -- he's very nervous. He's  
19 pacing back and forth. I ask him what he wants me to do.

20 Q Let me talk to you a little bit about your  
21 feelings. You said you've been in a 15-year relationship with  
22 Mr. H. At this point how do you feel about Mr. H? Not today,  
23 but back in May of 2005.

24 A I love him.

25 Q Okay. How about as you sit here today, how do

1 you feel about him?

2 A I still love him.

3 Q So when Mr. H is telling this to you, what do  
4 you do?

5 A I ask him what can be -- what he wants me to  
6 do.

7 Q What does he tell you?

8 A He doesn't respond. I said, Do you want me to  
9 speak to Deangelo? He says yes.

10 Q And does the subject of what Mr. Gentile told  
11 you and Mr. H previously come up?

12 A No.

13 Q Okay. So when Mr. H says yes to that question,  
14 what do you do?

15 A I have a standing appointment, so I leave. I,  
16 at that point, call Mark Quaid at the body shop and ask him to  
17 get ahold of Deangelo and tell him to -- that I want to talk  
18 to him, to meet me at the shop.

19 Q So you don't talk to Deangelo directly?

20 A No.

21 Q When you say Mark Quaid -- you said he's  
22 somebody at the shop. What does he do?

23 A He's the parts manager.

24 Q And later on during the recording the name Mark  
25 Quaid comes up. Is that the individual we're talking about?

1 A Yes.

2 Q So you made a request of Mr. Quaid?

3 A Yes.

4 Q And after your appointment, where do you go?

5 A I go back to the house to pick up Louie or

6 Mr. H.

7 Q And then -- Mr. H.

8 A (The witness nodded.)

9 Q Where do you take -- where do you and Mr. H go?

10 A Back to the body shop.

11 Q Simone's?

12 A Yes.

13 Q Okay. And then where do you go?

14 A To my office.

15 Q Where does Mr. H go?

16 A He's in his office.

17 Q Okay. At some point do you see Deangelo

18 Carroll?

19 A Yes.

20 Q And are you in your office?

21 A Yes.

22 Q Now, can you see out of your office into the --

23 A Reception area, yes.

24 Q -- reception area?

25 A Yes.

1 Q Okay. And what door does Deangelo Carroll come  
2 in?

3 A The front door.

4 Q And when you see Deangelo Carroll come in the  
5 front door, what do you do?

6 A I point him to the hallway and I tell him to go  
7 to Room 6.

8 Q Now, I'm assuming since you've been involved in  
9 this case for almost four years now, you have heard the two  
10 recordings from May 23rd and May 24th, correct?

11 A Yes.

12 Q And you've heard Deangelo make a statement,  
13 Where's your brother at? Do you remember hearing Deangelo  
14 saying something like that?

15 A No.

16 Q Okay. Well, maybe I'll play it for you in a  
17 little while --

18 A Oh, on the recordings, yes.

19 Q On the recording.

20 A On the recording, yes.

21 Q You heard him make a statement, Where's your  
22 brother at?

23 A Yes.

24 Q Okay. Was Rosa somewhere in the building?

25 A Yes.

1 Q Okay. After you point Deangelo in that  
2 direction, do you immediately follow?

3 A No.

4 Q Okay. Now, prior to Deangelo Carroll coming  
5 down there, do you have any discussions with Mr. H about  
6 what's going to be talked about?

7 A Yes.

8 Q Okay. What is talked -- what is Mr. H -- what  
9 do you and Mr. H talk about, what you're going to talk about  
10 Deangelo Carroll about?

11 A Louie tells me to tell Deangelo that right now  
12 would be a good time for him -- he needs to resign. Right now  
13 would be a good time for him to take some time off due to his  
14 son being sick, to go see Arial that evening at 5:00 to  
15 resign.

16 He also told me to tell Deangelo to -- not to talk  
17 to anyone because if anything happens to him, then he  
18 wouldn't -- there would be no one to take care of him and that  
19 Deangelo would still get paid even though he was being -- even  
20 though he was resigning.

21 Q So this is a conversation between you and Mr. H  
22 before you ever go in the room?

23 A Correct.

24 Q Okay. When Deangelo comes into Simone's, do  
25 you know where Mr. H is when you do the direction to Room 6?



1           A     In his office.

2           Q     And where do you go?

3           A     After I speak to Mr. H, I go into Room 6.

4           Q     So after Deangelo enters the building, you have

5 a conversation with Mr. H as well?

6           A     Yes.

7           Q     Okay. Is that the same conversation we're

8 talking about or is -- is there something else that was said

9 at that point?

10          A     No, it's the same conversation.

11          Q     Okay. You follow Deangelo down to Room 6,

12 correct?

13          A     Mm-hmm.

14          Q     Is that a yes?

15          A     Yes.

16          Q     Now, on the recording there's a variety of

17 voices before you get to Deangelo knocking on the door. Have

18 you heard that on the May 23rd --

19          A     Yes.

20          Q     Okay. Are those people people that just work

21 at Simone's?

22          A     Yes.

23          Q     Okay. By the time you enter into Room 6 during

24 that portion of the recording, is there anybody in that room

25 other than yourself, Deangelo and -- well, is there anybody in

1 that room other than yourself and Deangelo?  
2 A Yes.  
3 Q Who's that?  
4 A Luis, III.  
5 Q Okay. Is there a fourth person in the room  
6 during that recording itself?  
7 A No.  
8 Q Okay. It's only -- the other voices are only  
9 when the recorder's outside of the room?  
10 A Correct.  
11 Q When you get down to Room 6, what happens?  
12 A I walk in and I ask Deangelo if he's wired. He  
13 lifts up his shirt and says no.  
14 Q You check for a wire on him?  
15 A He just lifts up his shirt and says no, that's  
16 all.  
17 Q Okay. So you don't do any pat down or anything  
18 like that?  
19 A No.  
20 Q All right. And then you go and have the  
21 conversation that this jury's already heard, correct?  
22 A Yes.  
23 Q Now, I don't want to play every portion of  
24 those wires because we've heard a lot of them, but there's a  
25 couple of statements I want to play for you and I'm going to

1 ask you what you meant by them.

2 A Yes.

3 Q Okay?

4 A (The witness nodded.)

5 MR. GENTILE: Ms. Olson, can you put it on this one?

6 THE COURT RECORDER: On --

7 MR. DIGIACOMO: On me, on this side.

8 MR. GENTILE: Your Honor, I'm going to object to  
9 the -- I'm going to object to the responses. This is  
10 self-serving at this point.

11 THE COURT: Overruled.

12 MR. DIGIACOMO: Thank you, Judge.

13 (Audio being played.)

14 BY MR. DIGIACOMO:

15 Q Did you hear your statement on there where you  
16 make the statement, We wanted him beat up, not mother fucking  
17 dead? Do you remember that statement?

18 A Yes.

19 Q Okay. Now, up until -- between the first time  
20 you realize there's a problem with TJ until the time you make  
21 that statement to Deangelo Carroll, had anyone told you  
22 specifically what the order was?

23 A No.

24 Q Okay. Why do you say, We wanted him beat up,  
25 not mother fucking dead?

1           A     I remember the conversation that Louie and  
2 Little Luis had in my office regarding taking care of business  
3 and how Rizzalo had one of his employees beat up a customer.

4           Q     Did the demeanor of Mr. H, between the 20th and  
5 now, the 23rd, have anything to do with going into that  
6 statement?

7           A     Yes.

8                         (Audio being played.)

9 BY MR. DIGIACOMO:

10          Q     The guy you talk about who's outrageous, who  
11 are you referring to?

12          A     Dominic Gentile.

13          Q     I'm going to jump forward a little bit. During  
14 the course of this conversation, do you remain in the room the  
15 whole time?

16          A     No.

17          Q     At some point in time you can hear Luis make  
18 certain statements related to rat poisoning, correct?

19          A     Yes.

20          Q     And what is your reaction to what Luis is  
21 saying?

22          A     Surprised.

23          Q     Okay. You've heard the portion where there's a  
24 discussion about taking care of KC too, correct?

25          A     Correct.

1 Q And then you make some comments. What are you  
2 referring to?  
3 A Paying him.  
4 Q And at some point do you leave the room?  
5 A Yes.  
6 Q And where do you go?  
7 A To the front.  
8 Q What do you get?  
9 A Money.  
10 Q Now, on the recording you say something to the  
11 effect of \$11 [sic] to your name. Do you remember that?  
12 A Yes.  
13 Q Okay. Where'd you get the money from?  
14 A I had it in my purse.  
15 Q Okay. And what was the money for?  
16 A To give to Deangelo because he said the  
17 witnesses wanted more money.  
18 Q Okay. But did you have that \$1100 before you  
19 went back to that money?  
20 A Did I --  
21 Q Or the \$1,400 that Deangelo walks out with, did  
22 you have that in your purse already?  
23 A No.  
24 Q Okay. Where was that -- why did that \$1,400  
25 get put in your purse, I guess, is my question?

1 A I had talked to Louie.  
2 Q Where'd you get the \$1,400 from?  
3 A From Louie.  
4 Q Okay. Louie's Mr. H?  
5 A Yes, I'm sorry.  
6 Q Okay. After you go back to the room -- well,  
7 you leave the room. Do you remember how long you're gone for?  
8 A It was -- it wasn't that long.  
9 Q Do you remember if you talked to Mr. H or not  
10 during that time period?  
11 A I believe I did.  
12 Q Where was he? Do you remember?  
13 A This was the first day?  
14 Q Yeah. On the first one.  
15 A The first recording. It would be in my office.  
16 Q Okay. And do you tell him at all about what's  
17 going on in the room?  
18 A Yes, I do see him. I told him I told Deangelo  
19 what he wanted, what he wanted me to tell him about resigning.  
20 Q Did you at all tell him about the statements  
21 that Little Luis was saying?  
22 A No.  
23 Q After you get the money, do you go back to the  
24 room?  
25 A Yes.

1 Q And what do you do with the money?  
2 A Give it to Deangelo.  
3 Q Now, was there a certain amount for one purpose  
4 and a certain amount for the other or was it all just for one  
5 purpose?  
6 A It was all for one purpose.  
7 Q And how much money do you recall that you gave  
8 him?  
9 A \$600.  
10 Q The jury has heard testimony about Deangelo  
11 leaving with \$1,400. Do you know where the other \$800 came  
12 from?  
13 A No.  
14 Q After you -- after he leaves the room, do you  
15 remain in the room or do you leave?  
16 A I leave.  
17 Q Do you ever talk to Luis about what just  
18 happened in that room?  
19 A No, not that day.  
20 Q After you leave the room, do you leave Simone's  
21 at some point?  
22 A At some point.  
23 Q And do you remember who you left with?  
24 A Mr. H.  
25 Q After you have this conversation -- or after

1 you tell Mr. H what happened in the room -- or maybe I didn't  
2 ask that question. At some point after this whole --  
3 Deangelo's left, do you talk to Mr. H some more about what  
4 happened in the room?

5 A No.

6 Q Okay. What's his demeanor like now?

7 A Calm, a little more calm.

8 Q A little more calm. Is he still nervous?

9 A A little bit.

10 Q Is he saying anything to you?

11 A No.

12 Q Okay. Let's move on to the 24th. Do you go to  
13 work on the 24th?

14 A Yes.

15 Q Okay. Let me ask you this: On the night of  
16 the 24th, do you remember if you went to the Palomino Club  
17 like you normally would?

18 A I don't think I went to the Palomino at all.

19 Q So on the 24th you go back to Simone's?

20 A Yes.

21 Q All right. And you're at Simone's?

22 A Yes.

23 Q Does there come a point in time when you see  
24 Deangelo Carroll?

25 A Yes.



1 Q And did you expect him this time?  
2 A No.  
3 Q When you see Deangelo Carroll, what do you do?  
4 A He said he needs to talk to me so I direct him  
5 to Room 6.  
6 Q Okay. Do you go back there with him?  
7 A Yes.  
8 Q Okay. So you're walking with Deangelo this  
9 time as opposed to the first time?  
10 A Yes.  
11 Q And you've since heard the recording of that,  
12 the May 24th recording, correct?  
13 A Yes.  
14 Q And during the course of that recording,  
15 there -- it wasn't even on our transcript, but on the  
16 defense's transcript there's an unidentified voice. Do you  
17 talk before the door opens? Do you remember?  
18 A I may have.  
19 Q Do you remember saying, Luisito, it's me?  
20 A Yes.  
21 Q Once you go back in the room, describe for us  
22 what's happening inside the room.  
23 A I go into the room, Luis is laying in bed. He  
24 gets up and then he goes back to lay down once he opens the  
25 door.

1 Q Okay. And you have a conversation with  
2 Deangelo at this point?

3 A Yes.

4 Q This is from May 24th.

5 (Audio being played.)

6 BY MR. DIGIACOMO:

7 Q In that recording you hear yourself say, Talk  
8 to the guy, not take care of him --

9 A Yes.

10 Q -- right?

11 At any point, did anybody tell you the plan was to,  
12 quote, talk to the guy?

13 A No.

14 Q And when you use that term, "talk to the guy,"  
15 did you mean like a regular conversation or did you mean  
16 something else?

17 A Regular conversation.

18 Q After the conclusion of -- well, at some point  
19 in time do you leave the room during that May 14th recording?

20 A Yes.

21 Q Okay. And who do you leave Mr. Carroll with?

22 A Little Luis.

23 Q When you come back to the room -- well, let me  
24 ask you this: When you leave the room, who do you go talk to?

25 A Mr. H.

1 Q And where's Mr. H at now?  
2 A In the kitchen.  
3 Q And during the -- well, let me ask you -- who's  
4 he in the kitchen with?  
5 A His father.  
6 Q Pops?  
7 A Yes.  
8 Q And do you talk to Mr. H at all?  
9 A Yes.  
10 Q Okay. And is it verbally talking to him?  
11 A Yes.  
12 Q Okay. At any point in time, I guess, up until  
13 now, the 24th, had you ever had any communications with him  
14 that weren't verbal but written?  
15 A Yes.  
16 Q And I missed those, so let me back up to those.  
17 When did that occur?  
18 A The day before.  
19 Q The day -- on the 23rd?  
20 A Yes.  
21 Q Okay. And how did that occur?  
22 A When we were discussing what needed to be said  
23 to Deangelo.  
24 Q Okay. What's going on with Mr. H? What's he  
25 doing?

1           A     He writes a note at first telling me to have  
2 him retire, to go see Arial at 5:00 p.m.

3           Q     Okay. And the communication is happening  
4 between writing notes and him passing them to you --

5           A     Yes.

6           Q     -- or how's that working?

7           A     Yes.

8           Q     Okay. What happens to that paperwork?

9           MR. GENTILE: Could we have a foundation as to where  
10 this took place?

11 BY MR. DIGIACOMO:

12          Q     Yeah. Where did this take place?

13          A     In my office.

14          Q     And what happened to the paperwork when you're  
15 done, the stuff he was writing on?

16          A     I tear it up.

17          Q     Okay. And what did you do with the stuff you  
18 tore up?

19          A     Flushed it.

20          Q     In what?

21          A     The toilet.

22          Q     Which toilet?

23          A     The woman's bathroom at Simone's.

24          Q     Okay. Jumping forward now, when you leave the  
25 room on the 24th, you go and you talk to Mr. H and he's with

1 Pops, correct?

2 A Yes.

3 Q And during the course of that, do you tell him  
4 what Deangelo's saying?

5 A Yes.

6 Q What do you tell him?

7 A That the shooter is making threats, that he is  
8 threatening Deangelo and his family and Deangelo needs more  
9 money. He needs to get his wife and son out of the state.

10 Q Now, you just said that Deangelo told you that  
11 the shooter is making threats. Is this the first time you  
12 heard about the shooter making threats that you can recall?

13 A I believe he said it the day before as well.

14 Q Okay. Prior to the 23rd, had Mr. H said  
15 anything to you about concern about the shooter coming to get  
16 him or anything else like that?

17 A No.

18 Q Okay. What is it that you tell Mr. H Deangelo  
19 wants?

20 A Money.

21 Q And what do you do?

22 A He tells me to give him more money.

23 Q And where do you get the money from?

24 A I go to the front office.

25 Q And is there cash kept at the front office?

1 A Yes.

2 Q How much money did you get?

3 A I think it was 500, I think. I can't recall.

4 Q Where do you go?

5 A Back to Room 6.

6 Q When you get back to Room 6, do you give the

7 money to Deangelo?

8 A Yes.

9 Q And prior to Deangelo leaving, does he do

10 anything?

11 A He goes into the bathroom.

12 Q And what does he do when he's in the bathroom?

13 A The door's propped a little bit. He's

14 retrieving change and a pager off the counter and he's

15 adjusting his pants, I'm assuming. He's grabbed his belt.

16 Q Okay. Now, prior to you leaving the room, was

17 his change, his pager and his belt in that bathroom?

18 A Yes -- oh, when -- prior to leaving the room?

19 No.

20 Q Yeah. Prior -- the first -- when you first --

21 A No.

22 Q -- come in and you talk to him, his change, his

23 pager, his belt's all on him?

24 A Yes.

25 Q And then when you come back to the room, after

1 you give him the money, he goes in there and collects those  
2 items?

3 A Yes.

4 Q And then he leaves?

5 A Yes.

6 Q Let's talk a little bit more about the 24th.

7 On May 24th after Deangelo leaves, what's Mr. H's demeanor  
8 like?

9 A He's a little worried, concerned.

10 Q Is there any conversations with you about what  
11 should happen if the police contact you?

12 A No.

13 Q Had you had any contact with the police at this  
14 point?

15 A No.

16 Q So you haven't spoken to any police officers up  
17 to this point?

18 A No.

19 Q Are you -- did Mr. H tell you whether or not he  
20 had talked to any police officers up to this point?

21 A I don't remember. I don't think so.

22 Q At some point does somebody leave Simone's to  
23 go do something?

24 A Yes.

25 Q Who's that?

1 A Little Luis.  
2 Q And what was he supposed to be going to do?  
3 A Open the club.  
4 Q Approximately what time would he be leaving at?  
5 A He normally left around 3:00, 3:30.  
6 Q And where did -- and he would go to open the  
7 club?  
8 A Yes.  
9 Q And who had the keys to the club on them?  
10 A He would have the keys to the club on him.  
11 Q Okay. At some point do you receive some  
12 information that causes you and Mr. H some concern?  
13 A Yes.  
14 Q What's that?  
15 A It was close to 5:00 or right around  
16 5:00 o'clock. Some of the dancers began to call Mr. H wanting  
17 to know why the club wasn't opened.  
18 Q When that happened, did that cause you some  
19 concern?  
20 A Yes.  
21 Q And what did you do?  
22 A I -- actually Louie came up to me and let me  
23 know that Luis hadn't opened up the club. We had tried to get  
24 ahold of him on his Nextel, couldn't reach him. I got scared  
25 because of my conversation with Deangelo.



1 Q Were you worried about KC or were you worried  
2 about the police at this point?

3 A KC.

4 Q Okay. So what did you guys decide to do?

5 A To leave Simone's and take the route that Luis  
6 would take on the freeway on the way to the club to see if we  
7 could see him.

8 Q And what route would that be?

9 A I-15.

10 Q While you're on I-15, did something happen?

11 A Yes.

12 Q What happened?

13 A I get -- actually as we're driving, I get a  
14 phone call from an employee at Simone's.

15 Q What do they tell you?

16 A That the police are at Simone's and they're  
17 going through everything at the shop.

18 Q When you receive that information, what do you  
19 do?

20 A I tell Louie and he tells me to get off at the  
21 next exit.

22 Q Okay. And when you get off the next exit,  
23 where does he tell you to go?

24 A Just keep driving straight. He, at that point,  
25 states that he knows where Luis is.

1 Q Okay. And did you ask him where?  
2 A No. At that point there was lights behind me.  
3 Q And at that point you knew?  
4 A Yes.  
5 Q Let's talk about the police. You get pulled  
6 over. What happens?  
7 A I get pulled over. They are -- the police ask  
8 me -- they need to ask me a few questions and if I could go  
9 with them.  
10 Q Okay. And where's Louie when they're asking  
11 you these questions?  
12 A Sitting next to me in the passenger seat.  
13 Q What color car -- what kind of car are you in?  
14 A A Hummer.  
15 Q What color?  
16 A At that point I believe it's mine. It would be  
17 silver.  
18 Q Okay. So there's a silver Hummer and there's a  
19 black Hummer?  
20 A Yes.  
21 Q Who was the black Hummer?  
22 A Luis is the black Hummer.  
23 Q Mr. H?  
24 A Mr. H. I'm sorry.  
25 Q Okay. That's all right.

1 And the silver Hummer is yours?

2 A Yes.

3 Q All right. Is there other vehicles -- does  
4 Luis have his own car?

5 A Little Luis, yes.

6 Q What does he have?

7 A He had -- at that time it was a SRS, I believe.  
8 It's a little black truck.

9 Q Okay. Do you know what vehicle he was driving  
10 when he got pulled over?

11 A When Little Luis got pulled over, no.

12 Q Okay. Let's back up a little bit because I  
13 forgot to ask this question. Who -- well, how many cars are  
14 associated with both Simone's and the Palomino?

15 A Several.

16 Q All right. When you say several, are we  
17 talking two, five, seven, ten?

18 A There's shuttle buses, there's a car, there's a  
19 limo. It's well over five.

20 Q Okay. And those cars, are they all registered  
21 in the same way?

22 A Most.

23 Q And how are the most of them registered?

24 A To me.

25 Q Why you?

1           A     As they were being purchased, because of my  
2 credit rating, it was more cost effective to purchase them  
3 under my name.

4           Q     So you were mostly the person who's the  
5 owner/registrar of all the vehicles associated with the  
6 Palomino and Simone's?

7           A     Yes.

8           Q     The police tell you that they need to talk to  
9 you. Do you see what they say to Mr. H?

10          A     No.

11          Q     Do you get out of the car and go with them?

12          A     Yes.

13          Q     Did they handcuff you before you get into the  
14 vehicle?

15          A     No.

16          Q     Where do they take you?

17          A     To an office.

18          Q     And do they put you in an interview room?

19          A     Yes.

20          Q     Did you subsequently learn that there's a  
21 recorded interview of that encounter?

22          A     Yes.

23          Q     Initially do you start speaking to the police  
24 about at least the events of that day?

25          A     Yes.

1 Q And does there come a point in time when you  
2 stop speaking to the police?

3 A Yes.

4 Q What prompted you to stop speaking to the  
5 police?

6 A When they ask me a question regarding Deangelo.  
7 Actually, the police made a statement about the recording that  
8 Deangelo and I had or the conversation we had.

9 Q He made a statement to you regarding  
10 information he had heard from the recording?

11 A Yes.

12 Q And that caused you to stop speaking to him?

13 A Yes.

14 Q All right. After that, did you get booked into  
15 the Clark County Detention Center?

16 A Yes.

17 Q And eventually did you get a lawyer?

18 A Yes.

19 Q And what's his name?

20 A Christopher Oram.

21 Q And Mr. Oram has represented you up until  
22 today, correct?

23 A Correct.

24 Q At some point in time there were charges filed  
25 against you?

1 A Yes.

2 Q And there was a hearing in Boulder City,  
3 correct?

4 A Yes.

5 Q And at that hearing you were present with your  
6 lawyer?

7 A Yes.

8 Q Little Lou was present, correct?

9 A Yes.

10 Q Deangelo Carroll was present?

11 A Yes.

12 Q And Kenneth Counts was present?

13 A Yes.

14 Q KC. And up until that point Mr. H hadn't been  
15 arrested, correct?

16 A Correct.

17 Q After the preliminary hearing you got bound  
18 over to the district court and set for trial, correct?

19 A Correct.

20 MR. ARRASCADA: Your Honor, he's leading again.

21 MR. DIGIACOMO: Just foundational just to jump  
22 through a couple of things.

23 THE COURT: Go on.

24 BY MR. DIGIACOMO:

25 Q At some point in time you learned that the

1 State of Nevada was seeking -- filed a notice of intent to  
2 seek the death penalty against all the defendants, correct?

3 A Correct.

4 MR. ADAMS: Your Honor, may we approach?

5 THE COURT: Yeah.

6 (Off-record bench conference)

7 THE COURT: All right. The objection is sustained.

8 The last question -- the last answer will be stricken.

9 And, Mr. DiGiacomo, if you would rephrase the  
10 question, please.

11 MR. DIGIACOMO: I'll rephrase.

12 BY MR. DIGIACOMO:

13 Q We filed one against you -- I'm sorry. We  
14 filed a notice of intent to seek the death penalty against you  
15 as well, correct?

16 A Yes.

17 Q And at some point in time your lawyer filed a  
18 petition with the Supreme Court to have that struck, correct?

19 A Yes.

20 Q And without getting into the basics of it, at  
21 some point in '07 it was struck, correct?

22 A Yes.

23 Q And the State of Nevada sought rehearing of  
24 that. Do you remember that?

25 A Yes.

1 Q Okay. And at the time period it was struck,  
2 there was a request for a bail hearing for you, correct?  
3 A Yes.  
4 Q And at some point bail was set?  
5 A Yes.  
6 Q Now, up until this time -- we're talking  
7 January of 2008, right? Is that generally what I'm talking  
8 about?  
9 A Yes.  
10 Q Were you still in a relationship with Mr. H?  
11 A Yes.  
12 Q Did you continue to communicate with him?  
13 A Yes.  
14 Q How would you communicate with him?  
15 A By letters and by phone.  
16 Q Would he ever visit you?  
17 A Yes.  
18 Q And how did those visits happen?  
19 A He would come on normal visiting days..  
20 Q Okay. And did you have visits by video or were  
21 they in person?  
22 A Prior to 2008 when I first got arrested I saw  
23 him in person.  
24 Q And then --  
25 MR. GENTILE: Can we have a time and who else was



1 present?

2 MR. DIGIACOMO: I can.

3 BY MR. DIGIACOMO:

4 Q Were there lawyers present as well during  
5 that --

6 A Yes.

7 Q Okay. And your lawyer was one of them?

8 A Yes.

9 Q And either Mr. Gentile or Ms. Armeni was one of  
10 them?

11 A Yes.

12 Q Okay. I don't want to talk about those times.  
13 I want to talk about the video times. You'd have -- he'd come  
14 visit you on video?

15 A Yes.

16 Q Now, when you got arrested in -- way back in  
17 January -- I mean May of 2005, what kind of hair color did  
18 Mr. H have?

19 A Brown.

20 Q Okay. Was it -- did he dye it at all?

21 A Yes.

22 Q Okay. At any point in time did he ever not dye  
23 it? Was it gray at any point?

24 A Yes.

25 Q And it's a slightly different color today,

1 correct?

2 A Yes.

3 Q Mr. Pesci reminded me of something. I've got  
4 to back up here for a second. On the wire when you used the  
5 term Louie, who are you referring to?

6 A Mr. H.

7 Q And when you use the term Luis, who are you  
8 referring to?

9 A Luis, III.

10 Q I'm going to jump back forward. After bail was  
11 set, did you have a discussion with Mr. H concerning the  
12 posting of that bail?

13 A Yes.

14 Q Can you tell us what that conversation was?

15 A I told Louie that I wanted to get out, that  
16 bail had been posted if -- when he was going to post bail.

17 Q And was he -- did he ever post the bail for  
18 you?

19 A In February he started making the process to  
20 post bail.

21 Q While that was going on, was your trial date  
22 coming up?

23 A Yes.

24 Q And in approaching your trial, did you have  
25 some discussions with your lawyer, without telling us what

1 they are?

2 A Yes.

3 Q Did you talk with Mr. Oram?

4 A Yes.

5 Q And at some point did you contact -- or was  
6 there contact made between your lawyer and the State of  
7 Nevada?

8 A Yes.

9 MR. GENTILE: Can we have a foundation in terms of  
10 date?

11 MR. DIGIACOMO: I'm going to get to the date.

12 BY MR. DIGIACOMO:

13 Q Did there come a point in time in February when  
14 you met with representatives of the district attorney's  
15 office?

16 A Yes.

17 Q And at the time you were still a charged  
18 defendant, correct?

19 A Yes.

20 Q And you were pending trial?

21 A Yes.

22 Q Was your lawyer present?

23 A Yes.

24 Q And during that meeting did you describe for  
25 Mr. Pesci and I as well as -- well, let me ask you this: Was

1 there other people in that meeting that you can recall?

2 A No.

3 Q Do you remember specifically how many people --  
4 well, let me ask you this: Were you still in custody at the  
5 time?

6 A Yes.

7 Q Okay. When you come to court today, you've  
8 been transported, correct?

9 A Correct.

10 Q Were there at least transport people with you?

11 A Yes.

12 Q Okay. Do you recall anybody else who was in  
13 the room?

14 A Yes.

15 Q Who?

16 A Investigator.

17 Q Okay. During this meeting did you have  
18 discussions about the information that you had related to this  
19 case?

20 A Yes.

21 Q Sometime thereafter did you -- did you enter  
22 into a guilty plea in front of this Court?

23 A Yes.

24 Q And do you recall the crime that you pled  
25 guilty to?

1           A     Yes.

2           Q     What was that?

3           A     Voluntary manslaughter with use of a deadly  
4     weapon.

5           Q     And do you have -- do you have any idea, as you  
6     sit here today, off the top of your head, what kind of  
7     sentencing range you're looking at for voluntary manslaughter  
8     with use of a deadly weapon?

9           A     The maximum sentence, I believe, I was told was  
10    eight to 20 years.

11          Q     Okay. Do you know what the minimum possible  
12    sentence is?

13          A     I was told it's probationable.

14          Q     So this Court could give you up to eight to 20  
15    years or as little as probation?

16          A     Yes.

17          Q     Do you remember what the obligations of the  
18    State of Nevada were as it relates to what we could or could  
19    not do at your sentencing?

20          A     No.

21          Q     Let me refresh your recollection and look at  
22    your guilty plea.

23          MR. GENTILE: Your Honor, I have no objection to  
24    counsel questioning from it.

25          MR. DIGIACOMO: Well, I've got to find it first.

1 BY MR. DIGIACOMO:

2 Q I'm going to show you what's been marked as  
3 State's Proposed Exhibit No. 228 and ask you if you recognize  
4 it.

5 A Yes.

6 Q It's your guilty plea agreement?

7 A Yes.

8 Q And in there it has the agreement between the  
9 parties, correct?

10 A Correct.

11 Q It has the document entitled, The Third Amended  
12 Information, basically saying what you did?

13 A Yes.

14 Q And then there's an agreement to testify that  
15 lays out the information related to the agreement to testify,  
16 correct?

17 A Yes.

18 Q It's just -- I'm sure there'll be more  
19 questions from Mr. Gentile on this, but I'd like you to just  
20 read to yourself --

21 MR. ARRASCADA: Your Honor, I object to that. He's  
22 testifying and I'd ask it be stricken as commentary.

23 THE COURT: Well, just -- Mr. DiGiacomo, try to  
24 avoid the editorializing and the commentary. Just ask a  
25 question.

1 MR. DIGIACOMO: I didn't hear an objection from  
2 Mr. Gentile, but, okay. The --

3 MR. ARRASCADA: And we object to that, Your Honor.

4 THE COURT: All right. Well --

5 MR. ARRASCADA: It's the same pro--

6 THE COURT: -- Mr. DiGiacomo, just ask your next  
7 question.

8 MR. DIGIACOMO: Thank you.

9 BY MR. DIGIACOMO:

10 Q Line 21, okay, if you can read to yourself  
11 first what the agreement -- or what the agreement the State  
12 makes as it relates to your sentencing. Okay.

13 A (Complying.)

14 Q After reading that, do you now remember what  
15 our obligations at your sentencing are?

16 A Mm-hmm.

17 Q Is that a yes?

18 A Yes.

19 Q Okay. What is our obligation at your  
20 sentencing?

21 A There would be no recommendations being made.

22 Q Okay. So we don't make a recommendation to the  
23 Court, it's her decision?

24 A Correct.

25 Q Now, was there also an agreement as it relates

1 to you potentially being released on house arrest?

2 A No.

3 Q Okay. Well, let me go back up there.

4 A Or not that I remember.

5 Q I have to turn to the agreement. Reading line  
6 2, there's additional language here that says specifically  
7 what the additional language is, correct?

8 A Correct.

9 Q Now, let's go to the guilty plea -- or let's go  
10 to the agreement to testify. I'm just going to ask you to  
11 read from right where it says, Line 3, Counsel, on page 2 of  
12 the agreement to testify. Read that to yourself where it  
13 says, After Anabel Espindola.

14 A (Complying.)

15 Okay.

16 Q Was there an agreement as it relates to being  
17 released on house arrest?

18 A Yes.

19 Q Okay. And what was the first condition of you  
20 being released on house arrest?

21 MR. GENTILE: Your Honor, the document is still in  
22 front of the witness and it should be removed.

23 THE COURT: All right. She can just turn it over.

24 BY MR. DIGIACOMO:

25 Q Okay. What was the -- what were the conditions



1 on you being released on house arrest?

2 A To testify.

3 Q Okay. Subject to cross-examination?

4 A Yes.

5 Q And a videotaped deposition?

6 A Yes.

7 Q And at that point the State would have no  
8 objection to your release on house arrest, correct?

9 A Yes, correct.

10 Q Were you aware that the State requested the  
11 videotape deposition --

12 MR. GENTILE: Objection. Hearsay.

13 MR. DIGIACOMO: It goes to -- first --

14 THE COURT: Well --

15 MR. DIGIACOMO: I first asked her whether or not she  
16 was aware.

17 THE COURT: All right. She can answer that.

18 MR. GENTILE: Well, that's testifying.

19 THE COURT: Well, I think that the question is  
20 really was she -- I mean, is that where you're going, whether  
21 or not she participated in a deposition?

22 MR. DIGIACOMO: Correct.

23 THE COURT: All right. Then just ask her that.

24 MR. DIGIACOMO: Well, yeah, I know, but I have a  
25 question before that, which is --

1 THE COURT: Okay. Well, then --

2 MR. GENTILE: Well, then can we approach?

3 MR. DIGIACOMO: -- did the State fulfill their  
4 obligation.

5 THE COURT: Yeah. I don't know what your other  
6 question is.

7 (Off-record bench conference)

8 THE COURT: Mr. DiGiacomo, please rephrase your  
9 question.

10 BY MR. DIGIACOMO:

11 Q Were you aware that the State requested a  
12 videotaped deposition?

13 MR. GENTILE: Objection. That's the same question.  
14 Same objection.

15 THE COURT: At some point in time did you  
16 participate in a videotaped deposition?

17 THE WITNESS: No.

18 THE COURT: All right.

19 BY MR. DIGIACOMO:

20 Q At any point in time did anybody tell you that  
21 there was a request for one?

22 MR. GENTILE: Objection. Hearsay.

23 THE WITNESS: Yes.

24 MR. DIGIACOMO: I'm asking whether or not anyone  
25 told her that --

1 THE COURT: All right. Well, she can say yes, but  
2 then --

3 THE WITNESS: Yes.

4 THE COURT: -- the next question's probably hearsay.

5 MR. DIGIACOMO: Okay. I'd ask the Court to take  
6 judicial notice of our motion.

7 THE COURT: Move on with your questioning of  
8 Ms. Espindola.

9 MR. DIGIACOMO: Okay.

10 BY MR. DIGIACOMO:

11 Q But you never did participate in the videotaped  
12 deposition, correct?

13 A No.

14 Q Was it your choice not to participate in the  
15 videotaped deposition?

16 A No.

17 Q Were you willing to do so?

18 A Yes.

19 Q Okay. You were also called before the grand  
20 jury, correct?

21 A Yes.

22 Q And did you testify to the best of your ability  
23 in front of the grand jury?

24 A Yes.

25 Q Did there come a point in time when somebody

1 showed you a note that may have been located during the course  
2 of the case?

3 MR. GENTILE: Objection to the form of the question,  
4 a note that may have been --

5 THE COURT: All right. Well, he can show her the  
6 item and ask if anyone's ever shown that to her and then when  
7 was it shown to her and --

8 MR. GENTILE: Of course he can.

9 THE COURT: -- where was he -- where was it shown to  
10 her.

11 BY MR. DIGIACOMO:

12 Q 229, State's Proposed 229, have you ever seen  
13 that before?

14 A Yes.

15 Q Okay. And without telling us what it is, do  
16 you recognize whose handwriting that is?

17 A Yes.

18 Q Who is that?

19 A Mr. H.

20 MR. GENTILE: Can we get a foundation as to when she  
21 was shown this document?

22 THE COURT: When were you shown the document, other  
23 than obviously right now in court? When did you first see  
24 that document?

25 THE WITNESS: When I testified in front of the grand

1 jury.

2 THE COURT: All right. And that was shown to you by  
3 one of the prosecutors, either Mr. DiGiacomo or Mr. Pesci?

4 THE WITNESS: Yes.

5 THE COURT: All right.

6 MR. GENTILE: And can we get a date? I think that  
7 the record needs to have a date as to when that was.

8 THE COURT: All right.

9 MR. DIGIACOMO: The record will reflect what date  
10 the grand jury transcript is.

11 THE COURT: All right. Do you recall when you  
12 testified in front of the grand jury?

13 THE WITNESS: I don't know the date specifically.

14 THE COURT: Well, and I think that is already in the  
15 record, but you can direct her to a date.

16 MR. DIGIACOMO: Thank you, Judge.

17 BY MR. DIGIACOMO:

18 Q Now, you say somebody showed this to you,  
19 either myself or Mr. Pesci, during the grand jury, and you saw  
20 that note, correct?

21 A Yes.

22 Q Now --

23 MR. GENTILE: I'd like to approach before counsel  
24 makes any reference to this, this exhibit.

25 THE COURT: All right.

1 MR. ARRASCADA: May I see it, or are we approaching?

2 THE COURT: Well, we can look at it together at the  
3 bench. All right.

4 MR. GENTILE: There's another one that I want to  
5 approach on --

6 THE COURT: All right. Well, let's move forward --

7 MR. GENTILE: -- but this isn't it.

8 THE COURT: All right. Let's move forward and then  
9 when we get to the objectionable exhibit, it may already be  
10 time to excuse the jury, so --

11 MR. ARRASCADA: We may want to approach, but I need  
12 to look at this too.

13 THE COURT: Okay. Mr. DiGiacomo, can you -- while  
14 they're examining that, do you have any --

15 MR. DIGIACOMO: I guess. I have just a few  
16 questions left.

17 THE COURT: All right.

18 BY MR. DIGIACOMO:

19 Q During the time that you were in jail prior to  
20 your entering a plea, did you receive letters from Mr. H?

21 A Yes.

22 Q And have you known -- knowing Mr. H for the  
23 last 15 years, did you recognize his handwriting?

24 A Yes.

25 Q Have you, over the course of that 15 years you

1 knew Mr. H, also known the writing of Little Lou?

2 A Yes.

3 Q Okay. When you receive items from him that are  
4 written, do you recognize his writing?

5 A Yes.

6 Q I'm going to show you State's Proposed Exhibits  
7 220 and 221.

8 MR. GENTILE: This is the objection. I'd like to  
9 approach the bench.

10 THE COURT: All right.

11 (Off-record bench conference)

12 THE COURT: Let's move on, please.

13 (Off-record bench conference)

14 BY MR. DIGIACOMO:

15 Q 220 and 221, do you recognize those?

16 A Yes.

17 Q Did you receive those?

18 A Yes.

19 Q And have you looked through those before?

20 A Yes.

21 Q And who wrote those? Did you recognize the  
22 handwriting?

23 A Yes.

24 Q And whose handwriting was it?

25 A Little Luis.

1 Q Little Luis?

2 A Yes.

3 Q Okay. And there's date stamps on those, 220

4 and 221. Are those date stamps about the time that you

5 received those items?

6 A It would be the next day.

7 Q The next day?

8 A Yes.

9 Q So the -- there's one of these -- 221 is a card

10 and one of these is a letter.

11 A Yes.

12 Q And both of those, based upon your review of

13 the handwriting, appear to be authored by Little Luis?

14 A Yes.

15 MR. DIGIACOMO: Move to admit 220 and 221.

16 MR. GENTILE: Objection.

17 MR. ARRASCADA: Objection. I'll let Mr. Gentile go

18 first.

19 THE COURT: Objection as to?

20 MR. GENTILE: Relevance.

21 MR. ARRASCADA: We have the same objection.

22 Relevance, Your Honor.

23 MR. DIGIACOMO: Statement of the defendant.

24 THE COURT: All right. Those will be admitted as to

25 Luis Hidalgo, III only.



1 MR. GENTILE: So my objection is sustained?

2 THE COURT: As to your client, yes.

3 MR. GENTILE: Thank you.

4 (State's Exhibit 220 and 221 admitted.)

5 THE COURT: And just in response, a juror had  
6 requested to see an item of evidence. The State can only  
7 publish the evidence to the jury, meaning to put it up on the  
8 monitor once it's been admitted. Some of the exhibits may  
9 take a few witnesses before they're admitted, so...

10 Go on.

11 MR. DIGIACOMO: Is that the one that -- because I  
12 think --

13 THE COURT: No, it's not. I asked the clerk.

14 MR. DIGIACOMO: If we know which one it is, I might  
15 offer to admit it.

16 BY MR. DIGIACOMO:

17 Q Showing you State's Proposed Exhibits 222 and  
18 223, do you recognize those?

19 A Yes.

20 Q Had you received those before?

21 A Yes.

22 Q And do you recognize the handwriting of the  
23 individual who wrote those?

24 A Yes.

25 Q And whose handwriting is that?

1 A Denise Mata's.

2 Q Who's Denise Mata?

3 A She is a former inmate.

4 Q Okay. And how did you know her?

5 A She was in my housing unit.

6 Q Did there come a point in time that you learned

7 that she was released?

8 A Yes.

9 Q And did you have discussions with Mr. H about

10 Denise Mata?

11 A No.

12 Q Did you have discussions with anybody related

13 to Denise Mata and Mr. H?

14 A No.

15 Q How do you know -- well, let me ask you this:

16 Have you ever heard the term "nanu nanu" before?

17 A Yes.

18 Q And what does nanu nanu relate to?

19 A It's a term of endearment that Louie and I used

20 to say to each other. It means I love you.

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

22 proposed Exhibit No. 227, just briefly flip through those and

23 tell me if you recognize what's --

24 A (Complying.)

25 Q Do you recognize those items?

1 A Yes.

2 Q Okay. And specifically the letters that are  
3 written in here, do you recognize the handwriting of those  
4 letters?

5 A Yes.

6 Q Okay. And whose handwriting is it?

7 A Mr. H.

8 Q Mr. H. Okay.

9 MR. DIGIACOMO: Move to admit 227, Judge.

10 THE COURT: Any objection to 227?

11 MR. GENTILE: Well, relevance. I mean --

12 MR. DIGIACOMO: It's the exemplar for the  
13 handwriting expert.

14 THE COURT: All right. It's overruled.

15 MR. ARRASCADA: Your Honor --

16 MR. GENTILE: Well, if they're only relevant for  
17 handwriting expert, we don't dispute the handwriting on the  
18 exhibit that --

19 THE COURT: On Exhibit 229?

20 MR. GENTILE: -- whatever that note is.

21 THE COURT: It's 229.

22 MR. GENTILE: Is it 229? No, we never disputed  
23 that.

24 MR. DIGIACOMO: That's the first I've heard.

25 THE COURT: All right. Well, if it's stipulated

1 that that's the handwriting of Mr. Hidalgo, Jr., then there's  
2 no --

3 MR. GENTILE: Let me make sure that 229 is the right  
4 one.

5 MR. DIGIACOMO: Well, that's actually not going to  
6 be the one that the expert actually --

7 MR. GENTILE: No, I know, but it's the original of  
8 this, right?

9 MR. DIGIACOMO: The original one.

10 MR. GENTILE: Yeah. No, we don't dispute that.

11 THE COURT: All right. Then --

12 MR. GENTILE: Go ahead.

13 THE COURT: -- there's no need for the exemplars.  
14 If there's a need down the road, she's already identified  
15 them.

16 BY MR. DIGIACOMO:

17 Q On 227, just so I have the proper foundation,  
18 on a couple of those letters the return address says Luisito  
19 on it. Did you see that when you looked through those?

20 A Yes.

21 Q And you had told me that -- or you told this  
22 jury before that Luisito is a term of endearment that you had  
23 for Little Lou.

24 A Correct.

25 Q Despite that, that handwriting that was on 227,

1 whose was that?

2 A Mr. H.

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

4 THE COURT: All right. Mr. Gentile.

5 MR. GENTILE: Well, given that I have 20 minutes,  
6 I'm going to do what I can do.

7 THE COURT: I'll give you 30.

8 MR. GENTILE: It's probably going to take that long.  
9 What I want to do is I want to coordinate these photographs.  
10 Well, let's start this way.

11 (Pause in proceedings)

12 THE MARSHAL: Do we need the easel?

13 MR. GENTILE: I need the easel and I'm going to  
14 leave the witness in the lull of the court.

15 THE COURT: That's fine. Jeff, why don't you bring  
16 the easel down.

17 And, Mr. Gentile, do you want the easel kind of  
18 right there where you're standing, or would you --

19 MR. GENTILE: No, because the jury needs to --

20 THE COURT: -- like it closer to the jury?

21 MR. GENTILE: The jury's going to need to see this.

22 THE COURT: Okay. Jeff, if you'll set up the easel  
23 there in front of the jury.

24 And then once it's set up, Mr. Gentile, when you  
25 need the witness to step down, just request it at that time.

1 (Off-record colloquy)

2 MR. GENTILE: Could the witness please step down.

3 Oh, I need to have this marked.

4 MR. DIGIACOMO: Right. It probably should be marked  
5 and --

6 MR. GENTILE: Well, I showed this to you the other  
7 day.

8 MR. PESCI: It's been published before. It's been  
9 introduced.

10 THE COURT: Right. It's been published before.  
11 It's been admitted.

12 MR. DIGIACOMO: Is this the Simone's thing?

13 MR. GENTILE: This is Simone's.

14 MR. DIGIACOMO: Yeah, it appeared to be. We agreed.  
15 It just needs to be marked and we'd stipulate to its  
16 admission.

17 MR. GENTILE: We need it marked.

18 THE COURT: All right. And you're stipulating to  
19 its admission? Is that what you said?

20 MR. DIGIACOMO: Yeah.

21 THE COURT: Okay..

22 (Off-record colloquy)

23 MR. GENTILE: This is stipulated. I can put it up  
24 there now.

25 THE COURT: Yes.

1 MR. DIGIACOMO: I agree you can put it up there.

2 THE COURT: All right.

3 MR. DIGIACOMO: You agree that it's a true rendition  
4 of --

5 THE COURT: And just for the record so that we know  
6 what we're talking about there, that's Defense Exhibit  
7 letter --

8 Mr. Gentile, whose --

9 THE CLERK: Oh, I did that wrong because I'm so  
10 confused.

11 THE COURT: All right.

12 THE CLERK: That is actually --

13 MR. GENTILE: I'll just bring that back to you.

14 THE CLERK: Bring it back.

15 THE COURT: It's going to be the blue sticker. And  
16 for the jury, the good news is Monday we're definitely  
17 starting at 9:00. I have found a judge to hear my calendar  
18 Monday so we are starting at 9:00. We are still working on a  
19 judge to hear my calendar Tuesday, so hopefully we'll start --  
20 be able to start at 9:00 on Tuesday as well. We so far have  
21 been rejected by five judges, but we are working on it.  
22 There's 25 in the building.

23 Deniece, just put the sticker on and --

24 THE CLERK: I am, Judge.

25 THE COURT: -- and just put the letter --

1 THE CLERK: Well, I have to find the list first.

2 THE COURT: All right. For the record, Defense  
3 Exhibit B was stipulated -- or the State had no objection to  
4 that coming in.

5 MR. DIGIACOMO: We'd stipulate to it.

6 THE COURT: Thank you.

7 MR. DIGIACOMO: That's fine.

8 (Defendant's Exhibit B admitted.)

9 (Pause in proceedings)

10 MR. GENTILE: If the witness could step down,  
11 please.

12 THE COURT: Ms. Espindola, if you'll step down,  
13 Mr. Gentile is going to ask you some questions utilizing  
14 Defense Exhibit B.

15 CROSS-EXAMINATION

16 BY MR. GENTILE:

17 Q Ms. Espindola, do you recognize what Defense  
18 Exhibit B portrays?

19 A It looks like --

20 THE COURT RECORDER: I'm sorry. I'm not picking her  
21 up.

22 MR. DIGIACOMO: We can't see through Mr. Gentile and  
23 we can't hear the witness.

24 THE COURT: All right. Well, Mr. Gentile's moving  
25 the microphone so it's closer to the witness and that will



1 pick her up.

2 MR. GENTILE: Can you pick me up without a mic?

3 THE COURT: Yes.

4 MR. GENTILE: I bet you can.

5 BY MR. GENTILE:

6 Q Ms. Espindola, Defendant's Exhibit B, what does  
7 it appear to be to you?

8 A (Indiscernible.)

9 Q All right.

10 THE COURT: You know what, I can't hear her. I'm  
11 going to have Jeff hand you the hand-held microphone so that  
12 we can pick that up.

13 BY MR. GENTILE:

14 Q All right. Let's try one more time because it  
15 may not be on the record. You already know the question, but  
16 I'll ask it again.

17 What does Exhibit B appear to be to you?

18 A A blueprint of Simone's Autoplaza.

19 Q . And does it appear to be the way Simone's was  
20 laid out with the exception of a few things that I'm going to  
21 ask you to add to it? Does it appear to be the way Simone's  
22 was laid out on May the 19th and thereafter in the year 2005?

23 A Yes.

24 Q Okay. You have made testimony with respect to  
25 Room 6.

1           A     Correct.

2           Q     From looking at this exhibit, is Room 6 readily  
3 recognizable?

4           A     No.

5           Q     And that's because there's a box that has no  
6 wall dividers; am I correct?

7           A     Correct.

8           Q     Okay. I'm going to ask you to take this marker  
9 and why don't you point to the box that we're going to be  
10 dealing with?

11          A     I believe it's right here (indicating.)

12          Q     Okay. And let the record reflect that the  
13 witness has pointed to the upper left quadrant of the document  
14 between the numbers 2 and 4. And it appears to be a  
15 rectangular space on the document; fair to say?

16          A     Yes.

17          Q     Okay. Now, take this marker, if you will, and  
18 put the walls in that rectangular space the way you remember  
19 them to be, just the walls first, the dividers.

20          A     (Complying.)  
21 It's three offices.

22          Q     All right. And were each of those offices  
23 numbered?

24          A     I believe so, yes.

25          Q     All right. Could you please place the numbers

1 then in the space as you recall them to be?

2 A (Complying.)

3 Q Okay. Now, you testified earlier with respect  
4 to -- take a look at the remainder of the exhibit and see if  
5 there's anything that you recall being different about  
6 Simone's than the way this exhibit portrays.

7 A I'm not very good with blueprints. I know the  
8 reception area came here. This is the game area where the  
9 pool table was. These are the offices.

10 Q All right. Does it appear, though, at least in  
11 terms of where the walls are now, that's the way you remember  
12 it to be?

13 A There's also where the employee lounge is.  
14 There's like an open space back here.

15 Q Well, there doesn't appear to be any lines  
16 where you're pointing. Is that the open space that you're  
17 talking about?

18 A It came from here. There's an open space here  
19 and then there's more open space before the -- another over  
20 for the back estimator's office.

21 Q All right. Well, here -- how about we do it  
22 this way? Why don't you take that marker and, if you will,  
23 you were talking about an open area, a game area.

24 A The game area where the pool table was is here.

25 Q Why don't you write it right there. In fact,

1 draw a pool table where you remember it to be.

2 A I'll just -- can I write "pool table"? I'm not

3 very good at drawing.

4 Q It's only four corners.

5 A It would, I think --

6 Q You want to write "pool table"? Write pool

7 table.

8 A No, it's fine.

9 Q Because I need you to write pool table anyhow,

10 so write pool table.

11 A (Complying.)

12 Q Got it?

13 A Mm-hmm. I think it's right in this general

14 area.

15 Q That general area. Okay.

16 Now, you talked about a kitchen area. Is that

17 portrayed on there?

18 A Where it says employee lounge.

19 Q So the employee lounge is what you refer to as

20 the kitchen?

21 A I never referred to it as the kitchen, but I

22 would think so because that's in the general area.

23 Q Well, if -- I know that -- I mean, this

24 morning -- I think this morning you said that --

25 A The kitchen.

1 Q Yeah. You said the kitchen.  
2 A Yeah.  
3 Q So what are you talking about?  
4 A The kitchen. It just says employee lounge  
5 right here.  
6 Q But you just said you --  
7 A I was clarifying.  
8 Q -- never called it a kitchen.  
9 A No, I --  
10 Q You called it a kitchen this morning. So  
11 that's what you're talking about?  
12 A I -- yes.  
13 Q Okay. Now, the reception area is marked, but  
14 is that the reception area?  
15 A Yes.  
16 Q Okay. And do you recall where these couches  
17 were that you testified about? We're going to go through some  
18 photographs in a bit and I'm going to ask you to put the  
19 numbers of the photographs where they would be on this  
20 diagram.  
21 A Like I said, I'm not very good with blueprints.  
22 I'm really terrible at directions. The reception area's here.  
23 This would be Louie's office, the storage room.  
24 Q Well, let's mark it. Let's mark it. The first  
25 office you say is Louie's office, so why don't you put that

1 on -- I'll tell you what, since we're using the term Mr. H --  
2 and by the way Mr. H, lots of people call Luis Hidalgo, Jr.  
3 Mr. H. Fair to say?

4 A Everyone from the Palomino Club used to call  
5 him Mr. H.

6 Q Mr. H. Prior to moving to Nevada, nobody  
7 called him Mr. H?

8 A Correct.

9 Q Okay. But because we have so many ways of  
10 referring to him, let's just use H.

11 A Mr. H. I'll make an effort.

12 Q Right. Would you put in the box the letter H  
13 in terms of the office that was used by Luis Hidalgo, Jr.,  
14 according to your testimony?

15 A Like I said, I'm not good with directions. I  
16 get turned around. I think it's this office. That would  
17 be --

18 Q Okay. Now, that's -- if that was his office,  
19 how about you put the initials AE in the office that you  
20 occupied.

21 A (Complying.)

22 Q Okay. And Room 6 you've already indicated. Am  
23 I correct?

24 A Correct.

25 Q All right. Now, this back office over there,

1 what was it used for?

2 A The estimator.

3 Q And who was the estimator?

4 A Joe was the estimator. He worked out of Room  
5 5, but also there was another estimator who worked in the back  
6 and they would hand out the repair orders to the employees.

7 Q Do you have any idea -- let me rephrase that.  
8 Do you have knowledge as to the approximate square footage in  
9 this building?

10 A I did. I don't remember anymore.

11 Q Okay. Was it your understanding that this was,  
12 at least in terms of the square footage of this building, the  
13 largest body shop of its type in southern Nevada?

14 A Independent, yes.

15 Q Independent, yes. Okay.

16 And if you will -- I asked you about the couches.  
17 To the best of your memory, place the couches where they were  
18 in the reception area.

19 A My windows are here looking out at the  
20 reception area.

21 Q So the offices had windows in them?

22 A Yes.

23 Q All right. Okay. Go ahead and put the couches  
24 in.

25 A I'm thinking that the couches would be -- the

1 windows are here and the couches would be here (indicating.)

2 Q Okay. So there were two couch in an L shape?

3 A Yes.

4 Q All right. And were they -- were they oriented  
5 toward something? Were they in that L shape for a purpose?

6 A Yes.

7 Q What was that purpose?

8 A For a TV.

9 Q So there was a TV against the wall?

10 A Yes.

11 Q Okay. What else do you recall being in the  
12 reception area?

13 A The reception desk.

14 Q And where was that approximately, if you will?

15 A Well, if this is angled this way, would this be  
16 the front door?

17 Q I'm not able to testify, but I could tell you,  
18 yes, that's the front door.

19 THE COURT: Mr. Gentile.

20 THE WITNESS: If you walk through the front door,  
21 the reception -- the desk would be here.

22 BY MR. GENTILE:

23 Q All right. Now -- oh, hair color. You  
24 testified -- and I'm keeping you down here because we're going  
25 to do more on this, but before I forget, you testified that



1 Luis Hidalgo, Jr., Mr. H --  
2 A Yes.  
3 Q -- Louie, has always had his hair a color.  
4 He's been coloring his hair for a number of years; am I  
5 correct?  
6 A No, he colored his hair -- I know of that --  
7 when he came to visit me.  
8 Q All right. So prior to that, it was not  
9 colored at all?  
10 A No, he had a gray streak in the front.  
11 Q A gray streak in the front?  
12 A Yes.  
13 Q But what was the remainder of the color of his  
14 hair?  
15 A Dark brown, black.  
16 Q Dark brown, so it had a little gray in it,  
17 but --  
18 A Yes.  
19 Q -- not a lot?  
20 A Correct.  
21 Q Is that correct?  
22 A Mm-hmm.  
23 Q Now, Pops --  
24 A Yes.  
25 Q What color was Pops' hair in the year 2005?

1 A Gray.

2 Q Okay. Does Pops appear to be a Salvadorian

3 man?

4 A Yes.

5 Q More so than his son?

6 A They both looked alike except for Pops was much

7 shorter.

8 Q Pops was shorter?

9 A Yes.

10 Q Okay. All right. Now, let's take a look at

11 these photos and see, if you will, so that we can answer this

12 better -- here's Exhibit 97. See that? Why don't you write

13 on this building -- the side of this building that Exhibit 97

14 represents -- in fact, just put X 97 and draw an arrow --

15 write it in here maybe, draw an arrow to what it portrays.

16 A (Complying.)

17 This is the side of the building, so I think it

18 would be --

19 MR. GENTILE: Is the recorder able to pick her up?

20 THE COURT RECORDER: I'm picking her up.

21 THE WITNESS: It looks like it's over by the

22 (indiscernible.)

23 BY MR. GENTILE:

24 Q Write X 97 there, please. Here, I'll hold it

25 for you because we need to -- X 97.

1           A     I think.

2           Q     Okay. Well, you can only do the best that you

3 remember.

4           Here is Exhibit 98. Do the same thing. Write

5 somewhere in the margin 98 and draw an arrow to it.

6           A     (Complying.)

7           Q     Now, this is Exhibit 99 -- in fact, 99 and 100,

8 because they have the couches in them.

9           A     Mm-hmm.

10          Q     So where would they be?

11          A     They would be right -- the couches would be

12 right here.

13          Q     And these windows that we see in Exhibit 100

14 and in Exhibit 99 -- in 100, it's behind one of the couches.

15 It's behind the same couch in both?

16          A     Yeah.

17          Q     Those are the windows to your office?

18          A     Yes.

19          Q     Do you remember how big that office was?

20          A     It was large.

21          Q     Large office?

22          A     Yes.

23          Q     Okay. So how about we do 99 and 100 and we

24 kind of write it out here.

25          A     (Complying.)

1 Q Thank you.

2 Now, Exhibit 101, what does that portray?

3 A My office again.

4 Q Okay. So you want to just add 101 to that?

5 A (Complying.)

6 Q Okay. Now, this is Exhibit 102. Take a look  
7 at it, tell me if you recognize -- well, you've already  
8 identified it.

9 A It's my office.

10 Q It's your office?

11 A Mm-hmm, yes.

12 Q All right. But now we're talking about inside  
13 your office?

14 A Correct.

15 Q Correct. Okay.

16 So why don't we -- well, I don't know how many we  
17 have. I believe they have a bunch, so -- no, don't put it in  
18 there. I'll tell you what, what is this area here, this --  
19 we're right between the -- we're at E and F, 4 and 5 in terms  
20 of the reference on this document. This is E and F. That's 4  
21 and 5.

22 This area right here, what is that?

23 A It says loading left here, so my assumption  
24 would be that it's the first bay. I --

25 Q All right. I --

1 A Because there's no offices behind us.

2 Q Okay. So why don't we then write the numbers  
3 in this first bay area, because I don't think anything has  
4 come into evidence relating to the first bay area so we could  
5 cloud it up a little bit.

6 102.

7 And this Exhibit 103, what is that?

8 A That's my briefcase.

9 Q That's your briefcase?

10 A In my office.

11 Q All right. Did you have a lot of different  
12 purses and briefcases?

13 A I used the same briefcase.

14 Q Yeah. How about purses?

15 A I had a lot of different purses, but --

16 Q You had a lot of purses but same briefcase?

17 A Same briefcase.

18 Q Okay. With respect to that, why don't we write  
19 103 and also draw the line to the office so that they know  
20 where it was. I'll tell you what, rather than me asking you  
21 questions every time, since we only have a few minutes left  
22 today, take a look at these photographs and continue to do  
23 what you've been doing.

24 A Okay.

25 Q Give us -- give us -- so that the ladies and

1 gentlemen, when they go into the -- into the jury room they  
2 can figure out where these photographs belong --

3 A Would you like me to explain it as I'm --

4 Q No, you don't need to.

5 MR. GENTILE: Does she need to?

6 THE COURT: I don't think so.

7 BY MR. GENTILE:

8 Q No, just write it down. Well, I mean, you can  
9 explain it if you want.

10 A Can I put this microphone down?

11 Q Sure.

12 THE COURT: Yeah. If you're not talking, you don't  
13 need to hold the microphone.

14 THE WITNESS: Thank you. (Complying.)

15 Can I ask a question?

16 BY MR. GENTILE:

17 Q You want to ask a question?

18 A Ask a question.

19 Q Sure.

20 A I'm the one who got the change for the club but  
21 I know that that's Simone's. Would it have went --

22 Q No, no. I'm asking you. I can't answer --

23 THE COURT: Yeah. Unless you have a question about  
24 one of the questions or, you know, want Mr. Gentile to explain  
25 something he's asked you, you can't ask Mr. Gentile any

1 questions.

2 THE WITNESS: Oh.

3 THE COURT: In fact, this may be a good time to take  
4 our --

5 THE WITNESS: I'm assuming this is in my office only  
6 because I know the change was in my office.

7 BY MR. GENTILE:

8 Q And is that the color of the carpeting that was  
9 in your office?

10 A Yes, but --

11 THE COURT: And just so --

12 THE WITNESS: -- I don't want to write it down.

13 THE COURT: I'm sorry. Just so we know, what  
14 exhibit number are you referring to now?

15 THE WITNESS: 110.

16 THE COURT: Okay. Exhibit number 110.

17 THE WITNESS: So even though I'm not completely  
18 certain, do you still want me to write them like that?

19 BY MR. GENTILE:

20 Q I do, yes. That would be fine.

21 THE COURT: All right. And just so --

22 BY MR. GENTILE:

23 Q I mean, you're at least as certain as to some  
24 of the other things you've testified about --

25 A Yes.

1 Q -- fair to say?

2 A Yes.

3 Q Okay.

4 THE COURT: We'll let her mark -- did you mark for  
5 110, Ms. Espindola?

6 THE WITNESS: Yes.

7 THE COURT: Okay. Ladies and gentlemen --

8 Ms. Espindola, you can just hand those photos back  
9 to Mr. Gentile and just go ahead back up here to the witness  
10 stand, ma'am.

11 MR. GENTILE: We've gotten through 101, Your Honor.

12 THE COURT: All right. Yeah. Just put that down.

13 Ladies and gentlemen, we're going to go ahead and  
14 take our weekend recess. We will reconvene Monday morning at  
15 9:00 o'clock and, like I said, we'll hopefully get a lot done  
16 on Monday.

17 I just want to remind everyone that it's important  
18 to be on time because I'd really like to start just at 9:00  
19 and hopefully cover a lot of ground. I know this is taking  
20 longer and it's a hardship for a lot of people who have to  
21 miss work and whatnot.

22 Before I excuse you for the afternoon, I must again  
23 admonish you -- or for the weekend, actually, I must again  
24 admonish you that you're not to discuss this case or anything  
25 relating to the case with each other or anyone else. You're



1 not to read, watch or listen to any reports of or commentaries  
2 on any subject matter relating to the case.

3 Don't do any independent research on any subject  
4 connected to the trial. Don't visit any locations at issue  
5 and please do not form or express an opinion on the case until  
6 it is finally submitted to you.

7 If everyone will please leave their note pads in  
8 their chairs. I'd like Juror No. 13 to remain in the  
9 courtroom. Everyone else please follow Jeff through the  
10 double doors.

11 And, Ms. Espindola, during our weekend recess, do  
12 not discuss your testimony with anyone else who may be called  
13 as a witness.

14 (Court recessed at 1:09 p.m. until Monday, February  
15 9, 2009, at 9:15 a.m.)  
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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

12

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DISTRICT COURT  
CLARK COUNTY, NEVADA

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

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 10**

MONDAY, FEBRUARY 9, 2009

**APPEARANCES:**

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

RECORDED BY: JANIE OLSEN, COURT RECORDER  
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1 LAS VEGAS, NEVADA, MONDAY, FEBRUARY 9, 2008, 9:19 A.M.

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

3 (In the presence of the jury.)

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

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

11 ANABEL ESPINDOLA, STATE'S WITNESS, SWORN

12 THE CLERK: Please state your name.

13 THE WITNESS: Anabel Espindola.

14 THE CLERK: Please be seated.

15 MR. GENTILE: May we proceed?

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

17 MR. GENTILE: Thank you.

18 CROSS-EXAMINATION

19 BY MR. GENTILE:

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

23 A Yes.

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

1           A     Yes.

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

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

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

10          A     I believe so.

11          Q     -- right?

12          A     Yes.

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

15          A     I believe so.

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

19          A     Yes.

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

24          A     Yes.

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



1 A No.

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

5 A Yes.

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

8 A Yes.

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

13 A Mm-hmm, yes.

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

18 MR. DIGIACOMO: We don't object.

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

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

21 BY MR. GENTILE:

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

24 A Yes.

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

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

3 A (Indiscernible).

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

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

9 MR. GENTILE: That's fine.

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

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

13 THE COURT: Jeff's getting it.

14 BY MR. GENTILE:

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

17 A No.

18 Q Am I correct?

19 A Right.

20 Q You don't dispute that?

21 A No.

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

24 MR. DIGIACOMO: No objection.

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

1 will be admitted.

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

3 BY MR. GENTILE:

4 Q Let's put D1 up here.

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

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

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

11 BY MR. GENTILE:

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

15 A Two.

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

17 A I've never been in it.

18 Q But you know that it exists?

19 A I heard that it existed, yes.

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

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

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

24 A Yes.

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

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

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

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

9 A Yes.

10 BY MR. GENTILE:

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

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

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

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

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

21 THE COURT: We de.

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

23 THE COURT: Jeff's getting it.

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

1                   Thank you, Jeff.

2   BY MR. GENTILE:

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

5                   A     Yes.

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

8                   A     Yes.

9                   Q     All right.  What area is that?

10                  A     That would be the second floor.

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

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

14                  Q     Exhibit D2, what does D2 look like?

15                  A     D2 is the second floor.

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

18                  A     Yes.

19                  Q     Which is a circular room?

20                  A     Yes.

21                  Q     Describe it.

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

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

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

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

2 A Yes.

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

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

7 Q Did I say a bar?

8 A Yes.

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

11 A Yes. Yes.

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

14 A Yes.

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

16 A No.

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

19 A Are those the stairs?

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

22 A Okay.

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

25 A Yes.

1 Q All right. And then because it's the second  
2 floor, there's stairs that get up to it; am I correct?  
3 A Yes.  
4 Q All right. Now, the stairs that I'm pointing  
5 to here, those vertical lines, those are not accessible to the  
6 public, are they?  
7 A No.  
8 Q I'm correct?  
9 A Correct.  
10 Q All right. The stairway to get upstairs is  
11 this opening right here, which is two horizontal lines that's  
12 about 12-inches from the left side of the exhibit and maybe --  
13 maybe as much as 10 or 12-inches from the bottom; am I right?  
14 A Yes.  
15 Q All right. That's the stairway?  
16 A Okay.  
17 Q I tell you what I'd like you to do, let me give  
18 you a marker here. I'm going to ask you that when you're not  
19 using it to cover it because otherwise it's going to dry out.  
20 A Yes, sir.  
21 Q Okay. Would you mark where the stairway is  
22 so -- that the public uses to get upstairs.  
23 A Write "public stairway"?  
24 Q How about that? That works for me. All right.  
25 Now, other than the required fire escapes, that's

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

2 A Correct.

3 Q Okay. And then this area here where we have

4 vertical lines, would you write in there "private stairway," I

5 guess, as compared to public.

6 A Write on the stairs?

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

8 word on the other.

9 A (Complying).

10 Q All right. Now, this area here, that's sort of

11 a way of getting out of the lipstick lounge, am I correct, and

12 into -- what are those? Do you remember? Maybe bathrooms?

13 A Yes.

14 Q All right. Why don't we, if you will, write in

15 there that those are public bathrooms and draw a line to the

16 bathroom, please.

17 A Which would be here.

18 Q Well, what about this area here, does that look

19 like stalls to you, maybe?

20 A Oh, okay.

21 Q Okay. Now, let's go through the vestibule and

22 into this room. What is that room? So that the record

23 reflects what I'm pointing at, I'm pointing at --

24 A The bar.

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



1 area that says ten people?

2 A That would be the bar.

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

5 A (Complying.)

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

8 A Stage.

9 Q Would you write stage, please.

10 A (Complying.)

11 Q And then it appears although there are little  
12 squares all over this -- well, here before we go there, what  
13 is this area that says eight people? Is that also a stage, a  
14 corner stage in that room, or do you not recall?

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

17 Q That's right. Now, with respect to this area  
18 here where you see what appears to be little squares or round  
19 figures, what is that area there? Do you know?

20 A Just an open area with tables.

21 Q Tables and chairs?

22 A Yes.

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

24 A Yes.

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

1 across the seating area.

2 A (Complying.)

3 Q And then this area here, more vertical lines,

4 what is that?

5 A Stairs.

6 Q And is that an internal stairway, a private

7 stairway like this other one that we talked about?

8 A I don't remember that stairway.

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

10 A No.

11 Q Okay. Now, you see this area where it says 55

12 people total and then just above the number 55 there's an

13 opening?

14 A Yes.

15 Q What is that opening?

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

17 Q Okay. Then why don't we write VIP entry, how

18 about that?

19 A (Complying.)

20 Q Now, if we go through that area, there's a

21 riser, am I correct, you step down a step or two?

22 A Yes.

23 Q Okay. And what is on the left once you step

24 down that step or two?

25 A Stage.

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

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

1 Q Do you remember what it leads to?

2 A No.

3 Q You notice a couple of stalls and sinks and

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

5 A You just pointed to it, yes.

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

7 you remember it to be?

8 A Bathroom.

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

10 A (Complying.)

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

12 bathroom or do you recall?

13 A I don't recall.

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

15 know?

16 A No.

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

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

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

20 this D2, see that?

21 A Yes.

22 Q All right. What is that?

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

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

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

1           A     Yes.

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

7           A     Correct. (Complying.)

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

10          Q     All right.

11          A     I could --

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

14          A     Yes.

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

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

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

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

22          Q     And?

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

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

1 down that step, where are you going?

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

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

4 A Well, yes.

5 Q Okay. So if you go into this room here, is

6 that what you're saying was the office?

7 A Yes.

8 Q How about you write office in there. In fact,

9 before you do that, draw the area that you think the desk goes

10 in, please.

11 A (Complying.)

12 I'm thinking the desk is here. Like I said, it's an

13 open space. I can tell you on pictures.

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

15 this area?

16 A There was a closet in that room.

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

18 a --

19 A There was a closet in that room.

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

21 that side?

22 A As soon as you walk -- no, it was just a blank

23 wall. As soon as you walked in -- if I would walk in to the

24 left, it would be a closet.

25 Q To the left it would be a closet?

1           A     I believe so.

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

4           A     So that would be this wall.

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

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

9           A     Yes.

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

11          A     (Complying.)

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

14          A     A wall.

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

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

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

22          A     I'm thinking it is this.

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

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



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

3 Q Is that what you remember?

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

6 Q See this doorway over here?

7 A Uh-huh.

8 Q See the two rooms that it separates?

9 A Mm-hmm.

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

12 A Okay.

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

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

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

21 A Yes.

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

24 A Yes, I think so.

25 Q Do you see that stairwell?

1 A Yes.

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

3 A Yes.

4 Q Okay. Is that the stairwell that you took to  
5 go upstairs?

6 A I believe so.

7 Q All right. And if you compare it to D2, is  
8 that the same stairwell?

9 A I believe it would be.

10 Q All right. So if I tell you that Exhibit D1 --  
11 well, let's take it a little more accurately. If you were by  
12 the bar -- you've already said that this is the bar and you've  
13 already labeled the bar, correct?

14 A Correct.

15 Q All right. If you were by the bar, what was  
16 immediately behind the bar?

17 A Immediately behind the bar was a VIP lounge.

18 Q Downstairs or upstairs?

19 A Upstairs.

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

21 A Oh.

22 Q -- what was immediately behind the bar in this  
23 space that I'm pointing to, which is about midway on the upper  
24 half of this --

25 A Lacy's Lounge.

1 Q Okay. What was between behind the bar and  
2 Lacy's Lounge?  
3 A It was the bar inside the Palomino and there  
4 was another bar right behind it.  
5 Q All right. Was there a room in between that  
6 had things like beer coolers and plumbing and an ice machine  
7 and things of that nature?  
8 A Yes.  
9 Q Okay. So I'm pointing at this room right here.  
10 What room is that?  
11 A That would be the rooms with the coolers.  
12 Q Why don't you write that in there.  
13 A (Complying.)  
14 Q Now, does this appear to you to be doorways  
15 where I'm pointing this laser right now?  
16 A Yes.  
17 Q Does this appear to you to be doorways?  
18 A Yes.  
19 Q Which is on the opposite -- by the way, the  
20 first time I pointed to what would be, as I'm looking at it,  
21 the left side of the bar, correct, as you're looking at it?  
22 A Yes.  
23 Q All right. And on the right side of the bar  
24 there's also a doorway.  
25 A Yes.

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

1 Q Okay. Why don't you write that there, entrance  
2 to Lacy's.  
3 A (Complying.)  
4 Q This area here, these two rooms, as you walk  
5 down the hallway to Lacy's, what are those two rooms?  
6 A Bathrooms.  
7 Q Okay. Would you write that in there, please.  
8 A (Complying.)  
9 Q Now, right in the middle of Lacy's Lounge, what  
10 is that area? I'll give you a hint, it backs up to the  
11 plumbing.  
12 A The bar.  
13 Q And then finally there's a -- some sort of a  
14 structure, it looks like, over there. What is that structure?  
15 Do you remember?  
16 A It's -- if I remember correctly, I believe it  
17 was like a booth for possibly a DJ.  
18 Q DJ booth. Could you write that in there,  
19 please.  
20 A (Complying).  
21 Q And when you go past that booth, what do you  
22 enter?  
23 A It's a room.  
24 Q And what's along the walls of that room?  
25 A It was booths.

1 Q Booths built in, right?

2 A Yes.

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

4 for?

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

6 there.

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

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

9 A Yes.

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

11 A By the television.

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

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

14 A (Complying.)

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

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

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

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

19 runway attached to?

20 A It would be the locker room.

21 Q This area here or behind this wall?

22 A Behind the wall.

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

24 A It's also part of the stage.

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

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

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



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

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

5 A They had a mobile stage.

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

9 A Yes.

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

13 A That's what it appears to be.

14 Q Okay. And what doorway would that be?

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

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

19 A I would think so.

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

22 A Yes.

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

1           A     Yes.

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

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

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

8           A     I --

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

11          A     Yes.

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

14          A     Yes.

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

18          A     (Complying).

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

21          A     So this is maybe --

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

23          A     This would be the entrance.

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

1 A Yes.

2 Q Okay. So you walk into that area. When you

3 walk into that entrance area, you can't see anything in terms

4 of what's inside the club; am I correct?

5 A Correct.

6 Q All right. And where would the cage be, the

7 cashier's cage?

8 A There was two. There was the cage right here

9 behind the counter. There was also a cage on the opposite

10 side.

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

12 night?

13 A The one with the counter.

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

15 was.

16 A (Complying.)

17 Q And where would the other one be?

18 A Excuse me?

19 Q The other cage, was it ever used?

20 A Occasionally.

21 Q Now, do you -- do you remember where the

22 bathrooms are located on the main floor of the Palomino?

23 A If -- they would be down the hallway before you

24 get to the entrance.

25 Q This stairway over here, is the stairway

1 upstairs like right --

2 A That would be the main stairway.

3 Q So that would correspond with what you wrote

4 down here about public stairway on D2?

5 A Yes.

6 Q Why don't you write public stairway.

7 A (Complying.)

8 Q Knowing where the public stairway is, where are

9 the bathrooms?

10 A Here.

11 Q Could you write it in there, please.

12 A (Complying.)

13 Q All right. Now, those bathrooms have between

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

15 Do you remember that?

16 A Yes.

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

18 It looks like it leads to another --

19 A Hallway.

20 Q -- hallway. All right.

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

22 remember?

23 A Yes.

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

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

1 the main office, correct?

2 A Yes, upstairs.

3 Q So that was upstairs.

4 A Yes.

5 Q And your standard procedure upon entering the

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

7 enter it through the rear of the building?

8 A Rear of the building.

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

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

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

12 every day?

13 A The rear.

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

15 level up to a platform; am I correct?

16 A Yes.

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

18 A Here.

19 Q There. What's your memory?

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

21 opening for the back cab office.

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

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

24 A Yes.

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

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

2 A Correct.

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

4 are?

5 A I believe it's these right here.

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

7 entrance.

8 Now, do you remember when you walk through -- if you

9 came up that entrance and you got onto this platform and you

10 walked down this hallway, you're basically walking past

11 dressing rooms on your left side, right?

12 A Yes.

13 Q Is that the way you came in?

14 A There's one hallway.

15 Q There's one hallway?

16 A There's two doors where you can come in through

17 the rear. You can come in where the cabs would go to get

18 payment or you could come in through -- it's a small room in

19 the very back where the cab drivers -- we used to put out

20 coffee for the cab drivers and there's also a door there.

21 Q When you would walk in, would you walk through

22 the bar to get to the stairway that you took to go upstairs?

23 A I walked behind the bar where -- the room where

24 the coolers were.

25 Q All right. So this represents another set of

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

2 A Yes.

3 Q Now, which of the two doors -- what did you

4 just call this?

5 A Rear entrance.

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

7 A Then that wouldn't be the rear entrance. I

8 don't remember going up that many stairs. It was a few steps

9 and I would walk straight across.

10 Q So you would walk through the room that had the

11 coolers in it?

12 A Yes.

13 Q So your path would be --

14 A Straight across.

15 Q That's your memory?

16 A Yes.

17 Q Okay. Okay. Why don't you do this, why don't

18 you draw a separated line, a series of dashes on here and --

19 tracking the way that you would enter the club every day.

20 A (Complying.)

21 This is the room with the coolers and that's the

22 main bar and I would -- here's the outside. I would come

23 through here.

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

25 stairs?

1           A     Which stairs?

2           Q     The ones that took you upstairs.

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

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

5 entrance at that point.

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

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

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

9           A     That's the second floor?

10          Q     This is the first floor.

11          A     Oh, I'm confused.

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

13 vertical lines, remember?

14          A     Yes.

15          Q     And you coordinated those vertical lines with

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

17 says, private stairway.

18          A     So I would walk through this door.

19          Q     Continue the line.

20          A     I would walk through that door.

21          Q     That door and through what?

22          A     The hallway.

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

24          A     Yes.

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



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

5 A The cashier's cage?

6 Q Right.

7 A Yes.

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

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

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

16 A (Complying.)

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

21 A Correct.

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

23 A That would have been Rudy's office.

24 Q Rudy's office.

25 A Yes.

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

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

6 Q That's your memory?

7 A Yes.

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

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

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

14 A There is no room between them.

15 Q Okay.

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

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

20 A Yes, there was.

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

23 BY MR. GENTILE:

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

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

3 A That would be the front.

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

5 A Yes.

6 Q Okay.

7 A I think so.

8 Q Go ahead. Write it down.

9 A Just X 135.

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

11 A Yes.

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

15 A Yes.

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

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

19 THE COURT: Okay.

20 (Pause in proceedings)

21 BY MR. GENTILE:

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

24 A Yes.

25 Q Do you have your marker?

1 A Yes.

2 Q Have you already marked where D2 --

3 A Yes.

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

5 main office.

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

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

8 Anabel on it, right?

9 A (Complying.)

10 Q Exhibit 139?

11 A (Complying.)

12 Q Exhibit 140?

13 A (Complying.)

14 Q Exhibit 141?

15 A (Complying.)

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

17 THE COURT: Yes.

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

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

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

21 THE COURT: Right. Thank you.

22 BY MR. GENTILE:

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

24 where that portrays -- what that portrays.

25 A It's the --

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

4 A When it was photographed?

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

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

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

9 A I'm sorry.

10 Q I must have misspoken. Where?

11 A Where?

12 Q Yes.

13 A It would be in the main office.

14 Q Then write that in.

15 A (Complying.)

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

19 A . (Complying.)

20 I believe this is where --

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

23 A I believe so.

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

1 A Yes. Yes.

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

4 A Yes.

5 Q And what is the printed material?

6 A VIP cards.

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

9 A Yes.

10 Q And included among those were printing bills?

11 A Yes.

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

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

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

18 A I couldn't venture a guess.

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

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

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

24 A No.

25 Q Five times?

1 A It's possible, five.  
2 Q All right. So 25,000 cards, am I right?  
3 A Yes.  
4 Q All right. Where was that taken?  
5 A I don't -- I think this is the conference room  
6 between Arial and Rudy's office.  
7 Q Could you write that in there then, please?  
8 A I'm not quite sure. Do you still want me to  
9 write it?  
10 Q No. If you're not sure where that was taken --  
11 but what causes you to think that it was in that room? Was it  
12 the chair, the upholstery on the chair?  
13 A The table.  
14 Q The table?  
15 A Yes.  
16 Q Okay. What about the chair? You didn't have  
17 chairs like that in the main office; am I correct?  
18 A Correct.  
19 Q So then it wasn't in the main office?  
20 A No.  
21 Q It was somewhere downstairs?  
22 A I believe so, yes.  
23 Q Okay. And the table, does that look like the  
24 table that was in the conference room?  
25 A I think so.

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



1 misspoke. Exhibit 207.

2 A (Complying.)

3 Q Did you write it down?

4 A Yes.

5 Q Great.

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

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

8 chair behind the desk?

9 A It looks like a sweat jacket.

10 Q A sweat jacket, a hooded sweat jacket?

11 A It appears to be.

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

13 was taken.

14 A (Complying).

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

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

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

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

19 that, 211?

20 A Yes.

21 Q Write down where 211 is.

22 A (Complying).

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

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

25 television or a monitor; am I correct?

1           A     Correct.

2           Q     All right. As a matter of fact, in 211, I

3 believe, there are two monitors; am I correct?

4           A     Correct.

5           Q     Okay. Now, were they monitors or were they

6 television sets?

7           A     They were monitors.

8           Q     And what -- what -- were they functional in May

9 of 2005?

10          A     Yes.

11          Q     Okay. And what did they portray on them when

12 they were functioning as monitors?

13          A     The different rooms, the office downstairs, the

14 floor.

15          Q     They were surveillance monitors?

16          A     Yes.

17          Q     Okay. And so there were cameras inside the

18 club that surveilled different areas of the club?

19          A     Yes.

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

21          A     Yes.

22          Q     And what are the other areas that were

23 monitored?

24          A     Arial's office, Rudy's office, the front stage

25 downstairs, the upstairs floor and the back game room.

1 Q And the entryway as well, what you would call  
2 down here -- excuse me, could you move back just a little?  
3 A I apologize.  
4 Q -- this area that you call the entrance --  
5 there's no need to apologize. I just needed to get there.  
6 That area called entrance, was that also monitored?  
7 A Yes.  
8 Q All right. And you -- let me see that just a  
9 second. You see in Exhibit 205 that hooded sweatshirt --  
10 A Yes.  
11 Q -- that we talked about or -- I think you  
12 called it that -- that's the chair that you normally sat in  
13 when you were working in the office; am I correct?  
14 A Right.  
15 Q So you would sit behind the desk most of the  
16 time?  
17 A Correct.  
18 Q And next to the monitor?  
19 A Correct.  
20 Q And the monitor would function during business  
21 hours; am I correct?  
22 A Correct.  
23 Q All the time, unless it was down for some sort  
24 of an electronic thing that happens?  
25 A Correct.

1 Q Okay. Exhibit 212, please.

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

5 A (Complying.)

6 Q Got those done.

7 A Yes.

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

9 A (Complying.)

10 Q Okay. You can return to the stand.

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

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

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

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

18 THE MARSHAL: I'll do it.

19 BY MR. GENTILE:

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

23 A Correct.

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

1           A     Yes.

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

3           A     No.

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

6           A     No.

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

9           A     No.

10          Q     Never?

11          A     Not before last week.

12          Q     Not before last week?

13          A     Friday.

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

15          A     Yes.

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

19          A     Yes.

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

22          A     Yes.

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

1 A Yes.

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

5 A Yes.

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

9 A Yes.

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

12 A I didn't know that.

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

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

16 Q So you don't know?

17 A No.

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

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

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

1 A Yes.

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

4 A Yes.

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

6 A Yes.

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

10 A Personally, yes.

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

15 A Yes.

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

19 A Yes.

20 Q Ring a bell?

21 A I recognize Leopard's Lounge.

22 Q So he had three clubs, right?

23 A Yes.

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

1 A Yes.

2 Q And he was under federal indictment?

3 A Yes.

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

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

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

7 or Rizzolo; am I right?

8 A Correct.

9 Q You would have been shocked to learn that he

10 was anything like that; am I correct?

11 A Yes.

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

13 have lost count --

14 A 15 years.

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

16 kind of conduct, correct?

17 A Correct.

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

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

20 A Correct.

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

22 a cash business?

23 A Yes.

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

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



1 people who work for you to steal from you?

2 A Yes.

3 Q One of the reasons that you have surveillance

4 cameras is to guard against that, correct?

5 A Yes.

6 Q One of the reasons that you have a surveillance

7 camera focused directly at the cage is so that you can watch

8 the hands of the person who's the cashier; am I right?

9 A Yes.

10 Q Have you ever heard the term that the only way

11 to stop a person from stealing is to put boxing gloves on?

12 A No.

13 Q And May the 19th of 2005, by that time you had

14 been involved with the club for at least a couple of years --

15 A Yes.

16 Q -- two or three? A year and a half that

17 Stertzner had it, correct?

18 A Yes.

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

20 A Yes.

21 Q This was not the first time that information

22 came to your attention that people might be stealing from the

23 club, people who worked for the club, obviously; am I right?

24 A Yes.

25 Q Nobody that was ever suspected of stealing from

1 the club was ever hired, were they?

2 A No.

3 Q Nobody that was -- in fact, there were times

4 when people were suspected of stealing from the club that they

5 weren't even fired, they were given a corrective interview; am

6 I right?

7 A Yes.

8 Q You said that -- and it was an interesting way

9 that the question was asked, though, and so I'm going to try

10 to ask it the same way. You were asked by Mr. DiGiacomo if

11 Mr. H had access to them, that's the word that he used, access

12 to the personnel records. Do you remember that question being

13 asked of you that way?

14 A Yes.

15 Q Okay. It's true, is it not, that Louie Hidalgo

16 carried with him only two keys at that time?

17 A Yes, but --

18 Q Excuse me.

19 A -- the main key --

20 Q Hold on. The answer's yes?

21 A Yes.

22 Q All right. The employment records were kept

23 under lock and key; am I correct?

24 A Yes.

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

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

5 A Yes.

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

9 A Correct.

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

12 A Yes.

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

15 A He knew them.

16 Q He knew them?

17 A Yes.

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

20 A Yes.

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

22 A Yes.

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

25 A Yes.

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

3 MR. GENTILE: Okay.

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

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

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

13 THE WITNESS: Yes.

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

15 (Jury is not present)

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

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

19 THE COURT: Right.

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

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

25 MR. DIGIACOMO: The stipulation involves that she did

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

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

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

10 THE COURT: That's fine.

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

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

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

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

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

1 MR. DIGIACOMO: It just might be in your case.  
2 MR. ADAMS: Tomorrow, that's fine.  
3 MR. DIGIACOMO: You don't care if it's in your case  
4 tomorrow?  
5 THE COURT: Yeah. I mean, I just explain to the jury  
6 that you can just say, the State rests except for Fred Boyd,  
7 who we're going to call, and then I explain to them it doesn't  
8 matter the order of the witness, it's still a State witness  
9 and because of his scheduling we're going to take him a little  
10 bit out of order.  
11 MR. PESCI: I'm going to tell him to take off and  
12 then we'll call him back.  
13 THE COURT: All right. So you want to get Ms.  
14 Espindola.  
15 And, Mr. Pesci --  
16 MR. PESCI: Yes, ma'am.  
17 THE COURT: -- would you get my bailiff if he's out  
18 in the hall, please.  
19 And, Ms. Espindola, just come on back up to the  
20 witness stand and have a seat there, please.  
21 MR. ADAMS: Judge, may I make our record now?  
22 THE COURT: You know what, I'm hoping that we can  
23 bring the jury in, because I really wanted to keep the breaks  
24 exactly where I said I was going to keep them.  
25 MR. ADAMS: All right. Well, may I ask one question

1 and then reserve the right to make the record?

2 THE COURT: Sure.

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

8 MR. DIGIACOMO: Absolutely not.

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

11 MR. ADAMS: Okay.

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

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

18 MR. ADAMS: About not speaking with lawyers?

19 MR. DIGIACOMO: You did not.

20 THE COURT: I did not. Okay.

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

23 THE COURT: Okay. I forgot.

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

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

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

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

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

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

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

15 THE WITNESS: Yes.

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

19 THE COURT: You talked substantively.

20 MR. DIGIACOMO: -- during the break.

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

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

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



1 and from.

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

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

6 MR. FALKNER: No, Judge.

7 THE COURT: Just idle chitchat?

8 MR. FALKNER: Yes.

9 THE COURT: Okay. All right.

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

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

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

18 THE COURT: Okay.

19 MR. GENTILE: Can I do it now?

20 THE COURT: Yeah.

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

23 THE WITNESS: Yes.

24 MR. GENTILE: What did you talk about?

25 THE WITNESS: We discussed the keys.

1 MR. GENTILE: What did you discuss?

2 THE WITNESS: He -- I went ahead and said that there

3 was additional keys inside Mr. Hidalgo's office.

4 THE COURT: Oh. The keys. I'm sorry. I thought she

5 said the case.

6 MR. GENTILE: Did he tell you that, or did you tell

7 him that?

8 THE WITNESS: I told him that.

9 MR. GENTILE: There were additional keys inside Mr.

10 Hidalgo's office --

11 THE WITNESS: Yes.

12 MR. GENTILE: -- that's all?

13 THE WITNESS: We also -- he asked me about Mr.

14 Leavitt.

15 MR. GENTILE: Mr. Leavitt?

16 THE WITNESS: Yes.

17 MR. GENTILE: And who is Mr. Leavitt?

18 THE WITNESS: It was a employee of Hidalgo's --

19 Simone's, I'm sorry. An employee of Simone's who was

20 extorting Mr. H.

21 MR. GENTILE: So somebody in addition to Mr. Moore?

22 THE WITNESS: That's his name, Tony Moore Leavitt.

23 MR. GENTILE: Okay.

24 THE COURT: All right. Can we bring the jury in now,

25 Mr. Gentile, Mr. Adams?

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

2 --

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

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

6 (Pause in the proceedings)

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

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

11 CROSS-EXAMINATION (Continued)

12 BY MR. GENTILE:

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

16 A Yes.

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

19 A Yes.

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

22 A Yes.

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

25 A Yes.

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

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

4           A     Yes.

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

7           A     Of this?

8           Q     Yes.

9           A     No.

10          Q     No?

11          A     No.

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

14          A     B.

15          Q     Okay. Is that your handwriting?

16          A     Yes.

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

18          A     Yes.

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

20          A     Yes.

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

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

1 Q Right. And this is the kind of -- when you  
2 talk about the paperwork at the Palomino that you worked on,  
3 this is part of that paperwork; am I correct?

4 A Yes.

5 Q The other paperwork deals with accounts  
6 payable, accounts receivable, getting money from credit card  
7 companies, et cetera, et cetera; am I right?

8 A Yes.

9 Q Okay. Would you open --

10 MR. GENTILE: Well, I'd move this into evidence at  
11 this time.

12 MR. DIGIACOMO: I don't have an objection.

13 THE COURT: All right. Exhibit B will be admitted.

14 (Defendant's Exhibit B admitted.)

15 BY MR. GENTILE:

16 Q Okay. We're not going to go through all of it.  
17 Open it up and see if you find a VIP card in there.

18 THE COURT: And just for the record, B is the  
19 envelope. B1 is the plastic bag --

20 MR. GENTILE: B1 is the plastic bag.

21 THE COURT: -- and contents.

22 MR. GENTILE: And we don't want to take anything out  
23 of the plastic bag that we don't put back in it.

24 THE COURT: You can take it out, as long as we make  
25 sure it goes back in.

1 BY MR. GENTILE:

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

4 A Yes.

5 Q Okay. Are there more than one?

6 A Yes.

7 Q Can I have one and you have one?

8 A Of course.

9 Q Could we share?

10 A Of course.

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

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

15 A One of them.

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

18 A Yes.

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

21 A No.

22 Q Okay. And how did it change?

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

25 Q The signature of the customer?

1 A Correct.

2 Q Okay.

3 A The signature, phone, or date.

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

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

6 Processing [inaudible].

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

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

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

10 this side for now.

11 All right. Can you read it?

12 A Yes.

13 Q Does it have language in there that talks about

14 what happens if you arrive in a cab?

15 A Yes.

16 Q And what does it say?

17 A Pass not valid if arriving by taxicab.

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

19 practice, was it?

20 A Correct.

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

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

23 A Yes.

24 Q And the taxicab driver got stiffed -- excuse

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



1 bar?

2 A Correct.

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

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

5 correct?

6 A Correct.

7 Q And they were supposed to be passed out to

8 locals; correct?

9 A Yes.

10 Q To encourage locals to come to the Palomino

11 Club; right?

12 A Yes.

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

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

15 right?

16 A Yes.

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

18 A Yes.

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

20 traffic -- customer traffic?

21 A I don't know.

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

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

24 admission fee wound up going to the cab driver?

25 A Correct.

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

4 A Yes.

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

9 A Yes.

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

13 A Yes.

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

17 A Yes.

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

23 A Yes.

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

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

3 A Not as far as I know.

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

6 A Dancers. I remember them mentioning dancers.

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

9 A To their customers.

10 Q To their customers?

11 A To their customers.

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

13 A Yes.

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

16 A Yes.

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

20 A Yes.

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

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

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

4           A     No.

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

9           A     Correct.

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

12          A     Correct.

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

17          A     Yes.

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

22          A     Yes.

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

1           A     Correct.

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

6           A     Yes.

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

9           A     Yes.

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

13          A     That's correct.

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

17          A     Yes.

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

20          A     No.

21          Q     I'm not right?

22          A     No, you're right.

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

1           A     You're right.

2           Q     Okay. You didn't know anything at all about

3     that. It was a feeling that you had; am I right?

4           A     Yes.

5           Q     And you came back into the office, where Mr.

6     Hidalgo, Mr. H, and PK Hadley were, and all you said to Mr. H

7     was, I called him and I told him to go to Plan B?

8           A     Yes.

9           Q     And so the first time that you learned that

10    anything bad happened to Mr. Hadland, according to your direct

11    examination, is when Deangelo Carroll shows up later that

12    night and says, it's done?

13          A     Yes.

14          Q     But he doesn't say "it's done" means we just

15    killed T.J. Hadland, does it?

16          A     No.

17          Q     Okay. But he does say that the guy that was

18    with him, that they were getting high and the guy went off and

19    did something stupid and killed T.J. Hadland; am I right?

20          A     Not then.

21          Q     He never said that that night?

22          A     No.

23          Q     What did Mr. Carroll appear like when he walked

24    into the office and calmly sat down and said, it's done? Did

25    he look like he always looked? Was there anything different

1 about him?

2 A No.

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

9 A He walked out of the office with PK.

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

13 A Yes.

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

17 A No.

18 Q -- as to what happened; right?

19 A Not until Deangelo leaves.

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

23 A I asked him, what have you done.

24 Q I'm sorry?

25 A What have you done.

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



1           A     Correct.

2           Q     There are two chairs in front of that desk; am

3 I correct?

4           A     Yes.

5           Q     Okay. And he usually sits in the one closest

6 to the wall away from the entrance?

7           A     Yes.

8           Q     Facing the entrance?

9           A     Yes.

10          Q     The one closest to the entrance is usually

11 empty if nobody's in there?

12          A     Yes.

13          Q     But if somebody's in there, that's where that

14 person would sit?

15          A     Yes.

16          Q     And but for a couch that was in that office and

17 a massage-type chair, one of those --

18          A     There was two.

19          Q     I'm sorry?

20          A     Two massage chairs.

21          Q     Two massage chairs. But for those, there was

22 no other furniture in that office; right?

23          A     Correct.

24          Q     When I say furniture, I mean sitting

25 arrangements. Am I right?

1           A     Yes.

2           Q     Okay. And so almost invariably if there was

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

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

5           A     Yes.

6           Q     -- the armchair; am I right?

7           A     Yes.

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

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

10 that armchair.

11          A     Yes.

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

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

14          A     Yes.

15          Q     Okay. What happens according to you happens,

16 and then Deangelo Carroll leaves?

17          A     Yes.

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

19 until Tuesday, May 23rd, 2005.

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

21               THE WITNESS: Monday.

22 BY MR. GENTILE:

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

24 2005. Am I right?

25          A     Correct.

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

1 A Yes.

2 Q And we know where the reception desk is.

3 A Yes.

4 Q And at that point you speak with this person

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

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

7 right?

8 A Correct.

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

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

11 transcript of the recorded conversation; right?

12 A Yes.

13 Q And you listened to those recorded

14 conversations over and over and over again; right?

15 A Yes.

16 Q And before you changed your plea you actually

17 listened to them with Ms. Armeni --

18 A Yes.

19 Q -- and me --

20 A Yes.

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

22 correct? Or at least --

23 A And my attorney.

24 Q And your -- Mr. Oram.

25 A Yes.

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

3           A     Yes.

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

7           A     Yes.

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

13          A     Yes, please.

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

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

19          BY MR. GENTILE:

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

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

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

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

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

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

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

6 BY MR. GENTILE:

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

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

16 A I remember saying it was first person.

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

19 A Yes.

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

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

25 A Yes.

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

6 A Yes.

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

16 A Yes.

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

22 A Yes.

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

25 A Yes.

1 Q It was given to you by Mr. Turner, was it not?  
2 A Yes.  
3 Q So you're telling Mr. Carroll at that point in  
4 time that you are going to continue maintain contact with him  
5 but you're going to use an intermediary; correct?  
6 A Yes.  
7 Q Then look at 11:04, please. Are you there?  
8 A Yes.  
9 Q Mr. Carroll says to you, "So what about work?  
10 I'm not supposed to come back to work?" And you said, "This  
11 is what I need you to do"; am I right?  
12 A Yes.  
13 Q Used the first person singular pronoun. And  
14 then he says, "I have to come back to work to make it look  
15 like I'm still at work, 'cause if not, then they're going to  
16 fuckin' suspect something if they're still watching us." He  
17 says that to you; am I right?  
18 A Yes.  
19 Q All right. Now, this conversation took place  
20 the day after you met with me at my office?  
21 A Yes.  
22 Q It took place two days after you met with Jerry  
23 DePalma at his office; am I right?  
24 A Yes.  
25 Q And you did meet with Jerry DePalma at his



1 office, did you not?

2 A I met him.

3 Q That's all?

4 A That's all.

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

6 A I walked in with Mr. Hidalgo, and he introduced

7 himself, saying that he was going to go into -- he was merging

8 with your office. He asked Mr. Hidalgo if I knew what was --

9 the conversation was going to be about. Mr. Hidalgo said no.

10 And I was asked to leave, that I could not be present.

11 Q So the only person that you recall meeting,

12 then, on that day at his office was him, Jerry DePalma?

13 A Yes.

14 Q Nobody else?

15 A No.

16 Q Did you see anybody else there?

17 A I went back to the car.

18 Q Okay. And so if Mr. DePalma says that you met

19 with him for an hour and said things to him, he's lying?

20 A Yes.

21 Q Okay. And so if I were to go through each and

22 every thing that that might have entailed, you would say that

23 you didn't say those things; am I right?

24 A That's correct.

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

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

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

5 Q And that was it?

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

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

10 A Yes.

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

19 A Yes.

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

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

2 A Yes.

3 Q You used the first person singular pronoun;

4 correct?

5 A Yes.

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

7 A Yes.

8 Q That's Deangelo speaking; right?

9 A Yes.

10 Q You're listening; right?

11 A Yes.

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

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

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

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

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

17 it." You heard him say that?

18 A Yes.

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

20 did you?

21 A No.

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

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

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

25 motherfucker had his wife, you should have motherfuckin'

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

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

3 A Correct.

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

6 A Correct.

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

16 A Yes.

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

19 A Yes.

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

22 A Correct.

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

25 A Yes.

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

1           A     Yes.

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

7           A     Yes.

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

10          A     Correct.

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

15          A     Yes.

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

21          A     Yes.

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

24          A     Correct.

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

1 monitor, security monitor at the Palomino Club, did you not?  
2 A No.  
3 Q You say at 22:58, "Get to get somebody to buy a  
4 prepaid phone. It cannot be you, cannot be any of your  
5 goddamn fuckin' homies --" you used the word "homies"; right?  
6 A Yes.  
7 Q "Can't tell anyone," something missing, "Get a  
8 fucking prepaid," something missing, "tonight when you go to  
9 the fucking club two days ago. You were fucking held for  
10 questioning and shit. I'll tell you right now I'm going to  
11 tell Louie that you are done." Right? Did you say that?  
12 A That's what it says, yes.  
13 Q All right. And then you go on to say, "So we  
14 keep our mouths shut." This is at 24:23. "So we -- we keep  
15 our mouths shut, we get you a fuckin' -- your wife finds an  
16 attorney, your wife, like I said, you need a motherfucking  
17 prepaid phone so I can call you when I need to talk to you";  
18 right?  
19 A Yes.  
20 Q All right. By the way, you know, I notice that  
21 the language that you're using when you don't hear -- when you  
22 don't know anybody's listening is a little different than  
23 you've used in the courtroom. Can we agree to that?  
24 A No.  
25 Q Okay. 25:13. You tell Deangelo go to the club



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

3 A Yes.

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

6 A Yes.

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

11 A Yes.

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

14 A Yes.

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

17 A Yes.

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

1           A     Yes.

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

4           A     Yes.

5           Q     Let's look at the 24th.

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

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

11          A     Yes.

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

22          A     I don't remember.

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

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

4 A No.

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

12 A Yes.

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

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

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

1           A     Yes.

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

4           A     Correct.

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

7           A     That's correct.

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

10          A     Yes.

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

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

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

20          A     Yes.

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

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

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

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

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

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

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

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

18 MR. DIGIACOMO: No, Judge.

19 THE COURT: I mean --

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

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

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

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

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

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

11 THE COURT: All right.

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

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

15 MR. GENTILE: Yes.

16 THE COURT: That's fine.

17 MR. GENTILE: Okay.

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

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

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

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

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

1 right.

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

3 first.

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

5 We're on the record; right?

6 -- did you speak with either of the Deputy District

7 Attorneys during our lunch break?

8 THE WITNESS: No. Well, Mr. DiGiacomo came into the

9 room where we were at because he was waiting for the bathroom

10 to open up, but we did not discuss the case at all.

11 THE COURT: Okay. And what about Investigator

12 Falkner or one of the other D.A. investigators?

13 THE WITNESS: No.

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

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

16 everybody knows.

17 MR. DIGIACOMO: Yeah. And for the record,

18 Investigator Leone, just so the record's clear as to who the

19 investigators are, Falkner and Leone.

20 THE COURT: Oh. Thank you.

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

22 THE COURT: Huh?

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

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

25 THE COURT: Yeah.



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

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

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

8 MR. GENTILE: Thank you.

9 CROSS-EXAMINATION (Continued)

10 BY MR. GENTILE:

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

14 A Yes.

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

17 A Yes.

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

20 A Yes.

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

23 A Yes.

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

1 A Yes.

2 Q And you know that -- strike that.

3 You were asked questions by those detectives; am I

4 correct?

5 A Yes.

6 Q And in that room while the questioning was

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

8 A Yes.

9 Q And you knew that the questions that were being

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

11 questions were being permanently recorded; am I right?

12 A Yes.

13 Q And at the end of the interview you were

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

15 A I believe so.

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

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

18 A Yes.

19 Q And so what they were doing after you answered

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

21 have you on tape --

22 A Yes.

23 Q -- correct?

24 A Yes.

25 Q At a point in time you ceased answering

1 questions?

2 A Yes.

3 Q And you were booked into the Clark County

4 Detention Center?

5 A Yes.

6 Q That was the 24th of May 2005?

7 A Yes.

8 Q You have been in the Clark County Detention

9 Center ever since; am I right?

10 A Yes.

11 Q Shortly after your being booked into the Clark

12 County Detention Center you were brought to Boulder City. Do

13 you remember that?

14 A Yes.

15 Q You were brought to Boulder City in leg irons,

16 waist chains, and handcuffs; correct?

17 A Yes.

18 Q In fact, every time that you're moved from one

19 place to another, that's how you're moved; am I right?

20 A Without the leg shackles, yes.

21 Q Sometimes you do have leg shackles?

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

23 Q And when you went to Boulder City you were a

24 defendant in this case?

25 A Yes.

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

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

1 A No.

2 Q He said no bail.

3 A Correct.

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

6 A Yes.

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

9 A Yes.

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

14 A Yes.

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

17 A Yes.

18 Q And Mr. Pesci?

19 A Yes.

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

22 A Yes.

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

1                   A     Yes.

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

4                   A     Yes.

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

7                   A     Yes.

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

10                  A     No.

11                  Q     -- Judge Mosley?

12                  A     Yes.

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

15                  A     Yes.

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

18                  A     Yes.

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

22                  A     Yes.

23                  Q     And he said no?

24                  A     Correct.

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

1 saying that the motion was denied --

2 A Yes.

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

8 A Yes.

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

12 A Yes.

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

16 A It was a possibility.

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

20 A Yes.

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

25 A Yes.



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

3 A Correct.

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

7 A I would assume so, yes.

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

11 A Yes.

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

15 A Yes.

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

18 A Yes.

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

21 A Yes.

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

25 A Yes.

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

3           A     Yes.

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

6           A     Yes.

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

11          A     Yes.

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

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

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

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

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

20          A     Yes.

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

24          A     Yes.

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

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

4 A Correct.

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

7 A Yes.

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

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

11 THE COURT: Sure.

12 (Off-record bench conference)

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

14 BY MR. GENTILE:

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

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

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

21 A Yes.

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

25 A No.

1 Q You can't get incoming calls; correct?  
2 A Correct.  
3 Q All right. You have to make outgoing calls.  
4 And you know that every one of those calls has been recorded  
5 --  
6 A Yes.  
7 Q -- unless a special arrangement was made for  
8 you by the prosecution; am I correct?  
9 A I know that every phone call is recorded, yes.  
10 Q Okay. And at 3:15 p.m. on the 15th of January  
11 2008 you made a phone call to Mr. H. Do you recall that?  
12 A I made several phone calls to Mr. H. I  
13 couldn't tell you exactly what was said.  
14 Q And on that one you said to him that it was all  
15 lies, what was being said in court about you was all lies?  
16 A That's very possible.  
17 Q And what you meant was what the prosecutor was  
18 saying. Am I correct?  
19 A It's very possible.  
20 Q And on the 24th of January of 2008 you came to  
21 learn that the Judge did set a bail for you; am I right?  
22 A Yes.  
23 Q You had been talking about the issue of bail  
24 with Mr. H every day while you were waiting for it to be set.  
25 Do you recall that?

1           A     We discussed bail frequently, yes.

2           Q     But that was about the same time that you

3 started talking to the prosecutor about making a deal in this

4 case; am I right?

5           A     I was speaking to my attorney.

6           Q     You were speaking to your attorney about the

7 possibility of making a deal in this case?

8           A     Yes.

9           Q     And you knew that the prosecutor was only going

10 to leave that deal on the table until you made bail, and if

11 you made bail, it was off the table?

12          A     That was never discussed.

13          Q     So that you don't know that?

14          A     No.

15          Q     Okay. On the 30th of January 2008 you would

16 agree that you had already been discussing the possibility of

17 making a deal with your attorney for several days?

18          A     Yes.

19          Q     Would you agree to that?

20          A     Yes.

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

22          A     Correct.

23          Q     Although you were close?

24          A     I was discussing it with my attorney.

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

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

2 A I don't recall the conversation.

3 Q Now, there came a point in time that you did

4 have a meeting with the -- with the District Attorneys?

5 A Yes.

6 Q And that was on a Saturday?

7 A Yes.

8 Q And you were actually visited by the bail

9 bondsman that day. Do you recall that?

10 A Yes.

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

12 A Yes.

13 Q And you didn't, of course, tell the bail

14 bondsman that you weren't going to need bail anymore?

15 A Correct.

16 Q All right. You did inquire, though, of Luis

17 Hidalgo, Jr., if he had paid your mother's medical insurance;

18 am I right?

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

20 Q And in the course of while you -- before you

21 made your deal and in the course of all your waiting -- we'll

22 get to that in a second.

23 When you had this meeting with the District Attorney

24 -- by the time you had that meeting you had seen a transcript

25 of your own interview; am I right? The original one that the

1 police took before they arrested you?

2 A I don't remember seeing that transcript.

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

6 A Yes.

7 Q You knew that --

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

10 THE COURT: All right.

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

12 MR. DIGIACOMO: Okay.

13 BY MR. GENTILE:

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

17 A Yes.

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

20 A Yes.

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

25 A Yes.

1 Q -- am I right?

2 A Yes.

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

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

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

6 A Yes..

7 Q Okay. But when you met with the District

8 Attorneys and the District Attorneys' investigator and the

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

10 not recorded, was it?

11 A No.

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

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

14 Q So the District Attorney insisted upon it?

15 A No.

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

17 A No.

18 Q Am I right?

19 A Yes.

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

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

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

23 make a recorded statement, I would have.

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

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



1           A     I don't recall being asked.

2           Q     And you have no idea why they didn't want to

3 record what you were saying that day; am I right?

4           A     Correct.

5           Q     But we can agree that that meeting took a

6 couple of hours?

7           A     Yes.

8           Q     Okay. Do you remember how long that meeting

9 took?

10          A     No.

11          Q     But at least a couple of hours?

12          A     Yes.

13          Q     So we can agree that it did not take place at

14 the jail?

15          A     Correct.

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

17          A     Yes.

18          Q     And Mr. DiGiacomo was there; right?

19          A     Yes.

20          Q     And Mr. Pesci was there?

21          A     Yes.

22          Q     And Mr. Falkner, that fellow back there in the

23 blue shirt, he was there, wasn't he?

24          A     I don't remember Mr. Falkner.

25          Q     Do you remember Detective Kieger being there,

1 Teresa Kieger?

2 A Yes.

3 Q Okay. Do you remember another detective being  
4 there?

5 A There was a male detective, yes. And my  
6 attorney was also present.

7 Q And your -- yes, and your attorney was present.  
8 And at the end of that meeting you signed your plea  
9 agreement; am I right?

10 A Yes.

11 Q Now, that plea agreement was --

12 MR. GENTILE: Do we have it here?

13 MR. DIGIACOMO: It's marked as a State's exhibit at  
14 some point.

15 THE COURT: Do you know which one it is?

16 MR. DIGIACOMO: It'd be pretty late in the 200s,  
17 because we just marked it.

18 (Pause in the proceedings)

19 BY MR. GENTILE: .

20 Q While she's -- while the clerk is looking for  
21 that, your mother at that time in January of 2008 was ill; am  
22 I right?

23 A She has been ill.

24 Q So I'm right that --

25 A Yes.

1 Q -- in January of 2008 she was ill?  
2 A Yes.  
3 THE COURT: That's the right one. 228.  
4 MR. GENTILE: 228.  
5 BY MR. GENTILE:  
6 Q And while you signed that document -- you have  
7 no quarrel that you signed that document on February the 2nd  
8 of 2008?  
9 A Correct.  
10 Q It was in fact prepared in January, was it not?  
11 A I don't know when it was prepared.  
12 Q I want to refresh your recollection. I'll show  
13 you Proposed Exhibit 228. Is that your signature?  
14 A Yes, it is.  
15 Q Do you see typed -- don't say what it is, but  
16 do you see a date typed on there, a month?  
17 A Yes.  
18 Q Okay. You would agree that you did not sign  
19 this document on January the 2nd of 2008, wouldn't you?  
20 A I don't believe I did. I believe it was in  
21 February.  
22 Q Well, and one of the reasons you believe that  
23 is because you know that when you signed this the bail had  
24 already been set?  
25 A I'm -- can you repeat the question? I don't

1 understand what you're saying.

2 Q Sure. You know that when you signed your  
3 guilty plea agreement and your agreement to testify bail was  
4 already set and it hadn't been posted yet?

5 A Yes.

6 Q And we can --

7 MR. GENTILE: Your Honor, could I ask the Court to  
8 take judicial notice, and I have a copy of the order, that the  
9 minute order was entered on January 24th of 2008.

10 MR. DIGIACOMO: I won't object to that. I believe  
11 that's probably true.

12 THE COURT: All right. I don't have it in front of  
13 me, but I'll trust your representation. That sounds about  
14 right.

15 BY MR. GENTILE:

16 Q And so when Luis Hidalgo, Jr., Mr. H, came to  
17 visit you that Saturday night after you had signed this  
18 agreement, he told you that the bondsman was there and they  
19 were ready to post bail, and you told him, wait until Tuesday;  
20 am I right?

21 A Yes.

22 Q And on Tuesday you appeared in this court, this  
23 courtroom?

24 A Yes.

25 Q And when you appeared in this courtroom you

1 entered a guilty plea; am I right?

2 A Yes.

3 Q And you entered a guilty plea to what's -- what

4 you heard referred to as a fictional charge. Do you remember

5 that?

6 A Your meaning of a fictional charge is?

7 Q Believe me, Ms. Espindola, I don't know what a

8 fictional charge means. Those were the words you heard.

9 MR. DIGIACOMO: Objection, Judge.

10 THE COURT: Sustained.

11 BY MR. GENTILE:

12 Q Am I right? You heard your charges that you

13 pled guilty to referred to as a fictional charge?

14 A I don't remember.

15 Q Okay. If I showed you a transcript of that

16 hearing, would it refresh your recollection?

17 A I -- please.

18 Q You were in the courtroom when you entered a

19 guilty plea?

20 A Yes.

21 Q Excuse me. I'm sorry. Do you remember your

22 plea being referred to as a fictional plea?

23 A I -- like I said, I don't remember.

24 Q When you hear the word "fiction," what's it

25 mean to you?

1 A Not true.

2 Q I want to show you page 3 of the transcript and  
3 ask you to see if that refreshes your recollection.

4 MR. GENTILE: By the way, here's a -- Your Honor,  
5 while she's reading it, this is a copy of the guilty plea.

6 THE COURT: Thank you. All right. That is January  
7 [inaudible].

8 MR. GENTILE: Thank you.

9 BY MR. GENTILE:

10 Q Have you had an opportunity to read it?

11 A Yes.

12 Q Do you remember being there?

13 A Yes.

14 Q You remember it being referred to as a  
15 fictional --

16 A Yes.

17 Q And so you entered a fictional plea of guilty  
18 to charges that did not and could not carry the death penalty;  
19 am I right?

20 A Correct.

21 Q The charges that you entered a plea to was  
22 manslaughter; am I right?

23 A Voluntary manslaughter, yes.

24 Q And when you were asked what you did to have  
25 committed that crime you did not say that you had entered into

1 an agreement to kill somebody, did you?

2 A No.

3 Q You did not say that you even knew that anybody

4 was going to be killed, did you?

5 A No.

6 Q What you said was five words. Remember what

7 those words were?

8 A No, I don't.

9 Q "I assisted all the coconspirators." Remember

10 saying that?

11 A Yes.

12 Q That's it. That's all you said about what you

13 did; right?

14 A Yes.

15 Q And in truth and in fact you didn't really care

16 what you were entering a plea to. What you cared about is

17 what the end result would be in terms of your freedom. That's

18 fair to say, isn't it?

19 A No.

20 Q You knew that if the State was successful, as

21 it turned out to be, to get death reinstated in this case,

22 you'd be facing the death penalty again, didn't you?

23 A I could be if I -- yes.

24 Q And you knew that you didn't want that again.

25 Fair to say?