

1 VAN NUYS, CALIFORNIA; MONDAY, DECEMBER 18, 1995

2 9:20 A.M.

3 DEPARTMENT NW N HON. STANLEY WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6 (ANNAMARIE PAPA, OFFICIAL REPORTER)

7

8 THE COURT: OKAY. WE HAVE THE DEFENDANTS IN

9 COURT WITH THEIR LAWYERS. THE PEOPLE ARE HERE. THE

10 JURY IS HERE. WE ARE READY TO RESUME WITH THE TRIAL.

11 THE PEOPLE FILED A MEMORANDUM THIS MORNING

12 DEALING WITH THE SCOPE OF THE CROSS-EXAMINATION,

13 ADDRESSING SUBJECTS THAT WE HAD DISCUSSED FRIDAY. THE

14 DEFENSE INDICATED IT HAD SOME MATERIALS TO FILE AS WELL

15 TODAY. I HAVEN'T RECEIVED ANYTHING.

16 MS. ABRAMSON: NO. IT'LL BE AFTER LUNCH, YOUR

17 HONOR. WE NEEDED TO CHECK SOME PAGE CITES, SO IT HAS TO

18 BE AMENDED AT LUNCH TIME, AND YOU WILL HAVE IT AFTER

19 LUNCH TIME.

20 THE COURT: IN REGARD TO THE SUBJECTS ADDRESSD IN

21 THE PEOPLE'S MEMORANDUM FILED TODAY, ALL OF THOSE ARE

22 ISSUES THAT MIGHT ARISE DURING CROSS-EXAMINATION.

23 HOWEVER, WE'VE HAD DELAYS IN THE

24 CROSS-EXAMINATION AND DELAYS IN THE EXAMINATION OF THE

25 WITNESS, AND I WANT TO PROCEED WITH THE EXAMINATION AT

26 THIS TIME.

27 SO WHAT I PROPOSE TO DO IS TO BEGIN AGAIN

28 WITH THE CROSS-EXAMINATION, WITH INSTRUCTIONS TO THE

1 PROSECUTION NOT TO BRING UP THOSE AREAS THAT ARE COVERED
2 IN YOUR MEMORANDUM UNTIL WE HAVE TIME TO ADDRESS THEM.

3 MR. GESSLER: YOUR HONOR, WE WOULD ALSO HAVE THIS
4 MORNING JOSH KROM, A WITNESS ON VACATION FROM SCHOOL,
5 THAT WE WOULD ASK PERMISSION TO PUT ON OUT OF ORDER.
6 HIS TESTIMONY I BELIEVE WILL BE BRIEF.

7 THE COURT: YES, I RECALL THAT FROM FRIDAY'S
8 DISCUSSIONS.

9 SO, WE'LL DO THAT, AND THEN THE PROSECUTION
10 CAN PREPARE ITSELF FOR THE EXAMINATION AND
11 CROSS-EXAMINATION OF THE DEFENDANT WITHOUT REFERENCE TO
12 THOSE MATERIALS CONTAINED IN THE BRIEF FILED THIS
13 MORNING UNTIL WE HAVE A CHANCE TO DISCUSS THEM.

14 OKAY, ARE WE READY WITH MR. KROM?

15 MR. GESSLER: YES, WE ARE, YOUR HONOR.

16 THE COURT: LET'S HAVE THE JURY OUT, PLEASE.

17 (THE JURY ENTERS THE COURTROOM AND THE
18 FOLLOWING PROCEEDINGS WERE HELD:)

19

20 THE COURT: OKAY. WE AGAIN HAVE A QUORUM OF ALL
21 OUR JURORS HERE AT THIS POINT, SO WE'RE READY TO RESUME
22 WITH THE TRIAL.

23 GOOD MORNING TO YOU ALL, LADIES AND
24 GENTLEMEN. I HOPE YOU'RE ALL FEELING WELL AND READY TO
25 GO, AND WE'LL TAKE A BREAK FOR A SHORT TIME FROM THE

26 CROSS-EXAMINATION OF THE DEFENDANT, ERIK MENENDEZ, TO
27 PICK UP WITH THE TESTIMONY OF ANOTHER WITNESS WHOSE
28 SCHEDULE WON'T PERMIT HIM TO TESTIFY LATER IN THE TRIAL,

-21372

1 AND SO WE'LL HAVE HIM TESTIFY NOW. IT'LL BE FAIRLY
2 BRIEF TESTIMONY.

3 THE DEFENSE MAY CALL THAT WITNESS AT THIS
4 TIME.

5 MR. GESSLER: THANK YOU, YOUR HONOR. THE DEFENSE
6 CALLS JOSH KROM.

7 THE COURT: STAND BEHIND THE COURT REPORTER OVER
8 HERE. GO OVER THIS WAY. COME OVER HERE, STAND BEHIND
9 THIS LADY RIGHT HERE AND RAISE YOUR RIGHT HAND AND FACE
10 THIS LADY.

11

12 JOSHUA IVAN KROM,
13 CALLED AS A WITNESS BY THE *DEFENSE, WAS SWORN AND
14 TESTIFIED AS FOLLOWS:

15 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE
16 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE
17 THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH, AND
18 NOTHING BUT THE TRUTH, SO HELP YOU GOD.

19 THE WITNESS: I DO.

20 THE CLERK: PLEASE TAKE THE STAND AND STATE YOUR
21 NAME FOR THE RECORD.

22 THE WITNESS: JOSHUA IVAN KROM.
23 THE COURT: WHY DON'T YOU SIT DOWN AND SPEAK
24 RIGHT INTO THE MICROPHONE AND SAY YOUR NAME AGAIN
25 LOUDLY.
26 THE WITNESS: JOSHUA IVAN KROM.
27 THE COURT: AND SPELL YOUR FULL NAME FOR US.
28 THE WITNESS: J-O-S-H-U-A, I-V-A-N, K-R-O-M.

-21371

1 THE COURT: ALL RIGHT. MR. GESSLER.
2
3 DIRECT EXAMINATION
4 BY MR. GESSLER:
5 Q. MR. KROM, HOW OLD ARE YOU NOW, SIR?
6 A. NINETEEN.
7 Q. OKAY. NOW I WANT YOU TO JUST SLOW DOWN A
8 LITTLE BIT, TALK INTO THE MICROPHONE.
9 A. OKAY.
10 Q. AND IF YOU TALK TO ME AS THOUGH WE WERE
11 HAVING A CONVERSATION, PROBABLY EVERYBODY WILL BE BEST
12 ABLE TO HEAR YOU.
13 A. OKAY.
14 Q. OKAY.
15 AND ARE YOU PRESENTLY GOING TO SCHOOL, SIR?
16 A. YES.
17 Q. WHERE DO YOU GO TO SCHOOL NOW?

18 A. U.C. SANTA BARBARA.
19 Q. NOW, DIRECTING YOUR ATTENTION BACK TO
20 AUGUST 20TH OF 1989, HOW OLD WERE YOU AT THAT TIME?
21 A. I THINK 13.
22 Q. ALL RIGHT. AND WHERE WERE YOU RESIDING AT
23 THAT TIME?
24 A. 718 ELM.
25 Q. AND THAT IS ELM DRIVE?
26 A. RIGHT.
27 Q. AND WHAT CITY IS THAT IN?
28 A. BEVERLY HILLS.

-21370

1 Q. NOW, DURING THAT EVENING AT SOME TIME WERE
2 YOU WATCHING A MOVIE WITH YOUR MOTHER?
3 A. YEAH.
4 Q. AND WHERE WERE YOU WHILE YOU WERE WATCHING
5 THE MOVIE?
6 A. WE WERE IN MY MOM'S BEDROOM.
7 Q. AND NOW COULD YOU PERHAPS -- YOU'VE SEEN
8 THIS EXHIBIT, EXHIBIT 1, THAT WE LOOKED AT EARLIER THIS
9 MORNING?
10 A. YES.
11 Q. AND LOOKING AT THE PICTURE HERE THAT IS
12 CALLED EXHIBIT 1-A, COULD YOU JUST STEP DOWN FOR A
13 MINUTE AND POINT ON THAT EXHIBIT WHAT PORTION OF YOUR

14 HOUSE THAT IS SHOWN IN IT?

15 THIS IS 1-A HERE, THE FIRST ONE.

16 A. OKAY. WELL, THIS PORTION RIGHT HERE

17 (INDICATING).

18 Q. AND YOU ARE INDICATING THEN THE PORTION OF

19 THE HOUSE THAT IS ON THE FAR RIGHT SIDE OF THAT PICTURE

20 AS YOU LOOK AT IT?

21 A. YES.

22 Q. NOW, LOOKING DOWN AT 1-C, THIS PICTURE

23 HERE, IS THAT A LITTLE BETTER PICTURE THAT SHOWS WHERE

24 YOUR HOUSE WAS LOCATED?

25 A. RIGHT.

26 Q. COULD YOU POINT THAT OUT FOR US, PLEASE?

27 A. THIS HOUSE (INDICATING).

28 Q. YOU'RE INDICATING THE HOUSE THAT IS AT THE

-21369

1 VERY TOP?

2 A. RIGHT.

3 Q. NOW, IS THERE SOMEPLACE ON THAT HOUSE THAT

4 SHOWS THE ROOM IN WHICH YOU AND YOUR MOTHER WERE

5 WATCHING THE TELEVISION?

6 A. YES. IT'S RIGHT THERE (POINTING).

7 Q. ALL RIGHT. NOW, THE WINDOW RIGHT HERE, IS

8 THAT THE ROOM TO THE -- THE WINDOW TO THE ROOM WHERE YOU

9 WERE?

10 A. RIGHT. EXACTLY.

11 Q. ALL RIGHT. HANG ON TO THAT FOR JUST A

12 MINUTE, AND LET ME SEE IF WE CAN GET A MARKER HERE.

13 WOULD YOU MARK THAT WITH THIS BLACK MARKER,

14 JUST AN "X" BY THE WINDOW THAT YOU JUST POINTED OUT.

15 OKAY. NOW YOU'VE MARKED AN "X" ON 1-C TO

16 SHOW THE WINDOW.

17 A. YEAH.

18 Q. OKAY. THANK YOU. YOU CAN RESUME YOUR

19 SEAT.

20 AS YOU WERE WATCHING THE MOVIE, DID YOU

21 HEAR ANY SOUNDS THAT YOU FELT WERE UNUSUAL?

22 A. YES. I HEARD A SERIES OF POPPING NOISES.

23 Q. AND COULD YOU DESCRIBE WHAT THEY SOUNDED

24 LIKE?

25 A. JUST LIKE "TA-TA-TA-TA," LIKE THAT.

26 Q. WOULD YOU DESCRIBE THEM AS BEING FAIRLY

27 RAPID, AN INTERVAL BETWEEN THEM? HOW WOULD YOU DESCRIBE

28 THAT?

-21368

1 A. FAIRLY RAPID, AND I DIDN'T RECALL ANY GAP

2 IN SEQUENCE. THEY WERE JUST PRETTY CONSISTENT, AND THEN

3 THEY STOPPED.

4 Q. DO YOU REMEMBER APPROXIMATELY HOW MANY

5 NOISES LIKE THAT THAT YOU HEARD?

6 A. AROUND FIVE OR SIX.

7 Q. ALL RIGHT. AND DID YOU TAKE ANY ACTION IN
8 REGARD TO THAT AFTER YOU HEARD THESE SOUNDS?

9 A. WELL, I WAS ABOUT TO PICK UP THE PHONE, AND
10 THEN MY MOTHER PERSUADED ME NOT TO CALL THE POLICE.

11 Q. WHAT WERE YOU GOING TO DO ON THE PHONE?

12 A. CALL THE POLICE.

13 Q. AND YOUR MOTHER SAID -- WHAT DID SHE SAY?

14 A. WELL, SHE SAID THAT I DIDN'T KNOW
15 EVERYTHING, AND THAT I SHOULDN'T JUST CALL THE POLICE.
16 I'M NOT NO EXPERT IN GUNS, THEREFORE I SHOULDN'T ALARM
17 THE POLICE TO SOMETHING THAT PROBABLY WOULDN'T EVER BE
18 ANYTHING IMPORTANT.

19 Q. HAD YOU EVER HEARD GUNS FIRED?

20 A. WELL, YEAH. I'VE BEEN TO CAMPS AND I'VE
21 FIRED A RIFLE, BUT --

22 Q. NOW, COULD YOU TELL WHAT DIRECTION THESE
23 SOUNDS WERE COMING FROM?

24 A. WELL, I ASSUMED THEY WERE COMING FROM THE
25 NORTH SIDE, BECAUSE -- NORTH OR EAST, BECAUSE THE WINDOW
26 IS FACED ON THE NORTHEASTERN SIDE OF THE HOUSE, SO --

27 Q. AND WAS THE WINDOW OPEN THAT NIGHT?

28 A. RIGHT, YES.

-21367

1 Q. DO YOU KNOW APPROXIMATELY WHAT TIME YOU

2 HEARD THESE SOUNDS?

3 A. IT HAD TO HAVE BEEN FROM AROUND 10:00 TO
4 10:15 OR SO, BECAUSE WE WERE WATCHING A DOCUMENTARY.

5 Q. WAS THAT ABOUT THE KOREAN AIRLINER, OR
6 SOMETHING LIKE THAT?

7 A. RIGHT, RIGHT. IT WAS BORING, SO I LEFT
8 AFTER 10 MINUTES, SO --

9 MR. GESSLER: THANK YOU VERY MUCH.

10 THE COURT: CROSS-EXAMINATION?

11 MS. NAJERA: THANK YOU, YOUR HONOR.

12

13 CROSS-EXAMINATION

14 BY MS. NAJERA:

15 Q. GOOD MORNING, MR. KROM.

16 A. GOOD MORNING.

17 Q. NOW, YOU WERE TELLING US THAT YOU HEARD A
18 SERIES OF MAYBE FIVE OR SIX POPS; IS THAT RIGHT?

19 A. RIGHT.

20 Q. AND IS IT TRUE THAT YOU HAD HEARD SOMETHING
21 ABOUT THIS CASE BEFORE COMING TO COURT TODAY?

22 A. YEAH.

23 Q. AND HAD YOU HEARD ABOUT A RELOAD AND MORE
24 SHOTS?

25 MR. LEVIN: OBJECTION WITH RESPECT TO --

26 MR. GESSLER: OBJECTION. HEARSAY. BEYOND THE
27 SCOPE.

28 THE COURT: IT'S NOT BEYOND THE SCOPE.

1 MR. GESSLER: IT IS HEARSAY.

2 MR. LEVIN: IT ALSO ASSUMES FACTS NOT IN
3 EVIDENCE. SHE SAID SHOTS.

4 THE COURT: OBJECTION SUSTAINED TO THE FORM OF
5 THE QUESTION.

6 Q. BY MS. NAJERA: DID YOU HEAR THAT SOMEWHERE
7 THERE HAD BEEN A RELOAD AND ANOTHER SHOT FIRED?

8 MR. GESSLER: OBJECTION, YOUR HONOR. HEARSAY.

9 THE COURT: WELL, IT REALLY IS IRRELEVANT IF HE
10 HEARD IT OR NOT. SO OBJECTION SUSTAINED.

11 Q. BY MS. NAJERA: DID YOU HEAR -- AFTER YOU
12 HEARD THE SERIES OF POPS, DID YOU HEAR ANY PAUSE AND
13 ANOTHER SHOT?

14 A. NOT TO MY KNOWLEDGE, NO.

15 Q. SO THE BEST THAT YOU CAN TELL US IS THAT
16 YOU HEARD FIVE OR SIX SHOTS, AND THAT'S ALL. SO IF
17 THERE WAS ANYTHING BEFORE THAT OR AFTER THAT, YOU DIDN'T
18 HEAR IT?

19 A. NO, I DON'T BELIEVE I DID.

20 Q. AND THERE HAD -- HAD YOU EVER HEARD SHOTS
21 FIRED IN THAT NEIGHBORHOOD BEFORE?

22 A. NO, NEVER.

23 Q. AND HAVE YOU HEARD SHOTS FIRED IN THAT
24 NEIGHBORHOOD SINCE?

25 A. NO, I DON'T BELIEVE SO.

26 Q. AND WHEN YOU HEARD THESE SHOTS, DID YOU

27 LOOK OUT THE WINDOW?

28 A. WELL, I HAVE -- THERE WAS SOME DEGREE -- I

-21365

1 THOUGHT MAYBE THEY MIGHT HAVE BEEN FIREWORKS, BUT I

2 DIDN'T THINK THEY WERE FIREWORKS. MY MOM DID.

3 SO I LOOKED OUTSIDE TO LOOK IN THE SKY AND

4 SEE IF THERE WERE FIREWORKS OR SOMETHING, AND I DIDN'T

5 SEE SMOKE OR WHATEVER COMES AFTER A FIREWORK, SO I

6 DEDUCED THAT THEY WEREN'T FIREWORKS.

7 Q. WHEN YOU FIRST HEARD THE SHOTS, DID YOU

8 THINK THAT THEY MIGHT BE FIREWORKS AND THAT'S WHY YOU

9 LOOKED OUTSIDE AT THE SKY?

10 A. WELL, I -- I THINK THE FIRST THING THAT WAS

11 IN MY MIND WAS THAT THEY WERE GUNSHOTS, AND THEN

12 THINKING ABOUT IT REALISTICALLY -- I MEAN, WHO HEARS

13 GUNSHOTS, YOU KNOW, WHERE I LIVE.

14 SO I JUST WENT TO THE WINDOW TO LOOK, AND

15 THERE WERE NO FIREWORKS.

16 Q. AND THEN AS YOU TESTIFIED, YOU WERE GOING

17 TO CALL THE POLICE; IS THAT RIGHT?

18 A. RIGHT.

19 Q. NOW, IS IT FAIR TO SAY THAT HAD YOU SPOKEN

20 TO THE POLICE THAT NIGHT YOU WOULD HAVE TOLD THEM THAT

21 YOU HEARD SHOTS COMING FROM THE NORTH, RIGHT?

22 A. RIGHT.

23 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.
24 HE DIDN'T SPEAK WITH THE POLICE.
25 THE COURT: OVERRULED.
26 Q. BY MS. NAJERA: AND WITH REGARDS TO -- IS
27 IT FAIR TO SAY THAT YOU COULDN'T HAVE TOLD THE POLICE
28 THAT YOU HEARD SHOTS COMING FROM 722 NORTH ELM?

-21364

1 A. NO. NO.
2 Q. AND IS IT FAIR TO SAY THAT THE BEST YOU
3 COULD HAVE TOLD THE POLICE THAT NIGHT WAS THAT THERE
4 WERE, I BELIEVE, FOUR OR FIVE HOUSES TO THE NORTH; IS
5 THAT RIGHT?
6 A. THE 722 ELM?
7 Q. I MEAN NORTH OF YOU.
8 A. WHERE THE SOUNDS WERE COMING FROM?
9 Q. RIGHT.
10 A. WELL, IT COULD HAVE BEEN ANY OF THE NEXT
11 FOUR HOUSES NORTH OF ME, SO --
12 Q. AND COULD IT ALSO HAVE BEEN SOME OF THE
13 HOUSES TO THE EAST OF YOU?
14 A. POSSIBLY, YEAH.
15 Q. AND HOW MANY HOUSES DOES THAT ENCOMPASS?
16 A. WELL, IT WOULD ENCOMPASS, I GUESS, THE NEXT
17 FOUR TO THE EAST AND NORTH OF ME, SO IT'S ANOTHER FOUR
18 HOUSES OR SO.

19 Q. SO IT'S ABOUT EIGHT HOUSES THAT --
20 A. RIGHT.
21 Q. -- YOU COULD HAVE SAID IT CAME FROM THAT
22 DIRECTION, AND IT COULD POSSIBLY HAVE BEEN ANY OF THOSE
23 EIGHT HOUSES?
24 A. RIGHT.
25 MS. NAJERA: I HAVE NOTHING FURTHER.
26 MR. GESSLER: NO REDIRECT, YOUR HONOR. MAY THE
27 WITNESS BE EXCUSED?
28 THE COURT: YES. THAT'S IT, THANK YOU.

-21363

1 ALL RIGHT. WE WILL NOW RESUME WITH THE
2 CROSS-EXAMINATION OF THE DEFENDANT ERIK MENENDEZ.
3
4 ERIK MENENDEZ,
5 THE DEFENDANT HEREIN, CALLED AS A WITNESS ON HIS OWN
6 BEHALF, RESUMED THE STAND AND TESTIFIED FURTHER AS
7 FOLLOWS:
8
9
10 THE COURT: I WILL REMIND YOU YOU ARE STILL UNDER
11 OATH.
12 THE WITNESS: YES, SIR.
13 THE COURT: MR. CONN.
14 MR. CONN: THANK YOU.

15

16 CROSS-EXAMINATION (RESUMED)

17 BY MR. CONN:

18 Q. MR. MENENDEZ, YOU DID A LOT OF CRYING ON

19 DIRECT EXAMINATION, DIDN'T YOU?

20 A. I DON'T KNOW WHAT YOU MEAN BY A LOT OF

21 CRYING.

22 Q. WELL, YOU CRIED, DIDN'T YOU?

23 A. YES.

24 Q. AND YOU UNDERSTAND THAT TEARS CAN HAVE AN

25 IMPACT UPON PEOPLE, DON'T YOU?

26 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR

27 SPECULATION.

28 THE COURT: OVERRULED.

-21362

1 THE WITNESS: MANY I'M NOT -- I THINK THAT PAIN

2 HAS AN IMPACT ON PEOPLE, I SUPPOSE. I REALLY DON'T

3 KNOW. I NEVER REALLY THOUGHT ABOUT IT.

4 Q. BY MR. CONN: WELL, NO ONE CAN SEE YOUR

5 PAIN, THEY CAN ONLY SEE YOUR TEARS; IS THAT CORRECT,

6 MR. MENENDEZ?

7 MR. LEVIN: OBJECTION, YOUR HONOR, TO THE FORM OF

8 THE QUESTION, AND IT ALSO CALLS FOR SPECULATION, WHAT

9 OTHER PEOPLE CAN SEE.

10 THE COURT: AS STATED IT'S ARGUMENTATIVE.

11 Q. BY MR. CONN: WHAT IMPACT DO YOU THINK THAT
12 TEARS HAS ON THE AVERAGE PERSON, MR. MENENDEZ?

13 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

14 THE COURT: OVERRULED.

15 THE WITNESS: I DON'T KNOW.

16 Q. BY MR. CONN: YOU HAVE NO IDEA THAT TEARS
17 CAN INFLUENCE PEOPLE?

18 A. IF YOU'RE ASKING IF I CRIED ON PURPOSE, OR
19 IF I TRIED TO CRY, I WAS ACTUALLY DOING JUST THE
20 OPPOSITE.

21 Q. YOU --

22 MR. LEVIN: OBJECTION, YOUR HONOR. THE WITNESS
23 SHOULD BE ALLOWED TO ANSWER THE QUESTION.

24 THE COURT: HIS ANSWER WASN'T RESPONSIVE TO THE
25 QUESTION. SO ASK THE NEXT QUESTION, PLEASE.

26 Q. BY MR. CONN: YES.

27 THE QUESTION I AM ASKING YOU, MR. MENENDEZ,
28 IS DO YOU THINK THAT CRYING IN FRONT OF THE JURY HAS THE

-21361

1 POTENTIAL OF GAINING SYMPATHY FROM THE RIGHT KIND OF
2 JUROR?

3 A. I DON'T -- I DON'T KNOW HOW TO ANSWER THE
4 QUESTION. I DON'T KNOW. I MEAN --

5 Q. IT NEVER OCCURRED TO YOU THAT IF YOU CRIED
6 IN FRONT OF THE JURY, YOU MIGHT GAIN SOME SYMPATHY FROM

7 THEM?

8 A. WELL, IT'S CERTAINLY NOT SOMETHING THAT I
9 WAS TRYING TO DO. I WAS ACTUALLY ASKED BY COUNSEL TO
10 TALK AS LITTLE ABOUT THE MOLESTATION AS POSSIBLE. IT'S
11 NOT SOMETHING I WANT TO GO INTO. IT'S NOT SOMETHING I
12 WANT TO TALK ABOUT, AND WHETHER MY PAIN IS EXPRESSED
13 THROUGH TEARS, IT DOESN'T MAKE IT ANY MORE REAL OR ANY
14 LESS REAL.

15 THERE WERE TIMES WHEN I DESCRIBED IT WHEN I
16 DIDN'T CRY; ACTUALLY MORE PAINFUL INCIDENTS, WHAT
17 OVERWHELMS ME AT THE TIME. IT'S NOT SOMETHING THAT I
18 CONTROL.

19 Q. THE MOLESTATION IS NOT SOMETHING THAT YOU
20 WANT TO TALK ABOUT?

21 A. NO.

22 Q. BUT YOU HAVE NO HESITATION TELLING THE
23 WORLD ABOUT IT IF YOU THINK THAT IT MIGHT GET YOU YOUR
24 GOAL OF MANSLAUGHTER; IS THAT CORRECT?

25 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

26 THE COURT: OVERRULED.

27 THE WITNESS: THERE WAS A GREAT DEAL OF
28 HESITATION. IT TOOK MY BROTHER MANY YEARS OF THERAPY TO

-21360

1 EVEN GET TO THE POINT WHERE HE WOULD DISCUSS IT WITH
2 PEOPLE, AND THIS IS NOT SOMETHING THAT I WANT TO SPEAK

3 ABOUT. MY GRANDMOTHER IS IN THE COURTROOM, MY RELATIVES
4 KNOW WHAT IS HAPPENING, AND THIS IS NOT SOMETHING THAT I
5 ENJOY TALKING ABOUT OR ENJOY DISCUSSING ABOUT MY FAMILY.

6 Q. WHETHER OR NOT YOU ENJOY IT, YOU'RE
7 CERTAINLY WILLING TO TELL IT IF YOU THINK THAT'S GOING
8 TO GET YOU CLOSER TO YOUR GOAL OF A MANSLAUGHTER IN THIS
9 CASE; IS THAT CORRECT, MR. MENENDEZ?

10 A. I'M PRESENTED WITH A TRIAL IN WHICH I AM
11 FACING THE DEATH PENALTY, AND I DON'T FEEL I REALLY HAVE
12 A CHOICE BUT TO TELL WHAT HAPPENED AT THIS POINT.

13 Q. DO YOU USE TEARS TO MANIPULATE PEOPLE?

14 A. NO.

15 Q. HAVE YOU EVER DONE SO?

16 A. NO.

17 Q. YOU CRIED WHEN YOU SPOKE TO THE POLICE ON
18 THE NIGHT OF THE KILLINGS, DIDN'T YOU?

19 A. YES.

20 Q. AND SERGEANT EDMONDS LET YOU LEAVE THE
21 POLICE STATION WITHOUT EVEN GIVING YOU A GUNSHOT RESIDUE
22 TEST; IS THAT CORRECT?

23 A. I DON'T THINK IT HAD ANYTHING TO DO WITH MY
24 TEARS. I WAS CRYING WHEN I ASKED HIM IF MY PARENTS WERE
25 DEAD, NOT WHEN I WAS GOING THROUGH WHAT I DID THAT
26 NIGHT.

27 Q. MY QUESTION IS JUST DID SERGEANT EDMONDS
28 LET YOU LEAVE THE POLICE STATION WITHOUT GIVING YOU A

1 GUNSHOT RESIDUE TEST?

2 A. YES.

3 Q. AND WOULD YOU SAY YOU WERE SUCCESSFUL IN
4 GAINING THE SYMPATHY OF SERGEANT EDMONDS THAT NIGHT?

5 A. I NEVER THOUGHT ABOUT IT.

6 Q. YOU WERE TRYING TO DECEIVE HIM, WEREN'T
7 YOU?

8 A. I DIDN'T WANT TO TELL HIM THAT I WAS
9 RESPONSIBLE.

10 Q. YOU WERE TRYING TO DECEIVE HIM INTO
11 BELIEVING THAT YOU HAD NOTHING DO WITH THE KILLING,
12 DIDN'T YOU?

13 A. YES.

14 Q. AND DID YOU FEEL THAT THE TEARS THAT YOU
15 USED MAY HAVE HELPED YOU IN DECEIVING HIM?

16 A. I CRIED FOR ONE SENTENCE AT THE END OF THE
17 INTERVIEW. I DON'T THINK IT HAD ANYTHING TO DO WITH HIM
18 FEELING SORRY FOR ME. HE WAS A KIND MAN, AND MY PARENTS
19 HAD JUST DIED, HE'S NATURALLY GOING TO FEEL SYMPATHY FOR
20 ME.

21 Q. SO YOU DIDN'T FEEL THAT THE TEARS WERE
22 INFLUENTIAL AT ALL?

23 A. NO.

24 Q. YOU WANT TO GAIN THE SYMPATHY OF THIS JURY,
25 DON'T YOU, MR. MENENDEZ?

26 A. I AM NOT HERE TO GAIN SYMPATHY, MR. CONN.
27 I AM HERE TO TELL WHAT HAPPENED, BECAUSE I HAVE NO

-21358

1 Q. DID YOU CONCLUDE AS A RESULT OF YOUR
2 EXPERIENCE WITH SERGEANT EDMONDS THAT IT MIGHT BE
3 BENEFICIAL TO TURN ON SOME TEARS IN FRONT OF THIS JURY?

4 THE COURT: LET'S HOLD ON.

5 (BRIEF PAUSE)

6

7 THE COURT: WHY DON'T WE HAVE ONE OF THE BAILIFFS
8 GO IN THERE AND SEE IF SHE NEEDS LITTLE LONGER, OR WE
9 CAN TAKE A BREAK HERE AND SEE IF SHE NEEDS MORE TIME.

10 I DON'T WANT TO RUSH HER. IF SHE NEEDS
11 SOME TIME, WE WILL JUST TAKE A BREAK.

12 OKAY. SHE IS -- SHE'S STILL COUGHING.

13 LET'S TAKE A RECESS RIGHT NOW, AND WE WILL RESUME IN
14 HOPEFULLY 20 MINUTES.

15 YOU MAY STEP DOWN.

16 OKAY. LET'S TAKE A SHORT BREAK, AND I WILL
17 TALK TO COUNSEL ABOUT SOME MATTERS THAT WE CAN PERHAPS
18 DISCUSS.

19 (A RECESS WAS TAKEN FROM
20 9:35 A.M. TO 10:05 A.M)

21

22 THE COURT: OKAY. LET'S RESUME WITH THE
23 CROSS-EXAMINATION.

24 PLEASE RESUME THE WITNESS STAND.
25 WE'LL HAVE THE JURY OUT, PLEASE.
26 (THE JURY ENTERS THE COURTROOM AND THE
27 FOLLOWING PROCEEDINGS WERE HELD:)
28

-21357

1 THE COURT: OKAY. YOU MAY CONTINUE YOUR
2 CROSS-EXAMINATION.

3 MR. CONN: THANK YOU.

4 Q. DID YOU CONCLUDE, MR. MENENDEZ, AS A RESULT
5 OF YOUR EXPERIENCE WITH SERGEANT EDMONDS THAT IT MIGHT
6 BE BENEFICIAL FOR YOU TO TURN ON TEARS IN FRONT OF THIS
7 JURY?

8 A. NO.

9 Q. WHEN LYLE MENENDEZ CALLED 911 ON AUGUST THE
10 20TH OF 1989, DID YOU KNOW THAT YOU WERE SCREAMING LOUD
11 ENOUGH FOR YOUR VOICE TO BE RECORDED?

12 A. I DIDN'T KNOW WHEN HE WAS ON THE PHONE.

13 Q. DID YOU WANT YOUR SCREAMING AND YOUR CRYING
14 TO BE HEARD BY THE POLICE THAT EVENING?

15 A. I DIDN'T THINK ABOUT IT.

16 Q. DID YOU WANT LYLE MENENDEZ TO CRY WHEN HE
17 CALLED THE POLICE THAT EVENING?

18 A. I WASN'T WITH HIM WHEN HE CALLED. I KNOW
19 HE WAS GOING TO BEFORE HE RAN UP THE STAIRS, BUT I

20 DIDN'T THINK IT WOULD -- I NEVER THOUGHT -- IT WASN'T A
21 CONCERN. I DIDN'T THINK IT WOULD MATTER.

22 Q. YOU DIDN'T THINK IT MATTERED HOW HE
23 CONDUCTED HIMSELF WHEN HE CALLED THE POLICE THAT
24 EVENING?

25 A. WE JUST WANTED THE POLICE TO COME OVER.
26 HOW HE CALLED OR WHETHER HE CALLED 911 OR -- AND WHAT HE
27 SAID I DIDN'T THINK WAS IMPORTANT.

28 Q. WELL, WEREN'T YOU TRYING TO TRICK THE

-21356

1 POLICE THAT EVENING AND CAUSE THEM TO CONCLUDE THAT YOU
2 HAD NOTHING TO DO WITH THE KILLING?

3 A. CERTAINLY BY THAT TIME I DID NOT WANT THEM
4 TO KNOW.

5 Q. AND TO ACHIEVE THAT GOAL, YOU WENT THROUGH
6 CONSIDERABLE EFFORTS PRIOR TO CALLING THE POLICE TO
7 INSURE THAT YOU WOULD NOT BE SUSPECTS; IS THAT CORRECT?

8 MR. LEVIN: OBJECTION, YOUR HONOR, WITH RESPECT
9 TO "CONSIDERABLE EFFORTS" AS VAGUE.

10 THE COURT: OVERRULED.

11 THE WITNESS: YOU MEAN TRYING TO GET TICKETS AND
12 GETTING RID OF THE GUNS AND SO ON?

13 Q. BY MR. CONN: CORRECT.

14 A. YES.

15 Q. AND THAT IT WAS ALL DESIGNED TO FOOL THE

16 POLICE INTO THINKING THAT YOU HAD NOTHING TO DO WITH THE
17 CRIME; ISN'T THAT CORRECT?

18 A. AT THAT POINT WE WANTED THEM NOT TO THINK
19 WE HAD ANYTHING TO DO WITH IT, YES.

20 Q. AND AS YOU WERE DRIVING AROUND WITH YOUR
21 BROTHER IN THE CAR, DID YOU EVER SAY TO HIM "BY THE WAY,
22 WHEN YOU CALL THE POLICE, HOW ARE YOU GOING TO SOUND?
23 ARE YOU GOING TO BE HAPPY AND CHEERFUL, OR ARE YOU GOING
24 TO BE CRYING AND MAKE IT SOUND MORE BELIEVABLE?"

25 A. WE WEREN'T IN THE FRAME OF MIND TO THINK OF
26 THESE THINGS. WE WERE JUST DOING THE BASIC THINGS OF
27 TRYING TO GET SOME TICKETS SO THAT WE COULD TRY TO SHOW
28 WE WERE AT A THEATER, AND TRY TO GET RID OF THE GUNS.

-21355

1 Q. YOU SAID YOU WERE NOT IN THE FRAME OF MIND
2 TO DO WHAT THINGS?

3 A. TO THINK THAT FAR AHEAD ON WHETHER IT'S
4 GOING TO MAKE A DIFFERENCE ON A 911 CALL HOW YOU ACT IN
5 FRONT OF THE POLICE. I JUST DIDN'T THINK THAT FAR
6 AHEAD.

7 Q. YOU THOUGHT FAR ENOUGH AHEAD TO GET THEATER
8 TICKETS THAT YOU COULD POSSIBLY USE AS AN ALIBI, DIDN'T
9 YOU?

10 A. THESE WERE JUST -- THEY WERE COMING UP AND
11 WE WERE DOING THEM. WE WERE COMING UP WITH A BETTER

12 SUGGESTION, AND WE WOULD DO THAT.

13 Q. AND YOU THOUGHT FAR ENOUGH AHEAD TO CHANGE
14 YOUR CLOTHES AND GET RID OF ANY BLOODY CLOTHING, DIDN'T
15 YOU?

16 A. I DIDN'T -- I SAW SPOTS ON MY JEANS AND I
17 SAID "I BETTER TAKE THESE OFF AND GET RID OF THEM," AND
18 THAT'S WHAT WE DID.

19 Q. AND YOU THOUGHT FAR ENOUGH AHEAD TO PICK UP
20 ALL OF THE GUNSHOT SHELLS, DIDN'T YOU?

21 A. THESE THINGS WERE HAPPENING -- AS SOMEONE
22 WOULD BRING IT UP, WE'D DO IT. AS SOMEONE WOULD BRING
23 IT UP, WE'D DO IT. THEY WEREN'T THINKING AHEAD OF TIME
24 AND SAYING "MAYBE WE SHOULD DO THIS." WE WOULD JUST DO
25 IT, AND DO IT, AND THAT'S --

26 Q. AND YOU THOUGHT FAR ENOUGH AHEAD TO DUMP
27 THE WEAPONS THAT YOU USED TO KILL YOUR PARENTS; ISN'T
28 THAT CORRECT?

-21354

1 A. I DON'T KNOW WHAT YOU MEAN BY FAR ENOUGH
2 AHEAD, BUT CERTAINLY AFTERWARDS WE WANTED TO DO THAT,
3 YES.

4 Q. AND YOU'RE TELLING US YOU DIDN'T THINK FAR
5 ENOUGH AHEAD TO TALK TO YOUR BROTHER ABOUT WHETHER OR
6 NOT HE WAS GOING TO CRY WHEN HE CALLED THE POLICE?

7 MR. LEVIN: OBJECTION. ARGUMENTATIVE, YOUR

8 HONOR.

9 THE COURT: OVERRULED.

10 THE WITNESS: I NEVER SAW THE POINT IN WHAT HIS
11 DEMEANOR -- WHAT IT WOULD MATTER WHAT HIS DEMEANOR WAS
12 WHEN HE TOLD THE POLICE THAT WE HAD FOUND MY PARENTS
13 DEAD. I JUST -- I STILL DON'T UNDERSTAND THE IMPORTANCE
14 OF IT, AND I DON'T THINK IT MADE A DIFFERENCE TO ME. IT
15 DIDN'T EVEN CROSS MY MIND TO THINK ABOUT IT.

16 Q. BY MR. CONN: YOU'RE SAYING YOU DIDN'T
17 THINK OF THE IMPORTANCE OF SOUNDING SHOCKED AND
18 HORRIFIED UPON THE DISCOVERY OF YOUR PARENTS' BODIES?

19 A. I -- WHEN I WAS IN THE CAR GOING BACK TO
20 THE HOUSE, JUST THESE THINGS DIDN'T OCCUR TO ME, AND THE
21 OBJECT WAS TO GET THE POLICE THERE. I DIDN'T THINK THAT
22 THE POLICE WOULD AUTOMATICALLY THINK WE WERE A SUSPECT.
23 I THOUGHT WE MIGHT VERY WELL BE ARRESTED THAT NIGHT, BUT
24 I WASN'T THINKING "LYLE, YOU BETTER PUT ON A GOOD SHOW,"
25 OR SOMETHING LIKE THAT.

26 IT JUST -- IT WASN'T HAPPENING, AND I DON'T
27 THINK THAT'S WHAT HAPPENED.

28 Q. NOW, YOU LISTENED TO THE 911 RECORDING WHEN

-21353

1 IT WAS BEING PLAYED IN COURT, DIDN'T YOU?

2 A. YES.

3 Q. AND ON THAT RECORDING BOTH YOU AND YOUR

4 BROTHER ARE VERY EMOTIONAL AT THE TIME THAT THE CALL IS
5 MADE; ISN'T THAT CORRECT?

6 A. YES.

7 Q. NOW, YOU WEREN'T EMOTIONAL WHEN YOU GOT OUT
8 OF THE CAR AT THE MOVIE THEATER AND STOOD IN LINE TO
9 PURCHASE THEATER TICKETS, WERE YOU?

10 A. YOU MEAN WAS I CRYING AT THE TIME?

11 Q. YEAH.

12 A. NO.

13 Q. YOU WEREN'T EMOTIONAL AND CRYING WHEN YOU
14 GOT OUT OF THE CAR AT THE GAS STATION AND DUMPED
15 CLOTHING AND AMMUNITION IN THE DUMPSTER, WERE YOU?

16 A. I'M NOT SURE. IF IT HAPPENED AFTER WE
17 ARRIVED AT THE CIVIC CENTER, I WAS. IF IT HAPPENED
18 BEFORE, I WASN'T.

19 Q. YOU WEREN'T EMOTIONAL AND CRYING THE WHOLE
20 TIME AS YOU WERE DRIVING AROUND WITH YOUR BROTHER FOR AN
21 HOUR AND A HALF PUTTING TOGETHER THIS ALIBI OF YOURS,
22 WERE YOU?

23 A. NO, THAT'S NOT CORRECT. IT'S BECAUSE I WAS
24 BREAKING DOWN THAT WE DECIDED THAT WE COULDN'T MEET
25 PERRY THAT NIGHT, BECAUSE WE WERE LOOKING TOO
26 DISTRAUGHT, AND HE WOULD FIGURE THAT SOMETHING HAD
27 HAPPENED. THAT'S THE REASON WE WENT HOME.

28 Q. AND THEN WHEN YOU GOT HOME, YOU BECAME VERY

1 EMOTIONAL AND YOU WERE CRYING JUST WHEN YOUR BROTHER
2 CALLED THE POLICE AND GOT THEM ON THE LINE; IS THAT
3 CORRECT?

4 A. NO. I GOT OVERLY EMOTIONAL WHEN I REALIZED
5 AND SAW MY PARENTS AND SAW THAT THERE WERE NO GUNS IN
6 THE ROOM, AND SAW THE SIGHT THAT HORRIFIED ME, AND
7 THAT'S WHEN I COMPLETELY LOST CONTROL. MY BROTHER RAN
8 UP THE STAIRS, AND I DIDN'T KNOW WHICH 30 SECONDS OR
9 WHICH 15 SECONDS HE WAS CALLING THE POLICE. IT JUST --
10 AT THAT POINT IT WASN'T ON MY MIND.

11 Q. YOU WEREN'T EMOTIONAL RIGHT AFTER THE
12 SHOOTING WHEN YOU TURNED ON THE LIGHTS AND BEGAN TO PICK
13 UP THE SHOTGUN SHELLS; IS THAT CORRECT?

14 A. YOU MEAN WAS I CRYING; IS THAT WHAT YOU
15 MEAN BY EMOTIONAL?

16 Q. YES.

17 A. NO.

18 Q. LYLE MENENDEZ WAS NOT CRYING AS YOU WERE
19 PICKING UP THE SHOTGUN SHELLS; IS THAT CORRECT?

20 A. I DON'T REMEMBER.

21 Q. AND YOU WEREN'T TALKING OR HAVING ANY
22 CONVERSATION AT THAT TIME, WERE YOU?

23 A. NO.

24 Q. WELL, YOU DO CRY WHEN YOU GET IN FRONT OF A
25 JURY, DON'T YOU, MR. MENENDEZ?

26 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
27 ARGUMENTATIVE.

28 THE COURT: AS PHRASED IT'S ARGUMENTATIVE.

1 SUSTAINED.

2 Q. BY MR. CONN: YOU CRIED IN FRONT OF THE
3 LAST JURY WHEN YOU TESTIFIED IN THE FIRST TRIAL, DIDN'T
4 YOU?

5 A. NORMALLY WHEN I TALK ABOUT THE PAINFUL
6 THINGS THAT HAPPENED TO ME BETWEEN MY FATHER AND I, I
7 CRY. IT'S JUST SOMETHING THAT I CANNOT CONTROL.

8 Q. IS THERE SOMETHING ABOUT THE SIGHT OF A
9 JURY SITTING IN JUDGMENT OF YOU THAT BRINGS TEARS TO
10 YOUR EYES, MR. MENENDEZ?

11 A. NO. A JURY SITTING IN FRONT OF ME SCARES
12 ME. IT DOESN'T BRING TEARS TO MY EYES.

13 Q. AND WHAT WHAT ARE YOU AFRAID OF,
14 MR. MENENDEZ?

15 MR. LEVIN: OBJECTION. YOUR HONOR, THE WITNESS
16 HAS NOT COMPLETED HIS ANSWER.

17 THE COURT: SUSTAINED. YOU MAY FINISH ANSWERING
18 THE QUESTION.

19 THE WITNESS: IT'S JUST TALKING ABOUT THE SEX
20 BETWEEN MY DAD AND I THAT I FIND VERY PAINFUL TO TALK
21 ABOUT.

22 Q. BY MR. CONN: JUST THE SEX?

23 A. SOMETIMES WHEN I THINK ABOUT MY PARENTS
24 IT'S PAINFUL AS WELL, BUT YES.

25 Q. THE TEARS THAT YOU WERE SHEDDING,

26 MR. MENENDEZ, ARE THEY TEARS FOR YOURSELF OR TEARS FOR
27 YOUR DEAD PARENTS?

28 A. IT'S GRIEF. IT'S SADNESS. IT'S REGRET AND

-21350

1 IT'S --

2 Q. DID YOU SHED ONE TEAR FOR YOUR MOTHER
3 BEFORE YOU SHOT HER TO DEATH ON AUGUST THE 20TH OF 1989?

4 A. IN THAT RUSHED STATE I WASN'T -- I DON'T
5 KNOW. NO.

6 Q. DID YOU SHED ONE TEAR FOR YOUR FATHER
7 BEFORE YOU SHOT HIM TO DEATH ON AUGUST THE 20TH OF 1989?

8 A. I DON'T KNOW WHAT YOU MEAN BY THAT
9 QUESTION. YOU MEAN AT THE TOP OF THE STAIRS WHEN I
10 THOUGHT THEY WERE GOING TO KILL US?

11 Q. THAT'S CORRECT.

12 A. NO. I WAS JUST -- MY BRAIN WAS GOING
13 CRAZY. I WASN'T THINKING ABOUT IT.

14 Q. AND YOU DIDN'T FEEL ANY SORROW ABOUT THE
15 PROSPECT OF SHOOTING YOUR PARENTS TO DEATH AT THAT TIME,
16 DID YOU?

17 A. I THOUGHT THEY WERE GOING TO KILL US. I
18 THOUGHT I WAS GOING TO DIE.

19 Q. AND YOU WERE GOING TO SHOOT THEM TO DEATH;
20 IS THAT CORRECT?

21 A. ALL I KNOW IS THAT I HAD TO GET TO THAT

22 ROOM BEFORE THEY CAME OUT, OR I WAS GOING TO DIE. THIS
23 IS THE ONLY THING THAT I WAS THINKING.
24 I LOOK BACK ON IT NOW, AND I CAN SAY
25 PERHAPS THIS OR PERHAPS THAT, BUT AT THE TIME I WAS JUST
26 REACTING. I MEAN, I WASN'T CONSCIOUSLY MAKING CHOICES.
27 Q. BUT MY QUESTION TO YOU IS DID YOU SHED ONE
28 TEAR AS YOU WERE GOING TOWARD THAT ROOM TO SHOOT YOUR

-21349

1 PARENTS TO DEATH?
2 A. NO.
3 Q. NOW, DID YOU SEE YOUR BROTHER, LYLE
4 MENENDEZ, CRYING IN COURT WHILE YOU WERE CRYING DURING
5 YOUR TESTIMONY?
6 A. I'M SURE THAT HE WAS.
7 Q. YOU DIDN'T NOTICE?
8 A. I DIDN'T NOTICE.
9 Q. AT ANY TIME BEFORE YOU TESTIFIED DID YOU
10 DISCUSS WITH YOUR BROTHER THAT IF HE WERE TO CRY AT THE
11 SAME TIME YOU CRIED, PERHAPS IT WOULD BE EVEN MORE
12 EFFECTIVE THAN JUST ONE PERSON CRYING AT A TIME?
13 A. NO. IT'S --
14 MR. LEVIN: OBJECTION. HEARSAY, YOUR HONOR.
15 THE COURT: OVERRULED.
16 THE WITNESS: IT'S THE TYPE OF THING WHEN HE SEES
17 ME HURT -- IT'S PAINFUL FOR ME IN THE LAST TRIAL WHEN HE

18 WAS UP HERE AND TALKING ABOUT THE THINGS THAT HIS
19 FATHER -- DAD DID TO LYLE. I WAS CRYING. I COULDN'T
20 HELP BUT CRY, BECAUSE IT'S PAINFUL TO SEE HIM IN PAIN,
21 AND IT'S PAINFUL FOR ME TO THINK ABOUT THESE THINGS.

22 THIS IS NOT -- I AM NOT A PERSON WHO CAN
23 JUST DECIDE I WANT TO CRY RIGHT NOW. I'M NOT CAPABLE OF
24 THAT. I AM NOT SURE ANYONE IS.

25 Q. BY MR. CONN: SO HIS TEARS WERE NOT PART OF
26 A PLAN TO INFLUENCE THE JURY; IS THAT CORRECT,
27 MR. MENENDEZ?

28 MR. LEVIN: OBJECTION. WITH RESPECT TO WHAT

-21348

1 TEARS?

2 THE COURT: REPHRASE THE QUESTION.

3 Q. BY MR. CONN: YES.

4 ARE YOU TELLING US THAT THE TEARS OF LYLE
5 MENENDEZ WAS NOT PART OF A PLAN TO INFLUENCE THIS JURY?

6 MR. LEVIN: OBJECTION. HE'S NEVER TESTIFIED HE'S
7 SEEN ANY TEARS IN THIS TRIAL.

8 THE COURT: REPHRASE THE QUESTION.

9 Q. BY MR. CONN: YOU DID NOT DISCUSS WITH YOUR
10 BROTHER AT ANY TIME WHETHER YOU SHOULD CRY ON THE
11 WITNESS STAND OR WHETHER HE SHOULD CRY WHILE HE'S
12 LISTENING TO YOU?

13 A. NO.

14 Q. IS IT YOUR GOAL TO INFLUENCE THIS JURY,

15 MR. MENENDEZ?

16 A. I JUST WANT PEOPLE TO UNDERSTAND WHY I DID

17 THIS. I DON'T COMPLETELY UNDERSTAND IT, BUT I JUST WANT

18 PEOPLE TO UNDERSTAND, BECAUSE I KNOW MY LIFE IS ON THE

19 LINE, AND IF NO ONE UNDERSTANDS, I WILL SPEND THE REST

20 OF MY LIFE IN JAIL, AND --

21 Q. AND THAT'S A PHRASE YOU WANT TO KEEP ON

22 REITERATING, DON'T YOU, MR. MENENDEZ, TO INFLUENCE THIS

23 JURY?

24 A. THIS JURY WILL DECIDE WHETHER I -- WHAT I

25 AM CONVICTED OF. I DON'T KNOW HOW TO ANSWER THAT

26 QUESTION. I AM TRYING TO ANSWER IT AS BEST AND

27 TRUTHFULLY AS I CAN.

28 Q. MY QUESTION, MR. MENENDEZ, IS HOW MANY

-21347

1 TIMES NOW HAVE YOU TOLD THIS JURY, IN RESPONSE TO A

2 QUESTION FROM ME, THAT YOU'RE GOING TO SPEND THE REST OF

3 YOUR LIFE IN JAIL?

4 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S

5 ARGUMENTATIVE. COUNSEL IS ASKING THE QUESTIONS.

6 THE COURT: LET'S NOT ARGUE. YOUR OBJECTION IS

7 ARGUMENTATIVE?

8 MR. LEVIN: YES.

9 THE COURT: OVERRULED.

10 YOU MAY ANSWER THE QUESTION.

11 THE WITNESS: I DON'T REMEMBER.

12 Q. BY MR. CONN: IS THAT BECAUSE YOU WANT TO
13 KEEP GETTING THAT NOTION IN FRONT OF THE JURY SO THEY
14 WILL HAVE SYMPATHY FOR YOU?

15 A. NO. I THINK THEY UNDERSTAND. I THINK THAT
16 THE JUDGE HAS SAID IT MANY TIMES. I AM JUST TRYING TO
17 ANSWER YOUR QUESTION ABOUT WHEN YOU WERE ASKING ME WHY I
18 DON'T WANT TO BE CONVICTED OF MURDER, AND I AM TELLING
19 YOU WHY, AND I DON'T THINK IT'S MY JOB TO INFLUENCE A
20 JURY ONE WAY OR THE OTHER. IT'S SIMPLY TO TELL WHAT
21 HAPPENED IN MY LIFE.

22 Q. ARE YOU PLANNING ON CRYING DURING THE
23 CROSS-EXAMINATION, MR. MENENDEZ?

24 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR
25 SPECULATION. THE QUESTION CAN'T BE ANSWERED.

26 THE COURT: OVERRULED.

27 THE WITNESS: DEPENDS UPON WHAT WE TALK ABOUT, I
28 SUPPOSE.

-21346

1 Q. BY MR. CONN: NOW, DO YOU THINK YOUR
2 DEMEANOR ON THE WITNESS STAND PLAYS AN IMPORTANT ROLE IN
3 PERSUADING THE JURY OF YOUR POSITION, MR. MENENDEZ?

4 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR A
5 CONCLUSION.

6 THE COURT: GOES TO HIS STATE OF MIND.

7 OVERRULED.

8 THE WITNESS: IT'S A DIFFICULT QUESTION TO

9 ANSWER. I HAD NOT THOUGHT ABOUT THAT BEFORE. I SUPPOSE

10 THE ANSWER IS HOW THEY VIEW ME IN COURT AND MY -- THEM

11 LEARNING ABOUT WHO I AM AS A PERSON. I WOULD THINK THAT

12 THAT WOULD BE IMPORTANT.

13 Q. BY MR. CONN: DID YOU GIVE ANY THOUGHT TO

14 YOUR DEMEANOR BEFORE TESTIFYING?

15 A. HOW DO YOU MEAN?

16 Q. DID YOU EVER THINK SHOULD I SMILE, SHOULD I

17 CRY, SHOULD I LOOK SAD? HOW SHOULD I BEHAVE WHEN I

18 ANSWER A PARTICULAR WAY?

19 DID YOU GIVE ISSUES SUCH AS THAT SOME

20 THOUGHT BEFORE YOU TOOK THE WITNESS STAND?

21 A. NO. I SMILE WHEN I'M HAPPY. I SOMETIMES

22 LOOK MEAN WHEN I AM IN PAIN OR WHEN I AM FRUSTRATED. I

23 JUST DO WHAT I DO EVERY DAY.

24 Q. AND YOU GAVE NO THOUGHT TO YOUR DEMEANOR

25 BEFORE TESTIFYING BEFORE THE JURY; IS THAT CORRECT,

26 MR. MENENDEZ?

27 A. I DON'T KNOW WHAT YOU MEAN BY THOUGHT. DO

28 YOU MEAN AM I TRYING NOT TO SMILE?

-21345

1 Q. ARE YOU TRYING TO CONVEY A PARTICULAR IMAGE

2 TO THIS JURY, MR. MENENDEZ?

3 A. I DON'T THINK SO.

4 Q. ARE YOUR FACIAL EXPRESSIONS OR SIGNS OF
5 EMOTION MATTERS THAT YOU CONSIDER BEFORE YOU TESTIFY,
6 MR. MENENDEZ?

7 A. I THINK THAT BEING IN THE COURTROOM WITH
8 THE JURY FOR THREE OR FOUR MONTHS, THEY GET TO KNOW ME
9 AND WHO I AM, AND I THINK THAT IT WOULD BE IMPOSSIBLE TO
10 TRY TO PORTRAY MYSELF AS SOMEONE THAT I'M NOT.

11 Q. IS YOUR CHOICE OF LANGUAGE SOMETHING THAT
12 YOU'VE CAREFULLY CONSIDERED BEFORE YOU TESTIFIED?

13 A. I'M NOT A VERY ELOQUENT PERSON. I DON'T
14 HAVE A GREAT VOCABULARY. I -- I TRY TO EXPRESS MYSELF
15 THROUGH WORDS THOUGH, YES.

16 Q. MY QUESTION IS: IS YOUR CHOICE OF LANGUAGE
17 SOMETHING THAT YOU CAREFULLY CONSIDERED BEFORE YOU
18 TESTIFIED?

19 MR. LEVIN: OBJECTION. IT'S VAGUE, YOUR HONOR.

20 THE WITNESS: NO.

21 THE COURT: OVERRULED. THE ANSWER WILL STAND.

22 Q. BY MR. CONN: TO PREPARE FOR YOUR
23 TESTIMONY, DID YOU REVIEW VIDEO RECORDINGS OF THE FIRST
24 TESTIMONY FROM YOUR TRIAL?

25 A. OF MY TESTIMONY?

26 Q. YES.

27 A. NO.

28 Q. NOT AT ALL?

1 A. I REVIEWED MY BROTHER'S.

2 Q. WHY DID YOU REVIEW YOUR BROTHER'S
3 TESTIMONY?

4 A. BECAUSE I KNEW THE DIFFICULTIES LYLE WAS
5 HAVING, AND I WAS JUST -- THERE'S A LOT OF TORMENT AND
6 CONFLICTION, AND I WANTED TO REVIEW HIS TESTIMONY TO
7 KNOW WHETHER CERTAIN INCIDENCES I REMEMBERED OR DIDN'T.
8 I KNEW THAT I WOULD BE TESTIFYING FIRST, AND BARRY --
9 MR. LEVIN ASKED ME TO DO IT, AND I DID IT.

10 Q. YOU SAID YOU REVIEWED YOUR BROTHER'S
11 TESTIMONY BECAUSE OF DIFFICULTIES HE WAS HAVING.
12 WHAT DO YOU MEAN BY THAT?

13 A. WHEN HE GOT OFF THE STAND LAST TRIAL I WAS
14 WITH MY GRANDMOTHER AND MYSELF, AND I -- AND WE CRIED,
15 AND I KNEW THAT HE NEVER WANTED TO DO IT AGAIN, AND THAT
16 IT WAS ONE OF THE WORST THINGS THAT WE'LL PROBABLY EVER
17 GO THROUGH, AND SO I WASN'T SURE IF HE WOULD DO IT
18 AGAIN, AND BARRY ASKED -- MR. LEVIN ASKED ME TO REVIEW
19 THIS TESTIMONY TO SEE IF THERE WERE THINGS THAT I
20 REMEMBER IN HIS TESTIMONY, AND SO I DID IT.

21 I COULD HAVE READ THE TRANSCRIPTS, BUT I'M
22 A VERY SLOW READER, AND IT WAS JUST EASIER TO WATCH.

23 Q. SO, YOU REVIEWED HIS TESTIMONY TO REFRESH
24 YOUR RECOLLECTION ABOUT CERTAIN THINGS?

25 A. I DON'T THINK IT HAS ANYTHING TO DO WITH
26 REFRESHING MY RECOLLECTION. MY BROTHER WAS FIVE WHEN I

27 WAS TWO, AND EIGHT WHEN I WAS FIVE, AND SO HE HAS A
28 BETTER MEMORY OF MY EARLY LIFE, AND CERTAINLY OF THINGS

-21343

1 THAT HAPPENED TO HIM.

2 AND SO I WATCHED IT TO -- TO SEE IF
3 INCIDENCES THAT HE HAD REMEMBERED I ALSO HAD REMEMBERED.
4 SOME I HAD, SOME I HADN'T.

5 Q. YOU WANTED TO MINIMIZE INCONSISTENCIES
6 BETWEEN YOUR TESTIMONY AND THE TESTIMONY OF YOUR
7 BROTHER; IS THAT CORRECT?

8 A. I REALLY DON'T CARE IF THERE ARE
9 INCONSISTENCIES AS LONG AS I TELL THE TRUTH. MY MEMORY
10 IS DIFFERENT THAN HIS ON SEVERAL AREAS, AND I HAVE -- I
11 DON'T CARE ABOUT THAT.

12 Q. DID YOU MEET WITH MENTAL HEALTH EXPERTS
13 BEFORE YOU TESTIFIED TODAY?

14 A. I DIDN'T -- I'VE BEEN IN THERAPY FOR SIX
15 YEARS. I'VE BEEN MEETING WITH OTHER --

16 MR. LEVIN: YOUR HONOR, OBJECTION WITH RESPECT TO
17 THIS LINE OF QUESTIONING. CALLS FOR PRIVILEGED ANSWERS.

18 THE COURT: OVERRULED.

19 THE WITNESS: I'VE --

20 Q. BY MR. CONN: WHICH MENTAL HEALTH EXPERTS
21 HAVE YOU MET WITH?

22 A. DR. VICARY, WHO IS MY THERAPIST;

23 DR. KUNZMAN, WHO IS IN CHARGE OF THE JAIL PSYCHIATRY.

24 DR. WILSON, DR. ANN BURGESS, DR. ANN TYLER, DR. JON

25 CONTE, DR. STUART HART.

26 Q. HOW MUCH TIME DID YOU SPEND WITH

27 MR. WILSON?

28 A. MANY HOURS. FIFTY HOURS. A LOT OF HOURS.

-21342

1 Q. DID YOU EVER TAKE ACTING LESSONS,

2 MR. MENENDEZ?

3 A. ACTING LESSONS?

4 Q. YES.

5 A. NO.

6 Q. DID YOU STUDY ACTING IN SCHOOL?

7 A. I TOOK A YEAR OF THEATER IN HIGH SCHOOL.

8 Q. AND DID YOU TELL US THAT YOU WANTED TO

9 STUDY THEATER IN COLLEGE?

10 A. I ENJOY THE ARTS, AND THERE'S NOTHING MORE

11 FUN THAN THAT.

12 Q. MY QUESTION WAS DID YOU TELL US THAT YOU

13 WANTED TO STUDY THEATER IN COLLEGE?

14 A. I DID, YES.

15 Q. AND DID YOU CONSIDER HAVING A CAREER IN

16 ACTING?

17 A. I DON'T -- I THOUGHT IT WOULD BE FUN. I

18 MEANT STAGE ACTING. BUT I COULDN'T REALLY THINK OF THAT

19 AS A SERIOUS CAREER. MY FATHER WOULD LAUGH. AND SO I
20 DIDN'T SERIOUSLY THINK ABOUT THAT.

21 Q. DID YOU TELL DETECTIVE ZOELLER THAT YOUR
22 MOTHER THOUGHT YOU WERE A GOOD ACTOR?

23 A. SHE SAW ME IN A PLAY ONCE AND THOUGHT I WAS
24 GOOD.

25 Q. AND DID YOU TELL CRAIG CIGNARELLI THAT YOU
26 WERE CONSIDERING A CAREER IN ACTING?

27 A. I TOLD CRAIG CIGNARELLI THAT I WAS
28 CONSIDERING --

-21341

1 MR. LEVIN: YOUR HONOR, OBJECTION WITH RESPECT TO
2 ANY TESTIMONY REGARDING CRAIG CIGNARELLI.

3 THE COURT: OVERRULED. THE WITNESS IS IN THE
4 PROCESS OF ANSWERING THE QUESTION.

5 THE WITNESS: -- A CAREER IN TENNIS, IN REAL
6 ESTATE. I TOLD HIM THAT MAYBE ONE DAY I WOULD GO INTO
7 ACTING. I TOLD HIM THAT I WANTED TO WORK IN A LOT OF
8 CHARITY. I TOLD HIM ALL TYPES OF DIFFERENT THINGS. I
9 DIDN'T TELL HIM THAT I WANTED TO GO INTO A SPECIFIC LINE
10 OR -- SPECIFICALLY AT THAT POINT I WAS PLAYING TENNIS.

11 Q. BY MR. CONN: MR. MENENDEZ --

12 MR. LEVIN: YOUR HONOR, WE REQUEST TO APPROACH AT
13 THIS TIME.

14 THE COURT: ON THIS SUBJECT, REQUEST IS DENIED.

15 Q. BY MR. CONN: MR. MENENDEZ, I AM NOT ASKING
16 YOU IF YOU TOLD CRAIG CIGNARELLI ABOUT YOUR INTEREST IN
17 REAL ESTATE OR TENNIS. I AM ASKING YOU IF YOU EVER TOLD
18 CRAIG CIGNARELLI THAT YOU WERE CONSIDERING A CAREER IN
19 ACTING.

20 A. I TOLD HIM THAT IT WAS ONE OF THE THINGS
21 THAT I WAS CONSIDERING DOING.

22 Q. AND WHAT IS IT THAT YOU LIKE ABOUT ACTING?

23 A. I ENJOY THE LIBERTY OF -- I NEVER ENJOYED
24 BUSINESS, ECONOMICS, MATHEMATICS AND THAT LINE OF WORK,
25 AND A LOT OF ACTORS ARE FREE SPIRITS, AND WHEN I TOOK
26 THE YEAR IN DRAMA I WAS REALLY FASCINATED BY IT, AND
27 I -- THAT'S A HARD QUESTION TO ANSWER. I AM NOT EVEN
28 SURE. I JUST -- I KNOW THAT THAT TYPE OF -- I DON'T

-21340

1 KNOW.

2 Q. JUST LIKE PRETENDING?

3 MR. LEVIN: OBJECTION, YOUR HONOR.

4 THE WITNESS: I DON'T THINK IT'S ABOUT
5 PRETENDING. I THINK THAT --

6 MR. LEVIN: YOUR HONOR, OBJECTION WITH RESPECT TO
7 PRETENDING. IT'S ARGUMENTATIVE.

8 THE COURT: OVERRULED. IT'S ON THE SUBJECT OF
9 ACTING THAT THE QUESTIONS HAVE BEEN COVERING HERE.
10 OVERRULED.

11 THE WITNESS: I DON'T THINK THAT IT'S JUST
12 PRETENDING. I THINK THAT IT'S -- I REALLY DON'T KNOW
13 HOW TO ANSWER THE QUESTION. I AM REALLY NOT SURE WHY I
14 ENJOY THE THEATER SO MUCH. I CAN'T ANSWER THAT.

15 Q. BY MR. CONN: WELL, WHAT MADE YOU THINK
16 THAT YOU COULD BE A CONVINCING ACTOR?

17 MR. LEVIN: OBJECTION, YOUR HONOR. IT ASSUMES
18 FACTS NOT IN EVIDENCE. IT'S ALSO IRRELEVANT AT THIS
19 POINT.

20 THE COURT: OVERRULED.

21 THE WITNESS: MY DRAMA TEACHER THOUGHT THAT I HAD
22 A GOOD STAGE VOICE, AND THAT IT WAS DEEP, EVEN WHEN I
23 WAS 17, 16.

24 AND SO THAT'S WHAT SHE -- THAT'S WHY SHE
25 WAS SAYING THAT I SHOULD GO INTO STAGE ACTING. I WASN'T
26 A PARTICULARLY GOOD ACTOR, I DIDN'T GET INTO THE MAIN
27 BEVERLY HILLS ACTING SCHOOL. I FAILED IN THAT. BUT I
28 JUST ENJOYED -- I SUPPOSE I ENJOYED IT MORE THAN THE

-21339

1 OTHER POSSIBILITIES. IT WAS HISTORY, PHILOSOPHY OR
2 THEATER OF WHAT I WANTED TO DO.

3 Q. BY MR. CONN: BUT AT LEAST YOU FELT GOOD
4 ENOUGH THAT YOU COULD CONSIDER A CAREER IN ACTING; IS
5 THAT CORRECT?

6 A. WELL, I COULD CONSIDER A CAREER IN

7 ANYTHING. I -- WHAT I ENJOYED IS WHAT I WANTED TO DO

8 MOST.

9 Q. NOW, YOU TOLD THIS JURY THAT YOU WERE 18

10 YEARS OLD WHEN YOU GRADUATED, AND THAT YOU WERE 18 YEARS

11 OLD WHEN YOU KILLED YOUR PARENTS, AND YOU ARE 25 NOW; IS

12 THAT CORRECT?

13 A. I AM.

14 Q. AND ARE YOU TRYING EMPHASIZE YOUR YOUTHFUL

15 AGE, MR. MENENDEZ?

16 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S

17 ARGUMENTATIVE.

18 THE WITNESS: I WAS JUST ANSWERING THE QUESTIONS.

19 THE COURT: OVERRULED. THE ANSWER WILL STAND.

20 THE WITNESS: I WAS JUST ANSWERING THE QUESTIONS

21 THAT HE ASKED ME. HE ASKED ME ALL SORTS OF QUESTIONS I

22 HAD NO IDEA HE WAS GOING TO ASK.

23 Q. BY MR. CONN: ARE YOU TRYING TO PORTRAY

24 YOURSELF AS A CHILD, MR. MENENDEZ?

25 A. I DON'T THINK THAT I AM A CHILD ANYMORE. I

26 AM --

27 Q. YOU WEREN'T A CHILD WHEN YOU KILLED YOUR

28 PARENTS, WERE YOU?

-21338

1 MR. LEVIN: OBJECTION, YOUR HONOR. THE WITNESS

2 HAD NOT COMPLETED HIS ANSWER.

3 THE COURT: LET HIM FINISH HIS ANSWER.

4 THE WITNESS: SIX YEARS IN JAIL IS A DIFFICULT
5 THING, AND IT MATURES A PERSON, AND SO DOES BEING
6 AROUND -- THE REALITIES OF THE SITUATION MADE ME GROW UP
7 QUICK.

8 Q. BY MR. CONN: YOU WEREN'T A CHILD WHEN YOU
9 SHOT YOUR MOTHER AND FATHER TO DEATH, WERE YOU,
10 MR. MENENDEZ?

11 A. I DON'T THINK THAT I WAS A CHILD.

12 Q. AND IS IT PART OF THE STRATEGY OF THE
13 DEFENSE TO PORTRAY YOU AS A HELPLESS CHILD,
14 MR. MENENDEZ?

15 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
16 ARGUMENTATIVE.

17 THE COURT: SUSTAINED.

18 Q. BY MR. CONN: DO YOU FEEL THAT THE JURY
19 MIGHT HAVE MORE SYMPATHY FOR YOU IF YOU EMPHASIZE YOUR
20 AGE, MR. MENENDEZ?

21 MR. LEVIN: OBJECTION. CALLS FOR A CONCLUSION,
22 YOUR HONOR. IT'S ALSO SPECULATION.

23 THE COURT: OVERRULED. OVERRULED.

24 THE WITNESS: WHAT THE JURY HAS SYMPATHY FOR
25 SHOULD NOT BE MY CONCERN. I HAVE -- THESE ARE 17 PEOPLE
26 I HAVE NEVER MET BEFORE, AND I DON'T KNOW WHAT THEY FIND
27 SYMPATHY IN AND WHAT THEY DON'T.

28 I AM HERE BECAUSE I HAVE TO TELL WHAT

1 HAPPENED IN MY LIFE, AND THAT'S NOT MY CONCERN WHEN I'M
2 ON THE WITNESS STAND. WHAT'S IN MR. LEVIN'S MIND, I
3 DON'T KNOW.

4 Q. BY MR. CONN: AND YOU DO FEEL THAT AT THE
5 AGE OF 18 YOU WERE FULLY RESPONSIBLE FOR YOUR ACTIONS ON
6 AUGUST THE 20TH, 1989, DON'T YOU, MR. MENENDEZ?

7 A. I AM FULLY RESPONSIBLE.

8 Q. AND YOU SHOULD BE HELD FULLY ACCOUNTABLE
9 FOR YOUR ACTIONS ON THAT DAY REGARDLESS OF THE
10 CONSEQUENCE, DON'T YOU, MR. MENENDEZ?

11 A. I SHOULD BE.

12 Q. NOW, YOU TOLD US THAT YOU HAD BEEN IN JAIL
13 SINCE 1990; IS THAT CORRECT?

14 A. YES.

15 Q. AND DID YOU TELL THE JURY THAT SO THAT THEY
16 WOULD HAVE SYMPATHY FOR YOU?

17 A. NO. I DON'T KNOW SPECIFICALLY WHY, I JUST
18 ASSUME THAT THE CHRONOLOGY THAT I WAS FREE FOR SIX
19 MONTHS BEFORE I WAS ARRESTED IS SOMEHOW IMPORTANT TO THE
20 CASE.

21 Q. YOU TOLD US THAT YOU HAVE AN AUDITORY
22 PROCESSING PROBLEM, DYSLEXIA AND A HEARING PROBLEM; IS
23 THAT CORRECT?

24 A. YES.

25 Q. DO THOSE CONDITIONS HAVE ANY BEARING UPON
26 THE DEGREE OF YOUR RESPONSIBILITY IN THIS CASE?

27 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S

-21336

1 THE WITNESS: NO.

2 THE COURT: REPHRASE THE QUESTION.

3 Q. BY MR. CONN: DID THE AUDITORY PROCESSING
4 PROBLEM BEAR UPON YOUR CONDUCT ON AUGUST THE 20TH OF
5 1989?

6 MR. LEVIN: YOUR HONOR, THAT CALLS FOR A
7 CONCLUSION.

8 THE COURT: OVERRULED.

9 THE WITNESS: I THINK THAT I WAS JUST ASKED THOSE
10 QUESTIONS BECAUSE SOMETIMES I DON'T -- I EITHER DON'T
11 HEAR OR HAVE DIFFICULTY UNDERSTANDING QUESTIONS THAT
12 MR. LEVIN WAS GOING TO ASK ME, AND SO HE JUST WANTED
13 THAT OUT TO SHOW MAYBE THAT I'M NOT AN IDIOT OR
14 SOMETHING LIKE THAT.

15 Q. BY MR. CONN: DID THE AUDITORY PROCESSING
16 PROBLEM HAVE ANY BEARING UPON YOUR ACTIONS ON AUGUST THE
17 20TH OF 1989?

18 A. NO, THEY DID NOT.

19 Q. DID THE DYSLEXIA HAVE ANY BEARING UPON YOUR
20 ACTIONS ON AUGUST THE 20TH OF 1989?

21 A. NO.

22 Q. DID THE HEARING PROBLEM HAVE ANY BEARING
23 UPON YOUR ACTIONS ON AUGUST THE 20TH OF 1989?

24 A. NO.

25 Q. DO ANY OF THESE CONDITIONS HAVE ANYTHING TO

26 DO WITH HOW OR WHY YOU KILLED YOUR PARENTS ON AUGUST THE

27 20TH OF 1989?

28 A. IF THEY DO, I DON'T UNDERSTAND HOW THEY DO.

-21335

1 Q. YOU TOLD THE JURY THAT YOU WERE TAKING

2 PAMELOR, INDERAL AND XANAX; IS THAT CORRECT?

3 A. I AM.

4 Q. DOES THAT MEDICATION HAVE ANY EFFECT ON

5 YOUR TESTIMONY WHATSOEVER?

6 A. IT ALLOWS ME TO BE MORE TOGETHER, LESS

7 EMOTIONAL WHEN I HAVE TO DISCUSS THE THINGS OF MY

8 CHILDHOOD.

9 Q. OTHER THAN MAKING YOU LESS EMOTIONAL, DOES

10 THAT -- DO THOSE SUBSTANCES HAVE ANY INFLUENCE UPON YOUR

11 TESTIMONY?

12 A. IN TERMS OF?

13 MR. LEVIN: OBJECTION, YOUR HONOR. THAT WOULD

14 CALL FOR A MEDICAL CONCLUSION, WHAT PHYSICAL EFFECTS OR

15 EMOTIONAL EFFECTS THEY WOULD HAVE.

16 THE COURT: OVERRULED.

17 THE WITNESS: IT JUST MELLOWS "ME OUT AND ALLOWS

18 ME TO SPEAK ABOUT ANYTHING THAT I WANT TO, I SUPPOSE.

19 Q. BY MR. CONN: YOU WERE NOT UNDER ANY

20 MEDICATION AT THE TIME YOU SHOT YOUR PARENTS TO DEATH;

21 IS THAT CORRECT?

22 A. NO, I WAS NOT.

23 Q. YOU WERE NOT TRYING TO SUGGEST IN THAT

24 TESTIMONY THAT YOU ARE NOW SUFFERING FROM SOME EMOTIONAL

25 PROBLEM, WERE YOU?

26 A. NO.

27 Q. ARE YOU SUFFERING FROM ANY EMOTIONAL

28 PROBLEM AT THIS TIME?

-21334

1 A. I DON'T KNOW WHAT YOU MEAN BY EMOTIONAL

2 PROBLEM.

3 Q. ARE YOU -- DO YOU FEEL THAT YOU ARE

4 SUFFERING FROM ANY MENTAL OR MEDICAL CONDITION AT THIS

5 TIME?

6 MR. LEVIN: YOUR HONOR, OBJECTION WITH RESPECT TO

7 THAT QUESTION. IT'S ASKING FOR HIM TO DIAGNOSE HIMSELF.

8 THE COURT: OVERRULED.

9 THE WITNESS: I DON'T REALLY KNOW. I MEAN, I

10 DON'T HAVE ANY PERSONALITY DISORDER, IF YOU'RE ASKING

11 ME. I HAVE SEEN SO MANY DIFFERENT DOCTORS, AND THERE'S

12 BEEN SO MANY DIFFERENT ANALYSES MADE OF ME THAT I WOULD

13 SAY OTHER THAN JUST DEPRESSION, NO, I'M FINE.

14 Q. BY MR. CONN: WERE YOU SUFFERING FROM ANY

15 EMOTIONAL PROBLEM AT THE TIME YOU SHOT YOUR PARENTS TO

16 DEATH?

17 MR. LEVIN: YOUR HONOR, OBJECTION WITH RESPECT TO
18 THAT QUESTION.

19 THE WITNESS: I DON'T KNOW.

20 MR. LEVIN: IT'S CALLING FOR A MEDICAL
21 CONCLUSION.

22 THE COURT: IT'S ASKING FOR HIS OPINION.
23 OVERRULED.

24 THE WITNESS: I DON'T THINK SO. I DON'T KNOW.

25 Q. BY MR. CONN: YOU TOLD US THAT THE ONLY
26 REASON YOU KILLED YOUR PARENTS WAS BECAUSE YOU WERE
27 AFRAID THEY WERE GOING TO KILL YOU; IS THAT CORRECT?

28 A. THAT, AND I WAS AFRAID MY FATHER WAS GOING

-21333

1 TO COME UP TO MY ROOM.

2 Q. YOU ARE NOT CLAIMING THAT YOU KILLED YOUR
3 PARENTS AS A RESULT OF ANY EMOTION OTHER THAN FEAR; IS
4 THAT CORRECT?

5 A. RIGHT.

6 Q. YOU DID NOT KILL YOUR PARENTS BECAUSE OF
7 ANGER OR HATRED OR ANY OTHER EMOTION?

8 A. I DIDN'T.

9 Q. WAS THERE ANYTHING UNUSUAL ABOUT YOUR STATE
10 OF MIND ON THE DAY OF THE KILLINGS OTHER THAN THIS
11 BELIEF THAT YOU SUGGEST THAT YOUR PARENTS WERE GOING TO

12 KILL YOU?

13 MR. LEVIN: OBJECTION WITH RESPECT TO UNUSUAL.

14 IT'S VAGUE.

15 THE COURT: DO YOU UNDERSTAND WHAT HE'S TALKING
16 ABOUT?

17 THE WITNESS: ANYTHING UNUSUAL? I DON'T -- WAS
18 THERE ANYTHING ELSE GOING ON IN THE FAMILY BESIDES THIS
19 EXPOSURE OVER THE SECRET? THERE WASN'T.

20 Q. BY MR. CONN: NO. I AM QUESTIONING YOUR
21 STATE OF MIND AT THE TIME.

22 DO YOU REMEMBER YOUR STATE OF MIND BEING
23 UNUSUAL IN ANY WAY ON THAT DAY OTHER THAN THIS BELIEF --

24 MR. LEVIN: OBJECTION.

25 Q. BY MR. CONN: -- THAT YOUR PARENTS WERE
26 GOING TO KILL YOU?

27 A. I DON'T.

28 MR. LEVIN: OBJECTION WITH RESPECT TO UNUSUAL.

-21332

1 IT'S VAGUE.

2 THE COURT: DO YOU UNDERSTAND "UNUSUAL"?

3 THE WITNESS: NO, I GUESS I DON'T.

4 Q. BY MR. CONN: WERE YOU YOUR NORMAL,
5 ORDINARY SELF ON AUGUST THE 20TH, 1989 OTHER THAN THE
6 BELIEF IN YOUR MIND THAT YOUR PARENTS WERE GOING TO KILL
7 YOU?

8 A. I CERTAINLY WASN'T MY NORMAL, ORDINARY
9 SELF. I WAS GOING THROUGH A SERIOUS CRISIS, AND I HAD A
10 SERIOUS LONGING TO GO BACK IN TIME AND NOT HAVE GOTTEN
11 MY BROTHER INVOLVED IN IT.

12 BUT IN TERMS OF WAS I DISABLED OR
13 MEDICATED, I WASN'T.

14 Q. OTHER THAN A LONGING TO GO BACK IN TIME AND
15 BEING AFRAID OF YOUR PARENTS --

16 A. THE ANSWER IS NO.

17 Q. THAT YOU WERE NOT SUFFERING FROM ANY OTHER
18 UNUSUAL STATE OF MIND THAT DAY?

19 MR. LEVIN: OBJECTION, YOUR HONOR, WITH RESPECT
20 TO UNUSUAL. VAGUE.

21 THE COURT: ALL RIGHT. WITH REGARD TO THE
22 PREVIOUS QUESTION ASKED OF YOU, DO YOU UNDERSTAND WHAT
23 HE MEANS BY UNUSUAL?

24 THE WITNESS: YES. THAT I'M AWARE OF, NO.

25 Q. BY MR. CONN: AND WAS THERE ANYTHING
26 UNUSUAL ABOUT YOUR BEHAVIOR ON THE DAY THAT YOU KILLED
27 YOUR PARENTS, OTHER THAN THE FACT THAT YOU KILLED YOUR
28 PARENTS BECAUSE YOU BELIEVED THAT THEY WERE GOING TO

-21331

1 KILL YOU?

2 MR. LEVIN: OBJECTION. IT'S VAGUE. "UNUSUAL
3 BEHAVIOR."

4 THE COURT: DO YOU UNDERSTAND WHAT THAT MEANS?

5 THE WITNESS: I THINK I CAN INTERPRET IT.

6 MR. LEVIN: YOUR HONOR, I WOULD ASK THE WITNESS

7 NOT INTERPRET THE QUESTION. IF HE DOESN'T UNDERSTAND IT

8 AS PHRASED, IT SHOULD BE REASKED.

9 THE COURT: ALL RIGHT.

10 MY QUESTION AGAIN IS DO YOU UNDERSTAND THE

11 QUESTION?

12 THE WITNESS: I GUESS I DON'T.

13 Q. BY MR. CONN: WAS THERE ANYTHING ODD OR

14 PECULIAR ABOUT YOUR BEHAVIOR THAT DAY, MR. MENENDEZ?

15 MR. LEVIN: OBJECTION. IT'S VAGUE.

16 THE WITNESS: I DON'T KNOW. I DON'T KNOW. I

17 WASN'T WITH ANYONE THAT DAY. I DON'T KNOW THAT THEY

18 WOULD HAVE BEEN ABLE TO TELL IF SOMETHING WAS ODD OR

19 PECULIAR FROM BEING AROUND ME.

20 THE COURT: THE OBJECTION IS OVERRULED TO THE

21 PREVIOUS QUESTION.

22 Q. BY MR. CONN: I AM NOT ASKING YOU HOW OTHER

23 PEOPLE MIGHT HAVE PERCEIVED YOU, MR. MENENDEZ. I AM

24 ASKING YOU HOW YOU FELT THAT DAY.

25 DID YOU FEEL THAT THERE WAS ANYTHING ODD OR

26 PECULIAR ABOUT YOUR BEHAVIOR ANY TIME THAT DAY?

27 A. BEHAVIOR IN TERMS OF WHATEVER MY DAILY

28 HABIT WAS?

1 Q. THE WAY YOU WERE ACTING, THE WAY YOU WERE
2 BEHAVING. WAS THERE ANYTHING UNUSUAL ABOUT YOUR
3 BEHAVIOR?

4 A. NO, I DON'T THINK SO.

5 Q. ABOUT YOUR BEHAVIOR AT ANY TIME THAT DAY?

6 A. WELL, IF I UNDERSTAND YOUR QUESTION
7 CORRECTLY, THE ANSWER WOULD BE NO.

8 Q. SO YOU FELT YOU WERE IN YOUR NORMAL,
9 EVERYDAY CONDITION THAT DAY; IS THAT CORRECT?

10 A. I'M ASSUMING YOU'RE NOT TALKING ABOUT
11 EMOTIONALLY, MENTALLY IN TERMS OF WHAT WAS GOING THROUGH
12 MY HEAD.

13 Q. I ALREADY ASKED YOU ABOUT YOUR EMOTIONAL
14 CONDITION. I AM ASKING ABOUT YOUR BEHAVIOR RIGHT NOW.

15 A. PHYSICALLY?

16 MR. LEVIN: YOUR HONOR, OBJECTION WITH RESPECT TO
17 BEHAVIOR. IT'S VAGUE.

18 THE COURT: DO YOU UNDERSTAND WHAT HE MEANS BY
19 BEHAVIOR? IF YOU DON'T, JUST SAY YOU DON'T.

20 THE WITNESS: I DON'T.

21 Q. BY MR. CONN: ANYTHING ABOUT YOUR ACTIONS
22 THAT DAY -- DID YOU NOTICE ANYTHING STRANGE OR UNUSUAL
23 OR PECULIAR ABOUT YOUR ACTIONS, THE WAY YOU WERE ACTING?

24 A. NO.

25 Q. YOU WERE YOUR NORMAL SELF THAT DAY; IS THAT
26 CORRECT, EXCEPT FOR THE EMOTIONAL --

27 MR. LEVIN: OBJECTION.

28 Q. BY MR. CONN: -- CONDITION THAT YOU WERE

1 EXPERIENCING?

2 A. I DIDN'T HAVE ANY PHYSICAL DISABILITIES OR
3 I WASN'T FIDGETING. I DON'T -- IF THAT'S WHAT YOU'RE
4 ASKING, THE ANSWER IS NO.

5 Q. THE ONLY THING STRANGE OR UNUSUAL THAT YOU
6 NOTED WAS YOUR EMOTIONAL CONDITION THAT DAY; IS THAT
7 CORRECT?

8 A. YES.

9 Q. AND THE ONLY THING STRANGE ABOUT YOUR
10 EMOTIONAL CONDITION WAS THAT YOU WERE FEARFUL THAT YOUR
11 PARENTS WERE GOING TO KILL YOU, AND AS YOU SAID, YOU
12 WERE "LONGING TO GO BACK IN TIME"; IS THAT CORRECT?

13 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
14 COMPOUND.

15 THE COURT: OVERRULED.

16 THE WITNESS: I THINK SO, YES.

17 Q. BY MR. CONN: CAN YOU TELL US ANYTHING ELSE
18 ABOUT YOUR EMOTIONAL CONDITION THAT DAY THAT WAS UNUSUAL
19 OR PECULIAR?

20 A. I DON'T REMEMBER THE DAY VERY WELL. THERE
21 ARE HOURS THAT I DON'T REMEMBER WHAT I DID.

22 SO, I -- AS FAR AS WHAT I REMEMBER, THE
23 ANSWER WOULD BE NO.

24 Q. DID YOU NOTICE ANYTHING STRANGE OR UNUSUAL
25 ABOUT THE BEHAVIOR OF YOUR BROTHER, LYLE MENENDEZ, THAT

26 DAY?

27 A. YES.

28 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S VAGUE

-21328

1 WITH RESPECT TO "STRANGE AND UNUSUAL."

2 THE COURT: WELL, HE SEEMS TO UNDERSTAND THE

3 QUESTION. HE ANSWERED YES.

4 Q. BY MR. CONN: AND WHAT WAS THAT?

5 A. HE WAS VERY RELUCTANT TO GO INTO THE HOUSE

6 WHEN I WAS THERE AT MIDDAY. HE WAS DESPERATE TO GET OUT

7 OF THE HOUSE THAT NIGHT. HE WAS MUCH MORE -- HE SCARED

8 ME. HIS REACTIONS TO THINGS THAT MY PARENTS HAD SAID

9 AND HIS REACTION THAT NIGHT AT 10:00 O'CLOCK FRIGHTENED

10 ME. I HADN'T SEEN HIM LIKE THAT BEFORE.

11 Q. WHAT WAS IT ABOUT YOUR BROTHER THAT

12 FRIGHTENED YOU THAT EVENING, MR. MENENDEZ?

13 A. THE FACT THAT HE WAS SO SCARED. THE FACT

14 THAT HIS FACE WAS SO DRAWN, AND HOW FRIGHTENED HE WAS

15 MADE ME THINK THIS IS REALLY GOING TO HAPPEN, AND HIS

16 ACTIONS SCARED ME.

17 Q. AT WHAT TIME DID YOU SEE HIS FACE SO DRAWN?

18 A. AT THE TOP OF THE STAIRS WHEN I WAS TELLING

19 HIM THAT I COULDN'T LET MY FATHER COME IN MY ROOM.

20 Q. PRIOR TO THE TIME YOU WENT INTO YOUR HOME

21 THAT EVENING TO TELL YOUR PARENTS THAT YOU WERE GOING TO

22 THE MOVIES, DID YOU NOTICE ANYTHING STRANGE OR UNUSUAL

23 ABOUT YOUR BROTHER'S BEHAVIOR THAT DAY?

24 A. THAT HIS NERVES WERE ON EDGE, AND HE WAS

25 ANXIOUS TO GET OUT OF THE HOUSE.

26 Q. HE WAS ANXIOUS TO GET OUT OF THE HOUSE

27 DURING THE DAY?

28 A. HE DIDN'T WANT TO BE AT THE HOUSE DURING

-21327

1 THE DAY. HE WAS CERTAINLY NERVOUS ABOUT GOING INTO THE

2 HOUSE AND MEETING WITH MY PARENTS AND TRYING TO START UP

3 A CONVERSATION.

4 BUT I THINK YOU'RE ASKING ABOUT THAT NIGHT,

5 AND HE WAS VERY ANXIOUS TO GET OUT OF THE HOUSE ALL THE

6 TIME.

7 Q. NO, I AM TALKING ABOUT THE DAY, DURING THE

8 DAY.

9 A. OH.

10 Q. WHAT WAS STRANGE OR UNUSUAL ABOUT HIS

11 BEHAVIOR DURING THE DAY?

12 YOU TOLD US HE WAS ANXIOUS TO GET OUT OF

13 THE HOUSE DURING THE DAY, CORRECT?

14 A. YES.

15 Q. AND DID YOU ASK HIM WHY HE WANTED TO GET

16 OUT OF THE HOUSE?

17 A. NO. I WANTED HIM TO TALK TO MY PARENTS. I

18 WAS PRETTY FORCEFUL ABOUT THAT.

19 Q. DID YOU TELL HIM "GO INTO THE HOUSE, TALK
20 TO THE PARENTS AND COME BACK, AND WE'LL GET OUT OF THE
21 HOUSE"?

22 A. NO, I DIDN'T.

23 Q. WHY NOT?

24 A. THAT WASN'T -- THAT WASN'T WHAT WE HAD IN
25 MIND TO DO THAT DAY. I DIDN'T KNOW -- I DIDN'T THINK IT
26 WAS JUST GOING TO BE A SHORT CONVERSATION WITH DAD, AND
27 SAY "HEY, DAD, LET'S HAVE A CONVERSATION." I THOUGHT
28 THAT HE WOULD HAVE TO GO AROUND THEM AND BRING UP A

-21326

1 CONVERSATION, AND SEE WHAT THEIR GENERAL Demeanor WAS
2 AND HOW THEY WERE GENERALLY ACTING TOWARD HIM. I GUESS
3 I COULD HAVE. I DON'T KNOW.

4 Q. OTHER THAN YOUR BROTHER APPEARING TO BE
5 ANXIOUS TO GET OUT OF THE HOUSE DURING THE DAY, DID YOU
6 NOTICE ANYTHING STRANGE OR PECULIAR ABOUT HIS BEHAVIOR?

7 A. NO.

8 Q. NOW, YOU TOLD US THAT YOU DID NOT GET A LOT
9 OF SLEEP THAT WEEK; IS THAT CORRECT?

10 A. I DIDN'T.

11 Q. AND YOU ATTRIBUTE THE KILLING OF YOUR
12 PARENTS TO THE FACT THAT YOU DID NOT GET MUCH SLEEP THAT
13 WEEK?

14 A. NO.

15 Q. DID THAT HAVE ANYTHING TO DO WITH WHY YOU
16 KILLED YOUR PARENTS?

17 A. I THINK MR. LEVIN WAS SIMPLY ASKING THAT
18 BECAUSE I WAS EXHAUSTED THAT WEEKEND AND NERVOUS. I
19 DON'T THINK IT HAS -- IT IS CERTAINLY NOT THE REASON I
20 KILLED MY PARENTS. THAT CERTAINLY IS NOT THE REASON.

21 Q. AND ON THE SUNDAY YOU SHOT YOUR PARENTS TO
22 DEATH, YOU WERE OUT OF THE HOUSE MOST OF THE DAY; IS
23 THAT CORRECT?

24 A. YES.

25 Q. DID YOU TAKE A NAP WHILE YOU WERE OUT OF
26 THE HOUSE?

27 A. NO, I DID NOT.

28 Q. YOU DID NOT FEEL LIKE TAKING A NAP?

-21325

1 A. I WAS HAVING DIFFICULTY SLEEPING.

2 Q. DID YOU TRY TO TAKE A NAP?

3 A. NOT THAT I REMEMBER.

4 Q. AND YOU TOLD THE JURY THAT YOU WERE SCARED;
5 IS THAT CORRECT?

6 MR. LEVIN: OBJECTION. VAGUE AS TO TIME.

7 THE WITNESS: EXCUSE ME?

8 THE COURT: SUSTAINED.

9 Q. BY MR. CONN: YOU TOLD THE JURY THAT YOU

10 WERE SCARED AS YOU WERE SITTING HERE IN THE COURTROOM;

11 IS THAT CORRECT?

12 A. YES.

13 Q. AND IS THAT SO THAT THEY WILL HAVE SYMPATHY

14 FOR YOU?

15 A. NO. I'M JUST TRYING TO BE TRUTHFUL IN MY

16 ANSWER. I -- NO.

17 Q. ARE YOU SCARED THAT THEY WILL CONVICT YOU

18 AND YOU WILL GO TO JAIL, MR. MENENDEZ?

19 A. I'M CERTAINLY FRIGHTENED THAT WITH SO MUCH

20 TESTIMONY THINGS WILL BE MISUNDERSTOOD. I AM CERTAINLY

21 FRIGHTENED OF GOING TO JAIL FOR THE REST OF MY LIFE.

22 IT'S TO SAY A LIFE-ALTERING PROCEEDING, AND IT'S -- I

23 WOULD IMAGINE IT WOULD BE FRIGHTENING TO ANYONE.

24 Q. NOW, YOU HAVE HAD PLENTY OF OPPORTUNITIES

25 TO SPEAK TO YOUR BROTHER SINCE YOU'VE BEEN IN JAIL,

26 MR. MENENDEZ?

27 A. I'VE BEEN WITH HIM IN JAIL FOR SIX YEARS.

28 WE HAVE BEEN SEPARATED, BUT I SEE HIM WHEN I GO TO

-21324

1 COURT.

2 Q. AND YOU -- SO YOU HAVE A CHANCE TO SPEAK TO

3 HIM EVERY DAY YOU GO TO COURT, DON'T YOU?

4 A. YES.

5 Q. YOU'VE HAD PLENTY OF OPPORTUNITIES TO

6 DISCUSS WITH YOUR BROTHER THE ALLEGATIONS THAT YOU WERE
7 GOING TO BE MAKING AGAINST YOUR PARENTS IN THIS CASE; IS
8 THAT CORRECT?

9 A. I DON'T THINK WE DISCUSSED THAT.

10 Q. I AM ASKING YOU IF YOU HAD AN OPPORTUNITY
11 TO DISCUSS THAT?

12 A. SURE. WE HAD AN OPPORTUNITY TO TALK.

13 Q. AND IN FACT, WHEN YOU WERE NOT INCARCERATED
14 IN THE SAME LOCATION, YOU'VE HAD OPPORTUNITIES TO SPEAK
15 TO YOUR BROTHER OVER THE TELEPHONE, HAVEN'T YOU?

16 A. RARELY, BUT THERE HAVE BEEN GAPS WHEN I
17 HADN'T SEEN HIM FOR SEVERAL MONTHS, AND WE WOULD CONNECT
18 THROUGH A -- THROUGH MY -- I WOULD CALL MY GRANDMOTHER,
19 HE WOULD CALL SOMEONE ELSE, AND THEY WOULD PUT US
20 TOGETHER SO WE COULD TALK.

21 Q. YOU WOULD HAVE PEOPLE PATCHING TOGETHER
22 TELEPHONE CALLS SO YOU COULD SPEAK TO YOUR BROTHER; IS
23 THAT CORRECT?

24 A. YES.

25 Q. AND WOULD YOU DISCUSS THE FACTS OF THE
26 CASE?

27 A. OVER THE PHONE I WOULDN'T DISCUSS THE FACTS
28 OF THE CASE.

-21323

1 Q. HOW OFTEN WOULD YOU SPEAK TO YOUR BROTHER

2 OVER THE TELEPHONE THROUGH THIS PATCHING SYSTEM?

3 A. SOMETIMES IT DIDN'T HAPPEN FOR MANY WEEKS.

4 SOMETIMES I'D GET TO SPEAK WITH HIM FOR TWO OR THREE

5 DAYS. IF IT WAS -- IT WAS DIFFICULT TO ARRANGE. YOU'RE

6 NOT ALLOWED OUT TO THE PHONE VERY OFTEN, SO IT'S

7 DIFFICULT FOR IT TO BE ON THE SAME HALF HOUR ON THE SAME

8 DAY. SOMETIMES LYLE'S BEEN ALLOWED OUT A LITTLE BIT

9 LONGER, SOMETIMES I'VE BEEN ALLOWED OUT A LITTLE LONGER.

10 WHEN WE CAN ARRANGE IT TO WHERE WE'RE OUT

11 TOGETHER AND I HAVEN'T SEEN HIM FOR AWHILE, WE'LL TRY TO

12 PATCH THROUGH TO SAY HELLO.

13 Q. BETWEEN THE OPPORTUNITIES YOU'VE HAD TO

14 SPEAK WITH YOUR BROTHER OVER THE TELEPHONE AND THE

15 OPPORTUNITIES YOU HAVE HAD TO SPEAK TO HIM EVERY TIME

16 YOU COME TO COURT, YOU'VE HAD PLENTY OF TIME TO TALK TO

17 YOUR BROTHER OVER THE PAST SIX YEARS, HAVEN'T YOU,

18 MR. MENENDEZ?

19 A. YES.

20 Q. AND YOU SAID THAT SINCE YOU'VE BEEN IN

21 CUSTODY YOU HAVE LEARNED ABOUT THE LAW; IS THAT CORRECT?

22 A. JUST FROM WHAT I LEARNED IN THE LAST TRIAL,

23 WHICH IS WHERE I LEARNED MOST OF WHAT I KNOW ABOUT THE

24 LAW.

25 Q. AND YOU KNOW THE DIFFERENCE BETWEEN MURDER

26 AND MANSLAUGHTER?

27 A. I DON'T KNOW ALL THE DIFFERENCES LEGALLY.

28 I THINK THE LAWS KEEP CHANGING IN TERMS OF THEIR

1 DEFINITIONS.

2 Q. YOU KNOW ENOUGH ABOUT THE LAW TO KNOW HOW
3 IT IMPACTS UPON YOU, DON'T YOU, MR. MENENDEZ?

4 A. I KNOW THAT -- I KNOW THAT, YES.

5 Q. AND YOU'VE HAD AN OPPORTUNITY TO DISCUSS
6 THE LAW WITH YOUR BROTHER, HAVEN'T YOU?

7 A. YES.

8 Q. AND YOU'VE HAD AN OPPORTUNITY TO TALK ABOUT
9 THE ALLEGATIONS AGAINST YOUR PARENTS AND HOW THAT COULD
10 POTENTIALLY IMPACT YOUR VERDICT IN THIS CASE; ISN'T THAT
11 CORRECT?

12 A. I --

13 MR. LEVIN: YOUR HONOR, I WOULD OBJECT WITH
14 RESPECT TO THE FORM OF THE QUESTION. IT'S
15 ARGUMENTATIVE, AND IT SUGGESTS THEY DID THAT.

16 THE COURT: OVERRULED.

17 THE WITNESS: FOR MANY YEARS THERE WAS A STRUGGLE
18 BETWEEN MY BROTHER AND I, I GUESS FOR TWO YEARS, ABOUT
19 WHETHER WE WOULD TALK ABOUT SPECIFICALLY THE
20 MOLESTATION, AND HIM NOT WANTING TO TO THE EXTREME, AND
21 GOING TO GREAT EFFORTS TO AVOID THAT, AND ME TRYING
22 PRESSURE HIM, TRYING TO KNOCK SOME SENSE INTO HIM SAYING
23 THAT THIS IS WHAT WE HAVE TO DO, AND TRYING TO GET HIM
24 INTO THERAPY AND SEEING DIFFERENT PEOPLE SO THAT HE
25 WOULD FEEL FREER.

26 WE -- THERE WERE CONSTANT -- I WOULDN'T SAY

27 CONSTANT, BECAUSE I DIDN'T SEE HIM FOR AWHILE, AND

28 CERTAINLY WE HAVE DISCUSSED THOSE THINGS.

-21321

1 Q. BY MR. CONN: YOU SAID THAT YOUR BROTHER
2 MADE GREAT EFFORTS TO AVOID TESTIFYING TO THE
3 ALLEGATIONS OF MOLESTATION.

4 A. YES.

5 Q. WHEN THE TIME CAME FOR HIM TO TELL THAT
6 STORY TO A JURY, HE TOLD IT, DIDN'T HE?

7 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

8 THE WITNESS: HE TOLD, AND --

9 THE COURT: OVERRULED.

10 THE WITNESS: -- IT WAS DIFFICULT, AND I TOLD HIM
11 THAT I WAS SORRY THAT I PRESSURED HIM INTO DOING IT, AND
12 THAT I WOULD NEVER DO THAT AGAIN.

13 Q. BY MR. CONN: AND YOU HAVE HAD AN
14 OPPORTUNITY TO DISCUSS THE ALLEGATIONS OF MOLESTATION
15 WITH YOUR BROTHER, HAVEN'T YOU?

16 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE AND
17 SUGGESTIVE THAT HE DID.

18 THE WITNESS: I DON'T ENJOY --

19 THE COURT: OVERRULED.

20 THE WITNESS: -- TALKING ABOUT THOSE THINGS WITH
21 HIM, AND I HAVE NEVER PERSONALLY HAD A CONVERSATION WITH
22 HIM ABOUT WHAT HE DID TO ME WHEN I WAS A CHILD.

23 AND THE THINGS THAT HAPPENED WITH MY
24 FATHER, WE DISCUSSED THAT THE LAST WEEK IN AUGUST, AND
25 WE HAVE -- I DON'T SPECIFICALLY REMEMBER ANY OF THE
26 CONVERSATIONS THAT I HAVE HAD WITH HIM WHERE WE HAVE
27 DISCUSSED IT IN DETAIL SINCE.

28 Q. BY MR. CONN: I AM SIMPLY ASKING YOU IF YOU

-21320

1 HAVE HAD AN OPPORTUNITY TO DISCUSS THIS.

2 A. YEAH. WE HAVE TALKED, SO WE HAVE HAD
3 OPPORTUNITIES TO DISCUSS ANYTHING.

4 Q. AND DID YOU DISCUSS WITH YOUR BROTHER YOUR
5 GOAL OF GETTING A MANSLAUGHTER IN THIS CASE?

6 A. MANSLAUGHTER IS NOT MY GOAL. IF I GET
7 CONVICTED OF MANSLAUGHTER, I COULD GET 15, 20 YEARS. MY
8 GOAL IS TO GO HOME. I WOULD LIKE TO GO HOME.

9 MY GOAL IS -- I DON'T THINK THAT'S THE WORD
10 I WOULD USE. I REALIZE THAT IT'S ONE OF THE ONLY THINGS
11 THAT I CAN GET WHICH I HAVE -- WHICH I WILL EVENTUALLY
12 GO HOME, BUT MY GOAL IS NOT A MANSLAUGHTER.

13 Q. ISN'T THAT WHAT YOU TOLD US LAST WEEK,
14 MR. MENENDEZ, THAT YOUR GOAL IN THIS CASE WAS TO GET A
15 MANSLAUGHTER?

16 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE, YOUR
17 HONOR. IT WAS THE PROSECUTION'S QUESTION.

18 THE COURT: OVERRULED.

19 THE WITNESS: I SIGNED ON TO WHAT YOU WERE SAYING
20 IN TERMS OF MY GOAL IS TO GET A MANSLAUGHTER, BECAUSE I
21 REALIZE THAT THERE ARE -- IT IS THE ONLY -- IT IS THE
22 ONLY SENTENCE THAT I CAN GET WHERE I WILL REALLY HAVE A
23 CHANCE OF GOING HOME EVENTUALLY, AND I -- I -- IN ALL
24 ACTUALITY I WOULD LIKE TO BE FOUND NOT GUILTY. I
25 REALIZE THAT'S NOT POSSIBLE, BUT I DON'T WANT TO GO TO
26 JAIL ANYMORE. I HAVE BEEN HERE FOR AWHILE, AND I DON'T
27 REALLY WANT TO GET CONVICTED OF MANSLAUGHTER, BUT I
28 REALIZE THAT THAT IS REALITY.

-21319

1 Q. BY MR. CONN: YOU WILL HAVE A CHANCE TO GO
2 HOME EVEN WITH A MURDER CONVICTION, WON'T YOU?

3 A. WITH A MURDER CONVICTION I WILL EITHER
4 SPEND THE REST OF MY LIFE IN JAIL, OR SPEND 25 YEARS OR
5 30 YEARS TO THE REST OF MY LIFE IN JAIL. IT'S UP TO --

6 Q. FOR ALL MURDER CONVICTIONS, IS THAT WHAT
7 YOU'VE BEEN TOLD?

8 A. I'VE BEEN TOLD THAT IT'S EITHER LIFE
9 WITHOUT OR 30 YEARS TO LIFE, WITH A PAROLE BOARD
10 DECIDING IN 30 YEARS WHETHER I GET OUT OF JAIL OR
11 WHETHER I REMAIN THERE FOR THE REST OF MY LIFE.

12 Q. AND SO YOUR GOAL LAST WEEK WHEN I ASKED YOU
13 IF IT WAS YOUR GOAL TO GET A MANSLAUGHTER VERDICT, ARE
14 YOU SAYING THAT YOU AGREED WITH ME ONLY BECAUSE I WAS

15 SUGGESTING THAT TO YOU, OR BECAUSE YOU TRULY FELT THAT
16 WAY?

17 A. I REALIZE THAT IT'S THE ONLY REAL THING
18 THAT I HAVE A -- THAT IS REALITY FOR ME AT THIS POINT,
19 AND SO I ACCEPTED WHAT YOU WERE SAYING.

20 Q. AND SO DID YOU DISCUSS WITH YOUR BROTHER
21 MENENDEZ -- WITH YOUR BROTHER, LYLE MENENDEZ, HOW YOU
22 AND HE CAN GO ABOUT REACHING THIS GOAL OF A
23 MANSLAUGHTER?

24 A. NO. I LEAVE THAT UP TO MISS ABRAMSON AND
25 MR. LEVIN.

26 Q. DID YOU DISCUSS THE LAW OF MANSLAUGHTER
27 WITH YOUR BROTHER SO YOU CAN PUT TOGETHER A STORY IN
28 ORDER TO ACHIEVE THIS GOAL OF MANSLAUGHTER?

-21318

1 A. I DIDN'T KNOW ABOUT THE LAW OF MANSLAUGHTER
2 IN DETAIL UNTIL LONG AFTER I HAD TOLD MISS ABRAMSON AND
3 FATHER KEN AND DR. VICARY AND MY GRANDMOTHER EVERYTHING
4 THAT HAPPENED IN MY LIFE. I DIDN'T -- I CERTAINLY
5 COULDN'T HAVE --

6 Q. YOU DIDN'T KILL YOUR FATHER BECAUSE HE
7 MOLESTED YOU, DID YOU?

8 A. I THINK THAT IF IT HAD NOT HAVE HAPPENED,
9 MY FATHER WOULD BE ALIVE TODAY.

10 Q. ARE YOU SAYING THAT THIS WAS A RETALIATION

11 KILLING?

12 A. NO.

13 Q. WHY DID YOU KILL YOUR FATHER?

14 A. I WAS AFRAID OF MORE SEX, AND I WAS AFRAID

15 I WAS GOING TO DIE.

16 Q. DID YOU TELL THE JURY ABOUT THE MOLESTATION

17 TO GET THEM TO HATE YOUR FATHER?

18 A. I DON'T WANT THEM TO HATE MY FATHER.

19 Q. IS IT YOUR INTENTION --

20 MR. LEVIN: OBJECTION, YOUR HONOR. THE WITNESS

21 HAS NOT ANSWERED HIS QUESTION.

22 THE COURT: YES. COMPLETE YOUR ANSWER, PLEASE.

23 THE WITNESS: AND I THINK THAT I HAVE LEFT MOST

24 OF IT OUT, ONLY BUT THE BARE ESSENTIALS I HOPE ARE

25 NEEDED TO UNDERSTAND WHO I AM AS A PERSON.

44219

1 Q BY MR. CONN: IS IT YOUR INTENTION TO

2 PUT YOUR PARENTS ON TRIAL TO DIVERT THE JURY AWAY

3 FROM YOUR OWN RESPONSIBILITY FOR THIS CRIME?

4 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE,

5 YOUR HONOR.

6 THE WITNESS: I AM FULLY --

7 THE COURT: OBJECTION SUSTAINED.

8 YOUR NEXT QUESTION, PLEASE.

9 Q BY MR. CONN: YOU DIDN'T TELL US VERY

10 MANY GOOD THINGS ABOUT YOUR FATHER, DID YOU,

11 MR. MENENDEZ?

12 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

13 THE COURT: OVERRULED.

14 THE WITNESS: I'VE TOLD -- I'VE ANSWERED WHAT
15 I WAS ASKED.

16 Q BY MR. CONN: YOU TOLD US THAT YOU -- YOU
17 WERE ONCE GOING TO WRITE A BOOK ABOUT YOUR FATHER,
18 WEREN'T YOU, MR. MENENDEZ?

19 A I WANTED TO UP UNTIL ABOUT 1992 OR 1991,
20 WRITE A BOOK ABOUT MY FATHER. I WAS EXTREMELY
21 IMPRESSED BY HIM.

22 Q DIDN'T YOU TELL PEOPLE THAT HE WAS A
23 GREAT MAN?

24 A HE WAS A TREMENDOUS MAN.

25 Q AND WHAT WAS IT THAT MADE HIM A
26 TREMENDOUS MAN?

27 A HE HAD POWER LIKE I HAVE NEVER SEEN
28 AGAIN IN A HUMAN BEING. HE HAD THE ABILITY -- HE WAS

44220

1 A MIGHTY FIGURE. HE HAD AN AURA ABOUT HIM THAT WAS
2 LARGER THAN LIFE. HE WAS BRILLIANT. HE WAS
3 RUTHLESS IN TERMS OF HIS GOAL AND WHAT HE WANTED.
4 HE WAS -- HE WAS A FIGURE THAT WAS SO MUCH LARGER
5 THAN LIFE THAT IT WAS ALMOST OVERWHELMING, AND

6 EVERYONE THAT I'VE TALKED TO ABOUT HIM SAID THAT
7 WHEN IT CAME TO BUSINESS, THERE WAS, PERHAPS, NO ONE
8 SMARTER, MORE DETERMINED, AND BETTER AT FINDING WAYS
9 OF GETTING WHAT HE WANTED, AND THAT WAS -- AS A CHILD
10 IT'S -- HE WAS MY DAD AND --

11 Q WAS YOUR FATHER A GOOD MAN?

12 A WHAT DO YOU MEAN BY GOOD?

13 MR. CONN: I'LL WITHDRAW THE QUESTION.

14 Q YOU TOLD US THAT -- YOU TOLD US THAT IT
15 WAS HERE IN MONSEY THAT THE SEXUAL ASSAULTS BEGAN;
16 IS THAT CORRECT?

17 A IT'S WHEN THE MESSAGES BEGAN.

18 Q CAN YOU GIVE US THE NAME OF ONE
19 EYEWITNESS FOR ANY OF THESE SEXUAL ASSAULTS THAT
20 OCCURRED IN THAT HOUSE SO WE CAN BRING THAT PERSON
21 INTO COURT TO CONFIRM THAT WHAT YOU WERE SAYING IS
22 TRUE?

23 MR. LEVIN: OBJECTION, YOUR HONOR.

24 THE WITNESS: EYEWITNESS OR PEOPLE THAT --

25 THE COURT: OVERRULED.

26 THE WITNESS: -- THAT LYLE AND I TOLD BEFORE
27 OUR PARENTS DIED?

28 Q BY MR. CONN: ONE EYEWITNESS.

1 A THERE WAS NOBODY WHO WOULD BE IN THAT
2 ROOM WITH MY FATHER AND I EXCEPT MY FATHER AND I.

3 Q YOU ACCUSED YOUR FATHER OF A CRIME FOR
4 WHICH THERE ARE NO WITNESSES; IS THAT CORRECT?

5 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
6 ARGUMENTATIVE.

7 THE WITNESS: I HAVEN'T ACCUSED HIM.

8 THE COURT: WAIT, WAIT. AS PHRASED IT IS
9 ARGUMENTATIVE. OBJECTION IS SUSTAINED. THE ANSWER
10 IS STRICKEN.

11 Q BY MR. CONN: THERE WAS NEVER A SINGLE
12 PERSON AROUND AT THE TIME THAT YOUR FATHER WOULD
13 ALLEGEDLY ASSAULT YOU IN THAT HOUSE; IS THAT
14 CORRECT?

15 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

16 THE WITNESS: DIANE VANDERMOLLEN --

17 THE COURT: OVERRULED.

18 YOUR ANSWER.

19 THE WITNESS: -- WAS IN THE HOUSE. SHE WAS AT
20 ONE POINT TOLD BY MY MOTHER.

21 ANDY CANO SLEPT OVER MY HOUSE. I TOLD
22 HIM.

23 MR. CONN: I'LL MAKE A MOTION TO STRIKE AS
24 NONRESPONSIVE.

25 MR. LEVIN: OBJECTION, YOUR HONOR.
26 OBJECTION. THE WITNESS IS ENTITLED TO ANSWER THE
27 PROSECUTOR'S QUESTION.

28 THE COURT: IT'S NONRESPONSIVE. LET'S HAVE

1 THE QUESTION READ BACK.

2 (THE LAST QUESTION WAS READ BACK.)

3

4 THE COURT: ALL RIGHT. THE ANSWER IS

5 STRICKEN AS NONRESPONSIVE.

6 Q BY MR. CONN: WAS THERE --

7 MR. LEVIN: I RESPECTFULLY OBJECT.

8 THE COURT: IT'S IMPOSSIBLE TO SEPARATE IT.

9 YOU CAN ASK HIM THE QUESTION AGAIN.

10 Q BY MR. CONN: WAS THERE EVER ANY

11 EYEWITNESS AROUND AT THE TIME THAT YOUR FATHER WOULD

12 ALLEGEDLY ASSAULT YOU IN THE MONSEY HOME?

13 A THERE WERE PEOPLE THAT LIVED INSIDE THE

14 HOME; MY BROTHER, MY MOTHER, MY COUSINS SOMETIMES.

15 BUT IN TERMS OF BEING IN MY BEDROOM AT THAT POINT,

16 NOBODY HAS EVER IN MY BEDROOM WHEN MY FATHER CAME IN

17 AND TALKED TO ME ABOUT ANYTHING.

18 Q DIRECTING YOUR ATTENTION TO THE

19 PRINCETON JUNCTION HOME, YOU TOLD US THAT YOUR

20 FATHER WOULD SEXUALLY ASSAULT YOU THERE TOO; IS THAT

21 CORRECT?

22 A YES.

23 Q CAN YOU GIVE US THE NAME OF ONE

24 EYEWITNESS WHO WAS PRESENT FOR ANY ONE OF THE SEXUAL

25 ASSAULTS THAT TOOK PLACE IN THAT HOME?

26 A THAT SAW HIM PHYSICALLY MASSAGING ME IN
27 MY BEDROOM?

28 Q THAT'S WHAT I MEAN BY AN EYEWITNESS.

44223

1 A NO.

2 Q I BELIEVE THAT THE JURY THEN SAW A
3 PICTURE OF THE PRINCETON, NEW JERSEY HOME.

4 WAS YOUR TESTIMONY -- I'M SORRY -- THE
5 PENNINGTON HOME.

6 WAS IT YOUR TESTIMONY THAT YOUR FATHER
7 SEXUALLY ASSAULTED YOU IN THAT HOME?

8 A HE DID.

9 Q CAN YOU GIVE US THE NAME OF ONE
10 EYEWITNESS WHO SAW ANY OF THE SEXUAL ASSAULTS THAT
11 TOOK PLACE IN THAT HOME?

12 A THERE ARE NONE, THERE WOULD BE NONE.

13 Q YOU THEN MOVED TO THE PRINCETON ESTATE,
14 NEW JERSEY, MOUNTAIN AVENUE HOME.

15 A YES.

16 Q CAN YOU GIVE US THE NAME OF ONE
17 EYEWITNESS WHO SAW ANY OF THE SEXUAL ASSAULTS THAT
18 TOOK PLACE IN THAT HOME?

19 A I DON'T REALLY REMEMBER THE SEX IN

20 PRINCETON. I REMEMBER KNEELING ON THE WOODEN FLOOR,
21 BUT MY DAD WOULD HAVE ME KNEEL ON THE WOODEN FLOOR
22 AS PUNISHMENT IN THE CORNER SOMETIMES, SO I CAN'T
23 DISTINGUISH THAT ANYTHING ACTUALLY HAPPENED IN THAT
24 HOME. WE LIVED THERE FOR SIX MONTHS.

25 Q CAN YOU GIVE US THE NAME OF ANY
26 EYEWITNESS TO ANY OF THE INCIDENTS THAT TOOK PLACE
27 IN THE PRINCETON ESTATE HOME?

28 MR. LEVIN: OBJECTION WITH RESPECT TO --

44224

1 THE WITNESS: WITH THE SEX, NO.

2 Q BY MR. CONN: YOU THEN MOVED TO
3 CALABASAS; IS THAT CORRECT?

4 A YES, I DID.

5 Q DID YOUR FATHER SEXUALLY ASSAULT YOU
6 THERE?

7 A HE DID.

8 Q CAN YOU GIVE US THE NAME OF ONE
9 EYEWITNESS TO ANY OF THE SEXUAL ASSAULTS THAT TOOK
10 PLACE IN THAT HOME?

11 A THERE WERE -- THERE WOULD BE NONE. THERE
12 ARE NONE.

13 Q YOUR FATHER ASSAULTED YOU IN THE BEVERLY
14 HILLS HOME?

15 A HE DID.

16 Q CAN YOU GIVE US THE NAME OF ONE

17 EYEWITNESS TO ANY OF THE SEXUAL ASSAULTS THAT TOOK

18 PLACE IN THAT HOME?

19 A NO.

20 Q NOW, YOU SAID THAT YOUR FATHER USED TO

21 SLAP YOU AND HIT YOU FOR CRYING OR FOR NOT DOING

22 WELL IN SPORTS; IS THAT CORRECT?

23 A HE DID.

24 Q AND WHEN HE WOULD SLAP YOU AND HIT YOU,

25 DID HE LEAVE BRUISES ON YOUR BODY?

26 A SOMETIMES, YES.

27 Q WHERE WOULD YOU HAVE THOSE BRUISES?

28 A MY -- THE BACK OF MY THIGHS. MY BUTT

44225

1 SOMETIMES. SOMETIMES I GOT A FAT LIP.

2 Q AND HOW OFTEN WOULD YOUR FATHER SLAP YOU

3 AND HIT YOU?

4 A SOMETIMES IN MY RIBS, IF HE WOULD THROW

5 ME AGAINST FURNITURE OR PUNCH ME.

6 Q HOW OFTEN WOULD YOUR FATHER SLAP YOU AND

7 HIT YOU?

8 A WHENEVER HE FELT LIKE IT.

9 Q HOW OFTEN WAS THAT?

10 A I DON'T KNOW. I WAS CONSTANTLY IN FEAR
11 OF THAT WHEN I WAS -- WHEN I WAS HOME WITH HIM, ABOUT
12 HIM JUST GOING INTO -- EXPLODING AND DOING THAT. IT
13 DIDN'T HAPPEN EVERY WEEK. WE WOULD GO FOR A MONTH
14 AT A TIME AND IT WOULDN'T.

15 Q SO WOULD YOU SAY APPROXIMATELY ONCE A
16 MONTH HE WOULD SLAP YOU OR HIT YOU?

17 A IT WOULD BE ALMOST IMPOSSIBLE TO GIVE
18 YOU AN APPROXIMATION. WHENEVER -- WHENEVER HE WANTED
19 TO HE DID. I DIDN'T EXPECT IT ONCE A MONTH. I -- I
20 THOUGHT IT MIGHT HAPPEN ANY DAY HE WAS HOME. AND SO
21 I WAS CAREFUL NOT TO DO ANYTHING WRONG IN FRONT OF
22 HIM, AT LEAST THAT HE WOULD CONSIDER WRONG. I
23 COULD -- IT WOULD BE ALMOST IMPOSSIBLE TO GIVE YOU AN
24 APPROXIMATION OF AN AVERAGE AMOUNT. SOMETIMES HE
25 WOULD DO IT EVERY WEEK FOR A MONTH. SOMETIMES IT
26 WOULDN'T HAPPEN FOR TWO MONTHS. IT WOULD JUST
27 DEPEND.

28 Q AND YOUR FATHER ALSO ENCOURAGED YOU TO

44226

1 JOIN SPORTS TEAMS; IS THAT CORRECT?

2 A I DON'T REMEMBER EVER NOT BEING ACTIVE
3 IN SPORTS.

4 Q AND YOU WERE ON TEAMS, WEREN'T YOU?

5 A YES.

6 Q YOU WERE ON SWIMMING TEAMS?

7 A I QUIT SWIMMING WHEN I WAS ELEVEN.

8 Q YOU SWAM FROM WHAT AGES?

9 A THE AGE OF THREE TO ELEVEN.

10 Q AND YOU WERE ON SWIMMING TEAMS FROM WHAT
11 AGES?

12 MR. LEVIN: HE JUST ANSWERED THE QUESTION,
13 YOUR HONOR.

14 THE COURT: OVERRULED.

15 THE WITNESS: I WAS ON SWIMMING TEAMS FROM
16 EIGHT TO -- MAYBE NINE, TEN AND PART OF MY ELEVENTH
17 YEAR.

18 Q BY MR. CONN: AND AFTER YOU FINISHED
19 SWIMMING YOU GOT INTO SOCCER?

20 A NO. I WOULD SWIM ONLY PART TIME OF THE
21 YEAR, AND I WOULD PLAY SOCCER PART TIME IN THE
22 YEAR. I WOULD PLAY ONCE A WEEK WITH THE -- WITH
23 THE -- THE KIDS ON THE FIELD ON THE WEEKENDS AND ONCE
24 OR TWICE ON THE WEEKDAYS.

25 Q AND WHAT AGES DID YOU PLAY SOCCER?

26 A YOU MEAN ON A TEAM OR KICKBALL WITH MY
27 DAD?

28 Q ON A TEAM.

1 A EIGHT, NINE, TEN, ELEVEN. I CAN'T BE
2 CERTAIN. RIGHT IN THERE.

3 Q AND YOU PLAYED TENNIS BETWEEN WHAT
4 AGES?

5 A I HAVE MEMORIES OF WHEN I WOULD BE OUT
6 ON THE TENNIS COURT AND I WOULD HAVE TO HOLD THE
7 RACKET WITH TWO HANDS. I WAS LIKE FOUR OR FIVE, UP
8 UNTIL I WAS 18.

9 Q AND YOU WERE ON TENNIS TEAMS AT WHAT
10 AGE?

11 A I WAS ON THE HIGH SCHOOL TEAMS IN NINTH
12 GRADE, TENTH GRADE, ELEVENTH GRADE, TWELFTH GRADE.

13 Q AND WHEN YOU WOULD PLAY SOCCER AND
14 TENNIS, YOU WOULD WEAR SHORTS?

15 A YES. SOMETIMES IT WAS COLD, YOU WEAR
16 SWEATS.

17 Q AND WHEN YOU WOULD SWIM, YOU WOULD WEAR
18 SWIMMING TRUNKS; IS THAT CORRECT?

19 A YES.

20 Q AND YOU WOULD CHANGE IN LOCKER ROOMS FOR
21 BOTH OF THOSE ACTIVITIES?

22 A GENERALLY I'D CHANGE IN THE CAR BECAUSE
23 WE WERE USUALLY EITHER LATE OR ON THE GO. I USUALLY
24 DIDN'T CHANGE IN THE LOCKER ROOM.

25 Q AND WHEN YOU WOULD GO SWIMMING, WOULD
26 YOUR BRUISES BE VISIBLE FOR EVERYONE TO SEE HOW
27 OFTEN YOUR FATHER WAS BEATING YOU?

44228

1 SEE, AND SOMETIMES THEY WERE ON MY BUTT AND THEY
2 WERE NOT VISIBLE TO SEE.

3 Q SO WERE THERE --

4 A I REMEMBER TIMES WHEN I WAS BRUISED AND
5 MY FATHER WOULDN'T LET ME GO TO THE SWIMMING POOL
6 BECAUSE OF IT. BUT I -- JUST AN OCCURRENCE IN MY
7 LIFE.

8 Q AND WOULD YOUR TEACHERS THEN COME UP AND
9 ASK YOU HOW YOU RECEIVED THOSE BRUISES TO YOUR
10 BODY?

11 A NO.

12 Q SO THERE ARE NO REPORTS OF YOUR TEACHERS
13 NOTING BRUISES TO YOUR BODY?

14 A I DON'T KNOW IF THERE ARE REPORTS OR
15 NOT. CERTAINLY THERE ARE MANY PEOPLE THAT SAW
16 BRUISES AND SAW US GET PUNCHED AND HIT BY MY
17 FATHER.

18 Q THERE ARE MANY PEOPLE WHO SAW YOU GET
19 PUNCHED AND HIT BY YOUR FATHER?

20 A JUST FROM THE PEOPLE THAT TESTIFIED LAST
21 TRIAL, BUT I WOULDN'T HAVE BEEN ABLE TO NAME A
22 SINGLE PERSON BEFORE THE LAST TRIAL.

23 Q WHO WAS PRESENT AT THE TIME YOUR FATHER
24 WOULD PUNCH YOU AND HIT YOU?

25 A I KNOW THAT WHEN MY -- WHEN I WAS -- MY
26 BROTHER WAS FIVE, PETER CANO SAW MY FATHER --

27 Q I'M NOT ASKING YOU ABOUT YOUR BROTHER.
28 I'M ASKING YOU ABOUT YOU.

44229

1 A ME SPECIFICALLY?

2 Q THAT'S WHAT I'M ASKING.

3 A I KNOW THAT ALAN ANDERSEN WAS IN THE
4 HOME AND WOULD HEAR US GET HIT BY THE BELT.

5 Q I'M NOT ASKING YOU WHAT ALAN ANDERSEN
6 HEARD.

7 MY QUESTION IS, MR. MENENDEZ: WHO SAW
8 YOUR FATHER HIT YOU?

9 A I BELIEVE THAT SWIMMING TEACHERS SAW IT
10 OR -- I REALLY DON'T KNOW.

11 Q YOU CAN'T THINK OF A NAME OF A SINGLE
12 WITNESS WHO EVER SAW YOUR FATHER PHYSICALLY STRIKE
13 YOU?

14 A IT'S JUST NOT THE KIND OF THING THAT
15 WOULD HAPPEN THAT I -- OUTSIDE IN FRONT OF PEOPLE, I
16 WOULD GET STRUCK, OR ELSE SOCIAL SERVICES WOULD HAVE
17 BEEN CALLED AND THIS WOULD HAVE BEEN SETTLED MANY

18 YEARS AGO.

19 Q BUT THEY WEREN'T CALLED; IS THAT

20 CORRECT?

21 A NO, THEY WERE NOT CALLED.

22 Q AND YOU'RE SAYING THAT THE REASON WHY

23 THEY WEREN'T CALLED WAS BECAUSE NO ONE EVER REPORTED

24 THESE BRUISES; IS THAT CORRECT?

25 MR. LEVIN: OBJECTION. CALLS FOR

26 SPECULATION.

27 THE WITNESS: I DON'T KNOW WHY THEY NEVER --

28 THE COURT: SUSTAINED. OBJECTION SUSTAINED.

44230

1 THE ANSWER'S STRICKEN.

2 Q BY MR. CONN: LIKE THE ALLEGATIONS OF

3 SEXUAL ASSAULT, THIS IS AN ALLEGATION AGAINST YOUR

4 PARENTS THAT OCCURRED BEHIND CLOSED DOORS AND YOU

5 CANNOT PROVIDE A SINGLE EYEWITNESS; IS THAT

6 CORRECT?

7 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE,

8 YOUR HONOR.

9 THE COURT: SUSTAINED.

10 Q BY MR. CONN: CAN YOU GIVE US THE NAME

11 OF ANY WITNESS, EYEWITNESS, WHO SAW YOUR FATHER SLAP

12 YOU?

13 A I DON'T KNOW WHO SAW MY FATHER SLAP ME
14 AND WHO DIDN'T. I -- IT WOULD BE UNUSUAL FOR SOMEONE
15 TO HAVE SEEN --
16 MR. CONN: I WOULD OBJECT AT THIS POINT.
17 IT'S NONRESPONSIVE. THE QUESTION HAS BEEN
18 ANSWERED.
19 THE COURT: RIGHT.
20 THE WITNESS: I CAN'T GIVE YOU A NAME.
21 THE COURT: OKAY. THE ANSWER IS THAT HE
22 CAN'T.
23 NEXT QUESTION, PLEASE.
24 Q BY MR. CONN: CAN YOU GIVE US THE NAME
25 OF A SINGLE EYEWITNESS WHO SAW YOUR FATHER PUNCH
26 YOU?
27 A ME AND NOT MY BROTHER?
28 Q THE QUESTION IS ABOUT YOU,

44231

1 MR. MENENDEZ.
2 A NO, I CAN'T GIVE YOU A NAME.
3 Q NOW, DID YOUR FATHER CONTINUE TO SLAP
4 YOU AND PUNCH YOU AFTER YOU WERE 18 YEARS OLD?
5 A YES.
6 Q AND HOW OFTEN DID HE SLAP YOU AND PUNCH
7 YOU AFTER YOU WERE 18 YEARS OLD?

8 A MUCH LESS FREQUENTLY.

9 Q HOW OFTEN WAS THAT?

10 A ONLY WHEN HE WAS VERY ANGRY OVER AN
11 INCIDENT THAT WOULD OCCUR ONCE EVERY FEW MONTHS.

12 Q AND I TAKE IT THERE ARE NO EYEWITNESSES
13 THAT YOU CAN TELL US ABOUT WHO CAN VERIFY THAT YOUR
14 FATHER USED TO SLAP YOU OR PUNCH YOU AFTER THE AGE
15 OF 18; IS THAT CORRECT?

16 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

17 THE COURT: WELL, USING THE WORD VERIFIED,
18 IT'S ARGUMENTATIVE.

19 Q BY MR. CONN: ARE THERE ANY EYEWITNESSES
20 TO YOUR FATHER SLAPPING YOU OR PUNCHING YOU OR
21 HITTING YOU AFTER YOU WERE 18 YEARS OLD?

22 A THERE'S CERTAINLY HUNDREDS OF -- AT LEAST
23 60, 70, 80 WITNESSES THAT COULD TESTIFY TO THE
24 HORROR OF THE HOUSE --

25 MR. CONN: OBJECTION. MOTION TO STRIKE, YOUR
26 HONOR, AS NONRESPONSIVE.

27 MR. LEVIN: OBJECTION, YOUR HONOR.

28 THE COURT: SUSTAINED. THE ANSWER IS

44232

1 STRICKEN.

2 THE WITNESS: SPECIFICALLY HITTING, PUNCHING

3 OR SLAPPING, I CANNOT, NO.

4 Q BY MR. CONN: YOU NEVER RECEIVED ANY
5 MEDICAL TREATMENT FOR ANY SLAPPING OR PUNCHING THAT
6 YOUR FATHER WOULD INFLICT UPON YOUR BODY, DID YOU?

7 MR. LEVIN: OBJECTION. THERE'S AN OBJECTION.

8 THE WITNESS: I WAS NOT TAKEN TO --

9 MR. LEVIN: THE DEFENSE WAS NOT ALLOWED TO GO
10 INTO THIS.

11 THE COURT: WAIT. WAIT. LET'S NOT ARGUE IT.

12 MR. LEVIN: IT'S BEYOND THE SCOPE OF THE
13 DIRECT.

14 THE COURT: OVERRULED.

15 THE WITNESS: I WAS NOT TAKEN TO DOCTORS FOR
16 INJURIES LIKE THAT, ONLY SERIOUS INJURIES.
17 CERTAINLY NOT BRUISES. THERE ARE DIFFERENT TIMES
18 WHEN I PERHAPS SHOULD HAVE BEEN TAKEN --

19 MR. CONN: I'M GOING TO OBJECT --

20 MR. LEVIN: OBJECTION, YOUR HONOR. THE
21 WITNESS SHOULD BE ALLOWED TO FINISH THE QUESTION.

22 THE COURT: LET HIM FINISH THE ANSWER.

23 THE WITNESS: I'M FINISHED.

24 Q BY MR. CONN: NOW, YOU SAID THAT YOUR
25 FATHER USED TO BEAT YOU WITH A BELT AS WELL; IS THAT
26 CORRECT?

27 A HE DID.

28 Q NOW, ARE THERE ANY EYEWITNESSES WHO WERE

1 PRESENT WHO OBSERVED -- OR PRESENT OBSERVING YOUR
2 FATHER BEATING YOU WITH A BELT?

3 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

4 THE WITNESS: THERE ARE --

5 THE COURT: WHEN YOU SAY OBSERVING, WHAT DO
6 YOU MEAN?

7 Q BY MR. CONN: WERE YOU PRESENT -- ARE
8 THERE ANY -- CAN YOU GIVE US THE NAME OF ANY PERSON
9 WHO SAW, WITH HIS OWN EYES, YOUR FATHER BEAT YOU
10 WITH A BELT?

11 A YOU'RE TALKING SEE AND NOT HEAR?

12 Q I'M TALKING ABOUT SEEING.

13 A MY FATHER WOULD NOT DO THESE THINGS IN
14 FRONT OF PEOPLE.

15 Q AND HE WOULDN'T MOLEST YOU IN FRONT OF
16 PEOPLE?

17 A OF COURSE NOT.

18 Q SO WE HAVE NO WAY OF KNOWING --

19 MR. LEVIN: OBJECTION, YOUR HONOR. HE'S
20 ARGUING WITH THE WITNESS AND THE WITNESS SHOULD BE
21 ALLOWED --

22 THE COURT: THE NATURE OF THE INQUIRY IS
23 ARGUMENTATIVE. ASK YOUR NEXT QUESTION IN A
24 NON-ARGUMENTATIVE FASHION.

25 Q BY MR. CONN: AT WHAT AGES WOULD YOUR
26 FATHER BEAT YOU WITH A BELT?

27 A UP UNTIL I WAS 14. BEFORE I MOVED TO
28 PRINCETON.

44234

1 Q AND HE NO LONGER STRUCK YOU WITH A BELT
2 AFTER THE AGE OF 14?

3 A RIGHT.

4 Q AND DID THE BELT LEAVE WELTS ON YOUR
5 SKIN?

6 A YES, AT TIMES IT WOULD. I REMEMBER IT
7 WOULD MAKE MY BUTT VERY SORE.

8 Q WHAT PARTS OF YOUR BODY WOULD YOU HAVE
9 WELTS FROM THE BELT?

10 A MY BUTT, ON THE BACK OF MY THIGHS,
11 SOMETIMES MY UPPER BACK -- I MEAN LOWER BACK, BUT
12 UPPER BUTTOCKS.

13 Q AND WOULD TEACHERS ASK YOU HOW YOU
14 RECEIVED WELTS TO THE BACK OF YOUR THIGHS?

15 A THEY WOULDN'T SEE THEM.

16 Q WHY WOULDN'T THEY SEE THE WELTS?

17 A BECAUSE I WOULD BE DRESSED.

18 Q AND WOULD TENNIS COACHES OR SOCCER
19 COACHES OR ANY OF THE STUDENTS THAT YOU SWAM WITH
20 ASK YOU ABOUT THE WELTS TO THE BACK OF YOUR THIGHS?

21 A MY SWIMMING TEACHERS AND MY SOCCER

22 TEACHES KNEW NOT TO TALK TO MY PARENTS ABOUT
23 ANYTHING. THERE WAS NO QUESTION THAT THEY MUST HAVE
24 SEEN, AND THEY CERTAINLY --

25 MR. CONN: I WOULD OBJECT AS NONRESPOSIVE.

26 THE WITNESS: -- SAW A LOT OF OTHER THINGS.

27 MR. CONN: I WOULD OBJECT AS --

28 MR. LEVIN: THE WITNESS SHOULD BE ALLOWED TO

44235

1 ANSWER THE PROSECUTOR'S QUESTION.

2 THE COURT: HE HAS, BUT THE ANSWER WAS
3 NONRESPONSIVE. SO THE ANSWER IS STRICKEN.

4 Q BY MR. CONN: LET ME ASK THE QUESTION,
5 MR. MENENDEZ, ONCE AGAIN, AND I ASK YOU TO FOCUS ON
6 THE QUESTION THAT I'M ASKING.

7 DID ANY OF YOUR TENNIS COACHES OR
8 TEACHERS OR STUDENTS AT SCHOOL QUESTION YOU
9 REGARDING THE WELTS TO THE BACK OF YOUR THIGHS?

10 A I DON'T REMEMBER.

11 Q YOU CANNOT GIVE US THE NAME OF A SINGLE
12 PERSON WHO QUESTIONED YOU ABOUT WELTS TO THE BACK OF
13 YOUR THIGHS?

14 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

15 THE COURT: OVERRULED.

16 THE WITNESS: I'M SURE TEACHERS DID. I'M

17 SURE SOCCER TEACHES DID.

18 MR. CONN: OBJECTION. MOTION TO STRIKE AS

19 NONRESPONSIVE.

20 THE WITNESS: BUT I CANNOT GIVE YOU SPECIFIC

21 NAMES OF PEOPLE THAT SAW WELTS.

22 THE COURT: OVERRULED.

23 THE ANSWER WILL STAND.

24 Q BY MR. CONN: NOW, YOU SAID THAT YOUR

25 FATHER EVEN WOULD CUT YOU WITH A KITCHEN KNIFE; IS

26 THAT CORRECT?

27 A MORE SCRAPE ME.

28 Q SCRAPE YOU?

44236

1 A YES.

2 Q WELL, DID HE CUT YOU OR SCRAPE YOU?

3 A HE WOULD DRAW BLOOD. HE WOULD SCRAPE

4 ME.

5 Q AND THIS IS A MAN THAT YOU WANTED TO

6 WRITE A BOOK ABOUT?

7 A I LOVED MY FATHER AND I WILL ALWAYS LOVE

8 MY FATHER; AND PAIN IS SOMETHING THAT HE TAUGHT ME

9 TO WORK THROUGH AND THESE -- WHEN HE DID THAT WITH

10 THE KNIFE, IT WAS DURING PAIN SESSIONS, AND IT HAD

11 NO BEARING ON THE FACT THAT I LOVED HIM.

12 YOU'RE RIGHT, THERE'S SOMETIMES WHEN I
13 HATED HIM AND I WANTED HIM TO DIE. I WAS IN PAIN
14 AND I WAS HURT AS A CHILD. BUT OVERALL I LOVED MY
15 FATHER. HE WAS A TREMENDOUS FIGURE IN MY LIFE.

16 Q DID YOU WANT YOUR FATHER TO DIE AFTER
17 YOU REACHED THE AGE OF 18, MR. MENENDEZ?

18 A I WANTED TO GO TO COLLEGE AND I FELT
19 THAT I WOULD GET AWAY WHEN I WENT TO COLLEGE. THERE
20 WAS A TIME IN MAY WHEN HE WAS IN MY ROOM AND -- AND
21 HE WAS HAVING ACTUAL SEX WITH ME, WHICH I -- AND I
22 WANTED HIM TO DIE. AND -- AND I -- I WOULD HAVE TRIED
23 TO SHOOT HIM HAD I HAD A GUN AT THAT TIME. I HATED
24 HIM FOR IT. AND THIS WAS NOT JUST PAIN, IT WAS
25 HUMILIATION, AND TIMES I DID.

26 Q IT WAS ONLY WHEN HE WAS HAVING SEX WITH
27 YOU THAT YOU WANTED HIM TO DIE?

28 A YOU'RE ASKING -- I THOUGHT YOU MEANT AT

44237

1 TIMES WHEN I THOUGHT I WANTED TO KILL HIM.

2 A LOT OF -- I REMEMBER WHEN I WAS 13 AND
3 14, AND I KNEW I WASN'T GOING TO BE ABLE TO GET AWAY
4 FROM THE HOUSE, I HOPED THAT HIS PLANE WOULD CRASH.

5 Q YOU WANTED TO KILL HIM IN MAY OF '89?

6 A IT FLASHED THROUGH MY MIND.

7 Q THAT WAS THREE MONTHS BEFORE YOU

8 ACTUALLY KILLED HIM?

9 A YES.

10 Q IS THIS SOMETHING THAT WOULD FLASH

11 THROUGH YOUR MIND EVERY TIME HE WOULD HAVE SEX WITH

12 YOU?

13 A NO, NOT EVERY TIME. HATRED WOULD FLASH

14 THROUGH MY MIND, EMPTINESS AND HOLLOWNESS WOULD BE

15 INSIDE OF ME AND I WOULD FEEL LIKE MY BODY DIDN'T

16 BELONG TO ME ANYMORE AND I WANTED TO -- TO STOP IT

17 ANY WAY I COULD. SOMETIMES THE WAY I COULD, I

18 THOUGHT ABOUT KILLING HIM.

19 Q HOW OFTEN DID YOU THINK ABOUT KILLING

20 YOUR FATHER, MR. MENENDEZ, BEFORE YOU FINALLY DID

21 KILL HIM IN AUGUST OF 1989?

22 A I REMEMBER SPECIFICALLY DURING THE ACT

23 WHEN HE WAS IN MY ROOM WHEN I WAS 18 THAT I THOUGHT

24 ABOUT IT.

25 Q IS THAT THE ONLY TIME YOU CAN THINK OF?

26 A SPECIFICALLY, YES. IT'S THE ONLY TIME

27 THAT I CAN THINK OF. THERE MAY BE OTHERS.

28 Q AND THERE WERE OTHER TIMES WHEN ALTHOUGH

44238

1 YOU DID NOT SPECIFICALLY THINK OF KILLING HIM, YOU

2 WANTED HIM TO DIE; IS THAT CORRECT?

3 A THERE WAS -- YES, DEFINITELY.

4 Q HOW OFTEN THROUGHOUT YOUR LIFE,

5 MR. MENENDEZ, DID YOU WANT YOUR FATHER TO DIE?

6 A WHEN I WAS 13 I WANTED IT TO END WITH

7 EVERYTHING THAT I WAS, AND I THOUGHT ABOUT IT THEN

8 AND I THOUGHT ABOUT IT WHEN I WAS 14. THESE WEREN'T

9 THOUGHTS THAT WERE PRESENT IN MY MIND THROUGHOUT THE

10 DAYS AS I LIVED, JUST AFTER IT WOULD HAPPEN IN THE

11 IMMEDIATE HOURS FOLLOWING; OR IF I THOUGHT THAT HE

12 MIGHT BE COMING INTO MY BEDROOM THAT NIGHT BECAUSE

13 HE WAS GETTING BACK FROM EUROPE, I THOUGHT MAYBE

14 HE'LL DIE AND HE WON'T COME INTO MY BEDROOM

15 TONIGHT. MAYBE HE'LL DIE AND THIS WILL NEVER HAPPEN

16 AGAIN. IT WAS A THOUGHT -- IT WAS A FANTASY, BECAUSE

17 I WANTED IT TO STOP AND I WANTED IT TO END, AND HIM

18 DYING WAS CERTAINLY A WAY FOR IT TO END. IT -- WHEN

19 I WAS 17 I HAD THE SAME THOUGHTS IF HE WAS IN MY

20 ROOM.

21 Q SO OVER MANY YEARS IN YOUR LIFE,

22 MR. MENENDEZ, YOU WANTED YOUR FATHER TO DIE; IS THAT

23 CORRECT?

24 A I THINK IT WOULD BE INCORRECT TO PAINT A

25 BROAD BRUSH AND SAY FROM 13 TO 17 OR 18 I WANTED MY

26 FATHER TO DIE. BUT FOR DAYS AND HOURS AT A TIME,

27 YES, I DID.

28 Q AND WERE THERE TIMES WHEN YOU WERE

1 HOPING THAT SOMEONE WOULD KILL YOUR FATHER?

2 A I KNOW I HAD A DISCUSSION WITH MY
3 BROTHER WHEN I WAS 12 AND I THOUGHT THAT -- AND LYLE
4 EXPRESSED TO ME THAT HE WAS SORRY THAT THERE WERE
5 THINGS HAPPENING TO ME AND THAT SOMETIMES HE HAD
6 THOUGHT ABOUT KILLING DAD TO STOP IT FROM HAPPENING
7 TO ME. AND -- AND SO I THOUGHT THAT I SHOULDN'T TELL
8 LYLE AND I JUST -- IT WASN'T AN EVER-PRESENT
9 THOUGHT.

10 Q WERE THERE TIMES WHEN YOU WERE HOPING
11 THAT YOUR MOTHER WOULD KILL YOUR FATHER?

12 A MY FATHER BROUGHT -- BOUGHT -- MY
13 MOTHER -- I'M SORRY -- WHEN MY MOTHER BOUGHT THE
14 RIFLE AND SHE TOLD ME WHEN SHE WAS PUTTING IT IN THE
15 TRUNK, "I'M GOING TO KILL SOMEBODY," I THOUGHT SHE
16 MIGHT BE THINKING OF LOUISE OR REVENGE OF MY FATHER,
17 BUT I WAS CERTAINLY HOPING -- I ADMIT I WAS HOPING
18 THAT SHE MEANT MY FATHER.

19 Q SO YOU WERE HOPING AT THAT TIME, IN
20 1988, THAT YOUR MOTHER WAS GOING TO KILL YOUR
21 FATHER?

22 A YES.

23 Q AND SO YOU WERE WISHING HIM DEAD AT
24 LEAST AS FAR BACK AS 1988?

25 A I HATED WHAT HE DID TO HER. A LOT OF

26 TIMES IN MY LIFE I FELT RESPONSIBLE FOR IT AND I --
27 IF SHE KILLED HIM, I WOULD BE UTTERLY SUPPORTIVE OF
28 HER.

44240

1 Q SO AS FAR BACK AS ONE YEAR BEFORE YOU
2 SHOT YOUR FATHER TO DEATH, YOU WANTED YOUR FATHER
3 DEAD; IS THAT CORRECT?

4 A I WOULDN'T GO SO FAR AS TO SAY I WANTED
5 HIM DEAD. BUT CERTAINLY IF MY MOTHER WAS GOING TO
6 KILL HIM, SHE WAS MY MOTHER AND I LOVED HER
7 TREMENDOUSLY, AND I WOULD -- I DIDN'T SAY, "MOM,
8 DON'T DO THIS."

9 Q WELL --

10 A YOU'RE RIGHT. I DID NOT.

11 Q DIDN'T YOU PREVIOUSLY TESTIFY THAT YOU
12 WERE HOPING THAT YOUR MOTHER WOULD KILL YOUR FATHER
13 WHEN SHE BOUGHT THE RIFLE IN 1988?

14 A IT WAS A HOPE I HELD ON TO TREMENDOUSLY,
15 BUT IT WAS A HOPE THAT DID GO THROUGH MY MIND, YES.

16 Q AND DID YOU START TO HOPE THAT YOUR
17 FATHER WOULD BE KILLED IN 1988 OR DID YOU START TO
18 HOPE THAT YOUR FATHER WOULD BE KILLED SOMETIME PRIOR
19 TO 1988?

20 A I REMEMBER WHEN I WAS 13 AND SITTING AT

21 HOME IN MY BED. I WAS CURLED UP AT NIGHT, AND I
22 KNEW THAT HE WAS GETTING BACK FROM EUROPE OR GETTING
23 BACK FROM A LONG TRIP, AND I -- I SUSPECTED STRONGLY,
24 AT LEAST I HAD A GREAT FEAR, THAT HE WOULD ENTER MY
25 ROOM THAT NIGHT AND DEMAND SEX; AND I REMEMBER
26 CURLING UP ON MY PILLOW AND SAYING I HOPE HIS PLANE
27 CRASHES AND HE NEVER GETS HOME.
28 Q MY QUESTION IS WHETHER --

44241

1 A AND THAT WAS THE FIRST TIME I EVER HOPED
2 THAT.

3 Q MY QUESTION IS REGARDING YOUR HOPE THAT
4 SOMEONE WOULD KILL HIM.

5 DID YOU BEGIN TO HOPE THAT SOMEONE WOULD
6 KILL HIM IN 1988 OR DID YOU BEGIN TO HOPE THAT
7 SOMEONE WOULD KILL HIM PRIOR TO '88?

8 A I DON'T THINK IT WAS A HOPE THAT SOMEONE
9 PARTICULAR WOULD KILL HIM. IT WAS MORE A WISH THAT
10 SEX WOULD STOP AND THE BEST WAY FOR IT TO STOP WOULD
11 BE FOR ME TO GET AWAY TO COLLEGE, OR MORE
12 IMMEDIATELY, IF HE DIED. AND WHEN MY MOM SAID I'M
13 GOING TO KILL SOMEBODY, THAT'S THE FIRST TIME IT
14 ENTERED MY MIND THAT SOMEBODY ELSE MIGHT KILL HIM.

15 Q AND ARE YOU SAYING THAT -- LET ME ASK YOU

16 THIS: DID YOU CONTINUE TO HOPE THROUGHOUT 1988,
17 AFTER YOUR MOTHER BOUGHT THE RIFLE AND THROUGHOUT
18 THE FIRST HALF OF 1989, THAT SHE WOULD KILL YOUR
19 FATHER?

20 A I DON'T THINK THAT IT STAYED IN MY
21 MIND. I WAS -- I KNEW MY MOTHER WAS NO LONGER REALLY
22 SUICIDAL, SO SHE DIDN'T BUY IT TO KILL HERSELF. I
23 THOUGHT THAT -- THIS WAS AFTER SHE HAD DECIDED NOT TO
24 DIVORCE HIM, AND I DON'T -- NO, I DON'T THINK IT
25 STAYED IN MY MIND.

26 Q SO YOU'RE SAYING THAT THIS WAS JUST A
27 MOMENTARY HOPE, WHEN SHE BOUGHT THE RIFLE, YOU HOPED
28 THAT SHE WOULD KILL YOUR FATHER AND THEN AFTER THAT

44242

1 YOU NO LONGER HOPED THAT SHE WOULD KILL YOUR
2 FATHER?

3 A IT FLASHED THROUGH MY MIND. I SAID
4 MAYBE SHE'S GOING TO KILL DAD AND A FEELING OF
5 FREEDOM FROM SEX CAME OVER ME, AND I SAID MAYBE
6 SHE'LL DO THIS AND I JUST WANTED THESE THINGS TO
7 END. HER KILLING HIM WOULD BE A MEANS TO THAT END
8 AND IT FLASHED THROUGH MY MIND. IT DIDN'T STAY IN
9 MY MIND AND I WASN'T DISAPPOINTED WHEN A YEAR LATER
10 SHE STILL HADN'T DONE IT. IT DIDN'T EVEN STAY IN MY

11 MIND VERY LONG.

12 Q WELL, WHEN YOU SAW THAT YOUR MOTHER WAS
13 NOT GOING TO KILL YOUR FATHER, DID YOU BEGIN TO
14 THINK ABOUT DOING IT YOURSELF?

15 A NO.

16 Q DID YOU WARN YOUR FATHER AND TELL HIM
17 THAT YOUR MOTHER HAD PURCHASED A RIFLE AND YOU THINK
18 THAT SHE'S GOING TO USE IT TO KILL HIM?

19 A I DIDN'T WARN HIM, BUT HE CERTAINLY
20 EXPECTED THAT THERE WAS -- HE KNEW THAT THERE WAS
21 GREAT TENSION.

22 I REMEMBER IN THE SUMMER BEFORE SHE WAS
23 PRESSURING HIM TO GET THE PHYSICAL FOR HIS \$5
24 MILLION LIFE INSURANCE POLICY, AND I FELT THAT ONE
25 OF THE REASONS HE WAS STALLING IT IS BECAUSE OF HOW
26 MUCH SHE WANTED HIM TO GET IT. I -- BUT I WASN'T
27 GOING TO SAY, HEY, DAD, WATCH OUT FOR MOM, BECAUSE
28 MY LOVE FOR MY MOTHER WAS A HUNDRED TIMES STRONGER

44243

1 THAN MY LOVE FOR MY FATHER.

2 Q NOW, YOU SAID THAT YOUR FATHER WOULD
3 SOMETIMES SCRAPE YOU WITH A KNIFE OR DRAW BLOOD; IS
4 THAT CORRECT?

5 A YES.

6 Q AND WHAT PARTS OF HIS BODY -- WHAT PARTS
7 OF YOUR BODY WOULD HE HOLD THE KNIFE AGAINST AND
8 SCRAPE YOU OR DRAW BLOOD?

9 A MY THIGHS.

10 Q YOU HAVE SCARS ON YOUR THIGHS TODAY?

11 A I HAVE ONE SCAR. I HAVEN'T REALLY
12 CHECKED UNDER A MICROSCOPE TO SEE IF I HAVE SCARS.
13 THEY WEREN'T -- THEY WEREN'T -- THEY WEREN'T SCRAPES
14 THAT NEEDED STITCHES, IF THAT'S WHAT YOU'RE ASKING.

15 Q YOU HAVE ONE SCAR. WHERE IS THAT SCAR?

16 A ON THE INSIDE OF MY THIGH -- I MEAN,
17 THIGH AND KNEE.

18 Q CAN YOU -- HOW FAR ABOVE YOUR KNEE IS
19 THAT SCAR?

20 A IT'S ON THE SIDE OF MY KNEE, ON MY
21 LOWER -- MY LOWER THIGH.

22 Q CAN YOU SHOW THAT SCAR TO US.

23 MR. LEVIN: MAY I APPROACH, YOUR HONOR?

24 THE COURT: SURE.

25 THE WITNESS: THIS SCAR.

26 MR. CONN: IF YOU CAN HOLD IT UP FOR THE JURY
27 TO SEE.

28 THE COURT: STAND UP.

1 MR. LEVIN: YOUR HONOR, CAN THE WITNESS BE --

2 THE COURT: YOU CAN GET OUT IN THE AISLE

3 THERE.

4 THE WITNESS: (WITNESS SHOWING LEG.)

5 Q BY MR. CONN: THAT IS THE ONLY SCAR TO

6 YOUR BODY?

7 MR. LEVIN: OBJECTION. CALLS FOR

8 SPECULATION.

9 THE COURT: OVERRULED.

10 THE WITNESS: I DON'T KNOW IF IT'S THE ONLY

11 SCAR. IT'S THE ONLY SCAR THAT NEEDED STITCHES THAT

12 DIDN'T GET IT.

13 Q BY MR. CONN: TELL US HOW HE DID THAT

14 SCAR.

15 A I DON'T REMEMBER HOW HE DID IT.

16 Q HOW OLD WERE YOU?

17 A EITHER 13 OR 14, OR EARLY 15.

18 Q IT WAS SERIOUS ENOUGH, IN YOUR OPINION,

19 TO NEED STITCHES, AND YOU DON'T RECALL HOW HE DID IT

20 TO YOU?

21 A I'VE -- I ONLY KNOW THAT IT NEEDED

22 STITCHES FROM TALKING TO DOCTORS AFTERWARDS WHO SAID

23 THAT I SHOULD HAVE GOTTEN IT STITCHED, THAT IT

24 DEFINITELY WOULD BE A MUCH SMALLER SCAR IF I HAD

25 GOTTEN STITCHES.

26 BUT I DON'T -- MOST OF THE ROUGH SEX I

27 DON'T HAVE IN MY MIND. I HAVE IMAGES. I HAVE SCARY

28 FEELINGS, AND I HAVE TREMORS ABOUT IT. I HAVE JUST

1 PICTURES IN MY MIND OF IT, EVEN AS A CHILD WHEN I
2 WAS 13, 14 AND 15, IF I WOULD SEE SCRAPES ON MY LEGS
3 I WOULDN'T KNOW HOW THEY GOT THERE. I WOULDN'T
4 REMEMBER.

5 Q WAS THERE A WITNESS, AN EYEWITNESS, TO
6 YOUR FATHER CUTTING YOU WITH A KNIFE?

7 A I CAN'T IMAGINE THERE WOULD BE.

8 Q WAS THERE EVER AN EYEWITNESS TO ANY OF
9 THE OCCASIONS IN WHICH YOUR FATHER WOULD ALLEGEDLY
10 USE TACKS OR NEEDLES UPON YOUR BODY?

11 A OTHER TYPES OF PAIN TRAINING, THERE
12 WOULD BE. THIS TYPE, NEVER.

13 Q AND YOU SAID THAT YOUR FATHER CRUSHED
14 THE SKULL OF A RABBIT THAT YOUR BROTHER BROUGHT
15 HOME; IS THAT CORRECT?

16 A YES, HE DID.

17 Q WAS THERE AN EYEWITNESS TO THAT
18 INCIDENT, MR. MENENDEZ?

19 A I DON'T KNOW IF THERE WAS -- I DON'T KNOW
20 IF ALAN OR DIANE -- WHO WAS LIVING IN THE HOUSE AT
21 THAT TIME. CERTAINLY I WAS AWARE OF IT. LYLE WAS
22 AWARE OF IT. THE RABBIT WAS AWARE OF IT. MY MOTHER
23 WAS AWARE OF IT. IT HAPPENED. THERE WAS NO DOUBT

24 ABOUT THAT.

25 Q IS THERE AN EYEWITNESS, TO YOUR
26 KNOWLEDGE, MR. MENENDEZ, WHO WAS PRESENT WHEN YOUR
27 FATHER CRUSHED THE SKULL OF A RABBIT?

28 A INDEPENDENT FROM THE IMMEDIATE FAMILY, I

44246

1 DON'T THINK SO.

2 Q INDEPENDENT OF YOUR BROTHER WHO'S ON
3 TRIAL AND YOUR MOTHER WHO IS DEAD; IS THAT CORRECT?

4 A RIGHT.

5 Q YOU SAID THAT ANOTHER TIME YOUR FATHER
6 BROKE THE NECK OF A LITTLE BIRD; IS THAT CORRECT?

7 A YES.

8 Q ARE THERE ANY EYEWITNESSES TO THAT
9 OCCASION?

10 A MY GRANDMOTHER KNOWS ABOUT IT.

11 Q YOUR GRANDMOTHER WAS TOLD ABOUT IT?

12 A THE MAID TOLD MY GRANDMOTHER AND SHE
13 CONFRONTED MY FATHER AND HE ADMITTED THAT HE DID IT.

14 Q IS THERE AN EYEWITNESS TO THAT INCIDENT,
15 MR. MENENDEZ, TO YOUR KNOWLEDGE?

16 A MY DAD SNUCK DOWNSTAIRS AND KILLED THE
17 BIRD WHEN WE WERE ASLEEP.

18 Q THERE ARE NO EYEWITNESSES TO THAT

19 INCIDENT, TO YOUR KNOWLEDGE, MR. MENENDEZ?

20 A NO.

21 Q ANOTHER TIME YOUR MOTHER PUT BLOOD ON
22 THE FACE OF YOUR BROTHER, LYLE MENENDEZ; IS THAT
23 CORRECT?

24 A ON -- SHE HAD CUT HERSELF AND SHE BLAMED
25 LYLE, SO SHE SMEARED IT AND MADE HIM WEAR THE BLOOD
26 THROUGH DINNER.

27 Q IS THERE AN EYEWITNESS TO THAT INCIDENT,
28 MR. MENENDEZ?

44247

1 A I DON'T KNOW IF THERE IS. I DON'T KNOW
2 IF -- I KNOW THAT MY DAD NEVER FOUND OUT ABOUT IT.

3 Q WELL, YOUR FATHER'S DEAD, CORRECT?

4 A YES.

5 Q ARE THERE ANY LIVING EYEWITNESSES TO
6 THIS INCIDENT, MR. MENENDEZ?

7 A I DOUBT IT.

8 Q YOU SAID ANOTHER TIME YOUR MOTHER THREW
9 A CAKE AT YOU THAT YOU HAD BAKED; IS THAT CORRECT?

10 A YES.

11 Q IS THERE AN EYEWITNESS TO THAT INCIDENT,
12 MR. MENENDEZ?

13 A ALIVE?

14 Q YES.

15 A NO.

16 Q YOU SAID THAT YOUR MOTHER SPENT THE
17 MONEY THAT YOU STOLE FROM YOUR RESIDENTIAL
18 BURGLARIES; IS THAT CORRECT?

19 A I DIDN'T MEAN IT IN THOSE TERMS. I -- IF
20 I MEANT IT -- IF I SAID IT IN THOSE TERMS, IT WAS A
21 MISCHARACTERIZATION. SHE -- SHE SPENT THE PHYSICAL
22 DOLLARS THAT WERE TAKEN AND -- BUT ALL OF THE MONEY
23 WAS REPLACED.

24 Q ARE THERE ANY EYEWITNESSES TO HER
25 SPENDING THE PHYSICAL DOLLARS FROM THE BURGLARIES?

26 A NO.

27 Q YOU SAID YOU USED TO PUT CINNAMON IN
28 YOUR FATHER'S COFFEE TO KILL THE TASTE OF HIS SEMEN;

44248

1 IS THAT CORRECT?

2 A YES.

3 Q AND ARE THERE EYEWITNESSES TO YOU DOING
4 THAT, MR. MENENDEZ?

5 A I DID IT IN SECRET.

6 Q YOU SAID THAT YOU USED TO PUT LEMON ON
7 YOUR OWN FOOD TO KILL THE TASTE?

8 A IT WAS AN IDEA THAT I HAD THAT I COULD

9 MAYBE -- AS A CHILD I THOUGHT MAYBE YOU COULD
10 OVERWHELM YOUR TASTE BUDS SO THAT YOU DON'T TASTE
11 FOOD ANYMORE, DON'T TASTE ANYTHING ANYMORE. IT WAS
12 A SILLY IDEA.

13 Q YOU USED TO SHAKE ON THE FLOOR AS A
14 RESULT OF THE ABUSE THAT YOU RECEIVED FROM YOUR
15 FATHER; IS THAT CORRECT?

16 A YES.

17 Q ARE THERE EYEWITNESSES TO YOU SHAKING ON
18 THE FLOOR IN RESPONSE TO SUCH ABUSE, MR. MENENDEZ?

19 A THERE ARE CERTAINLY MANY TEACHERS AND
20 MANY COACHES THAT SAW A PLETHORA OF BAD THINGS THAT
21 HAPPENED INSIDE MY FAMILY. SPECIFICALLY SHAKING ON
22 THE FLOOR --

23 MR. CONN: I'M GOING TO MAKE A MOTION TO
24 STRIKE --

25 THE WITNESS: I'M SURE THERE ARE COACHES --

26 MR. CONN: -- AS NONRESPONSIVE.

27 THE COURT: ALL RIGHT. THE ANSWER IS
28 STRICKEN AS NONRESPONSIVE. REASK THE QUESTION,

44249

1 PLEASE.

2 MR. CONN: LISTEN TO THE QUESTION VERY
3 CAREFULLY, MR. MENENDEZ.

4 MR. LEVIN: OBJECTION WITH RESPECT TO

5 COUNSEL'S ADMONISHMENT.

6 THE COURT: ALL RIGHT. JUST ASK THE
7 QUESTION.

8 Q BY MR. CONN: YOU INDICATED THAT YOU
9 WOULD SOMETIMES SHAKE ON THE FLOOR IN RESPONSE TO
10 THE SEXUAL ASSAULT FROM YOUR FATHER; IS THAT
11 CORRECT?

12 A YES.

13 Q ARE THERE ANY EYEWITNESSES TO YOU LAYING
14 ON THE FLOOR AND SHAKING IN RESPONSE TO SEXUAL
15 ASSAULTS FROM YOUR FATHER?

16 A I DON'T KNOW IF I DID IT OUTSIDE. MY
17 TENNIS COACHES WOULD HAVE SEEN IT.

18 Q NOW, YOU SAID THAT YOUR FATHER WOULD
19 PUSH YOUR HEAD UNDER WATER WHEN HE WAS SWIMMING WITH
20 YOU BECAUSE HE WANTED TO TEACH YOU LUNG EXPANDING
21 EXERCISES; IS THAT CORRECT?

22 A HE WOULD DUNK MY HEAD UNDER FOR 20 OR 30
23 SECONDS UNTIL I STARTED GRABBING AT HIS HAND BECAUSE
24 I NEEDED AIR, AND HE WOULD LIFT ME UP AND DUNK ME
25 UNDER. AND HE ALSO WOULD PULL ME DOWN TO THE BOTTOM
26 OF THE POOL, AS A DIFFERENT EXERCISE, AND MAKE ME
27 FIGHT MY WAY PAST HIM TO TRY TO GET AIR.

28 Q AND THIS WAS IN A PUBLIC POOL?

1 A THIS WAS IN A PUBLIC POOL.

2 Q OKAY. WAS YOUR FATHER EVER ARRESTED FOR
3 ABUSING YOU IN PUBLIC?

4 A NO.

5 Q THERE WAS NEVER A COACH OR A LIFEGUARD
6 WHO WOULD COME UP AND SAY, WHAT ARE YOU DOING TO
7 THAT LITTLE BOY?

8 A IF YOU'RE SERIOUSLY SUGGESTING,
9 MR. CONN, THAT THERE ARE NOT TEACHERS AND TENNIS
10 COACHES THAT SAW THINGS HAPPEN OVER MY LIFE THAT YOU
11 SPECIFICALLY OBJECTED TO COMING INTO THIS COURTROOM
12 AND CANNOT AS A RESULT --

13 MR. CONN: I'M GOING TO OBJECT AS
14 NONRESPONSIVE.

15 THE COURT: THE OBJECTION IS SUSTAINED. THE
16 ANSWER IS STRICKEN.

17 Q BY MR. CONN: I'M ASKING YOU SPECIFIC
18 QUESTIONS CONCERNING SPECIFIC THINGS THAT YOU
19 TESTIFIED TO, MR. MENENDEZ.

20 DO YOU UNDERSTAND THAT?

21 A I KNOW THAT THERE ARE PLENTY OF --

22 Q MY QUESTION TO YOU --

23 MR. LEVIN: OBJECTION, YOUR HONOR.

24 THE WITNESS: I'M ANSWERING THE QUESTION
25 SPECIFICALLY. I KNOW THAT THERE ARE SWIMMING
26 TEACHERS THAT SAW DIFFERENT THINGS. I DON'T KNOW
27 THE SPECIFICS OF WHAT THEY SAW.

44251

1 IS THERE A SINGLE SWIMMING COACH THAT YOU CAN POINT
2 TO WHO CAN -- WHO EVER CAME UP TO YOUR FATHER AND
3 TOLD YOUR FATHER TO STOP THE BEHAVIOR BASED UPON THE
4 WAY HE WAS TREATING YOU IN THE SWIMMING POOL?

5 A I DON'T KNOW. I KNOW THAT THERE ARE 10,
6 15, 20 TENNIS COACHES THAT DID THAT.

7 MR. CONN: I WOULD OBJECT AS NONRESPONSIVE.

8 THE WITNESS: BUT ACTUALLY --

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

11 Q BY MR. CONN: MR. MENENDEZ, DOES THIS
12 DUNKING YOUR HEAD UNDER THE WATER HAVE ANYTHING TO
13 DO WITH WHY YOU KILLED HIM ON AUGUST THE 20TH OF
14 1989?

15 A I DON'T KNOW WHAT IT HAS TO DO WITH. IT
16 WASN'T IN MY MIND ON AUGUST 20TH, NO.

17 Q IT'S JUST SOMETHING THAT MAKES YOUR
18 FATHER LOOK BAD, ISN'T IT?

19 A NO. IT'S ONE OF HUNDREDS OF DIFFERENT
20 INCIDENTS THAT MADE ME UNDERSTAND, REALIZE, THAT MY
21 FATHER WAS A DANGEROUS PERSON; THAT MADE ME AFRAID
22 OF HIM.

23 Q AND HE WAS SO DANGEROUS, MR. MENENDEZ --

24 A I DON'T THINK THAT GOES TO --

25 MR. LEVIN: OBJECTION, YOUR HONOR. THE

26 WITNESS HASN'T COMPLETED HIS ANSWER.

27 THE WITNESS: I DON'T -- AT LEAST

28 PSYCHOLOGICALLY I DON'T UNDERSTAND THE PARTICULARS

44252

1 OF WHY THAT GOES TO WHY I KILLED HIM. I CAN'T

2 ANSWER THAT.

3 THE COURT: HE'S ANSWERED THE QUESTION.

4 YOUR NEXT QUESTION, PLEASE.

5 Q BY MR. CONN: ARE YOU WAITING FOR A

6 MENTAL HEALTH EXPERT TO COME IN HERE AND TELL THIS

7 JURY SOMETHING YOU CAN'T ARTICULATE?

8 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

9 THE COURT: AS PHRASED IT'S ARGUMENTATIVE.

10 SUSTAINED.

11 Q BY MR. CONN: AND HE WAS SO DANGEROUS,

12 MR. MENENDEZ, THAT AS SOON AS YOU REACHED THE AGE OF

13 18, YOU LEFT YOUR HOME; IS THAT CORRECT?

14 A I COULD NEVER GET AWAY FROM MY FATHER

15 AND I CERTAINLY WOULD NOT HAVE ATTEMPTED TO UNLESS

16 THE SITUATION WAS DIRE.

17 Q AND YOU WERE NEVER IN A DIRE SITUATION,

18 MR. MENENDEZ?

19 A I WAS AND AT THE TIME I DIDN'T.

20 Q YOUR FATHER USED TO CUT YOU WITH A
21 KNIFE, YOU TELL US, AND LEFT A SCAR ON YOUR LEG; IS
22 THAT CORRECT?

23 A YES.

24 Q AND YOUR FATHER WAS A VERY DANGEROUS
25 MAN; IS THAT CORRECT WHAT YOU'RE TELLING US?

26 A THAT'S HOW I SAW HIM.

27 Q AND WHEN YOU WERE 18 YEARS OLD AND YOU
28 HAD A CAR AND YOU HAD A LICENSE TO DRIVE, YOU DIDN'T

44253

1 LEAVE YOUR HOME?

2 A NO, I DIDN'T.

3 Q BECAUSE YOU HAD A VERY COMFORTABLE HOME,
4 DIDN'T YOU, MR. MENENDEZ?

5 A THERE WAS A LOT OF MONEY IN THE HOME,
6 BUT THAT'S NOT WHY I DIDN'T LEAVE.

7 Q THERE WAS A LOT OF COMFORT IN THE HOME,
8 WASN'T THERE, MR. MENENDEZ?

9 A YES, THAT'S WHAT I THINK YOU MEAN BY -- I
10 DON'T THINK YOU MEAN IN TERMS OF LOVE. I THINK YOU
11 MEAN IN TERMS OF MONEY.

12 Q AND IS THAT WHY YOU STAYED?

13 A NO, THAT'S NOT WHY I STAYED AT ALL.

14 Q WAS IT BECAUSE OF THE LOVE THAT YOU
15 STAYED?

16 A I STAYED BECAUSE I WANTED TO BE A PART
17 OF MY DAD'S LIFE. MY DAD HAD -- HAD TAUGHT US THAT
18 BEING A MENENDEZ AND BEING HIS SON WAS ONE OF THE
19 GREATEST THINGS IMAGINABLE, AND THAT BEING A PART OF
20 MY -- MY LINEAGE AND MY GRANDMOTHER'S FATHER AND MY
21 FATHER'S FATHER'S FATHER WAS IMPRESSIVE AND WAS --
22 WAS IMPORTANT TO ME. AND I WANTED HIM TO LOVE ME.
23 AND I WANTED TO BE A PART OF IT. AND I DIDN'T WANT
24 TO JUST LEAVE AND I WOULDN'T HAVE JUST LEFT. I
25 THOUGHT IT WAS GOING TO END WHEN I WENT TO COLLEGE
26 AND I STAYED UNTIL THAT TIME BECAUSE MY DAD -- MY DAD
27 GAVE ME ALL KINDS OF LESSONS IN LIFE THAT I THOUGHT
28 WERE VALUABLE. I THOUGHT THAT HIS WAYS WERE THE

44254

1 RIGHT WAYS AND I WASN'T JUST GOING TO LEAVE AND SAY,
2 YOU KNOW WHAT, DAD, SCREW YOU. I CAN'T TAKE IT
3 ANYMORE. I WANTED TO TRY AND MAKE IT OUT. I WANTED
4 TO STICK IT OUT, BECAUSE I -- I DIDN'T -- I DIDN'T
5 WANT MY DAD -- I JUST WANTED THE SEX TO END. I
6 DIDN'T WANT TO BE AWAY FROM MY FATHER AS A HUMAN
7 BEING.

8 Q WELL, IN ADDITION TO THE SEX, YOUR
9 FATHER WAS A PERSON WHO WOULD HOLD A RAMBO KNIFE TO
10 YOUR THROAT AND CUT YOUR LEG WITH A KNIFE; IS THAT
11 CORRECT?

12 A HE HELD THE KNIFE TO MY THROAT ONE TIME
13 WHEN I DISOBEYED HIM.

14 Q SO YOU WANTED A LOT MORE TO END THAN
15 JUST THE SEX; YOU WANTED ALL THIS OTHER ABUSE TO END
16 AS WELL, DIDN'T YOU?

17 A THE CUTTING ME WITH KNIVES ENDED BEFORE
18 I WAS 15 YEARS OLD.

19 Q OKAY. AND WHEN YOU WERE -- AFTER YOU
20 REACHED THE AGE OF 18 YEARS OLD, MR. MENENDEZ,
21 DIDN'T YOU FEEL THAT IT WAS MORE IMPORTANT TO GET
22 AWAY FROM YOUR FATHER THAN TO CONTINUE TO LIVE IN
23 THIS HOUSE AND HEAR THESE STORIES ABOUT THE MENENDEZ
24 HERITAGE?

25 A WHEN I WAS 18 YEARS OLD AND ABOUT TO GO
26 TO COLLEGE, I COULD NOT LIVE IN THE HOUSE. IT WAS --
27 WITH THE SEX, IT WAS INTOLERABLE AND I WOULD RATHER
28 HAVE DIED.

44255

1 Q THAN TO PUT UP WITH THE SEX?

2 A YES. IT -- I -- IT WASN'T GOING TO

3 CONTINUE ONE WAY OR THE OTHER. WHETHER I KILLED

4 MYSELF OR NOT, IT WAS GOING TO END.

5 Q AND SO ONCE YOU REALIZED THAT IT WAS NOT

6 GOING TO END WHEN YOUR FATHER TOLD YOU THAT YOU WERE

7 GOING TO BE COMING HOME FROM U.C.L.A. A COUPLE OF

8 DAYS A WEEK, YOU DECIDED IT WAS THEN TIME TO LEAVE,

9 DIDN'T YOU, MR. MENENDEZ?

10 A FLASHED THROUGH MY MIND TO LEAVE. BUT

11 AT THAT POINT I WAS -- I WAS -- I FELT LIKE I WAS

12 DYING INSIDE. MY MOTHER CAME IN THE ROOM AND SAID

13 YOU'RE NOT GOING ANYWHERE. MY DAD CAME IN THE ROOM

14 AND SAID I'M NOT GOING ANYWHERE. IT DIDN'T

15 SERIOUSLY ENTER MY MIND THAT I COULD EVER GET AWAY

16 FROM MY DAD TO WHERE HE WOULDN'T FIND ME AND THEN

17 KILL ME.

18 EVENTUALLY I WOUND UP TELLING MY

19 BROTHER, WHICH I HADN'T EVEN PLANNED ON DOING. I

20 WAS MORE OF A WALKING DEAD PERSON AT THAT POINT.

21 Q SO YOU'RE TELLING US THAT ASIDE FROM

22 THIS SITUATION IN WHICH YOU AND YOUR BROTHER GOT

23 YOURSELVES INTO IN WHICH YOUR BROTHER HAD THREATENED

24 TO REPORT THE ABUSE, ARE YOU TELLING US THAT EVEN IF

25 YOU WERE TO JUST LEAVE BEFORE THAT SITUATION AROSE,

26 YOU FELT THAT YOUR FATHER WAS GOING TO KILL YOU?

27 A I'M NOT UNDERSTANDING WHAT YOU'RE

28 SAYING. BEFORE MY BROTHER CONFRONTED MY DAD ON

1 THURSDAY NIGHT?

2 Q CORRECT.

3 A MY BROTHER COULD LEAVE, BUT I COULD
4 NOT. HAD I -- EMOTIONALLY I COULDN'T. AND I DON'T
5 UNDERSTAND THE PARTICULARS OF THAT. BUT HAD I
6 TRIED, HE WOULD HAVE FOUND ME AND HE WOULD HAVE
7 KILLED ME. THERE'S NO DOUBT ABOUT IT.

8 Q WHAT DO YOU MEAN WHEN YOU SAY THAT YOU
9 DO NOT UNDERSTAND THE PARTICULARS OF WHY YOU COULD
10 NOT LEAVE EMOTIONALLY?

11 A EMOTIONALLY I TRIED TO LEAVE WHEN I WAS
12 12, AND GREW THROUGH HIM TELLING ME THAT I WOULD
13 NEVER GET AWAY FROM HIM, TO ACCEPT IT AS AN
14 UNCONDITIONAL BELIEF. HOW THAT WORKS IN MY MIND, I
15 DON'T KNOW. I DON'T UNDERSTAND A LOT OF THINGS
16 ABOUT MYSELF, ABOUT THOSE BELIEFS THAT WERE DRILLED
17 INTO ME. IT'S JUST SOMETHING THAT I KNEW AND
18 LEAVING WAS AN IMPOSSIBILITY TO ME.

19 Q WELL, DO YOU FEEL THAT ONE OF YOUR
20 DOCTORS CAN EXPLAIN IT BETTER THAN YOU,
21 MR. MENENDEZ?

22 MR. LEVIN: OBJECTION. CALLS FOR
23 SPECULATION.

24 THE WITNESS: MY DOCTORS --

25 THE COURT: OVERRULED.

26 THE WITNESS: -- HAVE TRIED TO EXPLAIN TO ME
27 WHY THAT IS BECAUSE OF THE GUILT I FEEL FOR NOT
28 LEAVING AND GETTING MY BROTHER INVOLVED IN THIS TO

44257

1 THE POINT WHERE I HAVE DESTROYED HIS LIFE. I HAVE
2 TRIED TO UNDERSTAND IT. THEY HAVE TRIED TO EXPLAIN
3 IT TO ME. AND I -- I CAN INTELLECTUALLY ACCEPT IT;
4 EMOTIONALLY IT'S VERY DIFFICULT TO ACCEPT THAT I DID
5 NOT RUN AWAY.

6 Q BY MR. CONN: AND YOU'RE RELYING UPON
7 THOSE DOCTORS TO COME INTO THIS COURTROOM AND TELL
8 THE JURY ABOUT WHY YOU WOULD NOT LEAVE?

9 A I DON'T FEEL THAT I --

10 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE,
11 YOUR HONOR.

12 THE COURT: OBJECTION SUSTAINED. THE ANSWER
13 IS STRICKEN.

14 Q BY MR. CONN: CAN YOU TELL US IN YOUR
15 OWN WORDS WHY YOU DIDN'T LEAVE AFTER YOU GOT TO BE
16 18 YEARS OLD AND YOU HAD A CAR AND YOU HAD A
17 DRIVER'S LICENSE AND YOU HAD MONEY IN YOUR POCKET?

18 MR. LEVIN: ASKED AND ANSWERED, YOUR HONOR.

19 THE COURT: OVERRULED.

20 THE WITNESS: I WISH I WOULD HAVE LEFT. IF I --

21 MR. CONN: MOTION TO STRIKE.

22 MR. LEVIN: OBJECTION, YOUR HONOR. IT IS

23 RESPONSIVE.

24 THE COURT: JUST ANSWER THE QUESTION.

25 THE WITNESS: I FELT THAT IF I TRIED TO RUN

26 AWAY, I JUST FELT DEATH. INTELLECTUALLY, I CAN SAY

27 I KNOW HE WOULD HAVE FOUND ME, AND HE WOULD HAVE,

28 AND HE WOULD HAVE KILLED ME, AND HE WOULD HAVE; AND

44258

1 HE WOULD HAVE SPENT EVERY CENT HE HAD TO FIND ME AND

2 TRACK ME DOWN. THERE'S NO QUESTION ABOUT IT.

3 EMOTIONALLY I CANNOT EXPLAIN WHY I DIDN'T FEEL I

4 COULD LEAVE. I CAN'T DO IT.

5 Q BY MR. CONN: YOU FELT YOUR FATHER WAS

6 GOING TO KILL YOU JUST FOR LEAVING HOME AT THE AGE

7 OF 18; IS THAT CORRECT? IS THAT WHAT YOU'RE

8 SAYING?

9 A IF I TRIED TO RUN AWAY AND SAY, DAD,

10 I'LL SEE YA' NEXT LIFE, IT WOULD NEVER HAVE

11 HAPPENED.

12 Q YOUR FATHER WOULD HAVE KILLED YOU; IS

13 THAT CORRECT?

14 A YES.

15 Q AND YOU KNEW THAT; IS THAT CORRECT?

16 A THERE'S NO DOUBT IN MY MIND.
17 Q HOW'D YOU KNOW THAT?
18 A BECAUSE HE TOLD ME OVER AND OVER AGAIN --
19 ONCE I TRIED TO RUN AWAY WHEN I WAS 12, HE TOLD ME
20 HE WOULD KILL ME THEN, AND HE WOULD SIT ME DOWN IN
21 THE CHAIR AND HE WOULD PUT ME IN FRONT OF A MIRROR
22 SO THAT I'D SLAP MYSELF IF I SAID NO, HE WOULDN'T
23 KILL ME. I UNDERSTOOD SPECIFICALLY THAT HE WOULD
24 KILL ME. MY -- THIS WAS A SECRET THAT MY FATHER
25 WOULD KILL OVER, BECAUSE THIS WAS A SECRET THAT
26 WOULD DESTROY HIM AS A PERSON, AND HE WOULD NEVER,
27 EVER LET THAT HAPPEN.
28 Q WELL, DIDN'T YOU TELL US THAT WHAT YOUR

44259

1 FATHER SAID WAS THAT IF YOU WERE EVER TO REPORT THIS
2 HE WAS GOING TO KILL YOU; IS THAT CORRECT?
3 A THE INCIDENT WITH THE MIRROR HAPPENED
4 EVERY WEEK OVER THREE YEARS OF MY LIFE. I TOLD YOU
5 ABOUT ONE INCIDENT. THERE ARE HUNDREDS OF TIMES
6 WHEN I WOULD BE -- I CAN'T EVEN REMEMBER A TIME IN MY
7 CHILDHOOD WHEN I WAS 13 AND 15 WHEN I WASN'T SITTING
8 IN FRONT OF THE MIRROR ANSWERING HIS QUESTIONS.
9 Q MY QUESTION IS: YOUR FATHER TOLD YOU HE
10 WOULD KILL YOU ONLY IF YOU WENT OUT AND REPORTED THE

11 SEXUAL ASSAULT; ISN'T THAT TRUE?

12 A THAT IS THE FIRST TIME I WAS IN FRONT OF

13 THE MIRROR, THAT'S WHAT HE SAID.

14 Q OKAY. DID YOUR FATHER EVER TELL YOU:

15 WHEN YOU GET TO BE 18 YEARS OLD, YOU STILL CANNOT

16 LEAVE THE HOME AND HAVE A LIFE ON YOUR OWN BECAUSE

17 IF YOU TRY I'M GOING TO KILL YOU?

18 A NO, HE NEVER SAID IT WHEN I WAS 18.

19 Q DID HE TELL YOU WHEN YOU WERE YOUNGER

20 THAT WHEN YOU GET TO BE 18 YEARS OLD, IF YOU TRY TO

21 LEAVE THE HOME AND LIVE ELSEWHERE, JUST LIKE YOUR

22 BROTHER LYLE IS DOING, I'M GOING TO KILL YOU?

23 DID HE EVER SAY THAT TO YOU?

24 A HE TOLD ME THAT IF I EVER TRIED TO GET

25 AWAY FROM HIM HE WOULD FIND ME AND KILL ME.

26 Q JUST FROM GETTING AWAY FROM HIM; IS THAT

27 CORRECT?

28 A WELL, IT WAS UNDERSTOOD BETWEEN HIM AND

44260

1 I WHY I WAS TRYING TO RUN AWAY.

2 Q WHAT DO YOU MEAN IT WAS UNDERSTOOD?

3 A IT WAS CLEAR THAT I WAS TRYING TO RUN

4 AWAY FROM HIM SPECIFICALLY, AND HE TOLD ME THAT I

5 WOULD NEVER GET AWAY FROM HIM.

6 Q HE TOLD YOU SPECIFICALLY IF YOU EVER
7 LEFT AND TRIED TO GET AWAY FROM ME, I'LL KILL YOU?

8 A MANY DIFFERENT PHRASES OF THOSE WORDS,
9 YES.

10 Q AND WHAT AGES DID HE TELL YOU THIS?

11 A WHEN I WAS TWELVE AND A HALF, WHEN I
12 FIRST TRIED TO RUN AWAY; WHEN I WAS 13; WHEN I WAS
13 14; WHEN I WAS 15. I DON'T REMEMBER HIM DOING IT
14 WHEN I WAS 16. THE LAST TIME I SPECIFICALLY
15 REMEMBER THE -- A THREAT WHERE HE WOULD KILL ME IS
16 WHEN -- ABOUT THE SEX IS WHEN HE HELD THE KNIFE TO MY
17 THROAT.

18 Q ALL RIGHT. WELL, AFTER YOU GOT TO BE
19 BETWEEN THE AGES OF 16 AND 18, DID YOU EVER SAY TO
20 HIM: DAD, IN LIGHT OF THE FACT THAT YOU LET LYLE
21 MENENDEZ LIVE ON THE EAST COAST AWAY FROM YOU, WHY
22 CAN'T I ALSO LIVE ON THE EAST COAST AWAY FROM YOU?

23 A IT JUST WAS NOT THE TYPE OF THING THAT I
24 COULD EVER SAY TO MY FATHER IN CHALLENGING HIS
25 ORDERS OR HIS AUTHORITY.

26 Q YOU NEVER THOUGHT OF HAVING THAT
27 CONVERSATION WITH HIM?

28 A I THOUGHT ABOUT DOING A LOT OF THINGS.

1 I THOUGHT ABOUT SAYING A LOT OF THINGS TO HIM. I
2 USED TO THINK ABOUT JUST SCREAMING AS LOUD AS I
3 COULD WHEN HE CAME INTO MY ROOM AND HOPEFULLY HE'D
4 RUN AWAY FROM THE NOISE. I USED TO FANTASIZE ABOUT
5 ALL DIFFERENT TYPES OF THINGS I COULD SAY AND DO TO
6 GET AWAY FROM HIM. BUT WHEN HE CAME INTO MY ROOM, I
7 FROZE BECAUSE -- I DON'T KNOW. I JUST DID.

8 Q SO YOU NEVER ONCE THOUGHT OF HAVING A
9 CONVERSATION WITH HIM IN WHICH YOU TOLD HIM, DAD,
10 WHEN I GET TO BE 18 YEARS OLD, I'M GOING TO GO OUT
11 ON MY OWN, JUST AS ALL OTHER YOUNG MEN DO WHEN THEY
12 GET TO BE 18 YEARS OLD?

13 A I JUST ASSUMED THAT WHEN I WENT TO
14 COLLEGE IS WHEN I WOULD GET AWAY FROM HIM.

15 Q YOU JUST ASSUMED WITHOUT EVEN BOTHERING
16 TO HAVE THAT CONVERSATION WITH YOUR FATHER?

17 A WELL, I KNOW FROM CONVERSATIONS BEFORE
18 THAT I WOULD LIVE ON CAMPUS. SO I KNEW WHEN I LIVED
19 AS -- IT WAS MY BURNING CANDLE THAT I WOULD GET AWAY
20 FROM HIM WHEN I WENT TO COLLEGE.

21 Q DID YOU EVER SAY TO HIM, DAD, YOU KNOW,
22 I'VE BEEN HAVING THIS IMPRESSION IN MY MIND ALL OF
23 THESE YEARS THAT IF I TRY TO LEAVE THE HOME WHEN I
24 GET TO BE 18 YEARS OLD, YOU'RE GOING TO KILL ME?
25 DID YOU EVER HAVE THAT CONVERSATION WITH HIM?

26 A CERTAINLY NOT.

27 Q WHY NOT?

28 A I WASN'T BRAVE ENOUGH TO DO IT.

1 Q YOU NEVER TRIED?

2 A I COULDN'T DO IT.

3 Q YOU WERE JUST IN THIS CONSTANT FEAR OF
4 DEATH THAT HE MIGHT TRY TO KILL YOU IF YOU TRIED TO
5 LEAVE THE HOUSE; IS THAT CORRECT?

6 A IT WASN'T A CONSTANT FEAR OF DEATH.
7 WHENEVER HE WAS IN MY ROOM I FELT DEATH. WHEN I
8 THOUGHT ABOUT RUNNING AWAY, I JUST -- I COULDN'T
9 IMAGINE IT. I COULD NOT IMAGINE GETTING AWAY FROM
10 MY FATHER.

11 Q AND WERE YOU AWARE THAT THERE ARE YOUNG
12 PEOPLE UNDER THE AGE OF 18, THROUGHOUT THE COUNTRY,
13 WHO LEAVE HOME EVERY DAY AND RUN AWAY TO GET AWAY
14 FROM ABUSIVE HOMES?

15 A THEY WRITE LETTERS TO ME.

16 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR
17 SPEC --

18 THE COURT: OBJECTION SUSTAINED. THE
19 ANSWER'S STRICKEN.

20 MR. LEVIN: I WITHDRAW THE OBJECTION. LET
21 THE WITNESS ANSWER THE QUESTION.

22 Q BY MR. CONN: WERE YOU AWARE --

23 MR. LEVIN: YOUR HONOR, I ASK THE WITNESS BE
24 ALLOWED TO ANSWER THE QUESTION.

25 THE COURT: HE'LL REASK THE QUESTION.

26 Q BY MR. CONN: WERE YOU AWARE WHEN YOU

27 WERE 18 YEARS OLD THAT THERE WERE YOUNG PEOPLE

28 THROUGHOUT THIS COUNTRY WHO EVERY DAY, MUCH YOUNGER

44263

1 THAN 18, DECIDE TO LEAVE ABUSIVE HOMES AND JUST GET

2 UP AND GO?

3 A I GET LETTERS FROM PEOPLE AND KIDS WHO

4 SAY THAT TO ME.

5 MR. CONN: OBJECTION. NONRESPONSIVE.

6 MR. LEVIN: YOUR HONOR, THAT'S PRECISELY IN

7 ANSWER TO HIS QUESTION.

8 THE COURT: THE QUESTION RELATED TO WHEN HE

9 WAS 18 YEARS OLD.

10 MR. CONN: YES, YOUR HONOR.

11 THE WITNESS: I'M SORRY. NO -- I DON'T KNOW

12 IF I WAS AWARE. I CERTAINLY DID NOT BELIEVE THAT MY

13 FATHER WAS LIKE THEIR FATHER IN TERMS OF -- IN TERMS

14 OF MY FATHER OR THEIR FATHER. I CAN'T SAY THAT I

15 KNEW THAT. I CAN'T SAY THAT IT WOULD HAVE MADE A

16 DIFFERENCE EVEN IF I DID.

17 Q BY MR. CONN: SO YOU WERE NOT AWARE OF

18 THAT THEN?

19 A I MAY HAVE BEEN. IT'S TOO MANY YEARS

20 LATER AND WHAT I KNOW NOW COMPARED TO WHAT I KNOW

21 THEN IT'S GETTING MIXED UP.

22 Q ARE YOU SAYING THAT YOU WERE -- AT 18

23 YEARS OLD YOU WERE LIVING IN THIS TERRIBLE ABUSIVE

24 SITUATION WHEN YOU WERE NOT -- AND YOU DON'T KNOW IF

25 YOU WERE AWARE OF THE FACT THAT THERE ARE PEOPLE

26 YOUNGER THAN 18 WHO LEAVE THEIR HOMES?

27 A AND ARE PROTECTED FROM THEIR FATHER? I

28 COULD NOT IMAGINE IT BEING SO. I CANNOT IMAGINE

44264

1 THAT IF I WOULD HAVE GONE TO A SHELTER MY FATHER

2 WOULD NOT HAVE COME OVER AND FOUND ME. I JUST --

3 IT'S JUST NOT POSSIBLE.

4 Q WELL, WHAT WOULD YOU DO GO -- DID YOU

5 ONLY CONTEMPLATE SITUATIONS IN WHICH YOU WOULD GO TO

6 A SHELTER AND SAY MY NAME IS ERIK MENENDEZ AND I

7 LIVE AT 722 NORTH ELM?

8 MR. LEVIN: OBJECTION. CALLS FOR

9 SPECULATION, YOUR HONOR.

10 THE WITNESS: CERTAINLY I COULD NEVER --

11 THE COURT: IT'S ARGUMENTATIVE AS PHRASED.

12 OBJECTION SUSTAINED. THE ANSWER IS STRICKEN.

13 Q BY MR. CONN: WHEN YOU THOUGHT ABOUT

14 LEAVING THE HOME, DID YOU ONLY CONTEMPLATE

15 SITUATIONS IN WHICH YOU WOULD GO SOMEPLACE AND
16 IDENTIFY YOURSELF TO SOME AUTHORITIES AND GIVE A
17 HOME ADDRESS?

18 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE,
19 YOUR HONOR.

20 THE COURT: OVERRULED.

21 THE WITNESS: I DIDN'T SERIOUSLY BELIEVE I
22 COULD EVER GET AWAY. I DIDN'T -- CLEARLY I COULD --
23 IF I DID TRY TO RUN AWAY, I COULD NEVER, EVER USE MY
24 NAME TO WHERE IT WOULD BE PUT ONTO A COMPUTER
25 BECAUSE MY FATHER WOULD IMMEDIATELY LOCATE ME. I
26 WOULD HAVE TO CHANGE MY ENTIRE IDENTITY AND ALWAYS
27 BE ON THE LOOK-OUT WHEN I WENT TO SLEEP THINKING HE
28 WOULD COME IN MY ROOM THAT NIGHT BECAUSE HE WOULD

44265

1 FIND ME AT THAT TIME. I KNEW THAT THERE WOULD BE
2 INVESTIGATORS FROM ALL OVER THE COUNTRY LOOKING FOR
3 ME. MY FATHER HAD MILLIONS OF DOLLARS TO LOCATE
4 ME. AND I COULD NOT IMAGINE THAT HE WOULD NOT FIND
5 ME. IT JUST IS IMPOSSIBLE FOR ME TO BELIEVE.

6 Q BY MR. CONN: HOW OLD WERE YOU WHEN YOU
7 GOT YOUR DRIVER'S LICENSE?

8 A I WAS 16 YEARS OLD.

9 Q AND HOW OLD WERE YOU WHEN YOU GOT YOUR

10 FIRST CAR?

11 A I WAS 16 YEARS OLD.

12 Q PAID FOR BY YOUR FATHER?

13 A YES.

14 Q AND DID YOU HAVE ACCESS TO MONEY OR

15 CREDIT CARDS AFTER YOU GOT TO BE 16 YEARS OLD?

16 MR. LEVIN: OBJECTION. IT'S COMPOUND.

17 THE WITNESS: I NEVER HAD CREDIT CARDS OR

18 CHECKING OR ANYTHING LIKE THAT. I -- THEY GAVE ME

19 MONEY.

20 Q BY MR. CONN: HOW MUCH DID THEY GIVE

21 YOU?

22 A AT SOME POINT I WAS PUT ON AN

23 ALLOWANCE. BUT EVEN ABOVE THE ALLOWANCE, IF I

24 NEEDED MONEY TO GO TO THE MOVIES OR IF I TOLD MY

25 MOM, I WANT TO GO -- I'M GOING OUT AND SORT OF HINTED

26 THAT IT WAS A GIRL, SHE'D GIVE ME PLENTY OF MONEY TO

27 DO THAT.

28 Q DID THEY GIVE YOU \$180 A MONTH?

44266

1 A I THINK WHEN I WAS 18 THAT WAS WHAT THE

2 SET AMOUNT WAS, MY OFFICIAL ALLOWANCE.

3 Q DID YOU HAVE MONEY LYING ALL OVER THE

4 HOUSE THAT YOU COULD JUST PICK UP AND TAKE ANY TIME

5 YOU WANTED?

6 A THERE WAS MONEY ALL OVER THE HOUSE.

7 THERE -- MONEY -- THERE WAS NO SHORTAGE OF CASH.

8 Q OKAY. AND SO YOU HAD ALL THE CASH THAT

9 YOU WANTED?

10 A I NEVER WAS IN NEED.

11 Q WELL, HOW MUCH CASH WAS LAYING AROUND

12 THE HOUSE?

13 A MY MOM WOULD HAVE HUNDREDS OF DOLLARS IN

14 HER PURSE. SHE -- TO GIVE ME MONEY. MY BROTHER HAD

15 MONEY IN HIS GUESTHOUSE. IN HER ROOM THERE WOULD BE

16 A HUNDRED DOLLARS LAYING ON THE DRESSER HERE OR \$50

17 ON MY DAD'S -- THERE WAS JUST -- IN THE KITCHEN THERE

18 WAS CASH. IT JUST DEPENDED ON THE DAY OR THE WEEK

19 OR WHO WAS HOME AND WHO WASN'T.

20 Q WELL, IF YOU WANTED TO PICK UP ALL OF

21 THE LOOSE CASH IN THE HOUSE, HOW MUCH CASH DO YOU

22 THINK YOU'D BE ABLE TO PICK UP ON ANY GIVEN DAY?

23 A SEVERAL HUNDRED DOLLARS.

24 Q IS THAT ALL?

25 A I NEVER SOUGHT OUT AND SPECIFICALLY WENT

26 THROUGH THE DOLLARS OF THEIR BEDROOM TO LOOK FOR

27 IT. BUT I JUST -- THERE WERE DEFINITELY -- ON ANY

28 GIVEN DAY I COULD GET OVER A HUNDRED DOLLARS, \$200,

1 \$300.

2 Q AND DID YOU TESTIFY THAT ENDING THE SEX
3 WAS THE MOST IMPORTANT THING IN YOUR LIFE?

4 A IT WAS THE ONLY IMPORTANT THING IN MY
5 LIFE.

6 Q DID YOU THINK ABOUT JOINING THE MILITARY
7 TO GET AWAY FROM YOUR FATHER?

8 A GIVING MY NAME TO MILITARY?

9 Q YES, AND LETTING YOUR FATHER TAKE ON THE
10 U.S. ARMY.

11 A HE WOULDN'T HAVE TAKEN ON THE U.S.
12 ARMY.

13 (LAUGHTER IN THE AUDIENCE.)

14

15 THE COURT: OKAY. LET'S BE QUIET IN THE
16 AUDIENCE.

17 THE WITNESS: BUT HE WOULD HAVE FOUND ME AND
18 THAT WOULD HAVE BEEN THE END OF IT.

19 Q AND WHAT WOULD HAVE HAPPENED WHEN YOUR
20 FATHER FOUND YOU IN THE U.S. ARMY?

21 A I NEVER SERIOUSLY ENTERTAINED THE
22 POSSIBILITY OF ENTERING THE U.S. ARMY TO WHERE HE
23 COULD INSTANTLY FIND ME IN GETTING AWAY FROM MY
24 FATHER. I JUST ASSUMED HE WOULD FIND ME. HE WOULD
25 BRING ME BACK AND I WOULD DIE. IT'S -- I COULDN'T --
26 THAT'S NOT RUNNING AWAY. WHEN I MEAN RUNNING AWAY,
27 I MEAN RUNNING AWAY IN A WAY WHERE HE CANNOT FIND

44268

1 ME AND MY NAME IS KNOWN TO EVERYONE, I NEVER
2 CONTEMPLATED THAT, BECAUSE I KNEW THAT WAS
3 RIDICULOUS.

4 Q WHY WOULD IT BE RIDICULOUS FOR YOU TO
5 JOIN THE MILITARY TO GET AWAY FROM THE SEXUAL ABUSE,
6 IF ENDING THE SEXUAL ABUSE WAS THE MOST IMPORTANT
7 THING IN YOUR LIFE?

8 A BECAUSE IF YOU KNEW MY FATHER --

9 MR. LEVIN: IT'S ARGUMENTATIVE, YOUR HONOR.

10 THE WITNESS: -- AND YOU HAD A SINGLE
11 CONVERSATION WITH HIM, YOU WOULD REALIZE THAT THIS
12 MAN WOULD DO ANYTHING TO KEEP THIS SECRET QUIET; AND
13 YOU WOULD REALIZE THAT HE DOESN'T CONSIDER THE U.S.
14 ARMY SOMEONE THAT'S GOING TO INTERFERE WITH HIS
15 FAMILY. HE JUST WOULDN'T. THE POLICE WOULD NEVER
16 INTERFERE WITH HIS FAMILY. HE DIDN'T BELIEVE IN
17 BRINGING THE POLICE INTO DOMESTIC PROBLEMS. HE
18 DIDN'T EVEN REALLY BELIEVE IN GOING OUTSIDE OF THE
19 HOUSE FOR ANYTHING. IT WAS A FAMILY-CLOSED UNIT.
20 THAT'S HOW HE SAW THINGS. THAT'S HOW I SAW THINGS.
21 AND THE IDEA OF GOING TO THE MILITARY IS, IS JUST --
22 IT'S JUST INSANE IF YOU KNOW MY FATHER.

23 Q BY MR. CONN: INSANE FOR WHAT REASON?
24 A TO THINK THAT MY FATHER IS GOING TO BE
25 THREATENED BY THE MILITARY, OR THAT HE IS GOING TO
26 BE IMPEDED BY THE MILITARY WHEN HIS SON IS IN THE
27 MILITARY. NOTHING WAS GOING TO STAND IN THE WAY
28 BETWEEN MY FATHER AND I. NOTHING.

44269

1 Q YOU'RE SAYING THAT YOU BELIEVE THAT IF
2 YOU WERE TO JOIN THE MILITARY, YOUR FATHER WOULD
3 STILL HUNT YOU DOWN AND KILL YOU EVEN IF YOU TOLD
4 HIM, DAD, I'M JUST JOINING THE MILITARY LIKE ALL 18
5 YEARS OLDS DO, I'M NOT GOING TO TELL THE STORY ABOUT
6 WHAT YOU USED TO DO TO ME IN MY BEDROOM?

7 MR. LEVIN: OBJECTION, YOUR HONOR.
8 OBJECTION. IT'S COMPOUND. IT'S COMPLEX AND HAS ALL
9 KINDS OF INFORMATION IN THERE THAT THE WITNESS --

10 THE COURT: IT ASSUMES FACTS NOT IN
11 EVIDENCE. OVERRULED. IT'S SUSTAINED, RATHER.

12 NEXT QUESTION.

13 Q BY MR. CONN: DID YOU EVER CONSIDER
14 JOINING THE MILITARY AND TELLING YOUR FATHER THAT
15 YOU WERE NOT JOINING THE MILITARY TO REVEAL THE
16 FAMILY SECRET, YOU WERE JOINING THE MILITARY ONLY
17 BECAUSE YOU WANTED TO GET AWAY FROM HIM AND YOU WERE

18 GOING TO KEEP YOUR MOUTH SHUT?

19 A I NEVER SERIOUSLY ENTERTAINED THAT

20 POSSIBILITY. NEVER.

21 Q AND THAT IS BECAUSE YOU FELT THAT YOUR

22 FATHER WOULD EVEN HUNT YOU DOWN IF YOU JOINED THE

23 ARMY AND KILL YOU; IS THAT CORRECT?

24 A I KNEW THAT IF I TRIED TO RUN AWAY --

25 YOUR WORD HUNT IS A GOOD ONE -- HE WOULD BE HUNTING

26 ME AND EVENTUALLY HE WOULD FIND ME AND I WOULD DIE.

27 THERE WAS NO QUESTION ABOUT IT.

28 MR. CONN: PERHAPS THIS WOULD BE A GOOD TIME,

44270

1 YOUR HONOR.

2 THE COURT: IF WE CAN GO A FEW MORE MINUTES

3 HERE.

4 Q BY MR. CONN: YOU SAID THAT YOUR MOTHER

5 AND FATHER TEAMED UP TO FRIGHTEN YOU IN THE

6 BASEMENT; IS THAT CORRECT?

7 A I DON'T KNOW IF I USED THOSE WORDS. I

8 JUST RELATED AN INCIDENT THAT HAPPENED WHEN I WAS IN

9 THE NORTH MILL HOUSE.

10 Q OKAY. AND THERE ARE NO WITNESSES TO THE

11 TIME THAT YOUR PARENTS TEAMED UP IN THE BASEMENT TO

12 FRIGHTEN YOU, ARE THERE?

13 A THERE'S CERTAINLY PLENTY OF WITNESSES

14 THAT KNOW --

15 MR. CONN: OBJECTION. NONRESPONSIVE.

16 THE WITNESS: -- THAT I WAS FRIGHTENED BY

17 THEM.

18 THE COURT: SUSTAINED. THE ANSWER IS

19 STRICKEN.

20 THE WITNESS: THAT PARTICULAR INCIDENT, NO

21 ONE WAS AROUND.

22 Q BY MR. CONN: AND WHAT DOES -- WHAT DOES

23 THAT INCIDENT, THE TIME THAT THEY FRIGHTENED YOU IN

24 THE BASEMENT, HAVE TO DO WITH WHY YOU SHOT THEM TO

25 DEATH ON AUGUST THE 20TH OF 1989?

26 A I HAVE NO IDEA.

27 Q WOULD YOU AGREE IT HAS NONE?

28 MR. LEVIN: OBJECTION. CALLS FOR

44271

1 SPECULATION.

2 THE COURT: GOES TO HIS STATE OF MIND.

3 YOUR ANSWER.

4 THE WITNESS: I -- IN MY MIND, IT DIDN'T HAVE

5 ANYTHING TO DO WITH IT. WHAT OTHER PEOPLE, SUCH AS

6 MY ATTORNEYS OR MY PSYCHIATRIST, THINK, I DON'T

7 KNOW. THEY ASK ME QUESTIONS THAT I DON'T UNDERSTAND

8 WHY THEY'RE ASKING ME. I JUST ANSWER IT THE BEST I
9 CAN.

10 Q BY MR. CONN: YOU SAY THAT ONE TIME YOUR
11 FATHER FRIGHTENED YOU WITH A GREEN MASK; IS THAT
12 CORRECT?

13 A THEY PUT A GREEN MASK IN THE CLOSET SO
14 THAT WHEN I OPENED THE DOOR IT WOULD FALL ON ME.

15 Q WHAT DOES THAT HAVE TO DO WITH WHY YOU
16 KILLED YOUR FATHER?

17 MR. LEVIN: SAME OBJECTION, YOUR HONOR.
18 CALLS FOR SPECULATION.

19 THE COURT: ALL RIGHT. IT GOES TO HIS STATE
20 OF MIND AS TO WHAT HE THINKS, HIS OPINION.

21 THE WITNESS: I DON'T KNOW.

22 Q BY MR. CONN: CAN YOU THINK OF ANY WAY
23 THAT THAT HAS A BEARING UPON YOUR STATE OF MIND AT
24 THE TIME THAT YOU KILLED YOUR -- YOU SHOT YOUR
25 PARENTS TO DEATH?

26 A IT'S HARD TO EXPLAIN, BECAUSE -- BECAUSE
27 I DON'T -- I DON'T KNOW ALL THE REASONS WHY I DID IT,
28 AND TO ME, IT SEEMS LIKE JUST ANOTHER INSIGNIFICANT

44272

1 TIME WHEN MY PARENTS SCARED THE HELL OUT OF ME. IT
2 HAPPENED ALL THE TIME AND I COULD GIVE A HUNDRED

3 INSTANCES, AND WHY THEY PICKED THAT ONE, I DON'T
4 KNOW.

5 Q YOU SAID THAT YOUR MOTHER WOULD PUT YOU
6 IN COLD WATER TO AWAKEN YOU FROM NIGHTMARES; IS THAT
7 CORRECT?

8 A YES, SHE WOULD DO THAT.

9 Q ARE THERE ANY EYEWITNESSES TO HER DOING
10 THAT?

11 A I DON'T KNOW. I'D BE SCREAMING IN THE
12 MIDDLE OF THE NIGHT AND SHE'D PUT ME UNDER COLD
13 WATER. I DON'T KNOW WHO WAS AROUND.

14 Q YOU CANNOT GIVE US THE NAME OF A SINGLE
15 EYEWITNESS; IS THAT CORRECT?

16 A MAYBE -- THE ONLY POSSIBILITY I COULD
17 THINK OF WAS DIANE. SHE WAS LIVING IN THE HOUSE FOR
18 SOME PERIOD OF TIME, BUT I DON'T -- I DON'T EVEN KNOW
19 IF SHE CAN. I DON'T KNOW.

20 Q WHAT DOES THAT HAVE TO DO WITH WHY YOU
21 SHOT YOUR MOTHER TO DEATH ON AUGUST 20TH, 1989?

22 A MY NIGHTMARES?

23 Q NO. YOUR MOTHER PUTTING YOU IN COLD
24 WATER.

25 A THE ONLY SIGNIFICANCE I SEE IS IT'S THE
26 WAY SHE AWOKEND (SIC) ME OUT OF THE NIGHTMARES. I
27 DON'T KNOW HOW THAT FITS INTO IT.

28 Q YOU SAID THAT YOUR MOTHER USED TO PUT

1 YOU IN A CLOSET TO DISCIPLINE YOU?

2 A TO DISCIPLINE ME OR TO -- TO REMOVE THE
3 ENVIRONMENT SO THAT I COULD WORK ON MY SCHOOL
4 PAPERS.

5 Q AND THERE WAS A LIGHT IN THE CLOSET SO
6 YOU COULD DO YOUR HOMEWORK?

7 A YES.

8 Q AND YOU SAID THAT YOU WOULD REMAIN IN
9 THIS CLOSET -- YOU SAID YOUR MOTHER USED TO DO THIS
10 TO YOU UP UNTIL AS LATE AS 15 YEARS OLD?

11 A UP UNTIL I MOVED TO PRINCETON.

12 Q AND YOU'RE SAYING THAT AT THE AGES OF
13 13, 14 AND 15, YOUR MOTHER WOULD PUT YOU IN A CLOSET
14 AND TELL YOU TO STAY THERE AND LEAVE THE HOUSE AND
15 AS A TEENAGER YOU WOULD REMAIN INSIDE THAT CLOSET?

16 A ABSOLUTELY.

17 Q AND YOU TOLD US THAT TO PORTRAY YOURSELF
18 AS A COMPLIANT PERSON; IS THAT CORRECT?

19 A I TOLD IT BECAUSE I WAS ASKED. I DON'T
20 KNOW. I TOLD IT BECAUSE IT'S SOMETHING THAT
21 HAPPENED IN MY LIFE AND MR. LEVIN FELT THAT IT WAS,
22 I GUESS, SIGNIFICANT, AND I ANSWERED THE QUESTION.

23 Q YOU WERE NOT VERY COMPLIANT AT THE AGE
24 OF 17 YEARS OLD WHEN YOU WERE COMMITTING RESIDENTIAL
25 BURGLARIES, WERE YOU?

26 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

27 THE COURT: OVERRULED.

28 THE WITNESS: I DON'T KNOW WHY I DID THOSE

44274

1 BURGLARIES. IT'S FOOLISH AND -- I DON'T KNOW WHY I

2 DID THEM. WHAT DO YOU MEAN COMPLIANT? I DON'T KNOW

3 WHAT YOU MEAN BY THAT EITHER.

4 Q BY MR. CONN: WHEN YOU SAY YOU DON'T

5 KNOW WHY YOU DID THE BURGLARIES, WHAT REASON DID YOU

6 GIVE YOURSELF, AT THE AGE OF 17, FOR COMMITTING TWO

7 RESIDENTIAL BURGLARIES OF THE HOMES OF YOUR FRIENDS?

8 A IT DIDN'T START OUT AS ME WANTING TO

9 COMMIT A BURGLARY. IT STARTED OUT WITH A FRIEND OF

10 MINE LOOKING FOR SOME KEYS TO A FRIEND OF MINE'S VAN

11 SO THAT WE COULD MOVE IT AND WE STUMBLED UPON

12 SOMETHING WHICH LED TO SOMETHING ELSE. AND I AGREE,

13 IT WAS A BAD THING TO DO. BUT I DIDN'T NEED MONEY.

14 I DON'T KNOW WHY I DID IT.

15 Q WHAT DO YOU MEAN IT DIDN'T START OUT AS

16 A RESIDENTIAL BURGLARY? IT ENDED UP AS A

17 RESIDENTIAL BURGLARY, DIDN'T IT?

18 MR. LEVIN: YOUR HONOR, OBJECTION. THAT IS A

19 FACTUAL --

20 THE COURT: IT'S ARGUMENTATIVE AS PHRASED.

21 MR. LEVIN: IT'S ALSO FACTUALLY INACCURATE,

22 AND COUNSEL KNOWS IT.

23 THE COURT: LET'S NOT ARGUE IT. HE'S ASKING
24 QUESTIONS. THE WITNESS IS ANSWERING.

25 OVERRULED.

26 Q BY MR. CONN: WHAT REASON DID YOU
27 FINALLY GIVE YOURSELF FOR COMMITTING RESIDENTIAL
28 BURGLARIES WHEN YOU WERE 17 YEARS OLD?

44275

1 A I'VE NEVER BEEN ABLE TO GIVE A REASON TO
2 MYSELF WHY I DID THAT. I HAVEN'T. I'VE TALKED TO A
3 LOT OF -- ALL OF THE DIFFERENT PSYCHIATRISTS ABOUT
4 WHY I WOULD DO SUCH A THING, AND THEY GAVE ME
5 REASONS, BUT I CAN'T ACCEPT A REASON, BECAUSE I
6 DON'T -- I DON'T KNOW WHY I DID IT. I -- IT SEEMS
7 VERY CHILDISH TO ME. AND THERE'S -- THERE'S NO
8 MOTIVATION I CAN POINT TO OF WHY I DID IT.

9 Q AND ISN'T THAT ONE OF THE REASONS WHY
10 YOUR FATHER BEGAN TO SPEAK ABOUT CUTTING YOU OUT OF
11 THE WILL?

12 A HE NEVER -- HE NEVER TOLD ME THAT WAS ONE
13 OF THE REASONS, BUT IT PROBABLY HAD SOMETHING TO DO
14 WITH IT. I KNOW THAT IT HAD TO DO WITH TENNIS AND
15 PROBABLY THAT, AND A COMBINATION OF FACTORS WHERE HE
16 JUST SAID, YOU KNOW WHAT, YOU'RE OUT OF THE WILL.

17 Q WELL, IT'S YOUR OPINION THAT THE
18 BURGLARIES WAS ONE OF THE REASONS WHY ULTIMATELY
19 YOUR FATHER BEGAN TO TELL YOU THAT HE WAS GOING TO
20 CUT YOU OUT OF THE WILL; ISN'T THAT CORRECT?

21 A YES.

22 Q AND, IN FACT, YOU PREVIOUSLY DESCRIBED
23 THE BURGLARIES AS PERHAPS THE STRAW THAT BROKE --
24 THAT FINALLY BROKE THE CAMEL'S BACK, DIDN'T YOU?

25 MR. LEVIN: OBJECTION, YOUR HONOR.

26 THE WITNESS: IT MAY HAVE BEEN THE STRAW THAT
27 BROKE THE CAMEL'S BACK. I KNOW THAT HE WAS
28 EXTREMELY UPSET AND ANGRY THAT I WAS RANKED 70 IN

44276

1 CALIFORNIA THAT YEAR, AND I FRACTURED MY ANKLE AND
2 MY RANKING WENT WAY BACK. AND THE BURGLARIES ON TOP
3 OF IT, I THINK IT MAY HAVE JUST GOTTEN TO THE POINT
4 WHERE HE SAID, YOU'RE DISAPPOINTING ME, YOU'RE A
5 FAILURE, YOU'RE OUT OF MY WILL.

6 THE COURT: WHAT WAS YOUR OBJECTION?

7 MR. LEVIN: WITHDRAWN.

8 MR. CONN: OKAY.

9 Q NOW, YOU TESTIFIED TO SOME PHOTOGRAPHS
10 THAT YOU WERE SHOWN BY YOUR ATTORNEY.

11 DO YOU RECALL THOSE?

12 MR. LEVIN: OBJECTION, YOUR HONOR, WITH
13 RESPECT TO WHAT PHOTOGRAPHS COUNSEL'S REFERRING TO.
14 THE COURT: SUSTAINED. IT'S AMBIGUOUS AS TO
15 WHICH PHOTOGRAPHS.

16 Q BY MR. CONN: LET ME SHOW YOU WHAT'S
17 BEEN MARKED AS 352-A.

18 IS THAT ONE OF THE PHOTOGRAPHS THAT YOU
19 IDENTIFIED HERE IN COURT?

20 A YES.

21 Q NOW, YOU SAID THAT YOUR FATHER WOULD
22 TAKE PHOTOGRAPHS OF YOU IN THE NUDE?

23 A HE WOULD.

24 Q AND ARE THERE ANY WITNESSES,
25 EYEWITNESSES, TO YOUR FATHER TAKING PHOTOGRAPHS OF
26 YOU IN THE NUDE?

27 A CERTAINLY THERE WOULD NEVER BE A WITNESS
28 WHERE HE HAD ME POSE IN A SPECIFIC POSITION FOR HIM

44277

1 AND HE WOULD TAKE PHOTOGRAPHS OF ME NAKED. THAT
2 WOULD NEVER OCCUR. PHOTOGRAPHS LIKE THIS WHERE I
3 DON'T KNOW IF HE HAD LYLE POSE OR WHAT WAS GOING ON
4 WITH THIS ONE, BUT IT WOULD BE DIFFICULT FOR ME TO
5 IMAGINE THAT THERE WOULD BE ANY MORE THAN ONE, AND I
6 DON'T KNOW IF THERE ARE.

7 Q SO THERE IS NOT A SINGLE WITNESS TO YOUR
8 FATHER TAKING A PHOTOGRAPH OF YOU IN THE NUDE; IS
9 THAT CORRECT?

10 A I CAN'T SAY THAT THERE ARE OR NOT. I'M
11 NOT AWARE OF THEM.

12 Q AND YOU CANNOT GIVE US THE NAME OF ANY
13 WITNESS; IS THAT CORRECT?

14 A NO, I CANNOT DO THAT.

15 Q NOW, THAT PARTICULAR PHOTOGRAPH THAT I
16 JUST SHOWED TO YOU, I BELIEVE YOU TESTIFIED THAT
17 THAT IS YOUR BROTHER, LYLE MENENDEZ?

18 A YES.

19 Q AND HOW DO YOU KNOW THAT?

20 A BECAUSE IT'S NOT ME, AND UNLESS MY
21 FATHER WAS TAKING PICTURES OF OTHER CHILDREN NAKED,
22 IT'S MY BROTHER.

23 Q YOU DON'T KNOW WHO TOOK THAT PARTICULAR
24 PHOTOGRAPH, DO YOU?

25 A I DIDN'T TAKE IT, AND IT NEVER OCCURRED
26 TO ME THAT IT COULD BE MY MOTHER.

27 Q YOU DON'T KNOW WHERE THESE PARTICULAR
28 PHOTOGRAPHS THAT WERE SHOWN TO YOU BY YOUR COUNSEL --

1 YOU HAVE NO PERSONAL KNOWLEDGE OF WHERE THEY WERE

2 RECOVERED FROM, DO YOU?

3 A I KNOW THAT THEY WERE RECOVERED FROM --

4 Q PERSONAL KNOWLEDGE.

5 A -- THE BOXES AT MY HOME.

6 PERSONAL KNOWLEDGE MEANS I SAW THEM?

7 Q YES.

8 A NO. I WASN'T THERE.

9 Q YOU DON'T KNOW WHETHER THESE WERE

10 RECOVERED FROM YOUR HOME, OR YOU DON'T KNOW WHETHER

11 THESE WERE GIVEN TO YOUR ATTORNEYS BY A RELATIVE, DO

12 YOU?

13 A WELL, I TRUST MY ATTORNEYS WOULD TELL ME

14 THEY GOT THEM FROM MY HOME.

15 Q YOU HAVE NO PERSONAL KNOWLEDGE OF WHERE

16 THESE PHOTOGRAPHS WERE RECOVERED FROM, DO YOU?

17 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

18 THE COURT: WHEN YOU SAY PERSONAL KNOWLEDGE,

19 YOU'RE ASKING DID HE ACTUALLY SEE THEM RECOVERED?

20 MR. CONN: YES.

21 Q DID YOU SEE THESE PHOTOGRAPHS RECOVERED,

22 MR. MENENDEZ?

23 A NO.

24 Q OKAY. AND 219 -- I'M SORRY -- 356 IS A

25 GROUP OF -- A GROUP OF NEGATIVES.

26 HAVE YOU HAD AN OPPORTUNITY TO LOOK AT

27 THESE NEGATIVES, MR. MENENDEZ?

28 A YES.

1 Q OKAY. AND DO YOU KNOW THAT IN THE GROUP
2 OF NEGATIVES THERE ARE --

3 MR. LEVIN: YOUR HONOR, I WOULD OBJECT TO
4 THOSE NEGATIVES BEING PUNCTURED WITH --

5 MR. CONN: I'M NOT GOING TO PUNCTURE THE
6 MATERIAL.

7 THE COURT: THERE'S NO REASON TO PUT A
8 NEGATIVE UP AT THIS POINT, SINCE IT CAN'T BE SEEN.

9 Q BY MR. CONN: THIS PARTICULAR NEGATIVE,
10 LET ME JUST SHOW YOU THIS.

11 THIS PARTICULAR STRIP OF NEGATIVES IS A
12 STRIP OF FOUR NEGATIVES; IS THAT CORRECT?

13 A YES.

14 Q OKAY. AND DO YOU RECOGNIZE THE FIRST
15 PHOTOGRAPH IN THAT STRIP OF NEGATIVES AS BEING THIS
16 PHOTOGRAPH, 222?

17 A YES, IT IS.

18 MS. ABRAMSON: YOUR HONOR, HOW LATE --

19 Q BY MR. CONN: AND THIS PICTURE OF WHAT
20 YOU SAY IS A PHOTOGRAPH OF, PERHAPS, YOUR BROTHER
21 LYLE MENENDEZ, IS THE SECOND PHOTOGRAPH IN THAT TRIP
22 OF NEGATIVES; IS THAT CORRECT?

23 A WELL, I BELIEVE IT IS LYLE MENENDEZ.

24 THE COURT: YOU HAVE TO SPEAK UP.

25 THE WITNESS: I BELIEVE THAT IT IS LYLE.

26 Q BY MR. CONN: HOW DO YOU KNOW THAT
27 THAT'S LYLE MENENDEZ, OTHER THAN THE FACT THAT IT'S
28 NOT YOU?

44280

1 A I THINK HE IDENTIFIED IT AT THE LAST
2 TRIAL BECAUSE OF HIS HAND AND THE IMPRINT OF HIS
3 HAND COMING ACROSS HIS BODY.

4 Q DO YOU SEE A SCAR ON THAT PHOTOGRAPH
5 THAT YOU RECOGNIZE?

6 A I'M NOT TALKING ABOUT A SCAR. I'M
7 TALKING -- IF YOU WERE TO TAKE A LOOK AT HIS HAND,
8 AND MATCH IT UP TO THE PHOTOGRAPH, IT'S PRETTY
9 OBVIOUS THAT THAT'S LYLE.

10 Q YOU THINK THAT LYLE'S HAND IS
11 INDISTINGUISHABLE FROM THE HAND IN THIS PHOTOGRAPH;
12 IS THAT CORRECT?

13 A ASIDE FROM THE FACT THAT IT -- HE WAS 12
14 OR 18 YEARS YOUNGER, IT'S -- IT'S -- I PERSONALLY
15 CANNOT SAY THAT THAT'S LYLE, IF THAT'S WHAT YOU'RE
16 SAYING -- ASKING.

17 MS. ABRAMSON: YOUR HONOR, HOW LONG IS THE
18 COURT GOING TO GO?

19 THE COURT: FEW MORE MINUTES.

20 THE WITNESS: BUT IT IS THE NO. 2

21 PHOTOGRAPH.

22 MR. CONN: YOUR HONOR, I HAVE ANOTHER
23 PHOTOGRAPH, IF WE CAN MARK THIS AS THE NEXT IN
24 ORDER.

25 THE COURT: SHOW IT TO COUNSEL.

26 ALL RIGHT. WE'RE AT 371.

27 MR. CONN: THAT IS A PHOTOGRAPH OF, I
28 BELIEVE, THE DEFENDANT --

44281

1 THE COURT: YOU DON'T HAVE TO DESCRIBE IT.
2 WHAT WAS IT BEFORE, IN THE PREVIOUS PROCEEDING?

3 MR. CONN: 371.

4 THE COURT: WHAT WAS IT BEFORE? WAS IT
5 ANOTHER EXHIBIT NUMBER BEFORE?

6 MR. CONN: IT WAS PREVIOUSLY 224.

7 THE COURT: OKAY.

8 Q BY MR. CONN: SHOWING YOU 371, IS THIS A
9 PHOTOGRAPH OF WHAT APPEARS TO BE A PRINT OF THE
10 THIRD IMAGE IN THAT GROUP OF NEGATIVES?

11 A YES, IT DOES.

12 Q AND THOSE NEGATIVES ARE NUMBERED
13 SEQUENTIALLY, AREN'T THEY?

14 A YES. THEY'RE IN FIVE, SIX, SEVEN,
15 EIGHT, SEQUENTIAL NUMBERS.

16 Q AND SHOWING YOU 372, DOES THAT APPEAR TO
17 BE THE LAST PHOTOGRAPH --

18 A YES.

19 Q NOW, SHOWING YOU -- DIRECTING YOUR
20 ATTENTION TO THE FIRST PHOTOGRAPH IN THIS STRIP OF
21 NEGATIVES, DO YOU SEE YOUR FATHER IN THAT
22 PHOTOGRAPH?

23 A IF I COULD SEE IT CLOSER.

24 Q I'LL BRING IT TO YOU.

25 A YES, I DO.

26 Q SO YOU KNOW YOUR FATHER DIDN'T TAKE THAT
27 PHOTOGRAPH; IS THAT CORRECT?

28 A CLEARLY.

44282

1 Q NOW, CAN YOU TELL US WHAT THIS IS A
2 PHOTOGRAPH OF?

3 A I HAVE NO IDEA WHAT THAT IS A PHOTOGRAPH
4 OF.

5 Q DOES THAT LOOK LIKE THE BOTTOM OF A
6 DOOR, THE DOOR TOUCHING THE CARPET?

7 MR. LEVIN: OBJECTION, YOUR HONOR.

8 THE WITNESS: EITHER THAT OR IT LOOKS --

9 MR. LEVIN: OBJECTION. THE WITNESS WOULD BE
10 SPECULATING.

11 THE WITNESS: IT LOOKS LIKE A POST TO ME.
12 Q BY MR. CONN: IT LOOKS LIKE A WHAT?
13 A IT COULD BE A DOOR. I THINK IT'S A POST
14 BECAUSE OF THE SHADOW YOU'RE LOOKING ACROSS IT.
15 Q NOW, YOU SAW YOUR FATHER HOLD A CAMERA
16 ON OCCASION, DIDN'T YOU?
17 A WHEN HE WAS TAKING PHOTOGRAPHS OF ME HE
18 WAS HOLDING A CAMERA.
19 Q AND DID HE ALWAYS HOLD IT UP STRAIGHT
20 LIKE ADULTS DO, HOLD IT UP PROPERLY TO THEIR FACE?
21 MR. LEVIN: OBJECTION. CALLS FOR
22 SPECULATION, WHAT IS PROPER AND WHAT ALL ADULTS DO.
23 THE COURT: DO YOU UNDERSTAND THE QUESTION?
24 THE WITNESS: I DO.
25 I DON'T KNOW. I WOULDN'T KNOW. WHEN HE
26 WAS TAKING PHOTOGRAPHS OF ME, THEY WERE STRAIGHT.
27 Q AND HE APPEARED TO BE ABLE TO OPERATE A
28 CAMERA PROPERLY; IS THAT CORRECT?

44283

1 MR. LEVIN: CALLS FOR SPECULATION.
2 THE COURT: OVERRULED.
3 THE WITNESS: HE WASN'T A VERY GOOD PERSON
4 WITH ELECTRONICS, BUT, I MEAN, A CAMERA IS VERY
5 SIMPLE TO USE, SO I CAN'T IMAGINE HE WOULDN'T BE

6 ABLE TO USE IT PROPERLY.

7 Q BY MR. CONN: ARE YOU SAYING THAT YOU
8 THINK THAT YOUR FATHER TOOK THAT PHOTOGRAPH OF THE
9 DOOR, MR. MENENDEZ?

10 A I KNOW HE TOOK THE PHOTOGRAPH OF ME --
11 OF THE ONE BEFORE IT. THE POST, I HAVE NO IDEA WHO
12 TOOK THAT.

13 Q YOU REMEMBER HIM TAKING THAT PHOTOGRAPH
14 OF YOU, MR. MENENDEZ?

15 A IT'S ONE OF THE THINGS THAT HE WOULD DO
16 IS WAKE ME UP AND TAKE PICTURES. I REMEMBER WHEN I
17 WAS A CHILD --

18 Q SO ARE YOU TELLING US THAT YOU --

19 MR. LEVIN: OBJECTION, YOUR HONOR. THE
20 WITNESS HASN'T FINISHED HIS ANSWER.

21 THE COURT: YES.

22 THE WITNESS: -- HE WOULD WAKE ME UP WITH ICE
23 WATER AND TAKE PICTURES TO SEE MY REACTION. THOSE
24 TYPE OF THINGS HAPPENED.

25 Q BY MR. CONN: ARE YOU TELLING US THAT
26 YOU SPECIFICALLY RECALL YOUR FATHER TAKING THAT
27 PHOTOGRAPH OF YOU, MR. MENENDEZ?

28 A NO. WHAT I RECALL IS THAT I DON'T

1 REMEMBER ANYONE ELSE DOING IT. BUT THAT PHOTOGRAPH
2 I WAS SIX YEARS OLD, I CAN'T SAY THAT PARTICULAR
3 ONE. BUT I DON'T REMEMBER ANYONE ELSE DOING THAT
4 TYPE OF THING.

5 Q SO YOU DON'T KNOW WHO TOOK THIS
6 PHOTOGRAPH OF YOU; IS THAT CORRECT, MR. MENENDEZ?

7 A YES.

8 Q AND YOU KNOW HE DIDN'T TAKE THE FIRST
9 PHOTOGRAPH; IS THAT CORRECT?

10 A RIGHT.

11 Q AND YOU KNOW THAT YOUR FATHER WAS ABLE
12 TO OPERATE A CAMERA; IS THAT CORRECT?

13 A RIGHT.

14 Q DID YOU EVER SEE CHILDREN PLAYING WITH A
15 CAMERA, MR. MENENDEZ?

16 MR. LEVIN: OBJECTION. IRRELEVANT.

17 THE COURT: OVERRULED.

18 THE WITNESS: I DON'T REMEMBER SEEING
19 CHILDREN PLAY WITH A CAMERA. I'M SURE THEY DID.

20 Q BY MR. CONN: AT ANY OF THOSE BIRTHDAY
21 PARTIES AT YOUR HOME, DID YOU EVER SEE ANY OF THE
22 CHILDREN PLAYING WITH CAMERAS?

23 A I DON'T HAVE ANY MEMORY OF IT, NO.

24 Q AND DID YOU AND YOUR BROTHER HAVE ACCESS
25 TO CAMERAS?

26 MR. LEVIN: OBJECTION. VAGUE AS TO TIME.

27 THE COURT: SUSTAINED.

28 Q BY MR. CONN: WHEN YOU WERE SIX YEARS

1 OLD DID YOU HAVE ACCESS TO CAMERAS?

2 A I DON'T KNOW. I DON'T REMEMBER -- I

3 DON'T REMEMBER WHERE THE CAMERAS WERE KEPT.

4 Q DO YOU RECALL HOW OLD YOUR BROTHER LYLE

5 WAS THE FIRST TIME HE EVER GOT HIS HANDS ON A

6 CAMERA, TO YOUR KNOWLEDGE?

7 MR. LEVIN: OBJECTION. IRRELEVANT.

8 THE COURT: OVERRULED.

9 THE WITNESS: I DON'T REMEMBER SEEING LYLE

10 TAKE PHOTOGRAPHS. I CAN'T TELL YOU WHEN THE FIRST

11 TIME HE GOT HIS HANDS ON ONE WAS.

12 Q BY MR. CONN: YOUR PARENTS GAVE YOU A

13 LOT OF GIFTS, DIDN'T THEY?

14 A YOU MEAN AT CHRISTMAS AND SO ON?

15 Q YES.

16 A YES.

17 Q AND DID YOUR BROTHER OR YOU EVER RECEIVE

18 A CAMERA AS A PRESENT?

19 A NO.

20 THE COURT: OKAY. IF IT'S A GOOD POINT WE'LL

21 TAKE OUR BREAK.

22 MR. CONN: YES.

23 THE COURT: WE'LL BE IN RECESS UNTIL 1:30,

24 1:45, DEPENDING ON WHEN THE JURY IS BACK FROM ITS
25 LUNCH BREAK.
26 DON'T DISCUSS THE MATTER WITH ANYONE.
27 DON'T FORM ANY FINAL OPINIONS ABOUT THE MATTER.
28 WE'LL SEE YOU BACK HERE AFTER LUNCH.

44286

1 WE'LL ASK COUNSEL TO RETURN AT 1:30.
2 MS. ABRAMSON: WE MAY BE A FEW MINUTES LATER,
3 BECAUSE WE'RE TRYING TO GET THIS PLEADING FILED IN
4 COURT.
5 THE COURT: OKAY.
6 MS. ABRAMSON: THANK YOU.
7 (AT 12:17 P.M. THE NOON
8 RECESS WAS TAKEN UNTIL
9 1:30 P.M. OF THE SAME DAY.)
-21249

1 VAN NUYS, CALIFORNIA; MONDAY, DECEMBER 18, 1995
2 1:50 P.M.
3 DEPARTMENT NW N HON. STANLEY WEISBERG, JUDGE
4 (APPEARANCES AS HERETOFORE NOTED)
5 (MARY LU MURPHY, OFFICIAL REPORTER)
6 (ANNAMARIE PAPA, OFFICIAL REPORTER)
7
8 THE COURT: OKAY. WE'LL RESUME WITH THE

9 CROSS-EXAMINATION.

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

12

13 THE COURT: THE JURY IS BACK, AND WE WILL
14 CONTINUE WITH THE CROSS-EXAMINATION OF THE DEFENDANT,
15 ERIK MENENDEZ.

16 MR. CONN: THANK YOU.

17

18 CROSS-EXAMINATION (CONTINUED)

19 BY MR. CONN:

20 Q. MR. MENENDEZ, I BELIEVE THAT WHEN WE BROKE
21 FOR LUNCH WE WERE DISCUSSING THE STRIPS OF NEGATIVES
22 THAT ARE CONTAINED IN AN EXHIBIT MARKED 356 BY YOUR
23 ATTORNEYS, AND YOU INDICATED THAT IN THE ONE STRIP OF
24 NEGATIVES FOR WHICH WE NOW HAVE PHOTOGRAPHS ON THE
25 BOARD, THOSE NEGATIVES ARE NUMBERED FIVE THROUGH EIGHT;
26 IS THAT CORRECT?

27 A. THEY ARE.

28 Q. AND THERE IS ANOTHER STRIP OF NEGATIVES

-21248

1 THAT ARE A PART OF THIS EXHIBIT WHICH ARE NUMBERED 13
2 THROUGH 16; IS THAT CORRECT?

3 A. RIGHT.

4 Q. AND THERE IS ANOTHER STRIP OF NEGATIVES

5 THAT ARE NUMBERED 17 THROUGH 20; IS THAT CORRECT?

6 A. YES.

7 Q. OKAY. AND YOU HAVE NO PERSONAL KNOWLEDGE

8 AS TO WHERE THE MISSING STRIPS WOULD BE; THAT IS, STRIPS

9 ONE THROUGH FOUR OR STRIPS NINE THROUGH 12, DO YOU?

10 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION, IF

11 THEY'RE MISSING.

12 THE COURT: SUSTAINED.

13 Q. BY MR. CONN: NOW, REFERRING TO THIS LAST

14 STRIP, 17 THROUGH 20, I'D LIKE YOU TO TAKE A LOOK AT

15 THOSE IMAGES, AND IS THIS PHOTOGRAPH WHICH I AM NOW

16 HOLDING -- AND I WILL MARK THIS 374.

17 THE COURT: 372.

18 MR. CONN: 372?

19 THE COURT: HAVE YOU MARKED OTHERS UP THERE?

20 MR. CONN: WE MARKED TWO THIS MORNING.

21 THE COURT: ALL RIGHT. I DIDN'T CATCH THEM. I

22 DIDN'T HEAR YOU SAY THEM. WAS 372 SOMETHING BEFORE?

23 MR. CONN: YES. 372 WAS PREVIOUSLY 229.

24 THE COURT: OKAY. AND WHAT IS 373? IS THERE A

25 373 UP THERE?

26 MR. CONN: NO. I BELIEVE I JUST MARKED 371 AND

27 372.

28 THE COURT: OKAY. SO NOW YOU'RE ASKING FOR 373?

1 MR. CONN: THANK YOU.

2 THE COURT: AND WHAT WAS 373?

3 MR. CONN: OKAY. 373 WAS PREVIOUSLY 230.

4 Q. OKAY. SHOWING YOU 373, IS THIS THE -- CAN
5 YOU TELL IF THAT IS THE FIRST PHOTOGRAPH IN THAT STRIP
6 OF NEGATIVES WHICH I AM NOW SHOWING YOU?

7 A. IT IS.

8 Q. OKAY. AND I WILL MARK AT THIS TIME 374, AN
9 EXHIBIT THAT WAS PREVIOUSLY MARKED AS 231.

10 SHOWING YOU 374, IS THIS THE NEXT
11 PHOTOGRAPH IN THAT STRIP OF NEGATIVES?

12 A. YES, IT IS.

13 Q. AND I WILL MARK THE NEXT PHOTOGRAPH, WHICH
14 IS 232. IS THAT THE NEXT PHOTOGRAPH IN THAT STRIP OF
15 NEGATIVES?

16 A. YES.

17 THE COURT: YOU'RE MARKING THAT 375?

18 MR. CONN: THIS ONE HAS BEEN MARKED, ALREADY,
19 YOUR HONOR, AS 353-A IN THIS PROCEEDING.

20 THE COURT: 353-A?

21 MR. CONN: YES. AND I WILL MARK AS 375 A
22 PHOTOGRAPH THAT HAS PREVIOUSLY BEEN MARKED AS 233 IN THE
23 LAST TRIAL.

24 Q. SHOWING YOU 233, DOES THIS APPEAR TO BE THE
25 LAST PHOTOGRAPH IN THAT STRIP?

26 A. YES. YES.

27 Q. OKAY. NOW ONCE AGAIN AS TO THESE
28 PHOTOGRAPHS WHICH WE ARE LOOKING AT ON THE BOARD, DO YOU

1 HAVE ANY PERSONAL RECOLLECTION OF WHO IT WAS THAT TOOK
2 THE FIRST PHOTOGRAPH ON THE FAR LEFT, THE ONE DEPICTING
3 A BIRTHDAY PARTY?

4 A. NOT TO MY MEMORY.

5 Q. OKAY. AND THE NEXT PHOTOGRAPH IN THAT
6 STRIP APPEARS TO BE A PHOTOGRAPH OF A PLATE IN A
7 DISHWASHER; IS THAT CORRECT?

8 A. YES.

9 Q. OKAY. DO YOU HAVE ANY KNOWLEDGE OF WHO
10 TOOK THAT PHOTOGRAPH?

11 A. NO, I DON'T.

12 Q. DO YOU RECALL IF THERE WERE ANY CHILDREN
13 HOLDING A CAMERA AT THAT PARTY?

14 A. IT'S MY PARENTS' CAMERA. I DON'T -- I HAVE
15 NO IDEA.

16 Q. HAVE YOU EVER SEEN YOUR FATHER PHOTOGRAPH
17 PLATES IN DISHWASHERS BEFORE?

18 A. I WOULD HAVE NO IDEA WHY THE PICTURE WAS
19 TAKEN OR WHAT THE SITUATION WAS.

20 Q. THE LAST -- IT'S YOUR TESTIMONY THAT THIS
21 PERSON HERE IN THE BATHROBE IS YOU, CORRECT?

22 A. THAT'S ME.

23 Q. AND THE LAST PHOTOGRAPH IN THIS PARTICULAR
24 STRIP IS A PHOTOGRAPH OF A DOG; IS THAT CORRECT?

25 A. YES.

26 Q. AND YOU DON'T KNOW WHO TOOK THAT PHOTOGRAPH
27 EITHER; IS THAT CORRECT?
28 A. RIGHT.

-21245

1 Q. IN FACT, YOU CAN'T TELL US WHO TOOK THE
2 PHOTOGRAPH OF YOU STANDING THERE WITHOUT YOUR CLOTHES
3 ON, CAN YOU?

4 A. I DON'T HAVE ANY MEMORY OF MY BROTHER OR MY
5 MOTHER EVER TAKING A PHOTOGRAPH OF MYSELF WHEN I WAS
6 TOLD TO HOLD OPEN MY ROBE, OR OF MYSELF NAKED AT ALL.

7 Q. DO YOU REMEMBER THAT PARTICULAR DAY THAT
8 THAT PHOTOGRAPH OF YOU WAS TAKEN?

9 A. NO, I DON'T.

10 Q. WAS THAT THE SAME DAY AS YOUR 6TH BIRTHDAY
11 PARTY?

12 A. IT WAS. WELL, IT APPEARS TO BE.

13 Q. AND DO YOU REMEMBER IF THERE WERE ANY
14 CHILDREN HOLDING ONTO A CAMERA OR PLAYING WITH A CAMERA
15 ON THAT DAY?

16 A. I DON'T RECALL THAT.

17 Q. DID YOUR FATHER TAKE MANY PHOTOGRAPHS OF
18 THE FAMILY DOG?

19 A. MANY PHOTOGRAPHS OF THE FAMILY PETS WERE
20 TAKEN.

21 Q. NOW, DO YOU KNOW WHERE YOUR FATHER HAD

22 THESE PHOTOGRAPHS THAT YOU ALLEGE HE TOOK OF YOU --

23 WHERE HE STORED THESE PHOTOGRAPHS?

24 A. IN HIS ROOM.

25 Q. AND HOW DO YOU KNOW THAT?

26 A. I'VE SEEN IN MY CHILDHOOD PILES AND PILES

27 AND PILES OF PHOTOGRAPHS, ALL OF THEM IN MY MOTHER'S AND

28 FATHER'S ROOM.

-21244

1 Q. YOU SAW PHOTOGRAPHS OF YOU IN THE NUDE,

2 PILES AND PILES OF THEM?

3 A. NO. NO. I DON'T MEAN PHOTOGRAPHS OF ME IN

4 THE NUDE, JUST THE PHOTOGRAPHS WERE STORED IN MY

5 PARENTS' BEDROOM.

6 Q. WELL, THE PHOTOGRAPHS I AM ASKING YOU ABOUT

7 ARE THE ALLEGED NUDE PHOTOGRAPHS HE TOOK OF YOU.

8 DO YOU KNOW WHERE HE USED TO STORE THOSE?

9 A. NO.

10 Q. DID YOUR FATHER HAVE A PHOTO LAB IN YOUR

11 HOME SO HE COULD DEVELOP THESE PHOTOGRAPHS?

12 A. NO.

13 Q. YOUR FATHER WAS A MAN WHO WAS VERY

14 CONCERNED ABOUT HIS IMAGE; IS THAT CORRECT?

15 A. YES.

16 Q. DO YOU KNOW WHERE HE TOOK THE FAMILY

17 PHOTOGRAPHS TO HAVE THEM DEVELOPED?

18 A. I WOULD ONLY BE SPECULATING.

19 Q. DO YOU KNOW WHERE HE TOOK THESE ALLEGED
20 NUDE PHOTOGRAPHS OF CHILDREN TO BE DEVELOPED?

21 A. NOT PERSONALLY, NO.

22 Q. DO YOU THINK AT THE TIME THAT YOUR FATHER,
23 A MAN WHO WAS SO CONCERNED ABOUT HIS IMAGE, MIGHT HAVE A
24 LITTLE BIT OF A PROBLEM TAKING PHOTOGRAPHS OF NUDE
25 CHILDREN TO BE DEVELOPED AT A LOCAL PHOTO DEVELOPING
26 SHOP?

27 A. I WOULDN'T IMAGINE THAT --

28 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

-21243

1 THE COURT: SUSTAINED. THE ANSWER IS STRICKEN.

2 Q. BY MR. CONN: AFTER YOU GREW UP AND BECAME
3 18 YEARS-OLD, DID YOU FINALLY TELL YOUR FATHER "I WOULD
4 LIKE TO HAVE THOSE PHOTOGRAPHS BACK"?

5 A. IT'S NOT SOMETHING I WOULD HAVE SAID TO MY
6 FATHER.

7 Q. DID YOU EVER SEE A SINGLE PHOTOGRAPH THAT
8 YOUR FATHER TOOK OF YOU WHILE IN THE NUDE?

9 A. NO.

10 Q. WERE YOU AWARE OF ANY SECRET HIDING PLACES
11 WHERE YOUR FATHER WOULD STORE THINGS?

12 A. I -- I ASSUMED HE STORED THEM IN HIS
13 BEDROOM.

14 Q. DID HE HAVE SOME --

15 A. I DON'T HAVE ANY PERSONAL KNOWLEDGE OF
16 SECRET HIDING PLACES.

17 Q. DID HE HAVE ANY SECRET HIDING PLACES IN HIS
18 BEDROOM?

19 A. I DON'T KNOW.

20 MR. CONN: I HAVE ONE MORE PHOTOGRAPH TO MARK,
21 YOUR HONOR. THIS WAS A PHOTOGRAPH REFERRED TO
22 PREVIOUSLY, ALTHOUGH I DON'T THINK IT WAS MARKED. THE
23 WITNESS TESTIFIED REGARDING THE PHOTOGRAPH, WHICH I WILL
24 NOW MARK AS 376. IT WAS PREVIOUSLY MARKED AS 222.

25 Q. AND JUST TO CLARIFY, THIS PHOTOGRAPH WHICH
26 I AM SHOWING YOU AS 376, THIS IS A PHOTOGRAPH FROM THE
27 FIRST STRIP OF PHOTOGRAPHS WHICH YOU IDENTIFIED YOUR
28 FATHER AS BEING IN THE PHOTO; IS THAT CORRECT?

-21242

1 A. YES.

2 Q. NOW -- NOW, BEFORE YOU SHOT AND KILLED YOUR
3 FATHER, I TAKE IT YOU DIDN'T GIVE HIM ANY ADVANCE NOTICE
4 THAT YOU WERE GOING TO DO THIS; IS THAT CORRECT?

5 A. YES.

6 Q. AND SO LATER WHEN YOU ARE LOOKING AROUND
7 YOUR HOME, DID YOU STUMBLE ACROSS ALL OF THE ALLEGED
8 NAKED PHOTOGRAPHS THAT HE WOULD TAKE OF YOU?

9 A. NO. I DIDN'T -- I DIDN'T GO THROUGH ALL

10 THE BOXES. I WASN'T EVEN SURE IF HE STILL HAD THEM.

11 Q. YOU DIDN'T GO THROUGH ALL OF THE BOXES IN
12 YOUR HOME?

13 A. NOT EVERY ONE.

14 Q. WELL, DIDN'T YOU TELL US THAT YOU WERE
15 CONCERNED THAT THERE MIGHT BE SOME SENSITIVE MATTERS
16 THAT YOU DIDN'T WANT PEOPLE TO FIND OUT ABOUT IN THE
17 SAFE?

18 A. YES.

19 Q. AND DIDN'T YOU TELL US THAT THERE MIGHT BE
20 SOME SENSITIVE MATTERS THAT YOU DIDN'T WANT PEOPLE TO
21 FIND OUT ABOUT IN THE SAFETY BOX AT THE BANK?

22 A. YES.

23 Q. AND THAT'S THE REASON WHY YOU DIDN'T WANT
24 YOUR UNCLE CARLOS OR YOUR UNCLE BRIAN PRESENT AT THE
25 TIME THAT YOU LOOKED INTO THE SAFE AND LOOKED INTO THE
26 SAFETY BOX?

27 A. RIGHT.

28 Q. BUT ARE YOU TELLING US THAT THERE WERE

-21241

1 BOXES AND BOXES OF THINGS AT YOUR HOME; THAT YOU NEVER
2 BOTHERED TO LOOK INTO THOSE BOXES?

3 A. THERE WERE 200 TO 400 BOXES AT MY HOUSE,
4 AND THERE WAS NO TIME TO GO THROUGH ALL OF THE BOXES. I
5 WENT THROUGH MANY IN THE CURSORY SEARCH THAT I DID THE

6 DAY BEFORE THE RELATIVES ARRIVED, BUT THERE WERE SO MANY
7 BOXES THAT IT WOULD BE IMPOSSIBLE. THERE WERE BOXES OF
8 STUFF THAT HAD BEEN PACKED 12 YEARS BEFORE IN OUR FIRST
9 MOVE FROM MONSEY TO PENNINGTON. IT WAS -- IT JUST
10 WASN'T POSSIBLE.

11 Q. WHEN YOU SAID THERE WAS NO TIME, WHERE WERE
12 YOU GOING, MR. MENENDEZ?

13 A. IT'S NOT THAT THERE WAS NO TIME. THE
14 RELATIVES WERE COMING IN. THERE WAS NO TIME. I WASN'T
15 GOING TO SIT AND GO THROUGH 400 BOXES. I JUST WASN'T IN
16 THE FRAME OF MIND TO BE THAT THOROUGH IN MY SEARCH.

17 Q. SO, YOU WEREN'T THAT CONCERNED ABOUT
18 KEEPING PRIVATE THE FAMILY SECRETS THAT YOU'D GO TO THE
19 TROUBLE OF GOING THROUGH ALL THOSE BOXES; IS THAT
20 CORRECT?

21 A. I WAS VERY CONCERNED ABOUT IT, BUT I -- I
22 JUST WASN'T ABLE TO GO THROUGH 400 BOXES.

23 Q. WELL, DID YOU TELL YOUR BROTHER, LYLE, THAT
24 THIS WAS THE FAMILY SECRET, THAT YOU DIDN'T WANT TO --
25 THE PUBLIC TO FIND OUT ABOUT. HE SHOULD TAKE HALF THE
26 BOXES AND YOU SHOULD TAKE HALF THE BOXES AND GO THROUGH
27 IT BEFORE PEOPLE FIND ALL OF THESE DAMAGING NUDE
28 PHOTOGRAPHS OF YOU AND YOUR BROTHER?

-21240

1 A. MY BROTHER WENT AROUND AND COLLECTED I KNOW

2 MY MOM'S -- THE DIARIES, HER SUICIDE LETTERS, ANY TYPE
3 OF SENSITIVE INFORMATION LIKE THAT THAT WE COULD FIND
4 LYING AROUND IN THE BEDROOM.

5 BUT TO GO THROUGH THE GARAGES -- THE TWO
6 DIFFERENT GARAGES AND ALL THE BOXES -- WE WERE GOING TO
7 DO IT, BUT I MEAN, IT JUST WASN'T POSSIBLE TO DO IN FIVE
8 HOURS, SIX HOURS, SEVEN HOURS. EVEN IF WE HAD TWO DAYS
9 IT WOULD HAVE BEEN DIFFICULT.

10 Q. WELL, HOW LONG AFTER YOU SHOT YOUR PARENTS
11 TO DEATH DID YOU REMAIN IN CALIFORNIA?

12 A. WELL, THE RELATIVES FLEW IN MONDAY
13 MORNING -- MONDAY NIGHT AND TUESDAY, AND I STAYED THERE
14 FOR WEDNESDAY, THURSDAY. THE MEMORIAL SERVICE WAS ON
15 FRIDAY, AND I LEFT ON SATURDAY.

16 Q. TO GO TO THE MEMORIAL SERVICE BACK EAST?

17 A. THE FUNERAL.

18 Q. AND AFTER THAT DID YOU COME BACK TO
19 CALIFORNIA?

20 A. YES.

21 Q. AND THEN HOW LONG DID YOU REMAIN IN
22 CALIFORNIA?

23 A. I STAYED IN CALIFORNIA FOR A WEEK, MAYBE 10
24 DAYS.

25 Q. AND THEN WHERE DID YOU GO?

26 A. BACK TO NEW JERSEY.

27 Q. WELL, DURING THE WEEK THAT YOU CAME BACK,
28 DID YOU GO THROUGH THE BOXES TO MAKE SURE THAT THERE

1 WERE NO MORE EMBARRASSING DIARIES OR SUICIDE LETTERS OR
2 PHOTOGRAPHS IN THE BOXES AT YOUR HOME?

3 A. I WENT THROUGH MANY OF THE BOXES. IT WAS A
4 SLOW PROCESS OF GOING THROUGH ALL OF THE BELONGINGS. IT
5 WAS ALSO A PAINFUL PROCESS, AND I WAS DOING IT IN
6 PIECEMEAL.

7 Q. DID YOU GO THROUGH ALL OF THE BOXES?

8 A. NO.

9 Q. WHY NOT?

10 A. MY GRANDMOTHER WENT THROUGH THE OTHER --
11 PROBABLY THE MAJORITY OF THEM.

12 Q. AND DID YOU TELL HER TO KEEP AN EYE OUT FOR
13 NUDE PHOTOGRAPHS OF YOU AND YOUR BROTHER?

14 A. I DIDN'T NEED TO TELL MY GRANDMOTHER THAT.

15 Q. WHY DID YOU NOT NEED TO TELL YOUR
16 GRANDMOTHER THAT?

17 A. MY GRANDMOTHER WAS JUST AS CONCERNED AS I
18 WAS ABOUT ANY SECRETS THAT MY FATHER HAD HAD, AND
19 NOTHING WAS GOING BEYOND HER. SHE WAS THERE -- IT
20 JUST -- I DIDN'T NEED TO TELL MY GRANDMOTHER THAT.

21 Q. SO ARE YOU SAYING THAT YOUR GRANDMOTHER
22 KNEW THAT YOUR FATHER HAD NUDE PHOTOGRAPHS OF YOU AND
23 YOUR BROTHER?

24 A. I AM NOT SAYING THAT SHE KNEW OR DIDN'T
25 KNOW, I AM SAYING THAT ANYTHING THAT MIGHT BE
26 EMBARRASSING TO MY FATHER WOULD HAVE BEEN CONFISCATED

27 IMMEDIATELY BY MY GRANDMOTHER.

28 Q. SO YOU FELT ANY BOX THAT YOU OR YOUR

-21238

1 BROTHER DID NOT GO THROUGH WOULD BE GONE THROUGH BY YOUR
2 GRANDMOTHER; IS THAT CORRECT?

3 A. THAT'S WHAT WAS UNDERSTOOD.

4 Q. AND SO TO YOUR KNOWLEDGE NO BOXES OF NUDE
5 PHOTOGRAPHS WERE EVER RECOVERED; IS THAT CORRECT?

6 A. I TOLD MY ATTORNEYS THAT THERE WERE
7 PHOTOGRAPHS LIKE THIS. THEY WENT THROUGH MANY OF THE
8 BOXES, IF NOT ALL OF THE BOXES, THAT WERE STILL AROUND
9 AND FOUND THESE.

10 MR. CONN: I AM GOING TO MAKE AN OBJECTION AS
11 NONRESPONSIVE.

12 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S QUITE
13 RESPONSIVE.

14 THE COURT: LET'S HAVE THE QUESTION READ BACK AND
15 THE ANSWER.

16 (RECORD READ.)

17

18 THE COURT: OVERRULED. THE ANSWER WILL STAND.

19 Q. BY MR. CONN: AND ALL OF THESE NAKED
20 PHOTOGRAPHS THAT YOUR FATHER WOULD TAKE OF YOU FROM TIME
21 TO TIME, WHAT BECAME OF THEM, MR. MENENDEZ?

22 A. I DON'T KNOW.

23 Q. SO ALL WE HAVE IS ONE PHOTOGRAPH OF YOU IN
24 THE NUDE AND ONE PHOTOGRAPH OF A PERSON WHO YOU THINK
25 MIGHT BE YOUR BROTHER; IS THAT CORRECT?

26 A. YES.

27 Q. AND YOU CAN'T TELL US FOR SURE BY LOOKING
28 AT THOSE PHOTOGRAPHS WHO TOOK THEM; IS THAT CORRECT?

-21237

1 A. THOSE PARTICULAR PHOTOGRAPHS I HAD NOT SEEN
2 BEFORE.

3 Q. AND YOU CAN'T TELL BY LOOKING AT THE
4 PHOTOGRAPHS AND THE PHOTOGRAPHS IMMEDIATELY ADJACENT TO
5 THOSE PHOTOGRAPHS WHETHER THEY WERE TAKEN BY AN ADULT OR
6 BY A CHILD PLAYING WITH A CAMERA, CAN YOU?

7 A. NO CHILD PLAYING WITH A CAMERA ASKED ME TO
8 HOLD OPEN MY ROBE TO TAKE A PICTURE OF ME. I THINK I
9 WOULD REMEMBER IT. IF I DON'T, THEN I CAN'T SAY. BUT I
10 DO NOT REMEMBER THAT. I KNOW MY FATHER DID THESE
11 THINGS.

12 Q. ALL RIGHT. THE ONLY OTHER WITNESS TO THE
13 PERSON TAKING THE PHOTOGRAPHS IS YOUR FATHER, WHO YOU
14 KILLED; IS THAT CORRECT?

15 A. I'M SURE MY BROTHER SAW THEM. I KNOW HE
16 TOOK PICTURES OF MY BROTHER, AND MY MOTHER.

17 Q. NOW, YOU TOLD US HERE THAT YOU SAW YOUR
18 FATHER TAKE PHOTOS OF YOUR BROTHER WHILE YOUR BROTHER

19 WAS NAKED; IS THAT CORRECT?

20 A. YES.

21 Q. AND DIDN'T YOU PREVIOUSLY TESTIFY IN THE
22 FIRST TRIAL THAT YOU HAVE NO IDEA IF YOUR FATHER TOOK
23 PHOTOGRAPHS OF LYLE WHILE HE WAS NAKED?

24 A. I DON'T REMEMBER TESTIFYING TO THAT.

25 Q. OKAY. WELL, LET ME ASK YOU:

26 DO YOU REMEMBER BEING ASKED A QUESTION --

27 MR. LEVIN: CAN I HAVE A PAGE AND LINE
28 DESIGNATIONS, YOUR HONOR?

-21236

1 MR. CONN: YES, PAGE --

2 MR. LEVIN: VOLUME.

3 MR. CONN: 43,107, VOLUME 258-B, LINE 18

4 THROUGH -- I'M SORRY. LINE -- HERE. PAGE 16,400.

5 MR. LEVIN: WAIT. I'M SORRY.

6 MR. CONN: 16,400, LINE 22.

7 MS. ABRAMSON: WHAT VOLUME?

8 MR. GESSLER: 97.

9 MR. CONN: 97. LINE 24 THROUGH 26.

10 MR. LEVIN: WHAT LINE, COUNSEL?

11 MR. CONN: LINE 24 THROUGH 26.

12 MR. LEVIN: NO OBJECTION.

13 Q. BY MR. CONN: DO YOU REMEMBER BEING ASKED
14 THE FOLLOWING QUESTION AND GIVING THE FOLLOWING ANSWER

15 AT THE FIRST TRIAL:

16 "Q. AND DO YOU KNOW WHETHER
17 HE TOOK PHOTOGRAPHS OF YOUR BROTHER
18 NAKED?

19 "A. I HAVE NO IDEA."

20 A. IF I COULD SEE IT. I DIDN'T READ MY
21 TRANSCRIPTS FROM THE FIRST TRIAL.

22 APPARENTLY I DID, YES.

23 Q. OKAY. SO CAN YOU TELL US WHY,
24 MR. MENENDEZ, IN THE FIRST TRIAL WHEN YOU WERE ASKED IF
25 YOUR FATHER TOOK PHOTOGRAPHS OF YOUR BROTHER IN THE --
26 WHILE HE WAS NAKED, YOU SAID YOU HAD NO IDEA, AND IN
27 THIS TRIAL YOU SAID THAT YOU SAW YOUR FATHER TAKE
28 PHOTOGRAPHS OF YOUR BROTHER NUDE?

-21235

1 A. I DON'T KNOW. I DON'T KNOW WHAT I WAS
2 THINKING TWO YEARS AGO. I KNOW HE TOOK PICTURES OF LYLE
3 NAKED.

4 Q. YOU WEREN'T JUST TRYING TO LAY A FOUNDATION
5 TO GET THAT PHOTOGRAPH OF YOUR BROTHER INTO EVIDENCE,
6 WERE YOU, MR. MENENDEZ?

7 A. THE PHOTOGRAPH OF MY BROTHER I WOULDN'T
8 IMAGINE YOU WOULD KEEP OUT AND IT WOULDN'T COME INTO
9 THIS TRIAL. I DON'T NEED TO LAY A FOUNDATION. I DON'T
10 KNOW WHAT THE RULES ARE, BUT I HAVE A MEMORY OF IT. I

11 SAID I HAVE NO IDEA. I DON'T KNOW WHY.

12 Q. DID YOU HAVE A MEMORY OF IT WHEN YOU
13 TESTIFIED LAST TIME UNDER OATH IN FRONT OF A JURY,
14 MR. MENENDEZ?

15 A. APPARENTLY NOT.

16 Q. DO YOU THINK YOUR MEMORY IS BETTER TODAY
17 THAN IT WAS BACK THEN?

18 A. I DON'T KNOW IF IT'S BETTER TODAY. I DON'T
19 THINK IT'S BETTER TODAY, BUT WHEN I DEAL WITH THE
20 MEMORIES OF MY CHILDHOOD, I REMEMBER DIFFERENT THINGS,
21 AND I REMEMBER THINGS SLIGHTLY DIFFERENT WHEN I'M IN
22 THERAPY AND WE GO OVER THINGS AGAIN AND AGAIN.

23 I KNOW THAT HE TOOK PICTURES OF LYLE. I
24 REMEMBER HIM HAVING THE CAMERA AND GOING INTO THE
25 BEDROOM AND INTO THE BATHROOM AND TAKING PICTURES. I
26 REMEMBER HIM WITH THE CAMERA.

27 Q. HOW MANY TIMES DO YOU REMEMBER THAT YOUR
28 FATHER TOOK PHOTOGRAPHS OF YOUR BROOTHER IN THE NUDE?

-21234

1 A. WHEN WE WERE IN MONSEY WHEN I WAS SIX, AND
2 WHEN I WAS -- I DON'T KNOW.

3 Q. ON HOW MANY SEPARATE OCCASIONS DID YOU SEE
4 YOUR FATHER TAKE PHOTOGRAPHS OF YOUR BROTHER?

5 A. I COULDN'T SAY.

6 Q. WAS IT JUST ONCE, OR MORE THAN ONCE?

7 A. I REMEMBER HIM GOING INTO THE BEDROOM AND I
8 REMEMBER HEARING THE CAMERA GO OFF, BECAUSE IT HAD A
9 FLASHBULB, AND I REMEMBER HIM DOING IT IN THE BATHROOM
10 AS WELL. SO AT LEAST TWICE.

11 Q. ARE YOU SAYING THAT THERAPY IMPROVED YOUR
12 MEMORY?

13 A. I DON'T THINK -- WELL, I THINK THERAPY DOES
14 IMPROVE MY MEMORY, BUT I AM NOT SAYING THAT THERAPY
15 IMPROVED MY MEMORY ON THIS ISSUE. I CAN'T TELL YOU WHY
16 I SAID THAT. I HAVE NO IDEA.

17 Q. DID THERAPY IMPROVE YOUR MEMORY ON ANY OF
18 THE OTHER ISSUES CONCERNING YOUR TESTIMONY IN THE FIRST
19 TRIAL?

20 A. I THINK THE THERAPY ENLIGHTENS ME MORE TO
21 WHY THINGS HAPPENED IN MY LIFE, SO THAT I CAN COPE WITH
22 THEM. WHAT HAPPENED IN MY LIFE HAS NEVER CHANGED.

23 Q. DO YOU REMEMBER ANY OTHER THINGS NOW THAT
24 YOU DIDN'T REMEMBER AT THE TIME OF THE FIRST TRIAL?

25 A. YES.

26 MR. LEVIN: OBJECTION. THAT'S VAGUE AND
27 COMPOUND.

28 THE COURT: OVERRULED. HE'S ANSWERED THE

-21233

1 QUESTION YES.

2 Q. BY MR. CONN: WELL, WHAT IS IT YOU REMEMBER

3 NOW THAT YOU DIDN'T REMEMBER AT THE FIRST TRIAL?

4 THE WITNESS: THERE ARE MANY INCIDENTS WITH MY
5 FATHER WHEN HE CAME INTO MY ROOM THAT STILL COME TO ME
6 AND THAT I STILL REMEMBER THAT I DIDN'T REMEMBER TWO
7 YEARS AGO OR THREE YEARS AGO OR SIX YEARS AGO, AND THEY
8 CONTINUE TO HAPPEN, AND I AM TOLD THAT THAT MAY HAPPEN
9 FOR THE REST OF MY LIFE. SOMETIMES I THINK THAT IT'S
10 JUST A DREAM OR IT'S JUST A FANTASY THAT I AM
11 REMEMBERING, BUT THE PAIN IS REAL, AND SO I -- I -- NEW
12 THINGS COME TO ME.

13 Q. SO THE ALLEGATIONS AGAINST YOUR PARENTS ARE
14 INCREASING AS TIME GOES ON BECAUSE YOU REMEMBER MORE
15 THINGS; IS THAT CORRECT?

16 A. NO. SOME THINGS I FORGET THAT I HAD
17 REMEMBERED. I THINK THAT -- I DON'T KNOW IF MEMORY IS
18 STATIC. I THINK THAT IT EVOLVES.

19 Q. WHEN IT COMES TO WHAT YOU DID TO YOUR
20 PARENTS ON AUGUST THE 20TH OF 1998, DID YOUR MEMORY
21 CONCERNING THAT IMPROVE ANY SINCE THE LAST TRIAL?

22 A. I DON'T KNOW WHAT YOU MEAN BY THAT.

23 Q. WELL, I WILL BE QUESTIONING YOU CONCERNING
24 YOUR ACTIVITIES ON AUGUST THE 20TH OF 1989, BUT JUST LET
25 ME ASK YOU NOW, IS YOUR RECOLLECTION OF WHAT YOU DID TO
26 YOUR PARENTS ON AUGUST THE 20TH OF 1989 BETTER AS FAR AS
27 REMEMBERING THE DETAILS THAN IT WAS THE LAST TIME THAT
28 YOU TESTIFIED?

1 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE, YOUR
2 HONOR. HE MAY NOT HAVE BEEN ASKED THOSE QUESTIONS.

3 THE COURT: OVERRULED.

4 THE WITNESS: I ANSWERED THE QUESTIONS AT THE
5 LAST TRIAL TO THE BEST THAT I COULD. I DIDN'T -- I
6 DIDN'T TESTIFY TO EVERYTHING THAT HAPPENED IN MY LIFE.
7 I DIDN'T TESTIFY TO EVERY THOUGHT THAT HAPPENED THAT
8 LAST WEEK.

9 I JUST -- I ANSWERED THE QUESTIONS AS
10 TRUTHFULLY AND AS CANDIDLY AS I CAN WHEN I'M ON THE
11 STAND AS TO WHAT I REMEMBER.

12 Q. BY MR. CONN: LET ME REPEAT MY QUESTION,
13 MR. MENENDEZ.

14 MY QUESTION TO YOU WAS HAS YOUR
15 RECOLLECTION CONCERNING THE DETAILS OF WHAT YOU DID TO
16 YOUR PARENTS ON AUGUST THE 20TH OF 1989 INCREASED ANY
17 SINCE THE TIME OF YOUR LAST TRIAL?

18 A. IT WOULD BE DIFFICULT TO IMAGINE IT
19 INCREASING.

20 Q. AND HAVE YOU BEEN TOLD BY YOUR THERAPIST
21 THAT AS YOUR ALLEGATIONS AGAINST YOUR PARENTS MAY GROW
22 AND GROW AS TIME GOES ON, THAT PERHAPS YOUR RECOLLECTION
23 OF WHAT YOU DID TO YOUR PARENTS ON AUGUST THE 20TH OF
24 1989 MIGHT ALSO BECOME CLEARER IN YOUR MIND?

25 MR. LEVIN: OBJECTION, YOUR HONOR, TO THE FORM OF
26 THE QUESTION USING THE WORD ALLEGATION, AND THE
27 REMAINDER OF IT IS VAGUE.

-21231

1 Q. BY MR. CONN: NOW, YOU SAID THAT YOUR
2 MOTHER WOULD ASK YOU TO WRITE DOWN ON A LIST VARIOUS
3 THINGS THAT SHE WANTED YOU TO TELL YOUR FATHER; IS THAT
4 CORRECT?

5 A. YES.

6 Q. AND WE HAVE MARKED AS 355 AN EXHIBIT IN
7 WHICH THERE IS A LIST OF THINGS THAT YOU HAD TO WRITE
8 DOWN TO TELL YOUR FATHER; IS THAT CORRECT?

9 A. RIGHT.

10 Q. AND DID YOU DO ALL OF THE THINGS ON THIS
11 LIST?

12 A. I DON'T SPECIFICALLY RECALL IF I DID OR
13 DIDN'T.

14 Q. WELL, IT SAYS FOR EXAMPLE "AT HOME ERIK
15 WOULD NOT EAT HIS SPINACH."

16 DO YOU REMEMBER WHETHER OR NOT YOU TRULY
17 ATE YOUR SPINACH, MR. MENENDEZ?

18 A. THE SPINACH WASN'T ONE OF MY FAVORITE
19 FOODS. I PROBABLY DID NOT.

20 Q. AND WHAT DOES THE FACT THAT YOU HAD -- YOU
21 WROTE DOWN ON A PIECE OF PAPER THE FACT THAT YOU DIDN'T
22 EAT YOUR SPINACH HAVE TO DO WITH WHY YOU SHOT YOUR
23 MOTHER TO DEATH ON AUGUST THE 20TH OF 1989?

24 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.
25 THE COURT: WELL, IT ASSUMES FACTS NOT IN
26 EVIDENCE. REPHRASE THE QUESTION.
27 Q. BY MR. CONN: DID YOU SHOOT YOUR MOTHER TO
28 DEATH BECAUSE SHE BECAME ANGRY THAT YOU DIDN'T EAT YOUR

-21230

1 SPINACH?
2 A. NO.
3 Q. DID YOU SHOOT YOUR MOTHER TO DEATH BECAUSE
4 SHE MADE YOU WRITE DOWN ON A SHEET OF PAPER THAT YOU
5 DIDN'T EAT YOUR SPINACH?
6 A. NO.
7 Q. YOU WROTE DOWN ON THE LIST, "AT THE STORE
8 ERIK WANTED TO STEAL."
9 A. THAT'S WHAT IT SAYS.
10 Q. WERE YOU ANGRY AT YOUR MOTHER FOR TRYING TO
11 STOP YOU FROM STEALING WHEN YOU WERE A CHILD?
12 MR. LEVIN: OBJECTION, YOUR HONOR. ASSUMES FACTS
13 NOT IN EVIDENCE.
14 THE COURT: OVERRULED.
15 THE WITNESS: I WASN'T ANGRY AT MY MOTHER FOR
16 WANTING TO STEAL -- IF I WANTED TO STEAL. IT'S JUST THE
17 PUNISHMENT THAT WOULD COME AS A RESULT OF THESE THINGS
18 THAT I WOULD HAVE TO WRITE DOWN FOR MY FATHER.
19 Q. IS THIS A WAY OF PUTTING YOUR MOTHER ON

20 TRIAL, MR. MENENDEZ?

21 A. MY MOTHER IS NOT ON TRIAL.

22 Q. YOU SAID THAT YOUR FATHER WOULD CALL YOU
23 NAMES AND WOULD MAKE YOU CRY; IS THAT CORRECT?

24 A. NAMES WOULD MAKE ME CRY. HEARING THINGS OR
25 SEEING EVENTS INSIDE THE HOUSE WOULD CONFUSE ME AND
26 SCARE ME, AND THAT MADE ME CRY.

27 Q. AND YOU SAID THAT YOUR FATHER WROTE YOU A
28 CARD FROM EUROPE IN WHICH HE REFERRED TO YOU AS CRYING;

-21229

1 IS THAT CORRECT?

2 A. RIGHT.

3 Q. AND YOU READ THE FIRST SENTENCE OF THAT
4 CARD; IS THAT CORRECT?

5 A. YES.

6 Q. AND WHAT HE WROTE TO YOU IN THAT CARD IS:

7 "DEAR ERIK, I TRUST THAT YOU
8 ARE NOT CRYING MUCH. EUROPE YOU WILL
9 FIND WHEN YOU COME HERE THAT IT IS
10 STILL FAR BEHIND AMERICA, IN
11 PARTICULAR ENGLAND. WELL, BE GOOD TO
12 YOUR MOTHER. LOVE, DADDY."

13 IS THAT THE CARD THAT HE WROTE TO YOU?

14 A. I DIDN'T READ THE LAST SENTENCE, BUT I AM
15 SURE YOU ARE READING IT RIGHT.

16 A. YES.

17 Q. AND DOES THIS SOUND LIKE THE WORDS OF AN
18 ABUSIVE AND CRUEL FATHER TO YOU, MR. MENENDEZ?

19 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.
20 IT'S ARGUMENTATIVE.

21 THE COURT: SUSTAINED.

22 Q. BY MR. CONN: NOW, WERE YOU TOLD BY YOUR
23 MOTHER NOT DISCUSS THINGS TO -- AMONG RELATIVES; IS THAT
24 CORRECT?

25 A. YES.

26 Q. AND SHE TOLD YOU NOT TO DISCUSS YOUR BAD
27 GRADES; IS THAT CORRECT?

28 A. YES.

-21228

1 Q. YOUR MOTHER DIDN'T WANT PEOPLE TO KNOW HOW
2 POORLY YOU WERE DOING IN SCHOOL; IS THAT CORRECT?

3 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

4 THE COURT: REPHRASE THE QUESTION.

5 Q. BY MR. CONN: WAS IT YOUR UNDERSTANDING
6 THAT YOUR MOTHER TOLD YOU NOT TO TELL PEOPLE ABOUT YOUR
7 BAD GRADES BECAUSE SHE DIDN'T WANT PEOPLE TO KNOW THAT
8 YOU WERE DOING POORLY IN SCHOOL?

9 A. I WAS GETTING B'S AND C'S, AND SHE WANTED
10 THEM TO THINK THAT I WAS GETTING A'S.

11 Q. SHE WANTED YOU TO APPEAR AS IF YOU WERE

12 DOING BETTER THAN YOU WERE; IS THAT CORRECT?

13 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

14 THE COURT: OVERRULED.

15 THE WITNESS: RIGHT.

16 Q. BY MR. CONN: AND DID YOU FIND THAT UNUSUAL
17 OR ODD THAT YOUR MOTHER WOULD TELL YOU NOT TO TELL
18 PEOPLE THAT YOU'RE NOT DOING AS WELL AS SHE WOULD WANT
19 YOU TO DO?

20 A. I DIDN'T KNOW WHAT UNUSUAL OR ODD WAS. IT
21 WAS THE WORLD I KNEW. I HAD NEVER LIVED IN ANY OTHER
22 FAMILY.

23 Q. SO YOU DIDN'T FIND THAT UNUSUAL OR ODD; IS
24 THAT CORRECT?

25 A. IT BECAME NORMAL.

26 Q. AND DO YOU FIND THAT UNUSUAL OR ODD TODAY?

27 MR. LEVIN: YOUR HONOR, OBJECTION. IT'S
28 IRRELEVANT.

-21227

1 THE COURT: OVERRULED.

2 THE WITNESS: I HAVE LEARNED A LOT ABOUT RAISING
3 CHILDREN, AND I HAVE -- I AM CLOSER TO MY RELATIVES, MY
4 AUNTS AND SO ON, AND MISS ABRAMSON IN RAISING HER CHILD,
5 AND I THINK THAT IT'S PROBABLY BEST NOT TO TEACH YOUR
6 CHILD TO LIE.

7 BUT WHEN I WAS IN MY HOUSE, THIS WAS NORMAL

8 AND I WANTED TO KEEP THE IMAGE AND THE SECRETS INSIDE
9 THE HOUSE.

10 Q. BY MR. CONN: DID SHE TELL YOU NOT TO TALK
11 ABOUT OTHER THINGS OTHER THAN YOUR BAD GRADES?

12 A. I REMEMBER HER SAYING OTHER THINGS, YES.

13 Q. LIKE WHAT?

14 A. MY FATHER AND MY MOTHER WOULD SIT US DOWN
15 AND TELL US THINGS THAT WE WEREN'T TO DISCUSS AND NOT TO
16 DISCUSS. NOT TO DISCUSS -- I REMEMBER THE FACT THAT SHE
17 WAS TUTORING ME AND TRAINING ME TO DO BETTER IN SCHOOL.
18 SHE WANTED ME TO KEEP MY BACKPACK IN A CERTAIN CORNER OF
19 MY RELATIVES' HOME SO THAT -- AND ZIPPERED UP IN A WAY
20 THAT I COULD TELL IF IT HAD BEEN DISTURBED. JUST A LOT
21 OF THINGS LIKE THAT.

22 Q. SHE WANTED YOU TO LIE, TO NOT TELL PEOPLE
23 THAT SHE WAS TUTORING YOU?

24 A. YES.

25 Q. AND TODAY YOU FEEL THAT IT IS WRONG TO LIE
26 ABOUT SOMETHING LIKE THAT?

27 A. I'M NOT SAYING THAT MY MOTHER IS A BAD
28 PERSON FOR IT. MY MOTHER ISN'T A BAD PERSON FOR THAT.

-21226

1 I AM JUST -- YOU'RE ASKING ME DO I FEEL IT'S GOOD TO
2 TELL A CHILD TO LIE, AND I NO LONGER BELIEVE THAT IT IS.

3 Q. OTHER THAN THE BAD GRADES AND THE FACT THAT

4 SHE WAS TUTORING YOU, WHAT DID SHE ASK YOU TO LIE ABOUT?

5 A. I DON'T KNOW. I CAN'T REMEMBER ANYTHING

6 SPECIFIC THAT SHE ASKED ME TO LIE ABOUT. IT'S JUST --

7 IT WAS UNDERSTOOD AND IT WAS EXPLAINED TO US IN THE

8 FAMILY THAT THE EVENTS INSIDE THE FAMILY REMAIN INSIDE

9 THE FAMILY. I UNDERSTOOD THAT SINCE I WAS A LITTLE BOY,

10 THAT YOU SIMPLY DON'T GO AROUND TALKING ABOUT WHAT

11 HAPPENS INSIDE THE FAMILY.

12 Q. WELL, WHAT EVENTS WAS YOUR MOTHER TRYING TO

13 KEEP A SECRET, ACCORDING TO WHAT YOU UNDERSTOOD AT THE

14 TIME WHEN YOU WOULD VISIT YOUR RELATIVES?

15 A. WELL, WE WEREN'T SUPPOSED TO TALK ABOUT

16 ANYONE GETTING HIT IN THE FAMILY. I WASN'T SUPPOSED TO

17 TALK ABOUT MY MOTHER'S DRINKING. I WASN'T SUPPOSED TO

18 TALK ABOUT MY TENNIS AND HOW I WAS PLAYING. I WASN'T

19 SUPPOSED TO TALK ABOUT THE FACT THAT I HAD STAYED BACK

20 IN FIFTH GRADE. I WASN'T SUPPOSED TO TALK ABOUT

21 ANYTHING THAT MIGHT MAKE THE FAMILY LOOK BAD.

22 I DON'T SPECIFICALLY REMEMBER HER SAYING

23 THESE THINGS TO ME, BUT THIS IS WHAT WAS UNDERSTOOD.

24 Q. AND DID YOU FIND IT UNUSUAL THAT YOUR

25 MOTHER DID NOT WANT YOU TO TALK ABOUT THINGS THAT WOULD

26 EMBARRASS THE FAMILY?

27 A. NO. I THOUGHT THAT IT WAS NORMAL. I

28 DIDN'T WANT TO TALK ABOUT THEM ANYWAY.

1 Q. AND EVEN TODAY ISN'T IT YOUR UNDERSTANDING
2 TODAY THAT MANY FAMILIES DON'T WANT TO HAVE FAMILY
3 MEMBERS SPEAK ABOUT NEGATIVE THINGS THAT EMBARRASS THE
4 FAMILY?

5 MR. LEVIN: OBJECTION. ASSUMES FACTS NOT IN
6 EVIDENCE. CALLS FOR SPECULATION.

7 THE COURT: SUSTAINED.

8 Q. BY MR. CONN: AND THIS LIST THAT YOUR
9 MOTHER WOULD HAVE YOU PREPARE TO GIVE TO YOUR FATHER,
10 DID YOU FEEL THAT IT WAS UNUSUAL AT THE TIME FOR A CHILD
11 TO BE HELD RESPONSIBLE TO HIS FATHER FOR NOT DOING THE
12 THINGS THAT HIS MOTHER WANTED HIM TO DO?

13 A. I'M SORRY. I BLANKED OUT ON THE QUESTION.

14 Q. DID YOU FEEL AT THE TIME THAT YOU WOULD
15 PREPARE THESE LISTS THAT IT WAS VERY UNUSUAL FOR A CHILD
16 TO BE HELD RESPONSIBLE TO HIS FATHER FOR THINGS THAT HIS
17 MOTHER WANTED HIM TO DO, BUT DIDN'T DO?

18 A. NO. IT'S -- IT'S NOT THAT I WOULD BE HELD
19 RESPONSIBLE. I DON'T KNOW WHETHER THE THINGS ON THE
20 LIST WERE TRUE OR NOT, BUT EVEN ASSUMING THAT THEY WERE
21 TRUE, I WAS AFRAID OF THE LIST BECAUSE I KNEW THERE WAS
22 THE POTENTIAL -- I KNEW MY FATHER WAS ONE, GOING TO BE
23 ANGRY, AND I WAS EITHER GOING TO GET SLAPPED OR HE WAS
24 GOING TO GO AS FAR AS TO WHIP ME, AND THAT'S WHY I WAS
25 AFRAID OF LISTS.

26 IT WASN'T A MATTER OF IF I HADN'T DONE
27 SOMETHING AND MY FATHER WAS GOING TO FIND OUT. IT WAS A
28 MATTER OF EITHER MY MOTHER GETTING BEATEN OR ME. IT WAS

1 GOING TO BE ONE OF US, AND SO I WAS AFRAID OF THESE
2 LISTS.

3 Q. ARE THERE ANY EYEWITNESSES WHO SAW YOUR
4 FATHER STRIKE YOU AFTER YOU PRESENTED HIM WITH SUCH A
5 LIST, MR. MENENDEZ?

6 A. I DON'T REMEMBER WHAT HE DID TO ME AFTER
7 THIS LIST. I DON'T REMEMBER THIS LIST IN PARTICULAR.

8 Q. I AM TALKING ABOUT ANY LIST YOU EVER HANDED
9 TO YOUR FATHER.

10 ARE THERE ANY EYEWITNESSES THAT SAW YOUR
11 FATHER HIT YOU AFTER YOU PRESENTED HIM WITH SUCH A LIST?

12 A. I DON'T KNOW IF THERE ARE.

13 Q. YOU CAN'T NAME ONE, CORRECT?

14 A. I KNOW THAT ALAN LIVED IN THE HOUSE. I
15 KNOW THAT KATHY LIVED IN THE HOUSE. I DON'T REMEMBER.
16 I KNOW THAT THEY SAW AND HEARD THE BELT. I DON'T KNOW
17 WHAT THEY SAW THAT PRECEDED IT.

18 Q. SO THEN YOU CAN'T NAME ONE, CORRECT?

19 A. RIGHT.

20 Q. THEN YOU TOLD US THAT SOMETIMES YOUR MOTHER
21 WOULD MAKE YOU GO BACK INTO THE SWIMMING POOL EVEN WHEN
22 YOU WANTED TO GET OUT OF THE SWIMMING POOL?

23 A. NO. IT'S THAT I HAD -- MY FATHER GAVE HER
24 A LIST OF LAPS THAT I WOULD HAVE TO DO, OR VERBALLY TOLD
25 HER LAPS THAT I WOULD HAVE TO DO, AND IF I QUIT BEFORE I

26 FINISHED THOSE LAPS, SHE WOULD TELL MY FATHER, AND
27 THAT'S WHAT I WAS AFRAID OF. AND I WOULD WANT TO GET
28 OUT OF THE POOL, BECAUSE NORMALLY IT WAS COLD, AND SHE

-21223

1 WOULD TELL ME I WOULD HAVE TO GET BACK IN.

2 Q. AND WHAT DOES THAT HAVE TO DO WITH WHY YOU
3 SHOT HER TO DEATH ON AUGUST THE 20TH OF 1989?

4 MR. LEVIN: OBJECTION. ASSUMES FACTS NOT IN
5 EVIDENCE.

6 THE COURT: OVERRULED.

7 THE WITNESS: I DON'T THINK IT HAS ANYTHING TO DO
8 WITH IT. THE ONLY THING THAT THAT WAS -- I HAVE NO
9 IDEA. THAT'S JUST ONE OF THE WAYS THAT MY MOTHER WOULD
10 TELL MY FATHER THINGS THAT I DID OR DIDN'T DO. I DON'T
11 THINK THAT THAT HAS ANYTHING TO DO WITH WHY SHE DIED.

12 Q. WELL, WHY YOU KILLED HER.

13 A. WHY I KILLED HER.

14 Q. NOW, DID YOU SAY THAT YOUR MOTHER AND
15 FATHER ONCE TOOK YOU FOR MEDICAL TREATMENT AFTER HE
16 SEXUALLY MISTREATED YOU?

17 A. I DON'T THINK THAT I SAID THAT, NO.

18 Q. HE NEVER TOOK YOU FOR MEDICAL TREATMENT
19 AFTER SEXUALLY MISTREATING YOU?

20 A. YOU'RE REFERRING TO THE MEDICAL RECORD THAT
21 TALKS ABOUT A BRUISE IN MY MOUTH, OR --

22 Q. I AM REFERRING TO YOUR TESTIMONY CONCERNING
23 MEDICAL TREATMENT THAT YOU RECEIVED AT SOME POINT IN
24 TIME.

25 THE COURT: ARE YOU ASKING ABOUT TESTIMONY IN
26 THIS TRIAL?

27 MR. CONN: YES, YOUR HONOR.

28 THE WITNESS: I DON'T REMEMBER MY FATHER EVER

-21222

1 TAKING ME TO SEE A DOCTOR BECAUSE I WAS HURT SEXUALLY BY
2 HIM. HE WOULD NOT HAVE DONE THAT.

3 Q. DO YOU REMEMBER YOUR MOTHER TAKING YOU TO
4 RECEIVE MEDICAL TREATMENT FOR ANY INJURY THAT YOU
5 RECEIVED FROM YOUR FATHER?

6 A. I CAN'T SAY PRECISELY THAT IT WAS RELATED
7 TO AN INCIDENT WITH MY FATHER.

8 Q. WHAT ARE YOU REFERRING TO?

9 A. THE INJURY IN MY MOUTH.

10 Q. ARE YOU SAYING THAT YOU ONCE RECEIVED AN
11 INJURY TO YOUR MOUTH AND YOU WERE TAKEN IN FOR
12 TREATMENT; IS THAT CORRECT?

13 A. YES.

14 Q. WHO TOOK YOU IN FOR TREATMENT?

15 A. MY MOTHER.

16 Q. AND WAS YOUR MOTHER THE ONE WHO ALWAYS TOOK
17 YOU IN FOR MEDICAL TREATMENT?

18 A. ALMOST ALWAYS.

19 Q. AND YOU CANNOT ATTRIBUTE THAT TREATMENT TO
20 AN INJURY THAT YOU RECEIVED FROM YOUR FATHER, CAN YOU?

21 A. I CAN'T HONESTLY SAY THAT IT IS OR ISN'T.

22 I DON'T HAVE A MEMORY OF IT.

23 Q. IT WAS AN INJURY TO THE BACK OF YOUR
24 THROAT; IS THAT CORRECT?

25 A. RIGHT.

26 Q. AND THAT COULD HAVE BEEN CAUSED BY FALLING
27 AND A POPSICLE STICK HITTING THE BACK OF YOUR THROAT,
28 CORRECT?

-21221

1 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

2 THE COURT: SUSTAINED.

3 Q. BY MR. CONN: YOU HAVE NO IDEA HOW YOU
4 RECEIVED THAT INJURY TO THE BACK OF YOUR THROAT; IS THAT
5 CORRECT?

6 A. I DON'T.

7 Q. AND THERE ARE NO MEDICAL RECORDS THAT
8 SUBSTANTIATE ANY OF THE ALLEGATIONS OF SEXUAL ABUSE THAT
9 YOU HAVE MADE IN THIS COURT; IS THAT CORRECT?

10 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR
11 SPECULATION.

12 THE COURT: SUSTAINED.

13 Q. BY MR. CONN: ARE YOU AWARE OF ANY MEDICAL

14 RECORDS THAT DOCUMENT ANY OF THE MISTREATMENT THAT YOU
15 RECEIVED AT THE HANDS OF YOUR PARENTS?
16 A. I AM NOT AWARE OF -- I AM NOT AWARE OF ANY.
17 Q. NOW, YOU SAY THAT YOUR BROTHER LYLE
18 MENENDEZ STUTTERED WHEN HE WAS YOUNG; IS THAT CORRECT?
19 A. HE DID.
20 Q. HE DOESN'T STILL STUTTER, DOES HE?
21 A. NO. HE WENT TO TRAINING TO GET RID OF IT.
22 Q. WELL, IS IT YOUR TESTIMONY, MR. MENENDEZ,
23 THAT WHEN YOU WERE A YOUNG CHILD YOU WERE AN ISOLATED
24 CHILD WITH NO FRIENDS?
25 A. NO. I HAD FRIENDS AT SCHOOL.
26 Q. YOU WERE NOT A LONER AT SCHOOL, WERE YOU?
27 A. IN 4TH GRADE I -- WHAT DO YOU MEAN BY A
28 LONER?

-21220

1 Q. DID YOU HAVE MANY FRIENDS AT SCHOOL?
2 A. I HAD FRIENDS THAT I WOULD PLAY KICKBALL
3 WITH AT RECESS AND SO ON. NO FRIENDS THAT WOULD COME
4 OVER TO THE HOUSE FROM SCHOOL.
5 Q. DIDN'T YOU SPEND NIGHTS AT THE HOMES OF
6 SOME OF YOUR FRIENDS?
7 MR. LEVIN: OBJECTION. VAGUE AS TO TIME.
8 THE COURT: OVERRULED.
9 THE WITNESS: I DON'T REMEMBER IF I SPENT NIGHTS

10 AT TOMMY'S. I KNOW THAT I SPENT AT LEAST ONE NIGHT OVER

11 AT BRENDAN'S HOUSE.

12 Q. NOW, YOU CAME TO CALIFORNIA IN WHAT YEAR?

13 A. 1986.

14 Q. AND IN 1986 YOU WERE 16 YEARS-OLD; IS THAT

15 CORRECT?

16 A. YES.

17 Q. AND WHEN YOU CAME TO CALIFORNIA, YOU WERE

18 NOT SOCIALLY ISOLATED, WERE YOU?

19 A. I DIDN'T -- I DIDN'T KNOW ANYONE IN

20 CALIFORNIA. I BEGAN TO MEET KIDS THROUGH SCHOOL,

21 SOMETIMES FROM TENNIS.

22 Q. AND YOU HAD A LOT OF FRIENDS IN CALIFORNIA,

23 DIDN'T YOU?

24 A. YES.

25 Q. AND CRAIG CIGNARELLI WAS ONE OF YOUR

26 CLOSEST FRIENDS; IS THAT CORRECT?

27 A. HE WAS ONE OF MY CLOSER FRIENDS.

28 Q. CAN YOU THINK OF ANY FRIEND THAT WAS CLOSER

-21219

1 TO YOU THAN CRAIG CIGNARELLI?

2 A. NO.

3 Q. YOU SPENT MOST OF YOUR TIME WITH YOUR

4 FRIEND, CRAIG CIGNARELLI?

5 A. NO. WE DIDN'T SPEND MOST OF OUR TIME. HE

6 WAS A GRADE OLDER THAN I WAS, SO HE HAD DIFFERENT
7 CLASSES AND -- BUT I WOULD SEE HIM AFTER SCHOOL AND PLAY
8 TENNIS WITH HIM. HE WAS ON OUR TENNIS TEAM.

9 Q. AND YOU SPENT A LOT OF YOUR FREE TIME WITH
10 HIM; IS THAT CORRECT?

11 A. YES.

12 Q. AND YOU WERE POPULAR AMONG YOUR FRIENDS,
13 WEREN'T YOU?

14 A. WHAT DO YOU MEAN?

15 Q. IN OTHER WORDS, YOU WERE NOT -- YOU DIDN'T
16 HAVE JUST A COUPLE OF ISOLATED FRIENDS, YOU HAD A GOOD
17 NUMBER OF FRIENDS THAT YOU GOT ALONG WELL WITH?

18 A. WELL, I WAS GENERALLY THE NEW KID AT
19 SCHOOL. I WENT TO SEVERAL DIFFERENT HIGH SCHOOLS. BUT
20 BECAUSE OF MY TENNIS ABILITIES I GENERALLY WAS
21 INGRATIATED INTO THE TENNIS TEAM AND BECAME FRIENDS WITH
22 WHOEVER WAS ON THE TENNIS TEAM.

23 Q. AND YOU DID THE SAME AT BEVERLY HILLS HIGH
24 SCHOOL; IS THAT CORRECT?

25 A. RIGHT.

26 Q. AND YOU HAD A LOT OF FRIENDS AT BEVERLY
27 HILLS HIGH SCHOOL, DIDN'T YOU?

28 A. AT BEVERLY I DIDN'T TRY TO GET FRIENDS,

1 BECAUSE I KNEW I WAS ONLY GOING TO BE GOING THERE FOR A

2 YEAR. PRETTY MUCH DANNY WAS MY FRIEND AT BEVERLY.

3 Q. AND IN ADDITION TO HAVING A CAR AND A

4 DRIVER'S LICENSE, YOU PRETTY MUCH CAME AND WENT AS YOU

5 PLEASED AT HOME, DIDN'T YOU?

6 A. WHAT DO YOU MEAN?

7 Q. WELL, YOU -- DID YOU HAVE A CURFEW, A

8 PARTICULAR TIME OF DAY YOU HAD TO BE HOME?

9 A. IT WAS GENERALLY EXPECTED THAT I WAS GOING

10 TO BE HOME FOR DINNER, BUT I CERTAINLY WAS GOING TO

11 REPORT WHERE I WAS AND WHAT I WAS DOING TO MY MOTHER, SO

12 SHE COULD TELL THAT TO MY FATHER.

13 Q. AND YOU WOULD STAY OUT LATE, WOULDN'T YOU?

14 A. ON SCHOOL NIGHTS I WOULD BE HOME BEFORE

15 6:00. TENNIS TEAM PRACTICE ENDED AT 5:00. I WOULD

16 EITHER BE PLAYING A MATCH AT HOME OR OUTSIDE. BUT ON

17 SCHOOL NIGHTS I DIDN'T COME HOME LATE.

18 Q. AND DURING THE WEEKEND YOU STAYED OUT LATE,

19 DIDN'T YOU?

20 A. SOMETIMES I DID.

21 Q. JUST LIKE MANY OTHER 16, 17 YEAR-OLDS AND

22 18 YEAR-OLDS; IS THAT CORRECT?

23 A. RIGHT.

24 Q. AND YOU HAD A NORMAL SOCIAL LIFE, WOULDN'T

25 YOU SAY?

26 A. NO. I WOULDN'T CALL MY SOCIAL LIFE NORMAL.

27 Q. WHY NOT?

28 A. BECAUSE OF WHAT WAS HAPPENING WITH MY

1 FATHER IT CREATED A GREAT SENSE OF ISOLATION. WITH MY
2 FRIENDS -- CRAIG WAS MY CLOSEST FRIEND, BUT HE HAD MANY
3 SECRETS THAT HE DIDN'T TELL ME, AND I HAD MANY SECRETS
4 THAT I DIDN'T TELL HIM. AND I THINK THAT'S ONE OF THE
5 REASONS WE GOT CLOSE, BECAUSE WE WERE -- I SAW HIM AS A
6 LITTLE DIFFERENT AND HE SAW ME AS DIFFERENT, AND WE HAD
7 SORT OF A COMMON BOND IN THAT WAY.

8 AND WITH GIRLS IT WAS VERY DIFFICULT FOR
9 ME. NORMALLY THE HIGH SCHOOL KIDS WERE OUT AT A PARTY
10 GETTING DRUNK OR DOING THIS AND THAT, AND I DIDN'T. I
11 WOULD JUST CALL IT DIFFERENT.

12 Q. NOW, YOU THOUGHT THAT THE SEXUAL ASSAULTS
13 FROM YOUR FATHER WERE GOING TO STOP AFTER YOU CAME TO
14 CALIFORNIA, BUT YOU SAID IT BEGAN AGAIN ABOUT NOVEMBER
15 OF '86; IS THAT RIGHT?

16 A. YES.

17 Q. AND HOW OFTEN DID YOUR FATHER SEXUALLY
18 ASSAULT YOU AFTER YOU HAD A DRIVER'S LICENSE AND A CAR?

19 A. GENERALLY ONCE A MONTH. SOMETIMES NOT FOR
20 A MONTH. I KNOW THAT IT DIDN'T HAPPEN IN JUNE, JULY AND
21 AUGUST WHEN I WAS DATING KIRSTEN OVER THE SUMMER OF '87.
22 I KNOW THAT IT HAPPENED IN NOVEMBER AND DECEMBER, AND IN
23 JANUARY AND IN FEBRUARY AND IN MARCH, AND I DON'T KNOW
24 IF IT HAPPENED IN APRIL.

25 Q. DO YOU REMEMBER THE SPECIFIC MONTHS? YOU
26 REMEMBER FOR EXAMPLE IT HAPPENED IN MARCH AND NOT APRIL?

27 A. I KNOW THAT IT HAPPENED IN MARCH -- AT THE
28 END OF MARCH, BECAUSE ABOUT A MONTH AFTER I STARTED

-21216

1 DATING KIRSTEN MY FATHER WOULD COME INTO MY ROOM, AND I
2 CALLED HER AND WANTED TO BREAK UP WITH HER.

3 I KNOW THAT IT HAPPENED IN FEBRUARY,
4 BECAUSE I KNOW MY FATHER HAD ACTUAL SEX WITH ME A FEW
5 WEEKS BEFORE I STARTED DATING KIRSTEN.

6 I KNOW IT HAPPENED IN NOVEMBER, BECAUSE
7 THAT'S WHEN IT STARTED UP AGAIN, AND IT HAPPENED IN
8 DECEMBER.

9 Q. WHAT HAPPENED IN THE MARCH INCIDENT?

10 A. HE CAME INTO MY -- INTO MY ROOM AND HAD ME
11 GIVE HIM ORAL SEX.

12 Q. THIS IS MARCH OF '87?

13 A. MARCH OF '86 -- '87.

14 Q. AND YOU WERE 16 AND-A-HALF AT THE TIME; IS
15 THAT CORRECT?

16 A. RIGHT.

17 Q. AND HOW TALL WERE YOU WHEN YOU WERE 16?

18 A. FIVE-EIGHT, FIVE-NINE.

19 Q. HOW TALL WERE YOU BY THE TIME YOU WERE 18?

20 A. FIVE-ELEVEN. ALMOST SIX-FOOT.

21 Q. AND HOW MUCH DID YOU WEIGH BY THE TIME YOU
22 WERE 18?

23 A. WHEN I WAS 18?
24 Q. YES.
25 A. 150, 160. PROBABLY 160.
26 Q. AND WHEN YOUR FATHER CAME INTO YOUR ROOM
27 WHEN YOU WERE 16 YEARS-OLD AND TOLD YOU TO GO DOWN ON
28 YOUR KNEES AND GIVE HIM SEX, YOU WOULD DO IT?

-21215

1 A. AUTOMATICALLY.
2 Q. AND DID YOU COMPLAIN AGAINST IT?
3 A. ONLY ONCE.
4 Q. AND OTHER TIMES YOU WOULD DO IT
5 AUTOMATICALLY?
6 A. YES.
7 Q. AND HOW DID THAT MAKE YOU FEEL WHEN YOU
8 WERE 16 YEARS-OLD AND HAD A CAR IN THE DRIVEWAY AND A
9 DRIVER'S LICENSE IN YOUR POCKET?
10 A. IT MADE ME FEEL VERY HOLLOW. IT MADE ME
11 FEEL SOMETIMES LIKE AN ALIEN ON THE EARTH, THAT THIS WAS
12 HAPPENING TO ME. A LOT OF TIMES IT MADE ME QUESTION WHO
13 AM I, IS MY BODY MINE. SOMETIMES I WOULD WANT TO HURT
14 MYSELF, THINKING THAT WOULD HURT MY DAD.
15 I WAS VERY CONFUSED IN WHAT I WANTED AND
16 WHO I WAS.
17 Q. AND WHEN YOU WERE 16, YOU DIDN'T FEEL LIKE
18 A CHILD ANY LONGER, DID YOU?

19 A. I WANTED TO BE A MAN.

20 Q. AND DID YOU THINK "PERHAPS I SHOULD JUST
21 LEAVE AND TELL MY FATHER NO"?

22 A. I REALLY DIDN'T THINK I COULD GET AWAY.
23 THOUGHTS OF ME NO LONGER WANTING TO LIVE WENT THROUGH MY
24 MIND, BUT FOR SOME REASON EVEN WORSE THAN WANTING TO
25 LIVE -- NOT WANTING TO LIVE ANYMORE WAS TRYING TO RUN
26 AWAY. I JUST DIDN'T THINK I COULD.

27 Q. AND FROM THE TIME THAT YOU WERE 16 UNTIL 18
28 THEN, YOU DIDN'T SEE TOO MUCH OF YOUR BROTHER, LYLE; IS

-21214

1 THAT CORRECT?

2 A. WHEN I WAS 16 AND WE FIRST MOVED OUT TO
3 CALIFORNIA, LYLE WAS IN PRINCETON. I KNOW THAT HE LIVED
4 IN THE BEVERLY HILLS HOUSE FOR MANY MONTHS. I WOULD SEE
5 HIM ON AND OFF, DEPENDING ON WHAT HE WAS DOING.

6 Q. BETWEEN THE AGES OF -- WELL, FROM THE TIME
7 YOU MOVED TO CALIFORNIA IN '86 UP UNTIL THE TIME YOU
8 SHOT YOUR PARENTS TO DEATH AT THE AGE OF 18, HOW MUCH --
9 HOW OFTEN DID YOU SEE YOUR BROTHER, LYLE?

10 A. I WOULD SPEAK TO HIM ON THE PHONE. I
11 WOULDN'T SEE HIM. SOMETIMES I WOULDN'T -- I DON'T THINK
12 I SAW HIM FOR EIGHT MONTHS THE FIRST -- THE FIRST TIME
13 HE WAS AWAY.

14 Q. AND YOU WERE LIVING AT HOME ALL THAT TIME;

15 IS THAT CORRECT?

16 A. YES.

17 Q. AND YOU KNEW THAT YOUR BROTHER, LYLE, WAS
18 LIVING IN PRINCETON; IS THAT CORRECT?

19 A. RIGHT.

20 Q. AND DID YOU STOP AND CONSIDER THE FACT THAT
21 IF YOUR FATHER WAS WILLING TO LET YOUR BROTHER, LYLE,
22 LEAVE THE FAMILY AND LIVE SOMEWHERE ON THE EAST COAST
23 WITHOUT HIM, THAT PERHAPS YOU COULD DO THE SAME?

24 A. I THOUGHT THAT WHEN I WENT AWAY TO COLLEGE
25 I, TOO, WOULD GET AWAY. BUT EVEN MY PERCEPTION OF LYLE
26 WAS DIFFERENT. LYLE WAS ALWAYS TREATED AS THE FIRST
27 SON, AND MY DAD'S PHILOSOPHY IN LIFE WAS I WAS THE
28 THROW-AWAY SON. ESSENTIALLY IF SOMETHING HAPPENED TO

-21213

1 LYLE, THEN I WOULD BECOME THE NUMBER ONE SON.

2 BUT I DID HAVE THAT EXPECTATION WHEN I WENT
3 TO COLLEGE THAT I WOULD GET AWAY AND THAT THINGS WOULD
4 END.

5 Q. AND DURING THESE -- THIS TIME PERIOD IN
6 MARCH OF '87 WHEN YOUR FATHER WAS MAKING YOU DO KNEE
7 SEX, DID YOU THINK ABOUT GETTING IN YOUR CAR AND DRIVING
8 TO THE EAST COAST AND SEEING YOUR BROTHER, LYLE, IN
9 PRINCETON AND STAYING WITH HIM?

10 A. NO.

11 Q. WHY NOT?

12 A. I DIDN'T KNOW -- WHAT WOULD THAT DO?

13 Q. YOU WOULD BE AWAY FROM YOUR FATHER; IS THAT

14 CORRECT?

15 A. MY FATHER WOULD COME TO PRINCETON AND FIND

16 ME, AND THAT WOULDN'T HAVE SOLVED ANYTHING.

17 Q. AND YOU THOUGHT THERE WAS NOWHERE IN THE

18 WORLD YOU COULD GO TO GET AWAY FROM YOUR FATHER?

19 A. I DIDN'T.

20 Q. AND WHEN YOUR FATHER MADE YOU HAVE REGULAR

21 SEX WITH HIM IN -- IT WAS FEBRUARY OF '87 THAT HE MADE

22 YOU DO THAT?

23 A. YES.

24 Q. AND HOW DID THAT MAKE YOU FEEL?

25 A. IT MADE ME HATE MYSELF. IT MADE ME HATE

26 HIM. IT MADE ME NOT WANT TO LIVE. IT MADE ME HOPE THAT

27 HE WOULD DIE. IT MADE ME HUMILIATED.

28 Q. AND WAS THAT ENOUGH FOR YOU TO MAKE YOU

-21212

1 WALK OUT THE DOOR?

2 A. I JUST DIDN'T BELIEVE THAT I COULD WALK OUT

3 THE DOOR.

4 Q. AND YOU DIDN'T EVER TRY, DID YOU?

5 A. I TRIED WHEN I WAS 12. AFTER THAT I

6 WOULDN'T TRY.

7 Q. MR. MENENDEZ, ISN'T THERE A BIG DIFFERENCE

8 BETWEEN A 12 YEAR-OLD AND A 16 YEAR-OLD?

9 A. CERTAINLY.

10 Q. AND YOU APPRECIATED THAT DIFFERENCE WHEN

11 YOU WERE 16 YEARS-OLD, DIDN'T YOU?

12 A. INTELLECTUALLY, I DID. EMOTIONALLY I

13 ALWAYS REMEMBERED THE INCIDENT, AND IT WAS JUST -- IT

14 WAS AS IF I WAS STANDING ON THE EDGE OF A THOUSAND FOOT

15 CLIFF, AND YOU WERE TELLING ME TO JUMP, AND "DON'T

16 WORRY, YOU'RE GOING TO FLY," AND I'M SAYING "NO, I AM

17 GOING TO FALL A THOUSAND FEET AND DIE," AND YOU'RE

18 TELLING ME "NO, YOU CAN FLY." AND I JUST CAN'T JUMP OFF

19 THE CLIFF.

20 THAT'S HOW I FELT. FOR SOME REASON I

21 COULDN'T DO IT.

22 Q. AND WHEN YOU WERE 18 YEARS-OLD, DID YOU

23 APPRECIATE THE DIFFERENCE BETWEEN A 12 YEAR-OLD AND AN

24 18 YEAR-OLD?

25 A. OF COURSE.

26 Q. AND WHEN YOU WERE 17 YEARS-OLD COMMITTING

27 RESIDENTIAL BURGLARIES, DID YOU APPRECIATE THE

28 DIFFERENCE BETWEEN A 12 YEAR-OLD AND A 17 YEAR-OLD?

-21211

1 MR. LEVIN: OBJECTION, YOUR HONOR. MISSTATES THE

2 FACTS, AND ALSO --

3 THE COURT: IT'S ARGUMENTATIVE.

4 LET'S TAKE OUR RECESS. WE'LL RESUME AT

5 FIVE MINUTES AFTER THE HOUR. 3:05.

6 DON'T DISCUSS THE MATTER WITH ANYONE.

7 DON'T FORM ANY FINAL OPINIONS ABOUT IT. WE WILL RESUME

8 AT 3:05.

9 (A RECESS WAS TAKEN FROM

10 2:50 P.M. UNTIL 3:10 P.M.)

11

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

13 PLEASE.

14 (THE JURY ENTERS THE COURTROOM AND THE

15 FOLLOWING PROCEEDINGS WERE HELD:)

16

17 THE COURT: THE JURORS ARE ALL BACK. WE WILL

18 CONTINUE WITH THE CROSS-EXAMINATION OF THE WITNESS.

19 MR. CONN: THANK YOU.

20 Q. NOW, MR. MENENDEZ, AFTER YOU TURNED 18

21 YEARS OF AGE, YOU HAD BEEN DRIVING FOR ABOUT TWO YEARS;

22 IS THAT CORRECT?

23 A. RIGHT, YES.

24 Q. AND WHEN YOU SHOT YOUR PARENTS, YOU WERE

25 ALMOST 19 -- YOU WERE ABOUT 18 AND NINE MONTHS; IS THAT

26 CORRECT, OF AGE?

27 A. YES.

28 Q. SO YOU CONTINUED TO LIVE WITH YOUR FAMILY

1 FOR ABOUT NINE MONTHS AFTER YOU TURNED 18 YEARS-OLD AND
2 BEFORE YOU SHOT YOUR PARENTS?

3 A. I GRADUATED IN JUNE, AND I WAS GOING TO GO
4 TO COLLEGE IN SEPTEMBER, YES.

5 Q. AND AFTER YOU WERE 18 YEARS-OLD, HOW OFTEN
6 DID YOU HAVE SEX WITH YOUR FATHER?

7 A. AFTER I WAS 18?

8 Q. YES.

9 A. I KNOW IT HAPPENED IN FEBRUARY. WHEN I
10 LOST AT THE FIESTA BOWL IN DECEMBER. EARLY JANUARY. IN
11 MAY. IT HAPPENED IN MARCH AFTER LOSING AT THE EASTER
12 BOWL. IT HAPPENED AT THE CHAMPIONSHIPS WHEN I LOST IN
13 THE FIRST ROUND. IT HAPPENED WHEN I WAS IN THE CLAY
14 COURTS IN KENTUCKY, AND IT MAY HAVE HAPPENED ONE OR TWO
15 MORE TIMES THAN THAT, BUT I JUST DON'T REMEMBER.

16 Q. AND AFTER YOU REACHED 18 YEARS OF AGE, HOW
17 MUCH LONGER DID YOU THINK THE SEXUAL ACTIVITIES WITH
18 YOUR FATHER WAS GOING TO CONTINUE FOR?

19 A. I WAS HOPING IT WOULD END RIGHT AFTER HIGH
20 SCHOOL. THEN I THOUGHT IT WOULD CERTAINLY END WHEN I
21 WENT AND STARTED AT U.C.L.A.

22 Q. AND DID YOUR FATHER TELL YOU THAT HE WAS
23 GOING TO LET YOU GO AWAY TO SCHOOL?

24 A. YES.

25 Q. WHEN DID HE TELL YOU THAT?

26 A. WELL, I HAD THOUGHT THAT I WAS GOING TO GO
27 TO BROWN. BROWN WAS MY NUMBER ONE CHOICE.

-21209

1 AFTER A CONVERSATION HE HAD HAD WITH THE COACH THAT I
2 WOULD NOT BE GOING TO BROWN, AND SO IT WAS A MATTER OF
3 WHICH U.C. SCHOOL PRETTY MUCH I WAS GOING TO GO TO.

4 I WAS ACCEPTED INTO BERKELEY FIRST, AND MY
5 MOTHER WAS VERY EXCITED THAT I WAS ACCEPTED INTO
6 BERKELEY. SHE WANTED ME TO GO TO BERKELEY. MY DAD WAS
7 HAPPY THAT I WAS ACCEPTED INTO BERKELEY, BUT TOLD ME
8 THAT HE WAS TRYING TO GET ME INTO U.C.L.A., AND PRETTY
9 MUCH ASSURED ME THAT I WOULD BE GETTING INTO U.C.L.A.

10 Q. AND YOU HAD NO PROBLEM WITH GOING TO
11 U.C.L.A.?

12 A. I WOULD HAVE PREFERRED TO GO TO BROWN, BUT
13 U.C.L.A. -- I ACCEPTED THE FACT THAT I WAS GOING TO GO
14 TO U.C.L.A.

15 Q. AND YOU WERE CONVINCED THAT ONCE YOU WENT
16 TO U.C.L.A. THAT THE SEXUAL ABUSE BY YOUR FATHER WAS
17 GOING TO STOP; IS THAT CORRECT?

18 A. IT WAS MY FANTASY THAT IT WOULD, MY STRONG
19 HOPE.

20 Q. HOW FAR AWAY IS U.C.L.A. FROM ELM STREET?

21 A. IT'S JUST A FEW MILES.

22 Q. AND YOU THOUGHT THAT YOUR FATHER, WHO TOLD
23 YOU THAT HE WOULD KILL YOU IF YOU LEFT THE HOME, WAS

24 GOING TO STOP SEXUALLY ABUSING YOU BECAUSE YOU WERE A
25 FEW MILES AWAY?
26 A. NO. THIS WAS A FANTASY THAT I DEVELOPED
27 AND THE DREAM THAT I GRASPED ONTO WHEN IT STARTED UP
28 AGAIN IN CALIFORNIA. AND SO I HAD HAD IT FOR YEARS UP

-21208

1 TO THIS POINT. IN MY MIND IT DIDN'T MATTER WHETHER I
2 WENT TO U.C.L.A. OR TO BROWN ON THE EAST COAST. IT
3 WAS -- IT HAD -- MAYBE I HAD BUILT IT UP TOO MUCH, I
4 DON'T KNOW, BUT I BUILT IT TO THE POINT WHERE WHEN I
5 WENT TO COLLEGE THINGS WOULD CHANGE.

6 Q. WELL, IT WAS MORE THAN A FANTASY, IT WAS A
7 BELIEF ON YOUR PART, WASN'T IT?

8 A. YES.

9 Q. YOU BELIEVED THAT YOUR FATHER WOULD NO
10 LONGER SEXUALLY MOLEST YOU BECAUSE YOU WERE A FEW MILES
11 AWAY; IS THAT WHAT YOU'RE SAYING?

12 A. CERTAINLY I -- IT'S DIFFICULT FOR ME TO
13 REMEMBER. AT U.C.L.A. I HAD SOME -- I WOULD HAVE
14 PREFERRED NOT TO GO TO U.C.L.A.

15 Q. BUT ONCE YOU FOUND OUT THAT YOUR FATHER WAS
16 GOING TO -- WOULD PREFER YOU IN U.C.L.A., YOU STILL
17 THOUGHT THAT THE SEXUAL ABUSE WAS GOING TO STOP BECAUSE
18 YOU WERE A FEW MILES AWAY?

19 A. YES.

20 Q. AND THAT MADE SENSE TO YOU?
21 A. IT DID IN MY WORLD.
22 Q. AND WHY IN YOUR WORLD DID THAT MAKE SO MUCH
23 SENSE? DID YOU THINK THAT YOUR FATHER, WHO HAD THE
24 POWER TO CHASE YOU AROUND THE WORLD, COULDN'T DRIVE A
25 FEW MILES AWAY AND SEXUALLY ASSAULT YOU IN U.C.L.A.?
26 A. NO. I THINK THAT IT WAS A DREAM. IT WAS A
27 HOPE THAT I -- THAT I NEEDED TO HAVE, AND WITHOUT IT I
28 DON'T THINK THAT I WOULD HAVE LIVED UNTIL I WAS 18

-21207

1 YEARS-OLD. I DON'T THINK THAT I WOULD HAVE HAD THE
2 STRENGTH, WHENEVER I GOT SO OVERWHELMINGLY DEPRESSED,
3 AND I WOULD LAY IN MY BED AT NIGHT AND LOOK UP AT THE
4 CEILING, I WOULD THINK AND DREAM ABOUT COLLEGE.

5 I THINK THAT HAD I NOT HAD THAT HOPE AND
6 THAT DREAM, I WOULDN'T HAVE MADE IT.

7 AND SO MAYBE IT WASN'T BUILT ON RATIONAL OR
8 SENSE, EVEN THOUGH I -- IT MADE SENSE TO ME. IT MADE
9 SENSE IN MY WORLD.

10 Q. BUT YOU AGREE, THOUGH, IN LIGHT OF WHAT
11 YOU'RE TELLING US ABOUT YOUR FATHER IS THAT IT DOESN'T
12 APPEAR TO BE A VERY RATIONAL BELIEF; IS THAT CORRECT?

13 A. WELL --

14 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

15 THE COURT: OVERRULED.

16 THE WITNESS: NO. I MEAN, YES AND NO. CLEARLY
17 IT WOULD MAKE ME MUCH LESS AVAILABLE TO MY FATHER. I
18 DIDN'T WANT TO GO HOME VERY MUCH. MAYBE I WAS GOING TO
19 WASH MY CLOTHES THERE OR I WOULD EAT DINNER OVER THERE
20 IF MY MOM ASKED ME TO EAT DINNER THERE, BUT I WOULD BE
21 LESS AVAILABLE TO MY FATHER.

22 BUT CERTAINLY IF MY FATHER HAD WANTED TO,
23 HE COULD HAVE PICKED ME UP AT MY DORM, PUT ME IN THE CAR
24 AND DROVE ME TO THE HOUSE. AND YES, THAT COULD HAVE
25 HAPPENED. BUT THAT WASN'T SOMETHING THAT I WANTED TO
26 THINK ABOUT. I WANTED TO ACCEPT MY DREAM.

27 Q. BUT WHETHER OR NOT YOU WANTED TO THINK
28 ABOUT IT, MR. MENENDEZ, ARE YOU TELLING US THAT WHEN YOU

-21206

1 STOPPED AND CONSIDERED THE FACT THAT YOU WERE GOING TO
2 GO TO U.C.L.A., YOU CONCLUDED IN YOUR OWN MIND THAT YOUR
3 FATHER WAS NO LONGER GOING TO TELL YOU TO GET DOWN ON
4 YOUR KNEES WHEN YOU VISITED HIM ON WEEKENDS FROM
5 U.C.L.A.?

6 A. YES.

7 Q. AND THEN HOW DO YOU RATIONALIZE THAT IN
8 YOUR OWN MIND? DID YOU FEEL THAT YOUR FATHER WOULD NO
9 LONGER HAVE THIS SEXUAL INTEREST IN YOU?

10 A. I DON'T KNOW THAT IT'S A RATIONAL WORLD
11 THAT MY FATHER AND I LIVED IN. IT WAS A WORLD WHICH HE

12 CONTROLLED, AND IT WAS A WORLD IN WHICH I WAS CONSTANTLY
13 TRYING TO ADAPT, BECAUSE I WAS CONFUSED AND I DIDN'T
14 UNDERSTAND.

15 AND AS A TEENAGER, I WANTED TO BE A MAN. I
16 WASN'T. I WAS A COWARD WHEN IT CAME TO DEFENDING MYSELF
17 WITH HIM.

18 BUT THIS WAS A DREAM THAT HAD I NOT HAD, I
19 WOULD NOT HAVE LIVED TO 18. AND SO IT WAS A DREAM THAT
20 I BUILT UP AND NEEDED, AND WHEN IT WAS SHATTERED, ALL OF
21 MY -- I WAS --

22 Q. WHAT I'M ASKING YOU, MR. MENENDEZ, IS IF
23 YOUR FATHER WAS THIS ALL-POWERFUL MAN THAT YOU CLAIM HE
24 WAS, THAT YOU COULD NOT GO ANYWHERE ON THE EARTH TO GET
25 AWAY FROM HIM, HOW COULD YOU MAINTAIN SUCH A DREAM,
26 KNOWING THAT YOU WOULD ONLY BE A FEW MILES AWAY FROM HIM
27 AND PRESUMABLY HE WOULD NOT JUST LOSE THIS SEXUAL
28 INTEREST IN YOU?

-21205

1 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.
2 CALLS FOR SPECULATION.

3 THE COURT: OVERRULED.

4 THE WITNESS: THERE'S NO DOUBT THAT HE WAS THIS
5 ALL-POWERFUL MAN. HE WAS AN EXTREMELY -- HE WAS THE
6 MOST POWERFUL MAN I HAVE EVER MET, AND I DON'T KNOW IF I
7 CAN EXPLAIN IT IN A RATIONAL SENSE. IT'S SOMETHING --

8 Q. BY MR. CONN: YOU HAVE NO ANSWER FOR THAT?

9 MR. LEVIN: OBJECTION, YOUR HONOR. THE WITNESS

10 HASN'T FINISHED HIS ANSWER.

11 THE COURT: LET HIM FINISH HIS ANSWER.

12 YOU MAY FINISH YOUR ANSWER.

13 THE WITNESS: IT WAS SOMETHING I BELIEVED IN, AND

14 MY DAD MADE IT PRETTY CLEAR ON THAT SUNDAY THAT MY DREAM

15 WAS MERELY A FANTASY, AND THAT'S WHAT BROKE ME.

16 Q. BY MR. CONN: I AM NOT ASKING YOU ABOUT THE

17 SUNDAY. I AM ASKING YOU ABOUT BEFORE THE SUNDAY WHEN

18 YOU WERE CONSIDERING GOING TO U.C.L.A.

19 WHAT MADE YOU THINK YOUR FATHER WOULD NO

20 LONGER SEXUALLY ABUSE YOU?

21 A. I DON'T KNOW.

22 Q. NOW, YOU SAID THAT ONCE YOU REACHED THE AGE

23 OF 18, NOT ONLY DIDN'T YOU LEAVE YOUR HOME, BUT IT

24 DIDN'T EVEN OCCUR TO YOU TO RUN AWAY.

25 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

26 THE COURT: OVERRULED.

27 THE WITNESS: IN ANY REAL SENSE, NO.

28 Q. BY MR. CONN: WHAT DO YOU MEAN BY "IN ANY

-21204

1 REAL SENSE"?

2 A. WHEN I WAS 17 I -- I THOUGHT OF IT FOR JUST

3 A BRIEF TIME WHEN I WAS -- I DON'T EVEN REMEMBER THE

4 CIRCUMSTANCES, BUT I WAS -- I WAS TOO OVERWHELMED, AND I
5 STARTED PACKING MY BAGS, AND MY MOTHER CAME IN MY ROOM
6 AND ASKED ME WHERE DID I THINK I WAS GOING, AND IT SORT
7 OF DIED THERE.

8 I KNOW THAT ON SUNDAY NIGHT I TRIED TO PACK
9 MY BAGS AND JUST SAID "I'M GOING OVER TO A FRIEND'S
10 HOUSE FOR A FEW DAYS," AND I DIDN'T -- I DON'T KNOW IF I
11 REALLY THOUGHT THAT I WOULD BE ABLE TO DO THAT.

12 I JUST -- I JUST FELT DEAD INSIDE AT THAT
13 POINT. I DON'T REMEMBER ANY OTHER TIMES WHEN I THOUGHT
14 ABOUT IT JUST ON THE SPUR OF THE MOMENT, BUT I DIDN'T
15 SERIOUSLY GIVE IT ANY CONSIDERATION THAT I COULD GET
16 AWAY.

17 Q. WELL, WHEN YOU WERE BEING SEXUALLY
18 ASSAULTED BY YOUR FATHER AFTER PERFORMING ON THE CLAY
19 COURTS, DID IT OCCUR TO YOU TO LEAVE HOME?

20 A. NO. IT WAS JUST A MATTER OF COUNTING THE
21 DAYS UNTIL I WENT TO COLLEGE. AT THAT POINT, IT WAS
22 ONLY A MONTH AND A HALF AWAY.

23 Q. AND WHEN YOUR FATHER SEXUALLY ASSAULTED YOU
24 BACK IN MARCH OF 1989, DID IT OCCUR TO YOU TO LEAVE
25 HOME?

26 A. IT DID NOT OCCUR TO ME.

27 Q. AND YOU DIDN'T EVEN THINK ABOUT GETTING IN
28 YOUR CAR AND DRIVING AWAY; IS THAT CORRECT?

1 A. WHAT I INTERPRET WHAT YOU'RE SAYING IS
2 LEAVE HOME PERMANENTLY FOR GOOD, NEVER RETURN, NEVER
3 MAKE CONTACT WITH MY FATHER OR MY MOTHER EVER AGAIN, AND
4 THAT DID NOT OCCUR TO ME.

5 Q. WELL, DID IT OCCUR TO YOU TO JUST DRIVE
6 AWAY FOR A MONTH AND CALL UP YOUR FATHER AND TELL YOUR
7 FATHER "I DON'T WANT YOU TO SEXUALLY ASSAULT ME ANY
8 MORE, AND YOU'RE NOT GOING TO SEE ME AGAIN UNLESS YOU
9 AGREE."

10 DID THAT OCCUR TO YOU?

11 A. IT DIDN'T, BECAUSE I COULD NEVER -- THAT
12 COULD NEVER HAPPEN. MY FATHER WOULD LAUGH. HE'D SAY --
13 HE WOULD FIND ME AND IT WOULD BE THE END OF IT. THAT
14 COULD NEVER HAPPEN.

15 Q. SO AS MUCH AS YOU HATED THE SEXUAL ABUSE,
16 IT NEVER OCCURRED TO YOU TO DRIVE AWAY FROM YOUR HOME;
17 IS THAT CORRECT?

18 A. AND NEVER RETURN?

19 Q. TO DRIVE AWAY FROM YOUR HOME FOR AS LONG AS
20 YOU FELT YOU NEEDED TO; IS THAT CORRECT?

21 A. WELL, I THINK IT DID OCCUR TO ME TO JUST --
22 TO DRIVE, BUT IT NEVER OCCURRED TO ME THAT IT WOULD BE
23 IN ANY REAL SENSE THAT I WOULD BE RUNNING AWAY.

24 Q. SO IT DID OCCUR TO YOU TO DRIVE AWAY FOR A
25 PERIOD OF TIME; IS THAT WHAT YOU'RE TELLING US?

26 A. I CANNOT SAY THAT IT DID. YOU'RE RIGHT. I
27 CANNOT SAY THAT IT DID. I CAN'T SAY THAT IT DIDN'T, BUT
28 I DEFINITELY CAN TELL YOU THAT I NEVER THOUGHT -- GAVE

1 IT -- SERIOUSLY ENTERTAINED THE POSSIBILITY OF NEVER
2 RETURNING TO MY HOME.

3 Q. SO WHICH IS IT, DID IT OCCUR TO YOU OR
4 DIDN'T IT OCCUR TO YOU?

5 A. JUST WHAT I SAID. IT MAY HAVE FLASHED
6 THROUGH MY MIND "I WANT TO GET OUT OF HERE. I'VE GOT TO
7 LEAVE," BUT I NEVER TOOK ANY STEPS TO FOLLOW THROUGH
8 WITH IT.

9 Q. NOW, WHEN YOU TESTIFIED THAT YOU ONLY HAD
10 FOUR FREE HOURS A WEEK ON DIRECT EXAMINATION, AND ALL
11 THE REST WAS IN ACCORDANCE WITH A SCHEDULE THAT WAS MADE
12 UP BY YOUR FATHER, YOU WERE TALKING ABOUT WHEN YOU WERE
13 YOUNG; YOU WERE NOT TALKING ABOUT WHEN YOU WERE A
14 TEENAGER HERE IN CALIFORNIA, RIGHT?

15 A. RIGHT.

16 Q. AND YOU HAD A LOT OF FREE TIME HERE IN
17 CALIFORNIA; ISN'T THAT CORRECT?

18 A. I HAD CONSIDERABLY MORE FREE TIME THAN I
19 EVER HAD AS A CHILD, YES.

20 Q. AND YOU SPENT A LOT OF FREE TIME MINGLING
21 WITH YOUR FRIENDS, CORRECT?

22 A. YES, I DID.

23 Q. NOW, CONCERNING YOUR MOTHER'S USE OF
24 ALCOHOL, ARE YOU TELLING US THAT YOUR MOTHER WAS
25 CONSTANTLY DRUNK?

26 A. NO.

27 Q. ARE YOU TELLING US THAT THERE WAS A TIME

28 PERIOD IN YOUR MOTHER'S LIFE WHEN SHE DRANK TOO MUCH?

-21201

1 A. IT INCREASED AS THE YEARS INCREASED, AS HER

2 DEPRESSION INCREASED.

3 Q. OVER WHAT PERIOD OF TIME DID YOUR MOTHER

4 DRINK HEAVILY?

5 A. HEAVILY?

6 Q. YES.

7 A. SHE DRANK IN PENNINGTON AND SHE DRANK IN

8 CALIFORNIA.

9 Q. AND DURING WHAT PERIOD OF TIME IN

10 CALIFORNIA DID SHE DRINK HEAVILY?

11 A. I DON'T KNOW WHAT PERIOD OF TIME SHE DRANK

12 HEAVILY. I KNOW THAT SHE WAS VERY DEPRESSED, VERY

13 SUICIDAL. SHE DRANK A LOT IN '86 AND '87. IT WAS ONE

14 OF HER WAYS TO ESCAPE.

15 BUT I WASN'T AROUND HER WHEN SHE WAS

16 JUST -- JUST CONSTANTLY DRINKING. DURING THOSE TWO

17 YEARS SHE WOULD GO AND DO IT IN HER BEDROOM, OR I WOULD

18 WALK INTO THE KITCHEN AND SHE WOULD BE THROWING THINGS

19 AROUND. I KNOW SHE CONTINUALLY DRANK IN BEVERLY HILLS,

20 BUT LESS SO.

21 Q. WELL, ISN'T IT TRUE THAT ABOUT THE TIME

22 OF -- ABOUT THE TIME YOU KILLED YOUR MOTHER, YOUR MOTHER
23 WAS EXERCISING AND TAKING CARE OF HERSELF?

24 A. SHE WAS IN A MUCH HEALTHIER STATE MENTALLY
25 IN TERMS OF HER DESIRES TO LIVE, AND SHE WAS RECOVERING
26 FROM THE TRAGEDY THAT SHE SAW HER LIFE IN TERMS OF MY
27 FATHER HAVING THE AFFAIR.

28 Q. YOUR MOTHER WAS DEPRESSED WHEN SHE FIRST

-21200

1 GOT TO CALIFORNIA BECAUSE OF THE AFFAIR, CORRECT?

2 A. MORE THAN DEPRESSED. SHE WAS DESTROYED AS
3 A PERSON.

4 Q. AND SHE DRANK HEAVILY DURING THAT TIME
5 PERIOD, CORRECT?

6 A. YES.

7 Q. AND AFTER A WHILE, THINGS GOT BETTER
8 BETWEEN YOUR MOTHER AND YOUR FATHER, CORRECT?

9 A. AN ARRANGEMENT WAS WORKED OUT BETWEEN MY
10 MOTHER AND MY FATHER.

11 Q. AND THEY BECAME CLOSE AGAIN; IS THAT
12 CORRECT?

13 A. I DON'T KNOW WHAT YOU MEAN BY CLOSE. I
14 DON'T THINK THAT MY FATHER LOVED MY MOTHER DURING THAT
15 PERIOD OF TIME, BUT MY MOTHER WAS DEEPLY IN LOVE WITH MY
16 FATHER.

17 Q. THEY WERE HOLDING HANDS VERY OFTEN AND

18 APPEARED TO HAVE A VERY GOOD RELATIONSHIP, DIDN'T THEY?
19 A. IT WAS BETTER. I DIDN'T SEE MY FATHER HIT
20 MY MOTHER. IT WAS BETTER FOR MY MOTHER, ABSOLUTELY, BUT
21 THEY WEREN'T CONSTANTLY HOLDING HANDS AND THINGS LIKE
22 THAT.
23 Q. AND THAT SUICIDE LETTER THAT YOU REFERRED
24 TO WAS A LETTER THAT WAS WRITTEN SHORTLY AFTER YOUR
25 ARRIVAL IN CALIFORNIA?
26 A. I'M NOT SURE WHEN IT WAS WRITTEN. THAT'S
27 WHEN I FOUND IT.
28 Q. AND DURING THE TIME PERIOD IMMEDIATELY

-21199

1 PRECEDING HER DEATH, THE MARITAL PROBLEMS THAT THEY
2 APPEARED TO BE HAVING WERE -- APPEARED TO BE SOMEWHAT
3 RESOLVED, WEREN'T THEY?
4 A. I -- A LOT OF IT IS DIFFICULT TO SORT OUT,
5 WHAT I FOUND OUT AFTERWARDS AND WHAT I KNEW BEFORE.
6 BUT YES, IT WAS CLEAR THAT THERE WAS
7 DEFINITELY NO TALK OF DIVORCE. SHE WAS NO LONGER
8 SUICIDAL, AND IT WAS A BETTER -- THERE WAS A BETTER --
9 THERE WAS A STRONGER UNION BETWEEN THE TWO OF THEM.
10 Q. AND DURING 1989 YOUR MOTHER WASN'T DRIVING
11 AROUND DRUNK, WAS SHE?
12 A. I DON'T KNOW IF I WOULD GO THAT FAR. SHE
13 STILL DRANK, AND -- BUT I DON'T -- IT WAS LESS SO THAN

14 IT HAD BEEN IN PENNINGTON AND IN EARLY CALIFORNIA,

15 ABSOLUTELY.

16 Q. IN 1989 DID YOU SEE HER DRUNK IN THE
17 PRESENCE OF OTHERS?

18 A. NO, I DON'T THINK I DID.

19

20

21

22

23

24

25

26

27

28

44338

1 Q THERE WERE NO WITNESSES TO YOUR MOTHER'S
2 DRUNKENNESS IN 1989; IS THAT CORRECT?

3 MR. LEVIN: OBJECTION. CALLS FOR
4 SPECULATION.

5 THE WITNESS: I KNOW THAT PEOPLE --

6 THE COURT: OBJECTION SUSTAINED. THE ANSWER
7 IS STRICKEN.

8 Q BY MR. CONN: YOU WERE NEVER PRESENT
9 WHEN YOUR MOTHER AND A THIRD PERSON -- YOU WERE NEVER
10 PRESENT IN THE COMPANY OF YOUR MOTHER AND A THIRD
11 PERSON WHILE YOUR MOTHER WAS DRUNK IN 1989, WERE
12 YOU?

13 A WELL, CERTAINLY PEOPLE SAW HER WITH
14 DRINKS AND -- AND ALCOHOL. I DON'T -- I DON'T
15 REMEMBER EVER SEEING HER TO THE POINT WHERE SHE WAS
16 OUT OF CONTROL IN FRONT OF OTHER PEOPLE IN 1989.

17 Q YOU NEVER SAW YOUR MOTHER DRINKING
18 EXCESSIVELY AROUND OTHER PEOPLE IN 1989; IS THAT
19 CORRECT?

20 A RIGHT.

21 Q AND YOUR MOTHER VERY MUCH WANTED TO LIVE
22 WHEN SHE WAS -- IN 1989, DIDN'T SHE?

23 A YES, SHE DID.

24 MR. LEVIN: OBJECTION. CALLS FOR
25 SPECULATION.

26 THE COURT: OVERRULED. THE ANSWER WILL
27 STAND.

28 Q BY MR. CONN: NOW, YOU SAY THAT YOUR

44339

1 FATHER HELD A KNIFE TO YOUR THROAT WHEN YOU WERE 17
2 YEARS OLD; IS THAT CORRECT?

3 A YES.

4 Q AND DID YOU CONCLUDE AT THAT TIME THAT
5 YOUR FATHER WAS A PERSON WHO WOULD KILL YOU?

6 A I'D KNOWN PRETTY MUCH ALL OF MY LIFE
7 THAT MY FATHER WAS A PERSON WHO COULD KILL ME.

8 Q DID YOU CONCLUDE AT THAT TIME THAT YOUR
9 FATHER WOULD KILL YOU JUST FOR REFUSING ONE OF HIS
10 DEMANDS, ONE OF HIS SEXUAL DEMANDS?

11 A I THINK OF IT MORE AS A THREAT. I
12 THOUGHT THAT HE WOULD KILL ME IF I TOLD ANYONE.

13 Q AND EVEN AFTER YOUR FATHER HELD A KNIFE
14 TO YOUR THROAT AND YOU BELIEVED THAT HE WAS CAPABLE
15 OF KILLING HIM (SIC), YOU'RE TELLING US THAT YOU
16 STILL DIDN'T LEAVE YOUR HOME?

17 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

18 THE COURT: SUSTAINED.

19 Q BY MR. CONN: YOU DIDN'T LEAVE YOUR HOME
20 AFTER YOUR FATHER HELD A KNIFE TO YOUR THROAT?

21 A HE HELD A KNIFE TO MY THROAT AND SAID
22 THAT HE SHOULD KILL ME, BUT HE WOULDN'T; AND
23 AFTERWARDS IT WAS JUST A MATTER OF TIME BEFORE I
24 WENT TO -- I WENT TO COLLEGE.

25 MY -- WHAT KEPT ME GOING WAS THAT I WAS
26 GOING TO BE GOING TO COLLEGE.

27 Q ONE OF THE THINGS THAT KEPT YOU GOING,
28 MR. MENENDEZ, WAS THE FACT THAT YOU HAD ALL YOUR

1 NEEDS MET AT YOUR BEVERLY HILLS HOME, DIDN'T YOU?

2 MR. LEVIN: OBJECTION. VAGUE AND IT'S

3 ARGUMENTATIVE.

4 THE COURT: OVERRULED.

5 THE WITNESS: I DON'T KNOW WHAT YOU MEAN BY

6 NEEDS MET, BUT WHAT KEPT ME GOING --

7 MR. LEVIN: OBJECTION, YOUR HONOR. THE

8 WITNESS DOES NOT UNDERSTAND THE QUESTION.

9 THE COURT: ALL RIGHT. REPHRASE THE

10 QUESTION, PLEASE.

11 MR. CONN: YES. LET ME MARK SOME

12 PHOTOGRAPHS -- WELL, I THINK THEY'VE ALL BEEN MARKED.

13 Q LET ME SHOW YOU SOME PHOTOGRAPHS WHICH I

14 THINK HAVE ALL BEEN IDENTIFIED AS YOUR ROOM IN THIS

15 PROCEEDING. PHOTOGRAPH 63, 62, 367, AND 64.

16 ARE THESE PHOTOGRAPHS OF YOUR BEDROOM,

17 MR. MENENDEZ?

18 A YES, THEY ARE.

19 Q IS THAT THE WAY YOU NORMALLY KEPT YOUR

20 ROOM?

21 A UM, IT WASN'T THE CLEANEST PLACE ON

22 EARTH. IT WAS -- IT WAS MESSY. SOMETIMES I -- IT'S

23 REALLY MESSY THERE.

24 Q YOU HAD A MAID THAT CLEANED UP AFTER

25 YOU; IS THAT CORRECT?

26 A I DON'T REMEMBER IF SHE CLEANED MY

27 ROOM. I DON'T REMEMBER ANYMORE IF SHE DID, BUT IT
28 WAS -- IT WAS DEFINITELY MESSY IN THAT PICTURE.

44341

1 Q AND IN ADDITION TO HAVING A MAID TO
2 CLEAN UP YOUR ROOM, YOU HAD A MOTHER WHO DID YOUR
3 HOMEWORK AND FILLED OUT ALL OF YOUR APPLICATIONS; IS
4 THAT CORRECT?

5 MR. LEVIN: OBJECTION. ASSUMES FACTS NOT IN
6 EVIDENCE WITH RESPECT TO THE MAID. IT'S
7 ARGUMENTATIVE.

8 THE COURT: SUSTAINED. SUSTAINED.

9 Q BY MR. CONN: DID YOUR MAID SOMETIMES
10 CLEAN YOUR ROOM, MR. MENENDEZ?

11 A SHE MAY VERY WELL HAVE. I DON'T
12 SPECIFICALLY REMEMBER HER DOING IT, BUT SHE MAY VERY
13 WELL HAVE CLEANED MY ROOM.

14 Q AND YOUR MOTHER WOULD DO YOUR HOMEWORK;
15 IS THAT CORRECT?

16 A NO. I'M NOT SAYING THAT I WOULDN'T DO
17 ANY OF MY HOMEWORK AND MY MOTHER WOULD JUST DO ALL
18 OF MY HOMEWORK. THERE WAS A PERIOD OF TIME BETWEEN
19 THE AGE -- WHEN I WAS IN SEVENTH AND EIGHTH GRADE AND
20 NINTH GRADE WHERE GRADES BECAME THE MOST IMPORTANT
21 THING AND HER INVOLVEMENT IN MY HOMEWORK WAS MUCH

22 MORE EXTENSIVE.

23 Q AND YOUR MOTHER WOULD FILL OUT YOUR
24 COLLEGE APPLICATIONS FOR YOU; IS THAT CORRECT?

25 A SHE FILLED OUT MOST OF THEM, YES.

26 Q WHY IS THAT? DID YOU EVER VOLUNTEER TO
27 FILL OUT YOUR OWN COLLEGE APPLICATIONS?

28 A SHE FELT THAT SHE COULD DO A BETTER JOB;

44342

1 AND THE BETTER THE ESSAY, THE BETTER CHANCE OF
2 GETTING INTO COLLEGE. AND THEY WERE CONCERNED
3 WHETHER OR NOT I WOULD BE ABLE TO GET INTO A
4 REPUTABLE COLLEGE.

5 Q YOU WERE PAMPERED BY YOUR PARENTS; ISN'T
6 THAT TRUE, MR. MENENDEZ?

7 A IN TERMS OF MONEY I HAD EVERYTHING I
8 NEEDED.

9 Q YOU WERE SPOILED; ISN'T THAT CORRECT?

10 A PROBABLY I -- THEY GAVE ME -- THEY GAVE ME
11 ALL THAT I NEEDED IN TERMS OF MONEY.

12 Q SO MUCH SO THAT YOU COULDN'T EVEN PICK
13 UP YOUR OWN CLOTHES BEHIND YOU; IS THAT TRUE,
14 MR. MENENDEZ?

15 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
16 ARGUMENTATIVE.

17 THE COURT: SUSTAINED.

18 Q BY MR. CONN: AND SHE FILLED OUT YOUR
19 COLLEGE ESSAYS FOR YOU; IS THAT CORRECT?

20 A I REMEMBER WORKING ON ONE OF THEM WITH
21 SALLY JORDAN, A TUTOR THAT I HAD IN WOODLAND HILLS.
22 BUT PRIMARILY SHE FILLED THEM OUT.

23 Q AND DID YOU VOLUNTEER TO WRITE YOUR OWN
24 ESSAYS FOR YOUR OWN COLLEGE APPLICATIONS,
25 MR. MENENDEZ?

26 A MY MOTHER WANTED TO WRITE MY ESSAYS,
27 WHICH WAS EASIER FOR ME.

28 Q DID YOU TELL HER, MOM, I CAN DO IT

44343

1 MYSELF, GIVE ME A TRY AND IF YOU DON'T LIKE IT, YOU
2 CAN REWRITE IT?

3 A NO.

4 Q WHY NOT?

5 A THEY WERE DIFFICULT ESSAYS TO WRITE
6 AND -- I REMEMBER DOING ONE AT SALLY JORDAN'S. IT
7 WASN'T A GOOD ENOUGH ESSAY TO SEND OFF TO COLLEGE.
8 AND SHE HELPED ME WITH THAT ONE AND FROM THEN ON SHE
9 PRETTY MUCH JUST DID THEM HERSELF. AND -- AND I
10 WOULD EITHER REWRITE THEM OR THEY WOULD BE TYPED.
11 AND THEY'D BE SENT OFF.

12 Q AND YOUR MOTHER SCHEDULED ALL OF YOUR
13 SPORTS TOURNAMENTS; IS THAT CORRECT?

14 A YES.

15 Q AND SHE FILLED OUT ENTRY FORMS FOR YOUR
16 TOURNAMENTS; IS THAT CORRECT?

17 A YES.

18 Q AND SHE TOOK YOU TO THE DOCTOR WHEN YOU
19 WERE ILL?

20 A MANY TIMES.

21 Q AND SHE DROVE YOU AROUND BEFORE YOU WERE
22 ABLE TO DRIVE YOURSELF?

23 A YES.

24 Q AND YOUR MOTHER PRETTY MUCH GAVE UP HER
25 CAREER AND HER LIFE TO CARE FOR HER CHILDREN, DIDN'T
26 SHE?

27 MR. LEVIN: OBJECTION. CALLS FOR
28 SPECULATION.

44344

1 THE WITNESS: THAT'S WHAT SHE -- SHE TOLD US,
2 THAT THAT IS WHAT SHE DID. SHE -- MY FATHER GAVE HER
3 AN ULTIMATUM AND SHE WAS FORCED TO GIVE UP HER
4 CAREER --

5 THE COURT: DID YOU --

6 MR. LEVIN: NO. WITHDRAWN.

7 THE WITNESS: -- FOR MY BROTHER AND I.

8 Q BY MR. CONN: THAT'S NOT JUST SOMETHING
9 THAT SHE TOLD YOU, THAT'S SOMETHING THAT SHE DID; IS
10 THAT CORRECT? SHE SACRIFICED HER LIFE FOR HER
11 CHILDREN?

12 MR. LEVIN: OBJECTION. IT CALLS FOR
13 SPECULATION. IT'S ALSO ARGUMENTATIVE.

14 THE WITNESS: IT WAS --

15 THE COURT: SUSTAINED.

16 Q BY MR. CONN: AND YOUR FATHER, DIDN'T HE
17 SPEND ALL OF HIS FREE TIME WITH HIS SONS?

18 MR. LEVIN: OBJECTION. CALLS FOR
19 SPECULATION. IT'S ARGUMENTATIVE.

20 THE COURT: OVERRULED.

21 THE WITNESS: HE WOULD COME HOME FROM TRIPS
22 TO MAKE SURE THAT HE WAS THERE ON THE WEEKENDS TO
23 TRAIN MY BROTHER AND I.

24 Q BY MR. CONN: AND HE SPENT A TREMENDOUS
25 AMOUNT OF HIS OWN TIME TRAINING YOU AND YOUR
26 BROTHER?

27 A YES.

28 Q BECAUSE ASIDE FROM HIS WORK, HIS SONS

1 APPEARED TO BE THE MOST IMPORTANT THING IN HIS LIFE,

2 DIDN'T THEY?

3 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE

4 AND CALLS FOR SPECULATION.

5 THE COURT: OVERRULED.

6 THE WITNESS: I THINK EVEN -- EVEN MORE --

7 WELL, CERTAINLY ASIDE FROM HIS WORK MY BROTHER AND

8 MYSELF WERE THE MOST IMPORTANT THING, HIS IMAGE AS

9 WELL. WE WERE CERTAINLY AMONG THE MOST IMPORTANT

10 THINGS IN HIS LIFE.

11 Q BY MR. CONN: AND YOU'RE SAYING THAT

12 THIS MAN WHO REGARDED YOU AS ONE OF THE MOST

13 IMPORTANT THINS IN HIS LIFE WAS ALSO ABUSING YOU; IS

14 THAT CORRECT?

15 A HE WAS.

16 Q WHEN IT CAME TO GIVING TIME AND ENERGY

17 FOR HIS FAMILY, IT'S SOMETHING THAT HE GAVE

18 WILLINGLY; IS THAT CORRECT?

19 MR. LEVIN: OBJECTION. CALLS FOR

20 SPECULATION. IT'S ARGUMENTATIVE.

21 THE COURT: SUSTAINED.

22 Q BY MR. CONN: HE ATTENDED YOUR SPORTS

23 GAMES, DIDN'T HE?

24 A HE -- HE TRIED TO ATTEND ALL THAT HE

25 COULD. HE WANTED TO MAKE SURE THAT HE WAS THERE.

26 Q AND HE PROVIDED COACHES FOR YOU IN ALL

27 OF YOUR SPORTS TRAINING?

28 A YES.

1 Q AND HE SENT YOU TO PRIVATE SCHOOLS?

2 A YES.

3 Q NOW, YOU WERE SHOWN A PHOTOGRAPH OF
4 VASELINE IN YOUR BEDROOM.

5 DO YOU RECALL THAT?

6 A YES.

7 Q AND ARE YOU SAYING THAT YOU HAD NO USE
8 FOR VASELINE OTHER THAN FOR SEXUAL PURPOSES WITH
9 YOUR FATHER?

10 A I KNOW THAT'S WHY THE VASELINE WAS THERE
11 IN MY BEDROOM. I DON'T REMEMBER EVER USING THAT
12 VASELINE FOR ANYTHING ELSE.

13 Q DID ANY OF YOUR COACHES EVER DISCUSS
14 USING VASELINE FOR YOUR HANDS IN CONNECTION WITH
15 YOUR TENNIS TRAINING?

16 A THERE WAS VASELINE -- THERE WAS --
17 SOMETIMES WHEN I GOT A BLISTER AND THERE WAS CREAM
18 AND BANDAIDS SPECIFICALLY FOR THAT PURPOSE. RIGHT
19 NOW, NO, I CAN'T RECOLLECT ANYTHING.

20 Q YOU DON'T RECALL ANY DISCUSSION OF
21 VASELINE FOR YOUR HANDS?

22 A THERE MIGHT HAVE BEEN. I DON'T...

23 Q NOW, IN YOUR FIRST TRIAL YOU TESTIFIED
24 THAT YOUR MOTHER TRIED TO POISON THE FAMILY AT
25 TIMES, DIDN'T YOU?

26 A SHE --

27 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S

28 BEYOND THE SCOPE OF THE DIRECT.

44347

1 THE COURT: OVERRULED.

2 THE WITNESS: SHE TALKED ABOUT THAT WHEN SHE
3 WAS DRUNK OR VERY ANGRY AND SHE WOULD SAY, I'M GOING
4 TO POISON YOU ALL, OR -- SHE WAS -- WHEN SHE WAS ANGRY
5 AT LIFE SHE WOULD SAY THAT.

6 Q BY MR. CONN: WELL, WEREN'T THERE ALSO
7 ATTEMPTS BY YOUR MOTHER TO POISON THE FAMILY?

8 MR. LEVIN: OBJECTION, YOUR HONOR. REQUEST
9 TO APPROACH.

10 THE COURT: THAT REQUEST IS DENIED.

11 THE WITNESS: THERE WERE TIMES WHEN MY FATHER
12 WAS SUSPICIOUS OF HER AND WOULD NOT EAT THE FOOD
13 THAT SHE SERVED.

14 Q BY MR. CONN: SO IS THERE A REASON WHY
15 YOU LEFT THAT OUT OF YOUR TESTIMONY THIS TIME,
16 MR. MENENDEZ?

17 MR. LEVIN: OBJECTION. CALLS FOR
18 SPECULATION. IT'S ALSO IRRELEVANT.

19 THE COURT: SUSTAINED.

20 Q BY MR. CONN: MR. MENENDEZ, YOU'RE

21 SAYING THAT YOU BELIEVE YOUR MOTHER WAS GOING TO
22 KILL YOU ON AUGUST THE 20TH OF 1989; IS THAT
23 CORRECT?

24 A YES.

25 Q AND DO YOU THINK THAT THE FACT THAT YOUR
26 MOTHER HAD PREVIOUSLY TRIED TO POISON THE FAMILY IS
27 SOMETHING THAT HAS A BEARING UPON YOUR BELIEF ON
28 AUGUST THE 20TH OF 1989?

44348

1 MR. LEVIN: OBJECTION. IT'S IRRELEVANT AND
2 MISSTATES HIS TESTIMONY.

3 THE COURT: YOU'RE ASKING WHAT HE BELIEVES
4 RIGHT NOW?

5 MR. CONN: YES.

6 THE COURT: OVERRULED.

7 THE WITNESS: I NEVER SAW MY MOTHER --
8 CERTAINLY NEVER ATE ANY FOOD THAT MY MOTHER TRIED TO
9 POISON THE FAMILY. IT WAS SOMETHING THAT SHE SAID,
10 SOMETHING THAT MY FATHER WAS SUSPICIOUS OF. BUT
11 MY -- THE WORRIES OF HER POISONING THE FOOD WERE JUST
12 WHEN SHE WAS ANGRY AND JUST WHEN SHE WAS ANGRY AT
13 LIFE, AND IT CERTAINLY WASN'T THE REASON WHY I WAS
14 AFRAID OF HER ON AUGUST 20TH.

15 Q BY MR. CONN: ARE YOU SAYING THAT YOU

16 DIDN'T BELIEVE THAT YOUR MOTHER EVER TRIED TO POISON
17 THE FAMILY?
18 A IT CROSSED MY MIND THAT SHE TRIED. I
19 REMEMBER A TIME WHEN -- WHEN MY FATHER WOULDN'T EAT
20 THE FOOD. IT'S -- IT'S DIFFICULT TO SAY. IT'S HARD
21 TO RATIONALIZE THAT SHE WOULD.
22 Q WEREN'T THERE TIMES WHEN YOU WOULD
23 REFUSE TO EAT THE FOOD BECAUSE YOU WERE CONCERNED
24 THAT YOUR MOTHER HAD TRIED TO POISON THE FOOD?
25 A IF SHE WAS VERY ANGRY THAT DAY, IF SHE
26 HAD GOTTEN DRUNK AND WAS SPECIFICALLY ANGRY AT MY
27 FATHER, I WOULDN'T EAT THE FOOD. YOU JUST --
28 IT WAS A VERY CHAOTIC HOUSEHOLD AND MY

44349

1 MOTHER WAS OFTEN UNSTABLE AND YOU JUST -- I LEARNED
2 TO BE -- TO BE WEARY OF CERTAIN TIMES. CERTAINLY IF
3 MY DAD WASN'T GOING TO EAT THE FOOD, I WASN'T. BUT
4 MY MOTHER LOVED ME AND I DON'T BELIEVE THAT SHE
5 WANTED TO POISON ME TO KILL ME.
6 Q YOU BELIEVED THAT THERE WERE TIMES IN
7 THE CALABASAS HOME WHEN YOUR MOTHER WAS POSSIBLY
8 POISONING THE FOOD; IS THAT CORRECT?
9 A I CAN'T THINK OF A SPECIFIC INSTANCE IN
10 THE CALABASAS HOME.

11 Q WELL, DO YOU RECALL BEING ASKED AT THE
12 FIRST TRIAL ABOUT --

13 MR. LEVIN: CAN WE HAVE A PAGE AND LINE
14 DESIGNATION AND AN OPPORTUNITY TO REVIEW IT?

15 MR. CONN: PAGE 17144 AND PAGE 17145.

16 MS. ABRAMSON: WHAT VOLUME, COUNSEL?

17 MR. GESSLER: 103.

18 MR. CONN: 104.

19 MR. LEVIN: IT'S NOT IN THIS VOLUME.

20 MR. CONN: 103.

21 MS. ABRAMSON: WHAT LINE?

22 MR. LEVIN: YOUR HONOR, THERE'S AN OBJECTION
23 TO COUNSEL REFERRING TO THESE TWO PAGES. THEY'RE
24 NOT IMPEACHING. THERE'S NO REFERENCE TO ANYTHING.

25 THE COURT: WHAT LINES DID YOU REFER TO,
26 MR. CONN?

27 MR. CONN: LINE 28 ON PAGE 144, ALL OF PAGE
28 145, TO LINE 3 ON PAGE 146.

44350

1 MR. LEVIN: WE'D LIKE TO APPROACH, YOUR
2 HONOR.

3 THE COURT: LET ME SEE -- WHY DON'T YOU HAND
4 THE TRANSCRIPT UP TO THE CLERK.

5 (PAUSE IN PROCEEDINGS.)

6

7 THE COURT: WELL, SPECIFICALLY 17145, LINE
8 23, THROUGH THE FOLLOWING PAGE, LINE 3, SEEM TO BE
9 APPROPRIATE.

10 MR. LEVIN: WE'D LIKE TO BE HEARD, YOUR
11 HONOR.

12 THE COURT: OKAY. WE'LL HAVE A BRIEF
13 DISCUSSION IN THE BACK HERE ABOUT THAT.

14 (THE FOLLOWING PROCEEDINGS
15 WERE HELD OUT OF THE PRESENCE
16 OF THE JURY:)

17

18 THE COURT: YES.

19 MR. LEVIN: THE QUESTION WAS PHRASED IN TERMS
20 OF CALABASAS. THERE'S NOTHING IN HERE ABOUT
21 CALABASAS. THERE'S NOTHING IN THE TRANSCRIPT THAT
22 COUNSEL WANTS TO READ THAT'S IMPEACHING OR COULD BE
23 OFFERED FOR ANY PURPOSE.

24 THE COURT: I DIDN'T REALIZE THAT WAS THE
25 NATURE OF THE OBJECTION. IT WAS NOT FOCUSED ON THE
26 BEVERLY HILLS HOUSE.

27 MR. LEVIN: AND ALSO COUNSEL IS OBVIOUSLY
28 ATTEMPTING TO GET INTO THE TRACY BAKER ISSUE, WHICH

1 WE HAVE VOICED OUR OBJECTIONS TO BEFORE; AND THAT'S
2 SPECIFICALLY WHY WE AVOIDED THIS ON DIRECT
3 EXAMINATION. SO HE SHOULD NOT BE ALLOWED TO OPEN IT
4 UP AND GET INTO THE TRACY BAKER ISSUE.

5 THE COURT: HE CERTAINLY CAN BRING OUT THE
6 TESTIMONY FROM THE FIRST TRIAL THAT THE DEFENDANT
7 SAID THAT MS. BAKER WAS THERE, IF THAT'S WHAT HE
8 SAID.

9 AS FAR AS THE IMPACT OF THAT BAKER
10 INCIDENT, THAT WOULD ONLY COME OUT THROUGH SOME
11 OTHER WITNESS AND SOME OTHER OCCASION, NOT THROUGH
12 THE TESTIMONY OF THIS WITNESS, TO THE RELATIONSHIP
13 OF THAT LETTER THAT WE'VE DISCUSSED IN OTHER
14 HEARINGS. THAT WON'T COME OUT THROUGH THIS WITNESS,
15 BUT HE COULD CERTAINLY LAY A FOUNDATION. IF IT
16 DEVELOPS LATER ON IN PROCEEDINGS THAT THAT BECOMES
17 ADMISSIBLE, THEN THE FACT THAT THE DEFENDANT'S
18 TESTIFIED ABOUT THIS INCIDENT ON A PRIOR OCCASION
19 AND THEN DURING THIS PROCEEDING, IT WOULD BE
20 RELEVANT.

21 MS. ABRAMSON: HE'S SETTING IT UP.

22 THE COURT: HE'S ALLOWED TO DO THAT. HE
23 CAN'T CALL YOUR CLIENT LATER ON IT AND DO IT, SO HE
24 CAN DO IT NOW.

25 MR. LEVIN: BUT HE CAN'T REFER TO THE TRACY
26 BAKER --

27 THE COURT: NOT THE LETTER.

28 MR. LEVIN: THERE'S STILL AN OBJECTION THAT

1 THIS DOES NOT --

2 THE COURT: I AGREE IT DOESN'T RELATE TO THE
3 BEVERLY HILLS HOME.

4 MS. ABRAMSON: CALABASAS.

5 MR. LEVIN: CALABASAS.

6 (THE FOLLOWING PROCEEDINGS WERE
7 RESUMED IN OPEN COURT IN THE
8 PRESENCE OF THE JURY:)

9

10 THE COURT: ALL RIGHT. EVERYONE'S BACK.
11 WE'LL RESUME ON CROSS-EXAMINATION.

12 MR. LEVIN: COULD I HAVE A RULING ON THE
13 OBJECTION, YOUR HONOR?

14 THE COURT: YES. AS IT RELATES TO CALABASAS,
15 THE OBJECTION IS SUSTAINED.

16 Q BY MR. CONN: MR. MENENDEZ, IN THE
17 BEVERLY HILLS HOME, WERE THERE TIMES WHEN YOUR
18 FATHER WOULD REFUSE TO EAT THE FOOD PREPARED BY YOUR
19 MOTHER AND PUSH IT AWAY FROM HIM?

20 A YES.

21 Q HOW MANY OCCASIONS DID THIS HAPPEN?

22 A I REMEMBER SPECIFICALLY IT HAPPENING
23 ONCE. I CAN'T REMEMBER AT THIS TIME IF IT HAPPENED

24 MORE THAN THAT.

25 Q WELL, DO YOU RECALL PREVIOUSLY

26 TESTIFYING THAT THE ONE TIME THAT YOU TESTIFIED TO

27 IT HAPPENING IN THE FIRST TRIAL WAS NOT THE ONLY

28 TIME THAT THAT SORT OF THING HAPPENED WHERE YOUR DAD

44353

1 PUSHED AWAY THE FOOD AND LEFT?

2 A RIGHT.

3 Q IS THAT CORRECT?

4 A YEAH.

5 Q SO ARE YOU SAYING THAT IN THE FIRST

6 TRIAL YOU REMEMBERED THAT HAPPENING MORE THAN ONCE;

7 WHEREAS IN THIS TRIAL YOU ONLY REMEMBER IT HAPPENING

8 ONCE?

9 A NO. I --

10 MR. LEVIN: OBJECTION. IT MISSTATES HIS

11 TESTIMONY.

12 THE COURT: OVERRULED.

13 THE WITNESS: I REMEMBER A SPECIFIC TIME WHEN

14 IT HAPPENED. I KNOW THAT IT HAPPENED OTHER TIMES.

15 JUST NOT CLEAR ENOUGH IN MY MEMORY WHERE I FEEL

16 COMFORTABLE TESTIFYING TO IT.

17 Q BY MR. CONN: AND WERE THERE TIMES AT

18 THE BEVERLY HILLS HOME WHEN YOUR FATHER WASN'T

19 AROUND AND YOU WOULD EAT YOUR MOTHER'S COOKING?

20 A OF COURSE.

21 Q AND WERE THERE TIMES WHEN YOUR FATHER
22 WASN'T AROUND WHEN YOU WOULD REFUSE TO EAT YOUR
23 MOTHER'S COOKING?

24 A SOMETIMES IF MY MOTHER WAS ANGRY AT MY
25 FATHER EARLIER IN THE DAY OR WAS EITHER HEAVILY
26 MEDICATED OR DRUNK AND WAS -- SAID SOMETHING THAT
27 MADE ME WONDER, I JUST WOULD NOT WANT TO EAT THE
28 FOOD IN THE HOUSE.

44354

1 Q AND YOU'RE SAYING THAT SOMETIMES YOUR
2 MOTHER WOULD SAY THAT SHE WAS GOING TO POISON THE
3 FAMILY; IS THAT CORRECT?

4 A YES.

5 Q AND SOMETIMES IT WAS JUST YOUR BELIEF,
6 BASED UPON WHAT WAS GOING ON THAT PARTICULAR DAY,
7 THAT YOU DECIDED THAT SHE MIGHT BE POISONING THE
8 FAMILY AND SO YOU DECIDED NOT TO EAT THE FOOD; IS
9 THAT CORRECT?

10 A WELL, ONCE YOU HEAR YOUR MOTHER SAY THAT
11 A COUPLE OF TIMES, YOU -- I JUST -- DOESN'T NEED TO
12 HEAR IT A THIRD TIME. IF I JUST THINK THAT SHE'S IN
13 A STRANGE MOOD, I JUST WOULDN'T EAT THE FOOD.

14 Q AND YOU DIDN'T EAT IT BECAUSE YOU WERE
15 CONCERNED THAT YOUR MOTHER WAS, IN FACT, POISONING
16 THE FAMILY?

17 A YES.

18 Q AND YOU DIDN'T TESTIFY TO THAT IN THIS
19 TRIAL; IS THAT CORRECT?

20 MR. LEVIN: OBJECTION. IT'S IRRELEVANT.

21 THE WITNESS: THERE ARE DIFFERENT REASONS FOR
22 THAT.

23 THE COURT: OBJECTION SUSTAINED. THE
24 ANSWER'S STRICKEN.

25 Q BY MR. CONN: NOW, WHEN YOUR MOTHER
26 WOULD SPEAK ABOUT POISONING THE FAMILY, WHAT WOULD
27 SHE SAY?

28 A SHE WOULD SAY, I CAN POISON YOU ALL. I

44355

1 DON'T NEED YOU ALL. I HOPE YOU ALL DIE. SHE TOLD
2 ME MANY TIMES IN MY LIFE THAT SHE WISHED I'D NEVER
3 BEEN BORN; THAT MY BIRTH WAS AN ACCIDENT AND THAT IT
4 WAS A MISTAKE. AND THESE -- SHE WOULD RANT AND RAVE
5 AND SAY THESE TYPES OF THINGS. GENERALLY WHEN SHE
6 WAS ANGRY AT MY FATHER, SHE WOULD SPECIFICALLY TALK
7 ABOUT POISONING.

8 Q NOW, IS IT TRUE THAT YOUR FATHER WOULD

9 SOMETIMES TASTE THE FOOD FOR THE FAMILY AND YOU

10 WOULD WAIT TO SEE IF HE SAID THE FOOD WAS OKAY?

11 A OR HE WOULD TASTE -- WHERE I WOULD LET MY

12 FATHER EAT THE FOOD FIRST, YES.

13 Q SO YOU WOULD INTENTIONALLY WAIT AND LET

14 YOUR FATHER EAT THE FOOD TO SEE IF YOUR MOTHER HAD

15 POISONED THE FOOD?

16 A BASICALLY. I THINK THAT IT'S BEING

17 BLOWN OUT OF PROPORTION. THIS WASN'T A REAL CONCERN

18 EVERY DAY. THIS WAS ONLY BECAUSE MY MOM SOMETIMES

19 WAS ACTING WEIRD OR ACTING STRANGE AND MY DAD -- IF

20 MY DAD WAS SUSPICIOUS OF THE FOOD, THEN CERTAINLY I

21 WASN'T GOING TO TAKE ANY CHANCES. HE KNEW MY MOTHER

22 BETTER THAN I DID. AND SOMETIMES I WOULD WATCH HIM

23 EAT THE FOOD AND...

24 Q WHO IS BLOWING IT OUT OF PROPORTION,

25 MR. MENENDEZ?

26 A I THINK -- I'M NOT SAYING THAT ANYONE'S

27 BLOWING IT OUT OF PROPORTION. I'M SAYING THAT -- I

28 DON'T MEAN TO BLOW IT OUT OF PROPORTION IS WHAT I'M

44356

1 SAYING.

2 Q YOU TESTIFIED TO THIS IN THE FIRST

3 TRIAL, DIDN'T YOU?

4 A YES, I DID.

5 Q OKAY. AND DID YOU FEEL THAT YOUR
6 FATHER, WHO WAS ABUSING YOU AND HAD HELD A KNIFE TO
7 YOUR THROAT, WAS A TRUSTWORTHY PERSON TO TASTE THE
8 FOOD WHILE YOU SIT AND WATCHED TO SEE IF IT WAS
9 POISONED?

10 A WHAT DO YOU MEAN BY ABUSE?

11 Q DIDN'T YOUR FATHER ABUSE YOU?

12 A I'M ASKING WHAT YOU MEAN BY THE
13 DEFINITION.

14 Q DID YOUR FATHER SEXUALLY ABUSE YOU?

15 A YES.

16 Q AND PHYSICALLY ABUSE YOU?

17 A YES.

18 Q AND THEN HE WOULD TASTE THE FOOD
19 SOMETIMES TO SEE IF IT WAS POISONED AND YOU WOULD
20 RELY UPON HIS REPRESENTATION; IS THAT WHAT YOU'RE
21 TELLING US?

22 A PRETTY MUCH.

23 Q DID YOU FEEL THAT YOU COULD TRUST HIM?

24 A HE WOULD EAT IT, YES.

25 Q WELL, YOU DIDN'T KNOW THAT WHAT HE HAD
26 ON HIS PLATE WAS THE SAME AS WHAT YOU HAD ON YOUR
27 PLATE, DID YOU?

28 A GENERALLY, WHAT WAS SERVED IT WAS PUT IN

1 A DISH AND YOU TOOK YOUR HELPING OUT OF A DISH.

2 Q AND WOULD YOU JUST WAIT FOR HIM TO TASTE

3 ONE BITE OF ONE ITEM ON THE TABLE OR WOULD YOU WAIT

4 TO SEE IF HE TASTED EVERYTHING ON THE TABLE?

5 A IF MY MOTHER HAD MADE SUCH A COMMENT

6 EARLIER IN THE DAY, AND HE WAS SITTING DOWN TO EAT

7 AND IT WAS OKAY TO EAT.

8 Q BUT WOULD YOU WAIT FOR HIM TO TASTE ALL

9 OF THE ITEMS ON THE TABLE OR JUST ONE?

10 A I DON'T EVEN KNOW IF I WOULD NECESSARILY

11 ALWAYS WAIT TO SEE IF I TASTED AN ITEM, JUST IF HE

12 GENERALLY SAT DOWN TO EAT, THEN EVERYTHING WAS -- WAS

13 SAFE, BASICALLY. AND THIS WOULD ONLY HAPPEN IF MY

14 MOTHER WAS SETTING -- SAYING THESE TYPE OF THINGS OR

15 IF HIM AND MY MOTHER WERE SCREAMING AT EACH OTHER

16 EARLIER IN THE DAY AND SHE HAD MADE SUCH A

17 STATEMENT. BUT IT DIDN'T HAPPEN OFTEN.

18 Q ARE YOU SAYING THAT YOU TRULY BELIEVED

19 THAT IF YOUR MOTHER SAID SOMETHING DURING THE DAY,

20 PERHAPS SHE WAS POISONING THE FOOD THAT NIGHT, BUT

21 ON DAYS WHEN SHE DIDN'T SAY SOMETHING DURING THE

22 DAY, THAT THE FOOD WAS THEN SAFE TO EAT?

23 A SOMETIMES IF SHE DIDN'T SAY ANYTHING,

24 YOU STILL WONDERED. IT WAS A STRANGE SITUATION, AND

25 MY MOTHER ACTED VERY STRANGELY AT TIMES AND WAS VERY

26 MYSTERIOUS AND I DIDN'T KNOW A LOT OF THINGS ABOUT

27 HER; AND THIS IS ONE OF THE THINGS THAT I DIDN'T

44358

1 A -- WAS A PRESENT THING IN MY MIND. I DIDN'T

2 BELIEVE MY MOTHER WANTED TO KILL ME.

3 Q BUT DIDN'T YOU TESTIFY IN THE FIRST

4 TRIAL THAT YOU WERE SOMETIMES CONCERNED ABOUT YOUR --

5 THE FOOD AND YOU WOULDN'T EAT IT FOR THAT REASON; IS

6 THAT CORRECT?

7 A RIGHT.

8 Q AND THE REASON YOU DIDN'T EAT IT WAS

9 BECAUSE YOU FELT YOUR MOTHER WAS SOMETIMES PERHAPS

10 POISONING YOU; ISN'T THAT CORRECT?

11 A WELL, SHE WAS -- AFTER SHE WOULD SAY IT,

12 YES.

13 Q AND DID YOU FEEL THAT IF SHE WAS ANGRY

14 ENOUGH TO SAY IT ONE DAY, IT WAS UNSAFE TO EAT THE

15 FOOD, BUT THAT THE NEXT DAY IT WAS SAFE TO EAT THE

16 FOOD JUST BECAUSE SHE WASN'T SAYING IT THAT DAY?

17 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

18 THE COURT: OVERRULED.

19 THE WITNESS: ESSENTIALLY -- ESSENTIALLY

20 YOU'RE RIGHT.

21 Q BY MR. CONN: AND HOW OFTEN DID YOUR

22 FATHER SAY SOMETHING TO THE EFFECT OF THE FOOD'S NO

23 GOOD, DON'T EAT IT?

24 A I REMEMBER ONE TIME IN PARTICULAR, BUT
25 IT WAS NOT THE FIRST TIME THAT IT HAD HAPPENED.

26 Q AND DID YOU EVER SAY TO YOUR FATHER: IN
27 LIGHT OF THE FACT THAT YOU CONCLUDED THAT OUR MOTHER
28 WAS TRYING TO POISON US THE OTHER DAY, WHY ARE WE

44359

1 EATING THE FOOD TONIGHT?

2 MR. LEVIN: OBJECTION. IT'S VAGUE.

3 THE WITNESS: NO. IT SOUNDS --

4 THE COURT: WAIT. WAIT.

5 OVERRULED.

6 GO AHEAD.

7 THE WITNESS: IT SOUNDS VERY STRANGE WHEN YOU
8 PUT IT THAT WAY. THE HOUSEHOLD WASN'T RUN IN A
9 SYSTEMATIC WAY WHERE YOU KNEW THIS DAY MY MOTHER WAS
10 GOING TO POISON THE FOOD AND THIS DAY SHE WASN'T.
11 IT WOULD HAPPEN VERY RARELY AND MY MOTHER WOULD MAKE
12 THESE TYPE OF STATEMENTS AND YOU WOULD WONDER AND
13 THEN YOU'D SAY, OH, I MUST BE CRAZY. OBVIOUSLY MY
14 MOTHER'S NOT GOING TO DO THAT. BUT IF MY FATHER WAS
15 WEARY ABOUT EATING THE FOOD, THEN CLEARLY I WAS NOT
16 GOING TO. BUT KNOWING MY MOTHER, THIS WAS NOT
17 SOMETHING THAT WAS OUT THERE. IT WAS SOMETHING THAT

18 WAS POSSIBLE.

19 Q BY MR. CONN: MR. MENENDEZ, ARE YOU
20 SAYING THIS SOUNDS STRANGE BECAUSE OF THE WAY I PUT
21 IT OR BECAUSE IT SOUNDS STRANGE BECAUSE IT'S STRANGE
22 NO MATTER HOW YOU PUT IT?

23 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

24 THE COURT: OVERRULED.

25 THE WITNESS: I'M SAYING IT SOUNDS STRANGE
26 BECAUSE IT'S BEEN SIX YEARS SINCE I HAVE BEEN WITH
27 MY PARENTS AND I HAVE A VERY MUCH BETTER SENSE OF
28 WHAT NORMAL IS AND IT SOUNDS STRANGE EVEN TO ME HERE

44360

1 IN THIS COURTROOM. BUT THESE ARE SIMPLY THE WAY IT
2 WAS IN MY HOUSEHOLD.

3 Q BY MR. CONN: NOW, ONE TIME IT HAPPENED
4 THERE WAS A PERSON WHO WAS PRESENT; IS THAT
5 CORRECT?

6 A YES.

7 Q A WITNESS?

8 A RIGHT.

9 Q BY THE NAME OF TRACY BAKER.

10 A YES.

11 Q WHO IS TRACY BAKER?

12 A SHE WAS A FRIEND OF MY BROTHER'S.

13 Q AND DID TRACY BAKER VISIT YOU IN JAIL

14 FROM TIME TO TIME?

15 A I DON'T KNOW IF TRACY BAKER EVER VISITED

16 ME IN JAIL.

17 Q YOU DON'T RECALL TRACY BAKER VISITING

18 YOU IN JAIL?

19 A NO, I DON'T. IF SHE DID, SHE MAY HAVE

20 ONLY DONE IT ONCE. I DON'T HAVE A RECOLLECTION OF

21 HER DOING SO.

22 Q SHE MAY HAVE DONE IT ONCE?

23 A I DON'T REMEMBER HER DOING IT AT ALL.

24 Q AND DID YOU EVER TALK TO TRACY BAKER ON

25 THE TELEPHONE SINCE YOU'VE BEEN IN CUSTODY OR

26 EXCHANGE ANY CORRESPONDENCE WITH HER?

27 MR. LEVIN: OBJECTION, YOUR HONOR.

28 THE WITNESS: I NEVER EXCHANGED --

44361

1 THE COURT: OVERRULED.

2 THE WITNESS: -- CORRESPONDENCE. SHE WASN'T

3 MY FRIEND, SHE WAS MY BROTHER'S.

4 Q BY MR. CONN: AND TELL US WHAT HAPPENED

5 ON THE OCCASION THAT TRACY BAKER WAS AT YOUR HOME.

6 A MY FATHER, AFTER SITTING DOWN TO EAT,

7 PUSHED THE -- HIS MEAL AWAY AND ASKED MY MOM

8 SOMETHING AND SAID, WHAT DID YOU DO TO THIS FOOD, OR
9 I'M NOT EATING THIS FOOD, AND STOOD UP AND SAID,
10 LET'S GO. AND WE LEFT AND WE ATE AT A DIFFERENT
11 RESTAURANT.

12 Q AND AFTER YOUR FATHER SAID SOMETHING TO
13 THE EFFECT OF WHAT DID YOU DO TO THIS FOOD, DID HE
14 GIVE YOU AN ORDER TO GO OUTSIDE AND WAIT FOR HIM?

15 A I THINK SO. I'M NO LONGER SURE.

16 Q AND DID YOU GO OUTSIDE TO WAIT FOR HIM
17 AT THE CAR?

18 A I KNOW THAT WE GOT INTO THE CAR AND WE
19 LEFT.

20 Q AND YOU'RE REFERRING TO YOU AND YOUR
21 BROTHER, LYLE MENENDEZ, YOUR FATHER AND TRACY BAKER;
22 IS THAT CORRECT?

23 A YES. MY MOTHER STAYED BEHIND INSIDE THE
24 HOUSE.

25 Q AND AT THAT TIME, WHILE YOU WERE IN THE
26 CAR, DID YOU SAY TO YOUR FATHER: DO YOU THINK SHE
27 TRIED SOMETHING ON PURPOSE?

28 A I DON'T REMEMBER.

44362

1 Q DID YOU SAY SOMETHING TO THE EFFECT OF:
2 WHAT'S THE MATTER, DAD? YOU THINK SHE TRIED

3 SOMETHING?

4 A DID I SAY THAT?

5 Q YES.

6 A I DON'T REMEMBER THAT.

7 Q DID YOU HEAR YOUR BROTHER LYLE MENENDEZ

8 HAVE SUCH A CONVERSATION WITH YOUR FATHER?

9 A I THINK I WAS SAYING THAT AMONGST MY

10 BROTHER, WHAT DO YOU THINK'S GOING ON, OR SOMETHING

11 OF THAT SORT. MY BROTHER MAY VERY WELL HAVE SAID

12 THAT TO MY FATHER.

13 Q AND DO YOU RECALL YOUR FATHER SAYING

14 SOMETHING TO THE EFFECT OF: I DON'T KNOW, BUT I

15 DON'T TRUST HER TODAY?

16 A THAT'S WHAT MY FATHER GENERALLY WOULD

17 SAY.

18 Q WHAT DID HE SAY ON THIS OCCASION?

19 A I DON'T HAVE A VERY GOOD MEMORY OF IT.

20 Q ON HOW MANY OCCASIONS DID YOU HEAR HIM

21 SAY I DON'T KNOW, BUT I DON'T TRUST HER TODAY?

22 A JUST THE SPEECH MY DAD WOULD USE. HE

23 WAS VERY SHORT, TO THE POINT, AND ALMOST TO THE

24 POINT OF BEING CURT. AND THAT'S JUST WHAT HE WOULD

25 SAY.

26 Q I'M REFERRING TO THAT SPECIFIC PHRASE:

27 I DON'T KNOW, BUT I DON'T TRUST HER TODAY. YOU'RE

28 SAYING THAT HE USED THAT SPECIFIC PHRASE, THAT WAS

1 SOMETHING THAT HE WOULD GENERALLY SAY?

2 A THAT WAS HIS MANNER OF SPEAKING IS WHAT
3 I'M TRYING TO SAY.

4 Q DID YOU GO TO EAT AT THE HAMBURGER
5 HAMLET?

6 A YES.

7 Q AND WAS THERE ANY DISCUSSION AT THE
8 RESTAURANT ABOUT WHAT HAD HAPPENED?

9 A IT'S NOT THE KIND OF THING WHERE I WOULD
10 BRING UP A DISCUSSION TO MY FATHER. WHEN MY FATHER
11 WAS AROUND, HE ASSUMED CONTROL OF THE CONVERSATIONS
12 AND IT WAS A VERY INTIMIDATING PRESSURE, AND I
13 WOULDN'T JUST BRING UP A CONVERSATION, HEY, DAD,
14 WHAT YOU THINK'S GOING ON WITH MOM? IT'S NOT WHAT I
15 WOULD HAVE DONE.

16 Q AND THIS INCIDENT TRULY HAPPENED?

17 A YES, IT DID.

18 Q NOW, DID YOU EVER DISCUSS THIS INCIDENT
19 WITH YOUR BROTHER, LYLE MENENDEZ?

20 MR. LEVIN: OBJECTION. CALLS FOR HEARSAY.

21 THE COURT: OVERRULED.

22 THE WITNESS: WHAT DO YOU MEAN?

23 Q BY MR. CONN: DID YOU EVER HAVE OCCASION
24 TO, IN ALL OF THE TIMES THAT YOU'VE HAD TO TALK TO
25 YOUR BROTHER OVER THE PAST SIX YEARS, DID YOU EVER

26 HAVE A DISCUSSION WITH YOUR BROTHER CONCERNING THIS
27 INCIDENT IN WHICH TRACY BAKER CAME TO YOUR HOME FOR
28 DINNER?

44364

1 A I DON'T SPECIFICALLY REMEMBER. I DON'T
2 REMEMBER A SPECIFIC CONVERSATION ABOUT THIS.

3 Q DID YOU EVER HAVE ANY DISCUSSIONS WITH
4 YOUR BROTHER CONCERNING A LETTER PERTAINING TO TRACY
5 BAKER?

6 MR. LEVIN: OBJECTION, YOUR HONOR. ASK TO
7 APPROACH.

8 THE COURT: OVERRULED.

9 THE WITNESS: NO. I DID NOT HAVE ANY
10 DISCUSSIONS ABOUT THAT.

11 Q BY MR. CONN: UNTIL THIS DAY YOU STILL
12 HAVE NEVER DISCUSSED THAT INCIDENT WITH YOUR BROTHER
13 LYLE MENENDEZ; IS THAT CORRECT?

14 A NO. I THINK THAT -- I THINK THAT WE'VE
15 DISCUSSED IT SINCE THE FIRST TRIAL.

16 Q YOU HAVE DISCUSSED IT SINCE THE FIRST
17 TRIAL?

18 A I'M SURE THAT WE HAVE. WE DISCUSSED
19 MANY THINGS. I DON'T SPECIFICALLY RECALL WHAT WAS
20 SAID ABOUT IT, BUT I CAN'T SAY THAT WE DIDN'T.

21 Q YOU DON'T RECALL THE CONTEXT IN WHICH
22 YOU DISCUSSED THE TRACY BAKER INCIDENT WITH YOUR
23 BROTHER LYLE MENENDEZ?

24 A NO, I DON'T.

25 Q WASN'T THE TRACY BAKER INCIDENT A MATTER
26 OF SOME CONCERN TO YOU IN THE FIRST TRIAL?

27 MR. GESSLER: OBJECTION.

28 MR. LEVIN: OBJECTION WITH REFERENCE TO THIS

44365

1 INCIDENT AS THE TRACY BAKER INCIDENT.

2 THE WITNESS: NO, IT WASN'T.

3 THE COURT: ALL RIGHT. THE OBJECTION IS
4 OVERRULED. THE ANSWER WILL STAND.

5 MR. LEVIN: I DIDN'T HEAR THE ANSWER.

6 THE COURT: NO.

7 Q BY MR. CONN: DID YOU FEEL THAT BY THE
8 TIME YOUR FATHER WAS DISCUSSING THE ISSUE OF YOUR
9 MOTHER POISONING THE FAMILY IN BEVERLY HILLS THAT
10 YOUR MOTHER WAS CABLE OF DOING ANYTHING TO THE
11 FAMILY?

12 A I CERTAINLY BELIEVED THAT SHE WAS
13 CAPABLE OF DOING SOMETHING TO THE FAMILY. I -- YES.

14 Q NOW, THIS WAS AFTER YOUR MOTHER HAD
15 PURCHASED A RIFLE; IS THAT CORRECT?

16 A RIGHT, WHICH WAS IN THE FALL OF 1988.

17 Q THE FALL OF '88 WAS WHEN SHE PURCHASED
18 THE RIFLE?

19 A NO. THE FALL OF '88 IS WHEN TRACY BAKER
20 WAS OVER THE HOUSE AND THAT INCIDENT HAPPENED. SHE
21 PURCHASED THE RIFLE IN THE SUMMER.

22 Q OKAY. AND WHEN SHE PURCHASED THAT
23 RIFLE, SHE SAID THAT SHE WAS GOING TO KILL SOMEONE;
24 IS THAT WHAT YOU SAID?

25 A YES.

26 Q NOW, WERE YOU CONCERNED THAT SHE MIGHT
27 USE THIS RIFLE AGAINST THE FAMILY?

28 A MY FATHER.

44366

1 Q WELL, YOU WERE ALSO CONCERNED AT TIMES
2 THAT YOUR MOTHER WAS PERHAPS POISONING YOUR FOOD; IS
3 THAT CORRECT?

4 A RIGHT.

5 Q OKAY. NOW, YOUR FATHER WAS A VERY SMART
6 MAN, WASN'T HE?

7 A HE WAS BRILLIANT.

8 Q AND ARE YOU SAYING THAT DURING THE SAME
9 PERIOD OF TIME IN WHICH YOUR MOTHER WAS APPARENTLY
10 TRYING TO POISON THE FAMILY, THAT YOUR FATHER

11 ALLOWED YOUR MOTHER TO KEEP A RIFLE UP IN THE
12 BEDROOM --

13 A I THINK IT'S A MISCHARACTERIZATION TO
14 SAY THAT MY MOTHER WAS TRYING TO POISON THE FAMILY,
15 ALMOST SUGGESTING THAT SHE WAS UNABLE TO AND FAILED
16 MANY TIMES. I DON'T THINK THAT SHE SERIOUSLY EVER
17 TRIED. I THINK THAT IT'S BEEN -- I THINK THAT IT'S
18 INCONSEQUENTIAL AND I DON'T -- I NEVER GAVE IT MUCH
19 THOUGHT. I KNOW MY MOTHER LOVED ME AND I DID NOT
20 BELIEVE THAT MY MOTHER WANTED TO KILL ME IN THE
21 SUMMER OF 1988. CERTAINLY NEVER SUSPECTED THAT SHE
22 WOULD USE THE RIFLE AGAINST ME, NEVER CROSSED MY
23 MIND THAT SHE WOULD USE THE RIFLE AGAINST ME.

24 Q LET ME GO THROUGH EACH OF THOSE
25 STATEMENTS WITH YOU ONE BY ONE.

26 YOU SAID, FIRST, YOU DON'T THINK THAT
27 YOUR MOTHER EVER TRIED TO SERIOUSLY POISON THE
28 FAMILY; IS THAT CORRECT? DID YOU SAY THAT?

44367

1 A I THINK I SAID THAT, YES.

2 Q WHAT WAS ALL THIS FOOD TASTING ABOUT?

3 A IT WAS ABOUT MY MOTHER -- MY MOTHER
4 ACTING STRANGELY AT TIMES AND SAYING STRANGE THINGS,
5 WHICH -- YOU HAD NO CHOICE BUT TO TAKE HER SERIOUSLY

6 BECAUSE SHE WAS VERY STRANGE AT TIMES; AND -- BUT IT
7 WAS -- IT WAS HARD TO BELIEVE.

8 Q YOU WERE CONCERNED NOT ONLY ABOUT WHAT
9 YOUR MOTHER WAS SAYING, YOU WERE CONCERNED ABOUT THE
10 ACTUAL FOOD THAT WAS BEING PUT ON YOUR TABLE AND
11 THAT'S THE REASON WHY YOU REFUSED TO EAT IT AT
12 TIMES; IS THAT CORRECT?

13 A IF MY FATHER WASN'T GOING TO EAT THE
14 FOOD, I WASN'T GOING TO EAT THE FOOD.

15 Q EVEN WHEN YOUR FATHER WASN'T AROUND, YOU
16 TOLD US THERE WERE TIMES WHEN YOU REFUSED TO EAT THE
17 FOOD; IS THAT CORRECT?

18 A THERE WERE TIMES I WENT OUT AND JUST GOT
19 FAST FOOD AND STUFF.

20 Q AND THAT WAS BECAUSE YOU WERE CONCERNED
21 THAT YOUR MOTHER WAS TRYING TO DO WHAT TO YOU?

22 A I WAS CONCERNED THAT SHE MIGHT HAVE
23 TRIED TO POISON THE FOOD.

24 Q OKAY. ONE MINUTE AGO YOU TOLD US I
25 DON'T THINK SHE SERIOUSLY EVER TRIED TO POISON US.

26 HOW DO YOU RECONCILE THE TWO STATEMENTS,
27 MR. MENENDEZ?

28 A BECAUSE -- IT'S BECAUSE WHEN I LOOK BACK

1 ON IT, I DON'T -- AT THE TIME I TOOK MY MOTHER
2 SERIOUSLY, AND THIS TYPE OF THING -- IT WAS A SERIOUS
3 THING. BUT IT'S HARD TO IMAGINE LOOKING BACK ON IT
4 FROM OUTSIDE THE BUBBLE THAT SHE WAS GOING TO JUST
5 KILL ME BY POISONING ME.

6 Q SO YOU'RE SAYING THAT NOW IN RETROSPECT?

7 A IF I WOULD HAVE ISOLATED IT --

8 MR. LEVIN: OBJECTION, YOUR HONOR.

9 THE COURT: OVERRULED.

10 THE WITNESS: -- THAT I COULDN'T DO.

11 Q BY MR. CONN: SO YOU'RE SAYING NOW IN
12 RETROSPECT YOU DON'T TAKE IT SERIOUSLY, ALTHOUGH AT
13 THE TIME YOU TOOK IT SERIOUSLY; IS THAT WHAT YOU'RE
14 SAYING TELLING US?

15 A BASICALLY, YES.

16 Q AND YOU'RE SAYING THAT -- THE NEXT THING
17 YOU SAID WAS THAT IT'S INCONSEQUENTIAL.

18 WHY ARE YOU CALLING THIS
19 INCONSEQUENTIAL, MR. MENENDEZ?

20 A BECAUSE I -- I THOUGHT THAT IT WAS
21 SLIGHTLY BLOWN OUT OF -- NOT BLOWN OUT OF PROPORTION,
22 BUT IT WAS -- I DIDN'T -- I -- I THOUGHT IT WAS
23 SLIGHTLY BLOWN OUT OF PROPORTION BEFORE AND -- AND I
24 DON'T -- I DIDN'T BELIEVE THAT MY MOTHER WANTED ME
25 DEAD IS WHAT I'M TRYING TO SAY. SHE WASN'T JUST
26 GOING TO POISON ME BECAUSE SHE WAS ANGRY AT MY
27 MOTHER. WHEN SHE BOUGHT THE RIFLE, I DIDN'T BELIEVE
28 THAT SHE WAS GOING TO USE IT AGAINST ME.

1 Q WHO BLEW -- YOU SAID THAT IT WAS BLOWN
2 OUT OF PROPORTION.

3 WHO BLEW IT OUT OF PROPORTION?

4 A I THINK THAT IN TALKING ABOUT IT, IT
5 CAN'T HELP BUT BE BLOWN OUT OF PROPORTION. I'M NOT
6 SAYING THAT ANYONE TRIED TO BLOW IT OUT OF
7 PROPORTION. I DON'T THINK YOU ARE. I'M CERTAINLY
8 NOT. BUT JUST IN SAYING IT IT SOUNDS -- IT SOUNDS --

9 Q UNBELIEVABLE?

10 MR. LEVIN: OBJECTION, YOUR HONOR. THE
11 WITNESS SHOULD BE ALLOWED TO GIVE HIS OWN ANSWER.

12 THE COURT: YES. WHY DON'T YOU FINISH YOUR
13 ANSWER.

14 THE WITNESS: IT SOUNDS INCREDIBLE.

15 IT'S JUST LIKE LOOKING BACK AND SAYING I
16 THOUGHT MY MOTHER HAD MAGIC POWERS AND THAT'S A
17 STRANGE THING TO SAY. AND I DIDN'T REALIZE SHE WAS
18 TAPPING MY PHONE AND SHE KNEW THINGS THAT SHE
19 COULDN'T. THAT, ALONG WITH THE FACT THAT SHE SAID
20 SHE WAS GOING TO POISON THE FAMILY AND THE FACT THAT
21 SHE WOULD DO STRANGE THINGS IN FRONT OF ME, IT JUST
22 MADE THE WORLD THAT I LIVED IN AT MY HOME VERY
23 WEIRD. AND -- BUT -- BUT AT THE TIME IT SEEMED VERY
24 NORMAL.

25 Q BY MR. CONN: DO YOU HAVE ANY
26 EXPECTATIONS AS TO WHETHER TRACY BAKER IS GOING TO
27 BE A WITNESS FOR THE DEFENSE?
28 A I DON'T --

44370

1 MR. LEVIN: OBJECTION.

2 THE COURT: OBJECTION'S SUSTAINED. THE
3 ANSWER IS STRICKEN.

4 Q BY MR. CONN: WHEN YOU SAY IT WAS BLOWN
5 OUT OF PROPORTION, WHEN DID YOU SAY IT WAS BLOWN OUT
6 OF PROPORTION? WHEN WAS IT BLOWN OUT OF PROPORTION?

7 A JUST TALKING ABOUT IT. I -- I TOLD
8 MR. LEVIN BEFORE HE PUT ME ON THE STAND THAT IT WAS
9 AND THAT IT IS AND IT'S JUST SOMETHING HE DECIDED
10 NOT TO BRING OUT.

11 Q AND IS THAT BECAUSE YOU FELT IN YOUR OWN
12 WORDS, AS YOU USED HERE TODAY, THAT IT'S ONE OF THE
13 MORE INCREDIBLE ASPECTS OF YOUR STORY?

14 MR. LEVIN: OBJECTION WITH RESPECT TO THE
15 STORY.

16 THE WITNESS: NO. IT HAPPENED. IT'S TRUE.
17 THESE THINGS DEFINITELY DID HAPPEN. MY MOTHER SAID
18 THESE THINGS. SHE SAID THINGS LIKE IT. IT'S NOT
19 UNTRUE. IT JUST SEEMS --

20 Q BY MR. CONN: IT JUST SEEMS INCREDIBLE;
21 IS THAT WHAT YOU'RE SAYING?
22 A NOT THAT MY MOTHER WOULD SAY THESE
23 THINGS; THAT MY MOTHER WOULD ACTUALLY TRY TO POISON
24 ME AND NOT MY FATHER, BUT ME AS WELL, YES.
25 Q OKAY. NOW YOU SAID -- YOU NEXT SAID THAT
26 IT NEVER CROSSED YOUR MIND THAT YOUR MOTHER WOULD
27 USE THE RIFLE AGAINST YOU; IS THAT CORRECT?
28 A RIGHT.

44371

1 Q NOW, I'M NOT TALKING ABOUT YOUR STATE OF
2 MIND NOW. I'M TALKING ABOUT NOW GOING BACK TO YOUR
3 STATE OF MIND, WHICH YOU ARE SAYING EXISTED BACK
4 DURING THIS PERIOD OF TIME, WHEN YOU FELT THAT AT
5 THAT PERIOD OF TIME YOUR MOTHER WAS TRYING TO POISON
6 YOU, WHY WOULDN'T SHE USE THE RIFLE AGAINST YOU IF
7 SHE WAS TRYING TO POISON YOU?
8 A BECAUSE I FELT THAT SHE WOULD USE IT
9 AGAINST MY DAD.
10 Q IF SHE WAS TRYING TO POISON THE FAMILY,
11 IF SHE WAS GETTING DRUNK, IF THERE WERE DAYS WHEN
12 SHE THREATENED TO POISON THE FAMILY AND YOU WOULDN'T
13 EAT THE FOOD BECAUSE YOU FELT THAT THE FOOD WAS
14 POISONED, WHY DIDN'T YOU THINK ON THOSE OCCASIONS

15 SHE MIGHT GO UPSTAIRS TO THE BEDROOM, GET THE RIFLE,
16 COME DOWN AND SHOOT YOU?
17 A BECAUSE MY MOTHER WOULD SAY THESE THINGS
18 IN HER -- IN HER WILD STATE AND -- AND IF YOU WERE AT
19 THE HOUSE, YOU'D BELIEVE IT TOO. SHE SAID THESE
20 THINGS AND SHE WAS SERIOUS AND YOU JUST -- I JUST
21 WASN'T GOING TO EAT THE FOOD. I JUST WASN'T GOING
22 TO DO IT. BUT I DIDN'T BELIEVE THAT MY MOTHER WAS
23 CONSCIOUSLY TRYING TO KILL ME. I DIDN'T THINK SHE
24 WOULD -- WHEN SHE BOUGHT THE RIFLE, IT NEVER CROSSED
25 MY MIND THAT SHE WANTED TO USE IT AGAINST ME WHEN
26 SHE SAID I WANT TO KILL SOMEBODY. I FELT THAT SHE
27 WOULD USE IT AGAINST THE WOMAN MY DAD HAD BEEN
28 HAVING AN AFFAIR WITH FOR EIGHT YEARS OR MAYBE EVEN

44372

1 AGAINST MY FATHER. BUT SHE WAS A VERY -- VERY
2 DETERMINED AND STRONG WOMAN AND SHE COULD DO UNUSUAL
3 THINGS AT TIMES.

4 Q AND DO YOU THINK THAT ONE OF THE UNUSUAL
5 THINGS SHE COULD HAVE DONE WAS SHOOT YOU SINCE
6 SHE'S, IN YOUR STATE OF MIND, CAPABLE OF POISONING
7 YOU?

8 A I THOUGHT THAT ON AUGUST 20TH THAT SHE
9 WOULD KILL ME.

10 Q I'M TALKING ABOUT BEFORE AUGUST 20TH --

11 A BEFORE I FOUND OUT --

12 Q LET ME FINISH THE QUESTION.

13 MR. LEVIN: OBJECTION, YOUR HONOR.

14 THE COURT: HE HASN'T FINISHED THE QUESTION

15 YET.

16 THE WITNESS: I'M SORRY.

17 Q BY MR. CONN: BEFORE AUGUST 20TH, I'M

18 REFERRING TO THE TIME PERIOD WHEN YOU THOUGHT THAT

19 SHE WAS PERHAPS POISONING YOU, DID YOU FEEL THAT A

20 WOMAN WHO WAS CAPABLE OF POISONING YOU MIGHT ALSO

21 SHOOT YOU?

22 A NO, I DIDN'T THINK THAT.

23 Q WHY NOT?

24 MR. LEVIN: OBJECTION. ASKED AND ANSWERED,

25 YOUR HONOR. THREE TIMES ALREADY.

26 THE COURT: ALL RIGHT. ONE LAST TIME.

27 WHAT'S YOUR ANSWER?

28 THE WITNESS: BEFORE I FOUND OUT THAT MY

44373

1 MOTHER KNEW, BEFORE SHE TOLD ME THAT SHE KNEW ABOUT

2 THE SEX BETWEEN MY FATHER AND ME, NO MATTER HOW

3 ANGRY MY MOTHER GOT, NO MATTER WHAT CRAZY THINGS

4 THAT SHE WOULD SAY, NO MATTER HOW STRANGE SHE WOULD

5 BE AT TIMES, SHE WAS ON -- NOT ON MY SIDE, BUT I
6 LOVED HER TREMENDOUSLY AND SHE LOVED ME AND WE HAD
7 BEEN THROUGH A LIFETIME TOGETHER IN TRYING TO
8 SURVIVE IN A HOUSE WITH MY FATHER. AND -- AND I SAW
9 HER LIFE AS TRAGIC. AND I SIMPLY DID NOT BELIEVE
10 THAT MY MOTHER WANTED ME DEAD. I JUST DIDN'T
11 BELIEVE IT.

12 Q BY MR. CONN: ALL RIGHT. NOW, YOU
13 THOUGHT THAT IF SHE WAS GOING TO USE THE RIFLE AT
14 ALL, SHE WAS GOING TO USE IT AGAINST YOUR FATHER; IS
15 THAT CORRECT?

16 A RIGHT.

17 Q SO DID YOU EVER TELL YOUR FATHER ABOUT
18 THE FACT THAT WHEN SHE PURCHASED THE RIFLES SHE SAID
19 SHE WAS GOING TO SHOOT SOMEONE?

20 A NO, I DIDN'T.

21 Q AND WERE YOU CONCERNED ABOUT HIS SAFETY
22 AT ALL?

23 A I WAS CONCERNED ABOUT MY MOTHER KILLING
24 MY FATHER. I DON'T BELIEVE I WOULD HAVE EXPRESSED
25 THAT CONCERN TO MY FATHER.

26 Q AND DID YOU EVER SAY TO YOUR FATHER -- OR
27 DID YOU EVER ASK YOUR FATHER WHY, IN LIGHT OF THE
28 FACT THAT SHE APPEARS TO BE POISONING THE FAMILY, HE

1 CONTINUES TO ALLOW HER TO HAVE RIFLES IN THE
2 BEDROOM?

3 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE
4 AND ALSO ASSUMES FACTS NOT IN EVIDENCE.

5 THE COURT: SUSTAINED.

6 Q BY MR. CONN: WELL, DID YOU KNOW THAT
7 THERE WERE RIFLES IN YOUR HOME?

8 A YES.

9 Q AND YOU KNEW THAT YOUR MOTHER HAD
10 PURCHASED ONE OF THOSE RIFLES IN THE SUMMER OF '89;
11 IS THAT CORRECT? SUMMER OF '88?

12 A RIGHT.

13 Q AND IT WAS IN THE FALL OF '88 WHEN THE
14 TRACY BAKER INCIDENT OCCURRED; IS THAT CORRECT?

15 MR. LEVIN: OBJECTION TO CALLING IT THE TRACY
16 BAKER INCIDENT.

17 THE COURT: WELL, WE KNOW WHAT IT'S REFERRING
18 TO, THE DINNER THAT'S BEEN DESCRIBED. OVERRULED.

19 Q BY MR. CONN: AND DID YOU EVER ASK YOUR
20 FATHER WHY YOUR FATHER, A BRILLIANT MAN, WOULD ALLOW
21 HER -- WOULD ALLOW YOUR MOTHER TO KEEP RIFLES IN THE
22 HOME?

23 A NO.

24 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

25 THE COURT: SUSTAINED AS TO THE FORM OF THE
26 QUESTION. THE ANSWER'S STRICKEN.

27 Q BY MR. CONN: DID YOU EVER ASK YOUR

44375

1 A MY FATHER AND I HAD NO COMMUNICATION
2 LINES IN WHICH I COULD -- I COULD EVEN APPROACH HIM
3 ON SUCH A SUBJECT. HE WAS A VERY FEARLESS MAN AND
4 HE WAS -- IT JUST WASN'T SOMETHING THAT I FELT I
5 COULD NOR WOULD I BRING IT UP.

6 Q NOW, YOUR MOTHER AT SOME POINT TOLD YOU
7 THAT YOU WOULD HAVE TO GET A GIRLFRIEND; IS THAT
8 CORRECT?

9 A SHE TOLD ME I HAD SIX MONTHS TO GET A
10 GIRLFRIEND.

11 Q WHEN DID SHE TELL YOU THAT?

12 A IN THE FALL RIGHT AFTER -- FALL OF -- I
13 THINK IT WAS '86 WHEN WE MOVED TO CALIFORNIA.

14 Q AND BETWEEN THE FALL OF '86 AND THE TIME
15 THAT YOU SHOT YOUR MOTHER TO DEATH IN AUGUST OF '89,
16 THAT THREE-YEAR TIME PERIOD, HOW MANY GIRLFRIENDS
17 DID YOU HAVE?

18 A I DATED KIRSTEN TWO SEPARATE TIMES.
19 THERE WAS A GIRL, NATASHA, THAT I DATED FOR A
20 WHILE.

21 Q WHEN YOU SAY THAT YOU DATED KIRSTEN, ARE
22 YOU SAYING THAT YOU WENT ON TWO DATES WITH HER OR

23 DATED HER ON TWO PERIODS OF TIME?

24 A I WAS IN LOVE WITH HER.

25 Q THE QUESTION IS: DID YOU DATE HER ON

26 TWO OCCASIONS OR DID YOU DATE HER DURING TWO PERIODS

27 OF TIME?

28 A I DATED HER DURING TWO DIFFERENT PERIODS

44376

1 OF TIME.

2 Q AND DID YOU FEEL THAT YOUR MOTHER WAS

3 PUTTING TOO MUCH PRESSURE ON YOU TO GET A

4 GIRLFRIEND?

5 A SHE WAS -- SHE LOVED THE FACT THAT I WAS

6 DATING KIRSTEN. BEFORE THEN SHE WAS DEFINITELY

7 ACTIVELY WANTING ME TO GET A GIRLFRIEND. MY FATHER

8 EVEN SAID TO ME AT ONE POINT, YOU BETTER FIND A

9 GIRLFRIEND. THIS IS IMPORTANT TO YOUR MOTHER.

10 Q AND WHEN DID YOU FINALLY BREAK UP WITH

11 KIRSTEN?

12 A I ENDED THE RELATIONSHIP RIGHT AFTER THE

13 SUMMER AND THEN IMMEDIATELY WANTED TO GET BACK

14 TOGETHER WITH HER BECAUSE OF THE PAIN OF IT, YET I

15 COULDN'T CONTINUE ON WITH IT, WITH MY DAD DOING

16 THESE THINGS. THE RELATIONSHIP WITH MY FATHER WAS

17 TOO MUCH AT THE SAME TIME.

18 Q WHEN DID YOU FINALLY BREAK UP WITH
19 KIRSTEN?
20 A SEPTEMBER OF 1987.
21 Q '87?
22 A YES.
23 Q AND DID YOU HAVE A GIRLFRIEND BETWEEN
24 SEPTEMBER OF '87 AND AUGUST OF '89?
25 A OVER THE NEXT TWO YEARS?
26 Q YES.
27 A YES.
28 Q NATASHA?

44377

1 A YES.
2 Q AND HOW LONG DID YOU GO WITH HER?
3 A ABOUT THREE MONTHS.
4 Q IS THAT THE ONLY GIRLFRIEND YOU HAD OVER
5 THAT TWO-YEAR TIME PERIOD?
6 A I WENT OUT WITH KIRSTEN AGAIN A YEAR
7 LATER.
8 Q HOW LONG DID YOU GO OUT WITH KIRSTEN?
9 A WE WENT OUT A YEAR -- A YEAR LATER WE GOT
10 BACK TOGETHER. SHE CALLED ME UP AND WE GOT BACK
11 TOGETHER FOR ABOUT SIX MONTHS.
12 Q NOW, DURING THIS TIME PERIOD WHEN YOU

13 WEREN'T WITH KIRSTEN OR NATASHA, WAS YOUR MOTHER

14 PUTTING PRESSURE ON YOU TO GET A GIRLFRIEND?

15 A I DON'T KNOW IF PUTTING PRESSURE ON ME

16 WAS THE RIGHT WORD. SHE WOULD SEE ME WITH A GIRL OR

17 SHE WOULD ASK ME ABOUT DIFFERENT GIRLS. I KNOW THAT

18 SHE WANTED ME TO HAVE A GIRLFRIEND.

19 Q SHE DIDN'T PUT PRESSURE ON YOU?

20 A SHE DIDN'T SET A DEADLINE LIKE SHE DID

21 BEFORE.

22 Q SO YOU DIDN'T FEEL ANY PRESSURE TO GET A

23 GIRLFRIEND?

24 A I FELT THAT SHE WANTED ME TO HAVE A

25 GIRLFRIEND. SHE WANTED ME TO BE WITH A GIRL. I

26 DIDN'T FEEL THAT I WOULD BE PUNISHED IF I DIDN'T

27 HAVE A GIRLFRIEND.

28 Q DID YOUR MOTHER QUESTION YOUR

44378

1 SEXUALITY?

2 MR. LEVIN: OBJECTION, YOUR HONOR.

3 IRRELEVANT.

4 THE COURT: OVERRULED.

5 MR. LEVIN: YOUR HONOR, ASK TO APPROACH.

6 THE COURT: OVERRULED.

7 THE WITNESS: AFTER -- AFTER MY RELATIONSHIP

8 WITH KIRSTEN WAS OVER, SHE ASKED ME IF I WASN'T MAN
9 ENOUGH FOR HER, AND AM I JUST GAY OR SOMETHING. SHE
10 MADE THOSE TYPE OF COMMENTS TO ME.

11 Q BY MR. CONN: YOUR MOTHER SUSPECTED THAT
12 YOU WERE HOMOSEXUAL?

13 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR
14 SPECULATION. IRRELEVANT.

15 THE COURT: SUSTAINED.

16 Q BY MR. CONN: DID YOUR FATHER QUESTION
17 YOUR SEXUALITY?

18 MR. LEVIN: YOUR HONOR, OBJECTION WITH
19 RESPECT TO THAT QUESTION.

20 THE COURT: OVERRULED.

21 THE WITNESS: I DON'T THINK HE DIRECTLY
22 QUESTIONED MY SEXUALITY IN TERMS OF ASKING ME IF I'M
23 GAY OR SOMETHING. HE CALLED ME A FAG OR FAGGOT
24 SOMETIMES AS -- IN OTHER WORDS, IT WAS ANOTHER WORD
25 FOR A SISSY.

26 Q BY MR. CONN: HOW OFTEN DID YOUR FATHER
27 CALL YOU THAT?

28 A A LOT OF TIMES.

44379

1 Q WHAT WAS YOUR ATTITUDES -- WHAT WAS YOUR
2 FATHER'S ATTITUDE TOWARDS HOMOSEXUALS, MR. MENENDEZ?

3 MR. LEVIN: OBJECTION. CALLS FOR

4 SPECULATION. ALSO IRRELEVANT.

5 THE COURT: SUSTAINED. SUSTAINED.

6 Q BY MR. CONN: WHAT WAS YOUR FATHER'S

7 ATTITUDE TOWARD PORNOGRAPHY, MR. MENENDEZ?

8 A HE WAS -- I DON'T KNOW WHAT HIS ATTITUDE

9 TOWARD PORNOGRAPHY WAS REALLY. I DON'T KNOW.

10 OFFICIALLY HE WAS AGAINST IT.

11 Q AND THERE ARE WITNESSES WHO CAN DOCUMENT

12 OR THERE ARE WITNESSES WHO CAN VERIFY THAT

13 OFFICIALLY YOUR FATHER WAS VERY STRONGLY AGAINST

14 PORNOGRAPHY, WASN'T HE?

15 MR. LEVIN: OBJECTION. CALLS FOR HEARSAY.

16 ALSO SPECULATION.

17 THE WITNESS: I THINK THAT --

18 THE COURT: SUSTAINED.

19 Q BY MR. CONN: DID YOU KNOW WHETHER YOUR

20 FATHER TOOK A STANCE AGAINST PORNOGRAPHY?

21 A I KNEW THAT AT HOME HE HAD PORNOGRAPHIC

22 TAPES AND HE VIEWED THEM IN FRONT OF NEIGHBORS, BUT

23 MY FATHER'S OFFICIAL PUBLIC STANCE WAS VERY CLEAR

24 AGAINST PORNOGRAPHY.

25 Q AND WHERE ARE THOSE TAPES TODAY,

26 MR. MENENDEZ, IF WHAT YOU SAY EXISTS?

27 A I DON'T KNOW WHERE THEY ARE ANYMORE.

28 I'VE BEEN IN JAIL FOR SIX YEARS.

1 Q DID YOU DESTROY ANY PORNOGRAPHY?

2 A I DESTROYED A BOX THAT HE HAD IN HIS
3 BEDROOM.

4 Q DID YOU FEEL THAT YOU COULD NEVER LIVE
5 UP TO YOUR FATHER'S EXPECTATIONS, MR. MENENDEZ?

6 A I FELT THAT I WAS -- I WOULD JUST GET
7 BY.

8 Q DID YOU FEEL THAT YOU WERE A
9 DISAPPOINTMENT TO YOUR FATHER?

10 A I FELT THAT HE VIEWED ME MANY TIMES, FOR
11 EXAMPLE, IN KALAMAZOO WHEN I DIDN'T WIN THE
12 TOURNAMENT, AS A FAILURE. HE TOLD ME THAT I WAS A
13 FAILURE AND THAT I WASN'T WORTHY ENOUGH TO BE PART
14 OF THE FAMILY.

15 Q DID HE TELL YOU YOU WERE NOT WORTHY
16 ENOUGH TO BE PART OF THE FAMILY WHEN YOU WERE
17 ARRESTED FOR RESIDENTIAL BURGLARIES?

18 A NO. HE TOLD ME THAT I WAS STUPID IN THE
19 WAY I HANDLED IT AND THAT WE GOT OURSELVES CAUGHT BY
20 PUTTING SOME THINGS BACK.

21 Q HOW MUCH MONEY DID YOU THINK YOUR FATHER
22 WAS WORTH, MR. MENENDEZ, AT THE TIME OF HIS DEATH?

23 A I HAD NO IDEA.

24 Q DIDN'T YOU THINK THAT HE WAS WORTH
25 MILLIONS?

26 A CERTAINLY MILLIONS, BUT I HAD NO IDEA

27 HOW MANY.

28 Q AND YOU WANTED TO BE A SUCCESS, DIDN'T

44381

1 YOU?

2 A I WANTED TO BE A SUCCESS IN HIS EYES.

3 IT WAS ONE OF THE MORE IMPORTANT THINGS IN MY LIFE.

4 Q YOU WANTED TO BE A SUCCESS IN LIFE, EVEN

5 APART FROM HIS EYES, DIDN'T YOU?

6 A CERTAINLY.

7 Q AND DIDN'T YOU RECOGNIZE THAT YOU LACKED

8 THE DRIVE AND THE AMBITION AND THE TALENT OF YOUR

9 FATHER?

10 A I DIDN'T LACK THE DRIVE. I HAD A GREAT

11 DRIVE IN THE FIELDS THAT I LOVED. I CERTAINLY WAS

12 NOT AS -- I WAS NOT EVEN COMPARABLE IN INTELLIGENCE,

13 AND IT WAS -- I HAD A VERY DIFFERENT PERSONALITY,

14 HAVE A VERY DIFFERENT PERSONALITY THAN MY FATHER.

15 Q DID YOU FEEL THAT THE ONLY WAY YOU COULD

16 BECOME AS STRONG AS YOUR FATHER WOULD BE BY KILLING

17 HIM?

18 A NO.

19 Q DID YOU HEAR THE TESTIMONY OF CARLOS

20 BARALT, THAT YOUR FATHER WAS GOING TO HAVE A TALK

21 WITH YOUR BROTHER BECAUSE THEY HAVE TO UNDERSTAND

22 THAT WE ARE NOT GOING TO BE SUPPORTING THEM FOR THE
23 REST OF THEIR LIVES?

24 A I THINK YOU MEAN BRIAN ANDERSEN.

25 Q CARLOS BARALT. OR BRIAN ANDERSEN.

26 DO YOU RECALL THAT?

27 A I RECALL THAT BRIAN SAID THAT, YES.

28 Q AND DID YOU EVER HAVE A TALK WITH YOUR

44382

1 FATHER IN WHICH YOUR FATHER SAID TO YOU THAT HE WAS
2 NOT GOING TO BE SUPPORTING YOU FOR THE REST OF YOUR
3 LIFE?

4 A I REMEMBER THERE WAS A CONVERSATION
5 AFTER WE GOT BACK FROM KALAMAZOO IN WHICH MY DAD SAT
6 DOWN WITH MY BROTHER TO FIND OUT WHAT WAS HAPPENING
7 WITH THE CAMCORDER, AND I BELIEVE MY DAD SAID THAT
8 STATEMENT TO BRIAN IN REGARDS TO THE CAMCORDER THAT
9 HE WAS ANGRY OVER. AND THAT'S WHEN MY FATHER FOUND
10 OUT THAT MY DAD -- MY BROTHER HAD NOT, IN FACT,
11 PURCHASED IT ON MY MOM'S VISA CARD.

12 BUT IN TERMS OF HIM SUPPORTING US, HE
13 HAD JUST BOUGHT MY BROTHER, BASICALLY, A HUNDRED-
14 AND-SOME-THOUSAND-DOLLAR CONDOMINIUM AND MY MOM WAS
15 GOING TO FURNISH IT WITH HIM. THERE WAS CERTAINLY
16 NEVER ANY DISCUSSION ABOUT SUPPORT. OBVIOUSLY, I

17 WASN'T GOING TO BE PAYING FOR MY COLLEGE AND LYLE

18 WASN'T GOING TO BE PAYING FOR PRINCETON.

19 Q SO DID YOU EVER FIND OUT WHAT ALL THIS

20 TALK WAS ABOUT WHEN YOUR FATHER WAS TELLING BRIAN

21 ANDERSEN THAT YOU AND YOUR BROTHER HAVE GOT TO GET

22 THE IDEA THAT HE'S NOT GOING TO BE SUPPORTING YOU

23 FOR THE REST OF YOUR LIVES?

24 MR. LEVIN: OBJECTION WITH RESPECT TO

25 ANYTHING WITH MR. ANDERSEN. THAT WAS LIMITED.

26 THE COURT: WELL, IT -- AT THIS POINT WHY

27 DON'T YOU REPHRASE THE QUESTION AS TO WHAT YOU MEAN

28 BY "EVER FIND OUT."

44383

1 Q BY MR. CONN: DID YOU EVER HAVE A

2 CONVERSATION WITH YOUR FATHER IN WHICH YOUR FATHER

3 REVEALED TO YOU IN ANY WAY WHAT HE MAY HAVE MEANT BY

4 THE PHRASE "THEY'VE GOT TO UNDERSTAND THAT WE ARE

5 NOT GOING TO BE SUPPORTING THEM FOR THE REST OF

6 THEIR LIVES"?

7 A I DIDN'T COMPLETELY UNDERSTAND. I CAN'T

8 IMAGINE WHAT MY MOTHER MEANT WHEN HE SAID THAT TO MY

9 UNCLE BRIAN BECAUSE I NEVER REALLY SPENT ANY MONEY

10 AND I NEVER HAD A TALK WITH MY FATHER ABOUT SPENDING

11 MONEY. I KNOW THAT -- SO I DIDN'T -- I DIDN'T REALLY

12 VIEW IT AS THAT BIG A DEAL. I KNOW THAT HE HAD THE
13 CONVERSATION WITH MY BROTHER WHEN HE GOT BACK HOME
14 ABOUT THE CAMCORDER AND WHY MY BROTHER BOUGHT IT
15 WITHOUT ASKING HIM FIRST; AND IT WAS EXPLAINED AND
16 IT WAS UNDERSTOOD. BUT THERE WERE NO -- THERE WERE
17 NO TALKS ABOUT THAT.

18 Q AT SOME POINT DID YOU -- DID YOUR -- DID
19 YOU HEAR FROM YOUR MOTHER THAT YOUR FATHER WAS GOING
20 TO DISOWN YOU?

21 A IN MAY OF 1989 MY MOTHER TOLD ME THAT.

22 Q THAT HE WAS GOING TO DISOWN YOU?

23 A YES.

24 Q AND WHAT DID YOU UNDERSTAND THAT TERM TO
25 MEAN?

26 A I WAS VERY AFRAID OF THAT TERM. I
27 DIDN'T BELIEVE FOR A SECOND THAT MY FATHER WAS GOING
28 TO KICK ME OUT OF THE HOUSE. AND SO I WAS

44384

1 FRIGHTENED BY IT.

2 Q I'M SORRY?

3 A I WAS FRIGHTENED BY IT.

4 Q WELL, DIDN'T YOU TESTIFY IN THE FIRST
5 TRIAL THAT IT WAS IN MAY OF 1989 WHEN YOU HEARD YOUR
6 MOTHER SAY THAT YOUR FATHER WAS GOING TO DISOWN YOU

7 THAT YOU CONCLUDED BACK THEN THAT YOUR FATHER WAS
8 GOING TO KILL YOU?

9 MR. LEVIN: OBJECTION.

10 THE WITNESS: ESSENTIALLY, THAT'S RIGHT.

11 MR. LEVIN: YOUR HONOR, MAY WE HAVE A PAGE
12 AND LINE DESIGNATION?

13 THE COURT: HE'S ANSWERED THE QUESTION. HE
14 SAID ESSENTIALLY THAT'S RIGHT.

15 MR. LEVIN: WITHDRAW IT.

16 Q BY MR. CONN: SO YOU DIDN'T BELIEVE
17 DURING THE WEEK OF AUGUST OF 1989 THAT YOUR FATHER
18 WAS GOING TO -- YOU DIDN'T START BELIEVING, DURING
19 THE WEEK OF AUGUST OF 1989, THAT YOUR FATHER WAS
20 GOING TO KILL YOU. NOW YOU'RE SAYING BACK IN MAY OF
21 1989 YOU BELIEVED THAT YOUR FATHER WAS GOING TO KILL
22 YOU; IS THAT CORRECT?

23 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

24 THE WITNESS: NO. WHAT I'M SAYING --

25 THE COURT: ALL RIGHT. REPHRASE THE
26 QUESTION. OBJECTION SUSTAINED. THE ANSWER'S
27 STRICKEN.

28 Q BY MR. CONN: WHEN DID YOU FIRST START

1 TO BELIEVE THAT YOUR FATHER WAS GOING TO KILL YOU?

2 A I THOUGHT OVER MY ENTIRE LIFE THAT MY
3 FATHER WAS CAPABLE AND ABLE TO DO IT. I MEAN, I
4 WOULD HAVE -- I WOULD BE JUST TRAINING FOR TENNIS AND
5 RUNNING IN THE RAIN AND MY FATHER WOULD BE DRIVING
6 BEHIND US AND WE -- AND THEN HE WOULD SPEED UP THE
7 CAR AND WE'D HAVE TO SPRINT AND SPRINT; AND I KNEW
8 THAT IF I SLIPPED I'D GET TRAMPLED BY THE CAR. OVER
9 MY ENTIRE LIFE, WHETHER IT BE IN SPORTS OR AT HOME,
10 I FELT THAT MY FATHER COULD KILL ME.

11 WHEN MY MOTHER TOLD ME OVER THE PHONE,
12 YOUR DAD -- YOUR DAD MAY DISOWN YOU --

13 MR. CONN: I'D OBJECT TO THE NARRATIVE. THE
14 QUESTION'S BEEN ANSWERED.

15 MR. LEVIN: OBJECTION. NONRESPONSIVE.

16 THE COURT: HE'S NOW FOCUSING ON THIS
17 PARTICULAR ANSWER.

18 YOU MAY CONTINUE YOUR ANSWER.

19 THE WITNESS: THANK YOU, SIR.

20 WHEN MY MOTHER TOLD ME THAT OVER THE
21 PHONE, I GOT FRIGHTENED BECAUSE MY DAD WAS NEVER
22 GOING TO PUSH ME OUT OF THE HOUSE AND SAY GO FEND
23 FOR YOUR OWN. THAT WAS AN IMPOSSIBILITY. SO I DID
24 GET SCARED AND -- AND I DON'T KNOW IF IT'S PARANOIA
25 OR I DON'T KNOW IF I REALLY SHOULD HAVE BEEN AFRAID
26 THAT HE WAS GOING TO KILL ME.

27 Q BY MR. CONN: DO YOU RECOGNIZE THE
28 DIFFERENCE BETWEEN SOMEONE BEING CAPABLE AND ABLE TO

1 KILL YOU AND SOMEONE ACTUALLY GOING TO KILL YOU?

2 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.

3 IT'S ALSO VAGUE.

4 THE WITNESS: YES. I -- I THINK I UNDERSTAND

5 WHAT YOU'RE SAYING.

6 THE COURT: OVERRULED.

7 THE WITNESS: CAPABLE VERSUS GOING TO, IN

8 TERMS OF INTENT, YES.

9 Q BY MR. CONN: SO WHEN DID YOU CONCLUDE

10 THAT YOUR FATHER -- WHEN WAS THE FIRST TIME THAT YOU

11 CONCLUDED THAT HAD YOUR FATHER WAS GOING TO KILL

12 YOU?

13 A ON AUGUST 20TH.

14 Q BUT DIDN'T YOU TESTIFY IN THE FIRST

15 TRIAL THAT WHEN YOUR MOTHER TOLD YOU THAT YOUR

16 FATHER WAS GOING TO DISOWN YOU, THAT YOU BELIEVED

17 THAT THAT MEANT THAT YOUR FATHER WAS GOING TO KILL

18 YOU?

19 A YES.

20 Q SO THEN HE WAS GOING TO KILL YOU BACK IN

21 MAY OF '89, NOT IN AUGUST OF '89; ISN'T THAT

22 CORRECT?

23 A I HAD A FEAR THAT IF I DIDN'T SHAPE UP,

24 THIS WAS GOING TO HAPPEN. MY FATHER NEVER SAID

25 DIRECTLY TO ME, YOU'RE DISOWNED OR I'M GOING TO

26 DISOWN YOU. IT WAS A CERTAIN -- CIRCUMVENTED THING
27 THROUGH MY MOTHER IN WHICH I HAD THIS FEAR THAT
28 HE -- THAT THIS COULD HAPPEN, AND I SHAPED UP RIGHT

44387

1 AWAY.

2 Q SO BETWEEN MAY AND AUGUST OF '89, YOU
3 FELT THAT IF YOU DIDN'T SHAPE UP, NOT ONLY WAS YOUR
4 FATHER CAPABLE AND ABLE OF KILLING YOU, BUT THAT, IN
5 FACT, HE WAS GOING TO KILL YOU; IS THAT CORRECT?

6 A NO. IT WAS A FEAR THAT HE WOULD NEVER
7 THROW ME OUT OF THE HOUSE AND THAT IF HE WAS, IN
8 FACT, GOING TO DISOWN ME, IT COULD MEAN DEATH; AND
9 THAT'S WHAT I WAS TESTIFYING TO LAST TRIAL.

10 Q AND WHAT DID YOU DO TO SHAPE UP BETWEEN
11 MAY AND AUGUST OF 1989 SO THAT YOUR FATHER WOULDN'T
12 KILL YOU?

13 A STARTED INFORMING HIM AGAIN OF
14 EVERYTHING THAT I WAS DOING IN MY DAY AND GOING
15 THROUGH AN HOUR PROGRESSION. I DID WELL IN THE
16 CHAMPIONSHIPS TO QUALIFY FOR NATIONALS, AND I -- I
17 JUST TRIED TO GENERALLY SATISFY HIM IN EVERY WAY I
18 COULD.

19 Q AND THE SPECIFIC COMPLAINT THAT YOUR
20 MOTHER HAD WHICH CAUSED YOU -- FOR WHAT SHE SAID YOUR

21 FATHER MIGHT DISOWN YOU BACK IN MAY OF 1989, WAS
22 YOUR FATHER'S FAILURE -- OR YOUR FAILURE TO TELL YOUR
23 FATHER WHAT WAS GOING ON IN YOUR TENNIS; IS THAT
24 CORRECT?

25 A RIGHT.

26 Q AND SO YOU CONCLUDED THAT WHEN YOUR
27 MOTHER TOLD YOU IN MAY OF '89 THAT YOUR FATHER WAS
28 GOING TO DISOWN YOU FOR NOT KEEPING HIM ABREAST OF

44388

1 WHAT WAS HAPPENING IN YOUR TENNIS, THAT YOUR FATHER
2 WAS GOING TO KILL YOU FOR THAT?

3 A WELL, IT WASN'T -- IT WASN'T A FAR JUMP
4 IN MY MIND. IT MADE SENSE TO ME. IF MY FATHER WAS
5 GOING TO GO TO THE EXTREME OF DISOWNING ME BECAUSE I
6 WASN'T TELLING HIM EVERY HOUR THAT I WAS PLAYING
7 TENNIS DURING THE DAY, HE WASN'T GOING TO BE ABLE TO
8 JUST DISOWN ME IN TERMS OF -- THE WAY I VIEWED DISOWN
9 WAS HE WAS GOING TO KICK ME OUT OF THE HOUSE. WELL,
10 THE WAY I VIEWED IT THEN IS THERE'S NO WAY HE'S
11 GOING TO KICK ME OUT OF THE HOUSE, SO WHAT DOES IT
12 MEAN? I THOUGHT IT MEANT DEATH.

13 Q SO YOU'RE SAYING -- YOU'RE SAYING THAT IN
14 MAY OF 1989, YOU BELIEVED THAT IF YOU DIDN'T KEEP
15 YOUR FATHER ABREAST OF WHAT WAS GOING ON IN YOUR

16 TENNIS CAREER, YOUR FATHER WAS GOING TO KILL YOU?

17 A ONLY BECAUSE OF WHAT MY MOTHER TOLD ME.

18 Q BUT YOU DID BELIEVE THAT, YOU'RE

19 SAYING?

20 A ESSENTIALLY, I FELT THAT IT WAS WISE TO

21 KEEP MY FATHER INFORMED OF WHAT I WAS DOING IN

22 TENNIS EVERY HOUR.

23 Q UNDER PENALTY OF DEATH?

24 A YES.

25 MR. CONN: DOES THE COURT WISH TO BREAK NOW,

26 YOUR HONOR?

27 THE COURT: OKAY. WE'LL BE IN RECESS UNTIL

28 TOMORROW AT 8:30. DON'T DISCUSS THE MATTER WITH

44389

1 ANYONE. DON'T FORM ANY FINAL OPINIONS ABOUT IT.

2 DON'T LOOK AT ANY OF THE NEWS COVERAGE ABOUT THE

3 CASE AND WE'LL SEE YOU ALL BACK HERE TOMORROW AT

4 8:30.

5 (AT 4:45 P.M., AN ADJOURNMENT

6 WAS TAKEN UNTIL TUESDAY,

7 DECEMBER 19, 1995, AT 8:30 A.M.)

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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)
 VS.) NO. BA 068880
8)
 ERIK GALEN MENENDEZ, AND)
9 JOSEPH LYLE MENENDEZ,)
)
10 DEFENDANTS.)
)
11

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 MONDAY, DECEMBER 18, 1995

14 VOLUME 265

15 PAGES 44162 THROUGH 44389

16

17

18

19

20

21

APPEARANCES:
22 (SEE APPEARANCE PAGE)

23

24

25

26

27

28

1 APPEARANCES:

2

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AND
CAROL NAJERA, DEPUTY
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PUBLIC DEFENDER
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21

ANNAMARIE PAPA
CSR NO. 8608
MARYLU MURPHY,
CSR NO. 5178
OFFICIAL REPORTERS

24

25

26

27

28

1 INDEX FOR VOLUME 265 PAGES 44162 THROUGH 44389

2

| 3 DAY | DATE | SESSION | PAGE | VOL. |
|-------|------|---------|------|------|
|-------|------|---------|------|------|

3

4 MONDAY, DECEMBER 18, 1995 A.M. 44162 265
5 MONDAY, DECEMBER 18, 1995 P.M. 44287 265

6

7

PROCEEDINGS

8
9

10

CHRONOLOGICAL INDEX OF WITNESSES

11

12 WITNESSES: DIRECT CROSS REDIRECT RECROSS VOL.

13 KROM,
14 JOSHUA IVAN 44165-G 44160-N 265

15 MENENDEZ,
16 ERIK GALEN
16 (RESUMED) 44173-C 265
16 (CONT'D) 44287-C 265

17

18

19

20

21

22

23

LEGEND:

24 A = MS. ABRAMSON C = MR. CONN

G = MR. GESSLER L = MR. LEVIN

25 N = MS. NAJERA T = MS. TOWERY

26

27

28

1 EXHIBITS INDEX

2 EXHIBITS: MARKED RECEIVED VOL.

3 371- PHOTOGRAPH 44280 265

4 372- PHOTOGRAPH
(PREVIOUSLY EX. 229) 44281 265

5
373- NEGATIVE STRIP
6 (PREVIOUSLY EX. 230) 44289 265

7 374- NEGATIVE STRIP
(PREVIOUSLY EX. 231) 44289 265

8
375- PHOTOGRAPH
9 (PREVIOUSLY EX. 233) 44289 265

10 376- PHOTOGRAPH
(PREVIOUSLY EX. 222) 44293 265