

1 VAN NUYS, CALIFORNIA; FRIDAY, FEBRUARY 2, 1996

2 9:15 A.M.

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

4 (APPEARANCES AS HERETOFORE NOTED.)

5

6 (MARILYN A. FADALE, OFFICIAL REPORTER)

7 (MARY LU MURPHY, OFFICIAL REPORTER)

8

9 (THE FOLLOWING PROCEEDINGS WERE

10 HELD IN OPEN COURT, OUT OF THE

11 PRESENCE OF THE JURY:)

12

13 THE COURT: IN THE TRIAL, ALL THE

14 PARTICIPANTS ARE PRESENT.

15 GOOD MORNING.

16 MR. LEVIN, YOU HAD SOMETHING?

17 MR. LEVIN: YES, YOUR HONOR, I HAVE A BRIEF

18 MATTER THAT --

19 I WOULD ASK THAT MR. CIGNARELLI EXIT THE

20 COURTROOM BRIEFLY.

21 THE COURT: ALL RIGHT.

22 (WITNESS CIGNARELLI EXITS THE

23 COURTROOM.)

24

25 THE COURT: WHAT'S THAT?

26 MR. LEVIN: YOUR HONOR, FOLLOWING YESTERDAY'S

27 PROCEEDINGS, I WAS ABLE TO OBTAIN THE VIDEOTAPE IN

28 WHICH MR. CIGNARELLI GAVE HIS INTERVIEW TO "HARD COPY".

1 THE COURT: YOU DIDN'T HAVE IT BEFORE?

2 MR. LEVIN: PARDON ME?

3 THE COURT: YOU DIDN'T HAVE IT BEFORE?

4 MR. LEVIN: ACTUALLY, I DID NOT.

5 MS. ABRAMSON: ACTUALLY, THE COURT HAS IT.

6 MR. LEVIN: I KNEW IT WAS THERE, BUT I HAD
7 NOT SEEN IT BEFORE.

8 AND AT THE END OF THE VIDEOTAPE

9 MS. TERRY MURPHY COMES ON AND SAYS SOMETHING LIKE:

10 CRAIG CIGNARELLI FEELS SO STRONGLY ABOUT THIS CASE
11 THAT HE HAS MADE A SIZEABLE CONTRIBUTION -- AND THEN
12 THE TAPE THAT I HAVE GOES BLANK, AND I DON'T KNOW
13 WHAT IT SAYS. I'VE HEARD THAT IT SAYS "TO A
14 CHARITY" OR TO VICTIM'S CHILD ABUSE OR SOME ISSUE
15 WITH THAT, WHICH RAISES THE ISSUE THAT; APPARENTLY,
16 WHEN I ASKED MR. CIGNARELLI YESTERDAY: HOW MUCH
17 MONEY DID YOU RECEIVE? HOW MUCH MONEY WERE YOU
18 PAID? HE'S TAKING THAT EXTREMELY LITERALLY. AND
19 THERE IS A CERTAIN AMOUNT OF MONEY, PERHAPS, THAT HE
20 DESIGNATED TO BE PAID SOMEWHERE ELSE, GIFTS,
21 CHARITY, DEBTS, I DON'T KNOW WHAT. AND EITHER WANTS
22 TO SAY THAT OR, FOR SOME OTHER REASON, WON'T
23 DISCLOSE IT.

24 THE PROBLEM IS, IS THAT WE'RE KIND OF
25 PUT IN A BAD POSITION IN THAT I KNOW OF NO OTHER WAY
26 TO FIND OUT HOW MUCH MONEY HE RECEIVED EXCEPT TO ASK
27 HIM THAT QUESTION. I DON'T WANT TO OPEN THE DOOR
28 THAT MR. CIGNARELLI HAS MADE DONATIONS TO CHARITIES

49150

1 FOR VICTIMS OF CHILD ABUSE, BECAUSE HE FEELS SO
2 STRONGLY THAT ERIK MENENDEZ IS GUILTY, THAT HE IS
3 SOMEHOW TRYING TO SEND SOME KIND OF A MESSAGE. I
4 DON'T WANT TO GET INTO THAT AREA. I DON'T THINK
5 IT'S RELEVANT. I DON'T THINK IT'S APPROPRIATE.

6 BUT, WHAT IS FAIR IS THAT -- AND WHAT IS
7 TRUE, IS THAT MR. CIGNARELLI CONTRACTED WITH
8 "HARD COPY". HE RECEIVED \$25,000. HE THEN
9 DIRECTED, APPARENTLY, SOME OF THAT MONEY TO GO SOME
10 PLACE ELSE. BUT THAT DOESN'T TAKE AWAY FROM THE
11 FACT THAT HE RECEIVED \$25,000.

12 AND SO WHAT I'M ASKING IS THAT I BE
13 ALLOWED TO ELICIT FROM THE WITNESS THAT HE RECEIVED
14 \$25,000, WITHOUT HAVING THE WITNESS GO INTO WHERE
15 THE MONEY WAS DIRECTED.

16 AND I HAVE ANOTHER ISSUE, BUT I'LL WAIT
17 UNTIL THE COURT --

18 THE COURT: NUMBER ONE, DID HE ACTUALLY

19 RECEIVE THAT, OR DID SOME OF -- DID SOME GO TO
20 CHARITY?
21 MR. LEVIN: I THEN INTERVIEWED DETECTIVE
22 ZOELLER, BECAUSE THE WITNESS TESTIFIED YESTERDAY
23 THAT -- I BELIEVE HE SAID SOMETHING LIKE ZOELLER
24 KNEW THE WHOLE TIME. DETECTIVE ZOELLER -- AND I
25 MIGHT ADD THAT THERE IS NOT ONE WORD IN ANY
26 STATEMENT THAT WE RECEIVED PROVIDED TO THE DEFENSE
27 ON ANY ISSUE DEALING WITH ANY GRATUITIES OR BENEFITS
28 OR PAYMENTS THAT THIS WITNESS RECEIVED OR WANTED TO

49151

1 RECEIVE.
2 AND DETECTIVE ZOELLER TOLD ME THAT HE
3 WAS ONLY TOLD BY CRAIG CIGNARELLI TWO DAYS AGO THAT
4 HE HAD RECEIVED MONEY FROM "HARD COPY," AND THAT HE
5 GOT \$2500, WHICH IS DETECTIVE ZOELLER'S BEST
6 RECOLLECTION.
7 I ASSUME THAT DETECTIVE ZOELLER DIDN'T
8 WRITE IT DOWN WHEN HE WAS TOLD, JUST FROM THE NATURE
9 OF THE CONVERSATION. I DIDN'T ASK HIM IF HE DID.
10 BUT HE DID SAY THAT ALL ALONG CIGNARELLI WAS ASKING
11 HIM, OR TELLING HIM, THAT HE WANTED TO ACCEPT MONEY
12 FOR MAKING APPEARANCES ON SHOWS, AND DETECTIVE
13 ZOELLER WAS TELLING HIM --

14 MS. ABRAMSON: YOU'RE MISQUOTING.

15 DETECTIVE ZOELLER SAYS YOU'RE,

16 MISQUOTING.

17 MR. LEVIN: I VERY WELL MAY BE.

18 MS. ABRAMSON: HE WANTED TO TALK, BUT NOT

19 NECESSARILY --

20 MR. LEVIN: THAT HE WANTED TO TALK, AND

21 DETECTIVE ZOELLER TOLD HIM THAT IT WOULD BE A GOOD

22 IDEA -- NOT A GOOD IDEA, AND IT WOULD LOOK BAD FOR

23 HIS TESTIMONY IF HE WERE TO ACCEPT ANY MONEY FOR

24 TALKING ABOUT THIS CASE.

25 THOSE STATEMENTS ARE NOT IN ANY REPORTS

26 THAT WE HAVE RECEIVED -- THAT WE HAVE RECEIVED FROM

27 THE PROSECUTION.

28 AS A SEPARATE ISSUE, WHAT I WOULD ASK

49152

1 THE COURT TO DO IS HAVE DETECTIVE ZOELLER WRITE A

2 REPORT ON WHAT CRAIG CIGNARELLI TOLD HIM REGARDING

3 THIS ISSUE AND WHEN HE TOLD HIM THESE THINGS. I

4 THINK IT'S ABSOLUTELY RELEVANT.

5 I BELIEVE CIGNARELLI WAS EVEN ON THEIR

6 CASE-IN-CHIEF LIST FOR A LONG TIME, AND WE'VE NEVER

7 BEEN PROVIDED WITH ANY DISCOVERY ON THIS ISSUE.

8 THE COURT: OKAY. REGARDING THE FIRST ISSUE,

9 THE CHARITY ASPECT OF IT; AGAIN, NUMBER ONE, AS TO
10 WHETHER THE MONEY WENT DIRECTLY TO HIM OR SOME WENT
11 DIRECTLY TO A CHARITY, WOULD EXPLAIN WHETHER OR
12 NOT -- OR HOW MUCH HE RECEIVED, WHETHER IT WENT TO
13 HIM, AND THEN HE GAVE IT TO A CHARITY, OR WHETHER IT
14 WENT DIRECTLY FROM THE PRODUCER TO THE CHARITY.

15 NUMBER TWO, IF HIS ANSWER YESTERDAY WAS
16 THAT HE DIDN'T RECEIVE THE ENTIRETY OF IT, AND ONLY
17 A PORTION OF IT, HIS EXPLANATION THAT EVEN THOUGH
18 ALL OF IT WENT TO HIM, PART OF IT WENT THROUGH HIM
19 TO A CHARITY, I THINK THAT'S ADMISSIBLE.

20 NOW, AS TO HIS REASONS FOR GIVING IT TO
21 A CHARITY OR WHAT THE CHARITY IS, I DON'T THINK
22 THERE'S ANY RELEVANCE. THE FACT HE GAVE SOME TO
23 CHARITY WOULD CERTAINLY EXPLAIN HIS ANSWER.

24 MR. LEVIN: THAT'S FINE.

25 THE COURT: HIS REASONS FOR GIVING IT TO A
26 CHARITY OR THINGS OF THAT NATURE, AT THIS POINT, I
27 DON'T THINK THAT WOULD BE RELEVANT.

28 MR. LEVIN: THAT'S FINE, YOUR HONOR. AND I

49153

1 WILL ASK THOSE QUESTIONS. I JUST ASK THAT --

2 THE COURT: AS FAR AS DETECTIVE ZOELLER IS
3 CONCERNED, ARE YOU SAYING THESE WERE CONVERSATIONS

4 THAT OCCURRED OVER A LONG PERIOD OF TIME, OR JUST
5 TWO DAYS AGO?

6 MR. LEVIN: WELL, NO. I UNDERSTAND THAT
7 THESE ARE CONVERSATIONS THAT OCCURRED OVER A LONG
8 PERIOD OF TIME, BUT DETECTIVE ZOELLER, JUST TWO DAYS
9 AGO, WAS INFORMED BY MR. CIGNARELLI THAT HE HAD
10 ACCEPTED MONEY FROM "HARD COPY".

11 MS. ABRAMSON: MAY I HAVE A MOMENT, YOUR
12 HONOR?

13 THE COURT: YES.

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

16

17 MR. LEVIN: YOUR HONOR, AFTER CONFERRING WITH
18 MRS. ABRAMSON, I GUESS I WAS OVERLY DETAILED -- I
19 THINK AT THIS POINT IN TIME I DO HAVE A SUFFICIENT
20 STATEMENT FROM DETECTIVE ZOELLER, AND I DON'T NEED
21 THE MEMORIALIZATION.

22 MS. ABRAMSON: I WOULD LIKE TO INDICATE ON
23 THE RECORD THAT I APPROACHED DETECTIVE ZOELLER ON
24 THIS ISSUE AND HAD A CONVERSATION WITH HIM, AND HE
25 WAS VERY FORTHCOMING AND COOPERATIVE, AND I DON'T --
26 I INFORMED MR. LEVIN. I'M QUITE CERTAIN THAT WHAT
27 DETECTIVE ZOELLER TOLD MYSELF AND MR. LEVIN, HE
28 WOULD TESTIFY TO IF CALLED. I DON'T FEEL WE NEED A

1 REPORT FROM HIM.

2 MR. LEVIN: I AGREE.

3 THE COURT: SO LONG AS EVERYONE IS IN
4 AGREEMENT AS TO WHAT WAS SAID, SO WE DON'T GET INTO
5 A SITUATION WHERE --

6 MR. LEVIN: I HAVE NO REASON TO QUESTION THE
7 VERACITY AND HONESTY OF DETECTIVE ZOELLER.

8 THE COURT: ALL I'M SAYING IS, IF THERE'S
9 CONFUSION AS TO WHAT HE THINKS HE TOLD YOU AND WHAT
10 YOU THINK HE TOLD YOU.

11 MR. LEVIN: I PROBABLY MISSTATED IT.

12 THE COURT: IT DOESN'T SOUND LIKE A
13 COMPLICATED CONVERSATION.

14 MR. LEVIN: I THINK WHAT WE SHOULD DO IS SIT
15 DOWN WITH DETECTIVE ZOELLER FOR A FEW MINUTES AND
16 LINE BY LINE GO OVER IT AND PUT IT IN WRITING FOR
17 HIM TO APPROVE.

18 THE COURT: ARE WE READY WITH THE JURY?

19 MR. LEVIN: I WOULD ASK, ON THIS VERY LIMITED
20 ISSUE, I BE ALLOWED TO ASK THE WITNESS, OUTSIDE THE
21 PRESENCE OF THE JURY, QUESTIONS CONCERNING THE
22 PAYMENT, AND THEN HAVE THE WITNESS -- THEN HAVE THE
23 WITNESS ADMONISHED CONCERNING THE LIMITATIONS AS TO
24 WHAT HE COULD SAY REGARDING THE PAYMENTS.

25 THE COURT: I DON'T THINK THERE'S ANY NEED
26 FOR THAT. YOU CAN CERTAINLY CONTROL IT BY
27 OBJECTING, IF HE GOES BEYOND THE QUESTION, SO THAT

49155

1 MS. ABRAMSON: JUDGE, THIS IS A WITNESS THAT
2 NEVER TALKS TO US, THAT WE REFUSES TO LET US
3 APPROACH HIM TO TELL HIM WHAT WE'RE GOING TO ASK
4 HIM.

5 THE COURT: AGAIN, WE DON'T WANT TO TAKE
6 DEPOSITIONS HERE. THIS DOESN'T SEEM TO BE THE TYPE
7 OF ISSUE THAT'S PREJUDICIAL IN ANY WAY.

8 MR. LEVIN: VERY WELL.

9 THE COURT: IT'S A VERY MINOR POINT.

10 MR. LEVIN: WITH RESPECT TO THE FAX, DID THE
11 COURT WANT TO DEAL WITH THAT, BECAUSE I DO WISH TO
12 BRING THAT OUT WITH THIS WITNESS.

13 THE COURT: I WANTED TO LOOK AT IT, AND I
14 ALSO WANTED TO SEE THE TRANSCRIPT OF HIS TESTIMONY
15 ABOUT IT.

16 MR. LEVIN: WE COULD DO THAT AT THE BREAK.

17 THE COURT: AND THEN THERE WAS SOMETHING ELSE
18 I WANTED TO SEE. THERE WAS SOME TESTIMONY FROM THE
19 FIRST TRIAL REGARDING THE INCIDENT INVOLVING
20 MR. MENENDEZ, IF YOU WERE GOING TO GO INTO THAT.

21 ALL RIGHT. LET'S THEN GET THE JURY
22 OUT.

23 (THE JURY ENTERED THE COURTROOM
24 AND THE FOLLOWING PROCEEDINGS
25 WERE HELD:)
26
27 THE COURT: THE JURY IS ALMOST ALL HERE.
28 THEY ARE ALL HERE. I'M SORRY. SOMEBODY WAS

49156

1 HIDING.
2 GOOD MORNING. WE'RE READY TO RESUME
3 WITH THE TRIAL.
4
5
6 CRAIG CIGNARELLI,
7 THE WITNESS AT THE TIME OF ADJOURNMENT, RESUMED THE
8 STAND, AND TESTIFIED FURTHER AS FOLLOWS:
9
10 THE COURT: WE HAVE THE WITNESS ON THE
11 WITNESS STAND.
12 AGAIN, WOULD YOU STATE YOUR NAME FOR THE
13 RECORD.
14 THE WITNESS: CRAIG CIGNARELLI.
15 THE COURT: I'LL REMIND YOU YOU'RE STILL
16 UNDER OATH AND WE'RE IN CROSS-EXAMINATION.
17 MR. LEVIN: THANK YOU.

18

19 CROSS-EXAMINATION

20 BY MR. LEVIN:

21 Q MR. CIGNARELLI, DID YOU BRING THE
22 CONTRACT FROM "HARD COPY" WITH YOU TODAY?

23 A NO. I DIDN'T. I ATTEMPTED TO FIND IT,
24 AND I DON'T HAVE IT.

25 Q WHAT DID YOU DO TO TRY TO FIND IT?

26 MS. NAJERA: OBJECTION, IRRELEVANT.

27 THE COURT: OVERRULED. YOU CAN ANSWER THE
28 QUESTION.

49157

1 THE WITNESS: I LOOKED THROUGH MY FILES. I
2 LOOKED THROUGH MY DESK DRAWERS. I JUST DON'T KNOW
3 WHERE IT IS.

4 Q BY MR. LEVIN: YOU'RE SAYING YOU LOST
5 IT?

6 A I'M SAYING I CAN'T FIND IT. YEAH. I
7 LOST IT. I DON'T KNOW WHERE IS.

8 Q NOW, HOW MUCH MONEY DID YOU RECEIVE FROM
9 "HARD COPY"?

10 MS. NAJERA: OBJECTION. ASKED AND ANSWERED.

11 THE COURT: OVERRULED.

12 THE WITNESS: DID I PERSONALLY RECEIVE?

13 Q BY MR. LEVIN: HOW MUCH MONEY DID YOU

14 RECEIVE FROM OF "HARD COPY"?

15 A WELL, THE CONTRACT WAS FOR \$25,000.

16 Q AND HOW MUCH WAS CRAIG CIGNARELLI

17 AUTHORIZED TO GET FROM THE NEGOTIATIONS THAT YOU HAD

18 WITH "HARD COPY"?

19 A TWENTY THOUSAND.

20 Q TWENTY THOUSAND?

21 A UH-HUH.

22 Q AND COULD YOU, IF YOU WANTED TO, HAVE

23 TAKEN THE OTHER \$5,000?

24 A I DON'T BELIEVE SO, NO.

25 Q WAS THERE A CLAUSE IN THE CONTRACT THAT

26 REQUIRED YOU TO DO SOMETHING WITH THE OTHER \$5,000?

27 A I DON'T KNOW IF THERE WAS A CLAUSE IN

28 IT. WE JUST DISCUSSED WHAT WAS TO BE DONE WITH THE

49158

1 OTHER 5,000.

2 Q WELL, WAS WHAT WAS TO BE DONE WITH THE

3 OTHER \$5,000 -- WAS THAT YOUR REQUEST AND IDEA, OR

4 WAS IT "HARD COPY"?

5 A NO. IT WAS MY REQUEST.

6 Q OKAY. SO YOU COULD HAVE TAKEN THE OTHER

7 \$5,000 IF YOU SO CHOSE, CORRECT?

8 A I DON'T THINK SO. I THINK IT WAS PART
9 OF THE NEGOTIATION. THEY WERE GOING TO GIVE ME
10 \$5,000, CONTINGENT UPON THE FACT THAT I WAS GOING TO
11 DO WHAT I WAS GOING TO DO WITH IT.

12 Q SO YOU TOLD "HARD COPY" THAT YOU WANTED
13 TO DO SOMETHING WITH THE \$5,000, CORRECT?

14 A THE PRICE --

15 Q YOU CAN JUST ANSWER THAT YES OR NO, IF
16 YOU COULD.

17 A WELL, IT WAS THE WHOLE NEGOTIATIONS, SO
18 I CAN'T SAY I WANT \$5,000 FOR THIS.

19 Q BUT YOU RECEIVED \$20,000?

20 A THAT'S CORRECT.

21 Q NOW, DID YOU ASK, AT ANY TIME DURING THE
22 NEGOTIATIONS, FOR MORE THAN \$25,000?

23 A NO.

24 Q AND DID YOU ASK FOR ANY LESS THAN
25 \$25,000?

26 A NO.

27 Q SO THEY JUST TOLD YOU WHAT THEY WOULD
28 PAY YOU?

49159

1 A THEY TOLD ME SEVERAL FIGURES.

2 Q WHAT WAS THE FIRST FIGURE THEY TOLD YOU?

3 A I BELIEVE THEY MENTIONED 50, AND THEN

4 THEY SAID THEY WOULD PAY ME 35.

5 Q AND THEN THEY SAID THEY WOULD PAY YOU

6 HOW MUCH?

7 A THEY SAID 35,000, AND I SAID I ONLY

8 NEEDED 25.

9 Q YOU TOLD THEM -- IN ANSWER TO THE LAST

10 QUESTION THAT I JUST SAID: DID YOU AT ANY TIME SAY

11 YOU WOULD ACCEPT LESS, YOU TOLD THE JURY --

12 A NO. I'M SORRY.

13 Q WAIT. I JUST ASKED YOU A MOMENT AGO IF

14 YOU HAD AGREED THAT THERE -- THAT YOU WOULD ACCEPT

15 LESS MONEY THAN WHAT "HARD COPY" WAS OFFERING, AND

16 YOU SAID NO.

17 MS. NAJERA: OBJECTION. MISSTATES THE

18 TESTIMONY.

19 THE COURT: SUSTAINED.

20 Q BY MR. LEVIN: ALL RIGHT. IN ANY EVENT,

21 "HARD COPY" WAS WILLING TO PAY YOU 35,000, AND YOU

22 TOLD THEM YOU ONLY NEEDED 25?

23 A THAT'S CORRECT.

24 Q WHO DID YOU HAVE THIS NEGOTIATION WITH?

25 A AS I SAID YESTERDAY, LINDA BELL AND

26 LINDA ELMAN, I BELIEVE.

27 Q LINDA BELL?

28 A YES.

1 Q AND THAT'S "HARD COPY" HERE?

2 A YES.

3 Q AND YOU TOLD LINDA BELL THAT YOU DID NOT
4 WANT \$35,000; YOU WANTED \$25,000?

5 A I TOLD HER I WOULD THINK ABOUT THE EXACT
6 AMOUNT, BUT THE AMOUNT I HAD COME TO, THAT I NEEDED,
7 WAS TWENTY-FIVE.

8 Q AND THIS WAS AFTER LINDA BELL TOLD YOU
9 THAT THEY WERE WILLING TO PAY YOU \$35,000?

10 A THAT'S CORRECT.

11 Q AND FOLLOWING THAT, THEY PAID YOU,
12 CORRECT?

13 A THAT'S CORRECT.

14 Q AND DID THEY PAY YOU BEFORE YOU SPOKE TO
15 "HARD COPY" ABOUT ERIK MENENDEZ OR AFTER?

16 A AFTERWARD, I BELIEVE.

17 Q HOW LONG AFTER YOU NEGOTIATED WITH THEM
18 OR AGREED WITH THEM, FOR THE SUM OF \$25,000, DID
19 THEY PAY YOU OR DID YOU APPEAR ON "HARD COPY"?

20 A I'M SORRY. COULD YOU SAY THAT AGAIN.

21 Q HOW LONG AFTER YOU CAME TO THE AGREEMENT
22 OF \$25,000 DID YOU APPEAR ON "HARD COPY"?

23 A DID I APPEAR OR WAS IT FILMED?

24 Q WAS IT FILMED.

25 A PROBABLY A COUPLE OF WEEKS, I GUESS. I

26 DON'T KNOW THE EXACT DATES.

27 Q NOW, YOU TESTIFIED THAT DETECTIVE

28 ZOELLER KNEW THAT YOU HAD BEEN PAID BY "HARD COPY,"

49161

1 CORRECT?

2 A THAT'S CORRECT.

3 Q AND HOW LONG HAD DETECTIVE ZOELLER KNOWN

4 THAT YOU HAD RECEIVED MONEY FROM "HARD COPY"?

5 A I DON'T KNOW.

6 Q WHEN DID YOU FIRST TELL HIM?

7 A I HAVE NO IDEA.

8 Q YOU TOLD HIM, DIDN'T YOU?

9 A YES.

10 Q AND WHEN DID YOU TELL HIM?

11 A I TOLD HIM TWO DAYS AGO, I BELIEVE, AND

12 I BELIEVE I TOLD HIM BEFORE THAT.

13 Q HOW LONG -- WELL, DIDN'T YOU TESTIFY

14 THAT DETECTIVE ZOELLER KNEW THE WHOLE TIME?

15 A NO.

16 Q OKAY. AND YOU TOLD HIM TWO DAYS AGO.

17 WHY DID YOU TELL HIM TWO DAYS AGO?

18 MS. NAJERA: OBJECTION. IRRELEVANT.

19 THE COURT: OVERRULED.

20 THE WITNESS: IT JUST CAME UP.

21 Q BY MR. LEVIN: DID YOU TELL MR. CONN?

22 A I DON'T BELIEVE SO. I MIGHT HAVE. I

23 DON'T REMEMBER IF MR. CONN WAS IN THE ROOM OR NOT.

24 Q DID YOU TELL MS. NAJERA?

25 A I DON'T REMEMBER IF SHE WAS IN THE ROOM.

26 Q SO TWO DAYS AGO WAS THE FIRST TIME YOU

27 TOLD DETECTIVE ZOELLER?

28 A NO. I SAID I BELIEVE I TOLD HIM BEFORE

49162

1 THAT, BUT I DON'T RECALL.

2 Q HOW LONG BEFORE DO YOU BELIEVE YOU TOLD

3 HIM?

4 A I DON'T RECALL.

5 Q WELL, YOU APPEARED IN 1994, CORRECT?

6 A YES.

7 Q WELL, WOULD IT BE FAIR TO SAY THAT YOU

8 HAVE HAD CONVERSATIONS WITH DETECTIVE ZOELLER, EVER

9 SINCE YOU'VE BECOME A WITNESS IN THIS CASE, ABOUT

10 YOUR DESIRE TO BE PAID FOR INTERVIEWS ABOUT ERIK

11 MENENDEZ?

12 A HAVE I HAD CONVERSATIONS WITH DETECTIVE

13 ZOELLER?

14 Q YES.

15 A NO. NO, I HAVEN'T.

16 Q AND SO YOU'VE NEVER BEEN TOLD BY
17 DETECTIVE ZOELLER THAT YOU SHOULD NOT RECEIVE ANY
18 MONEY FOR AN INTERVIEW ABOUT ERIK MENENDEZ BECAUSE
19 IT WOULD LOOK REAL BAD FOR YOUR TESTIMONY?

20 A NO.

21 Q NOW, IF I WAS TO TELL YOU THAT I JUST
22 INTERVIEWED DETECTIVE ZOELLER, AND HE TOLD ME
23 PRECISELY THAT, THAT YOU HAD HAD BEEN TALKING TO
24 DETECTIVE ZOELLER FOR A LONG TIME, TELLING HIM THAT
25 YOU WANTED TO GET PAID FOR INTERVIEWS ABOUT ERIK
26 MENENDEZ, AND HE TOLD YOU NO, IS DETECTIVE ZOELLER A
27 LIAR?

28 MS. NAJERA: I'M GOING TO OBJECT.

49163

1 ARGUMENTATIVE. ASSUMES FACTS NOT IN EVIDENCE, AND
2 I'D LIKE TO GO TO SIDE-BAR.

3 THE COURT: REPHRASE THE QUESTION, PLEASE.

4 MR. LEVIN: OKAY.

5 Q IF DETECTIVE ZOELLER WERE TO TESTIFY
6 THAT HE HAS HAD NUMEROUS CONVERSATIONS WITH YOU OVER
7 THE YEARS, WHEREIN YOU EXPRESSED TO HIM AN INTEREST
8 OR DESIRE TO BE PAID FOR INTERVIEWS CONCERNING ERIK
9 MENENDEZ, AND HE TOLD YOU: DON'T DO IT. IT
10 WOULDN'T BE GOOD FOR YOUR TESTIMONY, WOULD DETECTIVE

11 ZOELLER BE LYING?

12 MS. NAJERA: YOUR HONOR, I'M GOING TO OBJECT

13 AS ARGUMENTATIVE. IT ALSO IS COMPOUND.

14 THE COURT: SUSTAINED.

15 MS. NAJERA: AS TO INTERVIEWS AND

16 CONVERSATIONS.

17 THE COURT: IT'S ARGUMENTATIVE AS PHRASED.

18 Q BY MR. LEVIN: DID A CONVERSATION SUCH

19 AS I HAVE JUST RELATED IN ANY FORM EVER TAKE PLACE

20 WITH DETECTIVE ZOELLER?

21 MS. NAJERA: I'M GOING TO OBJECT. VAGUE AS

22 TO "IN ANY FORM."

23 THE COURT: REPHRASE THE QUESTION.

24 Q BY MR. LEVIN: DID DETECTIVE ZOELLER, AT

25 ANY TIME, TELL YOU: DON'T GIVE A PAID INTERVIEW

26 ABOUT ERIK MENENDEZ. IT WOULD LOOK BAD FOR YOUR

27 TESTIMONY?

28 A NO, HE NEVER SAID THOSE WORDS.

49164

1 Q AND DID YOU EVER TELL DETECTIVE ZOELLER

2 THAT YOU WANTED TO, OR YOU INTENDED TO, OR YOU WERE

3 THINKING OF GETTING PAID FOR AN INTERVIEW ABOUT ERIK

4 MENENDEZ?

5 A I DID SAY I WAS THINKING OF. I DID NOT

6 SAY I EXPRESSED A DESIRE TO, WHICH WAS YOUR QUESTION
7 BEFORE.

8 Q OH.

9 MS. NAJERA: I'M GOING TO OBJECT TO COUNSEL
10 COMMENTING ON THE ANSWER.

11 THE COURT: NEXT QUESTION.

12 Q BY MR. LEVIN: WHEN DID YOU TELL
13 DETECTIVE ZOELLER THAT YOU WERE THINKING ABOUT IT?

14 A ON SEVERAL DIFFERENT OCCASIONS.

15 Q WHEN WAS THE FIRST?

16 A I HAVE NO IDEA.

17 Q WELL --

18 A COULD I ELABORATE?

19 Q YOU CAN ANSWER THE QUESTION.

20 MS. NAJERA: I'M GOING TO ASK THAT THE
21 WITNESS BE ALLOWED TO ANSWER THE QUESTION.

22 MR. LEVIN: LET ME ASK YOU THIS.

23 THE COURT: WAIT, WAIT. LET'S NOT ARGUE WITH
24 THE WITNESS. JUST ASK THE QUESTION.

25 MR. LEVIN: I'M SORRY. WITHDRAW MY COMMENTS
26 AND MY QUESTION.

27 Q WHEN DID YOU, MR. CIGNARELLI, FIRST
28 THINK ABOUT BEING PAID FOR AN INTERVIEW CONCERNING

1 ERIK MENENDEZ?

2 MS. NAJERA: OBJECT. ASSUMES FACTS NOT IN
3 EVIDENCE THAT HE'S THOUGHT ABOUT IT.

4 THE COURT: OVERRULED.

5 THE WITNESS: PROBABLY WHEN I RECEIVED OFFERS
6 FROM JUST ABOUT EVERY SHOW I CAN THINK OF.

7 Q BY MR. LEVIN: AND WHEN DID YOU GET YOUR
8 FIRST OFFER?

9 A I BELIEVE IT WAS SHORTLY AFTER THE
10 BROTHERS WERE ARRESTED.

11 Q AND THAT WOULD BE MARCH OF 1990,
12 CORRECT?

13 A CORRECT. IT WASN'T AN OFFER. IT WAS
14 MORE OF A -- PEOPLE WANTED ME TO COME ON THE SHOW.
15 THERE WAS NO -- NOTHING TALKED ABOUT FINANCIALLY OR
16 WHAT --

17 Q WELL --

18 A OR WHAT I WAS GOING TO GAIN FROM IT.

19 Q WELL, WHEN WAS THE FIRST TIME THAT YOU
20 GOT THE THOUGHT THAT YOU COULD GET PAID FOR TALKING
21 ABOUT ERIK MENENDEZ?

22 MS. NAJERA: ASSUMES A FACT NOT IN EVIDENCE.

23 THE COURT: OVERRULED.

24 THE WITNESS: PROBABLY WHEN THESE PEOPLE WERE
25 CALLING.

26 Q BY MR. LEVIN: AND WAS THAT BACK IN
27 MARCH OF 1990?

28 A IT WAS ABOUT THEN, YES.

1 Q ALL RIGHT. NOW, FOLLOWING THE THOUGHT,
2 WHEN DID YOU FIRST TALK TO DETECTIVE ZOELLER ABOUT
3 THIS THOUGHT THAT YOU WANTED TO GET PAID FOR AN
4 INTERVIEW ABOUT ERIK MENENDEZ?

5 A THAT WAS PROBABLY AFTER THE -- NO. IT'S
6 PROBABLY SHORTLY BEFORE THE FIRST TRIAL.

7 Q IN THE FIRST TRIAL YOU TESTIFIED ON JULY
8 THE 26TH, 1993, CORRECT?

9 A I DON'T KNOW.

10 Q SOUNDS ABOUT RIGHT?

11 A PERHAPS. I DON'T KNOW.

12 Q ALL RIGHT. AND SO SOMETIME BEFORE 1993,
13 WHAT DO YOU RECALL TELLING DETECTIVE ZOELLER ABOUT
14 YOUR THOUGHTS OF GRANTING PAID INTERVIEWS ABOUT ERIK
15 MENENDEZ?

16 A I SAID SOME PEOPLE HAVE BEEN OFFERING ME
17 MONEY. DO YOU THINK IT WOULD BE A GOOD IDEA, OR
18 WOULD IT BE OKAY OR -- I DON'T KNOW MY EXACT WORDS.

19 MS. NAJERA: MAY THE WITNESS FINISH THE
20 ANSWER.

21 THE COURT: YES.

22 Q BY MR. LEVIN: HAVE YOU FINISHED?

23 A WE -- WE SPOKE ABOUT IT.

24 Q OKAY. SO YOU THOUGHT THAT IT WAS

25 SOMETHING THAT YOU SHOULD TALK TO DETECTIVE ZOELLER

26 ABOUT, CORRECT?

27 A CORRECT.

28 Q AND NOT ONLY YOU FELT IT WAS SOMETHING

49167

1 YOU SHOULD TALK TO DETECTIVE ZOELLER ABOUT, YOU FELT

2 THAT IT WAS SOMETHING THAT REQUIRED HIS INPUT,

3 CORRECT?

4 A I DON'T UNDERSTAND WHAT YOU MEAN.

5 Q WELL, YOU ASKED HIM WHAT HE THOUGHT

6 ABOUT IT, DID YOU NOT?

7 A THAT'S CORRECT.

8 Q AND THE REASON YOU ASKED HIM WHAT HE

9 THOUGHT ABOUT IT WAS BECAUSE YOU FELT THAT IT WAS

10 SOMETHING DETECTIVE ZOELLER SHOULD KNOW, AND YOU

11 WANTED TO HEAR WHAT HE THOUGHT ABOUT IT, CORRECT?

12 A THAT'S CORRECT.

13 Q DIDN'T DETECTIVE ZOELLER TELL YOU THAT

14 IT WOULDN'T BE A GOOD IDEA?

15 A NO.

16 Q WHAT DID HE SAY?

17 A I BELIEVE HE SAID IT'S YOUR DECISION.

18 HE SAYS, I CAN'T TELL YOU WHAT TO DO. HE SAYS, BUT

19 YOU HAVE TO LOOK AT THE POTENTIAL OF WHAT'S GOING TO

20 HAPPEN WHEN YOU'RE ON THE WITNESS STAND.

21 AND I THINK THAT WAS THE CRUX OF IT. HE
22 LEFT IT UP TO ME. HE DIDN'T INFLUENCE ME EITHER
23 WAY.

24 Q SO ANY OTHER -- WELL, STRIKE THAT.

25 IN ANY EVENT, TWO DAYS AGO, WHEN YOU
26 TOLD DETECTIVE ZOELLER THAT YOU HAD BEEN PAID, DID
27 HE ASK YOU HOW MUCH YOU WERE PAID? YES OR NO?

28 A I DON'T RECALL.

49168

1 Q DID YOU GIVE HIM A FIGURE AS TO HOW MUCH
2 YOU HAD BEEN PAID? YES OR NO?

3 A YES.

4 Q AND DID YOU TELL HIM \$2500?

5 A NO.

6 Q YOU'RE CERTAIN ABOUT THAT?

7 A I'M CERTAIN ABOUT THAT.

8 Q IF DETECTIVE ZOELLER WAS TO TESTIFY THAT
9 JUST TWO DAYS AGO YOU TOLD HIM YOU GOT \$2500 FROM
10 "HARD COPY," HE WOULD BE WRONG; IS THAT CORRECT?

11 A YES.

12 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

13 THE COURT: OBJECTION SUSTAINED.

14 THE ANSWER IS STRICKEN.

15 Q BY MR. LEVIN: WELL, DO YOU HAVE ANY --
16 HAVE YOU EVER HAD ANY PROBLEMS WITH DETECTIVE
17 ZOELLER?

18 MS. NAJERA: I'M GOING TO OBJECT.
19 IRRELEVANT.

20 THE COURT: IT'S VAGUE WHAT YOU MEAN.

21 Q BY MR. LEVIN: HAVE YOU EVER THREATENED
22 DETECTIVE ZOELLER BEFORE?

23 MS. NAJERA: OBJECTION. ARGUMENTATIVE AND
24 IRRELEVANT.

25 THE COURT: SUSTAINED.

26 Q BY MR. LEVIN: YOU DON'T LIKE DETECTIVE
27 ZOELLER, DO YOU?

28 MS. NAJERA: OBJECTION. IRRELEVANT.

49169

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER THE QUESTION.

3 THE WITNESS: YES, I DO.

4 Q BY MR. LEVIN: HAVE YOU EVER SENT
5 DETECTIVE ZOELLER ANYTHING?

6 A YES.

7 MS. NAJERA: OBJECTION. IRRELEVANT, YOUR
8 HONOR. ASK TO APPROACH.

9 THE COURT: WELL, THIS WAS A MATTER THAT WE

10 HAD DISCUSSED, SO WE'LL GO ON TO SOMETHING ELSE.

11 MR. LEVIN: JUST A YES OR NO. I'M NOT GOING

12 ANY FURTHER.

13 THE COURT: IT'S IRRELEVANT. WE'LL GO ON TO

14 SOMETHING ELSE.

15 MR. LEVIN: I'M GOING TO SHIFT TOPICS HERE,

16 MR. CIGNARELLI.

17 Q DID YOU GO TO THE MEMORIAL SERVICE --

18 A NO, I DID NOT.

19 Q -- FOR JOSE AND KITTY? YOU DID NOT?

20 A NO.

21 Q AND PRIOR TO THE END OF AUGUST, WHEN YOU

22 SAW ERIK MENENDEZ AT HIS HOUSE, WHEN WAS THE LAST

23 TIME BEFORE THAT THAT YOU SAW OR SPOKE TO HIM?

24 A I DON'T RECALL.

25 Q IT WAS MONTHS, WASN'T IT?

26 A PROBABLY.

27 Q IT WAS AT LEAST SIX MONTHS, WASN'T IT?

28 A I DON'T RECALL. I DON'T THINK IT WAS

49170

1 THAT LONG, BUT I DON'T RECALL.

2 Q WELL, DO YOU REMEMBER -- YOU REMEMBER

3 TELLING DETECTIVE ZOELLER ON AUGUST THE 24TH, 1989 --

4 DO YOU RECALL TELLING HIM ON AUGUST THE 24TH, 1989

5 THAT YOU DID NOT SEE OR SPEAK TO ERIK MENENDEZ FOR
6 SIX MONTHS PRIOR TO THE DEATH OF HIS PARENTS?

7 A I DON'T RECALL SAYING THAT. I'M SURE
8 WHAT I SAID WAS IT WAS PROBABLY AROUND SIX MONTHS,
9 BUT I DON'T REMEMBER.

10 Q ALL RIGHT. SO YOU HADN'T SEEN OR TALKED
11 TO YOUR BEST FRIEND FROM FEBRUARY -- APPROXIMATELY
12 FEBRUARY TO AUGUST?

13 A THAT'S NOT WHAT I SAID.

14 Q WELL, IS IT TRUE THAT YOU DID NOT SEE
15 ERIK MENENDEZ OR TALK TO HIM FOR SIX MONTHS BEFORE
16 AUGUST OF 1989?

17 MS. NAJERA: OBJECTION. COMPOUND.

18 THE COURT: WHY DON'T YOU BREAK IT DOWN.

19 Q BY MR. LEVIN: DID YOU SEE ERIK MENENDEZ
20 FOR SIX MONTHS, OR APPROXIMATELY SIX MONTHS, BEFORE
21 AUGUST OF 1989, SEE, VISUALLY?

22 A I DON'T REMEMBER.

23 Q DID YOU TELL DETECTIVE ZOELLER THAT YOU
24 HAD NOT SEEN HIM FOR SIX MONTHS?

25 A WHAT I PROBABLY TOLD DETECTIVE ZOELLER
26 WAS I PROBABLY HAVEN'T SEEN IN HIM A WHILE, MAYBE
27 SIX MONTHS. I DON'T KNOW.

28 Q OKAY.

1 (ATTORNEYS ABRAMSON AND LEVIN

2 CONFER SOTTO VOCE:)

3

4 Q BY MR. LEVIN: AND YOU'RE ONE YEAR OLDER
5 THAN ERIK MENENDEZ?

6 A THAT'S CORRECT.

7 Q WHEN ERIK MENENDEZ -- AND YOU WERE
8 FRIENDS WHILE ERIK MENENDEZ WAS AT CALABASAS,
9 CORRECT?

10 A CALABASAS HIGH SCHOOL, CORRECT.

11 Q AND SO ERIK MENENDEZ -- YOU MET HIM IN
12 1987, I BELIEVE?

13 A MAYBE. I DON'T RECALL THE DATE. THAT
14 WAS 10 YEARS AGO.

15 Q I'M SORRY. WHAT YEAR WERE YOU IN IN
16 1987?

17 A IN HIGH SCHOOL?

18 Q YES.

19 A I WAS A JUNIOR.

20 Q AND WHAT YEAR WERE YOU IN --

21 A AND A SENIOR.

22 Q I'M SORRY? YOU WERE A SENIOR?

23 A NO. I WAS A JUNIOR AND A SENIOR. '87
24 IS THE END OF JUNIOR YEAR, BEGINNING OF SENIOR YEAR.

25 Q WHEN YOU MET ERIK MENENDEZ, WHAT YEAR OF
26 HIGH SCHOOL WERE YOU IN?

27 A I WAS A JUNIOR, I BELIEVE.

49172

1 MENENDEZ IN?

2 A SOPHOMORE.

3 Q WHAT YOU HAD IN COMMON WAS THAT YOU BOTH
4 PLAYED ON THE SAME TENNIS TEAM, CORRECT?

5 A CORRECT.

6 Q AND THEN ERIK MENENDEZ MOVED TO BEVERLY
7 HILLS, CORRECT?

8 A A COUPLE OF YEARS LATER, YES.

9 Q WHEN DID HE MOVE OUT OF CALABASAS,
10 ACCORDING TO YOUR UNDERSTANDING?

11 A I DON'T KNOW THE DATE.

12 Q IN ANY EVENT, WHEN ERIK MENENDEZ MOVED
13 TO BEVERLY HILLS, HE GOT NEW FRIENDS, DIDN'T HE?

14 MS. NAJERA: OBJECTION. CALLS FOR
15 SPECULATION.

16 THE COURT: SUSTAINED.

17 Q BY MR. LEVIN: MR. CIGNARELLI, I WANT TO
18 DIRECT YOUR ATTENTION TO THE FIRST TRIAL WHERE YOU
19 TESTIFIED.

20 AND COUNSEL, SPECIFICALLY, I'M REFERRING
21 TO VOLUME 54.

22 MS. NAJERA: UH-HUH.

23 MR. LEVIN: PAGE 7778.
24 MS. NAJERA: LINE, COUNSEL?
25 MR. LEVIN: ACTUALLY, I WANT TO BEGIN AT
26 7777, LINE 24, AND 7778, LINE 4.
27 MS. NAJERA: I WOULD OBJECT TO LINE 7778 --
28 OH, YOU'RE GOING TO LINE 4?

49173

1 MR. LEVIN: YES.
2 MS. NAJERA: SORRY.
3 MR. LEVIN: ALL RIGHT.
4 QUESTION -- THIS IS FROM THE FIRST
5 TRIAL. I'M GOING TO ASK YOU A QUESTION OR TWO
6 AFTERWARDS.
7 "AND, IN FACT, YOU TOLD THE
8 POLICE ON AUGUST THE 24TH, 1989 IN
9 THEIR FIRST INTERVIEW WITH YOU THAT
10 YOU HADN'T SEEN ERIK FOR SIX MONTHS
11 BEFORE HIS PARENTS WERE KILLED?
12 "ANSWER: THAT'S ABOUT RIGHT.
13 "QUESTION: AND MEANWHILE, DURING
14 THOSE SIX MONTHS -- IN FACT, DURING
15 THAT ENTIRE SCHOOL YEAR, ERIK WAS
16 GOING TO BEVERLY HILLS HIGH SCHOOL?
17 "ANSWER: THAT'S CORRECT."

18 ACTUALLY, I WANT TO GO TO LINE 7, THE
19 NEXT QUESTION AND ANSWER.
20 MS. NAJERA: YOUR HONOR, I HAVE AN
21 OBJECTION.
22 THE COURT: YOU WANT TO GO TO LINE 7?
23 MR. LEVIN: YES. THE NEXT QUESTION AND
24 ANSWER THAT BEGINS AT LINE 5 TO LINE 7 ON 7778.
25 THE COURT: THAT CALLS FOR HEARSAY AT THIS
26 POINT.
27 MR. LEVIN: WELL --
28 THE COURT: SUSTAINED.

49174

1 Q BY MR. LEVIN: DID -- HOW LONG OF A
2 PERIOD OF TIME DO YOU MAINTAIN THAT YOU WERE ERIK
3 MENENDEZ' BEST FRIEND?
4 A A COUPLE OF YEARS.
5 Q AND THAT WOULD BE FROM '87 TO '89,
6 CORRECT?
7 A THAT'S ABOUT RIGHT.
8 Q NOW, DID YOU CONSIDER HIM, OR DID YOU
9 CONSIDER ERIK MENENDEZ, YOUR BEST FRIEND DURING THE
10 SIX MONTHS OR SO THAT YOU DIDN'T TALK TO HIM OR SEE
11 HIM BEFORE AUGUST OF 1989?
12 A YEAH. WE WERE STILL GREAT FRIENDS.

13 Q AND DIDN'T YOU LEARN FROM ERIK MENENDEZ
14 THAT HE HAD MADE NEW FRIENDS IN BEVERLY HILLS?
15 MS. NAJERA: OBJECTION. CALLS FOR
16 SPECULATION AND HEARSAY.
17 THE COURT: OVERRULED.
18 THE WITNESS: THAT --
19 THE COURT: LET ME STOP.
20 THE WITNESS: THAT DOESN'T MAKE SENSE.
21 THE COURT: LET'S STOP FOR A SECOND.
22 MR. LEVIN: STATE OF MIND.
23 THE COURT: YOU PREMISED THIS WHOLE THING BY
24 SAYING OR ASKING WHETHER OR NOT HE HAD NOT SEEN OR
25 SPOKEN TO DEFENDANT FOR SIX MONTHS.
26 YOUR NEXT QUESTION IS: DID HE LEARN
27 FROM THE DEFENDANT THAT HE HAD FRIENDS.
28 SO PERHAPS YOU COULD LAY A FOUNDATION

49175

1 HOW HE WOULD LEARN THAT WITHOUT SPEAKING TO HIM FOR
2 SIX MONTHS.

3 Q BY MR. LEVIN: DID YOU TALK TO ERIK
4 MENENDEZ IN 1989, AFTER HE MOVED TO BEVERLY HILLS?

5 A YES.

6 Q AND DID HE TELL YOU THAT HE HAD MADE NEW
7 FRIENDS?

8 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

9 THE COURT: OVERRULED.

10 THE WITNESS: YEAH. I'M SURE.

11 Q BY MR. LEVIN: ALL RIGHT. YOU TESTIFIED

12 TO THAT IN THE LAST TRIAL, DID YOU NOT?

13 A I DON'T REMEMBER THAT.

14 Q ALL RIGHT. LET ME READ YOU A QUESTION

15 AND ANSWER AND ASK YOU IF IT REFRESHES YOUR

16 RECOLLECTION. PAGE 7778, LINE 5.

17 MS. NAJERA: I'M GOING TO OBJECT AS

18 IRRELEVANT.

19 THE COURT: OVERRULED.

20 YOU CAN ANSWER.

21 Q BY MR. LEVIN:

22 "IN TALKING TO HIM YOU LEARNED,

23 DID YOU NOT, THAT HE HAD MADE NEW

24 FRIENDS?

25 "ANSWER: THAT'S CORRECT."

26 Q DO YOU REMEMBER GIVING THAT ANSWER TO

27 THAT QUESTION IN THE LAST TRIAL?

28 A NO, I DON'T REMEMBER, BUT THAT'S

49176

1 CORRECT.

2 Q NOW, AFTER YOU SPOKE WITH ERIK MENENDEZ

3 AND YOU RECEIVED THE SO-CALLED CONFESSION --

4 MS. NAJERA: I'M GOING TO OBJECT AS

5 ARGUMENTATIVE.

6 THE COURT: REPHRASE THE QUESTION.

7 MR. LEVIN: ALL RIGHT.

8 THE COURT: AFTER YOU SPOKE WITH ERIK

9 MENENDEZ AT THE END OF AUGUST, IN 1989, YOU WROTE

10 DOWN, DID YOU NOT, THE SUBSTANCE OF WHAT YOU

11 REMEMBER HIM TELLING YOU IN YOUR NOTEBOOK; ISN'T

12 THAT CORRECT?

13 A NO.

14 Q WELL, DIDN'T YOU TELL DETECTIVE ZOELLER

15 THAT YOU WROTE DOWN THE SUBSTANCE OF WHAT ERIK

16 MENENDEZ TOLD YOU IN A NOTEBOOK?

17 A WELL, THE REASON I SAID THAT IS BECAUSE

18 IF I WERE GOING TO HAVE TO TESTIFY, IF I KNOW THE

19 SUBSTANCE -- I STARTED TO WRITE, SUMMARIZING -- BUT

20 I DIDN'T WRITE ANYTHING IN ITS ENTIRETY, NO.

21 Q WELL, DETECTIVE ZOELLER, BASED ON WHAT

22 YOU TOLD HIM ABOUT THIS NOTEBOOK, ACTUALLY CAME TO

23 YOUR HOUSE WITH A SEARCH WARRANT IN JANUARY OF 1990,

24 DIDN'T HE?

25 A YES.

26 Q AND WHAT YOU TOLD DETECTIVE ZOELLER

27 RIGHT BEFORE YOU GOT SERVED -- BY THE WAY, YOU

28 DIDN'T KNOW DETECTIVE ZOELLER WAS COMING WITH A

1 SEARCH WARRANT, DID YOU?

2 A NO.

3 Q AND YOU NEVER GAVE DETECTIVE ZOELLER
4 YOUR NOTEBOOK BEFORE HE CAME WITH A SEARCH WARRANT,
5 DID YOU?

6 A I GAVE IT TO HIM THAT DAY.

7 Q NO. YOU NEVER GAVE DETECTIVE ZOELLER
8 THE NOTEBOOK THAT YOU HAD TALKED ABOUT BEFORE HE
9 CAME WITH A SEARCH WARRANT, CORRECT?

10 A NO. I GAVE IT TO HIM THAT DAY.

11 Q THE DAY OF THE SEARCH WARRANT, CORRECT?

12 A YES.

13 Q IN RESPONSE TO THE SEARCH WARRANT,
14 CORRECT?

15 A YES.

16 Q BUT DID YOU TELL DETECTIVE ZOELLER
17 BEFORE HE CAME WITH A SEARCH WARRANT ABOUT THE
18 EXISTENCE OF YOUR NOTEBOOK?

19 A I MIGHT HAVE. I DON'T REMEMBER.

20 Q WELL, DID DETECTIVE ZOELLER -- DID YOU
21 TELL DETECTIVE ZOELLER: HEY, I WROTE DOWN THINGS IN
22 MY NOTEBOOK THAT YOU MIGHT BE INTERESTED IN; AND
23 DETECTIVE ZOELLER PULLED OUT HIS NOTEBOOK AND WROTE
24 OUT A SEARCH WARRANT AND HANDED IT TO YOU?

25 A NO.

26 Q OKAY. SO IT WAS SOMETIME BEFORE

27 DETECTIVE ZOELLER CAME TO YOUR HOUSE WITH A SEARCH

28 WARRANT THAT YOU HAD A CONVERSATION WITH HIM ABOUT A

49178

1 NOTEBOOK, CORRECT?

2 A I MIGHT HAVE, YES.

3 Q AND DID YOU GIVE DETECTIVE ZOELLER THE

4 NOTEBOOK BEFORE THE SEARCH WARRANT WAS SERVED?

5 A NO. I GAVE IT TO HIM THE DAY THE SEARCH

6 WARRANT WAS SERVED.

7 Q AND ON THE DAY THAT HE SERVED THE SEARCH

8 WARRANT, YOU KNEW EXACTLY WHAT NOTEBOOK HE WAS

9 TALKING ABOUT, CORRECT?

10 A I ASSUMED, YES.

11 Q WELL, DID DETECTIVE ZOELLER COME TO YOUR

12 HOUSE?

13 A YES.

14 Q AND DID HE COME TO YOUR ROOM?

15 A YES.

16 Q AND DID HE TELL YOU WHAT HE WANTED?

17 A YES.

18 Q DID HE TELL YOU HE WANTED THE NOTEBOOK

19 IN WHICH YOU RECORDED THE CONFESSION OF ERIK

20 MENENDEZ?

21 A I BELIEVE WHAT HE TOLD ME WAS: I'M

22 LOOKING FOR -- I DON'T RECALL HIS EXACT WORDS. BUT
23 I'M GOING TO PARAPHRASE. I BELIEVE HE SAID: I
24 THINK THERE'S -- YOU'VE WRITTEN DOWN SOMETHING ABOUT
25 THE CASE. YOU KNOW. THAT'S WHAT WE'RE HERE FOR.
26 Q AND FROM THAT?
27 A LIKE I SAID, I'M PARAPHRASING.
28 Q AND YOU SAID: YOU MUST WANT MY

49179

1 NOTEBOOK.
2 SORRY, SORRY. WHAT'S YOUR ANSWER,
3 MR. CIGNARELLI?
4 A I SAID I'M PARAPHRASING. THOSE AREN'T
5 MY EXACT WORDS THAT DAY OR HIS EXACT WORDS THAT DAY.
6 Q DETECTIVE ZOELLER WANTED YOUR NOTEBOOK,
7 DID HE NOT?
8 A YES.
9 Q AND WHAT YOU TOLD DETECTIVE ZOELLER
10 BEFORE HE CAME TO YOUR HOUSE WITH A SEARCH WARRANT
11 WAS: "CIGNARELLI WROTE DOWN THE STORY AS TOLD TO HIM
12 BY ERIK IN A SCHOOL NOTEBOOK."
13 ISN'T THAT EXACTLY WHAT YOU TOLD
14 DETECTIVE ZOELLER BEFORE HE CAME OVER WITH A SEARCH
15 WARRANT?
16 A NO.

17 Q YOU KNOW WHAT A SEARCH WARRANT IS?

18 A YES.

19 MS. NAJERA: I'M GOING TO OBJECT. CALLS FOR
20 A LEGAL CONCLUSION.

21 THE COURT: OVERRULED. HE'S ANSWERED THE
22 QUESTION.

23 MR. LEVIN: YOU DO.

24 Q YES?

25 A YES.

26 Q DO YOU KNOW THAT IN ORDER TO GET A
27 SEARCH WARRANT, DETECTIVE ZOELLER HAS GOT TO SWEAR
28 UNDER OATH, UNDER PENALTY OF PERJURY, THAT THE FACTS

49180

1 UPON WHICH HE RELIES TO GET THE SEARCH WARRANT ARE
2 TRUE?

3 MS. NAJERA: OBJECTION. IRRELEVANT AND
4 ARGUMENTATIVE.

5 THE COURT: SUSTAINED.

6 Q BY MR. LEVIN: DO YOU KNOW OF ANY REASON
7 WHY DETECTIVE ZOELLER WOULD LIE TO A SUPERIOR COURT
8 JUDGE TO GET A SEARCH WARRANT?

9 MS. NAJERA: YOUR HONOR, I'M GOING TO OBJECT
10 TO THIS LINE OF QUESTIONING.

11 THE COURT: SUSTAINED.

12 Q BY MR. LEVIN: DO YOU KNOW OF ANY REASON

13 WHY DETECTIVE ZOELLER --

14 MS. NAJERA: OBJECTION, YOUR HONOR. ASK TO

15 APPROACH.

16 THE COURT: OKAY. THIS IS NOT PROPER

17 IMPEACHMENT OF THIS WITNESS, WHAT'S IN SOMEONE

18 ELSE'S STATEMENT.

19 MR. LEVIN: ALL RIGHT. SORRY, YOUR HONOR.

20 Q NOW, YOU GAVE DETECTIVE ZOELLER YOUR

21 NOTEBOOK, CORRECT?

22 A YES.

23 Q AND THE REASON -- AND THERE WASN'T ONE

24 WORD IN THAT NOTEBOOK THAT YOU GAVE DETECTIVE

25 ZOELLER ABOUT ANYTHING THAT ERIK MENENDEZ HAD TOLD

26 YOU AT THE END OF AUGUST 1989; ISN'T THAT CORRECT?

27 A I DON'T RECALL.

28 Q WELL --

49181

1 A I GAVE HIM THE NOTEBOOK SEVEN YEARS

2 AGO. I DON'T REMEMBER.

3 Q WELL, DID YOU REMEMBER AT THE LAST TRIAL

4 WHEN MS. ABRAMSON ASKED YOU THAT EXACT QUESTION?

5 A I DON'T REMEMBER.

6 MR. LEVIN: YOUR HONOR, I'D LIKE TO READ FROM

7 THE PREVIOUS TRIAL, PAGE 7824, LINE 7 -- ACTUALLY,

8 LINE 2 TO LINE 10.

9 MS. NAJERA: NO OBJECTION.

10 MR. LEVIN:

11 "QUESTION: NOW, THEY SERVED THAT

12 WARRANT ON YOUR HOME ON JANUARY THE

13 25TH, 1990. AND DID YOU TURN OVER TO

14 THEM SCHOOL NOTEBOOKS?

15 "ANSWER: YES.

16 "QUESTION: AND DID EITHER OF

17 THOSE SCHOOL NOTEBOOKS THAT YOU TURNED

18 OVER CONTAIN ONE WORD OF WHAT ERIK

19 SUPPOSEDLY TOLD YOU ABOUT KILLING HIS

20 PARENTS?

21 "ANSWER: I DON'T BELIEVE SO,

22 NO."

23 Q DO YOU REMEMBER GIVING THAT ANSWER?

24 A NO.

25 Q IS THAT THE TRUTH?

26 A YEAH.

27 Q SO --

28 A I DON'T --

49182

1 Q SO THERE'S NOTHING IN YOUR NOTEBOOKS

2 THAT SAYS ONE WORD ABOUT WHAT ERIK MENENDEZ TOLD YOU

3 IN AUGUST OF 1989, CORRECT?

4 A I DON'T RECALL. LIKE I SAID, I DON'T

5 BELIEVE SO.

6 Q NOW, YOU TESTIFIED AT THE LAST TRIAL,

7 DID YOU NOT, THAT THE TRUTH WAS YOU TOLD DETECTIVE

8 ZOELLER THAT YOU WERE IN THE PROCESS OF WRITING

9 THINGS DOWN? REMEMBER TESTIFYING TO THAT?

10 A I DON'T REMEMBER TESTIFYING TO THAT.

11 MS. NAJERA: I'M GOING TO OBJECT. CALLS FOR

12 HEARSAY WITH NO FOUNDATION.

13 THE COURT: OVERRULED.

14 THE WITNESS: I DON'T REMEMBER TESTIFYING TO

15 THAT, BUT YES, THAT'S TRUE.

16 MR. LEVIN: OKAY.

17 Q DID YOU TELL DETECTIVE ZOELLER THAT YOU

18 HAD WRITTEN SOME THINGS DOWN IN A NOTEBOOK?

19 A LIKE I SAID, I DON'T RECALL THAT

20 CONVERSATION. I MEAN -- I JUST DON'T -- IT WAS SEVEN

21 YEARS AGO. I DON'T REMEMBER.

22 Q LET ME READ TO YOU A PORTION OF YOUR

23 TESTIMONY FROM THE LAST TRIAL CONCERNING THIS

24 SUBJECT.

25 I'M REFERRING TO PAGE 7822, LINE 5 TO

26 LINE 10, AND THEN PAGE 7823, LINE 8 TO LINE 18.

27 MS. NAJERA: NO OBJECTION.

28 MR. LEVIN:

1 "QUESTION: NOW, ON NOVEMBER 17TH
2 HAD YOU TOLD THE POLICE THAT YOU HAD
3 WRITTEN DOWN WHAT ERIK HAD SAID TO YOU
4 AT HIS HOUSE IN A SCHOOL NOTEBOOK?

5 "ANSWER: NO. WHAT I SAID WAS
6 THAT I HAD BEGUN TO WORRY ABOUT IT AND
7 I STARTED WRITING SOME THINGS DOWN."

8 Q DO YOU REMEMBER THAT QUESTION AND YOUR
9 ANSWER?

10 A LIKE I SAID, I DON'T.

11 Q DO YOU REMEMBER THAT QUESTION AND
12 ANSWER?

13 MS. NAJERA: YOUR HONOR, MAY THE WITNESS
14 ANSWER THE QUESTION.

15 THE WITNESS: NO. I DON'T RECALL WHAT I SAID
16 THAT A COUPLE OF YEARS AGO, BUT THAT IS THE SAME
17 ANSWER I GAVE TODAY. IT'S THE TRUTH.

18 Q BY MR. LEVIN: NOW, DO YOU RECALL ASKING
19 THIS QUESTION JUST A FEW MOMENTS LATER:

20 "SO WHEN YOU TOLD THE POLICE THAT
21 YOU HAD WRITTEN DOWN THAT INFORMATION,
22 THAT WASN'T TRUE, WAS IT?

23 "ANSWER: NO. WHAT WAS TRUE IS
24 THAT I WAS WRITING DOWN THE

25 INFORMATION."

26 THE WITNESS: THAT'S EXACTLY -- YES, THAT'S

27 EXACTLY RIGHT.

28 Q BY MR. LEVIN: AND WHAT WAS IT THAT YOU

49184

1 WERE WRITING DOWN?

2 A I BELIEVE WHAT I WAS WRITING -- LIKE I

3 SAID, I DON'T RECALL EXACTLY. BUT I WAS GOING TO

4 WRITE DOWN WHAT I KNEW ABOUT THE WHOLE PROCESS.

5 Q WELL, EXACTLY. BECAUSE YOU WERE, AS YOU

6 SAID, WORRIED, CORRECT? YES OR NO?

7 A YES.

8 Q SO WHAT YOU DID -- AS SOON AS ERIK

9 MENENDEZ CONFESSED TO YOU, YOU WANTED TO ACCURATELY

10 MEMORIALIZE WHAT HE TOLD YOU, CORRECT?

11 A I DON'T KNOW IF I WAS ACTUALLY

12 MEMORIALIZING IT. I WAS WRITING THINGS DOWN.

13 Q YOU WERE WRITING IT DOWN TO KEEP A

14 RECORD OF WHAT ERIK MENENDEZ TOLD YOU, CORRECT?

15 A I DON'T KNOW WHY I WAS WRITING IT DOWN.

16 I MEAN --

17 Q OKAY. BUT YOU WERE WRITING DOWN WHAT

18 ERIK MENENDEZ TOLD YOU, CORRECT?

19 A NOT VERBATIM, BUT I WAS WRITING -- YES.

20 Q OKAY. AND YOU TOLD DETECTIVE ZOELLER
21 THAT WHERE YOU WROTE THOSE THINGS DOWN WAS IN YOUR
22 SCHOOL NOTEBOOK, CORRECT?

23 A LIKE I SAID, MR. LEVIN, I DON'T REMEMBER
24 HAVING THAT CONVERSATION WITH MR. ZOELLER, BUT --

25 Q WELL, YOU MUST HAVE, BECAUSE HE CAME
26 WITH A SEARCH WARRANT, CORRECT?

27 MS. NAJERA: I'M GOING TO OBJECT AS
28 ARGUMENTATIVE.

49185

1 THE COURT: SUSTAINED.

2 Q BY MR. LEVIN: NOW, HOW CAN YOU EXPLAIN
3 THE FACT THAT THERE'S NOTHING IN YOUR SCHOOL
4 NOTEBOOKS THAT YOU GAVE TO DETECTIVE ZOELLER
5 ABOUT -- ONE WORD ABOUT WHAT ERIK MENENDEZ ALLEGEDLY
6 TOLD YOU AT THE END OF AUGUST OF 1989?

7 A VERY EASILY. WOULD YOU LIKE ME TO?

8 Q WELL, IT ISN'T THERE, IS IT?

9 A YOU ASKED ME HOW I CAN EXPLAIN THIS. IF
10 YOU'D LIKE ME TO EXPLAIN, I CAN TELL YOU WHAT --

11 Q WHAT I'M ASKING --

12 MS. NAJERA: I'D ASK THE WITNESS BE ALLOWED
13 TO ANSWER THE QUESTION. I BELIEVE THE QUESTION WAS
14 HOW CAN HE EXPLAIN IT.

15 THE COURT: WELL, THE QUESTION DOESN'T
16 EXACTLY ASK HIM TO EXPLAIN IT.
17 WHAT IS IT THAT YOU'RE ASKING?
18 MR. LEVIN: I'M ASKING THE WITNESS TO
19 ACKNOWLEDGE THE FACT THAT THERE ISN'T ONE WORD
20 WRITTEN IN HIS SCHOOL NOTEBOOK ABOUT WHAT ERIK
21 MENENDEZ TOLD YOU ON AUGUST 8 -- AT THE END OF
22 AUGUST OF 1989.
23 Q IS THAT CORRECT?
24 MS. ABRAMSON: EXCUSE ME, YOUR HONOR. COULD
25 I SPEAK TO MR. LEVIN FOR A MINUTE?
26 MR. LEVIN: MAY I HAVE ONE MOMENT, YOUR
27 HONOR? I HAVE AN ELECTRONIC PROBLEM.
28 (BRIEF PAUSE IN THE PROCEEDINGS.)

49186

1
2 MS. ABRAMSON: THANK YOU.
3 MR. LEVIN: MY BEEPER WAS BUZZING IN MY
4 BRIEFCASE.
5 Q IS THAT CORRECT?
6 THE COURT: WHAT WAS THE QUESTION?
7 THE WITNESS: THAT YOUR BEEPER WAS BUZZING?
8 MR. LEVIN: IT ACTUALLY WAS.
9 Q DID YOU HEAR IT? MAYBE YOU CALLED ME.

10 NO, ACTUALLY, MY QUESTION IS: ISN'T IT
11 CORRECT THAT THERE'S NOTHING AT ALL THAT'S CONTAINED
12 IN YOUR NOTEBOOK THAT SAYS ONE WORD ABOUT WHAT ERIK
13 MENENDEZ TOLD YOU IN AUGUST OF '89?

14 A I DON'T RECALL THE EXACT CONTENTS OF
15 THAT NOTEBOOK. I DO REMEMBER SEEING A PAGE OF THAT
16 AND IT SAID "MURDER EXPLANATIONS", IF THAT'S -- IF
17 THAT'S ONE WORD OR TWO WORDS THAT WERE IN THERE,
18 THEN YES, THERE ARE TWO WORDS IN THERE.

19 BESIDES THAT, I DON'T THINK THERE'S
20 ANYTHING THAT HE WROTE -- THAT HE TALKED ABOUT THE
21 CONFESSION.

22 Q NOW, YOU WERE INVOLVED, WERE YOU NOT, IN
23 A BURGLARY IN 1988 WITH ERIK MENENDEZ AT THE LIST
24 HOUSE?

25 A WAS I INVOLVED WITH IT?

26 Q YES.

27 MS. NAJERA: I'M GOING TO OBJECT. VAGUE AS
28 TO INVOLVEMENT.

49187

1 THE COURT: OVERRULED.

2 YOU CAN ANSWER THE QUESTION.

3 THE WITNESS: I WAS NOT INVOLVED IN A CRIME,

4 NO.

5 Q BY MR. LEVIN: WERE YOU THERE?

6 A WAS I THERE?

7 Q THE LIST HOUSE.

8 MS. NAJERA: I'M GOING TO OBJECT. VAGUE AS

9 TO TIME. WHAT TIME ARE WE TALKING ABOUT?

10 THE COURT: PERHAPS YOU CAN PIN DOWN WHEN

11 YOU'RE TALKING ABOUT.

12 Q BY MR. LEVIN: IN 1988 WERE YOU AT THE

13 LIST HOUSE?

14 MS. NAJERA: OBJECTION. VAGUE AS TO WHEN.

15 THE COURT: OVERRULED.

16 MR. LEVIN: I HAVE TO START SOMEWHERE.

17 THE WITNESS: YES.

18 Q BY MR. LEVIN: AND WAS ERIK MENENDEZ

19 THERE?

20 A IN 1988? YES.

21 Q AND I'M TALKING ABOUT THE MIDDLE OF

22 1988, CORRECT?

23 A YES.

24 Q AND WAS YOUR FRIEND JOHN LIST THERE?

25 A YES.

26 Q AND DID MR. LIST AT SOME POINT IN TIME

27 GO TO SLEEP?

28 A YES.

1 Q AND DID YOU AND MR. MENENDEZ REMAIN
2 AWAKE?

3 A YES.

4 Q AND DID YOU AND MR. MENENDEZ OBTAIN THE
5 COMBINATION TO THE HOUSE SAFE?

6 A WE DIDN'T, NO.

7 Q WHO DID?

8 A ERIK DID.

9 Q OKAY. AND DID YOU AT SOME TIME OPEN THE
10 SAFE?

11 A NO.

12 Q WHO DID?

13 A ERIK DID.

14 Q ALL RIGHT. NOW --

15 MR. LEVIN: YOUR HONOR, I HAVE A SINGLE PAGE
16 DOCUMENT FROM MR. CIGNARELLI'S NOTEBOOK. I ASK IT
17 BE MARKED NEXT IN ORDER.

18 THE COURT: 423.

19 Q BY MR. LEVIN: MR. CIGNARELLI, I'M
20 SHOWING YOU WHAT'S JUST BEEN MARKED 423.

21 DO YOU RECOGNIZE THAT DOCUMENT?

22 A YES.

23 Q AND IS THAT A PAGE FROM YOUR NOTEBOOK
24 THAT WAS SEIZED BY DETECTIVE ZOELLER PURSUANT TO THE
25 SEARCH WARRANT IN JANUARY OF '90?

26 A IT'S A COPY OF IT.

27 Q OKAY. AND IS THERE HANDWRITING ON THAT
28 DOCUMENT?

1 A PRINTING?

2 Q PRINTING. YOU'RE LITERAL?

3 A YES.

4 Q AND DOES THAT PRINTING BELONG TO ANYONE
5 THAT YOU RECOGNIZE?

6 A YES.

7 Q WHOSE HANDWRITING IS IT?

8 A IT'S MY PRINTING.

9 Q DID ANYONE MAKE YOU WRITE ANY WORDS ON
10 THAT DOCUMENT?

11 A MYSELF.

12 Q YOU DID IT SOLELY ON YOUR OWN?

13 A YES.

14 Q NOW, IS THERE AN ENTRY ON THERE THAT
15 SAYS: "APPROXIMATELY JULY 15TH, 1988," WHERE I HAVE
16 HIGHLIGHTED IT?

17 A YES.

18 Q THAT'S MY HIGHLIGHTING; IT'S NOT YOURS?

19 A THAT'S CORRECT.

20 Q AND DO THE FOLLOWING WORDS APPEAR?

21 "ERIK AND I" --

22 MS. NAJERA: I'M GOING TO OBJECT. IT CALLS
23 FOR HEARSAY WITH NO FOUNDATIONAL QUESTIONS.

24 MR. LEVIN: IMPEACHMENT.
25 THE COURT: OKAY. LET ME SEE WHAT IT IS YOU
26 WANT.
27 MS. NAJERA: IT'S NOT IMPEACHMENT.
28 THE COURT: THE HIGHLIGHTED PORTION?

49190

1 MR. LEVIN: YES.
2 THE COURT: OKAY.
3 ALL RIGHT. THE OBJECTION IS OVERRULED.
4 MR. LEVIN: OKAY.
5 Q DOES THE FIRST LINE BEGIN: "ERIK AND I
6 SPENT THE NIGHT AT JOHN LIST'S HOUSE"?
7 A YES.
8 Q IS THAT TRUE?
9 A YES.
10 Q DID YOU WRITE THAT?
11 A YES.
12 Q DOES THE NEXT LINE SAY: "WHILE HE WAS
13 ASLEEP, WE OBTAINED THE COMBINATION TO HOUSE SAFE
14 AND OPENED IT?
15 A YES.
16 Q IS THAT TRUE?
17 A WELL --
18 Q IS THAT TRUE, MR. CIGNARELLI?

19 A YOU CAN'T ANSWER THAT WITH A YES OR NO.

20 NO, IT'S NOT TRUE. WE DID NOT.

21 Q OKAY. SO YOU LIED ON YOUR OWN SELF?

22 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

23 THE COURT: REPHRASE THE QUESTION, PLEASE.

24 Q BY MR. LEVIN: DO YOU KNOW THE

25 DIFFERENCE BETWEEN "WE" AND "I"?

26 A ABSOLUTELY.

27 Q DO YOU HAVE WORDS IN HERE, "ERIK," "I,"

28 AND "WE"?

49191

1 A YES.

2 Q OKAY. AND YOU USED THE WORDS "WE OPENED

3 THE SAFE"?

4 A YES.

5 Q AND "WE OBTAINED THE COMBINATION" --

6 A YES.

7 Q "-- TO THE HOUSE SAFE." IS THAT

8 CORRECT?

9 A YES. MEANING, WE WERE TOGETHER.

10 Q OH. BUT ERIK DID IT, RIGHT?

11 A YES.

12 Q YOU HAD NOTHING ELSE TO DO WITH IT?

13 A NO.

14 Q DETECTIVE ZOELLER ASKED YOU, DID HE NOT,
15 ABOUT THE BURGLARIES?

16 A YES.

17 Q DID YOU EVER TELL HIM THAT YOU HAD
18 GOTTEN THE COMBINATION TO THE SAFE?

19 A I DIDN'T GET THE COMBINATION TO THE
20 SAFE.

21 Q WELL, DID YOU EVER TELL HIM WHAT YOU
22 WROTE IN YOUR NOTEBOOK: "WE OBTAINED THE COMBINATION
23 TO THE HOUSE SAFE AND OPENED IT"?

24 THE COURT: WHAT IS THE QUESTION?

25 Q BY MR. LEVIN: DID YOU EVER ADMIT TO
26 DETECTIVE ZOELLER THAT YOU WERE INVOLVED IN THE LIST
27 BURGLARY IN ANY WAY?

28 A WHAT DO YOU MEAN DID I EVER ADMIT TO

49192

1 BEING INVOLVED IN THE BURGLARY?

2 Q TO DETECTIVE ZOELLER.

3 A I -- THAT QUESTION IS UNCLEAR.

4 Q OKAY. DID DETECTIVE ZOELLER ASK YOU
5 ABOUT THE BURGLARY?

6 A YES.

7 Q WITH RESPECT TO THE LIST BURGLARY, WHAT
8 DID YOU TELL HIM? THE LIST BURGLARY.

9 MS. NAJERA: OBJECTION. IRRELEVANT.

10 THE COURT: OVERRULED.

11 THE WITNESS: I DON'T RECALL, EXCEPT I DIDN'T
12 TAKE ANYTHING.

13 Q BY MR. LEVIN: WELL, YOU SNITCHED OFF
14 YOUR FRIEND, ERIK, DIDN'T YOU?

15 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

16 THE COURT: REPHRASE THE QUESTION, PLEASE.

17 Q BY MR. LEVIN: YOU WERE RESPONSIBLE FOR
18 ERIK MENENDEZ BEING ARRESTED AND BEING TURNED IN FOR
19 THE BURGLARY?

20 MS. NAJERA: OBJECTION. ASSUMES FACTS NOT IN
21 EVIDENCE AND IRRELEVANT.

22 THE COURT: WELL, IT DOES ASSUME FACTS NOT IN
23 EVIDENCE.

24 MR. LEVIN: ALL RIGHT.

25 Q YOU REMEMBER MARCH 7TH OF 1990, AN
26 INTERVIEW WITH THE DISTRICT ATTORNEY'S OFFICE?
27 REMEMBER THAT?

28 A YES. NO, NO, NO.

49193

1 Q PARDON ME?

2 A NO. IT WAS AN INTERVIEW WITH THE
3 BEVERLY HILLS P.D.

4 Q ALL RIGHT. WELL, ON MARCH THE 7TH,
5 1990, AM I CORRECT IN STATING THAT THE BEVERLY HILLS
6 POLICE DEPARTMENT, I BELIEVE, REPRESENTED BY
7 SERGEANT EDMONDS, DETECTIVE EDMONDS AND A HEAD
8 DEPUTY, RIGHT BELOW MR. GARCETTI, I BELIEVE, NAMED
9 RONALD CARROLL OR MICHAEL CARROLL, WAS ALSO PRESENT?

10 MS. NAJERA: YOUR HONOR, I'M GOING TO OBJECT
11 TO THE QUESTION. ASSUMES FACTS NOT IN EVIDENCE AS
12 TO WHO THESE PEOPLE ARE AND WHAT THEIR POSITIONS
13 ARE.

14 THE COURT: WELL, HE'S ASKING THE WITNESS TO
15 NOT ONLY REMEMBER THEIR NAMES, BUT THEIR POSITIONS.

16 SO PERHAPS YOU CAN BREAK IT DOWN.

17 MR. LEVIN: OKAY.

18 Q DO YOU KNOW MR. CARROLL?

19 A I -- I DON'T -- MAYBE. I DON'T KNOW. IF
20 HE WALKED BY ME RIGHT NOW I WOULDN'T KNOW HIM, NO.

21 Q OKAY. WAS THERE A DEPUTY DISTRICT
22 ATTORNEY THERE NAMED CARROLL?

23 A I DON'T KNOW HIS POSITION.

24 Q WAS THERE A DEPUTY DISTRICT ATTORNEY
25 THERE?

26 A NOT THAT I REMEMBER, NO.

27 Q WERE YOU THERE?

28 A YES.

1 Q WAS SERGEANT EDMONDS THERE?

2 A YES.

3 Q WAS YOUR LAWYER THERE?

4 A YES.

5 Q DO YOU REMEMBER THAT THERE WAS A
6 TAPE-RECORDING OF THIS INTERVIEW?

7 A YES.

8 Q DO YOU REMEMBER AN ADMONITION AT THE
9 BEGINNING OF THE TAPE-RECORDING WHEREIN IT WAS
10 STATED:

11 "PRESENT IS MR. CIGNARELLI, HIS
12 ATTORNEY, THOMAS P. JOHNSTON, MICHAEL
13 CARROLL, THE DISTRICT ATTORNEY, AND
14 I'M SERGEANT TOM EDMONDS OF THE
15 BEVERLY HILLS POLICE DEPARTMENT"?

16 DO YOU REMEMBER THAT?

17 A NO.

18 Q OKAY. DOES IT REFRESH YOUR MEMORY AT
19 ALL --

20 A YES.

21 Q -- AT THIS TIME TO REMEMBER, RECALL, THAT
22 THOSE PARTIES WERE PRESENT?

23 A YES.

24 Q AND YOU BROUGHT YOUR ATTORNEY,
25 MR. JOHNSTON, CORRECT?

26 A YES.

27 Q WHY DID YOU BRING MR. JOHNSTON, YOUR
28 ATTORNEY?

49195

1 MS. NAJERA: OBJECTION. IRRELEVANT.

2 THE COURT: OVERRULED.

3 YOU CAN ANSWER THE QUESTION.

4 THE WITNESS: I WAS TOLD BY MANY PEOPLE IT'S
5 NOT WISE TO GO SPEAK WITH -- OR GIVE EVIDENCE TO
6 ANYBODY WITHOUT AN ATTORNEY PRESENT.

7 Q BY MR. LEVIN: SO YOU BROUGHT YOUR
8 LAWYER?

9 A YES. WELL, IT WASN'T MY LAWYER. IT WAS
10 A LAWYER THAT MY FATHER HAD HIRED.

11 Q NOW, AMONG THE SUBJECTS THAT WERE
12 DISCUSSED AT THE MARCH 7TH, 1990 INTERVIEW, YOU
13 TALKED ABOUT THE BURGLARIES, DIDN'T YOU?

14 A WE MIGHT HAVE. I DON'T RECALL.

15 Q OKAY. AND DIDN'T YOU SAY, IN YOUR OWN
16 WORDS, THAT YOU TAKE CREDIT, RESERVEDLY, FOR TURNING
17 IN HIS SONS, REFERRING TO ERIK AND LYLE MENENDEZ, IN
18 TALKING ABOUT JOSE MENENDEZ?

19 A I TAKE CREDIT FOR TURNING IN HIS SONS?
20 THE WORD RESERVEDLY BELONGS IN THERE. I BELIEVE
21 MR. MENENDEZ DID TOO.

22 Q BUT YOU, ALONG WITH JOSE MENENDEZ,
23 TURNED IN YOUR BEST FRIEND, CORRECT?
24 A THAT'S TWICE NOW.
25 Q PARDON ME?
26 A THAT'S TWICE NOW.
27 Q WELL, THIS WAS THE FIRST TIME, CORRECT?
28 A YES.

49196

1 Q AND THAT WAS IN '88, RIGHT?
2 A YES.
3 Q AND THIS WAS THE BURGLARY THAT YOU
4 TURNED HIM IN WHEREIN YOU WROTE IN YOUR NOTEBOOK
5 THAT: "WE OBTAINED THE COMBINATION TO THE HOUSE SAFE
6 AND OPENED IT." CORRECT?
7 A THAT'S CORRECT.
8 Q HAVE YOU EVER TOLD ANYONE THAT YOU
9 OBTAINED THE COMBINATION TO THE HOUSE SAFE AND
10 OPENED IT?
11 A NO. NO.
12 Q I WANT TO ASK YOU SOME QUESTIONS
13 ABOUT -- WHEN MS. NAJERA ASKED YOU SOMETHING ABOUT
14 IT COULD HAVE HAPPENED. I'M A LITTLE CONFUSED ABOUT
15 THAT.
16 WHAT IS IT, OR HOW WOULD YOU ACCURATELY

17 STATE, "IT COULD HAVE HAPPENED" CAME UP OR DIDN'T

18 COME UP? I'M CONFUSED.

19 I UNDERSTAND THAT YOU ATTRIBUTED A

20 STATEMENT TO MY CLIENT, ERIK MENENDEZ, THAT HE DID

21 NOT MAKE, CORRECT?

22 A THAT'S CORRECT.

23 Q AND IF I UNDERSTAND YOU CORRECTLY, YOU

24 TOLD THE POLICE THAT ERIK MENENDEZ HAD CONFESSED TO

25 YOU, AND THEN AT THE END OF THAT CONFESSION HE SAID

26 TO YOU: "IT COULD HAVE HAPPENED."

27 CORRECT?

28 A THAT'S WHAT I TOLD THEM, YES.

49197

1 Q BUT THAT WASN'T TRUTHFUL, WAS IT?

2 A NO. THAT STATEMENT, "IT COULD HAVE

3 HAPPENED" WASN'T TRUTHFUL.

4 Q WHEN YOU MADE THAT STATEMENT, YOU MADE

5 IT TO THE POLICE WHO WERE INVESTIGATING TWO

6 HOMICIDES, CORRECT?

7 A THAT'S CORRECT.

8 Q AND YOU UNDERSTOOD THE SERIOUSNESS OF

9 THE INVESTIGATION, DID YOU NOT?

10 A THAT'S EXACTLY WHY I MADE THAT

11 STATEMENT.

12 Q YOU UNDERSTOOD THE SERIOUSNESS, CORRECT?

13 A YES.

14 Q AND YOU UNDERSTOOD THE IMPORTANCE OF
15 TELLING THE POLICE THE TRUTH, DID YOU NOT?

16 A YES.

17 Q AND SO, YOU LIED TO POLICE, DID YOU NOT?

18 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

19 THE COURT: OVERRULED.

20 THE WITNESS: I WOULDN'T SAY I LIED TO THE
21 POLICE. I WOULD SAY I ADDED THAT TO PROTECT WHAT I
22 STILL CONSIDERED A FRIEND.

23 MR. LEVIN: OKAY. LET ME READ YOU SOMETHING
24 THAT OCCURS DURING THE MARCH 7TH, '90 INTERVIEW, THE
25 TRANSCRIPT, AT PAGE 13, AND ASK YOU IF YOU HAVE
26 CHARACTERIZED THIS STATEMENT A LITTLE BIT
27 DIFFERENTLY WHEN ASKED BY THE DISTRICT ATTORNEY.

28 MS. NAJERA: COUNSEL. I NEED A --

49198

1 MR. LEVIN: IT'S NOT NUMBERED, MS. NAJERA,
2 BUT IT BEGINS WITH THE THIRD "CARROLL" ENTRY DOWN TO
3 -- IT WOULD BE CARROLL, CIGNARELLI, CARROLL,
4 CIGNARELLI.

5 MS. NAJERA: I'D OBJECT TO THAT. IT'S NOT
6 IMPEACHMENT.

7 THE COURT: WHAT PAGE IS THIS?

8 MR. LEVIN: PAGE 13, YOUR HONOR, RIGHT IN THE
9 MIDDLE OF THE PAGE.

10 YOUR HONOR, MS. NAJERA PERHAPS IS
11 TALKING A LITTLE LOUD. I JUST DON'T WANT THE JURY
12 TO BE HEARING WHAT SHE'S SAYING.

13 MS. NAJERA: I'M TALKING TO MR. CONN.

14 THE COURT: ALL COUNSEL, THROUGHOUT THE
15 PROCEEDINGS, SHOULD BE MINDFUL OF THEIR OBLIGATIONS
16 TO COMMUNICATE IN SUCH A WAY THAT THEY ARE NOT HEARD
17 BY THE JURY, UNLESS AND UNTIL THAT TIME OF THE CASE
18 WHEN YOU ARE ARGUING THE CASE TO THE JURY OR YOU'RE
19 ASKING QUESTIONS OF A WITNESS.

20 ALL RIGHT. WHAT PORTION OF PAGE 13?

21 MR. LEVIN: PARDON ME, YOUR HONOR?

22 THE COURT: WHAT PORTION OF PAGE 13?

23 MR. LEVIN: AT THE THIRD "CARROLL" ENTRY, TWO
24 "CARROLL" ENTRIES, TWO "CIGNARELLI" ENTRIES, THE
25 END OF "NO."

26 THE COURT: OKAY. OBJECTION OVERRULED.

27 Q BY MR. LEVIN:

28 "QUESTION BY DISTRICT ATTORNEY

1 CARROLL: LET ME CLARIFY THIS ON

2 TAPE.

3 "WHEN -- YOUR FIRST STATEMENT TO
4 THE POLICE WAS YOU TOLD THEM THE SAME,
5 YOU DESCRIBED THE SAME MURDER SCENE
6 AND WHAT YOU TOLD ABOUT THE KILLING,
7 BUT YOU ADDED, UH --

8 "MR. CIGNARELLI: AT THE END I
9 SAID, YEAH, AND THEN HE SAID IT'S
10 POSSIBLE."

11 MS. NAJERA: YOUR HONOR, I WOULD OBJECT. I
12 UNDERSTOOD IT WAS STARTING WITH THE QUESTION AND
13 ANSWER BEFORE THAT.

14 THE COURT: NO. THIS IS WHAT I THOUGHT.

15 MR. LEVIN:

16 "QUESTION: BUT THAT WASN'T
17 TRUTHFUL," BY MR. CARROLL.

18 "ANSWER BY MR. CIGNARELLI:
19 NO."

20 THE WITNESS: THAT'S CORRECT?

21 Q BY MR. LEVIN: SO YOU LIED TO THE
22 POLICE?

23 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

24 Q BY MR. LEVIN: CORRECT.

25 THE COURT: SUSTAINED TO THE FORM OF THE
26 QUESTION.

27 Q BY MR. LEVIN: DID YOU LIE TO THE POLICE
28 WHEN YOU TOLD THEM THAT ERIK MENENDEZ SAID "IT'S

1 POSSIBLE"?

2 A YES.

3 Q NOW, YOU TOLD US, OR YOU TOLD MS. NAJERA

4 -- IN FACT, I THINK YOU EVEN CORRECTED HER WHEN SHE

5 SAID: ERIK MENENDEZ SAID AT THE END OF HIS

6 CONFESSION, "IT COULD HAPPEN."

7 YOU CORRECTED HER AND SAID: NO. HE

8 SAID, "IT COULD HAVE HAPPENED."

9 DO YOU REMEMBER THAT JUST YESTERDAY?

10 A YES.

11 Q AND SO YOU WERE QUOTING VERBATIM WHAT IT

12 WAS ERIK MENENDEZ TOLD -- THAT YOU TOLD THE POLICE

13 ERIK MENENDEZ SAID, CORRECT?

14 A THAT'S WHAT I REMEMBER ERIK SAYING.

15 Q THAT'S WHAT YOU MADE UP?

16 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

17 THE WITNESS: THE PART -- YES. THAT IS A

18 PART I MADE UP.

19 THE COURT: OBJECTION OVERRULED.

20 Q BY MR. LEVIN: YOU JUST SAID THAT'S WHAT

21 ERIK SAID.

22 A THAT'S WHAT I HAD SAID ERIK SAID.

23 Q YOU JUST SAID THAT'S WHAT ERIK SAID?

24 MS. NAJERA: OBJECTION. ARGUMENTATIVE AND

25 ASKED AND ANSWERED.

26 THE COURT: REPHRASE THE QUESTION.

27 Q BY MR. LEVIN: ERIK MENENDEZ DID TELL

28 YOU, ON -- HE TOLD YOU WHAT HE HAD SEEN WHEN HE CAME

49201

1 BACK INTO THE BEVERLY HILLS HOUSE, AND THEN HE SAID

2 "I DID IT," WITHOUT GIVING YOU ANY DETAILS; ISN'T

3 THAT TRUE?

4 A WAIT. REPEAT THAT.

5 Q ERIK MENENDEZ TOLD YOU THAT HE DID IT,

6 WITHOUT GIVING YOU ANY DETAILS; ISN'T THAT TRUE?

7 A YOU'RE SAYING WITHOUT WALKING ME THROUGH

8 THE SCENE?

9 Q WITHOUT TELLING YOU ANY DETAILS ABOUT

10 WHAT HAPPENED; ISN'T THAT WHAT HAPPENED?

11 A THAT'S ABSOLUTELY WRONG.

12 Q THAT'S WRONG?

13 A YES.

14 Q NOW, ISN'T IT TRUE THAT AFTER ERIK

15 MENENDEZ TOLD YOU THAT HE DID IT, HE SAID: "I DIDN'T

16 DO IT. IT MIGHT HAVE HAPPENED. IT COULD HAVE

17 HAPPENED THAT WAY." AND HE RETRACTED IT?

18 A NO.

19 Q DIDN'T YOU JUST TELL THE JURY THAT'S

20 WHAT HE SAID?

21 A NO.

22 MS. NAJERA: MISSTATEMENT OF THE TESTIMONY.

23 THE COURT: OBJECTION SUSTAINED.

24 THE ANSWER IS STRICKEN.

25 YOU'RE GETTING THESE THINGS CONFUSED

26 HERE, MR. LEVIN. BREAK IT DOWN.

27 Q BY MR. LEVIN: NOW, WHEN YOU RELATED

28 THIS IN YOUR OWN WORDS ON MARCH THE 7TH, 1990, YOU

49202

1 DIDN'T SAY TO MR. CARROLL: "AT THE END I SAID YEAH,

2 AND THEN HE SAID IT COULD HAVE HAPPENED."

3 YOU DIDN'T USE THOSE WORDS THAT YOU MADE

4 UP ABOUT WHAT ERIK MENENDEZ SAID TO YOU.

5 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

6 THE COURT: REPHRASE THE QUESTION.

7 Q BY MR. LEVIN: WELL, DID YOU MAKE IT UP

8 WHEN YOU TOLD THE POLICE THAT ERIK MENENDEZ, AT THE

9 END OF HIS CONFESSION SAID, "IT COULD HAVE

10 HAPPENED"?

11 A YES. I WAS TRYING TO PROTECT HIM.

12 Q YOU MADE IT UP, CORRECT?

13 A YES.

14 MS. NAJERA: OBJECTION. ASKED AND ANSWERED.

15 THE COURT: OVERRULED.

16 THE ANSWER WILL STAND.

17 Q BY MR. LEVIN: ALL RIGHT. NOW, YOU TOLD

18 MR. CARROLL ON MARCH 7TH, THAT AT THE END I SAID,

19 YEAH, AND THEN HE SAID "IT'S POSSIBLE."

20 THAT'S WHAT YOU SAID TO MR. CARROLL,

21 CORRECT?

22 A THAT'S CORRECT.

23 Q SO YOU MADE IT UP -- YOU MADE UP "IT'S

24 POSSIBLE" TOO?

25 MS. NAJERA: OBJECTION. MISSTATES THE

26 TESTIMONY AND IS ARGUMENTATIVE.

27 THE COURT: IT'S ARGUMENT AS PHRASED.

28 REPHRASE THE QUESTION.

49203

1 Q BY MR. LEVIN: YOU DID NOT TELL

2 MR. CARROLL THAT WHAT IT WAS YOU MADE UP ABOUT WHAT

3 ERIK MENENDEZ SAID WERE THE WORDS: "IT COULD HAVE

4 HAPPENED," CORRECT?

5 A CORRECT.

6 Q THE NEW WORDS YOU USED WERE "IT'S

7 POSSIBLE"?

8 A CORRECT.

9 Q SO YOU ATTRIBUTED DIFFERENT PHRASES TO

10 ERIK MENENDEZ THAT YOU SAID HE SAID, CORRECT?

11 A CORRECT.

12 Q SO WOULD I BE CORRECT IN STATING,

13 MR. CIGNARELLI, THAT WHEN YOU'RE LYING YOU CAN'T

14 REMEMBER WHAT IT IS YOU LIED --

15 MS. NAJERA: YOUR HONOR, ARGUE -- OUTRAGED --

16 OUR -- OBJECTION. ARGUMENTATIVE. AND I'D ASK THAT

17 COUNSEL BE ADMONISHED.

18 THE COURT: IT IS ARGUMENTATIVE.

19 MS. NAJERA: THIS IS THE THIRD TIME.

20 MS. ABRAMSON: YOUR HONOR, COULD WE --

21 THE COURT: YOUR NEXT QUESTION, PLEASE.

22 MS. ABRAMSON: YOUR HONOR --

23 THE COURT: OKAY. WE'LL TAKE A RECESS.

24 COUNSEL NEEDS A RECESS. SO WE'LL TAKE A BREAK UNTIL

25 25 MINUTES TO THE HOUR.

26 DON'T DISCUSS THE MATTER WITH ANYONE,

27 AND DON'T FORM ANY FINAL OPINIONS ABOUT IT, AND

28 WE'LL RESUME AT 25 TILL.

49204

1 (A RECESS WAS TAKEN FROM

2 10:20 A.M. TO 10:40 A.M.)

-16332

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

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

5

6 THE COURT: OKAY. THE JURY IS BACK.

7 YOU MAY RESUME.

8 MR. LEVIN: THANK YOU.

9 Q. MR. CIGNARELLI, WHAT DO YOU DO FOR A LIVING
10 NOW?

11 MS. NAJERA: OBJECTION. IRRELEVANT.

12 THE COURT: OVERRULED.

13 THE WITNESS: I TEACH TENNIS. I AM WORKING ON
14 ABOUT SIX DIFFERENT ENTREPRENEURIAL PROJECTS.

15 Q. BY MR. LEVIN: YOU TEACH TENNIS?

16 A. YES.

17 Q. WHAT ARE YOUR SIX ENTREPRENEURIAL PROJECTS?

18 MS. NAJERA: OBJECTION. IRRELEVANT.

19 THE COURT: SUSTAINED.

20 Q. BY MR. LEVIN: DO YOU HAVE AN OFFICE?

21 MS. NAJERA: OBJECTION. IRRELEVANT.

22 THE COURT: SUSTAINED.

23 Q. BY MR. LEVIN: DO YOU HAVE EMPLOYEES?

24 MS. NAJERA: OBJECTION. IRRELEVANT.

25 THE COURT: OVERRULED. YOU CAN ANSWER THAT
26 QUESTION.

27 THE WITNESS: NOT DIRECTLY UNDER ME, NO.

28 Q. BY MR. LEVIN: WHEN ERIK MENENDEZ MOVED TO

1 BEVERLY HILLS, YOU WENT TO COLLEGE, DID YOU NOT?

2 A. YES.

3 Q. YOU WENT TO U.C. -- UNIVERSITY OF
4 CALIFORNIA SANTA BARBARA?

5 A. YES.

6 MS. NAJERA: OBJECTION. IRRELEVANT.

7 THE COURT: OVERRULED.

8 Q. BY MR. CONN: AND YOU TESTIFIED -- OR --
9 STRIKE THAT.

10 YOU GRADUATED?

11 A. YES.

12 Q. WHEN DID YOU GRADUATE?

13 MS. NAJERA: IRRELEVANT.

14 THE COURT: SUSTAINED.

15 Q. BY MR. LEVIN: MR. CIGNARELLI, I WANT TO
16 DIRECT YOUR ATTENTION TO THE NOVEMBER 17TH, 1989
17 INTERVIEW WITH THE POLICE.

18 DO YOU HAVE THAT IN MIND?

19 A. NOT THE ENTIRE INTERVIEW, BUT YEAH.

20 Q. YOU ONLY TOLD THEM ONE TIME, DID YOU NOT,
21 THAT ERIK MENENDEZ SAID AT THE END OF HIS STATEMENT:
22 "IT COULD HAPPEN," CORRECT, OR "IT COULD HAVE HAPPENED"?

23 A. YES.

24 Q. AND THAT WAS ON NOVEMBER 17TH, 1989?

25 A. ACTUALLY, I DON'T KNOW IF THAT'S THE ONLY
26 TIME I TOLD THEM THAT.

27 Q. DO YOU REMEMBER THAT BEING THE FIRST TIME?

28 A. AS FAR AS I REMEMBER, YES.

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1 Q. THE ONLY TIME BEFORE THAT THAT YOU TALKED
2 TO THE POLICE WAS BACK ON AUGUST THE 24TH, 1989,
3 CORRECT? I'M NOT TALKING ABOUT LITTLE CALLS MAYBE
4 CHECKING UP ON YOU OR YOUR CALLING. I AM NOT SUGGESTING
5 YOU HAVE, BUT I AM TALKING ABOUT FACE-TO-FACE MEETINGS
6 WITH MEMBERS OF THE BEVERLY HILLS POLICE DEPARTMENT
7 WHERE YOU GAVE A STATEMENT ABOUT THIS CASE?

8 A. THAT'S CORRECT.

9 Q. NOW, WOULD I BE CORRECT IN STATING -- AND I
10 WILL PARAPHRASE -- THAT ON NOVEMBER THE 17TH, 1989 THAT
11 YOU RELATED THE FOLLOWING TO DETECTIVE ZOELLER: IS THAT
12 CIGNARELLI TOLD THE POLICE -- CIGNARELLI TOLD DETECTIVE
13 ZOELLER, ACTUALLY, THAT:

14 "ERIK WENT INTO THE ROOM. LYLE
15 SHOT DAD, THEN SHOT HIM IN THE HEAD. ERIK
16 COULD NOT SHOOT MOM. SHE TRIED TO GET
17 AWAY. LYLE SHOT HER, TOO. AFTER IT
18 LOOKED LIKE MOM WAS DEAD, ERIK SHOT HER
19 TWICE. ERIK AND LYLE THEN RAN OUT THE
20 BACK DOOR, JUMPED THE FENCE TO THE FRONT,
21 AND DROVE AWAY.

22 "ONE HOUR LATER, ERIK AND LYLE

23 RETURNED. THE LAST THING ERIK SAID WAS
24 'IT COULD HAPPEN.'"
25 THE WITNESS: THAT'S CORRECT.
26 Q. BY MR. LEVIN: NOW, YOU TESTIFIED THAT IN
27 THIS TRIAL THAT ERIK MENENDEZ DID NOT TELL YOU THAT HE
28 COULD NOT SHOOT HIS MOM, AND HE DID NOT TELL YOU THAT

-16329

1 LYLE MENENDEZ SHOT HER, TOO; ISN'T THAT CORRECT?

2 A. COULD YOU REPEAT THAT? I'M SORRY. THERE
3 WAS A LOT TO THAT.

4 Q. YOU TESTIFIED HERE IN THIS TRIAL THAT WHAT
5 ERIK MENENDEZ TOLD YOU -- STRIKE THAT.

6 YOU TESTIFIED IN THIS TRIAL, DID YOU NOT,
7 THAT ERIK MENENDEZ DID NOT SAY TO YOU THAT HE COULD NOT
8 SHOOT HIS MOM AND THAT LYLE SHOT HER, TOO; IS THAT
9 CORRECT?

10 A. I'M SORRY, THE QUESTION -- I TESTIFIED THAT
11 HE DID NOT SAY THAT? HE DID NOT --

12 Q. NO. YOU TESTIFIED IN THIS TRIAL THAT ERIK
13 MENENDEZ CONFESSED TO YOU, CORRECT?

14 A. CORRECT.

15 Q. AND HE ONLY CONFESSED TO YOU ONE TIME,
16 CORRECT?

17 A. CORRECT.

18 Q. AND DURING THAT CONFESSION, IT IS YOUR

19 TESTIMONY THAT ERIK MENENDEZ TOLD YOU THAT LYLE MENENDEZ
20 SHOT HIS FATHER AND ERIK MENENDEZ SHOT HIS MOTHER,
21 CORRECT?
22 A. CORRECT.
23 Q. AND THAT'S WHAT YOU REMEMBER ERIK MENENDEZ
24 TELLING YOU, CORRECT?
25 A. CORRECT.
26 Q. AND THAT'S WHAT YOU TESTIFIED UNDER OATH TO
27 THIS JURY IS THAT; WHAT ERIK MENENDEZ SAID, CORRECT?
28 A. CORRECT.

-16328

1 Q. NOW, BACK ON NOVEMBER THE 17TH, 1989, YOU
2 TOLD THE POLICE A DIFFERENT STORY, A DIFFERENT VERSION
3 ABOUT WHAT YOU SAID ERIK MENENDEZ TOLD YOU; ISN'T THAT
4 CORRECT?
5 A. THAT'S CORRECT.
6 Q. AND YOU TOLD THE POLICE THAT ERIK MENENDEZ
7 SAID TO YOU THAT HE COULD NOT SHOOT HIS MOTHER, AND THAT
8 LYLE MENENDEZ HAD SHOT HER, TOO, CORRECT?
9 A. CORRECT.
10 Q. AND THEN AT THE END OF THAT YOU SAID:
11 "THEN ERIK SAID 'IT COULD HAVE HAPPENED.'"
12 A. THAT'S CORRECT.
13 Q. AND YOU ADMIT THAT THAT WAS SOMETHING YOU
14 MADE UP, "IT COULD HAVE HAPPENED"?

15 A. THAT'S CORRECT.

16 Q. DIDN'T YOU MAKE UP THE WHOLE THING?

17 A. NO.

18 Q. WELL, WHERE COULD YOU POSSIBLY HAVE GOTTEN

19 THE STATEMENT THAT YOU GAVE THE POLICE, THAT YOU

20 ATTRIBUTED TO ERIK MENENDEZ, THAT HE COULD NOT SHOOT HIS

21 MOM?

22 A. IN THE SAME PLACE; THAT I WAS PROTECTING

23 HIM.

24 Q. SO YOU WERE LYING TO THE POLICE ABOUT THE

25 WHOLE STATEMENT?

26 A. NO.

27 MS. NAJERA: I AM GOING TO OBJECT. THAT'S

28 ARGUMENTATIVE.

-16327

1 THE COURT: OVERRULED.

2 THE ANSWER WILL STAND.

3 Q. BY MR. LEVIN: YOU WERE LYING TO THE POLICE

4 ABOUT THE ENTIRE STATEMENT; ISN'T THAT CORRECT?

5 A. NO.

6 Q. WELL, YOU JUST SAID TO THE JURY THAT YOU

7 GOT THIS "ERIK COULD NOT SHOOT HIS MOM FROM THE SAME

8 PLACE," MEANING TO PROTECT ERIK; ISN'T THAT CORRECT?

9 A. THAT'S CORRECT.

10 Q. SO DID ERIK MENENDEZ TELL YOU THAT HE COULD

11 NOT SHOOT HIS MOM?

12 A. NO. WHAT I INTENDED TO DO --

13 Q. DID HE? YES OR NO.

14 MS. NAJERA: MAY HE ANSWER THE QUESTION, YOUR
15 HONOR?

16 THE COURT: YOU MAY COMPLETE YOUR ANSWER.

17 THE WITNESS: WHAT I INTENDED TO DO WAS GIVE THE
18 INFORMATION TO THE POLICE TO SHOW ERIK AS A SUSPECT, BUT
19 I DID NOT WANT TO BE THE ONE TO BRING HIM DOWN
20 COMPLETELY, AND I DIDN'T WANT TO GIVE THEM EVERYTHING.

21 Q. BY MR. LEVIN: SO YOU WERE GOING TO HANG A
22 DOUBLE MURDER ON LYLE MENENDEZ?

23 MS. NAJERA: OBJECTION. MISSTATES THE TESTIMONY.

24 THE COURT: REPHRASE THE QUESTION, PLEASE.

25 MR. LEVIN: OKAY.

26 Q. YOU WERE GOING TO THEN TELL THE POLICE, TO
27 HELP ERIK MENENDEZ, THAT LYLE MENENDEZ MURDERED HIS
28 MOTHER?

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1 MS. NAJERA: OBJECTION. ARGUMENTATIVE AND
2 MISSTATES THE TESTIMONY.

3 THE COURT: IT'S ARGUMENTATIVE AS PHRASED.

4 MR. LEVIN: OKAY.

5 Q. YOU TOLD THE POLICE THAT LYLE MENENDEZ
6 KILLED HIS MOTHER?

7 A. THAT'S CORRECT.

8 Q. AND LYLE MENENDEZ -- AND ERIK MENENDEZ

9 NEVER TOLD YOU THAT LYLE MENENDEZ SHOT HIS MOTHER, DID
10 HE?

11 A. I DON'T RECALL. I DON'T RECALL THAT, NO.

12 Q. AND HOW DOES THAT HELP ERIK MENENDEZ, BY
13 YOU TELLING THE POLICE THAT LYLE MENENDEZ SHOT HIS
14 MOTHER, IF THAT'S WHAT ERIK MENENDEZ TOLD YOU. HOW DOES
15 THAT HELP HIM?

16 A. WELL, IT DOESN'T MAKE ME BE THE PERSON
17 THAT -- IT WOULD LEAD THE POLICE TO INVESTIGATE ERIK,
18 BUT IT WOULDN'T MAKE ME BE THE PERSON THAT TURNED HIM
19 IN, I MEAN, THAT BROUGHT HIM DOWN.

20 Q. SO YOU WERE SENDING THE POLICE OFF INTO
21 AREAS THAT WERE NOT TRUE, THAT YOU KNEW WERE NOT TRUE?

22 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

23 THE WITNESS: NO, I WAS --

24 THE COURT: OVERRULED.

25 YOUR ANSWER?

26 THE WITNESS: I WAS SENDING THE POLICE TO
27 INVESTIGATE, AND I JUST -- I DIDN'T WANT TO BELIEVE -- I
28 MEAN, HE WAS MY BEST FRIEND, AND I HAD AN ALLEGIANCE AND

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1 I HAD A MORALITY PROBLEM WITH IT, AND LOOKING BACK NOW,
2 I SHOULDN'T HAVE, BUT YOU KNOW, AT THE TIME IT --

3 MR. LEVIN: LET ME DIGRESS.

4 THE COURT: LET HIM FINISH.

5 THE WITNESS: AT THE TIME IT'S A BEST FRIEND, AND
6 IT'S TOUGH.

7 Q. BY MR. LEVIN: LET ME DIGRESS FOR A MOMENT.

8 AM I CORRECT, THOUGH, ALSO THAT 10 DAYS
9 LATER, AFTER NOVEMBER 17TH 1989, YOU AGREED TO WEAR A
10 BODY WIRE TO TRAP YOUR BEST FRIEND INTO MAKING A
11 CONFESSION FOR YOU; ISN'T THAT CORRECT?

12 MS. NAJERA: OBJECTION. ARGUMENTATIVE AND
13 ASSUMES A FACT NOT IN EVIDENCE.

14 THE COURT: REPHRASE THE QUESTION.

15 Q. BY MR. LEVIN: YOU WORE A BODY WIRE 10 DAYS
16 LATER FOR THE POLICE, CORRECT?

17 A. THAT'S CORRECT.

18 Q. YOU WERE THEIR AGENT, WERE YOU NOT?

19 MS. NAJERA: OBJECTION. ARGUMENTATIVE AND
20 ASSUMES A FACT NOT IN EVIDENCE.

21 THE COURT: OVERRULED.

22 Q. BY MR. LEVIN: CORRECT?

23 A. I DON'T KNOW IF THAT'S THE TERMINOLOGY. I
24 WASN'T TOLD I WAS AN AGENT.

25 Q. WELL, THE PURPOSE OF YOU WEARING THE BODY
26 WIRE WAS FOR YOU TO USE YOUR FRIENDSHIP IN A WAY TO GET
27 ERIK MENENDEZ TO CONFESS TO YOU SO THAT THE POLICE
28 LISTENING TO THE BODY WIRE WOULD BE ABLE TO ARREST HIM,

1 CORRECT?

2 A. CORRECT.

3 Q. YOU HAD NO MORAL PROBLEM WITH THAT?

4 A. I HAD A MORAL PROBLEM WITH THAT, AND I
5 OVERCAME IT BECAUSE OF WHAT I SAW THIS FRIEND DO TO HIS
6 PARENTS.

7 Q. YOU SAW ERIK MENENDEZ SHOOT HIS PARENTS?

8 A. NO. WHAT I WAS TOLD BY THE DEFENDANT THAT
9 HE DID TO HIS PARENTS. PARDON ME. I WASN'T BEING
10 LITERAL ENOUGH.

11 Q. YOU WERE -- AND JUST TO DIGRESS FOR A
12 MOMENT, ON THIS MORAL OBLIGATION THAT YOU TESTIFIED TO
13 HERE THAT YOU HAD. YOU WERE ASKED WHEN -- ON MARCH 7TH
14 WHEN YOU WERE THERE WITH YOUR LAWYER, YOU WERE ASKED BY
15 MR. CARROLL, AND I AM REFERRING YOU TO PAGE 16, THE
16 SECOND CARROLL ENTRY.

17 YOU WERE ASKED THIS QUESTION, WERE YOU NOT?

18 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT AND
19 ASK TO APPROACH.

20 THE COURT: OKAY. WELL, LET ME FIRST LOOK AT THE
21 REFERENCE.

22 MR. LEVIN YES. PAGE 16, YOUR HONOR, THE SECOND
23 CARROLL ENTRY, AND THE CIGNARELLI ANSWER TO THAT
24 QUESTION.

25 THE COURT: OKAY.

26 WELL, I WILL SUSTAIN THE OBJECTION.

27 Q. BY MR. LEVIN: WERE YOU EVER ASKED BY A

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1 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
2 ANY READING OF THIS. I BELIEVE AN OBJECTION WAS JUST
3 SUSTAINED.

4 MR. LEVIN: I AM NOT READING ANYTHING.

5 THE COURT: OKAY. IF YOU ARE REFERRING TO THE
6 QUESTION WHICH WAS THE SUBJECT OF THE OBJECTION, THE
7 SAME REFERENCE --

8 MR. LEVIN: I WOULD LIKE TO BE HEARD ON THIS
9 LATER, YOUR HONOR, AS OPPOSED TO PERHAPS CONTRAVENING
10 THE COURT'S RULING.

11 MS. ABRAMSON, WOULD YOU BE KIND ENOUGH TO
12 WRITE A NOTE? I WILL FORGET.

13 THE COURT: WE WILL REMEMBER.

14 Q. BY MR. LEVIN: NOW, FOLLOWING -- OH, LET ME
15 GO BACK.

16 NOW, ON NOVEMBER THE 17TH, 1989, YOU
17 ATTRIBUTED TO ERIK MENENDEZ THE STATEMENT THAT ERIK
18 COULD NOT SHOOT HIS MOM, CORRECT?

19 A. CORRECT.

20 Q. AND HE DIDN'T SAY THAT TO YOU, DID HE?

21 A. NO.

22 Q. AND YOU KNEW WHEN YOU WERE TELLING THE
23 POLICE ON NOVEMBER THE 17TH, 1989 THAT THAT WAS NOT

24 TRUE?

25 A. YES.

26 Q. AND YOU ALSO ATTRIBUTED TO ERIK MENENDEZ'
27 STATEMENT THAT LYLE SHOT HER, TOO, CORRECT?

28 A. CORRECT.

-16322

1 Q. AND YOU KNEW WHEN YOU TOLD THE POLICE THAT,
2 THAT THAT WAS NOT TRUE EITHER, CORRECT?

3 A. NO.

4 Q. WELL, YOU ATTRIBUTED THAT TO ERIK MENENDEZ,
5 DID YOU NOT? YOU ATTRIBUTED THAT STATEMENT TO ERIK
6 MENENDEZ?

7 A. YES.

8 Q. AND ARE YOU SAYING NOW THAT ERIK MENENDEZ
9 DID TELL YOU THAT ERIK COULD NOT SHOOT HIS MOM, SHE
10 TRIED TO GET AWAY. LYLE SHOT HER, TOO?

11 A. NO. WHAT I AM SAYING IS I DON'T REMEMBER
12 IF LYLE SHOT HER, TOO, IF HE SAID THAT.

13 Q. AND THEN THE STATEMENT: "AFTER IT LOOKED
14 LIKE MOM WAS DEAD, ERIK SHOT HER TWICE."

15 DID ERIK MENENDEZ TELL YOU THAT?

16 A. NOT THAT I RECALL, NO.

17 Q. SO YOU MADE THAT UP, TOO?

18 A. YEAH. I TOLD YOU I WAS TRYING TO PROTECT
19 HIM.

20 Q. AND HOW WOULD THAT PROTECT HIM?
21 A. BECAUSE AGAIN, IT WOULD LEAD THE POLICE --
22 IT WAS ME NOT TELLING THE POLICE THAT ERIK DID THE
23 SHOOTINGS -- DID THE SHOOTINGS OF HIS PARENTS.
24 Q. ALL RIGHT.
25 MR. CIGNARELLI -- WELL, I'D LIKE TO REFER
26 TO THE FIRST TRIAL, PAGE 7803, AND I WOULD LIKE TO READ
27 FROM LINE 26, THE QUESTION, TO PAGE 7804 AT LINE 20.
28 MS. NAJERA: TO PAGE 7804, LINE --

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1 MR. LEVIN: I AM SORRY. LINE 20, 7803.
2 MS. NAJERA: LINE 20?
3 MR. LEVIN: LINE 20, TO PAGE 7804, LINE 20.
4 MS. NAJERA: IF I CAN HAVE A MOMENT.
5 NO OBJECTION.
6 Q. BY MR. LEVIN: SO, WE ARE CLEAR THAT ON
7 NOVEMBER THE 17TH, 1989 WHEN YOU TOLD THE POLICE THAT
8 ERIK MENENDEZ TOLD YOU THAT HE COULD NOT SHOOT HIS MOM,
9 AND LYLE -- WAIT. ERIK COULD NOT SHOOT HIS MOM. SHE
10 TRIED TO GET AWAY. LYLE SHOT HER, TOO. AND THE LAST
11 THING ERIK MENENDEZ SAID WAS "IT COULD HAPPEN".
12 YOU LIED TO THEM?
13 MS. NAJERA: OBJECTION. ARGUMENTATIVE.
14 THE COURT: DID YOU READ THE QUESTION?
15 MR. LEVIN: THAT'S MY QUESTION.

16 THE COURT: IS THAT YOUR QUESTION, OR IS THAT
17 REFERENCE TO THE QUESTION?

18 MR. LEVIN: THAT'S MY QUESTION, NOT IN THE
19 TRANSCRIPT.

20 THE COURT: REPHRASE THE QUESTION.

21 MR. LEVIN: ALL RIGHT.

22 Q. WHEN YOU TOLD THAT INFORMATION TO THE
23 POLICE ON NOVEMBER 17, 1989, YOU TOLD THEM THAT
24 INFORMATION BECAUSE YOU WERE TRYING TO PROTECT ERIK
25 MENENDEZ?

26 A. THAT'S CORRECT.

27 Q. AND YOU TOLD THEM THAT BECAUSE -- AND ERIK
28 MENENDEZ DID NOT SAY THOSE THINGS TO YOU, CORRECT?

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1 A. THAT'S CORRECT.

2 Q. NOW I WOULD LIKE TO READ TO YOU SOME
3 QUESTIONS AND ANSWERS FROM THE LAST TRIAL.

4 BY MS. ABRAMSON:

5 "QUESTION: YOU TOLD THE OFFICERS
6 ON NOVEMBER THE 17TH THAT WHAT ERIK TOLD
7 YOU WAS LYLE WAS TO SHOOT MY DAD AND I WAS
8 TO SHOOT MY MOTHER?

9 "ANSWER: THAT'S CORRECT.

10 "QUESTION: ARE YOU WITH ME SO FAR?

11 "ANSWER: YES.

12 "QUESTION: WE WENT INTO THE ROOM
13 AND LYLE POINTED HIS GUN AT DAD AND SHOT
14 HIM, THEN WENT OVER AND SHOT HIM IN THE
15 HEAD?
16 "ANSWER: THAT'S CORRECT.
17 "QUESTION: I WAS UNABLE TO SHOOT
18 MY MOM AND SHE TRIED TO GET AWAY?
19 "ANSWER: THAT'S CORRECT.
20 "QUESTION: LYLE SHOT HER, TOO?
21 "ANSWER: THAT'S CORRECT.
22 "QUESTION: AFTER IT LOOKED LIKE MY
23 MOTHER WAS DEAD, I SHOT HER TWICE WITH MY
24 GUN?
25 "ANSWER: THAT'S CORRECT.
26 NOW, I WANT YOU TO PAY ATTENTION TO THIS
27 NEXT QUESTION AND NEXT ANSWER THAT OCCURRED DURING THIS
28 TRIAL WHEN YOU WERE UNDER OATH, 1993.

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1 "QUESTION: NOW, IS THAT STILL WHAT
2 YOU'RE TELLING US WAS ERIK MENENDEZ'
3 STATEMENT, OR HAS IT CHANGED?
4 "ANSWER: I WOULD STILL SAY THAT IS
5 THE STATEMENT, BUT I AM GOING -- I AM
6 SAYING TODAY ONLY THE PARTS WHICH I
7 REMEMBER FOR SURE. I DON'T WANT TO BASE

8 WHAT I AM SAYING NOW ON THOSE REPORTS. I
9 AM SAYING WHAT I RECALL TODAY. THAT'S WHY
10 I LEFT OUT CERTAIN PIECES OF THAT, LIKE
11 SHOOTING HIM IN THE HEAD. I DON'T
12 REMEMBER TODAY IF HE SAID THAT, AND I
13 DON'T REMEMBER TODAY IF ERIK SHOT FIRST
14 HIS MOTHER OR LYLE SHOT HIS MOTHER FIRST."

15 DO YOU REMEMBER THAT TESTIMONY, MR.
16 CIGNARELLI?

17 A. I DON'T RECALL THAT, BUT -- I MEAN, YEAH,
18 IF THAT'S THE TRANSCRIPT.

19 Q. DO YOU REMEMBER BEING PLACED UNDER OATH AT
20 THE FIRST TRIAL IN THIS CASE?

21 A. YES.

22 Q. DID YOU COMMIT PERJURY?

23 MS. NAJERA: OBJECTION. ARGUMENTATIVE, AND
24 COUNSEL KNOWS THERE'S NO CHARGES.

25 THE COURT: REPHRASE THE QUESTION.

26 Q. BY MR. LEVIN: DID YOU UNDERSTAND THAT THE
27 OATH YOU TOOK IN THE FIRST TRIAL IS THE SAME OATH TO
28 TELL THE TRUTH IN THIS TRIAL?

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1 A. YES.

2 Q. DID YOU UNDERSTAND THAT MISS ABRAMSON WAS
3 ASKING YOU WHETHER OR NOT ERIK MENENDEZ SAID TO YOU THAT

4 HE WAS UNABLE TO SHOOT HIS MOM, AND SHE TRIED TO GET
5 AWAY AND LYLE SHOT HER, TOO, AND AFTER IT LOOKED LIKE MY
6 MOTHER WAS DEAD, I SHOT HER TWICE WITH MY GUN.

7 DO YOU UNDERSTAND THAT?

8 A. YEAH, I UNDERSTAND.

9 Q. AND DO YOU UNDERSTAND THAT SHE WAS
10 REFERRING TO THE NOVEMBER 17TH, 1989 INTERVIEW THAT YOU
11 TOLD THAT TO THE POLICE?

12 A. I DON'T RECALL THAT, BUT I UNDERSTAND.

13 Q. AND DO YOU REMEMBER HER SAYING:

14 "IS THAT STILL WHAT YOU'RE SAYING?

15 IS THAT STILL WHAT YOU'RE TELLING US WAS

16 ERIK'S STATEMENT, OR HAS THAT CHANGED,"

17 AND YOU SAID: "I WOULD STILL SAY THAT'S

18 MY STATEMENT"?

19 A. IF IT'S IN THE TRANSCRIPT, YES.

20 Q. ALL RIGHT.

21 SO BETWEEN -- AND I WANT TO FOCUS NOW ON
22 THE BODY WIRE.

23 I TAKE IT THAT THERE WAS SOME AGREEMENT
24 WITH YOU OR SOME PLAN THAT YOU HAD WITH THE POLICE
25 DEPARTMENT BETWEEN NOVEMBER THE 17TH, 1989 AND NOVEMBER
26 THE 29TH, 1989 TO TRY TO GET A CONFESSION FROM
27 MR. MENENDEZ?

28 A. IT WASN'T REALLY TO TRY TO GET A

1 CONFESSION. IT WAS TO DISCUSS WHAT HAPPENED THAT NIGHT.
2 I MEAN, IT WAS -- I GUESS, LOOKING BACK, THAT'S WHAT I
3 WENT IN THERE TO DO IS TO TRY GET A CONFESSION, BUT I
4 DON'T THINK THE POLICE ORDERED ME TO DO THAT.

5 Q. DO YOU HAVE ANY QUESTION IN YOUR MIND THAT
6 YOU WERE GOING TO WEAR A BODY WIRE FOR THE PURPOSE OF
7 GETTING A CONFESSION FROM ERIK MENENDEZ?

8 A. NO.

9 Q. AND DID YOU HAVE ANY QUESTION IN YOUR MIND
10 THAT WHAT YOU WERE GOING TO PARTICIPATE IN WAS AN
11 ATTEMPT TO USE YOUR FRIENDSHIP TO GET ERIK MENENDEZ TO
12 CONFESS?

13 MS. NAJERA: OBJECTION. ASSUMES A FACT NOT IN
14 EVIDENCE.

15 THE COURT: OVERRULED.

16 THE WITNESS: I'M SORRY, COULD YOU REPEAT IT?

17 Q. BY MR. LEVIN: YOU WERE GOING TO PLAY THE
18 ROLE OF AN AGENT FOR THE POLICE IN ATTEMPTING TO GET A
19 CONFESSION FROM YOUR BEST FRIEND, CORRECT?

20 A. YES.

21 Q. AND YOU WERE GOING TO ACT LIKE YOU WERE
22 LOYAL AND STILL FRIENDLY TO ERIK MENENDEZ?

23 A. YES.

24 Q. YOU WEREN'T GOING TO WALK IN, AND WHEN THE
25 POLICE WEREN'T LOOKING, OPEN UP YOUR SHIRT AND SAY,
26 "HEY, I'M WEAR WEARING A BODY WIRE, DON'T SAY ANYTHING,"
27 WERE YOU?

28 A. NO.

1 Q. IN FACT, THERE WERE TWO SPEAKERS, WEREN'T
2 THERE?

3 A. WHAT DO YOU MEAN?

4 THE COURT: TWO SPEAKERS?

5 Q. BY MR. LEVIN: YES. DIDN'T THE POLICE GIVE
6 YOU A CALCULATOR?

7 A. YEAH.

8 Q. AND THE CALCULATOR HAD A SPEAKER, AND HE
9 TOLD YOU TO PUT IT DOWN ON THE TABLE.

10 THE COURT: I'M SORRY, MICROPHONES OR SPEAKERS?

11 THE WITNESS: YES.

12 MR. LEVIN: I'M SORRY, YOUR HONOR, MICROPHONE.

13 Q. THERE WERE TWO MICROPHONES, WEREN'T THERE?

14 A. YES.

15 Q. AND YOU UNDERSTOOD THAT THIS PURPOSE FOR
16 YOU, OR YOUR PURPOSE WAS -- YOUR JOB WAS TO GET ERIK
17 MENENDEZ TO CONFESS TO YOU, CORRECT?

18 A. IT WASN'T MY JOB, BUT YES.

19 Q. YOU VOLUNTEERED FOR THE JOB?

20 MS. NAJERA: OBJECTION. MISSTATES THE TESTIMONY.
21 I BELIEVE HE SAID IT WASN'T HIS JOB.

22 THE COURT: ASSUMES FACTS NOT IN EVIDENCE.

23 Q. BY MR. LEVIN: DID YOU VOLUNTEER FOR THE
24 JOB, MR. CIGNARELLI?

25 MS. NAJERA: OBJECTION. ASSUMES A FACT NOT IN

26 EVIDENCE, AS TO THE JOB.

27 THE COURT: OVERRULED.

28 THE WITNESS: I GUESS YOU'LL HAVE TO ANSWER THIS

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1 FOR ME. IF THE POLICE SAY, "WOULD YOU WEAR A WIRE," AND

2 I SAY YES, AM I VOLUNTEERING?

3 Q. BY MR. LEVIN: OKAY. IF THAT'S WHAT

4 HAPPENS. WHATEVER IT MEANS, IT MEANS.

5 SO, YOU AGREED?

6 A. YES.

7 Q. NOW, DID THEY OFFER YOU MONEY?

8 A. NO.

9 Q. DID THEY OFFER YOU ANY BENEFIT?

10 A. NO.

11 Q. DID THEY THREATEN YOU IN ANY WAY THAT IF

12 YOU DIDN'T DO IT SOMETHING BAD WOULD HAPPEN TO YOU?

13 A. NO.

14 Q. ALL RIGHT. NOW, SO YOU WERE JUST DOING

15 THIS BECAUSE YOU FELT YOU HAD A MORAL OBLIGATION; IS

16 THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. BUT RIGHT BEFORE THAT, JUST 10 DAYS BEFORE

19 THAT, YOU ACTUALLY TOLD THE POLICE A WHOLE VERSION OF

20 WHAT ERIK MENENDEZ SO-CALLED CONFESSED TO YOU THAT

21 WASN'T TRUE.

22 MS. NAJERA: OBJECTION. ARGUMENTATIVE.
23 THE COURT: REPHRASE THE QUESTION.
24 Q. BY MR. LEVIN: YOU TOLD THE POLICE JUST 10
25 DAYS BEFORE YOU PUT ON THE BODY WIRE STATEMENTS THAT
26 ERIK MENENDEZ DID NOT SAY, CORRECT?
27 A. CORRECT.
28 Q. YOU ATTRIBUTED TO HIM A CONFESSION WHICH HE

-16314

1 DID NOT MAKE, CORRECT?
2 A. PARTS OF IT.
3 Q. ALL RIGHT. AND DID YOU TELL THE POLICE
4 BETWEEN NOVEMBER 17TH AND NOVEMBER 29TH, DETECTIVE
5 ZOELLER:
6 "HEY, LISTEN. I MIGHT GO IN THERE,
7 AND I AM GOING TO TRY TO GET HIM TO
8 CONFESS, BUT WHAT HE MIGHT SAY ON THIS
9 TAPE IS GOING TO BE DIFFERENT THAN WHAT I
10 TOLD YOU BACK ON NOVEMBER 17TH"?
11 A. I DON'T THINK SO.
12 Q. WELL, WHEN DID YOUR MORAL OBLIGATION
13 CHANGE?
14 A. WELL --
15 Q. JUST IN TIME. I AM NOT ASKING YOU FOR YOUR
16 THOUGHT PROCESS. BETWEEN 11-17-89 AND MARCH -- I'M
17 SORRY.

18 A. THE MORAL OBLIGATION DOESN'T CHANGE,
19 IT'S -- YOU START THINKING ABOUT IT, AND YOU START
20 THINKING ABOUT WHAT'S RIGHT, AND DO I WANT TO BE WALKING
21 AROUND WITH THIS PERSON ON THE STREET, AND --

22 Q. I'M NOT ASKING --

23 MS. NAJERA: COULD THE WITNESS FINISH THE ANSWER?

24 MR. LEVIN: IT'S NONRESPONSIVE, AND I DON'T WANT
25 HIM TO KEEP TALKING. I JUST WANT TO KNOW WHAT HE --

26 THE COURT: LET'S STOP ARGUING, COUNSEL. BOTH OF
27 YOU ARE ARGUING IMPROPERLY AT THIS POINT.

28 MR. LEVIN: I WANT TO WITHDRAW THE QUESTION.

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1 THE COURT: WITHDRAW THE QUESTION. ALL RIGHT.

2 Q. BY MR. LEVIN: MR. CIGNARELLI, WHEN IN
3 TIME, BETWEEN NOVEMBER 17 AND NOVEMBER 29TH, DID THE
4 MORAL OBLIGATION STRIKE YOU THAT YOU WOULD COOPERATE
5 WITH THE POLICE TO GET A CONFESSION ON TAPE FOR THE
6 POLICE AGAINST YOUR BEST FRIEND?

7 A. THERE IS NO, "OH, YEAH, MORAL OBLIGATION"
8 POINT. IT'S NOT LIKE THAT. IT'S A PROCESS, AND IT HAS
9 TO BE EXPLAINED.

10 Q. DID IT EVER OCCUR TO YOU DURING THIS
11 PROCESS THAT YOU SHOULD TELL DETECTIVE ZOELLER THE TRUTH
12 ABOUT WHAT ERIK MENENDEZ CONFESSED TO YOU ABOUT? DID IT
13 EVER OCCUR TO YOU BEFORE?

14 A. YES.

15 Q. AND DID YOU TELL HIM?

16 A. ON MARCH 7TH I DID, YES.

17 Q. NO. BEFORE YOU WENT IN ON NOVEMBER 29TH,

18 DID IT EVER OCCUR TO YOU THAT YOU SHOULD TELL DETECTIVE

19 ZOELLER WHAT ERIK MENENDEZ TOLD YOU ACCURATELY AND

20 TRUTHFULLY, WHICH WAS DIFFERENT THAN WHAT YOU TOLD HIM

21 ON THE 17TH?

22 A. NO.

23 Q. AND THAT WAS A CONSCIOUS DECISION, WAS IT

24 NOT, MR. CIGNARELLI?

25 A. I DON'T REMEMBER MAKING THAT DECISION, A

26 CONSCIOUS DECISION.

27 Q. BUT YOU ARE SO MORAL THAT YOU'RE GOING TO

28 WEAR A BODY WIRE TO GET A CONFESSION AGAINST YOUR BEST

-16312

1 FRIEND, BUT YOU'RE NOT MORAL ENOUGH TO TELL DETECTIVE

2 ZOELLER THE TRUTH?

3 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

4 THE WITNESS: WELL, WOULDN'T IT BE --

5 THE COURT: WAIT. SUSTAINED.

6 THE ANSWER IS STRICKEN.

7 Q. BY MR. LEVIN: MR. CIGNARELLI, WHAT DID YOU

8 EXPECT ERIK MENENDEZ TO SAY ON THE TAPE REGARDING --

9 STRIKE THAT.

10 WHEN YOU WENT IN TO GET A CONFESSION FROM
11 ERIK MENENDEZ, WHAT DID YOU EXPECT ERIK MENENDEZ TO SAY
12 TO YOU AS TO WHAT HAPPENED IN THE ROOM ON AUGUST THE
13 20TH, 1989?

14 A. YOU MEAN WHAT DID I EXPECT HIM TO SAY?

15 Q. YES.

16 A. I DON'T KNOW. I KNOW I EXPECTED HIM -- I
17 DIDN'T GO IN WITH A LIST OF QUESTIONS OR ANYTHING. IT
18 WAS JUST WE WERE GOING TO HAVE A CONVERSATION. WE WERE
19 GOING TO TALK ABOUT WHAT HAPPENED THE NIGHT OF THE
20 MURDERS -- THE SHOOT -- SORRY. I DIDN'T -- I DON'T
21 KNOW. I MEAN, I DIDN'T KNOW WHAT HE WAS GOING TO SAY.

22 Q. WELL, DID YOU EVER TELL ERIK MENENDEZ,
23 BETWEEN NOVEMBER 17TH AND NOVEMBER 29TH, THAT YOU TALKED
24 TO THE POLICE AND YOU TOLD THEM WHAT YOU TOLD THE POLICE
25 ON THE 17TH?

26 A. NO. NOT THAT I RECALL, NO.

27 Q. SO THERE WAS NO WAY THAT ERIK MENENDEZ, IF
28 HE CONFESSED, COULD HAVE TOLD THE POLICE THROUGH YOUR

-16311

1 BODY WIRE THE STORY THAT YOU MADE UP ON THE 17TH?

2 MS. NAJERA: I AM GOING TO OBJECT TO THAT AS TO
3 "THE WHOLE STORY."

4 THE COURT: SUSTAINED. SUSTAINED.

5 Q. BY MR. LEVIN: DID EVER OCCUR TO YOU THAT

6 IF ERIK MENENDEZ CONFESSED ON THE TAPE, THAT IT WOULD BE
7 VERY DIFFERENT FROM WHAT YOU TOLD THE POLICE HE SAID TO
8 YOU?

9 A. I CAN'T BELIEVE IT WOULD REALLY MATTER. IF
10 HE CONFESSES, HE CONFESSES.

11 Q. SO IF ERIK MENENDEZ CONFESSED ON THE TAPE
12 AND SAID SOMETHING THAT WAS DIFFERENT THAN WHAT YOU
13 SAID, DID YOU THINK YOU'D BE HELPING HIM?

14 A. AT THAT POINT DID I THINK I'D BE HELPING
15 HIM?

16 Q. STRIKE THAT.

17 A. NO. I WAS WEARING A BODY WIRE.

18 Q. HOW MANY MEETINGS DID YOU HAVE WITH THE
19 POLICE BEFORE YOU WENT IN ON NOVEMBER THE 29TH -- AND I
20 AM TALKING ABOUT AFTER THE 17TH?

21 A. I DON'T KNOW. ONE, TWO MAYBE. I DON'T
22 RECALL EXACTLY.

23 Q. WELL, DID YOU AGREE TO WEAR THE BODY WIRE
24 ON THE 29TH, OR WAS IT AGREED BETWEEN YOU AND THE POLICE
25 TO DO IT BEFORE?

26 A. I DON'T RECALL. I REALLY DON'T.

27 Q. WOULD IT BE FAIR TO SAY THAT YOU MET THE
28 POLICE A SUBSTANTIAL PERIOD OF TIME BEFORE YOU WERE

1 WIRED UP, WHETHER HOURS OR DAYS, TO TALK ABOUT WHAT YOU

2 WOULD BE DOING, THE EQUIPMENT YOU WOULD BE WEARING, AND
3 WHAT YOU WOULD BE DOING AND WHAT THEY EXPECTED YOU TO
4 DO?

5 A. YES.

6 Q. ALL RIGHT. AND WHO WAS PRESENT DURING THIS
7 MEETING?

8 A. I DON'T KNOW THE EXACT NAMES. DETECTIVE
9 ZOELLER WAS THERE. I BELIEVE HE WAS THERE. SOME GUY --
10 LONG, GRAY HAIR. I WAS IN THE BEVERLY HILLS P.D.

11 Q. AND DID DETECTIVE ZOELLER TELL YOU ABOUT
12 THE EQUIPMENT THAT YOU WOULD BE WEARING, AND HOW IT
13 WORKED AND OPERATED?

14 A. I DON'T KNOW IF -- LIKE I SAID, I DON'T
15 REMEMBER IF DETECTIVE ZOELLER TOLD IT TO ME OR SOMEBODY
16 ELSE DID. BUT YES, SOMEBODY EXPLAINED HOW THE EQUIPMENT
17 WORKED.

18 Q. HOW DID THIS BODY WIRE WORK? AT LEAST
19 WHERE DID YOU WEAR IT?

20 A. WELL, THE BODY WIRE I WORE UNDER THE ARM
21 HERE (INDICATING).

22 Q. NEXT TO YOUR SKIN, YOUR FLESH?

23 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT.

24 THE COURT: OVERRULED.

25 MR. LEVIN: JUST A COUPLE OF QUESTIONS.

26 THE COURT: OVERRULED.

27 THE WITNESS: I MEAN IT WAS -- I REMEMBER THERE
28 WAS A WIRE, AND THERE WAS A LITTLE MICROPHONE, AND THERE

1 WAS CLOTH, AND I THINK IT WENT AROUND THE SHOULDER OR
2 UNDER THE ARM.

3 AGAIN, I DON'T RECALL.

4 Q. BY MR. LEVIN: AND DID THE POLICE TELL YOU
5 WHAT, IF ANYTHING, TO SAY TO GET ERIK MENENDEZ TO EITHER
6 RELAX AND FEEL COMFORTABLE, OR HOW THEY WANTED YOU TO
7 DIRECT THE CONVERSATION?

8 A. I DON'T RECALL THAT. I JUST DON'T KNOW.

9 Q. WOULD THERE HAVE BEEN SUCH A DISCUSSION?

10 A. COULD THERE HAVE BEEN?

11 Q. YES.

12 A. SURE.

13 Q. AND WAS IT SUGGESTED TO YOU BY THE POLICE
14 DETECTIVES THAT YOU SHOULD SAY CERTAIN THINGS TO ERIK
15 MENENDEZ TO GET HIM TO TALK?

16 A. AGAIN, I DON'T -- I DON'T REMEMBER. I
17 MEAN, I DON'T KNOW.

18 Q. IT WAS CLEAR TO YOU THAT -- STRIKE THAT.

19 YOU WERE NOT RELUCTANT IN ANY WAY TO HELP
20 THE POLICE, WERE YOU?

21 A. WHEN?

22 Q. ON THE 29TH?

23 A. NO.

24 Q. AND AT THAT MEETING, WHEN YOU MET WITH ERIK
25 MENENDEZ, ERIK MENENDEZ TOLD YOU, DID HE NOT, THAT HE
26 SHOULD NOT HAVE TOLD YOU THAT HE KILLED HIS PARENTS?

27 HE SAID THAT TO YOU?
28 A. I DON'T RECALL IF THOSE WERE HIS EXACT

-16308

1 WORDS.
2 Q. BUT THAT'S ESSENTIALLY WHAT HE SAID, THAT
3 HE ADMITTED ON THE TAPE, THAT HE HAD CONFESSED TO YOU?
4 A. THAT'S CORRECT.
5 Q. BUT HE DIDN'T CONFESS TO YOU AGAIN?
6 A. CORRECT.
7 Q. AND ON THE WAY OUT, AFTER YOU MET WITH ERIK
8 MENENDEZ AND HAD DINNER, YOU UTTERED INTO THE MICROPHONE
9 YOURSELF SOMETHING TO THE POLICE, DIDN'T YOU?
10 A. YES.
11 Q. AND WHAT DID YOU TELL THEM?
12 MS. NAJERA: OBJECTION. IRRELEVANT.
13 THE COURT: OVERRULED.
14 THE WITNESS: I SAID -- I JUST SAID: "I GUESS
15 THAT DIDN'T HELP MUCH, DID IT?"
16 Q. BY MR. LEVIN: YOU SAID "WELL, GUYS, I
17 GUESS THAT DIDN'T HELP"?
18 A. I WAS CLOSE. SORRY.
19 Q. WHY DIDN'T YOU THINK IT HELPED,
20 MR. CIGNARELLI?
21 MS. NAJERA: OBJECTION. IRRELEVANT.
22 THE COURT: OVERRULED.

23 THE WITNESS: BECAUSE IT DIDN'T ELICIT A
24 CONFESSION, I GUESS.
25 Q. BY MR. LEVIN: WELL, IT DID ELICIT THE FACT
26 THAT ERIK MENENDEZ CONFESSED TO YOU, CORRECT?
27 A. YES.
28 Q. AND THAT'S ON TAPE, CORRECT?

-16307

1 A. YES.
2 Q. AND YOU DIDN'T THINK THAT THAT WAS A HELP
3 TO THE POLICE?
4 A. WELL, I GUESS -- I GUESS IT WAS, BUT I --
5 WHEN I GOT DONE EATING DINNER AND WHEN I WAS IN THE CAR
6 AND WHEN I SAID THAT ON THE WIRE, YOU KNOW, IT JUST
7 DIDN'T FEEL LIKE TO ME THAT I HAD GOTTEN ERIK TO
8 CONFESS.
9 Q. WELL, YOU FELT IT DIDN'T HELP BECAUSE YOU
10 DIDN'T GET ERIK MENENDEZ TO PARROT THE WORDS THAT YOU
11 TOLD THE POLICE HE SAID TO YOU WHEN YOU TALKED TO THEM
12 ON THE 17TH, CORRECT?
13 MS. NAJERA: OBJECTION. ARGUMENTATIVE.
14 THE COURT: SUSTAINED.
15 Q. BY MR. LEVIN: YOU FELT THAT IT DIDN'T HELP
16 YOU BECAUSE ERIK MENENDEZ DIDN'T SAY ON THE TAPE WHAT
17 YOU TOLD THE POLICE ON NOVEMBER THE 17TH, 1989?
18 A. NO. I FELT THAT HE DIDN'T SAY "I KILLED MY

19 PARENTS."

20 Q. BUT HE TOLD YOU THAT HE CONFESSED TO YOU,

21 DIDN'T HE?

22 A. BUT THAT'S A BIG DIFFERENCE.

23 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

24 Q. BY MR. LEVIN: THAT'S THE DIFFERENCE?

25 THE COURT: WAIT A MINUTE. HEARSAY.

26 MS. NAJERA: OBJECTION. ARGUMENTATIVE AS

27 PHRASED.

28 THE COURT: THE PREVIOUS QUESTION WAS

-16306

1 ARGUMENTATIVE AS PHRASED.

2 THE PREVIOUS ANSWER IS STRUCK.

3 MR. LEVIN: ALL RIGHT. I WANT TO TALK TO YOU

4 ABOUT YOUR TESTIMONY IN THIS TRIAL.

5 NOW, YOU HAVE TESTIFIED HERE THAT YOU DO

6 NOT RECALL SPEAKING TO ERIK MENENDEZ ON THE PHONE BEFORE

7 GOING TO HIS HOUSE, CORRECT?

8 A. I DON'T REMEMBER.

9 Q. YOU REMEMBER YOUR TESTIMONY?

10 A. I DON'T REMEMBER IF I DID.

11 Q. YOU REMEMBER TESTIFYING ON JANUARY THE

12 31ST, 1996 THAT YOU DON'T RECALL TALKING TO ERIK

13 MENENDEZ OVER THE TELEPHONE PRIOR TO GOING TO HIS HOUSE?

14 A. THAT'S CORRECT.

15 Q. AND YOU ALSO TESTIFIED IN THIS TRIAL THAT,
16 IF YOU REMEMBER CORRECTLY, SOMEONE GOT AHOLD OF YOU TO
17 ARRANGE THE MEETING?

18 A. THAT'S WHAT I RECALL.

19 Q. AND YOU ALSO TESTIFIED HERE IN THIS TRIAL
20 THAT WHEN YOU GOT THERE, YOU SAW POLICE TAPE OUTSIDE?

21 A. I -- YES. I SEEM TO REMEMBER SEEING YELLOW
22 TAPE OUTSIDE.

23 Q. NOW, YOU UNDERSTAND THAT THE POLICE LEFT
24 THE LOCATION ON AUGUST THE 21ST, 1989?

25 A. I DON'T KNOW. I DON'T KNOW IF THAT'S WHEN
26 THEY LEFT.

27 Q. YOU'RE SAYING THAT IT'S YOUR TESTIMONY HERE
28 THAT WHEN YOU WENT OVER TO THE HOUSE AT THE END OF

-16305

1 AUGUST, OR EVEN EARLY SEPTEMBER, WHICH WOULD BE 10 DAYS
2 LATER, THAT YELLOW POLICE TAPE WAS STILL OUTSIDE THE
3 MENENDEZ HOME?

4 A. YEAH. I THINK I REMEMBER SEEING THAT,
5 YEAH.

6 Q. WELL, THAT'S WHAT YOU TESTIFIED TO HERE,
7 CORRECT?

8 A. YES.

9 Q. ALL RIGHT. AND THAT'S WHAT YOU REMEMBER
10 WHEN YOU WENT TO THE HOUSE, CORRECT?

11 A. YES, ALONG WITH SECURITY GUARDS OUTSIDE
12 ALSO.
13 Q. NOW, WHEN YOU TALKED TO THE POLICE ON THE
14 24TH OF AUGUST OF 1989, YOU DID NOT TELL THE POLICE THAT
15 ERIK MENENDEZ HAD CONFESSED TO YOU, DID YOU?
16 A. HE HADN'T.
17 MS. NAJERA: OBJECTION. ASKED AND ANSWERED.
18 THE COURT: OVERRULED.
19 THE WITNESS: HE HADN'T.
20 Q. BY MR. LEVIN: CORRECT?
21 A. HE HADN'T.
22 Q. PARDON ME?
23 A. HE HADN'T. THAT WAS THE 24TH, RIGHT?
24 Q. YES, RIGHT.
25 A. RIGHT.
26 Q. NOW, IT'S YOUR TESTIMONY HERE THAT WHEN YOU
27 TALKED TO THE POLICE, BY AUGUST THE 24TH, 1989, ERIK
28 MENENDEZ HAD NOT CONFESSED TO YOU?

-16304

1 A. THAT'S CORRECT.
2 Q. AND THE CONFESSION OCCURRED DURING THE TIME
3 THAT YOU WERE AT HIS HOUSE GOING THROUGH A DETAILED
4 STEP-BY-STEP WALK-THROUGH?
5 A. THAT'S CORRECT.
6 Q. AND ERIK MENENDEZ TOLD YOU THAT THEY WERE

7 FULL OF BULLET HOLES, SWISS CHEESE -- SKIN, BULLET HOLES
8 EVERYWHERE, CORRECT?
9 A. I DON'T REMEMBER HE SAID "SWISS CHEESE" AT
10 THAT TIME, BUT HE SAID THERE WAS BLOOD AND SKIN ALL OVER
11 THE PLACE.
12 Q. OKAY. I THOUGHT YOU SAID BEFORE THAT IT
13 WAS EVEN FLYING AROUND THE ROOM, THAT YOU SAID ERIK
14 MENENDEZ TOLD YOU?
15 A. THAT'S WHAT HE SAID.
16 Q. ALL RIGHT.
17 NOW, IF YOU HADN'T TALKED TO ERIK MENENDEZ
18 BEFORE AUGUST THE 24TH, 1989, HOW IS IT THAT YOU COULD
19 TELL DETECTIVE ZOELLER ON THE DATE THAT YOU INTERVIEWED
20 WITH HIM ON THE 24TH THAT ERIK MENENDEZ TOLD YOU -- THAT
21 ERIK DESCRIBED HIS PARENTS AS HE WALKED IN:
22 "ERIK SAID THEY WERE FULL OF BULLET
23 HOLES. THEY LOOKED LIKE SWISS CHEESE.
24 ERIK SAID HIS DAD WAS SHOT IN THE HEAD;
25 THAT THERE WAS SKIN AND BULLET HOLES
26 EVERYWHERE. CRAIG SAID THAT THEY DIDN'T
27 TALK ANYMORE ABOUT THE CRIME."
28 A. MR. LEVIN, I SAID I DIDN'T TALK TO ERIK

-16303

1 MENENDEZ. I SAID I DIDN'T RECALL TALKING TO ERIK.
2 Q. WELL, DO YOU NOW RECALL TALKING TO ERIK

3 MENENDEZ?

4 A. NO. I STILL DON'T RECALL, BUT OBVIOUSLY I
5 DID.

6 Q. WHEN DID YOU TALK TO ERIK MENENDEZ?

7 A. OBVIOUSLY, SOMETIME BETWEEN THE MURDERS AND
8 THE TIME I TOLD DETECTIVE ZOELLER THAT.

9 Q. AND SO NOW YOU HAVE A MEMORY OF -- A VAGUE
10 ONE PERHAPS, OF ERIK MENENDEZ TELLING YOU THESE THINGS
11 ON THE TELEPHONE?

12 A. NO.

13 MS. NAJERA: OBJECTION. MISSTATES THE TESTIMONY.
14 HE SAID HE DIDN'T.

15 THE COURT: SUSTAINED.

16 Q. BY MR. LEVIN: DO YOU HAVE ANY MEMORY AT
17 ALL OF TALKING TO ERIK MENENDEZ, WHEREIN HE SAID THESE
18 THINGS THAT I JUST READ TO YOU, BEFORE YOU WENT TO THE
19 HOUSE?

20 A. NO, I DON'T RECALL THAT. I DON'T RECALL
21 HAVING THAT CONVERSATION.

22 Q. SO YOU MEAN THAT THE FIRST TIME THAT YOUR
23 VERY BEST FRIEND BREAKS TO YOU THE INFORMATION THAT HE
24 HAD WITNESSED HIS PARENTS DEAD, AND THEY WERE FULL OF
25 BULLET HOLES AND LOOKED LIKE SWISS CHEESE, AND HIS DAD
26 WAS SHOT IN THE HEAD, AND THERE WAS SKIN AND BULLET
27 HOLES EVERYWHERE, THAT IT DIDN'T MAKE A SIGNIFICANT
28 ENOUGH IMPRESSION UPON YOU WHERE YOU CAN REMEMBER

1 HEARING THAT?

2 A. WHAT -- I AM SORRY, I -- DID IT MAKE A
3 SIGNIFICANT ENOUGH IMPRESSION?

4 Q. THAT YOU REMEMBER HEARING IT, AND WHERE IT
5 WAS YOU HEARD IT, AND HOW IT WAS YOU HEARD IT?

6 A. YEAH.

7 Q. OKAY. AND WHERE DID YOU HEAR IT?

8 A. YOU'RE SAYING -- I MEAN, THE IMPRESSION
9 THAT I HEARD IS THAT HE HAD KILLED HIS PARENTS, AND HOW
10 HE WALKED ME THROUGH IT WAS ON AUGUST -- OR LATE AUGUST
11 OR EARLY SEPTEMBER.

12 Q. RIGHT. BUT WE HAVE -- MR. CIGNARELLI, WE
13 HAVE A REPORT FROM DETECTIVE ZOELLER THAT HE TALKED TO
14 YOU ON THE 24TH OF AUGUST.

15 MS. NAJERA: I AM GOING TO OBJECT. MISSTATES THE
16 TESTIMONY.

17 THE COURT: SUSTAINED.

18 Q. BY MR. LEVIN: YOU TALKED TO DETECTIVE
19 ZOELLER AT YOUR HOUSE ON AUGUST THE 24TH AT 10:00
20 O'CLOCK AT YOUR HOUSE, CORRECT?

21 A. CORRECT.

22 Q. AND DETECTIVE ZOELLER ASKED YOU QUESTIONS
23 ABOUT WHAT YOU MIGHT KNOW ABOUT THIS CASE, CORRECT?

24 A. THAT'S CORRECT.

25 Q. AND YOU SAID ON THE 24TH THAT YOU -- CRAIG
26 SAID THAT ERIK DESCRIBED HIS PARENTS, AND I WON'T BORE
27 THE JURY BY READING IT AGAIN, THE THINGS THAT HE HAD

-16301

1 YOU TOLD THAT TO DETECTIVE ZOELLER ON THE
2 24TH, CORRECT?

3 A. YES.

4 Q. ALL RIGHT.

5 SO THEN IT IS -- THOSE ARE THE THINGS THAT
6 YOU LEARNED DURING YOUR WALK-THROUGH WITH ERIK MENENDEZ,
7 CORRECT?

8 A. NO.

9 Q. SO THEN THERE HAD TO BE A TIME BEFORE THE
10 WALK-THROUGH?

11 A. THAT'S WHAT I WAS TRYING TO EXPLAIN TO YOU.

12 Q. THAT YOU TALKED TO ERIK MENENDEZ?

13 A. THAT'S WHAT -- I THOUGHT WE ESTABLISHED
14 THAT.

15 Q. WHEN WAS IT?

16 A. I DON'T KNOW. SOMETIME AFTER THE MURDERS
17 AND -- AFTER THE SHOOTINGS AND BEFORE THE INITIAL
18 INTERVIEW WITH DETECTIVE ZOELLER.

19 Q. AND WHERE WAS IT?

20 A. I DON'T KNOW IF IT WAS ON THE PHONE OR WHAT
21 IT WAS. I DON'T RECALL.

22 Q. SO YOU'RE SAYING THAT YOU DON'T RECALL?

23 YOU DON'T RECALL HIM TALKING TO YOU, BUT BECAUSE I

24 BROUGHT IT TO YOUR ATTENTION, YOU MUST NOW HAVE DONE IT?

25 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

26 THE COURT: SUSTAINED.

27 Q. BY MR. LEVIN: YOU KNOW, YOU PUT A STICKY

28 UP ON THE WALL -- ON THE BOARD, I THINK IT WAS EXHIBIT

-16300

1 8, WHERE ERIK MENENDEZ SAID HIS MOTHER WAS?

2 A. MM-HMM.

3 Q. IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. DO YOU KNOW -- DID YOU EVER SEE THAT COUCH

6 BEFORE?

7 MS. NAJERA: I AM GOING TO OBJECT. ASSUMES A

8 FACT NOT IN EVIDENCE, THAT HE EVER SAW IT.

9 THE COURT: IT'S VAGUE WHAT YOU MEAN "THERE."

10 Q. BY MR. LEVIN: WELL, MS. NAJERA PUT UP A

11 DIAGRAM, AND YOU SAID IT WAS ACCURATE, CORRECT?

12 A. THAT'S CORRECT.

13 Q. HAD YOU BEEN THROUGH THE MENENDEZ HOME

14 BEFORE ON THE FIRST FLOOR?

15 THE COURT: BEFORE WHAT?

16 Q. BY MR. LEVIN: BEFORE -- WELL, EVER?

17 A. I'VE BEEN THROUGH THE FIRST FLOOR.

18 Q. ALL RIGHT. YOU'VE BEEN INTO THE LIVING

19 ROOM?

20 A. YES.
21 Q. YOU'VE BEEN INTO THE BREAKFAST ROOM?
22 A. I DON'T KNOW ABOUT THE BREAKFAST ROOM.
23 Q. BEEN INTO THE SERVICE AREA?
24 A. I DON'T THINK SO.
25 Q. BEEN INTO THE GARAGE?
26 A. NO, I DON'T THINK SO.
27 Q. BEEN INTO THE MAID'S ROOM?
28 A. NO, I DON'T THINK SO.

-16299

1 Q. SO YOU DON'T KNOW IF THAT'S ACCURATE OR
2 NOT, DO YOU?
3 MS. NAJERA: OBJECTION. ARGUMENTATIVE.
4 THE WITNESS: WELL --
5 MR. LEVIN: THAT DIAGRAM.
6 THE COURT: OBJECTION OVERRULED.
7 Q. BY MR. LEVIN: YOU DON'T KNOW IF THIS
8 DIAGRAM ACCURATELY REFLECTS THE FIRST FLOOR OF THE
9 MENENDEZ HOME.
10 A. NO, AND PERHAPS THE MEASUREMENTS ARE WRONG
11 ALSO.
12 Q. PERHAPS.
13 HAD YOU EVER BEEN INTO THE DEN WHEN ANY
14 ITEMS OF FURNITURE WERE THERE?
15 A. YES.

16 Q. ALL RIGHT. AND WHEN WAS THAT?
17 A. THE NIGHT ERIK WALKED ME THROUGH IT.
18 Q. YOU TESTIFIED THAT THERE WAS -- THE FLOORS
19 WERE EMPTY.
20 A. I WOULD CONSIDER TELEVISION FURNITURE. I'M
21 SORRY. I --
22 Q. ALL RIGHT. ALL RIGHT.
23 A. THAT WAS YOUR QUESTION.
24 Q. ALL RIGHT.
25 HAD YOU EVER SEEN ANY FURNITURE OTHER THAN
26 THE TELEVISION IN THE DEN BEFORE YOU WENT INTO THE
27 MENENDEZ HOME?
28 A. NOT THAT I CAN RECALL, NO.

-16298

1 Q. SO THEN YOU DON'T KNOW IF THERE WAS A
2 COUCH, DO YOU, IN THE ROOM?
3 A. ONLY FROM WHAT ERIK TOLD ME.
4 Q. WELL, DID ERIK DESCRIBE THE COUCH TO YOU?
5 A. NO.
6 Q. DID HE SHOW YOU -- STRIKE THAT.
7 NOW, WHERE YOU PUT THE STICKY IS WHERE ERIK
8 MENENDEZ SAID HIS MOTHER HAD FALLEN TO THE GROUND; ISN'T
9 THAT CORRECT?
10 MS. NAJERA: OBJECTION. MISSTATES THE EVIDENCE.
11 THE COURT: SUSTAINED.

12 MR. LEVIN: CROSS-EXAMINATION, YOUR HONOR.

13 THE COURT: IT STILL ASSUMES FACTS NOT IN

14 EVIDENCE.

15 Q. BY MR. LEVIN: DIDN'T ERIK MENENDEZ TAKE

16 YOU INTO THE ROOM, MR. CIGNARELLI, AND TELL YOU WHAT HE

17 HAD SEEN UPON HIS RETURN TO THE HOUSE AFTER HIS PARENTS

18 HAD BEEN KILLED?

19 A. I DON'T REMEMBER THAT PART. NO. HE TOLD

20 ME WHAT HAPPENED WHEN THE SHOOTINGS HAPPENED.

21 Q. WELL, DIDN'T HE TELL YOU WHERE HE SAW HIS

22 MOTHER ON THE GROUND?

23 A. I DON'T REMEMBER THAT.

24 Q. DETECTIVE ZOELLER SHOWED YOU CRIME SCENE

25 PHOTOGRAPHS, DIDN'T HE?

26 A. NO.

27 Q. WELL, DID HE BRING THEM TO YOUR HOUSE AND

28 OFFER THEM TO YOU?

-16297

1 A. YES.

2 Q. AND IS IT YOUR TESTIMONY THAT YOU DIDN'T

3 LOOK AT THEM?

4 A. YES.

5 Q. DIDN'T WANT TO SEE WHAT WAS ON THEM?

6 A. THAT'S CORRECT.

7 Q. ALL RIGHT.

8 ERIK MENENDEZ -- OR AT LEAST YOU TESTIFIED
9 HERE THAT ERIK MENENDEZ ASKED YOU IF YOU WANTED TO KNOW
10 WHAT HAPPENED, AND YOU SAID YES.

11 YOU SAID THE CONVERSATION TOOK PLACE INSIDE
12 THE FRONT DOOR, LEFT OF THE STAIRS AND RIGHT OF THE
13 KITCHEN, CORRECT? CORRECT?

14 A. THAT'S RIGHT. BUT AGAIN, LOOKING AT IT, IT
15 WAS LEFT OF THE STAIRS AND RIGHT OF THE DINING ROOM.

16 Q. WELL, YOU TESTIFIED HERE THAT IT WAS INSIDE
17 THE FRONT DOOR, LEFT OF THE STAIRS AND RIGHT OF THE
18 KITCHEN.

19 DID YOU SAY THAT?

20 A. YES. WELL, THAT IS TRUE.

21 Q. ALL RIGHT.

22 IS IT TRUE THAT THAT'S WHAT YOU TESTIFIED
23 TO HERE TODAY -- I MEAN, THAT'S WHAT YOU TESTIFIED TO
24 HERE ON WEDNESDAY?

25 A. YES.

26 Q. AND ERIK MENENDEZ SAID THAT HE WAS AT A
27 MOVIE WITH LYLE. THEY CAME HOME AND PARKED IN THE
28 DRIVEWAY, CORRECT?

-16296

1 A. RIGHT.

2 Q. OKAY. AND THEN ERIK TOLD YOU THAT HE WENT
3 INSIDE TO GET FAKE I.D., AND ERIK MENENDEZ CAME BACK

4 OUTSIDE, AND LYLE WAS STANDING THERE WITH TWO SHOTGUNS.

5 LYLE SAID: "LET'S DO IT." THEY WALKED INSIDE; IS THAT

6 YOUR TESTIMONY?

7 A. RIGHT. RIGHT.

8 Q. NOW, YOU UNDERSTAND THE IMPORTANCE OF THE

9 ACCURACY OF WHAT IT IS YOU TELL THIS JURY; ISN'T THAT

10 CORRECT?

11 A. YES.

12 Q. YOU WOULDN'T MAKE UP OR EMBELLISH ANY

13 DETAILS, WOULD YOU?

14 A. NO. I DON'T INTEND TO.

15 Q. ERIK MENENDEZ NEVER TOLD YOU THAT LYLE

16 MENENDEZ WAS STANDING WITH TWO SHOTGUNS, DID HE?

17 A. YES.

18 Q. DO YOU REMEMBER TESTIFYING BEFORE THE GRAND

19 JURY, MR. CIGNARELLI?

20 A. I REMEMBER DOING IT, YES.

21 Q. ALL RIGHT. DO YOU REMEMBER THE PROCESS

22 THAT OCCURRED WHERE THE GRAND JURORS COULD HAND DOWN

23 QUESTIONS THAT THE DISTRICT ATTORNEY ASKS YOU?

24 A. YES.

25 Q. DO YOU REMEMBER THAT THE DISTRICT ATTORNEY

26 AT SOME POINT SAID TO YOU: "MR. CIGNARELLI, ONE OF THE

27 GRAND JURORS HAS GOT A QUESTION FOR YOU."

28 DO YOU REMEMBER THAT?

1 A. YES.

2 Q. DO YOU REMEMBER HIM ASKING YOU THAT VERY
3 QUESTION?

4 A. I'M SORRY. SAY THAT AGAIN.

5 Q. ALL RIGHT.

6 YOUR HONOR, I WOULD ASK TO READ FROM THE
7 GRAND JURY, PAGE 205, LINE 23, TO PAGE 206, LINE 5.

8 MS. NAJERA: PAGE 206, LINE 5?

9 MR. LEVIN: 205 LINE 23, TO 206, LINE 5.

10 WHILE MISS NAJERA IS READING THAT -- I'M
11 SORRY.

12 MS. NAJERA: NO OBJECTION.

13 Q. BY MR. LEVIN: NOW, MR. CIGNARELLI, WHEN
14 WERE YOU SUMMONED TO THE GRAND JURY, THAT WAS BY VIRTUE
15 OF A SUBPOENA?

16 A. I DON'T REMEMBER.

17 Q. YOU APPEARED BEFORE THE GRAND JURY, DID YOU
18 NOT?

19 A. YES.

20 Q. AND YOU UNDERSTOOD THAT WHEN YOU WENT INTO
21 THE GRAND JURY YOU WERE TO TELL THEM THE TRUTH?

22 A. YES.

23 Q. AND YOU WRE GIVEN AN OATH TO TELL THE TRUTH
24 VERY SIMILAR TO THE OATH THAT YOU WERE GIVEN IN THIS
25 COURTROOM?

26 A. I BELIEVE SO, YES.

27 Q. AND AS A MATTER OF FACT, THERE WASN'T EVEN
28 ANY DEFENSE ATTORNEYS IN THAT ROOM, WERE THERE?

1 MS. NAJERA: I'M GOING TO OBJECT. IRRELEVANT AND
2 CALLS FOR SPECULATION.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER THE QUESTION, IF YOU KNOW.

5 THE WITNESS: I DON'T REMEMBER.

6 Q. BY MR. LEVIN: MR. CIGNARELLI, I AM GOING
7 TO READ TO YOU SOME QUESTIONS AND ANSWERS AND ASK YOU
8 SOME QUESTIONS ABOUT THEM WHEN I'M DONE.

9 "Q. DID HE ACTUALLY MENTION
10 SHOTGUNS, OR DID HE SAY GUNS?

11 "A. NO. HE SAID, WHEN HE GAVE ME
12 THE DESCRIPTION AFTER THE MURDERS, HE SAID
13 GUNS. PRIOR TO THAT, NO, I NEVER HEARD
14 ANYTHING ABOUT THE SHOTGUNS.

15 "Q. WHEN ERIK TOLD YOU THAT LYLE
16 HAD THE GUNS AND SAID 'LET'S DO IT,' DID
17 HE SAY SHOTGUNS OR JUST GUNS?

18 "A. GUNS.
19 DO YOU REMEMBER THAT TESTIMONY?

20 A. I DON'T REMEMBER IT, BUT YEAH, THAT'S
21 RIGHT.

22 Q. WAS THAT THE TRUTH?

23 A. YES.

24 Q. DID YOU UNDERSTAND WHEN MS. NAJERA WAS
25 ASKING YOU TO TESTIFY HERE ABOUT WHAT IT WAS ERIK

26 MENENDEZ TOLD YOU, THAT SHE WAS ASKING YOU TO TELL THE
27 JURY THE TRUTH?
28 A. YES.

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1 Q. WELL, WHY DID YOU TELL THE JURY THAT YOU --
2 THAT ERIK MENENDEZ TOLD YOU LYLE MENENDEZ HAD SHOTGUNS?

3 A. I'M SORRY. GUNS, SHOTGUNS. I DIDN'T DRAW
4 A DISTINCTION.

5 Q. BUT YOU DID YOU DRAW THE DISTINCTION AT THE
6 GRAND JURY WHEN YOU WERE ASKED THAT EXACT QUESTION,
7 MR. CIGNARELLI.

8 MS. NAJERA: I AM GOING TO OBJECT TO THE TONE. I
9 THINK COUNSEL IS BADGERING THE WITNESS.

10 THE COURT: OVERRULED.

11 YOU MAY ANSWER THE QUESTION.

12 THE WITNESS: YES, BECAUSE IT WAS ASKED.

13 Q. BY MR. LEVIN: YOU UNDERSTOOD IT, DIDN'T
14 YOU?

15 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
16 COUNSEL POINTING HIS FINGER AT THE WITNESS AND USING
17 THAT TONE OF VOICE.

18 THE COURT: YES. YOU CAN REPHRASE IT.

19 MR. LEVIN: I AM SORRY, YOUR HONOR.

20 THE COURT: CHECK YOUR BEEPER AGAIN;

21 Q. BY MR. LEVIN: MR. CIGNARELLI, WHEN YOU

22 WERE AT THE GRAND JURY, YOU UNDERSTOOD AT THAT TIME THE
23 DISTINCTION AND THE IMPORTANCE BETWEEN SHOTGUNS AND
24 GUNS; ISN'T THAT CORRECT?

25 A. WELL, I DIDN'T KNOW -- I DIDN'T UNDERSTAND
26 THE IMPORTANCE OF THE DISTINCTION. I UNDERSTAND THEY
27 WANTED TO KNOW WHETHER HE SAID GUNS OR SHOTGUNS.

28 Q. AND YOU UNDERSTOOD, DID YOU NOT, THAT WHEN

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1 YOU WERE ASKED THE QUESTION, YOU WERE ASKED TO
2 DISTINGUISH BETWEEN SHOTGUNS AND GUNS, CORRECT?

3 A. CORRECT.

4 Q. AND IN YOUR MIND --

5 A. NO. I WAS ASKED TO SAY WHAT HE SAID.

6 Q. RIGHT.

7 A. I WASN'T ASKED --

8 Q. RIGHT. AND YOU TOLD THE GRAND JURORS
9 SHOTGUNS, CORRECT?

10 A. NO. I THINK -- I DON'T KNOW IF I SAID GUNS
11 OR SHOTGUNS.

12 Q. WELL, WERE YOU ASKED -- I AM NOT GOING TO
13 ARGUE WITH YOU, MR. CIGNARELLI.

14 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
15 THE COMMENTS OF COUNSEL.

16 THE WITNESS: THERE IS NO REASON TO ARGUE --

17 THE COURT: THE COMMENTS ARE STRICKEN.

18 YOUR NEXT QUESTION, PLEASE.

19 Q. BY MR. LEVIN: I WANT TO REFER YOU NOW

20 TO -- STRIKE THAT.

21 ON MARCH 7TH, 1990, YOU WERE ASKED A

22 QUESTION CONCERNING WHAT IT WAS ERIK MENENDEZ TOLD YOU,

23 AND AGAIN, YOU INVOKED THE SPECTER OF A SHOTGUN.

24 DO YOU REMEMBER THAT?

25 A. YES.

26 Q. OKAY. AND THIS, OF COURSE, IS -- THIS IS

27 ACTUALLY BEFORE YOU WENT TO THE GRAND JURY.

28 YOU WENT TO THE GRAND JURY ON AUGUST THE

-16291

1 11TH, 1992, CORRECT?

2 A. I DON'T KNOW THE DATE.

3 Q. ALL RIGHT. AND YOU WERE INTERVIEWED BY

4 MR. CARROLL OF THE D.A.'S OFFICE, ON MARCH THE 7TH,

5 1990, CORRECT?

6 A. YES.

7 Q. ALL RIGHT. AND YOU TOLD MR. CARROLL -- YOU

8 SAID THIS -- YOU SAID A SHOTGUN. PAGE SIX, TOP OF THE

9 PAGE.

10 MS. NAJERA: HOLD ON A SECOND.

11 ARE YOU GOING TO START ON PAGE 6?

12 MR. LEVIN: I AM NOT READING ANYTHING. I AM JUST

13 REFERRING TO THAT.

14 MS. NAJERA: OKAY.

15 Q. BY MR. LEVIN: YOU TOLD MR. CARROLL THAT "A
16 SHOTGUN, AS FAR AS I KNOW. HE DIDN'T SAY."

17 ISN'T THAT WHAT YOU TOLD MR. CARROLL?

18 A. I DON'T REMEMBER. IF IT'S IN THE
19 TRANSCRIPT, YES.

20 Q. AND THEN DIDN'T YOU SAY THIS,
21 MR. CIGNARELLI: "BUT THAT'S WHAT I HEARD THE WEAPONS
22 WERE"?

23 A. MAYBE. I MEAN, IF IT'S IN THERE, YES.

24 Q. WHERE DID YOU HEAR WHAT THE WEAPONS WERE?

25 A. ON THE NEWS.

26 Q. SO, THE NEWS REPORTED THAT SHOTGUNS WERE
27 USED?

28 A. MAYBE.

-16290

1 Q. IN AN UNSOLVED MURDER?

2 A. MAYBE. I DON'T KNOW IF THAT'S WHERE I
3 HEARD IT, BUT -- WAIT. MARCH 7TH? NO. I DON'T KNOW
4 IF -- I DON'T KNOW. I DON'T KNOW WHERE I HEARD IT. I
5 MEAN, IT WAS FROM -- YOU KNOW, IT WAS EIGHT MONTHS
6 LATER.

7 Q. YOU COULDN'T HAVE HEARD IT FROM ERIK
8 MENENDEZ, COULD YOU?

9 A. WHAT, THAT SHOTGUNS WERE USED?

10 Q. YES. YOU COULD NOT HAVE HEARD IT FROM ERIK
11 MENENDEZ, BECAUSE HE DIDN'T SAY IT, CORRECT?
12 A. THAT'S WHAT I JUST SAID. AS FAR AS I
13 REMEMBER, HE SAID GUNS. HE MIGHT HAVE SAID SHOTGUNS,
14 BUT AS FAR AS I REMEMBER, HE SAID GUNS.
15 Q. YOU TOLD MR. CARROLL "A SHOTGUN, AS FAR AS
16 I KNOW. HE DIDN'T SAY"?
17 A. THAT'S WHAT I JUST SAID.
18 Q. AND THEN WHEN YOU WENT TO THE GRAND JURY
19 TWO YEARS LATER YOU TOLD THE GRAND JURORS ERIK MENENDEZ
20 DIDN'T SAY SHOTGUNS, HE SAID GUNS, CORRECT?
21 A. ALL RIGHT. YES.
22 Q. AND YOU TOLD MR. CARROLL: "BUT THAT'S WHAT
23 I HEARD THE WEAPONS WERE," CORRECT?
24 A. THAT'S RIGHT.
25 Q. AND ALL THIS HAPPENED BEFORE YOU TOOK THE
26 STAND IN THIS TRIAL, CORRECT?
27 A. ALL WHAT HAPPENED?
28 MS. NAJERA: I AM GOING TO OBJECT. VAGUE AS TO

-16289

1 ALL WHAT?
2 THE COURT: SUSTAINED.
3 Q. BY MR. LEVIN: ALL THIS DISCUSSION ABOUT
4 SHOTGUNS.
5 THE COURT: IT'S VAGUE WHAT YOU MEAN, MR. LEVIN.

6 Q. BY MR. LEVIN: YOU TESTIFIED HERE THAT ERIK
7 MENENDEZ TOLD YOU THAT ERIK LOOKED INTO THE ROOM AND SAW
8 HIS DAD SITTING ON THE COUCH, CORRECT?

9 A. THAT'S CORRECT.

10 Q. TOLD MR. CARROLL, DISTRICT ATTORNEY
11 CARROLL, AND DETECTIVE EDMONDS, THAT ERIK MENENDEZ TOLD
12 YOU THAT HE LOOKED IN AND SAW HIS DAD SITTING IN A
13 CHAIR; IS THAT CORRECT?

14 A. OKAY. IT MIGHT HAVE BEEN. I DON'T THINK I
15 MADE THE DISTINCTION WHEN I TOLD HIM IT WAS A CHAIR OR A
16 COUCH. I DON'T RECALL.

17 Q. NOT WHAT IT WAS. WHAT ARE YOU SAYING THAT
18 ERIK MENENDEZ TOLD YOU, THAT HE SAID HIS DAD WAS SITTING
19 IN A CHAIR OR HIS DAD WAS SITTING ON A COUCH?

20 A. I DON'T RECALL.

21 Q. WELL, YOU TOLD THE JURY THAT YOU RECALLED
22 IT, DIDN'T YOU, HERE IN THIS TRIAL?

23 MS. NAJERA: I AM GOING TO OBJECT AS TO
24 ARGUMENTATIVE AS TO WHAT HE REMEMBERS NOW, OR WHAT HE
25 REMEMBERS TELLING THE OFFICER.

26 THE COURT: WELL, THE NATURE OF THE QUESTION IS
27 ARGUMENTATIVE.

28 MR. LEVIN: ALL RIGHT.

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1 Q. DIDN'T YOU TESTIFY IN THIS TRIAL TO A

2 QUESTION BY MS. NAJERA, REFERRING TO PAGE 48,953, LINE

3 22 TO LINE 27:

4 "WHAT DID THE TWO OF THEM DO NEXT?

5 "ANSWER: THEY WALKED INSIDE. ERIK

6 WENT TO THE LEFT-HAND DOOR OF THE DEN,

7 WHICH WAS SLIGHTLY OPEN. LYLE WALKED UP

8 TO THE RIGHT DOOR -- RIGHT HAND DOOR.

9 ERIK LOOKED IN AND SAW HIS FATHER ON THE

10 COUCH."

11 A. YES.

12 Q. ISN'T THAT WHAT YOU TESTIFIED TO?

13 A. MM-HMM.

14 Q. NOW, YOU TOLD MR. CARROLL THAT ERIK

15 MENENDEZ TOLD YOU THAT HE LOOKED INSIDE AND HIS DAD WAS

16 SITTING IN A CHAIR, CORRECT?

17 MS. NAJERA: I AM GOING TO OBJECT. I WOULD LIKE

18 TO KNOW WHAT COUNSEL IS REFERRING TO.

19 MR. LEVIN: SURE. PAGE 5 OF THE MARCH 7, 1990

20 TAPED TRANSCRIPT GIVEN TO US BY YOUR OFFICE. THE LAST

21 CIGNARELLI ENTRY, TWO FROM THE BOTTOM, "AND LOOKED IN

22 AND SAW HIS DAD SITTING IN A CHAIR"; IS THAT CORRECT,

23 MS. NAJERA?

24 THE COURT: LET'S NOT ASK QUESTIONS OF COUNSEL.

25 QUESTIONS ARE DIRECTED TO THE WITNESS.

26 MS. NAJERA: THANK YOU, YOUR HONOR. I FOUND THE

27 REFERENCE ON PAGE FIVE.

28 Q. BY MR. LEVIN: IS THAT CORRECT,

1 MR. CIGNARELLI?

2 A. IS WHAT CORRECT?

3 Q. THAT YOU TOLD THE DISTRICT ATTORNEY ON
4 MARCH 7TH, 1990 THAT ERIK TOLD YOU HE LOOKED INSIDE AND
5 SAW HIS DAD SITTING IN A CHAIR?

6 A. I GUESS SO, YES. CHAIR, COUCH, AND GUNS
7 AND SHOT GUNS, IT'S --

8 Q. DETAILS?

9 MS. NAJERA: YOUR HONOR, I WOULD OBJECT TO
10 COUNSEL'S COMMENTS, AND ASK THAT THEY BE STRICKEN, AND
11 THE WITNESS BE ALLOWED TO ANSWER THE QUESTION.

12 THE COURT: HAD YOU FINISHED YOUR ANSWER?

13 THE WITNESS: OKAY.

14 MS. ABRAMSON: THERE IS NO QUESTION PENDING.

15 THE COURT: OKAY. THE NEXT QUESTION, PLEASE.

16 Q. BY MR. LEVIN: NOW, YOU TESTIFIED HERE THAT
17 LYLE WAS AT THE RIGHT-SIDE DOOR. LYLE SWUNG THE DOOR
18 OPEN AND STARTED BLASTING AWAY AND TOLD ERIK TO SHOOT
19 MOM.

20 A. THAT'S CORRECT.

21 Q. DO YOU REMEMBER TESTIFYING TO THAT HERE?

22 A. YES.

23 Q. AND SO IN VISUALIZING THIS, WHAT ERIK
24 MENENDEZ WAS TELLING YOU, OR WHAT YOU UNDERSTOOD IT TO
25 BE, THAT LYLE MENENDEZ BEGINS BLASTING AWAY, AND THEN
26 STOPS AND TELLS ERIK MENENDEZ TO SHOOT HIS MOM?

27 A. THE WAY I PICTURED IT, OR --
28 Q. WELL, IS THAT THE WAY HE SAID IT?

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1 A. HE DIDN'T SAY WHETHER LYLE STOPPED SHOOTING
2 OR WHETHER -- I MEAN, WHETHER HE SAID, "OH, I'LL PUT MY
3 GUN DOWN AND SHOOT MOM."

4 I MEAN, HE DIDN'T SAY THAT.

5 Q. WELL, DID YOU UNDERSTAND HIM TO MEAN THAT
6 HE WAS SAYING THAT LYLE MENENDEZ SHOT HIS FATHER FIRST,
7 AND THEN TOLD HIM TO SHOOT HIS FATHER -- I MEAN MOTHER?

8 A. DID -- SAY IT AGAIN.

9 Q. DID YOU UNDERSTAND ERIK MENENDEZ TO SAY TO
10 YOU THAT LYLE MENENDEZ OPENED THE DOOR, STARTED BLASTING
11 AWAY, STOPPED FIRING, AND THEN TOLD ERIK MENENDEZ TO
12 SHOOT HIS MOTHER?

13 A. I DIDN'T -- I DIDN'T --

14 Q. WHICH PRECEDED WHICH, THE WAY YOU
15 UNDERSTAND IT?

16 MS. NAJERA: YOUR HONOR, MAY THE WITNESS ANSWER
17 THE QUESTION?

18 THE COURT: IT'S VAGUE NOW. WHY DON'T YOU ASK IT
19 AGAIN.

20 Q. BY MR. LEVIN: THE WAY THAT ERIK MENENDEZ
21 RELATED IT TO YOU, DID LYLE MENENDEZ SAY "SHOOT MOM"
22 BEFORE HE SHOT OR AFTER HE SHOT?

23 A. AFTER HE -- AFTER HE SHOT HIS DAD. YES,
24 AFTER HE SHOT. BUT THERE WAS NO LIKE -- HE DIDN'T SAY
25 WHETHER LYLE PAUSED IN BETWEEN SHOTS AND SAID IT, OR
26 WHETHER HE WAS SHOOTING WHEN HE SAID IT, OR --

27 Q. RIGHT. NOW --

28 A. I DON'T UNDERSTAND WHERE --

-16285

1 Q. NOW, DIDN'T YOU TELL MR. CARROLL THAT ERIK
2 MENENDEZ TOLD YOU THAT HE SHOT HIS DAD A COUPLE TIMES?

3 A. THAT ERIK DID?

4 Q. YEAH.

5 A. YES, I BELIEVE SO.

6 Q. YOU DIDN'T TESTIFY TO THAT HERE, DID YOU?

7 A. I DON'T BELIEVE I WAS ASKED THAT.

8 Q. WELL, ARE THERE THINGS --

9 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
10 COUNSEL'S DEMEANOR.

11 THE COURT: OKAY. LET'S JUST ASK THE QUESTION,
12 PLEASE.

13 MR. LEVIN: ALL RIGHT.

14 Q. SO, YOU TOLD MR. CARROLL THAT ERIK SAID HE
15 SHOT HIS DAD A COUPLE OF TIMES, AND HIS MOM YELLED AND
16 LYLE SAID, "SHOOT MOM," AND HE SHOT HIS MOM?

17 A. THAT'S CORRECT.

18 Q. WELL, WHEN YOU WERE ASKED TO RELATE IN THIS

19 TRIAL WHAT IT WAS ERIK MENENDEZ SAID TO YOU, DID YOU
20 UNDERSTAND THAT THAT WAS A QUESTION THAT ASKED FOR A
21 PARTIAL ANSWER, THAT YOU WERE TO LEAVE OUT CERTAIN
22 PIECES OF INFORMATION?

23 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

24 THE COURT: OVERRULED.

25 THE WITNESS: ACTUALLY, WHEN THE QUESTION WAS
26 ASKED, I WAS GOING TO GIVE A FULL ANSWER, AND I HEARD
27 SOMEONE SAY "WE DON'T WANT A NARRATIVE," AND SO I
28 COULDN'T GIVE A FULL, EXPOUNDED ANSWER.

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1 AND AS SUCH, I ANSWERED THE QUESTIONS THAT
2 WERE POSED TO ME.

3 Q. BY MR. LEVIN: SO YOU HAVE NEVER TOLD THIS
4 JURY -- OR YOU DON'T FEEL YOU HAVE BEEN GIVEN AN
5 OPPORTUNITY TO TELL THIS JURY WHAT ERIK MENENDEZ TOLD
6 YOU, THAT THE FACT OF -- STRIKE THAT.

7 WHAT ERIK MENENDEZ TOLD YOU IN THE DEN
8 ABOUT SHOOTING HIS PARENTS, THERE'S OTHER THINGS THAT
9 YOU HAVEN'T TOLD THE JURY?

10 A. I BELIEVE SO.

11 Q. AND ONE OF THOSE THINGS IS THAT ERIK TOLD
12 YOU THAT HE SHOT HIS DAD A COUPLE TIMES?

13 A. YES. AND -- YES.

14 YOU DIDN'T TELL THAT TO THE POLICE ON

15 NOVEMBER THE 17TH, 1989, DID YOU?

16 A. I DON'T RECALL.

17 Q. DIDN'T TELL THEM THAT ON AUGUST THE 24TH,
18 1989, DID YOU?

19 A. I HADN'T EVEN SPOKEN WITH -- OR ERIK HADN'T
20 WALKED ME THROUGH THE SCENE AUGUST 24TH. HOW COULD THAT
21 POSSIBLY HAVE HAPPENED?

22 Q. AS A MATTER OF FACT, MR. CIGNARELLI, YOU
23 DIDN'T EVEN TESTIFY TO THAT IN THE FIRST JURY TRIAL, DID
24 YOU?

25 A. I DON'T RECALL THAT, NO.

26 Q. YOU SAID HERE THAT "AS ERIK SWUNG OPEN THE
27 DOOR" --

28 A. NO.

-16283

1 Q. I'M SORRY. YOU TESTIFIED HERE THAT "LYLE
2 SHOT HIM. HE JUST KEPT SHOOTING. I BELIEVE HE SAID
3 LYLE SHOT HIM IN THE HEAD, BUT I DON'T RECALL FOR SURE
4 AT THIS TIME."

5 SO WOULD I BE CORRECT THEN, OR ACCURATE, IN
6 STATING THAT YOU ARE NOT ATTRIBUTING TO ERIK MENENDEZ A
7 STATEMENT THAT HE SAID TO YOU THAT LYLE SHOT HIS FATHER
8 IN THE HEAD BECAUSE YOU JUST DON'T REMEMBER IT?

9 A. I'M SORRY. THAT WAS -- COULD YOU SAY THAT
10 AGAIN.

11 Q. AM I CORRECT IN SAYING, OR IN ASKING YOU
12 THAT TODAY, AS YOU SIT HERE, YOU ARE NOT SAYING THAT
13 ERIK MENENDEZ TOLD YOU THAT LYLE SHOT HIS DAD IN THE
14 HEAD, BECAUSE YOU JUST DON'T REMEMBER IT?
15 A. THAT I AM NOT SAYING THAT?
16 Q. YEAH.
17 A. I DON'T KNOW HOW TO ANSWER THAT.
18 Q. HERE WAS YOUR ANSWER IN THIS TRIAL.
19 A. NO, I MEAN THAT --
20 Q. YOU SAID --
21 A. I AM NOT SAYING --
22 Q. I DON'T WANT TO BE CONFUSING YOU.
23 "I BELIEVE HE SAID," TALKING ABOUT ERIK,
24 "LYLE SHOT HIM IN THE HEAD, BUT I DON'T RECALL FOR SURE
25 AT THIS TIME."
26 WHAT IS IT THAT YOU DON'T RECALL FOR SURE
27 AT THIS TIME?
28 A. WHETHER OR NOT HE SAID THAT.

-16282

1 Q. SO YOU ARE NOT ATTRIBUTING THAT STATEMENT
2 TO ERIK MENENDEZ AS YOU SIT HERE TODAY?
3 A. THAT'S -- WELL, I AM SAYING I DON'T RECALL
4 HIM SAYING THAT; AND THEREFORE, I DON'T THINK IT'S RIGHT
5 TO SIT HERE AND SAY THAT HE SAID IT.
6 Q. OKAY. SO YOU'RE NOT ATTRIBUTING THAT

7 STATEMENT TO HIM?

8 A. THAT'S CORRECT, THAT I CAN RECALL.

9 Q. OKAY. IF ERIK MENENDEZ DIDN'T SAY IT TO

10 YOU -- STRIKE THAT.

11 YOUR HONOR, THIS WOULD BE A REAL GOOD TIME

12 TO BREAK.

13 THE COURT: OKAY. WE WILL TAKE OUR RECESS UNTIL

14 1:30.

15 DON'T DISCUSS THE MATTER WITH ANYONE.

16 DON'T FORM ANY FINAL OPINIONS ABOUT IT. WE WILL RESUME

17 AT 1:30.

18 (AT 11:55 A.M. PROCEEDINGS WERE

19 ADJOURNED UNTIL 1:30 P.M. OF THE

20 SAME DAY)

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1 VAN NUYS, CALIFORNIA; FRIDAY, FEBRUARY 2, 1996

2 1:45 P.M.

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

4 (APPEARANCES AS HERETOFORE NOTED.)

5

6 (THE FOLLOWING PROCEEDINGS WERE

7 HELD IN OPEN COURT, OUT OF THE

8 PRESENCE OF THE JURY:)

9

10 MS. ABRAMSON: MAY I ADDRESS THE COURT ABOUT

11 THIS OTHER MATTER?

12 THE COURT: YES.

13 MS. ABRAMSON: I RECEIVED A PHONE CALL OVER
14 THE LUNCH HOUR FROM ATTORNEY RUSTY WEISS, WHO'S IN
15 THE COURTROOM, WHO'S COUNSEL FOR PETITIONER, MICHAEL
16 JACKSON, IN THE FEDERAL HABEAS CORPUS MATTER IN
17 WHICH I'M AN EXPERT WITNESS, AND WHAT -- I'M SORRY --
18 WHAT MR. WEISS TOLD ME WAS THAT APPARENTLY JUDGE
19 REAL, WHO'S PRESIDING OVER THAT CASE, HEARD WHAT HE
20 DID NOT SEEM TO UNDERSTAND WAS A PRERECORDED TAPED
21 10-MINUTE RADIO INTERVIEW WITH ME. HE HEARD IT -- I
22 DON'T KNOW WHAT TIME IT RAN THIS MORNING -- AND
23 DEDUCED FROM THAT THAT I WAS NOT TIED UP IN THIS
24 TRIAL, SINCE I HAD THE TIME TO GIVE THIS INTERVIEW;
25 AND, THEREFORE, HAS ORDERED ME INTO FEDERAL COURT TO
26 TESTIFY IN THAT MATTER ON MONDAY AND TUESDAY.
27 NOW, JUST SO THE RECORD IS STRAIGHT,
28 THAT INTERVIEW WAS DONE THIS MORNING AT 7:30 FROM MY

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1 HOME FOR 10 MINUTES ON THE TELEPHONE, AND WAS
2 PRETAPED, AND I STILL DON'T KNOW WHAT TIME IT WAS
3 ACTUALLY PLAYED, LATER THIS MORNING; AND IT WAS ON
4 KABC NEWS RADIO WITH MICHAEL JACKSON.
5 BUT APPARENTLY I VIOLATED SOME
6 FUNDAMENTAL RULE. I'M NOT SURE WHAT THE FUNDAMENTAL
7 RULE IS. AND THAT'S THE SITUATION WE'RE IN.

8 NOW, I SUGGESTED TO COUNSEL THAT WE AT
9 LEAST GET A MINUTE ORDER INDICATING THAT I'M
10 ACTUALLY HERE TODAY; AND OTHER THAN THAT -- I HAVE
11 ALSO SUGGESTED THAT COUNSEL PERHAPS CONTACT THE
12 RADIO SHOW AND HAVE THEM ASSURE JUDGE REAL'S CLERK
13 THAT IT REALLY, TRULY WAS TAPE-RECORDED BEFORE THE
14 START OF THE COURT DAY.

15 BEYOND THAT, JUDGE, I DON'T KNOW WHAT TO
16 DO, EXCEPT LET YOU KNOW THIS STRANGE SITUATION HAS
17 ARISEN.

18 THE COURT: WHAT DO YOU WANT ME TO DO?

19 MS. ABRAMSON: WELL, IT'S NOT THAT I WANT YOU
20 TO DO ANYTHING, EXCEPT PERHAPS TO CLARIFY ON A
21 RECORD WHAT MY STATUS IN THIS COURT IS.

22 THE COURT: WELL, YOU'RE OBVIOUSLY IN TRIAL,
23 AND YOU WERE IN TRIAL IN THIS COURT THIS MORNING.

24 MS. ABRAMSON: WE EXPECT TO BE IN TRIAL, I
25 TAKE IT, MONDAY AND TUESDAY OF NEXT WEEK, DO WE
26 NOT?

27 THE COURT: YES.

28 MS. ABRAMSON: AND I EXPECT THIS COURT IS

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1 GOING TO REQUIRE ME TO BE HERE?

2 THE COURT: YOU'RE REQUIRED TO BE HERE DURING

3 THE COURSE OF THE TRIAL.

4 WE HAD MADE ARRANGEMENTS TO LET YOU
5 TESTIFY ON LAST FRIDAY AFTERNOON. WE DISCUSSED WITH
6 THE JURY BREAKING AT 3:30; AND FOR WHATEVER REASON,
7 THAT MORNING THE HEARING WAS CANCELED.

8 MS. ABRAMSON: I RECEIVED NOTICE AT 7:00 THE
9 NIGHT BEFORE THAT IT HAD BEEN RESCHEDULED.

10 THE COURT: BY THEN WE HAD ALREADY TOLD THE
11 JURY THEY WOULD BE OFF AT 3:30, SO WE LET THEM GO,
12 BECAUSE THEY HAD COMMITMENTS, ALTHOUGH I THINK WE
13 STAYED LATER AFTERWARDS. WE STILL HAD PREPARED FOR
14 THAT BY MAKING ARRANGEMENTS TO LET YOU APPEAR AS A
15 WITNESS IN THAT MATTER; AND IF THERE'S A SIMILAR
16 REQUEST THAT WOULDN'T BE OF MAJOR CONFLICT WITH OUR
17 TRIAL SCHEDULE, I'LL CERTAINLY TRY TO ACCOMMODATE
18 THAT AS WELL.

19 OKAY. LET'S PROCEED WITH THE JURY.

20 MS. ABRAMSON: ONE OTHER THING ALONG THOSE
21 LINES THOUGH. MR. CONN INDICATED A FEW MINUTES AGO
22 THAT IT WAS THEIR DESIRE TO CALL DR. DIETZ AND
23 DR. RESTAK ON MONDAY.

24 NOW, I HAVE INDICATED TO HIM THAT
25 THERE'S NO WAY I CAN BE READY FOR THAT, SINCE I HAVE
26 NOT FINISHED GOING THROUGH THE VIDEOTAPES, FOUR
27 HOURS OF WHICH I WAS GIVEN THIS MORNING. WE HAVE
28 NOT RECEIVED A REPORT FROM EITHER OF THOSE DOCTORS;

1 AND IF WE'RE NOT GOING TO GET A REPORT FROM
2 DR. DIETZ, THEN I'M GOING TO NEED SEVERAL HOURS --
3 SINCE HE DID 16 HOURS OF INTERVIEWING WITH MY
4 CLIENT, I'M GOING TO NEED SEVERAL HOURS AFTER I'VE
5 COMPLETED REVIEWING TAPES TO INTERVIEW HIM.

6 AND, THEREFORE, I WOULD ASK THE COURT TO
7 REQUIRE THAT THE PROSECUTION MAKE DR. DIETZ
8 AVAILABLE TO US. MY PREFERENCE IS SUNDAY, SO I CAN
9 FINISH ALL THE TAPES. I HAVE APPROXIMATELY EIGHT
10 HOURS OF TAPES STILL TO GO.

11 THE COURT: MR. CONN.

12 MR. CONN: YES. WHAT I THINK WE NEED TO
13 DISCUSS AT THIS POINT IS THE SCHEDULING FOR THE
14 REMAINING ISSUES. WE HAVE -- I THINK WE JUST HAVE
15 MS. PISARCIK AND WE HAVE THESE TWO WITNESSES, AND AS
16 I RECALL, THAT'S IT.

17 SO, I ASKED MS. ABRAMSON -- ASSUMING A
18 REPORT IS PREPARED BY DR. RESTAK -- AND EITHER A
19 REPORT IS PREPARED BY PARK DIETZ, OR HE DOES SPEAK
20 TO MS. ABRAMSON -- WHETHER SHE WILL BE READY TO
21 PROCEED ON MONDAY. FROM WHAT I GATHERED FROM HER,
22 SHE'S SAYING SHE'S NOT GOING TO BE READY NO MATTER
23 WHAT WE DO.

24 MS. ABRAMSON: IF THERE WON'T BE A REPORT
25 FROM DR. RESTAK UNTIL MONDAY MORNING, THAT'S NOT
26 ADEQUATE TIME.

27 WITH RESPECT TO DR. DIETZ, IF I FIND OUT
28 WHAT HIS OPINIONS ARE ON SUNDAY, THAT DOESN'T GIVE

49259

1 ME TIME TO BE PREPARED TO HAVE HIM ON THE STAND
2 MONDAY.

3 IT'S MY UNDERSTANDING THAT MS. PISARCIK
4 IS GOING TO BE HERE MONDAY. WE MAY BE READY TO GO
5 WITH A COUPLE OF SURREBUTTAL WITNESSES. I DON'T
6 THINK IT'S APPROPRIATE TO BE INFORMED OF AN EXPERT'S
7 OPINION ON A SUNDAY AND BE PREPARED THE FOLLOWING
8 MONDAY.

9 THE COURT: IS PISARCIK NOT AVAILABLE UNTIL
10 MONDAY?

11 MS. NAJERA: THAT'S CORRECT, YOUR HONOR.

12 THE COURT: WHEN WOULD THE REPORT BE HERE
13 FROM DR. RESTAK?

14 MR. CONN: HE CAN HAVE IT FAXED TO ME MONDAY
15 MORNING. SO WE WERE THINKING OF -- WE HAD THOUGHT
16 ABOUT STARTING WITH PARK DIETZ ON MONDAY AND THEN
17 HAVE -- IF WE CAN GET COUNSEL -- DR. RESTAK'S REPORT
18 ON MONDAY, AND HAVE HIM TESTIFY ON WEDNESDAY. THAT
19 WOULD GIVE THEM A COUPLE OF DAYS TO REVIEW THE
20 REPORT.

21 MS. ABRAMSON: WE HAVE A COUPLE OF DAYS IN

22 THIS COURTROOM DEALING WITH DR. DIETZ.

23 THE COURT: ASSUMING DIETZ IS AVAILABLE TO BE

24 INTERVIEWED ON SUNDAY, WE HAVE PISARCIK ON MONDAY.

25 AND IF THEY HAVE SOME SURREBUTTAL WITNESSES, I

26 ASSUME DEALING WITH PISARCIK -- I DON'T KNOW WHO

27 THEY WILL BE DEALING WITH -- WHO DO YOU HAVE ON

28 SURREBUTTAL, JUST OUT OF ORDER? DO YOU HAVE

49260

1 SOMEBODY?

2 MS. ABRAMSON: I DON'T WANT TO SAY, YOUR

3 HONOR, BECAUSE IT IS SURREBUTAL -- IT DOES HAVE TO

4 DO WITH MS. PISARCIK.

5 THE COURT: THEN, WE COULD HAVE DIETZ ON

6 TUESDAY AND GIVE COUNSEL SUNDAY AND MONDAY TO WORK

7 AND GET READY FOR DIETZ ON TUESDAY.

8 MR. CONN: OKAY.

9 THE COURT: AND AFTER SOME DEAD TIME ON

10 MONDAY, DEPENDING ON WHAT OCCURS, SHE HAS DECISIONAL

11 TIME; AND, OBVIOUSLY, YOU HAVE THAT TIME TOO.

12 MR. CONN: OKAY.

13 THE COURT: AND ALSO, BY THEN YOU'LL HAVE A

14 REPORT FROM RESTAK ON MONDAY.

15 MS. ABRAMSON: WAS COUNSEL GOING TO CONTACT

16 DR. DIETZ AND SEE IF HE'S AVAILABLE? I PREFER NOT

17 TO HAVING TO GO TO NEWPORT BEACH TO DO IT. IF HE

18 CAN COME TO LOS ANGELES, IT WOULD BE BETTER.

19 THE COURT: YOU CAN DO IT BY PHONE.

20 MR. CONN: I DON'T KNOW IF HE'S GOING TO WANT

21 TO DO THAT.

22 THE COURT: TELEPHONE IS --

23 MS. ABRAMSON: I WANT TO DO IT FACE TO FACE.

24 THE COURT: YOU'LL HAVE TO MAKE SOME

25 ACCOMMODATIONS.

26 MS. ABRAMSON: THAT'S TRUE. THIS WAS

27 POSTPONED TWO WEEKS RUNNING BY DR. DIETZ FOR HIS

28 NEEDS. I WOULD NOT BE SATISFIED, IF I DIDN'T HAVE A

49261

1 REPORT, TO JUST DO A TELEPHONE INTERVIEW.

2 THE COURT: MR. LEVIN?

3 MR. LEVIN: I HAVE THREE BRIEF ISSUES I'D

4 LIKE TO DISCUSS WITH THE COURT CONCERNING THIS

5 WITNESS' TESTIMONY. AND I WOULD ASK THAT HE NOT BE

6 PRESENT IN THE COURTROOM WHEN I MAKE THESE

7 ARGUMENTS.

8 THE COURT: OKAY.

9 (WITNESS CIGNARELLI EXITS

10 THE COURTROOM.)

11

12 MR. LEVIN: I WISH TO INQUIRE OF THIS WITNESS
13 CONCERNING THE THREAT, DEATH THREAT THAT WAS MADE TO
14 HIM BY JOSE MENENDEZ. AT THIS TIME THE STATE OF THE
15 TESTIMONY BY MR. CIGNARELLI IS THAT HE IS DENYING
16 THAT HE HAD ANY INVOLVEMENT IN THE BURGLARIES, WHICH
17 IS NOT ONLY INCONSISTENT WITH HIS NOTEBOOK NOTATIONS
18 WRITTEN IN HIS OWN HAND, BUT ALSO FOR THE REASON FOR
19 WHICH HE DID NOT OR WAS NOT ALLOWED IN THE MENENDEZ
20 HOUSE.

21 THE THREAT BY JOSE MENENDEZ WAS DIRECTLY
22 RELATED TO THE FACT THAT CRAIG CIGNARELLI HAD BEEN
23 INVOLVED IN THE BURGLARY OF THE LIST HOME WITH ERIK
24 MENENDEZ.

25 THE COURT: WELL, THIS IS, IN ESSENCE, WHAT
26 YOU'RE TRYING TO DO, IS HAVE THE ACCUSATION BY
27 MR. MENENDEZ, OR HIS REACTION, CONSTITUTE EVIDENCE
28 THAT HE WAS INVOLVED IN THE BURGLARY. IT'S

49262

1 BASICALLY A HEARSAY STATEMENT OF MR. MENENDEZ, HIS
2 CONCLUSION, ISN'T IT?

3 MR. LEVIN: WELL, I THINK THAT PERHAPS COULD
4 BE PERCEIVED, BUT I THINK IT'S RELEVANT BECAUSE IT'S
5 RELATED TO THE BURGLARY, WHICH HE HAS DENIED BEING
6 INVOLVED WITH. I UNDERSTAND, IF ASKED, HE WILL SAY

7 THAT MR. MENENDEZ BLAMED HIM FOR BEING INVOLVED IN
8 THE BURGLARY.

9 MS. ABRAMSON: CAN I JUST REMIND COUNSEL OF
10 SOMETHING?

11 THE COURT: YES.

12 (ATTORNEYS ABRAMSON AND LEVIN
13 CONFER SOTTO VOCE.)

14

15 MR. LEVIN: MS. ABRAMSON REMINDED ME THAT
16 ON -- ON THE DECEMBER 11TH TAPE --

17 MS. ABRAMSON: NO. NOVEMBER 29TH.

18 MR. LEVIN: NOVEMBER 29TH TAPE, THAT THERE
19 WAS A DISCUSSION ABOUT CRAIG CIGNARELLI BEING
20 INVOLVED IN THE BURGLARY.

21 MS. ABRAMSON: NO. ABOUT MR. MENENDEZ BEING
22 ANGRY AT CRAIG BECAUSE OF THAT.

23 MR. LEVIN: EXACTLY, EXACTLY. ABOUT
24 MR. MENENDEZ BEING ANGRY THAT --

25 THE COURT: AGAIN, WHAT DOES IT PROVE?

26 MR. LEVIN: WELL, IT PROVES THAT IT TENDS TO
27 REFUTE AND REBUT MR. CIGNARELLI'S TESTIMONY HERE
28 THAT HE WAS NOT INVOLVED IN THE BURGLARY; THAT AT

2 MR. MENENDEZ DID NOT WANT HIM COMING AROUND; THAT
3 DESPITE THAT, MR. -- I MEAN, MR. CIGNARELLI DID COME
4 AROUND, AND MR. MENENDEZ THEN TOOK -- OR AT LEAST
5 ISSUED, A DEATH THREAT, AND TOLD HIM NOT TO COME
6 BACK.

7 THE COURT: WELL, THOSE ARE THE FACTS THAT
8 YOU UNDERSTAND. WHAT DOES IT PROVE?

9 MS. ABRAMSON: WHAT WE'RE SAYING --

10 (ATTORNEYS ABRAMSON AND LEVIN
11 CONFER SOTTO VOCE.)

12

13 MR. LEVIN: WELL, I THINK ON OTHER GROUNDS
14 IT'S ALSO RELEVANT, AND THAT HAS TO DO WITH
15 EXPLAINING THE PERIOD OF TIME THAT MR. CIGNARELLI
16 DID NOT SEE ERIK MENENDEZ AND THE REASON WHY HE
17 DIDN'T SEE HIM. IT ALSO HAS AN INDEPENDENT PURPOSE,
18 AND THAT IS TO OFFER IT AS EVIDENCE OF MR. MENENDEZ'
19 CHARACTER TRAIT TOWARDS VIOLENCE, DIRECTING AND
20 ISSUING DEATH THREATS AGAINST A PERSON WHO WOULD SO
21 TESTIFY.

22 MR. CIGNARELLI HAS NEVER DENIED THAT
23 JOSE MENENDEZ THREATENED TO KILL HIM, AND WE BELIEVE
24 THAT IT HAS THAT INDEPENDENT BASIS. WE SHOULD NOT
25 HAVE TO RECALL MR. CIGNARELLI ON SURREBUTTAL JUST
26 FOR THAT LIMITED ISSUE.

27 THE COURT: OKAY. WHAT IS THE PEOPLE'S
28 RESPONSE THEN?

1 MS. NAJERA: YOUR HONOR, I'M -- I GUESS I'M A
2 LITTLE CONFUSED HERE. I THINK IT DOESN'T -- THERE
3 WERE TWO THINGS THAT COUNSEL BROUGHT UP.

4 FIRST OF ALL, DOES IT IMPEACH HIM -- DOES
5 IT IMPEACH MR. CIGNARELLI WITH REGARDS TO THE
6 BURGLARIES?

7 THE COURT: I DON'T SEE HOW IT DOES.

8 MS. NAJERA: I DON'T -- OKAY.

9 AND THEN, AS TO HIS CHARACTER FOR
10 VIOLENCE, I DON'T KNOW, BECAUSE WE DON'T REALLY KNOW
11 THE WHOLE SITUATION IN TERMS OF THE CONTEXT THIS
12 CAME OUT IN TERMS OF WHAT MR. CIGNARELLI RECALLS,
13 WHETHER OR NOT HE WAS IN FEAR AT THE TIME, WHETHER
14 HE TOOK IT SERIOUSLY; AND THEN WHETHER OR NOT --
15 FROM THE WAY I UNDERSTAND THIS CAME OUT,
16 MR. MENENDEZ WAS UPSET WITH MR. CIGNARELLI. I THINK
17 COUNSEL IS CHARACTERIZING THIS BECAUSE MR. CIGNARELLI
18 WAS INVOLVED WITH THE BURGLARIES WITH MR. MENENDEZ
19 AND MR. MENENDEZ DIDN'T WANT THIS INDIVIDUAL AROUND
20 HIS SON.

21 I DON'T KNOW HOW THAT GOES TO A
22 CHARACTER FOR VIOLENCE. I GUESS THAT'S WHY I DON'T
23 BELIEVE IT'S REALLY PROBATIVE OF THAT ISSUE. AND
24 EVEN IF IT IS, IT'S HIGHLY PREJUDICIAL, AND WE'D

25 ASK, UNDER 352, IT BE EXCLUDED.

26 THE COURT: WELL, FIRST OF ALL, MY REACTION

27 REMAINS THE SAME; THAT I DON'T SEE HOW IT PROVES

28 ANYTHING ABOUT CIGNARELLI'S INVOLVEMENT IN THE

49265

1 BURGLARY. IT WOULD CLEARLY JUST BE AN EXPRESSION OF

2 MR. MENENDEZ' ATTITUDE TOWARDS MR. CIGNARELLI, FOR

3 WHATEVER HIS REASONS WERE.

4 AS FAR AS CHARACTER TRAIT FOR VIOLENCE,

5 THREATS IN THE PRESENCE OF THE DEFENDANT, THAT IS

6 PROPERLY -- WELL, IT'S NOT PART OF THE SCOPE OF THE

7 DIRECT EXAMINATION OF THIS WITNESS, CERTAINLY, AND

8 IT WOULD BE BEYOND THE SCOPE.

9 AS TO WHETHER IT'S PROPER SURREBUTTAL,

10 I'D HAVE TO CONSIDER IT IN LIGHT OF WHAT ELSE YOU'RE

11 OFFERING IN SURREBUTTAL.

12 AT THIS POINT IT'S BEYOND THE SCOPE OF

13 THE DIRECT; AND, THEREFORE, THE OBJECTION IS

14 SUSTAINED.

15 MR. LEVIN: THE SECOND ISSUE IS WITH RESPECT

16 TO THE QUESTION I ASKED THE WITNESS CONCERNING HIS

17 MORAL OBLIGATION, AS HE PERCEIVED IT, TO COME

18 FORWARD. MS. NAJERA ELICITED ON DIRECT THAT THE

19 ONLY REASON THAT HE IS COMING FORWARD IS BECAUSE HE

20 HAS THIS MORAL OBLIGATION TO DO SO, OR FEELS THIS
21 MORAL OBLIGATION TO DO SO; AND SHE WENT INTO IT
22 QUITE EXTENSIVELY.

23 HOWEVER, THE LAST D.A. THAT ASKED
24 MR. CIGNARELLI THE FOLLOWING QUESTION:

25 "WHAT HAPPENED IN YOUR OWN MIND
26 TO MAKE YOU FEEL A MORAL OBLIGATION TO
27 COME FORWARD WITH YOUR KNOWLEDGE? I
28 DON'T MEAN TO BE METAPHYSICAL, BUT I

49266

1 THINK IT'S A REASONABLE QUESTION."

2 MR. CIGNARELLI ANSWERED:

3 "CAN I TALK TO MY LAWYER?"

4 AND I THINK THAT HE THEN LEFT THE ROOM,
5 HAD -- THE TAPE KEPT RUNNING, HAD A CONVERSATION
6 WITH HIS LAWYER, AND THEN HE CAME BACK AND GAVE AN
7 ANSWER VERY CLOSE TO WHAT WAS GIVEN IN THIS
8 COURTROOM NOW.

9 AND I THINK THAT THAT LEAVES AN IMPROPER
10 INFERENCE TO THE JURY THAT THIS WITNESS IS ANSWERING
11 THIS QUESTION BASED ON HIS OWN PERSONAL BELIEF AND
12 KNOWLEDGE AND HIS REAL MORALITY.

13 HERE'S A PERSON THAT WAS ASKED THE
14 IDENTICAL QUESTION BEFORE AND ANSWERED IT

15 DIFFERENTLY. HE ANSWERED IT WITH A QUESTION; AND WE
16 SHOULD BE ALLOWED TO ELICIT WHAT IT WAS THAT HE --
17 OR HOW HE ANSWERED IT.

18 THE COURT: WELL, THE REASON I SUSTAINED THE
19 OBJECTION WAS I ASSUMED THERE WAS SOMETHING
20 CONCERNING ATTORNEY-CLIENT PRIVILEGE THAT WAS RAISED
21 BY THE OBJECTION BEING MADE.

22 MR. LEVIN: NO. MS. NAJERA IS NOT MAKING --
23 THERE'S NO ATTORNEY-CLIENT PRIVILEGE. I'M NOT GOING
24 INTO WHAT HE TALKED ABOUT WITH HIS LAWYER. I'M JUST
25 GOING TO BRING OUT WHAT HE SAID.

26 THE COURT: THEN WHAT'S THE RELEVANCE OF IT?

27 MR. LEVIN: BECAUSE HE ANSWERED THE QUESTION
28 DIFFERENTLY. HE USED DIFFERENT WORDS.

49267

1 THE COURT: WELL, AREN'T YOU DRAWING THE
2 INFERENCE SIMILAR TO WHAT YOU FOLKS OBJECTED TO
3 DURING OTHER TESTIMONY, THAT BECAUSE SOMEONE TALKS
4 TO THEIR LAWYER, THAT SOMEHOW YOU'RE COMMENTING ON
5 THE FACT THEY CONFERRED WITH THEIR LAWYER?

6 MR. LEVIN: NO. I'M DRAWING THE ATTENTION TO
7 WHAT HAPPENED IN THIS INSTANCE WHEN THE EXACT
8 QUESTION WAS ASKED; MR. CIGNARELLI NOT GIVING THE
9 SAME ANSWER. HE EVENTUALLY GAVE THE SAME ANSWER,

10 BUT THAT WAS AFTER HE SAID "I WANT A BREAK. I WANT
11 TO GO OUT AND TALK TO MY LAWYER." AND THEN HE COMES
12 BACK, AND THEN HE GIVES THE ANSWER PRECISELY AS
13 MS. NAJERA OR -- OR HE HAS TESTIFIED TO ON DIRECT.

14 THE COURT: THE OBVIOUS INFERENCE IS HE SPOKE
15 TO THE LAWYER AND THE LAWYER TOLD HIM -- IT
16 OBVIOUSLY BRINGS IN THE CONVERSATION WITH THE
17 LAWYER.

18 ANYWAY, WHAT WAS THE PEOPLE'S
19 OBJECTION?

20 MS. NAJERA: OUR OBJECTION IS, IS JUST
21 BECAUSE IT COMES IN WITH THE LAWYER AND THAT WHOLE
22 THING, IT SOUNDS LIKE HE'S GOT SOMETHING TO HIDE,
23 AND HE HAS TO TALK TO HIS LAWYERS FIRST. THERE'S NO
24 EVIDENCE OF THAT, AND THAT'S CLEARLY WHAT THEY WANT
25 TO PUT BEFORE THE JURY.

26 THE COURT: IT SEEMED TO ME THAT'S WHAT
27 YOU'RE DOING.

28 MR. LEVIN: I WANT TO SHOW HE USED DIFFERENT

49268

1 WORDS TO ANSWER QUESTIONS.

2 THE COURT: HE DIDN'T ANSWER THE QUESTION.

3 MR. LEVIN: I WANT TO SHOW THE RESPONSE TO

4 THE SAME QUESTION WAS THIS RESPONSE. AND THIS WAS A

5 DIFFERENT ANSWER THAN WHAT HE ANSWERED HERE WHEN HE
6 ANSWERED THE QUESTION. THAT'S ALL I WANT TO SHOW.

7 THE COURT: EXCEPT HE WASN'T IN COURT AND
8 UNDER THE SAME CONSTRAINTS OF HAVING TO ANSWER
9 QUESTIONS. HE WAS WITH A LAWYER AND IN AN INTERVIEW
10 SITUATION.

11 I JUST DON'T SEE HOW IT RELATES, ONE TO
12 THE OTHER.

13 MR. LEVIN: I BELIEVE IT'S IMPEACHMENT.

14 THE LAST AREA IS WITH RESPECT TO THE
15 HAMILTON CROMWELL FAX.

16 THE COURT: YES.

17 MR. LEVIN: WE ATTEMPTED TO LOCATE, IN THE
18 FIRST TRIAL, EXACTLY WHAT TRANSPIRED. AS BEST AS WE
19 COULD DEDUCE -- WE KNOW THE FAX WAS ADMITTED INTO
20 EVIDENCE IN THE FIRST TRIAL. IT WAS EXHIBIT 43 (SIC),
21 I BELIEVE. AND THE ONLY LIMITATION THAT WAS PLACED
22 ON IT WAS, THE FACT THAT IT WAS SIGNED "HAMILTON
23 CROMWELL" DID NOT OPEN THE DOOR TO THE -- TO ANY
24 TESTIMONY ABOUT THE SCREENPLAY WHICH THE COURT --
25 THAT WAS DISCUSSED.

26 I BELIEVE MS. TOWERY HAS THE CITE.

27 THE COURT: WHAT EXHIBIT WAS IT?

28 MR. LEVIN: IT WAS EXHIBIT -- OR IS EXHIBIT,

1 I BELIEVE --

2 THE COURT: EXHIBIT 48.

3 MY QUESTION WAS ALSO RELATED TO WHAT THE
4 TESTIMONY WAS OF CIGNARELLI ABOUT IT.

5 MS. TOWERY: THAT'S -- I CAN ANSWER THAT, YOUR
6 HONOR.

7 ON REDIRECT -- AS BEST I COULD DETERMINE
8 IN RUNNING IT ON MY COMPUTER TRANSCRIPTS, ON
9 REDIRECT MR. KURIYAMA ELICITED INFORMATION ABOUT THE
10 FAX IN QUESTION IN MR. CIGNARELLI'S PREVIOUS
11 TESTIMONY, AND THAT DETECTIVE ZOELLER WAS ANGRY WITH
12 HIM, AND MS. ABRAMSON OBJECTED ON THE GROUNDS THAT
13 SHE DID NOT WANT THAT -- SHE DIDN'T OBJECT TO THE FAX
14 ITSELF. SHE JUST OBJECTED TO THE PEOPLE TAKING A
15 POSITION THAT THAT WOULD SOMEHOW OPEN THE DOOR TO
16 THE SCREENPLAY, AND THE COURT INDICATED THAT IT
17 WOULD NOT.

18 THERE WAS VERY BRIEF CROSS-EXAMINATION
19 AND RECROSS-EXAMINATION BY MS. ABRAMSON, JUST TO THE
20 CONTENTS OF THE FAX ITSELF.

21 SO THERE WAS VERY LITTLE TESTIMONY ABOUT
22 IT. AND THAT'S IN VOLUME 54. REDIRECT IS AT PAGE
23 7834 THROUGH 7837. THAT'S THE REDIRECT AND THE
24 SIDE-BAR REGARDING THE -- AND THE CROSS-EXAMINATION
25 IS AT PAGES 7850 THROUGH 7851.

26 MS. NAJERA: IF I MAY, YOUR HONOR.

27 ACTUALLY, DIRECT STARTS AT PAGE 7825,
28 AND COUNSEL IS CORRECT. APPARENTLY, IT WOULD SEEM

1 FROM THIS.

2 TRANSCRIPT, S WHEN YOU READ IT, THAT IT
 3 WAS NOT ADMISSIBLE IN THE FIRST TRIAL BECAUSE
 4 MS. ABRAMSON -- ALL CROSS ON THIS WITNESS HAD ENDED,
 5 AND THEN MR. KURIYAMA CAME BACK AND OPENED THE DOOR
 6 WHEN HE STARTED ASKING QUESTIONS ABOUT THE
 7 RELATIONSHIP BETWEEN DETECTIVE ZOELLER AND THIS
 8 WITNESS. AND IT WAS AFTER HE OPENED THAT DOOR,
 9 AFTER OBJECTION FROM COUNSEL, THAT THEN COUNSEL ON
 10 RECROSS BROUGHT IN THE FAX.

11 SO, ACTUALLY, HAD MR. KURIYAMA NOT DONE
 12 REDIRECT AND GONE INTO THAT SUBJECT, THIS FAX NEVER
 13 WOULD HAVE COME BEFORE THAT FIRST JURY.

14 MS. ABRAMSON: TRUE.

15 THE COURT: THE DEFENSE IS EXAMINING ABOUT
 16 THE RELATIONSHIP OF THE WITNESS TO ZOELLER.

17 MS. NAJERA: PARDON ME?

18 THE COURT: THE DEFENSE IS CROSS-EXAMINING
 19 ABOUT THE WITNESS TO ZOELLER. THEY WANT TO BRING
 20 THIS OUT.

21 MS. NAJERA: NOW?

22 THE COURT: LET ME SEE IT.

23 MS. ABRAMSON: JUST FROM MY RECOLLECTION, THE

24 COURT HAD NOT RULED IT INADMISSIBLE. I HAD MADE A
25 TACTICAL DECISION NOT TO USE IT UNTIL MR. KURIYAMA
26 DID WHAT HE DID. THEN IT LOOKED LIKE A GOOD IDEA.
27 THAT'S HOW WE MAKE THESE DECISIONS,
28 WITHOUT TREMENDOUS FORETHOUGHT.

49271

1 THE COURT: THIS WAS RECEIVED WHEN?

2 MR. LEVIN: I JUST ASKED DETECTIVE ZOELLER.

3 MS. NAJERA: THE ACTUAL EXHIBIT MAY SHOW A
4 DATE ON IT. BUT I BELIEVE IT WAS DECEMBER OF '89.

5 THE COURT: WELL, I THINK IT'S RELEVANT TO
6 THE CREDIBILITY OF THE WITNESS. HE HAS ALL THESE
7 DIFFERENT MEETINGS WITH THE POLICE AND HIS
8 COOPERATION, OR LACK OF COOPERATION, AND HIS
9 ATTITUDE TOWARDS THE INVESTIGATION AND HIS
10 INVOLVEMENT.

11 I THINK, FOR WHATEVER IT'S WORTH -- IT'S
12 OBVIOUSLY VAGUE AND AMBIGUOUS AS TO WHAT IT MEANS --
13 BUT I THINK IT HAS RELEVANCE.

14 AS FAR AS THE OPENING OF THE DOOR TO
15 ANYTHING INVOLVING THE SCREENPLAY, I DON'T BELIEVE
16 THE USE OF THIS NAME DOES THAT.

17 MS. ABRAMSON: IT WAS OUR INTENTION NOT TO
18 EVEN ASK HIM TO EXPLAIN THE SOURCE OF THAT NAME, AND

19 WE WOULD OBJECT TO THE PEOPLE TRYING TO SEEK TO HAVE
20 AN EXPLANATION FOR THE SOURCE OF THAT NAME.
21 THE COURT: OTHER THAN IT'S A NAME HE USED IN
22 THAT FAX, IT DOESN'T HAVE ANY RELEVANCE TO ANYTHING
23 ELSE.
24 MS. ABRAMSON: EXACTLY.
25 THE COURT: ARE WE READY FOR THE JURY?
26 MR. LEVIN: YES.
27 MS. ABRAMSON: JUDGE, COULD I BE EXCUSED FOR
28 A SHORT WHILE TO TRY AND MAKE SOME ARRANGEMENTS?

49272

1 THE COURT: WE'LL GO AHEAD WITHOUT YOU.
2 MS. ABRAMSON: FINE WITH ME.
3 (ATTORNEY ABRAMSON EXITS THE
4 COURTROOM.)
5 (THE JURY ENTERED THE COURTROOM
6 AND THE FOLLOWING PROCEEDINGS
7 WERE HELD:)
8
9 THE COURT: OKAY. EVERYBODY IS BACK.
10 YOU MAY CONTINUE YOUR CROSS-EXAMINATION.
11 MR. LEVIN: THANK YOU.
12
13 CROSS-EXAMINATION (CONTINUED)

14 BY MR. LEVIN:

15 Q MR. CIGNARELLI, YOU TESTIFIED HERE THAT
16 ERIK MENENDEZ TOLD YOU THAT AFTER THE SHOOTING THEY
17 WENT OUT THE BACK DOOR; THEY WENT BEHIND OR PAST THE
18 TENNIS COURT, THROUGH THE FENCE, BACK AROUND THE
19 ALLEY; CAME AROUND THE FRONT, AND GOT IN THE CARS
20 AND DROVE AWAY, CORRECT?

21 A CORRECT.

22 Q NOW, DIRECTING YOUR ATTENTION TO EXHIBIT 2.

23 AS TO EXHIBIT 2, DOES THAT LOOK LIKE THE
24 MENENDEZ PROPERTY?

25 A YES.

26 Q AND THE TENNIS COURT IS IN THE BACKYARD?

27 A YES.

28 Q SO YOU UNDERSTOOD THAT ERIK MENENDEZ WAS

49273

1 TELLING YOU THAT HE CAME OUT THE BACK OF THE HOUSE,
2 RAN ALONG THE SIDE OF THE TENNIS COURT, IN THE
3 DIRECTION THAT I'M MOVING THE POINTER; IS THAT YES?

4 A YES. THAT'S HOW I UNDERSTOOD IT.

5 Q AND THEN HE JUMPED OVER THE FENCE, WENT
6 THROUGH THE FENCE?

7 A I DON'T REMEMBER IF HE JUMPED OR WENT
8 THROUGH.

9 Q THAT'S WHAT YOU TOLD THE POLICE ON THE
10 17TH OF NOVEMBER; THAT ERIK MENENDEZ SAID HE JUMPED
11 THE FENCE.

12 A I DON'T REMEMBER.

13 Q AND THEN YOU SAID THAT HE THEN RAN DOWN
14 THE ALLEY?

15 A THAT'S CORRECT.

16 Q NOW, THERE'S COMPLETE FENCING, IS THERE
17 NOT, ALL THE WAY ACROSS ALL THE HOUSES, BEHIND ALL
18 THE HOMES ON ELM DRIVE?

19 A I DON'T KNOW. I HAVEN'T BEEN THERE.

20 Q AND THEN THEY CAME AROUND THE FRONT AND
21 GOT IN THE CAR?

22 A THAT'S WHAT HE TOLD ME.

23 Q I'M GOING TO SHOW YOU WHAT'S A
24 PHOTOGRAPH -- IT LOOKS LIKE AN OVERHEAD -- AND ASK
25 YOU TO TAKE A LOOK AT IT. IT'S BEEN MARKED PEOPLE'S
26 84.

27 YOU SEE THE "X" OVER THE HOUSE?

28 A YES.

49274

1 Q DOES THAT LOOK LIKE THE AREA, ON AN
2 AERIAL OF THE MENENDEZ HOUSE?

3 A JUST FROM LOOKING AT THE BACKYARD,

4 YEAH. YEAH. I'VE NEVER SEEN THE ROOF, BUT YEAH.

5 Q SO FROM WHAT ERIK MENENDEZ TOLD YOU, HE
6 CAME ALONG THE SIDE OF THE HOUSE, PAST THE TENNIS
7 COURT, AND THEN BACK INTO THE ALLEY, WHICH WOULD BE
8 APPROXIMATELY WHERE MY PEN IS; IS THAT CORRECT?

9 A YES.

10 Q AND THEN HE RAN DOWN THE ALLEY AND THEN
11 SOMEHOW CAME AROUND THE FRONT OF THE HOUSE AND GOT
12 IN HIS CAR, CORRECT?

13 A THAT'S WHAT HE TOLD ME, YES.

14 Q WHERE THE CAR WOULD BE INDICATED HERE
15 (POINTING).

16 A I DON'T KNOW EXACTLY WHERE THE CAR WAS.
17 HE DIDN'T SAY.

18 Q AND BOTH HE AND LYLE DID THAT RUNNING
19 THROUGH THE NEIGHBORHOOD WITH SHOTGUNS, CORRECT?

20 MS. NAJERA: OBJECTION. MISSTATES THE
21 TESTIMONY.

22 THE COURT: WELL, IT'S ARGUMENTATIVE AS
23 PHRASED.

24 Q BY MR. LEVIN: WELL, IS THAT THE VISUAL
25 IMAGE THAT YOU GOT WHEN ERIK MENENDEZ TOLD YOU THE
26 WAY IN WHICH HE EXITED THE HOUSE AND GOT TO HIS CAR?

27 A THAT PATH?

28 Q YES.

1 A YES.

2 Q AND YOU DID NOT VISUALIZE THAT IN THE
3 HANDS OF ERIK MENENDEZ WAS A SHOTGUN?

4 A NO. NO.

5 Q DID YOU VISUALIZE IN THE HANDS OF LYLE
6 MENENDEZ WAS A SHOTGUN?

7 A NO.

8 Q DID YOU ASSUME THAT THEY PUT THE
9 SHOTGUNS OR GUNS DOWN?

10 A I DIDN'T REALLY ASSUME ANYTHING. WHEN
11 HE WAS TELLING ME, YOU KNOW, I WAS LISTENING. I
12 WASN'T -- I DIDN'T KNOW HOW TO RESPOND. I WASN'T
13 TRYING TO PICTURE THE WHOLE THING. IT WAS JUST
14 BEING TOLD TO ME.

15 Q YOU TESTIFIED HERE THAT YOU DIDN'T
16 RESPOND, DID YOU?

17 A NOT THAT I RECALL.

18 Q MR. CIGNARELLI, DOESN'T IT SOUND A
19 LITTLE RIDICULOUS THAT ERIK MENENDEZ --

20 MS. NAJERA: I'M GOING TO OBJECT AS
21 ARGUMENTATIVE.

22 THE COURT: AS IT STARTS OUT, IT CERTAINLY
23 IS, MR. LEVIN.

24 Q BY MR. LEVIN: DID IT OCCUR TO YOU, WHEN
25 ERIK MENENDEZ -- WHEN YOU SAY ERIK MENENDEZ TOLD YOU
26 THIS, THAT IT SOUNDED A LITTLE STRANGE THAT HE WOULD

27 BE RUNNING THROUGH BEVERLY HILLS AT 10:00 O'CLOCK AT
28 NIGHT, BOTH HE AND HIS BROTHER, CARRYING SHOTGUNS?

49276

1 A I WOULD SAY YOU'D HAVE TO ASK YOUR
2 CLIENT THAT.

3 Q WELL, DID YOU ASK MY CLIENT THAT?

4 A NO.

5 Q NEVER OCCURRED TO YOU TO ASK HIM THAT,
6 DID IT?

7 A DIDN'T OCCUR TO ME TO ASK HIM A LOT OF
8 THINGS THAT NIGHT.

9 MR. LEVIN: YOUR HONOR, I HAVE A ONE-PAGE
10 DOCUMENT. I'D ASK THAT IT BE MARKED EXHIBIT 424.

11 THE COURT: YES.

12 Q BY MR. LEVIN: MR. CIGNARELLI, DO YOU
13 RECOGNIZE THE DOCUMENT I JUST SHOWED YOU AS EXHIBIT
14 424?

15 A DO I RECOGNIZE THE DOCUMENT? YEAH.

16 Q DO YOU RECOGNIZE THE DOCUMENT?

17 A WELL, IT'S A COPY OF A FAX, YES.

18 Q AND IS THERE HANDWRITING ON THAT
19 DOCUMENT?

20 A THERE IS. MY PRINTING.

21 Q IS THAT ALL YOUR WRITING ON THE

22 DOCUMENT?

23 A YES.

24 Q AND DID ANYBODY FORCE YOU TO WRITE THAT
25 DOCUMENT?

26 A NO.

27 Q DID ANYONE HELP YOU WRITE THAT DOCUMENT?

28 A NO.

49277

1 Q YOU JUST SAID IT WAS A FAX. DID YOU FAX
2 THAT DOCUMENT TO SOMEBODY?

3 A YES, I DID.

4 Q AND TO WHOM DID YOU FAX THIS DOCUMENT?

5 A I BELIEVE DETECTIVE ZOELLER.

6 Q WHEN DID YOU FAX THIS DOCUMENT TO
7 DETECTIVE ZOELLER?

8 A I DON'T KNOW THE EXACT DATE, BUT IT WAS
9 AFTER HE HAD TOLD MY MOM I WAS INVOLVED IN THE CASE.

10 Q WELL, WHEN WAS IT THAT YOU FAXED THIS
11 DOCUMENT TO DETECTIVE ZOELLER?

12 A AS I SAID, I DON'T RECALL THE EXACT
13 DATE.

14 Q WAS IT IN 1989?

15 A I WOULD THINK SO, YES.

16 Q DID YOU WRITE ON IT, "ATTENTION

17 HOMICIDE"?

18 A YES.

19 Q AND YOU MEANT -- BY "ATTENTION

20 HOMICIDE," YOU WERE REFERRING TO DETECTIVE ZOELLER,

21 CORRECT?

22 A YES.

23 Q AND YOU WROTE ON IT: "BETRAYAL SIGNIFIES

24 EVIL"?

25 A YES.

26 Q DOES BETRAYAL SIGNIFY EVIL,

27 MR. CIGNARELLI?

28 MS. NAJERA: OBJECTION. IRRELEVANT.

49278

1 THE COURT: SUSTAINED.

2 Q BY MR. LEVIN: YOU WROTE TO DETECTIVE

3 ZOELLER: "LYING IS AN ART," CORRECT?

4 A YES.

5 Q IS LYING AN ART, MR. CIGNARELLI?

6 MS. NAJERA: OBJECTION, YOUR HONOR.

7 IRRELEVANT.

8 THE COURT: SUSTAINED AS TO THE FORM OF THE

9 QUESTION.

10 Q BY MR. LEVIN: DID YOU WRITE TO

11 DETECTIVE ZOELLER: "THOUGH YOU SHALL SUFFER FROM

12 IGNORANCE..."

13 DID YOU WRITE THAT?

14 A YES.

15 Q AND DID YOU TELL DETECTIVE ZOELLER: "YOU

16 ARE NOT TO BE TRUSTED"?

17 A YES.

18 Q DID YOU SIGN YOUR NAME TO IT?

19 A NO. I SIGNED IT A CHARACTER'S NAME FOR

20 IT.

21 Q WHAT NAME DID YOU SIGN ON THE DOCUMENT?

22 A HAMILTON CROMWELL.

23 MR. LEVIN: THANK YOU, YOUR HONOR.

24 NOTHING FURTHER.

25 THE COURT: REDIRECT.

26 MS. NAJERA: THANK YOU, YOUR HONOR. COULD I

27 HAVE A MOMENT?

28 YOUR HONOR, COULD I ASK THE BAILIFF

49279

1 A QUESTION?

2 THE COURT: SURE.

3 MS. NAJERA: YOUR HONOR, COULD WE HAVE A

4 COUPLE OF MINUTES.

5 THE COURT: DO YOU NEED --

6 MS. NAJERA: THE BIG PIECES OF BLANK PAPER

7 THAT WE HAD BACK THERE.

8 THE COURT: DO YOU HAVE ANY MORE?

9 MS. NAJERA: I THOUGHT WE DID, AND I HAD
10 ASKED BEFORE WE STARTED.

11 THE COURT: DO YOU NEED SOMETHING FOR THE
12 PURPOSE OF DRAWING?

13 MS. NAJERA: RIGHT.

14 AH. THERE IT IS.

15 THE COURT: THE WITNESS WANTS TO SPEAK TO
16 YOU.

17 MS. NAJERA: BEG YOUR PARDON?

18 THE COURT: THE WITNESS WANTS TO TALK TO YOU.

19 (WITNESS AND ATTORNEY NAJERA
20 CONFER SOTTO VOCE.)

21 MS. NAJERA: THANK YOU, YOUR HONOR.

22

23 REDIRECT EXAMINATION

24 BY MS. NAJERA:

25 Q NOW, MR. CIGNARELLI, YOU MENTIONED ON
26 CROSS-EXAMINATION THAT YOU HAD RECEIVED \$25,000
27 FROM -- WAS IT "HARD COPY"?

28 A YES.

1 Q NOW, DID SOME OF THAT MONEY GO TO

2 CHARITY?

3 MR. LEVIN: OBJECTION, YOUR HONOR.

4 IRRELEVANT.

5 THE COURT: OVERRULED.

6 THE WITNESS: YES.

7 Q BY MS. NAJERA: DID SOME OF THAT MONEY

8 GO TO TAXES?

9 A YES.

10 Q DID SOMETHING LIKE \$7,000 OF THAT GO TO

11 TAXES?

12 MR. LEVIN: OBJECTION, YOUR HONOR.

13 THE WITNESS: YES.

14 THE COURT: SORRY.

15 MR. LEVIN: IT'S IRRELEVANT.

16 THE COURT: OVERRULED.

17 Q BY MS. NAJERA: AND DID YOU INCUR SOME

18 LOSSES AT SCHOOL AS A RESULT OF THIS TRIAL?

19 A YES.

20 MR. LEVIN: OBJECTION. IRRELEVANT.

21 THE COURT: OVERRULED.

22 Q BY MS. NAJERA: DID SOME OF THAT MONEY

23 GO TO PAYING THOSE LOSSES AS WELL?

24 A YES.

25 Q NOW, BEFORE THAT EVER -- BEFORE YOU EVER

26 GOT INVOLVED IN THE "HARD COPY" SHOW, DID YOU -- WHEN

27 THIS TRIAL FIRST -- NOT WHEN THIS TRIAL -- WHEN THIS

28 INCIDENT FIRST HAPPENED, DID MEMBERS OF THE MEDIA

1 TRY TO CONTACT YOU?

2 A YES.

3 Q APPROXIMATELY HOW MANY MEMBERS OF THE
4 MEDIA TRIED TO CONTACT YOU?

5 MR. LEVIN: OBJECTION. CALLS FOR
6 SPECULATION.

7 THE COURT: SUSTAINED.

8 Q BY MS. NAJERA: HOW MANY -- DO YOU
9 RECALL HOW MANY PEOPLE CONTACTED YOU WITH REGARDS TO
10 THE INFORMATION THAT YOU HAD ON THIS CASE THAT WERE
11 NOT LAW ENFORCEMENT?

12 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION
13 WHY THEY CONTACTED HIM.

14 THE COURT: OVERRULED.

15 THE WITNESS: I HAD A 30-MINUTE ANSWERING
16 MACHINE TAPE FULL OF MESSAGES.

17 Q BY MS. NAJERA: NOW, AT SOME POINT EARLY
18 ON DID YOU TALK TO DETECTIVE ZOELLER ABOUT ALL OF
19 THIS INTEREST THAT WAS BEING GENERATED ABOUT THIS
20 CASE?

21 MR. LEVIN: OBJECTION. CALLS FOR HEARSAY.

22 THE COURT: OVERRULED.

23 THE WITNESS: I'M SORRY. COULD YOU REPEAT
24 THE QUESTION.

25 MS. NAJERA: CERTAINLY.

26 Q AT SOME POINT LATER ON DID YOU TALK TO
27 DETECTIVE ZOELLER ABOUT THE INTEREST THAT WAS BEING
28 GENERATED BECAUSE OF THIS CASE?

49282

1 A YES.

2 Q AND CAN YOU TELL US WHAT -- IF YOU
3 RECALL, JUST WHAT YOU RECALL OF THOSE CONVERSATIONS
4 WITH DETECTIVE ZOELLER.

5 MR. LEVIN: OBJECTION. HEARSAY.

6 THE COURT: I ASSUME IT RELATES TO THE SAME
7 TOPIC THAT WAS COVERED ON CROSS-EXAMINATION.

8 MR. LEVIN: JUST LIMITED TO THAT.

9 THE COURT: OVERRULED.

10 MS. NAJERA: DO YOU REMEMBER THE QUESTION?

11 THE WITNESS: WHAT WERE THE CONTENTS OF THE
12 CONVERSATIONS THAT I HAD?

13 MS. NAJERA: YES. CONCERNING THE PEOPLE WHO
14 WERE CONTACTED YOU.

15 THE WITNESS: I JUST ASKED HIM WHETHER OR NOT
16 IT WAS ADVISABLE TO TALK TO THEM, YOU KNOW. I
17 NOTIFIED HIM THAT THEY HAD BEEN CALLING ME AND
18 WANTED TO TALK TO ME ABOUT THE CASE. AND HE HAD
19 SAID THAT -- BASICALLY, WHAT I SAID EARLIER -- THAT,
20 YOU KNOW, IT'S UP TO YOU. IT'S YOUR DECISION, AND

21 WE CAN'T TELL YOU EITHER WAY WHAT TO DO, BUT JUST BE
22 PREPARED FOR IT TO COME UP LATER, WHATEVER YOU SAY
23 TO THE PRESS.

24 Q BY MS. NAJERA: AND AT SOME POINT LATER
25 ON, AS THIS CASE WENT ON AND TIME PASSED, DID
26 INDIVIDUALS APPROACH YOU WITH OFFERS OF MONEY?

27 A YES.

28 Q AND DID YOU TALK TO DETECTIVE ZOELLER

49283

1 ABOUT THAT AS WELL?

2 A ON SOME OCCASIONS, YES.

3 Q DID HE GIVE YOU BASICALLY THE SAME
4 ADVICE?

5 A YES.

6 Q NOW, AT SOME POINT DID YOU TELL
7 DETECTIVE ZOELLER THAT YOU RECEIVED SOME MONEY FOR
8 TALKING ABOUT THIS CASE?

9 A YES.

10 Q AND DO YOU RECALL WHAT YOU TOLD HIM?

11 A YES.

12 Q ACTUALLY, STEPPING BACK, DO YOU RECALL
13 DETECTIVE ZOELLER ASKING YOU ABOUT GETTING PAID?

14 A YES.

15 Q DO YOU RECALL WHAT HE ASKED YOU?

16 A YES.

17 Q WHAT DID HE ASK YOU?

18 A "HOW MUCH DID YOU GET?"

19 Q AND WHAT DID YOU TELL HIM?

20 A TWENTY-FIVE.

21 Q IS THAT ALL YOU TOLD HIM, TWENTY-FIVE?

22 A YES.

23 Q AND YOU DIDN'T INDICATE WHETHER IT WAS

24 TWENTY-FIVE HUNDRED OR TWENTY-FIVE THOUSAND?

25 A RIGHT.

26 Q COUNSEL SHOWED YOU WHAT'S BEEN MARKED

27 EXHIBIT 424, A FAX.

28 AND YOU RECOGNIZE THIS FAX; IS THAT

49284

1 RIGHT?

2 A YES.

3 Q AND DID YOU SEND THIS FAX OR -- WHO DID

4 YOU SEND THIS FAX TO?

5 A DETECTIVE ZOELLER.

6 Q AND WAS THIS IN DECEMBER?

7 A I THINK IT WAS DETECTIVE ZOELLER.

8 Q AND WAS THIS IN DECEMBER OF 1989?

9 A LIKE I SAID, I DON'T RECALL. I BELIEVE

10 IT WAS IN '89.

11 Q OKAY. AND WHY DID YOU SEND THIS FAX TO
12 DETECTIVE ZOELLER?

13 A I HAD SPECIFICALLY ASKED DETECTIVE
14 ZOELLER NOT TO TELL MY MOM THAT I WAS INVOLVED IN
15 THIS CASE IN ANY WAY. I WAS GOING TO DO THAT AT THE
16 APPROPRIATE TIME. I KNEW SHE WAS GOING TO BE
17 EXTREMELY STRESSED OUT OVER IT AND FEARFUL, AND I
18 HAD TOLD HIM THAT ONE DAY, AND THE VERY NEXT DAY MY
19 MOM CAME UP TO ME AND SAID: "WHAT'S GOING ON WITH
20 YOU AND THE CASE?"

21 I JUST GOT REALLY PISSED OFF, AND THAT
22 WAS MY WAY OF SENDING HIM A MESSAGE. IT WAS
23 PROBABLY STUPID, LOOKING BACK, BUT, YOU KNOW, I
24 JUST -- I WANTED TO LET HIM KNOW THAT I JUST DIDN'T
25 THINK IT WAS RIGHT.

26 Q WAS YOUR MOTHER UPSET WITH YOU?

27 A OH, YEAH.

28 Q WERE YOU A LITTLE UPSET WITH DETECTIVE

49285

1 ZOELLER AT THE TIME?

2 A YES. EXTREMELY.

3 Q NOW, MR. LEVIN ASKED YOU IF YOU HAD
4 WRITTEN DOWN SOMETHING ABOUT THE CASE.

5 DO YOU RECALL THAT?

6 MR. LEVIN: OBJECTION. MISSTATES MY

7 QUESTION.

8 THE COURT: REPHRASE THE QUESTION.

9 Q BY MS. NAJERA: DO YOU RECALL DETECTIVE

10 -- OR MR. LEVIN ASKING YOU ABOUT NOTES THAT YOU HAD

11 MADE IN A NOTEBOOK?

12 A YES.

13 Q AND DID YOU, IN FACT, MAKE SOME NOTES IN

14 A NOTEBOOK?

15 MR. LEVIN: OBJECTION. ASK TO APPROACH.

16 THE COURT: OVERRULED. YOU CAN ANSWER THE

17 QUESTION.

18 Q BY MS. NAJERA: DID YOU MAKE SOME NOTES

19 IN THAT NOTEBOOK CONCERNING THE TRIAL OF ERIK AND

20 LYLE MENENDEZ?

21 A I DON'T THINK IT WAS REALLY ABOUT THE

22 TRIAL.

23 MS. NAJERA: YOUR HONOR, I'D LIKE TO APPROACH

24 AT THIS TIME AS WELL.

25 THE COURT: OKAY. WE'LL HAVE A LITTLE

26 DISCUSSION. BOTH SIDES WANT TO TALK.

27 MR. LEVIN?

28 MR. LEVIN: YES.

1 MS. NAJERA: WE SURE DO.

2 (THE FOLLOWING PROCEEDINGS

3 WERE HELD OUT OF THE

4 PRESENCE OF THE JURY:)

5

6 THE COURT: YES.

7 MS. NAJERA: FIRST OF ALL, I WANT TO

8 APOLOGIZE TO THE COURT FOR NOT BRINGING THIS UP

9 SOONER, BUT I WANT TO BRING IT UP NOW BEFORE I

10 STARTED ASKING ANYMORE QUESTIONS ABOUT IT.

11 MR. LEVIN ASKED TWO SETS OF QUESTIONS.

12 FIRST HE ASKED ABOUT A CERTAIN PART OF A STATEMENT

13 ON A PAGE IN THE NOTEBOOK. I INTEND TO ELICIT

14 EVERYTHING THAT IS ON THAT PAGE NOW UNDER THE THEORY

15 THAT THEY BROUGHT IN A PART OF THE STATEMENT, AND

16 NOW I WANT TO BRING IN THE WHOLE STATEMENT.

17 ALSO, ANOTHER REASON WHY I FEEL THIS IS

18 RELEVANT IS MR. LEVIN ASKED A BUNCH OF QUESTIONS OF

19 THIS WITNESS ABOUT WHETHER OR NOT HE PUT ANYTHING

20 DOWN IN A NOTEBOOK HAVING TO DO WITH THIS CASE; AND

21 SPECIFICALLY, THE IMPLICATION WAS THAT THIS MAN HAD

22 TOLD DETECTIVE ZOELLER HE HAD WRITTEN STUFF DOWN AND

23 HE HADN'T REALLY.

24 THE COURT: YES.

25 MS. NAJERA: THIS WITNESS TRIED TO EXPLAIN,

26 AND EVEN TOLD MR. LEVIN HE WANTED TO EXPLAIN.

27 MR. LEVIN DIDN'T LET HIM AT THAT TIME.

28 ON REDIRECT I INTEND TO HAVE HIM EXPLAIN

1 HE STARTED PUTTING TOGETHER A CHRONOLOGY OF THINGS,
2 AND LOOKING BACK, HE REALIZED -- SOMETHING TIPPED
3 HIM OFF THAT PERHAPS THEY HAD COMMITTED THE MURDERS.
4 HE WAS GOING TO DO THE WHOLE CHRONOLOGY, UP TO THE
5 CONFESSION.

6 HERE'S THE PAGE THAT MR. LEVIN SHOWED
7 THIS WITNESS ON CROSS-EXAMINATION. I BELIEVE HE'S
8 OPENED THAT DOOR, AND I WOULD LIKE, IF THE COURT
9 ALLOWS IT, TO EXAMINE HIM AS TO ALL OF THESE ISSUES.

10 THE COURT: CERTAINLY, THE LAST PARAGRAPH IN
11 REGARD TO THE BURGLARY WOULD BE ADMISSIBLE, SINCE
12 THAT WAS THE NATURE OF INQUIRY ABOUT THE BURGLARY,
13 AND THE ENTIRETY OF THAT PARAGRAPH WOULD BE PROPER.
14 SINCE A PORTION OF IT WAS BROUGHT IN, THE BALANCE OF
15 IT WOULD COME IN.

16 AS FAR AS THE REST OF THIS PAGE, I
17 HAVEN'T LOOKED AT IT, SO...

18 (COURT READING.)

19

20 MR. LEVIN: YOUR HONOR, OUR POSITION IS THAT
21 WHAT WAS RECORDED IN THE NOTEBOOK, WHAT HE TOLD --
22 IS WHAT HE'S SAYING ERIK MENENDEZ TOLD HIM BY
23 CONFESSIONAL MATERIAL. AND HE ADMITTED HE DIDN'T

24 PUT ONE WORD IN HIS NOTEBOOK ABOUT THAT.

25 MS. NAJERA: I THINK HE'S ALLOWED TO EXPLAIN
26 THAT NOW THAT YOU'VE ASKED HIM ABOUT IT.

27 (COURT READING.)

28

49288

1 THE COURT: ALL OF THIS WAS IN A NOTEBOOK
2 RECOVERED BY DETECTIVE ZOELLER; IS THAT RIGHT?

3 MR. NAJERA: THAT IS CORRECT. IN FACT, THAT
4 IS THE NOTEBOOK THAT WAS RECOVERED.

5 THE COURT: IT SEEMS TO ME THAT
6 CROSS-EXAMINATION HAD TO DO WITH STATEMENTS MADE BY
7 ERIK MENENDEZ TO THE WITNESS ABOUT THE MURDERS --
8 THE SHOOTINGS, KILLINGS AND --

9 MR. GESSLER: THE MANSLAUGHTERS.

10 THE COURT: -- NOT ABOUT EVERYTHING THAT HE
11 REMEMBERED ABOUT HIS RELATIONSHIP WITH ERIK MENENDEZ
12 AND HIS SUPPOSITIONS AND ALL SORTS OF OTHER THINGS.

13 MS. NAJERA: AND I AGREE WITH THE COURT.
14 THAT IS WHAT MR. LEVIN ASKED THIS WITNESS ABOUT, AND
15 THEN -- MY CONCERN IS THIS WITNESS TRIED TO EXPLAIN
16 WHAT HE MEANT WHEN HE MADE THAT STATEMENT TO
17 DETECTIVE ZOELLER THAT HE WAS WRITING DOWN THINGS
18 ABOUT THE MURDER, AND HE CAN'T EXPLAIN THAT.

19 THE COURT: HE CAN EXPLAIN IT IN SOME GENERAL
20 WAY.

21 MS. NAJERA: OKAY.

22 THE COURT: BUT NOT WITH REFERENCE TO ALL OF
23 THESE THINGS, WHICH REALLY WOULD INTRODUCE ALL SORTS
24 OF HEARSAY AND CONCLUSIONS AND SPECULATION.

25 I NOTICE, FOR SOME REASON, HE'S GOT ALL
26 SORTS OF REFERENCES TO LEGAL MATERIALS ON TOP HERE,
27 WHATEVER THAT IS FOR.

28 MS. NAJERA: YOUR HONOR, MAY I ASK SOME

49289

1 LEADING QUESTIONS JUST ABOUT THE CHRONOLOGY OF THE
2 RELATIONSHIP, IF THAT IS THE COURT'S RULING?

3 THE COURT: I THINK THAT'S THE ONLY REFERENCE
4 THAT'S ADMISSIBLE IS THE REFERENCE TO THE LIST
5 BURGLARY.

6 MS. NAJERA: OKAY.

7 THE COURT: IN GENERAL, YOU CAN ASK DID HE
8 WRITE THINGS ABOUT HIS RELATIONSHIP WITH ERIK
9 MENENDEZ OR SOMETHING LIKE THAT, AND HE COULD SAY
10 YES.

11 MS. NAJERA: OKAY. AND THE STATEMENT, THE
12 PARAGRAPH BEFORE THAT ALSO APPEARS TO RELATE TO THE
13 BURGLARIES.

14 THE COURT: THAT'S THE OTHER BURGLARY.

15 MS. NAJERA: TRUE.

16 THE COURT: I DON'T THINK HE WAS QUESTIONED
17 ON THAT.

18 MR. GESSLER: THAT'S BECAUSE WE DIDN'T KNOW
19 THAT.

20 MR. LEVIN: WE DIDN'T KNOW THAT.

21 MR. GESSLER: THAT DID NOT COME OUT ON THE
22 XEROX WE HAD, BECAUSE IT'S IN VERY LIGHT PENCIL.

23 THE COURT: THAT'S WHY I HAD TO TAKE OFF MY
24 GLASSES TO READ IT.

25 MR. GESSLER: THE LITTLE ASTERISK ABOUT "MUST
26 CLAIM 5TH AMENDMENT" AND "SELF-INCRIMINATION" HAS --

27 THE COURT: THAT'S A REFERENCE TO HIS
28 DIFFERENT CASES AND CASE BOOKS AND THINGS. HE'S

49290

1 DONE MORE RESEARCH ON THIS CASE THAN MR. LEVIN HAS
2 DONE.

3 MR. LEVIN: I'LL ADMIT TO THAT. I HAVEN'T
4 HAD TIME TO LOOK AT ANY LAW.

5 (READING.)

6

7 THE COURT: I'LL TELL YOU WHAT. I'LL LET YOU
8 LOOK AT THAT AT A RECESS IF YOU WANT. THE

9 EXAMINATION SHOULD BE, IN GENERAL: DID YOU WRITE
10 DOWN THINGS ABOUT YOUR RELATIONSHIP WITH ERIK
11 MENENDEZ? AND THEN YOU CAN GO ON TO THE SPECIFICS
12 OF THE LIST BURGLARY, THE ENTIRETY OF THAT
13 PARAGRAPH.

14 MS. NAJERA: OKAY. THAT'S WHAT I'LL DO.
15 THANK YOU, YOUR HONOR.

16 IF I MAY.

17 (THE FOLLOWING PROCEEDINGS WERE
18 RESUMED IN OPEN COURT IN THE
19 PRESENCE OF THE JURY:)

20

21 THE COURT: OKAY. LET'S RESUME.

22 MS. NAJERA: THANK YOU, YOUR HONOR.

23 Q NOW, MR. CIGNARELLI, WITH REGARDS TO
24 QUESTIONS THAT YOU WERE ASKED ON CROSS-EXAMINATION
25 CONCERNING WHAT YOU WROTE IN CERTAIN NOTEBOOKS THAT
26 WERE GIVEN OVER IN A SEARCH WARRANT TO DETECTIVE
27 ZOELLER, DID YOU, IN FACT, MAKE NOTES CONCERNING
28 YOUR RELATIONSHIP WITH THE DEFENDANT, ERIK MENENDEZ?

49291

1 A YES.

2 Q AND DID YOU PUT THESE NOTES IN

3 CHRONOLOGICAL ORDER, STARTING EARLY ON IN YOUR

4 RELATIONSHIP?

5 A I DIDN'T DESCRIBE THE WHOLE

6 RELATIONSHIP, JUST LIKE PIECES OF IT.

7 Q WERE THESE PIECES THAT YOU DESCRIBED IN

8 CHRONOLOGICAL ORDER?

9 A I BELIEVE SO.

10 Q AND WITH REGARDS TO THIS, DID YOU EVER

11 GET THE CHRONOLOGICAL ORDER TO 1989?

12 A I DON'T BELIEVE SO.

13 Q SO WHEN YOU SAY THAT YOU WERE WRITING

14 THINGS DOWN, THIS WAS THE BEGINNING OF WRITINGS; IS

15 THAT RIGHT?

16 A THAT'S WHAT I SAID EARLIER, YES.

17 Q AND MR. LEVIN ASKED YOU ABOUT A

18 PARAGRAPH THAT YOU HAD WRITTEN IN A NOTEBOOK THAT

19 WAS GIVEN TO DETECTIVE ZOELLER.

20 DO YOU RECALL THAT?

21 A YES.

22 Q AND CALLING YOUR ATTENTION -- IF I MAY

23 APPROACH THE WITNESS?

24 THE COURT: YES.

25 MS. NAJERA: (CONTINUING) TO WHAT HAS

26 PREVIOUSLY BEEN MARKED AS AN EXHIBIT. I WANT YOU TO

27 LOOK AT THAT PARAGRAPH, AND I BELIEVE YOU -- MR.

28 LEVIN ASKED YOU SPECIFICALLY IF YOU WROTE: "ERIK

1 AND I SPEND THE NIGHT AT JOHN LIST'S HOUSE."

2 IS THAT CORRECT?

3 A YES.

4 Q "AND WHILE HE WAS ASLEEP WE OBTAINED THE
5 COMBINATION TO THE HOUSE SAFE AND OPENED IT."

6 IS THAT CORRECT?

7 A YES.

8 Q AND WHAT WAS YOUR TESTIMONY CONCERNING
9 WHY YOU PUT "WE" THERE?

10 A WELL, BECAUSE WE WERE TOGETHER WHEN WE
11 DID IT, BUT HE'S THE ONE WHO OPENED -- FOUND THE
12 COMBINATION. HE'S THE ONE WHO OPENED THE SAFE.

13 Q AND, IN FACT, GOING FURTHER TO THE VERY
14 NEXT LINE, DID YOU WRITE: "I SAT AND WATCHED AS ERIK
15 REMOVED ITEMS WORTH A TOTAL OF \$60,000"?

16 A YES.

17 Q AND DID YOU THEN WRITE: "HE SAID HE ONLY
18 WANTED TO SHOW LYLE HE COULD DO IT, AND WOULD PUT IT
19 BACK BEFORE ANYONE KNEW."

20 IS THAT CORRECT?

21 A YES.

22 Q AND, IN FACT, HE DID NOT PUT ANYTHING
23 BACK; IS THAT CORRECT?

24 MR. LEVIN: OBJECTION. CALLS FOR
25 SPECULATION.

26 THE COURT: REPHRASE THE QUESTION, PLEASE.

27 MS. NAJERA: I'LL WITHDRAW THE QUESTION, YOUR

49293

1 Q WAS THAT ENTRY -- AND I'LL SHOW YOU THE
2 PAGE AGAIN -- A PART OF THE CHRONOLOGY THAT YOU WERE
3 WRITING CONCERNED YOUR RELATIONSHIP WITH THE
4 DEFENDANT, ERIK MENENDEZ?

5 A YES.

6 Q AND AS YOU LOOK AT IT NOW, DO YOU SEE
7 THAT IT IS, IN FACT, A CHRONOLOGY THAT GOES TO 1988?

8 A YES.

9 Q NOW, GOING BACK TO SOME OF THE
10 STATEMENTS THAT HAVE BEEN MADE PREVIOUSLY.
11 YOU TESTIFIED ON CROSS-EXAMINATION THAT
12 ON AUGUST 24TH, 1989 YOU SPOKE TO DETECTIVE ZOELLER;
13 IS THAT RIGHT?

14 A CORRECT.

15 Q LET ME JUST PUT THAT UP HERE. AUGUST
16 24TH, 1989.

17 NOW, AT THAT TIME, AUGUST 24TH, 1989,
18 HAD DEFENDANT, ERIK MENENDEZ, CONFESSED HIS
19 INVOLVEMENT IN THE CRIME --

20 MR. LEVIN: OBJECTION. CALLS FOR
21 SPECULATION.

22 MS. NAJERA: -- TO YOU?

23 THE COURT: OVERRULED.

24 THE WITNESS: NO.

25 Q BY MS. NAJERA: SO THERE WAS NO

26 CONFESSION AT THIS TIME; IS THAT RIGHT?

27 A NOT TO ME, NO.

28 Q DID YOU TELL DETECTIVE ZOELLER THAT ERIK

49294

1 MENENDEZ -- AS YOU SIT THERE RIGHT NOW, DO YOU RECALL

2 WHETHER OR NOT YOU TOLD DETECTIVE ZOELLER THAT ERIK

3 MENENDEZ HAD TOLD YOU THAT THERE WAS -- THAT HE HAD

4 SEEN THE CRIME SCENE AND IT WAS VERY BLOODY?

5 MR. LEVIN: OBJECTION. LEADING.

6 THE COURT: OVERRULED.

7 THE WITNESS: I DON'T REALLY RECALL THE

8 CONVERSATION. I DON'T -- NO.

9 Q BY MS. NAJERA: NOW, IF THERE IS A

10 POLICE REPORT SHOWING THAT YOU HAD A CONVERSATION

11 WITH DETECTIVE ZOELLER WHEREIN YOU STATED THAT YOU

12 SPOKE TO ERIK MENENDEZ, WOULD THAT BE TRUE?

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

14 SPECULATION IF HE DOESN'T RECALL.

15 THE COURT: IT'S VAGUE WHAT YOU MEAN: WOULD

16 THAT BE TRUE.

17 MS. NAJERA: LET ME REWORD THAT.

18 Q IF YOU HAD SPOKEN TO ERIK MENENDEZ AND
19 HE HAD TOLD YOU THAT THE PLACE WAS A MESS, AND IT
20 WAS FULL OF BULLET HOLES AND THE LIKE, WOULD YOU
21 HAVE TOLD THIS TO DETECTIVE ZOELLER ON AUGUST 24TH?

22 MR. LEVIN: OBJECTION. CALLS FOR
23 SPECULATION.

24 THE COURT: OVERRULED.

25 YOU MAY ANSWER THE QUESTION.

26 THE WITNESS: I DON'T KNOW, TO TELL YOU THE
27 TRUTH, AT THAT POINT.

28 MR. LEVIN: OBJECTION. ANYTHING ELSE WOULD

49295

1 BE NOT RESPONSIVE.

2 THE WITNESS: I MIGHT NOT HAVE TOLD HIM.

3 MR. LEVIN: OBJECTION, YOUR HONOR.

4 THE COURT: LET HIM FINISH HIS ANSWER.

5 THE WITNESS: I MIGHT NOT HAVE TOLD HIM
6 BECAUSE, YOU KNOW, I WAS STILL IN THAT FRAME OF
7 MIND -- WELL, ACTUALLY, NO. I DON'T KNOW IF I WOULD
8 HAVE TOLD HIM.

9 Q BY MS. NAJERA: HAVE YOU SEEN A POLICE
10 REPORT THAT SHOWS THAT ON AUGUST 24TH, 1989 YOU HAD
11 A CONVERSATION WITH DETECTIVE ZOELLER?

12 A YES.

13 Q AND IN THAT POLICE REPORT DID YOU --
14 DOES IT SAY THAT YOU TOLD DETECTIVE ZOELLER THAT
15 ERIK TOLD YOU THAT HE HAD DESCRIBED THE SCENE AND
16 THERE WERE BULLET HOLES; THAT THEY LOOKED LIKE SWISS
17 CHEESE; THAT ERIK SAID HIS DAD WAS SHOT IN THE HEAD
18 AND THERE WAS SKIN AND BULLET HOLES EVERYWHERE?

19 A YES.

20 Q AS YOU SIT THERE, DO YOU RECALL HAVING
21 THAT CONVERSATION WITH ERIK MENENDEZ?

22 A NO, I DON'T.

23 Q AT THAT TIME -- LET'S SEE. YOU DON'T
24 RECALL THE CONVERSATION. IF YOU HAD TOLD -- I TAKE
25 THAT BACK.

26 DID YOU, AFTER AUGUST 24TH, 1989, ON
27 NOVEMBER 17, 1989, HAVE ANOTHER CONVERSATION WITH
28 DETECTIVE ZOELLER?

49296

1 A YES.

2 MR. LEVIN: OBJECTION, WITH RESPECT TO
3 "ANOTHER CONVERSATION," IF HE DOESN'T RECALL THE
4 OTHER ONE.

5 THE COURT: ALL RIGHT. OVERRULED.

6 THE ANSWER WILL STAND.

7 MS. NAJERA: LET ME CLEAR SOMETHING UP.

8 Q DO YOU RECALL HAVING A CONVERSATION WITH
9 DETECTIVE ZOELLER ON AUGUST THE 24TH, 1989?

10 A YES.

11 Q AND DURING THAT CONVERSATION, DO YOU
12 RECALL WHETHER OR NOT YOU TOLD HIM ABOUT ANY
13 CONVERSATIONS YOU MAY HAVE HAD WITH ERIK MENENDEZ?

14 A I DON'T -- I -- I DON'T RECALL, BUT IT'S
15 IN THE POLICE REPORT WHAT I SAID ABOUT THAT. I
16 DON'T KNOW HOW IT WOULD HAVE GOTTEN THERE UNLESS I
17 OBVIOUSLY TOLD HIM.

18 Q OKAY. SO FAR AS, YOU KNOW, THAT'S THE
19 POLICE REPORT, AND IT DOES TALK ABOUT THE BLOOD AT
20 THE SCENE, WE'LL CALL IT.

21 NOW, ON NOVEMBER 17TH, 1989, YOU
22 TESTIFIED YOU RECALL TALKING TO DETECTIVE ZOELLER;
23 IS THAT RIGHT?

24 A YES.

25 Q NOW, AT THAT TIME DID YOU TELL DETECTIVE
26 ZOELLER THAT ERIK MENENDEZ HAD CONFESSED TO YOU?

27 A YES.

28 Q NOW, SOMETIME BETWEEN AUGUST 24TH AND

49297

1 NOVEMBER 17TH, IS THAT WHEN YOU SPENT THE
2 OVERNIGHTER AT THE ELM STREET ADDRESS?

3 A YES.

4 Q NOW, DID YOU TELL DETECTIVE ZOELLER AT
5 THAT TIME THAT YOU HAD SPENT THE WEEKEND AT ERIK
6 MENENDEZ' HOUSE IN BEVERLY HILLS?

7 A ON 17TH? YES.

8 Q AND WAS THAT TRUE?

9 A YES.

10 Q AND DID YOU TELL HIM THAT YOU AND ERIK
11 WALKED INTO THE FAMILY ROOM AND ERIK SAID: DO YOU
12 WANT TO KNOW WHAT HAPPENED?

13 A YES.

14 Q AND YOU TOLD THAT TO DETECTIVE ZOELLER;
15 IS THAT CORRECT?

16 A YES.

17 Q IS THAT TRUE?

18 A YES.

19 Q IN OTHER WORDS, DID THE DEFENDANT, ERIK
20 MENENDEZ, TELL YOU THIS?

21 A YES.

22 Q NOW, DID YOU TELL THE DETECTIVE, LES
23 ZOELLER, THAT ERIK MENENDEZ TOLD YOU: LYLE AND I
24 DROVE UP TO THE HOUSE, OPENING THE FRONT GATE --
25 EXCUSE ME -- OPENING THE FRONT GATE AND PULLED INTO
26 THE DRIVEWAY. WE UNLOCKED THE FRONT DOOR AND WE
27 WALKED IN.

28 DID YOU TELL DETECTIVE ZOELLER THAT?

1 A YES.

2 Q IS IT TRUE?

3 A YES.

4 Q DID YOU TELL DETECTIVE ZOELLER THAT ERIK
5 MENENDEZ SAID: MY PARENTS WERE IN THE FAMILY ROOM
6 WATCHING TELEVISION?

7 A YES.

8 Q AND DID ERIK MENENDEZ TELL YOU THAT?

9 A YES.

10 Q AND DID YOU TELL DETECTIVE ZOELLER THAT
11 LYLE -- THAT ERIK MENENDEZ SAID LYLE LOOKED AT ME
12 AND SAID: LET'S DO IT?

13 A YES.

14 Q DO YOU RECALL THAT? AND DID THE
15 DEFENDANT, ERIK MENENDEZ, TELL YOU THAT?

16 A YES.

17 Q AND DID YOU TELL DETECTIVE ZOELLER: "WE
18 WALKED OUT TO THE FRONT OF THE HOUSE AND GOT GUNS"?
19 DID YOU TELL DETECTIVE ZOELLER -- ONE QUESTION AT A
20 TIME -- DID YOU TELL DETECTIVE ZOELLER HERE THAT?

21 A I TOLD HIM THAT'S WHAT THE DEFENDANT
22 SAID. I DIDN'T TELL HIM WE WALKED OUTSIDE. I SAID
23 I WAS RELATING WHAT HE SAID.

24 Q OKAY. NOW, WHEN YOU TESTIFIED TODAY YOU
25 SAID THAT LYLE MENENDEZ WAS STANDING OUTSIDE AND HE

26 HAD THE GUNS; IS THAT RIGHT?

27 A RIGHT.

28 Q AS YOU SIT THERE RECALLING THE

49299

1 CONVERSATION OF ERIK MENENDEZ, TO THE BEST OF YOUR
2 KNOWLEDGE, WHAT IS IT HE TOLD YOU?

3 A THAT HE WALKED OUTSIDE AND LYLE WAS
4 STANDING THERE WITH TWO GUNS, AND HE SAID "LET'S DO
5 IT."

6 Q NOW, DID YOU TELL DETECTIVE ZOELLER HERE
7 -- AND WE'RE TALKING ABOUT ON NOVEMBER 17TH, 1989
8 -- THAT ERIK MENENDEZ TOLD YOU THAT WE WALKED --
9 ERIK MENENDEZ REFERRING TO HIMSELF AND HIS BROTHER --
10 WE WALKED BACK INSIDE AND LYLE WAS TO SHOOT MY DAD,
11 AND I WAS SUPPOSED TO SHOOT MY MOTHER?

12 A YES.

13 Q AND DID DEFENDANT, ERIK MENENDEZ, TELL
14 YOU THAT?

15 A YES.

16 Q AND THEN MR. LEVIN ASKED YOU ABOUT THE
17 FOLLOWING PARAGRAPH, AND IN THAT PARAGRAPH HE ASKED
18 YOU ABOUT THE STATEMENT:

19 "WE WENT INTO THE ROOM AND LYLE

20 POINTED HIS GUN AT MY DAD AND HE SHOT

21 HIM. THEN HE WENT OVER AND SHOT HIM
22 IN THE HEAD. I WAS UNABLE TO SHOOT MY
23 MOTHER, AND SHE TRIED TO GET AWAY.
24 "LYLE SHOT HER TOO. AFTER IT
25 LOOKED LIKE MY MOTHER WAS DEAD, I SHOT
26 HER TWICE WITH MY GUN."
27 DO YOU RECALL MR. LEVIN ASKING --
28 A YES.

49300

1 Q -- THAT TO YOU?
2 A YES.
3 Q AND, IN FACT, DID THE DEFENDANT, ERIK
4 MENENDEZ, TELL YOU THAT?
5 A COULD YOU REREAD IT.
6 Q ACTUALLY, I SHOULD PROBABLY BREAK IT
7 DOWN.
8 A YEAH.
9 Q "WE WENT INTO THE ROOM AND LYLE POINTED
10 HIS GUN AT MY DAD AND SHOT HIM."
11 DID ERIK MENENDEZ TELL YOU THAT?
12 A YES.
13 Q THE NEXT LINE IS: "HE THEN WENT OVER AND
14 SHOT HIM IN THE HEAD."
15 DO YOU RECALL WHETHER OR NOT HE TOLD YOU

16 THAT?

17 A I DON'T RECALL THAT.

18 Q AS YOU SIT THERE TODAY, YOU DON'T RECALL
19 THAT?

20 A RIGHT.

21 Q THEN DO YOU RECALL: "I WAS UNABLE TO
22 SHOOT MY MOM, AND SHE TRIED TO GET AWAY."

23 A I RECALL THAT.

24 Q YOU RECALL TELLING THAT TO DETECTIVE
25 ZOELLER?

26 MR. LEVIN: OBJECTION, YOUR HONOR.

27 THE WITNESS: I RECALL TELLING THAT TO
28 DETECTIVE ZOELLER.

49301

1 Q BY MS. NAJERA: AND DO YOU RECALL
2 TELLING DETECTIVE ZOELLER LYLE SHOT HER TOO?

3 MR. LEVIN: I WOULD ASK, UNDER 352, THAT
4 COUNSEL REFRAIN FROM SWITCHING BACK AND FORTH IN HER
5 QUESTIONS FROM WHAT HE RECALLS HE TOLD ZOELLER TO
6 WHAT HE RECALLS MR. MENENDEZ SAYING. IT'S VERY
7 CONFUSING.

8 THE COURT: YOU CAN PROCEED.

9 MS. NAJERA: THANK YOU, YOUR HONOR.

10 Q WITH REGARDS TO THE LINE I JUST READ

11 YOU, FIRST OF ALL, DO YOU RECALL TELLING THAT TO

12 DETECTIVE ZOELLER?

13 A COULD YOU REPEAT THE QUESTION.

14 Q THE LINE WAS: "LYLE SHOT HER TWICE --"

15 EXCUSE ME --"LYLE SHOT HER TOO."

16 A DO I RECALL --

17 Q TELLING DETECTIVE ZOELLER THIS?

18 A THAT LYLE SHOT HER TOO?

19 Q YES.

20 A YES.

21 Q NOW, DID ERIK MENENDEZ -- AND THE THIRD

22 LINE BEING: "AFTER IT LOOKED LIKE MY MOTHER WAS

23 DEAD, I SHOT HER TWICE WITH MY GUN."

24 DID YOU TELL THAT TO DETECTIVE ZOELLER?

25 A YES.

26 Q NOW, DID ERIK MENENDEZ TELL YOU THAT?

27 A NO.

28 Q WHY DID YOU TELL THAT TO DETECTIVE

49302

1 ZOELLER?

2 A I EXPLAINED THAT EARLIER, THAT THIS WAS

3 MY BEST FRIEND, AND I DIDN'T WANT TO NECESSARILY BE

4 THE ONE TO BRING HIM DOWN. IT'S -- I MEAN -- I FEEL

5 LIKE AN IDIOT SAYING IT. I'M SORRY. YOU KNOW. BUT

6 I DIDN'T WANT TO BE THE ONE TO TURN HIM IN, AND I
7 WANTED TO PROTECT HIM IN SOME WAY. THERE WAS STILL
8 ALLEGIANCE TO FRIENDSHIP.

9 Q THEN DID YOU SAY AT THE END OF THIS
10 STATEMENT: "IT COULD HAPPEN," OR WORDS TO THAT
11 EFFECT?

12 A YES.

13 Q AND YOU TOLD THAT TO DETECTIVE ZOELLER?

14 A YES.

15 Q AND THOSE ARE THE WORDS YOU ATTRIBUTE TO
16 ERIK MENENDEZ?

17 A YES.

18 Q AND DID ERIK MENENDEZ ACTUALLY SAY THOSE
19 WORDS?

20 A NO.

21 Q AND DID YOU TELL DETECTIVE ZOELLER THAT
22 TO PROTECT ERIK MENENDEZ?

23 A YES.

24 Q NOW, ON NOVEMBER 29TH, 1989, DID YOU
25 HAVE A MEETING WITH ERIK MENENDEZ AT A RESTAURANT?

26 A NOVEMBER 29TH?

27 Q YES.

28 A YES.

1 Q AND IS THIS THE MEETING WHERE YOU HAD ON

2 A -- A WIRE DEVICE?

3 A YES.

4 Q AND WAS THIS AT GLADSTONE'S RESTAURANT?

5 A YES.

6 Q NOW, AT THAT MEETING, WHILE YOU WERE

7 WEARING A WIRETAP, MR. LEVIN ASKED YOU IF ERIK

8 MENENDEZ SAID ON THAT TAPE THAT HE HAD CONFESSED TO

9 YOU?

10 DO YOU RECALL THAT QUESTION?

11 A YES.

12 Q NOW, DID ERIK MENENDEZ ACTUALLY SAY ON

13 THAT AUDIOTAPE: CRAIG, I'VE CONFESSED TO YOU, BUT

14 DON'T TELL ANYBODY?

15 A NO.

16 Q DID HE EVER USE THE WORD "CONFESSION" ON

17 THAT TAPE?

18 A NOT THAT I RECALL, NO.

19 Q AND, IN FACT, DID HE -- DO YOU RECALL

20 WHAT HE SAID CONCERNING THAT THAT COULD EVEN BE

21 REMOTELY CONSTRUED AS ACKNOWLEDGING A CONFESSION?

22 MR. LEVIN: OBJECTION. ARGUMENTATIVE AS

23 PHRASED.

24 THE COURT: OVERRULED.

25 THE WITNESS: YEAH. HE SAID I SHOULDN'T HAVE

26 TOLD YOU WHAT I TOLD YOU, OR SOMETHING LIKE THAT.

27 Q BY MS. NAJERA: AND DID HE EVER REFER TO

28 WHAT THE THING WAS THAT HE SHOULDN'T HAVE TOLD YOU?

1 A NO.

2 Q SO HE NEVER REFERRED ON THAT TAPE TO
3 WHAT YOU WERE TALKING ABOUT; IS THAT RIGHT?

4 A HE NEVER EXPLAINED IT, RIGHT.

5 Q SO, IN ESSENCE, HE NEVER ACKNOWLEDGES ON
6 THE GLADSTONE'S TAPE THAT HE HAD CONFESSED TO YOU;
7 IS THAT CORRECT?

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

9 THE COURT: OVERRULED.

10 THE WITNESS: THAT'S CORRECT.

11 Q BY MS. NAJERA: AND, IN FACT, ON THIS --
12 ON THE TAPE THAT WAS RECORDED BY THE POLICE, DID THE
13 DEFENDANT, ERIK MENENDEZ, IN FACT, MAKE SOME
14 STATEMENTS DENYING THAT HE WAS INVOLVED WITH -- WHAT
15 HE REFERRED TO AS THE KILLING OF MY PARENTS?

16 A YES.

17 Q AND DID HE DENY THAT SEVERAL TIMES ON
18 THIS TAPE -- EXCUSE ME -- DID HE DENY IT SEVERAL
19 TIMES AT THIS MEETING?

20 A I DON'T RECALL HOW MANY TIMES.

21 Q DO YOU RECALL HIM SAYING THINGS LIKE:
22 YOU KNOW, I DIDN'T KILL MY PARENTS AND --

23 MR. LEVIN: OBJECTION, YOUR HONOR, WITH
24 RESPECT TO ANY STATEMENTS COUNSEL IS READING FROM

25 THIS TAPE, UNLESS WE'RE GOING TO HAVE LITIGATION ON
26 IT.
27 THE COURT: WELL, ARE YOU REFERRING TO A
28 PARTICULAR PAGE?

49305

1 MS. NAJERA: I CAN, IF THE COURT WOULD LIKE
2 THAT.

3 THE COURT: OKAY.

4 MS. NAJERA: IF I MAY. PAGE 13 OF 33.

5 MR. LEVIN: PAGE 13?

6 MS. NAJERA: B-13 OF 33.

7 IT WOULD BE THE THIRD REFERENCE TO ERIK
8 MENENDEZ, THE SECOND LINE, STARTING WITH
9 "YOU KNOW," GOING TO THE FOLLOWING TWO LINES,
10 ENDING WITH "HAVE."

11 THE COURT: OKAY.

12 MR. LEVIN: COULD WE HAVE A MOMENT?

13 THE COURT: SURE.

14 MR. LEVIN: WHAT LINES?

15 THE COURT: ALL RIGHT. IT STARTS ON PAGE 13,
16 THE THIRD ENTRANCE, REFERENCE TO YOUR CLIENT.

17 MS. NAJERA: AND I WOULD START WITH THE
18 SECOND LINE, YOUR HONOR.

19 MR. LEVIN: WHERE DO YOU WANT TO GO, COUNSEL?

20 MS. NAJERA: FROM THAT SECOND LINE THERE
21 DOWN.
22 MS. TOWERY: YOU MEAN THE SECOND SENTENCE?
23 THE COURT: SECOND SENTENCE.
24 MS. NAJERA: THE SECOND SENTENCE -- I'M SORRY
25 -- DOWN. "HAVE," WITH A PERIOD.
26 MR. LEVIN: NO OBJECTION.
27 THE COURT: ALL RIGHT.
28 MS. NAJERA: IF I MAY, YOUR HONOR?

49306

1 THE COURT: YES.
2 Q BY MS. NAJERA: DO YOU RECALL ERIK
3 MENENDEZ TELLING YOU:
4 "YOU KNOW, I DIDN'T KILL MY
5 PARENTS."
6 AND YOU'RE RESPONDING:
7 "I KNOW."
8 AND ERIK SAID:
9 "YOU KNOW, THERE'S NO WAY I COULD
10 HAVE."
11 DO YOU RECALL HIM MAKING THAT STATEMENT
12 ON THIS -- AT THIS MEETING AT GLADSTONE'S?
13 A I DON'T RECALL IT, BUT IF IT'S ON THE
14 TAPE, THAT'S --

15 Q WOULD IT HELP YOU TO LOOK AT IT JUST TO

16 REFRESH YOUR MEMORY?

17 A YES.

18 Q WHY DON'T I DO THAT.

19 MR. CIGNARELLI, SHOWING YOU OUR PAGE 13

20 OF 33, STARTING THERE AND GOING DOWN TO THERE.

21 A (WITNESS READING.) YES. THAT'S RIGHT.

22 Q AND WAS THAT PART OF THE CONVERSATION?

23 A YES.

24 Q SO AT THIS MEETING AT GLADSTONE'S THERE

25 WAS NO CONFESSION AND THERE WAS A DENIAL OF HIS

26 INVOLVEMENT; IS THAT RIGHT?

27 A RIGHT.

28 Q NOW, ON MARCH 7TH, 1990, YOU HAD A

49307

1 CONVERSATION WITH LAW ENFORCEMENT THAT WAS TAPED; IS

2 THAT CORRECT?

3 A CORRECT.

4 Q AND I BELIEVE MR. LEVIN ASKED YOU SOME

5 QUESTIONS ABOUT THAT MARCH 7TH, 1990 CONVERSATION;

6 IS THAT RIGHT?

7 A RIGHT.

8 Q AND ONE OF THE QUESTIONS HE ASKED YOU

9 WAS WHETHER OR NOT YOU EVER TOLD ANYBODY THAT ERIK

10 MENENDEZ TOLD YOU THAT HIS FATHER WAS SITTING ON A

11 CHAIR; IS THAT RIGHT?

12 A YES.

13 Q AND DID YOU ALSO, IN THAT SAME

14 CONVERSATION, TELL LAW ENFORCEMENT THAT YOU WEREN'T

15 SURE; IT MIGHT HAVE BEEN A CHAIR, OR THE END OF A

16 COUCH?

17 A YES.

18 MS. NAJERA: AND, SPECIFICALLY, CALLING THE

19 COURT AND COUNSEL'S ATTENTION TO PAGE 8, SECOND

20 ENTRY FROM THE BOTTOM.

21 MR. LEVIN: JUST A MOMENT. PAGE 8?

22 MS. NAJERA: PAGE 8. NO PROBLEM.

23 Q BY MS. NAJERA: DID YOU TELL LAW

24 ENFORCEMENT AT THAT TIME THAT ERIK MENENDEZ TOLD

25 YOU:

26 "HIS FATHER WAS SITTING -- UH, I

27 DON'T REMEMBER IF HE SAID HE WAS IN A

28 CHAIR HERE, OR AT THE END OF THE

49308

1 COUCH. HE MIGHT HAVE SAID THERE WAS A

2 CHAIR AT THE END OF THE COUCH. UM,

3 AND HIS DAD AND MOM WERE WATCHING A

4 MOVIE, AND HIS MOM WAS AT THE OTHER

5 END OF THE COUCH; AND HE SHOT HER AND

6 SHE FELL ON THE FLOOR."

7 IS THAT WHAT YOU TOLD LAW ENFORCEMENT

8 BACK IN MARCH OF 1990?

9 A YES.

10 MS. NAJERA: I'M GOING BACK. LET'S PUT THAT

11 UP HERE.

12 Q AND WHEN YOU MADE THESE STATEMENTS ON

13 NOVEMBER 17TH, 1989 AND MARCH 7TH OF 1989 -- LET ME

14 BREAK THAT UP.

15 WHEN YOU TOLD THE POLICE WHAT ERIK

16 MENENDEZ TOLD YOU ABOUT THE MURDERS ON NOVEMBER

17 17TH, 1989 AND HOW HE HAD COME IN AND WHO HAD COME

18 IN FIRST AND WHAT SIDE THEY WERE AT, AND ALL THE

19 REST OF THAT, HAD ANY CONFESSIONS BEEN MADE PUBLIC?

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

21 SPECULATION. IT'S VAGUE, COMPOUND.

22 THE COURT: YOU HAVE TO REPHRASE THE

23 QUESTION.

24 Q BY MS. NAJERA: WHEN YOU TOLD THE POLICE

25 ON NOVEMBER 17TH WHAT IT WAS ERIK MENENDEZ TOLD YOU

26 IN HIS CONFESSION, HAD ANY OF THOSE FACTS BEEN MADE

27 PUBLIC?

28 MR. LEVIN: OBJECTION. CALLS FOR

1 SPECULATION.

2 THE COURT: YOU'RE ASKING HAD HE HEARD ANY OF
3 THESE FACTS?

4 MS. NAJERA: ON THE NEWS OR THE RADIO OR
5 ANYTHING LIKE THAT.

6 THE COURT: WITH THAT CLARIFICATION OF THE
7 QUESTION, YOU MAY ANSWER IT.

8 THE WITNESS: WELL, I HAD HEARD THAT THERE
9 WERE TWO DEAD BODIES, THE NAMES OF THE VICTIMS.

10 MS. NAJERA: MR. CIGNARELLI, LET ME NARROW
11 THIS DOWN FOR YOU.

12 Q THE FACT THAT THE DEFENDANTS CAME
13 THROUGH THE DOOR WITH SHOTGUNS, THAT WAS SOMETHING
14 THAT NOBODY KNEW ON NOVEMBER 17TH; ISN'T THAT TRUE?

15 MR. LEVIN: OBJECTION, YOUR HONOR.

16 THE COURT: CALLS FOR SPECULATION ON THE PART
17 OF THE WITNESS.

18 THE COURT: SUSTAINED.

19 Q BY MS. NAJERA: WELL, ON NOVEMBER 17TH,
20 1989, THE DECEMBER 11TH TAPE DID NOT EXIST; IS THAT
21 CORRECT?

22 MR. LEVIN: OBJECTION, YOUR HONOR.

23 THE COURT: SUSTAINED.

24 Q BY MS. NAJERA: ON NOVEMBER 17TH, 1989
25 NEITHER OF THE DEFENDANTS -- HAD EITHER OF THE
26 DEFENDANTS MADE PUBLIC STATEMENTS ADMITTING THEIR
27 INVOLVEMENT IN THE CRIMES AND WHAT SPECIFICALLY THEY

49310

1 MR. LEVIN: OBJECTION. CALLS FOR
2 SPECULATION. THIS WITNESS WOULD HAVE NO WAY OF
3 KNOWING.

4 THE COURT: YOU HAVE TO CONFINE IT TO WHAT
5 THIS WITNESS HAS HEARD.

6 Q BY MS. NAJERA: AS OF NOVEMBER 17TH,
7 1989, HAD EITHER OF THE DEFENDANTS MADE A PUBLIC
8 STATEMENT --

9 MR. LEVIN: OBJECTION, YOUR HONOR.

10 THE COURT: ONLY WHAT HE WAS AWARE OF. YOU
11 HAVE TO CONFINE IT TO THAT. WHAT HE KNEW AND WAS
12 AWARE OF, NOT WHAT MIGHT HAVE BEEN KNOWN TO OTHER
13 PEOPLE THAT HE DIDN'T KNOW ABOUT.

14 Q BY MS. NAJERA: WELL, WERE YOU AWARE OR
15 KNEW OR HEARD ON TV, OR HEARD ON RADIO, OR HEARD ON
16 ANY LIKE MEDIUM, THAT THE DEFENDANTS, ON NOVEMBER
17 17TH, 1989 HAD TAKEN RESPONSIBILITY FOR THE CRIMES
18 AND GIVEN THE DETAILS OF HOW THEY HAD COME THROUGH
19 THE DOORS WITH SHOTGUNS?

20 A I'M SORRY?

21 Q ON NOVEMBER 17TH, 1989 HAD EITHER OF THE
22 DEFENDANTS -- HAD YOU HEARD ANY REPORTS THAT EITHER

23 OF THE DEFENDANTS HAD CONFESSED, AND IT WAS ON THE
24 NEWS OR RADIO OR ANY MEDIUM LIKE THAT?

25 A NO.

26 Q AND, IN FACT, ALL OF THOSE FACTS DIDN'T
27 COME OUT UNTIL THE FIRST TRIAL; ISN'T THAT CORRECT?

28 A I DON'T IMAGINE, NO.

49311

1 MR. LEVIN: OBJECTION. MAY WE HAVE THAT
2 QUESTION REREAD. I WAS TALKING TO MS. ABRAMSON. I
3 BELIEVE I HAVE AN OBJECTION TO IT.

4 THE COURT: ON GENERAL PRINCIPLES YOUR
5 OBJECTION WOULD BE MADE; IS THAT RIGHT?

6 MR. LEVIN: YES. RETROACTIVE. AFTER I HEAR
7 IT, THEN I WOULD ASK.

8 THE COURT: WHATEVER IT MIGHT HAVE BEEN?

9 MR. LEVIN: ANTEMORTEM.

10 THE COURT: WHATEVER IT MIGHT HAVE BEEN, YOU
11 OBJECT TO IT?

12 OBJECTION SUSTAINED. IT DOES CALL FOR A
13 CONCLUSION ON THE PART OF THE WITNESS. THE ANSWER'S
14 STRICKEN.

15 MS. NAJERA: OKAY. JUST TO CLARIFY THINGS A
16 LITTLE BIT.

17 Q ON AUGUST 24TH, 1989 THERE WAS -- YOU

18 DIDN'T TELL THE POLICE ABOUT A CONFESSION; IS THAT
19 CORRECT, BECAUSE YOU HADN'T SPOKEN TO THE DEFENDANT?
20 MR. LEVIN: OBJECTION, YOUR HONOR. ASSUMES --
21 WAIT. OBJECTION, YOUR HONOR. MISSTATES HIS
22 TESTIMONY.
23 THE COURT: REPHRASE THE QUESTION.
24 MS. NAJERA: CERTAINLY.
25 Q ON AUGUST 24TH 1989, WHEN YOU SPOKE TO
26 THE POLICE, HAD THE DEFENDANT CONFESSED TO YOU?
27 A NO.
28 Q SO THERE WAS NO CONFESSION TO REPORT; IS

49312

1 THAT RIGHT?
2 MR. LEVIN: OBJECTION, YOUR HONOR. THAT
3 CALLS FOR SPECULATION AND CONCLUSION.
4 THE COURT: OVERRULED.
5 Q ON NOVEMBER 17TH 1989, WHEN YOU TOLD THE
6 POLICE WHAT ERIK MENENDEZ CONFESSED TO YOU, THAT WAS
7 THE FIRST TIME YOU HAD REPORTED IT; IS THAT CORRECT?
8 A YES.
9 THE REPORTER: I DON'T BELIEVE THERE WAS AN
10 ANSWER TO THE QUESTION THAT WAS OVERRULED.
11 THE COURT: LET'S HAVE THAT PREVIOUS QUESTION
12 READ BACK BY THE REPORTER.

13 (THE FOLLOWING QUESTION WAS
14 READ BY THE REPORTER:
15 "QUESTION: SO THERE WAS NO CONFESSION
16 TO REPORT, IS THAT RIGHT?")

17

18 THE WITNESS: THE ANSWER IS "CORRECT."

19 THE COURT: THE RECORD WILL REFLECT THE
20 ANSWER WAS "CORRECT."

21 Q BY MS. NAJERA: ON MARCH 7TH, 1990 --
22 1990, WHEN YOU SPOKE TO THE POLICE, YOU HAD A
23 DISCUSSION WITH THEM ABOUT THE CONFESSION THAT ERIK
24 MENENDEZ MADE TO YOU; IS THAT CORRECT?

25 A CORRECT.

26 Q NOW, MR. LEVIN ALSO ASKED YOU ABOUT --
27 CONCERNING THE TOPIC OF THE MARCH 7TH, 1990
28 DISCUSSION YOU HAD WITH THE POLICE CONCERNING ERIK

49313

1 MENENDEZ' CONFESSION, I BELIEVE HE READ A PASSAGE TO
2 YOU FROM PAGE 13 WHEREIN HE WAS ASKING YOU ABOUT THE
3 STATEMENT YOU ATTRIBUTED TO ERIK MENENDEZ, THAT IT
4 COULD HAPPEN, OR IT COULD HAVE HAPPENED.

5 DO YOU RECALL HIM ASKING YOU SOME
6 QUESTIONS ABOUT THAT?

7 A YES.

8 Q AND SPECIFICALLY, DO YOU RECALL HIM
9 ASKING YOU IF YOU HAD STATED THE FOLLOWING THREE --
10 IF YOU STATED THE FOLLOWING SENTENCE:
11 "AT THE END I SAID YEAH, AND THEN
12 HE SAID, IT'S POSSIBLE."
13 MR. CARROLL REPLIED: "BUT THAT
14 WASN'T TRUTHFUL?"
15 AND YOU ANSWER: "NO."
16 DO YOU RECALL HIM ASKING YOU THOSE
17 QUESTIONS?
18 A YES.
19 Q NOW, BEFORE YOU MADE THAT STATEMENT THAT
20 I JUST READ TO YOU, HAD YOU ALREADY HAD A DISCUSSION
21 WITH MR. CARROLL AS TO WHY IT WAS YOU HAD PUT IN THE
22 PHRASE: "IT'S POSSIBLE," AND ATTRIBUTED IT TO ERIK
23 MENENDEZ?
24 A I DON'T RECALL IF WE HAD HAD A
25 DISCUSSION --
26 Q DO YOU RECALL --
27 A -- ABOUT THAT.
28 Q DO YOU RECALL SAYING, WITH REGARDS TO

49314

1 THAT, "'CAUSE --"

2 MR. LEVIN: I WOULD OBJECT. IT'S NOT A PRIOR

3 INCONSISTENT STATEMENT.

4 THE COURT: WE HAVEN'T GOTTEN THE QUESTION
5 YET.

6 MR. LEVIN: SHE'S GOING TO READ IT AND
7 THERE'S NO WAY TO --

8 THE COURT: I DON'T KNOW WHAT SHE'S GOING TO
9 READ.

10 MR. LEVIN: I DO.

11 MS. NAJERA: I'M GOING TO READ THE PREVIOUS
12 TWO ENTRIES OF MR. CIGNARELLI AND MR. CARROLL THAT
13 PRECEDES THE THREE ENTRIES THAT MR. LEVIN READ TO
14 THE JURY ON CROSS-EXAMINATION.

15 THE COURT: WHAT PAGE IS THIS?

16 MS. NAJERA: PAGE 13, YOUR HONOR.

17 THE COURT: ALL RIGHT. THE OBJECTION IS
18 OVERRULED.

19 MS. NAJERA: THANK YOU, YOUR HONOR.

20 Q DO YOU RECALL THAT YOU DID SAY ON MARCH
21 7TH, 1990 STATEMENT: "'CAUSE I KNOW, TO MY
22 KNOWLEDGE, I NEVER BELIEVED THAT HE HAD DONE IT AND
23 THAT'S ALSO --"

24 MR. LEVIN: WAIT, WAIT WAIT. WHERE ARE YOU
25 STARTING FROM?

26 MS. NAJERA: THE FOURTH ENTRY DOWN.

27 MR. LEVIN: NO, YOUR HONOR, I WOULD OBJECT.
28 SHE WAS TALKING ABOUT AFTER, WHEN HE SAID HE WASN'T

1 TRUTHFUL. THAT'S WHAT SHE WANTED TO READ. THIS
2 PROCEEDS IT.

3 THE COURT: THAT'S WHAT SHE SAID.

4 MR. LEVIN: MAY I HAVE A MOMENT? I DIDN'T
5 READ THAT.

6 MS. NAJERA: IT WAS THE TWO BEFORE. I
7 BELIEVE THAT'S WHAT I SAID, AND THE RECORD WILL BEAR
8 IT OUT.

9 MR. LEVIN: ALL RIGHT. THANK YOU.

10 THE COURT: GO AHEAD.

11 MS. NAJERA: THANK YOU, YOUR HONOR.

12 Q MR. CIGNARELLI, BECAUSE -- EXCUSE ME.

13 "CAUSE I KNOW, TO MY KNOWLEDGE,
14 I NEVER BELIEVED THAT HE HAD DONE IT
15 AND THAT'S ALL -- I SHOULD HAVE BROUGHT
16 IT UP, WHY I SAID AFTER -- UM, AFTER
17 WHEN I TALKED TO THE POLICE THE FIRST
18 TIME, WE DISCUSSED THE MURDER SCENE,
19 AND I SAID HE GAVE ME THAT WHOLE
20 STORY, AND THEN HE SAID 'IT'S
21 POSSIBLE.' AND I JUST WASN'T ONE
22 HUNDRED PERCENT CONVINCED THAT HE DID
23 IT. I DIDN'T WANT TO BE THE ONE TO
24 BRING HIM DOWN."

25 STOP RIGHT THERE FOR JUST ONE MOMENT.

26 Q IS THAT ALSO WHAT YOU HAVE TESTIFIED TO

27 TODAY IN COURT?

28 A YES.

49316

1 Q AND DID MR. CARROLL SAY:

2 "LET ME CLARIFY THIS ON TAPE.

3 WHEN YOUR FIRST STATEMENT TO THE

4 POLICE WAS TOLD -- EXCUSE ME. WHEN

5 YOUR FIRST STATEMENT TO THE POLICE WAS

6 YOU TOLD THEM AT THE SCENE --

7 DESCRIBED THE SAME MURDER SCENE AND

8 WHAT HE TOLD YOU ABOUT THE KILLING,

9 BUT YOU ADDED, AH..."

10 AND THEN THE REST OF IT WAS WHAT

11 MR. LEVIN STATED IN COURT EARLIER.

12 NOW, YOU ARE THE ONE WHO BROUGHT UP THAT

13 THAT STATEMENT WAS -- THAT YOU ATTRIBUTED TO ERIK

14 MENENDEZ ACTUALLY WAS A STATEMENT HE MADE; IS THAT

15 CORRECT?

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

17 SPECULATION.

18 THE COURT: OVERRULED.

19 THE WITNESS: I BELIEVE SO. I DON'T REMEMBER

20 WHO BROUGHT IT UP.

21 Q BY MS. NAJERA: AND WERE YOU THE ONE WHO

22 OFFERED THE FACT THAT IT WAS, IN FACT, NOT A
23 TRUTHFUL STATEMENT?

24 A YES.

25 Q AND YOU TOLD THE POLICE ABOUT THAT ON
26 MARCH 7TH, 1990; IS THAT CORRECT?

27 A YES.

28 Q AND IT WAS ALSO ON MARCH 7TH, 1990 THAT

49317

1 YOU TOLD THE POLICE AT THAT TIME -- AND I'M CALLING
2 COURT AND COUNSEL'S ATTENTION TO PAGE FIVE, THE
3 SECOND ENTRY FROM THE BOTTOM.

4 MR. LEVIN: NO OBJECTION.

5 Q BY MS. NAJERA:

6 "MR. CIGNARELLI, DID YOU IN FACT
7 TOLD (SIC) THE POLICE, WHEN EXPLAINING
8 WHAT IT WAS THAT ERIK MENENDEZ TOLD
9 YOU --"

10 THIS IS BACK IN MARCH OF 1990 --

11 "CERTAINLY. UM. HE AND HIS
12 BROTHER HAD COME BACK FROM A MOVIE.
13 THEY WERE GOING OUT TO A BAR. ERIK
14 WAS COMING IN TO GET HIS FAKE I.D.

15 "AH, HE WALKED INSIDE, AND HE
16 CAME BACK OUT, AND HIS BROTHER WAS

17 STANDING THERE WITH TWO GUNS, AND HIS
18 BROTHER SAID, LET'S DO IT.
19 "THEY WENT INSIDE, UM, THROUGH
20 THE FRONT DOOR. THERE'S A LITTLE LIKE
21 FOYER, HALLWAY, TO LEFT OF THE
22 STAIRS. THERE WAS ONE DOOR SLIGHTLY
23 OPEN, THE LEFT DOOR; AND THE RIGHT
24 DOOR WAS SHUT.
25 "HE SAID HIS BROTHER WENT UP
26 AGAINST THE RIGHT-HAND DOOR AND ERIK
27 WAS AT THE OTHER SIDE; AND LOOKED IN
28 AND SAW HIS DAD SITTING IN A CHAIR.

49318

1 "HIS BROTHER SWUNG THE RIGHT DOOR
2 OPEN AND SHOT HIS DAD."
3 DO YOU RECALL TELLING THAT TO THE POLICE
4 ON MARCH 7TH, 1990?
5 A YES.

-16217

1 MS. NAJERA: AT THAT TIME YOU HEARD ANY
2 STATEMENTS OVER THE AIRWAVES OR ANYTHING LIKE THAT
3 TELLING -- FIRST OF ALL, THE DEFENDANTS DID IT?
4 MR. LEVIN: OBJECTION. IT'S IRRELEVANT.

5 THE COURT: OVERRULED.

6 THE WITNESS: NO.

7 Q. BY MS. NAJERA: AND HAD YOU HEARD ANY
8 DISCUSSION OVER THE AIRWAVES OR IN THE NEWS AS TO THE
9 SPECIFICS OF HOW THEY DID IT?

10 A. NO.

11 Q. AND DID YOU GIVE THESE STATEMENTS BACK IN
12 1989 AND 1990 BEFORE EITHER DEFENDANT HAD MADE A PUBLIC
13 STATEMENT DESCRIBING ACTUALLY HOW THEY DID IT?

14 A. YES.

15 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION,
16 AND THE WITNESS ANSWERED THE QUESTION, YOUR HONOR. THE
17 WITNESS ANSWERED THE QUESTION, AND I ASK THAT THE ANSWER
18 BE STRICKEN AND THE WITNESS ADMONISHED.

19 THE COURT: OKAY. THE OBJECTION IS SUSTAINED AND
20 THE ANSWER IS STRICKEN.

21 AGAIN, THE QUESTION HAS TO BE COUCHED ALONG
22 THE LINES OF WHETHER THE WITNESS HAD HEARD OF THESE
23 THINGS, NOT WHETHER OR NOT THEY HAD BEEN REPORTED AND HE
24 HADN'T HEARD OF THEM.

25 MS. NAJERA: I UNDERSTAND, YOUR HONOR. THANK
26 YOU.

27 AND YOUR HONOR, THE LAST STATEMENT I WILL
28 BE READING FROM THIS MARCH 7TH TAPE WILL BE PAGE 6,

1 THIRD ENTRY DOWN.

2 THE COURT: OKAY.

3 MR. LEVIN: NO OBJECTION.

4 Q. BY MS. NAJERA: MR. CIGNARELLI, ON MARCH

5 7TH DID YOU ALSO TELL THE POLICE THAT ERIK MENENDEZ TOLD

6 YOU THAT:

7 "ERIK SHOT HIS MOM, UM, AFTER SHE

8 HAD GOTTEN UP, AND HE SAID THEY WENT OUT

9 THE BACK DOOR. OH, I'M SORRY. THEY

10 OPENED THE BACK DOOR FROM THE LIVING ROOM

11 AND THEY LEFT THE HOUSE."

12 DID YOU TELL THAT TO THE POLICE?

13 A. YES.

14 Q. ON -- AND I AM SORRY, YOUR HONOR. THE

15 FIRST -- IT SHOULD HAVE BEEN PRECEDED BY THE FIRST ENTRY

16 THERE.

17 MR. LEVIN: WELL, I'M NOT SURE WHAT THAT MEANS.

18 THE COURT: DO YOU WANT TO READ THAT AND GET IT

19 IN CONTEXT.

20 MS. NAJERA: I'M SORRY, YOUR HONOR. I SHOULD

21 HAVE READ THAT ONE FIRST.

22 MR. LEVIN: NO OBJECTION.

23 Q. BY MS. NAJERA:

24 (READING)

25 "ANSWER -- MR. CIGNARELLI: A

26 SHOTGUN, AS FAR AS I KNOW. HE DIDN'T SAY,

27 BUT THAT'S WHAT I HEARD THE WEAPONS WERE.

28 SHOT HIS DAD. ERIK SAID HE SHOT HIS DAD A

1 COUPLE OF TIMES, AND HIS MOM, YES, AND
2 LYLE SAID 'SHOOT MOM', AND HE SHOT HIS
3 MOM.

4 "EDMONDS: WHO SHOT HIS MOM?

5 "CIGNARELLI: ERIK SHOT HIS MOM,
6 UM, AFTER SHE HAD GOTTEN UP, AND THEY SAID
7 THEY WENT OUT THE BACK DOOR."

8 IS THIS WHAT YOU TOLD THE POLICE BACK ON
9 MARCH 7, 1990?

10 A. YES.

11 Q. NOW, MR. LEVIN ASKED YOU SOME QUESTIONS
12 ABOUT YOUR TESTIMONY FROM THE FIRST TRIAL ON THIS
13 MATTER.

14 DO YOU REMEMBER HIM ASKING YOU SOME
15 QUESTIONS ABOUT THAT?

16 A. YES.

17 Q. AND DO YOU REMEMBER THAT YOU TESTIFIED IN
18 THE FIRST TRIAL OF THIS MATTER AND YOU TOLD THE JURY
19 CERTAIN --

20 MR. LEVIN: OBJECTION, YOUR HONOR. WE ASK FOR A
21 PAGE CITE.

22 MS. NAJERA: WELL, I AM GETTING TO THAT.

23 THE COURT: OKAY. LAY A FOUNDATION FIRST.

24 Q. BY MS. NAJERA: DO YOU REMEMBER THAT YOU
25 TESTIFIED --

26 MR. LEVIN: WELL, YOUR HONOR, I CAN'T OBJECT
27 UNLESS I HAVE THE OPPORTUNITY TO SEE IN ADVANCE WHAT IT
28 IS COUNSEL IS REFERRING TO.

-16214

1 THE COURT: COUNSEL FROM EITHER SIDE ARE ENTITLED
2 TO REFER IN GENERAL TO SOME TESTIMONY, AND THEN IF
3 NECESSARY REFER TO THE SPECIFICS.

4 SO OVERRULED.

5 Q. BY MS. NAJERA: DO YOU REMEMBER THAT YOU
6 WERE ASKED QUESTIONS BY MR. LEVIN ABOUT WHAT IT WAS YOU
7 TOLD -- YOU TESTIFIED TO IN FRONT OF THE JURY IN THE
8 FIRST TRIAL?

9 A. YES.

10 Q. AND IN FACT, THERE WAS SOME SUGGESTION THAT
11 YOU TESTIFIED DIFFERENTLY IN THE FIRST TRIAL THAN YOU
12 DID IN THIS TRIAL.

13 DO YOU REMEMBER THAT?

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

15 THE COURT: OVERRULED.

16 THE WITNESS: YES.

17 Q. BY MS. NAJERA: NOW, CALLING YOUR ATTENTION
18 TO -- COURT AND COUNSEL'S ATTENTION TO PAGE 7756,
19 STARTING ON LINE 25 -- EXCUSE ME. I AM SORRY.

20 MR. LEVIN: WHAT LINE, COUNSEL?

21 MS. NAJERA: WRONG PAGE. PAGE 7756 -- ACTUALLY,

22 YOU KNOW WHAT, SCRATCH THAT.
23 7757, 16 TO -- IF I CAN JUST HAVE A
24 MOMENT -- TO 7758, LINE 21.
25 MR. LEVIN: YOUR HONOR, I WOULD OBJECT. HE
26 WASN'T IMPEACHED ON THAT IN THIS TRIAL.
27 MS. NAJERA: YES, HE WAS.
28 THE COURT: WELL, I DON'T HAVE THE MATERIALS

-16213

1 HERE, SO YOU'LL HAVE TO SHOW IT TO ME.
2 THE COURT: LINE WHAT TO WHAT?
3 MS. NAJERA: IT WOULD BE 7757 GOING -- STARTING
4 AT LINE 16, GOING TO 7758, LINE 21.
5 OMITTING LINES 4 THROUGH 9.
6 THE COURT: ALL RIGHT. THE OBJECTION IS
7 OVERRULED, BUT I THINK YOU SHOULD JUST REALLY START FROM
8 7758, LINE 1.
9 MS. NAJERA: I'M SORRY, YOUR HONOR, WHAT LINE?
10 THE COURT: LINE 1.
11 MS. NAJERA: OKAY.
12 "QUESTION: DO YOU REMEMBER
13 TESTIFYING IN THE FIRST TRIAL IN THIS
14 MATTER IN RESPONSE TO QUESTIONS CONCERNING
15 WHAT IT WAS THAT THE DEFENDANT, ERIK
16 MENENDEZ, CONFESSED TO YOU?
17 "THE WITNESS: HE SAID HE WAS

18 COMING HOME FROM A MOVIE, AND THAT HE WAS
19 GOING INSIDE TO GET HIS I.D., A FAKE I.D.,
20 TO GO OUT TO THE BARS, AND HE SAID HE WENT
21 INSIDE AND HE CAME OUT. HE SAID THAT HE
22 WENT BACK OUTSIDE, AND HIS BROTHER WAS
23 STANDING THERE WITH TWO SHOTGUNS, AND
24 SAID: 'LET'S DO IT,' AND THEY WALKED
25 INSIDE.

26 AND LYLE WAS STANDING -- OR ERIK
27 WENT UP TO THE DOOR ON THE LEFT, WHICH WAS
28 SLIGHTLY OPEN, AND THE DOOR ON THE RIGHT.

-16212

1 LYLE WENT UP AND PUT HIS SHOULDER AGAINST
2 THE DOOR ON THE RIGHT, AND ERIK SAID HE
3 LOOKED IN, SAW HIS PARENTS SITTING ON THE
4 COUCH, AND LYLE SWUNG OPEN THE DOOR AND
5 SHOT HIS FATHER, AND LOOKED AT ERIK AND
6 SAID 'SHOOT MOM', AND ERIK SAID HE SHOT
7 HIS MOM AS SHE WAS STANDING UP YELLING."

8 IS THAT WHAT YOU TESTIFIED TO IN THE FIRST
9 TRIAL?

10 A. YES.

11 Q. IS THAT WHAT YOU RECALL THE DEFENDANT, ERIK
12 MENENDEZ, TELLING YOU?

13 A. YES.

14 Q. AND DID YOU -- YOUR HONOR, IF I MAY HAVE A
15 MOMENT, I THINK THAT'S IT. LET ME CONFER WITH COUNSEL.
16 JUST ONE LAST THING, YOUR HONOR.
17 NOTHING FURTHER.
18 THE COURT: OKAY. MR. LEVIN?
19 MR. LEVIN: YES, YOUR HONOR. I NEED A FIVE
20 MINUTE RECESS, IF I MIGHT.
21 THE COURT: CERTAINLY. WE WILL TAKE A RECESS.
22 WE WILL TAKE OUR AFTERNOON RECESS, AND MAKE IT 25 AFTER
23 THE HOUR.
24 MS. ABRAMSON: YOUR HONOR, COULD WE REMAIN FOR A
25 MINUTE?
26 THE COURT: SURE.
27 (JURY EXITS THE COURTROOM AND THE
28 FOLLOWING PROCEEDINGS WERE HELD:)

-16211

1
2 THE COURT: YES.
3 MS. ABRAMSON: YOUR HONOR, WHEN I LEFT THE
4 COURTROOM EARLIER, I WENT TO THE PUBLIC DEFENDER'S
5 OFFICE, AND I CALLED DR. PARK DIETZ AND REACHED HIM AT
6 HIS OFFICE IN NEWPORT BEACH. HE INFORMED ME OF THE
7 FOLLOWING MATTERS.
8 NUMBER ONE, WITH RESPECT TO THE SUBPOENA
9 DUCES TECUM THAT WAS SERVED ON HIM BY MY OFFICE

10 YESTERDAY, HE INDICATED THAT HE COPIED HIS NOTES FOR ME
11 LAST NIGHT IN THE DISTRICT ATTORNEY'S OFFICE. I HAVE
12 NEVER RECEIVED THEM.

13 NUMBER TWO, HE INDICATED HE LEFT A LIST
14 WITH THEM OF THE DOCUMENTS THAT HAD BEEN SUBMITTED TO
15 HIM BY THE PROSECUTION, WHICH MY SUBPOENA CALLED FOR,
16 AND I DO HAVE THE ORIGINAL TO FILE, YOUR HONOR.

17 I NEVER RECEIVED THEM. I NEVER RECEIVED
18 THAT LIST.

19 NUMBER THREE, HE INDICATED THAT NO ONE,
20 PRIOR TO MY TELEPHONE CALL, HAD TOLD HIM HE WAS GOING TO
21 BE CALLED AS A WITNESS IN THIS CASE, AND THIS WAS THE
22 FIRST HE WAS HEARING OF IT.

23 NUMBER FOUR, HE INDICATED THAT HE IS NOT
24 AVAILABLE TO BE INTERVIEWED THIS WEEKEND.

25 MS. NAJERA: OKAY.

26 MS. ABRAMSON: NOW, I DON'T UNDERSTAND EXACTLY
27 WHAT'S GOING ON, BUT I KNOW THAT WHAT IS REQUIRED OF ME
28 TO PREPARE FOR THIS WITNESS IS TO DEVOTE MY ENTIRE

-16210

1 WEEKEND, THAT OF DR. WILSON, THAT OF DR. VICARY, TO
2 REVIEWING THESE TAPES AND PREPARING TO CROSS-EXAMINE
3 THIS WITNESS. AND THE WITNESS TELLS ME HE DOESN'T EVEN
4 KNOW THAT HE'S GOING TO BE A WITNESS.

5 SO I PUT THAT BEFORE THE COURT. HE SAID

6 HE'S NOT AVAILABLE THIS WEEKEND.

7 MR. MEJIA CALLED IN ON THE OTHER LINE WHILE

8 I WAS TALKING TO DR. DIETZ, AND I SUGGESTED THAT HE

9 REPEAT THE INFORMATION TO MR. MEJIA TO BE TRANSMITTED TO

10 THE DISTRICT ATTORNEYS, BUT I DO NOT SEE MR. MEJIA IN

11 THE COURTROOM.

12 THE COURT: OKAY. DURING THE RECESS I WILL ASK

13 THAT MR. CONN DETERMINE WHAT'S GOING ON SO THAT WE CAN

14 MAKE ARRANGEMENTS FOR THE EXAMINATION OF DR. DIETZ IN A

15 TIMELY FASHION.

16 MR. CONN: OKAY.

17 MS. ABRAMSON: THE OTHER MATTER, OF COURSE, IS HE

18 OBVIOUSLY HAD SOME KIND OF MEETING IN THE DISTRICT

19 ATTORNEY'S OFFICE LAST EVENING, WHERE I ASSUME SOME

20 INFORMATION WAS GIVEN TO THE DISTRICT ATTORNEYS WHICH

21 ALSO HAS NOT BEEN MADE AVAILABLE TO US.

22 THE COURT: OKAY. IF THERE ARE ANY NOTES OR

23 LISTS OF MATERIALS HE HAS CONSIDERED, THEY SHOULD BE

24 PROVIDED TO THE DEFENSE AS WELL.

25 OKAY. WE WILL BE IN RECESS UNTIL 25 AFTER.

26 MS. ABRAMSON: I FILED THE PROOF OF SERVICE, YOUR

27 HONOR, WITH THIS COURT.

28 THE COURT: OKAY.

-16209

1 (A RECESS WAS TAKEN FROM

3:10 P.M. TO 3:25 P.M.)

(THE FOLLOWING PAGES, 49328 THROUGH 49337,
WERE HELD OUT OF THE PRESENCE OF THE
JURY AND ORDERED SEALED BY THE COURT:)

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 GET THE PUBLIC IN.

6 MS. ABRAMSON: I STILL WOULD LIKE MR. CONN TO
7 CALL ME TOMORROW MORNING AND TELL ME WHAT QUOTE, AREAS,
8 HE IS INTENDING TO GO INTO.

9 THE COURT: ALL RIGHT.

10 MR. CONN: I WILL DO THAT.

11 MR. LEVIN: YOUR HONOR, I HAVE A HOUSEKEEPING
12 MATTER. I INADVERTENTLY MARKED A XEROX COPY OF WHAT WAS
13 EXHIBIT 48 OF THE FAX, AND MARKED A NEW EXHIBIT, 424.

14 I ASK TO WITHDRAW EXHIBIT 424 AND REMARK
15 EXHIBIT 48, WHICH WAS THE ORIGINAL FAX, AS EXHIBIT 424.

16 THE COURT: OKAY.

17 MS. ABRAMSON: CAN I INQUIRE OF COUNSEL, IS THIS
18 ALL OF THE NOTES THAT DR. DIETZ TOOK?

19 MS. NAJERA: EIGHTY-ONE PAGES.

20 MS. ABRAMSON: THAT'S ALL OF THEM?

21 MS. NAJERA: EIGHTY-ONE PAGES. MAKE SURE YOU
22 HAVE 81 PAGES.

23 MS. ABRAMSON: ARE THEY NUMBERED?

24 MS. NAJERA: NO. PLEASE DON'T PUT THEM OUT OF
25 ORDER.

26 THE COURT: OKAY. LET'S GET JURY OUT PLEASE.

27

28 (THE JURY ENTERS THE COURTROOM

-16197

1 AND THE FOLLOWING PROCEEDINGS

2 WERE HELD:)

3

4 THE COURT: OKAY. EVERYBODY IS BACK, AND WE WILL

5 RESUME WITH THE WITNESS.

6

7 RECROSS-EXAMINATION

8 BY MR. LEVIN:

9 Q. MR. CIGNARELLI, IT IS TRUE THAT YOU KNEW

10 THAT JOSE MENENDEZ WAS SHOT IN THE HEAD BEFORE ERIK

11 MENENDEZ CONFESSED TO YOU, BECAUSE THAT'S WHAT YOU TOLD

12 THE POLICE ON AUGUST THE 24TH, CORRECT?

13 A. YES.

14 Q. AND WHEN YOU TOLD THE POLICE IN MARCH --

15 WHEN YOU TALKED TO THE POLICE IN MARCH, ON MARCH 7TH,

16 1990, YOU DIDN'T TELL THEM THAT YOUR NOVEMBER 17TH, 1989

17 STATEMENT TO THEM HAD UNTRUE FACTS IN IT, DID YOU?

18 A. YES.

19 Q. THE ONLY FACT THAT YOU REFER TO WAS THE

20 FACT "IT COULD HAPPEN," CORRECT?

21 A. THAT'S CORRECT.

22 Q. YOU NEVER TOLD THEM AT THAT TIME THAT THE

23 STATEMENT ITSELF ABOUT -- THAT YOU ATTRIBUTED TO ERIK
24 MENENDEZ ABOUT ERIK MENENDEZ -- ABOUT YOU SAYING THAT
25 ERIK MENENDEZ SAID THAT HE COULDN'T SHOOT HIS MOM, YOU
26 NEVER SAID THAT WAS UNTRUE, YOU JUST TOLD THEM A
27 DIFFERENT STORY, CORRECT?

28 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

-16196

1 THE COURT: OVERRULED.

2 THE WITNESS: I DIDN'T JUST TELL THEM A DIFFERENT
3 STORY. I TOLD THEM THE TRUTH.

4 Q. BY MR. LEVIN: BUT YOU NEVER SAID TO THEM
5 THAT YOUR NOVEMBER 17TH, 1989 STATEMENT HAD ANY UNTRUE
6 FACTS IN IT OTHER THAN THE STATEMENT YOU ATTRIBUTED TO
7 ERIK MENENDEZ: "IT COULD HAVE HAPPENED," CORRECT?

8 A. THAT'S CORRECT.

9 Q. DID YOU FORGET ON MARCH THE 7TH, 1990 THE
10 LIE THAT YOU TOLD BACK IN NOVEMBER?

11 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

12 THE COURT: REPHRASE THE QUESTION.

13 Q. BY MR. LEVIN: DID YOU FORGET WHEN YOU
14 TALKED TO THE POLICE ON MARCH THE 7TH, 1990 WHAT YOU HAD
15 TOLD THEM REGARDING UNTRUE FACTS YOU ATTRIBUTED TO MY
16 CLIENT ON NOVEMBER THE 17TH, 1989?

17 A. I DON'T THINK I FORGOT THEM.

18 Q. DID YOU HAVE THEM IN YOUR MIND?

19 A. I DON'T THINK SO. I DON'T RECALL.

20 Q. MR. CIGNARELLI, ISN'T IT TRUE THAT WHAT

21 REALLY HAPPENED WAS ERIK MENENDEZ WALKED YOU THROUGH THE

22 DEN, DESCRIBED TO YOU WHAT HE SAW WHEN HE RETURNED TO

23 THE HOUSE AFTER HIS PARENTS WERE DEAD, AND THEN TURNED

24 TO YOU AND SAID: "WE DID IT"?

25 A. AGAIN, MR. LEVIN, NO. IT'S NOT TRUE.

26 Q. I WANT TO ASK YOU A FEW MORE QUESTIONS

27 ABOUT YOUR CONTRACT, WHICH YOU SEEM TO HAVE LOST; IS

28 THAT TRUE?

-16195

1 A. I SEEM TO HAVE LOST IT. I WENT AND LOOKED

2 FOR IT YESTERDAY, LIKE YOU ASKED ME TO, AND I COULD NOT

3 FIND IT. I APOLOGIZE.

4 Q. AND BASED ON YOUR TESTIMONY HERE, THE

5 CONTRACT PROVIDED THAT YOU WOULD GET \$20,000 AND THE

6 REST WOULD GO DIRECTLY TO CHARITY?

7 A. NO, THAT'S INCORRECT.

8 Q. OKAY. WHAT IS CORRECT?

9 A. THAT I WOULD GET \$25,000 AND THEY -- WE HAD

10 AN AGREEMENT THAT 5,000 WOULD GO TO CHARITY.

11 Q. OH.

12 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO

13 COUNSEL'S EXCLAMATIONS AND OTHER INAPPROPRIATE COMMENTS.

14 THE COURT: YES. COUNSEL ARE NOT TO MAKE REMARKS

15 DURING THE TESTIMONY OF WITNESSES.

16 MR. LEVIN: I'M SORRY.

17 Q. SO, MR. CIGNARELLI, YOU DID RECEIVE \$25,000
18 FROM "HARD COPY"?

19 MS. NAJERA: YOUR HONOR, I AM GOING TO ASK THAT
20 COUNSEL BE ADMONISHED TO REFRAIN FROM GESTURING.

21 THE COURT: OVERRULED.

22 THE WITNESS: CONTINGENT UPON THE FACT THAT I WAS
23 GOING TO GIVE THEM \$5000. SO I PERSONALLY DIDN'T
24 RECEIVE IT.

25 Q. BY MR. LEVIN: DID YOU GET \$25,00 FROM
26 "HARD COPY", YES OR NO?

27 A. NO.

28 Q. OKAY. AND DID YOU THEN HAVE SOME KIND OF

-16194

1 AN AGREEMENT THAT OF THAT \$25,000, THAT YOU WERE TO SEND
2 \$5000 TO SOME CHARITY?

3 A. YES.

4 Q. AND WAS THAT AGREEMENT CONTAINED IN ANY
5 WRITING?

6 A. THE AMOUNT I DON'T THINK WAS, BUT THERE WAS
7 A STIPULATION TO THAT, YES, IN WRITING.

8 Q. WHAT IS THE NAME OF THE CHARITY,
9 MR. CIGNARELLI?

10 MS. NAJERA: EXCUSE ME, YOUR HONOR. MAY WE

11 APPROACH SIDE BAR FOR A MOMENT?

12 THE COURT: SURE.

13 (THE FOLLOWING PROCEEDINGS.

14 WERE HELD OUT OF THE PRESENCE

15 OF THE JURY:)

16

17 MS. NAJERA: YOU HONOR, I FEEL LIKE I'VE BEEN SET

18 UP.

19 THE COURT: WHAT?

20 MS. NAJERA: WE HAD A HEARING BEFORE THIS TRIAL,

21 BEFORE THIS, WHERE MY UNDERSTANDING OF THE COURT'S

22 RULING WAS THAT THIS WITNESS WAS NOT TO BLURT OUT WHAT

23 THE NAME OF THE CHARITY WAS.

24 THE COURT: CORRECT.

25 MS. NAJERA: SO I SPECIFICALLY TOLD HIM NOT TO.

26 NOW MR. LEVIN ASKS HIM THE QUESTION AND HE

27 LOOKS AT ME LIKE "YOU TOLD ME NOT TO DO THAT," AND

28 MS. ABRAMSON SAYS IN FRONT OF THE JURY, "OH, ARE YOU HIS

-16193

1 HANDLER."

2 AND IT LOOKED BAD THAT HE HAD TO LOOK TO ME

3 SO I COULD GESTURE TO HIM TO DO THAT.

4 I GOT SET UP, AND I WANT THE JURY

5 INSTRUCTED THAT THERE WAS NOTHING IMPROPER, AND I WANT

6 THE JURY TO KNOW THERE WAS NOTHING IMPROPER ABOUT THAT.

7 THE COURT: I THINK YOU CAN EXPLAIN THAT, WHY THE
8 DEFENSE OBJECTED TO REFERENCE TO THAT.

9 MS. NAJERA: FINE. I WILL ASK HIM ALL ABOUT
10 THAT.

11 MS. ABRAMSON: IT'S BECAUSE HE LIED ABOUT HOW
12 MUCH HE RECEIVED.

13 THE COURT: AND YOU DON'T HAVE TO GIVE ME ANY
14 EXPLANATIONS. WE ARE DEALING NOW WITH A SITUATION
15 BECAUSE THE WITNESS FELT HE COULDN'T ANSWER BECAUSE OF
16 SOME PREVIOUS ADMONITIONS, AND THAT'S THE ONLY THING
17 THAT IT'S REGARDING.

18 (THE FOLLOWING PROCEEDINGS
19 WERE HELD IN OPEN COURT IN
20 THE PRESENCE OF THE JURY:)

21

22 Q. BY MR. LEVIN: MR. CIGNARELLI, WHAT IS THE
23 NAME OF THE CHARITY?

24 A. IT'S CALLED "CHILD ABUSE LISTENING AND
25 MEDIATION."

26 Q. WHEN DID YOU MAKE THE \$5000 DONATION?

27 A. AFTER I RECEIVED THE CHECK. I CAN'T GIVE
28 YOU AN EXACT DATE.

-16192

1 Q. IN WHAT FORM DID YOU SEND MONEY TO THE
2 CHILD ABUSE FOUNDATION?

3 A. THE CHILD ABUSE LISTENING AND MEDIATION. A
4 CHECK.

5 Q. AND IS THAT CHECK --

6 A. ANONYMOUSLY.

7 Q. PARDON ME?

8 A. ANONYMOUSLY.

9 Q. WELL, WAS IT A CHECK FROM YOUR ACCOUNT?

10 A. YES.

11 Q. AND SO I TAKE IT THAT YOU WOULD THEN HAVE
12 RECEIVED BACK THE CANCELED CHECK?

13 A. NO. I GO WITH B OF A, SO I COULD PROBABLY
14 GET AHOLD OF IT, BUT I DON'T GET MY CHECKS BACK.

15 Q. WHERE DO YOU BANK, MR. CIGNARELLI?

16 A. WHAT BRANCH?

17 Q. WHAT BRANCH?

18 A. WOODLAND HILLS.

19 Q. AND IS THERE A CHECKING ACCOUNT THERE IN
20 THE NAME OF CRAIG CIGNARELLI?

21 A. I BELIEVE SO, YES.

22 Q. WELL, YOU WOULD KNOW -- YOU WOULD BE THE
23 ONLY ONE THAT WOULD KNOW THAT, WOULDN'T YOU?

24 A. WELL, I'M NOT SURE IF IT'S JUST IN MY NAME,
25 OR IF IT'S IN MINE AND MY MOM'S.

26 Q. AND THE CHECK THAT YOU WROTE TO THIS
27 CHARITY WAS FROM A CHECK FROM THE B OF A IN WOODLAND
28 HILLS?

1 A. I BELIEVE SO. I DON'T KNOW, TO TELL YOU
2 THE TRUTH. I DON'T RECALL AT THIS POINT.

3 Q. WELL, IS THERE ANY OTHER CHECKING ACCOUNT
4 THAT YOU HAD THAT YOU COULD HAVE POSSIBLY WRITTEN THIS
5 CHECK FROM?

6 A. I DON'T KNOW. I MEAN, I MAY HAVE HAD A
7 CHECKING ACCOUNT IN ANOTHER BANK. I REALLY DON'T
8 REMEMBER, MR. LEVIN.

9 Q. MR. CIGNARELLI, YOU NEVER WROTE THEM A
10 CHECK, DID YOU?

11 A. YES, I DID.

12 Q. AND HOW -- HOW CAN YOU SIGN A CHECK
13 ANONYMOUSLY?

14 A. WELL, WHEN I SAY I DID IT ANONYMOUSLY, I
15 ASKED THEM TO KEEP MY NAME COMPLETELY QUIET AND NOT SAY
16 THEY WERE RECEIVING MONEY FROM ME. I DIDN'T WANT ANY
17 CREDIT FOR IT MADE PUBLIC. I WANTED TO DO IT AS AN
18 ANONYMOUS DONATION, AND I ASKED THAT IT WOULD BE GIVEN
19 TO THEM SO GENUINELY ABUSED CHILDREN WOULD BENEFIT.

20 MS. ABRAMSON: MOVE TO STRIKE THE GRATUITOUS
21 REMARKS.

22 Q. BY MR. LEVIN: MR. CIGNARELLI, ON YOUR
23 VIDEOTAPE FROM "HARD COPY", DIDN'T MS. MURPHY RIGHT AT
24 THE END OF THE INTERVIEW SAY THAT: "MR. CIGNARELLI TOLD
25 US, HARD COPY, THAT HE HAS MADE A CHARITABLE
26 CONTRIBUTION TO A CHILD ABUSE FOUNDATION"?

27 ISN'T IT RIGHT THERE ON THAT VIDEOTAPE?

-16190

1 Q. YOU WATCHED YOURSELF, DIDN'T YOU, ON
2 TELEVISION?

3 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
4 MR. LEVIN'S WHOLE DEMEANOR AT THIS POINT.

5 THE COURT: OVERRULED.

6 THE WITNESS: ACTUALLY, I MISSED IT, BUT I GOT A
7 TAPE OF IT.

8 Q. BY MR. LEVIN: AND SO YOU MUST HAVE THEN
9 TOLD "HARD COPY", DIDN'T YOU: HEY, LISTEN. I DON'T
10 WANT YOU SAYING ANYTHING ABOUT THIS ON NATIONAL
11 TELEVISION, BECAUSE I DON'T WANT TO BE CONNECTED WITH
12 THIS CONTRIBUTION?

13 A. NO, THAT'S NOT TRUE.

14 Q. IN FACT, MR. CIGNARELLI, YOU CAN'T TELL US
15 RIGHT NOW HOW YOU PAID THEM, CAN YOU?

16 A. I CAN TELL YOU THAT I PAID THEM BY CHECK,
17 BUT I HONESTLY DON'T REMEMBER WHAT CHECK NUMBER OR WHICH
18 ACCOUNT IT CAME FROM.

19 Q. WELL, HOW MANY ACCOUNTS -- THIS WOULD HAVE
20 BEEN BACK IN 1994, CORRECT, TWO YEARS AGO?

21 A. YEAH, I BELIEVE SO.

22 Q. OKAY. WELL, WHAT BANK ACCOUNT -- DID YOU
23 HAVE MORE THAN ONE CHECKING ACCOUNT?

24 A. THAT'S WHAT I AM WONDERING. I AM NOT SURE,
25 BECAUSE I WAS AT SCHOOL IN SANTA BARBARA.
26 Q. SO --
27 A. AND -- I'M SORRY, GO AHEAD.
28 Q. SO THE ANONYMOUS PART OF IT IS THAT YOU

-16189

1 ASKED THIS LOCATION NOT TO DISCLOSE YOUR NAME, BUT YOU
2 WROTE THEM A CHECK AND SIGNED IT "CRAIG CIGNARELLI" ON A
3 CRAIG CIGNARELLI BANK ACCOUNT?

4 A. THAT'S CORRECT.

5 Q. AND CAN YOU THINK OF ANY OTHER BANK OTHER
6 THAN THE B OF A IN WOODLAND HILLS THAT YOU HAD THAT YOU
7 WOULD HAVE HAD A CHECKING ACCOUNT WITH WHICH YOU WOULD
8 HAVE WRITTEN THIS CHECK ON?

9 A. AT THIS TIME I CAN'T. BUT LIKE I SAY, I
10 MAY HAVE HAD ANOTHER ACCOUNT SOMEWHERE. I MAY HAVE USED
11 THE SANTA BARBARA BANK.

12 Q. WHO DOES YOUR TAXES?

13 A. WELL, SO FAR --

14 MS. NAJERA: I AM GOING TO OBJECT TO THAT AS
15 IRRELEVANT, YOUR HONOR.

16 THE COURT: OVERRULED.

17 Q. BY MR. LEVIN: YOU ACTUALLY TESTIFIED, DID
18 YOU NOT, TO MISS NAJERA, SOMETHING ABOUT YOUR TAXES.

19 WHO DOES YOUR TAXES?

20 A. SO FAR, ME, AND I HAD A FRIEND LOOK IT
21 OVER -- AND ACTUALLY I HAD H AND R BLOCK LOOK IT OVER
22 THE DAY BEFORE.

23 Q. SO DO YOU SAVE YOUR CANCELED CHECKS?

24 A. NO, I DON'T.

25 Q. DO YOU LIST CHARITABLE CONTRIBUTIONS ON
26 YOUR TAX FORM?

27 A. I DID LIST THAT ONE, YES.

28 Q. AND SO YOU SIGNED A DOCUMENT TO THE FEDERAL

-16188

1 GOVERNMENT UNDER PENALTY OF PERJURY THAT YOU DONATED
2 \$5000 TO THIS CHARITABLE ORGANIZATION?

3 A. THAT'S CORRECT.

4 Q. AND SO IN ORDER TO PROVE THAT IN CASE THE
5 FEDERAL GOVERNMENT AUDITS YOU, YOU KNEW TO SAVE THAT
6 CHECK RECEIPT, CORRECT?

7 A. NO, I DIDN'T.

8 Q. DO YOU HAVE THE CHECK -- CANCELED CHECK,
9 MR. CIGNARELLI?

10 A. NO. LIKE I SAID, I DON'T GET CANCELED
11 CHECKS FROM B OF A.

12 Q. AND DO YOU KNOW WHERE I COULD GO TO SERVE A
13 SUBPOENA FOR YOUR BANK ACCOUNT TO FIND THAT CANCELED
14 CHECK?

15 A. NO. YOU WOULD PROBABLY KNOW BETTER THAN I

16 DO.

17 Q. WELL, I ONLY CAN GO TO THE BANK THAT YOU
18 HAD, AND THE ONLY ONE THAT YOU CAN RECALL --

19 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
20 COUNSEL TESTIFYING.

21 THE COURT: WELL THAT PORTION OF THE QUESTION IS
22 STRICKEN.

23 RE-ASK THE QUESTION, PLEASE.

24 Q. BY MR. LEVIN: IS THERE ANY -- WHERE ARE
25 YOUR ACCOUNTS NOW?

26 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT.

27 THE COURT: OVERRULED.

28 THE WITNESS: AT B OF A.

-16187

1 Q. BY MR. LEVIN: SO YOU HAVE A B OF A IN
2 WOODLAND HILLS, A CHECKING ACCOUNT?

3 A. YES.

4 Q. HOW LONG HAVE YOU HAD THAT ACCOUNT?

5 A. PROBABLY SEVEN OR EIGHT YEARS.

6 Q. DO YOU HAVE ANY OTHER CHECKING ACCOUNT NOW?

7 A. I DON'T KNOW IF I'VE GOT ONE WITH
8 PRUDENTIAL, AND I DON'T KNOW IF IT'S CONSIDERED A
9 CHECKING ACCOUNT.

10 Q. WHERE IS PRUDENTIAL?

11 A. ARIZONA. THERE IS ONE IN -- THERE'S A FUND

12 IN FRANCE. I DON'T KNOW -- YOU KNOW, I DON'T KNOW WHAT

13 YOU'RE LOOKING FOR FROM MY FINANCIAL POINT OF VIEW.

14 Q. WHERE DID YOU SEND THIS CHECK,

15 MR. CIGNARELLI?

16 A. I DIDN'T SEND IT. I GAVE IT.

17 Q. WHERE DID YOU GIVE IT?

18 A. TO THE CHILD ABUSE LISTENING AND MEDIATION

19 CENTER.

20 Q. WHERE ARE THEY?

21 A. IN SANTA BARBARA.

22 Q. AND TO WHOM DID YOU GIVE TO?

23 A. I PUT IT ON SOMEONE'S DESK.

24 Q. WHO WAS IT THAT YOU TOLD TO KEEP YOU

25 ANONYMOUS?

26 A. ANN COCOTEVIC (PHOENETIC).

27 Q. ANN COCOTEVIC?

28 A. ANN COCOTEVIC, I BELIEVE THE NAME WAS. SHE

-16186

1 WAS THE HEAD OF THE ORGANIZATION, AND SHE SAID SHE WOULD

2 RESPECT MY WISHES THAT IT WOULD NOT BE MADE PUBLIC.

3 Q. AND TO HER -- AND TO HER YOU GAVE A \$5000

4 CHECK?

5 MS. NAJERA: OBJECTION. MISSTATES THE TESTIMONY.

6 THE COURT: SUSTAINED.

7 Q. BY MR. LEVIN: YOU LEFT A \$5000 CHECK ON

8 HER DESK?

9 A. I DON'T KNOW IT WAS HER DESK, BUT IT WAS
10 ADDRESSED TO HER.

11 Q. AND THAT CHECK HAD YOUR NAME ON IT?

12 A. YES.

13 Q. AND YOU TALKED TO HER?

14 A. YES.

15 Q. AND YOU TOLD HER TO KEEP IT QUIET THAT YOU
16 MADE THE DONATION?

17 A. YES.

18 Q. NOW, YOU TESTIFIED THAT ORIGINALLY "HARD
19 COPY" OFFERED YOU A PACKAGE OF \$50,000; IS THAT CORRECT?

20 A. NO.

21 Q. WELL, YOU TESTIFIED --

22 MS. NAJERA: I'M GOING TO OBJECT. THAT MISSTATES
23 THE TESTIMONY.

24 THE COURT: SUSTAINED.

25 Q. BY MR. LEVIN: YOU TESTIFIED THAT A NUMBER
26 OF \$50,000 WAS MENTIONED BY "HARD COPY", CORRECT?

27 A. YES.

28 Q. AND THAT MENTION WAS BY "HARD COPY", NOT

-16185

1 FROM YOU, CORRECT?

2 A. YES.

3 Q. OKAY. AND ARE YOU AS CERTAIN OF THAT

4 TESTIMONY THAT YOU JUST GAVE AS YOU ARE OF THE
5 STATEMENTS THAT YOU ATTRIBUTE TO ERIK MENENDEZ THAT YOU
6 TESTIFIED TO IN THIS TRIAL?

7 A. YES.

8 MS. NAJERA: I AM GOING TO --

9 Q. BY MR. LEVIN: AND WHEN "HARD COPY" THREW
10 OUT THE NUMBER \$50,000, DID THEY INDICATE HOW THAT MONEY
11 WOULD BE APPORTIONED?

12 MS. NAJERA: I AM GOING TO OBJECT. THAT ASSUMES
13 A FACT NOT IN EVIDENCE, THAT THEY WERE EVER GOING TO
14 GIVE HIM THAT MUCH.

15 THE COURT: SUSTAINED.

16 Q. BY MR. LEVIN: WHEN THE PACKAGE -- OR WHEN
17 \$50,000 WAS MENTIONED, DID -- WAS THERE ANY MENTION AT
18 THAT TIME OF A CHARITABLE CONTRIBUTION TO BE DEDUCTED
19 FROM THE \$50,000?

20 MS. NAJERA: OBJECTION. ASSUMES FACTS NOT IN
21 EVIDENCE, THAT THE \$50,000 WAS EVER GOING TO BE GIVEN.

22 THE COURT: REPHRASE THE QUESTION.

23 Q. BY MR. LEVIN: DID "HARD COPY" AND YOU
24 DISCUSS THE NUMBER \$50,000 IN CONNECTION WITH CHARITY IN
25 ANY WAY?

26 A. NO.

27 Q. THEY ESSENTIALLY SAID: WE COULD GIVE YOU
28 UP TO \$50,000, MR. CIGNARELLI?

1 A. NO.

2 Q. WELL, HOW -- TELL ME THE CONTEXT OF THE
3 \$50,000 AS RELATED TO YOU BY "HARD COPY".

4 A. I ASKED THEM WHAT THEY PAID FOR INTERVIEWS,
5 AND THEY SAID: WELL, THE LARGEST WE HAVE DONE IS -- I
6 DON'T REMEMBER THE EXACT AMOUNT, BUT IT WAS SOMEWHERE
7 NEAR \$500,000, AND THEY SAID, YOU KNOW, YOUR TESTIMONY
8 CAN BE WORTH ANYWHERE FROM 50,000 DOWN TO 2000 TO
9 1000 -- YOU KNOW, TO VIRTUALLY NOTHING.

10 Q. YOUR TESTIMONY COULD BE WORTH FROM \$50,000
11 DOWN TO NOTHING?

12 A. I'M SORRY, NOT YOUR TESTIMONY. YOUR
13 INFORMATION.

14 Q. DEPENDING -- I UNDERSTAND. YOU'RE NOT
15 UNDER OATH WHEN YOU TALKED TO "HARD COPY", CORRECT?

16 BUT THEY SAID THAT IT COULD BE WORTH UP TO
17 \$50,000 DOWN TO \$2000 DEPENDING ON THE NEWSWORTHINESS OF
18 THE INFORMATION THAT YOU GIVE THEM?

19 A. NOT NECESSARILY, NO.

20 Q. NOW, YOU THEN INDICATED, I BELIEVE, THAT
21 THEY ACTUALLY OFFERED YOU \$35,000, BUT YOU SAID YOU ONLY
22 NEEDED \$25,000.

23 DO YOU REMEMBER THAT TESTIMONY?

24 A. YES.

25 Q. OKAY. AND THAT WAS "HARD COPY" TELLING YOU
26 THAT THEY WOULD GIVE YOU \$35,000, CORRECT?

27 A. THEY SAID, "WE COULD PROBABLY OFFER YOU
28 \$35,000. WE COULD SEE THAT ARRANGEMENT BEING MADE."

1 Q. AND THAT WAS A STATEMENT FROM "HARD COPY"
2 THAT WAS NOT INITIATED BY YOU, CORRECT?

3 A. THAT'S CORRECT.

4 Q. AND ARE YOU AS CERTAIN OF THAT TESTIMONY AS
5 YOU ARE OF THE STATEMENTS THAT YOU ATTRIBUTE IN THIS
6 TRIAL --

7 MS. NAJERA: I AM GOING TO OBJECT.

8 MR. LEVIN: -- TO ERIK MENENDEZ?

9 MS. NAJERA: I AM GOING TO OBJECT AS
10 ARGUMENTATIVE.

11 THE COURT: SUSTAINED.

12 Q. BY MR. LEVIN: ARE YOU CERTAIN THAT IT WAS
13 "HARD COPY" THAT MENTIONED \$35,000?

14 A. YES.

15 Q. ARE YOU CERTAIN OF THE STATEMENTS THAT YOU
16 ATTRIBUTE TO MY CLIENT, ERIK MENENDEZ?

17 A. YES.

18 Q. NOW, OF THE \$35,000 THAT THEY TALKED ABOUT,
19 WAS THERE A DISCUSSION ABOUT CHARITY?

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

21 Q. AND YOU TOLD THEM: "I DON'T NEED THAT
22 MUCH, I ONLY NEED \$25,000," CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND THEN HOW DID THE DISCUSSION OF CHARITY
25 COME UP?

26 A. BECAUSE I INCLUDED IT IN THE BREAKDOWN OF
27 THE \$25,000. I ASKED THAT \$5000 BE GIVEN TO CHARITY. I
28 KNEW APPROXIMATELY HOW MUCH I NEEDED FOR TAXES. I KNEW

-16182

1 HOW MANY QUARTERS I TOOK OFF SCHOOL BECAUSE OF THE
2 TRIAL, AND SOME OF THE THINGS THAT DEALT WITH THE TRIAL,
3 AND I HAD TO RESIGN MY POSITION AS VICE-PRESIDENT OF
4 SANTA BARBARA, U.C. SANTA BARBARA, AND IT COST ME SOME
5 MONEY THAT I HAD TO PAY BACK.

6 BASICALLY I CAME UP TO THE NUMBER OF THE
7 FINANCIAL LOSSES THAT I HAD INCURRED OVER THE YEARS, AND
8 I SAID THAT'S WHAT I THINK SOMEONE DOING THEIR CIVIC
9 DUTY AND MAKING THE SACRIFICE TO GET UP ON THE STAND
10 SHOULD BE COMPENSATED FOR, AND NOT --

11 Q. GO AHEAD.

12 A. AND NOT AS A REWARD OR AS EXPLOITATION OF
13 THIS. I SIMPLY WANTED TO BE COMPENSATED FOR THE LOSSES
14 THAT I HAD INCURRED, BECAUSE I WAS A STUDENT AND I
15 COULDN'T AFFORD TO BE GOING THROUGH SCHOOL AND PAY FOR
16 IT AND INCURE THOSE LOSSES.

17 Q. AND THOSE WERE THE PRECISE THOUGHTS THAT
18 YOU TOLD TO WHOM?

19 A. NO -- THAT I TOLD TO WHOM?

20 Q. YES.

21 A. THOSE WERE THE PRECISE THOUGHTS THAT I TOLD

22 TO THE SENATE JUDICIARY IN SACRAMENTO.

23 Q. MR. CIGNARELLI, I AM TALKING ABOUT --

24 MS. NAJERA: YOUR HONOR, I AM GOING TO --

25 THE COURT: LET'S ASK ANOTHER QUESTION.

26 Q. BY MR. LEVIN: I ASKED YOU ABOUT YOUR

27 DISCUSSIONS WITH "HARD COPY". I AM NOT TALKING ABOUT

28 THE SENATE JUDICIARY COMMITTEE.

-16181

1 A. WELL, YOU ASKED ME WHO I EXPRESSED THOSE

2 THOUGHTS TO.

3 MR. LEVIN: I WANT TO MAKE IT CLEAR.

4 MS. NAJERA: YOUR HONOR, MAY THE WITNESS BE

5 ALLOWED TO ANSWER THE QUESTION.

6 THE COURT: MR. LEVIN, WHEN YOU PREFACE SOMETHING

7 LIKE THAT, THEN YOU ELICIT THE RESPONSE.

8 SO IF YOU DON'T WANT TO GET A RESPONSE TO

9 YOUR REMARKS, THEN DON'T MAKE THOSE REMARKS.

10 MR. LEVIN: I'M SORRY.

11 Q. THOSE EARLIER THOUGHTS THAT YOU JUST

12 RELATED TO THE JURY, DID YOU, MR. CIGNARELLI, TELL THOSE

13 THOUGHTS TO SOMEONE FROM "HARD COPY"?

14 A. NO, I DIDN'T.

15 Q. NOW, WERE YOU TRYING IN SOME WAY TO --

16 STRIKE THAT.

17 YOU SAID THAT "HARD COPY" MENTIONED

18 \$35,000. WAS THAT \$35,000 THAT THEY WERE WILLING TO
19 GIVE TO YOU FOR YOUR TESTIMONY?

20 MS. NAJERA: I AM GOING TO OBJECT TO THE WORD
21 "TESTIMONY," YOUR HONOR.

22 Q. BY MR. LEVIN: I AM SORRY. I WAS USING HIS
23 WORD. INTERVIEW?

24 A. NOT NECESSARILY.

25 Q. WELL, WHAT WERE THEY GOING TO GIVE YOU
26 \$35,000 FOR?

27 A. WELL, THEY WERE TALKING ABOUT GIVING
28 \$35,000 FOR MY INTERVIEW.

-16180

1 Q. AND YOU ARE ABSOLUTELY CERTAIN --
2 POSITIVE -- THAT YOU NEVER ASKED FOR \$50,000 FROM "HARD
3 COPY"?

4 A. I AM POSITIVE.

5 Q. AND ARE YOU -- STRIKE THAT.

6 SO TO BE CLEAR, YOU RECEIVED A CHECK FOR
7 \$25,000 FROM "HARD COPY"?

8 A. THAT'S CORRECT.

9 Q. AND YOU BELIEVE THAT YOU WERE DUTY-BOUND
10 UNDER SOME CONTRACTUAL OBLIGATION TO SEND \$5000 TO THE
11 CHARITY?

12 A. THAT'S CORRECT.

13 Q. AND TO WHOM DID YOU HAVE THAT

14 UNDERSTANDING -- WITH WHOM?

15 A. THE PRODUCER OF "HARD COPY".

16 Q. WHO?

17 A. LINDA BELL AND LINDA ELMAN. AGAIN, I AM

18 NOT SURE ABOUT THAT LAST NAME.

19 Q. WAS IT A PART OF THE CONTRACT THAT YOU

20 WOULD NOT RECEIVE \$25,000 UNLESS YOU SENT \$5000 TO

21 CHARITY?

22 A. NO, I DON'T BELIEVE IT WAS.

23 Q. SO YOU COULD HAVE DONE ANYTHING YOU WANTED

24 WITH THE \$25,000 THAT YOU RECEIVED FROM "HARD COPY",

25 CORRECT?

26 MS. NAJERA: I AM GOING TO OBJECT. ARGUMENTATIVE

27 AND IRRELEVANT.

28 THE COURT: OVERRULED.

-16179

1 THE WITNESS: NOT WITH MY UNDERSTANDING, NO. IT

2 WAS PART OF THE AGREEMENT, BUT NOT PART OF THE WRITTEN

3 CONTRACT.

4 Q. BY MR. LEVIN: WHEN YOU SAY PART OF THE

5 AGREEMENT BUT NOT PART OF THE WRITTEN CONTRACT, YOU ARE

6 TALKING ABOUT SOME ORAL DISCUSSIONS YOU HAD WITH THESE

7 TWO PEOPLE?

8 A. THAT'S CORRECT. AND PART OF THAT WAS

9 WRITTEN IN THE CONTRACT, THAT THEY WOULD MAKE MENTION OF

10 THE DONATION TO CHARITY, AND AS THEM MAKING MENTION --
11 WELL, I INTENDED TO DO IT, AND THEY KNEW I INTENDED TO
12 DO IT, AND THAT WAS HOW THE AGREEMENT WAS.

13 Q. SO MR. CIGNARELLI, PART OF THE DEAL WAS
14 THAT YOU'RE NOT GOING TO BE TOO ANONYMOUS WITH RESPECT
15 TO YOUR PHILANTHROPIC DEEDS OF DONATING MONEY TO
16 CHARITY.

17 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

18 THE COURT: REPHRASE THE QUESTION.

19 Q. BY MR. LEVIN: AS PART OF THE CONDITION FOR
20 YOU TO GRANT "HARD COPY" AN INTERVIEW, PART OF IT
21 INCLUDED THEN, AS MS. MURPHY DID AT THE END OF THE TAPE,
22 TELLING THE NATIONAL AUDIENCE THAT YOU, CRAIG
23 CIGNARELLI, HAD MADE A SIZEABLE DONATION TO CHARITY?

24 A. TO CHILD ABUSE LISTENING AND MEDIATION, SO
25 GENUINELY AFFECTED -- OR GENUINELY ABUSED CHILDREN WOULD
26 BENEFIT.

27 Q. AND THAT WAS PART OF THE AGREEMENT IN THE
28 CONTRACT THAT YOU HAD WITH "HARD COPY", THAT THEY MAKE

-16178

1 MENTION OF YOUR CONTRIBUTION AT THE END OF YOUR
2 INTERVIEW?

3 A. YES.

4 Q. THEN WHY, MR. CIGNARELLI, DID YOU WANT TO
5 BE ANONYMOUS?

6 A. I WANTED TO BE ANONYMOUS TO THE
7 ORGANIZATION THAT I MADE THE DONATION TO.

8 Q. WHY?

9 A. BECAUSE I WASN'T OUT THERE TO TAKE CREDIT.
10 I WAS IN A POSITION IN SANTA BARBARA WHERE I DIDN'T WANT
11 TO BE MAKING MYSELF BIGGER THAN LIFE, AND, YOU KNOW, IT
12 JUST -- IT WAS SOMETHING I WANTED TO DO OUT OF MY HEART,
13 AND I DIDN'T WANT THEM TO BE WRITING ME THANK YOU
14 LETTERS AND MAKING A BIG DEAL OUT OF IT.

15 I MEAN, IT SEEMS TO ME THAT WAS A PRETTY
16 GENEROUS DONATION, AND YOU KNOW, I DIDN'T WANT TO BE IN
17 THE PAPERS OR ANYTHING FOR IT.

18 Q. IF YOU WEREN'T OUT THERE TO TAKE CREDIT,
19 MR. CIGNARELLI, WHY DID YOU MAKE IT PART OF YOUR
20 AGREEMENT WITH "HARD COPY" REQUIRING THEM TO TELL A
21 NATIONAL TELEVISION AUDIENCE OF YOUR DONATION.

22 MS. NAJERA: I AM GOING TO OBJECT. IT ASSUMES A
23 FACT NOT IN EVIDENCE, THAT HE MADE THEM DO IT.

24 THE COURT: OVERRULED.

25 THE WITNESS: WELL, THE REASON BEING THAT I
26 WANTED THEM TO SAY ON THE AIR THAT MONEY WAS GIVEN SO
27 GENUINELY ABUSED CHILDREN WOULD BENEFIT, AND THAT WAS --

28 Q. AND YOU WOULD LOOK LIKE A GOOD GUY; IS THAT

2 A. NO. ACTUALLY MORE THAN THAT.

3 Q. ALL RIGHT.

4 MR. CIGNARELLI, I JUST WANT TO CONCLUDE
5 WITH THE FAX, BECAUSE I OMITTED TO READ A COUPLE OF
6 LINES IN IT, AND I JUST WANTED TO MAKE IT CLEAR THAT
7 THIS WAS YOUR WRITING AND THESE WERE YOUR THOUGHTS.

8 YOU WROTE ON IT:

9 "ATTENTION HOMICIDE:

10 "FATE AND CIRCUMSTANCE SOMETIMES
11 FORGE UNEXPECTED ALLIES. AS I WALK
12 THROUGH THE VALLEY OF THE SHADOW OF DEATH,
13 I SHALL FEAR NO EVIL. BETRAYAL SIGNIFIES
14 EVIL. LYING IS AN ART, NECESSITATING
15 ACTS, NOT FUELED BY GREED. THUS YOU SHALL
16 SUFFER FROM IGNORANCE. YOU ARE NOT TO BE
17 TRUSTED.

18 "AND AS THEY LOOKED OUT OVER
19 THEIR EMPIRE, THEY WERE SADDENED, FOR
20 THERE WERE NO MORE LANDS LEFT TO CONQUER.

21 "HAMILTON CROMWELL."

22 THAT'S THE MESSAGE YOU SENT TO DETECTIVE
23 ZOELLER, CORRECT?

24 A. YES.

25 MR. LEVIN: THANK YOU.

26 NOTHING FURTHER.

27 THE COURT: ANYTHING ELSE?

28 MS. NAJERA: YES, YOUR HONOR.

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-16175

1 FURTHER REDIRECT EXAMINATION

2 BY MS. NAJERA:

3 Q. MR. CIGNARELLI, WHEN MR. LEVIN WAS ASKING
4 YOU ABOUT WHY YOU WANTED "HARD COPY" TO SAY THAT YOU
5 WERE GIVING A DONATION TO A SHELTER FOR ABUSED
6 CHILDREN -- FOR GENUINELY ABUSED CHILDREN -- WHAT WERE
7 YOU TRYING TO SAY?

8 MR. LEVIN: YOUR HONOR, I WOULD ASK TO APPROACH.

9 THE COURT: ON WHAT? ON THIS ANSWER TO THIS
10 QUESTION?

11 MR. LEVIN: ON HIS ANSWER TO THIS QUESTION.

12 THE COURT: OVERRULED.

13 THE WITNESS: I WAS TRYING TO SAY THAT I
14 ABSOLUTELY DO NOT BELIEVE THE DEFENSE THAT IS BEING
15 OFFERED, AND WHEN I SAID "GENUINELY ABUSED CHILDREN," I
16 WANTED THEM TO BENEFIT, AND NOT THESE TWO.

17 MR. LEVIN: YOUR HONOR, I WOULD OBJECT TO THE
18 WITNESS' ANSWER AND ASK THAT IT BE STRICKEN.

19 THE COURT: WELL, THIS IS JUST HIS EXPLANATION
20 WHICH WAS COVERED ON BRIEF CROSS-EXAMINATION AS TO THIS
21 WITNESS' STATE OF MIND AND FOR NO OTHER REASON.

22 SO OVERRULED. IT'LL BE RECEIVED JUST FOR

23 THE PURPOSE OF REFLECTING THIS WITNESS' STATE OF MIND ON
24 THE SUBJECT OF THE CHARITABLE DONATION THAT WE'VE HAD
25 TESTIMONY ABOUT.

26 Q. BY MS. NAJERA: NOW, MR. CIGNARELLI, WHEN
27 MR. LEVIN ASKED YOU SPECIFICALLY WHICH CHARITABLE
28 ORGANIZATION YOU GAVE THIS DONATION TO, I NOTICED THAT

-16174

1 YOU HESITATED AND LOOKED AT ME.

2 NOW, CAN YOU TELL THE JURY WHY YOU
3 HESITATED?

4 A. BECAUSE BEFORE WE CAME IN, YOU HAD SAID
5 "DON'T MENTION THE ABUSE ORGANIZATION, YOU'RE NOT
6 SUPPOSED TO."

7 Q. AND DID I TELL YOU THAT WAS IN RESPONSE TO
8 AN ORDER BY THE COURT?

9 MR. LEVIN: OBJECTION, YOUR HONOR. THAT'S
10 HEARSAY, AND THE ANSWER IS IN.

11 THE COURT: OVERRULED.

12 Q. BY MS. NAJERA: DID I TELL YOU THAT WAS IN
13 RESPONSE TO A DIRECT ORDER FROM THE COURT THAT YOU WERE
14 NOT TO MENTION THE NAME OF THE CHARITABLE ORGANIZATION?

15 A. YES. YES.

16 Q. AND YOU WERE NOT TRYING TO HIDE THE NAME OF
17 THE CHARITABLE ORGANIZATION, WERE YOU?

18 A. NO. I WAS CHECKING TO SEE IF IT WAS OKAY

19 TO SAY IT.

20 Q. AND YOU HAD BEEN TOLD THAT THE COURT HAD
21 ORDERED YOU NOT TO TELL -- NOT TO SAY THE NAME OF THAT
22 ORGANIZATION HERE IN COURT.

23 MR. LEVIN: OBJECTION, YOUR HONOR.

24 THE WITNESS: CORRECT.

25 Q. BY MS. NAJERA: IS THAT CORRECT?

26 THANK YOU.

27 I HAVE NOTHING FURTHER.

28 THE COURT: MR. LEVIN?

-16173

1 FURTHER RECROSS-EXAMINATION

2 BY MR. LEVIN:

3 Q. DID JUDGE WEISBERG TELL YOU YOU WEREN'T
4 SUPPOSED TO SAY THE NAME OF THE CHARITABLE ORGANIZATION
5 IN THIS COURTROOM?

6 MS. NAJERA: YOUR HONOR, I WOULD OBJECT AND ASK
7 THE COURT TO TAKE JUDICIAL NOTICE OF WHAT THE COURT'S
8 RULINGS WERE EARLIER.

9 THE COURT: WHAT ARE YOU ASKING, WHETHER IT WAS
10 ME SAYING IT, OR WHETHER IT WAS COMMUNICATED THROUGH
11 SOMEONE ELSE?

12 MR. LEVIN: WHETHER YOU SAID IT. I SPECIFICALLY
13 ASKED THE WITNESS IF --

14 THE COURT: I'M SORRY?

15 MR. LEVIN: I WILL TAKE IT UP WITH THE COURT IN A
16 MOMENT.

17 THE COURT: OKAY.

18 THE RECORD SHOULD REFLECT THAT WHEN WE HAVE
19 HEARINGS WITHOUT THE JURY PRESENT, THERE ARE CERTAIN
20 DISCUSSIONS THAT OCCASIONALLY OCCUR IN REGARD TO
21 TESTIMONY OF WITNESSES, AND SOMETIMES ONE SIDE OR THE
22 OTHER REQUESTS THAT CERTAIN THINGS NOT BE GONE INTO, AND
23 THEN THE COURT ISSUES ORDERS AND INSTRUCTS COUNSEL TO
24 INFORM THE WITNESS OF THESE MATTERS.

25 YOU MAY GO AHEAD WITH YOUR EXAMINATION.

26 Q. BY MR. LEVIN: MR. CIGNARELLI, SO YOU WILL
27 ADMIT, WILL YOU NOT, THAT YOU ARE A BIASED WITNESS
28 AGAINST THE DEFENSE IN THIS CASE?

-16172

1 MS. NAJERA: YOUR HONOR, ARGUMENTATIVE, AND I
2 WOULD ASK --

3 THE COURT: OVERRULED. OVERRULED.

4 Q. BY MR. LEVIN: YES OR NO?

5 A. COULD YOU DEFINE BIASED?

6 Q. YES. YOU DON'T BELIEVE THE DEFENSE IN THIS
7 CASE, AS YOU TESTIFIED TO -- IN ANSWER TO A QUESTION
8 POSED TO YOU BY MS. NAJERA, CORRECT?

9 A. I DON'T BELIEVE THEY WERE EVER ABUSED, NO.

10 Q. AND YOU FELT SO STRONGLY ABOUT THAT THAT

11 YOU MADE THIS CONTRIBUTION TO THIS FOUNDATION, CORRECT?

12 A. THAT'S CORRECT.

13 Q. THE FOUNDATION FOR WHICH YOU HAVE NO

14 RECORDS, CORRECT?

15 A. THAT IS CORRECT.

16 Q. AND ARE YOU ADMITTING THAT YOU ARE

17 BIASED -- THAT YOU ARE -- YOU DISBELIEVE THE DEFENSE,

18 THAT YOU FEEL THAT THE DEFENDANTS SHOULD BE CONVICTED?

19 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT.

20 THAT'S AN IMPROPER QUESTION. IT'S IRRELEVANT, AND IT'S

21 ARGUMENTATIVE.

22 THE COURT: WHY DON'T YOU REPHRASE IT.

23 MR. LEVIN: I HAVE NOTHING FURTHER.

24 MR. GESSLER: MAY WE HAVE A MOMENT, YOUR HONOR?

25 THE COURT: SURE.

26 (DEFENSE ATTORNEYS CONFER

27 SOTTO VOCE)

28

-16171

1 Q. BY MR. LEVIN: MR. CIGNARELLI, DID YOU

2 WATCH THE FIRST TRIAL IN THIS CASE?

3 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT.

4 THE COURT: OVERRULED.

5 THE WITNESS: THE ENTIRE THING? NO.

6 Q. BY MR. LEVIN: WELL, DID YOU WATCH PARTS OF

7 IT?

8 A. YEAH, I BELIEVE SO.

9 Q. WELL, DID YOU SEE OR HEAR THE TESTIMONY OF
10 MEDICAL EXPERTS AND PSYCHIATRISTS WHO ALL TESTIFIED THAT
11 THEY BELIEVE THAT LYLE AND ERIK MENENDEZ WERE ABUSED?

12 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
13 THIS WHOLE LINE OF QUESTIONING AS IMPROPER.

14 THE COURT: SUSTAINED.

15 Q. BY MR. LEVIN: DID YOU HEAR THE
16 TESTIMONY --

17 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
18 ANY QUESTIONS CONCERNING TESTIMONY IN THE ENTIRE TRIAL.

19 THE COURT: YOU HAVE TO REFER TO HIS STATE OF
20 MIND, WHICH WAS THE ONLY LIMITED REASON WHY THAT ANSWER
21 WAS GIVEN.

22 SO YOU HAVE TO REFER TO THAT IN SOME OTHER
23 WAY.

24 MR. LEVIN: WELL, I WANT TO KNOW HOW DEEPLY HIS
25 BIAS IS, YOUR HONOR.

26 THE COURT: WELL, IT WILL HAVE TO BE EXPLORED IN
27 SOME OTHER FASHION OTHER THAN THE WAY YOU'RE DOING IT.

28 MR. GESSLER: MAY WE HAVE A MOMENT, YOUR HONOR?

-16170

1 THE COURT: SURE.

2 (DEFENSE ATTORNEYS CONFER

3 SOTTO VOCE)

4

5 Q. BY MR. LEVIN: WHAT IS THE BASIS OF YOUR
6 BELIEF THAT ERIK MENENDEZ WAS NOT ABUSED?

7 A. WELL, I WAS HIS BEST FRIEND FOR TWO AND A
8 HALF YEARS. HE CONFESSED KILLING HIS PARENTS TO ME.
9 NEVER SAID A WORD ABOUT ABUSE.

10 HE HAD GIRLFRIENDS IN HIGH SCHOOL. HE -- I
11 SPENT MANY, MANY, MANY HOURS WITH HIM DISCUSSING
12 VIRTUALLY EVERY TOPIC IMAGINABLE. WE HAD A VERY, VERY
13 CLOSE FRIENDSHIP WHERE WE DISCUSSED ALL TYPES OF ISSUES
14 RELATING TO THE FAMILY, TO SPORTS, TO GIRLS, TO
15 AMBITIONS, BUSINESS OPPORTUNITIES AND DREAMS.

16 THIS WAS MY BEST FRIEND, WHO CONFIDED
17 EVERYTHING TO ME, AND WHO I CONFIDED A HELLUVA LOT TO.
18 AND NEVER A WORD, AND NEVER A MARK, AND
19 NEVER ANY SIGN THAT THIS EXISTED.

20 Q. MR. CIGNARELLI, YOU DIDN'T KNOW ERIK
21 MENENDEZ BEFORE 1987, DID YOU?

22 A. THAT'S CORRECT.

23 Q. AND YOU HAD RATHER LIMITED CONTACT WITH
24 LYLE MENENDEZ; IS THAT CORRECT?

25 A. THAT'S CORRECT.

26 Q. NOW, WAS MR. MENENDEZ A SCARY PERSON?

27 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT.

28 THE COURT: SUSTAINED.

1 Q. BY MR. LEVIN: ARE YOU SAYING THAT YOU
2 NEVER WITNESSED ANY BEHAVIOR ON THE PART OF JOSE
3 MENENDEZ THAT WOULD CAUSE YOU TO BELIEVE THAT HE WAS
4 CAPABLE OF KILLING SOMEONE?

5 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT AS
6 IRRELEVANT.

7 THE COURT: WHY DON'T YOU REPHRASE THE QUESTION?

8 Q. BY MR. LEVIN: YOU DON'T BELIEVE --

9 MS. NAJERA: YOUR HONOR, I AM GOING TO ASK TO
10 APPROACH ON THIS SUBJECT.

11 THE COURT: ON THIS PARTICULAR SUBJECT, THERE IS
12 NO NEED TO APPROACH.

13 YOU MAY REPHRASE THE QUESTION.

14 Q. BY MR. LEVIN: MR. CIGNARELLI, YOU BELIEVE
15 THAT THE DEFENSE IN THIS CASE IS MADE UP, CORRECT?

16 A. NO. I BELIEVE THAT THE BROTHERS WERE NOT
17 ABUSED.

18 Q. AND YOU BELIEVE THAT JOSE MENENDEZ DID NOT
19 ABUSE ERIK MENENDEZ, CORRECT?

20 A. THAT'S CORRECT.

21 Q. AND DID JOSE MENENDEZ EVER ABUSE YOU?

22 MS. NAJERA: I AM GOING TO OBJECT, YOUR HONOR.
23 ASK TO APPROACH.

24 THE COURT: OVERRULED.

25 YOU CAN ANSWER THE QUESTION.

26 THE WITNESS: DID HE EVER ABUSE ME? NO.

27 Q. BY MR. LEVIN: HE THREATENED TO KILL YOU,

-16168

1 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT

2 UNDER 352.

3 THE COURT: OVERRULED.

4 YOU CAN ANSWER THE QUESTION.

5 THE WITNESS: YES, HE DID ONCE.

6 MR. LEVIN: THANK YOU.

7 NOTHING FURTHER.

8 THE COURT: ANYTHING ELSE?

9 MS. NAJERA: YES, YOUR HONOR.

10

11 FURTHER REDIRECT EXAMINATION

12 BY MS. NAJERA:

13 Q. AFTER THE CALABASAS INCIDENT WHERE ERIK

14 MENENDEZ GOT INTO ALL THAT TROUBLE FOR BEING INVOLVED IN

15 THE BURGLARIES AND THE FAMILY MOVED TO BEVERLY HILLS,

16 DID YOU GO TO THE HOME -- TO THEIR HOME AND SEE ERIK

17 MENENDEZ?

18 A. YES.

19 Q. AND WAS JOSE MENENDEZ ANGRY AT SEEING YOU

20 THERE?

21 A. YES.

22 Q. DID HE BLAME YOU FOR ERIK GETTING CAUGHT IN

23 THOSE CALABASAS BURGLARIES?

24 A. I DON'T KNOW.

25 Q. DID HE GET MAD AT YOU AND THREATEN YOU
26 THEN?

27 A. YES.

28 Q. DID HE SOUND LIKE AN IRATE FATHER?

-16167

1 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR AN
2 OPINION AND A CONCLUSION.

3 THE COURT: SUSTAINED.

4 Q. BY MS. NAJERA: WELL, WHEN YOU OBSERVED
5 HIM, DID HE APPEAR TO BE AN IRATE FATHER?

6 MR. LEVIN: OBJECTION, YOUR HONOR. SAME GROUNDS.

7 THE COURT: SUSTAINED.

8 Q. BY MS. NAJERA: DID HE APPEAR TO BE A
9 FATHER WHO FELT THAT HIS SON WAS WITH SOMEBODY HE DIDN'T
10 WANT HIS SON TO BE WITH?

11 MR. LEVIN: OBJECTION. CALLS FOR SPECULATION.

12 THE COURT: SUSTAINED.

13 Q. BY MS. NAJERA: WAS HE ACTING LIKE AN
14 OVER-PROTECTIVE FATHER?

15 MR. LEVIN: OBJECTION, YOUR HONOR. CALLS FOR
16 SPECULATION.

17 THE COURT: SUSTAINED.

18 Q. BY MS. NAJERA: DID HE APPEAR TO BE ANGRY
19 AT YOU?

20 A. YES.
21 Q. AND HE THREATENED YOU; IS THAT RIGHT?
22 A. YES.
23 Q. DID HE NOT THREATEN THE DEFENDANT, ERIK
24 MENENDEZ; IS THAT RIGHT?
25 A. NO.
26 Q. I PUT THAT IN THE NEGATIVE.
27 DID HE THREATEN THE DEFENDANT, ERIK
28 MENENDEZ?

-16166

1 A. NO.
2 Q. NOT AT ALL?
3 A. NO.
4 MS. NAJERA: THANK YOU.
5 I HAVE NOTHING FURTHER.
6 THE COURT: OKAY. ANYTHING ELSE?
7
8 FURTHER CROSS-EXAMINATION
9 BY MR. LEVIN:
10 Q. HE HAD A GUN, DIDN'T HE, MR. CIGNARELLI?
11 A. NOT THAT I SAW.
12 MS. NAJERA: YOUR HONOR, I WOULD OBJECT TO ANY
13 FURTHER QUESTIONS ALONG THIS LINE.
14 THE COURT: OVERRULED.
15 Q. BY MR. LEVIN: WHO WERE YOU WITH WHEN JOSE

16 MENENDEZ THREATENED TO KILL YOU?

17 A. STEVE AINBINDER AND ERIK.

18 Q. DID STEVE AINBINDER SEE A GUN?

19 MS. NAJERA: I AM GOING TO OBJECT TO ANYTHING

20 THAT WOULD BE HEARSAY.

21 THE COURT: SUSTAINED.

22 Q. BY MR. LEVIN: DID ERIK MENENDEZ EVER TELL

23 YOU THAT HIS MOTHER WAS SUICIDAL?

24 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT.

25 THE COURT: SUSTAINED.

26 Q. BY MR. LEVIN: YOU SAID THAT YOU HAD SUCH A

27 CLOSE RELATIONSHIP WITH ERIK MENENDEZ THAT YOU KNEW

28 EVERYTHING ABOUT HIM, CORRECT?

-16165

1 A. NO. I SAID WE KNEW ALMOST EVERYTHING ABOUT

2 EACH OTHER. WE CONFIDED VIRTUALLY EVERYTHING TO EACH

3 OTHER.

4 Q. WELL, HOW DO YOU KNOW WHAT HE DIDN'T TELL

5 YOU?

6 MS. NAJERA: I AM GOING TO OBJECT, YOUR HONOR.

7 CALLS FOR SPECULATION. I DON'T THINK THAT'S A PROPER

8 QUESTION.

9 THE COURT: WELL, IT IS THAT.

10 Q. BY MR. LEVIN: DID ERIK MENENDEZ EVER SAY

11 ONE BAD WORD ABOUT HIS MOTHER?

12 MS. NAJERA: OBJECTION. IRRELEVANT.
13 THE COURT: SUSTAINED.
14 Q. BY MR. LEVIN: DID ERIK MENENDEZ EVER SAY
15 ONE BAD WORD TO YOU ABOUT HIS FATHER?
16 MS. NAJERA: OBJECTION. IRRELEVANT.
17 THE COURT: SUSTAINED.
18 MR. LEVIN: NOTHING FURTHER, YOUR HONOR.
19 MS. ABRAMSON: BUT WE DON'T WANT THIS WITNESS
20 EXCUSED, YOUR HONOR.
21 THE COURT: OKAY. ANYTHING ELSE?
22 MS. NAJERA: NOTHING FROM THE PEOPLE, YOUR HONOR.
23 THE COURT: OKAY. YOU MAY STEP DOWN. YOU ARE
24 EXCUSED AT THIS MOMENT, TODAY, BUT YOU ARE SUBJECT TO
25 BEING RECALLED UPON NOTICE FROM THE PROSECUTION OR THE
26 DEFENSE.
27 WE WILL RESUME ON MONDAY AT 8:30.
28 BEFORE WE LEAVE FOR THE DAY AND BEFORE WE

-16164

1 EXCUSE THE JURY FOR THE DAY, JUST A FEW MATTERS.
2 FIRST OF ALL, I HAVEN'T TALKED TO YOU FOR
3 QUITE AWHILE ON THE SUBJECT OF ANY EXPOSURE ANY OF YOU
4 MIGHT HAVE HAD TO THIS CASE OUTSIDE OF THE COURTROOM, SO
5 LET ME DO THAT NOW.
6 HAVE ANY OF YOU BEEN EXPOSED TO ANYTHING
7 ABOUT THIS CASE IN ANY FORM, WHETHER IT'S IN THE NEWS

8 MEDIA, CONVERSATIONS WITH OTHERS, OVERHEARING ANYTHING
9 IN ANY FORM OR SEEING ANYTHING IN ANY FORM ABOUT THIS
10 CASE OUTSIDE OF THE COURTROOM SINCE WE LAST SPOKE ABOUT
11 THIS CASE?

12 OKAY. LET'S SEE. HOW MANY PEOPLE ARE
13 RAISING THEIR HANDS? ONE, TWO, THREE, FOUR. OKAY.

14 IF YOU'D ALL GO INTO THE JURY ROOM, AND WE
15 WILL TALK TO YOU INDIVIDUALLY ABOUT IT.

16 JUROR NO. 1, YOU CAN STAY, SINCE YOU RAISED
17 YOUR HAND.

18 (THE JURY ENTERED THE JURY
19 ROOM AND THE FOLLOWING
20 PROCEEDINGS WERE HELD:)

21
22 THE COURT: OKAY. YES?

23 JUROR NO. 1: YOUR PHRASEOLOGY OBLIGES ME TO
24 RAISE MY HAND.

25 THE COURT: OKAY.

26 JUROR NO. 1: BUT I MEAN, WHAT, YESTERDAY, THE
27 DAY BEFORE YESTERDAY, I HEARD ON THE NEWS THE DEFENSE
28 INTENDS TO REST. I MEAN, YOU KNOW.

-16163

1 THE COURT: OKAY. AND IS THAT --

2 JUROR NO. 1: IT HAD NO INFLUENCE ON ME, AND WILL
3 HAVE NO INFLUENCE ON ME.

4 THE COURT: OKAY. JUST THOSE WORDS, "THE DEFENSE
5 INTENDS TO REST"?
6 JUROR NO. 1: YES.
7 THE COURT: OKAY, ALL RIGHT.
8 THANK YOU VERY MUCH.
9 (JUROR NO. 1 EXITS THE COURTROOM)
10
11 THE COURT: LET'S GET JUROR NO. 10.
12
13 (JUROR NO. 10 ENTERS THE COURTROOM.)
14
15 THE COURT: HI.
16 JUROR NO. 10: HI.
17 THE COURT: WHAT HAVE YOU SEEN OR HEARD?
18 JUROR NO. 10: I JUST HAD A FEW PEOPLE TELL ME
19 YESTERDAY THEY HEARD THE DEFENSE HAD RESTED, AND I SAID,
20 "I KNOW," AND SO THEY SAID, "HOW MUCH LONGER DO YOU
21 THINK IT'LL BE," AND I SAID, "I DON'T KNOW. I CAN'T
22 SAY."
23 THE COURT: SO DID ANYONE TALK TO YOU ABOUT ANY
24 OF THE DETAILS, OR JUST THAT THEY HAD HEARD THE DEFENSE
25 HAD RESTED?
26 JUROR NO. 10: NOT THE DETAILS. I WOULDN'T, NO.
27 THE COURT: AND NOTHING ABOUT WHAT WAS GOING ON
28 IN THE TRIAL OTHER THAN THAT?

1 JUROR NO. 10: NO.

2 THE COURT: AND HOW LONG IT WOULD TAKE?

3 JUROR NO. 10: RIGHT.

4 THE COURT: AND YOU SAID YOU DIDN'T KNOW?

5 JUROR NO. 10: RIGHT.

6 THE COURT: WHICH YOU DON'T KNOW?

7 JUROR NO. 10: I DON'T KNOW.

8 THE COURT: ALL RIGHT. THANK YOU.

9 AND WOULD ANY OF THIS INFLUENCE YOU AT ALL
10 IN THIS CASE?

11 JUROR NO. 10: NO.

12 THE COURT: ALL RIGHT.

13 AND THEN JUROR NO. 11.

14

15 (JUROR NO. 10 EXITS THE COURTROOM,
16 AND JUROR NO. 11 ENTERS THE COURTROOM)

17

18 THE COURT: HI.

19 JUROR NO. 11: HI.

20 THE COURT: WHAT HAVE YOU SEEN OR HEARD?

21 JUROR NO. 11: I DIDN'T -- IT WAS LISTED IN THE
22 TELEVISION GUIDE ABOUT THERE WAS SOMETHING ON A AND E
23 LAST WEEK, AND I DIDN'T WATCH IT, BUT --

24 THE COURT: WHAT WAS IT, DO YOU KNOW?

25 JUROR NO. 11: IT JUST -- I GUESS IT'S THEY HAVE
26 THEIR BIOGRAPHY SERIES.

27 THE COURT: OKAY. AND YOU JUST SAW AN ENTRY IN
28 THE T.V. GUIDE OR THE L.A. TIMES T.V. SECTION?

1 JUROR NO. 11: YEAH. YEAH.

2 THE COURT: OKAY. YOU DIDN'T WATCH THE SHOW OR
3 READ ANYTHING IN DETAIL ABOUT WHAT IT WAS GOING TO BE?

4 JUROR NO. 11: THAT'S IT.

5 THE COURT: WOULD THAT INFLUENCE YOU AT ALL?

6 JUROR NO. 11: NO.

7 THE COURT: THANK YOU, SIR.

8 AND ONE OF THE ALTERNATES, THANK YOU. I
9 DON'T RECALL WHO. WE HAVE NUMBERED THEM.

10 (JUROR NO. 11 EXITS THE COURTROOM AND
11 ALTERNATE JUROR NO. 3 ENTERED
12 THE COURTROOM.)

13

14 THE COURT: HI.

15 ALTERNATE JUROR 3: GOOD AFTERNOON, YOUR HONOR.

16 THE COURT: YOU CAN HAVE A SEAT.

17 ALTERNATE JUROR 3: OH, THANK YOU.

18 THE COURT: WHAT HAVE YOU SEEN OR HEARD?

19 ALTERNATE JUROR 3: I HAD THE WEATHER REPORT ON
20 THIS MORNING ON CHANNEL FIVE, AND APPARENTLY SOME STORY
21 CAME ON ALONG THE LINES THAT ERIK'S FRIEND WAS GOING TO
22 TESTIFY.

23 SO AS SOON AS I HEARD "ERIK," I CLOSED THE
24 DOOR AND STARTED TRYING TO SING A SONG, BUT I DID HEAR
25 THAT PART, SO --

26 THE COURT: OKAY. AND OTHER THAN YOU HEARD --
27 DID YOU SEE OR HEAR THE NAME OF THE PERSON?
28 ALTERNATE JUROR 3: NO.

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1 Q. OR A DESCRIPTION OF THE INDIVIDUAL?
2 ALTERNATE JUROR 3: NO. THAT'S ALL I HEARD,
3 EXACTLY WHAT I TOLD YOU, YOUR HONOR.
4 THE COURT: AND WILL THAT INFLUENCE YOU AT ALL IN
5 THIS CASE?
6 ALTERNATE JUROR 3: NO.
7 THE COURT: DID YOU SING A GOOD SONG?
8 ALTERNATE JUROR 3: I DON'T KNOW WHAT I SANG. I
9 STARTED HUMMING REALLY LOUD. I PANICKED AND GOT A
10 LITTLE FREAKED, BECAUSE I WAS HEARING SOMETHING THAT I
11 KNOW I'M NOT SUPPOSED TO.
12 BUT OTHER THAN THAT, NO, SIR.
13 THE COURT: OKAY. AND I WILL JUST ASK THE
14 BAILIFF TO GO IN AND ASK IF ANYONE ELSE RAISED THEIR
15 HANDS OR SAW ANYTHING.
16 (ALTERNATE JUROR NO. 3 EXITED.
17 THE COURTROOM)
18
19 THE COURT: OKAY. LET'S GET THEM OUT AND I WILL
20 LET THEM GO.
21 (THE JURY ENTERED THE COURTROOM

22 AND THE FOLLOWING PROCEEDINGS
23 WERE HELD:)
24
25 THE COURT: OKAY. WE HAVE EVERYBODY BACK.
26 I JUST WANTED TO GIVE YOU THE ADMONITION
27 THAT I ALWAYS DO NOT TO DISCUSS THE CASE WITH ANYONE,
28 NOT TO FORM ANY FINAL OPINIONS ABOUT THE MATTER, NOT TO

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1 PERMIT YOURSELVES TO BE EXPOSED TO ANYTHING ABOUT THIS
2 CASE OUTSIDE OF THE COURTROOM IN ANY FORM WHATSOEVER.
3 HAVE A GOOD WEEKEND, AND WE WILL SEE YOU
4 ALL BACK HERE MONDAY AT 8:30.
5 (JURY EXITS THE COURTROOM AND
6 THE FOLLOWING PROCEEDINGS
7 WERE HELD:)
8
9 THE COURT: I WILL TALK TO COUNSEL ABOUT
10 SCHEDULING.
11 OKAY. THE JURY HAS LEFT NOW.
12 JUST TO INQUIRE, YOU HAVE PISARCIK COMING
13 IN MONDAY MORNING, AND OTHER THAN THE TWO MEDICAL -- OR
14 MENTAL HEALTH INDIVIDUALS, THAT'S THE END OF THE
15 PEOPLE'S REBUTTAL; IS THAT RIGHT?
16 MS. NAJERA: NO, YOUR HONOR. WE WILL BE CALLING
17 DETECTIVE ZOELLER AS WELL.

18 THE COURT: HOW LONG WILL HE TAKE?
19 MS. NAJERA: TWENTY MINUTES ON DIRECT.
20 THE COURT: OKAY.
21 SO THE DEFENSE INDICATES YOU MIGHT HAVE
22 SOME SURREBUTTAL AS TO MISS PISARCIK.
23 HOW LONG WILL THOSE WITNESSES TAKE?
24 MS. ABRAMSON: NOT VERY LONG, BUT THE PROBLEM IS
25 I AM NOT SURE WE WILL HAVE THEM. IT DEPENDS SORT OF ON
26 HER TESTIMONY.
27 THE COURT: WELL, IT WOULD HELP IF YOU COULD HAVE
28 THEM HERE JUST IN CASE.

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1 MS. ABRAMSON: I KNOW.
2 THE COURT: SO THAT THEN WE COULD SWING TO THAT
3 PHASE OF IT, AND THEN TAKE THE BREAK TO GIVE YOU TIME TO
4 PREPARE.
5 MS. ABRAMSON: WE MAY ALSO HAVE SOME SURREBUTTAL
6 ON MR. CIGNARELLI MONDAY.
7 THE COURT: THAT'S FINE. IF YOU DO, THEN WE CAN
8 UTILIZE THAT TIME AS WELL, AND THEN TAKE A BREAK FOR
9 PREPARATION FOR DR. DIETZ AND ALSO FOR THE RECEIPT OF
10 AND REVIEW OF A REPORT FROM DR. RESTAK.
11 AND ANYTHING ELSE NOW THAT WE CAN DISCUSS
12 REGARDING THE EVENTS THIS WEEKEND, OR PREPARATION FOR
13 DR. DIETZ?

14 MS. ABRAMSON: WELL, WE ARE GOING TO NEED A -- I
15 AM WAITING TO HEAR FROM MR. CONN ABOUT WHAT HE WANTS TO
16 EXAMINE DR. DIETZ ON, BUT THERE IS NO QUESTION THAT WE
17 ARE GOING TO NEED A 402 HEARING SEEKING LIMITATIONS
18 UNDER SECTION 29 AND OTHER PROVISIONS OF WHAT HE CAN GET
19 INTO.

20 THE COURT: RIGHT. OKAY.

21 ALL RIGHT THEN. WE WILL TAKE A RECESS AND
22 WE WILL RESUME MONDAY AT 8:30.

23 (AT 4:45 P.M. PROCEEDINGS WERE

24 ADJOURNED UNTIL 8:30 A.M.

25 THE FOLLOWING DAY)
26
27
28

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)
VS.) NO. BA 068880
)

ERIK GALEN MENENDEZ, AND)
9 JOSEPH LYLE MENENDEZ,)
)
10 DEFENDANTS.)
)
11

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 FRIDAY, FEBRUARY 2, 1996

14 VOLUME 289

15

16

17

18

19

20

APPEARANCES:
21 (SEE APPEARANCE PAGE)

22

23

24

25

26

27

28

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2

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PUBLIC DEFENDER

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22 CSR NO. 5178
MARILYN FADALE,
23 CSR NO. 4547
OFFICIAL REPORTERS
24
25
26
27
28

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12 (CON'D) 49272-L 49279-N 49339-L 289

(FURTHER) 49361-N 49363-L 289

13 (FURTHER) 49368-N 289

14

15

LEGEND:

16

A = MS. ABRAMSON

17 C = MR. CONN

G = MR. GESSLER

18 K = MS. TOWERY

L = MR. LEVIN

19 N = MS. NAJERA

20

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2 EXHIBITS: MARKED RECEIVED VOL.

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