

IN THE SUPREME COURT OF THE STATE OF NEVADA

LUIS HIDALGO, JR.,

Appellant,

VS.

THE STATE OF NEVADA,
Respondent.

Case No. 71458	Electronically Filed Jul 25 2017 08:17 a.m. Elizabeth A. Brown Clerk of Supreme Court
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APPELLANT’S APPENDIX VOLUME XIV

Appeal from Eighth Judicial District Court, Clark County

The Honorable Valerie Adair, District Judge

District Court Case No. 08C241394

MCLETSCHIE SHELL LLC
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Appellant

-5-

1 A Yes.

2 Q On a couple of occasions?

3 A Yes.

4 Q Okay. What do you remember about May the 19th, 2005?
5 Anything unusual happen that day?

6 A Yes. I was in my office, and Deangelo was in there making
7 copies --

8 MR. PESCI: Judge, I apologize, could we get a predicate as to the time.

9 THE COURT: All right. What time about are you talking about when
10 you were in your office and Deangelo was in there?

11 THE WITNESS: Later in the evening. I don't remember approximately
12 what time.

13 MR. GENTILE: Okay.

14 BY MR. GENTILE:

15 Q Well, when Deangelo was in your office later in the evening, would
16 it be -- well, if you don't remember, you don't remember.

17 THE COURT: Would it be towards the beginning of your -- like late in
18 the evening like the evening hours, 7, 8 p.m., or late towards the end of your
19 shift meaning the early morning hours?

20 THE WITNESS: It would be more around 7 or 8 p.m.

21 THE COURT: All right. Thank you.

22 BY MR. GENTILE:

23 Q All right. And who is Deangelo?

24 A Deangelo was the gentleman that would promote for us, fill in if
25 we needed a extra DJ or if we needed somebody on the floor?

1 Q Would he work the floor as well?

2 A Yes.

3 Q How long did you know Deangelo by May the 19th of 2005, best
4 estimate?

5 A Maybe a year. That's a rough estimate.

6 Q And at that time in May of -- May 19th, 2005, did you have an
7 opinion as to Deangelo Carroll's character for truthfulness?

8 A He was never truthful.

9 Q He was never truthful?

10 A Not that I ever seen.

11 Q Is that something that you experienced yourself with him?

12 A Yeah, because we'd catch him in lies all the time.

13 Q Okay. Now, you said that you recall on May the 19th, Deangelo --
14 did you say he was in your office?

15 A Yes, he was in my office with me.

16 Q What was he doing in your office?

17 A He was making copies 'cause he was going to go out promoting.
18 He was making flyers off the printer and getting other flyers that were in the
19 office.

20 Q And what happened?

21 A Mr. H called us.

22 Q Mr. H you say called us?

23 A Well, called down to the office and told me to bring the banks and
24 bring Deangelo upstairs.

25 Q And --

1 MR. PESCI: Judge, I apologize. I'm going to object as to what Mr. H
2 said. Move to strike.

3 MR. GENTILE: Well, it's not offered for proof.

4 THE COURT: Well, it's not offered for the truth. It's just offered to
5 explain, I'm guessing, the witness's next acts.

6 BY MR. GENTILE:

7 Q And did you respond?

8 A Yes. I grabbed the banks --

9 Q Did you bring Deangelo up there?

10 A Yes.

11 Q You did?

12 A Yes, we went up to his office.

13 Q Okay. And when you got up there with Deangelo, did you go into
14 the room together?

15 A Yes.

16 Q What happened when you got up there?

17 A We got chewed out over the way Deangelo was leaving the van,
18 trash everywhere.

19 MR. PESCI: Judge, I'm going to apologize. I'm going to ask for
20 foundation as to who's doing the chewing, and if it's Mr. H, I'm going to ask to
21 strike.

22 MR. GENTILE: It's Mr. H and it's not hearsay. It's not offered for the
23 truth.

24 THE COURT: I don't think it's being offered for that.

25 MR. PESCI: What's it being offered --

1 THE COURT: And she hasn't said what he said -- well, she did, excuse
2 me, I misspoke. I don't think it's being offered for that. I think it's going for
3 something else as to Deangelo's state of mind on the night of the --

4 MR. GENTILE: Well, there's been a --

5 THE COURT: -- May 19th.

6 MR. GENTILE: I don't want to make a speaking response to this. The
7 Court has overruled the objection. I'd like to proceed.

8 THE COURT: All right.

9 MR. GENTILE: Thank you.

10 BY MR. GENTILE:

11 Q What do you recall happening at that meeting? First of all, who
12 was in the room at that time?

13 A Me, Deangelo, Mr. H, and I believe Ms. Anabel was either in the
14 kitchen or in the back, in the back room.

15 Q Okay. And what do you recall occur -- what do you remember
16 occurring at that meeting?

17 A I'm just saying that, you know, the van hasn't been properly, you
18 know, cleaned out, people are complaining there's cigarette smoke, marijuana
19 smoke in the van. There's flyers everywhere, you know. It needs to be
20 washed. It needs to be vacuumed, and he wasn't doing anything to keep it --
21 keep the upkeep on it.

22 Q All right. Why were you there? It doesn't sound like he was
23 balling your out.

24 A Because any time that he is going to approach one of us, he
25 always had another person there with him.

1 Q At the end of that chewing out --

2 A Uh-huh.

3 Q Yes?

4 A Yes.

5 Q What happened next?

6 A Me and Deangelo both left the office.

7 Q At the same time?

8 A Yes.

9 Q And what did you see -- did you see what Deangelo did after he
10 left the office?

11 A We both walked downstairs, and he walked out. He left the club.

12 MR. GENTILE: Your Honor, if I could have a moment, I need to call up a
13 document here.

14 THE COURT: That's fine.

15 BY MR. GENTILE:

16 Q Was there any discussion during that balling out about Deangelo
17 allowing people in the van?

18 A Yes. Customers --

19 MR. PESCI: Judge, I apologize. I'm going to renew my objection. At
20 this point I don't understand how it's possibly being offered for what was said
21 next without getting into what he said repeatedly.

22 THE COURT: I'm not sure what the relevancy --

23 MR. GENTILE: Okay. Just a moment. I'll find it. We have about a
24 jillion documents, Your Honor, and naturally one that I don't have in this pile.
25 Here we go.

1 That's it. Nothing further. Thank you.

2 THE COURT: Mr. Adams, do you have questions?

3 MR. ADAMS: No, ma'am.

4 THE COURT: All right. Mr. DiGiacomo.

5 CROSS-EXAMINATION

6 BY MR. DIGIACOMO:

7 Q Good afternoon.

8 A Afternoon.

9 Q Have you and I met before?

10 A I don't recall.

11 Q Did you come to the preliminary hearing in Boulder City?

12 A Oh, yes.

13 Q You went there, right?

14 A Yes.

15 Q And you watched the proceedings, correct?

16 A No, not in Boulder City 'cause I was subpoenaed. I had to sit
17 outside.

18 Q Okay. So you wound up sitting outside so you didn't watch
19 those?

20 A Yes.

21 Q Have you come to any other court proceedings?

22 A No.

23 Q So that was the only one that you went to?

24 A Yes.

25 Q I want to back up a little bit and talk about some of the people at

1 the club.

2 A Okay.

3 Q Did you know TJ?

4 A Yes.

5 Q And you said you knew Deangelo, right?

6 A Yes.

7 Q And do you recall, you gave a statement to the police on the 20th
8 of May, correct?

9 A Yes.

10 Q And they took a tape-recorded statement from you?

11 A Yes.

12 Q And you would agree with me that TJ and Deangelo as far as you
13 knew got along great and had no problems?

14 A Yes.

15 Q You would also agree with me that the police specifically wanted
16 to know from you when you saw Deangelo and where you saw him in the club
17 that night, correct?

18 A Yes.

19 Q Okay. And one of the things you told them was you saw him
20 making copies in your office at 8 o'clock, correct?

21 A Yes, 'cause I let him in.

22 Q Okay. You didn't ever tell the police that you went up to the
23 office with Mr. H and you heard this conversation, correct?

24 A No.

25 Q Okay. Then you say the next time you saw him was sometime

1 after midnight, correct?

2 MR. GENTILE: Objection. She didn't say that. We didn't go into that.

3 THE COURT: That's sustained.

4 MR. DIGIACOMO: Well, they asked her about May 19th and seeing
5 Deangelo --

6 MR. GENTILE: After midnight is May 20th, A, and B, we didn't go into
7 that.

8 THE COURT: I mean, you can ask her when she saw him again, but in
9 terms of impeaching her she didn't talk about that as I -- so if you want to
10 inquire on that, you're free to do it.

11 MR. DIGIACOMO: All right. I'll rephrase.

12 BY MR. DIGIACOMO:

13 Q You saw him again sometime after midnight, correct?

14 A Yes.

15 Q Okay. And at first when you saw him he was playing video
16 games, right?

17 A I -- I don't remember. I remember him coming into the club, and
18 actually, I believe he went into the DJ booth.

19 Q And you told the police at 1 o'clock he's in the DJ booth when
20 you see him there. Do you remember that? Right?

21 A (Witness nodded.)

22 Q And you'd agree with me there was nothing about his demeanor
23 that caused you any concern whatsoever, correct?

24 A I really don't remember a lot about the statement that I have given
25 the cops.

1 Q Have you read the statement in the last four years?

2 A A couple times.

3 Q Well, let's go through some of what we're talking about here. Go
4 ahead and read that bottom paragraph.

5 THE COURT: Just read it to yourself.

6 THE WITNESS: It was at 1 o'clock.

7 MR. DIGIACOMO: Page 7, Counsel, if you go to the bottom there.

8 BY MR. DIGIACOMO:

9 Q Do you remember the police asking you: Now, during the time
10 that you saw Deangelo, did you notice anything different about his appearance,
11 or did he seem any way different than you saw him during the night; what was
12 your answer?

13 MR. GENTILE: I don't understand. He can refresh her recollection, but
14 he can't publish the document. He has to ask her --

15 THE COURT: Well, unless he's impeaching her and he's --

16 MR. GENTILE: But he's not is the point.

17 THE COURT: Right.

18 BY MR. DIGIACOMO:

19 Q Well, does that refresh your recollection as to whether --

20 THE COURT: Whether or not you noticed something about Deangelo
21 Carroll's appearance or demeanor?

22 THE WITNESS: Yeah, I'm reading it, and I --

23 BY MR. DIGIACOMO:

24 Q Okay. Did you read that?

25 A Yeah.

1 Q At that time when you saw him in the evening, is there --

2 THE COURT: Well, does that refresh your memory as to whether or not
3 you noticed anything about Mr. Carroll's appearance or demeanor on the, I
4 guess it would be the early morning hours of the 20th?

5 THE WITNESS: Yeah, I know he wasn't any different.

6 BY MR. DIGIACOMO:

7 Q So there was nothing different about his demeanor at that point?

8 A No, but I really didn't -- I seen him but I wasn't really talking to
9 him or -- I was doing, you know, I was cocktailing.

10 Q Let's go to page 8 then. So if I can get this straight, your
11 testimony is you didn't really pay attention to Mr. Carroll, correct?

12 MR. GENTILE: Your Honor, there's a document in front of the witness.
13 It doesn't appear that it's being used to refresh memory. He hasn't tried to
14 exhaust her memory.

15 THE COURT: Mr. DiGiacomo, would you retrieve the document, and I
16 believe the question is, As you sit here today, your testimony is that you didn't
17 really interact with Mr. Carroll the early morning hours of May 20th; is that
18 right?

19 THE WITNESS: Say that again. I'm sorry.

20 THE COURT: I'll let Mr. DiGiacomo say it, but phrase it in that manner.

21 BY MR. DIGIACOMO:

22 Q Your testimony here today is you didn't really pay attention to
23 Deangelo Carroll, correct?

24 A Yeah, I glanced at him, but I wasn't really, like, you know, not that
25 I -- it happened May 2005, you know, not that I can remember.

1 Q Well, you would agree with me that your memory on May 20th of
2 2005, has got to be better than it is today, correct?

3 A Of course, day after.

4 Q And you would agree with me that when asked questions back in
5 2000 -- May 20th of 2005, you indicated you didn't notice anything about his
6 demeanor that was unusual, correct?

7 A Correct.

8 Q Would you agree with me that you didn't tell the police you didn't
9 take any notice of him?

10 A No.

11 Q Now, you also said something on cross-examination about this
12 problem that there was with Deangelo Carroll at the club. Do you remember --
13 I'm sorry, on direct examination; do you remember that?

14 A I'm not understanding the question.

15 Q Do you remember Mr. Gentile just asking you questions about
16 problems that Deangelo Carroll had at the club with Mr. H that night?

17 A Oh, yeah, when we got -- when Mr. H was talking to us about
18 how the van was being treated.

19 Q Do you remember what you told the police when they asked you
20 what kind of employee Deangelo Carroll was?

21 A I'd have to read over the statement again.

22 THE COURT: Couldn't we have just asked her what kind of employee
23 Deangelo Carroll was or -- even if it's different show her the statement?

24 MR. DIGIACOMO: Well, I'll ask her -- that wasn't the import of the
25 question.

1 BY MR. DIGIACOMO:

2 Q The import of the question is when the police asked you if there
3 was any problems with Deangelo Carroll you told them he was a good
4 employee. Do you remember making that statement?

5 MR. ARRASCADA: Judge, that's improper. She hasn't -- he's not laid a
6 foundation of what she believed or what she said. It's an improper question.

7 THE COURT: Right. That's sustained. Thank you.

8 BY MR. DIGIACOMO:

9 Q Do you remember what you answered to the question?

10 THE COURT: Mr. DiGiacomo, it was sustained.

11 BY MR. DIGIACOMO:

12 Q Was he a good employee?

13 A At times, yes, he was.

14 Q At times?

15 A Uh-huh.

16 Q Would you agree with me you didn't qualify it with at times in your
17 statement?

18 A No.

19 Q You wouldn't agree with me?

20 MR. ARRASCADA: Same objection.

21 THE COURT: Well, did you qualify at times when you talked to the
22 police, or did you just characterize Deangelo Carroll as a good employee?

23 THE WITNESS: I just characterized him as a good employee.

24 BY MR. DIGIACOMO:

25 Q And when they asked you the question about Deangelo Carroll

1 being a good employee, why didn't you tell them about the situation with Mr. H
2 having to chew him out that night?

3 A When I talked to the police and then they put me on the tape, we
4 talked about other things before they started asking me questions, and that
5 wasn't one of the questions that they asked me.

6 Q Let me back up then. Are you telling us that you told a police
7 officer prior to the tape being started about this interaction between Mr. H and
8 Deangelo Carroll?

9 A I might have; I might have not. I don't remember, but I remember
10 that wasn't a question that they asked me.

11 Q So I guess my question is that -- that I didn't really get an answer
12 to -- when the police asked you what kind of employee he is and you described
13 him as a good employee, why didn't you tell them about the problems he had
14 that night with Mr. H?

15 A I don't know.

16 Q Do you remember the police asking you questions -- well, let me
17 rephrase. Do you remember specifically describing to you -- the police, exactly
18 what kind of employee Deangelo Carroll was?

19 A Now say that again.

20 Q Do you remember describing to the police exactly -- do you
21 remember exactly what you said to the police --

22 MR. GENTILE: Your Honor, I need to approach. I have an objection.

23 THE COURT: Yeah. We'll wait. Bring it with you.

24 (Conference at the bench.)

25 THE COURT: Before I ask it, however, I'm going to let Mr. DiGiacomo

1 finish his cross-examination.

2 BY MR. DIGIACOMO:

3 Q A couple of last questions. You were the person who was the
4 direct supervisor for Deangelo Carroll, weren't you?

5 A Yes.

6 Q So you were the person who gave him his day-to-day orders,
7 correct?

8 A Not when it came to promoting, no.

9 Q Who gave him those orders?

10 A If he wasn't -- if he wasn't DJ'ing or if he wasn't on the floor, he
11 already knew that he was going out promoting.

12 Q And then who was responsible for telling him where to promote
13 and what to promote and all that other stuff?

14 A It would be Mr. H.

15 Q So Mr. H would have direct contact with Deangelo Carroll as it
16 relates to --

17 A Well, actually, he would tell me, and I would tell Deangelo.

18 Q Okay. So you would have the authority --

19 A Yes, somewhat, yes.

20 Q -- I mean, you would direct, correct?

21 A Yes.

22 Q And you would agree with me that every time you told Deangelo
23 Carroll what to do he did it?

24 A Yes.

25 MR. DIGIACOMO: Pass the witness, Judge.

1 THE COURT: All right. Before Mr. Gentile goes on redirect, a juror wants
2 to know: When Mr. H would ask to have something opened, did he then
3 retrieve the item, whether it be a file folder, money, or whatever object himself,
4 or would he ask you or another person to get the particular item out for him?

5 THE WITNESS: He'd tell me what he wanted and I would get it for him.

6 THE COURT: Mr. DiGiacomo, follow-up on that juror question?

7 MR. DIGIACOMO: No, Judge.

8 THE COURT: Mr. Gentile, redirect?

9 MR. GENTILE: I don't really have any. Thank you.

10 THE COURT: All right. Anything, Mr. Adams?

11 MR. ADAMS: No, ma'am.

12 THE COURT: All right. Thank you. Any other juror questions?

13 All right, ma'am. Thank you for your testimony. Please don't
14 discuss your testimony with anybody else who may be a witness in this case.
15 Thank you, and you are excused.

16 Mr. Gentile, call your next witness.

17 MS. ARMENI: Your Honor, it's Margaret Johnson.

18 THE COURT: All right. Thank you, Ms. Armeni.

19 Margaret Johnson.

20 Ms. Johnson, come on in and right up here to the witness stand,
21 please, just up these couple of stairs, and then once you get up there please
22 remain standing facing this lady right here who will be administering the oath to
23 you.

24 MARGARET ANN JOHNSON

25 Having been called as a witness and being first duly sworn testified as follows:

1 THE CLERK: Please be seated and please state and spell your name.

2 THE WITNESS: Margaret Ann Johnson, M-a-r-g-a-r-e-t, A-n-n, J-o-h-n-s-o-n.

3 THE COURT: All right. Thank you.

4 Ms. Armeni.

5 DIRECT EXAMINATION

6 BY MS. ARMENI:

7 Q Ms. Johnson, is Margaret the name you go by?

8 A No.

9 Q What do you go by?

10 A Susie.

11 Q Okay. Susie, can you tell us where you're from?

12 A Originally?

13 Q Sure.

14 A California, Englewood, California.

15 Q And where do you live right now?

16 A I'm in the northern west part, up in Desert Shores.

17 Q Okay. In Las Vegas, Nevada?

18 A Yes.

19 Q And do you have any children?

20 A I have two with me. They're not my biological children, but I have
21 them.

22 Q Are you okay? Do you want some water?

23 A I'm okay.

24 Q You're a little nervous, Susie?

25 A Yeah.

1 Q So you have two children that you're raising?
2 A Yeah, they're my nephews.
3 Q And how long have you been raising them?
4 A Almost 14 years.
5 Q Tell us what you do for a living.
6 A I'm a dancer.
7 Q And where are you a dancer at?
8 A The Palomino.
9 Q And how long have you been doing that for?
10 A 27 years dancing but about 15 years at the Palomino.
11 Q And do you work at the Palomino right now?
12 A Yes.
13 Q And did you work at the Palomino back in May 19th of 2005?
14 A Yes.
15 Q Now, I want to ask you about a couple people that worked at the
16 Palomino.
17 A Okay.
18 Q Are you familiar with a Deangelo Carroll?
19 A Yes.
20 Q And how do you know Mr. Carroll?
21 A He was sometimes our DJ or, you know, he did odd jobs too
22 around there, but I dealt with him mostly as a DJ.
23 Q Okay. Would you deal with him on a nightly basis?
24 A No, not every night, but he was there most of the time I was
25 there, you know, in the vicinity if he was a DJ.

1 Q Do you recall how long he worked there when you were working
2 there?

3 A Not -- I don't remember exactly how long, from when to when. He
4 was -- I worked for, I don't know eight or so -- I don't know. I'm just guessing
5 on the time frame.

6 Q Okay. Well, let me ask you maybe a different way. Did you work
7 with Deangelo a little bit more than two months?

8 A Yes.

9 Q Okay. Would you say you worked with Deangelo a year?

10 A I don't know if it was a year. I don't -- I'm not -- I just know he
11 was there and around for quite a while.

12 Q And what was the context of your relationship with Deangelo?

13 A Well, as a DJ I had to deal with him because I had to tell him what
14 music to play for me and that, and then just on and about just small chat from
15 time to time if we ran into each other on the floor, you know.

16 Q And based on your experience with Deangelo, do you have an
17 opinion as to his truthfulness?

18 A Do I have an opinion? Yeah.

19 Q Okay. Can you tell us what that opinion is.

20 A I don't believe -- I didn't -- I didn't think he was a trustworthy
21 person.

22 Q Let me ask you about somebody else at the Palomino. Are you
23 familiar with Mr. H?

24 A Yes.

25 Q Well, let me ask you, are you familiar with Luis Hidalgo Junior?

1 A His son? Mr. H's son or Mr. H?

2 Q Well, let me ask you, let me go back. Who at the time when you
3 were working in May 19th, 2005, owned the Palomino?

4 A Mr. H.

5 Q Okay. And is that what you always called him?

6 A Yes.

7 Q And how long did you -- how long did you and Mr. H work
8 together?

9 A Oh, gosh, let's see. Well, since 2000, since he was kind of there
10 prior to taking over ownership. So I got to know him starting in 2000.

11 Q And tell me what the context of your relationship with Mr. H was.

12 A Oh, co-worker. In the first year or so though, before he took over
13 the club, we often had conversations about, like, the business because I had
14 done it so long, and I'd also been at the Palomino for a while. So we'd talk
15 about, like, kind of things to do, like operations of the club and like how the
16 business worked and how he could maybe make it better or, you know, what
17 would work for, you know, everyone kind of a thing.

18 Q Okay. And how many times would you say you talked to him
19 when you worked there?

20 A Oh, probably a few times.

21 Q When you worked with him, I guess I should say.

22 A Probably a few times a week.

23 Q And based on your relationship with Mr. H, did you form an
24 opinion as to his truthfulness?

25 A Yeah.

1 Q And can you tell us what that opinion is.

2 A I trusted him. He never gave me a reason not to trust him.

3 MS. ARMENI: Court's indulgence.

4 THE COURT: Uh-huh.

5 MS. ARMENI: Thank you, Susie.

6 Pass the witness, Your Honor.

7 THE COURT: Any questions, Mr. Arrascada?

8 MR. ARRASCADA: No, Your Honor.

9 THE COURT: All right. Is that you, Mr. Pesci?

10 MR. PESCI: Yes, thank you, Judge.

11 CROSS-EXAMINATION

12 BY MR. PESCI:

13 Q Ma'am, help me understand something. If I've gotten this correct,
14 you know you worked with Deangelo, but you're not sure how long you worked
15 with Deangelo?

16 A Yeah, I'm not quite sure. I don't remember exactly when he came
17 to work there.

18 Q I think Ms. Armeni was trying to get out a guesstimate as far as
19 time. If you were to guess, more than a month that he worked there?

20 A Oh, yeah.

21 Q More than two months?

22 A Yeah. I'm guesstimating just from my own. I don't know how
23 long, you know, but I know it was longer than five or six months that I worked
24 with the boy.

25 Q But more than five or six months that you worked with him?

1 A Yeah.

2 Q And in those five or six months, is that the time period where you
3 formed this opinion about Deangelo Carroll?

4 A Yes.

5 Q Did it take five or six months for you to form that opinion about
6 Deangelo Carroll?

7 A No.

8 Q Was it quick that you were able to form that opinion about
9 Deangelo Carroll?

10 A Probably in the first few weeks I worked with him.

11 Q Just after a couple of weeks?

12 A Yeah.

13 Q All right. And I think you just testified that you, quote, would trust
14 Mr. H; is that what you said?

15 A Yeah, that's what I said.

16 Q And you said you talked to him a little about the business?

17 A Sure.

18 Q Did you ever say, hey, Mr. H, Deangelo's lying all the time; why is
19 he still here?

20 A No.

21 Q But you did testify a few minutes ago that you would talk to him
22 about the business and how he could improve things?

23 A To Mr. H, yes, not to Deangelo.

24 Q Now, Mr. H being trustworthy employed Deangelo Carroll for over
25 five months?

1 A Yes.

2 Q He kept him there for over five months even though you had
3 information that he wasn't trustworthy, he being Deangelo Carroll, or truthful?

4 A Well, I never caught him lying about anything, but the feeling I got
5 from him working with him and listening to him, say, talk with others, and I
6 don't mean like Mr. H others, I mean just in general around the club and that, I
7 didn't like where he was coming from.

8 Q Okay. And you're saying that that was something that you could
9 tell quickly?

10 A Yeah, it just took me a few weeks.

11 Q And you gained that opinion while you were there at the club?

12 A Yes.

13 Q And Mr. H was at the club at the time that you gained that opinion
14 of Deangelo Carroll, wasn't he?

15 A Yes.

16 Q All the times that you interacted with him, him being Deangelo?

17 A Yes, I guess, yes.

18 Q What did Mr. H do at the club?

19 A He just kind of oversaw. He wasn't out on the floor all the time
20 and that. We'd see him out on the floor from time to time.

21 Q Okay. When you saw him out on the floor, what did he do?

22 A Well, he sometimes sat around. Sometimes if it was really slow
23 and that there to show us support he might, you know, grab some singles and
24 that and tip us girls to inspire others and whatnot and to kind of support us a
25 little for it being slow.

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Q Where did he get the singles from?

A From the bar.

Q And how did he get them from the bar?

A Well, I'm sure he just walked behind the bar.

Q So he was able to get things within the Palomino on his own?

MR. GENTILE: Objection to the form of the question.

MR. PESCI: What's objectionable? It's cross-examination.

MR. GENTILE: Things.

THE COURT: Money.

BY MR. PESCI:

Q Was Mr. H in your presence able to get his hands on money at the Palomino Club?

A Yeah, he could walk behind the bar and go into the register.

Q So he'd do that?

A Yeah.

MR. PESCI: Pass.

THE COURT: Any juror questions?

All right. Mr. Gentile -- I'm sorry, Ms. Armeni, redirect?

MS. ARMENI: Court's indulgence.

No, Your Honor.

MR. ARRASCADA: No, Your Honor.

THE COURT: All right. Is it Ms. Johnson?

THE WITNESS: Yeah.

THE COURT: Thank you for your testimony. Please don't discuss your testimony with anybody else who may be called as a witness in this case.

1 Thank you and you are excused.

2 MR. GENTILE: I'm going to need to go out and see who I have.

3 THE COURT: All right. We'll just be at ease while you do that.

4 MS. ARMENI: Your Honor. The next witness is Kathy Crouse.

5 THE COURT: All right. Kathy Crouse.

6 Ms. Crouse, just come on down here, please to the witness stand,
7 just right up those couple of stairs, and then if you would remain standing
8 facing this lady right here who's going to administer the oath to you.

9 KATHLEEN CROUSE

10 Having been called as a witness and being first duly sworn testified as follows:

11 THE CLERK: Please be seated and please state and spell your name.

12 THE WITNESS: Kathleen Crouse, K-a-t-h-l-e-e-n, C-r-o-u-s-e.

13 THE COURT: All right. Thank you.

14 Ms. Armeni.

15 DIRECT EXAMINATION

16 BY MS. ARMENI:

17 Q Good afternoon, Ms. Crouse. Can you tell us where you're from?

18 A San Bruno, California.

19 Q And are you currently residing in San Bruno, California?

20 A Yes, I am.

21 Q And do you know a gentleman by the name of Mr. Hidalgo Junior?

22 A Yes, I do.

23 Q And how do you know him?

24 A I've known Luis since 1971. He was my former husband's police
25 partner.

1 Q Police partner?

2 A Yes.

3 Q So your former husband was a police officer?

4 A Yes, he was.

5 Q Okay. And how long was your former husband and Mr. -- we have
6 to call him Mr. H for purposes of this record. I know that you normally called
7 him Luis or Louie.

8 A Uh-huh.

9 Q So bear with me with the Mr. H, but how long was Mr. H your
10 husband's partner?

11 A Approximately 3 and a half, 4 years.

12 Q And can you tell us about that relationship while they were
13 partners.

14 A Well, it started out Louie went to work as a community service
15 officer and then became a reserve officer and then later on he went down to
16 the sheriff's department.

17 Q And did you -- was it just a business relationship between yourself
18 and your husband and Mr. H?

19 A No, it wasn't. We became very good friends.

20 Q Okay. Can you tell us the kind of things that you did together as
21 friends.

22 A Oh, go over to each other's houses for dinner and stuff, and my
23 husband and I helped Mr. H obtain his first house and an antique car.

24 Q Did there come a time when Mr. H left California?

25 A Yes.

1 Q And do you know where he moved to?

2 A Yes.

3 Q Where did he move to?

4 A Las Vegas.

5 Q And did you stay in contact with Mr. H when he moved to Las
6 Vegas?

7 A Yes.

8 Q Tell me about that contact. I mean, was it over the telephone?
9 Did you come visit?

10 A Over the telephone and I did come and visit.

11 Q How often would you say you spoke to Mr. H?

12 A At least once a month.

13 Q And has that been the entire time since you've been friends with
14 him, since 1971?

15 A Yes, sometimes more often.

16 Q And do you continue to speak to him lately?

17 A Not -- not for a few months.

18 Q Okay. When do you think the last time you talked to him was?

19 A Before June.

20 Q And since 1971 you said you've been friends?

21 A Yes.

22 Q And since 1971 based on your relationship with Mr. H have you
23 been able to form an opinion as to his truthfulness?

24 A Yes.

25 MR. DIGIACOMO: Judge, can we approach?

1 THE COURT: Sure.

2 (Conference at the bench.)

3 THE COURT: Ms. Armeni, you may continue.

4 MS. ARMENI: Thanks, Your Honor.

5 BY MS. ARMENI:

6 Q Ms. Crouse, I'm going to ask you the question again. Based on
7 your friendship with Mr. Hidalgo since 1971, have you been able to form an
8 opinion as to Mr. H's truthfulness?

9 A Yes.

10 Q And can you tell us what that opinion is.

11 A Mr. Hidalgo is very truthful.

12 Q Thank you.

13 A You're welcome.

14 MS. ARMENI: Pass the witness, Your Honor.

15 THE COURT: All right. Anything, Mr. Arrascada? Mr. Adams?

16 MR. ARRASCADA: No, Your Honor.

17 THE COURT: All right. Mr. Pesci, cross.

18 MR. PESCI: Thank you, Judge.

19 CROSS-EXAMINATION

20 BY MR. PESCI:

21 Q Ma'am, I'm trying to understand what you said as far as the time
22 Mr. H, Luis Hidalgo sitting over here at the front desk was partners with your
23 husband, you said for 3 and a half to 4 years?

24 A Yes.

25 Q And I think you went through as far as job positions, a community

1 service officer, a reserve officer and then he went to the sheriff's department, I
2 believe you said?

3 A Yes.

4 Q Ma'am, could you explain to me what a community service officer
5 was in San Bruno as far as what specifically Mr. H did in that job.

6 A A community service officer is a sworn personnel. They would go
7 out and, like, ticket abandoned cars.

8 Q Do you know how long Mr. H did that job?

9 A Not exactly.

10 Q That's okay if you don't.

11 A No.

12 Q Then you said from there he went to become a reserve officer?

13 A Yes.

14 Q What is that?

15 A Reserve officer there's two levels of being a police reserve officer.
16 Some that can carry weapons and some that cannot.

17 Q Okay. Can he effectuate arrests as a reserve officer? Can he
18 arrest people?

19 A Yes. If you have the ability to carry a firearm; otherwise, I think
20 that they just back up calls.

21 Q Okay. And then you said he went on to the sheriff's department.
22 What do you mean by that? What did Mr. H do when he went on to the
23 sheriff's department?

24 A That I'm not clear about because then he wouldn't come to the
25 house for dinner and stuff.

1 Q Okay. So the 3 and a half to 4 years that your husband was
2 partners with him, which part of this service was that? Was that when he was
3 a community service officer, a reserve officer or at the sheriff's department?

4 A Well, sometimes he would just night ride, go along as a -- and just
5 ride.

6 Q With your husband?

7 A With my husband.

8 Q Okay. And what was your husband's position?

9 A A sworn police officer.

10 Q Okay. And how long did your husband work as a sworn police
11 officer?

12 A I believe he started in 1967.

13 Q Okay. And Mr. H worked with your husband for 3 and a half to 4
14 years when your husband was a police officer?

15 A Yes.

16 Q Did your husband work within any specialized divisions in the San
17 Bruno -- is it the San Bruno Police Department?

18 A Yes, San Bruno Police Department. Yes, as a police officer and as
19 a detective.

20 Q Okay. Any of the time that Mr. H worked with your husband, was
21 your husband a detective?

22 A No.

23 Q Was he a patrol officer during that time?

24 A He was a patrol officer.

25 Q Do you know, did your husband and Mr. H ever have

1 conversations about their time on the job together?

2 MR. GENTILE: Your Honor, can we approach?

3 THE COURT: Sure.

4 And, Jeff, you can go over there and retrieve the juror questions. I
5 know there's at least one.

6 (Conference at the bench.)

7 THE COURT: All right, go on, Mr. Pesci.

8 BY MR. PESCI:

9 Q Okay, ma'am, just so you're really specific on this, any time in
10 your presence did you ever see and hear -- without saying what was said -- Mr.
11 H and your husband talking about their time working together as police officers?

12 A Just joking around talking about drunks and stuff, nothing --
13 nothing that, you know, any big cases or anything, no.

14 MR. PESCI: Thank you very much, ma'am.

15 THE COURT: All right. I've got a couple of juror questions up here. A
16 juror wants to know is a reserve officer a paid position or a volunteer position?

17 THE WITNESS: That depends. If they're having a street fair or
18 something and they ask you to work you're paid, if not, it's volunteer.

19 THE COURT: All right. Did Mr. H tell you when he became the owner
20 of the Palomino Club?

21 THE WITNESS: Yes, he did.

22 THE COURT: And do you recall when he told you that he had become
23 the owner of the Palomino Club?

24 THE WITNESS: Shortly after he bought it because I was thinking about
25 relocating.

1 THE COURT: Okay. So approximately what year was that if you
2 remember? If you don't remember, don't guess.

3 THE WITNESS: I don't remember for sure.

4 THE COURT: Okay. All right. State, any follow-up based on those juror
5 questions?

6 MR. PESCI: No, Your Honor.

7 THE COURT: All right. Ms. Armeni, any follow-up based on the series
8 of questions?

9 MS. ARMENI: No, Your Honor.

10 THE COURT: Mr. Arrascada?

11 MR. ARRASCADA: No, ma'am.

12 THE COURT: Any follow-up juror questions?

13 All right, ma'am, thank you for your testimony. Please don't
14 discuss your testimony with anybody else who may be a witness, and you are
15 excused at this time.

16 Mr. Gentile or Ms. Armeni, call your next witness.

17 MR. PESCI: Jerry DePalma, Jerome DePalma.

18 THE COURT: All right, Mr. DePalma.

19 Mr. DePalma, just come right on up here to the witness stand, sir.
20 It's just right up these couple of stairs and then just remain standing facing our
21 court clerk.

22 JEROME A. DE PALMA

23 Having been called as a witness and being first duly sworn testified as follows:

24 THE CLERK: Please be seated and please state and spell your name.

25 THE WITNESS: My name is Jerome A. DePalma. That's J-e-r-o-m-e, A. D-e-

1 P-a-l-m-a.

2 DIRECT EXAMINATION

3 BY MR. GENTILE:

4 Q Mr. DePalma, how old are you?

5 A 64. I was going to ask if I had to answer that question.

6 Q And what do you do for a living?

7 A Right now I'm semi-retired, but I spent my life as an attorney.

8 Q And where do you live?

9 A I currently live in a little town in northeast Nevada called Lamoille.
10 It's about 25 miles east of Elko.

11 Q And how long have you lived up there?

12 A I've had property up there since the early '90s.

13 Q Where have you practiced law?

14 A I began my law career in Chicago in 1972 after graduation from
15 DePaul University and became licensed in Nevada in I believe 1986.

16 Q How long did you practice law in Chicago?

17 A From 1972 through the end of the 1980s pretty much.

18 Q And what were some of the firms that you practiced in?

19 A Well, the earliest firm I practiced with was a firm called Mueller,
20 Alspaugh, and DePalma. The next firm I practiced with was Gentile and
21 DePalma and the firm after that was Belmonte, Kagen, Hibler, and DePalma,
22 and then I came here and was a solo practitioner for a number of years. A few
23 years back I became again associated with you as Gentile DePalma, and that
24 firm merged into Gordon and Silver.

25 Q Okay. When was the Gentile DePalma in Chicago?

1 A 1975 through 1979 or '80.

2 Q And did there come a time in the year of 2005 -- well, let me ask
3 another question. When did the Gentile DePalma firm, would you call it
4 recommence?

5 A I think you could call it that. That occurred in -- let me just get my
6 years straight here. That would have been about 2005.

7 Q I want to call your attention to May 21st of 2005. You're not
8 walking in here cold; am I right? You know the questions I'm going to ask you?

9 A Yes.

10 Q We've talked from time to time?

11 A Yes, we do.

12 Q You are the godfather to my son?

13 A I am.

14 Q Okay.

15 MR. DIGIACOMO: Judge, we need to approach.

16 MR. GENTILE: It's a bias and I need to disclose it.

17 THE COURT: Right, he does need to disclose.

18 MR. DIGIACOMO: There's a separate issue.

19 THE COURT: All right come on up.

20 (Conference at the bench.)

21 THE COURT: It's come to my attention that some or one or a few jurors
22 may need a break so this is probably an excellent time to take another break. Is
23 ten minutes sufficient for everyone?

24 THE JURORS: 5.

25 THE COURT: The problem is we only have -- there's only two

1 bathrooms for everybody in the back that's why it takes longer.

2 JUROR NO. 7: 7.

3 THE COURT: 7 minutes. I like you. 7 minutes. Remember about the
4 admonition. Don't talk about the case or have anything to do with the case.

5 Notepads in your chairs. If anyone has any pending questions, hand
6 them to Jeff on your way out.

7 (Jury recessed 3:59 p.m.)

8 THE COURT: We'll just put it on the record what we were discussing at
9 the bench at the break then we can all -- if anyone needs to use the rest room
10 and then right back, but since there is a pending issue.

11 The defendant Mr. Hidalgo III, does everybody waive his presence
12 for this discussion?

13 MR. ARRASCADA: Yes, Your Honor, for purposes of this.

14 THE COURT: All right. He can be taken.

15 We need to now secure the door.

16 MR. GENTILE: Mr. Lasso wants to know if he can leave.

17 MR. LASSO: Yes, I was wanting to know if the Court was going to be
18 using my --

19 THE COURT: Here's the deal, it depends on timing. If we're -- don't get
20 through enough witnesses I'm going to let Mr. Gentile put her on. I want to get
21 as much done today as we can get done because I want to finish everything
22 including deliberation by tomorrow. So leave at your own risk in other words.

23 MR. LASSO: Well, we'll wait. Obviously it's important.

24 THE COURT: I understand, but, you know.

25 MS. ARMENI: Did you mean including deliberations tomorrow? You

1 mean go to deliberations tomorrow?

2 THE COURT: All right. Mr. DiGiacomo, what was your objection? Like
3 we said, he's entitled to show bias.

4 MR. DIGIACOMO: No, it wasn't to the nature of the question, but there
5 is a rule that precludes a lawyer -- and maybe I'm wrong on the timing here.
6 Maybe he wasn't associated with Mr. Gentile at the time the communications
7 occurred, but if he is, there's a rule that precludes this from occurring a lawyer
8 as a witness, and I'm just -- before we get that far, Mr. Gentile's represented
9 that that -- that he wasn't a lawyer with Mr. Gentile's firm at the time in which
10 the communication took place.

11 THE COURT: Because you hadn't filed with --

12 MR. GENTILE: July 1 of 2005, is when Gentile DePalma started again.

13 Am I correct?

14 THE WITNESS: Yes.

15 THE COURT: All right. So in May then --

16 MR. GENTILE: And I was sensitive to that issue.

17 (Recessed 4:02 p.m. to 4:06 p.m.)

18 MR. LASSO: She has to speak to you about her schedule issues today
19 with her children and her job. She wants to let the Court know.

20 THE COURT: All right.

21 MR. GENTILE: We tried --

22 THE COURT: Well, we could put her on now and then take a break, and
23 she has to come back tomorrow for cross.

24 MR. LASSO: No problem coming back tomorrow, Judge.

25 THE COURT: Yes, you have an issue with your schedule?

1 MS. PEREZ: Yeah, I have my daughter. I have someone watching her
2 right now. And then -- well, I had to be at work at noon today. I have to work.

3 THE COURT: Where do you work?

4 MS. PEREZ: Obsession.

5 THE COURT: Is that a club?

6 MR. GENTILE: It's an after-hours club.

7 THE COURT: So it's 5; 6 o'clock isn't after-hours, is it?

8 MS. PEREZ: No. I do promotions. That's when I --

9 MR. GENTILE: I would really prefer -- look, I know I have Mr. DePalma.
10 I have Mr. Dibble. We have another witness coming, and I have a fourth
11 witness.

12 THE COURT: So you think we'll go till at least 6:30?

13 MR. GENTILE: I think we'll go to at least -- you know what, yeah,
14 maybe.

15 THE COURT: Well, 'cause like I said, the reason we've --

16 MR. GENTILE: I know. I understand.

17 THE COURT: -- been accommodating you, and that's why we're this
18 late in the game trying to accommodate everybody and this witness and that
19 witness and that juror, and now it's three weeks --

20 MR. GENTILE: There would only be two witnesses tomorrow. There
21 would be her and Mr. Hidalgo.

22 THE COURT: Unless Mr. Hidalgo III wants to take the stand.

23 MR. GENTILE: I'm not -- this is my case in chief.

24 THE COURT: I know, but I'm concerned about how long the jury has to
25 sit here and whether it's your case --

1 Who's watching your daughter?
2 MS. PEREZ: My boyfriend.
3 THE COURT: So he can stay there --
4 MS. PEREZ: Well, he works as well. I had no idea that court was --
5 MR. GENTILE: I mean, if you have to bring her back tomorrow for cross
6 you're bringing her back anyhow.
7 THE COURT: Well, I'm not worried about her, no disrespect. I'm
8 worried about the jurors who've been here five days longer than what we
9 promised them.
10 MR. GENTILE: No, I know that, Judge. All I'm saying is --
11 THE COURT: State's preference is to do her in one session; is that
12 right?
13 MR. DIGIACOMO: Correct.
14 THE COURT: All right. You can go. Come back tomorrow at 8:30.
15 MR. GENTILE: Are we starting at 8:30?
16 THE COURT: I don't know.
17 And, actually, Mr. Lasso, just --
18 Make sure you get in touch with Mr. Lasso in case it's going to be
19 later.
20 MR. LASSO: That's fine.
21 THE COURT: And you can get in touch with Mr. Gentile if there's a
22 change.
23 Bring them in.
24 (Jury entering 4:09 p.m.)
25 THE COURT: All right. Court is now back in session.

1 Mr. Gentile, please resume your direct examination of Mr. DePalma.

2 MR. GENTILE: I'm not certain if the last -- there was an objection, I
3 think, to the last question.

4 THE COURT: Relating to -- Mr. DePalma, you are the godfather of one
5 of Mr. Gentile's children; is that right?

6 THE WITNESS: Yes, Your Honor.

7 MR. DIGIACOMO: I didn't object to that, Judge, I had a different issue.

8 THE COURT: That's fine.

9 BY MR. GENTILE:

10 Q I want to call your attention to the 21st of May of the year 2005.
11 If I just asked you that right now cold, would you be able to tell me anything
12 about that day?

13 A Without having looked at my notes before, no.

14 Q So prior to coming here today, you've known for a while that you
15 were going to come in and testify about it?

16 A Yes.

17 Q And what did you do to prepare for that?

18 A I asked a former secretary of mine to retrieve my note file on it.

19 Q And did you refer to that note file to refresh your memory?

20 A Yes, I did.

21 Q Now, with your memory having been refreshed --

22 And let the record reflect that I have supplied the prosecution with
23 a copy of those notes --

24 MR. DIGIACOMO: As of today.

25 THE COURT: All right. Thank you.

1 BY MR. GENTILE:

2 Q What is your memory of -- let me change -- do you remember
3 speaking to me on the morning of the 21st of May of 2005?

4 A Yes, I do; I recall speaking to you.

5 Q And in response to that telephone call, what if anything did you
6 do?

7 A I went to my office and had a meeting with an investigator, Mr.
8 Don Dibble, and with two clients.

9 Q Well, when you say two clients --

10 A Two people.

11 Q Two people?

12 A Two people.

13 Q Okay. And which of the two people was your client?

14 A Luis Hidalgo or at least that was my perception at the time.

15 Q And where was your office at that time?

16 A My office was located at 7040 Laredo. That's about a block
17 south, one block south of Sahara and about two blocks west of Rainbow.

18 Q And at that time on May the 21st, 2005, had Gentile DePalma
19 reconvened? I think that's the word I used before.

20 A No, it had not.

21 Q You were still practicing as a sole practitioner?

22 A That's correct, yes, I was.

23 Q And do you recall approximately what time of the day this meeting
24 took place?

25 A It would have been in the afternoon, early afternoon, I believe,

1 approximately 1 o'clock or so.

2 Q And from start to finish about how long did it take?

3 A Well, I think I was in my office for about two hours altogether.

4 Q Now, who were the two people that you met with? Well, excuse
5 me. You met with three; you named Don Dibble.

6 A Yes.

7 Q Who were the other two?

8 A Luis Hidalgo and --

9 Q Do you see him in court?

10 A Mr. Hidalgo is sitting with the sweater.

11 THE COURT: At the first table?

12 THE WITNESS: Yes.

13 THE COURT: All right. The record will reflect the identification of
14 Mr. Hidalgo.

15 BY MR. GENTILE:

16 Q And who was the other person that you met with?

17 A A lady named Anabel Espinosa.

18 Q How about you refresh your memory by looking at your notes, Mr.
19 DePalma.

20 A Espindola, excuse me.

21 Q And with respect to Ms. Espindola's presence at the meeting, how
22 long was she present during this two-hour period?

23 A Actually, I think they were in my office maybe a little over an hour.
24 I had met with Mr. Dibble a bit before they got there and after they left. She
25 was in my office pretty much the whole time with the exception of going to the

1 bathroom once.

2 Q Do you recall upon her arrival saying anything to her about she
3 couldn't remain in the office?

4 A No. No.

5 Q Do you recall the seating arrangement?

6 A I do. That's funny because I -- sometimes I can remember things
7 like that and the seating arrangement was my desk faced north. I was sitting
8 behind my desk. There was a window facing west to my left under which Mr.
9 Dibble sat. Next to Mr. Dibble sat Mr. Hidalgo, and Anabel sat to -- it would
10 have been to my right. She was to the far right.

11 MR. GENTILE: Your Honor, would the record reflect that although he's
12 been in the courtroom off and on, Mr. Dibble is not in the courtroom now.

13 THE COURT: The record will reflect that. Thank you.

14 BY MR. GENTILE:

15 Q All right. Mr. DePalma, what do you remember about that
16 meeting?

17 A Well, I was trying to get information about what had happened,
18 and the meeting started that I was told that --

19 MR. DIGIACOMO: Objection. Hearsay.

20 BY MR. GENTILE:

21 Q Mr. DePalma --

22 MR. GENTILE: Well, it's not hearsay yet.

23 MR. DIGIACOMO: I was told. It's gonna be.

24 THE COURT: Well, depending on who said it and why it's being offered.

25 / / /

1 BY MR. GENTILE:

2 Q What was the purpose of the meeting?

3 A The purpose of the meeting was to speak to these individuals who
4 came to my office about a visit from the police department to their business.

5 Q Okay. Now, you have your notes?

6 A Yes, I do.

7 Q You're a lawyer?

8 A Yes.

9 Q You understand the hearsay rule?

10 A Yes.

11 Q So I'm going to ask you questions now and I only want you to
12 respond if Anabel Espindola spoke to you.

13 A All right.

14 Q I do not want you to say what Luis Hidalgo said unless Anabel
15 Espindola was not only present but somehow adopted what he said.

16 MR. DIGIACOMO: Well, Judge, we're not going to let the witness make
17 that determination. He can ask what did she say -- what did she say related to
18 this. He cannot just go, hey, just tell me what she said and what she adopted.
19 I object.

20 THE COURT: All right. Well, we'll start with -- I mean, what did she
21 say.

22 BY MR. GENTILE:

23 Q Did Ms. Espindola say anything to you about a man by the name
24 of Deangelo Carroll?

25 A Yes.

1 Q What did she say to you?

2 A Well, she told me that a detective --

3 MR. DIGIACOMO: If you could just tell us what page of his notes he's
4 looking at.

5 MR. GENTILE: He's refreshing his recollection. This is not a report.
6 These are notes.

7 MR. DIGIACOMO: Well, he can't refresh it until he's answered the
8 question. We've learned that today.

9 THE COURT: All right. Well, if he needs to refresh his recollection.

10 Mr. DePalma, if you're looking at your notes to refresh your
11 recollection just let us know for the record that you're going to refresh your
12 recollection by looking at your notes.

13 THE WITNESS: Yes, Your Honor, I'm looking at my notes. I am.

14 Mrs. -- Ms. -- I'm not sure she's Mrs. or Ms. Espindola told me that
15 a detective had visited the club and wanted information regarding an employee
16 who worked there.

17 BY MR. GENTILE:

18 Q And did she tell you who the employee was?

19 A She described him as a black man named Deangelo Carroll.

20 Q Okay. Now, during this meeting that took about an hour, how
21 much of what was said was said by Ms. Espindola as compared to what was
22 said by Mr. Hidalgo?

23 A Most of the conversation, I'd say almost all of it, was by Ms.
24 Espindola. Mr. Hidalgo did not say very much in the meeting at all.

25 Q Could you describe the demeanor of Ms. Espindola and the

1 demeanor of Mr. Hidalgo during that meeting.

2 A During that meeting and looking at Mr. Hidalgo, Mr. Hidalgo was
3 very passive, very calm, sat listening to the conversation between myself and
4 mostly Ms. Espindola. She was very animated by the way.

5 Q Animated?

6 A She was very vocal, very vocal.

7 Q Do you recall what she said about Mr. Deangelo Carroll?

8 A Well, yes, in looking at my notes, she said that he had worked at
9 the club. He had various job duties, and she called him a jack of all trades. My
10 notes have quote marks. That would have indicated to me reading back my
11 notes that she said that directly. He was a jack of all trades. His hours were
12 flexible, that she said she saw him at the club on Thursday night, and I think
13 that was about all she said at that particular time.

14 Q Okay. Did Ms. Espindola say anything about a Ariel Schwanderlik?

15 A Yes. Again referring to my notes. She said that Ariel
16 Schwanderlik was an employee at the club on the office staff and had been
17 questioned by the police. She also said this was on Friday night, May 20th, and
18 they came in with a tape recorder and a detective told Ariel about a, quote,
19 crime.

20 Q Did she say -- did you -- did she say anything to you about a Pee-
21 Lar Handley?

22 A Yes. There was a question asked by the police about Pee-Lar
23 Handley who my notes say was with a previous -- had been employed by the
24 previous owner, and he was a stage employee and electrician and a floor man,
25 that he had no set schedule, and that he had come in Friday at about 10 or

1 10:30 p.m.

2 Q Now, did there come a time during your interview when Anabel
3 Espindola said anything to you about having overheard Luis Hidalgo say
4 something to Deangelo Carroll?

5 A Anabel told me that she had overheard Luis --

6 Q Now, we're talking about Mr. H here?

7 A Yes.

8 Q You don't know him as Mr. H; you know him as Luis?

9 A I know him as Luis Hidalgo.

10 Q Okay.

11 A I know him as Luis Hidalgo.

12 Q Okay. And what did she say to you she overheard him say?

13 A She said that she had overheard Luis talking to Deangelo Carroll
14 and said to Deangelo Carroll to tell TJ to stop spreading, well, shit.

15 Q Believe me, we've heard a few words in this case. Actually, that's
16 kind of mild.

17 A Excuse me.

18 Q And do you recall about what time she said that she thought she
19 remembered hearing that?

20 A On a Thursday night. It was on a Thursday night.

21 Q Did she say anything more about having overheard Deangelo
22 Carroll saying something to Luis Hidalgo?

23 A She told me that she had heard Deangelo Carroll had come back,
24 and my note just says, come back, and said, It's done, and said, One of my
25 home boys shot him.

1 Q Okay. And did she say what she heard Luis Hidalgo say in
2 response to that?

3 A Yes. She said that Luis said -- she heard Luis say --

4 Again, excuse me, Your Honor.

5 Luis says, What the fuck are you talking about.

6 Q Did she say anything at all about having seen anybody at the time
7 that Luis said, What the fuck are you talking about?

8 A Apparently this was a -- viewed on a camera -- my answer would
9 be yes. She saw a black man and said -- and heard Luis say to Deangelo, What
10 the fuck did you do.

11 Q Did she say anything to you about having received a call from
12 Deangelo Carroll, her herself having received a call from Deangelo Carroll?

13 A She said that Deangelo Carroll called her to say that TJ was bad
14 mouthing the clubs.

15 Q Did she say to you anything about any suspicions that she had
16 about TJ?

17 A She told me that there was a suspicion that TJ may have been
18 selling drugs out of the club and may have been illegally dealing with cabdrivers
19 by getting kickbacks.

20 Q Did she say anything to you about knowing of a relationship
21 between TJ and Deangelo?

22 A Apparently TJ and Deangelo --

23 Q Well, first of all, did she say it?

24 A She did say that. She said that TJ and Deangelo had a
25 relationship, that the wives knew each other, that the kids played together and

1 that they visited each -- with each other and that a girl named Amy and TJ
2 were seeing each other.

3 Q Now, did there come a time when Ms. Espindola talked to you
4 about having a -- about paying money to Deangelo Carroll?

5 A Yes. She said that she had counted out \$5,000 that was given to
6 Deangelo Carroll.

7 Q And did she say why?

8 A Well, yes, because there was -- she had taken what she had heard
9 by Deangelo Carroll about this other black man that was seen on a television
10 camera as threatening them by saying you better take care of us.

11 Q Okay.

12 MR. GENTILE: I don't have anything further.

13 THE COURT: All right. Mr. Arrascada, do you have any questions?

14 MR. ARRASCADA: I do, Your Honor.

15 THE COURT: All right.

16 CROSS-EXAMINATION

17 BY MR. ARRASCADA:

18 Q Mr. DePalma, you just told these folks in the jury about a one-hour
19 meeting you had with Anabel Espindola and Luis Hidalgo seated here in the
20 front?

21 A Yes.

22 Q Correct?

23 A Yes.

24 Q And you told these folks at that meeting that Anabel Espindola in
25 your estimate controlled 90 percent of the discussion?

1 A Almost all of it.

2 Q Almost all of it. And that she was very vocal?

3 A Yes.

4 Q And that she was very animated throughout this meeting?

5 A Yes.

6 Q Luis Hidalgo III seated back here --

7 Stand up, please.

8 -- he was not present at that meeting, was he?

9 A No, he was not.

10 Q And Ms. Espindola while she was being extremely vocal and
11 animated never expressed to you any concerns regarding Luis Hidalgo III, did
12 she?

13 A No. No.

14 MR. ARRASCADA: Nothing further.

15 THE COURT: All right. Thank you.

16 Cross.

17 MR. DIGIACOMO: Thank you, Judge.

18 CROSS-EXAMINATION

19 BY MR. DIGIACOMO:

20 Q How are you?

21 A I'm good. Thank you.

22 Q Let me back up just a little bit. You get a call from Mr. Gentile,
23 and your understanding is that you're going to meet with some people, correct?

24 A Yes, that's correct.

25 Q And your understanding was that Mr. H is the client, Mr. Hidalgo

1 here is the client?

2 A Yes.

3 Q And that Anabel Espindola is not a client?

4 A At that point I really didn't know what the relationship was and
5 how it was going to work out.

6 Q Okay. And then you decided you were going to take notes of this
7 particular meeting, right, because that's what lawyers do?

8 A Yes.

9 Q Okay. And you filled out certain information, and it's based on
10 looking at these notes that you're able to refresh your recollection?

11 A That's correct.

12 Q Okay. Now, I noticed on your notes that you write some
13 information about Luis Hidalgo, his address and some phone numbers. Look at
14 the very top it's up there.

15 A That's correct.

16 Q That information, did that come from Luis and Anabel, or is that
17 information provided to you by Mr. Gentile before they got there as contact
18 information for the people that you were supposed to contact?

19 A No, it would have been provided by them.

20 Q When they got there?

21 A At some point, yes.

22 Q Okay. I noticed that that information is just Luis Hidalgo, address
23 and then two phone numbers, correct?

24 A Yes.

25 Q And the two phone numbers are 604-4410 and 604-9646?

1 A Yes, that's correct.

2 Q And then thereafter you would agree with me that there's
3 summary information about what was talked about in this room, correct?

4 A I would -- yes, that's correct.

5 Q In looking at this document, can you tell specifically what was said
6 by Anabel versus what was said by Luis?

7 A I can tell you that most of this was said by Anabel.

8 Q But my question is is there any way when you look at the
9 document to say, okay, this is what Anabel said versus this is what Luis said?

10 A Not specifically. I mean, it doesn't say Anabel said or Luis said.

11 Q Okay.

12 A You're correct in that. It does not say that.

13 Q And you said that in order to remember specifically what she said
14 you had to look at these particular notes, correct?

15 A I did. That's correct.

16 Q How is it that you were able to determine what was being said by
17 Anabel versus what was being said by Mr. H?

18 A Because Anabel spoke primarily during the meeting. Mr. Hidalgo --
19 as a matter of fact I wondered at some point in time if he could speak because
20 he was quiet the whole time.

21 Q Let's talk about what it is -- did you have a conversation with
22 Anabel about whose lawyer you were?

23 A No.

24 Q Did you have a conversation with Mr. H as to whose lawyer you
25 were?

1 A No.

2 Q As far as you were concerned this was an attorney/client
3 communication between you and Ms. Anabel and you and Mr. H?

4 A Well, but I had a third party with me. I was more fact gathering at
5 that point in time.

6 Q When you indicated you had a third party with you, your third
7 party was an investigator, correct?

8 A Don Dibble, yes.

9 Q And you would agree with me as a lawyer for a long time if your
10 investigator's present it's work product as to what that third party hears if he's
11 your investigator?

12 MR. GENTILE: Objection. It misstates the law really.

13 THE COURT: Well, Mr. DePalma can say what his understanding is as
14 an attorney as to whether or not he agrees with what Mr. DiGiacomo --

15 MR. GENTILE: I'll withdraw the objection.

16 THE COURT: -- has just stated.

17 THE WITNESS: Mr. Dibble didn't work for me.

18 BY MR. DIGIACOMO:

19 Q He worked for Mr. Gentile?

20 A He worked for -- I don't know if he worked for Mr. Gentile. I think
21 he did at the time.

22 Q Your understanding was is that he was there as part of legal
23 counsel's request for an investigator to be present?

24 A He was there as an investigator I'm sure.

25 Q As a lawyer, if the State of Nevada had wanted information from

1 Mr. Dibble, you'd have fought that, right?

2 A Mr. Gentile probably would have fought it.

3 Q Okay. And you would agree with me that potentially the
4 conversation between Mr. H and Anabel and you wasn't privileged because
5 both Mr. H and Anabel were in the room during the conversation, correct?

6 A You know, Counselor, I really never thought about whether it was
7 privileged or not. I really didn't at that point in time. I was --

8 Q Okay. And I guess that's my question. You're meeting with
9 people who have a legal problem, and you didn't consider the legal ramifications
10 of whether or not that communication's privileged or unprivileged?

11 A At the point in time when I met with them, I wasn't sure if they
12 had a legal problem or not or whether somebody else at the club or wherever
13 they worked had a legal problem. I was really gathering some information.

14 Q Gathering some information. Okay. I want to just -- you have
15 your notes in front of you, right?

16 A I do, yes.

17 Q Okay. And I'm assuming you have the originals in front of you?

18 A I sure do. Do you need to see those?

19 Q No. I've got the copy; I trust that it's a fair copy. You're a
20 respected lawyer, and I expect that.

21 A Thank you.

22 Q Okay. There's a notation at the top that talks about Detective
23 Bardy and Detective Teresa Keiger and an interview that lasted approximately
24 one hour. Can you tell me who provided that information to you?

25 A Anabel.

1 Q She tells you that she had that? Who had that interview?

2 A That there was -- that they went to the club and there was an
3 interview that lasted about an hour.

4 Q Okay. There's a notation that says, Asked by Metro lying
5 concerning the crime. I noticed you didn't testify to that. On page 2.

6 A Where are you?

7 Q Page 2 at the bottom of the Deangelo Carroll stuff that says,
8 Asked by Metro, parentheses, concerning the crime.

9 MR. GENTILE: Your Honor, I don't have an objection, but he is opening
10 the door. I would have gone into that except that --

11 MR. DIGIACOMO: Well, my next question is going to be who did that
12 come from?

13 MR. GENTILE: I just want to put it on notice.

14 THE COURT: Okay.

15 THE WITNESS: Anabel.

16 BY MR. DIGIACOMO:

17 Q That came from Anabel?

18 A Yes.

19 Q Okay. Is there anything on this page -- without telling us what it
20 is -- that didn't come from Anabel?

21 A Can I look at it?

22 Q Sure.

23 A My recollection is that this all came from Anabel.

24 Q So what Anabel actually told you is that Luis, meaning Mr. H
25 suspected things of TJ?

1 A Yes, and -- well, that they had both suspected it, but suspected --
2 Luis had suspected it, that's what my note said, but she said she had suspected
3 it also. That's my recollection.

4 Q Next page. Is there anything on here that you can identify that
5 was said by -- without telling us what it is -- is there anything on this page that
6 was said by Mr. H?

7 A No, I can't see anything on here that I can recall Mr. Hidalgo
8 saying.

9 Q So it was Anabel who told you that Luis suspected TJ of spreading
10 rumors?

11 A Yes.

12 Q Turn to the next page for me.

13 A Certainly.

14 Q Can you tell me anything in these notes that Anabel didn't tell
15 you?

16 A Well, there's part here that says with a little star --

17 Q Don't tell us what it says. Why don't I come up there and I'll let
18 you make a notation for me.

19 MR. GENTILE: Well, I can't -- wait a minute. This isn't an interview.
20 It's an examination.

21 MR. DIGIACOMO: Well, no, but he can't just blurt out the answer. I'm
22 just asking him how I can identify what was said by Anabel versus somebody
23 else.

24 THE COURT: All right. Well, I mean, he can point on --

25 MR. GENTILE: There's a witness on the stand that's under oath. He

1 can't just chat with him off the record.

2 MR. DIGIACOMO: I'm not doing it off the record. I'm asking him to
3 identify it on my document.

4 THE COURT: Well, here's the -- right, I understand what Mr. Gentile is
5 saying. It's not part of the record if he just identifies it on your document.

6 MR. DIGIACOMO: We'll mark it if the Court wants to keep a record of
7 it.

8 THE COURT: Right. So on that just indicate what line there without
9 telling us what you recall Mr. Hidalgo or Mr. H saying, what line it is.

10 So you're indicating on the left-hand side of the page like the first
11 or second line.

12 THE WITNESS: How about this, Your Honor, it's the one --

13 MR. GENTILE: I object to Mr. DePalma doing that. It's got to be on the
14 record. Now, if that's marked and made part of the record --

15 THE COURT: It will be marked and become a Court's exhibit for the
16 record.

17 MR. GENTILE: Okay.

18 MR. ADAMS: Please identify the page number, Your Honor.

19 MR. DIGIACOMO: We're on now page 4.

20 THE COURT: All right. Page 4, you're indicating at the top of the left-
21 hand sort of column or side; is that right?

22 THE WITNESS: I am indicating about half way down, Your Honor.

23 BY MR. DIGIACOMO:

24 Q And is it just that one little paragraph that's there, that one little
25 four-line blub, or is there anything else on this page?

1 A I think that's all.

2 Q Okay. So when you write, Son works at club his name is Luis
3 Hidalgo III, that's actually coming from Anabel?

4 A Yes.

5 Q At club all night Thursday and Friday, who is that referring to on
6 this page? What is Anabel telling you about that?

7 A That they were at the club, her and Luis. And again so that I'm
8 clear, I'm referring to Luis Hidalgo Junior.

9 Q Mr. H.

10 A Pardon me?

11 Q We've been calling him Mr. H, the guy in the front row with the
12 sweater?

13 A Yes, correct.

14 Q Go to the next page for me.

15 A Certainly.

16 Q Is there anything on this page that was said by Mr. H?

17 A No, I don't believe so.

18 Q So let's go to the last page. Is there anything on this page that
19 was said by Mr. H?

20 A Yes.

21 Q Tell me how many lines down we're going here.

22 A Three up from the bottom, how's that.

23 MR. ADAMS: Is this page 6, Your Honor?

24 THE COURT: It's the last page, however many pages that was.

25 MR. GENTILE: There are six pages to the document.

1 THE COURT: That would be page 6, I believe. Is that right?

2 THE WITNESS: Four lines from the bottom.

3 BY MR. DIGIACOMO:

4 Q Four lines from the bottom, 1, 2, 3 --

5 A 1, 2, 3, 4.

6 Q Oh, okay. You have lined paper. We don't have lined paper.

7 A Oh, I'm sorry.

8 Q So that notation -- didn't you testify to that notation being made
9 by -- or that statement being made by Anabel on direct testimony?

10 A I don't believe so.

11 Q Okay. So if I've got this right now, going through six pages of
12 notes, the first notation you had of anything Mr. H said was that star with the
13 circle on it on page 5?

14 A That's incorrect.

15 Q Did I miss something? Is there something else?

16 A Are you talking about that?

17 Q Yes. Is there something before that that was Mr. H?

18 A No. But your question to me was, was there anything on this page
19 that wasn't said by Anabel.

20 Q Was that said by somebody other than Mr. H?

21 A No.

22 Q Was it said by Mr. H?

23 A No.

24 Q Was it said by you? Oh, I understand now what you're saying.

25 Okay. So Mr. H didn't say what was on page 4 either. I apologize. 1, 2, 3, 4,

1 that's a note of yours?

2 A Yes, sir. Correct.

3 Q 5 has nothing. So the only thing in your entire notes that we have
4 that was said by Mr. H is the very last page and it's four lines up?

5 A Right.

6 Q So during the two-hour meeting you had with Mr. H --

7 MR. GENTILE: Objection. That misstates the evidence. He said he met
8 with them a little over an hour.

9 THE COURT: All right. Sustained.

10 BY MR. DIGIACOMO:

11 Q So in the hour-long meeting you had with Mr. H and Anabel the
12 only statement that he made during this time period was that he gave \$5,000
13 to Deangelo Carroll to homeboy, and then it says, LA took DC something as a
14 (unintelligible).

15 A That's the only thing that I recorded that he said.

16 Q Okay. Do you remember him saying anything else?

17 A He may have said a few other things but nothing that I thought
18 was significant.

19 Q So nothing significant during this whole conversation?

20 A Yes, that's correct.

21 Q And when Anabel made a variety -- the variety of statements that
22 she makes in this, did Mr. H ever stand up and go, oh, that's not what
23 happened?

24 A No.

25 Q Never cuts her off and says something different than that?

1 A Not that I recall.

2 Q Okay.

3 MR. DIGIACOMO: In that case, Judge, if we could just have it marked
4 State's next in order, and I will offer it.

5 THE CLERK: 241.

6 THE COURT: I'll see counsel up here, please.

7 (Conference at the bench.)

8 MR. ADAMS: We have no opposition. We just would want to question
9 and make sure the one reference is just that one reference.

10 MR. GENTILE: I have no objection.

11 THE COURT: All right. That will be admitted as State's next in order.
12 That answers one of the juror's questions about getting to see it. Anything
13 that's admitted that is either a State's or a defense exhibit goes back to the
14 jury. Some things are just admitted to make a complete record. Those are
15 called Court's exhibits. Those do not go back to the jury. But any State's
16 exhibit or defense exhibit goes to the jury.

17 Some things may be put in a power point as demonstrative; those
18 things don't go back to the jury either, but anything that's been numbered and
19 admitted in open court you will all have copies of -- well, you won't have
20 copies, you'll actually have the originals back in the jury room with you so you
21 can go over every single thing during your deliberations.

22 And I'm sorry, Ms. Husted, for the record, what was the next in
23 order?

24 THE CLERK: 241.

25 THE COURT: All right so that exhibit is admitted as exhibit --

1 MR. GENTILE: Your Honor, we could make it joint exhibit. You know
2 clearly if I -- obviously, Mr. DiGiacomo was the person who had the right to
3 object to it coming in. He's decided that he doesn't want to. Believe me, we'd
4 offer it jointly at this point.

5 THE COURT: Well, that's fine. I mean, it will still be marked as a
6 State's exhibit. There have been a number of exhibits that one side introduced
7 that the other side would have had had they not gone first.

8 (State's Exhibit 241 admitted.)

9 THE COURT: Here are some juror questions. Did you know from the
10 start of the conversation with Anabel and Mr. H what Anabel was talking
11 about?

12 THE WITNESS: I'm not sure I understand that. You mean in terms of --

13 THE COURT: Before they came in, I guess to meet with you, did you
14 have an impression about what the meeting or conversation was going to be
15 about, or did they just walk in and you knew nothing?

16 THE WITNESS: I basically knew nothing except that there had been a
17 visit by the police to the club.

18 THE COURT: Okay. And that was relayed to you that there had been a
19 visit by the police to the Palomino Club. Who told you that?

20 THE WITNESS: I'm not sure if that was one of the first things they said
21 or if Mr. Gentile had told me that. I'm not -- my recollection doesn't provide
22 that.

23 THE COURT: Okay. And by police, did you have any information as to
24 what detail of the police department had visited the Palomino Club?

25 THE WITNESS: No, I didn't.

1 THE COURT: Okay. So you just knew there had been a visit?

2 THE WITNESS: Yes.

3 THE COURT: Okay. And you don't remember -- how did you find out
4 about the crime, meaning the killing of TJ Hadland that had happened?

5 THE WITNESS: It came up about halfway through the interview that,
6 you know, that there had been a -- that somebody had gotten killed that worked
7 at the club at one time.

8 THE COURT: Okay. And what did Mr. H say during the interview,
9 during the meeting?

10 THE WITNESS: My notes indicate that he told me that he had given
11 \$5,000 to Deangelo Carroll to give it to the homeboy because he felt that he
12 was threatening him. He felt threatened.

13 THE COURT: Who, if you know, don't guess, but who paid Mr. Dibble
14 for his time during the meeting with you, Mr. H and Anabel?

15 THE WITNESS: I don't know.

16 THE COURT: Okay. And do you know whose payroll Mr. Dibble was
17 on?

18 THE WITNESS: I do not know that for certain.

19 THE COURT: Was the interview with Mr. H and Anabel recorded or
20 videotaped?

21 THE WITNESS: No, it was not.

22 THE COURT: And why wasn't it recorded or videotaped?

23 THE WITNESS: I had not made it a practice to tape record
24 conversations with clients or people who may have been clients, and I had no
25 videotaping equipment at the time.

1 THE COURT: All right. And that wasn't your practice?

2 THE WITNESS: That was not my practice; that's correct.

3 THE COURT: Okay. And some of these were the same from different
4 jurors. I think we've covered all the juror questions.

5 Mr. DiGiacomo, do you have any follow-up to any of those juror
6 questions?

7 MR. DIGIACOMO: No, Judge.

8 THE COURT: All right, Mr. Gentile, redirect.

9 MR. GENTILE: Well, I have a follow-up.

10 THE COURT: That's fine, redirect and follow-up.

11 REDIRECT EXAMINATION

12 BY MR. GENTILE:

13 Q There seems to be an interest in terms of what happened, how
14 you wound up becoming even involved in this. Do you recall -- let me take a
15 step back. Go back to May of 2005.

16 A All right.

17 Q How many times a week do we speak?

18 A I can't count that. A lot.

19 Q Do you know where I was?

20 A If my recollection is correct, you were in San Diego, I believe on
21 another --

22 Q Don't say what else I was doing.

23 A On another matter.

24 Q Okay. On another matter.

25 MR. GENTILE: That's all.

1 THE COURT: All right. Yes, Mr. Arrascada.

2 MR. ARRASCADA: Yes, Your Honor. I'd say a couple but it's more
3 than that.

4 RECROSS EXAMINATION

5 BY MR. ARRASCADA:

6 Q Mr. DePalma, in your notes that have now become and admitted
7 as State's 241; is that right?

8 A Yes. That's what I understood happened.

9 Q Okay. That's my understanding too.

10 A Okay.

11 Q And on my first cross-examination I asked you if Luis Hidalgo III
12 was at the meeting, and your answer was?

13 A No, he was not at the meeting.

14 Q And then I also asked about if during those witness' statements if
15 any concerns were mentioned regarding Luis Hidalgo III, and you answered?

16 A No.

17 Q And in your notes you actually have one reference to Luis Hidalgo
18 III; is that correct?

19 A Yes. My notes do reference Luis Hidalgo III, and that was the first
20 I knew that there was a Luis Hidalgo III.

21 Q And according to your notes is that, Son works at club, his name
22 Luis Hidalgo III?

23 A Yes, that's my notes.

24 Q And to your recollection that's all the mention of Luis Hidalgo III
25 during that interview?

1 A Yes, that's all -- that was the only mention.

2 MR. ARRASCADA: Thank you. I have nothing further.

3 MR. GENTILE: Your Honor, there is one question I'd like to ask to clear
4 something up because I think there is misimpression.

5 THE COURT: Okay.

6 FURTHER REDIRECT EXAMINATION

7 BY MR. GENTILE:

8 Q Mr. DiGiacomo before he admitted this document in evidence said
9 something about at the top you had two phone numbers and that's the only
10 place you had them? Can you see up at the upper right --

11 MR. DIGIACOMO: I didn't say that's the only place he had them.

12 THE COURT: That's true you didn't say that.

13 BY MR. GENTILE:

14 Q Well, you have the two phone numbers up at the upper right-hand
15 corner; am I correct?

16 A Yes.

17 Q Okay. But then also right above the name Anabel you have -- you
18 repeat 604-9646 as her cell?

19 A Yes.

20 THE COURT: Is that it?

21 MR. GENTILE: That's it.

22 THE COURT: All right. Mr. DiGiacomo, any recross?

23 MR. DIGIACOMO: No, Judge.

24 THE COURT: Any additional juror questions?

25 Jeff, go get it.

1 (Conference at the bench.)

2 THE COURT: Well, Mr. DePalma, this is not for you. I don't know that
3 there's anything in there that we can ask Mr. DePalma. So thank you for your
4 testimony, and please don't discuss your testimony with anybody else who may
5 be called as a witness in this case.

6 THE WITNESS: I won't, Your Honor. Thank you.

7 THE COURT: You're excused.

8 And, Mr. Gentile, if you would please call your next witness.

9 MR. GENTILE: Don Dibble.

10 THE COURT: Mr. Dibble, you know the drill. Ms. Husted is going to
11 administer the oath.

12 DONALD R. DIBBLE

13 Having been called as a witness and being first duly sworn testified as follows:

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

15 THE WITNESS: Donald R. Dibble, D-i-b-b-l-e.

16 DIRECT EXAMINATION

17 BY MR. GENTILE:

18 Q Mr. Dibble, now, right now, by whom are you employed?

19 A I'm employed by the law office of Gordon Silver. I work primarily
20 under your direction in one of the units there.

21 Q In the litigation department?

22 A Yes.

23 Q Okay. It's not exclusively a criminal defense department?

24 A No, it's not.

25 Q Okay. The -- I want to take you back -- tell us about your work

1 history.

2 A My work history?

3 Q Your work history, yes.

4 A After I got out of the service in 1968, I became a member of what
5 was then the Las Vegas Police Department. I remained there and made
6 detective shortly before it merged with the Clark County Sheriff's Department
7 and became the Metropolitan Police Department. I continued on there as a
8 detective until 1992. In the interim I had worked in general assignment,
9 burglary, larceny, the special investigations unit which handles liquor and
10 gaming matters, the organized crime bureau which was a bit different than the
11 way it is today and then finally in homicide.

12 In 1992, I retired from the department, went to work for a company
13 called David Groover and Associates, which is a private investigator firm and
14 stayed there about a year and a half. And once I was comfortable with the
15 business, another friend of mine from school had left Metro, named Tom Dillard,
16 and we opened an office called Dibble and Dillard downtown here and started
17 doing investigative work.

18 After a year or two of that I left, maintained my own office for a
19 while until I was recruited into the Federal Public Defender system where I
20 worked for about just short of five years, and then I didn't -- I just took some
21 time off. And then Mr. Gentile called me and asked me to work on the one
22 case with him, and here we are four years later.

23 Q Okay. Did I sue you once, Mr. Dibble?

24 A Yes, you did, and I won.

25 Q Anyhow, what branch of the military were you in?

1 A I was in the marine corps.

2 Q Let's -- I want to call your attention to the 21st of May 2005.

3 A Okay.

4 Q We were working together at the time?

5 A Yes. I'd been in your office, I believe at that time the office was
6 Gentile Limited. I'd been in the office a little over a month.

7 Q Okay. And do you recall receiving a phone call from me on the
8 morning of the 21st of May?

9 A Yes, I did.

10 Q And what did you do in response to that telephone call?

11 A As a result of that I went to -- later that day I went to the office of
12 Jerry DePalma or Jerome DePalma, which at the time was over off of Sahara
13 and Decatur.

14 Q Now, did there -- when you arrived at Mr. DePalma's office, what
15 transpired after your arrival?

16 A I was anticipating that a potential client, and I knew nothing, what
17 kind of client, what kind of case, civil, criminal, whatever, would be coming to
18 the office, and they needed an immediate consultation. I knew that you were in
19 San Diego trying another case, and so you wanted me to go down there and
20 get some sense of what was happening along with Jerry who would be acting
21 in your absence at the time and then report back to you what we were looking
22 at and what we could deal with.

23 Q And do you recall us discussing Mr. Hidalgo before that point?

24 A I don't recall whether I even knew his name before I got there; I
25 may have.

1 Q Do you recall me advising you that he was a client?

2 A Oh, yes. Yes.

3 Q What do you remember about what occurred at Mr. DePalma's
4 office?

5 A I walked in and Jerry and I talked for a little while. Eventually Mr.
6 Hidalgo and Anabel Espindola arrived. We went into Mr. DePalma's office, his
7 inner private office, and the four of us met for 45 minutes to an hour. They
8 discussed a matter of sec -- a number of things that had happened over the last
9 couple of -- the day or so before. And then they left together, and Jerry and I
10 called you and suggested that you take a break the next day and fly back from
11 San Diego to meet with the client for a second time.

12 Q Now, during the course of that meeting with Mr. DePalma, do you
13 recall notes being taken?

14 A Jerry DePalma was taking notes. I routinely do not take notes
15 with a client if there's an attorney present. There's a number of professional,
16 legal reasons that an investigator wouldn't do that. So I normally would not
17 take notes unless there's -- unless some specific thing came up that had to be
18 addressed that was not covered by DePalma.

19 Q Can you recall at that meeting with Mr. DePalma if either Ms.
20 Espindola or Mr. Hidalgo were taking notes?

21 A I don't recall whether they were or not. They may well have
22 because I know we did tell them some things.

23 Q Do you recall if the subject matter of surveillance came up during
24 that conversation?

25 A Surveillance would -- surveillance in -- I know they were advised

1 because this is standard. They were advised to not talk to anyone other than
2 us or yourself about what we had discussed.

3 Q Okay. Now, what can you recall -- you didn't make notes; what
4 can you recall about how active in terms of speaking the two people that were
5 in the room were at that time?

6 A I recall that Luis Hidalgo was reserved, withdrawn to some degree,
7 that in terms of if we asked him a direct question, we'd get a short answer. On
8 the other hand, Ms. Espindola would do narrative, and she actually did most of
9 the talking, at least, you know, maybe not in the total conversation, but most
10 of the talking from their side of the desk. She 80, 80 percent, maybe more,
11 probably more than that. She did almost all of the talking.

12 Q Do you remember some of the things that she talked about?

13 A In general, yes.

14 Q Okay. Give us one you recall.

15 A Well, basically I learned that they were -- that they operated the
16 Palomino Club, that Mr. Hidalgo was an owner, had some ownership interest,
17 that they had an employee who had came into their office and informed them
18 that he had been out with some people at a meeting or at a site with another
19 former employee and that a party unknown to either Hidalgo or Espindola had
20 just simply gone crazy, pulled a gun out and shot the ex-employee in the head
21 for no reason, and that the guy panicked and came back and told them that,
22 said that the person who had done the shooting was demanding money and
23 that -- I remember finally asking, Did you give him money, and they said, yes --
24 Mr. Hidalgo and Ms. Espindola both said yes, they'd given him \$5,000
25 essentially out of fear.

1 MR. GENTILE: I don't have anything further.

2 THE COURT: Mr. Adams.

3 CROSS-EXAMINATION

4 BY MR. ADAMS:

5 Q Mr. Dibble, Little Lou was not at that meeting, was he?

6 A No, he wasn't.

7 Q And during the course of this meeting there was no concern
8 expressed for Little Lou having any legal problems associated with this killing?

9 A No. I didn't even -- I never anticipated him having a role in -- I'm
10 not even going to say this case or any legal actions coming out of what we
11 discussed until after the arrests were made. That caught me off guard when he
12 was arrested.

13 MR. ADAMS: Thank you. Nothing further.

14 THE COURT: All right. I'm just going to ask you. This juror question
15 came in with another witness. Were you on Mr. Gentile's payroll at the time
16 that you met with Mr. H and Anabel?

17 THE WITNESS: Yes, I was.

18 THE COURT: And was that a salaried?

19 THE WITNESS: It was salaried, yes.

20 THE COURT: All right. Thank you.

21 Any follow-up based on that question from the juror that came in
22 with the last witness?

23 All right, Mr. Pesci.

24 MR. PESCI: Thank you. May I approach your clerk?

25 THE COURT: Yes.

1 CROSS-EXAMINATION

2 BY MR. PESCI:

3 Q Mr. Dibble, I think you testified that it's, quote, Not your policy or
4 routine to take notes?

5 A Normally if an attorney is questioning a client or a potential client
6 and I'm there, I do not make notes.

7 Q Okay. And do you know -- obviously, you testified that Mr.
8 DePalma was there?

9 A Yes, he was.

10 Q Do you know at that time if he was taking notes?

11 A I be -- yes, he was.

12 Q All right. Is it based on the fact that Mr. DePalma was taking
13 notes that you did not?

14 A That's the primary reason, yes.

15 Q Okay. Did you get a chance to review those notes?

16 A I glanced at them, but I have not reviewed them in detail.

17 Q Okay. When you say you glanced at them, when was the last
18 time you glanced at them?

19 A I saw them because there was some question of whether or not
20 they could be even found, and a woman who I guess is a caretaker of Jerry
21 DePalma's old files brought it to our office this weekend and turned it over for
22 the first time, and Jerry was there. He opened it, and I saw the notes.

23 Q Okay. If I understood you correctly on direct, you just said that
24 the way it was recounted to you, a party had gone crazy, a person had gone
25 crazy and shot the guy in the head for no reason?

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

2 Q Okay. Do you see -- having reviewed those notes, do you see
3 anything that Mr. DePalma said saying that somebody, quote, Went crazy and
4 shot somebody for no reason in those notes, specifically that?

5 A I don't see it in the notes, but I know it was said.

6 Q No, what I'm saying is do you see notes taken by Mr. DePalma
7 that reflect as you've indicated the information given to them that he'd gone
8 crazy and shot someone in the head for no reason?

9 A No.

10 Q Do you think that's important information?

11 MR. GENTILE: I have to object. It's argumentative.

12 MR. PESCI: I'm asking if he thinks it's important. He was the
13 investigator there.

14 MR. GENTILE: Objection. Argumentative.

15 THE COURT: Well, I think that would be relevant if it was his notes,
16 but --

17 MR. PESCI: Okay.

18 BY MR. PESCI:

19 Q I think you said specifically that they were advised not to talk to
20 anyone other than you, Mr. DePalma or Mr. Gentile?

21 A Yes. We went so far as to provide them cell numbers and contact
22 information on a 24-hour basis.

23 Q Who gave that advice?

24 A I'm sure that Jerry did. I know I would have, and I know for sure
25 that the following day when they met with Mr. Gentile --

1 Q Not the following day, not the following day. I'm just saying in
2 that meeting you're sure that Mr. DePalma did?

3 A Yes.

4 Q Okay. And you believe that you did as well?

5 A Yes. You do it automatically. It's rule number one, keep your
6 mouth shut.

7 Q Okay. It's rule number one, keep your mouth shut. Is that since
8 you've been working for Mr. Gentile, or was that when you were also with the
9 Special Public Defender's Office?

10 A I was with the Federal Public Defender's office. That's -- any time
11 you do -- any time you're involved in the defense side of a criminal case, rule
12 number one is, keep your mouth shut.

13 Q Okay. Was that advice given to just Anabel Espindola or just as
14 we were referring to Mr. H or to both of them?

15 A I announced it generally.

16 Q As far as your recollection, you just said that Mr. DePalma gave
17 that. Do you know if Mr. DePalma gave the advice to keep their mouth shut to
18 both of them?

19 A I don't recall specifically what he said, no, sir.

20 Q I'm not asking you specifics, but as far as if it was to Anabel and
21 also to Mr. H?

22 A It was -- I can tell you what I said, and it was announced broadly
23 to the open room.

24 Q Okay.

25 MR. PESCI: Nothing further.



CLERK OF THE COURT

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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**

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

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
I	06/20/2005	Information	HID PA00001 - HID PA00004
I	07/06/2005	Notice Of Intent To Seek Death Penalty	HID PA00005 - HID PA00009
I	07/06/2005	Notice Of Intent To Seek Death Penalty	HID PA00010 - HID PA00014
I	11/14/2006	Answer To Petition For Writ of Mandamus Or, In the Alternative, Writ of Prohibition	HID PA00015 - HID PA00062
I	12/20/2006	Reply to State's Answer To Petition For Writ of Mandamus Or, In The Alternative, Writ of Prohibition	HID PA00063 - HID PA00079
I	02/04/2008	Guilty Plea Agreement	HID PA00080 - HID PA00091
I	05/29/2008	Advance Opinion 33, (No. 48233)	HID PA00092 - HID PA00113

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
I	02/11/2008-01/13/2016	Docket	HID PA00114 - HID PA00131
I	02/11/2008-11/10/2015	Minutes	HID PA00132 - HID PA00200
II	02/13/2008	Indictment	HID PA00201 - HID PA00204
II	02/20/2008	Transcript of Proceedings: Hearing re Arraignment	HID PA00205 - HID PA00209
II	03/07/2008	Notice of Intent to Seek Death Penalty	HID PA00210 - HID PA00212
II	04/01/2008	Transcript of Proceedings: Hearing re Motions	HID PA00213 - HID PA00238
II	05/01/2008	Amended Indictment	HID PA00239 - HID PA00241
II	06/18/2008	Amended Notice of Intent To Seek Death Penalty	HID PA00242 - HID PA00245
II	06/25/2008	Notice of Motion And Motion To Consolidate Case No. C241394 Into C212667	HID PA00246 - HID PA00258
II	12/08/2008	Defendant Luis Hidalgo Jr. And Luis Hidalgo III's Opposition To The Motion To Consolidate Case No. C241394 Into C212667 + Exhibits A- G	HID PA00259 - HID PA00440
III	12/08/2008	Defendant Luis Hidalgo Jr. And Luis Hidalgo III's Opposition To The Motion To Consolidate Case No. C241394 Into C212667, Exhibits H-K	HID PA00441 - HID PA00469
III	12/15/2008	Response To Defendant Luis Hidalgo, Jr. and Luis Hidalgo, III's Opposition To Consolidate Case No. C241394 Into C212667	HID PA00470 - HID PA00478
III	01/07/2009	State's Motion To Remove Mr. Gentile As Attorney For Defendant Hidalgo, Jr., Or In The Alternative, To Require Waivers After Defendants Have Had True Independent Counsel To Advise Him	HID PA00479 - HID PA00499
III	01/16/2009	Order Granting The State's Motion To Consolidate C241394 Into C212667	HID PA00500 - HID PA00501
III	01/16/2009	Waiver of Rights To A Determination Of Penalty By The Trial Jury	HID PA00502
III	01/29/2009	Transcript of Proceedings: Jury Trial - Day 3	HID PA00503 - HID PA00522

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
III	01/30/2009	Transcript of Proceedings: Jury Trial - Day 4	HID PA00523 - HID PA00538
III	02/02/2009	Transcript of Proceedings: Jury Trial - Day 5 (Pg. 1-152)	HID PA00539 - HID PA00690
IV	02/02/2009	Transcript of Proceedings: Jury Trial - Day 5 (Pg. 153-225)	HID PA00691 - HID PA00763
IV	02/06/2009	Transcript of Proceedings: Jury Trial - Day 6	HID PA00764 - HID PA00948
V	02/04/2009	Transcript of Proceedings: Jury Trial - Day 7	HID PA00949 - HID PA01208
VI	02/05/2009	Transcript of Proceedings: Jury Trial - Day 8	HID PA01209 - HID PA01368
VII	02/06/2009	Transcript of Proceedings: Jury Trial - Day 9	HID PA01369 - HID PA01553
VIII	02/09/2009	Transcript of Proceedings: Jury Trial - Day 10 (Pg. 1-250)	HID PA01554 - HID PA01803
IX	02/09/2009	Transcript of Proceedings: Jury Trial - Day 10 (Pg. 250-340)	HID PA01804 - HID PA01894
X	02/10/2009	Transcript of Proceedings: Jury Trial - Day 11 (Pg. 1-250)	HID PA01895 - HID PA02144
XI	02/10/2009	Transcript of Proceedings: Jury Trial - Day 11 (Pg. 1-251)	HID PA02145 - HID PA02212
XII	02/11/2009	Transcript of Proceedings: Jury Trial - Day 12 (Pg. 1-250)	HID PA02213 - HID PA02464
XIII	02/11/2009	Transcript of Proceedings: Jury Trial - Day 12 (Pg. 251-330)	HID PA02465 - HID PA02545
XIV	02/12/2009	Transcript of Proceedings: Jury Trial - Day 13	HID PA02546 - HID PA02788
XV	02/17/2009	Transcript of Proceedings: Jury Trial - Day 14	HID PA02789 - HID PA02796
XVI	02/05/2009	Court Exhibit: 2 (C212667), Transcript of Audio Recording (5/23/05)	HID PA02797 - HID PA02814
XVI	02/05/2009	Court Exhibit: 3 (C212667), Transcript of Audio Recording (5/24/05)	HID PA02815 - HID PA02818
XVI	No Date On Document	Court Exhibit: 4 (C212667), Transcript of Audio Recording (Disc Marked As Audio Enhancement)	HID PA02819 - HID PA02823
XVI	02/05/2009	Court Exhibit: 5 (C212667), Transcript of Audio Recording (Disc Marked As Audio Enhancement)	HID PA02824 - HID PA02853
XVI	05/20/2010	Court Exhibit: 229 (C212667) Note	HID PA02854

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
XVI	02/10/2009	Court Exhibit: 238 (C212667) Phone Record	HID PA02855 - HID PA02875
XVI	02/17/2009	Jury Instructions	HID PA02876 - HID PA02930
XVII	03/10/2009	Defendant Luis Hidalgo, Jr.'s Motion For Judgment Of Acquittal Or, In The Alternative, A New Trial	HID PA02931 - HID PA02948
XVII	03/17/2009	State's Opposition To Defendant Luis Hidalgo Jr.'s Motion For Judgment of Acquittal Or, In the Alternative, A New Trial	HID PA02949 - HID PA02961
XVII	04/17/2009	Reply To State's Opposition To Defendant Luis Hidalgo Jr.'s Motion For Judgment of Acquittal Or, In the Alternative, A New Trial	HID PA02962 - HID PA02982
XVII	04/27/2009	Supplemental Points And Authorities To Defendant Luis A. Hidalgo, Jr.'s Motion For Judgment Of Acquittal Or, In The Alternative, A New Trial	HID PA02983 - HID PA02991
XVII	06/19/2009	Luis A. Hidalgo Jr.'s Sentencing Memorandum	HID PA02992 - HID PA03030
XVII	06/23/2009	Transcript of Proceedings: Sentencing	HID PA03031 - HID PA03058
XVII	07/06/2009	Ex-Parte Application Requesting That Defendant Luis A. Hidalgo Jr.'s Ex- Parte Application Requesting An Order Declaring Him Indigent For Purposes Of Appointing Appellate Counsel Be Sealed	HID PA03059 - HID PA03060
XVII	07/10/2009	Judgment Of Conviction	HID PA03061 - HID PA03062
XVII	07/16/2009	Luis Hidalgo, Jr.'s Notice Of Appeal	HID PA03063- HID PA03064
XVII	08/18/2009	Amended Judgment Of Conviction	HID PA03065 - HID PA03066
XVIII	02/09/2011	Appellant Luis A. Hidalgo, Jr.'s Opening Brief	HID PA03067 - HID PA03134
XVIII	06/10/2011	Respondent's Answering Brief	HID PA03135 - HID PA03196
XVIII	09/30/2011	Appellant Luis A. Hidalgo, Jr.'s Reply Brief	HID PA03197 - HID PA03238
XVIII	03/09/2012	Order Submitting Appeal For Decision Without Oral Argument	HID PA03239

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
XVIII	03/30/2012	Appellant's Motion To Reconsider Submission For Decision Without Oral Argument	HID PA03240 - HID PA03251
XVIII	04/17/2012	Appellant's Emergency Supplemental Motion To Reconsider Submission For Decision Without Oral Argument + Exhibits A-C	HID PA03252 - HID PA03289
XIX	04/17/2012	Appellant's Emergency Supplemental Motion To Reconsider Submission For Decision Without Oral Argument, Exhibit D	HID PA03290 - HID PA03329
XIX	04/26/2012	Notice Of Oral Argument Setting	HID PA03330
XIX	06/05/2012	Appellant's Notice of Supplemental Authorities [NRAP31(e)]	HID PA03331 - HID PA03333
XIX	06/21/2012	Order Of Affirmance	HID PA03334 - HID PA03344
XIX	07/09/2012	Petition For Rehearing Pursuant To Nevada Rule Of Appellate Procedure 40	HID PA03345 - HID PA03351
XIX	07/27/2012	Order Denying Rehearing	HID PA03352
XIX	08/10/2012	Petition For En Banc Reconsideration Pursuant To NRAP 40A	HID PA03353 - HID PA03365
XIX	09/18/2012	Order Directing Answer To Petition For En Banc Reconsideration	HID PA03366
XIX	10/02/2012	Answer To Petition For En Banc Reconsideration	HID PA03367 - HID PA03379
XIX	10/09/2012	Luis A. Hidalgo, Jr.'s Motion For Permission To File A Reply To Answer To Petition For En Banc Reconsideration	HID PA03380 - HID PA03383
XIX	10/12/2012	Instruction #40 Was Structural Error And Therefore Reversible Per Se Under Post-Bolden Nevada Conspiracy Jurisprudence	HID PA03384 - HID PA03399
XIX	11/13/2012	Order Denying En Banc Reconsideration	HID PA03400 - HID PA03401
XIX	05/15/2013	Letter to Clerk of Court: Petition For USSC Writ Of Certiorari Denied	HID PA03402
XX	12/31/2013	Petition For Writ Of Habeas Corpus (Post Conviction)	HID PA03403 - HID PA03483
XX	12/31/2013	Motion For Appointment Of Counsel	HID PA03484 - HID PA03488

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
XX	01/08/2014	Order For Petition For Writ Of Habeas Corpus	HID PA03489
XX	01/13/2014	State's Response To Defendant's Pro Per Motion For Appointment of Counsel	HID PA03490 - HID PA03494
XX	01/13/2016	Documents received from the Nevada Secretary of State	HID PA03495 – HID PA03516

DATED this 29th day of February, 2016.

/s/ Margaret A. McLetchie

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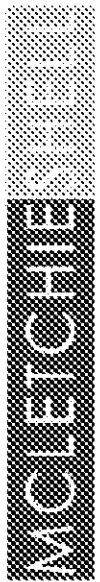
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b)(2)(B) I hereby certify that on the 29th day of February, 2016,
I mailed a true and correct copy of the foregoing VOLUME XI: 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:

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RYAN MACDONALD, Deputy District Attorney
200 Lewis Avenue
P.O. Box 552212
Las Vegas, Nevada 89155

MARC DIGIACOMO, Deputy District Attorney
Office of the District Attorney
301 E. Clark Avenue # 100
Las Vegas, NV 89155

Attorneys for Respondent

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

1 THE COURT: No juror question -- oh, yes. Jeff.

2 MR. GENTILE: I need to reopen. I really do need to reopen direct
3 because I completely forgot about the next day, and we need to go over that.

4 THE COURT: Go ahead.

5 MR. GENTILE: May I?

6 THE COURT: Yes. I'll allow it.

7 REDIRECT EXAMINATION

8 BY MR. GENTILE:

9 Q Mr. Dibble, on the 22nd of May --

10 A Yes.

11 Q -- I think you testified on direct that you made the suggestion to
12 me the day before that maybe I ought to come back to Las Vegas?

13 A Yes. I realized it was a case that was going to take some
14 attention.

15 Q And on the 22nd of May, did you meet once again with Mr.
16 Hidalgo?

17 A Yes, I did.

18 Q Okay. And who else was present at that meeting?

19 A Well, that meeting was actually broken into three portions. You
20 and I met them at what was then the Gentile Limited offices.

21 Q The same building we're in now?

22 A Same building.

23 Q Same floor?

24 A Just a different wing.

25 Q Right, same floor.

1 A We went into a conference room and met with both of them
2 together, and then you asked Ms. Espindola to leave the room because you
3 needed to speak with your client privately. The three of us remained in that
4 room, and then at the conclusion of that meeting with the client you returned --
5 or she returned to the room, and we finished up and said good night.

6 MR. GENTILE: Nothing further.

7 THE COURT: Let me ask this juror question. Can you tell us where
8 everyone was sitting during this interview or draw it. Either tell us or draw the
9 location of everybody during the interview, the first interview with Mr.
10 DePalma's office.

11 THE WITNESS: The first interview. There were only four of us, Jerry
12 DePalma was sitting behind his desk. They were sitting in client chairs in front
13 of the desk. Ms. Espindola was sitting to Jerry's right, Hidalgo was sitting to
14 his left, and I was sitting at a side chair -- I think we brought one in or there
15 was something over there that I was sitting on because it wasn't that big an
16 office.

17 THE COURT: All right. Any follow-up based on that last juror question?

18 MR. GENTILE: Yes.

19 BY MR. GENTILE:

20 Q So if you were Jerry DePalma, who is closest to you to your left?

21 A Who is closest?

22 Q Who is closest to you to your left?

23 A Well, I would be here --

24 Q Okay. Who would be next to you?

25 A In front of the desk would be Luis Hidalgo and Anabel Espindola.

1 MR. GENTILE: Okay.

2 THE COURT: All right. Mr. Adams.

3 RECROSS EXAMINATION

4 BY MR. ADAMS:

5 Q As to the meeting on May the 22nd, Little Lou wasn't at that
6 meeting either, was he?

7 A No.

8 MR. ADAMS: Thank you.

9 THE COURT: Mr. Pesci.

10 MR. PESCI: Thank you.

11 RECROSS EXAMINATION

12 BY MR. PESCI:

13 Q So your testimony is that on May the 22nd, Ms. Espindola was
14 asked to leave at a certain point during the meeting between you, Mr. Gentile
15 and Mr. H?

16 A Yes. That's also something that is standard in the -- was standard
17 in Mr. Gentile's office.

18 Q That's my next question. How come it wasn't done the day
19 before?

20 A Different attorneys do things different ways.

21 Q Was Mr. DePalma working or doing this on behalf of Mr. Gentile
22 'cause Mr. Gentile was out of town?

23 A I don't know what kind of arrangement -- well, I mean, he was
24 obviously meeting with them on -- instead of Mr. Gentile, but if there was some
25 kind of formal arrangement, I wouldn't -- I'm not aware then.

1 MR. PESCI: Thank you.

2 THE COURT: Anything from the jury?

3 Anything else, Mr. Gentile?

4 MR. GENTILE: Your Honor, I believe Mr. Denino had a note, and I don't
5 know that it's been answered.

6 THE COURT: I just asked it.

7 MR. GENTILE: Oh, you did ask it, okay. I just wanted to make sure.

8 THE COURT: All right. Mr. Adams, anything else?

9 MR. ADAMS: No, ma'am, thank you.

10 THE COURT: All right. Mr. Dibble, thank you for your testimony.
11 Please don't talk about your testimony with anyone else who may be a witness.
12 You are excused.

13 And, Mr. Gentile, call your next witness.

14 MR. GENTILE: Different witness.

15 THE COURT: Sir, just come on up those couple of stairs there, and
16 please remain standing facing our court clerk.

17 RODOLFO VILLALTA

18 Having been called as a witness and being first duly sworn testified as follows:

19 THE CLERK: Please be seated and please state and spell your name.

20 THE WITNESS: Rodolfo Villalta, R-o-d-o-l-f-o, V as in Victor, i-l-l-a-l-t-a.

21 DIRECT EXAMINATION

22 BY MR. GENTILE:

23 Q Mr. Villalta, where are you originally -- where were you born?

24 A San Salvador.

25 Q And how long have you been in the United States?

1 A 30 years.
2 Q Are you a citizen?
3 A Yes, I am.
4 Q Do you know Luis Hidalgo Junior?
5 A Yes, I do.
6 Q Do you know Luis Hidalgo III? I'm going to take perhaps the
7 privilege of doing that.
8 A Yes.
9 Q And how do you know him?
10 A I know Luis' family from El Salvador for more than 42 years.
11 Q Sir, what do you do for a living?
12 A I'm actually a computer network administrator.
13 Q And for how long have you been working with computers?
14 A About 23 years.
15 Q Where do you work right now?
16 A Actually, I'm unemployed right now.
17 Q I'm sorry. Well, I guess we're not keeping you from anything
18 anyway.
19 A No.
20 Q The -- are you related to the Hidalgos?
21 A No, I'm not.
22 Q Did there come a point in time when you went to work for Mr.
23 Hidalgo?
24 A Yes, I did.
25 Q When did you first start working for Mr. Hidalgo?

1 A Back in San Francisco around 1982.

2 Q Okay. And what did you do for him then?

3 A I was going to college, and his dad hired me to maintain his body
4 shop.

5 Q And where was that body shop?

6 A In San Bruno, California.

7 Q Do you remember the name of it?

8 A Hidalgo's Auto Body Works.

9 Q And how long did you work for Hidalgo's Auto Body Works?

10 A It was a part-time job, and I did it for about four years.

11 Q Did there come another time when you went to work for Mr.

12 Hidalgo?

13 A Yes.

14 Q And where was that?

15 A That was when he came to Las Vegas.

16 Q Did you move to Las Vegas at the same time?

17 A I moved two years later.

18 Q I see. So when did you move to Las Vegas?

19 A Around 2000.

20 Q And where did you go to work for Mr. Hidalgo?

21 A I help him with his computer network at the Simone's Auto Body.

22 Q And did you remain working for Simone -- well, when I say work
23 for Mr. Hidalgo, were you an employee?

24 A I was not an employee; I was more like a contract employee.

25 Q And how long did you do contract work for Mr. Hidalgo at the auto

1 body shop?

2 A About two, three years.

3 Q And then did there come a time that you also did some work for
4 him at the Palomino Club?

5 A Yes.

6 Q And were you an employee there?

7 A Yes, I was.

8 Q And when did you start working there?

9 A Around September -- no, actually, August of 2000.

10 Q And for how long did you remain -- you were actually an employee
11 at the Palomino a couple of different times; is that correct?

12 A Yes.

13 Q This first time in August of 2000, how long did you remain an
14 employee then before you then left?

15 A Five years.

16 Q And do you remember when you left?

17 A December 28, 2005.

18 Q And why did you leave?

19 A Actually, 2004, I'm sorry.

20 Q 2004. And why did you leave?

21 A One of the main reasons that I left is because my relationship with
22 Anabel in particular, okay, deteriorated.

23 Q Okay. Did your relationship with Luis Hidalgo deteriorate?

24 A Nope, never did.

25 Q Did there come a time when you came back to work at the

1 Palomino?

2 A Yes.

3 Q And was that -- when was that?

4 A That was when Mr. Adam Gentile took over.

5 Q And do you remember when that was?

6 A That was -- let's see, around September 2005.

7 MR. GENTILE: Now, can we see the exhibits, the two, I don't remember
8 what they are, C1 and C2.

9 THE COURT: The diagrams?

10 MR. GENTILE: The diagrams.

11 THE COURT: I think they're D1 and D2, the big diagrams.

12 BY MR. GENTILE:

13 Q I want to focus your attention to --

14 THE COURT: Jeff, the easel. There's one, I think, back there.

15 MR. GENTILE: Do we have a second easel? I'm going to put them up
16 next to each other and ask Mr. Villalta to come down.

17 THE COURT: Mr. Villalta, Jeff, our bailiff, is going to hand you the hand
18 microphone. The reason is that everything that's said is being recorded, and
19 your voice is kind of soft and tough to pick up.

20 BY MR. GENTILE:

21 Q Sir, are you familiar with what's portrayed on Exhibits D1 and D2?

22 A Yes, I am.

23 Q Are you familiar with the diagram itself in terms of the actual
24 creation of the diagram?

25 A Yes, I am.

1 Q And why is it that you're familiar with it?
2 A Because I work there.
3 Q Because you helped create it?
4 A Well, I worked there. I helped create it.
5 Q Okay. And was it created on a computer?
6 A Yes, it was.
7 Q Okay. And it -- on your computer?
8 A Yes.
9 Q Okay. Would you tell the ladies and gentlemen of the jury what
10 we're looking at here, and if something is mislabeled, let us know. D1, let's
11 start with D1.
12 A This one here is the first floor of the Palomino Club.
13 Q That's D1. We all know what you're talking about except it's
14 going to be typed up. So if you say this one here, when you read it, nobody's
15 going to know what you're talking about.
16 A File on D1 represents the first floor of the Palomino Club.
17 Q Okay. Give us a quick tour in terms of -- is it only the Palomino
18 Club, D1?
19 A Actually, it represents two clubs.
20 Q Okay. Tell us what clubs it represents.
21 A The back portion of the building is called Lacy's Lounge, and that
22 has a separate license than the rest of the club.
23 Q What is Lacy's Lounge? We see the top -- I think you just ran your
24 hand across it.
25 A It's all this right here.

1 Q Okay. So it covers the entire --

2 A Yes.

3 Q -- width of the D1 --

4 A Lacy's Lounge had its own parking lot in the back of the building
5 which it share with Jerry's Nugget Casino. This is the main entrance, and you
6 come through a long hallway into the section where the main bar was, the DJ
7 booth, and there's also -- there's one thing missing is the stage. There used to
8 be a pole right here.

9 Q Okay. Now, what's in the back of that?

10 A And this is a second dance floor, okay. This one had a wooden
11 floor. It had also a rotating crystal ball that would basically give the different
12 light effects to the dancers. And right in the back of the building there is a
13 dressing room.

14 Q You know what, that's not marked, and since you know what it is,
15 let's have you mark it.

16 MR. DIGIACOMO: Do you have a different color to make the record real
17 clear?

18 MR. GENTILE: We can do that.

19 MR. DIGIACOMO: Just a thought. If you don't want to it's okay with
20 me.

21 MR. GENTILE: I mean, it's not necessary, but the handwriting is going
22 to show us that, but do you have a red marker by any chance?

23 THE COURT: I have a red ballpoint pen.

24 BY MR. GENTILE:

25 Q And then what's behind that dressing room?

1 A This one is an office, and normally whoever is running that back
2 section of the club will sit in that office right there.

3 Q Okay.

4 A This is a hallway.

5 Q And what does it lead to?

6 A This hallway basically leads to the back of the Palomino Club, but
7 it mainly was built as a fire exit, okay, because this is all fire exits right here.

8 Q Okay. I see a stairwell or stairs --

9 A That stairway goes to the second floor of the club which is
10 basically represented on D2.

11 Q Why don't you take the No. 1 and write it and circle it, and then
12 come over here to D2 and write a No. 1 where it's represented on D2. It's a
13 stairway it's got to lead somewhere, right?

14 A Yes.

15 Q Now, go back to D1, please. What is this room?

16 A This is a loading deck.

17 Q Loading deck?

18 A Uh-huh. This is where all the liquor would come in. All the
19 vendors would bring truck into the club.

20 Q Okay. Is that a room or is that a dock?

21 A It's actually -- this is actually the dock --

22 Q Okay. So write --

23 A -- and this is the room right here.

24 Q All right. Write the dock in where it is. And then next to the
25 loading dock, what's there? What are we looking at?

1 A This is a small dressing room. It had about 12 lockers in there.

2 Q 12 lockers. Now, I see your other stairwell; where does that lead?

3 A This stairways would go up to the second floor to the DJ.

4 Q Okay. Why don't you write No. 2 and circle it. And come over
5 here to D2 and put a corresponding to where -- okay, great.

6 Now, what is this room?

7 A This one is a closet, and this closet we use as a storage, and we
8 used to keep cleaning supplies, power washer was there also.

9 Q Do you know how many -- I see a lot of diagrams of doors. How
10 many doors are in this building?

11 A About 98 doors.

12 Q 98 doors, okay. Can you fill in the rest of this and show us what
13 it is. What are you putting in there?

14 A This is the beer cooler; it keeps all the kegs. This is just a big
15 connecting room.

16 Q Just an empty space?

17 A Empty space, yeah.

18 Q Okay. Now, I see some doorways going from right to left. Does
19 this appear to be accurate?

20 A Yes.

21 Q It says room with coolers. What did you call it?

22 A Actually, the cooler is right over here and right here is an ice -- two
23 icemakers. I'm going to put ice 2 and ice 1. And this is a big walk-in
24 refrigerator.

25 Q Keep going for us, will you. I see a big space.

1 A There is a door missing on this diagram.
2 Q 98 doors and there's a door missing?
3 A Yeah, right here.
4 Q Okay. Well, draw a door.
5 A It opens this way, and it's also red.
6 Q It's red, the door is red?
7 A Yes.
8 Q This space here, what is that? And the only reason saying this
9 space here is 'cause he's going to fill it in.
10 A This is the kitchen.
11 Q Kitchen. About how big is that kitchen?
12 A I would say about 600 square feet.
13 Q How big is the building?
14 A 62,000 square foot.
15 Q 62,000 square foot?
16 A Top and bottom.
17 Q All right. Now, you see something labeled Rudy's office. Is that
18 accurate?
19 A Yes, it is. I had a question; what is X143?
20 Q Well, that's another issue.
21 A I was just wondering in case it related to an extension, phone
22 number.
23 Q No. Why, what was the extension in that?
24 A 105.
25 Q 105?

1 A Yeah.

2 Q Can you tell us what those other rooms are?

3 A Let's see.

4 Q Is there a bathroom there somewhere?

5 A Yes, the bathrooms are right here.

6 Q Is there another bathroom in the -- these are public bathrooms?

7 A Yes.

8 Q Is there a private bathroom back there someplace?

9 A Actually, this one should be the private bathroom.

10 Q Is there a liquor room?

11 A This is a hallway, and this is your liquor room. This is another

12 closet with lockers also.

13 Q So have we got pretty much everything filled in now?

14 A And this is the audio video room.

15 Q Audio video room. Is there a DJ booth on that floor somewhere?

16 A Yes.

17 Q Where is it?

18 A Actually, DJ booth is somewhere here. It's got to be right here.

19 Q Could you write that in.

20 A This has the stairs going to the DJ room. So this is your DJ room.

21 Q How much time did you spend in this building in the five years that

22 you worked there prior to May of -- well, prior to December of 2004?

23 A I would say an average of 10 hours per day.

24 Q For how many days a week?

25 A Before my family move here I was -- I spent there seven days a

1 week.

2 Q When did your family move here?

3 A Around May of 2003.

4 Q Okay. Would you take the stand again.

5 Mr. Villalta, how many days a week prior to December of 2004 and
6 after you started working at the Palomino in 2000 did you encounter Luis
7 Hidalgo Junior?

8 A Every evening, every day.

9 Q Okay. And you said that there were how many doors?

10 A About 98 doors.

11 Q How do you know that there's 98 doors?

12 A 'Cause I counted with the fire department.

13 Q Okay. And who was responsible for keying those doors?

14 A I was.

15 Q You were?

16 A Uh-huh.

17 Q And what -- what does that mean when I say responsible for
18 keying the doors? Tell us what your role was with respect to keys and --

19 A I hire a company called ABC Locks, and their main shop is on
20 Sunset Street, and they came for a couple of days. They came with tool,
21 trucks, and they make keys for every door that I told them to make a key for.

22 Q And who had possession of those keys?

23 A Every key was labeled, and there was a lockbox that would keep
24 all the keys in one section, and I was the only one that --

25 Q Where was that?

1 A That was in the main office downstairs.

2 Q The main office downstairs. Okay. Well, then, I need you to look
3 at the downstairs diagram again.

4 Where is the main office downstairs?

5 A Right here.

6 Q So Ariel's office?

7 A Yes.

8 Q You just made a circle, a red circle around the words that
9 somebody else wrote there that says Ariel's office. Do you recognize that
10 handwriting by the way?

11 A I would say looks like Anabel's.

12 Q Anabel, okay. All right. But this is where the lockbox for the keys
13 were; am I correct?

14 A Yes.

15 Q Okay. Who had a key to the lockbox for the keys?

16 MR. PESCI: Judge, if we could get a predicate to time.

17 BY MR. GENTILE:

18 Q When you left there in December of 2004, is that where the
19 lockbox was?

20 A Yes.

21 Q When you went back to work there, is that where the lockbox
22 was?

23 A Yes.

24 MR. PESCI: If we could get the time on the return back as well.

25 / / /

1 BY MR. GENTILE:

2 Q When did you go back to work, what year? Do you remember
3 what year?

4 A I went back in 2005.

5 Q Okay. So you were gone for less than a year?

6 A Yes.

7 Q Okay. And the lockbox was -- when you came back to work, the
8 lockbox was exactly where it was when you left work?

9 A Yes.

10 Q When you left in December of 2004, who had a key for the
11 lockbox?

12 A I had.

13 Q Did anybody else?

14 A No.

15 Q Okay. When you came back to work, who had a key for the
16 lockbox?

17 A I still have the key.

18 Q Okay. Take the stand, please.

19 To your knowledge when you were there at least, did Luis Hidalgo
20 Junior have a key to the lockbox?

21 A No, he didn't.

22 Q How do you know?

23 A 'Cause there was only one key. Let me say why, okay.

24 Q Okay, why was there only one key?

25 A When the Perrys left and sold the business to Mr. Hidalgo, I spend

1 approximately five to six months with the owner at that time, okay, and she
2 handed me a set of keys, and in those keys was that lock key, okay, for that
3 box, and there was only one key, and it was never duplicated until I gave that
4 key to Adam.

5 Q Okay. Now, what year was that?

6 A When I gave the key to Adam?

7 Q Yeah.

8 A That was in 2006, I would say.

9 Q Okay. So until you did that, as far as you know, you're the only
10 one who had the key?

11 A Yes.

12 Q And there was never a second key made?

13 A Never a second key made.

14 Q So if somebody wanted to get into that key box, that lockbox for
15 the keys, did they have to ask you?

16 A Yes. They would also still --

17 Q Let me ask you another question. In the time that you spent with
18 Luis Hidalgo prior to leaving in December of 2004, how many keys did he
19 carry?

20 A To my knowledge only two of them.

21 Q And what were they?

22 A There was one key for the back door entrance, which also is the
23 side door entrance and the key for his office.

24 Q Did Mr. Hidalgo ever ask you to open up anything for him in the
25 time that you worked for him?

1 A Nope.

2 Q Did you ever see him ask anybody to open things up?

3 A Nope.

4 Q Did you ever see him open anything up?

5 A Nope.

6 Q Did you also maintain the safes?

7 A Yes, I did.

8 Q To your knowledge, did Mr. Hidalgo have the combinations to the

9 safes?

10 A No, he never did.

11 Q How do you know that?

12 A Because those safes were always opened either by Anabel

13 Espindola or myself.

14 Q How about Ariel, did Ariel open a safe?

15 A Actually, Ariel had access to the safe in the main office, which is

16 labeled her office on D1.

17 Q Right. Other than that did she have any other safes?

18 A Nope.

19 Q How long you known Mr. Hidalgo, Mr. H?

20 A 34 years.

21 Q How many days in that 34 years have you spent with him?

22 A Almost every day.

23 Q Do you have an opinion as to his character for truthfulness?

24 A He's a very -- I always admire him because of the things that he

25 was involved, okay, as I grew up, and I think he's a very truthful person, very

1 honest.

2 MR. GENTILE: Thank you. Nothing further.

3 THE COURT: All right. Thank you.

4 Mr. Arrascada.

5 MR. ARRASCADA: No questions, Your Honor.

6 THE COURT: All right. Thank you.

7 Mr. Pesci.

8 MR. PESCI: Yes, thank you.

9 CROSS-EXAMINATION

10 BY MR. PESCI:

11 Q Sir, on, I think it's D1, you were asked to put in a whole bunch of
12 labels. Do you remember those questions?

13 A Yes.

14 Q All right. Did I understand you correctly to say that you're the one
15 that created this?

16 A I helped create it.

17 Q How did you help create this?

18 A With program called AutoCad, a computer program.

19 Q When did you create it?

20 A I would say around 2004, perhaps.

21 Q 2004?

22 A Or prior to that.

23 Q Okay. Now, my recollection of your testimony was that in the
24 Lacy Lounge section of this there was a dance floor that's not reflected on D1;
25 is that correct?

1 A Yes.
2 Q Now, why is it not on there?
3 A It was miscalculated just the same way that the door was missed.
4 Q Okay. So there's a door missing and then there's a dance floor
5 missing?

6 A Not a dance floor I said a dance pole.

7 Q A dance pole?

8 A Yeah.

9 Q Got it. So this is not exactly accurate to the way the Palomino
10 looked on May the 19th, 2005, is it?

11 MR. GENTILE: Objection. The pole was in Lacy's.

12 MR. PESCI: Well, I thought I heard testimony that this whole kit and
13 caboodle, 60-plus thousand square feet is all part of the one building that the
14 Palomino Club is in.

15 THE WITNESS: Both D1 and D2, which represents two floors, yes, but I
16 also said that there is two clubs.

17 MR. PESCI: Sure. Sure.

18 BY MR. PESCI:

19 Q We've got Lacy's up here at the top, right?

20 A It's at the bottom.

21 Q Lacy's is at the bottom?

22 A Yeah. You're looking at D1, which is the first floor.

23 Q Okay. Where's Lacy's?

24 A Right here.

25 Q Now, for the purposes of referring to it on this diagram, is this the

1 top of the diagram?

2 A No, that's the bottom of the diagram, the bottom floor.

3 Q We've got the label here. I'm just trying to make it clear for the
4 record. Is this the top of the diagram?

5 A No, that's the bottom.

6 Q So you want me to go like this?

7 A Oh, you mean the top, no, you had it right.

8 Q Okay. That's all I'm trying to get out. As we're looking at this,
9 the top of this diagram is the section where Lacy's is?

10 A Yes.

11 Q So we know that there's a pole missing and there's a door missing
12 on this diagram, Defendants' D1, correct?

13 A Yes.

14 Q So this is not completely accurate to the way it was on May the
15 19th, 2005, is it?

16 A Well, if that's the case I would say no, but.

17 Q Okay. I believe you were asked to fill in where there was some
18 bathrooms. Do you recall just having some difficulty at first finding where the
19 bathroom was? I'm just asking if you recall --

20 A Yes, I did.

21 Q Mr. Gentile asked you, and it took you a minute to find it; is that
22 accurate to say?

23 A Uh-huh.

24 Q Is that yes?

25 A Yes.

1 Q Even though you've been in this how many times you had
2 difficulty at first just looking at this diagram finding the actual bathroom on the
3 diagram?

4 A I had difficulty, yes, but also --

5 Q And that's where the bathroom is, right?

6 A Yes.

7 Q And it just took you a minute to get oriented, right?

8 A Yes.

9 Q Okay. Now, I think you said that you gave the keys to this
10 lockbox to who in 2006?

11 A Adam Gentile.

12 Q Adam who?

13 A Gentile.

14 Q And is that the son of Mr. Gentile?

15 A Yes, he is.

16 Q Who is your boss right now?

17 A I don't have a boss right now.

18 Q Okay. When is the last time -- when did you stop working for the
19 Palomino Club?

20 A It was in July 16 of 2007.

21 Q And when you left in July 2007, who was your boss?

22 A Adam.

23 Q Adam Gentile?

24 A Yes.

25 Q Okay. And if I've understood you correctly, there was only one

1 key to the lockbox?

2 A Yes.

3 Q And that you were the only one that had that key?

4 A Yes.

5 Q And you left the Palomino in December of '04?

6 A Left the Palomino in December '04.

7 Q I should say you left working in December 2004?

8 A Yes.

9 Q And you came back in when in 2005?

10 A Around September, August 2005.

11 Q Do you have any knowledge as to how the place functioned
12 without that key from December of '04 to September of '05?

13 A It was all those were spare keys that nobody really need to have
14 them in order for the club to be operational and functional.

15 Q So the keys in the lockbox are not necessary to function the
16 building?

17 A Nope.

18 Q So your testimony is that Mr. H did not have a key that isn't used
19 for anything anyway?

20 A Like I say, he only have two keys, one for the back door and one
21 for his office.

22 Q Okay. But the lockbox that contained the keys, you're saying that
23 the business can be operated without access to that lockbox?

24 A Yes, and it still does.

25 Q Okay. You also said, if I understood you correctly, that Mr.

1 Hidalgo did not have the combination to the safes?

2 A Yes.

3 Q And I apologize just so we're really clear. Mr. H, not Little Luis,
4 not Luis Hidalgo III?

5 A Mr. H, yes.

6 Q And all the questions I just asked you were about Mr. H, not Luis
7 Hidalgo III?

8 A Yes.

9 Q All right. So your testimony is that the owner of the Palomino
10 Club, one, didn't have keys to get into the building, and 2, didn't know how to
11 open up the safes?

12 A That's correct.

13 Q And he operated business like that for how long as far as you
14 knew?

15 A Four and a half, five years.

16 MR. PESCI: Thanks. Nothing further.

17 THE COURT: Any juror questions?

18 Jeff, oh, goodness.

19 Why don't we just take a five-minute break while Jeff collects the
20 juror questions.

21 Ladies and gentlemen, once again of course you're reminded of the
22 admonition that is still in place during our brief five-minute break. Ladies, make
23 use of it. Notepads in your chairs.

24 Sir, don't discuss your testimony during our five-minute break.

25 (Recess taken 5:48 p.m. to 6:13 p.m.)

1 THE COURT: All right. Court is now back in session. We got a couple
2 of jury questions on the size of the building, and I'm just going to ask you. Did
3 you mean that the building, the inside of the Palomino was 62,000 square feet?

4 THE WITNESS: I made a mistake. It's 22,000.

5 THE COURT: Thank you.

6 Mr. Gentile, continue, please, and then I'll get to the other juror
7 questions.

8 REDIRECT EXAMINATION

9 BY MR. GENTILE:

10 Q Mr. Villalta, when you say you made a mistake, did you misspeak?

11 A Yes, I did.

12 Q Okay. So you knew the size of the club?

13 A Yes.

14 Q And there are many buildings on that -- in addition to the Palomino,
15 there's another building behind it that's used for storage?

16 A Yes.

17 Q If you add it all up it's probably 60,000?

18 A I would say so.

19 MR. GENTILE: Nothing further.

20 THE COURT: Yes, Mr. Adams.

21 MR. ADAMS: Nothing from back here.

22 THE COURT: All right. Cross?

23 MR. PESCI: No, Your Honor.

24 THE COURT: All right. We've got a couple juror questions up here.

25 Mr. Villalta, Anabel Espindola testified that she put a memo on May

1 20th that described Plan B on your desk. Do you remember that memo?

2 MR. DIGIACOMO: Judge, May 20th of 2005.

3 THE COURT: Right, of 2005. Do you remember seeing a memo
4 regarding a Plan B on your desk?

5 MR. GENTILE: Your Honor, he wasn't working there in May of 2005
6 how could he?

7 MR. DIGIACOMO: That was my point.

8 THE COURT: I ask the question. All right.

9 On the decision to rekey the locks, do you know whose decision
10 that was?

11 THE WITNESS: Anabel.

12 THE COURT: And do -- don't speculate but if you know -- do you know
13 why that decision was made?

14 THE WITNESS: It was made because it happened when Mr. Hidalgo
15 was taking over the club so we needed new keys for all the doors.

16 THE COURT: Okay. And counsel approach.

17 (Conference at the bench.)

18 THE COURT: I want to clarify something. Now, when you talked about
19 rekeying the locks, were those the locks on the doors or locks on some other
20 safes or lockboxes or other items?

21 THE WITNESS: Just the doors.

22 THE COURT: Just the doors?

23 THE WITNESS: Yes.

24 THE COURT: And were those all the doors or just the exit and entrance
25 doors?

1 THE WITNESS: Every door.

2 THE COURT: Every door. Okay. And what about like the cash register
3 or the bar, were there locks on the cash drawers?

4 THE WITNESS: Yes, there were, but those were not --

5 THE COURT: Those were not rekeyed.

6 THE WITNESS: No.

7 THE COURT: Okay. Just the doors that people walk in and out of?

8 THE WITNESS: Yes.

9 THE COURT: All right. Let's see, Mr. Digiacommo, was it?

10 Mr. Pesci, do you have any questions based on those last juror
11 questions?

12 MR. PESCI: No, Your Honor.

13 THE COURT: Mr. Gentile, do you have any questions?

14 MR. GENTILE: No, Your Honor.

15 THE COURT: Mr. Arrascada?

16 MR. ARRASCADA: No, Your Honor.

17 THE COURT: All right. Any other juror questions?

18 Mr. Villalta, thank you for your testimony. Please don't discuss
19 your testimony with anybody else who may be called as a witness in this case.
20 Thank you, and you are excused.

21 Mr. Gentile, call your next witness.

22 MR. GENTILE: PK Hadland.

23 THE COURT: Sir, come on up here, please, to the witness stand, just up
24 those couple of stairs, and then just please remain standing facing our court
25 clerk who will administer the oath to you.

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PEE-LARR HANDLEY

Having been called as a witness and being first duly sworn testified as follows:

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

THE WITNESS: My name is Pee-Larr Handley spelled P-e-e, dash, capital L-a-r-r, last name Handley, H-a-n-d-l-e-y.

DIRECT EXAMINATION

BY MR. GENTILE:

Q Mr. Handley, what's your date of birth?

A February 8th, 1971.

Q And where were you born?

A Williams Air Force Base, Chandler, Arizona.

Q Okay. And have you ever been in the military?

A Yes, I have.

Q When?

A I joined the --

MR. DIGIACOMO: Objection. Relevance, Judge.

THE COURT: Overruled.

THE WITNESS: I joined the United States Air Force in '90 and got out February of '94, I believe it was.

BY MR. GENTILE:

Q When did you move to Las Vegas?

A I was stationed out here in 1991 and lived here ever since.

Q And you say you got out in '94?

A Yes, sir.

Q What did you do for a living from the time that you got out?

1 A Various jobs.

2 Q Tell us.

3 A I started off initially in security. I got a security job at the Sahara.
4 Then from there I got a job at security at Sam's Town. Then I did private
5 security for various locations, bars, nightclubs. Then I became a bouncer at a
6 couple nightclubs. Did some DJ work and ended up becoming an audio-visual
7 technician for Encore Productions.

8 Q When did you start in the audio-video area?

9 A Formally 1997, I believe it was.

10 Q And where were you working at that time?

11 A When I started or --

12 Q Yes.

13 A Prior to there I was at Boomerangs, and someone in the union, in
14 the local -- actually it was a local union out of New York saw my work and said
15 I was in the wrong business.

16 Q Are you a union member?

17 A I am.

18 Q Of what union?

19 A Local 720 IATSE.

20 Q Okay. So you started with Encore in '97; did you say?

21 A I believe it was '97, yes.

22 Q How long did you remain with them?

23 A I was with them up until -- on and off up until 2004.

24 Q Okay.

25 A I had a period there where I was no longer with them when I --

1 they moved me over to Mandalay Bay, and I was there for about two years
2 opening the property and getting everything situated. And then at that point I
3 felt I had done all I could and wanted to further myself and joined the union.
4 And the hotel created a position for me and made me a lead production
5 technician for entertainment for the hotel. So I did that for two years.

6 Q What hotel was that?

7 A Mandalay Bay.

8 Q Okay. What are you doing now?

9 A I now am freelancing or what they call a bounce technician for the
10 union, for Local 720.

11 Q And what kind of work do you do?

12 A It's easier to say what I don't do in the field. The only thing I
13 don't do anymore is hand-held camera. Everything else that falls under the
14 realm of production I do, which is high rigging, ground rigging, which is hanging
15 stuff in the air or sending stuff up in the air like all the lighting rigs and
16 everything that goes on for concerts.

17 I do lighting design, CAD design, audio, video. I do camera work,
18 but I don't do hand held because of an injury I sustained. I don't feel that --
19 well, at the time I didn't feel that having a camera on my shoulder was going to
20 be very -- very healthy for me.

21 Q Okay. And what kind of events do you currently work in?

22 A Everything.

23 Q Okay. Do you -- did there come a time when you learned where
24 the Palomino Club was?

25 A Yes.

1 Q And when was that?

2 A It would have been, best guess, would probably have been
3 February of '92.

4 Q And how did that come about?

5 A My friends took me there for my 21st birthday, the guys I was in
6 the military with.

7 Q Did there come a time when you started doing some work for -- at
8 the Palomino?

9 A Yes.

10 Q When was that?

11 A Oh, to be exact, I would say around 2000, maybe. I can't
12 remember exactly. It was -- I was doing work for the Satin Saddle which was a
13 club next to the Palomino, but to them it was still considered part of the
14 Palomino.

15 Q Was it owned by the same ownership?

16 A Yes.

17 Q And who was the owner at that time?

18 A The Perrys.

19 Q When you say the Perrys, do you remember the first name of the
20 owner?

21 A I remember Paul Perry's wife. I don't rem -- Gail, Gail was her
22 name, yes.

23 Q Did there come a -- and what did you do when you first started
24 working for -- I shouldn't say working for the Palomino. Were you an employee
25 of the Palomino Club at that time?

1 A No.

2 Q What were you doing at the Palomino?

3 A The title I used, I guess, to describe what I was doing was more of
4 an entertainment consultant. I helped with the lighting and the sound.
5 Basically I started off doing the sound. They had a full club at the Satin Saddle,
6 and the sound system short-circuited and fried, and they were like, great, now
7 we've got to shut down, blah, blah, blah. And I said, it's not that bad; I can fix
8 it. And they're like, can you.

9 So I went underneath the stage or underneath the DJ booth and
10 rewired it and got it up and working, and they said, well, would you be able to
11 do anything else as far as, you know, what else, you know, you said this is
12 crap. What do we need to fix.

13 So I put together a little proposal for them on what needed to be
14 done to make it functional, and they chose to have me do it.

15 Q So you got the contract to do it?

16 A Yes, sir.

17 Q All right. Did there come a time -- strike that. Have you had an
18 ongoing relationship with the Palomino as an independent contractor?

19 A Yes.

20 Q Did there come a time when that -- when you came in contact
21 with a Luis Hidalgo Junior?

22 A Luis Hidalgo Junior --

23 Q Maybe I should say Mr. H, how about that? Do you know a guy
24 named Mr. H?

25 A I do know a guy named Mr. H.

1 Q And is he here?
2 A Yes, he is.
3 Q Could you point him out for us?
4 A He's right there in the sweater.
5 Q Is he standing up?
6 A He just stood up and sat back down.
7 Q How long have you known him?
8 A I'd say probably around 2000, since 2000.
9 Q And he remained the owner of the Palomino Club until about
10 2006, early 2006; is that your memory?
11 A As far as I can remember I think that may -- that should be about
12 right.
13 Q In that time frame, how often would you see him?
14 A How often would I see him? If he was at the club I would see him
15 quite often.
16 Q You weren't at the club constantly, were you?
17 A Not constantly, but at least on average I'd say four days a week.
18 Q All right. And what was your -- you were an independent
19 contractor; you were never an employee?
20 A Never an employee.
21 Q So then why would you be going to the Palomino four days a
22 week?
23 A I kind of had a vested interest in the Palomino.
24 Q Do you mean a financial interest?
25 A Not so much financial in direct -- in monetary value. It was more --

1 I had worked for somebody ever since I started in the industry. I always did
2 what everybody else wanted me to do and followed their plans, their design, so
3 on and so forth.

4 When the Palomino was bought out and they wanted to revamp it,
5 they approached me after what I had done at the Satin Saddle and said, what
6 do you think, you know, we want you to come over and take a look at the
7 system. And I told them, I said, To say it's antiquated is a joke. I said it's, you
8 know, this stuff is crap. It's not going to last. I don't like the way it's done. I
9 don't think it's safe, and I can redo this for you.

10 Q So sort of your baby?

11 A It was absolutely 100 percent my baby. It was the first time that I
12 started from scratch and said I want to wipe everything out and do this my
13 way. And what I did was I took X amount of dollars and made it look like -- my
14 goal was to basically showcase my ability as a designer and a programmer.

15 Q And did you use it for that?

16 A I absolutely did.

17 Q Did there come a time when you would use the -- you say
18 showcase your ability, did you ever show it to any other prospect or current
19 customers of yours?

20 A Absolutely.

21 Q And how would you go about doing that?

22 A It usually depended. What we ended up doing when the club was
23 purchased and I ripped everything out, it was right before 9/11. So I had gone
24 through and done all the research and everything. Like I said, again, it was a
25 big project for me. I did all the research, got the, you know, wheeled and

1 dealed to make sure I got the lowest prices on everything but was still
2 something I could work with.

3 And then Mr. H said, We have seven days to get this done, and I
4 kind of looked at him and I went, You're kidding, right, and he says, No, I'm
5 serious. I can't afford to be down. We've got to get this up in seven days.
6 And I said okay.

7 Q Did you get it done?

8 A We got it done, but not the way it -- it did not go per design.

9 Q Did 9/11 have something to do with that?

10 A Absolutely. All the equipment we bought and everything was
11 sitting on a runway and stuck on a runway.

12 Q So what ultimately happened?

13 A It actually worked as far as me as a designer. It worked in my
14 favor because all the vendors and stuff I had worked with over all the years,
15 and this is why, I said I had a vested interest in it. They all rallied together and
16 said, hey, he's, you know, he needs to get this done. Blah, blah, blah. Let's
17 get him, you know, what do you need.

18 Q Okay.

19 A And so they helped me redo everything.

20 Q And after that you used this sort of like a model for getting
21 business?

22 A Correct.

23 Q Okay. Now, when you would go into the club four days a week,
24 would you be paid for all of your time that you were in the club?

25 A Not -- not really. At the end of -- at the end of the month, they

1 would usually write me a check for like \$250 for the month. Like I said, it was
2 more for me. It was more, like I said, a vested interest where I wanted to be
3 able to showcase it, you know, showcase my ability, so on and so forth.

4 And the vendors that I had dealt with also sent people down there,
5 and they used it to their advantage to sell, you know, instead of selling, you
6 know, trying to find somebody to buy a \$20,000 light, they could turn around
7 and sell them a bunch of \$2,000 lights, you know, and then the operating
8 system and everything else for it instead of, you know, instead of chasing away
9 a client who has X amount of dollars to spend you can say, hey, I can get you
10 this much bang for your buck.

11 Q Okay. And so in that sense then, and I want to use this not in the
12 theatrical sense but in the selling sense, was this sort of like a sample or a
13 showroom for you?

14 A Yes, it was.

15 Q And when you would go there, would your purpose be to see to it
16 that nobody screwed it up?

17 A Very much so. So much so that a lot of people probably didn't like
18 to see me come in.

19 Q What nights would you usually go in?

20 A I made it an absolute point to be there Friday and Saturday night.
21 If I was working at my -- at any of my other jobs, I would get off. It didn't
22 matter if it was midnight, 1 o'clock, 2 o'clock; I would get down there to make
23 sure that the sound system hadn't been messed up, that the lights still worked
24 and see if anybody had any, you know, had any requests or anything like that,
25 make sure the, you know, that all the music was working, DJs were happy, all

1 that kind of stuff.

2 Q All right. Did there come a time in the year 2005 that you met a
3 person by the name of Deangelo Carroll?

4 A Yes.

5 Q Okay. And who was Deangelo Carroll?

6 A When I met him he was basically running around doing whatever,
7 cleaning, whatever. He wanted to be a DJ is what he aspired to be at the time
8 that I met him.

9 Q Did you know someone named Anabel Espindola?

10 A I did.

11 Q And who is she?

12 A She was the general manager for the Palomino and also Simone's
13 Auto Plaza.

14 Q Did you know a person by the -- well, you've already identified
15 Luis -- we call him Mr. H in this courtroom. What do you usually call him?

16 A I called him H or Mr. H.

17 Q Okay. What did he do in 2005? What did you see him doing?
18 What kind of functions?

19 A He was -- well, he was the owner. He basically would come in
20 and be in the office and then go out on the floor, walk the floor, kind of -- I kind
21 of called it shake hands and kiss babies, kind of, and then if things were slow,
22 he would go into the office and get -- get change and then go out and start
23 throwing money to the girls on stage to try to stimulate business and keep
24 morale up.

25 Q What was your routine when you would go to the Palomino?

1 A My routine was I almost always made a beeline straight for the DJ
2 booth, go up into the DJ booth, check with the DJ, make sure that he got his
3 dancers' lists in because in my eyes everything that had to do with performance
4 fell under entertainment. So make sure he had the lists of the dancers to know
5 when they go up, that the office has the list so that the biggest thing in my
6 industry is you never have a dead stage, and that's what I tried to emphasize
7 with everybody. So I made lists and stuff so that would happen.

8 So it was check on the DJ, check on the booth, check on the lights,
9 check on the sound. Then from there I would call up to the office to see if Mr.
10 H was in and then usually touch bases with him and then hang out and make
11 sure that everything kind of goes smoothly.

12 Q When you were there in the year 2005, did you meet a person
13 named TJ Hadland?

14 A Yes, I did.

15 Q And who was TJ Hadland?

16 A TJ was one of our cab guys. He was outside taking care of the
17 tickets for the cabs which was the way in which they, you know, however
18 many people they brought in they got that on a little slip, and then they would
19 take that in and get paid for however many people they brought in. And then
20 he would hail cabs and put people in cabs when they got ready to leave.

21 Q I want to call your attention to May of the year 2005. Do you
22 recall a night when you had, let's say, words with TJ Hadland?

23 A Yes, I do.

24 Q And when I say words, I'm saying that obviously in a
25 euphemistical sense, a bit of a disagreement?

1 A I guess you could call it a disagreement.

2 Q Okay. And tell us what you remember about it.

3 A I had been asked to help oversee the operations of the club that
4 night, just basically make sure everything went smoothly on the floor and that
5 everything went well by Anabel. And I showed up, and we had been having a
6 little bit of a problem with cabs late at night.

7 Q What was the nature of the problem?

8 A The nature of the problem was that cabs weren't coming. And I
9 would again bring clients down there or recommend the place to people, and
10 it's kind of disheartening when you send somebody down to, you know, down
11 to a location, they get there and then when it's time for them to leave, they're
12 waiting, and the next day you get a call, hey, you know, everything was great.
13 The place looked great, blah, blah, blah, but it took me an hour and a half to get
14 out of there.

15 Q How did that relate to TJ?

16 A What had happened and what I had noticed was TJ wasn't on
17 post. He wasn't out front.

18 Q What does on post mean?

19 A At the entrance to the Palomino, there's a foyer or receiving area,
20 whatever you want to call it. And he's -- his position is outside those doors to
21 greet people as they come in. The other thing it serves as --

22 Q So he would be on the outside?

23 A On the outside of the doors. The other thing it does is as cabs are
24 driving by Las Vegas Boulevard, they see him out there; they know the place is
25 open. It makes it easier to flag them, et cetera, and it keeps, you know,

1 basically what I tried to explain to him when we had words was that if you're
2 outside they know we're still open. After hours, if there's not a lot of activity
3 out in the parking lot, they'll drive by and not think we're open, you know.

4 And then I've got people waiting on cabs, and we're trying to call,
5 blah, blah, blah, and it just makes -- makes everything bad.

6 Q Well, you say he wasn't on post. How did you respond to him not
7 being on post?

8 A I walked back out front from the floor, and he was sitting at the
9 shoe shine stand where the shoe shine booth, right next to the cage.

10 Q Okay. Is that -- is there a shoe shine stand inside the Palomino
11 Club?

12 A At one time it was a shoe shine stand; now it's just this big throne
13 looking chair, but I call it the shoe shine stand because that's what it was there
14 for.

15 Q Well, it's obvious, I mean, the construction of it?

16 A Correct. It's -- it's designed as a shoe shine.

17 Q Okay. And you saw him sitting in it?

18 A Yes, I did.

19 Q And how did you respond to that?

20 A I asked him what he was doing.

21 Q Without telling us what he said, what did you do after he
22 responded?

23 A I asked him to go outside and get on his post.

24 Q And again, did he respond to you? Don't tell us what he said.

25 A Yes, he did.

1 Q And after he responded to you, what did you say to him?

2 A I told him if he had a problem with what I was asking him to do, I
3 was doing it on behalf of the management and the owners of the Palomino, and
4 he was more than welcome to call Anabel and complain to her.

5 Q Did you then report it to anyone?

6 A Yes, I did. I wrote it up.

7 Q You wrote it up. And to whom did you report it?

8 A I reported it to Anabel, and I turned the paperwork into the office
9 manager.

10 Q And did you learn what happened after that with respect to TJ,
11 and of course, I'm not talking about the man's death, but, I mean, was there --
12 was there -- what occurred with respect to his remaining employed at the
13 Palomino?

14 A His employment was terminated.

15 Q And do you know who terminated him?

16 A My understanding that Anabel did.

17 Q And were you asked to do anything by Anabel with respect to that
18 termination?

19 A Yes, I was.

20 Q And in response to what she asked you to do -- did you do what
21 she asked you to do?

22 A Yes, I did.

23 Q What did you do?

24 A I showed up and met Ariel, the office manager, in the office. They
25 explained to me that they were letting TJ go, and he had a final check, and

1 they wanted to make sure that he left without any problems.

2 Q Okay. Now, in terms of your experience with Mr. Hadland, why
3 would they call you to fulfill that role?

4 A In terms of TJ?

5 Q Yeah, why you? Why not do it with --

6 A Why me in general?

7 Q Why you in general with respect to TJ?

8 A With respect to TJ. Not many people -- not many people argued
9 with me or caused problems with me, et cetera.

10 Q Was TJ argumentative in your experience?

11 A Could be.

12 Q Now, had you ever reported TJ previously to the management of
13 the Palomino?

14 A For not being on post, I believe so.

15 Q For anything else?

16 A I had spoke to -- I had spoke to Mr. H about something I had
17 observed.

18 Q And what was it that you observed?

19 A I observed TJ on occasion and also Deangelo on occasion selling
20 VIP passes.

21 Q And where were they selling those passes?

22 A Out front.

23 Q And when you say selling VIP passes, what do you mean?

24 A Basically, the VIP passes were for free admission into the club, and
25 what would happen is the cabs would show up, and they would -- a cabbie

1 would come in, and let's say I didn't always know what we were paying, but I
2 knew we were -- I'm sorry, what was being paid, but say the Palomino was
3 paying \$30 a head, if a cab brings in five people, they're expecting \$150.

4 The customers will pay \$30 a head, and, you know, you'd get TJ
5 or Deangelo would write up the ticket, give the ticket to the driver. The driver
6 takes it up. He gets paid for the number of people that he brings in, full price,
7 full admission, full pay.

8 There came a time where there were issues with the VIP cards. At
9 one point cabbies got nothing if somebody came in with a VIP card. That was
10 creating problems, and cabbies were just like, hey, this is, you know, this is
11 stupid, and all of a sudden we're not getting people there. They came up with
12 an alternate plan to where they paid lower amounts for VIP cards. So the
13 cabbies were at least, you know, getting something.

14 Well, what I saw was these people are getting out of the cabs, and
15 TJ and Deangelo had both turned around and at first I thought they were
16 getting a tip 'cause I'm seeing money exchange hands, but then I see them
17 hand a VIP card to these people. They go up, they go in. The cabbie comes
18 out, and I had a couple cabs say that the Palomino was ripping them off, and
19 that's when I brought it to -- I brought it to Mr. H's attention that, you know, I
20 think this is what I see, you know.

21 Q Did you ever hear the term used by Mr. Hidalgo or anybody else at
22 the Palomino Club, the term Plan B?

23 A Yes.

24 Q And when you heard the term Plan B, was it always used to mean
25 the same thing?

1 A When he was speaking to me and he talked to me about Plan B, I
2 knew what he was talking about.

3 Q And what did you understand it to be?

4 A It was -- it was in relation to how the club was operating and how
5 money was going out. It was in relation to whether or not to stick with Plan A,
6 which is pay X amount for regular admission, pay X amount for VIP cards. If
7 not, then wipe it out and go to Plan B which would be paying across the board.

8 Q I want to call your attention to the 19th of May in the year 2005.
9 Do you recall being at the Palomino Club that night?

10 A I do.

11 Q And do you remember why you were at the Palomino Club that
12 night?

13 A Yes.

14 Q Okay. Now, that's a Thursday night?

15 A I believe that's correct.

16 Q And why were you at the Palomino that night?

17 A I had a good client showing up that I invited.

18 Q Do you remember who the client was?

19 A It was a McNeilus was the group.

20 Q McNeilus?

21 A McNeilus.

22 Q Can you spell it?

23 A M-c-n-e-i-l-u-s, I believe it is.

24 Q Okay. And what is McNeilus?

25 A McNeilus is a company that manufactures trucks. Some of their

1 subsidiaries are OshKosh. They do rollover plows, snow equipment. They also
2 do garbage trucks and concrete mixers and all that kind of stuff.

3 Q And why did you have McNeilus coming to the club that night?

4 A They were clients of mine, and I had brought them down there
5 before. I did the lighting for their booth, and we had -- we were steadily
6 stepping up the lighting in there, but again, cost is always an issue. So I was
7 trying to -- that's what I used, you know, to try to sell people on additional
8 lighting is you don't have to pay top dollar. So they had been there before, and
9 they enjoyed themselves there.

10 Q And so you were at the club that night to do what with respect to
11 McNeilus?

12 A To make sure that they got picked up correctly and on time this
13 time.

14 Q When you say this time, had there been a problem in the past?

15 A Yes, there had.

16 Q And what was that problem?

17 A Deangelo was supposed to pick them up in the limo, and he didn't
18 show up.

19 Q Now, that's not on the 19th of May, some earlier occasion?

20 A It was prior, correct.

21 Q So when you got there that night, what do you recall about
22 whether your clients got picked up on time or not?

23 A What do I recall as far as did they get picked up? Or?

24 Q Were there problems?

25 A Yes.

1 Q Okay. Tell the ladies and gentlemen of the jury what the problem
2 was.

3 A The problem was Deangelo was in the van -- well, the van was
4 gone. I was told Deangelo was in the van, and the limo was sitting out front.

5 Q Who was supposed to drive the limo?

6 A Deangelo was.

7 Q Okay. And how do you know that arrangements had been made
8 for that to occur?

9 A I arrived early that day to speak with -- Mr. H's son, I call him Little
10 Louie. I stopped by to talk to Little Louie who opens the club and also
11 scheduled -- did the schedule for pick ups and stuff like that. I said, please
12 make sure -- and I had talked to him previously about this, and I just wanted to
13 drive home that, hey, I don't want to see this screwed up again. We need to
14 make sure Deangelo does his job and picks these people up. He said, We know
15 about it; it will get taken care of.

16 Q What time did you get to the Palomino that night?

17 A It would have been sometime after opening so the doors open at 5.
18 I usually -- I'd say it was sometime after 5, probably before 6.

19 Q And what if any problems did you encounter with respect to your
20 clients being picked up on time?

21 A I don't recall the exact time they were scheduled to be picked up.
22 I know it was after -- it would have been after 9 because that's when the
23 majority of the girls came in, and I wanted to make sure the club was full of
24 girls, you know, that we had a, you know, a full lineup for them. And I
25 remember I walked outside, about an hour, about 8 o'clock, somewhere around

1 then, and I saw the limo sitting outside.

2 Q And what did you do in response to that?

3 A I called Little Louie.

4 Q And after talking to Little Louie what did you do?

5 A I went back inside and then I think I went upstairs to talk to
6 Anabel and Mr. H and Little Louie.

7 Q Now, when you were upstairs --

8 Can I have that photo, please. Can I have this marked next in
9 order, please.

10 THE COURT: Would counsel approach, please while Ms. Husted is
11 getting the exhibit marked.

12 (Conference at the bench.)

13 BY MR. GENTILE:

14 Q I'm going to show you what's been marked Proposed Exhibit G
15 and ask you to take a look at it and see if you recognize it?

16 A Yeah, it's the upstairs office at the Palomino.

17 Q And when you say the upstairs office, is this referred to as some
18 person's office?

19 A Yeah, Mr. H's office.

20 Q This is Mr. H's office. Does it appear to you in that photograph to
21 be in substantially the same condition at least furniturewise as the view in that
22 photograph expresses as it was back in May 2005, other than being relatively
23 empty as compared to that?

24 A Yeah. There was no Chicago helmet and stuff in there.

25 Q Okay.

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

2 THE COURT: Any objection.

3 MR. DI GIACOMO: No, Your Honor.

4 MR. ADAMS: None from us, Your Honor.

5 THE COURT: All right.

6 (Defense Exhibit G admitted.)

7 BY MR. GENTILE:

8 Q Could you step down here, please.

9 A Sure.

10 Q Could you show the ladies and gentlemen of the jury -- would you
11 point out to the ladies and gentlemen of the jury what they're looking at here in
12 terms of -- I think there are three chairs in this room?

13 A Yes, there are.

14 Q Okay. There's also a doorway. So would you just sort of explain
15 what this perspective is.

16 A This perspective is looking at the main desk. Right here is a
17 doorway that leads to a bathroom that's up that wall right there where that
18 handrail is. There's a private bathroom there and bath or shower, and right
19 inside this doorway off to the left-hand side there's a little kitchen area right
20 there. This is the main desk, and that's a big chair that's back there. Back
21 behind here, which you can't see in this photo, is where all the monitors and
22 everything are for the club.

23 Q They have other photographs that show --

24 A Then this is the -- that's the entertainment system that actually
25 runs the sound and lighting and switching and stuff for the room itself, for that

1 particular room, main desk, two chairs are always there and then the hutch that
2 keeps all the files and everything.

3 Q Okay. Now, you see that desk, the chair behind the desk?

4 A This one here?

5 Q Who usually sat in that chair?

6 A Anabel did.

7 Q Okay. And there are two chairs in front of the desk?

8 A Correct.

9 Q Did anybody usually sit in one of those chairs?

10 A Yes. Mr. H usually sat in this chair right here.

11 MR. GENTILE: Could we have some sort of a marker that we could mark
12 them. Well, I guess we don't need to.

13 THE COURT: Well, there's two --

14 MR. GENTILE: We don't need to.

15 BY MR. GENTILE:

16 Q So if you're looking at this photograph, when you said this chair
17 right here, you meant the chair that's on the left-hand side of the photograph --

18 A Correct.

19 Q -- in front of the --

20 A Yes.

21 Q And the one that Anabel sat in is this gray upholstered chair that's
22 behind the desk?

23 A Correct.

24 Q Okay. How many times were you -- I'd like you to stay down here
25 for a minute. How many times were you in that office that night?

1 A Two that I recall.

2 Q Okay. And was Anabel in the office both times?

3 A Yes.

4 Q When you walked into the office the first time, had your clients
5 been picked up yet?

6 A No.

7 Q When you walked into the office the second time, had your clients
8 been picked up yet?

9 A Yes.

10 Q And about what time was that second time?

11 A I would say probably around after 11 I believe it was.

12 Q And when you came in that time, who was in the office?

13 A Anabel and Mr. H.

14 Q And where was Anabel seated?

15 A Anabel was behind the desk.

16 Q And where was Mr. H?

17 A I don't know where he was when -- well, the -- you can't see in
18 this photo right here, but up this way, like this actual walkway goes through to
19 a door, and then there's a hallway and another door right there. I came in
20 through the outer set of doors and then knocked on this -- the door that leads
21 into this room right here, and he came and got me.

22 Q All right. So after you entered the room, how many people were
23 in the room on that occasion after 11 o'clock?

24 A Myself, Mr. H, and Anabel.

25 Q Anybody else?

1 A Not that I recall. I was pretty much focused on them.
2 Q All right. And what did you do after Mr. H let you in?
3 A He sat down. I kind of plopped down in the chair --
4 Q Which chair did you sit in.
5 A I sat in this chair right here.
6 Q Okay. So you sat in the chair that's on the right?
7 A Correct.
8 Q And he sat in the chair that's on the left?
9 A That is correct.
10 Q And Anabel was in the chair behind the desk?
11 A Correct.
12 Q Okay. How long were you in the office at that time?
13 A I'd say maybe 15 minutes.
14 Q And is that the last time that you were in the office that night?
15 A Yes.
16 Q Did Anabel ever get out of her chair?
17 A Not that I recall.
18 Q Do you ever recall seeing Mr. H get out of his chair and walk
19 anywhere with Anabel?
20 A No, I do not.
21 Q Did you ever see Anabel walk into the kitchenette area?
22 A Not that -- not that night that I recall.
23 Q Okay. You can resume the stand.
24 THE COURT: Maybe this would be --
25 MR. GENTILE: I think this would be a good place to stop.

1 Did I move this into evidence?

2 THE COURT: Yeah, you did, and it was admitted.

3 Ladies and gentlemen, this is probably a good time to take our
4 evening recess. We'll reconvene tomorrow morning at 9:30.

5 And, sir, you are instructed to be here tomorrow morning no later
6 than 9:30. During the recess, please don't discuss your testimony with
7 anybody else who may be called as a witness in this case. Thank you, and you
8 are excused. And if you need to talk to Mr. Gentile, you can wait for him out in
9 the hallway.

10 Ladies and gentlemen, as you just heard, we'll be reconvening at
11 9:30 tomorrow morning. Once again, you're reminded of the admonishment
12 that you're not to discuss this case or any subject matter relating to the case
13 with each other or with anyone else. Do not read, watch, or listen to any
14 reports of or commentaries on any subject connected with the trial. Don't do
15 any independent research on the trial by the internet or any other medium.
16 Don't visit any of the locations at issue, and please don't form or express an
17 opinion on the case.

18 Once again, leave your notepads on your chairs. I would like Juror
19 No. 11 to please remain in the courtroom. The rest of the jury can go ahead
20 and exit through the double doors, and we'll see you all back here at 9:30.

21 If anyone has any pending questions, please hand those to Jeff on
22 your way out.

23 (Jury recessed 6:55 p.m.)

24 THE COURT: Sir, I understand that there's an issue if we go past
25 Wednesday for your employment, and I know we've discussed this, but that

1 was weeks ago, and I don't have my notes from jury selection. So could you
2 refresh my memory as to what the conflict is if we go past Wednesday.

3 JUROR NO. 11: Absolutely. I'm the director of security for a major
4 security company, and I handle all the contracts. We have two major shows in
5 Palm Springs, California Thursday and Friday night. The major shows are
6 bringing in the managers and the tour agents and everybody that's got to do
7 with those shows, and I'm going down there to make the shows look good, but
8 because we're all coming together we're going to discuss our future contracts
9 with those shows for our company. And it just doesn't pertain to those two
10 talents. It's the talent for AG, Clear Channel, all those.

11 THE COURT: And the two shows are what?

12 JUROR NO. 11: Billy Joel on Thursday night and Match Box 20 on
13 Friday night.

14 THE COURT: Okay.

15 JUROR NO. 11: We have a third show, but I'm not staying for the third
16 show.

17 THE COURT: Okay. And your company, your guys are the ones that
18 are doing security for both of these concerts?

19 JUROR NO. 11: We're not doing internal security for them; we're going
20 down for consultants and for security for the talent. We're contract for the
21 talent.

22 THE COURT: For the talent, so to make sure nothing happens to the
23 star or the band, okay.

24 JUROR NO. 11: That is correct. And on top of that, it's the first show
25 for that venue. It's a brand new venue. So we've also talked to the director of

1 entertainment, director of security, and we're going down there for that also.

2 THE COURT: Okay. And let me ask you this. You will be back then
3 Saturday?

4 JUROR NO. 11: I would.

5 THE COURT: And you're not actually working the shows; it's just that
6 you need to be down there in what, a consulting capacity or?

7 JUROR NO. 11: We are working the shows for the talent.

8 THE COURT: I mean, are you personally going to be working the show?

9 JUROR NO. 11: Yes.

10 THE COURT: Okay. And what does that work entail?

11 JUROR NO. 11: We are personal security for the talent.

12 THE COURT: No, I mean you personally, what do you do?

13 JUROR NO. 11: My job?

14 THE COURT: Yeah.

15 JUROR NO. 11: I'm the director of security.

16 THE COURT: No. No. I guess I meant it in a really, really basic way,
17 like you direct guys around the stage or you -- what do you do?

18 JUROR NO. 11: Once the talent arrives at the hotel, it's my
19 responsibility to make sure they get to point a, point b, point c, point d, and
20 they're arriving at noon on Thursday.

21 THE COURT: And on an unrelated issue, my bailiff informs me that you
22 think you -- and this was before he testified that he'd worked at the Mandalay
23 Bay, that you recognized the last witness from the Mandalay Bay?

24 JUROR NO. 11: I was out in the lobby and I saw the gentleman, and I
25 put the name PK together with the face, and I do work with him on concerts at

1 Mandalay Bay.

2 THE COURT: Okay. So you currently work with him?

3 JUROR NO. 11: Whenever he works -- I'm at every concert pretty
4 much, and he comes in and does work for the concert tour, like he said, the
5 lighting, things like that. He's one of the -- I've had him in numerous shows in
6 the past eight years.

7 THE COURT: Do you directly work with him, or is it more you recognize
8 him as somebody who does the production, lighting and whatnot?

9 JUROR NO. 11: He's not security so I don't directly work with him.
10 He's roaming around backstage. He has come up to me several times and said
11 we have a problem. I need you, you know, a security guy to do this or
12 whatever, and we would.

13 THE COURT: Okay. Anything about that relationship, the fact that you
14 know him and you have seen his work firsthand that would impact your ability
15 to be fair and impartial to either side in this case?

16 JUROR NO. 11: No.

17 THE COURT: All right. Does anyone have any follow-up questions for
18 Juror No. 11?

19 MR. DI GIACOMO: I have just a couple.

20 First, Mr. Handley, during the time that you've had interaction with
21 him, have you ever formed an opinion as to his truthfulness or untruthfulness?

22 JUROR NO. 11: I've never formed -- no.

23 MR. DI GIACOMO: Never had an occasion to judge that one way or the
24 other?

25 JUROR NO. 11: My opinion is he's a very honest guy. When I've

1 worked with him he's helped me take care of issues in my direction and my
2 areas.

3 MR. DI GIACOMO: My question is for you then, based upon your
4 interactions with this individual, can you set that aside and listen to the
5 evidence that the evidence establishes that he's not credible, would you be able
6 to consider that despite what your prior contact was with him?

7 JUROR NO. 11: I know that -- this is my answer to your question. I
8 know that he's very credible in my eyes from what I've seen in the past.

9 MR. DI GIACOMO: So based upon --

10 JUROR NO. 11: He's never done anything wrong to me.

11 MR. DI GIACOMO: So what you're saying is before you've come in here
12 you've assessed him as a credible individual before you ever walked into a
13 courtroom?

14 JUROR NO. 11: I would say yes.

15 MR. DI GIACOMO: Now let's talk about your other -- your other problem
16 is this isn't like you're some security guard on the floor. You have the
17 responsibility for protecting Billy Joel and Match Box 20?

18 JUROR NO. 11: That's correct.

19 MR. DI GIACOMO: And you had this previous engagement set up for
20 some time now, correct?

21 JUROR NO. 11: Going on almost a month.

22 MR. DI GIACOMO: And we only asked you through last Friday, correct?

23 JUROR NO. 11: That is correct.

24 MR. DI GIACOMO: And it would be a massive hardship for you to miss
25 that on Thursday and Friday?

1 JUROR NO. 11: Absolutely because it's a future contract involved, and
2 everybody's flying in to talk about this. They wouldn't typically fly in for this
3 just to see him.

4 MR. DI GIACOMO: Thank you very much, sir.

5 THE COURT: Are you the only guy that meets on this contract, or do
6 you have like a partner or an associate that's also involved in negotiating the
7 contract, or is it just you?

8 JUROR NO. 11: Just me.

9 THE COURT: Just you?

10 JUROR NO. 11: That's correct.

11 THE COURT: Any follow-up? Any other questions?

12 MR. GENTILE: Just one question. Well, maybe it might be more than
13 one question.

14 What time must you leave in order to get there for your --

15 JUROR NO. 11: I'm driving down. I have to be there by noon.

16 MR. GENTILE: On Thursday?

17 JUROR NO. 11: On Thursday. So Palm Springs is four and a half hours,
18 7:30, 8:00 in the morning I planned on leaving. And, again, I apologize but I
19 didn't know this was going to go this far.

20 THE COURT: No, and we didn't know, and you probably mentioned it,
21 and we said, oh, no. There's not a problem.

22 JUROR NO. 11: And I didn't mention it because I didn't think it was
23 going to go this far. That's why I didn't create any issues because there was
24 enough issues in the courtroom. But coming last Thursday, Friday, that's when
25 I mentioned to Jeff that I see there's an issue coming up here.

1 THE COURT: All right. Let me go ahead and have you exit the
2 courtroom and just hang around in the vestibule or in the hallway for a moment.

3 JUROR NO. 11: And of course leave this on my chair, right?

4 THE COURT: Yes, leave it on your chair.

5 JUROR NO. 11: And again, I can supply the hotels that I'm staying at.

6 THE COURT: No, I believe you. I mean, you haven't sat here for all
7 these days to come up with an excuse at the eleventh hour. I completely
8 believe you.

9 (Juror exited the courtroom.)

10 THE COURT: Well, I know the State doesn't want him now because he
11 knows --

12 MR. DI GIACOMO: Well, he obviously has a bias, but I also think -- but
13 in legitimate fairness and before we ever knew the bias, I said this to the Court,
14 we told these people last Friday. This is a big deal. None of us get to hang out
15 with Billy Joel, first of all for a job. I mean, make him get some signatures or
16 some autographs, but the truth of the matter is that it's only fair and
17 appropriate that he be allowed to go.

18 We have three alternates, and we're in the third week and haven't
19 lost anybody.

20 THE COURT: My whole thing -- I'm not going to kick him for bias -- my
21 whole thing is we told him, you know, we didn't indicate it would be this long.
22 I mean, we can make him come in tomorrow and sit through everything
23 knowing we're not going to finish tomorrow, or we can excuse him now and
24 not make him come back tomorrow. So that was why I excused him right now
25 to see what people's impression was on that..

1 MR. ADAMS: Judge, the only thing I would add is earlier when we were
2 talking about timing, I took an opposing to Mr. Gentile about trying to power
3 through, and what had motivated my thought was to try to be able to keep the
4 juror, this juror. If he is going to be released and --

5 THE COURT: Well, we can keep him till tomorrow and see where we
6 are, but honestly --

7 MR. ADAMS: It's not --

8 THE COURT: -- this is not going to be a 30- or 40-minute deliberation I
9 don't think.

10 MR. ADAMS: No. And so I withdraw my request to argue tomorrow
11 based on if he's not going --

12 THE COURT: Well, we're still going to argue tomorrow because
13 otherwise they'll get this case in the afternoon on Thursday, and they might
14 have to come back Friday. Their whole concern was not to have to come back
15 Friday at this point. So we're still going to power through tomorrow.

16 Now, if we finish arguments at 6:30, they're probably just going to
17 go home and then come back Thursday to deliberate. But now if they have a
18 rebuttal case, we may be doing argument Thursday morning anyway.

19 I just don't see finishing with this guy, doing the gal, the California
20 guy, the -- Mr. Hidalgo Junior, settling jury instructions, arguing, and the juror
21 being able to deliberate plus the bathroom breaks.

22 MR. GENTILE: Well, you know, frankly --

23 THE COURT: I mean, I can have him come back tomorrow; that's why I
24 excused him like I just said. And then just tell him tomorrow, look, we really
25 hoped to get it done, but we're going to make you the alternate.

1 MR. ADAMS: May we have just a moment.

2 THE COURT: Yeah, I mean, that may be the better way to do it.

3 MR. PESCI: Even if that were to happen --

4 MR. DI GIACOMO: To save us some time, do you want to canvass the
5 two defendants, or do you want to do that in the morning?

6 THE COURT: No, I'm not going to canvass them till right before they're
7 going to be -- because Mr. --

8 MR. PESCI: The State's --

9 THE COURT: I mean, I prefer to do it right before the last --

10 MR. DI GIACOMO: I was just suggesting that that's --

11 THE COURT: No. No. I mean, I just --

12 MR. PESCI: The other concern the State has in this juror, Judge, is even
13 if we power through tomorrow, there could be a desire to get a quick verdict
14 because he can't be here the next day.

15 THE COURT: That's a concern for either side, I think.

16 MR. DI GIACOMO: Oh, I know, it's a concern for everybody, but it's
17 just a concern. Nobody wants a jury to make a determination based on
18 anything other than the facts.

19 MR. GENTILE: Well, there's two separate issues. One is whether he
20 comes back, and the other is with all due respect because you've been so
21 patient, it seems as though there's some sort of a rush to get a judgment in this
22 case at this point, and that's a separate issue.

23 THE COURT: Well, no. I mean, I don't think there's a rush, but I think,
24 not the Court, but, you know, in the beginning, in the beginning I think, you
25 know, people wanted to break at 4:45 as opposed to going to 6 like the Court

1 wanted to do. And because an hour here, 30 minutes there, this and that,
2 we've now reached a place where we're way behind. And so it's not, you
3 know, like I said, it doesn't matter to me. I'm happy -- it's easier for me
4 honestly to have a nice long lunch and come and do this in the afternoon and
5 quit at 5.

6 I understand what you're saying, but it is what it is, and --

7 MR. GENTILE: I have a real --

8 THE COURT: I mean, I have no problem bringing the jury in Thursday
9 morning. I don't want a jury with this guy worried about missing a contract to
10 come back with a wrong verdict however it is because they're not willing to
11 deliberate. So, I mean, I think that's why Thursday night I'd be inclined to -- I
12 mean Wednesday if we finish, I'd be inclined to make him come back Thursday
13 because then they've taken off work and they have the whole day --

14 MR. GENTILE: When you say if we finish, if we finish what?

15 THE COURT: Arguments.

16 MR. GENTILE: You really think that we're going to be able to get
17 through these witnesses, a rebuttal case, a jury instruction settlement and all of
18 that argument tomorrow?

19 MR. DI GIACOMO: Well, I mean, at some point you might say
20 something different, but for right now, let's just -- why don't we just start and
21 see where we get to.

22 THE COURT: Well, I mean, I don't know if the State's really going to do
23 a rebuttal case, and if I think the rebuttal is tangential to anything important, I
24 may say, you know what, I don't think that there's really enough to rebut there.
25 It's a minor point. I don't know what they're going to put on.

1 MR. GENTILE: They have a statement --

2 THE COURT: If it's a major point then they're allowed to do it.

3 MR. GENTILE: They have a statement that they took from Mr. Handley
4 that I have requested and counsel has refused to give it to me. I grant you that
5 he is not on their list. So I suppose we could get into that issue. But that's
6 what that's about.

7 THE COURT: Okay. Well, in terms of excusing this juror today or
8 making him come back for Wednesday, the State's preference is to excuse him
9 today. Defense's preference is what?

10 MR. ADAMS: Judge, I would say if you -- if we got through everything
11 and all the spheres came together and we got it to the -- finished argument
12 magically by 7 somehow, if you're going to break at that point regardless of
13 what the jury wants to do, I'd say release him. I mean, let's not make the guy
14 a captive. But if the Court might tell the jurors, let the bailiff know what your
15 preference is if you guys want to deliberate well into the night tonight then
16 we'll start deliberation.

17 THE COURT: Well, we'll let them deliberate a little bit, but I -- I'm not
18 going to keep them here till 1 or 2 in the morning.

19 MR. ADAMS: I'm not saying keep them. If you put the ball in their
20 court they may choose to stay.

21 THE COURT: Well, except here's the deal. It's not just the bailiff who
22 has to stay. I don't mind staying, but the Court's whole staff has to stay until
23 1 and 2 in the morning, and, you know, these gals start at 7, and it's really not
24 fair to my staff.

25 MR. ADAMS: I'm not lobbying for that.

1 THE COURT: No. No. No. I'm just saying this is not a department
2 where people work until 1 and 2 in the morning. Some departments are
3 different. I just don't -- I just think it's inhuman to do that. You know, 9
4 o'clock at night, 10 o'clock at night I might, but my fear would still be -- I guess
5 we could make him come back tomorrow and see where we are and go from
6 there.

7 MR. GENTILE: Well, I think probably better than anything would be to
8 ask the juror if he wants to do that.

9 THE COURT: All right.

10 MR. GENTILE: And if the case can go to the jury tomorrow and they
11 deliberate into the evening --

12 MR. PESCI: We're talking about all the stars lining up to that. We
13 maybe end at 7 o'clock and then we're going to send him home; how is this
14 guy even going to be a part of that process? Why are we --

15 MR. DI GIACOMO: Yeah, I mean, why are we even -- and I could tell
16 the Court, I know the Court doesn't find he should go for bias, I can tell you
17 that the credibility of Pee-Larr Handley is going to be something hotly contested
18 in this case.

19 THE COURT: Yeah. I mean, all he said though really, if you listened to
20 him is well, in his dealings with Pee-Larr Handley he didn't, you know, I mean,
21 he didn't find him to be dishonest.

22 MR. DI GIACOMO: If a juror had said during our voir dire one of your
23 main witnesses --

24 THE COURT: You would have kicked him.

25 MR. DI GIACOMO: You would have kicked him, right?

1 THE COURT: Right.

2 MR. DI GIACOMO: Now we have an additional problem with him. I
3 don't understand why he's still here when we still have three alternates.

4 THE COURT: All right. Bring Mr. --

5 MR. GENTILE: Adkins.

6 THE COURT: Thank you so much.

7 Sir, we've gone round and round about this and the odds of
8 whether or not we think realistically we're going to be able to finish and so you
9 can participate in deliberations tomorrow, and obviously we don't want you to
10 feel rushed, and we don't want that to impact your verdict one way or the
11 other. And candidly in going over the scheduling and everything like that, I
12 mean, the odds of us getting completely finished to full deliberation and verdict
13 by tomorrow at sometime before, you know, 10 o'clock at night is very remote.
14 And so I think to be fair to you I'm going to go ahead and excuse you now.

15 I just want to thank you and apologize to you that you've spent all
16 of these days here and it's kind of for naught. There are alternates here; you
17 were not one of the alternates. You were one of the original jurors. So if it's
18 any consolation, some of the alternates may be excused anyway. But now you
19 can see the importance of having alternates to give us that flexibility. And I
20 want to thank you for your patience and your willingness to serve and your
21 attentiveness and all of that.

22 You know, you probably won't see any of the other jurors on your
23 way out, but if you do and they ask you anything about what we've discussed,
24 please don't discuss anything like that with them. Okay.

25 JUROR NO. 11: Absolutely. I just want to thank everyone here,

1 including you, Your Honor, and everyone. I appreciate you all.

2 THE COURT: All right. And like I said, I really appreciate --

3 JUROR NO. 11: It was an experience here.

4 THE COURT: Feel free to contact us if you're interested in what the
5 verdict is.

6 JUROR NO. 11: Okay.

7 THE COURT: Thank you very much, sir.

8 JUROR NO. 11: And again, I apologize to everyone here.

9 THE COURT: No. You know what, it's not your fault at all because we,
10 you know, over and over again said it would definitely be over by Wednesday,
11 and we had hoped -- I know you brought this problem to my bailiff's attention --
12 honestly, I had hoped we would do closings today and give it to the jury for you
13 to be deliberating tomorrow or do closings in the morning tomorrow, and you
14 guys would get it in the afternoon in plenty of time. You know, it just isn't
15 panning out that way unfortunately.

16 JUROR NO. 11: And I do want to give kudos to Jeff for not saying
17 anything about all the questions he's been asked. They ask him a lot of
18 questions, and he's like, I can't say anything. So I just wanted to let you know.

19 THE COURT: All right. So he's doing good.

20 JUROR NO. 11: He's doing good.

21 THE COURT: All right. Thank you very much.

22 MR. ADAMS: Judge, are you asking us not to speak with him? I mean,
23 we'll do whatever you instruct.

24 MR. DI GIACOMO: I don't think it's ever appropriate to speak to --

25 THE COURT: Typically until after the verdict. I mean, obviously after

1 the verdict you can.

2 JUROR NO. 11: Speaking to who?

3 MR. DI GIACOMO: We shouldn't be speaking to you until after the
4 verdict.

5 JUROR NO. 11: I don't think you'll see me.

6 THE COURT: Thank you very much.

7 We'll see you back here at 9:30 tomorrow.

8 (Recess taken 7:16 p.m.)

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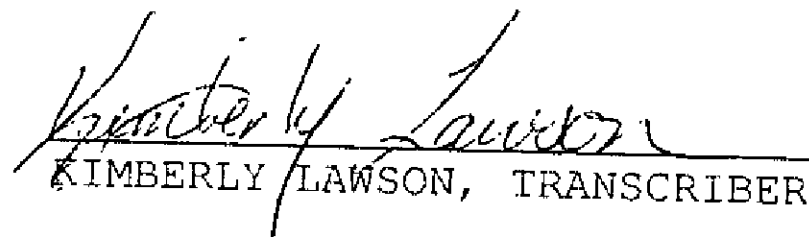
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ATTEST: I HEREBY CERTIFY THAT I HAVE TRULY AND CORRECTLY
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ABOVE-ENTITLED CASE TO THE BEST OF MY ABILITY.


KIMBERLY LAWSON, TRANSCRIBER

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