

IN THE SUPREME COURT OF THE STATE OF NEVADA

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LUIS HIDALGO, III ,

CASE NO. 67640

Appellant.

v.

THE STATE OF NEVADA,

Respondent.

APPELLANT'S APPENDIX, VOLUME VII

APPEAL FROM JUDGMENT DENYING
POST-CONVICTION HABEAS CORPUS

Eighth Judicial District
State of Nevada

THE HONORABLE VALIERIE ADAIR, PRESIDING

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1 A It's fair.

2 Q And your lawyer did a marvelous job in terms of
3 negotiating a deal for you. You would agree to that?

4 A I was --

5 Q You don't agree to it? Well, let me rephrase
6 the question. Your lawyer did a great job in negotiating a
7 deal for you, didn't he?

8 A Yes. But I was already going to testify in my
9 regular trial.

10 Q Right.. But if you testified at your regular
11 trial and the jury didn't believe you, they may find you
12 guilty and you would be killed by injection.

13 A My attorney had told me I would probably be hit
14 with second degree murder.

15 Q Oh. So your attorney made a prediction; am I
16 right?

17 A He stated I may be hit with second degree. And
18 I was -- already had intention of testifying.

19 Q But you would be testifying as a defendant.

20 A I would be testifying as a defendant, true.

21 Q And you'd be testifying in a situation where
22 you might not be believed; true?

23 A I would be testifying the exact same way I
24 would have now.

25 Q I didn't ask you that, ma'am. Now do you want

1 to answer the question I asked.

2 A Would you mind repeating that, sir?

3 Q Not at all. You'd be testifying in a situation
4 where you were a defendant and might not be believed; correct?

5 A True.

6 Q And if you were not believed, you might be
7 convicted?

8 A True.

9 Q And you might be convicted of first degree
10 murder. Maybe your lawyer wasn't correct. Fair to say?

11 A Yes.

12 Q And if you had been convicted of first degree
13 murder, then a jury would have to decide what to do with you
14 in terms of a sentence; right?

15 A Yes.

16 Q And if they decided that you should face the
17 death penalty, then you would.

18 A Yes.

19 Q But that didn't happen. Because you made a
20 deal. Am I right?

21 A Yes.

22 Q And that deal -- Deangelo Carroll was already a
23 defendant at that time; am I correct?

24 A Yes.

25 Q And you still have to testify against him at

1 his trial, don't you?

2 A I believe so, yes.

3 Q All right. Mr. Taoipu had already entered his
4 plea and was given probation. You knew that?

5 A Yes.

6 Q So it wasn't him that the State wanted you to
7 help testify against; correct?

8 A Correct.

9 Q And at the time that you made your deal the
10 only other defendant in the case that hadn't gone to trial was
11 Luis Hidalgo, III; correct?

12 A Yes.

13 Q And you knew that it wasn't Luis Hidalgo, III,
14 that the State wanted your assistance with, did you not?

15 A Yes.

16 Q They wanted your assistance with Luis Hidalgo,
17 Jr., Mr. H, because he had not as yet been charged. Am I
18 right?

19 A Yes.

20 Q And I believe Mr. DiGiacomo covered on Friday
21 the fact that this deal that you had with the State, your -- I
22 want to refer to it, this -- this guilty plea agreement, when
23 you signed it you said that -- and I'm going to say it in the
24 first person as if I were you, "I understand that I am
25 eligible for probation for the offense to which I am pleading

1 guilty." You knew that instead of facing the death penalty
2 you might get probation?

3 A It was brought to my attention I could get
4 probation. It was also brought to my attention that I was
5 facing a maximum of eight to twenty years in prison.

6 Q Right. And by now you've got four of those
7 years already served, don't you?

8 A Yes.

9 Q And that would be a maximum sentence, eight to
10 twenty; am I correct?

11 A That's what I was told, yes.

12 Q Right. It could be probation?

13 A It was possible, yes.

14 Q It could be anything between probation and
15 eight to twenty?

16 A Yes.

17 Q Now, let's see. At the time you were how old?
18 How old were you last February? Well, let's start with this.
19 How old are you this February? We'll take one off.

20 A I was 36. I was 35 last year.

21 Q Okay. Figure you're going to live to be 70?

22 A Anything is possible.

23 Q Okay. If you were convicted of the death
24 penalty, chances of living to 70 weren't so good; fair to say?

25 A Correct.

1 Q You also understand that the State has agreed
2 to make no recommendation, to basically remain silent; am I
3 right?

4 A Yes.

5 Q So if the Judge decides to treat you in any way
6 that she does, whatever it may be, when it comes time for
7 sentencing your -- excuse me. Let me rephrase all of that.

8 How many times have you been in this courtroom in the
9 last -- not this one, a courtroom like this one in the last
10 almost four years that you've been investigated?

11 A Several times.

12 Q Several. More than 10?

13 A It's very possible.

14 Q And every time that you come into this
15 courtroom, except today, you're usually sitting where the
16 jurors are; am I right?

17 A Yes.

18 Q And you're usually sitting there with lots of
19 other people that have been escorted here from the Clark
20 County Detention Center?

21 A Yes.

22 Q And when you're sitting there with the lots of
23 other people that have been escorted here in waist chains and
24 leg irons and handcuffs, some of those people every time
25 you've been to court have been sentenced; am I right?

1 A Yes.

2 Q And so you have become familiar with the
3 sentencing process, have you not?

4 A Yes.

5 Q And you know that at the sentencing sometimes
6 the prosecutors will argue vigorously for the maximum that
7 somebody could face. Am I right?

8 A Yes.

9 Q And you know that if they're doing their job
10 right, the people that are representing the defendant will
11 argue vigorously for leniency. Am I right?

12 A Yes.

13 Q Only at your sentencing only your lawyer is
14 going to be able to argue to the Court as to what the sentence
15 ought to be; am I right?

16 A Yes.

17 Q This side of the room is going to be silent.

18 MR. DIGIACOMO: Well, objection to "silent."

19 BY MR. GENTILE:

20 Q In accordance -- we'll make -- we'll not argue
21 as to what your sentence ought to be. That's your deal.

22 A Yes.

23 MR. GENTILE: Now, will the record reflect that when
24 I said this side of the room --

25 THE COURT: You're referring to where the --

1 MR. GENTILE: Yeah. I'm referring to the
2 district --

3 THE COURT: -- the district attorney's.

4 MR. GENTILE: -- attorneys' side of the room.

5 THE COURT: It will reflect that.

6 MR. GENTILE: Thank you. We are video in here,
7 aren't we?

8 THE COURT: Yeah. But the official record is
9 just --

10 MR. GENTILE: But the official record won't see it.

11 THE COURT: -- the old fashion way --

12 MR. GENTILE: Right. I understand.

13 THE COURT: -- as to written transcript.

14 BY MR. GENTILE:

15 Q And so we can agree that even if you are
16 sentenced to prison, the sentence that you're facing is
17 nothing like what you would be facing if you were convicted of
18 murder. We can agree to that?

19 A Yes.

20 Q And when you entered your guilty plea -- strike
21 that. In this period of time that you have sat where these
22 jurors are sitting over and over again, it has come to your
23 attention that before a sentence takes place, there is an
24 investigation that's conducted by the probation department.
25 You know that, don't you?

1 A Yes.

2 Q Okay. And sometimes that investigation can
3 take several months. You're aware of that as well?

4 A Yes.

5 Q And you know that usually when someone enters a
6 guilty plea, their sentencing takes maybe 60 days, maybe 90
7 days before they actually have sentence imposed? You know
8 that?

9 A The majority of the people that I have seen
10 have been sentenced within 30.

11 Q Okay. But there are others that take longer.
12 You would agree with that?

13 A Yes.

14 Q But the majority were sentenced within 30 --

15 A Yes.

16 Q -- right? Okay.

17 And so on February the 4th of 2008, let's see,
18 that's a year and change ago, February 4, 2008, you said to
19 the Court, Your Honor, I want the presentence report that they
20 placed right now because I want this sentence to take place in
21 30 days; am I right?

22 A I believe so.

23 Q You believe so?

24 A My attorney would have made the request.

25 Q As a matter of fact, he didn't make that

1 request; am I right?

2 A I -- it's been a year, Mr. Gentile.

3 Q Right. And as a matter of fact, you haven't --
4 when were you first interviewed by the probation department?

5 A I haven't been.

6 Q You haven't been interviewed by the probation
7 department and you pled guilty a year ago?

8 A Yes.

9 Q And you could have been sentenced within 30
10 days?

11 A I was told I needed to testify.

12 Q Ah, so your deal with the State is that you
13 won't even be interviewed by the probation department until
14 you're done testifying in this case?

15 A They never stated that. I spoke to my attorney
16 and it was -- he said I needed to wait until I was -- I
17 testified.

18 Q And that's because you have to perform
19 according to your agreement; am I right?

20 A No.

21 Q Okay. That's because you expect that your
22 sentence will be more lenient if you wait until after you
23 testify; am I right?

24 A No.

25 Q That's because you're hoping to earn a

1 recommendation from the probation department that you get
2 probation?

3 A No.

4 Q That's because you're hoping that the
5 prosecutor will say something nice to the probation department
6 about how well you performed and maybe they'll recommend
7 probation?

8 A No.

9 Q Well, if none of those are true and you could
10 have been sentenced 30 days or 60 days after last February,
11 you waited a long time, haven't you?

12 A Yes.

13 Q And as a matter of fact, your original
14 sentencing date, status date was set for April the 15th of
15 last year, wasn't it?

16 A Yes.

17 Q And it has been postponed and postponed and
18 it's still postponed, correct?

19 A I came to court last year on August 15th and it
20 was pushed and I don't have a new date.

21 Q And according to your plea agreement, the
22 prosecutor can withdraw that agreement from you if you don't
23 perform in accordance with it, right?

24 A If that's what it says.

25 Q And what you're supposed to do to perform,

1 according to that agreement, is to tell the truth; am I right?

2 A Yes.

3 Q All right. Now, the things that you're talking

4 about are meetings that took place between yourself and Louis

5 Hidalgo, Jr.; am I correct?

6 A At the jail?

7 Q Out of the jail.

8 A He came to see me at the jail with you,

9 Mr. Gentile.

10 Q Yes, he did.

11 A So is that what we're discussing?

12 Q No, that's not what we're discussing.

13 A Okay.

14 Q He came to see you several times, as a matter

15 of fact, with me, and Mr. Oram and Ms. Armeni. Do you

16 remember that?

17 A Yes.

18 Q Okay. The first time was because he didn't

19 have any knowledge in terms of how to do the checks and all

20 the business stuff in these businesses. Do you remember that?

21 A Yes.

22 Q And then subsequently there have been at least

23 one or two other visits where there were -- part of a joint

24 defense agreement where he was helping you on the outside. Do

25 you recall that?

1 A He came because of the transfer from the
2 Palomino Club for the -- for defense.

3 Q Okay. Now, the prosecutor, as part of the
4 agreement, said that -- to you, that if -- once you testify
5 and were subject to cross-examination, the prosecutor would
6 move to get you out of jail. Do you recall that?

7 A They wanted to go ahead and -- my attorney
8 could put in a motion for house arrest.

9 Q Right. And the prosecutor wanted that to
10 happen last year and he sought to have a deposition taken; am
11 I right?

12 A Yes.

13 Q And had that deposition occurred, then your
14 lawyer could have moved the Court to have you released from
15 jail and put into house arrest at your house?

16 A I believe so.

17 Q Okay. But the deposition did not occur; am I
18 right?

19 A Correct. .

20 Q This is the first time that you're testifying
21 subject to cross-examination, is it not?

22 A Yes.

23 Q Until now the only persons you have ever told
24 your story to are the prosecutors and the people who work for
25 them?

1 A And my attorney.

2 Q And your attorney. And you didn't tell it to
3 the prosecutors until January of 2008; fair to say?

4 A When I met them in their office.

5 Q But that's not the first time that you talked
6 about the events of May 19th with anybody; fair to say?

7 A I spoke to my attorney.

8 Q Right. And you talked to Jerome DePalma and
9 Don Dibble on Saturday, May the 21st, 2005?

10 A As I said, when I saw Mr. DePalma with Mr. H, I
11 walked in with Mr. H into the office. Mr. DePalma greeted us.
12 He expressed that you and him were going into business
13 together or merging. He went ahead and asked if -- he asked
14 Mr. H if I knew what was -- he was going to be discussing.
15 Mr. H said no, and I was asked to leave, that I could not be
16 present.

17 Q So you're denying that you talked to him about
18 the events of May 19?

19 A I did not discuss it with Mr. DePalma, no.

20 Q And you're denying that Don Dibble was there
21 that day?

22 A Don Dibble was at Mr. DePalma's office?

23 Q Yes.

24 A I never saw him, no.

25 Q Okay. On January the 31st, 2008, at 9:23 in

1 the morning -- actually not 9:23 in the morning -- yeah,
2 9:23:34 in the morning, you told -- now, you -- let's get this
3 straight. By that time, January 31st of last year, you
4 already had bail set, but you hadn't had it posted, correct?

5 A Correct.

6 Q You already had been talking to the district
7 attorney and his investigators and the policemen, the
8 detectives about making this deal, correct?

9 A I was speaking to my attorney.

10 Q Correct. Your attorney was talking to them and
11 he was telling you that he was talking to them?

12 A Yes.

13 Q They were trying to make something happen,
14 trying to make a plea bargain?

15 A My attorney came by to visit me for a week --
16 and we discussed it.

17 Q And at 9:23 a.m. and 34 seconds after that, you
18 told -- you called Mr. Hidalgo. Remember that?

19 A It's very possible.

20 Q And you told him that you felt that the bail
21 posting was dragging on intentionally. Do you recall saying
22 that?

23 A I remember telling him that it was taking a
24 long time.

25 Q And that's when you told him that you'd give

1 him a week, or don't you recall?

2 A Yes.

3 Q You do recall?

4 A Yes.

5 Q And as of that moment you hadn't signed this

6 deal yet; am I right?

7 A No.

8 Q I'm not right?

9 A No, you're correct.

10 Q I am right. Okay.

11 Now, let's go back to January of last year --

12 actually, let's go back a little further than that. Does the

13 name Christa McCullah mean anything to you?

14 A Yes.

15 Q Who's Christa McCullah?

16 A She was a former inmate. She's in the

17 courtroom now.

18 Q Okay. You met while you were in jail?

19 A Yes.

20 Q Does the name Claudia Hernandez mean anything

21 to you?

22 A Yes.

23 Q Where'd you meet her?

24 A At Clark County Detention Center.

25 Q Okay. Does the name Marilyn Fujii mean

1 anything to you?

2 A Yes.

3 Q Where'd you meet her?

4 A Also at the Clark County Detention Center.

5 Q Does the name Ovi Perez mean anything to you?

6 A Yes.

7 Q Where'd you meet her?

8 A Clark County Detention Center.

9 Q Okay. Does the name Jessica Barazza mean

10 anything to you?

11 A Yes.

12 Q Where'd you meet her?

13 A Clark County Detention Center.

14 Q Does the name Lacy Dupuis, and I don't know if

15 I'm saying that right --

16 A That's how she pronounces it.

17 Q Okay. Well, then I guess you know her --

18 A Yes.

19 Q -- if you know how she pronounces it.

20 A Clark County Detention Center.

21 Q Okay. Does the name Lisa Barksdale mean

22 anything to you?

23 A Yes.

24 Q Where'd you meet her?

25 A Clark County Detention Center.

1 Q Does the name Claudia -- oh, I said that
2 already. By the way, Claudia Hernandez, she's got a nickname,
3 right?
4 A Yes.
5 Q Flaca?
6 A Yes.
7 Q What's that mean?
8 A Skinny.
9 Q Skinny.
10 Does the name Geneva Del Campo mean anything to you?
11 A Yes.
12 Q Where'd you meet her?
13 A Clark County Detention Center.
14 Q How about the name Sarah Gayton?
15 A Yes.
16 Q Where'd you meet her?
17 A Clark County Detention Center.
18 Q How about Anna Herregon?
19 A Yes.
20 Q She's got a nickname too, doesn't she?
21 A Yes.
22 Q Guerra?
23 A Yes.
24 Q It means war, doesn't it?
25 A Guerra means white girl.

1 Q Means white girl?

2 A Well, light skinned.

3 Q Okay.

4 A Clark County Detention Center.

5 Q Clark -- all of them?

6 A Yes.

7 Q You met them all at the Clark County Detention

8 Center.

9 Did you ask any of them -- did you ask Louie, Mr. H,

10 to help any of them out?

11 A Yes.

12 Q Did you ask him to help out Christa McCullah?

13 A Yes.

14 Q Did you ask him to help out Ovi Perez?

15 A Yes.

16 Q Did you ask him to help out Claudia Hernandez?

17 A Yes.

18 Q Did you ask him to help out Marilyn Fujii?

19 A Yes.

20 Q Did you ask him to provide them -- let me take

21 them one at a time. Did you ask him to provide Christa

22 McCullah a place to stay when she got out of jail?

23 A Yes.

24 Q Did you ask him to provide a place to stay to

25 Ovi Perez when she got out of jail?

1 A I asked him to -- if -- she needed a place to
2 go, more so the use of my car --
3 Q The use of your --
4 A -- if he could release the keys to my car.
5 Q And what kind of car was that?
6 A It was a truck.
7 Q A white Ford truck?
8 A Yes.
9 Q Did you ask him to provide anything to Claudia
10 Hernandez when she got out of jail?
11 A I asked if he could take care of her baby while
12 she was in prison.
13 Q And did he take care of her baby while she was
14 in prison?
15 A Yes.
16 Q For how long?
17 A I believe it was five months.
18 Q Did you ask him to help Marilyn Fujii when she
19 got out of jail?
20 A No.
21 Q No?
22 A No.
23 Q Did you ask him to put money on the books for
24 her?
25 A No.

1 Q Okay. How about Jessica Barazza?
2 A Yes.
3 Q What'd you ask him to do for her?
4 A If he could go ahead and put money on her
5 books.
6 Q Did he do it?
7 A Yes.
8 Q Did you ask him to help out Lacy Dupuis?
9 A Yes.
10 Q What did you ask him to do for Lacy Dupuis?
11 A To also put money on her books.
12 Q How about Lisa Barksdale?
13 A The same.
14 Q You have to say it.
15 A To put money on her books.
16 Q Okay. Did you ask him to help out -- oh, we
17 already went through Claudia Hernandez. I don't know why I
18 had her on here twice.
19 There came a point -- how about Sarah Gayton? Did
20 you ask him to help her?
21 A Yes.
22 Q What did you ask him to do?
23 A To go ahead and help her while she was in
24 prison, to send a package.
25 Q Send a package?

1 A At the time the prisons -- you could allow to
2 buy like commissary and send a package.

3 Q Okay. And how about Anna Herregon?

4 A To put money --

5 Q Did you ask him to help her?

6 A -- on her books.

7 Q Put money on her books. And he did it all,
8 didn't he?

9 A Yes.

10 Q So he provided places to stay, he provided
11 transportation assistance, he provided support --

12 A Yes.

13 Q -- to these people; am I correct?

14 A Yes.

15 Q And there came a point in time -- well, let me
16 do one more thing here. Sheena Hofstad, name ring a bell?

17 A Yes.

18 Q She used to work at Simone's; am I correct?

19 A Yes.

20 Q She worked there for six months or so before
21 you got arrested?

22 A I think so, yes.

23 Q And she came to visit you at the Clark County
24 Detention Center after you were arrested?

25 A Yes.

1 Q And there was a point in time when you signed
2 off on a Power of Attorney giving her power of attorney for
3 you; am I right?

4 A Yes.

5 Q Okay. Now, there also came a point in time
6 when you received information that Sheena Hofstad -- and I'm
7 going to use the word "cheated," and I think we all know what
8 that means, okay -- maybe I shouldn't -- maybe I should make
9 the word -- well, let me take a step back.

10 You had a romantic physical relationship, sexual
11 relationship, committed relationship with Louis Hidalgo, Jr.
12 before you went to jail; am I right?

13 A Yes.

14 Q It was all of those things that I just said, is
15 it not?

16 A Yes.

17 Q Okay. And there came a point in time when you
18 believed that he was no longer being true to you; am I
19 correct?

20 A Yes.

21 Q And you confronted Sheena Hofstad with that; am
22 I right?

23 A No.

24 Q You received a letter that Sheena Hofstad and
25 Louis Hidalgo, Jr. were having an affair; did you not?

1 A Yes.

2 Q Okay. And you spoke to Sheena about that?

3 A No. I spoke to Mr. H about that.

4 Q You spoke to Mr. H about this?

5 A Yes.

6 Q So if Sheena says that you spoke to her about
7 it, she's not telling the truth?

8 A No, I spoke to Mr. H about it.

9 Q You never talked to her about it?

10 MR. PESCI: Judge, I apologize. Can we approach for
11 the minute?

12 THE COURT: Sure.

13 (Off-record bench conference)

14 THE COURT: All right. Mr. Gentile, please
15 continue.

16 MR. GENTILE: Thank you.

17 BY MR. GENTILE:

18 Q You were asked questions on direct examination
19 by Mr. DiGiacomo about Tony Moore, Tony Moore Leavitt.

20 A Yes.

21 Q And -- and Tony Moore was a man who worked for
22 Simone's; am I correct?

23 A Yes.

24 Q And sometime around May the 14th of 2004 Tony
25 Moore made a demand of Mr. Hidalgo; am I correct?

1 A Yes.

2 Q And you knew about that demand --

3 A Yes.

4 Q -- am I right? And that demand was for money?

5 A Yes.

6 Q And you said that when May of '05 came along

7 and Mr. Hidalgo said that he was going to call his lawyer, you

8 knew that he was talking about me?

9 A Yes.

10 Q And you knew that I was his lawyer from a year

11 before then, correct?

12 A Yes.

13 Q From this Tony Moore situation?

14 A Yes.

15 Q I was not your lawyer?

16 A No.

17 Q I was Mr. Hidalgo's lawyer, Mr. Louis Hidalgo,

18 Jr.?

19 A Yes.

20 Q But at that time you participated because of

21 your knowledge of the situation, having worked at Simone's,

22 you participated in what was done in response to the Tony

23 Moore situation; am I right?

24 A Louie called you, Mr. Gentile, and you

25 recommended that he make a police report, so Louie and I went

1 to the police department and he had me make a report.

2 Q And you're aware that I actually made
3 arrangements for the meeting for you to go to the police
4 department?

5 A I don't remember that.

6 Q You don't remember that? Okay.

7 And that was on May the 21st of 2004. Do you recall
8 that?

9 A Not exact dates, but the year sounds right.

10 Q Do you recall that it was a Detective Stout and
11 a Detective Herrin that you met with?

12 A No.

13 Q You would agree, would you not, that this
14 Mr. Moore, this Tony Moore, you also refer to him as Tony
15 Leavitt?

16 A Yes.

17 Q What is his real name?

18 A As far as I knew, it was Tony Moore Leavitt.

19 Q Okay. You would agree that Mr. Moore Leavitt,
20 Tony Moore Leavitt, had been working for Simone's for a period
21 of time?

22 A Yes.

23 Q How long?

24 A For quite a while.

25 Q You would agree that Mr. Tony Moore Leavitt, to

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

2 A No.

3 Q Am I right?

4 A Correct.

5 Q You would agree that this Mr. Tony Moore

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

7 right?

8 A Correct.

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

10 to kill Mr. Hidalgo; am I right?

11 A Correct.

12 Q He didn't threaten to kill you?

13 A No.

14 Q He didn't threaten to kill Louis?

15 A No.

16 Q Louis, III?

17 A No.

18 Q Correct?

19 A Correct.

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

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

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

23 admit the original of the handwritten note?

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

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

1 THE COURT: Okay.

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

3 THE COURT: And do you know what exhibit number that

4 would have been?

5 THE CLERK: 229.

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

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

8 MR. DIGIACOMO: The original note itself is in one

9 of those bags stacked up right there behind the clerk. It's

10 in a bag with a lot of other exhibits.

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

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

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

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

15 though.

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

17 MR. GENTILE: It's going to take a few minutes to

18 get -- to work this out, Your Honor.

19 THE COURT: Do we -- maybe this would be then a good

20 time for our afternoon recess.

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

22 THE COURT: Well, we're going to have to take one

23 soon anyway. Is ten minutes sufficient? Is that sufficient

24 for everyone on the jury? Okay. Ten minutes.

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

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

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

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

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

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

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

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

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

19 .(Off-record colloquy)

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

21 THE MARSHAL: Jury's coming in.

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

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

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

1 BY MR. GENTILE:

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

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

8 THE COURT: All right.

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

13 THE COURT: All right. So --

14 MR. ADAMS: Louis Hidalgo, III.

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

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

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

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

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

25 THE COURT: All right. Well --

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

1 A No.

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

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

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

8 A Yes.

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

11 A Yes.

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

14 BY MR. GENTILE:

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

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

19 (Off-record colloquy)

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

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

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

25 MR. GENTILE: May I approach?

1 THE COURT: You may.

2 BY MR. GENTILE:

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

6 A Yes.

7 Q Whose handwriting is that?

8 A Mine.

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

11 THE COURT: Any objection?

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

13 THE COURT: All right.

14 BY MR. GENTILE:

15 Q When did you write this?

16 A I have no idea.

17 Q Who did you give it to?

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

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

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

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

1 had this paper pad with you. Do you recall that?
2 A No.
3 Q Do you recall that the only two people that you
4 talked about in terms of what was at issue at that time was
5 Timothy Hadland and Deangelo Carroll? Do you recall that?
6 A Yes.
7 Q And the only two names on this piece of paper
8 are the names of Timothy Hadland and Deangelo Carroll and
9 their Social Security numbers; am I correct?
10 A Yes.
11 MR. GENTILE: Move it into evidence at this time.
12 THE COURT: Any objection?
13 MR. DIGIACOMO: No, objection.
14 THE COURT: All right. That will be admitted,
15 Exhibit E.
16 (Defendant's Exhibit E admitted.)
17 BY MR. GENTILE:
18 Q Now, that is your handwriting?
19 A Yes.
20 Q That is their names?
21 A Yes.
22 Q Their -- the only names on this piece of paper?
23 A Yes.
24 Q And it's their Social Security numbers?
25 A I would assume so, yes.

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

3 A No.

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

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

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

11 A No.

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

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

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

15 A -- to go ahead --

16 Q -- is that it?

17 A It's very possible.

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

20 A No.

21 Q That is what you're saying?

22 A Correct.

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

25 A No.

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

3 A Correct.

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

6 A No, I don't.

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

9 A I don't recall.

10 (Pause in proceedings)

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

14 A Yes.

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

16 A Yes.

17 Q -- am I right? Okay.

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

20 A Yes.

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

23 A No.

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

1 A No.

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

5 A No.

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

9 A No.

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

12 A No.

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

15 A No.

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

19 A No.

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

21 A No.

22 Q -- am I correct?

23 A Correct.

24 Q That's your testimony?

25 A That's my testimony.

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

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

2 THE COURT: All right.

3 CROSS-EXAMINATION

4 BY MR. ARRASCADA:

5 Q Good afternoon, Ms. Espindola.

6 A Good afternoon.

7 Q We have never met before, have we?

8 A No.

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

11 A That's fine.

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

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

16 Q So you got the money from the safe?

17 A Yes.

18 Q And you placed it on the desk?

19 A Yes.

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

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

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

1 A No.

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

4 A No.

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

8 A No.

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

11 A No.

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

14 A Yes.

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

16 A I gave Mr. Carroll \$600.

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

19 A No.

20 Q Do you recall testifying on Friday?

21 A Yes, I recall testifying on Friday.

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

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

25 MR. ARRASCADA: Page 94, line 20.

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

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

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

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

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

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

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

9 MR. DIGIACOMO: Page 20.

10 MR. ARRASCADA: Page 94, line 20.

11 BY MR. ARRASCADA:

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

15 You answered no, right?

16 A Correct.

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

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

20 A I remember talking to Louie, yes.

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

23 And you said, from Louie, right?

24 A I gave Mr. Carroll \$600.

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

1 oath, by Mr. DiGiacomo --

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

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

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

9 BY MR. ARRASCADA:

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

12 And you said, From Louie, right?

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

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

17 And you said, From Louie, correct?

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

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

21 A I obtained \$600.

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

23 THE COURT: Yeah.

24 BY MR. ARRASCADA:

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

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

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

5 A Correct.

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

7 A Yes, that's what it says.

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

10 A Yes.

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

13 A He asked and --

14 Q Ma'am, I asked --

15 A Yes.

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

17 A Yes.

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

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

20 Q Did you pocket \$800?

21 A No, sir.

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

24 A Correct.

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

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

4 A No.

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

7 A I never saw Little Louis exchange any money.

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

10 A Yes.

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

13 A I did not see him.

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

16 A Correct.

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

19 A To my knowledge, no.

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

21 A Yes.

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

24 A Yes.

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

1 you'll agree Deangelo Carroll, right --

2 MR. DIGIACOMO: I'm going to object.

3 MR. ARRASCADA: Let me rephrase that. Let me

4 rephrase that.

5 MR. DIGIACOMO: That is beyond the scope of --

6 BY MR. ARRASCADA:

7 Q You know -- you know that in that car out at

8 Lake Mead was a man named Kenneth Counts?

9 A I know now, yes.

10 Q Jayson Taoipu?

11 A Yes.

12 Q Rontae Zone?

13 A Yes.

14 Q Deangelo Carroll?

15 A Yes.

16 Q Now, that day you were called by Deangelo

17 Carroll regarding Timothy Hadland, correct?

18 A Yes.

19 Q And that was at roughly 4:58 in the afternoon;

20 is that right?

21 A It was in the afternoon, yes.

22 Q Around 5:00 o'clock in the afternoon?

23 A It was in the evening. It was late afternoon.

24 Q Would you agree that that phone call was the

25 first time you had spoken to Deangelo Carroll on May 19?

1 A Yes.

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

5 A Yes.

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

8 A Yes.

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

11 A Yes.

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

15 A Yes.

16 Q Criminal problems, correct?

17 A Yes.

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

20 A Yes.

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

23 A I personally wouldn't, no.

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

25 A Yes.

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

3 A On a personal basis, yes.

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

7 A Yes.

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

10 A As far as I know, yes.

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

13 A For approximately a year and a half.

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

17 A Correct.

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

20 A Yes.

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

23 A Yes.

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

1 A Yes. There was more bantering, but, yes.

2 Q And you already had testified on Friday when

3 Little Lou left the room you didn't see him again that night.

4 A Correct.

5 Q And you were with Mr. H from Simone's all the

6 way to the club through the night?

7 A Correct.

8 Q And you didn't hear Mr. H speak to Little Lou?

9 A Correct.

10 Q And you did not hear Little Lou speak to his

11 father?

12 A Not that evening, no.

13 Q And Little Lou -- Little Lou did not speak to

14 you?

15 A No.

16 Q You never saw them together again that night?

17 A No.

18 Q And when Little Lou left, there was no

19 agreement that was reached between he and his father or you

20 and Little Lou, was there?

21 A No.

22 Q There was no agreement that T.J. Hadland was

23 going to be spoken to that Little Lou entered into, was there?

24 A No.

25 Q There was no agreement that Little Lou entered

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

2 A No.

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

5 A No.

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

8 A I didn't hear him, no.

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

11 A Yes.

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

14 A Correct.

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

16 A Yes.

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

19 A Yes.

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

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

1 Q And that's what you're telling these folks,
2 correct?
3 A Yes.
4 Q But you knew what plan B was?
5 A No.
6 Q Okay. So when you testified in front of the
7 grand jury and said, I told Deangelo to go to plan B, exactly
8 what Louie told me, period, to come back, that isn't having
9 knowledge of what plan B is?
10 A No.
11 MR. DIGIACOMO: Objection. First of all, page,
12 Counsel?
13 MR. ARRASCADA: Page 103, line 3.
14 THE WITNESS: When we were in the kitchenette,
15 Mr. Hidalgo had asked me to make a phone call --
16 MR. GENTILE: Your Honor, I have an objection.
17 There's no question pending.
18 THE COURT: Right. That's sustained.
19 MR. GENTILE: Move to strike.
20 THE COURT: All right. That will be stricken.
21 BY MR. ARRASCADA:
22 Q You told the grand jury last year that plan B
23 meant to come back, correct?
24 A No, that's taken out of content.
25 MR. ARRASCADA: May I approach?

1 THE COURT: That's fine.

2 BY MR. ARRASCADA:

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

6 Answer -- these are your words --

7 A Yes.

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

10 A Correct.

11 Q Which means --

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

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

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

20 Q Well, you told the grand jury --

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

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

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

1 please?

2 Q Sure.

3 A It says --

4 Q Line 3 and 4.

5 A Right, to go to plan B, exactly what Louie told

6 me, to come back. It's --

7 Q So you knew --

8 A -- it's two separate statements.

9 Q Right. To come back, though, was for them to

10 return to the club, right?

11 A Or -- yes.

12 Q So you did know what plan B was?

13 A No.

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

15 A No.

16 Q Let's talk about your participation with the

17 business, okay?

18 A Yes.

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

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

21 Q You ran Simone's Autoplaza?

22 A Yes.

23 Q You did all the paperwork at Simone's

24 Autoplaza?

25 A Yes.

1 Q You dealt with the customers at Simone's
2 Autoplaza?
3 A Yes.
4 Q You dealt with the insurance companies at
5 Simone's Autoplaza?
6 A Yes.
7 Q And you did everything basically but turn the
8 wrenches on the car -- right, on the cars?
9 A Yes.
10 Q Okay. And regarding the club, the Palomino
11 Club, you were the general manager?
12 A Yes.
13 Q And there you did the books?
14 A Yes.
15 Q You oversaw the people in the office?
16 A Yes.
17 Q You made sure people were doing their jobs
18 correctly?
19 A The office personnel.
20 Q Higher management, correct?
21 A Yes.
22 Q Now, you described -- you told these folks that
23 Little Lou was a manager; is that correct?
24 A That's the title he was given, yes.
25 Q But actually how you characterized it in the

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

3 A Yes.

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

6 A Yes.

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

9 A No.

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

12 A No.

13 Q That was you and Mr. H?

14 A Yes.

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

17 A He opened the club.

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

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

21 Q He made the popcorn?

22 A Yes, I know he did that.

23 Q Turned on the TV --

24 A Yes.

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

1 5:00 o'clock, right?

2 A Yes.

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

5 A Yes.

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

8 A Correct.

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

12 A Correct.

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

17 A Yes.

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

20 A Yes, him or Arial.

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

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

1 Q Little Lou would call you to get it ready and
2 he'd come up and pick it up?
3 A Yes.
4 Q So he's letting you know, We need more money
5 for one of the --
6 A Yes.
7 Q That was normal, right?
8 A Yes.
9 Q You did the payroll for the club, the Palomino?
10 A Yes.
11 Q Rontae Zone was never on that payroll, was he?
12 A No.
13 Q Jayson Taoipu was never on that payroll, was
14 he?
15 A No.
16 Q And Dean -- Kenneth Counts was never on that
17 payroll, was he?
18 A No.
19 Q I want to talk about your participation in
20 phone calls on May 19, okay?
21 A Yes.
22 Q You had a cell phone for -- that was -- you had
23 a cell phone, correct?
24 A Yes.
25 Q And that cell phone also had the Nextel chirp

1 capabilities?

2 A Yes.

3 Q And the last four digits of your cell phone

4 were 9646?

5 A Yes.

6 Q And your cell phone chirp from Nextel was

7 star -- could you refresh me? Star what? Do you recall?

8 A I have no idea. All the Nextels had names so

9 we would chirp by name.

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

11 A I don't recall.

12 Q But that would be the number? 9646 would also

13 be star whatever; is that right, right?

14 A Phone number.

15 Q And your cell phone that had that, it was

16 important for you to keep it by your side?

17 A Yes.

18 Q Because that was how people reached you?

19 A Yes.

20 Q And you would keep that cell phone, 9646, with

21 you at Simone's?

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

23 Q And you would have the club's phones forwarded

24 to your cell phone for during the day before it opened?

25 A No.

1 Q And your cell phone, you would keep that by
2 your side because you may get called during the night at the
3 club to be told more money's needed downstairs?

4 A Are we still at Simone's or have we've moved --

5 Q No, we're at the club now.

6 A -- back to the club?

7 Q We've moved to the club.

8 A Okay. Can you repeat the question?

9 Q Yes. You would keep your cell phone by you
10 because, as the general manager, people may need to talk to
11 you about the management of the club or that night?

12 A The phone was normally on the desk or it was
13 behind me being charged.

14 Q And you worked at that desk all night,
15 typically?

16 A Typically.

17 Q And Mr. H had his own cell phone also?

18 A Correct.

19 Q And you testified there were times that he
20 would go down to the club while you stayed up and worked?

21 A Go onto the floor of the club, yes.

22 Q And your cell phone, though, that would stay
23 with you at the desk?

24 A Or behind me.

25 Q Okay. So it would stay in the office?

1 A Normally.

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

5 A Okay.

6 Q Well --

7 A Yes, I made a statement.

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

11 A Correct.

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

15 A Yes.

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

19 A Yes.

20 Q And he also called you that night?

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

22 Q Would that be included in your two times?

23 A I don't recall.

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

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

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

4 THE WITNESS: I have some.

5 THE COURT: Are you all right?

6 THE WITNESS: I'm sorry. Okay.

7 BY MR. ARRASCADA:

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

10 A No.

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

13 A No.

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

16 THE COURT: That's fine.

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

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

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

21 THE COURT: Yeah.

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

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

1 Mr. DiGiacomo.

2 MR. ARRASCADA: Yes, Your Honor.

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

4 opposes the admission --

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

6 THE COURT: No objection to its admission?

7 MR. ARRASCADA: We ask --

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

9 (Defendant's Exhibit AA admitted.)

10 BY MR. ARRASCADA:

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

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

13 Communications, okay?

14 A Okay.

15 Q And this is regarding your number

16 (702)604-9646, correct?

17 A Yes.

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

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

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

21 A Yes.

22 Q And these are your phone records from May 19

23 and May 20th; is that accurate?

24 A Yes.

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

1 bottom of the page, okay? And that states that you received
2 an inbound call from the phone number 643-0842 at 4:58; is
3 that right, the very last entry on the bottom of the page?
4 A Yes.
5 Q And you do -- I'm sorry, just so I'm clear, you
6 don't recall that Deangelo Carroll's home phone ended in the
7 last number 0842; is that right?
8 A No.
9 Q Okay. But whoever 0842 is, you received a
10 phone call from them at 4:58, 5:00 o'clock that night; is that
11 correct?
12 A Yes.
13 Q And then you received another phone call on
14 May 19th at 5:27 from that same 0842 number, correct?
15 A That's what it shows, yes.
16 Q Okay. And then right up above it, again, the
17 0842 number, correct?
18 A Yes.
19 Q And again above that, the 0842 number; is that
20 right?
21 A Yes.
22 Q And that last 0842 call was at about 6:15 or
23 20:15; is that accurate -- I'm sorry, that would be 8:15.
24 Military time, 20:15 would be 8:15 in the evening?
25 A That's what it shows, yes.

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

3 A Yes.

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

7 A Yes.

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

12 A Yes.

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

17 A Yes.

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

20 A Correct.

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

23 A No.

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

1 (702)808-1719?

2 A That's what it shows, yes.

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

5 THE COURT: Okay. That would be G.

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

8 THE COURT: Of course.

9 (Off-record bench conference)

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

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

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

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

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

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

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

1 MR. ARRASCADA: Yes, Your Honor.

2 THE COURT: And that -- then we'll just use the one
3 State's exhibit because we already --

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

5 THE COURT: All right. So for the record now, we're
6 looking at, in a moment, the last page of State's Exhibit 190.

7 BY MR. ARRASCADA:

8 Q Ma'am, the Nextel functions, you could call
9 someone by their cell phone number?

10 A Yes.

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

12 A Yes.

13 Q Or you could do it -- it would be done with
14 what they call chirping; is that right?

15 A Yes.

16 Q What chirping is is that you're connecting
17 directly to that other phone?

18 A Correct.

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

20 A Yes.

21 Q So you're talking to them, the person gets the
22 message, they talk back, and you get the message?

23 A Yes.

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

1 A Yes.

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

4 A Yes.

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

7 A No.

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

11 A Okay.

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

14 A Yes.

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

17 A Yes.

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

20 A Okay.

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

24 A Correct.

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

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

1 A Yes.

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

3 A Yes.

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

6 A Yes.

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

8 A Yes.

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

12 A Correct.

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

15 A Yes.

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

19 A Yes.

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

22 A Yes.

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

25 A Yes.

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

4 A Yes, that's what it shows.

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

7 A Yes.

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

10 A I don't recall.

11 Q You recall talking about that?

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

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

15 A No.

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

18 A To my phone.

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

22 A Correct.

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

1 A That I spoke to him.

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

4 A That I spoke to him.

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

8 A Correct.

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

11 A Come back.

12 Q To the club?

13 A I recall saying, Come back.

14 Q So now you recall --

15 A -- go to plan B.

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

18 A Go to plan B, correct.

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

21 A Yes.

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

25 A No.

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

4 A No.

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

8 A No.

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

13 A No.

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

17 A No.

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

20 A No.

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

23 A Yes.

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

1 that you said, I assisted the coconspirators; is that right?
2 A Yes.
3 Q So what you're telling the judge is, I'm not a
4 coconspirator, correct?
5 A Correct.
6 Q Now, when Deangelo Carroll arrived that day,
7 you sent him to Room 6?
8 A Yes.
9 Q And Room 6 is a room that any of you would use
10 when someone -- when you were feeling tired or sick or just
11 wanted to lay down and rest?
12 A Prior to Little Louis living there.
13 Q You told the police, when you gave your
14 statement, that Room 6 is a room that any of you used when
15 you're tired or sick?
16 A Yes.
17 Q And Little Lou owned his own home or was buying
18 his own condo?
19 A Little Louis had a house that he was renting
20 out.
21 Q And when you sent DC, Deangelo Carroll, to Room
22 6, you followed him right there?
23 A On the 23rd?
24 Q Yes.
25 A No.

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

1 Mr. Hidalgo, had gone to meet with a lawyer --

2 A Yes.

3 Q -- Mr. DePalma and then Mr. Gentile a day

4 later?

5 A I never mentioned that, but, yes. I never

6 mentioned names.

7 Q But you had told him that Deangelo Carroll --

8 that the two of you had met a lawyer?

9 A Yes.

10 Q And you told Deangelo Carroll that he should

11 start finding a lawyer or have his wife find a lawyer?

12 A Yes.

13 Q Never once in that discussion did you say, We

14 have a lawyer also for Little Lou, did you?

15 A No.

16 Q Never once in that discussion did you look up

17 and say, Little Lou, you better get yourself a lawyer also,

18 did you?

19 A No.

20 Q Never once did you say, Don't worry, Deangelo,

21 we're all lawyered up, including Little Lou, did you?

22 A No.

23 Q So there was no thought at that time at all to

24 get Little Lou a lawyer?

25 A No.

1 Q And when you're having those discussions with
2 Deangelo Carroll on the wire, you know, about the flyers,
3 because you talk about them, right?
4 A Yes.
5 Q And you knew about the kids that were with him,
6 witnesses, correct?
7 A When Deangelo spoke about it, yes.
8 Q And one thing Little Lou did was he asked, Was
9 Ludicrous with you? Do you recall that?
10 A I recall reading that on the transcript, yes.
11 Q And Ludicrous (phonetic) was a -- who, a friend
12 of Deangelo's or a friend of the clubs?
13 A I have no idea.
14 Q Okay. But it was Little Lou asking questions
15 about, Who were you with, right?
16 A Yes.
17 Q Not questions about you dropped a bunch of
18 flyers when you did this, right?
19 A Right.
20 Q So based on our discussions, we do know this:
21 Little Lou did not enter into any agreements regarding T.J.
22 Hadland, did he?
23 MR. DIGIACOMO: Objection.
24 MR. ARRASCADA: She's already testified to it, Your
25 Honor.

1 MR. DIGIACOMO: No, she didn't witness any. He
2 needs to rephrase the question appropriately.

3 BY MR. ARRASCADA:

4 Q To your knowledge --

5 THE COURT: Yeah, to your knowledge.

6 BY MR. ARRASCADA:

7 Q -- Little Lou did not enter into any agreements
8 regarding hurting T.J. Hadland?

9 A To my knowledge, no.

10 Q Regarding speaking to T.J. Hadland?

11 A To my knowledge, no.

12 Q He did not enter into agreements regarding
13 killing T.J. Hadland?

14 A No.

15 Q And you were with Mr. Hidalgo from the time
16 you -- up to Simone's in the afternoon through the 19th?

17 A On what day?

18 Q On the 19th.

19 A Yes, I was with Louie, or Mr. H.

20 Q Mr. H.

21 A I apologize for that. I've called him Louie
22 for the better part of 18 years. I'm sorry.

23 Q Okay. I appreciate that. We just need to
24 distinguish better, okay?

25 A I understand. I apologize.

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

1 A Yes.

2 Q And they never spoke again --

3 A Not as far --

4 Q -- to your knowledge?

5 A -- as I know.

6 Q To your knowledge?

7 A To my knowledge.

8 Q And you testified that when Deangelo Carroll

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

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

11 A Yes.

12 Q And you said that you looked at some point

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

14 A Yes.

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

16 has Little Louie done, did you?

17 A No.

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

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

20 did you?

21 A No.

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

23 you to do this, did you?

24 A No.

25 Q Now, you were originally charged with the

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

2 A Yes.

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

4 for a while?

5 A Yes.

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

7 A Maybe 8.

8 Q Maybe 8. Since he was a boy?

9 A Yes.

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

11 Luisito and also Mijo?

12 A Yes.

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

14 Snuggles or something to that nature?

15 A Yes.

16 Q Was it Snuggles?

17 A Yes.

18 Q Again, a term of affection or endearment?

19 A Yes.

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

21 unless you know one another, right?

22 A Correct.

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

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

25 A Yes.

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

1 A No.

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

3 THE COURT: Mm-hmm. Maybe we should take a break.
4 Let's just take a really, really quick like five, seven-minute
5 break.

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

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

10 (In the presence of the jury.)

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

12 (Off-record bench conference)

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

15 MR. ARRASCADA: Thank you, Judge.

16 Ma'am, I have no further question.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Thank you.

19 Mr. DiGiacomo, redirect?

20 MR. DIGIACOMO: Yes, Judge.

21 REDIRECT EXAMINATION

22 BY MR. DIGIACOMO:

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

1 A Yes.

2 Q Come back. What do you specifically recall

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

4 kitchenette sometime in the evening of the 19th?

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

6 go to plan B, to come back.

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

8 back?

9 A Yes.

10 Q Okay. Was it your understanding that those

11 were two different concepts or the same concept?

12 A Two different concepts.

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

14 grand jury, correct?

15 A Yes.

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

17 THE COURT: Overruled.

18 BY MR. DIGIACOMO:

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

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

21 A Yes.

22 MR. DIGIACOMO: Page 94, Counsel.

23 BY MR. DIGIACOMO:

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

25 on line 20, correct?

1 A Yes.

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

3 line 1 is --

4 THE COURT: Is this her Friday testimony --

5 MR. DIGIACOMO: Correct.

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

7 BY MR. DIGIACOMO:

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

9 A Yes.

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

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

12 A Correct.

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

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

15 What was your answer?

16 A \$600.

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

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

19 \$800 came from?

20 What was your answer?

21 A No.

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

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

24 A No.

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

1 correct?

2 A Yes.

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

4 THE COURT: Yeah. That's sustained.

5 MR. ARRASCADA: Sustained and stricken.

6 THE COURT: All right.

7 BY MR. DIGIACOMO:

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

9 \$1,400 --

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

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

12 THE WITNESS: Yes.

13 MR. ARRASCADA: Asked and answered.

14 BY MR. DIGIACOMO:

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

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

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

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

19 that wire?

20 A Not in those words, no.

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

22 statement, correct?

23 A Correct.

24 Q Do you remember what the response --

25 MR. GENTILE: Objection. Leading.

1 BY MR. DIGIACOMO:

2 Q Do you remember what the --

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

4 BY MR. DIGIACOMO:

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

8 A No.

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

11 BY MR. DIGIACOMO:

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

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

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

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

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

21 A Yes.

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

25 A Yes.

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

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

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

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

9 A It was Mr. H.

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

13 A I was speaking regarding Mr. H.

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

16 A Louie, Mr. H.

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

19 A No.

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

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

23 Q With Louie, correct?

24 A Yes.

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

1 the 24th? Does that sound about right?

2 A Yes.

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

4 didn't have access to your phone?

5 A Not at all.

6 Q To this day --

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

8 THE WITNESS: To this day.

9 MR. ARRASCADA: It is redirect.

10 THE WITNESS: I was incarcerated.

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

12 BY MR. DIGIACOMO:

13 Q There were a number of questions asked about

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

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

16 you?

17 BY MR. DIGIACOMO:

18 Q There was a number of questions that were asked

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

20 discussion about fictitious. Do you remember?

21 A Yes.

22 MR. GENTILE: Fictional.

23 BY MR. DIGIACOMO:

24 Q Fictional, fictitious, do you remember all

25 that?

1 A Yes.

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

4 A No.

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

6 THE WITNESS: Well, he showed --

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

8 THE COURT: Yeah. That's sustained.

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

10 BY MR. DIGIACOMO:

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

14 A Yes.

15 Q Right?

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

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

21 A The Court.

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

24 A Yes.

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

1 A No.

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

4 A No.

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

7 A Yes.

8 Q Go ahead and read what the Court said.

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

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

14 THE COURT: Let me see what --

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

16 THE COURT: -- what I said.

17 MR. DIGIACOMO: Bottom of the page.

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

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

22 (off-record bench conference)

23 BY MR. DIGIACOMO:

24 Q So after Mr. Oram --

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

1 mistrial.

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

4 MR. ARRASCADA: We join that motion.

5 THE COURT: All right. Thank you.

6 BY MR. DIGIACOMO:

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

13 And what is your answer?

14 A Yes, Your Honor.

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

17 A Yes.

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

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

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

1 cross-examine --

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

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

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

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

6 brought up so that's not --

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

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

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

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

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

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

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

14 five words. Those were the five words --

15 MR. DIGIACOMO: He crossed her on it.

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

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

18 that.

19 MR. GENTILE: I helped the coconspirators.

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

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

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

23 me rule on the objection.

24 MR. DIGIACOMO: Okay.

25 BY MR. DIGIACOMO:

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

1 MR. ADAMS: Yes, ma'am.

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

4 THE COURT: All right.

5 MR. DIGIACOMO: What?

6 MR. GENTILE: May I approach?

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

8 (Off-record bench conference)

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

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

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

19 BY MR. DIGIACOMO:

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

24 A Yes.

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

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

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

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

11 THE COURT: All right.

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

14 THE COURT: Mr. DiGiacomo, rephrase your question.
15 BY MR. DIGIACOMO:

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

18 A Yes.

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

21 A Yes.

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

24 A Yes.

25 Q And was that crime voluntary manslaughter or a

1 crime somewhat higher than voluntary manslaughter?

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

3 THE WITNESS: Higher.

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

5 pleading.

6 MR. DIGIACOMO: That's the definition of fictional,

7 Judge. That's my point.

8 MR. ADAMS: Judge, he can't editorialize in front of

9 the jury --

10 THE COURT: Right. Well, also, her opinion as to

11 what the elements of different crimes are is not relevant, so

12 that's sustained.

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

14 the objection?

15 THE COURT: It's sustained.

16 MR. GENTILE: Thank you.

17 THE COURT: I'm sorry. I said "sustained," but I

18 may have said --

19 MR. ARRASCADA: And I'd ask it to be stricken and

20 ask that Mr. DiGiacomo's editorializing be stricken.

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

22 MR. ARRASCADA: How about his editorialization that

23 he's done now four times that we've had to object?

24 THE COURT: All right. Go on, Mr. DiGiacomo.

25 Please don't engage in commentary.

1 MR. DIGIACOMO: Thank you, Judge.

2 BY MR. DIGIACOMO:

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

6 A Yes.

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

9 MR. GENTILE: Objection. Hearsay.

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

12 THE COURT: Wait. Say your question again.

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

16 MR. GENTILE: Objection. Hearsay.

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

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

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

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

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

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

1 question.

2 MR. DIGIACOMO: Okay.

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

4 BY MR. DIGIACOMO:

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

9 MR. ARRASCADA: Objection.

10 MR. GENTILE: Objection.

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

17 BY MR. DIGIACOMO:

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

20 A Yes.

21 Q And your concerns about the death penalty?

22 A Yes.

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

25 A No.

1 Q Okay. You never discussed with your lawyer the
2 likelihood of you ever getting the death penalty in this case?

3 A At the beginning, yes.

4 Q Okay. And did you have a real concern that you
5 were someday going to get executed?

6 A No.

7 Q Okay. Mr. Gentile asked you a number of
8 questions about your obligation to be truthful in the
9 beginning, correct?

10 A Yes.

11 Q Okay. And that's your understanding, correct?

12 A Yes.

13 Q And he suggested to you that you should have
14 done sentencing before now, correct?

15 MR. GENTILE: Objection.

16 A Yes.

17 MR. GENTILE: I didn't say suggest anything. I
18 asked questions and she made answers.

19 MR. DIGIACOMO: I'll rephrase.

20 THE COURT: All right.

21 MR. ARRASCADA: And he's leading, Your Honor.

22 THE COURT: He's going to rephrase --

23 MR. ARRASCADA: It's redirect.

24 THE COURT: -- and he's going to ask it in a less
25 leading way.

1 BY MR. DIGIACOMO:
2 Q Could you have asked for sentencing prior to
3 today?
4 A Yes.
5 Q Okay. Why didn't you?
6 A I elected to wait.
7 Q Okay. Who makes the determination as to
8 whether or not you're being truthful?
9 MR. GENTILE: Objection. May we approach?
10 THE COURT: Yeah.
11 (Off-record bench conference)
12 BY MR. DIGIACOMO:
13 Q Mr. Gentile --
14 MR. GENTILE: Yes.
15 BY MR. DIGIACOMO:
16 Q Mr. Gentile asked you a number of questions
17 regarding the proffer and how -- I shouldn't use the term
18 proffer because -- after 33 months or something like that, you
19 and I finally got to talk, right?
20 A Yes.
21 Q Prior to that time period, had you and I ever
22 met before?
23 A No.
24 Q Prior to that time period, how many times had
25 you met with Mr. Gentile?

1 A A few.

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

3 three, five, ten, 20?

4 A He came to the jail between three and five

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

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

7 A I remember her coming two or three.

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

9 A Several over --

10 Q Lots?

11 A Several over the last few years.

12 Q And how many of those meetings were recorded?

13 A None as far as I can recall.

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

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

16 that sound about right to you?

17 A Yes.

18 Q 2008?

19 A Yes.

20 Q You were a charged defendant, correct?

21 A Yes.

22 Q You had your lawyer with you?

23 A Yes.

24 Q And there was some legal discussions unrelated

25 to you, right?

1 A Yes.

2 Q And then eventually you talked to us?

3 A Yes.

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

6 A Yes.

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

9 A Yes.

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

12 A Yes.

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

15 A Yes.

16 Q That deposition never took place?

17 A No.

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

21 A Yes.

22 Q Okay. And --

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

25 MR. DIGIACOMO: It's just foundation.

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

1 Q Right?

2 A Yes.

3 Q Right before your trial date?

4 A Yes.

5 Q Less than a week --

6 A Yes.

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

8 A Yes.

9 Q After you gave your proffer and you said you

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

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

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

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

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

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

16 Q And you had already signed the plea agreement?

17 A Yes.

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

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

20 A Yes.

21 Q Do you remember on cross-examination

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

23 keys?

24 A Correct.

25 Q Do you remember those questions?

1 A Yes.

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

4 A Yes.

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

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

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

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

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

18 A Yes.

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

21 A No.

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

25 A Yes.

1 Q Describe that for the ladies and gentlemen of
2 the jury.

3 A It was --

4 MR. GENTILE: Can we have a foundation?

5 THE COURT: I was waiting.

6 MR. GENTILE: You were waiting. I know.

7 THE COURT: I almost said it myself.

8 BY MR. DIGIACOMO:

9 Q Let me ask this --

10 MR. GENTILE: I should be a -- when did this --

11 BY MR. DIGIACOMO:

12 Q Was it before or after May 19th?

13 A It was after.

14 Q Okay. And obviously it must have been before
15 you were arrested on May 24th?

16 A Yes.

17 Q How many times do you remember being back at
18 the Palomino Club after May 19th?

19 A Once.

20 Q Okay. And can you tell us whether or not that
21 was Friday night, Saturday night, Sunday night?

22 A Friday night.

23 Q Okay. And this conversation that you're
24 referencing, that occurred on Friday night?

25 A Yes.

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

3 A Rudy's office.

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

6 A Yes.

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

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

12 Q Okay.

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

15 Q Which desk drawer?

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

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

20 A That's what he said.

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

23 A No.

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

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

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

7 THE COURT: The prosecutor lied.

8 BY MR. DIGIACOMO:

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

11 A Yes.

12 Q Do you remember those questions?

13 A Yes.

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

16 A Correct.

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

19 A Yes..

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

22 A Correct.

23 MR. GENTILE: Objection to the leading.

24 BY MR. DIGIACOMO:

25 Q Did you --

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

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

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

3 A Yes.

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

6 A Yes.

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

9 A Yes.

10 Q What was it?

11 MR. GENTILE: Objection. Hearsay.

12 MR. DIGIACOMO: Let me rephrase.

13 THE COURT: All right. Thank you.

14 BY MR. DIGIACOMO:

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

19 MR. GENTILE: Objection. Can we approach?

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

25 So remember the admonishment is still in place.

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

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

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

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

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

16 (Outside the presence of the jury.)

17 THE COURT: [Inaudible].

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

20 (Pause in the proceedings)

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

25 THE COURT: Right. This is speculation.

1 MR. GENTILE: Yeah.

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

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

7 MR. PESCI: Huh-uh.

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

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

13 MR. GENTILE: It's opinion.

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

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

18 MR. PESCI: Did she have direct knowledge.

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

21 MR. PESCI: Okay.

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

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

1 MR. ARRASCADA: Yes, it does.

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

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

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

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

1 his questioning.

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

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

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

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

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

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

12 MR. GENTILE: Correct.

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

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

18 THE COURT: With any instruction.

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

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

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

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

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

6 THE COURT: Right. Okay.

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

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

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

23 THE COURT: Right.

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

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

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

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

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

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

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

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

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

20 THE COURT: Well, wait.

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

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

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

1 THE COURT: You may.

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

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

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

8 Two, we were fully aware from discussions --

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

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

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

20 MR. ARRASCADA: Hearsay.

21 MR. GENTILE: It's hearsay.

22 MR. ADAMS: Objection.

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

25 MR. ADAMS: Objection. Relevance.

1 MR. GENTILE: I think you could -- well --

2 MR. DIGIACOMO: They went into --

3 THE COURT: I mean, the problem is Mr. Adams and Mr.
4 Gentile have totally different opinions about whether the
5 death penalty issue should come in. Mr. Gentile wants it to
6 come in. Mr. Adams doesn't want it to come in.

7 MR. ADAMS: Here's why, Judge.

8 THE COURT: I mean, yeah, I mean --

9 MR. ADAMS: I think we're prejudiced by their
10 reference to it Friday. We didn't move for a mistrial at that
11 time. We asked for a curative instruction, which the Court
12 granted.

13 THE COURT: All right.

14 MR. ADAMS: Here's why. They're saying they viewed
15 Louie Hidalgo, III, as being among the worst of the worst when
16 they bring that in in front of the jury. It's not
17 appropriate.

18 THE COURT: Yeah. I mean, I thought of that, too,
19 and I recognized that. But, then I also thought, you know
20 what, they file the notice of death and death qualify juries
21 all the time in obviously death cases where you're still
22 dealing with the guilt phase. And we don't have any caselaw
23 at all saying that just the fact that they filed a notice of
24 death is so prejudicial that it prejudices the jury at the
25 guilt phase. And that's essentially what you're saying. And

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

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

7 THE COURT: We would have a --

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

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

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

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

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

3 MR. ADAMS: I believe --

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

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

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

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

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

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

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

1 filing this frivolously --

2 MR. ADAMS: Well --

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

9 MR. ADAMS: They also said in --

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

12 MR. ADAMS: Right.

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

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

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

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

4 MR. DIGIACOMO: He --

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

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

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

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

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

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

1 MR. GENTILE: Okay. Thank you.

2 THE COURT: -- what you guys want to do.

3 MR. PESCI: Judge, while they're thinking of that,

4 we've talked to you about Sessions up at the bench. Sessions

5 is 111

6 Nev. --

7 THE COURT: I've got it right in front of me here,

8 and I was trying to read it, but you guys all kept objecting

9 so much I

10 couldn't --

11 MR. PESCI: Okay. When you do read it, we'd ask you

12 to look at the end of Headnote 4.

13 THE COURT: All right. Can we bring the jury in?

14 MR. DIGIACOMO: Well, they wanted to object to me

15 getting into instances of bad character when they put a good

16 character into evidence.

17 MR. GENTILE: Well, but, see --

18 THE COURT: That was why you approached the bench,

19 which we've forgotten about in our --

20 MR. GENTILE: That's why I approached the bench. So

21 don't bring them in yet, please. No, no. Please don't.

22 Yes?

23 THE COURT: No. Don't, because we --

24 MR. GENTILE: Don't, yeah.

25 THE COURT: -- this is why you approached.

1 MR. GENTILE: Under 50.085(3) specific instances of
2 the conduct of a witness for the purpose of attacking or
3 supporting the witness's character for truthfulness you can go
4 into it. Here what they're trying to do is they're trying to
5 go into specific instances of misconduct of Luis Hidalgo, Jr.
6 I don't know how you do that.

7 MR. DIGIACOMO: This is the question. "You've known
8 Mr. H for many years and Mr. H did nothing to behave like Mr.
9 Gillardi or Mr. Rizzolo." The statute says once the defense
10 puts his good character in, we have an opportunity to rebut it
11 with specific acts. He's talking about credibility. He's not
12 talking about pure character evidence. And this is pure
13 character evidence.

14 MR. GENTILE: We were talking about two specific
15 people and his conduct was not like theirs.

16 MR. DIGIACOMO: Right.

17 MR. GENTILE: Now, if they've got something where he
18 bribed a County commissioner --

19 THE COURT: Well, this isn't credibility evidence.

20 MR. DIGIACOMO: Wasn't quite a County commissioner.

21 THE COURT: This is character evidence, because he's
22 -- without him testifying we're not interested in his
23 credibility.

24 MR. DIGIACOMO: -- his credibility. This is
25 character.

1 THE COURT: So it's not 50.085 evidence, which is --

2 MR. GENTILE: No. He's not a witness.

3 THE COURT: Right.

4 MR. GENTILE: Right.

5 THE COURT: It's not credibility. I thought that's
6 what you said.

7 MR. GENTILE: No. I -- I did say that. But he's not
8 a witness, and his character is not in issue in this case.
9 The only thing that I asked about was Gillardi or Rizzolo and
10 that in her experience he's done nothing like either one of
11 those two people. Now, if they've got something that says
12 that he has, I suppose she could give testimony to that, okay.
13 But unless it fits Gillardi and Rizzolo -- I didn't open up
14 the door wide open. We only talked about two people. I
15 didn't say, you've never heard of this man doing anything
16 wrong in his life.

17 MR. DIGIACOMO: You said he never did anything like
18 Mr. Gillardi --

19 MR. GENTILE: Or Mr. Rizzolo.

20 MR. DIGIACOMO: -- or Mr. Rizzolo. And that's good
21 character evidence.

22 THE COURT: So bribing County -- I mean, there's a --
23 see --

24 MR. DIGIACOMO: Bribing County commissioners, having
25 people beat up, all of that is fair game. All of it.

1 THE COURT: Okay. Well, what is it that you're going
2 to ask her?

3 MR. DIGIACOMO: I'm going to say, are you aware of a
4 situation similar to Mr. Gillardi. And I'm anticipating her
5 answer is going to be yes, that Mr. Hidalgo gave inappropriate
6 gifts to a City councilman to get his permits and that's what
7 Tony Moore Leavitt's extortion basis was about.

8 MR. GENTILE: Well, then you've go to lay a --

9 MR. DIGIACOMO: I'm going to ask her, as well -- I'll
10 -- I'll lay a foundation.

11 THE COURT: Well, that would be -- I mean, bribing
12 City Council people and County commissioners is what Gillardi
13 and Rizzolo did.

14 MR. DIGIACOMO: Well, that's not just it. Rizzolo
15 also had somebody -- and it was said by Luis, had a customer
16 beat up. And one of the things I was going to ask her is,
17 were you aware of a situation involving Deangelo Carroll
18 previously and Deangelo Carroll being requested by Mr. H to do
19 anything and then who stopped it. Because she did. And it
20 was not only Deangelo Carroll's statement, but it's as well is
21 information that she has directly from Mr. H related to
22 beating people. That's specifically what they went to as to
23 Mr. Gillardi and Mr. Rizzolo. That's specifically what those
24 questions --

25 THE COURT: Okay. Those two things might have opened

1 the door.

2 MR. GENTILE: Let me -- let me address those. First
3 of all, there is a police report relating to this Moore --
4 Tony Moore Leavitt situation.

5 THE COURT: Right.

6 MR. GENTILE: And I'd recommend to the Court that the
7 Court at least read that report prior to making a decision.
8 It's very short. We have it here, okay.

9 THE COURT: I'll read it if somebody gives it to me.

10 MR. GENTILE: I'll give it to you.

11 THE COURT: Well, maybe you can argue. Ms. Armeni
12 can give it to me.

13 MR. GENTILE: And my concern here -- my concern here
14 is that we are talking about multiple levels of hearsay.

15 THE COURT: Well, if it's hearsay, then -- how does
16 she know about the Tony Moore Leavitt thing?

17 MR. DIGIACOMO: Mr. H.

18 THE COURT: If it's from Mr. H, then it's his
19 admission. So she can -- it's not -- she can testify. Now,
20 if it's based on some other scuttlebutt at the club or things
21 like that, then clearly it's hearsay. But -- so you're going
22 to have to lay a foundation at the outset, did Mr. H ever
23 discuss with you something that was similar to -- or, you
24 know, something --

25 MR. GENTILE: Well, I think the Court needs to make a

1 determination on the similarity before he should go into it at
2 all.

3 THE COURT: Well, if it's gifts, were they illegal
4 gifts to a City Council person, or was it like a -- you--

5 MR. DIGIACOMO: Inappropriate gifts.

6 THE COURT: Well, what does inappropriate mean? I
7 mean, is that like --

8 MR. DIGIACOMO: She said that he'd come to the --
9 comes to the business, he'd get like a \$500 loan with a wink,
10 wink, you never have to pay it back. Tony Moore was
11 threatening to expose Mr. H about that. They were advised by
12 Mr. Gentile to go down and make a police report. But if you
13 read that police report, what the basis of the extortion is,
14 what information they were going to -- is nowhere in that
15 report, because they never reported it, because they weren't
16 supposed to tell them that part of the --

17 THE COURT: Who is the City Council person?

18 MR. DIGIACOMO: I believe the last name is Robinson.
19 I don't know what the --

20 THE COURT: Oh. Willie Robinson?

21 MR. DIGIACOMO: Okay. I don't know.

22 MR. GENTILE: Then the --

23 THE COURT: I'm just aware that that's a North Las
24 Vegas City Council person.

25 MR. GENTILE: Right.

1 THE COURT: I certainly wouldn't suspect or believe
2 that he would be involved in that. I just -- I just know him
3 to be a City Council person.

4 MR. GENTILE: All right. I'll just finish that
5 first, and then we'll go to the second issue.

6 (Pause in the proceedings)

7 MR. GENTILE: And again I would suggest to the Court
8 that 48.035 should be taken into consideration.

9 MR. DIGIACOMO: If he had never asked the question,
10 it never comes in. But once he asks the question, how can
11 48.035 say, oh, you can't follow up on that?

12 THE COURT: I mean, I think, you know -- I mean, you
13 went into a lot of questioning about they were under federal
14 indictment and their clubs are subject to forfeiture, or maybe
15 Arrascada asked the forfeiture question --

16 MR. GENTILE: No. I did.

17 THE COURT: Somebody -- okay. Somebody --

18 MR. GENTILE: I asked that question.

19 THE COURT: -- talked about that. So, I mean, I
20 think the things that form the basis for the criminal case
21 against them certainly are the subject for redirect.

22 MR. GENTILE: Right. But the --

23 THE COURT: Now, anything beyond that I --

24 MR. GENTILE: But the prosecutor should be at least
25 made to give a proffer to the Court as to what the testimony's

1 going to be.

2 THE COURT: I think he just did.

3 MR. GENTILE: I don't think that he did. I --

4 MR. DIGIACOMO: Didn't I just do that?

5 THE COURT: Well, I mean, he said that Mr. H told --

6 MR. GENTILE: Told Anabel that he made loans to
7 Councilman Robinson not to be paid back? Is that what her
8 testimony's going to be, that he told her that he made loans
9 to Councilman Robinson not to be paid back?

10 MR. DIGIACOMO: I don't have the ability to --

11 MR. GENTILE: Because I'll tell you where we're
12 going. Councilman Robinson will be in here as a witness.

13 MR. DIGIACOMO: That's fine. He can bring him in.

14 MR. GENTILE: This is exactly the issue that we ran
15 into in San Diego in Gillardi --

16 THE COURT: Because -- and also --

17 MR. GENTILE: -- where there were a few local
18 officials, some of whom were in this building, who were
19 accused by Mr. Gillardi of having taken money from them, all
20 right, and who were prepared to come in and rebut that, but
21 the judge in his good sense decided that that was too far
22 afield.

23 MR. DIGIACOMO: Well, then he probably shouldn't have
24 asked the question.

25 MR. GENTILE: The question was asked there, as well.

1 But I can tell you that separate and apart from that you have
2 this other issue, which is the beating up issue. All right.
3 Now --

4 THE COURT: I mean, the beating up issue is more
5 germane, because --

6 MR. GENTILE: It has nothing to do with a customer,
7 though. It was the drug dealer that got his daughter hooked
8 on meth. You want to go there?

9 MR. DIGIACOMO: Look, he requested from Deangelo
10 Carroll what Deangelo Carroll --

11 MR. GENTILE: That might get a man a hero button.

12 MR. DIGIACOMO: -- Deangelo Carroll get the person
13 who allegedly had his daughter strung out on drugs and beat
14 him, and then Anabel Espindola called it off. Deangelo
15 Carroll said it in his statement to the police. And not only
16 that, but Anabel Espindola knows about it, and they kept
17 asking the question about Rizzolo and the statement about
18 Rizzolo even beating up a customer came in. How could that
19 not be something we should deal with on redirect?

20 THE COURT: I mean, to me the beating up issue is
21 more germane, because we're talking about whether or not she
22 believed he was really going to beat up Timothy Hadland or do
23 something, as opposed to maybe making gifts to the City
24 Council, which is more just going to what Rizzolo and Gillardi
25 were on trial for.

1 MR. ADAMS: Judge, we have a concern. I suspect the
2 Court would give a limiting instruction --

3 THE COURT: Right.

4 MR. ADAMS: -- if they allowed either of that stuff
5 in. We have a concern that the limiting instruction would not
6 cure the prejudice that a son would have if such evidence is
7 brought in against the father. So we don't know if a curative
8 instruction would work if they start to bring in several
9 witnesses who start talking about this type stuff. And that
10 -- that is a concern that we have about that type of proffer
11 that the government's making.

12 THE COURT: Well, I -- I don't see much risk of that,
13 that somehow the jury is going to be prejudiced against the
14 son if the father had somebody beat up and the son wasn't even
15 aware of it or involved in it. I don't see a lot of prejudice
16 with a limiting instruction going. I don't see much risk of
17 that, quite candidly.

18 MR. GENTILE: All right. But let's -- let's remember
19 that Rizzolo, according to the testimony in this record, did
20 have someone beat up. The testimony here is going to be that
21 it did not happen, that he got angry because somebody got his
22 daughter hooked on drugs.

23 MR. DIGIACOMO: And he made the request, and Anabel
24 called it off.

25 MR. PESCI: And it was to Deangelo.

1 MR. DIGIACOMO: And the request was made to Deangelo.

2 MR. ADAMS: And again, we're not in a position of
3 being able to put Deangelo up. They have the access to
4 Deangelo, and we're deprived of the opportunity to clarify the
5 record and to show that this didn't happen.

6 THE COURT: All right. Well, and if it's not coming
7 in as to your client, then I don't think that the concern
8 about cross-examining Deangelo Carroll is really germane to
9 your client, because it's not being offered as against your
10 client.

11 And how does she -- how does Ms. Espindola know about
12 this beating up incident?

13 MR. DIGIACOMO: I'm going to particularly ask her
14 that, but she did tell me that she's the one who called
15 Deangelo and told him not to do it. So -- I haven't asked her
16 how she knew about the plan in the first place, but if I can't
17 lay a foundation that Mr. H told him, then -- I can't lay a
18 foundation with Mr. H, so --

19 THE COURT: All right. Well, here's my concern. I
20 don't want you putting it out there in front of the jury in an
21 attempt to lay a foundation and then being left with the
22 impression, oh, there was something, he did have somebody beat
23 up, if she can't testify about it.

24 MR. DIGIACOMO: That's fine. I'm going to lay the
25 foundation without --

1 THE COURT: Okay. Well, don't -- what I'm saying is
2 don't put it out there --

3 MR. DIGIACOMO: I won't blurt it out -- I won't blurt
4 it out without foundation.

5 THE COURT: -- were you aware of a plan that Mr.
6 Hidalgo, Jr., hatched to have somebody beat up; well, yes.
7 Well, how did you know; well, you know, Joey told me. It's
8 out there. So don't do it that way, all I'm telling you.

9 MR. DIGIACOMO: I won't.

10 MR. ARRASCADA: You're ordering him, correct, Your
11 Honor, not to --

12 THE COURT: What?

13 MR. ARRASCADA: You're making that your order?

14 THE COURT: Yeah, it's an order. I mean, I don't
15 want him to put it out there. All right.

16 MR. GENTILE: If this is something that Deangelo told
17 her, you know --

18 THE COURT: That's what I'm saying. But I don't want
19 him to put it out there that there was this plan afoot before
20 he lays a foundation. Because then we can't unring that bell
21 even if I give them an instruction. So be very careful about
22 that.

23 MR. GENTILE: Can we do this outside the presence of
24 the jury so that we at least don't run that risk?

25 THE COURT: All right. Bring her in. And then I

1 think I'll go along with not allowing the questioning on the
2 Willie Robinson gifts.

3 MR. DIGIACOMO: So I can't ask her if he really did
4 behave like Gillardi?

5 THE COURT: Not on the issue of gifts to Willie
6 Robinson. It's not just how --

7 Don't write this, Mr. Garriman.

8 But isn't that just how --

9 (Off-record colloquy)

10 THE COURT: Ms. Espindola, come on back up here to
11 the witness stand, please, ma'am. And Mr. DiGiacomo has some
12 questions for you out of the presence of the jury. All right.
13 And when you come back in to testify in front of the jury,
14 don't reference this hearing that we've had out of their
15 presence, okay?

16 THE WITNESS: Yes.

17 THE COURT: All right. Go ahead.

18 VOIR DIRE EXAMINATION

19 BY MR. DIGIACOMO:

20 Q Do you remember Mr. Gentile asking you
21 questions about you knew Mr. H for many years and Mr. H did
22 nothing to behave like Mr. Gillardi and Mr. Rizzolo; correct?

23 A Correct.

24 Q Remember answering those questions?

25 A Yes.

1 Q Now, let's start with --

2 MR. DIGIACOMO: Well, two things. Are we doing both

3 outside the presence, Judge, or are you going to limit --

4 THE COURT: Just I'm going to -- you're limited to

5 questioning according to what I just ruled on may be

6 admissible in front of the jury. Anything that I ruled that

7 wasn't admissible, there's no point in questioning her as to

8 lay a foundation.

9 BY MR. DIGIACOMO:

10 Q Okay. Who's Rosa?

11 A Louie's daughter. Mr. H's daughter.

12 Q And did there come a point in time that you

13 became aware that she had a problem?

14 A Yes.

15 Q What problem --

16 A She was addicted to drugs.

17 Q And was there somebody else associated with

18 Rosa that [inaudible]?

19 MR. GENTILE: I didn't hear the last several --

20 THE COURT: Was there someone else associated with

21 Rosa that the family didn't like.

22 MR. GENTILE: Well, that's a hearsay -- unless he can

23 lay the foundation that --

24 MR. DIGIACOMO: Well, I'll --

25 BY MR. DIGIACOMO:

1 Q Did you ever talk to Mr. H about Rosa and
2 Rosa's problem?
3 A Yes.
4 Q And did you ever talk to him about Rosa's
5 boyfriend?
6 A Yes.
7 Q All right. And what was -- what did Mr. H tell
8 you about Rosa's boyfriend?
9 A That he wanted him dealt with because he was
10 hurting his daughter.
11 Q Okay. And did he tell you who he specifically
12 had requested to deal with him?
13 A He mentioned Deangelo.
14 Q When you found out that Mr. H had requested
15 Deangelo to deal with this boyfriend what did you do?
16 THE COURT: Well, wait a minute. How did you find
17 out that Mr. H had requested Deangelo deal with Rosa's
18 boyfriend?
19 THE WITNESS: Deangelo came to the shop and told me.
20 BY MR. DIGIACOMO:
21 Q Let me back up. You just told me that Mr. H
22 mentioned Deangelo; correct?
23 A Mr. H mentioned Deangelo, yes.
24 Q When he was talking about dealing with it?
25 A Yes.

1 Q And then in a subsequent --
2 THE COURT: Well, wait a minute.
3 MR. DIGIACOMO: That's what she said.
4 THE COURT: No. Mr. DiGiacomo, I'm interrupting you
5 because I want to -- this is for my edification, as well as
6 the record.
7 All right. What did Mr. H say to you?
8 THE WITNESS: He said that Rosa is getting worse, she
9 was addicted to meth, and that he wanted her -- he was going
10 to talk to Deangelo because he wanted her boyfriend dealt
11 with, he wanted him scared.
12 THE COURT: He wanted him scared?
13 THE WITNESS: Yes.
14 THE COURT: Did he use the word "I want him scared"?
15 Or are you just conjecturing, or what?
16 THE WITNESS: I -- he said he wanted him dealt with.
17 THE COURT: Okay. And then you talked to Deangelo?
18 THE WITNESS: Deangelo came to the shop maybe a day
19 or two later and told me that he had spoken to Mr. H.
20 THE COURT: And then what did you do?
21 THE WITNESS: And I told Deangelo not to do anything.
22 THE COURT: And did you ever hear any more talk about
23 this boy -- Rosa and this boyfriend from Mr. H?
24 THE WITNESS: No. Rosa ended up spending more time
25 at the club.

1 THE COURT: Okay. And did Deangelo ever indicate to
2 you whether or not he had taken care of or dealt with this
3 boyfriend?

4 THE WITNESS: No.

5 THE COURT: And when you told Deangelo not to do
6 anything or whatever it is you said, what was Deangelo's
7 response?

8 THE WITNESS: He said, fine. When I told him no, not
9 to do anything, he said, fine. And that was the end of the
10 conversation.

11 THE COURT: And you never talked to Mr. -- I mean,
12 there was never anything between you and Mr. H about this
13 happened, it didn't happen, with respect to the boyfriend?

14 THE WITNESS: I never got back into it with Louie,
15 no. Or with Mr. H.

16 THE COURT: Any more questions?

17 MR. GENTILE: No.

18 THE COURT: Questions?

19 MR. DIGIACOMO: No.

20 THE COURT: All right. Ms. Espindola, thank you.
21 I'm going to let you get escorted back out by the
22 investigator.

23 MR. GENTILE: Submit it on the objection.

24 THE COURT: All right. You can ask just basically
25 what Mr. H said and that she told Deangelo not to do it and

1 Deangelo's statements, Mr. H told me to do it, don't --
2 MR. GENTILE: That's not admissible.
3 THE COURT: No. I was just going to say --
4 MR. GENTILE: Okay.
5 THE COURT: -- it's not going to be admissible.
6 MR. GENTILE: Sorry.
7 THE COURT: All right. I guess we can bring her back
8 in. I didn't know if there was going to be more argument.
9 MR. DIGIACOMO: No, there's no more argument.
10 THE COURT: Does anyone care on this, on the video
11 deposition if the Court just says, the Court ruled that Ms.
12 Espindola had to testify at trial and for that reason a video
13 deposition was not arranged?
14 MR. GENTILE: Right. That's what the Court ruled.
15 THE COURT: Does the State have any problem? State?
16 MR. DIGIACOMO: No. I mean, it's pretty well in
17 front of the jury that we wanted it to happen.
18 THE COURT: Well, I was just going to say the reason
19 there wasn't -- to respond to a jury question, the Court ruled
20 that Ms. Espindola had to testify in trial in front of the
21 jury and for that reason did not order a videotaped deposition
22 and that's why one was never held. Is everybody fine with
23 that?
24 MR. GENTILE: I'm fine with it.
25 THE COURT: All right. For the record, Mr. Adams is

1 nodding, Mr. Arrascada's kind of nodding.

2 MR. ADAMS: For the record, the little back table was
3 asked. We are nodding in agreement with the Court.

4 MR. ARRASCADA: That was a nod in agreement, Your
5 Honor, not a nodding off.

6 THE COURT: And Mr. Gentile was agreeing. All right.
7 All right, Jeff. Bring them in.

8 (Jury entering at 5:12 p.m.)

9 THE COURT: All right. Court is now back in session.
10 Record will reflect presence of the State, the defendants,
11 their counsel, the officers of the court, and the members of
12 the jury.

13 And before Mr. DiGiacomo resumes his redirect
14 examination, we had a question from a juror that I can
15 clarify. A juror wanted to know why a video deposition was
16 never provided. And the Court can answer that. The Court had
17 ruled that Ms. Espindola was required to testify in person in
18 front of the jury, and for that reason a video deposition was
19 not ordered. All right.

20 MR. DIGIACOMO: Thank you, Judge.

21 REDIRECT EXAMINATION (Resumed)

22 BY MR. DIGIACOMO:

23 Q Let's move past Gillardi on to Mr. Rizzolo for
24 a second, okay?

25 A Yes.

1 Q You testified that you didn't know Mr. H to
2 ever do anything like Mr. Rizzolo; correct?
3 A Correct.
4 Q Who's Rosa?
5 A His daughter.
6 Q Whose daughter?
7 A Mr. H's daughter.
8 Q And at some point in time did you become aware
9 of a problem that Rosa had?
10 A Yes.
11 Q And what was that?
12 A She was addicted to drugs.
13 Q Do you remember what kind of drugs?
14 A Methamphetamines.
15 Q And did you ever have a conversation with Mr. H
16 regarding Rosa's addiction to methamphetamine?
17 A Yes.
18 Q And was there a particular person, other than
19 Rosa, that was being discussed during this conversation?
20 A Deangelo Carroll came up.
21 Q In relationship to who?
22 A Mr. Hidalgo said he wanted to have Deangelo
23 deal with Rosa's boyfriend.
24 Q So Rosa's boyfriend came up?
25 A Yes, Rosa's boyfriend came up.

1 Q And what was the problem with Rosa's boyfriend
2 as it relates to Rosa?

3 A He was the one giving her drugs.

4 Q And Mr. H had a conversation with you about --
5 what did he -- what did he want Deangelo Carroll to do?

6 A To deal with Rosa's boyfriend.

7 Q Did he define for you what "dealt with" meant?

8 A No.

9 Q After this conversation did you have a
10 conversation with Deangelo Carroll, without telling us what
11 was said?

12 A Yes.

13 Q Okay. Without telling us what Deangelo told
14 you, what did you tell Deangelo?

15 A Not to do anything.

16 Q After you told Deangelo not to do anything did
17 you hear anything more about -- from Mr. H -- let me rephrase
18 -- did you hear anything more from Mr. H about the Rosa and
19 her boyfriend situation?

20 A No.

21 MR. ADAMS: Your Honor, we would ask for a limiting
22 instruction.

23 THE COURT: Oh. Ladies and gentlemen, the testimony
24 that Mr. DiGiacomo just elicited regarding Rosa and the
25 boyfriend situation is not being admitted as evidence against

1 Mr. Hidalgo, III.

2 BY MR. DIGIACOMO:

3 Q Now, there's been a lot of questions asked you
4 about your motivations for being here today.

5 A Yes.

6 Q So I'm just going to come out and ask you why
7 did you take the deal.

8 A As I had said earlier, I had spoken with my
9 attorney for several days. It was prior to trial. We were
10 preparing for trial, and he said that I would probably get hit
11 with second degree. The moment that -- what he told me is the
12 moment that I made the call that Louie requested of me I
13 became an accessory. And so during our conversations he went
14 ahead and said to me that I needed to testify in my regular
15 trial.

16 Q Okay. And was the information that you
17 provided to Mr. Oram over this 33 months similar to the
18 information that's been given to the jury?

19 A Yes.

20 Q And that was what you were going to testify in
21 your own trial?

22 A Yes.

23 Q So why take the deal with the State and
24 potentially subject Mr. H to being arrested, charged, and then
25 tried?

1 A As Mr. Oram has stipulated, that if I was going
2 --
3 MR. GENTILE: Objection. Hearsay.
4 THE COURT: All right. Sustained.
5 MR. DIGIACOMO: It goes to her state of mind. Why is
6 it that she's doing what she's doing is the question.
7 THE COURT: Well, what Mr. --
8 MR. GENTILE: It doesn't matter who -- I mean, her
9 state of mind doesn't require the hearsay.
10 THE COURT: Right. Ask the question in a different
11 way.
12 BY MR. DIGIACOMO:
13 Q Why not just go to trial and testify, as
14 opposed to entering a plea --
15 THE COURT: All right. That's fine.
16 BY MR. DIGIACOMO:
17 Q -- and subject Mr. H to being arrested and
18 prosecuted?
19 A At that point I could go ahead and take a
20 lesser charge, which would be manslaughter with use, if was
21 going to go ahead and be testifying the same thing.
22 Q So for you it was better for you to enter the
23 plea and do the same thing you were going to get on the stand
24 and do anyways?
25 A Yes.

1 MR. DIGIACOMO: Thank you very much.

2 Pass the witness, Judge.

3 THE COURT: All right. Before we go to Mr. Gentile,
4 any objection to covering these jury questions?

5 MR. GENTILE: I'd really like to just ask --

6 THE COURT: Okay.

7 MR. GENTILE: I only have a couple questions, please.
8 I apologize.

9 THE COURT: No, it's fine. It's fine.

10 RECROSS-EXAMINATION

11 RECROSS EXAMINATION

12 BY MR. GENTILE:

13 Q Let me get this straight. Your lawyer told you
14 that by making a telephone call to Deangelo Carroll without
15 having any idea that that telephone call was part of a plan to
16 harm Hadland, without having any idea of that, that that phone
17 call made you complicit in a crime?

18 A Yes.

19 Q He told you that?

20 A What --

21 Q Have you ever seen the jury instructions with
22 respect to complicity, aiding and abetting?

23 A No.

24 Q Have you ever seen the jury instructions with
25 respect to conspiracy?

1 A No.

2 Q So you just believed your lawyer --

3 A Yes.

4 Q -- and you took the deal?

5 A We spoke --

6 Q Excuse me.

7 A Yes.

8 MR. GENTILE: Nothing further.

9 THE COURT: All right. Well, I'm going to let Mr.

10 Arrascada go, then, too.

11 MR. ARRASCADA: Nothing, Your Honor. No questions.

12 THE COURT: All right. I have a few jury questions

13 up here. Before I ask you this question I must caution you

14 that you're not to speculate or guess or testify as to

15 anything somebody may have told you. But do you have personal

16 knowledge of any problem between Deangelo and T.J.?

17 THE WITNESS: No.

18 THE COURT: Okay. And again, don't speculate or

19 guess, only if Mr. Hidalgo, Jr., told you or you know. Do you

20 know, do you have personal knowledge of why Mr. H did not call

21 Deangelo himself to tell him to come back or to move to

22 Plan B?

23 THE WITNESS: No.

24 THE COURT: Okay. Who told T.J. he was fired?

25 THE WITNESS: Ariel.

1 THE COURT: Okay. Were you present at that time?
2 THE WITNESS: No.
3 THE COURT: All right. So you did not witness--
4 THE WITNESS: No.
5 THE COURT: -- occurring? Okay.
6 Who was told to watch T.J. during the taxi scam? I
7 mean, who was told to sort of monitor T.J. to see if he was
8 doing anything inappropriate?
9 THE WITNESS: That was based on the conversation that
10 Mr. H and Little Luis had upstairs in the office.
11 THE COURT: Okay. Did you direct anybody to do that?
12 THE WITNESS: No.
13 THE COURT: Okay. You testified -- or Mr. Gentile
14 went over the statement that you had made during your plea,
15 the five-word statement, "I assisted all the coconspirators."
16 Do you remember that?
17 THE WITNESS: Yes.
18 THE COURT: Okay. And a juror wants to know how did
19 you assist Deangelo Carroll.
20 THE WITNESS: By getting the money that Louie asked
21 me to get out of the safe --
22 THE COURT: All right. And --
23 THE WITNESS: -- and place it on the desk.
24 THE COURT: How did you assist Rontae Zone?
25 THE WITNESS: By issuing money to Deangelo Carroll,

1 the \$600 to go ahead and have him leave town.

2 THE COURT: Okay. How did you assist Kenneth Counts?

3 THE WITNESS: Again by bringing the money out of the
4 safe and placing it on the desk.

5 THE COURT: How did you assist Jayson Taoipu?

6 THE WITNESS: When I gave Mr. Carroll the \$600 to go
7 ahead and have him leave town.

8 THE COURT: Okay. Meaning Mr. Carroll or Jayson
9 leave town?

10 THE WITNESS: Both. It was Mr. Taoipu and Mr. Zone,
11 I think you had asked.

12 THE COURT: Okay. And then how did you assist Luis
13 Hidalgo, III?

14 THE WITNESS: I was in the room with him when all the
15 taping was going on or the wire was -- was on.

16 THE COURT: All right. Mr. Gentile, would you like
17 to follow up on that last --

18 MR. GENTILE: I'd like that last question, please.

19 THE COURT: -- that last line of jury questions?

20 MR. GENTILE: No, just that -- yeah. Just that last
21 question.

22 THE COURT: All right. No, no. The one I just
23 asked.

24 FURTHER RECROSS EXAMINATION

25 BY MR. GENTILE:

1 Q Are you aware of why you have to join a
2 conspiracy as compared to when its objective is completed?

3 MR. DIGIACOMO: Objection. Calls for a legal
4 conclusion.

5 MR. GENTILE: I think it's fair game at this point.

6 THE COURT: Well, if she's aware. Don't guess or
7 speculate or testify as to anything you may have heard or --

8 BY MR. GENTILE:

9 Q Are you aware?

10 A No.

11 Q Is it your understanding that in order to
12 become a conspirator in a murder you have to join the
13 conspiracy before the murder?

14 MR. DIGIACOMO: Objection. Calls for a legal
15 conclusion.

16 THE COURT: All right. It's sustained.

17 BY MR. GENTILE:

18 Q Let me see if I've got it right. You assisted
19 Deangelo Carroll by paying him money after the murder
20 occurred?

21 A I put the money on the desk, yes.

22 Q After the murder occurred?

23 A Yes.

24 Q And you didn't know that the murder was going
25 to occur, according to your testimony?

1 A Correct.

2 Q Okay. You didn't know that there was any harm
3 that was going to be done to Mr. Hadland, according to your
4 testimony?

5 A Correct.

6 Q And you -- after Mr. Hadland was dead, on the
7 23rd of May you gave money to Deangelo Carroll to give to Mr.
8 Zone; am I correct?

9 A Yes.

10 Q All right. But it's your understanding that
11 that somehow made you a conspirator in the murder?

12 A Yes.

13 Q And you based that on what your lawyer told
14 you?

15 A I -- my attorney told me that I would go ahead
16 -- the moment I made the call that Louie asked me to make
17 regarding Plan B that I became an accessory.

18 Q All right.

19 A That was what we discussed.

20 Q But with respect to this payment of money to
21 Mr. Carroll to give to Mr. Zone --

22 A I never discussed that payment of money with my
23 attorney.

24 Q Okay. So you just think that that's what
25 made--

1 A Yes.

2 Q -- guilty?

3 A Yes.

4 Q Okay. You never discussed that with your

5 lawyer, so he didn't tell you, well, no, it doesn't, did he?

6 A No.

7 Q Okay. And with respect to Mr. Counts, if I

8 understand you correctly, you never even heard of Mr. Counts

9 until substantially after Mr. Hadland was killed. Am I

10 correct?

11 A Correct.

12 Q You certainly didn't know that anybody was

13 going to do what Mr. Counts has -- was accused of doing prior

14 to him doing it, did you?

15 A Correct. I --

16 Q And so it's your -- you're telling us that you

17 think you're a conspirator because after Mr. Hadland was dead

18 you paid money to Mr. Carroll thinking that he was going to

19 give it to Mr. Counts?

20 A Yes.

21 Q And you knew nothing about any of that

22 beforehand?

23 A Correct.

24 Q And Mr. Taoipu I suppose is in the same

25 situation as Mr. Zone. You're telling us that somehow you're

1 -- you are guilty here of the death of Mr. Hadland because on
2 the 23rd of May, four days after the man was dead, you gave
3 money to Mr. Carroll to get Mr. Taoipu out of town?

4 A Yes.

5 Q Okay. And then with respect -- I'm not going
6 to ask with respect to Luis -- well, I will.

7 MR. GENTILE: May I have a moment?

8 THE COURT: Sure.

9 BY MR. GENTILE:

10 Q And because you were in the room with Luis
11 Hidalgo, III, four days after Mr. Hadland died, which death
12 you knew nothing about until after it happened --

13 A Correct.

14 Q -- it's your belief that somehow by being in
15 the room and doing nothing more, that made you a conspirator
16 in the death of Mr. Hadland?

17 A Yes.

18 MR. GENTILE: Okay.

19 THE COURT: All right. Thank you. Is that it, Mr.
20 Gentile?

21 MR. GENTILE: That's it.

22 THE COURT: Mr. Arrascada, do you have any followup
23 based on the juror questions?

24 MR. ARRASCADA: No, Your Honor.

25 THE COURT: All right. Mr. DiGiacomo?

1 MR. DIGIACOMO: I'm done.

2 THE COURT: No further questions for Ms. Espindola?

3 MR. DIGIACOMO: No.

4 THE COURT: Any other juror questions for Ms.

5 Espindola?

6 All right. Ms. Espindola, thank you for your

7 testimony. Please don't discuss your testimony with anyone

8 else who may be called as a witness in this case. You are

9 excused at this time.

10 All right. State, call your next witness.

11 MR. PESCI: State calls Zane Simpson.

12 THE COURT: Law Officer Simpson, just come up here

13 to the witness stand, please, sir, and remain standing facing

14 our court clerk.

15 KENNETH ZANE SIMPSON, STATE'S WITNESS, SWORN

16 THE CLERK: Please be seated and please state and

17 spell your name.

18 THE WITNESS: Kenneth Zane Simpson, first name,

19 K-e-n-n-e-t-h; middle name, Z-a-n-e; last name, S-i-m-p-s-o-n.

20 THE COURT: All right. Thank you.

21 Mr. Pesci.

22 MR. PESCI: Thank you, Judge.

23 DIRECT EXAMINATION

24 BY MR. PESCI:

25 Q Sir, based on how you dress, what do you do for

1 a living?

2 A I'm a police officer for the City of Henderson
3 Police Department.

4 Q How long have you been a police officer?

5 A 14 years.

6 Q Back in May of 2005, where were you assigned
7 within the Henderson Police Department?

8 A I was on a fugitive task force out of the FBI
9 office.

10 Q What does that mean?

11 A Specifically, I was on -- I worked out of the
12 FBI office. I reported to a Metro sergeant who was kind of
13 the supervisor in charge of our unit. Our office was
14 physically at the FBI office. All the violent felony warrants
15 that came out of county, came from other states, federal
16 warrants came to our office. We distributed them and went
17 looking for people with violent warrants.

18 Q Were there other people from other agencies
19 from that group?

20 A Yes. FBI had three agents; Metro had three
21 officers and a sergeant; and I was the Henderson guy.

22 Q Metro would be the Las Vegas Metropolitan
23 Police Department?

24 A Yes.

25 Q And what was your duty in that position? What

1 would you do?

2 A We were assigned various violent felony
3 warrants and they were distributed amongst us and then we --
4 if we thought we found somebody where they were hiding, we all
5 got together and went and took them into custody.

6 Q All right. That's what I was trying to get at.
7 You're assigned warrants, but what do you do with those
8 warrants. Okay.

9 I want to direct your attention to May the 23rd of
10 2005. Were you asked to assist the homicide division of the
11 Metropolitan Police Department?

12 A Yes.

13 Q And specifically what were you asked to assist
14 with?

15 A They wanted some surveillance on possible
16 homicide suspects prior to either a warrant being issued or
17 them taking them into custody.

18 Q And how would that work? Would you be dressed
19 the way you are now?

20 A No.

21 Q Would you be in plain clothes?

22 A Plain clothes, shorts, T-shirt, all undercover
23 cars. My vehicle at the time was a Dodge king cab pickup
24 truck.

25 Q Was there some sort of a briefing or discussion

1 specific to this case that you received before working on this
2 case?

3 A Yes.

4 Q And what was that, generally speaking?

5 A How we put our packets together is whoever we
6 were going to follow or look for, we would get either a
7 booking photo or a driver's license photo, their information,
8 where we thought they lived, the type of vehicles that
9 possibly they could be driving and, you know, depending on how
10 many people you would get a packet of, you know, X number of
11 people, this is what we're doing, this is who we're looking
12 for, this is what they could possibly be driving.

13 Q And in this particular case, were you
14 specifically tasked with trying to look for an individual by
15 the name of Anabel Espindola --

16 A Yes.

17 Q -- or Luis Hidalgo, II?

18 A Yes.

19 Q You've spoken of photos. Did you look at some
20 photos of these two individuals in this packet that you're
21 referring to?

22 A Yes.

23 Q Okay. Now, on May the 23rd, were you a part of
24 some surveillance at Simone's Auto Plaza?

25 A Yes.

1 Q And is Simone's located at 6770 South Bermuda
2 here in Las Vegas?

3 A I'll assume that that is the correct address.
4 It's down off of Sunset and Bermuda and I couldn't tell you
5 if -- right now if that's the exact address.

6 Q Does it sound about right, in that area?

7 A It sounds about the right hundred block.

8 Q Were there other people working with you or
9 were you all by yourself?

10 A No, the -- our whole team, plus some of the FBI
11 agents from the gang task force were also out there with us.

12 Q Was there a division of labor as far as where
13 certain people were supposed to set up in relation to the
14 Simone's plaza?

15 A You know, I -- it was kind of random. As you
16 arrived in the area, you picked a spot where you could see the
17 side door, the front door, the -- and if somebody was already
18 on one side, it wasn't -- I don't think anyone was
19 particularly -- You go here, you go there. We just kind of
20 flooded the area and started watching.

21 Q Okay. And when you started watching on May the
22 23rd, 2005, did you see individuals that you recognized as
23 possibly being the people you were supposed to look for?

24 A Yes.

25 Q Did you make note of that?

1 A Over the air, because another agent or
2 officer -- I don't know who was keeping the log -- so I just
3 said it on the radio and then it was logged in the time that I
4 saw them coming out of the business.

5 Q When you say over the air, is that what you're
6 talking about as far as the radio?

7 A Exactly, because we had our own separate
8 channel.

9 Q When you talk about something else writing
10 something down, you personally did not write down a log?

11 A I did not.

12 Q Have you reviewed that log?

13 A Yes, I have.

14 Q Did you do that prior to coming to testify?

15 A Yes, I did.

16 Q Okay. Can you recall about what time it was
17 when you called over the radio having seen someone from the
18 incident?

19 A Right around 4:30. It was towards the end of
20 our day and I was the last -- actually, I think, the last
21 person left in that area.

22 Q And do you recall who you indicated that you
23 saw over the radio?

24 A Luis Hidalgo and Anabel -- whatever the last
25 name is. I apologize. It's slipping my mind right now.

1 Q That's okay. Is Espindola a name that's
2 familiar to you?

3 A Espindola.

4 Q Okay. When you relayed this information, did
5 you maintain your position?

6 A Until they started to leave, and then I
7 followed them.

8 Q When they left, where'd they go?

9 A I followed them down to Warm Springs and 215
10 area, which there's a U.S. Bank and a Starbucks Coffee right
11 in that same little shopping area.

12 Q What did you see happening in that shopping
13 area?

14 A She went into Starbucks. He went into the
15 bank. And it was decided, because I was the last one there --
16 you know, you can't follow somebody really with one car with
17 any success. There was no sense in me following them.
18 Everybody else had gone to do whatever else they needed to do.

19 Q Was surveillance terminated at that point?

20 A Yes, it was.

21 Q And that's on the evening of May the 23rd,
22 2005?

23 A Correct.

24 Q Were you a part of surveillance also on May the
25 24th, 2005?

1 A Yes.

2 Q Could you tell the ladies and gentlemen of the
3 jury about that.

4 A I mean, it was the same thing. We showed up in
5 that area, we set up surveillance, ultimately ended up
6 following the same two people, Luis Hidalgo and Anabela --
7 Q Espindola.

8 A -- Espindola, I'm sorry.

9 Q That's okay.

10 A -- out of there until they were stopped down
11 off of Carson and 6th Street.

12 Q All right. We'll go through that in just a
13 second. But when you're talking about Luis Hidalgo, did you
14 have information of more than one Luis Hidalgo?

15 A Yes, there was his dad, there was him and then
16 his son.

17 Q All right. And the individual that you said
18 you just saw on the 23rd, which of the three were you speaking
19 of?

20 A I kind of talk to him as grandpa, dad, and son,
21 so I would consider him dad. He would be the middle person.

22 Q All right. So now going back to the 24th when
23 you said there was a stop, where was the stop made?

24 A Carson and 6th, I believe.

25 Q All right. Were you a part of that stop?

1 A I was in the area, but because we were in
2 undercover cars, we -- I didn't physically go out there on the
3 stop, but I had followed them down to that area, but I did not
4 partake in the stop.

5 Q All right. So you weren't a part of that stop?

6 A I was not.

7 Q Okay. However, on that date, leading up to the
8 stop, did you see individuals that you thought were Anabel
9 Espindola and Luis Hidalgo, Jr. being, as you described him,
10 dad?

11 A Yes.

12 Q Could you tell us when that picked up and where
13 it went?

14 A They had come out of the auto place, Simone's,
15 and got into that silver Hummer and went down and got on the
16 freeway and we were, you know, following them from there.

17 Q Okay. Was that -- you said a silver Hummer?

18 A (No audible answer).

19 Q I'm sorry?

20 A Pewter is what the report says, but I didn't
21 write that.

22 Q Okay. What do you understand pewter to be?

23 A Silver.

24 Q Okay. I just wanted to get that clear.

25 Now, do you recall who's driving of these two

1 individuals?

2 A I do not. I do not recall.

3 Q Were you right behind this silver Hummer or
4 back a ways? How did that work?

5 A No, I was several cars back.

6 Q Did you see either of these individuals do
7 anything else as you followed along?

8 A I did not. I wasn't close enough.

9 Q Were you relaying the information that you had
10 received? The information that you saw, did you relay it over
11 the radio?

12 A Oh, yes, exactly.

13 Q Like you told us about yesterday, it's the --

14 A Or somebody else, I mean, because how we kind
15 of were positioned is, you know, somebody might have been just
16 ten car lengths from where I was at, so if he said, Hey, so
17 and so came out, yeah, I'd verify that, yeah, I saw them come
18 out, but it may not have been specifically me saying it, but
19 as we go through the log, we all initial the things that we
20 saw and went through it.

21 Q Okay. And at some point were those two
22 individuals in the silver Hummer taken into custody?

23 A Yes.

24 MR. PESCI: Pass the witness.

25 THE COURT: All right. Thank you. Cross.

1 MR. GENTILE: Just one area.

2 CROSS-EXAMINATION

3 BY MR. GENTILE:

4 Q You say two individuals in the silver Hummer
5 were taken into custody?

6 A They were stopped. There was two people in the
7 car when it was stopped.

8 Q Okay. But how many were actually taken into
9 custody?

10 A You know, I'm not 100 percent sure. My portion
11 of that ended when the surveillance ended. I'm not sure who
12 was taken where or where everybody was taken.

13 Q All right. So you don't know that two were
14 taken into custody?

15 A No.

16 Q You only know that the vehicle was stopped?

17 A Two were in the car when it got stopped.

18 Q All right. And that's not taking somebody into
19 custody?

20 A No.

21 Q It's stopping the vehicle, correct?

22 A I would agree. Correct.

23 Q Now, you said that there were FBI agents from
24 the gang task force involved in this operation.

25 A Just for manpower purposes.

1 Q Right. No, I understand that. Was Bret
2 Shields one of those people, or do you recall?
3 A I don't recall that he was -- that he was out
4 there.
5 Q All right. You know who he is?
6 A I do know who he is.
7 Q And he was a member of the FBI gang task force?
8 A I don't know if he was in 2005, but -- when I
9 first met him, he was working -- he was a special agent with
10 robbery, so I'm not -- I know who he is, but I don't know --
11 Q You don't know if he was in the gang task
12 force?
13 A He was for a while, but I don't know if he was
14 in 2005.
15 Q All right. But he was gang task force. You're
16 just not sure that he was in 2005?
17 A And again, I'm not sure if he was out there at
18 that time.
19 MR. GENTILE: All right. Nothing further.
20 THE COURT: All right. Mr. Adams.
21 MR. ADAMS: Thank you.
22 CROSS-EXAMINATION
23 BY MR. ADAMS:
24 Q Hello, Officer Simpson. On May the 24th of
25 2005, you were aware that there were three generations of

1 Mr. Hidalgos there?

2 A Yes.

3 Q My client in the very back is the son. You
4 knew that there was a father and then a grandfather?

5 A Right.

6 Q And you became aware of that on the 24th?

7 A No, when we got briefed when all this started
8 for us on the 23rd.

9 Q All right. And you had a packet with two
10 people?

11 A You know, I can't recall. I know the two
12 people that we specifically had and I can't remember if we had
13 the son's photo, but I remember they had talked -- there was
14 a -- that convertible Chevy pickup truck that could possibly
15 have been one of the vehicles, but I don't remember if we had
16 his photo.

17 Q But you do know that on the 24th there was a
18 team that followed Luis Hidalgo, III, Little Lou, when he left
19 Simone's that day to drive north? You don't recall that?

20 A I don't recall.

21 Q On the 23rd, do you recall there being two
22 packets, one for Anabel Espindola and one for Mr. Hidalgo,
23 Jr., the father?

24 A I mean, it was all -- part of all our same
25 paperwork.

1 Q That's right.

2 A I don't know --

3 Q You don't remember seeing any photo at that

4 point in time of Little Lou?

5 A I do not.

6 MR. ADAMS: Thank you.

7 THE COURT: Redirect.

8 MR. PESCI: No, Your Honor.

9 THE COURT: Any juror questions?

10 All right. Officer, thank you for your testimony.

11 Please don't discuss your testimony with anyone else who may

12 be a witness in this case. You are excused.

13 THE WITNESS: Thank you, Judge.

14 THE COURT: State, call your next witness.

15 MR. DIGIACOMO: Jeff Smink.

16 THE COURT: Sir, just please come on up here to the

17 stand and then just remain standing, facing our court clerk,

18 just up those couple of stairs.

19 JEFFREY SMINK, STATE'S WITNESS, SWORN

20 THE CLERK: Please be seated and please state and

21 spell your name.

22 THE WITNESS: Jeffrey Smink, J-e-f-f-r-e-y,

23 S-m-i-n-k.

24 THE COURT: All right. Thank you.

25 BY MR. DIGIACOMO:

1 Q Sir, how are you employed?
2 A As a crime scene analyst supervisor with the
3 Las Vegas Metropolitan Police Department.
4 Q How long have you been employed with the Las
5 Vegas Metropolitan Police Department?
6 A A little over nine years.
7 Q And how long have you been a supervisor?
8 A For about a year.
9 Q Directing your attention back to May 24th of
10 2005, were you the crime scene analyst assigned to the search
11 warrant that was conducted at Simone's Auto Plaza?
12 A Yes.
13 Q And during the course of that, could you tell
14 the ladies and gentlemen of the jury what your duties were.
15 A Basically to photograph the -- certain areas of
16 the auto repair place, search for items of evidence and
17 collect evidence.
18 Q While she's doing that, I'll show you first the
19 ones that are admitted, which is 97 through -- 97 through 111.
20 If you could, briefly flip through those.
21 A (Complying.)
22 Q Are those photographs that you took?
23 A Yes.
24 Q Okay. And then I'm going to show you Exhibits
25 112 through 133 and ask you to briefly flip through those.

1 A (Complying.)

2 MR. GENTILE: Counsel, when he's finished, may I see
3 those, please?

4 MR. ARRASCADA: Your Honor, I'm sorry, which numbers
5 are --

6 MR. GENTILE: 112 through 133.

7 MR. DIGIACOMO: 112 to 133.

8 BY MR. DIGIACOMO:

9 Q Are those all photographs you took during the
10 execution of the search warrant at Simone's Auto Plaza?

11 A Yes.

12 Q Now, every time a crime scene analyst goes
13 anywhere, is there a crime scene diagram that's created?

14 A No.

15 Q Okay. When is it that you create a crime scene
16 diagram?

17 A At the scene of a homicide, an officer involved
18 shooting or at an attempted homicide where the suspect or
19 victim may die.

20 Q Why the limitation on when you do crime scene
21 diagrams?

22 A That's the policy of the section based on
23 manpower and our resources.

24 Q So I'm going to guess, based on that answer,
25 you didn't do a diagram of Simone's Auto Plaza, correct?

1 A Correct.

2 Q Lucky for us the defense brought one. So
3 Defense Exhibit C, does that appear to be a fairly true and
4 accurate depiction of Simone's Auto Plaza?

5 A Yes.

6 Q Now, you created a report in this case,
7 correct?

8 A Yes.

9 Q Now, when you create a report, what's the
10 purpose of documenting it?

11 A What time I arrived, the VIN number, the
12 victim, the location, who I made contact with, any vehicle
13 information, the general layout of the location I went to,
14 items of evidence that were collected, and any work that I
15 performed such as photography or latent print processing.

16 Q Now, in preparation of your testimony, did you
17 read your report and look at some of the photographs?

18 A Yes.

19 Q And did you notice anything about your report
20 that caused you some concern?

21 A Yes.

22 Q What was that?

23 A I lost my directionality while doing my report.
24 I was in the hallway reviewing my report, preparing to
25 testify, and I realized that in some areas in my report I lost

1 the directionality north, so some of my directions were -- as
2 north are incorrect.

3 Q Okay. And you were able to determine that when
4 you were looking at the photographs?

5 A Yes.

6 Q Okay. I'm also going to show you State's
7 Proposed Exhibits 231, 232, and 233 and ask you -- I know
8 they're printed not nearly as nicely -- do those appear to be
9 photographs you took at Simone's?

10 A Yes.

11 MR. DIGIACOMO: I offer 112 to 133 and then 231
12 through 233.

13 THE COURT: Any objection?

14 MR. ADAMS: We do, Your Honor.

15 MR. ARRASCADA: Yes, ma'am.

16 MR. ADAMS: The same objection to 117 to 123 that
17 the Court ruled on last week.

18 May we approach?

19 THE COURT: Yeah, because --

20 (Off-record bench conference)

21 THE COURT: Exhibit 120, 118, and 119 are all
22 admitted.

23 (State's Exhibits 118, 119, and 120 admitted.)

24 THE COURT: These are not admitted. I'll give these
25 back to Denise.

1 (Pause in proceedings)

2 MR. DIGIACOMO: So you ruled on those three, Judge,

3 but what about --

4 THE COURT: Well, you took the other ones away.

5 MR. DIGIACOMO: I didn't take them away.

6 THE COURT: All right. Counsel, approach again.

7 (Off-record bench conference)

8 THE COURT: Deniece.

9 THE CLERK: Yes, Your Honor.

10 THE COURT: These are a little bit -- 115, 129, 130,

11 131, 132, 133 will all be admitted. 128 is admitted, 127, 126

12 and 116.

13 (Off-record bench conference)

14 THE COURT: 114, 113 --

15 THE CLERK: 113 --

16 THE COURT: -- all right, and 112 are in.

17 THE CLERK: 113 and 112.

18 THE COURT: Okay.

19 (State's Exhibits 112 through 116, and 126 through

20 133 admitted.)

21 BY MR. DIGIACOMO:

22 Q Okay. We've already heard testimony from

23 another witness about kind of a -- the front area of Simone's,

24 so I'm going to start basically where the pool table is.

25 MR. DIGIACOMO: Do you have my admitted --

1 THE COURT: I think I gave them all to you -- oh,
2 the ones that were previously admitted.

3 MR. DIGIACOMO: Previously admitted.

4 BY MR. DIGIACOMO:

5 Q So let's back up a little bit here. Let's
6 start with -- back up a little bit and start with State's
7 Exhibit No. 106. What are we looking at?

8 A A ballistic vest laying on top of a pool table.

9 Q Is that a standard ballistic vest in the sense
10 it's a bulletproof vest?

11 A Yes.

12 Q Okay. And then the next item in 109 -- well,
13 first of all, is that a chair with a magazine on it that my
14 finger's on?

15 A Yes, it is.

16 Q And then 109, is that a closeup of it?

17 A Yes, with a paper note on top of the magazine.

18 Q And you eventually collected those papers?

19 A Yes.

20 Q Did you go past the pool tables? State's
21 Exhibit No. 111, what are we looking at?

22 A A hallway area which lead to a bedroom type
23 room and some offices.

24 Q And Room No. 6 would have been the last one?

25 A Yes.

1 Q I know the jury can't see it, but is there a
2 door number on there?

3 A Yes.

4 Q What door number is it?

5 A 6.

6 Q And as you come through the front door, State's
7 Exhibit No. 114, what are we looking at?

8 A This is a photograph taken from the entryway
9 into that Room No. 6 and the carpet area is the entryway and
10 the doorway to the left on the left side of the photograph is
11 a doorway leading to a bathroom. And on the right side of the
12 photograph, which is difficult to see, would be a closet and
13 straight ahead towards the top of the photograph would be a
14 bedroom area.

15 Q You mentioned the bathroom. State's
16 Exhibit No. 129, is that a photograph of the bathroom?

17 A Yes.

18 Q And in that particular bathroom, did you
19 collect anything?

20 A Yes.

21 Q What'd you collect?

22 A A burnt match, some burnt ashes and I believe a
23 lighter.

24 Q Why'd you collect some burnt ashes?

25 A I believed it was from burned-up paper or some

1 sort of paper product.

2 Q Now, how many crime scenes have you been to in
3 the course of your career?

4 A Thousands.

5 Q Okay. And what kind of training and experience
6 do you have?

7 A Roughly 3,500 hours of training from the
8 Federal Bureau of Investigation, the Las Vegas Metropolitan
9 Police Department, the San Bernardino County Sheriff's
10 Department, the Long Beach State University, the San
11 Bernardino Fire and Sheriff's Academy, and other training
12 institutes in areas of crime scene photography, crime scene
13 investigation, crime scene reconstruction, bloodstain pattern
14 interpretation, latent print processing, arson investigation,
15 and related investigative techniques.

16 I am also -- was a training officer while I was
17 employed for San Bernardino County Sheriff's and currently a
18 training officer with Las Vegas Metro. I'm a certified senior
19 crime scene analyst with the International Association of
20 Identification and I'm -- I was a Nevada -- or a California
21 post certified instructor and I'm currently a Nevada post
22 certified instructor.

23 Q That was a longer answer than I was looking
24 for. My basic question was how many cigarette ash and cigar
25 butt ash have you seen in your career?

1 A Lots.

2 Q Okay. And did this appear to be consistent

3 with that or some other substance?

4 A Some other substance.

5 Q State's Exhibit No. 116, what have we got?

6 A That's a photograph looking into the bedroom in

7 Room No. 6, simply a desk area located within that bedroom

8 area.

9 Q Within the search of 116, were there certain

10 items of identification that helped you identify who the

11 resident of 116 was?

12 A Yes.

13 Q 118, what are we looking at?

14 A A birth certificate from the county of Alameda

15 and a Social Security card which beared the name of Luis

16 Hidalgo, III.

17 Q Okay. And then is there a checkbook down there

18 in the name of Luis Hidalgo, III?

19 A Yes.

20 Q And interestingly --

21 MR. GENTILE: Objection to the commentary.

22 THE COURT: Yeah, that's sustained.

23 BY MR. DIGIACOMO:

24 Q Read that.

25 A Yes.

1 Q What does it say?

2 A Don Dible -- or D-i-b-l-e and then a phone
3 number.

4 Q Then State's Exhibit No. 119, were these found
5 in the room?

6 A I don't recall specifically if they were found
7 in that room or in an office.

8 Q Okay. Do you know what they are, at least?

9 A I believe they are savings bond applications.

10 Q Order forms for saving bonds?

11 A Yes.

12 Q State's Exhibit No. 126, do you see what the
13 person in that photograph is holding?

14 A It's a notebook and in his left hand an
15 envelope with saving bonds.

16 Q A closeup of 127, what have we got?

17 A It's a closer up view of the envelope held in
18 the detective's hand. It's a \$500 savings bond that had the
19 name Luis Hidalgo, III printed on it.

20 Q I'm going to show you a couple of other ones.
21 This is State's Exhibit No. 231. It's a photograph of one of
22 the other offices, correct?

23 A Yes. It's an office located in the back of the
24 auto repair place.

25 Q So when you say generally the back area, where

1 are we talking about on Defense Exhibit No. C, generally?
2 A Where it says the word "office," next to
3 No. 111.
4 Q 232, what's that?
5 A It's a photograph of a desk with a computer
6 keyboard and telephone on top.
7 Q Can you tell us which office that one's in?
8 A I believe in the same general area of that
9 office. There was also an office next to that one, but I
10 believe that's from the area I just described.
11 Q 233?
12 A That's a computer. I'm not sure of that
13 location.
14 Q How many offices were there in this building?
15 A Quite a few.
16 Q And you took photographs of all of them?
17 A Yes.
18 Q And this is another photograph of another one
19 of the offices?
20 A Yes.
21 Q You also said you collected some items of
22 evidence; is that correct?
23 A Yes.
24 Q One of the items you collected, was it a check
25 out of one of the offices or did Detective Wildemann take

1 that? Do you recall?

2 A I don't recall.

3 Q This has already been admitted, but for

4 purposes of the record, 200 I, is that an item you collected?

5 A Yes, it is.

6 Q Okay. And then if you were to open that, what

7 would you expect to find in there?

8 A A torn white note with handwriting, from the

9 chair by the pool table.

10 Q Okay. That note that we just saw, Maybe we're

11 under surveils, keep your mouth shut?

12 A Yes.

13 Q I'm showing you what's been previously opened

14 by stipulation of counsel as State's Proposed Exhibit No. 200.

15 Do you recognize that?

16 A Yes, I do.

17 Q And what is it?

18 A It's a paper bag which contained a -- certain

19 items of evidence.

20 Q I want to show you State's Exhibit No. 19. Can

21 you tell us -- I'm sorry, State's Proposed Exhibit 200 K.

22 It's your item 19; is that correct?

23 A Yes.

24 Q And based upon your impound there, what items

25 should be in there?

1 A Numerous savings bond forms.

2 Q Now, is there some document that you create to
3 tell us where Item 19 was located?

4 A Yes.

5 Q Do you have that with you?

6 A Yes.

7 Q Can you look at it and tell us where Item 19
8 was specifically located.

9 Counsel, for the record, he's looking at his
10 impound --

11 A My report says the southeast floor adjacent to
12 the desk in the bedroom of Room No. 6.

13 Q Okay. So that's found in Room No. 6 as well?

14 A Yes.

15 MR. DIGIACOMO: Move to admit 200 K.

16 MR. ADAMS: I'd like to see it.

17 MR. GENTILE: May I approach after he examines it?

18 MR. ADAMS: No objection.

19 MR. GENTILE: May we approach?

20 THE COURT: All right. Yes.

21 (Off-record bench conference)

22 THE CLERK: Is K admitted, Judge?

23 THE COURT: Yes.

24 THE CLERK: Thank you.

25 (State's Exhibit 200K admitted.)

1 BY MR. DIGIACOMO:
2 Q Showing you what's been marked as State's
3 Proposed Exhibit -- you're right, 201, do you recognize that?
4 A Yes, I do.
5 Q What is it?
6 A It is a paper bag which contains a notebook
7 with receipts and numerous U.S. savings bonds.
8 Q And where was that located?
9 A I'll need to review from my report.
10 Q Okay. Go ahead.
11 A On top of the northeast table in the bedroom in
12 Room No. 6.
13 Q Let me ask you this, sir: Are all the seals on
14 here yours?
15 A Yes, it appears to be.
16 Q That one down there too?
17 A No, that one is not mine.
18 Q Okay. So other than that seal, does it appear
19 to be in substantially the same or similar condition as when
20 you impounded it?
21 A Yes.
22 MR. DIGIACOMO: Move to admit 201.
23 THE COURT: Any objection other than -- any other
24 objection to 201?
25 MR. ADAMS: We'd like to see it.

1 MR. GENTILE: Same objection as I interposed as to
2 200 --

3 THE COURT: All right.

4 MR. GENTILE: -- which I don't think is actually on
5 the record at this point.

6 THE COURT: It's not. So you would object on behalf
7 of Mr. Hidalgo, Jr. to the admission of the exhibit against
8 him; is that correct?

9 MR. GENTILE: That is correct, as was 200.

10 THE COURT: All right.

11 MR. GENTILE: Actually 200 K.

12 THE COURT: All right. At this point that's
13 overruled.

14 While they look at that exhibit, let's take another
15 quick five-minute break, just five minutes.

16 And ladies and gentlemen, once again, of course, the
17 admonition is in place not to discuss the case or do anything
18 relating to the case. Notepads in your chairs. Please exit
19 through the double doors, just a quick five-minute break.

20 (Court recessed at 6:06 p.m. until 6:12 p.m.)

21 (Outside the presence of the jury.)

22 (Off-record colloquy)

23 THE MARSHAL: Judge, are you ready for the jury?

24 THE COURT: Yes, bring them in.

25 (Jury reconvened at 6:14 p.m.)

1 THE COURT: All right. Court is now back in
2 session.
3 And Mr. DiGiacomo -- I believe it was
4 Mr. DiGiacomo -- was conducting direct examination.
5 MR. DIGIACOMO: I think I offered 200 and then on
6 the break I think we broke it open and now it's 201 --
7 THE CLERK: A and B.
8 MR. DIGIACOMO: -- A and B.
9 THE COURT: All right.
10 MR. DIGIACOMO: Move to admit.
11 THE COURT: Any objection to 200 A and B other than
12 what's already been stated?
13 MR. ADAMS: Same objection.
14 THE COURT: I'm sorry. 200 A and B will be
15 admitted.
16 MR. ADAMS: Relevance, Your Honor.
17 THE COURT: Overruled.
18 MR. GENTILE: Same objection as earlier stated, Your
19 Honor.
20 THE COURT: All right.
21 MR. GENTILE: Request for a limine instruction.
22 THE COURT: All right. That will be denied at this
23 point.
24 (State's Exhibits 200 A and B admitted.)
25 MR. DIGIACOMO: Pass the witness, Judge.

1 THE COURT: All right. Cross.
2 Mr. Gentile, any cross?
3 MR. GENTILE: Court's indulgence.
4 THE COURT: All right. Mr. Arrascada, any cross?
5 MR. ARRASCADA: It will be Mr. Adams.
6 THE COURT: All right.
7 MR. ADAMS: A lengthy and zealous cross, Your Honor.
8 MR. GENTILE: May I approach the witness?
9 THE COURT: Yes.
10 CROSS-EXAMINATION
11 BY MR. GENTILE:
12 Q I'm handing you Exhibit 200. I -- actually,
13 you know, let me put it up here. If I understand you
14 correctly, you're the person who recovered this exhibit?
15 A Yes.
16 Q And if I understand you correctly, it was near
17 a pool table?
18 A Yes.
19 Q Okay. And was it this side up or was it this
20 side up?
21 A I didn't originally find it so I don't recall.
22 Actually, let me rephrase that. It was photographed as
23 depicted as it was found. So it was face side up.
24 Q Face side up?
25 A Yes.

1 Q You took the photograph?

2 A Yes.

3 Q All right. And this area that this was

4 recovered in, if I understand you correctly, what photograph

5 number was it? Do you remember?

6 A Do I remember? No.

7 MS. ARMENI: It was 109.

8 MR. GENTILE: Let me see if I can find it.

9 MS. ARMENI: 109.

10 MR. GENTILE: 109.

11 THE CLERK: Could I have that manila envelope,

12 please.

13 BY MR. GENTILE:

14 Q All right. So this photograph represents where

15 the note was when you took the photograph of it?

16 A Yes.

17 Q So it was sitting on top of a magazine, right?

18 A Correct.

19 Q And the magazine was sitting on top of a stool?

20 A Correct.

21 Q Okay. And the stool was where?

22 A Along the wall adjacent to the pool table.

23 Q All right. We don't have an easel, but I just

24 need you to come down here for a second. I won't have you

25 down here for long.

1 THE MARSHAL: Did you need the easel?

2 MR. GENTILE: No, it's not worth it.

3 BY MR. GENTILE:

4 Q I'm going to set this up on this desk over here
5 and ask you to take this marker. Are you oriented to this
6 chart yet?

7 A Yes.

8 Q Okay.

9 THE COURT: You're blocking the jurors.

10 MR. ADAMS: Some of the jurors would like to
11 participate.

12 BY MR. GENTILE:

13 Q Could you please take this marker and write
14 your initials where you took this photograph.

15 A Where I took the photograph or the --

16 THE COURT: I think the photograph on the monitor is
17 what he's talking about.

18 MR. GENTILE: The one -- yeah, 109.

19 BY MR. GENTILE:

20 Q So where the initials JS appear, there appears
21 to be a wall?

22 A Yes.

23 Q And the stool that this magazine was on and the
24 magazine that this document was on was on top of that stool
25 against that wall?

1 A Yes.

2 Q Now, did this appear to you -- of course, when
3 you took the photographs, this place was -- had basically been
4 cordoned off, it had been secured?

5 A Yes.

6 Q All right. So there wasn't any business being
7 conducted by the auto body shop while you were?

8 A Right.

9 Q But did it appear to you that where this pool
10 table -- where this stool was, excuse me, was a public area?

11 A No.

12 Q It did not?

13 A No.

14 Q All right. And when you say -- so when I say
15 public area, I mean, was it accessible to at least the
16 employees of Simone's?

17 A That would be my opinion, yes.

18 Q So it would be accessible to the employees but
19 perhaps not the public at large?

20 A The public would have to enter some doors and,
21 to me, it was in an area for the employees.

22 Q All right. But you don't know whether the
23 public, while waiting to pick up a car, was invited to play
24 pool in that area?

25 A I would not know that.

1 Q Okay.

2 MR. GENTILE: Nothing further.

3 THE COURT: Mr. Adams?

4 MR. ADAMS: Yes, ma'am.

5 THE COURT: Any questions?

6 MR. ADAMS: Yes, ma'am.

7 MR. GENTILE: It might be here.

8 THE COURT: It might be in this stack. No.

9 THE CLERK: Was it admitted?

10 THE COURT: It was admitted just in this last go

11 round.

12 CROSS-EXAMINATION

13 BY MR. ADAMS:

14 Q Mr. Smink, let me ask you this -- pardon me,

15 Judge.

16 THE COURT: No, that's all right.

17 BY MR. ADAMS:

18 Q Where is the front entrance to Simone's Auto

19 Plaza?

20 A It would be in the lower left corner.

21 Q Do you mind coming down with me because I think

22 this is very hard to read from that far away.

23 Where's the front entrance?

24 A In the lower left corner.

25 Q And where is Room 6?

1 A In the far back corner.

2 Q All right. Come down here so everyone can see.

3 Please point out the front entrance.

4 A Lower left.

5 Q And where's Room 6?

6 A Top left.

7 Q All right. And what is here? What's in this

8 area in the lower left-hand area?

9 A There's a reception area. There's a series of

10 sofas, tables. When you enter the front door, there's an

11 office to the right, a storage area in between, then another

12 office. Then there's a series of doors that were on a type of

13 spring that kept them closed, and then as you went through

14 those doors [inaudible], on the right side of the entryway, to

15 the left of this gaming area, there was a hallway that lead to

16 Room 6.

17 Q All right. Let's go down and share this on the

18 other end. You come in here and what is this area that you

19 just described in the lower left-hand corner of diagram C?

20 A To me, it would be what I would call a

21 reception area. There was a series of sofas, chairs, tables,

22 magazines and such. As you walk in, to the right there was

23 two offices with a storage area in between. When you walk

24 into the left, there was a series -- or there were two doors

25 that were closed by -- by design with springs, and if you were

1 to enter through those doors, they'll close behind you and
2 there would be a pool table area. And then towards the end of
3 the hallway was Room No. 6.

4 Q Okay. Thank you very much.

5 Let me put two or three of the photos up on this
6 contraption. Let's see if it works.

7 Do you remember -- this is State's 233. Do you
8 remember this photograph?

9 A Yes, I remember the photograph.

10 Q All right. Let me show you State's 232. Did
11 you also take this photograph of --

12 A Yes, I did.

13 Q -- of this desk with the computer monitor?

14 A And a keyboard and a telephone, yes.

15 Q And do you remember what room that was?

16 A No. I would need to see the series of
17 photographs prior to that to give you an accurate location.

18 Q Did you testify on your direct examination that
19 that was in Room 5, the room directly next to Room 6?

20 A I do not believe I did.

21 Q All right. What was in Room 5?

22 A I need to refer to my report.

23 Q All right. Go ahead.

24 A Room No. 5 was designed with an office, a desk
25 and a computer.

1 Q All right. And how about Room 4?
2 A Room 4 was set up as a storage room.
3 Q All right. And do you have photographs of Room
4 4?
5 A Not with me, but they were taken, yes.
6 Q Was that door locked?
7 A No.
8 Q What room was this in?
9 MR. GENTILE: Counsel, can we have an exhibit
10 number?
11 MR. ADAMS: 231.
12 THE WITNESS: This desk and computer was located in
13 the office area in the back of the store.
14 BY MR. ADAMS:
15 Q Okay. Where would that be?
16 A Where it says office.
17 Q Office across -- directly across the hall from
18 Room No. 6?
19 A Correct.
20 Q So there's a wide hallway back there and then
21 directly across is another office area?
22 A Yes.
23 Q Let me put up State's Exhibit 118. And this
24 was off the desk of Room 6?
25 A On top of, yes.

1 Q And Mr. DiGiacomo asked you about the name on
2 there being some version of the name Don Dible?
3 A He asked me to pronounce it, but --
4 Q Right.
5 A Yes.
6 Q And you know Mr. Dible?
7 A No, I do not.
8 Q Did you take and seize that writing with the
9 name Dible on it?
10 A I don't recall.
11 Q Was that ever submitted to Ms. Janseng Kelly to
12 do a handwriting analysis?
13 A I have no idea.
14 Q So you don't know whether that was Mr. Hidalgo,
15 III's handwriting, Anabel Espindola or someone else?
16 A I have no idea, no.
17 Q All right. But you were in the room and had
18 access to the room?
19 A To the bedroom, yes.
20 Q And you could have taken that into custody?
21 A I could have, yes.
22 Q And you did not, as far as you know?
23 A As far as I know right now, correct.
24 MR. ADAMS: Thank you.
25 THE COURT: All right. Any redirect?

1 MR. DIGIACOMO: No, Judge.
2 THE COURT: All right. Any juror questions?
3 All right. Thank you for your testimony.
4 THE WITNESS: Thank you.
5 THE COURT: Please don't discuss your testimony with
6 anyone else and you are excused at this time.
7 State, who's your next witness?
8 MR. PESCI: James Krylo.
9 May I approach your clerk?
10 THE COURT: All right. Sure.
11 James Krylo, Jeff.
12 Mr. Krylo, come on down to the witness stand,
13 please, sir. Step those couple of steps and remain standing,
14 facing our court clerk who's going to be administering the
15 oath to you in just one moment here.
16 JAMES KRYLO, STATE'S WITNESS, SWORN
17 THE CLERK: Please be seated and -- and please state
18 and spell your name.
19 THE WITNESS: James Krylo, K-r-y-l-o.
20 THE CLERK: Thank you.
21 MR. PESCI: May I proceed, Judge?
22 THE COURT: Yeah.
23 MR. PESCI: Thanks.
24 DIRECT EXAMINATION
25 BY MR. PESCI:

1 Q Sir, what do you do for a living?

2 A I'm a forensic scientist working in the
3 firearms unit of the Las Vegas Metropolitan Police Department
4 forensic lab.

5 Q What do you do in the firearms unit?

6 A Basically we look at firearms and tool mark
7 related evidence, so we examine firearms, test fire firearms.
8 We look at fire components of ammunition, bullets and
9 cartridge cases. We do tool mark comparisons in screwdrivers,
10 pliers, back to marks that they leave. We do serial number
11 restorations on guns. We also do distance determinations
12 based on gunshot residue patterns.

13 Q How long have you been doing that?

14 A A total, about 19 years now.

15 Q When you say total, was some of it before you
16 were with Metro?

17 A Correct. I've been doing it for the -- for Las
18 Vegas Metropolitan Police Department for a little over ten and
19 a half years now.

20 Q Do you have any specialized training and
21 experience in this area?

22 A Yes, I do.

23 Q And could you briefly tell the ladies and
24 gentlemen of the jury about that.

25 A Well, to begin with, I have a bachelor of

1 science degree in criminalistics, which is a degree basically
2 in half criminal justice, half, you know, science type course
3 work. I received my initial training in firearms
4 identification with the sheriff's department in Orange County,
5 California.

6 Since that initial training, I've attended about
7 another 600 hours of training on this matter from different
8 law enforcement agencies, forensic associations and firearm
9 manufacturers.

10 Q Have you testified in this field regarding this
11 evidence here in Clark County?

12 A Yes, I have.

13 Q If you were to guesstimate, how many times have
14 you given firearm testimony before?

15 A If you include my testimonies in the state of
16 California and the State of Washington and then here in
17 Nevada, it's over 250 times now.

18 Q Directing your attention to the specific case
19 that you're here to testify on, did you receive some evidence
20 and did you perform some examination on that evidence?

21 A Yes, I did.

22 Q Showing you State's -- which has been
23 previously admitted as State's Exhibit 134 and its contents,
24 I'd ask you if you recognize what that is.

25 A Open it?

1 Q Yes, please.

2 A Yes, I do.

3 Q Okay. Now, do you recognize 134 being the

4 envelope?

5 A Yes.

6 Q All right. And at the bottom is there a blue

7 seal?

8 A Yes. If you look at the bottom of the

9 envelope, you see a blue and white seal. That's the tape, the

10 evidence tape, that I seal the package with. If you look at

11 that tape, you'll see my initials, personnel number and the

12 date that I sealed it.

13 Then also on the chain of custody line on the front

14 of the label, you'll see my signature, personnel number, the

15 date and time that I sealed that package.

16 And then if you look at the individual vials inside,

17 again, you'll see the event number and my initials and

18 personnel number and the package -- package and item number

19 there.

20 Q And I think we have these as 134 A, B, and C;

21 is that correct, sir?

22 A Yes.

23 Q All right. What analysis -- well, what are we

24 looking at, 134 A, B, and C?

25 A These are bullet fragments.

1 Q Okay. For the ladies and gentlemen of the
2 jury, some of them might know firearms very well, but those
3 that don't, can you give us the anatomy of a cartridge which
4 is also commonly referred to as a bullet?

5 A A cartridge is one single unfired round of
6 ammunition and the cartridge has four basic parts. It has the
7 cartridge case, which is kind of the container, and at one end
8 of the cartridge case you have the primer. Inside the
9 cartridge case, you have gunpowder, and then seated in the
10 mouth of the cartridge case, the open end, is the bullet. And
11 the bullet is the projectile that comes out of the gun.

12 Q So when you say A, B and C are fragments,
13 fragments of what?

14 A Fragments of fired bullets.

15 Q Okay. Did you perform any analysis or any
16 testing on 134 A, B, and C?

17 A Yes, I did.

18 Q What did you do?

19 A Basically I looked at them and examined them to
20 determine caliber and then I also looked at them and compared
21 them to each other to see if they've been fired from the same
22 gun.

23 Q All right. When you looked at these three --
24 first you spoke of caliber. What did you do to determine
25 caliber and what was your conclusions as far as caliber of

1 these fragments?

2 A It's a fairly simple exam. It's just a visual
3 exam. What do they look like? What are they made of? What
4 are kind of the design characteristics of them? And then I
5 can measure their diameters and measure their weights.

6 Q And when you did that in this case, did you
7 come to a conclusion as far as the caliber of these fragments?

8 A Yes, I did.

9 Q What was that?

10 A I called these nominal .38 caliber.

11 Q Okay. What does that mean?

12 A Well, within this size of bullet there are
13 several different actual calibers. The common ones that
14 you've probably heard of would be the .38 special, the .357
15 magnum, the .9 millimeter Luger. Those -- the bullets in
16 those cartridges or those calibers are all very similar. So
17 with a damaged bullet like this, you can't actually
18 distinguish one from the other. So this would be in that
19 family, that .38 caliber family, of bullets.

20 Q Okay. And within that .38 caliber family, what
21 calibers are present in that family?

22 A Again, any -- the common ones are the .38
23 Special, the .357 magnum, the .9 millimeter Luger, and then
24 there are others, but those are the most common ones we see.

25 Q Okay. Give us a general definition of a

1 firearm.

2 A A firearm basically is some type of action in a
3 barrel by which you propel a bullet through the combustion of
4 gunpowder.

5 Q Can you explain the difference between a
6 semiautomatic and a revolver as far as firearms go?

7 A The basic difference is with a revolver you
8 have a multichambered cylinder and the ammunition is loaded
9 into that cylinder. As the gun is fired, that cylinder
10 rotates so that the cylinder lines up with the barrel and then
11 the bullet is fired out the gun.

12 So during firing with the revolver, the cartridge
13 cases -- that's the fired cartridge cases -- stay in the gun.
14 With a semiautomatic pistol, the cartridges are loaded in the
15 gun, and as the gun is fired, those cartridge cases are
16 automatically extracted and ejected from the gun.

17 Q In this particular case, did you have any
18 casings -- I'm sorry, casings submitted to you?

19 A No.

20 Q In looking at these particular fragments, and
21 let's start with 134 A, as far as the condition of that
22 particular fragment, was it conducive to you making a lot of
23 analysis?

24 A Not on 134 A. 134 A is just a small fragment
25 of a bullet jacket.

1 Bullets are -- a lot of times are -- have two basic
2 parts. There's an outer part called the jacket, and then
3 inside the jacket is called the core. And it's not uncommon
4 for when a bullet impacts something for the core and the
5 jacket to separate or to fragment. So 134 A is just a
6 fragment, a small piece of a bullet jacket.

7 Q How about 134 B and C, were they in a different
8 condition such that you could analyze them better?

9 A 134 B and 134 C contain fragments of bullet
10 cores, the inner part, and also the outer part, the bullet
11 jacket. So there's enough material there for me to actually
12 do an analysis on.

13 Q And did you do an analysis in this case?

14 A Yes, I did.

15 Q And looking at those two fragments, 134 B and
16 C, what conclusions did you come to after the analysis?

17 A Well, again, after determining caliber, then I
18 used a comparison microscope to actually look at these two
19 objects, the two jackets, side by side. And what I looked for
20 were the rifling impressions that are on those bullets, that
21 are imparted on that bullet as it passed down the barrel of
22 the firearm.

23 So I compared the rifling impressions on 134 B to
24 the rifling impressions on 134 C, and by doing that, I was
25 able to identify both of them as having been fired from the

1 same gun.

2 Q Can you do that without even having the
3 specific firearm that fired those fragments that you had?

4 A Yes, I can.

5 Q And how is it that you can do that?

6 A Again, I'm looking for the marks that are left
7 on that bullet jacket as it went down the barrel. So I look
8 at one bullet jacket, compare it to the other, look for the
9 agreement of the microscopic marks that were left on those two
10 bullet jackets as they went down the barrel.

11 Q And these characteristics that you're speaking
12 of, are they more indicative of a revolver or a semiautomatic?

13 A Well, the rifling characteristics are not
14 really indicative of either. It's actually the design
15 characteristics of these two bullet jackets that would tend to
16 lead more towards a revolver than a semiautomatic.

17 Q All right. So the design characteristics of
18 these fragments then lead you to that?

19 A Correct.

20 Q Okay. So is it your opinion, then, that these
21 seem to be more aligned with something that would have been
22 shot by a revolver?

23 A Correct.

24 Q And I think you testified earlier that when a
25 revolver is shot, a cartridge case is not expended.

1 A Correct.

2 Q And you had no casings in this particular case?

3 A None were submitted to me, right.

4 Q Now, did you also do some analysis of some
5 firearms that were submitted to you in this case?

6 A Yes, I did.

7 Q Did you prepare a report in anticipation of
8 testifying in this case?

9 A Well, I prepared a report. Basically, we
10 always prepare a report whether we testify or not.

11 Q Okay. Sorry. That was poorly stated.
12 And in that report, did you summarize the testing
13 that you did of a couple of firearms?

14 A Yes, I did.

15 Q And could you tell the ladies and gentlemen of
16 the jury the firearms that you analyzed.

17 A I examined two Smith and Wesson revolvers. One
18 was a -- the caliber's 38 S and W, the serial number was
19 638751. The other Smith and Wesson revolver was a .38 Special
20 with serial number J609592.

21 Q Okay. And is it safe to say that you don't
22 respond to scenes?

23 A Very seldom.

24 Q Okay. However, when an document or an item
25 comes to you, will it be labeled as far as where it came from

1 at a specific scene?

2 A Yes.

3 Q All right. And one of the firearms, did it
4 come to you from 1677 E Street?

5 A Yes.

6 Q And another one, did it come from 6770 South
7 Bermuda?

8 A Yes.

9 Q All right. And going back, the fragments that
10 you received, had they come from the Clark County Coroner's
11 office?

12 A Yes.

13 Q All right. Now, let's go to the first revolver
14 that you just spoke of. Which one did that come from?

15 A The first one was from the 1677 E Street.

16 Q What did you find out about that revolver?

17 A It was functional, but I eliminated it as
18 having fired these bullet fragments.

19 Q What do you mean by that?

20 A These bullet fragments were not fired from that
21 revolver.

22 Q All right. And how did you do that?

23 A Pretty simple in this particular case. We look
24 at the rifling that's in the barrel. It's made up of what we
25 call lands and grooves. And actually it looks like a spiral.

1 It's got these spiraling grooves in the barrel and the groove
2 is just that. It's a cut-out portion. The land is the raised
3 area between two grooves.

4 Different manufacturers put different numbers of
5 lands and grooves in a barrel. Sometimes they twist to the
6 right, sometimes they twist to the left.

7 The bullet fragments 134 A, 134 -- I mean, 134 B and
8 134 C were fired from a gun that had six lands and grooves
9 right twist. The Smith and Wesson revolver was five lands and
10 grooves right twist. So on that -- those characteristics, you
11 would eliminate that revolver.

12 Q Okay. The Smith and Wesson .38 Special
13 revolver you got from 6770 Bermuda, did you do the same
14 analysis?

15 A Yes.

16 Q What was your conclusion?

17 A Again, that -- these fragments were not fired
18 from that revolver for the same reason, the different rifling
19 characteristics.

20 Q Okay. What can you tell us about NIBIN? What
21 is NIBIN?

22 A NIBIN or NIBIN is an acronym for the National
23 Integrated Ballistic Information Network.

24 Q And what is that?

25 A It's basically a computerized database of

1 firearm evidence and it's administered by the Bureau of
2 Alcohol, Tobacco and Firearms.

3 Q And what gets put into this database?

4 A We currently enter cartridge cases into -- our
5 NIBIN database.

6 Q When you say that, you're saying -- how do you
7 put a cartridge into it? How does that work?

8 A It has a microscope and a camera built into the
9 microscope and we take an image of the markings that are left
10 on the cartridge case during the firing process, and
11 specifically, we're looking at the breach face marks and the
12 firing pin impression. We take a photo of those marks and
13 enter those into the database.

14 Q In this particular case, did you have any
15 cartridge to put into that database?

16 A No.

17 MR. PESCI: Court's indulgence.

18 BY MR. PESCI:

19 Q In the context of comparing bullets, or let's
20 call it the fragments or cartridges, what is -- what are the
21 difficulties that you run into as far as comparing bullets or
22 fragments?

23 A The main issues that come up with comparing
24 bullets is the damage. You know, the bullets are coming out
25 of the gun probably in the neighborhood of, depending on the

1 caliber and cartridge, you know, handgun bullets like these,
2 800 to 1200 feet per second, which is right around the speed
3 of sound. So they're traveling really fast. And when they
4 hit just about anything, that impact is going to cause damage
5 and fragmentation to the bullet.

6 Q When you test fire a bullet, does it have
7 damage and fragmentation that you're speaking of?

8 A The test firing that we do, we test fire into a
9 large water tank. Water works really good to stop the bullets
10 in basically an undamaged condition.

11 Q Okay. And in comparison to bullets, bullet
12 fragments, how about comparing cartridge casings? Which one
13 of the two is easier to make a comparison?

14 A Well, the comparison actually is -- one is not
15 actually easier or harder than the other, because, again, I'm
16 just using a microscope and comparing them side by side. What
17 you find with a cartridge case is, first of all, you don't
18 typically get as much damage to the cartridge case because
19 even if it's ejected from the gun, it's not ejected anywhere
20 near as fast as the bullet came out of the gun. And there are
21 more parts of the gun that will leave marks on the cartridge
22 case than on the bullet. So there's more to look at
23 typically.

24 MR. PESCI: Pass the witness. Thanks.

25 THE COURT: All right. Cross.

1 MR. GENTILE: Just a moment.

2 CROSS-EXAMINATION

3 BY MR. GENTILE:

4 Q You referred to design characteristics but you
5 didn't explain that term, so I'm going to ask you to do that.

6 A The characteristics that I'm looking at on a
7 bullet that -- again, that would be more indicative of a
8 revolver than a pistol bullet would be what's called a
9 neurocan loop. It's a ring around the bullet that's got like
10 a set of rings -- of striations on it.

11 If you look -- kind of like a -- when you have a
12 cigarette lighter and the little wheel, it's got those little
13 lines on it, the revolver bullets have a ring like that on
14 them. Now, you typically don't see that on pistol bullets.

15 The other characteristic that I saw on these bullet
16 jackets was that the top edge of the -- remember, the jacket
17 is the outer part of the bullet -- the top edge of that is
18 scalloped, and that's fairly characteristic of Remington's
19 revolver bullets.

20 Q Mr. Krylo, is there a database, whether it be
21 national or just kept by Metro or anything in between, by
22 which you can compare bullets that you recover in one shooting
23 with perhaps bullets that were recovered from another shooting
24 to see if the same weapon fired them?

25 A The NIBIN database that we talked about earlier

1 has that capability.

2 Q All right. Well, right now you're only using
3 it for cartridges, though?

4 A Correct, cartridge cases. Correct.

5 Q That's what you're entering?

6 A Yes.

7 Q Okay. But you can retrieve from that, if I
8 understand you correctly, information about bullets as well?

9 A Yes.

10 Q All right. Only Metro is not, at this point in
11 time, entering bullets information?

12 A Correct.

13 Q And when you enter the information with respect
14 to bullets, and I don't mean you because you're not, is that
15 also done photographically?

16 A Yes.

17 Q All right. Did you make any effort to retrieve
18 from the NIBIN database any information with respect to
19 whether the bullets that are represented as 134 A, B, and C
20 matched up with bullets from another separate shooting to
21 determine whether the gun that fired 134 A, B and C might have
22 also fired bullets from another shooting?

23 A No, I did not. And you'd have to actually
24 enter the images of these bullets to do that, and we didn't do
25 that.

1 Q All right. Is it that Metro doesn't have the
2 capability of doing that?

3 A It's -- we have the capability because we have
4 the database. It's a time/staffing type deal -- factor, you
5 know, really.

6 Q Okay. Were you informed by anyone with respect
7 to the work that you did in this case that there was
8 information in possession of the Las Vegas Metropolitan Police
9 Department that the bullets that you have before you, 134 A,
10 B, and C, may have been fired from a gun that was also used in
11 another separate shooting?

12 A No. And if we had that gun, the easiest way to
13 do that type of analysis would just be to compare it.

14 Q I understand that. That's not what I asked
15 you.

16 A No, I don't have any knowledge of that.

17 Q Okay. So, in other words, Detective Wildemann
18 or Detective Vaccaro or Detective McGrath did not tell you
19 that someone told them that the gun that was used to kill
20 Mr. Hadland had also been used in a separate shooting?

21 A No.

22 Q Okay. Had you known that, what would you have
23 done?

24 A Well, the easy thing to do is even if you don't
25 have the gun itself but if you have bullets from the other

1 shooting, you could just do a direct comparison.

2 Q Okay. And if they told you the information
3 with respect to the specific case, that this other separate
4 shooting allegedly used this same gun, would you -- and if
5 that case took place here in Clark County, you would probably
6 still have those bullets then, wouldn't you?

7 A I would expect so.

8 Q Okay. But you were never requested to do that?

9 A No. I don't have any notes to that effect, no.

10 Q Okay. Had you -- had you been made aware of
11 that, that even without the gun, even if you still didn't have
12 the gun, you didn't have it from the first shooting, you
13 didn't have it from the second, you could have basically done
14 a microscopic examination of all of them to make a
15 determination as to whether it appeared that the lands and
16 grooves on the gun matched on all of these bullets --

17 A Yes.

18 Q -- the markings?

19 A Yes.

20 MR. GENTILE: Nothing further.

21 THE COURT: Mr. Adams.

22 MR. ADAMS: I have no questions. Thank you.

23 THE COURT: Any redirect?

24 MR. DIGIACOMO: No, Judge.

25 THE COURT: Mr. Krylo, thank you for your testimony.

1 Please don't discuss your testimony with anyone else who may
2 be a witness and you're excused, sir.

3 All right. Ladies and gentlemen, we're going to
4 take our evening recess. We'll reconvene tomorrow morning at
5 9:00 a.m. and we'll work until 7:00. I'm assuming that's not
6 a problem for anyone. We're going to really try to get this
7 done.

8 Once again, you're reminded that during the evening
9 recess, you're not to discuss this case or any subject matter
10 relating to the case with each other or anyone else. Do not
11 read, watch, listen to reports or commentaries related to the
12 trial. Do not do any independent research connected with the
13 case. Please don't visit any of locations at issue. Also,
14 please do not form or express an opinion on the trial until
15 you begin deliberating with one another in the jury room.

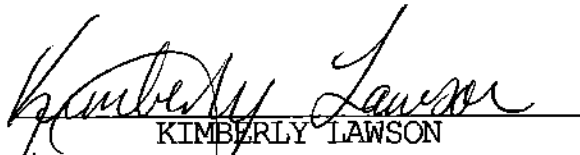
16 Notepads in your chairs. Follow Jeff through the
17 double doors. We'll see you all back here at 9:00 tomorrow
18 morning.

19 (Court recessed at 6:52 p.m. until the following
20 day, Tuesday, February 10, 2009, at 9:00 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

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DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

NOV 24 2009

John L. Adams
CLERK OF COURT

STATE OF NEVADA,

Plaintiff,

vs.

LUIS ALONSO HIDALGO, aka
LUIS ALONSO HIDALGO, III, and
LUIS ALONSO HIDALGO, JR.,

Defendants.

CASE NO: C212667/C241394

DEPT NO: XXI

**Transcript of
Proceedings**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 11

TUESDAY, FEBRUARY 10, 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, CLARK COUNTY, NV., TUES., FEB. 10, 2009

2
3 THE COURT: As a preliminary matter, can we stipulate on the
4 fingerprint guy, Fred Boyd, or do they need to call him? It's up to you.

5 MR. GENTILE: No, I need to call him. I need to examine him a little bit,
6 not a lot but --

7 THE COURT: Okay. No, that's fine. I just thought if there's no contest
8 on the --

9 MR. GENTILE: Why? Is he not here?

10 THE COURT: No, he's here. I'm trying to speed this up.

11 THE COURT: What's the State's position on asking the jury if they've
12 read anything?

13 MR. GENTILE: I don't think they can oppose it.

14 MR. DIGIACOMO: I don't know that I oppose it. I think that there's
15 always a danger that they're going to want to run out and read to see what the
16 heck they missed.

17 THE COURT: That's my fear.

18 MR. DIGIACOMO: So I'll submit it to the discretion of the Court.

19 MR. GENTILE: Judge, it's a bad habit that my client -- the newspaper
20 says that my client's involved with, okay.

21 THE COURT: No, I can ask him. I mean, my -- candidly, I'm happy to
22 ask them. My fear is the same as Mr. DiGiacomo's. For those people who
23 didn't see it and don't know about it, now they're thinking, oh, my gosh,
24 what's out there in the media that I don't know about.

25 MR. GENTILE: Then all you've got to do is tell them not to do it if

1 they've been listening to your admonishment.

2 But the thing about it, the problem is that if they were casually
3 reading through the newspaper --

4 THE COURT: They saw the headline.

5 MR. GENTILE: -- they would have seen it because it was not on the
6 front page so they would know not to look at it.

7 Are we on the record?

8 THE COURT: Yes.

9 MR. GENTILE: Your Honor, last time, I didn't bring it -- I will supplement
10 the record. Last -- yesterday afternoon you kept out a piece of evidence that
11 was proffered by the State, and as the -- as it should be in our system -- and as
12 the Court knows I do a lot of First Amendment work -- it was reported today,
13 and it was reported on the banner of the local section of the Las Vegas Review
14 Journal, and the headline was to the effect of, Councilman Robinson from North
15 Las Vegas accused of a bribe, words to that effect.

16 My concern is that the Court did rule that that was inadmissible. I
17 am sure that of the 15 people on this jury, some of them subscribe to the
18 Review Journal, and in casual reading of the newspaper this morning, it
19 would -- there was no way it wouldn't have caught their eye. It was in the A
20 section.

21 My further concern is that we ferret out at this point in time if
22 anybody read it. If anybody indicates that they did read it, I think we need to
23 take a voir dire examination of them because they have information now in the
24 mix that will pollute the jury deliberations because the Court has ruled that it
25 was inadmissible, and moreover, frankly, it was not really supported.

1 Councilman Robinson did say --

2 THE COURT: Denied it.

3 MR. PESCI: -- in the article that it was a lie, and the jury may wonder,
4 well, who's telling the lie. Was it Ms. Espindola? Was it Mr. Hidalgo, and, you
5 know, he's damned if he did and he's damned if he didn't. He's accused of
6 bribing a councilman or saying that he bribed a councilman, either one.

7 THE COURT: Or the other option is Ms. Espindola is lying about the
8 whole thing.

9 MR. GENTILE: That is also possible, which would be something that the
10 State I'm sure would want to know what the juror might have read and how
11 they took it.

12 MR. DIGIACOMO: Judge, my position has always been that when you
13 ask the questions you let the (unintelligible) in the room. I'll submit it to the
14 discretion of the Court, but I would ask the Court not to say, Did anybody read
15 today's paper. I think you should ask, During the course of this trial, has
16 anybody seen anything --

17 THE COURT: About this case in the --

18 MR. DIGIACOMO: -- in the paper related --

19 THE COURT: No, in the media. I'm not going to say in the paper.

20 MR. DIGIACOMO: You can say media, that's fine, but, I mean, I don't
21 know that we want to direct it to today's paper.

22 THE COURT: Oh, gosh, no.

23 MR. GENTILE: How about this. How about this.

24 THE COURT: Okay. I just want to make sure that during the course
25 of -- just kind of casual -- I just want to make sure that during the course of the

1 trial I need to ask if anyone has seen anything about the case in the media.

2 MR. GENTILE: How about just saying in the news media, okay.

3 THE COURT: In the news media.

4 MR. GENTILE: Yeah, because some people are -- I don't want to
5 suggest that there are some people that are less literate than others.

6 THE COURT: No, that's fine. I can say in the news media, and then if
7 people hold up their hands -- Mr. Gentile, if people hold up their hands, I'll say,
8 Don't tell me what you saw or heard. Was it on television or in the newspaper,
9 and we'll go through that way, and then the people who saw something we'll
10 question --

11 MR. GENTILE: We'll take them one at a time.

12 MR. ARRASCADA: Your Honor, we'd join in that request, Mr. Gentile's
13 request.

14 THE COURT: All right. I guess I'll do it at the beginning before the
15 break. Otherwise, we could just start with testimony and do it at the break and
16 then argue about whether or not if somebody's seen or heard anything we want
17 to excuse them.

18 It might be better to do it at the break. I think it doesn't highlight
19 the whole things as much as marching them in this morning and that being the
20 first question out of the Court's mouth, which suggests, oh, no, there's
21 something in the media; we've got to address this right away. I would prefer
22 tactically to do it at the break.

23 MR. GENTILE: No, Your Honor, we need to do it now.

24 THE COURT: Why? Because if there's -- if we're going to bring in an
25 alternate or exclude one of them, we can decide on the break to do that. Do

1 you see what I'm saying? They're not supposed to be talking about the case
2 anyway, and so to me, to bring them in right now really highlights the story
3 that we're concerned about as opposed to just saying it at the break. That's
4 just my -- like, oh, this -- you know, why all of a sudden this first morning are
5 we bringing them in and the very first question out of my mouth is, Has anyone
6 seen or heard anything.

7 MR. GENTILE: How about this. How about we do it when the State
8 rests?

9 THE COURT: That's fine, or when we take a break or when the State
10 rests is fine.

11 MR. GENTILE: Because if there is anybody it's going to take some time
12 to be doing some voir dire examination.

13 THE COURT: Okay. All right. That's fine.

14 MR. DIGIACOMO: Yes. Your Honor, can I go to another subject?

15 THE COURT: Sure.

16 MR. DIGIACOMO: I don't know if was ever on the record. I've talked to
17 the defense in the past about reciprocal discovery. As far as I'm aware there
18 isn't any; however, in discussing with Mr. Gentile today, apparently Jerome
19 DePalma had made notes of whatever conversation he had with Anabel.
20 There's really two things related to that. One is we want the notes, obviously
21 before Mr. DePalma gets on there, and then, I think there needs to be a voir dire
22 examination as to what exactly he explained to Anabel about the nature of the
23 communication that he had with her.

24 Did he explain to her that he wasn't her lawyer? Did he explain to
25 her that --

1 MR. GENTILE: My examination of her went directly to that. She
2 acknowledged that he was Mr. Hidalgo's lawyer and not hers.

3 MR. DIGIACOMO: I completely understand that, but she's claiming that
4 the conversation never took place. I need to know from -- I think before it
5 becomes legally admissible he has to say, I informed her I wasn't her lawyer
6 and communications that she gave to me were not privileged. Otherwise, I
7 mean, you can just accept her representations that it never happened, but in
8 order for a conversation with a lawyer to be admissible, that lawyer needs to
9 establish that --

10 THE COURT: Doesn't she waive that by denying the relationship
11 herself? If she says, I had no relationship with this, to me then it's not up to
12 the lawyer to say he has a relationship. I mean, that to me is an issue between
13 Jerome DePalma and the bar if it ever comes to that, not an issue as to the
14 admissibility in a separate trial of these two people because Ms. Espindola -- I
15 mean, I certainly don't want to admit anything that's unethical for the Court to
16 admit.

17 But to me she has waived the privilege by denying a relationship
18 and by denying that a conversation ever -- not only did she deny the -- I would
19 give you if she said, yes, he was my lawyer but we didn't talk, that, yes,
20 there's still a privilege even if she denies the conversation. But if she -- she
21 testified he wasn't my lawyer and we never talked. And so to me I don't know
22 that -- it's her privilege, and if she doesn't -- if she doesn't assert it or believe
23 that he was her lawyer, then I don't know where there would be a privilege.

24 MR. DIGIACOMO: There's a secondary issue that relates to that which
25 is my understanding that the conversation occurred with Mr. H in the room, and

1 certainly I'm assuming that the Court is going to instruct the witness that he
2 can only testify to what Anabel said. He can't testify as to what Mr. H said
3 unless the State asks the question.

4 THE COURT: Oh, as hearsay. Right. I mean, there's obviously no
5 privilege if there's a third person, but as hearsay, yeah. And Jerome DePalma
6 I'm very confident already knows that.

7 MR. GENTILE: We actually discussed that. Mr. Dibble was also there,
8 which I asked her that, and she said he wasn't.

9 THE COURT: Right.

10 MR. GENTILE: And actually --

11 THE COURT: So Dibble could testify to the communication anyway.

12 MR. DIGIACOMO: And there's no notes from Dibble is my
13 understanding --

14 THE COURT: Isn't Jerome DePalma's notes, aren't they similar to the
15 detective's notes of the interview with --

16 MR. GENTILE: They're identical.

17 THE COURT: -- Anabel Espindola. To me I think the analysis is the
18 same.

19 MR. GENTILE: They're absolutely work product, but, frankly, I'm willing
20 to give them up.

21 THE COURT: Thank you.

22 MR. GENTILE: I have read them. Everything in there isn't wonderful,
23 okay, for my client, but I'm going to give them up. He clearly refreshed his
24 recollection with them. We could assert a work product privilege as the State
25 seems to think it has, but I'm willing to give them up.

1 THE COURT: Okay. Terrific.

2 So let's take two minutes and then we'll begin.

3 MR. ADAMS: Judge, one additional point is there had been pretrial
4 litigation about the notes related to Anabel Espindola that the prosecution had
5 with -- meetings with her, and the Court deemed them work product. We
6 would just renew that at this point in time to make sure that the record's
7 complete.

8 MR. DIGIACOMO: And I would take the position that when Mr.
9 Wildemann hits the stand any notes that he made, once he hits the stand that I
10 think they're entitled to -- I think that any notes that he made to the extent that
11 the Court has those notes, they're entitled to them. Detective Wildemann
12 didn't refresh it, but the statute's pretty clear that a statement of a witness and
13 that is a statement of the witness about the subject matter he's going to testify
14 to he's certainly can say he was a --

15 MR. GENTILE: I know. I just --

16 MR. DIGIACOMO: So I would say once he hits the stand that those
17 notes are no longer work product. The work product privilege has been waived.
18 So that would be the position. I don't know whether the -- if the Court still has
19 them. I haven't seen them.

20 MR. GENTILE: We'd certainly like to see them, you know, before the
21 State rests because we may want to call this person.

22 THE COURT: Yeah. Here's the deal on the notes. They were made a
23 Court's exhibit which we're still looking for, candidly. So if Detective
24 Wildemann needs to be recalled, he can be recalled or Anabel --

25 MR. GENTILE: I'm assuming that he kept a copy of his notes. He

1 wouldn't have just --

2 THE COURT: Yeah.

3 MR. GENTILE: -- he may have given you his original, but I can't imagine
4 he wouldn't have kept a copy.

5 MR. DIGIACOMO: He has his whole case file.

6 THE COURT: Yeah, he should have them in his case file. So then it's
7 not an issue. And like I said, Dominic, I remember it exact -- Mr. Gentile, I
8 remember it exactly. It was one page, legal page, and it was -- I mean, I can
9 almost visualize what it was.

10 MR. GENTILE: Things happen, and I understand that, and I'm not -- I
11 mean, you know, at some point in time, God forbid, if there's an appellate issue
12 in this case we may have a problem. But if the man has a copy of it --

13 THE COURT: There's no problem.

14 MR. GENTILE: -- then it moots the problem.

15 THE COURT: Well, the reason I said it was one legal page is because if
16 he has something different, that's not what the Court saw.

17 MR. DIGIACOMO: I'm not even sure that he took notes.

18 THE COURT: Or if he only has one page I don't want --

19 MR. DIGIACOMO: I think Detective --

20 THE COURT: -- I don't want Mr. Gentile to think there could be a
21 second page or whatever.

22 (Jury entering 9:24 a.m.)

23 THE COURT: All right. Court is now back in session. The record will
24 reflect the presence of the State through the Deputy District Attorneys, the
25 presence of the defendants and their counsel, the officers of the court and the

1 members of the jury.

2 Would the State please call their next witness.

3 MR. PESCI: The State calls Fred Boyd.

4 THE COURT: Mr. Boyd, just come on up here, please, sir, to the witness
5 stand and remain standing and facing our court clerk who will administer the
6 oath to you.

7 FRED BOYD

8 Having been called as a witness and being first duly sworn testified as follows:

9 THE CLERK: Please be seated. Please state and spell your name.

10 THE WITNESS: My name is Fred Boyd, B-o-y-d.

11 MR. PESCI: May I proceed, Your Honor?

12 THE COURT: Yes, please.

13 DIRECT EXAMINATION

14 BY MR. PESCI:

15 Q Sir, what do you do for a living?

16 A My job title is forensic scientist. My specialty is latent print
17 identification. I work for the Las Vegas Metropolitan Police Department
18 assigned to the crime laboratory.

19 Q What do you do in that position?

20 A I'm a latent print examiner.

21 Q What does a latent print examiner do?

22 A We evaluate latent prints that are submitted to us by crime scene
23 personnel or those fingerprints that we process at the lab ourselves. We
24 evaluate those latent prints and determine if they are suitable for comparison
25 purposes. If they are, we call those of value for comparison or value for

1 identification, and then we compare those prints to fingerprints of known
2 individuals of regular ink prints, and then we render our conclusion based on our
3 examination of the latent print to the known print.

4 Q Do you have any specialized training and experience in this area?

5 A Yes, sir, I do.

6 Q Could you briefly describe that for the ladies and gentlemen of the
7 jury.

8 A I've been associated with the latent print discipline for a little over
9 40 years. The majority of my training was with the United States Army where I
10 went through their two-year resident instruction. I retired from the United
11 States Army in 1988 as a Chief Warrant Officer specializing in latent print
12 identification.

13 From there I went to the Brower County Sheriff's Office in Ft.
14 Lauderdale, Florida, eight and a half years there as a full-time latent print
15 examiner. And I've been here with Metro for -- this is my 13th year.

16 Q You said for 13 years with Metro?

17 A Yes, sir.

18 Q Have you testified in this capacity here in Clark County?

19 A Yes, sir, I have.

20 Q If you were to guesstimate, about how many times?

21 A Well over a hundred times.

22 Q And that's here in Clark County?

23 A Yes, sir.

24 Q Have you testified other times in other locations?

25 A Yes, I have.

1 Q Could you briefly describe the concept of fingerprints as far as
2 their uniqueness to a particular individual.

3 A Fingerprints are formed during the third or fourth prenatal month.
4 They stay constant to a person throughout their lives. They don't change as far
5 as their patterns. Fingerprints do change only if there is a damage scar where
6 the second layer of skin might be damaged, which is called the dermis. Then
7 you would have a permanent scar. They remain constant throughout life to
8 decomposition after death, and that's why they're so unique.

9 Q Let me ask you this. Does every time somebody touches
10 something is a print left behind necessarily?

11 A Not all the time, no.

12 Q What affects whether a print may or may not be left behind?

13 A Well, first and most obvious is if you're wearing a glove or
14 something like that you won't have any of the ridge structure adhering to a
15 surface. But if there is no medium in between the skin and the surface, then
16 you may not have a print.

17 If I go like that (demonstrating), well, there might be a little maybe a
18 smudge or a little mark indicating that there might have been a touch. But we
19 are concerned with the ridge detail that you have on your finger. Most
20 commonly ridge detail is left on a piece of evidence by way of perspiration, the
21 water, the moisture. When you touch an item and hold it down, your fingers
22 down, that print's going to stay on top of the surface if it's a nonporous
23 surface.

24 If it's a porous surface and if you handle it, then the perspiration
25 that may absorb inside the surface, and you usually cannot see this print. This

1 is where the term latent comes in, latent meaning not visible. When you cannot
2 see the print, then you have to make it visible by some sort of fingerprint
3 powder, processing technique or possibly on a porous surface such as a paper-
4 type product you may have to use a chemical technique to make that print
5 visible.

6 Q And in the process of your job, do you sometimes receive latent
7 prints from crime scene analysts?

8 A Yes, we do.

9 Q On occasions do you actually perform some of the recovery of
10 prints processing yourself?

11 A Yes, we do.

12 Q Now, you talked a minute ago about making comparison. How is
13 it that you go about making comparison? What do you compare?

14 A Well, we evaluate, as I mentioned a few moments ago, we
15 evaluate the latent prints and the known prints, and we evaluate the prints for
16 various levels of detail in that print, which there are three levels of detail. You
17 have the basic pattern type, which is your level 1.

18 Your level 2 is your ridge paths, meaning if you have a ridge that
19 will go up and stop or you have a ridge that will go up and break into two
20 ridges, such as a fork-type impression or mark, these are the features that we
21 look for, points of identification.

22 Well, we do refer to the points of identification this is what we
23 usually look for, but we have different terms now for these features. We call
24 them levels of detail. I like to call them they're points of consideration that we
25 look at. And when we find these points of consideration in the same relative

1 relationship both in the question impression, the known impression, the latent
2 impression from the crime scene evidence and the known impression that we're
3 looking at of the ink print, then we effect our identification by finding these
4 points in the same relative position to one another without any unexplained
5 differences.

6 Q Let me ask you this. In the many cases that you have worked, is
7 it common for you to receive some latents that are not of sufficient quality to
8 make this comparison?

9 A Yes, sir.

10 Q Would you say it's more common to have them not be of sufficient
11 quality or more common for there to be many with sufficient quality?

12 A Well, each case stands alone, and it's about half and half I would
13 have to say. Each case stands alone. Each impression stands alone. What
14 I'm -- based on my experience, I might find a print of value for identification
15 where maybe somebody with less experience might not consider that print to
16 be of value for identification.

17 Q Let me put it to you this way, and I apologize. Let's say I touch
18 this bar here, is it possible for you to recover latent prints and not make me as a
19 comparison on that?

20 A Yes, sir.

21 Q Can outside influence affect whether that could happen?

22 A Yes, sir.

23 Q Weather? Rain?

24 A Yes, sir.

25 Q What about how oily my hands are?

1 A Yes, sir.

2 Q And also the material that I touch, if you -- you spoke of
3 something porous. If I were to touch, let's say the backing of my seat, is that
4 less likely to produce a print as opposed to the surface on this wood?

5 A The seat cushion would be a more difficult surface to obtain a
6 fingerprint impression from.

7 Q I think you testified that you have known prints that you compare
8 the latent prints to?

9 A Yes, sir.

10 Q All right. And is it common in the ordinary course of business to
11 have known prints of various individuals?

12 A Yes, sir.

13 Q Showing you State's Proposed Exhibits 175 through 180, I'm just
14 asking if you recognize those?

15 A Yes, sir, I do.

16 Q Okay. And how do you recognize these?

17 A I recognize these by my signature on each copy of the prints here.

18 Q And were these the known prints that you were speaking of?

19 A Yes, sir.

20 Q Are these the known prints that you use to assist you in making
21 your comparison in the particular case?

22 A Yes, sir.

23 MR. PESCI: And, Judge, I'd move for the admission of State's 175
24 through 180.

25 THE COURT: Any objection to 175 through 180?

1 MR. GENTILE: I'd just like to see them so that I could be sure which is
2 which.

3 MR. PESCI: They were shown prior to us starting.

4 MR. GENTILE: Actually I didn't see them. Ms. Armeni did but --

5 MR. ADAMS: Objection to the commentary.

6 THE COURT: Mr. Arrascada and Mr. Adams, have you seen Exhibits
7 175 through 180?

8 MR. ADAMS: We were handed exhibits; we'd like to see them again
9 before they're introduced though. I think that's appropriate.

10 THE COURT: All right. Once Mr. Gentile's done looking at them you
11 can look at them.

12 MR. ADAMS: Thank you.

13 THE COURT: Mr. Pesci, while they're doing that is there anything else
14 you can move on with Mr. Boyd?

15 MR. PESCI: Sure.

16 BY MR. PESCI:

17 Q The known prints that we're speaking of, were you given a list of
18 people to obtain known prints from?

19 A Yes, sir, I was.

20 Q Were they people that you were supposed to make this
21 comparison that you're talking about to?

22 A Yes, sir.

23 Q Okay. Now, in the process of doing that -- I've got 145, 146
24 and --

25 Did you receive some latent print cards in this particular case?

1 A Yes, I did.

2 Q All right. Now, ladies and gentlemen, a long time ago you heard
3 from Kristin Grammas, the crime scene analyst.

4 Did you receive some cards from her?

5 A Yes, I did.

6 Q Okay. And in the process of looking at those latent print cards,
7 did you make some sort of analysis or comparison from those prints?

8 A Yes, I did.

9 Q Tell us about that.

10 A May I refer to my notes, please?

11 Q Would that refresh your recollection?

12 A Yes, sir.

13 Q Please do.

14 A I received --

15 Q It appears that we've cycled through now 175 through 180.

16 MR. PESCI: Again, the State's going to ask for the admission of 175
17 through 180.

18 THE COURT: Mr. Gentile, do you have any objection to 175 through
19 180?

20 MR. GENTILE: No.

21 THE COURT: Mr. Adams?

22 MR. ADAMS: No, ma'am.

23 THE COURT: All right. 175 through 180 will be admitted, and I'll make
24 a note for the clerk.

25 MR. PESCI: Thank you, Judge.

1 (State's Exhibits 175 - 180 admitted.)

2 BY MR. PESCI:

3 Q Showing you State's 175. You've just spoken to us a little bit
4 about detail. Let's just kind of hone in on this one right here, which is in the
5 middle of row 2 of the three different rows on State's 175, which is Deangelo
6 Carroll's. Could you explain a little bit to the jury what you mean by the detail.

7 A Well, when you have -- we talk about three levels of detail. The
8 first level of detail is the basic pattern that we have. We have here a loop
9 pattern where the ridge flow flows into a loop. This is a left slant loop. If it
10 was flowing the other way it would be a back slant loop. This loop pattern is
11 very common.

12 There are three basic types of fingerprint patterns, arch, loops and
13 whirles. They're broken down basically on a percentagewise per person about
14 55, 60 percent of the world population is found to have a loop type of pattern.
15 The other type would be a whirl-type design of about 30, 35 percent, and the
16 other would be an arch-type flow.

17 Q So is this some of the characteristics that you're looking at to
18 make a comparison?

19 A Uh-huh.

20 Q Is that a yes?

21 A Yes.

22 Q And on 175 to 180, are these known prints, meaning this person
23 you know made these fingerprints?

24 A Yes.

25 Q And in this case, 175 was to Deangelo Carroll; is that correct?

1 A Is that the one that's on here?

2 Q Is 175 Deangelo Carroll?

3 A Yes.

4 Q Is 176 the known prints of Kenneth Counts?

5 A Yes, it is.

6 Q Is 177 the known prints of Antonio William?

7 A Yes, it is.

8 Q Is 178 the known prints of Rontae Zone?

9 A Yes, it is.

10 Q Was 179 the known the prints of Mark Quaid?

11 A Yes, it is.

12 Q And was 180 the known prints of Timothy Hadland?

13 A Yes, sir.

14 Q Okay. And in your experience have you received in the past
15 fingerprints actually from the decedent, the person who's dead?

16 A Yes, sir.

17 Q Now showing you State's Proposed Exhibits 145, 146, and 156
18 and ask you if you recognize those?

19 A Yes, I do.

20 Q How do you recognize those?

21 A I recognize these by my mark on each one of these exhibits.

22 Q When you say your mark, what do you mean by that?

23 A I have -- these are latent fingerprint lists that were submitted by
24 Crime Scene Analyst Grammas and one by -- taken by Crime Scene Analyst
25 Smith, and when we evaluate the prints, when we do our inventory, we give

1 each one of these our own individual mark such as --

2 Q Let me stop you here for a second. Look at specifically 145. Did
3 you put an individual mark of yourself on that one?

4 A Yes, I did.

5 Q Is this -- is this a photocopy of the actual latent print card?

6 A Yes, it is.

7 Q There appears to be a second page attached to this particular
8 exhibit. What is that second page?

9 A The second page is a -- the back of the fingerprint lift.

10 Q And is this a fair and accurate copy of this particular latent print
11 card?

12 A Yes, it is.

13 MR. PESCI: Move for the admission of 145.

14 THE COURT: Any objection to 145?

15 MR. GENTILE: No objection.

16 MR. ADAMS: No, ma'am.

17 THE COURT: All right. That will be admitted.

18 (State's Exhibit 145 admitted.)

19 BY MR. PESCI:

20 Q Then while we're at it, let's look at 146. Do you recognize that
21 one?

22 A Yes, I recognize this by my mark which is FB 89.

23 Q Did you make a mark on State's 156 as well?

24 A Yes, I did. I recognize this. This bears my mark FB 95.

25 Q Do these also both have a second page?

1 A Yes, they do.

2 Q And what is the second page on these two? Is it the same as we
3 had on 145?

4 A The second page is the reverse side of the card.

5 Q Are these fair and accurate copies of the actual latent print cards?

6 A Yes, sir, they are.

7 MR. PESCI: Move for the admission of 146 and 156.

8 THE COURT: Any objection to 146 and 156?

9 MR. GENTILE: No objection.

10 MR. ADAMS: No objection.

11 THE COURT: All right. Those will both be admitted.

12 (State's Exhibits 146 and 156 admitted.)

13 MR. PESCI: Let's keep those there and we'll come back to that.

14 BY MR. PESCI:

15 Q Did you also look at some latent print cards that have actually
16 been brought to court? In this case were there some latent print cards that
17 were brought to court previously?

18 A Yes, there was.

19 Q Okay. Showing you State's Proposed Exhibits 172, 173 and 174;
20 do you recognize those?

21 A Yes, I do.

22 Q And how do you recognize those?

23 A I recognize these. These also bear my mark.

24 Q Are these the actual physical latent print cards -- the previous
25 exhibits were photocopies of ones similar to these?

1 A Yes, sir, they are.

2 Q Okay. And are these the latent print cards from this particular
3 case, the ones that we're looking at now?

4 A Yes, sir, they are.

5 MR. PESCI: Move for the admission of State's 172 through 174.

6 THE COURT: Any objection to 172 through 174?

7 MR. GENTILE: No objection.

8 MR. ADAMS: No objection.

9 THE COURT: All right. Those will be admitted.

10 (State's Exhibits 172 - 174 admitted.)

11 BY MR. PESCI:

12 Q Did you also look at some physical evidence? Did you analyze
13 some physical evidence in this case?

14 A Yes, I did.

15 Q Specifically did you look at a hundred dollar bill?

16 A Yes, I did.

17 Q Showing you State's Proposed Exhibits 147 and 181; do you
18 recognize State's 147?

19 A Yes, I do.

20 Q And how do you recognize that?

21 A I recognize this by my mark.

22 Q And is this a piece of evidence that's associated with this case?

23 A Yes, it is.

24 Q And would referring to your report reflect to you or show you
25 where was it you received this particular one hundred dollar bill? Who you got

1 it from I should say?

2 A I received this from Crime Scene Analyst Renhardt.

3 MR. PESCI: Your Honor, we'd move for the admission of State's 147.

4 THE COURT: Any objection?

5 MR. ADAMS: I guess I'd like foundation on what day Renhardt got this.

6 THE COURT: Does it indicate what day it was processed?

7 MR. ADAMS: Whether it was the 19th or the 23rd.

8 BY MR. PESCI:

9 Q Mr. Boyd, do you know that offhand?

10 A If I may --

11 Q Would looking at your report refresh your recollection?

12 A If I look at my notes that would --

13 THE COURT: Refresh your memory?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Go ahead.

16 THE WITNESS: Thank you.

17 MR. PESCI: Thank you, Judge.

18 THE WITNESS: 5/23 of '05. It would be 5/23 of '05.

19 BY MR. PESCI:

20 Q Did you prepare a report in this case?

21 A Yes, I did.

22 Q And looking at page 1 of your particular report, do you detail
23 certain evidence that you looked at?

24 A Yes.

25 Q Do you have a number that you associate with a specific piece of

1 evidence that you attribute to it?

2 A Yes.

3 Q Like for example, in general, the FMB, what is that that shows up
4 on your report?

5 A The FMB 4 would be the fourth package that I received in this
6 case.

7 Q Let me stop you. Is that what you attribute -- that's a number that
8 you give to this piece of evidence that comes to you?

9 A Yes.

10 Q So you can track what you're doing?

11 A Right, or this will be -- FMB 4 will be the fourth package. There
12 might be a lot of other items in that package, but the actual envelope itself will
13 be FMB 4.

14 Q And so you associate FMB 4, and does the particular package also
15 have some sort of identification from the crime scene analyst that brought it to
16 the evidence vault?

17 A Yes.

18 Q And specifically focusing on FMB 4, was that a sealed package
19 booked by Louise Renhardt?

20 A Yes, it was.

21 Q All right. And now does Ms. Renhardt have a personnel number or
22 P number?

23 A Yes.

24 Q Does 5223 ring a bell to you?

25 A Yes, it does.

1 Q In your report, do you reference her P number and then have a
2 second number, No. 19?

3 A Yes.

4 Q All right. Is that a number associated with Ms. Renhardt's booking
5 that particular piece of evidence under her P number, and she gives it the
6 number of 19, the 19th piece of evidence?

7 A That is correct.

8 Q Okay. And so the hundred dollar bill that we're speaking of now,
9 is it associated with Ms. Renhardt's 19th piece of evidence?

10 A Yes, her -- yes. Usually her package that she books in, that would
11 be her 19th package that she would book in.

12 Q Okay. And that package contained a hundred dollar bill?

13 A Yeah, and not only one hundred bill but other items too.

14 Q Right, but the hundred dollar bill that we're working on now, did
15 that contain that?

16 A Yes.

17 Q All right. Do you know personally where that hundred dollar bill
18 came from?

19 A No, sir, I don't.

20 Q But looking at that particular piece of evidence, do you -- did you
21 perform some analysis on that, which is State's 147?

22 A Yes, I did.

23 Q And what did you do to that?

24 A The hundred dollar bill was previously processed chemically by
25 Crime Scene Analyst Renhardt. She -- when she brought the money over, I

1 looked at it, and there was a fingerprint on the hundred dollar bill.

2 Q Did you analyze that fingerprint?

3 A Yes, I did.

4 Q Did you look for points of comparison?

5 A Yes, I did.

6 Q Okay. And showing you State's 181, do you recognize what
7 State's 181 is?

8 A Yes.

9 Q And how do you recognize State's 181?

10 A 181 is a chart that I prepared outlining the fingerprint that I found
11 on the hundred dollar bill.

12 Q The hundred dollar bill which we're referring to as State's 147?

13 A Yes.

14 Q Okay. Is that a fair and accurate depiction of both the hundred
15 dollar bill in 147 and the known print and the comparison that you made in this
16 case?

17 A Yes, it is.

18 MR. PESCI: Move for the admission of State's 181.

19 THE COURT: Any objection to 181?

20 MR. GENTILE: No, Your Honor. Well, wait. Let me see this for a
21 second. I don't have 181 in my list over here so I need to see it.

22 THE COURT: Would you show that to Mr. Gentile, please.

23 MR. GENTILE: I probably have seen it I just didn't list it.

24 THE COURT: No objection?

25 MR. GENTILE: No objection.

1 THE COURT: All right. 181 is admitted.

2 (State's Exhibit 181 admitted.)

3 BY MR. PESCI:

4 Q Looking at 181, I want to use this one as kind of our example and
5 then move it back into some other evidence. What did you do to make a
6 comparison, and how does this particular piece of evidence show the jury how
7 you go about it?

8 A Upon evaluating the hundred dollar bill, it was determined that the
9 hundred dollar bill had a print that was of comparison value or value for
10 identification, and at this time the fingerprint was photographed and scanned in.
11 And then upon obtaining names of individuals to compare in this particular case
12 then I did my comparison, and upon doing my comparison I was able to effect
13 an identification on this one --

14 Q Let me stop you. On 181 on the bottom left-hand corner, what
15 are we looking at here?

16 A These are -- the bottom left?

17 Q Right here, this particular one.

18 A Right in here?

19 Q Yes.

20 A Are we referring to the dots?

21 Q Well, no. This particular portion of your exhibit, is this the known
22 print of Deangelo Carroll?

23 A Oh, okay. Yes. What I have here, the exhibit is the hundred dollar
24 bill front and back. The back of the hundred dollar bill, this is the area of the
25 impression that I found that I have squared off. I have an arrow going over to