

1 VAN NUYS, CALIFORNIA; WEDNESDAY, FEBRUARY 21, 1996

2 10:00 A.M.

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

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6 (MARILYN A. FADALE, OFFICIAL REPORTER)

7

8 THE COURT: ALL RIGHT.

9 THE RECORD WILL REFLECT THE PARTIES ARE IN

10 COURT, THE DEFENDANTS AND COUNSEL.

11 MS. ABRAMSON: SORRY, YOUR HONOR.

12 THE COURT: OKAY. BOTH MS. ABRAMSON AND

13 MS. NAJERA WERE LATE. LET'S SEE IF WE CAN AVOID IT.

14 MS. ABRAMSON: I DID WANT TO SPROUT WINGS AND FLY

15 RIGHT OVER THE FREEWAY AT THAT POINT, BUT IT WASN'T

16 WORKING.

17 THE COURT: LET'S GET THE JURY OUT, PLEASE.

18 (THE JURY ENTERS THE COURTROOM

19 AND THE FOLLOWING PROCEEDINGS

20 WERE HELD:)

21

22 THE COURT: THE JURY IS IN THE JURY BOX.

23 GOOD MORNING, LADIES AND GENTLEMEN.

24 SORRY FOR THE DELAY. A COUPLE OF THE

25 ATTORNEYS HAD WEATHER-RELATED TRAFFIC PROBLEMS AND HAD

26 TROUBLE GETTING HERE.

27 THEY'RE ALL HERE NOW, AND WE ARE READY TO

28 RESUME, AND WE WILL CONTINUE WITH THE ARGUMENT WITH THE

1 PROSECUTION.

2 MR. CONN: THANK YOU, YOUR HONOR.

3 LADIES AND GENTLEMEN, ONE OF THE POINTS  
4 THAT I WAS MAKING YESTERDAY, YOU WILL RECALL, IS THAT  
5 YOU STAY FOCUSED ON THE ULTIMATE ISSUE IN THIS CASE.

6 AND I GAVE YOU AS ONE OF THE EXAMPLES THAT  
7 COULD CAUSE A DEVIATION FROM YOUR FOCUS, OR A SIDESTEP  
8 FROM YOUR PROPER FOCUS, THE ISSUE OF ABUSE. IF YOU WERE  
9 TO SPEND ALL YOUR TIME TALKING ABOUT WHETHER OR NOT THE  
10 DEFENDANTS WERE ABUSED, THAT WOULD BE ONE WAY OF VEERING  
11 AWAY, OR STEERING AWAY FROM THE REAL ULTIMATE ISSUE IN  
12 THIS CASE, WHICH IS THE DEFENDANT'S STATE OF MIND AT THE  
13 TIME OF THE COMMISSION OF THE CRIME.

14 BUT I WANT TO EXPAND UPON THAT BEFORE I GO  
15 FURTHER IN DISCUSSING THE WITNESSES WHO TESTIFIED. I  
16 WANT TO MAKE THAT JUST A LITTLE BIT CLEARER TO YOU IN A  
17 SLIGHTLY DIFFERENT CONTEXT, AND THAT CONTEXT IS THIS:

18 WHY DID THE DEFENDANTS KILL THEIR PARENTS?

19 NOW, ONCE AGAIN, JUST AS WITH THE QUESTION  
20 OF ABUSE, IS THE QUESTION OF WHY THE DEFENDANTS KILLED  
21 THEIR PARENTS SOMETHING THAT YOU SHOULD DISCUSS? OF  
22 COURSE. OF COURSE. IT FOLLOWS, FROM THE NATURE OF THE  
23 EVIDENCE PRESENTED HERE. IT'S GOING TO BE ONE OF THE  
24 THINGS THAT YOU'RE GOING TO TALK ABOUT.

25 ONCE AGAIN, AS WITH THE QUESTION OF WHETHER

26 OR NOT THE DEFENDANTS WERE ABUSED, BEAR IN MIND THAT  
27 THAT IS NOT THE ULTIMATE ISSUE IN THIS CASE.  
28 NOW, WHEN THE DEFENSE ATTORNEYS ARGUE, I

-14574

1 SUSPECT THAT THEY ARE GOING TO TELL YOU THAT THAT IS THE  
2 ISSUE IN THIS CASE. THE ISSUE IS WHY DID THE DEFENDANTS  
3 KILL THEIR PARENTS. THAT'S REALLY NOT THE ULTIMATE  
4 ISSUE, AND HERE'S WHY.

5 YOU CAN HAVE TOTALLY DIFFERENT OPINIONS  
6 REGARDING WHY THE DEFENDANTS KILLED THEIR PARENTS AND  
7 STILL AGREE THAT THIS WAS A PREMEDITATED AND DELIBERATE  
8 MURDER. LET'S SAY -- TAKE FOR EXAMPLE THE ISSUE OF  
9 ABUSE. JUST ASSUME FOR THE MOMENT THE DEFENDANTS WERE  
10 IN FACT ABUSED, OKAY.

11 WHAT HAPPENS AS A RESULT OF ABUSE? ABUSE  
12 CAN LEAD TO ANGER. ANGER CAN LEAD TO RAGE. RAGE CAN  
13 LEAD TO THE DESIRE FOR RETALIATION OR REVENGE.

14 BUT LADIES AND GENTLEMEN, REVENGE CAN LEAD  
15 TO PREMEDITATION AND DELIBERATION, AND THAT IN TURN CAN  
16 LEAD TO MURDER, YOU SEE.

17 JUST AS I TOLD YOU THAT THERE WERE DISPUTES  
18 WITHIN THE FAMILY CONCERNING THE FINANCES. THE  
19 DEFENDANTS WERE NO LONGER BEING TREATED AS CHILDREN.  
20 THEY WERE OUT THERE SPENDING MONEY. LYLE MENENDEZ WAS  
21 SPENDING LARGE SUMS OF MONEY, AND THERE WERE DISPUTES

22 CONCERNING THE MONEY BEING SPENT.

23 THOSE TYPE OF DISPUTES, FINANCIAL DISPUTES

24 AND THE INABILITY OF THE DEFENDANTS TO SPEND MONEY AS

25 THEY CHOOSE, COULD LEAD TO FEELINGS OF GREED, ENVY, AND

26 IT COULD ALSO LEAD TO PREMEDITATION AND DELIBERATION.

27 THERE MAY BE A GREAT NUMBER OF REASONS WHY

28 THE DEFENDANTS KILLED THEIR PARENTS. YOU KNOW, FOR

-14573

1 EXAMPLE, THERE WAS A DISPUTE CONCERNING THE FAILURE OF

2 LYLE MENENDEZ -- AND I AM GOING TO TALK ABOUT THIS A

3 LITTLE BIT FURTHER BEFORE I GET INTO THE EVIDENCE.

4 YOU KNOW THAT THERE WAS A FALL-OUT ABOUT

5 THE EXPECTATIONS OF JOSE MENENDEZ, AND HOW HE EXPECTED

6 HIS SONS TO BE ACHIEVERS, AND THEY WEREN'T

7 OVER-ACHIEVERS. IF ANYTHING, THEY WERE UNDER-ACHIEVERS.

8 AND HE WAS DISAPPOINTED IN THEM.

9 AND SO THERE IS THE DISAPPOINTMENT IN THE

10 FAMILY ABOUT THE WAY THE DEFENDANTS WERE MATURING AS

11 YOUNG MEN. THERE WERE THE BURGLARIES, WHICH LED TO

12 CONFLICT AND ANGER WITHIN THE FAMILY, AND THIS

13 DISSOLUTIONMENT WITH THE WAY THE DEFENDANTS WERE

14 MATURING AS YOUNG MEN COULD HAVE LED TO PREMEDITATION

15 AND DELIBERATION.

16 SO I SUBMIT TO YOU, LADIES AND GENTLEMEN,

17 THAT THERE ARE MANY FEELINGS THAT COULD HAVE BEEN GOING

18 ON IN THAT FAMILY. A LOT OF TENSION, FOR ANY NUMBER OF  
19 REASONS, THAT COULD HAVE LED TO THE DECISION TO KILL IN  
20 THIS CASE.

21 AND I AM NOT SAYING IT WAS ANY ONE DECISION  
22 OR ANY ONE INFLUENCE. AS I TOLD YOU PREVIOUSLY, WHAT  
23 OUR THEORY IS IN THIS CASE IS THAT THE DEFENDANTS IN  
24 THIS CASE KILLED FOR REASONS OF INDEPENDENCE. THEY DID  
25 IN FACT HAVE THEIR FATHER ON THEIR BACK. JOSE MENENDEZ  
26 WAS A MAN WHO WAS VERY CONTROLLING, WHO HAD HIGH  
27 EXPECTATIONS OF HIS SONS, WHO WANTED HIS SONS TO  
28 ACHIEVE, AND THEY WERE NOT DOING IT, AND HE WAS

-14572

1 PROFOUNDLY DISAPPOINTED IN THEM, AND THEY KNEW IT. THAT  
2 SHAME, THAT ANGER, COULD HAVE BEEN ONE OF THE MANY  
3 REASONS THAT CONTRIBUTED TO THE KILLING IN THIS CASE.

4 YOU SEE, ALL OF THESE REASONS UP HERE CAN  
5 ALL BE GROUPED UNDER THE HEADING OF "WHY".

6 NOW, YOU COULD DEBATE THE ISSUE OF WHY  
7 FOREVER BACK THERE IN THE JURY ROOM, AND PERHAPS YOU  
8 WILL ALL FEEL, AS I THINK IS THE REASONABLE CONCLUSION  
9 TO BE DRAWN IN THIS CASE, THAT IT WASN'T ANY ONE FACTOR.  
10 IT WAS A COMBINATION OF THINGS. IT WAS A COMBINATION OF  
11 THE DESIRE TO BE FREE OF THEIR PARENTS, TO HAVE THE  
12 MONEY, TO HAVE THE MONEY NOW, TO BE ABLE TO DO WHAT THEY  
13 WANT, AND TO ENJOY THAT FREEDOM. THAT WAS ONE OF THE

14 MANY FACTORS THAT CONTRIBUTED TO THE KILLINGS IN THIS  
15 CASE AND THE RESENTMENT THAT THEY FELT TOWARD THEIR  
16 FATHER.

17 I THINK THAT THE EVIDENCE SHOWS THAT JOSE  
18 MENENDEZ WAS JUST AS FRUSTRATED WITH THEM AS THEY WERE  
19 FRUSTRATED WITH HIM. IT WAS A TWO-WAY STREET. THERE  
20 WAS A LOT OF TENSION INSIDE THE HOUSE.

21 BUT ALL OF THESE REASONS DO NOT PRECLUDE,  
22 OR SHOULD NOT CAUSE YOU TO DIVIDE AS TO WHETHER OR NOT  
23 THERE WAS PREMEDITATION AND DELIBERATION IN THIS CASE.  
24 ONE OF YOU MAY FEEL IT WAS PRIMARILY THE GREED: THEY  
25 WANTED THE MONEY, AND THEY WANTED THE MONEY NOW.  
26 ANOTHER ONE OF YOU MAY FEEL IT WAS JUST THE TENSION IN  
27 THE HOUSE. THEY JUST COULDN'T STAND TO LOOK AT EACH  
28 OTHER ANYMORE.

-14571

1 AND ANOTHER ONE OF YOU -- ASSUMING  
2 HYPOTHETICALLY, I HOPE YOU DON'T REACH THIS  
3 CONCLUSION -- BUT ASSUME THERE WAS SOME SORT OF ABUSE IN  
4 THIS CASE. IF THAT ABUSE LED TO A DESIRE FOR REVENGE,  
5 THAT COULD VERY WELL BE A FIRST-DEGREE MURDER.

6 IF ERIK MENENDEZ DECIDED, JUST  
7 HYPOTHETICALLY SPEAKING, AND I AM NOT SUGGESTING TO YOU  
8 THAT THIS IS THE CASE. I WOULD SUGGEST TO YOU THE  
9 EVIDENCE DOESN'T EVEN WARRANT THIS CONCLUSION.

10 BUT IF ERIK MENENDEZ CONCLUDED, JUST  
11 HYPOTHETICALLY SPEAKING, THAT HE WAS NOT GOING TO ALLOW  
12 HIS FATHER TO ABUSE HIM ANYMORE, AND HE DECIDED ON THAT  
13 DAY, AUGUST THE 20TH OF 1989, "I AM NOT GOING TO ALLOW  
14 YOU TO ABUSE ME ANYMORE. I AM GOING TO GO OUT TO MY  
15 GUN -- I AM GOING TO GET THE GUN FROM MY ROOM. I AM  
16 GOING TO GO OUT TO THE CAR TO RELOAD, AND COME BACK IN  
17 AND SHOOT YOU TO DEATH, BECAUSE I DON'T WANT YOU TO  
18 ABUSE ME ANYMORE," THAT'S FIRST-DEGREE MURDER. THAT'S  
19 PREMEDITATION.

20 SAME THING WITH LYLE MENENDEZ. IF LYLE  
21 MENENDEZ DECIDED AT THAT POINT IN TIME THAT, "I AM NOT  
22 GOING TO ALLOW MY FATHER TO DO THIS TO MY BROTHER  
23 ANYMORE, AND I AM GOING TO GO OUT TO THE GUESTHOUSE AND  
24 COME BACK WITH MY GUN, AND I AM GOING TO RELOAD AND GO  
25 INTO THE DEN AND SHOOT YOU TO DEATH, AND I AM GOING TO  
26 SHOOT MY MOTHER TO DEATH, TOO, BECAUSE SHE SAT BY AND  
27 ALLOWED THIS TO HAPPEN ALL THESE YEARS," THAT'S  
28 FIRST-DEGREE MURDER.

-14570

1 SO I WOULD SUBMIT, LADIES AND GENTLEMEN,  
2 THAT THE WHY IS NOT THE ULTIMATE ISSUE. AND DON'T LET  
3 YOUR DIFFERENCES OF FEELINGS, IF INDEED YOU DO HAVE  
4 DIFFERENCES IN FEELINGS CONCERNING WHY, STOP YOU FROM  
5 FOCUSING ON AND AGREEING UPON THE REAL ISSUE, THE LEGAL

6 ISSUE THAT YOU ARE HERE TO DECIDE.

7 REMEMBER, YOU'RE NOT HERE TO RECONSTRUCT  
8 THE FAMILY HISTORY. YOU ARE HERE TO ANSWER A LEGAL  
9 ISSUE FOR US; THAT IS, WHAT WAS THE DEFENDANT'S MENTAL  
10 STATE AT THAT PARTICULAR POINT IN TIME? IS THE ALLEGED  
11 MENTAL STATE IN THIS CASE PROVEN OR NOT? THAT'S ALL.

12 BUT CONCERNING THE BACKGROUND OF THE  
13 FAMILY, I THINK YOU CAN CONCLUDE -- AND I WANT TO TALK  
14 TO YOU A LITTLE BIT ABOUT THIS, BECAUSE AS I GAVE YOU  
15 SORT OF AN OVERVIEW OF THE LAW AND HOW IT APPLIES TO  
16 THIS CASE -- BEFORE I GET INTO A DETAILED ANALYSIS OF  
17 HOW THE FACTS RELATE TO THE LAW; SO, TOO, I WANT TO TALK  
18 A LITTLE BIT ABOUT THE FAMILY. I WANT TO GIVE YOU AN  
19 OVERVIEW OF OUR EVALUATION OF THAT SITUATION, SO THAT AS  
20 WE GO THROUGH THE EVIDENCE, ONCE AGAIN, WE CAN SHOW HOW  
21 THE EVIDENCE SUPPORTS THIS CONCLUSION.

22 AS I SAID, I BELIEVE THAT THE EVIDENCE  
23 SHOWS THAT THERE WAS TENSION IN THE FAMILY. THERE WAS  
24 ANGER, RESENTMENT. THERE WAS FRUSTRATION AND THERE WAS  
25 DESPAIR, AND THERE WAS HOSTILITY WITHIN THIS FAMILY.

26 AND TO UNDERSTAND THAT -- AND, OF COURSE,  
27 NONE OF THOSE ARE EXCUSES FOR FIRST-DEGREE MURDER.

28 TO UNDERSTAND THAT, YOU HAVE TO UNDERSTAND

1 WHAT WAS HAPPENING IN 1989, AUGUST OF 1989, AND WHY THAT



2 WAS DIFFERENT FROM WHAT WAS HAPPENING IN THE FAMILY  
3 PRIOR TO THAT TIME.

4 IT WAS BECAUSE THE DEFENDANTS WERE YOUNG  
5 ADULTS. IT'S BECAUSE THEY WERE GOING THROUGH A  
6 TRANSITION PERIOD THAT IT CAUSED THE CONFLICT IN THE  
7 FAMILY. THERE WERE EXPECTATIONS OF THEM BY THEIR  
8 FATHER, AND THEY WERE NOT LIVING UP TO THOSE  
9 EXPECTATIONS. THE PROBLEM IS THAT THE DEFENDANTS WERE  
10 BECOMING YOUNG MEN. BUT THE PROBLEM WAS THAT THEY WERE  
11 NOT BECOMING THE KIND OF MAN -- OR THE KIND OF MEN THAT  
12 THEIR FATHER EXPECTED THEM TO BECOME; NOR WERE THE  
13 DEFENDANTS LIVING UP TO THEIR OWN EXPECTATIONS OF THE  
14 KIND OF MEN THEY WANTED TO BECOME.

15 BOTH OF THE DEFENDANTS IN THIS CASE, NO  
16 DOUBT ABOUT IT, WANTED TO BE JOSE MENENDEZ. THEY WANTED  
17 TO BE JUST LIKE HIM. THEY WANTED TO BE JUST AS  
18 BRILLIANT, JUST AS SUCCESSFUL, JUST AS CREATIVE, JUST AS  
19 DEVOTED TO HIS OCCUPATION, AND TO ACHIEVE THE SAME  
20 THINGS THAT HE ACHIEVED. BUT THERE IS NO WAY THAT THEY  
21 WERE ABLE TO ACHIEVE THAT, BECAUSE NEITHER OF THESE  
22 DEFENDANTS HAD THE ABILITY TO ACHIEVE THAT, AND THEY  
23 KNEW IT.

24 YOU HAVE TO LOOK AT WHO JOSE MENENDEZ WAS.  
25 JOSE MENENDEZ WAS A MAN OF EXTRAORDINARY DRIVE,  
26 EXTRAORDINARY INTELLECT, OF VISION AND DETERMINATION.  
27 JOSE MENENDEZ WAS A MAN WHO CAME TO THIS COUNTRY AT THE  
28 AGE OF 15 -- WE LEARNED THESE FACTS FROM CARLOS

1 BARALT -- CAME TO THIS COUNTRY AT THE AGE OF 15, NOT A  
2 PENNY HIS POCKET, AND EVEN SPEAKING WITH AN ACCENT.

3         AND YET HE WAS A PERSON WHO DIDN'T ALLOW  
4 OBSTACLES OR HANDICAPS TO GET IN HIS WAY. HE WAS A MAN  
5 WHO ROSE FROM THAT POSITION TO BECOME A TOP EXECUTIVE.  
6 HE CLIMBED UP THAT CORPORATE LADDER. AND THE ONLY WAY  
7 HE WAS ABLE TO DO THAT, LADIES AND GENTLEMEN, WAS BY  
8 BEING A VERY STRONG MAN. THERE IS NO DOUBT HE WAS A  
9 STRONG MAN. HE WAS DETERMINED TO WORK HARD AND TO  
10 ACHIEVE THOSE THINGS.

11         THE EVIDENCE ALSO SHOWED THAT JOSE MENENDEZ  
12 LOVED HIS SONS VERY MUCH. AND AS HE IMPOSED DEMANDS  
13 UPON HIMSELF, AND AS HE MADE NO EXCUSES FOR HIMSELF, BUT  
14 PUSHED HIMSELF TO ACHIEVE GREATER AND GREATER THINGS;  
15 SO, TOO, HE PUSHED THE DEFENDANTS TO ACHIEVE GREATER AND  
16 GREATER THINGS.

17         HE WANTED FOR THEM WHAT WE ALL WANT FOR OUR  
18 CHILDREN, AND THAT IS TO ACHIEVE SOMETHING EVEN GREATER  
19 THAN WHAT WE ACHIEVED IN OUR LIFETIME. AND LOOK HOW  
20 MUCH HE ACHIEVED. COMING TO THIS COUNTRY PENNILESS, AND  
21 EVENTUALLY HAVING AN ESTATE, WHICH BY SOME ACCOUNTS WAS  
22 WORTH 14 MILLION DOLLARS.

23         THE DEFENDANTS KNEW THE PRESSURE THAT WAS  
24 ON THEM. THEY KNEW THAT THEY WERE THE ONES WHO,  
25 COMPARED TO JOSE MENENDEZ, WERE BORN WITH A SILVER SPOON  
26 IN THEIR MOUTH. YOU EVEN HEAR REFERENCES TO THIS ON THE

27 DECEMBER 11TH TAPE, WHICH I WILL BE DISCUSSING IN A FEW  
28 MINUTES, HOW THE DEFENDANTS RECOGNIZED THE PRESSURE THAT

-14567

1 WAS UPON THEM, THAT THEY WOULD BE EXPECTED TO ACHIEVE  
2 MORE. THEY WOULD BE EXPECTED TO EXCEL.

3 AND YET, LADIES AND GENTLEMEN, I WOULD  
4 SUBMIT THAT THEY FELT TOTALLY INCAPABLE OF DOING THAT.

5 BUT JOSE MENENDEZ PUSHED THEM TO EXCEL IN  
6 SPORTS. HE SAW SPORTS, FOR EXAMPLE, AS NOT SO MUCH A  
7 GAME, BUT ANOTHER ARENA OF COMPETITION. HE WANTED THE  
8 DEFENDANTS TO COMPETE, AND HE WANTED THE DEFENDANTS TO  
9 WIN. IT WAS JUST ANOTHER WAY OF EXCELLING.

10 FOR JOSE MENENDEZ, SPORTS WAS NOT A GAME.  
11 IT WAS AN INVESTMENT, AN INVESTMENT OF TIME; TO ACHIEVE  
12 AND TO PREVAIL AND TO WIN. TIME WAS MONEY FOR JOSE  
13 MENENDEZ, AND TIME WAS PRECIOUS. AND YET JOSE MENENDEZ,  
14 THE EVIDENCE SHOWED, SPENT ALL OF HIS FREE TIME WITH HIS  
15 SONS. HE SPENT ALL OF HIS FREE TIME ATTENDING THE  
16 SPORTS EVENTS THAT HIS SONS COMPETED IN. AND THAT TELLS  
17 YOU A GREAT DEAL ABOUT THE LOVE THAT THIS MAN HAD FOR  
18 HIS SONS. I WOULD SUBMIT THAT JOSE MENENDEZ TRULY DID  
19 LOVE HIS SONS A GREAT DEAL.

20 MS. ABRAMSON: YOUR HONOR, I AM GOING TO OBJECT.  
21 I THINK THIS IS BEYOND THE EVIDENCE.

22 THE COURT: OVERRULED.

23 MR. CONN: AND PART OF THE LOVE THAT HE HAD FOR  
24 HIS SONS WAS DEMONSTRATED IN THE GOALS THAT HE HAD FOR  
25 HIS SONS.

26 TO GO TO PRINCETON WAS A VERY IMPORTANT  
27 GOAL FOR JOSE MENENDEZ. HE WANTED HIS SON TO HAVE EVEN  
28 A BETTER EDUCATION THAN HE HAD, AND TO ACHIEVE IN

-14566

1 PRINCETON.

2 BUT BY AUGUST OF 1989, LADIES AND  
3 GENTLEMEN, JOSE MENENDEZ CAME TO A VERY SAD CONCLUSION.  
4 HE REALIZED THAT HIS SONS WERE FAILURES. LYLE MENENDEZ,  
5 WHO HAD GONE TO PRINCETON, WAS SUSPENDED FROM PRINCETON  
6 FOR CHEATING. AND THEN WHEN HE RETURNED, HE WAS ON BOTH  
7 ACADEMIC PROBATION AND DISCIPLINARY PROBATION.

8 LYLE MENENDEZ DID NOT HAVE THE DRIVE, DID  
9 NOT HAVE THE INTELLECT. HE DID NOT HAVE THE  
10 DETERMINATION. LYLE MENENDEZ WAS NEVER GOING TO WALK IN  
11 THE SHOES OF JOSE MENENDEZ, AND JOSE MENENDEZ KNEW THAT.

12 AND ERIK MENENDEZ WAS EVEN A GREATER  
13 FAILURE, BECAUSE ERIK MENENDEZ WAS WEAK. ERIK MENENDEZ  
14 WAS VERY SOFT, AND HE WAS DESCRIBED AS A CRYBABY. AND  
15 THAT'S TRUE, AND THE EVIDENCE FROM HIS EARLY LIFE SHOWS  
16 THAT HE WAS A CRYBABY. UNLIKE LYLE, WHO WAS STOIC AND  
17 WHO COULD KEEP THINGS IN, ERIK MENENDEZ WOULD CRY AND  
18 DEMONSTRATE HIS EMOTIONS.

19           AND JOSE MENENDEZ SAW THAT BOTH OF HIS SONS  
20 WERE INCAPABLE OF LIVING UP TO HIS EXPECTATIONS, AND HE  
21 WAS DISAPPOINTED IN THEM. BUT HE WAS EVEN MORE  
22 DISAPPOINTED IN THEM WHEN THEY BECAME INVOLVED IN THE  
23 BURGLARIES. HE THEN REALIZED THAT HIS SONS WERE TOTALLY  
24 OUT OF CONTROL.

25           JOSE MENENDEZ, CONTRARY TO THE IMPRESSION  
26 THAT THE DEFENSE HAS TRIED TO PRESENT TO YOU HERE, WAS  
27 NOT A MAN WHO WAS ABLE TO CONTROL HIS SONS. HE WANTED  
28 TO. JOSE WAS A MAN WHO WANTED TO -- JOSE MENENDEZ WAS A

-14565

1 MAN WHO WANTED TO CONTROL EVERYTHING IN HIS LIFE IF HE  
2 COULD. JUST AS HE CONTROLLED HIS BUSINESS; SO, TOO, IF  
3 HE COULD CONTROL HIS SONS AND TO NURTURE THEIR  
4 DEVELOPMENT, AND MAKE THEM ACHIEVE THINGS THAT HE WANTED  
5 THEM TO ACHIEVE, HE WANTED THAT TO HAPPEN.

6           BUT HE WAS NOT ABLE TO DO THAT, AND HE  
7 REALIZED THAT WHATEVER HE ACCOMPLISHED AT WORK, IN HIS  
8 PROFESSIONAL LIFE, HIS PERSONAL LIFE WAS VERY MUCH A  
9 FAILURE. HIS SONS WOULD NEVER ACHIEVE THE THINGS THAT  
10 HE WANTED THEM TO ACHIEVE, AND HIS SONS WERE OUT OF  
11 CONTROL.

12           AND HOW DID HE RESPOND TO THAT LOSS OF  
13 CONTROL? THEY WANT YOU TO BELIEVE THAT JOSE MENENDEZ  
14 WAS SUCH A HARSH MAN, EXTREMELY PUNITIVE. BUT LADIES

15 AND GENTLEMEN, IF YOU LOOK AT THE EVIDENCE CAREFULLY,  
16 AND I WILL BE GOING THROUGH THAT EVIDENCE, YOU WILL SEE  
17 THAT JOSE WAS NOT A HARSH MAN. WHAT HE DID WAS HE  
18 FORGAVE HIS SONS TIME AND TIME AGAIN, AND HE GOT THEM  
19 OUT OF TROUBLE TIME AND TIME AGAIN.

20 I ASKED ERIK MENENDEZ, WHAT WAS THE  
21 PUNISHMENT -- WHAT WAS THE PUNISHMENT FOR THESE  
22 BURGLARIES? CAN YOU IMAGINE WHAT A TRANSGRESSION THIS  
23 WAS FOR JOSE MENENDEZ, A MAN WHO EVEN THOUGHT OF  
24 BECOMING A SENATOR, A UNITED STATES SENATOR FOR THE  
25 STATE OF FLORIDA SOME DAY, WHO HAD TO MOVE IN SHAME FROM  
26 CALABASAS TO BEVERLY HILLS TO GET AWAY FROM THE  
27 NEIGHBORHOOD. AND WHAT WAS THAT MOVE FOR?  
28 I WOULD SUBMIT TO YOU THAT THAT MOVE WAS

-14564

1 MORE FOR THE BENEFIT OF THE DEFENDANTS, WHO HAD TO GO TO  
2 SCHOOL -- OR AT LEAST ERIK MENENDEZ, WHO HAD TO GO TO  
3 SCHOOL IN THE NEIGHBORHOOD. THAT BENEFIT -- THAT MOVE  
4 BENEFITED ERIK MENENDEZ MORE THAN HIS OWN PERSONAL  
5 NEEDS. YET JOSE MENENDEZ WAS A PERSON WHO WAS  
6 FORGIVING.

7 I ASKED ERIK MENENDEZ: "BEARING IN MIND  
8 YOU WERE SO FRIGHTENED OF YOUR FATHER, HE WAS ALWAYS  
9 GOING TO PUNISH YOU FOR EVERYTHING, WHAT WAS THE  
10 PUNISHMENT FOR THE BURGLARIES?"

11           AND HE SAID: "NO PUNISHMENT." NO  
12 PUNISHMENT FOR THE BURGLARIES.  
13           LADIES AND GENTLEMEN, JOSE MENENDEZ WAS NOT  
14 A PUNITIVE MAN. JOSE MENENDEZ WAS A MAN WHO FORGAVE HIS  
15 SONS TIME AND TIME AGAIN, EVEN FOR THE MOST SERIOUS OF  
16 TRANSGRESSIONS. HE WAS A VERY PATIENT MAN, AND AS MUCH  
17 AS HE WAS DISAPPOINTED IN HIS SONS, HE FORGAVE THEM.  
18           BUT THERE WAS THE GROWING REALIZATION THAT  
19 HE HAD FAILED, AND THEY WOULD NEVER WALK IN HIS SHOES.  
20           AND SO, THERE BEGAN IN THE FAMILY A GREAT  
21 DEAL OF TENSION. CAN YOU IMAGINE KNOWING -- AND THEY  
22 KNEW. BOTH DEFENDANTS KNEW THAT THEIR FATHER WAS  
23 EXTREMELY DISAPPOINTED IN THEM, PROFOUNDLY DISAPPOINTED  
24 IN THEM, AND YET THEY WOULD HAVE TO LOOK AT THIS MAN FOR  
25 THE REST OF THEIR LIVES.  
26           JOSE MENENDEZ WAS ONLY 45 YEARS-OLD WHEN HE  
27 WAS KILLED BY THE DEFENDANTS, AND EVERY DAY, IF THEY  
28 WERE TO CONTINUE TO BENEFIT FROM HIS FINANCIAL

-14563

1 GENEROSITY, THEY WOULD HAVE TO DEAL WITH HIM. THEY  
2 WOULD HAVE TO LOOK IN HIS EYES FOR THE REST OF HIS LIFE  
3 KNOWING THAT THEY WERE FAILURES; THAT THEY WOULD NEVER  
4 ACHIEVE WHAT HE WANTED; THAT THEY WOULD NEVER REALLY GET  
5 HIS RESPECT.  
6           AND HOW THAT MUST FEEL, TO LOOK IN YOUR

7 FATHER'S EYES FOR THE REST OF YOUR LIFE, AND KNOW YOUR  
8 FATHER SEES YOU AS A FAILURE, AND YOU WILL NEVER ACHIEVE  
9 WHAT HE WANTS YOU TO ACHIEVE, AND YOU WILL NEVER GET  
10 HIS -- EARN HIS RESPECT.

11 AND SO, THERE AGAIN, IS A PERIOD OF HOSTILE  
12 DEPENDENCY. BOTH DEFENDANTS CONTINUED TO TAKE THE  
13 FINANCIAL BENEFIT THAT HE OFFERED THEM, BUT THERE WAS  
14 RESENTMENT THERE, AND THERE WAS WAS HOSTILITY THERE, AND  
15 THERE WAS TENSION THERE. AND IT WAS AN UNCOMFORTABLE  
16 SITUATION FOR EVERYONE.

17 AND LYLE MENENDEZ WOULD GO OUT SPENDING  
18 ENORMOUS AMOUNTS OF MONEY, AND HIS FATHER WOULD TRY TO  
19 STOP HIM. TRY. I USE THE WORD "TRY" INTENTIONALLY.  
20 BECAUSE WHAT DID HE DO? JOSE MENENDEZ COULD HAVE PULLED  
21 THE PLUG AT ANY TIME ON THE FINANCES. HE COULD HAVE  
22 SAID, "GIVE ME THE CARD. FROM NOW ON YOU GET \$100 A  
23 WEEK. HERE YOU GO."

24 BUT DID HE EVER DO THAT TO LYLE MENENDEZ?  
25 NO.

26 ERIK MENENDEZ TOLD US ABOUT HOW FRUSTRATED  
27 HIS FATHER WAS AT BEING UNABLE TO CONTROL LYLE MENENDEZ  
28 AND HIS SPENDING HABITS. WHAT DOES THAT TELL YOU? THAT

-14562

1 TELLS YOU THAT JOSE MENENDEZ WAS A MAN WHO KEPT GIVING  
2 MORE CHANCES. "OKAY, LYLE, ONE MORE CHANCE. DON'T DO



3 IT AGAIN. DON'T DO IT AGAIN."

4 AND YOU'VE HEARD -- I'LL BE GETTING INTO  
5 SOME OF THE SPECIFIC TESTIMONY THAT SUPPORTS THAT.

6 LADIES AND GENTLEMEN, WHAT ULTIMATELY LED  
7 TO THE KILLINGS IN THIS CASE WAS NOT SO MUCH THESE  
8 FEELINGS OF HOSTILITY AND ANGER AND RESENTMENT AND SHAME  
9 WITHIN THE FAMILY, BUT ALSO THE LACK OF A TRUE  
10 RELATIONSHIP, A TRULY STRONG RELATIONSHIP BETWEEN THE  
11 DEFENDANTS AND THEIR PARENTS.

12 I ASKED ERIK MENENDEZ: "WHAT IS IT ABOUT  
13 YOUR MOTHER THAT YOU LOVED? I KNOW YOU TOLD US YOU  
14 LOVED HER. THAT'S YOUR CLAIM, THAT YOU LOVED HER."

15 THE EVIDENCE WOULD SUGGEST TO THE CONTRARY.  
16 YOU DON'T SHOOT YOUR MOTHER TO DEATH IF YOU LOVE HER,  
17 LADIES AND GENTLEMEN.

18 SO THAT QUESTION THAT -- THAT ASSERTION,  
19 THAT CLAIM THAT HE LOVED HIS MOTHER IS EXTREMELY  
20 QUESTIONABLE TO BEGIN WITH. BUT, OKAY. WE'LL GIVE YOU  
21 THE BENEFIT OF THE DOUBT. "TELL US, WHAT WAS IT ABOUT  
22 THIS WOMAN THAT YOU LOVED?"

23 AND COULD HE TELL US ANYTHING? WHAT DID HE  
24 TELL US? HER SMILE. AND I SAID: "NO. TELL US  
25 SOMETHING ABOUT HER. WHAT WAS IT ABOUT HER? WHAT DID  
26 YOU LOVE ABOUT THIS WOMAN? WHAT WAS GOOD ABOUT HER?"  
27 WHAT WAS THE CONTACT, WHAT WAS THE REASON?

28 "IT WAS JUST HER SMILE. IT WAS JUST -- IT

1 WAS JUST HER SMILE."

2 WAS THAT THE DEPTH OF THE RELATIONSHIP  
3 BETWEEN HIM AND HIS MOTHER, JUST A SMILE? IT TELLS YOU  
4 A GREAT DEAL ABOUT WHY HE COULD HAVE KILLED HER, LADIES  
5 AND GENTLEMEN.

6 AND JOSE MENENDEZ, AS MUCH AS HE LOVED HIS  
7 SONS, JOSE MENENDEZ WAS GUILTY OF WHAT MANY PARENTS ARE.  
8 HOW MANY PARENTS GO HOME AND TURN ON THE T.V. AND SAY  
9 WELL, THE T.V. IS ON, THE KIDS ARE ENTERTAINED.  
10 EVERYTHING IS TAKEN CARE OF. NOW I CAN DO WHATEVER I  
11 WANT. AND WE'RE ALL GUILTY OF THAT.

12 AND JOSE MENENDEZ WAS ALSO GUILTY. HE  
13 PROVIDED THE MATERIAL NEEDS FOR HIS CHILDREN, AND HE WAS  
14 BY AND LARGE AN ABSENT FATHER. JOSE MENENDEZ WAS OFF  
15 SLAYING DRAGONS IN THE BUSINESS WORLD, AND HIS SONS WERE  
16 LEFT WITH THE MOTHER. AND HE WAS BY AND LARGE AN ABSENT  
17 FATHER, AND WHEN HE CAME -- WHEN HE CAME BACK AND SPENT  
18 TIME WITH THEM AT THEIR SPORTS GAMES, WHAT DID HE DO?  
19 HE INSISTED "WIN, PREVAIL, ACHIEVE. BE SUCCESSFUL."

20 HE HAD DEMANDS. HE HAD EXPECTATIONS.

21 WAS THERE LACK OF LOVE? PERHAPS NOT TRUE  
22 LOVE, BUT PERHAPS HE WAS JUST TOO BUSY TO EXPRESS THAT  
23 LOVE. BUT JOSE MENENDEZ WAS BY AND LARGE AN ABSENT  
24 FATHER.

25 SO WITH AN ABSENT FATHER AND A MOTHER WHO  
26 JUST RAN THE HOUSE, AND PERHAPS DIDN'T GIVE THE  
27 DEFENDANTS THE LOVE THAT MIGHT BE EXPECTED, WHAT BECAME

-14560

1 SAYS ON THE DECEMBER 11 TAPE:

2 "IT REACHED THE POINT WHERE WE JUST  
3 SAW THE VALUE OF IT; THAT IS, THE VALUE OF  
4 KILLING MY FATHER."

5 THAT'S HOW HE WAS ABLE TO DO IT. THERE WAS  
6 SEETHING HOSTILITY IN THAT HOUSE, AND AFTER A WHILE IT  
7 BECAME UNBEARABLE. JOSE MENENDEZ WANTED TO CONTROL HIS  
8 SONS' LIVES, BUT WAS UNABLE TO DO SO. THE DEFENDANTS  
9 KNEW THAT THEY COULD NEVER SURPASS THEIR FATHER.  
10 SURPASSING HIM WAS OUT OF THE QUESTION. EVEN  
11 ACCOMPLISHING WHAT HE HAD ACCOMPLISHED WAS OUT OF THE  
12 QUESTION.

13 AND I WOULD SUBMIT TO YOU THAT THE  
14 DEFENDANTS, WHAT THEY FELT WAS A SENSE OF RAGE, A SENSE  
15 OF RAGE TOWARD THEIR FATHER WHO RESENTED -- WHO WAS  
16 DISAPPOINTED IN HIS SONS, AND A RAGE THAT WAS NOT  
17 TEMPERED BY LOVE. THIS RAGE WAS INEVITABLE AND  
18 UNDENIABLE.

19 THEN THE OTHER REASON WHY THEY WERE ABLE TO  
20 DO WHAT THEY DID WAS BECAUSE JOSE MENENDEZ HAD TAUGHT  
21 THEM SOMETHING, TAUGHT THEM A VERY VALUABLE LESSON. BUT  
22 THAT LESSON WAS TURNED AGAINST JOSE MENENDEZ. HE TAUGHT  
23 THEM TO BE STRONG. HE TAUGHT THEM TO BE RUTHLESS.

24           JOSE MENENDEZ HAD TO BE RUTHLESS IN ORDER  
25 TO ACHIEVE WHAT HE ACHIEVED; IN ORDER TO CLIMB UP THAT  
26 CORPORATE LADDER; IN ORDER TO OVERCOME THE OBSTACLES  
27 FACING HIM. HE WAS IN FACT A VERY RUTHLESS MAN. BUT  
28 JOSE MENENDEZ NEVER TURNED THAT RUTHLESSNESS TOWARD HIS

-14559

1 OWN FAMILY.

2           BUT THE DEFENDANTS IN THIS CASE, WHO WERE  
3 TAUGHT TO BE RUTHLESS, AND WHO DIDN'T HAVE A FATHER  
4 THERE ALL THE TIME, OR A MOTHER TO MEET ALL OF THEIR  
5 NEEDS, DECIDED TO TURN THEIR RAGE AND USE THAT  
6 RUTHLESSNESS THAT THEY LEARNED FROM THEIR FATHER TOWARD  
7 THEIR OWN PARENTS.

8           THE RAGE, THE SHAME, THE ANGER AND THE  
9 HOSTILITY ALL LED TO THE DEFENDANTS MAKING A DECISION IN  
10 THIS CASE, A DECISION TO KILL THEIR PARENTS. IT WAS THE  
11 ONLY WAY THAT THEY COULD TAKE THE POWER. IT WAS THE  
12 ONLY WAY THAT THEY COULD ACHIEVE WHAT THEY WANTED, AND  
13 WHAT THEY FELT THEY WERE ENTITLED TO AT THIS POINT IN  
14 TIME. THEY HAD GROWN UP.

15           AND IF YOU READ IN BETWEEN THE LINES OF ALL  
16 THE TESTIMONY IN THIS CASE, WHAT YOU SEE IS TWO YOUNG  
17 MEN WHO FELT THAT THEY DESERVED EVERYTHING THEY GOT, WHO  
18 WERE SPOILED, AND WHO FELT ENTITLED TO EVERYTHING.

19           AND THEY USED THAT RAGE, AND THEY TURNED

20 THAT RAGE AND WHAT THEY LEARNED FROM JOSE. THE  
21 RUTHLESSNESS THEY LEARNED FROM JOSE THEY TURNED AGAINST  
22 HIM, AND THEY SEIZED THE POWER, AND THEY BECAME JOSE  
23 MENENDEZ IN THE ONLY WAY THAT THEY KNEW HOW, BY TAKING  
24 HIM OUT OF THE PICTURE, BY TAKING HIS MONEY AND TAKING  
25 HIS POWER.

26 AND FOR SIX MONTHS, THEY DID WALK IN THE  
27 SHOES OF JOSE MENENDEZ.

28 LADIES AND GENTLEMEN, AS I GO THROUGH THE

-14558

1 EVIDENCE IN THIS CASE, YOU WILL SEE HOW THE EVIDENCE  
2 BEARS OUT ALL OF THOSE CONCLUSIONS.

3 LET ME RETURN TO WHAT I WAS SAYING  
4 YESTERDAY, AS I WAS SPEAKING ABOUT DETECTIVE ZOELLER AND  
5 HIS WORK ON THIS CASE.

6 I TOLD YOU THAT HE ATTENDED THE -- FIRST HE  
7 WENT TO THE CRIME SCENE, AND HE ATTENDED THE AUTOPSY AT  
8 THE CORONER'S OFFICE. AND FOLLOWING THAT, LADIES AND  
9 GENTLEMEN, HE CONTINUED TO REMAIN AS THE INVESTIGATOR IN  
10 THIS CASE. HE INTERVIEWED THE DEFENDANTS ON SEPTEMBER  
11 17TH -- ON SEPTEMBER THE 17TH OF 1989.

12 NOW, OF COURSE, THERE WAS AN INTERVIEW WITH  
13 THE DEFENDANTS PRIOR TO THAT, THAT VERY NIGHT. THE  
14 DEFENDANTS WERE INTERVIEWED BY SERGEANT EDMONDS, AND I  
15 WILL BE SPEAKING ABOUT THOSE STATEMENTS LATER WHEN I

16 TURN TO HIS TESTIMONY.

17 BUT AS FAR AS SEPTEMBER 17TH IS CONCERNED,  
18 HE SPOKE TO BOTH DEFENDANTS BACK EAST, AND WE PRESENTED  
19 THOSE STATEMENTS TO YOU, SO THAT YOU CAN SEE THE PATTERN  
20 OF DECEITFULNESS IN THIS CASE; HOW THE DEFENDANTS  
21 CONTINUED TO LIE AND COVER UP, AND PRETEND THAT THEY  
22 WERE NOT INVOLVED IN THE COMMISSION OF THIS CRIME.

23 AND WHAT IS SIGNIFICANT ABOUT SOME OF THE  
24 STATEMENTS THAT THEY MADE TO DETECTIVE ZOELLER ON  
25 SEPTEMBER 17TH OF 1989? BEAR IN MIND THIS IS ABOUT ONE  
26 MONTH AFTER THE KILLING.

27 ASIDE FROM THE FACT THAT -- FOCUSING ON  
28 LYLE MENENDEZ -- ASIDE FROM THE FACT THAT HE LIED ABOUT

-14557

1 THE KILLING, OF COURSE, NOTE SOME OF THE FOLLOWING  
2 STATEMENTS THAT HE MADE ON SEPTEMBER THE 17TH.

3 HE SAID THAT HIS MOTHER AND FATHER WOULD  
4 SOMETIMES FALL ASLEEP ON THE COUCH WATCHING TELEVISION.

5 BEAR THAT IN MIND, LADIES AND GENTLEMEN, AS  
6 YOU LOOK AT THE PHOTOGRAPHS OF JOSE MENENDEZ AND THE  
7 POSITION THAT HE WAS FOUND IN; THAT HIS BODY WAS FOUND  
8 IN, AND THEN YOU ASK YOURSELF WHETHER THIS WAS A KILLING  
9 BY AMBUSH, A KILLING BY LYING IN WAIT.

10 I WOULD SUBMIT TO YOU, LADIES AND  
11 GENTLEMEN, THAT IF JOSE MENENDEZ WAS NOT SLEEPING AT THE

12 MOMENT THAT THE DEFENDANTS ENTERED THAT ROOM, HE WAS  
13 CERTAINLY RELAXING COMFORTABLY ON THAT SOFA, IN THE VERY  
14 SAME POSITION IN WHICH HE WAS FOUND.

15 LYLE MENENDEZ TOLD DETECTIVE ZOELLER THAT  
16 HE WENT TO THE MOVIE AT ABOUT 8:00 O'CLOCK.

17 THAT'S INTERESTING, BECAUSE OF THE WAY IT  
18 CORRESPONDS SO CLOSELY WITH THE CONFESSION THAT ERIK  
19 MENENDEZ MADE TO CRAIG CIGNARELLI. BEAR IN MIND THAT  
20 CRAIG CIGNARELLI TOLD US -- AND CRAIG CIGNARELLI IS AND  
21 WAS ERIK MENENDEZ' BEST FRIEND. AND I ASKED ERIK  
22 MENENDEZ: "CAN YOU THINK OF ANYONE WHO WAS CLOSER TO  
23 YOU THAN CRAIG CIGNARELLI?" AND HE INDICATED THAT HE  
24 COULD NOT THINK OF A SINGLE PERSON WHO WAS CLOSER TO HIM  
25 THAN HIS BEST FRIEND, CRAIG CIGNARELLI.

26 WHO WERE THE TWO PEOPLE THAT HE CONFESSED  
27 TO? HE CONFESSED TO HIS THERAPIST, DR. OZIEL, AND HIS  
28 BEST FRIEND, CRAIG CIGNARELLI.

-14556

1 AND NOW HE WANTS YOU TO DISBELIEVE BOTH OF  
2 THOSE TWO PEOPLE, LADIES AND GENTLEMEN, THE TWO PEOPLE  
3 IN THIS WORLD WHO WERE CLOSEST TO HIM. OF ALL THE  
4 PEOPLE IN THE WORLD HE COULD HAVE CONFESSED TO, HE CHOSE  
5 THE TWO PEOPLE THAT HE FELT CLOSEST TO; CRAIG  
6 CIGNARELLI, HIS BEST FRIEND, AND DR. OZIEL.

7 AND NOW HE WOULD HAVE YOU BELIEVE THAT

8 CRAIG CIGNARELLI IS A TOTAL LIAR, AND DR. OZIEL IS --  
9 YOU HEARD THE ALLEGATIONS THAT HE MAKES CONCERNING  
10 DR. OZIEL, AND EVERYTHING HE SAID TO DR. OZIEL SHOULD  
11 NOT BE TRUSTED.

12 LADIES AND GENTLEMEN, I WOULD SUBMIT TO YOU  
13 THAT ERIK MENENDEZ CONFESSED TO THE TWO PEOPLE THAT WERE  
14 CLOSEST TO HIM, BECAUSE HE RELIED UPON THOSE PEOPLE.  
15 AND THE INFORMATION THAT WE HAVE, BOTH IN THE DECEMBER  
16 11 TAPE, THE DECEMBER 11 INTERVIEW WITH DR. OZIEL IS A  
17 RELIABLE -- OR AT LEAST TO THE EXTENT THAT DR. OZIEL IS  
18 NOT PUTTING ANY WORDS IN THE DEFENDANT'S MOUTH -- IT IS  
19 A RELIABLE, UNCOERCED STATEMENT OF THE DEFENDANT.

20 AND AS FAR AS CRAIG CIGNARELLI IS  
21 CONCERNED; THAT, TOO, IS A RELIABLE ACCOUNT, BECAUSE  
22 CRAIG CIGNARELLI DOESN'T HAVE ANY MOTIVATION TO LIE  
23 AGAINST THE DEFENDANT. BUT I WILL BE GETTING BACK TO  
24 THAT LATER.

25 BUT WHAT'S INTERESTING ABOUT LYLE MENENDEZ  
26 SAYING HE WENT TO THE MOVIES AT ABOUT 8:00 O'CLOCK IS  
27 THE FACT THAT THAT CORRESPONDS SO CLOSELY TO WHAT ERIK  
28 MENENDEZ TOLD CRAIG CIGNARELLI.

-14555

1 HE TOLD CRAIG CIGNARELLI THAT THEY WENT TO  
2 THE MOVIES THAT NIGHT. THEY CAME BACK FROM THE MOVIES  
3 TO PICK UP THE I.D., AND IT WAS AFTER THE I.D., WHILE



4 THEY WERE THERE TO GET THE I.D., THAT LYLE MENENDEZ THEN  
5 TOOK OUT TWO GUNS AND SAID: "LET'S DO IT," AND HANDED A  
6 GUN TO ERIK MENENDEZ.

7 WELL, THE TIMING OF THIS WORKS OUT  
8 PERFECTLY, BECAUSE IF THEY HAD GONE TO THE MOVIES AT  
9 8:00 O'CLOCK, THAT WOULD HAVE WORKED OUT PERFECTLY FOR  
10 THIS TO HAVE TAKEN PLACE.

11 SPENDING. LYLE MENENDEZ MAKES A VERY  
12 INTERESTING POINT ABOUT SPENDING IN THE SEPTEMBER 17TH  
13 STATEMENT. HE SAID THAT: "MY FATHER WAS PRETTY MUCH A  
14 FRUGAL PERSON, VERY FRUGAL, BECAUSE HIS FATHER HAD NO  
15 MONEY. HE WAS TRYING TO TEACH US THE VALUE OF MONEY,  
16 BUT THERE WERE A LOT FIGHTS."

17 DO YOU SEE HOW THAT PLAYS HAND IN HAND WITH  
18 WHAT I WAS JUST TELLING YOU, THAT VERY OFTEN YOU GET THE  
19 ONE GENERATION WHO WORKS VERY HARD, AND WHO ACHIEVES  
20 SOMETHING FOR THEMSELVES; AND THEN THE YOUNGER  
21 GENERATION REALLY DOESN'T KNOW THE VALUE OF MONEY, OR  
22 THE MEANING OF WORK, OR HOW YOU GET THERE. THEY JUST  
23 GROW UP IN A COMFORTABLE SITUATION, AND THEY THINK:  
24 "HEY, THIS IS LIFE. THIS IS WHAT LIFE IS ALL ABOUT. IF  
25 MY FATHER HAS IT, I WILL HAVE IT, TOO," YOU SEE.

26 BUT WHAT WE LEARNED FROM LYLE MENENDEZ IS  
27 THAT JOSE MENENDEZ WAS DESPERATELY TRYING TO TEACH THEM  
28 THE VALUE OF MONEY, AND THERE WERE FIGHTS BECAUSE THEY

1 WOULD NOT LEARN THE VALUE OF MONEY.

2 THAT WAS A SOURCE OF TENSION. THAT WAS A  
3 SOURCE OF HOSTILITY IN THE HOUSE.

4 LYLE MENENDEZ TELLS DETECTIVE ZOELLER:

5 "ERIK AND I USUALLY DON'T GO TO BED UNTIL ABOUT 1:00  
6 P.M."

7 WHY IS THAT SIGNIFICANT? IT JUST SEEMS  
8 LIKE A TRIVIAL REMARK. BUT ONCE AGAIN, IT CONTRADICTS  
9 THE PICTURE THAT THE DEFENSE HAS BEEN TRYING TO PORTRAY  
10 TO YOU, A VERY DISTORTED PICTURE OF WHAT LIFE WAS LIKE  
11 FOR THESE TWO DEFENDANTS.

12 ERIK AND LYLE MENENDEZ WERE PRETTY MUCH ON  
13 THEIR OWN. THEY DID WHAT THEY WANTED TO DO. THESE WERE  
14 NOT TWO YOUNG MEN WHO WERE UNDER THE HARSH THUMB OF  
15 THEIR FATHER. JOSE MENENDEZ WOULD HAVE PREFERRED IT IF  
16 HE COULD HAVE A LITTLE MORE CONTROL OVER THEIR LIFE, AT  
17 LEAST STOP THEM FROM COMMITTING RESIDENTIAL BURGLARIES.  
18 THAT WOULD BE A GOOD START.

19 BUT JOSE MENENDEZ WASN'T ABLE TO CONTROL  
20 THESE TWO YOUNG MEN. THEY WERE PRETTY MUCH OUT OF  
21 CONTROL. THEY CAME AND WENT AS THEY PLEASED; ESPECIALLY  
22 LYLE MENENDEZ, WHO LIVED OUT OF THE HOME FOR THE LAST  
23 YEAR AND A HALF. OF THE THREE YEARS PRECEDING THE  
24 CRIME, LYLE MENENDEZ WAS OFF, ACCORDING TO ERIK  
25 MENENDEZ, A YEAR AND A HALF AWAY FROM THE HOME.

26 SO LYLE MENENDEZ WAS NOT UNDER THE THUMB OF  
27 HIS FATHER. AND HE SAYS AS MUCH IN THE DECEMBER 11  
28 TAPE, WHICH I WILL BE GOING OVER WITH YOU IN A FEW

1 MINUTES.

2 SO THESE TWO YOUNG MEN WOULD COME AND GO AS  
3 THEY PLEASED; GO TO BED AT 1:00 O'CLOCK, COME HOME AT  
4 1:00 O'CLOCK, WHATEVER THEY WANTED TO DO. THEY WERE NOT  
5 UNDER THE CONTROL OF THEIR FATHER. HE WAS TOO BUSY OUT  
6 THERE SLAYING DRAGONS IN THE CORPORATE WORLD. HE DIDN'T  
7 HAVE THE TIME TO KEEP AN EYE ON HIS 18 YEAR-OLD AND 21  
8 YEAR-OLD SONS.

9 KEEP IN MIND, LADIES AND GENTLEMEN, ONE OF  
10 THE TRICKS THE DEFENDANTS TRIED TO DO IN THIS CASE IS  
11 TAKE LIFE AS A YOUTH AND MIX IT UP IN A STEW AS TO LIFE  
12 AS AN ADULT. "ISN'T IT TRUE ERIK MENENDEZ COULDN'T GO  
13 OUT OF THE FRONT YARD?" YEAH. HE COULDN'T GO OUT OF  
14 THE FRONT YARD WHEN HE WAS EIGHT YEARS OLD. PROBABLY  
15 YOU COULDN'T GO OUT OF THE FRONT YARD WHEN YOU WERE  
16 EIGHT YEARS OLD.

17 WE'RE TALKING ABOUT 18 YEARS OLD, WHEN HE  
18 WAS FREE TO COME AND GO. HE WAS FREE TO COME AND GO AS  
19 HE PLEASED. CRAIG CIGNARELLI TELLS US THAT. LYLE  
20 MENENDEZ TELL US THAT. ERIK MENENDEZ TELLS US THAT. HE  
21 WAS NOT UNDER THE HARSH THUMB OF HIS FATHER.

22 LET'S TURN TO SOME OF THE STATEMENTS MADE  
23 BY ERIK MENENDEZ ON SEPTEMBER 17TH.

24 ONCE AGAIN, ASIDE FROM THE FACT THAT HE  
25 CONTINUED TO LIE ABOUT THE KILLING, A LONG PATTERN OF

26 LIES HERE, BEGINNING THE DAY OF THE KILLING AND  
27 EXTENDING SIX MONTHS UP UNTIL THE TIME OF THE ARREST,  
28 NOTE THE FOLLOWING:

-14552

1 NOTE HOW HE WAS -- AND I WOULD SUBMIT THE  
2 ONLY REASONABLE INTERPRETATION OF THIS EVIDENCE WAS THAT  
3 HE WAS TRYING TO PLAY GAMES WITH DETECTIVE ZOELLER, WHEN  
4 HE TELLS DETECTIVE ZOELLER: "DO YOU KNOW THERE WAS A  
5 BULLET HOLE IN MY JEANS, AND IN FACT I COMPARED THAT  
6 BULLET HOLE ON ONE SIDE OF THE JEANS WITH THE BULLET  
7 HOLE IN THE OTHER SIDE OF THE JEANS, AND IT SEEMS TO  
8 MATCH UP. AND IT SEEMS TO ME THIS WAS A SHOT THAT WAS  
9 FIRED. MAYBE MY JEANS WERE IN THE ROOM AT THE TIME OF  
10 THE SHOOTING."

11 HE KNOWS VERY WELL THERE WEREN'T BULLETS  
12 FIRED IN THAT ROOM. ERIK MENENDEZ WAS JUST HAVING A  
13 GOOD TIME, JUST WANTED TO PLAY GAMES WITH ZOELLER, AND  
14 SEE WHAT DETECTIVE ZOELLER HAD TO SAY ABOUT ALL THAT.

15 JUST LIKE HE TOLD DETECTIVE ZOELLER: "YOU  
16 KNOW, I WAS WONDERING WHAT KIND OF A GUN WAS USED IN THE  
17 SHOOTING."

18 HOW CALLOUS, HOW COLD, UNLESS HE WAS  
19 PLAYING GAMES WITH DETECTIVE ZOELLER. HE SHOT HIS  
20 MOTHER AND FATHER TO DEATH, AND NOW HE'S PLAYING GAMES  
21 WITH DETECTIVE ZOELLER.

22 "I WONDER WHAT KIND OF GUN WAS USED." HE  
23 ASKED DETECTIVE ZOELLER: "DO YOU THINK IT COULD HAVE  
24 BEEN SOMEONE THEY KNEW?"  
25 AGAIN, IS HE PLAYING GAMES OR PROBING FOR  
26 INFORMATION? BUT AGAIN, HE IS NOT TALKING SERIOUSLY.  
27 HE IS LYING.  
28 ERIK MENENDEZ ADMITS TO DETECTIVE ZOELLER:

-14551

1 "I USUALLY DON'T COME HOME UNTIL AFTER MY PARENTS ARE  
2 ASLEEP." THAT TELLS YOU A LITTLE BIT ABOUT THE FREEDOM  
3 THAT THIS YOUNG MAN HAD. THE DEFENSE WANTS YOU TO  
4 BELIEVE THAT THIS IS LIKE A 13 YEAR-OLD CHILD KEPT IN A  
5 CLOSET. THAT'S THE PORTRAIT THAT THEY WANT TO PORTRAY  
6 OF ERIK MENENDEZ.  
7 ASIDE FROM THE FACT THAT THEY TRIED  
8 DESPERATELY -- AND EVEN ERIK MENENDEZ TRIED DESPERATELY  
9 TO PORTRAY HIMSELF AS A CHILD, RATHER THAN AS AN ADULT  
10 AT THE TIME OF THIS SHOOTING. THEY ALSO WANTED TO MAKE  
11 IT APPEAR AS IF HE WAS A MAN WITH NO FREEDOM.  
12 BUT HE ADMITS: "I USUALLY COME HOME AFTER  
13 MY PARENTS ARE ASLEEP."  
14 HE, TOO, ADMITTED THAT: "MY PARENTS HAVE A  
15 HABIT OF FALLING ASLEEP IN FRONT OF THE TELEVISION, WITH  
16 MY MOTHER IN MY FATHER'S LAP."  
17 IN FACT, HE SAID: "MY FATHER WAS IN THE

18 POSITION THAT WE FOUND HIM WHEN WE CAME BACK FROM THE --  
19 FROM BEING OUT," HE SAID, "HE WAS IN THE SAME SPOT WHERE  
20 WE LEFT THAT DAY."

21 THAT'S VERY INTERESTING, THAT HE ATTRIBUTES  
22 THAT SPOT WHERE THE BODY OF JOSE MENENDEZ WAS FOUND, HE  
23 SAYS THAT HE WAS THERE IN THAT SPOT WHEN HE AND HIS  
24 BROTHER HAD LEFT THAT DAY. AND I WOULD SUBMIT, LADIES  
25 AND GENTLEMEN, THAT'S PROBABLY EXACTLY THE TRUTH. JOSE  
26 MENENDEZ WAS SITTING IN THAT SPOT.

27 AND HE SAID: "THAT IS WHERE MY FATHER  
28 NORMALLY SITS, AND THAT IS WHERE MY FATHER WAS WATCHING

-14550

1 TELEVISION THAT DAY."

2 HE ALSO TELLS DETECTIVE ZOELLER THAT:  
3 "LATELY, MY PARENTS HAVE BEEN LOCKING THE DOOR TO THE  
4 BEDROOM, AND MY MOTHER WAS VERY NERVOUS."

5 IT TELLS YOU A LOT ABOUT THE FAMILY, LADIES  
6 AND GENTLEMEN, AND ABOUT THE FEELINGS OF THE FAMILY  
7 TOWARD THE DEFENDANTS IN THIS CASE.

8 HE ADMITS TO DETECTIVE ZOELLER: "I DON'T  
9 WANT TO GO TO SCHOOL THIS YEAR." WHICH IS VERY TRUE.  
10 YOU LOOK AT THE BEHAVIOR OF WHAT ERIK AND LYLE MENENDEZ  
11 DID AFTER THEY KILLED THEIR PARENTS -- AFTER THEY SHOT  
12 THEIR PARENTS TO DEATH. DID THEY DO WHAT THEIR FATHER  
13 WANTED THEM TO DO, GO TO SCHOOL, PURSUE A CAREER, GET AN

14 EDUCATION? NO.

15 THAT TELLS YOU A LOT, LADIES AND GENTLEMEN.

16 YOU KNOW, IT'S BEEN SAID BY POLITICIANS SOMETIMES,

17 "JUDGE ME NOT BY WHAT I SAY, BUT JUDGE ME BY WHAT I DO."

18 AND THAT'S EXACTLY THE WAY YOU SHOULD JUDGE

19 PEOPLE, LADIES AND GENTLEMEN. ANYBODY CAN CLAIM

20 ANYTHING. JUDGE PEOPLE BY WHAT THEY DO, DON'T JUDGE

21 PEOPLE BY WHAT THEY CLAIM.

22 AND YOU LISTEN TO ERIK MENENDEZ AND HIS

23 TESTIMONY THERE, AND WHAT DOES HE TELL US? "YES, I

24 WANTED TO GO TO SCHOOL AND I WANTED TO FULFILL

25 EVERYTHING MY FATHER WANTED ME TO DO."

26 NONSENSE. ERIK MENENDEZ WANTED TO PLAY

27 TENNIS, AND HIS FATHER WAS GOING TO CUT OUT THE TENNIS.

28 JOSE MENENDEZ WANTED HIM TO GO TO SCHOOL, AND ERIK

-14549

1 MENENDEZ HAD NO INTEREST IN GOING TO SCHOOL. LYLE

2 MENENDEZ HAD NO INTEREST IN GOING TO SCHOOL.

3 THIS WAS THEIR WAY OF GETTING INDEPENDENCE.

4 THIS WAS THEIR WAY OF ACHIEVING THE FINANCIAL SECURITY

5 THEY NEEDED TO GET THEIR FATHER OFF THEIR BACK, AND THAT

6 IS WHY THEY KILLED THEIR PARENTS.

7 HE DESCRIBES HIMSELF AS HAVING NO PROBLEMS

8 WITH HIS FATHER. HE SAYS: "MY FATHER IS LIKE A TYPICAL

9 FATHER," AND HE SAID THAT HIS ALLOWANCE WAS ABOUT \$180 A

10 MONTH.  
11 THAT'S VERY INTERESTING, LADIES AND  
12 GENTLEMEN. \$180 A MONTH, WHAT DOES THAT WORK OUT TO?  
13 ABOUT \$45 A WEEK. NOT A LOT OF MONEY FOR A YOUNG MAN  
14 LIVING IN BEVERLY HILLS, AND CERTAINLY A FAR CRY FROM  
15 THE TYPE OF MONEY HE HAD AVAILABLE TO HIM AFTER HE  
16 KILLED HIS PARENTS, AND THE TYPE OF MONEY THAT HE  
17 PLANNED TO BE SPENDING AND INVESTING. AND I WILL GET  
18 BACK TO THAT LATER.

19 ANOTHER INTERESTING THING THAT HE SAYS,  
20 LADIES AND GENTLEMEN, IN THAT SEPTEMBER 17TH STATEMENT,  
21 HE SAYS THAT LYLE MENENDEZ' LIFELONG AMBITION WAS TO GET  
22 A ROLEX WATCH. BUT DAD DIDN'T LIKE THAT. IT WAS SHOWY.

23 ONCE AGAIN, TELLS YOU A LITTLE BIT ABOUT  
24 FAMILY DYNAMICS HERE. JOSE MENENDEZ WAS, AS LYLE  
25 MENENDEZ INDICATED, A FRUGAL PERSON. HE WOULDN'T GO OUT  
26 AND BE BUYING A ROLEX WATCH, AND CERTAINLY WOULDN'T HAVE  
27 A ROLEX WATCH FOR HIS YOUNG 21 YEAR-OLD SON.

28 BUT THAT'S PRECISELY THE KIND OF THING THAT

-14548

1 LYLE MENENDEZ WOULD LIKE TO HAVE, AND COULDN'T HAVE.

2 WE HEARD THAT LYLE MENENDEZ USED TO RUN UP  
3 A LOT OF BIG BILLS. \$40,000 IN CLOTHES. CAN YOU  
4 IMAGINE THAT? \$40,000 IN CLOTHES. BUT STILL, HE  
5 COULDN'T GO OUT AND BUY ROLEX WATCHES AT \$10,000 A CLIP.



6 CERTAINLY COULDN'T DO THAT WHEN HIS FATHER WAS ALIVE.

7 BUT FOUR DAYS AFTER HIS FATHER WAS DEAD,

8 FOUR DAYS AFTER HE PUT THAT HUGE HOLE IN THE BACK OF HIS

9 FATHER'S HEAD, HE WENT OUT AND GOT HIMSELF A \$10,000

10 ROLEX, THE FULFILLMENT OF A "LIFE-TIME AMBITION,"

11 ACCORDING TO ERIK MENENDEZ.

12 BUT ONE OF THE MOST IMPORTANT THINGS THAT

13 DETECTIVE ZOELLER TESTIFIED TO WAS THE RECOVERY OF THE

14 DECEMBER 11TH TAPE. AND AS I INDICATED TO YOU, LADIES

15 AND GENTLEMEN, THIS TAPE-RECORDING IS A STATEMENT OF THE

16 DEFENDANTS. THEY ARE SITTING DOWN. THEY ARE TALKING TO

17 DETECTIVE OZIEL -- DR. OZIEL, AND THIS WAS BEFORE THEY

18 WERE ARRESTED. THIS WAS BEFORE THEY HAD A REASON TO

19 FABRICATE STORIES OF CHILD ABUSE. THIS WAS BEFORE THEY

20 HAD A REASON TO FABRICATE THE HOSTILE AND TRAUMATIC

21 EVENTS OF AUGUST THE 20TH OF 1989 MANY.

22 AND SO, LADIES AND GENTLEMEN, I WOULD

23 SUBMIT TO YOU THAT THIS IS A POWERFUL PIECE OF EVIDENCE

24 WHICH IS MUCH, MUCH CLOSER TO THE TRUTH THAN ANYTHING

25 YOU HEARD FROM ERIK MENENDEZ AS HE WAS ON THAT WITNESS

26 STAND.

27 FOR ALL PRACTICAL PURPOSES, LADIES AND

28 GENTLEMEN, THIS IS THE SMOKING GUN IN THIS CASE. IF

-14547

1 THERE IS ONE PIECE OF EVIDENCE THAT IS A SMOKING GUN, IT

2 IS THIS, BECAUSE IT IS VERY CLEAR FROM THIS TAPE THAT  
3 THIS WAS A PREMEDITATED AND DELIBERATE KILLING.  
4 YOU KNOW NOW THE ELEMENTS OF  
5 PREMEDITATION -- THE ELEMENTS OF FIRST-DEGREE MURDER, I  
6 SHOULD SAY, WHAT PREMEDITATION AND DELIBERATION IS. AND  
7 YOU KNOW IT'S JUST A MATTER OF THINKING ABOUT IT,  
8 WEIGHING IT AND SAYING, "OKAY, I'LL DO IT." THAT'S ALL  
9 IT IS.

10 AND THIS TELLS YOU, LADIES AND GENTLEMEN,  
11 VERY CLEARLY, THAT THESE TWO DEFENDANTS PREMEDITATED THE  
12 COLD-BLOODED KILLING OF THEIR PARENTS.

13 NOW, I'D LIKE TO GO THROUGH SOME OF THESE  
14 STATEMENTS THAT THE DEFENDANTS MAKE ON THIS TAPE.

15 LYLE MENENDEZ DESCRIBES HIS MOTHER AS  
16 ALWAYS BEING VERY GOOD AT STRESSFUL SITUATIONS, VERY  
17 CALM.

18 ISN'T THAT A VERY DIFFERENT PICTURE FROM  
19 WHAT WE HEARD IN THIS COURTROOM? YOU SEE, NOW THERE IS  
20 A REASON TO MAKE KITTY MENENDEZ OUT TO BE A MONSTER.  
21 YOU BET YOUR LIFE EVERY TIME A WITNESS TOOK THAT STAND,  
22 A COUSIN OR AN AUNT, AND TRIED TO PORTRAY KITTY AS AN  
23 IRRATIONAL, UNPREDICTABLE WOMAN, YOU CAN BE SURE ERIK  
24 MENENDEZ AND LYLE MENENDEZ WERE SITING THERE THINKING,  
25 "GO TEAM, GO. THAT'S THE WAY TO DO IT." THAT'S EXACTLY  
26 WHAT THEY WANT.

27 AND YET, WHY IS LYLE MENENDEZ, WHEN HE'S  
28 TALKING TO DR. OZIEL BACK ON DECEMBER THE 11TH -- AND WE

1 KNOW THE DATE NOW. THIS IS DECEMBER THE 11TH OF 1989,  
2 JUST A FEW MONTHS AFTER THE KILLING. WHY IS LYLE  
3 MENENDEZ DESCRIBING HER AS VERY GOOD AT STRESSFUL  
4 SITUATIONS, VERY CALM?

5 LYLE MENENDEZ, IN SPEAKING ABOUT HIS  
6 MOTHER, THE KILLING OF HIS MOTHER, DESCRIBES IT AS ONE  
7 OF THE HARDER DECISIONS, UNLIKE THE KILLING OF THE  
8 FATHER, WHICH HE SAID: "WELL -- WELL, HE SHOULD BE  
9 KILLED. THERE'S NO QUESTION."

10 THE WORDS THAT HE USED, HE SAYS:

11 "AND FOR MY MOTHER'S SAKE, I  
12 THOUGHT THAT WE HAD TO COME TO LIKE WHAT I  
13 WAS SAYING BEFORE. WE HAD TO MAKE A  
14 DECISION. IT WAS ONE OF THE HARDER ONES,  
15 AND IT WAS A SEPARATE ISSUE. HE'S THE  
16 REASON. MY FATHER SHOULD BE KILLED.  
17 THERE'S NO QUESTION. WHAT HE'S DOING  
18 IS -- HE'S IMPOSSIBLE TO LIVE WITH FOR  
19 MYSELF."

20 HE GOES ON TO TALK ABOUT HOW -- VERY  
21 SIGNIFICANT STATEMENT OF THE DEFENDANT -- WHICH IS SO  
22 FAR CONTRARY TO THE PORTRAIT THAT THEY NOW TRY TO  
23 PRESENT OF THEIR PARENTS. IT TELLS YOU A GREAT DEAL  
24 ABOUT HOW MUCH LOVE JOSE MENENDEZ HAD FOR HIS SONS,  
25 BECAUSE LYLE MENENDEZ ADMITS -- AND I EVEN QUESTIONED  
26 ERIK MENENDEZ ABOUT THIS WHILE HE WAS ON THE STAND, AND

27 ERIK MENENDEZ DOESN'T DENY THE TRUTHFULNESS OF THIS  
28 ASSERTION -- THAT JOSE MENENDEZ CRIED WHEN HE HEARD

-14545

1 ABOUT THE CALABASAS INCIDENT, AND JOSE MENENDEZ CRIED  
2 WHEN HE HEARD ABOUT HIS SON'S FAILURE IN PRINCETON.

3 THIS TELLS YOU A GREAT DEAL, LADIES AND  
4 GENTLEMEN, ABOUT THE COMPASSION AND THE LOVE THAT JOSE  
5 MENENDEZ HAD FOR HIS SONS. IS THIS THE KIND OF MAN WHO  
6 WOULD BE ABUSING HIS SONS?

7 HE SAID -- LYLE MENENDEZ SAYS: "AFTER THE  
8 CALABASAS ISSUE, HE CRIED, AND WE WERE TOGETHER. WE  
9 WERE CLOSE. THIS WAS THE FIRST TIME HE EVER CRIED IN  
10 FRONT OF ME."

11 AND HE LATER GOES ON TO SAY: "HE CRIED  
12 AFTER THE CALABASAS ISSUE, AFTER I SAID THAT, YOU KNOW,  
13 ERIK AND I WERE VERY SORRY, AND THE WHOLE DEAL -- AND  
14 I'M SORRY FOR ALL THE TROUBLE THAT YOU WERE CAUSED  
15 THROUGH THIS WHOLE ISSUE," AND HE CRIED, AND HE FELT --  
16 I THINK HE CRIED A LOT AFTER THE PRINCETON ISSUE, AND I  
17 CAME TO HIM AND I SAID THIS AND THAT."

18 AGAIN, THEY WANT YOU TO SEE JOSE MENENDEZ  
19 AS A COLD MONSTER. EASY TO MAKE THOSE CLAIMS, LADIES  
20 AND GENTLEMEN. IT'S VERY EASY, ESPECIALLY WHEN YOU SAY,  
21 "WELL, MR. CONN, THIS HAPPENED BEHIND CLOSED DOORS, YOU  
22 SEE. THAT'S THE REASON WHY I DON'T HAVE ANY WITNESSES,

23 MR. CONN. IT, ALL HAPPENED BEHIND CLOSED DOORS."  
24 BUT LADIES AND GENTLEMEN, JOSE MENENDEZ WAS  
25 A MAN WHO WANTED THE BEST FOR HIS SONS. TIME WAS  
26 PRECIOUS TO HIM, YET HE TOOK TIME OUT OF HIS OWN  
27 SCHEDULE TO ATTEND ALL OF THE SPORTING EVENTS OF HIS  
28 SONS, AND HE WAS A MAN WHO CRIED FOR HIS SONS.

-14544

1 TURNING TO THE REASONS FOR THE KILLING.  
2 LYLE MENENDEZ MAKES IT VERY CLEAR IN THIS  
3 DECEMBER 11TH TAPE, LADIES AND GENTLEMEN, THAT THE  
4 KILLINGS IN FACT HAD NOTHING TO DO WITH ERIK AND LYLE  
5 MENENDEZ. THIS IS HIS CLAIM. I'LL GET BACK TO THE  
6 RELIABILITY OF THAT CLAIM IN A MOMENT.  
7 HE SAID THE FOLLOWING: DR. OZIEL ASKED  
8 HIM -- WELL, HE MAKES THE FOLLOWING STATEMENT TO  
9 DR. OZIEL:  
10 "BUT I STILL DON'T THINK IT HAD  
11 ANYTHING TO DO WITH -- KILLING HIM HAD  
12 NOTHING TO DO WITH US. IT HAD TO DO WITH  
13 ME REALIZING A NUMBER OF THINGS THAT ALL  
14 CULMINATED, WHICH WAS -- AND COULD HAVE  
15 CULMINATED AT ANY POINT, AND IT WAS JUST A  
16 QUESTION OF ERIK AND I GETTING TOGETHER  
17 AND SOMEBODY BRINGING IT UP, AND US  
18 REALIZING THE VALUE OF IT."

19           AND THAT'S EXACTLY WHAT HAPPENED HERE,  
20 LADIES AND GENTLEMEN. THE DECISION TO KILL THEIR  
21 PARENTS WAS SIMPLY AN ANALYSIS OF WAS IT WORTH IT OR  
22 WASN'T IT WORTH IT, AND AT SOME POINT, YOU KNOW, THEY  
23 SAID: "IT'S WORTH IT." AND THAT'S PRECISELY WHAT  
24 PREMEDITATION IS. AND THERE IS NO WAY YOU CAN LISTEN TO  
25 THE DECEMBER 11 TAPE AND WALK AWAY WITH ANY OTHER  
26 CONCLUSION OTHER THAN THE FACT THAT THIS WAS A  
27 PREMEDITATED AND COLD-BLOODED KILLING.  
28           HERE IS ANOTHER PASSAGE IN WHICH ERIK

-14543

1 MENENDEZ IS SPEAKING, AND ERIK MENENDEZ SAYS THE  
2 FOLLOWING:  
3           "HE WAS SOMEBODY THAT I LOVED, AND  
4 ALMOST HAD NO CHOICE TO DO WHAT I DID."  
5 ALMOST NO CHOICE. HE DOESN'T SAY, "I HAD  
6 TO DO IT." HE NEVER ONCE TELLS DR. OZIEL THAT THIS WAS  
7 A SITUATION IN WHICH HE WAS ACTING IN SELF-DEFENSE OR IN  
8 FEAR. HE SAYS "ALMOST NO CHOICE."  
9           "AND I HATE MYSELF FOR DOING IT,  
10 AND I UNDERSTAND WHY IT WAS DONE, BUT I --  
11 SOMEHOW IN MY MIND, I CAN'T RATIONALIZE  
12 IT."  
13           YOU SEE, BECAUSE THAT'S WHAT THEY ARE  
14 SEEKING TO DO IN THIS MEETING. THEY ARE SEEKING TO

15 RATIONALIZE THEIR BEHAVIOR.

16 "BECAUSE -- BECAUSE THE LOVE THAT I

17 HAD FOR HIM AND MY MOTHER, AND THE

18 MISCONCEPTION IN THE FAMILY, AND NO ONE

19 ELSE -- AND NO ONE UNDERSTOOD. AND HAVING

20 TO LISTEN TO THE FIGHTS, AND SOMEBODY

21 WOULD BE YELLING AND SCREAMING, AND IT WAS

22 ALWAYS TAKING PLACE DOWNSTAIRS, AND

23 FINDING BLOOD ON THE BED.

24 "AND I JUST TRIED TO RATIONALIZE

25 EVERYTHING. AND I BREAK DOWN EVERY ONCE

26 IN A WHILE, BECAUSE IT'S DIFFICULT. I

27 DON'T MEAN -- I LOVE MY FATHER, AND IT'S

28 MORE DIFFICULT BECAUSE OF MY MOTHER,

-14542

1 BECAUSE I REALIZE WHAT AN AMAZING TRAGEDY

2 HER LIFE WAS COMPARED TO WHAT IT COULD

3 HAVE BEEN, BECAUSE OF MY FATHER, AND I

4 HATE HIM FOR THAT, AND I LOVE HIM, AND IT

5 WAS SOMETHING THAT WAS BEYOND MY CONTROL."

6 AND THE QUESTION WAS ASKED, "WHAT WAS

7 BEYOND YOUR CONTROL THAT YOU HAD TO KILL HIM? "AND

8 HERE'S THE ANSWER OF LYLE MENENDEZ. "EVENTUALLY IT HAD

9 TO HAPPEN."

10 AND IT'S VERY CLEAR WHAT HE'S TALKING

11 ABOUT. HE IS SAYING THAT EVENTUALLY THE KILLING HAD TO  
12 HAPPEN. THAT WAS THE QUESTION:  
13 "THAT YOU HAD TO KILL HIM?"  
14 "EVENTUALLY IT HAD TO HAPPEN."  
15 HE DENIED THAT ON THE WITNESS STAND, BUT  
16 THAT'S WHAT HE IS SAYING HERE. HE IS SAYING, JUST AS  
17 LYLE MENENDEZ WAS SAYING, IT WAS JUST A MATTER OF TIME,  
18 GETTING TOGETHER, SEEING THE VALUE OF IT, TALKING ABOUT  
19 IT AND SAYING, "NOW IS THE TIME".  
20 ERIK MENENDEZ GOES ON TO SAY:  
21 "IT WAS BASICALLY RUINING MY LIFE,  
22 AND I GUESS LYLE'S, AND HE WAS PUTTING MY  
23 MOTHER THROUGH TORTURE, AND IT GOT TO THE  
24 POINT WHERE -- HE WAS AMAZING. HE WOULD  
25 DO GREAT THINGS FOR ME, AND HE WOULD -- I  
26 WOULDN'T UNDERSTAND WHY. I KNOW THAT SHE  
27 LOVED ME. SOMEHOW WE COULD JUST. . ."  
28 HERE ERIK MENENDEZ TRIES TO SAY THAT HE WAS

-14541

1 TALKING ABOUT THE ABUSE; THAT HIS FATHER WAS ABUSING  
2 HIM. BUT NOWHERE DOES HE TALK ABOUT ABUSE AGAINST HIM  
3 BY HIS FATHER. IT'S VERY CLEAR IN THIS PASSAGE HE IS  
4 TALKING ABOUT -- HE IS MAKING AN ALLEGATION ABOUT THE  
5 WAY HIS FATHER WAS MISTREATING HIS MOTHER, AND THAT IS  
6 WHAT HE WAS SAYING WAS THAT IT WAS RUINING HIS LIFE,



7 "AND I GUESS LYLE'S, AND HE WAS PUTTING MY MOTHER  
8 THROUGH TORTURE."

9 THAT'S EXACTLY WHAT HE WAS TALKING ABOUT,  
10 THE RELATIONSHIP BETWEEN HIS MOTHER AND FATHER. HE  
11 WASN'T TALKING ABOUT HIS OWN ABUSE, BECAUSE IF HE WANTED  
12 TO TALK ABOUT HIS ABUSE, HE WOULD HAVE. THERE IS NOT A  
13 SINGLE REFERENCE TO THAT IN THIS TRANSCRIPT.

14 ERIK MENENDEZ ALSO INDICATES, CONTRARY TO  
15 THE IMPRESSION THAT THEY WANT TO PRESENT TO YOU HERE,  
16 THAT HE WAS A HELPLESS KIND OF CHILD WHO COULDN'T EVEN  
17 LEAVE HIS HOME. HE INDICATES IN THIS TRANSCRIPT THAT HE  
18 FELT HE COULD LEAVE HOME. HE SAID AT ONE POINT -- HE  
19 WAS ASKED BY DR. OZIEL:

20 "DID YOU EVER TRY TO TELL YOUR MOM,  
21 OR TALK TO YOUR MOM ABOUT WHAT YOUR FATHER  
22 WAS DOING?"

23 "NO. I COULDN'T FACE THAT. I LEFT  
24 THAT UP TO MY BROTHER. I COULDN'T EVEN  
25 FACE THAT ISSUE. I TOLD MY BROTHER OVER  
26 THE PHONE, AND HE COULDN'T -- I DIDN'T  
27 WANT TO FACE IT. BUT I KNEW THAT IF MY  
28 MOM DIED, I WOULD HAVE TO LEAVE. I WOULD

-14540

1 HAVE TO LEAVE, AND IT DIDN'T MATTER,  
2 BECAUSE I ALWAYS THOUGHT THAT I COULD. I

3       COULD MAKE ALL THIS MONEY OR WHATEVER, AND  
4       IT WOULDN'T MAKE A DIFFERENCE, AND LEAVING  
5       WOULDN'T BE A PROBLEM."

6           SO HE RECOGNIZES, DESPITE ALL THESE  
7   THEORIES -- I WILL GET MORE INTO THESE THEORIES LATER  
8   ABOUT THIS LEARNED HELPLESSNESS STUFF. ERIK MENENDEZ  
9   KNEW HE COULD LEAVE THE HOUSE. HE COULD LEAVE THE HOUSE  
10  ANY TIME HE WANTED TO, AS ANY YOUNG MAN OF 18 YEARS OLD  
11  KNOWS, IF HE REALLY WANTED TO GO, HE COULD GO.

12           ERIK MENENDEZ ADMITS THIS IN THE DECEMBER  
13  11 TAPE. BUT THEN HE GOES ON TO SAY:

14           "I WOULD HAVE TO DO IT, AND I  
15   COULDN'T LIVE WITH THEM ANYMORE, AND I  
16   GUESS I WAS TAUGHT TO LOVE HIM BECAUSE HE  
17   WAS MY FATHER, AND I GUESS BECAUSE I  
18   WANTED TO LOVE LOVE HIM, AND PROBABLY FACE  
19   THE FACT THAT -- THAT MY MOTHER HAD TO BE  
20   KILLED, AND THAT WAS THE ONLY WAY OUT. IT  
21   WAS THE ONLY WAY OUT FOR HER, AND THAT'S  
22   WHY HE CANNOT EVEN FACE IT. HE WOULD HAVE  
23   TO FACE THAT AND UNDERSTAND THAT. IT  
24   WOULD KILL YOU, BECAUSE IT'S JUST -- IT'S  
25   JUST SO SAD."

26           AND SO WHAT HE WAS SAYING -- HE WAS BUYING  
27  INTO THIS PROPOSITION THAT BOTH ERIK AND LYLE MENENDEZ  
28  ARE TRYING TO EXPRESS TO DR. OZIEL THAT THE MOTHER HAD

1 TO BE KILLED; THAT IT WAS A MERCY KILLING.

2 I WOULD SUBMIT, LADIES AND GENTLEMEN --

3 BEFORE I READ THE REMAINDER OF THIS, LET ME JUST COMMENT

4 ON WHAT IS GOING ON HERE, WHAT IS GOING ON IN THIS

5 DECEMBER 11TH SESSION.

6 FIRST OF ALL, ERIK MENENDEZ TRIES TO GIVE A

7 NONSENSICAL EXPLANATION FOR WHY YOU SHOULD IGNORE THIS

8 PARTICULAR RECORDING OF HIMSELF AND HIS BROTHER SPEAKING

9 TO DR. OZIEL.

10 HE WANTS YOU TO BELIEVE THAT HE WAS TELLING

11 DR. OZIEL SOMETHING THAT DR. OZIEL WANTED TO HEAR, AND

12 THAT IS ABSOLUTELY RIDICULOUS. TAKE A LOOK AT THE

13 CHRONOLOGY OF THE RELATIONSHIP BETWEEN HIMSELF AND

14 DR. OZIEL, AND WHAT WAS GOING ON IN THIS SESSION.

15 YOU KNOW THAT RIGHT AFTER THE CALABASAS

16 BURGLARIES, THAT'S WHEN ERIK MENENDEZ STARTED TO SEE

17 DR. OZIEL, AND HE WAS TIED INTO THE COURT PROCEEDINGS

18 RELATING TO THE CALABASAS BURGLARIES IN SOME WAY. HIS

19 ATTORNEY AT THE TIME, GERRY CHALEFF -- YOU WILL HEAR HIS

20 NAME THROUGHOUT THIS CASE -- GERRY CHALEFF, WHO WAS

21 REPRESENTING HIM IN THE CALABASAS PROCEEDING, SUGGESTED

22 THAT TREATMENT MIGHT BE A WAY OF PERSUADING THE COURT

23 FOR A MORE LENIENT SENTENCE.

24 AND YOU KNOW, THAT'S WHAT HAPPENED IN THIS

25 CASE. HE RECEIVED STRAIGHT PROBATION FOR WHAT HE CALLED

26 TWO BURGLARIES, TWO RESIDENTIAL BURGLARIES. AND GERRY

27 CHALEFF, WHO HE ACKNOWLEDGED TO BE ONE OF THE MORE

-14538

1 SERVED HIM VERY WELL, GOT HIM PROBATION FOR TWO  
2 RESIDENTIAL BURGLARIES.

3 AND WE KNOW THAT THAT STARTED RIGHT AFTER  
4 THE CALABASAS INCIDENT, WHICH WAS IN '88, AND WE KNOW  
5 THAT HE CONTINUED TO SEE DR. OZIEL THROUGH 1989. WE  
6 KNOW THAT HE WENT TO SEE DR. OZIEL FOLLOWING THE  
7 KILLINGS, ON OCTOBER 31ST, AND I WOULD SUBMIT TO YOU  
8 THAT HE WOULDN'T HAVE GONE TO DR. OZIEL. HE WOULDN'T  
9 HAVE CONFESSED TO DR. OZIEL THAT HE HAD SHOT HIS PARENTS  
10 TO DEATH. HE WOULDN'T HAVE IMPLICATED HIS BROTHER IN  
11 THAT INCIDENT, UNLESS HE TRUSTED DR. OZIEL.

12 AND I WOULD SUBMIT TO YOU THAT ERIK  
13 MENENDEZ DID INDEED TRUST DR. OZIEL. THAT'S THE REASON  
14 WHY HE ADMITTED THE BURGLARIES -- THE KILLINGS TO HIM.  
15 AND WE KNOW THAT HE SAW HIM AGAIN IN NOVEMBER.

16 I BELIEVE THAT WAS NOVEMBER THE 2ND. AND  
17 THEN FINALLY WE HAVE THIS TAPE-RECORDING BEING MADE ON  
18 DECEMBER THE 11TH.

19 SO THOSE ARE THE KEY DATES THAT WE ARE  
20 LOOKING AT HERE.

21 NOW, HE WANTS YOU TO BELIEVE THAT HE MADE  
22 THIS ADMISSION TO DR. OZIEL, ADMITTED THE KILLINGS TO  
23 HIM, BUT THAT DR. OZIEL NEVER ASKED HIM WHY HE DID THE

24 KILLINGS. HE WANTS YOU TO BELIEVE THAT.  
25 WE KNOW THAT DR. OZIEL QUESTIONED HIM A  
26 GREAT DEAL ABOUT THE KILLINGS. HE ADMITTED THAT WHILE  
27 HE WAS ON THE WITNESS STAND. HE SAID: "YEAH, I TOLD  
28 DR. OZIEL A LOT ABOUT THE CASE."

-14537

1 ISN'T IT TRUE YOU TOLD HIM THIS, AND ISN'T  
2 IT TRUE YOU TOLD HIM THAT, AND HE ADMITTED TO ALL THAT?"  
3 AND HE SAID, "SURE, I TOLD HIM THAT."  
4 "WHY DID YOU TELL HIM ALL THAT?  
5 DR. OZIEL WAS ASKING HIM A LOT OF  
6 QUESTIONS. WHERE DID YOU GET THE GUNS? WHAT DID YOU DO  
7 WITH THE GUNS? WHERE ARE THE GUNS NOW?  
8 WITH ALL OF THE QUESTIONS DR. OZIEL ASKED  
9 OF HIM, ERIK MENENDEZ IS ASKING YOU TO BELIEVE THAT  
10 DR. OZIEL NEVER SAID TO HIM, "WHY'D YOU DO IT?" THAT'S  
11 ABSURD.  
12 THE FIRST QUESTION THAT DR. OZIEL WOULD  
13 HAVE ASKED WAS, "WHY'D YOU DO IT?" YOU'RE NOT GOING TO  
14 SIT THERE AND TALK TO SOMEONE ALL THIS TIME, "AND TELL  
15 ME ABOUT THE GUNS, AND TELL ME WHY YOU WENT INTO THE  
16 ROOM."  
17 AND THAT'S REAL INTERESTING, AND DR. OZIEL  
18 IS SATISFYING HIS CURIOSITY. HE IS A THERAPIST, AND HE  
19 IS NOT GOING TO ASK THE KEY QUESTION HERE, THE

20 MOTIVATION OF "WHY DID YOU DO IT"? IT'S ABSOLUTELY  
21 ABSURD.  
22 BUT ERIK MENENDEZ HAS TO STICK TO THAT  
23 STUPID, RIDICULOUS STORY FOR ONE REASON. HE HAS TO  
24 EXPLAIN WHY IT IS THAT ON THIS TAPE HE IS TALKING ABOUT  
25 A PREMEDITATED MURDER. AND SO HIS THEORY IS: "WELL,  
26 DR. OZIEL TOLD ME THAT THIS IS WHY I KILLED MY PARENTS,  
27 AND I DECIDED TO JUST GO ALONG WITH IT. I JUST KEPT  
28 SAYING: 'THAT'S TRUE, DR. OZIEL. THAT'S TRUE,

-14536

1 DR. OZIEL. THAT'S TRUE, DR. OZIEL.' I WASN'T SAYING IT  
2 WAS PREMEDITATED, THE CRIME, BUT THIS IS WHAT DR. OZIEL  
3 WAS TELLING ME, AND SO I AGREED WITH THAT."  
4 LADIES AND GENTLEMEN, HOW COULD YOU BELIEVE  
5 THAT STORY? HOW CAN YOU POSSIBLY BELIEVE THAT STORY?  
6 THERE'S JUST NO WAY THAT THAT COULD HAVE HAPPENED IN THE  
7 REAL WORLD. DR. OZIEL WOULD HAVE ASKED HIM, "WHY DID  
8 YOU KILL YOUR PARENTS?"  
9 THIS CONVERSATION THAT TAKES PLACE ON THIS  
10 TAPE, LADIES AND GENTLEMEN, TAKES PLACE BECAUSE ERIK AND  
11 LYLE MENENDEZ ARE TELLING DR. OZIEL THINGS ON THIS TAPE.  
12 IT DOES NOT TAKE PLACE BECAUSE DR. OZIEL IS TELLING ERIK  
13 AND LYLE MENENDEZ WHY THEY KILLED THEIR PARENTS.  
14 NOW, WHAT THE DEFENSE RELIES UPON ARE THOSE  
15 PASSAGES IN THE TAPE WHERE DR. OZIEL IS KIND OF SUMMING

16 THINGS UP. HE SAYS, FOR EXAMPLE -- HE SHAPES IT, IN SO  
17 MANY WORDS, "THE WAY I SEE IT, YOUR MOTHER WAS LIKE  
18 THIS. YOUR FATHER WAS LIKE THIS. THE FAMILY WAS LIKE  
19 THIS. THIS WAS GOING ON, THIS WAS GOING ON."

20 BUT WHAT DR. OZIEL IS SIMPLY DOING IS HE IS  
21 SUMMING UP. THAT'S ALL HE IS DOING. HE'S NOT TELLING  
22 THEM WHY THEY KILLED THEIR PARENTS. AND IF THEY  
23 DISAGREED WITH DR. OZIEL, AT ANY TIME THEY COULD HAVE  
24 SAID, "NO, THAT'S WRONG." AND IN FACT THEY DO THAT FROM  
25 TIME TO TIME. THEY DISAGREE WITH DR. OZIEL, AND THEY  
26 TELL HIM, "WELL, NO. THAT'S NOT EXACTLY RIGHT. LET ME  
27 CLARIFY THAT FOR YOU."

28 AND SO, LADIES AND GENTLEMEN, THE NOTION

-14535

1 THAT THEY ARE TELLING DR. OZIEL WHAT HE WANTS TO HEAR ON  
2 THIS TAPE IS ABSOLUTELY PREPOSTEROUS AND RIDICULOUS, AND  
3 SHOULD BE REJECTED. THIS IS THE DEFENDANT'S CLEAR  
4 ADMISSION TO DR. OZIEL OF THE PREMEDITATED MURDER,  
5 BEFORE THEY HAD A REASON TO FABRICATE THESE TALES OF  
6 ABUSE, AND THAT'S WHY IT IS SO RELIABLE, AND THAT'S WHY  
7 IT IS SO DETRIMENTAL TO THE DEFENSE.

8 THE COURT: LET'S TAKE OUR RECESS AT THIS TIME.

9 WE WILL RESUME AT 10 MINUTES AFTER 11:00.

10 DON'T DISCUSS THIS WITH ANYONE. DON'T FORM  
11 ANY FINAL OPINIONS ABOUT IT. WE WILL RESUME AT 10

12 MINUTES AFTER 11:00.

13 (A RECESS WAS TAKEN FROM  
14 11:00 A.M. TO 11:15 A.M)

1 THE COURT: EVERYBODY IS BACK.

2 MS. ABRAMSON: I WANTED TO BE HEARD  
3 CONCERNING MR. CONN'S ARGUMENT.

4 WE OBJECT -- FIRST OF ALL, WE THINK  
5 WE'RE BEING TOTALLY SANDBAGGED BY STATEMENTS THE  
6 PROSECUTION'S MADE ALL THROUGH THIS CASE IN SEEKING  
7 TO LIMIT THE EVIDENCE WE COULD PRESENT CONCERNING  
8 THE BAD CHARACTER OF JOSE AND MARY LOUISE MENENDEZ,  
9 AND THE PROSECUTION INDICATED ALL ALONG THEY WERE  
10 NEVER GOING TO GET INTO IRRELEVANT ISSUES OF  
11 CHARACTER.

12 AND THIS WHOLE FANTASY ARGUMENT ABOUT  
13 JOSE MENENDEZ' LOVING HIS SONS AND -- 90 PERCENT OF  
14 WHAT HE SAID IS NOT SUPPORTED BY THE EVIDENCE, IS A  
15 TOTAL PAY-ON TO THE MAN'S CHARACTER, AND WE WERE NOT  
16 PERMITTED TO PUT ON DOZENS OF WITNESSES TO TESTIFY  
17 TO WHAT HIS CHARACTER TRULY WAS, AND WHAT HIS  
18 ATTITUDE TOWARDS HIS SONS TRULY WAS.

19 I OBJECT TO THIS ARGUMENT. IN ORDER OF  
20 PREFERENCE, WE MOVE FOR A MISTRIAL.

21 SECONDARILY, WE ASK THAT THAT PORTION OF  
22 THE ARGUMENT BE STRICKEN AND THE JURY BE ADMONISHED  
23 TO DISREGARD IT.

24 THIRD, IF "A" AND "B" DON'T WORK, WE ASK  
25 TO REOPEN AND PUT ON THE EVIDENCE OF WHAT HIS



26 TREATMENT OF HIS CHILDREN TRULY WAS; AND WE ASK AT  
27 THIS POINT THAT HE NOT BE PERMITTED TO GET UP THERE  
28 NOW AND MAKE UP SOME FANCY VERSION OF MRS. MENENDEZ,

1 WHEN WE WERE PROHIBITED FROM PUTTING ON THE EVIDENCE  
2 OF WHAT SHE REALLY WAS LIKE; AND SPECIFICALLY, HOW  
3 SHE REALLY TREATED HER CHILDREN.

4 AT EVERY TURN, WHEN WE TRIED TO ELICIT  
5 INFORMATION CONCERNING THE REAL INTERACTION -- APART  
6 FROM PHYSICAL ABUSE AND TERRORIZING, WHICH IS ALL WE  
7 WERE ALLOWED TO DO, WHEN -- THIS IS THE FATHER WHO  
8 LOVES HIS CHILD SO MUCH HE SENDS HIM DOWN THE HILL  
9 ON A BICYCLE WITH BRUISES --

10 THE COURT: LET'S TRY TO TALK IN A TEMPERATE  
11 TONE. YOU'RE NOT ARGUING YOUR CASE TO THE JURY.  
12 YOU'RE JUST PRESENTING THE MERITS OF YOUR ARGUMENTS  
13 TO ME. LET'S DO IT IN A TEMPERATE FASHION.

14 MS. ABRAMSON: WE WERE PREVENTED FROM PUTTING  
15 ON EVIDENCE THAT SHOWED THE DEPTH OF THE  
16 MALTREATMENT BY THESE PARENTS TOWARDS THE CHILDREN,  
17 AND THE WAY THEY TALKED ABOUT THEM TO OTHER PEOPLE.

18 IN EVERY WAY, WE HAVE BEEN CONSTRAINED  
19 IN PUTTING ON OUR DEFENSE IN THIS CASE; AND THEN THE  
20 PROSECUTOR GETS UP THERE AND MAKES UP A FAIRY STORY

21 ABOUT WHAT THESE PEOPLE WERE LIKE BASED SOLELY ON A  
22 CHARACTER ASSESSMENT, WHEN WE WERE NEVER PERMITTED  
23 TO BRING IN CHARACTER EVIDENCE.

24 SO WE ASK FOR A MISTRIAL. WE ASK TO  
25 STRIKE THIS ARGUMENT, AND WE ASK LEAVE TO REOPEN TO  
26 PUT ON THE TRUTH.

27 MR. GESSLER: WE JOIN IN THIS ARGUMENT, MOST  
28 SPECIFICALLY, BECAUSE WE WERE PROHIBITED FROM

1 PUTTING ON PETER CANO, WHO I THINK HIS EVIDENCE  
2 CONCERNING LYLE WETTING THE FLOOR WHEN HIS FATHER  
3 SIMPLY HELD HIM, AND TAKING HIM INTO THE ROOM AND  
4 PUNCHING HIM IN THE CHEST; AND PETER CANO GETTING  
5 INTO AN ARGUMENT WITH MR. MENENDEZ AND LEAVING THE  
6 HOUSE OVER THIS PARTICULAR TREATMENT.

7 THAT DOES NOT EXACTLY SHOW THE LOVING  
8 PICTURE OF A LOVING FATHER, NOW PORTRAYED BY  
9 MR. CONN, WHO HAS PREVENTED US FROM PUTTING ON THIS  
10 EVIDENCE.

11 WE WERE PREVENTED FROM PUTTING ON THE  
12 EVIDENCE FROM DIANE VANDERMOLLEN CONCERNING THE  
13 COMPLAINT LYLE MADE TO HER OF SEXUAL TOUCHING BY THE  
14 FATHER, AND THE MOTHER'S INACTION CONCERNING IT; AND  
15 ACTUALLY, PUTTING HER OFF, CERTAINLY DOES NOT SHOW

16 THE LOVING PROTECTIVE PICTURE OF THE MOTHER THAT I

17 THINK MR. CONN IS BEGINNING TO PAINT.

18 WE HAVE BEEN PROHIBITED FROM SHOWING

19 THIS OTHER SIDE. I THINK MR. CONN IS MISUSING

20 WHATEVER HE COULD DRAW ON FROM A TRANSCRIPT TO

21 OZIEL -- OR A TRANSCRIPT TO ZOELLER -- REMARKS OUT

22 OF CONTEXT, AND HE'S USING THEM TO SHOW LOVING AND

23 GOOD CHARACTER FOR THE TWO DECEASEDS IN THIS CASE,

24 WHEN WE WERE PREVENTED FROM DOING THAT.

25 WE'VE ALSO BEEN PREVENTED FROM PUTTING

26 ON DR. HART AND SHOWING EVIDENCE OF PSYCHOLOGICAL

27 MALTREATMENT, AND WHAT HE WOULD SAY CONCERNING THE

28 LACK OF LOVE IN THIS HOME BY JOSE AND MARY MENENDEZ,

1 RATHER THAN THE LOVING PICTURE THAT IS NOW BEING

2 PRESENTED BY THE PROSECUTOR.

3 WE HAVE BEEN SANDBAGGED. WE HAVE BEEN

4 PREVENTED FROM FILLING OUT THAT PICTURE. THEY'RE

5 USING THESE STATEMENTS FOR AT LEAST AN IMPROPER

6 PURPOSE.

7 WE'RE GOING TO ALSO BE ASKING FOR A

8 MISTRIAL BECAUSE OF THE MISUSE OF THIS EVIDENCE IN

9 THE PEOPLE'S ARGUMENT AT THIS TIME. IF NOT, WE

10 WOULD ASK THAT THE ARGUMENT BE STOPPED AT THIS TIME,

11 AND WE BE ALLOWED TO REOPEN THE CASE TO PUT ON THOSE  
12 WITNESSES WHO WERE DENIED TO US IN THE DEFENSE  
13 ITSELF. AND IF THAT DOESN'T -- I THINK THAT'S THE  
14 SECOND THING THAT WE'RE ASKING FOR IN ORDER OF  
15 PREFERENCE, ALTHOUGH A MISTRIAL IS PROBABLY THE ONLY  
16 WAY AT THIS TIME TO CURE THIS ERROR.

17       THIRDLY, IF THE COURT DOES NOT SEE  
18 EITHER OF THOSE TWO ALTERNATIVES, AND WITHOUT GIVING  
19 UP ON THEM, BECAUSE I THINK THEY'RE THE ONLY  
20 ALTERNATIVES TO CURE THIS, AT LEAST STRIKING THAT  
21 PORTION OF THE ARGUMENT FROM THE JURY, AND THE JURY  
22 BEING ADMONISHED TO DISREGARD IT; THAT IT WAS  
23 MISCONDUCT FOR THE DISTRICT ATTORNEY TO BRING THAT  
24 PICTURE TO THE JURY, KNOWING THEY HAVE PREVENTED US  
25 FROM PUTTING ON THE FULL PICTURE.

26       THE COURT: PEOPLE WISH TO RESPOND?

27       MR. CONN: YES. I THINK THAT BOTH SIDES ARE  
28 FREE TO ARGUE THE STATE OF THE EVIDENCE. THE

1 PROSECUTION COULD DO THE SAME IN REGARD TO ANY  
2 ARGUMENT MADE BY THE DEFENSE. WE COULD SAY IF THE  
3 COURT HAD ALLOWED IN THE SCREENPLAY, I THINK THE  
4 SCREENPLAY WOULD TEND TO NEGATE VARIOUS THINGS THAT  
5 THE DEFENSE IS GOING TO SAY DURING THE COURSE OF

6 THEIR ARGUMENT.

7       THERE'S OTHER ITEMS OF EVIDENCE THAT THE  
8 PROSECUTION WANTED TO PRESENT, AND THE PROSECUTION  
9 WAS NOT PERMITTED TO PRESENT. AND I THINK THAT  
10 WOULD HELP ASSIST THE PROSECUTION IN REFUTING SOME  
11 OF THE THINGS THAT THE DEFENSE IS GOING TO SAY.

12       WILL I BE PERMITTED THEN TO POINT TO THE  
13 VARIOUS PIECES OF EVIDENCE THAT I WAS NOT ABLE TO  
14 PRESENT, OR PERMITTED TO PRESENT TO THIS JURY, AND  
15 USE THAT AS A BASIS FOR PRECLUDING DEFENSE  
16 ARGUMENTS? I DON'T THINK SO.

17       I THINK BOTH SIDES ARE PERMITTED TO  
18 ARGUE THE EVIDENCE, AND THAT'S WHAT I'M DOING. IT'S  
19 A REASONABLE COMMENT ON THE EVIDENCE.

20       MR. GESSLER: I'D LIKE TO RESPOND TO THAT.

21       THAT IS TRUE IN SOME CONTEXTS, BUT  
22 CERTAINLY NOT IN OTHERS. THE PROSECUTION'S NEVER  
23 FREE TO TALK ABOUT EVIDENCE THAT'S BEEN PRECLUDED  
24 FROM THE CASE. THEY'RE NOT FREE TO PRECLUDE THE  
25 DEFENSE; FOR INSTANCE, FROM PUTTING ON SOME PIECE OF  
26 PHYSICAL EVIDENCE AND THEN SAYING: "WELL, IF THEY  
27 HAD A DEFENSE, WHERE'S THE PHYSICAL EVIDENCE?"

28       ANYMORE THAN THE DEFENSE, IF THEY HAD

1 SUCCEEDED IN A 1538.5 IN EXCLUDING A WEAPON -- LET'S  
2 SAY A GUN -- IS NOT FREE TO THEN ARGUE TO THE JURY,  
3 "IF MY CLIENT DID IT, WHY DON'T THEY HAVE THE GUN?"

4 THERE ARE LIMITATIONS AS TO WHAT YOU  
5 COULD ARGUE AS TO THE EVIDENCE THAT'S PRESENTED, AND  
6 LIMITATIONS AS TO WHAT YOU CAN PRESENT WHEN YOU HAVE  
7 PRECLUDED THE OTHER SIDE FROM PUTTING ON CERTAIN  
8 EVIDENCE.

9 SO I STAND BY THE ARGUMENT THAT I HAD  
10 MADE EARLIER.

11 THE COURT: ALL RIGHT. THE PROSECUTION'S  
12 ARGUING THE EVIDENCE AND EVERYTHING RELATING TO THE  
13 EVIDENCE THAT HAS BEEN PRESENTED. AND FOR THE  
14 DEFENSE TO SAY, "WELL, THE DEFENSE WAS ONLY ABLE TO  
15 PUT ON EVIDENCE OF PHYSICAL ABUSE, ONLY ABLE TO PUT  
16 ON EVIDENCE OF SEXUAL ABUSE, ONLY ABLE TO PUT ON  
17 THIS, AND WASN'T ABLE TO PUT ON OTHERS."

18 THERE WAS A SUBSTANTIAL AMOUNT OF  
19 EVIDENCE PRESENTED BY THE DEFENSE REGARDING THE  
20 RELATIONSHIP OF THE DEFENDANTS WITH THE VICTIMS, AND  
21 IT WAS NOT A ROSY PICTURE PORTRAYED BY THE DEFENSE.  
22 IT WAS JUST THE OPPOSITE OF THAT. YOU JUST SEEM TO  
23 IGNORE THAT WHEN YOU MAKE THESE ARGUMENTS.

24 THERE WAS A SUBSTANTIAL AMOUNT OF  
25 EVIDENCE. MOST OF THE DEFENSE CASE WAS PRESENTED  
26 WITH THAT IN MIND. SO THAT'S ALL BEFORE THE JURY,  
27 ALL THE MATERIAL YOU WILL BE ARGUING, MATERIAL THAT  
28 HAS BEEN REFERRED TO IN THE ARGUMENT BY LYLE

1 MENENDEZ' COUNSEL, THAT YOU WEREN'T ABLE TO PRESENT  
2 THE COMPLAINT OF MS. VANDERMOLLEN, THE SITUATION WITH  
3 MR. CANO. THAT IS ALL DERIVED FROM THE FACT IT WAS  
4 NOT RELEVANT EVIDENCE AND NOT ADMISSIBLE EVIDENCE,  
5 BECAUSE THE DEFENDANT NEVER TESTIFIED. THERE WAS NO  
6 BASIS FOR ITS ADMISSION.

7 SO THERE WERE GOOD REASONS FOR IT NOT TO  
8 COME IN. YOUR CLIENT NEVER TESTIFIED. THERE WAS NO  
9 BASIS FOR THE EVIDENCE TO COME IN.

10 AS FAR AS DR. HART, THAT EVIDENCE WAS  
11 NOT RELEVANT EVIDENCE TO ISSUES IN DISPUTE IN THIS  
12 CASE.

13 MR. GESSLER: WITH ALL DUE RESPECT, THAT HAS  
14 NOTHING TO DO WITH WHETHER OR NOT MY CLIENT  
15 TESTIFIED OR DID NOT TESTIFY. IT HAS TO DO WITH THE  
16 PROSECUTION PUTTING ON AN UNFAIR-SIDED PICTURE AS TO  
17 WHAT THE PARENTS WERE LIKE, WITHOUT ALLOWING THE  
18 DEFENSE TO SHOW THE OTHER.

19 WHAT IT IS IS THE PROSECUTION NOW  
20 TALKING TO THE JURY AND SAYING: "SMELL THESE  
21 BEAUTIFUL ROSES. REACH DOWN AND TAKE THAT STEM IN  
22 YOUR HANDS AND GET THE ROSE UP CLOSE TO YOUR NOSE,"  
23 WITHOUT TELLING THEM THERE'S THORNS. AND WE WEREN'T

24 PERMITTED TO PUT ON THE THORNS, YOUR HONOR.  
25 AND I THINK THAT'S AN UNFAIR PICTURE,  
26 WITH AN UNFAIR USE NOW OF THE DISTRICT ATTORNEY.  
27 IT'S A VIOLATION OF DUE PROCESS FOR THEM TO PREVENT  
28 THE EVIDENCE COMING IN, AND THEN MISUSE THAT TO

1 THEIR OWN BENEFIT. AND I AM ARGUING NOW FOR A  
2 MISTRIAL, ALSO BASED ON THE UNITED STATES  
3 CONSTITUTION, AS WELL AS STATE LAW.

4 THE COURT: OKAY. WELL, THE ARGUMENT IS  
5 MISPLACED TO THE EXTENT THAT IT WAS THE PEOPLE WHO  
6 PREVENTED THIS EVIDENCE FROM COMING IN. THE  
7 EVIDENCE DIDN'T COME IN BECAUSE THE COURT RULED IT  
8 WAS NOT ADMISSIBLE EVIDENCE, FOR THE REASONS I  
9 ARTICULATED AND STATED ON THE RECORD AT THE TIME  
10 EACH ONE OF THESE ITEMS WAS OFFERED BY THE DEFENSE.  
11 AND THERE WERE SUBSTANTIAL ARGUMENTS INVOLVED WITH  
12 THE EFFORT OF THE DEFENSE TO INTRODUCE EACH OF THESE  
13 THINGS, AND THE RULINGS MADE AT THE TIME, BASED UPON  
14 THE MERITS OF YOUR ARGUMENTS AND THE ADMISSIBILITY  
15 OF THEIR EVIDENCE.

16 THIS IS NOT A SITUATION WHERE THE  
17 PROSECUTION WAS PERMITTED TO PUT ON CERTAIN EVIDENCE  
18 AND THE DEFENSE WAS FORECLOSED FROM PUTTING ON



19 CONTRARY EVIDENCE ON THE SAME SUBJECT. ALL THAT'S  
20 HAPPENING RIGHT NOW IS THAT THE PROSECUTION'S  
21 ARGUING BASED UPON THE EVIDENCE BEFORE THE JURY  
22 PRESENTED ON BOTH SIDES. THAT'S ALL THAT'S  
23 OCCURRING HERE. AND I DON'T FIND THERE'S ANY  
24 UNFAIRNESS IN THIS.

25       THEREFORE, THE REQUEST FOR MISTRIAL,  
26 REQUEST TO AUGMENT THE EVIDENCE, AND REQUEST TO  
27 STRIKE THE ARGUMENT AND ADMONISH THE JURY, THOSE  
28 REQUESTS ARE DENIED.

1       MR. GESSLER: I'M JUST MAKING SURE THE RECORD  
2 SHOWS THAT I'M TALKING ABOUT THE SUBJECT. THE  
3 SUBJECT IS THE CHARACTER OF THE DECEASED. AND WE  
4 DID OFFER EVIDENCE ON THE CHARACTER OF THE DECEASED  
5 WHICH WAS DENIED.

6       THE COURT: WELL, THE PROSECUTION DIDN'T  
7 OFFER EVIDENCE CONTRARY, EVIDENCE ABOUT THE  
8 CHARACTER OF THE DECEASED. WHAT YOU HAVE HERE IS  
9 THE EVIDENCE. THAT'S THE EVIDENCE. THAT'S IT.

10       MR. GESSLER: I KNOW, BUT THEY'RE TAKING ONE  
11 SIDE PART OF THE EVIDENCE, WITHOUT LETTING US PUT ON  
12 THE OTHER SIDE OF THE EVIDENCE. IT'S THE SAME  
13 SUBJECT, WHICH IS THE CHARACTER OF JOSE MENENDEZ,

14 THE CHARACTER OF MARY MENENDEZ; AND THAT'S WHAT WE  
15 WERE NOT ALLOWED TO ATTACK. AND YET THEY ARE NOW  
16 PRESENTING AN UNFAIR PICTURE TO THE JURY OF WHAT  
17 THEY PUT ON THAT WE WERE NOT ALLOWED TO REBUT.

18 MR. LEVIN: YOUR HONOR, ONE OTHER POINT.

19 THE COURT: ALL THAT HAS HAPPENED HERE IS THE  
20 PROSECUTION'S ARGUING TO THE JURY AND GIVING THEIR  
21 IMPRESSION AND INTERPRETATION OF THE EVIDENCE;  
22 NOTHING MORE. THE PEOPLE WERE NOT PERMITTED TO PUT  
23 ON EVIDENCE OF THE GOOD CHARACTER OF JOSE MENENDEZ  
24 AND THE GOOD CHARACTER OF MRS. MENENDEZ, AND THEN  
25 THE DEFENSE WAS FORECLOSED FROM INTRODUCING CONTRARY  
26 EVIDENCE. THAT DIDN'T HAPPEN. ALL THAT HAPPENED IS  
27 WE HAD ARGUMENT ABOUT WHAT HAS BEEN RECEIVED.

28 MR. LEVIN: I THINK THE COURT IS IGNORING THE

1 FACT THAT MR. CONN IS GIVING HIS INTERPRETATION OF  
2 WHAT HE WANTS THE EVIDENCE TO BE.

3 WHERE IN THIS RECORD WAS IT EVER  
4 DEMONSTRATED THE AGE AT WHICH JOSE MENENDEZ CAME TO  
5 THIS COUNTRY, THE LEVEL OF EDUCATION HE HAD, HOW  
6 MUCH ENGLISH HE COULD SPEAK, AND HOW MUCH MONEY HE  
7 HAD IN HIS POCKET? IF THAT DOESN'T CONJURE UP  
8 EMOTION IN THE MINDS OF THE JUROR (SIC), IN ANY

9 JUROR.

10 IN FACT, WHAT HE WANTS TO PORTRAY IS  
11 THIS PERSON THAT MR. CONN WANTS HIM TO BE, THAT IS  
12 NOT SUPPORTED BY THE EVIDENCE, AND THAT'S WHAT I SEE  
13 TO BE THE PROBLEM.

14 THE COURT: OKAY.

15 MR. LEVIN: THERE IS NO EVIDENCE IN THE  
16 RECORD FOR THAT.

17 THE COURT: I DON'T RECALL ANY PARTICULAR  
18 REFERENCE IN THE EVIDENCE TO THE AMOUNT OF MONEY  
19 MR. MENENDEZ HAD WHEN HE CAME TO THE UNITED STATES.  
20 THERE WAS SOME TESTIMONY ABOUT FAMILY BACKGROUND  
21 FROM MR. BARALT, MRS. BARALT, AND MRS. CANO. I  
22 DON'T RECALL SPECIFICALLY IF IT RELATED TO THE  
23 RESOURCES OF MR. MENENDEZ OR THE FAMILY.

24 I DON'T RECALL ANY REFERENCE TO HIS  
25 ACCENT OR HIS ABILITY TO SPEAK ENGLISH, QUITE  
26 FRANKLY, ON THE RECORD. BUT IT COULD VERY WELL BE  
27 THERE. THESE ARE RATHER SMALL POINTS. IF THEY ARE  
28 SIGNIFICANT TO THE DEFENSE, YOU CAN CERTAINLY ARGUE

1 IN REBUTTAL THAT THERE IS NO EVIDENCE OF THIS IN THE  
2 RECORD; AND ALSO, YOU COULD HAVE OBJECTED AT THE  
3 TIME AS TO THOSE TWO REFERENCES IF YOU FELT THE

4 PEOPLE WERE GOING BEYOND THE RECORD.

5 MR. LEVIN: I OBJECT NOW, AND I'M ASKING THE  
6 COURT, IN THE INTEREST OF FAIRNESS, TO ADMONISH THE  
7 JURY TO DISREGARD THOSE STATEMENTS, OR ALLOW US TO  
8 PUT ON EVIDENCE TO THE CONTRARY.

9 THE COURT: I DON'T SEE THAT THESE ARE  
10 SIGNIFICANT ISSUES. THEY CAN BE DEALT WITH BY  
11 ARGUMENT. HAD THEY BEEN OBJECTED TO AT THE TIME,  
12 THE COURT COULD HAVE DEALT WITH THEM. IT'S LONG  
13 PAST THE TIME FOR OBJECTION; AND THEREFORE, THE  
14 REQUESTS ARE DENIED.

15 LET'S GET THE JURY OUT.

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

19

20 THE COURT: THE JURY IS BACK.

21 AND WE'LL RESUME WITH ARGUMENT.

22 MR. CONN: THANK YOU.

23 I SPOKE ABOUT ONE OF THE REASONS WHY THE  
24 DEFENDANT'S EFFORT TO EXPLAIN AWAY THE DECEMBER 11  
25 TAPE IS PREPOSTEROUS.

26 ERIK MENENDEZ CLAIMS THAT DR. OZIEL  
27 SIMPLY DIDN'T ASK HIM WHY HE KILLED HIS PARENTS, AND  
28 HE JUST WENT ALONG WITH DR. OZIEL'S INTERPRETATION.

1 NOT ONLY IS THAT ABSURD, WHAT IS ALSO  
2 ABSURD IS THE FACT THAT HE WOULD ALLOW DR. OZIEL TO  
3 HAVE THAT INTERPRETATION.

4 YOU'LL RECALL THAT HE ADMITTED THAT ONE  
5 OF THE CONCERNS OF HIS BROTHER AND HIMSELF WAS THE  
6 FACT THAT DR. OZIEL WOULD BE FEARFUL, BECAUSE HE  
7 SAID THAT HE UNDERSTOOD THAT THERE WAS A  
8 CONFIDENTIALITY ISSUE INVOLVED HERE; THAT THE  
9 CONVERSATION WOULD REMAIN PRIVILEGED.

10 HOWEVER, IF DR. OZIEL FELT IT WAS  
11 NECESSARY TO GO TO THE POLICE, IF DR. OZIEL WAS  
12 FEARFUL AND FELT THAT HIS OWN LIFE WAS IN JEOPARDY,  
13 THEN THE CONFIDENTIALITY MIGHT BE BREACHED, AND  
14 DR. OZIEL MIGHT GO TO THE POLICE.

15 SO, LADIES AND GENTLEMEN, IF YOU WERE IN  
16 THAT SITUATION -- PUT YOURSELF IN THAT SITUATION  
17 NOW. YOU GO TO YOUR THERAPIST AND YOU TELL YOUR  
18 THERAPIST THAT YOU ARE RESPONSIBLE, YOU AND YOUR  
19 BROTHER ARE RESPONSIBLE FOR SHOOTING YOUR PARENTS TO  
20 DEATH. WE ALL KNOW HOW COLD-BLOODED AND HOW BRUTAL  
21 THIS MURDER WAS. YOU LEAD YOUR THERAPIST TO BELIEVE  
22 THAT YOU AND YOUR BROTHER ARE RESPONSIBLE FOR THE  
23 KILLING.

24 IF YOU HAVE SOME MITIGATING ASPECT AS TO  
25 WHY YOU DID THAT KILLING THAT WOULD PREVENT HIM FROM  
26 GOING TO THE POLICE, WELL, YOU'RE CERTAINLY GOING TO  
27 TELL HIM ABOUT THAT. YOU'RE NOT GOING TO ALLOW HIM

1 DELIBERATE MURDER, BECAUSE THAT WILL ONLY MAKE HIM  
2 MORE IN FEAR, AND THAT WILL CAUSE HIM TO GO TO THE  
3 POLICE AND TO BREACH THE CONFIDENTIALITY.

4        ERIK MENENDEZ ADMITTED IN COURT THAT HE  
5 WANTED -- HE AND LYLE MENENDEZ WANTED TO CALM OZIEL  
6 DOWN. HE ALSO ADMITTED IN COURT THAT OZIEL  
7 EXPRESSED FEAR. HE ALSO ADMITTED IN COURT THAT HE  
8 UNDERSTOOD FROM OZIEL'S REMARKS ABOUT HIS NOTES  
9 BEING REVEALED THAT OZIEL WAS SAYING THAT THEY  
10 BETTER NOT HURT HIM, BECAUSE OZIEL SAID SOMETHING TO  
11 THE EFFECT OF: "I HAVE NOTES, AND IF ANYTHING  
12 HAPPENS TO ME, THOSE NOTES ARE GOING TO BECOME  
13 PUBLIC."

14        IT'S VERY CLEAR, LADIES AND GENTLEMEN.  
15 DR. OZIEL WAS FRIGHTENED, FRIGHTENED OUT OF HIS MIND  
16 OF THESE TWO DEFENDANTS, AND HE WAS WARNING --

17        MS. ABRAMSON: I'M GOING TO OBJECT TO THAT.  
18 THERE'S NO EVIDENCE --

19        THE COURT: OKAY. AS FAR AS ARGUMENTS OF  
20 COUNSEL, AS I SAID YESTERDAY, COUNSEL ARE ARGUING  
21 WHAT THEY RECALL OF THE TESTIMONY AND THE EVIDENCE  
22 PRESENTED HERE IN THE TRIAL. YOU ARE THE JUDGES OF

23 WHAT WAS SAID, AND WHAT THE WITNESSES TOLD ON THE  
24 WITNESS STAND, AND ALL THE EVIDENCE THAT'S BEEN  
25 PRESENTED.

26 IF THE LAWYERS RECALL IT DIFFERENTLY,  
27 THEY'RE JUST REFERRING TO WHAT HAS BEEN SAID HERE IN  
28 COURT. IF THEY DON'T SAY IT THE WAY YOU REMEMBER

1 IT, YOUR RECOLLECTION, YOUR INTERPRETATION OF THE  
2 EVIDENCE IS WHAT COUNTS. AND KEEP THAT IN MIND  
3 DURING ARGUMENT OF ALL COUNSEL.

4 YOU MAY PROCEED.

5 MR. CONN: THANK YOU.

6 BEAR IN MIND, LADIES AND GENTLEMEN,  
7 EVERYTHING I SAY TO YOU IS BASED UPON THE EVIDENCE  
8 THAT WAS PRESENTED HERE IN COURT, AND NOTHING MORE.  
9 I AM ONLY ARGUING THE EVIDENCE PRESENTED HERE IN  
10 COURT, AND THE REASONABLE INFERENCES THAT CAN BE  
11 DRAWN FROM THAT EVIDENCE.

12 BUT I DIRECT YOUR ATTENTION BACK TO  
13 ADMISSIONS OF ERIK MENENDEZ HIMSELF IN THIS TRIAL  
14 AND WHAT HE SAID CONCERNING DR. OZIEL. AND I ASKED  
15 HIM IN REGARD TO THIS TOPIC WHETHER HE UNDERSTOOD  
16 FROM DR. OZIEL'S REMARKS THAT IF HIS NOTES WERE  
17 REVEALED -- THAT HIS NOTES WOULD BE REVEALED UNDER

18 CERTAIN CIRCUMSTANCES, WHAT CONCLUSIONS HE DREW FROM  
19 THAT. AND ERIK MENENDEZ SAID SOMETHING TO THE  
20 EFFECT OF HE UNDERSTOOD THAT FROM DR. OZIEL'S  
21 REMARKS ABOUT HIS NOTES NOT BEING REVEALED, THAT  
22 OZIEL WAS SAYING TO HIM THAT THEY BETTER NOT HURT  
23 HIM.

24 SO THE EVIDENCE PRESENTED IN THIS TRIAL,  
25 LADIES AND GENTLEMEN, WARRANTS THE CONCLUSION THAT  
26 DR. OZIEL WAS, IN FACT, FRIGHTENED OF, SCARED OF  
27 LYLE AND ERIK MENENDEZ.

28 HE ALSO SAID IN THIS TRIAL THAT

1 DR. OZIEL EXPRESSED FEAR.

2 HE ALSO SAID THAT HE AND HIS BROTHER  
3 WERE CONCERNED THAT DR. OZIEL WOULD GO TO THE POLICE  
4 IF HE FELT THREATENED, AND THAT THEY WANTED TO CALM  
5 HIM DOWN. AND THAT'S WHERE HIS STORY BECOMES  
6 TOTALLY RIDICULOUS, LADIES AND GENTLEMEN. BECAUSE  
7 IF YOU WANTED TO CALM THE MAN DOWN, YOU WOULD NOT  
8 ALLOW HIM TO CONCLUDE, AS THIS TAPE CLEARLY  
9 INDICATES, THAT THIS WAS A PREMEDITATED MURDER,  
10 BECAUSE THAT'S GOING TO FRIGHTEN HIM ALL THE MORE.

11 IN THAT CIRCUMSTANCE, LADIES AND  
12 GENTLEMEN, WHAT YOU, OR ANY OTHER REASONABLE PERSON



13 WOULD DO, IS YOU WOULD TELL HIM SOME INFORMATION  
14 THAT WOULD, IN FACT, CALM HIM DOWN. IF YOU WERE  
15 TRULY ABUSED, AND THAT IS THE REASON WHY YOU KILLED,  
16 OR IF YOU KILLED BECAUSE YOU WERE IN FEAR, OR YOU  
17 THOUGHT YOU WERE ACTING IN SELF-DEFENSE, THAT'S  
18 PRECISELY WHAT YOU WOULD TELL HIM.

19       YOU WOULD SAY -- ERIK MENENDEZ SAYS:  
20 "I DIDN'T WANT TO TELL HIM THAT BECAUSE I DIDN'T  
21 WANT TO GIVE HIM ALL THE DETAILS, AND I DIDN'T WANT  
22 TO TALK ABOUT THE ABUSE."

23       COME ON. YOU'RE TALKING ABOUT THIS MAN  
24 GOING TO THE POLICE NOW. YOU'RE TALKING ABOUT THIS  
25 MAN GOING TO THE POLICE AND SPILLING THE BEANS AND  
26 TELLING THE POLICE THAT YOU AND YOUR BROTHER  
27 COMMITTED THE MURDER IN THIS CASE.

28       NOW, LADIES AND GENTLEMEN, WHEN YOUR

1 LIBERTY IS AFFECTED LIKE THAT, WHETHER OR NOT YOU  
2 WANT TO TALK ABOUT THE ABUSE, YOU'RE GOING TO DO  
3 SOMETHING TO PROTECT YOURSELF, AND YOU'RE GOING TO  
4 REVEAL WHAT YOU HAVE TO REVEAL, OR AT LEAST YOU'RE  
5 GOING TO MAKE AN EFFORT TO TRY TO STOP DR. OZIEL  
6 FROM GOING TO THE POLICE.

7       SO IF YOU OR I WERE IN THAT SITUATION,

8 LADIES AND GENTLEMEN, WHAT WE WOULD SAY IS SOMETHING  
9 TO THE EFFECT OF: "DR. OZIEL, LOOK. TRUST ME. I  
10 DON'T WANT TO GIVE YOU ALL THE DETAILS. I DON'T  
11 WANT TO TELL YOU SOME BACKGROUND ABOUT MY FAMILY. I  
12 DON'T WANT TO SAY BAD THINGS ABOUT MY MOTHER AND MY  
13 FATHER, BUT THERE ARE THINGS ABOUT THIS KILLING THAT  
14 YOU REALLY DON'T UNDERSTAND. I WAS ACTING IN  
15 SELF-DEFENSE, OR I BELIEVE I WAS ACTING  
16 SELF-DEFENSE, OR I WAS IN A STATE OF FEAR AT THE  
17 TIME OF THE COMMISSION OF THE CRIME. PLEASE,  
18 DR. OZIEL, DON'T THINK THAT MY BROTHER AND I JUST  
19 WALKED INTO THAT ROOM AND COLD-BLOODEDLY SHOT MY  
20 PARENTS TO DEATH. WE WOULD NOT DO THAT TYPE OF  
21 THING. WE ARE NOT DANGEROUS PEOPLE LIKE THAT."  
22 LADIES AND GENTLEMEN, YOU WOULD DO THAT  
23 IF YOU WERE IN THAT SITUATION, AND THAT'S ANOTHER  
24 REASON WHY ERIK MENENDEZ' STORY IS ABSOLUTELY  
25 PREPOSTEROUS, THAT HE DIDN'T TELL DR. OZIEL THAT  
26 "OH, BECAUSE I DIDN'T WANT TO TALK ABOUT THE ABUSE,"  
27 HE SAID.

28 I SAID, "WELL, YOU DIDN'T HAVE TO TALK

1 ABOUT THE ABUSE."

2 I CROSS-EXAMINED HIM ON THIS. I SAID,

3 "YOU DIDN'T HAVE TO TALK ABOUT THE ABUSE THING. YOU  
4 COULD HAVE JUST WENT SO FAR. YOU COULD HAVE JUST  
5 SAID YOU KILLED FOR REASON OF FEAR OR SOME OTHER  
6 REASON, WITHOUT TALKING ABOUT ABUSE."

7 HE SAID, "NO. HOW WOULD I DO THAT  
8 WITHOUT TALKING ABOUT ABUSE?"

9 IF YOU COULD TALK ABOUT KILLING WITHOUT  
10 TALKING ABOUT THE REASON FOR KILLING, YOU COULD  
11 CERTAINLY SAY YOU KILLED IN FEAR WITHOUT TALKING  
12 ABOUT ALL THE BACKGROUND LEADING UP TO THE FEAR.

13 SO HIS STORY SIMPLY DOESN'T HOLD ANY  
14 WATER, LADIES AND GENTLEMEN. IF HE WAS IN THAT  
15 SITUATION, IF HE TRUSTED DR. OZIEL ENOUGH TO SAY:  
16 "I KILLED MY PARENTS, AND MY BROTHER DID IT WITH  
17 ME," AND HE CLAIMED THAT HE LOVED HIS BROTHER MORE  
18 THAN ANYONE ELSE, HE WOULD CERTAINLY BE ABLE TO TELL  
19 HIM: "I WAS ABUSED BY MY PARENTS."

20 EVEN ASIDE FROM THE ISSUE OF FEAR, EVEN  
21 ASIDE FROM DR. OZIEL GOING TO THE POLICE, IF HE WAS  
22 ABLE TO TELL HIM THAT MUCH, "I KILLED MY PARENTS" --  
23 IMAGINE YOURSELF -- PUT YOURSELF IN THAT SITUATION.  
24 BECAUSE WHEN YOU TRY TO VISUALIZE -- AND I'M GOING  
25 TO BE ASKING YOU TO DO THAT AS I GO THROUGH ALL THE  
26 TESTIMONY OF ERIK MENENDEZ. IF YOU TRY TO PUT  
27 YOURSELF IN ERIK MENENDEZ' SHOES, AND FOLLOWING  
28 ALONG WITH HIS STORY, THIS IS THE MOST RIDICULOUS

1 STORY YOU EVER HEARD. I'LL BE SHOWING THAT POINT BY  
2 POINT.

3         PUT YOURSELF RIGHT NOW IN THE SHOES OF  
4 ERIK MENENDEZ. IF YOU WERE ABLE TO GO TO YOUR  
5 THERAPIST AND TELL HIM YOU SHOT YOUR PARENTS TO  
6 DEATH, YOU WOULD BE ABLE TO TELL HIM YOU DID IT  
7 FOLLOWING YEARS OF ABUSE. AND EVEN ASSUMING YOU  
8 COULDN'T, WOULDN'T YOU CERTAINLY BE ABLE TO TELL HIM  
9 THAT YOU DID IT BECAUSE YOU WERE FRIGHTENED FOR YOUR  
10 LIFE? OF COURSE, YOU WOULD BE ABLE TO TELL HIM  
11 THAT; AND, OF COURSE, YOU WOULD TELL HIM THAT. YOU  
12 WOULD NOT SPLIT THESE HAIRS.

13         BUT ERIK MENENDEZ PICKS AND CHOOSES THE  
14 FACTS AS HE PLEASES IN ORDER TO EXPLAIN WHY --  
15 THERE'S NO REFERENCE ON HERE TO FEAR OR ABUSE OR  
16 PANIC STATE OR THIS WHOLE WEEK IN CRISIS THAT LED UP  
17 TO THE KILLING. THERE'S ABSOLUTELY NOTHING ON HERE  
18 ABOUT THAT. WHY, LADIES AND GENTLEMEN? BECAUSE IT  
19 DIDN'T HAPPEN. NONE OF IT EVER HAPPENED. THE  
20 DEFENDANT HAS HAD PLENTY OF TIME IN CUSTODY TO  
21 FIGURE OUT ALLEGATIONS AGAINST HIS PARENTS, TO MAKE  
22 UP A REAL GOOD TALE.

23         THAT'S WHAT YOU HEARD, LADIES AND  
24 GENTLEMEN, A VERY GOOD TALE, PRESENTED BY THE  
25 DEFENDANT WITH A LOT OF DETAIL TO IT, A VERY

26 ELABORATE STORY. BUT IT'S ALL FALSE, AND THIS

27 PROVES IT'S FALSE.

28 LADIES AND GENTLEMEN, WE ARE GOING TO GO

1 THROUGH EVERY DEFENSE WITNESS THAT WAS CALLED IN

2 THIS CASE. AND THERE IS NOT ONE SINGLE DEFENSE

3 WITNESS WHO DISPROVED THE STRENGTH OF WHAT IS ON

4 THIS TAPE, NOT ONE SINGLE WITNESS. IT ALL COMES

5 DOWN TO ERIK MENENDEZ SAYING: "OH, I HOPE THIS JURY

6 DOESN'T BELIEVE OR RELY ON THIS TAPE." THIS TAPE IS

7 TOO POWERFUL, TOO STRONG TO DISREGARD. THIS IS A

8 SMOKING GUN.

9 THERE'S ANOTHER REASON WHY YOU SHOULD

10 REJECT THE DEFENDANT'S CLAIM THAT -- HE ALSO

11 SAID: "I NEVER DISCUSSED WITH MY BROTHER, LYLE

12 MENENDEZ, THE POSSIBILITY OF TELLING OZIEL THAT WE

13 KILLED IN FEAR WITHOUT TELLING HIM THE REASONS FOR

14 THE FEAR."

15 CAN YOU BELIEVE THAT? I MEAN, HE COMES

16 ON OCTOBER 31ST AND CONFESSES TO DR. OZIEL.

17 DR. OZIEL SAYS TO HIM: "DOES YOUR BROTHER LYLE KNOW

18 YOU'RE HERE AND YOU'RE CONFESSING TO ME?"

19 AND HE SAYS "NO."

20 DR. OZIEL BECOMES CONCERNED AND GETS

21 LYLE ON THE PHONE AND SAYS: "COME OVER HERE. YOU  
22 BETTER BE A PART OF THIS."  
23 LYLE MENENDEZ COMES OVER. THERE'S MORE  
24 DISCUSSION. THERE'S A MEETING LATER, ON NOVEMBER  
25 THE 2ND, AND THEN THERE'S THIS LAST MEETING ON  
26 DECEMBER THE 31ST (SIC).  
27 AND ERIK MENENDEZ WANTS YOU TO BELIEVE  
28 THE FOLLOWING: "I NEVER DISCUSSED WITH LYLE MENENDEZ

1 THE POSSIBILITY OF TELLING OZIEL THAT WE KILLED IN  
2 FEAR WITHOUT TELLING HIM THE REASONS FOR THE FEAR."  
3 ABSOLUTELY INCREDIBLE. ABSOLUTELY  
4 INCREDIBLE. DON'T YOU THINK YOU WOULD SAY TO YOUR  
5 BROTHER: "HEY, LYLE, DON'T YOU THINK WE'VE GOT TO DO  
6 SOMETHING TO PUT DR. OZIEL AT EASE? DON'T YOU THINK  
7 WE SHOULD TELL HIM THAT WE KILLED IN FEAR? WE DON'T  
8 HAVE TO LAY OUT OUR MOTHER AND FATHER FOR ALL THE  
9 YEARS OF ABUSE. DON'T YOU THINK WE SHOULD TELL  
10 DR. OZIEL THAT WE KILLED IN FEAR?"

11 ERIK MENENDEZ WANTS YOU TO BELIEVE THAT  
12 HE NEVER HAD THAT DISCUSSION WITH HIS BROTHER LYLE  
13 MENENDEZ. ABSOLUTELY INCREDIBLE. COULDN'T HAPPEN.  
14 THAT WOULD BE THE FIRST THING YOU WOULD SAY TO YOUR  
15 BROTHER. "HOW ARE WE GOING TO PUT DR. OZIEL AT EASE?"

16 AND THE ONE WAY WE COULD DO IT IS BY TELLING HIM WE  
17 KILLED IN FEAR. DOCTOR, DON'T GO TO THE POLICE.  
18 WE'RE NOT AS DANGEROUS AS YOU MIGHT THINK."

19 ONE OF MANY REASONS WHY ERIK MENENDEZ'  
20 STORY IS TOTAL NONSENSE. AND I'LL BE GOING THROUGH  
21 ALL OF THE REASONS WHY.

22 ONE MORE REASON WHY THE TAPE -- WHY --  
23 ONE MORE REASON WHY HE'S ASKING THAT YOU DISREGARD  
24 THIS TAPE AS TOTALLY PREPOSTEROUS.

25 NOT ONLY IS IT UNBELIEVABLE THAT  
26 DR. OZIEL DID NOT ASK HIM WHY HE KILLED --  
27 MS. ABRAMSON: YOUR HONOR, I'M GOING TO  
28 OBJECT. THAT'S THE FOURTH TIME COUNSEL HAS

1 MISSTATED THE EVIDENCE ON THAT POINT.

2 THE COURT: OVERRULED.

3 MR. CONN: NOT ONLY IS IT UNBELIEVABLE THAT  
4 HE WOULDN'T TELL DR. OZIEL SOMETHING TO PUT HIM AT  
5 EASE, BUT ALSO REMEMBER THE PRESENCE OF GERRY  
6 CHALEFF. JERRY CHALEFF IS THE ATTORNEY WHO  
7 REPRESENTED HIM IN THE CALABASAS BURGLARIES.

8 DO YOU REMEMBER THAT GERRY CHALEFF WAS  
9 THERE THAT DAY OF DECEMBER THE 31ST (SIC)? HE WAS  
10 IN DR. OZIEL'S OFFICE JUST BEFORE THE TAPING TOOK

11 PLACE, A PROMINENT LOS ANGELES CRIMINAL ATTORNEY.

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

13 OBJECT TO THAT ALSO. THERE'S NO EVIDENCE CONCERNING

14 MR. CHALEFF'S STATUS.

15 THE COURT: OVERRULED. I THINK THERE WAS

16 SUCH.

17 BUT THE DATE -- I THINK YOU SAID

18 "DECEMBER 31ST."

19 MR. CONN: I'M SORRY. DECEMBER 13TH.

20 MS. ABRAMSON: DECEMBER 13TH?

21 MR. CONN: I'M SORRY. DECEMBER 11TH.

22 DECEMBER 11TH.

23 GERRY CHALEFF IS SITTING THERE IN HIS

24 OFFICE. HE'S SITTING THERE IN DR. OZIEL'S OFFICE.

25 WHAT DID GERRY CHALEFF DO NOW? ERIK MENENDEZ WANTS

26 US TO BELIEVE THERE WAS NO DISCUSSION ABOUT THIS

27 TAPE BEING MADE FOR PURPOSES OF LITIGATION IN THE

28 EVENT THAT HE WERE TO BE PROSECUTED SOME DAY?

1 LADIES AND GENTLEMEN, IT'S ABSOLUTELY

2 PREPOSTEROUS THAT ERIK MENENDEZ' CLAIM -- HE'S

3 CLAIMING: "WELL, WE SAID THESE THINGS TO DR. OZIEL

4 BECAUSE DR. OZIEL, WE WERE AFRAID, MIGHT MAKE FALSE

5 ALLEGATIONS AGAINST US, AND WE WANTED TO KEEP HIM



6 HAPPY BY MAKING THESE STATEMENTS."

7 AND I SAID TO HIM ON CROSS-EXAMINATION:

8 "ARE YOU TELLING ME THAT YOU FELT YOU WERE BEING  
9 BLACKMAILED BY DR. OZIEL, YET YOU CONTINUED TO MAKE  
10 INCRIMINATING STATEMENTS AGAINST YOURSELF? YOU SAT  
11 DOWN IN THIS MEETING AND YOU BASICALLY ADMITTED THIS  
12 WAS A PREMEDITATED CRIME, WHEN IN FACT IT DIDN'T GO  
13 DOWN THAT WAY?"

14 ERIK MENENDEZ, HERE ON THE STAND, WAS  
15 SAYING: "YEAH, THAT'S BASICALLY WHAT HAPPENED."

16 I SAID: "WHY DID YOU THINK THAT MAKING  
17 THOSE KINDS OF REMARKS AGAINST YOURSELF, MAKING THE  
18 CRIME APPEAR TO BE HARSHER THAN IT ACTUALLY WAS, IS  
19 SOMETHING THAT WOULD SATISFY DR. OZIEL, OR WHY WOULD  
20 YOU BE EVEN WILLING TO DO THAT?"

21 AND ERIK MENENDEZ HAD NO GOOD  
22 EXPLANATION FOR THAT. ERIK MENENDEZ WOULD HAVE YOU  
23 BELIEVE THAT HE ACTUALLY SAT DOWN AND MADE THIS  
24 INCRIMINATING TAPE, WHICH IS FALSE, MINUTES AFTER  
25 GERRY CHALEFF LEAVES DR. OZIEL'S OFFICE.

26 NO, LADIES AND GENTLEMEN. THAT'S JUST  
27 TOO FARFETCHED TO BELIEVE. IT JUST DIDN'T HAPPEN  
28 THAT WAY. GERRY CHALEFF WAS THERE FOR A REASON.

1 AND GERRY CHALEFF WOULD NOT ALLOW ERIK MENENDEZ TO  
2 SIT DOWN WITH A THERAPIST AND MAKE FALSE STATEMENTS  
3 ABOUT A PREMEDITATED MURDER.

4 MS. ABRAMSON: OBJECTION, YOUR HONOR.  
5 OUTSIDE THE SCOPE OF THE EVIDENCE.

6 THE COURT: SUSTAINED. THAT REMARK IS  
7 STRICKEN. THE JURY IS ADMONISHED TO DISREGARD IT.

8 MR. CONN: NOW, IN ADDITION TO -- NOW, AS FAR  
9 AS THIS OZIEL TAPE IS CONCERNED, LET ME SAY THIS:  
10 THE DEFENSE WILL ARGUE, WHERE IS DR. OZIEL? THEY  
11 WILL SAY THAT THE PROSECUTION SHOULD HAVE CALLED  
12 DR. OZIEL.

13 WELL, LET ME SAY THIS TO YOU. YOU WILL  
14 HEAR AN INSTRUCTION THAT NEITHER SIDE HAS THE  
15 OBLIGATION TO PRODUCE ALL EVIDENCE. NEITHER SIDE  
16 HAS THE OBLIGATION TO CALL ANY PARTICULAR WITNESS.  
17 BOTH SIDES ARE FREE TO CALL WITNESSES IF THEY SO  
18 CHOOSE.

19 SO THE QUESTION I PUT TO YOU IS THIS:  
20 THIS TAPE SPEAKS FOR ITSELF. THIS TAPE MAKES IT  
21 VERY CLEAR THAT ERIK AND LYLE MENENDEZ ARE SPEAKING  
22 ABOUT A PREMEDITATED MURDER. IT DOESN'T ALLOW FOR  
23 TWO DIFFERENT INTERPRETATIONS, BECAUSE WHEN THEY  
24 TALK ABOUT HOW THEY SLEPT ON IT FOR A COUPLE OF  
25 DAYS, AND THEY CONSIDERED IT, IT SATISFIES ALL OF  
26 THESE ELEMENTS OF A PREMEDITATED MURDER.

27 SO I WOULD SAY TO YOU, LADIES AND  
28 GENTLEMEN, THIS TAPE AUTHENTICATES ITSELF. IT

1 ESTABLISHES THE PREMEDITATED STATE OF MIND OF THE  
2 DEFENDANTS. THEY DO, IN FACT, ADMIT AND CONCEDE TO  
3 A PREMEDITATED STATE OF MIND ON THIS TAPE.

4 IF THEY WANT TO CALL DR. OZIEL, THEY CAN  
5 CALL DR. OZIEL. I PUT THE SAME ISSUE BACK TO THEM.  
6 WHY DON'T THEY CALL DR. OZIEL? I DARE THEM. LET  
7 THEM CALL DR. OZIEL.

8 DETECTIVE ZOELLER TESTIFIED THAT AFTER  
9 THE SEIZURE OF THIS TAPE-RECORDING, AND AFTER THE  
10 ARREST OF THE DEFENDANTS IN MARCH OF 1990, THERE WAS  
11 A SEARCH OF THE BIG-5 GUN STORE. AND IT WAS IN THAT  
12 SEARCH OF THE BIG-5 GUN STORE DOWN IN SAN DIEGO THAT  
13 HE CAME ACROSS PURCHASE RECORDS, WHICH INCLUDED THE  
14 NAME OF DONOVAN GOODREAU; AND THAT RANG A BELL. HE  
15 RECOGNIZED DONOVAN GOODREAU AS BEING A FRIEND OF THE  
16 DEFENDANTS, AND HE KNEW THAT THAT WAS POSSIBLY  
17 LINKED TO THIS CRIME, BECAUSE THE PURCHASE WAS FOR  
18 TWO SHOTGUNS BEARING -- BY SOMEONE BEARING THE  
19 IDENTIFICATION OF DONOVAN GOODREAU. AND YOU LATER  
20 LEARNED, OF COURSE, THAT DONOVAN GOODREAU WAS IN NEW  
21 YORK AT THE TIME OF THE PURCHASE.

22 AND SO, LADIES AND GENTLEMEN, THAT WAS  
23 THE TESTIMONY OF OUR FIRST WITNESS IN THIS CASE,  
24 DETECTIVE LES ZOELLER. AND I WILL SUBMIT TO YOU

25 THAT WITH OUR VERY FIRST WITNESS IN THIS CASE WE  
26 PRESENTED -- IN ADDITION TO EVIDENCE CONCERNING THE  
27 CRIME SCENE -- WE PRESENTED THE TESTIMONY OF THE  
28 DECEMBER 11 TAPE AT THAT TIME, EVEN THOUGH IT WAS

1 SOMEWHAT OUT OF SEQUENCE. YOU COULD SEE THAT.  
2 OTHERWISE, I WENT THROUGH THE EVENTS OF AUGUST 20TH  
3 IN SEQUENCE. PERHAPS I SHOULD HAVE PUT THE TAPE WAY  
4 DOWN THERE, BECAUSE IT DIDN'T OCCUR UNTIL DECEMBER  
5 11TH.

6 I PUT IT ON FOR A PURPOSE. I WANTED YOU  
7 TO HEAR THAT DECEMBER 11 TAPE AS EARLY IN THE TRIAL  
8 AS POSSIBLE, BECAUSE I WANTED YOU TO KNOW RIGHT  
9 THROUGH OUR VERY FIRST WITNESS THAT PREMEDITATION  
10 AND DELIBERATION IS ABSOLUTELY SHOWN, AND IT'S SHOWN  
11 THROUGH THAT TAPE-RECORDING, AND IT IS NOT REFUTED  
12 BY ANY WITNESS IN THIS CASE.

13 WE THEN HEARD FROM OUR SECOND WITNESS,  
14 WHICH WAS CHRISTINE NYE. AND CHRISTINE NYE  
15 TESTIFIED TO THE 911 CALL. SHE IS THE DISPATCHER AT  
16 THE BEVERLY HILLS POLICE DEPARTMENT.

17 AND WHY DO WE PRESENT THAT CALL TO YOU?  
18 WE WANTED TO SHOW YOU THAT THIS WAS AN ATTEMPT ON  
19 THE PART OF THE DEFENDANTS TO INFLUENCE THE POLICE,

20 PRETENDING TO BE IN A STATE OF SHOCK, AND HOW THEY  
21 CAN DO IT IN A VERY CONVINCING WAY.  
22         AND I ASK YOU TO FIND THAT THIS WAS A  
23 PRETENSE ON THEIR PART; NOT THAT IT WOULDN'T BE  
24 UNSETTLING, UPSETTING, TO SHOOT YOUR PARENTS TO  
25 DEATH, AND YOU WOULDN'T BE IN AN EXCITED STATE  
26 FOLLOWING THAT; NOT THAT, EVEN AS PARK DIETZ SAID,  
27 FOLLOWING THE KILLING OF YOUR PARENTS THAT'S ENOUGH  
28 TO PUT YOU INTO P.T.S.D. YOU CAN BECOME EXTREMELY

1 UPSET BY SHOOTING YOUR PARENTS TO DEATH AND COMING  
2 BACK AND LOOKING AT YOUR PARENTS AND HAVING TO THINK  
3 ABOUT WHAT YOU DID. THAT'S CERTAINLY A  
4 POSSIBILITY.

5         THE INTERESTING THING, LADIES AND  
6 GENTLEMEN, IS THIS:

7         WERE THE DEFENDANTS CRYING WHEN THEY  
8 WERE PICKING UP THE SHELLS AND RECOVERING EVIDENCE  
9 IMMEDIATELY AFTER SHOOTING THEIR PARENTS TO DEATH?  
10 NO, THEY WEREN'T, NOT ACCORDING TO ERIK MENENDEZ.  
11 THEY WEREN'T CRYING AT THAT TIME. I ASKED HIM THAT  
12 QUESTION. THERE WAS NO DISCUSSION. THEY JUST WENT  
13 ABOUT DUTIFULLY DOING THEIR DUTY THERE, PICKING UP  
14 SHELLS, GATHERING THE EVIDENCE AND GETTING OUT OF

15 THE HOUSE. THEY WEREN'T CRYING AT THAT TIME.  
16 WERE THEY CRYING IN LINE WHEN THEY WERE  
17 STANDING IN LINE AT THE MOVIE THEATER TRYING TO  
18 PURCHASE ALIBI TICKETS, AS THEY CLAIM? THEY WEREN'T  
19 CRYING AT THAT TIME. ERIK MENENDEZ EVEN ADMITTED TO  
20 THAT. THERE WERE NO TEARS BEING SHED AT THAT TIME.  
21 LOOK AT HOW FAR THEY GOT THAT NIGHT.  
22 LOOK AT ALL THEY DID FROM THE TIME OF THE SHOOTING,  
23 WHICH WE KNOW WAS ABOUT 10:00 O'CLOCK OR 10:10.  
24 REMEMBER HOW FAR THEY TRAVELED BEFORE THEY CAME  
25 BACK. AND THEY GOT BACK TO THE HOME SHORTLY BEFORE  
26 MIDNIGHT.  
27 I MEAN, THEY WENT FROM THEIR HOME UP  
28 HERE (POINTING) SUPPOSEDLY, TO THE MOVIE THEATERS.

1 THEY WENT WAY UP THERE (POINTING). ERIK MENENDEZ  
2 MARKED A SPOT ON MULHOLLAND WHERE THEY SUPPOSEDLY  
3 GOT RID OF THE GUNS.  
4 THEY WENT TO THE "TASTE OF L.A.," WHICH  
5 IS DOWN HERE (POINTING), USED THE TELEPHONE. TOOK  
6 THE TIME AND THE TROUBLE TO MAKE TELEPHONE CALLS TO  
7 PERRY BERMAN. THEY WERE VERY -- THEY HAD A VERY  
8 ACTIVE SCHEDULE THAT NIGHT. MUCH TOO BUSY TO SIT  
9 AROUND CRYING, VERY MUCH ON THE GO.

10           WHEN YOU LOOK AT THE AMOUNT OF DISTANCE  
11 THAT THEY COVERED DURING THE COURSE OF THAT NIGHT,  
12 YOU CAN SEE HOW MUCH THEY GOT ACCOMPLISHED THAT  
13 NIGHT. THEY DIDN'T HAVE TIME TO SIT AROUND CRYING.  
14           THEN THEY WANT YOU TO BELIEVE, LADIES  
15 AND GENTLEMEN, THAT JUST WHEN THEY GET HOME, JUST  
16 WHEN THEY COME HOME, AT THE CONCLUSION OF ALL OF  
17 THAT, SUDDENLY THEY SEE THEIR PARENTS, AND THEY JUST  
18 SPONTANEOUSLY AND SINCERELY BURST INTO TEARS.  
19           I EVEN ASKED HIM, I ASKED ERIK  
20 MENENDEZ: "WAS THIS SOMETHING YOU DISCUSSED WITH  
21 LYLE MENENDEZ, WHAT YOU WERE GOING TO SAY ON THE  
22 PHONE, OR HOW YOU WERE GOING TO SOUND, HOW YOU WERE  
23 GOING TO APPEAR TO THE POLICE?"  
24           AND HE WANTS YOU TO BELIEVE NO, THEY  
25 DIDN'T DISCUSS THAT AT ALL. THEY DISCUSSED ALL OF  
26 THESE OTHER THINGS, LADIES AND GENTLEMEN, AND THEY  
27 DISCUSSED GETTING RID OF EVIDENCE, PICKING UP THE  
28 SHELLS, DISPOSING OF THE SHOTGUNS, WHAT THEY MIGHT

1 TELL THE POLICE. THEY DISCUSSED AN ALIBI. THEY  
2 DISCUSSED ALL OF THESE OTHERS THINGS; AND YET, A  
3 VERY IMPORTANT PART OF THEIR STORY, HOW THEY WOULD  
4 SOUND TO THE POLICE, WHAT THEY WOULD SAY TO THE

5 POLICE, THEY DIDN'T DISCUSS THAT?

6 OF COURSE THEY DISCUSSED THAT, LADIES  
7 AND GENTLEMEN. JUST ONE OF THE VERY MANY WAYS IN  
8 WHICH ERIK MENENDEZ WAS LYING TO YOU WHEN HE TOOK  
9 THE STAND.

10 SO I WOULD SUBMIT, LADIES AND GENTLEMEN,  
11 THAT IT WAS AT THAT POINT THAT ERIK MENENDEZ WENT  
12 INTO THE ACTING MODE, WHEN THEY FIRST CALLED THE  
13 POLICE AND MADE THAT 911 CALL. THAT'S WHEN THE  
14 ACTING MODE STARTED.

15 WELL, CHRISTINE NYE TESTIFIED TO ANOTHER  
16 THING THAT WAS VERY IMPORTANT TOO. CHRISTINE NYE  
17 TESTIFIED THAT SHE WAS THE DISPATCHER THAT NIGHT  
18 FROM THE TIME OF THE SHOOTING, BECAUSE SHE SAID SHE  
19 GOT ON AT ABOUT 10:00 O'CLOCK OR SO THAT NIGHT. AND  
20 SHE TESTIFIED THAT SHE RECEIVED NO REPORTS OF ANY  
21 SHOTS FIRED THAT NIGHT, EVEN THOUGH SHE HAD BEEN  
22 WORKING FROM ABOUT 10:00 P.M. NO ONE CALLED THE  
23 POLICE. NO ONE SAID THAT SHOTS WERE FIRED IN THE  
24 NEIGHBORHOOD.

25 WHY IS THAT SIGNIFICANT? IT'S BECAUSE  
26 IT REFLECTS THE DEFENDANTS' KNOWLEDGE, OR CONFORMS  
27 WITH THE DEFENDANTS' BELIEF THAT THEY COULD COMMIT  
28 THIS CRIME; THAT THEY COULD SHOOT IN THAT



1 NEIGHBORHOOD AND IT WOULDN'T EVEN BE REPORTED; THAT  
2 THEY COULD GET AWAY WITHOUT IT BEING REPORTED.

3       YOU'RE GOING TO HEAR A DEFENSE ARGUMENT,  
4 I'M SURE, JUST JUDGING BY SOME OF THE WITNESSES THAT  
5 THEY CALLED IN THIS CASE, THAT OH, LADIES AND  
6 GENTLEMEN, THIS COULDN'T BE A PLANNED CRIME FOR THE  
7 FOLLOWING REASON: BECAUSE IF THIS WERE A PLANNED  
8 CRIME, WHY WOULD THE DEFENDANTS USE NOISY SHOTGUNS  
9 IN BEVERLY HILLS AT 10:00 O'CLOCK AT NIGHT?

10       WELL, THERE'S A COUPLE OF FLAWS WITH  
11 THAT ARGUMENT. THE FIRST FLAW, YOU WILL RECALL, IS  
12 THAT THE DEFENDANTS ARE NOT CHARGED WITH A PLANNED  
13 CRIME. YOU REMEMBER THE DISTINCTION THAT I DREW  
14 BETWEEN A PLANNED CRIME AND A PREMEDITATED CRIME?  
15 MAY VERY WELL BE THE DEFENDANTS NEVER ACTUALLY  
16 WORKED OUT AT WHAT TIME THEY WERE GOING TO SHOOT  
17 THEIR PARENTS. BUT LIKE CRAIG CIGNARELLI SAID, WHEN  
18 THEY CAME BACK FROM THE MOVIE, LYLE SAID: "LET'S DO  
19 IT NOW," AND THEY DID IT. THAT'S A PREMEDITATED  
20 CRIME, WHETHER OR NOT THE DETAILS WERE WORKED OUT.

21       THERE'S ANOTHER FLAW WITH THE ARGUMENT,  
22 AND THE FLAW WITH THE ARGUMENT IS THAT JUST BECAUSE  
23 YOU FIRE SHOTS IN THE NEIGHBORHOOD, THAT DOESN'T  
24 MEAN THAT PEOPLE ARE GOING TO RECOGNIZE THAT ITS  
25 GUNSHOTS. THAT DOESN'T MEAN THAT THEY'RE GOING TO  
26 KNOW WHERE THE GUNSHOTS CAME FROM. THAT DOESN'T  
27 MEAN THAT THEY'RE GOING TO CALL THE POLICE; AND THAT

28 DOESN'T MEAN THAT YOU WON'T HAVE TIME TO GET AWAY.

1           SO FOR ALL OF THOSE ARGUMENTS, LADIES  
2 AND GENTLEMEN, FOR ALL OF THOSE REASONS, A VERY  
3 REASONABLE CONCLUSION TO BE DRAWN IS THAT THE  
4 DEFENDANTS CORRECTLY REALIZED -- CORRECTLY BECAUSE  
5 THEIR CONDUCT WAS PROVEN TO BE CORRECT -- THAT THEY  
6 COULD SHOOT THEIR PARENTS AND GET AWAY WITH IT.

7           AND I RAISE THAT ISSUE ONLY BECAUSE THEY  
8 CALLED TWO WITNESSES JUST FOR THE PURPOSE OF MAKING  
9 THAT ARGUMENT.

10          I'LL SKIP AHEAD AT THIS TIME TO A COUPLE  
11 OF WITNESSES CALLED BY THE DEFENSE. WELL, I SHOULD  
12 SAY WE CALLED A WITNESS CONCERNING THE SHOOTING. WE  
13 CALLED MRS. KROM.

14          MRS. KROM TESTIFIED THAT SHE HEARD THE  
15 SHOTS SOMETIME AFTER 10:00 O'CLOCK. I THINK SHE  
16 MIGHT HAVE SAID 10:10 OR SOMETHING LIKE THAT. AND  
17 MRS. KROM SAID THAT SHE THOUGHT IT SOUNDED LIKE  
18 CHINESE FIRECRACKERS, A RAPID SEQUENCE OF SHOTS,  
19 FOLLOWED BY A PAUSE, AND THEN ANOTHER RAPID  
20 SEQUENCE. SHE WAS CALLED AS A WITNESS ONLY TO  
21 ESTABLISH THE TIME OF THE SHOTS.

22          BUT THE DEFENSE SOUGHT TO USE HER TO

23 MAKE THEIR ARGUMENT THAT THIS COULDN'T HAVE BEEN A  
24 PLANNED CRIME.

25 WELL, AS I INDICATED, LADIES AND  
26 GENTLEMEN, MRS. KROM DID NOT ASSUME THAT IT WAS  
27 GUNSHOTS. TO THE CONTRARY. MRS. KROM ASSUMED THAT  
28 IT WAS FIRECRACKERS.

1 THEY CALLED A WITNESS -- LET ME SKIP  
2 AHEAD TO THE DEFENSE FOR A SECOND. THEY CALLED HER  
3 SON, JOSH KROM, JUST TO MAKE THIS VERY ARGUMENT THAT  
4 I'M NOW DISCUSSING WITH YOU, BECAUSE JOSH KROM SAID  
5 THAT IN 1989 HE WAS 13 YEARS OLD. ON THE DAY OF THE  
6 KILLINGS HE HEARD WHAT HE THOUGHT SOUNDED LIKE  
7 GUNSHOTS, AS OPPOSED TO FIREWORKS. HE WAS THE ONE  
8 AND ONLY PERSON WHO SUSPECTED THAT IT MIGHT BE  
9 GUNSHOTS. THERE'S NO EVIDENCE OF ANY OTHER PERSON  
10 IN THAT NEIGHBORHOOD SUSPECTING THAT IT WAS  
11 GUNSHOTS.

12 BUT EVEN JOSH KROM SAID HE LOOKED UP TO  
13 THE SKY JUST TO BE SURE. YOU SEE? SO EVEN JOSH  
14 KROM DIDN'T RULE OUT THE POSSIBILITY OF FIREWORKS.  
15 HE SAID HE ONLY HEARD FIVE OR SIX SHOTS, WHICH  
16 SUGGESTS THAT EVEN ASIDE FROM THE RELOAD, PERHAPS  
17 THERE WAS ANOTHER VOLLEY OF SHOTS THAT HE DIDN'T

18 EVEN HEAR. SO IT'S QUESTIONABLE WHETHER JOSH KROM  
19 EVEN HEARD ALL OF THE SHOTS.  
20 JOSH KROM SEEMED TO EXPLAIN WHAT WOULD  
21 BE THE REACTION OF SOMEONE IN THAT NEIGHBORHOOD. HE  
22 SAID: "WHO WOULD HAVE THOUGHT THAT IT WOULD BE  
23 GUNSHOTS IN THE NEIGHBORHOOD?" YOU SEE? THAT'S  
24 EXACTLY THE ASSUMPTION THAT THE DEFENDANTS WERE  
25 OPERATING UNDER THAT NIGHT, NO DOUBT. THEY KNEW.  
26 THEY LIVED IN A BEVERLY HILLS NEIGHBORHOOD. WHEN  
27 ARE SHOTS FIRED IN A BEVERLY HILLS NEIGHBORHOOD?  
28 THE WITNESSES THAT TESTIFIED HERE SORT OF TESTIFIED

1 THAT'S NEVER HAPPENED BEFORE.

2 I THINK VIRGINIA LORD IS ONE OF THOSE  
3 WITNESSES THAT INDICATED THAT. SHE HAD LIVED IN  
4 THAT NEIGHBORHOOD FOR A LONG PERIOD OF TIME. AND  
5 VIRGINIA LORD DESCRIBED -- HAD NO BELIEF THAT IT WAS  
6 SHOTS FIRED.

7 THESE WITNESSES, LADIES AND GENTLEMEN,  
8 SUCH AS VIRGINIA LORD AND MRS. KROM, THEY DIDN'T  
9 EVEN SUSPECT THAT IT WAS GUNSHOTS UNTIL THE  
10 FOLLOWING DAY, AFTER THE POLICE GOT THERE.

11 VIRGINIA LORD -- LET ME CHECK HER OFF --  
12 SHE WAS THE SECOND WITNESS THAT WAS CALLED JUST FOR

13 THIS POINT. VIRGINIA LORD TESTIFIED THAT SHE LIVED  
14 ACROSS THE STREET FROM THE HOME, AND SHE SAID ON  
15 THAT NIGHT SHE HEARD WHAT COULD BE DESCRIBED AS  
16 POPPING SOUNDS. SHE ASSUMED THAT IT WAS  
17 FIRECRACKERS, AND SHE RECALLS ASKING HERSELF: "WHAT  
18 CRAZY KIDS WOULD DO THIS AT THIS TIME OF NIGHT?"  
19       AND SHE LOOKED AT THE CLOCK, AND SHE  
20 NOTED THAT IT WAS ABOUT 10:00 P.M. SHE DESCRIBED  
21 THE SOUND OF GUNFIRE IN THE NEIGHBORHOOD AS, QUOTE,  
22 A NONEXISTENT OCCURRENCE. . ALTHOUGH SHE DID SAY  
23 THAT SHE DID HEAR FROM TIME TO TIME THE SOUNDS OF  
24 FIRECRACKERS IN THE NEIGHBORHOOD. IT WAS NOT AN  
25 UNFAMILIAR OCCURRENCE, AND SUCH FIRECRACKERS WERE  
26 NOT LIMITED TO THE 4TH OF JULY.  
27       SO I WOULD SUBMIT THAT THE DEFENDANTS  
28 CORRECTLY ASSUMED THAT PEOPLE IN THAT NEIGHBORHOOD

1 WHO HEARD THE SOUND OF GUNSHOTS WOULD, NUMBER ONE,  
2 ASSUME THAT IT WAS THE SOUND OF FIRECRACKERS; AND  
3 YET, EVEN IF SOMEONE DID ASSUME THAT -- EVEN IF  
4 SOMEONE DID ASSUME THAT IT WAS GUNSHOTS RATHER THAN  
5 FIRECRACKERS, WHERE -- HOW WOULD THEY BE ABLE TO  
6 DETERMINE WHERE THE SOUNDS CAME FROM?  
7       JOSH KROM TESTIFIED THAT HE COULD NOT

8 TELL THE DIRECTION FROM WHICH THE SHOTS HAD

9 ORIGINATED.

10 SO, I WOULD SUBMIT, LADIES AND

11 GENTLEMEN, THAT THE ARGUMENT OF THE DEFENSE, THAT

12 THEY WILL BE MAKING TO YOU, THAT THE DEFENDANTS

13 WOULD NOT HAVE FIRED THEIR GUNS UNDER THESE

14 CIRCUMSTANCES, IS NOT A VALID ARGUMENT, BECAUSE

15 THEIR ACTIONS AND THE AFTERMATH OF THEIR ACTIONS

16 PROVES ONLY ONE THING, THAT THEY KNOW THEIR

17 NEIGHBORHOOD BETTER THAN WE KNOW THEIR

18 NEIGHBORHOOD. THEY WERE ABLE TO FIRE THE SHOTS, AND

19 THEY WERE ABLE TO GET AWAY FROM THE CRIME SCENE,

20 ACCORDING TO CHRISTINE NYE, WITHOUT A SINGLE PERSON

21 CALLING THE POLICE AND REPORTING GUNSHOTS BEING

22 FIRED.

23 MR. CONN: DOES THE COURT WISH TO BREAK NOW?

24 THE COURT: OKAY. WE'LL RESUME AT 1:30.

25 DON'T DISCUSS THE MATTER, AND DON'T FORM

26 ANY FINAL OPINIONS ABOUT IT. AND WE'LL RESUME AT

27 1:30.

28 (AT 12:04 P.M. PROCEEDINGS WERE

1 ADJOURNED UNTIL 1:30 P.M. OF

2 THE SAME DAY.)

3

4

5

-14500

1 VAN NUYS, CALIFORNIA; WEDNESDAY, FEBRUARY 21, 1996

2 1:40 P.M.

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

4 (APPEARANCES AS HERETOFORE NOTED)

5 (MARY LU MURPHY, OFFICIAL REPORTER)

6 (MARILYN A. FADALE, OFFICIAL REPORTER)

7

8 (THE JURY ENTERED THE COURTROOM

9 AND THE FOLLOWING PROCEEDINGS

10 WERE HELD:)

11

12 THE COURT: THE JURY IS BACK, AND WE WILL

13 CONTINUE WITH THE ARGUMENT.

14 MR. CONN: LADIES AND GENTLEMEN, BEFORE I PROCEED

15 WITH THE WITNESSES, I WOULD LIKE TO GO BACK FOR ONE

16 FURTHER MOMENT TO THE DECEMBER 11 TAPE, BECAUSE THERE

17 WERE TWO PASSAGES THAT I WOULD LIKE TO MAKE REFERENCE TO

18 THAT I DIDN'T MAKE REFERENCE TO.

19 THE FIRST IS THE ONE THAT YOU'VE ALREADY

20 SEEN, THAT I BLEW UP IN THE DIAGRAM, THAT SAYS: "I LET

21 MY BROTHER SLEEP ON IT FOR A COUPLE OF DAYS."

22 BUT THERE IS MORE ONE MORE IMPORTANT

23 PASSAGE IN THE DECEMBER 11TH TAPE, WHICH IS A LENGTHY

24 PASSAGE RIGHT AT THE END OF THE CONVERSATION WITH

25 DR. OZIEL, WHERE LYLE MENENDEZ MAKES REFERENCE TO THE  
26 KILLING, AND SAYS THE FOLLOWING. HE SAYS:  
27 "GETTING BACK TO WHAT ERIK WAS  
28 FEELING, I WANTED TO SAY THAT WE -- YOU

-14499

1 KNOW, IT WOULD BE GREAT IF -- IF WE WERE  
2 ABLE TO WORK ON IT, BECAUSE EVEN -- YOU  
3 KNOW, OUR RELATIONSHIP, BECAUSE EVEN THE  
4 PLANNING OUT OF THIS, THE REASON IT TOOK  
5 SUCH A SHORT PERIOD OF TIME TO FIGURE IT  
6 OUT WAS; ONE, BECAUSE IT COULD HAVE  
7 HAPPENED AT ANY MOMENT."  
8 SO THERE HE IS SAYING THAT THIS KILLING  
9 COULD HAVE HAPPENED AT ANY MOMENT. AND THEN HE SAYS:  
10 "ALL THE THINKING BEFOREHAND WAS DONE."  
11 SO ALREADY HE'S TALKING ABOUT A STATE OF  
12 MIND IN WHICH, PRIOR TO THE ACTUAL SHOOTING, THIS HAD  
13 ALL BEEN CONSIDERED. THIS HAD ALL BEEN THOUGHT OUT.  
14 DR. OZIEL SAYS:  
15 "YOU ALREADY KNOW WHAT YOU FELT?"  
16 AND HE SAYS:  
17 "AH, WE KNOW WHAT WE FELT, AND WE  
18 KNEW EVERYTHING ABOUT THAT. AND HONESTLY,  
19 I NEVER THOUGHT IT WOULD HAPPEN, EVEN  
20 THOUGH I HAD THOUGHT ABOUT IT, AH, BUT IT



21 WAS -- IT WAS DONE SO QUICKLY, AND SORT OF  
22 CARELESSLY ALMOST, BECAUSE, ONE, IF YOU'D  
23 THOUGHT ABOUT IT TOO MUCH, THE FEELINGS OF  
24 NOT HAVING YOUR PARENTS AROUND, AND SO ON,  
25 WOULD GET IN THE WAY OF WHAT WAS MORE  
26 IMPORTANT, WHICH WAS HELPING YOUR MOTHER  
27 REALLY, AND THINKING ABOUT THAT.  
28 "THE FEELING FOR HER WAS SO EASY TO

-14498

1 SEPARATE YOURSELF. I HAVE DONE IT TOO  
2 LONG INTO MY OWN LIFE, AND I DON'T WANT TO  
3 DEAL WITH MOTHER'S -- I THINK AGONY IS THE  
4 WORD -- AND IT WAS JUST A COWARDICE WAY  
5 OUT.

6 "AND FOR ONE MOMENT, BEFORE I WENT  
7 BACK TO SCHOOL, I HAD A CHANCE, EVEN  
8 THOUGH MY LIFE WAS GOING REALLY WELL  
9 AND -- TO SHOW SOME COURAGE, I FELT, AND  
10 HELP ERIK AND I, HELP MY MOTHER.

11 "AND WE GOT TOGETHER, AND IT WAS  
12 THE FACT THAT WE CAN'T COMMUNICATE --  
13 COULDN'T COMMUNICATE TOGETHER, AND SIT  
14 DOWN AND FACE EACH OTHER AND TALK ABOUT  
15 THE REAL ISSUES, THAT IT WAS ALMOST DONE  
16 LOOKING IN DIFFERENT DIRECTIONS. IT WAS

17 JUST A LITTLE WORD HERE, A LITTLE WORD  
18 THERE, AND A LITTLE WORD HERE. AND THIS  
19 SORT OF THING DOESN'T -- YOU KNOW, YOU  
20 DON'T KILL YOUR PARENTS BASED ON A LITTLE  
21 WORD HERE AND A LITTLE WORD THERE. IT WAS  
22 OBVIOUS WE FELT A TREMENDOUS AMOUNT OF  
23 EMOTION."  
24 BEAR IN MIND HERE THAT EVEN IF EMOTION  
25 ENTERS INTO THE EQUATION, IT DOESN'T MEAN IT'S NOT  
26 PREMEDITATED.  
27 SO WE ARE NOT SAYING, DON'T MISUNDERSTAND,  
28 THAT IF THE DEFENDANTS DIDN'T HAVE SOME RESERVATIONS OR

-14497

1 EMOTION DIDN'T ENTER INTO IT IN SOME WAY, THAT'S NOT A  
2 FIRST-DEGREE MURDER. YOU SAW THE ELEMENTS OF A  
3 PREMEDITATED MURDER. IT'S THE WEIGHING AND CONSIDERING,  
4 AND THIS DECISION TO GO AHEAD AND COMMIT THE MURDER, NOT  
5 WHETHER THERE IS RESERVATIONS INVOLVED, OR WHETHER THERE  
6 WAS SOME EMOTION INVOLVED. THAT MAY VERY WELL BE TRUE.  
7 IN THE HIERACHY OF CRIMINAL RESPONSIBILITY  
8 FOR MURDER, THERE IS VARIOUS WAYS IN WHICH YOU CAN HOLD  
9 PEOPLE THEORETICALLY ACCOUNTABLE FOR DIFFERENT DEGREES  
10 OF MURDER.  
11 YOU CAN SAY, FOR EXAMPLE, THAT WE ARE GOING  
12 TO PUNISH MORE SEVERELY THOSE WHO KILL FOR REASON OF

13 GREED, THAN THOSE WHO KILL FOR REASON OF ABUSE, FOR  
14 EXAMPLE. THAT MIGHT BE ONE LEGITIMATE WAY OF  
15 DISTINGUISHING BETWEEN DEGREES OF HOMICIDE, DEGREES OF  
16 MURDER.

17 BUT WE DON'T DO IT THAT WAY. THE WAY WE DO  
18 IT, THE WAY OUR LAW DOES, IS BASED UPON THIS NOTION OF  
19 PREMEDITATION. AND PROVIDED YOU HAVE THAT MENTAL STATE  
20 WHERE YOU WEIGH IT AND YOU CONSIDER IT AND YOU THOUGHT  
21 ABOUT IT, THAT IS FIRST-DEGREE MURDER, REGARDLESS OF THE  
22 REASON WHY YOU DID IT, AND REGARDLESS OF WHETHER OR NOT  
23 THERE IS AN ELEMENT OF EMOTION IN THERE.

24 AND HE GOES ON TO SAY:

25 " IT JUST TOOK A LITTLE WORD HERE  
26 AND THERE, ALMOST AS IF A THIRD PARTY WAS  
27 DISCUSSING, AND IT WAS JUST A MEETING OF  
28 THE MINDS. THE TIME IS NOW. IT'S NOT A

-14496

1 GREAT TIME. I AM DOING WELL, YOU'RE READY  
2 TO GO TO U.C.L.A. WE'RE STARTING TO BUY A  
3 LOT OF THINGS. BUT WE CAN'T IGNORE THE  
4 FACT THAT MY MOTHER HAS TO LIVE WITH THIS,  
5 AND -- IT WAS THAT. IT WAS -- IT WAS ERIK  
6 WAS AT -- I MEAN, I REMEMBER --"

7 AND THIS IS AN INTERESTING PASSAGE. I  
8 SUBMIT THAT WHAT HE'S TALKING ABOUT HERE, HE IS TALKING

9 ABOUT THAT FRIDAY.

10 DO YOU REMEMBER ON FRIDAY WHEN ERIK  
11 MENENDEZ AND LYLE MENENDEZ LEAVE TO GO AND BUY THE GUNS  
12 IN SAN DIEGO, AND DO YOU REMEMBER THE DESCRIPTION GIVEN  
13 BY ERIK MENENDEZ WAS THAT HE WAS OUT ON THE TENNIS  
14 COURT, AND LYLE MENENDEZ HAD TO COME OUT AND SAY, "COME  
15 ON, LET'S GO DO IT." AND THAT HE TOOK HIM DOWN TO SAN  
16 DIEGO AND THEY WENT DOWN AND THEY PURCHASED THE GUNS IN  
17 SAN DIEGO.

18 LISTEN TO THIS REFERENCE, BECAUSE I THINK  
19 THAT THIS IS WHAT LYLE MENENDEZ IS DESCRIBING, PRECISELY  
20 THAT INCIDENT.

21 "IT WAS -- ERIK WAS AT -- I MEAN, I  
22 REMEMBER WHEN WE HAD TO GO DOWN WHEREVER,  
23 TO TAKE CARE OF AN IMPORTANT ISSUE  
24 CONCERNING, AH -- HE SAID, 'I CAN'T DO IT.  
25 I'VE GOT TO -- I'VE GOT TO PRACTICE,  
26 BECAUSE I HAVE A TOURNAMENT COMING UP,'  
27 AND HE WAS -- HE WAS COMPLETELY BLOCKING  
28 OUT.

-14495

1 "AND I WOULD, YOU KNOW, I COULDN'T  
2 EVEN TELL HIM WHAT I WAS FEELING. HE  
3 DOESN'T REALIZE THE IMPACT OF WHAT HE'S  
4 DOING. HE WANTS TO TAKE CARE OF THIS

5 PROBLEM AND WISH HIS LIFE WAS THE SAME,  
6 AND HE STILL HAD NORMAL PARENTS, BUT HE  
7 COULD NEVER HAVE. HE DOESN'T REALIZE THAT  
8 WHAT HE'S DOING, THERE WILL BE NO MORE  
9 TOURNAMENTS LIKE THAT. THERE IS GOING TO  
10 BE NO MORE. ALL THE -- ALL THE LITTLE  
11 GOOD THINGS THAT ARE IN OUR RELATIONSHIP:  
12 "AND I THINK ONE OF THE BIGGEST  
13 PAINS HE HAS IS THAT YOU MISS JUST HAVING  
14 THESE PEOPLE AROUND. I MISS NOT HAVING MY  
15 DOG AROUND, IF I CAN MAKE SUCH A GROSS  
16 ANALOGY."  
17 WHAT A CALLOUS REMARK. WHAT A CALLOUS  
18 REMARK FOR LYLE MENENDEZ TO TALK ABOUT MISSING HIS  
19 PARENTS IN THE SAME WAY THAT HE MISSES NOT HAVING HIS  
20 DOG AROUND.  
21 BUT YOU CAN SEE THE REFERENCE HERE SEEMS TO  
22 BE TO THAT FRIDAY, WHEN ERIK MENENDEZ WAS NOT AS EAGER  
23 TO GET DOWN TO SAN DIEGO WITH LYLE MENENDEZ AND PURCHASE  
24 THE GUNS.  
25 NEVERTHELESS, LADIES AND GENTLEMEN, THE  
26 EVIDENCE SHOWS VERY CLEARLY THAT ERIK MENENDEZ WENT  
27 ALONG WITH HIM AND IS FULLY RESPONSIBLE FOR THIS CRIME.  
28 HE GOES ON TO SAY THAT:

1           "YOU KNOW, WHETHER I HATED THE  
2    THING WHEN IT WAS AROUND -- HE SEEMS TO BE  
3    TALKING ABOUT THE DOG HERE -- "WHETHER I  
4    HATED THE THING WHEN IT WAS AROUND, AND  
5    I'VE GIVEN IT AWAY, NOW THAT IT'S GONE --"  
6    HE SEEMS TO SKIP TOPICS NOW -- "I MISS ALL  
7    THE THINGS THAT WE -- YOU KNOW, WE HAD A  
8    BOATING TRIP RIGHT BEFORE THE INCIDENT,  
9    AND IT HAD NOTHING TO DO WITH THE MAIN  
10   PROBLEM WHICH -- WHICH REQUIRED A LOT OF  
11   COURAGE, BUT I MISS NOT HAVING MY FATHER,  
12   AND I -- IT'S ALMOST WORSE AFTER I FIND  
13   OUT MORE AND MORE HOW HE WAS SUCH A  
14   GENIUS, AND ALL OF THE THINGS HE WAS ABLE  
15   TO DO, AND MORE AND MORE ABOUT THE AGONY  
16   OF MY MOTHER THAT I -- INSTEAD OF HER  
17   BEING A SHELL, I REALIZE SHE WAS REALLY  
18   FEELING A LOT OF EMOTION THAT I WISH I  
19   COULD HAVE NOW CONFRONTED HER, AND  
20   DISCUSSED THINGS WITH HER THAT I CAN'T,  
21   AND -- I DON'T KNOW. I THINK I WOULD  
22   HAVE. . . "

23           AND IT ENDS THERE.

24           BUT YOU CAN SEE HERE HOW HE'S TALKING -- HE  
25   EVEN TALKS ABOUT THE BOAT TRIP. AND HE DOESN'T TALK  
26   ABOUT THE BOATING TRIP AS BEING SOME SITUATION OF  
27   FEARFULNESS INVOLVING HIS PARENTS. HIS REFLECTION OF  
28   THE BOATING TRIP IN THIS CONVERSATION WITH DOCTOR --

1 WITH DR. OZIEL SEEMS TO BE AS A PLEASANT MEMORY. HE  
2 SAYS -- HE IS TALKING ABOUT HOW HE MISSES THINGS.

3 "I MISS THE THINGS THAT WE -- YOU  
4 KNOW, WE HAD A BOATING TRIP RIGHT BEFORE  
5 THE INCIDENT, AND IT HAD NOTHING TO DO  
6 WITH THE MAIN PROBLEM."

7 SO AGAIN, YOU CAN SEE HOW THAT BOATING TRIP  
8 WAS MISCHARACTERIZED IN THIS CASE BY ERIK MENENDEZ. HE  
9 DESCRIBES IT AS THIS -- BEING FRIGHTENED OF THE PARENTS  
10 AND SO FORTH.

11 BUT LYLE MENENDEZ IS LOOKING BACK ON IT  
12 WITH SOMEWHAT FOND MEMORIES. IT WAS ONE OF THE LAST  
13 OUTINGS THAT THE FAMILY HAD TOGETHER.

14 MICHAEL BUTKUS WAS A POLICE OFFICER FOR THE  
15 BEVERLY HILLS POLICE DEPARTMENT, AND HE TESTIFIED TO THE  
16 DEFENDANTS RUNNING OUT OF THE HOME, POUNDING THEIR FISTS  
17 TO THE GROUND. HE SAID THAT BOTH DEFENDANTS SAID, "OH,  
18 MY GOD. I CAN'T BELIEVE IT. " AND HE ALSO RECALLS THAT  
19 AFTER POUNDING THEIR FISTS TO THE GROUND, THEY WOULD  
20 SOMETIMES LOOK UP AT HIM, YOU SEE.

21 AND I WOULD SUBMIT TO YOU, LADIES AND  
22 GENTLEMEN, THAT THE WORDS OF THE DEFENDANTS DURING THIS  
23 PERIOD OF TIME: "OH, MY GOD. I CAN'T BELIEVE IT," ARE  
24 NOT GENUINE REFLECTIONS THERE OF STATE OF MIND. THAT IS  
25 NOT SOMETHING THAT YOU WOULD SAY AFTER YOU HAD KILLED

26 YOUR PARENTS; SHOT THEM TO DEATH, DRIVEN ALL AROUND LOS  
27 ANGELES, COME BACK, CALL THE POLICE.  
28 WOULD YOU TRULY BE SAYING, "OH, MY GOD. I

-14492

1 CAN'T BELIEVE IT. OH, MY GOD. I CAN'T BELIEVE IT"?  
2 NO. THIS IS MORE ACTING, LADIES AND  
3 GENTLEMEN. THIS ACTING MODE PART TWO. YOU KNOW, THE  
4 FIRST ACTING WAS WHEN THEY CALLED THE POLICE AT 911, AND  
5 THEY ARE PRETENDING TO BE SORROWFUL IN THAT CALL. NOW  
6 THEY'RE SAYING: "I CAN'T BELIEVE IT." THOSE WORDS  
7 CAN'T BE GENUINE. THEY COULD CERTAINLY BELIEVE IT.  
8 THEY DID IT.  
9 WE THEN HEARD FROM PERRY BERMAN. AND YOU  
10 WILL RECALL THAT PERRY BERMAN IS A FRIEND OF THE  
11 DEFENDANTS, AND HE WAS APPARENTLY INTENDED TO BE THEIR  
12 ALIBI WITNESS FOR THAT NIGHT, AND IT JUST NEVER WORKED  
13 OUT THAT WAY.  
14 LYLE MENENDEZ CALLED PERRY BERMAN THAT  
15 SUNDAY, AND HE LEFT A MESSAGE. PERRY BERMAN RETURNED  
16 THE CALL AND SPOKE TO JOSE MENENDEZ, WHO TOLD HIM THAT  
17 HIS SON HAD GONE SHOPPING.  
18 LATER THAT DAY, LYLE MENENDEZ GOT BACK TO  
19 PERRY BERMAN AND ASKED HIM IF THEY COULD GET TOGETHER  
20 THAT EVENING, AFTER HE AND ERIK MENENDEZ WENT TO THE  
21 MOVIE THEATER. AND PERRY BERMAN SAID THAT THEY COULD



22 MEET, IF HE WANTED TO. IT WOULD HAVE TO BE AT A FOOD  
23 FESTIVAL, BECAUSE HE WAS GOING TO THE "TASTE OF L.A."  
24 FOOD FESTIVAL WITH A FRIEND BEING HELD AT THE SANTA  
25 MONICA CIVIC CENTER. AND HE WAITED FOR THE DEFENDANTS  
26 TO SHOW UP, AND WHEN THEY DIDN'T SHOW UP, HE WENT HOME.  
27 LYLE MENENDEZ CALLED HIM THAT NIGHT AT  
28 11:07. AND YOU WILL RECALL THAT WE HAVE TELEPHONE

-14491

1 RECORDS TO PROVE THE TIME OF THESE TWO CALLS. THE FIRST  
2 CALL WAS AT 11:07, AND WE NOW KNOW THAT BY 11:07, THIS  
3 IS ABOUT ONE HOUR AFTER THE MURDERS, AND LYLE MENENDEZ  
4 INSISTED THAT THEY GET TOGETHER THAT EVENING.  
5 WELL, I SUBMIT TO YOU, LADIES AND  
6 GENTLEMEN, THAT LYLE MENENDEZ WANTED TO GET TOGETHER  
7 WITH PERRY BERMAN INITIALLY SO THAT HE COULD BE WITH  
8 PERRY BERMAN RIGHT AFTER THE KILLINGS, AND HE WOULD HAVE  
9 SOMEONE AVAILABLE TO SAY, "GEE, LYLE WAS WITH ME, AND HE  
10 LOOKED OKAY TO ME." HE WOULD KIND OF BE A PERSON WHO  
11 WOULD TESTIFY TO LYLE'S STATE OF MIND, MAKE IT APPEAR AS  
12 IF LYLE MENENDEZ AND HIS BROTHER COULD NOT HAVE POSSIBLY  
13 COMMITTED THE MURDERS, BECAUSE THEY APPEARED TO BE OKAY.  
14 AND THEN IT APPEARS THAT ANOTHER PART OF  
15 THIS PLAN WAS THAT PERRY BERMAN WAS TO BE BROUGHT TO THE  
16 HOME, SO THAT PERRY BERMAN COULD BE PRESENT WHEN LYLE  
17 MENENDEZ AND HIS BROTHER PRETENDED TO DISCOVER THE

18 BODIES. AND THEN LYLE MENENDEZ AND ERIK MENENDEZ COULD  
19 RESPOND IN HORROR, "OH, MY GOD. LOOK AT THIS. ISN'T IT  
20 TERRIBLE?" AND PERRY BERMAN WOULD BE A WITNESS WHO  
21 WOULD SAY, "YEAH. I SAW THE SHOCK AND THE HORROR IN  
22 THEIR FACES."

23 NOW THAT LYLE MENENDEZ HAD APPARENTLY  
24 MISSED HIS RENDEVOUS WITH PERRY BERMAN, APPARENTLY HE  
25 TRIED SALVAGING THE SITUATION. SO WHEN HE CALLED HIM AT  
26 11:07, HE STILL INSISTED, "LET'S GET TOGETHER TONIGHT.  
27 LET'S GET TOGETHER."

28 SO YOU CAN SEE LYLE MENENDEZ' INSISTENCE.

-14490

1 WHY WOULD LYLE MENENDEZ WANT TO GET TOGETHER WITH PERRY  
2 BERMAN AT THAT TIME, AFTER KILLING THE PARENTS? THERE'S  
3 NO NEED TO BE GETTING TOGETHER WITH HIM. CLEARLY, HE  
4 WANTS TO USE HIM. HE WANTS TO USE HIM AS A PROP IN THIS  
5 SCHEME, AND THE PROP, I SUBMIT, WAS DESIGNED TO BE  
6 PRESENT WHEN HE DISCOVERED THE BODIES.

7 PERRY BERMAN BY THAT TIME WANTED TO GO TO  
8 SLEEP. IT WAS VERY LATE, AND HE HAD TO GO TO WORK THE  
9 NEXT DAY. AND PERRY BERMAN RESISTED. LYLE MENENDEZ  
10 INSISTED. FINALLY PERRY BERMAN RELENTED AND HE SAID,  
11 "ALL RIGHT. I WILL MEET YOU AT THE CHEESECAKE FACTORY."

12 IT TOOK HIM ABOUT SIX MINUTES TO TALK PERRY  
13 BERMAN INTO IT. IT WAS AT ABOUT 11:13 WHEN THAT PHONE

14 CALL ENDED. BUT IT WAS AT 11:15 WHEN LYLE MENENDEZ  
15 CALLED BACK, AND NOW LYLE MENENDEZ INSISTED -- OR  
16 REQUESTED, AT LEAST, THAT PERRY BERMAN MEET THEM FIRST  
17 AT THEIR HOME BEFORE THEY GO TO THE CHEESECAKE FACTORY.

18 NOW, WHY DO YOU SUPPOSE THAT IS? I SUBMIT  
19 TO YOU, LADIES AND GENTLEMEN, THAT THE REASON WHY LYLE  
20 MENENDEZ DECIDED TO MAKE A SECOND TELEPHONE CALL TO  
21 PERRY BERMAN WAS THE FOLLOWING.

22 BEAR IN MIND WHERE THESE LOCATIONS ARE NOW.  
23 THIS IS WHERE THIS MAP COMES IN HANDY.

24 HERE IS THE MENENDEZ HOME OVER HERE  
25 (POINTING). THERE IS THE PERRY BERMAN HOME, TO THE  
26 EAST, AND THE CHEESECAKE FACTORY IS TO THE SOUTH.

27 NOW, WHAT THEY WANTED TO DO WAS THEY WANTED  
28 PERRY BERMAN TO COME TO THE CHEESECAKE FACTORY, NO DOUBT

-14489

1 PLANNING THAT THEY CAN STILL THEN TALK HIM INTO COMING  
2 TO THE MENENDEZ HOME RIGHT AFTERWARDS, AND HE COULD BE  
3 PRESENT WHEN THE BODIES ARE DISCOVERED.

4 THE PROBLEM WITH THAT IS THAT NOW THINGS  
5 WERE RUNNING MUCH TOO LATE, AND PERRY BERMAN WAS GOING  
6 TO GO TO WORK THE NEXT DAY. NOW LYLE MENENDEZ, I  
7 SUBMIT, MUST HAVE THOUGHT TO HIMSELF, "WHAT IS THE  
8 LIKELIHOOD THAT I CAN TALK PERRY BERMAN INTO COMING TO  
9 MY HOME? HE DOESN'T EVEN WANT TO MEET ME AT THE

10 RESTAURANT, PERIOD. HE HAS RELUCTANTLY AGREED TO MEET  
11 ME AT THE RESTAURANT, AT THE CHEESECAKE FACTORY. I AM  
12 NOT GOING TO BE ABLE TO GET HIM TO COME TO MY HOME  
13 AFTERWARD, WHEN HE WANTS TO GO TO SLEEP TO GO TO WORK  
14 THE NEXT DAY."

15 SO HE REALIZED THERE WAS NO POINT IN  
16 MEETING HIM AT THE CHEESECAKE FACTORY AT THAT POINT,  
17 BECAUSE HE DIDN'T REALLY WANT TO GET TOGETHER WITH PERRY  
18 BERMAN AT THE CHEESECAKE FACTORY. THE SOLE PURPOSE IS  
19 TO GET HIM TO COME TO THE HOME. IF HE'S NOT GOING TO  
20 COME TO THE HOME, WHY WASTE TIME AND HAVE HIM GO TO THE  
21 RESTAURANT?

22 SO AT THAT POINT LYLE MENENDEZ, AT 11:15,  
23 CALLED HIM BACK. HE SAID, "WHY DON'T YOU DO THIS. WHY  
24 DON'T YOU MEET ME AT MY HOME?"

25 AND, OF COURSE, PERRY BERMAN ABSOLUTELY  
26 REFUSED. "I AM NOT GOING TO MEET YOU AT YOUR HOME. I  
27 DON'T EVEN WANT TO GO TO THE RESTAURANT TONIGHT. IT'S  
28 LATE, AND I'VE GOT TO GO TO WORK TOMORROW." PERRY

-14488

1 BERMAN INSISTED. "I'M NOT GOING TO MEET YOU AT THE  
2 RESTAURANT (SIC). YOU KNOW, "I AM NOT GOING TO MEET YOU  
3 AT YOUR HOME," PERRY BERMAN SAID. SO LYLE MENENDEZ SAID  
4 "OKAY. I WILL MEET YOU AT THE RESTAURANT."

5 SO WHY DID LYLE MENENDEZ NOT GO TO THE

6 RESTAURANT? THERE WAS NO POINT AT THAT POINT TO  
7 RENDEVOUS WITH PERRY BERMAN AT THE RESTAURANT, BECAUSE  
8 PERRY BERMAN WASN'T GOING TO GO WITH LYLE MENENDEZ TO  
9 THE HOME. LYLE MENENDEZ MADE HIS LAST-DITCH EFFORT TO  
10 TRY AND TALK PERRY BERMAN INTO GOING TO THE HOME, AND  
11 WHEN THAT FAILED, THERE WAS NO REASON FOR LYLE MENENDEZ  
12 AND ERIK MENENDEZ TO GO TO THE CHEESECAKE FACTORY.

13 SO THEY ABANDONED THAT PLAN ALTOGETHER, AND  
14 THEY WENT STRAIGHT HOME, KNOWING THAT THEY'RE JUST GOING  
15 TO HAVE TO DISCOVER THE BODIES WITHOUT THE PRESENCE OF A  
16 WITNESS TO TESTIFY TO THEIR SHOCK AND HORROR.

17 AND THEN THE INTERESTING THING IS, THAT AS  
18 SOON AS THEY ARRIVE HOME, YOU NOTICE HOW ERIK MENENDEZ  
19 GETS ON THE PHONE AND TRIES TO CALL MARK HEFFERNAN. SO  
20 APPARENTLY THEY HAVEN'T TOTALLY ABANDONED THIS IDEA OF  
21 IT WOULD BE NICE TO HAVE SOMEONE THAT WE KNOW, A FRIEND,  
22 TESTIFY TO OUR HORROR OR OUR -- HOW UPSET WE WERE.

23 SO ERIK MENENDEZ, AS SOON AS HE GETS HOME,  
24 GETS ON THE PHONE AND CALLS UP MARK HEFFERNAN AND TRIES  
25 TO GET HIM TO COME OVER.

26 PERRY BERMAN HAD SOMETHING INTERESTING TO  
27 SAY, TOO, IN ADDITION TO THAT, BECAUSE LATER HE WENT TO  
28 THE POLICE STATION. HE WAS CONTACTED BY THE POLICE, AND

1 HE DID IN FACT GO TO THE POLICE STATION AND SPOKE TO THE

2 POLICE THAT NIGHT.

3           AND WHILE HE WAS AT THE POLICE STATION, HE  
4 SPOKE TO LYLE MENENDEZ THAT VERY NIGHT, AND HE RECALLS A  
5 CONVERSATION THAT HE HAD WITH LYLE MENENDEZ. HE SAID  
6 THAT LYLE MENENDEZ TOLD HIM THAT THE KILLINGS MAY BE  
7 BUSINESS-RELATED.

8           SO YOU CAN SEE, IS THIS JUST -- IS THIS  
9 JUST SOMETHING THAT JUST OCCURRED TO LYLE MENENDEZ, OR  
10 WAS THIS PART OF A PLAN, SOMETHING THAT HE HAD THOUGHT  
11 ABOUT BEFORE?

12           WE NOW KNOW THAT AS SOON AS HE SITS DOWN  
13 WITH DETECTIVE EDMONDS, HE STARTS TALKING ABOUT THE  
14 KILLINGS BEING BUSINESS-RELATED. NOW HE'S TELLING PERRY  
15 BERMAN THAT VERY SAME NIGHT THAT THE KILLINGS MAY BE  
16 BUSINESS-RELATED. AND ALTHOUGH HE DIDN'T ELABORATE AT  
17 THAT TIME WITH PERRY BERMAN CONCERNING HOW IT IS  
18 BUSINESS-RELATED, PERRY BERMAN SAID THAT LYLE MENENDEZ  
19 REPEATED THIS CLAIM SOMETIME LATER, AND HE EXPLAINED IN  
20 MORE DETAIL ABOUT NOEL BLOOM, A MAN WHO WAS SUSPECTED OF  
21 ORGANIZED CRIME CONNECTIONS, AND THE FACT THAT THERE WAS  
22 A DISPUTE BETWEEN NOEL BLOOM AND HIS FATHER. AND HE  
23 EVEN SAID THAT SOMETIME LATER.

24           SOMETIME AFTER THAT, ERIK MENENDEZ ALSO  
25 POINTED THE FINGER AT ORGANIZED CRIME WHEN HE SPOKE TO  
26 PERRY -- WHEN HE SPOKE TO PERRY ABOUT THE KILLINGS.

27           SO I WOULD SUBMIT, LADIES AND GENTLEMEN, IN  
28 ALL THESE REFERENCES TO ORGANIZED CRIME, THIS IS NOT

1 PURE HAPPENSTANCE. THIS IS MUCH TOO PERSISTENT AND TOO  
2 IMMEDIATE FOLLOWING THE KILLINGS TO BE PURE  
3 HAPPENSTANCE. IT CAN ONLY BE CONCLUDED THAT THIS WAS  
4 PART OF SOMETHING THAT THE DEFENDANTS PREVIOUSLY  
5 DISCUSSED; THAT IS, NOT ONLY ARE WE GOING TO KILL OUR  
6 PARENTS, BUT WE WILL LEAD THE POLICE IN THE RIGHT  
7 DIRECTION, JUST IN CASE THERE'S ANY DOUBT IN THEIR MIND  
8 AS TO WHICH DIRECTION THEY SHOULD GO WITH THIS.

9 BUT THEN PERRY BERMAN TESTIFIED TO  
10 SOMETHING THAT WAS VERY INTERESTING. HE WAS ASKED ABOUT  
11 THE PHONE CALL THAT HE MADE -- THE PHONE CONVERSATION  
12 THAT HE HAD WITH LYLE MENENDEZ AFTER HE HAD SPOKEN --  
13 PERRY BERMAN HAD SPOKEN WITH JOSE MENENDEZ.

14 NOW, YOU WILL RECALL THAT ONE OF THE THINGS  
15 THAT ERIK MENENDEZ WAS AND LYLE MENENDEZ WERE SUPPOSEDLY  
16 UPSET ABOUT WAS THE FACT THAT JOSE MENENDEZ HAD  
17 SUPPOSEDLY TOLD PERRY BERMAN THAT LYLE MENENDEZ WAS NOT  
18 HOME, WHEN, ACCORDING TO ERIK MENENDEZ, LYLE MENENDEZ  
19 HAD IN FACT BEEN HOME ALL DAY SUNDAY.

20 NOW, YOU RECALL ERIK MENENDEZ MADE THIS A  
21 PART OF HIS STORY. ERIK MENENDEZ SAID, "WELL, THAT'S  
22 ONE OF THE THINGS THAT CONCERNED US. AFTER DRIVING  
23 AROUND ALL DAY SUNDAY ON MY OWN, I CAME BACK, AND LYLE,  
24 MY BROTHER, TOLD ME THAT MY FATHER HAD TOLD PERRY BERMAN  
25 THAT LYLE MENENDEZ HAD BEEN OUT SHOPPING THAT DAY, AND  
26 THAT WASN'T TRUE. AND THAT CAUSED US GREAT CONCERN,

27 BECAUSE IT LOOKED LIKE MY FATHER WAS UP TO SOMETHING,"

28 YOU SEE.

-14485

1 SO THAT'S AN ELEMENT THAT ERIK MENENDEZ  
2 INCORPORATED IN HIS EXPLANATION OF WHY HE WAS IN FEAR OF  
3 HIS FATHER THAT DAY.

4 BUT THE TRUTH OF THE MATTER IS, LADIES AND  
5 GENTLEMEN, PERRY BERMAN WAS ASKED ABOUT THIS ON THE  
6 WITNESS STAND, AND PERRY BERMAN SAID THAT WHEN HE SPOKE  
7 TO LYLE MENENDEZ THAT DAY, LYLE MENENDEZ TOLD HIM THAT  
8 HE HAD BEEN OUT SHOPPING WITH HIS BROTHER.

9 SO YOU SEE, THERE IS A DIRECT CONTRADICTION  
10 BETWEEN ERIK MENENDEZ' STORY AND THE TESTIMONY OF PERRY  
11 BERMAN.

12 BY THE TIME THIS CASE IS CONCLUDED, LADIES  
13 AND GENTLEMEN, AS I SAID, ASIDE FROM THE FACT THAT ERIK  
14 MENENDEZ' STORY JUST DOESN'T MAKE SENSE, IT JUST  
15 DOESN'T -- IT JUST IS NOT LOGICAL.

16 I AM GOING TO HAVE A LONG LIST OF WITNESSES  
17 THAT ERIK MENENDEZ -- WITH WHOM ERIK MENENDEZ IS IN  
18 DIRECT CONFLICT WITH, WITNESSES WHO SAY SOMETHING WHICH  
19 JUST TOTALLY CONTRADICTS THE TESTIMONY OF ERIK MENENDEZ,  
20 AND WHICH PROVES THAT ERIK MENENDEZ IS LYING, BECAUSE  
21 YOU JUST CAN'T BELIEVE BOTH OF THEM. WHY WOULD LYLE  
22 MENENDEZ TELL PERRY BERMAN THAT HE HAD BEEN SHOPPING



23 WITH HIS BROTHER ON SUNDAY UNLESS THAT WERE TRUE?  
24 SO, THERE IS A DIRECT CONFLICT THERE  
25 BETWEEN PERRY BERMAN AND ERIK MENENDEZ.  
26 NOW, SERGEANT EDMONDS -- OF COURSE, THE  
27 DEFENDANTS, AFTER THEY ARE DETAINED AT THE CRIME SCENE,  
28 ARE TRANSPORTED TO BEVERLY HILLS POLICE DEPARTMENT FOR

-14484

1 THE PURPOSE OF INTERVIEWING THEM, AND IT IS SERGEANT  
2 EDMONDS WHO CONDUCTS THAT INTERVIEW.

3 HE TESTIFIED THAT ERIK MENENDEZ WAS THE  
4 FIRST ONE THAT HE INTERVIEWED, AND WE KNOW NOW THAT ERIK  
5 MENENDEZ WAS THE FIRST ONE TO TELL THE LIE ABOUT WHERE  
6 THEY HAD BEEN AND WHAT THEY HAD DONE THAT NIGHT.

7 SO, ASIDE FROM THE -- ASIDE FROM THE FACT  
8 THAT ERIK MENENDEZ WAS LYING ABOUT THEIR ENTIRE  
9 ACTIVITIES THAT NIGHT, WHAT ELSE OF SIGNIFICANCE DID  
10 ERIK MENENDEZ SAY TO SERGEANT EDMONDS DURING THAT  
11 INTERVIEW?

12 WELL, WHAT'S SIGNIFICANT IS THAT SERGEANT  
13 EDMONDS WAS SEEKING TO FIND OUT IF ERIK MENENDEZ HAD ANY  
14 INFORMATION CONCERNING WHO MIGHT HAVE COMMITTED THIS  
15 CRIME, AND HE ASKED ERIK MENENDEZ: "DO YOU HAVE ANY  
16 IDEAS WHO MAY HAVE DONE THIS? " AND ERIK MENENDEZ SAID  
17 THE FOLLOWING. AND THEN THIS IS SOMETHING THAT YOU HAVE  
18 TO LISTEN TO THE TAPE, BECAUSE YOUR INTERPRETATION OF

19 THE WORDS HERE ARE GOING TO BE IMPORTANT. BUT I WOULD  
20 SUBMIT TO YOU THAT THIS IS WHAT THE RESPONSE OF ERIK  
21 MENENDEZ IS.

22 HE SAYS: "NO. MY FAMILY HAS NO ENEMIES,  
23 BUT MY DAD DOESN'T HAVE A LOT OF FRIENDS, YOU KNOW, IN  
24 HIS BUSINESS."

25 HE THEN GOES ON TO SAY: "MY BROTHER MAY  
26 KNOW."

27 SO I WOULD SUBMIT, LADIES AND GENTLEMEN,  
28 THAT WHAT WE SEE FROM ERIK MENENDEZ AT THIS POINT IN

-14483

1 TIME IS LEADING THE POLICE DOWN THAT ROAD. TELLING THE  
2 POLICE IT'S BUSINESS-RELATED IN SO MANY WORDS.

3 IS THIS A MERE COINCIDENCE, LADIES AND  
4 GENTLEMEN? ERIK MENENDEZ WOULD HAVE US BELIEVE THAT HE  
5 AND HIS BROTHER NEVER DISCUSSED ANYTHING ABOUT POINTING  
6 THE FINGER AT SOMEONE ELSE AS THEY WERE DRIVING AROUND  
7 THAT NIGHT. IS THIS A MERE COINCIDENCE?

8 THIS CAN'T BE A COINCIDENCE. THIS ISSUE  
9 GOES HAND IN HAND, ERIK MENENDEZ AND LYLE MENENDEZ  
10 WORKING HAND IN HAND TO POINT THE FINGER AT ORGANIZED  
11 CRIME.

12 NOT ONLY DOES HE SAY -- USE THE WORDS, "MY  
13 FATHER DOESN'T HAVE FRIENDS IN HIS BUSINESS," BUT THEN  
14 HE GOES ON TO SAY, "MY BROTHER MAY KNOW."

15           HE'S TELLING THE POLICE, "THAT'S AS FAR AS  
16 I AM GOING TO GO WITH IT, BUT ASK MY BROTHER WHEN HE  
17 COMES IN NEXT."  
18           SURE ENOUGH, TRUE TO FORM, LYLE MENENDEZ,  
19 WHEN HE COMES INTO THAT ROOM, HE FOLLOWS UP ON IT WITH  
20 GREATER DETAIL THAN ERIK MENENDEZ. THIS WOULD SUGGEST  
21 THIS IS NOT A COINCIDENCE, IT'S PART OF A PLAN.  
22           THE OTHER THING THAT ERIK MENENDEZ SAYS TO  
23 SERGEANT EDMONDS AT THAT TIME IS WHEN HE ASKS SERGEANT  
24 EDMONDS, "ARE THEY DEAD?"  
25           NOW, ONCE AGAIN, HERE WE GO INTO ACTING,  
26 PART THREE: "ARE THEY DEAD?" WHY WOULD HE BE ASKING  
27 SERGEANT EDMONDS IF THEY WERE DEAD?  
28           ERIK MENENDEZ TOLD US HE WAS SO SURE HIS

-14482

1 PARENTS WERE DEAD. HE WAS SITTING IN THE FOYER. AFTER  
2 HE WALKS OUT OF THE -- ACCORDING TO HIS STORY, AFTER HE  
3 WALKS OUT OF THE DEN, AFTER SHOOTING HIS PARENTS TO  
4 DEATH, AND HE IS SITTING THERE IN THE FOYER, LYLE THEN  
5 COMES OUT AND SITS DOWN ACROSS FROM HIM.  
6           DO YOU REMEMBER WHAT ERIK MENENDEZ SAID,  
7 BEFORE THEY EVEN THOUGHT ABOUT PICKING UP THE SHELLS?  
8 HE WAS GOING TO GET UP AND GO. THEY JUST WERE GOING TO  
9 GO OUT THE FRONT DOOR. AND I EVEN ASKED HIM ABOUT THIS.  
10 "WHY DID YOU GO OUT THE FRONT DOOR? WEREN'T YOU GOING

11 TO GO IN AND CHECK TO SEE IF THEY WERE DEAD?"

12 HE SAYS: "NO, I KNEW THEY WERE DEAD."

13 HE KNEW THEY WERE DEAD BEFORE HE EVEN WENT

14 BACK IN TO PICK UP THE SHOTGUN SHELLS.

15 NOW, HERE HE IS PRETENDING WITH SERGEANT

16 EDMONDS, AND SAYING, "ARE THEY DEAD?"

17 I ASKED HIM ABOUT THAT. "WHY DID YOU ASK

18 SERGEANT EDMONDS IF THEY WERE DEAD?"

19 AND HE LAPSES BACK INTO PLAYING THE

20 HELPLESS CHILD. "WELL, I JUST HAD TO HEAR IT FROM

21 SOMEONE. I JUST HAD TO HAVE SOMEONE TELL ME." JUST

22 MORE PRETENSION.

23 THEN AFTER SERGEANT EDMONDS INTERVIEWED

24 ERIK MENENDEZ, HE INTERVIEWED LYLE MENENDEZ. ASIDE FROM

25 THE FACT THAT LYLE MENENDEZ KEPT TRUE TO THE STORY AND

26 STUCK TO THE PHONY ALIBI, WHAT ELSE DID HE SAY OF

27 SIGNIFICANCE? HE POINTED THE FINGER AT ORGANIZED CRIME.

28 HE SAID -- SERGEANT EDMONDS ASKED HIM, "DO YOU HAVE ANY

-14481

1 IDEAS ON THIS THAT'S GOING TO HELP US SOLVE IT?" AND

2 LYLE MENENDEZ, ACCORDING TO THE TRANSCRIPT, SAYS -- AND

3 THEN THE QUESTION IS ASKED: "WE HAVE TO GET PERSONAL,

4 YOU UNDERSTAND. IF THERE'S ANY PROBLEM, WE'VE GOT TO

5 SOLVE IT."

6 AND LYLE MENENDEZ SAYS: "WELL, ONE OF MY

7 CONCERNS IS THAT I DON'T LIKE ANY BAD PRESS ABOUT MY  
8 FATHER NOW."

9 AND EDMONDS SAYS: "WE'RE NOT REPORTERS,  
10 WE'RE POLICEMEN. WHAT YOU TELL US IS" --

11 LYLE MENENDEZ SAYS: "I UNDERSTAND."

12 EDMONDS SAYS: "STAYS INSIDE THIS ROOM UNTIL  
13 IT GOES TO COURT AND WE PROSECUTE THE PEOPLE. WE WANT  
14 TO GET THESE PEOPLE, OR PERSON, WHOEVER DID IT, TO  
15 ANSWER FOR THEIR CRIMES. SO YOU'VE GOT TO HELP US."

16 AND HERE'S WHAT LYLE MENENDEZ SAYS.

17 "WELL, UH, I CAN'T IMAGINE THAT MY  
18 MOTHER HAS EVER DONE -- I'VE BEEN WITH MY  
19 MOTHER. USUALLY MY BROTHER AND I ARE WITH  
20 MY MOTHER ALL THE TIME. SHE'S BUSY WITH  
21 US, AND WORKING ON THE OTHER HOUSE, AND  
22 YOU KNOW, IT'S HARD TO SAY. I MEAN,  
23 I'VE -- I THOUGHT ABOUT A LOT OF THINGS  
24 OUTSIDE. I THOUGHT MAYBE THAT MARK SAID  
25 IT MIGHT BE A ROBBERY OR SOMETHING. BUT  
26 FROM THE LOOKS OF IT, IT'S -- IT DIDN'T  
27 LOOK LIKE THAT. IT LOOKED -- LOOKED LIKE  
28 THEY DEFINITELY WANTED TO MAKE A MESS, AND

-14480

1 IT WAS REALLY, UH, SAD."

2 SO, TWO SIGNIFICANT THINGS HERE.

3           NUMBER ONE, MARK -- HE'S REFERRING TO MARK  
4   HEFFERNAN, WHO HAS NOW JOINED UP WITH THEM AND IS AT THE  
5   POLICE STATION. HE SAYS, "MARK SAYS IT MIGHT BE A  
6   ROBBERY," AND LYLE MENENDEZ IS MAKING SURE THAT THE  
7   POLICE DON'T GO DOWN THAT ROAD. HE'S SUGGESTING, DON'T  
8   GO DOWN THAT ROAD. MARK IS SUGGESTING THAT IT MIGHT BE  
9   A ROBBERY. SO HE IS TELLING THE POLICE THAT'S NOT THE  
10  ANGLE TO TAKE.

11           AND THEN -- AGAIN, WHAT A COLD, CALLOUS  
12  REMARK. I MEAN, THROUGHOUT THIS YOU SEE EXTREMELY COLD  
13  AND CALLOUS REMARKS FROM LYLE MENENDEZ. JUST AS HE  
14  REFERRED TO AN ANALOGY BETWEEN "I MISS MY PARENTS LIKE I  
15  MISS MY DOG."

16           LISTEN TO THIS. WITHIN A COUPLE OF HOURS  
17  OF HIS PARENTS BEING DEAD, HE SAYS, "IT LOOKS LIKE THEY  
18  WANTED TO MAKE A MESS."

19           IS THAT HOW YOU WOULD REFER TO YOUR PARENTS  
20  AFTER YOU SHOOT YOUR PARENTS TO DEATH? YOU SAW THOSE  
21  PHOTOGRAPHS. YOU SAW HOW GORY THOSE PHOTOGRAPHS WERE,  
22  AND HOW HORRIBLE THAT CRIME WAS.

23           AND LYLE MENENDEZ, WHO ACTUALLY COMMITTED  
24  THAT, WHO ACTUALLY SHOT THOSE SHOTS INTO HIS PARENTS,  
25  CAN SAY SOMETHING LIKE: "LOOKS LIKE THEY DEFINITELY  
26  WANTED TO MAKE A MESS."

27           I SUBMIT TO YOU, LADIES AND GENTLEMEN, LYLE  
28  MENENDEZ WANTED TO MAKE A MESS, AND THAT'S EXACTLY WHAT

1 HE DID. AND HE WANTED TO MAKE A MESS FOR A REASON. HE  
2 WANTED TO MAKE IT LOOK LIKE AN ORGANIZED-CRIME KILLING,  
3 AND HE KNEW AN ORGANIZED-CRIME KILLING WOULD BE MESSY.  
4 IT WOULD INVOLVE --

5 MS. ABRAMSON: OBJECTION, YOUR HONOR. THERE'S NO  
6 EVIDENCE.

7 THE COURT: OVERRULED.

8 THIS AGAIN IS ARGUMENT OF COUNSEL, AND  
9 COUNSEL'S INTERPRETATION OF THE EVIDENCE.

10 MR. CONN: THE KEY HERE, LADIES AND GENTLEMEN, IS  
11 NOT WHAT ORGANIZED-CRIME WOULD TRULY DO, YOU SEE.  
12 ORGANIZED-CRIME IS A -- IS SOMETHING OF COMMON KNOWLEDGE  
13 IN OUR SOCIETY THAT IS REFERRED TO AS THE SUBJECT OF  
14 MOVIES, AS THE SUBJECT OF BOOKS.

15 AND THE ISSUE HERE IS NOT WHAT  
16 ORGANIZED-CRIME WOULD EVER ACTUALLY DO OR NOT DO. THE  
17 QUESTION IS IF SOMEONE WANTED TO MAKE IT LOOK LIKE IT  
18 WAS AN ORGANIZED-CRIME KILLING, WHAT THAT PERSON MIGHT  
19 WANT TO DO TO MAKE IT LOOK LIKE THAT.

20 SO, WHAT IS MORE IMPORTANT HERE IS  
21 FOLKLORE. WHAT IS THE FOLKLORE ABOUT THE MAFIA? THAT'S  
22 WHAT'S MORE IMPORTANT HERE THAN WHAT THE MAFIA WOULD  
23 ACTUALLY DO. I DON'T CARE WHAT THE MAFIA WOULD ACTUALLY  
24 DO. SHOTGUNS, KNEE-CAPPING, MESSY --

25 MS. ABRAMSON: OBJECTION, YOUR HONOR. THERE IS  
26 NO EVIDENCE ABOUT THE FOLKLORE OF THE MAFIA.

27 THE COURT: AGAIN, COUNSEL IS JUST ARGUING IN

-14478

1 EVIDENCE IN THE CASE, AND HE IS JUST REFERRING TO WHAT  
2 HE BELIEVES IS COMMON KNOWLEDGE.

3 MR. CONN: AND YOU DECIDE, LADIES AND GENTLEMEN,  
4 YOU DECIDE FOR YOURSELVES WHAT YOU THINK IS COMMON  
5 KNOWLEDGE.

6 BUT WHAT YOU KNOW FOR SURE IS HERE IS LYLE  
7 MENENDEZ, AFTER SHOOTING HIS PARENTS TO DEATH, SAYING,  
8 "WHOEVER DID IT LOOKED LIKE THEY DEFINITELY WANTED TO  
9 MAKE A MESS."

10 AND THAT MUCH YOU CAN RELY UPON, LADIES AND  
11 GENTLEMEN; THAT LYLE MENENDEZ, BY THAT CONCESSION, IS  
12 INDICATING IN SO MANY WORDS THAT HE WANTED TO MAKE A  
13 MESS. YOU WOULD NEVER USE THOSE WORDS, I SUBMIT, UNLESS  
14 YOU DID WANT TO MAKE A MESS, AND, YOU KNOW, LOOKING BACK  
15 ON WHAT YOU DID, THAT YOU DID IN FACT ACCOMPLISH THAT  
16 PURPOSE. YOU DID IN FACT MAKE A MESS.

17 LYLE MENENDEZ KNEW HE MADE A MESS, AND  
18 THAT'S WHY HE USED THOSE WORDS. AND THEN HE GOES ON TO  
19 EXPLAIN WHY THEY MIGHT WANT TO LOOK AT ORGANIZED-CRIME.

20 "SO I DON'T KNOW -- I MEAN, I WOULD  
21 THINK THAT UNLESS THEY FIND THINGS THAT  
22 ARE MISSING FROM THE HOUSE, OR SOMETHING  
23 STRANGE LIKE THAT, I THINK THAT THEY



24 WOULD -- IT WOULD BE MY FATHER THAT WOULD  
25 BE THE REASON THAT THIS WOULD HAPPEN."  
26 YOU SEE. IT'S SAYING:  
27 "LOOK AT MY FATHER IN HIS BUSINESS.  
28 AND HE -- YOU KNOW, HE USED TO WORK FOR

-14477

1 R.C.A. RECORDS, WHICH WAS LOT BIGGER THAN  
2 WHAT HE DOES NOW. HE WORKS IN A SMALLER  
3 COMPANY, AND WITH A GROUP OF PEOPLE THAT  
4 ARE -- FROM THE STORIES THAT HE BRINGS  
5 HOME, AND THE PEOPLE THAT I'VE MET, THESE  
6 ARE A REAL SEEDY GROUP. AND EVEN THOUGH  
7 HE WAS VERY AWARE OF THAT, AND -- YOU  
8 KNOW, I DON'T KNOW IF ANYONE WOULD TRY TO  
9 KILL MY FATHER."  
10 AND THEN LATER IN THAT TRANSCRIPT HE SAYS  
11 THE FOLLOWING:  
12 "AND I TALKED TO MY BROTHER, AND HE  
13 SAID THAT, UH, YOU KNOW, HE IS IN THE  
14 BUSINESS WHERE THERE IS LITTLE -- LITTLE  
15 SMALL COMPANIES, AND THEY'RE BEING  
16 SQUEEZED OUT, AND THEY'RE GOING DOWN, AND  
17 MY DAD IS A PRETTY -- PRETTY RUTHLESS  
18 BUSINESSMAN, AND HE BELIEVES IN THE BOTTOM  
19 LINE. AND WE HAVE -- WE'VE LAUGHED A LOT

20 OVER A LOT OF STORIES OF HIM TRYING TO  
21 PUSH THESE GUYS OUT OF -- AND YOU KNOW, IT  
22 MIGHT BE BUSINESS-RELATED."  
23 SO IT'S VERY CLEAR, LADIES AND GENTLEMEN,  
24 THAT LYLE MENENDEZ, WITHIN SUCH A SHORT PERIOD OF TIME  
25 OF SHOOTING HIS PARENTS TO DEATH, IS VERY CLEARLY  
26 FOCUSING THE POLICE IN A PARTICULAR DIRECTION. AND I  
27 WOULD SUBMIT THAT THAT'S NOT CHANCE, NOT WHEN YOU LOOK  
28 AT THE PATTERN OF ERIK MENENDEZ DOING THE SAME, LYLE

-14476

1 MENENDEZ DOING THE SAME. NOT JUST WITH THE POLICE, BUT  
2 WITH ALL OF THE OTHER WITNESSES THAT HE TELLS THE SAME  
3 STORY TO. AND I WILL BE GOING THROUGH THAT, AND YOU  
4 WILL SEE LYLE MENENDEZ TOLD THAT TO A WHOLE STRING OF  
5 WITNESSES. THAT'S NOT CHANCE, THAT'S A PLAN.

6 KLARA WRIGHT WAS AN EXTREMELY IMPORTANT  
7 WITNESS IN THIS CASE, BOTH HER AND HER ATTORNEY -- HER  
8 ATTORNEY-HUSBAND, I SHOULD SAY. AND YOU KNOW THAT THESE  
9 TWO WITNESSES, FROM THE TESTIMONY, ARE PEOPLE WHO JUST  
10 SPOKE TO THE PROSECUTION SINCE THE FIRST TRIAL, AND  
11 THESE ARE BOTH PEOPLE WHO PROVIDED A VERY IMPORTANT,  
12 VERY CRITICAL INSIGHT INTO THE MINDS OF BOTH DEFENDANTS  
13 WITHIN HOURS AFTER THE SHOOTING OF THEIR PARENTS TO  
14 DEATH.

15 KLARA WRIGHT TESTIFIED THAT SHE IS A FRIEND

16 OF THE MENENDEZ FAMILY, AND SHE WENT TO THE MENENDEZ  
17 HOME THAT MORNING -- THIS WOULD NOW BE THE MONDAY  
18 MORNING. SHE WAS GOING THERE TO PICK UP A TENNIS RACKET  
19 THERE, BECAUSE HER SON PLAYS TENNIS. HE HAD PLAYED UP  
20 IN KALAMAZOO, AND THE RACKET WAS BEING RESTRINGED, OR  
21 SOMETHING LIKE THAT, AND SHE WENT TO PICK IT UP.

22 WHEN SHE GOT THERE, SHE SAW THE POLICE  
23 TAPE. SHE REALIZED THAT SOMETHING HAD HAPPENED. AND  
24 SHE SPOKE TO ERIK MENENDEZ, AND AFTER SOME CONVERSATION  
25 WITH HIM, SHE INVITED HIM TO COME OVER TO HER HOME,  
26 BECAUSE HE HAD INDICATED THAT HE WANTED TO SPEAK TO HER  
27 HUSBAND, THE ATTORNEY.

28 AND HE CAME OVER THAT AFTERNOON, AND HE

-14475

1 SPOKE TO HER BRIEFLY BEFORE THE HUSBAND ARRIVED. I  
2 BELIEVE THAT SHE SAID THAT HE GOT THERE ABOUT 3:00  
3 O'CLOCK, AND THEY SPOKE FOR ABOUT 20 MINUTES BEFORE THE  
4 HUSBAND ARRIVED. AND THEN AFTER RANDY WRIGHT ARRIVED  
5 HOME, HE THEN GOT INTO A DISCUSSION WITH BOTH ERIK AND  
6 LYLE MENENDEZ.

7 WHAT'S VERY IMPORTANT ABOUT THIS, LADIES  
8 AND GENTLEMEN, IS THAT IT SHOWS THE FOCUS OF THE  
9 DEFENDANTS, WHERE THEIR MINDS WERE AT RIGHT AFTER  
10 SHOOTING THEIR PARENTS TO DEATH.

11 AND WHERE WAS IT? IT WAS ON THE MONEY. IT

12 WAS ON THE MONEY. THEY WERE TOTALLY FOCUSED ON THE  
13 MONEY.

14 AND ERIK MENENDEZ, IT WAS INTERESTING IN  
15 HIS CROSS-EXAMINATION, BECAUSE HE TOTALLY  
16 MISCHARACTERIZED THIS INCIDENT. I MEAN, ACCORDING TO  
17 ERIK MENENDEZ, HE MADE IT SEEM AS IF HE GOT TOGETHER  
18 WITH THE WRIGHTS THAT DAY BECAUSE THEY WERE JUST OLD  
19 FRIENDS, AND HE JUST WANTED TO BE WITH SOMEONE THAT DAY.  
20 I MEAN, THAT'S THE WAY HE MADE IT SOUND.

21 BUT THAT'S NOT THE WAY THAT KLARA WRIGHT  
22 TELLS THE STORY, LADIES AND GENTLEMEN. ERIK MENENDEZ  
23 WOULD WANT TO MAKE IT SEEM AS IF, OH, HE REALLY DIDN'T  
24 HAVE A SPECIFIC PURPOSE OR A SPECIFIC INTENT. HE JUST  
25 KIND OF ENDED UP AT THE WRIGHT'S HOUSE.

26 BUT THAT'S NOT THE WAY KLARA WRIGHT TOLD  
27 THE STORY. SHE MADE IT VERY CLEAR IN HER TESTIMONY, AND  
28 SHE DIRECTLY CONTRADICTS ERIK MENENDEZ ON THIS POINT,

-14474

1 THAT ERIK MENENDEZ WAS VERY FOCUSED ON MEETING WITH HER  
2 HUSBAND, AND THEN WE LEARN WHY AFTER HE ARRIVES AT THE  
3 HOUSE. IT IS BECAUSE HE IS INTERESTED IN FINDING  
4 SOMEONE TO PROBATE THE WILL.

5 CONTRARY TO THE TESTIMONY OF ERIK MENENDEZ  
6 THAT HE WAS JUST KIND OF INVITED OVER, AND JUST HAPPENED  
7 TO GO OVER.

8           AND I ASKED HIM WHY. HE SAID: "WELL,  
9   RANDY WRIGHT IS SUCH A JOLLY FELLOW." YOU MAY RECALL  
10   THAT CHOICE OF WORDS ON HIS PART. "HE'S SUCH A JOLLY  
11   FELLOW, AND I JUST WANTED TO BE WITH SOMEONE THAT DAY."  
12           WELL, THAT'S NOT THE WAY THAT KLARA WRIGHT  
13   TELLS THE STORY, LADIES AND GENTLEMEN. SHE SAID:  
14           "QUESTION: NOW WHEN YOU SAW THE  
15   DEFENDANT, ERIK MENENDEZ, SITTING IN THE  
16   CAR AND HE CAME UP TO YOU, WHAT WAS THE  
17   FIRST THING THAT HAPPENED?  
18           "ANSWER: ERIK SAID TO ME:  
19           'MRS. WRIGHT, I'M SO GLAD  
20   YOU'RE HERE. WE NEED TO SPEAK TO YOUR  
21   HUSBAND,' AND EITHER HE WAS -- HE SAID  
22   EITHER THAT HE WAS TRYING TO GET AHOLD OF  
23   HIM, OR THAT HE WANTED TO GET AHOLD OF  
24   HIM."  
25           SO IT'S VERY CLEAR RIGHT THERE. CONTRARY  
26   TO THE IMPRESSION THAT ERIK MENENDEZ TRIED TO LEAVE YOU  
27   WITH, WHICH IS THAT THIS WAS JUST A FRIENDLY VISIT, ERIK  
28   MENENDEZ WAS FOCUSED. HE WANTED TO TALK TO HER HUSBAND.

-14473

1   AND WHY? IT WAS BECAUSE OF THE PROBATE. THAT BECOMES  
2   VERY CLEAR FROM THE TESTIMONY OF RANDY WRIGHT.  
3           SHE WAS ASKED:

4 "QUETION: AFTER HE TOLD YOU" --  
5 THE QUESTION WAS "WELL, DID HE TELL YOU  
6 WHAT HAPPENED AT THE MENENDEZ HOME? WHAT  
7 DID HE SAY?  
8 "ANSWER: I ASKED HIM -- I SAID, YOU  
9 KNOW, OBVIOUSLY THERE WAS SOMETHING  
10 TERRIBLE GOING ON, AND I SAID TO HIM, I  
11 SAID TO ERIK, 'WHAT'S GOING ON HERE?'  
12 "AND HE SAID, 'MY PARENTS WERE  
13 KILLED DURING THE NIGHT,' AND I WAS  
14 DEVASTATED. I FELT SO BAD FOR THEM.  
15 "QUESTION: AFTER HE TOLD YOU THAT,  
16 DID HE TELL YOU ANYTHING ELSE?  
17 "ANSWER: THAT HE NEEDED TO SPEAK  
18 TO MY HUSBAND. AND I TOLD HIM I WOULD GET  
19 AHOLD OF MY HUSBAND, BECAUSE HE'S TOUGH TO  
20 GET AHOLD OF."  
21 ERIK MENENDEZ IS VERY FOCUSED.  
22 LADIES AND GENTLEMEN, IF YOU SHOT YOUR  
23 PARENTS TO DEATH ALL OF A SUDDEN, YOU DIDN'T PLAN TO DO  
24 IT, IT JUST HAPPENED, SOMETHING THAT YOU REALLY DIDN'T  
25 WANT TO DO, IS THAT WHAT YOU WOULD BE DOING? DO YOU  
26 THINK BY THE NEXT MORNING YOU WOULD BE RUNNING AROUND  
27 LOOKING FOR AN ATTORNEY TO FIND A WAY TO GET INTO THE  
28 WILL, TO FIND OUT HOW TO GET INTO THE WILL, HOW TO GET

1 INTO PROBATE?

2 OF COURSE NOT. OF COURSE NOT. IF THIS  
3 SILLY STORY ERIK MENENDEZ IS TELLING WAS TRUE, HE WOULD  
4 BE DEVASTATED. IF YOU SHOOT YOUR PARENTS LIKE THAT, IF  
5 YOU DID TO YOUR PARENTS WHAT THESE DEFENDANTS DID TO  
6 THEIR PARENTS, YOU WOULD BE A BASKET CASE THAT MORNING.  
7 YOU WOULD NOT BE OUT LOOKING FOR AN ATTORNEY.

8 "MRS. WRIGHT, I AM SO GLAD TO FIND YOU. I  
9 NEED TO SPEAK TO YOU HUSBAND."

10 THAT TELLS YOU SO MUCH ABOUT THESE  
11 DEFENDANTS, TELLS YOU WHAT THEY WERE THINKING ABOUT THAT  
12 DAY. IT TELLS ABOUT THEIR STATE OF MIND, WHAT THEY WERE  
13 THINKING THAT DAY. THEY ARE COLD-BLOODED KILLERS.

14 AND THE DEFENDANT ALSO CHARACTERIZES THE  
15 CONVERSATION THAT HE HAD WITH KLARA WRIGHT BEFORE HER  
16 HUSBAND RETURNED HOME, BECAUSE SHE MADE IT VERY CLEAR IN  
17 HER TESTIMONY THAT WHEN SHE SAT DOWN AND SPOKE TO ERIK  
18 MENENDEZ BEFORE HER HUSBAND ARRIVED HOME, ERIK MENENDEZ,  
19 SHE SPECIFICALLY RECALLED, WAS INTENT ON FINDING SOMEONE  
20 WHO KNEW ABOUT COMPUTERS, AND HE SPECIFICALLY SAID THAT  
21 THERE MIGHT BE A NEW WILL ON A COMPUTER.

22 NOW, ERIK MENENDEZ DOESN'T ADMIT THAT ON  
23 THE STAND. ERIK MENENDEZ DENIED THAT WHEN I SPOKE TO  
24 HIM, AND HE MADE IT -- WHEN I QUESTIONED HIM, HE MADE IT  
25 SOUND LIKE, OH, THERE WAS SOME CONVERSATION, AND THAT  
26 WAS AFTER RANDY WRIGHT ARRIVED HOME, AND SO ON AND SO  
27 FORTH.

28 BUT NO. ERIK MENENDEZ SHOWED HIS HAND EVEN

1 BEFORE RANDY WRIGHT ARRIVED HOME. HE MADE IT VERY CLEAR  
2 THAT HE WAS CONCERNED ABOUT COMPUTERS AND THE EXISTENCE  
3 OF A NEW WILL.

4         ONCE AGAIN, IS THAT WHAT YOUR STATE OF MIND  
5 WOULD BE IF YOU SHOT YOUR PARENTS TO DEATH? ABSOLUTELY  
6 NOT.

7         RANDY WRIGHT THEN GOT HOME, AND RANDY  
8 WRIGHT MADE IT CLEAR IN HIS TESTIMONY THAT THE  
9 DEFENDANTS WERE THERE TO TALK ABOUT PROBATING THE WILL.  
10 HE SAID THAT YEAH, THERE WAS CERTAINLY SMALL TALK. HE  
11 KNEW THEM. HE HAD KNOWN THEIR PARENTS. AND THERE WAS  
12 SMALL TALK, AND THE NATURAL CONDOLENCES, AND "GEE, I'M  
13 SORRY, AND HOW ARE YOU FEELING?"

14         BUT AFTER ALL THE SMALL TALK WAS OVER WITH,  
15 HE SPECIFICALLY RECALLS THE DEFENDANTS ASKING HIM ABOUT  
16 PROBATING THE WILL. ERIK MENENDEZ DOESN'T TELL THE  
17 STORY THAT WAY.

18         AGAIN, DIRECT CONTRADICTION BETWEEN ERIK  
19 MENENDEZ AND KLARA WRIGHT AND RANDY WRIGHT. AND YOU  
20 HAVE TO DECIDE WHO TO BELIEVE. ARE YOU GOING TO BELIEVE  
21 ERIK MENENDEZ, WHO HAS A MOTIVE TO LIE, NUMBER ONE; A  
22 PLAIN, PLAIN MOTIVE TO LIE, A LONG HISTORY OF LYING  
23 BEFORE HE WAS ARRESTED, AND TELLING AN UNBELIEVABLE  
24 STORY. AND I WILL GIVE YOU A LONG LIST OF WITNESSES WHO  
25 HE CONTRADICTS.



26 ARE YOU GOING TO BELIEVE ERIK MENENDEZ, OR  
27 ARE YOU GOING TO BELIEVE THE LONG LIST OF WITNESSES I AM  
28 GOING TO GIVE TO YOU.

-14470

1 DIRECT CONTRADICTION BETWEEN HIM AND KLARA  
2 WRIGHT. DIRECT CONTRADICTION BETWEEN HIM AND RANDY  
3 WRIGHT. ERIK MENENDEZ KNOWS HOW WELL THE WRIGHTS COME  
4 ACROSS AS WITNESSES. SO ERIK MENENDEZ, WHEN HE WAS  
5 TESTIFYING, HE SORT OF DIDN'T WANT TO GO AGAINST THEM,  
6 AND SORT OF SAID: "OH, THEY'RE NICE PEOPLE, AND I  
7 REALLY LIKE THEM, AND I KNOW THEY WOULDN'T LIE. BUT YOU  
8 KNOW, IT DIDN'T HAPPEN THAT WAY."

9 WELL, YES, IT DID, MR. MENENDEZ. YES, IT  
10 DID HAPPEN THAT WAY. AND KLARA WRIGHT IS VERY CLEAR  
11 ABOUT IT. RANDY WRIGHT IS VERY CLEAR ABOUT IT. DON'T  
12 TRY TO ATTRIBUTE IT TO A MISTAKE.

13 HE DOESN'T WANT TO TAKE ON RANDY WRIGHT OR  
14 KLARA WRIGHT HEAD-ON, BECAUSE KLARA WRIGHT AND RANDY  
15 WRIGHT HAVE NO AX TO GRIND, AND THEY CAME ACROSS AS VERY  
16 DECENT PEOPLE, AND TRUTHFUL PEOPLE, WHO HAVE NO AX TO  
17 GRIND, DIDN'T WANT TO MAKE UP ANYTHING AGAINST ERIK  
18 MENENDEZ. IF THEY WERE NOT SURE, THEY WOULD HAVE SAID  
19 "I'M NOT SURE THIS IS WHAT HAPPENED."

20 ERIK MENENDEZ IS LOOKING FOR A WAY -- HOW  
21 DO I GET OUT OF THIS ONE? LET ME COMPLIMENT THEM, TELL

22 THEM THEY'RE NICE PEOPLE, BUT I REMEMBER IT DIFFERENTLY.  
23 YOU'RE JUST TELLING IT DIFFERENTLY,  
24 MR. MENENDEZ. YOU ARE TELLING IT DIFFERENTLY.  
25 AND I ASK YOU, LADIES AND GENTLEMEN, TO  
26 FIND THAT IT IS KLARA WRIGHT AND RANDY WRIGHT WHO ARE  
27 TELLING IT TRUTHFULLY, AND WHAT RANDY WRIGHT SAID IS  
28 THAT THE DEFENDANTS DID NOT BELIEVE THAT THEY WERE

-14469

1 NECESSARILY OUT OF THE WILL.  
2 YOU WOULD HAVE THE DEFENSE -- THE DEFENSE  
3 SUGGESTED TO YOU, EVEN FROM THE TIME -- SUGGESTED TO YOU  
4 EVEN FROM THE TIME OF OPENING STATEMENTS THAT ERIK AND  
5 LYLE MENENDEZ WOULD NOT HAVE KILLED THEIR PARENTS,  
6 BECAUSE THEY KNEW THEY WERE OUT OF THE WILL. THAT IS  
7 NOT THE TRUTH, LADIES AND GENTLEMEN. THAT IS ABSOLUTELY  
8 NOT THE TRUTH.  
9 YES, THERE WAS A DISPUTE. AND YES, THERE  
10 WAS TALK ABOUT WRITING A NEW WILL. AND WE WILL GET INTO  
11 CARLOS BARALT AND THE INFORMATION THAT HE HAD ABOUT THE  
12 NEW WILL.  
13 BUT DID THE DEFENDANTS BELIEVE THAT THEY  
14 WERE OUT OF THE WILL? THEY ABSOLUTELY DID NOT. THEY  
15 RECOGNIZED THE DANGER. THEY RECOGNIZED THE POSSIBILITY  
16 THAT THERE COULD BE A NEW WILL, AND THAT'S WHY THEY HAD  
17 A TWO-FOLD PLAN RIGHT FROM THE START.

18 THE FIRST PART OF THE PLAN WAS TO GET THEIR  
19 HANDS ON THE OLD WILL, AND THE SECOND PART OF THE PLAN  
20 WAS TO GET THEIR HANDS ON AND DESTROY THE NEW WILL, IF  
21 ONE INDEED EXISTED. AND THEY DIDN'T KNOW IF ONE EXISTED  
22 FOR SURE.

23 SO WE KNOW THAT FROM RANDY WRIGHT, BECAUSE  
24 IN THE CONVERSATIONS THAT RANDY WRIGHT HAD WITH THEM, HE  
25 SAID THEY EXPRESSED A CONCERN THAT THERE MIGHT BE A NEW  
26 WILL; THAT THE NEW WILL MIGHT BE ON A COMPUTER, AND THEY  
27 ASKED IF A WILL ON A COMPUTER WOULD BE A VALID LEGAL  
28 DOCUMENT. AND HE TOLD THEM THAT HE WAS NOT -- THAT HE

-14468

1 WOULD HAVE TO RESEARCH IT.

2 AND LYLE MENENDEZ -- HE SPECIFICALLY SPOKE  
3 ABOUT LYLE MENENDEZ, AND HE SAID NEVER SAID THAT HE WAS  
4 CUT OUT OF THE WILL, ONLY THAT HIS FATHER HAD BEEN  
5 THINKING ABOUT CHANGING THE WILL. AND THEN HE SAID THAT  
6 ERIK AND LYLE MENENDEZ ACTUALLY CARRIED THE FAMILY SAFE  
7 OVER TO HIS HOME THAT VERY NIGHT.

8 NOW IMAGINE THAT, LADIES AND GENTLEMEN.  
9 YOU SHOOT YOUR PARENTS TO DEATH AT POINT BLANK RANGE IN  
10 THEIR HEADS, AND WITHIN 24 HOURS YOU'RE CARRYING THEIR  
11 SAFE, POSSIBLY CONTAINING THEIR WILL, OVER TO THE HOME  
12 OF A PROBATE ATTORNEY.

13 WHAT DOES THAT TELL YOU? I MEAN, IF THERE

14 WAS ANYTHING THAT REVEALS THE DEFENDANTS' STATE OF MIND  
15 AT THAT PERIOD OF TIME, IT IS THAT FACT.

16 NOW, THERE IS A LOT OF AVOIDANCE OF  
17 RESPONSIBILITY IN THIS CASE. YOU HEARD ERIK MENENDEZ  
18 MANY TIMES THROUGHTOUT HIS TESTIMONY TRY TO AVOID  
19 RESPONSIBILITY FOR BIG THINGS AND SMALL, AND YOU HEARD  
20 THE DEFENSE ATTORNEYS IN THE QUESTIONS THAT THEY ASKED,  
21 AND IN THE ARGUMENT THAT THEY WILL SOON BE MAKING TO  
22 YOU, SUGGEST AN AVOIDANCE OF RESPONSIBILITY.

23 AND I HAVE A LONG LIST, WHICH YOU WILL FIND  
24 INTERESTING, OF AVOIDANCE OF RESPONSIBILITY IN THIS CASE  
25 ABOUT BIG THINGS AND SMALL.

26 BUT IN REGARD TO THIS AREA ALONE, THEY TRY  
27 TO AVOID RESPONSIBILITY. DEFENSE COUNSEL TRIES TO AVOID  
28 RESPONSIBILITY HERE BY SUGGESTING THAT THE DEFENDANTS

-14467

1 BROUGHT THE SAFE TO RANDY WRIGHT'S HOME ONLY BECAUSE  
2 RANDY WRIGHT SAID, "BRING THE SAFE TO MY HOME."  
3 WELL, THAT'S TRUE, HE DID SAY THAT. BUT  
4 PUT IT INTO CONTEXT. WHY WERE THEY THERE. WHY DID HE  
5 SAY IT? I MEAN, IT'S VERY CLEAR THAT THE DEFENDANTS  
6 WANTED RANDY WRIGHT TO PROBATE THE WILL AT THAT POINT.  
7 THEY ASKED HIM IF HE WOULD, IF HE COULD, AND HE  
8 INDICATED THAT THAT IS POSSIBLE.

9 THEY JUST WENT THERE TO DISCUSS ABOUT THE

10 EXISTENCE OF THE WILL, AND THEY TOLD RANDY WRIGHT THAT  
11 IT MIGHT BE IN THE FAMILY SAFE. LYLE MENENDEZ  
12 VOLUNTEERED THAT HE COULD GO GET IT, AND AT THAT POINT  
13 IT WAS RANDY WRIGHT WHO SAID, "WELL THEN, BRING IT TO MY  
14 PLACE." THAT'S TRUE. RANDY WRIGHT DID TECHNICALLY SAY  
15 "BRING THE SAFE TO MY PLACE."

16 BUT WHY DID HE SAY IT? HE SAID IT BECAUSE  
17 THAT WAS THE REASON WHY THE DEFENDANTS WERE THERE. THEY  
18 WANTED THE WILL. THEY WANTED IT PROBATED. THAT WAS THE  
19 PURPOSE OF THE VISIT, AND IT WAS THEIR RESPONSIBILITY  
20 FOR BRINGING THAT SAFE OVER TO HIS HOME.

21 LADIES AND GENTLEMEN, ONCE AGAIN, IMAGINE  
22 YOURSELF IN THAT SITUATION. IS THAT WHAT YOU WOULD BE  
23 UP TO WITHIN 24 HOURS OF SHOOTING YOUR PARENTS IN THE  
24 HEADS, RUNNING AFTER THE MONEY? ONLY IF YOU WERE AFTER  
25 THEIR MONEY IN THE FIRST PLACE, LADIES AND GENTLEMEN.  
26 NOT IF YOU HAD KILLED THEM OUT OF NECESSITY OR OUT OF  
27 FEAR.

28 AND THEN WHAT DID ERIK MENENDEZ DO WITH

-14466

1 THAT SAFE? HE BABYSAT THAT SAFE FOR TWO DAYS. HE  
2 STAYED IN THE HOUSE WITH THAT SAFE, SLEPT IN THE SAME  
3 ROOM WITH THAT SAFE. AND THEN AFTER THE SAFE WAS OPENED  
4 AND AFTER THE SAFE WAS REMOVED, HE DIDN'T GO BACK TO THE  
5 WRIGHTS ANY MORE.

6 SO WHAT DOES THAT TELL YOU? WAS THIS A  
7 FRIENDLY VISIT? THIS WASN'T A FRIENDLY VISIT. HE WAS  
8 THERE ON BUSINESS, AND AS SOON AS THE BUSINESS OF THE  
9 SAFE WAS TAKEN CARE OF, HE WASHED HIS HANDS OF KLARA  
10 WRIGHT AND RANDY WRIGHT.

11 MORE REFERENCE TO THE MAFIA. NOT ONLY DO  
12 WE HAVE SERGEANT EDMONDS AND PERRY BERMAN TELLING US  
13 ABOUT HOW LYLE MENENDEZ WAS POINTING HIS FINGER AT THE  
14 MAFIA, BUT EVEN RANDY WRIGHT SAID LYLE MENENDEZ WAS  
15 CLEARLY POINTING THE FINGER AT THE MAFIA.

16 ONCE AGAIN, COINCIDENCE OR PART OF A PLAN?

17 THE LIFE INSURANCE. HE SAID, RANDY WRIGHT  
18 SAID, THAT LYLE MENENDEZ WAS ALSO AWARE OF A LIFE  
19 INSURANCE POLICY THAT WAS IN EFFECT FOR HIMSELF FOR  
20 ABOUT \$300,000.

21 NOW, LADIES AND GENTLEMEN, THEY CALLED  
22 MARTHA CANO, AND WITHOUT FLIPPING OVER THE CHART, LET ME  
23 JUST MAKE BRIEF REFERENCE TO HER TESTIMONY AT THIS TIME.  
24 THEY CALLED MARTHA CANO TO TESTIFY TO THE FACT THAT ERIK  
25 AND LYLE MENENDEZ THOUGHT THEY WERE OUT OF THE WILL.  
26 SHE SAYS THAT THEY TOLD HER THAT. AND ERIK AND LYLE  
27 MENENDEZ DIDN'T KNOW ABOUT THE LIFE INSURANCE POLICY.

28 SO THROUGH AUNT MARTHA, THE DEFENDANTS SEEK

1 TO REMOVE A MOTIVE FOR KILLING THEIR PARENTS.

2 WELL, LADIES AND GENTLEMEN, WHAT AUNT  
3 MARTHA TESTIFIED TO IN THIS COURTROOM CAN'T POSSIBLY BE  
4 THE TRUTH, BECAUSE WE KNOW THAT AUNT MARTHA DIDN'T  
5 ARRIVE UNTIL LATER IN THE WEEK. THEY WERE OVER AT RANDY  
6 WRIGHT'S HOUSE THE VERY NEXT DAY, AND THEY WERE TELLING  
7 RANDY WRIGHT THERE MIGHT BE A NEW WILL. "IT'S POSSIBLE  
8 WE'RE OUT OF THE NEW WILL, IF THERE IS A NEW WILL." AND  
9 LYLE MENENDEZ ALSO SPOKE ABOUT THE LIFE INSURANCE POLICY  
10 OF \$300,000.

11 SO, LADIES AND GENTLEMEN, THIS IS THE FIRST  
12 STATEMENT OF THE DEFENDANTS IMMEDIATELY FOLLOWING THE  
13 MURDER. AND SO IT MAKES NO SENSE. AND AUNT MARTHA JUST  
14 SHOULDN'T BE BELIEVED WHEN IT COMES TO HER CLAIM, HER  
15 UNCORROBORATED CLAIM, THAT LATER IN THE WEEK LYLE  
16 MENENDEZ AND ERIK MENENDEZ SAID: "GEE, AUNT MARTHA,  
17 WE'RE OUT OF THE WILL." THAT JUST COULDN'T HAVE  
18 HAPPENED, LADIES AND GENTLEMEN, BECAUSE IT'S  
19 CONTRADICTED BY RANDY WRIGHT.

20 IT'S ALSO INCONSISTENT WITH THE TESTIMONY  
21 OF BRIAN ANDERSEN AND CARLOS BARALT, BECAUSE CARLOS  
22 BARALT WAS THE EXECUTOR OF THE ESTATE. BRIAN ANDERSEN  
23 WAS THERE, AND VERY MUCH INVOLVED IN THE SEARCH FOR THE  
24 WILL. AND AT NO TIME DID THE DEFENDANTS EVER SAY  
25 ANYTHING LIKE THAT TO THEM. WHY WOULDN'T THEY EVEN  
26 MENTION THAT TO CARLOS BARALT, IF THEY FELT THEY WERE  
27 OUT OF THE WILL? WHY WOULDN'T THEY MENTION THAT TO HIM?

28 HE SAID, CARLOS BARALT SAID, IN THE ENTIRE

1 TIME THAT HE WAS IN CALIFORNIA, ERIK AND LYLE MENENDEZ  
2 NEVER TOLD HIM THAT THEY BELIEVED THAT THEY WERE OUT OF  
3 THE WILL. NOW, DON'T YOU THINK THAT WOULD BE SOMETHING  
4 THAT WOULD COME UP AS THEY'RE RUNNING AROUND LOOKING FOR  
5 THE WILL?

6 BEAR IN MIND, IT'S NOT AS IF THEY JUST ALL  
7 WENT THEIR SEPARATE WAYS HERE IN CALIFORNIA. REMEMBER  
8 WHAT THEY WERE DOING. THEY WERE ACTIVELY INVOLVED IN  
9 THE SEARCH FOR THE WILL AND THE SAFE. THEY WERE  
10 ACTIVELY INVOLVED IN THE SEARCH FOR THE WILL IN THE  
11 SAFETY DEPOSIT BOX. THEY WERE ALL TOGETHER FOR THESE  
12 INCIDENTS. AND IF THEY WERE ALL ACTIVELY INVOLVED IN  
13 THE SAME PURSUIT TOGETHER, DON'T YOU THINK AT SOME POINT  
14 IN TIME THEY WOULD HAVE SAID TO HIM: "OH, BY THE WAY,  
15 UNCLE CARLOS, WE ARE NOT IN THE WILL."

16 THAT WILL CONVERSATION NEVER CAME UP. WHY  
17 DID IT NOT COME UP? FOR THE REASON I TOLD YOU. THEY  
18 NEVER BELIEVED THEY WERE OUT OF THE WILL.

19 AND THEN ERIK MENENDEZ, WHEN HE TESTIFIED  
20 ON THIS WITNESS STAND, HE SUGGESTED HE MIGHT HAVE BEEN  
21 OUT OF THE WILL. I SAID, "YOU NEVER RULED OUT THE  
22 POSSIBILITY THAT YOU WERE OUT OF THE WILL, DID YOU?"

23 AND HE SAID "NO." HE ADMITTED THAT.

24 LADIES AND GENTLEMEN, THERE IS NO REASON TO  
25 BELIEVE THAT THE DEFENDANTS EVER THOUGHT THAT THEY WERE  
26 ABSOLUTELY OUT OF THE WILL, AND THERE IS EVERY REASON TO



27 BELIEVE THAT THEY VERY MUCH WANTED TO INHERIT THE MONEY,  
28 AND THAT THEY WERE GOING TO INHERIT THE MONEY. AND BUT

-14463

1 FOR THE ARREST IN THIS CASE, THAT'S EXACTLY WHAT WOULD  
2 HAVE HAPPENED.

3 ONCE AGAIN, THEY WERE ABSOLUTELY RIGHT.  
4 YOU RECALL MR. BARALT FURTHER TESTIFIED THAT HE IS THE  
5 BROTHER-IN-LAW TO JOSE MENENDEZ. HE SPOKE ABOUT THE  
6 VALUE OF THE ESTATE, AND THERE HAS BEEN VARYING  
7 ESTIMATES OF THE VALUE OF THE ESTATE.

8 BUT REGARDLESS, THE SPECIFIC NUMBER OF  
9 MILLIONS DOESN'T MATTER. IT WAS CLEAR THAT IT WAS IN  
10 THE MILLIONS. WHETHER IT'S 5 OR 14 IS NEITHER HERE NOR  
11 THERE. PEOPLE HAVE KILLED FOR A LOT LESS THAN THAT.

12 AND HE ALSO MADE IT VERY CLEAR IN HIS  
13 TESTIMONY THAT THE DEFENDANTS WOULD NOT HAVE INHERITED  
14 THE MONEY IF ONLY JOSE MENENDEZ HAD BEEN KILLED; THAT  
15 KITTY MENENDEZ WAS NEXT IN LINE. ERIK AND LYLE MENENDEZ  
16 STOOD TO INHERIT THAT MONEY ONLY IN THE EVENT OF THE  
17 DEATH OF BOTH THE MOTHER AND THE FATHER.

18 AND I WOULD SUBMIT TO YOU, LADIES AND  
19 GENTLEMEN, IT TELLS YOU WHY KITTY MENENDEZ HAD TO BE  
20 KILLED IN THIS CASE.

21 SO WHEN THEY TALK ABOUT IT TO DR. OZIEL IN  
22 SOMEWHAT SELF-SERVING TERMS, PORTRAYING THEMSELVES AS,

23 IN THEIR OWN MINDS, SOMEWHAT MORE HEROIC OR BRAVE  
24 BECAUSE THEY WERE ACTING OUT OF SOME CONCERN FOR THEIR  
25 MOTHER, YOU KNOW THAT THEY'RE JUST GIVING A VERSION THAT  
26 MAKES THEM LOOK AS GOOD AS POSSIBLE. IT'S THE BEST  
27 VERSION THEY CAN COME UP WITH AT THE TIME.  
28 AND IN FACT, LADIES AND GENTLEMEN, THEY

-14462

1 KILLED THEIR MOTHER FOR THE SIMPLE REASON THAT THEY HAD  
2 TO IF THEY WERE TO INHERIT THE MONEY.

3 CARLOS BARALT ALSO SAID NOT ONLY DID THE  
4 DEFENDANTS IN THE ENTIRE TIME THAT HE WAS IN CALIFORNIA  
5 NOT EXPRESS ANY CONCERN ABOUT BEING OUT OF THE WILL, BUT  
6 WHEN THEY FINALLY DID FIND THE WILL, YOU WILL RECALL  
7 THAT HE WENT OVER TO THE HOME WITH LYLE MENENDEZ. HE  
8 WAS THERE AT THE TIME THAT HE LYLE MENENDEZ READ IT IN  
9 HIS PRESENCE, AND HE SAID HE SAW NO SURPRISE ON THE FACE  
10 OF LYLE MENENDEZ. NO INDICATION OF SURPRISE. ONCE  
11 AGAIN, CONSISTENT WITH THE TESTIMONY OF RANDY WRIGHT.  
12 THE DEFENDANT KNEW HE WAS IN THAT WILL.

13 HE DID SAY THAT JOSE MENENDEZ HAD TOLD HIM  
14 THAT HE WANTED TO WRITE A NEW WILL, AND HE ALSO SAID  
15 JOSE MENENDEZ TOLD HIM, HE SAID: "I TOLD MY SONS THAT  
16 THEY WERE OUT OF THE WILL."

17 LISTEN TO THAT LANGUAGE VERY CAREFULLY. "I  
18 TOLD MY SONS THAT THEY WERE OUT OF THE WILL." AND IT'S

19 VERY DIFFERENT FROM SAYING: "I HAVE WRITTEN A NEW WILL,  
20 AND I TOLD MY SONS THAT THEY ARE NO LONGER IN THE NEW  
21 WILL."

22 WHAT CARLOS BARALT SPECIFICALLY RECALLS IS  
23 THAT JOSE MENENDEZ WANTED TO WRITE THEM OUT OF THE WILL,  
24 AND SAID, "I TOLD MY SONS THEY'RE OUT OF THE WILL."

25 YOU USE THAT PHRASE, "YOU'RE OUT OF THE  
26 WILL," IT COULD BE AN INDICATION OF NOT THAT THERE IS A  
27 NEW, CURRENTLY EXISTING WILL, AND YOU ARE NO LONGER  
28 INCLUDED IN THAT WILL, BUT THAT FOR ALL PRACTICAL

-14461

1 PURPOSES YOU ARE NO LONGER GOING TO INHERIT, AS FAR AS I  
2 AM CONCERNED.

3 SO JOSE MENENDEZ NEVER SPECIFICALLY TOLD  
4 HIS SONS THERE IS A NEW WILL, AND YOU ARE OUT OF THE NEW  
5 WILL.

6 SO WE KNOW FROM MANY SOURCES THAT ERIK  
7 MENENDEZ AND LYLE MENENDEZ STILL BELIEVED THAT THEY WERE  
8 EITHER IN THE OLD WILL, OR THAT EVEN IF THERE WAS A NEW  
9 WILL, THEY WEREN'T SURE WHETHER OR NOT THEY WERE OUT OF  
10 THE NEW WILL. WE KNOW THAT NOT ONLY FROM RANDY WRIGHT,  
11 BUT FROM THE OBSERVATIONS OF CARLOS BARALT AND BRIAN  
12 ANDERSEN. AND AS I SAID, EVEN ERIK MENENDEZ ON THE  
13 STAND CONCEDED HE NEVER RULED HIMSELF AS NECESSARILY OUT  
14 OF THE WILL.

15 CARLOS BARALT ALSO PROVIDED US WITH A  
16 LITTLE BACKGROUND OF -- A LITTLE BACKGROUND OF THE  
17 FAMILY, AND HE SPOKE ABOUT HOW JOSE MENENDEZ WAS VERY  
18 FRUSTRATED WITH BOTH HIS SONS. AND THIS IS SOMETHING  
19 THAT I MENTIONED EARLIER IN MY DISCUSSION WITH YOU. AND  
20 HOW FRUSTRATED HE WAS WITH LYLE MENENDEZ OVER HIS  
21 SPENDING.

22 AND HE WAS ALSO AWARE -- CARLOS BARALT WAS  
23 ALSO AWARE OF LYLE MENENDEZ BEING SUSPENDED FOR THE  
24 PLAGERISM INCIDENT.

25 CARLOS BARALT ALSO TESTIFIED TO A LITTLE  
26 BIT OF THE SPENDING THAT THE DEFENDANTS DID FOLLOWING  
27 THE KILLINGS. HE SAID HE LOANED A HALF MILLION DOLLARS  
28 TO LYLE MENENDEZ, A LOAN THAT CAME FROM THE ESTATE, TO

-14460

1 ALLOW LYLE MENENDEZ TO PURCHASE THE CHUCK'S SPRING  
2 STREET CAFE.

3 SO NOW WE HAVE LYLE MENENDEZ FULFILLING ONE  
4 OF HIS OTHER DREAMS, WHICH WAS TO RUN THAT LITTLE  
5 RESTAURANT IN PRINCETON WHICH HE PURCHASED FOR HALF A  
6 MILLION DOLLARS. LYLE MENENDEZ WAS FINALLY PLAYING THE  
7 ROLE OF JOSE MENENDEZ, THE ENTREPRENEUR.

8 CARLOS BARALT TOLD US A LITTLE BIT ABOUT  
9 JOSE MENENDEZ, BECAUSE HE IS THE ONE PERSON WHO KNEW  
10 JOSE MENENDEZ PERHAPS BETTER THAN ANYONE ELSE.

11 HE SAID THAT HE KNEW JOSE MENENDEZ FROM THE  
12 TIME HE WAS 15 YEARS OLD UP UNTIL THE TIME OF HIS DEATH  
13 AT THE AGE OF 45. HE KNEW JOSE MENENDEZ FOR 30 YEARS.  
14 AND IN THAT 30 YEARS, HE WAS HIS BROTHER-IN-LAW FOR A  
15 LARGE PART OF THAT TIME, AND HE WORKED WITH HIM IN  
16 VARIOUS COMPANIES, AND HE LIVED NEARBY FOR MANY YEARS.  
17 AND NO ONE KNEW JOSE MENENDEZ BETTER THAN CARLOS BARALT.  
18 AND HE SAID HE NEVER SAW ANY INDICATION THAT HE MOLESTED  
19 HIS SONS, OR HAD ANY BEHAVIOR ALONG THOSE LINES.

20 HOWARD WITKIN. NOW THAT WE KNOW THAT THE  
21 DEFENDANTS WERE TRYING GET THEIR HANDS ON THE OLD WILL,  
22 AND DID THEIR BEST TO DO SO, INCLUDING CARRYING THE SAFE  
23 OVER TO THE HOME OF RANDY WRIGHT, THEY ALSO WANTED TO  
24 DESTROY THE NEW WILL, IF ONE EXISTED. AND THAT'S WHERE  
25 HOWARD WITKIN COMES IN.

26 HOWARD WITKIN TESTIFIED THAT HE WORKS FOR A  
27 COMPUTER FIRM, A COMPUTER CONSULTANT FIRM, OR SOMETHING  
28 LIKE THAT. HE RECEIVED A CALL ON ABOUT AUGUST THE 31ST

-14459

1 OF 1989, WHICH WOULD BE ABOUT TEN OR ELEVEN DAYS AFTER  
2 THE KILLING, AND THE CALL WAS FOR HIM TO RESPOND TO THE  
3 HOME OF THE MENENDEZ RESIDENCE. AND WHILE HE WAS THERE,  
4 HE SPOKE TO LYLE MENENDEZ, WHO TOLD HIM THAT HE WANTED  
5 MR. WITKIN TO DO A SEARCH ON THE HOME COMPUTER, TO LOOK  
6 UNDER FOUR NAMES AS FOLLOWS: ERIK, LYLE, WILL AND

7 MENENDEZ.

8           AND WHEN HE TOLD LYLE MENENDEZ THAT HE  
9 COULDN'T FIND ANY OF THOSE ENTRIES ON THE COMPUTER, LYLE  
10 MENENDEZ TOLD HIM: "VERY GOOD." LYLE MENENDEZ WAS  
11 PLEASED WITH THAT. AND LYLE MENENDEZ THEN ASKED HIM IF  
12 HE COULD ERASE ANYTHING THAT WAS ON THE COMPUTER AND  
13 MAKE IT LOOK LIKE NO ONE HAD BEEN THERE. HE ASKED  
14 MR. WITKIN TO DO THAT. MR. WITKIN DID IT, AND HE PAID  
15 MR. WITKIN FOR HIS SERVICE.

16           SO, I WOULD SUBMIT, LADIES AND GENTLEMEN,  
17 THAT WHAT THIS SHOWS, ONCE AGAIN, WHAT IS ON THE MIND OF  
18 THE DEFENDANT TEN DAYS AFTER SHOOTING HIS PARENTS TO  
19 DEATH: A DESIRE TO DESTROY ANY EXISTENCE OF A NEW WILL,  
20 IF ONE -- EVIDENCE OF A NEW WILL, IF ONE IN FACT  
21 EXISTED. HE HAD THE OLD WILL. HE KNEW HE INHERITED  
22 UNDER THE OLD WILL, AND NOW HE WANTED TO MAKE SURE THAT  
23 NOTHING WAS GOING TO RUIN THAT.

24           MARZI EISENBERG. I DON'T HAVE THESE  
25 NECESSARILY IN ORDER HERE. MARZI EISENBERG WAS A  
26 WITNESS WHO -- I'LL GET BACK TO HER LATER.

27           LET ME DISCUSS GRANT WALKER.

28           GRANT WALKER WAS A WITNESS WHO TESTIFIED

-14458

1   THAT HE WAS A POOL MAN, AND HE ESTABLISHED TWO THINGS  
2   THROUGH HIS TESTIMONY. HE SPOKE ABOUT OBSERVING THE

3 DEFENDANTS AND THE VICTIMS ON SATURDAY. THIS WOULD BE  
4 THE DAY BEFORE THE KILLINGS.

5 HE RECALLED THAT THE DEFENDANTS WERE  
6 PLAYING TENNIS ON SATURDAY, AND HE SPECIFICALLY RECALLS  
7 THE BEHAVIOR OF THE DEFENDANTS. AND HE DESCRIBED THE  
8 DEFENDANTS AS BEING ANGRY AND DISRESPECTFUL TOWARD THEIR  
9 PARENTS. THEY WERE TALKING TO THEIR PARENTS IN AN ANGRY  
10 AND DISRESPECTFUL TONE, USING SWEAR WORDS TOWARD THEM.

11 THIS IS SUPPOSED TO BE ON SATURDAY, LADIES  
12 AND GENTLEMEN. AND HERE IS A CONFLICT WITH THE STORY  
13 TOLD BY THE DEFENDANTS. THE DEFENDANTS WOULD HAVE YOU  
14 BELIEVE THAT AS OF THAT THURSDAY, THE PRECEDING  
15 THURSDAY, THEY WERE IN SOME SORT OF A FEAR THAT THE  
16 PARENTS MIGHT KILL THEM, AND SATURDAY THEY WENT SHOPPING  
17 FOR ADDITIONAL AMMUNITION AFTER THEY HAD PURCHASED THE  
18 SHOTGUNS ON FRIDAY.

19 DO YOU THINK, LADIES AND GENTLEMEN, THAT IF  
20 YOU WERE IN FEAR THAT YOUR PARENTS WERE GOING TO KILL  
21 YOU, AND YOU WENT OUT SHOPPING FOR SHOTGUNS ON FRIDAY,  
22 THAT SATURDAY MORNING YOU'D BE OUT ON THE TENNIS COURT  
23 SWEARING AT THEM?

24 LADIES AND GENTLEMEN, THIS IS ANOTHER  
25 WITNESS WHO DIRECTLY CONTRADICTS ERIK MENENDEZ, BECAUSE  
26 WHAT DOES ERIK MENENDEZ SAY ABOUT THIS? IT JUST DIDN'T  
27 HAPPEN. THAT'S ALL ERIK MENENDEZ CAN SAY ABOUT IT. IT  
28 JUST DIDN'T HAPPEN.

1           SO IT COMES DOWN TO A CREDIBILITY CALL.  
2   ARE YOU GOING TO BELIEVE THE POOL MAN, WHO HAS NO AX TO  
3   GRIND, OR ARE YOU GOING TO BELIEVE THE KILLER OVER HERE,  
4   WHO SHOT HIS PARENTS TO DEATH, WHO LIED EVER SINCE THE  
5   DAY HE SHOT HIS PARENTS TO DEATH, AND WHO TOLD THIS  
6   INCREDIBLE STORY IN THIS COURTROOM?

7           NOW, MR. WALKER WAS ATTACKED BY THE DEFENSE  
8   AS SEEKING TO -- SOMEONE WHO WAS SEEKING TO GET INVOLVED  
9   IN A HIGH PROFILE CASE, SAW IT ON TELEVISION AND DECIDED  
10  HE WAS GOING TO INJECT HIMSELF INTO THE PROCEEDINGS.

11          BUT IF THERE IS ANY WITNESS THAT I WISH WE  
12  HAD ON VIDEOTAPE, LADIES AND GENTLEMEN, I WISH IT WERE  
13  MR. WALKER. BECAUSE THAT ONE MAN WAS UP HERE, AND IF  
14  YOU WOULD LOOK AT THAT MAN'S FACE, YOU COULD SEE ON THAT  
15  MAN'S FACE THAT MAN DIDN'T WANT TO BE HERE. THAT MAN  
16  DIDN'T WANT TO SIT UP HERE ON THE WITNESS STAND AND BE  
17  CROSS-EXAMINED BY LESLIE ABRAMSON. IF THAT MAN DIDN'T  
18  HAVE TO BE HERE, THAT MAN WOULD NOT BE HERE.

19          SO, THIS WAS NOT A MAN WHO WAS INJECTING  
20  HIMSELF INTO THE PROCEEDINGS FOR SOME ULTERIOR MOTIVE.  
21  THIS IS A MAN, HE IS A DECENT MAN, A POOL MAN, WHO  
22  SIMPLY REMEMBERS WHAT HE REMEMBERS. AND HE CAME HERE TO  
23  TELL YOU WHAT HE REMEMBERS. AND IT'S IN CONTRADICTION  
24  TO THE TESTIMONY OF ERIK MENENDEZ.

25          MARY MAHAR WAS A WITNESS WHO WE CALLED  
26  BECAUSE OF THE SPENDING OF THE DEFENDANTS IMMEDIATELY  
27  AFTER THE KILLING OF THEIR PARENTS.



-14456

1 JEWELRY ON SANTA MONICA BOULEVARD IN CENTURY CITY, AND  
2 SHE SAID SHE SAW BOTH DEFENDANTS, WHO APPEARED TO BE  
3 LOOKING AT WATCHES TOGETHER, AND THEY WERE TRYING THEM  
4 ON. LYLE MENENDEZ PURCHASED THREE ROLEX WATCHES IN  
5 ADDITION TO MONEY CLIPS, PAYING ALMOST \$10,000 FOR THE  
6 SOLID GOLD PRESIDENTIAL MODEL, \$4700 DOLLARS FOR THE  
7 STAINLESS STEEL SUB-MARINER WATCHES, AND ANOTHER \$390  
8 FOR MONEY CLIPS, FOR A TOTAL OF -- I THINK IT COMES OUT  
9 TO ABOUT \$15,000.

10 WITHIN FOUR DAYS OF SHOOTING THEIR PARENTS  
11 TO DEATH, LADIES AND GENTLEMEN, THESE TWO DEFENDANTS ARE  
12 ACTIVELY SPENDING THE MONEY ON EXPENSIVE JEWELRY.

13 LYLE MENENDEZ, YOU WILL RECALL, FINALLY  
14 GETS HIS LIFELONG AMBITION FULFILLED. DO YOU REMEMBER  
15 THAT? ERIK MENENDEZ TOLD DETECTIVE ZOELLER BACK ON  
16 SEPTEMBER THE 17TH OF 1989 IN NEW JERSEY THAT THAT WAS  
17 HIS LIFELONG AMBITION, TO HAVE A ROLEX WATCH.

18 HOW LONG DID IT TAKE FOR HIM TO GET THAT,  
19 AFTER PUTTING A HOLE IN THE BACK OF HIS FATHER'S HEAD?  
20 FOUR DAYS. FOUR DAYS LATER HE'S OUT THERE FULFILLING  
21 HIS LIFELONG AMBITION.

22 WHAT DOES THAT TELL YOU ABOUT WHY LYLE  
23 MENENDEZ REALLY SHOT HIS FATHER TO DEATH, LADIES AND

24 GENTLEMEN? THAT TELLS YOU SOMETHING.  
25 TALK ABOUT AVOIDANCE OF RESPONSIBILITY. I  
26 ASKED ERIK MENENDEZ WHILE HE WAS ON THE WITNESS STAND:  
27 "WHY DID YOU PURCHASE GOLD MONEY CLIPS?"  
28 AND LYLE MENENDEZ SAID -- I MEAN, NOT LYLE

-14455

1 MENENDEZ, I ASKED ERIK MENENDEZ. AND ERIK MENENDEZ  
2 SAID: "BECAUSE THAT'S WHAT THEY WERE SELLING." AS IF  
3 IT'S THE RESPONSIBILITY OF THE PERSON WHO'S SELLING IT.  
4 IT'S NOT HIS RESPONSIBILITY FOR BUYING IT. THEY WERE  
5 SELLING THE MONEY CLIPS, AND HE BOUGHT IT FOR THAT  
6 REASON.  
7 ANY WAY TO AVOID RESPONSIBILITY, LADIES AND  
8 GENTLEMEN. YOU CAN BE SURE THAT ERIK MENENDEZ WILL TRY  
9 TO FIND A WAY. BLAME IT ON THE PERSON WHO WAS SELLING  
10 THE MONEY CLIPS, DON'T BLAME IT ON HIM. HE JUST BOUGHT  
11 IT.  
12 BRIAN AMIR ESLAMINIA.  
13 MR. ESLAMINIA SAID THAT HE IS A FRIEND OF  
14 ERIK MENENDEZ. HE KNEW ERIK MENENDEZ FROM BEVERLY HILLS  
15 HIGH SCHOOL, AND AFTER HE LEARNED THAT ERIK MENENDEZ'  
16 PARENTS HAD BEEN KILLED, HE FELT SYMPATHETIC TOWARD HIM.  
17 AND AFTER HIS ARREST, HE BEGAN TO VISIT ERIK MENENDEZ IN  
18 COUNTY JAIL. ONLY THEN DID HE MEET LYLE MENENDEZ. AND  
19 BELIEVING THAT THE TWO DEFENDANTS WERE INNOCENT OF THE

20 CHARGES AGAINST THEM, BRIAN ESLAMINIA OFFERED TO DO  
21 WHATEVER HE COULD TO ASSIST THEM. AND HE CANDIDLY  
22 ADMITTED ON THE WITNESS STAND THAT HE WOULD COMMIT  
23 PERJURY FOR THEM, IF THAT'S WHAT IT CAME DOWN TO.

24 HERE IS A PERSON WHO WAS WILLING TO LIE  
25 FALSELY UNDER OATH AND COMMIT A CRIME TO HELP THE  
26 DEFENDANTS' EFFORTS IN THIS CASE.

27 NOW, MR. ESLAMINIA HAS GIVEN INCONSISTENT  
28 STATEMENTS, AND THAT PRESENTS A PROBLEM. WHAT DO YOU DO

-14454

1 WITH A WITNESS LIKE MR. ESLAMINIA, WHO TELLS ONE THING  
2 TO THE POLICE, WHO TELLS ONE THING TO DETECTIVE ZOELLER,  
3 AND NOW TELLS A TOTALLY DIFFERENT STORY?

4 LADIES AND GENTLEMEN, WE PRESENTED THE  
5 TESTIMONY OF BRIAN ESLAMINIA TO YOU FOR A COUPLE OF  
6 REASONS. NO. 1, BECAUSE THERE IS CORROBORATION. THERE  
7 IS A LETTER WHICH CORROBORATES THE STORY THAT HE IS  
8 TELLING, AND BECAUSE WHEN YOU LOOK AT THE STATEMENTS  
9 THAT HE GAVE TO DETECTIVE ZOELLER, YOU LOOK AT THEM IN  
10 THE CHRONOLOGY AND HOW THOSE STATEMENTS CAN -- HOW THOSE  
11 STATEMENTS CAME ABOUT, AND WHAT HIS MOTIVATION WAS FOR  
12 GIVING THOSE STATEMENTS. I THINK YOU CAN FORM SOME  
13 PRETTY RELIABLE CONCLUSIONS CONCERNING WHAT REALLY TOOK  
14 PLACE IN THIS CASE, EVEN THOUGH THIS IS A SLIPPERY  
15 CHARACTER. AND I WILL BE THE FIRST ONE TO TELL YOU THAT

16 MR. BRIAN ESLAMINIA IS A SLIPPERY CHARACTER.  
17 BUT WE HAVE CORROBORATION OF WHAT HE IS  
18 SAYING. WE HAVE A LETTER FROM LYLE MENENDEZ -- AND THIS  
19 IS IN THE HANDWRITING OF LYLE MENENDEZ -- AND I BELIEVE  
20 THERE WAS A STIPULATION IN THIS CASE THAT THIS WAS, IN  
21 FACT, THE HANDWRITING OF LYLE MENENDEZ. SO IT'S A  
22 PROVEN FACT THAT LYLE MENENDEZ WROTE THIS LETTER, AND  
23 THAT'S WHAT SUPPORTS THE CREDIBILITY OF BRIAN ESLAMINIA.  
24 BRIAN ESLAMINIA TOLD DETECTIVE ZOELLER THAT  
25 HE MET WITH BOTH ERIK MENENDEZ AND LYLE MENENDEZ IN  
26 COUNTY JAIL, AND THEY HAD A DISCUSSION ABOUT  
27 MR. ESLAMINIA TESTIFYING TO A FABRICATED STORY, IN WHICH  
28 ERIK AND LYLE MENENDEZ CAME TO HIM THE DAY BEFORE THE

-14453

1 KILLINGS, SEEKING A HANDGUN FOR PROTECTION.  
2 NOW, FIRST OF ALL, WHY WOULD SUCH A STORY  
3 BE FABRICATED? HERE'S WHY. THIS WHOLE BUSINESS ABOUT  
4 USING THE SHOTGUNS FOR THE KILLINGS HAS A PROBLEM WITH  
5 IT, AND THAT IS WHY WOULD YOU PURCHASE A SHOTGUN IF YOU  
6 INTEND TO PROTECT YOURSELF? IT'S SUCH AN AWKWARD WEAPON  
7 TO PROTECT YOURSELF.  
8 THE DEFENDANTS ARE STUCK WITH THE SHOTGUNS,  
9 BECAUSE THEY DID IN FACT PURCHASE SHOTGUNS, AND THEY DID  
10 IN FACT KILL THEIR PARENTS WITH THE SHOTGUNS. AND WHY?  
11 BECAUSE, AS LYLE MENENDEZ SAID, LYLE MENENDEZ WANTED TO

12 MAKE IT LOOK LIKE A MESS. THAT'S WHY THEY PURCHASED THE  
13 SHOTGUNS. THAT'S WHY THEY PURCHASED THE MORE POWERFUL  
14 AMMUNITION. THEY DIDN'T RELY UPON JUST THE BIRD SHOT,  
15 THEY WENT OUT THE NEXT DAY AND GOT BUCKSHOT, BECAUSE  
16 THEY REALLY WANTED TO MAKE IT A MESS.

17 AND NOW THEY HAVE A PROBLEM, AND THE  
18 PROBLEM IS HOW DO YOU GET FEAR AND SELF-DEFENSE OUT OF  
19 THAT, YOU SEE. BECAUSE IF YOU'RE TRULY IN FEAR, YOU'RE  
20 GOING TO HAVE -- YOU WOULD WANT TO PURCHASE A HANDGUN.  
21 A HANDGUN IS GOING TO BE MUCH MORE EFFECTIVE TO DEFEND  
22 YOURSELF WITH THAN A SHOTGUN, BECAUSE A SHOTGUN IS A BIG  
23 AND AWKWARD WEAPON. YOU CAN'T CONCEAL IT AND WHIP IT  
24 OUT AT THE MOMENT THAT YOU NEED IT. SO NOW THEY HAVE A  
25 PROBLEM. HOW DO YOU EXPLAIN THIS AWAY?

26 SO THERE'S TWO WAYS THEY TRY TO EXPLAIN IT  
27 AWAY. FIRST YOU HAVE THE TESTIMONY OF ERIK MENENDEZ, IN  
28 WHICH HE SAYS THAT HE WENT TO A GUN STORE HERE IN LOS

-14452

1 ANGELES WITH HIS BROTHER, AND THEY TRIED TO PURCHASE A  
2 HANDGUN, BUT THERE WAS A 15-DAY WAITING PERIOD, AND THEY  
3 COULDN'T PURCHASE A HANDGUN.

4 BUT THAT STORY IS A LIE. I'LL GET TO THAT  
5 SOON WITH ANOTHER WITNESS, WHO DEMONSTRATED THAT THAT  
6 STORY IS A LIE.

7 BUT THE OTHER WAY THAT THEY TRIED TO SHOW

8 THAT THEY WANTED A HANDGUN, BECAUSE A HANDGUN WOULD BE  
9 THE WEAPON OF CHOICE, THE WEAPON OF SELF-DEFENSE, IS BY  
10 GETTING BRIAN ESLAMINIA TO COME UP WITH THIS STORY AND  
11 TO CLAIM: "OH, THEY CAME TO ME, AND THEY WANTED TO GET  
12 A HANDGUN," YOU SEE.

13 THEN ERIK AND LYLE MENENDEZ WOULD BE ABLE  
14 TO SAY: "SEE, WE WERE REALLY ACTING IN SELF-DEFENSE.  
15 WE WANTED TO GET A HANDGUN. HERE IS MR. ESLAMINIA  
16 SAYING THAT WE WANTED TO GET A HANDGUN," YOU SEE.

17 SO THAT IS THE PURPOSE FOR GETTING -- FOR  
18 BRIAN ESLAMINIA TO COME UP WITH THIS STORY.

19 THE PROBLEM IS, ALTHOUGH IT IS -- ALTHOUGH  
20 NOW THAT BRIAN ESLAMINIA IS TESTIFYING, NOW HE  
21 CONTRADICTS WHAT HE PREVIOUSLY TOLD DETECTIVE ZOELLER.  
22 NOW HE'S SAYING: "OH, NO. IT WASN'T ERIK MENENDEZ THAT  
23 I HAD THIS CONVERSATION WITH, IT WAS JUST LYLE  
24 MENENDEZ."

25 WELL, YOU KNOW, HE'S SAYING IT IS JUST LYLE  
26 MENENDEZ, LADIES AND GENTLEMEN, BECAUSE WE HAVE THE  
27 LETTER FROM LYLE MENENDEZ WHICH PROVES IT TO BE TRUE.  
28 IF WE DIDN'T HAVE THIS LETTER, LADIES AND GENTLEMEN, HE

-14451

1 WOULD SAY: "I NEVER TOLD DETECTIVE ZOELLER ANYTHING."

2 BUT JUST AS THE DEFENDANTS CUT THEIR

3 LOSSES, YOU KNOW, IF THEY CAN'T GO FOR DEFENSE NO. 1, "I

4 AM TOTALLY NOT GUILTY," LET ME GO FOR DEFENSE NO. 2,  
5 WHICH IS "OH, I DID IT, BUT I DID IT OUT OF FEAR."  
6 WELL, IT IS THE SAME THING BRIAN ESLAMINIA  
7 DID. HE IS CUTTING HIS LOSSES. HE KNOWS HE CAN NO  
8 LONGER HELP BOTH ERIK AND LYLE MENENDEZ, SO HE'S CUTTING  
9 HIS LOSSES. HE IS CUTTING OFF LYLE, BUT STILL  
10 PROTECTING ERIK. YOU SEE, HE IS NOW DENYING HIS  
11 CONVERSATION WITH DETECTIVE ZOELLER. HE TRIES TO MAKE  
12 IT SOUND LIKE, "OH, DETECTIVE ZOELLER JUST  
13 MISUNDERSTOOD," YOU SEE.

14 THAT DOESN'T HOLD UP, LADIES AND GENTLEMEN,  
15 BECAUSE DETECTIVE ZOELLER CALLED HIM ON THE PHONE AND  
16 WENT OVER THIS WITH HIM, AND ENSURED THAT HE HAD HIS  
17 STATEMENT ACCURATE. AND BRIAN ESLAMINIA CONFIRMED THE  
18 STATEMENT OVER THE TELEPHONE.

19 DETECTIVE ZOELLER TESTIFIED THAT HE SPOKE  
20 TO BRIAN ESLAMINIA, AND HE WAS SPECIFICALLY TOLD THAT  
21 ERIK MENENDEZ WAS INVOLVED. HE SAYS -- BEFORE I GET TO  
22 THAT, FIRST LET ME GO INTO THE LETTER WITH YOU.

23 SO HERE'S WHAT WE HAVE, THIS LETTER FROM --  
24 IN THE HANDWRITING OF LYLE MENENDEZ. AND WHAT DOES THIS  
25 SHOW, LADIES AND GENTLEMEN? IT SHOWS AN INTENTION ON  
26 THE PART OF LYLE MENENDEZ TO FABRICATE EVIDENCE TO BE  
27 PRESENTED BEFORE A JURY.

28 NOW, NOT ONLY DO WE HAVE DESTRUCTION OF

1 EVIDENCE, WE HAVE DESTRUCTION OF THE SHOTGUN SHELLS. WE  
2 HAVE DESTRUCTION OF THE WEAPONS. NOW WE HAVE EVIDENCE  
3 OF FABRICATION IN THIS CASE, THAT LYLE MENENDEZ WAS  
4 ACTIVELY INVOLVED IN FABRICATING A FALSE DEFENSE TO BE  
5 PRESENTED BEFORE A JURY.

6 AND THIS IS SOMETHING THAT YOU MUST TAKE  
7 INTO CONSIDERATION AS YOU EVALUATE THE GUILT OF BOTH  
8 DEFENDANTS IN THIS CASE. THIS IS A PIECE OF EVIDENCE  
9 WHICH YOU MAY CONSIDER AGAINST BOTH DEFENDANTS. THIS  
10 LETTER COULD -- IN THIS LETTER THERE'S REFERENCES TO  
11 ERIK MENENDEZ AS WELL.

12 WHAT THIS DEMONSTRATES, LADIES AND  
13 GENTLEMEN, NOT ONLY THROUGH THE PRIOR INCONSISTENT  
14 STATEMENT OF BRIAN ESLAMINIA, IN WHICH HE INDICATED TO  
15 DETECTIVE ZOELLER THAT ERIK MENENDEZ WAS FULLY A PART OF  
16 THIS CONSPIRACY TO MANUFACTURE FALSE EVIDENCE; BUT THE  
17 LETTER FROM LYLE MENENDEZ CONFIRMS THAT ERIK MENENDEZ  
18 WAS A PART OF THIS CONSPIRACY TO MANUFACTURE FALSE  
19 EVIDENCE TO BE PRESENTED TO A JURY.

20 AND HERE IS WHAT THE LETTER SAYS. AND YOU  
21 WILL HAVE THIS EXHIBIT, SO YOU DON'T HAVE TO WORRY ABOUT  
22 TAKING SPECIFIC NOTES. IT'S KIND OF A LONG LETTER,  
23 BUT -- A FEW PAGES, AND I WILL READ IT TO YOU.

24 HE SAYS:

25 "BRIAN, HELLO. I HOPE YOU'RE WELL  
26 AND YOUR BROTHER IS UP IN SPIRITS. I AM  
27 SURE HE HAS LEARNED PATIENCE BY NOW. HERE  
28 IS AN OUTLINE OF WHAT WE NEED." OF WHAT



1 WE NEED.

2 "IT IS NOT CRUCIAL THAT YOUR STORY  
3 MATCH OURS PERFECTLY, SO DON'T WORRY."

4 AGAIN, MATCH OURS PERFECTLY.

5 BRIAN ESLAMINIA WILL NOW HAVE YOU BELIEVE  
6 THAT HE NEVER DISCUSSED THIS WITH ERIK MENENDEZ. IN  
7 ORDER TO CUT HIS LOSSES AND JUST GIVE UP LYLE, HE WOULD  
8 HAVE YOU BELIEVE THAT THIS IS JUST SOMETHING THAT HE AND  
9 LYLE MENENDEZ DISCUSSED.

10 LADIES AND GENTLEMEN, HOW CAN YOU BUY THAT?  
11 HE WAS ERIK MENENDEZ' FRIEND. HE WASN'T LYLE MENENDEZ'  
12 FRIEND. HE DIDN'T EVEN KNOW LYLE MENENDEZ UNTIL AFTER  
13 THE ARREST AND HE BEGAN TO VISIT ERIK MENENDEZ IN JAIL.  
14 IT'S INCONCEIVABLE THAT THIS WAS A CONSPIRACY TO  
15 MANUFACTURE EVIDENCE JUST BETWEEN BRIAN ESLAMINIA AND  
16 LYLE MENENDEZ. IT'S INCONCEIVABLE FOR SEVERAL REASONS.

17 NUMBER ONE, BECAUSE OF THE NATURE OF THE  
18 RELATIONSHIP BETWEEN BRIAN ESLAMINIA AND ERIK MENENDEZ.  
19 WITH THAT FRIENDSHIP, THEY ARE THE TWO TIGHTEST ONES  
20 HERE. THOSE ARE THE TWO THAT ARE GOING TO HAVE THE  
21 DISCUSSIONS.

22 SECONDLY, BRIAN ESLAMINIA'S PRIOR  
23 CONCESSION TO DETECTIVE ZOELLER THAT ERIK MENENDEZ WAS  
24 FULLY PART OF THIS CONSPIRACY TO MANUFACTURE FALSE  
25 EVIDENCE TO BE PRESENTED TO A JURY;

26           AND THIRDLY, ALL OF THE REFERENCES TO ERIK  
27   MENENDEZ IN THIS LETTER.  
28           BUT EVEN WITHOUT THE REFERENCES, DO YOU

-14448

1   REALLY THINK THAT LYLE MENENDEZ WOULD BE PUTTING THIS  
2   TOGETHER WITHOUT INVOLVING ERIK MENENDEZ, BECAUSE THIS  
3   CALLS FOR A COLLECTIVE STRATEGY. IT CALLS FOR A  
4   SITUATION IN WHICH EVERYONE WOULD HAVE TO BE A  
5   PARTICIPANT. BRIAN ESLAMINIA, LYLE MENENDEZ, ERIK  
6   MENENDEZ WOULD ALL HAVE TO WORK HAND IN HAND TO TRICK  
7   THE JURY. IF YOU ONLY HAVE TWO PEOPLE TELLING THE  
8   STORY, AND ONE PERSON IS NOT IN THE LOOP, WELL THEN, HE  
9   IS GOING TO SCREW UP THE PLAN.

10           SO, OBVIOUSLY THIS WAS A CONSPIRACY OF ALL  
11   THREE OF THEM TO MANUFACTURE FALSE EVIDENCE TO BE  
12   PRESENTED TO A JURY.

13           AND WHAT IS THE RELEVANCE OF ALL OF THIS?  
14   WHAT IT TELLS YOU, LADIES AND GENTLEMEN, IS WHY ARE THEY  
15   MANUFACTURING FALSE EVIDENCE? THEY ARE MANUFACTURING  
16   FALSE EVIDENCE BECAUSE NONE OF THIS EVER HAPPENED. NONE  
17   OF THIS EVER HAPPENED. THE ABUSE NEVER HAPPENED.

18           THIS WEEKEND CRISIS, YOU MIGHT CALL IT,  
19   FROM THE TIME THAT THEY GET INTO A DISPUTE WITH THEIR  
20   FATHER UP UNTIL THE TIME OF THE SHOOTING, NONE OF THAT  
21   EVER HAPPENED, AND THE SHOOTING DID NOT GO DOWN ON

22 AUGUST THE 20TH OF 1989 AS THEY PLANNED. BECAUSE IF IT  
23 DID, THEN WHY DOESN'T ERIK MENENDEZ JUST TELL THE TRUTH?  
24 NO. HIM AND HIS BROTHER ARE ACTIVELY INVOLVED IN THE  
25 MANUFACTURE OF FALSE EVIDENCE TO TRICK A JURY, AS HE IS  
26 TRYING TO TRICK YOU NOW.

27 HERE IS WHAT HE SAYS TO BRIAN ESLAMINIA IN  
28 THE LETTER.

-14447

1 " YOU RECEIVED A CALL AT YOUR  
2 APARTMENT OR HOUSE ON AUGUST THE 19TH, A  
3 SATURDAY, IN THE LATE MORNING. YOU  
4 ANSWERED THE PHONE, AND IT WAS ERIK. HE  
5 SOUNDED VERY NERVOUS."

6 LISTEN TO THE DETAIL, BECAUSE IT'S REALLY  
7 GOOD. IT'S REALLY GOOD THE WAY THAT LYLE MENENDEZ  
8 INCORPORATES ALL THE DETAIL THAT IS NECESSARY TO PRESENT  
9 THIS FABRICATED STORY TO THE JURY, SO CONSISTENT WITH  
10 THE STORY THAT YOU HEARD HERE FROM ERIK MENENDEZ. THE  
11 DETAIL IS VERY INTERESTING.

12 "ERIK MENENDEZ SOUNDED VERY  
13 NERVOUS. HE ASKED IF HE COULD MEET YOU  
14 OUTSIDE YOUR APARTMENT TO TALK WITH HIS  
15 BROTHER, LYLE. YOU AGREED, AND GAVE HIM  
16 DIRECTIONS. YOU DECIDE WHERE WE MET,  
17 PERHAPS A PARKING LOT, AND LET ME KNOW

18 OVER THE PHONE.  
19 "WE ARRIVED 20 MINUTES OR SO LATER  
20 IN ERIK'S MAROON FORD ESCORT. IT'S A  
21 TWO-DOOR, AND ERIK WAS DRIVING. YOU SAT  
22 ALONE IN THE BACK. THE CAR WAS VERY  
23 MESSY. THERE WERE ALL KINDS OF CLOTHES,  
24 SHOES AND TENNIS RACQUETS THAT YOU PUSHED  
25 INTO THE SPACE BEHIND YOUR SEAT. THE CAR  
26 IS A HATCHBACK. THE WHEELS ARE BLACK  
27 SPOKE. THE INTERIOR IS GRAY FELT. THERE  
28 IS A SUNROOF, YOU THINK."

-14446

1 INTERESTING HOW HE TELLS -- HE IS EVEN  
2 TELLING BRIAN ESLAMINIA WHAT HE SHOULD BE SURE ABOUT AND  
3 NOT SURE ABOUT. SO HE TELLS HIM THERE IS A SUNROOF, YOU  
4 SEE.

5 "LYLE SAID HELLO AND WAS SITTING IN  
6 THE FRONT. ERIK BEGAN TO DRIVE AROUND.  
7 ERIK SAID THEY WERE IN GREAT DANGER, AND  
8 NEEDED TWO HANDGUNS. BOTH OF US SEEMED  
9 JUMPY, RUSHED AND NERVOUS."

10 AND RUSHED IS UNDERLINED.

11

12

13

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1           YOU SEE HOW IT FITS INTO THE MENTAL  
2 DEFENSE PRESENTED BY ERIK MENENDEZ AND HIS MENTAL  
3 HEALTH EXPERTS? HE'S PRESENTING A SCENARIO  
4 CONSISTENT WITH HIS STATE OF MIND, YOU SEE, THIS  
5 WHOLE BUSINESS. BUT I WAS IN AN EXCITED STATE, A  
6 PANICKED STATE. CAREFULLY PREMEDITATED, CAREFULLY  
7 PLANNED, JUST AS CAREFULLY AS THE CRIME WAS PLANNED,

8 THIS WHOLE MENTAL DEFENSE YOU HEARD FROM ERIK  
9 MENENDEZ AND HIS WITNESSES IS JUST AS CAREFULLY  
10 PLANNED. YOU SEE IT RIGHT HERE.

11 "ERIK WAS RUSHED. YOU ASKED HIM  
12 WHY YOU WERE IN DANGER. ERIK SAID HE  
13 COULDN'T SAY, BUT YOU WOULD HAVE TO  
14 TRUST HIM.

15 "YOU SUGGESTED THAT THEY GET HELP  
16 FROM THE POLICE AND HIDE OUT WITH  
17 THEM. ERIK SAID NO, THE POLICE WON'T  
18 BELIEVE THEM, AND THEY WOULD ONLY PUT  
19 THEM IN GREATER DANGER.

20 "YOU SUGGESTED PERHAPS THEIR  
21 FATHER COULD HELP, SINCE ERIK HAD  
22 ALWAYS TOLD YOU HE HAD POWERFUL  
23 CONNECTIONS."

24 AND THEN IT SAYS, "MAFIA." SEE, RIGHT  
25 THERE. ONCE AGAIN, GETTING INTO THE MAFIA  
26 ALLEGATION.

27 "LYLE SAID YOU DON'T UNDERSTAND.  
28 WE DON'T HAVE TIME TO EXPLAIN. CAN

1 YOU HELP US OR NOT? IT WAS CLEAR BY  
2 HIS TONE OF VOICE THAT HE WAS VERY

3 SERIOUS AND AFRAID. YOU'VE NEVER SEEN  
4 LYLE SO NERVOUS OR EVER AFRAID. SO  
5 YOU STOPPED ASKING QUESTIONS AND SAID,  
6 'YES, YOU HAD ONE HANDGUN AT THE  
7 HOUSE.'

8 "WE ALL DROVE BACK, AND YOU RAN  
9 IN AND GOT IT. LYLE TOOK IT AND THEY  
10 SAID THEY WOULD BE IN TOUCH. WE THEN  
11 DROVE OFF.

12 "YOU TOLD NOBODY ABOUT THE  
13 INCIDENT, AND YOU WERE VERY NERVOUS  
14 THAT WE WERE IN TROUBLE. THE GUN YOU  
15 GAVE WAS LOADED. YOU DIDN'T GIVE ANY  
16 AMMUNITION WITH IT.

17 "WHEN YOU HEARD ABOUT OUR PARENTS'  
18 DEATHS YOU WERE SHOCKED, AND YOU  
19 REALIZED LYLE AND ERIK WERE RIGHT.  
20 THERE WAS REAL DANGER.

21 "ERIK CAME OVER AROUND TUESDAY  
22 WITH A .22 AND GAVE BACK THE GUN. YOU  
23 SAID, 'KEEP IT AND HIDE.'

24 "ERIK WAS STILL VERY NERVOUS, BUT  
25 SAID, NO, HE AND LYLE WOULD BE FINE;  
26 THAT, OBVIOUSLY, WHOEVER IT WAS ONLY  
27 WANTED HIS PARENTS.

28 "ERIK WAS ADAMANT AND DIDN'T WANT

1 TO DISCUSS IT. HE LEFT PROMPTLY.

2 "SINCE THEN YOU HAVE KEPT IT A  
3 SECRET, AND YOU FELT THAT ONLY WHAT  
4 YOU HAVE IN YOUR MIND IS PROOF WE  
5 DIDN'T DO IT, BECAUSE WHY WOULD WE  
6 NEED HANDGUNS IF WE SUPPOSEDLY BOUGHT  
7 SHOTGUNS THE DAY BEFORE ON FRIDAY?  
8 HOWEVER, AFTER LISTENING TO ALL THE  
9 EVIDENCE THE MEDIA TALKS ABOUT, YOU  
10 THINK PERHAPS YOU DON'T KNOW THE WHOLE  
11 STORY.

12 YOU TOLD ERIK NOT TO LET THE  
13 LAWYERS KNOW ABOUT ACTUALLY GIVING US  
14 A GUN, BECAUSE THE GUN IS ILLEGAL AND  
15 YOUR MOM WOULD FREAK OUT.

16 "I HAVE AN UNTRACEABLE HANDGUN.  
17 I CAN GET IT FOR YOU TO USE, AS THE  
18 ONE YOU GAVE US, IF YOU DON'T ALREADY  
19 HAVE ONE. LET ME KNOW OVER THE  
20 PHONE. I'LL HAVE BEATRICE GET IT FOR  
21 YOU IF NECESSARY.

22 "ANYWAY, YOU HAVE DECIDED THAT IT  
23 MAY BE IMPORTANT FOR LYLE AND ERIK TO  
24 TELL THEIR LAWYERS ABOUT THE GUN.

25 "THAT IS BASICALLY THE IMPORTANT



26     FACTS. THERE MAY BE LITTLE THINGS,  
27     LIKE ERIK TOLD YOU WE WERE TAKEN OUT  
28     OF THE WILL AWHILE BACK BY MOM AND

1     DAD; AND OCCASIONALLY YOU USED TO  
2     WATCH VIDEOS OVER OUR HOUSE WITH OUR  
3     MOM AND DAD. YOU ONCE WATCHED THE  
4     MOVIE AT 'AT CLOSE RANGE' WITH SEAN  
5     PENN. WATCH IT IF YOU HAVEN'T  
6     ALREADY. MY DAD SAID THE MOVIE IS  
7     UNREALISTIC BECAUSE THE FATHER WOULD  
8     HAVE KILLED THE SON AS SOON AS THE  
9     TROUBLE STARTED, AND NOT WAITED.  
10     "YOU, OF COURSE, WERE SHOCKED AT  
11     THE STATEMENT. YOU'VE ALWAYS FELT MY  
12     DAD WAS A POWERFUL AND SCARY PERSON.  
13     YOU NEVER FELT WELCOME."  
14     NOT ONLY DID HE ASK HIM HERE TO  
15     FABRICATE THIS STORY OF THE GUN, BUT HE IS ALSO  
16     ASKING HIM TO FABRICATE ADDITIONAL DETAILS. HE'S  
17     TELLING HIM ERIK TOLD YOU THAT WE WERE OUT OF THE  
18     WILL. YOU SEE HOW HE'S TRYING TO BUTTRESS UP HIS  
19     CASE WITH MORE FALSE TESTIMONY, BECAUSE HE KNOWS OF  
20     THE EVIDENCE IN THIS CASE INDICATING THAT HE WAS

21 AWARE OF BEING IN THE WILL, OR AT LEAST NOT OUT OF  
22 THE WILL. BUT NOW HE WANTS MORE FALSE TESTIMONY  
23 THAT THEY WERE OUT OF THE WILL.

24 AND THIS BUSINESS ABOUT "AT CLOSE RANGE."  
25 THE TESTIMONY JAMIE PISARCIK. WE HAVEN'T GOTTEN TO  
26 HER YET. I'LL GET TO HER SHORTLY. THIS IS THE SAME  
27 THING HE WANTED JAMIE PISARCIK TO DO. LYLE MENENDEZ  
28 TRIED TO GET JAMIE PISARCIK TO PRESENT PERJURED

1 TESTIMONY IN FRONT OF THE JURY. SEE HOW ACTIVE LYLE  
2 MENENDEZ HAS BEEN TO TRY TO GET PERJURY, ACTIVELY  
3 INVOLVED IN TRICKING A JURY. THAT'S BEEN HIS GOAL.

4 HE WRITES LETTERS AND TALKS TO PEOPLE TO  
5 THAT EFFECT, ACTIVELY SEEKING PERJURY TO TRICK A  
6 JURY.

7 HE WANTED BRIAN ESLAMINIA TO TESTIFY TO  
8 SEEING THE MOVIE "AT CLOSE RANGE." THE REMARK OF  
9 THE FATHER ABOUT THE SON WOULD HAVE BEEN -- THE  
10 FATHER WOULD HAVE KILLED THE SON, ATTACKING HIS --  
11 SUGGESTING THAT JOSE MENENDEZ WAS THE TYPE OF PERSON  
12 WHO WOULD HAVE THOSE THOUGHTS IN HIS MIND.

13 AGAIN, WHY IS HE MAKING UP FALSE STORIES  
14 ABOUT HIS FATHER? WHY IS HE DOING THIS? HE'S DOING  
15 IT BECAUSE HE DOESN'T HAVE A DEFENSE, LADIES AND

16 GENTLEMEN. HE DOESN'T HAVE A DEFENSE. THAT'S THE  
17 TRUTH. ALL HE HAS IS HIS LIE THROUGH BRIAN  
18 ESLAMINIA HERE, AND TESTIMONY OF ERIK MENENDEZ HERE  
19 ON THE WITNESS STAND, BECAUSE WHEN IT COMES DOWN --  
20 THE ABUSE IS JUST LIKE THIS WEEK IN CRISIS  
21 TESTIMONY. WHEN IT COMES DOWN TO THE REAL SEXUAL  
22 ABUSE, THERE'S NO CORROBORATION TO CORROBORATE SUCH  
23 ALLEGATION. AND WHEN IT COMES DOWN TO THIS WHOLE  
24 WEEK IN CRISIS AND THE EVENTS OF SUNDAY AUGUST 20TH,  
25 THERE'S NO CORROBORATION.  
26       YOU RECALL ERIK MENENDEZ' TESTIMONY.  
27 THIS WHOLE THING ABOUT I THOUGHT MY FATHER WAS GOING  
28 TO COME OUT OF THE DEN, AND I RAN TO THE DOOR, AND I

1 DID THIS AND I DID THAT. THERE'S NO CORROBORATION  
2 TO ANY OF THAT. THAT'S JUST THE STORY OF ERIK  
3 MENENDEZ.

4       HERE WE HAVE LYLE MENENDEZ GOING AROUND  
5 TRYING TO GET THOSE LIARS ON BOARD, TRYING TO GET  
6 THEM TO COME IN AND BUTTRESS UP THE STORY, BECAUSE  
7 OTHERWISE IT JUST COMES DOWN TO THE WORD OF ERIK  
8 MENENDEZ UP THERE ON THE STAND.

9       IT GOES ON TO SAY:

10       "YOUR MEMORY OF THESE THINGS DOES

11 NOT HAVE TO BE THAT GOOD. HOWEVER, I  
12 THINK THE SATURDAY STORY, AND PERHAPS  
13 THE MOVIE INCIDENT WILL BE ENOUGH.  
14 TOO MUCH IS NOT GOOD," HE SAID.

15 "I'LL BE CALLING YOU. PLEASE  
16 LEAVE A MESSAGE.

17 "ALSO, SCRIBBLE OVER THE WRITING  
18 OF THIS LETTER WITH MAGIC MARKER, SO  
19 THAT IF IT FALLS INTO THE WRONG HANDS  
20 IT'S NOT LEGIBLE. I OBVIOUSLY TRUST  
21 YOU COMPLETELY; HOWEVER, I SLEEP  
22 BETTER IF I'M SURE THINGS HAVE BEEN  
23 DESTROYED. MISTAKES HAVE BEEN MADE IN  
24 THE PAST.

25 "LISTEN, I REALIZE THAT OUR  
26 COMMUNICATION HAS BEEN SPARSE, BUT I  
27 PREFER IT THAT WAY FOR NOW. I REALLY  
28 CAN'T EXPRESS ENOUGH HOW MUCH I

1 APPRECIATE YOUR LOYAL FRIENDSHIP FOR  
2 MY BROTHER AND I. OF COURSE, IF THERE  
3 IS ANYTHING WE CAN EVER DO FOR YOU,  
4 LET US KNOW.

5 "TAKE CARE."

6           AND THEN THERE'S AN "L" FOR "LYLE."

7 THEN ON THE BACK PAGE, HERE'S WHAT IT SAYS.

8           "YOU CAN TELL LESLIE YOU WOULD

9 RATHER TALK IN PERSON TO BUY TIME IF

10 SHE GETS AHOLD OF YOU. I'D WAIT UNTIL

11 WE STRAIGHTEN OUT WHAT GUN YOU WILL

12 USE FIRST. IT WOULD SAVE ME TROUBLE

13 IF YOU ALREADY HAD A HANDGUN. I WILL,

14 OF COURSE, REPLACE IT FOR YOU. IF

15 NOT, I AM TRYING TO GET AN OLD ONE YOU

16 CAN SAY YOUR DAD OWNED.

17           "I THINK IF YOU TELL YOUR BROTHER

18 TO SAY YOU TOLD HIM THAT WE HAD

19 BORROWED THE GUN WAY BACK, SHORTLY

20 AFTER MY PARENTS' DEATH, THAT WOULD BE

21 GOOD, BECAUSE THEN YOU CAN TELL LESLIE

22 YOU DIDN'T KEEP IT TOTALLY A SECRET,

23 SINCE YOU TOLD YOUR OLDER BROTHER.

24           "IF SHE WANTS TO SEE HIM TO

25 VERIFY IT, THAT'S COOL. YOUR BROTHER

26 DOESN'T HAVE TO KNOW ANY DETAILS, JUST

27 THAT YOU TOLD HIM, WHENEVER THE DATE

28 OF THE FIRST TIME YOU VISITED HIM

1 AFTER MY PARENTS' DEATH, THAT WE  
2 BORROWED THE HANDGUN. DON'T FALL --  
3 DO YOU NOT FALL FOR ANY OF LESLIE'S  
4 TRICKS. SHE MAY SAY,'ERIK TOLD ME  
5 THAT THIS STORY IS NOT TRUE.' JUST  
6 MAINTAIN THAT IT IS ALL TRUE, TO THE  
7 BEST OF YOUR MEMORY.

8 "ALL RIGHT. YOU CAN HANDLE IT  
9 FROM HERE.

10 "CIAO."

11 AND ONCE AGAIN, "L" FOR "LYLE."

12 WAS THE COURT GOING TO TAKE AN AFTERNOON  
13 RECESS?

14 THE COURT: OKAY. WE'LL TAKE A RECESS AND  
15 WE'LL RESUME AT 25 AFTER THE HOUR.

16 DON'T DISCUSS THE MATTER WITH ANYONE.  
17 DON'T FORM ANY FINAL OPINIONS ABOUT IT, AND WE'LL  
18 SEE YOU AT 25 AFTER.

19 (A RECESS WAS TAKEN FROM  
20 3:10 P.M. TO 3:30 P.M.)

21

22 THE COURT: OKAY. LET'S GET THE JURY OUT,  
23 PLEASE.

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

27

28 THE COURT: ALL RIGHT. THE JURY IS BACK.

1 YOU MAY CONTINUE YOUR ARGUMENT.

2 MR. CONN: THANK YOU.

3 AFTER MR. ESLAMINIA TESTIFIED, DETECTIVE  
4 ZOELLER WAS CALLED TO GIVE YOU THE BACKGROUND OF  
5 MR. ESLAMINIA AND PUT HIS TESTIMONY IN PERSPECTIVE  
6 SO THAT YOU WOULD BE ABLE TO DETERMINE WHAT WAS  
7 RELIABLE IN TERMS OF WHAT MR. ESLAMINIA WAS SAYING  
8 AND WHAT MIGHT BE UNRELIABLE.

9 DETECTIVE ZOELLER TESTIFIED THAT HE MET  
10 WITH MR. ESLAMINIA IN OCTOBER OF '94, AND AT THAT  
11 TIME MR. ESLAMINIA TOLD DETECTIVE ZOELLER ABOUT A  
12 SEVEN-PAGE LETTER THAT HE HAD RECEIVED FROM LYLE  
13 MENENDEZ. BUT HE DECLINED TO TURN IT OVER TO  
14 DETECTIVE ZOELLER AT THAT TIME. INSTEAD, HE SAID  
15 THAT HE HAD TWO ARREST WARRANTS THAT HAD BEEN ISSUED  
16 FOR HIM; ONE FOR FAILURE TO FULFIL THE TERM OF A  
17 PROBATIONARY SENTENCE ON A PETTY THEFT CONVICTION,  
18 AND ANOTHER ONE FOR A TRAFFIC OFFENSE. BOTH OF  
19 THESE WERE MINOR WARRANTS; AND ALSO SAID THAT HIS  
20 GIRLFRIEND HAD A TRAFFIC WARRANT AS WELL. AND,  
21 OBVIOUSLY, HE WAS LOOKING FOR SOME HELP.

22 SO THIS COOPERATION HE WAS OFFERING WAS  
23 NOT FREE OF CHARGE. HE WAS LOOKING FOR A LITTLE TIT  
24 FOR TAT. HE WAS HOPING THAT THE POLICE AND

25 PROSECUTORS MIGHT BE ABLE TO HELP HIM OUT WITH HIS  
26 CASES. HE ACTUALLY DOWN-PLAYED THAT ON THE STAND A  
27 LITTLE BIT. HE REFUSED TO ACKNOWLEDGE THAT THAT WAS  
28 REALLY WHAT HE WANTED.

1 BUT THAT'S NOT REALLY GENUINE, BECAUSE  
2 DETECTIVE ZOELLER MADE IT VERY CLEAR THAT HE GOT THE  
3 CLEAR IMPRESSION FROM  
4 MR. ESLAMINIA THAT HE WANTED A LITTLE HELP WITH HIS  
5 WARRANTS. THAT'S NOT UNHEARD OF IN THE CRIMINAL  
6 JUSTICE SYSTEM, THAT PROSECUTION MIGHT PLEA BARGAIN  
7 OR HELP SOMEONE -- PLEA BARGAIN A CASE AWAY, OR GIVE  
8 SOMEONE SOME LENIENCY IN COOPERATION FOR TESTIMONY.

9 MR. ESLAMINIA REALIZED THAT THOSE THINGS  
10 HAPPENED, AND HE WAS LOOKING FOR SOMETHING. HE WAS  
11 LOOKING FOR SOME LENIENCY; AND, OF COURSE, THAT'S  
12 THE REASON WHY HE JUST WOULDN'T TURN OVER THE LETTER  
13 TO DETECTIVE ZOELLER, BECAUSE IF HE HAD, THEN THERE  
14 WOULD BE NOTHING LEFT TO TANTALIZE THE POLICE AND  
15 THE PROSECUTION WITH.

16 SO HE HELD ONTO THE LETTER; AND THEN  
17 DETECTIVE ZOELLER MADE IT CLEAR THAT EVENTUALLY,  
18 BECAUSE HE DIDN'T TURN OVER THE LETTER, AND EVEN  
19 AFTER MR. ESLAMINIA LATER INDICATED THAT HE DIDN'T



20 WANT ANYTHING, HE DIDN'T WANT ANY FAVORABLE  
21 TREATMENT, MR. ESLAMINIA STILL REFUSED TO TURN OVER  
22 THE LETTER, AND DETECTIVE ZOELLER HAD TO GET A  
23 SEARCH WARRANT AND GO UP NORTH AND OBTAIN THE LETTER  
24 FROM MR. ESLAMINIA, BECAUSE HE DIDN'T WANT TO TURN  
25 IT OVER.

26 I WOULD SUBMIT, LADIES AND GENTLEMEN,  
27 THAT THIS WAS HIS CLEAR MOTIVATION, THAT HE WANTED  
28 TO GET SOMETHING OUT IT. HE WAS LOOKING OUT FOR

1 HIMSELF. HE WAS THINKING, WHAT'S IN IT FOR ME? AND  
2 THAT'S THE ONLY REASON WHY HE DECIDED TO COOPERATE.

3 BUT THEN HE HAD SECOND THOUGHTS ABOUT  
4 IT. HE NO LONGER WANTED TO COOPERATE, AND HE  
5 THOUGHT HE WOULD JUST FORGET ABOUT THE WHOLE THING.  
6 BUT BY THAT TIME WE SNATCHED THE LETTER AWAY FROM  
7 HIM WITH A SEARCH WARRANT, AND THEN IT WAS TOO  
8 LATE. HE WAS KNEE DEEP IN THIS CASE, WHETHER HE  
9 LIKED IT OR NOT.

10 BUT PRIOR TO TIME THAT -- DURING THE  
11 TIME THAT DETECTIVE ZOELLER WAS DEALING WITH  
12 MR. ESLAMINA, HE WAS WRITING REPORTS, AND HE WROTE A  
13 REPORT, AND HE READ THE FOLLOWING BACK, TO SEE IF  
14 THIS WAS CORRECT. AND WHAT HE READ TO HIM HE

15 TESTIFIED TO HERE IN COURT.

16 "DURING THESE VISITS WITH ERIK  
17 AND LYLE THEY DISCUSSED WITH HIM WHAT  
18 THEY, ERIK AND LYLE, THOUGHT HE COULD  
19 DO TO HELP THEM WITH THEIR CASE. IT  
20 WAS THEN DISCUSSED BY THE THREE OF  
21 THEM THAT AMIR WOULD TESTIFY TO A  
22 SCENARIO WHERE HE HAD GIVEN ERIK A  
23 HANDGUN FOR PROTECTION. THIS WAS TO  
24 HAVE TAKEN PLACE BEFORE THEIR PARENTS  
25 WERE KILLED. ERIK AND LYLE EMPHASIZED  
26 THAT THE GUN WAS DUE TO FEAR, AND THAT  
27 THEY HAD --"  
28 I DON'T HAVE THE LAST PART OF THAT

1 CORRECT.

2 "...THAT THE GUN WAS DUE TO  
3 FEAR."  
4 THERE'S ANOTHER LINE THERE.  
5 "AMIR SAID THAT AS TIME WENT ON  
6 THE THREE OF THEM, ERIK, LYLE, AND  
7 HIMSELF, WOULD ADD DYNAMICS TO FIT  
8 WHAT WAS NEEDED FOR TRIAL."  
9 THIS WAS SOMETHING THAT DETECTIVE

10 ZOELLER READ BACK TO MR. ESLAMINIA OVER THE PHONE,  
11 AND ESLAMINIA DID NOT CORRECT THE REPORT, DESPITE  
12 HIS OPPORTUNITY TO DO SO; AND, THEREFORE, HIS CLAIM  
13 THAT, OH, ERIK MENENDEZ WAS NOT INVOLVED IN THIS  
14 CONSPIRACY. THIS WAS JUST ME AND LYLE MENENDEZ, IS  
15 JUST UNBELIEVABLE. IT JUST DOESN'T MAKE SENSE,  
16 BECAUSE ERIK MENENDEZ WAS HIS FRIEND, AND IF HE HAD  
17 NEVER INTENDED TO LEAD DETECTIVE ZOELLER TO BELIEVE  
18 THAT THE THREE OF THEM WERE INVOLVED IN THIS  
19 CONSPIRACY, THAT WHEN DETECTIVE ZOELLER READ THAT  
20 PARAGRAPH BACK TO HIM IN HIS REPORT, HE CERTAINLY  
21 WOULD HAVE CORRECTED HIM RIGHT THEN AND THERE, AND  
22 SAID:

23 " DETECTIVE ZOELLER. YOU  
24 HAVE THE STORY WRONG. THIS IS WHAT  
25 HAPPENED. IT WAS JUST ME AND LYLE  
26 MENENDEZ WHO CONSPIRED TO PUT TOGETHER  
27 THIS FALSE EVIDENCE."

28 BUT HE DIDN'T DO THAT. IN FACT, HE EVEN

1 TOLD DETECTIVE ZOELLER: "ERIK HAD THE WHOLE STORY.  
2 HE WAS IN ON IT."

3 SO IT'S VERY CLEAR, LADIES AND  
4 GENTLEMEN, THAT BRIAN ESLAMINIA TOLD DETECTIVE

5 ZOELLER THAT ERIK MENENDEZ WAS INVOLVED IN IT, AND  
6 THAT'S CONSISTENT WITH WHAT YOU WOULD EXPECT; THAT  
7 LYLE MENENDEZ WOULD HAVE NEVER WRITTEN THAT LETTER,  
8 WOULD HAVE EVEN GOTTEN INVOLVED WITH BRIAN  
9 ESLAMINIA, UNLESS ERIK MENENDEZ WAS A FULL PARTY TO  
10 THAT CONSPIRACY TO COMMIT PERJURY.

11       AND BRIAN ESLAMINIA, OF COURSE, NEVER  
12 GOT ANY LENIENCY, NEVER GOT HIS TRAFFIC WARRANTS  
13 TAKEN CARE OF BY THE PROSECUTION.

14       WE THEN CALLED ON MARK HEFFERNAN. MARK  
15 HEFFERNAN, YOU KNOW, IS A FRIEND OF ERIK MENENDEZ.  
16 AND ERIK MENENDEZ TESTIFIED THAT HE CALLED HIM AFTER  
17 ARRIVING HOME ABOUT THE TIME THAT LYLE MENENDEZ WAS  
18 DIALING 911 TO CALL THE POLICE. NOT ONLY DID HE  
19 TESTIFY TO THE ACTIONS OF THE DEFENDANTS ON THE DAY  
20 OF THE KILLINGS, BECAUSE OF COURSE, HE SAID THAT  
21 AFTER GOING TO THE POLICE STATION, HE LEFT WITH ERIK  
22 AND LYLE MENENDEZ AND BROUGHT THEM TO HIS HOME.

23       THEY LEFT AT ABOUT 2:33 IN THE MORNING  
24 TO GO HOME. WELL, THE INTERVIEW ENDED AT 2:33, AND  
25 THEY LEFT IMMEDIATELY AFTER THE INTERVIEW.

26       THE NEXT MORNING, WHEN HE AWOKE, THE  
27 DEFENDANTS WERE NOT AT HIS HOME. WE NOW KNOW FROM  
28 DETECTIVE ZOELLER WHERE THEY WERE. THEY APPARENTLY

1 WENT BACK TO THE CRIME SCENE.

2       THEY RETURNED TO HIS HOME LATER THAT  
3 DAY, AND THEN HE BROUGHT THEM BACK TO THE CRIME  
4 SCENE SOMETIME LATER THAT DAY, AT ABOUT -- BETWEEN  
5 7:00 AND 9:00, WHICH IS CONSISTENT WITH WHAT  
6 DETECTIVE ZOELLER SAID, WHO TESTIFIED THAT THEY CAME  
7 BACK TO THE CRIME SCENE AT ABOUT 8:30.

8       WE CALLED MARK HEFFERNAN FOR SEVERAL  
9 REASONS. ONE WAS TO TESTIFY IN REGARD TO THE  
10 ACTIVITIES OF ERIK MENENDEZ ON THAT FRIDAY, AUGUST  
11 18TH.

12       NOW, YOU REMEMBER, ACCORDING TO ERIK  
13 MENENDEZ, THIS IS SUPPOSED TO BE THE DAY IN WHICH HE  
14 STARTS OUT PLAYING TENNIS BY HIMSELF, AND LYLE  
15 MENENDEZ CAME OVER TO HIM AND WANTED TO GO DOWN TO  
16 SAN DIEGO TO PURCHASE THE GUNS, AND THAT IS WHAT  
17 THEY DID.

18       BUT MARK HEFFERNAN CONTRADICTS THIS  
19 STORY, BECAUSE MARK HEFFERNAN SAID THAT HE WAS  
20 GIVING TENNIS LESSONS TO THE DEFENDANTS THAT WEEK.  
21 AND IT WAS ON THAT DAY, THAT FRIDAY, AUGUST THE  
22 18TH, THAT HE GAVE TENNIS LESSONS TO EITHER ONE OR  
23 TO BOTH OF THE DEFENDANTS, AND HE BELIEVED IT WAS  
24 PROBABLY ERIK MENENDEZ, FOR TWO HOURS ON THAT DAY.  
25 HE SAID THAT HE RECALLS THAT IT WAS FRIDAY,  
26 SEPTEMBER (SIC) THE 18TH, BECAUSE THE DEFENDANTS  
27 WERE GOING TO GO FISHING THE VERY NEXT DAY, SO THAT

1 WE DO KNOW THEY DID GO FISHING ON  
2 SATURDAY, THE 19TH.

3 SO, ONCE AGAIN, WE HAVE A CLEAR  
4 CONTRADICTION BETWEEN THE TESTIMONY OF ERIK MENENDEZ  
5 AND MARK HEFFERNAN. AND WHY IS THAT IMPORTANT?  
6 BECAUSE MARK HEFFERNAN TESTIFIED THAT THERE WAS  
7 NOTHING UNUSUAL ABOUT THE DEMEANOR OF ERIK MENENDEZ  
8 THAT STANDS OUT IN HIS MIND. SO THAT IS SIGNIFICANT.  
9 BEAR IN MIND THE STORY OF ERIK MENENDEZ, THAT IT WAS  
10 THURSDAY THAT HE HAD THIS CONFRONTATION WITH THE  
11 FATHER. HIS FATHER WAS GOING TO KILL HIM.

12 NOW, AS FAR AS MARK HEFFERNAN CAN SEE,  
13 IT'S JUST ANOTHER DAY. SO, OF COURSE, ERIK MENENDEZ  
14 DOESN'T WANT THAT TO BE THE CASE. SO ERIK MENENDEZ  
15 INSISTS THAT MARK HEFFERNAN HAS THE WRONG DAY. ERIK  
16 MENENDEZ SUGGESTS THAT IT WAS ON THURSDAY MORNING  
17 THAT HE PLAYED TENNIS WITH MARK HEFFERNAN. BUT WE  
18 HAVE A CONTRADICTION IN TESTIMONY. SO WHO ARE YOU  
19 GOING TO BELIEVE, MARK HEFFERNAN OR THE KILLER DOWN  
20 THE TABLE HERE, WHO HAS A REASON TO LIE?

21 WE ALSO CALLED MARK HEFFERNAN TO TESTIFY  
22 TO THE SPENDING; THAT ERIK MENENDEZ, AFTER THE

23 KILLING OF HIS PARENTS, HIRED HIM TO BE HIS COACH.  
24 HE WAS TO BE PAID \$5,000 A MONTH IF HE PROVIDED  
25 LESSONS TO ONE DEFENDANT, OR \$6,000 PER MONTH IF HE  
26 PROVIDED LESSONS TO BOTH OF THE DEFENDANTS; AND FOR  
27 THE FIRST FEW MONTHS HE PROVIDED LESSONS TO BOTH.  
28 BUT THEREAFTER, LYLE MENENDEZ MADE PLANS.

1 AND HE ALSO SAID THAT HE WENT ON TOUR  
2 WITH ERIK MENENDEZ TO ISRAEL. IT WAS DURING THAT  
3 TRIP TO ISRAEL WHEN ERIK MENENDEZ WAS NOTIFIED OF  
4 THE ARREST AND SURRENDERED HIMSELF. OF COURSE, ALL  
5 OF THE EXPENSES WERE PAID BY ERIK MENENDEZ. AND HE  
6 ALSO SPOKE ABOUT OTHER EXPENSES.

7 HE SPOKE ABOUT ERIK MENENDEZ HIRING AN  
8 OLYMPIC WEIGHTLIFTING COACH. HE SPOKE ABOUT ERIK  
9 MENENDEZ HIRING A HOLISTIC DOCTOR TO DO NUTRITIONAL  
10 ASSESSMENT, BOTH OF WHICH INVOLVED CERTAIN  
11 EXPENSES.

12 NOW, THE DEFENSE WILL ARGUE, NO DOUBT,  
13 THAT WELL, GEE, ERIK MENENDEZ WAS PLAYING TENNIS  
14 ANYWAY. SO WHAT DOES THIS SHOW? WHY SHOULD HE KILL  
15 HIS PARENTS JUST FOR THAT?

16 WELL, LADIES AND GENTLEMEN, WHETHER OR  
17 NOT HIS PARENTS WOULD HAVE PAID FOR THESE EXPENSES

18 IS NOT THE ISSUE. THE ISSUE IS, ONCE AGAIN, WHAT  
19 WAS ERIK MENENDEZ' MOTIVE TO KILL IN THIS CASE? AND  
20 I SUBMIT TO YOU, HE WANTED TO BE FREE OF HIS  
21 PARENTS. AND IT MAKES A BIG DIFFERENCE WHETHER YOU  
22 PAY YOUR OWN MONEY TO PAY FOR THE THINGS THAT YOU  
23 WANT, OR YOU'RE LIVING ON THE GENEROSITY OF YOUR  
24 PARENTS, WHO ARE LOOKING OVER YOUR SHOULDER AND  
25 CHECKING YOUR EVERY MOVE.

26 SO THERE'S A BIG DIFFERENCE BETWEEN ERIK  
27 MENENDEZ PAYING FOR HIMSELF AND HAVING HIS FATHER  
28 PAY FOR IT. HE WANTED TO BE ON HIS OWN. HE WANTED

1 TO PAY HIS OWN EXPENSES.

2 BUT THE TRUTH OF THE MATTER IS THAT ERIK  
3 MENENDEZ' TENNIS CAREER WAS BECOMING VERY  
4 QUESTIONABLE AT THAT POINT. YOU WILL RECALL -- AND  
5 I'LL GET INTO IT IN FURTHER DETAIL WHEN WE GET INTO  
6 THE TESTIMONY OF ERIK MENENDEZ -- THAT AS SOON AS  
7 HIS FATHER TOLD HIM HE MIGHT NOT EVEN LET HIM BE ON  
8 THE TENNIS TEAM AT U.C.L.A. -- HIS FATHER HAD  
9 APPARENTLY LOST PATIENCE WITH HIM BECAUSE HE WAS  
10 JUST NOT LIVING UP TO HIS EXPECTATIONS OF HIM AS A  
11 TENNIS PLAYER.

12 LIKE I SAID, FOR JOSE MENENDEZ, TENNIS



13 WAS NOT A GAME. IT WAS AN ARENA OF COMPETITION. IF  
14 YOU'RE NOT GOING TO PREVAIL AND BE A CHAMPION, BE A  
15 WINNER, THEN GET OUT OF IT, AND DON'T WASTE YOUR  
16 TIME. AND JOSE MENENDEZ WAS GETTING READY TO PULL  
17 THE PLUG ON ERIK MENENDEZ AND HIS TENNIS CAREER.

18 THAT'S NOT WHAT ERIK MENENDEZ WANTED.  
19 ERIK MENENDEZ VERY MUCH WANTED TO CONTINUE HIS  
20 TENNIS CAREER. HIS TENNIS CAREER WAS MORE IMPORTANT  
21 TO HIM THAN SCHOOL, AS DEMONSTRATED BY HIS ACTIONS  
22 AFTER HE KILLED HIS PARENTS.

23 AGAIN, HIS SPENDING SHOWS THAT ERIK  
24 MENENDEZ WAS LIVING A LIFE WHICH WAS, ONCE AGAIN, A  
25 FAR CRY FROM THE LIFE HE WAS ABLE TO PAY FOR HIMSELF  
26 WHEN HE WAS ONLY LIVING ON A HUNDRED AND EIGHTY  
27 DOLLARS A MONTH.

28 THEN WE HAVE MARK HEFFERNAN TESTIFYING

1 TO ERIK MENENDEZ' INTEREST IN ATTENDING U.C.L.A. WE  
2 GOT THIS FROM A COUPLE OF WITNESSES.

3 YOU'LL RECALL LATE IN OUR REBUTTAL CASE  
4 WE PRESENTED THE TESTIMONY OF ANOTHER WITNESS  
5 CONCERNING THIS, MR. FENNO. BUT HERE, AT THIS STAGE  
6 OF THE PROCEEDING, WE PRESENTED THE TESTIMONY OF  
7 MARK HEFFERNAN, WHO SAID THAT ERIK MENENDEZ' GOAL

8 WAS TO BE A PROFESSIONAL TENNIS PLAYER. THAT'S WHAT  
9 HE WANTED. THAT'S WHAT ERIK MENENDEZ WANTED TO DO.  
10 HE WANTED TO PLAY TENNIS. HE WAS OBVIOUSLY MORE  
11 INTERESTED IN PLAYING TENNIS THAN HE WAS IN GOING TO  
12 SCHOOL. BUT HE WANTED TO GO TO U.C.L.A. BECAUSE IT  
13 WAS ONE OF THE TOP FIVE TENNIS TEAMS IN THE NATION;  
14 AND HE AND ERIK MENENDEZ WENT TO U.C.L.A. TO TALK TO  
15 THE SCHOOL ABOUT HIM PLAYING ON THE TEAM. AND HE  
16 WAS TOLD THAT HE WOULD HAVE TO WORK VERY HARD IN  
17 ORDER TO BE ON THE TEAM.

18 SO THIS DEMONSTRATES TWO THINGS: NUMBER  
19 ONE, INTENT ON ERIK MENENDEZ' PART TO STICK WITH  
20 TENNIS, RATHER THAN GIVE IT UP AND GO TO SCHOOL AND  
21 STUDY THE SUBJECTS THAT HIS FATHER WANTED HIM TO  
22 STUDY; BUT ALSO, IT TELLS US ABOUT -- WHY WOULD ERIK  
23 MENENDEZ BE INTERESTED IN GOING TO SCHOOL AT  
24 U.C.L.A. IF HE WAS BEING MOLESTED SO BADLY BY HIS  
25 FATHER? DIDN'T HE SAY IN HIS TESTIMONY THAT THE ONE  
26 THING HE WANTED TO GET AWAY FROM, THE MOST IMPORTANT  
27 THING IN HIS LIFE WAS TO GET AWAY FROM HIS FATHER,  
28 AND TO TERMINATE THE ABUSE?

1 WELL, IF THAT WERE TRUE, LADIES AND  
2 GENTLEMEN, IF THAT WERE THE MOST IMPORTANT THING IN

3 HIS LIFE, WHY WOULD HE BE GOING -- TAKE THE TIME AND  
4 THE TROUBLE TO GO WITH MARK HEFFERNAN TO APPLY TO  
5 U.C.L.A. AND THE TENNIS TEAM THERE? WOULDN'T HE BE  
6 DEAD SET ON GETTING OUT OF THE STATE, OR PERHAPS TO  
7 SOME SCHOOL IN NORTHERN CALIFORNIA? WHY WOULD HE  
8 EVEN BE INTERESTED IN GOING TO U.C.L.A. IF HE WAS  
9 TRULY BEING ABUSED?

10 I SUBMIT, HE WAS NOT BEING ABUSED, AND  
11 THERE WAS NO PROBLEM IN GOING TO U.C.L.A. THE  
12 DEFENSE WILL TRY TO SAY HE WAS GOING TO BE IN THE  
13 DORMS IN U.C.L.A. YOU SEE, THAT WAS HIS GOAL. THAT  
14 IS HOW HE WOULD GET AWAY FROM HIS FATHER. HOW FAR  
15 IS IT FROM BEVERLY HILLS TO U.C.L.A.? A FEW  
16 MINUTES? HOW FAR? HOW LONG WOULD IT TAKE FOR JOSE  
17 MENENDEZ TO GIVE HIM A CALL ON THE PHONE AND SAY,  
18 " ERIK, I WANT TO SEE YOU."

19 HE KNEW IF HE WENT TO U.C.L.A. HE WOULD  
20 CONTINUE TO SEE HIS FAMILY, AND HE WOULD CONTINUE TO  
21 GO HOME. THERE WAS NO REASON TO BE CONCERNED WITH  
22 THAT, I SUBMIT, LADIES AND GENTLEMEN, BECAUSE ERIK  
23 MENENDEZ WAS NOT BEING ABUSED BY HIS FATHER, AND  
24 ERIK MENENDEZ HAD NO INTENT TO AVOID U.C.L.A. HE  
25 MAY VERY WELL HAVE WANTED TO GO TO BROWN, AS HE  
26 SAID, BUT HE HAD NO PROBLEM WITH U.C.L.A., BECAUSE  
27 IT HAD A GOOD TENNIS TEAM, AND THAT'S WHAT HE WANTED  
28 TO DO. AND HE WAS NOT BEING ABUSED BY HIS FATHER.

1            THEN WE HEARD THE TESTIMONY OF AMANDA  
2 GEIER. AND YOU WILL RECALL THAT AMANDA GEIER WAS  
3 THE SALESPERSON WHO WORKS FOR BIG-5 DOWN IN SAN  
4 DIEGO. AND AMANDA GEIER TESTIFIED THAT SHE WAS  
5 WORKING THERE ON FRIDAY, AUGUST THE 18TH OF 1989,  
6 AND SHE RECALLS THAT SHE SOLD TWO SHOTGUNS THAT  
7 DAY.

8            WE KNOW NOW THAT THE DEFENDANT, ERIK  
9 MENENDEZ, CAME IN AND PURCHASED THOSE GUNS. AND SHE  
10 SAID THAT THE PERSON WHO CAME IN JUST CAME IN,  
11 POINTED OUT WHAT HE WANTED. SHE DIDN'T DESCRIBE ANY  
12 EXPLANATIONS OF THE OPERATION OF A WEAPON OR  
13 ANYTHING LIKE THAT.

14           THIS PERSON PRESENTED IDENTIFICATION OF  
15 DONOVAN GOODREAU. HE FILLED OUT THE PAPERWORK IN  
16 THAT NAME, AND HE PAID IN CASH.

17           ONE OF THE SIGNIFICANT THINGS THAT SHE  
18 TESTIFIED TO, LADIES AND GENTLEMEN, IS THAT THIS  
19 OCCURRED AT NIGHT. AND SHE GAVE AN ESTIMATE OF IT  
20 OCCURRING AT APPROXIMATELY 8:00 OR 8:30 AT NIGHT.  
21 WHY WOULD THAT BE SIGNIFICANT? WELL, BECAUSE ERIK  
22 MENENDEZ WOULD HAVE US BELIEVE THAT, ALTHOUGH HE  
23 WOKE UP THAT MORNING INTENDING TO GO OUT AND  
24 PURCHASE WEAPONS TO POSSIBLY BE USED AGAINST THE  
25 PARENTS, AND THOUGH HE DROVE DOWN TO SAN DIEGO THAT  
26 DAY, HE DIDN'T DRIVE TO SAN DIEGO TO PURCHASE

27 WEAPONS.

28 WELL, THAT'S SORT OF RIDICULOUS. WHAT

1 WOULD HE BE DOING DRIVING DOWN TO SAN DIEGO IF NOT  
2 FOR THE PURPOSE OF PURCHASING THESE WEAPONS? THE  
3 TRUTH OF THE MATTER, LADIES AND GENTLEMEN, IS THAT  
4 THE DEFENDANT WANTED TO GO OUT OF TOWN TO GET AWAY  
5 FROM L.A., SO THEY COULD PURCHASE WEAPONS TO AVOID  
6 THE WEAPONS BEING TRACED BACK TO THEM. THEY TOOK  
7 SEVERAL PRECAUTIONS TO ENSURE THAT THESE WEAPONS  
8 WOULD NOT BE TRACED BACK TO THEM, BECAUSE THEY KNEW  
9 THEY WERE GOING TO KILL THEIR PARENTS.

10 AND SO THEY INTENTIONALLY USED FALSE  
11 IDENTIFICATION. ERIK MENENDEZ FORGED THE NAME OF  
12 DONOVAN GOODREAU. THEY PAID IN CASH. THEY CREATED  
13 A STREET ADDRESS WHICH DOESN'T EXIST. AND THIS WAS  
14 ALL DESIGNED TO AVOID THE WEAPONS BEING TRACED BACK  
15 TO THEM.

16 SO IT WASN'T BY PURE CHANCE, LADIES AND  
17 GENTLEMEN, THAT THEY JUST HAPPENED TO DRIVE DOWN TO  
18 SAN DIEGO; AND IF INDEED THIS DID OCCUR LATE AT  
19 NIGHT, AS SHE RECALLS, 8:00 TO 8:30, THEN THAT MEANS  
20 THEY WOULD HAVE TO DEAL WITH THE FREEWAY TRAFFIC,  
21 SAN DIEGO FREEWAY TRAFFIC, WHICH WOULD BE MUCH MORE

22 HORRENDOUS IF THEY WERE TO MAKE THAT TRIP LATE IN  
23 THE DAY, RATHER THAN EARLY IN THE DAY. SO THAT IS  
24 IMPORTANT, BECAUSE YOU DON'T PUT UP WITH SAN DIEGO  
25 TRAFFIC UNLESS THERE'S A SPECIFIC NEED TO.

26 AND SO THIS WAS NO CASUAL DRIVE DOWN TO  
27 SAN DIEGO, LADIES AND GENTLEMEN. THEY HAD A  
28 SPECIFIC NEED TO GO DOWN TO SAN DIEGO, A SPECIFIC

1 PURCHASE TO BE PURCHASED OUT OF TOWN, OR ELSE THEY  
2 WOULDN'T PUT UP WITH THIS TRAFFIC.

3 WE THEN HEARD FROM VALERIE HART. SHE  
4 WAS ANOTHER SPENDING WITNESS. WE WANTED TO SHOW  
5 YOU, GIVE YOU SOME IDEA OF THE VARIOUS AMOUNTS OF  
6 SPENDING THAT THE DEFENDANTS DID FOLLOWING THE  
7 KILLING OF THEIR PARENTS.

8 VALERIE HART TESTIFIED THAT SHE WAS  
9 EMPLOYED BY THE MARINA CITY CONDOMINIUMS, AND SHE  
10 SPOKE TO ERIK AND LYLE MENENDEZ ON OCTOBER THE 15TH  
11 OF 1989. LYLE MENENDEZ SAID THAT HE WAS INTERESTED  
12 IN, QUOTE, THE LARGEST CONDOMINIUM THAT SHE HAD  
13 AVAILABLE. OBVIOUSLY, LYLE MENENDEZ DIDN'T WANT TO  
14 GO SECOND CLASS. YOU ONLY KILL YOUR FATHER ONCE AND  
15 BECOME RICH ONCE. HE WANTED THE LARGEST CONDOMINIUM  
16 THAT SHE HAD AVAILABLE, AND SHE SAID THAT AT THE

17 TIME THE MARINA CITY CONDOMINIUMS WERE THE MOST  
18 EXCLUSIVE, THE MOST EXPENSIVE CONDOMINIUMS IN THE  
19 MARINA AREA.

20 SHE SHOWED HIM A CONDOMINIUM THAT WENT  
21 FOR \$990,000. LYLE MENENDEZ SAID THAT HE WAS ALSO  
22 INTERESTED IN HAVING ADDITIONAL WORK DONE ON IT  
23 CONCERNING APPLIANCES AND CARPET. ERIK MENENDEZ  
24 WROTE OUT A CHECK FOR \$29,000. THE DEAL NEVER WENT  
25 THROUGH; HOWEVER, SOMETIME LATER LYLE MENENDEZ  
26 CANCELED. HE SAID HE WOULD BE OPENING UP A  
27 RESTAURANT ON THE EAST COAST AND WOULD NOT BE IN  
28 TOWN, AND THE CHECK WAS RETURNED. THE DEFENDANTS

1 CONTINUED TO RENT AT THE MARINA, AND SHE  
2 OCCASIONALLY SAW THE DEFENDANTS COMING AND GOING.

3 DONOVAN GOODREAU WAS OUR NEXT WITNESS.  
4 AND HE WAS CALLED FOR THE PURPOSE OF TESTIFYING TO  
5 THE FACT THAT HE WAS NOT THE ONE WHO PURCHASED THE  
6 SHOTGUNS. ALTHOUGH IT WAS HIS IDENTIFICATION THAT  
7 WAS USED IN THAT PURCHASE, WE KNOW NOW HE HAD LOST  
8 HIS WALLET. HE LEFT IT BEHIND WHEN HE LEFT THE  
9 RESIDENCE HE WAS LIVING IN WITH LYLE MENENDEZ, AFTER  
10 THEY GOT INTO A FALLING OUT, AND LYLE MENENDEZ THREW  
11 HIM OUT OF THAT RESIDENCE.

12 SO LYLE MENENDEZ HAD ACCESS TO HIS  
13 DRIVER'S LICENSE, AND HE COULD PROVE HE WAS NOT IN  
14 SAN DIEGO ON AUGUST THE 18TH OF 1989, BECAUSE HE WAS  
15 WORKING THE NEW YORK CITY AT THAT TIME AT "BOXERS"  
16 RESTAURANT, AND HE HAS WORK RECORDS TO PROVE THAT HE  
17 WAS IN NEW YORK CITY THAT DAY AND HAD NOTHING TO DO  
18 WITH THE PURCHASE OF THE SHOTGUNS.

19 THEN WE HEARD FROM RICHARD WENSKOSKI.  
20 MR. WENSKOSKI WAS CALLED FOR A NUMBER OF REASONS.  
21 MR. WENSKOSKI IS YET ANOTHER WITNESS OF LYLE  
22 MENENDEZ POINTING THE FINGER AT THE MAFIA, BECAUSE  
23 LYLE MENENDEZ REALLY WENT ALL THE WAY WITH HIM BY  
24 HIRING HIM TO PROTECT HIM FROM THE MAFIA. WENSKOSKI  
25 SAID HE WORKED AS A MANAGER OF INVESTIGATION FOR  
26 D.B. KELLY PRIVATE INVESTIGATION PROTECTION AGENCY,  
27 AND THAT HE FORMERLY WORKED AS A POLICE OFFICER FOR  
28 18 YEARS.

1 WHEN LYLE MENENDEZ HIRED THE SERVICE FOR  
2 24-HOUR PROTECTION, AND MR. WENSKOSKI AND HIS  
3 PARTNER BEGAN TO PROVIDE BODYGUARD SERVICE FOR HIM,  
4 HE HAD TO TAKE SPECIAL SECURITY PRECAUTIONS IN THIS  
5 CASE BASED UPON INFORMATION THAT HE RECEIVED FROM  
6 LYLE MENENDEZ. HE SAID THAT ALTHOUGH HE NORMALLY



7 CARRIES A GUN, IN THIS CASE, HE TOOK SPECIAL  
8 PRECAUTIONS, BECAUSE LYLE MENENDEZ TOLD HIM THAT HIS  
9 PARENTS WERE KILLED BY THE COLUMBIAN CARTEL OR THE  
10 MAFIA. HE ALSO TOLD MR. WENSKOSKI THAT THE KILLING  
11 WAS A MESSAGE-TYPE MURDER, AND THAT HE WAS FEARFUL  
12 THAT THE MAFIA MIGHT ALSO KILL HIM AND HIS BROTHER.

13 SO BEING AGAIN, IT TIES BACK, HAND IN  
14 HAND WITH -- YOU RECALL LYLE MENENDEZ TELLING  
15 DETECTIVE EDMONDS THAT WHOEVER DID THIS REALLY  
16 WANTED TO MAKE A MESS. AND NOW HE'S TELLING  
17 WENSKOSKI THAT IT WAS A MESSAGE-TYPE MURDER.

18 SO AS A RESULT OF THESE CONCERNS,  
19 MR. WENSKOSKI PURCHASED A BULLET-PROOF VEST FOR  
20 HIMSELF AND HIS PARTNER. HE EVEN LOOKED INTO THE  
21 POSSIBILITY OF PURCHASING A BULLET-PROOF LIMOUSINE,  
22 BECAUSE LYLE MENENDEZ TOLD HIM THAT HE WAS  
23 INTERESTED IN SUCH A PURCHASE. AND HE GAVE  
24 WENSKOSKI THE IMPRESSION THAT HE WAS NOT CONCERNED  
25 WHATSOEVER ABOUT THE COST THAT MIGHT ENTAIL.

26 WENSKOSKI EMPLOYED A CRASH CAR THAT  
27 WOULD RUN INTERFERENCE IN THE EVENT UPON THE ATTEMPT  
28 OF THE LIFE OF LYLE MENENDEZ WHILE LYLE MENENDEZ WAS

1 DRIVING IN THE LIMOUSINE. SO FOR THE LATTER PART OF

2 AUGUST AND EARLY SEPTEMBER, LYLE MENENDEZ WAS DRIVEN  
3 AROUND IN A CHAUFFEURED LIMOUSINE, FOLLOWED BY  
4 WENSKOSKI AND HIS PARTNER IN A CRASH CAR. HE  
5 TRANSPORTED LYLE MENENDEZ AND HIS GUESTS HERE AND  
6 THERE.

7 LYLE MENENDEZ, HE WOULD GO TO THE GYM  
8 AND WORK OUT WITH TWO ARMED GUARDS STANDING  
9 OUTSIDE. NOTHING BUT FIRST CLASS.

10 THE ODD THING ABOUT THE SECURITY,  
11 HOWEVER, IS THAT LYLE MENENDEZ WAS NOT REALLY  
12 CONCERNED ABOUT SECURITY. YOU SEE, NOW WHAT THE  
13 DEFENSE IS GOING TO SAY IS THIS: THE DEFENSE IS  
14 GOING TO SAY: OH, LYLE MENENDEZ WAS REALLY  
15 CONCERNED ABOUT THE MAFIA. HE WASN'T JUST TRYING TO  
16 GIVE THE APPEARANCE OF THE MAFIA BEING AFTER HIM AS  
17 A COVER UP FOR THE KILLING OF THE PARENTS. BUT HE  
18 WAS TRULY CONCERNED THAT THE MAFIA WAS AFTER HIM.

19 WELL, THAT DOESN'T REALLY FLY. THAT  
20 DOESN'T REALLY WORK, BECAUSE IT FLIES IN THE FACE OF  
21 THE TESTIMONY OF RICHARD WENSKOSKI, BECAUSE RICHARD  
22 WENSKOSKI SAID THAT LYLE MENENDEZ DID NOT APPEAR TO  
23 BE CONCERNED ABOUT SECURITY AFTER ALL. HE SAID HE  
24 WOULD STAY, FOR EXAMPLE, AT THE PRINCETON HYATT, AND  
25 WENSKOSKI HAD ADVISED HIM NOT TO STAY THERE, BECAUSE  
26 THAT POSED A NUMBER OF SECURITY PROBLEMS, BECAUSE IT  
27 WAS TOO EXPOSED. BUT LYLE MENENDEZ DIDN'T SEEM TO  
28 CARE ABOUT THAT. LYLE MENENDEZ, FOR EXAMPLE, WOULD

1 ALSO HOP OUT OF HIS LIMOUSINE BEFORE THE SECURITY  
2 GUARDS IN THE CRASH CAR WERE PREPARED TO ACCOMPANY  
3 HIM.

4 AGAIN, EVEN THOUGH HE RECEIVED THESE  
5 ADMONISHMENTS FROM WENSKOSKI, LYLE MENENDEZ WASN'T  
6 REALLY CONCERNED ABOUT THE MAFIA. LYLE MENENDEZ WAS  
7 JUST PUTTING UP THIS SHOW ABOUT THE MAFIA.

8 WENSKOSKI ALSO RECALLS THE SPENDING  
9 SPREE THAT LYLE MENENDEZ WENT ON IN PRINCETON, AND  
10 HE TESTIFIED HOW LYLE MENENDEZ SHOPPED FOR A  
11 PORSCHE, FOR HOMES, FOR CLOTHING; HOW HE WOULD GO  
12 INTO A STORE AND SPEND THOUSANDS OF DOLLARS IN A  
13 STORE; AND HOW HE ACCOMPANIED LYLE MENENDEZ WHEN HE  
14 WENT ON THE TEST DRIVE OF HIS PORSCHE, WHICH HE  
15 EVENTUALLY BOUGHT FOR \$70,000. \$70,000 FOR A CAR HE  
16 PURCHASED.

17 HE ALSO STROLLED WITH HIM THROUGH  
18 HOUSING COMPLEXES LOOKING FOR TWO HOMES LYLE  
19 MENENDEZ WAS LATER INVOLVED IN, OR AT LEAST  
20 INTERESTED IN PURCHASING.

21 WENSKOSKI ALSO CORROBORATED THE  
22 TESTIMONY OF HOWARD WITKIN. HOWARD WITKIN TESTIFIED  
23 TO MEETING WITH LYLE MENENDEZ ON AUGUST THE 31ST  
24 WHEN LYLE MENENDEZ WANTED THE COMPUTER ERASED.

25 WELL, IT WAS WENSKOSKI WHO DROVE HIM TO THE AIRPORT  
26 SO HE COULD GET BACK TO LOS ANGELES TO ERASE THE  
27 COMPUTER. HE DROVE HIM TO THE AIRPORT JUST BEFORE  
28 THAT AND PICKED HIM UP RIGHT AFTER THAT.

1           VERY IMPORTANT PART OF WENSKOSKI'S  
2 TESTIMONY IS IN REGARD TO A QUESTION THAT LYLE  
3 MENENDEZ HAD FOR HIM ABOUT SHOTGUN SHELLS AND  
4 TRACING SHOTGUN SHELLS BACK TO SHOTGUNS FROM WHICH  
5 THEY WERE FIRED. YOU SEE, ONE OF THE ARGUMENTS THAT  
6 THE DEFENSE IS GOING TO MAKE IN THIS CASE IS THIS:  
7 THEY'RE GOING TO SAY: "LADIES AND GENTLEMEN, THIS IS  
8 NOT A PLANNED MURDER."

9           ONCE AGAIN, THE DEFENDANTS ARE NOT  
10 CHARGED WITH A PLANNED MURDER. THEY'RE CHARGED WITH  
11 PREMEDITATED MURDER. THEY'RE GOING TO SAY THIS WAS  
12 NOT A PLANNED MURDER BECAUSE LYLE MENENDEZ AND ERIK  
13 MENENDEZ WENT AROUND AND PICKED UP ALL THE SHOTGUN  
14 SHELLS; AND, OBVIOUSLY, THEY WANTED TO RECOVER THE  
15 SHOTGUN SHELLS SO THAT THEY CAN -- SO THAT THE  
16 FINGERPRINTS ON THE SHOTGUN SHELLS WOULD NOT BE  
17 TRACED BACK TO THEM.

18           AND SO THE DEFENSE WILL ARGUE, IF ERIK  
19 AND LYLE MENENDEZ TRULY HAD PLANNED TO COMMIT THIS

20 MURDER IN ADVANCE, WHY WOULD THEY HAVE PLACED  
21 SHOTGUN SHELLS WITH THEIR FINGERPRINTS INSIDE THE  
22 SHOTGUN, BECAUSE THAT WOULD JUST THEN REQUIRE THEM  
23 TO TAKE THE TIME AND THE TROUBLE AFTERWARDS TO PICK  
24 UP THOSE SHOTGUN SHELLS?

25 SURELY, THE DEFENSE WILL ARGUE, IF  
26 YOU'RE GOING TO PLAN A MURDER SUCH AS THIS, WHAT YOU  
27 DO IS YOU WEAR GLOVES, OR YOU WIPE OFF THE SHOTGUN  
28 SHELLS IN SOME WAY AS YOU ARE PLACING THEM INTO THE

1 GUN, SO YOU DO NOT LEAVE PRINTS. YOU SEE? BUT THE  
2 MERE FACT THAT THEY PICKED UP THE SHOTGUN SHELLS,  
3 THE DEFENSE WILL ARGUE, IS EVIDENCE THAT THIS MURDER  
4 WAS NOT PLANNED IN ADVANCE.

5 WELL, THAT DOESN'T FOLLOW, LADIES AND  
6 GENTLEMEN, FOR THE FOLLOWING REASON: LYLE MENENDEZ  
7 WAS WITH RICHARD WENSKOSKI IN THE PRINCETON HYATT  
8 WHEN LYLE MENENDEZ BEGAN TO QUESTION WENSKOSKI, WHO  
9 WAS A FORMER POLICE OFFICER, ABOUT HOW YOU GET  
10 BALLISTICS FROM FIREARMS. LYLE MENENDEZ ASKED HIM  
11 IF EXPENDED BULLETS CAN BE TRACED BACK TO THE  
12 PARTICULAR FIREARM THAT THEY WERE FIRED FROM, AND  
13 WENSKOSKI EXPLAINED THAT BECAUSE OF THE RIFLING IN  
14 THE BARREL OF FIREARMS, THAT YOU CAN INDEED TRACE

15 BULLETS BACK TO THE GUN FROM WHICH THEY WERE FIRED,  
16 BECAUSE AS THEY PASS THROUGH THE BARREL, IT LEAVES A  
17 GROOVE ON THE BULLET.

18 BUT THEN CAME THE KEY QUESTION. LYLE  
19 MENENDEZ ASKED HIM: CAN YOU TRACE SHOTGUN SHELLS  
20 BACK TO THE SHOTGUN FROM WHICH THEY WERE FIRED?

21 AND THAT'S VERY SIGNIFICANT, LADIES AND  
22 GENTLEMEN, BECAUSE WHAT THAT TELLS YOU THEN, IS THAT  
23 IN LATE AUGUST AND EARLY SEPTEMBER OF 1989, AFTER HE  
24 HAD KILLED HIS PARENTS, HE DID NOT KNOW WHETHER OR  
25 NOT YOU CAN TRACE SHOTGUN SHELLS BACK TO THE  
26 SHOTGUNS FROM WHICH THEY WERE FIRED.

27 SO I SUBMIT TO YOU, LADIES AND  
28 GENTLEMEN, THE REASON THAT THEY PICKED UP THOSE

1 SHOTGUN SHELLS WAS NOT SO MUCH BECAUSE OF THE  
2 FINGERPRINTS, BUT BECAUSE HE DIDN'T KNOW WHETHER OR  
3 NOT YOU CAN TRACE THE SHOTGUN SHELLS BACK TO THE  
4 SHOTGUN. IT WAS JUST ONE MORE PIECE OF EVIDENCE  
5 AGAINST HIM THAT HE DIDN'T WANT TO LEAVE AT THE  
6 CRIME SCENE, EVEN THOUGH THEY HAD PURCHASED THE GUNS  
7 ANONYMOUSLY FOR ALL PRACTICAL PURPOSES. IF YOU CAN  
8 TRACE THE SHOTGUN SHELLS BACK TO THE SHOTGUN, THERE  
9 MIGHT BE A WAY OF EVENTUALLY GETTING BACK TO THE

10 SALE OF THIS PARTICULAR FIREARM, THE FALSE  
11 IDENTIFICATION OF DONOVAN GOODREAU, AND EVENTUALLY  
12 GETTING BACK TO HIM AND HIS BROTHER, ERIK MENENDEZ.

13 SO THE FACT THAT THEY TOOK THE TIME AND  
14 THE TROUBLE TO PICK UP THE SHOTGUN SHELLS IN THIS  
15 CASE DOES NOT PROVE THAT THEY WERE CONCERNED ABOUT  
16 FINGERPRINTS, ALTHOUGH MAYBE THEY WERE, AND MAYBE  
17 THEY WEREN'T. WHO KNOWS?

18 ONE OF THE REASON WHY THEY PICKED UP  
19 THOSE SHOTGUN SHELLS IS THEY WERE CONCERNED THAT IT  
20 COULD BE TRACED BACK TO THE PARTICULAR SHOTGUNS THAT  
21 THEY HAD PURCHASED.

22 LYLE MENENDEZ CONTINUED TO HINT THAT HE  
23 WAS AFRAID ABOUT THE MAFIA RIGHT UP UNTIL THE TIME  
24 HE TERMINATED WITH THE SERVICE OF D.B. KELLY, WHICH  
25 OCCURRED DURING LABOR DAY WEEKEND, SEPTEMBER OF  
26 1989.

27 IT WAS FOLLOWING THAT WEEKEND THAT HE  
28 TOLD WENSKOSKI THAT HE NO LONGER HAD NEED FOR

1 PROTECTION FROM THE AGENCY. HE SAID THAT HIS UNCLE  
2 CONTACTED SOMEONE IN THE MAFIA IN NEW YORK, A DEAL  
3 HAD BEEN MADE, AND LYLE MENENDEZ AND HIS BROTHER  
4 WERE NO LONGER IN DANGER. WHAT AN ACTIVE

5 IMAGINATION LYLE MENENDEZ HAS. HE FINALLY DECIDED  
6 THAT HE IS NOW GOING TO TERMINATE THE CHARADE ABOUT  
7 THE MAFIA. IT WORKED LONG ENOUGH TO KEEP THE POLICE  
8 OFF HIS TAIL. IT'S BEEN MORE THAN TWO WEEKS SINCE --  
9 THAT HE HAS GOTTEN AWAY NOW WITH THE KILLING, AND I  
10 THINK HE'S COMING TO THE REALIZATION THAT HE NO  
11 LONGER NEEDS TO PRETEND THAT THE MAFIA IS INVOLVED;  
12 AND, IN FACT, IT'S LATER THAT MONTH, CONSISTENT WITH  
13 WHAT HE SAID ON SEPTEMBER 17TH, DETECTIVE ZOELLER  
14 INTERVIEWS HIM IN NEW JERSEY.

15       YOU RECALL, ON SEPTEMBER 17TH, ABOUT TWO  
16 WEEKS AFTER HE TERMINATED WITH D.B. KELLY AND HE  
17 TELLS HIM, WELL, I DON'T KNOW ABOUT THIS MAFIA  
18 STUFF. I'LL BELIEVE IT WHEN I SEE IT. UNTIL I SEE  
19 IT, I DON'T BELIEVE IT.

20       WELL, IT'S FINE, EXCEPT THAT HE'S BEEN  
21 TELLING THAT STORY FOR A LONG TIME, UP TO THIS POINT  
22 IN TIME. HE WAS POINTING TO THE MAFIA EVERY CHANCE  
23 HE HAD. BUT THEN HE BEGAN TO ABANDON THE STORY  
24 LABOR DAY WEEKEND, AND BY THE TIME HE TALKED TO  
25 DETECTIVE ZOELLER ON SEPTEMBER 17, THAT WAS IT.  
26 THERE WAS NO LONGER ANY REASON TO BE POINTING THE  
27 FINGER TO THE MAFIA. IT SERVED ITS PURPOSE. HE GOT  
28 AWAY FOR AT LEAST TWO WEEKS, AND NOW THE POLICE WERE



1 GOING TO DRAW WHATEVER CONCLUSIONS THEY WERE GOING  
2 TO DRAW. IT WAS NO LONGER A MATTER OF HIS POINTING  
3 THE FINGER TO THE MAFIA.

4 FINALLY, WENSKOSKI SAID THAT HE  
5 TESTIFIED TO THE Demeanor OF LYLE MENENDEZ DURING  
6 THIS TIME PERIOD, WHEN HE SERVED AS BODYGUARD FOR  
7 HIM AT PRINCETON. HE SAID LYLE MENENDEZ NEVER  
8 SHOWED REMORSE. TO THE CONTRARY, HE CALLED HIM,  
9 QUOTE, QUITE JOVIAL. THAT TELLS YOU A LITTLE BIT  
10 ABOUT LYLE MENENDEZ.

11 LARRY COHEN WAS A REALTOR IN MARINA DEL  
12 REY IN FEBRUARY OF 1990 WHO SAID THAT ERIK MENENDEZ  
13 CONTACTED HIM, SAYING THAT HE WAS INTERESTED IN  
14 PURCHASING A HOME ON THE SILVER STRAND IN THE  
15 MARINA, AN UPSCALE RESIDENTIAL AREA, ABOUT 500 YARDS  
16 FROM THE OCEAN, WITH A CANAL RUNNING ALONG THE  
17 COMPLEX. ERIK MENENDEZ SAID THAT HE WAS LOOKING FOR  
18 A LARGE HOME IN THE AREA, WHICH MR. COHEN SAID WAS  
19 ONE OF THE NICEST IN THE MARINA. THE HOME THAT THE  
20 DEFENDANT WAS INTERESTED IN PURCHASING WAS A  
21 THREE-LEVEL MEDITERRANEAN SPANISH STYLE PRICED AT  
22 1.4 MILLION DOLLARS. ERIK MENENDEZ MADE AN OFFER OF  
23 1.1 MILLION DOLLARS, AND THE SELLER COUNTERED WITH A  
24 1.35 MILLION DOLLAR SALE PRICE.

25 THE SALE NEVER WENT THROUGH, HOWEVER,  
26 BECAUSE ERIK MENENDEZ WAS ARRESTED SHORTLY AFTER,  
27 AND HE HAD NO FURTHER CONTACT WITH THE DEFENDANT.

28 ONCE AGAIN, AN INTEREST OF ERIK MENENDEZ

1 IN SPENDING THOSE BIG DOLLARS.

2 VICKI RIVAS WAS AN EMPLOYEE OF THE JEEP  
3 DEALERSHIP IN LOS ANGELES, AND SHE RECALLS SOME  
4 SPENDING OF ERIK MENENDEZ FOLLOWING THE KILLING OF  
5 HIS PARENTS. SHE RECALLS HE CAME IN FOR THE PURPOSE  
6 OF PURCHASING A JEEP. HE WAS WITH ANOTHER MAN BY  
7 THE NAME OF STEVE GOLDBERG, THOUGH I DON'T THINK SHE  
8 RECALLS HIS NAME. IT'S CLEAR FROM THE QUESTIONING  
9 THAT'S WHO'S BEING REFERRED TO. HE WANTED TO  
10 PURCHASE A JEEP WRANGLER. HE PURCHASED IT FOR A  
11 CASH PRICE OF \$21,000. AND SHE SAW HIM OCCASIONALLY  
12 THEREAFTER.

13 MARK SLOTKIN TESTIFIED TO SOME SPENDING  
14 ON THE PART OF THE DEFENDANT, TESTIFYING TO  
15 GAMBLING, THE DEFENDANT GAMBLING IN TAHOE, WITH  
16 LARGE AMOUNTS OF MONEY. HE HAD TO LOAN THE  
17 DEFENDANT FIVE TO \$8,000 TO COVER HIS GAMBLING  
18 DEBT.

19 ONCE AGAIN, A VERY DIFFERENT LIFE-STYLE  
20 FROM A HUNDRED AND EIGHTY A MONTH.

21 WESLEY GROSS WAS CALLED TO TESTIFY  
22 BECAUSE HE IS A HANDWRITING EXPERT, AND NOW THAT WE  
23 GOT IN THE DOCUMENTS FROM AMANDA GEIER FROM BIG-5

24 CONCERNING THE PURCHASE OF THE SHOTGUNS, WE WANTED  
25 TO DEMONSTRATE TO YOU WHO IT WAS THAT ACTUALLY MADE  
26 THAT PURCHASE. THIS WAS, OF COURSE, PRIOR TO THE  
27 TIME THAT ERIK MENENDEZ TESTIFIED IN FRONT OF YOU.

28 AND SO TO PROVE THAT FACT PRIOR TO HIS

1 TESTIMONY, WE CALLED WESLEY GROSS, AND HE SAID THAT  
2 HE COMPARED THE VARIOUS HANDWRITING OF ERIK  
3 MENENDEZ, LYLE MENENDEZ, AND DONOVAN GOODREAU, AND  
4 HE CONCLUDED THAT THE MOST LIKELY PERSON SIGNING THE  
5 PAPERWORK, WHO FILLED OUT THAT PAPERWORK, WAS ERIK  
6 MENENDEZ.

7 NOW, DEPUTIES GUTHRIE AND DULLAR WERE  
8 TWO WITNESSES WHO I'M SURE YOU DIDN'T UNDERSTAND THE  
9 SIGNIFICANCE OF THIS TESTIMONY WHEN THEY TESTIFIED,  
10 BECAUSE ALL THEY SAID WAS THAT THEY RECOVERED A  
11 DOCUMENT. AND YOU NEVER GOT TO SEE WHAT THAT  
12 DOCUMENT WAS, AND YOU DIDN'T GET TO SEE IT BECAUSE  
13 THERE WERE NO SPECIFIC QUESTIONS CONCERNING THAT  
14 DOCUMENT. I COULDN'T JUST THROW THAT DOCUMENT IN  
15 FRONT OF YOU. I HAD TO WAIT. I HAD TO WAIT FOR  
16 ARGUMENT FOR YOU TO ACTUALLY SEE WHAT THE DOCUMENT  
17 WAS THAT THEY RECOVERED.

18 BUT THEY TESTIFIED THAT THEY WERE

19 EMPLOYED BY THE LOS ANGELES SHERIFF'S DEPARTMENT.  
20 THEY RECOVERED AND BOOKED NINE PAGES OF NOTES FOUND  
21 IN THE CELL OF LYLE MENENDEZ. AND THAT'S BASICALLY  
22 ALL THEY TESTIFIED TO.

23       NOW YOU GET TO SEE WHAT IT IS THEY  
24 RECOVERED. WHAT THEY RECOVERED, LADIES AND  
25 GENTLEMEN, IS WHAT CAN ONLY BE CALLED "ESCAPE  
26 PLANS." THE INTENTION OF LYLE MENENDEZ TO ESCAPE  
27 FROM JAIL. THE ACTUAL DOCUMENT I HAVE HERE. I HAVE  
28 A XEROX COPY OF THE DOCUMENT HERE, AND YOU'LL GET TO

1 SEE THIS IN THE JURY ROOM.

2       BUT RIGHT NOW, WHAT I CAN DO -- I HAD  
3 SOME OF THIS BLOWN UP SO YOU CAN GET AN IDEA OF WHAT  
4 IT IS RIGHT NOW, THOUGH WHAT THIS REFLECTS HERE IS  
5 -- WHERE YOU SEE THIS BLUE LINE IS WHERE -- THIS IS  
6 THE OPPOSITE SIDE OF THE PAGE.

7       SO, FOR EXAMPLE, YOU SEE THESE FIRST  
8 FOUR ITEMS HERE. THAT'S ONE SIDE OF ONE PAGE.  
9 THERE'S A BLUE LINE, AND THAT REFLECTS THE OTHER  
10 SIDE OF THAT VERY SAME PAGE. I WILL GO THROUGH THIS  
11 DOCUMENT WITH YOU. WHEN THERE'S NO BLUE LINE, OF  
12 COURSE, IT REFLECTS A SINGLE PAGE OF DOCUMENT SUCH  
13 AS THAT, THE BLUE LINE REPRESENTING A BREAK IN THE

14 PAGE. WHAT THIS DOCUMENT SHOWS, LADIES AND  
15 GENTLEMEN, IS WENSKOSKI AGAIN. THE ACTIVITIES OF  
16 ERIK MENENDEZ --

17 MS. ABRAMSON: OBJECTION, YOUR HONOR.

18 MR. CONN: I'M SORRY. LYLE MENENDEZ. THE  
19 ACTIVITIES OF LYLE MENENDEZ. YOU KNOW HOW ACTIVE HE  
20 WAS IN SOLICITING PERJURY DURING THE TIME THAT HE  
21 WAS IN JAIL, TRYING TO SOLICIT PERJURY FROM JAMIE  
22 PISARCIK, TRYING TO SOLICIT PERJURY FROM BRIAN  
23 ESLAMINIA.

24 WELL, HE'S BEEN EVEN MORE ACTIVE THAN  
25 THAT, AS DEMONSTRATED IN THIS DOCUMENT. YOU CAN SEE  
26 HOW LYLE MENENDEZ WANTED TO ESCAPE FROM COUNTY  
27 JAIL. AND I'LL GO THROUGH SOME OF THESE ENTRIES ON  
28 THESE VARIOUS NOTES, AND YOU CAN SEE HOW CAREFULLY

1 HE CONSIDERED THE ESCAPE IN MANY WAYS. THE  
2 DOCUMENTS WHICH ARE IN FRONT OF YOU RIGHT NOW  
3 REFLECT A CONSIDERATION OF ALL OF THE FOLLOWING  
4 ITEMS:

5 NO. 1, THE ACTUAL PLACE OF THE VEHICLE  
6 THAT WILL TAKE HIM TO SAFETY. THERE'S A DRAWING OF  
7 WHERE HIS PORSCHE SHOULD BE. WHEN HE BREAKS OUT, OF  
8 COURSE, HE WANTS TO BREAK OUT IN HIS PORSCHE. SO HE

9 SHOWS WHERE HIS PORSCHE SHOULD BE SO HE CAN GET OUT  
10 OF THE JAIL CELL AND GO RIGHT TO THE PORSCHE WHICH  
11 WILL TAKE HIM TO SAFETY.

12 POSSIBLE DESTINATIONS AND POSSIBLE  
13 ROUTES WHERE HE CAN GET TO THOSE DESTINATIONS; NOTES  
14 IN THERE CONCERNING EXTRADITION; THE COST OF THE  
15 ESCAPE; FINANCING OF THE ESCAPE; VISAS; PASSPORTS.

16 THE NEED FOR WEAPONS AND SILENCERS IN  
17 PARTICULAR; THE NEED FOR MONEY; THE NEED FOR  
18 SECURITY; THE NEED FOR SAFE HOUSES TO HIDE IN PRIOR  
19 TO THE ARRIVAL AT DESTINATION POINTS; THE NEED FOR  
20 PERSONS WHO COULD PROVIDE SOME ASSISTANCE; THE NEED  
21 FOR CHANGES OF APPEARANCE IN IDENTITIES; THE EFFORTS  
22 THAT WILL BE MADE --

23 MS. ABRAMSON: YOUR HONOR, I'M GOING TO  
24 OBJECT AND ASK TO APPROACH.

25 THE COURT: OKAY. THAT REQUEST IS DENIED.

26 BUT JUST TO REFRESH THE JURIES'  
27 RECOLLECTION, THE EVIDENCE RELATING TO THE MATERIAL  
28 THAT WAS RECOVERED IN THE CELL OF LYLE MENENDEZ IS

1 BEING REFERRED TO AS RECEIVED ONLY AS TO DEFENDANT  
2 LYLE MENENDEZ. IT IS TO BE CONSIDERED ONLY AS TO  
3 DEFENDANT, LYLE MENENDEZ.

4 MR. CONN: OKAY. THE NEED FOR A CHANGE OF  
5 APPEARANCES AND IDENTITY; THE EFFORTS THAT WILL BE  
6 MADE TO SEARCH FOR HIM; THE PATH OF LEAST LIKELY  
7 PURSUIT; A CONSIDERATION OF WHO ELSE ALREADY HAS  
8 BEEN INFORMED ABOUT THE ESCAPE PLANS, SUGGESTING  
9 THAT HE HAS DISCUSSED THE PLAN WITH ONE OR MORE  
10 OTHER PERSONS; A CONSIDERATION OF WHO ELSE MIGHT  
11 LEARN ABOUT SOME ASPECT OF THE PLAN; THE NEED FOR  
12 FUTURE FINANCIAL SECURITY; CONSIDERATION OF WHETHER  
13 HE WILL BE ABLE TO OWN HIS OWN BUSINESS, BUSINESSES  
14 IN THIS PLACE WHERE HE MAY EVENTUALLY END UP, IN A  
15 CONSIDERATION OF WHETHER YOU CAN BLEND INTO THE  
16 CULTURE IN WHICH HE CHOOSES TO LIVE; CONSIDERATION  
17 OF FOREIGN LANGUAGE; DIFFICULTY AND CONSIDERATION  
18 THAT FOR A PERIOD OF TIME HE MIGHT HAVE TO REMAIN IN  
19 THAT FOREIGN CULTURE; AND FINALLY, CONSIDERATION OF  
20 EVEN HOW HIS GIRLFRIEND FITS INTO HIS PLAN.

21 SO ALL OF THESE CONSIDERATIONS YOU WILL  
22 FIND TO BE CONTAINED IN THESE ESCAPE PLANS OF LYLE  
23 MENENDEZ, WHICH YOU MAY CONSIDER AS CONSCIOUSNESS OF  
24 HIS GUILT AND STATE OF MIND. OBVIOUSLY, LYLE  
25 MENENDEZ IS NOT A PERSON PLANNING ON STANDING TRIAL  
26 IF HE DOESN'T HAVE TO. HE DID HIS BEST TO TRY TO  
27 CONJURE UP THE PERJURY THAT MIGHT POSSIBLY RESULT IN  
28 A FAVORABLE DISPOSITION BY A JURY, IF HE COULD TRICK

1 A JURY. HE HAD PLANS BEHIND PLANS, YOU SEE, BEHIND  
2 PLANS, TO TRICK A JURY, WAS THE PLAN TO ESCAPE. AND  
3 THAT IS REFLECTED HERE IN THESE DOCUMENTS.

4 PLEASE EXPLAIN FURTHER THE DIFFERENT  
5 WAYS TO ENTER MEXICO. DO YOU HAVE A SECURE PLACE TO  
6 STAY IN COLUMBIA? DO YOU NEED VISAS TO GO TO  
7 LONDON? IS IT SAFE TO TRAVEL FROM LEBANON TO SOUTH  
8 AMERICA? WHAT OTHER ROUTES WOULD BE GOOD, TO GO  
9 THROUGH BELGIUM? LEAST LIKELY PURSUIT, CANADA,  
10 LONDON. MOST LIKELY PURSUIT CONNECTION. COLUMBIA,  
11 LEBANON, FRANCE, SAN DIEGO, TRAVEL EAST O.N.S.

12 SMALL PLANE TO CANADA, OR BRIAN'S HOME  
13 TO GRANDDAD'S CAMP. YOU REMEMBER THERE WAS  
14 REFERENCE TO THE GRANDFATHER LIVING IN CANADA.

15 THEN BY CAR OR TORONTO. MARK H.  
16 CONNECTION. MARK HEFFERNAN. TO LONDON, ED'S  
17 CONNECTION.

18 HERE'S THE ACTUAL ESCAPE. HERE'S WHERE  
19 HE WANTS HIS PORSCHE TO BE. IF YOU'RE GOING TO  
20 BREAK OUT OF JAIL, YOU MIGHT AS WELL DRIVE YOUR  
21 PORSCHE. L.A. TO LEBANON. THREE PASSPORTS,  
22 DIFFERENT NAMES. ASK IF COULD HIDE IN NEW JERSEY.  
23 TOLD LENNY ESCAPE. L.C.M.C. HOSPITAL, 7,000 MOST  
24 WANTED.

25 NEED SILENCER, NEED FINANCING. HOW TO  
26 TRANSFER MONEY, HOW TO COMMUNICATE OVERSEES, PAY FOR



27 LENNY FLIGHT MONEY. WHO'S THE CONTACT? ED PAYS,

28 LEBANON, SECURITY, EXTRADITION. CHANGE NAME.

1 CHANGE APPEARANCE. PLASTIC SURGEON. SEPARATE

2 PASSPORTS. BEVERLY HILLS PHONE TAPPED.

3         SAFE HOUSES, REFERENCE TO SAFE HOUSES

4 DOWN THERE IN LONDON. LIST OF NAMES, JULIE P.,

5 JAMIE KERRY P., MARK HEFFERNAN. MARK HEFFERNAN,

6 ALIA, A-L-I-A. P. BREAK. PRISON BREAK, PERHAPS.

7         NO. 2, RIDE SAFE HOUSE, MARK H. CANADA,

8 LONDON. MARK S., MEXICO. COLUMBIA. TERRY, CARLOS

9 MENENDEZ. WHERE IS DESTINATION. LEBANON. WHY?

10 WHAT IS THE PROTECTION? ED A CITIZEN? CAN BLEND IN

11 HOW? WHAT IF ED DIES? PRIVATE PROTECTION. HOW

12 WILL IT ALL BE ARRANGED? WHAT FINANCIAL SECURITY

13 WILL WE HAVE? EVENTUALLY MOVE. GIRLFRIEND -- HOW

14 GIRLFRIEND FITS IN. THE SWISS BANK SECURITY. CAN

15 GET APPEARANCE CHANGED. WHO WILL THEY BE LOOKING

16 FOR? OWN PROPERTY. BUSINESSES. THAT'S ALL.

17         THIS IS SOMETHING THAT YOU CAN CONSIDER

18 AGAINST LYLE MENENDEZ AND HIS CONSCIOUSNESS OF GUILT

19 IN CONNECTION WITH THESE CRIMES.

20         THEN WE HEARD FROM GLENN STEVENS, AND

21 GLENN STEVENS SAID THAT HE WAS CALLED TO TESTIFY TO

22 SEVERAL INCRIMINATING STATEMENTS BY LYLE MENENDEZ.  
23 WE KNOW FROM DONOVAN GOODREAU THAT THE WALLET WAS  
24 LEFT BEHIND AT PRINCETON WHILE GLENN STEVENS WAS  
25 THERE, ALSO ONE OF THE FRIENDS OF LYLE MENENDEZ WHO  
26 WAS FAMILIAR WITH THAT OCCASION. HE SAID THAT HE  
27 HUNG OUT WITH SOME OF THOSE NAMES THAT YOU'VE HEARD  
28 AS BEING FRIENDS OF LYLE MENENDEZ, PEOPLE LIKE GREG

1 GUEST, HAYDEN ROGERS, AND DONOVAN GOODREAU.

2 HE SAID THAT HE RECALLED THE DAY THAT  
3 LYLE MENENDEZ ASKED DONOVAN GOODREAU TO LEAVE HIS  
4 APARTMENT. AND HE AND OTHERS HAD CONFRONTED LYLE  
5 MENENDEZ WITH THAT FACT THAT GOODREAU WAS NOT ALWAYS  
6 HONEST, AND FELT IT WAS TIME THAT LYLE MENENDEZ  
7 ASKED DONOVAN GOODREAU TO LEAVE. THEY FELT THAT  
8 GOODREAU WAS RESPONSIBLE FOR TAKING SOME MONEY OR  
9 SOMETHING.

10 YOU'LL RECALL THAT WITHIN AN HOUR OF  
11 DONOVAN GOODREAU LEAVING THE APARTMENT, LYLE  
12 MENENDEZ HELD UP DONOVAN'S WALLET AND HE LAUGHED,  
13 ADMITTING THAT HE HAD KEPT THE WALLET, AND THEY  
14 LOOKED THROUGH IT TOGETHER, AND THEY SAW, AMONG  
15 OTHER THINGS, THE DRIVER'S LICENSE THAT LYLE  
16 MENENDEZ LATER USED, ALONG WITH HIS BROTHER, TO

17 PURCHASE THE SHOTGUN IN SAN DIEGO. THE WALLET ALSO  
18 CONTAINED A CREDIT CARD, AND GLENN STEVENS TESTIFIED  
19 THAT LYLE MENENDEZ WANTED TO RECOVER MONEY THAT HE  
20 HAD ASSUMED HAD BEEN TAKEN BY DONOVAN GOODREAU.

21 WE KNOW THAT LYLE MENENDEZ WAS EAGER TO  
22 PURCHASE THE PORSCHE. HE PUSHED THE PORSCHE SHORTLY  
23 AFTER THE KILLING OF HIS PARENTS; AND GLENN STEVENS  
24 GAVE US A LITTLE INSIGHT INTO WHY HE WAS SO EAGER TO  
25 PURCHASE THAT PORSCHE. HE SAID THAT LYLE MENENDEZ,  
26 WHO USED TO DRIVE AN ALFA ROMEO, WHICH WAS A  
27 GRADUATION PRESENT FROM HIS PARENTS, WOULD REFER TO  
28 THAT CAR -- AN ALFA ROMEO AS, QUOTE, A PIECE OF

1 SHIT. HE RECALLED LYLE'S COMMENT AT THE WAKE IN  
2 PRINCETON THAT THE GOLD WATCH THAT HE WAS WEARING  
3 WAS HIS FATHER'S WATCH.

4 IT'S A VERY INTERESTING COMMENT, AND I  
5 WANT TO JUMP FORWARD AT THIS POINT A LITTLE BIT TO  
6 MARZI EISENBERG, BECAUSE THIS TIES IN VERY CLOSELY  
7 WITH SOMETHING THAT MARZI EISENBERG TESTIFIED TO.

8 YOU REMEMBER THAT MARZI EISENBERG  
9 TESTIFIED THAT SHE WAS A SECRETARY FOR JOSE  
10 MENENDEZ. AND SHE RECALLS THAT FOLLOWING THE  
11 KILLINGS SHE WAS -- SHE ATTENDED THE SERVICE, THE

12 FUNERAL SERVICE THAT WAS HELD HERE IN LOS ANGELES,  
13 AND SHE WAS RIDING IN THE LIMOUSINE. AND WHILE SHE  
14 WAS RIDING IN THE CAR WITH LYLE MENENDEZ, ERIK  
15 MENENDEZ, AND CARLOS MENENDEZ, SHE HAD A  
16 CONVERSATION WITH LYLE MENENDEZ IN WHICH HE MADE A  
17 REMARK TO HER, WHICH WAS SOMETHING TO THE EFFECT  
18 OF: "HEY, MARZI, WHOEVER SAID I COULDN'T FILL MY  
19 FATHER'S SHOES?"

20 AND SHE SAID SOMETHING TO THE EFFECT:  
21 "WELL, YOU HAVE TO MAKE YOUR OWN TRACKS IN LIFE," OR  
22 SOMETHING LIKE THAT.

23 AND HE SAID: "WELL, YOU DON'T  
24 UNDERSTAND. THESE ARE MY FATHER'S SHOES."

25 LADIES AND GENTLEMEN, I THINK THAT IT'S  
26 JUST A PASSING REMARK, BUT IT PROVIDES SOME INSIGHT  
27 INTO LYLE MENENDEZ AND HIS STATE OF MIND, AS I  
28 INDICATED. THE CONCERN IN THAT HOUSEHOLD WAS THE

1 FUTURE OF LYLE MENENDEZ IN CONNECTION WITH HIS  
2 FATHER'S EXPECTATIONS, AS WELL AS THE FUTURE OF ERIK  
3 MENENDEZ IN REGARDS TO HIS FATHER'S EXPECTATIONS,  
4 AND WHETHER THEY WERE EVER GOING TO LIVE UP TO THE  
5 EXPECTATIONS OF THEIR FATHER.

6 LYLE MENENDEZ WAS VERY PREOCCUPIED WITH

7 LIVING UP TO THE MENENDEZ NAME AND ACCOMPLISHING  
8 THINGS, AND BEING THE NEXT JOSE MENENDEZ; AND HERE  
9 HE MAKES A REMARK WHICH APPEARS TO MIRROR, IF ONLY  
10 IN A VERY METAPHORICAL WAY, THE FACT THAT HE WAS TO  
11 WALK IN HIS FATHER'S SHOES ONE DAY.

12 NOW, THE DEFENSE TOOK THAT REMARK VERY  
13 LITERALLY. WE PRESENTED THE EVIDENCE OF MARZI  
14 EISENBERG, AND THE DEFENSE WENT OUT AND BROUGHT IN A  
15 VIDEO. YOU RECALL THE VIDEO REPRESENTED A STILL  
16 SHOT FROM A VIDEO SHOWING THAT MARZI EISENBERG  
17 DESCRIBED THE SHOE DIFFERENTLY, OR THAT THE VIDEO,  
18 WHICH SHOWS LYLE MENENDEZ AND THE SHOES THAT HE WAS  
19 WEARING ON THAT PARTICULAR DAY, APPEAR TO BE  
20 DIFFERENT THAN HOW MARZI EISENBERG DESCRIBED THE  
21 SHOE HERE IN COURT. THEY ALSO PRESENTED EVIDENCE  
22 THAT LYLE MENENDEZ WORE A DIFFERENT SHOE SIZE THAN  
23 JOSE MENENDEZ.

24 BUT I THINK WHAT THE DEFENSE DID WAS  
25 THEY TOOK THAT REMARK A LITTLE TOO LITERALLY. WE  
26 ARE NOT SUGGESTING THAT THOSE SHOES WERE LITERALLY  
27 THE SHOES OF JOSE MENENDEZ. WE COULD CARE LESS  
28 WHETHER OR NOT THEY'RE JOSE MENENDEZ' SHOES. THE

1 POINT IS THAT LYLE MENENDEZ MADE A REMARK ABOUT,

2 "LOOK, I CAN WEAR MY FATHER'S SHOES, OR I CAN FILL  
3 MY FATHER'S SHOES."

4        THAT IS THE POINT OF THAT TESTIMONY. SO  
5 IT DOESN'T MATTER WHETHER OR NOT HE WEARS A  
6 DIFFERENT SHOE SIZE OR WHETHER OR NOT THEY WERE HIS  
7 FATHER'S SHOES. THERE IS -- THIS GOES HAND IN HAND  
8 WITH THE REMARK THAT HE MADE -- GOING BACK NOW TO  
9 GLENN STEVENS, BECAUSE JUST LIKE THE SHOES MAY NOT  
10 HAVE BEEN HIS ACTUAL FATHER'S SHOES, HE WAS WEARING  
11 WHEN HE SPOKE TO GLENN STEVENS, A GOLD WATCH -- AND  
12 HE SAID -- AND THAT WAS THE GOLD ROLEX WATCH -- HE  
13 SAID THAT THIS WAS HIS FATHER'S WATCH. GLENN  
14 STEVENS TESTIFIED THAT ONLY LATER DID HE FIND OUT  
15 THAT IT WAS LYLE WHO HAD PURCHASED THE WATCH.

16        SO ONCE AGAIN, WE HAVE LYLE MENENDEZ  
17 SPEAKING MORE METAPHORICALLY, OR FIGURATIVELY, ON  
18 TWO DIFFERENT OCCASIONS ABOUT HIS FATHER AND FILLING  
19 THE ROLE OF HIS FATHER, OR BECOMING HIS FATHER OR  
20 WEARING HIS FATHER'S PROPERTY OR POSSESSIONS, NOT SO  
21 MUCH A LITERAL INTERPRETATION OF WHAT HE IS DOING.

22        IT DEMONSTRATES LYLE MENENDEZ'  
23 PREOCCUPATION WITH FULFILLING HIS AMBITION TO BECOME  
24 THE NEXT JOSE MENENDEZ.

25        IN FACT, WHAT GLENN STEVENS RECALLS LYLE  
26 MENENDEZ SPECIFICALLY SAYING IS: "I'VE BEEN  
27 PREPARING" -- WHEN ASKED BY GLENN STEVENS HOW HE'S  
28 HANDLING THINGS, LYLE MENENDEZ SAID: "I'VE BEEN

1 PREPARING FOR THIS FOR SO LONG THAT THE TRANSITION  
2 WAS QUITE EASY."

3 AND THAT, I THINK, REFLECTS HIS STATE OF  
4 MIND, THAT HE ALWAYS INTENDED TO BECOME THE NEXT  
5 JOSE MENENDEZ.

6 AND, AGAIN, TALES OF THE MAFIA, YET  
7 AGAIN, FROM GLENN STEVENS. GLENN STEVENS RECALLS  
8 HOW HE SAW LYLE MENENDEZ WITH BODYGUARDS AND RECALLS  
9 THAT LYLE MENENDEZ TOLD HIM ABOUT NOEL BLOOM AND HIS  
10 FATHER'S QUESTIONABLE BUSINESS DEALINGS, AND LYLE  
11 MENENDEZ SPECIFICALLY TOLD HIM THAT THE MAFIA HAD  
12 SOMETHING TO DO WITH THE KILLINGS.

13 HE ALSO RECALLS LYLE MENENDEZ TALKING  
14 ABOUT A WILL IN A VERY SIGNIFICANT WAY. AS I  
15 INDICATED TO YOU, LYLE MENENDEZ HAD A TWOFOLD PLAN.  
16 NUMBER ONE WAS TO GET HIS HANDS ON THE OLD WILL AS  
17 SOON AS POSSIBLE; AND NUMBER TWO, GET HIS HANDS ON  
18 THE NEW WILL, IF ONE EXISTED, AND DESTROY IT. IF IT  
19 WAS ON THE COMPUTER, DESTROY IT ON THE COMPUTER.  
20 THAT'S WHY HE HIRED HOWARD WITKIN, TO DESTROY THE  
21 WILL IN THE COMPUTER.

22 STEVENS RECALLED THE TRIP THAT LYLE  
23 MENENDEZ TOOK TO LOS ANGELES. LYLE MENENDEZ HAD  
24 TOLD HIM THAT FAMILY MEMBERS FOUND THREE ENTRIES ON  
25 THE FAMILY COMPUTER: MENENDEZ, LIST, AND WILL.

26 LYLE MENENDEZ TOLD HIM THE OLD WILL HAD LEFT  
27 EVERYTHING TO HIM AND HIS BROTHER, AND THAT HE WAS  
28 NOT SURE THAT HE WOULD BE IN THE NEW WILL, IF ONE

1 WERE TO BE FOUND. AND HE LATER TOLD HIM THAT --  
2 AFTER THE TRIP TO LOS ANGELES -- LYLE MENENDEZ TOLD  
3 HIM THAT HE HAD FOUND, QUOTE, A LITTLE JEWISH GUY --  
4 OBVIOUSLY, HE WAS REFERRING TO MR. WITKIN, IN THE  
5 YELLOW PAGES WHO COULD GET INTO COMPUTERS AND ERASE  
6 WHAT WAS IN THE COMPUTER.

7       SO, AGAIN, WE HAVE THE CONCERN HERE OF  
8 LYLE MENENDEZ EXPRESSING TO GLENN STEVENS THAT HE  
9 WAS CONCERNED HE MIGHT NOT BE IN THE NEW WILL IF ONE  
10 WERE TO BE FOUND. ONCE AGAIN, A CONFIRMATION FROM  
11 LYLE MENENDEZ THAT HE DID NOT BELIEVE THERE WAS  
12 NECESSARILY A WILL. NO ONE KNEW WHETHER THERE WAS  
13 ANOTHER WILL.

14       MORE ABOUT THE MAFIA. STEVENS WAS WITH  
15 LYLE MENENDEZ WHEN HE TEST-DROVE AND LATER BOUGHT  
16 THE PORSCHE. YOU RECALL THAT AFTER LYLE MENENDEZ  
17 HAD DROPPED THE BODYGUARDS AND HIRED HAYDEN ROGERS  
18 TO RUN THE RESTAURANT, HE WANTED TO OBTAIN A HANDGUN  
19 PERMIT SO HE COULD HIRE -- HAVE HIM HIRE A  
20 BODYGUARD.



21 HE EXPRESSED CONCERN ABOUT HIS SAFETY.  
22 HE SAID THAT LYLE TOLD STEVENS THAT WHEN STEVENS  
23 STEPPED OUT OF THE MEETING FOR A MOMENT WITH HIS  
24 FATHER'S EX-PARTNER, HIS FATHER'S EX-PARTNER HAD  
25 TOLD HIM HE KNEW WHO WAS RESPONSIBLE FOR THE KILLING  
26 OF HIS PARENTS, AND HE WOULD PUT OUT THE WORD TO  
27 LEAVE LYLE ALONE.

28 ONCE AGAIN, LYLE IS STILL GOING AROUND,

1 AT THIS POINT, TOYING WITH THIS MAFIA THEORY AS  
2 BEHIND THE KILLING OF HIS PARENTS.

3 AND THEN WE HAVE ONE OF THE MOST  
4 SIGNIFICANT THINGS THAT GLENN STEVENS TESTIFIES TO,  
5 IN REGARD TO STATEMENTS MADE TO HIM BY LYLE MENENDEZ  
6 ON THE FLIGHT TO LOS ANGELES IMMEDIATELY BEFORE HE  
7 WAS ARRESTED IN LOS ANGELES. LYLE MENENDEZ MADE A  
8 PHONE CALL ON THE PLANE AND LEARNED THAT THE BEVERLY  
9 HILLS POLICE DEPARTMENT HAD BEEN ASKING QUESTIONS AT  
10 CHUCK'S SPRING STREET CAFE, WHICH LYLE HAD RECENTLY  
11 RENAMED "MR. BUFFALOS".

12 LYLE MENENDEZ BECAME VERY NERVOUS AFTER  
13 THIS PHONE CALL, AND GAVE STEVENS THE BUSINESS CARD  
14 OF HIS ATTORNEY, GERRY CHALEFF, AND HE SPLIT A  
15 COUPLE OF THOUSAND DOLLARS BETWEEN HIM AND HAYDEN

16 ROGERS, AND HE SAID IF ANYTHING HAPPENED TO HIM IN  
17 LOS ANGELES, THAT STEVENS SHOULD CALL GERRY  
18 CHALEFF. AND THEN CAME THE BOMBSHELL. HE SAID THAT  
19 CHALEFF AND HIS PSYCHIATRIST, DR. OZIEL, WERE THE  
20 ONLY ONES WHO, QUOTE, KNEW EVERYTHING.

21 SO LYLE MENENDEZ TOLD GLENN STEVENS  
22 GERRY CHALEFF KNEW EVERYTHING. DR. OZIEL KNEW  
23 EVERYTHING. HE TOLD HIM THAT ON THE PLANE COMING TO  
24 LOS ANGELES JUST BEFORE HIS ARREST.

25 AND HE SAID, REGARDING THE  
26 TAPE-RECORDINGS, THAT DR. OZIEL HAD IN HIS SAFETY  
27 BOX, HE SAID: "IF THE POLICE EVER GET THEIR HANDS ON  
28 THESE TAPES," -- AND EXCUSE MY LANGUAGE. IT'S HIS

1 CHOICE OF WORDS -- HE SAID, "I'M FUCKED."

2 GLENN STEVENS ALSO DESCRIBED LYLE  
3 MENENDEZ AS BEING MORE ARROGANT AND CONDESCENDING  
4 FOLLOWING THE KILLING OF HIS PARENTS. HE DESCRIBED  
5 HOW LYLE MENENDEZ WOULD BERATE EMPLOYEES AT, QUOTE,  
6 MENENDEZ INVESTMENT ENTERPRISES. THAT WAS GOING TO  
7 BE HIS BUSINESS. HOW HE WOULD LAUGH AT SUGGESTIONS  
8 BY HIS EMPLOYEES, CALLING THEM RIDICULOUS.

9 ONCE AGAIN, TRYING TO FILL THE SHOES OF  
10 JOSE MENENDEZ, PRETENDING TO BE JOSE MENENDEZ,

11 PRETENDING TO BE THE RUTHLESS BUSINESSMAN.  
12 DOES THE COURT WISH TO BREAK AT THIS  
13 TIME?

14 THE COURT: OKAY. WE'LL RESUME TOMORROW AT  
15 8:30.

16 HOPEFULLY, WE'LL GET A PROMPT START  
17 TOMORROW MORNING. DON'T DISCUSS THE MATTER WITH  
18 ANYONE, AND DON'T FORM ANY FINAL OPINIONS. DON'T  
19 LOOK AT ANY OF THE NEWS COVERAGE.

20 SEE YOU ALL BACK HERE AT 8:30.

21 (AT 4:30 P.M. PROCEEDINGS WERE  
22 ADJOURNED UNTIL 8:30 A.M THE  
23 FOLLOWING DAY.)

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG JUDGE

4 THE PEOPLE OF THE STATE OF )  
5 CALIFORNIA, )  
6 )  
6 PLAINTIFFS, )  
7 )  
7 VS. ) NO. BA 068880  
8 )  
8 ERIK GALEN MENENDEZ, AND )  
9 JOSEPH LYLE MENENDEZ, )  
10 )  
10 DEFENDANTS. )  
11 )

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 WEDNESDAY, FEBRUARY 21, 1996

14 VOLUME 300

15

16

17

18

19

20

APPEARANCES:  
21 (SEE APPEARANCE PAGE)

22

23

24

25

26

27

28

1 APPEARANCES:

2

FOR THE PEOPLE: GIL GARCETTI  
3 DISTRICT ATTORNEY  
BY: DAVID CONN, DEPUTY  
4 AND  
CAROL NAJERA, DEPUTY  
5 18000 CRIMINAL COURTS BLDG.  
210 WEST TEMPLE STREET  
6 LOS ANGELES, CA 90012

7

8  
FOR THE DEFENDANT  
9 JOSEPH LYLE MENENDEZ: MICHAEL P. JUDGE,  
PUBLIC DEFENDER  
10 BY: CHARLES GESSLER, DEPUTY  
AND  
11 TERRI TOWERY, DEPUTY  
210 WEST TEMPLE  
12 LOS ANGELES, CA 90012

13

14

FOR THE DEFENDANT  
15 ERIK GALEN MENENDEZ: LESLIE ABRAMSON  
ATTORNEY AT LAW  
16 4929 WILSHIRE BOULEVARD  
SUITE 940  
17 LOS ANGELES, CA 90010  
  
18 BARRY LEVIN, ESQ.  
11661 SAN VICENTE BOULEVARD  
19 LOS ANGELES, CA 90049

20

21

MARY LU MURPHY  
22 CSR NO. 5178  
MARILYN FADALE,  
23 CSR NO. 4547  
OFFICIAL REPORTERS

24

25

26

27

28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES

4 THE PEOPLE OF THE STATE OF )  
5 CALIFORNIA, )  
6 )  
7 )  
8 )  
9 )  
10 )  
11 )  
12 )  
13 )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

PLAINTIFFS, )

VS. ) NO. BA 068880

ERIK GALEN MENENDEZ, AND )

JOSEPH LYLE MENENDEZ, )

DEFENDANTS. )

REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, FEBRUARY 21, 1996

VOLUME 300

APPEARANCES:

(SEE APPEARANCE PAGE)

1 APPEARANCES:

2

3 FOR THE PEOPLE: GIL GARCETTI  
4 DISTRICT ATTORNEY  
5 BY: DAVID CONN, DEPUTY  
6 AND  
7 CAROL NAJERA, DEPUTY  
8 18000 CRIMINAL COURTS BLDG.  
9 210 WEST TEMPLE STREET  
10 LOS ANGELES, CA 90012  
11

12

13 FOR THE DEFENDANT  
14 JOSEPH LYLE MENENDEZ: MICHAEL P. JUDGE,  
15 PUBLIC DEFENDER  
16 BY: CHARLES GESSLER, DEPUTY  
17 AND  
18 TERRI TOWERY, DEPUTY  
19 210 WEST TEMPLE  
20 LOS ANGELES, CA 90012  
21

22

23

24 FOR THE DEFENDANT  
25 ERIK GALEN MENENDEZ: LESLIE ABRAMSON  
26 ATTORNEY AT LAW  
4929 WILSHIRE BOULEVARD  
SUITE 940  
LOS ANGELES, CA 90010

27

28 BARRY LEVIN, ESQ.  
29 11661 SAN VICENTE BOULEVARD  
30 LOS ANGELES, CA 90049  
31

32

33

34 MARY LU MURPHY  
35 CSR NO. 5178  
36 MARILYN FADALE,  
37 CSR NO. 4547  
38 OFFICIAL REPORTERS  
39

40

41

27

28

1 INDEX FOR VOLUME 300 PAGES 50960 THROUGH 51136

2

---

3 DAY	DATE	SESSION	PAGE	VOL.
<hr/>				
4 WEDNESDAY, FEBRUARY 21, 1996	A.M.	50960	300	
WEDNESDAY, FEBRUARY 21, 1996	P.M.	51034	300	

5

6

PROCEEDINGS

7

8 OPENING ARGUMENT BY  
THE PEOPLE (CONTINUED) 50961 300

9

10

11

12

CHRONOLOGICAL INDEX OF WITNESSES

13

14 WITNESSES: DIRECT CROSS REDIRECT RECROSS VOL.  
(NONE THIS VOLUME.)

15

16

17

18

19

20

21



22 LEGEND:

23 A = MS. ABRAMSON

C = MR. CONN

24 G = MR. GESSLER

K = MS. TOWERY

25 L = MR. LEVIN

N = MS. NAJERA

26

27

28

1 EXHIBITS INDEX

2 EXHIBITS: MARKED RECEIVED VOL.  
(NONE MARKED THIS VOLUME.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28