

1 VAN NUYS, CALIFORNIA; WEDNESDAY, DECEMBER 20, 1995

2 9:25 A.M.

3 DEPARTMENT NW N HON. STANLEY WEISBERG, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6 (ANNAMARIE PAPA, OFFICIAL REPORTER)

7

8 THE COURT: IN THE TRIAL, THE PARTICIPANTS ARE

9 ALL HERE. THE JURY IS IN THE JURY ROOM.

10 IS THERE SOMETHING COUNSEL WANT TO DISCUSS

11 BEFORE WE RESUME?

12 MR. LEVIN: YES, YOUR HONOR.

13 I UNDERSTAND THIS MORNING THAT MR. CONN MAY

14 BE PRESENTING TO ERIK MENENDEZ THE SHOTGUN THAT HAS BEEN

15 INTRODUCED AS EVIDENCE IN THIS TRIAL FOR SOME SORT OF

16 DEMONSTRATION, SIMULATION OR EXPERIMENT OF WHICH WE HAVE

17 NO KNOWLEDGE.

18 FIRST I OBJECT TO THE USE OF THAT SHOTGUN

19 IN ANY MANNER THAT REQUIRES MY CLIENT TO HANDLE IT IN

20 FRONT OF THE JURY.

21 WE ARE ALSO OBJECTING ON THE BASIS THAT WE

22 HAVE NO KNOWLEDGE WITH RESPECT TO WHAT IT IS HE MAY BE

23 ASKING MR. MENENDEZ TO DO WITH THAT SHOTGUN; THAT THE

24 COURTROOM IS AN INAPPROPRIATE PLACE FOR ERIK MENENDEZ TO

25 HANDLE THE SHOTGUN.

26 TO THE NORTH, HE POINTS IT AT COUNSEL TABLE

27 AND THE AUDIENCE. TO THE EAST RESIDES THE JURY. TO THE

28 WEST IS YOUR HONOR. THERE IS ONLY ONE WALL THAT HE CAN

1 POINT THE SHOTGUN AT, WHICH IS THE SOUTH WALL IN THIS  
2 COURTROOM, AND THE JURY COULDN'T SEE WHAT IT IS THAT HE  
3 IS DOING WITH IT.

4 IN ANY EVENT, WE FEEL THAT MR. CONN, IF HE  
5 IS ALLOWED TO USE THE SHOTGUN IN ANY MANNER, THAT HE  
6 MUST SO STATE BEFORE HE DOES; GIVE US AN OPPORTUNITY TO  
7 OBJECT TO ANY DEMONSTRATION OR ANY SIMULATION OR ANY  
8 EXPERIMENT THAT HE WISHES MR. MENENDEZ TO DO, OR ANY  
9 FUNCTION THAT HE REQUESTS MR. MENENDEZ TO PERFORM WITH  
10 THE SHOTGUN.

11 THE COURT: DID YOU INTEND TO DO THAT THIS  
12 MORNING?

13 MR. LEVIN: AND ALSO ONE OTHER POINT WITH RESPECT  
14 TO SECURITY.

15 THE COURT: YES.

16 MR. LEVIN: IF THERE IS GOING TO BE SUCH A  
17 DEMONSTRATION, WE ARE ASKING THE COURT TO INFORM THE  
18 DEFENSE WITH RESPECT TO WHAT TYPE OF SECURITY  
19 MEASURES --

20 THE COURT: YES. WE WILL TALK ABOUT THAT IN A  
21 CLOSED SETTING.

22 MR. LEVIN: VERY WELL.

23 THE COURT: ALL RIGHT.

24 AS FAR AS USE OF THE WEAPON AS AN EXHIBIT,  
25 DID YOU INTEND TO DO THAT THIS MORNING?

26 MR. CONN: I MAY BE SHOWING HIM THE SHOTGUN THIS  
27 MORNING. HOWEVER, WE'RE NOT GOING TO BE DOING ANY  
28 SIMULATIONS OR EXPERIMENTS HERE. I AM SIMPLY GOING TO

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1 SHOW HIM THE WEAPON. IT MAY BE NECESSARY FOR HIM TO  
2 HANDLE THE WEAPON, BUT I DON'T THINK IT'S NECESSARY TO  
3 BROADCAST TO COUNSEL EXACTLY WHAT QUESTIONS I AM GOING  
4 TO ASK HIM CONCERNING THE WEAPON.

5 THE COURT: BEFORE YOU ACTUALLY HAND THE WEAPON  
6 TO THE DEFENDANT, WE WILL TAKE A BREAK. AS I INDICATED  
7 BEFORE, ANY QUESTIONS RELATING TO THE HANDLING OF THE  
8 WEAPON CAN BE ASKED FIRST BEFORE THE WEAPON ACTUALLY IS  
9 UTILIZED BY GIVING IT TO THE DEFENDANT, AND BEFORE THAT  
10 OCCURS, BEFORE YOU PROPOSE TO GIVE IT TO THE DEFENDANT  
11 FOR ANY PURPOSE, I WOULD EXPECT THAT THE QUESTIONS WILL  
12 HAVE ESTABLISHED A FOUNDATION AS TO WHY IT WOULD BE  
13 RELEVANT FOR HIM TO HANDLE THE WEAPON, AND THEN WE'LL  
14 TAKE A RECESS BEFORE THAT PROPOSED COURSE OF ACTION  
15 OCCURS, AND CERTAINLY THERE ARE MATTERS I WILL DISCUSS  
16 BEFORE WE GET TO THAT.

17 BUT YOU ARE INSTRUCTED NOT TO ACTUALLY HAND  
18 THE WEAPON TO THE DEFENDANT, OR INDICATE THAT YOU  
19 PROPOSE TO DO THAT, UNTIL YOU HAVE ESTABLISHED A  
20 FOUNDATION AND UNTIL WE HAVE HAD A RECESS.

21 MR. CONN: ALL RIGHT.

22 THE COURT: ALL RIGHT.  
23 ANYTHING ELSE BEFORE WE RESUME?  
24 MR. GESSLER: YOUR HONOR, THERE IS THE OZIEL  
25 ISSUE THAT SHOULD BE RESOLVED BEFORE WE GO INTO THOSE  
26 AREAS, YOUR HONOR.  
27 THE COURT: ALL RIGHT.  
28 ARE YOU GOING TO GO INTO THE AREAS OF PRIOR

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1 STATEMENTS TO OZIEL AND/OR CIGNARELLI THIS MORNING?  
2 MR. CONN: WHEN WE SAY PRIOR STATEMENTS, I THINK  
3 THE ONLY THING COUNSEL IS CONCERNED ABOUT WITH REGARD TO  
4 THAT MOTION IS STATEMENTS MADE TO OZIEL WHICH THE  
5 DEFENDANT HAS PREVIOUSLY DENIED. I DON'T THINK COUNSEL  
6 IS OBJECTING TO STATEMENTS TO OZIEL HE PREVIOUSLY  
7 ADMITTED. SO THAT'S NOT THE BASIS FOR THEIR OBJECTION.  
8 THE COURT: MY QUESTION IS ARE YOU GOING TO GO  
9 INTO THOSE?  
10 MR. CONN: NO. I DON'T THINK I WILL BE GOING  
11 INTO THAT THIS MORNING.  
12 MR. GESSLER: AND IT ALSO COVERS THE AREA OF  
13 CIGNARELLI IN THAT MOTION ALSO, THE THINGS HE DENIED.  
14 MR. CONN: DON'T THINK I WILL BE GOING INTO  
15 ANYTHING HE DENIED CONCERNING CIGNARELLI EITHER.  
16 THE COURT: NOT THIS MORNING ANYWAY?  
17 MR. CONN: NO.

18 THE COURT: OKAY. LET'S GET THE JURY OUT.

19 (THE JURY ENTERS THE COURTROOM AND THE  
20 FOLLOWING PROCEEDINGS WERE HELD:)

21

22 THE COURT: GOOD MORNING TO YOU ALL. AND WE'RE  
23 READY TO RESUME WITH THE TESTIMONY, THE  
24 CROSS-EXAMINATION OF THE DEFENDANT, ERIK MENENDEZ.

25 I WILL REMIND YOU YOU'RE STILL UNDER OATH, AND  
26 THE PEOPLE MAY CONTINUE THE CROSS-EXAMINATION.

27 MR. CONN:

28

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1

2 ERIK GALEN MENENDEZ,  
3 THE DEFENDANT HEREIN, ON THE STAND AT THE TIME OF THE  
4 ADJOURNMENT, RESUMED THE STAND AND TESTIFIED FURTHER AS  
5 FOLLOWS:

6

7 CROSS-EXAMINATION (CONTINUED)

8 BY MR. CONN:

9 Q. NOW, WAS THURSDAY, MR. MENENDEZ, WHEN YOU  
10 WENT OVER TO THE GUESTHOUSE AND SPOKE TO LYLE MENENDEZ,  
11 THAT YOU CONCLUDED THAT YOUR FATHER WAS GOING TO KILL  
12 YOU; IS THAT CORRECT?

13 A. YES.

14 Q. AND YOUR BROTHER ALSO INDICATED TO YOU THAT  
15 HE BELIEVED THAT YOUR FATHER WAS GOING TO KILL BOTH  
16 HIMSELF AND YOURSELF; IS THAT CORRECT?

17 A. YES.

18 Q. AND YOU ALSO CONCLUDED THAT YOUR MOTHER  
19 WOULD ALSO KILL BOTH OF YOU; IS THAT CORRECT?

20 A. YES.

21 Q. NOT ONLY THAT SHE WOULD KILL YOU, BUT THAT  
22 SHE WAS GOING TO KILL YOU; IS THAT CORRECT?

23 A. WE FELT THAT SHE WAS GOING TO OR PROBABLY  
24 GOING TO.

25 Q. AND WHAT DO YOU MEAN GOING TO OR PROBABLY  
26 GOING TO?

27 A. WELL, OBVIOUSLY NOTHING WAS FOR CERTAIN.  
28 WE BELIEVED THAT THEY WOULD DO ANYTHING TO KEEP THIS

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1 SECRET A SECRET, AND THAT THEY ABSOLUTELY BELIEVED THAT  
2 WE WERE GOING TO EXPOSE IT, AND THAT THEY WOULD KILL US  
3 TO STOP THAT FROM HAPPENING.

4 Q. WHEN YOU SAY THAT NOTHING WAS CERTAIN, DID  
5 IT EVER BECOME CERTAIN TO YOU THAT YOUR PARENTS WERE  
6 GOING TO KILL YOU?

7 A. AT TIMES OVER THAT -- THOSE FEW DAYS I  
8 BELIEVED IT MORE THAN AT OTHER TIMES. I BELIEVED IT  
9 ABSOLUTELY ON SUNDAY NIGHT. I BELIEVED IT BEFORE WE

10 WENT ON THE FISHING TRIP, AND WHEN WE GOT BACK FROM THE  
11 FISHING TRIP I WASN'T SO CERTAIN. I WAS HOPING THINGS  
12 WERE GOING TO WORK OUT. AND FRIDAY MORNING I WAS HOPING  
13 THINGS WERE GOING TO WORK OUT.

14 Q. YOU WERE CERTAIN SUNDAY NIGHT WHEN YOU SHOT  
15 YOUR PARENTS TO DEATH; IS THAT CORRECT?

16 A. YES.

17 Q. AND WHEN ELSE WERE YOU CERTAIN THAT YOUR  
18 PARENTS WERE GOING TO KILL YOU?

19 A. I WAS EITHER CERTAINLY OR STRONGLY BELIEVED  
20 IT BEFORE WE WENT ON THE FISHING TRIP OR FRIDAY NIGHT,  
21 EVEN WHEN MY MOTHER TOLD ME THAT THE FISHING TRIP HAD  
22 BEEN CHANGED TO A LATER DATE. I GOT EXTREMELY  
23 CONCERNED.

24 Q. NOW, WHEN YOU WENT OVER TO THE GUESTHOUSE,  
25 YOU INDICATED THAT YOUR MOTHER WENT OVER AFTER YOU; IS  
26 THAT CORRECT, ON THURSDAY NIGHT?

27 A. YES.

28 Q. AND AFTER SHE LEFT, YOU THEN BEGAN TO

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1 DISCUSS WITH YOUR BROTHER YOUR CONCLUSION THAT YOUR  
2 PARENTS WERE GOING TO KILL YOU; IS THAT CORRECT?

3 A. FIRST WE DISCUSSED WHAT HAD JUST HAPPENED.

4 I WANTED TO KNOW WHAT HAPPENED WITH MY BROTHER'S TALK  
5 WITH MY FATHER, AND HE WAS TELLING ME TO CALM DOWN AND

6 TELL ME WHY MOM WAS JUST SCREAMING, WHAT WAS JUST GOING  
7 ON.

8 AND I TOLD HIM ABOUT WHAT HAD HAPPENED WITH  
9 MY FATHER, AND HE HAD TOLD ME WHAT HAD HAPPENED WITH THE  
10 DISCUSSION WITH DAD, AND THAT'S WHEN WE LOCKED THE DOOR.

11 Q. NOW, HOW MUCH TIME ELAPSED BEFORE YOU AND  
12 YOUR BROTHER CONCLUDED THAT YOUR FATHER WAS GOING TO  
13 KILL YOU?

14 A. WELL, WE WERE CONCERNED ABOUT IT RIGHT  
15 AWAY. I WAS IMMEDIATELY, ONCE I FOUND OUT THAT LYLE HAD  
16 BASICALLY THREATENED TO EXPOSE DAD, AND I WAS JUST  
17 SAYING, "WE'RE GOING TO DIE. WE'RE GOING TO DIE. I  
18 CAN'T BELIEVE YOU THREATENED DAD."

19 THAT'S WHEN I LOCKED THE DOOR. THAT'S WHEN  
20 IT FIRST OCCURRED TO ME THE SERIOUSNESS OF WHAT HAD  
21 HAPPENED.

22 Q. SO YOU IMMEDIATELY CONCLUDED THAT YOUR  
23 FATHER WAS GOING TO KILL YOU, CORRECT?

24 A. YES.

25 Q. AND DID YOU IMMEDIATELY CONCLUDE THAT YOUR  
26 MOTHER WAS GOING TO KILL YOU AS WELL?

27 A. AT THAT POINT I THOUGHT THEY WERE ONE AND  
28 THE SAME.

1 Q. SO, IMMEDIATELY AFTER YOUR MOTHER LEFT AND



2 YOU LEARNED THAT YOUR BROTHER HAD THREATENED YOUR  
3 FATHER, YOU IMMEDIATELY CONCLUDED THAT YOUR MOTHER WAS  
4 GOING TO KILL YOU; IS THAT CORRECT?

5 A. YES.

6 Q. AND THAT IS BECAUSE YOUR MOTHER AND FATHER  
7 ARE A TEAM; IS THAT WHAT YOU'RE TELLING US?

8 A. I HAD JUST -- SHE HAD JUST TOLD ME THAT SHE  
9 HAD KNOWN ABOUT THE SEX AND THAT BLEW ME AWAY, AND I  
10 DIDN'T KNOW WHO MY MOTHER WAS AT THAT POINT. I WAS  
11 BEGINNING TO DOUBT EVERYTHING, AND MY MOTHER HAD BEEN MY  
12 FATHER'S ENFORCER ALL OF OUR LIVES.

13 Q. HIS ENFORCER? WHAT DO YOU MEAN BY HIS  
14 ENFORCER?

15 A. SHE -- SHE EITHER CARRIED OUT PUNISHMENTS,  
16 OR AT TIMES I FELT THAT SHE WAS ON OUR SIDE WHEN I WAS A  
17 CHILD, BUT OTHER TIMES SHE WOULD PURPOSELY PUT THE BLAME  
18 ON ME SO THAT I WOULD GET BEATEN INSTEAD OF HER.

19 AND IN MY MIND IT WAS -- I WENT BACK AND  
20 FORTH OF WHETHER SHE WAS DAD'S ENFORCER OR A VICTIM.

21 Q. THE -- WERE YOU AWARE THAT MANY MOTHERS  
22 PUNISH THEIR CHILDREN AT THE REQUEST OF OR WITH THE  
23 CONSENT OF THE FATHER OF THE FAMILY?

24 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.  
25 IT'S ALSO ARGUMENTATIVE.

26 THE COURT: SUSTAINED.

27 Q. BY MR. CONN: DID YOU REGARD ALL MOTHERS AS  
28 ENFORCERS OF THE WILL OF THE FATHER?

1 MR. LEVIN: OBJECTION. IT'S IRRELEVANT, YOUR  
2 HONOR.

3 THE COURT: SUSTAINED.

4 Q. BY MR. CONN: WHY DO YOU CALL YOUR MOTHER  
5 THE ENFORCER?

6 A. IT'S JUST THE FIRST WORD THAT POPPED INTO  
7 MY MIND.

8 Q. IS IT BECAUSE IT SOUNDS VERY OMINOUS TO  
9 YOU, MR. MENENDEZ?

10 A. IT'S JUST THE FIRST WORD THAT POPPED INTO  
11 MY MIND. I JUST CAME UP WITH AN ADJECTIVE.

12 MR. LEVIN: OBJECTION, YOUR HONOR. HE HASN'T --

13 THE COURT: DID YOU FINISH YOUR ANSWER?

14 THE WITNESS: YES, YOUR HONOR.

15 Q. BY MR. CONN: YOUR MOTHER SOMETIMES  
16 PUNISHED YOU; IS THAT CORRECT?

17 A. I WASN'T SO MUCH REFERRING TO JUST THE  
18 TIMES WHEN SHE PUNISHED US, JUST THE TIMES WHEN SOMEONE  
19 HAD TO TAKE THE BLAME FOR SOMETHING THAT HAPPENED IN THE  
20 HOUSEHOLD. THE ANSWER IS YES.

21 Q. AND IT WAS BECAUSE YOUR MOTHER SOMETIMES  
22 PUNISHED YOU YOU FELT THAT THEREFORE -- AND BECAUSE YOUR  
23 MOTHER KNEW ABOUT THE MOLEST, YOU BELIEVED THAT  
24 THEREFORE YOUR MOTHER WOULD KILL YOU; IS THAT CORRECT?

25 A. MORE THE LATTER.

26 Q. AND THIS IS THE FIRST TIME IN YOUR LIFE

27 THAT YOU CONCLUDED THAT YOUR MOTHER WOULD KILL YOU; IS

28 THAT CORRECT?

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1 A. INTENTIONALLY.

2 Q. AND YOU REACHED THAT CONCLUSION WITHIN  
3 MOMENTS OF LEARNING THAT YOUR MOTHER HAD KNOWN ABOUT THE  
4 MOLESTATION; IS THAT WHAT YOU'RE SAYING?

5 A. AT THAT POINT I WAS JUST RUNNING OUT OF THE  
6 HOUSE, AND I WASN'T REALLY THINKING ANYTHING, JUST TO  
7 GET TO LYLE. AS SOON AS LYLE TOLD ME ABOUT THE  
8 CONVERSATION HE HAD HAD WITH DAD IN WHICH I FELT THAT HE  
9 THREATENED TO EXPOSE DAD, I -- IT HIT ME THAT THIS IS  
10 WHAT WAS HAPPENING.

11 Q. NOW, YOU TOLD US PREVIOUSLY THAT WHEN YOUR  
12 MOTHER HAD A RIFLE IN THE HOME, YOU CONCLUDED THAT YOUR  
13 MOTHER WOULD NOT USE THAT RIFLE AGAINST YOU; IS THAT  
14 CORRECT?

15 A. RIGHT.

16 Q. AND THAT'S BECAUSE YOU CONCLUDED THAT YOUR  
17 MOTHER LOVED YOU; IS THAT CORRECT?

18 A. I BELIEVE SHE DID.

19 Q. WHAT MADE YOU BELIEVE THAT YOUR MOTHER  
20 LOVED YOU, MR. MENENDEZ?

21 A. SHE WAS MY MOM. I -- WE LOVED EACH OTHER.  
22 I -- I COULD NOT IMAGINE IT BEING ANY OTHER WAY.

23 Q. WHAT WAS IT ABOUT HER AS A PERSON THAT  
24 CAUSED YOU TO CONCLUDE THAT SHE LOVED YOU?  
25 A. MOSTLY THE FACT THAT SHE WAS MY MOM, AND I  
26 REMEMBER WHEN SHE USED TO SMILE AT ME AND HOW HAPPY THAT  
27 WOULD MAKE ME, AND I FELT THROUGHOUT OUR CHILDHOOD THAT  
28 I WAS TRYING TO HELP HER, AND SHE WOULD SOMETIMES TRY TO

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1 HELP ME.

2 I CAN'T GIVE YOU ANY SPECIFIC REASON OTHER  
3 THAN HER SMILE. I JUST BELIEVED IT.

4 Q. WAS YOUR RELATIONSHIP WITH YOUR MOTHER SO  
5 SUPERFICIAL, MR. MENENDEZ, THAT WHEN YOU THINK ABOUT  
6 THAT RELATIONSHIP ALL YOU COULD THINK ABOUT IS A SMILE  
7 ON A FACE?

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

9 THE WITNESS: WHEN I THINK --

10 THE COURT: REPHRASE THE QUESTION.

11 Q. BY MR. CONN: DID YOU HAVE A RELATIONSHIP  
12 WITH YOUR MOTHER, MR. MENENDEZ, THAT WENT ANY DEEPER  
13 THAN YOUR APPRECIATION OF A NICE SMILE ON A FACE?

14 A. MY RELATIONSHIP WITH MY MOTHER WENT TO THE  
15 DEEPEST POSSIBLE LEVEL. IT WAS COMPLEX, AND YET VERY  
16 SIMPLE. SHE WAS MY MOTHER AND I LOVED HER, AND I USED  
17 TO CLING ONTO HER WHEN I WAS A CHILD, AND SHE WAS THE  
18 ONE PERSON I LOVED MORE THAN ANYONE WHEN I WAS A BABY.

19 BUT WHAT STANDS OUT IN MY MIND IS HER  
20 SMILE, BECAUSE I CAN'T RELAY MANY INSTANCES WHEN SHE  
21 PROTECTED ME AGAINST MY FATHER.  
22 Q. IS THAT BECAUSE, MR. MENENDEZ, THAT THE  
23 LAST THING IN THE WORLD THAT YOU WANT TO DO IS TELL THIS  
24 JURY ANYTHING POSITIVE THAT YOU REMEMBER ABOUT YOUR  
25 MOTHER?  
26 MR. LEVIN: OBJECTION. ARGUMENTATIVE.  
27 THE WITNESS: NO.  
28 THE COURT: OVERRULED.

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1 Q. BY MR. CONN: THEN CAN YOU TELL US,  
2 MR. MENENDEZ, WHY IT WAS THAT YOU LOVED HER AS A PERSON?  
3 A. BECAUSE SHE WAS -- SHE WAS MY MOM. I  
4 COULDN'T IMAGINE NOT LOVING HER. I -- I THINK IT'S JUST  
5 NATURAL THAT A CHILD LOVES ITS MOTHER AND A MOTHER LOVES  
6 ITS CHILD, FOR NO OTHER REASON THAN IT IS.  
7 Q. YOU WILL TELL US NOTHING OTHER THAN THE  
8 FACT THAT SHE WAS YOUR MOTHER AND SHE HAD A NICE SMILE;  
9 IS THAT CORRECT, MR. MENENDEZ?  
10 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.  
11 THE WITNESS: IF YOU WANT ME TO --  
12 THE COURT: OVERRULED.  
13 THE WITNESS: IF YOU WANT ME TO RELAY HAPPY TIMES  
14 THAT I REMEMBER WITH MY MOTHER --

15 Q. BY MR. CONN: I WANT YOU TO TELL THE JURY,  
16 MR. MENENDEZ, IF INDEED YOU TRULY LOVED YOUR MOTHER,  
17 WHAT WAS IT ABOUT THIS WOMAN AS A PERSON THAT YOU LOVED?

18 A. I FELT -- I FELT SORRY FOR HER MOST OF MY  
19 CHILDHOOD. SHE WAS MY MOM, AND I CAN'T GIVE YOU ANY  
20 OTHER BETTER EXPLANATION THAN SHE WAS MY MOTHER.

21 I LOVED HER, HER SMILE WHEN SHE WAS HAPPY,  
22 AND I CONSTANTLY TRIED TO GET HER HAPPY, BECAUSE SHE  
23 LOOKED LIKE A GLOWING PERSON WHEN SHE WAS SMILING.

24 Q. AND THAT IS WHERE YOUR RELATIONSHIP WITH  
25 THIS MOTHER STOPPED, MR. MENENDEZ?

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

27 THE COURT: REPHRASE THE QUESTION.

28 Q. BY MR. CONN: IS THAT THE DEPTH OF YOUR

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1 RELATIONSHIP TO THIS WOMAN, MR. MENENDEZ, YOU WERE  
2 RELATED TO HER BY BIRTH AND SHE HAD A NICE SMILE?

3 A. I THINK YOU'RE REALLY MISUNDERSTANDING WHAT  
4 I AM SAYING. MY RELATIONSHIP TO HER BY BIRTH HAD  
5 NOTHING TO DO WITH IT, WHETHER SHE ADOPTED ME OR NOT.  
6 SHE WAS MY MOTHER. SHE WAS THE PERSON WHO I VIEWED  
7 AS -- AS -- I JUST VIEWED HER AS A GLORIOUS THING WHEN I  
8 WAS VERY YOUNG, AND THAT FEELING DIDN'T GO AWAY, AND THE  
9 FEELING OF -- OF FEELING VERY BAD FOR HER IN MY LIFE AND  
10 HATING MY DAD FOR WHAT HE USED TO DO TO HER MADE ME LOVE

11 HER EVEN MORE AND WANT TO PROTECT HER EVEN MORE.

12 I CAN'T -- I DON'T KNOW WHAT YOU'RE ASKING

13 MORE THAN THE FACT THAT SHE WAS MY MOM AND I LOVED HER.

14 Q. ISN'T IT TRUE, MR. MENENDEZ, THAT YOU HAD A

15 SUPERFICIAL OR NONEXISTENT RELATIONSHIP WITH YOUR

16 MOTHER?

17 A. THERE WASN'T MUCH COMMUNICATION.

18 MR. LEVIN: OBJECTION, YOUR HONOR.

19 ARGUMENTATIVE.

20 THE COURT: OVERRULED.

21 THE WITNESS: THERE WASN'T MUCH COMMUNICATION,

22 BUT IN MY FAMILY THE BONDS WENT BEYOND WORDS. IT WAS A

23 LOOK. IT WAS -- IT WAS HEARING SOMEONE CRY IN ANOTHER

24 ROOM AND WANTING TO BE WITH THEM. IT WAS NOT

25 SUPERFICIAL BY ANY MEANS.

26 Q. BY MR. CONN: ISN'T IT TRUE, MR. MENENDEZ,

27 THAT YOU HAD NO ATTACHMENT WHATSOEVER TO THIS WOMAN

28 EXCEPT FOR A SMILE ON THE FACE THAT YOU CLAIM YOU LIKED?

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1 A. A SMILE ON A FACE WAS A BIG THING TO ME AS

2 A CHILD. I DIDN'T -- I DIDN'T HAVE A HOME WHERE THERE

3 WERE HUGS AND THERE WERE KISSES AND THERE WERE "I LOVE

4 YOUS." THOSE THINGS WEREN'T DONE IN MY HOME. THEY

5 WEREN'T -- THEY WERE FROWNED UPON BY MY FATHER.

6 WHAT I REMEMBER MOST -- WHAT BRIGHTENED MY

7 DAY WAS MY MOM SMILING, AND THAT IS -- IT'S MUCH MORE TO  
8 ME. MAYBE IT'S JUST A PICTURE TO YOU AND --

9 MR. CONN: OBJECTION. ARGUMENTATIVE. I AM GOING  
10 TO MAKE A MOTION TO STRIKE.

11 THE COURT: REPHRASE THE QUESTION.

12 MR. LEVIN: OBJECTION, YOUR HONOR. HE HAS A  
13 RIGHT TO ANSWER THE PROSECUTOR'S QUESTIONS.

14 THE WITNESS: AND IT MIGHT BE JUST THAT TO YOU,  
15 BUT TO ME AS A BOY THAT WAS THE GREATEST GIFT MY MOTHER  
16 COULD GIVE ME.

17 Q. BY MR. CONN: THE QUESTION, MR. MENENDEZ,  
18 IS NOT WHAT IT IS TO ME. THE QUESTION IS WHAT IT IS TO  
19 YOU.

20 CAN YOU TELL THIS JURY SOMETHING ABOUT THIS  
21 WOMAN AS A PERSON, NOT AS A SMILING FACE, BUT AS PERSON?

22 DO YOU UNDERSTAND THE DIFFERENCE?

23 MR. LEVIN: OBJECTION. IT'S VAGUE, YOUR HONOR.  
24 IT'S NOT TO ASK THE WITNESS IF HE UNDERSTANDS THE  
25 DIFFERENCE.

26 THE COURT: OVERRULED.

27 THE WITNESS: I THOUGHT I DID. I'M -- I GUESS  
28 I'M NOT UNDERSTANDING THE DIFFERENCE.

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1 Q. BY MR. CONN: YOU HAVE JUST TOLD THIS JURY  
2 THE FULL EXTENT OF YOUR ATTACHMENT TO THIS WOMAN; IS



3 THAT CORRECT?

4 A. MY ATTACHMENT TO THIS WOMAN --

5 MR. LEVIN: OBJECTION.

6 THE WITNESS: -- IS -- THIS WOMAN WAS MY MOTHER,

7 AND --

8 Q. BY MR. CONN: YOU ALREADY TOLD US THAT,

9 MR. MENENDEZ.

10 A. AND WHEN SHE DIED I WAS ANGUISHED OVER HER

11 DEATH, AND I STILL LONG FOR HER BACK, AND MY ATTACHMENT

12 IS NOT SUPERFICIAL. I DON'T EVEN -- I CAN'T EVEN

13 COMPREHEND WHAT YOU'RE SAYING.

14 Q. AND YOU WILL TELL THIS JURY NOTHING

15 POSITIVE ABOUT HER AS A PERSON; IS THAT CORRECT, MR.

16 MENENDEZ?

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

18 THE COURT: SUSTAINED.

19 Q. BY MR. CONN: CAN YOU THINK OF ANYTHING

20 POSITIVE ABOUT HER AS A PERSON, MR. MENENDEZ, THAT YOU

21 LOVED?

22 A. SHE USED TO PROTECT ME FROM OTHERS OUTSIDE

23 THE HOME. WHEN SOMEONE WOULD YELL AT ME, SHE WOULD YELL

24 AT THEM, AND STAND UP FOR ME, STRANGERS. I REMEMBER

25 THOSE TIMES.

26 I REMEMBER CHRISTMASES, AND THE PRESENTS

27 WOULD BE UNDER THE CHRISTMAS TREE, AND WE WOULD WAKE UP

28 EARLY IN THE MORNING, AND MY BROTHER AND I WOULD GO

1 DOWNSTAIRS WITH OUR BLANKETS, AND I'D RUN INTO MY  
2 MOTHER'S ROOM, BECAUSE I KNOW SHE'D LIKE TO TAKE  
3 PICTURES, AND I'D WAKE HER UP AND SAY "I WANT TO TAKE  
4 PICTURES NOW, BECAUSE WE WANT TO OPEN THE PRESENTS," AND  
5 SHE'D COME DOWN AND BE SMILING, AND THERE WOULD BE  
6 STOCKINGS.

7       AND I REMEMBER THE HAPPY TIMES OF CHRISTMAS  
8 MORNING WHEN SHE WAS GLOWING AND ALL HAPPY. I HAVE -- I  
9 HAVE GOOD MEMORIES OF MY MOM. NOT AN ENORMOUS AMOUNT,  
10 BUT ENOUGH TO MAKE ME KNOW THAT I LOVED HER VERY MUCH.

11     Q. CAN YOU TELL US ANYTHING MORE ABOUT WHY YOU  
12 LOVED THIS WOMAN AS A PERSON?

13     A. NO.

14     Q. YOU LOVED YOUR FATHER, YOU SAID?

15     A. YES.

16     Q. CAN YOU TELL US WHY YOU LOVED HIM AS A  
17 PERSON, ASIDE FROM THE FACT THAT HE IS YOUR FATHER?

18     MR. LEVIN: OBJECTION, YOUR HONOR. HE CAN ANSWER  
19 THE QUESTION ANY WAY HE DEEMS.

20     THE COURT: OKAY. THE OBJECTION IS OVERRULED.

21     THE WITNESS: I LOVED MY FATHER MORE OUT OF  
22 ADMIRATION. HE WAS THE STRONGEST, MOST POWERFUL, MOST  
23 INTELLIGENT, FEARLESS MAN I HAVE EVER MET, AND I VIEWED  
24 HIM AS LARGER THAN LIFE. AND WHEN I WAS AT TENNIS  
25 MATCHES AND THERE WOULD BE A PROBLEM WITH THE LINES  
26 CALL, HE WOULD STAND UP FOR ME, AND HE WAS -- HE WAS A  
27 BEAR OF A HUMAN, AND HE WAS -- AS A CHILD, THAT WAS

28 INCREDIBLE TO ME, AND I LOVED HIM FOR IT.

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1       MOSTLY I ADMIRE HIM. I ADMIRE WHO HE  
2 WAS, AND I ADMIRE THE FAMILY AND THE TRADITION WHICH HE  
3 CAME FROM.

4       Q.   BY MR. CONN: CAN YOU TELL US ANYTHING MORE  
5 ABOUT WHY YOU LOVED HIM AS A PERSON?

6       A.   NO.

7       Q.   SO HOW LONG DID IT TAKE YOUR BROTHER TO  
8 CONCLUDE THAT YOUR MOTHER AND YOUR FATHER WERE GOING TO  
9 KILL THE TWO OF YOU?

10      MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

11      THE COURT: OVERRULED.

12      THE WITNESS: I'M NOT SURE.

13      Q.   BY MR. CONN: WELL, WAS IT PART OF THAT  
14 CONVERSATION THAT HE AGREED WITH YOU, "YES, OUR MOTHER  
15 AND OUR FATHER ARE GOING TO KILL US?"

16      A.   YES.

17      Q.   AND THURSDAY NIGHT YOU STAYED IN THE  
18 GUESTHOUSE; IS THAT CORRECT?

19      A.   YES, I DID.

20      Q.   AND YOU LOCKED THE DOOR; IS THAT CORRECT?

21      A.   YES, I DID.

22      Q.   AND YOU FIGURED THAT YOUR FATHER WAS GOING  
23 TO COME AND KILL YOU THURSDAY NIGHT; IS THAT CORRECT?

24 A. I THOUGHT OF THE POSSIBILITY.

25 Q. AND SO SINCE THAT WAS A POSSIBILITY THAT

26 YOUR FATHER WAS GOING TO COME AND KILL YOU THURSDAY

27 NIGHT, DID YOU AND YOUR BROTHER LEAVE THE HOUSE?

28 A. THAT'S WHAT LYLE WANTED TO DO.

-21010

1 Q. I AM NOT ASKING WHAT LYLE WANTED TO DO, I

2 AM SAYING DID YOU AND YOUR BROTHER LEAVE THE HOUSE

3 THURSDAY NIGHT?

4 A. NO.

5 Q. WHY NOT?

6 A. BECAUSE I TOLD LYLE THAT I COULDN'T GO. I

7 TOLD HIM THAT THERE WAS -- THERE WAS NOWHERE WE COULD

8 GO, AND THAT IT JUST WASN'T POSSIBLE. I TOLD HIM

9 THAT -- NOT TO LEAVE ME. HE WANTED TO GET OUT, AND I

10 WAS REFUSING TO LEAVE.

11 Q. DID YOU FEEL YOUR LIFE WAS IN DANGER THAT

12 NIGHT?

13 A. YES.

14 Q. YOU HAD NO MEANS OF DEFENDING YOURSELF; IS

15 THAT CORRECT?

16 A. I DON'T KNOW WHAT YOU MEAN BY THAT.

17 Q. DID YOU HAVE A GUN THAT YOU COULD USE TO

18 PROTECT YOURSELF WITH?

19 A. NOT A GUN.

20 Q. DID YOU HAVE ANY WEAPONS IN THE GUESTHOUSE?  
21 A. OTHER -- NO.  
22 Q. DID YOU FEEL THAT YOU WERE VULNERABLE TO  
23 ATTACK BY YOUR FATHER THAT NIGHT?  
24 A. POSSIBLY.  
25 Q. AND WHY DIDN'T YOU LEAVE?  
26 A. I DON'T KNOW.  
27 Q. IS THAT BECAUSE, MR. MENENDEZ, YOU WERE  
28 NEVER IN DANGER AT ANY TIME THAT WEEK AND YOU KNEW IT?

-21009

1 A. NO, I WAS DEFINITELY IN DANGER, AND THEY  
2 WERE DEFINITELY GOING TO DO ANYTHING TO KEEP THIS SECRET  
3 FROM COMING OUT, BUT I CANNOT GIVE YOU A REASON WHY I  
4 COULD NOT LEAVE. I JUST COULDN'T.  
5 Q. DID YOUR BROTHER TELL YOU THAT IT'S THE  
6 WISE THING TO DO, TO LEAVE?  
7 A. YES.  
8 Q. AND DID YOU GIVE YOUR BROTHER A REASON WHY  
9 YOU DIDN'T WANT TO LEAVE?  
10 A. I TOLD HIM THAT I COULDN'T, AND THAT IF HE  
11 LEFT HE WOULD HAVE TO LEAVE ME HERE, AND THAT I WOULD  
12 DIE. IN FACT, I EVEN TOLD HIM THAT I WOULD KILL MYSELF.  
13 I TOLD HIM THAT HE HAS TO STAY, AND THAT THERE'S NOWHERE  
14 WE CAN GO; THAT ANYWHERE WE GO DAD WILL FIND US, AND  
15 THAT WE CAN'T LEAVE.

16 Q. THERE WAS NOTHING PHYSICALLY STOPPING YOU

17 FROM LEAVING; IS THAT CORRECT?

18 A. RIGHT.

19 Q. AND YOU HAD A CAR AND CAR KEYS AND GAS IN

20 THE CAR, DIDN'T YOU?

21 A. YES.

22 Q. AND THEN YOU COULD HAVE JUST LEFT YOUR

23 HOUSE AND GONE TO THE POLICE OR GONE AND LIVED SOMEWHERE

24 ELSE, COULDN'T YOU?

25 A. I COULDN'T HAVE GONE TO THE POLICE.

26 Q. WHY COULDN'T YOU GO TO THE POLICE,

27 MR. MENENDEZ?

28 A. WHAT WERE THE POLICE GOING TO DO?

-21008

1 Q. I AM ASKING YOU, MR. MENENDEZ, WHY DIDN'T

2 YOU GO TO THE POLICE?

3 A. I COULDN'T IMAGINE GOING TO THE POLICE AND

4 TELLING THEM WHAT WAS GOING ON. IT WAS -- IT WAS JUST

5 NOT -- I VIEWED THE POLICE AS LIKE AN AGENCY AT THE

6 TIME, NOT AS A HUMAN BEING, AND I DIDN'T BELIEVE THAT

7 THERE WAS ANY CHANCE THAT MY FATHER WAS GOING TO STAND

8 TRIAL ON A MOLESTATION CHARGE. IT JUST WASN'T GOING TO

9 HAPPEN, AND MY FATHER WOULD MUCH RATHER KILL ME THAN

10 EVER LET THAT HAPPEN.

11 Q. WHAT DO YOU MEAN WHEN YOU SAY YOU REGARD IT

12 AS AN AGENCY AND NOT A HUMAN BEING?

13 A. I VIEWED -- I REGARD THE POLICE AS AN

14 AGENCY. I DIDN'T KNOW ANY POLICE OFFICERS IN MY LIFE.

15 I WASN'T -- I WASN'T CLOSE TO THEM. THE ONLY TIME I SAW

16 POLICE OFFICERS IS THE WAY MY FATHER HANDLED THEM, OR

17 WHEN I GOT PULLED OVER FOR A TICKET.

18 I DIDN'T KNOW, AND I -- EVEN AFTERWARDS I

19 DIDN'T VIEW THE POLICE AS PEOPLE THAT I COULD RELATE TO.

20 I UNDERSTAND THAT NOW. MR. LUBIN IS A POLICE OFFICER,

21 AND I WAS ABLE TO GET CLOSE TO HIM, AND I HAVE COME TO

22 UNDERSTAND THAT I COULD HAVE AND THAT MAYBE I SHOULD

23 HAVE, AND MAYBE I COULD HAVE GONE TO DETECTIVE ZOELLER.

24 AT THE TIME IT JUST WAS INCONCEIVABLE TO ME

25 THAT MY FATHER WOULD ALLOW ME TO LIVE GOING TO THE

26 POLICE. IT JUST -- I COULDN'T -- I MEAN, THERE WAS --

27 EVEN IF I HAD GONE TO THE POLICE AND SAID "MY DAD IS

28 DOING THESE THINGS," THEY WOULD HAVE SAID, "OKAY. WE'LL

-21007

1 CHECK IT OUT WITH YOUR FATHER," AND HE WOULD HAVE KILLED

2 ME.

3 Q. MR. MENENDEZ, YOU WERE ALMOST 19 YEARS OLD

4 AT THE TIME, CORRECT?

5 A. YES.

6 Q. AND YOU WERE NOT A LITTLE CHILD.

7 A. NO.

8 Q. AND ARE YOU TELLING US THAT BEFORE YOU CAN  
9 GO TO A POLICE OFFICER YOU NEEDED TO KNOW A POLICE  
10 OFFICER PERSONALLY; YOU WERE UNABLE TO GO TO AN  
11 IMPERSONAL AGENCY?

12 A. ALL I KNEW WAS ABOUT THE WAY THAT I SAW THE  
13 POLICE BEING TREATED BY MY FATHER. I SAW THE WAY THE  
14 POLICE WERE TALKED ABOUT BY MY FATHER, AND IT'S  
15 SOMETHING THAT HE REGARDED AS -- HE CERTAINLY WASN'T  
16 AFRAID OF THEM.

17 Q. ARE YOU SAYING THAT YOU NEEDED TO KNOW A  
18 POLICE OFFICER PERSONALLY BY NAME AND BY FACE IN ORDER  
19 FOR YOU TO GO TO A POLICE STATION AT THE TIME?

20 A. NO. WHAT I'M SAYING IS HAD I KNOWN A  
21 POLICE OFFICER, OR SOMEONE THAT HAD BEEN A POLICE  
22 OFFICER, THAT I COULD HAVE GOTTEN MAYBE CLOSE TO OVER MY  
23 LIFE, IT MIGHT HAVE CHANGED MY VIEW OF THE WORLD.

24 BUT AS I SAW IT, THE POLICE WAS AN  
25 INSTITUTION AND AN AGENCY THAT ARE VERY IMPERSONAL, AND  
26 THEY WEREN'T GOING TO -- I COULDN'T IMAGINE THAT THEY  
27 WOULD, ONE, BE ON MY SIDE AGAINST MY FATHER, WHO WAS A  
28 POWERFUL FIGURE IN BEVERLY HILLS, OR PROTECT ME.

-21006

1 Q. ARE YOU TRYING TO PORTRAY YOURSELF AS A  
2 HELPLESS CHILD INTIMIDATED BY IMPERSONAL AGENCIES,  
3 MR. MENENDEZ?



4 MR. LEVIN: OBJECTION. ARGUMENTATIVE, YOUR

5 HONOR.

6 THE COURT: OVERRULED.

7 THE WITNESS: NO.

8 Q. BY MR. CONN: AND YOU KNEW THAT WHETHER OR

9 NOT YOU KNEW A POLICE OFFICER BY FACE AND BY NAME THAT

10 YOU CAN GO TO A POLICE STATION AT THE AGE OF ALMOST 19

11 AND THE POLICE OFFICERS AT THE POLICE STATION WOULD TALK

12 TO YOU.

13 DIDN'T YOU REALIZE THAT?

14 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION

15 WHAT THE OFFICERS WOULD DO.

16 THE COURT: OVERRULED.

17 THE WITNESS: THEY WOULD TALK TO ME?

18 Q. BY MR. CONN: YES.

19 A. YES.

20 Q. AND YOU KNEW THAT THEY WOULD TAKE YOUR

21 REPORT, EVEN IF THEY DIDN'T --

22 MR. LEVIN: OBJECTION. IT CALLS --

23 MR. CONN: LET ME FINISH THE QUESTION.

24 MR. LEVIN: PLEASE DO.

25 Q. BY MR. CONN: AND YOU KNEW THEY WOULD TAKE

26 YOUR REPORT, EVEN THOUGH THEY DIDN'T KNOW YOU ON A FIRST

27 NAME BASIS, CORRECT?

28 MR. LEVIN: OBJECTION. CALLING FOR SPECULATION.

1 THE COURT: YOU ARE ASKING FOR HIS STATE OF MIND

2 IN AUGUST OF 1989?

3 MR. CONN: YES, YOUR HONOR.

4 THE COURT: OVERRULED.

5 THE WITNESS: I DIDN'T KNOW WHAT REPORTS WERE. I

6 DIDN'T KNOW POLICE PROCEDURE. I DIDN'T KNOW THESE

7 THINGS. I DIDN'T EVEN KNOW -- I DIDN'T EVEN THINK OF

8 POLICE OFFICERS AS KIND, WARM PEOPLE WHO WERE GOING TO

9 GO IN THERE AND SAVE A CHILD FROM A FAMILY NO MATTER HOW

10 STRONG OR HOW POWERFUL OR HOW MUCH MONEY THE FATHER HAS,

11 AND PROTECT THEM FROM MY FATHER. I JUST COULDN'T

12 IMAGINE.

13 WHEN I GOT TO BARRY LEVIN, I BEGAN TO

14 UNDERSTAND FURTHER. UNTIL THEN, AND WE ARE TALKING

15 YEARS LATER, I STILL DID NOT BELIEVE IT.

16 Q. BY MR. CONN: DID YOU SAY, "SAVE CHILD FROM

17 HIS FAMILY"?

18 A. WHAT I MEAN IS A SON. ME, YES.

19 Q. AND IS THAT THE IMAGE YOU ARE TRYING TO

20 CONVEY BY USING THAT WORD --

21 A. I --

22 Q. IF I MAY FINISH THE QUESTION. THAT YOU

23 WERE LIKE A HELPLESS CHILD WHO COULDN'T GO TO A POLICE

24 STATION UNLESS HE KNEW THE POLICE OFFICERS THERE ON A

25 FIRST NAME BASIS?

26 A. I'M JUST USING THE WORDS THE WAY I VIEWED

27 MYSELF, HOW I SAW MYSELF, AND HOW I SAW MY SITUATION.

28 Q. AND YOU ARE TRYING TO PERSUADE THIS JURY,

1 AREN'T YOU, MR. MENENDEZ?

2 MR. LEVIN: OBJECTION.

3 Q. BY MR. CONN: BY CHOOSING YOUR WORDS

4 CAREFULLY?

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

6 ARGUMENTATIVE.

7 THE COURT: OVERRULED.

8 THE WITNESS: NO.

9 Q. BY MR. CONN: OKAY. SO, YOU THOUGHT IF YOU

10 WENT TO A POLICE STATION THEN AND YOU REPORTED THIS TO

11 THE POLICE, THEN THE POLICE WOULD JUST TAKE A REPORT AND

12 WOULDN'T DO ANYTHING AGAINST YOUR FATHER; IS THAT WHAT

13 YOU'RE SAYING?

14 MR. LEVIN: OBJECTION. SPECULATION, AND THE

15 WITNESS HAS ALREADY STATED HIS STATE OF MIND. IT'S BEEN

16 ASKED AND ANSWERED.

17 THE COURT: WELL, IT IS NOT SPECULATION. IT'S

18 ASKING FOR HIS STATE OF MIND. OVERRULED.

19 THE WITNESS: I DIDN'T KNOW.

20 Q. BY MR. CONN: OKAY. WHAT DID YOU THINK

21 WOULD HAPPEN IF YOU WENT TO THE POLICE AND YOU TOLD THE

22 POLICE THAT YOUR FATHER WAS GOING TO KILL YOU?

23 A. I THOUGHT THAT --

24 MR. LEVIN: OBJECTION. IT'S IRRELEVANT.

25 THE COURT: OVERRULED. IT GOES TO HIS STATE OF

26 MIND.

27 THE WITNESS: I THOUGHT THAT THEY WOULD  
28 EVENTUALLY ASK MY FATHER, AND HE WOULD SAY "DON'T BE

-21003

1 ABSURD," AND MY FATHER WOULD THEN KILL ME.

2 Q. BY MR. CONN: AND YOU FELT THAT YOUR FATHER  
3 WAS VERY CONCERNED ABOUT HIS IMAGE, WEREN'T YOU?

4 A. IT WAS THE MOST IMPORTANT THING IN HIS  
5 LIFE.

6 Q. OKAY. AND YOU FELT THAT IF YOU WENT TO THE  
7 POLICE STATION AND YOU REPORTED TO THE POLICE THAT JOSE  
8 MENENDEZ OF 722 ELM STREET WAS PLANNING ON KILLING YOU,  
9 THAT YOUR FATHER WOULD HAVE NO PROBLEM WITH GOING AHEAD  
10 AND KILLING YOU, EVEN THOUGH YOU HAD ALREADY TIPPED OFF  
11 THE POLICE THAT YOUR FATHER WOULD BE THE MOST LIKELY  
12 SUSPECT IN THE EVENT OF YOUR DEATH; IS THAT WHAT YOU'RE  
13 TELLING US?

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

16 THE WITNESS: I ASSUME YOU'RE ALSO ASKING ME IF I  
17 WOULD TELL --

18 THE COURT: WAIT, WAIT. THERE IS AN OBJECTION  
19 HERE. WHAT IS YOUR OBJECTION?

20 MR. LEVIN: CALLS FOR SPECULATION AS TO WHAT  
21 MR. MENENDEZ WOULD DO, AND IT'S ALSO COMPOUND.

22 THE COURT: WELL, AGAIN, IT'S NOT SPECULATION IN  
23 THAT IT ASKS THE WITNESS TO EXPRESS HIS STATE OF MIND AT  
24 THE TIME THESE INCIDENTS OCCURRED. BUT AS PHRASED, IT'S  
25 ARGUMENTATIVE.

26 MR. CONN: OKAY.

27 Q. DID YOU FEEL AT THE TIME, MR. MENENDEZ,  
28 THAT YOUR FATHER WOULD KILL YOU EVEN AFTER YOU WENT TO

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1 THE POLICE AND IDENTIFIED HIM AS THE MOST LIKELY SUSPECT  
2 IN THE EVENT OF YOUR DEATH?

3 A. IF I WENT TO THE POLICE AND TOLD THEM THAT,  
4 I'D HAVE TO TELL THEM ABOUT THE SEX BETWEEN DAD AND I,  
5 WHICH MEANS THAT THERE WOULD BE -- AND NOW I AM REALLY  
6 ASSUMING, BECAUSE I DIDN'T GO THROUGH IT THIS FAR IN MY  
7 MIND. I JUST KNEW THAT MY FATHER WOULD MUCH MORE GLADLY  
8 FIGHT A MURDER TRIAL THAN HE WOULD A CHILD MOLESTATION  
9 TRIAL. IT JUST WASN'T GOING TO HAPPEN.

10 Q. SO YOU CAREFULLY THOUGHT ABOUT THIS OPTION,  
11 DIDN'T YOU?

12 A. I DIDN'T --

13 MR. LEVIN: OBJECTION. MISSTATES HIS TESTIMONY.

14 THE COURT: OVERRULED.

15 THE WITNESS: IT LINGERED IN MY MIND FOR PROBABLY  
16 SECONDS BEFORE I BRUSHED IT OFF AND SAID THAT'S AN  
17 IMPOSSIBILITY.

18 Q. BY MR. CONN: WELL, MR. MENENDEZ, YOU WERE

19 CONCERNED ABOUT YOUR SAFETY; IS THAT CORRECT?

20 A. YES.

21 Q. AND ARE YOU TELLING US THAT AS FAR AS THE

22 OPTION OF GOING TO THE POLICE IS CONCERNED, THAT IS AN

23 OPTION THAT YOU CONSIDERED ONLY FOR SECONDS, AND THEN

24 YOU BRUSHED IT OUT OF YOUR MIND?

25 A. THIS IS -- THESE ARE THOUGHTS THAT EVOLVED

26 OVER YEARS AS I THOUGHT ABOUT IT WHEN I WAS 13 AND 14

27 AND 15, AND THOUGHT ABOUT THE POLICE THEN, AND THOUGHT

28 ABOUT IT WHEN I AM 17. AND BY THIS TIME I JUST DID NOT

-21001

1 CONSIDER IT A POSSIBILITY.

2 Q. MR. MENENDEZ, WOULD YOU AGREE THAT -- WOULD

3 YOU SAY THAT YOU, LIKE EVERY OTHER PERSON, DEVELOPED

4 FROM THE AGE OF 13, 14, AND 15 AND BECOMES A DIFFERENT

5 PERSON BY THE TIME THEY ARE 18 YEARS OLD?

6 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

7 THE WITNESS: NO.

8 THE COURT: OBJECTION SUSTAINED. THE ANSWER IS

9 STRICKEN.

10 Q. BY MR. CONN: DID YOU FEEL THAT YOU, AS A

11 PERSON, HAD DEVELOPED FROM THE AGE OF 13 UNTIL THE TIME

12 THAT YOU WERE 18 YEARS OLD?

13 MR. LEVIN: OBJECTION. VAGUE WITH RESPECT TO

14 DEVELOP.

15 THE COURT: OVERRULED.

16 THE WITNESS: CERTAINLY I DEVELOPED PHYSICALLY.

17 MY VIEW OF MY FATHER NEVER CHANGED.

18 Q. BY MR. CONN: SO YOU ARE SAYING THAT -- ARE

19 YOU TRYING TO TELL THIS JURY THAT AT 18 YEARS OLD YOU

20 WERE SOMEHOW TRAPPED IN THIS MIND OF A 13 YEAR-OLD?

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

22 PHRASED.

23 THE COURT: SUSTAINED. OBJECTION SUSTAINED.

24 Q. BY MR. CONN: WHEN YOU SAY THAT YOUR IMAGE

25 OF YOUR FATHER NEVER CHANGED FROM THE TIME YOU WERE 13

26 YEARS OLD, ARE YOU SAYING THAT YOU DID NOT SEE YOUR

27 FATHER AS AN 18 YEAR-OLD WOULD SEE HIS FATHER, BUT YOU

28 SAW YOUR FATHER AS A 13 YEAR-OLD WOULD SEE YOUR FATHER?

-21000

1 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION,

2 AND IT'S ARGUMENTATIVE AS TO WHAT OTHER 18 YEAR OLDS

3 FELT.

4 THE COURT: HE'S TALKING ABOUT THIS WITNESS AND

5 HOW THIS WITNESS FELT. OVERRULED.

6 THE WITNESS: I WAS 18 AND SAW MY FATHER AS AN 18

7 YEAR-OLD WHO HAD LIVED MY LIFE. AND MY PERCEPTION OF MY

8 FATHER WHEN I WAS 13 AND I FIRST THOUGHT ABOUT THE FACT

9 THAT I WAS GOING TO DIE NEVER CHANGED, AND THERE WAS

10 NOTHING TO CHANGE IT, AND IT JUST NEVER DID.

11 Q. BY MR. CONN: SO, ARE YOU SAYING THAT WHEN  
12 YOU WERE CONSIDERING THE VARIOUS OPTIONS TO GETTING  
13 AROUND SHOOTING YOUR PARENTS, YOU CONSIDERED THE OPTION  
14 OF GOING TO THE POLICE ONLY FOR A FEW MOMENTS, BECAUSE  
15 THAT WAS SOMETHING THAT YOU HAD PREVIOUSLY CONSIDERED  
16 WHEN YOU WERE 13 YEARS OLD?

17 A. NO. THERE WASN'T A GAP BETWEEN WHEN I WAS  
18 13 AND 18. I AM NOT TRYING TO SAY THAT. I AM SAYING  
19 THAT OVER MY LIFE THESE WERE THOUGHTS THAT WERE  
20 CONSTANTLY EVOLVING IN MY HEAD, AND I DIDN'T JUST SAY,  
21 "I AM GOING TO GET GUNS TO SHOOT MY PARENTS." THAT'S NOT  
22 WHY I WENT OUT TO GET THEM.

23 Q. SO YOU'RE SAYING THAT YOU DIDN'T THINK  
24 ABOUT GOING TO THE POLICE JUST WHEN WERE YOU 13 YEARS  
25 OLD, BUT YOU THOUGHT ABOUT IT WHEN YOU WERE 14 YEARS  
26 OLD; IS THAT CORRECT?

27 A. I'M SURE THAT I DID.

28 Q. AND YOU THOUGHT ABOUT IT WHEN YOU WERE 15

-20999

1 YEARS OLD?

2 A. I DON'T REMEMBER.

3 Q. DID YOU THINK ABOUT IT WHEN YOU WERE 16  
4 YEARS OLD?

5 A. I THOUGHT ABOUT IT WHEN I WAS 17.



6 Q. NOT 16?

7 A. I DON'T -- I DON'T REMEMBER IF I DID.

8 Q. DO YOU REMEMBER THINKING ABOUT IT WHEN YOU  
9 WERE 17, BUT NOT 16? WHY IS THAT?

10 A. BECAUSE I REMEMBER AFTER MY FATHER PUT THE  
11 KNIFE TO MY THROAT I THOUGHT ABOUT THINGS, AND I SAID I  
12 CAN'T WAIT TO GET TO COLLEGE. I AM GOING TO COLLEGE. I  
13 CAN HOLD ON TO COLLEGE. IT'S EIGHT MONTHS AWAY.

14 Q. MY QUESTION IS GOING TO THE POLICE. DID  
15 YOU THINK ABOUT GOING TO THE POLICE WHEN YOU WERE 17  
16 YEARS OLD?

17 A. YES.

18 Q. AND DID YOU THINK ABOUT IT WHEN YOU WERE 16  
19 YEARS OLD?

20 A. I MAY HAVE. WHAT I AM SAYING IS I CAN'T  
21 SAY THAT I DID.

22 Q. OKAY. BUT NOW AT THE AGE OF 18 YOU HAVE A  
23 NEW REASON TO GO TO THE POLICE, AND THAT IS THAT YOU NOW  
24 BELIEVE THAT YOUR FATHER WAS GOING TO KILL YOU; IS THAT  
25 CORRECT?

26 A. I BELIEVED THAT IT WAS A STRONG  
27 POSSIBILITY.

28 Q. OKAY. AND THIS GAVE YOU A BRAND NEW REASON

-20998

1 TO CONSIDER GOING TO THE POLICE; IS THAT CORRECT?

2 A. I SUPPOSE SO.

3 Q. OKAY. AND WOULD YOU SAY THAT BECAUSE IT

4 GAVE YOU A BRAND NEW REASON TO GO TO THE POLICE THAT YOU

5 CONSIDERED GOING TO THE POLICE FOR MORE THAN A FEW

6 SECONDS?

7 A. NO.

8 Q. YOU ONLY CONSIDERED IT FOR A FEW SECONDS.

9 A. YES.

10 Q. AND THEN YOU -- AND YOU IMMEDIATELY

11 DISMISSED THAT OPTION; IS THAT CORRECT?

12 A. YES.

13 Q. WELL, DID YOUR BROTHER, LYLE MENENDEZ, SAY

14 TO YOU, "WHY DON'T WE JUST GO TO THE POLICE"?

15 A. THAT'S PRETTY MUCH WHAT HE SAID.

16 Q. AND WHAT DID YOU SAY?

17 A. I SAID "THAT'S IMPOSSIBLE. WHAT ARE THEY

18 GOING TO DO?" SOMETHING ALONG THOSE LINES.

19 A FEW WORDS WERE EXCHANGED, AND HE AGREED,

20 TOO, THAT THE POLICE -- WE WERE MUCH BETTER OFF RUNNING

21 AWAY, NOT GOING TO ANYONE THAN GOING TO THE POLICE.

22 Q. AND THIS IS NOT SOMETHING THAT YOU

23 DISCUSSED FURTHER WITH YOUR BROTHER, LYLE MENENDEZ?

24 A. I DID.

25 Q. I AM TALKING ABOUT GOING TO THE POLICE.

26 DID YOU DISCUSS THAT ISSUE FURTHER WITH

27 YOUR BROTHER?

28 A. NO.

1 Q. THAT WAS THE END OF IT, JUST LIKE THAT?

2 A. YES.

3 Q. AND YOUR BROTHER, LYLE MENENDEZ, WAS 21  
4 YEARS OLD AT THE TIME; IS THAT CORRECT?

5 A. YES.

6 Q. AND YOU DIDN'T -- NEITHER ONE OF YOU  
7 DISCUSSED HOW WOULD YOUR FATHER TAKE ON THE POLICE  
8 FORCE?

9 A. WE DIDN'T THINK HE WOULD HAVE TO TAKE ON  
10 THE POLICE FORCE.

11 Q. WHY NOT?

12 A. YOU'RE ASSUMING THE POLICE FORCE ARE GOING  
13 TO BACK US INSTEAD OF MY FATHER.

14 Q. BUT YOU DIDN'T ASSUME THAT?

15 A. WELL, I AM HERE IN TRIAL AND --

16 Q. THE QUESTION WAS DID YOU ASSUME THAT?

17 MR. LEVIN: OBJECTION, YOUR HONOR. HE IS TRYING  
18 TO ANSWER THE QUESTION.

19 THE COURT: GO AHEAD.

20 THE WITNESS: AND THINKING BACK SIX YEARS TO HOW  
21 I VIEWED THE POLICE, MY THOUGHT IS THAT THEY WOULD HAVE  
22 THE SAME REACTION AS YOU ARE HAVING NOW. "THIS IS  
23 RIDICULOUS. WHAT ARE YOU SAYING? YOUR FATHER IS A  
24 POWERFUL, RESPECTABLE BUSINESSMAN, AND FROM BEVERLY  
25 HILLS."

26 Q. BY MR. CONN: AND DID YOU FEEL THAT YOU

27 COULD TELL THE POLICE WHAT WAS GOING ON AND THEN SIMPLY

28 MOVE AWAY FROM YOUR HOME?

-20996

1 A. NO.

2 Q. DID YOU DISCUSS THAT OPTION SPECIFICALLY

3 WITH YOUR BROTHER, LYLE MENENDEZ?

4 A. I DON'T REMEMBER IF I DISCUSSED IT WITH

5 LYLE, BUT I KNEW THAT IF I WENT TO THE POLICE, AS SOON

6 AS I WAS OUT OF THE STATION THERE WAS GOING TO BE A

7 TRAGIC ACCIDENT AND I WAS GOING TO DIE. THERE WAS NO

8 QUESTION IN MY MIND.

9 Q. SO, YOU HAD NO FURTHER CONVERSATION WITH

10 YOUR BROTHER, LYLE MENENDEZ, CONCERNING GOING TO THE

11 POLICE OTHER THAN WHAT YOU JUST TOLD US HERE TODAY; IS

12 THAT CORRECT?

13 A. I DON'T REMEMBER ANY FURTHER DISCUSSIONS

14 ABOUT GOING TO THE POLICE. I REMEMBER DISCUSSIONS ABOUT

15 OF HIM WANTING TO GET AWAY, EVEN ON FRIDAY. I DON'T

16 REMEMBER SPECIFICALLY GOING TO THE POLICE.

17 Q. NOW, YOU REGARD YOUR FATHER AS A BRILLIANT

18 MAN; IS THAT CORRECT?

19 A. HE WAS.

20 Q. AND DID YOU REALIZE -- DID YOU BELIEVE THAT

21 NIGHT THAT YOUR FATHER WOULD BE AWARE OF THE FACT THAT

22 YOU COULD HAVE LEFT THE GUESTHOUSE AT ANY TIME AND GONE

23 TO THE POLICE AND REPORTED HIM TO THE POLICE?

24 A. PROBABLY.

25 Q. AND DID YOU ALSO APPRECIATE THE FACT THAT  
26 YOUR FATHER, BEING A BRILLIANT MAN, RECOGNIZED THAT YOU  
27 DIDN'T EVEN HAVE TO LEAVE THE HOUSE, YOU JUST COULD HAVE  
28 DIALED 911 AND GOT THE POLICE ON THE LINE?

-20995

1 A. I'M NOT SURE I THOUGHT OF THAT  
2 SPECIFICALLY.

3 Q. BUT YOU BELIEVED THAT YOUR FATHER REALIZED  
4 THAT THERE WAS NOTHING STOPPING YOU FROM GOING TO THE  
5 POLICE THURSDAY NIGHT; IS THAT CORRECT?

6 A. YOU'RE ASKING ME IF I BELIEVED THAT I  
7 REALIZED. I DON'T EVEN REMEMBER THINKING THESE THINGS,  
8 BUT I AM THINKING THAT I MAY HAVE THOUGHT THEM.

9 Q. AND YOU BELIEVED YOUR FATHER TO BE A VERY  
10 AGGRESSIVE MAN; IS THAT CORRECT?

11 A. DETERMINED.

12 Q. AND BEARING IN MIND THAT YOU HAD AN  
13 OPPORTUNITY TO GO TO THE POLICE THAT NIGHT, AND THAT  
14 YOUR FATHER WOULD RECOGNIZE THAT POSSIBILITY, DID YOU  
15 REALIZE -- DID IT OCCUR TO YOU THAT IF YOUR FATHER WAS  
16 GOING TO DO SOMETHING TO YOU AT ALL, IT WOULD BE THAT  
17 NIGHT BEFORE YOU HAD AN OPPORTUNITY TO GET TO THE POLICE  
18 STATION?

19       A.  I WASN'T SURE. I FELT THAT MY FATHER WAS  
20 GOING TO KILL ME IN A WAY WHERE HE WASN'T GOING TO GET  
21 ARRESTED FOR MURDER; THAT HE WAS GOING TO DO IT AND NOT  
22 GET CAUGHT. I DIDN'T KNOW HOW HE WAS GOING TO DO IT. I  
23 JUST KNEW THAT HE WOULD DO ANYTHING TO KEEP THIS SECRET  
24 FROM COMING OUT.

25       Q.  MY QUESTION TO YOU IS DID IT OCCUR TO YOU  
26 THAT YOUR FATHER, BEING A BRILLIANT MAN, WOULD RECOGNIZE  
27 THAT THAT NIGHT YOU HAD AN OPPORTUNITY TO GO TO THE  
28 POLICE, AND THAT IF YOU WERE TO BE STOPPED, THAT WAS THE

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1 BEST TIME TO STOP YOU, BEFORE YOU HAD A CHANCE TO GO TO  
2 THE POLICE?

3       A.  I DON'T SPECIFICALLY REMEMBER THINKING  
4 THOSE THINGS.

5       Q.  IT DIDN'T OCCUR TO YOU THAT YOUR FATHER  
6 WOULD WANT TO STOP YOU FROM GOING TO THE POLICE?

7       A.  THAT OCCURRED TO ME.

8       Q.  AND YOU KNEW THAT YOU COULD GET OUT OF THE  
9 GUESTHOUSE AND GO TO THE POLICE STATION AND BE THERE IN  
10 A FEW MINUTES?

11      A.  I KNEW THAT.

12      Q.  AND YOU KNEW THAT YOUR FATHER KNEW THAT,  
13 DIDN'T YOU?

14      A.  PROBABLY.

15 Q. AND YOU ARE SAYING IT NEVER OCCURRED TO YOU  
16 THAT YOUR FATHER, RECOGNIZING THAT POSSIBILITY, WOULD  
17 COME OVER AND KILL YOU RIGHT THEN AND THERE?

18 A. I THOUGHT THAT THERE WAS A STRONG  
19 POSSIBILITY HE MIGHT. WHAT I AM SAYING IS THE NIGHT  
20 HAPPENED IN MY MIND AS A BIG RUSH TOGETHER OF THINGS AND  
21 WORDS, AND SOMETIMES ARGUMENTS, AND SOMETIMES I WOULD  
22 GET ANGRY WITH LYLE BECAUSE HE WASN'T REALIZING  
23 SOMETHING, AND HE WOULD GET ANGRY AT ME, AND IT WAS --  
24 IT WAS A PANIC SITUATION.

25 WE WEREN'T SITTING DOWN HAVING A  
26 CONVERSATION. WE WERE THINKING, WHETHER RATIONALLY OR  
27 IRRATIONALLY, ALL DIFFERENT TYPES OF THINGS, AND I DON'T  
28 REMEMBER ALL OF THE THINGS THAT CAME UP IN THE

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1 CONVERSATION WHICH WERE ACCEPTED OR DISMISSED.

2 Q. YOU WEREN'T SITTING DOWN AND HAVING A  
3 CONVERSATION WITH YOUR BROTHER ABOUT THIS?

4 A. NO.

5 Q. WHAT WERE YOU DOING, STANDING UP AND  
6 TALKING?

7 A. LYLE WAS -- I REMEMBER HIM STANDING UP. I  
8 REMEMBER HIM LOOKING OUT THROUGH THE WINDOWS OVER THE  
9 PORCH, AND I WAS ON THE CHAIR, AND I WAS CRYING AT THE  
10 BEGINNING OF THE CONVERSATION. AT OTHER TIMES -- I

11 DON'T REMEMBER SPECIFICALLY STANDING UP, BUT I REMEMBER  
12 HEATED ARGUMENTS.

13 Q. AND HOW LONG DID YOU CONTINUE TO TALK THAT  
14 NIGHT WITH YOUR BROTHER ABOUT THE POSSIBILITY OF YOUR  
15 PARENTS KILLING YOU?

16 A. WE TALKED THAT NIGHT FOR WHAT I REMEMBER  
17 WAS A LONG TIME INTO THE NIGHT AFTER WE HAD DECIDED TO  
18 GET GUNS.

19 Q. WELL, MY QUESTION IS HOW LONG DID YOU TALK  
20 TO YOUR BROTHER THAT NIGHT ABOUT THE POSSIBILITY OF YOUR  
21 PARENTS KILLING YOU?

22 A. THAT WAS EARLY ON AN ACCEPTED FACT. IT  
23 WASN'T SOMETHING THAT WE DEBATED.

24 Q. SO YOU'RE SAYING THAT IT BECAME AN ACCEPTED  
25 FACT, AND ONCE IT BECAME AN ACCEPTED FACT THEN YOU NO  
26 LONGER CONSIDERED THE ISSUE OF WHETHER OR NOT YOUR  
27 PARENTS WERE GOING TO KILL YOU, YOU THEN SIMPLY TALKED  
28 ABOUT HOW YOU WERE GOING TO RESPOND TO THE DANGER; IS

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1 THAT WHAT YOU'RE TELLING US?

2 A. YES.

3 Q. SO, YOU'RE TELLING US THAT YOU DIDN'T  
4 CONTINUE TO QUESTION THROUGHOUT THE NIGHT ARE THEY  
5 REALLY GOING TO DO THIS?

6 A. I AM SURE WE DID. I AM SURE WE DID.



7 Q. SO IT DIDN'T BECOME AN ACCEPTED FACT, DID  
8 IT?

9 A. IT BECAME AN ACCEPTED FACT, BUT THE  
10 DISBELIEF OF THE SITUATION WAS PRESENT ALWAYS.

11 Q. HOW LONG DID YOU CONTINUE TO TALK TO YOUR  
12 BROTHER THAT NIGHT?

13 A. I REMEMBER IT BEING INTO THE NIGHT.  
14 WHETHER IT WAS AN HOUR, AND HOUR AND A HALF OR LONGER,  
15 OR 40 MINUTES, I DON'T KNOW.

16 Q. SOMEWHERE BETWEEN 40 MINUTES AND AN HOUR  
17 AND A HALF?

18 A. I TALKED TO HIM THROUGHOUT THE NIGHT.

19 Q. THROUGHOUT THE NIGHT?

20 A. I REMEMBER IT BEING INTO THE NIGHT. I  
21 WOULD JUST BE GUESSING AT TIME ESTIMATES. I KNOW IT WAS  
22 AFTER MIDNIGHT WHEN I GOT TO THE GUESTHOUSE. I KNOW  
23 THAT I GOT TO BED EARLY IN THE MORNING. AT SOME POINT  
24 LYLE WENT BACK TO HIS ROOM AND I STAYED OUT THERE IN THE  
25 LIVING ROOM.

26 Q. THIS ESTIMATE OF 40 MINUTES TO AN HOUR AND  
27 A HALF RELATED TO WHAT?

28 A. TO ME KNOWING THAT WE TALKED FOR A LONG

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1 TIME.

2 Q. THIS ESTIMATE OF 40 MINUTES TO AN HOUR AND

3 A HALF RELATED TO YOUR ESTIMATE CONCERNING TALKING ABOUT  
4 WHAT?

5 A. JUST TALKING TO LYLE IN GENERAL. I  
6 REMEMBER AT ONE POINT WE WERE DISCUSSING WHY ALL THESE  
7 THINGS WERE HAPPENING IN THE FAMILY. I REMEMBER ASKING  
8 HIM A LOT ABOUT WHY I FELT MOM KNEW, AND HOW SHE COULD  
9 KNOW. I KNEW THAT THAT WAS SOMETHING THAT WAS WEIGHING  
10 ON ME, BECAUSE IT WAS -- THAT WAS SOMETHING THAT NEVER  
11 SEEMED POSSIBLE.

12 AND SO WE DISCUSSED -- ALL KIND OF THINGS  
13 WERE JABBERED BACK AND FORTH.

14 Q. MR. MENENDEZ, WHAT I AM ASKING YOU IS WHAT  
15 IS YOUR BEST ESTIMATE OF HOW LONG YOU TALKED TO YOUR  
16 BROTHER THAT NIGHT?

17 A. I DON'T THINK I CAN GIVE YOU A BEST  
18 ESTIMATE.

19 Q. YOU CAN'T SAY 40 MINUTES OR FOUR HOURS?

20 A. I KNOW IT WASN'T FOUR HOURS.

21 Q. THEN HOW LONG WAS IT? GIVE US A RANGE.

22 A. ANYWHERE FROM -- UP TO AN HOUR AND A HALF.  
23 MAYBE TWO HOURS. I -- BUT I AM REALLY GUESSING.

24 Q. OKAY. NOW, DURING THAT HOUR AND A HALF,  
25 DID EITHER YOU SAY TO YOUR BROTHER, LYLE MENENDEZ, OR  
26 DID HE SAY TO YOU, "GIVEN THE FACT THAT OUR FATHER IS  
27 SUCH AN AGGRESSIVE MAN, AND GIVEN THE FACT THAT HE WOULD  
28 PROBABLY WANT TO STOP US BEFORE WE CAN GET TO THE

1 POLICE, HE'S PROBABLY GOING TO COME OVER TONIGHT AND  
2 KILL US"?

3 A. WE THOUGHT IT WAS A POSSIBILITY HE WOULD DO  
4 IT THAT NIGHT. WE DIDN'T KNOW HOW. WE KNEW MY FATHER  
5 WASN'T JUST GOING TO COME IN AND STAB US AND TRY TO  
6 CLEAN IT UP AND PRETEND THAT NOTHING HAPPENED, AND THAT  
7 LYLE AND I DISAPPEARED. WE REALLY DIDN'T KNOW WHAT WAS  
8 GOING TO HAPPEN, AND IT WAS THAT UNCERTAINTY WHICH WAS  
9 VERY SCARY.

10 Q. SO YOU KNEW THAT YOUR FATHER WAS NOT GOING  
11 TO COME IN AND STAB YOU AND PRETEND THAT YOU  
12 DISAPPEARED; IS THAT WHAT YOU SAID?

13 A. WHAT I AM SAYING IS CERTAIN THINGS, I AM  
14 SURE, SEEMED MORE PROBABLE THAN OTHERS.

15 Q. AND YOU RULED OUT THE POSSIBILITY THAT YOUR  
16 FATHER WOULD COME IN AND STAB YOU AND PRETEND THAT YOU  
17 DISAPPEARED?

18 A. NO, I DIDN'T -- I DIDN'T -- I DIDN'T MEAN  
19 TO SAY THAT I RULED IT OUT. I THOUGHT IT WAS UNLIKELY.

20 Q. AND WHY DO YOU FEEL THAT PARTICULAR MODE OF  
21 KILLING WAS UNLIKELY, MR. MENENDEZ?

22 A. BECAUSE I DIDN'T THINK HE WOULD JUST SHOOT  
23 US OR KILL US INSIDE A HOUSE WHERE HE WOULD BE. I  
24 ASSUMED THAT HE WOULD WANT US TO HAVE DISAPPEARED OR  
25 DIED ACCIDENTALLY OR SOMETHING LIKE THAT, BECAUSE IT  
26 WOULD -- IT CERTAINLY DID NOT OCCUR TO ME THAT MY  
27 FATHER WOULD SHOOT US AND GET ARRESTED THAT NIGHT FOR

28 IT. IT'S NOT SOMETHING MY FATHER WOULD HAVE DONE.

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1 Q. WELL, DID YOU THINK YOUR FATHER WOULD BE  
2 SMART ENOUGH TO SHOOT YOU OR KILL YOU IN A WAY THAT  
3 WOULDN'T RESULT IN HIS ARREST THAT NIGHT?

4 A. RIGHT. EXACTLY. THAT'S WHAT I AM TRYING  
5 TO SAY.

6 Q. SO DIDN'T YOU THINK THEN THAT PERHAPS HE  
7 COULD HAVE SHOT YOU OR KILLED YOU OR STABBED YOU THAT  
8 NIGHT AND DONE IT IN SUCH A WAY THAT HE WOULD HAVE  
9 GOTTEN AWAY WITH IT?

10 A. IN THE MIDDLE OF BEVERLY HILLS? I COULD  
11 NOT IMAGINE THAT WOULD HE JUST DO THAT. MAYBE STAB US.  
12 I DON'T KNOW. THESE THOUGHTS WERE FLASHES IN MY MIND.

13 Q. NOW WHEN YOU SAY MAYBE STAB US, ARE YOU  
14 TELLING US NOW THAT AT THAT TIME, THAT THURSDAY NIGHT,  
15 YOU RECOGNIZED THE POSSIBILITY THAT YOUR FATHER MIGHT  
16 HAVE STABBED YOU THAT NIGHT?

17 A. I DON'T KNOW IF I RECOGNIZED THE  
18 POSSIBILITY. I THOUGHT IT UNLIKELY THAT THAT WOULD  
19 HAPPEN THAT NIGHT. I DON'T REMEMBER IF I RECOGNIZED THE  
20 POSSIBILITY. I PROBABLY DID.

21 Q. WHY DID YOU THINK IT WAS UNLIKELY THAT IT  
22 WOULD HAPPEN THAT NIGHT?

23 A. I DIDN'T THINK IT WAS -- I SAID IT WAS

24 UNLIKELY THAT IT WOULD HAPPEN IN THAT FASHION IS WHAT I  
25 MEANT.

26 Q. DID YOU THINK IT WAS POSSIBLE IT COULD HAVE  
27 HAPPENED THAT NIGHT?

28 A. YES. I THOUGHT IT COULD VERY WELL HAPPEN

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1 THAT NIGHT.

2 Q. AND BECAUSE IT MIGHT VERY WELL HAVE  
3 HAPPENED THAT NIGHT, YOU HAD AN INCLINATION TO LEAVE?

4 A. LYLE HAD AN INCLINATION TO LEAVE. I  
5 THOUGHT IT WAS AN IMPOSSIBILITY.

6 Q. NOW, YOU SAID THAT YOU DIDN'T THINK THAT  
7 YOUR FATHER WOULD JUST SHOOT YOU IN THE MIDDLE OF  
8 BEVERLY HILLS; IS THAT CORRECT?

9 A. I DIDN'T KNOW WHAT HE WOULD DO.

10 Q. ON AUGUST THE 20TH OF 1989, DIDN'T YOU  
11 CONCLUDE THAT YOUR FATHER WAS JUST GOING TO SHOOT YOU IN  
12 THE MIDDLE OF BEVERLY HILLS?

13 A. AT THAT POINT I DID, YES.

14 Q. BUT ARE YOU TELLING US BACK ON THURSDAY, A  
15 FEW DAYS EARLIER, YOU RULED THAT OUT AS A REASONABLE  
16 POSSIBILITY?

17 A. I -- ON THURSDAY IT WAS A HEATED BLOW UP.  
18 I KNOW THAT HE HAD GOTTEN CALLS FROM MY MOTHER THE NIGHT  
19 BEFORE, BUT HE DIDN'T KNOW REALLY WHAT THE SITUATION

20 WAS.

21 ON SUNDAY IT WAS THREE DAYS LATER. HE KNEW  
22 VERY WELL WHAT THE SITUATION WAS, AND THINGS WERE VERY  
23 MUCH DIFFERENT. I THOUGHT THAT THE GUNS HE HAD IN THE  
24 HOUSE ON THURSDAY NIGHT WERE RIFLES. BY SUNDAY IT WAS A  
25 VERY DIFFERENT STORY.

26 Q. WHAT I'M SAYING IS ON THURSDAY DID YOU RULE  
27 OUT THE POSSIBILITY OF YOUR FATHER SHOOTING YOU IN THE  
28 MIDDLE OF BEVERLY HILLS AS BEING AN UNLIKELY

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1 POSSIBILITY?

2 A. DID I RULE IT OUT, OR DID I THINK IT WAS  
3 UNLIKELY?

4 Q. DID YOU THINK IT WAS UNLIKELY?

5 A. I THINK SO.

6 Q. AND WHY DID YOU THINK THAT IT WAS UNLIKELY  
7 THAT YOUR FATHER WOULD SHOOT YOU IN BEVERLY HILLS  
8 THURSDAY NIGHT?

9 A. I JUST DID. I MEAN, I COULDN'T IMAGINE HIM  
10 BRINGING A RIFLE OVER TO THE GUESTHOUSE, SHOOTING ME AND  
11 HAVING EVERYONE HEAR IT, AND HIM GETTING ARRESTED AT THE  
12 TIME. IT JUST -- IT WAS JUST UNREASONABLE TO THINK  
13 THAT.

14 Q. AND SO ON SUNDAY NIGHT WHEN YOUR MOTHER AND  
15 FATHER WENT INTO THE DEN AND CLOSED THE DOORS BEHIND

16 THEM, DID YOU SAY TO YOUR BROTHER, LYLE MENENDEZ,  
17 "WHAT'S TO WORRY ABOUT? WE'RE IN THE MIDDLE OF BEVERLY  
18 HILLS. IT'S UNLIKELY THAT OUR DAD IS GOING TO COME OUT  
19 OF THERE WITH A RIFLE AND SHOOT US TO DEATH."

20 A. SUNDAY NIGHT AT THE TOP OF THE STAIRS I WAS  
21 PANICKING. I WASN'T THINKING VERY CALMLY ABOUT THESE  
22 THINGS LIKE WE ARE HERE. I WAS JUST THINKING THAT DAD  
23 HAS SEALED HIMSELF OFF IN THE ROOM. HE SAID HE WAS  
24 GOING TO BE UP TO MY ROOM IN A MINUTE. I WAS LOSING  
25 CONTROL OF MY BODY IN FEAR THAT HE WOULD COME UP TO MY  
26 ROOM, AND I WOULD HAVE TO BELIEVE THAT -- THERE WAS NO  
27 WAY I WAS GOING TO LET THAT HAPPEN, AND I WAS TERRIFIED.  
28 I DIDN'T -- I DIDN'T WEIGH ALL THESE OPTIONS.

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1 Q. WHAT I AM ASKING YOU IS ON SUNDAY NIGHT DID  
2 YOU HAVE THE SAME BELIEF THAT YOU HAD ON THURSDAY NIGHT;  
3 THAT A SHOOTING IN THE MIDDLE OF BEVERLY HILLS WOULD BE  
4 A VERY UNLIKELY THING FOR YOUR FATHER TO DO?

5 A. BY SUNDAY NIGHT IT WAS MANY DAYS LATER, AND  
6 WHETHER MY FATHER AT THIS POINT HAS A GUN, HAD A  
7 SILENCER, I DON'T KNOW.

8 I DIDN'T -- I DIDN'T WEIGH IT LIKE I DID ON  
9 THURSDAY. I DIDN'T HAVE THE TIME. THURSDAY IT CAME  
10 INTO MY MIND, IT WOULD LEAVE. I WOULD GET SCARED. IT  
11 WOULD COME INTO MY MIND, IT WOULD LEAVE. ON SUNDAY IT

12 WAS A MOMENT. IT WAS SECONDS. IT WAS VERY DIFFERENT.

13 Q. SO, GETTING BACK TO THURSDAY, DID EITHER

14 YOU OR YOUR BROTHER SAY TO EACH OTHER THURSDAY NIGHT

15 THAT PROBABLY YOUR FATHER IS GOING TO GIVE YOU A GRACE

16 PERIOD TO GO TO THE POLICE IF YOU WANTED TO?

17 A. NO, I DIDN'T SAY THAT TO MY BROTHER.

18 Q. AND DID YOU SAY TO YOUR BROTHER OR DID HE

19 SAY TO YOU, YOU KNOW, IT'S UNLIKELY THAT SOMEONE AS

20 AGGRESSIVE AS OUR FATHER IS REQUESTING TO GIVE US A

21 GRACE PERIOD TO GO TO THE POLICE?

22 A. I DON'T REMEMBER USING THOSE WORDS.

23 Q. WELL, WAS THAT CONCEPT EXPRESSED IN ANY

24 WAY; THAT IF YOUR FATHER WAS GOING TO KILL YOU, IT WOULD

25 BE MORE LIKELY THAN NOT HE WAS GOING TO DO IT THAT NIGHT

26 BEFORE YOU HAD A CHANCE TO GO TO THE POLICE?

27 A. I'M NOT SAYING FOR CERTAIN THAT MY FATHER

28 THOUGHT WE WERE GOING TO GO TO THE POLICE. MY FATHER

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1 HAD TAUGHT ME ALL MY LIFE --

2 MR. CONN: I WOULD OBJECT. NONRESPONSIVE.

3 MR. LEVIN: OBJECTION, YOUR HONOR. HE IS

4 ANSWERING THE QUESTION. IT'S STATE OF MIND.

5 THE COURT: WELL, LET'S HAVE THE QUESTION READ

6 BACK.

7 (RECORD READ.)



8

9 THE COURT: WHY DON'T YOU ANSWER THE QUESTION.

10 THE WITNESS: WHAT I WAS SAYING IS MY FATHER

11 HAD -- I DON'T THINK -- I -- IN MY MIND HE WOULD EITHER

12 THINK THAT WE WOULD RUN AWAY FIRST AND GO TO THE

13 POLICE --

14 MR. CONN: OBJECTION. NONRESPONSIVE.

15 THE COURT: OVERRULED.

16 THE WITNESS: BUT I AM LOOKING AT THE SITUATION

17 SIX YEARS LATER, AND I'VE HAD SIX YEARS TO THINK ABOUT

18 IT. AT THE TIME I DON'T THINK I WAS PUTTING THEM

19 TOGETHER IN TERMS OF LOGICAL ORDER AND WEIGHING WHAT WAS

20 THE GREATEST POSSIBILITY AND THE PERCENTAGE OF THIS

21 HAPPENING VERSUS THIS. IT JUST WASN'T HAPPENING LIKE

22 THAT.

23 Q. BY MR. CONN: SO WHAT YOU'RE TELLING US IS

24 THE CONCEPT OF YOUR FATHER DOING IT THAT NIGHT OR NOT AT

25 ALL WAS NEVER RELATED EITHER TO YOUR BROTHER OR FROM

26 YOUR BROTHER TO YOU; IS THAT CORRECT?

27 A. I AM SAYING THAT I AM SURE THAT IT WAS.

28 Q. OH, IT WAS?

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1 A. YES.

2 Q. AND WHAT -- AND WHO RELATED THAT CONCEPT TO

3 WHO?

4 A. I DON'T REMEMBER WHO BROUGHT IT UP FIRST.

5 Q. AND WHAT WAS THE RESPONSE TO THAT CONCEPT  
6 ONCE IT WAS RAISED?

7 A. I KNOW THAT THE FIRST THING THAT WAS DONE,  
8 EVEN BEFORE -- NO. I REMEMBER SAYING, "WE'RE GOING TO  
9 DIE. WE'RE GOING TO DIE," CRYING ON THE COUCH, AND THEN  
10 LYLE LOCKING THE DOOR.

11 SO I MAY HAVE BROUGHT IT UP FIRST, AND I  
12 REMEMBER THE DOOR WAS IMMEDIATELY LOCKED.

13 Q. MY QUESTION TO YOU IS ONCE YOU AND YOUR  
14 BROTHER BEGAN TO DISCUSS THIS CONCEPT OF IF OUR FATHER  
15 IS GOING TO KILL US, HE'S PROBABLY GOING TO DO IT RIGHT  
16 NOW BEFORE WE GO TO THE POLICE. ONCE THAT CONCEPT WAS  
17 RAISED, HOW DID YOU DEAL WITH THAT CONCEPT? WHAT WAS  
18 DISCUSSED CONCERNING THAT CONCEPT?

19 A. I DON'T REMEMBER.

20 Q. AND IS THAT BECAUSE IT WAS NEVER RAISED,  
21 MR. MENENDEZ?

22 A. IT WAS DEFINITELY RAISED. IT'S VERY  
23 DIFFICULT FOR ME TO REMEMBER THE LOGIC AND THE SEQUENCE  
24 OF WORDS AND HOW THINGS WERE DELIBERATED. I JUST -- I  
25 JUST CAN'T DO IT.

26 Q. NOW, YOU TOLD US YESTERDAY THAT WHEN YOU  
27 HEARD IN MAY OF 1989 THAT YOUR FATHER WAS GOING TO  
28 DISOWN YOU, YOU CONCLUDED THAT HE WAS GOING TO KILL YOU

1 BACK IN MAY OF 1989; IS THAT CORRECT?

2 A. MY FATHER NEVER SAID TO ME "YOU'RE  
3 DISOWNED. I AM GOING TO DISOWN YOU. IF YOU DON'T DO  
4 THIS, I AM GOING TO DISOWN YOU."

5 IT WAS BROUGHT UP BY MY MOTHER ONE TIME AND  
6 ONLY ONE TIME, AND I REMEMBER BEING SCARED. WHAT DOES  
7 HE MEAN BY THAT? OBVIOUSLY HE'S NOT GOING TO KICK ME  
8 OUT OF THE HOUSE. THE THOUGHTS OF DEATH CAME TO MY  
9 MIND.

10 IT NEVER WENT ANY FURTHER THAN THAT,  
11 BECAUSE MY COMPLETE ATTITUDE CHANGED. I WAS -- AT THE  
12 TIME I WANTED TO KEEP THINGS PRIVATE, BECAUSE I WANTED  
13 TO HAVE SOME SENSE OF MYSELF, AND I CHANGED. I STARTED  
14 REVEALING THINGS TO MY DAD AGAIN.

15 SO, HE NEVER SAID THAT TO ME.

16 Q. MR. MENENDEZ, MY QUESTION TO YOU WAS DIDN'T  
17 YOU TESTIFY THAT WHEN YOU HEARD THAT YOUR FATHER WAS  
18 GOING TO DISOWN YOU, YOU CONCLUDED BACK IN MAY OF 1989  
19 THAT HE WAS GOING TO KILL YOU?

20 A. I CONCLUDED THAT HE MIGHT KILL ME IF HE DID  
21 DISOWN ME. MY MOM SAID THAT MY FATHER WAS THINKING  
22 ABOUT IT, BECAUSE I WAS KEEPING TOO MANY THINGS PRIVATE  
23 FROM HIM.

24 Q. YOU CONCLUDED -- YOU PREVIOUSLY TESTIFIED,  
25 DIDN'T YOU, THAT BY "DISOWN" YOU BELIEVED THAT TO MEAN  
26 THAT HE WAS GOING TO KILL YOU; IS THAT CORRECT?

27 MR. LEVIN: OBJECTION. THAT MISSTATES HIS  
28 TESTIMONY.

1 THE COURT: OVERRULED.

2 THE WITNESS: ESSENTIALLY THAT'S WHAT I WAS  
3 THINKING. I DIDN'T SAY "I'M GOING TO DAD." DAD NEVER  
4 SAID "YOU'RE DISOWNED." HE NEVER EVEN SAID ANYTHING  
5 CLOSE TO IT. HE NEVER EVEN DISCUSSED IT. IT WAS ONE  
6 TIME BROUGHT UP BY MY MOM.

7 MR. CONN: I AM GOING TO OBJECT AS NONRESPONSIVE,  
8 YOUR HONOR.

9 THE COURT: NO. HE IS RESPONSIVE.

10 THE WITNESS: AND I WAS THINKING COULD THIS MEAN  
11 DEATH, AND I THOUGHT IT MAY VERY WELL BE, AND I CHANGED  
12 MY ATTITUDE, AND I DID.

13 Q. BY MR. CONN: YOU CONCLUDED NOT ONLY MAY IT  
14 VERY WELL MEAN DEATH, YOU CONCLUDED THAT DISOWN MEANT HE  
15 WAS GOING TO KILL YOU, AND THAT'S WHAT YOU PREVIOUSLY  
16 TESTIFIED TO, CORRECT?

17 A. WHAT I PREVIOUSLY TESTIFIED TO? I AM  
18 TELLING YOU WHAT I WAS THINKING AT THE TIME.

19 Q. OKAY. THE QUESTION IS DID YOU OR DID YOU  
20 NOT PREVIOUSLY TESTIFY TO THAT?

21 A. IF I TESTIFIED TO IT, I TESTIFIED TRYING TO  
22 CONVEY EXACTLY THAT FEELING. IT WAS THE FEELING I HAD.

23 Q. YOU ACKNOWLEDGE THAT YOU PREVIOUSLY  
24 TESTIFIED THAT WHEN YOU HEARD THAT YOUR FATHER WAS GOING  
25 TO DISOWN YOU IN MAY OF '89, YOU UNDERSTOOD THAT TO MEAN

26 THAT YOUR FATHER WAS GOING TO KILL YOU.

27 A. I THINK I USED THE WORD "IT MEANT DEATH."

28 Q. DO YOU REMEMBER BEING ASKED:

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1 "Q. OKAY. NOW WHAT --

2 MR. LEVIN: OBJECTION, YOUR HONOR. WE WOULD ASK

3 FOR PAGE AND LINE DESIGNATION FIRST.

4 THE COURT: YES. WHAT PAGE?

5 MR. CONN: THIS IS PAGE 17,147.

6 THE COURT: AND WHAT VOLUME IS THAT?

7 MR. CONN: THIS IS VOLUME 103.

8 MR. LEVIN: MAY WE HAVE A MOMENT?

9 MS. ABRAMSON: LINE?

10 THE COURT: WHAT LINE ARE YOU REFERRING TO?

11 MR. CONN: YES. LINE 7 THROUGH 9.

12 MS. ABRAMSON: OBJECTION, YOUR HONOR. IT SHOULD

13 GO TO 14.

14 MR. GESSLER: WHAT WAS THE PAGE?

15 MS. ABRAMSON: 17,147. DOES THE COURT HAVE IT?

16 THE COURT: DID YOU PROPOSE TO GO TO LINE 14?

17 MR. CONN: I'LL GO TO 14.

18 THE COURT: OKAY.

19 MS. ABRAMSON: THEN WE WOULD OBJECT THAT IT'S NOT

20 IMPEACHMENT.

21 THE COURT: I'M SORRY. MR. LEVIN?

22 MR. LEVIN: I WOULD ASK THE COURT TO LOOK AT IT.  
23 THE OBJECTION IS IT'S NOT IMPEACHING. HE HAS TESTIFIED  
24 PRECISELY --  
25 THE COURT: I WILL LOOK AT IT IF SOMEONE WILL  
26 GIVE IT TO ME. I DON'T HAVE THE VOLUMES UP HERE.  
27 MS. ABRAMSON: I AM SORRY, JUDGE.  
28 THE COURT: ALL RIGHT.

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1 THE OBJECTION IS OVERRULED.  
2 Q. BY MR. CONN: DO YOU REMEMBER BEING ASKED  
3 THE FOLLOWING QUESTIONS AND GIVING THE FOLLOWING  
4 ANSWERS:  
5 "Q. OKAY. NOW WHAT DID  
6 DISOWN MEAN TO YOU?  
7 "A. THAT HE WAS GOING TO  
8 KILL ME.  
9 "Q. AND WHY WOULD DISOWNING  
10 YOU, CUTTING YOU OFF ALTOGETHER, MEAN  
11 DEATH?  
12 "A. WELL, IT WAS JUST MY  
13 IMPRESSION OF WHAT IT MEANT, BECAUSE  
14 HE CLEARLY WASN'T GOING TO DISOWN  
15 ME."  
16 IS THAT CORRECT?  
17 THE WITNESS: MAY I SEE IT?

18 THE COURT: AND THIS WAS TESTIMONY FROM THE FIRST  
19 TRIAL; IS THAT CORRECT?  
20 MR. CONN: YES, YOUR HONOR.  
21 THE WITNESS: OH, THE FIRST TRIAL OR THIS TRIAL?  
22 Q. BY MR. CONN: FROM THE FIRST TRIAL.  
23 A. AND THE QUESTION WAS WHY, AND I SAID  
24 "BECAUSE OBVIOUSLY THINGS WERE GOING ON BETWEEN HIM AND  
25 I. HE WAS NEVER GOING TO LET ME LEAVE THE HOUSE WITH  
26 THAT INFORMATION."  
27 THAT'S ESSENTIALLY -- THAT'S WHAT I AM  
28 SAYING.

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1 Q. SO YOU CONCLUDED THAT YOUR FATHER WAS GOING  
2 TO KILL YOU BACK IN MAY OF 1989 FOR SOMETHING AS TRIVIAL  
3 AS NOT REPORTING YOUR TENNIS TO HIM; IS THAT CORRECT?  
4 A. ONE, I DIDN'T CONCLUDE THAT MY DAD WAS  
5 ABSOLUTELY GOING TO KILL ME. I BELIEVED THAT THAT IS --  
6 MAY VERY WELL BE WHAT HE MEANS. HE NEVER SAID IT TO ME.  
7 AND YOU'RE RIGHT. I WAS SURPRISED WHEN MY  
8 MOM SAID IT TO ME, BECAUSE I WAS TRYING TO KEEP MORE  
9 THINGS PRIVATE IN MY LIFE MY DAD IS GOING TO DO THE  
10 DRASTIC THING AND DISOWN ME.  
11 BUT IT DIDN'T COMPLETELY SHOCK ME, BECAUSE  
12 MY DAD DID THINGS IN DRASTIC WAYS. IF HE WAS UNHAPPY,  
13 YOU'RE DISOWNED.

14 Q. SO YOU BELIEVED YOUR FATHER WAS DRASTIC  
15 ENOUGH SO THAT IF YOU DIDN'T REPORT ALL OF YOUR TENNIS  
16 TO YOUR FATHER, HE WAS GOING TO KILL YOU FOR THAT,  
17 CORRECT?

18 A. MY MOTHER SAID BECAUSE I WASN'T REPORTING  
19 THINGS TO MY FATHER, HE WAS GOING TO DISOWN ME. MY  
20 INTERPRETATION OF DISOWN -- I WAS AFRAID IT MIGHT MEAN  
21 DEATH, RIGHT.

22 Q. YES.

23 A. RIGHT.

24 Q. NOW, IF YOU THOUGHT YOUR FATHER WAS GOING  
25 TO DISOWN YOU, KILL YOU FOR SOMETHING AS TRIVIAL AS NOT  
26 REPORTING YOUR TENNIS TO HIM BACK IN MAY OF 1989, ON  
27 THAT THURSDAY NIGHT WHEN YOU WERE IN THE GUESTHOUSE WITH  
28 LYLE MENENDEZ, DID YOU CONCLUDE THAT FOR SOMETHING AS

-20978

1 SERIOUS AS REVEALING TO YOUR BROTHER THE SECRET BETWEEN  
2 YOURSELF AND YOUR FATHER THAT HE WAS DEFINITELY GOING TO  
3 KILL YOU?

4 A. I KNEW THERE WAS NO WAY HE WAS GOING TO LET  
5 THE SECRET OUT. THAT I KNEW FOR SURE. THE JUMPS OF  
6 LOGIC THAT YOU'RE MAKING FROM DISOWN AND FROM MY FATHER  
7 DOING IT OVER A TRIVIAL REASON, THAT'S INFORMATION I  
8 FOUND OUT FROM MY MOTHER. I DIDN'T CONCLUDE IT ON MY  
9 OWN. I DIDN'T -- DIDN'T BRIDGE THOSE TWO IN THE



10 GUESTHOUSE ON SUNDAY.

11 THE SECRET WAS OBVIOUS. BEFORE MAY I KNEW  
12 THAT MY DAD HAD THREATENED, MAYBE EVEN OVER A HUNDRED  
13 TIMES, TO KILL ME IF THAT HAPPENED. IT WAS NOTHING  
14 SHOCKING TO ME.

15 Q. MR. MENENDEZ, WHAT IS THE JUMP IN LOGIC  
16 THAT I AM MAKING IN MY QUESTIONING TO YOU?

17 A. IT SEEMS THAT YOU'RE PUTTING TOGETHER HE IS  
18 GOING TO KILL ME BECAUSE I AM NOT -- I AM TRYING TO  
19 REVEAL THINGS PRIVATELY. I THOUGHT THAT THAT WAS WHAT  
20 DISOWNED MEANT. I DON'T THINK THAT MY FATHER WAS SAYING  
21 TO HIMSELF "HE IS NOT TELLING ME ENOUGH IN TENNIS. I AM  
22 GOING TO KILL HIM."

23 I THINK HE WAS JUST SAYING THESE THINGS TO  
24 MY MOM, "I AM GOING TO DISOWN HIM," OR "I AM REALLY  
25 UPSET THAT HE IS KEEPING THESE THINGS PRIVATE," OR "HE  
26 IS TRYING TO KEEP THINGS PRIVATE FROM ME."

27 I DON'T THINK THOSE THINGS WERE GOING  
28 THROUGH MY FATHER'S HEAD. I WAS LOOKING AT IT DOWN THE

-20977

1 ROAD. WHAT DOES DISOWN MEAN? COULD IT MEAN DEATH? IT  
2 MAY VERY WELL MEAN DEATH.

3 Q. ONCE AGAIN, WHAT IS THE LEAP IN LOGIC I AM  
4 MAKING, MR. MENENDEZ, IN MY QUESTIONING TO YOU?

5 A. I THOUGHT I JUST EXPLAINED IT.

6 Q. WELL, WHY DON'T YOU TRY AGAIN.

7 WHAT IS THE LEAP IN LOGIC THAT I AM MAKING

8 IN MY QUESTIONING TO YOU?

9 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE, AND

10 HE ALREADY ANSWERED IT.

11 THE COURT: AS TO THE FIRST PHRASE, COMMENTS OF

12 COUNSEL, SUSTAINED. BUT THE QUESTION MAY BE REASKED.

13 DO YOU UNDERSTAND THE QUESTION?

14 THE WITNESS: YES.

15 THE COURT: OKAY.

16 THE WITNESS: YOU'RE SAYING THAT MY FATHER WAS

17 THINKING THAT BECAUSE I AM KEEPING SOMETHING AS TRIVIAL

18 AS TENNIS PRIVATE FROM HIM, WHICH I DON'T THINK HE

19 THOUGHT WAS TRIVIAL ANYWAY, THAT HE WAS THINKING -- THAT

20 MY FATHER WAS THINKING "I AM GOING TO KILL HIM."

21 THAT I AM NOT SAYING.

22 Q. BY MR. CONN: SO YOU DIDN'T BELIEVE THAT

23 YOUR FATHER WAS THINKING OF KILLING YOU BACK IN MAY OF

24 1989?

25 A. NO. WHAT I AM SAYING IS I THOUGHT THAT IF

26 HE WOULD DISOWN ME, THAT I COULDN'T SEE ANY OTHER WAY

27 THAT HE WOULD DISOWN ME AND KICK ME OUT OF THE HOUSE. I

28 JUST COULDN'T IMAGINE IT TO BE THAT. IF THAT WAS

1 ACTUALLY WHAT HE WAS THINKING, HE WAS PROBABLY THEN

2 GOING TO KILL ME.

3 Q. SO THEN WEREN'T YOU THINKING, MR. MENENDEZ,  
4 THAT IF YOU DIDN'T SHAPE UP AS FAR AS YOUR REPORTING  
5 TENNIS TO HIM IS CONCERNED, THAT HE WAS GOING TO DISOWN  
6 YOU, AND SINCE HE COULDN'T JUST KICK YOU OUT IN THE  
7 STREET, THEN THEREFORE HE WAS GOING TO KILL YOU?

8 A. IF MY FATHER SAID HE WAS GOING TO DISOWN  
9 ME, IT PROBABLY WOULD BE SOMETHING A LOT MORE SERIOUS.

10 Q. MR. MENENDEZ, REGARDLESS OF WHETHER OR NOT  
11 YOU HEARD THAT STRAIGHT FROM YOUR FATHER, THIS IS  
12 SOMETHING YOU HEARD FROM YOUR MOTHER, CORRECT?

13 A. CORRECT.

14 Q. I AM ASKING YOU ABOUT YOUR STATE OF MIND  
15 AFTER YOU HEARD THIS FROM YOUR MOTHER.

16 DO YOU UNDERSTAND THAT?

17 A. YES.

18 Q. AND I AM ASKING YOU AFTER YOU HEARD YOUR  
19 MOTHER SAY THAT YOUR FATHER SAID HE WOULD DISOWN YOU IF  
20 YOU DIDN'T REPORT YOUR TENNIS TO HIM, DID YOU CONCLUDE  
21 AS A RESULT OF THAT THAT YOUR FATHER WOULD KICK YOU OUT,  
22 AND BY THAT YOU THOUGHT IT MEANT TO KILL YOU?

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

25 (A RECESS WAS TAKEN FROM  
26 10:35 A.M TO 10:55 A.M.)

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

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

6

7 THE COURT: THE JURY'S BACK. WE'LL CONTINUE  
8 WITH THE CROSS-EXAMINATION.

9 MR. CONN: THANK YOU.

10 Q NOW, MR. MENENDEZ, WHEN YOU -- WHEN YOU  
11 AND YOUR BROTHER CONCLUDED ON THURSDAY NIGHT THAT  
12 YOUR PARENTS WERE GOING TO KILL YOU, DID YOU THEN  
13 BEGIN TO DISCUSS WITH YOUR BROTHER HOW YOU THOUGHT  
14 YOUR PARENTS WOULD GO ABOUT KILLING YOU SO THAT THEY  
15 COULD GET AWAY WITH IT?

16 A MOST LIKELY I'M SURE WE DID, YES.

17 Q AND WHAT CONCLUSIONS DID YOU REACH  
18 CONCERNING HOW YOUR PARENTS WOULD GO ABOUT KILLING  
19 YOU AND GETTING AWAY WITH IT?

20 A WE DIDN'T KNOW.

21 Q WELL, DID YOU, EITHER YOU TURN TO YOUR  
22 BROTHER, OR DID YOUR BROTHER TURN TO YOU, AND SAY,  
23 THIS IS RIDICULOUS, OUR PARENTS CAN'T KILL US AND  
24 GET AWAY WITH IT?

25 A NO, DEFINITELY NOT.

26 Q SO YOU ABSOLUTELY CONCLUDED THAT YOUR  
27 PARENTS COULD KILL YOU AND GET AWAY WITH IT?

28 A MY FATHER COULD DO ANYTHING.

1 Q YOU CONCLUDED --

2 A HE HAD MILLIONS OF DOLLARS. HE COULD DO  
3 ANYTHING. I DIDN'T THINK THAT IT WAS SOMETHING THAT  
4 HE COULDN'T DO, NO.

5 Q SO DID YOU REACH ANY CONCLUSIONS  
6 CONCERNING WHEN IT WOULD BE DONE OR HOW IT WOULD BE  
7 DONE?

8 A I THOUGHT IT MIGHT BE DONE THAT NIGHT;  
9 THOUGHT THAT -- LYLE THOUGHT IT WAS MORE LIKELY THAT  
10 IT WOULDN'T BE DONE THAT NIGHT AND THAT IT WOULD BE  
11 DONE WHEN MY FATHER HAD A CHANCE TO ANALYZE WHAT WAS  
12 GOING ON. I THOUGHT IT MIGHT BE DONE THAT NIGHT.  
13 WE JUST WEREN'T SURE.

14 Q DID YOU REACH ANY CONCLUSIONS CONCERNING  
15 THE MEANS BY WHICH YOUR FATHER WOULD USE TO KILL  
16 YOU?

17 A HE COULD USE ANY MEANS.

18 Q DID YOU REACH ANY CONCLUSIONS CONCERNING  
19 WHETHER BOTH YOUR MOTHER AND YOUR FATHER WOULD KILL  
20 YOU TOGETHER, OR WHETHER JUST ONE OF THEM WOULD KILL  
21 YOU?

22 A WE BELIEVED THAT WHEN WE WERE IN THE  
23 GUESTHOUSE THAT THEY WERE IN THE MAIN HOUSE TALKING  
24 ABOUT IT. I KNOW THAT MY MOTHER WAS EITHER

25 MEDICATED OR DRUNK AT THE TIME, AND SHE WAS ALREADY  
26 ANGRY, AND I BELIEVE THAT THEY WERE TALKING ABOUT  
27 WHAT TO DO.  
28 I DON'T KNOW IF WE -- I DON'T REMEMBER

44563

1 ANY SPECIFIC IDEA OF -- THAT WE PINPOINTED TO HOW WE  
2 THOUGHT IT WOULD BE DONE.

3 Q DID YOU REACH ANY CONCLUSIONS CONCERNING  
4 WHETHER YOUR FATHER WOULD DO IT PERSONALLY OR GET  
5 SOMEONE TO DO IT FOR HIM?

6 A LYLE THOUGHT THAT DAD WOULD NOT GET  
7 OTHER PEOPLE INVOLVED.

8 Q WHAT WAS YOUR THOUGHTS ON THAT SUBJECT?

9 A I DIDN'T KNOW MY FATHER WELL ENOUGH TO  
10 KNOW. ALL I KNOW IS THAT -- WAS THAT I HAD FEAR OF  
11 HIM. I DIDN'T -- I DIDN'T KNOW WHETHER HE WOULD HIRE  
12 PEOPLE OR NOT. LYLE THOUGHT THAT HE WOULD DO IT  
13 MORE LIKELY PERSONALLY THAN GET OTHER PEOPLE  
14 INVOLVED, BUT I DIDN'T KNOW.

15 Q DID YOU REACH ANY CONCLUSIONS CONCERNING  
16 WHERE IT WAS LIKELY TO HAPPEN?

17 A NO.

18 Q DID YOU REACH ANY CONCLUSIONS CONCERNING  
19 WHAT TIME OF DAY IT WAS LIKELY TO HAPPEN?

20 A NO.

21 Q DID YOU HAVE ANY DISCUSSIONS CONCERNING  
22 WHERE IT WAS LIKELY TO HAPPEN?

23 A I DON'T REMEMBER.

24 Q DID YOU HAVE ANY DISCUSSIONS CONCERNING  
25 THE TIME OF DAY IT WAS LIKELY TO HAPPEN?

26 A I DON'T REMEMBER.

27 Q DID YOU HAVE ANY DISCUSSIONS CONCERNING  
28 WHETHER IT WOULD BE LIKELY TO HAPPEN WHEN THE TWO OF

44564

1 YOU WERE TOGETHER OR SEPARATE?

2 A I REMEMBER BELIEVING THAT IT WOULD  
3 HAPPEN WHEN WE WERE TOGETHER. I DON'T KNOW -- I  
4 DON'T KNOW HOW I CAME TO THAT CONCLUSION. I KNOW  
5 THAT LYLE AND I WERE DISCUSSING SUCH THINGS. I  
6 DON'T REMEMBER HOW I ARRIVED AT THAT CONCLUSION.

7 Q SO TO MINIMIZE THE POSSIBILITY THAT IT  
8 WOULD OCCUR WHILE YOU WERE TOGETHER, DID YOU THEN  
9 DECIDE TO SEPARATE AND GO YOUR SEPARATE WAYS?

10 A WE DID THAT THAT WEEKEND. I REMEMBER ON  
11 SUNDAY SPECIFICALLY WE STAYED AWAY.

12 Q WELL, DID YOU DO IT THAT NIGHT?

13 A I DON'T BELIEVE THAT WE FELT -- ONCE I  
14 TOLD LYLE THAT WE COULDN'T GET AWAY, I DON'T THINK

15 THAT LYLE THOUGHT IT WAS A GOOD IDEA TO GO TO THE  
16 CAR AND DRIVE OFF. THAT WOULD HAVE -- THAT WOULD  
17 HAVE BEEN A BAD IDEA. WE JUST STAYED --

18 MR. CONN: OBJECTION. NONRESPONSIVE. CALLS  
19 FOR SPECULATION.

20 THE COURT: OVERRULED. THE ANSWER WILL  
21 STAND.

22 NEXT QUESTION.

23 Q BY MR. CONN: SO YOU DECIDED THAT YOU  
24 WERE NOT GOING TO SEPARATE THAT NIGHT; IS THAT  
25 CORRECT?

26 A RIGHT.

27 Q EVEN THOUGH IN YOUR VIEW THAT WOULD  
28 INCREASE THE LIKELIHOOD OF YOU TWO BEING KILLED?

44565

1 A I DON'T KNOW THAT I PUT TWO AND TWO  
2 TOGETHER THAT NIGHT.

3 Q THE ONLY THINGS YOU PUT TOGETHER THAT  
4 NIGHT WAS THAT YOUR PARENTS WERE GOING TO KILL YOU?

5 A I PUT A LOT OF OTHER THINGS TOGETHER  
6 THAT NIGHT. I WAS -- I STAYED UP LATE THINKING  
7 ABOUT IT AFTER LYLE HAD LEFT THE ROOM.

8 Q WHERE DID YOU STAY THAT NIGHT  
9 SPECIFICALLY?



10 A ON THE COUCH.

11 Q AND WHERE DID YOUR BROTHER STAY?

12 A IN HIS ROOM.

13 Q NOW, BEFORE YOUR BROTHER WENT TO SLEEP

14 IN HIS ROOM, YOU DISCUSSED THE POSSIBILITY OF GOING

15 TO ANOTHER CITY OR GOING TO ANOTHER COUNTRY?

16 A I REMEMBER LYLE WANTING TO GET AWAY.

17 PROBABLY SAID, LET'S LEAVE THE STATE, LET'S LEAVE

18 THE COUNTRY. I DON'T REMEMBER. I COMPLETELY

19 DISMISSED IT, TOLD HIM IT WAS AN IMPOSSIBILITY, THAT

20 IT COULD NOT HAPPEN.

21 Q HOW LONG DID YOU DISCUSS WITH YOUR

22 BROTHER THE POSSIBILITY OF YOU AND HE GOING TO

23 ANOTHER CITY OR GOING TO ANOTHER COUNTRY?

24 A YOU MEAN IN GENERAL JUST LEAVING AND

25 RUNNING AWAY?

26 Q YES, JUST LEAVING.

27 A I KNOW THAT NIGHT -- I KNOW ON THE WAY

28 BACK FROM SAN DIEGO, I BELIEVE HE BROUGHT IT UP

44566

1 AGAIN.

2 Q I'M TALKING ABOUT THAT NIGHT.

3 A THAT NIGHT IT WAS GENERALLY DISCUSSED.

4 Q SO YOU DISCUSSED THAT POSSIBILITY

5 THROUGHOUT THE NIGHT OF GOING TO ANOTHER CITY OR

6 GOING TO ANOTHER COUNTRY?

7 A I DISMISSED IT RIGHT AWAY. IT WAS  
8 SOMETHING THAT LYLE WANTED TO DO THOUGH.

9 Q SO ONCE YOU DISMISSED IT RIGHT AWAY,  
10 THERE WAS NO FURTHER DISCUSSIONS CONCERNING GOING TO  
11 ANOTHER CITY OR GOING TO ANOTHER COUNTRY; IS THAT  
12 WHAT YOU'RE SAYING?

13 A NO.

14 Q WHAT ARE YOU SAYING?

15 A I'M SAYING THAT I BELIEVE LYLE  
16 CONTINUALLY BROUGHT IT UP. WE CAN GET OUT OF HERE,  
17 LET'S JUST GO. AND I HAD ALREADY DISMISSED IT. BUT  
18 I CAN'T REMEMBER SPECIFICALLY THAT HAPPENING. I  
19 JUST REMEMBER A LOT OF ARGUMENTS, HEATED TALKING  
20 BACK AND FORTH, A LOT OF ANXIETY.

21 Q AND IN WHAT WAY WOULD LYLE CONTINUALLY  
22 BRING IT UP THROUGHOUT THE EVENING?

23 A I WOULD BE GUESSING AT THE WORDS.

24 Q BUT ESSENTIALLY WHAT WAS THE CONTENT OF  
25 THE WAY IN WHICH HE WOULD BRING IT UP?

26 A THAT WE SHOULD GET OUT OF THERE.

27 Q AND DID HE GIVE YOU SPECIFICS CONCERNING  
28 WHY IT WAS FEASIBLE TO GO TO ANOTHER CITY OR GO TO

1 ANOTHER COUNTRY?

2 A PROBABLY BECAUSE HE THOUGHT IT WAS  
3 BETTER TO -- TO TRY TO MAKE IT ON THE RUN THAN TAKE A  
4 CHANCE OF DAD KILLING US RIGHT THEN.

5 Q I'M NOT ASKING YOU WHAT HE THOUGHT. I'M  
6 ASKING YOU WHAT HE SAID CONCERNING THE SPECIFICS OF  
7 WHY IT WOULD BE FEASIBLE TO GO TO ANOTHER CITY OR GO  
8 TO ANOTHER COUNTRY.

9 A I DON'T REMEMBER THE SPECIFICS.

10 Q YOU DON'T REMEMBER ANY SPECIFIC  
11 CONVERSATION BETWEEN YOU AND YOUR BROTHER CONCERNING  
12 THE FEASIBILITY OF YOU JUST GOING TO ANOTHER CITY?

13 A I DON'T REMEMBER THE WORD CITY,  
14 COUNTRY. I REMEMBER HIM SAYING, LET'S GET OUT OF  
15 HERE. LET'S GO. WE CAN GET AWAY. AND ME SAYING,  
16 IT'S IMPOSSIBLE. IT CAN'T HAPPEN. WE'LL NEVER GET  
17 AWAY. HE'LL FIND US. HE'LL KILL US. I DON'T  
18 REMEMBER HIM SAYING LET'S GO TO BALTIMORE OR LET'S  
19 GO TO SPAIN. I DON'T REMEMBER THOSE THINGS.

20 Q DO YOU REMEMBER ANY OTHER SPECIFIC  
21 CONVERSATION IN WHICH YOU DISCUSSED THE FEASIBILITY  
22 OF GOING TO ANOTHER PLACE?

23 A THE FEASIBILITY? NO.

24 Q DO YOU REMEMBER ANY OTHER DISCUSSIONS  
25 CONCERNING THE POSSIBILITY OF YOU GOING TO ANOTHER  
26 PLACE TO LIVE?

27 A I BELIEVE WE DISCUSSED IT ON FRIDAY.

44568

1 A ANY OTHER DISCUSSIONS? IT WAS DISCUSSED  
2 THEN. HE MAY HAVE CONTINUALLY BROUGHT IT UP. I  
3 JUST DON'T REMEMBER THE SPECIFICS ENOUGH.

4 Q SO YOU CANNOT RECALL ANY SPECIFIC  
5 DISCUSSIONS, OTHER THAN WHAT YOU TOLD US ABOUT, ON  
6 THURSDAY NIGHT, CONCERNING THE POSSIBILITY OF GOING  
7 TO ANOTHER LOCATION TO LIVE?

8 A AT THIS TIME I CANNOT.

9 Q OKAY. THEN TELL US ANY SPECIFIC  
10 CONVERSATIONS YOU HAD FOR THE REMAINDER OF THAT  
11 WEEKEND CONCERNING THE POSSIBILITY OF GOING TO  
12 ANOTHER LOCATION TO LIVE.

13 A I DON'T BELIEVE THAT WE DISCUSSED -- OR  
14 I DON'T REMEMBER HIM DISCUSSING THE POSSIBILITY OF  
15 GOING TO ANOTHER LOCATION TO LIVE. I REMEMBER HIM  
16 BRINGING UP, LET'S GET AWAY. LET'S LEAVE. I DON'T  
17 REMEMBER HIM SAYING THAT WE CAN MOVE TO A SPECIFIC  
18 CITY OR STATE OR COUNTRY.

19 Q I'M NOT ASKING YOU WHETHER A SPECIFIC  
20 LOCATION WAS MENTIONED. I'M TALKING -- I'M ASKING  
21 YOU WHETHER YOU CAN REMEMBER ANY SPECIFIC  
22 CONVERSATIONS THAT YOU HAD WITH YOUR BROTHER IN

23 WHICH YOU SERIOUSLY CONSIDERED AND DISCUSSED THAT  
24 OPTION.

25 A COMING HOME FROM SAN DIEGO MY BROTHER  
26 SAID TO ME THAT THE GUNS ARE USELESS UNLESS I COULD  
27 USE THEM. HE ASKED ME IF I COULD REALLY USE THEM  
28 AGAINST MY MOM. AND I SAID I WASN'T SURE. I DIDN'T

44569

1 KNOW. AND HE SAID, WELL, YOU BETTER THINK ABOUT  
2 THAT, BECAUSE IF YOU CAN'T THEY'RE USELESS. WE  
3 BETTER GET OUT OF HERE. AND IT'S POINTLESS BECAUSE  
4 WE'RE GOING TO DIE EITHER WAY AT THAT POINT. AND HE  
5 WANTED ME TO GO AND I SAID I COULDN'T.

6 Q DID YOU UNDERSTAND THE QUESTION I JUST  
7 ASKED YOU?

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

9 THE WITNESS: IT WAS --

10 THE COURT: OVERRULED.

11 THE WITNESS: I THOUGHT THAT WAS ANSWERING  
12 THE QUESTION.

13 Q BY MR. CONN: LET ME TRY ONE MORE TIME.

14 DID YOU HAVE ANY -- CAN YOU REMEMBER ANY  
15 SPECIFIC DISCUSSION THAT YOU HAD WITH YOUR BROTHER  
16 LYLE MENENDEZ ANY TIME THAT WEEKEND IN WHICH YOU  
17 SERIOUSLY CONSIDERED AND DISCUSSED THE POSSIBILITY

18 OF MOVING TO ANOTHER LOCATION TO GET AWAY FROM YOUR  
19 PARENTS?  
20 A MAYBE IT'S -- MAYBE I'M CONFUSING WHAT  
21 YOU MEAN BY ANOTHER LOCATION. I THOUGHT I ANSWERED  
22 YOUR QUESTION. WE NEVER -- I DON'T REMEMBER HIM  
23 BRINGING UP -- I REMEMBER HIM -- US DISCUSSING OR HIM  
24 SAYING, WHAT ABOUT THE RELATIVES, AND DISMISSING  
25 THAT POSSIBILITY. I DON'T -- OTHER THAN THAT, I  
26 DON'T SPECIFICALLY REMEMBER ANY SPECIFIC PLACE THAT  
27 HE SAID WE COULD MOVE TO TO GET AWAY TO HIDE FROM  
28 DAD.

44570

1 Q YOU UNDERSTAND THAT I'M NOT ASKING YOU  
2 ABOUT A SPECIFIC PLACE. I'M ASKING YOU WHAT  
3 CONVERSATIONS, MR. MENENDEZ, DID YOU HAVE WITH YOUR  
4 BROTHER LYLE MENENDEZ IN WHICH YOU SERIOUSLY  
5 ENTERTAINED AND CONSIDERED THE POSSIBILITY OF GOING  
6 TO ANOTHER LOCATION TO LIVE?

7 A WHAT DO YOU MEAN BY SERIOUSLY  
8 ENTERTAINED THE POSSIBILITY?

9 Q THAT YOU DISCUSSED; THAT THIS WAS AN  
10 ISSUE WHICH YOU ACTUALLY DISCUSSED RATHER THAN  
11 IGNORING THE OPTION OF GOING TO ANOTHER LOCATION.

12 A ON FRIDAY COMING HOME FROM THE GUN STORE

13 IN SAN DIEGO.

14 Q AND WHAT WAS DISCUSSED CONCERNING THE  
15 POSSIBILITY OF GOING TO ANOTHER LOCATION TO LIVE?

16 A THE FACT THAT IF I COULDN'T USE THIS  
17 GUN, WE WERE GOING TO -- VERY LIKELY COULD DIE  
18 THERE. SO WE MIGHT AS WELL TAKE A CHANCE IN  
19 RUNNING.

20 Q DID EITHER YOU OR YOUR BROTHER SAY AT  
21 ANY TIME, HOW IS MY FATHER GOING TO FIND US IF WE GO  
22 TO ST. LOUIS AS OPPOSED TO MINNEAPOLIS?

23 A I DON'T REMEMBER USING THOSE WORDS, BUT  
24 I KNOW THAT IT WAS MY THOUGHT THAT IT WAS -- IT WAS  
25 JUST -- MY FATHER WAS GOING TO FIND US. I CAN'T  
26 BELIEVE THAT -- THAT ANYONE COULD SERIOUSLY THINK  
27 THAT MY FATHER WOULD NOT BE ABLE TO FIND US AND THAT  
28 I WOULD BE ABLE TO HIDE FROM HIM WHILE HE WAS

44571

1 HUNTING ME FOR THE REST OF MY LIFE. HOW COULD THAT  
2 BE?

3 Q ARE YOU SAYING, MR. MENENDEZ, THAT AT NO  
4 TIME DID EITHER YOU OR YOUR BROTHER SAY, IF WE'RE  
5 GOING TO GO TO ANOTHER CITY, SAN DIEGO, OR  
6 DES MOINES, HOW WOULD MY FATHER GO ABOUT FINDING  
7 US?

8 A I DON'T REMEMBER THAT HAPPENING, BUT I  
9 CERTAINLY BELIEVE -- CERTAINLY KNEW HOW HE WOULD GO  
10 ABOUT IT.

11 Q HOW WOULD HE GO ABOUT DOING IT,  
12 MR. MENENDEZ?

13 A HE HAD MILLIONS OF DOLLARS. HE WOULD  
14 HAVE PRIVATE INVESTIGATORS. ANY TIME MY NAME CAME  
15 UP ON A COMPUTER OR CREDIT CARD OR BANK OR A SCHOOL  
16 OR ANYTHING, HE WOULD FIND ME IMMEDIATELY. SO I  
17 WOULD OBVIOUSLY HAVE TO CHANGE MY NAME, SOMEHOW DO  
18 IT IN A WAY THAT HE COULDN'T FIND OUT, AND LITERALLY  
19 HIDE OUT, KNOWING THAT EVERY DAY HE WAS SEARCHING  
20 FOR ME AND HUNTING FOR ME. AND I JUST DID NOT  
21 BELIEVE, NOR WAS IT REALISTIC TO THINK, THAT THAT  
22 COULD ACTUALLY HAPPEN.

23 Q SO YOU DIDN'T ASSUME THAT IF YOU WENT TO  
24 ANOTHER PLACE AND TRIED TO GET AWAY FROM YOUR  
25 PARENTS, THAT YOU WOULD NECESSARILY HAVE TO KEEP  
26 YOUR TRUE NAME, DID YOU?

27 A NO.

28 Q SO DID YOU SAY, LET'S TALK ABOUT THIS,

44572

1 LYLE. BEFORE WE GO OUT AND BUY GUNS TO KILL OUR OWN  
2 PARENTS, LET'S TALK ABOUT THE POSSIBILITY OF



3 CHANGING OUR IDENTITIES AND USING DIFFERENT NAMES.

4 DID YOU TALK ABOUT THAT?

5 A WE DIDN'T GO OUT TO --

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

7 THE COURT: OBJECTION SUSTAINED TO THE FORM

8 OF THE QUESTION. THE ANSWER IS STRICKEN.

9 Q BY MR. CONN: BEFORE YOU WENT TO BUY

10 SHOTGUNS ON FRIDAY, DID YOU SAY TO YOUR BROTHER LYLE

11 MENENDEZ, BEFORE WE BUY THE SHOTGUNS, LET'S TALK

12 ABOUT THE POSSIBILITY OF CHANGING OUR NAMES AND

13 GETTING AWAY FROM OUR PARENTS SO THAT WE DON'T GET

14 INTO A SITUATION WHERE SOMEONE SHOOTS SOMEONE?

15 A I DISMISSED IT. I THOUGHT IT WAS AN

16 IMPOSSIBILITY. I DID NOT DISCUSS IT.

17 Q SO YOU DIDN'T FEEL THAT THAT WAS

18 SOMETHING EVEN WORTH DISCUSSING, MR. MENENDEZ?

19 A I THOUGHT IT WAS IMPOSSIBLE.

20 Q AND YOUR BROTHER LYLE MENENDEZ AT NO

21 TIME RAISED THAT AS A POSSIBILITY; IS THAT CORRECT?

22 A NO. THAT'S WHAT I'M SAYING, IS THAT HE

23 MAY VERY WELL HAVE. AND I SAID, LYLE, IT'S

24 RIDICULOUS. IT'S NOT POSSIBLE. BUT I CANNOT TELL

25 YOU THE WORDS THAT HE USED. I CAN'T EVEN TELL YOU

26 THE TIME HE SAID IT BECAUSE I DON'T SPECIFICALLY

27 REMEMBER, BUT THAT'S THE THINGS HE WAS THINKING.

28 Q YOU DO NOT RECALL LYLE MENENDEZ RAISING

1 THE CHANGING THE NAMES AS A POSSIBILITY FOR AVOIDING  
2 YOUR PARENTS; IS THAT CORRECT?

3 A RIGHT.

4 Q DO YOU RECALL ANY OTHER OPTIONS THAT YOU  
5 DISCUSSED OR MEANS BY WHICH YOU COULD AVOID YOUR  
6 PARENTS IF YOU WERE TO MOVE TO A DIFFERENT  
7 LOCATION?

8 A I DID NOT DISCUSS THEM. IF HE BROUGHT  
9 THEM UP, I DISMISSED IT. SO I DON'T REMEMBER.

10 Q AND YOU NEVER, AT ANY TIME, DISCUSSED  
11 THE ISSUE OF HOW WOULD YOUR FATHER GO ABOUT FINDING  
12 YOU; IS THAT CORRECT?

13 A RIGHT.

14 Q DID YOU FEEL, MR. MENENDEZ, THAT BEFORE  
15 YOU WOULD PURCHASE SHOTGUNS TO POSSIBLY USE AGAINST  
16 YOUR OWN PARENTS, THAT AT LEAST THAT WAS SOMETHING  
17 WORTH DISCUSSING?

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

19 THE COURT: ARE YOU ASKING DOES HE THINK NOW  
20 OR DID HE THINK THEN?

21 MR. CONN: AT THE TIME.

22 THE COURT: WELL, HE'S ANSWERED THE QUESTION  
23 AS TO WHETHER HE DID OR DIDN'T DISCUSS IT, SO  
24 OBJECTION SUSTAINED.

25 Q BY MR. CONN: NOW, YOU HAD SOME  
26 EXPERIENCE USING FALSE IDENTIFICATION, HADN'T YOU?

27 A YOU MEAN IN TERMS OF GETTING INTO NIGHT

28 CLUBS, GIVING THE I.D. TO THE GUY AND --

44574

1 Q I'M TALKING ABOUT FALSE IDENTIFICATION.

2 DID YOU HAVE ANY?

3 A I DON'T KNOW WHAT YOU MEAN BY

4 EXPERIENCE.

5 Q DID YOU HAVE ANY FALSE IDENTIFICATION

6 BACK IN AUGUST OF 1989?

7 A I HAD TWO SEPARATE IDENTIFICATIONS THAT

8 WERE FALSE.

9 Q OKAY. WHAT TYPE OF IDENTIFICATIONS DID

10 YOU HAVE?

11 A I HAD DONOVAN GOODREAU'S DRIVER'S

12 LICENSE, WHICH I KEPT IN MY WALLET; AND I HAD

13 ANOTHER IDENTIFICATION WITH MY PICTURE ON IT, WITH

14 THE NAME OF RICHARD STEVENS ON IT.

15 Q AND THE IDENTIFICATION THAT YOU'RE

16 REFERRING TO IS A DRIVER'S LICENSE FROM D.M.V.?

17 A DRIVER'S LICENSE OR IDENTIFICATION. I

18 NO LONGER REMEMBER.

19 Q I'M SORRY?

20 A IT'S FROM THE D.M.V. I DON'T REMEMBER

21 IF IT'S A DRIVER'S LICENSE ANYMORE OR IDENTIFICATION

22 CARD, ONE OF THE TWO.

23 Q AND IT HAS YOUR PICTURE ON IT -- IT HAD

24 YOUR PICTURE ON IT, BUT IT HAD THE NAME OF RICHARD

25 STEVENS ON IT?

26 A RIGHT.

27 Q AND THIS WAS ISSUED TO YOU BY THE

28 DEPARTMENT OF MOTOR VEHICLES?

44575

1 A YES.

2 Q AND HOW DID YOU GO ABOUT GETTING A FALSE

3 IDENTIFICATION LIKE THAT?

4 A I HAD BIRTH CERTIFICATES AND MANY OF THE

5 KIDS HAD DIFFERENT BIRTH CERTIFICATES. IT GENERALLY

6 WAS THE WAY THEY GOT IDENTIFICATION TO GET INTO

7 NIGHT CLUBS. AND YOU WENT TO THE D.M.V. WITH THE

8 BIRTH CERTIFICATE AND THEY JUST TOOK YOUR PICTURE

9 AND GAVE YOU AN IDENTIFICATION CARD.

10 I GUESS IT WAS AN IDENTIFICATION CARD

11 BECAUSE I DON'T REMEMBER TAKING A DRIVER'S TEST FOR

12 IT, SO -- IT WAS REALLY THAT SIMPLE.

13 Q SO FIRST YOU OBTAINED A PHONEY BIRTH

14 CERTIFICATE; IS THAT CORRECT?

15 A YEAH.

16 Q OKAY. AND THEN WITH A PHONEY BIRTH

17 CERTIFICATE YOU WENT TO THE DEPARTMENT OF MOTOR  
18 VEHICLES AND YOU PRESENTED YOURSELF AS RICHARD  
19 STEVENS; IS THAT WHAT YOU DID?

20 A YES.

21 Q AND DID YOU SIGN ANYTHING UNDER PENALTY  
22 OF PERJURY OR ANYTHING LIKE THAT?

23 A I DON'T REMEMBER.

24 Q OKAY. BUT YOU -- YOU ALSO FALSELY  
25 REPRESENTED YOURSELF AS BEING SOMEONE WHO YOU WERE  
26 NOT?

27 A RIGHT.

28 Q WERE YOU ACTING AT THE TIME?

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1 A NO.

2 Q SO YOU SAID YOUR NAME WAS RICHARD  
3 STEVENS AND YOU GOT THIS FALSE IDENTIFICATION; IS  
4 THAT CORRECT?

5 A RIGHT.

6 Q AND WHAT DID YOU USE THAT FALSE  
7 IDENTIFICATION FOR?

8 A I WENT OUT WITH A GIRLFRIEND AND WE  
9 WANTED TO GET INTO A DANCING CLUB, OR SOMETHING  
10 ALONG THOSE LINES, AND YOU NEEDED TO BE 21.  
11 I HAD TIMMY ANDERSEN'S BEFORE I HAD

12 DONOVAN'S -- WHEN I LOST TIMMY'S AND I HAD  
13 DONOVAN'S -- TIMMY'S WAS SOMETHING WHERE IT WASN'T MY  
14 PICTURE, SO THE GUY MAY SAY, WELL, THIS ACTUALLY  
15 ISN'T YOU. RICHARD STEVENS' HAD MY PICTURE, SO IT  
16 WORKED EVERY TIME.

17 Q LET ME SEE IF I UNDERSTAND YOU.

18 YOU HAD THREE PIECES OF FALSE  
19 IDENTIFICATION DURING THIS TIME PERIOD?

20 A NO.

21 Q HOW MANY PIECES OF FALSE  
22 IDENTIFICATION?

23 A TWO.

24 Q THAT IS GOODREAU AND STEVENS; IS THAT  
25 CORRECT?

26 A RIGHT.

27 Q NOW, YOU USED TO HAVE SOME OTHER PHONEY  
28 IDENTIFICATION, AND THAT WAS TIMMY ANDERSEN?

44577

1 A MY COUSIN.

2 Q AND WHAT DID -- AND WAS THAT  
3 IDENTIFICATION ISSUED BY ANOTHER STATE?

4 A YEAH, I GUESS IT WAS. ILLINOIS.

5 Q AND THAT DIDN'T HAVE YOUR PICTURE ON IT?

6 A NO. IT HAD TIM'S.

7 Q I'M SORRY?

8 A IT HAD TIM'S.

9 Q SO WHAT YOU WOULD DO IS GO AROUND AND  
10 PRETEND YOU WERE TIM ANDERSEN AT TIMES?

11 A I WOULDN'T PRETEND I WAS ANYONE. I  
12 WOULD SHOW IT SO I COULD GET IN THERE.

13 Q WHY IS IT THAT YOU STOPPED USING TIM  
14 ANDERSEN'S IDENTIFICATION AND MOVED ON TO OTHER  
15 TYPES OF FALSE IDENTIFICATION?

16 A I LOST MY WALLET AND I KEPT TIM  
17 ANDERSEN'S I.D. IN MY WALLET. WHEN I LOST IT, I  
18 LOST THE IDENTIFICATION.

19 Q AND THEN YOU OBTAINED DONOVAN GOODREAU'S  
20 IDENTIFICATION CARD NEXT?

21 A I GOT IT IN MAY.

22 Q IN MAY OF 1989?

23 A RIGHT.

24 Q AND WHEN DID YOU GET THE RICHARD STEVENS  
25 IDENTIFICATION CARD?

26 A I DON'T KNOW. I REMEMBER DISCUSSING IT  
27 WITH MY MOTHER IN 1988 BEFORE I WENT DOWN TO THE  
28 D.M.V. AND HOW EXACTLY TO DO IT. SO I KNOW IT WAS

1 PROBABLY UP TO A YEAR BEFORE.

2 Q OKAY. AND THIS -- NOW, YOU SAID THAT  
3 BEFORE YOU WENT TO -- THAT YOU WENT DOWN TO SAN DIEGO  
4 ON FRIDAY AND YOU PURCHASED THESE SHOTGUNS, THAT YOU  
5 HAD DONOVAN GOODREAU'S IDENTIFICATION WITH YOU; IS  
6 THAT CORRECT?

7 A I HAD IT IN MY WALLET.

8 Q AND YOU DIDN'T HAVE THE RICHARD STEVENS  
9 IDENTIFICATION WITH YOU?

10 A I KEPT THAT IN MY ROOM.

11 Q AND YOU DIDN'T HAVE YOUR OWN DRIVER'S  
12 LICENSE AT THE TIME; IS THAT CORRECT?

13 A I LOST IT WITH MY WALLET THE SPRING  
14 BEFORE.

15 Q NOW, WHAT MONTH DID YOU LOSE YOUR  
16 LICENSE, YOUR OWN DRIVER'S LICENSE?

17 A I DON'T REMEMBER. IT WAS BEFORE MAY,  
18 SOMETIME THAT SPRING.

19 Q AND -- NOW, BETWEEN MAY AND AUGUST DID  
20 YOU HAVE A DRIVER'S LICENSE?

21 A MY LICENSE WASN'T SUSPENDED, BUT I HAD  
22 NO NEED FOR A DRIVER'S LICENSE. IT DIDN'T DO ME ANY  
23 GOOD EXCEPT WHEN I GOT PULLED OVER FOR A TICKET. SO  
24 I DIDN'T -- I DIDN'T WANT TO GO DOWN AND WAIT IN THE  
25 LINE TO GET A NEW ONE.

26 Q DID YOU KNOW THAT YOU WERE SUPPOSED TO  
27 HAVE A DRIVER'S LICENSE IN YOUR POSSESSION WHEN YOU  
28 DRIVE A CAR?



1 A I KNEW THAT.

2 Q YOU KNEW THAT SINCE THE TIME YOU LOST  
3 YOUR DRIVER'S LICENSE IN MAY OF 1989?

4 A I DON'T KNOW IF I LOST MY LICENSE IN  
5 MAY. IT WAS BEFORE MAY. BUT I KNEW THAT YOU WERE  
6 SUPPOSED TO HAVE A DRIVER'S LICENSE, OBVIOUSLY, SO  
7 THEY CAN IDENTIFY WHO THE DRIVER IS.

8 Q RIGHT. AND YOU JUST DECIDED TO GO  
9 AROUND DRIVING BETWEEN SOMETIME BEFORE MAY UNTIL  
10 AUGUST OF 1989 WITHOUT ANY DRIVER'S LICENSE?

11 A ESSENTIALLY IT -- MY DRIVER'S LICENSE,  
12 BEING 18, WASN'T GOOD FOR ANYTHING EXCEPT FOR  
13 IDENTIFYING MYSELF TO A POLICE OFFICER WHEN I GOT  
14 PULLED OVER FOR A TICKET; AND I DIDN'T WANT TO GO  
15 DOWN AND WAIT IN THE LONG LINE AT D.M.V. AND GET A  
16 NEW ONE. SO I DIDN'T BOTHER.

17 Q MR. MENENDEZ, DIDN'T YOU UNDERSTAND THAT  
18 THAT'S THE REASON WHY WE'RE SUPPOSED TO CARRY  
19 DRIVER'S LICENSES, SO THAT WE CAN SHOW  
20 IDENTIFICATION TO A POLICE OFFICER IN CASE WE'RE  
21 PULLED OVER?

22 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S  
23 ARGUMENTATIVE.

24 THE COURT: OVERRULED.

25 THE WITNESS: THAT, OR FOR CREDIT CARDS OR IF

26 YOU'RE GOING TO CASH A CHECK OR SOMETHING LIKE THAT,  
27 I ASSUME YOU NEED A DRIVER'S LICENSE. BUT I DIDN'T  
28 HAVE ANYTHING LIKE THAT, AND SO IT WASN'T ANY USE TO

44580

1 ME.

2 Q BY MR. CONN: AND SO BECAUSE IF IT WAS --  
3 BECAUSE IT WAS NO -- OF NO USE TO YOU, YOU DECIDED TO  
4 IGNORE THE LAW THAT SAYS THAT YOU'RE SUPPOSED TO  
5 CARRY IT; IS THAT CORRECT?

6 A YES.

7 Q AND YOU FEEL THAT IS BECAUSE YOU ARE  
8 ABOVE THE LAW?

9 A NO. YOU'RE RIGHT. I PROBABLY SHOULD  
10 HAVE GONE BACK TO THE D.M.V. AND WAITED TO GET A NEW  
11 DRIVER'S LICENSE. IT WAS A HASSLE. I -- ALTHOUGH I  
12 GOT MANY TICKETS, I TRIED NOT TO AND I JUST -- ALL  
13 THE OFFICER WAS GOING TO DO WOULD BE TICKET ME FOR  
14 NOT HAVING A DRIVER'S LICENSE, AND IT WASN'T A BIG  
15 DEAL. SO I DIDN'T BOTHER.

16 Q SO YOU FELT THAT THAT WAS A LAW THAT WAS  
17 JUST NOT REALLY A BIG DEAL AND NOT EVEN WORTH  
18 COMPLYING WITH BASICALLY; IS THAT CORRECT?

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

20 THE COURT: OVERRULED.

21 THE WITNESS: OKAY. YES.  
22 Q BY MR. CONN: AND THE POLICE OFFICER  
23 EVEN ONCE TOLD YOU TO GET A NEW DRIVER'S LICENSE; IS  
24 THAT CORRECT?  
25 MR. LEVIN: OBJECTION. CALLS FOR HEARSAY.  
26 THE COURT: OVERRULED.  
27 THE WITNESS: I REMEMBER I WAS STOPPED IN  
28 JULY, JULY 7TH, AND I DIDN'T HAVE MY LICENSE AND THE

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1 POLICE OFFICER WROTE ME A TICKET FOR NOT HAVING A  
2 DRIVER'S LICENSE IN JULY.  
3 Q BY MR. CONN: AND STILL IT DID NOT SEEM  
4 IMPORTANT TO YOU; IS THAT CORRECT?  
5 A I WAS ABOUT TO GO ON TOUR FOR THREE OR  
6 FOUR WEEKS IN TENNIS. A DRIVER'S LICENSE JUST WAS  
7 NOT IMPORTANT TO ME AT ALL. I DIDN'T USE IT FOR  
8 ANYTHING.  
9 Q BUT YOU UNDERSTOOD THAT PEOPLE DON'T  
10 CARRY DRIVER'S LICENSES OFTEN BECAUSE THEY HAVE A  
11 USE FOR IT, BUT BECAUSE THEY'RE REQUIRED TO; IS THAT  
12 CORRECT?  
13 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE.  
14 THE COURT: OVERRULED.  
15 THE WITNESS: HAD I NOT LOST MY WALLET, I

16 WOULD HAVE HAD IT. I LOST IT A FEW MONTHS BEFORE,  
17 AND I JUST DID NOT GET AROUND TO GETTING A NEW ONE.

18 Q BY MR. CONN: WELL, WHEN YOU SAY YOU  
19 DIDN'T GET AROUND TO IT, BASICALLY WHAT YOU'RE  
20 TELLING US IS YOU SAW NO REASON TO GET AROUND TO IT;  
21 IS THAT CORRECT?

22 MR. LEVIN: YOUR HONOR, I OBJECT ON 1101 AND  
23 352 AT THIS POINT.

24 THE COURT: OVERRULED.

25 THE WITNESS: YOU'RE RIGHT, I DIDN'T.

26 Q BY MR. CONN: NOW, YOU WERE ALSO CITED  
27 IN AUGUST FOR SPEEDING, WERE YOU NOT?

28 A AUGUST OF 1989?

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1 Q YES.

2 A WHEN IN AUGUST?

3 MR. LEVIN: YOUR HONOR, MAY WE SEE A  
4 DOCUMENT?

5 MR. CONN: I BELIEVE IT'S A DOCUMENT THAT'S  
6 BEEN MARKED ALREADY.

7 MR. CONN: IT'S COUNSEL'S DOCUMENT.

8 THE COURT: IT'S THE EXHIBIT WE'VE BEEN  
9 REFERRING TO.

10 Q BY MR. CONN: WHILE WE'RE GETTING THAT,

11 LET ME ASK YOU THIS, MR. MENENDEZ --

12 MR. LEVIN: YOUR HONOR, I WOULD ASK FOR A  
13 MOMENT.

14 (PAUSE IN PROCEEDINGS.)

15

16 MR. LEVIN: I'M READY, YOUR HONOR.

17 MR. CONN: MAY I SEE THAT?

18 Q MR. MENENDEZ, DO YOU RECALL BEING PULLED  
19 OVER ANY TIME AFTER JULY BY A POLICE OFFICER?

20 A BEFORE MY PARENTS DIED?

21 Q YES.

22 A NO.

23 Q DO YOU RECALL ANYTHING HAPPENING TO YOU  
24 ON AUGUST THE -- OR AFTER YOUR PARENTS WERE KILLED,  
25 ON AUGUST THE 25TH OF 1989?

26 A THE DAY OF THE MEMORIAL SERVICE?

27 Q WAS THAT THE DAY OF THE MEMORIAL  
28 SERVICE?

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1 A YES.

2 Q AND DO YOU RECALL ANYTHING HAPPENING  
3 THAT DAY IN REGARD TO YOUR DRIVING OR YOUR DRIVER'S  
4 LICENSE?

5 A THE MEMORIAL SERVICE IS WHAT STICKS OUT

6 IN MY MIND.

7 Q LET ME SHOW YOU THIS DOCUMENT AND ASK  
8 YOU IF THIS REFRESHES YOUR RECOLLECTION.

9 SHOWING YOU 366, SHOWING YOU A DATE OF  
10 AUGUST THE 25TH OF 1989.

11 A IS THAT AN "8"?

12 Q DOES THAT DOCUMENT REFRESH YOUR  
13 RECOLLECTION AT ALL?

14 A NO, IT DOESN'T.

15 THE BAILIFF: JUDGE, WE NEED TO TAKE A SHORT  
16 BREAK FOR A JUROR.

17 THE COURT: OKAY.

18 (PAUSE IN PROCEEDINGS.)

19

20 THE COURT: OKAY. WE'LL RESUME.

21 Q BY MR. CONN: DO YOU RECALL AUGUST 25TH  
22 OF 1989, WHETHER YOU WERE CITED BY A POLICE OFFICER  
23 FOR ANY TRAFFIC VIOLATION THAT DAY?

24 MR. LEVIN: OBJECTION, YOUR HONOR. THIS  
25 QUESTION'S BEING ASKED IN BAD FAITH. WE ASK TO  
26 APPROACH.

27 THE COURT: OKAY. YOU'RE SAYING THAT'S NOT  
28 REFLECTED IN THAT DOCUMENT?

1 MR. LEVIN: ABSOLUTELY.

2 THE COURT: WHY DON'T YOU GIVE ME THE  
3 DOCUMENT.

4 (PAUSE IN PROCEEDINGS.)

5

6 THE COURT: ALL RIGHT. I'LL SEE COUNSEL.

7 (THE FOLLOWING PROCEEDINGS

8 WERE HELD OUTSIDE THE

9 PRESENCE OF THE JURY:)

10

11 THE COURT: OKAY. OUTSIDE THE JURY'S

12 HEARING. WHAT IS IT THAT YOU'RE OBJECTING TO?

13 MR. LEVIN: WELL, FIRST OF ALL, IT'S THE

14 DOCUMENT THAT THE PROSECUTOR VOICED VIGOROUS

15 OBJECTIONS TO WHERE WE COULDN'T BRING IT IN.

16 SECONDLY, THAT THE INCIDENT THAT HE'S

17 REFERRING TO ON THE SECOND PAGE OF THAT EXHIBIT IS

18 NOT A CITATION. IT'S A FAILURE TO APPEAR ON AN

19 EARLIER INCIDENT.

20 MS. ABRAMSON: THAT'S WHAT IT APPEARS LIKE,

21 BECAUSE IT'S LISTED DIFFERENTLY THAN THE ONES ON THE

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1 VAN NUYS, CALIFORNIA; WEDNESDAY, DECEMBER 20, 1995

2 1:35 P.M.

3 DEPARTMENT NW N HON. HOWARD J. SCHWAB, JUDGE

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6 (ANNAMARIE PAPA, OFFICIAL REPORTER)

7

8 THE COURT: OKAY. WE HAVE EVERYBODY PRESENT,  
9 AND WE'RE READY TO RESUME WITH THE TRIAL. WE WILL HAVE  
10 THE JURY OUT, PLEASE.

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

13

14 THE COURT: OKAY. WE HAVE EVERYBODY BACK, AND WE  
15 WILL CONTINUE WITH THE CROSS-EXAMINATION.

16 MR. CONN: THANK YOU.

17

18 CROSS-EXAMINATION (CONTINUED)

19 BY MR. CONN:

20 Q. MR. MENENDEZ, I BELIEVE THAT AT THE TIME  
21 THAT WE BROKE WE WERE DISCUSSING YOUR BELIEF THAT YOUR  
22 MOTHER HAD MAGICAL POWERS.

23 IS THIS A BELIEF THAT YOU HAD WHEN YOU WERE  
24 17 AND 18 YEARS OLD?

25 A. ESSENTIALLY, YES.

26 Q. AND WHAT SPECIFIC POWERS DID YOU BELIEVE  
27 THAT YOUR MOTHER HAD?

28 A. SHE HAD THE ABILITY TO KNOW THINGS WHICH

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1 WERE INCONCEIVABLE FOR ME -- AT LEAST FOR HER TO KNOW;



2 SUCH AS A GIRL THAT I LIKED, SHE WOULD ASK ME "WHO'S SO  
3 AND SO," AND I HAD NEVER MENTIONED THE GIRL'S NAME. SHE  
4 WOULD KNOW DIFFERENT THINGS ABOUT MY LIFE WHICH WERE  
5 JUST -- I HAD NEVER DISCUSSED WITH ANYONE, AND SHE  
6 SUDDENLY WOULD SLIP OUT AND SHE WOULD KNOW IT. VARIOUS  
7 THINGS ALONG THAT THEME.

8 Q. OKAY. NOW, WHEN YOU OBSERVED THE FACT THAT  
9 YOUR MOTHER SEEMED TO HAVE KNOWLEDGE THAT SHE SHOULD NOT  
10 HAVE HAD, DID YOU CONCLUDE FROM THAT THAT THEREFORE SHE  
11 HAS A SOURCE OF KNOWLEDGE THAT YOU WERE NOT FAMILIAR  
12 WITH, OR DID YOU CONCLUDE FROM THAT THAT SHE HAD POWERS  
13 AND ABILITIES THAT NORMAL PEOPLE DO NOT HAVE?

14 A. IT WAS EVOLVING -- EVOLVING THOUGHT. AT  
15 FIRST I THOUGHT IT WAS A SOURCE; WHICH RELATIVES WERE  
16 TELLING HER INFORMATION, DID I TELL THAT TO SOMEONE,  
17 COULD SHE POSSIBLY HAVE KNOWN.

18 OBVIOUSLY I DIDN'T JUMP TO THE CONCLUSION  
19 MY MOTHER HAD MAGICAL POWERS. I FIRST WAS THINKING WHO  
20 COULD KNOW, AND I REMEMBER FROM WHEN I WAS YOUNG THAT  
21 SHE USED TO LISTEN IN ON MY BROTHER'S PHONE CALLS, SO WE  
22 HAD A THREE-WAY, AND WHEN I WAS ON THE PHONE WITH A  
23 FRIEND OF MINE I WOULD PUSH THE THREE-WAY, AND IF IT  
24 CLICKED OVER IT MEANT NO ONE ELSE PICKED UP THE LINE.  
25 SO I KNEW I WAS FREE ON THE LINE.

26 SO I KNEW SHE WASN'T LISTENING IN ON MY  
27 PHONE. IT DIDN'T OCCUR TO ME THAT IT WAS TAPPED. I  
28 JUST THOUGHT THERE HAD TO BE OTHER SOURCES, AND I

1 FINALLY ELIMINATED ANY SOURCE AND BEGAN TO BELIEVE THAT  
2 SHE HAD ABILITIES BEYOND WHICH I COULD UNDERSTAND.

3 Q. SO ARE YOU SAYING THAT YOU TRULY BELIEVED  
4 THAT YOUR MOTHER HAD THESE SUPERHUMAN POWERS TO KNOW  
5 THINGS THAT OTHER PEOPLE DID NOT KNOW?

6 A. IT WAS THE ONLY CONCLUSION I COULD COME TO.

7 Q. AND DID YOU CONCLUDE THAT YOUR MOTHER COULD  
8 READ MINDS?

9 A. NO.

10 Q. THEN HOW DID YOU CONCLUDE YOUR MOTHER  
11 ATTAINED THE INFORMATION IF SHE DID NOT READ MINDS?

12 A. I DID NOT KNOW.

13 Q. SO DID YOU EVER DISCUSS WITH YOUR BROTHER  
14 THE FACT THAT YOUR MOTHER WAS SOME SORT OF SUPERHUMAN  
15 BEING?

16 A. I DIDN'T BELIEVE MY MOTHER WAS A SUPERHUMAN  
17 BEING. I DIDN'T UNDERSTAND THIS -- THIS ASPECT ABOUT  
18 HER, AND I DISCUSSED IT WITH MY BROTHER I BELIEVE  
19 SEVERAL TIMES.

20 Q. WELL, BUT YOU WERE AWARE THAT NORMAL HUMAN  
21 BEINGS DON'T JUST PICK UP INFORMATION UNLESS THEY PICK  
22 IT UP THROUGH THE NORMAL SENSES; THAT IS, BY SEEING OR  
23 HEARING; IS THAT CORRECT?

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

25 THE COURT: OVERRULED. YOU MAY ANSWER.

26 THE WITNESS: RIGHT, YES.

27 Q. BY MR. CONN: AND YOU FELT THAT YOUR MOTHER  
28 HAD AN ABILITY TO PICK UP INFORMATION THAT WENT BEYOND

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1 THE AVERAGE SENSES; IS THAT CORRECT?

2 A. IT WAS THE ONLY THING I COULD CONCLUDE.

3 Q. AND SO YOU CONCLUDED THAT SOMEHOW SHE HAD  
4 POWERS AND ABILITIES BEYOND THE NORMAL HUMAN BEING; IS  
5 THAT CORRECT?

6 A. YES.

7 Q. AND DID YOU FIND THIS TO BE ASTONISHING?

8 A. BASICALLY.

9 Q. HAD YOU EVER KNOWN ANY PERSON IN YOUR LIFE  
10 WHO HAD SUCH EXTRAORDINARY POWERS AND ABILITIES?

11 A. NO.

12 Q. AND WERE YOU CURIOUS ENOUGH ABOUT THIS TO  
13 TALK TO YOUR MOTHER ABOUT IT?

14 A. I DIDN'T HAVE THAT LEVEL OF COMMUNICATION  
15 WHERE I COULD ASK HER "HOW DO YOU KNOW THESE THINGS." I  
16 JUST -- I COULDN'T DO THAT.

17 Q. DID YOU FIND IT EXTRAORDINARY ENOUGH THAT  
18 YOU DISCUSSED WITH YOUR FATHER "IS MOM SOME SORT OF A  
19 SUPERHUMAN BEING?"

20 A. NO.

21 Q. THIS IS JUST SOMETHING THAT YOU KEPT TO  
22 YOURSELF?

23 A. ESSENTIALLY.

24 Q. YOU DIDN'T SHARE THIS KNOWLEDGE THAT YOUR  
25 MOTHER WAS A SUPERHUMAN BEING WITH OTHER PERSONS?

26 A. WELL, I WASN'T GOING TO TELL A FRIEND OF  
27 MINE THIS. IT'S SORT OF OUTLANDISH, AND I WAS HAVING  
28 DIFFICULTY BELIEVING IT MYSELF. EVEN WHEN I BELIEVED IT

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1 AT THE BACK OF MY MIND, I FOUND IT DIFFICULT TO BELIEVE,  
2 AND YET IT WAS THE ONLY POSSIBLE WAY -- IT BAFFLED ME,  
3 AND I -- I AM SURE I SAID SOMETHING TO MY BROTHER ABOUT  
4 IT, BUT PRETTY MUCH I KEPT IT TO MYSELF. I CERTAINLY  
5 DIDN'T BRING IT UP TO MY MOTHER ABOUT IT.

6 Q. WELL, YOU'RE TELLING US THAT AT SOME POINT  
7 THAT YOU ACCEPTED THIS TO BE A TRUE FACT BECAUSE YOU  
8 ELIMINATED ALL OTHER POSSIBILITIES; IS THAT CORRECT?

9 A. RIGHT.

10 Q. AND WHO WAS YOUR CLOSEST FRIEND AFTER YOU  
11 REACHED THE AGE OF 16, 17 AND 18 IN CALIFORNIA?

12 A. THESE WERE KIDS THAT I ONLY KNEW FOR A YEAR  
13 SINCE I HAD JUST -- I KEPT MOVING. IN BEVERLY HILLS A  
14 GUY BY THE NAME OF DANNY ROBERTS. I HAD MET HIM AT --  
15 WHEN I STARTED GOING TO BEVERLY HILLS HIGH SCHOOL.

16 Q. AND WHEN YOU WERE LIVING IN CALABASAS, YOUR  
17 CLOSEST FRIEND WAS CRAIG CIGNARELLI; IS THAT CORRECT?

18 A. YES.

19 Q. AND AT ANY TIME DID YOU EVER TELL DANNY  
20 ROBERTS OR CRAIG CIGNARELLI THAT INCREDIBLE AS IT MAY  
21 SEEM, YOUR MOTHER HAS THIS EXTRAORDINARY SUPERHUMAN  
22 POWER?

23 A. NO.

24 Q. NOW, DID THIS SUPER POWER OF YOUR MOTHER  
25 BEAR UPON YOUR ACTIONS AT ALL BETWEEN THE THURSDAY NIGHT  
26 THAT YOU BELIEVED YOUR PARENTS WERE GOING TO KILL YOU  
27 UNTIL YOU FINALLY SHOT YOUR MOTHER TO DEATH ON SUNDAY?

28 A. I DON'T THINK SO.

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1 Q. NOW, DID YOU SAY IN YOUR DIRECT EXAMINATION  
2 THAT YOU FELT THAT YOU WERE NOT CAPABLE AT 18 YEARS OLD,  
3 YOU FELT THAT YOU WERE NOT CAPABLE OF SURVIVING ON YOUR  
4 OWN?

5 A. I DON'T REMEMBER IF I SAID THAT.

6 MR. CONN: PAGE 42,483.

7 MR. LEVIN: VOLUME?

8 MR. CONN: 260.

9 MR. LEVIN: CAN WE HAVE MOMENT?

10 MS. ABRAMSON: LINE?

11 MR. CONN: SEVEN THROUGH 18.

12 MS. ABRAMSON: OBJECTION. NO IMPEACHMENT.

13 THE COURT: MR. LEVIN?

14 MR. LEVIN: YES, YOUR HONOR. WOULD THE COURT

15 TAKE A LOOK AT THAT SECTION?

16 THE COURT: OKAY.

17 LET'S HAVE THE QUESTION READ BACK AS A  
18 RESULT OF THIS.

19 (RECORD READ)

20

21 THE COURT: AND THE ANSWER?

22 THE WITNESS: I DON'T REMEMBER.

23 THE COURT: YOU CAN ASK THE QUESTION BASED ON  
24 THAT TRANSCRIPT.

25 Q. BY MR. CONN: DO YOU REMEMBER BEING ASKED  
26 THE FOLLOWING QUESTIONS AND ANSWERS IN THIS COURT ON  
27 MONDAY, DECEMBER THE 11TH:

28 "Q. WAS THERE ANYTHING ABOUT

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1 YOUR LIFE AS IT EXISTED IN AUGUST OF  
2 1989 THAT YOU BELIEVED WOULD ALLOW  
3 YOU TO BE SELF-SUFFICIENT; THAT IS,  
4 TO BE ABLE TO SURVIVE ON YOUR OWN?

5 "A. I DON'T UNDERSTAND  
6 WHAT YOU MEAN.

7 "Q. DID YOU FEEL THAT YOU --  
8 IN AUGUST OF 1989 IF YOU RAN AWAY  
9 THAT YOU COULD SURVIVE ON YOUR OWN?

10 "A. IF I RAN AWAY?

11 YOU MEAN HIDING FROM MY PARENTS?

12 "Q. YES.

13 "A. NO."

14 DO YOU REMEMBER THAT?

15 A. CAN I SEE IT?

16 Q. ARE YOU ABLE TO HEAR THE QUESTIONS THAT ARE  
17 BEING ASKED OF YOU WHEN I ASK THEM, MR. MENENDEZ?

18 MR. LEVIN: OBJECTION. OF COURSE HE CAN HEAR.

19 HE IS ENTITLED TO SEE IT.

20 THE COURT: OVERRULED.

21 THE WITNESS: YES, I CAN.

22 RIGHT, YES.

23 Q. BY MR. CONN: DO YOU REMEMBER THOSE  
24 QUESTIONS AND ANSWERS?

25 A. NO.

26 Q. YOU STILL DON'T REMEMBER THESE QUESTIONS  
27 AND ANSWERS?

28 A. I SAID THEM. I JUST DON'T REMEMBER SAYING

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1 THEM.

2 Q. OKAY.

3 IS IT TRUE, MR. MENENDEZ, THAT IN AUGUST OF  
4 1989 THAT YOU DID NOT BELIEVE YOURSELF TO BE  
5 SELF-SUFFICIENT; THAT IS, ABLE TO SURVIVE ON YOUR OWN?

6 A. IN TERMS OF HIDING FROM MY FATHER, I SAID.

7 THE ANSWER IS NO.

8 Q. SO WHAT YOU WERE SUGGESTING BY YOUR  
9 TESTIMONY IS SIMPLY THAT YOU WOULD BE UNABLE TO HIDE  
10 FROM YOUR FATHER; IS THAT CORRECT?

11 A. RIGHT.

12 Q. YOU WERE NOT SUGGESTING THAT YOU WERE NOT  
13 ABLE TO BE SELF-SUFFICIENT, WERE YOU?

14 A. I HAD NEVER REALLY THOUGHT ABOUT IT. I HAD  
15 NEVER TRIED. I NEVER THOUGHT ABOUT THE POSSIBILITY THAT  
16 I WOULD HAVE TO BE.

17 Q. WELL --

18 A. I NEVER CONSIDERED IT.

19 Q. WELL, AT THE AGE OF 18, DID YOU FEEL THAT  
20 YOU WERE HEALTHY ENOUGH AND INTELLIGENT ENOUGH TO BE  
21 SELF-SUFFICIENT IF YOU HAD TO DO THAT?

22 A. I SUPPOSE.

23 Q. YOU SAW NO REASON WHY AT THE AGE OF 18 YOU  
24 WOULD NOT BE ABLE TO CARE FOR YOURSELF ON YOUR OWN, DID  
25 YOU?

26 A. HIDING FROM MY FATHER?

27 Q. CORRECT, HIDING FROM YOUR FATHER.

28 A. I DON'T KNOW. I -- THAT WOULD ENTAIL A LOT

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1 OF WORK. I DON'T -- IN TERMS OF KEEPING MY IDENTITY  
2 SECRET AND KEEPING ON THE RUN.



3 IF I COULD GO BACK, I BELIEVE THAT I WOULD  
4 BE ABLE TO DO IT. AT LEAST I'D BE ABLE TO SERIOUSLY  
5 TRY.

6 Q. WHAT I AM ASKING YOU IS PUTTING ASIDE THE  
7 ISSUE OF THE FACT THAT YOU HAD TO HIDE FROM YOUR FATHER,  
8 DID YOU FEEL THAT -- WERE YOU HEALTHY AT THE AGE OF 18?

9 A. YES, I WAS.

10 Q. WERE YOU -- DID YOU HAVE NORMAL  
11 INTELLIGENCE, OR ABOVE-NORMAL INTELLIGENCE?

12 A. I HAVE NO IDEA. I WASN'T STUPID, IF THAT'S  
13 WHAT YOU MEAN. I HAD AT LEAST NORMAL INTELLIGENCE.

14 Q. DID YOU FEEL THAT YOU HAD ABOVE-NORMAL  
15 INTELLIGENCE?

16 A. NO.

17 Q. AND DID YOU HAVE ANY REASON TO BELIEVE THAT  
18 YOU HAD ABOVE-NORMAL INTELLIGENCE?

19 A. JUST THE OPPOSITE ACTUALLY. BUT I BELIEVED  
20 THAT I COULD FUNCTION AND THAT I COULD WORK.

21 Q. OKAY. AND SO PUTTING ASIDE THE QUESTION OF  
22 HIDING FROM YOUR FATHER, YOU FELT THAT YOU WERE STRONG  
23 ENOUGH AND INTELLIGENT ENOUGH TO BE SELF-SUFFICIENT AS  
24 ANY OTHER HEALTHY AND INTELLIGENT 18 YEAR-OLD?

25 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

26 THE COURT: OVERRULED. OVERRULED.

27 THE WITNESS: I SUPPOSE.

28 Q. BY MR. CONN: YOU SAY YOU SUPPOSE, OR YOU

1 KNOW THAT YOU COULD?

2 A. I NEVER TRIED IT. I -- WHEN I WAS 18, I

3 GUESS SO. I DIDN'T KNOW ANYTHING ABOUT THE WORLD IN

4 TERMS OF HOW TO MAKE MONEY OR HOW TO WRITE A CHECK OR

5 HOW TO GET CREDIT CARDS, BUT I SUPPOSE I COULD HAVE

6 LEARNED AND GONE TO A BANK AND ASKED ABOUT IT, AND -- I

7 MEAN, YES, I SUPPOSE.

8 Q. NOW, IN YOUR -- IN YOUR DIRECT EXAMINATION

9 DO YOU REMEMBER TESTIFYING THAT YOU HAD AN EMOTIONAL 20

10 OR 30 MINUTE CONVERSATION WITH YOUR BROTHER, LYLE, ON

11 THAT THURSDAY?

12 A. NO.

13 Q. ALL RIGHT.

14 DIRECTING COUNSEL'S ATTENTION TO VOLUME

15 260, PAGE 43,466.

16 MS. ABRAMSON: LINE, COUNSEL?

17 MR. CONN: LINES 10 THROUGH 23.

18 MR. LEVIN: YOUR HONOR, THE DEFENSE OBJECTS.

19 IT'S NOT IMPEACHING. IN FACT, THERE WASN'T A QUESTION

20 THAT PRECEDED COUNSEL CITING THE TRANSCRIPT.

21 THE COURT: THERE WAS NO QUESTION ASKED BY

22 MR. CONN JUST NOW?

23 MR. LEVIN: NO. THERE'S NO IMPEACHMENT CONTAINED

24 IN THAT PASSAGE.

25 THE COURT: ALL RIGHT, LET ME SEE THAT.

26 THE QUESTION WAS WHETHER OR NOT THE

27 DEFENDANT RECALLED HAVING A 30 MINUTE, EMOTIONAL

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1 MR. CONN: ON THAT THURSDAY.

2 THE COURT: AND WHAT IS YOUR ANSWER?

3 MR. CONN: THE ANSWER WAS NO.

4 MS. ABRAMSON: OBJECTION.

5 THE COURT: WHAT IS YOUR ANSWER?

6 THE WITNESS: THE ANSWER WAS I DIDN'T RECALL

7 SAYING THAT ON DIRECT, ALTHOUGH I THINK I -- I DON'T

8 RECALL SPECIFICALLY.

9 THE COURT: OKAY.

10 YOU MAY READ THE QUESTION AND ANSWER.

11 Q. BY MR. CONN: DO YOU REMEMBER BEING ASKED

12 THE FOLLOWING BY YOUR ATTORNEY IN THIS COURTROOM ON

13 DECEMBER THE 11TH:

14 "Q. WHAT WAS -- WAS THERE

15 ANY OTHER DISCUSSION WITH RESPECT TO

16 YOURSELF AND LYLE MENENDEZ ABOUT

17 PROTECTING YOURSELF?

18 "A. WELL, AT FIRST WE

19 DISCUSSED WHETHER OR NOT WE COULD GO

20 TO THE RELATIVES. THE POLICE WAS

21 BROUGHT UP. THOSE WERE DISMISSED,

22 AND AT SOME POINT WE TALKED ABOUT

23 GETTING A KNIFE OR GETTING SOME SORT

24 OF A WEAPON, AND WE DISCUSSED GETTING  
25 A GUN, AND WE DECIDED ON THAT.  
26 IT WAS A -- IT WASN'T A SHORT  
27 CONVERSATION. IT WAS -- AT TIMES WE  
28 WERE YELLING, HIM SAYING I WANT TO

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1 LEAVE, ME SAYING WE CAN'T, ME COMING  
2 UP WITH THIS AND JUST -- IT WAS AN  
3 EMOTIONAL 20 MINUTE, 30 MINUTE  
4 CONVERSATION, MAYBE LONGER."

5 Q. DO YOU RECALL THAT TESTIMONY?

6 A. I DO RECALL THAT NOW, YES.

7 Q. OKAY. THIS 20 MINUTE OR 30 MINUTE

8 CONVERSATION, WHAT WERE YOU REFERRING TO?

9 A. I WAS REFERRING TO THE TIME WHEN I HAD RUN  
10 UP TO THE GUESTHOUSE UP UNTIL THE TIME BASICALLY WE HAD  
11 DECIDED TO GET GUNS. IT WAS A VERY EMOTIONAL  
12 CONVERSATION. AT TIMES I WAS CRYING, AT TIMES I WAS  
13 YELLING, AND LYLE WAS PACING AND GETTING FRUSTRATED WITH  
14 ME, AND WE TALKED THROUGH THE NIGHT. BUT IT WAS A VERY  
15 EMOTIONAL PERIOD. AT THE BEGINNING IT WAS -- I JUST  
16 REMEMBER IT AS HEATED AND EMOTIONAL.

17 Q. AND WHAT WAS IT THAT LASTED ONLY 20 TO 30  
18 MINUTES, PERHAPS LONGER?

19 A. UP UNTIL THE TIME WE HAD DECIDED TO GET

20 GUNS.

21 Q. NOW, DID YOU FEEL THAT AT THE TIME THAT YOU  
22 MADE THIS DECISION, AFTER 20 OR 30 MINUTES TO BUY  
23 SHOTGUNS THAT MIGHT POSSIBLY BE USED AGAINST YOUR OWN  
24 PARENTS, THAT IT WAS ONE OF THE MOST IMPORTANT DECISIONS  
25 IN YOUR LIFE?

26 A. WE DID NOT --

27 MR. LEVIN: OBJECTION. MISSTATES THE TESTIMONY,  
28 YOUR HONOR.

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1 THE COURT: OBJECTION SUSTAINED. THE ANSWER IS  
2 STRICKEN.

3 Q. BY MR. CONN: YOU SAID THAT IT WAS -- YOU  
4 HAD A CONVERSATION THAT LASTED ABOUT 20 TO 30 MINUTES,  
5 PERHAPS LONGER, AND THEN YOU DECIDED TO GET GUNS; IS  
6 THAT CORRECT?

7 A. DECIDED TO GET GUNS, HANDGUNS. WE NEVER  
8 CONSIDERED GETTING SHOTGUNS.

9 Q. OKAY.

10 NOW, DID YOU FEEL THAT AT THE TIME THAT YOU  
11 MADE THIS DECISION TO BUY HANDGUNS THAT MIGHT POSSIBLY  
12 BE USED AGAINST YOUR OWN PARENTS, THAT IT WAS ONE OF THE  
13 MOST IMPORTANT DECISIONS IN YOUR LIFE?

14 A. THAT PARTICULAR DECISION, NO. IT WAS -- WE  
15 WERE JUST DOING IT AS A DEFENSIVE THING, AND I DIDN'T

16 THINK THAT -- AT LEAST I STRONGLY HOPED THAT IT WOULD  
17 NOT COME TO THAT.

18 THAT NIGHT WAS ONE OF THE MOST SIGNIFICANT  
19 NIGHTS I HAVE EVER HAD IN MY ENTIRE LIFE, THOUGH.

20 Q. SO YOU FEEL IT WAS NOT ONE OF THE MOST  
21 IMPORTANT DECISIONS IN YOUR LIFE, CORRECT?

22 A. THAT DISCUSSION AND THE NIGHT IN GENERAL  
23 AND THE CONVERSATION WAS ONE OF THE MOST SIGNIFICANT. I  
24 THINK THAT WHAT STOOD OUT MORE AND WAS MUCH MORE  
25 SIGNIFICANT TO ME WAS THE CONVERSATION WITH MY MOTHER IN  
26 THE DEN JUST BEFORE.

27 Q. NOW, BUT WHAT -- WHAT I AM ASKING YOU ABOUT  
28 IS NOT THAT NIGHT OR THE CONVERSATION, I AM ASKING YOU

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1 ABOUT THAT DECISION TO GET A HANDGUN AFTER 20 TO 30  
2 MINUTES, PERHAPS LONGER, TO BE USED AGAINST YOUR  
3 PARENTS.

4 DID YOU FEEL THAT THAT DECISION WAS ONE OF  
5 THE MOST IMPORTANT DECISIONS IN YOUR LIFE?

6 MR. LEVIN: OBJECTION. MISSTATES HIS TESTIMONY.

7 THE COURT: REPHRASE THE QUESTION.

8 Q. BY MR. CONN: YES. DID YOU FEEL THAT THAT  
9 DECISION TO GET HANDGUNS WAS ONE OF THE MOST IMPORTANT  
10 DECISIONS IN YOUR LIFE?

11 A. I GUESS LOOKING BACK ON IT, IT WAS ONE OF

12 THE MOST SIGNIFICANT. AT THE TIME I DIDN'T THINK SO.

13 Q. AND AT THE TIME DID YOU HAVE ANY

14 RESERVATIONS ABOUT THE FACT THAT YOU HAD ARRIVED AT THIS

15 DECISION AFTER ONLY 20 OR 30 MINUTES, OR PERHAPS LONGER?

16 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

17 THE COURT: OVERRULED.

18 THE WITNESS: I DON'T KNOW WHAT YOU MEAN BY

19 RESERVATIONS. I DIDN'T WANT TO BE IN THIS POSITION. I

20 DIDN'T WANT TO HAVE TO GET GUNS. I WANTED TO TAKE BACK

21 WHAT I HAD TOLD MY BROTHER, AND I DIDN'T WANT -- I

22 WISHED MY BROTHER HAD NEVER CONFRONTED MY DAD. I

23 REALIZED THAT IT WAS A STUPID MISTAKE, AND I DIDN'T WANT

24 TO DO THIS.

25 BUT IN TERMS OF RESERVATIONS, THAT NIGHT I

26 DON'T THINK SO. THE NEXT MORNING I DID.

27 Q. THE NEXT MORNING YOU HAD RESERVATIONS ABOUT

28 GETTING HANDGUNS?

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1 A. RIGHT.

2 Q. IS THAT THE SAME MORNING THAT YOU WENT OUT

3 SHOPPING FOR HANDGUNS?

4 A. BEFORE THEN, YES.

5 Q. YOU'RE SAYING THAT YOU HAD SOME

6 RESERVATIONS FRIDAY MORNING; YOU PUT ASIDE THOSE

7 RESERVATIONS AND THEN YOU WENT OUT SHOPPING FOR

8 HANDGUNS?

9 A. ESSENTIALLY.

10 Q. WELL THEN, LET ME ASK YOU:

11 FRIDAY MORNING DID YOU -- HOW LONG DID YOU  
12 HAVE RESERVATIONS ABOUT GETTING A HANDGUN TO POSSIBLY BE  
13 USED AGAINST YOUR PARENTS?

14 A. I WOKE UP. IT WAS A BRAND NEW DAY, AND I  
15 JUST DIDN'T WANT TO THINK ABOUT WHAT HAD HAPPENED THE  
16 NIGHT BEFORE. I DIDN'T WANT TO THINK ABOUT THE  
17 IMPLICATIONS OF IT. I DIDN'T WANT TO THINK ABOUT WHAT  
18 MY MOTHER HAD TOLD ME, AND I JUST PRETENDED THAT IT  
19 WASN'T HAPPENING, AND I WENT OUT ON THE TENNIS COURT AND  
20 I PLAYED TENNIS, AND I DIDN'T WANT TO THINK ABOUT IT.

21 THE COURT: OKAY. LET'S TAKE JUST A MOMENTARY  
22 BREAK. ONE OF THE JURORS NEEDS A MOMENT; IS THAT  
23 CORRECT? A JUROR NEEDS A MOMENT.

24 (BRIEF PAUSE)

25

26 THE COURT: OKAY, WE WILL CONTINUE WITH THE  
27 CROSS-EXAMINATION.

28 Q. BY MR. CONN: YES.

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1 DID YOU FEEL THAT AT THE TIME THAT YOU MADE  
2 THE DECISION TO BUY HANDGUNS THURSDAY NIGHT THAT THE  
3 DECISION TO ACTUALLY USE THOSE WEAPONS AGAINST YOUR



4 PARENTS WOULD BE THE MOST IMPORTANT DECISION IN YOUR  
5 LIFE?

6 A. CERTAINLY.

7 Q. AND IS THIS SOMETHING THAT YOU DISCUSSED  
8 WITH YOUR BROTHER THAT NIGHT?

9 A. I SPECIFICALLY REMEMBER A CONVERSATION  
10 ABOUT NOT THINKING -- IN TERMS OF LYLE WANTING TO RUN  
11 AWAY, SAYING, "UNLESS YOU ABSOLUTELY BELIEVE YOU'RE  
12 GOING TO BE ABLE TO USE THIS, WE'VE GOT TO RUN AWAY,"  
13 AND ME SAYING "I'M NOT SURE."

14 BUT I REMEMBER THAT ON FRIDAY. I JUST  
15 DON'T REMEMBER I HAD THAT PARTICULAR CONVERSATION ON  
16 THURSDAY NIGHT. I JUST REMEMBER IT ON FRIDAY FOR SOME  
17 REASON AND NOT THURSDAY.

18 Q. OKAY. WELL, AT SOME POINT BETWEEN THURSDAY  
19 AND SUNDAY DID YOU DISCUSS WITH YOUR BROTHER THE  
20 IMPORTANCE OF THE DECISION TO ACTUALLY USE HANDGUNS  
21 AGAINST YOUR PARENTS?

22 A. I DON'T UNDERSTAND WHAT YOU MEAN BY THAT  
23 QUESTION.

24 Q. WELL, DID YOU SAY TO HIM OR DID HE SAY TO  
25 YOU AT ANY TIME, "WE'RE TALKING ABOUT USING LETHAL FORCE  
26 AGAINST OUR OWN PARENTS. WE BETTER BE VERY, VERY SURE  
27 THAT THIS IS THE CORRECT THING TO DO."

28 THE WITNESS: ESSENTIALLY THAT'S WHAT HE SAID,

1 EXCEPT HE TALKED ABOUT MOM, AND HE SAID -- WE WERE  
2 TALKING ABOUT -- I DON'T KNOW IF USE LETHAL FORCE --  
3 USING THESE GUNS AGAINST MOM IF THEY COME AT US, AND  
4 "UNLESS YOU ABSOLUTELY BELIEVE THAT YOU CAN DO THAT,  
5 THIS IS POINTLESS, AND WE BETTER GET OUT OF HERE," AND I  
6 THINK IT WAS JUST ANOTHER WAY OF HIM SAYING LET'S LEAVE.

7 AND I SAID, "I DON'T KNOW IF I CAN."

8 AND HE SAID, "WELL, YOU BETTER THINK ABOUT  
9 THAT, BECAUSE OTHERWISE -- OTHERWISE STAYING AROUND IS  
10 JUST INVITING BAD THINGS TO HAPPEN."

11 Q. AND SO AT SOME POINT DID YOU CONCLUDE THAT  
12 YOU COULD ACTUALLY DO THIS, YOU COULD ACTUALLY USE  
13 WEAPONS AGAINST YOUR OWN PARENTS?

14 A. I NEVER DISCUSSED IT WITH LYLE AGAIN.

15 Q. AFTER HE TOLD YOU THAT IT'S SOMETHING THAT  
16 YOU BETTER BE SURE ABOUT, YOU DID NOT CONCLUDE ONE WAY  
17 OR THE OTHER WHETHER YOU WOULD BE ABLE TO USE HANDGUNS  
18 AGAINST YOUR OWN PARENTS?

19 A. I REALLY DIDN'T WANT TO THINK ABOUT IT.  
20 THINKING ABOUT IT WAS PAINFUL. THE WHOLE SITUATION WAS  
21 PAINFUL, AND I DIDN'T WANT TO -- I DIDN'T WANT TO FACE  
22 IT.

23 Q. YOU WERE TALKING ABOUT POTENTIALLY TAKING  
24 THE LIVES OF YOUR PARENTS; IS THAT CORRECT?

25 A. IT IT CAME DOWN TO THAT, YES.

26 Q. AND ARE YOU TELLING US THAT YOU REALLY  
27 DIDN'T WANT TO THINK ABOUT THAT DECISION BEFORE YOU MADE  
28 THAT DECISION?

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

2 THE COURT: REPHRASE THE QUESTION.

3 Q. BY MR. CONN: ARE YOU SAYING THAT YOU  
4 DIDN'T WANT TO THINK ABOUT THAT DECISION?

5 A. I DIDN'T WANT TO THINK THAT IT WOULD HAVE  
6 TO COME DOWN TO THAT. I DIDN'T BELIEVE THAT IT WOULD  
7 HAVE TO COME DOWN TO THAT, AND I DIDN'T WANT TO THINK  
8 ABOUT THE POSSIBILITY OR THE REALITIES THAT THAT COULD  
9 HAPPEN.

10 Q. DID YOU DISCUSS WITH YOUR BROTHER THE  
11 CIRCUMSTANCES UNDER WHICH YOU WOULD ACTUALLY USE THE  
12 WEAPONS AGAINST YOUR PARENTS?

13 A. I BELIEVE CONCERNING MY FATHER I DID.

14 Q. I'M SORRY?

15 A. CONCERNING MY FATHER, I BELIEVE I DID.

16 Q. WHAT DID YOU DISCUSS?

17 A. I TOLD HIM THAT IF HE TRIED TO GET IN MY  
18 ROOM AND HAVE SEX, THAT I WOULD USE THE GUN IF I WAS  
19 ABLE TO.

20 Q. OKAY. AND THAT WAS TO STOP THE SEX; IS  
21 THAT CORRECT?

22 A. RIGHT. AND THAT'S WHEN HE BROUGHT UP MOM,  
23 I BELIEVE, AND SAID, "WELL, UNLESS YOU'RE ABSOLUTELY  
24 SURE YOU CAN USE IT AGAINST MOM" -- HE DIDN'T THINK IT  
25 WAS GOING TO BE A ONE-PERSON EFFORT; THAT THEN WE BETTER

26 LEAVE, AND THAT'S WHEN HE TOLD ME TO THINK ABOUT THAT  
27 SERIOUSLY.

28 Q. WHO DIDN'T THINK THAT IT WOULD BE A

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1 ONE-PERSON EFFORT?

2 A. WE DIDN'T THINK IT WOULD JUST BE MY DAD  
3 COMING IN.

4 Q. WHY NOT?

5 A. BECAUSE I DIDN'T THINK ABOUT THEM THAT WAY.

6 Q. BECAUSE YOU DIDN'T THINK ABOUT THEM WHAT  
7 WAY?

8 A. I DIDN'T THINK ABOUT THAT MY MOTHER COULD  
9 BE IN THE HOUSE AND IT WOULD ONLY BE MY FATHER COMING  
10 AFTER US. THAT DIDN'T -- THAT DIDN'T -- IF IT WAS JUST  
11 RELATING TO THE SEX, THEN OBVIOUSLY THAT'S WHAT I  
12 THOUGHT. BUT IN TERMS OF DEATH, THAT'S NOT HOW I  
13 THOUGHT ABOUT IT.

14 Q. SO YOU THOUGHT THAT IF YOU WERE GOING TO BE  
15 KILLED BY YOUR PARENTS IT WOULD NECESSARILY MEAN BOTH  
16 PARENTS COMING AT YOU AT THE SAME TIME?

17 A. THAT'S -- THAT'S WHAT I THOUGHT. I  
18 DIDN'T -- I DIDN'T THINK ABOUT THE DIFFERENT SCENARIOS  
19 OF HOW IT WOULD HAPPEN, BUT IT JUST DIDN'T OCCUR TO ME  
20 THAT MY MOTHER WOULD WAIT IN THE BEDROOM AS MY FATHER  
21 DID THIS. I -- THAT DIDN'T OCCUR TO ME. IT DIDN'T

22 REALLY OCCUR TO ME ONE WAY OR THE OTHER.

23 Q. WELL, YOU MUST HAVE -- BETWEEN THURSDAY AND  
24 SUNDAY DIDN'T YOU CONTEMPLATE SCENARIOS IN YOUR OWN MIND  
25 UNDER WHICH YOU MIGHT BE CALLED UPON TO MAKE A DECISION  
26 AS TO WHETHER YOU SHOULD SHOOT AND KILL YOUR OWN  
27 PARENTS?

28 A. I CONTEMPLATED IT AFTER REALIZING THAT WE

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1 COULD NOT GET HANDGUNS, AND THAT IT HAD TO BE SHOTGUNS  
2 THAT MY -- THAT THE SITUATION THAT WOULD ARISE WOULD BE  
3 I WOULD BE IN MY BEDROOM, MY FATHER WOULD BE COMING IN,  
4 AND THAT THERE WOULD BE A STRUGGLE, OR IN SOME WAY I  
5 WOULD TRY TO SHOOT HIM OR STOP HIM FOR THE SEX, BUT I  
6 DIDN'T THINK ABOUT IT ANY OTHER WAY.

7 Q. WELL, THAT ONLY PERTAINS TO A SEXUAL  
8 ASSAULT; IS THAT CORRECT?

9 A. RIGHT.

10 Q. BUT YOU'RE TELLING US THAT YOU BELIEVED  
11 THAT TOTALLY ASIDE FROM THE SEXUAL ASSAULT, YOU BELIEVED  
12 THAT YOUR PARENTS WANTED TO KILL YOU TO KEEP YOU AND  
13 YOUR BROTHER FROM REVEALING THIS SECRET; IS THAT  
14 CORRECT?

15 A. RIGHT.

16 Q. SO YOU ANTICIPATED AT THAT TIME THAT THERE  
17 MIGHT BE AN ATTEMPT UPON YOUR LIFE AND THE LIFE OF YOUR

18 BROTHER THAT WAS TOTALLY UNRELATED TO THE SEXUAL  
19 ASSAULT; IS THAT CORRECT?

20 A. RIGHT.

21 Q. AND SO IN ORDER TO INSURE FOR YOURSELF THAT  
22 YOU WERE NOT USING LETHAL FORCE UNNECESSARILY AGAINST  
23 YOUR OWN PARENTS, DID YOU SPEND TIME BETWEEN THURSDAY  
24 NIGHT AND SUNDAY NIGHT CONTEMPLATING IN YOUR OWN MIND  
25 SCENARIOS IN WHICH YOU MIGHT BE CALLED UPON TO MAKE THE  
26 DECISION WHETHER YOU WERE GOING TO SHOOT AND KILL YOUR  
27 OWN PARENTS?

28 A. FRIDAY --

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1 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE AND  
2 COMPOUND.

3 THE COURT: IT'S ARGUMENTATIVE AS PHRASED.  
4 REPHRASE THE QUESTION.

5 Q. BY MR. CONN: YES. BETWEEN THURSDAY AND  
6 SUNDAY NIGHT DID YOU CONTEMPLATE SCENARIOS IN YOUR OWN  
7 MIND IN WHICH YOU MIGHT BE CALLED UPON TO SHOOT YOUR  
8 PARENTS?

9 A. FRIDAY NIGHT SPECIFICALLY. I REMEMBER  
10 THAT.

11 Q. WHAT SCENARIOS DID YOU CONTEMPLATE FRIDAY  
12 NIGHT?

13 A. FRIDAY NIGHT AFTER MY MOTHER TOLD ME THAT

14 THE FISHING TRIP HAD BEEN CHANGED FROM THE MORNING TO  
15 THE EVENING, AND REMINDED US THAT WE WERE STILL GOING ON  
16 IT, I THOUGHT ABOUT THAT IT MIGHT HAPPEN ON THE WAY TO  
17 THE FISHING TRIP, AND THAT SOMETHING WAS PLANNED FOR AN  
18 ACCIDENT TO HAPPEN, OR ON THE FISHING TRIP. I REALLY  
19 WASN'T SURE. BUT THAT MADE ME VERY UNEASY AND PARANOID,  
20 AND I THOUGHT ABOUT IT THAT NIGHT.

21 Q. SO ARE YOU SAYING THAT THE ONLY SCENARIO  
22 THAT YOU CONTEMPLATED IN YOUR MIND FROM THURSDAY NIGHT  
23 WHEN YOU FIRST CONCLUDED THAT YOUR PARENTS WERE IN FACT  
24 GOING TO KILL YOU UNTIL SUNDAY NIGHT WAS THE FACT THAT  
25 PERHAPS WHEN YOU WENT ON THIS FISHING TRIP ON SATURDAY  
26 THEY WOULD TRY TO KILL YOU?

27 A. NO. I AM SAYING THAT FRIDAY NIGHT I  
28 SPECIFICALLY REMEMBER THINKING THAT. WHETHER I THOUGHT

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1 ABOUT THEM SAYING, "LET'S GO TO THE PARK," AND DOING IT  
2 SOMEPLACE AWAY FROM THE HOUSE, OR COMING INTO MY ROOM AT  
3 NIGHT.

4 GENERALLY MY THINKING WAS IT WAS GOING TO  
5 HAPPEN AT NIGHT, AND -- AND WHETHER THEY WOULD USE A  
6 KNIFE OR WHETHER MY DAD WOULD GET GUNS OR WHAT WOULD BE  
7 THE SITUATION. I DON'T SPECIFICALLY REMEMBER THINKING  
8 ONE SCENARIO WOULD HAPPEN. I DON'T SPECIFICALLY  
9 REMEMBER.

10 Q. ALL RIGHT. MY QUESTION TO YOU IS NOT  
11 WHETHER YOU CONCLUDED THAT ONE SCENARIO WAS MORE LIKELY  
12 THAN THE OTHERS.

13 WHAT I AM ASKING YOU, MR. MENENDEZ, IS ONCE  
14 YOU CONCLUDED THAT YOUR PARENTS WERE GOING TO KILL YOU,  
15 DID YOU CONTEMPLATE IN YOUR MIND SCENARIOS IN WHICH YOU  
16 WOULD BE CALLED UPON TO MAKE A DECISION AS TO WHETHER OR  
17 NOT YOU WOULD SHOOT OR NOT SHOOT YOUR PARENTS?

18 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE, AND  
19 IT'S ALREADY BEEN ASKED AND ANSWERED.

20 THE COURT: OVERRULED.

21 THE WITNESS: I THINK I UNDERSTAND WHAT YOU'RE  
22 SAYING. I DON'T SPECIFICALLY REMEMBER CONTEMPLATING  
23 ANYTHING OTHER THAN IF THEY CAME TO MY ROOM AT NIGHT I  
24 WOULD HAVE MY GUN IN THERE, AND I WOULD USE IT THEN.

25 THAT'S -- THAT WAS THE BASIC THOUGHT IN MY  
26 MIND THAT I REMEMBER. WHETHER I THOUGHT ABOUT OTHER  
27 WAYS THAT IT WOULD HAPPEN, IT'S DIFFICULT TO REMEMBER  
28 NOW SIX YEARS LATER, BUT I MAY HAVE. I DON'T KNOW.

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1 Q. OKAY. SO YOU CONCLUDED THAT IF THEY CAME  
2 TO YOUR ROOM AT NIGHT THAT IS A SITUATION IN WHICH YOU  
3 WOULD SHOOT YOUR PARENTS?

4 A. RIGHT.

5 Q. THAT IS ONE SCENARIO THAT YOU CONTEMPLATED



6 IN WHICH YOU WOULD SHOOT YOUR PARENTS; IS THAT CORRECT?

7 A. YES.

8 Q. NOW, WERE YOU TALKING ABOUT A SITUATION

9 WHERE IF THEY KNOCKED ON THE DOOR AND SAID, "ERIK, CAN

10 WE COME IN FOR A SECOND AND TALK TO YOU ABOUT

11 SOMETHING"?

12 A. NO.

13 Q. YOU WOULD NOT SHOOT THEM UNDER THOSE

14 CIRCUMSTANCES?

15 A. OF COURSE NOT.

16 Q. SO WHAT ARE THE CIRCUMSTANCES YOU WERE

17 CONTEMPLATING IN WHICH YOU SAID "YES, THIS IS THE

18 SITUATION IN WHICH I WOULD USE LETHAL FORCE AGAINST MY

19 PARENTS"?

20 A. WELL, I KEPT THE GUN NEXT TO MY BED IN CASE

21 THE DOOR WAS BURST OPEN AND I WAS FACED WITH THAT

22 SITUATION. I DIDN'T KNOW WHETHER OR NOT I COULD DO IT.

23 I DIDN'T KNOW WHETHER OR NOT -- WHAT THEY WOULD HAVE, OR

24 WHETHER IT WOULD BE OTHER PEOPLE AND NOT THEM. I HAD --

25 I HAD NO IDEA. I REALLY DIDN'T HAVE A CLUE, BUT I KEPT

26 IT THERE FOR COMFORT AND FOR SECURITY.

27 Q. OKAY. SO ARE YOU SAYING THAT YOU

28 CONTEMPLATED THAT IF YOUR PARENTS WERE TO COME AND BURST

1 OPEN YOUR DOOR TO YOUR BEDROOM, THAT IS A SITUATION IN

2 WHICH YOU WOULD SHOOT YOUR PARENTS; IS THAT CORRECT?

3 A. YES.

4 Q. NOW, DID YOU CONTEMPLATE WHETHER OR NOT YOU  
5 WOULD FIRST LOOK TO SEE IF YOUR PARENTS WERE ARMED, OR  
6 ARE YOU SAYING THAT YOU WOULD JUST SHOOT AT THE SIGHT OF  
7 YOUR PARENTS COMING THROUGH YOUR BEDROOM DOOR?

8 A. I REMEMBER THAT I THOUGHT ABOUT WHETHER OR  
9 NOT I WAS GOING TO BE ABLE TO SHOOT, BECAUSE EVERY TIME  
10 I TRIED TO STOP MY FATHER WHEN HE CAME INTO MY ROOM, I  
11 WOULD USUALLY FREEZE.

12 AND I REMEMBER THINKING "AM I GOING TO  
13 FREEZE UP, OR AM I ACTUALLY GOING TO BE ABLE TO DO  
14 THIS," AND I DON'T KNOW. I DIDN'T -- I DIDN'T -- I  
15 MEAN, I ASSUMED IF THE DOOR BURST OPEN THERE WOULD BE  
16 SOME TYPE OF WEAPON THEY WOULD HAVE. THAT'S HOW I  
17 ENVISIONED IT. I DIDN'T ENVISION THE DOOR BURSTING OPEN  
18 SO THEY COULD SPEAK WITH ME.

19 Q. WELL, I TAKE IT, MR. MENENDEZ, THAT YOU  
20 DIDN'T WANT TO MAKE A MISTAKE BETWEEN THURSDAY NIGHT AND  
21 SUNDAY NIGHT AND SHOOT YOUR PARENTS UNNECESSARILY, DID  
22 YOU?

23 A. I DIDN'T THINK THAT THERE WOULD BE A  
24 MISTAKE, NO.

25 Q. AND YOU WANTED TO BE ABSOLUTELY SURE THAT  
26 YOU WERE DOING THE RIGHT THING; IS THAT CORRECT?

27 A. ESSENTIALLY, YES.

28 Q. AND IN ORDER TO INSURE THAT YOU WOULD DO

1 THE RIGHT THING, DID YOU STOP AND CONSIDER UNDER WHAT  
2 CIRCUMSTANCES YOU WOULD ACTUALLY FIRE YOUR WEAPON?

3 A. ONCE I REALIZED THAT WE COULD NOT GET A  
4 HANDGUN AND THERE WAS ONLY A SHOTGUN OR A RIFLE TO GET,  
5 THE LIMITATIONS WERE MUCH GREATER IN TERMS OF BEING ABLE  
6 TO HAVE THE GUN AROUND ME, AND IT WAS ONLY REALLY IN MY  
7 BEDROOM IS WHERE I THOUGHT IT WOULD HAPPEN ANYWAY.

8 YOU KNOW, WHETHER I THOUGHT THAT THEY WOULD  
9 HIRE BURGLARS TO COME IN THE HOUSE AND RANSACK THE HOUSE  
10 AND SHOOT US IN AN ACCIDENTAL WAY OR A PRETENDED WAY, OR  
11 WHETHER THEY WOULD DO IT THEMSELF WASN'T CERTAIN, BUT I  
12 WAS -- I DIDN'T KNOW WHAT WOULD HAPPEN, AND IT WAS THAT  
13 UNCERTAINTY THAT BROUGHT A GREAT DEAL OF ANXIETY.

14 BUT I FIGURED IF -- AT LEAST I REMEMBER  
15 THINKING THAT IT WAS GOING TO -- OR MOST LIKELY WOULD  
16 HAPPEN AT NIGHT; LATE IN THE MORNING OR AT NIGHT AS I  
17 WAS WALKING TO MY BEDROOM OR AS I WAS ASLEEP, SOMETIME  
18 AROUND THERE.

19 Q. I AM NOT ASKING YOU IF YOU WERE CERTAIN AS  
20 TO HOW IT WOULD HAPPEN, I AM ASKING YOU IF YOU  
21 CONTEMPLATED SCENARIOS IN WHICH YOU WOULD BE CALLED UPON  
22 TO MAKE A DECISION AS TO WHETHER OR NOT YOU SHOULD SHOOT  
23 OR NOT SHOOT.

24 A. NO.

25 Q. YOU NEVER CONTEMPLATED ANY SCENARIOS?

26 A. I CAN'T REMEMBER ANY THAT I CAN GIVE YOU,

27 WITH ALL CANDOR, THAT I ACTUALLY CONTEMPLATED THIS  
28 SCENARIO VERSUS THAT SCENARIO.

-20903

1 Q. WELL, DID YOU EVER DISCUSS WITH YOUR  
2 BROTHER THE QUESTION OF "WHAT DO WE DO, LYLE, FOR  
3 EXAMPLE IF WE KNOW THAT OUR PARENTS ARE ARMING  
4 THEMSELVES IN THE NEXT ROOM BUT WE CAN GET AWAY? WHAT  
5 DO WE DO IN THAT SITUATION? DO WE WAIT FOR THE ATTACK,  
6 DO WE GO TO THE POLICE? HOW DO WE HANDLE A SITUATION  
7 LIKE THAT?"

8 A. I DISCUSSED WITH MY BROTHER THE FACT ON TWO  
9 SEPARATE OCCASIONS THAT I DIDN'T WANT TO SLEEP IN MY  
10 BEDROOM; THAT I THOUGHT I WAS PARTICULARLY VULNERABLE IN  
11 MY BEDROOM, BECAUSE HE WAS WAY OVER IN THE GUESTHOUSE,  
12 AND WHAT WOULD I DO IF THEY CAME TO MY ROOM AND HE WAS  
13 OVER IN THE GUESTHOUSE, AND HOW WOULD I -- WOULD I HAVE  
14 TO DO THIS ALONE. WHAT WAS GOING TO HAPPEN. I REMEMBER  
15 DISCUSSING THAT.

16 BUT BEFORE THEN, YOU KNOW, I REALLY THOUGHT  
17 THAT THERE WOULD BE SOME SIGN FROM MY PARENTS THAT WOULD  
18 GIVE AWAY WHAT MY DAD -- ESPECIALLY MY DAD WAS THINKING.

19 Q. ALL RIGHT. SO ONE POSSIBLE SCENARIO THAT  
20 YOU DISCUSSED WITH YOUR BROTHER IS WHAT WOULD YOU DO IF  
21 YOUR PARENTS WERE TO COME TO YOUR ROOM AND LYLE WAS NOT  
22 AROUND; IS THAT CORRECT?

23 A. YES.

24 Q. AND WHAT RESOLUTION DID YOU REACH  
25 CONCERNING WHETHER TO SHOOT OR NOT UNDER THOSE  
26 CIRCUMSTANCES?

27 A. THAT I DIDN'T KNOW WHETHER OR NOT I WOULD  
28 BE ABLE TO FIRE, BUT ESSENTIALLY I WOULD BE ON MY OWN

-20902

1 WAS WHAT WAS THE CONCLUSION.

2 Q. SO YOUR PURPOSE FOR DISCUSSING THAT  
3 SCENARIO WAS BECAUSE YOU WERE CONCERNED THAT YOU MIGHT  
4 FREEZE AND NOT BE ABLE TO FIRE; IS THAT CORRECT?

5 A. NO. I DISCUSSED THAT WITH HIM ON FRIDAY  
6 NIGHT AFTER MY MOTHER TOLD ME THAT THE FISHING TRIP HAD  
7 CHANGED, AND WE WENT BACK OUTSIDE AND I SAID I DON'T  
8 WANT TO SLEEP IN MY BEDROOM, I WANT TO SLEEP IN THE  
9 GUESTHOUSE, AND I DISCUSSED IT WITH HIM ON SATURDAY  
10 NIGHT AFTER THE ALTERCATION WITH MY MOTHER IN THE FOYER,  
11 IN WHICH I AGAIN SAID, "I WANT TO SLEEP IN THE  
12 GUESTHOUSE," AND HE SAID, "SLEEP IN YOUR BEDROOM."

13 Q. MY QUESTION IS THE PURPOSE FOR DISCUSSING  
14 THAT SITUATION IN WHICH YOU ARE ALONE IN YOUR BEDROOM  
15 AND YOUR PARENTS COME IN WAS BECAUSE YOU WANTED TO  
16 DISCUSS WITH YOUR BROTHER THE POSSIBILITY THAT YOU MIGHT  
17 FREEZE; IS THAT CORRECT?

18 A. NO. JUST THAT I WAS VULNERABLE IN MY

19 BEDROOM.

20 Q. MY QUESTION TO YOU IS DID YOU DISCUSS

21 SCENARIOS SUCH AS, "SUPPOSE WE BELIEVE OUR PARENTS ARE

22 ABOUT TO KILL US WITHIN THE NEXT HALF HOUR. DO WE SHOOT

23 AND KILL THEM, DO WE LEAVE AND GO TO THE POLICE? WHAT

24 DO WE DO?"

25 A. OTHER THAN WHAT I'VE JUST TOLD YOU, I DON'T

26 REMEMBER DISCUSSING ANY MORE SCENARIOS.

27 Q. BUT IT WAS IMPORTANT TO YOU NOT TO MAKE A

28 MISTAKE THAT WEEKEND, WASN'T IT, MR. MENENDEZ?

-20901

1 A. IT DIDN'T OCCUR TO ME THAT A MISTAKE WOULD

2 BE MADE. I THOUGHT THE SITUATION WOULD BE OBVIOUS.

3 Q. DID YOU -- SO YOU NEVER ADDRESSD WITH YOUR

4 BROTHER THE QUESTION OF WHEN YOU WOULD KNOW FOR SURE

5 THAT YOUR PARENTS WERE GOING TO KILL YOU?

6 MR. LEVIN: OBJECTION. ASKED AND ANSWERED.

7 THE COURT: SUSTAINED.

8 Q. BY MR. CONN: DID YOU EVER DISCUSS WITH

9 YOUR BROTHER WHETHER YOU WOULD SHOOT YOUR PARENTS ONLY

10 AT THE TIME THAT GUNS WERE POINTED AT YOU, OR WHETHER

11 YOU WOULD SHOOT YOUR PARENTS AT A TIME PRIOR TO THE TIME

12 GUNS WERE BEING POINTED AT YOU?

13 A. WHAT MY BROTHER SAID TO ME ON FRIDAY WAS,

14 "IF MOM COMES AT YOU, ARE YOU GOING TO BE ABLE TO USE

15 YOUR GUN AGAINST HER," BECAUSE HE DIDN'T THINK I WOULD  
16 BE ABLE TO. I WASN'T SURE I'D BE ABLE TO. I WASN'T  
17 SURE HE WOULD BE ABLE TO. I DIDN'T KNOW WHAT WAS GOING  
18 TO HAPPEN.

19 AND I SAID, "I DON'T KNOW."

20 AND HE SAID, "WELL, YOU BETTER THINK ABOUT  
21 THAT, BECAUSE OTHERWISE THERE'S NO POINT IN STAYING AT  
22 HOME," AND THAT'S ALL I REMEMBER ABOUT THAT.

23 Q. MY QUESTION TO YOU IS DID YOU EVER DISCUSS  
24 WITH YOUR BROTHER WHETHER YOU WOULD KILL -- WHETHER YOU  
25 WOULD SHOOT YOUR PARENTS ONLY AT SUCH TIME THAT GUNS  
26 WERE ACTUALLY BEING POINTED AT YOU, OR DID YOU DISCUSS  
27 WITH YOUR BROTHER WHETHER YOU WOULD SHOOT YOUR PARENTS  
28 PRIOR TO THE TIME THAT THEY WERE ACTUALLY POSING THAT

-20900

1 IMMINENT THREAT TO YOU?

2 MR. LEVIN: OBJECTION. ASKED AND ANSWERED.

3 THE COURT: OVERRULED.

4 THE WITNESS: I DON'T REMEMBER.

5 Q. BY MR. CONN: YOU RECALL NO SUCH  
6 DISCUSSIONS AS YOU SIT THERE TODAY?

7 A. I DON'T RECALL THINKING OF THE POSSIBILITY  
8 THAT I COULD SHOOT MY MOM IF SHE WASN'T COMING TO KILL  
9 ME. I NEVER THOUGHT ABOUT THAT. I THOUGHT THE  
10 SITUATION WOULD BE OBVIOUS WHEN IT PRESENTED ITSELF, AND

11 I JUST -- I DON'T REMEMBER DISCUSSING ANY MORE THAN  
12 THAT.

13 Q. AT ANY TIME THAT WEEKEND DID EITHER YOU SAY  
14 TO YOUR BROTHER, OR DID YOUR BROTHER SAY TO YOU, "I  
15 DON'T WANT TO KILL MY PARENTS, AND I WILL DO ANYTHING TO  
16 AVOID THAT FROM HAPPENING"?

17 A. I DEFINITELY SAID I DON'T WANT TO KILL MY  
18 PARENTS.

19 "I'LL DO ANYTHING TO AVOID THAT FROM  
20 HAPPENING," I DON'T REMEMBER SAYING THAT.

21 Q. DID YOU FEEL THAT YOU WOULD DO ANYTHING TO  
22 AVOID THAT FROM HAPPENING, MR. MENENDEZ?

23 A. WITH RELATION TO MY FATHER OR MY MOTHER?

24 Q. WITH EITHER ONE OF THEM?

25 A. WITH MY FATHER, I FELT ABSOLUTELY I WOULD  
26 TRY TO DEFEND MYSELF. WITH MY MOTHER, I WAS NOT  
27 CERTAIN.

28 Q. WITH YOUR MOTHER, WHAT?

-20899

1 A. I WAS NOT CERTAIN.

2 Q. YOU WERE NOT CERTAIN THAT YOU WOULD DO  
3 ANYTHING TO AVOID THAT FROM HAPPENING?

4 A. I WAS NOT CERTAIN THAT I COULD DO SOMETHING  
5 TO AVOID THAT FROM HAPPENING.

6 Q. I'M NOT ASKING YOU IF YOU COULD DO



7 SOMETHING TO AVOID THAT FROM HAPPENING. WHAT I AM  
8 ASKING YOU IS DID YOU FEEL THAT YOU WOULD AT THAT TIME,  
9 THAT WEEKEND, DID YOU FEEL THAT YOU WOULD DO ANYTHING TO  
10 AVOID BEING PUT INTO A SITUATION WHERE YOU MIGHT HAVE TO  
11 TAKE THE LIVES OF YOUR PARENTS?

12 A. I'M NOT SURE I AM UNDERSTANDING THE  
13 QUESTION. DO ANYTHING TO AVOID BEING PUT INTO THE  
14 SITUATION? I DIDN'T THINK I WOULD HAVE A CHOICE.

15 Q. WELL, DIDN'T YOU FEEL THAT IF YOU LEFT YOU  
16 WOULDN'T HAVE TO MAKE THAT CHOICE?

17 A. I COULD NOT LEAVE.

18 Q. SO YOU WERE NOT WILLING TO LEAVE AND AVOID  
19 BEING PUT IN A POSITION WHERE YOU WOULD HAVE TO MAKE  
20 THAT CHOICE, WERE YOU?

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

22 THE COURT: SUSTAINED.

23 Q. BY MR. CONN: NOW, DID YOU DISCUSS WITH  
24 YOUR BROTHER WHETHER YOU WOULD SHOOT AND KILL YOUR  
25 PARENTS UNDER CIRCUMSTANCES SHORT OF ABSOLUTE NECESSITY?

26 A. I DON'T REMEMBER DOING SO.

27 Q. DID YOU THINK ABOUT THAT AT ANY TIME?

28 A. I DON'T REMEMBER THINKING THAT.

-20898

1 Q. AND THEN YOU DON'T REMEMBER DISCUSSING IT  
2 WITH YOUR BROTHER?

3 A. NO.

4 Q. DID YOU FEEL THAT YOU WOULD SHOOT YOUR  
5 PARENTS UNDER CIRCUMSTANCES SHORT OF ABSOLUTE NECESSITY?

6 A. I DON'T KNOW.

7 Q. DID YOU WANT IT CLEAR IN YOUR MIND WHAT  
8 CIRCUMSTANCES WOULD REQUIRE A LETHAL RESPONSE?

9 A. I DIDN'T THINK THERE WOULD BE ANY AMBIGUITY  
10 ABOUT IT. I THOUGHT IT WOULD BE OBVIOUS, AND NOTHING  
11 ELSE OCCURRED TO ME. I MEAN, I COULDN'T IMAGINE -- I  
12 THOUGHT IT WOULD BE OBVIOUS.

13 Q. DID YOU FEEL THAT PERHAPS YOU AND YOUR  
14 BROTHER MIGHT SEE THE CIRCUMSTANCES DIFFERENTLY, OR  
15 INTERPRET THE CIRCUMSTANCES DIFFERENTLY, AND SO PERHAPS  
16 IT WOULD BE A GOOD IDEA TO TALK ABOUT WHEN DO WE SHOOT  
17 AND WHEN DO WE DECLINE TO SHOOT?

18 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

19 THE COURT: REPHRASE THE QUESTION.

20 Q. BY MR. CONN: DID YOU FEEL THAT IT WOULD BE  
21 NECESSARY -- DO YOU FEEL THAT THERE WAS A POSSIBILITY  
22 THAT YOU OR YOUR BROTHER MIGHT INTERPRET THE  
23 CIRCUMSTANCES WRONGLY?

24 A. NEVER CONSIDERED THAT.

25 Q. DID YOU FEEL THAT YOU AND YOUR BROTHER  
26 SHOULD REACH SOME SORT OF AGREEMENT CONCERNING THE  
27 CIRCUMSTANCES UNDER WHICH YOU WOULD SHOOT TO KILL YOUR  
28 PARENTS?

1 MR. LEVIN: OBJECTION, YOUR HONOR. ASSUMES FACTS  
2 NOT EVIDENCE REGARDING KILLING HIS PARENTS.

3 THE COURT: OVERRULED.

4 THE WITNESS: NO.

5 Q. BY MR. CONN: NOW, YOU SAID THAT YOU  
6 GENERALLY THOUGHT THAT IT WOULD HAPPEN AT NIGHT.

7 A. THAT WAS MY FEELING.

8 Q. AND WHY DID YOU CONCLUDE THAT YOUR FATHER  
9 AND YOUR MOTHER WOULD NOT KILL YOU IN THE DAYTIME?

10 A. I DIDN'T CONCLUDE THAT THEY WOULDN'T DO IT  
11 IN THE DAYTIME. I DIDN'T ABSOLUTELY CONCLUDE THAT IT  
12 WOULD BE THEM, ESPECIALLY AFTER MY MOTHER SAID THAT  
13 ABOUT THE FISHING TRIP. BUT GENERALLY I RELATED IT TO  
14 THE SEX, AND I JUST -- I JUST PICTURED IT HAPPENING AT  
15 NIGHT.

16 Q. WELL, THE ISSUE OF YOUR -- THE THREAT OF  
17 YOUR PARENTS KILLING YOU FOR REVEALING THE FAMILY SECRET  
18 WAS NOT NECESSARILY TIED INTO ANY SEXUAL INTEREST THAT  
19 YOUR FATHER HAD IN YOU, WAS IT?

20 A. IT WASN'T NECESSARILY, YET THAT'S JUST THE  
21 WAY I THOUGHT ABOUT THINGS.

22 Q. WHY DID YOU THINK THAT YOUR FATHER WOULD  
23 ONLY TRY TO KILL YOU AT NIGHT DURING SEXUAL ASSAULTS?

24 A. NO, I DIDN'T THINK THAT. I JUST -- I WAS  
25 ALSO TERRIFIED OF THAT HAPPENING, AND I FIGURED THAT  
26 WOULD HAPPEN AT NIGHT, AND THAT'S WHY I PUT THE TWO  
27 TOGETHER.

-20896

1 NECESSARILY HAVE ANYTHING TO DO WITH AN ATTEMPT BY YOUR  
2 PARENTS TO KILL YOU TO PREVENT YOU FROM REVEALING THE  
3 FAMILY SECRET?

4 A. IT DOESN'T. I AM JUST SAYING THAT I  
5 THOUGHT THAT THAT WOULD HAPPEN AT NIGHT, AND FOR SOME  
6 REASON I JUST WENT ALONG THINKING THE OTHER MUST HAVE TO  
7 HAPPEN AT NIGHT, TOO. I DON'T KNOW IF IT WAS LOGICAL.  
8 I DIDN'T THINK THAT IT ABSOLUTELY HAPPENED THAT WAY,  
9 IT'S JUST THAT WAS IN MY MIND IS WHAT I AM TELLING YOU.

10 Q. DID YOU SEE ANY LOGICAL CONNECTION BETWEEN  
11 THE TWO AT THE TIME?

12 A. YES.

13 Q. WHAT WAS THE LOGICAL CONNECTION THAT YOU  
14 SAW AT THE TIME?

15 A. MY FATHER WOULD HAVE TO KILL ME BEFORE HE  
16 HAD SEX WITH ME.

17 Q. NOW, THE QUESTION I AM ASKING YOU IS DID  
18 YOU SEE ANY LOGICAL REASON WHY SIMPLY BECAUSE YOUR  
19 FATHER MIGHT SEXUALLY ASSAULT YOU AT NIGHT THAT  
20 THEREFORE THE ATTEMPT ON YOU BY YOUR PARENTS WOULD OCCUR  
21 AT NIGHT?

22 A. LOOKING BACK ON IT, NO. AT THE TIME IT'S  
23 JUST THE WAY I THOUGHT ABOUT IT.

24 Q. AT THE TIME DID YOU SEE ANY LOGICAL  
25 CONNECTION BETWEEN THE TWO?  
26 A. AT THE TIME I PUT THE TWO TOGETHER.  
27 WHETHER IT WAS LOGICAL OR NOT, I DON'T KNOW.  
28 Q. WELL, THAT'S MY QUESTION. AT THE TIME DID

-20895

1 YOU SEE A LOGICAL CONNECTION?  
2 A. I DON'T KNOW IF I SAW A LOGICAL CONNECTION.  
3 I JUST THOUGHT THAT ONE WOULD HAPPEN AT NIGHT AND  
4 THOUGHT THAT THE OTHER MIGHT WELL THEN HAPPEN AT NIGHT,  
5 TOO. I DON'T KNOW IF IT WAS LOGICAL OR NOT, IT'S JUST  
6 THE WAY I WAS THINKING.  
7 Q. NOW, DID YOU EVER CONSIDER IN YOUR  
8 DISCUSSIONS WITH LYLE ABOUT THE POSSIBILITY OF SHOOTING  
9 YOUR PARENTS THAT IT MIGHT BE NECESSARY TO SHOOT ONLY  
10 ONE PARENT WHO WAS ATTACKING YOU RATHER THAN BOTH?  
11 A. I REMEMBER THINKING WHEN MY FATHER WAS  
12 BANGING ON MY DOOR, THAT IF I SHOT DAD, MOM WOULD BE  
13 RIGHT BEHIND HIM WITH THE RIFLE IN THE BEDROOM ONCE SHE  
14 HEARD SHOTS GO OFF. I NEVER DISCUSSED IT WITH MY  
15 BROTHER OTHER THAN ON SUNDAY MORNING WHEN I TOLD HIM  
16 WHAT HAD HAPPENED.  
17 Q. WELL, WHAT I AM ASKING YOU IS DID YOU EVER  
18 DISCUSS WITH YOUR BROTHER THE POSSIBILITY THAT PERHAPS  
19 JUST ONE PARENT, MAYBE YOUR FATHER, WOULD BE THE ONE TO

20 TRY TO KILL YOU RATHER THAN BOTH PARENTS?  
21 A. NO.  
22 Q. THAT IS SOMETHING THAT NEVER ENTERED INTO  
23 YOUR DISCUSSIONS WITH LYLE MENENDEZ AT ANY TIME BETWEEN  
24 THURSDAY AND SUNDAY?  
25 MR. LEVIN: OBJECTION. ASKED AND ANSWERED.  
26 THE COURT: OVERRULED.  
27 THE WITNESS: I DON'T REMEMBER IT ENTERING INTO  
28 OUR DISCUSSIONS WHERE WE TALKED ABOUT IT OPENLY.

-20894

1 Q. BY MR. CONN: SO YOU DO NOT RECALL ANY  
2 DISCUSSIONS WITH YOUR BROTHER CONCERNING THAT  
3 POSSIBILITY; IS THAT CORRECT?  
4 MR. LEVIN: ASKED AND ANSWERED.  
5 THE WITNESS: RIGHT.  
6 THE COURT: OVERRULED. THE ANSWER WILL STAND.  
7 Q. BY MR. CONN: DID YOU EVER DISCUSS WITH  
8 YOUR BROTHER THE POSSIBILITY THAT YOU MIGHT BE PRESENTED  
9 WITH A SITUATION IN WHICH NON-LETHAL FORCE MIGHT BE  
10 SUFFICIENT TO STOP YOUR PARENTS RATHER THAN LETHAL  
11 FORCE?  
12 A. THAT DEFINITELY NEVER OCCURRED TO ME.  
13 Q. AND IT WAS NEVER DISCUSSED WITH YOUR  
14 BROTHER?  
15 A. I COULDN'T SEE HOW NON-LETHAL FORCE WOULD

16 STOP THEM. CERTAINLY NOT MY FATHER. IT JUST NEVER  
17 OCCURRED TO ME.

18 Q. DID YOU EVER DISCUSS WITH YOUR BROTHER THE  
19 POSSIBILITY THAT IN PROTECTING YOURSELF FROM YOUR  
20 PARENTS YOU MIGHT BE ABLE TO WOUND, BUT NOT KILL, YOUR  
21 PARENTS?

22 A. DID I DISCUSS THAT OR DID I THINK ABOUT  
23 THAT? I MEAN, I -- I JUST SAID I AM GOING TO TRY TO  
24 SHOOT MY GUN. I DIDN'T KNOW WHETHER IT WOULD KILL THEM  
25 OR WOUND THEM. I DIDN'T KNOW WHAT I WAS GOING TO DO.  
26 BUT I DIDN'T DISCUSS IT WITH MY BROTHER.

27 Q. WELL, WHAT I AM SAYING IS DID YOU CONSIDER  
28 AS YOU WERE THINKING ABOUT THE POSSIBILITY -- LET ME ASK

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1 YOU THIS, MR. MENENDEZ:

2 THE POSSIBILITY OF SHOOTING YOUR PARENTS  
3 WITH A GUN WAS NOT SOMETHING THAT YOU TOOK LIGHTLY  
4 BETWEEN THURSDAY NIGHT AND SUNDAY NIGHT, WAS IT?

5 A. IT WAS NOT SOMETHING THAT I TOOK LIGHTLY,  
6 BUT IT WAS SOMETHING THAT I DIDN'T REALLY THINK IT WAS  
7 GOING TO HAVE TO COME DOWN TO.

8 Q. SO YOU ARE TELLING US THAT BECAUSE IT WAS  
9 SOMETHING THAT YOU DIDN'T WANT TO THINK ABOUT, THEREFORE  
10 YOU JUST PUT IT ON THE BACK BURNER IN YOUR MIND AND  
11 DIDN'T BOTHER THINKING ABOUT THESE THINGS?

12 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

13 THE COURT: SUSTAINED.

14 Q. BY MR. CONN: ARE YOU TELLING US THAT YOU  
15 DIDN'T THINK ABOUT SITUATIONS IN WHICH YOU MIGHT BE  
16 CALLED UPON TO MAKE A DECISION AFFECTING THE LIFE OR  
17 DEATHS OF YOUR PARENTS?

18 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

19 THE COURT: IT'S ARGUMENTATIVE.

20 Q. BY MR. CONN: MR. MENENDEZ, DID YOU THINK  
21 ABOUT THE POSSIBILITY THAT IN FIRING YOUR WEAPON AT YOUR  
22 PARENTS, PERHAPS YOU WOULD WOUND RATHER THAN KILL ONE OF  
23 THEM?

24 A. I REMEMBER THINKING ON SUNDAY NIGHT THAT I  
25 ONLY HAD TWO SHOTS, AND I DIDN'T KNOW IF THIS WAS GOING  
26 TO BE ENOUGH TO EVEN STOP MY FATHER, MUCH LESS WOUND  
27 HIM.

28 Q. WHAT I AM ASKING YOU IS AS YOU WERE

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1 THINKING ABOUT THE POSSIBILITY THAT YOU MIGHT HAVE TO  
2 SHOOT YOUR PARENTS BETWEEN THURSDAY AND SUNDAY, DID YOU  
3 EVER CONSIDER SHOOTING TO INJURE THEM RATHER THAN NOT  
4 SHOOTING TO KILL THEM?

5 A. NEVER CONSIDERED IT.

6 Q. SO, YOU ALWAYS ASSUMED BETWEEN THURSDAY TO  
7 SUNDAY THAT IF YOU WERE GOING TO SHOOT YOUR PARENTS YOU



8 WERE GOING TO SHOOT AND KILL THEM; IS THAT CORRECT?

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

10 THE COURT: REPHRASE THE QUESTION.

11 Q. BY MR. CONN: ARE YOU SAYING THAT WHEN YOU  
12 THOUGHT ABOUT SHOOTING YOUR PARENTS BETWEEN THURSDAY AND  
13 SUNDAY, YOU ALWAYS ASSUMED THAT IF YOU WERE TO SHOOT  
14 YOUR PARENTS YOU WOULD ONLY SHOOT AND KILL THEM?

15 A. I DIDN'T ASSUME EITHER WAY, BUT I AM SURE  
16 THAT IF I WOULD HAVE SAT AND THOUGHT ABOUT IT, IF I  
17 FIRED A GUN AT MY DAD, IT'S SIGNING MY OWN DEATH  
18 WARRANT, AND IF HE DOESN'T DIE, I'M CERTAINLY GOING TO.

19 AND -- BUT I DON'T BELIEVE THAT I ACTUALLY  
20 THOUGHT ABOUT IT. I MEAN, LOGICALLY THAT'S WHAT I KNOW,  
21 BUT I DON'T THINK THAT IT EVER REALLY ENTERED INTO MY  
22 MIND.

23 Q. SO WOULD IT BE CORRECT TO SAY THAT YOU DID  
24 NOT CONTEMPLATE ANY SITUATIONS IN WHICH YOUR PARENTS  
25 WOULD SIMPLY BE WOUNDED RATHER THAN KILLED?

26 A. EXCEPT ON SATURDAY NIGHT WHEN HE WAS  
27 BANGING ON MY DOOR.

28 Q. DID YOU EVER TELL YOUR BROTHER THAT IF YOU

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1 WERE TO USE -- TO BE CALLED UPON TO USE LETHAL FORCE  
2 AGAINST YOUR PARENTS, THAT YOU WANTED THAT FORCE TO BE  
3 AS LETHAL AS IT COULD POSSIBLY BE?

4       A.  I DON'T THINK SO.

5       Q.  HOW DID YOU ARRIVE AT THE DECISION THAT YOU  
6  WERE GOING TO USE HANDGUNS FOR PROTECTION RATHER THAN  
7  ANY OTHER FORM OF WEAPON?

8       A.  IT WAS SMALL, AND I FIGURED THE SMALLER THE  
9  BETTER.

10      Q.  WHY NOT A KNIFE OR A CLUB OR A BAT?

11      A.  BECAUSE IT'S JUST NOT REALITY TO THINK THAT  
12  I COULD EVER CONFRONT MY MOTHER OR EVER CONFRONT MY  
13  FATHER IN A WAY WHERE I WOULD HAVE TO FIGHT THEM OFF.  I  
14  MEAN, IT'S JUST NOT WITHIN THE REALM OF MY POSSIBILITIES  
15  THAT I COULD EVER STAB MY FATHER OR CLUB HIM.

16           I MEAN, I STOOD ON TOP OF MY DRESSER WHEN I  
17  WAS A KID WITH A SLAT FROM UNDER MY BED AND THOUGHT  
18  ABOUT THE POSSIBILITY OF HIM COMING IN, AND I WAS GOING  
19  TO TRY TO CLUB HIM, AND EVERY TIME I EVEN HEARD HIM GET  
20  CLOSE TO THE DOOR, I WOULD IMMEDIATELY PUT IT DOWN.  
21  IT'S JUST NOT POSSIBLE.

22      Q.  MR. MENENDEZ, THIS INCIDENT OF AUGUST THE  
23  20TH OF 1989 DID NOT OCCUR WHEN YOU WERE A KID, IT  
24  OCCURRED WHEN YOU WERE ALMOST 19 YEARS OLD, CORRECT?

25      A.  RIGHT.

26      Q.  AND YOU REALIZED WHEN YOU REACHED THAT AGE  
27  THAT YOU WERE NO LONGER A KID; IS THAT CORRECT?

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

1 THE COURT: OVERRULED.

2 THE WITNESS: IF YOU'RE ASKING ME IF I FELT  
3 DIFFERENTLY THAN I DID WHEN I WAS 14 IN TERMS OF  
4 CONFRONTING MY FATHER, THE ANSWER IS NO. WHETHER I WAS  
5 19 AND WEIGHED 40 POUNDS MORE THAN WHEN I WAS 14 MADE NO  
6 DIFFERENCE TO ME. I MEAN, THE FACT IS I WAS GOING TO  
7 HAVE TO FACE THE SAME MAN, AND IT WAS JUST NOT -- IT  
8 WASN'T A MATTER OF PHYSICAL STRENGTH.

9 Q. YOU DIDN'T THINK AT THE AGE OF 19 YOU WERE  
10 STRONGER AND MORE CAPABLE OF CONFRONTING YOUR FATHER  
11 THAN YOU WERE AT 14 YEARS OLD?

12 MR. LEVIN: OBJECTION. MISSTATES THE FACTS. HE  
13 WASN'T 19.

14 THE COURT: OVERRULED.

15 THE WITNESS: CLEARLY INTELLECTUALLY AND  
16 PHYSICALLY I WAS STRONGER THAN WHEN I WAS 14. I AM NOT  
17 DENYING THAT. I AM TALKING EMOTIONALLY. I JUST -- THE  
18 IDEA OF CONFRONTING MY FATHER NEVER CHANGED.

19 Q. ARE YOU SAYING THAT AT THE AGE OF 18, AT  
20 THE TIME THAT YOU SHOT YOUR PARENTS TO DEATH, YOU FELT  
21 JUST AS WEAK AND HELPLESS AGAINST YOUR FATHER AS YOU DID  
22 WHEN YOU WERE 14, AND YOU FELT ABSOLUTELY NO DIFFERENT?

23 A. ESSENTIALLY YOU'RE ABSOLUTELY RIGHT.

24 Q. NOW, DID YOU FEEL THAT AT THE AGE OF 18 YOU  
25 MIGHT BE ABLE TO USE A BASEBALL BAT AGAINST YOUR MOTHER  
26 TO PROTECT YOURSELF?

27 A. NO.

28 Q. WHY IS THAT?

1       A.  IT'S BECAUSE I DIDN'T SEE MY MOTHER IN THAT  
2   LIGHT. I DIDN'T SEE HER ATTACKING ME ALONE, FIRST OF  
3   ALL. I COULDN'T CONCEIVE OF THAT. I GUESS REALLY I  
4   NEVER THOUGHT ABOUT IT.

5       Q.  YOU NEVER THOUGHT ABOUT USING OR PROTECTING  
6   YOURSELF WITH A NON-LETHAL WEAPON AGAINST YOUR PARENTS?

7       MR. LEVIN: OBJECTION WITH RESPECT TO THE TERM  
8   "NON-LETHAL," THAT IT'S VAGUE.

9       THE COURT: SUSTAINED.

10      Q.  BY MR. CONN: DID YOU EVER CONSIDER  
11   PROTECTING YOURSELF WITH A BASEBALL BAT AGAINST YOUR  
12   PARENTS RATHER THAN GOING OUT AND BUYING GUNS?

13      A.  NO.

14      Q.  I'M SORRY?

15      A.  NO.

16      Q.  DID YOU EVER DISCUSS WITH YOUR BROTHER THE  
17   CIRCUMSTANCES UNDER WHICH IT MIGHT BE LAWFUL TO USE  
18   FORCE IN SELF-DEFENSE?

19      A.  I DIDN'T IMAGINE THAT KILLING MY PARENTS  
20   UNDER ANY CIRCUMSTANCE WOULD BE LAWFUL.

21      Q.  SO YOU ALWAYS THOUGHT THAT IF YOU HAD TO  
22   KILL YOUR PARENTS, IT WOULD ALWAYS BE UNLAWFUL,  
23   REGARDLESS OF THE THREAT THAT YOUR PARENTS WERE POSING  
24   TO YOU AT THE TIME?

25      A.  I NEVER CONSIDERED THE POLICE ONE WAY OR

26 THE OTHER. IT DIDN'T OCCUR TO ME THAT THERE COULD EVER  
27 BE A REASON THAT SOMEONE COULD -- LAWFULLY YOU JUST  
28 DON'T DO THAT, AND I COULDN'T -- I COULDN'T IMAGINE SUCH

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1 A THING.

2 Q. YOU NEVER HEARD OF THE LAW OF SELF-DEFENSE  
3 AT THAT POINT OF YOUR LIFE, MR. MENENDEZ?

4 A. I HAD HEARD OF THE LAW OF SELF-DEFENSE, BUT  
5 SOMEHOW YOUR PARENTS ARE JUST DIFFERENT.

6 Q. SO, YOU THOUGHT -- ARE YOU TELLING US THAT  
7 AT 18 YOU FELT THAT EVEN IF YOUR PARENTS WERE ATTACKING  
8 YOU AND YOU WERE RESPONDING TO A LEGITIMATE THREAT UPON  
9 YOUR LIFE, THAT IT WOULD STILL BE UNLAWFUL TO DEFEND  
10 YOURSELF AGAINST YOUR PARENTS?

11 A. RIGHT. EVEN IF MY -- WHEN I THOUGHT I WISH  
12 I COULD KILL HIM WHEN HE WAS IN MY ROOM AND ACTUALLY  
13 HAVING SEX WITH ME, I THOUGHT THAT, YES, THAT I WOULD GO  
14 TO JAIL AFTERWARDS. IT NEVER OCCURRED TO ME THAT  
15 ANYTHING LESS WOULD HAPPEN.

16 Q. SO, YOU ALWAYS -- DID YOU FEEL THAT THIS  
17 WAS LAW THAT APPLIED GENERALLY TO PEOPLE IN SOCIETY,  
18 THAT IT WAS ALWAYS UNLAWFUL TO KILL ANOTHER PERSON; OR  
19 DID YOU THINK THAT THE RULE WAS SPECIAL ONLY WHEN IT  
20 CAME TO THE PARENT/CHILD RELATIONSHIP?

21 MR. LEVIN: OBJECTION. IT'S VAGUE, IT'S

22 COMPOUND, AND IT'S ARGUMENTATIVE.

23 THE COURT: SUSTAINED.

24 Q. BY MR. CONN: YOU SAID YOU THOUGHT IT WOULD  
25 BE UNLAWFUL FOR YOU TO KILL YOUR PARENTS UNDER ANY  
26 CIRCUMSTANCES; IS THAT CORRECT?

27 A. RIGHT.

28 Q. DID YOU FEEL AT THE TIME THAT IT WOULD BE

-20887

1 UNLAWFUL FOR YOU TO KILL A STRANGER UNDER ANY  
2 CIRCUMSTANCES?

3 MR. LEVIN: OBJECTION. IRRELEVANT.

4 THE COURT: OVERRULED.

5 THE WITNESS: WELL, I GUESS IF A BURGLAR ENTERED  
6 YOUR HOME AND WAS ATTACKING YOU, OR IF YOU WERE IN A BAR  
7 AND SOMEONE PULLED OUT A KNIFE, I GUESS. I NEVER REALLY  
8 GAVE IT MUCH CONSIDERATION, TO BE TRUTHFUL, BUT I GUESS  
9 SO.

10 Q. BY MR. CONN: SO ARE YOU SAYING THAT  
11 ALTHOUGH YOU RECOGNIZED THAT PRINCIPLE, YOU NEVERTHELESS  
12 FELT THAT IF YOU KILLED YOUR PARENTS UNDER SIMILAR  
13 CIRCUMSTANCES IT WOULD BE UNLAWFUL?

14 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

15 THE COURT: SUSTAINED.

16 Q. BY MR. CONN: WAS IT YOUR BELIEF THAT IF  
17 YOU WERE KILLING YOUR PARENTS -- IF YOU KILLED YOUR

18 PARENTS UNDER CIRCUMSTANCES IN WHICH THEY WERE ATTACKING  
19 YOU WITH A KNIFE, THAT IT WOULD STILL BE UNLAWFUL?  
20 A. I NEVER THOUGHT ABOUT IT ONE WAY OR THE  
21 OTHER. BUT I NEVER THOUGHT -- I MEAN, YOUR PARENTS ARE  
22 YOUR PARENTS. I COULDN'T IMAGINE EXPLAINING TO THE  
23 POLICE WHAT OCCURRED, AND THEM SAYING, "OH, OKAY. WELL,  
24 THAT'S OKAY."  
25 I MEAN, IT'S JUST NOT CONCEIVABLE.  
26 Q. OKAY. SO YOU NEVER DISCUSSED THE LEGAL  
27 IMPLICATIONS OF YOUR ACTIONS IN ANY WAY WITH YOUR  
28 BROTHER BETWEEN THURSDAY AND SUNDAY; IS THAT CORRECT?

-20886

1 A. RIGHT.  
2 Q. OKAY. SO NOW FRIDAY MORNING YOU WOKE UP IN  
3 THE GUESTHOUSE, AND YOU WENT OUTSIDE TO PLAY TENNIS; IS  
4 THAT CORRECT?  
5 A. YES.  
6 Q. AND DID YOU HAVE TO GO INTO THE MAIN HOUSE  
7 TO CHANGE YOUR CLOTHING BEFORE YOU WENT OUT TO PLAY  
8 TENNIS?  
9 A. NO. I BELIEVE THAT I WAS WEARING SOME TYPE  
10 OF PANTS OR JEANS, AND I THINK I ENTERED -- WENT INTO MY  
11 BROTHER'S BEDROOM AND THREW ON A PAIR OF SHORTS.  
12 Q. AND THEN YOU WENT STRAIGHT FROM THE  
13 GUESTHOUSE TO THE TENNIS COURT; IS THAT CORRECT?

14 A. RIGHT.

15 Q. NOW, THE PREVIOUS NIGHT YOUR FATHER HAD  
16 LUNGED AT YOU IN THE -- IN YOUR BEDROOM; IS THAT  
17 CORRECT?

18 A. YES.

19 Q. AND WHAT WAS HE SAYING AS HE WAS COMING AT  
20 YOU IN YOUR BEDROOM?

21 A. I REMEMBER HE TOLD ME TO SHUT UP, AND I  
22 DON'T KNOW IF -- I DON'T REMEMBER ANY SPECIFIC WORDS HE  
23 WAS SAYING AS HE WAS LUNGING AT ME.

24 Q. AND BEFORE HE LUNGED AT YOU, DID HE SAY  
25 SOMETHING TO THE EFFECT OF, "I TOLD YOU NEVER TO TELL  
26 ANYONE."

27 A. RIGHT.

28 Q. AND YOU FELT THAT AT THAT POINT THAT

-20885

1 PERHAPS YOUR FATHER WAS GOING TO KILL YOU?

2 A. AT THAT POINT I DIDN'T HAVE TIME TO THINK  
3 ABOUT WHETHER MY FATHER WAS GOING TO KILL ME. I WAS  
4 JUST TRYING TO GET OUT OF THE ROOM.

5 Q. OKAY. BUT IN ANY EVENT AFTER GOING --  
6 SPENDING THE NIGHT IN THE GUESTHOUSE WITH LYLE, THERE  
7 WAS NO DOUBT IN YOUR MIND ON FRIDAY MORNING THAT YOUR  
8 FATHER WAS GOING TO KILL YOU; IS THAT CORRECT?

9 A. NO, I WOULDN'T SAY THAT. LATE AT NIGHT ON



10 THURSDAY WHEN WE WERE TALKING -- I GUESS EARLY IN THE  
11 MORNING ON FRIDAY, I WASN'T ABSOLUTELY CERTAIN. BY  
12 FRIDAY MORNING WHEN I WOKE UP, I DIDN'T WANT TO THINK  
13 ABOUT IT. I JUST DIDN'T WANT TO IMAGINE THAT THIS WAS  
14 REAL.

15 Q. SO WHEN YOU SAY YOU DIDN'T WANT TO THINK  
16 ABOUT IT, DID YOU WALK OUT OF THE DOOR OF THE GUESTHOUSE  
17 SAYING TO YOURSELF, "OH, WELL. IF I GET KILLED ON THE  
18 WAY OUT, I GET KILLED ON THE WAY OUT. I AM JUST NOT  
19 GOING TO THINK ABOUT IT."

20 A. RIGHT. I WAS NOT THINKING ABOUT IT.

21 Q. AND YOU RECOGNIZED, HOWEVER, THAT PERHAPS  
22 YOUR FATHER WAS STILL WAITING OUTSIDE THE DOOR AND WAS  
23 GOING TO KILL YOU AS SOON AS YOU WALKED OUT THAT DOOR,  
24 CORRECT?

25 A. I WOKE UP. THE SUN WAS COMING IN, AND I  
26 SAID, "WHAT HAPPENED LAST NIGHT IS NOT REAL. I AM JUST  
27 GOING TO GO OUT AND I AM GOING TO PLAY TENNIS AND JUST  
28 FORGET ABOUT IT," AND THAT'S HOW I THOUGHT.

-20884

1 Q. WELL, BUT MY QUESTION TO YOU, MR. MENENDEZ,  
2 IS THAT WHEN YOU WALKED OUT OF THE DOOR OF THE  
3 GUESTHOUSE ON FRIDAY MORNING, YOU RECOGNIZED THE  
4 POSSIBILITY THAT YOUR FATHER WAS OUTSIDE THE GUESTHOUSE  
5 WAITING FOR YOU TO COME OUT SO THAT HE CAN KILL YOU; IS

6 THAT CORRECT?

7 A. NO.

8 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

9 THE COURT: OVERRULED.

10 Q. BY MR. CONN: AND WHY IS IT THAT YOU FELT  
11 FRIDAY MORNING THAT YOUR FATHER WAS NOT GOING TO BE  
12 WAITING OUTSIDE THE GUESTHOUSE TO KILL YOU?

13 A. BECAUSE I DIDN'T WANT TO RECOGNIZE THE  
14 DANGER. I DIDN'T WANT TO THINK ABOUT IT. I JUST -- I  
15 CAN'T EXPLAIN WHY I WAS LIKE THAT, I JUST -- IT WAS THE  
16 NEXT MORNING, AND WHAT HAPPENED THE NIGHT BEFORE WAS TOO  
17 UNBELIEVABLE, AND I DIDN'T WANT TO -- I DIDN'T WANT TO  
18 THINK ABOUT IT.

19 Q. SO ARE YOU SAYING THAT BECAUSE YOU DIDN'T  
20 WANT TO THINK ABOUT IT, THEREFORE YOU DIDN'T BELIEVE  
21 THAT YOUR FATHER WAS WAITING OUTSIDE THE DOOR TO KILL  
22 YOU?

23 A. YES.

24 Q. AND I TAKE IT YOU FELT THAT YOU WERE NO  
25 LONGER IN DANGER FROM YOUR PARENTS?

26 A. I DIDN'T CONSIDER IT.

27 Q. BUT BY NOT CONSIDERING IT, YOU FELT THAT  
28 YOU WERE NO LONGER IN DANGER; IS THAT CORRECT?

-20883

1 A. I DIDN'T THINK THAT I WAS IN DANGER,

2 BECAUSE I WASN'T THINKING ABOUT IT. I WAS -- IT WAS

3 LIKE A BAD DREAM.

4 Q. BUT YOU'RE SAYING THAT BY PUTTING IT OUT OF

5 YOUR MIND AND NOT THINKING ABOUT IT, YOU FELT THERE WAS

6 NO DANGER; IS THAT CORRECT?

7 A. YES, I GUESS SO.

8 Q. OKAY.

9 SO YOU WERE OUT THERE ON THE TENNIS COURTS

10 PLAYING TENNIS, AND YOU FELT THAT THERE WAS NO DANGER;

11 IS THAT CORRECT?

12 A. I WASN'T THINKING ABOUT THE DANGER.

13 Q. BY NOT THINKING ABOUT IT, YOU TOLD US --

14 YOU CONCLUDED THAT THEREFORE THERE WAS NO DANGER AS FAR

15 AS YOU WERE CONCERNED; IS THAT CORRECT?

16 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

17 THE COURT: OVERRULED.

18 THE WITNESS: BY NOT THINKING ABOUT IT MEANS I

19 DIDN'T THINK ABOUT. I DIDN'T THINK ABOUT IT ONE WAY OR

20 THE OTHER.

21 Q. BY MR. CONN: MR. MENENDEZ, SOMETIMES YOU

22 KNOW SOMETHING TO BE TRUE AND THEN YOU DON'T THINK ABOUT

23 IT, BUT YOU STILL KNOW IT TO BE TRUE, DON'T YOU?

24 MR. LEVIN: OBJECTION. ARGUMENTATIVE. IT'S ALSO

25 VAGUE.

26 THE COURT: SUSTAINED.

27 Q. BY MR. CONN: MR. MENENDEZ, SOMETIMES WHEN

28 YOU FEEL THAT YOU DON'T WANT TO THINK ABOUT IT, DO YOU

1 STILL BELIEVE SOMETHING TO BE TRUE OR NOT TRUE,  
2 REGARDLESS OF WHETHER YOU'RE THINKING ABOUT IT?

3 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

4 THE COURT: SUSTAINED.

5 Q. BY MR. CONN: AS YOU WERE ON THE TENNIS  
6 COURT, DID YOU FEEL THAT THERE WAS ANY DANGER FROM YOUR  
7 PARENTS?

8 A. NO.

9 Q. WHEN WAS THE NEXT TIME YOU FELT THAT YOUR  
10 LIFE WAS IN DANGER?

11 A. I DON'T KNOW IF I ACTUALLY THOUGHT ABOUT --  
12 WELL, CERTAINLY WHEN MY BROTHER CAME OUT, I ACCEPTED THE  
13 FACT THAT THIS IS SOMETHING THAT WE HAD TO DO IN TERMS  
14 OF GET GUNS. I THINK IT WAS NOT UNTIL FRIDAY NIGHT WHEN  
15 I ACTUALLY SAW MY MOTHER IN THE FOYER WAS THE NEXT TIME  
16 I REALLY WAS CONFRONTED WITH THAT FACT AGAIN.

17 Q. SO ARE YOU SAYING THAT FRIDAY WHEN YOU WERE  
18 PURCHASING THE SHOTGUNS IN SAN DIEGO THAT YOU DIDN'T  
19 FEEL THAT THERE WAS ANY DANGER TO YOUR LIFE?

20 A. ACTUALLY ON THE WAY DOWN TO SAN DIEGO I  
21 REMEMBER MY BROTHER'S REACTION TO SOME THINGS I WAS  
22 SAYING, WHICH MADE ME THINK ABOUT IT AGAIN. BUT IT WAS  
23 NOT UNTIL I WAS IN FRONT OF MY MOTHER AND SHE SAID THAT  
24 THE FISHING BOAT HAD BEEN CHANGED DID IT STRIKE ME  
25 AGAIN.

26 Q. SO -- BUT DID YOU STILL FEEL AS YOU WERE

27 DRIVING DOWN TO SAN DIEGO THAT YOUR PARENTS WERE GOING  
28 TO KILL YOU?

-20881

1 A. AT ONE TIME ON THE DRIVE DOWN TO SAN DIEGO.  
2 I THOUGHT IT MORE LIKELY AT THE BEGINNING OF THE DRIVE.

3 Q. WHEN YOU PLAYED TENNIS WITH MARK HEFFERNAN  
4 ON FRIDAY?

5 A. MY RECOLLECTION IS THAT MARK HEFFERNAN WAS  
6 THERE ON THURSDAY. I DON'T BELIEVE HE WAS THERE ON  
7 FRIDAY.

8 Q. NOW, YOU RECALL THE TESTIMONY OF MARK  
9 HEFFERNAN THAT HE WAS THERE ON FRIDAY, NOT ON THURSDAY;  
10 IS THAT CORRECT?

11 A. I RECALL THAT MARK BELIEVES HE WAS THERE ON  
12 FRIDAY.

13 Q. AND YOU RECALL THAT MARK SAID HE OBSERVED  
14 NOTHING UNUSUAL IN YOUR BEHAVIOR; IS THAT CORRECT?

15 A. I DON'T KNOW.

16 Q. MR. MENENDEZ, ISN'T IT A FACT THAT YOU  
17 PLAYED TENNIS WITH MARK HEFFERNAN ON FRIDAY, BUT YOU ARE  
18 SAYING IT WAS ON THURSDAY BECAUSE THERE WAS NOTHING  
19 UNUSUAL IN YOUR BEHAVIOR WHEN YOU PLAYED TENNIS WITH  
20 MARK HEFFERNAN ON FRIDAY?

21 MR. LEVIN: ARGUMENTATIVE, YOUR HONOR.

22 THE COURT: SUSTAINED.

23 Q. BY MR. CONN: AND DID YOU HEAR THE  
24 TESTIMONY OF MARK HEFFERNAN THAT HE RECALLED THAT IT WAS  
25 ON FRIDAY, BECAUSE HE RECALLED THAT YOU WERE GOING TO BE  
26 FISHING THE NEXT DAY.

27 DID YOU HEAR THAT?

28 A. I REMEMBER THAT.

-20880

1 Q. AND YOU WEREN'T GOING TO GO FISHING ON  
2 FRIDAY, WERE YOU?

3 A. NO.

4 Q. THE PLAN WAS ALWAYS TO GO FISHING ON  
5 SATURDAY; IS THAT CORRECT?

6 A. YES.

7 Q. SO YOU'RE SAYING THAT YOU WENT OUT TO THE  
8 TENNIS COURTS AND YOU PLAYED TENNIS BY YOURSELF ON  
9 FRIDAY; IS THAT CORRECT?

10 A. YES. I REMEMBER BEING OUT IN THE TENNIS  
11 COURTS ON FRIDAY, AND MY BEST RECOLLECTION WHEN I -- I  
12 REALLY BELIEVE IS THAT MARK WAS THERE ON THURSDAY.

13 Q. NOW, AS YOU WERE PLAYING TENNIS BY  
14 YOURSELF, WERE YOU COMPLETELY ABLE TO DISMISS FROM YOUR  
15 MIND ANY FEAR THAT YOU HAD OF YOUR PARENTS KILLING YOU?

16 A. I WASN'T ABLE TO DISMISS WHAT WAS HAPPENING  
17 FROM MY MIND EVER.

18 Q. SO ARE YOU SAYING THAT YOU STILL FELT SOME

19 FEAR AS YOU WERE OUT THERE ON THE TENNIS COURTS FRIDAY?

20 A. NO, I DIDN'T FEEL FEAR, BUT I JUST COULDN'T

21 JUST THINK THAT I WAS IN A DIFFERENT WORLD. I WAS

22 PLAYING AND I WAS PRETENDING THAT THIS WASN'T HAPPENING,

23 AND I REMEMBER PICKING UP THE BALLS AND HITTING THEM,

24 THINKING THIS WASN'T HAPPENING, AND AT SOME POINT I

25 REMEMBER LYLE COMING OUT, BUT THE STATE I WAS IN WAS

26 STILL BECAUSE OF WHAT HAD HAPPENED ON THURSDAY.

27 Q. AND WHAT STATE WERE YOU IN AT THAT TIME?

28 A. NOT WANTING TO THINK ABOUT WHAT WAS

-20879

1 HAPPENING.

2 Q. SO YOU WEREN'T FEARFUL?

3 A. NO.

4 Q. AND WHEN YOU -- AND WHEN YOUR BROTHER TOLD

5 YOU -- WHAT DID YOUR BROTHER SAY TO YOU AT THAT TIME?

6 A. HE SAID SOMETHING ALONG THE LINES OF "ARE

7 YOU READY TO GO," AND I -- THAT'S WHAT HE SAID.

8 Q. AND DID YOU ASK, "WHAT ARE YOU TALKING

9 ABOUT?"

10 A. NO. I KNEW WHAT HE WAS TALKING ABOUT.

11 EITHER HE SAID IT OR I KNEW IT.

12 AND I SAID, "LISTEN, I'VE GOT A TOURNAMENT

13 COMING UP. I'VE REALLY GOT TO PLAY TENNIS."

14 Q. AND WHAT DID YOUR BROTHER SAY?

15 A. HE SAID THAT HE REALIZES IT WAS THE NEXT  
16 MORNING AND I PROBABLY DIDN'T WANT TO THINK ABOUT  
17 THINGS, BUT THE SITUATION WAS STILL REAL, AND IT WAS  
18 STILL REALITY, AND THERE WAS STILL DANGER, AND I AGREED  
19 AND WE LEFT.

20 Q. NOW, WHILE YOU WERE PLAYING ON THE TENNIS  
21 COURT, WERE YOU LOOKING AROUND FOR YOUR FATHER AT ALL?

22 A. NO.

23 Q. DID IT OCCUR TO YOU THAT YOUR FATHER MIGHT  
24 COME AND ATTACK YOU WHILE YOU WERE ON THE TENNIS COURT?

25 A. NO.

26 Q. WHEN LYLE CAME OUT OF THE GUESTHOUSE, WAS  
27 HE ARMED IN ANY WAY?

28 A. NO.

-20878

1 Q. AND YOU WERE NOT ARMED IN ANY WAY?

2 A. NO.

3 Q. AND SO DID YOU GO STRAIGHT FROM THE TENNIS  
4 COURT SHOPPING FOR HANDGUNS?

5 A. ESSENTIALLY.

6 Q. AND THE -- WHERE WAS THE FIRST PLACE THAT  
7 YOU WENT TO?

8 A. BIG 5 IN SANTA MONICA.

9 THE COURT: ALL RIGHT. LET'S TAKE OUR RECESS AT  
10 THIS POINT, AND WE WILL RESUME AT 10 MINUTES AFTER THE



11 HOUR. TEN AFTER 3:00.

12 (A RECESS WAS TAKEN FROM

13 2:55 P.M. TO 3:15 P.M.)

44659

1 (THE FOLLOWING PROCEEDINGS WERE

2 HELD IN OPEN COURT OUT OF THE

3 PRESENCE OF THE JURY:)

4

5 THE COURT: OKAY. LET'S HAVE THE JURY OUT.

6 MR. CONN: BEFORE THE JURY COMES OUT, YOUR

7 HONOR, WE DID -- I SPOKE TO DETECTIVE ZOELLER DURING

8 THE LUNCH BREAK ABOUT RUNNING ANOTHER D.M.V., AND

9 APPARENTLY HE TRIED A COUPLE DAYS AGO. THE

10 INFORMATION THAT IS ON -- WAS ON THE COMPUTER BACK IN

11 1990 IS NO LONGER ON THE COMPUTER. BUT HE WAS THE

12 ONE WHO RAN THIS PRINTOUT IN 1990, ON MARCH 11TH OF

13 1990, AND BOTH -- BOTH PAGES ARE -- BEAR THAT DATE.

14 SO I DO HAVE SOME FOLLOWUP QUESTIONS

15 THAT I HAVE. I WON'T BE REFERRING SPECIFICALLY TO

16 THIS PARTICULAR DOCUMENT, BUT I'LL HAVE SOME

17 ADDITIONAL QUESTIONS OF THE WITNESS CONCERNING HIS

18 DRIVER'S LICENSE AND THE DATE OF AUGUST THE 25TH OF

19 1989, WHICH APPEARS IN THE DOCUMENT.

20 THE COURT: AND THERE'S NO D.M.V. HISTORY

21 ANYMORE?

22 MR. CONN: RIGHT. IT'S MY UNDERSTANDING THAT

23 THERE IS NONE.

24 THE COURT: IS THAT --

25 DETECTIVE ZOELLER: THAT'S CORRECT. IT'S NOT  
26 IN THE COMPUTER. THEY PURGE IT AFTER SO MANY YEARS.

27 THE COURT: THERE'S NO ENTRIES AT ALL UNDER  
28 THAT DRIVER'S LICENSE NUMBER?

44660

1 DETECTIVE ZOELLER: THERE'S AN ENTRY, BUT  
2 THAT INFORMATION IS NOT WITH IT.

3 THE COURT: ARE THERE ANY ENTRIES AT ALL,  
4 ANYTHING AT ALL IN THERE OTHER THAN --

5 DETECTIVE ZOELLER: NOT THAT I RECALL, YOUR  
6 HONOR.

7 THE COURT: OKAY. WITHOUT REFERENCE, THEN,  
8 TO THE DOCUMENT, I'LL HAVE TO HEAR THE QUESTIONS.

9 MR. LEVIN: YOUR HONOR, WE WOULD OBJECT  
10 UNLESS THERE'S SOME OFFER OF PROOF WITH RESPECT TO  
11 WHAT IT IS MR. CONN IS ATTEMPTING TO ELICIT FROM THE  
12 WITNESS. THERE'S NO GOOD-FAITH FOUNDATION THAT HE  
13 CAN LAY THAT HE HAS ANY REASONABLE BASIS HE CAN  
14 PROVE THAT WHICH HE INTENDS TO SHOW.

15 THE COURT: AS FAR AS GOOD FAITH, THIS IS A  
16 DOCUMENT THAT, AS I OBSERVED DURING THE EARLIER  
17 DISCUSSION OUTSIDE THE PRESENCE OF THE JURY, WAS ONE  
18 OFFERED BY THE DEFENSE IN THE FIRST TRIAL; AND IT

19 APPEARS TO BE THAT BOTH PAGES WERE OFFERED, AND THE  
20 DEFENSE APPARENTLY BELIEVED IT WAS AN ACCURATE  
21 DOCUMENT AND OFFERED IT TO THE JURY IN GOOD FAITH IN  
22 THE FIRST TRIAL.

23         AGAIN, THE DOCUMENT ITSELF CANNOT BE  
24 RECEIVED. WE'RE NOT TALKING ABOUT THE COURT TAKING  
25 JUDICIAL NOTICE OF ANYTHING. AS FAR AS WHAT IT IS  
26 THAT MR. CONN WOULD ASK THE WITNESS, I'D HAVE TO  
27 HEAR THE QUESTIONS AS THEY'RE ASKED.

28         MR. LEVIN: YOUR HONOR, THIS IS THE VERY SAME

44661

1 DOCUMENT THAT THE DEFENSE ATTEMPTED TO USE DURING  
2 ITS DIRECT OF THE WITNESS AND THE COURT SAID THAT AN  
3 IMPROPER FOUNDATION -- OR NO FOUNDATION HAD BEEN LAID  
4 TO REFER TO IT WITH RESPECT TO WHAT THE DOCUMENT  
5 MEANT.

6         I NOTE -- I DON'T KNOW WHAT WAS ADMITTED  
7 DURING THE FIRST TRIAL, BUT I DO NOTE THAT THE  
8 SECOND PAGE THAT MR. CONN'S REFERRING TO DOES NOT  
9 BEAR THE NAME OF ERIK MENENDEZ. IT IS A PAGE OF  
10 SOMETHING THAT WE HAVE NO WAY TO VERIFY HAS ANY  
11 REFERENCE AT ALL TO THIS WITNESS. THERE IS NOTHING  
12 ON THIS DOCUMENT THAT INDICATES THAT HE WAS ACTUALLY  
13 CITED FOR ANY VEHICLE CODE VIOLATION. ALL IT SHOWS

14 IS FAILURE TO APPEAR, COLON, AND THEN THE "8" OF  
15 8-25-89 AND 40508, WHICH IS NOT A VEHICLE CODE  
16 SECTION THAT ONE IS CITED FOR.

17 THE COURT: IT THEN HAS A 22350 AFTER THAT,  
18 DOES IT NOT?

19 MR. LEVIN: WELL, TO WHOEVER IT APPLIES TO.

20 THE COURT: AND IT ALSO HAS --

21 MR. LEVIN: WHATEVER THE SIGNIFICANCE IS --

22 THE COURT: IT ALSO HAS A VEHICLE LICENSE  
23 NUMBER, WHICH IS IDENTICAL TO THAT WHICH WAS THE  
24 SUBJECT OF EARLIER CITATIONS.

25 MR. LEVIN: THIS DOCUMENT DOES NOT IN ANY WAY  
26 SUPPORT THE INFERENCE THAT ERIK MENENDEZ WAS CITED  
27 FOR SPEEDING ON AUGUST THE 25TH, 1989; NOR CAN THE  
28 PROSECUTION PROVE IT.

44662

1 THE COURT: NO ONE SAID THAT THEY CAN FROM  
2 THAT DOCUMENT.

3 AS I SAID, JUST TO REPEAT, I HAVE TO  
4 WAIT UNTIL I HEAR THE QUESTIONS BEFORE THE COURT CAN  
5 ENTERTAIN YOUR OBJECTIONS. YOU SAID HE WASN'T GOING  
6 TO USE THAT DOCUMENT. HE'S JUST GOING TO QUESTION  
7 THE WITNESS.

8 MR. LEVIN: ANY FURTHER QUESTIONING WITH

9 RESPECT TO THAT DOCUMENT OR HIS D.M.V. RECORD, WE  
10 OBJECT TO UNDER 352 AND THE GROUNDS PREVIOUSLY  
11 STATED. HE'S FULLY EXPLORED IT AND --

12 THE COURT: COUNSEL, ALL I CAN SAY, FOR THE  
13 THIRD TIME, IS UNTIL I HEAR THE QUESTION, I CAN'T  
14 RULE ON YOUR OBJECTION. THERE'S NO WAY I CAN DO  
15 THAT IN ADVANCE.

16 MR. LEVIN: WE'RE ASKING FOR THE PROSECUTION  
17 TO MAKE AN OFFER OF PROOF AT THIS TIME.

18 THE COURT: THEY DON'T HAVE TO DO THAT. THIS  
19 IS NOT SUCH A SENSITIVE OR PREJUDICIAL AREA. IT'S  
20 NOT PREJUDICIAL AT ALL. IT'S THE NATURE OF  
21 CROSS-EXAMINATION. SO I'LL PERMIT THE QUESTIONS.  
22 UNTIL I HEAR A QUESTION, I'M NOT GOING TO RULE.

23 MR. LEVIN: SO THAT I MAY BE ABLE TO OBJECT  
24 AND INTERPRET THE QUESTION MORE APPROPRIATELY, WE  
25 ARE ASKING THAT DETECTIVE ZOELLER PRODUCE THE  
26 ORIGINAL OF THAT DOCUMENT. THAT'S A XEROX COPY AND  
27 WE HAVE YET TO SEE THE ACTUAL ORIGINAL DOCUMENT.

28 THE COURT: ALL RIGHT. WELL, I'VE NEVER BEEN

44663

1 INFORMED THAT YOU ASKED BEFORE NOW TO GET THE  
2 ORIGINAL.

3 DO YOU HAVE THE ORIGINAL?

4 DETECTIVE ZOELLER: THE ORIGINAL IS NO MORE  
5 THAN A PRINTOUT OF THAT. IT DOESN'T SHOW ANY MORE  
6 THAN THAT. IT DOESN'T SAY CERTIFIED COPY OR  
7 ANYTHING ELSE.

8 THE COURT: AND THIS WAS -- BOTH THESE PAGES  
9 RELATE TO THE SAME PRINTOUT; IS THAT CORRECT?

10 DETECTIVE ZOELLER: YES, YOUR HONOR.

11 THE COURT: ALL RIGHT. LET'S PROCEED WITH  
12 THE JURY. LET'S HAVE THE JURY OUT, PLEASE.

13 THE WITNESS: MY GRANDMOTHER.

14 (THE JURY ENTERED THE  
15 COURTROOM AND THE FOLLOWING  
16 PROCEEDINGS WERE HELD:)

17

18 THE COURT: THE JURY IS BACK.

19 YOU MAY CONTINUE YOUR  
20 CROSS-EXAMINATION.

21 MR. CONN: THANK YOU.

22 Q MR. MENENDEZ, WHEN YOU AND YOUR BROTHER  
23 WENT SHOPPING FOR HANDGUNS THAT FRIDAY, YOU WENT TO  
24 THE SANTA MONICA BIG-5 STORE, THAT IS RIGHT ACROSS  
25 FROM THE 405; IS THAT CORRECT?

26 A RIGHT. I REMEMBER THE STORE BEING A  
27 BLOCK AWAY FROM THE 405. .

28 Q AND YOU WENT INTO THAT STORE FOR THE

1 PURPOSE OF PURCHASING HANDGUNS; IS THAT CORRECT?

2 A YES.

3 Q AND HOW MANY HANDGUNS DID YOU INTEND TO  
4 PURCHASE?

5 A I BELIEVE TWO.

6 Q WHAT TYPE OF HANDGUNS WERE YOU LOOKING  
7 FOR?

8 A I HAD NEVER HELD A HANDGUN BEFORE IN  
9 TERMS OF IN A STORE LOOKING TO BUY ONE, SO I HAD NO  
10 IDEA.

11 Q AND SO YOU ASKED QUESTIONS WHILE YOU  
12 WERE AT THE STORE; IS THAT CORRECT?

13 A YES.

14 Q AND ONE OF THE QUESTIONS THAT YOU ASKED  
15 THE MAN BEHIND THE COUNTER WAS WHICH GUNS WERE REAL  
16 AND WHICH GUNS WERE BB GUNS; IS THAT CORRECT?

17 A I BELIEVE SO.

18 Q AND THEN YOU REMEMBER THE MAN BEHIND THE  
19 COUNTER POINTING OUT TO YOU WHICH GUNS WERE REAL AND  
20 WHICH GUNS WERE NOT; IS THAT CORRECT?

21 A I REMEMBER HIM SPECIFICALLY POINTING OUT  
22 A GUN AND SAYING THAT THAT IS A BB GUN.

23 Q I'M SORRY?

24 A I REMEMBER HIM SPECIFICALLY POINTING OUT  
25 A GUN AND SAYING THAT THAT IS A BB GUN. THERE WERE  
26 GUNS IN THE GLASS CASE AND I ASKED HIM ABOUT A

27 PARTICULAR GUN.

28 Q BUT YOU ALSO REMEMBER HIM TELLING YOU

44665

1 WHICH ONES WERE REAL AND WHICH ONES WERE NOT; IS  
2 THAT TRUE?

3 A THAT IS MY RECOLLECTION.

4 Q OKAY. AND THEN YOU WERE INTERESTED IN A  
5 GUN WHICH WAS REAL; IS THAT CORRECT?

6 A YES.

7 Q AND SO YOU ASKED THE MAN WHETHER YOU  
8 COULD GET THAT GUN NOW; IS THAT CORRECT?

9 A I DON'T REMEMBER THAT SPECIFICALLY. I  
10 REMEMBER THE CONVERSATION THAT I HAD WITH THE MAN  
11 ABOUT GETTING HANDGUNS IN A TWO-WEEK PERIOD.

12 Q WELL, YOU REMEMBER TALKING TO HIM ABOUT  
13 A SPECIFIC GUN THAT YOU WERE INTERESTED IN; IS THAT  
14 CORRECT?

15 A RIGHT. I POINTED OUT A GUN AND HE TOLD  
16 ME THAT THAT GUN WAS NOT REAL, AND MY MEMORY IS THAT  
17 HE SAID THAT THAT WAS A BB GUN.

18 Q BUT YOU ALSO REMEMBER DISCUSSING WITH  
19 HIM A PARTICULAR GUN THAT WAS REAL AND YOU WANTED TO  
20 GET RIGHT AWAY; IS THAT TRUE?

21 A I REMEMBER DISCUSSING WITH HIM THAT I



22 WANTED TO GET GUNS THAT DAY. I'M NOT SURE ABOUT THE  
23 FIRST PART.

24 Q BUT DO YOU RECALL THAT YOU POINTED TO A  
25 PARTICULAR GUN, ASKED IF YOU COULD GET IT NOW, AND  
26 THAT IS WHEN HE TOLD YOU THAT THERE WAS A WAITING  
27 PERIOD FOR THE GUN THAT YOU WERE INTERESTED IN?

28 A RIGHT. I BELIEVE THAT'S -- IT'S MY

44666

1 RECOLLECTION OF WHAT HAPPENED.

2 Q AND SO YOU LEARNED THAT THERE WAS A  
3 15-DAY WAITING PERIOD FOR THE GUN THAT YOU WANTED,  
4 WAS THAT CORRECT?

5 A NO. I LEARNED IN GENERAL THAT THERE WAS  
6 A 15-DAY WAITING PERIOD TO BUY REAL HANDGUNS.

7 Q BUT YOU ARE CERTAIN THAT THERE WERE  
8 HAND -- REAL HANDGUNS THAT WERE POINTED OUT TO YOU BY  
9 THE MAN IN THE STORE; IS THAT CORRECT?

10 A I BELIEVE THAT THAT IS WHAT HE SAID.  
11 THAT'S MY MEMORY OF WHAT HE SAID.

12 Q OKAY. AND IT WAS IN REFERENCE TO A GUN  
13 THAT YOU WERE INTERESTED IN THAT HE SAID THAT THERE  
14 WAS A WAITING PERIOD; IS THAT CORRECT?

15 A I DON'T REMEMBER IF THAT'S -- IF THAT'S  
16 WHEN HE SAID IT. I REMEMBER SAYING -- ASKING IF THE

17 GUN WAS REAL. I REMEMBER HIM SAYING THAT THAT GUN  
18 WAS NOT REAL. I REMEMBER ME ASKING HIM -- TELLING  
19 HIM THAT I NEEDED TO BUY A GUN TODAY, A REAL  
20 HANDGUN. I REMEMBER THAT THERE WAS A CONVERSATION  
21 ABOUT THE FACT THAT I HAD TO WAIT TWO WEEKS OR SO TO  
22 BUY ONE.

23 Q DO YOU REMEMBER TESTIFYING PREVIOUSLY ON  
24 PAGE 16,488 --

25 MS. ABRAMSON: VOLUME?

26 MR. CONN: I DON'T HAVE THE VOLUME.

27 (PAUSE IN PROCEEDINGS.)

28

44667

1 MS. ABRAMSON: WHAT WAS THE PAGE NUMBER,  
2 MR. CONN?

3 MR. CONN: 16,488.

4 MR. LEVIN: LAST THREE NUMBERS, MR. CONN?

5 MR. CONN: 488.

6 MS. ABRAMSON: LINE CITE, COUNSEL?

7 MR. CONN: SEVEN THROUGH FIFTEEN.

8 MR. LEVIN: OBJECTION, YOUR HONOR. IT'S NOT  
9 IMPEACHING.

10 THE COURT: GUESS WHAT I'M GOING TO ASK YOU  
11 TO DO.

12 (PAUSE IN PROCEEDINGS.)

13

14 THE COURT: WHAT LINES ARE YOU REFERRING TO?

15 MR. CONN: SEVEN THROUGH FIFTEEN.

16 THE COURT: SUSTAINED. IT'S NOT IMPEACHING

17 AT THIS POINT.

18 Q BY MR. CONN: WAS IT IN REFERENCE TO A --

19 DO YOU RECALL, WAS IT IN REFERENCE TO A PARTICULAR

20 HANDGUN THAT THE MAN AT THE STORE SAID THAT THERE

21 WAS SOME SORT OF A WAITING PERIOD?

22 A I DON'T RECALL IT BEING IN REFERENCE TO

23 A PARTICULAR HANDGUN. I REMEMBER -- MY RECOLLECTION

24 IS THAT I POINTED TO A GUN. HE SAID THAT THAT GUN

25 WAS NOT A REAL HANDGUN. IT JUST LOOKED LIKE ONE.

26 AND MY RECOLLECTION IS THAT HE SAID THAT THERE WERE

27 REAL HANDGUNS THERE AND THAT THEY WERE REPLICA

28 LOOKING HANDGUNS THERE. THAT'S MY MEMORY. AND THEN

44668

1 WE BEGAN TO TALK ABOUT THERE BEING A TWO-WEEK

2 WAITING PERIOD TO BUY A GUN.

3 Q DO YOU RECALL THAT YOU WERE TALKING TO

4 THE MAN AT THE STORE ABOUT A PARTICULAR GUN THAT YOU

5 WANTED TO GET NOW?

6 A I TOLD HIM THAT I WANTED TO GET A GUN

7 NOW.

8 Q DO YOU RECALL SAYING TO THE MAN AT THE  
9 STORE THAT THIS ONE LOOKS GOOD AND YOU TALKED ABOUT  
10 GETTING THAT ONE NOW?

11 A I'M NOT SURE IF YOU'RE -- MAYBE. YES.

12 I --

13 Q YOU DO RECALL THAT?

14 A I DON'T RECALL IT ENOUGH TO SAY YES OR  
15 NO.

16 Q YOU DON'T RECALL SAYING THIS ONE LOOKS  
17 GOOD AND THEN TALKING ABOUT COULD WE GET IT NOW?

18 A I DON'T RECALL THE SPECIFIC WORDS, THIS  
19 ONE LOOKS GOOD, BUT THAT IS GENERALLY WHAT I  
20 REMEMBER HAPPENING.

21 Q AND WHEN YOU SAY THAT IS GENERALLY WHAT  
22 YOU REMEMBER HAPPENING, YOU ARE SAYING THAT YOU  
23 RECALL SAYING THAT A PARTICULAR GUN LOOKED GOOD AND  
24 THAT YOU WANTED TO GET IT NOW; IS THAT CORRECT?

25 A RIGHT. I DON'T RECALL WHETHER, AT THAT  
26 POINT, HE SAID THAT IT WAS A BB GUN OR NOT, OR WHAT  
27 HE SAID, BUT I KNOW THAT I GOT INTO A CONVERSATION  
28 WITH HIM ABOUT IT.

44669

1 Q ARE YOU SAYING THAT YOU WERE INTERESTED

2 IN BUYING A BB GUN TO SHOOT YOUR PARENTS?

3 A NO. AND WHEN I FIRST WALKED UP TO THE  
4 COUNTER, I THOUGHT THAT ALL OF THE GUNS WERE REAL, I  
5 BELIEVED, AT LEAST THEY LOOKED REAL TO ME.

6 Q AND YOU BEGAN TO HAVE A CONVERSATION  
7 WITH THE MAN IN WHICH HE POINTED OUT WHICH ONES WERE  
8 AND WHICH ONES WERE NOT REAL; IS THAT CORRECT?

9 A IT WASN'T A CONVERSATION, BUT MY MEMORY  
10 IS THAT THAT'S WHAT I LEARNED FROM WHAT HE WAS  
11 TELLING ME.

12 Q HE POINTED OUT WHICH ONES WERE REAL AND  
13 WHICH ONES WERE NOT; IS THAT CORRECT?

14 A THAT'S WHAT I REMEMBER.

15 Q AND THEN DO YOU RECALL THAT YOU SAID,  
16 THIS ONE LOOKS GOOD, AND YOU ASKED ABOUT GETTING  
17 THAT ONE RIGHT NOW AND THEN HE TOLD YOU THAT THERE  
18 WAS A WAITING PERIOD FOR THAT GUN?

19 A I LOST YOU.

20 Q DO YOU RECALL THAT YOU SAID THIS ONE  
21 LOOKS GOOD AND YOU TALKED ABOUT GETTING THAT ONE  
22 NOW, AND THEN HE TOLD YOU THAT THERE WAS A WAITING  
23 PERIOD FOR THAT GUN?

24 A I DON'T REMEMBER HIM SAYING THERE WAS A  
25 WAITING PERIOD SPECIFICALLY FOR THAT GUN. I  
26 REMEMBER -- I KNOW THAT I HAD A CONVERSATION WITH HIM  
27 ABOUT WAITING PERIODS. IF I COULD SEE WHAT YOU'RE  
28 REFERRING TO, MAYBE IT WOULD REFRESH MY MEMORY.

1 Q DO YOU RECALL THAT IT -- DO YOU RECALL  
2 THAT IT WAS WHEN YOU ASKED, COULD WE GET IT NOW,  
3 THAT IT WAS AT THAT POINT IN TIME THAT HE SAID THERE  
4 WAS A WAITING PERIOD?

5 A YOU'RE RIGHT. SOMETHING ALONG THOSE  
6 LINES.

7 Q AND DID YOU KNOW AT THE TIME, OR DO YOU  
8 KNOW NOW, THAT BIG-5 STOPPED CARRYING HANDGUNS IN  
9 MARCH OF 1986, THREE YEARS BEFORE YOU WENT TO THAT  
10 STORE?

11 A RIGHT. I LEARNED THAT.

12 Q OKAY. AND ISN'T IT TRUE, MR. MENENDEZ,  
13 THAT THIS INCIDENT NEVER HAPPENED BECAUSE THEY  
14 DIDN'T HAVE REAL HANDGUNS IN THE BIG-5 WHEN YOU -- AT  
15 THAT PERIOD OF TIME?

16 A THE INCIDENT HAPPENED. THE GUNS LOOKED  
17 REAL. I THOUGHT THEY WERE REAL. MY MEMORY IS THAT  
18 HE SAID THAT THEY WERE REAL. WHETHER I JUST ASSUMED  
19 THAT OR -- OR ACTUALLY HE SAID IT TO ME, I SUPPOSE HE  
20 DIDN'T. BUT I KNOW THAT I HAD A CONVERSATION WITH  
21 HIM ABOUT THE FACT THAT YOU NEEDED TWO WEEKS TO GET  
22 A REAL HANDGUN, AT LEAST THAT'S WHAT WAS IN MY MIND  
23 WHEN I LEFT THE STORE.

24 Q WELL, YOU'RE NOT SAYING THAT YOU JUST  
25 ASSUMED THAT THEY WERE REAL WITHOUT THE MAN ACTUALLY

26 SAYING THAT THEY WERE REAL, ARE YOU?

27 A NO. I -- MY MEMORY IS, ALTHOUGH I DON'T

28 REMEMBER HIS WORDS, THAT HE WAS INDICATING TO ME

44671

1 THAT SOME OF THEM WERE REAL; AND THAT'S WHAT I HAD

2 THOUGHT BEFORE I SPOKE WITH HIM.

3 Q AND IT WAS IN REFERENCE TO A PARTICULAR

4 GUN THAT YOU BELIEVED TO BE REAL HE TOLD YOU THAT

5 THERE WAS A WAITING PERIOD; IS THAT CORRECT?

6 A I DON'T SPECIFICALLY REMEMBER REFERRING

7 TO A SPECIFIC GUN AND HIM SAYING THAT THAT ONE IS

8 REAL. I KNOW THAT I POINTED OUT A GUN. HE SAID

9 THAT THAT WAS A BB GUN. AND THAT'S WHEN WE GOT INTO

10 THE CONVERSATION.

11 Q THAT'S WHEN YOU GOT INTO WHAT

12 CONVERSATION?

13 A IN GENERAL ABOUT TWO WEEKS TO BUY A

14 HANDGUN BECAUSE THEY HAVE TO REGISTER YOU OR

15 SOMETHING ALONG THOSE LINES.

16 Q YOU'RE SAYING THAT THE CONVERSATION

17 ABOUT A WAITING PERIOD FOLLOWED THE REFERENCE TO A

18 BB GUN?

19 A WELL, I KNOW THAT IT DEFINITELY FOLLOWED

20 A REFERENCE TO A BB GUN. WHAT THE WORDS WERE, I

21 DON'T REMEMBER.

22 Q WELL, WHEN YOU -- WHEN YOU SAID TO THE  
23 MAN AT THE STORE, THIS ONE LOOKS GOOD, DID HE  
24 IDENTIFY THAT GUN AS BEING A BB GUN?

25 A THAT'S WHAT I DO NOT REMEMBER.

26 Q WHEN YOU TESTIFIED AT THE FIRST TRIAL,  
27 DID YOU SAY THAT YOU BELIEVED THAT WHEN THE MAN --  
28 WHEN YOU POINTED OUT A PARTICULAR GUN THAT YOU WERE

44672

1 INTERESTED IN, THE MAN TOLD YOU THAT THAT WAS A BB  
2 GUN?

3 A WELL, HE CERTAINLY -- I CERTAINLY  
4 POINTED OUT ONE AND HE TOLD ME IT WAS A BB GUN. AND  
5 I REMEMBER -- I REMEMBER THAT. THE LATTER, I DON'T  
6 REMEMBER SPECIFICALLY.

7 Q BUT DO YOU RECALL THAT IT WAS AFTER YOU  
8 ASKED THE QUESTIONS COULD WE GET IT NOW --

9 A RIGHT.

10 Q -- THAT THE MAN TOLD THAT YOU THERE WAS A  
11 WAITING PERIOD?

12 A RIGHT.

13 Q BUT IT'S YOUR TESTIMONY TODAY, EVEN WITH  
14 YOUR KNOWLEDGE TODAY THAT THE BIG-5 STORE IN  
15 SANTA MONICA WAS NOT CARRYING HANDGUNS FOR THREE



16 YEARS PRIOR TO 1989, THAT A MAN AT THAT STORE TOLD  
17 YOU THAT THERE WERE REAL HANDGUNS IN THE STORE.

18 A RIGHT. EVEN -- EVEN THOUGH I KNOW THAT,  
19 I -- MY MEMORY WAS THAT -- THAT HE TOLD ME THE GUNS  
20 WERE REAL. THEY LOOK REAL. I THOUGHT THEY WERE  
21 REAL. AND I HAD ASSUMED THEY WERE REAL BEFORE I  
22 EVER TALKED TO HIM. AND MY MEMORY WAS THAT HE  
23 REINFORCED THAT BELIEF. THAT'S WHAT I RECALL STILL  
24 TODAY.

25 Q NOW, YOU DIDN'T PURCHASE A HANDGUN FROM  
26 THAT STORE, FROM THAT BIG-5 STORE; IS THAT CORRECT?

27 A RIGHT.

28 Q AND THE REASON WHY YOU DIDN'T WAS WHY?

44673

1 A I REMEMBER KNOWING, WHEN I LEFT THE  
2 STORE, THAT WE NEEDED TO REGISTER AND THAT IT WOULD  
3 BE A TWO-WEEK WAIT AT THE MINIMUM TO GET A HANDGUN.

4 Q AND WHY DIDN'T YOU WANT TO WAIT THE TWO  
5 WEEKS?

6 A I DIDN'T HAVE TIME TO WAIT TWO WEEKS. I  
7 NEEDED IT IMMEDIATELY.

8 Q WHAT MADE YOU BELIEVE THAT YOUR FATHER  
9 WAS NECESSARILY GOING TO KILL YOU WITHIN TWO WEEKS?

10 A I JUST ASSUMED THAT MY FATHER WAS GOING

11 TO DO SOMETHING SOON. I COULDN'T IMAGINE HIM  
12 WAITING TWO WEEKS. I MEAN, WITHIN TWO WEEKS I WOULD  
13 HAVE CLEARLY HAVE HAD EITHER A CONVERSATION WITH HIM  
14 OR KNOWLEDGE OF WHAT WAS HAPPENING.

15 Q MR. MENENDEZ, WERE YOU MAKING A LOT OF  
16 ASSUMPTIONS ABOUT THE TIME PERIOD IN WHICH THIS  
17 ATTACK UPON YOU WOULD OCCUR?

18 A I DON'T KNOW THAT I WAS MAKING A LOT OF  
19 ASSUMPTIONS.

20 Q WELL, YOU ASSUMED THURSDAY NIGHT THAT IT  
21 WOULDN'T HAPPEN THURSDAY NIGHT; IS THAT CORRECT?

22 A NO. I THOUGHT MORE THAN PROBABLY IT  
23 WOULD. LYLE THOUGHT THAT DAD WOULD WAIT, THINK  
24 ABOUT WHAT WAS HAPPENING, AND THEN DO SOMETHING.

25 Q SO YOU THOUGHT IT WAS GOING TO OCCUR  
26 THURSDAY NIGHT; IS THAT CORRECT?

27 A THAT'S WHAT I WAS WORRIED ABOUT.

28 Q BUT STILL YOU WOULDN'T LEAVE; IS THAT

44674

1 CORRECT?

2 MR. LEVIN: OBJECTION. ASKED AND ANSWERED.

3 THE COURT: SUSTAINED.

4 Q BY MR. CONN: AND NOW YOU WERE ASSUMING  
5 THAT EVEN THOUGH IT DIDN'T OCCUR THURSDAY NIGHT, IT

6 WAS GOING TO OCCUR WITHIN TWO WEEKS; IS THAT

7 CORRECT?

8 A AS SOON AS I FOUND OUT THAT YOU NEEDED

9 TWO WEEKS, I THOUGHT IT WAS -- OBVIOUSLY, WE CAN'T

10 GET HANDGUNS. THERE'S NO POINT.

11 Q AND WHY DID YOU CONCLUDE THAT IT WOULD

12 OCCUR WITHIN TWO WEEKS?

13 A I DON'T KNOW. IT'S JUST SOMETHING I

14 BELIEVED.

15 Q WAS THIS JUST AN ARBITRARY CUT OFF DATE

16 IN YOUR MIND?

17 A TWO WEEKS NEVER ENTERED MY MIND BEFORE

18 THE MAN TOLD ME THAT YOU NEEDED TWO WEEKS. I DIDN'T

19 HAVE AN ARBITRARY CUT OFF DATE.

20 Q WELL, ONCE THE MAN TOLD YOU THAT YOU'D

21 HAVE TO WAIT TWO WEEKS, WHY DIDN'T YOU SAY TO YOUR

22 BROTHER LYLE, LET'S GET THE HANDGUNS JUST IN CASE

23 OUR DAD DOESN'T KILL US WITHIN TWO WEEKS, AT LEAST

24 THEN WE'LL BE ARMED TO PROTECT OURSELVES?

25 A I GUESS WHAT I'M TRYING TO SAY IS THAT I

26 THOUGHT SOMETHING WOULD HAPPEN SOON. I DIDN'T

27 IMAGINE THAT IT WOULD GO TWO WEEKS, A MONTH, A YEAR,

28 STILL WONDERING IF DAD'S GOING TO DO SOMETHING.

1 EITHER IT WAS GOING TO HAPPEN OR IT WASN'T.

2 Q SO DID YOU THINK IT WOULD HAPPEN WITHIN  
3 ONE WEEK?

4 A I DON'T REMEMBER THINKING THAT IN  
5 PARTICULAR, BUT LOOKING BACK, I BELIEVE THAT THAT'S  
6 WHAT I THOUGHT.

7 Q YOU BELIEVE THAT WHAT WAS WHAT YOU  
8 THOUGHT?

9 A IT WAS CERTAINLY -- IT WOULD COME TO A  
10 CONCLUSION WITHIN ONE WEEK. I THOUGHT IT WOULD  
11 IMMEDIATELY.

12 Q DID YOU -- WHAT DO YOU MEAN BY  
13 IMMEDIATELY?

14 A I THOUGHT THAT SOMETHING MIGHT WELL  
15 HAPPEN ON THURSDAY NIGHT.

16 Q UH-HUH. AND SO DID YOU THINK THAT  
17 SOMETHING WAS GOING TO HAPPEN FRIDAY NIGHT?

18 A I DIDN'T KNOW.

19 Q WELL, IF YOU THOUGHT IT WAS GOING TO  
20 HAPPEN THURSDAY NIGHT, WHY DIDN'T YOU THINK IT WOULD  
21 HAPPEN ON FRIDAY NIGHT?

22 A WHAT I'M SAYING IS I DIDN'T KNOW. I  
23 DIDN'T WANT TO SLEEP IN MY BEDROOM ON FRIDAY NIGHT.  
24 WHEN MY MOTHER SAID THE FISHING BOAT'S BEING  
25 CHANGED, I THOUGHT MAYBE IT'S GOING TO HAPPEN ON THE  
26 FISHING BOAT. I WAS JUST GOING FROM DAY TO DAY.

27 Q I'M ASKING YOU ABOUT AS YOU WERE AT THE  
28 STORE ON FRIDAY, AT THE BIG-5 STORE, LOOKING AT

1 THESE HANDGUNS, DID YOU THINK THAT IT WOULD HAPPEN  
2 FRIDAY NIGHT?

3 A I DIDN'T KNOW.

4 Q BUT YOU DID FEEL THAT IT WOULD HAPPEN  
5 WITHIN A WEEK?

6 A I DIDN'T KNOW THAT ANYTHING WOULD  
7 HAPPEN. I KNEW THAT THERE WOULD BE A CONCLUSION,  
8 THAT SOMETHING WAS GOING TO HAPPEN. I THOUGHT IT  
9 WOULD BE A VERY TEMPORARY THING.

10 Q BUT YOU DIDN'T KNOW WHEN THE CONCLUSION  
11 WAS GOING TO COME, DID YOU?

12 A NO, I DIDN'T.

13 Q AND THERE WAS NO MORE REASON TO BELIEVE  
14 THAT IT WOULD HAPPEN WITHIN TWO DAYS THAN TO BELIEVE  
15 IT WOULD HAPPEN WITHIN TWO WEEKS, WAS THERE?

16 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

17 THE COURT: OVERRULED.

18 THE WITNESS: AT THE TIME I THOUGHT SO.

19 Q BY MR. CONN: THAT THERE WAS MORE REASON  
20 TO BELIEVE IT WOULD HAPPEN WITHIN TWO DAYS THAN TWO  
21 WEEKS?

22 A YES.

23 Q AND SO DID YOU FEEL THAT IT MIGHT HAPPEN

24 FRIDAY NIGHT?

25 A I WASN'T SURE. I DIDN'T KNOW.

26 Q YOU FELT THAT WAS A POSSIBILITY?

27 A YES, I DID.

28 Q AND SINCE IT WAS A POSSIBILITY, AND YOU

44677

1 WERE UNABLE TO PURCHASE A HANDGUN AT THE BIG-5  
2 STORE, DID YOU TELL YOUR BROTHER, WE BETTER GET OUT  
3 OF TOWN TO PROTECT OURSELVES?

4 A IN TERMS OF RUN AWAY?

5 Q YOU WERE 18 YEARS OLD; IS THAT CORRECT?

6 A YES.

7 Q DID YOU BELIEVE THAT LEAVING YOUR  
8 PARENTS AT THE AGE OF 18 IS RUNNING AWAY?

9 A YES.

10 Q WHY IS THAT?

11 A BECAUSE LEAVING MY FATHER WITHOUT MY  
12 FATHER'S CONSENT IS RUNNING AWAY.

13 Q DID YOU BELIEVE THAT LEAVING YOUR FATHER  
14 AT THE AGE OF 21 WOULD BE RUNNING AWAY?

15 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR  
16 SPECULATION.

17 THE COURT: ARE YOU ASKING THIS WITNESS TO  
18 TALK ABOUT HIMSELF AT AGE 21 OR SOMEONE ELSE?

19 MR. CONN: YES, HIMSELF AT AGE 21, YOUR

20 HONOR.

21 THE COURT: SUSTAINED.

22 Q BY MR. CONN: DID YOU BELIEVE THAT IF

23 LYLE MENENDEZ WERE TO LEAVE YOUR HOME AT AGE 21 THAT

24 WOULD BE RUNNING AWAY?

25 MR. LEVIN: OBJECTION. CALLS FOR

26 SPECULATION.

27 THE COURT: OVERRULED.

28 THE WITNESS: YES. IF LYLE STOPPED CALLING

44678

1 HOME OR IF HE LEFT AND DIDN'T LEAVE A NOTE AS TO

2 WHERE HE WAS GOING AND MY PARENTS NEVER HEARD FROM

3 HIM AGAIN, THAT WOULD BE RUNNING AWAY BECAUSE MY DAD

4 WOULD BE ACTIVELY SEARCHING FOR HIM. WHERE HE WENT,

5 THE SECRET WENT, AND THAT WAS JUST THE BOTTOM LINE.

6 Q BY MR. CONN: SO YOU CONCLUDED IN YOUR

7 OWN MIND THAT THERE WAS NO BENEFIT TO GETTING A

8 HANDGUN IN TWO WEEKS; IS THAT CORRECT?

9 A RIGHT.

10 Q AND YOU FELT THAT IF YOU NEEDED A GUN

11 YOU SHOULD GET ONE IMMEDIATELY; IS THAT CORRECT?

12 A YES.

13 Q NOW, YOU LEARNED WHILE YOU WERE THERE AT

14 THE BIG-5 STORE THAT YOU COULD PURCHASE RIFLES AND

15 SHOTGUNS IMMEDIATELY, DIDN'T YOU?

16 A YES.

17 Q AND YOU -- DID YOU DECIDE AT THAT POINT

18 TO PURCHASE A RIFLE OR A SHOTGUN?

19 A NO.

20 Q WHY NOT?

21 A THE RIFLES AND THE SHOTGUNS WERE ON THE

22 RACK BEHIND HIM AND THEY WERE ENORMOUS AND I -- IT

23 JUST DIDN'T OCCUR TO ME TO CARRY -- OBVIOUSLY, I

24 COULDN'T CARRY A GUN LIKE THAT OR HAVE IT -- CONCEAL

25 A GUN LIKE THAT. I LEFT THE STORE THINKING THAT

26 THERE WAS NO WAY THAT I WOULD BE ABLE TO GET A GUN.

27 Q DID YOU ASSUME THAT ONLY A CONCEALED

28 WEAPON WOULD BE OF ANY USE TO YOU?

44679

1 A PROBABLY. I DON'T REMEMBER THINKING

2 THAT. I JUST KNOW THAT I THOUGHT THAT THE RIFLES OR

3 THE SHOTGUNS WERE POINTLESS.

4 Q AND THEY WERE POINTLESS BECAUSE THEY

5 COULDN'T BE CONCEALED; IS THAT CORRECT?

6 A THEY WERE POINTLESS BECAUSE I NEEDED

7 THEM FOR PROTECTION, AND HOW -- WHERE WAS I GOING TO

8 TAKE A RIFLE OR SHOTGUN EXCEPT IN MY BEDROOM.



9 Q WELL, YOU SAID THAT YOU BELIEVED THAT  
10 YOU WOULD BE ATTACKED AT NIGHT; IS THAT CORRECT?

11 A RIGHT.

12 Q SO DID YOU BELIEVE THAT PERHAPS YOU  
13 COULD GET A RIFLE OR SHOTGUN AND CARRY IT TO YOUR  
14 BEDROOM AND THEN AT LEAST YOU WOULD HAVE PROTECTION  
15 DURING THE NIGHT FROM YOUR FATHER?

16 A EVENTUALLY I CAME TO THAT CONCLUSION.

17 Q I'M ASKING YOU IF YOU CAME TO THAT  
18 CONCLUSION WHILE YOU WERE IN THE BIG-5 STORE IN  
19 SANTA MONICA?

20 A NO, I DIDN'T.

21 Q AND WHY DID THAT IDEA SEEM RIDICULOUS TO  
22 YOU?

23 MR. LEVIN: OBJECTION. CALLS FOR  
24 SPECULATION. IT'S ARGUMENTATIVE.

25 THE COURT: OVERRULED.

26 THE WITNESS: I SAW HOW BIG THE GUNS WERE. I  
27 SAID, THESE GUNS ARE ENORMOUS, WHAT AM I GOING TO BE  
28 ABLE TO DO WITH THOSE? I MEAN, IT JUST DIDN'T SEEM

44680

1 POSSIBLE FOR ME TO CARRY THAT GUN AROUND OR EVEN BE  
2 ABLE TO PULL IT OUT IF MY DAD CRASHED THROUGH MY  
3 BEDROOM DOOR. I MEAN, IT JUST -- IT SEEMED TOO BIG.

4 Q BY MR. CONN: DIDN'T YOU HAVE TENNIS  
5 BAGS THAT WERE BIG ENOUGH TO PUT THE GUN INSIDE OF?

6 A YES.

7 Q AND YOU KNEW AS YOU WERE IN THE SANTA  
8 MONICA BIG-5 STORE THAT YOU'D BE ABLE TO CONCEAL THE  
9 WEAPON IN A TENNIS BAG; IS THAT CORRECT?

10 A I DIDN'T THINK ABOUT IT.

11 Q AND YOU KNEW THAT YOU HAD A LOCK ON THE  
12 DOOR OF YOUR BEDROOM; IS THAT CORRECT?

13 A YES.

14 Q AND YOU KNEW THAT IF YOUR FATHER WAS  
15 GOING TO CRASH THROUGH THE DOOR OF YOUR BEDROOM, YOU  
16 MIGHT HAVE A MOMENT OR TWO TO RESPOND BY PICKING UP  
17 THE SHOTGUN OR THE RIFLE SINCE YOU DID HAVE A LOCK  
18 ON THE DOOR THAT MIGHT IMPEDE HIS ENTRY, DIDN'T  
19 YOU?

20 A I REALLY DIDN'T THINK ABOUT THAT. ALL I  
21 SAW WAS THAT THE GUNS WERE HUGE AND THAT WASN'T WHAT  
22 I WENT THERE FOR. AND WE COULDN'T GET WHAT I WENT  
23 THERE FOR, SO WE LEFT. I THOUGHT THAT WE WOULDN'T  
24 BE ABLE TO GET ANY GUN AT THAT POINT.

25 Q SO YOU CONCLUDED AT THAT POINT THAT IT  
26 WAS BETTER TO HAVE NO WEAPON WHATSOEVER THAN TO HAVE  
27 A SHOTGUN OR A RIFLE CONCEALED IN YOUR BEDROOM; IS  
28 THAT CORRECT?

1       A   NO.

2       Q   WELL, THEN WHY DIDN'T YOU PURCHASE A  
3 RIFLE OR SHOTGUN?

4       A   BECAUSE WHEN HE TOLD US THAT YOU NEEDED  
5 A TWO-WEEK WAIT FOR A HANDGUN, AND HE SAID YOU CAN  
6 BUY THE GUNS BEHIND HIM, I JUST -- I DIDN'T REALIZE  
7 THAT AND I WAS A LITTLE BIT SHOCKED AND WE LEFT THE  
8 STORE SAYING, YOU KNOW, WHAT ARE WE GOING TO DO?  
9 AND IT REALLY -- IT DIDN'T SEEM -- IT DIDN'T SEEM  
10 POSSIBLE THAT I WOULD BE ABLE TO DEFEND MYSELF WITH  
11 SUCH A BIG GUN IN AN EMERGENCY.

12      Q   SO ARE YOU SAYING THAT YOU WERE IN A  
13 STATE OF SHOCK AND YOU WEREN'T THINKING CLEARLY AT  
14 THAT TIME?

15      A   NO.

16      Q   YOU WERE STILL ABLE TO THINK CLEARLY,  
17 WEREN'T YOU?

18      A   YES, I DID.

19      Q   YOU WERE JUST A LITTLE SURPRISED THAT  
20 YOU WERE NOT ABLE TO PURCHASE A HANDGUN THAT YOU HAD  
21 GONE THERE TO PURCHASE; IS THAT CORRECT?

22      A   RIGHT.

23      Q   AND ONCE YOU DEALT WITH THAT SURPRISE,  
24 DID EITHER YOU OR YOUR BROTHER TURN TO EACH OTHER  
25 AND SAY, YOU KNOW, WE DIDN'T COME TO GET RIFLES OR  
26 SHOTGUNS, BUT AFTER ALL, IT'S BETTER TO HAVE A RIFLE  
27 OR SHOTGUN THAN TO HAVE NOTHING AT ALL?

44682

1 THE COURT: SUSTAINED.

2 Q BY MR. CONN: DID EITHER YOU OR YOUR  
3 BROTHER SAY THAT IT WAS BETTER TO HAVE A SHOTGUN OR  
4 DISCUSS WHETHER IT WOULD BE BETTER TO HAVE A SHOTGUN  
5 OR A RIFLE BETTER THAN NOTHING AT ALL?

6 A AT THAT POINT, NO.

7 Q AND YOU ALSO FELT, YOU SAID, THAT IT  
8 WOULD BE IMPOSSIBLE TO DEFEND YOURSELF WITH A RIFLE  
9 OR SHOTGUN; IS THAT CORRECT?

10 A YES.

11 Q AND IT WOULD BE IMPOSSIBLE BECAUSE -- NOT  
12 BECAUSE YOU COULDN'T GET IT INTO THE HOUSE  
13 UNCONCEALED; IS THAT CORRECT?

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

15 THE COURT: OVERRULED.

16 THE WITNESS: I DIDN'T EVEN TAKE THAT NEXT  
17 STEP OF LOGIC. I JUST SAID THIS GUN IS SO BIG. IF  
18 MY DAD COMES AT ME, IT WOULD HAVE TO BE AWAY FROM  
19 ME, AND THERE WAS NO WAY I WAS GOING TO BE ABLE TO  
20 GET IT AND PULL IT OUT. IT WAS ENORMOUS. MY DAD  
21 WOULD BE ABLE TO GRAB IT. IT JUST DIDN'T SEEM -- IT  
22 DIDN'T SEEM REAL THAT I WOULD BE ABLE TO GET THIS

23 GUN AND THAT I WOULD -- IT WOULD HELP ME IN ANY WAY.

24 Q BY MR. CONN: HOW WOULD YOUR DAD GRAB IT

25 IF YOU HAD A LOCK ON YOUR DOOR WHICH WOULD IMPEDE

26 YOUR FATHER FROM COMING INTO YOUR BEDROOM?

27 A I JUST DIDN'T THINK ABOUT ALL THOSE

28 THINGS. IF MY DAD BURST THROUGH MY DOOR -- I MEAN,

44683

1 THIS IS AN ENORMOUS GUN. I WOULD HAVE TO KEEP IT IN

2 A CERTAIN PLACE. I WOULD HAVE TO GET IT AND PULL IT

3 OUT. IT JUST SEEMED UNBELIEVABLE THAT THIS GUN

4 COULD HELP ME.

5 Q AND KNOWING -- KNOWING AS DANGEROUS AS

6 YOUR FATHER WAS, YOU TELL US YOU STILL FELT IT

7 WASN'T WORTHWHILE TO PURCHASE THE RIFLE OR SHOTGUN;

8 IS THAT CORRECT?

9 A NO. I STILL WANTED TO GET A GUN, BUT I

10 DIDN'T KNOW WHAT TO DO. I REMEMBER THERE BEING

11 CROSSBOWS AND THAT OCCURRED TO ME. I COULD HAVE A

12 CROSSBOW AND THAT COULD BE -- AND THAT WENT OUT OF MY

13 MIND A SECOND LATER. AND I WANTED TO GET

14 SOMETHING. I JUST DIDN'T KNOW WHAT I'D BE ABLE TO

15 GET AT THAT POINT.

16 Q WELL, MY QUESTION TO YOU WAS: EVEN IN

17 LIGHT OF HOW DANGEROUS YOUR FATHER -- YOU KNEW YOUR

18 FATHER TO BE, YOU STILL FELT IT WASN'T WORTHWHILE TO

19 GET A SHOTGUN OR A RIFLE; IS THAT CORRECT?

20 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

21 THE COURT: SUSTAINED.

22 Q BY MR. CONN: SO AS YOU WALKED OUT OF

23 THE BIG-5 STORE WITH YOUR BROTHER, WAS IT YOUR STATE

24 OF MIND AT THAT TIME THAT YOU AND YOUR BROTHER WERE

25 SIMPLY NOT GOING TO PURCHASE HANDGUNS TO PROTECT

26 YOURSELF?

27 A WE WEREN'T GOING TO BE ABLE TO DO IT.

28 Q YOU WEREN'T GOING TO PURCHASE ANY TYPE

44684

1 OF GUN TO PROTECT YOURSELF; IS THAT CORRECT?

2 A AT THAT POINT, YES.

3 Q SO DID YOU BEGIN TO DISCUSS ALTERNATIVE

4 WEAPONS THAT YOU COULD PURCHASE?

5 A I'M NOT SURE. I KNOW THAT OTHER WEAPONS

6 WENT INTO MY MIND. IF I CAN'T GET A GUN, WHAT DO I

7 GET? I WANTED TO GET SOMETHING. I DON'T REMEMBER

8 WHAT WENT INTO MY MIND. I DON'T REALLY REMEMBER

9 WHAT SPECIFIC WEAPONS WENT INTO MY MIND.

10 Q DID YOU PURCHASE A CROSSBOW?

11 A NO, I DIDN'T.

12 Q WHY NOT?

13       A    I THOUGHT ABOUT IT AND THEN IT SEEMED  
14 RIDICULOUS AND IT WENT OUT OF MY MIND.  
15       Q    WHY WAS THAT RIDICULOUS?  
16       A    I DON'T KNOW. THE IDEA SEEMED ABSURD.  
17       Q    DID YOU REALIZE THAT THE CROSSBOW WAS A  
18 LETHAL WEAPON, YOU MIGHT BE ABLE TO USE THAT TO STOP  
19 YOUR FATHER?  
20       A    WELL, I WASN'T THINKING OF ONE OF THE  
21 BIG CROSSBOWS. IT'S SMALL LITTLE CROSSBOWS THERE  
22 AND -- I DON'T REMEMBER FOR WHAT REASON IT LEFT MY  
23 MIND, BUT IT DID.  
24       Q    YOU DON'T REMEMBER WHY YOU CONCLUDED IT  
25 WAS RIDICULOUS?  
26       A    EXACTLY.  
27       Q    SO DID YOU THINK ABOUT PURCHASING A  
28 KNIFE TO DEFEND YOURSELF?

44685

1       A    I THINK THAT I DID, YES.  
2       Q    AND DID YOU DECIDE TO PURCHASE KNIVES TO  
3 DEFEND YOURSELVES?  
4       A    NO.  
5       Q    WHY NOT?  
6       A    JUST DIDN'T BELIEVE THAT I COULD EVER  
7 RESIST MY FATHER WITH A KNIFE.

8 Q WELL, YOU WERE CONSIDERING ALL OF THESE  
9 OPTIONS, CROSSBOWS, KNIVES AND VARIOUS ALTERNATIVES;  
10 IS THAT CORRECT?

11 A I WOULDN'T GO AS FAR AS SAYING I WAS  
12 CONSIDERING THEM. I BRIEFLY THOUGHT ABOUT IT,  
13 BECAUSE I WAS A LITTLE CONFUSED AND SURPRISED THAT I  
14 COULDN'T GET A GUN; THOUGHT ABOUT IT, AND I HADN'T  
15 DETERMINED WHAT I WAS GOING TO DO AT THAT POINT. I  
16 DIDN'T KNOW WHAT TO DO.

17 Q SO THEN YOU DECIDED TO GO DOWN TO  
18 SAN DIEGO; IS THAT CORRECT?

19 A EVENTUALLY. NOT RIGHT AWAY.

20 Q ISN'T IT TRUE, MR. MENENDEZ, THAT YOU  
21 WENT TO SAN DIEGO BECAUSE YOU WANTED TO PURCHASE A  
22 WEAPON OUT OF TOWN USING FALSE IDENTIFICATION SO IT  
23 COULDN'T BE TRACED BACK TO YOU?

24 A NO.

25 Q ISN'T IT TRUE, MR. MENENDEZ, THAT IF YOU  
26 HAD ANY INTENTION OF PURCHASING A RIFLE OR A  
27 SHOTGUN, YOU COULD HAVE PURCHASED IT RIGHT THERE IN  
28 SANTA MONICA?

44686

1 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

2 THE COURT: OVERRULED.



3 THE WITNESS: I COULD HAVE, YES.

4 Q BY MR. CONN: BUT YOU DIDN'T PURCHASE IT  
5 IN SANTA MONICA BECAUSE YOU DIDN'T WANT IT TO BE  
6 TRACED BACK TO YOU; IS THAT CORRECT?

7 A NO.

8 Q SO YOU'RE TELLING US YOU JUST HAPPENED  
9 TO END UP IN SANTA MONICA -- I'M SORRY -- IN  
10 SAN DIEGO?

11 A THAT'S EXACTLY WHAT HAPPENED.

12 Q YOU DIDN'T GO DOWN THERE FOR ANY  
13 PARTICULAR PURPOSE; IS THAT CORRECT?

14 A NO. WE DROVE DOWN THERE BECAUSE WE  
15 DIDN'T KNOW WHAT TO DO AND LYLE SUGGESTED IT AND WE  
16 JUST DECIDED TO LEAVE.

17 Q YOU WOKE UP THAT MORNING WITH THE  
18 INTENTION OF PURCHASING WEAPONS, DIDN'T YOU?

19 A I WENT TO SLEEP WITH THAT INTENTION. I  
20 DIDN'T WAKE UP WITH IT.

21 Q AND THEN YOU JUST -- AND THEN YOU  
22 HAPPENED TO FIND YOURSELF IN SAN DIEGO SOMETIME  
23 LATER THAT DAY; IS THAT CORRECT?

24 A AFTER A SERIES OF EVENTS, YES.

25 Q AND THEN WHEN YOU WERE DOWN IN  
26 SAN DIEGO, YOU SAID TO YOURSELF, LET'S GET A  
27 SHOTGUN; IS THAT CORRECT?

28 A IT WAS BECAUSE OF WHAT MY BROTHER AND I

1 WERE DISCUSSING IN THE CAR THAT THAT DECISION CAME  
2 UP.

3 Q AND SUDDENLY A SHOTGUN SEEMED LIKE A  
4 GREAT IDEA TO YOU; IS THAT CORRECT?

5 MR. LEVIN: OBJECTION. ARGUMENTATIVE, YOUR  
6 HONOR.

7 THE COURT: REPHRASE THE QUESTION.

8 OBJECTION SUSTAINED.

9 Q BY MR. CONN: DID YOU DECIDE, ONCE YOU  
10 GOT DOWN IN SAN DIEGO, THAT A SHOTGUN WAS A GOOD  
11 IDEA AFTER ALL?

12 A NO. I NEVER THOUGHT THAT A SHOTGUN WAS  
13 A GOOD IDEA.

14 Q YOU PURCHASED ONE, DIDN'T YOU?

15 A YES.

16 Q YOU PURCHASED TWO, DIDN'T YOU?

17 A YES.

18 Q IS THAT BECAUSE YOU THOUGHT IT WAS A BAD  
19 IDEA TO PURCHASE SHOTGUNS?

20 A AFTER WHAT I WAS TELLING MY BROTHER IN  
21 THE CAR, HE GOT -- HE REALIZED THAT THE SITUATION WAS  
22 MORE EXTREME THAN HE HAD THOUGHT AND HE WANTED TO  
23 GET SOMETHING. SO WE DECIDED TO GO INTO A GUN STORE  
24 AND SEE WHAT THEY HAD AND RECONSIDER. AND AFTER  
25 WHAT THE MAN WAS TELLING US, WE THOUGHT ABOUT BUYING

26 IT.

27 Q AND SO YOU MUST HAVE TOLD LYLE MENENDEZ

28 AT THAT TIME ALL OF THE REASONS THAT YOU JUST TOLD

44688

1 THIS JURY WHY PURCHASING A SHOTGUN WOULD BE

2 ABSOLUTELY RIDICULOUS; IS THAT CORRECT?

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

4 THE COURT: SUSTAINED.

5 Q BY MR. CONN: DID YOU TELL YOUR BROTHER

6 AT THAT TIME WHY PURCHASING A SHOTGUN WAS A SILLY

7 IDEA?

8 A WE TALKED ABOUT WHY IT WAS NOT

9 REASONABLE.

10 Q AND YOU TOLD LYLE MENENDEZ, JUST AS YOU

11 TOLD THIS JURY, THAT IT WAS NOT POSSIBLE TO DEFEND --

12 IT IS NOT POSSIBLE TO DEFEND OURSELVES WITH A

13 SHOTGUN, DIDN'T YOU?

14 A I DON'T THINK I NEEDED TO TELL HIM

15 THAT.

16 Q ARE YOU SAYING YOU JUST BOUGHT IT

17 WITHOUT HAVING THIS CONVERSATION WITH HIM?

18 A NO. I WAS DISCUSSING THINGS BETWEEN MY

19 FATHER AND I AND MY BROTHER WAS BEGINNING TO GET A

20 BETTER GRASP OF WHAT THE REAL SITUATION WAS ABOUT,

21 BECAUSE I HAD MISINFORMED HIM EARLIER IN THE WEEK;  
22 AND HE SAID, THIS IS -- THIS IS A LOT MORE SERIOUS.  
23 DAD MUST BE FREAKING OUT THINKING THAT THESE SECRETS  
24 COULD GET OUT. AND THAT'S WHEN HE SAID, LET'S GO TO  
25 A GUN STORE AGAIN AND SEE WHAT THERE IS AND THAT'S  
26 WHEN WE THOUGHT AGAIN ABOUT BUYING SHOTGUNS.  
27 Q BUT YOU KNEW HOW DANGEROUS YOUR FATHER  
28 WAS WHEN YOU WERE IN THE BIG-5 STORE IN SANTA

44689

1 MONICA, DIDN'T YOU?

2 A I ALWAYS DID.

3 Q AND YOU DIDN'T THINK IT WAS A GOOD IDEA,  
4 WHILE YOU WERE IN THE SANTA MONICA BIG-5 STORE, TO  
5 PURCHASE A SHOTGUN, DID YOU?

6 A PRETTY MUCH I THOUGHT IT WAS RIDICULOUS.

7 Q I'M SORRY?

8 A PRETTY MUCH I THOUGHT IT WAS  
9 RIDICULOUS.

10 Q OKAY. SO THEN WHEN LYLE MENENDEZ SAID  
11 THAT YOU'RE TO PURCHASE A SHOTGUN, DID YOU SAY TO  
12 LYLE MENENDEZ, WELL, REGARDLESS OF HOW DANGEROUS OUR  
13 FATHER IS, THAT IS A RIDICULOUS IDEA?

14 A LYLE DIDN'T SAY, WELL, LET'S GO PURCHASE  
15 A SHOTGUN. HE SAID, LET'S GO SEE THE GUNS AGAIN.

16 LET'S GO SEE WHAT THE SITUATION IS. AND THAT'S WHEN  
17 WE WENT INTO THE STORE AND WE WERE ASKING THE MAN.  
18 THE MAN SAID AGAIN THAT THERE WAS A TWO-WEEK WAITING  
19 PERIOD; THAT THE ONLY GUNS YOU COULD BUY IN ONE DAY  
20 WERE RIFLES AND SHOTGUNS, AND THAT'S WHEN WE DECIDED  
21 TO TAKE A CLOSER LOOK AT THEM.

22 Q OKAY. AND YOU TOOK A CLOSER LOOK AND  
23 THEN WHOSE IDEA WAS IT TO BUY THE SHOTGUNS IN  
24 SAN DIEGO?

25 A I DON'T REMEMBER.

26 Q PRIOR TO THE PURCHASE DID YOU TELL YOUR  
27 BROTHER -- DID YOU SAY TO YOUR BROTHER, IT'S  
28 RIDICULOUS TO PURCHASE SHOTGUNS?

44690

1 A I THINK WE HAD THAT CONVERSATION EITHER  
2 AT THE BIG-5 OR OUTSIDE OF IT.

3 Q AND TELL US HOW THAT CONVERSATION WENT.

4 A I DON'T REMEMBER HOW THE CONVERSATION  
5 WENT, BUT I REMEMBER FEELING THAT WE COULDN'T GET  
6 RIFLES OR SHOTGUNS, THAT THEY WEREN'T GOING TO HELP  
7 US AT ALL. AND I KNOW THAT I WAS TALKING TO MY  
8 BROTHER AT THE TIME AND SO I HAD THAT TYPE OF A  
9 CONVERSATION WITH HIM. I DON'T REMEMBER THE WORDS.

10 Q BUT DID YOU POINT OUT TO YOUR BROTHER

11 THAT IT WOULD NOT BE POSSIBLE TO DEFEND OURSELVES  
12 WITH A SHOTGUN BECAUSE, NUMBER ONE, DAD WOULD GRAB  
13 THE SHOTGUN AND, NUMBER TWO, WE HAVE THE PROBLEM OF  
14 CONCEALMENT?

15 A NO.

16 Q YOU DIDN'T GIVE LYLE MENENDEZ THE SAME  
17 ARGUMENT AGAINST PURCHASING SHOTGUNS IN SAN DIEGO  
18 THAT YOU GAVE THIS JURY AGAINST PURCHASING SHOTGUNS  
19 IN SANTA MONICA?

20 A YOU TALKING OUTSIDE THE BIG-5? I DON'T  
21 KNOW WHAT MY BROTHER HAD SAID TO ME OR I DON'T KNOW  
22 WHAT -- WHETHER I SAID THAT TO MY BROTHER. THESE  
23 THINGS WERE DISCUSSED. I JUST DON'T REMEMBER THE  
24 WORDS OR WHO BROUGHT IT UP TO WHO.

25 Q SO YOU FELT IT WAS A BAD IDEA TO BUY THE  
26 SHOTGUNS; IS THAT CORRECT?

27 A I DIDN'T THINK IT WAS A BAD -- WAIT. AT  
28 WHAT POINT ARE YOU TALKING ABOUT?

44691

1 Q I'M TALKING ABOUT IN SAN DIEGO NOW.

2 A IN SAN DIEGO, WE WANTED TO LOOK INTO  
3 MORE ABOUT WHAT RIFLES AND SHOTGUNS ACTUALLY WERE.

4 Q I'M TALKING ABOUT AFTER YOU LOOKED INTO  
5 IT, AFTER YOU HAD A PARTICULAR SHOTGUN IN MIND, YOU

6 FELT IT WAS A BAD IDEA TO BUY SHOTGUNS; IS THAT

7 CORRECT?

8 A WE THOUGHT IT WAS THE ONLY OPTION.

9 Q I'M ASKING ABOUT YOU RIGHT NOW AND NOT

10 YOUR BROTHER.

11 DID YOU FEEL THAT A SHOTGUN, AT THAT

12 POINT IN TIME, WHILE YOU WERE IN SAN DIEGO LOOKING

13 AT THE SHOTGUNS, DID YOU FEEL THAT THAT WAS THE ONLY

14 OPTION?

15 A YES, IT WAS THE ONLY OPTION.

16 Q WHY DID YOU FEEL, WHILE YOU WERE IN

17 SAN DIEGO LOOKING AT THE SHOTGUNS, THAT THE SHOTGUNS

18 WERE THE ONLY OPTION?

19 A BECAUSE WE COULDN'T GET HANDGUNS AND

20 THERE WAS NO OTHER CHOICE OF WHAT TO GET. I THOUGHT

21 IT HAD LIMITED PURPOSE, BUT DECIDED IT WAS BETTER

22 THAN NONE.

23 Q BUT YOU KNEW THOSE VERY SAME FACTS WHEN

24 YOU WERE UP IN SANTA MONICA LOOKING AT GUNS, DIDN'T

25 YOU?

26 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

27 THE COURT: REPHRASE THE QUESTION.

28 Q BY MR. CONN: DID YOU KNOW THOSE VERY

1 SAME FACTS WHEN YOU WERE IN SANTA MONICA LOOKING AT  
2 THE GUNS?

3 A I KNEW THOSE VERY SAME FACTS AND IT WAS  
4 THE CONVERSATION ON THE WAY DOWN TO SAN DIEGO THAT  
5 HELPED ME ALONG THE WAY. BUT WHEN I LEFT THE BIG-5,  
6 YOU'RE RIGHT, I THOUGHT THAT THESE GUNS WERE  
7 RIDICULOUS. THEY WEREN'T GOING TO REALLY HELP US.  
8 WE NEED NEEDED A DIFFERENT OPTION, AND THAT'S JUST  
9 WHAT I THOUGHT.

10 Q HOW DID THE CONVERSATION GOING DOWN TO  
11 SAN DIEGO HELP YOU ALONG THE WAY IN REACHING A  
12 DECISION TO PURCHASE SHOTGUNS?

13 A I WAS JUST TELLING LYLE -- I THINK HE WAS  
14 ASKING MORE OF WHAT HAD HAPPENED BETWEEN DAD AND I  
15 AND THE HISTORY OF IT AND THE VIOLENCE OF IT AND THE  
16 EXTREME PORTIONS IN TERMS OF WHAT DAD WOULD DO AND  
17 IT SCARED LYLE. AND HE SAID HE DIDN'T REALIZE -- HE  
18 JUST REALIZED MORE OF HOW DESPERATELY DAD WOULD KEEP  
19 THIS A SECRET AND HE WANTED TO CHECK IT OUT AGAIN.

20 Q SO YOU WERE ENLIGHTENING LYLE MENENDEZ  
21 AS TO THE DANGEROUSNESS OF YOUR FATHER; IS THAT  
22 CORRECT?

23 A TO THE DANGEROUSNESS AND TO SOME OF THE  
24 PARTICULARS.

25 Q BUT HE WAS NOT ENLIGHTENING YOU AS TO  
26 ANY NEW FACTS THAT WOULD CAUSE YOU TO CONCLUDE, ONCE  
27 YOU ARRIVED DOWN IN SAN DIEGO, THAT SOMEHOW NOW THE  
28 PURCHASE OF SHOTGUNS WAS A MORE REASONABLE THING TO



1 DO, DID HE?

2 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

3 THE COURT: OVERRULED.

4 THE WITNESS: CERTAINLY HIM BEING MORE  
5 FRIGHTENED CONCERNED ME, BUT I WASN'T ENLIGHTENED TO  
6 ANY NEW FACTS ABOUT MY LIFE WITH MY DAD.

7 Q BY MR. CONN: AT ANY TIME WHILE YOU WERE  
8 DOWN IN SAN DIEGO -- DID YOU, AT ANY TIME WHILE YOU  
9 WERE DOWN IN SAN DIEGO, SAY TO YOUR BROTHER LYLE  
10 MENENDEZ, A SHOTGUN IS NO GOOD BECAUSE WE CAN'T  
11 CONCEAL IT FROM OUR PARENTS?

12 A I DON'T REMEMBER IF I SAID THOSE WORDS,  
13 BUT CERTAINLY I SAID, OR IT WAS BROUGHT UP, THE  
14 LIMITED POINT OF THE SHOTGUN OR RIFLE.

15 Q AND HOW WAS THAT ISSUE RESOLVED THAT  
16 CAUSED YOU TO CONCLUDE THAT IT WAS REASONABLE AFTER  
17 ALL TO PURCHASE A SHOTGUN IN SAN DIEGO?

18 A THAT IT WAS EITHER GETTING A SHOTGUN OR  
19 A RIFLE OR NOTHING.

20 Q OKAY. THAT'S SOMETHING YOU KNEW WHEN  
21 YOU WERE IN SANTA MONICA, DIDN'T YOU?

22 A ESSENTIALLY I KNEW THAT. I LEARNED THAT  
23 FURTHER DOWN THERE, BUT YES.

24 Q OKAY. NOW, WHILE YOU WERE -- TO GET DOWN

25 TO SAN DIEGO, YOU -- LET ME ASK YOU THIS: HOW OFTEN  
26 DID YOU GO TO SAN DIEGO?  
27 A I'D NEVER BEEN TO SAN DIEGO ON MY OWN  
28 BEFORE.

44694

1 Q HOW MANY TIMES HAD YOU GONE TO SAN DIEGO  
2 WITH OTHER PEOPLE BEFORE?

3 A I REMEMBER GOING AND PLAYING THE  
4 12-YEAR-OLD NATIONALS WITH MY MOTHER IN SAN DIEGO  
5 WHEN I WAS 12. SINCE THEN I DON'T REMEMBER HAVING  
6 BEEN DOWN TO SAN DIEGO.

7 Q SO YOU HADN'T BEEN TO -- YOU HADN'T BEEN  
8 TO SAN DIEGO SINCE YOU WERE 12 YEARS OLD?

9 A YES.

10 Q AND ON THIS DAY YOU THOUGHT IT'D JUST BE  
11 A GOOD DAY TO TAKE A DRIVE DOWN TO SAN DIEGO?

12 A WE DIDN'T KNOW WHAT TO DO. LYLE  
13 SUGGESTED GOING DOWN. WE COULD HAVE GONE UP NORTH.  
14 WE JUST WENT DOWN SOUTH.

15 Q AND SAN DIEGO, I TAKE IT, TO YOUR  
16 KNOWLEDGE, WASN'T A PLACE THAT YOUR BROTHER LYLE  
17 MENENDEZ WOULD FREQUENT, WAS IT?

18 A I KNOW THAT HE HAD BEEN THERE BEFORE AND  
19 THAT'S WHY HE SUGGESTED IT.

20 Q ONE TIME BEFORE, WAS THAT YOUR

21 UNDERSTANDING?

22 A NO. MY UNDERSTANDING WAS THAT HE HAD

23 BEEN THERE MORE THAN ONE TIME, BUT AT LEAST ONE

24 TIME.

25 Q OKAY. AND SO YOU PUT UP WITH THE

26 TRAFFIC ON THE SAN DIEGO FREEWAY TO TAKE A LEISURELY

27 DRIVE DOWN TO SAN DIEGO THAT DAY?

28 MR. LEVIN: OBJECTION. ASSUMES FACTS NOT IN

44695

1 EVIDENCE. IT'S ARGUMENTATIVE.

2 THE COURT: THAT THERE'S NOT TRAFFIC ON THE

3 SAN DIEGO FREEWAY? DO YOU WANT TO ARGUE THAT ONE?

4 MR. LEVIN: ARE YOU TAKING JUDICIAL NOTICE,

5 YOUR HONOR?

6 MS. ABRAMSON: ON THAT DAY?

7 THE COURT: OKAY. REPHRASE THE QUESTION.

8 Q BY MR. CONN: HOW LONG DID IT TAKE YOU

9 TO GET DOWN TO SAN DIEGO?

10 A TWO HOURS ABOUT. I'M NOT SURE EXACTLY

11 WHAT TIME.

12 Q OKAY. DO YOU REMEMBER PREVIOUSLY

13 ESTIMATING A TWO- TO THREE-HOUR DRIVE?

14 A SOMETHING ALONG THOSE LINES.

15 Q DOES THAT SOUND ACCURATE?  
16 A THAT'S WHAT?  
17 Q WOULD THAT SOUND ACCURATE?  
18 A YEAH.  
19 Q SO ABOUT TWO OR THREE HOURS TO GET DOWN  
20 AND TWO OR THREE HOURS TO GET BACK; IS THAT CORRECT?  
21 A I THINK SO.  
22 Q SO YOU DIDN'T HAVE ANYTHING TO DO, SO  
23 YOU FELT LIKE GOING FOR A FOUR-TO-SIX-HOUR DRIVE?  
24 A I DON'T KNOW IF THAT'S ACCURATE.  
25 Q AND WHY IS THAT NOT ACCURATE?  
26 A WE JUST DECIDED TO LEAVE L.A. I DIDN'T  
27 REALLY CARE WHERE I WENT. I WASN'T CONCERNED ABOUT  
28 SIGHT-SEEING AND I DIDN'T DO ANY SIGHT-SEEING. I

44696

1 WAS CONCERNED ABOUT THE SITUATION. I DIDN'T KNOW  
2 WHAT TO DO. AND WE DIDN'T WANT TO GO BACK HOME.  
3 AND SO WE JUST LEFT.  
4 Q AND WHAT TIME WAS IT THAT YOU PURCHASED  
5 THE SHOTGUNS IN SAN DIEGO?  
6 A I'M NOT SURE. IT DEPENDS WHAT TIME WE  
7 LEFT THE HOUSE IN BEVERLY HILLS. I KNOW THAT IT WAS  
8 DAYLIGHT. THREE, FOUR, FIVE, SOMEWHERE ALONG  
9 THERE.

10 Q AND YOU RECALL THE TESTIMONY OF THE  
11 WOMAN WHO SOLD THE SHOTGUNS TO YOU THAT IT WAS MUCH  
12 LATER ABOUT, 8:00 OR 8:30?

13 A I KNOW THAT SHE SAID THAT, YES.

14 Q AND YOU DISPUTE THAT; IS THAT CORRECT?

15 A WELL, IT'S NOT SO MUCH THAT I DISPUTE  
16 THAT, BUT I KNOW THAT SHE DIDN'T REMEMBER THE  
17 TRANSACTION THREE AND A HALF YEARS, AND SUDDENLY  
18 REMEMBERED THAT IT WAS 8:00 OR 8:30. SHE EITHER  
19 REMEMBERS A DIFFERENT TRANSACTION OR REMEMBERS IT  
20 WRONG.

21 Q YOU DISPUTE HER TESTIMONY HERE IN COURT  
22 THAT IT WAS BETWEEN 8:00 AND 8:30 THAT THAT  
23 TRANSACTION TOOK PLACE; IS THAT CORRECT?

24 A IT CERTAINLY COULD NOT HAVE BEEN BETWEEN  
25 8:00 AND 8:30.

26 Q NOW, WHEN YOU WERE HAVING THIS  
27 CONVERSATION WITH LYLE MENENDEZ GOING DOWN TO  
28 SAN DIEGO, YOU WERE TELLING HIM THAT YOUR FATHER WAS

44697

1 A VERY DANGEROUS MAN; IS THAT CORRECT?

2 A I WAS TELLING HIM A LOT MORE THAN THAT.

3 Q WELL, YOU WERE TELLING HIM THAT YOUR  
4 FATHER WAS DANGEROUS; IS THAT CORRECT?

5 A YES.

6 Q AND DID YOU FIND THAT THAT CAME AS A  
7 SHOCK AND A SURPRISE TO LYLE MENENDEZ, HE DIDN'T  
8 KNOW THAT YOUR FATHER WAS A DANGEROUS MAN?

9 A MY BROTHER KNEW VERY WELL HOW DANGEROUS  
10 MY DAD WAS.

11 Q AND HE KNEW THAT WHEN YOU WERE IN THE  
12 SANTA MONICA STORE, DIDN'T HE?

13 A YES, BUT THAT'S -- THAT'S NOT WHAT I WAS  
14 TELLING HIM.

15 Q NOW, WHEN YOU GOT DOWN TO THE STORE IN  
16 SAN DIEGO, I BELIEVE YOU SAID YOU WENT TO TWO  
17 STORES; IS THAT CORRECT?

18 A RIGHT. WE WENT TO ONE STORE FIRST, THEN  
19 WE LEFT THAT STORE AND WE ENDED UP GOING BACK TO A  
20 DIFFERENT BIG-5.

21 Q SO WAS IT TWO BIG-5S THAT YOU WENT TO  
22 DOWN IN SAN DIEGO?

23 A NO. IT WAS -- ONE WAS A WOODEN STORE --  
24 IT WAS A FAIRLY LARGE STORE, BUT IT WAS A  
25 WOODEN-LOOKING STORE. THE OTHER ONE WAS A BIG-5.

26 Q AND IT WAS IN THE FIRST STORE THAT YOU  
27 WENT TO THAT THERE WAS CONVERSATION ABOUT HAVING TO  
28 HAVE IDENTIFICATION TO PURCHASE A WEAPON; IS THAT

1 CORRECT?

2 A YES.

3 Q AND YOU LEARNED AT THAT TIME THAT YOU  
4 NEEDED A CALIFORNIA IDENTIFICATION TO PURCHASE A  
5 WEAPON?

6 A RIGHT.

7 Q AND YOU'RE SAYING THAT THE ONLY  
8 IDENTIFICATION THAT YOU HAD ON YOU AT THE TIME WAS  
9 THE DRIVER'S LICENSE OF DONOVAN GOODREAU; IS THAT  
10 CORRECT?

11 A I DIDN'T HAVE MY OWN AND I DON'T THINK I  
12 HAD ANY OTHER THAN DONOVAN'S AT THAT TIME.

13 Q AND YOUR BROTHER LYLE DIDN'T HAVE A  
14 CALIFORNIA DRIVER'S LICENSE; IS THAT CORRECT?

15 A NO. HIS HAD BEEN SUSPENDED AND HE HAD  
16 TURNED IT IN.

17 Q AND YOURS HAD BEEN LOST, CORRECT?

18 A YES.

19 Q DID YOU EVER FIND YOUR DRIVER'S LICENSE,  
20 MR. MENENDEZ?

21 A I LOST MY WALLET AND I NEVER RECOVERED  
22 MY WALLET.

23 Q SO YOU NEVER SAW THAT DRIVER'S LICENSE  
24 AGAIN; IS THAT CORRECT?

25 A RIGHT.

26 Q AND YOU DIDN'T HAVE IT ON AUGUST THE  
27 25TH OF 1989, DID YOU?

44699

1 Q ON AUGUST THE 25TH OF 1989 -- I'M SORRY --  
2 AUGUST THE 25TH OF 1989, DID YOU RECEIVE A CITATION  
3 FOR A TRAFFIC VIOLATION?

4 A MY MEMORY IS AUGUST THE 25TH WAS THE  
5 MEMORIAL SERVICE AND I DON'T REMEMBER DRIVING AROUND  
6 ON THAT DAY BY MYSELF, DRIVING MYSELF THAT DAY.

7 Q DO YOU RECALL RECEIVING ANY OTHER  
8 TRAFFIC CITATIONS FROM THE ONE THAT YOU TOLD US  
9 ABOUT IN JULY UP UNTIL THE TIME OF YOUR ARREST IN  
10 1990?

11 A YES, I DO.

12 Q AND WHEN WERE THEY?

13 A I KNOW THAT I GOT ONE IN MY JEEP FOR AN  
14 ILLEGAL U-TURN. I DON'T REMEMBER IF I GOT ANY  
15 OTHERS, BUT I MAY HAVE.

16 Q THE ONE IN YOUR JEEP, WAS THAT IN  
17 CALIFORNIA?

18 A YES.

19 Q WHEN DID THAT TAKE PLACE?

20 MR. LEVIN: OBJECTION. IRRELEVANT.

21 THE COURT: OVERRULED.

22 THE WITNESS: AFTER I BOUGHT THE JEEP, SO IT



23 WAS NOVEMBER, DECEMBER, JANUARY OR FEBRUARY.

24 Q BY MR. CONN: DID YOU RECEIVE ANY

25 TRAFFIC CITATIONS BETWEEN THE TIME PERIOD OF WHEN

26 YOU RECEIVED THE ONE IN JULY THAT YOU TOLD US ABOUT

27 AND YOU RECEIVED A CITATION FOR THE ILLEGAL U-TURN

28 IN YOUR JEEP IN NOVEMBER OR SOMETIME THEREAFTER?

44700

1 A I DON'T HAVE A MEMORY OF GETTING ANY

2 OTHER CITATION.

3 Q DID YOU HAVE A CALIFORNIA DRIVER'S

4 LICENSE AT THE TIME THAT YOU RECEIVED THE CITATION

5 FOR THE ILLEGAL U-TURN?

6 A YES, I DID.

7 Q AND IS THAT BECAUSE YOU REAPPLIED FOR A

8 DRIVER'S LICENSE?

9 A MY AUNT GAVE ME A CREDIT CARD AND SOME

10 CHECKS AND I NEEDED TO GET A DRIVER'S LICENSE AT

11 THAT POINT.

12 Q SO WHAT DID YOU DO TO GET A DRIVER'S

13 LICENSE?

14 A I WENT DOWN TO THE D.M.V. AND WAITED IN

15 LINE AND GOT A DRIVER'S LICENSE.

16 Q WHEN DID YOU DO THAT?

17 A I DON'T REMEMBER.

18 Q WAS THAT AFTER -- DO YOU KNOW IF THAT WAS  
19 IN AUGUST OR AFTER AUGUST?

20 A I -- CERTAINLY AFTER MY PARENTS DIED. I  
21 DON'T KNOW WHEN EXACTLY.

22 Q DO YOU KNOW IF THAT WAS BEFORE OR AFTER  
23 AUGUST THE 25TH OF 1989?

24 A NOT EXACTLY, NO. I DON'T HAVE A MEMORY  
25 OF GOING DOWN TO THE D.M.V. BEFORE THE MEMORIAL  
26 SERVICE IF THAT'S WHAT YOU'RE ASKING. I DON'T  
27 REMEMBER THAT.

28 Q DID YOU HAVE A DRIVER'S LICENSE ON

44701

1 AUGUST THE 25TH OF 1989?

2 A I DON'T BELIEVE I GOT A TICKET ON AUGUST  
3 THE 25TH.

4 Q NO. BUT I'M ASKING YOU IF YOU HAD A  
5 DRIVER'S LICENSE ON AUGUST THE 25TH OF 1989?

6 A I DON'T KNOW.

7 Q ARE YOU SAYING THAT YOU MAY HAVE HAD A  
8 DRIVER'S LICENSE AT THAT TIME?

9 A I DON'T REMEMBER HAVING ONE, NO.

10 Q WELL, YOU DON'T REMEMBER GOING DOWN TO  
11 D.M.V. AND GETTING A DRIVER'S LICENSE FROM THE TIME  
12 THAT YOU PURCHASED THE SHOTGUNS UP UNTIL THE TIME OF

13 THE MEMORIAL SERVICE, DO YOU?

14 A RIGHT.

15 Q DO YOU KNOW IF YOU HAD TO MAKE ANY  
16 APPEARANCES ON ANY TRAFFIC CITATIONS IN COURT ON  
17 AUGUST THE 25TH OF 1989?

18 A I MAY HAVE FOR THE PREVIOUS TICKET. I  
19 DON'T HAVE A RECOLLECTION AFTER MY PARENTS DIED. I  
20 WASN'T THINKING ABOUT APPEARANCES IN COURT FOR  
21 TRAFFIC TICKETS.

22 Q NOW, WHEN YOU WENT TO THE FIRST STORE IN  
23 SAN DIEGO AND LEARNED THAT YOU WOULD HAVE TO -- WHEN  
24 YOU LEARNED THAT YOU WOULD HAVE TO PRODUCE A  
25 DRIVER'S LICENSE TO PURCHASE A WEAPON, YOU DID NOT  
26 PURCHASE A WEAPON IN THAT STORE; IS THAT CORRECT?

27 A THAT'S CORRECT.

28 Q WHY DID YOU NOT PURCHASE IT RIGHT THERE

44702

1 ON THE SPOT?

2 A BECAUSE WE AGREED TO GET THE GUNS WITH  
3 THE MAN THERE AND HE SAID THAT HE WOULD NEED TO SEE  
4 A -- SOME TYPE OF CALIFORNIA IDENTIFICATION, AND I  
5 REMEMBER I LOOKED AT MY BROTHER AND WE WENT BACK AND  
6 TALKED AND I TOLD HIM I DIDN'T HAVE MINE. HE DIDN'T  
7 HAVE HIS. WE THOUGHT THAT IT LOOKED A LITTLE

8 STRANGE IF I WAS GOING TO USE DONOVAN'S, THAT AFTER  
9 THIS TALK HE MIGHT CHECK INTO IT. AND SO WE JUST  
10 DECIDED TO LEAVE AND GO TO A DIFFERENT PLACE TO GET  
11 THE GUNS.

12 Q AND WHY DID YOU FEEL THAT THAT MIGHT  
13 LOOK SUSPICIOUS?

14 A ONLY BECAUSE I WASN'T DONOVAN AND  
15 DONOVAN WASN'T MY PICTURE; AND IF HE LOOKED AT IT  
16 CLOSELY HE WOULD NOTICE IT. AND I'M NOT SURE, IF HE  
17 WAS SUSPICIOUS PERHAPS HE MIGHT LOOK MORE CLOSELY AT  
18 THAT POINT.

19 Q SO YOU WENT TO A RESTAURANT AND YOU  
20 PRACTICED SIGNING THE SIGNATURE OF DONOVAN  
21 GOODREAU?

22 A YES.

23 Q IS THIS THE FIRST TIME YOU EVER  
24 PRACTICED SIGNING THE SIGNATURE OF DONOVAN  
25 GOODREAU?

26 A YES.

27 Q AND HOW LONG DID YOU SPEND PRACTICING  
28 SIGNING THAT SIGNATURE?

44703

1 A I JUST PRACTICED IT FOUR OR FIVE TIMES.

2 Q AND DID YOU DECIDE TO GO BACK UP TO

3 BEVERLY HILLS AND -- OR GO BACK TO SANTA MONICA AND  
4 PURCHASE A SHOTGUN BACK THERE?

5 A NO.

6 Q SO YOU DECIDED TO SCOUR AROUND SAN DIEGO  
7 TO FIND ANOTHER STORE WHERE YOU COULD PURCHASE THE  
8 WEAPON?

9 A ACTUALLY, I DIDN'T KNOW WHAT TIME THE  
10 STORES CLOSED AND I DON'T REMEMBER WHAT TIME IN THE  
11 AFTERNOON IT WAS, BUT I KNOW THAT WE DECIDED TO DO  
12 IT THEN.

13 SOMETHING JUST FLOODED THROUGH MY MIND.

14 YES. THE ANSWER IS YES.

15 Q SO YOU DECIDED TO LOOK FOR -- TO LOOK FOR  
16 ANOTHER STORE IN SAN DIEGO RATHER THAN GO BACK TO  
17 THE STORE IN SANTA MONICA; IS THAT CORRECT?

18 A THE ANSWER IS YES. I'M NOT SURE IF IT  
19 WAS A CONCERN ABOUT THE STORES CLOSING BEFORE WE GOT  
20 BACK TO L.A., IF WE GOT BACK TO L.A. I JUST DON'T  
21 REMEMBER. I DON'T REMEMBER HOW WE GOT TO THE BIG-5,  
22 TO BE CANDID. I DON'T -- I DON'T -- I DIDN'T EVEN  
23 KNOW THAT IT WAS A BIG-5 UNTIL AFTER I WAS  
24 ARRESTED.

25 Q AND WHEN YOU WENT INTO THE SECOND STORE  
26 IN SAN DIEGO, YOU FILLED OUT THE PAPERWORK; IS THAT  
27 CORRECT?

28 A YES, I DID.

1 Q AND SHOWING YOU THE EXHIBIT THAT HAS  
2 BEEN MARKED AS 58, WHICH IS ON THE BOARD THERE FOR  
3 THE JURY TO SEE -- I'LL ALSO SHOW YOU THE ORIGINAL,  
4 WHICH HAS BEEN MARKED AS -- ALONG WITH THE OTHER  
5 DOCUMENTS THEY'VE ALL BEEN MARKED COLLECTIVELY AS  
6 57.

7 LET ME SHOW YOU THE SHEET THAT IS BEFORE  
8 THE JURY AT THIS TIME.

9 DO YOU SEE THE HANDWRITING THAT APPEARS  
10 ON THAT SHEET OF PAPER?

11 A YES. MINE AND AMANDA ADAMS.

12 Q AND WHAT DID YOU FILL OUT ON THAT SHEET  
13 OF PAPER?

14 A I FILLED OUT THE NO'S AND THE  
15 SIGNATURE.

16 Q SO HERE WHERE IT IS MARKED IN A --

17 A ALL THE HIGHLIGHTING.

18 Q IN THE YELLOW -- HIGHLIGHTED IN YELLOW  
19 WHERE IT SAYS NO, YOU WROTE ALL OF THAT; IS THAT  
20 CORRECT?

21 A YES.

22 Q AND HERE WHERE THE SIGNATURE APPEARS,  
23 THAT IS YOUR SIGNATURE; IS THAT CORRECT?

24 A IT'S MY SIGNATURE OF DONOVAN GOODREAU'S.

25 Q FORGING THE NAME OF DONOVAN GOODREAU; IS  
26 THAT CORRECT?

27 A YES.

28 Q AND THEN LET ME SHOW YOU THE OTHER

44705

1 DOCUMENT. THE OTHER DOCUMENTS THAT ARE PART OF THAT  
2 EXHIBIT THAT YOU'RE NOW LOOKING AT. THAT IS 57.

3 DO YOU SEE ANOTHER SHEET THERE WHERE  
4 THERE'S A DEALER'S REGISTRATION NUMBER OF 415 AND A  
5 SIGNATURE OF DONOVAN GOODREAU THAT APPEARS NEXT TO  
6 IT?

7 A YES.

8 Q OKAY. AND IS THAT ALSO YOUR SIGNATURE?

9 A YES, IT IS.

10 Q AND YOU FILLED OUT ALL OF THAT ON THAT  
11 LINE; IS THAT CORRECT?

12 A NO. I -- I FILLED OUT ONLY THE NAME  
13 DONOVAN GOODREAU, AND THERE APPEARS TO BE AN ADDRESS  
14 THERE OF 63 AUGUST STREET.

15 Q DID YOU INVENT THAT ADDRESS?

16 A I HAD LOOKED UP AN ADDRESS AT THE -- I  
17 BELIEVE IT WAS THE BOB'S BIG BOY. WHEN I WAS IN THE  
18 STORE, I FORGOT IT. SO I JUST MADE UP THE NAME 63  
19 AUGUST STREET.

20 Q AND IS THERE A SECOND SHEET THERE -- THIS  
21 MIGHT BE A XEROX COPY.

22 A NO, THERE'S TWO SHEETS.  
23 Q OKAY. ONE SHEET IS -- HAS PAGE 29 IN THE  
24 UPPER RIGHT-HAND AND THE OTHER SHEET HAS PAGE 36 IN  
25 THE UPPER RIGHT-HAND CORNER; IS THAT CORRECT?  
26 A YES.  
27 Q AND, AGAIN, ON THAT SHEET THERE APPEARS  
28 TO BE A SIGNATURE OF DONOVAN GOODREAU; IS THAT

44706

1 CORRECT?  
2 A YES.  
3 Q IS THAT ALSO YOUR SIGNATURE THERE?  
4 A YES.  
5 Q OKAY. SO DID YOU, RATHER THAN YOUR  
6 BROTHER, FILL OUT ALL OF THE PAPERWORK AT THE STORE  
7 IN SAN DIEGO?  
8 A YES.  
9 Q AND NONE OF THE PAPERWORK THAT WE ARE  
10 LOOKING AT CONTAINS THE HANDWRITING OF YOUR BROTHER  
11 LYLE MENENDEZ; IS THAT CORRECT?  
12 A RIGHT.  
13 Q NOW, SOMETIME -- SOMETIME AFTER YOU WERE  
14 ARRESTED YOU WERE ASKED TO SUBMIT TO THE TAKING OF A  
15 HANDWRITING EXEMPLAR; IS THAT CORRECT?  
16 MS. ABRAMSON: OBJECTION, YOUR HONOR. ASK TO



17 APPROACH.

18 THE COURT: SUSTAINED. THE QUESTION IS

19 STRICKEN.

20 ASK YOUR NEXT QUESTION, PLEASE.

21 Q BY MR. CONN: NOW, YOU WANTED TO --

22 MS. ABRAMSON: YOUR HONOR, I'D STILL LIKE TO

23 APPROACH TO MAKE A RECORD.

24 THE COURT: ALL RIGHT. WE'LL DO THAT LATER.

25 MS. ABRAMSON: THANK YOU.

26 Q BY MR. CONN: NOW, YOU WANTED TO BE SURE

27 THAT YOU PURCHASED THE RIGHT AMMUNITION IN

28 SAN DIEGO; IS THAT CORRECT?

44707

1 A I DIDN'T ASK MS. ADAMS ABOUT

2 AMMUNITION. I BELIEVE EITHER I OR MY BROTHER JUST

3 PICKED ONE UP OUT OF A PILE OF BLUE AND YELLOW BOXES

4 WHEN WE WERE GOING TO THE CASH REGISTER.

5 Q OKAY. NOW, YOU KNEW NOTHING ABOUT

6 SHOTGUNS; IS THAT CORRECT?

7 A RIGHT.

8 Q YOU HAD NEVER FIRED A SHOTGUN BEFORE.

9 A NEVER.

10 Q YOU NEVER HANDLED A SHOTGUN BEFORE?

11 A NEVER.

12 Q YOU KNEW NOTHING ABOUT SHOTGUN

13 AMMUNITION; IS THAT CORRECT?

14 A EXACTLY.

15 Q AND YOUR BROTHER LYLE MENENDEZ, TO YOUR

16 KNOWLEDGE, HAD NO KNOWLEDGE OF SHOTGUNS; IS THAT

17 CORRECT?

18 A YES.

19 Q TO YOUR KNOWLEDGE, HE HAD NEVER HANDLED

20 A SHOTGUN BEFORE; IS THAT CORRECT?

21 A YES.

22 Q NOW, YOUR LIFE DEPENDED UPON YOU GETTING

23 THE RIGHT AMMUNITION, DIDN'T IT?

24 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION

25 AND ALSO IS ARGUMENTATIVE.

26 THE COURT: AS PHRASED IT'S ARGUMENTATIVE.

27 Q BY MR. CONN: DID YOU FEEL,

28 MR. MENENDEZ, THAT GETTING THE RIGHT AMMUNITION WAS

44708

1 A MATTER OF -- WAS POSSIBLY A MATTER OF LIFE OR DEATH

2 FOR YOU?

3 A AT THE TIME I DIDN'T THINK ABOUT IT.

4 Q MR. MENENDEZ, WERE YOU CONCERNED ABOUT

5 YOUR SAFETY WHEN YOU WERE SHOPPING FOR HANDGUNS --

6 SHOPPING FOR THIS SHOTGUN?

7 A IN THE OVERALL SENSE, YES.

8 Q AND THAT IS BECAUSE YOU FELT THAT YOUR  
9 PARENTS MIGHT KILL YOU; IS THAT CORRECT?

10 A RIGHT.

11 Q AND YOU NEEDED SOMETHING TO DEFEND  
12 YOURSELF; IS THAT CORRECT?

13 A RIGHT.

14 Q AND THE ONLY THING THAT YOU COULD GET,  
15 SINCE YOU COULDN'T GET HANDGUNS, YOU DECIDED TO GET  
16 A SHOTGUN; IS THAT CORRECT?

17 A YES.

18 Q BECAUSE YOU FEARED FOR YOUR LIFE; IS  
19 THAT CORRECT?

20 A YES.

21 Q AND ARE YOU SAYING THAT WHEN YOU WERE  
22 DOWN THERE FEARING FOR YOUR LIFE, YOU DIDN'T THINK  
23 ABOUT GETTING THE RIGHT KIND OF AMMUNITION?

24 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

25 THE COURT: OVERRULED.

26 THE WITNESS: WHAT I'M SAYING IS I DIDN'T  
27 DISCUSS IT WITH MS. ADAMS, AMMUNITION. WE GOT A BOX  
28 OF AMMUNITION. I'M NOT SURE WHAT IT SAID ON THE

1 BOX. I'M SURE IT SAID SHOTGUNS OR 12-GAUGE OR

2 SOMETHING ALONG THOSE LINES. ALL I KNOW IS THAT WE  
3 GOT A BOX AND WE BOUGHT THE BOX ALONG WITH THE  
4 GUNS.

5 Q BY MR. CONN: WELL, MY QUESTION IS NOT  
6 WHETHER YOU DISCUSSED IT OR NOT. MY QUESTION AT THE  
7 MOMENT IS WHETHER YOU THOUGHT THAT IT WOULD BE  
8 IMPORTANT FOR YOU TO GET AMMUNITION THAT WOULD FIT  
9 THIS GUN.

10 A I DON'T REMEMBER WHETHER I THOUGHT IT OR  
11 NOT. I'M SURE THAT I DID.

12 Q YOU FELT IT WAS IMPORTANT TO HAVE  
13 AMMUNITION THAT FIT THE GUN, DIDN'T YOU?

14 A I JUST DON'T REMEMBER THINKING THAT.

15 Q WELL, DID YOU HAVE ANY CONVERSATIONS  
16 WITH YOUR BROTHER IN WHICH EITHER ONE OF YOU SAID,  
17 IT MIGHT BE A GOOD IDEA TO GET AMMUNITION THAT FITS  
18 THE GUN?

19 A FITTING THE GUN, I JUST DIDN'T THINK OF  
20 IT AT THAT TIME. I KNOW WE THOUGHT ABOUT GETTING  
21 AMMUNITION. ONE OF US GOT A BOX AND WE BOUGHT IT.

22 Q ARE YOU SAYING, MR. MENENDEZ, THAT IT  
23 WAS VERY IMPORTANT TO -- FOR YOU TO GET A SHOTGUN TO  
24 DEFEND YOURSELF, BUT YOU DIDN'T THINK IT WAS  
25 IMPORTANT OR NOT WHETHER YOU GOT THE RIGHT KIND OF  
26 AMMUNITION?

27 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

28 THE COURT: SUSTAINED.

1 Q BY MR. CONN: DID YOU HAVE ANY  
2 CONVERSATION WITH YOUR BROTHER ABOUT WHAT TYPE OF  
3 AMMUNITION TO PURCHASE?

4 A I DON'T REMEMBER IF WE DID. I KNOW THAT  
5 WE ENDED UP PURCHASING A BOX. I DON'T REMEMBER WHAT  
6 PRECEDED THAT.

7 Q AND WHO PICKED UP THE AMMUNITION?

8 A I DON'T EVEN REMEMBER THAT.

9 Q AND ONCE THE AMMUNITION WAS PICKED UP,  
10 DID YOU THINK IT MIGHT BE IMPORTANT TO ASK THE  
11 PERSON WHO WAS SELLING THE SHOTGUN TO YOU IF THIS  
12 TYPE OF AMMUNITION WOULD WORK IN THIS TYPE OF  
13 SHOTGUN?

14 A I DON'T REMEMBER HAVING A DISCUSSION  
15 WITH MS. ADAMS ABOUT THAT. SOMEHOW WE CAME TO THE  
16 CONCLUSION THAT WE SHOULD BUY THIS, THIS BOX OF  
17 AMMUNITION. I DON'T REMEMBER WHY. ALL I KNOW IS  
18 THAT IT WAS BOUGHT. THE PARTICULARS ABOUT WHY OR  
19 SURROUNDING IT BEING BOUGHT, I JUST CAN'T RECALL IT.

20 Q AND YOU'RE SAYING YOU HAVE NO  
21 RECOLLECTION WHATSOEVER AS TO HOW OR WHY YOU AND  
22 YOUR BROTHER LYLE MENENDEZ DECIDED THAT THIS TYPE OF  
23 AMMUNITION WAS THE RIGHT KIND OF AMMUNITION FOR THE  
24 TYPE OF GUN THAT YOU WERE PURCHASING?

25 A RIGHT. I DO NOT HAVE A RECOLLECTION OF

26 THAT.

27 Q AND NEITHER YOURSELF NOR YOUR BROTHER

28 DISCUSSED WITH ANY PERSON IN THAT STORE WHETHER THAT

44711

1 TYPE OF AMMUNITION WAS THE RIGHT KIND OF AMMUNITION

2 FOR THAT GUN; IS THAT CORRECT?

3 MR. LEVIN: OBJECTION, YOUR HONOR. ASSUMES

4 FACTS NOT IN EVIDENCE AND OUTSIDE HIS PERSONAL

5 KNOWLEDGE.

6 THE COURT: REPHRASE THE QUESTION. OBJECTION

7 SUSTAINED.

8 Q BY MR. CONN: ARE YOU SAYING THAT TO

9 YOUR RECOLLECTION NEITHER YOU NOR YOUR BROTHER HAD

10 ANY CONVERSATION WITH ANYONE IN THAT STORE ABOUT

11 WHETHER OR NOT THAT TYPE OF AMMUNITION WOULD WORK IN

12 THAT TYPE OF SHOTGUN?

13 MR. LEVIN: SAME OBJECTION.

14 THE COURT: ALL RIGHT. LET'S BREAK IT DOWN

15 AS TO WHETHER HE HAD CONVERSATION OR WHETHER HE

16 HEARD HIS BROTHER HAVING SUCH CONVERSATIONS.

17 MR. CONN: OKAY.

18 Q TO YOUR RECOLLECTION, DID YOU HAVE ANY

19 CONVERSATION WITH ANYONE IN THAT STORE ABOUT WHETHER

20 THAT TYPE OF AMMUNITION WOULD WORK IN THAT TYPE OF

21 SHOTGUN?

22 A I DON'T REMEMBER HAVING ANY

23 CONVERSATIONS.

24 Q AND YOU HAD NO CONVERSATION WITH WHETHER

25 OR NOT THAT -- ABOUT WHETHER OR NOT THAT TYPE OF

26 AMMUNITION WOULD BE SUITABLE FOR THAT TYPE OF A

27 SHOTGUN; IS THAT CORRECT?

28 A I'M NOT SURE IF IT WAS JUST AN

44712

1 ASSUMPTION OR IF WE INDISCRIMINATELY ASKED SOMEONE

2 AFTER WE HAD LEFT AMANDA ADAMS AND THEY SAID BUY

3 THAT. I JUST DON'T REMEMBER EXACTLY WHY WE

4 PURCHASED IT. I KNOW WE DID. BUT IT'S JUST -- IT

5 WASN'T SOMETHING THAT WAS IMPORTANT FOR ME TO

6 REMEMBER AT THE TIME. I JUST DON'T REMEMBER.

7 Q AND DID YOU -- AND YOU DON'T RECALL LYLE

8 MENENDEZ HAVING ANY CONVERSATIONS WITH ANYONE IN

9 THAT STORE ABOUT WHETHER THAT TYPE OF AMMUNITION

10 WOULD WORK OR WAS SUITABLE FOR THAT TYPE OF A

11 WEAPON; IS THAT CORRECT?

12 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION

13 AND NO FOUNDATION OF PERSONAL KNOWLEDGE.

14 THE COURT: REPHRASE THE QUESTION.

15 Q BY MR. CONN: DID YOU HEAR ANY

16 CONVERSATIONS BETWEEN YOURSELF -- I'M SORRY -- DID  
17 YOU HEAR ANY CONVERSATIONS BETWEEN YOUR BROTHER AND  
18 ANYONE ELSE IN THAT STORE ABOUT WHETHER THAT TYPE OF  
19 AMMUNITION WOULD WORK OR WOULD BE SUITABLE FOR THE  
20 TYPE OF WEAPON THAT YOU WERE PURCHASING?  
21 A THE TYPE THAT WE ENDED UP BUYING?  
22 Q YES.  
23 A NO.  
24 Q DID YOU KNOW ANYTHING ABOUT BIRD SHOT?  
25 A I DIDN'T EVEN KNOW WHAT BIRD SHOT WAS.  
26 Q WELL, BY THE TIME YOU WERE LEAVING THE  
27 STORE, YOU ASSUMED THAT YOU HAD SOME TYPE OF  
28 AMMUNITION THAT WOULD WORK IN THAT GUN; IS THAT

44713

1 CORRECT?  
2 A I BELIEVE IT SAID IT ON THE BOX.  
3 Q OKAY. AND YOU ASSUMED THAT AT THAT  
4 POINT IN TIME THAT IT WOULD BE LETHAL; IS THAT  
5 CORRECT?  
6 A I DON'T KNOW THAT I ASSUMED THAT. I  
7 ASSUMED THAT THESE WERE BULLETS TO PUT IN THE GUN TO  
8 SHOOT.  
9 Q AND THAT IT WAS SOMETHING THAT COULD  
10 CAUSE DEATH; IS THAT CORRECT?



11 A I SUPPOSE SO.

12 Q AND YOU WERE SATISFIED WHEN YOU LEFT THE  
13 STORE THAT THIS WAS SOMETHING THAT COULD CAUSE  
14 DEATH, WEREN'T YOU?

15 A I DON'T REMEMBER THINKING THAT. LOOKING  
16 BACK, I MUST HAVE THOUGHT THAT.

17 Q BUT YOU WANTED SOMETHING THAT COULD  
18 CAUSE DEATH, DIDN'T YOU?

19 A I DON'T REMEMBER THINKING THAT EITHER.

20 Q YOU DIDN'T WANT SOMETHING THAT YOU COULD  
21 USE TO KILL YOUR PARENTS?

22 A I KNEW I WANTED SOMETHING THAT COULD  
23 FIRE OUT OF THE GUN, BUT I DON'T REMEMBER THINKING  
24 ABOUT LETHAL OR DEATH. I DIDN'T HAVE TO THINK ABOUT  
25 THOSE THINGS AT THAT TIME.

26 Q YOU KNEW IF IT'S GOING TO FIRE OUT OF  
27 THE GUN IT'S PROBABLY GOING TO KILL SOMEONE, DIDN'T  
28 YOU?

44714

1 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

2 THE COURT: OVERRULED.

3 THE WITNESS: I GUESS I DID.

4 Q BY MR. CONN: AND YOU PURCHASED ONLY ONE  
5 BOX OF BIRD SHOT; IS THAT CORRECT?

6 A THAT'S MY MEMORY, YES.

7 Q AND THEN AFTER PURCHASING THAT BIRD

8 SHOT, FOR SOME REASON YOU AND YOUR BROTHER WENT BACK

9 TO ANOTHER STORE THE NEXT DAY AND YOU DECIDED TO

10 PURCHASE BUCKSHOT; IS THAT CORRECT?

11 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

12 THE COURT: OVERRULED.

13 THE WITNESS: WE DID GO BACK TO THE STORE THE

14 NEXT DAY AND PURCHASED MORE AMMUNITION.

15 Q BY MR. CONN: AND IS THAT BECAUSE YOU

16 CONCLUDED THAT THE MAFIA DOESN'T USE BIRD SHOT; IF

17 IT'S GOING TO LOOK LIKE A MAFIA KILLING IT HAS TO BE

18 BUCKSHOT?

19 MR. LEVIN: OBJECTION. ARGUMENTATIVE, YOUR

20 HONOR.

21 THE COURT: SUSTAINED.

22 MR. LEVIN: LIKE TO APPROACH ON THAT.

23 THE COURT: OBJECTION SUSTAINED.

24 Q BY MR. CONN: CAN YOU TELL US WHY YOU

25 DECIDED THE NEXT DAY TO PURCHASE BUCKSHOT?

26 A BECAUSE THE MAN IN THE STORE THE NEXT

27 DAY IN VAN NUYS TOLD US THAT BASICALLY BIRD SHOT WAS

28 FOR THE BIRDS AND TO -- THAT BUCKSHOT WAS SOMETHING

1 THAT YOU USE IF A BURGLAR COMES IN YOUR HOME FOR  
2 HOME PROTECTION, THAT THAT'S WHAT YOU SHOULD BUY.

3 Q IS THAT WHAT HE SAID, BIRD SHOT IS FOR  
4 THE BIRDS?

5 A THAT'S CERTAINLY WHAT I GOT OUT OF IT,  
6 THAT BIRD SHOT WAS FOR SHOOTING BIRDS AND -- OR  
7 DOVES, THAT IT WAS BIRD SHOT OR DOVE LOAD, AND THAT  
8 IT WAS -- ITS PURPOSE WAS FOR HUNTERS WHEN THEY SHOOT  
9 SMALL ANIMALS IN THE SKY AND THAT IT -- THAT'S WHY IT  
10 SCATTERS. AND THAT BUCKSHOT WAS USED FOR HOME  
11 PROTECTION.

12 Q AND YOU WANTED SOMETHING THAT WAS MORE  
13 LETHAL THAN BIRD SHOT; IS THAT CORRECT?

14 A WHAT I GOT OUT OF IT WAS THAT BIRD SHOT  
15 WOULDN'T STOP A HUMAN BEING.

16 Q YOU TRULY BELIEVED THAT BIRD SHOT WOULD  
17 NOT STOP A HUMAN BEING?

18 A YES.

19 MR. CONN: DID THE COURT WISH TO BREAK AT  
20 THIS TIME?

21 THE COURT: LET'S KEEP GOING A LITTLE  
22 LONGER.

23 Q BY MR. CONN: NOW, WHEN YOU PURCHASED  
24 THE BIRD SHOT, YOU KNEW -- IT WAS YOUR BELIEF THAT IF  
25 YOU USED THAT WEAPON IT WOULD BE CAPABLE OF KILLING  
26 YOUR PARENTS; IS THAT CORRECT?

27 A I DON'T BELIEVE THOSE THOUGHTS WENT  
28 THROUGH MY MIND AT THAT TIME.

1 Q WELL, YOU FELT THAT YOUR FATHER WAS A  
2 VERY POWERFUL PERSON; IS THAT CORRECT?

3 A HE WAS.

4 Q AND YOU DIDN'T WANT TO JUST WOUND HIM  
5 SLIGHTLY AND MAKE HIM ANGRY, DID YOU?

6 A I DIDN'T THINK ABOUT IT AT THAT TIME.

7 Q BUT YOUR INTENTION IN PURCHASING A  
8 SHOTGUN AND AMMUNITION WAS NOT JUST TO BE ABLE TO  
9 MAKE YOUR FATHER ANGRY, IT WOULD BE SOMETHING THAT  
10 WOULD BE ABLE TO TAKE HIM DOWN AND KILL HIM; IS THAT  
11 CORRECT?

12 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

13 THE COURT: SUSTAINED. REPHRASE THE  
14 QUESTION.

15 Q BY MR. CONN: WAS IT YOUR INTENTION WHEN  
16 YOU PURCHASED THE SHOTGUN AMMUNITION TO PURCHASE  
17 SOMETHING THAT WOULD BE ABLE TO TAKE YOUR FATHER  
18 DOWN AND KEEP HIM DOWN?

19 A I CLEARLY WANTED SOMETHING TO STOP HIM  
20 IF HE CAME AFTER ME OR IF MY MOM CAME AFTER ME,  
21 SOMETHING THAT WOULD STOP THEM. CERTAINLY THAT WAS  
22 IN MY MIND. I DON'T THINK THAT THOSE THOUGHTS WENT  
23 THROUGH MY MIND AT THAT TIME, BUT THAT WAS THE

24 PURPOSE.

25 Q WELL, WHEN DID THESE THOUGHTS FINALLY GO  
26 THROUGH YOUR MIND, MR. MENENDEZ, THAT YOU HAD  
27 PURCHASED THE SHOTGUN AND AMMUNITION THAT WAS  
28 CAPABLE OF KILLING HUMAN BEINGS?

44717

1 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

2 THE COURT: REPHRASE THE QUESTION.

3 Q BY MR. CONN: DID IT EVER GO THROUGH  
4 YOUR MIND, MR. MENENDEZ, THAT YOU HAD PURCHASED A  
5 SHOTGUN AND AMMUNITION CAPABLE OF KILLING HUMAN  
6 BEINGS?

7 A CERTAINLY ANY WEAPON THAT IS A GUN IS  
8 CAPABLE OF KILLING A HUMAN BEING.

9 WHAT I'M SAYING IS THAT THE THOUGHTS  
10 THAT YOU'RE SUGGESTING DID NOT GO THROUGH MY MIND AT  
11 THAT TIME. I DIDN'T HAVE TO THINK ABOUT THEM. I  
12 DIDN'T WANT TO THINK ABOUT THEM. I DIDN'T THINK  
13 ABOUT THEM.

14 Q I'M ASKING YOU WHEN DID IT GO THROUGH  
15 YOUR MIND, IF IT EVER WENT THROUGH YOUR MIND --

16 A I KNOW THAT --

17 Q LET ME FINISH THE QUESTION.

18 -- THAT YOU HAD PURCHASED THE SHOTGUN

19 AND AMMUNITION THAT WAS CAPABLE OF KILLING YOUR

20 MOTHER AND YOUR FATHER?

21 MR. LEVIN: OBJECTION. ARGUMENTATIVE.

22 THE COURT: OVERRULED.

23 THE WITNESS: I KNOW THAT ON SATURDAY NIGHT

24 WHEN MY FATHER WAS BANGING ON THE DOOR I STILL HAD

25 THE TWO BIRD SHOTS IN MY GUN, AND IT WENT THROUGH MY

26 MIND THEN. I REMEMBER THAT.

27 Q BY MR. CONN: ARE YOU TELLING US,

28 MR. MENENDEZ, THAT IN THE DRIVE ALL THE WAY UP FROM

44718

1 SAN DIEGO BACK TO LOS ANGELES IT NEVER WENT THROUGH

2 YOUR MIND THAT YOU HAD IN YOUR CAR TWO SHOTGUNS AND

3 AMMUNITION CAPABLE OF KILLING YOUR PARENTS?

4 MR. LEVIN: OBJECTION. ARGUMENTATIVE AS

5 PHRASED.

6 THE COURT: SUSTAINED AS TO THE FORM OF THE

7 QUESTION.

8 Q BY MR. CONN: ARE YOU SAYING -- IS IT

9 YOUR TESTIMONY, MR. MENENDEZ, THAT THE -- WHILE YOU

10 WERE DRIVING BACK TO LOS ANGELES YOU DID NOT HAVE

11 SHOTGUNS AND AMMUNITION CAPABLE OF KILLING A HUMAN

12 BEING?

13 A NO, THAT'S NOT WHAT I'M SAYING.

14 Q YOU WERE AWARE DRIVING BACK TO  
15 LOS ANGELES THAT YOU HAD A LETHAL WEAPON, DIDN'T  
16 YOU?

17 A CERTAINLY A SHOTGUN IS A LETHAL WEAPON.

18 Q AND YOU -- YOU WERE AWARE, WERE YOU NOT,  
19 THAT YOU HAD AMMUNITION THAT WAS CAPABLE OF  
20 INFLECTING DEATH, DID YOU NOT?

21 A THAT WAS WHAT I HAD THOUGHT, YES.

22 Q AND IT WAS YOUR INTENTION AT THAT POINT  
23 TO GO BACK TO A SITUATION IN LOS ANGELES AT 722 ELM  
24 STREET WHERE YOU MIGHT HAVE TO USE THAT GUN; IS THAT  
25 CORRECT?

26 A YES.

27 Q YOU COULD HAVE STAYED DOWN IN SAN DIEGO,  
28 COULDN'T YOU?

44719

1 A I DIDN'T BELIEVE THAT I COULD.

2 Q MR. MENENDEZ, YOU HAD THE COURAGE AND  
3 THE INITIATIVE AND THE STRENGTH TO GO DOWN TO  
4 SAN DIEGO, SHOP FOR SHOTGUNS, AND PURCHASE  
5 AMMUNITION, BUT YOU DIDN'T HAVE THE COURAGE AND THE  
6 STRENGTH TO STAY AWAY FROM HOME?

7 MR. LEVIN: OBJECTION. ARGUMENTATIVE AS  
8 PHRASED.

9 THE COURT: SUSTAINED.

10 Q BY MR. CONN: NOW, WHILE YOU WERE  
11 DRIVING BACK TO LOS ANGELES, YOU DECIDED TO LOAD  
12 YOUR SHOTGUNS; IS THAT CORRECT?

13 A YES.

14 Q AND HOW MANY DID YOU LOAD?

15 A TWO ROUNDS.

16 Q IN THAT SHOTGUN?

17 A YES.

18 Q AND THE -- YOU HAD PURCHASED ONE BOX OF  
19 BIRD SHOT; IS THAT CORRECT?

20 A I BELIEVE SO.

21 Q AND HOW MANY SHELLS WERE CONTAINED IN  
22 THAT BOX?

23 A MANY. TEN. FIFTEEN. I DON'T HAVE A  
24 NUMBER.

25 Q AND DID YOU LOAD YOUR BROTHER'S SHOTGUN  
26 ON THE WAY BACK TO LOS ANGELES?

27 A NO.

28 Q WHY NOT?

44720

1 A I DON'T KNOW. I JUST DIDN'T.

2 Q DIDN'T YOU FEEL THAT YOUR BROTHER LYLE  
3 MENENDEZ WAS ALSO IN DANGER FROM YOUR PARENTS?



4 MR. LEVIN: OBJECTION. ARGUMENTATIVE AS

5 PHRASED.

6 THE COURT: OVERRULED.

7 THE WITNESS: YES, I DID.

8 Q BY MR. CONN: AND DID YOU FEEL THAT HE

9 WOULD NEED A LOADED SHOTGUN WHEN HE GOT BACK TO

10 LOS ANGELES?

11 A I DIDN'T KNOW IF I THOUGHT THAT HE WOULD

12 NEED ONE. I JUST DIDN'T LOAD HIS. I CAN'T TELL YOU

13 WHY.

14 Q AND DID YOU LOAD THE SHOTGUN ALL THE WAY

15 TO FULL CAPACITY?

16 A NO. I LOADED TWO ROUNDS.

17 Q AND HOW DID YOU KNOW HOW TO LOAD THOSE

18 TWO ROUNDS?

19 A AMANDA ADAMS SHOWED ME AND THE MAN AT

20 THE OTHER GUN STORE, I BELIEVE, HAD ALSO EXPLAINED

21 IT TO US.

22 Q AND YOU HAD NO PROBLEM OPERATING THAT

23 WEAPON?

24 A I DON'T -- I DON'T UNDERSTAND WHAT YOU

25 MEAN. DID I LOAD TWO ROUNDS -- I LOADED TWO

26 ROUNDS.

27 Q YOU HAD NO PROBLEM OPERATING THE SAFETY

28 AND SO FORTH ON THAT WEAPON?

1 A I DON'T REMEMBER A PROBLEM. I REMEMBER  
2 IT BEING SIMPLE.

3 Q AND WHEN YOU GOT BACK HOME TO  
4 LOS ANGELES, WHAT TIME WAS IT?

5 A IT WAS NIGHTTIME. SEVEN, EIGHT, 8:30.  
6 I'M NOT SURE EXACTLY THE TIME.

7 Q DID YOU HAVE A KEY TO GET INSIDE YOUR  
8 HOUSE?

9 A NO, I DIDN'T.

10 Q SO WHAT'D YOU DO?

11 A I CHECKED THE STUDY DOOR. IT WAS  
12 LOCKED. RANG THE DOOR WELL.

13 Q AND YOUR MOTHER CAME DOWNSTAIRS AND  
14 OPENED UP THE DOOR?

15 A YES.

16 Q AND THEN WHAT DID YOU DO?

17 A SHE TOLD US THAT THE FISHING TRIP HAD --  
18 WAS CHANGED AND HAD BEEN CHANGED FROM THE MORNING TO  
19 THE EVENING TIME. AND I THEN WENT BACK OUTSIDE,  
20 TOLD MY BROTHER THAT I DIDN'T WANT TO SLEEP IN THE  
21 MAIN HOUSE, THAT I WAS AFRAID AND I WANTED TO SLEEP  
22 IN THE GUESTHOUSE. HE CAME AND BASICALLY DECIDED  
23 THAT I WOULD SLEEP IN THE MAIN HOUSE ANYWAY, AND I  
24 WENT UP TO MY ROOM.

25 Q AND YOU BROUGHT YOUR GUN UP TO YOUR  
26 ROOM; IS THAT CORRECT?

27 A YES.

28 Q NOW, WHEN YOU PURCHASED IT, DID IT COME

44722

1 INSIDE A BOX?

2 A IT DID.

3 Q AND WHERE WAS THAT BOX WHEN YOU WERE  
4 GOING UP TO YOUR ROOM?

5 A I BELIEVE THE BOX WAS IN MY CAR.

6 Q DID YOU CONCEAL THIS WEAPON IN SOME  
7 WAY?

8 A I PUT IT IN A TENNIS BAG.

9 Q WHERE WAS THAT TENNIS BAG AT THE TIME  
10 THAT YOU PURCHASED THE WEAPON IN SAN DIEGO?

11 A I BELIEVE IT WAS IN MY CAR.

12 Q SO YOU HAD -- YOU DIDN'T GO SHOPPING FOR  
13 SHOTGUNS THAT DAY, BUT YOU HAD A TENNIS BAG IN YOUR  
14 CAR THAT WAS LARGE ENOUGH TO CONCEAL A SHOTGUN; IS  
15 THAT CORRECT?

16 A I HAD TWO OR THREE TENNIS BAGS. ALL OF  
17 THEM WERE LARGE DUFFLE BAGS FOR MANY TENNIS RACKETS  
18 THAT YOU WOULD CARRY.

19 Q AND SO YOU -- YOU PUT THE SHOTGUN INSIDE  
20 THE TENNIS BAG AND THEN YOU CARRIED IT UP THE STAIRS  
21 TO YOUR BEDROOM; IS THAT CORRECT?

22 A YES.

23 Q AND WERE THE LIGHTS ON IN YOUR HOME AS  
24 YOU WERE GOING UP THE STAIRS?

25 A I REMEMBER THE FOYER LIGHTS BEING OFF.

26 Q ANY OTHER LIGHTS ON IN THE HOUSE?

27 A I REMEMBER SEEING MY MOM'S BEDROOM LIGHT  
28 BEING ON WHEN SHE EXITED THE BEDROOM.

44723

1 Q I'M SAYING AS YOU WERE GOING UP THE  
2 STAIRS WERE THERE ANY LIGHTS ON IN THE HOUSE?

3 A I DON'T REMEMBER ANY OTHER LIGHTS.

4 Q AND THEN YOU -- DO YOU KNOW IF YOUR -- YOU  
5 BELIEVE YOUR FATHER TO BE HOME AT THE TIME?

6 A YES.

7 Q AND YOU BELIEVE YOUR MOTHER TO BE HOME  
8 AT THE TIME; IS THAT CORRECT?

9 A SHE WAS.

10 Q AND YOU WALKED UP THE STAIRS. AND WHEN  
11 YOU GOT TO THE TOP OF THE STAIRS TO TURN LEFT TO GO  
12 TOWARDS YOUR BEDROOM, YOUR PARENTS' BEDROOM WAS TO  
13 THE IMMEDIATE RIGHT, WASN'T IT?

14 A EXACTLY.

15 Q HOW FAR AWAY WAS YOUR PARENTS' BEDROOM  
16 FROM THE TOP OF THE STAIRS AS YOU WERE TURNING TO GO  
17 INTO YOUR BEDROOM?

18 A FIVE, TEN FEET.

19 Q SHOWING YOU THE EXHIBIT THAT HAS BEEN  
20 MARKED EXHIBIT NO. 6 AND WHICH DEPICTS THE SECOND  
21 FLOOR OF THE RESIDENCE.

22 TO GET UP TO YOUR BEDROOM -- YOUR BEDROOM  
23 WAS WHAT IS MARKED AS BEDROOM NO. 4; IS THAT  
24 CORRECT?

25 A YES.

26 Q AND TO GET TO THAT BEDROOM, YOU HAD TO  
27 COME UP THE STAIRS HERE, GET TO THE TOP OF THE  
28 STAIRS, TURN LEFT AND THEN MAKE ANOTHER LEFT TO GO

44724

1 TO THE BEDROOM; IS THAT CORRECT?

2 A RIGHT.

3 Q AND AS YOU GOT TO THE TOP OF THE STAIRS  
4 HERE, YOUR PARENTS' BEDROOM WAS TO THE RIGHT; IS  
5 THAT CORRECT?

6 A YES.

7 Q AND JUST A FEW FEET AWAY FROM WHERE YOU  
8 WERE CARRYING THIS BAG WITH THE SHOTGUN IN IT; IS  
9 THAT CORRECT?

10 A YES.

11 Q AND IT WAS A LOADED SHOTGUN; IS THAT  
12 CORRECT?

13 A IT WAS.

14 Q AND IT WAS A SHOTGUN THAT YOU INTENDED  
15 TO USE, IF NECESSARY, TO SHOOT YOUR PARENTS; IS THAT  
16 CORRECT?

17 A YES.

18 Q NOW, WHAT DID YOU -- DID YOUR MOTHER'S  
19 MAGICAL POWERS CAUSE YOU SOME CONCERN AT THAT POINT  
20 IN MIND -- AT THAT POINT IN TIME?

21 A NO.

22 Q DID YOU FEEL THAT YOUR MOTHER HAD THE  
23 ABILITY TO KNOW THINGS THAT THE ORDINARY PERSON  
24 COULD NOT PERCEIVE?

25 A YES.

26 Q DID YOU FEEL AT THAT POINT, AS YOU WERE  
27 PRACTICALLY WALKING PAST HER BEDROOM CARRYING A  
28 SHOTGUN THAT YOU MIGHT USE TO SHOOT HER, IF

44725

1 NECESSARY, THAT PERHAPS YOUR MOTHER'S GOING TO  
2 FIGURE OUT THAT YOU'RE CARRYING A SHOTGUN?

3 A I DON'T BELIEVE IT WENT THROUGH MY MIND.

4 Q WHY NOT?

5 A I DIDN'T THINK THAT THE KNOWLEDGE THAT  
6 SHE HAD OF THINGS THAT WERE GOING ON IN MY LIFE  
7 DURING THAT YEAR IN BEVERLY HILLS HAD ANYTHING TO DO

8 WITH HOW CLOSE I WAS TO HER AT THE TIME.

9 Q WELL, DID YOU SAY THAT TO -- DID YOU  
10 PREVIOUSLY TESTIFY THAT YOU BELIEVED THAT YOUR  
11 MOTHER HAD THE ABILITY TO READ YOUR MIND?

12 A I DON'T REMEMBER TESTIFYING TO THAT,  
13 NO.

14 MR. CONN: ADDRESSING COUNSEL'S ATTENTION TO  
15 VOLUME 99, PAGE 16,691, LINE 22, TO THE FOLLOWING  
16 PAGE, LINE 3.

17 MS. ABRAMSON: THERE WOULD BE AN OBJECTION,  
18 YOUR HONOR.

19 MR. LEVIN: LET ME READ IT. I MAY DISAGREE.

20 (PAUSE IN PROCEEDINGS.)

21

22 MR. LEVIN: YOUR HONOR, I OBJECT TO THIS.  
23 IT'S NOT IMPEACHING.

24 THE COURT: LET ME SEE IT.

25 (PAUSE IN PROCEEDINGS.)

26

27 THE COURT: WHAT LINE ARE YOU TALKING ABOUT?

28 MR. CONN: I PROPOSE TO READ FROM LINE 22 ON

3 THE COURT: OKAY. AS TO THOSE LINES, THE

4 OBJECTION IS OVERRULED.

5 MR. LEVIN: WHERE ARE YOU STARTING, MR.

6 CONN?

7 MR. CONN: I'LL START AT LINE 22 AND I'LL

8 READ THEN TO LINE -- JUST LINE 25, THE FIRST WORD ON

9 LINE 26.

10 MR. LEVIN: YOUR HONOR, THERE'S AN OBJECTION

11 UNLESS AN ENTIRE ANSWER IS READ THAT GOES TO THE

12 QUESTION MR. CONN WISHES TO READ.

13 THE COURT: THAT'S FINE.

14 Q BY MR. CONN: DO YOU RECALL BEING ASKED

15 THE FOLLOWING QUESTION AND GIVING THE FOLLOWING

16 ANSWER IN THE FIRST TRIAL:

17 "QUESTION: NOW, YOU BELIEVE THAT

18 SHE HAD THIS MAGICAL POWER, CORRECT,

19 THAT SHE COULD READ YOUR MIND?

20 "ANSWER: I DON'T KNOW IF I -- AT

21 TIMES I BELIEVE THAT. BUT WHEN I

22 REALLY THOUGHT MORE RATIONALLY, I

23 THOUGHT MAYBE SHE JUST HAD SOMEONE

24 INVESTIGATING ME. I DIDN'T QUITE

25 UNDERSTAND. I DIDN'T GET IT. I

26 THOUGHT MAYBE SHE WAS LISTENING TO ME

27 ON THE PHONE, BUT I WOULD CLICK OVER

28 SO I'D KNOW SHE WASN'T ON THE PHONE.



1 SO I DIDN'T UNDERSTAND."

2 DO YOU RECALL GIVING THAT ANSWER?

3 A I DON'T SPECIFICALLY RECALL THAT, BUT  
4 THAT'S WHAT I WOULD HAVE SAID, YES.

5 Q SO YOU ACKNOWLEDGED IN THE FIRST TRIAL  
6 THAT AT TIMES YOU BELIEVED YOUR MOTHER HAD -- THAT  
7 YOUR MOTHER COULD READ YOUR MIND; IS THAT CORRECT?

8 MR. LEVIN: OBJECTION. IT'S ARGUMENTATIVE  
9 AND MISSTATES HIS TESTIMONY.

10 THE COURT: SUSTAINED.

11 Q BY MR. CONN: WELL, DID YOU SAY IN THE  
12 FIRST TRIAL THAT AT TIMES YOU BELIEVED THAT SHE  
13 COULD READ YOUR MIND, BUT WHEN YOU THOUGHT ABOUT IT  
14 MORE RATIONALLY YOU THOUGHT MAYBE SHE HAD SOMEONE  
15 INVESTIGATING YOU?

16 MR. LEVIN: OBJECTION. IT MISSTATES HIS  
17 TESTIMONY, WHICH HE JUST READ.

18 THE COURT: OVERRULED.

19 THE WITNESS: I REMEMBER IN THE FIRST TRIAL  
20 MR. KURIYAMA ASKED ME ABOUT 18 TIMES DID I THINK  
21 THAT MY MOTHER COULD READ MY MIND, AND I SAID NO,  
22 AND I MADE IT VERY CLEAR.

23 IN THAT ONE PASSAGE HE ASKED ME ABOUT,  
24 DID YOU THINK SHE HAD SPECIAL POWERS, READ MY MIND,  
25 HE GROUPED IT ALL TOGETHER, AND I ANSWERED IT THAT

26 WAY. BUT IF YOU WENT THROUGH ALL THE TRANSCRIPTS, I

27 THINK IT WOULD BE CLEAR.

28 Q BY MR. CONN: ARE YOU SAYING, MR. MENENDEZ,

44728

1 THAT MR. KURIYAMA IS TO BLAME FOR YOU SAYING THAT?

2 A NO, I DON'T THINK THAT AT ALL. I THINK

3 THAT READING THAT ONE ANSWER TO THAT ONE SPECIFIC

4 QUESTION AND NOT READING ALL OF THE OTHER ONES AND

5 PUTTING IT TOGETHER IS WHAT GIVES, IF THERE IS

6 GIVEN, A MISIMPRESSION.

7 Q WHY DID YOU USE THE WORDS "AT TIMES I

8 BELIEVE THAT"?

9 A AT TIMES I BELIEVED SHE HAD THESE

10 EXTRAORDINARY POWERS; AT OTHER TIMES WHEN I THOUGHT

11 MORE RATIONALLY, I SAID THAT OBVIOUSLY CANNOT BE.

12 SHE MUST HAVE SOMEONE INVESTIGATING ME OR SHE MUST

13 BE GETTING THIS INFORMATION FROM SOME OTHER WAY. I

14 REMEMBER THAT I USED TO CLICK OVER ON THE PHONE.

15 BUT NO MATTER HOW I LOOKED AT IT I COULDN'T GET

16 AROUND THE FACT THAT SHE KNEW THINGS SHE JUST COULD

17 NOT KNOW. AND -- BUT I DIDN'T THINK IT HAD TO DO

18 WITH MIND READING. I DIDN'T BELIEVE MY MOTHER HAD

19 E.S.P.

20 Q MY QUESTION TO YOU THEN IS: WHY, WHEN

21 MR. KURIYAMA ASKED YOU DO YOU BELIEVE THAT SHE COULD  
22 READ YOUR MIND, YOU USED THE WORDS "AT TIMES I  
23 BELIEVED THAT"?  
24 MR. LEVIN: OBJECTION. IT MISSTATES HIS  
25 TESTIMONY.  
26 THE COURT: READ EXACTLY WHAT IT WAS.  
27 MR. CONN: YES.  
28 Q WHY DID YOU USE THE WORDS: "I DON'T

44729

1 KNOW IF I -- AT TIMES I BELIEVED THAT. BUT WHEN I  
2 REALLY THOUGHT MORE RATIONALLY, I THOUGHT MAYBE SHE  
3 JUST HAD SOMEONE INVESTIGATING ME"?  
4 A MAY I SEE THE PASSAGE, PLEASE?  
5 (TRANSCRIPT HANDED TO WITNESS.)  
6  
7 THE WITNESS: HE GROUPED IT TOGETHER. I  
8 ANSWERED IN THAT WAY. I DON'T KNOW -- I DON'T KNOW  
9 WHAT I WAS -- WHY I ANSWERED IN THAT WAY ON THAT  
10 PARTICULAR DAY TO THAT ANSWER. I WASN'T INTENDING  
11 AND I DIDN'T FEEL -- I DIDN'T MEAN TO, AT LEAST, GIVE  
12 THE IMPRESSION THAT I FELT SHE COULD READ MY MIND.  
13 THAT'S -- IT'S EVEN MORE ABSURD THAN HER HAVING  
14 EXTRAORDINARY POWERS AND I JUST DID NOT BELIEVE  
15 THAT.

16 Q BY MR. CONN: NOW, AS YOU WERE WALKING  
17 UP THE STAIRS TO GO TO YOUR BEDROOM THAT FRIDAY --

18 MS. ABRAMSON: EXCUSE ME, YOUR HONOR, COULD  
19 WE APPROACH?

20 THE COURT: NOT QUITE YET.

21 MS. ABRAMSON: WELL, YOUR HONOR, I'D ASK THAT  
22 WE BE ABLE TO APPROACH NOW. I THINK MY CLIENT IS IN  
23 DISTRESS PHYSICALLY.

24 THE COURT: OKAY. ARE YOU HAVING SOME  
25 PROBLEM RIGHT NOW?

26 THE WITNESS: UM, I THINK I CAN MAKE IT  
27 THROUGH. I JUST HAVE A BACK PROBLEM.

28 THE COURT: OKAY. WE'LL GO A FEW MORE

44730

1 MOMENTS HERE.

2 Q BY MR. CONN: AS YOU WERE WALKING UP THE  
3 STAIRS THAT FRIDAY TO GO YOUR BEDROOM WITH THE  
4 SHOTGUN, WAS THERE ANY CONCERN IN YOUR MIND THAT  
5 YOUR MOTHER MIGHT BE ABLE TO USE WHATEVER POWER IT  
6 WAS THAT SHE HAD TO FIGURE OUT WHAT WAS INSIDE YOUR  
7 BAG?

8 A I DON'T REMEMBER MYSELF THINKING ABOUT --  
9 THINKING THAT WAY.

10 Q AND CAN YOU TELL US WHY YOU FELT THAT IF

11 YOUR MOTHER HAD A POWER TO KNOW THINGS THAT OTHER  
12 PEOPLE DIDN'T KNOW, WHY THAT POWER WOULD NOT ALLOW  
13 HER TO FIGURE OUT WHAT WAS INSIDE YOUR BAG?

14 A I CAN'T TELL YOU THAT. I DON'T KNOW.

15 I -- IT JUST DIDN'T COME INTO MY MIND AND I DIDN'T --

16 I CAN'T ANSWER THAT.

17 THE COURT: OKAY. LET'S TAKE OUR RECESS.

18 WE'LL RESUME TOMORROW AT 8:30. DON'T DISCUSS THE  
19 MATTER WITH ANYONE. DON'T FORM ANY FINAL OPINIONS  
20 ABOUT IT. DON'T LOOK AT ANY OF THE NEWS COVERAGE.

21 WE'LL SEE YOU BACK HERE TOMORROW AT 8:30.

22 MS. ABRAMSON: CAN WE REMAIN, YOUR HONOR?

23 THE COURT: YES.

24 MS. ABRAMSON: THANK YOU.

25 (THE JURY EXITED THE  
26 COURTROOM AND THE FOLLOWING  
27 PROCEEDINGS WERE HELD:)

28

44731

1 THE COURT: OKAY. THE JURY HAS LEFT.

2 YES.

3 MS. ABRAMSON: I THINK IT IS MISCONDUCT, YOUR  
4 HONOR, FOR THE PROSECUTOR IN THIS CASE TO ASK  
5 QUESTIONS ABOUT THE HANDWRITING EXEMPLARS THAT THIS

6 COURT HAD PREVIOUSLY RULED WAS NOT ADMISSIBLE  
7 EVIDENCE. THEY KNEW IT AND IT'S JUST ANOTHER EFFORT  
8 TO DO A RUN-AROUND OF THIS COURT'S RULINGS AND THEY  
9 DO IT OVER AND OVER AGAIN. AND WE HAVE TO SIT HERE  
10 AND TRY TO CATCH THEM AT THINGS THAT THE COURT  
11 ALREADY RULED IN 402 MOTIONS, PRETRIAL, WERE NOT  
12 ADMISSIBLE. I THINK IT'S THE MOST UNPROFESSIONAL  
13 CONDUCT FROM A PROSECUTOR TO DO THAT STUFF AND IT  
14 HAPPENS HERE TIME AND TIME AGAIN. AND I WISH THE  
15 COURT WOULD NOT ONLY ADMONISH THE PROSECUTION NOT TO  
16 DO IT, BUT DEVISE SOME SANCTIONS FOR THIS CONSTANT  
17 IGNORING OF THE COURT'S RULINGS.

18 THE COURT: WELL, THE COURT'S RULINGS ARE NOT  
19 CONSTANTLY BEING IGNORED, BUT I WANT TO ADDRESS THIS  
20 ONE ISSUE.

21 WHAT WAS YOUR INTENT IN ASKING THE  
22 QUESTION REGARDING THE HANDWRITING EXEMPLAR?

23 MR. CONN: WELL, THE COURT RULED THAT IT WAS  
24 NOT ADMISSIBLE IN THE CASE-IN-CHIEF, BUT THE COURT,  
25 AT THE TIME OF THE RULING, INDICATED THAT IF THE  
26 DEFENDANT WERE TO DENY IT, THEN WE'D BE ABLE TO  
27 PRESENT IT IN REBUTTAL.

28 THE COURT: WHY WAS IT THAT YOU FELT THAT HE

1 DENIED IT WHEN HE SAID THAT HE WROTE IT?

2 MR. CONN: IT'S MY UNDERSTANDING FROM THE  
3 COURT THAT IF HE WERE TO DENY THE -- IF HE WERE TO  
4 DENY REFUSING TO GIVE A HANDWRITING SAMPLE, THEN WE  
5 WOULD BE ABLE TO PRESENT EVIDENCE OF THAT IN  
6 REBUTTAL.

7 MS. ABRAMSON: NO WAY.

8 THE COURT: THAT'S NOT WHAT THE COURT RULED.  
9 THE COURT RULED THAT IF THE DEFENSE DISPUTED THE  
10 SOURCE OF THE HANDWRITING ON THE DOCUMENT, THEN THE  
11 COURT WOULD PERMIT YOU TO GO INTO THE REFUSAL TO  
12 PROVIDE THE EXEMPLAR.

13 MR. CONN: THAT WASN'T MY UNDERSTANDING OF  
14 THE COURT'S RULING.

15 I WOULD ASK AT THIS TIME THAT WE BE  
16 PERMITTED TO QUESTION THE DEFENDANT CONCERNING THE  
17 REFUSAL BECAUSE THE REFUSAL GOES TO CONSCIOUSNESS OF  
18 GUILT.

19 THE COURT: OKAY. THIS HAS BEEN ARGUED AND  
20 ALREADY RULED ON BY THE COURT. AND THE REASON THE  
21 COURT RULED AS IT DID WAS BECAUSE THE REFUSAL WAS  
22 INTERMIXED WITH DISPUTES OVER DISCOVERY THAT  
23 OCCURRED IN MUNICIPAL COURT. THIS ALL HAPPENED IN  
24 THE MUNICIPAL COURT.

25 AND THE COURT AT THAT TIME, THIS COURT,  
26 RULED THAT BECAUSE THERE WERE OTHER ISSUES RELATING  
27 TO THE REFUSAL THAT COULD HAVE MOTIVATED THE  
28 REFUSAL; THAT IT WOULD INTRODUCE EXTRANEIOUS MATERIAL

1 AND INFORMATION THAT IS POTENTIALLY CONFUSING WITH  
2 VERY LITTLE PROBATIVE VALUE AS FAR AS THE REFUSAL  
3 BECAUSE THE ISSUE IS WHY WAS THERE A REFUSAL. AND  
4 BECAUSE OF THE DISPUTE OVER DISCOVERY AS A REASON  
5 GIVEN FOR THE REFUSAL, WHICH WAS DOCUMENTED IN THE  
6 TRANSCRIPT IN MUNICIPAL COURT, THE COURT HAS  
7 FORECLOSED USE OF THAT REFUSAL WITH THE PROVISIO THAT  
8 IF THERE WAS A DENIAL BY THE DEFENSE OF HAVING  
9 WRITTEN THE SIGNATURES ON THE DOCUMENT, THEN THE  
10 COURT WOULD RECONSIDER THAT, AND THAT HAS NOT  
11 OCCURRED. THEREFORE, THE COURT DOES NOT RECONSIDER  
12 OR DOES NOT RULE DIFFERENTLY.

13 AND IT SEEMED TO ME THAT THE COURT'S  
14 RULING IN THAT REGARD WAS RATHER CLEAR-CUT,  
15 MR. CONN, AND IT WOULDN'T REQUIRE ANY DIFFICULTY IN  
16 UNDERSTANDING IT. AND YOU ARE TO REFRAIN FROM  
17 VIOLATING ANY OF THE ORDERS OF THE COURT IN REGARD  
18 TO ANY PRETRIAL OR IN LIMINE MATTERS RELATING TO  
19 ADMISSIBILITY OF EVIDENCE. AND IF YOU HAVE ANY  
20 DOUBT ABOUT IT, YOU ASK THE COURT BEFORE YOU ASK THE  
21 QUESTION OF THE WITNESS.

22 MR. CONN: ALL RIGHT. WELL, I APOLOGIZE TO  
23 THE COURT, YOUR HONOR. TO TELL THE TRUTH, I TRULY  
24 INTERPRETED THE COURT'S RULING DIFFERENTLY. I TRULY



25 RECALL THE COURT SAYING IF HE WERE TO DENY  
26 IT -- AND BY "IT" I INTERPRETED THE COURT TO BE  
27 REFERRING TO THE REFUSAL -- THEN THIS IS SOMETHING  
28 THAT YOU COULD PRESENT IN YOUR REBUTTAL CASE.

44734

1 THE COURT: OKAY. WELL, THAT'S CLEARLY NOT  
2 WHAT I MEANT.

3 ALL RIGHT.

4 MS. NAJERA: YOUR HONOR, IS THE COURT GOING  
5 TO ADDRESS THE FACT THAT THROUGHOUT THIS LATTER  
6 HALF -- WELL, ACTUALLY, THROUGHOUT THIS DAY  
7 MS. ABRAMSON HAS BEEN OVER THERE -- I TOLD HER TWICE  
8 TO BE QUIET BECAUSE SHE IS SO AUDIBLE IN HER  
9 RESPONSES ON EVERYTHING. SHE DISLIKED THAT MR. CONN  
10 WENT INTO THAT REFUSAL. I CAN UNDERSTAND SHE HAS A  
11 VALID BASIS TO OBJECT. BUT NOT ONLY DID SHE CRUMPLE  
12 HER PAPERS, SHE THREW HER PAD DOWN ON THE COUNSEL  
13 TABLE, THREW HER PEN THERE AND STARTED MAKING NOISES  
14 OVER THERE TO MR. LEVIN. AND, I MEAN, I CAN  
15 UNDERSTAND WHY SHE WOULD MAKE OBJECTIONS, BUT SHE'S  
16 OVER THERE -- TWICE I TOLD HER -- SHE WAS SO LOUD I  
17 COULD HEAR HER AND I WAS CONCERNED THAT THE JURY  
18 COULD HEAR HER. I'M SITTING HERE WORRIED TO DEATH  
19 THAT THE JURY IS GOING TO HEAR THIS STUFF.

20 THE COURT: YOU DON'T HAVE TO WORRY. THE  
21 DEFENSE DOESN'T HAVE TO WORRY. THERE'S NOTHING AT  
22 THIS POINT THAT IS OCCURRING AT COUNSEL TABLE THAT  
23 IS OF ANY MOMENT TO THE JURORS, QUITE FRANKLY. THE  
24 JURY IS QUITE FOCUSED ON THE WITNESS AND NOT ON WHAT  
25 COUNSEL ARE DOING AT COUNSEL TABLE. THEY HAVEN'T  
26 SEEN ANYTHING OF ANY GREAT MOMENT THAT HAS OCCURRED  
27 AT COUNSEL TABLE.

28 LET ME ASK THIS: WHAT ARE COUNSEL'S

44735

1 SITUATIONS ON FRIDAY, THIS FRIDAY?

2 MR. GESSLER: YOUR HONOR, I HAVE, BECAUSE THE  
3 COURT HAD MARKED THE CALENDAR DARK, SET A DENTAL  
4 APPOINTMENT FRIDAY MORNING FOR TWO HOURS, WHICH I'VE  
5 PUT OFF FOR MONTHS. AND FRIDAY AFTERNOON I AM  
6 ORDERED BACK TO THE FEDERAL COURT TO CONTINUE MY  
7 TESTIMONY THERE.

8 MS. ABRAMSON: I HAVE OUT-OF-TOWN GUESTS.

9 THE COURT: WELL, THAT --

10 MS. ABRAMSON: I MEAN, I HAVE A WHOLE THING  
11 PLANNED.

12 THE COURT: OTHER THAN THESE TWO MATTERS,  
13 ANYTHING ELSE?

14 MR. GESSLER: NO. I'M PROBABLY FREE FROM

15 11:30 TO 12:00.

16 MS. ABRAMSON: I CAN BRING THE FAMILY HERE,  
17 YOUR HONOR.

18 THE COURT: THE FAMILY SITUATION IS NOT WHAT  
19 I'M CONCERNED ABOUT, BUT THINGS THAT CAN'T BE  
20 CHANGED.

21 MS. ABRAMSON: WELL, THERE --

22 THE COURT: THIS OBVIOUSLY IS TAKING MUCH  
23 LONGER THAN ANTICIPATED BECAUSE -- THE TESTIMONY OF  
24 THE DEFENDANT IS TAKING MUCH LONGER THAN ANTICIPATED  
25 BECAUSE OF ILLNESSES AND COMMITMENTS OF JURORS THAT  
26 HAVE BEEN UNABLE TO BE MOVED AROUND. NOW I'VE  
27 LEARNED THAT ONE OF THE JURORS WHO NEEDED THE ENTIRE  
28 DAY OFF ON FRIDAY NO LONGER NEEDS THAT. WE STILL

44736

1 HAVE ONE JUROR WHO NEEDS THE AFTERNOON OFF. THERE  
2 MAY BE OTHER PROBLEMS WITH OTHER JURORS WHO MADE  
3 PLANS RELYING ON FRIDAY BEING DARK AS WELL.

4 WHAT I WANT TO DO IS FIND OUT WHAT THE  
5 SITUATION WAS OF COUNSEL BEFORE I START TRYING TO  
6 GET THE JURORS TO REARRANGE THEIR SCHEDULE.

7 SO AS FAR AS YOUR DENTAL APPOINTMENT,  
8 THAT COULDN'T BE CHANGED UNTIL SOME OTHER TIME?

9 MR. GESSLER: YOUR HONOR, I HAVE NO TIME TO

10 CHANGE IT TO. IN FACT, THE DENTIST WENT IN ON A  
11 SATURDAY FOR ME ON AN EMERGENCY ON MY GUM AND MADE  
12 THIS APPOINTMENT TO TAKE CARE OF SOME CAVITIES.  
13 THEY'RE NOT MAJOR CAVITIES, BUT CAVITIES THAT I  
14 DON'T REALLY WANT TO --

15 THE COURT: I DON'T WANT YOU TO HAVE TO GO  
16 INTO DETAIL. IT'S PAINFUL ENOUGH AS IT IS. I JUST  
17 WANT TO KNOW WHETHER OR NOT IT CAN BE CHANGED TO  
18 SOME OTHER TIME.

19 MR. GESSLER: I DON'T FEEL I CAN, YOUR  
20 HONOR. HE'S RESERVED TWO HOURS FOR ME AND I KNOW I  
21 CAN'T CHANGE THE FEDERAL COURT THING IN THE  
22 AFTERNOON.

23 THE COURT: HAVE YOU ALREADY STARTED  
24 TESTIFYING?

25 MR. GESSLER: YES, I HAVE. I TESTIFIED UNTIL  
26 A QUARTER OF SEVEN LAST NIGHT, YOUR HONOR, AND WAS  
27 ORDERED BACK FOR FRIDAY AFTERNOON. HE'S TRYING TO  
28 ACCOMMODATE THIS COURT'S SCHEDULE TOO.

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1 THE COURT: IT COULD VERY WELL BE THAT WE  
2 CAN'T DO ANYTHING WITH THE JURY SITUATION ANYWAY.  
3 SO WE'LL TALK MORE ABOUT IT TOMORROW. BUT AS OF  
4 NOW, THINGS WILL STAND AS THEY'VE PREVIOUSLY BEEN

5 SCHEDULED.

6 ALL RIGHT. WE'LL RESUME TOMORROW AT  
7 8:30.

8 (AT 5:05 P.M., AN ADJOURNMENT  
9 WAS TAKEN UNTIL THURSDAY,  
10 DECEMBER 21, 1995, AT 8:30 A.M.)

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 )  
11 ERIK GALEN MENENDEZ, AND )  
12 JOSEPH LYLE MENENDEZ, )  
13 )  
14 DEFENDANTS. )  
15 )  
16 )  
17 )  
18 )

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS  
13 WEDNESDAY, DECEMBER 20, 1995  
14 VOLUME 267  
15 PAGES 44509 THROUGH 44737

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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

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12 WITNESSES: DIRECT CROSS REDIRECT RECROSS VOL.

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14 ERIK GALEN  
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15 (CONT'D) 44608-C 267

16

17

18

19

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21

22 LEGEND:

A = MS. ABRAMSON      C = MR. CONN

23 G = MR. GESSLER      L = MR. LEVIN

N = MS. NAJERA      T = MS. TOWERY

24

25

26

27

28

1                    EXHIBITS INDEX

2 EXHIBITS:            MARKED   RECEIVED   VOL.

3 (NONE THIS VOLUME.)



