

1                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2           LUIS HIDALGO, JR.,

3                   Appellant,

4           vs.

5                   THE STATE OF NEVADA,  
6                   Respondent.

Electronically Filed  
Jul 25 2017 08:13 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court  
Case No. 71458

7                   **APPELLANT'S APPENDIX VOLUME XI**

8                   Appeal from Eighth Judicial District Court, Clark County

9                   The Honorable Valerie Adair, District Judge

10                  District Court Case No. 08C241394

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18           MCLECHIE SHELL LLC  
19           Margaret A. McLetchie (Bar No. 10931)  
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22           *Counsel for Appellant, Luis Hidalgo, Jr.*

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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

LUIS HIDALGO, JR.,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: 08C241394

Dept. No.: XXI

**PETITIONER'S APPENDIX FOR  
SUPPLEMENTAL PETITION  
FOR WRIT OF HABEAS CORPUS**

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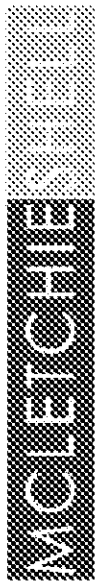
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DATED this 29<sup>th</sup> day of February, 2016.

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b)(2)(B) I hereby certify that on the 29<sup>th</sup> day of February, 2016,  
I mailed a true and correct copy of the foregoing VOLUME VIII: PETITIONER'S  
APPENDIX FOR SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS by  
depositing the same in the United States mail, first-class postage pre-paid, to the following  
address:

STEVEN B. WOLFSON, District Attorney  
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P.O. Box 552212  
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301 E. Clark Avenue # 100  
Las Vegas, NV 89155

Attorneys for Respondent

Certified by: /s/ Mia Ji  
An Employee of McLetchie Shell LLC

**ORIGINAL**  
DISTRICT COURT  
CLARK COUNTY, NEVADA

**FILED**  
NOV 24 2009

*Alfonso J. Hernandez*  
CLERK OF COURT

C241394

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 10**

MONDAY, FEBRUARY 9, 2009

**APPEARANCES:**

FOR THE STATE:

MARC DIGIACOMO, ESQ.  
Chief Deputy District Attorney  
GIANCARLO PESCI, ESQ.  
Deputy District Attorney

FOR LUIS ALONSO HIDALGO, JR.:

DOMINIC P. GENTILE, ESQ.  
PAOLA M. ARMENI, ESQ.

FOR LUIS ALONSO HIDALGO, III:

JOHN L. ARRASCADA, ESQ.  
CHRISTOPHER ADAMS, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER

TRANSCRIBED BY: KARReporting and Transcription Services

**RECEIVED**

NOV 24 2009

**CLERK OF THE COURT**

PA1657

HID PA01554

## I N D E X

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

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

3 (In the presence of the jury.)

4 THE COURT: All right. Court is now in session.

5 The record will reflect the presence of the State through the  
6 deputy district attorneys, the presence of the defendants and  
7 their counsel, the officers of the Court and the members of  
8 the jury.

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

11 ANABEL ESPINDOLA, STATE'S WITNESS, SWORN

12 THE CLERK: Please state your name.

13 THE WITNESS: Anabel Espindola.

14 THE CLERK: Please be seated.

15 MR. GENTILE: May we proceed?

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

17 MR. GENTILE: Thank you.

18 CROSS-EXAMINATION

19 BY MR..GENTILE:

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

23 A Yes.

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



1           A     Yes.

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

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

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

10          A     I believe so.

11          Q     -- right?

12          A     Yes.

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

15          A     I believe so.

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

19          A     Yes.

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

24          A     Yes.

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

1 A No.

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

5 A Yes.

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

8 A Yes.

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

13 A Mm-hmm, yes.

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

18 MR. DIGIACOMO: We don't object.

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

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

21 BY MR. GENTILE:

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

24 A Yes.

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

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

3 A (Indiscernible).

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

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

9 MR. GENTILE: That's fine.

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

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

13 THE COURT: Jeff's getting it.

14 BY MR. GENTILE:

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

17 A No.

18 Q Am I correct?

19 A Right.

20 Q You don't dispute that?

21 A No.

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

24 MR. DIGIACOMO: No objection.

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

1 will be admitted.

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

3 BY MR. GENTILE:

4 Q Let's put D1 up here.

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

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

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

11 BY MR. GENTILE:

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

15 A Two.

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

17 A I've never been in it.

18 Q But you know that it exists?

19 A I heard that it existed, yes.

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

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

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

24 A Yes.

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

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

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

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

9 A Yes.

10 BY MR. GENTILE:

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

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

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

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

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

21 THE COURT: We de.

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

23 THE COURT: Jeff's getting it.

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

1           Thank you, Jeff.

2   BY MR. GENTILE:

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

5           A     Yes.

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

8           A     Yes.

9           Q     All right.  What area is that?

10          A     That would be the second floor.

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

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

14          Q     Exhibit D2, what does D2 look like?

15          A     D2 is the second floor.

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

18          A     Yes.

19          Q     Which is a circular room?

20          A     Yes.

21          Q     Describe it.

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

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

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

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

2 A Yes.

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

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

7 Q Did I say a bar?

8 A Yes.

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

11 A Yes. Yes.

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

14 A Yes.

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

16 A No.

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

19 A Are those the stairs?

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

22 A Okay.

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

25 A Yes.

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

3 A Yes.

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

7 A No.

8 Q I'm correct?

9 A Correct.

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

14 A Yes.

15 Q All right. That's the stairway?

16 A Okay.

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

20 A Yes, sir.

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

23 A Write "public stairway"?

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

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



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

2 A Correct.

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

6 A Write on the stairs?

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

9 A (Complying).

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

13 A Yes.

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

17 A Which would be here.

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

20 A Oh, okay.

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

24 A The bar.

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

1 area that says ten people?

2 A That would be the bar.

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

4 the word bar.

5 A (Complying.)

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

7 that?

8 A Stage.

9 Q Would you write stage, please.

10 A (Complying.)

11 Q And then it appears although there are little

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

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

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

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

16 four years.

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

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

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

20 A Just an open area with tables.

21 Q Tables and chairs?

22 A Yes.

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

24 A Yes.

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

1 across the seating area.

2 A (Complying.)

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

5 A Stairs.

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

8 A I don't remember that stairway.

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

10 A No.

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

14 A Yes.

15 Q What is that opening?

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

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

19 A (Complying.)

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

22 A Yes.

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

25 A Stage.

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

1           Q     -- would -- you'd be in the office most of the  
2 time and he'd be what you'd call on the floor?

3           A     Correct.

4           Q     All right. When you're talking about on -- let  
5 me finish part of this. But when you're talking about on the  
6 floor, you're talking about everywhere but the office?

7           A     Correct.

8           Q     Okay. So you're talking about the lipstick  
9 lounge, you're talking about this barroom over here where  
10 there may even be a stage in the corner, but you don't  
11 remember, and you're talking about the VIP area?

12          A     Correct.

13          Q     And more, but we'll get to that.

14                Now, let's get back to this circular thing. Are you  
15 saying it's a stage, but you weren't in there enough so you  
16 don't remember it?

17          A     I remember like a round couch area.

18          Q     You don't remember where it was?

19          A     I'm thinking it's right here.

20          Q     Okay. Well, that's your memory. Now, behind  
21 that do you see that little doorway there? Do you see that  
22 space there that I'm pointing at?

23          A     Yes.

24          Q     Okay. Is that a doorway?

25          A     I think so.

1 Q Do you remember what it leads to?

2 A No.

3 Q You notice a couple of stalls and sinks and

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

5 A You just pointed to it, yes.

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

7 you remember it to be?

8 A Bathroom.

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

10 A (Complying.)

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

12 bathroom or do you recall?

13 A I don't recall.

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

15 know?

16 A No.

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

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

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

20 this D2, see that?

21 A Yes.

22 Q All right. What is that?

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

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

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

1 A Yes.

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

7 A Correct. (Complying.)

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

10 Q All right.

11 A I could --

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

14 A Yes.

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

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

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

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

22 Q And?

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

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

1 down that step, where are you going?

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

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

4 A Well, yes.

5 Q Okay. So if you go into this room here, is

6 that what you're saying was the office?

7 A Yes.

8 Q How about you write office in there. In fact,

9 before you do that, draw the area that you think the desk goes

10 in, please.

11 A (Complying.)

12 I'm thinking the desk is here. Like I said, it's an

13 open space. I can tell you on pictures.

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

15 this area?

16 A There was a closet in that room.

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

18 a --

19 A There was a closet in that room.

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

21 that side?

22 A As soon as you walk -- no, it was just a blank

23 wall. As soon as you walked in -- if I would walk in to the

24 left, it would be a closet.

25 Q To the left it would be a closet?



1           A     I believe so.

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

4           A     So that would be this wall.

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

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

9           A     Yes.

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

11          A     (Complying.)

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

14          A     A wall.

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

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

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

22          A     I'm thinking it is this.

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

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

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

3 Q Is that what you remember?

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

6 Q See this doorway over here?

7 A Uh-huh.

8 Q See the two rooms that it separates?

9 A Mm-hmm.

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

12 A Okay.

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

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

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

21 A Yes.

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

24 A Yes, I think so.

25 Q Do you see that stairwell?

1 A Yes.

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

3 A Yes.

4 Q Okay. Is that the stairwell that you took to  
5 go upstairs?

6 A I believe so.

7 Q All right. And if you compare it to D2, is  
8 that the same stairwell?

9 A I believe it would be.

10 Q All right. So if I tell you that Exhibit D1 --  
11 well, let's take it a little more accurately. If you were by  
12 the bar -- you've already said that this is the bar and you've  
13 already labeled the bar, correct?

14 A Correct.

15 Q All right. If you were by the bar, what was  
16 immediately behind the bar?

17 A Immediately behind the bar was a VIP lounge.

18 Q Downstairs or upstairs?

19 A Upstairs.

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

21 A Oh.

22 Q -- what was immediately behind the bar in this  
23 space that I'm pointing to, which is about midway on the upper  
24 half of this --

25 A Lacy's Lounge.

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

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

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

8           A     Yes.

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

11          A     That would be the rooms with the coolers.

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

13          A     (Complying.)

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

16          A     Yes.

17          Q     Does this appear to you to be doorways?

18          A     Yes.

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

22          A     Yes.

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

25          A     Yes.

1 Q Am I correct? Where does this doorway lead?

2 A Lacy's Lounge.

3 Q All right. And so this thick black line here

4 that runs horizontally across the top half about midway, what

5 does that represent to you now that you've been oriented in

6 terms of what's on the other side of that bar?

7 A Lacy's Lounge.

8 Q Why don't you write that in.

9 A (Complying).

10 Q And how much of that side of that thick black

11 line does Lacy's Lounge make up?

12 A The whole line.

13 Q Okay. What's in this back area of Lacy's --

14 well, it can't be the back area until I show the front area.

15 See where I'm pointing almost at the very upper left

16 extremity, corner?

17 A Yes.

18 Q That's a doorway, isn't it?

19 A Yes.

20 Q Looks like a doorway to you?

21 A Yes.

22 Q All right. What is that?

23 A That would be the entrance to Lacy's Lounge.

24 Q The public entrance to Lacy's Lounge?

25 A Correct.

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

3 A (Complying.)

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

6 A Bathrooms.

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

8 A (Complying.)

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

12 A The bar.

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

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

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

20 A (Complying).

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

23 A It's a room.

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

25 A It was booths.

1 Q Booths built in, right?

2 A Yes.

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

4 for?

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

6 there.

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

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

9 A Yes.

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

11 A By the television.

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

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

14 A (Complying.)

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

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

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

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

19 runway attached to?

20 A It would be the locker room.

21 Q This area here or behind this wall?

22 A Behind the wall.

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

24 A It's also part of the stage.

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

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



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

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

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

5 A They had a mobile stage.

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

9 A Yes.

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

13 A That's what it appears to be.

14 Q Okay. And what doorway would that be?

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

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

19 A I would think so.

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

22 A Yes.

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

1           A     Yes.

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

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

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

8           A     I --

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

11          A     Yes.

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

14          A     Yes.

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

18          A     (Complying).

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

21          A     So this is maybe --

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

23          A     This would be the entrance.

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

1           A     Yes.

2           Q     Okay.  So you walk into that area.  When you

3 walk into that entrance area, you can't see anything in terms

4 of what's inside the club; am I correct?

5           A     Correct.

6           Q     All right.  And where would the cage be, the

7 cashier's cage?

8           A     There was two.  There was the cage right here

9 behind the counter.  There was also a cage on the opposite

10 side.

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

12 night?

13          A     The one with the counter.

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

15 was.

16          A     (Complying.)

17          Q     And where would the other one be?

18          A     Excuse me?

19          Q     The other cage, was it ever used?

20          A     Occasionally.

21          Q     Now, do you -- do you remember where the

22 bathrooms are located on the main floor of the Palomino?

23          A     If -- they would be down the hallway before you

24 get to the entrance.

25          Q     This stairway over here, is the stairway

1 upstairs like right --

2 A That would be the main stairway.

3 Q So that would correspond with what you wrote

4 down here about public stairway on D2?

5 A Yes.

6 Q Why don't you write public stairway.

7 A (Complying.)

8 Q Knowing where the public stairway is, where are

9 the bathrooms?

10 A Here.

11 Q Could you write it in there, please.

12 A (Complying.)

13 Q All right. Now, those bathrooms have between

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

15 Do you remember that?

16 A Yes.

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

18 It looks like it leads to another --

19 A . Hallway.

20 Q -- hallway. All right.

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

22 remember?

23 A Yes.

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

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

1 the main office, correct?

2 A Yes, upstairs.

3 Q So that was upstairs.

4 A Yes.

5 Q And your standard procedure upon entering the

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

7 enter it through the rear of the building?

8 A Rear of the building.

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

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

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

12 every day?

13 A The rear.

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

15 level up to a platform; am I correct?

16 A Yes.

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

18 A Here.

19 Q There. What's your memory?

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

21 opening for the back cab office.

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

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

24 A Yes.

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

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

2 A Correct.

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

5 A I believe it's these right here.

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

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

12 A Yes.

13 Q Is that the way you came in?

14 A There's one hallway.

15 Q There's one hallway?

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

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

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

25 Q All right. So this represents another set of

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

2 A Yes.

3 Q Now, which of the two doors -- what did you

4 just call this?

5 A Rear entrance.

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

7 A Then that wouldn't be the rear entrance. I

8 don't remember going up that many stairs. It was a few steps

9 and I would walk straight across.

10 Q So you would walk through the room that had the

11 coolers in it?

12 A Yes.

13 Q So your path would be --

14 A Straight across.

15 Q That's your memory?

16 A Yes.

17 Q Okay. Okay. Why don't you do this, why don't

18 you draw a separated line, a series of dashes on here and --

19 tracking the way that you would enter the club every day.

20 A (Complying.)

21 This is the room with the coolers and that's the

22 main bar and I would -- here's the outside. I would come

23 through here.

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

25 stairs?



1           A     Which stairs?

2           Q     The ones that took you upstairs.

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

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

5     entrance at that point.

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

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

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

9           A     That's the second floor?

10          Q     This is the first floor.

11          A     Oh, I'm confused.

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

13     vertical lines, remember?

14          A     Yes.

15          Q     And you coordinated those vertical lines with

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

17     says, private stairway.

18          A     So I would walk through this door.

19          Q     Continue the line.

20          A     I would walk through that door.

21          Q     That door and through what?

22          A     The hallway.

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

24          A     Yes.

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

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

5 A The cashier's cage?

6 Q Right.

7 A Yes.

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

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

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

16 A (Complying.)

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

21 A Correct.

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

23 A That would have been Rudy's office.

24 Q Rudy's office.

25 A Yes.

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

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

6 Q That's your memory?

7 A Yes.

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

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

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

14 A There is no room between them.

15 Q Okay.

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

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

20 A Yes, there was.

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

23 BY MR. GENTILE:

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

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

3 A That would be the front.

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

5 A Yes.

6 Q Okay.

7 A I think so.

8 Q Go ahead. Write it down.

9 A Just X 135.

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

11 A Yes.

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

15 A Yes.

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

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

19 THE COURT: Okay.

20 (Pause in proceedings)

21 BY MR. GENTILE:

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

24 A Yes.

25 Q Do you have your marker?

1 A Yes.

2 Q Have you already marked where D2 --

3 A Yes.

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

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

7 Here's Exhibit 138. It's got a bank bag that says  
8 Anabel on it, right?

9 A (Complying.)

10 Q Exhibit 139?

11 A (Complying.)

12 Q Exhibit 140?

13 A (Complying.)

14 Q Exhibit 141?

15 A (Complying.)

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

17 THE COURT: Yes.

18 MR. GENTILE: -- in between each time I give her an  
19 exhibit number, for the record, the witness has been marking  
20 on the diagram where that exhibit is on these diagrams.

21 THE COURT: Right. Thank you.

22 BY MR. GENTILE:

23 Q Okay. I'll show you Exhibit 142 and ask you  
24 where that portrays -- what that portrays.

25 A It's the --

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

4 A When it was photographed?

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

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

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

9 A I'm sorry.

10 Q I must have misspoken. Where?

11 A Where?

12 Q Yes.

13 A It would be in the main office.

14 Q Then write that in.

15 A (Complying.)

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

19 A (Complying.)

20 I believe this is where --

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

23 A I believe so.

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

1           A     Yes.  Yes.

2           Q     Okay.  Now, Exhibit 144 you said, I think,

3 maybe it wasn't you, is a box of printed material, right?

4           A     Yes.

5           Q     And what is the printed material?

6           A     VIP cards.

7           Q     All right.  Now, you paid the bills, right, you

8 signed the checks to pay the bills for the club?

9           A     Yes.

10          Q     And included among those were printing bills?

11          A     Yes.

12          Q     To the best of your memory, how many thousands

13 of VIP cards did you have printed or tens of thousands?

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

15          Q     All right.  And how many times over a period of

16 the -- just under four years that you were there did you order

17 VIP cards?

18          A     I couldn't venture a guess.

19          Q     Would it be fair to say that there may have

20 been a hundred thousand of these cards out there?

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

22          Q     No, I don't mean that.  But I mean at 5,000 a

23 pop, did you order tens times?

24          A     No.

25          Q     Five times?

1 A It's possible, five.

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

3 A Yes.

4 Q All right. Where was that taken?

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

6 between Arial and Rudy's office.

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

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

9 write it?

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

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

12 the chair, the upholstery on the chair?

13 A The table.

14 Q The table?

15 A Yes.

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

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

18 A Correct.

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

20 A No.

21 Q It was somewhere downstairs?

22 A I believe so, yes.

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

24 table that was in the conference room?

25 A I think so.



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

1 misspoke. Exhibit 207.

2 A (Complying.)

3 Q Did you write it down?

4 A Yes.

5 Q Great.

6 Let's go to 208, please. And when you're looking at  
7 it, is that a hoody on the back chair, on the back of the  
8 chair behind the desk?

9 A It looks like a sweat jacket.

10 Q A sweat jacket, a hooded sweat jacket?

11 A It appears to be.

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

14 A (Complying).

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

16 And while you have 205 in your hand, let me show you  
17 Exhibit 211 as well. Hold on to 205 -- in fact, let me hold  
18 it for you because you have too many things. What exhibit is  
19 that, 211?

20 A Yes.

21 Q Write down where 211 is.

22 A (Complying).

23 Q Okay. Now, if you take 211 and 205, there  
24 appears to be in both of them a photograph of what is either a  
25 television or a monitor; am I correct?

1           A     Correct.

2           Q     All right. As a matter of fact, in 211, I

3 believe, there are two monitors; am I correct?

4           A     Correct.

5           Q     Okay. Now, were they monitors or were they

6 television sets?

7           A     They were monitors.

8           Q     And what -- what -- were they functional in May

9 of 2005?

10          A     Yes.

11          Q     Okay. And what did they portray on them when

12 they were functioning as monitors?

13          A     The different rooms, the office downstairs, the

14 floor.

15          Q     They were surveillance monitors?

16          A     Yes.

17          Q     Okay. And so there were cameras inside the

18 club that surveilled different areas of the club?

19          A     Yes.

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

21          A     Yes.

22          Q     And what are the other areas that were

23 monitored?

24          A     Arial's office, Rudy's office, the front stage

25 downstairs, the upstairs floor and the back game room.

1 Q And the entryway as well, what you would call  
2 down here -- excuse me, could you move back just a little?  
3 A I apologize.  
4 Q -- this area that you call the entrance --  
5 there's no need to apologize. I just needed to get there.  
6 That area called entrance, was that also monitored?  
7 A Yes.  
8 Q All right. And you -- let me see that just a  
9 second. You see in Exhibit 205 that hooded sweatshirt --  
10 A Yes.  
11 Q -- that we talked about or -- I think you  
12 called it that -- that's the chair that you normally sat in  
13 when you were working in the office; am I correct?  
14 A Right.  
15 Q So you would sit behind the desk most of the  
16 time?  
17 A Correct.  
18 Q And next to the monitor?  
19 A Correct.  
20 Q And the monitor would function during business  
21 hours; am I correct?  
22 A Correct.  
23 Q All the time, unless it was down for some sort  
24 of an electronic thing that happens?  
25 A Correct.

1 Q Okay. Exhibit 212, please.

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

5 A (Complying.)

6 Q Got those done.

7 A Yes.

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

9 A (Complying.)

10 Q Okay. You can return to the stand.

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

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

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

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

18 THE MARSHAL: I'll do it.

19 BY MR. GENTILE:

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

23 A Correct.

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

1 A Yes.

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

3 A No.

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

6 A No.

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

9 A No.

10 Q Never?

11 A Not before last week.

12 Q Not before last week?

13 A Friday.

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

15 A Yes.

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

19 A Yes.

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

22 A Yes.

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

1 A Yes.

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

5 A Yes.

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

9 A Yes.

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

12 A I didn't know that.

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

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

16 Q So you don't know?

17 A No.

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

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

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

1           A     Yes.

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

4           A     Yes.

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

6           A     Yes.

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

10          A     Personally, yes.

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

15          A     Yes.

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

19          A     Yes.

20          Q     Ring a bell?

21          A     I recognize Leopard's Lounge.

22          Q     So he had three clubs, right?

23          A     Yes.

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



1 A Yes.

2 Q And he was under federal indictment?

3 A Yes.

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

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

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

7 or Rizzolo; am I right?

8 A Correct.

9 Q You would have been shocked to learn that he

10 was anything like that; am I correct?

11 A Yes.

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

13 have lost count --

14 A 15 years.

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

16 kind of conduct, correct?

17 A Correct.

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

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

20 A Correct.

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

22 a cash business?

23 A Yes.

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

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

1 people who work for you to steal from you?

2 A Yes.

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

5 A Yes.

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

9 A Yes.

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

12 A No.

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

15 A Yes.

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

18 A Yes.

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

20 A Yes.

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

24 A Yes.

25 Q Nobody that was ever suspected of stealing from

1 the club was ever hired, were they?

2 A No.

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

7 A Yes.

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

14 A Yes.

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

17 A Yes, but --

18 Q Excuse me.

19 A -- the main key --

20 Q Hold on. The answer's yes?

21 A Yes.

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

24 A Yes.

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

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

5 A Yes.

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

9 A Correct.

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

12 A Yes.

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

15 A He knew them.

16 Q He knew them?

17 A Yes.

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

20 A Yes.

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

22 A Yes.

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

25 A Yes.

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

3 MR. GENTILE: Okay.

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

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

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

13 THE WITNESS: Yes.

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

15 (Jury is not present)

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

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

19 THE COURT: Right.

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

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

25 MR. DIGIACOMO: The stipulation involves that she did

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

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

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

10 THE COURT: That's fine.

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

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

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

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

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

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

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

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

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

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

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

15 And, Mr. Pesci --

16 MR. PESCI: Yes, ma'am.

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

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

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

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

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

1 and then reserve the right to make the record?

2 THE COURT: Sure.

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

8 MR. DIGIACOMO: Absolutely not.

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

11 MR. ADAMS: Okay.

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

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

18 MR. ADAMS: About not speaking with lawyers?

19 MR. DIGIACOMO: You did not.

20 THE COURT: I did not. Okay.

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

23 THE COURT: Okay. I forgot.

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



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

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

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

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

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

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

15 THE WITNESS: Yes.

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

19 THE COURT: You talked substantively.

20 MR. DIGIACOMO: -- during the break.

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

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

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

1 and from.

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

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

6 MR. FALKNER: No, Judge.

7 THE COURT: Just idle chitchat?

8 MR. FALKNER: Yes.

9 THE COURT: Okay. All right.

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

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

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

18 THE COURT: Okay.

19 MR. GENTILE: Can I do it now?

20 THE COURT: Yeah.

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

23 THE WITNESS: Yes.

24 MR. GENTILE: What did you talk about?

25 THE WITNESS: We discussed the keys.

1 MR. GENTILE: What did you discuss?

2 THE WITNESS: He -- I went ahead and said that there

3 was additional keys inside Mr. Hidalgo's office.

4 THE COURT: Oh. The keys. I'm sorry. I thought she

5 said the case.

6 MR. GENTILE: Did he tell you that, or did you tell

7 him that?

8 THE WITNESS: I told him that.

9 MR. GENTILE: There were additional keys inside Mr.

10 Hidalgo's office --

11 THE WITNESS: Yes.

12 MR. GENTILE: -- that's all?

13 THE WITNESS: We also -- he asked me about Mr.

14 Leavitt.

15 MR. GENTILE: Mr. Leavitt?

16 THE WITNESS: Yes.

17 MR. GENTILE: And who is Mr. Leavitt?

18 THE WITNESS: It was a employee of Hidalgo's --

19 Simone's, I'm sorry. An employee of Simone's who was

20 extorting Mr. H.

21 MR. GENTILE: So somebody in addition to Mr. Moore?

22 THE WITNESS: That's his name, Tony Moore Leavitt.

23 MR. GENTILE: Okay.

24 THE COURT: All right. Can we bring the jury in now,

25 Mr. Gentile, Mr. Adams?

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

2 --

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

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

6 (Pause in the proceedings)

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

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

11 CROSS-EXAMINATION (Continued)

12 BY MR. GENTILE:

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

16 A Yes.

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

19 A Yes.

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

22 A Yes.

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

25 A Yes.

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

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

4           A     Yes.

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

7           A     Of this?

8           Q     Yes.

9           A     No.

10          Q     No?

11          A     No.

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

14          A     B.

15          Q     Okay. Is that your handwriting?

16          A     Yes.

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

18          A     Yes.

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

20          A     Yes.

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

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

1 Q Right. And this is the kind of -- when you  
2 talk about the paperwork at the Palomino that you worked on,  
3 this is part of that paperwork; am I correct?

4 A Yes.

5 Q The other paperwork deals with accounts  
6 payable, accounts receivable, getting money from credit card  
7 companies, et cetera, et cetera; am I right?

8 A Yes.

9 Q Okay. Would you open --

10 MR. GENTILE: Well, I'd move this into evidence at  
11 this time.

12 MR. DIGIACOMO: I don't have an objection.

13 THE COURT: All right. Exhibit B will be admitted.

14 (Defendant's Exhibit B admitted.)

15 BY MR. GENTILE:

16 Q Okay. We're not going to go through all of it.  
17 Open it up and see if you find a VIP card in there.

18 THE COURT: And just for the record, B is the  
19 envelope. B1 is the plastic bag --

20 MR. GENTILE: B1 is the plastic bag.

21 THE COURT: -- and contents.

22 MR. GENTILE: And we don't want to take anything out  
23 of the plastic bag that we don't put back in it.

24 THE COURT: You can take it out, as long as we make  
25 sure it goes back in.

1 BY MR. GENTILE:

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

4 A Yes.

5 Q Okay. Are there more than one?

6 A Yes.

7 Q Can I have one and you have one?

8 A Of course.

9 Q Could we share?

10 A Of course.

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

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

15 A One of them.

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

18 A Yes.

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

21 A No.

22 Q Okay. And how did it change?

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

25 Q The signature of the customer?



1 A Correct.

2 Q Okay.

3 A The signature, phone, or date.

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

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

6 Processing [inaudible].

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

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

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

10 this side for now.

11 All right. Can you read it?

12 A Yes.

13 Q Does it have language in there that talks about

14 what happens if you arrive in a cab?

15 A Yes.

16 Q And what does it say?

17 A Pass not valid if arriving by taxicab.

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

19 practice, was it?

20 A Correct.

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

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

23 A Yes.

24 Q And the taxicab driver got stiffed -- excuse

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

1 bar?

2 A Correct.

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

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

5 correct?

6 A Correct.

7 Q And they were supposed to be passed out to

8 locals; correct?

9 A Yes.

10 Q To encourage locals to come to the Palomino

11 Club; right?

12 A Yes.

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

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

15 right?

16 A Yes.

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

18 A Yes.

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

20 traffic -- customer traffic?

21 A I don't know.

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

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

24 admission fee wound up going to the cab driver?

25 A Correct.

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

4           A     Yes.

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

9           A     Yes.

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

13          A     Yes.

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

17          A     Yes.

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

23          A     Yes.

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

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

3 A Not as far as I know.

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

6 A Dancers. I remember them mentioning dancers.

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

9 A To their customers.

10 Q To their customers?

11 A To their customers.

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

13 A Yes.

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

16 A Yes.

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

20 A Yes.

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

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

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

4           A     No.

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

9           A     Correct.

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

12          A     Correct.

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

17          A     Yes.

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

22          A     Yes.

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

1           A     Correct.

2           Q     And your next -- the next event in terms of

3           anybody saying anything that comes to your attention is when

4           Mr. H tells you to go into the room behind the office to utter

5           the words to Deangelo Carroll "Go to Plan B"?

6           A     Yes.

7           Q     He didn't tell you to go back there and say,

8           hey, don't kill T.J. Hadland, he said, "Go to Plan B"?

9           A     Yes.

10          Q     All right. And it's your testimony that you

11          had never before heard the term "Go to Plan B" used around the

12          Palomino Club?

13          A     That's correct.

14          Q     And then you knew when you heard that and you

15          called Mr. Carroll that something bad was going to happen to

16          Mr. Hadland?

17          A     Yes.

18          Q     You didn't agree for anything bad to happen to

19          Mr. Hadland; am I right?

20          A     No.

21          Q     I'm not right?

22          A     No, you're right.

23          Q     Okay. You didn't plan to have anything bad

24          happen to Mr. Hadland, according to your testimony; am I

25          right?

1 A You're right.

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

4 A Yes.

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

8 A Yes.

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

13 A Yes.

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

16 A No.

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

20 A Not then.

21 Q He never said that that night?

22 A No.

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

1 about him?

2 A No.

3 Q Okay. And this man, Luis Hidalgo, Mr. H., that

4 you had been with for so many years by that time, who had

5 never done anything like this before, when you walked back

6 into his office after making the phone call saying, "Go to

7 Plan B," and nothing more, you did not ask this man, what's

8 going on?

9 A He walked out of the office with PK.

10 Q And you felt -- you had this feeling, this

11 emotional response to this event, but it wasn't strong enough

12 to say, hey, Luis, I need to talk to you; am I right?

13 A Yes.

14 Q And then when Deangelo Carroll said what you

15 say he said, appearing normal, you did not make any inquiry

16 then --

17 A No.

18 Q -- as to what happened; right?

19 A Not until Deangelo leaves.

20 Q Okay. And when Deangelo leaves, you say --

21 after paying him \$5,000, you then say to Mr. H, what happened,

22 what happened, words to that effect?

23 A I asked him, what have you done.

24 Q I'm sorry?

25 A What have you done.



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

1           A     Correct.

2           Q     There are two chairs in front of that desk; am

3 I correct?

4           A     Yes.

5           Q     Okay. And he usually sits in the one closest

6 to the wall away from the entrance?

7           A     Yes.

8           Q     Facing the entrance?

9           A     Yes.

10          Q     The one closest to the entrance is usually

11 empty if nobody's in there?

12          A     Yes.

13          Q     But if somebody's in there, that's where that

14 person would sit?

15          A     Yes.

16          Q     And but for a couch that was in that office and

17 a massage-type chair, one of those --

18          A     There was two.

19          Q     I'm sorry?

20          A     Two massage chairs.

21          Q     Two massage chairs. But for those, there was

22 no other furniture in that office; right?

23          A     Correct.

24          Q     When I say furniture, I mean sitting

25 arrangements. Am I right?

1 A Yes.

2 Q Okay. And so almost invariably if there was  
3 only one person in the office besides you and Mr. H, they  
4 would be sitting in that chair closest to the door --

5 A Yes.

6 Q -- the armchair; am I right?

7 A Yes.

8 Q All right. And so Mr. Carroll comes into the  
9 office and, if I understand your testimony, he sits down in  
10 that armchair.

11 A Yes.

12 Q You're sitting behind the desk, Mr. Hidalgo,  
13 Mr. H is sitting in the chair that he usually occupies?

14 A Yes.

15 Q Okay. What happens according to you happens,  
16 and then Deangelo Carroll leaves?

17 A Yes.

18 Q And you don't speak to Deangelo Carroll again  
19 until Tuesday, May 23rd, 2005.

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

21 THE WITNESS: Monday.

22 BY MR. GENTILE:

23 Q It was a trick question. Monday, May 23rd,  
24 2005. Am I right?

25 A Correct.

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

1 A Yes.

2 Q And we know where the reception desk is.

3 A Yes.

4 Q And at that point you speak with this person

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

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

7 right?

8 A Correct.

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

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

11 transcript of the recorded conversation; right?

12 A Yes.

13 Q And you listened to those recorded

14 conversations over and over and over again; right?

15 A Yes.

16 Q And before you changed your plea you actually

17 listened to them with Ms. Armeni --

18 A Yes.

19 Q -- and me --

20 A Yes.

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

22 correct? Or at least --

23 A And my attorney.

24 Q And your -- Mr. Oram.

25 A Yes.

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

3           A     Yes.

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

7           A     Yes.

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

13          A     Yes, please.

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

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

19 BY MR. GENTILE:

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

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

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

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

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

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

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

6 BY MR. GENTILE:

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

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

16 A I remember saying it was first person.

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

19 A Yes.

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

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

25 A Yes.

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

6           A     Yes.

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

16          A     Yes.

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

22          A     Yes.

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

25          A     Yes.



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

2 A Yes.

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

6 A Yes.

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

8 A Yes.

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

12 A Yes.

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

18 A Yes.

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

21 A Yes.

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

24 A Yes.

25 Q And you did meet with Jerry DePalma at his

1 office, did you not?

2 A I met him.

3 Q That's all?

4 A That's all.

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

6 A I walked in with Mr. Hidalgo, and he introduced

7 himself, saying that he was going to go into -- he was merging

8 with your office. He asked Mr. Hidalgo if I knew what was --

9 the conversation was going to be about. Mr. Hidalgo said no.

10 And I was asked to leave, that I could not be present.

11 Q So the only person that you recall meeting,

12 then, on that day at his office was him, Jerry DePalma?

13 A Yes.

14 Q Nobody else?

15 A No.

16 Q Did you see anybody else there?

17 A I went back to the car.

18 Q Okay. And so if Mr. DePalma says that you met

19 with him for an hour and said things to him, he's lying?

20 A Yes.

21 Q Okay. And so if I were to go through each and

22 every thing that that might have entailed, you would say that

23 you didn't say those things; am I right?

24 A That's correct.

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

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

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

5 Q And that was it?

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

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

10 A Yes.

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

19 A Yes.

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

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

2 A Yes.

3 Q You used the first person singular pronoun;

4 correct?

5 A Yes.

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

7 A Yes.

8 Q That's Deangelo speaking; right?

9 A Yes.

10 Q You're listening; right?

11 A Yes.

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

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

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

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

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

17 it." You heard him say that?

18 A Yes.

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

20 did you?

21 A No.

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

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

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

25 motherfucker had his wife, you should have motherfuckin'

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

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

3 A Correct.

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

6 A Correct.

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

16 A Yes.

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

19 A Yes.

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

22 A Correct.

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

25 A Yes.

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

1           A     Yes.

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

7           A     Yes.

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

10          A     Correct.

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

15          A     Yes.

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

21          A     Yes.

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

24          A     Correct.

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



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

2 A No.

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

6 A Yes.

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

12 A That's what it says, yes.

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

19 A Yes.

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

24 A No.

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

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

3 A Yes.

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

6 A Yes.

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

11 A Yes.

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

14 A Yes.

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

17 A Yes.

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

1 A Yes.

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

4 A Yes.

5 Q Let's look at the 24th.

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

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

11 A Yes.

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

22 A I don't remember.

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

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

4 A No.

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

12 A Yes.

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

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

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

1           A     Yes.

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

4           A     Correct.

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

7           A     That's correct.

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

10          A     Yes.

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

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

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

20          A     Yes.

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

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

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

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

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

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

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

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

18 MR. DIGIACOMO: No, Judge.

19 THE COURT: I mean --

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

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

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

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

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

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

11 THE COURT: All right.

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

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

15 MR. GENTILE: Yes.

16 THE COURT: That's fine.

17 MR. GENTILE: Okay.

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

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

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

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

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



1 right.

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

4 THE COURT: All right. Ms. Espindola --  
5 We're on the record; right?  
6 -- did you speak with either of the Deputy District  
7 Attorneys during our lunch break?

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

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

13 THE WITNESS: No.

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

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

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

20 THE COURT: Oh. Thank you.

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

22 THE COURT: Huh?

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

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

25 THE COURT: Yeah.

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

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

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

8 MR. GENTILE: Thank you.

9 CROSS-EXAMINATION (Continued)

10 BY MR. GENTILE:

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

14 A Yes.

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

17 A Yes.

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

20 A Yes.

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

23 A Yes.

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

1 A Yes.

2 Q And you know that -- strike that.

3 You were asked questions by those detectives; am I  
4 correct?

5 A Yes.

6 Q And in that room while the questioning was  
7 going on you were being videotaped; am I right?

8 A Yes.

9 Q And you knew that the questions that were being  
10 asked of you and the answers that you were making to those  
11 questions were being permanently recorded; am I right?

12 A Yes.

13 Q And at the end of the interview you were  
14 whispered to by one of the detectives; am I right?

15 A I believe so.

16 Q And the whispering was to let you know that you  
17 had been recorded by Mr. Carroll; am I right?

18 A Yes.

19 Q And so what they were doing after you answered  
20 questions for a while is they basically let you know, look, we  
21 have you on tape --

22 A Yes.

23 Q -- correct?

24 A Yes.

25 Q At a point in time you ceased answering

1 questions?

2 A Yes.

3 Q And you were booked into the Clark County

4 Detention Center?

5 A Yes.

6 Q That was the 24th of May 2005?

7 A Yes.

8 Q You have been in the Clark County Detention

9 Center ever since; am I right?

10 A Yes.

11 Q Shortly after your being booked into the Clark

12 County Detention Center you were brought to Boulder City. Do

13 you remember that?

14 A Yes.

15 Q You were brought to Boulder City in leg irons,

16 waist chains, and handcuffs; correct?

17 A Yes.

18 Q In fact, every time that you're moved from one

19 place to another that's how you're moved; am I right?

20 A Without the leg shackles, yes.

21 Q Sometimes you do have leg shackles?

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

23 Q And when you went to Boulder City you were a

24 defendant in this case?

25 A Yes.

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

1 Q Mr. Rontae Zone testified at that preliminary  
2 hearing?

3 A Yes.

4 Q Some police officers testified at that  
5 preliminary hearing?

6 A Yes.

7 Q You were represented by counsel at that  
8 hearing?

9 A Yes.

10 Q I don't see him here now. He was here earlier.

11 And at the end of that preliminary hearing the  
12 Justice of the Peace in Boulder City found probable cause to  
13 keep you in custody; am I correct?

14 A Yes.

15 Q And your lawyer moved for bail at that time.  
16 Do you remember that?

17 A Yes.

18 Q And you were denied bail. The Justice of the  
19 Peace said, no bail; right?

20 A Yes.

21 Q He didn't say a million dollars bail; right?

22 A Correct.

23 Q He didn't say a half a million dollars bail?

24 A No.

25 Q He didn't say \$5 million bail?

1           A     No.

2           Q     He said no bail.

3           A     Correct.

4           Q     Okay.  You were, of course, hoping for bail at

5     that time?

6           A     Yes.

7           Q     And you were hoping that if you were given bail

8     Mr. H would post it; correct?

9           A     Yes.

10          Q     Okay.  But it was denied to you.  On July the

11     6th of the year 2005 it first came to your attention that the

12     State was going to seek the death penalty against you; am I

13     right?

14          A     Yes.

15          Q     And the prosecutors that were in Boulder City,

16     Mr. DiGiacomo; right?

17          A     Yes.

18          Q     And Mr. Pesci?

19          A     Yes..

20          Q     Okay.  And the prosecutors who sought the death

21     penalty against you were Mr. DiGiacomo and Mr. Pesci?

22          A     Yes.

23          Q     And so from July the 6th of 2005 you were

24     facing the possibility that if you were convicted you might be

25     put to death?

1           A     Yes.

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

4           A     Yes.

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

7           A     Yes.

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

10          A     No.

11          Q     -- Judge Mosley?

12          A     Yes.

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

15          A     Yes.

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

18          A     Yes.

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

22          A     Yes.

23          Q     And he said no?

24          A     Correct.

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



1 saying that the motion was denied --

2 A Yes.

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

8 A Yes.

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

12 A Yes.

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

16 A It was a possibility.

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

20 A Yes.

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

25 A Yes.

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

3 A Correct.

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

7 A I would assume so, yes.

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

11 A Yes.

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

15 A Yes.

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

18 A Yes.

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

21 A Yes.

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

25 A Yes.

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

3 A Yes.

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

6 A Yes.

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

11 A Yes.

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

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

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

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

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

20 A Yes.

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

24 A Yes.

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

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

4 A Correct.

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

7 A Yes.

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

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

11 THE COURT: Sure.

12 (Off-record bench conference)

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

14 BY MR. GENTILE:

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

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

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

21 A Yes.

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

25 A No.

1 Q You can't get incoming calls; correct?  
2 A Correct.  
3 Q All right. You have to make outgoing calls.  
4 And you know that every one of those calls has been recorded  
5 --  
6 A Yes.  
7 Q -- unless a special arrangement was made for  
8 you by the prosecution; am I correct?  
9 A I know that every phone call is recorded, yes.  
10 Q Okay. And at 3:15 p.m. on the 15th of January  
11 2008 you made a phone call to Mr. H. Do you recall that?  
12 A I made several phone calls to Mr. H. I  
13 couldn't tell you exactly what was said.  
14 Q And on that one you said to him that it was all  
15 lies, what was being said in court about you was all lies?  
16 A That's very possible.  
17 Q And what you meant was what the prosecutor was  
18 saying. Am I correct?  
19 A It's very possible.  
20 Q And on the 24th of January of 2008 you came to  
21 learn that the Judge did set a bail for you; am I right?  
22 A Yes.  
23 Q You had been talking about the issue of bail  
24 with Mr. H every day while you were waiting for it to be set.  
25 Do you recall that?

1           A     We discussed bail frequently, yes.

2           Q     But that was about the same time that you

3 started talking to the prosecutor about making a deal in this

4 case; am I right?

5           A     I was speaking to my attorney.

6           Q     You were speaking to your attorney about the

7 possibility of making a deal in this case?

8           A     Yes.

9           Q     And you knew that the prosecutor was only going

10 to leave that deal on the table until you made bail, and if

11 you made bail, it was off the table?

12          A     That was never discussed.

13          Q     So that you don't know that?

14          A     No.

15          Q     Okay. On the 30th of January 2008 you would

16 agree that you had already been discussing the possibility of

17 making a deal with your attorney for several days?

18          A     Yes.

19          Q     Would you agree to that?

20          A     Yes.

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

22          A     Correct.

23          Q     Although you were close?

24          A     I was discussing it with my attorney.

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

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

2 A I don't recall the conversation.

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

5 A Yes.

6 Q And that was on a Saturday?

7 A Yes.

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

10 A Yes.

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

12 A Yes.

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

15 A Correct.

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

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

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

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

1 police took before they arrested you?

2 A I don't remember seeing that transcript.

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

6 A Yes.

7 Q You knew that --

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

10 THE COURT: All right.

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

12 MR. DIGIACOMO: Okay.

13 BY MR. GENTILE:

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

17 A Yes.

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

20 A Yes.

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

25 A Yes.



1 Q -- am I right?

2 A Yes.

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

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

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

6 A Yes.

7 Q Okay. But when you met with the District

8 Attorneys and the District Attorneys' investigator and the

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

10 not recorded, was it?

11 A No.

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

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

14 Q So the District Attorney insisted upon it?

15 A No.

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

17 A No.

18 Q Am I right?

19 A Yes.

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

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

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

23 make a recorded statement, I would have.

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

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

1           A     I don't recall being asked.

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

4           A     Correct.

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

7           A     Yes.

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

10          A     No.

11          Q     But at least a couple of hours?

12          A     Yes.

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

15          A     Correct.

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

17          A     Yes.

18          Q     And Mr. DiGiacomo was there; right?

19          A     Yes.

20          Q     And Mr. Pesci was there?

21          A     Yes.

22          Q     And Mr. Falkner, that fellow back there in the  
23 blue shirt, he was there, wasn't he?

24          A     I don't remember Mr. Falkner.

25          Q     Do you remember Detective Kieger being there,

1 Teresa Kieger?

2 A Yes.

3 Q Okay. Do you remember another detective being  
4 there?

5 A There was a male detective, yes. And my  
6 attorney was also present.

7 Q And your -- yes, and your attorney was present.  
8 And at the end of that meeting you signed your plea  
9 agreement; am I right?

10 A Yes.

11 Q Now, that plea agreement was --

12 MR. GENTILE: Do we have it here?

13 MR. DIGIACOMO: It's marked as a State's exhibit at  
14 some point.

15 THE COURT: Do you know which one it is?

16 MR. DIGIACOMO: It'd be pretty late in the 200s,  
17 because we just marked it.

18 (Pause in the proceedings)

19 BY MR. GENTILE:

20 Q While she's -- while the clerk is looking for  
21 that, your mother at that time in January of 2008 was ill; am  
22 I right?

23 A She has been ill.

24 Q So I'm right that --

25 A Yes.

1 Q -- in January of 2008 she was ill?  
2 A Yes.  
3 THE COURT: That's the right one. 228.  
4 MR. GENTILE: 228.  
5 BY MR. GENTILE:  
6 Q And while you signed that document -- you have  
7 no quarrel that you signed that document on February the 2nd  
8 of 2008?  
9 A Correct.  
10 Q It was in fact prepared in January, was it not?  
11 A I don't know when it was prepared.  
12 Q I want to refresh your recollection. I'll show  
13 you Proposed Exhibit 228. Is that your signature?  
14 A Yes, it is.  
15 Q Do you see typed -- don't say what it is, but  
16 do you see a date typed on there, a month?  
17 A Yes.  
18 Q Okay. You would agree that you did not sign  
19 this document on January the 2nd of 2008, wouldn't you?  
20 A I don't believe I did. I believe it was in  
21 February.  
22 Q Well, and one of the reasons you believe that  
23 is because you know that when you signed this the bail had  
24 already been set?  
25 A I'm -- can you repeat the question? I don't

1 understand what you're saying.

2 Q Sure. You know that when you signed your  
3 guilty plea agreement and your agreement to testify bail was  
4 already set and it hadn't been posted yet?

5 A Yes.

6 Q And we can --

7 MR. GENTILE: Your Honor, could I ask the Court to  
8 take judicial notice, and I have a copy of the order, that the  
9 minute order was entered on January 24th of 2008.

10 MR. DIGIACOMO: I won't object to that. I believe  
11 that's probably true.

12 THE COURT: All right. I don't have it in front of  
13 me, but I'll trust your representation. That sounds about  
14 right.

15 BY MR. GENTILE:

16 Q And so when Luis Hidalgo, Jr., Mr. H, came to  
17 visit you that Saturday night after you had signed this  
18 agreement, he told you that the bondsman was there and they  
19 were ready to post bail, and you told him, wait until Tuesday;  
20 am I right?

21 A Yes.

22 Q And on Tuesday you appeared in this court, this  
23 courtroom?

24 A Yes.

25 Q And when you appeared in this courtroom you

1 entered a guilty plea; am I right?

2 A Yes.

3 Q And you entered a guilty plea to what's -- what  
4 you heard referred to as a fictional charge. Do you remember  
5 that?

6 A Your meaning of a fictional charge is?

7 Q Believe me, Ms. Espindola, I don't know what a  
8 fictional charge means. Those were the words you heard.

9 MR. DIGIACOMO: Objection, Judge.

10 THE COURT: Sustained.

11 BY MR. GENTILE:

12 Q Am I right? You heard your charges that you  
13 pled guilty to referred to as a fictional charge?

14 A I don't remember.

15 Q Okay. If I showed you a transcript of that  
16 hearing, would it refresh your recollection?

17 A I -- please.

18 Q You were in the courtroom when you entered a  
19 guilty plea?

20 A Yes.

21 Q Excuse me. I'm sorry. Do you remember your  
22 plea being referred to as a fictional plea?

23 A I -- like I said, I don't remember.

24 Q When you hear the word "fiction," what's it  
25 mean to you?

1           A     Not true.

2           Q     I want to show you page 3 of the transcript and  
3 ask you to see if that refreshes your recollection.

4           MR. GENTILE: By the way, here's a -- Your Honor,  
5 while she's reading it, this is a copy of the guilty plea.

6           THE COURT: Thank you. All right. That is January  
7 [inaudible].

8           MR. GENTILE: Thank you.

9 BY MR. GENTILE:

10          Q     Have you had an opportunity to read it?

11          A     Yes.

12          Q     Do you remember being there?

13          A     Yes.

14          Q     You remember it being referred to as a  
15 fictional --

16          A     Yes.

17          Q     And so you entered a fictional plea of guilty  
18 to charges that did not and could not carry the death penalty;  
19 am I right?

20          A     Correct.

21          Q     The charges that you entered a plea to was  
22 manslaughter; am I right?

23          A     Voluntary manslaughter, yes.

24          Q     And when you were asked what you did to have  
25 committed that crime you did not say that you had entered into

1 an agreement to kill somebody, did you?

2 A No.

3 Q You did not say that you even knew that anybody

4 was going to be killed, did you?

5 A No.

6 Q What you said was five words. Remember what

7 those words were?

8 A No, I don't.

9 Q "I assisted all the coconspirators." Remember

10 saying that?

11 A Yes.

12 Q That's it. That's all you said about what you

13 did; right?

14 A Yes.

15 Q And in truth and in fact you didn't really care

16 what you were entering a plea to. What you cared about is

17 what the end result would be in terms of your freedom. That's

18 fair to say, isn't it?

19 A No.

20 Q You knew that if the State was successful, as

21 it turned out to be, to get death reinstated in this case,

22 you'd be facing the death penalty again, didn't you?

23 A I could be if I -- yes.

24 Q And you knew that you didn't want that again.

25 Fair to say?



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