

1 VAN NUYS, CALIFORNIA; WEDNESDAY, DECEMBER 13, 1995

2 9:10 A.M.

3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED.)

5

6 (THE FOLLOWING PROCEEDINGS WERE

7 HELD IN OPEN COURT, OUT OF THE

8 PRESENCE OF THE JURY:)

9

10 THE COURT: THE JURY ISN'T HERE, BUT THE

11 DEFENDANTS ARE HERE WITH THEIR COUNSEL; PEOPLE ARE

12 HERE.

13 WHAT IS IT THAT YOU WANT TO DISCUSS?

14 MS. NAJERA: YOUR HONOR, YESTERDAY THE COURT

15 EXPRESSED SOME CONCERNS ABOUT THE TESTIMONY

16 INVOLVING EVIDENCE THAT CAME IN AS TO LYLE MENENDEZ

17 ONLY; SPECIFICALLY, THE CONVERSATION WITH MARZI

18 EISENBERG. AND I BELIEVE YESTERDAY THE COURT

19 MENTIONED THAT AS TO ERIK MENENDEZ THERE WAS A

20 QUESTION OF WHETHER OR NOT IT WOULD BE RELEVANT; AND

21 THUS, IT WOULD BE EVIDENCE THAT WOULD BE MORE

22 APPROPRIATELY PUT ON BY THE DEFENDANT, LYLE

23 MENENDEZ.

24 I ASKED MR. LEVIN THIS MORNING IF ERIK

25 MENENDEZ WAS GOING TO BE CALLED AS A WITNESS BY LYLE

26 MENENDEZ, AND HE TOLD ME NO.

27 MR. LEVIN: I DIDN'T SAY THAT.

28 MS. NAJERA: I MEAN, I ASKED HIM WHO WAS

1 GOING TO PUT ON THE EVIDENCE AND HE SAID IT WILL BE
2 HIM. AND I BELIEVE YESTERDAY THE COURT VIEWED THIS
3 AND SAW THERE WAS A POTENTIAL FOR A PROBLEM THERE,
4 AND I THINK THAT THERE STILL IS.

5 MR. LEVIN: YOUR HONOR, ERIK MENENDEZ IS
6 TESTIFYING IN THE TRIAL OF LYLE AND ERIK MENENDEZ.
7 HE'S NOT -- THIS IS A JOINT TRIAL AND I SEE NO BAR TO
8 ERIK MENENDEZ TESTIFYING TO THOSE EVENTS THAT HE SAW
9 AND THOSE EVENTS THAT HE HAS PERSONAL KNOWLEDGE OF
10 THAT HAVE BEEN INTRODUCED BY THE PROSECUTION IN THE
11 TRIAL IN THEIR CASE-IN-CHIEF; SPECIFICALLY, THE
12 CONVERSATION IN THE LIMO AND THE BOOTS AND SHOE
13 INCIDENT.

14 THE COURT: WELL, THE CONVERSATION WE HAD
15 WHEN THIS FIRST WAS BROUGHT UP A COUPLE OF DAYS AGO
16 RELATED TO WHY IS IT RELEVANT TO THE CASE OF ERIK
17 MENENDEZ. AND I STILL HAVEN'T HEARD WHY IT IS.

18 MR. LEVIN: WELL, IT'S RELEVANT TO THE TRIAL
19 OF BOTH LYLE AND ERIK MENENDEZ AND THIS WITNESS IS
20 TESTIFYING IN THAT TRIAL. ANY ISSUES BROUGHT IN BY
21 THE PROSECUTION IN THEIR CASE-IN-CHIEF, WHICH WE
22 HAVE RELEVANT EVIDENCE THAT REBUTS, REFUTES,
23 EXPLAINS, EXCULPATES, IS RELEVANT EVIDENCE.

24 THE COURT: RELEVANT TO WHAT? YOU JUST SAID
25 TWO DIFFERENT THINGS. YOU SAID IT'S EVIDENCE
26 OFFERED -- IT'S NOT OFFERED AS TO YOUR CLIENT.
27 MR. LEVIN: IT IS OFFERED AS TO OUR CLIENT
28 INFERENTIALLY. IT'S OFFERED IN THE TRIAL. THE

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1 PROSECUTION --

2 THE COURT: COME ON. THAT'S NOT TRUE. JUST
3 BECAUSE IT'S OFFERED IN THE TRIAL, DOESN'T MEAN IT'S
4 OFFERED ON BEHALF OF YOUR CLIENT. LET'S GET TO WHY
5 IS IT RELEVANT TO YOUR CLIENT.

6 MR. LEVIN: I BELIEVE IT IS RELEVANT TO OUR
7 CLIENT. I BELIEVE THAT IT -- FIRST OF ALL, IT IS
8 SOMETHING THAT ERIK MENENDEZ WAS -- ERIK MENENDEZ WAS
9 PRESENT DURING THE CONVERSATION. SO HE IS A
10 WITNESS. WHETHER A PARTICULAR PIECE OF EVIDENCE HAS
11 TO BE RELEVANT TO A DEFENDANT'S DEFENSE IS I DON'T
12 THINK SUFFICIENT ANALYSIS TO DETERMINE THE
13 ADMISSIBILITY OF EVIDENCE. ERIK MENENDEZ IS A
14 WITNESS AND HE'S A WITNESS TO AN EVENT THAT OCCURRED
15 BASED ON SOME EVIDENCE ADDUCED AT THAT TRIAL BY THE
16 PROSECUTION. IN THAT SENSE, I SUPPOSE IF WE WANTED
17 TO BE HYPER-TECHNICAL WE'D SAY HE'S BEING CALLED AS
18 A WITNESS ON THAT ISSUE TO AN EVENT CONCERNING LYLE

19 MENENDEZ; NOTHING MORE, NOTHING LESS.

20 THE COURT: WELL, THAT'S NOT BEING

21 HYPER-TECHNICAL. THAT'S WHAT IT IS. WHY IS IT

22 HYPER-TECHNICAL? YOU'VE NOT YET SAID ONE REASON WHY

23 IT WOULD BE RELEVANT TO YOUR CLIENT'S CASE OTHER

24 THAN HE WAS A WITNESS. HE'S BEEN A WITNESS TO A LOT

25 OF THINGS THAT OCCURRED THAT HE HASN'T TESTIFIED

26 ABOUT.

27 MR. LEVIN: I UNDERSTAND. BUT I THINK WHEN I

28 SAY RELEVANT TO MY CLIENT'S CASE, I VIEW THE

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1 PROSECUTION'S THEORY IN THIS CASE AS THAT BOTH THE

2 DEFENDANTS OPERATED IN CONCERT; THAT THERE IS A

3 CONSPIRACY ALLEGATION. THERE'S -- THERE IS -- THE

4 RECORD IS REplete WITH THE PROSECUTION'S INNUENDOS

5 AND INFERENCES THAT ERIK AND LYLE MENENDEZ ACTED IN

6 CONCERT.

7 FOR EXAMPLE, THE JURY COULD INFER THAT

8 AS ERIK MENENDEZ SAT IN THE LIMOUSINE NEXT TO LYLE

9 MENENDEZ, AND IF THEY BELIEVE MARZI EISENBERG'S

10 TESTIMONY, THEY INFERENTIALLY ARE GOING TO -- EVEN

11 THOUGH THE COURT ADMONISHED THE JURY WITH RESPECT TO

12 A LIMITING INSTRUCTION -- THEY STILL ARE GOING TO

13 TAKE THAT EVIDENCE IN THE CONTEXT OF THE WAY IT WAS

14 PRESENTED. AND I THINK THAT THE FACT THAT WE HAVE A
15 JOINT TRIAL, THAT THE LINES ARE BLURRED WHEN WE'RE
16 TALKING ABOUT CONSPIRACY THEORIES AND THESE HOST OF
17 LIMITING INSTRUCTIONS AND WHERE THEY MAY COME IN,
18 ARE SOMEWHAT BLURRED IN TERMS OF DISTINCTION WITH
19 RESPECT TO THE JURY. THAT'S ONE REASON WHY I
20 BELIEVE IT INFERENTIALLY SHOULD COME IN WITH RESPECT
21 TO ERIK MENENDEZ.

22 BUT I THINK, MORE SPECIFICALLY, ON A
23 LEGAL BASIS IT COMES IN TO LYLE MENENDEZ AS ERIK
24 MENENDEZ BEING A WITNESS TO AN EVENT THAT OCCURRED
25 IN HIS PRESENCE AND TENDS TO REFUTE AND REBUT THAT
26 EVIDENCE WITH RESPECT TO THAT EVIDENCE AS IT CAME
27 INTO LYLE MENENDEZ.

28 THE COURT: NOBODY IS DISPUTING THAT. NOBODY

43708

1 IS DISPUTING THE LATTER HALF OF WHAT YOU SAID AS TO
2 RELEVANCE, AS TO LYLE MENENDEZ. THE ONLY ISSUE IS
3 AS TO HOW IT IS BROUGHT OUT, AND IF IT'S BROUGHT OUT
4 BY COUNSEL FOR ERIK MENENDEZ, I'VE ANALYZED IT AND
5 THOUGHT OF IT BECAUSE THIS IS REALLY A MINOR POINT
6 THAT ONLY BUBBLES TO THE SURFACE WHEN THE LAWYERS
7 BRING IT TO MY ATTENTION. BUT IF IT IS BROUGHT OUT
8 BY COUNSEL FOR ERIK MENENDEZ POTENTIALLY, I SUPPOSE,

9 THE SCOPE OF THE CROSS-EXAMINATION OF ERIK MENENDEZ
10 MIGHT BE BROADER BECAUSE OF THAT, THAN IF IT WAS
11 BROUGHT OUT BY COUNSEL FOR THE CODEFENDANT, WHO'S
12 NECESSARILY LIMITED IN THE SCOPE OF THAT
13 CROSS-EXAMINATION BY THE SCOPE OF HIS DIRECT
14 EXAMINATION.

15 (ATTORNEYS ABRAMSON AND LEVIN
16 CONFER SOTTO VOCE.)

17

18 MR. LEVIN: VERY WELL, YOUR HONOR. I DON'T
19 WANT TO RISK THAT AND SO --

20 THE COURT: I DON'T KNOW IF THAT'S A
21 REALISTIC PROBLEM OR NOT. I REALLY HAVE NO WAY OF
22 ANALYZING THAT.

23 MR. LEVIN: I NOW AM CONCERNED ABOUT THAT AS
24 WELL. I THINK PERHAPS THE BETTER WAY TO DO IT WOULD
25 BE TO HAVE MR. GESSLER PUT ON THAT LIMITED PIECE OF
26 EVIDENCE. I JUST THOUGHT IT WOULD BE LESS -- I
27 THOUGHT IT WOULD JUST BE BETTER FOR COURT
28 CONSUMPTION OF TIME; THAT IT WOULD BE JUST A 352.

43709

1 THE COURT: WITHOUT THE EXPLANATION. WE'LL
2 SPEND MORE TIME ON THE EXPLANATION AS TO WHY YOU
3 WANT TO SAVE TIME.

4 MR. LEVIN: EXACTLY.

5 THE COURT: LET'S GET BEYOND THAT.

6 ARE WE READY TO PROCEED THEN?

7 MR. LEVIN: YOUR HONOR, THERE IS ONE MORE
8 ISSUE. WITH RESPECT TO THE DANGLING D.M.V. RECORD
9 ISSUE, WE LEFT THAT SORT OF IN LIMBO. I HAVE
10 UNDERTAKEN LEGAL RESEARCH CONCERNING D.M.V.
11 RECORDS.

12 FIRST OF ALL, THE EXHIBIT THAT WAS
13 OFFERED WAS AN EXHIBIT THAT HAD BEEN PROVIDED TO THE
14 DEFENSE BY THE PROSECUTION. IT IS A COPY OF ERIK
15 MENENDEZ' DEPARTMENT OF MOTOR VEHICLES RECORD, AND
16 UNDER EVIDENCE CODE SECTION 1280, IT IS A PUBLIC
17 RECORD, TO BE DISTINGUISHED FROM A BUSINESS RECORD.
18 AND UNDER THE LAW, AS I UNDERSTAND IT, THERE ARE
19 DIFFERENT RULES WHICH APPLY TO THE INTRODUCTION OF
20 PUBLIC RECORDS.

21 THE COURT: IS THERE SOME AUTHENTICATION OF
22 THE DOCUMENT?

23 MR. LEVIN: WE DO NOT HAVE A CERTIFIED COPY;
24 HOWEVER, IT WAS THROUGH THE EFFORTS OF LAW
25 ENFORCEMENT TO GET -- I CAN'T RUN A D.M.V. RECORD. I
26 WOULD HAVE TO HAVE THE COURT ORDER DETECTIVE ZOELLER
27 TO TURN OVER THE ORIGINAL, WHICH HE RAN. BUT I JUST
28 CAN'T ENVISION THE PROSECUTION MAKING US GO THROUGH

1 THIS PROCESS WHEN THEY KNOW THAT THIS IS ERIK
2 MENENDEZ' RECORD AND CAN VERIFY IT. IF THAT'S WHAT
3 YOU WISH TO DO, IF IT COMES DOWN TO A POINT OF
4 AUTHENTICATION AND WE HAVE TO CALL PEOPLE FROM
5 D.M.V. UNNECESSARILY, I SUPPOSE WE WILL. BUT THIS
6 IS A SITUATION WHERE THEY KNOW THIS IS AN AUTHENTIC
7 RECORD, AND I BELIEVE THAT THE MANNER THAT IT WAS
8 UTILIZED IN THE FIRST TRIAL, THE WAY --

9 THE COURT: HOW WAS IT AUTHENTICATED IN THE
10 FIRST TRIAL? BY STIPULATION OR WHAT, NO OBJECTION?

11 MR. LEVIN: NO ONE OBJECTED. IT WAS JUST
12 PRESENTED.

13 THE COURT: ALL RIGHT. SO I DON'T KNOW IF
14 THE PEOPLE ARE STILL OBJECTING TO IT OR NOT.

15 MR. CONN: WE'LL SHOW IT TO DETECTIVE
16 ZOELLER, AND IF THERE'S NO PROBLEM WITH IT, PERHAPS
17 WE CAN STIPULATE TO IT.

18 MR. LEVIN: COULD HE LOOK AT IT NOW.

19 THE COURT: WHY DON'T YOU GIVE THEM THE
20 EXHIBIT. SEE IF HE CAN LOOK AT IT NOW.

21 DOES THE D.M.V. RECORD INDICATE WHAT
22 HAPPENED IN COURT AFTER THAT CITATION WAS ISSUED?

23 MR. LEVIN: NO, YOUR HONOR.

24 THE COURT: WHEN WAS THIS CITATION ISSUED,
25 ACCORDING TO THE RECORD?

26 MR. LEVIN: I BELIEVE IT WAS JULY 1989, JULY
27 7TH, IF MY MEMORY --

43711

1 MS. ABRAMSON: I THINK THAT COURT DATE CAME
2 AFTER HE WAS IN CUSTODY BECAUSE I MADE A WHOLE
3 SERIES OF APPEARANCES WITH HIM.

4 THE COURT: IT SHOULD HAVE BEEN SCHEDULED
5 LONG BEFORE THAT.

6 MS. ABRAMSON: IT MIGHT HAVE BEEN, BUT I
7 THINK IT WENT TO WARRANT. I THINK IT WAS A WARRANT,
8 AT THAT POINT, IT WAS A 40508. I THINK THE RECORD
9 SHOWS A SEPTEMBER DATE FOR THE ISSUANCE OF A
10 WARRANT.

11 MR. LEVIN: I'LL HAVE TO LOOK.

12 MS. TOWERY: IT'S 366.

13 MS. ABRAMSON: WE DO HAVE A VIDEOTAPE, A
14 NARRATIVE OF THE HOUSE.

15 THE COURT: IF WE CAN HURRY UP HERE. WE HAVE
16 THE JURY WAITING.

17 MR. CON: AFTER DISCUSSING IT WITH MS. NAJERA,
18 THE PROBLEM WITH THE RECORD IS THAT IT'S HARD TO
19 INTERPRET EXACTLY WHAT IS MEANT BY THIS RECORD. I
20 THINK IT WOULD BE BETTER IF WE GET SOMEBODY FROM
21 D.M.V. TO EXPLAIN THE SIGNIFICANCE OF THE ENTRY ON
22 THIS DOCUMENT, RATHER THAN ASKING THE WITNESS WHAT

23 HE THINKS THIS ENTRY IS.

24 WE WOULD, THEREFORE, DECLINE TO
25 STIPULATE.

26 MR. LEVIN: THE LAW DOES NOT REQUIRE THAT A
27 PUBLIC RECORD BE AUTHENTICATED BY ANY AGENCY. THE
28 EXISTENCE OF THIS RECORD IN ITS PRESENT FORM IS

43712

1 LEGALLY SUFFICIENT FOR ITS INTRODUCTION AS
2 EVIDENCE. THERE'S NO REQUIREMENT IN THE LAW, AS TO
3 THOSE DOCUMENTS UNDER EVIDENCE CODE 1280 THAT
4 CONSTITUTE PUBLIC RECORDS, THAT THEY BE
5 AUTHENTICATED.

6 THE COURT: I GUESS SOMEBODY HAS TO ESTABLISH
7 THIS IS A PUBLIC RECORD, THIS PARTICULAR PIECE OF
8 PAPER. I HAVEN'T SEEN IT, SO I CAN'T REALLY COMMENT
9 ON IT.

10 I REALLY WOULD LIKE TO GET THE JURY OUT
11 AND YOU CAN MOVE ON TO SOME OTHER MATTERS AND YOU
12 CAN GET BACK TO THIS AND LET ME LOOK AT THE D.M.V.
13 RECORDS.

14 MS. ABRAMSON: YOUR HONOR, THERE'S A 1969
15 CASE THAT SAYS JUST THAT, PEOPLE VERSUS --

16 THE COURT: I'LL BE GLAD TO LOOK AT ALL THAT
17 STUFF. I JUST DON'T WANT TO DELAY THE START OF THE

18 TRIAL. IT'S ALREADY 9:22 AND THE JURY'S BEEN IN THE
19 JURY ROOM SINCE 9:00. JUST GIVE IT TO ME AND I'LL
20 BE GLAD TO LOOK AT IT.

21 MR. LEVIN: VERY WELL, YOUR HONOR.

22 THE COURT: LET'S GET THE JURY OUT.

23 (THE JURY ENTERED THE COURTROOM
24 AND THE FOLLOWING PROCEEDINGS
25 WERE HELD:)

26

27 THE COURT: OKAY. THE JURY IS IN THE JURY
28 BOX.

43713

1 GOOD MORNING, LADIES AND GENTLEMEN.

2 WE'RE READY TO RESUME WITH THE TESTIMONY OF THE
3 DEFENDANT, ERIK MENENDEZ.

4 YOU MAY CONTINUE YOUR DIRECT
5 EXAMINATION.

6 MR. LEVIN: THANK YOU, YOUR HONOR.

7

8 ERIK GALEN MENENDEZ,

9 THE WITNESS AT THE TIME OF ADJOURNMENT, RESUMED THE
10 STAND, AND TESTIFIED FURTHER AS FOLLOWS:

11

12 DIRECT EXAMINATION (CONTINUED)

13 BY MR. LEVIN:

14 Q MR. MENENDEZ, TESTIMONY HAS BEEN
15 PRESENTED AT THIS TRIAL BY THE PROSECUTION
16 CONCERNING THE PURCHASE OF A CAMCORDER.

17 DO YOU RECALL THAT TESTIMONY?

18 A YES.

19 Q DO YOU RECALL THE CAMCORDER?

20 A YES.

21 Q DO YOU HAVE PERSONAL KNOWLEDGE WITH
22 RESPECT TO THE EVENTS THAT OCCURRED CONCERNING THE
23 PURCHASE OF THAT CAMCORDER?

24 A I DON'T KNOW WHAT YOU MEAN.

25 Q ALL RIGHT. WHEN WAS -- DID SOMEONE GIVE
26 YOU THE CAMCORDER?

27 A YES.

28 Q AND WHO GAVE YOU THE CAMCORDER?

43714

1 A MY BROTHER.

2 Q LYLE MENENDEZ GAVE YOU THE CAMCORDER?

3 A LYLE.

4 Q APPROXIMATELY WHEN?

5 A TWO DAYS BEFORE LEAVING FOR KALAMAZOO.

6 Q DID LYLE MENENDEZ SAY ANYTHING TO YOU
7 WHEN HE GAVE YOU THE CAMCORDER?

8 A YES.

9 Q WHAT DID HE SAY?

10 A HE SAID THAT HE HAD BOUGHT THE CAMCORDER --

11 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

12 THE COURT: SUSTAINED.

13 MR. LEVIN: YOUR HONOR, I'M ONLY -- STRIKE

14 THAT.

15 THE COURT: THE ANSWER'S STRICKEN, WHATEVER

16 ANSWER THERE WAS.

17 Q BY MR. LEVIN: WERE YOU -- DID YOU HAVE

18 AN IDEA WHAT YOU WERE GOING TO DO WITH THAT

19 CAMCORDER?

20 A YES.

21 Q WHAT WAS IT THAT YOU WERE GOING TO DO

22 WITH THAT CAMCORDER?

23 A I WAS GOING TO BRING IT UP TO KALAMAZOO

24 SO THAT MY PARENTS COULD FILM MY TENNIS MATCHES.

25 Q WAS IT COMMON FOR YOUR FAMILY, FOR YOUR

26 MOTHER AND YOUR FATHER, TO FILM YOU DURING TENNIS?

27 A WE HAD BEEN TALKING ABOUT GETTING A

28 CAMCORDER FOR A LONG TIME BEFORE KALAMAZOO, AND THEY

43715

1 WERE TAKING PICTURES BECAUSE THEY HAD NOT GOTTEN A

2 VIDEO CAMERA YET.

3 WE HAD BEEN FILMING TENNIS FROM THE TIME
4 I WAS -- FROM THE TIME I REMEMBER STARTING TENNIS --
5 WITH THE BIG VCR'S AT THAT POINT AND THE BIG
6 CAMERAS.

7 Q WAS THIS FOR ANY PARTICULAR PURPOSE THAT
8 THE FILMING OF YOUR TENNIS WOULD TAKE PLACE?

9 A YES. MY DAD WOULD THEN PLAY IT ON
10 TELEVISION AND DO IT IN SLOW MOTION TO DRILL US AND
11 TEACH US ON TRAINING.

12 Q NOW, WHAT DID YOU DO WITH THE CAMCORDER
13 AFTER LYLE MENENDEZ GAVE IT TO YOU?

14 A I TOOK IT WITH ME WHEN I FLEW FROM
15 FLORIDA TO KALAMAZOO.

16 Q WAS THIS ON THE TOURNAMENT THAT OCCURRED
17 IN KALAMAZOO, MICHIGAN?

18 A YES. I ACTUALLY FLEW TO CHICAGO FIRST
19 AND MET MY MOTHER THERE.

20 Q WHY WERE YOU GOING TO CHICAGO? WAS THAT
21 JUST A STOPOVER ON THE WAY?

22 A IT WAS A STOPOVER ON THE WAY OVER.

23 Q AND AT SOME POINT IN TIME DID YOU
24 REALIZE THAT YOU HAD FORGOT THE CAMCORDER AT THE
25 AIRPORT?

26 A YES.

27 Q WHERE WERE YOU WHEN YOU REALIZED THAT?

28 A I WAS IN MY UNCLE BRIAN'S HOME.

1 Q WHERE DOES UNCLE BRIAN LIVE?

2 A IN CHICAGO.

3 Q WHAT DID YOU DO WHEN YOU REALIZED THAT
4 YOU DIDN'T HAVE THE CAMCORDER?

5 A I ASKED IF I COULD USE THE PHONE AND
6 BEGAN CALLING THE AIRPORT TO TRY AND SEE IF THEY
7 COULD FIND IT. I REMEMBER I HAD LEFT IT IN THE
8 BAGGAGE DEPARTMENT ABOVE MY SEAT IN THE PLANE, AND
9 SO I WAS CALLING TO SEE IF ANYONE HAD PICKED IT UP
10 AND PUT IT IN THE LOST AND FOUND.

11 Q DID YOU RECEIVE ANY INFORMATION THAT
12 THEY FOUND THE CAMCORDER AT THE AIRPORT?

13 A YES.

14 Q AND WHAT HAPPENED AFTER YOU RECEIVED
15 THAT INFORMATION? DID YOU TELL YOUR MOTHER?

16 A I TOLD MY MOTHER THAT THERE WAS A
17 CAMCORDER, AND THE CAMCORDER WAS IN THE LOST AND
18 FOUND AT THE AIRPORT, AT O'HARE.

19 Q PRIOR TO TELLING YOUR MOTHER THAT THE
20 CAMCORDER HAD BEEN LOST, HAD YOU TOLD HER THAT YOU
21 HAD A CAMCORDER?

22 A NOT YET. FROM WHAT I REMEMBER, IT WAS
23 THE SAME NIGHT, AND I WANTED TO BRING IT UP WHEN IT
24 WASN'T LATE AT NIGHT; AND PROBABLY GOING TO BRING IT
25 UP THE NEXT DAY. THE FACT I HADN'T BROUGHT IT UP TO

26 HER YET WAS WHY I WANTED TO MAKE SURE THEY HAD IT
27 BEFORE I BROUGHT IT UP.

28 Q WHAT DID YOU TELL YOUR MOTHER?

43717

1 A THAT MY BROTHER HAD BOUGHT A CAMCORDER
2 IN NEW YORK WITH MARK HEFFERNAN SO THAT MARK COULD
3 USE IT WITH ME.

4 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

5 THE COURT: WHAT IS YOUR RESPONSE?

6 MR. LEVIN: YOUR HONOR, I'M NOT OFFERING IT
7 FOR THE TRUTH OF THE MATTER, JUST FOR ERIK MENENDEZ'
8 STATE OF MIND AS TO HOW HE REACTED AND WHAT HE DID.

9 THE COURT: OBJECTION SUSTAINED. THE
10 ANSWER'S STRICKEN.

11 Q BY MR. LEVIN: BASED ON ANYTHING --
12 STRIKE THAT.

13 DID YOU GO TO THE AIRPORT?

14 A YES.

15 Q AND DID YOU GO ALONE?

16 A NO.

17 Q WHO DID YOU GO WITH?

18 A MY MOTHER.

19 Q WAS YOUR MOTHER IN ANY -- WHAT WAS YOUR
20 MOTHER'S DEMEANOR ON THE WAY TO THE AIRPORT?

21 A SHE WAS UNHAPPY THAT MY BROTHER HAD

22 BOUGHT THE CAMCORDER IN NEW YORK.

23 Q AND DID YOU RECOVER THE CAMCORDER IN NEW
24 YORK?

25 A YES.

26 Q DID YOUR MOTHER TELL YOU WHY SHE WAS
27 UNHAPPY THAT LYLE MENENDEZ HAD PURCHASED THE
28 CAMCORDER?

43718

1 A YES.

2 Q WHAT DID SHE SAY?

3 A THAT -- IT'S HARD TO SAY WHAT SHE SAID IF
4 I DON'T SAY WHAT I TOLD HER.

5 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

6 THE COURT: ALL RIGHT. AS FAR AS WHAT THE
7 CONVERSATION WAS, THE OBJECTION AS TO THE ENTIRE
8 CONVERSATION, IS THAT YOUR OBJECTION?

9 MR. CONN: YES.

10 THE COURT: OBJECTION OVERRULED.

11 THIS IS NOT BEING RECEIVED FOR THE TRUTH
12 OF WHAT WAS SAID, JUST THE STATE OF MIND OF THE
13 WITNESS.

14 MR. LEVIN: THANK YOU, YOUR HONOR.

15 Q WHAT WAS IT THAT YOU TOLD YOUR MOTHER

16 REGARDING THE PURCHASE OF THE CAMCORDER?

17 A THAT MY BROTHER HAD BOUGHT IT IN NEW
18 YORK WITH MARK HEFFERNAN; AND THAT SHE ASKED ME HOW
19 HE BOUGHT IT, AND I SAID I ASSUME HE USED HER CREDIT
20 CARD, AND THAT HE BOUGHT IT SO THAT MARK AND I COULD
21 TRAIN IN TENNIS; AND SO THAT I COULD FILM MY MATCHES
22 IN KALAMAZOO. AND SHE WAS UPSET THAT LYLE HAD NOT
23 TOLD HER FIRST THAT HE WAS GOING TO BE BUYING THE
24 CAMCORDER, AND HE HAD PURCHASED IT ON MY MOM'S VISA.

25 Q DID YOU ACTUALLY KNOW -- OR THE MANNER IN
26 WHICH LYLE MENENDEZ PAID FOR THE CAMCORDER?

27 A AT THAT TIME I WAS JUST GUESSING.

28 Q NOW, DID YOU FIND THE CAMCORDER AT THE

43719

1 AIRPORT?

2 A YES.

3 Q AND WHAT DID YOU DO AFTER YOU FOUND THE
4 CAMCORDER AT THE AIRPORT? DID YOU BRING IT BACK
5 TO --

6 A WE WENT BACK HOME, AND WE BROUGHT IT
7 BACK HOME. HOME, MEANING MY UNCLE BRIAN'S HOME. WE
8 BOUGHT THE CAMCORDER BACK WITH US.

9 Q DID YOUR MOTHER EVER RETURN THE
10 CAMCORDER?

11 A NO.

12 Q DID SHE USE THE CAMCORDER IN FILMING

13 YOUR TENNIS MATCHES ON THAT TOUR?

14 A YES.

15 Q AND WAS -- DID SHE REMAIN ANGRY

16 CONCERNING THE PURCHASE OF THE CAMCORDER?

17 A SHE NEVER DISCUSSED IT WITH ME AGAIN.

18 Q WELL, DID SHE AT SOME POINT IN TIME

19 DISCOVER THAT LYLE MENENDEZ HAD NOT USED HER CREDIT

20 CARD?

21 A YES.

22 Q AND HOW DID -- STRIKE THAT. I WANT TO

23 CHANGE THE SUBJECT.

24 DID YOU EVER LEARN AT SOME POINT IN TIME

25 THAT YOU HAD BEEN DISINHERITED BY YOUR FATHER?

26 A YES.

27 Q AND HOW WAS IT THAT YOU LEARNED THIS

28 INFORMATION?

43720

1 A HE TOLD ME.

2 Q WHAT WAS IT THAT HE TOLD YOU AS TO THE

3 REASON WHY YOU HAD BEEN DISINHERITED?

4 A HE DIDN'T GO INTO IT IN GREAT DETAIL,

5 JUST THAT I WAS BEING MORE PRIVATE THAN HE DESIRED

6 IN TERMS OF TENNIS. I ASSUMED IT HAD TO DO WITH MY

7 RANKING ABOUT 70 IN CALIFORNIA AT THE TIME.

8 THE RELATIONSHIP WASN'T AT ITS HIGHEST

9 POINT AT THAT TIME.

10 Q DID HE TELL YOU THAT HE WAS GOING TO

11 DISINHERIT YOU OR THAT HE, IN FACT, HAD DISINHERITED

12 YOU?

13 A HE JUST TOLD ME THAT I WAS OUT OF THE

14 WILL.

15 Q HAD THE WORD "DISOWNED" EVER BEEN USED

16 WITH RESPECT TO A CONVERSATION YOU HAD WITH YOUR

17 MOTHER OR FATHER?

18 A YES.

19 Q AND WHO USED THE WORD "DISOWNED"?

20 A MY MOTHER AND MY FATHER.

21 Q WHAT WAS IT THAT THEY TOLD YOU WITH

22 RESPECT TO DISOWN?

23 A IT WAS MORE MY MOTHER WHO TOLD ME AND

24 HOW I LEARNED THE INFORMATION; THAT BECAUSE I WAS

25 SUPPOSED TO WRITE OUT WHAT I WAS DOING EVERY HOUR OF

26 MY DAY AND INFORM MY DAD ABOUT WHAT WAS GOING ON IN

27 MY LIFE IN TERMS OF EVERY DAY; AND AT THE DINNER

28 TABLE I WAS NOT WANTING TO GET INTO IT, AND I

1 WOULDN'T WANT TO DISCUSS THE TENNIS, HE WAS
2 FRUSTRATED AND ANGRY WITH ME OVER THAT, AND MY
3 MOTHER TOLD ME THAT HE MIGHT DISOWN ME.

4 Q HAD YOUR FATHER AT SOME POINT IN TIME --
5 I'M REFERRING TO WHEN YOU WERE ABOUT 17, 17 AND A
6 HALF -- WAS THERE A TIME WHEN YOUR FATHER WAS
7 BECOMING INCREASINGLY ANGRY WITH RESPECT TO YOU
8 FOLLOWING HIS INSTRUCTIONS CONCERNING TENNIS?

9 A YES.

10 Q WAS THERE A TOURNAMENT IN ARIZONA AT
11 SOME POINT IN TIME IN YOUR TENNIS CAREER THAT STANDS
12 OUT IN YOUR MIND?

13 A YES.

14 Q AND WHAT TOURNAMENT OCCURRED IN ARIZONA?

15 A THE FIESTA BOWL.

16 Q WHAT YEAR WAS THIS?

17 A DECEMBER '88. EVERY DECEMBER AFTER
18 CHRISTMAS THERE WAS THE FIESTA BOWL.

19 Q AND DID YOU PLAY IN THAT TOURNAMENT?

20 A YES.

21 Q WAS YOUR FATHER PRESENT DURING THAT
22 TOURNAMENT?

23 A YES.

24 Q WAS ANY -- OR WERE ANY OTHER FAMILY
25 MEMBERS PRESENT DURING THAT TOURNAMENT?

26 A MY MOTHER WAS THERE. I BELIEVE MY AUNT
27 JOAN WAS THERE. I'M NOT SURE IF AUNT PAT WAS THERE.

28 Q DID YOUR FATHER DO ANYTHING PHYSICALLY

1 TO YOU?

2 MR. CONN: OBJECTION. VAGUE AND IRRELEVANT.

3 THE COURT: IT IS VAGUE.

4 Q BY MR. LEVIN: WAS YOUR FATHER VIOLENT
5 TO YOU DURING THAT TOUR?

6 A AFTER I HAD LOST.

7 Q AND WAS HE BRUTAL TO YOU AFTER YOU HAD
8 LOST?

9 A I DON'T KNOW WHAT YOU MEAN BY BRUTAL.

10 Q WHEN YOU SAY YOU HAD LOST, WAS THERE ANY
11 RELATIONSHIP BETWEEN YOUR FATHER'S VIOLENCE AND THE
12 FACT THAT YOU HAD LOST?

13 A YES.

14 Q WHO DID YOU LOSE TO?

15 A KID BY THE NAME OF -- I THINK IT WAS
16 PETERSON OR PATTERSON, SOMEONE WHO MY FATHER FELT
17 THAT I SHOULD HAVE EASILY WON. I HAD NOT FOLLOWED
18 HIS INSTRUCTIONS DURING THE MATCH AND HE WAS JUST
19 ALL-AROUND DISGUSTED WITH ME FOR LOSING.

20 Q NOW, WHEN YOU SAY YOU HAD NOT FOLLOWED
21 HIS INSTRUCTIONS DURING THE MATCH, WAS YOUR FATHER
22 PRESENT DURING THIS MATCH?

23 A OF COURSE, YES.

24 Q AND WAS HE GIVING YOU INSTRUCTIONS?

25 A YES.

26 Q WHERE WAS HE WHEN HE WAS GIVING YOU
27 INSTRUCTIONS?

28 A OFF THE TENNIS COURT, ON THE SIDE OF THE

43723

1 TENNIS COURT.

2 Q AND WHERE WERE YOU?

3 A ON THE TENNIS COURT.

4 Q WAS HE SHOUTING INSTRUCTIONS AT YOU?

5 A NO. HE WAS USING HAND SIGNALS.

6 Q DID YOUR FATHER AND YOU HAVE A SET OF
7 HAND SIGNALS -- FIRST OF ALL, WERE PARENTS ALLOWED TO
8 GIVE INSTRUCTIONS TO PLAYERS? WERE THEY ALLOWED TO
9 GIVE INSTRUCTIONS DURING TENNIS MATCHES?

10 MR. CONN: OBJECTION. IRRELEVANT.

11 THE COURT: SUSTAINED.

12 YOU HAVE ASKED THE QUESTION TO START
13 THIS LINE OF INQUIRY REGARDING AN ACT OF VIOLENCE.

14 MR. LEVIN: I'M SORRY.

15 THE COURT: LET'S GET TO THAT.

16 Q BY MR. LEVIN: WHAT HAND SIGNAL DID YOUR
17 FATHER GIVE YOU?

18 MR. CONN: OBJECTION. IRRELEVANT.

19 THE COURT: SUSTAINED. LET'S GET TO THE

20 POINT OF THIS INQUIRY.

21 Q BY MR. LEVIN: DID YOU DISOBEY AN
22 INSTRUCTION OF YOUR FATHER?

23 A YES.

24 Q AND DID YOUR FATHER MENTION THAT TO YOU
25 LATER ON?

26 A YES.

27 Q AND WAS THAT THE REASON WHY HE WAS
28 VIOLENT?

43724

1 A PART OF THE REASON.

2 Q WHAT WAS THE INSTRUCTION THAT YOU
3 REFUSED TO FOLLOW?

4 MR. CONN: OBJECTION. IRRELEVANT.

5 THE COURT: SUSTAINED.

6 LET'S JUST GET TO THE POINT.

7 Q BY MR. LEVIN: WHAT HAPPENED AFTER YOU
8 REFUSED TO FOLLOW YOUR FATHER'S INSTRUCTION?

9 A HE -- I WAS IN THE HALLWAY AND -- RIGHT
10 IN THE DOORWAY OF MY MOTHER'S ROOM, AND HE WAS
11 COMING OUT FROM THE LOBBY. HE GRABBED ME AND HE
12 THREW ME IN MY ROOM.

13 Q DID YOU HAVE YOUR OWN ROOM?

14 A YES.

15 Q AND WERE YOU ALONE IN YOUR OWN ROOM AT

16 THAT TIME WHEN HE THREW YOU IN THERE?

17 A YES.

18 Q DID HE ENTER YOUR ROOM?

19 A YES.

20 Q DID HE DO SOMETHING TO YOU?

21 A HE CLOSED THE DOOR. SAID FOR ME NOT TO

22 DISOBEY HIM AGAIN ON THE TENNIS COURT. IT WAS PART

23 OF THE REASON I HAD LOST, AND TOLD ME TO GET DOWN ON

24 MY KNEES BESIDE THE BED.

25 Q WHY DID YOU DISOBEY YOUR FATHER?

26 A HE WANTED ME TO CALL A BALL OUT THAT I

27 DIDN'T WANT TO CALL OUT --

28 MR. CONN: OBJECTION. NONRESPONSIVE AND

43725

1 IRRELEVANT.

2 THE COURT: SUSTAINED.

3 THE ANSWER'S STRICKEN.

4 Q BY MR. LEVIN: WHAT DID YOUR FATHER DO?

5 A HE HAD ME GET DOWN ON MY KNEES AND

6 UNBUCKLE HIS PANTS.

7 Q AND WHAT DID HE DO?

8 A PULLED OUT HIS PENIS AND I HAD TO GIVE

9 HIM AN ORAL MESSAGE.

10 Q HOW LONG DID HE STAY IN YOUR ROOM?

11 A ABOUT 40 MINUTES AFTERWARDS; CAME BACK

12 AND LECTURED ME. I WAS IN THE CHAIR.

13 Q NOW, DIRECTLY -- OR JUST BEFORE YOUR

14 FATHER TOOK YOU TO YOUR ROOM, HAD YOU BEEN PLAYING

15 TENNIS?

16 A YES. I HAD JUST COME BACK FROM A MATCH.

17 Q HOW LONG DID THE MATCH LAST?

18 A AN HOUR AND A HALF, TWO HOURS.

19 Q AND WHEN WAS THE LAST TIME THAT YOU HAD

20 EATEN BEFORE YOUR FATHER CAME TO THE ROOM?

21 A A FEW HOURS BEFORE THE MATCH. SO I

22 GUESS IT WOULD HAVE BEEN ABOUT FIVE OR SIX HOURS

23 BEFORE.

24 Q WERE YOU SUPPOSED TO GO TO DINNER WITH

25 ANYONE THAT EVENING?

26 A YES.

27 Q WHO?

28 A MY AUNT JOAN, MY MOM, MY FATHER, AND IF

43726

1 MY AUNT PAT WAS THERE, MY AUNT PAT.

2 Q DID YOU GO TO DINNER?

3 A NO.

4 Q WHERE DID YOU GO?

5 A I STAYED IN MY ROOM.

6 Q WHY?

7 A MY FATHER DIDN'T FEEL THAT I WAS IN ANY
8 CONDITION TO GO DOWN AND EAT; AND GENERALLY, IF I
9 LOST I WOULDN'T BE -- I WOULDN'T GO DOWN AND EAT.

10 Q WHAT WAS YOUR CONDITION?

11 A I WAS VERY SOMBER. I DON'T REMEMBER IF
12 I WAS CRYING. I WAS A LITTLE DAZED. I WAS
13 EXHAUSTED.

14 Q DO YOU RECALL THE TESTIMONY IN THIS
15 TRIAL BY PERRY BERMAN CONCERNING A DINNER AT YOUR
16 HOUSE?

17 A YES.

18 Q DO YOU RECALL WHEN THAT TOOK PLACE?

19 A YES.

20 Q WHEN DID THAT TAKE PLACE?

21 A IN JUNE, BEFORE I LEFT TO THE NATIONALS.

22 Q WAS THAT A DIFFERENT TIME THAN PERRY
23 BERMAN'S TESTIMONY?

24 A HE SAID IT WAS MANY WEEKS BEFORE.

25 Q COULD IT HAVE BEEN MANY WEEKS BEFORE?

26 A WHAT DO YOU MEAN?

27 Q IN OTHER WORDS, THE KALAMAZOO TOUR, WHEN
28 DID THAT START?

1 A KALAMAZOO TOUR OR THE NATIONALS?

2 Q WELL, THE NATIONALS.

3 A I LEFT FOR THE HARD COURTS ON JULY 7TH.

4 Q WHEN I SAID THE KALAMAZOO TOUR, I MEANT
5 THE TOUR THAT ENDS IN KALAMAZOO. YOU INDICATED
6 THERE WERE THREE OR TWO PRECURSOR MATCHES TO THE
7 KALAMAZOO ONE.

8 A THERE'S A SET OF THREE TOURNAMENTS
9 TOGETHER.

10 Q AND THE FIRST ONE BEGAN ON JULY 7TH?

11 A NO. I DON'T THINK IT BEGAN UNTIL JULY
12 9TH.

13 Q BUT YOU REMEMBER LEAVING CALIFORNIA JULY
14 7TH?

15 A I REMEMBER LEAVING CALIFORNIA THE SAME
16 DAY I GOT A TICKET BECAUSE WE WERE RUSHING TO LEAVE,
17 AND I REMEMBER THE POLICE OFFICER PULLING ME OVER,
18 AND SAYING I DIDN'T HAVE TIME FOR THE TICKET, AND HE
19 DID IT QUICKLY AND THE WHOLE DAY WAS A RUSH.

20 Q THAT WAS YOUR PREVIOUS TESTIMONY ABOUT
21 THE TICKET YOU RECEIVED FOR NOT HAVING A DRIVER'S
22 LICENSE?

23 A YES.

24 Q AND WHEN DID YOU RETURN TO CALIFORNIA?

25 A AUGUST 9TH.

26 Q SO DURING JULY 7TH AND AUGUST 9TH, WHERE
27 HAD YOU BEEN? JUST NAME THE STATES.

43728

1 CHICAGO, MICHIGAN.

2 Q DID YOUR FATHER DO ANYTHING VIOLENT TO
3 YOU DURING JULY 7TH AND AUGUST 9TH?

4 A YES.

5 Q WHERE DID THAT OCCUR?

6 A IN KENTUCKY.

7 Q WERE YOU PLAYING TENNIS AT THAT TIME?

8 A I HAD JUST LOST A MATCH IN KENTUCKY.

9 Q DID YOU HAVE YOUR OWN ROOM?

10 A YES.

11 Q DID YOUR FATHER HAVE HIS OWN ROOM?

12 A YES.

13 Q WAS YOUR MOTHER AT THIS -- ON THIS
14 PARTICULAR -- ON THIS TRIP?

15 A YES.

16 Q SHE STAYED IN THE ROOM WITH YOUR FATHER?

17 A YES.

18 Q DID YOU STAY IN YOUR ROOM ALONE?

19 A YES.

20 Q WHAT HAPPENED IN LOUISVILLE WHEN YOUR
21 FATHER WAS VIOLENT TO YOU?

22 A SAME TYPE OF THINGS THAT HAPPENED AT THE

23 FIESTA BOWL. I HAD LOST TO A KID WHO WAS SEEDED 7TH,
24 BUT WHO I HAD BEAT BEFORE, AND I LOST IN THREE SETS.
25 AND MY FATHER WAS EXTREMELY UPSET AND THREW ME INTO
26 MY ROOM AND LECTURED ME AND HAD ME GET DOWN ON MY
27 KNEES, AND OTHER THINGS LIKE THAT.
28 Q WITH RESPECT TO THE INCIDENT THAT

43729

1 OCCURRED AT YOUR HOUSE WHERE PERRY BERMAN WAS
2 PRESENT, DO YOU RECALL GOING INTO THE STUDY AS PERRY
3 BERMAN TESTIFIED?

4 A YES.

5 Q WHY WAS PERRY BERMAN AT YOUR HOUSE?

6 A I DON'T REMEMBER.

7 Q DID SOMEONE TELL HIM TO LEAVE?

8 A MY BROTHER.

9 Q WERE YOU PRESENT WHEN YOUR BROTHER TOLD
10 HIM TO LEAVE?

11 A MY DAD HAD ASKED LYLE TO EXCUSE PERRY
12 FROM THE HOME, AND LYLE DID. I WAS GENERALLY THERE.

13 Q DID THIS OCCUR AT THE DINNER TABLE?

14 A I DON'T REMEMBER.

15 Q DO YOU REMEMBER WHAT HAPPENED? DID YOU
16 GO INTO THE STUDY?

17 A YES.

18 Q AND WHO ELSE WAS IN THE STUDY?

19 A MY FATHER WAS IN FRONT OF US, MY MOTHER
20 WAS STANDING TO OUR LEFT.

21 Q AND DO YOU HAVE A RECOLLECTION OF WHAT
22 HAPPENED IN THE STUDY?

23 A YES.

24 Q WHAT OCCURRED?

25 A MY BROTHER AND I WERE SITTING DOWN. MY
26 FATHER WANTED TO DISCUSS DIFFERENT THINGS; ONE OF
27 THEM BEING AN INCIDENT THAT HAPPENED AT PRINCETON IN
28 WHICH LYLE TOOK THE BLAME FOR ANOTHER KID WHO HAD --

43730

1 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

2 THE COURT: WELL, IT'S UNCLEAR AS TO WHETHER
3 OR NOT THE WITNESS IS RELATING THE CONVERSATION OR
4 RELATING SOMETHING FROM SOME OTHER SOURCE.

5 SO OBJECTION SUSTAINED. ANYTHING
6 RELATING TO THAT CONVERSATION IS STRICKEN UNTIL YOU
7 CAN ESTABLISH A FOUNDATION AS TO WHAT WAS ACTUALLY
8 SAID VERSUS SOME OTHER BASIS OF HIS UNDERSTANDING OF
9 THESE EVENTS.

10 Q BY MR. LEVIN: WHEN LYLE MENENDEZ WAS
11 HOME, DURING THE SUMMER OF 1989, WHEN YOU RETURNED
12 FROM THE TOUR, WHAT WAS HIS GENERAL DEMEANOR?

13 A YOU MEAN IN AUGUST WHEN I RETURNED
14 HOME?
15 Q YES. I'M SORRY.
16 MR. CONN: OBJECTION. IRRELEVANT AND VAGUE.
17 MR. LEVIN: I'M ATTEMPTING TO SET A
18 FOUNDATION, YOUR HONOR.
19 THE COURT: FOR WHAT?
20 MR. LEVIN: STATE OF MIND.
21 THE COURT: WHOSE STATE OF MIND?
22 MR. LEVIN: ERIK MENENDEZ, DURING THE LAST
23 WEEK.
24 THE COURT: AND WHAT DATE ARE YOU TALKING
25 ABOUT NOW?
26 MR. LEVIN: WE'RE TALKING ABOUT AUGUST OF
27 1989.
28 THE COURT: OKAY. THEN THIS EVIDENCE WILL BE

43731

1 RECEIVED SOLELY FOR THE PURPOSE OF SHOWING THE STATE
2 OF MIND OF THE WITNESS, ERIK MENENDEZ.
3 Q BY MR. LEVIN: WHEN YOU RETURNED IN
4 AUGUST OF 1989, WHAT WAS LYLE MENENDEZ' Demeanor?
5 A GETTING READY TO GO TO COLLEGE, BACK TO
6 PRINCETON. MY MOTHER WAS GOING TO JOIN HIM THERE.
7 HE WAS UP.

8 Q WAS HE, IN YOUR OPINION, UP BECAUSE OF
9 ANYTHING THAT YOU KNEW ABOUT WHAT HIS LIFE IN
10 PRINCETON WAS GOING TO BE WHEN HE RETURNED?

11 MR. CONN: OBJECTION. CALLS FOR SPECULATION.

12 THE COURT: SUSTAINED.

13 Q BY MR. LEVIN: WAS ANYTHING SAID IN THE
14 ROOM -- WAS ANYTHING SAID IN THE ROOM BETWEEN YOUR
15 FATHER AND LYLE MENENDEZ, IN YOUR PRESENCE, THAT
16 CAUSED YOU TO FEEL THAT LYLE MENENDEZ WAS IN -- WAS
17 IN THE FRAME OF MIND THAT YOU PREVIOUSLY DESCRIBED?

18 A IN THE ROOM THAT PERRY HAD DESCRIBED?

19 Q YES.

20 A YES.

21 Q WHAT WAS IT?

22 MR. CONN: OBJECTION. CALLS FOR SPECULATION
23 IMPROPER LAY OPINION.

24 THE COURT: WHAT STATE OF MIND ARE YOU
25 TALKING ABOUT?

26 MR. LEVIN: TALKING ABOUT ERIK MENENDEZ'
27 STATE OF MIND WITH RESPECT TO HOW HE VIEWED LYLE
28 MENENDEZ DURING THIS PERIOD OF TIME IN AUGUST OF

43732

1 '89.

2 THE COURT: OBJECTION SUSTAINED ON THE

3 GROUNDS OF RELEVANCY.

4 MR. LEVIN: EXCUSE ME, YOUR HONOR. MAY I
5 CONSULT WITH COUNSEL FOR A MINUTE?

6 THE COURT: SURE.

7 (ATTORNEYS ABRAMSON AND LEVIN
8 CONFER SOTTO VOCE.)

9

10 Q BY MR. LEVIN: WAS THERE A REASON WHY
11 YOU DID NOT INITIALLY GO TO YOUR BROTHER FOR HELP
12 BASED ON YOUR SITUATION IN AUGUST OF '89?

13 A SEVERAL REASONS.

14 Q AND WHAT WERE THOSE REASONS?

15 A ONE OF THEM HAD TO DO WITH A
16 CONVERSATION I HAD HAD WITH MY BROTHER MANY YEARS
17 BEFORE; ONE OF THEM HAD TO DO WITH THE FACT THAT I
18 DIDN'T WANT TO BURDEN LYLE WHEN THINGS WERE PICKING
19 UP FOR HIM; ONE OF THEM HAD TO DO WITH THE FACT THAT
20 THIS WAS A HUMILIATING SUBJECT FOR ME, AND I JUST
21 WASN'T REAL KEEN ON TELLING ANYONE ABOUT IT.

22 Q HOW WERE THINGS PICKING UP FOR LYLE
23 MENENDEZ?

24 MR. CONN: OBJECTION. IRRELEVANT.

25 THE COURT: SUSTAINED.

26 MR. LEVIN: YOUR HONOR, I'D LIKE TO APPROACH.

27 THE COURT: YOU'D LIKE TO HAVE A HEARING ON
28 THIS MATTER?

1 MR. LEVIN: YES.

2 THE COURT: LET'S MOVE ON TO SOMETHING ELSE.

3 MR. LEVIN: I WANT TO MOVE FORWARD AND ASK
4 YOU SOME QUESTIONS ABOUT YOUR RETURN FROM THE POLICE
5 STATION FOLLOWING THE INTERVIEW THAT YOU HAD WITH
6 SERGEANT EDMONDS, NOW, AUGUST THE 20TH, 1989.

7 THE WITNESS: 21ST.

8 MR. LEVIN: 21ST, 1989. PAST MIDNIGHT.

9 Q WHAT TIME WAS IT THAT YOU SAID YOU
10 BELIEVED YOU LEFT THE POLICE STATION?

11 A PROBABLY CLOSE TO TWO A.M.

12 Q AND YOU HAD TESTIFIED THAT YOU WENT
13 HOME?

14 A WENT BACK TO THE BEVERLY HILLS HOUSE.

15 Q AND YOU WERE NOT ALLOWED ENTRY?

16 A NO.

17 Q AT SOME POINT IN TIME WERE YOU ALLOWED
18 ENTRY TO YOUR HOUSE?

19 A TO MY HOUSE?

20 Q YES. TO YOUR HOUSE.

21 A YEAH. AT SOME POINT I WAS. I'M NOT --

22 WE WERE ALLOWED INTO CERTAIN PORTIONS OF THE HOUSE
23 BEFORE THEY RELEASED THE HOUSE COMPLETELY.

24 Q BEFORE YOU WERE ALLOWED ENTRY INTO THE
25 HOUSE, WERE YOU ALLOWED ACCESS TO YOUR CAR?

26 A YES.

27 Q WAS YOUR CAR WITHIN THE POLICE BARRIER

28 TAPE OR OUTSIDE THE POLICE BARRIER TAPE?

43734

1 A IT WAS INSIDE THE BARRIER TAPE.

2 Q WERE THERE POLICE OFFICERS ON THE

3 GROUNDS OF THE MENENDEZ PROPERTY?

4 A YES.

5 Q AND AT SOME POINT IN TIME DID YOU ASK A

6 POLICE OFFICER FOR PERMISSION TO GO TO YOUR CAR?

7 A I ASKED THREE TIMES.

8 Q THE FIRST TIME YOU ASKED DO YOU REMEMBER

9 ABOUT WHAT TIME IT WAS?

10 A IT WAS AFTER I HAD GOTTEN BACK FROM THE

11 INTERVIEW WITH DETECTIVE EDMONDS, AND I ASKED TO GO

12 GET SOME -- I THINK I ASKED IF I COULD DRIVE MY CAR

13 BECAUSE I WAS GOING OVER TO MARK HEFFERNAN'S. I HAD

14 ASKED SOMETHING ABOUT MY CAR, AND THEY SAID THEY

15 NEEDED TO SEARCH IT FIRST.

16 THE NEXT TIME WAS EARLY IN THE MORNING,

17 5:30 IN THE MORNING. WE HAD GONE BACK TO THE HOUSE

18 BECAUSE WE KNEW THAT IF THEY SEARCHED THE CAR IT

19 WOULD PRETTY MUCH BE OVER AT THAT POINT AND WE WOULD

20 BE ARRESTED.

21 THEY DENIED US ACCESS AT THAT POINT,

22 SAYING THEY STILL HAD TO SEARCH THE CAR, AND I THINK
23 WE WENT BACK TO MARK'S. I'M NOT SURE. I THINK MARK
24 WAS THERE.

25 AND THEN AT EIGHT IN THE MORNING WE
26 ASKED AGAIN; AND THIS TIME THEY SAID YES.

27 Q AND WHAT TIME WAS THAT?

28 A CLOSE TO -- I ONLY KNOW FROM WHAT THE

43735

1 OTHER DETECTIVES ASKED ME -- I MEAN, TESTIFIED TO,
2 THAT IT WAS AROUND 8:00 A.M.

3 Q IT WAS LIGHT OUT IN THE MORNING?

4 A YEAH.

5 Q AND DID YOU GO TO YOUR CAR?

6 A YES. THE DEPUTY DIDN'T KNOW THAT I
7 WASN'T SUPPOSED TO GET IN THE CAR AND LYLE WASN'T
8 SUPPOSED TO GET IN THE CAR, AND HE JUST SAID YES.
9 AND WE WENT AND STARTED PUTTING THINGS IN DUFFLE
10 BAGS AND SO ON.

11 Q NOW, YOU SAID THAT THE DEPUTY -- ARE YOU
12 TALKING ABOUT A BEVERLY HILLS POLICE OFFICER?

13 A THAT'S RIGHT. THAT'S RIGHT. I MEANT
14 THE POLICE OFFICER.

15 Q DO YOU KNOW THAT THIS OFFICER DIDN'T
16 KNOW THAT YOU WEREN'T SUPPOSED TO GO TO YOUR CAR?

17 A WELL, I REMEMBER -- I HAD THOUGHT IT WAS
18 DETECTIVE ZOELLER. IT MIGHT HAVE BEEN DETECTIVE
19 LINEHAN -- SOMEONE COMING OUT WHILE WE WERE IN THE
20 CAR SAYING WELL, THERE'S NO POINT IN SEARCHING IT
21 NOW. AND SO I LEARNED LATER THAT THEY HAD JUST
22 CHANGED SHIFTS AND THE DEPUTY DIDN'T REALIZE THE CAR
23 HAD NOT BEEN SEARCHED; AND BASICALLY, ACCIDENTALLY,
24 ALLOWED US TO GET STUFF OUT OF THE CAR.

25 Q SO WHAT, IF ANYTHING, DID YOU REMOVE
26 FROM YOUR CAR?

27 A I REMOVED SOME CARTONS, SHELL CASING
28 BOXES, SOME WRAPPING PAPER, SOME -- I REMEMBER ONE

43736

1 PARTICULAR SHELL IN THE FRONT SEAT UNDERNEATH THE
2 SEAT. AND MANY CLOTHES TO HIDE ALL THAT IN THE
3 DUFFLE BAGS.

4 Q AND YOU HAD ALREADY GOTTEN RID OF THE
5 SHOTGUNS?

6 A YES.

7 Q BOXES TO THE SHOTGUNS?

8 A YES.

9 Q AND WHEN YOU PUT THESE ITEMS INTO A BAG,
10 WHAT DID YOU DO WITH THE BAG? I'M TALKING ABOUT AT
11 YOUR CAR.

12 A OH. WE TOOK THE BAG -- I BELIEVE MARK
13 HEFFERNAN WAS THERE -- AND WE PUT IT IN MARK
14 HEFFERNAN'S CAR. I'M NOT SURE WHATEVER BECAME OF
15 THE BAG. I'M SURE I THREW THE OTHER STUFF OUT AND
16 DIDN'T THROW THE CLOTHES OUT, BUT I DON'T REMEMBER.

17 Q DID THE POLICE EVER SEARCH YOUR CAR?

18 A I THOUGHT OF IT --

19 Q TO YOUR KNOWLEDGE?

20 A BEFORE I GOT THERE? NO, THEY HAD NOT
21 SEARCHED MY CAR. AFTERWARDS, FROM WHAT I
22 UNDERSTOOD, THEY SAID THERE WAS NO POINT IN
23 SEARCHING THE CAR NOW.

24 Q DID THEY EVER ASK YOU WHAT YOU TOOK OUT
25 OF YOUR CAR?

26 A NO.

27 Q DID THEY ASK YOU -- EVER ASK YOU IF YOU
28 TOOK ANYTHING OUT OF YOUR CAR?

43737

1 A NO.

2 Q DID THEY EVER SEARCH YOUR CAR IN SPITE
3 OF THE FACT THAT YOU HAD BEEN INTO IT?

4 A I WOULD HAVE NO IDEA.

5 Q AT SOME POINT IN TIME DID THE POLICE OF
6 BEVERLY HILLS LEAVE YOUR PROPERTY?

7 A YES.

8 Q AND HOW MUCH TIME -- OR WHERE WAS THIS
9 IN RELATIONSHIP TO YOU GOING INTO YOUR CAR?

10 A IT WAS -- I BELIEVE IT WAS MANY HOURS
11 LATER, THREE, FIVE HOURS LATER.

12 Q WERE YOU THEN ALLOWED TO GO IN YOUR
13 HOUSE?

14 A THEY TURNED THE HOUSE OVER TO US. ALL
15 OF THE POLICE OFFICERS LEFT.

16 Q DID ANY POLICE OFFICER GIVE YOU ANY
17 INSTRUCTIONS WITH RESPECT TO WHAT IT WAS YOU WERE TO
18 DO FROM THAT POINT ON?

19 A NO.

20 Q WHAT DID YOU DO AT THAT POINT AFTER THE
21 POLICE LEFT?

22 A I DIDN'T KNOW WHAT TO DO. THERE WAS
23 STILL FINGER POWDER ON MANY OF THE DOORS. THERE WAS
24 STILL BLOOD IN THE ROOM, IN THE DEN. I DIDN'T KNOW
25 WHAT TO DO AT THAT POINT. I WAS SORT OF CONFUSED,
26 BECAUSE SUDDENLY THE POLICE HAD LEFT THE HOUSE.
27 THEY HAD FINISHED WHAT THEY NEEDED TO DO AT THE
28 HOUSE, AND LYLE AND I WERE IN THE HOUSE. AND WE

1 DIDN'T KNOW WHAT TO DO AT THIS POINT.

2 Q HOW WOULD YOU DESCRIBE YOUR EMOTIONAL
3 CONDITION AT THIS TIME?

4 A VERY EMPTY, A LITTLE LOST, CONFUSED OF
5 WHAT TO DO NOW. MY PARENTS WERE NOW DEAD AND WE
6 WERE IN THE HOUSE. IT WAS JUST -- THERE WERE NO
7 INSTRUCTIONS OF WHAT TO DO. AT SOME POINT I LEARNED
8 THE RELATIVES WOULD BE COMING IN THE NEXT FEW DAYS.
9 BUT I WASN'T SURE WHAT WAS GOING TO HAPPEN TO MY
10 LIFE OR LYLE'S LIFE, AND I JUST FELT UNCERTAIN OF
11 THE FUTURE.

12 Q WERE THERE ANY CONCERNS THAT YOU HAD
13 ABOUT ANYTHING THAT MIGHT BE IN THE HOUSE?

14 A YES.

15 Q WERE THESE CONCERNS ABOUT ANY EVIDENCE
16 THAT COULD LINK YOU TO THE SHOOTING OF YOUR PARENTS?

17 A NO.

18 Q WHY DIDN'T YOU HAVE ANY CONCERNS AT THAT
19 POINT CONCERNING EVIDENCE THAT COULD LINK YOU TO THE
20 SHOOTING OF YOUR PARENTS?

21 A BECAUSE THE POLICE HAD ALREADY BEEN
22 INSIDE THE HOUSE AND HAD SAID THEY FINISHED THE
23 INVESTIGATION IN TERMS OF THE ACTUAL PROPERTY AND
24 HAD LEFT. I DIDN'T -- I DIDN'T KNOW OF ANYTHING THAT
25 COULD BE INSIDE THE HOUSE THAT COULD -- THAT COULD
26 LINK US. ALL OF THAT WAS IN THE CAR, AND WE HAD
27 REMOVED THAT.

28 SO -- I MEAN, I WASN'T SURE WHAT WAS

1 GOING TO HAPPEN, WHETHER WE WERE GOING TO BE
2 ARRESTED SOON, WHETHER THE POLICE HAD ANY IDEA IT
3 WAS US, OR SUSPECTED US. WE DIDN'T KNOW THE ANSWERS
4 TO THESE QUESTIONS. SO IN TERMS OF THINKING THAT
5 THERE WERE THINGS IN THE HOUSE, THAT WASN'T WHAT I
6 WAS CONCERNED ABOUT. I WAS CONCERNED ABOUT OTHER
7 THINGS.

8 Q WHAT WERE YOU CONCERNED ABOUT?

9 A JUST THE DIFFERENT SECRETS THAT THE
10 FAMILY HAD THAT WERE VERY PRIVATE THAT I WANTED TO
11 MAKE SURE WEREN'T EXPOSED WHEN THE RELATIVES CAME IN
12 THE NEXT FEW DAYS.

13 Q WHAT SECRETS WERE YOU CONCERNED ABOUT?

14 A MY -- WHAT WAS HAPPENING BETWEEN MY
15 FATHER AND I PRIMARILY. I WAS VERY ANXIOUS ABOUT
16 THAT AND WHAT COULD BE IN MY PARENTS' BEDROOM ABOUT
17 THAT.

18 MY MOTHER'S ATTEMPTED SUICIDES AND ANY
19 OTHER SECRETS THAT -- MY PARENTS WERE VERY PRIVATE
20 PEOPLE, EVEN FROM LYLE AND I. SO I DIDN'T KNOW WHAT
21 OTHER VENTURES THEY WERE EVEN INTO THAT THEY WOULD
22 NOT WANT PUBLIC THAT I FELT I SHOULD PROTECT.

23 Q WHY AT THIS POINT IN TIME WERE YOU
24 CONCERNED ABOUT THE FACT THAT YOUR FATHER HAD BEEN

25 MOLESTING YOU FOR 12 YEARS -- WHY WERE YOU CONCERNED
26 ABOUT THAT GETTING OUT TO YOUR FAMILY?
27 A BECAUSE THAT WAS THE LAST THING I WANTED
28 TO GET OUT. I WOULD RATHER EVERYTHING ELSE GET OUT

43740

1 BEFORE THAT.

2 Q WHY IS THAT?

3 A THE EXTREME SHAME THAT I FELT FROM IT;
4 THE FACT THAT IT WAS EVEN HAPPENING. I FELT -- IT
5 WAS A SHAMEFUL THING.

6 Q DID YOU GO INTO YOUR PARENTS' BEDROOM?

7 A YES.

8 Q AND DID YOU LOOK THROUGH THEIR PERSONAL
9 BELONGINGS?

10 A MOSTLY MY FATHER'S.

11 Q DID YOU FIND ANYTHING?

12 A YES.

13 Q WHAT WAS IT THAT YOU FOUND?

14 A A BOX OF PORNOGRAPHIC TAPES.

15 Q WHAT DID YOU DO WITH THOSE TAPES?

16 A I TOOK THEM FROM HIS CLOSET. I PUT THEM
17 IN MY ROOM AND GOT RID OF THEM WHEN THERE WAS TIME.
18 I THINK I GOT MY COUSIN HENRY'S HELP IN THAT.

19 THERE WAS ALSO LETTERS FROM MY MOTHER,

20 DIFFERENT THINGS IN THE HOUSE THAT -- ANYTHING WE
21 THOUGHT SHOULD BE KEPT PRIVATE.

22 Q IS THAT WHEN YOU FOUND THE
23 TAPE-RECORDING DEVICE?

24 A YES.

25 Q NOW, AT SOME POINT IN TIME THAT MORNING
26 DO YOU REMEMBER SEEING KLARA WRIGHT, ON THE 21ST?

27 A I DIDN'T REMEMBER IT UNTIL SHE SAID THAT
28 THAT HAPPENED, AND I KIND OF REMEMBER THAT

43741

1 HAPPENING.

2 Q WHO'S RANDY AND KLARA WRIGHT?

3 A THEY'RE THE FATHER AND MOTHER OFF A
4 TENNIS PLAYER, A VERY GOOD TENNIS PLAYER, WHO WAS ON
5 OUR SCHOOL TEAM AND ALSO PLAYED IN THE JUNIOR
6 NATIONALS. HE WAS A YEAR OR TWO BELOW ME, BUT HE
7 WAS VERY GOOD.

8 Q BILLY?

9 A BILLY WRIGHT.

10 Q DID YOU EVER PLAY WITH BILLY, TENNIS?

11 A YES.

12 Q WAS BILLY A SOCIAL FRIEND OF YOURS?

13 A WELL, THE TEAM TRAVELED TOGETHER IN
14 TERMS OF FROM HIGH SCHOOL TO HIGH SCHOOL AND RANDY

15 WRIGHT WOULD BE THERE, AND I WAS FRIENDS WITH HIM
16 SOCIALLY, YES. I HAD NEVER BEEN OVER TO HIS HOUSE,
17 BUT HE WAS NICE, A NICE GUY, AND WE WERE FRIENDS.

18 Q WOULD YOU SAY THE EXTENT OF YOUR
19 RELATIONSHIP WITH BILLY WRIGHT WAS RELATED TO
20 TENNIS?

21 A YES.

22 Q AND DURING -- HOW LONG HAD YOU KNOWN
23 BILLY WRIGHT AND HIS PARENTS, RANDY AND KLARA?

24 A I HAD KNOWN BILLY LONGER THAN I KNEW
25 RANDY. I KNEW BILLY ABOUT EIGHT MONTHS. I KNEW
26 RANDY FOR ABOUT SIX MONTHS, EVEN THOUGH I WAS CLOSER
27 TO RANDY THAN I WAS TO BILLY.

28 Q HOW DID YOU REFER TO RANDY WRIGHT? WHAT

43742

1 DID YOU CALL HIM?

2 A SOMETIMES I CALLED HIM MR. WRIGHT. HE
3 LIKED ME TO CALL HIM RANDY. HE WAS A VERY OPEN LOUD
4 GUY WHO WAS VERY FRIENDLY AND VERY FATHERLY.

5 Q HOW DID YOU REFER TO MRS. WRIGHT?

6 A MRS. WRIGHT.

7 Q NOW, YOU SAID THAT YOU WERE CLOSER TO
8 MR. WRIGHT THAN THEIR SON. HOW WOULD YOU DESCRIBE
9 YOUR RELATIONSHIP WITH MR. RANDY WRIGHT?

10 A IT WAS A GOOD -- IT WAS A WARM
11 RELATIONSHIP. MANY TIMES IT WAS JUST HE AND I
12 ROOTING FOR HIS SON TO WIN A MATCH IN A TOURNAMENT
13 AT SCHOOL PERHAPS; AND WE WOULD TALK FOR A LONG
14 TIME, AND HE WAS ONE THAT LOVED TO GIVE ADVICE AND
15 WAS VERY OPEN ABOUT WHAT HE KNEW IN LIFE. AND HE
16 DROVE ME TO LUNCH ONE DAY, AND WE HAD LUNCH
17 TOGETHER.

18 IT WAS -- HE WAS A WARM KIND MAN, AND
19 BILLY WAS A SHY KID, AND SO I WAS -- I KNEW MORE
20 ABOUT RANDY THAN I DID ABOUT BILLY.

21 Q DID YOU HAVE SOME PERSONAL PROPERTY,
22 SPECIFICALLY, TENNIS RACKETS, THAT BELONGED TO THE
23 WRIGHTS?

24 A YES.

25 Q HOW WAS IT THAT YOU CAME IN THE
26 POSSESSION OF THESE TENNIS RACKETS?

27 A AT KALAMAZOO BILLY GOT INJURED.
28 ALTHOUGH HE WAS ONE OF THE TOP SEEDS, HE GOT INJURED

43743

1 EARLY AND HAD TO LEAVE, AND SOME OF HIS -- EITHER HE
2 HAD FORGOTTEN, OR SOME OF HIS RACKETS WERE BEING
3 STRUNG OR WITH THE TENNIS MECHANICS AT THE TIME, AND
4 SO HE, I GUESS, CALLED UP TO KALAMAZOO AND ASKED IF

5 WE COULD BRING THEM BACK WHEN I GOT BACK FROM
6 KALAMAZOO SO THAT THEY COULD PICK THEM UP FROM MY
7 HOUSE.

8 Q DO YOU RECALL A CONVERSATION WITH KLARA
9 WRIGHT THAT OCCURRED IN FRONT OF YOUR HOUSE ON THE
10 21ST OF AUGUST?

11 A VAGUELY.

12 Q WHAT IS IT THAT YOU RECALL?

13 A I RECALL HER WANTING HER SON'S RACKETS.
14 I RECALL, VAGUELY, HER ASKING WHAT HAD HAPPENED. ME
15 SAYING THAT MY PARENTS HAD DIED. HER FEELING VERY
16 SORRY AND TELLING ME THAT ANYTHING I NEEDED, IF I
17 NEEDED COMFORT OR CARE, TO COME OVER THEIR HOUSE,
18 AND SHE WAS JUST VERY MOTHERLY, VERY SWEET.

19 Q WHAT WAS YOUR EMOTIONAL CONDITION AT
20 THAT TIME?

21 A I WAS IN SHOCK. I WAS DAZED. UNSURE OF
22 SO MANY THINGS.

23 Q DID YOU WANT TO STAY IN YOUR HOUSE?

24 A NO.

25 Q HAD YOUR RELATIVES ARRIVED YET?

26 A NO.

27 Q AND WHERE WERE YOUR RELATIVES?

28 A MY AUNT JOAN WAS IN ARIZONA. TERRY WAS

1 IN NEW JERSEY, BRIAN WAS IN CHICAGO, MARTA WAS IN
2 FLORIDA.

3 Q DID YOU HAVE ANY RELATIVES IN
4 CALIFORNIA?

5 A I HAD A COUSIN, MY FATHER'S FIRST COUSIN
6 NAMED HENRY.

7 Q WHERE DID HENRY LIVE?

8 A HE LIVED IN CHATSWORTH.

9 Q WHERE DID THE WRIGHTS LIVE IN
10 RELATIONSHIP TO YOU?

11 A ABOUT A MILE AND A HALF FROM -- INSIDE
12 BEVERLY HILLS.

13 Q DID YOU KNOW THAT RANDY WRIGHT WAS A
14 LAWYER?

15 A YEAH. I KNEW HE WAS A DEFENSE LAWYER.

16 Q HAD YOU EVER USED HIM AS AN ATTORNEY FOR
17 ANY REASON?

18 A NO.

19 Q DID YOU EVER USE ANY ATTORNEY -- STRIKE
20 THAT.

21 HAD YOUR FATHER EVER USED RANDY WRIGHT
22 AS AN ATTORNEY?

23 A NO. I'M NOT SURE HOW WELL RANDY KNEW MY
24 FATHER -- YEAH. THEY DID KNOW EACH OTHER BECAUSE
25 THEY MET EACH OTHER AT TENNIS MATCHES. BUT OTHER
26 THAN THAT, THEY DIDN'T SPEAK ON THE PHONE PRIVATELY.

27 Q WAS THERE ANYTHING ABOUT THE
28 RELATIONSHIP THAT YOU HAD WITH RANDY WRIGHT, UP

1 UNTIL AUGUST 21ST, 1989, THAT WAS EVER A LEGAL
2 RELATIONSHIP FOR ANY MATTER?

3 A NO.

4 Q DID YOU GO TO RANDY WRIGHT'S HOUSE?

5 A I REMEMBER BEING THERE, YES.

6 Q NOW, DO YOU HAVE A CLEAR REMEMBRANCE OF
7 THE EVENTS AND THE CONVERSATIONS THAT YOU HAD AT
8 RANDY WRIGHT'S HOUSE THAT DAY?

9 A NO.

10 Q THIS HAPPENED AUGUST THE 21ST, 1989?

11 A RIGHT.

12 Q BUT YOU DO REMEMBER BEING AT HIS HOUSE
13 THAT DAY?

14 A I REMEMBER FEELING NAUSEOUS IN HIS
15 BATHROOM. I REMEMBER SITTING ON THE COUCH. HE WAS
16 THERE. MRS. WRIGHT WAS THERE. I REMEMBER WATCHING
17 THE TV, IT BEING ALL OVER THE NEWS. I REMEMBER
18 BEING AWAY FROM THE TV, IN THE KITCHEN. I JUST
19 REMEMBER THEY WERE TAKING CARE OF ME AT THE HOUSE.

20 Q WHEN WAS THE VERY FIRST TIME,
21 MR. MENENDEZ, THAT YOU BECAME AWARE THAT RANDY
22 WRIGHT WAS A WITNESS IN THIS CASE?

23 A SEVERAL MONTHS AFTER THE FIRST TRIAL HAD

24 ENDED.

25 Q WHEN DID THE FIRST TRIAL END?

26 A JANUARY OF 1994.

27 Q WHEN WAS THE FIRST TIME THAT YOU WERE

28 MADE AWARE THAT KLARA WRIGHT WAS A WITNESS IN THIS

43746

1 CASE?

2 A THE SAME TIME.

3 MR. CONN: OBJECTION. IRRELEVANT.

4 THE COURT: OVERRULED.

5 THE WITNESS: MARCH OR APRIL OF 1994.

6 Q BY MR. LEVIN: ALMOST FIVE YEARS LATER?

7 A FIVE YEARS LATER, I GUESS, YES.

8 Q WHEN WAS THE VERY FIRST TIME THAT YOU

9 HAD BEEN AWARE OF THE SUBSTANCE OF WHAT RANDY WRIGHT

10 RECALLED OF THE CONVERSATION THAT HAD OCCURRED FIVE

11 YEARS EARLIER?

12 A WHEN DID I BECOME AWARE OF WHAT HE WAS

13 SAYING HAPPENED ON THE 21ST?

14 Q IN OTHER WORDS, WHEN DID YOU BECOME

15 AWARE OF THE SUBSTANCE, WHAT IT WAS RANDY WRIGHT HAD

16 SAID ABOUT WHAT OCCURRED ON THE 21ST OF AUGUST,

17 1989 -- WHEN DID -- STRIKE THAT.

18 DID SOMEONE SHOW YOU A STATEMENT OF

19 RANDY WRIGHT?

20 A I'M NOT SURE IF THEY SHOWED ME A
21 STATEMENT OR I TALKED ABOUT IT WITH LESLIE ON THE
22 PHONE. I DON'T REMEMBER. SOMEHOW I BECAME -- I WAS
23 MADE KNOWN AFTER THE FIRST TRIAL WHAT RANDY WAS
24 SAYING.

25 Q HAD YOU BEEN ASKED TO RELATE THE
26 SUBSTANCE OF WHAT OCCURRED IN THE CONVERSATION WITH
27 RANDY WRIGHT BEFORE YOU FOUND OUT THAT HE WAS GOING
28 TO BE A WITNESS IN THIS CASE?

43747

1 A NO. I WAS NEVER ASKED ABOUT IT.

2 Q HAD YOU GIVEN IT MUCH THOUGHT?

3 A NOT SINCE THE 21ST.

4 Q WHAT IS YOUR REMEMBRANCE AND
5 RECOLLECTION TODAY CONCERNING THE SPECIFIC DETAILS
6 OF THE CONVERSATION YOU HAD AT RANDY WRIGHT'S HOUSE?

7 A VERY LITTLE. I DON'T REALLY REMEMBER
8 EVEN BRINGING THE SAFE OVER TO HIS HOUSE. I THOUGHT
9 IT HAD HAPPENED A DIFFERENT WAY. I DON'T REMEMBER
10 MY BROTHER BEING AT THE HOUSE, AND I JUST REMEMBER
11 MR. WRIGHT AND MRS. WRIGHT CARING FOR ME THAT DAY.
12 I HAD MANY DISCUSSIONS WITH THEM AND TALKS, BUT I
13 DON'T REALLY REMEMBER WHAT WE DISCUSSED OR WHAT WAS

14 TALKED ABOUT.

15 Q DID YOU, IN FACT, OR DO YOU HAVE A
16 MEMORY OF STAYING AT THE WRIGHTS' HOUSE?

17 A I SLEPT THERE. I REMEMBER THE FIRST
18 NIGHT I SLEPT THERE BECAUSE I COULDN'T SLEEP. I HAD
19 MANY NIGHTMARES, AND I REMEMBER BEING IN THE
20 BEDROOM.

21 Q FOR WHAT PURPOSE DID YOU SLEEP AT THE
22 WRIGHTS' HOUSE?

23 A I DIDN'T WANT TO SLEEP AT THE BEVERLY
24 HILLS HOUSE.

25 Q DO YOU REMEMBER ANYTHING ABOUT THE SAFE?

26 A YES.

27 Q WHAT DO YOU REMEMBER ABOUT THE SAFE?

28 A I REMEMBER IT BEING IN THE GARAGE OF

43748

1 RANDY WRIGHT'S HOUSE. I HAD THOUGHT WE BROUGHT IT
2 OVER THAT DAY, ON THE WEDNESDAY BEFORE. BUT I
3 SPECIFICALLY REMEMBER THE LOCKSMITH FIDDLING WITH
4 THE SAFE, IT BEING INSIDE THE GARAGE, MY UNCLE BRIAN
5 AND MY UNCLE CARLOS BEING THERE, MY BROTHER BEING
6 THERE.

7 Q ARE YOU REFUTING OR DISPUTING WHAT RANDY
8 WRIGHT TESTIFIED TO?

9 A NO.

10 Q WHY NOT?

11 A BECAUSE RANDY WRIGHT IS NOT A LIAR.

12 Q WELL, CAN YOU REFUTE OR DISPUTE ANYTHING

13 HE SAYS?

14 A I DON'T REMEMBER THE CONVERSATION, SO,

15 NO, I DON'T.

16 Q DO YOU KNOW HOW GOOD OR BAD RANDY

17 WRIGHT'S MEMORY IS?

18 A NO, I DON'T.

19 Q THERE WAS A SAFE IN THE FAMILY HOUSE?

20 A YES.

21 Q DID YOU KNOW THAT THERE WAS A SAFE IN

22 THERE -- WAS THERE A DISCUSSION THAT YOU RECALL

23 BETWEEN YOURSELF AND RANDY WRIGHT ABOUT A SAFE?

24 A THERE MUST HAVE BEEN. HE SAID THERE

25 WAS. THE SAFE APPARENTLY -- HE SAID THE SAFE GOT

26 OVER THERE --

27 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND

28 SPECULATION.

43749

1 THE COURT: WELL, IT'S UNCLEAR WHAT YOU'RE

2 REFERRING TO WHEN -- ARE YOU REFERRING TO HIS

3 TESTIMONY HERE IN COURT?

4 THE WITNESS: YES.

5 THE COURT: OVERRULED.

6 THE WITNESS: HE SAID THE SAFE WAS BROUGHT
7 OVER THAT NIGHT, SO IT MUST HAVE BEEN. AND HE TOLD
8 US TO BRING OVER THE SAFE, WHERE MOST PROBABLY
9 EITHER THE NEW WILL OR THE OLD WILL WAS BEING KEPT;
10 AND SO WE WERE SUPPOSED TO BRING IT OVER AND WAIT
11 FOR THE RELATIVES TO ARRIVE.

12 Q BY MR. LEVIN: DID YOU KNOW THAT THERE
13 WAS A SAFE IN THE HOUSE BEFORE YOU WENT TO RANDY
14 WRIGHT'S HOUSE?

15 A I KNOW THAT THERE WAS A SAFE WHEN I SAW
16 IT WHEN I WAS LOOKING THROUGH THE HOUSE, AND I WAS
17 IN MY PARENTS' BEDROOM, AND I FOUND THE RECORDER, I
18 FOUND THE TAPES IN THE BOXES AND IN MY FATHER'S
19 ROOM. I MUST HAVE SEEN THE SAFE THEN. I DON'T
20 SPECIFICALLY RECALL KNOWING ABOUT THE SAFE BEFORE
21 THAT DAY, BUT I KNEW BEFORE I WENT TO RANDY
22 WRIGHT'S.

23 Q DID YOU GO TO RANDY WRIGHT'S HOUSE FOR
24 ANY REASON THAT IS CONNECTED TO THE SAFE?

25 A NO. THE SAFE WAS JUST BROUGHT UP IN THE
26 CONVERSATION AT SOME POINT.

27 Q WHEN YOU SAW THE SAFE WHO ELSE WAS IN
28 THE HOUSE?

1 A MY BROTHER.

2 Q HAD THE POLICE EVER SAID ANYTHING TO YOU
3 ABOUT THE SAFE?

4 A NO.

5 Q HAD THE POLICE OR ANY DETECTIVES SAID TO
6 YOU THAT THEY ARE GOING OR WANT TO OPEN THE SAFE TO
7 SEE WHAT'S INSIDE?

8 A NO.

9 Q DID THEY GIVE YOU ANY INSTRUCTIONS ABOUT
10 WHAT YOU SHOULD DO WITH THE SAFE?

11 A NO.

12 Q DID ANYONE KNOW THAT YOU KNEW, TO YOUR
13 KNOWLEDGE, THAT THERE WAS A SAFE IN THE HOUSE?

14 A NO.

15 Q DID YOU EVER ATTEMPT TO DESTROY THAT
16 SAFE?

17 A NO.

18 Q DID YOU EVER ATTEMPT TO CONCEAL THAT
19 SAFE?

20 A NO.

21 Q DID YOU EVER ATTEMPT TO GAIN ENTRY OR
22 ACCESS INTO THAT SAFE IN A PRIVATE SETTING?

23 A (NO AUDIBLE RESPONSE.)

24 Q IN OTHER WORDS, DID YOU EVER CALL
25 SOMEONE TO COME TO THE HOUSE TO ASSIST YOU IN
26 OPENING THE SAFE?

27 A NO.

28 Q DID YOU KNOW HOW TO GET INTO THE SAFE?

43751

1 A NO.

2 Q DID YOU KNOW, WAS IT A COMBINATION SAFE?

3 A IT WAS A DIAL COMBINATION. IT WAS AN
4 EXPENSIVE SAFE.

5 THE COURT: ALL RIGHT. LET'S TAKE OUR
6 RECESS, AND WE'LL RESUME AT 25 MINUTES TO THE HOUR.

7 DON'T DISCUSS THE MATTER WITH ANYONE.

8 DON'T FORM ANY FINAL OPINIONS.

9 (A RECESS WAS TAKEN FROM

10 10:20 A.M. TO 10:45 A.M.)

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43752

1 (THE FOLLOWING PROCEEDINGS WERE
2 HELD IN OPEN COURT OUT OF THE
3 PRESENCE OF THE JURY:)

4

5 THE COURT: ALL RIGHT. ARE WE READY FOR THE
6 JURY?

7 MR. LEVIN: YOUR HONOR, I'D LIKE TO BE HEARD
8 WITH RESPECT TO THE TESTIMONY OF ERIK MENENDEZ WHERE
9 HE WAS PROHIBITED TO TESTIFY CONCERNING HIM BEING
10 SEXUALLY BRUTALIZED BY HIS FATHER FOLLOWING HIS
11 REFUSAL ON THE TENNIS COURT TO FOLLOW HAND SIGNALS.

12 AND THE TESTIMONY WOULD BE THAT
13 MR. MENENDEZ HAD INSTRUCTED ERIK MENENDEZ ON HOW TO
14 CHEAT AT TENNIS; THAT THERE WAS A RATHER ELABORATE
15 SYSTEM THAT HAD BEEN DEVELOPED OVER THE YEARS WHERE
16 HIS FATHER WOULD AT CERTAIN TIMES TELL ERIK MENENDEZ

17 WHAT TO DO ON THE TENNIS COURT, AND WHAT HE WAS
18 SUPPOSED TO DO WOULD BE TO CHEAT HIS OPPONENT BACK;
19 THAT THEY HAD PRACTICED THIS; THAT HE HAD DONE IT ON
20 NUMEROUS OCCASIONS. AND ON THIS PARTICULAR
21 OCCASION, HE SAW HIS FATHER GIVE HIM THE HAND SIGNAL
22 TO CHEAT AND HE RESISTED. IT WAS ONE OF THE FEW AND
23 ONLY TIMES THAT HE RESISTED ONE OF HIS FATHER'S
24 COMMANDS. THE REACTION OF HIS FATHER IN RESISTING
25 THAT COMMAND WAS THAT HIS FATHER HAD SEXUALLY
26 BRUTALIZED HIM.

27 NOW, TO GO TO ERIK MENENDEZ' STATE OF
28 MIND, TO EVALUATE HIS FATHER'S REACTION TO THE

43753

1 BELIEF THAT THERE -- THAT THESE THINGS WERE
2 OCCURRING, IS ABSOLUTELY RELEVANT AND IT'S IMPORTANT
3 FOR THE JURY TO HEAR WHAT WOULD BE IN ERIK MENENDEZ'
4 MIND, WHAT HIS STATE OF MIND AND WHAT HIS BELIEF
5 THAT HIS FATHER WOULD DO WHEN HE NOT ONLY RESISTED
6 ANY ORDER THAT HE GAVE HIM, BUT WHEN HIS FATHER
7 FORCES SEX ON HIM BECAUSE HE REFUSES TO FOLLOW THESE
8 HAND SIGNALS AND CHEAT AT TENNIS.

9 MS. ABRAMSON: COULD I --

10 MR. LEVIN: WHAT MAKES HIS FATHER ANGRY, WHAT
11 MAKES HIS FATHER VIOLENT. THESE ARE THINGS THE JURY

12 HAS A RIGHT TO HEAR.

13 (ATTORNEYS ABRAMSON AND LEVIN

14 CONFERRING SOTTO VOCE.)

15

16 MR. LEVIN: YOUR HONOR, AND THE DIRECT

17 CONNECTION TO HIS STATE OF MIND ON AUGUST THE 20TH,

18 1989, IS IN EVALUATING -- FOR THE JURY TO EVALUATE

19 ERIK MENENDEZ' STATE OF MIND WHICH WAS HIS

20 KNOWLEDGE, HEY, IF MY FATHER REACTS SO VIOLENTLY

21 SUCH AS TO BRUTALIZE ME, FORCE ME TO ENGAGE IN ACTS

22 OF SEX IN HIS REACTION TO NOT FOLLOWING HAND

23 SIGNALS, HOW WOULD HE REACT TO THE KNOWLEDGE OR THE

24 BELIEF THAT LYLE MENENDEZ WAS GOING TO EXPOSE THE

25 FAMILY TO A SEX SCANDAL?

26 I THINK THAT THAT'S CRITICAL IN ALLOWING

27 THE JURY TO MAKE THE DETERMINATION IN A SELF-DEFENSE

28 CASE CONCERNING WHY ERIK MENENDEZ DID WHAT HE DID.

43754

1 THE COURT: WHAT IS IT THAT YOU HAVEN'T

2 BROUGHT OUT?

3 MR. LEVIN: I HAVE BEEN PRECLUDED BY THE

4 COURT FROM BRINGING OUT THE DETAILS OF WHAT OCCURRED

5 BEFORE THE ACT OF VIOLENCE BY HIS FATHER. THE COURT

6 HAS SUSTAINED OBJECTION AFTER OBJECTION BY MR. CONN

7 WHENEVER THE WORD "HAND SIGNAL" WAS MENTIONED. ALL
8 THE JURY HEARD WAS THAT JOSE MENENDEZ WAS NEAR THE
9 TENNIS COURT AND THAT ERIK MENENDEZ DISOBEYED HIM
10 AND THAT'S IT. BUT THEY DON'T KNOW WHAT IT WAS HE
11 SAW, WHAT IT WAS HIS FATHER HAD DONE, WHAT IT MEANT
12 TO ERIK MENENDEZ WHEN HE SAW HIS FATHER USE HIS HAND
13 SIGNAL. AND THESE ARE IMPORTANT IN ASSESSING NOT
14 ONLY THE RELIABILITY AND CREDIBILITY OF HOW ANGRY
15 JOSE GOT -- THEY HAVE NO IDEA AT THIS POINT TO KNOW
16 WHAT IT WAS JOSE MENENDEZ WAS SO ANGRY ABOUT.

17 THE COURT: WELL, OF COURSE, THE SEXUAL
18 ASSAULTS WERE DESCRIBED BY THE DEFENDANT IN DETAIL
19 TOTALLY UNRELATED TO ANY OF THESE -- THIS TENNIS
20 EPISODE THAT YOU'RE NOW REFERRING TO.

21 MR. LEVIN: THE RELEVANCE IS NOT THE SEXUAL
22 EPISODE. IT IS THE REACTION OF JOSE MENENDEZ TO
23 ERIK MENENDEZ' REFUSAL TO FOLLOW THE FATHER'S ORDER
24 TO CHEAT AT TENNIS.

25 THE COURT: THE CHEATING AT TENNIS IS TOTALLY
26 IRRELEVANT. THE DISOBEYING OF THE FATHER'S
27 DIRECTION, I THINK THAT'S BEFORE THE JURY.

28 IF YOU WANT TO CLARIFY THAT THERE WAS

43755

1 SOME HAND SIGNAL BY THE FATHER THAT THE DEFENDANT

2 SAW AND DIDN'T COMPLY WITH, THAT'S UP TO YOU. I
3 DON'T SEE WHAT IT REALLY PROVES, BUT IF THAT'S WHAT
4 YOU FEEL WOULD EXPAND UPON THE OFFER HERE. BUT AS
5 FAR AS WHAT THE SPECIFIC ISSUE THAT WAS THE SUBJECT
6 OF THE HAND SIGNAL, I DON'T SEE THAT AS RELEVANT.

7 MR. LEVIN: WHAT MAKES JOSE MENENDEZ VIOLENT
8 IS RELEVANT TO ERIK MENENDEZ' STATE OF MIND IN
9 ASSESSING THE DEGREE OF DANGER IN EXPLAINING HIS
10 FEAR ON AUGUST THE 20TH. AND THIS IS A SITUATION
11 WHERE AN ENTIRE COMPONENT, AN ENTIRE THREAD, IF YOU
12 MAY, HAS BEEN PULLED FROM THE FABRIC OF ERIK
13 MENENDEZ' STATE OF MIND.

14 THE COURT: YOU'VE GOT TO BE KIDDING. AFTER
15 ALL OF THIS EVIDENCE THAT'S BEING INTRODUCED, YOU'RE
16 MAKING THAT ARGUMENT?

17 MR. LEVIN: ABSOLUTELY, YOUR HONOR.

18 THE COURT: WELL, THE OBJECTION IS
19 SUSTAINED. LET'S GO ON. ALL THIS EVIDENCE IS
20 BEING -- HAS BEEN ALLOWED. THE COURT HAS ALLOWED A
21 VERY BROAD RANGE OF INQUIRY OF THIS WITNESS,
22 INTRODUCING ALL SORTS OF EVIDENCE FROM CHILDHOOD ON
23 UP, AND TO MAKE THIS ARGUMENT AT THIS STAGE ABOUT
24 THAT ONE ISSUE, JUST BOGGLES THE MIND.

25 MR. LEVIN: YOUR HONOR, THERE'S NO SUCH THING
26 THAT I AM AWARE OF IN THE LAW WHERE AN ATTORNEY
27 DEFENDING A DEFENDANT IN A CAPITAL CASE SHOULD
28 BALANCE THE WEIGHT OR FORCE OF THE EVIDENCE THAT'S

1 BEEN ADDUCED IN RELATIONSHIP TO WHAT EVIDENCE THAT
2 REMAINS SHOULD OR SHOULD NOT COME IN.

3 AND I DON'T THINK THAT I'M AWARE OF ANY
4 LAW THAT STANDS FOR THE PROPOSITION THAT WHEN THE
5 COURT REACHES A POINT OF SATURATION WITH THE DEGREE
6 OF EVIDENCE, THAT OTHER RELEVANT EVIDENCE SHOULD BE
7 WITHHELD.

8 THE COURT: OKAY. WELL, I'VE ALREADY
9 INDICATED IT'S NOT RELEVANT.

10 MR. LEVIN: WELL, THIS EVIDENCE, I BELIEVE,
11 IS AND WHEN I ARGUED --

12 THE COURT: OKAY. YOU'VE HAD YOUR STATEMENT
13 ON THE RECORD AND I'VE GIVEN YOU MY RULING.

14 MS. ABRAMSON: YOUR HONOR, COULD I SAY
15 SOMETHING? I REALIZE THERE'S A ONE-LAWYER RULE, BUT
16 I DON'T LIKE THE NATURE OF THE EXCHANGE HERE, JUST
17 TO CALM IT DOWN, ME, THE CALMING FIGURE, FOR A
18 MOMENT.

19 MR. LEVIN: WE'RE FINE.

20 MS. ABRAMSON: OKAY. BUT I THINK THE CRUCIAL
21 POINT IS THE GENUINENESS OF MY CLIENT'S BELIEF UNDER
22 THE FLANNEL THEORY.

23 THE COURT: BELIEVE ME, I KNOW THAT. THAT'S
24 THE ONLY ISSUE THAT HAS JUSTIFIED THE INTRODUCTION
25 OF ALL OF THIS EVIDENCE SO FAR.

26 MS. ABRAMSON: I UNDERSTAND THAT. BUT THE
27 COURT MAY RECALL THAT ONE OF THE THINGS HE FEARED
28 JUST BEFORE THE SHOOTING WAS A SEXUAL ASSAULT BY HIS

43757

1 FATHER AND THAT SEXUAL ASSAULTS WERE USED AS
2 PUNISHMENT, AND I THINK THE JURY SHOULD BE ABLE TO
3 ASSESS THE DEGREE OF VIOLATION, IF YOU WILL, THAT
4 RESULTS IN PUNISHMENT BY THE FATHER. THE FACT THAT
5 IT WAS CHEATING AT TENNIS OR NOT CHEATING AT TENNIS,
6 EVEN IF IT WAS TO DO SOMETHING APPROPRIATE IN
7 TENNIS, I DON'T THINK IS RELEVANT EITHER. BUT I
8 THINK THAT AT LEAST MY CLIENT SHOULD BE ABLE TO
9 EXPLAIN SPECIFICALLY WHAT THE SIGNAL WAS AND WHAT HE
10 REFUSED TO DO SO THEY CAN WEIGH HOW ANGRY HIS FATHER
11 GOT OVER REFUSING TO DO THAT SMALL OF A THING;
12 WHETHER YOU CALL IT CHEATING OR NOT DOESN'T MATTER.

13 THE COURT: WELL, I CAN ASSURE YOU THAT THE
14 WAY IT WILL COME OUT, IT WILL COME OUT THAT WAY FROM
15 THE INQUIRY.

16 THE ISSUE IS WHETHER OR NOT THE FATHER
17 GAVE HIM DIRECTIONS THAT THE DEFENDANT DISOBEYED AND
18 THE REACTION OF THE FATHER AND THE DEFENDANT'S
19 REACTION TO THE FATHER'S REACTION. THAT'S ALL
20 BEFORE THE JURY.

21 NOW, IF YOU WANTED TO EXPAND ON THAT, AS
22 I SAID BEFORE, TO DETAIL WHAT THE SIGNAL WAS, IF
23 THAT IS SIGNIFICANT TO YOU, YOU CAN DO THAT. BUT AS
24 FAR AS THE DETAIL OF WHAT WAS GOING ON IN THE GAME
25 AND WHAT IT WAS THE FATHER SPECIFICALLY WANTED TO
26 DO, I DON'T SEE THAT AS RELEVANT.

27 MR. LEVIN: I APOLOGIZE, YOUR HONOR.

28 THE COURT: CHEATING'S NOT RELEVANT. THAT'S

43758

1 JUST CHARACTER ASSASSINATION OF THE FATHER FOR NO
2 OTHER REASON.

3 MR. LEVIN: I APOLOGIZE, YOUR HONOR, FOR
4 MISINTERPRETING WHAT THE COURT SAID.

5 THE COURT: I DON'T SEE ANY REASON TO GO INTO
6 THE SPECIFICS OF THE GAME OR THE NATURE OF WHAT IT
7 WAS THE FATHER WANTED HIM TO DO.

8 MR. LEVIN: SO MR. MENENDEZ COULD TESTIFY TO
9 WHAT THE HAND SIGNAL WAS AND WHAT IT MEANT?

10 THE COURT: NOT WHAT IT MEANT, NO. WHAT IT
11 MEANT, OBVIOUSLY, IS -- THE ISSUE IS WHAT YOU'RE
12 TALKING ABOUT, CHEATING, RIGHT?

13 MR. LEVIN: YES.

14 MS. ABRAMSON: TO DO SOMETHING.

15 THE COURT: JUST A HAND SIGNAL IS TO DO

16 SOMETHING. WE'VE ALREADY GOT THAT OUT.

17 MR. LEVIN: THE --

18 THE COURT: I'VE ALREADY RULED ON THIS

19 ALREADY. WE'RE GOING OVER THE SAME THING AGAIN.

20 MR. LEVIN: I DON'T THINK THAT I'VE MADE IT

21 ENTIRELY CLEAR.

22 THE POINT IS, TOO, IT GOES TO THE

23 CONTROL AND DOMINATION OF JOSE MENENDEZ THAT HERE HE

24 IS, FROM LIKE A REMOTE CONTROL DEVICE, FROM MANY

25 FEET AWAY, CAN CONTROL ERIK MENENDEZ, AND I THINK

26 THAT'S IMPORTANT IN ASSESSING THE DEGREE OF CONTROL

27 THAT MR. MENENDEZ HAD.

28 MS. ABRAMSON: MAY --

43759

1 THE COURT: OBVIOUSLY, HE DIDN'T CONTROL IN

2 THAT SITUATION. THAT'S WHAT HIS TESTIMONY WAS.

3 (ATTORNEYS ABRAMSON AND LEVIN

4 CONFERRING SOTTO VOCE.)

5

6 MR. LEVIN: I JUST NEED ONE SECOND WITH MY

7 CLIENT.

8 (ATTORNEY LEVIN CONFERS WITH THE

9 DEFENDANT, ERIK MENENDEZ.)

10

11 THE COURT: ALL RIGHT. ANYTHING ELSE BEFORE
12 THE JURY COMES OUT?
13 MR. LEVIN: YOUR HONOR, I'M STILL ATTEMPTING
14 TO GET IN THIS DMV RECORD.
15 THE COURT: I DID ASK FOR YOU TO SHOW ME THE
16 DOCUMENT AND YOU HAD SOME CASE YOU WANTED ME TO LOOK
17 AT. I'VE SEEN NEITHER ONE YET. I'VE BEEN HERE.
18 MS. ABRAMSON: WAS THAT YOU? YOU WERE HERE?
19 THE COURT: UNTIL WE HAVE A TIME FOR ME TO
20 LOOK AT IT, I CAN'T RULE ON IT.
21 SO LET'S PROCEED WITH THE JURY.
22 MS. ABRAMSON: I ASKED DETECTIVE ZOELLER TO
23 PULL THE ORIGINAL. THESE ARE FROM THE BEVERLY HILLS
24 POLICE DEPARTMENT DOCUMENTS, THE NUMBER ON THE
25 BOTTOM. I HAVE NO PROBLEM GIVING YOU OUR RESEARCH,
26 IF THAT WOULD ASSIST THE COURT.
27 THE COURT: ALL RIGHT.
28

43760

1 (THE JURY ENTERED THE
2 COURTROOM AND THE FOLLOWING
3 PROCEEDINGS WERE HELD:)
4
5 THE COURT: OKAY. THE JURY IS BACK AND WE'LL

6 CONTINUE WITH THE DIRECT EXAMINATION OF THE

7 DEFENDANT, ERIK MENENDEZ.

8 MR. LEVIN: THANK YOU.

9 Q MR. MENENDEZ, DIRECTING YOUR ATTENTION

10 BACK FOR JUST A MOMENT TO THAT INCIDENT THAT

11 OCCURRED IN ARIZONA WHERE YOU RECEIVED A HAND SIGNAL

12 FROM YOUR FATHER AND YOU DISOBEYED IT.

13 HAD YOU EVER BEFORE DISOBEYED SUCH A

14 HAND SIGNAL GIVEN TO YOU BY YOUR FATHER?

15 A ONLY ONCE.

16 Q WHEN DID THAT OCCUR?

17 A WHEN I WAS 12.

18 Q WHAT OCCURRED WHEN YOU DISOBEYED YOUR

19 FATHER'S HAND SIGNAL -- FIRST OF ALL, WAS IT THE SAME

20 HAND SIGNAL THAT HE GAVE YOU IN THE ARIZONA

21 TOURNAMENT?

22 A YES.

23 Q AND WHAT HAPPENED WHEN YOU WERE 12 AND

24 YOU DISOBEYED IT AT THAT TIME?

25 A I LEARNED NOT TO DO IT AGAIN. MY FATHER

26 HELD ME UP AGAINST THE LOCKER ROOM DOOR AND TOLD ME

27 NEVER TO DISOBEY A DIRECT ORDER OF HIS.

28 Q WAS THAT -- WAS THAT THE INCIDENT THAT

1 YOU DESCRIBED WHERE LYLE MENENDEZ --

2 A THERE WAS ANOTHER TIME WHEN LYLE DID THE
3 SAME THING. I WAS A YEAR OR TWO YOUNGER AT THAT TIME.

4 Q WHEN YOUR FATHER HAD INDICATED TO YOU
5 THAT YOU WERE DISINHERITED, DID YOU BELIEVE HIM?

6 A YES.

7 Q DID IT AFFECT YOUR LIFE IN ANY WAY?

8 A NO.

9 Q WHY NOT?

10 A WHETHER I WAS IN HIS WILL OR NOT IN HIS
11 WILL DIDN'T MATTER. I WAS STILL LIVING AT HOME AND
12 EVERYTHING WAS STILL BEING PAID FOR AND MY FATHER
13 WAS ONLY 45 YEARS OLD. IT DIDN'T MAKE MUCH
14 DIFFERENCE.

15 Q DO YOU REMEMBER -- I WANT TO ASK YOU A
16 COUPLE MORE QUESTIONS ABOUT THE SAFE INCIDENT AT
17 RANDY WRIGHT'S HOUSE.

18 DO YOU REMEMBER GOING TO RANDY WRIGHT'S
19 HOUSE AND SEEING THE SAFE IN THE GARAGE?

20 A I REMEMBER GOING TO RANDY WRIGHT'S
21 HOUSE. I REMEMBER SEEING THE SAFE IN THE GARAGE.

22 Q DO YOU REMEMBER THE CIRCUMSTANCES UNDER
23 WHICH IT WAS OPEN?

24 A YES.

25 Q AND HOW -- HOW DID -- FIRST OF ALL, HOW
26 DID YOU GET TO RANDY WRIGHT'S HOUSE?

27 A I CAME OVER IN A LIMOUSINE WITH MY UNCLE
28 BRIAN AND MY UNCLE CARLOS, I BELIEVE LYLE, AND I HAD

1 THOUGHT THE LOCKSMITH, BUT I COULD BE WRONG.

2 Q DO YOU REMEMBER WHO IT WAS THAT ARRANGED
3 FOR THE ATTENDANCE OF A LOCKSMITH?

4 A I BELIEVE IT WAS MY UNCLE BRIAN.

5 Q AND WHEN YOU GOT TO RANDY WRIGHT'S
6 HOUSE, WAS THERE EVER ANY DISCUSSION IN THE GARAGE
7 CONCERNING THE CIRCUMSTANCES THAT THE SAFE WOULD BE
8 OPENED?

9 A YES.

10 Q WHAT WAS THE DISCUSSION?

11 A WELL, THE LOCKSMITH DIDN'T WANT ANYONE
12 IN THE GARAGE WHEN HE WAS OPENING UP THE SAFE. WE
13 STEPPED OUTSIDE. WHEN THE LOCKSMITH SAID THAT THE
14 SAFE WAS NOW OPEN AND COULD BE OPENED, MY BROTHER
15 TOLD MY -- ASKED MY UNCLE CARLOS IF HE COULD OPEN IT
16 PRIVATELY AND HE TOLD HIM THAT THERE COULD BE MANY
17 EMBARRASSING FAMILY SECRETS IN THERE THAT HE DOES
18 NOT WANT EXPOSED AND THEY AGREED.

19 Q WHY DID YOU BELIEVE THE LOCKSMITH DIDN'T
20 WANT YOU IN THE GARAGE WHEN HE OPENED THE SAFE?

21 A I DON'T KNOW. HE JUST ASKED ALL FOUR OF
22 US TO STEP OUTSIDE WHILE HE WAS DRILLING TO OPEN THE
23 SAFE. MAYBE IT WAS SOMETHING COULD EXPLODE. I

24 DON'T KNOW.

25 Q AND WAS THIS JUST -- HOW BIG WAS THE

26 GARAGE?

27 A I DON'T REMEMBER IF IT WAS A THREE-CAR

28 GARAGE OR TWO-CAR GARAGE. IT WAS 20 OR 30 FEET BY

43763

1 15 FEET.

2 Q DO YOU REMEMBER LOOKING INSIDE THE

3 SAFE?

4 A YES.

5 Q WHAT DID YOU SEE INSIDE THE SAFE?

6 A A KEY -- I SPECIFICALLY REMEMBER A KEY.

7 THERE MIGHT HAVE BEEN SOME PAPERS EXPLAINING WHAT TO

8 DO WITH THE KEY.

9 Q DID YOU REMOVE THOSE ITEMS?

10 A YES. YES.

11 Q DID YOU LEARN THAT THERE WAS A SAFE

12 DEPOSIT BOX THAT WAS RELATED TO THE KEY?

13 A WELL, MY UNCLE CARLOS WAS ACROSS THE

14 GARAGE AND HE CAME OVER AND HE SAID THAT IT MUST BE

15 FOR THE SAFETY DEPOSIT BOX.

16 Q DID YOU IN ANY WAY TRY TO CONCEAL THE

17 EXISTENCE OF THE KEY AND THE PAPERS FROM THE SAFE?

18 A NO.

19 Q DID YOU INFORM YOUR UNCLE BRIAN AS TO
20 THE EXISTENCE OF THE KEY?

21 A THEY WERE IN THE GARAGE AT THE TIME. WE
22 JUST SAID THERE'S NOTHING MUCH IN HERE.

23 Q WAS A KEY SOMETHING THAT YOU WERE
24 LOOKING FOR THAT YOU FELT COULD BE EMBARRASSING TO
25 THE FAMILY?

26 A NO.

27 Q DID THE FAMILY -- WAS THERE ANY COMPUTERS
28 IN YOUR HOUSE?

43764

1 A THERE WERE -- THERE WAS A COMPUTER, YES.

2 Q AND WHERE WAS THE COMPUTER?

3 A IT WAS IN -- IBM COMPUTER ON MY
4 MOTHER'S -- IN MY MOTHER'S -- IN MY PARENTS' BEDROOM.

5 Q HAD YOU EVER USED THAT COMPUTER?

6 A WHEN I WAS VERY YOUNG, 12, 13, I USED
7 IT.

8 Q DID YOU KNOW HOW TO USE THE IBM COMPUTER
9 IN YOUR PARENTS' ROOM?

10 A NO. I WAS BANNED FROM USING IT WHEN I
11 WAS 13.

12 Q WHY?

13 A I HAD, BY ACCIDENT, WAS FIDDLING WITH IT

14 AND ERASED THE HARD DRIVE.

15 Q HOW BIG IS THE COMPUTER? WOULD YOU SHOW
16 US WITH YOUR HANDS.

17 A IT'S AN OLD COMPUTER, ABOUT 15 YEARS
18 NOW. JUST THE MONITOR AND THERE'S A BIG BASE THAT
19 THE MONITOR SITS ON. THERE'S A PRINTER ON -- THERE
20 WAS A PRINTER ON THE SIDE OF IT.

21 Q COULD YOU PICK UP THE COMPUTER IF YOU
22 WANTED TO?

23 A YES.

24 Q WAS THE COMPUTER ATTACHED IN ANY WAY
25 THAT WOULD PRECLUDE YOU FROM REMOVING IT?

26 A NO.

27 Q WAS IT PLUGGED IN?

28 A IT WAS PLUGGED IN TO THE SOCKET IN THE

43765

1 WALL.

2 Q DID YOU EVER ATTEMPT TO DESTROY OR
3 CONCEAL THE COMPUTER?

4 A NO.

5 Q EVENTUALLY DID YOU USE THAT KEY THAT YOU
6 FOUND INSIDE THE SAFE?

7 A YES.

8 Q AND WHERE DID YOU USE THE KEY?

9 A MY UNCLE CARLOS, BRIAN, LYLE AND I WENT
10 OVER TO -- I DON'T REMEMBER THE NAME OF THE BANK IN
11 BEVERLY HILLS THAT THE INSTRUCTIONS SAID TO GO TO
12 WHERE THE SAFETY DEPOSIT BOX WOULD BE.

13 Q DID UNCLE BRIAN AND THE OTHER MEMBERS OF
14 THE FAMILY THAT WERE THERE AT THAT TIME KNOW THAT
15 THAT KEY WENT TO A SAFE DEPOSIT BOX?

16 A I ASSUME THAT'S WHY WE WERE THERE.

17 Q WERE THEY ALONG WITH YOU WHEN YOU WENT
18 TO THE BANK?

19 A YES.

20 Q WHAT HAPPENED WHEN YOU -- DO YOU REMEMBER
21 WHAT HAPPENED WHEN YOU WENT IN THE BANK?

22 A YES.

23 Q WHAT HAPPENED?

24 A THE BANK MANAGER DIDN'T WANT TO LET US
25 INTO THE SAFETY DEPOSIT BOX. THERE WAS SOME
26 DISCUSSION OR ARGUMENT OVER WHETHER WE WOULD BE
27 ALLOWED ACCESS. MY UNCLE CARLOS WAS THE -- I DON'T
28 KNOW IF HE WAS EXECUTOR AT THAT POINT, BUT HE WAS

43766

1 TAKING CHARGE AND SAYING THAT -- THAT MY PARENTS WERE
2 DEAD AND NEEDED TO GET INSIDE, LOOKING FOR A WILL,
3 AND EVENTUALLY THE BANK MANAGER LET US IN.

4 Q WHO WAS PRESENT WHEN THE SAFE DEPOSIT
5 BOX WAS OPENED?

6 A YOU MEAN ACTUALLY IN THE SMALL ROOM?

7 Q YEAH.

8 A THE BANK MANAGER OPENED IT AND TOOK OUT
9 ITS CONTENTS FIRST.

10 Q AND DID YOU EXAMINE THE CONTENTS?

11 A YES.

12 Q WHAT WAS IN THERE?

13 A SOME JEWELRY, SOME PAPERS. I NO LONGER
14 REMEMBER THE SPECIFICS OF WHAT WAS IN THERE.

15 Q THERE WAS JEWELRY?

16 A YES.

17 Q DID YOU TAKE THE JEWELRY?

18 A NO.

19 Q DID LYLE MENENDEZ TAKE THE JEWELRY?

20 A NO.

21 Q WHAT DID YOU DO WITH THE JEWELRY?

22 A MY UNCLE CARLOS AND MY UNCLE BRIAN WERE
23 WAITING OUTSIDE THE ROOM AND WE CALLED THEM IN AND
24 SHOWED THEM THE CONTENTS, AND I ASSUME THEY TOOK
25 POSSESSION.

26 Q WHEN YOU DISCOVERED THE PRESENCE OF THE
27 CON -- OR THE CONTENTS OF THE SAFE DEPOSIT BOX, WHO
28 WAS PRESENT AT THAT TIME, THE FIRST MOMENT YOU KNEW

1 WHAT WAS INSIDE THERE?

2 A I BELIEVE IT WAS SIMPLY MY BROTHER AND I
3 AND THE BANK MANAGER WAS STANDING NOT NEXT TO US BUT
4 BEHIND US.

5 Q AND THE BANK MANAGER GAVE YOU THEN
6 ACCESS TO THE CONTENTS OF THE SAFE DEPOSIT BOX?

7 A YES.

8 Q DID YOU BRING ANY BAGS WITH YOU, EMPTY
9 BAGS?

10 A NO.

11 Q DID YOU LOOK THROUGH THE PAPERS?

12 A YES.

13 Q WHAT WERE YOU LOOKING FOR?

14 A PHOTOGRAPHS, ANY TYPE OF EVIDENCE THAT
15 MY MOTHER MIGHT HAVE PUT INSIDE THE SECURITY BOX
16 ABOUT WHAT WAS HAPPENING BETWEEN MY FATHER AND I;
17 THAT'S WHAT I WAS LOOKING FOR IN PARTICULAR. THEY
18 (SIC) HAD ASKED CARLOS AND BRIAN IF WE COULD LOOK IN
19 THERE FIRST IN CASE THERE WERE ANY SECRETS, AND I
20 WAS SPECIFICALLY FOCUSED ON THAT.

21 Q WHAT HAPPENED -- DID ANYTHING ELSE
22 SIGNIFICANT HAPPEN AT THE BANK?

23 A NOT THAT I REMEMBER.

24 Q HOW LONG AFTER THE DEATH OF YOUR PARENTS
25 WERE YOU AT THE BANK DID THIS INCIDENT OCCUR?

26 A I THINK IT WAS ON A WEDNESDAY, PERHAPS A
27 THURSDAY.

28 Q WITHIN THE FIRST WEEK?

43768

1 A YES.

2 Q HOW WOULD YOU DESCRIBE YOUR EMOTIONAL
3 DEMEANOR AT THIS TIME?

4 A VERY SOMBER, SAD, QUIET.

5 Q HOW WERE YOU FEELING ABOUT THE DEATH OF
6 YOUR PARENTS?

7 A A LOT OF REGRET, GUILTY. JUST SAD.

8 Q WERE THE FAMILY MEMBERS STARTING TO
9 ARRIVE IN CALIFORNIA FROM OUT OF STATE BY THIS
10 TIME?

11 A TUESDAY, WEDNESDAY, EVEN THURSDAY THEY
12 ARRIVED.

13 Q AND WAS THERE A SERVICE THAT HAD BEEN
14 PLANNED IN ANY PARTICULAR PLACE?

15 A YES.

16 Q WHERE?

17 A AT ONE OF THE GUILDS, ACTOR'S GUILD OR
18 DIRECTOR'S GUILD, IN HOLLYWOOD.

19 Q AND DID YOU ATTEND THAT SERVICE?

20 A YES.

21 Q DO YOU KNOW WHO MARZI EISENBERG IS?

22 A YES.

23 Q WHO IS SHE?
24 A SHE WAS MY FATHER'S PERSONAL SECRETARY.
25 Q HOW LONG HAD SHE BEEN YOUR FATHER'S
26 PERSONAL SECRETARY?
27 A FOR A VERY LONG TIME. TEN YEARS.
28 Q DID YOUR FATHER AND MARZI EISENBERG SEEM

43769

1 TO HAVE A CLOSE RELATIONSHIP?
2 A I DON'T KNOW IF MY FATHER HAD A CLOSE
3 RELATIONSHIP WITH ANYONE. I DON'T KNOW WHAT YOU
4 MEAN BY CLOSE. THEY -- MARZI KNEW A LOT OF THINGS MY
5 MOTHER DIDN'T, SO HE WAS CLOSE --
6 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
7 SPECULATION.
8 THE COURT: SUSTAINED. THE ANSWER IS
9 STRICKEN.
10 Q BY MR. LEVIN: HOW DID YOU GET TO THE
11 FUNERAL?
12 A LIMOUSINES -- SEVERAL LIMOUSINES WERE
13 TAKING THE RELATIVES.
14 Q WAS THE FUNERAL -- AND THIS IS A FUNERAL
15 SERVICE AT THE DIRECTOR'S GUILD; IS THAT CORRECT?
16 A EXACTLY.
17 Q FROM WHERE DID YOU TAKE THE LIMOUSINE?

18 A I BELIEVE IT WAS FROM THE BEVERLY HILLS

19 HOUSE.

20 Q WHO WAS IN THE LIMOUSINE THAT YOU RODE

21 IN?

22 A ON THE WAY THERE?

23 Q YES.

24 A I BELIEVE MY GRANDMOTHER WAS THERE, MY

25 BROTHER, MYSELF. I DON'T REMEMBER WHO ELSE WAS

26 THERE ON THE WAY TO THE SERVICE.

27 Q DO YOU REMEMBER EVER BEING IN A

28 LIMOUSINE WITH MARZI EISENBERG?

43770

1 A YES.

2 Q WHERE DID THAT OCCUR?

3 A ON THE WAY BACK FROM THE SERVICE.

4 Q DO YOU HAVE A RECOLLECTION OF MARZI

5 EISENBERG BEING IN THE LIMOUSINE ON THE WAY BACK?

6 A YES.

7 Q WHO ELSE WAS IN THE LIMO ON THE WAY

8 BACK?

9 A MYSELF, MY BROTHER. I BELIEVE -- I

10 BELIEVE CARLOS MENENDEZ, BUT I'M NOT SURE.

11 Q YOU HEARD MARZI EISENBERG'S TESTIMONY?

12 A YES.

13 Q YOU HEARD HER TESTIFY THAT THERE WAS A
14 CONVERSATION IN THE LIMOUSINE --

15 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
16 IRRELEVANT.

17 THE COURT: ARE YOU GOING INTO THAT AREA THAT
18 WE HAD TALKED ABOUT?

19 MR. LEVIN: NO, YOUR HONOR. THAT WILL COME
20 IN LATER. I JUST WANT TO ESTABLISH THAT HE WAS
21 PRESENT.

22 THE COURT: DIDN'T YOU JUST ASK FOR THE
23 CONTENT OF THE CONVERSATION?

24 MR. LEVIN: I WASN'T GOING TO.

25 THE COURT: ALL RIGHT. THEN LET'S ASK THE
26 QUESTION AGAIN THEN.

27 Q BY MR. LEVIN: WERE YOU PRESENT IN THE
28 LIMOUSINE DURING THE ENTIRE RIDE BACK?

43771

1 A YES.

2 Q I WANT TO ASK YOU SOME QUESTIONS NOW
3 CONCERNING ANY KNOWLEDGE THAT YOU HAD CONCERNING
4 YOUR FATHER'S WEALTH.

5 DID YOU AT SOME TIME LEARN THAT YOU HAD
6 NOT BEEN DISINHERITED?

7 A YES.

8 Q AND HOW IS IT THAT YOU LEARNED THAT?

9 A OVER TIME, THE RELATIVES WERE SEARCHING
10 FOR -- THEY HAD HAD THE OLD WILL. THEY WERE
11 SEARCHING FOR THE NEW WILL. AND UNTIL THAT WAS
12 FOUND -- EVENTUALLY THEY STOPPED LOOKING AND NO
13 ATTORNEYS -- THEY CALLED A LOT OF ATTORNEYS. SO
14 EVENTUALLY IT WAS JUST ESTABLISHED THAT NO NEW WILL
15 HAD BEEN CREATED.

16 Q EVENTUALLY THERE WAS A WILL THAT WAS
17 FOUND?

18 A YES.

19 Q AND WAS IT YOUR UNDERSTANDING THAT YOU
20 WERE OR WERE NOT IN THE WILL?

21 A THE NEW WILL HAD MY BROTHER AND I AS
22 RECIPIENTS.

23 Q WHO TOLD YOU THAT INFORMATION?

24 A MY UNCLE CARLOS.

25 Q AND DID YOU KNOW WHAT YOU WOULD
26 INHERIT?

27 A WHAT MY FATHER HAD. I DIDN'T KNOW
28 SPECIFICALLY.

43772

1 Q DID YOU KNOW SPECIFICALLY WHAT YOUR
2 FATHER HAD?

3 A NO.

4 Q HAD YOUR FATHER EVER MADE YOU AWARE OF
5 THE EXTENT OF HIS FINANCIAL DEALINGS?

6 A NO.

7 Q HAD YOUR FATHER EVER MADE YOU AWARE OF
8 THE EXTENT OF HIS WEALTH?

9 A NO.

10 Q WAS THERE ANY DISCUSSION ABOUT
11 INSURANCE?

12 A I REMEMBER MY FATHER DISCUSSING IT WITH
13 MY MOTHER AT THE DINNER TABLE SEVERAL TIMES.

14 Q WHAT WAS THE DISCUSSION ABOUT?

15 A THAT MY FATHER -- THE COMPANY WAS GOING
16 TO GIVE MY FATHER A \$5-MILLION LIFE INSURANCE POLICY
17 AND THAT HE -- THE ONLY THING LEFT TO DO WAS SIMPLY
18 TO TAKE THE PHYSICAL, AND MY MOM WANTED HIM TO TAKE
19 THE PHYSICAL AND HAD BEEN ASKING FOR HIM TO TAKE THE
20 PHYSICAL FOR MANY MONTHS, AND HE KEPT PUTTING IT
21 OFF, AND FINALLY HE SAID THAT HE HAD MADE AN
22 APPOINTMENT FOR SEPTEMBER OF '89 TO TAKE THE
23 PHYSICAL.

24 Q AT THE TIME OF HIS DEATH, DID YOU HAVE
25 KNOWLEDGE AS TO WHETHER OR NOT HE HAD TAKEN THE
26 PHYSICAL?

27 A WELL, HE HAD NOT TAKEN THE PHYSICAL.

28 Q AND DO YOU KNOW WHY HE HADN'T TAKEN THE

1 PHYSICAL?

2 A I KNOW THAT HE HAD HAD A HEART ATTACK IN
3 JANUARY, OR HEART TREMORS, AND THAT MY MOM ALSO
4 WANTED HIM TO TAKE THE PHYSICAL AND SO -- I WASN'T
5 SPECIFICALLY TOLD. I JUST ASSUMED.

6 MR. CONN: OBJECTION. CALLS FOR HEARSAY.
7 MOTION TO STRIKE.

8 THE COURT: OBJECTION SUSTAINED. THE ANSWER
9 IS STRICKEN.

10 MR. LEVIN: THE PREVIOUS ANSWER AS WELL.

11 Q BY MR. LEVIN: WAS THERE -- MR. MENENDEZ,
12 DID YOU RECEIVE ANY INFORMATION THAT FOLLOWING THE
13 DEATH OF YOUR PARENTS THAT YOU WERE GOING TO GET
14 SOME INSURANCE MONEY?

15 A YES.

16 Q AND WAS THIS LIFE INSURANCE?

17 A RIGHT.

18 Q DID YOU UNDERSTAND HOW MUCH THAT YOU
19 WERE -- IT WAS YOU WERE GOING TO RECEIVE?

20 A MY -- MY AUNT MARTA WAS GIVING A LOT OF
21 DIFFERENT FIGURES ABOUT WHAT THE ESTATE WAS WORTH
22 AND THE INSURANCE POLICY THAT SHE HAD TAKEN OUT. AT
23 THAT POINT SHE WAS TRYING TO GIVE A LOT OF FIGURES.
24 I DON'T SPECIFICALLY REMEMBER.

25 Q WHO IS AUNT MARTA?

26 A SHE'S MY FATHER'S SISTER, MY AUNT.
27 Q AND TO YOUR KNOWLEDGE, DOES AUNT MARTA
28 HAVE ANY SPECIAL EXPERIENCE AND TRAINING WHEN IT

43774

1 COMES TO MONEY?

2 A YES.

3 Q WHAT IS THAT?

4 A SHE'S AN INVESTMENT MANAGER, A STOCK
5 BROKER, PERSONAL PACKAGE-TYPE OF INVESTMENT-TYPE OF
6 THING.

7 Q WHAT RELATIONSHIP DID YOU HAVE WITH AUNT
8 MARTA?

9 A SHE WAS ONE OF MY FAVORITE AUNTS.

10 Q WERE YOU CLOSE TO HER?

11 A AS CLOSE AS I COULD BE.

12 Q DID AUNT MARTA HAVE ANYTHING TO DO WITH
13 THE MONEY THAT YOU RECEIVED FROM YOUR FATHER'S
14 DEATH?

15 A YES.

16 Q AND WHAT WAS THAT?

17 A SHE -- SHE HAD ARRANGED FOR US TO GET THE
18 INSURANCE.

19 Q ONCE YOU OBTAINED THE INSURANCE
20 PROCEEDS, WHAT DID YOU DO WITH THE MONEY?

21 A I GAVE IT TO MY AUNT MARTA TO TAKE
22 POSSESSION AND BASICALLY TO MANAGE. I DIDN'T KNOW
23 ANYTHING ABOUT MONEY, REALLY, AND SO SHE -- SHE WAS
24 WILLING TO GIVE ME ADVICE.

25 Q FOLLOWING THE DEATH OF YOUR PARENTS, DID
26 YOU HAVE A FUTURE PLANNED FOR YOURSELF?

27 A I HAD NO PLANS.

28 Q DID YOU WANT TO DO ANY PARTICULAR THING

43775

1 WITH YOUR LIFE?

2 A I WANTED TO DO WHAT MY FATHER WANTED ME
3 TO DO.

4 Q DID AUNT MARTA ASSIST YOU WITH RESPECT
5 TO SEEKING ACCEPTANCE INTO ANY PARTICULAR SCHOOL?

6 A I FELT THAT MY FATHER WOULD WANT ME AT
7 PRINCETON WITH MY BROTHER AND SO SHE HELPED TRY TO
8 ARRANGE ME TO GET INTO THE SCHOOL AT PRINCETON AND
9 ARRANGE THE MEETING WITH THE DEAN THAT I HAD IN
10 SEPTEMBER.

11 Q DID YOU SEE THE DEAN AT PRINCETON?

12 A I MET WITH HIM, ASKED HIM IF I COULD
13 START SCHOOL, EVEN THOUGH I BELIEVE IT WAS A LITTLE
14 LATE, AND ASKED HIM IF I COULD BEGIN THAT SEMESTER,
15 AND I EXPLAINED TO HIM WHAT HAD HAPPENED WITH MY

16 PARENTS AND THAT MY -- THAT I BELIEVE THIS IS WHAT MY
17 FATHER WOULD WANT ME TO DO. AND HE SAID THAT IT WAS
18 TOO LATE; THAT I WAS GOING TO HAVE TO REAPPLY FOR
19 THE NEXT SEMESTER.

20 Q DID YOU WANT TO GO TO PRINCETON?

21 A NO.

22 Q DID YOU THINK THAT YOU COULD SUCCEED IN
23 COLLEGE?

24 A I WASN'T SURE THAT I COULD.

25 Q WHY NOT?

26 A WITHOUT MY MOM AND MY DAD HELPING ME
27 THROUGH THE WORK, I WASN'T SURE THAT I COULD PASS.

28 Q NOW, HOW WAS IT THAT YOU COMMUNICATED TO

43776

1 AUNT MARTA THAT YOU WANTED HER TO HELP YOU WITH THE
2 MONEY THAT YOU RECEIVED FROM YOUR PARENTS' DEATH?

3 A I HAD SOME CONVERSATIONS WITH HER AND
4 THAT I DIDN'T KNOW WHAT TO DO WITH THE MONEY THAT I
5 WAS GOING TO BE GETTING. I DIDN'T KNOW ANYTHING
6 ABOUT HOW BANKS WORK OR NEVER HAD A CHECKING
7 ACCOUNT. I HAD NEVER KEPT TAXES. I HAD NEVER
8 INVESTED ANYTHING. I DIDN'T KNOW ANYTHING ABOUT
9 MONEY. AND SHE HAD -- SHE ADVISED THAT I JUST GIVE
10 IT TO HER AND THAT SHE WOULD GIVE ME HER CREDIT CARD

11 AND A CHECKING ACCOUNT AND I WOULD SEND EVERYTHING
12 TO HER, AND SHE WOULD TAKE CARE OF IT FOR ME.

13 Q AND IS THAT WHAT OCCURRED, WHERE SHE
14 TOOK CONTROL OF THE MONEY AND GAVE YOU A CREDIT
15 CARD?

16 A YES.

17 Q DID YOU ALSO GET A CHECK BOOK?

18 A YES.

19 Q DID AUNT MARTA GIVE YOU ANY ADVICE WITH
20 RESPECT TO INVESTING MONEY?

21 A SHE ASKED ME IF I WANTED HER TO INVEST
22 ON HER OWN. I SAID WHATEVER SHE FEELS IS BEST.
23 SEVERAL PEOPLE WERE TELLING ME TO INVEST IN REAL
24 ESTATE, BUT I'M NOT SURE IF MY AUNT MARTA WAS ONE OF
25 THEM. I THINK SHE WAS A STOCK BROKER SO SHE WAS
26 TELLING ME TO INVEST IN STOCKS.

27 Q DID YOU WANT THIS MONEY, MR. MENENDEZ?

28 A I WASN'T SURE THAT I WANTED THE MONEY.

43777

1 Q WHO ELSE IN YOUR FAMILY WAS GIVING YOU
2 ADVICE WITH RESPECT TO THE INVESTING OF ANY MONEY?

3 A MY UNCLE BRIAN.

4 Q DOES UNCLE BRIAN HAVE ANY SPECIAL
5 KNOWLEDGE WITH RESPECT TO BUSINESS INVESTMENTS?

6 A HE'S A WEALTHY REAL ESTATE INVEST- -- A

7 BUSINESSMAN, INVESTS IN REAL ESTATE.

8 Q ANYONE ELSE -- STRIKE THAT.

9 WHAT DID UNCLE BRIAN TELL YOU ABOUT WHAT

10 YOU SHOULD DO WITH THE MONEY?

11 A HE TOLD ME TO INVEST IT IN REAL ESTATE.

12 HE TOLD ME THAT IF I GAVE HIM THREE MILLION DOLLARS,

13 THAT HE COULD -- HE COULD DO A LOT WITH IT, AND JUST

14 TO BASICALLY GIVE THE MONEY TO HIM, ALLOW HIM TO

15 INVEST IT, AND HE WOULD TAKE CARE OF IT AND MY

16 INVESTMENTS IN THE FUTURE.

17 Q DID YOU HAVE THREE MILLION DOLLARS?

18 A NO. HE WAS JUST SPECULATING ON WHAT I

19 MIGHT GET WHEN THE -- WHEN THE ESTATE UNFOLDED, AND

20 SO HE WAS SAYING GIVE THE MONEY TO HIM, HE'LL INVEST

21 IT, AND MAYBE AFTER COLLEGE I'LL WORK WITH HIM.

22 THAT'S WHAT HE WANTED ME TO DO.

23 Q HOW MUCH MONEY DID YOU ACTUALLY RECEIVE

24 FOLLOWING THE DEATH OF YOUR PARENTS?

25 A TWO HUNDRED AND FIFTY TO THREE HUNDRED

26 THOUSAND DOLLARS.

27 Q AND DID YOU GIVE THAT ENTIRE AMOUNT OF

28 MONEY TO AUNT MARTA?

1 A RIGHT.

2 Q YOU HEARD TESTIMONY IN THIS TRIAL
3 CONCERNING YOUR PURCHASING A JEEP.

4 DID YOU BUY A JEEP?

5 A YES.

6 Q WHEN, FOLLOWING YOUR PARENTS' DEATH, DID
7 YOU BUY A JEEP?

8 A LATE OCTOBER. TWO MONTHS LATER.

9 Q WAS THIS A PARTICULARLY HAPPY EVENT IN
10 YOUR LIFE TO ACQUIRE A JEEP?

11 A IT WAS A VERY DEPRESSING TIME IN MY
12 LIFE. I WAS GIVING MY CAR TO MY AUNT MARTA. I
13 BOUGHT A JEEP.

14 Q DID YOU IN ANY WAY KEEP SECRET OR
15 CONCEAL THE PURCHASE OF THE JEEP FROM THE FAMILY?

16 A NO. THE FAMILY WAS GIVING ME ADVICE ON
17 THE JEEP.

18 Q WERE YOU ALONE IN YOUR DECISION TO
19 ULTIMATELY PURCHASE THIS VEHICLE? HAD THERE BEEN
20 ANY DISCUSSION ABOUT IT BEFORE?

21 A YES.

22 Q WHO DID YOU DISCUSS IT WITH?

23 A MY AUNT MARTA, MY BROTHER, STEVE
24 GOLDBERG, WHO WAS THE -- WHO HAD BECOME A FRIEND, WAS
25 THE LAWYER FOR THE ESTATE FOR MY UNCLE CARLOS AND MY
26 AUNT TERRY, MY COUSIN HENRY.

27 Q AND AS A RESULT OF THE CONVERSATIONS
28 THAT YOU HAD WITH COUSIN HENRY AND AUNT MARTA AND

1 ATTORNEY GOLDBERG, DID ANYONE DISAGREE WITH YOU
2 BUYING A JEEP?

3 A NO.

4 Q DID ANY OF THOSE PEOPLE ASSIST YOU IN
5 THE BUYING OF A JEEP?

6 A MY AUNT MARTHA ASSISTED ME IN, I GUESS,
7 ARRANGING FOR THE FINANCIAL ARRANGEMENTS OF IT, AND
8 STEVE GOLDBERG WENT WITH ME TO ACTUALLY BUY IT IN
9 TERMS OF NEGOTIATE WITH THE...

10 Q HAD YOU EVER, IN YOUR LIFE, NEGOTIATED
11 THE PURCHASE OF A VEHICLE?

12 A NO.

13 Q WHO NEGOTIATED THE SALE AND PURCHASE OF
14 THIS JEEP?

15 A STEVE WAS GOING BACK AND FORTH WITH
16 NUMBERS WITH THE MAN THERE.

17 Q YOU HEARD TESTIMONY IN THIS TRIAL
18 CONCERNING THE PURCHASE OF A WRISTWATCH?

19 A A ROLEX.

20 Q DID YOU ULTIMATELY OBTAIN A ROLEX
21 WRISTWATCH?

22 A YES.

23 Q AND WHEN DID YOU OBTAIN THIS
24 WRISTWATCH?

25 A WHEN I WAS IN CENTURY CITY BUYING A
26 SPORTS COAT, SPORTS JACKET TO WEAR TO THE FUNERAL.
27 Q HAD THERE BEEN ANY PLAN FOR YOU OR
28 ARRANGEMENTS MADE FOR YOU TO VISIT A JEWELRY STORE

43780

1 WHEN YOU WENT TO CENTURY CITY BEFORE YOU WENT
2 THERE?

3 A NO.

4 Q HAD THERE BEEN ANY DISCUSSION OR
5 DECISION MADE FOR YOU TO OBTAIN A ROLEX WRISTWATCH
6 BEFORE YOU WENT TO CENTURY CITY?

7 A NO.

8 Q WHAT WAS YOUR PURPOSE FOR GOING THERE?

9 A I DIDN'T HAVE ANY SUITS OR ANY SPORTS --
10 A BLAZER TO WEAR THAT REALLY FIT ME ANYMORE. I
11 THINK I HAD ONE OR TWO FROM LONG BEFORE, SO I NEEDED
12 ONE. SO I WAS GOING OVER TO BULLOCK'S TO GET ONE.

13 Q WHO DID YOU GO TO BULLOCK'S WITH?

14 A MY BROTHER.

15 Q WHEN YOU GOT TO BULLOCK'S DID YOU BUY
16 ANY CLOTHING FOR THE FUNERAL?

17 A I BOUGHT THE JACKET AND I BOUGHT A PAIR
18 OF LOAFERS.

19 Q AFTER YOU BOUGHT THE JACKET, DID YOU

20 LEAVE CENTURY CITY? STRIKE THAT.

21 DID YOU HAVE TO WAIT FOR ANYTHING AFTER
22 YOU BOUGHT THE JACKET?

23 A IT WAS BEING FITTED. IT WAS TOO BIG FOR
24 ME, EITHER IN THE SLEEVES OR THE WAIST, AND IT
25 NEEDED TO BE FITTED. SO I THINK I HAD TO WAIT AN
26 HOUR, MAYBE TWO.

27 Q DURING THAT HOUR OR TWO, DID YOU GO TO
28 THE JEWELRY STORE?

43781

1 A IT WAS ONE OF THE PLACES WE WENT.

2 Q WHERE ELSE DID YOU GO?

3 A WE WERE JUST -- IT'S AN OUTSIDE MALL AND
4 WE WERE JUST -- MY BROTHER AND I WERE TALKING AND
5 WALKING ALONG THE STORES, STOPPING AT WINDOWS AND
6 JUST TALKING, GOING IN AND OUT OF STORES. WE WERE
7 GOING --

8 Q WHEN YOU ULTIMATELY WENT INTO THE
9 JEWELRY STORE, DID YOU KNOW, AS YOU WALKED IN, THAT
10 YOU WERE GOING TO BUY ANYTHING?

11 A NO.

12 Q AND DID YOU BUY ANYTHING INSIDE THAT
13 JEWELRY STORE?

14 A YES.

15 Q DID YOU PICK IT OUT YOURSELF?

16 A MY BROTHER WAS LOOKING AT DIFFERENT
17 THINGS. HE LOOKED AT A WATCH. I SAID, WHY DON'T
18 YOU BUY IT. AND WE EVENTUALLY DID.

19 Q HOW WOULD YOU DESCRIBE YOUR DEMEANOR
20 DURING THIS PURCHASE? WERE YOU HAPPY AND EXCITED TO
21 GET A NEW ROLEX WRISTWATCH?

22 A NO. IT WAS A VERY GLOOMY PERIOD FOR
23 LYLE AND I AND THE REST OF THE FAMILY. WE WERE -- WE
24 WERE HAPPY TO BE TOGETHER IN TERMS OF THE FAMILY,
25 BUT THE ATMOSPHERE WAS NOT HAPPY.

26 Q WHO PAID FOR THE WRISTWATCHES?

27 A MY BROTHER DID.

28 Q AND THERE WAS MORE THAN ONE WRISTWATCH

43782

1 PURCHASED?

2 A THERE WERE, I THINK, THREE.

3 Q OF THE THREE WRISTWATCHES PURCHASED, HOW
4 MANY DID YOU GET?

5 A ONE.

6 Q DID YOU GET ANYTHING ELSE?

7 A OTHER THINGS WERE BOUGHT, CLIPS FOR
8 MONEY. I DON'T KNOW WHAT ELSE.

9 Q WAS THERE A TELEPHONE CALL MADE FROM

10 WITHIN THE JEWELRY STORE?

11 A YES.

12 Q WHO MADE THE CALL?

13 A MY BROTHER.

14 Q AND DID YOU HEAR THAT CONVERSATION?

15 A I WAS IN THE STORE.

16 Q DO YOU KNOW WHO YOUR BROTHER WAS TALKING
17 TO?

18 A I BELIEVE HE WAS TALKING TO MY UNCLE
19 BARALT --

20 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

21 THE COURT: OBJECTION SUSTAINED, ONLY FOR THE
22 PURPOSE OF ESTABLISHING A FOUNDATION. PERHAPS YOU
23 CAN DO THAT.

24 THE ANSWER IS STRICKEN.

25 Q BY MR. LEVIN: DID YOU HAVE ANY
26 DISCUSSION OR INTENTION OF KEEPING THE PURCHASE OF
27 THIS WRISTWATCH A SECRET FROM ANY OF YOUR FAMILY
28 MEMBERS?

43783

1 A NO.

2 Q TO YOUR KNOWLEDGE, WAS IT MADE KNOWN
3 BEFORE THE PURCHASE OF THAT -- THOSE WRISTWATCHES
4 THAT PEOPLE IN YOUR FAMILY KNEW?

5 A AT THE STORE I REMEMBER THE CONVERSATION
6 THAT MY BROTHER HAD WITH MY UNCLE CARLOS ABOUT
7 ASKING HOW HE SHOULD PAY FOR THEM, IF HE SHOULD USE
8 A CREDIT CARD OR WHAT HE SHOULD DO, BASICALLY ASKING
9 ADVICE ABOUT WHAT TO GET. MAYBE NOT WHAT TO GET,
10 BUT HOW TO PAY FOR IT OR JUST TELLING HIM THAT HE
11 WAS GETTING IT AND -- I JUST REMEMBER THAT PART OF
12 IT.

13 Q AND THAT WAS BEFORE THE PURCHASE WAS
14 MADE?

15 A RIGHT.

16 Q DID YOU SEE HOW THE PURCHASE WAS MADE BY
17 LYLE MENENDEZ, SEE HOW HE PAID FOR IT?

18 A A CREDIT CARD.

19 Q WHOSE CREDIT CARD?

20 A MY FATHER'S.

21 Q DID YOU RECOGNIZE THAT CREDIT CARD?

22 A IT WAS ONE THAT MY BROTHER -- MY FATHER
23 HAD GIVEN TO MY BROTHER A YEAR OR TWO, THREE OR
24 FOUR.

25 Q SO TO YOUR KNOWLEDGE, YOUR BROTHER HAD
26 HAD THAT CARD LONG BEFORE THE DEATH OF YOUR
27 PARENTS?

28 A YES.

1 Q WHAT KIND OF A CARD WAS IT?

2 A IT WAS A GOLD AMERICAN -- I BELIEVE IT
3 WAS AN AMERICAN EXPRESS CARD.

4 Q TO YOUR KNOWLEDGE, DID YOUR BROTHER HAVE
5 PERMISSION TO USE THAT CARD?

6 MR. CONN: OBJECTION. CALLS FOR SPECULATION
7 AND HEARSAY.

8 THE COURT: OVERRULED.

9 THE WITNESS: YES.

10 Q BY MR. LEVIN: WAS THIS THE SAME CARD
11 THAT WAS ULTIMATELY USED TO PAY FOR THE CAMCORDER?

12 A NO. THE CARD THAT THE CAMCORDER WAS
13 PAID FOR WAS ON MY BROTHER'S CREDIT CARD.

14 Q TO YOUR KNOWLEDGE, YOUR BROTHER HAD YOUR
15 FATHER'S AMERICAN EXPRESS CARD AS WELL AS A CARD FOR
16 HIMSELF?

17 A RIGHT.

18 Q WAS THERE A TIME WHEN YOU LEFT
19 CALIFORNIA AND WENT BACK EAST FOR AN ADDITIONAL
20 MEMORIAL SERVICE?

21 A YES.

22 Q WHEN DID THAT OCCUR?

23 A I LEFT CALIFORNIA THE DAY AFTER THE
24 MEMORIAL SERVICE IN CALIFORNIA AND THE FUNERAL TOOK
25 PLACE PERHAPS THE MONDAY AFTERWARDS, TUESDAY
26 AFTERWARDS.

27 Q WHERE WAS YOUR FATHER AND YOUR MOTHER

43785

1 A THEY WERE BURIED IN A SMALL -- IN
2 PRINCETON, NEW JERSEY, IN A SMALL CEMETERY INSIDE
3 PRINCETON.

4 Q HAVE YOU EVER VISITED THE GRAVE?

5 A YES. I USED TO GO THERE WITH MY
6 BROTHER.

7 Q WHEN THE SERVICE WAS CONDUCTED IN
8 NEW JERSEY, DID YOU HAVE A DISCUSSION WITH ANY
9 PERSON IN YOUR FAMILY WHERE THE SUBJECT OF A
10 COMPUTER CAME UP?

11 A YES.

12 Q AND WHO WAS IT THAT YOU HAD THIS
13 DISCUSSION?

14 A WITH MY UNCLE CARLOS, CARLOS MENENDEZ.

15 Q YOU HAVE TWO UNCLE CARLOSES, CORRECT?

16 A ONE IS MY FATHER'S FIRST COUSIN, CARLOS
17 MENENDEZ, AND THE OTHER IS MY FATHER'S
18 BROTHER-IN-LAW, UNCLE CARLOS BARALT.

19 Q AND WHICH CARLOS WAS IT THAT YOU HAD THE
20 DISCUSSION WITH CONCERNING THE COMPUTER?

21 A CARLOS MENENDEZ.

22 Q WHO FIRST BROUGHT UP THE SUBJECT OF THE

23 COMPUTER?

24 A HE CAME TO ME AND SAID THAT THERE WAS A
25 COMPUTER.

26 Q WHAT DID CARLOS MENENDEZ TELL YOU ABOUT
27 A COMPUTER?

28 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

43786

1 THE COURT: IS THIS BEING OFFERED FOR THE
2 TRUTH OR TO REFLECT THE WITNESS' STATE OF MIND?

3 MR. LEVIN: THE LATTER, YOUR HONOR.

4 THE COURT: IT WILL BE RECEIVED FOR THAT
5 PURPOSE ONLY.

6 MR. LEVIN: THANK YOU.

7 THE WITNESS: HE TOLD ME THAT THERE WAS A
8 COMPUTER IN MY PARENTS' BEDROOM THAT HAD SOME FILES
9 ON IT THAT HE WAS INTERESTED IN, THAT HE WANTED TO
10 GET INTO.

11 AND I -- I SAID, WELL, IT'S AN IBM
12 COMPUTER. WHY DON'T WE ASK EILEEN WHO WORKED AT
13 IBM. AND EILEEN WAS BROUGHT INTO THE CONVERSATION.
14 I BROUGHT HER OVER, AND I TOLD EILEEN, I SAID,
15 APPARENTLY THERE'S A COMPUTER THAT HAS THESE
16 SPECIFIC FILES ON IT, AND MY UNCLE CARLOS HAD TRIED
17 TO GET INTO IT, I GUESS, AT THE HOUSE; AND THERE

18 WAS -- IN GENERAL, THERE WAS A LOT OF DISCUSSION
19 AMONGST THE FAMILY MEMBERS THAT DAY ABOUT THIS
20 COMPUTER.

21 Q BY MR. LEVIN: NOW, CARLOS MENENDEZ HAD
22 BEEN IN CALIFORNIA FOR THE MEMORIAL SERVICE?

23 A RIGHT.

24 Q AND DID YOU INTERPRET THIS DISCUSSION
25 ABOUT THE COMPUTER TO REFLECT SOMETHING THAT HE HAD
26 DONE IN CALIFORNIA WITH THE COMPUTER?

27 A HE AND OTHERS.

28 Q HE AND OTHERS. WHAT WAS IT THAT YOU

43787

1 UNDERSTOOD THAT HE AND OTHERS HAD DONE TO THE
2 COMPUTER THAT WAS INSIDE YOUR HOUSE?

3 A FROM THE DISCUSSIONS AT THE MEMORIAL
4 SERVICE, HE, MY AUNT JOAN, I BELIEVE ANOTHER
5 RELATIVE, WERE TRYING TO GET INTO THE COMPUTER TO
6 LOOK UP ANY TYPE OF FILES, AND THERE WAS A LOT OF
7 DISCUSSION ABOUT THE POSSIBILITY THAT THERE COULD BE
8 A WILL ON THE COMPUTER. AND I REMEMBER MY UNCLE
9 CARLOS BARALT, WHO I GUESS WAS THE EXECUTOR AT THAT
10 TIME, SAID THAT A WILL ON THE COMPUTER DOESN'T
11 INTEREST HIM BECAUSE IT'S -- WHATEVER REASON, IT'S ON
12 THE COMPUTER AND THEREFORE IT'S NOT VALID. IT NEEDS

13 A SIGNATURE. SOMETHING ALONG THOSE LINES.

14 Q WHO'S COUSIN EILEEN?

15 A SHE'S MARTA'S -- I BELIEVE IT'S HER

16 ELDEST DAUGHTER, WHO, AT THE TIME, WORKED FOR IBM

17 AND WAS VERY GOOD. I WANTED HER TO GO BACK AND LOOK

18 AT IT HERSELF, BUT INSTEAD OF FLYING ALL THE WAY

19 BACK, SHE SAID SHE COULD HAVE SOMEONE FROM IBM IN

20 CALIFORNIA COME OUT AND LOOK AT THE COMPUTER.

21 Q WHERE WAS LYLE MENENDEZ WHEN THIS

22 CONVERSATION TOOK PLACE?

23 A MY BROTHER WASN'T IN THIS CONVERSATION.

24 WHEN IT WAS DISCUSSED AMONGST THE RELATIVES, MY

25 BROTHER WAS AT THE MEMORIAL SERVICE.

26 Q WHO WAS BACK AT THE BEVERLY HILLS HOME?

27 A I DON'T BELIEVE THAT ANYONE WAS AT THE

28 BEVERLY HILLS HOME. I KNOW THAT THERE WAS SECURITY

43788

1 GUARDS WATCHING AND GUARDING THE PROPERTY.

2 Q UPON HEARING THAT THERE WAS SOMETHING

3 IN -- WELL, WHEN WAS THE FIRST TIME YOU LEARNED THAT

4 SOMEONE HAD SEEN SOMETHING IN THE COMPUTER THAT HAD

5 TO DO WITH A WILL?

6 A AT THIS TIME?

7 Q BEFORE THAT, DID YOU SEE THE FAMILY WHEN

8 YOU WERE IN CALIFORNIA FIDDLING WITH THE WILL -- OR

9 FIDDLING WITH THE COMPUTER?

10 A NO. THE -- THE DOORS WERE OPEN. MY

11 GRANDMOTHER WAS ASSUMING CONTROL OF THE HOUSE, BUT

12 RELATIVES WERE -- I BELIEVE THEY WERE EVEN STAYING

13 AT THE HOUSE. MOST OF THEM WERE STAYING AT THE

14 BEL-AIR, BELAGE HOTEL, BUT THEY WERE OVER THE HOUSE

15 THROUGHOUT THE DAY. I WASN'T. I WASN'T THERE

16 OFTEN. WHEN I WAS THERE, THEY WERE THERE. I DIDN'T

17 SEE THEM AT THE COMPUTER.

18 Q NOW, HAD A DECISION OF SOME SORTS BEEN

19 MADE WITH RESPECT TO CHECKING THE COMPUTER FURTHER

20 FOR THE EXISTENCE OF A POSSIBLE WILL?

21 A TENTATIVE DECISION THAT MY -- EILEEN, MY

22 COUSIN EILEEN, WAS GOING TO TRY TO GET SOMEONE IN

23 CALIFORNIA TO BE ABLE TO GO OVER TO THE HOUSE.

24 SOMEONE NEEDED TO BE AT THE HOUSE. IT WAS DECIDED

25 THAT I WOULD FLY BACK AND MEET THE COMPUTER PEOPLE

26 AT THE HOUSE.

27 Q DID YOU, IN FACT, FLY BACK AND MEET A

28 COMPUTER PERSON AT THE HOUSE?

43789

1 A NOT THESE COMPUTER PEOPLE THAT HAD BEEN

2 ARRANGED AT THAT TIME, BUT A DIFFERENT COMPUTER

3 PERSON.

4 Q WAS THERE AN ACTUAL ARRANGEMENT MADE BY
5 A FAMILY MEMBER TO LOOK AT THE COMPUTER IN THE
6 MENENDEZ HOUSE?

7 A YES.

8 Q WHO MADE THOSE ARRANGEMENTS?

9 A AT FIRST IT WAS MY COUSIN EILEEN. SHE
10 TOLD ME SHE HAD SET IT UP. AND THEN SEVERAL DAYS
11 BEFORE I WAS SUPPOSED TO LEAVE, MY UNCLE CARLOS --
12 CARLOS MENENDEZ TOLD ME THAT HE HAD SPOKEN WITH
13 EILEEN AND THAT THEY WERE GOING TO USE CARLOS
14 MENENDEZ' PEOPLE INSTEAD OF EILEEN'S. FORTUNATELY,
15 I DIDN'T CHECK WITH EILEEN TO MAKE CERTAIN OF THAT.
16 I JUST ASSUMED THAT THAT WAS TRUE.

17 Q WHILE YOU WERE -- HOW LONG WERE YOU IN
18 NEW JERSEY, WOULD YOU SAY?

19 A FIVE DAYS, SIX DAYS.

20 THE COURT: LET'S TAKE A RECESS NOW AND WE'LL
21 RESUME AT 10 MINUTES TO THE HOUR AND WORK ON UNTIL
22 1:00.

23 (THE JURY EXITED THE
24 COURTROOM AND THE FOLLOWING
25 PROCEEDINGS WERE HELD:)

26

27 THE COURT: ON A COUPLE MATTERS, I RECEIVED A
28 FAX FROM MR. HEINKE RELATING TO A PROTECTIVE ORDER.

1 I DON'T KNOW IF THE PROSECUTION HAS RECEIVED IT AND
2 HAD A CHANCE TO REVIEW IT.

3 HAVE YOU READ IT YET, MR. CONN?

4 MR. CONN: NO, YOUR HONOR. I HAVEN'T HAD A
5 CHANCE TO READ IT YET.

6 THE COURT: IF YOU COULD DO THAT, WE CAN
7 RESOLVE IT, HOPEFULLY, TODAY.

8 THE OTHER ISSUE RELATING TO THE DMV
9 PRINTOUT, AS I UNDERSTAND IT, THE INCIDENT THAT
10 YOU'RE REFERRING TO WAS SEPTEMBER THE 7TH, 1989.

11 MS. ABRAMSON: JULY 7TH.

12 THE COURT: I'M SORRY. JULY THE 7TH, 1989.
13 IT INDICATES THAT COURT PROCEEDINGS WERE ON
14 SEPTEMBER THE 20TH, 1989, SO THAT COULDN'T BE THE
15 ONE THAT YOU WERE APPEARING ON.

16 MS. ABRAMSON: NO. IT COULDN'T BE THE ONE I
17 WAS APPEARING ON, BUT I THINK IT WAS THE ONE THAT MY
18 CLIENT WAS TESTIFYING ABOUT, THAT HE GOT A TICKET
19 THAT DAY.

20 THE COURT: I THINK THE 12951(A) HAS A
21 PROVISION FOR THESE MATTERS TO BE DISMISSED IF THE
22 DRIVER'S LICENSE IS PRODUCED IN COURT OR SHOWN TO
23 THE MARSHAL. I DON'T KNOW IF ANYONE'S CHECKED THE
24 DOCKETS OR IF THESE FILES ARE STILL IN EXISTENCE. I
25 DOUBT IF THEY ARE. BUT THIS RECORD DOESN'T REALLY
26 PROVE ANYTHING. IT PROVES HE DIDN'T HAVE IT IN HIS

27 POSSESSION AT A PARTICULAR MOMENT WHEN HE WAS
28 STOPPED BY THE POLICE. IT DOESN'T SHOW WHETHER OR

43791

1 NOT HE LOST IT, JUST THAT WHEN HE WAS STOPPED BY THE
2 POLICE AND DIDN'T HAVE IT.

3 MS. ABRAMSON: DOESN'T HAVE TO BE THE
4 ULTIMATE PROOF OF THE FACT. HE'S SAYING THAT HE
5 LOST IT, AND I THINK -- HE'S SAYING HE LOST IT AND
6 HE'S SAYING HE GOT TICKETS FOR NOT HAVING IT.

7 NOW, IF THE PEOPLE WANT TO PROVE THAT --
8 YOU KNOW, THAT WHAT YOU'RE SAYING, THAT HE PRODUCED
9 IT IN COURT, FINE, IF THEY WANT TO IMPEACH WITH
10 THAT -- I DON'T THINK THEY CAN BECAUSE I DON'T THINK
11 HE HAD ONE. BUT I THINK WE HAD A RIGHT TO SHOW THAT
12 HE WAS DRIVING AROUND WITHOUT A LICENSE IN JULY IF
13 HE SAYS THAT'S BECAUSE HE DIDN'T HAVE ONE. THEY CAN
14 IMPEACH HIM IF HE'S NOT TELLING THE TRUTH.

15 THE COURT: WELL, ALL IT PROVES IS THAT HE
16 WAS GIVEN A CITATION ON JULY THE 7TH OF '89 FOR
17 DRIVING WITHOUT A LICENSE, SAME IN JULY OF '88, JUNE
18 OF '88 --

19 MS. ABRAMSON: HE HAD A PENCHANT FOR LOSING
20 HIS LICENSE.

21 THE COURT: IT JUST SHOWS THAT THAT'S WHAT

22 WAS GOING ON. IT DOESN'T SHOW WHETHER HE DIDN'T
23 POSSESS A LICENSE OR DIDN'T OWN A LICENSE OR JUST
24 THAT HE DIDN'T POSSESS IT AT THE TIME OR DIDN'T
25 PRODUCE IT AT THE TIME. THAT'S ALL IT'S SHOWING.
26 MS. ABRAMSON: THE PROSECUTION CAN ARGUE IT.
27 IT DOESN'T MEAN WE CAN'T USE IT TO CORROBORATE WHAT
28 HE'S SAYING IS TRUE, THAT HE DIDN'T HAVE IT.

43792

1 THE FACT THAT IT DOESN'T PROVE THE
2 ULTIMATE FACT, WE'RE NOT SUGGESTING THAT IT DOES.
3 THEY CAN ARGUE WHATEVER THEY WANT TO ARGUE OR PROVE
4 WHATEVER THEY WANT TO PROVE ABOUT IT. BUT IT
5 CORROBORATES HIM TO THE EXTENT THAT HE IS SAYING HE
6 DIDN'T HAVE ONE.

7 THE COURT: ALL RIGHT. HE DIDN'T POSSESS ONE
8 ON A PARTICULAR DAY.

9 MS. ABRAMSON: THAT'S RIGHT.

10 THE COURT: THAT'S ALL IT CORROBORATES.

11 MS. ABRAMSON: WELL, FINE, BUT HE'S SAYING HE
12 DIDN'T POSSESS ONE ON ANY PARTICULAR DAY AFTER HE
13 LOST IT AND THAT JUST CORROBORATES THAT ON ONE DAY
14 HE DIDN'T. I RECOGNIZE WHAT IT CAN PROVE AND WHAT
15 IT CAN'T PROVE.

16 THE COURT: WELL --

17 MS. ABRAMSON: THAT'S A MATTER FOR ARGUMENT
18 OR FOR THE PEOPLE TO COME UP WITH SOME ALTERNATIVE
19 PROOF. AS TO WHETHER OR NOT THE CITATION CAN STILL
20 BE FOUND --

21 THE COURT: HAS ANYBODY TRIED TO OBTAIN THE
22 ACTUAL COURT FILES OR CITATIONS OR --

23 MS. NAJERA: NO.

24 THE COURT: I'M SORRY?

25 MS. ABRAMSON: WE HAVEN'T, BUT WE CERTAINLY
26 COULD TRY.

27 MR. LEVIN: YOUR HONOR, THE PEOPLE HAVE NOT
28 OBJECTED ON THOSE GROUNDS. THEY'VE ONLY OBJECTED ON

43793

1 THE AUTHENTICITY OF THE DOCUMENT.

2 THE COURT: ALL RIGHT. WELL, MY CONCERN IS
3 JUST THE INTERPRETATION OF IT, REALLY IS THE ISSUE
4 HERE, AS TO WHAT IS THE JURY SUPPOSED TO DO WITH
5 IT. THERE ARE A LOT OF NUMBERS AND DATES AND
6 THINGS, AND IT WOULD REQUIRE SOMEONE TO INTERPRET IT
7 FOR THEM, REALLY. THAT'S REALLY THE -- HOW YOU'RE
8 GOING TO BE USING IT IN SOME WAY IS TO ASK THE JURY
9 TO INTERPRET IT.

10 MR. LEVIN: WELL, I THINK THAT THE PURPOSE I
11 ASKED THE COURT TO TAKE JUDICIAL NOTICE OF THE

12 VEHICLE CODE SECTION OF 12951(A) IS TO ESTABLISH
13 THAT THAT PROVISION IN THE CALIFORNIA VEHICLE CODE
14 IS ONE THAT RELATES TO NO DRIVER'S LICENSE IN ONE'S
15 POSSESSION. IT TENDS TO PROVE BY INFERENCE THAT HE
16 DIDN'T HAVE A DRIVER'S LICENSE. THAT'S ALL I'M
17 OFFERING IT FOR THAT DAY. I'M NOT OFFERING IT FOR
18 ANY OTHER PARTICULAR PURPOSE. SURELY, IT MAY CARRY
19 THAT INFERENCE, BUT THE PEOPLE HAVEN'T OBJECTED ON
20 THAT GROUND AND THEY CAN IMPEACH IT OR REFUTE IT OR
21 DO WHATEVER THEY WISH.

22 THE COURT: I'M NOT TALKING ABOUT INFERENCES,
23 REALLY, AT THIS POINT. I'M JUST TALKING ABOUT
24 INTERPRETING IT. THERE ARE DISPOSITION CODES IN
25 COURT WHICH I HAVE NO UNDERSTANDING OF WHATSOEVER.

26 DO YOU?

27 MS. ABRAMSON: NO.

28 MR. LEVIN: I NEVER HAVE. I NEVER COULD READ

43794

1 THOSE.

2 THE COURT: SOMEBODY DOES. PART OF THE
3 DEFECT IN A DOCUMENT LIKE THIS GOING TO A JURY IS
4 THAT IT NEEDS TO BE INTERPRETED BY SOMEBODY.

5 MS. ABRAMSON: ALL THAT WE NEED IS FOR THE
6 JURY TO KNOW THAT HE WAS CITED FOR NOT HAVING A

7 LICENSE IN HIS POSSESSION. I DON'T THINK THE
8 DISPOSITION -- UNLESS THE PEOPLE CAN PROVE THAT
9 THERE'S A DISPOSITION THAT'S CONTRARY TO THE
10 INFERENCE THAT WE'RE RAISING, I DON'T THINK IT
11 MATTERS IF THE JURY UNDERSTANDS THE DISPOSITION.

12 THE COURT: WELL, HAS THIS BEEN MARKED AS AN
13 EXHIBIT YET?

14 MS. ABRAMSON: YES.

15 THE COURT: IT HAS -- I MEAN IN THIS TRIAL?

16 MS. TOWERY: IT'S 366, YOUR HONOR.

17 THE COURT: ALL RIGHT. SO RIGHT NOW THERE'S
18 NOTHING FURTHER TO ARGUE. HE'S INDICATED THE DATE
19 HE WAS STOPPED FOR THE TICKET. HE'S ALREADY SAID
20 THAT. SO AT THIS POINT WHAT WE REALLY ARE ARGUING
21 IS WHETHER OR NOT THIS DOCUMENT SHOULD BE RECEIVED.

22 MS. ABRAMSON: OR WHETHER THE COURT CAN TAKE
23 JUDICIAL NOTICE BASED ON THAT DOCUMENT OF WHAT THAT
24 CODE IS, THAT HE DID RECEIVE A CITATION.

25 THE COURT: I COULD. MAYBE THE PEOPLE THEN
26 WOULD ASK ME TO TAKE JUDICIAL NOTICE OF HOW THOSE
27 TICKETS ARE CLEARED BY PRODUCING A LICENSE.

28 WHAT DOES IT PROVE?

43795

1 MS. ABRAMSON: I'M SORRY, JUDGE. I CAN'T

2 DEAL WITH THAT RIGHT NOW. WHEN WE COME BACK.

3 THE COURT: DON'T DEAL WITH IT RIGHT NOW.

4 LET MR. --

5 MS. ABRAMSON: I DON'T UNDERSTAND THE COURT'S
6 NITPICKING ON WHETHER EVERY PIECE OF EVIDENCE WE
7 OFFER PROVES AN ULTIMATE FACT WHILE THE PEOPLE ARE
8 ALLOWED TO PUT IN PICTURES OF WRONG WATCHES. IT
9 SEEMS THERE'S A DOUBLE STANDARD GOING ON HERE, IN
10 ALL HONESTY.

11 THIS PROVES WHAT WE WANT IT TO PROVE.
12 CORROBORATES MY CLIENT SAYING HE GOT A TICKET THAT
13 DAY FOR A CERTAIN THING. HE SAYS THE REASON IS ONE
14 THING. IF THE PEOPLE CAN PROVE OTHERWISE, LET
15 THEM. BUT FOR US TO ASSUME THAT THEY CAN PROVE
16 OTHERWISE AND THEREFORE KEEP A DOCUMENT OUT, I DON'T
17 GET IT.

18 THE COURT: OKAY. MR. LEVIN, DID YOU WANT TO
19 SMOOTH THE WATERS THIS TIME?

20 MS. ABRAMSON: YEAH. LET HIM SMOOTH THE
21 WATER.

22 MR. LEVIN: AM I THE GOOD GUY OR BAD GUY?

23 MS. ABRAMSON: WE SWITCHED ROLES TO KEEP THE
24 COURT OFF GUARD.

25 MR. LEVIN: YOUR HONOR, THE STATE OF THE
26 MATTER IS -- I KNOW THE COURT KNOWS THIS, BUT ERIK
27 MENENDEZ USED A DRIVER'S LICENSE BELONGING TO
28 DONOVAN GOODREAU TO PURCHASE THE TWO SHOTGUNS. THE

1 INFERENCE THAT THE PEOPLE WANT TO -- THE JURY TO
2 RECEIVE FROM THAT EVIDENCE IS THAT THIS WAS AN
3 ATTEMPT, CONSCIOUS ATTEMPT, TO CONCEAL AND SOMEHOW
4 KEEP SECRET THE FACT THAT THE SHOTGUNS WERE
5 PURCHASED, FOR OBVIOUS AND VARIOUS PURPOSES, TO GO
6 DIRECTLY TO THE ISSUE OF PREMEDITATION AND
7 DELIBERATION, WHEN THERE IS NO SINISTER REASON FOR
8 HIM TO HAVE USED THE DRIVER'S LICENSE THAT HE DID
9 USE BECAUSE OF THE FACT HE DIDN'T HAVE HIS OWN AND
10 THE STATE OF HIS -- HIS STATE OF MIND WAS HE HAD TO
11 HAVE A DRIVER'S LICENSE TO EVEN PURCHASE SHOTGUNS.

12 THIS EVIDENCE, IF RECEIVED, WOULD ALLOW
13 THE JURY -- THIS DOCUMENT IS A PUBLIC RECORD WHICH
14 SHOWS THAT, ONE, ERIK MENENDEZ DIDN'T HAVE A
15 DRIVER'S LICENSE IN HIS POSSESSION VERY CLOSE IN
16 TIME TO THE EVENTS IN QUESTION; THAT HE HAS A
17 PENCHANT FOR DRIVING WITHOUT HIS LICENSE; THAT OUR --
18 OF COURSE, OUR VIEW IS THAT FROM THE TESTIMONY OF
19 ERIK MENENDEZ THAT HE DIDN'T HAVE A DRIVER'S LICENSE
20 AT ALL WAS THE REASON WHY HE HAD -- WHY HE USED THE
21 LICENSE OF DONOVAN GOODREAU.

22 BUT THIS PARTICULAR DOCUMENT IS -- WE
23 FEEL IS VERY CRITICAL IN ESTABLISHING OTHERWISE
24 INFERENCE -- INNOCENT INFERENCES AND TAKING THE

25 COURT'S JURY INSTRUCTIONS THAT IT'S GOING TO GIVE
26 REGARDING THE USE OF CIRCUMSTANTIAL EVIDENCE, IF ONE
27 PIECE OF EVIDENCE GOES TO AN INNOCENT PURPOSE AND
28 THE OTHER INTERPRETATION CAN BE ONE OF GUILT, THEY

43797

1 MUST ADOPT THE ONE THAT GOES TO INNOCENCE. THIS IS
2 A CRITICAL PIECE OF EVIDENCE FOR THE JURY TO FOLLOW
3 THAT JURY INSTRUCTION AND BE ABLE TO GIVE MEANING TO
4 AN ARGUMENT THAT ERIK MENENDEZ UTILIZED DONOVAN
5 GOODREAU'S DRIVER'S LICENSE BECAUSE HE DIDN'T HAVE
6 IN HIS POSSESSION BECAUSE HE DIDN'T HAVE ONE.

7 THE COURT: OKAY.

8 MR. LEVIN: AND IT'S NOT REMOTE BECAUSE IT'S
9 VERY CLOSE IN TIME TO THE EVENT.

10 THE COURT: NO ONE'S TALKING ABOUT IT BEING
11 REMOTE. WE'RE TALKING ABOUT THE INTERPRETATION OF
12 THE DOCUMENT.

13 AND AGAIN, WE'RE TALKING ABOUT THE
14 RECEIPT OF THIS PARTICULAR EXHIBIT, NUMBER ONE; AND
15 NUMBER TWO, PROPOSAL OF THE COURT TAKING JUDICIAL
16 NOTICE OF A PARTICULAR STATE OF THE LAW.

17 THE PEOPLE HAD OBJECTED TO THE COURT
18 TAKING JUDICIAL NOTICE UNTIL THEY HAD A CHANCE TO
19 CONSIDER IT. WE'RE NOW DISCUSSING IT. I HAVEN'T

20 HEARD THE PEOPLE'S POSITION AS TO WHAT IT IS THEY
21 VIEW AS FAR AS HOW THE COURT SHOULD TAKE JUDICIAL
22 NOTICE OF THE ISSUES THAT WE'VE BEEN DISCUSSING.
23 I'LL HEAR THE PEOPLE'S POSITION ON THAT.

24 MR. CONN: YES.

25 WELL, THE MISSING LINK IN COUNSEL'S
26 ARGUMENT IS, ONCE AGAIN, GETTING THAT DOCUMENT
27 BEFORE THE JURY.

28 COUNSEL HAS ALREADY ESTABLISHED THROUGH

43798

1 THE WITNESS THAT HE RECEIVED A TICKET AT SOME
2 POINT. COUNSEL NOW WANTS THE COURT TO TAKE JUDICIAL
3 NOTICE OF WHAT A PARTICULAR VEHICLE CODE SECTION
4 MEANS. THE MISSING LINK BETWEEN THE TWO IS THE
5 DOCUMENT, WHICH ESTABLISHES THAT THEIR WITNESS
6 RECEIVED A TICKET FOR A PARTICULAR VEHICLE CODE
7 SECTION.

8 SO, AGAIN, COUNSEL HAS TO FIND SOME WAY
9 OF GETTING THE DOCUMENT IN BEFORE THE COURT, AND I
10 DON'T THINK THAT HE HAS ESTABLISHED AN ADEQUATE
11 BASIS TO GET THE DOCUMENT BEFORE THE COURT. I THINK
12 IT'S NECESSARY TO LAY A FOUNDATION THROUGH A WITNESS
13 WHO UNDERSTANDS THE MEANING AND THE NATURE OF THE
14 DOCUMENT AND CAN EXPLAIN THE NATURE OF THE DOCUMENT

15 TO THE JURY.

16 SO WE WOULD OBJECT TO JUDICIAL NOTICE AT
17 THIS POINT BECAUSE THE DOCUMENT IS NOT BEFORE THE
18 JURY.

19 THE COURT: OKAY. HE'S NOT ASKING FOR
20 JUDICIAL NOTICE OF THE DOCUMENT, HE'S ASKING FOR
21 JUDICIAL NOTICE OF WHAT IS MEANT BY SECTION
22 12951(A).

23 MR. CONN: YES. AND WE WOULD OBJECT TO THAT
24 BECAUSE THERE IS NO ADMISSIBLE EVIDENCE BEFORE THIS
25 JURY THAT THAT PARTICULAR VEHICLE CODE SECTION HAS
26 ANY MEANING TO THIS PARTICULAR CASE. HE CAN'T ASK
27 THIS WITNESS DID YOU RECEIVE A VIOLATION FOR 12951
28 BY SHOWING THE WITNESS THE DOCUMENT. UNLESS THE

43799

1 WITNESS CAN SPECIFICALLY RECALL THE VEHICLE CODE
2 SECTION FOR WHICH HE WAS CITED, THAT ISSUE DOESN'T
3 EVEN ARISE. IT'S MY UNDERSTANDING THAT THE WITNESS
4 HAS NOT ESTABLISHED THAT, THE WITNESS HAS ONLY SAID
5 THAT HE RECEIVED A TICKET FOR THAT.

6 THE COURT: ALL RIGHT. MY CONCERN IS NOT
7 WITH THE MEANING OF SECTION 12951(A). IT'S WITH THE
8 INTERPRETATION OF THIS DOCUMENT. THE DEFENSE
9 SUBMITTED TO ME, AND I DON'T KNOW IF IT WAS

10 SUBMITTED TO THE PROSECUTION, COPIES OF RESEARCH
11 DONE BY ONE OF THE DEPUTY PUBLIC DEFENDERS ON THIS
12 SUBJECT. BUT MY FEELING IS THAT ALTHOUGH THE COURT
13 CAN TAKE JUDICIAL NOTICE OF THIS TYPE OF DOCUMENT
14 FOR CERTAIN PURPOSES, FOR IT TO GO TO THE JURY IN
15 THE FACE OF AN OBJECTION, THERE HAS TO BE SOMEBODY
16 FROM THE DEPARTMENT OF MOTOR VEHICLES TO EXPLAIN
17 WHAT THE DOCUMENT IS; OTHERWISE, IT WOULD HAVE NO
18 MEANING AND IT WOULD CREATE A POTENTIAL OF
19 CONFUSION.

20 MR. LEVIN: YOUR HONOR, THAT'S NOT MY --

21 THE COURT: THERE ARE PEOPLE AVAILABLE, I
22 ASSUME, WHO COULD EXPLAIN THE DOCUMENT.

23 MR. LEVIN: YOUR HONOR, MY UNDERSTANDING OF
24 THE LAW IS BECAUSE OF THE MULTITUDE OF 40508 CASES,
25 FAILURES TO APPEAR, CERTAIN MINOR INFRACTIONS,
26 DRIVING VIOLATIONS, THAT WOULD LITERALLY STOP THE
27 ENTIRE SYSTEM OF JUSTICE WHEN IT COMES TO PUTTING ON
28 EVIDENCE OF WHEN A PERSON RECEIVED NOTICE OF A

43800

1 CERTAIN VIOLATION, THAT VERY SPECIFIC LAWS HAVE BEEN
2 ESTABLISHED WITH REGARD TO PUBLIC RECORDS AND DMV
3 RECORDS; OTHERWISE, EVERY TIME A MOTORCYCLE OFFICER
4 THAT CITED SOMEBODY CONCERNING NO LICENSE IN HIS

5 POSSESSION AND NOW HAS TO BE PROVEN TO SOME

6 MAGISTRATE --

7 THE COURT: OKAY. WE'RE TALKING ABOUT AN
8 INFRACTION.

9 MR. LEVIN -- IT WOULD REQUIRE THE ENTIRE
10 SYSTEM TO SHUT DOWN.

11 THE COURT: WE'RE TALKING ABOUT AN INFRACTION
12 VERSUS A DOCUMENT GOING TO A JURY WITHOUT ANY
13 GUIDANCE TO THE JURY AS TO HOW TO INTERPRET IT.

14 ALL I'M SAYING IS --

15 MR. LEVIN: I'LL CALL DETECTIVE ZOELLER.

16 THE COURT: -- I DON'T THINK THERE'S A BIG
17 PROBLEM IN GETTING SOMEBODY FROM THE DEPARTMENT OF
18 MOTOR VEHICLES TO EXPLAIN THE DOCUMENT.

19 MS. TOWERY: DID THE COURT INDICATE THAT AN
20 ALTERNATIVE TO GIVING THE DOCUMENT TO THE JURY WOULD
21 BE THAT THE COURT COULD TAKE JUDICIAL NOTICE OF THAT
22 DOCUMENT AS A PUBLIC RECORD AND INSTRUCT THE JURY AS
23 TO WHAT IT -- THAT RELEVANT PORTION MEANS?

24 THE COURT: NO, I DON'T KNOW --

25 MS. TOWERY: DID I MISUNDERSTAND?

26 THE COURT: I DIDN'T SAY THAT. I SAID WE'RE
27 NOT TALKING ABOUT TAKING JUDICIAL NOTICE OF 12951.
28 THAT IS NOT A PROBLEM. THE PROBLEM IS INTERPRETING

1 THIS DOCUMENT.

2 MR. LEVIN: YOUR HONOR, I AM NOT AS
3 INTERESTED IN THE DOCUMENT ITSELF COMING IN AS I AM
4 FOR THE JURY TO BE INFORMED THAT ON THAT DATE ERIK
5 MENENDEZ RECEIVED A TRAFFIC CITATION HAVING NO
6 LICENSE IN HIS POSSESSION. AND CERTAINLY THE COURT
7 CAN LOOK AT THE DOCUMENT AND TAKE JUDICIAL NOTICE
8 THAT THE OFFICIAL RECORD BEFORE THE COURT INDICATES
9 THAT ERIK GALEN MENENDEZ RECEIVED A CITATION ON JULY
10 THE 7TH, 1989, FOR 12951(A), FOR DRIVING WITHOUT A
11 LICENSE IN HIS POSSESSION.

12 MS. ABRAMSON: WE COULD CALL DETECTIVE
13 ZOELLER TO DO THE SAME THING, YOUR HONOR. I ASSUME
14 HE KNOWS WHAT THE VEHICLE CODE SECTIONS ARE. THIS
15 IS A DOCUMENT THAT HE RAN.

16 THE COURT: HE WOULDN'T BE ABLE TO TESTIFY
17 ABOUT IT.

18 WHAT IS THE PEOPLE'S RESPONSE TO THE
19 COURT TAKING JUDICIAL NOTICE OF THIS DOCUMENT AS AN
20 OFFICIAL RECORD THAT SHOWS THE ARREST -- OR THE
21 CITATION, RATHER, ON EACH OF THESE DATES?

22 MR. CONN: MAY WE HAVE A MOMENT?

23 (DISTRICT ATTORNEYS CONFER SOTTO VOCE.)

24

25 MR. CONN: AGAIN, WE WOULD OBJECT FOR THE
26 REASONS STATED, AND THAT IS THAT ALTHOUGH THE COURT
27 CAN SIMPLY TAKE NOTICE OF THE FACT THAT THAT IS AN
28 OFFICIAL RECORD, THE MORE SIGNIFICANT IS THE MEANING

1 AND INTERPRETATION OF THE DOCUMENT; AND WITHOUT
2 THAT --

3 THE COURT: WHY CAN'T THE COURT TAKE JUDICIAL
4 NOTICE OF THAT?

5 MR. CONN: WELL, I DON'T THINK THAT THE COURT
6 CAN JUST TAKE JUDICIAL NOTICE OF THE FACT THAT
7 THERE'S A PARTICULAR CITATION AS REFERENCED ON THAT
8 DOCUMENT WITHOUT KNOWING THE DISPOSITION OF THAT
9 PARTICULAR CITATION.

10 THE COURT: WHY? WHY IS THAT?

11 MR. CONN: WELL, BECAUSE I THINK -- WELL -- ALL
12 RIGHT. IF THE -- IF THE COURT TAKES JUDICIAL NOTICE
13 OF THAT, THEN WE'LL ASK THE COURT THAT SOMETIME IN
14 THE PEOPLE'S CASE, TO TAKE JUDICIAL NOTICE OF OTHER
15 FACTS RELATING TO THAT VEHICLE CODE SECTION DURING
16 THE COURSE OF OUR CASE.

17 THE COURT: WELL, I CAN'T RULE UPON THAT IN
18 THE ABSTRACT. ALL I'M TALKING ABOUT NOW IS WHY
19 CAN'T THE COURT TAKE JUDICIAL NOTICE THAT -- AT THIS
20 POINT THE DEFENSE IS ASKING FOR ONE DATE, THAT THE
21 RECORDS OF THE DEPARTMENT OF MOTOR VEHICLE INDICATE
22 THAT HE WAS CITED ON A PARTICULAR DATE FOR DRIVING
23 WITHOUT A LICENSE.

24 MR. CONN: ALL RIGHT.

25 MS. NAJERA: YOUR HONOR, MAY I JUST ADD

26 SOMETHING HAVING TO DO WITH THIS?

27 THE COURT CAN TAKE JUDICIAL NOTICE OF

28 THAT. THE PROBLEM IS, THE ONLY REASON THAT THAT

43803

1 PARTICULAR FACT IS RELEVANT TO THIS CASE IS BECAUSE

2 COUNSEL WANTS TO USE IT TO SHOW THAT HE IS NOT IN

3 POSSESSION OF A VALID CALIFORNIA DRIVER'S LICENSE.

4 THE PROBLEM WITH PUTTING THAT DOCUMENT IN OR

5 DISCUSSING THAT DOCUMENT OR TAKING JUDICIAL NOTICE

6 OF THAT DOCUMENT, WITHOUT HAVING SOMEONE COME IN TO

7 INTERPRET THAT DOCUMENT, IS MY UNDERSTANDING IS THAT

8 DOCUMENT SHOWS THE EXACT OPPOSITE. THAT DOCUMENT

9 SHOWS THAT HE DOES HAVE A VALID CALIFORNIA DRIVER'S

10 LICENSE. I BELIEVE IT SAYS IT'S NOT SUSPENDED OR

11 REVOKED.

12 MS. ABRAMSON: LOST. LOST.

13 MS. NAJERA: I UNDERSTAND THAT, BUT WHAT

14 COUNSEL -- THAT PARTICULAR DOCUMENT DOESN'T SHOW THAT

15 IT'S SUSPENDED OR REVOKED. THEY'RE SAYING THAT IT

16 SHOWS HE LOST IT. THAT DOCUMENT DOES NOT PROVE HE

17 LOST IT. ALL THAT DOCUMENT PROVES IS ON A

18 PARTICULAR DAY, JULY 7TH, 1989, HE DIDN'T HAVE

19 POSSESSION OF THAT DOCUMENT. FROM THERE, THEY WANT
20 TO MAKE THE LEAP THAT HE HAD LOST IT, THAT IT'S
21 EVIDENCE THAT HE LOST HIS DRIVER'S LICENSE. AND
22 WHAT WE'RE SAYING IS IT REALLY ISN'T RELEVANT TO
23 THAT BECAUSE IT ISN'T EVIDENCE THAT HE LOST HIS
24 DRIVER'S LICENSE. IT'S ONLY EVIDENCE THAT ON THAT
25 DATE HE WASN'T IN POSSESSION OF IT.

26 THE COURT: OKAY. THAT GOES BEYOND WHAT THE
27 COURT --

28 MS. NAJERA: AND I GUESS WHAT WE'RE SAYING IS

43804

1 THAT IF THE COURT IS GOING TO TAKE JUDICIAL NOTICE
2 OF WHAT THAT CODE SECTION IS, THEN WE -- TO TAKE
3 JUDICIAL NOTICE OF THAT, THE COURT WOULD HAVE TO
4 TAKE JUDICIAL NOTICE THAT THE DEFENDANT DID, IN
5 FACT, POSSESS A VALID CALIFORNIA DRIVER'S LICENSE
6 AND THAT THE CODE SECTION, 12951, MERELY SHOWS THAT
7 ON JULY 7TH, 1989, HE WAS CITED FOR NOT BEING IN
8 POSSESSION OF THAT VALID CALIFORNIA DRIVER'S
9 LICENSE.

10 MS. ABRAMSON: THAT'S ALL HE TESTIFIED TO.

11 THE COURT: I CAN'T SAY THAT HE POSSESSED
12 IT. ALL I CAN SAY IS FROM THESE RECORDS THAT IT
13 HADN'T BEEN REVOKED OR SUSPENDED. HE HAD A -- HE

14 WAS ENTITLED TO DRIVE A MOTOR VEHICLE.

15 MS. NAJERA: I DIDN'T SAY HE WASN'T IN

16 POSSESSION. I SAID THAT THE COURT CAN ONLY TAKE

17 JUDICIAL NOTICE THAT HE WAS NOT IN POSSESSION OF A

18 VALID CALIFORNIA DRIVER'S LICENSE, WHICH HE WAS --

19 WHICH HE DID -- HE WAS ENTITLED TO, AND THOSE RECORDS

20 SHOW THAT HE DID HAVE A VALID CALIFORNIA DRIVER'S

21 LICENSE.

22 THE COURT: NOW THAT THE ISSUES HAVE BEEN

23 NARROWED TO SOME EXTENT, WHY DON'T YOU PUT IT IN

24 WRITING EXACTLY WHAT IT IS YOU WANT THE COURT TO

25 TAKE NOTICE OF, MR. LEVIN, AND SHOW IT TO THE

26 PROSECUTION.

27 ALL RIGHT. LET'S HAVE THE JURY OUT.

28 MS. ABRAMSON: WE DIDN'T HAVE A BREAK.

43805

1 THE COURT: TOO BAD.

2 MS. ABRAMSON: IT IS TOO BAD. I HAVE TO GO

3 TO THE BATHROOM.

4 THE COURT: MAKE IT VERY QUICK.

5 (A RECESS WAS TAKEN FROM

6 11:55 A.M. TO 12:00 P.M.)

7

8 THE COURT: OKAY. LET'S GET THE JURY OUT,

9 PLEASE.

10 (THE JURY ENTERED THE
11 COURTROOM AND THE FOLLOWING
12 PROCEEDINGS WERE HELD:)

13
14 THE COURT: THE JURY IS BACK. YOU MAY
15 CONTINUE YOUR DIRECT EXAMINATION.

16 MR. LEVIN: THANK YOU, YOUR HONOR.

17 Q MR. MENENDEZ, DID YOU PURCHASE ANY REAL
18 ESTATE WITH THE INSURANCE MONEY THAT YOU RECEIVED
19 FOLLOWING YOUR PARENTS' DEATH?

20 A THERE WAS A CONDOMINIUM THAT MY PARENTS
21 HAD BEGUN TO PURCHASE THAT WAS FINALIZED
22 AFTERWARDS. I'M NOT SURE WHAT MONEY WAS USED FOR
23 THAT, THOUGH.

24 Q AND WHERE WAS THAT CONDO?

25 A IN PRINCETON, NEW JERSEY, NEAR THE
26 PRINCETON CAMPUS.

27 Q WERE YOU GOING TO LIVE THERE?

28 A IF I HAD GOTTEN INTO PRINCETON

43806

1 UNIVERSITY, I WOULD HAVE LIVED THERE. I WOULD HAVE
2 STAYED THERE, I BELIEVE. I LEARNED RIGHT AWAY,
3 AFTER TALKING TO THE DEAN, I WAS GOING TO BE DELAYED

4 FOR A YEAR, BUT I BELIEVE THE CONDO WAS STILL

5 FINALIZED AFTERWARDS.

6 Q WAS THAT CONDOMINIUM PURCHASED IN YOUR
7 NAME?

8 A I THINK IT WAS MY BROTHER'S NAME. I
9 DIDN'T SIGN ANY DOCUMENTS, SO I JUST -- I JUST DON'T
10 KNOW.

11 Q DID YOU EVER EXPRESS YOUR DESIRE TO BUY
12 THAT CONDOMINIUM FOR YOURSELF?

13 A WELL, I KNOW THAT IT -- MY PARENTS HAD
14 STARTED IT AND THERE WAS A CONCERN THAT IF THE MONEY
15 WAS NOT FRONTED FOR THE CONDOMINIUM, I THINK IT WAS
16 A HUNDRED THOUSAND DOLLARS, THAT THE DEAL WOULD BE
17 LOST, AND SO I DON'T KNOW HOW THE MONEY -- I
18 COMPLETELY FORGOT THE QUESTION.

19 Q THE CONDOMINIUM, WAS THAT -- DID ANYONE
20 RESIDE IN THAT CONDO BEFORE YOUR PARENTS' DEATH?

21 A NO.

22 Q WAS SOMEONE GOING TO RESIDE IN THAT
23 CONDO?

24 A IT'S WHERE MY BROTHER AND, I SUPPOSE, I
25 WAS GOING TO LIVE WHEN WE STAYED IN PRINCETON.

26 Q WAS THERE ANY -- WAS THERE ANY PLAN TO
27 FURNISH THE CONDO?

28 A YES.

1 Q AND WHO HAD PLANNED TO FURNISH IT?

2 A MY MOTHER WAS PLANNING ON COMING OUT AND
3 BUYING NEW FURNITURE FOR LYLE AND FURNISHING IT IN
4 OCTOBER -- I MEAN IN AUGUST OR SEPTEMBER.

5 Q YOU INDICATED BEFORE THAT THE CAMCORDER
6 HAD BEEN ACTUALLY PURCHASED ON LYLE'S CREDIT CARD?

7 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
8 SPECULATION.

9 THE COURT: SUSTAINED.

10 Q BY MR. LEVIN: DID YOU KNOW HOW THE
11 CAMCORDER HAD BEEN PURCHASED?

12 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
13 SPECULATION.

14 THE COURT: PERHAPS YOU CAN ESTABLISH A
15 FOUNDATION.

16 Q BY MR. LEVIN: YOU INDICATED BEFORE THAT
17 YOU THOUGHT THAT THE CAMCORDER -- YOU TOLD YOUR
18 MOTHER THAT THE CAMCORDER WAS PURCHASED IN A CERTAIN
19 WAY?

20 A I THOUGHT IT HAD BEEN PURCHASED ON HER
21 VISA AND SHE WAS ANGRY ABOUT THAT. LATER IT GOT
22 CLEARED UP THAT IT WAS ACTUALLY --

23 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
24 SPECULATION.

25 MR. LEVIN: HE'S ALREADY TESTIFIED, YOUR
26 HONOR.

27 THE COURT: THE ANSWER IS REALLY
28 NONRESPONSIVE. WHY DON'T YOU GO OVER IT AGAIN.

43808

1 Q BY MR. LEVIN: DID -- DID LYLE MENENDEZ
2 USE YOUR MOTHER'S VISA CARD TO PURCHASE THE
3 CAMCORDER?

4 A NO.

5 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
6 SPECULATION.

7 THE COURT: SUSTAINED. THE ANSWER IS
8 STRICKEN.

9 Q BY MR. LEVIN: YOU TOLD YOUR MOTHER THAT
10 YOU THOUGHT THAT LYLE MENENDEZ USED HER VISA CARD?

11 A YES.

12 Q WHY DID YOU TELL HER THAT?

13 A I DON'T KNOW. I JUST THOUGHT THAT
14 THAT'S HOW IT WAS PURCHASED AND -- OR I SAID IT WAS
15 PURCHASED ON THEIR CREDIT CARD AND SHE ASSUMED IT
16 WAS HER CREDIT CARD. I'M NOT SURE.

17 Q HOW DID YOU INTERPRET HER ANGER UPON YOU
18 GIVING HER THAT INFORMATION?

19 A SHE WAS ANGRY THAT -- THAT IT HAD BEEN
20 PURCHASED ON HER CREDIT CARD AND THAT THAT WAS
21 PRETTY MUCH WHAT HER ANGER WAS.

22 Q I WANT TO GO BACK FOR A MOMENT TO THE
23 COMPUTER WITH RESPECT TO THE SITUATION IN NEW JERSEY
24 WHERE COUSIN EILEEN -- THEY HAD TALKED TO HER ABOUT
25 ARRANGING FOR SOME COMPUTER PERSON TO DO SOMETHING.

26 WHAT WAS IT THAT YOU UNDERSTOOD A
27 COMPUTER PERSON WAS GOING TO DO?

28 A EILEEN WAS GOING TO ARRANGE FOR SOMEBODY

43809

1 WHO WORKED AT IBM TO MEET ME AT THE HOUSE IN BEVERLY
2 HILLS TO GET INTO THE FILES THAT CARLOS MENENDEZ AND
3 THE REST OF THE RELATIVES WERE TALKING ABOUT ON THE
4 COMPUTER.

5 Q AND WERE YOU GIVEN INSTRUCTIONS WITH
6 RESPECT TO WHAT SHOULD HAPPEN UPON YOUR RETURN TO
7 CALIFORNIA AND IN THE COMPUTER?

8 A I WAS TO LET THEM IN THE HOUSE TO LOOK
9 AT THE COMPUTER.

10 Q AND WHEN YOU RETURNED TO CALIFORNIA, DID
11 YOU -- WERE YOU MADE AWARE THAT A COMPUTER PERSON HAD
12 BEEN CONTACTED TO LOOK AT THE COMPUTER IN THE
13 MENENDEZ HOUSE?

14 A A FEW DAYS BEFORE I LEFT TO CALIFORNIA,
15 CARLOS MENENDEZ TOLD ME THAT PLANS HAD BEEN SWITCHED
16 AND THAT HIS COMPUTER PERSON WAS GOING TO TAKE CARE

17 OF ME AND SO I WENT OUT TO MEET THEM.

18 Q AND DID YOU MEET THEM?

19 A YES.

20 Q WHO WAS IT THAT YOU MET?

21 A A COUPLE BY THE NAME OF THE HAYMANS.

22 Q WHERE DID YOU MEET THEM?

23 A AT THE -- AT THE BEVERLY HILLS HOUSE. I

24 DON'T REMEMBER WHERE IN THE BEVERLY HILLS HOUSE.

25 Q AND HOW SOON AFTER YOUR RETURN TO

26 CALIFORNIA FROM NEW JERSEY DID YOU MEET THE

27 HAYMANS?

28 A I THINK -- I THINK IT WAS THAT DAY.

43810

1 MIGHT HAVE BEEN THE DAY AFTER.

2 Q DO YOU KNOW APPROXIMATELY WHAT DAY THIS

3 WOULD BE OR --

4 A SEPTEMBER THE 1ST, THE 31ST OF OCTOBER --

5 I MEAN AUGUST.

6 Q DID THE HAYMANS -- WERE THE HAYMANS

7 ALLOWED ACCESS INTO YOUR HOUSE?

8 A YES.

9 Q AND DID YOU SEE THEM DO SOMETHING?

10 A I SAW THEM WORKING WITH THE COMPUTER.

11 Q DID THEY TELL YOU THE RESULTS OF THEIR

12 WORK?

13 A YES.

14 Q WHAT DID THEY TELL YOU?

15 A THEY TOLD ME THAT THE COMPUTER HAD BEEN
16 WIPED AND NEW INFORMATION PUT BACK ON IT, BUT THAT
17 THE FILES NO LONGER EXISTED.

18 Q DID YOU UNDERSTAND WHAT THAT MEANT AT
19 THAT TIME?

20 A THAT THE FILES NO LONGER EXISTED.

21 Q DID YOU KNOW WHAT FILES THE HAYMANS WERE
22 TALKING ABOUT?

23 A YES.

24 Q WHAT FILES WERE THE HAYMANS TALKING
25 ABOUT?

26 A THREE FILES CALLED "MENENDEZ," "LIST,"
27 AND "WILL."

28 Q DID YOU LEARN AT SOME POINT IN TIME THAT

43811

1 FILES HAD BEEN ERASED FROM THE COMPUTER?

2 A YES.

3 Q WHEN DID YOU LEARN THAT?

4 A I LEARNED IT WHEN I GOT A HOLD OF MY
5 BROTHER SEVERAL DAYS LATER.

6 Q SEVERAL DAYS AFTER THE HAYMANS CAME?

7 A RIGHT.

8 Q AND HOW DID YOU KNOW THAT THERE WERE
9 FILES THAT WERE LABELED "MENENDEZ," "LIST" AND
10 "WILL"?

11 A CARLOS MENENDEZ TOLD ME THAT AT THE
12 MEMORIAL SERVICE IN NEW JERSEY.

13 Q DID HE TELL YOU HOW IT WAS HE KNEW THAT
14 THERE WERE SUCH FILES IN THE WILL?

15 A HIMSELF, MY AUNT JOAN, WERE FIDDLING
16 WITH THE COMPUTER AND HAD DISCOVERED THEM ON THE
17 COMPUTER. AND THE RELATIVES WERE PRETTY MUCH
18 TALKING ABOUT IT OR DISCUSSING WHETHER OR NOT
19 ANYTHING COULD BE VALID IN NEW JERSEY.

20 Q DID -- WAS IT YOUR STATE OF MIND THAT
21 SOMEONE HAD ACTUALLY SEEN A FILE OR A NAME OF A
22 FILE?

23 A A NAME OF A FILE.

24 Q TO YOUR KNOWLEDGE, DID ANYONE EVER
25 DISCOVER A FILE?

26 A TURNED OUT THAT THERE -- THAT THERE --
27 WELL, AT LEAST FROM WHAT THE --

28 THE COURT: YOU CAN ANSWER THAT QUESTION YES

43812

1 OR NO, ACTUALLY.

2 THE WITNESS: I THINK THE ANSWER -- AT THE
3 TIME IN 1989?

4 Q BY MR. LEVIN: YES. DID ANYONE --

5 A YES. YES, I DID. YES, I DID.

6 Q DID ANYONE INDICATE TO YOU THAT THEY HAD
7 ACTUALLY SEEN A FILE OR WAS IT THE NAME OF A FILE?

8 A THE NAME OF THE FILE.

9 Q DID MR. HAYMAN INDICATE THAT HE EVEN
10 FOUND THOSE NAMES?

11 A NO. HE SAID THAT HE DID NOT.

12 Q SO WAS IT YOUR STATE OF MIND THAT THE
13 NAMES HAD BEEN ERASED --

14 A YES.

15 Q -- OR WIPED?

16 AND DO YOU KNOW HOW IT WAS THEY CAME TO
17 BE ERASED?

18 A YES.

19 Q OR DELETED?

20 A RIGHT.

21 Q WHAT WAS IT THAT YOU KNEW WITH RESPECT
22 TO THE DELETION OF THOSE NAMES?

23 MR. CONN: OBJECTION. IRRELEVANT AND CALLS
24 FOR HEARSAY.

25 THE COURT: ARE YOU ASKING HIM NOW WHAT DOES
26 HE KNOW? WHAT DID HE KNOW AT SOME EARLIER TIME?
27 WHAT IS IT THAT YOU'RE ASKING?

28 MR. LEVIN: THEN.

1 THE COURT: ON SEPTEMBER THE 1ST OR AUGUST
2 31ST OR WHAT?

3 MR. LEVIN: I'LL TRY TO CLEAR IT UP.

4 Q FOLLOWING THE INCIDENT WITH THE HAYMANS,
5 DID YOU HAVE A CONVERSATION WITH YOUR BROTHER?

6 A YES.

7 Q AND BEFORE YOU HAD A CONVERSATION WITH
8 YOUR BROTHER, DID YOU HAVE ANY INFORMATION THAT YOUR
9 BROTHER HAD DONE SOMETHING TO THE COMPUTER?

10 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
11 IRRELEVANT.

12 THE COURT: WHAT IS YOUR OFFER OF PROOF?

13 MR. LEVIN: IT ONLY GOES TO EXPLAINING THE
14 SITUATION AND EXPLAINING MR. MENENDEZ' STATE OF MIND
15 AND KNOWLEDGE OF THIS PARTICULAR SUBJECT.

16 THE COURT: YOU MEAN AFTER THE HAYMANS HAD
17 BEEN THERE?

18 MR. LEVIN: YES.

19 THE COURT: SUSTAINED.

20 Q BY MR. LEVIN: WAS THERE A TIME WHEN
21 SOMEONE HANDED YOU A NOTE?

22 MR. CONN: OBJECTION. VAGUE.

23 THE COURT: WELL, AT SOME POINT WE'LL CLARIFY
24 IT, BUT ONE THING AT A TIME HERE.

25 DO YOU UNDERSTAND THE QUESTION?

26 THE WITNESS: YES.

27 YES.

28 Q BY MR. LEVIN: AND WHERE DID SOMEONE

43814

1 HAND YOU A NOTE?

2 A A SECURITY GUARD HANDED ME A NOTE IN THE
3 BEVERLY HILLS HOUSE.

4 Q WHEN?

5 A THE DAY THAT I ARRIVED HOME FROM
6 NEW JERSEY.

7 Q AND DID YOU READ THE NOTE?

8 A YES.

9 Q COULD YOU TELL IF IT WAS LYLE MENENDEZ'
10 HANDWRITING?

11 A IT WAS NOT LYLE MENENDEZ' -- LYLE'S
12 HANDWRITING.

13 Q DID YOU, AT SOME POINT IN TIME, CALL
14 LYLE MENENDEZ?

15 A YES.

16 Q AND DID YOU HAVE A DISCUSSION WITH HIM
17 CONCERNING THE COMPUTER?

18 A WELL, I TRIED TO CALL HIM AS SOON AS I
19 GOT THE NOTE BEFORE -- TRIED TO REACH HIM SEVERAL
20 TIMES BEFORE I ACTUALLY SPOKE WITH HIM.

21 Q WAS THE CALL MADE IN RELATIONSHIP TO THE
22 INFORMATION ON THE NOTE?

23 A YES.

24 Q WHAT DID THE NOTE SAY?

25 MR. CONN: OBJECTION. IRRELEVANT.

26 THE COURT: SUSTAINED.

27 MR. CONN: AND HEARSAY.

28 MS. ABRAMSON: CAN I HAVE A MOMENT, YOUR

43815

1 HONOR.

2 (ATTORNEYS ABRAMSON AND LEVIN

3 CONFERRING SOTTO VOCE.)

4

5 Q BY MR. LEVIN: DID YOU KNOW WHERE YOUR

6 BROTHER WAS WHEN YOU WERE IN CALIFORNIA AND HAD

7 RETURNED FROM NEW JERSEY?

8 MR. CONN: OBJECTION. IRRELEVANT.

9 THE COURT: OVERRULED.

10 THE WITNESS: I HAD THOUGHT THAT HE WAS IN

11 NEW JERSEY.

12 Q BY MR. LEVIN: WAS HE IN NEW JERSEY?

13 MR. CONN: OBJECTION. LACK OF FOUNDATION.

14 THE COURT: SUSTAINED.

15 Q BY MR. LEVIN: HAD YOU -- WHY DID YOU

16 THINK YOUR BROTHER WAS IN NEW JERSEY?

17 A I HAD SPOKE TO HIM A FEW DAYS EARLIER

18 WHEN HE WAS IN NEW JERSEY.

19 Q A FEW DAYS EARLIER FROM WHAT POINT?

20 FROM YOUR RETURN TO CALIFORNIA?

21 A RIGHT.

22 Q AND HE WAS IN NEW JERSEY AT THAT TIME?

23 A YES.

24 Q WHEN YOU LEFT FOR CALIFORNIA, DID YOUR

25 BROTHER COME WITH YOU?

26 A NO.

27 Q YOU FELT THAT HE WAS STILL IN

28 NEW JERSEY?

43816

1 A RIGHT.

2 Q WHEN YOU GOT TO CALIFORNIA AND YOU SAW

3 THE HAYMANS, HAD YOU SEEN YOUR BROTHER IN

4 CALIFORNIA?

5 A NO. BUT I GOT WORD THAT HE HAD BEEN IN

6 CALIFORNIA.

7 Q AND HOW DID YOU GET THAT WORD?

8 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

9 THE COURT: SUSTAINED.

10 Q BY MR. LEVIN: DID YOU LATER LEARN THAT

11 YOUR BROTHER HAD RETURNED TO CALIFORNIA?

12 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

13 THE COURT: PERHAPS YOU CAN LAY A FOUNDATION

14 BY SOMETHING THAT WOULDN'T BE HEARSAY.

15 Q BY MR. LEVIN: FOLLOWING YOUR -- THE

16 INCIDENT WITH THE HAYMANS, DID YOU TRY TO FIND OUT

17 WHERE YOUR BROTHER WAS?

18 A YES.

19 Q WHERE DID YOU FIRST CALL TO FIND YOUR

20 BROTHER?

21 A FOLLOWING THE HAYMANS' ARRIVAL?

22 Q YES.

23 A WELL, I FIRST CALLED BEFORE THEY

24 ARRIVED. I CONTINUED TO CALL MY AUNT TERRY AND -- TO

25 NEW JERSEY TO TRY TO FIND THEM.

26 Q I'M SORRY. WHEN YOU CAME BACK TO

27 CALIFORNIA AFTER YOU RECEIVED THIS NOTE, DID YOU TRY

28 FINDING YOUR BROTHER?

43817

1 A YES.

2 Q AND WHERE DID YOU CALL?

3 A I CALLED MY AUNT TERRY AND WAS PERPLEXED

4 OVER WHAT WAS GOING ON AND SAID I RECEIVED WORD THAT

5 LYLE WAS IN CALIFORNIA. WHERE WAS HE?

6 Q DID THE NOTE HAVE SOMETHING TO DO WITH
7 YOUR STATE OF MIND WITH RESPECT TO THE COMPUTER?

8 MR. CONN: OBJECTION. IRRELEVANT.

9 THE COURT: IT'S STILL HEARSAY. OBJECTION
10 SUSTAINED. THAT WAS THE INITIAL OBJECTION.

11 Q BY MR. LEVIN: DID YOU EVER TALK TO LYLE
12 MENENDEZ IN NEW JERSEY?

13 A YES.

14 Q AND WHAT DID YOU TALK ABOUT?

15 MR. CONN: OBJECTION. IRRELEVANT.

16 THE COURT: SUSTAINED.

17 Q BY MR. LEVIN: DID YOU DISCUSS THE
18 COMPUTER WITH LYLE MENENDEZ?

19 MR. CONN: OBJECTION. CALLS FOR HEARSAY AND
20 IRRELEVANT.

21 THE COURT: SUSTAINED.

22 Q BY MR. LEVIN: WAS THIS DISCUSSION WITH
23 LYLE MENENDEZ -- DID IT TAKE PLACE BEFORE THE
24 HAYMANS CAME TO THE HOUSE?

25 A NO.

26 Q AND DID IT TAKE PLACE AFTER -- OR WHAT
27 PERIOD OF TIME ELAPSED, AFTER THE HAYMANS LEFT, DID
28 YOU HAVE THIS CONVERSATION WITH LYLE MENENDEZ?

1 A A DAY OR TWO.

2 Q WHERE DID YOU SPEAK TO LYLE MENENDEZ?

3 WHERE WAS HE?

4 A I BELIEVE HE WAS AT MY AUNT TERRY'S.

5 Q NOW, YOU HEARD -- I BELIEVE IT WAS

6 MR. WITKIN WHO TESTIFIED IN THIS TRIAL?

7 A I SAW MR. WITKIN TESTIFY.

8 Q AND YOU HEARD HIS TESTIMONY?

9 A YES.

10 Q DID YOU ARRANGE FOR MR. WITKIN TO COME

11 TO YOUR HOUSE?

12 A NO.

13 Q DID YOU KNOW THAT MR. WITKIN HAD BEEN TO

14 YOUR HOUSE?

15 MR. CONN: OBJECTION. IRRELEVANT.

16 THE COURT: WELL, HOW WOULD HE KNOW THAT?

17 MR. LEVIN: WELL, FIRST I WANT TO ESTABLISH

18 IF HE KNEW THAT.

19 THE COURT: WELL, PERHAPS --

20 MR. LEVIN: IF THE PROSECUTION'S WILLING TO

21 CONCEDE THAT HE DIDN'T, THAT'S FINE.

22 THE COURT: AGAIN, WAS HE -- DID HE SEE HIM?

23 HOW WOULD HE KNOW?

24 MR. LEVIN: EXACTLY.

25 THE COURT: WHY DON'T YOU ASK HIM.

26 Q BY MR. LEVIN: DID YOU EVER SEE

27 MR. WITKIN AT YOUR HOUSE?

28 A NO.

1 Q DID YOU EVER TALK ON THE TELEPHONE TO
2 ANYONE NAMED MR. WITKIN?

3 A NO.

4 Q DID YOU EVER SEE ANY NOTES AT YOUR HOUSE
5 THAT A COMPUTER PERSON NAMED MR. WITKIN HAD BEEN TO
6 YOUR HOUSE?

7 A NO.

8 Q DID MR. HAYMAN SAY ANYTHING TO YOU THAT
9 CAUSED YOU TO BELIEVE THAT A COMPUTER PERSON HAD
10 BEEN THERE BEFORE?

11 A I WAS HIGHLY SUSPECTING IT OR KNEW IT AT
12 THAT TIME. I DON'T REMEMBER.

13 Q AND WHAT WAS THAT SUSPICION BASED ON?

14 MR. CONN: OBJECTION. IRRELEVANT. CALLS FOR
15 HEARSAY.

16 THE COURT: WELL, ON THAT ISSUE, IT WOULD
17 CALL FOR HEARSAY. OBJECTION SUSTAINED.

18 Q BY MR. LEVIN: WHEN WAS THE FIRST TIME
19 YOU TALKED TO LYLE MENENDEZ AFTER THE HAYMANS LEFT
20 YOUR HOUSE?

21 A A FEW DAYS AFTER THEY HAD LEFT.

22 Q AND DID YOU TALK TO LYLE MENENDEZ ABOUT
23 THE COMPUTER?

24 A YES.

25 Q DID LYLE MENENDEZ HAVE KNOWLEDGE OF
26 MR. WITKIN?

27 MR. CONN: OBJECTION. CALLS FOR HEARSAY.

28 THE COURT: SUSTAINED.

43820

1 MS. ABRAMSON: COULD I HAVE A MOMENT, YOUR
2 HONOR?

3 (ATTORNEYS ABRAMSON AND LEVIN
4 CONFERRING SOTTO VOCE.)

5

6 Q BY MR. LEVIN: DID YOU KNOW BEFORE YOU
7 CAME TO CALIFORNIA THAT MR. WITKIN WAS GOING TO
8 ARRIVE?

9 A NO.

10 Q DID YOU KNOW OF THE EXISTENCE OF
11 MR. WITKIN?

12 A NO.

13 Q AND DID YOU KNOW IF YOUR BROTHER LYLE
14 MENENDEZ WAS COMING TO CALIFORNIA BEFORE YOU
15 ARRIVED? DID YOU KNOW WHEN HE WAS COMING TO
16 CALIFORNIA?

17 A NO.

18 Q DID YOU HAVE ANY PLANS WHEN YOU WERE IN

19 NEW JERSEY AS TO WHAT YOU WERE GOING TO DO AFTER THE
20 MEMORIAL SERVICE?

21 A AFTER THE MEMORIAL SERVICE IN
22 NEW JERSEY?

23 Q YES.

24 A I KNEW THAT AT SOME POINT I WAS GOING TO
25 GO BACK AND MEET THE COMPUTER PERSON AT THE HOUSE,
26 BUT OTHER THAN THAT, I HAD NO PLANS.

27 Q DID YOU HAVE ANY IDEA WHERE YOU WOULD BE
28 LIVING OR WHERE YOU WOULD BE STAYING FOLLOWING YOU

43821

1 LEAVING THE MEMORIAL SERVICE IN NEW JERSEY?

2 A NO.

3 Q DID YOU HAVE PLANS TO LIVE IN THE
4 BEVERLY HILLS LOCATION?

5 A I DIDN'T WANT TO LIVE IN THE BEVERLY
6 HILLS HOUSE.

7 Q HAD YOU PURCHASED ANY BUSINESSES WITH
8 THE MONEY FROM YOUR FAM- -- FROM YOUR -- THE INSURANCE
9 FROM THE PROCEEDS OF YOUR PARENTS' DEATH?

10 A NO.

11 Q DID YOU HIRE A TENNIS COACH?

12 A YES.

13 Q WHO WAS THAT?

14 A MARK HEFFERNAN.

15 Q WHY DID YOU HIRE A TENNIS COACH?

16 A I DECIDED, EVENTUALLY, THAT -- TO PLAY
17 TENNIS. IT WAS THE ONE THING THAT I KNEW HOW TO
18 DO. AND SO I DECIDED TO HIRE MARK AS MY COACH TO
19 TRAIN ME.

20 Q DID YOU TELL DETECTIVE ZOELLER THAT THAT
21 WAS YOUR PLAN, ON SEPTEMBER THE 17TH, 1989, THAT YOU
22 WERE THINKING ABOUT THAT?

23 A YES, I DID.

24 Q AND WHAT WAS YOUR PLAN OR YOUR IDEA,
25 YOUR INTENT, CONCERNING YOUR TENNIS CAREER? DID YOU
26 HAVE ONE?

27 A AT WHAT POINT?

28 Q AT THAT POINT WHEN YOU HIRED MARK

43822

1 HEFFERNAN.

2 A I WANTED TO TRAIN TO GO ON THE
3 PROFESSIONAL CIRCUIT.

4 Q DO YOU RECALL WHEN IT WAS THAT YOU HIRED
5 MARK HEFFERNAN?

6 A TRAINING STARTED THE SECOND WEEK OF
7 NOVEMBER.

8 Q OF 1989?

9 A YES.

10 Q AND DID YOU ESTABLISH SOME KIND OF A
11 TRAINING SCHEDULE WITH MARK HEFFERNAN?

12 A AT FIRST IT WAS FROM EIGHT IN THE
13 MORNING TILL FIVE P.M., AND -- YES.

14 Q FROM EIGHT IN THE MORNING UNTIL FIVE IN
15 THE EVENING, WHAT WAS IT THAT YOU WOULD DO?

16 A I WOULD TRAIN ON THE TENNIS COURT. I
17 WOULD HIT WITH MY BROTHER WHO WAS ALSO IN TRAINING
18 AT THAT POINT. I WOULD EXERCISE, NAUTILUS WORKOUTS,
19 SWIMMING. WE WOULD EAT LUNCH. WE'D MONITOR MY
20 FOOD. EVERY HOUR WAS SOMETHING DIFFERENT. HE WAS
21 DEVISING DIFFERENT WAYS TO TRAIN.

22 Q WHAT WAS YOUR FEELINGS AT THIS TIME?

23 A ABOUT WHAT?

24 Q ABOUT YOUR FUTURE, ABOUT YOUR TENNIS
25 CAREER, ABOUT YOUR LIFE.

26 A IT WAS VERY UNCERTAIN. IT WAS VERY
27 LOST. I TOLD MARK THAT I COULDN'T GET INTO SCHOOL.
28 I WASN'T SURE THAT I MENTALLY WAS ABLE TO GO TO

43823

1 SCHOOL AT THAT POINT. I TOLD HIM I WOULD TRAIN WITH
2 HIM FOR A YEAR UNTIL THE FALL SEMESTER OF THE NEXT
3 SCHOOL YEAR AND THEN I MIGHT GO BACK TO SCHOOL. I

4 WAS VERY UNCERTAIN. I WASN'T SURE WHAT TO DO WITH
5 MYSELF, AND SO TENNIS WAS THE BEST THING THAT I
6 COULD COME UP WITH.

7 Q AT THIS TIME, MR. MENENDEZ, IT'S A
8 COUPLE THREE MONTHS AFTER THE DEATH OF YOUR PARENTS.
9 HOW DID YOU FEEL ABOUT THAT?

10 A I FELT HORRIBLE. BY THAT TIME, IT WAS
11 TWO MONTHS LATER, IT WAS VERY -- A DEEP DEPRESSION
12 AND EXTREME GUILT, AND I WASN'T SURE HOW I WAS GOING
13 TO GO ON.

14 Q DID YOU WANT TO TELL SOMEBODY THAT YOU
15 HAD KILLED YOUR PARENTS?

16 A YES.

17 Q DID THE HOURS CHANGE THAT YOU HAD
18 ESTABLISHED WITH MARK HEFFERNAN FROM EIGHT TO FIVE?

19 A YES.

20 Q AND WHAT DID IT CHANGE TO?

21 A EIGHT IN THE MORNING TILL SEVEN P.M. AT
22 NIGHT.

23 Q WHY DID YOU CHANGE IT FROM FIVE TO SEVEN
24 P.M.?

25 A AT 5:00 WHEN I HAD BEEN GETTING OFF, I
26 WAS LEFT ALONE AT NIGHT AND IT WAS A VERY LONELY
27 PERIOD, AND I HAD TOO MUCH TIME ON MY HANDS AND I
28 DIDN'T WANT TO BE ALONE FOR SUCH A LONG PERIOD OF

1 TIME. I WANTED SOMETHING IN -- SO I WOULDN'T HAVE TO
2 THINK AND -- ABOUT THINGS. I WANTED MORE OF A
3 TRAINING SCHOOL SO THAT I WOULD BE BUSY AND NOT HAVE
4 TO BE ALONE.

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43825

1 Q DID YOU HAVE REGULAR CONTACT WITH YOUR
2 BROTHER LYLE MENENDEZ DURING THIS PERIOD OF TIME?

3 A FOR -- I HAD REGULAR CONTACT WITH MY
4 BROTHER THROUGHOUT, EITHER ON THE TELEPHONE OR FACE
5 TO FACE.

6 Q WHERE WAS LYLE MENENDEZ IN NOVEMBER OF
7 '89?

8 A HE WAS ALSO LIVING AT THE MARINA CITY
9 CLUB, TRAINING WITH US.

10 Q IS THIS WHERE YOU LIVED, AT THE MARINA
11 CITY CLUB?

12 A YES.

13 Q WHO DID YOU LIVE WITH?

14 A I HAD A ROOMMATE NAMED NOEL NEDLI.

15 Q AND WHO'S NOEL NEDLI?

16 A HE'S A FRIEND OF MINE WHOSE MOTHER ALSO
17 LIVED IN THE -- AT THE COMPLEX, AND A GUY I USED TO
18 KNOW IN HIGH SCHOOL.

19 Q WHAT WAS THE MANNER OF YOUR RESIDENCE?
20 DID YOU OWN? DID YOU LEASE?

21 A I RENTED.

22 Q MONTH TO MONTH?

23 A IT WAS A SIX-MONTH LEASE.

24 Q AND THE UNIT THAT YOU RESIDED IN, THAT
25 WAS RIGHT NEXT DOOR TO NOEL NEDLI'S MOTHER?

26 A NO. SHE LIVED IN THE COMPLEX.

27 Q WAS THAT A FACTOR THAT YOU TOOK INTO
28 CONSIDERATION WHEN YOU CHOSE TO STAY AT THE MARINA

43826

1 CITY CLUB?

2 A YES.

3 Q WHY?

4 A SHE WAS A WONDERFUL MOTHER. I REALLY
5 LIKED HER A LOT. SHE WOULD COOK US DINNERS. IT WAS
6 NICE BEING OVER AT HER PLACE, AND THERE WASN'T MANY
7 PEOPLE IN MY LIFE AT THE TIME, AND SHE WAS ONE OF
8 THOSE I ENJOYED BEING WITH.

9 Q HOW LONG DID YOU LIVE AT THE MARINA CITY
10 CLUB?

11 A UNTIL I WAS ARRESTED.

12 Q IN MARCH OF 1990?

13 A YES.

14 Q AND WHEN DID YOU FIRST TAKE UP RESIDENCE
15 AT THE MARINA CITY CLUB?

16 A IN EITHER LATE OCTOBER OR EARLY NOVEMBER
17 OF '89.

18 Q THEY HAD TENNIS COURTS THERE?

19 A YES.

20 Q WAS THAT ANOTHER REASON WHY YOU STAYED
21 THERE?

22 A YES.

23 Q HOW MUCH WAS YOUR RENT?

24 A WE SHARED RENT. THE TOTAL WAS TWO
25 THOUSAND FIVE HUNDRED A MONTH, AND HE PAID SEVEN
26 HUNDRED.

27 Q YOU PAID THE BALANCE?

28 A YES.

43827

1 Q HOW ABOUT FOOD? WHO PAID FOR FOOD?

2 A I --

3 Q DID YOU EACH PAY FOR YOUR OWN FOOD?

4 A I GUESS. YES.

5 Q WERE YOU SUPPORTING NOEL NEDLI WHILE YOU
6 LIVED IN THIS --

7 A IN A WAY, YEAH.

8 Q AND IN WHAT WAY?

9 A HE WOULD GO OUT TO THE GROCERY STORE
10 WITH ME AND I WOULD JUST BUY EVERYTHING.

11 Q AND HOW WOULD YOU PAY FOR THESE ITEMS?

12 A EITHER CASH OR BY CREDIT CARD.

13 Q THE CREDIT CARD THAT AUNT MARTA GAVE

14 YOU?

15 A YES.

16 Q DID YOU KNOW THE BALANCE OF THE ACCOUNT

17 WHICH AUNT MARTA HELD IN YOUR NAME?

18 A NO.

19 Q WAS THERE A TIME WHEN YOU MADE A LOAN TO

20 YOUR BROTHER LYLE MENENDEZ?

21 A YES.

22 Q AND WHEN DID THAT OCCUR?

23 A RIGHT BEFORE WE BEGAN RENTING.

24 Q WHAT KIND OF A LOAN DID YOU MAKE TO HIM?

25 A BEFORE WE RENTED WE WEREN'T SURE IF WE

26 SHOULD BUY, AND WE WERE LOOKING AT DIFFERENT PLACES,

27 MAYBE TO BUY VERSUS RENT; AND ON THE TOP FLOOR THERE

28 WAS A PLACE THAT HE WAS THINKING OF BUYING, AND HE

43828

1 PUT DOWN A DOWN PAYMENT FOR FURTHER CONSIDERATION.

2 Q WHEN YOU SAY YOU PUT A DOWN PAYMENT, HOW

3 MUCH WAS IT?

4 A TWENTY-NINE THOUSAND.

5 Q WAS THAT MONEY YOU LOANED TO LYLE

6 MENENDEZ?

7 A RIGHT.

8 Q THAT WAS FOR LYLE MENENDEZ TO PURCHASE

9 THAT UNIT?

10 A IF HE EVENTUALLY DECIDED, YEAH, HE WOULD

11 PAY ME BACK.

12 Q WHEN DID YOU LEAVE FOR THE TOURNAMENT IN

13 ISRAEL?

14 A FEBRUARY 20TH OR 22ND.

15 Q BETWEEN THE TIME THAT YOU LIVED IN THE

16 MARINA CITY CLUB, AND WHICH YOU HAD SAID WAS AROUND

17 NOVEMBER TO FEBRUARY OR MARCH --

18 A YES.

19 Q -- WAS LYLE MENENDEZ IN CALIFORNIA

20 CONTINUOUSLY DURING THIS PERIOD OF TIME?

21 A BETWEEN NOVEMBER AND FEBRUARY?

22 Q YES.

23 A HE WAS RENTING AN APARTMENT RIGHT NEXT

24 DOOR TO MINE THROUGHOUT, BUT HE STOPPED PLAYING

25 TENNIS AND DECIDED TO MOVE BACK TO PRINCETON, NEW

26 JERSEY IN LATE DECEMBER OR EARLY JANUARY.

27 Q BY THIS TIME HAD ALL YOUR RELATIVES

28 RETURNED BACK EAST?

43829

1 A NO. MY GRANDMOTHER WAS LIVING WITH ME

2 SOMETIMES AND LIVING WITH -- LIVING AT THE BEVERLY

3 HILLS HOUSE.

4 Q LIVING WITH YOU WHERE?

5 A AT THE MARINA CITY CLUB.

6 Q YOU HEARD THE TESTIMONY OF MARK SLOTKIN?

7 A YES.

8 Q YOU LOANED -- I'M SORRY. THAT YOU

9 BORROWED SOME MONEY FROM HIM?

10 A RIGHT.

11 Q WAS THERE A TRIP THAT YOU TOOK WHERE

12 MARK SLOTKIN WAS ALSO THERE?

13 A YES.

14 Q AND WHEN DID THAT TRIP TAKE PLACE?

15 A IT WAS AFTER I HAD COME BACK FROM

16 CHRISTMAS IN NEW JERSEY WITH THE RELATIVES. MUST

17 HAVE BEEN 28TH, 29TH OF DECEMBER.

18 Q WHERE DID YOU GO?

19 A I WENT UP TO LAKE TAHOE WITH MY

20 ROOMMATE, BOB BAVARIAN, AND ANOTHER FRIEND. I CAN'T

21 REMEMBER AT THIS TIME. MARK WAS UP THERE WITH HIS

22 GIRLFRIEND AND ANOTHER COUPLE.

23 Q WAS THIS PREARRANGED THAT MARK WOULD BE

24 UP THERE? DID YOU KNOW THAT HE WAS GOING TO BE

25 THERE?

26 A I WAS OVER AT HIS HOUSE ON LIKE DECEMBER

27 20TH, AND I TOLD HIM THAT I WAS GOING UP THERE WITH

28 MY FRIENDS, AND HE SAID OH, I'M GOING UP THERE TOO.

1 SO WE ARRANGED TO MEET UP THERE AT THE SAME TIME.

2 Q DID YOU BORROW MONEY FROM MARK SLOTKIN
3 WHILE YOU WERE AT LAKE TAHOE?

4 A YES.

5 Q WAS THAT RELATED TO GAMBLING?

6 A YES.

7 Q HOW WOULD YOU DESCRIBE ERIK MENENDEZ AS
8 A GAMBLER?

9 A I HAD NEVER GAMBLED BEFORE. I LOST.

10 Q AND YOU HAD JUST TURNED, I BELIEVE, 19
11 YEARS OLD.

12 A YES.

13 Q HOW MUCH MONEY DID YOU BORROW FROM MARK
14 SLOTKIN?

15 A I NO LONGER REMEMBER.

16 Q DO YOU HAVE AN IDEA AS TO HOW MUCH IT
17 WAS? WAS IT MORE THAN FIVE THOUSAND, LESS THAN FIVE
18 THOUSAND?

19 A I THOUGHT IT WAS LESS THAN FIVE
20 THOUSAND, BUT MAKES NO DIFFERENCE. SOMEWHERE AROUND
21 THERE.

22 Q DID YOU PAY HIM BACK?

23 A YES.

24 Q HOW DID YOU PAY HIM BACK?

25 A I THOUGHT I HAD WRITTEN HIM A CHECK. I

26 DON'T REMEMBER HOW.

27 Q WERE YOU EVER ATTEMPTING TO KEEP A

28 SECRET THAT YOU HAD LOST MONEY UP AT LAKE TAHOE?

43831

1 A NO.

2 Q I WANT TO ASK YOU SOME QUESTIONS NOW
3 CONCERNING THE TAPE-RECORDING THAT THE PROSECUTION
4 PLAYED IN COURT THAT'S BEEN IDENTIFIED AS THE
5 DECEMBER 11TH, 1989 TAPE REGARDING DR. OZIEL.

6 MS. ABRAMSON: EXCUSE ME, YOUR HONOR.

7 (ATTORNEYS ABRAMSON AND LEVIN
8 CONFER SOTTO VOCE.)

9

10 Q BY MR. LEVIN: DO YOU RECALL THE
11 CONVERSATION, PLAYING A TAPE-RECORDED CONVERSATION
12 BEARING ANY VOICES THAT YOU NOW RECOGNIZE?

13 A YES.

14 Q AND WHOSE VOICES DID YOU HEAR ON THAT
15 TAPE?

16 A MY BROTHER'S, MYSELF, DR. OZIEL.

17 Q AND FROM THE CONTENT OF THAT
18 CONVERSATION, COULD YOU TELL THE DATE THAT THAT
19 CONVERSATION TOOK PLACE?

20 A FROM THE WORDS THAT WERE SPOKEN OR FROM

21 MY MEMORY OF WHEN IT TOOK PLACE?

22 Q FROM YOUR MEMORY OF WHEN IT TOOK PLACE.

23 A YES.

24 Q AND WHEN DID THAT CONVERSATION TAKE

25 PLACE?

26 A DECEMBER 11TH, 1989.

27 Q NOW, ON THAT TAPE YOU'RE HEARD TO BE

28 DISCUSSING SOME THINGS THAT YOU DID NOT TESTIFY TO

43832

1 IN THIS TRIAL, CORRECT?

2 A YES.

3 Q AND YOU HEARD THINGS THAT LYLE MENENDEZ

4 SAID IN THAT CONVERSATION TO WHICH YOU HAVE NOT

5 TESTIFIED IN TRIAL, CORRECT?

6 A RIGHT.

7 Q HAD YOU ADMITTED TO DR. OZIEL BEFORE

8 DECEMBER 11TH, 1989 THAT YOU HAD KILLED YOUR

9 PARENTS?

10 A YES.

11 Q WHEN DID YOU ADMIT TO DR. OZIEL THAT YOU

12 KILLED YOUR PARENTS?

13 A OCTOBER 31ST.

14 Q OCTOBER 31ST, 1989?

15 A YES.

16 Q WHO WAS PRESENT WHEN YOU ADMITTED TO

17 DR. OZIEL WHY YOU HAD KILLED YOUR PARENTS?

18 A WHO OR WHEN?

19 Q I'M SORRY. WHO.

20 A MYSELF AND DR. OZIEL.

21 Q DID YOU TELL DR. OZIEL ON OCTOBER 31ST

22 WHY YOU HAD KILLED YOUR PARENTS?

23 A NO.

24 Q NOW, WAS THERE A REASON WHY YOU DIDN'T

25 TELL DR. OZIEL ON OCTOBER 31ST WHY YOU KILLED YOUR

26 PARENTS?

27 A YES.

28 Q WHY?

43833

1 A I HADN'T BEEN EXPECTING TO TELL HIM ON

2 THAT DAY. IT CAME OUT BECAUSE OF WHAT WAS HAPPENING

3 IN THE CONVERSATION. I WASN'T EXPECTING TO TELL

4 HIM. I WASN'T EXPECTING TO GO INTO WHY. I DIDN'T

5 WANT TO TALK ABOUT SEX BETWEEN MY FATHER AND I; AND

6 BY THAT TIME HE HAD ALREADY CALLED MY BROTHER TO

7 COME OVER TO THE SESSION, AND I FELT AS THOUGH I HAD

8 LET DOWN MY BROTHER AND HIS TRUST IN ME IN EVEN

9 TALKING TO DR. OZIEL.

10 Q DID YOU CALL DR. OZIEL FOR THE

11 APPOINTMENT THAT TOOK PLACE ON OCTOBER 31ST, 1989?

12 A YES.

13 Q DID YOU CALL HIM FOR A PARTICULAR

14 REASON?

15 A YES.

16 Q WHAT WAS THE REASON YOU CALLED DR. OZIEL

17 TO SEE HIM FOR?

18 A MY COUSIN, HENRY, TOLD ME THAT I HAD

19 BETTER SEE DR. OZIEL.

20 Q HAD YOU HAD A CONVERSATION WITH COUSIN

21 HENRY THAT PRECEDED YOUR TELEPHONE CALL TO

22 DR. OZIEL?

23 A YES.

24 Q WHAT WAS THE NATURE OF THAT

25 CONVERSATION?

26 A JUST --

27 Q OR STRIKE THAT. WHEN DID THIS

28 CONVERSATION TAKE PLACE WITH COUSIN HENRY AND

43834

1 YOURSELF?

2 A SEVERAL DAYS BEFORE I CALLED DR. OZIEL.

3 Q AND BEFORE YOU HAD THIS CONVERSATION

4 WITH DR. OZIEL AND THIS CONVERSATION WITH COUSIN

5 HENRY, HAD YOU SEEN A DOCTOR, A MEDICAL DOCTOR?

6 A YES.

7 Q WHEN DID YOU SEE A MEDICAL DOCTOR?

8 A ON ONE OF MY TRIPS BACK TO NEW JERSEY IN
9 EARLY SEPTEMBER. I BELIEVE IT WAS SEPTEMBER 12TH.

10 Q WERE YOU EXPERIENCING SOME DIFFICULTY
11 WITH RESPECT TO YOUR PHYSICAL CONDITION THAT
12 REQUIRED YOU TO SEE -- SEEK OUT THE SERVICES OF A
13 DOCTOR?

14 A I WAS HAVING EXTREME ULCER-LIKE PAINS.

15 Q AND HOW WOULD YOU DESCRIBE YOUR
16 EMOTIONAL CONDITION IN SEPTEMBER OF 1989?

17 A VERY DISTRAUGHT, EXTREMELY DEPRESSED.

18 Q WHAT DOCTOR DID YOU SEE?

19 A MY OLD DOCTOR WHO I HAD SEEN BEFORE WAS
20 NOT THERE, SO I SAW AN ASSOCIATE OF HIS.

21 Q AND DID YOU RECEIVE ANY KIND OF MEDICAL
22 TREATMENT?

23 A YEAH. PILLS THAT I WAS SUPPOSED TO TAKE
24 TO CALM THE PAIN, THE ULCER.

25 Q WERE YOU HAVING TROUBLE SLEEPING?

26 A YES.

27 Q WERE YOU CONSUMED BY ANY PARTICULAR
28 THOUGHT?

1 A YES.

2 Q WHAT WAS THAT THOUGHT?

3 A SEEING MY PARENTS DEAD; THE THOUGHT THAT
4 I HAD KILLED THEM. THE WHOLE NIGHT I WASN'T ABLE TO
5 SLEEP. I KEPT WAKING UP OUT OF NIGHTMARES, AND IT
6 WAS GIVING ME A TREMENDOUS PAIN IN MY STOMACH.

7 Q DID YOU TALK TO LYLE MENENDEZ ABOUT YOUR
8 PROBLEMS?

9 A I TRIED TO.

10 Q WHEN DID YOU TRY TO?

11 A SEVERAL TIMES IN SEPTEMBER AND OCTOBER.

12 Q AND COULD YOU TALK TO LYLE MENENDEZ
13 ABOUT THESE PROBLEMS?

14 A I WOULD BRING IT UP TO HIM AND HE WOULD
15 GENERALLY -- WE'D BE AT MY PARENTS' GRAVE, AND IT WAS
16 BECAUSE OF HOW HE WAS FEELING AND THINGS THAT HE WAS
17 TELLING ME MADE IT VERY DIFFICULT.

18 Q WHAT WAS IT YOU WANTED TO TALK TO LYLE
19 MENENDEZ ABOUT?

20 A JUST WHAT WAS HAPPENING; THE FACT THAT
21 MY PARENTS HAD DIED; THE FACT THAT WE HAD KILLED
22 THEM. I DIDN'T DISCUSS WITH MY BROTHER AFTERWARDS
23 WHAT DID THIS MEAN? WHAT DID THIS MEAN ABOUT US AS
24 PEOPLE? WHY IT HAD TO COME DOWN TO THIS AND WHAT WE
25 WERE GOING TO DO ABOUT IT IN TERMS OF THE REST OF
26 OUR LIFE?

27 MY FAMILY HAD JUST BEEN DESTROYED AND I
28 NEEDED TO HEAR THAT I WASN'T A BAD PERSON; AND I

1 NEEDED TO HEAR -- I NEEDED TO HAVE SOME FOUNDATION
2 IN MY LIFE, SOMETHING TO WORK FROM; AND I WAS VERY
3 LOST. AND SO I WOULD TRY TO SPEAK TO LYLE ABOUT
4 THESE THINGS.

5 Q WHAT WERE YOU LOOKING FOR?

6 A COMFORT, ANSWERS, REASONS.

7 Q DID YOU FEEL OR DID LYLE MENENDEZ OFFER
8 YOU SUCH COMFORT?

9 A HE WAS CONSUMED WITH HIS OWN PAIN. HE
10 KEPT TALKING ABOUT THE RELOAD, ABOUT RUNNING BACK
11 INTO THE ROOM AND NOT HAVING CONTROL AND SHOOTING MY
12 MOM AFTER SHE STOPPED MOVING; AND HE KEPT TALKING
13 ABOUT THAT, AND THIS WASN'T WHAT I WANTED TO TALK
14 ABOUT.

15 HE KEPT GOING BACK TO THE IMAGES THAT HE
16 HAD, AND HOW HE WAS HAVING TROUBLE DEALING WITH IT,
17 AND THIS ONLY MADE ME FEEL WORSE AND WORSE. AND I
18 HAD SEVERAL CONVERSATIONS AND EACH ONE CAME BACK TO
19 HIM SHOOTING MOM AND HOW HE COULD GO BACK AND --

20 MR. CONN: OBJECTION. I WOULD OBJECT AT THIS
21 POINT. CALLS FOR HEARSAY. NONRESPONSIVE. MOTION
22 TO STRIKE.

23 THE COURT: THE OBJECTION'S A LITTLE LATE.

24 THE ANSWER WILL STAND.

25 MOVE ON TO YOUR NEXT QUESTION.

26 Q BY MR. LEVIN: DID YOU, ERIK MENENDEZ,
27 WANT TO ADMIT THAT YOU KILLED YOUR PARENTS?

28 A I DIDN'T WANT TO TALK ABOUT THE

43837

1 SHOOTING. I JUST WANTED TO TALK ABOUT WHO I WAS AS
2 A PERSON AT THIS POINT AND I NEEDED TO TELL PEOPLE.

3 Q DID THINGS START TO HAPPEN AFTER YOUR
4 RELATIVES STARTED TO ARRIVE IN CALIFORNIA CONCERNING
5 YOUR FEELING ABOUT YOUR PARENTS?

6 A YES.

7 Q AND WHAT KIND OF THINGS OCCURRED?

8 A EVERYONE WOULD REMINISCE. EVERYONE
9 WOULD TALK ABOUT WHAT A SUCCESSFUL BUSINESSMAN MY
10 FATHER WAS AND HOW MUCH HIGHER IN THE BUSINESS WORLD
11 HE WAS GOING TO REACH; AND WHAT A POWERFUL AND
12 STRONG MAN HE WAS. AND I WOULD TALK TO MY AUNT JOAN
13 AND MY AUNT MARTA ABOUT MY MOTHER AND MEMORIES ABOUT
14 HER. JUST BROUGHT A LOT OF PAIN. IT MADE MY
15 PARENTS MORE HUMAN TO ME, THINGS THAT I DIDN'T KNOW
16 ABOUT, AND IT MADE ME TREMENDOUSLY MISS THEM.

17 Q DID YOU LOVE YOUR MOTHER?

18 MR. CONN: OBJECTION. VAGUE AS TO TIME.

19 THE COURT: SUSTAINED.

20 Q BY MR. LEVIN: WHEN YOU HEARD THESE
21 THINGS FROM YOUR RELATIVES ABOUT YOUR PARENTS, DID
22 YOU LOVE YOUR MOTHER?
23 A YES.
24 Q DID YOU LOVE YOUR FATHER?
25 A YES.
26 Q DID YOU MISS THEM?
27 A EXTREMELY.
28 Q DID YOU WANT TO TELL SOMEONE WHAT YOU

43838

1 HAD DONE?
2 A YES.
3 Q NOW, DID YOU FEEL THAT YOU COULD TELL
4 SOMEONE WHAT YOU HAD DONE, THE PEOPLE THAT YOU KNEW?
5 A YOU MEAN MY AUNTS, MY GRANDMOTHER?
6 Q YES.
7 A I -- I JUST COULDN'T DO IT. I COULDN'T
8 DO IT TO THEM. I COULDN'T FACE THEM WITH THAT
9 TRUTH. I JUST -- I TRIED TO WITH MY COUSIN PETER ONE
10 TIME WHEN WE WERE ON THE BEACH, AND I JUST COULDN'T
11 DO IT.
12 Q WHEN YOU SAY YOU COULDN'T FACE THEM WITH
13 THE TRUTH, WHAT TRUTH WAS THAT?
14 A I COULDN'T LET THEM DOWN. I COULDN'T --

15 MR. CONN: OBJECTION. MOTION TO STRIKE.

16 NONRESPONSIVE.

17 THE COURT: I BELIEVE HE'S RESPONDING TO THE
18 QUESTION.

19 OVERRULED.

20 THE WITNESS: I DIDN'T WANT THEM TO KNOW THAT
21 I HAD DONE THIS, THAT MY BROTHER HAD DONE THIS,
22 ESPECIALLY MY GRANDMOTHER; AND SO I BROUGHT A GREAT
23 SENSE OF ISOLATION FROM THEM BECAUSE I COULDN'T FACE
24 THEM HAVING THIS KNOWLEDGE.

25 Q BY MR. LEVIN: DID YOU HATE YOUR FATHER
26 BECAUSE HE HAD MOLESTED YOU FOR MOST OF YOUR LIFE?

27 A SOMETIMES.

28 Q DID YOU HATE YOUR FATHER -- STRIKE THAT.

43839

1 DID YOU FEEL THAT THERE WAS ANY WAY THAT
2 YOU COULD TELL ANYONE WHY YOU KILLED YOUR FATHER
3 WITHOUT TELLING THEM ABOUT THE MOLESTATION?

4 A THAT WAS THE CENTER OF IT.

5 Q DID YOU KILL YOUR FATHER BECAUSE HE HAD
6 MOLESTED YOU?

7 A NO.

8 Q DID YOU CONSIDER TELLING YOUR RELATIVES?

9 A I -- I HAD DISCUSSIONS WITH MY BROTHER,

10 IF THEY FOUND OUT, WHO WE COULD TELL. BUT IT NEVER
11 BLOSSOMED INTO ME TELLING THEM UNTIL AFTER WE WERE
12 ARRESTED.

13 Q WAS DR. OZIEL AT ANY OF MEMORIAL
14 SERVICES?

15 A YES.

16 Q NOW, WHEN YOU SAW DR. OZIEL ON THE 31ST
17 OF OCTOBER, DID YOU PLAN OR INTEND ON ADMITTING TO
18 HIM THAT YOU HAD KILLED YOUR PARENTS?

19 MR. CONN: OBJECTION. ASKED AND ANSWERED.

20 THE COURT: OVERRULED.

21 THE WITNESS: NO. I HAD NO INTENTION OF
22 DOING THAT.

23 Q BY MR. LEVIN: AND WHEN YOU WENT TO SEE
24 DR. OZIEL, WHAT SPECIFIC REASON DID YOU SEE HIM FOR?

25 A MY COUSIN HENRY WAS WORRIED ABOUT ME AND
26 TOLD ME I SHOULD SEE HIM, AND I AGREED.

27 Q AND THE REASON THAT YOU SAW HIM, WAS
28 THIS RELATED TO YOUR EMOTIONAL CONDITION?

43840

1 A THAT I JUST WAS HAVING TROUBLE LIVING
2 WITH MYSELF.

3 Q THE FACT THAT YOU WERE HAVING TROUBLE
4 LIVING WITH YOURSELF, DID IT CAUSE YOU TO FEEL

5 ANY -- STRIKE THAT.

6 WERE YOU DEPRESSED?

7 A YES.

8 Q WERE YOU SUICIDAL?

9 A YES.

10 Q DID YOU HAVE ANY DREAM OR VISIONS OF
11 TAKING YOUR OWN LIFE?

12 A YES.

13 Q WHAT KIND OF THINGS WERE COMING THROUGH
14 YOUR MIND?

15 A DREAMS OF ASKING A FRIEND OF MINE TO
16 KILL ME OR A RELATIVE TO KILL ME, AND THEM NOT
17 WANTING TO OR THEM DOING IT; AND DREAMS OF DYING AND
18 BEING IN THIS EXTREME PEACE, OF NOT HAVING THE GUILT
19 AND THE REGRET OVERWHELM ME EACH DAY; AND IT WAS
20 JUST AN EXTREMELY PEACEFUL THOUGHT AND IT MADE ME
21 YEARN TO END THE PAIN. AND I TOLD MY COUSIN HENRY
22 ABOUT THESE THOUGHTS AND HE WAS VERY WORRIED AND
23 ASKED ME TO SEE DR. OZIEL. HE, IN FACT, CALLED
24 DR. OZIEL.

25 Q ON OCTOBER THE 31ST, 1989, MR. MENENDEZ,
26 DID YOU TELL DR. JEROME OZIEL OF THESE FEELINGS THAT
27 YOU JUST RELATED TO THE JURY?

28 A I TRIED TO.

1 Q WHAT DID YOU TELL HIM?

2 A I TOLD HIM HOW MUCH I MISS MY PARENTS,
3 THAT I WAS LOST, THAT I HAD LOST A LOT OF WEIGHT,
4 THAT I WAS HAVING TROUBLE LIVING WITH THE FACT THAT
5 I WAS SPENDING THEIR MONEY; WHAT TO DO WITH THAT,
6 WHAT TO DO WITH THE MONEY. I WAS JUST RAMBLING ON
7 ABOUT WHAT I THOUGHT MY FATHER WOULD WANT IN MY LIFE
8 AND WHAT I SHOULD DO WITH MY LIFE, WHAT MY TENTATIVE
9 PLANS WERE; AND HE WASN'T UNDERSTANDING WHY I WAS
10 SO -- WHY I NO LONGER WANTED TO LIVE. IF SOMEONE
11 ELSE HAD KILLED MY PARENTS, WHY I WOULD FEEL SO
12 EXTREME ABOUT IT.

13 Q DID DR. JEROME OZIEL KNOW YOUR MOTHER
14 AND YOUR FATHER?

15 A YES.

16 Q AND, TO YOUR KNOWLEDGE, HAD HE SPOKEN TO
17 BOTH YOUR MOTHER AND YOUR FATHER BEFORE?

18 A HE HAD HAD PRIVATE SESSIONS WITH THEM.

19 Q DID DR. OZIEL BEGIN TO TELL YOU THINGS
20 THAT HE FELT ABOUT YOUR MOTHER AND YOUR FATHER?

21 A YES.

22 Q DID DR. JEROME OZIEL APPEAR TO BE
23 CONCERNED ABOUT YOUR MENTAL CONDITION?

24 A AT FIRST I THOUGHT HE WAS.

25 Q AND HOW DID HE COMMUNICATE TO YOU THAT
26 HE WAS?

27 A I DON'T THINK HE REALLY SAID ANYTHING.

43842

1 THAT -- THAT HE WAS.

2 Q DID HE ASK YOU A LOT OF QUESTIONS ABOUT
3 YOUR FEELINGS?

4 A BEFORE I TOLD HIM THAT I HAD DONE IT OR
5 AFTER?

6 Q BEFORE.

7 A HE WAS TRYING TO GET TO THE BOTTOM OF MY
8 FEELINGS IN TERMS OF WHY I WOULD FEEL THAT I NO
9 LONGER WANTED TO LIVE OR COULDN'T LIVE WITH MYSELF
10 IF SOMEONE ELSE HAD KILLED MY PARENTS. HE WASN'T
11 GETTING IT. THERE WAS NO BRIDGE. AND IT WAS AT
12 THAT POINT THAT I DECIDED TO BRIDGE THE GAP.

13 Q SO YOU HAD TOLD DR. OZIEL YOUR FEELINGS,
14 YOUR EMOTIONAL CONDITION, BEFORE YOU TOLD HIM THAT
15 YOU HAD KILLED YOUR PARENTS?

16 A YES.

17 Q AND HOW DID THE CONVERSATION, THE
18 DISCUSSION, COME UP THAT YOU KILLED YOUR PARENTS?
19 YOU JUST BLURTED IT OUT?

20 A NO.

21 Q HOW DID IT ARISE?

22 A I ASKED IF I COULD GO FOR A WALK AND

23 WE -- HE SAID SURE. AND WE WENT OUTSIDE HIS ROOM, SO
24 TO SPEAK, AND WENT DOWN TO THE SIDEWALK. AND I WAS
25 TALKING TO HIM AS WE WENT UP THE SIDEWALK. I WAS
26 HEADING TOWARD A CHURCH THAT I HAD GONE TO BEFORE
27 WHICH WAS ABOVE SANTA MONICA, AND WE WERE JUST
28 WALKING, AND I WAS TELLING HIM ABOUT MY FATHER AND

43843

1 HOW I WANTED TO WRITE A BOOK ABOUT MY FATHER. AND I
2 WAS TELLING HIM ABOUT A LOT OF THINGS ABOUT MY
3 BROTHER AND HOW I WASN'T ABLE TO COMMUNICATE WITH
4 LYLE BECAUSE OF THINGS THAT -- HIS OWN DIFFICULTIES
5 IN DEALING WITH IT.

6 AND EVENTUALLY, AS WE ENDED THE WALK, IT
7 WAS LIKE HALF HOUR OR AN HOUR-WALK, I SAID,
8 DR. OZIEL, WE DID IT.

9 Q AND WHAT WAS DR. OZIEL'S REACTION AND
10 RESPONSE?

11 A HE SAID THAT HE HAD THOUGHT THAT I HAD
12 DONE IT. HE THOUGHT THAT I WAS GOING TO TELL HIM
13 THAT THAT EVENING; AND THAT I HADN'T REALLY HAD A
14 CHOICE, THAT I WAS SO OVER-BURDENED BY THE FACT THAT
15 I WAS EVENTUALLY GOING TO TELL HIM.

16 Q OVER-BURDENED BY WHAT?

17 A THE PAIN AND THE GUILT.

18 Q DID LYLE MENENDEZ KNOW THAT YOU HAD GONE
19 TO SEE DR. JEROME OZIEL?

20 A NO.

21 Q DID LYLE MENENDEZ KNOW THAT YOU WERE
22 GOING TO TELL DR. OZIEL THAT YOU HAD KILLED YOUR
23 PARENTS?

24 A NO.

25 Q WHAT HAPPENED AFTER DR. OZIEL STATED TO
26 YOU THAT HE THOUGHT THAT YOU WERE GOING TO TELL HIM
27 WHAT YOU HAD SAID? WHAT WAS THE NEXT THING THAT YOU
28 REMEMBER HIM SAYING OR YOU SAYING?

43844

1 A AT THAT POINT I STARTED TO EXPLAIN TO
2 HIM WHAT IT WAS THAT I COULDN'T LIVE WITH, WHY I
3 COULDN'T LIVE WITH THIS, WHY I WAS HAVING SO MUCH
4 PROBLEMS WITH MY BROTHER IN TALKING ABOUT THESE
5 ISSUES, FOR HIS OWN ISSUES; AND HE WANTED TO KNOW
6 ABOUT FACTS, ABOUT WHAT HAD HAPPENED.

7 Q WHEN YOU SAY HE WANTED TO KNOW FACTS,
8 WHAT KIND OF QUESTIONS WAS HE ASKING?

9 A HE TOLD ME THAT WE WOULD DEAL WITH MY
10 SUICIDE LATER; THAT HE WANTED TO KNOW WHAT HAD
11 HAPPENED IN TERMS OF -- AND I TOLD HIM THAT WE HAD
12 RUN INTO THE ROOM AND THAT THE SHOOTINGS HAPPENED

13 AND WHAT WE DID AFTERWARDS IN TERMS OF TRYING TO
14 CREATE AN ALIBI. AND I JUST GAVE HIM VARIOUS
15 DETAILS. HE KEPT ASKING MORE AND MORE.

16 Q SO, IN ESSENCE, YOU TOLD DR. OZIEL THE
17 THINGS THAT YOU HAD DONE, THE FACTS THAT YOU HAD
18 DONE WHEN YOU ENTERED THE ROOM THAT YOU TESTIFIED
19 HERE TO THE JURY?

20 A YES.

21 Q AND YOU TOLD DR. OZIEL THE TRUTH ABOUT
22 WHAT YOU DID FOLLOWING KILLING YOUR PARENTS WITH
23 RESPECT TO THE SHOTGUNS AND THE TRIP TO THE MOVIES?

24 A I TOLD THEM WE LEFT THEM OFF AT
25 MULHOLLAND; THAT WE TRIED TO GO TO A MOVIE THEATRE.
26 WE TRIED TO GET AHOLD OF PERRY IN SANTA MONICA AND
27 WE HAD COME BACK TO THE HOUSE AND CALLED THE POLICE.

28 Q NOW, WHO WAS DIRECTING THE

43845

1 CONVERSATION? WAS IT YOU JUST TALKING ABOUT THESE
2 THINGS, OR WAS IT DR. OZIEL ASKING YOU SPECIFIC
3 QUESTIONS THAT BROUGHT FORTH THIS INFORMATION?

4 A BY THIS TIME WE WERE BACK IN HIS OFFICE,
5 AND I WAS PRETTY HYSTERICAL IN TERMS OF CRYING AND --
6 TO AN EXTREME, SO I WAS JUST BLURTING OUT THINGS.
7 HE WOULD ASK QUESTIONS.

8 Q AND THE KIND OF QUESTIONS THAT HE WAS
9 ASKING, WERE THESE QUESTIONS THAT WERE DIRECTED
10 TOWARDS THE INFORMATION YOU WERE GIVING HIM?

11 A HE ASKED ME WHERE WE GOT THE GUNS.

12 I GUESS THE ANSWER IS YES.

13 Q IN OTHER WORDS, YOU WERE ANSWERING THE
14 QUESTIONS THAT HE WAS ASKING?

15 A YES.

16 Q DID HE NOW AT THIS TIME SEEM TO BE
17 CONCERNED WITH YOUR EMOTIONAL CONDITION?

18 A NO.

19 Q DID YOU TRY TO TELL HIM HOW YOU WERE
20 FEELING?

21 A THAT'S WHAT I WANTED TO TALK ABOUT, HOW
22 I WAS GOING TO LIVE WITH THE FACT THAT I HAD DONE
23 THIS; AND I PRIMARILY WANTED TO HEAR HIM TELL ME
24 THAT I WAS NOT A BAD PERSON AND THAT I COULD LIVE.

25 AT THIS POINT I BELIEVE HE ASKED IF LYLE
26 KNEW THAT I WAS THERE.

27 Q HE ASKED YOU IF LYLE MENENDEZ KNEW YOU
28 WERE THERE?

43846

1 A YES.

2 Q HOW DID HE COMMUNICATE THAT TO YOU?

3 A HE ASKED ME IF LYLE KNEW THAT I WAS
4 THERE TELLING THESE THINGS TO HIM.

5 Q WHAT DID YOU TELL HIM?

6 A I TOLD HIM THAT MY BROTHER DID NOT KNOW.

7 Q WHAT DID HE RESPOND?

8 A THAT -- HE ASKED ME WHAT I WAS GOING TO
9 TELL MY BROTHER, THE FACT THAT I HAD CONFESSED TO
10 DR. OZIEL THAT I HAD DONE THIS, AND THAT I WAS
11 RESPONSIBLE FOR MY PARENTS' DEATHS. AND I TOLD HIM
12 THAT I DIDN'T KNOW WHAT I WAS GOING TO TELL LYLE;
13 THAT I HADN'T EVEN PLANNED ON EVEN TELLING HIM, AND
14 I HADN'T THOUGHT ABOUT IT. MAYBE I SHOULDN'T TELL
15 LYLE, MAYBE I SHOULD. HE THOUGHT DEFINITELY I
16 SHOULD TELL LYLE; THAT, IN FACT, HE WANTED TO CALL
17 LYLE ON THE TELEPHONE RIGHT AWAY, RIGHT THEN.

18 Q DID DR. OZIEL EXPRESS TO YOU CONCERN
19 THAT YOU HAD CONFESSED TO HIM AND LYLE MENENDEZ
20 DIDN'T KNOW THAT YOU HAD DONE SO?

21 A YEAH. HE WAS FOCUSED ON THAT AT THAT
22 MOMENT.

23 Q DO YOU KNOW WHY IT WAS HE WANTED TO GET
24 AHOLD OF LYLE MENENDEZ?

25 A BECAUSE I HADN'T GIVEN HIM A GOOD
26 THOUGHT OF HOW I WAS GOING TO TELL LYLE AND GIVE
27 LYLE THIS KNOWLEDGE; AND SO HE FELT LYLE SHOULD KNOW
28 RIGHT AWAY AND HE WAS -- HE WANTED TO BRING LYLE -- HE

1 WANTED TO CALL LYLE ON THE PHONE, AND EVENTUALLY
2 ASKED HIM TO COME OVER THAT NIGHT.

3 Q DID DR. OZIEL EVER SUGGEST TO YOU THAT
4 YOU SHOULD TURN YOURSELF IN TO THE POLICE?

5 A NO.

6 Q DID HE EVER SAY ANYTHING ABOUT THE
7 LOCATION WHERE THE SHOTGUNS WERE?

8 A YES.

9 Q WHAT DID HE SAY?

10 A HE SAID THAT WE SHOULD TAKE THEM AND
11 BURY THEM IN THE DESERT.

12 Q WHAT KIND OF THINGS -- WAS DR. OZIEL
13 TALKING ABOUT YOUR MOTHER AND YOUR FATHER UP TO THIS
14 POINT OR BEFORE THE POINT WHERE --

15 A YES. HE TALKED IN GENERAL ABOUT MY
16 MOTHER'S DEPRESSION AND MY FATHER BEING THIS VERY
17 STRONG MAN.

18 Q WHAT DID DR. OZIEL SAY SPECIFICALLY
19 ABOUT YOUR FATHER?

20 A BEFORE THIS POINT? I WAS TALKING TO
21 DR. OZIEL ABOUT HOW GREAT MY FATHER WAS AND HOW I
22 WANTED TO WRITE A BOOK ABOUT HIM. AND HE WAS
23 TELLING ME ABOUT HOW CONTROLLING MY FATHER WAS AND
24 THAT'S PROBABLY WHY HE WAS SO SUCCESSFUL BECAUSE HE
25 WAS ALSO BRILLIANT.

26 Q WHAT ABOUT YOUR MOTHER?

27 A HE TOLD ME THAT SHE WAS A PITIFUL WOMAN;
28 THAT SHE HAD A MISERABLE LIFE, AND THAT SHE DIDN'T

43848

1 WANT TO LIVE ANYWAY.

2 Q DID YOU TELL DR. OZIEL THAT YOUR MOTHER
3 WAS A PITIFUL PERSON?

4 A NO.

5 Q DID YOU TELL DR. OZIEL THAT YOUR MOTHER
6 DIDN'T WANT TO LIVE ANYWAY?

7 A NO. BUT I LIKED HEARING THAT.

8 MR. LEVIN: YOUR HONOR, THIS WOULD BE A GOOD
9 PLACE FOR ME TO BREAK UNLESS THE COURT WANTS ME TO
10 CONTINUE.

11 THE COURT: NO. THAT'S FINE.

12 OKAY. WE'LL RESUME THEN TOMORROW AT
13 8:30.

14 DON'T DISCUSS THE MATTER WITH ANYONE AND
15 DON'T FORM ANY FINAL OPINIONS ABOUT IT. DON'T
16 PERMIT YOURSELVES TO BE EXPOSED TO ANYTHING ABOUT
17 THIS CASE OUTSIDE OF THE COURTROOM. AND WE'LL
18 RESUME TOMORROW AT 8:30.

19 WE'LL BE IN RECESS UNTIL 8:30 TOMORROW.

20 (AT 1:00 P.M. PROCEEDINGS WERE
21 ADJOURNED UNTIL 8:30 A.M. THE

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG JUDGE

4 THE PEOPLE OF THE STATE OF)
5 CALIFORNIA,)

6 PLAINTIFFS,)

7)
8 VS.) NO. BA 068880

9 ERIK GALEN MENENDEZ, AND)
10 JOSEPH LYLE MENENDEZ,)

11 DEFENDANTS.)

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 WEDNESDAY, DECEMBER 13, 1995

14 VOLUME 262

15 PAGES 43704 THROUGH 43848

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22 APPEARANCES:
(SEE APPEARANCE PAGE)

23

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1 APPEARANCES:

2
3 FOR THE PEOPLE: GIL GARCETTI
4 DISTRICT ATTORNEY
5 BY: DAVID CONN, DEPUTY
6 AND
7 CAROL NAJERA, DEPUTY
8 18000 CRIMINAL COURTS BLDG.
9 210 WEST TEMPLE STREET
10 LOS ANGELES, CA 90012

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14
15 FOR THE DEFENDANT
16 JOSEPH LYLE MENENDEZ: MICHAEL P. JUDGE,
17 PUBLIC DEFENDER
18 BY: CHARLES GESSLER, DEPUTY
19 AND
20 TERRI TOWERY, DEPUTY
21 210 WEST TEMPLE
22 LOS ANGELES, CA 90012

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LEGEND:

A = MS. ABRAMSON C = MR. CONN
G = MR. GESSLER L = MR. LEVIN
N = MS. NAJERA T = MS. TOWERY

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