

1 VAN NUYS, CALIFORNIA; TUESDAY, DECEMBER 19, 1995

2 9:25 A.M.

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

4 (APPEARANCES AS HERETOFORE NOTED.)

5

6 (THE FOLLOWING PROCEEDINGS WERE

7 HELD IN OPEN COURT OUT OF THE

8 PRESENCE OF THE JURY:)

9

10 THE COURT: IN THE TRIAL, THE DEFENDANTS ARE

11 IN COURT. ALL COUNSEL ARE PRESENT.

12 ANYTHING BEFORE WE PROCEED?

13 MR. LEVIN: NO, YOUR HONOR.

14 MS. ABRAMSON: WELL, SO LONG AS MR. CONN IS

15 NOT GOING TO GO INTO THE MATTERS THAT ARE BEING HELD

16 IN ABEYANCE ON OUR 402.

17 MR. CONN: I DON'T THINK IT'S GOING TO BE

18 NECESSARY AT THIS TIME. IF IT DOES BECOME NECESSARY

19 I'LL EITHER DELAY IT OR BRING IT TO THE ATTENTION OF

20 THE COURT.

21 MR. LEVIN: ALSO, YOUR HONOR, IF MR. CONN

22 DOES PLAN TO USE THAT ON THE GUN, I WOULD LIKE AN

23 OPPORTUNITY TO BE HEARD BEFORE HE DOES IT.

24 MR. CONN: THAT WON'T BE THIS MORNING.

25 THE COURT: OKAY.

26 (THE JURY ENTERED THE

27 COURTROOM AND THE FOLLOWING

28 PROCEEDINGS WERE HELD:)

1 THE COURT: THE JURY'S IN COURT.

2 GOOD MORNING, LADIES AND GENTLEMEN.

3

4 ERIK GALEN MENENDEZ,

5 THE WITNESS ON THE STAND AT THE EVENING ADJOURMENT,

6 TESTIFIED FURTHER AS FOLLOWS:

7 THE COURT: WE'RE READY TO RESUME WITH THE

8 TRIAL. THE DEFENDANT, ERIK MENENDEZ, IS STILL ON

9 THE WITNESS STAND AND FURTHER CROSS-EXAMINATION.

10 MR. CONN: THANK YOU.

11

12 CROSS-EXAMINATION (CONTINUED)

13 BY MR. CONN:

14 Q MR. MENENDEZ, AFTER YOU KILLED YOUR

15 PARENTS YOU PURSUED A TENNIS CAREER, DIDN'T YOU?

16 A YES.

17 Q AND THERE WAS NO ONE TO PUSH YOU INTO

18 TENNIS AT THAT TIME, WAS THERE?

19 A NO.

20 Q NO ONE WAS MAKING YOU PLAY TENNIS?

21 A NO.

22 Q YOU CHOSE TO PLAY TENNIS; ISN'T THAT

23 TRUE?

24 A YES.

25 Q AND THAT'S BECAUSE YOU ENJOYED PLAYING
26 TENNIS; IS THAT TRUE?

27 A IT'S WHAT I KNEW BEST.

28 Q AND YOU'RE PROUD OF THE ABILITY THAT YOU

44392

1 HAVE TO PLAY TENNIS; IS THAT CORRECT?

2 A YOU MEAN BACK THEN?

3 Q YES, BACK THEN.

4 A YES.

5 Q NOW, IN KALAMAZOO, YOU PLAYED PRETTY
6 BADLY; IS THAT CORRECT?

7 A I PLAYED WELL IN THE FIRST MATCH AND
8 THEN I LOST TO KIDS I SHOULD NOT HAVE LOST TO.

9 Q NOW, IT WAS APPARENT TO YOU THAT YOU
10 SHOULD NOT HAVE LOST; IS THAT CORRECT?

11 A YES.

12 Q AND WOULD YOU SAY IT WAS APPARENT TO
13 YOUR FATHER TOO?

14 MR. LEVIN: OBJECTION. CALLS FOR
15 SPECULATION.

16 THE COURT: REPHRASE THE QUESTION.

17 Q BY MR. CONN: ON THURSDAY OR FRIDAY,
18 ABOUT 10 DAYS BEFORE YOU KILLED YOUR PARENTS, YOUR

19 FATHER TOLD YOU THAT HE MIGHT NOT LET YOU PLAY

20 TENNIS ON THE U.C.L.A. TEAM; IS THAT CORRECT?

21 A RIGHT.

22 Q AND THAT ENRAGED YOU, DIDN'T IT?

23 A NO. I ACTUALLY WAS IN SOME WAYS

24 RELIEVED. IN SOME WAYS IT TOOK A BURDEN OF ACTUALLY

25 TRYING TO GET ON THE TEAM OFF MY SHOULDERS.

26 Q WELL, THE TENNIS WAS THE ONE THING THAT

27 YOU DID WELL, WAS THAT CORRECT?

28 A RIGHT.

44393

1 Q YOU DIDN'T DO VERY WELL IN SCHOOL, DID

2 YOU?

3 A GOT A THREE-POINT AVERAGE.

4 Q AND YOU WEREN'T LOOKING FORWARD TO

5 SPENDING ALL YOUR TIME STUDYING RATHER THAN PLAYING

6 TENNIS, WERE YOU?

7 A I DON'T KNOW. I HADN'T REALLY THOUGHT

8 ABOUT IT.

9 Q WELL, IF IT WERE UP TO YOU, WHAT WOULD

10 YOU RATHER HAVE DONE, PLAYED TENNIS AND FORGOT ABOUT

11 SCHOOL OR SPEND ALL YOUR TIME STUDYING AND FORGET

12 ABOUT TENNIS?

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

14 THE WITNESS: WELL IT'S --

15 THE COURT: WHAT TIME ARE YOU TALKING ABOUT?

16 Q BY MR. CONN: I'M TALKING ABOUT 10 DAYS

17 BEFORE YOU KILLED YOUR PARENTS, ON THAT THURSDAY OR

18 FRIDAY WHEN YOUR FATHER WAS SPEAKING TO YOU.

19 A IT'S DIFFICULT TO ANSWER THE QUESTION

20 BECAUSE I DIDN'T -- I DIDN'T VIEW IT AS SIMPLE AS

21 THAT. U.C.L.A. WAS ONE OF THE TOP TWO SCHOOLS IN

22 THE NATION IN TERMS OF TENNIS, AND THERE WAS A GREAT

23 PRESSURE OF TRYING TO MAKE IT ON THE TEAM, AND MY

24 FATHER WASN'T CONSIDERING THAT. AND HE JUST FELT

25 THAT IF I WAS GOING TO BE ON THE TEAM, I WAS GOING

26 TO MAKE IT. AND SO THERE WAS PRESSURE TO MAINTAIN

27 MY POSITION ON THE TEAM, AND I WAS -- I WAS WORRIED

28 ABOUT WHETHER OR NOT I WAS GOOD ENOUGH TO MAKE IT ON

44394

1 THE TEAM. AND WHEN HE SAID YOU MAY NOT PLAY ON THE

2 TEAM, IN SOME WAY IT WAS A, WOOSH, I'M NOT SURE I

3 WAS GOING TO MAKE IT ANYWAY, AND I DIDN'T WANT TO

4 HAVE TO GO THROUGH THAT WITH MY FATHER.

5 BUT CLEARLY U.C.L.A. WOULDN'T HAVE BEEN

6 THE SCHOOL I WOULD HAVE CHOSE IF I WANTED TO PLAY ON

7 THE TOP LEVEL OF THE TEAM.

8 Q WELL, AFTER YOU KILLED YOUR PARENTS AND

9 YOU WERE ABLE TO DO WHATEVER YOU WANTED TO DO, WHAT
10 YOU DECIDED TO DO WAS TO FORGET ABOUT SCHOOL
11 ALTOGETHER AND PLAY TENNIS FULL TIME; IS THAT
12 CORRECT?

13 MR. LEVIN: OBJECTION. MISSTATES THE
14 TESTIMONY.

15 THE WITNESS: NO. I TRIED TO GET INTO
16 PRINCETON UNIVERSITY IMMEDIATELY BECAUSE I FELT THAT
17 THAT'S WHAT MY FATHER WOULD HAVE WANTED ME TO DO.
18 HE WOULD HAVE WANTED ME TO BE WITH MY FAMILY, WHICH
19 WAS BACK EAST AND ARE BACK EAST, AND MY BROTHER.

20 AND ONCE THE DEAN SAID THAT I WOULD HAVE
21 TO APPLY NEXT YEAR, I TALKED TO MARK AND I SAID I'D
22 LIKE TO TRY TO PLAY TENNIS FOR A YEAR, AND WE HAD A
23 CLAUSE IN THE CONTRACT WHERE IF THE NEXT SCHOOL
24 SEMESTER I MADE IT INTO PRINCETON OR COULD VERY WELL
25 GO TO COLLEGE, THEN HE WOULD GO ON TO DO OTHER
26 THINGS.

27 Q AND WHEN WAS IT THAT YOU SPOKE TO THE
28 DEAN OF PRINCETON?

44395

1 A I SPOKE TO THE DEAN ON THE TRIP BETWEEN
2 THE 12TH AND THE 17TH.

3 Q THE 12TH AND 17TH OF WHAT?

4 A PERHAPS THE 11TH AND 17TH OF SEPTEMBER.

5 Q AND WHEN YOU COULDN'T GET INTO

6 PRINCETON, YOU DECIDED TO JUST PLAY TENNIS; IS THAT
7 CORRECT?

8 A RIGHT.

9 Q AND IS THAT BECAUSE THE SCHOOLS IN

10 CALIFORNIA THAT HAD PREVIOUSLY ACCEPTED YOU NO
11 LONGER WANTED YOU?

12 A NO. I THINK THEY WOULD HAVE MAYBE
13 WANTED ME. I JUST -- IT WAS THE ONE THING IN LIFE
14 THAT I FELT COMFORTABLE WITH AND COULD RELAX DOING.
15 IT'S WHAT I HAD DONE MOST OF MY LIFE.

16 Q TENNIS?

17 A YES.

18 Q THE QUESTION IS: WHY DIDN'T YOU GO TO
19 SCHOOL HERE IN CALIFORNIA?

20 A ALL OF MY FAMILY WAS -- WAS IN THE EAST
21 COAST. MY AUNT TERRY, MY AUNT MARTA WAS IN
22 FLORIDA. MY AUNT TERRY AND MY GRANDMOTHER. THEY
23 PRETTY MUCH LIVED IN THE EAST COAST AND IT WAS --
24 BEING IN CALIFORNIA, WHEN MY FAMILY MOVED OUT HERE,
25 WE WERE REALLY THE ONLY RELATIVES THAT LIVED OUT
26 HERE; AND I -- I ALSO WASN'T SURE THAT I COULD -- I
27 COULD PASS ON MY OWN.

28 Q AND YOU WANTED TO BE WITH YOUR FAMILY ON

1 THE EAST COAST BECAUSE YOU'RE SUCH A FAMILY MAN; IS
2 THAT CORRECT?

3 A NO. THIS WAS A VERY HARD PERIOD AND I
4 WASN'T SURE THAT I WANTED TO BE OUT HERE ALONE IN
5 CALIFORNIA AND STRUGGLING TO MAKE IT IN SCHOOL AT
6 THE SAME TIME.

7 Q AFTER YOU KILLED YOUR PARENTS DID YOU GO
8 BACK TO THE EAST COAST AND LIVE WITH YOUR FAMILY ON
9 THE EAST COAST THEN?

10 A NO, I DIDN'T.

11 Q WHY NOT?

12 A BECAUSE I DECIDED TO PLAY TENNIS.

13 Q YOU DECIDED TO LIVE IN CALIFORNIA,
14 DIDN'T YOU?

15 A YES.

16 Q WELL, IF YOU WERE GOING TO LIVE IN
17 CALIFORNIA, THEN WHY DIDN'T YOU GO TO SCHOOL IN
18 CALIFORNIA?

19 A I JUST WASN'T SURE THAT I COULD PASS IN
20 SCHOOL AND I WASN'T SURE THAT I COULD MAKE IT ON MY
21 OWN. MY RELATIVES WERE TELLING ME TO TAKE A YEAR
22 OFF BECAUSE OF THE TRAUMA. I TRIED TO GET INTO
23 PRINCETON. I THOUGHT THAT'S WHAT MY FATHER WOULD
24 WANT, AND IN THE END I JUST DECIDED TO PLAY TENNIS.

25 Q AND BECAUSE YOU WERE NOT SURE THAT YOU
26 COULD PASS IN SCHOOL THAT WAS ONE OF THE REASONS WHY
27 YOU DIDN'T WANT TO GO TO SCHOOL, YOU WOULD PREFER TO

44397

1 A WHEN ARE YOU TALKING?

2 Q AFTER YOU KILLED YOUR PARENTS.

3 A I WOULD HAVE PREFERRED TO JUST PLAY
4 TENNIS; HOWEVER, I FELT THAT MY FATHER WOULD WANT ME
5 TO GO TO SCHOOL AND SO THAT'S WHAT I WANTED TO DO.

6 Q SO DID YOU GO TO SCHOOL IN CALIFORNIA TO
7 DO WHAT YOUR FATHER WANTED YOU TO DO?

8 A NO, I DID NOT GO TO SCHOOL IN
9 CALIFORNIA.

10 Q WHY DIDN'T YOU GO TO SCHOOL IN
11 CALIFORNIA?

12 A BECAUSE I HAD AT THAT POINT MADE A
13 DECISION TO TAKE A YEAR OFF AND TRY NEXT FALL.

14 Q SO WHEN YOU WERE ABLE TO PICK AND CHOOSE
15 WHATEVER YOU WANTED TO DO WITH YOUR LIFE, YOU
16 DECIDED TO FORGET ABOUT GOING TO SCHOOL IN
17 CALIFORNIA AND JUST PLAY TENNIS; IS THAT CORRECT?

18 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

19 THE COURT: OVERRULED.

20 THE WITNESS: I THINK THAT'S -- THE WAY YOU
21 PHRASE IT AND THE WAY YOU MAKE IT SOUND, I THINK IS
22 REALLY -- IT MISCHARACTERIZES IT.

23 Q BY MR. CONN: THAT --

24 MR. LEVIN: OBJECTION, YOUR HONOR. HE'S NOT
25 COMPLETED.

26 THE WITNESS: THAT'S WHAT EVENTUALLY
27 HAPPENED.

28 Q BY MR. CONN: IS IT WHAT YOU DID,

44398

1 MR. MENENDEZ?

2 A THAT'S WHAT I DID.

3 Q TEN DAYS BEFORE YOU KILLED YOUR PARENTS,
4 YOUR FATHER WAS TELLING YOU EXACTLY THE OPPOSITE.
5 HE WAS TELLING YOU PERHAPS YOU'RE GOING TO HAVE TO
6 FORGET ABOUT YOUR TENNIS AND YOU'RE GOING TO GO TO
7 SCHOOL INSTEAD; IS THAT CORRECT?

8 A WELL, IT WASN'T A MATTER OF WHETHER I
9 WAS GOING TO GO TO SCHOOL OR NOT. I WAS ALWAYS
10 GOING TO GO TO SCHOOL. HE DIDN'T SAY PERHAPS YOU'LL
11 PLAY TENNIS AND NOT GO TO SCHOOL. IT WAS JUST
12 WHETHER OR NOT HE WAS GOING TO HAVE ME CONCENTRATE
13 ON TENNIS OR FULLY DEVOTE ALL OF MY TIME TO PASSING
14 U.C.L.A. AND GETTING GOOD ENOUGH GRADES TO GET INTO
15 POST-GRADUATE SCHOOL.

16 Q WHEN HE TOLD YOU THAT PERHAPS YOU'RE
17 GOING TO HAVE TO FORGET ABOUT THIS TENNIS BUSINESS,

18 HE ALSO TOLD YOU WHAT YOU WERE GOING TO STUDY IN
19 SCHOOL; IS THAT CORRECT?

20 A YES.

21 Q WHAT WERE YOU GOING TO STUDY IN
22 U.C.L.A.?

23 A ECONOMICS, BUSINESS, COURSES GEARED
24 TOWARD A BUSINESS DEGREE OR ECONOMICS DEGREE.

25 Q THAT WAS THE LAST THING IN THE WORLD YOU
26 WANTED TO STUDY, WASN'T IT, MR. MENENDEZ?

27 A PRETTY MUCH IT'S -- IT'S NOT WHAT I WAS
28 BEST AT, YOU'RE RIGHT.

44399

1 Q RIGHT. YOU WANTED TO BE AN ACTOR.

2 A NO. I WANTED TO GO INTO -- I ENJOYED
3 HISTORY AND PHILOSOPHY THE MOST IN COLLEGE AND
4 THAT'S WHAT I WANTED TO STUDY.

5 Q YOUR FATHER MADE IT CLEAR TO YOU THAT
6 YOU WERE NOT GOING TO DO THAT; IS THAT CORRECT?

7 A I'M SURE I WOULD TAKE SOME HISTORY
8 COURSES AND PERHAPS PHILOSOPHY; HOWEVER, MY MAJOR
9 WAS GOING TO BE GEARED TOWARDS BUSINESS AND THEN
10 GEARED TOWARD BUSINESS AND LAW SCHOOL AFTERWARDS.

11 Q SO YOU ALWAYS KNEW YOU WERE GOING TO
12 HAVE TO TAKE THESE BUSINESS COURSES THAT YOUR FATHER

13 WANTED YOU TO TAKE; IS THAT CORRECT?

14 A HONESTLY, I NEVER REALLY THOUGHT ABOUT

15 IT UNTIL HE BROUGHT IT UP AND I REALIZED THAT I

16 WASN'T GOING TO. IT DIDN'T REALLY OCCUR TO ME, EVEN

17 THEN, STAY IN MY MIND, UNTIL THE SUNDAY WHEN HE HAD

18 ME SIT DOWN AND WAS GOING OVER WHAT COURSES I WOULD

19 TAKE, AND --

20 Q THEN I TAKE IT ON THAT SUNDAY YOU HAD

21 TWO REASONS FOR BEING UPSET WITH YOUR FATHER; NUMBER

22 ONE, NOT ONLY WERE YOU GOING TO HAVE TO GIVE UP YOUR

23 TENNIS PLAYING, BUT NOW FOR THE FIRST TIME YOU'RE

24 TELLING US IT REALLY CAME TO LIGHT THAT YOU WERE

25 GOING TO HAVE TO FORGET ABOUT THIS PHILOSOPHY AND

26 HISTORY AND THEATRE AND YOU WERE GOING TO HAVE TO

27 GET INTO A BUSINESS AND LAW COURSE; IS THAT

28 CORRECT?

44400

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

2 YOUR HONOR. IT'S ALSO --

3 THE COURT: OVERRULED. OVERRULED.

4 THE WITNESS: MY FATHER HAD ALWAYS PICKED MY

5 SCHOOLS. HE'D ALWAYS PICKED MY CLASSES. I DIDN'T

6 GIVE IT ANY SERIOUS THOUGHT THAT I WOULD BE DOING

7 THIS. IT DIDN'T SURPRISE ME GREATLY THAT HE WAS

8 PICKING MY COURSES. IN FACT, IT DIDN'T SURPRISE ME
9 AT ALL. IT JUST WAS ANOTHER ROUTINE WHERE HE
10 WOULD -- HE WOULD PICK MY CLASSES AND HE WOULD DECIDE
11 WHERE I WOULD GO TO SCHOOL. HE WOULD PAY FOR THE
12 SCHOOL. HE WOULD DECIDE WHERE I WOULD GO TO
13 POST-GRADUATE SCHOOL. HE WOULD PAY FOR IT. AND HE
14 WOULD DECIDE WHERE I WAS GOING TO GO INTO BUSINESS
15 AND HE WOULD PAY FOR IT. IT'S NOT SOMETHING THAT
16 WAS A SHOCK TO ME. I'M SURE I -- I SUPPOSE -- MY
17 FATHER ENJOYED HISTORY. IF I WANTED TO TAKE SOME
18 HISTORY COURSES, HE WOULD HAVE ALLOWED ME TO.

19 Q BY MR. CONN: MY QUESTION TO YOU,
20 MR. MENENDEZ, IS: DID IT MAKE YOU UPSET, 10 DAYS
21 BEFORE YOU SHOTGUNNED YOUR FATHER TO DEATH, THAT YOU
22 WERE NOT GOING TO BE ABLE TO PLAY TENNIS, PERHAPS,
23 AND YOU WERE GOING TO HAVE TO STUDY BUSINESS AND LAW
24 INSTEAD OF HISTORY AND PHILOSOPHY AND THEATRE?

25 MR. LEVIN: YOUR HONOR, OBJECTION WITH
26 RESPECT TO THE CHARACTERIZATION. IT'S
27 ARGUMENTATIVE.

28 THE COURT: OVERRULED.

44401

1 THE WITNESS: TENNIS, IN A WAY, WAS A
2 RELIEF. AND THE FACT THAT I WAS GOING TO HAVE TO

3 TAKE THESE COURSES, MAYBE IT WAS IN SOME WAY -- I
4 CAN'T SAY IT WAS DISAPPOINTING BECAUSE I DIDN'T
5 THINK IT WAS GOING TO BE ANY OTHER WAY. I HADN'T
6 REALLY THOUGHT ABOUT IT BEFORE.

7 Q BY MR. CONN: SO YOU'RE TELLING --

8 A AND SO -- I'M NOT SURE HOW I FELT ABOUT
9 IT, REALLY.

10 Q SO YOU'RE TELLING US IT DID NOT MAKE YOU
11 UPSET; IS THAT CORRECT?

12 A CERTAINLY DIDN'T MAKE ME UPSET. I MEAN,
13 I -- IT DIDN'T MAKE ME UPSET THAT MY FATHER SAID NO,
14 YOU'RE NOT GOING TO GO TO BROWN WHEN I WANTED TO.
15 IT'S JUST -- LIVING WITH MY FATHER, HE MADE THESE
16 DECISIONS IN MY LIFE, AND HE WAS A SMART MAN AND
17 KNEW WHAT WAS BEST FOR ME, AND IT JUST -- I LIVED MY
18 LIFE 18 YEARS LIKE THAT. IT WAS NOTHING NEW.

19 Q THE QUESTION THAT I'M ASKING YOU,
20 MR. MENENDEZ IS: DID IT OR DID IT NOT MAKE YOU
21 UPSET?

22 A IT DID NOT MAKE ME UPSET.

23 Q OKAY. SO YOU HAD NO PROBLEM WITH YOUR
24 FATHER TELLING YOU WHAT TO STUDY, WHAT TO DO, WHAT
25 SCHOOLS TO GO TO, AND WHETHER OR NOT YOU WERE GOING
26 TO BE PLAYING TENNIS?

27 A IT'S -- IT'S -- IT WAS NOT UNUSUAL. IT
28 WAS WHAT I WAS USED TO, AND --

1 Q YOU WERE USED TO YOUR FATHER MAKING ALL
2 OF THE IMPORTANT DECISIONS IN YOUR LIFE?

3 A YES.

4 Q AND IT NO LONGER BOTHERED YOU?

5 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE
6 ABOUT NO LONGER.

7 THE COURT: REPHRASE THE QUESTION.

8 Q BY MR. CONN: DID IT BOTHER YOU ANY
9 LONGER THAT YOUR FATHER NOW, WHEN YOU WERE GOING
10 INTO COLLEGE, YOU WERE NOW 18 YEARS OLD, HE WAS
11 STILL PICKING THE COURSES THAT YOU WERE GOING TO
12 TAKE AND TELLING YOU WHETHER OR NOT YOU COULD PLAY
13 TENNIS?

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

15 THE COURT: OVERRULED.

16 THE WITNESS: WHEN I WAS --

17 THE COURT: IN THE FUTURE, IF YOU COULD HOLD
18 OFF AFTER A QUESTION IS ASKED SO THAT IF YOUR LAWYER
19 HAS AN OBJECTION HE CAN STATE HIS OBJECTION BEFORE
20 YOU START YOUR ANSWER.

21 THE WITNESS: SURE, YOUR HONOR.

22 WHEN I WAS JUST LIVING AT HOME AND
23 WATCHING THE INTERACTION BETWEEN MY FATHER AND MY
24 BROTHER, HE WAS PICKING MY BROTHER'S COURSES AT
25 PRINCETON AND DOING THE EXACT SAME THINGS HE WAS

26 WITH MY BROTHER YEARS BEFORE.

27 I HADN'T THOUGHT -- IT NEVER OCCURRED TO

28 ME THAT I WOULD GO TO COLLEGE AND I WOULD SIT DOWN

44403

1 AND SELECT ALL MY OWN COURSES AND DO THIS ALL ON MY

2 OWN. I HAD ASSUMED THAT MY FATHER WOULD BE

3 INTRICATELY INVOLVED IN EVERYTHING TO DO WITH WHAT

4 COURSES I WOULD TAKE AND WHAT DECISIONS THAT WERE

5 ALMOST LIFE-ALTERING FOR MY FUTURE.

6 Q BY MR. CONN: MY QUESTION IS: SO IT

7 DIDN'T BOTHER YOU, IS THAT CORRECT, WHAT YOU'RE

8 TELLING US?

9 A I DON'T THINK IT OCCURRED TO ME TO BE

10 BOTHERED BY IT.

11 Q AND IF IT HAD OCCURRED TO YOU, THEN

12 PERHAPS YOU WOULD HAVE BEEN BOTHERED BY IT?

13 MR. LEVIN: OBJECTION. CALLS FOR

14 SPECULATION.

15 THE COURT: OVERRULED.

16 MR. LEVIN: YOUR HONOR, OBJECTION WITH

17 RESPECT TO THE QUESTION AS VAGUE. IF WHAT OCCURRED

18 TO HIM?

19 THE COURT: OKAY. REPHRASE THE QUESTION.

20 MR. CONN: YES.

21 Q IF IT HAD OCCURRED TO YOU TO POSSIBLY
22 GET BOTHERED BY THIS THEN PERHAPS YOU WOULD HAVE
23 BEEN BOTHERED?

24 MR. LEVIN: OBJECTION. VAGUE WITH RESPECT
25 TO --

26 THE WITNESS: WHAT I'M SAYING IS THAT IT --

27 MR. LEVIN: MR. MENENDEZ.

28 OBJECTION. VAGUE WITH RESPECT TO

44404

1 BOTHERED AND HE HAS NOT EXPLAINED WHAT IT IS HE
2 WOULD BE BOTHERED BY.

3 THE COURT: OKAY. OBJECTION OVERRULED.

4 THE WITNESS: WHAT I'M SAYING IS THAT IT
5 WAS -- IT WAS NOT SOMETHING THAT I DIDN'T EXPECT HIM
6 TO DO. IT WAS -- IT WAS AN EVERYDAY OCCURRENCE. I
7 SAT DOWN. HE WAS GOING TO PICK MY COURSES AND I WAS
8 GOING TO GO ON. IT WAS THE WAY IT WAS WHEN I WAS
9 SEVEN YEARS OLD AND HE SAID YOU'RE GOING TO GO TO
10 P.D.S. I DIDN'T ARGUE WITH HIM. I DIDN'T FIGHT
11 WITH HIM. IT JUST -- MY FATHER WAS JUST DOING WHAT
12 HE ALWAYS DID.

13 Q BY MR. CONN: DO YOU REMEMBER THE
14 DECEMBER 11 TAPE WITH DR. OZIEL?

15 A YES.

16 Q AND DID YOU HEAR DISCUSSION ON THE
17 DECEMBER 11 TAPE WITH DR. OZIEL IN WHICH THERE IS
18 TALK ABOUT YOUR FATHER CONTROLLING YOUR LIFE?

19 A RIGHT.

20 Q AND IS THIS ONE OF THE THINGS THAT THAT
21 CONVERSATION PERTAINED TO, THE FACT THAT HE WAS
22 MAKING ALL OF THE IMPORTANT DECISIONS IN YOUR LIFE?

23 A HE ALWAYS DID. HE CERTAINLY --

24 Q AND IS THAT WHAT WAS BEING SPOKEN ABOUT
25 ON THE DECEMBER 11 TAPE WHEN STATEMENTS WERE BEING
26 MADE ABOUT THE FACT THAT YOUR FATHER DOMINATED AND
27 CONTROLLED YOUR LIVES?

28 MR. LEVIN: OBJECTION. WOULD CALL FOR

44405

1 SPECULATION. THE DECLARANT IS DR. OZIEL.

2 THE COURT: OVERRULED.

3 THE WITNESS: I THINK THOSE ARE DR. OZIEL'S
4 WORDS, AND THAT'S WHAT HE -- THAT'S WHY HE FELT THAT
5 EVENTUALLY THIS HAPPENED; AND I WAS TELLING HIM
6 THAT'S NOT WHY THIS HAPPENED.

7 Q BY MR. CONN: YOU TOLD HIM THAT ON
8 DECEMBER 11TH?

9 A YES. I DIDN'T. LYLE DID. AND THAT'S
10 WHAT HE FELT, BECAUSE OF THE -- WHAT HE FELT WAS

11 EXTREME CONTROL AND RUTHLESSNESS IN TERMS OF
12 DOMINATION THAT MY FATHER HAD OVER OUR LIVES.
13 BUT I DON'T THINK THAT HE UNDERSTOOD
14 THAT WHEN YOU LIVE THIS WAY ALL OF YOUR LIFE WHEN
15 YOU'RE 18 YOU'RE NOT SURPRISED AND IT'S NOT
16 UNUSUAL. IT WAS NORMAL TO ME.

17 Q AND YOU'RE TELLING US THAT SIMPLY
18 BECAUSE IT'S NORMAL, SIMPLY BECAUSE IT HAPPENS ALL
19 THE TIME, THAT SUDDENLY IT DOESN'T BOTHER YOU
20 ANYMORE; IS THAT WHAT YOU'RE TELLING US?

21 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE AS
22 PHRASED.

23 THE COURT: OBJECTION SUSTAINED TO THE FORM
24 OF THE QUESTION.

25 Q BY MR. CONN: ARE YOU SAYING THAT SIMPLY
26 BECAUSE YOUR FATHER DOMINATED AND CONTROLLED YOUR
27 LIFE FOR SO MANY YEARS THAT BY THE TIME YOU GOT TO
28 BE 18 YEARS OLD IT DOESN'T BOTHER YOU ANYMORE?

44406

1 A WHAT I'M SAYING IS I'M NOT SURE THAT IT
2 EVER BOTHERED ME. CERTAINLY, I WOULD HAVE PREFERRED
3 TO DO THIS SOMETIMES OR THAT SOMETIMES, BUT MY
4 FATHER KNEW IT ALL. HE WAS BRILLIANT, IN MY EYES,
5 AND HIS WAY WAS GOING TO BE THE BEST FOR ME. AND I

6 DIDN'T IMAGINE A LIFE WHERE I WOULD GO TO COLLEGE
7 AND CHOOSE MY OWN COURSES AND MY OWN CAREER AND MOVE
8 TO SEATTLE AND BE AWAY FROM HIM. IT JUST -- IT JUST
9 NEVER OCCURRED TO ME TO THINK THAT WAY.

10 Q ISN'T IT TRUE, MR. MENENDEZ, THAT BY THE
11 TIME YOU GOT TO BE 18 YEARS OLD AND YOUR FATHER WAS
12 STILL MAKING THESE KIND OF DECISIONS, IT BOTHERED
13 YOU MORE THAN EVER BEFORE?

14 MR. LEVIN: OBJECTION WITH RESPECT TO MAKING --
15 THE WITNESS: I DON'T KNOW WHY YOU THINK
16 THAT.

17 MR. LEVIN: -- THESE KIND OF DECISIONS AS
18 VAGUE.

19 THE COURT: OVERRULED.

20 THE WITNESS: NO.

21 Q BY MR. CONN: SO WERE YOU LOOKING
22 FORWARD TO YOUR FATHER MAKING DECISIONS FOR YOU FOR
23 THE REST OF YOUR LIFE?

24 A I DON'T THINK IT WAS A MATTER OF LOOKING
25 FORWARD TO IT. I THINK IT WAS JUST A MATTER OF HE
26 WAS EXPLAINING HOW THE NEXT 12 YEARS OF MY LIFE WAS
27 GOING TO PLAY OUT AND THAT'S HOW IT WAS GOING TO
28 PLAY OUT.

1 Q AND YOU FELT THAT WAS PERFECTLY FINE
2 WITH YOU FOR HIM TO MAKE ALL OF YOUR DECISIONS FOR
3 THE NEXT 12 YEARS, CORRECT?

4 A I REALLY DIDN'T CARE. MY MAIN CONCERN
5 AT THAT TIME WAS SIMPLY TO GET INTO COLLEGE -- TO GET
6 TO COLLEGE AND GET AWAY FROM THE HOME AND NOT BE
7 AROUND HIM EVERY DAY WHERE I HAVE TO TELL HIM EVERY
8 HOUR WHAT I'M DOING. I WAS REALLY LOOKING FORWARD
9 TO THAT. THAT'S WHAT WAS IN MY MIND. THIS IDEA
10 ABOUT POST-GRADUATE SCHOOL AND MOVING TO FLORIDA AND
11 GOING INTO BUSINESS WITH HIM WERE YEARS DOWN THE
12 ROAD, AND MY CONCERN WAS JUST TO GET AWAY.

13 Q MY QUESTION TO YOU IS: DID YOU HAVE ANY
14 FEELINGS ABOUT THE FACT THAT YOUR FATHER WAS
15 APPARENTLY READY TO MAKE ALL OF YOUR DECISIONS FOR
16 THE NEXT 12 YEARS?

17 A I DON'T REMEMBER ANY SPECIFIC FEELINGS.

18 Q DO YOU REMEMBER ANY GENERAL FEELINGS
19 ABOUT THAT?

20 MR. LEVIN: OBJECTION. VAGUE.

21 THE COURT: DO YOU UNDERSTAND THE QUESTION?

22 THE WITNESS: YES, I DO.

23 THE COURT: ANSWER IT.

24 THE WITNESS: IT'S DIFFICULT TO ANSWER. I --

25 MR. LEVIN: YOUR HONOR, OBJECTION. THE
26 WITNESS DOES NOT UNDERSTAND WHAT A GENERAL FEELING
27 IS.

28 THE COURT: HE HASN'T SAID THAT. HE SAID

1 IT'S DIFFICULT TO ANSWER.

2 THE WITNESS: IT'S A DIFFICULT QUESTION TO
3 ANSWER BECAUSE I DIDN'T KNOW ANY OTHER WAY TO
4 THINK. I DIDN'T -- I HAD NEVER LIVED IN A LIFE WHERE
5 MY FATHER DIDN'T CONTROL EVERYTHING THAT I WAS
6 DOING, SO IT -- I WAS SUDDENLY TOSSED INTO MY LIFE
7 AND SAID, OH, I DON'T LIKE THIS. I HADN'T KNOWN ANY
8 OTHER WAY. AND SO I HADN'T -- I HADN'T BEEN TRAINED
9 TO THINK ANY OTHER WAY.

10 Q BY MR. CONN: YOU WERE PRESENT DURING
11 THE DECEMBER 11TH CONVERSATION BETWEEN YOURSELF,
12 DR. OZIEL, AND YOUR BROTHER LYLE MENENDEZ, WHEN YOUR
13 BROTHER LYLE MENENDEZ SAID THAT THIS TYPE OF
14 DOMINATION AND CONTROL WAS RUINING HIS LIFE AND I
15 GUESS MY BROTHER'S TOO?

16 A NO. I THINK YOU'RE MISSTATING WHAT WAS
17 SAID ON THE TAPE.

18 Q WHO SAID THAT THIS TYPE OF DOMINATION
19 AND CONTROL WAS RUINING OUR LIFE?

20 A DR. OZIEL.

21 Q ONLY DR. OZIEL?

22 A USING THE WORDS "DOMINATION AND
23 CONTROL," YES.

24 Q WHO USED THE WORDS "RUINING OUR LIVES"?

25 A I USED THAT AT ONE TIME WHEN I SAID THAT
26 IT WAS RUINING MY LIFE, BUT I WASN'T REFERRING TO
27 THE CONTROL.

28 Q WHAT WERE YOU REFERRING TO?

44409

1 A I WAS REFERRING TO THE SEX WITH MY DAD
2 AND I -- AND I SAID, I GUESS MY BROTHER'S, BECAUSE
3 HE HAD TOLD HIM THE THINGS THAT HAPPENED EARLY IN
4 HIS LIFE; AND I SAID THAT MY FATHER HAD COMPLETELY
5 DESTROYED MY MOTHER BY THAT TIME.

6 Q NOW, IT WAS IN THIS CONVERSATION ON
7 THURSDAY, ABOUT 10 DAYS BEFORE YOU SHOT YOUR PARENTS
8 TO DEATH, THAT YOU SAID YOUR FATHER TOLD YOU ABOUT
9 THIS PLAN THAT HE HAD ABOUT HAVING A COMPOUND IN
10 FLORIDA WITH A FAMILY THAT WOULD LIVE TOGETHER?

11 A I DON'T KNOW IF IT WAS THURSDAY OR
12 FRIDAY OR WHAT DAY IT WAS. IT WAS BEFORE SUNDAY IN
13 THE MORNING. AND I DON'T KNOW SPECIFICALLY IN THAT
14 CONVERSATION IF HE TOLD US ABOUT THE COMPOUND IN
15 FLORIDA. SOMETIMES IT'S -- WHEN YOU HAVE SO MANY
16 FACTS OVER THE YEARS, IT'S HARD TO REMEMBER WHAT HE
17 SAID IN DIFFERENT CONVERSATIONS. BUT I WAS
18 GENERALLY, I BELIEVE, AWARE OF THE COMPOUND.

19 Q WELL, DO YOU RECALL PREVIOUSLY

20 TESTIFYING THAT YOU DIDN'T KNOW WHETHER YOU LEARNED
21 ABOUT THIS BUSINESS ABOUT THE COMPOUND EITHER BEFORE
22 OR AFTER YOU KILLED YOUR PARENTS?

23 A RIGHT. I CAN'T SAY FOR CERTAIN.

24 Q SO PREVIOUSLY YOU TESTIFIED YOU DIDN'T
25 KNOW WHEN YOU KNEW ABOUT THE COMPOUND; IS THAT
26 CORRECT?

27 MR. LEVIN: OBJECTION, YOUR HONOR. REQUEST A
28 PAGE AND LINE DESIGNATION FOR COUNSEL'S REFERENCE.

44410

1 THE COURT: HE'S ASKING THE WITNESS. IT'S
2 APPROPRIATE CROSS-EXAMINATION WITHOUT PAGE AND LINE
3 AT THIS POINT.

4 THE WITNESS: I'M SURE I DID. THAT'S WHAT
5 I'M TRYING TO GET ACROSS.

6 HE WAS TELLING ME ABOUT THE
7 POST-GRADUATE SCHOOLS THAT I WAS GOING TO GO TO, AND
8 I BELIEVE HE TOLD ME ABOUT FLORIDA AND THE
9 COMPOUND. BUT IT'S -- IT'S SO HARD TO DISTINGUISH
10 WHAT ALL -- WHAT I LEARNED AFTERWARDS VERSUS BEFORE,
11 AND KEEP IT TOGETHER SO MANY YEARS LATER.

12 Q BY MR. CONN: AND IN THIS TRIAL YOU
13 TESTIFIED THAT YOU DID LEARN ABOUT THAT
14 CONVERSATION -- THAT PLAN BEFORE YOU KILLED YOUR

15 PARENTS; IS THAT CORRECT?

16 A YOU MEAN AS AN ABSOLUTE CERTAINTY? I

17 DON'T --

18 Q DIDN'T YOU TESTIFY ON DIRECT EXAMINATION

19 THAT IT WAS DURING THAT CONVERSATION THAT YOUR

20 FATHER SPOKE ABOUT THE COMPOUND?

21 A I BELIEVE THAT IT WAS.

22 Q OKAY. AND YOU PREVIOUSLY TESTIFIED

23 DIFFERENTLY, DIDN'T YOU?

24 A NO.

25 MR. LEVIN: OBJECTION, YOUR HONOR. I THINK

26 WE'RE ENTITLED TO SEE WHAT COUNSEL'S REFERRING TO.

27 THE COURT: ARE YOU REFERRING TO TESTIMONY IN

28 THIS TRIAL OR A PREVIOUS TRIAL?

44411

1 MR. CONN: NO.

2 Q IN THE LAST TRIAL YOU TESTIFIED

3 DIFFERENTLY, DIDN'T YOU?

4 MR. LEVIN: OBJECTION, YOUR HONOR.

5 THE WITNESS: I SAID THE SAME THING --

6 THE COURT: OVERRULED.

7 THE WITNESS: -- IF I SAID IT BEFORE OR

8 WHETHER I LEARNED ABOUT IT AFTERWARDS.

9 Q BY MR. CONN: BUT IN THIS TRIAL YOU WERE

10 CERTAIN THAT IT WAS BEFORE YOU KILLED YOUR PARENTS.

11 A I DIDN'T MEAN TO PORTRAY THAT, IF I
12 DID.

13 Q OKAY. WHEN YOU TESTIFIED ON DIRECT
14 EXAMINATION, YOU DIDN'T SAY I WASN'T SURE WHEN I
15 HEARD OF THIS. YOU SIMPLY TOLD THE JURY THAT
16 CONVERSATION OCCURRED BEFORE YOU KILLED YOUR FATHER;
17 IS THAT CORRECT?

18 A THAT IS WHAT I BELIEVE.

19 Q SO AS YOU SIT HERE TODAY, WHICH ONE --
20 WHICH WAY IS IT, MR. MENENDEZ, YOU DO RECALL THAT
21 BEFORE YOU KILLED YOUR PARENTS OR YOU DON'T RECALL
22 LEARNING ABOUT THAT UNTIL AFTER YOU KILLED YOUR
23 PARENTS?

24 MR. LEVIN: YOUR HONOR, WE ARE AGAIN ASKING
25 THAT COUNSEL CITE THE PAGE AND LINE THAT HE'S
26 REFERRING TO.

27 THE COURT: HE'S ASKING THE WITNESS NOW WHAT
28 HIS CURRENT RECOLLECTION IS.

44412

1 THE WITNESS: AS I SIT HERE SIX YEARS LATER,
2 I BELIEVE IT WAS BEFORE. BUT I -- I CAN'T BE CERTAIN
3 HOW MY MEMORY HAS EVOLVED ABOUT THAT SPECIFIC
4 CONVERSATION. I BELIEVE IT WAS BEFORE, BUT I'M NOT

5 GOING TO SAY THAT ABSOLUTELY HE TOLD ME WE WERE

6 GOING TO LIVE IN A COMPOUND BEFORE.

7 Q BY MR. CONN: IS THIS ANOTHER AREA WHERE

8 YOUR MEMORY HAS IMPROVED SINCE THE TIME OF THE FIRST

9 TRIAL?

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

11 THE WITNESS: IT'S NOT --

12 THE COURT: IN THIS CONTEXT IT IS

13 ARGUMENTATIVE. OBJECTION SUSTAINED.

14 Q BY MR. CONN: NOW, IT WAS ON SUNDAY THAT

15 YOUR FATHER TOLD YOU THAT YOU WOULD HAVE TO SPEND

16 TIME AT HOME WHILE YOU WENT TO U.C.L.A.; IS THAT

17 CORRECT?

18 A RIGHT.

19 Q OKAY. AND NOW SUDDENLY THIS PLAN ABOUT

20 GOING TO COLLEGE AND GETTING AWAY FROM YOUR FATHER

21 AND ENDING THE SEXUAL ABUSE ALL CAME TO AN END; IS

22 THAT CORRECT?

23 A YES.

24 Q BECAUSE NOW YOU REALIZE THAT YOUR FATHER

25 WAS GOING TO CONTINUE TO HAVE SEX WITH YOU; IS THAT

26 CORRECT?

27 A I SUDDENLY REALIZED THAT THAT WAS GOING

28 TO CONTINUE ON HAPPENING, YES.

1 Q SO NOW YOU HAD A REASON TO THINK ABOUT
2 LEAVING HOME; IS THAT CORRECT?

3 A YES, I DID.

4 Q OKAY. AND WHAT DID YOU DECIDE WHEN YOU
5 THOUGHT ABOUT LEAVING HOME AND FINALLY ENDING THE
6 SEXUAL ABUSE BY YOUR FATHER?

7 A I MEAN, I HAD A REASON TO THINK THAT
8 WAY, BUT THAT'S NOT WHAT I THOUGHT IMMEDIATELY.

9 I IMMEDIATELY JUST FELT AS THOUGH I WAS
10 DYING AND -- AND THAT ALL OF MY DREAMS WERE CRUSHED
11 AND MY LIFE HAD FOLDED OUT FROM BENEATH ME, AND I
12 WENT UP TO MY BED AND I CRIED. AND I SPENT A LONG
13 TIME THERE, AND I THOUGHT ABOUT WAYS TO END MY LIFE
14 BECAUSE I WOULD RATHER DIE THAN LET THIS CONTINUE.
15 AND THEN I JUST SAID, I'M GETTING OUT OF HERE FOR A
16 FEW DAYS, AND THAT'S WHEN I DECIDED TO PACK MY BAG.

17 Q YOU WERE ALMOST 19 YEARS OLD AT THIS
18 TIME; IS THAT CORRECT?

19 A IT WAS A FEW MONTHS BEFORE 19.

20 Q OKAY. AND YOU SAID THAT YOU THOUGHT OF
21 RUNNING YOUR CAR OFF THE CLIFF; IS THAT CORRECT?

22 A YES.

23 Q SO YOU WERE CONSIDERING OPTIONS AT THAT
24 POINT; IS THAT CORRECT?

25 A I DON'T THINK THAT I WAS WEIGHING AND
26 CONSIDERING OPTIONS. THESE WERE THINGS WHILE I WAS
27 VERY DISTRAUGHT OF THINGS THAT I COULD DO. I

44414

1 CALABASAS HOUSE AND RUNNING MY CAR OFF THE CLIFF
2 BECAUSE THAT WOULD KILL ME, DIFFERENT THINGS LIKE
3 THAT.

4 Q SO YOU WERE CONSIDERING SUICIDE AS ONE
5 OF THE POSSIBLE OPTIONS; IS THAT CORRECT?

6 A ESSENTIALLY, YES.

7 Q NOW, WAS SUICIDE A SERIOUS CONSIDERATION
8 FOR YOU OR JUST SOMETHING YOU'RE THROWING BEFORE THE
9 JURY TO GET SOME SYMPATHY?

10 A IT'S SOMETHING I THOUGHT AT THE TIME AND
11 IT'S SOMETHING THAT HAD MY BROTHER NOT STEPPED IN
12 AND SAVED ME, I WOULD HAVE DONE.

13 Q OKAY.

14 A AND I WOULD NOT HAVE GONE ON. THERE WAS
15 NO WAY THAT I COULD HAVE GONE ON WITH MY FATHER
16 DOING THESE THINGS. I WOULDN'T. I COULDN'T.

17 Q TELL ME HOW FAR YOU TOOK THIS SUICIDE
18 PLAN AT THAT POINT.

19 A IT WASN'T A PLAN. IT WAS JUST SELF-PITY
20 AND MISERY IN MY BED AND THAT'S AS FAR AS IT WENT AT
21 THAT POINT. I JUST FELT DEAD. AND I FELT THAT WAY
22 UNTIL THE TIME I TALKED TO MY BROTHER.

23 Q WELL, HOW LONG DID YOU CONSIDER SUICIDE
24 THAT SUNDAY?
25 A HOW LONG DID I CONSIDER IT?
26 Q YES.
27 A I DIDN'T STOP CONSIDERING IT. I DON'T
28 THINK I EVER STOPPED CONSIDERING IT THAT WHOLE WEEK.

44415

1 Q OKAY. YOU CONSIDERED SUICIDE ALL THAT
2 WEEK?
3 A I -- I KNEW THAT I WASN'T GOING TO BE
4 ABLE TO LIVE WITH THIS GOING ON, SO I WAS HOPING
5 THERE WAS ANOTHER WAY OUT. AND IT OCCURRED TO ME TO
6 TELL LYLE. I DIDN'T THINK THAT WAS SOMETHING THAT I
7 SHOULD DO. IT WAS -- MY FEELINGS WERE AGAINST DOING
8 THAT; AND EVENTUALLY I WENT TO LYLE FOR HELP.
9 Q AND HOW EXTENSIVE WERE YOUR THOUGHTS
10 ABOUT SUICIDE? WHAT SPECIFIC PLANS DID YOU
11 CONTEMPLATE AS YOU WERE CONTEMPLATING SUICIDE?
12 A I DIDN'T COME UP WITH SPECIFIC PLANS. I
13 THOUGHT ABOUT KILLING MYSELF AND DIFFERENT WAYS TO
14 DO IT.
15 Q YOU ENVISIONED YOURSELF DRIVING A CAR
16 OFF A CLIFF?
17 A YES.

18 Q ANY OTHER FORMS OF SUICIDE THAT YOU
19 CONTEMPLATED AT THAT TIME?
20 A I'M SURE THERE WERE. I'M SURE I
21 CONSIDERED HANGING MYSELF OR WHATEVER IT TOOK TO
22 KILL MYSELF. IT WAS JUST A MEANS TO AN END. IT
23 DIDN'T MATTER HOW TO ME. I JUST DIDN'T WANT TO LIVE
24 WITH THE PAIN AND I FELT LIKE I WAS DYING.

25 Q AND WHAT ELSE, OTHER THAN DRIVING THE
26 CAR OFF THE CLIFF AND HANGING, ANY OTHER FORMS OF
27 SUICIDE DID YOU CONSIDER?

28 A I DON'T REMEMBER.

44416

1 Q HOW EXTENSIVE WERE THESE PLANS? DID YOU
2 THINK ABOUT WHAT SPECIFIC CLIFF YOU WOULD GO OFF?

3 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.
4 HE NEVER STATED THERE WAS A PLAN.

5 THE COURT: OVERRULED.

6 THE WITNESS: OFF OF STUNT ROAD IN MULHOLLAND
7 IS WHERE I WAS THINKING ABOUT DRIVING MY CAR OFF.

8 Q BY MR. CONN: AND DID YOU CONSIDER WHERE
9 YOU WOULD HANG YOURSELF, WHAT TYPE OF ROPE YOU WOULD
10 USE?

11 A NO.

12 Q IT STOPPED AT THAT TIME?

13 A IT DIDN'T STOP AT THAT, IT -- THESE WERE
14 EXTREME THOUGHTS OF SELF-PITY AND PAIN. IT DIDN'T --
15 I DIDN'T FORM ELABORATE PLANS AT THE TIME. I WASN'T
16 EVEN IN THE FRAME OF MIND TO DO IT.

17 Q DID YOU GO TO A SUICIDE PREVENTION
18 CENTER OR CALL A SUICIDE HOTLINE TO PREVENT YOU FROM
19 KILLING YOURSELF, MR. MENENDEZ, BECAUSE YOU WERE SO
20 CLOSE TO SUICIDE?

21 A NO, I DIDN'T.

22 Q SO WHERE'S THE EVIDENCE OF THIS, JUST
23 YOUR WORD, MR. MENENDEZ?

24 A NO.

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

27 THE COURT: REPHRASE THE QUESTION. OBJECTION
28 SUSTAINED. THE ANSWER IS STRICKEN.

44417

1 Q BY MR. CONN: IS THERE ANY EVIDENCE THAT
2 YOU TRULY CONSIDERED SUICIDE, MR. MENENDEZ, OTHER
3 THAN YOUR WORD?

4 A I CALLED --

5 MR. LEVIN: OBJECTION. IT CALLS FOR THE
6 WITNESS TO STATE A CONCLUSION.

7 THE COURT: OVERRULED.

8 THE WITNESS: I -- I CALLED DR. OZIEL, WHO I
9 HADN'T TALKED TO IN MONTHS, AND I MADE AN
10 APPOINTMENT WITH THE SECRETARY TO SEE HIM BECAUSE OF
11 THESE FEELINGS.

12 Q BY MR. CONN: WHEN DID YOU MAKE THAT
13 APPOINTMENT?

14 A EITHER ON MONDAY OR TUESDAY.

15 Q AND THAT'S BECAUSE YOU TRUSTED THIS MAN
16 GREATLY, DIDN'T YOU?

17 A NO. IT WASN'T A MATTER OF TRUSTING HIM
18 GREATLY; IT WAS A MATTER OF I REALLY FELT AS THOUGH
19 I'D REACHED A POINT WHERE I COULD NO LONGER
20 CONTINUE, AND I -- I WAS -- I WAS SEARCHING FOR HELP
21 AND HE WAS -- HE WAS A NAME THAT CAME TO MY MIND
22 AND -- AND I HAD CONSIDERED HIM TO BE ALMOST LIKE A
23 FRIEND AT THAT TIME.

24 Q AND DID YOU -- DID YOU ACTUALLY MEET WITH
25 DR. OZIEL BEFORE YOU KILLED YOUR PARENTS?

26 A NO. AFTER I TALKED TO MY BROTHER ON
27 TUESDAY, I CANCELED THE APPOINTMENT WITH DR. OZIEL.

28 Q OKAY. SO ONCE AGAIN, IS THERE ANY

44418

1 EVIDENCE THAT YOU WERE TRULY CONTEMPLATING SUICIDE
2 THAT DAY, MR. MENENDEZ, OTHER THAN JUST YOUR WORD?

3 A THE APPOINTMENT'S ON FILE. YOU HAVE THE
4 FILE.

5 Q THE APPOINTMENT -- IN THAT APPOINTMENT
6 DID YOU INDICATE TO THE SECRETARY THAT YOU WANTED TO
7 COMMIT SUICIDE?

8 A NO.

9 Q OKAY. SO BY LOOKING AT THE APPOINTMENT,
10 WE'RE NOT GOING TO KNOW WHETHER YOU'RE JUST MAKING
11 THIS UP TO GET SOME SYMPATHY FROM THIS JURY OR
12 WHETHER YOU TRULY WISHED TO COMMIT SUICIDE, ARE WE?

13 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

14 THE COURT: SUSTAINED.

15 Q BY MR. CONN: CAN YOU THINK OF ANY
16 EVIDENCE THAT WOULD DOCUMENT THAT YOU WERE TRULY
17 INTENDING TO COMMIT SUICIDE THAT DAY, MR. MENENDEZ?

18 A I DON'T KNOW WHAT TYPE OF EVIDENCE THERE
19 CAN BE.

20 Q IS THERE ANY EVIDENCE ABOUT -- THAT WOULD
21 DOCUMENT THIS WHOLE STORY ABOUT YOUR FATHER TELLING
22 YOU THAT YOU WOULD HAVE TO STAY HOME ONCE IN A WHILE
23 EVEN TOOK PLACE?

24 MR. LEVIN: OBJECTION. MISSTATES HIS
25 TESTIMONY.

26 THE COURT: OVERRULED.

27 THE WITNESS: I KNOW THAT IT'S MENTIONED IN
28 THE 12-11 TAPE. I DON'T KNOW IF IT -- WHAT PART IS

1 MENTIONED. I DON'T REMEMBER. BUT OTHER THAN THAT,
2 THE ANSWER, I GUESS, IS NO.

3 Q BY MR. CONN: BECAUSE THE ONLY OTHER
4 WITNESS TO THIS CONVERSATION WAS THE MAN THAT YOU
5 KILLED; IS THAT CORRECT?

6 A MY FATHER.

7 Q SO AS YOU WERE CONTEMPLATING THE MOST
8 DRASTIC -- AS YOU WERE CONTEMPLATING THE MOST DRASTIC
9 MEASURES, SUCH AS SUICIDE, YOU SAID THAT YOU WERE
10 ALSO HOPING THAT THERE WAS ANOTHER WAY OUT; IS THAT
11 CORRECT?

12 A WELL, I DIDN'T WANT TO DIE.

13 Q I'M ASKING YOU WHETHER YOU WERE HOPING
14 THAT THERE WAS ANOTHER WAY OUT.

15 A I GUESS.

16 Q AND AS YOU WERE HOPING THAT THERE WAS
17 ANOTHER WAY OUT, DID YOU STOP AND ASK YOURSELF,
18 PERHAPS LEAVING IS ANOTHER WAY OUT?

19 A I NEVER THOUGHT THAT. I -- I FELT DEAD
20 AT THAT POINT AND I DIDN'T BELIEVE THERE WAS ANY
21 OTHER WAY OUT. AND ESSENTIALLY THAT DROVE ME TO
22 TELL LYLE.

23 Q IS THERE A REASON WHY YOU ARE TELLING
24 THIS JURY THAT YOU ONLY CONTEMPLATED THE MOST
25 DRASTIC SOLUTION RATHER THAN THE OBVIOUS SOLUTION,
26 WHICH WAS TO LEAVE?

27 A IT WASN'T OBVIOUS TO --

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

44420

1 YOUR HONOR.

2 THE COURT: OBJECTION SUSTAINED TO THE FORM

3 OF THE QUESTION.

4 THE ANSWER IS STRICKEN.

5 Q BY MR. CONN: IS THERE A REASON WHY YOU

6 DID NOT CONSIDER LESS DRASTIC ALTERNATIVES THAN

7 SUICIDE?

8 A RUNNING AWAY WASN'T OBVIOUS TO ME. IT

9 WAS AN IMPOSSIBILITY TO ME. I JUST DID NOT BELIEVE,

10 COULD NOT BELIEVE, THAT I WOULD GET AWAY. I THOUGHT

11 RUNNING AWAY WAS A SURE MEANS TO DEATH; AND IT -- IT

12 GOT TO THE POINT WHERE IT WAS JUST ALMOST LIKE AN

13 INSTINCT AND I DIDN'T SERIOUSLY BELIEVE THAT.

14 Q MR. MENENDEZ, ARE YOU AWARE THAT AT 18

15 YEARS OLD PEOPLE DON'T RUN AWAY FROM HOME, THEY WALK

16 AWAY FROM HOME?

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

18 THE COURT: SUSTAINED.

19 Q BY MR. CONN: DID YOU FEEL THAT AT 18

20 YEARS OLD, ALMOST 19 YEARS OLD, YOU WERE STILL A

21 CHILD?

22 A I DON'T KNOW WHAT YOU MEAN BY STILL A

23 CHILD.

24 Q ARE YOU TRYING TO PORTRAY TO THIS JURY

25 THAT YOU WERE STILL LIKE A CHILD AND THAT'S WHY YOU

26 USE THE TERM "RUNNING AWAY" EVEN THOUGH YOU WERE

27 ALMOST 19 YEARS OLD?

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

44421

1 TRYING TO PORTRAY ANYTHING.

2 THE COURT: SUSTAINED.

3 Q BY MR. CONN: DID YOU FEEL THAT LEAVING

4 YOUR HOME AT THE AGE OF ALMOST 19 WOULD BE RUNNING

5 AWAY FROM HOME?

6 A ABSOLUTELY, IT WOULD BE RUNNING AWAY.

7 MY FATHER WOULD NEVER LET ME WALK AWAY.

8 Q YOUR FATHER WOULDN'T LET YOU RUN AWAY

9 EITHER, WOULD HE?

10 A EXACTLY.

11 Q BUT AT THE AGE OF ALMOST 19, DID YOU

12 RECOGNIZE THAT THERE ARE PEOPLE YOUR SAME AGE WHO

13 LEAVE HOME EVERY DAY?

14 A I GET LETTERS FROM PEOPLE AROUND THE

15 COUNTRY --

16 Q I'M NOT ASKING ABOUT NOW.

17 MR. LEVIN: OBJECTION, YOUR HONOR. THE
18 WITNESS IS ENTITLED TO ANSWER THE QUESTION.
19 THE COURT: THE QUESTION REFERRED TO HIS
20 STATE OF MIND IN AUGUST OF 1989, NOT NOW.
21 THE WITNESS: IN AUGUST I DON'T REMEMBER IF I
22 KNEW THAT OR DIDN'T KNOW THAT. BUT MY FATHER WAS --
23 WAS MY FATHER TO ME, AND WHETHER OTHER KIDS CAN
24 LEAVE THEIR FAMILY AND WHETHER THEIR FATHERS CARE, I
25 DIDN'T KNOW, BUT I KNEW WHAT WAS IN MY FATHER'S MIND
26 AND I KNEW THAT THERE WAS NO WAY THAT I WAS GOING TO
27 GET AWAY; THAT HE WOULD HUNT ME DOWN AND KILL ME,
28 AND IT JUST -- IT WAS -- IT WAS JUST SOMETHING THAT I

44422

1 KNEW.

2 Q BY MR. CONN: NOW, BEFORE YOUR FATHER
3 TOLD YOU THAT YOU WERE GOING TO HAVE TO TAKE THESE
4 BUSINESS COURSES AND PERHAPS STOP PLAYING TENNIS,
5 YOU HAD WANTED TO SEE YOUR FATHER DEAD FROM TIME TO
6 TIME; IS THAT WHAT YOU TOLD US YESTERDAY?

7 A YES.

8 Q AND, IN FACT, YOU HAD EVEN BEEN HOPING
9 THAT YOUR MOTHER WOULD KILL YOUR FATHER BEFORE YOUR
10 FATHER WANTED YOU TO TAKE THE BUSINESS COURSES AND
11 BEFORE YOUR FATHER TOLD YOU THAT YOU MIGHT HAVE TO

12 STOP PLAYING TENNIS; IS THAT CORRECT?

13 A I HOPED THAT AT ONE POINT.

14 Q I TAKE IT, THEN, THAT WHEN YOUR FATHER

15 TOLD YOU THAT PERHAPS YOU WOULD HAVE TO STOP PLAYING

16 TENNIS, AND YOU WOULD HAVE TO TAKE THESE BUSINESS

17 COURSES, YOU MUST HAVE REALLY WANTED HIM DEAD; IS

18 THAT CORRECT?

19 A STOPPING PLAYING TENNIS WAS, IN A WAY, A

20 RELIEF. I DON'T KNOW HOW TO EXPRESS THAT TO YOU.

21 AND, I MEAN, AT KALAMAZOO THE PRESSURE WAS

22 EXTRAORDINARY TO WIN THE TOURNAMENT, AND THERE WAS

23 NO WAY I WAS GOING TO WIN IT; AND I FELT -- I FELT

24 BADLY FOR NOT DOING BETTER FOR MY DAD. AND MAKING --

25 MAKING THE TENNIS TEAM WAS A BIG CONCERN TO ME ABOUT

26 WHETHER OR NOT I'D BE ABLE TO DO IT.

27 THE BUSINESS COURSES, NO, I DIDN'T WANT

28 TO GO INTO BUSINESS. BUT I DIDN'T REALLY BELIEVE

44423

1 THAT MY FATHER WOULD LET ME BE A HISTORY TEACHER.

2 IT'S NOT SOMETHING THAT HE'D -- HE THOUGHT WAS

3 WORTHY OF A REAL MAN. IT'S JUST -- IT WAS SOMETHING

4 THAT I WANTED TO DO. IT WAS -- AND IT WAS SOMETHING

5 THAT I JUST DIDN'T SERIOUSLY -- I DIDN'T GET

6 DEPRESSED WHEN HE DIDN'T -- WASN'T GOING TO LET ME DO

7 THAT.

8 Q WHEN YOUR FATHER WAS TELLING YOU ON THAT
9 SUNDAY ABOUT NO LONGER PLAYING TENNIS AND TAKING
10 THESE BUSINESS COURSES, WERE YOU STILL HOPING THAT
11 YOUR MOTHER WOULD SHOOT YOUR FATHER?

12 A NO, I DIDN'T THINK THAT THAT WOULD
13 HAPPEN AT THAT POINT A YEAR LATER.

14 Q SO YOU'RE TELLING US THAT YOU CONSIDERED
15 SUICIDE, BUT YOU DIDN'T CONSIDER HOMICIDE; IS THAT
16 CORRECT?

17 A THE THOUGHT THAT MY FATHER COULD BE
18 KILLED BY ME WAS -- WAS -- I CAN'T -- I CAN'T EVEN
19 DESCRIBE THE WORD.

20 THE THOUGHT THAT MY FATHER COULD DIE WAS
21 UNIMAGINABLE TO ME IN THE SENSE THAT I COULD -- I
22 COULD KILL MY FATHER. MY FATHER WAS A LARGER THAN
23 LIFE, POWERFUL MIGHTY PERSON, AND WHAT WAS I? I HAD
24 NEVER DONE ANYTHING AND I WASN'T -- I DIDN'T EVEN
25 THINK AT THAT POINT THAT I -- NO.

26 Q IT WASN'T IMAGINABLE TO YOU 10 DAYS
27 LATER WHEN YOU PULLED IT OFF, WAS IT?

28 A WHEN I WAS RUNNING INTO THAT ROOM, I

44424

1 COULDN'T BELIEVE THAT I -- THAT I COULD KILL MY

2 FATHER. IT JUST -- I COULD NOT BELIEVE IT. WHEN I
3 CAME BACK TO THE HOUSE THAT NIGHT WHEN MY -- RIGHT
4 BEFORE MY BROTHER CALLED 911 I LOOKED AT MY FATHER,
5 I COULDN'T BELIEVE HE WAS DEAD. WHEN I WAS WITH
6 SERGEANT EDMONDS, I COULD NOT BELIEVE THAT HE WAS
7 DEAD.

8 Q DID YOU JUST EXPECT TO WOUND HIM A
9 LITTLE BIT WITH THOSE SHOTGUN SHELLS AS YOU WERE
10 RUNNING INTO THE ROOM?

11 A WHEN I WAS RUNNING INTO THE ROOM, I WAS
12 JUST TRYING TO STOP HIM FROM KILLING ME. IF I WOULD
13 HAVE SERIOUSLY THOUGHT ABOUT IT, I WOULD HAVE FROZE
14 AND BEEN -- AND SHAKING TOO MUCH TO HAVE GONE INTO
15 THAT ROOM.

16 Q YOU DIDN'T THINK YOU COULD KILL HIM, YOU
17 EXPECTED ONLY TO WOUND HIM; IS THAT WHAT YOU'RE
18 TELLING US?

19 A I DIDN'T THINK ABOUT IT AT THAT TIME.
20 THOUGHTS WEREN'T GOING THROUGH MY MIND. I WAS
21 REACTING TO THE SITUATION. HAD I THOUGHT ABOUT IT,
22 I WOULD HAVE FROZE. I ALWAYS DID.

23 Q ALL RIGHT. WE'LL GET TO THAT LATER.

24 SO ON SUNDAY YOU STARTED TO PACK A BAG --

25 MR. LEVIN: OBJECTION, YOUR HONOR. ASK THAT
26 THAT COMMENT BE STRICKEN.

27 THE COURT: ALL RIGHT. THE COMMENT OF
28 COUNSEL IS STRICKEN.

1 ASK YOUR NEXT QUESTION, PLEASE.

2 Q BY MR. CONN: SO YOU STARTED TO PACK A
3 BAG THAT SUNDAY TO GO TO A FRIEND'S HOUSE FOR A FEW
4 DAYS; IS THAT CORRECT?

5 A YES.

6 Q MR. MENENDEZ, DIDN'T YOU TELL US THAT
7 YOU COULD NEVER CONTEMPLATE LEAVING YOUR HOUSE?

8 A NEVER CONTEMPLATE RUNNING AWAY FROM MY
9 FATHER.

10 Q BUT YOU COULD CONTEMPLATE GOING AWAY FOR
11 A FEW DAYS?

12 A ONE, IT'S NOT RUNNING AWAY; AND TWO, I
13 THINK WHAT I SAID WAS THIS WAS NOT A SERIOUS
14 THOUGHT, THAT AT THAT POINT I FELT DEAD AND I JUST
15 WANTED TO LEAVE. WHEN MY MOTHER CAME HOME -- MY
16 MOTHER CAME INTO MY ROOM AND SAID YOU'RE NOT GOING
17 ANYWHERE, I DIDN'T HAVE THE WILL TO FIGHT IT BECAUSE
18 I KNEW THAT IT WOULDN'T LEAD TO ANYTHING.

19 Q SO YOU COULD CONTEMPLATE GOING AWAY FOR
20 A FEW DAYS; IS THAT CORRECT?

21 A NO. THAT FRAME OF MIND, AFTER I'D
22 ALREADY BEEN TOLD THIS BY MY DAD, THINGS STARTED TO
23 MATTER LESS AND LESS TO ME AND THE FACT THAT I MIGHT
24 WANT TO RUN AWAY OR GO TO A FRIEND'S FOR A FEW DAYS
25 AND MY DAD MAYBE WOULD BEAT ME UP FOR IT, JUST -- I

26 JUST DIDN'T CARE ANYMORE.

27 Q MY QUESTION TO YOU, MR. MENENDEZ, IS:

28 YOU WERE ABLE TO CONTEMPLATE GOING AWAY FOR A FEW

44426

1 DAYS, YES OR NO?

2 A YES.

3 Q HOW MANY DAYS COULD YOU CONTEMPLATE

4 GOING AWAY FOR?

5 A I DIDN'T GIVE IT SERIOUS CONSIDERATION.

6 I DIDN'T EVEN THINK ABOUT WHOSE HOUSE I WOULD GO

7 OVER TO. BUT --

8 Q DID YOU THINK THAT YOU COULD GO AWAY FOR

9 THREE DAYS?

10 A I CLEARLY WOULD NOT HAVE BEEN ABLE TO GO

11 AWAY FOR THREE DAYS. MY DAD JUST WOULDN'T LET ME DO

12 IT. AND HE TOLD ME THAT VERY CLEARLY WHEN HE CAME

13 INTO MY ROOM A FEW MINUTES LATER.

14 Q I'M TALKING ABOUT BEFORE YOUR FATHER

15 CAME INTO THE ROOM, YOU CONTEMPLATED YOU WERE GOING

16 TO PACK A BAG AND GO AWAY FOR A LITTLE WHILE; IS

17 THAT CORRECT?

18 A IT -- IT WENT INTO MY MIND AND I SAID I'M

19 LEAVING AND -- YES.

20 Q AND YOU WERE ABLE TO DO IT, YOU WERE

21 ABLE TO PACK A BAG, WEREN'T YOU?

22 A YES.

23 Q AND IF YOUR MOTHER HADN'T STOPPED YOU,

24 YOU'RE TELLING US THAT YOU WOULD HAVE WENT OUT THE

25 DOOR; IS THAT CORRECT?

26 A I DON'T KNOW. I MIGHT ACTUALLY HAVE

27 DONE IT.

28 Q YOU ACTUALLY HAD THE ABILITY TO PACK A

44427

1 BAG AND WALK OUT THE DOOR; ISN'T THAT CORRECT?

2 A AT THAT TIME I WAS ALREADY -- I WAS

3 ALREADY DEAD AND I JUST SAID I'M LEAVING. I -- I

4 GUESS.

5 Q YOU WEREN'T DEAD, WERE YOU,

6 MR. MENENDEZ?

7 A I FELT DEAD.

8 Q YOU FELT DEPRESSED.

9 A NO. I FELT DEAD.

10 Q OKAY. WERE YOU -- DID YOU FEEL DEAD

11 ENOUGH THAT YOU COULDN'T PACK A BAG AND WALK OUT THE

12 DOOR?

13 A I THINK THAT'S WHY I WAS ABLE TO PACK A

14 BAG AND THINK ABOUT WALKING OUT THE DOOR. IF MY MOM

15 HADN'T COME INTO THE ROOM, I MIGHT HAVE ACTUALLY

16 GONE OVER TO ONE OF MY FRIEND'S HOUSE. I DON'T KNOW
17 WHAT THAT WOULD HAVE LED TO, BUT THAT MIGHT HAVE
18 HAPPENED.

19 Q AND YOU FELT THAT YOU WERE CAPABLE OF
20 LEAVING FOR A FEW DAYS; IS THAT CORRECT?

21 A I DIDN'T GIVE IT SERIOUS CONSIDERATION.

22 Q YOU GAVE SUICIDE SERIOUS CONSIDERATION,
23 BUT YOU DIDN'T CONSIDER GOING TO A FRIEND'S HOUSE
24 FOR A FEW DAYS SERIOUS CONSIDERATION?

25 A IT FLASHED INTO MY MIND AND I DECIDED TO
26 DO IT. I DIDN'T WEIGH IT. I DIDN'T THINK ABOUT IT
27 RATIONALLY. IT JUST -- JUST SOMETHING THAT I DID.

28 Q THERE ARE MOMENTS WHEN YOU HAVE A

44428

1 TREMENDOUS AMOUNT OF INITIATIVE, AREN'T THERE,
2 MR. MENENDEZ?

3 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

4 THE COURT: SUSTAINED.

5 Q BY MR. CONN: WERE THERE MOMENTS WHEN
6 YOU HAD TREMENDOUS AMOUNTS OF INITIATIVE?

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

8 THE COURT: SUSTAINED.

9 Q BY MR. CONN: THERE WERE TIMES, WHILE
10 THIS WAS GOING ON, WHEN YOU WERE ABLE TO MAKE

11 DECISIONS ON YOUR OWN?

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

13 WHEN WHAT'S GOING ON?

14 THE COURT: OVERRULED.

15 THE WITNESS: WHAT DO YOU MEAN? ON SUNDAY?

16 Q BY MR. CONN: WEREN'T YOU ABLE TO COME

17 AND GO AS YOU PLEASED ON SUNDAY?

18 A THERE WASN'T A RESTRICTION ON ME.

19 Q AND YOU WERE ABLE TO COME AND GO AS YOU

20 PLEASED ON MONDAY; IS THAT CORRECT?

21 A YES.

22 Q AND TUESDAY?

23 A YES.

24 Q AND WEDNESDAY?

25 A YES.

26 Q AND THURSDAY?

27 Q CORRECT?

28 A YES.

44429

1 Q YOU WERE NOT A LITTLE BOY BEING KEPT IN

2 A CLOSET, WERE YOU, MR. MENENDEZ?

3 A NO.

4 Q IS THAT THE KIND OF IMPRESSION YOU'RE

5 TRYING TO CREATE TO THIS JURY, THAT PSYCHOLOGICALLY

6 YOU WERE A LITTLE BOY KEPT IN THE CLOSET?

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

8 THE COURT: SUSTAINED.

9 Q BY MR. CONN: ARE YOU TRYING TO PORTRAY
10 YOURSELF AS A BOY, MR. MENENDEZ?

11 MR. LEVIN: IT'S ARGUMENTATIVE, YOUR HONOR.

12 THE COURT: OVERRULED.

13 THE WITNESS: I'VE -- I HAVE TRIED MY BEST TO
14 TELL WHAT HAPPENED IN MY LIFE. I'M NOT TRYING TO
15 PORTRAY MYSELF IN ANY WAY OTHER THAN SIMPLY TELLING
16 THE THINGS THAT MR. LEVIN ASKED ME THAT HE THINKS
17 WILL EXPLAIN MY LIFE.

18 Q BY MR. CONN: ARE YOU TRYING TO PORTRAY
19 YOURSELF AS HELPLESS, MR. MENENDEZ?

20 MR. LEVIN: OBJECTION WITH RESPECT TO --

21 THE WITNESS: NO.

22 MR. LEVIN: -- THE TERM PORTRAY.

23 THE COURT: OVERRULED.

24 Q BY MR. CONN: MR. MENENDEZ, YOU WEREN'T
25 HELPLESS WHEN YOU WENT SHOPPING FOR SHOTGUNS TWO
26 DAYS BEFORE YOU KILLED YOUR PARENTS, WERE YOU?

27 A I DID IT. I DON'T KNOW WHAT YOU MEAN BY
28 HELPLESS. I CERTAINLY WAS ABLE TO DO IT.

1 Q AND YOU HAD THE ENERGY AND YOU HAD THE
2 FREE WILL TO GO OUT AND PURCHASE SHOTGUNS TO KILL
3 PEOPLE, DIDN'T YOU?

4 A I HAD THE FREE WILL.

5 Q SO NOW YOU PACKED YOUR BAG AND YOUR
6 MOTHER CAME INSIDE AND -- INSIDE THE ROOM AND WHAT
7 DID SHE SAY TO YOU?

8 A SOMETHING ALONG THE LINES OF, WHERE DO
9 YOU THINK YOU'RE GOING?

10 I SAID, TO A FRIEND'S HOUSE FOR A FEW
11 DAYS.

12 AND SHE SAID, NO, YOU'RE NOT GOING
13 ANYWHERE, YOU'RE NOT LEAVING THIS HOUSE, AND STARTED
14 THROWING CLOTHES OUT OF MY BAG.

15 Q THEN WHAT HAPPENED NEXT?

16 A VERY SHORT TIME LATER SHE LEFT. SHORT
17 TIME LATER MY DAD CAME INTO THE ROOM. HE PUSHED ME
18 UP AGAINST THE WINDOW AND ASKED ME IF I HAD A
19 PROBLEM.

20 I SAID NO.

21 HE ASKED ME IF I WAS GOING ANYWHERE.

22 AND I SAID NO.

23 AND HE TOLD ME THAT I HAD BETTER BE
24 THERE WHEN HE GOT BACK IN A FEW DAYS AND THAT HE'D
25 DEAL WITH ME THEN.

26 Q WHAT DID YOU THINK WAS GOING TO HAPPEN
27 WHEN HE CAME BACK IN A FEW DAYS?

28 A I THOUGHT THAT PROBABLY THERE WOULD BE

1 SOME TYPE OF SEX.

2 Q OKAY. AND DID YOU DECIDE NOW IS THE
3 TIME TO GET OUT?

4 A NO.

5 Q WELL, YOU WERE PACKING YOUR BAGS BEFORE
6 YOUR PARENTS CAUGHT YOU; IS THAT CORRECT?

7 A RIGHT.

8 Q THERE WAS NOTHING TO STOP YOU FROM
9 PACKING THOSE BAGS ONCE AGAIN AS SOON AS YOUR FATHER
10 WALKED OUT THAT ROOM, WAS THERE?

11 A EXCEPT WHAT WAS GOING ON IN MY MIND.

12 Q AND YOU MADE A DECISION AT THAT TIME NOT
13 TO PACK YOUR BAGS AND NOT TO LEAVE HOME; IS THAT
14 CORRECT?

15 A I DIDN'T EVEN CONSIDER IT.

16 Q YOU NO LONGER THOUGHT SHOULD I PACK MY
17 BAGS OR NOT?

18 A NO.

19 Q I'M SORRY?

20 A NO, I DID NOT.

21 Q WHY NOT?

22 A I JUST FELT THAT I HAD -- I HAD MADE THE
23 SITUATION EVEN WORSE. AT SOME LEVEL I DIDN'T EVEN

24 CARE; THAT IF I WAS GOING TO HAVE TO COME HOME FROM
25 COLLEGE DAYS IN A WEEK, THAT IT DIDN'T MATTER TO ME
26 ANYMORE, AND NOTHING REALLY IN LIFE MATTERED TO ME
27 ANYMORE. AND ALL THE STEAM, THE ENERGY, WENT OUT OF
28 ME WHEN MY FATHER SAID THAT TO ME AFTER MY MOM HAD

44432

1 COME INTO THE ROOM AND I DIDN'T EVEN -- I DID NOT
2 CONSIDER LEAVING.

3 Q YOU DIDN'T CARE ABOUT WHAT ANYMORE,
4 MR. MENENDEZ?

5 A I DIDN'T CARE ABOUT ANYTHING.

6 Q YOU DIDN'T CARE ABOUT LIVING OR DYING
7 ANYMORE; IS THAT CORRECT?

8 A RIGHT.

9 Q AND WHEN YOU REACH THAT POINT WHEN YOU
10 NO LONGER CARE ABOUT LIVING OR DYING, DON'T YOU ALSO
11 REACH THAT POINT WHERE YOU COULD TELL YOUR FATHER,
12 LISTEN, I'M GOING TO DO WHAT I WANT TO DO AND YOU
13 ARE NOT GOING TO STOP ME?

14 A I DON'T KNOW IF YOU'VE EVER REACHED THAT
15 POINT, BUT IT'S A LEVEL WHERE YOU JUST DON'T -- YOU
16 FEEL SO DEAD INSIDE THAT YOU -- IT TAKES A LOT OF
17 ENERGY AND DETERMINATION TO SAY THAT TO MY FATHER.
18 I COULDN'T IMAGINE THOSE WORDS COMING OUT OF MY

19 MOUTH. BUT IT JUST -- IT WASN'T WITHIN ME TO DO IT.

20 Q OKAY. SO YOU DECIDED TO STAY WITH YOUR
21 FATHER FOR AS LONG AS HE WANTED TO SEXUALLY ABUSE
22 YOU; IS THAT CORRECT, MR. MENENDEZ?

23 A I DIDN'T KNOW WHAT I WAS GOING TO DO,
24 BUT I KNEW THAT WAS NOT GOING TO BE -- THAT WAS NOT
25 GOING TO HAPPEN.

26 Q AND YOU FELT THAT PERHAPS THIS WOULD GO
27 ON FOR YEARS AND YEARS AND YEARS; IS THAT CORRECT,
28 MR. MENENDEZ?

44433

1 MR. LEVIN: OBJECTION.

2 THE WITNESS: I WOULD NEVER --

3 MR. LEVIN: VAGUE AS TO TIME, WHEN HE HAD
4 THAT THOUGHT.

5 THE COURT: OVERRULED.

6 THE WITNESS: I WOULD NEVER ALLOW THAT TO
7 HAPPEN.

8 Q BY MR. CONN: WHY?

9 A I WOULD RATHER BE DEAD THAN TO ALLOW
10 THAT TO HAPPEN.

11 Q WHY DIDN'T YOU CONFRONT YOUR FATHER AND
12 SAY, KILL ME NOW, BECAUSE I'M WALKING OUT THE DOOR?

13 A I JUST -- THE AMOUNT OF STRENGTH IT WOULD

14 TAKE TO DO THAT, THE ABILITY TO DO THAT, THE THE
15 MINDSET TO BE ABLE TO SAY THAT TO MY FATHER WAS --
16 IT'S UNTHINKABLE.

17 Q SO YOU KNEW YOU WERE GOING TO STAY FOR
18 YEARS AND YEARS AND PUT UP WITH IT, EVEN AFTER YOU
19 GOT MARRIED YOU WERE GOING TO PUT UP WITH IT, DIDN'T
20 YOU?

21 A I DIDN'T -- ABSOLUTELY NOT.

22 Q YOU WERE GOING TO PUT UP WITH THIS UNTIL
23 THE DAY YOUR FATHER DIED; IS THAT CORRECT?

24 A NO.

25 Q HE WAS GOING TO KEEP ABUSING YOU UNTIL
26 YOU WERE BOTH IN YOUR LATE AGES; IS THAT CORRECT?

27 A I WOULD NEVER HAVE LET THAT HAPPEN.

28 Q WHY NOT?

44434

1 A BECAUSE I WOULD RATHER BE DEAD. AS A
2 HUMAN BEING I THOUGHT I WAS A COWARD AND I HATED
3 MYSELF AS MUCH AS I DID THAT I WOULD RATHER BE
4 DEAD. I WOULD RATHER NO LONGER EXIST THAN LET THAT
5 HAPPEN.

6 Q DID YOU TELL YOURSELF THAT, THAT YOU
7 WOULD RATHER BE DEAD THAN TO HAVE HIM CONTINUE TO
8 ASSAULT YOU EVEN AFTER YOU BECAME AN OLD MAN?

9 A I DIDN'T NEED TO TELL ME THAT. I DIDN'T
10 THINK OF THOSE THINGS. IT WAS JUST -- IT WAS
11 SOMETHING THAT I -- I WAS.

12 Q YOU WERE WHAT?

13 A I ALREADY KNEW THAT THAT'S HOW I FELT.
14 IT'S HOW I FELT. I DIDN'T NEED TO TELL MYSELF THAT.

15 Q WHAT WAS HOW YOU FELT?

16 A DEAD.

17 Q I'M ASKING YOU: DID YOU TELL YOURSELF
18 THAT YOU WOULD PUT UP WITH THE ABUSE ONLY UNTIL YOU
19 BECAME AN OLD MAN AND AT THAT POINT YOU WOULD RATHER
20 STOP IT OR BE KILLED?

21 A I HAD NEVER CONSIDERED THAT IT WOULD GO
22 ON BEYOND WHEN I LEFT TO COLLEGE.

23 Q BUT NOW YOU KNEW THAT THAT WAS WRONG.
24 YOUR FATHER WAS GOING TO CONTINUE TO MOLEST YOU IN
25 COLLEGE; IS THAT CORRECT?

26 A HE WAS.

27 Q AND AT THAT POINT YOU MUST HAVE
28 REEVALUATED AND YOU MUST HAVE SAID, WAIT A MINUTE,

44435

1 UP TO NOW I'VE BEEN THINKING IT'S GOING TO END; HERE
2 I AM NOW I'M ALMOST 19 YEARS OLD, MY FATHER'S GOING
3 TO CONTINUE TO MOLEST ME, IT'S NOW TIME FOR ME TO

4 RECONSIDER AND DECIDE WHETHER I'M GOING TO ALLOW
5 THIS TO HAPPEN ALL THROUGH MY COLLEGE YEARS OR I'M
6 GOING TO GO OUT ON MY OWN NOW.

7 A I THINK THAT --

8 MR. LEVIN: OBJECTION. IT'S COMPOUND AND
9 ARGUMENTATIVE.

10 THE COURT: SUSTAINED AS TO THE FORM OF THE
11 QUESTION. THE ANSWER'S STRICKEN.

12 Q BY MR. CONN: DID YOU DECIDE, ONCE YOU
13 SAW THAT YOUR FATHER WAS GOING TO CONTINUE TO MOLEST
14 YOU, THAT IT WAS TIME FOR YOU TO LEAVE YOUR HOME?

15 A IT'S -- I REACHED A POINT WHERE WHEN THAT
16 DREAM WAS OBLITERATED I GAVE UP. YOU REACH A POINT
17 WHERE YOU JUST GIVE UP AND YOU LAY DOWN AND YOU
18 DIE. AND THAT'S WHAT I WANTED TO DO.

19 Q NOW, YOU DIDN'T LAY DOWN AND DIE, YOU
20 LAID DOWN AND KILLED YOUR FATHER, DIDN'T YOU?

21 A IT'S WHAT EVENTUALLY HAPPENED. IT
22 CERTAINLY NEVER CROSSED MY MIND THAT SUMMER.

23 Q AND WHERE DID ALL THAT ENERGY COME FROM,
24 MR. MENENDEZ, TO KILL YOUR FATHER INSTEAD OF WALKING
25 OUT THE DOOR?

26 A WHERE DID ALL THE ENERGY COME FROM?

27 Q YES.

28 A TALKING TO LYLE ON TUESDAY AND REALIZING

1 THAT I HAD HOPE AND THEN GETTING A HOPE INSIDE OF ME
2 THAT MAYBE I COULD LIVE; AND TELLING LYLE THAT IF HE
3 LEFT ME THAT I WOULD CERTAINLY DIE, AND SEEING LYLE
4 STICK BY ME AND NOT ABANDON ME. THESE THINGS GAVE
5 ME HOPE. I WAS NO LONGER ALONE. I HAD THRUST MY
6 BROTHER INTO THE MIDDLE OF THIS AND -- AND THAT GAVE
7 ME STRENGTH.

8 Q YOU'RE TELLING US THAT YOU HAVE THE
9 ENERGY AND THE INITIATIVE AND THE POWER TO KILL
10 SOMEONE, BUT YOU DON'T HAVE THE ENERGY AND THE
11 INITIATIVE AND THE POWER TO WALK OUT THE DOOR; IS
12 THAT CORRECT?

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

14 THE COURT: SUSTAINED.

15 Q BY MR. CONN: OKAY. SO WHEN YOU -- WHEN
16 YOUR FATHER WALKED OUT OF THE ROOM ON SUNDAY, AND
17 YOU KNEW THEN THAT THE SEXUAL ABUSE WAS GOING TO
18 CONTINUE, HOW LONG DID YOU THINK IT WOULD CONTINUE
19 FOR?

20 A ALL I KNEW IS THAT IT WOULD CONTINUE
21 WHEN I WAS IN COLLEGE THE FIRST YEAR AND I WOULD -- I
22 COULD NOT LET THAT HAPPEN. I -- I -- I CAN'T TELL YOU
23 HOW THE FEELING OF DEAD FEELS. IT JUST -- I COULDN'T
24 LET IT GO ON. I KNEW THAT IT WOULD CONTINUE ON IN
25 COLLEGE AND THAT'S ALL I NEEDED TO KNOW.

26 Q JUST THE FIRST YEAR IT WAS GOING TO
27 CONTINUE FOR?

44437

1 JUST KNEW THAT IT WOULD CONTINUE ON WHEN I WAS IN
2 COLLEGE AND THAT I COULDN'T LET THAT HAPPEN.

3 Q AND BECAUSE YOU COULDN'T LET IT HAPPEN,
4 YOU STARTED TO THINK ABOUT OPTIONS; IS THAT
5 CORRECT?

6 A I GAVE UP. AND -- AND I FELT -- YOU'RE
7 RIGHT. THAT DID CROSS MY MIND TO TELL LYLE AT ONE
8 POINT THAT NIGHT, BUT I DIDN'T GIVE IT SERIOUS
9 CONSIDERATION. I GAVE UP. AND IT WASN'T 'TIL I SAW
10 THE ALTERCATION WITH MOM AND LYLE IN THE FOYER
11 THAT -- AND I WAS IN LYLE'S GUESTHOUSE, THAT I JUST
12 DECIDED TO TELL HIM.

13 Q ISN'T IT TRUE THAT RATHER THAN GIVING
14 UP, OR RATHER THAN BECOMING SUICIDAL, YOU BECAME
15 HOMICIDAL?

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

17 THE COURT: OVERRULED.

18 THE WITNESS: NO.

19 Q BY MR. CONN: YOU SHOT YOUR PARENTS TO
20 DEATH, DIDN'T YOU?

21 A I DID.

22 Q LET'S GO TO TUESDAY.

23 YOU SAID THAT ON TUESDAY YOUR MOTHER
24 PULLED THE HAIRPIECE OFF YOUR BROTHER'S HEAD; IS
25 THAT CORRECT?
26 A SHE DID.
27 Q NOW, ARE THERE ANY WITNESSES TO THIS,
28 MR. MENENDEZ, OTHER THAN YOU, LYLE MENENDEZ, AND THE

44438

1 WOMAN THAT YOU SHOT TO DEATH?
2 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.
3 THE COURT: OVERRULED.
4 THE WITNESS: I KNOW THAT THERE -- IT'S IN THE
5 RECORDS THAT LYLE WENT AND GOT HIS NEW HAIR CLIPS
6 AND --
7 MR. CONN: MOTION TO STRIKE AS NONRESPONSIVE.
8 MR. LEVIN: YOUR HONOR, IT ANSWERS THE
9 QUESTION. HE ASKED IF THERE ARE ANY WITNESSES AND
10 THE WITNESS IS ENTITLED TO ANSWER.
11 THE COURT: WELL, THIS IS NOT RESPONSIVE TO
12 THE QUESTION WHETHER THERE WERE WITNESSES WHO WERE
13 THERE AND SAW THIS HAPPEN.
14 MR. LEVIN: YOUR HONOR, I OBJECT. I OBJECTED
15 TO THAT QUESTION. THE COURT ALLOWED IT. HE ASKED
16 HIM IF THERE WERE ANY WITNESSES TO THIS.
17 THE COURT: YES. AND THIS BEING THE INCIDENT

18 THAT HE REFERRED TO, THE REMOVING OF THE HAIRPIECE.

19 THE WITNESS: NO, THERE WAS NO ONE ELSE

20 PHYSICALLY WATCHING AT THE TIME.

21 Q BY MR. CONN: THE ONLY OTHER WITNESS,

22 OTHER THAN YOUR BROTHER, IS THE WOMAN THAT YOU SHOT

23 TO DEATH FIVE DAYS LATER; IS THAT CORRECT?

24 A MY MOM.

25 Q OKAY. BUT THIS REALLY HAPPENED; IS THAT

26 CORRECT?

27 A THERE'S NO QUESTION THAT IT HAPPENED.

28 Q AND WE HAVE YOUR WORD FOR THAT; IS THAT

44439

1 CORRECT?

2 A WELL, YOU KNOW THAT LYLE WENT TO THE

3 HAIRPIECE CENTER TO GET NEW CLIPS BECAUSE HIS

4 HAIRPIECE HAD BEEN TORN OFF.

5 Q DOES THAT PROVE -- A VISIT TO THE

6 HAIRPIECE CENTER, DOES THAT PROVE WHAT HAPPENED FIVE

7 DAYS EARLIER?

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

9 THE COURT: OVERRULED.

10 THE WITNESS: IT WAS TWO DAYS EARLIER OR A

11 DAY EARLIER.

12 Q BY MR. CONN: WASN'T IT ON TUESDAY --

13 MR. LEVIN: OBJECTION, YOUR HONOR. THE
14 WITNESS HAS NOT COMPLETED HIS ANSWER.
15 THE COURT: HAVE YOU FINISHED YOUR ANSWER?
16 THE WITNESS: YES.
17 THE COURT: YOUR NEXT QUESTION.
18 Q BY MR. CONN: WAS IT ON TUESDAY THAT
19 THIS TOOK PLACE?
20 A YES.
21 Q AND YOU KILLED YOUR PARENTS THE
22 FOLLOWING SUNDAY?
23 A YES.
24 Q AND THAT WAS FIVE DAYS LATER?
25 A RIGHT.
26 Q DID YOU ACCOMPANY YOUR BROTHER TO A HAIR
27 REPLACEMENT CENTER?
28 A NO, I DID NOT.

44440

1 Q DID YOU KNOW THAT YOUR BROTHER MADE
2 PERIODIC VISITS TO A HAIR REPLACEMENT CENTER?
3 A I KNEW THAT HE WAS GOING THAT DAY THAT
4 HE WENT ON THURSDAY BECAUSE HIS HAIRPIECE COULD NO
5 LONGER STAY ON HIS HEAD.
6 Q WHICH DAY DID HE GO?
7 A I BELIEVE IT WAS THURSDAY.

8 Q THURSDAY OF THAT WEEK?

9 A YES.

10 Q THAT IS BEFORE YOU KILLED YOUR PARENTS?

11 A RIGHT.

12 Q DID YOU ACCOMPANY HIM?

13 A NO, I DID NOT.

14 Q YOU'RE NOT A WITNESS TO THAT?

15 A NO, I WAS NOT.

16 Q NOW, ISN'T IT A FACT, MR. MENENDEZ, THAT

17 YOU ADMITTED TO JAMIE PISARCIK THAT YOU KNEW THAT

18 YOUR BROTHER HAD THIS HAIRPIECE?

19 A I NEVER ADMITTED TO JAMIE PISARCIK. I

20 WAS NOT GOOD ENOUGH FRIENDS OR CLOSE ENOUGH TO JAMIE

21 PISARCIK TO TALK ABOUT SUCH ISSUES.

22 Q YOU WERE NOT PRESENT WHEN THERE WAS A

23 CONVERSATION BETWEEN YOU AND JAMIE PISARCIK IN WHICH

24 THERE WAS A CONVERSATION ABOUT YOUR BROTHER'S

25 HAIRPIECE AND YOUR KNOWLEDGE OF THAT HAIRPIECE

26 BEFORE IT WAS TORN OFF YOUR BROTHER'S HEAD?

27 A IT NEVER HAPPENED.

28 Q THAT IS THE CONVERSATION BETWEEN

44441

1 YOURSELF AND JAMIE PISARCIK; IS THAT CORRECT?

2 A RIGHT.

3 Q NOW, YOU SAID THAT YOU DID HEAR SNIPPETS
4 OF CONVERSATION ABOUT YOUR BROTHER'S HAIRPIECE; IS
5 THAT CORRECT?

6 MR. LEVIN: OBJECTION. ASSUMES FACTS NOT IN
7 EVIDENCE. MISSTATES HIS TESTIMONY.

8 THE COURT: WELL, IT DOESN'T TRACK HIS
9 TESTIMONY VERBATIM, SO OBJECTION SUSTAINED.

10 MR. LEVIN: HE USED THE WORD "HAIRPIECE."

11 THE COURT: ALSO "SNIPPETS OF CONVERSATION."
12 SO OBJECTION SUSTAINED.

13 Q BY MR. CONN: IN THIS -- HAD YOU EVER
14 HEARD ANYTHING ABOUT YOUR BROTHER HAVING A HAIRPIECE
15 PRIOR TO THE TIME YOUR MOTHER ALLEGEDLY TORE THIS
16 HAIRPIECE OFF HIS HEAD?

17 A I DIDN'T KNOW EXACTLY WHAT A HAIRPIECE
18 WAS. I HAD NO CONCERN OF --

19 MR. CONN: OBJECTION. NONRESPONSIVE.

20 THE COURT: SUSTAINED.

21 MR. CONN: MOTION TO STRIKE.

22 THE COURT: MOTION TO STRIKE IS GRANTED.

23 Q BY MR. CONN: LISTEN TO THE QUESTION,
24 MR. MENENDEZ.

25 HAD YOU HEARD ANY CONVERSATION
26 CONCERNING YOUR MOTHER'S -- CONCERNING YOUR BROTHER'S
27 HAIRPIECE AFTER YOUR MOTHER ALLEGEDLY TORE THIS
28 HAIRPIECE OFF YOUR BROTHER'S HEAD?

1 A AFTER SHE TORE IT OFF?

2 Q BEFORE, BEFORE IT WAS TORN OFF THE
3 HEAD.

4 A I HEARD CONVERSATIONS ABOUT -- AND IT HAD
5 TO DO WITH MY BROTHER'S HAIR, BUT I DIDN'T HEAR THE
6 WORD HAIRPIECE.

7 Q AND WHAT CONVERSATION HAD YOU HEARD
8 ABOUT YOUR BROTHER'S HAIR BEFORE IT WAS ALLEGEDLY --
9 BEFORE THE HAIRPIECE WAS ALLEGEDLY TORN OFF YOUR
10 BROTHER'S HEAD?

11 A I HAD HEARD SOMETHING ABOUT \$3,000 AND
12 GOING DOWN TO ALABAMA TO DO SOMETHING WITH HIS HAIR;
13 AND -- LITTLE BITS OF CONVERSATION ALONG THOSE LINES;
14 AND I DIDN'T UNDERSTAND WHAT EXACTLY HE WAS GOING TO
15 DO OR WHY OR WHETHER IT WAS -- I DIDN'T KNOW WHAT
16 IMPLANTS WERE AT THE TIME VERSUS A WIG VERSUS A
17 HAIRPIECE. I DIDN'T KNOW THESE THINGS. I JUST KNEW
18 THAT HE WAS HAVING SOMETHING DONE TO HIS HAIR.

19 Q WHEN WAS IT THAT YOU HEARD THESE
20 CONVERSATIONS?

21 A YEARS BEFORE.

22 Q HOW MANY YEARS BEFORE?

23 A TWO OR THREE YEARS BEFORE.

24 Q AND WHO WAS SPEAKING?

25 A MY MOTHER. I HEARD HER SAY THINGS. I

26 DON'T REMEMBER IF IT WAS MY FATHER. I HEARD MY

27 BROTHER SAY THINGS LIKE THIS.

28 Q YOU HEARD YOUR BROTHER TALKING ABOUT

44443

1 IT?

2 A WELL, MY BROTHER WAS SPEAKING TO MY

3 MOTHER.

4 Q IN YOUR PRESENCE?

5 A NO. I WAS WALKING BY THE ROOM. THEY --

6 I WASN'T IN THE ROOM.

7 Q NOW, YOU NOTICED THAT YOUR BROTHER BEGAN

8 TO LOSE SOME OF HIS HAIR AT A CERTAIN AGE, DIDN'T

9 YOU?

10 A IT NEVER OCCURRED TO ME THAT MY BROTHER

11 COULD BE LOSING HIS HAIR AT 16. IT JUST -- IT JUST

12 NEVER -- I COULDN'T FATHOM IT. I HAD NEVER HEARD OF

13 SUCH A THING. AND SO I DIDN'T THINK MY BROTHER WAS

14 LOSING HIS HAIR.

15 Q ARE YOU SAYING THAT YOU NEVER SENSED

16 THAT YOUR BROTHER WAS LOSING ANY HAIR UP UNTIL THE

17 TIME THAT YOUR MOTHER ALLEGEDLY TORE THIS HAIRPIECE

18 OFF HIS HEAD?

19 A I KNEW THAT HIS HAIR -- I DIDN'T SEE HIM

20 FOR EIGHT MONTHS AND I KNEW HIS HAIR WAS SUDDENLY

21 FULLER AND A LOT BETTER HAIR, BUT I DIDN'T KNOW WHAT
22 HE HAD DONE TO IT. I DIDN'T THINK THAT MY BROTHER
23 WAS LOSING IT AT 16.

24 Q NOW, YOU SAID YOU DIDN'T SEE HIM FOR
25 EIGHT MONTHS. WHICH EIGHT MONTHS ARE YOU REFERRING
26 TO?

27 A WHEN I MOVED OUT TO -- WHEN I MOVED OUT
28 TO CALIFORNIA, I DIDN'T SEE HIM FOR ABOUT EIGHT

44444

1 MONTHS.

2 Q AND THEN WHEN YOU SAW HIM AGAIN EIGHT
3 MONTHS LATER, YOU NOTICED THAT SUDDENLY HE HAD A
4 FULL HEAD OF HAIR; IS THAT CORRECT?

5 A RIGHT.

6 Q SO HIS HAIR MUST HAVE BEEN THINNER PRIOR
7 TO THE TIME THAT YOU OBSERVED HIM THEN; IS THAT
8 CORRECT?

9 A NO, IT WAS THINNER.

10 Q AND WHEN YOU SAW HIM EIGHT MONTHS LATER
11 AND SUDDENLY HE HAD A FULL HEAD OF HAIR, DIDN'T YOU
12 ASK HIM AT THAT TIME: HEY, LYLE, WHAT'S WITH YOUR
13 HAIR?

14 A I DIDN'T HAVE -- I DIDN'T HAVE THE
15 ABILITY TO SAY THAT TO LYLE. IT WAS A PERSONAL

16 ISSUE AND I WASN'T GOING TO TOUCH IT. I KNEW THAT
17 HE HAD HAD SOMETHING. I DIDN'T KNOW THE
18 PARTICULARS, AND I WASN'T GOING TO EVEN GO NEAR IT.

19 Q SO YOU FELT THAT THAT WAS SOMETHING YOU
20 COULDN'T EVEN TALK OVER WITH YOUR BROTHER; IS THAT
21 CORRECT?

22 A HAD I REALLY, REALLY, REALLY WANTED TO,
23 I COULD HAVE. BUT I DIDN'T -- I FELT THAT IT WAS
24 MAYBE EMBARRASSING OR JUST A PERSONAL ISSUE AND IF
25 HE WANTED ME TO KNOW, HE WOULD TELL ME.

26 Q SO DID YOU GO TO YOUR MOTHER AND ASK
27 YOUR MOTHER, HEY, WHAT'S WITH MY BROTHER'S HAIR?
28 SUDDENLY HE HAS A FULL HEAD OF HAIR, I HAVEN'T SEEN

44445

1 HIM IN EIGHT MONTHS?

2 A NO.

3 Q WHY DIDN'T YOU ASK YOUR MOTHER WHY YOUR
4 BROTHER SUDDENLY HAS A FULL HEAD OF HAIR?

5 A BECAUSE IT DIDN'T -- IT DIDN'T OCCUR -- I
6 DIDN'T HAVE A REASON TO.

7 Q YOU WEREN'T CURIOUS ABOUT WHY YOUR
8 BROTHER NOW SUDDENLY HAS A FULL HEAD OF HAIR?

9 A OH, I WAS CURIOUS, AND I SAW HIM IN THE
10 BATHROOM FIXING IT AND HE HAD THESE DIFFERENT

11 SUPPLIES, AND I LOOKED IT SUPPLIES TO TRY TO FIGURE
12 OUT WHAT WAS GOING ON. I WOULD LOOK AT HIM WHEN HE
13 WAS PLAYING TENNIS OR IN THE SWIMMING POOL, AND I
14 WOULD SAY, WOW, IT'S AMAZING. IT WAS -- NOBODY
15 KNEW. AND HE WOULD PLAY TENNIS WITH US. HE WOULD
16 GO SWIMMING. AND I JUST COULDN'T IMAGINE WHAT
17 HAPPENED, WHAT IT WAS. AND --

18 Q WERE YOU SO CURIOUS THAT YOU ASKED YOUR
19 FATHER, WHAT'S THE STORY WITH LYLE'S HAIR?

20 A NO. I WOULD NEVER HAVE ASKED MY FATHER.

21 Q WHY NOT?

22 A I JUST DIDN'T HAVE THAT RELATIONSHIP
23 WITH MY FATHER, HEY, DAD, LET'S TALK ABOUT LYLE'S
24 HAIR.

25 Q YOU FELT THAT YOU COULDN'T ASK YOUR
26 FATHER OR YOUR MOTHER ABOUT LYLE'S HAIR?

27 A I SUPPOSE I COULD HAVE, HAD I REALLY
28 WANTED TO GET INTO A -- INTO THE PERSONAL PARTICULARS

44446

1 OF THE ISSUE. BUT THERE WERE JUST A LOT OF
2 EMBARRASSING THINGS IN THE FAMILY, A LOT OF SECRETS,
3 AND WE JUST -- THESE THINGS WEREN'T DISCUSSED AMONG
4 ALL THE FAMILY MEMBERS.

5 Q ISN'T IT A FACT, MR. MENENDEZ, THAT

6 BEING LYLE'S BROTHER YOU KNEW ABOUT THE HAIR AND YOU

7 TOLD JAMIE PISARCIK YOU KNEW ABOUT THE HAIR?

8 A IF I KNEW ABOUT THE HAIR AND I TOLD

9 JAMIE PISARCIK, I'D TELL YOU.

10 (LAUGHTER.)

11

12 MR. LEVIN: OBJECTION, YOUR HONOR, WITH

13 RESPECT TO COUNSEL'S COMMENTS AND THE PROSECUTION'S

14 SECTION THAT ARE LAUGHING.

15 THE COURT: ALL RIGHT. LET'S NOT HAVE ANY

16 REACTION FROM THE AUDIENCE IN THIS MATTER.

17 GO AHEAD, MR. CONN. YOUR NEXT QUESTION,

18 PLEASE.

19 Q BY MR. CONN: YOU SAID AFTER YOUR MOTHER

20 TORE THE HAIRPIECE OFF YOUR BROTHER'S HEAD YOU

21 FOLLOWED YOUR BROTHER TO THE GUESTHOUSE WHERE HE

22 FIXED IT; IS THAT CORRECT?

23 A SOON AFTER I WENT TO THE GUESTHOUSE.

24 Q WHAT DID YOU SEE YOUR BROTHER DO TO HIS

25 HAIR IN THE GUESTHOUSE?

26 A IT WAS ALREADY ON TOP OF HIS HEAD AND HE

27 WAS JUST FIXING IT.

28 Q WAS HE BLEEDING?

1 A I DON'T REMEMBER IF HE WAS BLEEDING.

2 I -- AT THAT POINT HE HAD HIS HAIR BACK ON HIS HEAD

3 AND HE WAS JUST FIXING HIS HAIR IN THE BATHROOM.

4 Q AND YOU DID NOT ACCOMPANY HIM ANYWHERE

5 AT ANY TIME TO REPAIR THIS DAMAGE; IS THAT CORRECT?

6 A I DIDN'T PERSONALLY ACCOMPANY HIM.

7 Q NOW, IT WAS AT THIS TIME YOU TELL US

8 THAT YOU DECIDED TO TELL YOUR BROTHER, AFTER ALL

9 THESE YEARS, THAT YOUR FATHER HAD BEEN SEXUALLY

10 ABUSING YOU; IS THAT CORRECT?

11 A EVENTUALLY I LED UP TO IT IN THE

12 CONVERSATION.

13 Q AND WHY DID YOU SUDDENLY DECIDE TO TELL

14 YOUR BROTHER AFTER ALL THESE YEARS WHY YOUR FATHER

15 HAD BEEN SEXUALLY ABUSING YOU?

16 A I WAS AT A POINT AFTER -- IT WAS NOW

17 TUESDAY AND WHAT HAD HAPPENED WITH MY FATHER WAS ON

18 SUNDAY, AND I WAS REALLY ADRIFT, REALLY EXTREMELY

19 MISERABLE, AND I JUST SAW AN UNBELIEVABLE EVENT

20 OCCUR IN MY FOYER WHERE MY MOTHER RIPPED OFF LYLE'S

21 HAIR AND HE WAS EMBARRASSED, I FELT, AND I WAS JUST

22 TELLING HIM THAT I STILL LOVED HIM; THAT I DIDN'T

23 CARE; THAT IT DIDN'T MAKE A DIFFERENCE, AND I JUST

24 STARTED TO CRY AND I JUST DECIDED TO TELL HIM. I

25 NEEDED HELP AND I -- I THOUGHT ABOUT TELLING HIM. I

26 CAN'T GIVE A GOOD REASON WHY.

27 Q AND YOUR FATHER SAID -- AND YOUR BROTHER

28 SAID THAT HE WOULD SPEAK TO YOUR FATHER; IS THAT

1 CORRECT?

2 A WELL, AT FIRST HE WAS ANGRY AT ME AND --

3 MR. CONN: OBJECTION. MOTION TO STRIKE.

4 NONRESPONSIVE.

5 THE COURT: OVERRULED.

6 CONTINUE YOUR ANSWER.

7 THE WITNESS: FIRST HE WAS ANGRY AT ME AND

8 ASKED ME IF I ENJOYED IT AND ALL DIFFERENT TYPE OF

9 THINGS THAT HURT ME, AND THEN EVENTUALLY WHEN I KEPT

10 SAYING NO, NO, NO, HE -- HE WAS ANGRY AND HE WAS

11 PACING AND HE SAID, I'M GOING TO TALK TO DAD. IT'S

12 NEVER GOING TO HAPPEN AGAIN. HE WAS OUTRAGED AND

13 UPSET AT HIMSELF.

14 Q BY MR. CONN: AND YOU THOUGHT THAT WOULD

15 BE A GOOD IDEA IF YOUR BROTHER WENT TO YOUR FATHER

16 AND SPOKE TO YOUR FATHER ABOUT THE SEXUAL ABUSE; IS

17 THAT CORRECT?

18 A I THOUGHT IT COULD DEFINITELY CAUSE

19 PROBLEMS, AND I TRIED TO TELL LYLE, YOU KNOW, DAD'S

20 NOT GOING TO BE TOO HAPPY ABOUT THIS, BUT I DIDN'T

21 WANT TO TELL LYLE THE EXTENT THAT I FELT DAD WOULD

22 BE UNHAPPY. BUT LYLE -- LYLE WAS CLOSER TO MY DAD,

23 KNEW MY DAD BETTER, AND IF I FELT --

24 MR. CONN: OBJECTION. MOTION TO STRIKE.

25 NONRESPONSIVE.

26 MR. LEVIN: YOUR HONOR, IT IS RESPONSIVE.

27 THE COURT: WELL, IT'S GETTING TO BE A

28 NONRESPONSIVE ANSWER AT THIS POINT.

44449

1 SO YOUR NEXT QUESTION, PLEASE.

2 Q BY MR. CONN: MR. MENENDEZ, DID YOU

3 THINK IT WOULD BE A GOOD IDEA FOR YOUR BROTHER TO

4 SPEAK TO YOUR FATHER ABOUT THE ABUSE?

5 A I CAN'T ANSWER THAT QUESTION, MR. CONN.

6 Q LET ME TRY ANOTHER.

7 DID YOU WANT YOUR BROTHER TO TALK TO

8 YOUR FATHER ABOUT THE SEXUAL ABUSE?

9 A I WANTED MY BROTHER TO HELP ME END IT

10 AND HE SAID THAT HE WOULD JUST TALK TO DAD. I HAD A

11 LOT OF TREPIDATION ABOUT THAT. BUT LYLE THOUGHT IT

12 WOULD WORK AND I WAS ANXIOUS AND WORRIED ABOUT IT,

13 BUT --

14 MR. CONN: OBJECTION. MOTION TO STRIKE.

15 THE WITNESS: -- I WAS GOING TO LET HIM DO

16 IT.

17 MR. CONN: NONRESPONSIVE WITH A NARRATIVE

18 ANSWER.

19 THE COURT: THE ANSWER WILL STAND.

20 YOUR NEXT QUESTION, PLEASE.

21 Q BY MR. CONN: NOW, YOUR FATHER HAD
22 PREVIOUSLY THREATENED YOU THAT IF YOU TOLD ANYONE,
23 HE WOULD NOT ONLY KILL YOU, BUT HE WOULD KILL THE
24 PERSON THAT YOU TOLD; IS THAT CORRECT?

25 A YES.

26 Q AND YOU TOOK YOUR FATHER VERY SERIOUSLY,
27 DIDN'T YOU?

28 A VERY SERIOUSLY.

44450

1 Q AND YOU KNEW THAT YOUR FATHER WOULD
2 CARRY THROUGH WITH HIS THREATS, RIGHT?

3 A I BELIEVED HE WOULD.

4 Q IN FACT, DIDN'T YOUR FATHER THREATEN
5 YOU, YOU TELL US, TO TIE YOU TO A CHAIR AND BEAT YOU
6 TO DEATH?

7 A RIGHT.

8 Q AND YOU BELIEVED THAT HE WOULD DO THAT,
9 DIDN'T YOU?

10 A I KNEW HE WAS CERTAINLY CAPABLE OF IT.

11 Q DID YOU BELIEVE THAT IF YOU TOLD
12 SOMEONE, YOUR FATHER WOULD TIE YOU TO A CHAIR AND
13 BEAT YOU TO DEATH?

14 A TOLD ME THAT WHEN I WAS 12 AND I

15 BELIEVED IT. I -- WHEN I WAS ANXIOUS, I THOUGHT HE
16 WOULD KILL ME. I DIDN'T KNOW HOW HE WOULD DO IT. I
17 JUST -- I JUST FELT THAT HE WOULD.

18 Q BUT YOU KNEW, YOU BELIEVED -- WE'RE
19 TALKING ABOUT YOUR STATE OF MIND WHEN YOU WERE 18
20 YEARS OLD -- YOU WERE HAVING THIS CONVERSATION WITH
21 LYLE MENENDEZ, YOU BELIEVED AT THAT TIME THAT IF YOU
22 TOLD LYLE MENENDEZ ABOUT THE ABUSE, YOUR FATHER
23 WOULD BEAT YOU TO DEATH OR KILL YOU IN SOME WAY; IS
24 THAT CORRECT?

25 A YES.

26 Q OKAY. AND YOU ALSO BELIEVED THAT YOUR
27 FATHER WOULD KILL YOUR BROTHER, LYLE MENENDEZ; IS
28 THAT CORRECT?

44451

1 A RIGHT.

2 Q NOW, HOW'D YOU FEEL ABOUT LYLE MENENDEZ
3 WHEN YOU WERE HAVING THIS CONVERSATION WITH HIM ON
4 TUESDAY?

5 A I LOVED HIM TREMENDOUSLY. HE WAS THE
6 SINGLE MOST IMPORTANT PERSON IN MY LIFE.

7 Q AND DID YOU LOVE HIM ENOUGH,
8 MR. MENENDEZ, TO TELL HIM, BY THE WAY, MY FATHER
9 PREVIOUSLY TOLD ME THAT IF I WERE TO TELL SOMEONE

10 ABOUT THIS, HE WILL NOT ONLY KILL ME, BUT HE WILL

11 ALSO KILL THE PERSON THAT I TELL?

12 A I DID NOT TELL HIM THAT. I REGRETTED IT

13 LATER.

14 Q WHY NOT?

15 A I DID NOT DO IT BECAUSE I WAS AFRAID

16 THAT HE WOULD NOT HELP ME.

17 Q MR. MENENDEZ, IF YOUR FATHER WAS THIS

18 POWERFUL MAN THAT YOU TELL US, AND IF YOU WERE TRULY

19 IN FEAR OF YOUR FATHER BEATING YOU TO DEATH AND

20 BEATING YOUR BROTHER TO DEATH, WHY WOULDN'T YOU TELL

21 YOUR BROTHER OF THE DANGER INVOLVED?

22 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

23 THE COURT: SUSTAINED.

24 Q BY MR. CONN: WHY DIDN'T YOU TELL YOUR

25 BROTHER OF THE DANGER INVOLVED?

26 A BECAUSE I DIDN'T WANT MY BROTHER TO SAY,

27 MY LIFE'S GOING WELL, THIS IS A BAD SITUATION

28 BETWEEN YOU AND DAD. I'M ABOUT TO GO OFF TO

44452

1 PRINCETON. GOOD LUCK. I WAS AT A POINT WHERE HE

2 WAS MY LAST HOPE AND I WAS OUT OF OPTIONS AND I

3 NEEDED HIS HELP AND I FELT THAT IF I GAVE HIM THE

4 FULL STORY, I MIGHT NOT GET IT.

5 Q SO YOU WERE WILLING TO PUT YOUR BROTHER
6 IN A LIFE-THREATENING SITUATION AND NOT GIVE HIM ALL
7 THE FACTS SIMPLY SO PERHAPS HE COULD TALK YOUR
8 FATHER OUT OF ABUSING YOU?

9 A YOU'RE RIGHT.

10 Q IS THAT HOW MUCH YOU LOVED YOUR
11 BROTHER?

12 A AND I REGRETTED DOING IT, AND THAT'S WHY
13 I'M HERE TODAY, AND THAT'S WHY HE'S IN JAIL AND I'VE
14 DESTROYED HIS LIFE AS A RESULT. IT'S SOMETHING I
15 WISH I COULD HAVE GONE BACK AND NOT DONE.

16 Q YOU'RE HERE TODAY BECAUSE YOU KILLED
17 YOUR PARENTS; ISN'T THAT WHY YOU'RE HERE?

18 A THAT IS THE END OF WHAT HAPPENED.

19 Q YOU'RE NOT HERE TODAY BECAUSE OF A
20 CONVERSATION THAT YOU HAD WITH LYLE MENENDEZ ON
21 TUESDAY, ARE YOU?

22 A HAD I NOT HAD --

23 MR. LEVIN: OBJECTION AS ARGUMENTATIVE, YOUR
24 HONOR.

25 THE COURT: OVERRULED.

26 THE WITNESS: HAD I NOT HAD THE CONVERSATION
27 AND HAD I NOT GOTTEN MY BROTHER INTO THIS, I
28 WOULDN'T HAVE DESTROYED HIS LIFE.

1 Q BY MR. CONN: DID YOU THINK IT WAS FAIR
2 TO WARN YOUR BROTHER OF THE DANGER INVOLVED?

3 A IT'S WHAT I SHOULD HAVE DONE.

4 Q I'M NOT ASKING YOU WHAT YOU SHOULD HAVE
5 DONE. I'M SAYING AT THE TIME, MR. MENENDEZ, DID YOU
6 FEEL IT WAS FAIR TO WARN YOUR BROTHER OF THE DANGER
7 INVOLVED?

8 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

9 THE COURT: OVERRULED.

10 THE WITNESS: I DON'T KNOW WHAT YOU MEAN BY
11 FAIR. AT THE TIME I FELT THAT I PROBABLY SHOULD,
12 AND I WAS TRYING TO BY SAYING, DAD'S NOT GOING TO BE
13 TOO HAPPY ABOUT THIS. HE MIGHT NOT BE THRILLED THAT
14 YOU KNOW THIS STUFF, AND I WAS TRYING TO BE
15 FACETIOUS SO THAT HE WOULD UNDERSTAND THAT THERE'S
16 MORE OF A CONCERN. BUT HE WAS SO OPTIMISTIC THAT HE
17 WOULD HANDLE IT, THAT DAD WOULD LISTEN TO HIM AND
18 THAT HE WOULD TAKE CARE OF IT FOR ME. I DIDN'T WANT
19 TO BURST HIS BUBBLE. I WANTED TO BE INSIDE OF IT.

20 Q YOU DIDN'T WANT TO BURST HIS BUBBLE?

21 A HE WAS SO OPTIMISTIC AND I WANTED TO BE
22 A PART OF THAT OPTIMISM.

23 THE COURT: ALL RIGHT. LET'S TAKE OUR RECESS
24 AND WE'LL RESUME AT 10 MINUTES TO THE HOUR.

25 (A RECESS WAS TAKEN FROM

26 10:35 A.M. TO 11:00 A.M.)

1 THE COURT: OKAY, LET'S HAVE THE JURY OUT,
2 PLEASE.

3 (THE JURY ENTERS THE COURTROOM AND THE
4 FOLLOWING PROCEEDINGS WERE HELD:)

5

6 THE COURT: THE JURY IS BACK IN COURT. WE'LL
7 CONTINUE THE CROSS-EXAMINATION.

8 MR. CONN: THANK YOU.

9 Q. NOW, MR. MENENDEZ, IT WAS ON WEDNESDAY, THE
10 DAY AFTER THE ALLEGED HAIRPIECE INCIDENT, THAT YOU WENT
11 WITH YOUR BROTHER TO HAVE LUNCH SOMEWHERE; IS THAT
12 CORRECT?

13 A. YES.

14 Q. AND AT THAT TIME YOU HAD A CONVERSATION
15 WITH YOUR BROTHER IN WHICH HE SAID THAT HE HAD SPOKEN TO
16 YOUR MOTHER AND TOLD YOUR MOTHER THAT HE WANTED TO SPEAK
17 TO YOUR FATHER UPON HIS RETURN; IS THAT CORRECT?

18 A. RIGHT.

19 Q. AND NOW YOU TOLD US THAT YOUR MOTHER WAS A
20 VERY IRRATIONAL AND UNPREDICTABLE PERSON; IS THAT
21 CORRECT?

22 A. SHE WASN'T ALWAYS IRRATIONAL. SHE WAS
23 UNPREDICTABLE FOR SURE THOUGH.

24 Q. AND SHE WAS SOMETIMES IRRATIONAL?

25 A. YES.

26 Q. AND OTHER TIMES RATIONAL?

27 A. YES.

28 Q. WHEN WOULD SHE BE RATIONAL?

1 A. I DON'T KNOW HOW TO ANSWER THAT. SHE WOULD
2 BE RATIONAL. SHE WAS A -- SHE WAS MY MOTHER. I MEAN,
3 SHE RARELY WAS IRRATIONAL THROUGHOUT HER LIFE.

4 Q. YOU SAID SHE WAS IRRATIONAL; IS THAT
5 CORRECT?

6 A. MAYBE I MISUNDERSTOOD. SOMETIMES SHE WAS
7 IRRATIONAL, YES.

8 Q. AND SOMETIMES SHE WAS RATIONAL?

9 A. RIGHT.

10 Q. AND ON WHAT OCCASIONS WOULD SHE BE
11 IRRATIONAL RATHER THAN RATIONAL?

12 A. WHEN I THINK ABOUT IT, I THINK ABOUT IT IN
13 TERMS OF HER BEING DRUNK, OR I THINK OF IT IN TERMS OF
14 CHILDHOOD INCIDENCES WHERE SOMEONE HAD TO TAKE THE BLAME
15 FOR MY FATHER, AND THOSE ARE THE TIMES THAT I THINK
16 ABOUT.

17 Q. WHEN SHE CAME TO CALIFORNIA, WOULD YOU SAY
18 THAT SHE WAS RATIONAL MOST OF THE TIME?

19 A. YES.

20 Q. EXCEPT FOR THOSE OCCASIONS WHERE YOU FELT
21 THAT SHE WAS TRYING TO POISON THE FAMILY?

22 A. AND OTHER OCCASIONS WHEN SHE WAS VERY
23 SUICIDAL, EXTREMELY DEPRESSED, VERY ANGRY AT LIFE.

24 Q. NOW, DID YOU TELL YOUR -- DID YOU ASK YOUR
25 BROTHER WHAT WOULD HE HAVE TO GAIN BY TELLING YOUR

26 MOTHER THAT SHE -- THAT HE WANTED TO SPEAK TO YOUR
27 FATHER?

28 A. NO, I DIDN'T.

-21079

1 Q. DID THAT STRIKE YOU AS ODD, THAT HE WOULD
2 TELL YOUR MOTHER THAT HE WOULD WANT TO SPEAK TO YOUR
3 FATHER?

4 A. NO. IT CONCERNED ME. IT DIDN'T STRIKE ME
5 AS ODD.

6 Q. DID YOU SEE ANY REASON FOR YOUR BROTHER TO
7 TELL YOUR MOTHER THAT HE WANTED TO SPEAK TO YOUR FATHER
8 UPON HIS RETURN?

9 MR. LEVIN: CALLS FOR SPECULATION, YOUR HONOR.

10 THE COURT: OVERRULED.

11 THE WITNESS: HE DIDN'T TELL ME ABOUT THE
12 CONVERSATION HE HAD HAD, SO I DIDN'T KNOW.

13 Q. BY MR. CONN: MY QUESTION IS: DID YOU SEE
14 ANY REASON AT THE TIME FOR YOUR BROTHER TO HAVE TOLD
15 YOUR MOTHER THAT HE WANTED TO SPEAK TO YOUR FATHER UPON
16 HIS RETURN?

17 A. NO.

18 Q. AND YOU DIDN'T ASK HIM "WHAT DID YOU DO
19 THAT FOR, LYLE, YOU'RE JUST GOING TO TIP MY FATHER OFF
20 THAT SOMETHING IS UP"? "

21 A. I DIDN'T SAY THAT. I SAID OTHER THINGS.

22 Q. DID YOU THINK THAT?

23 A. NO. I WAS MORE CONCERNED ABOUT HOW MUCH HE
24 HAD TOLD HIM.

25 Q. NOW, IT WAS ON THURSDAY THAT YOUR FATHER
26 WAS TO BE CONFRONTED BY YOUR BROTHER; IS THAT CORRECT?

27 A. YES.

28 Q. NOW, WEDNESDAY WHEN YOU WERE HAVING LUNCH

-21078

1 WITH YOUR BROTHER, DID YOU TELL HIM ABOUT HOW DANGEROUS
2 A MAN YOUR FATHER WAS?

3 A. NO. AGAIN, I TRIED TO -- I TRIED TO WARN
4 HIM IN VAGUE TERMS, BUT I DID NOT REVEAL THE EXTENT OF
5 IT, NO.

6 Q. WHY DID YOU WANT TO KEEP IT VAGUE?

7 A. BECAUSE I DIDN'T WANT TO TELL HIM TOO MUCH
8 ABOUT IT. I DIDN'T WANT HIM TO LOSE HIS OPTIMISM, AND I
9 DIDN'T WANT HIM TO LEAVE.

10 Q. AND SO DID YOU DECIDE AT THAT POINT THAT
11 WHENEVER YOUR BROTHER TALKED TO YOUR FATHER YOU BETTER
12 BE NEARBY, BECAUSE FOR ALL YOU KNOW YOUR FATHER MIGHT
13 TRY TO KILL YOUR BROTHER AT THE TIME OF THAT
14 CONVERSATION?

15 A. IT'S JUST THE OPPOSITE. I WANTED TO BE AS
16 FAR AWAY AS I COULD BE.

17 Q. WHY? IF HE KILLED YOUR BROTHER SO YOU

18 COULD AT LEAST GET AWAY?

19 A. I THOUGHT IT MIGHT NOT GO WELL. IT MIGHT
20 BE AN EXPLOSION, AND I WANTED TO BE AWAY FROM THE HOUSE.

21 Q. SO THAT YOU COULD SAVE YOURSELF?

22 A. RIGHT.

23 Q. AND SO WERE YOU PLANNING ON WAITING UNTIL
24 YOU SPOKE TO LYLE TO MAKE SURE HE WAS ALIVE AFTER THE
25 CONVERSATION?

26 A. I DIDN'T THINK HE WOULD BE DEAD. I DIDN'T
27 KNOW WHAT WAS GOING TO HAPPEN. LYLE WAS TELLING ME
28 THINGS WERE GOING TO GO WELL, SO I WAS CAUTIOUS AND

-21077

1 HOPEFUL.

2 Q. MR. MENENDEZ, IN LIGHT OF EVERYTHING THAT
3 YOUR FATHER ALLEGEDLY TOLD YOU AND DID TO YOU, WHY
4 DIDN'T YOU THINK YOUR FATHER WOULD KILL YOUR BROTHER
5 RIGHT ON THE SPOT THURSDAY NIGHT?

6 A. I JUST DIDN'T THINK THAT. I MEAN, THERE
7 WAS NO QUESTION THAT MY DAD SAID THESE THINGS TO ME AND
8 MEANT THEM. MY BROTHER HAD A RELATIONSHIP WITH MY
9 FATHER THAT I DIDN'T HAVE. HE SEEMED TO HAVE A -- THE
10 ABILITY TO TALK TO DAD IN WAYS THAT I NEVER COULD, AND I
11 JUST BELIEVED THAT -- I WAS HOPEFUL THAT IT WOULD BE
12 SUCCESSFUL AND THINGS WOULD WORK OUT. I WAS WORRIED
13 THAT THEY WOULDN'T.

14 Q. WELL, WHEN YOU SAY THAT YOUR FATHER GOT
15 ALONG -- THAT YOUR BROTHER GOT ALONG BETTER WITH YOUR
16 FATHER THAN YOU DID, THAT'S ONLY BECAUSE YOUR BROTHER
17 HAD NEVER CONFRONTED HIM THE WAY THAT HE WAS PLANNING ON
18 CONFRONTING HIM ON THURSDAY; IS THAT CORRECT?

19 A. NO. APPARENTLY HE HAD CONFRONTED HIM
20 EARLIER IN LIFE.

21 Q. AND DID YOU KNOW THAT?

22 A. I KNEW MY FATHER HAD BEATEN ME UP AS A
23 RESULT OF IT. I DON'T KNOW IF I KNEW THAT THEN, OR IF
24 LYLE TOLD ME AFTERWARDS.

25 Q. SO, YOU DIDN'T KNOW AT THE TIME THAT YOU
26 HAD THE CONVERSATION WITH YOUR BROTHER AT THE RESTAURANT
27 ON WEDNESDAY THAT YOUR BROTHER HAD EVER CONFRONTED YOUR
28 FATHER ABOUT SEXUALLY MOLESTING YOU?

-21076

1 A. I BELIEVE THAT HE HAD. WHETHER OR NOT I
2 KNEW IT FOR CERTAIN UNTIL AFTERWARDS, I AM NOT SURE.
3 BUT I HAD GOTTEN -- MY DAD HAD -- HAD PUNISHED ME
4 SEVERELY FOR WHAT HE FELT LYLE WAS TELLING HIM, SO I
5 BELIEVE THAT LYLE HAD DONE THIS AND HAD CONFRONTED HIM
6 THEN, BUT I DIDN'T KNOW FOR CERTAIN.

7 Q. WELL, IT WAS AFTER THAT EARLY CONFRONTATION
8 DURING YOUR YOUTH BETWEEN YOUR BROTHER AND YOUR FATHER
9 THAT YOUR FATHER BEGAN TO THREATEN YOU THAT IF YOU EVER

10 TOLD ANYONE HE WOULD KILL YOU; IS THAT CORRECT?

11 A. RIGHT.

12 Q. AND YOU BELIEVED THAT TO BE TRUE?

13 A. I DID.

14 Q. AND YOU BELIEVED THAT HE WOULD ALSO KILL

15 THE PERSON THAT YOU TOLD IT TO; IS THAT CORRECT?

16 A. YES.

17 Q. SO, WHEN YOU THOUGHT THAT YOUR BROTHER WAS

18 GOING TO HAVE THE CONVERSATION WITH YOUR FATHER ON

19 THURSDAY NIGHT, DID YOU DECIDE THAT YOU WOULD THEN CALL

20 IN TO YOUR HOME TO FIND OUT IF YOUR BROTHER WAS STILL

21 ALIVE BEFORE RETURNING HOME ON THURSDAY NIGHT?

22 A. NO. I DIDN'T THINK THAT I WOULD BE ABLE TO

23 CALL IN. MY DAD MAY VERY WELL PICK UP THE LINE. I JUST

24 KNEW HE WAS GOING TO BE HOME.

25 Q. BUT YOU WERE GOING HOME NOT KNOWING WHETHER

26 YOUR BROTHER HAD ALREADY BEEN KILLED BY YOUR FATHER OR

27 NOT; IS THAT CORRECT?

28 A. I DIDN'T BELIEVE THAT MY FATHER WOULD JUST

-21075

1 KILL MY BROTHER ON THE SPOT. I DIDN'T KNOW WHAT WOULD

2 HAPPEN. I WAS CONCERNED ABOUT IT. I FELT THAT HE WOULD

3 GET -- HE WOULD BLOW UP AND GET EXTREMELY ANGRY, AND I

4 WAS HOPING THAT IT WOULD WORK OUT. I DIDN'T KNOW WHAT

5 WOULD HAPPEN.

6 Q. WHY DIDN'T YOU THINK YOUR FATHER WOULD KILL
7 YOUR BROTHER ON THE SPOT?

8 A. I DON'T KNOW. I JUST DIDN'T THINK THAT.

9 Q. YOU HAVE NO ANSWER FOR THAT, MR. MENENDEZ?

10 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
11 ARGUMENTATIVE, AND ALSO WOULD CALL FOR SPECULATION.

12 THE COURT: ALL RIGHT. HE'S ANSWERED THE
13 QUESTION.

14 Q. BY MR. CONN: DID YOU THINK THROUGH THE
15 IMPLICATIONS OF THE STORY THAT YOU TOLD THE JURY; THAT
16 IS, YOUR FATHER WAS A DANGEROUS MAN WHO HAD THREATENED
17 YOUR LIFE AND THE LIFE OF THE PERSON THAT YOU TOLD --

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

19 THE COURT: SUSTAINED.

20 Q. BY MR. CONN: ON WEDNESDAY AS YOU WERE
21 SITTING THERE HAVING LUNCH WITH YOUR BROTHER, DID YOU
22 THINK THROUGH WHAT YOU HAVE TOLD US HERE IN COURT; THAT
23 YOUR FATHER WAS A MAN WHO HAD THREATENED TO KILL ANYONE
24 THAT YOU TOLD THE SECRET TO?

25 A. ON WEDNESDAY DID I THINK THROUGH IT?

26 Q. YES, ON WEDNESDAY.

27 A. ON WEDNESDAY I WAS CONCERNED WHAT WOULD
28 HAPPEN. I WAS HOPING THAT GOOD THINGS WOULD HAPPEN.

1 THE ALTERNATIVE WAS ME NOT LIVING ANYWAY, SO IT -- IT

2 WAS MY ONLY OPTION, AND I WAS HOPEFUL THAT IT WOULD WORK
3 OUT.

4 Q. THE QUESTION WAS DID YOU THINK THROUGH THE
5 IMPLICATIONS THAT YOUR FATHER SAID THAT HE WOULD KILL
6 ANYONE THAT YOU TOLD THE SECRET TO.

7 NOW, YOUR BROTHER WAS GOING TO MEET WITH
8 YOUR FATHER THURSDAY NIGHT; IS THAT CORRECT?

9 A. YES.

10 Q. AND DID YOU PUT THAT TOGETHER AND SAY
11 THEREFORE MY FATHER MIGHT KILL MY BROTHER THURSDAY
12 NIGHT?

13 DID YOU PUT THAT TOGETHER?

14 A. I'M NOT SURE THAT I PUT THAT TOGETHER AT
15 THAT TIME, THAT HE MIGHT KILL LYLE THURSDAY NIGHT.

16 Q. WHY NOT?

17 MR. LEVIN: OBJECTION. THAT WOULD CALL FOR
18 SPECULATION.

19 THE COURT: OVERRULED.

20 THE WITNESS: MAYBE I DIDN'T WANT TO THINK ABOUT
21 IT. I DON'T KNOW WHY.

22 Q. BY MR. CONN: IS THAT BECAUSE YOU'RE MAKING
23 THIS UP AND NONE OF THIS EVER TOOK PLACE?

24 MR. LEVIN: ARGUMENTATIVE, YOUR HONOR.

25 THE WITNESS: EVERYTHING I AM SAYING HAPPENED --

26 THE COURT: OVERRULED.

27 THE WITNESS: -- HAPPENED.

28 Q. BY MR. CONN: NOW, YOU SAID THAT YOU BECAME

1 ALARMED WHEN YOU HEARD THAT YOUR FATHER WAS LATE

2 ARRIVING HOME THURSDAY NIGHT; IS THAT CORRECT?

3 A. I DON'T KNOW WHETHER I SAID I WAS ALARMED

4 OR NOT. I CONTINUALLY CALLED IN, AND MY BROTHER TOLD ME

5 HE WAS ARRIVING LATER AND LATER AND LATER.

6 Q. NOW, YOU DIDN'T WANT TO BE PRESENT AT THE

7 TIME THAT YOUR BROTHER HAD THE CONVERSATION WITH YOUR

8 FATHER FOR WHAT REASON?

9 A. BECAUSE I FELT MY FATHER WOULD GET

10 EXTREMELY ANGRY AND MIGHT WANT TO CONFRONT ME.

11 Q. AND DO WHAT?

12 A. I DIDN'T KNOW, BUT I DIDN'T WANT TO BE

13 AROUND FOR IT.

14 Q. DID YOU THINK THAT HE WOULD THEN COOL DOWN

15 IF YOU WERE NOT PRESENT AND IT WOULD THEN BE SAFE FOR

16 YOU TO RETURN HOME?

17 A. I DIDN'T THINK ABOUT THAT.

18 Q. DID YOU THINK IT WOULD BE SAFER IF YOU

19 ARRIVED AFTER HE HAD THE CONVERSATION WITH YOUR BROTHER

20 THAN IF YOU WERE PRESENT WHILE HE HAD THE CONVERSATION

21 WITH YOUR BROTHER?

22 A. I DIDN'T KNOW IF IT WOULD BE SAFER, BUT I

23 KNEW I FELT MUCH MORE COMFORTABLE NOT BEING IN THE

24 HOUSE.

25 Q. WHY?

26 A. BECAUSE I DIDN'T WANT TO BE THERE WHEN MY

27 BROTHER TOLD MY DAD THAT HE KNEW ABOUT THIS -- THIS
28 UNBELIEVABLE SECRET, AND I DIDN'T WANT TO BE THERE. MY

-21072

1 DAD WOULD SUDDENLY FOCUS ON ME AND COME AFTER ME. I
2 DIDN'T WANT TO BE THERE.

3 Q. DIDN'T YOU THINK YOUR FATHER WOULD BE
4 EQUALLY ANGRY WHEN YOU RETURNED HOME A HALF HOUR LATER
5 OR AN HOUR LATER?

6 A. IT DEPENDED HOW THE CONVERSATION WITH LYLE
7 WENT.

8 Q. BUT ASSUMING HE WAS ANGRY, WHICH IS WHAT
9 YOU'RE ASSUMING, THAT HE WOULD BE ANGRY WHEN HE SPOKE TO
10 YOUR BROTHER, DIDN'T IT SEEM REASONABLE THAT HE WOULD BE
11 EQUALLY ANGRY WHEN YOU RETURNED HOME AN HOUR OR A HALF
12 HOUR LATER?

13 A. I DIDN'T KNOW THAT DAD WAS GOING TO BE
14 ANGRY. LYLE SAID AND WAS CERTAIN IN HIS EYES THAT
15 THINGS WOULD WORK OUT, AND I WAS LIVING OFF THAT
16 OPTIMISM.

17 Q. WELL THEN, WHY DIDN'T YOU WANT TO BE
18 PRESENT AT THE TIME THAT THIS CONFRONTATION TOOK PLACE?

19 A. BECAUSE I WASN'T AS OPTOMISTIC AS LYLE WAS.

20 Q. AND YOU BELIEVED THAT THERE MIGHT BE A
21 VIOLENT REACTION FROM YOUR FATHER; IS THAT CORRECT?

22 A. I THOUGHT THERE MIGHT.

23 Q. AND DIDN'T YOU CONCLUDE THAT IF THERE WAS
24 GOING TO BE A VIOLENT REACTION FROM YOUR FATHER WHEN --
25 IF YOU WERE AROUND, THERE WAS PROBABLY GOING TO BE A
26 VIOLENT REACTION FROM YOUR FATHER WHEN YOU RETURNED A
27 HALF HOUR OR AN HOUR LATER?

28 A. I FELT THERE MIGHT BE.

-21071

1 Q. OKAY. AND SO DID YOU DECIDE THEN THAT IT
2 WOULD BE BETTER TO CALL TO LYLE BEFORE YOU RETURNED HOME
3 THURSDAY NIGHT?

4 A. NO.

5 Q. DIDN'T YOU WANT ADVANCE NOTICE AS TO HOW
6 ANGRY YOUR FATHER WAS, OR WHETHER IN FACT YOUR BROTHER
7 WAS STILL ALIVE?

8 A. YES, I DID.

9 Q. AND SO WHY DIDN'T YOU CALL IN AND SPEAK TO
10 YOUR BROTHER, LYLE, BEFORE COMING HOME?

11 A. BECAUSE THE PHONES RANG ON ALL LINES, AND I
12 WOULDN'T JUST BE ABLE TO SPEAK TO LYLE. MY MOM OR MY
13 DAD MAY PICK UP THE PHONE. I WASN'T GOING TO CALL HOME.
14 I WAS JUST GOING TO GO HOME AND TALK TO LYLE MYSELF.

15 Q. DIDN'T YOU WANT TO FIND OUT IF HE WAS STILL
16 ALIVE BEFORE YOU CAME HOME?

17 A. I DIDN'T THINK HE WAS DEAD.

18 Q. AND YOU HAD NO REASON TO KNOW EITHER WAY;

19 IS THAT WHAT YOU'RE TELLING US?

20 A. I DON'T UNDERSTAND WHAT YOU MEAN.

21 Q. SO, YOU DON'T RECALL WHETHER OR NOT YOU

22 BECAME ALARMED ABOUT YOUR FATHER BEING LATE RETURNING

23 FROM HIS TRIP ON THURSDAY?

24 A. I DON'T RECALL EVER SAYING THAT.

25 Q. OKAY. SO, YOU -- AS FAR AS YOU RECALL

26 TODAY, THERE WAS -- YOU FELT NO SENSE OF ALARM ABOUT THE

27 FACT THAT YOUR FATHER WAS LATE RETURNING FROM HIS TRIP

28 ON THURSDAY; IS THAT CORRECT?

-21070

1 A. I WAS ANXIOUS THROUGHOUT THE ENTIRE DAY,

2 AND THE FACT THAT THE FLIGHT KEPT GETTING DELAYED, IT

3 JUST MADE MY ANXIETY BUILD AND BUILD, BECAUSE THE HOURS

4 WERE GOING BY AND I WAS STILL ANXIOUS.

5 Q. BUT THERE WAS NOTHING ABOUT YOUR FATHER

6 RETURNING LATE ON THURSDAY THAT CAUSED YOU SOME

7 ADDITIONAL CONCERN, WAS THERE?

8 A. NO.

9 Q. AND YOU NEVER HAD ANY CONVERSATIONS WITH

10 YOUR BROTHER ON THURSDAY ABOUT THE FACT THAT YOUR FATHER

11 BEING LATE THAT DAY CAUSED EITHER YOU OR YOUR BROTHER

12 ANY ADDITIONAL CONCERN; IS THAT CORRECT?

13 A. YOU MEAN WHEN I CALLED HOME AND SPOKE TO

14 LYLE ON THE PHONE?

15 Q. YES. HOW MANY TIMES DID YOU CALL HOME AND

16 SPEAK TO YOUR BROTHER, LYLE?

17 A. SEVERAL TIMES.

18 Q. EVEN THOUGH IT WOULD BE PICKED UP ON THE

19 SAME LINE THAT YOUR MOTHER CAN PICK IT UP?

20 A. YES.

21 Q. AND WHY WOULD YOU BE WILLING TO DO THAT IF

22 YOUR MOTHER COULD PICK UP THE PHONE?

23 A. BECAUSE MY DAD WASN'T HOME, AND WHEN SHE

24 PICKED UP THE PHONE ONE TIME I HUNG UP. BUT MY DAD

25 WASN'T HOME, SO I WAS WILLING TO DO THAT.

26 Q. AND WHAT CONVERSATIONS DID YOU HAVE WITH

27 YOUR BROTHER WHEN YOU SPOKE TO HIM ON THURSDAY WHEN YOU

28 CALLED HOME?

-21069

1 A. JUST THE FACT THAT DAD'S FLIGHT WAS GETTING

2 DELAYED LATER AND LATER, AND HE DIDN'T KNOW WHY. HE

3 DIDN'T KNOW WHAT THAT MEANT.

4 Q. AND DID EITHER YOU OR YOUR BROTHER EXPRESS

5 TO EACH OTHER ANY ALARM CONCERNING THAT?

6 A. I DIDN'T KNOW WHAT IT MEANT. I DON'T KNOW

7 WHETHER IT CONCERNED ME. I MEAN, I DIDN'T KNOW WHAT IT

8 MEANT. DAD'S FLIGHT WAS SUPPOSED TO BE HOME. HE WAS

9 SUPPOSED TO BE HOME AT 6:00. SUDDENLY IT'S GETTING

10 8:00, 9:00, 10:00 O'CLOCK, 11:00 O'CLOCK AT NIGHT, AND

11 OBVIOUSLY MY ANXIETY IS INCREASING.

12 Q. YOU HAVE HEARD OF PLANES BEING LATE BEFORE,
13 HAVEN'T YOU?

14 A. YES.

15 Q. SO IT DIDN'T NECESSARILY MEAN ANYTHING, IT
16 JUST MEANT A LATE PLANE; IS THAT CORRECT?

17 A. IT DIDN'T NECESSARILY MEAN ANYTHING,
18 EXACTLY.

19 Q. AND SO YOU WEREN'T PARTICULARLY CONCERNED
20 JUST BECAUSE THE FLIGHT WAS LATE, WERE YOU?

21 A. I DIDN'T KNOW WHAT IT MEANT, HIM ARRIVING
22 LATER THAN HE WAS SUPPOSED TO, AND WHY A PLANE WOULD GET
23 DELAYED SIX HOURS.

24 Q. BUT AT LEAST YOU NEVER EXPRESSED ANY ALARM
25 TO YOUR BROTHER ABOUT THE FACT THAT THE PLANE WAS LATE;
26 IS THAT CORRECT?

27 A. THE WORD "ALARM," I DON'T KNOW WHAT YOU
28 MEAN BY THAT.

-21068

1 Q. CONCERN?

2 A. OBVIOUSLY LYLE AND I TALKED ABOUT -- WELL,
3 AT LEAST I WOULD ASK LYLE "WHAT DOES IT MEAN, WHY IS HE
4 NOT HOME YET? WHY IS HE GETTING HOME LATER AND LATER?
5 WHAT INFORMATION DID YOU GET FROM MOM," THESE TYPES OF
6 THINGS.

7 Q. DID YOU EXPRESS ANY CONCERN TO YOUR BROTHER
8 ABOUT THE PLANE BEING LATE?

9 A. I EXPRESSED WHAT I JUST SAID.

10 Q. DID YOUR BROTHER EXPRESS ANY CONCERN TO
11 YOUR ABOUT THE PLANE BEING LATE?

12 A. I DON'T REMEMBER.

13 Q. AND WHEN YOU EXPRESSED YOUR CONCERN TO YOUR
14 BROTHER, DID YOUR BROTHER SAY TO YOU "HEY, SOMETIMES
15 PLANES ARE JUST LATE. WHAT'S THE BIG DEAL"?

16 A. I AM SURE HE BROUGHT THAT UP -- OR HE
17 BROUGHT THAT UP, "MAYBE HIS PLANE IS JUST LATE."

18 Q. AND IS THAT THE WAY YOU LEFT IT, PERHAPS
19 HIS PLANE IS JUST LATE?

20 A. WE LEFT IT AT "MY DAD'S GOING TO BE HOME AT
21 THIS TIME, SO WHEN ARE YOU GOING TO ARRIVE," AND I SAID
22 ABOUT AN HOUR LATER.

23 Q. BUT AS FAR AS THE PLANE BEING LATE IS
24 CONCERNED, DID YOU FIND IT RESOLVED THAT IT'S JUST A
25 PLANE BEING LATE, NOTHING TO WORRY ABOUT?

26 A. I DON'T REMEMBER. IT WASN'T A CONCERN THAT
27 NIGHT. MY DAD'S PLANE HAD NOTHING TO DO WITH IT.

28 Q. AND WHEN YOU CALLED IN, WHAT LINE DID YOU

-21067

1 CALL IN ON?

2 A. I DON'T REMEMBER.

3 Q. NOW, YOU HAD A TELEPHONE LINE THAT WAS
4 SEPARATE FROM YOUR PARENTS' TELEPHONE LINE?

5 A. RIGHT. THERE WERE THREE LINES IN THE
6 HOUSE.

7 Q. AND YOUR BROTHER HAD A TELEPHONE LINE THAT
8 WAS SEPARATE FROM YOUR PARENTS' LINE?

9 A. IT WASN'T THE SAME NUMBER, IF THAT'S WHAT
10 YOU MEAN.

11 Q. IT WAS THREE DIFFERENT TELEPHONE NUMBERS,
12 CORRECT?

13 A. RIGHT.

14 Q. ONE TELEPHONE NUMBER FOR YOUR PARENTS, ONE
15 FOR YOU, ONE FOR YOUR BROTHER; IS THAT CORRECT?

16 A. NO. IT WAS ONE FOR THE MAIN HOUSE WHERE
17 EVERYONE WOULD CALL IN TO, AND THEN THERE WAS A THIRD
18 LINE THAT WOULD SPECIFICALLY GO INTO MY BEDROOM, BUT
19 ALSO WENT THROUGHOUT THE HOUSE, AND THERE WAS ANOTHER
20 LINE THAT ALSO WENT INTO THE GUESTHOUSE.

21 Q. BUT THEY WERE ALL UNDER THE SAME TELEPHONE
22 NUMBER?

23 A. NO -- I DON'T KNOW. I DON'T REMEMBER THE
24 TELEPHONE NUMBERS. THERE WERE THREE DIFFERENT NUMBERS.

25 Q. SO YOU HAD YOUR OWN TELEPHONE NUMBER; IS
26 THAT CORRECT?

27 A. EITHER IT WAS GIVEN TO ME, OR I ASSUMED THE
28 NUMBER. IN ONE WAY OR ANOTHER THAT'S WHERE MY FRIENDS

1 USUALLY CALLED IN, ON THIS LINE.

2 Q. AND YOUR BROTHER HAD HIS OWN TELEPHONE

3 NUMBER; IS THAT CORRECT?

4 A. RIGHT.

5 Q. AND THAT'S BECAUSE YOU AND YOUR BROTHER

6 WANTED A MEASURE OF PRIVACY, AND THAT WAS SOMETHING THAT

7 YOUR PARENTS PROVIDED YOU; IS THAT CORRECT?

8 A. I DON'T KNOW IF THAT WAS THE REASON. IT'S

9 JUST THAT IT WAS MUCH EASIER THAT -- WITH ALL OF US

10 LIVING AT THE HOUSE AND PHONES COMING IN -- TELEPHONE

11 CALLS COMING IN.

12 Q. SO, THURSDAY NIGHT YOU WENT HOME NOT

13 KNOWING WHETHER OR NOT YOUR BROTHER HAD HAD A

14 CONVERSATION WITH YOUR FATHER; IS THAT CORRECT?

15 A. RIGHT.

16 Q. AND NOT KNOWING WHETHER YOUR BROTHER HAD

17 BEEN INJURED IN ANY WAY BY YOUR FATHER; IS THAT CORRECT?

18 A. RIGHT.

19 Q. AND SO WHAT WAS THE FIRST THING THAT YOU

20 DID WHEN YOU GOT HOME ON THURSDAY NIGHT?

21 A. I WENT AROUND THE SIDE OF THE HOUSE TO TAKE

22 A LOOK AT THE GUESTHOUSE AND SEE IF MY BROTHER WAS STILL

23 IN THERE. I HAD ALREADY LOOKED INSIDE THE STUDY AND NO

24 ONE WAS IN THERE, SO THE CONVERSATION HAD ENDED BY THEN.

25 Q. YOU PARKED IN THE FRONT?

26 A. YES.

27 Q. IS THAT WHERE YOU NORMALLY PARKED?

28 A. YES.

-21065

1 Q. WHERE DID YOUR BROTHER NORMALLY PARK?

2 A. HIS CAR WAS CONSTANTLY IN THE SHOP. IT WAS

3 A BAD -- IT HAD A BAD TRANSMISSION, AND SO HE JUST LEFT

4 IT IN THE MAIN -- IN FRONT OF THE HOUSE.

5 Q. WHAT TYPE OF CAR DID YOUR BROTHER DRIVE?

6 A. AN ALFA ROMERO.

7 Q. I'M SORRY?

8 A. AN ALFA ROMERO.

9 Q. AND WHAT TYPE OF CAR DID YOU DRIVE?

10 A. A FORD ESCORT.

11 Q. WHAT YEAR?

12 A. 1987 OR '88.

13 Q. SO YOU PARKED IN THE FRONT AND YOU LOOKED

14 IN THE STUDY TO SEE IF YOUR BROTHER WAS HAVING A

15 CONVERSATION WITH YOUR FATHER?

16 A. RIGHT, YES.

17 Q. AND WHEN YOU SAY THAT THERE WAS NO SUCH --

18 THERE WAS NO ONE PRESENT IN THE STUDY, YOU THEN WENT

19 AROUND THE SIDE OF THE HOUSE TO CHECK ON YOUR BROTHER IN

20 THE GUESTHOUSE; IS THAT CORRECT?

21 A. YES.

22 Q. AND WHAT DID YOU SEE WHEN YOU GOT TO THE

23 GUESTHOUSE?

24 A. THE MAIN LIGHTS WERE OFF.
25 Q. WHICH LIGHTS?
26 A. THE MAIN LIGHTS. THE BOTTOM LIGHTS WERE
27 OFF, AND THE LIGHT IN THE FRONT ROOM WAS OFF. I SAW
28 THAT IT WAS DARK.

-21064

1 Q. SAW NO LIGHTS WHATSOEVER FROM INSIDE THE
2 GUESTHOUSE; IS THAT CORRECT?
3 A. RIGHT. I SAW THAT THE LIGHTS ARE OFF. I
4 REMEMBER -- I HAVE AN IMAGE OF JUST THE GUESTHOUSE BEING
5 DARK.

6 Q. DO YOU REMEMBER THAT IT -- DO YOU BELIEVE
7 THAT YOUR BROTHER WAS NOT HOME AT THE TIME; IS THAT
8 CORRECT?

9 A. I BELIEVED AT THAT POINT THAT HE WAS NOT IN
10 THE GUESTHOUSE. I BELIEVED THAT HE WAS HOME. HIS CAR
11 WAS IN THE DRIVEWAY. I THOUGHT HE MIGHT BE HAVING THE
12 CONVERSATION MAYBE SOMEPLACE ELSE IN THE HOUSE WITH MY
13 FATHER, OR WAS IN MY ROOM WAITING FOR ME, OR HAD LEFT A
14 MESSAGE IN MY ROOM.

15 Q. BUT YOU BELIEVED THAT HE WAS STILL ALIVE AT
16 THAT POINT; IS THAT CORRECT?

17 A. YES.

18 Q. AND YOU BELIEVE YOUR FATHER DID NOT CARRY
19 THROUGH -- DID YOU BELIEVE THAT THE CONVERSATION TOOK

20 PLACE BY THAT POINT?

21 A. I WASN'T SURE, BUT I WAS HOPING THAT LYLE
22 HAD FINALLY GOTTEN IT OVER WITH AND TOLD MY FATHER SO
23 THAT I COULD FIND OUT WHAT THE RESULTS WERE GOING TO BE.

24 Q. DID YOU CONSIDER AT THAT POINT PERHAPS THE
25 CONVERSATION TOOK PLACE AND YOUR FATHER HAD KILLED YOUR
26 BROTHER?

27 A. NO, I DIDN'T REALLY THINK THAT.

28 Q. YOU DIDN'T TAKE THAT -- THOSE THREATS

-21063

1 SERIOUSLY?

2 A. THE THREATS WERE SERIOUS AND HE MEANT THEM,
3 BUT I DIDN'T BELIEVE HE WOULD JUST KILL MY BROTHER AND
4 STAB HIM WITH A KNIFE AS SOON AS LYLE TOLD HIM THIS.
5 THAT WASN'T GOING TO HAPPEN.

6 Q. BECAUSE YOU ALWAYS CONTEMPLATED THAT IF
7 YOUR FATHER WAS GOING TO KILL SOMEONE, HE WOULD GIVE
8 THEM ADVANCE NOTICE?

9 A. NO. MY FATHER TOLD ME JUST THE OPPOSITE
10 ABOUT THAT.

11 Q. WHAT WOULD HE DO?

12 A. HE -- HE WOULD TALK AT THE DINNER TABLE AND
13 TEACH ABOUT THE ROMANS AND THE BATTLES THAT THEY WOULD
14 HAVE, AND HOW THEY WOULD CARRY THEM OUT, AND HE TALKED
15 ABOUT HOW YOU LURE SOMEONE IN TO THINK THAT IT'S SAFE,

16 AND THEN THAT'S WHEN -- THAT'S WHEN HE ATTACKS.

17 Q. AND IN LIGHT OF THAT CONVERSATION, DID YOU
18 THEN CONSIDER THE POSSIBILITY THAT THURSDAY NIGHT YOUR
19 FATHER HAD ALREADY KILLED YOUR BROTHER?

20 A. NO. THIS IS A CONVERSATION THAT HAPPENED
21 WHEN I WAS IN PENNINGTON.

22 Q. WHAT DOES THAT HAVE TO DO WITH YOUR BELIEF
23 THAT NIGHT?

24 A. YOU JUST ASKED ME -- I WAS JUST TRYING TO
25 ANSWER YOUR QUESTION.

26 Q. DID IT IMPACT UPON YOUR BELIEF THAT NIGHT
27 IN ANY WAY?

28 A. THAT NIGHT? NO.

-21062

1 Q. DID IT CAUSE YOU TO BELIEVE THAT YOUR
2 FATHER WOULD TAKE PEOPLE BY SURPRISE IF HE WERE TO KILL
3 THEM?

4 A. I DON'T UNDERSTAND THE QUESTION.

5 Q. DID THAT CONVERSATION THAT YOUR FATHER HAD
6 WITH YOU WHEN YOU WERE VERY YOUNG CAUSE YOU TO BELIEVE
7 THAT JOSE MENENDEZ WOULD TAKE PEOPLE BY SURPRISE WHEN HE
8 WAS GOING TO KILL THEM, RATHER THAN GIVE THEM ADVANCE
9 NOTICE BEFORE HE WOULD KILL THEM?

10 A. HE SAID THAT -- HE DID THAT IN BUSINESS,
11 AND HE WOULD BE VERY NICE WITH SOMEONE IN THE OFFICE

12 AND --

13 Q. I AM TALKING ABOUT KILLING.

14 MR. LEVIN: OBJECTION, YOUR HONOR. THE WITNESS
15 HAS NOT ANSWERED THE QUESTION.

16 THE COURT: WELL, HE IS NOT RESPONDING TO THE
17 QUESTION EITHER, SO THE ANSWER IS STRICKEN.

18 Q. BY MR. CONN: DID YOU BELIEVE THAT WHEN
19 YOUR FATHER WOULD KILL SOMEONE HE WOULD TAKE THEM BY
20 SURPRISE, OR HE WOULD GIVE THEM SOME TIME BEFORE HE
21 WOULD KILL THEM?

22 A. I DON'T KNOW IF TIME IS THE RIGHT WORD, BUT
23 HE JUST SAID THAT WHEN YOU DO ANYTHING IN LIFE TO GET
24 THE BEST ADVANTAGE, WHETHER IT BE IN BUSINESS OR ON THE
25 TENNIS COURT, OR JUST HIS LESSON IN LIFE IS TO BASICALLY
26 TO DO THAT.

27 Q. MR. MENENDEZ, I AM FOCUSING ON YOUR BELIEF
28 AS TO WHETHER OR NOT YOUR FATHER WOULD KILL YOUR

-21061

1 BROTHER. SO MY QUESTION PERTAINS ONLY TO YOUR BELIEF
2 CONCERNING WHETHER OR NOT LYLE MENENDEZ WAS STILL ALIVE
3 THURSDAY NIGHT.

4 NOW, DID YOU BELIEVE THAT YOUR FATHER WOULD
5 GIVE LYLE MENENDEZ SOME TIME TO GET AWAY AFTER HE
6 CONFRONTED YOUR FATHER ABOUT THE ABUSE?

7 A. I DIDN'T KNOW, BUT I WAS READY FOR

8 ANYTHING.

9 Q. AND YOU WERE READY FOR THE POSSIBILITY WHEN
10 YOU WENT HOME THURSDAY NIGHT THAT PERHAPS YOUR BROTHER
11 WAS ALREADY DEAD?

12 A. HAD THAT HAPPENED, I WOULD HAVE DIED, TOO,
13 AND I -- I BELIEVE THAT ANYTHING COULD HAVE HAPPENED.
14 WITH MY FATHER, ANYTHING WAS POSSIBLE.

15 Q. OKAY. WHAT I'M ASKING YOU IS WERE YOU
16 READY FOR THAT POSSIBILITY?

17 A. I DON'T KNOW WHAT YOU MEAN BY READY. DID I
18 BELIEVE THAT IT WAS ONE OF THE POSSIBILITIES? I DON'T
19 REMEMBER THINKING IT, BUT I -- I'M SURE THAT I DID.

20 Q. OKAY. SO HAVING THOUGHT ABOUT THAT
21 POSSIBILITY THEN, DID YOU ENTER YOUR HOME ARMED OR
22 UNARMED?

23 A. I DON'T KNOW IF I THOUGHT ABOUT THAT
24 POSSIBILITY.

25 Q. DIDN'T YOU JUST TELL US THAT YOU DID?

26 A. I SAID I PROBABLY -- IT ENTERED MY MIND
27 ALONG WITH A LOT OF OTHER POSSIBILITIES OF WHAT MIGHT
28 HAPPEN AS A RESULT OF THIS CONVERSATION.

-21060

1 Q. RIGHT. SO HAVING THOUGHT ABOUT IT --

2 MR. LEVIN: OBJECTION, YOUR HONOR. THE WITNESS
3 WAS CUT OFF.

4 THE COURT: LET'S FINISH YOUR ANSWER, PLEASE.

5 THE WITNESS: AND SO I ENTERED MY HOUSE. I WAS
6 NOT ARMED.

7 Q. BY MR. CONN: AND HAVING THOUGHT ABOUT THAT
8 POSSIBILITY, THAT PERHAPS YOUR BROTHER WAS DEAD, WHY DID
9 YOU FEEL YOU COULD ENTER YOUR HOUSE UNARMED, KNOWING
10 THAT PERHAPS YOUR FATHER HAD ALREADY KILLED YOUR
11 BROTHER?

12 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE AND
13 MISSTATES HIS TESTIMONY. HE DOES NOT REMEMBER THINKING
14 THAT.

15 THE COURT: OVERRULED.

16 THE WITNESS: AT THAT POINT IF MY DAD KILLED MY
17 BROTHER, WHAT WAS I GOING TO DO? WHERE WAS I GOING TO
18 GO? MY LIFE WAS OVER, AND IT DIDN'T MATTER ANY MORE.

19 Q. BY MR. CONN: SO YOU WERE JUST WILLING TO
20 ALLOW HIM TO KILL YOU THURSDAY NIGHT WHEN YOU ENTERED
21 YOUR HOME; IS THAT CORRECT?

22 A. I DIDN'T THINK THAT THAT WAS GOING TO
23 HAPPEN.

24 Q. WHY NOT?

25 A. BECAUSE I WAS HOPING THAT THE CONVERSATION
26 WITH MY BROTHER HAD WORKED OUT, AND THAT THINGS WERE
27 GOING WELL.

28 Q. OKAY.

1 SO YOU WENT TO YOUR BEDROOM AT THAT TIME?

2 A. YES.

3 Q. DID YOU GO TO SLEEP?

4 A. NO.

5 Q. YOU WENT THERE TO DO WHAT?

6 A. TO CHECK TO SEE IF THERE WAS ANY WORD OR
7 MESSAGE FROM MY BROTHER.

8 Q. AND DID YOU THINK THAT PERHAPS YOUR BROTHER
9 HAD GONE TO SLEEP IN THE GUESTHOUSE?

10 A. NO.

11 Q. WHY NOT?

12 A. BECAUSE I ASSUMED THAT HE WOULD BE WANTING
13 TO TELL ME. I JUST DIDN'T CONSIDER THAT HE WAS ASLEEP
14 IN THE GUESTHOUSE.

15 Q. YOU DIDN'T GO UP TO THE GUESTHOUSE AND
16 KNOCK ON THE DOOR BEFORE YOU WENT TO YOUR ROOM AND WENT
17 TO SLEEP?

18 A. I LOOKED OVER AT THE GUESTHOUSE FROM AROUND
19 THE SIDE OF THE HOUSE. I THOUGHT HE WASN'T THERE, HE
20 MUST BE INSIDE THE MAIN HOUSE.

21 I DIDN'T WANT TO GO THROUGH ALL THE ROOMS
22 IN THE MAIN HOUSE. THE FIRST THING I WANTED TO DO WAS
23 CHECK TO SEE IF HE LEFT ME A MESSAGE IN MY ROOM, OR WAS
24 WAITING IN MY ROOM. THAT'S THE FIRST THING I DID.

25 Q. AND WHEN YOU WENT TO YOUR ROOM AND SAW HE
26 WAS NOT WAITING, DID YOU LOCK THE DOOR?

27 A. I ALWAYS LOCK THE DOOR WHEN I GO IN MY
28 BEDROOM.

1 Q. AND THEN WHAT HAPPENED NEXT?

2 A. I CHECKED MY MESSAGES, I BELIEVE. I

3 BELIEVE I CHECKED FOR A NOTE, AND THEN I WAS LOOKING

4 OVER AT THE GUESTHOUSE, BECAUSE I SAW THE LIGHT ON IN

5 THE BACK.

6 Q. AND YOU WANTED TO SEE IF YOU HAD A MESSAGE

7 FROM LYLE?

8 A. YES.

9 Q. NOW, IN THIS PHONE SYSTEM IN YOUR HOUSE,

10 WAS YOUR MOTHER ABLE TO PICK UP AND CHECK YOUR MESSAGES

11 AS WELL?

12 A. WHAT DO YOU MEAN?

13 Q. HOW -- WHAT DO YOU HAVE TO DO TO CHECK YOUR

14 MESSAGES?

15 A. PLAY MY ANSWERING MACHINE.

16 Q. OKAY. AND HOW DO YOU PLAY THE ANSWERING

17 MACHINE?

18 A. I DON'T REMEMBER ANYMORE, BUT I DON'T THINK

19 IT WAS COMPLICATED.

20 Q. YOU JUST WALK IN AND PUSH THE REPLAY BUTTON

21 OR SOMETHING LIKE THAT?

22 A. YES.

23 Q. AND DID YOU -- YOU KNOW THAT YOUR MOTHER OR

24 YOUR FATHER COULD WALK IN AND PUSH THE REPLAY BUTTON,

25 DON'T YOU?

26 A. I GUESS THEY COULD HAVE.
27 Q. AND YET YOU THOUGHT THAT LYLE MENENDEZ
28 WOULD HAVE LEFT A MESSAGE ON THAT MACHINE ABOUT THE

-21057

1 CONVERSATION THAT HE HAD WITH YOUR FATHER?
2 A. NO. I DOUBT I WOULD HAVE BELIEVED THAT.
3 MORE ALONG THE LINES OF "I'M AT SUCH AND SUCH PLACE.
4 COME HERE."
5 Q. OKAY. AND THEN WHEN YOU FOUND OUT THAT
6 THERE WAS NO MESSAGE FROM YOUR BROTHER, THEN WHAT?
7 A. I REMEMBER I CHECKED TO SEE IF THERE WAS A
8 HANDWRITTEN MESSAGE ON MY DESK, AND I REMEMBER LOOKING
9 OVER AT THE GUESTHOUSE AND SEEING A LIGHT ON IN THE
10 BACK.
11 Q. YOU SAW A LIGHT ON?
12 A. YES.
13 Q. WHERE?
14 A. FROM HIS BEDROOM AND I BELIEVE HIS
15 BATHROOM.
16 Q. AND WAS THERE A LIGHT THAT JUST CAME ON
17 FROM THE TIME THAT YOU HAD CHECKED THE GUESTHOUSE?
18 A. I DON'T KNOW WHETHER IT WAS A LIGHT THAT I
19 COULDN'T SEE FROM THE BOTTOM, OR WHETHER IT WAS A LIGHT
20 THAT CAME ON IN BETWEEN THE TIME. I HAVE NO IDEA.
21 Q. ARE YOU SAYING THAT THIS WAS A LIGHT ON THE

22 SIDE OF THE HOUSE?

23 A. NO. THIS WAS A LIGHT INSIDE ON IN THE

24 BACK. I WAS ON THE SECOND FLOOR IN MY BEDROOM, AND IT

25 WAS ON THE SECOND FLOOR OF THE GUESTHOUSE, SO I COULD

26 SEE STRAIGHT ACROSS AT THAT POINT.

27 Q. WHEN YOU WENT TO CHECK ON LYLE EARLIER,

28 WERE YOU IN A POSITION TO SEE THAT LIGHT HAD THAT LIGHT

-21056

1 BEEN ON?

2 A. I DON'T KNOW. I DON'T THINK SO.

3 Q. SO WHEN YOU -- WHAT HAPPENED AFTER YOU SAW

4 THE LIGHT ON?

5 A. I BEGAN TO WONDER IF LYLE WAS ACTUALLY

6 INSIDE THE GUESTHOUSE, AND I HEARD MY DAD COMING TOWARDS

7 MY ROOM.

8 Q. AND THEN WHAT HAPPENED?

9 A. HE WAS POUNDING ON THE DOOR, TELLING ME TO

10 OPEN UP THE DOOR.

11 Q. THEN WHAT HAPPENED?

12 A. I UNLATCHED THE LOCK AND WENT TO THE BACK

13 OF MY BEDROOM.

14 Q. NOW, YOU WERE FEARFUL BEFORE YOU EVEN

15 UNLATCHED THE LOCK; IS THAT WHAT YOU'RE SAYING?

16 A. I WAS.

17 Q. AND YOU WERE AFRAID THAT YOUR FATHER WAS

18 GOING TO RETALIATE?

19 A. I DIDN'T KNOW WHAT HAD HAPPENED IN THE
20 CONVERSATION, SO I DIDN'T KNOW WHAT MY FATHER WAS GOING
21 TO DO. HE WAS CAPABLE OF ANYTHING AT THAT POINT.

22 Q. WHAT DID HE SAY WHEN HE WAS BANGING ON THE
23 DOOR?

24 A. "OPEN UP THE GODDAMNED DOOR."

25 Q. SO YOU KNEW HE WAS ANGRY?

26 A. YES.

27 Q. AND HE HAD THREATENED TO KILL YOU BEFORE;
28 IS THAT CORRECT?

-21055

1 A. YES.

2 Q. HE HAD THREATENED TO TIE YOU TO A CHAIR AND
3 BEAT YOU TO DEATH IF YOU TOLD ANYONE, RIGHT?

4 A. EARLIER IN MY LIFE.

5 Q. ALL RIGHT. AND YOU STILL BELIEVED THAT TO
6 BE A VALID THREAT?

7 A. I THOUGHT THAT HE WOULD KILL ME IF HE WAS
8 GOING TO KILL ME. I HAD NO IDEA IF HE WAS GOING TO TIE
9 ME TO A CHAIR AND BEAT ME TO DEATH OR JUST SHOOT ME. I
10 HAD NO IDEA.

11 Q. BUT YOU FIGURED IN ANY EVENT HE WOULD KILL
12 YOU?

13 A. IF WHAT?

14 Q. IF YOU WERE TO TELL THE SECRET.
15 A. YES.
16 Q. OKAY. SO YOU OPENED THE -- YOU UNLOCKED
17 THE DOOR KNOWING THAT YOUR FATHER WAS GOING TO COME INTO
18 THE ROOM AND KILL YOU, CORRECT?
19 A. AT THAT POINT I DIDN'T HAVE A CHOICE.
20 Q. SO YOU OPENED THE DOOR KNOWING THAT YOUR
21 FATHER WAS GOING TO COME IN AND KILL YOU, CORRECT?
22 A. I DIDN'T KNOW THAT HE WAS GOING TO COME IN
23 AND KILL ME.
24 Q. BUT YOU SUSPECTED THAT THAT WAS A
25 POSSIBILITY?
26 A. IT WOULD BE NICE IF I HAD TIME TO THINK
27 ABOUT IT, BUT HE WAS BANGING ON THE DOOR SUDDENLY, AND I
28 WAS FACED WITH THE CHOICE OF EITHER REFUSING TO OPEN THE

-21054

1 DOOR OR OPENING THE DOOR. SO I OPENED THE DOOR.
2 Q. MY QUESTION TO YOU, MR. MENENDEZ, IS DID
3 YOU SUSPECT THAT HE WAS GOING TO COME INTO THE ROOM AND
4 KILL YOU?
5 A. I DON'T KNOW.
6 Q. YOU DON'T KNOW SITTING HERE TODAY WHETHER
7 OR NOT AT THE TIME THAT YOU UNLATCHED THAT DOOR YOU
8 SUSPECTED THAT YOUR FATHER WAS GOING TO COME INTO THE
9 ROOM AND KILL YOU?

10 MR. LEVIN: OBJECTION. HE JUST ANSWERED IT.

11 THE COURT: OVERRULED.

12 THE WITNESS: I KNEW MY FATHER WAS BANGING ON THE
13 DOOR. I KNEW THAT HE WAS YELLING. HE WAS ANGRY, AND I
14 HAD -- I WAS FACED WITH AN OPTION OF EITHER OPENING THE
15 DOOR OR REFUSING TO OPEN THE DOOR.

16 IT WAS A MATTER OF SECONDS. I DIDN'T HAVE
17 TIME TO THINK WHAT'S HE GOING TO DO. I JUST KNEW THAT
18 HE WAS ANGRY AND I HAD TO OPEN THE DOOR.

19 Q. BY MR. CONN: ARE YOU SAYING THAT IT DID
20 NOT CROSS YOUR MIND THAT YOUR FATHER WAS GOING TO ENTER
21 THE ROOM AND KILL YOU?

22 A. IF IT DID, I DON'T REMEMBER.

23 Q. DID IT CROSS YOUR MIND THAT YOUR FATHER WAS
24 GOING TO ENTER THE ROOM AND HURT YOU IN SOME WAY?

25 A. YES. YES, I'M SURE THAT IT DID.

26 Q. AND WHAT DID YOU SUSPECT HE WAS GOING TO
27 DO?

28 A. I DIDN'T KNOW. BUT HE WAS ANGRY, SO

-21053

1 CLEARLY IT WASN'T GOING TO BE A PLEASANT ALTERCATION.

2 Q. AND SO YOU OPENED THE DOOR, AND THEN WHAT
3 HAPPENED?

4 A. HE WAS TRYING THE HANDLE. HE TRIED IT
5 AGAIN. THE DOOR OPENED, AND HE BURST INTO THE ROOM AND

6 STARTED YELLING AT ME.

7 Q. AND WHAT DID HE SAY TO YOU?

8 A. HE SAID THAT HE HAD WARNED ME NEVER TO TELL
9 LYLE, AND HE HAD TOLD ME NEVER TO TELL LYLE, AND IT WAS
10 ALL MY FAULT; THAT NOW LYLE WAS GOING TO TELL EVERYONE
11 AND HE WASN'T GOING TO LET THAT HAPPEN.

12 Q. THEN WHAT HAPPENED?

13 A. I WAS SAYING "NO, HE'S NOT GOING TO TELL
14 EVERYONE. HE'S NOT GOING TO TELL ANYONE," AND HE WAS
15 SAYING "YES, HE IS," OR SOMETHING ALONG THOSE LINES, AND
16 THEN HE JUST TOLD ME TO SHUT UP AND RACED TOWARD ME.

17 Q. THEN WHAT HAPPENED?

18 A. I TRIED TO GET OVER THE DESK, AND HE THREW
19 ME OVER THE BED, AND AS HE WAS COMING OVER TO THE BED I
20 THREW MY HAND OVER AND RAN OUT THE DOOR.

21 Q. AND SO THE FIRST THING THAT -- WHAT
22 HAPPENED IN REFERENCE TO THE DESK?

23 A. I TRIED TO GET OVER THE DESK.

24 Q. WAS IT IN YOUR WAY?

25 A. WELL, IT'S AN L-SHAPED DESK. ONE SIDE IS
26 ATTACHED TO THE WALL, AND THEN IT GOES INTO THE BEDROOM.

27 Q. AND THEN YOUR FATHER THREW YOU ON THE BED?

28 A. HE GRABBED ME AS I WAS TRYING TO GET OVER

1 IT AND THREW ME ON THE BED.

2 Q. WHAT HAPPENED AFTER HE THREW YOU ON THE
3 BED?

4 A. I'M UNCLEAR, BECAUSE I WASN'T LOOKING AT
5 HIM AT THAT POINT. I WAS THROWN ON THE BED. HE WAS
6 EITHER ON TOP OF ME OR COMING TOWARD ME, AND SOMEHOW I
7 CAUGHT HIM OFF BALANCE, AND I DON'T KNOW WHAT HAPPENED,
8 BUT I THREW MY HAND OVER AND RAN OUT THE DOOR.

9 Q. HE THREW YOU ON THE BED. HOW DID YOU END
10 UP ON THE BED?

11 A. HE THREW ME. WHAT DO YOU MEAN?

12 Q. I'M TALKING ABOUT AFTER HE THREW YOU, YOUR
13 BODY FELL ON THE BED; IS THAT CORRECT?

14 A. YES.

15 Q. AND YOU FELL FACE DOWN ON THE BED OR FACE
16 UP ON THE BED?

17 A. I WAS PARTLY ON THE BED, PARTLY ON THE
18 FLOOR. THERE IS A WOOD PART TO MY BED AND PILLOWS. I
19 WAS FACE DOWN, ABLE TO -- I JUST REMEMBER FLINGING MY
20 ARM AND PUSHING HIM OFF AND RUNNING OUT THE DOOR.

21 Q. YOU PUSHED YOUR FATHER OFF?

22 A. HE WASN'T ON TOP OF ME, BUT HE WAS
23 EITHER -- IT'S UNCLEAR, BECAUSE I WASN'T ABLE TO LOOK AT
24 HIM. HE WAS RIGHT EITHER BEHIND ME OR GRABBING ME OR
25 SOMETHING, AND I WAS ABLE TO PUSH HIM AWAY.

26 Q. YOUR FATHER -- YOUR FATHER WAS A MAN WHO
27 YOU FELT WAS VERY BIG AND STRONG?

28 A. HE WAS.

1 Q. AND WERE YOU SURPRISED THAT YOU WERE ABLE
2 TO PUSH OFF YOUR FATHER SO EASILY?

3 A. LATER THAT NIGHT I WAS SURPRISED IN
4 REFLECTING ON IT, BUT I DIDN'T THINK ABOUT IT AT THE
5 TIME. THE ONLY THING THAT I THOUGHT WAS DAD'S ATTACKING
6 ME. I'M NOT GOING TO LET THIS HAPPEN. I'M GOING TO GET
7 AWAY.

8 Q. DID YOUR ABILITY TO PUSH OFF YOUR FATHER
9 AND GET AWAY FROM HIM BEGIN TO CONVINCE YOU THAT "MY
10 FATHER IS NOT THAT INVINCIBLE AFTER ALL"?

11 A. NO.

12 Q. THIS IS A PHOTOGRAPH OF YOUR BEDROOM, 367?

13 A. RIGHT.

14 Q. OKAY. AND THE DESK THAT YOU'RE REFERRING
15 TO; IS THAT THE DESK THERE ON THE LEFT?

16 A. RIGHT HERE. THAT'S THE TYPEWRITER
17 (POINTING).

18 Q. OKAY. AND YOU'RE SAYING THAT WHEN YOUR
19 FATHER THREW YOU, WHERE DID HE THROW YOU?

20 A. ONTO THE BED.

21 Q. YOU POINTED TO THE AREA WHERE THE JEANS
22 ARE?

23 A. THAT WAY.

24 Q. WERE YOU BEHIND THE BED -- APPARENTLY THE
25 DESK COMES CLOSE TO TOUCHING THE BED, CREATING A LITTLE
26 BIT OF A BLOCKAGE THERE; IS THAT CORRECT?

27 A. EXACTLY. THAT'S WHY I RETREATED TO THAT
28 CORNER.

-21050

1 Q. ARE YOU SAYING YOU WOULD BE IN THAT CORNER
2 THERE BEHIND THE DESK AND THE BED?

3 A. RIGHT.

4 Q. AND YOU RETREATED TO THAT CORNER BEFORE
5 YOUR FATHER CAME INTO THE ROOM?

6 A. EXACTLY.

7 Q. AND THEN WHEN YOUR FATHER CAME INTO THE
8 ROOM, HOW DID HE GRAB YOU?

9 A. HE WAS HERE WHEN HE WAS YELLING AT ME, AND
10 THEN HE CAME TOWARD ME, AND I TRIED TO GO OVER THE DESK
11 HERE, AND HE GRABBED ME AND THREW ME ON THE BED, AND
12 THAT'S WHEN I WAS ABLE TO PUSH HIM AWAY, WHEN HE WAS
13 RIGHT HERE (INDICATING), AND I RAN OUT.

14 Q. OKAY.

15 WHEN YOU SAY YOU TRIED TO GET OVER THE
16 DESK -- LET ME JUST PUT THIS UP FOR A MOMENT SO THE JURY
17 CAN SEE THIS.

18 THIS IS THE DESK HERE; IS THAT CORRECT, ON
19 THE LEFT?

20 A. YES. YES.

21 Q. AND THIS IS THE BED HERE?

22 A. YES.

23 Q. AND YOU WENT TO THIS AREA OF THE ROOM, THE
24 CORNER BEHIND THE BED AND THE DESK; IS THAT CORRECT?
25 A. YES.
26 Q. NOW, WHEN HE TRIED TO GRAB YOU, DID YOUR
27 FATHER STEP OVER THE BED TO GET INTO THAT CORNER THERE?
28 A. YES.

-21049

1 Q. AND THEN WHERE DID YOU GO FROM THERE? YOU
2 TRIED TO COME OUT THIS WAY TO GET OVER THE DESK?
3 A. YES.
4 Q. SO YOU'RE SAYING THE L -- WHEN YOU TALK
5 ABOUT THE DESK BEING L-SHAPED, THAT L IS THIS FRONT
6 SURFACE HERE THAT WE ARE LOOKING AT, AND THEN IT TURNS
7 HERE AND GOES INTO THE WALL AND THAT'S THE L; IS THAT
8 CORRECT?
9 A. RIGHT. I THINK THE OTHER PICTURES SHOW IT
10 BETTER.
11 Q. OKAY. AND THAT -- SO AS YOUR FATHER WAS
12 STANDING THERE -- THE PICTURE THAT YOU'RE REFERRING TO
13 IS 62; IS THAT CORRECT?
14 A. YES.
15 Q. NOW, THIS PICTURE SHOWS THE CORNER HERE?
16 A. RIGHT.
17 Q. OF THE ROOM THAT IS SHOWN IN THIS
18 PHOTOGRAPH HERE; IS THAT CORRECT?

19 A. YES.

20 Q. ALL RIGHT.

21 SO YOU WENT OVER HERE WHERE ALL THIS JUNK
22 IS IN THE CORNER; IS THAT CORRECT?

23 A. NO. I REMEMBER THE TYPEWRITER COMING OFF
24 THE DESK AS I WAS TRYING TO GO OVER THE DESK, AND IT'S
25 RIGHT THERE THAT I TRIED TO GO OVER, BUT THE DESK WAS
26 BLOCKING MY WAY. HE WAS ABLE TO GRAB ME IN TIME AND
27 THREW ME ONTO THE BED, AND THAT'S WHEN I PUSHED HIM OFF.

28 Q. OKAY. SO I'M SAYING WHEN YOU FIRST WENT

-21048

1 INTO -- RIGHT AFTER YOU UNLATCHED THE DOOR, YOU
2 RETREATED TO THIS CORNER OF THE ROOM WHERE ALL THIS JUNK
3 IS; IS THAT CORRECT?

4 A. THE JUNK IS PUSHED UP AGAINST THE WALL.
5 THE PICTURE MAY NOT SHOW IT, BUT I THINK THERE'S ABOUT
6 FOUR OR FIVE FEET IN THERE OF SPACE.

7 Q. OKAY. SO YOUR FATHER STEPPED OVER THE BED
8 HERE TO GET TO YOU; IS THAT CORRECT?

9 A. YES.

10 Q. AND THEN HE -- ONCE HE STEPPED OVER THAT
11 BED HE WAS STANDING ABOUT SOMEWHERE HERE WHERE I AM
12 POINTING; IS THAT CORRECT? IN PHOTOGRAPH 62?

13 A. AS I WAS TRYING TO GET OVER THE DESK HE WAS
14 THERE, YES.

15 Q. OKAY. AND SO HE GRABBED YOU AND HE SPUN
16 AROUND AND HE THREW YOU ON THE BED; IS THAT CORRECT?
17 A. TO MY LEFT, ON THE LEFT SIDE. HE GRABBED
18 ME AS I WAS COMING OVER THE DESK AND THREW ME ONTO THE
19 BED.
20 Q. AND THEN AFTER HE THREW YOU ON THE BED,
21 WHAT DID YOU DO?
22 A. I LANDED ON THE BED, AND HE WAS COMING AT
23 ME OR ON TOP OF ME AT THAT POINT, AND I PUSHED HIM OFF
24 WITH MY RIGHT ARM AND SPRINTED OUT OF THE ROOM.
25 Q. SO HE WAS STILL IN THAT CORNER WHICH IS
26 SHOWN IN THAT PHOTOGRAPH; IS THAT CORRECT, AT THE TIME
27 YOU PUSHED HIM?
28 A. I DON'T KNOW IF HE WAS IN THE CORNER OR

-21047

1 COMING ONTO THE BED.
2 Q. MM-HMM.
3 A. BUT IN THAT AREA, YES.
4 Q. AND WHAT WAS HE SAYING TO YOU, IF ANYTHING,
5 WHILE HE WAS STRUGGLING WITH YOU, THROWING YOU ON THE
6 BED?
7 A. I DON'T REMEMBER HIM SAYING ANYTHING.
8 Q. HE WAS BEING QUIET AT THAT TIME?
9 A. I DON'T KNOW IF HE WAS QUIET. I DIDN'T
10 HEAR ANY WORDS FROM HIM.

11 Q. OKAY. SO, YOU RAN OUT OF THE OF THE ROOM,
12 AND WHAT DID YOU -- WHAT DID YOU DO WHEN YOU RAN OUT OF
13 THE ROOM?

14 A. I RAN DOWN THE STAIRS AND I RAN INTO THE
15 DEN.

16 Q. NOW, WHERE WERE YOU GOING AS YOU WERE
17 RUNNING DOWN THE STAIRS?

18 A. I KNOW I HEARD THE TELEVISION ON. I DON'T
19 KNOW WHY I RAN INTO THE DEN, BUT I WAS HEADING TOWARDS
20 THE GUESTHOUSE.

21 Q. AND WHY WERE YOU GOING TO THE GUESTHOUSE?

22 A. BECAUSE I THOUGHT LYLE MIGHT BE IN THE
23 GUESTHOUSE.

24 Q. AND WAS GOING THROUGH THE DEN THE FASTEST
25 WAY TO GET TO THE GUESTHOUSE?

26 A. THERE WERE THREE DIFFERENT WAYS. YOU COULD
27 EITHER GO OUT THE LIVING ROOM, WHICH -- YOU COULD EITHER
28 GO OUT THE LIVING ROOM, YOU COULD GO OUT THE DEN, YOU

-21046

1 COULD GO THROUGH THE DINING ROOM, OR THE DEN INTO THE
2 KITCHEN OUT THE BACK WAY THERE.

3 THE DEN WAS GENERALLY HOW WE CAME BACK IN
4 AND OUT OF THE TENNIS COURT.

5 Q. LET ME SHOW YOU THE EXHIBIT THAT HAS BEEN
6 MARKED AS EXHIBIT NO. 5. OKAY.

7 NOW, YOU CAME DOWN THESE STAIRS HERE WHERE
8 IT SAYS ENTRY; IS THAT CORRECT?
9 A. RIGHT.
10 Q. AND TO GET TO THE GUESTHOUSE YOU COULD HAVE
11 GONE THROUGH THE LIVING ROOM AND OUT THESE DOORS HERE;
12 IS THAT CORRECT?
13 A. YES.
14 Q. OR YOU COULD HAVE GONE INTO THE DEN AND
15 THEN OUT THE FRENCH DOORS HERE; IS THAT CORRECT?
16 A. RIGHT.
17 Q. AND THEN THE THIRD ALTERNATIVE WAS TO GO
18 THROUGH WHERE?
19 A. THE BREAKFAST AREA HAS FRENCH DOORS ON IT,
20 AND THE SERVICE AREA SWINGS OPEN.
21 Q. AND WHAT MADE YOU CHOOSE THAT PARTICULAR
22 ROUTE THROUGH THE DEN?
23 A. IT WAS THE ROUTE MOST GENERALLY TAKEN IN
24 AND OUT OF THE -- FROM THE TENNIS COURT.
25 Q. SO YOU WERE RUNNING AS QUICKLY AS POSSIBLE
26 TO GET AWAY FROM YOUR FATHER; IS THAT CORRECT?
27 A. I WAS RUNNING. I WAS RUNNING AWAY FROM
28 HIM, YES.

-21045

1 Q. AS QUICKLY AS POSSIBLE?
2 A. I DON'T KNOW WHAT THAT MEANS. I MEAN, I

3 BELIEVE SO, YES.

4 Q. BECAUSE YOU FELT THAT YOUR FATHER WAS GOING
5 TO EITHER KILL YOU OR HURT YOU VERY BADLY?

6 A. WELL, I KNEW HE WAS ATTACKING ME, AND I
7 WANTED TO GET AWAY BECAUSE HE THREW ME ON THE BED. I --
8 SEX WAS NOT GOING TO HAPPEN. ONE WAY OR THE OTHER, IT
9 WAS NOT GOING TO HAPPEN. HE WAS GOING TO HAVE TO BEAT
10 ME TO UNCONSCIOUSNESS BEFORE I WAS GOING TO LET THAT
11 HAPPEN.

12 SO I DON'T KNOW HOW I GOT HIM OFF ME, BUT I
13 DID, AND I RAN OUT AS FAST AS I COULD.

14 Q. AND WHEN YOU WERE RUNNING DOWNSTAIRS YOU
15 KNEW YOUR FATHER WAS COMING DOWN AFTER YOU, DIDN'T YOU?

16 A. I THOUGHT THAT HE PROBABLY WAS.

17 Q. AND WHEN YOU RAN INTO THE DEN YOU ASSUMED
18 YOUR FATHER WAS STILL COMING AFTER YOU.

19 DIDN'T YOU THINK THAT?

20 A. I DIDN'T HEAR HIM IN THE FOYER BEHIND ME,
21 AND HE WASN'T RIGHT BEHIND ME. AT THE TIME I DIDN'T
22 THINK ABOUT WHY OR WHAT, I JUST KNEW WHAT WAS.

23 Q. THE ONE THING IN YOUR MIND WAS JUST TO GET
24 AWAY FROM YOUR FATHER AS FAST AS YOU COULD; IS THAT
25 CORRECT?

26 A. AS I WAS RUNNING OUT OF MY BEDROOM?

27 Q. YES.

28 A. YES.

1 Q. AND THAT WAS STILL YOUR GOAL AS YOU WERE
2 RUNNING DOWN THE STAIRS; IS THAT CORRECT?

3 A. MY GOAL AS I WAS RUNNING DOWN THE STAIRS
4 WAS TO GET TO THE GUESTHOUSE.

5 Q. AS FAST AS YOU COULD?

6 A. YEAH, ESSENTIALLY.

7 Q. AND THAT WAS YOUR GOAL AS YOU BURST INTO
8 THE DEN DOORS HERE; IS THAT CORRECT?

9 A. THE LEFT DOOR TO THE DEN WAS OPEN. THE
10 RIGHT DOOR WAS CLOSED.

11 Q. AND WAS THAT YOUR GOAL AS YOU BURST IN
12 THROUGH THAT DOOR?

13 A. I DIDN'T BURST THROUGH THE DOOR, I WENT
14 THROUGH THE OPENING.

15 BUT THAT WAS MY GOAL, TO GET OUT THE FRENCH
16 DOORS AND GO TO THE GUESTHOUSE.

17 Q. AS QUICKLY AS YOU POSSIBLY COULD; IS THAT
18 CORRECT?

19 A. UNLESS I ENCOUNTERED LYLE IN THE DEN, YES.

20 Q. AND YOU WANTED TO GET FROM THIS DOOR HERE,
21 THE ENTRY, TO THE FRENCH DOOR THERE WHERE YOU COULD THEN
22 RUN TO THE GUESTHOUSE; IS THAT CORRECT?

23 A. YES.

24 Q. AND HOW FAR IS IT FROM THAT DOOR THERE TO
25 THE FRENCH DOOR THAT WOULD THEN TAKE YOU TO THE ROUTE TO
26 THE GUESTHOUSE?

27 A. TEN OR FIFTEEN FEET. I'M NOT SURE.

28 Q. SO YOU RAN THROUGH THIS DOOR, AND THEN WHAT

-21043

1 HAPPENED NEXT?

2 A. MY MOTHER WAS AT THE CORNER OF THE COUCH

3 RIGHT THERE. THE TELEVISION WAS ON, AND SHE SAID

4 SOMETHING TO ME AS I WAS ON THE TOPSIDE OF THE TABLE.

5 Q. ON THE TOPSIDE OF THE TABLE? WHAT ARE YOU

6 REFERRING TO?

7 A. IT'S A TWO-DIMENSIONAL DRAWING. IT'S HARD

8 TO -- ON THE -- ON THE SIDE OF THE TABLE CLOSER TO THE

9 DOORS.

10 Q. ARE YOU REFERRING TO THIS CARD TABLE THERE,

11 THIS TABLE?

12 A. YES.

13 Q. OKAY. AND WHEN YOU SAY YOU WERE ON THE

14 TOPSIDE, WHAT DO YOU MEAN THE TOPSIDE?

15 A. I MEAN UP. I DON'T HAVE THE POINTER.

16 Q. YOU MEAN NORTH?

17 A. YES, NORTH.

18 Q. SO AS YOU CAME THROUGH THIS DOOR YOU WERE

19 SOMEWHERE NORTH OF THAT TABLE WHEN YOU HEARD YOUR MOTHER

20 SPEAK, CORRECT?

21 A. RIGHT.

22 Q. AND HOW MUCH FURTHER DID YOU HAVE TO GO TO

23 GET TO THE FRENCH DOORS WHEN YOU HEARD YOUR MOTHER

24 SPEAK?

25 A. I HAD TO GO AROUND THE SOFA AND OUT THE
26 FRENCH DOORS. I'M NOT SURE.

27 Q. ABOUT ANOTHER EIGHT FEET OR SO?

28 A. YEAH. EIGHT, TEN FEET.

-21042

1 Q. OKAY. SO -- AND AT THAT POINT WHAT DID YOU
2 HEAR YOUR MOTHER SAY?

3 A. "WHAT'S THE MATTER WITH YOU?"

4 Q. AND DID YOU TELL YOUR MOTHER AT THAT TIME,
5 "SORRY, MOM. NO TIME TO CHAT. MY FATHER IS COMING
6 AFTER ME"?

7 A. I SAID "NO, NOTHING. YOU WOULDN'T
8 UNDERSTAND."

9 Q. YOU SAID THAT AS YOU WERE RUNNING?

10 A. AS I RAN INTO THE DEN, I LOOKED AT HER. I
11 DIDN'T THINK SHE WOULD BE IN THERE.

12 AND SHE SAID "WHAT'S THE MATTER WITH YOU?"

13 I SAID "NOTHING. YOU WOULDN'T UNDERSTAND,"

14 AND I WAS GOING TO CONTINUE GOING, AND SHE SAID, "OH, I
15 UNDERSTAND. I UNDERSTAND A LOT MORE THAN YOU THINK,"
16 AND --

17 Q. WAIT. LET ME STOP YOU THERE.

18 YOU'RE SAYING THAT YOU WERE ABOUT -- YOU
19 WERE ABOUT NORTH OF THE COFFEE TABLE HERE WHEN YOU HEARD

20 YOUR MOTHER ASK YOU WHAT'S WRONG; IS THAT CORRECT?

21 A. I WAS NORTH OF THE COFFEE TABLE, EITHER --

22 WELL, ACTUALLY, THAT'S THE CARD TABLE, AND THE COFFEE

23 TABLE IS THERE. IN THAT GENERAL AREA.

24 Q. OKAY. AND YOU WERE 18 YEARS OLD AT THE

25 TIME, RIGHT?

26 A. I WAS.

27 Q. AND WERE YOU HEALTHY?

28 A. YES.

-21041

1 Q. AND YOU RUN FAST, DIDN'T YOU, AT THAT TIME?

2 A. YES.

3 Q. OKAY. HOW MUCH DISTANCE DO YOU THINK THAT

4 YOU TRAVERSED WHEN YOUR MOTHER SAID "WHAT'S WRONG WITH

5 YOU"?

6 A. AS SOON AS I RAN IN THE DOORS, I WAS NORTH

7 OF THE COFFEE TABLE. I SAW HER THERE, AND I SORT OF --

8 I WASN'T EXPECTING TO SEE HER THERE.

9 SHE SAID, "WHAT'S THE MATTER WITH YOU?"

10 I SAID "NOTHING. YOU WOULDN'T UNDERSTAND,"

11 AND I WAS GOING TO KEEP GOING, AND I PROBABLY TOOK A

12 COUPLE OF STEPS WHEN SHE SAID, "OH, I UNDERSTAND. I

13 UNDERSTAND A LOT MORE THAN YOU THINK," AND THAT STOPPED

14 ME.

15 Q. THE QUESTION I ASKED YOU, LET ME REPEAT IT.

16 HOW MUCH DISTANCE DO YOU THINK THAT YOU
17 TRAVERSED AS YOU WERE RUNNING AS QUICKLY AS YOU COULD TO
18 GET AWAY FROM YOUR FATHER WHEN YOUR MOTHER SPOKE THE
19 WORDS "WHAT'S WRONG WITH YOU"?

20 A. HOW MUCH DISTANCE DID I TRAVERSE IN THAT
21 SENTENCE?

22 Q. CORRECT.

23 A. I DON'T EVEN KNOW IF I MOVED.

24 Q. MR. MENENDEZ, YOU WERE MOVING PRETTY
25 QUICKLY WHEN YOU WENT IN THROUGH THOSE DEN DOORS,
26 WEREN'T YOU?

27 A. I WENT INTO THE DEN DOORS AND I SAW MY MOM
28 ON THE COUCH, AND THAT'S WHEN SHE SAID THAT TO ME. I

-21040

1 DON'T KNOW IF I TOOK A STEP OR TWO STEPS OR THREE STEPS
2 WHEN I SAW HER THERE AND WAS SURPRISED TO SEE HER THERE.
3 I DON'T KNOW HOW MANY FEET I MOVED.

4 Q. ARE YOU SAYING NOW YOU STOPPED TO TALK TO
5 YOUR MOTHER?

6 A. I NEVER SAID I DIDN'T. OF COURSE I
7 STOPPED. SHE SAID THIS TO ME AND IT STARTLED ME, AND I
8 SAID, "WHAT DO YOU MEAN?" AND SHE SAID WHAT SHE SAID,
9 AND I TOOK OFF AGAIN.

10 Q. OKAY. SO AFTER SHE SAID "WHAT'S WRONG WITH
11 YOU," YOU TOOK OFF AGAIN?

12 A. AFTER SHE SAID "WHAT'S WRONG WITH YOU", I
13 SAID, "NO -- NOTHING. YOU WOULDN'T UNDERSTAND."
14 AND I WAS GOING TO KEEP GOING ON TO GO OUT
15 THE FRENCH DOORS WHEN SHE SAID, "OH, I UNDERSTAND. I
16 UNDERSTAND A LOT MORE THAN YOU THINK."

17 AND I PAUSED, AND I SAID, "WHAT DO YOU
18 MEAN? WHAT DO YOU KNOW?"

19 Q. OKAY. SO YOU CAME IN THROUGH THE DOORS AND
20 YOU SAW YOUR MOTHER AND SHE STARTLED YOU; IS THAT
21 CORRECT?

22 A. THE FACT THAT SHE WAS THERE, HER PRESENCE,
23 MADE ME PAUSE.

24 Q. AND YOU WERE TRYING TO GET AWAY FROM YOUR
25 FATHER AT THAT TIME; IS THAT CORRECT?

26 A. GET AWAY FROM MY FATHER AND GO TO THE
27 GUESTHOUSE.

28 Q. NOW, WHAT WAS IT -- YOU HAVE SEEN YOUR

-21039

1 MOTHER SITTING IN THE DEN BEFORE, I TAKE IT, ON VARIOUS
2 OCCASIONS?

3 A. YES.

4 Q. AND THERE WAS NOTHING UNUSUAL OR STRANGE
5 ABOUT YOUR MOTHER SITTING IN THE DEN; IS THAT CORRECT?

6 A. WELL, IT WAS MIDNIGHT, AND I WAS SURPRISED
7 THAT SHE WAS STILL THERE. I THOUGHT THAT SHE WOULD BE

8 IN HER BEDROOM. I WAS A LITTLE SURPRISED -- A LOT
9 SURPRISED TO SEE HER THERE ON THE COUCH SUDDENLY IN THE
10 MIDDLE OF THE NIGHT.

11 Q. IS THAT WHY YOU WERE SO STARTLED, BECAUSE
12 YOUR MOTHER WAS SITTING IN THE DEN WHEN YOU THOUGHT THAT
13 SHE WAS IN HER BEDROOM?

14 A. I DON'T KNOW WHY I WAS STARTLED. I WAS
15 JUMPY. I WAS FRIGHTENED. I WAS RUNNING AWAY FROM MY
16 FATHER, AND SUDDENLY MY MOTHER WAS IN FRONT OF ME, AND I
17 PAUSED AT IT.

18 Q. AND YOU'RE SAYING THAT THE MERE PRESENCE OF
19 YOUR MOTHER SITTING IN THE DEN WAS SO STARTLING THAT YOU
20 FELT YOU HAD TO STOP AND TALK TO HER RATHER THAN
21 CONTINUE TO RUN AWAY FROM YOUR DANGEROUS FATHER?

22 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE AND
23 MISSTATES THE EVIDENCE.

24 THE COURT: SUSTAINED.

25 Q. BY MR. CONN: ARE YOU SAYING THAT THE MERE
26 PRESENCE OF YOUR MOTHER WAS SO STARTLING THAT YOU HAD TO
27 STOP AND TALK TO HER?

28 A. I THINK THAT WOULD BE AN EXTREME

-21038

1 MISCHARACTERIZATION OF WHAT I'VE BEEN SAYING.

2 I RAN INTO THE ROOM. MY MOTHER WAS THERE.

3 I WAS SURPRISED TO SEE HER THERE. SHE SAID, "WHAT'S THE

4 MATTER WITH YOU," AND I EITHER CONTINUED OR TOOK SOME
5 STEPS AND WAS GOING, AND SAID "NOTHING. YOU WOULDN'T
6 UNDERSTAND."

7 AND SHE SAID, "OH, I UNDERSTAND. I
8 UNDERSTAND A LOT MORE THAN YOU THINK," AND THAT'S WHAT
9 STOPPED ME.

10 I DIDN'T -- CERTAINLY WHETHER MY MOTHER WAS
11 THERE OR NOT, I DID NOT WANT TO STOP AND HAVE A
12 CONVERSATION WITH HER. I WAS NOT INTENDING TO HAVE A
13 CONVERSATION WITH HER, AND UNLESS SHE WOULD HAVE SAID
14 THAT I WOULD NOT HAVE STOPPED. I WOULD HAVE KEPT GOING.

15 Q. AND YOU STILL BELIEVED YOUR FATHER WAS
16 AFTER YOU; IS THAT CORRECT?

17 A. I -- I ASSUMED THAT. I STILL BELIEVED
18 THAT. THESE THINGS HAPPENED ONE AFTER ANOTHER, SO
19 QUICKLY THAT I DIDN'T HAVE TIME TO PAUSE AND SAY "WHY
20 ISN'T DAD HERE."

21 I JUST WAS STARTLED TO SEE MOM THERE. SHE
22 SAID WHAT SHE SAID. I WAS GOING TO BRUSH IT OFF AND GO
23 PAST HER, AND SHE KEPT TALKING.

24 Q. MY QUESTION WAS DID YOU STILL BELIEVE YOUR
25 FATHER WAS AFTER YOU AT THAT POINT?

26 A. I THINK SO.

27 Q. AND DID YOU STILL BELIEVE THAT YOUR FATHER
28 WAS DANGEROUS?

1 A. I ALWAYS BELIEVED THAT MY FATHER WAS
2 DANGEROUS.

3 Q. SO YOU STOPPED TO TALK TO YOUR MOTHER; IS
4 THAT CORRECT?

5 A. NO, THAT'S NOT CORRECT.

6 Q. OKAY. TELL US WHAT YOU SAID WHILE YOU WERE
7 IN A STANDING-STILL POSITION TO YOUR MOTHER?

8 A. SHE SAID, "WHAT'S THE MATTER WITH YOU?"

9 I SAID "NOTHING. YOU WOULDN'T UNDERSTAND,"
10 INTENDING TO BRUSH HER OFF AND KEEP GOING.

11 AND SHE SAID, "OH, I UNDERSTAND. I
12 UNDERSTAND A LOT MORE THAN YOU THINK," AND I STOPPED.

13 Q. AND THEN AT THAT POINT YOU STOPPED AND
14 CHATTED WITH YOUR MOTHER FOR AWHILE?

15 A. NO.

16 Q. DID YOU STOP TO TALK TO YOUR MOTHER FOR A
17 LITTLE WHILE?

18 A. I STOPPED AND SAID, "WHAT DO YOU MEAN?
19 WHAT DO YOU KNOW? WHAT DO YOU UNDERSTAND?"

20 AND SHE SAID, "OH, I KNOW. I KNOW A LOT
21 MORE THAN YOU THINK. WHAT DO YOU THINK, I'M STUPID," OR
22 SOMETHING ALONG THOSE LINES, AND I JUST WAS TAKEN BACK
23 BY IT.

24 Q. NOW, WHEN SHE SAID, "I UNDERSTAND. I KNOW
25 MORE THAN YOU THINK," DID YOU BELIEVE THAT YOUR FATHER
26 WAS STILL AFTER YOU AT THAT MOMENT?

27 A. PROBABLY.

28 Q. BUT YOU FELT AT THAT POINT IT WAS MORE

1 IMPORTANT TO YOU TO CLEAR UP YOUR MOTHER'S AMBIGUOUS
2 COMMENT THAN IT WAS FOR YOU TO FLEE TO SAFETY?

3 A. MY BROTHER HAD SAID TO ME TWO DAYS BEFORE
4 THIS "MOM KNOWS ABOUT THE SEX."

5 I DEFENDED MOM TO THE TEETH, BECAUSE I DID
6 NOT BELIEVE SHE KNEW. I COULDN'T IMAGINE THE BETRAYAL
7 OF HER KNOWING. IT WAS ON MY MIND, DOES SHE KNOW, DOES
8 SHE NOT KNOW.

9 WHEN SHE SAID THIS TO ME, IT WAS THE MOST
10 PRESENT THING FOR ME AT THAT MOMENT, AND I STOPPED. I
11 WASN'T THINKING ABOUT "DAD'S CHASING ME, I'VE GOT TO GET
12 TO THE GUESTHOUSE," AT THAT INSTANT. I WAS JUST
13 THINKING WHAT IS SHE SAYING.

14 Q. AND YOU WERE MORE CONCERNED ABOUT CLEARING
15 UP THAT AMBIGUITY THAN YOU WERE ABOUT GETTING AWAY FROM
16 YOUR FATHER; IS THAT TRUE?

17 A. IF THAT'S THE WAY YOU WANT TO CHARACTERIZE
18 IT. THAT'S ESSENTIALLY WHAT I'M SAYING.

19 Q. NO, I AM ASKING YOU HOW YOU WANT TO
20 CHARACTERIZE IT, MR. MENENDEZ.

21 WERE YOU MORE CONCERNED WITH GETTING
22 AWAY -- WITH CLEARING UP AN AMBIGUITY THAN GETTING AWAY
23 FROM YOUR FATHER?

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

25 THE COURT: OVERRULED.

26 THE WITNESS: IT WASN'T A MATTER OF CLEARING UP
27 THE AMBIGUITY AS THOUGH THERE WAS A MISUNDERSTANDING.
28 SHE SAID WHAT SHE SAID. IT STUNNED ME. IT MADE ME

-21035

1 PAUSE, AND I ASKED HER ANOTHER QUESTION, AND WE ARE
2 TALKING ABOUT TEN SECONDS HERE. WE ARE TALKING MAYBE
3 SIX. IT HAPPENED SO QUICKLY.

4 I SAID, "WHAT DO YOU MEAN?" SHE SAID "I
5 UNDERSTAND. I UNDERSTAND A LOT MORE THAN YOU THINK."
6 IT HAPPENED SO QUICKLY, AND THEN I RAN OFF AGAIN.

7 Q. BY MR. CONN: AND DO YOU FEEL THAT THE SIX
8 OR TEN SECONDS MIGHT BE ENOUGH TIME FOR YOUR FATHER TO
9 CATCH UP TO YOU AND KILL YOU?

10 A. IF HE WAS CHASING ME DOWN THE STAIRS,
11 YOU'RE RIGHT, HE WOULD HAVE. BUT WHAT SHE SAID, IT
12 JUST -- I CAN'T TELL YOU WHY, IT JUST DID.

13 Q. MY QUESTION WAS, WERE YOU CONCERNED THAT
14 THE SIX OR TEN SECONDS MIGHT BE ENOUGH FOR YOUR FATHER
15 TO CATCH UP TO YOU AND KILL YOU?

16 A. AT THAT EXACT MOMENT IT WASN'T ON MY MIND.

17 Q. SO TELL US THE CONVERSATION YOU STOPPED TO
18 HAVE WITH YOUR MOTHER AT THAT TIME?

19 A. I WENT IN THE DOOR. SHE SAID "WHAT'S THE
20 MATTER WITH YOU?" I SAID "NOTHING. YOU WOULDN'T
21 UNDERSTAND." AND SHE SAID "OH, I UNDERSTAND. I

22 UNDERSTAND A LOT MORE THAN YOU THINK."

23 I PAUSED. I SAID -- I SAID "WHAT DO YOU

24 UNDERSTAND? WHAT DO YOU KNOW?"

25 SHE SAYS "OH, I KNOW. DO YOU THINK I'M

26 STUPID? I'VE ALWAYS KNOWN," SOMETHING ALONG THOSE

27 LINES, AND I SAID -- I DIDN'T SAY ANYTHING AT FIRST. I

28 JUST ABSORBED WHAT SHE SAID.

-21034

1 AND I SAID, "I HATE YOU. I HATE YOU," AND

2 I RAN OUT THE DOOR.

3 Q. AND WITH THIS KNOWLEDGE THAT YOUR PARENTS

4 WERE BOTH AGAINST YOU, AT THIS POINT YOU THEN PROCEEDED

5 ON YOUR JOURNEY TO THE GUESTHOUSE; IS THAT CORRECT?

6 A. YES.

7 Q. OKAY. SO NOW YOU GET TO THE GUESTHOUSE,

8 AND WHAT DID YOU DO IN THE GUESTHOUSE?

9 A. THE FIRST THING I SAID TO LYLE WAS "MOM

10 KNOWS. MOM KNOWS," AND MOM WAS COMING UP THE STAIRS AT

11 THAT TIME AND WAS IN THE ROOM. I RAN BEHIND MY BROTHER.

12 Q. AND WHAT HAPPENED WHEN YOUR -- SO YOU RAN

13 BEHIND YOUR BROTHER. WHY?

14 A. JUST SOMETHING I DID FROM THE TIME I WAS A

15 LITTLE KID, USUALLY FOR SAFETY. I KNEW LYLE WOULD

16 PROTECT ME, AND SO I JUST DID.

17 Q. AND ONCE AGAIN ARE YOU TRYING TO PORTRAY

18 YOURSELF AS A LITTLE CHILD HIDING BEHIND YOUR BROTHER?

19 A. I AM NOT TRYING TO PORTRAY MYSELF IN ANY
20 WAY.

21 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S
22 ARGUMENTATIVE. THE PROSECUTOR ASKED A QUESTION.

23 THE COURT: OBJECTION SUSTAINED. THE ANSWER IS
24 STRICKEN.

25 Q. BY MR. CONN: YOU HID BEHIND YOUR BROTHER
26 BECAUSE YOU WERE FEARFUL OF YOUR MOTHER?

27 A. I HID BEHIND MY BROTHER BECAUSE IT WAS JUST
28 THE NATURAL THING FOR ME TO DO.

-21033

1 Q. AND WHEN YOU SAY "HID BEHIND," TELL US
2 EXACTLY WHAT YOU MEAN BY THAT.

3 A. MY BROTHER WAS STANDING IN THE ROOM, AND I
4 WENT IN THE AREA BEHIND HIM.

5 Q. TO GET AWAY FROM YOUR MOTHER?

6 A. TO GET AWAY FROM MY MOTHER, THE SITUATION,
7 EVERYTHING. I JUST WENT BEHIND MY BROTHER.

8 Q. HOW TALL WAS YOUR MOTHER?

9 A. FIVE-FIVE, FIVE-SIX.

10 Q. HOW TALL WERE YOU?

11 A. FIVE-ELEVEN.

12 Q. YOU WERE ABOUT FIVE OR SIX INCHES TALLER
13 THAN YOUR MOTHER?

14 A. RIGHT.

15 Q. AND HOW MUCH DID YOU WEIGH?

16 A. 155, 160.

17 Q. AND DID YOU FEEL THAT YOU WERE STRONGER

18 THAN YOUR MOTHER?

19 A. PHYSICALLY STRONGER?

20 Q. YES.

21 A. I HADN'T THOUGHT ABOUT IT.

22 Q. THIS WAS A MIDDLE-AGED, DEPRESSED,

23 ALCOHOLIC HOUSEWIFE; IS THAT WHAT YOU'RE TELLING US?

24 A. MY MOTHER WAS MY MOTHER. I DIDN'T THINK OF

25 HER AS A MIDDLE-AGED, DEPRESSED ALCOHOLIC HOUSEWIFE. I

26 THOUGHT OF HER AS MY MOTHER. I THOUGHT OF HER AS

27 SOMEONE I LOVED, YET SOMEONE THAT WAS DANGEROUS. HER

28 HEIGHT HAD NOTHING TO DO WITH IT IN MY MIND.

-21032

1 Q. I AM ASKING YOU IF YOU WERE AWARE,

2 ACCORDING TO YOUR TESTIMONY HERE, THAT SHE WAS A

3 MIDDLE-AGED, DEPRESSED, ALCOHOLIC HOUSEWIFE?

4 A. YES.

5 Q. AND YOU'RE TELLING US THAT YOU STOOD BEHIND

6 LYLE MENENDEZ BECAUSE YOU WERE SO FEARFUL OF THIS WOMAN;

7 IS THAT CORRECT?

8 A. YES, THAT'S WHAT I'M TELLING YOU.

9 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE AND

10 MISSTATES HIS TESTIMONY.

11 THE COURT: OVERRULED.

12 Q. BY MR. CONN: SO WHAT HAPPENED AFTER YOU
13 WERE HIDING BEHIND YOUR OLDER BROTHER?

14 A. MY MOM WAS STILL YELLING "GET BACK HERE."
15 MY BROTHER SAID, "HOW COULD YOU KNOW? I THOUGHT YOU
16 KNEW. HOW COULD YOU KNOW? HOW COULD YOU LET IT GO ON
17 WITH ERIK?"

18 I AM NOT SURE OF THE EXACT WORDS. AND MY
19 MOTHER SAID, "NO ONE EVER HELPED ME. WHY SHOULD I HELP
20 YOU? YOU'RE JUST THE CAUSE OF ALL MY PROBLEMS."

21 Q. AND SHE WAS STILL YELLING AT THAT POINT?

22 A. SHE CONTINUED TO YELL, AND MY BROTHER SAID
23 SOMETHING. SHE YELLED AND SHE WENT OUT OF THE
24 GUESTHOUSE.

25 Q. AND THEN YOU SAT DOWN AND SPOKE TO LYLE?

26 A. I WANTED TO KNOW WHAT MORE HAD JUST
27 HAPPENED, WHAT HAD HAPPENED WITH MY BROTHER'S AND MY
28 DAD'S CONVERSATION.

-21031

1 Q. AND YOU BEGAN TO HAVE A CONVERSATION WITH
2 YOUR BROTHER?

3 A. ESSENTIALLY A CONVERSATION, YES.

4 Q. AND WHAT HAPPENED TO YOUR FATHER,
5 MR. MENENDEZ?

6 A. I DON'T KNOW WHAT HAPPENED TO MY FATHER.

7 Q. DID YOU THINK AT THAT TIME HE WAS STILL

8 RUNNING AROUND IN CIRCLES IN YOUR ROOM LOOKING FOR YOU?

9 A. NO.

10 Q. THIS WAS THE MAN WHO YOU FELT COULD CHASE

11 YOU TO THE ENDS OF THE EARTH AND FOLLOW YOU; IS THAT

12 CORRECT?

13 A. HE WOULD.

14 Q. AND YOU -- AND AT THAT TIME YOUR FATHER

15 COULDN'T FIND HIS WAY TO THE GUESTHOUSE?

16 A. I CANNOT EXPLAIN WHY HE DIDN'T CHASE ME

17 DOWN THE STAIRS. I DON'T KNOW THE ANSWER TO THAT.

18 Q. HE ABANDONED THIS CHASE OF YOU; IS THAT

19 WHAT YOU'RE TELLING US?

20 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

21 THE WITNESS: I DON'T KNOW WHAT WAS IN HIS MIND.

22 THE COURT: OVERRULED. THE ANSWER WILL STAND.

23 Q. BY MR. CONN: YOU NEVER SAW YOUR FATHER

24 THAT EVENING?

25 A. NO, I DIDN'T.

26 MR. CONN: DID THE COURT WISH TO BREAK NOW OR

27 CONTINUE?

28 THE COURT: ALL RIGHT. WE WILL BE RECESSING.

-21030

1 OUR SCHEDULE IS AS PREVIOUSLY DISCUSSED

2 WITH COUNSEL AND THE JURY; THAT ONE OF THE JURORS HAS A
3 MEDICAL APPOINTMENT THIS AFTERNOON, WHICH MEANS THAT WE
4 WON'T BE IN SESSION THIS AFTERNOON, AND WE WILL BE
5 RESUMING TOMORROW AT 8:30.

6 DON'T DISCUSS THIS MATTER WITH ANYONE.

7 DON'T FORM ANY FINAL OPINIONS ABOUT THE MATTER. WE WILL
8 RESUME TOMORROW AT 8:30. SEE YOU BACK HERE THEN.

9 (THE JURY EXITS THE COURTROOM AND THE
10 FOLLOWING PROCEEDINGS WERE HELD:)

11

12 THE COURT: YOU MAY STEP DOWN.

13 ALL RIGHT. AS FAR AS THIS AFTERNOON IS
14 CONCERNED, ARE THERE ANY MATTERS THAT WE CAN DISCUSS
15 THIS AFTERNOON?

16 MS. ABRAMSON: WE HAVE SCHEDULING PROBLEMS FOR
17 BEING HERE THIS AFTERNOON. MR. LEVIN HAS AN APPEARANCE.
18 I HAVE AN APPOINTMENT. MR. GESSLER HAS AN APPOINTMENT.

19 MR. GESSLER: I MIGHT BE -- I HAVE TO CALL THE
20 OFFICE. I AM ON CALL TO THE FEDERAL COURT IN THAT
21 MATTER THAT THE COURT WAS CONTACTED BY I BELIEVE THE --

22 THE COURT: I WAS NEVER CONTACTED.

23 MR. GESSLER: WELL, MY UNDERSTANDING WAS THE
24 FEDERAL JUDGE HAD CONTACTED YOU AND ASKED YOU TO SCRUB A
25 WHOLE DAY OF THIS TRIAL.

26 THE COURT: NO, NO. YOU BROUGHT THAT UP ONCE
27 BEFORE, AND I SAID I NEVER RECEIVED ANY COMMUNICATION,
28 AND I STILL HAVEN'T.

1 MR. GESSLER: OKAY. WELL, AT ANY RATE --

2 THE BAILIFF: THE JURY IS WALKING, SIR.

3 THE COURT: OKAY. LET THEM GO.

4 (BRIEF PAUSE)

5

6 THE COURT: OKAY.

7 MR. GESSLER: I SEEM TO BE GETTING THINGS THROUGH
8 INTERMEDIARIES, AND I DON'T KNOW IF SHE CONTACTED THE
9 CLERK OR NOT, BUT AT ANY RATE IT WAS LEFT THAT --

10 THE COURT: WELL, THERE WAS SOME LAW CLERK OR
11 SOMEBODY THAT CALLED THE CLERK, BUT I NEVER SPOKE TO
12 ANYBODY, AND THERE WAS NEVER ANYTHING APPROVED.

13 ANYWAY, GO AHEAD.

14 MR. GESSLER: AT ANY RATE, EITHER THROUGH
15 INTERMEDIARIES OR WHATEVER, THE FEDERAL COURT APPARENTLY
16 WAS UNDER THE IMPRESSION THAT YOU WANTED ME TO APPEAR
17 THERE AT SOME TIME WHEN WE WERE DARK IN THIS COURTROOM,
18 AND THAT IS WHAT THEY ARRANGED, AND APPARENTLY I AM ON
19 CALL FOR THIS AFTERNOON.

20 THE COURT: OKAY. IF THEY NEED YOU THIS
21 AFTERNOON, THAT'S FINE.

22 MR. GESSLER: I AM NOT SURE. I AM JUST ON CALL.

23 THE COURT: I JUST DON'T WANT TO LOSE YOU FOR
24 TOMORROW. I DON'T WANT A SITUATION TO ARISE WHERE THEY
25 THINK ONCE THEY GOT YOU, THEY GOT YOU.

26 MR. GESSLER: NO. MY IMPRESSION WAS I WAS TO

27 TESTIFY, IF IT IS THIS AFTERNOON, FROM 1:30 UNTIL 7:30

28 TONIGHT, AND THEY WOULD THEN AGAIN RESUME FRIDAY, WHICH

-21028

1 IS A DARK DAY.

2 THE COURT: OKAY. ALL RIGHT.

3 WELL, BECAUSE OF THE CONFLICTS THEN OF
4 SCHEDULING, THERE DOESN'T SEEM TO BE ANYTHING WE CAN DO
5 THIS AFTERNOON, SO WE WILL BE IN RECESS UNTIL TOMORROW
6 AT 8:30.

7 MR. GESSLER: THANK YOU, YOUR HONOR.

8 (A RECESS WAS TAKEN FROM 12:15 P.M.
9 TO 8:30 A.M. THE FOLLOWING DAY)

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)
7 PLAINTIFFS,)

8)
9 VS.) NO. BA 068880

10)
ERIK GALEN MENENDEZ, AND)
9 JOSEPH LYLE MENENDEZ,)

10)
DEFENDANTS.)
)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

TUESDAY, DECEMBER 19, 1995

VOLUME 266

PAGES 44390 THROUGH 44508

APPEARANCES:

(SEE APPEARANCE PAGE)

1 APPEARANCES:

2

FOR THE PEOPLE: GIL GARCETTI

3

DISTRICT ATTORNEY

BY: DAVID CONN, DEPUTY

4

AND

CAROL NAJERA, DEPUTY

5

18000 CRIMINAL COURTS BLDG.

210 WEST TEMPLE STREET

6 LOS ANGELES, CA 90012

7

8

FOR THE DEFENDANT

9 JOSEPH LYLE MENENDEZ: MICHAEL P. JUDGE,
PUBLIC DEFENDER

10 BY: CHARLES GESSLER, DEPUTY
AND

11 TERRI TOWERY, DEPUTY
210 WEST TEMPLE

12 LOS ANGELES, CA 90012

13

14

FOR THE DEFENDANT

15 ERIK GALEN MENENDEZ: LESLIE ABRAMSON
ATTORNEY AT LAW

16 4929 WILSHIRE BOULEVARD
SUITE 940

17 LOS ANGELES, CA 90010

18 BARRY LEVIN, ESQ.
11661 SAN VICENTE BOULEVARD
19 LOS ANGELES, CA 90049

20

21

ANNAMARIE PAPA

22 CSR NO. 8608

MARYLU MURPHY,

23 CSR NO. 5178

OFFICIAL REPORTERS

24

25

26

27

28

2	DAY	DATE	SESSION	PAGE	VOL.
3	<hr/>				

4 TUESDAY, DECEMBER 19, 1995 A.M. 44390 266

5

6

7 PROCEEDINGS

8

9

10 CHRONOLOGICAL INDEX OF WITNESSES

11

WITNESSES: DIRECT CROSS REDIRECT RECROSS VOL.

12

13 MENENDEZ,
ERIK GALEN

14 (CONT'D) 44391-C 266

21 LEGEND:

 A = MS. ABRAMSON C = MR. CONN
22 G = MR. GESSLER L = MR. LEVIN
 N = MS. NAJERA T = MS. TOWERY

23

1 EXHIBITS INDEX

2 EXHIBITS: MARKED RECEIVED VOL.

3 (NONE THIS VOLUME.)