

1 VAN NUYS, CALIFORNIA; WEDNESDAY, MARCH 20, 1996

2 11:45 A.M.

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

4 (APPEARANCES AS HERETOFORE NOTED.)

5

6 THE COURT: IN THE TRIAL, THE DEFENDANTS ARE

7 IN COURT. THEIR LAWYERS ARE HERE. THE PROSECUTION

8 IS HERE.

9 THE BAILIFF INFORMED ME THE JURY HAS

10 REACHED VERDICTS.

11 IN TAKING THE VERDICTS I WOULD ASK

12 COUNSEL TO STIPULATE THAT IN READING THE VERDICTS

13 THE CLERK NEED NOT READ THE NAME OF THE FOREMAN, BUT

14 JUST INDICATE THAT EACH VERDICT WAS SIGNED BY THE

15 FOREMAN, SO HIS NAME IS NOT READ IN OPEN COURT.

16 MS. ABRAMSON: SO STIPULATED.

17 MR. GESSLER: I'LL STIPULATE.

18 MR. CONN: SO STIPULATED.

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

20 (JURY ENTERS THE COURTROOM AND

21 THE FOLLOWING PROCEEDINGS WERE HELD:)

22

23 THE COURT: OKAY. THE JURY AND THE

24 ALTERNATES ARE IN COURT.

25 AND THE BAILIFF INFORMS ME THAT THE JURY

26 HAS REACHED VERDICTS IN THIS CASE. IS THAT

27 CORRECT?

28 THE FOREMAN: WE HAVE, YOUR HONOR.

1 THE COURT: DO YOU HAVE ALL THE VERDICT FORMS  
2 WITH YOU?

3 THE FOREMAN: YES.

4 THE COURT: BOTH THE SIGNED AND UNSIGNED  
5 FORMS?

6 THE FOREMAN: YES, YOUR HONOR.

7 THE COURT: WOULD YOU GIVE THEM TO THE  
8 BAILIFF, PLEASE.

9 THE BAILIFF: THANK YOU.

10 (BRIEF PAUSE.)

11

12 THE COURT: WHAT I'M GOING TO DO IS RETURN  
13 THE FORMS TO THE FOREMAN. I KNOW WE'VE BEEN USING  
14 YOUR NUMERICAL DESIGNATION, RATHER THAN YOUR NAME IN  
15 COURT, AND WE WILL CONTINUE TO DO THAT FOR THESE  
16 PROCEEDINGS. BUT I NEED YOUR SIGNATURE ON THE  
17 FORM.

18 SO I WANT TO RETURN THEM ALL TO YOU, THE  
19 FORMS THAT HAVE BEEN FILLED OUT, AND I'D ASK THAT  
20 YOU SIGN THEM BEFORE WE TAKE THE VERDICTS.

21 (FOREMAN SIGNING VERDICT FORMS.)

22

23 THE COURT: HAVE YOU SIGNED EACH ONE?

24 THE FOREMAN: YES.  
25 THE COURT: OKAY. WE'LL HAVE THE CLERK READ  
26 THE VERDICTS.  
27 THE CLERK: TITLE OF COURT AND CAUSE:  
28 "WE, THE JURY IN THE

52495

1 ABOVE-ENTITLED ACTION, FIND THE  
2 DEFENDANT, JOSEPH LYLE MENENDEZ,  
3 GUILTY OF MURDER IN VIOLATION OF  
4 SECTION 187(A) OF THE PENAL CODE OF  
5 THE STATE OF CALIFORNIA, A FELONY, AS  
6 CHARGED IN COUNT 1 OF THE INFORMATION,  
7 VICTIM, JOSE MENENDEZ. WE FIND THE  
8 MURDER TO BE IN THE FIRST DEGREE.  
9 "WE FURTHER FIND THE SPECIAL  
10 CIRCUMSTANCE ALLEGATION THAT THE  
11 DEFENDANT, JOSEPH LYLE MENENDEZ,  
12 INTENTIONALLY KILLED JOSE MENENDEZ  
13 WHILE LYING IN WAIT, WITHIN THE  
14 MEANING OF PENAL CODE SECTION  
15 190.2(A)(15) TO BE TRUE.  
16 "THIS 20TH DAY OF MARCH 1996,  
17 FOREMAN."  
18 TITLE OF COURT AND CAUSE:

19 "WE, THE JURY IN THE  
20 ABOVE-ENTITLED ACTION, FIND THE  
21 DEFENDANT, JOSEPH LYLE MENENDEZ,  
22 GUILTY OF MURDER IN VIOLATION OF  
23 SECTION 187(A) OF THE PENAL CODE OF  
24 THE STATE OF CALIFORNIA, A FELONY, AS  
25 CHARGED IN COUNT 2 OF THE INFORMATION.  
26 WE FIND THE MURDER TO BE IN THE FIRST  
27 DEGREE.  
28

52496

1 "WE FURTHER FIND THE SPECIAL  
2 CIRCUMSTANCE ALLEGATION THAT THE  
3 DEFENDANT, JOSEPH LYLE MENENDEZ,  
4 INTENTIONALLY KILLED MARY LOUISE  
5 MENENDEZ WHILE LYING IN WAIT, WITHIN  
6 THE MEANING OF PENAL CODE SECTION  
7 190.2(A)(15) TO BE TRUE.

8 "WE FURTHER FIND THE SPECIAL  
9 CIRCUMSTANCE ALLEGATION THAT THE  
10 DEFENDANT, JOSEPH LYLE MENENDEZ,  
11 COMMITTED MULTIPLE MURDER, WITHIN THE  
12 MEANING OF PENAL CODE SECTION  
13 190.2(A)(3) TO BE TRUE.

14 "THIS 20TH DAY OF MARCH 1996,  
15 FOREMAN."  
16 TITLE OF COURT AND CAUSE:  
17 "WE, THE JURY IN THE  
18 ABOVE-ENTITLED ACTION, FIND THE  
19 DEFENDANT, JOSEPH LYLE MENENDEZ,  
20 GUILTY OF CONSPIRACY TO COMMIT A  
21 CRIME, IN VIOLATION OF SECTION 182.1  
22 OF THE PENAL CODE OF THE STATE OF  
23 CALIFORNIA, A FELONY, AS CHARGED IN  
24 COUNT 3 OF THE INFORMATION.  
25 "WE, THE JURY, HAVING FOUND THE  
26 DEFENDANT, JOSEPH LYLE MENENDEZ,  
27 GUILTY OF CONSPIRACY, FIND THAT THE  
28 DEFENDANT CONSPIRED TO COMMIT THE

52497

1 FOLLOWING CRIME, OF WHICH THERE HAS  
2 BEEN PLACED AN "X." THE "X" IS IN  
3 MURDER IN VIOLATION OF PENAL CODE  
4 SECTION 187(A).  
5 "THIS 20TH DAY OF MARCH 1996,  
6 FOREMAN."  
7 TITLE OF COURT AND CAUSE:  
8 "WE, THE JURY IN THE

9 ABOVE-ENTITLED ACTION, FIND THE  
10 DEFENDANT, ERIK GALEN MENENDEZ, GUILTY  
11 OF MURDER IN VIOLATION OF SECTION  
12 187(A) OF THE PENAL CODE OF THE STATE  
13 OF CALIFORNIA, A FELONY, AS CHARGED IN  
14 COUNT 1 OF THE INFORMATION, VICTIM,  
15 JOSE MENENDEZ. WE FIND THE MURDER TO  
16 BE IN THE FIRST DEGREE.

17 "WE FURTHER FIND THE SPECIAL  
18 CIRCUMSTANCE ALLEGATION THAT THE  
19 DEFENDANT, ERIK GALEN MENENDEZ,  
20 INTENTIONALLY KILLED JOSE MENENDEZ  
21 WHILE LYING IN WAIT, WITHIN THE  
22 MEANING OF PENAL CODE SECTION  
23 190.2(A)(15) TO BE TRUE.

24 "THIS 20TH DAY OF MARCH 1996,  
25 FOREMAN."

26 TITLE OF COURT AND CAUSE:

27 "WE, THE JURY IN THE  
28 ABOVE-ENTITLED ACTION, FIND THE

52498

1 DEFENDANT, ERIK GALEN MENENDEZ, GUILTY  
2 OF MURDER IN VIOLATION OF SECTION  
3 187(A) OF THE PENAL CODE OF THE STATE

4 OF CALIFORNIA, A FELONY, AS CHARGED IN  
5 COUNT 2 OF THE INFORMATION, VICTIM  
6 MARY LOUISE MENENDEZ. WE FIND THE  
7 MURDER TO BE IN THE FIRST DEGREE.

8 "WE FURTHER FIND THE SPECIAL  
9 CIRCUMSTANCE ALLEGATION THAT THE  
10 DEFENDANT, ERIK GALEN MENENDEZ,  
11 INTENTIONALLY KILLED MARY LOUISE  
12 MENENDEZ WHILE LYING IN WAIT, WITHIN  
13 THE MEANING OF PENAL CODE SECTION  
14 190.2(A)(15) TO BE TRUE.

15 "WE FURTHER FIND THE SPECIAL  
16 CIRCUMSTANCE ALLEGATION THAT THE  
17 DEFENDANT, ERIK GALEN MENENDEZ,  
18 COMMITTED MULTIPLE MURDERS WITHIN THE  
19 MEANING OF PENAL CODE SECTION  
20 190.2(A)(3) TO BE TRUE.

21 "THIS 20TH DAY OF MARCH 1996,  
22 FOREMAN."

23 TITLE OF COURT AND CAUSE:

24 "WE, THE JURY IN THE  
25 ABOVE-ENTITLED ACTION, FIND THE  
26 DEFENDANT, ERIK GALEN MENENDEZ, GUILTY  
27 OF CONSPIRACY TO COMMIT A CRIME IN  
28 VIOLATION OF SECTION 182.1 OF THE

1 PENAL CODE OF THE STATE OF CALIFORNIA,  
2 A FELONY, AS CHARGED IN COUNT 3 OF THE  
3 INFORMATION.

4 "WE, THE JURY, HAVING FOUND THE  
5 DEFENDANT, ERIK GALEN MENENDEZ, GUILTY  
6 OF CONSPIRACY, FIND THAT THE DEFENDANT  
7 CONSPIRED TO COMMIT THE FOLLOWING  
8 CRIME OF WHICH THERE HAS BEEN PLACED  
9 AN "X." THE "X" IS AT MURDER IN  
10 VIOLATION OF PENAL CODE SECTION  
11 187(A).

12 "THIS 20TH DAY OF MARCH 1996,  
13 FOREMAN."

14 LADIES AND GENTLEMEN OF THE JURY,  
15 ARE THESE YOUR VERDICTS?

16 (ALL ANSWERED IN THE AFFIRMATIVE.)  
17

18 THE CLERK: SO SAY YOU ONE, SO SAY YOU ALL.

19 (ALL ANSWERED IN THE AFFIRMATIVE.)  
20

21 THE COURT: DO YOU WISH THE JURY POLLED?

22 MR. GESSLER: YES, YOUR HONOR.

23 MS. ABRAMSON: YES.

24 THE COURT: IS IT AGREEABLE WITH, FIRST OF  
25 ALL, COUNSEL FOR LYLE MENENDEZ, THAT THE JURY BE  
26 POLLED ON ALL THREE COUNTS AND SPECIAL ALLEGATIONS  
27 AT THE SAME TIME?



52500

1 COUNT, YOUR HONOR.

2 THE COURT: ALL RIGHT.

3 LADIES AND GENTLEMEN, WHAT WE WILL DO --

4 POLLING MEANS THAT THE CLERK WILL ASK EACH OF YOU

5 INDIVIDUALLY WHETHER THIS IS YOUR VERDICT. YOU'VE

6 HEARD THE VERDICTS ANNOUNCED IN COURT.

7 AND WE'LL START FIRST WITH THE

8 DEFENDANT, LYLE MENENDEZ, AS TO COUNT 1, IN WHICH

9 THE VERDICT READ INDICATES YOU FOUND THE DEFENDANT

10 GUILTY OF MURDER, FOUND IT TO BE FIRST-DEGREE

11 MURDER, AND FOUND THAT THE SPECIAL CIRCUMSTANCE

12 ALLEGATION, LYING IN WAIT, WAS TRUE.

13 IF THESE WERE YOUR VERDICTS, ANSWER

14 YES. IF THEY WERE NOT YOUR VERDICTS, ANSWER NO.

15 THE CLERK: 1328?

16 JUROR NO. 1: YES.

17 THE CLERK: 1313?

18 JUROR NO. 2: YES.

19 THE CLERK: 1501?

20 JUROR NO. 3: YES.

21 THE CLERK: 1505?

22 JUROR NO. 4: YES.

23 THE CLERK: 1912?  
24 JUROR NO. 5: YES.  
25 THE CLERK: 1218?  
26 JUROR NO. 6: YES.  
27 THE CLERK: 1114?  
28 JUROR NO. 7: YES.

52501

1 THE CLERK: 1530?  
2 JUROR NO. 8: YES.  
3 THE CLERK: 1340?  
4 JUROR NO. 9: YES.  
5 THE CLERK: 1214?  
6 JUROR NO. 10: YES.  
7 THE CLERK: 1935?  
8 JUROR NO. 11: YES.  
9 THE CLERK: 1325?  
10 JUROR NO. 12: YES.  
11 THE CLERK: IT'S UNANIMOUS.  
12 THE COURT: OKAY. NOW, WE'LL GO TO COUNT 2.  
13 THE DEFENDANT, LYLE MENENDEZ, THE VERDICT AS READ  
14 WAS FIRST-DEGREE MURDER. THE SPECIAL ALLEGATIONS  
15 FOUND TRUE WERE LYING IN WAIT AND MULTIPLE MURDER.  
16 IF THESE WERE YOUR VERDICTS AND SPECIAL  
17 FINDINGS, ANSWER YES. IF THEY WERE NOT YOUR

18 VERDICTS, ANSWER NO.

19 THE CLERK: 1328?

20 JUROR NO. 1: YES.

21 THE CLERK: 1313?

22 JUROR NO. 2: YES.

23 THE CLERK: 1501?

24 JUROR NO. 3: YES.

25 THE CLERK: 1505?

26 JUROR NO. 4: YES.

27 THE CLERK: 1912?

28 JUROR NO. 5: YES.

52502

1 THE CLERK: 1218?

2 JUROR NO. 6: YES.

3 THE CLERK: 1114?

4 JUROR NO. 7: YES.

5 THE CLERK: 1530?

6 JUROR NO. 8: YES.

7 THE CLERK: 1340?

8 JUROR NO. 9: YES.

9 THE CLERK: 1214?

10 JUROR NO. 10: YES.

11 THE CLERK: 1935?

12 JUROR NO. 11: YES.

13 THE CLERK: 1325?  
14 JUROR NO. 12: YES.  
15 THE CLERK: IT'S UNANIMOUS.  
16 THE COURT: AND AS TO COUNT 3, THE DEFENDANT,  
17 LYLE MENENDEZ, THE CRIME OF CONSPIRACY, THE VERDICT  
18 AS READ IS A VERDICT OF GUILTY WITH THE ALLEGATION  
19 THAT THE CRIME CONSPIRED WAS THE CRIME OF MURDER.  
20 IF THIS WAS YOUR VERDICT AND FINDINGS,  
21 ANSWER YES. IF THIS WAS NOT YOUR VERDICT, ANSWER  
22 NO.  
23 THE CLERK: 1328?  
24 JUROR NO. 1: YES.  
25 THE CLERK: 1313?  
26 JUROR NO. 2: YES.  
27 THE CLERK: 1501.  
28 JUROR NO. 3: YES.

52503

1 THE CLERK: 1505?  
2 JUROR NO. 4: YES.  
3 THE CLERK: 1912?  
4 JUROR NO. 5: YES.  
5 THE CLERK: 1218?  
6 JUROR NO. 6: YES.  
7 THE CLERK: 1114?

8 JUROR NO. 7: YES.  
9 THE CLERK: 1530?  
10 JUROR NO. 8: YES.  
11 THE CLERK: 1340?  
12 JUROR NO. 9: YES.  
13 THE CLERK: 1214?  
14 JUROR NO. 10: YES.  
15 THE CLERK: 1935?  
16 JUROR NO. 11: YES.  
17 THE CLERK: 1325?  
18 JUROR NO. 12: YES.  
19 THE CLERK: IT'S UNANIMOUS.  
20 THE COURT: OKAY. THE VERDICTS AS TO LYLE  
21 MENENDEZ, THE JURY HAS BEEN POLLED AS TO EACH. THEY  
22 ARE UNANIMOUS. THE CLERK WILL ORDER THESE VERDICTS  
23 RECORDED IN THE MINUTES OF THE COURT.  
24 DOES COUNSEL WAIVE READING OF THOSE  
25 VERDICTS AS RECORDED?  
26 MR. GESSLER: YES, YOUR HONOR.  
27 THE COURT: OKAY. DID YOU WISH THE JURY  
28 POLLED SEPARATELY AS TO EACH COUNT AS TO THE

52504

1 DEFENDANT, ERIK MENENDEZ?

2 MS. ABRAMSON: YES, YOUR HONOR.

3 THE COURT: OKAY. LIKEWISE NOW, WE WILL POLL

4 THE JURY AS TO THE DEFENDANT, ERIK MENENDEZ.

5 COUNT 1, THE VERDICT AS READ WAS

6 FIRST-DEGREE MURDER, A FINDINGS OF MURDER IN THE

7 FIRST DEGREE, A VERDICT OF SUCH, AND THE FINDING

8 TRUE OF THE SPECIAL ALLEGATION OF LYING IN WAIT. IF

9 THESE WERE YOUR VERDICTS AND FINDINGS, ANSWER YES.

10 IF THEY WERE NOT YOUR VERDICTS, ANSWER NO.

11 THE CLERK: 1328?

12 JUROR NO. 1: YES.

13 THE CLERK: 1313?

14 JUROR NO. 2: YES.

15 THE CLERK: 1501?

16 JUROR NO. 3: YES.

17 THE CLERK: 1505.

18 JUROR NO. 4: YES.

19 THE CLERK: 1912?

20 JUROR NO. 5: YES.

21 THE CLERK: 1218?

22 JUROR NO. 6: YES.

23 THE CLERK: 1114?

24 JUROR NO. 7: YES.

25 THE CLERK: 1530?

26 JUROR NO. 8: YES.

27 THE CLERK: 1340?

28 JUROR NO. 9: YES.

1 THE CLERK: 1214?

2 JUROR NO. 10: YES.

3 THE CLERK: 1935?

4 JUROR NO. 11: YES.

5 THE CLERK: 1325?

6 JUROR NO. 12: YES.

7 THE CLERK: IT'S UNANIMOUS.

8 THE COURT: OKAY. NOW, AS TO COUNT 2, THE  
9 DEFENDANT, ERIK MENENDEZ. THE VERDICT AS READ WAS A  
10 VERDICT OF GUILTY OF FIRST-DEGREE MURDER AND A  
11 FINDING OF TRUE AS TO THE TWO SPECIAL ALLEGATIONS,  
12 SPECIAL CIRCUMSTANCE ALLEGATIONS OF LYING IN WAIT  
13 AND MULTIPLE MURDER.

14 IF THESE WERE YOUR VERDICTS AND SPECIAL  
15 FINDING, WOULD YOU ANSWER YES. IF THEY WERE NOT  
16 YOUR VERDICTS AND SPECIAL FINDING, ANSWER NO.

17 THE CLERK: 1328?

18 JUROR NO. 1: YES.

19 THE CLERK: 1313?

20 JUROR NO. 2: YES.

21 THE CLERK: 1501?

22 JUROR NO. 3: YES.

23 THE CLERK: 1505?

24 JUROR NO. 4: YES.

25 THE CLERK: 1912?

26 JUROR NO. 5: YES.  
27 THE CLERK: 1218?  
28 JUROR NO. 6: YES.

52506

1 THE CLERK: 1114?  
2 JUROR NO. 7: YES.  
3 THE CLERK: 1530?  
4 JUROR NO. 8: YES.  
5 THE CLERK: 1340?  
6 JUROR NO. 9: YES.  
7 THE CLERK: 1214?  
8 JUROR NO. 10: YES.  
9 THE CLERK: 1935?  
10 JUROR NO. 11: YES.  
11 THE CLERK: 1325?  
12 JUROR NO. 12: YES.  
13 THE CLERK: IT'S UNANIMOUS.  
14 THE COURT: ALL RIGHT. NOW WE'LL POLL THE  
15 JURY AS TO COUNT 3.  
16 AS TO THE DEFENDANT, ERIK MENENDEZ, THE  
17 VERDICT AS READ WAS GUILTY OF CONSPIRACY. THE CRIME  
18 HE CONSPIRED TO COMMIT WAS THE CRIME OF MURDER AS  
19 READ IN THE VERDICT.  
20 IF THIS WAS YOUR VERDICT AND FINDING,



21 ANSWER YES. IF IT WAS NOT YOUR VERDICT, ANSWER NO.

22 THE CLERK: 1328?

23 JUROR NO. 1: YES.

24 THE CLERK: 1313?

25 JUROR NO. 2: YES.

26 THE CLERK: 1501?

27 JUROR NO. 3: YES.

28 THE CLERK: 1505?

52507

1 JUROR NO. 4: YES.

2 THE CLERK: 1912?

3 JUROR NO. 5: YES.

4 THE CLERK: 1218?

5 JUROR NO. 6: YES.

6 THE CLERK: 1114?

7 JUROR NO. 7: YES.

8 THE CLERK: 1530?

9 JUROR NO. 8: YES.

10 THE CLERK: 1340?

11 JUROR NO. 9: YES.

12 THE CLERK: 1214?

13 JUROR NO. 10: YES.

14 THE CLERK: 1935?

15 JUROR NO. 11: YES.

16 THE CLERK: 1325?  
17 JUROR NO. 12: YES.  
18 THE CLERK: IT'S UNANIMOUS.  
19 THE COURT: OKAY. THE JURY AS POLLED  
20 INDICATED THE VERDICTS WERE UNANIMOUS AS TO ALL  
21 THREE COUNTS AS TO THE DEFENDANT, ERIK MENENDEZ.  
22 THOSE VERDICTS AS READ WILL BE ORDERED RECORDED IN  
23 THE MINUTES OF THE COURT.  
24 DOES COUNSEL WAIVE READING OF THOSE  
25 VERDICTS AS RECORDED?  
26 MS. ABRAMSON: YES, YOUR HONOR.  
27 THE COURT: OKAY. AT THIS POINT THEN, AS WAS  
28 INDICATED PRIOR TO THE BEGINNING OF JURY SELECTION,

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1 OR AT THE TIME OF THE BEGINNING OF JURY SELECTION  
2 AND DURING THE JURY SELECTION, THERE IS ANOTHER  
3 PHASE TO THE PROCEEDINGS, AND THAT WILL INVOLVE THE  
4 JURY. AND WHAT I WANT TO DO IS DISCUSS THE ISSUES  
5 WITH COUNSEL AS FAR AS THE SCHEDULING OF THE FURTHER  
6 PROCEEDINGS AND WHEN WE WANT YOU BACK FOR THOSE  
7 PROCEEDINGS. IT WILL TAKE A LITTLE WHILE TO DO  
8 THAT.  
9 I WILL ASK THAT YOU GO BACK INTO THE  
10 JURY ROOM, AND AS SOON AS WE'RE READY TO DISCUSS THE

11 MATTER FURTHER WITH YOU REGARDING SCHEDULING, WE'LL

12 HAVE YOU COME OUT.

13 ALL RIGHT. THANK YOU.

14 (THE JURY ENTERED THE JURY ROOM

15 AND THE FOLLOWING PROCEEDINGS

16 WERE HELD:)

17

18 THE COURT: OKAY. THE JURY HAS LEFT THE

19 COURTROOM.

20 MR. GESSLER: AT THIS POINT WE WOULD ASK THAT

21 THE COURT IMPOSE A GAG ORDER ON ALL PARTICIPANTS

22 INVOLVED IN THIS CASE BECAUSE OF THE PENDING PENALTY

23 TRIAL. I UNDERSTAND THERE'S KIND OF A PRESS

24 CONFERENCE BEING PLANNED BY THE DISTRICT ATTORNEY AT

25 THIS POINT. I THINK THAT'S TOTALLY INAPPROPRIATE

26 WHEN WE HAVE ANOTHER STAGE WITH LIFE AND DEATH AT

27 STAKE. I THINK IT'S INAPPROPRIATE TO COMMENT ON THE

28 VERDICTS THAT HAVE ALREADY BEEN GIVEN, AS WELL AS TO

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1 COMMENT ON ANY POTENTIAL STRATEGY OR WITNESSES OR

2 THINGS TO COME IN THE PENDING PENALTY TRIAL.

3 MS. ABRAMSON: I WOULD JOIN IN THAT REQUEST,

4 YOUR HONOR.

5 THE COURT: PEOPLE WISH TO BE HEARD?

6 MR. CONN: WE HAVE ABSOLUTELY NO INTENTION TO  
7 COMMENT UPON STRATEGY OR WITNESSES CONCERNING THE  
8 PENALTY PHASE. BUT I DO THINK IT'S APPROPRIATE, IN  
9 A SITUATION SUCH AS THIS, TO RESPOND TO QUESTIONS  
10 FROM THE MEDIA CONCERNING THE PHASE WE ALREADY  
11 COMPLETED.

12 MR. GESSLER: INASMUCH AS BOTH PHASES ARE  
13 INTERRELATED, AND CIRCUMSTANCES OF THE CRIME IS A  
14 PART OF WHAT THE JURY WILL BE CONSIDERING, AS WELL  
15 AS SPECIAL CIRCUMSTANCE FINDINGS, I DO NOT THINK  
16 IT'S APPROPRIATE, AS THE DISTRICT ATTORNEY DOES, TO  
17 COMMENT EVEN ON WHAT HAS HAPPENED THUS FAR.

18 THE COURT: WELL, THAT'S CERTAINLY A CONCERN  
19 I HAVE AS WELL.

20 BEFORE WE GET TO THAT ISSUE OR RESOLVE  
21 IT, LET ME INQUIRE AS FAR AS SCHEDULING AND  
22 AVAILABILITY OF WITNESSES.

23 MS. ABRAMSON: YOUR HONOR, I HAVE TO CHECK  
24 WITH MY OFFICE. AS THE COURT KNOWS, WE ARE  
25 DEPENDENT UPON THE KINDNESS OF THE SUPERIOR COURT IN  
26 ORDER TO BE ABLE TO BRING WITNESSES TO TESTIFY, AND  
27 WE SUBMITTED, SOMETIME AGO, A REQUEST FOR  
28 AUTHORIZATION FOR WITNESS TRAVEL FUNDS. AND AS OF

1 THIS MORNING WE HAVE HAD NO RESPONSE YET FROM  
2 DOWNTOWN. SO TO THE EXTENT THAT DETERMINES THE  
3 SCHEDULING...

4 WE ALSO HAVE BEEN CHECKING WITH ALL OF  
5 OUR POTENTIAL WITNESSES TO SEE WHEN THEY ARE  
6 AVAILABLE. AND ALTHOUGH SOME PEOPLE ARE AVAILABLE  
7 NEXT WEEK, I DON'T KNOW IF WE HAVE THE AUTHORIZATION  
8 YET TO BRING THEM HERE.

9 THE COURT: YOU HAVE NO WITNESSES AVAILABLE  
10 THIS WEEK?

11 MS. ABRAMSON: WELL, THIS WEEK?

12 THE COURT: YES.

13 MS. ABRAMSON: THIS WEEK IS NOT REALISTIC,  
14 YOUR HONOR.

15 MR. GESSLER: EVERY WITNESS ON OUR LIST, I  
16 BELIEVE, YOUR HONOR, IS OUT OF TOWN. I DON'T THINK  
17 THERE'S ANY LOCAL WITNESSES THAT WE HAVE THAT WE  
18 WERE PLANNING ON CALLING. THEY'RE ALL BACK IN THE  
19 NEW JERSEY AREA, THE MIDWEST.

20 THE COURT: IN THE PROCEEDINGS THAT OCCURRED  
21 PRIOR TO THE VERDICTS THE COURT ASCERTAINED, TO SOME  
22 EXTENT FROM STATEMENTS OF THE PROSECUTION AND TO  
23 SOME EXTENT BASED UPON RULINGS OF THE COURT THAT THE  
24 PEOPLE WILL NOT BE OFFERING ANY EVIDENCE AT THE  
25 OUTSET, BUT WOULD RESERVE EVIDENCE FOR REBUTTAL; IS  
26 THAT CORRECT?

27 MR. CONN: THAT'S CORRECT, YOUR HONOR.

28 THE COURT: ALL RIGHT. WHAT I WILL DO IS

1 HAVE THE JURY ORDERED BACK FOR MONDAY. AND I FEEL  
 2 CERTAIN THAT THE DEFENSE WILL HAVE WITNESSES  
 3 AVAILABLE BY THEN TO PROCEED.

4 AND WE'LL HAVE THE JURY OUT PLEASE.

5 (THE JURY ENTERED THE COURTROOM

6 AND THE FOLLOWING PROCEEDINGS

7 WERE HELD:)

8

9 THE COURT: LET ME SEE THE BAILIFF FOR A  
 10 SECOND.

11 (BAILIFF AND JUDGE CONFER SOTTO VOCE.)

12

13 THE COURT: IN DISCUSSING THE SCHEDULING WITH  
 14 COUNSEL, IT IS ALWAYS UNCERTAIN AND IMPOSSIBLE FOR  
 15 THE PARTICIPANTS TO PREDICT WHEN IT IS THAT A JURY  
 16 WILL REACH A VERDICT. AND UNTIL THIS MORNING WE DID  
 17 NOT KNOW THAT YOU WOULD REACH A VERDICT TODAY. THE  
 18 WITNESSES WHO WOULD TESTIFY IN THE NEXT PHASE OF THE  
 19 TRIAL, THE PENALTY PHASE, WON'T BE AVAILABLE UNTIL  
 20 MONDAY OF NEXT WEEK, WHICH MEANS THAT WE WON'T BE  
 21 ABLE TO PROCEED WITH THAT PHASE OF THE TRIAL UNTIL  
 22 THOSE WITNESSES ARE AVAILABLE ON MONDAY.

23 THEREFORE, I WILL BE EXCUSING YOU AT  
 24 THIS POINT AND ORDERING YOU TO RETURN ON MONDAY AT

25 8:30 FOR CONTINUATION OF THIS TRIAL.

26 THE INSTRUCTIONS I'VE GIVEN YOU ALL  
27 ALONG RE-ATTACH. YOU ARE NO LONGER TO DISCUSS THE  
28 CASE AMONG YOURSELVES, AND CERTAINLY, YOU ARE NOT

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1 ALLOWED TO TALK ABOUT THE CASE WITH ANYONE ELSE.

2 THERE'S FURTHER WORK FOR YOU TO DO, AND  
3 ON THE ISSUES THAT MUST BE ADDRESSED IN THE NEXT  
4 PHASE OF THE TRIAL YOU MUST KEEP AN OPEN MIND ON ALL  
5 ISSUES THAT YOU'LL BE INVOLVED WITH SO THAT YOU CAN  
6 CONTINUE ON AS YOU HAVE AS JURORS IN THIS CASE.

7 SO IT'S VERY IMPORTANT THAT YOU NOT  
8 DISCUSS THE MATTER WITH ANYONE AND NOT PERMIT  
9 YOURSELF TO BE EXPOSED TO ANYTHING ABOUT THIS CASE  
10 OUTSIDE THE COURTROOM. OBVIOUSLY, ONCE A VERDICT IS  
11 REACHED, THERE WILL BE NEWS COVERAGE RELATING TO  
12 IT. THERE WILL BE A TEMPTATION ON YOUR PART TO SEE  
13 WHAT IT IS THAT PEOPLE ARE SAYING ABOUT WHAT YOU  
14 DID, BUT IT'S VERY IMPORTANT THAT YOU RESIST THAT  
15 TEMPTATION. THERE WILL BE PLENTY OF OPPORTUNITY TO  
16 DO JUST THAT AFTER YOU ARE DISCHARGED FROM JURY  
17 SERVICE.

18 BUT WHILE YOU'RE ON THE JURY, YOU MUST  
19 CONTINUE DOING WHAT YOU HAVE, AVOIDING ANYTHING

20 ABOUT THIS CASE OUTSIDE OF THE COURTROOM, SO THAT  
21 YOU CAN CONTINUE TO MAKE YOUR DECISIONS ONLY BASED  
22 UPON WHAT OCCURS IN THE COURTROOM, THE EVIDENCE  
23 THAT'S PRESENTED TO YOU, AND THE INSTRUCTIONS ON THE  
24 LAW.

25 SO I'LL ORDER THAT YOU ALL RETURN ON  
26 MONDAY AT 8:30. THE BAILIFF HAS FURTHER DIRECTIONS  
27 FOR YOU.

28 SO I'LL ASK THAT YOU RETURN TO THE JURY

52513

1 ROOM AND DEAL WITH HIM, AND HE'LL GIVE YOU  
2 INSTRUCTIONS AS TO HOW TO PROCEED WITH THE BALANCE  
3 OF TODAY, AND WE'LL SEE YOU BACK HERE MONDAY AT  
4 8:30.

5 (THE JURY ENTERED THE JURY ROOM  
6 AND THE FOLLOWING PROCEEDINGS  
7 WERE HELD:)

8

9 MS. ABRAMSON: YOUR HONOR, THERE'S ANOTHER  
10 ISSUE THAT MIGHT DELAY THE COMMENCEMENT OF THE  
11 PENALTY PHASE, AND THAT IS THE FACT I DON'T HAVE  
12 SECOND COUNSEL AT THE MOMENT. AND WE ARE  
13 RESUBMITTING A REQUEST FOR MR. LEVIN TO BE  
14 REAPPOINTED.



15 THE COURT: THAT'S AN ISSUE BEFORE JUDGE REID  
16 DOWNTOWN. AND AS I UNDERSTOOD IT, IT WAS GOING TO  
17 OCCUR ONCE THERE WAS --

18 MR. LEVIN: NO, YOUR HONOR.

19 MS. ABRAMSON: IT'S STILL UP IN THE AIR.

20 MR. LEVIN: THE WORD I GOT WAS "YOU ARE OFF  
21 THE CASE."

22 THE COURT: WAIT, WAIT.

23 MR. LEVIN: THAT'S WHAT HE SAID.

24 THE COURT: I'M JUST TELLING YOU TO STOP  
25 BECAUSE THE DOORS ARE BEING OPENED.

26 MS. ABRAMSON: HE INDICATED IN HIS ORIGINAL  
27 ORDER THAT HE WOULD CONSIDER A REAPPLICATION IF HE  
28 BELIEVES IT'S NECESSARY.

52514

1 THE COURT: OKAY. ALL RIGHT. OBVIOUSLY, THE  
2 SOONER YOU CAN ADDRESS THAT ISSUE WITH HIM, THE  
3 BETTER.

4 ALL RIGHT. WHENEVER THE BAILIFF IS  
5 READY TO REMOVE THE JURY, THEY CAN DO THAT.  
6 WHENEVER YOU CAN REMOVE THEM.

7 THE BAILIFF: YES, I WILL.

8 THE COURT: AS FAR AS THE REQUEST BY THE  
9 DEFENSE FOR A GAG ORDER --

10 THE BAILIFF: I NEED ABOUT FIVE MINUTES WITH  
11 THEM AND THEN WE'RE GOING TO TAKE THEM OUT.

12 THE COURT: OKAY. SURE.

13 THE COURT IS CONCERNED ABOUT COMMENTS OF  
14 COUNSEL THAT COULD HAVE AN INFLUENCE ON THE NEXT  
15 PHASE OF THE TRIAL. THE RULES OF PROFESSIONAL  
16 CONDUCT STATE -- AND THIS IS RULE 5-120:

17 "THAT AN ATTORNEY IS PROHIBITED  
18 FROM MAKING ANY EXTRAJUDICIAL  
19 STATEMENT THAT THE ATTORNEY KNOWS OR  
20 REASONABLY SHOULD KNOW WILL HAVE A  
21 SUBSTANTIAL LIKELIHOOD OF MATERIALLY  
22 PREJUDICING AN ADJUDICATED PROCEEDING  
23 IN THE MATTER."

24 THE CONCERN I HAVE IS THAT ANY COMMENT  
25 ON THE RESULT OF THE TRIAL, HOW IT WAS CONDUCTED, AS  
26 FAR AS THE GUILT PHASE TRIAL, THE MERIT OF DECISIONS  
27 MADE, OR ANYTHING OF THAT NATURE, COULD HAVE THE  
28 POTENTIAL OF PREJUDICING THE NEXT PHASE OF THE

52515

1 TRIAL, ANYTHING THAT IS SAID. IT'S HARD TO  
2 VISUALIZE ANYTHING THAT WOULD BE SAID THAT WOULDN'T  
3 HAVE SOMETHING TO DO WITH THE CASE THAT COULD THEN  
4 HAVE IMPACT ON THE IMPENDING PENALTY PHASE.

5           OBVIOUSLY, THERE ARE ALL SORTS OF  
6 INDIVIDUALS WHO HAVE THINGS THAT THEY MIGHT SAY  
7 ABOUT THE CASE WHO ARE NOT ATTORNEYS AND ARE NOT  
8 WITHIN THE JURISDICTION OF THIS COURT. AND I REALLY  
9 CAN'T DEAL WITH THOSE INDIVIDUALS. ALL I CAN DO IS  
10 DEAL WITH THE PEOPLE WHO ARE BEFORE THE COURT.

11       MS. ABRAMSON: AND THEIR BOSSES, I HOPE.

12       THE COURT: WELL, THE DISTRICT ATTORNEY OF  
13 LOS ANGELES COUNTY IS BEFORE THE COURT, NOT JUST A  
14 DEPUTY DISTRICT ATTORNEY.

15       THEREFORE, AT THIS POINT THE COURT WILL  
16 ISSUE AN ORDER WHICH READS AS FOLLOWS:

17       "IT IS HEREBY ORDERED THAT THE  
18 DEFENDANTS AND ALL ATTORNEYS OF RECORD  
19 IN THIS CASE, AND/OR THE AGENTS OF  
20 SUCH ATTORNEYS, MAKE NO PUBLIC COMMENT  
21 ABOUT THIS CASE UNTIL THE PENALTY  
22 PHASE HAS BEEN CONCLUDED AND THE JURY  
23 DISCHARGED.

24       "FOR THE PURPOSES OF THIS ORDER,  
25 WITNESSES THAT AN ATTORNEY OF RECORD  
26 INTENDS TO CALL IN THE PENALTY PHASE  
27 SHALL BE REGARDED AS AN AGENT OF THE  
28 ATTORNEY AND SUBJECT TO THIS ORDER.

1 IT WILL BE THE OBLIGATION OF THE  
2 ATTORNEY TO PROMPTLY NOTIFY HIS OR HER  
3 AGENTS OF THIS ORDER.

4 "THE COURT FURTHER ORDERS THAT  
5 ALL COUNSEL OF RECORD FULLY COMPLY  
6 WITH RULE 5-120 OF THE RULES OF  
7 PROFESSIONAL CONDUCT."

8 THAT IS THE ORDER THAT IS ISSUED IN THIS  
9 CASE.

10 MS. ABRAMSON: YOUR HONOR, I CAN ONLY  
11 ANTICIPATE ONE TINY PROBLEM, WHICH IS THAT MANY OF  
12 THE WITNESSES WE INTEND TO CALL ARE FAMILY MEMBERS  
13 LIVING OUT OF STATE, AND THE MEDIA HAS PRETTY MUCH  
14 BEEN HARASSING THOSE PEOPLE OVER THE YEARS ANYWAY.  
15 WE CAN ONLY GET TO THE PHONE AS FAST AS WE CAN GET  
16 TO THE PHONE AND NOTIFY THEM OF THIS ORDER, WHICH WE  
17 WILL DO.

18 THE COURT: THIS IS THE ORDER I AM MAKING.  
19 AND IF EITHER SIDE OR ANY PARTY HAS A FURTHER MATTER  
20 THAT YOU WANT TO ADDRESS IN REGARD TO THE ORDER, AS  
21 TO WHETHER IT SHOULD BE MODIFIED OR HOW IT SHOULD BE  
22 APPLIED, YOU CAN BRING IT BACK TO THE COURT AND WE  
23 CAN DISCUSS IT FURTHER. BUT THAT IS THE ORDER THAT  
24 IS BEING MADE AT THIS POINT.

25 AND IT'S A SIGNED ORDER THAT IS ORDERED  
26 TO BE FILED AT THIS POINT WITH THE CLERK.

27 MR. CONN: IF I CAN. OF COURSE, THAT WOULD

52517

1 RIGHT TO SPEAK TO THE MEDIA, EVEN AS MUCH AS WE DID  
2 PRIOR TO THE VERDICT IN THIS CASE. WE WERE  
3 CONCERNED, OF COURSE, THROUGHOUT THE PROCEEDING THAT  
4 ANY STATEMENTS NOT BE MADE WHICH MIGHT VIOLATE ANY  
5 STATE BAR RULES. AND I THINK THAT BOTH SIDES WERE  
6 MINDFUL OF THAT AND DID NOT VIOLATE STATE BAR  
7 RULES.

8       HOWEVER, THE POTENTIAL FOR VIOLATING  
9 THAT RULE WAS ALWAYS THERE THROUGHOUT THE  
10 PROCEEDING. WE COULD HAVE VIOLATED OR INFLUENCED  
11 THE GUILT PHASE AS MUCH AS THE PENALTY PHASE. SO I  
12 WOULD ASK THAT --

13       THE COURT: ONE SECOND.

14       THE BAILIFF: I'D LIKE TO PULL THE JURORS.

15       (JURY EXITING THE COURTROOM.)

16

17       THE COURT: YES.

18       MR. CONN: AS BOTH SIDES WERE CONDUCTING  
19 THEMSELVES IN A MANNER WHICH DID NOT, IN FACT,  
20 VIOLATE STATE BAR RULES, I WOULD ASK THAT THE COURT  
21 SIMPLY ISSUE AN ORDER THAT WE NOT MAKE ANY  
22 STATEMENTS WHICH WOULD, IN FACT, VIOLATE THAT RULE.

23 THE COURT: OKAY. WELL, I'VE DONE THAT AND  
24 GONE BEYOND THAT.  
25 MY CONCERN IS THAT THROUGHOUT THE TRIAL,  
26 BECAUSE OF THE LENGTH OF THE TRIAL, THINGS WERE NOT  
27 THE FOCUS OF PUBLIC ATTENTION TO THE EXTENT THAT  
28 THEY WILL BE NOW. AND ANY COMMENTS MADE BY COUNSEL

52518

1 NOW WILL HAVE MUCH GREATER POTENTIAL OF HAVING AN  
2 IMPACT ON THE REMAINDER OF THE PROCEEDINGS THAN A  
3 FOCUS COMMENT OF COUNSEL MADE DURING THE EXTENDED  
4 PERIOD OF THE GUILT PHASE OF THE TRIAL, WHICH WAS  
5 GREATLY DILUTED BECAUSE OF THE LENGTH OF THE TRIAL,  
6 AND TO A GREAT EXTENT, THE LESSER INTEREST IN THE  
7 PROCEEDINGS DURING THAT EXTENDED LENGTH OF THE  
8 TRIAL.

9 NOW, ONE CAN ANTICIPATE THAT INTEREST IN  
10 THE PROCEEDINGS WILL HAVE HEIGHTENED, AND WHATEVER  
11 IS SAID BY COUNSEL NOW WOULD HAVE A POTENTIAL OF  
12 GREATER IMPACT ON THE REMAINDER OF THE PROCEEDINGS.  
13 AND THE COURT IS MAKING THIS ORDER WITH THAT CONCERN  
14 IN MIND.

15 I AM AWARE OF THE INHIBITIONS PLACED ON  
16 THE PARTICIPANTS AND I DON'T DO THIS LIGHTLY. I  
17 DIDN'T DO IT DURING THE COURSE OF THE TRIAL,

18 EXPECTING COUNSEL TO COMPLY WITH THEIR ETHICAL  
19 OBLIGATIONS AND THE RULES OF PROFESSIONAL CONDUCT.  
20 HOWEVER, AT THIS STAGE I JUST FEEL THIS IS AN  
21 ADDITIONAL PRECAUTION THAT IS APPROPRIATE DUE TO THE  
22 NATURE OF THE PROCEEDINGS.

23 ALL RIGHT. IS THERE ANYTHING ELSE NOW  
24 THAT EITHER SIDE WISHES TO ADDRESS?

25 MR. GESSLER: NO, YOUR HONOR.

26 MS. ABRAMSON: NO.

27 THE COURT: DO YOU EXPECT THAT THERE WILL BE  
28 ISSUES BETWEEN NOW AND MONDAY TO DEAL WITH REGARDING

52519

1 PENALTY PHASE?

2 MS. ABRAMSON: I DON'T KNOW WHAT YOU MEAN.  
3 YOU MEAN WILL THE PROSECUTION OBJECT TO OUR PUTTING  
4 ON EVIDENCE? I'M SURE THEY WILL. THEY ALWAYS DO.

5 THE COURT: WHATEVER ISSUES THERE MIGHT BE,  
6 THEY HAVE TO BE DEALT WITH WITHIN THE NEXT COUPLE OF  
7 DAYS.

8 MS. ABRAMSON: THERE MAY BE ISSUES ABOUT OUR  
9 ABILITY TO PROCEED, AS I'VE INDICATED. SHORT OF  
10 THAT, THERE ARE NO ISSUES WE FEEL ARE NECESSARY TO  
11 BRING TO THE COURT'S ATTENTION.

12 THE COURT: OKAY. WHAT I WOULD DO IS REQUIRE

13 THAT THE DEFENSE NOTIFY THE DISTRICT ATTORNEY BY  
14 9:00 A.M. TOMORROW MORNING WHICH WITNESSES YOU  
15 INTEND TO CALL MONDAY AND TUESDAY AND WEDNESDAY OF  
16 NEXT WEEK SO THAT WE HAVE SOME ADVANCE NOTICE OF  
17 SCHEDULING AND ANY ISSUES THAT MIGHT RELATE TO THOSE  
18 WITNESSES.

19 MR. GESSLER: WE'LL COMPLY AS FAST AS WE  
20 CAN. I'M NOT SURE WE WILL KNOW BY 9:00 TOMORROW  
21 MORNING THE TRAVEL ARRANGEMENTS OF OUR WITNESSES, AS  
22 TO WHAT PLANS CAN BE MADE AND SO FORTH. AGAIN, IT'S  
23 STILL CONTINGENT ON JOHN REID SIGNING THE ORDER.

24 THE COURT: I'M ASSUMING THOSE THINGS CAN BE  
25 WORKED OUT. PEOPLE TRAVEL ALL THE TIME FROM THE  
26 WEST COAST TO THE EAST COAST AND VICE-VERSA.

27 MR. GESSLER: YES, THEY DO. BUT MAKING  
28 RESERVATIONS FOR PEOPLE 3,000 MILES AWAY, WHEN IT'S

52520

1 ALREADY 3:15 IN THE AFTERNOON THERE, I'M NOT AT ALL  
2 SURE WE CAN HAVE THAT INFORMATION BY 9:00 TOMORROW  
3 MORNING.

4 MS. ABRAMSON: WE'LL DO IT AS FAST AS WE CAN,  
5 YOUR HONOR.

6 THE COURT: I THINK IT CAN BE ACCOMPLISHED.  
7 SO THAT'S WHY I PICKED THAT TIME. SO LET'S SEE IF



8 THERE'S SOME PROBLEM. THEN YOU CAN LET THE COURT  
9 KNOW.

10 MS. NAJERA: I BELIEVE THE COURT, LAST TIME  
11 WE WERE HERE, ALSO SUGGESTED THAT THE DEFENSE DO A  
12 DETAILED OFFER OF PROOF AS TO THE WITNESSES. I KNOW  
13 IN OUR MOTIONS WE ADDRESSED THAT ISSUE AND THE FACT  
14 WE HAD ABSOLUTELY NOTHING ON SOME OF THE WITNESSES.  
15 AND I BELIEVE THAT WAS PUT OFF UNTIL WE GOT TO THIS  
16 POINT.

17 I JUST WANT IT TO BE REMEMBERED BY EVERYBODY.

18 THE COURT: FIRST THINGS FIRST. THERE HAD  
19 BEEN NO FINALIZATION AS TO WHICH WITNESSES WOULD  
20 ACTUALLY BE CALLED. I BELIEVE THERE WAS SOME  
21 UNCERTAINTY AS TO AVAILABILITY AND THINGS OF THAT  
22 NATURE. ONCE THERE IS, THE COURT INDICATED THERE  
23 SHOULD BE SOME MORE FOCUS ON WHAT IT IS THAT IS  
24 EXPECTED TO BE BROUGHT OUT FROM THE TESTIMONY OF  
25 THESE WITNESSES, RATHER THAN JUST REFERENCE TO ALL  
26 THAT WAS SAID IN THEIR PREVIOUS INTERVIEWS, OR ALL  
27 THAT WAS SAID IN THEIR PREVIOUS TESTIMONY, WHICH IS  
28 TOO VAGUE FOR ANY MEANINGFUL DISCUSSION.

52521

1 ALL RIGHT. WE'LL BE IN RECESS THEN WITH  
2 THE UNDERSTANDING THE COURT IS AVAILABLE TOMORROW,

3 FRIDAY, FOR EITHER SIDE TO BRING MATTERS TO ITS

4 ATTENTION.

5 (PROCEEDINGS WERE ADJOURNED.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

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

4 THE PEOPLE OF THE STATE OF )  
5 CALIFORNIA, )

6 )  
7 PLAINTIFFS, )

8 )  
9 VS. ) NO. BA 068880

10 )  
11 ERIK GALEN MENENDEZ, AND )  
12 JOSEPH LYLE MENENDEZ, )

13 )  
14 DEFENDANTS. )  
15 )

16 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

17 WEDNESDAY, MARCH 20, 1996

18 VOLUME 313

19

20

21

22

23 APPEARANCES:

24 (SEE APPEARANCE PAGE)

25

26

27

28

29

30

31

## 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  
23 MARILYN FADALE,  
24 CSR NO. 4547  
25 OFFICIAL REPORTERS  
26  
27  
28

1 INDEX FOR VOLUME 313 PAGES 52493 THROUGH 52520

2  
3

DAY	DATE	SESSION	PAGE	VOL.
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4 WEDNESDAY, MARCH 20, 1996 A.M. 52493 313

5

6

PROCEEDINGS

7

8 VERDICTS 52493 313

9

10

11 CHRONOLOGICAL INDEX OF WITNESSES

12

13 WITNESSES: DIRECT CROSS REDIRECT RECROSS VOL.  
(NONE THIS VOLUME.)

14

15

16

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18

19

20

LEGEND:

21

A = MS. ABRAMSON

22 C = MR. CONN

G = MR. GESSLER

23 K = MS. TOWERY

L = MR. LEVIN

24 N = MS. NAJERA

25

26

27

28

1 EXHIBITS INDEX

2 EXHIBITS: MARKED RECEIVED VOL.

3 (NONE THIS VOLUME.)

4

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1 VAN NUYS, CALIFORNIA; FRIDAY, MARCH 22, 1996

2 9:30 A.M.

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

4 (APPEARANCES AS HERETOFORE NOTED.)

5 (MARILYN A. FADALE, OFFICIAL REPORTER)

6

7 (THE FOLLOWING PROCEEDINGS WERE

8 HELD IN OPEN COURT, OUT OF THE

9 PRESENCE OF THE JURY:)

10

11 THE COURT: IN THE TRIAL THE DEFENDANTS AND  
12 THEIR LAWYERS ARE HERE. THE PROSECUTION IS HERE.  
13 MR. LEVIN, I UNDERSTAND, IS IN ANOTHER COURTROOM AND  
14 WON'T BE HERE THIS MORNING.

15 MS. ABRAMSON: HE'LL BE HERE WHENEVER HE  
16 CAN. HE HAD TO MAKE AN APPEARANCE IN LONG BEACH AT  
17 8:30.

18 THE COURT: THE COURT RECEIVED WORD YESTERDAY  
19 THAT THE DEFENSE WAS REQUESTING A DELAY IN THE  
20 COMMENCEMENT OF THE PENALTY PHASE DUE TO  
21 TRANSPORTATION ISSUES RELATING TO WITNESSES, AND THE  
22 COURT REQUESTED COUNSEL TO PROVIDE A WRITTEN MOTION  
23 IN THAT REGARD, AND ONE HAS BEEN FILED WITH THE  
24 COURT AND APPARENTLY SERVED ON THE PROSECUTION THIS  
25 MORNING.

26 MS. ABRAMSON: WE FAXED IT TO THEM YESTERDAY,  
27 YOUR HONOR.

28 THE COURT: AND YOU'RE REQUESTING THAT

52523

1 COMMENCEMENT OF THE PENALTY PHASE BEGIN WEDNESDAY  
2 INSTEAD OF MONDAY?

3 MS. ABRAMSON: YES, YOUR HONOR.

4 THE COURT: LET ME FIRST INQUIRE. YOU'VE



5 LISTED 17 WITNESSES ON YOUR MOTION HERE, ALL  
6 OUT-OF-STATE WITNESSES, AND INDICATE THERE ARE  
7 FURTHER WITNESSES WHO WOULD FALL WITHIN THE SAME  
8 CATEGORY AS THESE THAT YOU ENUMERATE.

9 MS. ABRAMSON: YES.

10 THE COURT: AND I DID NOTICE THAT SOME OF  
11 THESE WITNESSES APPEARED ON THE WITNESS LIST FOR  
12 LYLE MENENDEZ AND SOME APPEARED ON THE WITNESS LIST  
13 FOR ERIK MENENDEZ WHEN THOSE LISTS WERE PREVIOUSLY  
14 SUBMITTED TO THE COURT. I ASSUME THEN THAT THIS IS  
15 A JOINT LIST FOR BOTH DEFENDANTS; IS THAT RIGHT?

16 MR. GESSLER: IT IS, YOUR HONOR.

17 MS. ABRAMSON: YES. ALTHOUGH, FRANKLY, YOUR  
18 HONOR, I WOULD CALL ALL THESE PEOPLE ANYWAY.

19 THE COURT: ALL RIGHT. BUT THEY ARE  
20 WITNESSES WHO WOULD OTHERWISE BE TESTIFYING, OR  
21 WOULD BE CALLED BY THE CODEFENDANT, BY LYLE  
22 MENENDEZ, SOME OF THEM ANYWAY?

23 MS. ABRAMSON: YES.

24 MR. GESSLER: AT LEAST, I BELIEVE, 10 OF  
25 THESE WITNESSES, YOUR HONOR, WOULD BE CALLED BY LYLE  
26 MENENDEZ WERE THIS AN INDIVIDUAL TRIAL.

27 THE COURT: I COUNT EIGHT THAT WERE ON YOUR  
28 LIST.

1 MR. GESSLER: OUT OF THIS LIST POSSIBLY.  
2 LET'S SEE. I KNOW THERE ARE ABOUT -- LET ME SEE IF I  
3 CAN JUST CHECK THE LIST FOR A MINUTE THAT WE WOULD  
4 HAVE CALLED INDEPENDENTLY.

5 (BRIEF PAUSE.)

6

7 MR. GESSLER: WELL, I COUNT NINE OUT OF THIS  
8 GROUP, YOUR HONOR. BUT THAT'S CLOSE ENOUGH.

9 THE REASON I HAVE NINE IS I ADDED ALAN  
10 ANDERSEN, YOUR HONOR.

11 THE COURT: TO YOUR LIST?

12 MR. GESSLER: TO OUR LIST, BECAUSE THERE ARE  
13 OTHER THINGS THAT HE CAN PROVIDE SO...

14 THE COURT: OKAY.

15 MR. GESSLER: I HADN'T REALLY TRIED TO BREAK  
16 THEM DOWN, BECAUSE A LOT OF THIS WILL BE JOINT  
17 INFORMATION THAT WITNESSES CAN GIVE PERTAINING TO  
18 BOTH CLIENTS.

19 THE COURT: ALL RIGHT. IN ADDITION THEN TO  
20 THESE 17 WITNESSES, THE COURT HAD REQUESTED THAT  
21 COUNSEL REVIEW YOUR LISTS; AND NUMBER ONE, DETERMINE  
22 WHO IT WAS THAT YOU INTEND TO CALL; AND SECONDLY,  
23 WHETHER THOSE THAT YOU INTEND TO CALL WILL BE  
24 AVAILABLE TO CALL SO THAT WE CAN HAVE A REALISTIC  
25 APPRAISAL OF HOW MANY WITNESSES WOULD BE CALLED BY  
26 THE DEFENSE, BY EITHER DEFENDANT, SO WE CAN  
27 APPROXIMATE TIME ESTIMATE FOR THE LENGTH OF PENALTY

52525

1 MR. GESSLER: YES, YOUR HONOR. MY BEST  
2 ESTIMATE, AFTER GOING OVER THIS WITH COUNSEL  
3 YESTERDAY AFTERNOON -- I BELIEVE WE CAN PROBABLY  
4 COMPLETE THE PENALTY PHASE IN TWO WEEKS OR SO.

5 MS. ABRAMSON: BUT IF YOU WANT TO KNOW HOW  
6 MANY WITNESSES THAT IS, YOUR HONOR, I'LL DO A COUNT  
7 FOR YOU.

8 THE COURT: WELL, YOU SAY TWO WEEKS OR SO.  
9 IN YOUR DECLARATION, MS. ABRAMSON, YOU TALK ABOUT  
10 THE FIRST WEEK AND A HALF WILL JUST BE CONCERNED  
11 WITH OUT-OF-STATE WITNESSES.

12 MS. ABRAMSON: THAT'S THE BULK OF THE  
13 WITNESSES.

14 THE COURT: I REALIZED FROM LOOKING AT THE  
15 LIST THAT ALMOST EVERYBODY IS OUT OF THE STATE, AND  
16 I UNDERSTAND THAT'S THE REASON WHY YOU'RE HERE  
17 TODAY.

18 WHAT I'M TRYING TO DO IS, AS I JUST  
19 INDICATED AND AS MR. GESSLER RESPONDED, TRYING TO  
20 GET A REALISTIC ESTIMATE AS TO THE LENGTH OF THE  
21 PROCEEDING SO THAT WE CAN TELL THE JURY. THEY ARE  
22 NOW AT THE END OF THE TIME ESTIMATE WE GAVE THEM.

23 AT THE TIME THE VOIR DIRE COMMENCED I TOLD THEM BY  
24 MARCH, AS I RECALL, THAT THE TRIAL WOULD BE OVER,  
25 AND WE'RE AT THAT STAGE NOW.

26 MS. ABRAMSON: I CAN TELL THE COURT WHAT  
27 WE'VE DONE IS WE'VE DONE A ROUGH SCHEDULE -- BECAUSE  
28 WE HAVE NOT CONFIRMED WITH ALL OF THESE PEOPLE -- A

52526

1 ROUGH SCHEDULE THAT TAKES A WEEK AND A HALF. BUT  
2 IT'S -- BUT IT ACTUALLY WILL TAKE LONGER BECAUSE  
3 PEOPLE DON'T EVER GET DOWN THAT FAST.

4 AND I JUST LOST MY COUNT AGAIN. I'M  
5 SORRY. ONE SECOND.

6 (BRIEF PAUSE.)

7

8 MS. ABRAMSON: THIRTY-EIGHT. THIRTY-EIGHT  
9 WITNESSES. SOME OF THEM ARE VERY BRIEF, OBVIOUSLY.  
10 BUT 38 WITNESSES THAT WE HAVE, IN OUR OWN MINDS,  
11 SCHEDULED, COMMENCING WEDNESDAY, AND THE LAST ONE  
12 WOULD BE CALLED A WEEK FROM FRIDAY.

13 NOW, OBVIOUSLY, THINGS DON'T WORK THAT  
14 FAST. BUT IF THEY DID, WE CAN CONCEIVE OF ALL THESE  
15 WITNESSES BEING CALLED AND GIVING THEIR TESTIMONY IN  
16 THAT PERIOD OF TIME. TO BE ON THE SAFE SIDE, I'D  
17 ADD A WEEK. ALSO, I DON'T KNOW WHAT THE PEOPLE

18 WOULD DO IN REBUTTAL.

19 THE COURT: WELL, THAT'S OBVIOUSLY BEYOND  
20 YOUR CONTROL AS TO YOUR TIME ESTIMATE. I'M REALLY  
21 ASKING WHAT YOUR ESTIMATE IS.

22 MS. ABRAMSON: I THINK, TO BE GENEROUSLY  
23 SAFE, IF WE STARTED WEDNESDAY WE COULD TALK ABOUT  
24 TWO AND A HALF TO THREE WEEKS. THAT WOULD BE IF WE  
25 CALL THE PEOPLE THAT WE HAVE ALREADY SCHEDULED.  
26 THERE'S A SLIGHT CHANCE THAT WE MAY ADD A COUPLE  
27 MORE BRIEF WITNESSES TO THOSE 38. THEY'RE ALREADY  
28 ON OUR LIST. BUT WE HAVE SCHEDULED WHO WE INTEND TO

52527

1 CALL RIGHT NOW BASED ON OUR CURRENT FEELING FOR WHAT  
2 WE SHOULD BE DOING IN PENALTY TRIAL, DEPENDING ON  
3 HOW THESE WITNESSES TESTIFY. AND TO SOME EXTENT,  
4 HOW THEY'RE CROSS-EXAMINED, WE MAY CALL A FEW  
5 OTHERS.

6 THE COURT: DO YOU HAVE THAT SCHEDULE PRETTY  
7 MUCH FIXED SO THAT YOU COULD PROVIDE IT TO THE COURT  
8 AND THE OPPOSITION?

9 MS. ABRAMSON: I COULD LATER IN THE DAY, YOUR  
10 HONOR. ONE OF THE PROBLEMS IS THAT SINCE WE'RE  
11 TRYING TO REACH PEOPLE ON THE EAST COAST -- AND WE  
12 HAVEN'T BEEN ABLE TO REACH EVERYBODY IN THE PAST TWO

13 DAYS -- I CAN GIVE YOU A ROUGH SCHEDULE.

14 MS. TOWERY: IT'S A WISH LIST THOUGH. WE  
15 HAVEN'T CONFIRMED THE AVAILABILITY OF ALL THESE  
16 WITNESSES. SO THIS IS THE WAY WE WOULD LIKE TO  
17 SCHEDULE IT IF WE'RE ABLE TO.

18 THE COURT: ALL RIGHT.

19 MS. ABRAMSON: THERE MAY BE AN ADDITIONAL  
20 PROBLEM THAT DIDN'T EVEN OCCUR TO US YESTERDAY  
21 BECAUSE WE HAVE NOT YET BOOKED PLANE RESERVATIONS  
22 FOR ANYONE YET BECAUSE WE WERE WAITING FOR THIS  
23 RULING ON THE MOTION TO CONTINUE. BUT IT OCCURS TO  
24 ME THAT THE ACADEMY AWARDS ARE MONDAY. WE ARE  
25 TRYING TO BRING PEOPLE IN MONDAY, TO GET A LARGE  
26 NUMBER OF PEOPLE MONDAY, SO WE HAVE MONDAY AND  
27 TUESDAY TO MAKE SURE EVERYBODY IS READY TO START  
28 TESTIFYING WEDNESDAY, THURSDAY AND FRIDAY. AND IT

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1 OCCURS TO ME THE ACADEMY AWARDS ARE MONDAY, AND THAT  
2 ALWAYS CREATES FLIGHT PROBLEMS. WE HAVEN'T TRIED TO  
3 BOOK ANYONE. SO I CAN'T BE SURE THAT WILL BE A  
4 PROBLEM.

5 THE COURT: I ASSUME THERE WILL BE SOME SPACE  
6 AVAILABLE ON THE AIRLINES.

7 MS. ABRAMSON: OUR WITNESSES WON'T BE FLYING

8 FIRST CLASS ANYWAY.

9 THE COURT: DO THE PEOPLE AT THIS POINT HAVE  
10 ANY FIRM IDEA AS TO WHETHER OR NOT YOU'LL BE CALLING  
11 ANY REBUTTAL WITNESSES?

12 MR. CONN: NO, YOUR HONOR. IN FACT, WE DON'T  
13 KNOW WHO THE 38 WITNESSES ARE. WE'VE BEEN GIVEN A  
14 LIST, UP TO THIS POINT, WHICH HAS 63 NAMES.

15 THE COURT: WELL, THE 38, I ASSUME, ARE  
16 WITHIN THAT GROUP OF 63. BUT THE DEFENSE DID  
17 INDICATE THEY WOULD BE ABLE TO PROVIDE YOU WITH THAT  
18 LIST THIS AFTERNOON, SO YOU'LL KNOW WHO THE 38 WILL  
19 BE.

20 MS. ABRAMSON: WE'LL BE ABLE TO GET THEM THAT  
21 38 SHORTLY. AND IF WE CAN GIVE YOU THE WISH LIST --  
22 LET'S PUT IT THAT WAY -- BECAUSE WE WORKED OUT THE  
23 SCHEDULING IN OUR OWN MINDS YESTERDAY. WE CAN GIVE  
24 THEM THAT, AND I CAN ALSO GIVE THEM THE ADDITIONAL  
25 POTENTIAL NAMES.

26 THE COURT: ALL RIGHT. DID THE PEOPLE WISH  
27 TO BE HEARD ON THIS REQUEST TO DELAY THE START UNTIL  
28 WEDNESDAY?

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1 MR. CONN: WELL, IT SOUNDS AS IF COUNSEL IS  
2 SUGGESTING THERE ARE LOCAL WITNESSES WHO ARE GOING

3 TO BE CALLED IN ADDITION TO THESE OUT-OF-STATE  
4 WITNESSES. I WOULD SUGGEST THAT WE PROCEED WITH THE  
5 LOCAL WITNESSES ON MONDAY.

6 THE COURT: WHO ARE THE LOCAL WITNESSES,  
7 SINCE I DON'T KNOW WHO THE 38 ARE?

8 MS. ABRAMSON: LOCAL WITNESSES ARE -- AND NOT  
9 IN THIS ORDER BUT -- EDWIN COX, DOUG DOSS, ROGER  
10 SMITH, WILLIAM VICARY, KEN DEASY.

11 THE COURT: HOLD ON. YOU'RE GOING TO FAST.  
12 COX. WHO ELSE?

13 MS. ABRAMSON: COX, DOSS ROGER SMITH,  
14 DR. VICARY, KEN DEASY, KATHLEEN COHEN, LEONARD  
15 SMITH, KIRSTIN SMITH, BARBARA ZUSSMAN, HENRY LLANIO,  
16 MARK HEFFERNAN, PAT HEFFERNAN.

17 THOSE ARE THE LOCALS RIGHT NOW.

18 THE COURT: OKAY.

19 MS. ABRAMSON: AND WE DO NOT FEEL THAT IT IS  
20 APPROPRIATE TO PUT THE LOCAL WITNESSES ON FIRST FOR  
21 A VARIETY OF REASONS. BUT MOST SPECIFICALLY, WE  
22 FEEL THAT IT'S IMPORTANT TO TELL A COHERENT  
23 EXPLANATION OF OUR CLIENT'S LIFE AND CHILDHOOD IN  
24 THE PENALTY PHASE, AND WE WANT TO DO IT IN THAT WAY,  
25 THAT IT MAKES RATIONAL SENSE. AND IT DOES NOT MAKE  
26 SENSE TO START WITH THE LAST TWO AND A HALF YEARS.

27 THE COURT: WELL, WOULDN'T YOU BE  
28 ACCOMPLISHING THE SAME THING IF YOU PUT ON THE LAST



1 TWO AND A HALF YEARS, AS YOU REFER TO IT, AND THEN  
2 GOING BACK TO THE EARLIER STAGE OF THEIR LIFE?

3 MS. ABRAMSON: NO, IT WOULD NOT.

4 THE COURT: THEN YOU WOULD COMPARTMENTALIZE  
5 THE PRESENTATION THAT WAY. I'M NOT SO MUCH TALKING  
6 ABOUT VICARY OR EXPERTS, BUT JUST THE OTHER PEOPLE.

7 MS. ABRAMSON: IT WON'T MEAN ANYTHING IF WE  
8 JUST PUT ON THE PEOPLE -- THESE ARE VERY BRIEF  
9 WITNESSES, MOST OF THEM. IT WON'T MEAN ANYTHING FOR  
10 THEM TO HEAR ABOUT MY CLIENT'S CHARACTER AND  
11 PERSONALITY, WHICH IS WHAT MOST OF THOSE WITNESSES  
12 ARE FOR, IF THEY DON'T UNDERSTAND WHAT FORMED IT,  
13 WHICH IS THE TREATMENT AS A CHILD.

14 AND IT'S JUST THE HISTORICAL FACT THAT  
15 MY CLIENT WAS RAISED ON THE EAST COAST, NOT THE WEST  
16 COAST, SO ALL THE WITNESSES --

17 THE COURT: I UNDERSTAND THAT. AND THAT'S  
18 NOT --

19 MS. ABRAMSON: I JUST FEEL VERY STRONGLY,  
20 YOUR HONOR, THAT I DON'T WANT TO BE PUT IN A  
21 POSITION WHERE I CAN'T TRY THE CASE IN THIS STAGE  
22 RATIONALLY. I FEEL WE WERE PUT IN THAT POSITION IN  
23 THE GUILT TRIAL, WITH DISASTROUS RESULTS, AND I  
24 DON'T FEEL WE SHOULD BE PUT IN THAT POSITION FOR  
25 WANT OF TWO DAYS.

26 WE HAVE TRIED TO BE COGNIZANT OF A

27 NUMBER OF FACTORS THAT MAKE IT SENSIBLE TO GET THE  
28 TRIAL STARTED AS SOON AS POSSIBLE, AND WE'RE ONLY

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1 ASKING FOR A TWO-DAY DELAY.

2       AND MOREOVER, IT IS COUNTER-PRODUCTIVE  
3 FOR US TO START PUTTING ON THE LOCAL WITNESSES  
4 MONDAY AND TUESDAY, BECAUSE WE WILL THEN HAVE NO  
5 TIME TO PREPARE THE PEOPLE COMING IN FROM OUT OF  
6 TOWN, THAT WE CAN'T GET HERE BEFORE MONDAY, IN ANY  
7 EVENT. SO WE NEED MONDAY AND TUESDAY FOR THOSE  
8 WITNESSES TO GET HERE AND FOR US TO WORK WITH THEM.

9       THE COURT: OKAY. AS FAR AS COX IS  
10 CONCERNED, THERE WOULD BE LITIGATION AS TO HIS  
11 TESTIMONY.

12       MS. ABRAMSON: YES. WE INTEND TO CALL HIM,  
13 YOUR HONOR, AFTER WE CALL STEWART HART.

14       THE COURT: STEWART HART WOULD BE CALLED  
15 WHEN? AFTER ALL OF THESE OTHER WITNESSES?

16       MS. ABRAMSON: NO. ACTUALLY, OUR PREDICTION  
17 FOR DR. HART, AS I INFORMED HIM YESTERDAY -- HE IS  
18 AVAILABLE -- LET'S SEE. WHERE IS HE? MONDAY AND  
19 TUESDAY, APRIL 1 AND 2.

20       SO HE'S IN THE MIDDLE. HE COMES AFTER  
21 THE EARLY CHILDHOOD WITNESSES. IF YOU WANT THE

22 CHRONOLOGY, HE COMES AFTER THE EARLY CHILDHOOD  
23 WITNESSES, BEFORE THE TEENAGE WITNESSES.  
24 THE COURT: ALL RIGHT.  
25 MS. ABRAMSON: AND BEFORE DR. COX, BECAUSE HE  
26 WILL LAY A RELEVANT FOUNDATION FOR DR. COX'S TESTIMONY,  
27 WE BELIEVE.  
28 THE COURT: WHAT I'M TRYING TO DO IS NOT LOSE

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1 MORE DAYS THAN ABSOLUTELY NECESSARY.  
2 WHAT ABOUT TUESDAY? WHY CAN'T WE DO  
3 THIS ON TUESDAY?  
4 MS. ABRAMSON: BECAUSE WE CAN'T BE CERTAIN  
5 THAT WE CAN GET ENOUGH PEOPLE HERE.  
6 THE COURT: SOME PEOPLE COULD GET HERE. IT  
7 DOESN'T HAVE TO BE EVERYBODY.  
8 MS. ABRAMSON: THEY FLY ALL DAY MONDAY AND  
9 THEN WE HAVE TO WORK WITH THEM.  
10 THE COURT: THEY GET THE BENEFIT OF THE  
11 THREE-HOUR CHANGE.  
12 MR. ABRAMSON: WE'RE ASKING FOR WEDNESDAY,  
13 YOUR HONOR.  
14 THE COURT: AND YOU HAVE TODAY, TOMORROW, AND  
15 SUNDAY TO TRAVEL.  
16 MS. ABRAMSON: WE CAN'T GET PEOPLE HERE. THE

17 PROBLEM IS, PEOPLE ARE NOT AVAILABLE TO FLY ON THE  
18 WEEKEND. THAT'S THE PROBLEM. THE PEOPLE WE NEED  
19 CAN'T FLY ON THE WEEKEND. THE WHOLE FIRST DAY'S  
20 BUNCH CAN'T COME OUT UNTIL MONDAY. AND SOME OF THEM  
21 CAN'T COME OUT UNTIL LATE MONDAY BECAUSE THEY HAVE  
22 MONDAY COMMITMENTS.

23 THE COURT: OKAY. WHAT ABOUT THE PEOPLE WHO  
24 ARE SCHEDULED FOR THE NEXT DAY? YOU SELECT THE  
25 PEOPLE FOR A CERTAIN DAY. WHAT ABOUT THE PEOPLE YOU  
26 PICKED OUT FOR THE NEXT DAY?

27 MS. ABRAMSON: SOME OF THEM HAVEN'T BEEN  
28 REACHED YET. WE'VE BEEN TRYING TO REACH THEM.

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1 WELL, OUR WEDNESDAY WITNESSES, AS WE'VE  
2 STRUCTURED THIS, ARE ALAN ANDERSEN, JESSICA  
3 GOLDSMITH, FAITH GOLDSMITH, BILL KURTAIN; AND AS OF  
4 YESTERDAY, WE HADN'T CONFIRMED WITH HIM. AND  
5 TERESITA BARALT. THAT'S THE FIRST BUNCH.

6 AND AS I'VE SAID, MRS. BARALT CAN'T BE  
7 HERE BEFORE LATE MONDAY. MR. KURTAIN WE HAVE NOT  
8 CONFIRMED YET, AND I HAVEN'T BEEN ABLE TO DETERMINE  
9 MR. ANDERSEN'S AVAILABILITY TO FLY ON MONDAY VERSUS  
10 TUESDAY.

11 THE FACT IS, WE NEED SOME TIME WITH THE

12 PEOPLE, AS WELL AS JUST GETTING THEM HERE.

13 THE COURT: OKAY. ALL RIGHT. WHAT I WILL DO  
14 IS GRANT THE MOTION TO DELAY COMMENCEMENT OF THE  
15 PENALTY PHASE UNTIL WEDNESDAY BASED UPON THE FACT  
16 THAT THE DEFENSE OBTAINED AUTHORIZATION YESTERDAY  
17 AFTERNOON FOR THE TRANSPORTATION OF THESE WITNESSES,  
18 AND THE LOGISTICS OF HAVING THESE PEOPLE ARRIVE  
19 REQUIRES PASSAGE OF A CERTAIN PERIOD OF TIME, AND  
20 THAT WOULD COMPRISE MONDAY AND TUESDAY.

21 SO THE COURT FINDS GOOD CAUSE TO DELAY  
22 THE COMMENCEMENT OF THE PENALTY PHASE UNTIL  
23 WEDNESDAY.

24 ARE THERE ANY ISSUES, HOWEVER, THAT CAN  
25 BE DEALT WITH BETWEEN NOW AND THE COMMENCEMENT OF  
26 THE PENALTY PHASE, SO THAT THE PENALTY PHASE ITSELF  
27 COULD BE EXPEDITED?

28 MS. NAJERA: PART OF THE PROBLEM, YOUR HONOR,

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1 IS WE DON'T HAVE ANY OFFER OF PROOF AS TO THEIR  
2 FIRST GROUP OF WITNESSES THAT THEY PROMISED FROM  
3 ABOUT FOUR OR FIVE DAYS AGO. I'M SURE WHEN THEY GET  
4 HERE THERE'S GOING TO BE THINGS THAT ARE GOING TO BE  
5 LITIGATED. IF WE DON'T HAVE THAT STUFF TODAY, WE  
6 CAN'T TELL THE COURT -- EITHER LATE THIS AFTERNOON

7 OR MONDAY -- THESE THINGS NEED TO BE LITIGATED.

8 MS. ABRAMSON: I DISAGREE.

9 THE COURT: A LOT OF THIS TESTIMONY -- I'VE  
10 READ THE PEOPLE'S OBJECTIONS. AND YOU'RE AWARE OF  
11 WHAT THESE WITNESSES TESTIFIED TO IN THE FIRST  
12 TRIAL. WE'VE HAD SOME DISCUSSIONS ABOUT THESE  
13 ISSUES DURING THE TIME THE JURY WAS DELIBERATING,  
14 AND THE COURT EXPRESSED CERTAIN VIEWS. AND IT SEEMS  
15 TO ME THAT MUCH OF THAT WOULD BE ABLE TO BE DEALT  
16 WITH JUST BY OBJECTIONS TO TESTIMONY AS IT'S  
17 PRESENTED. I DON'T THINK IT WILL REQUIRE A GREAT  
18 DEAL OF HEARINGS AHEAD OF TIME. IF AREAS ARE GONE  
19 INTO THAT ARE PROPERLY SUBJECT TO OBJECTION, THEN IT  
20 WILL BE RULED UPON AND THE WITNESS CAN BE THEN  
21 DIRECTED TO SOME OTHER AREA THAT WOULD NOT BE  
22 EXCLUDABLE.

23 MS. ABRAMSON: THAT WAS OUR FEELING, YOUR  
24 HONOR, THAT THE PEOPLE'S OBJECTIONS, GIVEN THE  
25 HEARINGS WE DID HAVE, ARE BEST DEALT WITH AS  
26 CONTEMPORANEOUS OBJECTIONS. WE DON'T HAVE ANY  
27 INTENTION OF GOING INTO MATTERS THAT ARE HEARSAY OR  
28 IRRELEVANT ANYWAY SO...

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1 THE COURT: WELL, OFTEN TIMES THAT IS A

2 QUESTION OF DEBATE.

3 MS. ABRAMSON: YOU USUALLY RESOLVE THOSE  
4 DEBATES.

5 THE COURT: WE'LL BE ABLE TO RESOLVE THAT  
6 WHEN HEARINGS ACTUALLY OCCUR AND THE WITNESSES  
7 ACTUALLY TESTIFY. I DON'T THINK THIS WILL REQUIRE  
8 EXTENSIVE HEARINGS PRIOR TO THE TESTIMONY OF THE  
9 WITNESSES, OTHER THAN DR. COX, AND I DON'T KNOW IF  
10 THERE ARE OTHER THERAPISTS OF MRS. MENENDEZ THAT THE  
11 DEFENSE INTENDED TO CALL.

12 MS. ABRAMSON: WE MAY CALL DR. EMORY, BUT WE  
13 HAVEN'T SCHEDULED HIM YET.

14 THE COURT: THOSE WILL CLEARLY BE THE SUBJECT  
15 OF HEARINGS.

16 MS. ABRAMSON: ONE OTHER MATTER, AND I THINK  
17 PERHAPS WE SHOULD CLOSE THE COURTROOM FOR IT. I  
18 WANTED TO DISCUSS AN ISSUE CONCERNING THE JURY.

19 THE COURT: BEFORE WE DO THAT, ANYTHING ELSE  
20 THAT YOU WANT TO DISCUSS REGARDING SCHEDULING OR  
21 ANYTHING ELSE?

22 MS. ABRAMSON: NO, YOUR HONOR.

23 MS. NAJERA: I BELIEVE ROGER SMITH WAS ALSO  
24 ONE OF THOSE THE COURT SAID WOULD BE IN THAT  
25 CATEGORY WITH THE DOCTORS.

26 THE COURT: COULD BE. COULD BE, PORTIONS IT;  
27 PORTIONS OF IT WOULD NOT BE, DEPENDING ON WHAT THE  
28 DEFENSE ACTUALLY INTENDS TO BRING OUT. THE

1 CHARACTER OF THE VICTIM IS ONE THING THAT WE'VE  
2 DISCUSSED, VERSUS THE INTERACTION OF THE DEFENDANTS  
3 WITH THE VICTIMS, WHICH WAS ANOTHER ISSUE WE  
4 DISCUSSED, AND THERE'S CERTAINLY CLEAR DEMARCATION  
5 BETWEEN THE TWO AND ONE EASILY DRAWN.

6 ANYTHING ELSE NOW BEFORE WE RECESS THESE  
7 PROCEEDINGS?

8 MR. GESSEL: NO, YOUR HONOR.

9 THE COURT: OKAY. THEN WE'LL BE IN RECESS,  
10 AND WE'LL DEAL WITH WHATEVER COUNSEL WANTS TO TALK  
11 ABOUT.

12 (PAGES 52537 THROUGH ^ WERE HELD  
13 IN CAMERA AND SEALED BY ORDER OF  
14 THE COURT.)

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  
5 THE PEOPLE OF THE STATE OF )  
6 CALIFORNIA, )  
7 )  
8 PLAINTIFFS, )  
9 )  
10 )  
11 VS. ) NO. BA 068880



8 )  
ERIK GALEN MENENDEZ, AND )  
9 JOSEPH LYLE MENENDEZ, )  
10 )  
DEFENDANTS. )  
11 )

12 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS

13 FRIDAY, MARCH 22, 1996

14 VOLUME 314

15 (SEALED PAGES 52537 THGOUTH 52543)

16

17

18

19 APPEARANCES:  
(SEE APPEARANCE PAGE)

20

21

22

23

24

25

26

27

28

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22 CSR NO. 5178  
MARILYN FADALE,  
23 CSR NO. 4547  
24 OFFICIAL REPORTERS  
25  
26  
27  
28

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4 FRIDAY, MARCH 22, 1996 A.M. 52522 314

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6

PROCEEDINGS

7

8 DISCUSSION RE  
CONTINUANCE 52522 314

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10

11

CHRONOLOGICAL INDEX OF WITNESSES

12

13 WITNESSES: DIRECT CROSS REDIRECT RECROSS VOL.  
(NONE THIS VOLUME.)

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15

16

17

18

19

20

21 LEGEND:

22 A = MS. ABRAMSON

C = MR. CONN

23 G = MR. GESSLER

K = MS. TOWERY

24 L = MR. LEVIN

N = MS. NAJERA

25

26

1 EXHIBITS INDEX

2 EXHIBITS: MARKED RECEIVED VOL.

3 (NONE THIS VOLUME.)