

1 VAN NUYS, CALIFORNIA; WEDNESDAY, NOVEMBER 1, 1995

2 9:05 A.M.

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

4 (APPEARANCES AS HERETOFORE NOTED.)

5

6 THE COURT: OKAY. THE JURY IS NOT HERE. ALL

7 PARTICIPANTS ARE PRESENT.

8 WHAT IS IT THAT YOU WANT TO TALK ABOUT

9 BEFORE THE JURY COMES IN?

10 MS. NAJERA: YOUR HONOR, THERE'S ONE THING I

11 WANTED TO PUT ON THE RECORD THAT I HAD ALREADY

12 SPOKEN TO DEFENSE COUNSEL ABOUT, AND THAT WAS, SO

13 THE COURT UNDERSTANDS, THERE WAS A THIRD PART OF THE

14 CONVERSATION INVOLVING THE CONFESSION, WHICH WAS NOT

15 LITIGATED, WHICH INVOLVED THE DEFENDANT, ERIK

16 MENENDEZ. AND WHAT THAT WAS WAS A STATEMENT BY

17 MS. PISARCIK THAT SHE ASKED MR. MENENDEZ, LYLE

18 MENENDEZ, WHY HE DIDN'T RUN AWAY, AND HIS RESPONSE

19 WAS THAT HE WANTED TO, BUT ERIK DIDN'T.

20 I SPOKE TO MS. ABRAMSON ABOUT THAT AND

21 SHE TOLD ME THAT SHE SPOKE TO MR. GESSLER -- I MEAN

22 MR. LEVIN -- AND THEY DECIDED THEY WOULDN'T BE

23 OBJECTING TO THAT. SO THAT WILL BE COMING IN. IT

24 DOES MENTION ERIK MENENDEZ, AND I WANTED THE COURT

25 TO KNOW THAT WE HAD DISCUSSED IT AND THERE WAS NO

26 OBJECTION.

27 MR. LEVIN: THERE'S NO OBJECTION ON BEHALF OF

28 ERIK MENENDEZ SO LONG AS THERE'S NO ADDITIONAL

1 FOLLOW-UP; IF THAT'S THE SUM AND SUBSTANCE OF WHAT'S
2 SAID AND THERE'S NOTHING ADDITIONAL TO THAT, THEN WE
3 HAVE NO OBJECTION.

4 MS. NAJERA: THAT'S ALL WE HAVE AND THAT'S
5 ALL THERE'S BEEN DISCOVERY OF.

6 THE COURT: ALL RIGHT.

7 ANYTHING ELSE THEN? WHO ARE YOUR
8 WITNESSES AFTER PISARCIK?

9 MR. LEVIN: YOUR HONOR, WE HAVE MS. PISARCIK
10 AND THEN MS. EISENBERG. AND THEN I BELIEVE AS TO
11 MS. SUGARMAN AND MS. MC HUGH, WE'LL HAVE
12 STIPULATIONS, I BELIEVE.

13 MR. GESSLER: YES. I'M WILLING TO STIPULATE
14 ON THE GROUNDS THAT WE WORKED OUT.

15 MS. NAJERA: WE HAVE TO WORK OUT THE WORDING,
16 BUT THAT'S GOING TO HAPPEN.

17 ONE THING I WANTED TO ASK COUNSEL, AND I
18 JUST THOUGHT ABOUT IT RIGHT NOW.

19 (ATTORNEYS NAJERA, GESSLER AND
20 LEVIN CONFER SOTTO VOCE.)

21

22 (ATTORNEY ABRAMSON ENTERED
23 THE COURTROOM.)

24

25 THE COURT: OKAY. WE'LL BE IN RECESS UNTIL
26 THE JURY ARRIVES.

27 (A RECESS WAS TAKEN FROM
28 9:07 A.M. TO 9:16 A.M.)

39277

1 THE COURT: OKAY. WE'RE READY TO RESUME WITH
2 THE TRIAL. WE'LL HAVE THE JURY OUT. AND I WILL,
3 PURSUANT TO THE DISCUSSION WE HAD YESTERDAY, INFORM
4 THE JURY THAT THE ANSWER THE WITNESS GAVE IN REGARD
5 TO LIVING AT THE HOUSE AND WHO WAS LIVING AT THE
6 HOUSE IN BEVERLY HILLS WILL BE STRICKEN, AND THEN
7 WE'LL RESUME WITH THE TESTIMONY OF THE WITNESS.

8 MS. ABRAMSON: THANK YOU, YOUR HONOR. AND
9 YOU'LL TELL THEM TO DISREGARD IT?

10 THE COURT: YES.

11 MS. ABRAMSON: THANK YOU, YOUR HONOR.

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

13 (THE JURY ENTERED THE
14 COURTROOM AND THE FOLLOWING
15 PROCEEDINGS WERE HELD:)

16

17 THE COURT: OKAY. THE JURY IS IN THE
18 COURTROOM.

19 GOOD MORNING, LADIES AND GENTLEMEN.
20 THERE WAS ONE ANSWER THAT WAS GIVEN
21 YESTERDAY IN THE WITNESS' TESTIMONY IN WHICH SHE
22 RELATED WHERE SHE WAS LIVING. AT ONE POINT SHE SAID
23 SHE STAYED AT THE HOUSE AT BEVERLY HILLS AND SHE
24 SAID WHO WAS THERE STAYING AT THE HOUSE AT THE SAME
25 TIME SHE WAS. THAT ENTIRE ANSWER IS STRICKEN AND
26 YOU ARE TO DISREGARD IT IN ITS ENTIRETY AS TO
27 STAYING AT THE HOUSE IN BEVERLY HILLS AND WHO WAS
28 STAYING THERE WITH HER.

39278

1 JAMIE PISARCIK,
2 THE WITNESS AT TIME OF ADJOURNMENT, HAVING BEEN
3 PREVIOUSLY SWORN, TESTIFIED FURTHER AS FOLLOWS:
4 THE COURT: OKAY. WOULD YOU STATE YOUR NAME
5 AGAIN FOR THE RECORD, PLEASE.
6 THE WITNESS: JAMIE PISARCIK.
7 THE COURT: I REMIND YOU THAT YOU'RE STILL
8 UNDER OATH. AND WE'LL BE CONTINUING THE DIRECT
9 EXAMINATION.
10 MS. NAJERA: THANK YOU, YOUR HONOR.
11
12 DIRECT EXAMINATION (RESUMED)
13 BY MS. NAJERA:

14 Q MS. PISARCIK, I BELIEVE YESTERDAY I WAS
15 TALKING WITH YOU ABOUT CHRISTMAS TIME OF 1989.

16 DO YOU RECALL THAT?

17 A YES, I DO.

18 Q NOW, SOMETIME AFTER CHRISTMAS, 1989, IN
19 JANUARY OF 1990, WERE YOU STILL LIVING WITH THE
20 DEFENDANT, LYLE MENENDEZ, AT THE MARINA CITY
21 TOWERS?

22 A FOR A SHORT PERIOD OF TIME.

23 Q AND AT SOME TIME DID YOU MOVE OUT?

24 A YES, I DID.

25 Q WHEN DO YOU RECALL THAT WAS?

26 A IT WOULD BE MID JANUARY.

27 Q AND AFTER YOU MOVED OUT DID YOU REMAIN
28 IN CONTACT WITH THE DEFENDANT?

39279

1 A YES.

2 Q WERE YOU STILL SEEING ONE ANOTHER?

3 A YES.

4 Q AND WERE YOU AWARE OF SOMETHING
5 HAPPENING TO HIM IN MARCH OF 1990?

6 A YES.

7 Q AND WHAT WAS THAT?

8 A MARCH OF 1990 WAS WHEN LYLE WAS

9 ARRESTED.

10 Q AND AFTER THE DEFENDANT WAS ARRESTED IN
11 MARCH OF 1990, DID YOU CONTINUE SEEING HIM?

12 A YES.

13 Q AND DID YOU VISIT HIM AT THE JAIL?

14 A ALMOST EVERY DAY.

15 Q AND FROM THE TIME HE WAS ARRESTED IN
16 MARCH TO THE END OF MARCH 1990, DID YOU VISIT HIM
17 ALMOST EVERY DAY THAT MONTH?

18 A YES.

19 Q WHEN YOU SAY EVERY DAY -- WHEN YOU SAY
20 EVERY DAY, EVERY DAY UNTIL WHEN?

21 A EVERY DAY UNTIL -- THROUGHOUT THAT WHOLE
22 YEAR, UNTIL THE END OF THE YEAR.

23 Q SO APPROXIMATELY HOW LONG DID YOU VISIT
24 WITH HIM EVERY DAY FROM MARCH OF 1990 TO DECEMBER OF
25 1990?

26 A THE MINIMUM TIME THAT WAS ALLOWED WAS 20
27 MINUTES. SOMETIMES IT WAS MUCH LONGER THAN THAT.
28 SOMETIMES THE INDIVIDUALS THAT BROUGHT LYLE DOWN

39280

1 WOULD ALLOW HIM TO STAY AN HOUR, SOMETIMES EVEN
2 LONGER THAN THAT.

3 Q NOW, CALLING YOUR ATTENTION TO EARLY

4 DECEMBER OF 1990, THIS WOULD BE APPROXIMATELY NINE
5 MONTHS AFTER THE DEFENDANT WAS ARRESTED. DID YOU
6 HAVE A VISIT WITH HIM IN EARLY DECEMBER OF 1990
7 WHERE YOU TALKED WITH HIM ABOUT HIS DEFENSE?

8 A YES.

9 Q AND DO YOU RECALL THIS CONVERSATION WITH
10 THE DEFENDANT, LYLE MENENDEZ?

11 A YES, I DO.

12 Q AND COULD YOU TELL THE JURY WHAT WAS
13 SAID AT THIS CONVERSATION.

14 A IN THIS CONVERSATION LYLE HAD ASKED ME
15 IF I WOULD SAY THAT HIS FATHER HAD DONE WHAT WAS
16 DONE TO A CHARACTER IN A MOVIE, AND THE MOVIE WAS
17 CALLED "AT CLOSE RANGE." AND HE HAD ASKED ME TO LIE
18 AND SAY THAT HIS FATHER HAD DONE THAT TO ME.

19 Q NOW, WERE YOU FAMILIAR WITH THE MOVIE
20 "AT CLOSE RANGE"?

21 A YES. LYLE AND I HAD SEEN IT TOGETHER.

22 Q AND WHEN YOU SAID A SCENE, DID HE CALL
23 ATTENTION TO THIS PARTICULAR SCENE?

24 A YES, HE DID.

25 Q AND COULD YOU DESCRIBE THIS SCENE.

26 A THE SCENE WAS ONE IN THAT THE FATHER OF
27 THE MAIN CHARACTER AND THE GIRLFRIEND OF THE MAIN
28 CHARACTER WERE IN A ROOM TOGETHER AND THE FATHER HAD

1 GIVEN THE GIRL A PILL, A DRUG, AND SHE WAS A LITTLE
2 GROGGY. AND THE FATHER HAD ASKED HER NOT TO SEE THE
3 SON ANYMORE. AND SHE SAID THAT SHE COULD NO -- SHE
4 COULDN'T DO THAT BECAUSE SHE LOVED THIS CHARACTER.
5 AND THEN SHE PROCEEDED TO TRY TO LEAVE.

6 MS. TOWERY: OBJECTION. FAILURE OF
7 DISCOVERY.

8 THE COURT: I'M SORRY?

9 MS. TOWERY: FAILURE OF DISCOVERY.

10 THE COURT: OVERRULED.

11 THE WITNESS: AND SHE HAD PROCEEDED TO TRY TO
12 LEAVE AND THE FATHER CHARACTER WOULD NOT LET HER
13 LEAVE THE ROOM.

14 AND THEN WHAT HAPPENED WAS THE FATHER
15 KIND OF LOOKED AT HER VERY STRANGELY AND SHE SAID
16 NO. AND THEN THE FATHER SAID, I'M NOT ASKING YOU.
17 AND THEN HE PUSHED HER DOWN ON THE BED AND PROCEEDED
18 TO RAPE HER.

19 Q BY MS. NAJERA: AND WHEN LYLE MENENDEZ
20 ASKED YOU TO SAY THAT HIS FATHER HAD DONE WHAT THE
21 CHARACTER IN THIS MOVIE HAD DONE IN THIS SCENE, HOW
22 DID YOU RESPOND TO THAT?

23 A WELL, I -- IT HAD BEEN ABOUT A YEAR, I
24 GUESS, MAYBE A LITTLE BIT LONGER, SINCE I HAD SEEN
25 THE MOVIE. BUT I KNEW EXACTLY WHAT LYLE WAS TALKING
26 ABOUT. AND I JUST BASICALLY SAID, I CAN'T BELIEVE
27 YOU'RE ASKING ME TO DO THIS, AND IT'S A LIE AND

39282

1 WOULD NEVER DO THAT TO ME, NOR DID HE.

2 Q AND HOW DID THE DEFENDANT RESPOND WHEN
3 YOU SAID THAT?

4 A HE SAID THAT -- THAT I HAD TO DO IT
5 BECAUSE A LARGE SUM OF MONEY WAS GOING TO BE PLACED
6 IN MY BANK ACCOUNT, AND THAT I HAD TO DO IT. AND I
7 SAID THE MINUTE A CENT IS PUT INTO MY BANK ACCOUNT
8 I'M GOING RIGHT TO THE POLICE WITH THIS.

9 Q AND WHEN YOU TOLD HIM YOU'D GO TO THE
10 POLICE IF HE PUT MONEY IN YOUR BANK ACCOUNT, DID HE
11 RESPOND?

12 A HE FINALLY BACKED OFF AND SAID, YEAH,
13 WELL, I FIGURED YOU WOULDN'T GO FOR THIS AND THAT
14 YOU WOULDN'T DO THIS.

15 Q DID HE TELL YOU ANYTHING ELSE?

16 A YOU KNOW, JUST THAT HE WAS WORKING ON
17 HIS DEFENSE AND THIS IS -- WAS GOING TO BE PART OF
18 IT.

19 Q NOW, AFTER HE TOLD YOU THIS LAST PART,
20 DID THIS CONVERSATION CONTINUE OR NOT?

21 A NOT MUCH LONGER. I DON'T BELIEVE HE WAS
22 DOWN THERE FOR MUCH LONGER. BUT IT WAS OBVIOUSLY

23 VERY UPSETTING AND IT'S JUST SOMETHING I TOLD HIM I
24 WOULD NOT DO.
25 Q NOW, DID YOU CONTINUE VISITING HIM ON A
26 REGULAR BASIS AFTER YOU HAD THIS MEETING WITH HIM
27 AND THIS CONVERSATION?
28 A YES.

39283

1 Q AND SOMETIME LATER THAT MONTH, IN MID
2 DECEMBER OF 1990, DID YOU HAVE ANOTHER MEETING WITH
3 THE DEFENDANT, LYLE MENENDEZ, WHERE HE TALKED ABOUT
4 THIS CRIME?

5 A YES.

6 Q AND WHAT DO YOU RECALL HAPPENED AT THAT
7 MEETING?

8 A WELL, WHEN LYLE STARTED TO ASK ME TO DO
9 THINGS, LIKE LIE FOR HIM REGARDING THE MOVIE, I
10 MEAN, I OBVIOUSLY STARTED TO QUESTION, BECAUSE UP
11 UNTIL THIS POINT I BELIEVED 100 PERCENT IN HIS
12 INNOCENCE AND HAD -- DID NOT KNOW THAT HE HAD
13 COMMITTED THIS CRIME.

14 SO I STARTED QUESTIONING HIM AND ASKING
15 HIM AND TELLING HIM THAT I NEEDED TO KNOW THE TRUTH,
16 WHATEVER IT WAS. AND THEN FINALLY, IN THE LATER
17 PART OF DECEMBER, HE DID TELL ME THE TRUTH.

18 Q AND WHEN YOU SAY HE DID TELL YOU THE
19 TRUTH, WAS THIS DURING THIS -- DID HE TELL YOU
20 SOMETHING ABOUT THE CRIME DURING THIS MEETING IN MID
21 DECEMBER?

22 A YES.

23 Q AND WHAT DID HE -- WHAT DID HE DO AT THIS
24 MEETING IN MID DECEMBER CONCERNING TELLING YOU ABOUT
25 THE CRIME?

26 A HE HELD UP A PRE-WRITTEN LETTER THAT HAD
27 THE ADMISSION, THE CONFESSION, THAT HE DID KILL HIS
28 PARENTS.

39284

1 Q NOW, YOU SAY HE HELD UP A LETTER.
2 HAD HE DONE THAT IN THE PAST, HELD UP
3 THINGS, RATHER THAN TOLD YOU THINGS?

4 A YES. PRIVATE THINGS, THINGS THAT HE
5 DIDN'T WANT OTHER PEOPLE TO HEAR, YES.

6 Q HOW WAS THIS MEETING ROOM SET UP SO YOU
7 CAN DESCRIBE THAT TO THE JURY.

8 A WELL, THERE WERE SEVERAL DIFFERENT AREAS
9 THAT LYLE WAS BROUGHT DOWN TO. ONE WAS WHERE IT WAS
10 FAIRLY OPEN AND THERE WAS PRISONERS ON EITHER SIDE
11 OF HIM. BUT IN THIS INSTANCE IT WAS THE VERY FIRST
12 ROW WHICH WAS MORE LIKE A PRIVATE BOX. SO IT WAS A

13 LITTLE BIT MORE SECLUDED.

14 Q AND WHEN YOU SAY HE HELD UP THINGS,
15 PRIVATE THINGS, WAS THIS FOR -- SO THAT THINGS COULD
16 REMAIN CONFIDENTIAL?

17 A YES.

18 Q AND YOU SAID HE HELD UP THE LETTER.
19 DO YOU RECALL HOW LONG THAT LETTER WAS?

20 A IT WAS A LENGTHY LETTER, APPROXIMATELY,
21 I WOULD SAY, SEVEN TO EIGHT PAGES IN TOTAL. IT WAS
22 HARD TO TELL, BUT IT WAS THICK.

23 Q AND YOU STARTED READING THE LETTER.
24 ABOUT HOW MUCH OF IT DID YOU READ?

25 A JUST SEVERAL PAGES OF IT.

26 Q DID YOU STOP READING IT BEFORE YOU --
27 BEFORE THE LETTER ENDED?

28 A YES.

39285

1 Q NOW, STARTING WITH THE FIRST PART THAT
2 YOU READ, DO YOU RECALL WHAT -- HOW IT STARTED OUT?

3 A YES, I DO.

4 Q HOW DID IT START OUT?

5 A IT STARTED OUT BY HE -- HIM APOLOGIZING
6 TO ME FOR HAVING TO HAVE LIED TO ME FOR SUCH A LONG
7 TIME; AND THAT HE WAS VERY SORRY THAT HE COULD NOT

8 HAVE TOLD ME THE TRUTH DURING THE NINE, TEN MONTHS

9 THAT I HAD COME DOWN TO SEE HIM AND VISIT HIM.

10 Q AND THEN DID HE PROCEED TO -- THEN AFTER

11 THIS APOLOGY, WHAT ELSE WAS IN THE LETTER?

12 A AFTER HE APOLOGIZED FOR NOT BEING ABLE

13 TO TELL ME THE TRUTH, HE DID, INDEED, TELL ME THE

14 TRUTH, THAT HE HAD KILLED HIS PARENTS.

15 Q AND AT THAT POINT DID HE GIVE YOU A

16 REASON WHY HE HAD KILLED HIS PARENTS?

17 A YES, HE DID. HE HAD SAID THAT IT WAS

18 BECAUSE -- THAT HIS MOTHER HAD SEXUALLY ABUSED HIM

19 AND HIS BROTHER WAS ALSO ABUSED BY HIS FATHER.

20 Q NOW, HOW LONG AFTER HE HAD ASKED YOU TO

21 LIE AND SAY THAT HIS FATHER HAD ABUSED YOU DID HE

22 COME UP WITH THIS LETTER?

23 A WITHIN WEEKS.

24 Q AND WAS THIS LETTER SHOWN TO YOU AFTER

25 HE TOLD YOU THAT HE WAS WORKING ON HIS DEFENSE?

26 A YES.

27 Q AND WHEN YOU READ THE PART OF THE

28 LETTER, THE FIRST PART OF THE LETTER, DID YOU STOP

39286

1 READING IT -- I'M SORRY. YOU TESTIFIED THAT YOU

2 STOPPED READING IT.

3 WHY DID YOU STOP READING IT?

4 A WELL, I STOPPED READING IT BECAUSE IT
5 CAME TO THE PART IN THE LETTER THAT IT SAID THAT HIS
6 MOTHER HAD SEXUALLY ABUSED HIM, AND I STOPPED AND I
7 SAID, I DO NOT BELIEVE THIS. AND THAT'S WHEN HE
8 RIPPED THE LETTER AWAY AND WOULD NOT LET ME CONTINUE
9 READING IT.

10 Q NOW, WHEN YOU TOLD HIM THAT YOU DID NOT
11 BELIEVE THIS, DID YOU SAY ANYTHING ELSE TO HIM?

12 A WELL, AT THAT POINT I WAS VERY UPSET AND
13 I WAS CRYING. AND I JUST ASKED HIM WHY, WHY DID YOU
14 DO THIS? YOU KNOW, AT THAT POINT I JUST COULDN'T
15 UNDERSTAND HOW HE COULD POSSIBLY DO IT. AND I ASKED
16 HIM WHY AND HE SAID HE TRIED TO LEAVE, BUT ERIK
17 DIDN'T WANT TO. AND, YOU KNOW, HE WAS KIND OF GOING
18 ON. BUT IT -- THE CONVERSATION DIDN'T GO MUCH
19 LONGER. AGAIN, WE WERE INTERRUPTED. BUT IT WAS A
20 VERY EMOTIONAL SCENE.

21 Q NOW, WHEN YOU SAY YOU WERE INTERRUPTED,
22 WHAT INTERRUPTED YOU?

23 A AGAIN, THE POLICE OFFICERS THAT COME
24 DOWN TO TAKE LYLE BACK.

25 Q NOW, GOING BACK TO THE EARLY PART OF
26 DECEMBER, THE FIRST CONVERSATION BEFORE HE SHOWED
27 YOU THE LETTER, THE CONVERSATION WHERE HE ASKED YOU
28 TO LIE FOR HIM. WHEN HE MENTIONED THE MOVIE "AT

1 CLOSE RANGE," HAD YOU BEEN -- IN THE PAST HAD YOU
2 BEEN ASKED ABOUT THIS, THIS INSTANT THAT HAPPENED?

3 A YES.

4 Q HOW IN THE PAST HAVE YOU DESCRIBED THIS
5 SCENE FROM "AT CLOSE RANGE"?

6 A I HAD DESCRIBED IT IN THE PAST AS
7 BEING --

8 MS. TOWERY: OBJECTION. HEARSAY.

9 THE COURT: OVERRULED.

10 THE WITNESS: -- AS BEING KIND OF A COME-ON
11 FROM THE FATHER TO THE DAUGHTER -- OR NOT TO THE
12 DAUGHTER, TO THE GIRLFRIEND. I'M SORRY.

13 Q BY MS. NAJERA: DO YOU RECALL -- IN THE
14 PAST DID YOU RECALL THE SCENE AS WHAT YOU HAVE
15 DESCRIBED IN COURT TODAY?

16 A I REMEMBER IT AS BEING A -- IT WAS A VERY
17 VIOLENT MOVIE. AND I REMEMBER IT AS BEING VIOLENT.
18 BUT I HAD NOT DESCRIBED IT AS BEING A RAPE.

19 Q AND WHY IS THAT?

20 A I HAD NOT SEEN THE MOVIE IN A LONG TIME,
21 AND THE WHOLE MOVIE WAS EXTREMELY VIOLENT, AND I
22 GUESS I JUST DIDN'T PINPOINT THAT EXACT INSTANCE.
23 IT DID COME TO MEMORY AT THE TIME.

24 Q HAVE YOU SINCE REFRESHED YOUR MEMORY BY
25 REVIEWING THE MOVIE?

26 A YES.

27 Q AND WHEN YOU REVIEWED -- WELL, DID YOU
28 REVIEW THE SCENE IN THE MOVIE?

39288

1 A YES.

2 Q WHEN YOU REVIEWED IT, DO YOU RECALL THAT
3 THAT WAS THE MOVIE THAT YOU SAW WITH LYLE MENENDEZ?

4 A YES, INDEED.

5 Q DO YOU REMEMBER WHEN YOU SAW IT?

6 A IT WAS OBVIOUSLY BEFORE LYLE WAS IN
7 JAIL, BUT IT WAS, I WOULD SAY, SEVERAL MONTHS BEFORE
8 HE WAS IN JAIL. SO I WOULD IMAGINE THAT PRIOR TO
9 CHRISTMAS OF THAT YEAR, PROBABLY '89, WHILE I WAS
10 LIVING PROBABLY IN THE MARINA CITY CLUB OR AROUND
11 THAT TIME.

12 Q NOW, AFTER THE SECOND CONVERSATION WHERE
13 HE TOLD YOU THAT HE HAD KILLED HIS PARENTS, DID YOU
14 CONTINUE SEEING HIM AFTER THAT CONVERSATION?

15 A I WENT THROUGH A PERIOD OF ALMOST
16 DENIAL; THAT HE WAS JUST TELLING ME THIS AND HE
17 REALLY DIDN'T KILL HIS PARENTS, AND I WANTED TO
18 BELIEVE THAT HE DIDN'T. BUT THEN IT -- THE TRUTH
19 KIND OF SET IN AND I DID SEE HIM FOR A SHORT PERIOD
20 OF TIME AFTERWARDS, BUT NOT LONG.

21 Q AND AT SOME POINT AFTER THAT DID YOU
22 BREAK UP WITH HIM?
23 A YES.
24 Q AND ABOUT WHEN WAS THAT?
25 A HAD TO BE LATE -- I TOLD HIM THAT I DID
26 NOT NO LONGER WANT TO SEE HIM AND THAT I WASN'T
27 GOING TO BE HIS GIRLFRIEND ANYMORE. BUT I DID GO
28 DOWN AND SEE HIM PROBABLY THROUGH MAYBE MID

39289

1 JANUARY. OCCASIONALLY. NOT LIKE I HAD BEFORE.

2 Q AND AFTER JANUARY OF 1991, WERE YOU
3 SEEING THE DEFENDANT?

4 A NO.

5 MS. NAJERA: CAN I HAVE A MOMENT?

6 I HAVE NOTHING FURTHER AT THIS TIME,
7 YOUR HONOR.

8 THE COURT: CROSS-EXAMINATION.

9

10 CROSS-EXAMINATION

11 BY MS. TOWERY:

12 Q GOOD MORNING, MS. PISARCIK.

13 A HELLO.

14 Q YOU MET LYLE MENENDEZ IN THE FALL OF
15 1986; IS THAT RIGHT?

16 A CORRECT.

17 Q AND AT THAT TIME HE WAS TAKING CLASSES

18 AT A JUNIOR COMMUNITY COLLEGE CALLED TRENTON STATE;

19 IS THAT RIGHT?

20 A YES.

21 Q HE WAS JUST BEGINNING TO TAKE CLASSES?

22 A CORRECT.

23 Q THE 18TH?

24 A THAT WAS THE FALL SEMESTER, YES.

25 Q HE HADN'T STARTED AT PRINCETON?

26 A NO. HE HAD TO TAKE THOSE CLASSES IN

27 ORDER TO GET INTO PRINCETON.

28 Q ALL RIGHT. AND AT THE TIME YOU MET HIM,

39290

1 YOU HAD GRADUATED FROM COLLEGE?

2 A CORRECT.

3 Q AND YOU WERE PLAYING TENNIS AS A

4 PROFESSIONAL; IS THAT RIGHT?

5 A YES.

6 Q AND YOU HAD BEEN IN EUROPE PLAYING

7 BEFORE YOU MET LYLE MENENDEZ AND THEN RETURNED TO

8 PRINCETON TO TRAIN WITH A COACH; IS THAT RIGHT?

9 A CORRECT.

10 Q AND WHAT WAS THE COACH'S NAME?

11 A HIS NAME WAS ROBERT CLAUSE.
12 Q WAS -- WAS HE ALSO KNOWN AS ROBBIE?
13 A YES.
14 Q AND WAS ROBBIE CLAUSE COACHING LYLE
15 MENENDEZ AS WELL AS YOURSELF?
16 MS. NAJERA: OBJECTION. IRRELEVANT.
17 THE COURT: OVERRULED.
18 THE WITNESS: YES.
19 Q BY MS. TOWERY: IS THAT HOW YOU MET
20 HIM?
21 A YES. WE MET ON A TENNIS COURT.
22 Q AND WAS -- WERE YOU LIVING WITH ROBBIE
23 CLAUSE AT THAT TIME?
24 MS. NAJERA: OBJECTION. IRRELEVANT.
25 THE COURT: OVERRULED.
26 THE WITNESS: ROBBIE HAD AN APARTMENT WHERE
27 HE HOUSED SEVERAL DIFFERENT PLAYERS, PLAYERS THAT
28 WERE TRAINING WITH HIM. SO IT REALLY WAS LIKE WE

39291

1 WEREN'T LIVING ANYWHERE. WE WERE STAYING THERE
2 WHERE WE TRAINED. A LOT OF US WERE TRAVELING AROUND
3 THE WORLD. YOU KNOW, THAT WAS OUR JOB, PLAYING
4 TENNIS. SO WHILE WE WERE THERE TRAINING WITH
5 ROBBIE, YOU KNOW, WE STAYED WITH HIM OR, YOU KNOW,

6 ELSEWHERE.

7 Q BY MS. TOWERY: WAS HE YOUR BOYFRIEND AT
8 THE TIME, ROBBIE?

9 A NO.

10 Q DID YOU HAVE A BOYFRIEND AT THE TIME?

11 A NO.

12 MS. NAJERA: OBJECTION. IRRELEVANT.

13 THE COURT: OVERRULED.

14 Q BY MS. TOWERY: YOU DIDN'T HAVE A
15 BOYFRIEND AT THAT TIME?

16 A NOT THAT I REMEMBER. IT WAS A LONG TIME
17 AGO.

18 Q YOU WEREN'T ENGAGED TO A YOUNG MAN IN
19 GERMANY AT THAT TIME?

20 A NO.

21 Q WHEN YOU MET LYLE MENENDEZ, WHERE WAS HE
22 LIVING, IF YOU RECALL?

23 A I BELIEVE HE WAS LIVING IN HIS PRINCETON
24 HOME.

25 Q AND WHERE WAS THAT?

26 A I DON'T REMEMBER THE EXACT STREET. I
27 REMEMBER THE HOUSE THOUGH.

28 Q OKAY. CAN YOU DESCRIBE THE HOUSE FOR

1 US.

2 A THERE'S A LONG DRIVE --

3 MS. NAJERA: OBJECTION. IRRELEVANT.

4 THE COURT: OVERRULED.

5 THE WITNESS: LONG DRIVEWAY. I BELIEVE IT

6 WAS A STONE AND WOODEN HOUSE.

7 Q BY MS. TOWERY: WAS IT A BIG HOUSE?

8 A YES.

9 Q SURROUNDED BY A LOT OF LAND?

10 A LOT OF LAND, WOODS, AND I BELIEVE
11 THERE'S SOME PONDS, WATER, LITTLE BIT OF WATER.

12 Q A BIG LAKE BEHIND IT; IS THAT RIGHT?

13 A MM-HMM.

14 Q AND THE DRIVEWAY WAS VERY LONG, WASN'T
15 IT?

16 A ABOUT A MILE, I THINK.

17 Q SO IT WAS ON A LOT OF PROPERTY?

18 A YES.

19 Q AND WAS HE LIVING THERE WITH HIS PARENTS
20 AT THE TIME YOU MET HIM?

21 A NO. HIS PARENTS HAD MOVED TO
22 CALIFORNIA. THEY STILL OWNED THAT HOUSE. BUT,
23 ACTUALLY, THAT IS THE PLACE WHERE I MET THE
24 MENENDEZES WHEN THEY CAME BACK AND RETURNED, I
25 BELIEVE IT WAS AT THANKSGIVING OF THAT YEAR.

26 Q ALL RIGHT. BUT THEY LIVED IN CALIFORNIA
27 AT THAT TIME AND LYLE WAS LIVING IN THIS BIG HOUSE;
28 IS THAT CORRECT?

1 A YEAH. LYLE AND ONE OF HIS COUSINS.

2 Q AND HE WAS GOING TO SCHOOL AT THAT TIME;

3 IS THAT RIGHT?

4 A CORRECT.

5 Q NOW, LYLE WASN'T JUST SOMEONE -- YOU

6 MENTIONED IN YOUR DIRECT TESTIMONY THAT YOU WERE IN

7 CONTACT WITH LYLE MENENDEZ OVER THIS PERIOD OF TIME

8 FROM WHEN YOU MET HIM IN 1986 TO APRIL OF 1989.

9 HE WAS ACTUALLY YOUR BOYFRIEND DURING

10 THAT TIME, WASN'T HE?

11 A YES.

12 Q AND --

13 A BUT WE DID BREAK UP SEVERAL TIMES, SO

14 THERE WERE TIMES WHEN HE WAS MY BOYFRIEND AND TIMES

15 WHEN HE WASN'T.

16 Q DID YOU LIVE WITH HIM AT THE BIG HOUSE

17 IN PRINCETON THAT YOU JUST DESCRIBED?

18 A WELL, AGAIN, LIVING WITH IS -- YOU KNOW,

19 I STAYED THERE WHEN I WASN'T PLAYING TENNIS. DID I

20 SET UP? DID I HAVE MAIL SENT THERE? NO. BUT YES,

21 I DID SPEND TIME WITH HIM THERE AND STAY WITH HIM

22 WHILE I WAS IN THE AREA.

23 MS. TOWERY: CAN I APPROACH, YOUR HONOR?

24 THE COURT: YES.

25 (PAUSE IN PROCEEDINGS.)

26

27 MS. TOWERY: I'M GOING TO SHOW YOU AN EXHIBIT

28 THAT WAS MARKED AS NO. 370 IN THE LAST TRIAL. I

39294

1 THINK THE NEXT IN ORDER IS 151; IS THAT RIGHT, YOUR

2 HONOR?

3 THE COURT: YES.

4 MS. TOWERY: LET ME JUST SHOW YOU THIS.

5 Q YOU LOOKED AT THAT EXHIBIT WHEN YOU

6 TESTIFIED AT THE PREVIOUS TRIAL, CORRECT?

7 A CORRECT.

8 Q BY THE WAY, YOU DID TESTIFY AT THE

9 PREVIOUS TRIAL, DID YOU NOT?

10 A YES, I DID.

11 Q AND THAT WAS -- THAT REFRESHED YOUR

12 RECOLLECTION AS TO WHETHER YOU STAYED WITH LYLE AT

13 THE HOUSE IN --

14 A MAY I READ THIS, PLEASE?

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

16 INTERJECT AN OBJECTION AS TO TIME. VAGUE AS TO

17 TIME.

18 THE COURT: OKAY. ONE STEP AT A TIME HERE.

19 LET'S SEE IF THAT REFRESHES HER RECOLLECTION.

20 (PAUSE IN PROCEEDINGS.)

21

22 THE WITNESS: OKAY. THANK YOU.

23 Q BY MS. TOWERY: DOES THAT REFRESH YOUR

24 RECOLLECTION AS TO WHETHER OR NOT YOU AT LEAST

25 STAYED WITH LYLE AT THE BIG PRINCETON HOUSE IN

26 1986?

27 A YES. IT -- AS IT STATES IN THAT LETTER,

28 I WAS THERE FOR SEVERAL DAYS.

39295

1 Q ALL RIGHT. AND THAT'S -- THAT'S A LETTER

2 THAT YOU WROTE TO LYLE MENENDEZ AFTER HE WAS

3 ARRESTED; IS THAT RIGHT?

4 A IT SAYS MARCH 26TH, 1990.

5 Q AND YOU INDICATED IN YOUR DIRECT

6 TESTIMONY THAT HE WAS ARRESTED IN EARLY MARCH; IS

7 THAT CORRECT?

8 A I BELIEVE SO.

9 Q SO THIS WOULD HAVE BEEN AFTER HIS

10 ARREST?

11 A YES.

12 Q AND THEN IN THE LETTER YOU TALK ABOUT

13 THE HEAT BEING TURNED OFF IN THE HOUSE AND YOU TWO

14 BEING VERY COLD IN THE HOUSE; IS THAT RIGHT?

15 MS. NAJERA: I'M GOING TO OBJECT ON RELEVANCY

16 GROUNDS AS TO THE CONTENT OF THE LETTER.

17 THE COURT: SUSTAINED.

18 Q BY MS. TOWERY: AT SOME POINT WHILE YOU

19 WERE STAYING, OR LYLE MENENDEZ WAS STAYING AT THE

20 HOUSE IN PRINCETON, DID HIS PARENTS HAVE ALL THE

21 FURNITURE REMOVED?

22 MS. NAJERA: OBJECTION. CALLS FOR

23 SPECULATION FROM THIS WITNESS AND ASSUMES A FACT NOT

24 IN EVIDENCE.

25 THE COURT: SUSTAINED ON THE FORMER GROUND.

26 Q BY MS. TOWERY: WAS ALL THE FURNITURE

27 REMOVED FROM THE HOUSE IN PRINCETON AT SOME POINT

28 WHILE LYLE MENENDEZ WAS STAYING THERE?

39296

1 A I DON'T RECALL.

2 Q YOU DON'T -- YOU DON'T RECALL OR IT WAS

3 NOT REMOVED?

4 A I DON'T REMEMBER IF IT WAS OR NOT.

5 Q NOW, IN 1987 LYLE MENENDEZ WAS STILL

6 YOUR BOYFRIEND. YOU HADN'T BROKE UP, HAD YOU?

7 A NO. WE WERE TOGETHER IN 1987.

8 Q AND HE WENT TO AUSTRALIA IN FEBRUARY OF

9 1987 WITH ROBBIE CLAUSE, DID HE NOT?

10 A I DON'T KNOW IF HE WENT WITH ROBBIE
11 CLAUSE. I REMEMBER HIM TRAVELING WITH A FRIEND BY
12 THE NAME OF COLE. I DON'T KNOW IF ROBBIE WAS WITH
13 HIM OR NOT.

14 MS. TOWERY: MAY I APPROACH AGAIN, YOUR
15 HONOR?

16 THE COURT: YES.

17 (PAUSE IN PROCEEDINGS.)

18

19 MS. TOWERY: I HAVE A DOCUMENT THAT WAS
20 MARKED AT THE PREVIOUS TRIAL AS EXHIBIT 375. I'D
21 ASK THAT IT BE MARKED FOR IDENTIFICATION AS EXHIBIT
22 152, YOUR HONOR.

23 THE COURT: YES.

24 Q BY MS. TOWERY: AGAIN, I'LL SHOW YOU A
25 DOCUMENT THAT APPEARS TO BE A LETTER.

26 IS THAT A LETTER THAT YOU WROTE TO LYLE
27 MENENDEZ?

28 A MM-HMM.

39297

1 Q AND WHAT'S THE DATE OF THAT LETTER?

2 A THIS ONE IS FEBRUARY 10TH OF 1987.

3 Q AND DOES THAT -- TAKE A LOOK AT IT AND
4 SEE IF IT REFRESHES YOUR RECOLLECTION AS TO WHETHER

5 OR NOT LYLE MENENDEZ WENT TO AUSTRALIA WITH ROBBIE

6 CLAUSE.

7 (PAUSE IN PROCEEDINGS.)

8

9 Q BY MS. TOWERY: DOES THAT HELP YOU

10 RECALL?

11 A ACCORDING TO THAT IT DOES LOOK LIKE HE

12 WAS THERE WITH ROBBIE.

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

14 HONOR. I BELIEVE THERE'S NO FOUNDATION.

15 Q BY MS. TOWERY: DOES THAT REFRESH --

16 THE COURT: SUSTAINED. THE ANSWER IS

17 STRICKEN.

18 Q BY MS. TOWERY: DOES THAT REFRESH YOUR

19 RECOLLECTION AS TO WHO LYLE MENENDEZ WENT TO

20 AUSTRALIA WITH IN FEBRUARY OF 1987?

21 A YES.

22 Q AND THAT WAS ROBBIE CLAUSE, ISN'T IT?

23 A YES.

24 Q AND LYLE MENENDEZ WAS PLAYING AT A

25 TENNIS TOURNAMENT WHEN HE WENT TO AUSTRALIA WITH

26 ROBBIE CLAUSE, WASN'T HE?

27 A YES.

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

1 SPECULATION. SHE WASN'T THERE.

2 THE COURT: SUSTAINED. THE ANSWER IS

3 STRICKEN.

4 Q BY MS. TOWERY: YOUR UNDERSTANDING,

5 ACCORDING TO WHAT LYLE MENENDEZ TOLD YOU, WAS THE

6 REASON HE WENT TO AUSTRALIA WAS IN ORDER TO PLAY IN

7 A TENNIS TOURNAMENT, WASN'T IT?

8 MS. NAJERA: OBJECTION. HEARSAY.

9 THE COURT: OVERRULED.

10 THE WITNESS: YES.

11 Q BY MS. TOWERY: WHILE HE WAS IN

12 AUSTRALIA, DO YOU REMEMBER HIM CALLING YOU VIRTUALLY

13 EVERY NIGHT?

14 A I DON'T REMEMBER HIM CALLING ME EVERY

15 NIGHT. HE COULD HAVE. I'M SURE WE TALKED A LOT.

16 (PAUSE IN PROCEEDINGS.)

17

18 MS. TOWERY: I HAVE A DOCUMENT THAT WAS

19 MARKED AT THE PREVIOUS TRIAL, YOUR HONOR, AS EXHIBIT

20 374. I'D ASK THAT THAT BE MARKED AS 153 FOR

21 IDENTIFICATION.

22 THE COURT: 153.

23 Q BY MS. TOWERY: AGAIN, I'LL ASK YOU TO

24 TAKE A LOOK AT A DOCUMENT THAT APPEARS TO BE A PAGE

25 OF A LETTER WRITTEN BY YOU.

26 WHAT'S THE DATE OF THAT LETTER?

27 A THIS IS FEBRUARY 17TH, 1987.

28 Q DOES THAT APPEAR TO BE A LETTER THAT YOU

39299

1 WROTE TO LYLE MENENDEZ WHILE HE WAS IN AUSTRALIA?

2 A YES, IT DOES.

3 Q DOES THAT REFRESH YOUR RECOLLECTION THAT

4 HE CALLED YOU VIRTUALLY EVERY NIGHT WHILE HE WAS IN

5 AUSTRALIA?

6 A WELL, IT SAYS I LOOK FORWARD TO HEARING

7 FROM HIM EVERY NIGHT. IT DOESN'T SAY THAT HE DID --

8 MS. NAJERA: I'D OBJECT AND MAKE A MOTION TO

9 STRIKE AS HEARSAY.

10 THE COURT: OBJECTION SUSTAINED. THE ANSWER

11 IS STRICKEN AS NONRESPONSIVE.

12 Q BY MS. TOWERY: DID YOU RECEIVE

13 TELEPHONE CALLS FROM LYLE MENENDEZ MOST EVERY NIGHT

14 WHILE HE WAS IN AUSTRALIA IN 1987?

15 A IT WAS 1987. I REALLY DON'T REMEMBER.

16 Q OKAY. THE LETTER DOESN'T HELP YOU

17 REFRESH YOUR RECOLLECTION REGARDING THAT?

18 A NO, I DON'T BELIEVE IT DOES.

19 Q WOULD YOU HAVE WRITTEN "I LOOK FORWARD

20 TO HEARING YOUR VOICE EVERY NIGHT" IF HE DIDN'T CALL

21 YOU AT THAT TIME?

22 A I DON'T KNOW, YOU KNOW. I'M SURE AT

23 THAT TIME I DID LOOK FORWARD TO HEARING FROM LYLE AS

24 OFTEN AS POSSIBLE. SO...

25 Q YOU WOULDN'T HAVE WRITTEN SOMETHING THAT

26 WASN'T TRUE IN A LETTER TO HIM, WOULD YOU?

27 A OBVIOUSLY NOT.

28 Q AND THAT'S YOUR HANDWRITING, ISN'T IT?

39300

1 A YES, IT IS.

2 Q AND THAT IS A LETTER THAT YOU WROTE,

3 ISN'T IT?

4 A CORRECT.

5 Q AND AT THE TIME THAT YOU WROTE IT, YOU

6 WOULD HAVE WRITTEN OR YOU DID WRITE TO HIM THINGS

7 THAT YOU FELT WERE TRUE AT THAT TIME; IS THAT

8 CORRECT?

9 A CORRECT.

10 Q YOU ALSO MENTIONED, I THINK IN THAT

11 LETTER, YOU MENTION SOMEBODY NAMED SAPPHIRE?

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

13 TO ANYTHING REFERRING TO THE CONTENT OF THE LETTER

14 AS IRRELEVANT.

15 THE COURT: SUSTAINED.

16 Q BY MS. TOWERY: WHO WAS SAPPHIRE?

17 MS. NAJERA: I'M GOING TO OBJECT. NO

18 RELEVANCY.

19 THE COURT: SUSTAINED.

20 Q BY MS. TOWERY: DID LYLE BUY YOU A BIRD
21 NAMED SAPPHIRE?

22 MS. NAJERA: OBJECTION. IRRELEVANT AND ALSO
23 VAGUE AS TO TIME.

24 THE COURT: LET'S FIRST ESTABLISH A TIME
25 FRAME HERE.

26 Q BY MS. TOWERY: AROUND THE TIME THAT YOU
27 WROTE THAT LETTER, OR PRIOR TO IT, DID LYLE BUY YOU
28 A BIRD NAMED SAPPHIRE?

39301

1 MS. NAJERA: OBJECTION. IRRELEVANT.

2 THE COURT: OVERRULED.

3 THE WITNESS: THAT WAS OVERRULED? I'M SORRY?

4 THE COURT: YES. YOU CAN ANSWER THE
5 QUESTION.

6 THE WITNESS: YES, HE DID.

7 Q BY MS. TOWERY: AND HE GAVE THAT TO YOU
8 AS A GIFT?

9 A YES.

10 Q AND HE ALSO BOUGHT YOU A NUMBER OF OTHER
11 GIFTS DURING THE TIME THAT YOU AND HE WERE TOGETHER;
12 IS THAT RIGHT?

13 A YES. IT WAS RECIPROCAL. WE BOTH BOUGHT

14 EACH OTHER GIFTS. WE WERE BOYFRIEND AND

15 GIRLFRIEND.

16 Q WELL, WOULD YOU SAY THAT LYLE MENENDEZ

17 WAS GENEROUS WITH YOU DURING THE TIME THAT HE WAS

18 YOUR BOYFRIEND?

19 A YES. LYLE WAS VERY KIND.

20 Q AND GENEROUS?

21 A YES.

22 Q AND HE BOUGHT YOU JEWELRY, DIDN'T HE?

23 A YES, HE DID.

24 MS. NAJERA: OBJECTION. VAGUE AS TO TIME.

25 THE COURT: OVERRULED.

26 Q BY MS. TOWERY: HOW LONG WAS HE YOUR

27 BOYFRIEND EXCEPT FOR PERIODS THAT YOU BROKE UP THAT

28 YOU INDICATED?

39302

1 A PRETTY CLOSE TO FOUR YEARS.

2 Q AND THE LENGTHIEST PERIOD THAT YOU BROKE

3 UP WAS WHEN YOU BROKE UP WITH HIM IN APRIL OF 1989

4 UNTIL YOU GOT BACK TOGETHER WITH HIM AFTER THE DEATH

5 OF HIS PARENTS; IS THAT RIGHT?

6 A CORRECT.

7 Q OTHER BREAK-UPS WERE SHORT; IS THAT

8 CORRECT?

9 A RELATIVELY.

10 Q AND YOU WERE -- WELL, LET ME BACK UP FOR
11 A MINUTE.

12 HE BROUGHT YOU RINGS, DIDN'T HE, DURING
13 THE TIME THAT YOU WERE HIS GIRLFRIEND?

14 A HE BOUGHT ME A RING AND THEN HE BOUGHT
15 ME AN ENGAGEMENT RING WHEN HE PROPOSED TO ME.

16 Q ALL RIGHT. AND HE BOUGHT YOU BRACELETS;
17 IS THAT RIGHT?

18 A MM-HMM.

19 Q AND HE BOUGHT YOU WATCHES?

20 A I DON'T RECALL IF THERE WAS A WATCH IN
21 THERE. THERE MAY HAVE BEEN.

22 Q AND HE BOUGHT YOU CLOTHING; IS THAT
23 RIGHT?

24 A SOMETIMES.

25 Q AND HE BOUGHT YOU THINGS LIKE TEDDY
26 BEARS; IS THAT RIGHT?

27 A YEAH, PRETTY STANDARD.

28 Q SENT YOU FLOWERS?

39303

1 A (NODS HEAD UP AND DOWN.)

2 Q IS THAT RIGHT?

3 A YES.

4 Q AND HE WAS VERY GENEROUS IN GIVING YOU
5 GIFTS; ISN'T THAT A FAIR STATEMENT?

6 MS. NAJERA: OBJECTION. ASKED AND ANSWERED.

7 THE COURT: OVERRULED.

8 YOU CAN ANSWER THE STATEMENT.

9 THE WITNESS: WELL, YEAH. LYLE WAS VERY
10 GENEROUS. HE ALSO GAVE A LOT OF GIFTS AS HIS WAY OF
11 TRYING TO MAKE THINGS BETTER A LOT OF TIMES. THAT
12 WAS HIS WAY OF TRYING TO SOLVE A LOT OF PROBLEMS.

13 Q BY MS. TOWERY: OKAY. NOW, HE GAVE YOU
14 A NUMBER OF GIFTS -- THE THINGS THAT I'VE JUST
15 MENTIONED, HE GAVE YOU ALL OF THESE THINGS PRIOR TO
16 THE DEATHS OF HIS PARENTS, DIDN'T HE, ALL THESE TYPE
17 THINGS?

18 A YES, HE DID, CORRECT.

19 Q NOW, WHEN LYLE WAS IN AUSTRALIA AND
20 CALLING YOU, HIS GRANDFATHER DIED, DIDN'T HE?

21 A I DON'T REMEMBER.

22 Q DO YOU RECALL LYLE BEING UPSET THAT HIS
23 GRANDFATHER DIED WHILE HE WAS IN AUSTRALIA AND
24 WANTING TO COME HOME?

25 A I DO REMEMBER HIS GRANDFATHER DYING AND
26 LYLE BEING UPSET. I DON'T REMEMBER THE EXACT TIME.

27 Q DO YOU REMEMBER IF LYLE WAS OUT OF THE
28 COUNTRY AT THE TIME HIS --

1 A NO. AT THIS TIME I DON'T REMEMBER.

2 Q DO YOU RECALL HIM NOT BEING PERMITTED TO
3 GO TO HIS GRANDFATHER'S FUNERAL?

4 MS. NAJERA: I'M GOING TO OBJECT. CALLS FOR
5 SPECULATION AND HEARSAY.

6 THE COURT: SUSTAINED.

7 Q BY MS. TOWERY: WHEN LYLE MENENDEZ WENT
8 TO AUSTRALIA FOR THIS TENNIS TOURNAMENT IN FEBRUARY
9 OF 1987, WHERE WERE YOU LIVING?

10 A IN FEBRUARY OF 1987 I WOULD HAVE BEEN IN
11 BIRMINGHAM, ALABAMA.

12 Q WHEN DID YOU MOVE TO BIRMINGHAM?

13 A IN, I BELIEVE, EARLY -- EITHER LATE
14 JANUARY OR EARLY FEBRUARY OF 1987.

15 Q AND YOU MOVED THERE FROM PRINCETON?

16 A WELL, I WAS --

17 Q THE PRINCETON AREA.

18 A WELL, I HAD BROKEN MY ANKLE AND I WAS
19 HOME IN PENNSYLVANIA, ACTUALLY, PRIOR TO THAT.

20 Q WHERE IS YOUR HOME IN PENNSYLVANIA?

21 MS. NAJERA: OBJECTION. IRRELEVANT.

22 THE COURT: OVERRULED.

23 THE WITNESS: MY FAMILY'S HOME IS IN
24 PITTSBURGH, PENNSYLVANIA.

25 Q BY MS. TOWERY: IS THAT WHERE YOU GREW
26 UP?

27 A YES, IT IS.

28 Q AND THAT'S WHERE YOUR MOTHER LIVES; IS

39305

1 THAT RIGHT?

2 MS. NAJERA: OBJECTION. IRRELEVANT.

3 THE WITNESS: YES. MY FAMILY LIVES THERE.

4 Q BY MS. TOWERY: AND YOUR FATHER LIVES
5 THERE?

6 A YES.

7 Q WHEN YOU MOVED TO -- DO YOU KNOW WHEN
8 LYLE MENENDEZ CAME BACK FROM AUSTRALIA?

9 A I DON'T RECALL, NO.

10 Q DO YOU KNOW HOW LONG HE WAS THERE?

11 A IF HE WAS PLAYING A TENNIS TOURNAMENT,
12 I'M SURE HE WAS THERE FOR AT LEAST A WEEK. BUT IT
13 WAS PROBABLY LONGER THAN THAT, BUT I DON'T RECALL
14 RIGHT NOW.

15 Q A FEW WEEKS; IS THAT --

16 A I WOULD IMAGINE.

17 Q IS THAT YOUR BEST RECOLLECTION AS YOU
18 SIT HERE TODAY?

19 A I'M SURE IF I WAS WRITING HIM LETTERS HE
20 HAD TO BE THERE FOR A LONG ENOUGH TIME TO GET THE
21 LETTERS.

22 Q ALL RIGHT. AND SO WHEN HE RETURNED FROM
23 AUSTRALIA, YOU HAD MOVED TO BIRMINGHAM; IS THAT
24 RIGHT?

25 A WHEN HE -- COULD YOU RESTATE THAT.

26 Q WHEN HE RETURNED FROM AUSTRALIA, IF HE
27 RETURNED A FEW WEEKS AFTER HE WENT TO THE TOURNAMENT
28 IN FEBRUARY, WHEN HE RETURNED YOU HAD MOVED TO

39306

1 BIRMINGHAM; IS THAT RIGHT? OR DID YOU MOVE THERE
2 BEFORE HE LEFT?

3 A WELL, IF I WAS WRITING LETTERS FROM
4 BIRMINGHAM TO HIM IN AUSTRALIA, I OBVIOUSLY WAS
5 THERE BEFORE HE WENT TO AUSTRALIA.

6 Q WHAT LETTER ARE YOU REFERRING TO?

7 A WELL, HERE'S ONE RIGHT HERE THAT HAS THE
8 COUNTRY CLUB IN BIRMINGHAM FROM BIRMINGHAM, ALABAMA
9 ON IT.

10 MS. TOWERY: MAY I APPROACH, YOUR HONOR?

11 THE COURT: YES.

12 Q BY MS. TOWERY: ARE YOU REFERRING TO
13 WHAT'S BEEN MARKED AS EXHIBIT 153?

14 A MM-HMM.

15 Q THAT'S A LETTERHEAD THAT SAYS THE
16 COUNTRY CLUB OF BIRMINGHAM?

17 A YES.

18 Q SO YOU WROTE HIM IN AUSTRALIA WHILE YOU
19 WERE LIVING IN BIRMINGHAM?

20 A CORRECT.

21 Q AND WHEN HE GOT BACK FROM AUSTRALIA, DID
22 HE VISIT YOU IN BIRMINGHAM?

23 A YES.

24 Q WAS HE STILL LIVING IN THE PRINCETON
25 AREA WHEN HE RETURNED FROM AUSTRALIA?

26 A I DON'T RECALL.

27 Q DO YOU RECALL THAT HE WASN'T LIVING IN
28 BIRMINGHAM?

39307

1 A HE JUST CAME TO BIRMINGHAM AND, YOU
2 KNOW, SPENT TIME WITH ME, WEEKENDS OR A WEEK OR
3 WHATEVER THE TIME FRAME WAS.

4 Q SO HE WOULD VISIT YOU OFTEN WHILE YOU
5 WERE LIVING IN BIRMINGHAM; IS THAT CORRECT?

6 A CORRECT.

7 Q HOW LONG DID YOU LIVE THERE, IN
8 BIRMINGHAM?

9 A I LIVED THERE UNTIL DECEMBER OF THE NEXT
10 YEAR.

11 Q UNTIL DECEMBER --

12 A I'M SORRY, OF THAT SAME YEAR.
13 Q UNTIL DECEMBER OF --
14 A ABOUT 10 MONTHS.
15 Q ALL RIGHT. UNTIL DECEMBER OF 1987; IS
16 THAT RIGHT?
17 A CORRECT.
18 Q NOW, WHILE YOU WERE IN BIRMINGHAM, DID
19 YOU CONTINUE PLAYING TENNIS?
20 A WELL, I WAS TRAINING AND PLAYING
21 TENNIS. I WAS ALSO TEACHING TENNIS LESSONS AS THE
22 ASSISTANT PROFESSIONAL AT THE BIRMINGHAM COUNTRY
23 CLUB.
24 Q WERE YOU PLAYING IN TOURNAMENTS AS A
25 TENNIS PROFESSIONAL AT THAT TIME?
26 A AS WELL, YES.
27 Q AND DID YOU, DURING THE 1987 CALENDAR
28 YEAR, DID YOU PLAY IN ANY TOURNAMENTS IN EUROPE?

39308

1 A IN 1987, I BELIEVE I WAS EMPLOYED MOST
2 OF THE TIME AT -- I MEAN, FULL TIME AT BIRMINGHAM, AT
3 THE COUNTRY CLUB.
4 Q ALL RIGHT. SO YOUR ANSWER IS NO, YOU
5 DIDN'T PLAY IN ANY TOURNAMENTS?
6 A AT THIS TIME I DON'T THINK I DID. I

7 BELIEVE I WENT FULL TIME BACK ON THE WOMEN'S TENNIS

8 PRO IN THE YEAR OF 1988.

9 Q NOW, IN THE FALL OF 1987, IS THAT WHEN

10 LYLE MENENDEZ STARTED SCHOOL AT PRINCETON?

11 A YES, I BELIEVE SO.

12 Q AND YOU WERE STILL IN BIRMINGHAM AT THAT

13 TIME, CORRECT?

14 A YES, I WAS.

15 Q AND HE CONTINUED TO VISIT YOU IN

16 BIRMINGHAM WHEN HE STARTED SCHOOL; IS THAT RIGHT?

17 A MM-HMM. SEVERAL TIMES.

18 Q DID HE FLY TO SEE YOU OR DRIVE TO SEE

19 YOU?

20 A I BELIEVE ONE TIME HE DROVE, 'CAUSE HE

21 DROVE MY DOG DOWN SO THAT I COULD HAVE MY DOG DOWN

22 THERE. BUT I BELIEVE -- I THINK HE FLEW ALSO, SO

23 BOTH.

24 Q ALL RIGHT. AND WHAT WAS YOUR DOG'S

25 NAME?

26 A NIKE.

27 Q LIKE THE TENNIS SHOE?

28 A YES.

39309

1 Q YOU SAID HE DROVE YOUR DOG DOWN. WHERE

2 WAS YOUR DOG WHEN HE DROVE IT DOWN?

3 A AT HOME WITH MY PARENTS IN
4 PENNSYLVANIA.

5 Q ALL RIGHT. SO YOU WERE IN BIRMINGHAM,
6 LYLE WAS IN PRINCETON, AND YOUR DOG WAS IN
7 PITTSBURGH?

8 A I BELIEVE SO, YEAH.

9 Q SO HE PICKED UP YOUR DOG AND CAME DOWN
10 FOR YOU?

11 A AND CAME DOWN.

12 Q THAT WAS THE ONLY TIME HE EVER DROVE
13 DOWN TO SEE YOU; IS THAT RIGHT?

14 A I BELIEVE SO.

15 Q IS PITTSBURGH ON THE WAY TO BIRMINGHAM
16 FROM PRINCETON?

17 A I -- WELL, I DON'T KNOW. I MEAN,
18 OBVIOUSLY, YOU COULD CUT ACROSS PENNSYLVANIA AND
19 COME DOWN TO BIRMINGHAM, BUT I REALLY DON'T KNOW HOW
20 LYLE DID IT.

21 Q DID HE ASK YOU TO PICK YOUR DOG UP OR
22 DID HE JUST DO IT?

23 MS. NAJERA: OBJECTION. IRRELEVANT.

24 THE COURT: SUSTAINED.

25 Q BY MS. TOWERY: THE REMAINING TIMES THAT
26 HE VISITED YOU IN BIRMINGHAM, DID HE FLY DOWN TO SEE
27 YOU?

28 A I'M ASSUMING THAT HE DID. I DON'T

1 KNOW.

2 MS. NAJERA: OBJECTION. MOTION TO STRIKE.

3 THE COURT: OVERRULED. THE ANSWER WILL
4 STAND.

5 Q BY MS. TOWERY: YOU ONLY RECALL HIM
6 DRIVING THE ONE TIME WHEN HE BROUGHT YOUR DOG?

7 A AT THIS TIME, YES.

8 Q BUT HE VISITED YOU MANY TIMES WHEN YOU
9 WERE IN BIRMINGHAM?

10 A I WAS ONLY THERE FOR 10 MONTHS, SO I'M
11 SURE HE CAME DOWN A COUPLE TIMES.

12 Q HE WAS YOUR ONLY BOYFRIEND AT THE TIME?

13 A YES.

14 Q AND YOU WERE HIS ONLY GIRL FRIEND AT THE
15 TIME?

16 A YES. WE WERE ENGAGED, ACTUALLY, DURING
17 PART OF THAT TIME.

18 Q OKAY. SO ARE YOU SURE THAT HE ONLY SAW
19 YOU A COUPLE TIMES DURING THAT 10 MONTHS?

20 A WHAT ARE YOU SAYING, A COUPLE, TWO?

21 Q I THOUGHT YOU JUST SAID IT, I'M SURE HE
22 CAME DOWN A COUPLE OF TIMES?

23 A I'M SURE HE CAME DOWN MORE THAN ONCE, IF
24 THAT'S WHAT YOU'RE ASKING. I DON'T RECALL IF IT WAS
25 FIVE TIMES. I DON'T RECALL THAT IT WAS 15 TIMES.

26 Q DO YOU RECALL THAT IT WAS FREQUENTLY?

27 A NO, I DON'T. I DON'T KNOW HOW MANY

28 TIMES IT WAS. I DON'T BELIEVE IT WAS EVERY WEEKEND,

39311

1 IF THAT'S WHAT YOU'RE ASKING.

2 Q BUT YOU WERE ENGAGED; IS THAT RIGHT?

3 A YES.

4 Q DID YOU GO TO PRINCETON TO SEE HIM

5 PERIODICALLY DURING THAT TIME THAT YOU WERE LIVING

6 IN BIRMINGHAM AND HE WAS IN SCHOOL AT PRINCETON?

7 A WHEN I COULD GET OFF OF WORK.

8 Q WOULD YOU FLY TO SEE HIM IN PRINCETON

9 WHEN YOU WOULD SEE HIM?

10 A PROBABLY, YEAH.

11 Q DID HE PAY FOR THOSE FLIGHTS OR DID

12 YOU?

13 A I DON'T REMEMBER.

14 Q DO YOU RECALL DRIVING TO PRINCETON TO

15 VISIT HIM DURING THAT TIME PERIOD?

16 MS. NAJERA: OBJECTION. IRRELEVANT.

17 THE COURT: OVERRULED.

18 YOU CAN ANSWER THE QUESTION.

19 THE WITNESS: I DON'T RECALL AT THIS TIME,

20 NO. IT WAS ABOUT 10 YEARS AGO. A LONG TIME AGO.

21 Q BY MS. TOWERY: NOW, YOU MENTIONED THAT
22 LYLE MENENDEZ -- IN YOUR DIRECT TESTIMONY YOU
23 MENTIONED THAT LYLE MENENDEZ WAS SUSPENDED FROM
24 PRINCETON DURING THE 1988 CALENDAR YEAR; IS THAT
25 RIGHT?

26 A THAT'S CORRECT, YES.

27 Q AND DURING THAT CALENDAR YEAR YOU WENT
28 TO EUROPE WITH LYLE MENENDEZ; IS THAT CORRECT?

39312

1 A I WENT --

2 Q OR HE WENT WITH YOU, ACTUALLY?

3 A CORRECT. I WAS ON THE WOMAN'S
4 PROFESSIONAL TOUR FULL TIME, AND I BELIEVE THAT WAS
5 THE YEAR THAT LYLE CAME OVER FOR SEVERAL WEEKS WHEN
6 I WAS PLAYING OVER IN EUROPE.

7 Q OKAY. SO IN 1988 YOU RETURNED TO THE
8 TOUR?

9 A YES, FULL TIME, AGAIN, AS A JOB.

10 Q AND PART OF YOUR TOURING WAS IN EUROPE?

11 A YES. THERE'S TENNIS TOURNAMENTS OVER
12 THERE.

13 Q AND LYLE WENT TO EUROPE WITH YOU WHEN
14 YOU WERE PLAYING; IS THAT RIGHT?

15 A FOR PART OF THAT TIME.

16 Q AND THEN HE RETURNED TO THE UNITED
17 STATES AND YOU STAYED IN EUROPE; IS THAT WHAT
18 HAPPENED?

19 A I DON'T REMEMBER IF I ACTUALLY CAME BACK
20 TO THE STATES AND THEN WENT -- I TRAVELED ALL OVER
21 THE WORLD PLAYING, AGAIN, AS A JOB. IT WAS A
22 FULL-TIME JOB FOR ME, WHETHER IT BE PLAYING IN
23 EUROPE OR SOUTH AMERICA OR THE UNITED STATES. IT
24 WAS MY JOB.

25 Q SO DURING THAT ENTIRE CALENDAR YEAR
26 YOU -- DID YOU HAVE A HOME BASE OR DID YOU JUST
27 TRAVEL FROM PLACE TO PLACE?

28 A WELL, I CAME BACK TO BIRMINGHAM. I HAD

39313

1 A COACH IN BIRMINGHAM. I ALSO HAD A COACH IN
2 NEW JERSEY. I HAD SEVERAL DIFFERENT TRAINERS THAT I
3 WAS WORKING WITH. YOU KNOW, I WOULD GO HOME TO
4 PITTSBURGH SOMETIMES. BUT I WAS PRETTY MUCH ON THE
5 ROAD, LIVING OUT OF A SUITCASE.

6 Q ALL RIGHT. AND DURING THAT PERIOD OF
7 TIME YOU WERE STILL ENGAGED TO LYLE MENENDEZ; IS
8 THAT RIGHT?

9 A YES, I BELIEVE SO.

10 Q SO DID HE VISIT YOU WHEN YOU WERE

11 TOURING AT DIFFERENT PLACES THAT YOU WERE PLAYING
12 TENNIS?

13 A WELL, AS I SAID, THE TIME OVER IN
14 EUROPE, AND I THINK HE, YOU KNOW, CAME TO
15 TOURNAMENTS, IF HE COULD, YOU KNOW, IF HE WAS ABLE
16 TO. I REMEMBER -- I DO DISTINCTLY REMEMBER ONE IN
17 NEW JERSEY. MY FATHER WAS ALSO THERE.

18 Q AND HE WOULD COME TO YOUR TOURNAMENTS
19 WHEN YOU HAD THEM IN THE UNITED STATES, IF HE COULD,
20 TO SEE YOU, CORRECT?

21 A YEAH.

22 Q BECAUSE, AGAIN, YOU WERE ENGAGED TO EACH
23 OTHER, RIGHT?

24 A WELL, YEAH.

25 Q WHEN DID YOU GET ENGAGED?

26 A I BELIEVE IT WAS APPROXIMATELY APRIL OF
27 THE -- COULD HAVE BEEN APRIL OR MAY, BUT I BELIEVE IT
28 WAS APPROXIMATELY APRIL OF 1987.

39314

1 Q YOU SURE IT WASN'T THE SPRING OF THE
2 NEXT YEAR?

3 A I DON'T THINK SO. I BELIEVE THAT I WAS
4 IN BIRMINGHAM AT THE TIME, ALTHOUGH I DO NOT
5 REMEMBER EXACTLY. I DO REMEMBER -- ACTUALLY, IT WAS

6 IN BIRMINGHAM BECAUSE IT WAS -- WE GOT ENGAGED AT A
7 FRENCH RESTAURANT.

8 MS. TOWERY: EXCUSE ME. THERE'S NO QUESTION
9 PENDING.

10 THE WITNESS: OH, I'M SORRY.

11 Q BY MS. TOWERY: HAVE YOU TESTIFIED IN
12 THE PAST THAT YOU WERE ENGAGED FROM THE SPRING OF
13 1988 TO THE SPRING OF 1989?

14 A I DON'T REMEMBER IF I DID OR NOT.

15 Q YOU DID TESTIFY IN THE PRIOR TRIAL IN
16 THIS MATTER, DIDN'T YOU?

17 A YES, I DID.

18 Q YOU ALSO GAVE A STATEMENT UNDER OATH TO
19 THE PREVIOUS DISTRICT ATTORNEYS HANDLING THIS
20 MATTER, MS. BOZANICH AND MR. KURIYAMA AND DETECTIVE
21 ZOELLER, IN 1992, DIDN'T YOU?

22 A YES.

23 Q AND THAT STATEMENT WAS TAPED, WASN'T
24 IT?

25 A YES, IT WAS.

26 Q SO MY QUESTION WAS: DID YOU TESTIFY AT
27 THE PREVIOUS TRIAL THAT YOU WERE ENGAGED FROM THE
28 SPRING OF 1988 TO THE SPRING OF 1989 TO LYLE

1 MENENDEZ?

2 A IF I DID TESTIFY TO THOSE DATES, IT WAS
3 OBVIOUSLY INACCURATE AND I AM REMEMBERING THAT LYLE
4 PROPOSED TO ME IN BIRMINGHAM, ALABAMA.

5 Q OKAY. SO YOUR TESTIMONY AT THE PREVIOUS
6 TRIAL --

7 MAY I APPROACH, YOUR HONOR, AND SHOW
8 HER?

9 THE COURT: SURE.

10 Q BY MS. TOWERY: LET ME JUST SHOW YOU A
11 PAGE FROM YOUR TESTIMONY AT THE PRIOR TRIAL. JUST
12 ASK YOU TO LOOK AT THE LINES THAT ARE HIGHLIGHTED.

13 A OKAY.

14 Q DOES THAT REFRESH YOUR RECOLLECTION AS
15 TO WHAT YOU TESTIFIED TO AT THE LAST TRIAL, THAT YOU
16 WERE ENGAGED FROM THE SPRING OF 1988 TO THE SPRING
17 OF 1989?

18 A IT DOES LOOK LIKE IN THAT TESTIMONY THAT
19 IT WAS 1988 TO '89.

20 Q SO THAT WAS WRONG AND IT WAS APRIL OF
21 1987 THAT YOU BECAME ENGAGED TO LYLE MENENDEZ; IS
22 THAT RIGHT?

23 A WELL, I DO REMEMBER THE EXACT PLACE
24 WHERE LYLE PROPOSED TO ME, AND THAT WAS IN
25 BIRMINGHAM ALABAMA AT A FRENCH RESTAURANT.

26 Q OKAY.

27 A SO...

28 Q AND THAT WOULD HAVE BEEN IN APRIL OF

1 1987, CORRECT?

2 A YES, I BELIEVE SO.

3 Q AND WHEN HE PROPOSED TO YOU AT THAT
4 TIME, DID HE SURPRISE YOU WITH A RING?

5 A YES, HE DID.

6 Q WHAT DID THE RING LOOK LIKE?

7 A IT WAS A DIAMOND IN THE CENTER WITH A
8 COUPLE STONES ON EACH SIDE.

9 Q AND WERE YOU HAPPY ABOUT THAT?

10 A I WAS VERY SURPRISED, YES.

11 Q MY QUESTION WAS: WERE YOU HAPPY?

12 MS. NAJERA: OBJECTION. IRRELEVANT.

13 THE COURT: OVERRULED.

14 THE WITNESS: YEAH. I'M SURE I WAS.

15 Q BY MS. TOWERY: DID YOU CALL YOUR MOTHER

16 AND TELL HER HOW HAPPY YOU WERE AFTER YOU BECAME

17 ENGAGED AND RECEIVED THE RING?

18 MS. NAJERA: OBJECTION. IRRELEVANT.

19 THE COURT: SUSTAINED.

20 Q BY MS. TOWERY: NOW, IN 1989 LYLE

21 MENENDEZ TURNED 21; IS THAT RIGHT?

22 A I GUESS.

23 Q YOU DON'T REMEMBER?

24 A NO. 1989?

25 Q YES. IN JANUARY. DO YOU REMEMBER HIS
26 BIRTHDAY?

27 A YES, IT IS IN JANUARY.

28 Q AND WAS HE BACK AT PRINCETON UNIVERSITY

39317

1 AT THAT TIME?

2 A IN 1989? YES, I THINK HE WAS. YES, HE
3 WAS.

4 Q AND WHERE WERE YOU LIVING AT THAT TIME?

5 A I HAD FINISHED PLAYING THE WOMEN'S
6 PROFESSIONAL TENNIS TOUR IN 1988 AND HAD MOVED TO
7 THE PRINCE -- OR ACTUALLY LAWRENCEVILLE AREA IN
8 NEW JERSEY.

9 Q AND LAWRENCEVILLE IS JUST ADJACENT TO
10 PRINCETON; IS THAT RIGHT?

11 A CORRECT.

12 Q VERY CLOSE TO PRINCETON UNIVERSITY,
13 CORRECT?

14 A YES.

15 Q AND YOU WERE STILL ENGAGED TO LYLE
16 MENENDEZ AT THAT TIME, CORRECT?

17 A YES.

18 Q AND THAT CHRISTMAS BEFORE YOU -- BEFORE

19 YOU RETURNED TO LAWRENCEVILLE TO LIVE, YOU WERE

20 STILL PLAYING ON THE TOUR; IS THAT RIGHT?

21 A AND I WAS JUST FINISHING UP AT THE END

22 OF THAT YEAR.

23 Q SO YOU FINISHED THE TOUR OR YOUR TOUR

24 THE END OF 1988?

25 A YES.

26 Q DID YOU SPEND ANY CHRISTMASES WITH YOUR

27 FAMILY AND LYLE MENENDEZ, IF YOU CAN RECALL, DURING

28 THE TIME THAT YOU WERE EITHER ENGAGED TO HIM OR HIS

39318

1 GIRLFRIEND?

2 A I DON'T RECALL AT THIS TIME. I'M SURE

3 WE SPENT, YOU KNOW, TIME AT -- AROUND THE HOLIDAYS

4 TOGETHER. BUT I DON'T RECALL EXACTLY.

5 Q YOU DON'T RECALL LYLE MENENDEZ GOING TO

6 YOUR FAMILY'S HOME IN PITTSBURGH FOR THE CHRISTMAS

7 HOLIDAYS?

8 A I'M SURE HE WAS THERE. I JUST DON'T

9 RECALL WHAT YEAR SINCE WE WENT OUT FOR A LONG TIME.

10 Q DID HE GO TO YOUR FAMILY'S HOME IN

11 PITTSBURGH FOR THE CHRISTMAS HOLIDAYS ON MORE THAN

12 ONE OCCASION?

13 A I DON'T REMEMBER.

14 Q AND WHEN YOU SPENT TIME AT YOUR FAMILY
15 HOME IN PITTSBURGH FOR HOLIDAYS, WAS IT AT YOUR
16 MOTHER'S HOUSE OR YOUR FATHER'S HOUSE?

17 A BOTH, ACTUALLY.

18 Q YOUR MOTHER AND FATHER ARE SEPARATED OR
19 DIVORCED, RIGHT?

20 A CORRECT.

21 Q BUT THEY BOTH LIVE IN THE PITTSBURGH
22 AREA?

23 A YES, THEY DO.

24 Q DID YOU ALSO SPEND HOLIDAYS OR THE
25 CHRISTMAS HOLIDAYS ON SOME OCCASIONS AT TERRY AND
26 CARLOS BARALT'S HOUSE IN NEW JERSEY?

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

39319

1 THE COURT: OVERRULED.

2 Q BY MS. TOWERY: DURING THE TIME THAT YOU
3 WERE --

4 I'LL CLARIFY IT, YOUR HONOR.

5 DURING THE TIME THAT YOU WERE ENGAGED TO
6 LYLE MENENDEZ OR YOU WERE HIS GIRLFRIEND, FROM 1986
7 UNTIL YOU BROKE UP IN APRIL OF 1989, DID YOU SPEND
8 CHRISTMAS HOLIDAYS, ON OCCASION, AT TERRY AND CARLOS

9 BARALT'S IN NEW JERSEY?

10 A I DO REMEMBER SPENDING -- HAVING ONE

11 DINNER. SO I WOULD SAY MAYBE A DAY OR AN AFTERNOON

12 THERE. I DON'T, AGAIN, REMEMBER EXACTLY WHICH YEAR

13 IT WAS, NO.

14 Q AND TERRY AND CARLOS BARALT ARE LYLE

15 MENENDEZ' AUNT AND UNCLE, CORRECT?

16 A YES.

17 Q AND HE WAS VERY CLOSE WITH THEM, WASN'T

18 HE?

19 A YES.

20 Q AND THEY ALSO LIVE IN AN AREA WHICH IS

21 VERY CLOSE TO PRINCETON; IS THAT RIGHT?

22 A YES.

23 Q HE SPENT A LOT OF TIME AT THEIR HOUSE

24 WHEN HE WAS GOING TO SCHOOL AT PRINCETON, DIDN'T HE?

25 A MM-HMM.

26 Q AND WHEN HE WAS LIVING IN NEW JERSEY AND

27 GOING TO SCHOOL IN TRENTON; IS THAT RIGHT?

28 A CORRECT.

39320

1 Q AND YOU BROKE UP WITH LYLE MENENDEZ IN

2 APRIL OF 1989; IS THAT CORRECT?

3 A SOMETIME IN THE SPRING OF THAT YEAR,

4 YES.

5 Q HAVE YOU SAID IN THE PAST THAT IT WAS

6 APRIL?

7 A IT COULD HAVE BEEN, YES.

8 Q OKAY. MY QUESTION IS: HAVE YOU

9 TESTIFIED IN THE PAST THAT YOU BROKE UP WITH HIM IN

10 APRIL OF 1989?

11 A WELL, I DON'T HAVE THE TESTIMONY IN

12 FRONT OF ME, BUT --

13 Q WOULD YOU LIKE TO SEE IT.

14 A THAT WOULD BE GREAT. THANK YOU.

15 (PAUSE IN PROCEEDINGS.)

16

17 MS. TOWERY: MAY I APPROACH, YOUR HONOR?

18 THE COURT: YES.

19 MS. TOWERY: LET ME SHOW YOU A PORTION OF

20 YOUR TESTIMONY AT THE PREVIOUS TRIAL AND ASK YOU TO

21 JUST READ THE HIGHLIGHTED PORTIONS.

22 THE WITNESS: (WITNESS COMPLIES.) OKAY.

23 Q BY MS. TOWERY: DOES THAT REFRESH YOUR

24 RECOLLECTION THAT YOU TESTIFIED AT THE PRIOR TRIAL

25 THAT YOU BROKE UP WITH LYLE MENENDEZ IN APRIL OF

26 1989?

27 A WHAT IT SAYS IN THERE IS THAT "I BELIEVE

28 IT WAS APRIL."

1 Q OKAY. AND DID YOU GIVE A -- YOU
2 INDICATED EARLIER THAT YOU GAVE A STATEMENT UNDER
3 OATH TO THE DISTRICT ATTORNEYS IN 1982, DIDN'T YOU?

4 A 1982?

5 Q YES.

6 A NOT --

7 Q TO MS. BOZANICH?

8 MS. NAJERA: 1982?

9 MS. ABRAMSON: '92.

10 MS. TOWERY: OH, I'M SORRY. '92.

11 Q IN 1992 YOU GAVE A STATEMENT UNDER OATH
12 TO MS. BOZANICH AND MR. KURIYAMA; IS THAT RIGHT?

13 A YES.

14 Q AND IN THAT STATEMENT DID YOU TELL
15 MS. BOZANICH AND MR. KURIYAMA THAT YOU BROKE UP WITH
16 LYLE MENENDEZ IN APRIL OF 1989?

17 A WELL, IF IT SAYS IT IN THERE, I
18 OBVIOUSLY DID. IT WAS SPRING OF 1989, JUST LIKE IT
19 SAYS IN THE TESTIMONY, AND THAT I BELIEVED THAT IT
20 WAS APRIL.

21 Q OKAY. IS YOUR RECOLLECTION BETTER NOW
22 OR THEN? WAS IT BETTER THEN WHEN YOU SPOKE TO
23 MS. BOZANICH AND MR. KURIYAMA IN 1992?

24 A WELL, IT WAS A VERY LONG TIME AGO.
25 I -- YOU KNOW, IT WAS AROUND SPRING, SOMETIME OF
26 THAT YEAR.

27 Q OKAY. BUT AT THAT TIME YOU THOUGHT IT

39322

1 A I SAID I BELIEVED IT WAS APRIL, BUT I
2 COULD NOT PINPOINT IT.

3 MS. TOWERY: MAY I APPROACH AGAIN, YOUR
4 HONOR?

5 THE COURT: YES.

6 THE WITNESS: JUST THIS PART?

7 MS. TOWERY: YES.

8 Q DOES THAT REFRESH YOUR RECOLLECTION AS
9 TO WHETHER OR NOT YOU TOLD MS. BOZANICH AND
10 MR. KURIYAMA, WHEN YOU SPOKE TO THEM IN 1992, THAT
11 YOU BROKE UP WITH LYLE MENENDEZ IN APRIL OF 1989?

12 A AGAIN, AS IT SAYS IN THERE, IT SAYS I
13 BELIEVE IT WAS APRIL.

14 Q OKAY. WELL, TODAY DO YOU BELIEVE IT'S
15 APRIL?

16 A I DON'T REMEMBER. IT WAS IN THE SPRING
17 OF THAT YEAR. I CAN'T BE THAT SPECIFIC.

18 Q SO YOU'VE FORGOTTEN BECAUSE TIME HAS
19 PASSED; IS THAT CORRECT?

20 A IT WAS A LONG TIME AGO.

21 Q BUT YOU KNEW AT THE TIME YOU WERE
22 TALKING TO THEM UNDER OATH WHAT YOUR BEST

23 RECOLLECTION WAS, DIDN'T YOU?

24 A YES. I WAS TRYING TO GET AS CLOSE AS
25 POSSIBLE.

26 Q AT THAT TIME YOU BELIEVED IT WAS APRIL;
27 IS THAT CORRECT?

28 MS. NAJERA: OBJECTION. THAT MISSTATES THE

39323

1 EVIDENCE THAT IT WAS ABOUT APRIL.

2 THE COURT: OVERRULED.

3 THE WITNESS: AS I'VE STATED IN THOSE
4 TESTIMONIES, I BELIEVED IT WAS ABOUT THAT TIME.

5 Q BY MS. TOWERY: AND YOU SAID THAT YOU
6 BELIEVED THAT IT WAS APRIL AT THAT TIME.

7 MS. NAJERA: I'M GOING TO OBJECT. MISSTATES
8 THE TESTIMONY.

9 THE COURT: OKAY. WELL, WE'VE BEEN THROUGH
10 THIS. WE'VE COVERED THE TERRITORY. LET'S MOVE ON
11 TO SOMETHING ELSE.

12 Q BY MS. TOWERY: WHY DID YOU BREAK UP
13 WITH LYLE MENENDEZ WHENEVER IT WAS THAT YOU BROKE UP
14 WITH HIM?

15 A THERE WAS A SITUATION WHERE I WAS
16 EMPLOYED AT A RESTAURANT -- AND THIS WAS ONE OF THE
17 REASONS -- BUT I WAS EMPLOYED AT A RESTAURANT IN THE

18 LAWRENCEVILLE AREA, AND I WAS ALSO ROOMMATES WITH AN
19 INDIVIDUAL BY THE NAME OF DONOVAN GOODREAU, AND
20 DONOVAN AND I HAD JUST BECOME ROOMMATES AND I HAD
21 QUITE A BIT OF MONEY THAT I HAD EARNED AT THE PLACE
22 WHERE I WAS EMPLOYED IN MY BEDROOM. AND LYLE AND I
23 HAD COME BACK ONE EVENING AND THAT MONEY WAS GONE.
24 AND LYLE DIDN'T TAKE THE MONEY, AND SO I THOUGHT
25 THAT IT WAS PROBABLY A PRETTY GOOD CHANCE THAT
26 DONOVAN HAD TAKEN IT. AND NOT KNOWING HIM THAT
27 WELL, I DID NOT FEEL COMFORTABLE CONTINUING WITH HIM
28 AS A ROOMMATE. SO I ASKED HIM TO LEAVE, WHICH HE

39324

1 DID. BUT THEN LYLE DID NOT BELIEVE THAT DONOVAN
2 WOULD TAKE THIS MONEY AND THAT I WAS -- SHOULD NOT
3 ACCUSE HIM OF IT. SO I PRETTY MUCH SAID, OKAY, THEN
4 WHY DON'T YOU TAKE DONOVAN IN AND YOU GUYS GO BE
5 FRIENDS AND THAT'S IT.
6 AND SO I PRETTY MUCH BROKE UP WITH HIM.
7 AND THAT WAS ONE OF THE REASONS. BUT THAT WAS WHY
8 DONOVAN LEFT. AND THEN DONOVAN WENT AND, I BELIEVE,
9 STAYED WITH LYLE.
10 Q OKAY. WHERE WAS LYLE LIVING AT THAT TIME?
11 A IN THE DORMS AT PRINCETON.
12 Q AND HOW DID YOU KNOW DONOVAN GOODREAU?

13 A DONOVAN AND I --

14 MS. NAJERA: OBJECTION. IRRELEVANT.

15 THE COURT: OVERRULED.

16 THE WITNESS: DONOVAN AND I MET AT A

17 RESTAURANT WHERE WE BOTH WORKED.

18 Q BY MS. TOWERY: DO YOU REMEMBER THE NAME

19 OF THAT RESTAURANT?

20 A THAT ONE WAS T.G.I. FRIDAY'S.

21 Q AND AFTER YOU MET DONOVAN, YOU MOVED IN

22 WITH HIM?

23 A YES. BOTH OF US WERE LOOKING FOR

24 ROOMMATES AT THE TIME AND A PLACE TO LIVE, AND WE

25 HAD FOUND A PLACE IN THE PRINCETON AREA.

26 Q NOW, AFTER YOU CAME BACK AND YOUR MONEY

27 WAS MISSING AND YOU THOUGHT THAT DONOVAN HAD STOLEN

28 IT FROM YOU, YOU KICKED HIM OUT; IS THAT CORRECT?

39325

1 A PRETTY MUCH SO. I ASKED HIM TO LEAVE.

2 Q AND HOW LONG HAD YOU LIVED WITH HIM

3 BEFORE THAT HAPPENED?

4 A A VERY SHORT PERIOD OF TIME.

5 Q A MONTH? A WEEK?

6 A PROBABLY SEVERAL WEEKS, 'CAUSE I

7 REMEMBER I HAD TO PAY HIS PART OF THE RENT AS WELL,

8 BECAUSE THAT HAD NOT BEEN PAID YET EITHER.

9 Q AND DID LYLE MEET DONOVAN GOODREAU
10 THROUGH YOU?

11 A I BELIEVE SO, YES.

12 Q SO YOU INTRODUCED THEM?

13 A YES.

14 Q AND THEY BECAME GOOD FRIENDS, I TAKE
15 IT?

16 A I THINK SO.

17 Q AND WHEN YOU FELT THAT DONOVAN HAD
18 STOLEN FROM YOU, YOU SAID THAT LYLE DIDN'T BELIEVE
19 THAT DONOVAN WOULD DO SOMETHING LIKE THAT?

20 A CORRECT.

21 Q SO YOU TOLD LYLE THAT YOU WERE GOING TO
22 BREAK UP WITH HIM?

23 A WELL, IT WAS, AS -- AGAIN, THAT WAS NOT
24 THE ONLY REASON. BUT THAT WAS PRETTY MUCH THE LAST
25 STRAW, AND I JUST SAID, YOU KNOW, I DON'T WANT TO
26 HAVE ANYTHING TO DO WITH DONOVAN, AND IF YOU'RE
27 GOING TO BEFRIEND DONOVAN, I WOULD PREFER NOT TO
28 CONTINUE OUR RELATIONSHIP EITHER.

39326

1 Q ALL RIGHT. AND THEN DONOVAN WENT TO
2 STAY WITH LYLE AT HIS DORM ROOM; IS THAT RIGHT?

3 A I THINK SO. AGAIN, AT THAT POINT I'M
4 PRETTY MUCH -- YOU KNOW, WE WERE FRIENDLY, WE DID
5 REMAIN FRIENDLY. BUT I DIDN'T SEE HIM A LOT.

6 Q YOU DIDN'T SEE DONOVAN A LOT OR LYLE A
7 LOT?

8 A DONOVAN. SO I DON'T KNOW.

9 Q SO DID YOU AND DONOVAN REMAIN FRIENDLY
10 AFTER YOU ACCUSED HIM OF STEALING FROM YOU AND YOU
11 KICKED HIM OUT?

12 A NO.

13 Q SO YOU DIDN'T REMAIN FRIENDLY WITH
14 DONOVAN?

15 A NO.

16 Q DID YOU REMAIN FRIENDLY WITH LYLE?

17 A YES.

18 Q DO YOU KNOW IF DONOVAN GOODREAU TOOK A
19 TRIP TO CALIFORNIA WITH LYLE AT SOME POINT EITHER
20 BEFORE OR AFTER YOU BROKE UP WITH LYLE MENENDEZ?

21 A IF HE DID, I -- YOU KNOW, I DON'T
22 REMEMBER WHEN IT WAS OR --

23 Q DO YOU REMEMBER THAT A TRIP WAS TAKEN?

24 MS. NAJERA: I'M GOING TO OBJECT. CALLS FOR
25 HEARSAY.

26 THE COURT: SUSTAINED.

27 Q BY MS. TOWERY: DID LYLE MENENDEZ TELL
28 YOU THAT DONOVAN GOODREAU TOOK A TRIP WITH HIM TO

1 CALIFORNIA AT ANY TIME EITHER BEFORE OR AFTER YOU
2 BROKE UP WITH LYLE?

3 MS. NAJERA: OBJECTION. WOULD CALL FOR
4 HEARSAY.

5 THE COURT: SUSTAINED.

6 Q BY MS. TOWERY: YOU ULTIMATELY LEARNED
7 THAT IT TURNED OUT YOU WERE RIGHT AND DONOVAN
8 GOODREAU WAS DISHONEST; IS THAT RIGHT?

9 A YES.

10 Q AND SO DID LYLE; IS THAT RIGHT?

11 A YES.

12 Q AND LYLE WAS HURT AND UPSET WHEN HE
13 DISCOVERED THAT; IS THAT CORRECT?

14 A I BELIEVE SO, YES.

15 Q AND YOU'VE DESCRIBED DONOVAN GOODREAU AS
16 A CON MAN, HAVEN'T YOU?

17 A YEAH.

18 Q AND THAT'S YOUR OPINION OF HIM; IS THAT
19 RIGHT?

20 A YES, IT IS.

21 Q NOW, AFTER THE DEATHS OF LYLE'S PARENTS,
22 YOU SAID YOU CALLED HIM?

23 A YES.

24 Q AND YOU HAD BEEN BROKEN UP WITH HIM FROM
25 APRIL, OR THE SPRING OF 1989, UNTIL THAT TELEPHONE

26 CALL; IS THAT RIGHT?

27 A WE HAD BEEN BROKEN UP, BUT WE HAD SEEN

28 EACH OTHER THAT SUMMER AND WE HAD TALKED ABOUT

39328

1 PLAYING A TENNIS TOURNAMENT THAT WEEKEND IN VERMONT,

2 WHICH I WAS TRYING TO ARRANGE FOR HIM, WITH HIS

3 MOTHER. BUT WE HAD SEEN EACH OTHER AND TALKED AND

4 REMAINED FRIENDLY AND THAT TYPE OF THING.

5 Q ALL RIGHT. MY QUESTION WAS: WERE YOU

6 BROKEN UP WITH LYLE MENENDEZ FROM THE TIME IN APRIL

7 OR THE SPRING OF '89, UNTIL THAT TELEPHONE CALL WHEN

8 YOU CALLED HIM AFTER THE DEATH OF HIS PARENTS?

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

10 TO WHAT IS MEANT BY BROKEN UP.

11 THE COURT: WHY DON'T YOU CLARIFY THAT.

12 MS. TOWERY: SURE.

13 Q UNTIL APRIL OR THE SPRING OF 1989, YOU

14 WERE ENGAGED TO LYLE MENENDEZ, WERE YOU NOT?

15 A YES.

16 Q DID YOU GIVE HIM HIS RING BACK WHEN YOU

17 KICKED DONOVAN OUT AND BROKE UP WITH HIM?

18 A YEAH.

19 Q AND YOU BECAME UNENGAGED, IN YOUR MIND,

20 DIDN'T YOU?

21 A YES.

22 Q AND THE SAME IN LYLE'S MIND, AS BEST YOU
23 COULD DETERMINE; IS THAT RIGHT?

24 A CORRECT.

25 Q AND YOU DIDN'T GET THAT RING BACK
26 BETWEEN THE TIME YOU RETURNED IT TO HIM AND BROKE
27 OFF THE ENGAGEMENT UNTIL YOU CALLED HIM AFTER HIS
28 PARENTS DIED; IS THAT CORRECT?

39329

1 BETWEEN THOSE TWO PERIODS OF TIME, WHEN
2 YOU GAVE IT BACK TO HIM IN THE SPRING OF 1989 AND
3 THE TIME YOU TELEPHONED HIM AFTER HIS PARENTS
4 DEATHS, DID YOU GET THAT RING BACK?

5 A OH, NO.

6 Q DID YOU BECOME RE-ENGAGED TO HIM?

7 A NO.

8 Q YOU WERE BROKEN UP?

9 A WE SAW EACH OTHER.

10 Q WERE YOU DATING?

11 A WE DATED EACH OTHER AND OTHER PEOPLE.

12 Q AND YOU WERE LIVING IN NEW JERSEY AND
13 LYLE WAS LIVING IN, WHERE, DURING THAT TIME PERIOD?

14 A IT WOULD HAVE BEEN '89, SO I BELIEVE
15 DURING THE SUMMER, ANYWAY, HE WAS IN CALIFORNIA.

16 Q BECAUSE HE WASN'T IN SCHOOL AT PRINCETON

17 DURING THAT TIME PERIOD; IS THAT RIGHT?

18 A DURING THE SUMMER, CORRECT.

19 Q SO HE WAS LIVING IN CALIFORNIA AFTER HE

20 FINISHED THIS SEMESTER AT -- OR FALL OF -- OR EXCUSE

21 ME -- THE SPRING OF 1989 SEMESTER IN NEW JERSEY; IS

22 THAT RIGHT?

23 A CORRECT.

24 Q AND WHAT YOU'RE SAYING IS HE RETURNED

25 DURING THE SUMMER TO DATE YOU EVEN THOUGH YOU HAD

26 BROKEN OFF YOUR ENGAGEMENT; IS THAT RIGHT?

27 A WELL, I BELIEVE HE WAS STILL IN SCHOOL

28 PROBABLY THROUGH JUNE. I'M NOT SURE EXACTLY WHEN

39330

1 THE SEMESTER ENDS AT PRINCETON, BUT I KNOW WE SAW

2 EACH OTHER OCCASIONALLY UP UNTIL THEN, AND I DO

3 REMEMBER HIM COMING INTO THE RESTAURANT AT PRINCETON

4 WHERE I WORKED AT THAT TIME, CASA LUPITA, TO SEE ME.

5 Q ALL RIGHT. LET ME JUST TRY TO

6 UNDERSTAND. HE WAS IN SCHOOL UNTIL JUNE?

7 A APPROXIMATELY.

8 Q AND YOU RETURNED THE RING AND KICKED

9 DONOVAN OUT AROUND APRIL, IN THAT TIME PERIOD; IS

10 THAT RIGHT?

11 A CORRECT.

12 Q AND DID YOU CONTINUE TO DATE HIM BETWEEN
13 THE TIME YOU RETURNED THE RING AND JUNE WHEN HE
14 COMPLETED SCHOOL?

15 A WELL, WE SAW EACH OTHER. I DON'T
16 REMEMBER EXACTLY, YOU KNOW. IT WAS VERY CASUAL.
17 BUT WE DID SEE EACH OTHER.

18 Q SO YOU WOULDN'T CALL IT FORMAL DATING,
19 BUT YOU WEREN'T ANGRY; IS THAT FAIR?

20 A THAT'S VERY FAIR.

21 Q AND WHEN HE RETURNED TO LOS ANGELES IN
22 THE SUMMER, WAS YOUR RELATIONSHIP THE SAME? YOU
23 WEREN'T FORMALLY DATING, BUT YOU WEREN'T ANGRY; IS
24 THAT RIGHT?

25 A AND WE TALKED, AND LIKE I SAID, I WAS
26 TRYING TO ARRANGE A TENNIS TOURNAMENT, AND IT WAS
27 KIND OF -- WE WERE BOTH KIND OF HOPING THAT IT WOULD
28 BE THAT WEEKEND THAT WE BOTH MIGHT GET BACK TOGETHER

39331

1 AGAIN.

2 Q AND THIS ARRANGEMENT -- YOU WERE TRYING
3 TO ARRANGE A TENNIS TOURNAMENT.

4 IS THAT THE PRIMARY CONTACT THAT YOU
5 REMEMBER BETWEEN YOU AND LYLE MENENDEZ DURING THAT

6 SUMMER WHEN HE WAS LIVING IN LOS ANGELES AND YOU
7 WERE LIVING IN NEW JERSEY AND YOU WERE NO LONGER
8 ENGAGED?

9 A NO. IT WASN'T JUST BECAUSE OF THE
10 TENNIS TOURNAMENT.

11 Q NO, NO. IS THAT THE PRIMARY CONTACT
12 THAT YOU RECALL? YOU KEEP MENTIONING IT. IS THAT
13 THE PRIMARY CONTACT THAT YOU RECALL HAVING WITH LYLE
14 MENENDEZ DURING THAT TIME PERIOD THAT YOU WERE
15 BROKEN UP AND HE WAS LIVING IN LOS ANGELES?

16 A YOU MEAN TELEPHONE CALLS?

17 Q NO.

18 A IS THAT WHAT YOU'RE ASKING? I'M SORRY.
19 I DON'T UNDERSTAND WHAT YOU MEAN BY PRIMARY CONTACT.

20 Q WELL, YOU SAID THAT YOU WERE DATING AND
21 THEN YOU SAID THAT YOU'RE NOT DATING; IS THAT
22 RIGHT?

23 A WELL, WE SAW EACH OTHER. IF YOU WOULD
24 LIKE TO CALL THAT DATING, I MEAN, WE DID SEE EACH
25 OTHER. WE WENT OUT TO DINNER. WE -- YOU KNOW, BUT
26 WE WERE ALSO SEEING OTHER PEOPLE.

27 Q ALL RIGHT. AND I'M TRYING TO PIN DOWN
28 THE TIME FRAME THAT YOU WERE DATING HIM, AND YOU

1 INDICATED THAT YOU SAW EACH OTHER DURING THE TIME HE
2 WAS STILL IN SCHOOL AFTER YOU BROKE UP WITH HIM, BUT
3 THEN HE LEFT TO COME TO LOS ANGELES, CORRECT?

4 A I BELIEVE SO, YES.

5 Q DID HE FLY BACK OR DRIVE BACK TO
6 NEW JERSEY TO DATE YOU DURING THAT SUMMER?

7 A WELL, I'M SURE HE DIDN'T DRIVE BACK, BUT
8 HE MAY HAVE FLOWN BACK.

9 Q TO DATE YOU?

10 A I DON'T KNOW IF -- IT OBVIOUSLY WASN'T
11 JUST TO SEE ME. HE HAD FRIENDS AND FAMILY AND
12 EVERYBODY ELSE IN THE AREA AS WELL.

13 Q AND HOW MANY TIMES DID HE COME BACK TO
14 NEW JERSEY, DURING THAT SUMMER, AND GO OUT ON A DATE
15 WITH YOU?

16 A I DON'T KNOW.

17 Q WAS IT ONCE?

18 A I DON'T REMEMBER.

19 Q WAS IT TWICE?

20 A I DON'T REMEMBER.

21 Q DO YOU RECALL A SINGLE TIME WHEN YOU
22 WENT SOMEWHERE WITH LYLE MENENDEZ DURING THAT
23 SUMMER?

24 A YOU KNOW, I DON'T REMEMBER SPECIFICS.
25 LIKE I SAID, LYLE WAS IN LOS ANGELES WORKING FOR HIS
26 FATHER AT THE TIME.

27 Q YOU DID CALL HIM AS SOON AS YOU FOUND
28 OUT THAT HIS PARENTS HAD BEEN KILLED, CORRECT?

1 A YES, I DID.

2 Q AND THEN YOU SAW HIM AT THE MEMORIAL

3 SERVICE IN PRINCETON; IS THAT RIGHT?

4 A YES. WELL, I SAW HIM, ACTUALLY, THE

5 NIGHT BEFORE THE MEMORIAL SERVICE.

6 Q IS THAT THE FIRST TIME THAT YOU HAD SEEN

7 HIM SINCE YOU WERE DATING HIM IN THE SUMMER OR NOT

8 DATING HIM IN THE SUMMER?

9 A IT HAD BEEN A WHILE.

10 Q AND THE NIGHT BEFORE THE MEMORIAL

11 SERVICE, YOU AND YOUR MOTHER AND LYLE MENENDEZ HAD

12 DINNER TOGETHER; IS THAT CORRECT?

13 A YES, WE DID.

14 Q AND THEN YOU SPENT THAT NIGHT WITH HIM;

15 IS THAT RIGHT?

16 A YES. I STAYED THERE.

17 Q WHEN YOU SAY YOU STAYED THERE, YOU SPENT

18 THE NIGHT WITH HIM, THE ENTIRE NIGHT; IS THAT

19 CORRECT?

20 A YES.

21 Q AT A HOTEL WITH HIM?

22 A YES.

23 Q AND IT WAS JUST YOU AND LYLE; IS THAT

24 RIGHT?

25 A YES.

26 Q WHEN YOU HAD DINNER WITH YOU AND YOUR
27 MOTHER AND LYLE, WAS ANYONE ELSE PRESENT?

28 A NO. JUST THE THREE OF US.

39334

1 Q AND WHAT WAS HIS EMOTIONAL CONDITION
2 WHEN YOU HAD DINNER, THE THREE OF YOU?

3 A HE WAS ACTUALLY KIND OF JOKING, A LITTLE
4 LIGHT-HEARTED.

5 Q SO HE WAS OKAY AT DINNER?

6 A MM-HMM.

7 Q AND WHAT ABOUT WHEN YOU LEFT DINNER AND
8 WENT BACK TO THE ROOM WITH HIM?

9 A AT SOME POINT HE DID BECOME UPSET.

10 Q DID HE CRY?

11 A FOR A PERIOD OF TIME, YES.

12 Q DID HE CRY A LOT?

13 A YES. IT WASN'T ALL NIGHT LONG, BUT HE
14 DID FOR A PERIOD OF TIME.

15 Q WOULD YOU DESCRIBE THAT AS A DIFFICULT
16 NIGHT?

17 A MM-HMM.

18 Q YES? IS THAT YES?

19 A YES.

20 Q DO YOU REMEMBER TELLING YOUR MOTHER
21 AFTERWARDS THAT THAT NIGHT WAS THE HARDEST NIGHT OF
22 YOUR LIFE BECAUSE OF HAVING TO TAKE CARE OF LYLE AND
23 HOW HE FELT?

24 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

25 THE COURT: SUSTAINED.

26 Q BY MS. TOWERY: DID YOU TELL YOUR MOTHER
27 THAT?

28 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

39335

1 THE COURT: SUSTAINED.

2 Q BY MS. TOWERY: WAS THAT NIGHT THE
3 HARDEST NIGHT OF YOUR LIFE BECAUSE OF HAVING TO TAKE
4 CARE OF LYLE AND HOW HE FELT?

5 A I WOULDN'T SAY THAT IT WAS THE HARDEST
6 NIGHT OF MY LIFE. IT WAS A DIFFICULT NIGHT. I HAD
7 NEVER BEEN IN A SITUATION LIKE THAT BEFORE.

8 Q DO YOU REMEMBER HIM TAKING OFF A GOLD
9 WATCH THAT HE WAS WEARING AND THROWING IT ACROSS THE
10 ROOM?

11 A I WAS ASKED THIS IN MY LAST TESTIMONY
12 AND, NO, I DIDN'T REMEMBER THAT.

13 Q DO YOU REMEMBER TELLING YOUR MOTHER THAT
14 THAT HAPPENED?

15 A NO, I DON'T.

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39336

1 Q YOU JUST DON'T RECALL IT, AS YOU SIT

2 HERE TODAY, WHETHER OR NOT IT HAPPENED; IS THAT

3 CORRECT?

4 A CORRECT.

5 Q AND YOU MAY NOT HAVE TOLD YOUR MOTHER

6 THAT IT HAPPENED; IS THAT RIGHT?

7 A I DON'T REMEMBER. IT WAS A VERY

8 EMOTIONAL NIGHT. THERE WAS A LOT OF CRYING GOING

9 ON.

10 Q IS THAT THE REASON THAT YOU DON'T
11 REMEMBER VERY WELL BECAUSE IT WAS A VERY EMOTIONAL
12 NIGHT?

13 A IT WAS ALSO A VERY LONG TIME AGO.

14 Q OKAY. NOW, YOU INDICATED THAT YOU SAW
15 LYLE MENENDEZ FOR A PERIOD OF TIME IN NEW JERSEY
16 BEFORE MOVING TO CALIFORNIA; IS THAT CORRECT?

17 A YES. AFTER THE FUNERAL?

18 Q YES.

19 A YES.

20 Q AND YOU SAID THAT HE WAS RIDING IN A
21 BULLET-PROOF LIMOUSINE; IS THAT RIGHT?

22 A THAT'S WHAT HE TOLD ME THAT IT WAS.

23 Q WHEN DID HE TELL YOU THAT?

24 A YOU KNOW, OBVIOUSLY, THE FIRST TIME I
25 GOT IN IT -- I WAS SURPRISED THAT THERE WAS EVEN A
26 LIMOUSINE THERE. I WAS OBVIOUSLY NOT USED TO BEING
27 RIDDEN AROUND IN A LIMOUSINE AND DID NOT FEEL
28 COMFORTABLE WITH IT, AND ESPECIALLY WHEN HE TOLD ME

39337

1 IT WAS BULLET-PROOF. AND I'M LIKE WHY DOES IT NEED
2 TO BE BULLET-PROOF? SO...

3 Q AND YOU REMEMBER HIM TELLING YOU THAT IT
4 WAS BULLET-PROOF, NOW, SIX YEARS LATER; IS THAT

5 RIGHT?

6 A WELL, I REMEMBERED IT AS BEING A

7 BULLET-PROOF LIMOUSINE, YES.

8 Q YOU HAVE A SPECIFIC RECOLLECTION OF HIM

9 SAYING THAT; IS THAT RIGHT?

10 A YES.

11 Q AND YOU'VE NEVER SAID THAT BEFORE, HAVE

12 YOU, THAT THIS WAS A BULLET-PROOF LIMOUSINE THAT YOU

13 WERE RIDING IN?

14 A I GUESS I WAS NEVER ASKED. BUT, YEAH,

15 IT WAS BULLET-PROOF, AND THAT'S WHY THERE WAS

16 BODYGUARDS AND THE WHOLE MOB AND MAFIA, YOU KNOW,

17 AND THAT'S WHY HE NEEDED A BULLET-PROOF LIMOUSINE.

18 Q YOU KNOW THAT LYLE MENENDEZ ONLY HAD

19 BODYGUARDS FOR A TOTAL PERIOD OF EIGHT DAYS; IS THAT

20 RIGHT?

21 A I DON'T KNOW WHAT THE EXACT TIME FRAME

22 WAS.

23 Q AND YOU MENTIONED THAT HE BOUGHT A

24 PORSCHE DURING THAT TIME PERIOD AS WELL; IS THAT

25 RIGHT?

26 A UH-HUH, YES.

27 Q AND TO YOUR KNOWLEDGE, HE ONLY BOUGHT

28 ONE PORSCHE; IS THAT RIGHT?

1 A YES.

2 Q HE DIDN'T BUY A WHOLE FLEET OF THEM WITH
3 VARIOUS DIFFERENT PEOPLE, DID HE?

4 A NOT THAT I'M AWARE OF, NO.

5 Q NOW, YOU MENTIONED THE MAFIA COMMENT.

6 A UH-HUH.

7 Q IS YOUR MEMORY BETTER NOW OF WHAT LYLE
8 TOLD YOU -- LET ME BACK UP.

9 LYLE SAID SOMETHING THE NIGHT THAT YOU
10 SPENT WITH HIM, THAT EMOTIONAL DIFFICULT NIGHT,
11 ABOUT THE MAFIA; IS THAT CORRECT?

12 A WELL, HE WAS ATTRIBUTING EITHER THE MOB
13 OR THE MAFIA AS BEING THOSE THAT HAD MURDERED HIS
14 PARENTS.

15 Q OKAY. AND YOU REMEMBER THAT DISTINCTLY
16 AS YOU SIT HERE TODAY; IS THAT CORRECT?

17 A I DON'T REMEMBER IF HE SAID MOB OR
18 MAFIA, BUT ONE OF THE TWO, YEAH. YES.

19 Q HE SAID ONE OF THOSE TWO?

20 A I BELIEVE SO, YES.

21 Q AND HE ALSO SAID SOMETHING ABOUT
22 PORNOGRAPHIC TIES OF L.I.V.E. ENTERTAINMENT; IS THAT
23 RIGHT?

24 A WELL, HE ATTRIBUTED THAT IT WAS A
25 BUSINESS DEALING, THAT THESE PEOPLE WERE AFTER HIS
26 FATHER DUE TO SOME BUSINESS DEALINGS, THAT THEY WERE
27 MOB OR MAFIA-RELATED.

39339

1 THAT THERE WAS SOMETHING ABOUT PORNOGRAPHIC TIES OF
2 L.I.V.E. ENTERTAINMENT.

3 A YES.

4 Q IS THAT SOMETHING THAT LYLE MENENDEZ
5 TOLD YOU THAT NIGHT, OR IS THAT SOMETHING THAT
6 YOU'VE SUBSEQUENTLY LEARNED FROM PUBLICITY IN THIS
7 CASE?

8 A NO. LYLE TOLD ME THAT'S WHY, YOU
9 KNOW -- I COULDN'T UNDERSTAND WHY THERE WAS MOB OR
10 MAFIA TIES, AND LYLE EXPLAINED THAT AS BEING BECAUSE
11 OF PORNOGRAPHIC --

12 Q YOU MEAN HE TOLD YOU ALL THESE THINGS?

13 A LYLE TALKED A LOT THAT NIGHT, YES.

14 Q AND YOU REMEMBER ALL THESE THINGS AS YOU
15 ARE TESTIFYING HERE TODAY, CORRECT?

16 A YES, I DO.

17 Q BUT YOU CAN'T REMEMBER WHETHER HE FLEW
18 BACK OR HOW MANY TIMES HE FLEW BACK TO DATE YOU THE
19 SUMMER BEFORE; IS THAT RIGHT?

20 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

21 THE COURT: SUSTAINED.

22 Q BY MS. TOWERY: WHEN YOU TALKED TO

23 MS. BOZANICH AND MR. KURIYAMA IN 1992 --

24 A UH-HUH.

25 Q -- AND GAVE THEM THAT STATEMENT UNDER
26 OATH, THERE WAS A REPORTER THERE, WASN'T THERE?

27 A YES, THERE WAS.

28 Q THERE WAS ALSO A TAPE-RECORDER; IS THAT

39340

1 RIGHT?

2 A CORRECT.

3 Q AND THAT STATEMENT THAT YOU GAVE THEM
4 WAS TRANSCRIBED, WASN'T IT?

5 A I BELIEVE SO.

6 Q BY THE WAY, AT THE TIME THAT YOU SPENT
7 THE NIGHT WITH LYLE MENENDEZ IN PRINCETON, THE NIGHT
8 BEFORE THE MEMORIAL SERVICE, THERE HAD BEEN
9 PUBLICITY ON TELEVISION AND IN THE PAPERS
10 SPECULATING THAT -- THAT MR. AND MRS. MENENDEZ'
11 KILLING WAS MOB OR MAFIA-RELATED, HADN'T THERE BEEN?

12 A I DON'T KNOW. I REMEMBER ONLY WHAT LYLE
13 TOLD ME.

14 Q YOU DON'T REMEMBER SEEING ANYTHING ON
15 TELEVISION ABOUT IT?

16 A NO, I DON'T.

17 Q AND YOU DON'T REMEMBER READING ANYTHING

18 IN THE PAPERS ABOUT IT?

19 A I REMEMBER WHAT LYLE TOLD ME.

20 Q IN YOUR TAPED STATEMENT IN 1992 DID YOU

21 SAY THAT WHAT LYLE TOLD YOU DURING THAT EMOTIONAL

22 NIGHT WAS THAT HE MADE IT KNOWN, OR MADE IT SOUND

23 LIKE IT WAS THE MAFIA, OR "THAT'S WHAT I WAS

24 BELIEVING AT THE TIME, YOU KNOW, THAT IT WAS

25 SOMEBODY AFTER HIS FATHER."

26 IS THAT WHAT YOU SAID IN 1992?

27 A WELL, WHAT I SAID WAS, YES, AND THAT

28 THAT'S WHAT LYLE HAD ME BELIEVE.

39341

1 Q OKAY. DID YOU SAY WHAT I JUST READ?

2 A YES. OBVIOUSLY.

3 Q THAT'S WHAT YOU WERE BELIEVING AT THE

4 TIME?

5 A RIGHT. AND THAT'S WHAT LYLE HAD TOLD ME

6 AND THAT'S WHY I BELIEVED IT.

7 Q OKAY. AND THEN WHEN YOU WERE ASKED WHY

8 YOU BELIEVED THAT SOMEONE WAS AFTER HIS FATHER, YOU

9 SAID: "BUSINESS REASONS. I DON'T KNOW."

10 WAS THAT WHAT YOU TOLD THEM?

11 A I OBVIOUSLY DID.

12 Q BUT NOW YOU RECALL THAT THERE WAS A

13 DISCUSSION ABOUT PORNOGRAPHIC TIES OF L.I.V.E.

14 ENTERTAINMENT; IS THAT RIGHT?

15 A WELL, YES.

16 Q AND THAT'S BECAUSE YOU'VE SEARCHED YOUR

17 MEMORY AND CAN REMEMBER ALL THESE THINGS THAT YOU

18 DIDN'T RECALL IN 1992; IS THAT CORRECT?

19 A WELL, A LOT OF THESE THINGS THAT YOU

20 ASKED ME BACK THEN I HAD NO TIME TO THINK ABOUT, AND

21 I'VE HAD A LOT OF TIME TO THINK ABOUT THEM SINCE.

22 Q I'VE NEVER ASKED YOU ANYTHING BEFORE.

23 A WELL, SINCE I'VE BEEN ASKED THESE

24 QUESTIONS.

25 Q I'VE NEVER MET YOU BEFORE, HAVE I?

26 A I'M SORRY. I DID NOT MEAN YOU. I MEANT

27 SINCE I WAS ASKED THOSE QUESTIONS. THAT WAS THE

28 FIRST TIME.

39342

1 Q SO OTHER PEOPLE HAVE ASKED YOU THE SAME

2 QUESTIONS, CORRECT?

3 A NO. I MEAN JUST THOSE QUESTIONS UNDER

4 OATH I WAS ASKED.

5 Q ALL RIGHT. AND THAT WAS YOUR ANSWER

6 UNDER OATH, WASN'T IT?

7 A CORRECT.

8 Q AND YOU ALSO INDICATED THAT IT WAS
9 DIFFICULT FOR YOU TO REMEMBER WHAT HAPPENED THAT
10 NIGHT BECAUSE IT WAS SO EMOTIONAL, DIDN'T YOU?

11 A YES.

12 Q BUT NOW YOU CAN REMEMBER?

13 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

14 THE COURT: OVERRULED.

15 MS. TOWERY: I'LL WITHDRAW.

16 THE COURT: OKAY. LET'S TAKE OUR RECESS NOW
17 AND WE'LL RESUME AT 10 MINUTES TO THE HOUR.

18 (A RECESS WAS TAKEN FROM

19 10:35 A.M. TO 11:05 A.M.)

20

21 (THE FOLLOWING PROCEEDINGS WERE

22 HELD IN OPEN COURT, OUT OF THE

23 PRESENCE OF THE JURY:)

24

25 THE COURT: ALL RIGHT. WE'RE BACK IN SESSION
26 WITHOUT THE JURY.

27 IS THERE SOMETHING YOU WANTED TO TALK
28 ABOUT?

39343

1 MS. NAJERA: YES, YOUR HONOR. DURING HER

2 CROSS-EXAMINATION MS. TOWERY ELICITED INFORMATION

3 CONCERNING THE DEFENDANT, LYLE MENENDEZ', DEMEANOR
4 AFTER THE FUNERAL THAT EVENING AND I BELIEVE ALSO AT
5 THE NASSAU INN. AND I HAVE A PHOTOGRAPH WHICH I'M
6 PLANNING TO USE AS AN EXHIBIT WITH THIS WITNESS ON
7 REDIRECT TO GO FURTHER INTO THAT ISSUE, WHICH SHE
8 OPENED UP, WHICH I'VE SHOWN TO COUNSEL FOR THE
9 DEFENSE.

10 COUNSEL FOR LYLE MENENDEZ SAID IT WAS
11 FINE SO...

12 MS. ABRAMSON: TERRY SAID IT WAS FINE?

13 MS. TOWERY: I THINK THAT --

14 MS. NAJERA: IN ANY EVENT, I BELIEVE THE
15 DEFENSE FOR ERIK MENENDEZ, BECAUSE HE'S DEPICTED IN
16 THIS PHOTOGRAPH, HAS SOMETHING TO SAY ABOUT IT. I'D
17 LIKE TO SHOW IT TO THE COURT RIGHT NOW.

18 MR. LEVIN: WE WOULD ASK THAT IT NOT BE SHOWN
19 FOR THE PHOTOGRAPHER IN THE BACK OF THE ROOM TO TAKE
20 A PICTURE OF, YOUR HONOR.

21 THE COURT: OKAY.

22 MS. TOWERY: I'D LIKE TO BE HEARD ALSO, YOUR
23 HONOR.

24 APPARENTLY MS. NAJERA SHOWED IT TO
25 MR. GESSLER, AND I DIDN'T REALLY DISCUSS IT WITH
26 HER. AND IT SEEMS TO ME THAT HER REASON FOR
27 PRESENTING THAT PICTURE IS THAT I ELICITED EVIDENCE
28 OF HIS DEMEANOR DURING THE MEMORIAL SERVICE. AND I

1 DON'T BELIEVE THAT I DID THAT. I THINK IT WAS THE
2 NIGHT BEFORE, AND I THINK THAT HER TESTIMONY WAS
3 THAT HE WAS FINE AND SEEMED HAPPY AND JOKING AT
4 DINNER WITH HER AND HER MOTHER. IT WAS ONLY WHEN HE
5 WAS ALONE WITH HER IN THE HOTEL ROOM THAT HE WAS
6 EMOTIONAL AND CRYING.

7 SO I DON'T THINK THAT THAT PICTURE IS
8 INCONSISTENT WITH ANYTHING I ELICITED FROM THE
9 WITNESS.

10 THE COURT: WHEN OR HOW ARE YOU GOING TO
11 AUTHENTICATE THIS PHOTOGRAPH?

12 MS. NAJERA: YOUR HONOR, I HAVE SPOKEN TO
13 MS. PISARCIK AND I HAVE SHOWN HER THIS PHOTOGRAPH.
14 SHE SAID, YES, THAT DOES, IN FACT, DEPICT THEM AT
15 THE TIME OF THE MEMORIAL SERVICE.

16 THE COURT: HOW DOES SHE KNOW THAT?

17 MS. NAJERA: BECAUSE SHE WAS THERE.

18 THE COURT: WAS SHE THERE WHEN THE PICTURE
19 WAS TAKEN?

20 MS. NAJERA: SHE WASN'T THERE AT THE PRECISE
21 MOMENT THAT THE PHOTO WAS SNAPPED, BUT SHE WAS
22 PRESENT DURING THE TIME THAT THIS PARTY TOOK PLACE,
23 AND SHE CAN TESTIFY, VIEWING THAT PICTURE, SHE
24 RECALLS EXACTLY WHAT THEIR DEMEANOR WAS.

25 THE COURT: THAT'S STILL NOT AUTHENTICATING
26 THIS PICTURE AS TO -- THIS IS AN EXAMPLE OF PERHAPS

27 HOW SHE WOULD DESCRIBE THEM?

28 MS. NAJERA: RIGHT.

39345

1 THE COURT: UNLESS SHE WAS THERE WHEN THE
2 PICTURE WAS TAKEN, OR SHE CAN SAY WHICH IS THE EXACT
3 CLOTHING THEY WERE WEARING THAT NIGHT -- WHICH IS
4 KIND OF UNLIKELY THAT SHE WOULD REMEMBER THE EXACT
5 CLOTHING THEY WORE THAT NIGHT -- YOU'RE SAYING THAT
6 SHE CAN AUTHENTICATE THIS PHOTOGRAPH TO THE EXTENT
7 OF SAYING THIS IS THE ACTUAL PHOTOGRAPH TAKEN THAT
8 NIGHT?

9 MS. NAJERA: YOUR HONOR, SHE CAN AUTHENTICATE
10 THAT WAS THEIR Demeanor THAT NIGHT AND THAT -- I
11 GUESS WITH ME -- I DON'T UNDERSTAND WHAT THE COURT
12 IS SAYING.

13 THE COURT: I DON'T UNDERSTAND WHY YOU'RE
14 OFFERING IT.

15 MS. NAJERA: IT'S AN EXAMPLE OF THE
16 DEFENDANT, LYLE MENENDEZ', Demeanor ON THE NIGHT OF
17 THE MEMORIAL SERVICE.

18 MS. ABRAMSON: YOUR HONOR --

19 THE COURT: WAIT, WAIT. ONE PERSON TALK.

20 THIS IS NOT HOW SHE SAW THEM THAT
21 NIGHT. THIS IS JUST -- SHE DIDN'T SEE THEM WHEN

22 THIS PICTURE WAS TAKEN.

23 MS. NAJERA: SHE SAW THEM THAT NIGHT.

24 THE COURT: LISTEN TO ME. SHE DIDN'T SEE

25 THEM WHEN THIS PICTURE WAS TAKEN. IS THAT CLEAR?

26 IS THAT TRUE?

27 MS. NAJERA: AT THE PRECISE MOMENT THAT

28 SOMEBODY SNAPPED THE SHOT?

39346

1 THE COURT: YES. IS THAT RIGHT?

2 MS. NAJERA: THAT'S MY UNDERSTANDING.

3 THE COURT: AND ALL SHE CAN SAY IS THIS IS AN

4 EXAMPLE OF HOW THEY LOOKED THAT NIGHT, NOTHING MORE.

5 MS. NAJERA: THAT IS CORRECT, YOUR HONOR,

6 WHAT YOU STATED.

7 THE COURT: JUST AS THOUGH SOMEONE HAD TAKEN

8 A PICTURE OF THEM SOME OTHER TIME OR HAD A PICTURE

9 OF THEM SOME OTHER TIME SHOWING THEIR DEMEANOR,

10 LAUGHING OR WHATEVER THEY WERE DOING, THAT WOULD BE

11 HOW SHE WOULD DESCRIBE THEM, ANOTHER PICTURE SHOWING

12 AN EXAMPLE OF HOW THEY LOOKED.

13 MS. NAJERA: SHE WOULD BE MORE PROBATIVE

14 BECAUSE SHE CAN SAY THIS WAS THE NIGHT OF THE

15 MEMORIAL SERVICE.

16 THE COURT: WHAT WAS THE NIGHT?

17 MS. NAJERA: THE PHOTO WAS TAKEN.
18 THE COURT: HOW DOES SHE KNOW?
19 MS. NAJERA: BECAUSE IT'S AT THE NASSAU INN
20 AND THAT'S HOW THEY LOOKED THAT NIGHT AND SHE WAS
21 THERE THAT NIGHT.
22 THE COURT: THAT'S THE CLOTHING -- SHE CAN
23 SAY THIS IS THE CLOTHING THEY WORE THAT NIGHT?
24 MS. NAJERA: I DON'T THINK SHE CAN BE THAT
25 SPECIFIC. BUT WHEN WE TALK ABOUT WHEN SOMEONE TAKES
26 A PHOTO OF THE CRIME SCENE --
27 THE COURT: WE'RE TALKING ABOUT HER. WE'RE
28 NOT TALKING ABOUT THE SCENE OF A CRIME. THIS ISN'T

39347

1 VERY COMPLEX. I DON'T KNOW WHY YOU'RE SO CONFUSED
2 ABOUT IT.
3 SHE EITHER CAN OR CANNOT SAY THIS IS A
4 PICTURE TAKEN THAT NIGHT, AND I DON'T THINK SHE CAN,
5 FROM WHAT YOU'RE TELLING ME. ALL YOU'RE SAYING IS
6 THIS IS AN EXAMPLE OF HOW THEY LOOKED AT A CERTAIN
7 TIME WHEN THEY'RE HAPPY, THEY'RE SMILING.
8 IS THAT BASICALLY WHAT THIS PICTURE
9 REPRESENTS?
10 MS. NAJERA: WHY DON'T WE GET HER IN HERE
11 AND --

12 THE COURT: NO, NO. WE'LL JUST ASK YOU.

13 MS. NAJERA: I ASKED HER IF THIS IS HOW THEY
14 LOOKED -- ACTUALLY, I THINK WHAT I SAID WAS: IS THIS
15 THEM ON THE NIGHT OF THE MEMORIAL SERVICE, AND SHE
16 SAID YES.

17 THE COURT: AND WHAT DOES THAT PROVE?

18 MS. NAJERA: DOES THIS DEPICT WHAT THEIR
19 DEMEANOR WAS? AND SHE SAID YES.

20 THE COURT: AGAIN, YOU'RE NOT REALLY
21 ANSWERING MY QUESTION. IS THIS AN EXAMPLE OF HOW
22 THEY LOOKED? NOT THAT THIS IS A PHOTOGRAPH OF THEM
23 THAT SHE CAN AUTHENTICATE AS TAKEN THAT NIGHT. THIS
24 IS JUST A PHOTOGRAPH THAT WAS TAKEN SOMETIME AND SHE
25 WOULD SAY THIS IS THE TYPE OF DEMEANOR THAT THEY
26 DISPLAYED THAT NIGHT.

27 DO YOU UNDERSTAND THE DIFFERENCE BETWEEN
28 THE TWO?

39348

1 MS. NAJERA: I DO UNDERSTAND. BUT I GUESS
2 I'M NOT MAKING IT CLEAR. SHE CAN TESTIFY THAT SHE
3 RECALLS WHAT THEY LOOKED LIKE THAT NIGHT AND WHERE
4 THEY WERE THAT NIGHT AND WHAT THE PLACE LOOKED LIKE
5 THAT NIGHT. SHE WAS THERE AND SHE BELIEVES THIS
6 DEPICTS THEM THAT NIGHT AT THE NASSAU INN.

7 THE COURT: THIS IS THE DEMEANOR SHE SAW THEM
8 DISPLAY THAT NIGHT?

9 MS. NAJERA: CORRECT.

10 MS. ABRAMSON: THERE WAS NO NIGHT. THE
11 MEMORIAL SERVICE WAS IN THE MORNING AND THE
12 AFTERNOON.

13 MS. NAJERA: THAT DAY --

14 MS. ABRAMSON: THE NIGHT SHE'S TALKING ABOUT
15 IS THE DAY BEFORE. SHE GOES OUT TO DINNER WITH LYLE
16 AND WITH HER MOTHER. THE MEMORIAL SERVICE -- AND
17 THE FAMILY IS HERE. THIS ISN'T A MYSTERY. THE
18 MEMORIAL SERVICE WAS IN THE MORNING. THERE WAS A
19 DAYTIME RECEPTION. THERE IS NO NIGHT AT ALL.

20 THESE PHOTOGRAPHS, SMALL VERSIONS OF
21 THEM, WERE PROVIDED TO THE DEFENSE CLAIMING TO COME
22 FROM BRIAN ANDERSEN. WE DON'T KNOW WHO TOOK THEM.
23 WE DON'T KNOW WHETHER THERE ARE OTHER PHOTOGRAPHS
24 THE PEOPLE HAVE NOT SHOWN THE COURT OF ALL THE OTHER
25 MEMBERS OF THE FAMILY, LAUGHING AND SMILING AND
26 HUGGING EACH OTHER, INCLUDING BRIAN ANDERSEN,
27 SUPPOSEDLY AT THIS SAME EVENT, WHICH ISN'T AT NIGHT
28 AT ALL. IT'S FURTHER CONFUSION TO MISLEAD THE

2 AND WITH RESPECT TO MY CLIENT, HIS
3 DEMEANOR IS NOT AT ISSUE WITH THIS WITNESS AT THIS
4 POINT. WE WOULD OBJECT TO HER TESTIFYING ABOUT THIS
5 UNLESS SHE CAN SAY WHAT WAS SAID THE MINUTE THE
6 CAMERA WAS SNAPPED, WHO CRACKED A JOKE, WHO TOLD
7 THEM TO LOOK SMILEY OR NOT, OR TO COMPARE IT TO THE
8 DEMEANOR OF THE REST OF THE FAMILY -- IT'S AN
9 UNAUTHENTICATED PHOTOGRAPH -- WHO ALSO WERE
10 SMILING. IT'S JUST AN IRRELEVANT CHEAP SHOT. THE
11 FACT THAT SOMEONE SMILES AT A FUNERAL DOESN'T MEAN
12 ANYTHING.

13 MS. NAJERA: YOUR HONOR --

14 THE COURT: YES.

15 MS. NAJERA: IT IS PROBATIVE OF HIS DEMEANOR
16 AFTER THE MEMORIAL SERVICE AND SHE WILL SAY SHE WAS
17 THERE AT THE NASSAU INN AFTER THE MEMORIAL SERVICE.
18 THAT'S A FACT THAT I BELIEVE HAS ALREADY BEEN
19 ESTABLISHED, AND SHE HAS LOOKED AT THIS PHOTO AND
20 SAYS THAT DEPICTS THEM AFTER THE MEMORIAL SERVICE AT
21 THE NASSAU INN AND THAT DEPICTS SPECIFICALLY LYLE
22 MENENDEZ' DEMEANOR AT THAT TIME.

23 MS. ABRAMSON: THAT POINT ISN'T EVEN AN
24 ISSUE. THE ONLY THING IS SHE'S TALKING ABOUT IS THE
25 NIGHT BEFORE.

26 THE COURT: FIRST OF ALL, IT SEEMS THAT --
27 FIRST OF ALL, HOW LONG IS HER EXAMINATION GOING TO
28 BE ON CROSS?

1 MS. TOWERY: HOW MUCH FURTHER?

2 THE COURT: YES.

3 MS. TOWERY: IT'S NOT GOING VERY QUICKLY. I
4 THINK ABOUT AN HOUR, BUT I CAN'T BE CERTAIN.

5 THE COURT: OKAY. WE'LL WAIT AND SEE IF WE
6 GET TO THAT POINT WHERE THE PEOPLE WANT TO ASK THIS
7 WITNESS HOW SHE CAN AUTHENTICATE THIS PARTICULAR
8 PHOTOGRAPH, AND WE'LL LET THAT BE DONE OUTSIDE THE
9 PRESENCE OF THE JURY; AND IF THERE IS SOME RELEVANCE
10 TO IT BEING USED, THE PHOTOGRAPH CAN BE CUT IN HALF
11 SO THAT ONLY LYLE MENENDEZ IS DEPICTED ON IT, IF IT
12 HAS ANY RELEVANCE. AT THIS POINT THERE'S BEEN
13 NOTHING RAISED AS FAR AS THE DEMEANOR OF THE
14 CODEFENDANT. SO OBJECTIONS BY HIM CAN BE DEALT WITH
15 JUST BY REMOVING HIM FROM THE PHOTOGRAPH.

16 SO ANYTHING ELSE NOW AT THIS POINT
17 BEFORE WE START UP?

18 MS. TOWERY: JUST ANOTHER EXAMPLE OF A
19 FAILURE OF DISCOVERY, YOUR HONOR. THE TESTIMONY
20 THAT I'VE BEEN ASKING MS. PISARCIK ABOUT REGARDING
21 THE PORNOGRAPHIC TIES OF L.I.V.E. ENTERTAINMENT WAS
22 FIRST KNOWN TO ME WHEN SHE TESTIFIED HERE TODAY.
23 IT'S NOT IN ANY POLICE REPORT. IT'S NOT IN ANY OF
24 HER STATEMENTS. IT'S NOT IN ANY OF HER TESTIMONY.
25 IT JUST POPPED RIGHT OUT.

26 THE COURT: SHE SAID THAT YESTERDAY.
27 MS. TOWERY: I'M SORRY.
28 THE COURT: THAT WAS IN HER TESTIMONY

39351

1 YESTERDAY.

2 MS. TOWERY: I'M SORRY. YESTERDAY. BUT THE
3 POINT IS THAT THERE WAS NO DISCOVERY PROVIDED WITH
4 RESPECT TO ASPECTS OF HER TESTIMONY, AND NEVER HAS
5 BEEN.

6 MS. ABRAMSON: THERE'S OTHER THINGS, TERRY.

7 MS. TOWERY: THAT'S WHAT I'M CONCERNED OF
8 RIGHT NOW.

9 THE COURT: WHAT DID YOU WANT ME TO DO?

10 MS. TOWERY: I'D LIKE FOR YOU TO STRIKE ALL
11 OF HER DIRECT TESTIMONY, BUT I SUPPOSE THAT WOULD BE
12 THE ULTIMATE SANCTION; AND PERHAPS YOU COULD STRIKE
13 THAT PORTION OF HER TESTIMONY AND INSTRUCT THE JURY
14 THAT THAT'S NEW INFORMATION FOR WHICH NO DISCOVERY
15 WAS PROVIDED, THAT THE WITNESS HAS NEVER SAID
16 BEFORE, AND THEY'RE NOT TO CONSIDER IT.

17 THE COURT: AND WHAT IS THE PEOPLE'S
18 RESPONSE?

19 MS. NAJERA: YOUR HONOR, SHE'S ALWAYS
20 MAINTAINED THAT HE GAVE HER THESE STATEMENTS ABOUT

21 THE MOB OR MAFIA. SHE REMEMBERS THINGS, SHE SAYS
22 THEM, AND THAT'S WHAT HER TESTIMONY IS.
23 THE COURT: THAT'S NOT THE ISSUE OF
24 DISCOVERY. THE ISSUE IS WHETHER OR NOT YOU KNEW
25 ABOUT IT BEFORE YOU PUT HER ON THE WITNESS STAND,
26 THAT THIS IS WHAT SHE WAS GOING TO SAY.
27 MS. NAJERA: YOUR HONOR, I HAVE A STATEMENT
28 FROM HER ABOUT THE MOB OR THE MAFIA AND IT BEING

39352

1 RELATED TO BUSINESS. AND I CANNOT HONESTLY SAY THAT
2 SHE TOLD ME THE PORN INDUSTRY SPECIFICALLY BEFORE.
3 THE COURT: YOU SAID YOU HAVE A STATEMENT.
4 MS. NAJERA: IT'S A STATEMENT TAKEN FROM THE
5 PREVIOUS --
6 THE COURT: THAT WAS GIVEN TO THE DEFENSE?
7 MS. NAJERA: NO, YOUR HONOR. WHEN I SPOKE TO
8 HER WE DISCUSSED THE STATEMENT THAT SHE MADE
9 PREVIOUSLY.
10 THE COURT: WELL, DID SHE MENTION THIS IN THE
11 DISCUSSIONS?
12 MS. NAJERA: SHE MENTIONED -- I WAS TAKING
13 NOTES AT THE TIME AND WHAT I WROTE DOWN IS IT WAS
14 BUSINESS-RELATED AND CONNECTIONS TO L.I.V.E. AND THE
15 MOB AND MAFIA AND I DIDN'T WRITE DOWN "PORN," BUT

16 THAT DOESN'T MEAN SHE DIDN'T SAY IT. I DON'T WANT
17 TO SAY THAT. OBVIOUSLY, I DIDN'T THINK IT WAS
18 DIFFERENT FROM ANYTHING I HAVE HEARD BEFORE.

19 MS. TOWERY: I'M SORRY. ARE THESE NOTES FROM
20 THE OCTOBER 12TH CONVERSATION OR SUBSEQUENTLY?

21 MS. NAJERA: THIS IS WHEN I WAS TALKING TO
22 HER ABOUT -- I'VE SPOKEN TO HER A LOT. THE OCTOBER
23 12TH WOULD BE THE LAST INTERVIEW?

24 MS. TOWERY: YES.

25 THE COURT: THESE ARE NOTES THAT YOU GAVE TO
26 THE DEFENSE; IS THAT RIGHT?

27 MS. TOWERY: I THINK SHE INDICATED THAT SHE
28 HAD NO NOTES, YOUR HONOR. SHE TOLD ME SHE DESTROYED

39353

1 THE NOTES AND THE HALF-PAGE TYPED DOCUMENT WAS A
2 VERBATIM COPY OF THE NOTES SHE TOOK IN THAT
3 INTERVIEW. THEREFORE, AFTER WE GOT DETECTIVE
4 ZOELLER'S 14 PAGES OF NOTES AND FIVE-PAGE POLICE
5 REPORT --

6 MS. NAJERA: THAT'S CORRECT, YOUR HONOR. MY
7 NOTES -- I'M TALKING ABOUT THINGS I WRITE TO MYSELF
8 FOR WHEN I'M GOING TO BE EXAMINE THE WITNESS ABOUT.
9 AND I DON'T BELIEVE THAT'S DISCOVERABLE.

10 THE COURT: ONLY IF IT'S BASED UPON

11 INTERVIEWS THAT YOU'VE CONDUCTED WITH THE WITNESS
12 THAT REFLECT DIFFERENT STATEMENTS THAT SHE SAID
13 BEFORE.

14 MS. NAJERA: CORRECT. AND I DIDN'T RECALL
15 ANYTHING DIFFERENT, YOUR HONOR, AND I DON'T REALLY
16 KNOW THAT IT IS ALL THAT DIFFERENT.

17 IN ANY EVENT --

18 THE COURT: SO YOU'RE SAYING YOU DON'T RECALL
19 HER MAKING THAT STATEMENT BEFORE; IS THAT IT?

20 MS. NAJERA: I DON'T RECALL. I DON'T RECALL
21 HER ACTUALLY MENTIONING THE PORNO INDUSTRY. IF SHE
22 SAID IT, I DIDN'T NOTE IT; IF DETECTIVE ZOELLER
23 NOTED IT, THEN HE NOTED IT.

24 MS. TOWERY: PERHAPS WE COULD LOOK AT THE
25 RECORD, YOUR HONOR, BECAUSE MY RECOLLECTION OF THE
26 MANNER IN WHICH THE QUESTION WAS ASKED WAS THAT
27 MS. NAJERA ASKED A LEADING QUESTION REGARDING THE
28 PORN INDUSTRY WHICH WAS OBJECTED TO. PERHAPS MY

39354

1 RECOLLECTION IS WRONG.

2 THE COURT: WHY DON'T YOU LOOK AT THE RECORD
3 BEFORE WE GET TO ANY FURTHER DISCUSSION ON THIS SO
4 WE'RE NOT WASTING ANY MORE TIME AT THIS POINT. YOU
5 FIND IN THE RECORD -- AT THIS POINT THE D.A. SAYS

6 THAT SHE DIDN'T RECALL THAT BEING SAID. SO IF YOU
7 CAN FIND SOMETHING IN THE RECORD THAT WOULD INDICATE
8 OTHERWISE, WE CAN LOOK AT IT AGAIN.

9 MS. TOWERY: I THINK THAT THE TESTIMONY WAS
10 ELICITED YESTERDAY. SO PERHAPS I COULD ASK THE
11 REPORTER TO LOCATE THAT PORTION DURING THE BREAK,
12 SINCE I DON'T THINK WE HAVE THE TRANSCRIPT YET.

13 THE COURT: WE'LL SEE WHEN THE TRANSCRIPT IS
14 DUE.

15 MS. NAJERA: IN ALL HONESTY, AS I RECALL THE
16 STATEMENTS THAT WERE MADE, I MAY VERY WELL HAVE
17 BROUGHT IT UP. BUT I DON'T KNOW THAT SHE TOLD ME,
18 IS THE PROBLEM, AND THAT'S WHAT I'M VERY CONCERNED
19 ABOUT, SAYING SOMETHING THAT IMPEACHES HER THAT
20 ISN'T TRUE. I HAD ALL OF THESE DIFFERENT NOTES OF
21 DIFFERENT PEOPLE WHO HAD DISCUSSED THIS PARTICULAR
22 SUBJECT, AND IN ASKING HER ABOUT IT I KNOW I ASKED
23 HER WHAT IT WAS SHE RECALLED. I REMEMBER WHEN SHE
24 TOLD ME IT SOUNDED VERY SIMILAR TO WHAT SHE HAD
25 SAID; AND BASICALLY TOLD MYSELF IT WAS THE SAME
26 STATEMENT AND WENT ON FROM THERE.

27 I HAD A CHECK LIST ABOUT ANYTHING SAID
28 BY ANYBODY ABOUT THIS ISSUE SO WE JUST ASKED --

1 MS. ABRAMSON: A SHOT-IN-THE-DARK QUESTION.

2 MS. NAJERA: NO. IT ALL RELATED TO THAT ONE
3 ISSUE. I HAD A GOOD-FAITH BELIEF THAT EVERYTHING I
4 ASKED HER ABOUT CAME FROM HER. BUT I DON'T HAVE A
5 SEPARATE NOTE OR SEPARATE RECOLLECTION THAT SHE TOLD
6 ME ABOUT THIS. THAT'S WHY I'M SO CONCERNED ABOUT
7 SAYING SOMETHING THAT TURNS OUT TO BE DEAD WRONG.

8 THE COURT: YOU SHOULD BE JUST AS CONCERNED
9 IN THE FUTURE ABOUT TURNING OVER TO THE DEFENSE
10 ANYTHING THAT IS REMOTELY DIFFERENT THAN WHAT WAS
11 SAID BEFORE SO WE DON'T HAVE A CONTROVERSY SUCH AS
12 THIS AND MOTIONS TO STRIKE TESTIMONY OR INSTRUCT THE
13 JURY THAT YOU HAVE WITHHELD DISCOVERY.

14 SO, RATHER THAN BE CONCERNED ABOUT
15 IMPEACHING THE WITNESS, BE MORE CONCERNED ABOUT
16 TURNING OVER DISCOVERY SO WE DON'T HAVE
17 TIME-CONSUMING EVENTS SUCH AS THIS THAT ARE
18 NON-PRODUCTIVE AND DEBATES OVER WHETHER SOMETHING IS
19 SIGNIFICANT OR NOT.

20 YOU UNDERSTAND WHAT I JUST SAID?

21 MS. NAJERA: I UNDERSTAND WHAT YOU JUST SAID,
22 YOUR HONOR.

23 THE COURT: ALL RIGHT. AND IF COUNSEL WANT
24 TO EXPLORE FURTHER THE TRANSCRIPT, HOW THE TESTIMONY
25 CAME OUT, YOU CAN DO THAT AND BRING IT TO MY
26 ATTENTION.

27 MS. TOWERY: THANK YOU, YOUR HONOR.

28 THE COURT: ANYTHING ELSE BEFORE WE HAVE THE

1 JURY COME OUT?

2 MS. TOWERY: I DON'T THINK SO.

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

4 (THE JURY ENTERED THE COURTROOM

5 AND THE FOLLOWING PROCEEDINGS

6 WERE HELD:)

7

8 THE COURT: ALL RIGHT. LET'S SEE. WHERE'S

9 YOUR WITNESS? WHERE'S THE WITNESS?

10 MS. NAJERA: SHE'S OUTSIDE. I THOUGHT

11 DETECTIVE ZOELLER WAS --

12 THE COURT: ALL RIGHT. YOU MAY CONTINUE YOUR

13 CROSS-EXAMINATION.

14 MS. TOWERY: THANK YOU, YOUR HONOR.

15 Q MS. PISARCIK, YOU FIRST SPOKE TO THE

16 PROSECUTION WITH RESPECT TO THIS CASE ON OCTOBER

17 28TH, 1992, DIDN'T YOU?

18 A YES.

19 Q AND THAT'S WHEN MRS. BOZANICH AND

20 DETECTIVE ZOELLER CAME TO YOUR HOME AND SPOKE TO

21 YOU; IS THAT CORRECT?

22 A YES, CORRECT.

23 Q AND ABOUT A MONTH LATER YOU GAVE THE

24 SWORN STATEMENT, THAT WE HAVE DISCUSSED AT VARIOUS
25 TIMES, TO MRS. BOZANICH AND MR. KURIAYAMA AND
26 DETECTIVE ZOELLER, THAT WAS RECORDED AND
27 TRANSCRIBED; IS THAT RIGHT?

28 A CORRECT.

39357

1 Q AND IN NOVEMBER OF 1993 YOU GAVE ANOTHER
2 STATEMENT TO DETECTIVE ZOELLER, DID YOU NOT?

3 A NOVEMBER 1993?

4 Q YES.

5 A YES.

6 Q AND POLICE REPORTS WERE PREPARED WITH
7 RESPECT TO YOUR FIRST STATEMENT AND THE 1993
8 STATEMENT, CORRECT?

9 A CORRECT.

10 Q AND YOU GOT TO SEE COPIES OF THOSE,
11 DIDN'T YOU?

12 A YES.

13 Q AND YOU ALSO SAW A COPY OF YOUR SWORN
14 STATEMENT GIVEN IN 1992, DIDN'T YOU?

15 A YES.

16 Q AS A MATTER OF FACT, YOU HAVE A COPY OF
17 THAT, DON'T YOU?

18 A CORRECT.

19 Q AND YOU TESTIFIED AT THE PREVIOUS TRIAL

20 OF THIS MATTER, DIDN'T YOU?

21 A YES, I DID.

22 Q AND WHEN YOU TESTIFIED AT THE PREVIOUS

23 TRIAL YOU ALSO TESTIFIED THAT YOU HAD REVIEWED YOUR

24 SWORN STATEMENT GIVEN IN 1992 FOR ACCURACY, DIDN'T

25 YOU?

26 A YES.

27 Q AND YOU DID DO THAT, DIDN'T YOU?

28 A YES.

39358

1 Q AND YOU'VE ALSO REVIEWED THAT SWORN

2 STATEMENT SINCE YOUR TESTIMONY GIVEN IN THIS TRIAL

3 IN 1993; IS THAT RIGHT?

4 A YES. I JUST -- I HAVE RECENTLY REVIEWED

5 IT, YES.

6 Q AND YOU ALSO MET WITH THE NEW

7 PROSECUTORS, MS. NAJERA AND MR. CONN, OR PERHAPS

8 JUST MS. NAJERA -- I DON'T KNOW -- A WEEK OR SO AGO;

9 IS THAT RIGHT?

10 A YES.

11 Q ON OCTOBER 12TH, 1995?

12 A YES.

13 Q AND WHO DID YOU MEET WITH WHEN YOU MET

14 WITH THE NEW PROSECUTORS IN THIS CASE?

15 A BOTH MS. NAJERA AND MR. CONN.

16 Q OKAY. AND WAS DETECTIVE ZOELLER PRESENT
17 AS WELL?

18 A CORRECT.

19 Q AND AT THE TIME YOU MET WITH THE
20 PROSECUTORS ON OCTOBER 12TH, 1995 WERE THEY TAKING
21 NOTES?

22 A YES.

23 Q WAS DETECTIVE ZOELLER TAKING NOTES?

24 A YES.

25 Q ALL THREE OF THEM WERE TAKING NOTES?

26 A CORRECT.

27 Q AND THAT WAS A LENGTHY MEETING; ISN'T
28 THAT RIGHT?

39359

1 A SEVERAL HOURS, I BELIEVE.

2 Q AND WHERE DID THAT OCCUR?

3 A I BELIEVE IT WAS HERE IN THIS BUILDING.

4 Q THEY CALLED YOU UP AND ASKED YOU TO COME
5 AND SPEAK WITH THEM?

6 A YES.

7 Q AND YOU DID SO?

8 A CORRECT.

9 Q HAVE YOU RECEIVED A COPY OF THE POLICE
10 REPORT THAT WAS PREPARED WITH RESPECT TO THAT
11 MEETING, THAT IS, OCTOBER 12TH, 1995, TO REVIEW?

12 A NO, I HAVE NOT.

13 Q NOW, IN ALL THOSE MEETINGS THAT YOU'VE
14 HAD WITH THE PROSECUTION WHEN WAS THE FIRST TIME
15 THAT YOU TOLD ANYONE ABOUT L.I.V.E. ENTERTAINMENT
16 HAVING PORNOGRAPHIC TIES?

17 A WELL, I BELIEVE THAT IT WAS RECENTLY.
18 BUT I HAVE HAD THOSE DOCUMENTS OF MY TESTIMONY AND
19 HAVE REVIEWED THEM SINCE, THEM BEING IN MY
20 POSSESSION. AND TO TELL YOU THE TRUTH, HAVING THAT
21 ABILITY TO REVIEW THAT HAS BROUGHT BACK MANY
22 MEMORIES THAT I HAVE NOT OBVIOUSLY REMEMBERED FROM
23 THE FIRST TIME I WAS ASKED THOSE QUESTIONS.

24 Q SO YOU HAVE TAKEN THE TIME TO REVIEW
25 YOUR TESTIMONY AND TRY AND REMEMBER, AFTER YOU
26 TESTIFIED, WHETHER OR NOT WHAT YOU SAID WAS ACCURATE
27 OR NOT; IS THAT RIGHT?

28 A YES. IN ORDER TO BE PREPARED.

39360

1 Q AND WHEN YOU REVIEWED YOUR TESTIMONY
2 THAT YOU GAVE, BOTH AT THE TRIAL AND THE SWORN
3 STATEMENT, YOU DIDN'T SAY ANYTHING ABOUT

4 PORNOGRAPHIC TIES THAT L.I.V.E ENTERTAINMENT HAD,

5 DID YOU?

6 A I DON'T REMEMBER EXACTLY WHEN I STATED

7 IT, BUT I DO REMEMBER LYLE SAYING THAT.

8 Q I'M NOT ASKING WHAT YOUR RECOLLECTION IS

9 TODAY. I'M ASKING YOU: YOU DIDN'T TESTIFY TO THAT

10 PREVIOUSLY, DID YOU?

11 A IF IT'S NOT IN THE TESTIMONY, OBVIOUSLY,

12 I DIDN'T REMEMBER IT.

13 Q MY QUESTION IS: DID YOU TESTIFY TO WHAT

14 YOUR RECOLLECTION WAS AT THAT TIME? DID YOU TESTIFY

15 ABOUT PORNOGRAPHIC TIES OF L.I.V.E. ENTERTAINMENT AT

16 THE LAST TRIAL?

17 A NO, I DID NOT.

18 Q AND YOU DIDN'T TELL MR. KURIYAMA AND

19 MS. BOZANICH AND DETECTIVE ZOELLER IN YOUR SWORN

20 STATEMENT THAT WAS TRANSCRIBED ABOUT PORNOGRAPHIC

21 TIES OF L.I.V.E. ENTERTAINMENT AT THAT TIME, DID

22 YOU?

23 A NO. NOT UNTIL AFTER REVIEWING IT, THAT

24 I, YOU KNOW, OBVIOUSLY REMEMBERED.

25 Q DID YOU TELL THEM AT THAT TIME?

26 A I GUESS NOT, NO.

27 Q IN FACT, WHAT YOU TOLD THEM AT THAT TIME

28 WAS THAT LYLE MADE IT KNOWN, OR MADE IT SOUND LIKE

1 IT WAS THE MAFIA, OR "THAT'S WHAT I WAS BELIEVING AT
2 THE TIME, YOU KNOW, THAT IT WAS SOMEBODY AFTER HIS
3 FATHER."

4 THAT'S WHAT YOU SAID, ISN'T IT?

5 A YES. THAT'S MY STATEMENT.

6 Q THEN YOU WERE ASKED WHY YOU BELIEVED IT
7 WAS SOMEBODY AFTER HIS FATHER AND YOU
8 SAID: "BUSINESS REASONS. I DON'T KNOW."

9 THAT'S WHAT YOU SAID IN 1992, CORRECT?

10 A CORRECT.

11 Q AND THAT'S WHAT YOU READ IN THE
12 TRANSCRIPT WHEN YOU REVIEWED IT?

13 A YES, IT IS.

14 Q NOW, WHEN IS THE FIRST TIME YOU TOLD
15 SOMEONE CONNECTED WITH THE PROSECUTION THAT NOW YOU
16 REMEMBER THAT LYLE MENENDEZ SAID SOMETHING ABOUT
17 L.I.V.E. ENTERTAINMENT HAVING PORNOGRAPHIC TIES?

18 A WELL, I BELIEVE IN THE LAST TIME I SPOKE
19 WITH THEM, AFTER HAVING THE OPPORTUNITY TO REVIEW MY
20 PREVIOUS STATEMENT.

21 Q THAT WOULD BE OCTOBER 12TH, 1995
22 MEETING, THAT YOU HAD WITH THE THREE OF THEM,
23 CORRECT?

24 A CORRECT.

25 Q AND IF THAT DOES NOT APPEAR ANYWHERE IN
26 THE POLICE REPORT THAT WAS PREPARED WITH RESPECT TO
27 THAT MEETING, IS IT STILL YOUR RECOLLECTION THAT

39362

1 A I BELIEVE SO.

2 Q THEY JUST DIDN'T WRITE IT DOWN?

3 A WELL, I DON'T KNOW. BUT THAT IS WHAT I
4 REMEMBER.

5 Q AND WHEN YOU SAID THAT, WERE ALL THREE
6 OF THESE PROSECUTORS -- EXCUSE ME -- BOTH OF THE
7 PROSECUTORS AND DETECTIVE ZOELLER PRESENT?

8 A AGAIN, I DON'T REMEMBER.

9 MS. TOWERY: YOUR HONOR, I'D ASK TO APPROACH
10 BRIEFLY.

11 THE COURT: ON THIS SUBJECT?

12 MS. TOWERY: YES.

13 THE COURT: LATER ON WE'LL DO IT.

14 MS. TOWERY: ALL RIGHT.

15 Q NOW, JUST SO THAT WE ALL UNDERSTAND.
16 THE VERY FIRST TIME YOU EVER TOLD ANYONE ABOUT THE
17 PORNOGRAPHIC TIES IS WHEN YOU TOLD THEM, CORRECT?

18 A WHEN I -- YES. WHEN I WAS TALKING TO
19 THEM, YES.

20 Q THAT WAS ON OCTOBER 12TH, 1995, CORRECT?

21 A I THINK SO, YES.

22 Q NOW, YOU MOVED TO CALIFORNIA IN 1989

23 AND -- DID YOU SAY NOVEMBER; IS THAT RIGHT?

24 A EITHER LATE OCTOBER, EARLY NOVEMBER.

25 Q AND YOU MOVED HERE TO HELP LYLE BECAUSE

26 HE WAS HAVING A DIFFICULT TIME, CORRECT?

27 A YES.

28 Q AND YOU CAME HERE TO HELP HIM OUT

39363

1 EMOTIONALLY, CORRECT?

2 A WELL, EMOTIONALLY. YEAH, FOR A LOT OF

3 DIFFERENT REASONS.

4 Q AND YOU ALSO WANTED TO LIVE HERE IN

5 CALIFORNIA; WOULD THAT BE PART OF IT?

6 A I HAD BEEN OUT TO CALIFORNIA BEFORE,

7 OBVIOUSLY, AND IT WAS A PLACE THAT I WOULD LIKE TO

8 RESIDE, YES.

9 Q AND LYLE WAS GOING THROUGH VERY

10 DIFFICULT TIMES IN SEPTEMBER, OCTOBER, NOVEMBER,

11 DECEMBER, AND JANUARY, WASN'T HE?

12 A YEAH. HE WAS PRETTY MUCH OUT OF

13 CONTROL.

14 Q AND YOU WERE TRYING TO HELP HIM,

15 CORRECT?

16 A YES.

17 Q AND HE WAS HAVING GREAT EMOTIONAL

18 DIFFICULTY DURING THAT TIME; IS THAT RIGHT?

19 A I DON'T KNOW HOW YOU WOULD DESCRIBE
20 GREAT EMOTIONAL DIFFICULTY. HE SEEMED -- HE WAS VERY
21 SCATTERED. HE DIDN'T SEEM -- YOU KNOW, HE SEEMED
22 LIKE -- HE ASKED FOR HELP, HELP IN TRYING, YOU
23 KNOW -- HE HAD NEVER BALANCED A CHECKBOOK BEFORE,
24 VERY BASIC DAY-TO-DAY THINGS THAT HE ASKED FOR HELP.

25 Q AND YOU CAME TO HELP HIM?

26 A YES.

27 Q AND WHEN YOU WERE WRITING TO HIM WHEN HE
28 WAS IN THE JAIL, YOU WROTE TO HIM ABOUT THE

39364

1 DIFFICULT TIMES THAT HE WAS GOING THROUGH, DID YOU
2 NOT?

3 A UH-HUH.

4 MS. TOWERY: MAY I APPROACH, YOUR HONOR?

5 THE COURT: YES.

6 MS. TOWERY: SHOWING YOU A PAGE OF A LETTER
7 THAT WAS MARKED AS EXHIBIT 377 AT THE LAST TRIAL, I
8 THINK.

9 NEXT IN ORDER IS 154; IS THAT RIGHT,
10 YOUR HONOR?

11 THE COURT: 154.

12 MS. TOWERY: AND YOU WERE SHOWN THIS LETTER

13 PREVIOUSLY, I THINK. I'LL JUST ASK YOU TO TAKE A

14 LOOK AT IT AGAIN.

15 THE WITNESS: THE WHOLE THING?

16 MS. TOWERY: JUST THE PARAGRAPH.

17 THE WITNESS: OKAY. THIS LETTER WAS DATED?

18 Q BY MS. TOWERY: WHEN WAS THAT LETTER

19 DATED?

20 A APRIL 20TH 1990.

21 Q IS THAT A LETTER YOU SENT TO LYLE

22 MENENDEZ AFTER HE WAS ARRESTED?

23 A YES, IT WOULD BE.

24 Q AND THAT INDICATES THAT HE WAS GOING

25 THROUGH A DIFFICULT TIME DURING THE MONTHS THAT I

26 MENTIONED EARLIER, CORRECT?

27 A CORRECT.

28 MS. NAJERA: I'M GOING TO OBJECT AS HEARSAY,

39365

1 YOUR HONOR.

2 THE COURT: SUSTAINED. THE ANSWER IS

3 STRICKEN.

4 Q BY MS. TOWERY: HE WAS GOING THROUGH

5 DIFFICULT TIMES DURING THOSE MONTHS, CORRECT?

6 A YES.

7 Q NOW, YOU LIVED WITH HIM AT THE MARINA

8 CITY CLUB FROM NOVEMBER TO JANUARY, RIGHT?

9 A CORRECT.

10 Q AND I THINK YOU SAID IN YOUR DIRECT

11 TESTIMONY THAT THAT WAS A PURCHASED CONDOMINIUM.

12 THAT WASN'T A PURCHASED CONDOMINIUM, WAS IT?

13 A WELL, NO. HE PAID RENT FOR IT.

14 Q IT WAS A RENTED APARTMENT?

15 A YES. YES, IT WAS.

16 Q AND THEN YOU MOVED OUT IN JANUARY; IS

17 THAT RIGHT?

18 A CORRECT.

19 Q AND DID YOU -- WHEN YOU MOVED OUT DID

20 YOU BREAK UP WITH LYLE MENENDEZ?

21 A YES. IN A WAY. LYLE WAS AGAIN KIND OF

22 OUT OF CONTROL, SPENDING A LOT OF MONEY, AND WANTED

23 TO TAKE A TRIP TO VALE, AND WANTED TO PAY MY WAY TO

24 GO TO VALE. AND AT THAT POINT I JUST SAID THAT --

25 THE RELATIONSHIP CAN'T CONTINUE THIS WAY. AND I

26 REALLY DIDN'T WANT TO ACCEPT THE TRIP. AND HE WENT

27 OFF TO VALE. AND AT THE TIME THAT HE WAS THERE

28 PROCEEDED TO LEAVE.

39366

1 Q SO YOU BROKE UP WITH HIM?

2 A YES.

3 Q DID YOU GIVE HIM HIS RING BACK?

4 A NO. NOT AT THAT TIME, I DON'T THINK.

5 Q DID YOU HAVE HIS RING THEN?

6 A YES, I DID.

7 Q HOW DID YOU GET IT BACK WHEN YOU
8 RETURNED IT TO HIM IN THE SPRING OF 1989?

9 A I DON'T THINK I HAD THE RING THEN,
10 ACTUALLY. I DON'T REMEMBER.

11 Q YOU DIDN'T HAVE THE RING --

12 A I DON'T THINK I GOT THE RING BACK -- I
13 DON'T REMEMBER IF I HAD IT DURING THOSE SEVERAL
14 MONTHS THAT I WAS HERE BEFORE LYLE WENT TO JAIL. I
15 DID GET IT BACK WHEN HE WENT INTO JAIL.

16 Q PERHAPS I'M CONFUSED. I THOUGHT THAT
17 YOU RETURNED THE RING TO HIM IN APRIL OR THE SPRING
18 OF 1989 WHEN YOU BROKE UP WITH HIM; IS THAT RIGHT?

19 A CORRECT.

20 Q DID HE RETURN IT TO YOU BETWEEN THAT
21 TIME AND JANUARY OF 1990 WHEN YOU BROKE UP WITH HIM
22 AGAIN?

23 A I DON'T KNOW IF I HAD -- THAT'S WHAT I'M
24 TRYING TO SAY. I DON'T THINK I HAD IT DURING THAT
25 PERIOD OF TIME AFTER HIS PARENTS DIED. I DON'T
26 RECALL IF I ACTUALLY HAD IT. I DON'T THINK I DID.
27 I DON'T THINK I GOT THE RING BACK UNTIL HE -- UNTIL
28 HE WAS IN JAIL.

1 Q OKAY. SO YOU'RE SAYING THAT YOU DID
2 BREAK UP WITH HIM WHEN YOU MOVED OUT, CORRECT?

3 A YEAH.

4 Q AND THEN YOUR RELATIONSHIP RESUMED AFTER
5 HE WAS ARRESTED IN MARCH?

6 A YEAH. AGAIN, DURING THAT JANUARY
7 THROUGH MARCH PERIOD, WE DID SEE EACH OTHER AND WE
8 DID DATE. BUT THEN, YEAH, IT OBVIOUSLY BROUGHT US
9 BACK TOGETHER WHEN HE WAS PUT INTO JAIL.

10 Q AND YOU'RE SAYING THAT THE REASON THAT
11 YOU BROKE UP WITH HIM WAS BECAUSE HE WAS OUT OF
12 CONTROL?

13 A WELL, HE WAS JUST DOING A LOT OF THINGS
14 THAT I WAS OBVIOUSLY NOT COMFORTABLE WITH.

15 Q OKAY. LIKE A TRIP TO ASPEN THAT YOU
16 DIDN'T WANT HIM TO PAY FOR; IS THAT RIGHT?

17 A WELL --

18 Q IS THAT WHAT YOU JUST SAID?

19 A NO, THAT'S NOT WHAT I SAID. I SAID I
20 DID NOT FEEL COMFORTABLE GOING WITH HIM ON THAT TRIP
21 AND HAVING HIM PAY FOR THE TRIP.

22 Q HADN'T HE JUST GIVEN YOU A SAAB FOR A
23 CHRISTMAS PRESENT?

24 A YES.

25 Q AND YOU ACCEPTED THAT, DIDN'T YOU?

26 A YES, I DID.
27 Q HOW MUCH DID THAT COST?
28 A I DON'T KNOW.

39368

1 Q WHEN DID HE GIVE YOU THE SAAB?
2 A IT WAS A CHRISTMAS GIFT.
3 Q WAS IT BEFORE CHRISTMAS THAT HE GAVE IT
4 TO YOU?
5 A OBVIOUSLY, IT WAS AROUND CHRISTMAS. I'M
6 ASSUMING IT WAS ON CHRISTMAS BUT...
7 Q AND HE DROVE UP IN IT WITH A RED RIBBON
8 AROUND IT; IS THAT RIGHT?
9 A YES. IT WAS AT THE MARINA CITY CLUB.
10 Q AND --
11 MS. TOWERY: MAY I APPROACH THE WITNESS, YOUR
12 HONOR?
13 THE COURT: YES.
14 MS. TOWERY: I HAVE A DOCUMENT THAT WAS
15 PREVIOUSLY MARKED AS EXHIBIT 380 -- I'VE FORGOTTEN
16 THE NEXT NUMBER.
17 IS IT 155?
18 THE COURT: YES.
19 MS. TOWERY: LET ME JUST SHOW YOU THIS
20 DOCUMENT.

21 THE WITNESS: OKAY.

22 Q BY MS. TOWERY: DO YOU RECOGNIZE THAT
23 FROM HAVING SEEN IT AT A PREVIOUS TRIAL?

24 A NO. I DON'T BELIEVE I DO BUT...

25 Q YOU NEVER SAW THAT?

26 A I DON'T RECALL SEEING IT.

27 Q WHAT DID --

28 MS. NAJERA: I'M GOING TO OBJECT. NO

39369

1 FOUNDATION IF SHE'S NEVER SEEN IT BEFORE.

2 THE COURT: WELL, I'M NOT CLEAR AS TO WHETHER
3 OR NOT SHE'S EVER SEEN IT AS AN EXHIBIT OR NEVER SAW
4 IT BEFORE AT ALL. SO WHY DON'T YOU CLARIFY THAT.

5 Q BY MS. TOWERY: DID YOU SEE IT AS AN
6 EXHIBIT IN THE PREVIOUS TRIAL?

7 A I DON'T REMEMBER SEEING IT, NO.

8 Q IS THAT NO OR YOU DON'T REMEMBER?

9 A I DON'T RECALL SEEING THAT AS AN EXHIBIT
10 PRESENTED TO ME IN THE LAST TRIAL.

11 Q OKAY. SO IT WASN'T PRESENTED TO YOU?

12 MS. NAJERA: OBJECT. MISSTATES THE EVIDENCE.

13 THE COURT: IT'S ARGUMENTATIVE AS PHRASED.

14 Q BY MS. TOWERY: WELL, MY QUESTION IS:

15 DID YOU SEE THAT EXHIBIT THAT I JUST MARKED AS 155

16 IN THE LAST TRIAL OR NOT?

17 A I DON'T REMEMBER. YOU'D HAVE TO SHOW IT
18 TO ME IN ORDER TO REFRESH MY MEMORY.

19 Q I DID SHOW IT TO YOU JUST NOW. DOES IT
20 REFRESH YOUR MEMORY?

21 A WELL, I GUESS I DON'T REMEMBER SEEING IT
22 IN -- IF YOU COULD SHOW IT TO ME IN WRITTEN
23 TESTIMONY, THAT WOULD HELP REFRESH MY MEMORY.

24 Q OKAY. SO YOU HAVE NO IDEA HOW MUCH THE
25 SAAB THAT YOU RECEIVED COST; IS THAT CORRECT?

26 A NO. LYLE BOUGHT IT FOR ME AS A GIFT.

27 Q IT WAS A NICE CAR, WASN'T IT?

28 A YES. IT WAS A USED SAAB.

39370

1 Q HOW OLD WAS THE CAR, IF YOU KNOW, WHEN
2 YOU RECEIVED IT IN DECEMBER OF 1989?

3 A I THINK IT WAS AN '85 OR '86. I CAN'T
4 BE SURE THOUGH.

5 Q DO YOU STILL HAVE THAT CAR?

6 A NO, I DO NOT.

7 Q HOW LONG DID YOU KEEP IT?

8 A I KEPT IT THROUGH JUNE OF -- I BELIEVE,
9 JUNE THAT YEAR.

10 Q WHAT DID YOU DO WITH IT IN JUNE OF THAT

11 YEAR?

12 A WELL, LYLE AND I HAD BOTH DISCUSSED

13 SELLING IT. IT WAS HAVING SOME MECHANICAL PROBLEMS

14 AND IT WAS -- THEY WERE EXPENSIVE MECHANICAL

15 PROBLEMS, THAT I REALLY COULDN'T AFFORD TO KEEP THAT

16 KIND OF MAINTENANCE UP, AND I SOLD IT. I TRADED IT

17 IN. SORRY.

18 Q YOU TRADED IT IN?

19 A YES.

20 Q FOR WHAT KIND OF CAR?

21 A A MAZDA.

22 Q A MAZDA?

23 A CORRECT.

24 Q WAS IT A MAZDA MIATA?

25 A YES, IT WAS.

26 Q AND HOW MUCH DID YOU GET FOR IT WHEN YOU

27 TRADED IT IN?

28 A I DON'T REMEMBER AT THE TIME I TRADED IT

39371

1 IN. AND I WAS MAKING PAYMENTS ON THE CAR MONTHLY.

2 Q ON THE NEW ONE THAT YOU GOT?

3 A YES.

4 Q THE MIATA?

5 A YES.

6 MS. TOWERY: MAY I APPROACH THE WITNESS?

7 THE COURT: YES.

8 MS. TOWERY: LET ME SHOW YOU A PORTION OF

9 YOUR TESTIMONY FROM THE PRIOR TRIAL AND ASK YOU TO

10 READ THIS PORTION OF IT, PLEASE.

11 THE WITNESS: OKAY.

12 MS. NAJERA: MAY I ASK WHAT LINE YOU'RE

13 REFERRING THE WITNESS TO?

14 MS. TOWERY: LINES 4 THROUGH 14.

15 MS. ABRAMSON: PAGE CITE, JUST FOR THE

16 RECORD.

17 MS. TOWERY: 22467.

18 THE WITNESS: OKAY.

19 Q BY MS. TOWERY: HAVE YOU REVIEWED THAT?

20 A YES. YES, I HAVE.

21 Q DOES THAT REFRESH YOUR RECOLLECTION AS

22 TO WHETHER OR NOT YOU HAVE SEEN THE ITEM THAT'S BEEN

23 MARKED AS EXHIBIT 155 BEFORE?

24 A YES, IT DOES. THANK YOU.

25 Q WERE YOU SHOWN THAT AT THE PREVIOUS

26 TRIAL?

27 A YES.

28 Q AND WHEN YOU SAW IT AT THE PREVIOUS

1 TRIAL YOU DESCRIBED IT AS A CHECK MADE OUT TO TOYOTA
2 OF MARINA DEL REY?

3 MS. NAJERA: I'M GOING TO OBJECT. THERE WAS
4 NO FOUNDATION LAID IN THE PREVIOUS TRIAL. WE'D
5 OBJECT. THERE'S NO FOUNDATION NOW.

6 THE COURT: SUSTAINED AS TO WHAT SHE MIGHT
7 HAVE SAID BEFORE, UNLESS SHE HAS -- DID THEN OR HAS
8 NOW A RECOLLECTION OF WHAT THAT REPRESENTS.

9 Q BY MS. TOWERY: THE CHECK BEFORE YOU IS
10 DATED RIGHT ABOUT THE TIME LYLE MENENDEZ GAVE YOU
11 THE SAAB FOR CHRISTMAS, ISN'T IT?

12 MS. NAJERA: I'M GOING TO OBJECT. CALLS FOR
13 HEARSAY.

14 THE COURT: SUSTAINED.

15 Q BY MS. TOWERY: NOW, WHEN YOU TESTIFIED
16 AT THE PREVIOUS TRIAL, YOU EXPLAINED WHY YOU LEFT
17 THE MARINA CITY CLUB APARTMENT IN JANUARY OF 1990,
18 DIDN'T YOU?

19 A YES, I BELIEVE I DID.

20 Q AND AT THAT TIME YOU EXPLAINED THAT YOU
21 LEFT THE APARTMENT "BECAUSE IT WAS DIFFICULT FOR ME
22 TO HANDLE THE EMOTIONAL THINGS LYLE WAS GOING
23 THROUGH."

24 IS THAT RIGHT?

25 A THAT'S VERY TRUE, YES.

26 Q IS THAT STILL TRUE?

27 A YES, IT IS.

28 Q IN ADDITION TO YOUR NOT WANTING HIM TO

1 PAY FOR A TRIP TO ASPEN, CORRECT?

2 A NOT ONLY PAY FOR A TRIP TO ASPEN, BUT
3 THAT WOULD BE THE PART OF THE EMOTIONAL THINGS LYLE
4 WAS GOING THROUGH, SPENDING A LOT OF MONEY, JUST
5 THINGS THAT I DID NOT AGREE WITH. BE THAT EMOTIONAL
6 AS IT WERE.

7 Q SO IT WAS HARD FOR YOU TO DEAL WITH HIS
8 EMOTIONAL REACTION TO THINGS; IS THAT RIGHT?

9 A IT WAS HARD FOR ME TO DEAL WITH THE WAY
10 HE WAS LIVING HIS LIFE.

11 Q SO YOU LEFT HIM?

12 A YES.

13 Q BEFORE YOU LEFT HIM IN JANUARY, WHEN YOU
14 WERE HELPING HIM TO DEAL WITH THESE EMOTIONAL
15 PROBLEMS HE WAS HAVING --

16 A RIGHT.

17 Q -- YOU ALSO HELPED HIM MANAGE HIS
18 FINANCES, DIDN'T YOU?

19 A WELL, I HAD HELPED LYLE, I GUESS, MANAGE
20 HIS FINANCES IN A WAY THAT I HELPED HIM MANAGE HIS
21 CHECKBOOK. HE NEVER WRITE CHECKS DOWN, YOU KNOW.
22 HE WOULD JUST WROTE CHECKS AND NOT KEEP A RECORD OF
23 THEM.

24 AND SO, YEAH, I MEAN, THE REASON I CAME

25 OUT HERE TO CALIFORNIA WAS REALLY TO TRY TO HELP HIM
26 GET HIS LIFE TOGETHER AND TRY TO GET HIM BACK ON
27 TRACK.

28 Q SO HE HAD NEVER BALANCED A CHECKBOOK AND

39374

1 HE DIDN'T KNOW HOW; IS THAT RIGHT?

2 A WELL, FROM MY EXPERIENCE WITH HIM, NO.

3 I DON'T KNOW PREVIOUS TO THAT.

4 Q HE WASN'T SO GREAT AT HANDLING MONEY OR
5 KEEPING TRACK OF MONEY; IS THAT FAIR?

6 A YES.

7 Q AND AS BEFORE, AS HE HAD BEEN BEFORE HIS
8 PARENTS DIED, HE CONTINUED TO BE GENEROUS WITH YOU;
9 IS THAT RIGHT?

10 A YES.

11 Q AND HE GAVE YOU MONEY WHEN YOU NEEDED IT
12 AFTER YOU CAME TO CALIFORNIA, DIDN'T HE?

13 A WHEN I FIRST CAME TO CALIFORNIA I
14 STARTED TO LOOK FOR A JOB AND DID NOT HAVE ONE RIGHT
15 AWAY. I DID OBTAIN ONE IN, I BELIEVE -- I THINK IT
16 WAS MID DECEMBER. BUT NO, I CAME OUT HERE AFTER
17 HAVING PLAYED IN ISRAEL IN THAT TENNIS TOUR AND DID
18 NOT HAVE A JOB.

19 SO, YES, HE DID HELP ME OUT UNTIL I GOT

20 ON MY FEET.

21 Q SO HE HELPED YOU WITH YOUR EXPENSES?

22 A CORRECT.

23 Q AND HE WAS GENEROUS WITH YOU WHEN YOU
24 CAME TO CALIFORNIA, CORRECT?

25 A CORRECT.

26 Q AND HE BOUGHT YOU THE SAAB?

27 A YES.

28 Q I PRESUME HE DIDN'T CHARGE YOU RENT FOR

39375

1 LIVING AT THE MARINA CITY CLUB, DID HE?

2 A NO. NOT FOR THAT MONTH OR TWO THAT I
3 WAS THERE, CORRECT.

4 Q FROM NOVEMBER TO JANUARY?

5 A CORRECT.

6 Q AND YOU ALSO HELPED HIM IN OTHER WAYS.

7 IN ADDITION TO HELPING HIM WITH HIS EMOTIONAL
8 DIFFICULTIES, IN HELPING HIM WITH HIS DIFFICULTY IN
9 HANDLING FINANCES, YOU ALSO GAVE HIM ADVICE ON THE
10 RESTAURANT THAT HE BOUGHT, DIDN'T YOU?

11 A I DON'T KNOW IF YOU WOULD CONSIDER IT
12 ADVICE. I CONSIDERED IT MY OPINION. I HAVE NO
13 RESTAURANT -- SERIOUS BACKGROUND TO CALL UPON TO
14 REALLY ADVISE HIM. BUT, YEAH. IT WAS AN OPINION.

15 I HAD WORKED AT RESTAURANTS BEFORE. I KNEW WHAT
16 MANAGERS WERE PAID, YOU KNOW, THAT TYPE OF THING.
17 BUT AS FAR AS STUDYING RESTAURANT MANAGEMENT, I HAD
18 NO EXPERIENCE. SO IF YOU WOULD CALL IT ADVICE -- I
19 GUESS IT WAS.

20 Q SO YOU HAD MORE EXPERIENCE WITH
21 RESTAURANTS AND YOU HELPED HIM OUT WITH THAT AS
22 WELL?

23 A WELL, YOU KNOW, IF HE ASKED ME OR IF
24 I -- HE OBVIOUSLY SHARED WITH ME WHAT HE WAS DOING
25 AND THINGS LIKE THAT, YOU KNOW, WHAT SALARIES HE WAS
26 PAYING PEOPLE AND THOSE TYPE THINGS.

27 MS. TOWERY: OKAY. MAY I APPROACH, YOUR
28 HONOR?

39376

1 THE COURT: YES.

2 MS. TOWERY: I HAVE A DOCUMENT THAT WAS
3 PREVIOUSLY MARKED AS EXHIBIT 382. I'LL MARK IT AS
4 EXHIBIT 156 FOR IDENTIFICATION.

5 THE COURT: ALL RIGHT.

6 Q BY MS. TOWERY: IS THIS SOMETHING THAT
7 YOU WERE SHOWN IN THE PREVIOUS TRIAL?

8 MS. NAJERA: I'M GOING TO OBJECT TO WHETHER
9 OR NOT SHE WAS SHOWN IT IN THE FIRST TRIAL.

10 THE COURT: SUSTAINED.

11 Q BY MS. TOWERY: IS THIS A DOCUMENT THAT
12 YOU RECOGNIZE?

13 A YES. I WROTE THIS.

14 Q IT'S A LETTER FROM YOU TO LYLE MENENDEZ?

15 A YES.

16 Q AND WAS THAT ALSO -- ACTUALLY, IT'S A
17 CARD, ISN'T IT --

18 A YES. CORRECT.

19 Q -- WITH A BALLOON ON THE FRONT. WAS
20 THAT SOMETHING YOU WROTE TO HIM WHEN HE WAS IN JAIL
21 OR NOT?

22 A LET ME SEE THE DATE.

23 MS. NAJERA: I'M GOING TO OBJECT AS
24 IRRELEVANT.

25 THE COURT: OVERRULED.

26 THE WITNESS: I REALLY DON'T KNOW BECAUSE IT
27 DOESN'T HAVE A DATE ON IT.

28 Q BY MS. TOWERY: ALL RIGHT. IT IS

39377

1 SOMETHING THAT REFERS TO THE RESTAURANT THAT HE
2 PURCHASED, DOESN'T IT?

3 A I REALLY DIDN'T HAVE A CHANCE TO READ
4 IT. I JUST KIND OF SKIMMED IT.

5 Q ALL RIGHT. LET ME ASK YOU TO JUST READ
6 OUT LOUD THIS PORTION TO THIS PORTION, IF YOU
7 WOULD.

8 MS. NAJERA: I'M GOING TO OBJECT TO ANYTHING
9 REFERRING TO THE CONTENT AS HEARSAY.

10 THE COURT: SUSTAINED.

11 Q BY MS. TOWERY: DID YOU GIVE LYLE
12 MENENDEZ ADVICE ON THE RESTAURANT THAT HE PURCHASED
13 AFTER THE PURCHASE OF IT?

14 A WELL, I'M SURE THAT -- LYLE AND I HAD A
15 LOT OF CONVERSATIONS ABOUT HIM HANDLING THE
16 RESTAURANT, POSSIBLY LOSING THE RESTAURANT, BECAUSE
17 HE WAS GOING THROUGH SOME DIFFICULT MANAGING.

18 SO, YEAH, I'M SURE I GAVE HIM MY
19 OPINION. AGAIN, IF YOU WOULD LIKE TO CALL THAT
20 ADVICE, I WASN'T AN EXPERT IN RESTAURANT MANAGEMENT,
21 HOWEVER.

22 Q OKAY. WHO WAS ERIK TAMM?

23 A ERIK TAMM WAS A HIGH SCHOOL FRIEND OF
24 LYLE'S THAT HE WAS GOING TO EMPLOY, OR MAYBE HE DID
25 EMPLOY, I DON'T RECALL, TO BE HIS RESTAURANT
26 MANAGER.

27 Q AND WHEN WAS THAT -- WHEN WAS LYLE GOING
28 TO EMPLOY ERIC TAMM TO BE HIS RESTAURANT MANAGER?

1 MS. NAJERA: OBJECTION. IRRELEVANT AND CALLS
2 FOR HEARSAY.

3 THE COURT: SUSTAINED.

4 Q BY MS. TOWERY: DID YOU GIVE LYLE ADVICE
5 ON HOW MUCH HE SHOULD PAY ERIC TAMM?

6 MS. NAJERA: OBJECTION. IRRELEVANT.

7 THE COURT: OVERRULED.

8 THE WITNESS: I'M SURE I PROBABLY -- YOU
9 KNOW, WHEN LYLE ASKED ME HOW MUCH MANAGERS GET PAID,
10 AGAIN, I HAD BEEN EMPLOYED IN RESTAURANTS
11 PREVIOUSLY. SO, YEAH, I'M SURE I PROBABLY TOLD HIM
12 WHAT I THOUGHT A MANAGER SHOULD BE PAID.

13 Q BY MS. TOWERY: DID YOU TELL HIM THAT
14 YOU THOUGHT THAT HE WAS PLANNING ON PAYING ERIK TAMM
15 TOO MUCH MONEY?

16 A I COULD HAVE, YES.

17 Q DID YOU TELL HIM THAT HE SHOULDN'T BE
18 PAYING HIM MORE THAN \$20,000, WITH A BONUS IF HE
19 PRODUCED?

20 A I COULD HAVE IN THE LETTER, YEAH. THAT
21 WAS OBVIOUSLY MY OPINION.

22 Q THAT WAS YOUR OPINION AND YOU EXPRESSED
23 IT TO LYLE MENENDEZ; IS THAT RIGHT?

24 A LYLE AND I HAD AN INTIMATE BOYFRIEND/
25 GIRLFRIEND RELATIONSHIP. I'M SURE WE HAD A LOT OF
26 CONVERSATIONS ABOUT THIS, NOT JUST IN THE LETTER.

27 Q SO THERE WERE OTHER EXPRESSIONS OF

39379

1 LETTER, CORRECT?

2 A POSSIBLY.

3 Q AND YOU ALSO TOLD HIM THAT THE
4 RESTAURANT HAD TO COME UP WITH A \$100,000 BY JANUARY
5 OR HE WOULD HAVE TO SELL, DIDN'T YOU?

6 A I OBVIOUSLY DID, YES.

7 Q AND YOU SAID TO HIM THAT HE MAY NOT
8 CARE, BUT YOU DO, VERY MUCH; IS THAT RIGHT?

9 A WELL, LYLE, AS I SAID, WAS THROWING
10 AROUND A LOT OF MONEY AND VERY WASTEFUL AT THE
11 TIME. AS BEING HIS GIRL FRIEND AND TRYING TO HELP
12 HIM GET BACK -- HIS LIFE BACK TOGETHER, YEAH. I
13 MEAN, I WOULD THINK IT WOULD BE IMPORTANT TO ANYBODY
14 IF SOMEONE WAS THROWING AWAY A LOT OF MONEY.

15 Q SO YOU THOUGHT THAT HIS FRIEND ERIC TAMM
16 WAS TAKING TOO MUCH MONEY FROM HIM; IS THAT RIGHT?

17 A NO. NOT NECESSARILY. I BELIEVE THAT I
18 FELT THAT LYLE WAS PROBABLY PAYING HIM A LITTLE BIT
19 TOO MUCH MONEY.

20 Q OKAY. AND YOU SAID --

21 A NOT THAT ERIK WAS TAKING FROM HIM.

22 Q OKAY. YOU TOLD HIM MAYBE HE SHOULD GIVE

23 ERIK TAMM A PERCENTAGE OR SOMETHING AND BE A REAL

24 BUSINESSMAN, DIDN'T YOU?

25 A OBVIOUSLY, I DID, IF IT'S IN THAT

26 LETTER.

27 Q DID YOU TELL HIM TO STOP BEING SOMEONE

28 THAT GETS TAKEN ADVANTAGE OF TIME AND TIME AGAIN?

39380

1 A IT'S POSSIBLE IF IT'S IN THE LETTER,

2 YES, I DID.

3 Q AND DID YOU TELL HIM NOT TO ARGUE WITH

4 YOU THAT ERIC TAMM IS HIS FRIEND?

5 MS. NAJERA: I'M GOING TO OBJECT AT THIS

6 POINT. THIS IS IRRELEVANT.

7 THE COURT: OVERRULED.

8 YOU CAN ANSWER THE QUESTION.

9 THE WITNESS: WOULD YOU REPEAT. I'M SORRY.

10 Q BY MS. TOWERY: DID YOU TELL LYLE NOT TO

11 ARGUE WITH YOU THAT ERIC TAMM WAS HIS FRIEND

12 CONCERNING THE SALARY?

13 A I THINK LYLE WAS A LITTLE CONFUSED AT

14 THE TIME AS TO HOW MUCH -- I GUESS I WAS ASKING LYLE

15 TO CONSIDER ERIK TAMM AN EMPLOYEE AND NOT A FRIEND

16 SO THAT -- BECAUSE HE WAS HIS FRIEND, HE WAS GOING

17 TO BE PAYING HIM MUCH MORE MONEY THAN HE WOULD A

18 NORMAL EMPLOYEE.

19 Q AND YOU TOLD LYLE THAT IF ERIK WAS
20 REALLY HIS FRIEND HE'D BE GLAD TO WORK FOR LYLE FOR
21 PEANUTS, DIDN'T YOU?

22 A THAT'S WHAT I WOULD DO, I GUESS.

23 Q AND YOU TOLD LYLE TO FIND OUT WHAT REAL
24 FRIENDS ARE, DIDN'T YOU?

25 A IN THE LETTER, YES.

26 Q AND YOU TOLD HIM NOT TO HIRE HIM IF HE
27 COULDN'T DISTINGUISH BETWEEN FRIENDS AND EMPLOYEES;
28 IS THAT RIGHT?

39381

1 MS. NAJERA: I'M GOING TO OBJECT UNDER
2 EVIDENCE CODE 352.

3 THE COURT: OVERRULED.

4 THE WITNESS: I GUESS I CONSIDERED THAT TO BE
5 AT THE TIME A WISE BUSINESS DECISION.

6 Q BY MS. TOWERY: AND YOU TOLD HIM YOU
7 WOULDN'T LET HIM THROW MONEY AWAY EVER AGAIN; IS
8 THAT RIGHT?

9 A WELL, I WAS TRYING TO HELP LYLE, AS I
10 STATED, THAT WHOLE TIME THAT I WAS IN CALIFORNIA.
11 AND, OBVIOUSLY, I DIDN'T DO A GOOD JOB OF IT.

12 Q OKAY. AND YOU TOLD HIM YOU WERE SICK OF

13 PEOPLE, FRIENDS OR NOT, TAKING ADVANTAGE OF HIM,

14 DIDN'T YOU?

15 MS. NAJERA: OBJECTION. IRRELEVANT.

16 THE COURT: OVERRULED.

17 THE WITNESS: YES.

18 Q BY MS. TOWERY: AND YOU SAID HE'D BETTER

19 LISTEN TO YOU OR ELSE, DIDN'T YOU?

20 MS. NAJERA: OBJECTION. IRRELEVANT.

21 THE COURT: OVERRULED.

22 THE WITNESS: I GUESS I'D HAVE TO LOOK AT

23 THIS. YEAH, I DID.

24 Q BY MS. TOWERY: THE REASON YOU GAVE THAT

25 ADVICE TO LYLE MENENDEZ WAS BECAUSE HE NEEDED IT;

26 ISN'T THAT RIGHT?

27 A WELL, AS I TOLD YOU BEFORE, I FELT VERY

28 UNCOMFORTABLE WITH WHAT LYLE WAS DOING WITH HIS

39382

1 MONEY, AND I JUST -- THAT'S ONE OF THE REASONS WHY I

2 LEFT.

3 Q OKAY. AND YOU DON'T KNOW WHETHER THAT

4 LETTER WAS WRITTEN AFTER YOU LEFT OR BEFORE; IS THAT

5 RIGHT?

6 A YEAH. I DON'T.

7 Q BUT IF YOU KNEW WHEN ERIK TAMM WAS

8 HIRED, OR WAS UNDER CONSIDERATION FOR BEING HIRED,
9 THAT WOULD HELP YOU DATE IT, WOULDN'T IT?
10 A WELL, I WROTE MOST OF MY LETTERS,
11 OBVIOUSLY, TO LYLE WHEN HE WAS IN JAIL. BUT I
12 BELIEVE ERIK WAS HIRED WHEN LYLE WAS -- RIGHT AFTER
13 LYLE HAD BOUGHT THE RESTAURANT. BUT I DON'T
14 REMEMBER EXACTLY. SO, OBVIOUSLY, LYLE WASN'T IN
15 JAIL AT THAT TIME.

16 Q NOW, AFTER -- AFTER LYLE WAS ARRESTED YOU
17 MOVED TO THE BEVERLY HILLS HOUSE; IS THAT RIGHT?

18 A YES.

19 Q AND YOU LIVED THERE WITH ERIK'S GIRL
20 FRIEND AT THE TIME; IS THAT RIGHT?

21 A CORRECT.

22 Q WHAT WAS HER NAME?

23 A NOELLE.

24 Q WHAT WAS HER LAST NAME?

25 A TERLESKY.

26 Q AND ALSO WITH LYLE'S GRANDMOTHER,
27 MRS. MENENDEZ?

28 A CORRECT.

39383

1 Q AND YOU RECOGNIZE HER HERE IN COURT
2 HERE?

3 A YES.

4 Q AND YOU DIDN'T PAY RENT WHEN YOU LIVED
5 AT THE BEVERLY HILLS HOUSE, DID YOU?

6 A NO.

7 Q AND THEN LATER, WHILE LYLE WAS STILL IN
8 JAIL, THE BEVERLY HILLS HOUSE WAS BEING PUT ON THE
9 MARKET FOR SALE. SO YOU MOVED TO THE PROPERTY IN
10 CALABASAS, DIDN'T YOU?

11 A CORRECT.

12 Q AND NOELLE MOVED AS WELL; IS THAT RIGHT?

13 A YES.

14 Q ABOUT WHEN DID THAT HAPPEN?

15 A I BELIEVE THAT WAS PROBABLY MAYBE MAY OR
16 JUNE WHEN WE MOVED UP THERE. I THINK IT WAS
17 PROBABLY -- STAYED UP THERE THROUGH THE SUMMER.

18 Q SO YOU MOVED TO THE CALABASAS HOUSE IN
19 MAY OR JUNE OF 1990?

20 A I THINK SO. I BELIEVE THAT'S ABOUT THE
21 TIME FRAME.

22 Q NOW, AT THE TIME HAD THE MAIN HOUSE IN
23 CALABASAS BEEN COMPLETED YET, OR WAS IT STILL UNDER
24 CONSTRUCTION?

25 A WELL, I GUESS THERE WASN'T ANY
26 CONSTRUCTION GOING ON AT THE TIME. THERE NEEDED TO
27 BE, I GUESS. IT WASN'T TOTALLY ONE HUNDRED PERCENT
28 COMPLETE, BUT THERE WAS NO CONSTRUCTION GOING ON AND

1 WE WERE STAYING IN THE GUESTHOUSE.

2 Q THERE WAS A GUESTHOUSE ON THE CALABASAS
3 PROPERTY?

4 A YES, CORRECT.

5 Q AND WHEN YOU MOVED TO THE CALABASAS
6 PROPERTY, YOUR BOSS AT THE TIME HELPED YOU MOVE
7 THERE; IS THAT RIGHT?

8 A I BELIEVE HE HELPED ME MOVE OUT OF
9 THERE.

10 Q HIS NAME WAS JAMIE AS WELL?

11 A HE AND SEVERAL FRIENDS. YES.

12 MS. TOWERY: THIS ACTUALLY MIGHT BE A GOOD
13 TIME TO BREAK.

14 THE COURT: OKAY. WE'LL BE IN RECESS UNTIL
15 1:30.

16 DON'T DISCUSS THE MATTER WITH ANYONE AND
17 DON'T FORM ANY FINAL OPINIONS ABOUT IT, AND WE'LL
18 RESUME AT 1:30.

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

21

22 THE COURT: THE JURY HAS LEFT.

23 WHAT WAS IT THAT YOU WANTED TO APPROACH
24 ABOUT, MS. TOWERY?

25 MS. TOWERY: WELL, I THINK THAT THE WITNESS'
26 TESTIMONY, UNLESS SHE'S MISTAKEN ABOUT WHEN SHE

27 DISCLOSED THIS INFORMATION TO THE PROSECUTION, WAS
28 IN DIRECT CONFLICT WITH WHAT MS. NAJERA INDICATED

39385

1 WAS THE INFORMATION THAT SHE OBTAINED FROM THE
2 WITNESS.

3 ACTUALLY, WE PROBABLY SHOULD HAVE THE
4 WITNESS EXCUSED FOR THIS.

5 THE COURT: PLEASE WAIT OUTSIDE.

6 THE BAILIFF: YOUR HONOR, JURORS WALKING.

7 (JURORS EXITING THE JURY ROOM.)

8

9 THE COURT: YES. GO AHEAD.

10 MS. TOWERY: YOUR HONOR, THE WITNESS'
11 TESTIMONY WAS THAT SHE GAVE THE INFORMATION
12 REGARDING PORNOGRAPHY TO THE DISTRICT ATTORNEYS AT
13 THE OCTOBER 12TH MEETING. SHE ALSO INDICATED THAT
14 NOTES WERE TAKEN BY MS. NAJERA AND MR. CONN AT THAT
15 MEETING, WHICH BOTH DIRECTLY CONTRADICT THE
16 INFORMATION PROVIDED TO THE COURT AND TO THE DEFENSE
17 BY THE PROSECUTION.

18 AND AGAIN, I'LL LOOK AT THE TRANSCRIPT
19 OF THE WITNESS' TESTIMONY YESTERDAY IN TERMS OF THE
20 LEADING QUESTION. BUT I THINK AT THIS POINT IT'S
21 APPROPRIATE FOR THE COURT TO STRIKE THAT TESTIMONY

22 AND INSTRUCT THE JURY TO DISREGARD IT; THAT THE
23 PROSECUTION INTENTIONALLY DID NOT DISCLOSE IT TO THE
24 DEFENSE, AND THAT IT'S NOT TRUE.

25 THE COURT: WHAT'S NOT TRUE?

26 MS. TOWERY: THAT TESTIMONY.

27 THE COURT: THAT SHE DIDN'T TELL THAT TO THE
28 PROSECUTORS OR THAT LYLE MENENDEZ DIDN'T SAY IT TO

39386

1 HER?

2 MS. TOWERY: I THINK THE ONLY APPROPRIATE
3 SANCTION AT THIS POINT -- BECAUSE THE DAMAGE HAS
4 BEEN DONE -- IS FOR THE COURT TO INSTRUCT THE JURY
5 THAT THE JURY IS TO DISREGARD THAT TESTIMONY AND NOT
6 TO CONSIDER IT TRUE.

7 THE COURT: ALL RIGHT. WE HAVE DETECTIVE
8 ZOELLER WHO APPARENTLY WAS PRESENT DURING THAT
9 INTERVIEW. DOES IT SHOW IN HIS NOTES THAT THIS
10 STATEMENT WAS MADE?

11 MS. TOWERY: NO.

12 MS. NAJERA: YOUR HONOR --

13 THE COURT: HE'S CERTAINLY AVAILABLE TO
14 IMPEACH THE WITNESS THEN IF IT'S NOT IN HIS NOTES.

15 MS. TOWERY: I ASKED THE WITNESS AND SHE SAID
16 SHE SAID IT, EVEN IF IT WASN'T IN HIS NOTES OR

17 REPORT.

18 THE COURT: THAT'S FINE. THAT DOESN'T MAKE
19 THAT TRUE THAT SHE SAID IT. IT'S JUST HER
20 STATEMENT. WE HAVE NOTES OF OTHER PEOPLE WHO WERE
21 PRESENT AT THE INTERVIEW WHERE IT'S NOT SHOWN IN THE
22 NOTES.

23 AT THIS POINT I DON'T HAVE ANY REASON TO
24 BELIEVE THAT SHE DID SAY IT, OTHER THAN SHE
25 TESTIFIED ABOUT IT HERE AND SHE SAID IT. YOU HAVE
26 AT LEAST ONE WITNESS WHO'S NOT A LAWYER IN THE CASE
27 WHO COULD TESTIFY ABOUT THAT CONVERSATION. SO IF
28 YOU WANT TO PUT HIM ON THE WITNESS STAND YOU CAN DO

39387

1 THAT.

2 YES.

3 MS. NAJERA: MAY I BE HEARD BRIEFLY, YOUR
4 HONOR? I BELIEVE WHAT I STATED EARLIER -- AND I
5 STILL STAND BY THAT STATEMENT -- IS I HAD NOTES
6 ABOUT THE CONVERSATION, AND THERE WAS A NOTE IN
7 THERE ABOUT PORNOGRAPHY. BUT I HONESTLY DO NOT HAVE
8 A NOTE THAT SAYS SHE TOLD ME THAT THERE WAS -- THIS
9 STATEMENT. BUT I CAN'T HONESTLY SAY THAT SHE DIDN'T
10 SAY THAT. I JUST DIDN'T MAKE A NOTE IF SHE DID SAY
11 THAT AND I DON'T REMEMBER IT.

12 BUT THAT DOESN'T MEAN IT WASN'T SAID,
13 AND I BELIEVE THAT'S WHAT I STATED EARLIER, AND
14 THAT'S WHAT I STAND BY. I DON'T KNOW. IF SHE SAYS
15 SHE DID, I'LL GO WITH HER MEMORY OVER MINE. SHE'S
16 THE ONE THAT SAID IT. I KNEW --

17 THE COURT: I'M NOT TALKING ABOUT WHAT YOU
18 REMEMBER AT THIS POINT. WE HAVE DETECTIVE ZOELLER
19 WHO'S HERE, AND HE CAN --

20 DETECTIVE ZOELLER, YOU'RE STILL UNDER
21 OATH.

22 DO YOU HAVE ANY RECOLLECTION OF THAT
23 STATEMENT BEING MADE BY THE WITNESS?

24 DETECTIVE ZOELLER: NO, I DON'T KNOW. BUT AT
25 ONE POINT IN THE INTERVIEW I DID LEAVE THE INTERVIEW
26 TO MOVE MY VEHICLES.

27 THE COURT: DO YOU HAVE ANY REASON TO BELIEVE
28 IT HAPPENED DURING THAT TIME?

39388

1 DETECTIVE ZOELLER: I HAVE NO REASON TO
2 BELIEVE EITHER WAY.

3 THE COURT: WERE YOU PRESENT DURING TIMES
4 WHEN SHE DISCUSSED THIS PARTICULAR CONVERSATION WITH
5 THE DEFENDANT?

6 DETECTIVE ZOELLER: NO, YOUR HONOR.

7 THE COURT: YOU WEREN'T THERE AT ALL WHEN
8 ANYTHING WAS DISCUSSED ABOUT WHAT THE DEFENDANT TOLD
9 HER ABOUT WHY THE PARENTS WERE KILLED?

10 DETECTIVE ZOELLER: NOT THAT I RECALL, YOUR
11 HONOR.

12 MS. TOWERY: I CAN INDICATE THAT DETECTIVE
13 ZOELLER'S REPORT -- AND I THINK THE COURT HAS A COPY
14 OF IT -- DOESN'T REFLECT ANY DISCUSSION OF THAT
15 CONVERSATION AT ALL.

16 THE COURT: YES. I LOOKED THROUGH IT.

17 SO AT THIS POINT WHAT I'M PRESENTED WITH
18 IS A SITUATION WHERE THE WITNESS SAYS THAT SHE SAID
19 IT AND THE PROSECUTOR DOESN'T HAVE A RECOLLECTION
20 ONE WAY OR THE OTHER.

21 MS. TOWERY: THE OTHER INTERESTING THING,
22 YOUR HONOR -- JUST TO POINT OUT -- THE WITNESS SAID
23 MR. CONN WAS TAKING NOTES DURING THE INTERVIEW
24 ALSO. WE'VE NEVER SEEN HIS NOTES.

25 THE COURT: DO YOU HAVE ANY NOTES?

26 MR. CONN: NO, I DON'T.

27 THE COURT: DID YOU TAKE NOTES?

28 MR. CONN: WHEN SHE WAS BEING INTERVIEWED BY

2 PREVIOUS TESTIMONY AND STATEMENTS FROM THE POLICE
3 REPORT, BECAUSE SHE WAS MS. NAJERA'S WITNESS, AND I
4 WAS JUST CATCHING UP ON OUR MATERIAL.

5 THE COURT: WHAT DO YOU MEAN YOU WERE NOT
6 TAKING NOTES OF THE INTERVIEW, BUT JUST WRITING
7 DOWN --

8 MR. CONN: EXACTLY.

9 THE COURT: -- WHAT SHE HAD SAID BEFORE?

10 MR. CONN: I WAS READING FROM POLICE REPORTS
11 AND TAKING NOTES FROM POLICE REPORTS. AND I RECALL
12 NOTHING -- I DO NOT RECALL RECORDING ANYTHING THAT
13 HAS NOT COME OUT HERE IN COURT.

14 MS. ABRAMSON: THAT'S AN INTERESTING
15 STATEMENT. WHAT DOES THAT MEAN?

16 MS. TOWERY: I THINK THAT BEGS THE QUESTION.

17 THE PROBLEM IS, THINGS HAVE COME OUT
18 HERE IN COURT THAT WERE NOT DISCLOSED TO THE
19 DEFENSE. APPARENTLY NOW MR. CONN HAD NOTES THAT
20 WEREN'T TURNED OVER AS WELL; AND WE SPECIFICALLY
21 ASKED FOR THOSE. I ASKED MS. NAJERA WHEN SHE HANDED
22 ME --

23 THE COURT: MR. CONN SAID HIS NOTES WERE NOT
24 OF THE INTERVIEW, BUT HE WAS TAKING NOTES
25 SUMMARIZING WHAT SHE HAD SAID ON EARLIER OCCASIONS,
26 AS I UNDERSTAND IT.

27 MS. TOWERY: HE ALSO SAID HIS NOTES DIDN'T
28 REFLECT ANYTHING THAT HADN'T COME OUT HERE IN COURT,

1 WHICH HEDGES THAT A TINY BIT, YOUR HONOR. AND,
2 OBVIOUSLY, THINGS HAVE COME OUT HERE IN COURT WHICH
3 WERE NOT DISCLOSED TO THE DEFENSE.

4 FOR EXAMPLE, THE WITNESS' DESCRIPTION OF
5 THE SCENE "AT CLOSE RANGE." SHE'S NEVER DESCRIBED
6 THE SCENE IN "AT CLOSE RANGE" IN THE WAY THAT SHE
7 DESCRIBED IT HERE IN COURT. PRESUMABLY SHE EITHER
8 TOLD THE PROSECUTORS THAT SHE WATCHED THE MOVIE,
9 SUBSEQUENTLY WATCHED THE MOVIE, SO SHE COULD
10 DESCRIBE THE SCENE WHICH WASN'T DISCLOSED, OR THE
11 PROSECUTOR SHOWED HER THE SCENE FROM THE MOVIE,
12 WHICH IS IN AND OF ITSELF SUGGESTIVE IN THAT THE
13 EXACT SCENE IN THE MOVIE TO WHICH LYLE MENENDEZ WAS
14 REFERRING WASN'T NECESSARILY CLEAR, ACCORDING TO HER
15 PRIOR TESTIMONY.

16 SO NONE OF THAT WAS DISCLOSED TO THE
17 DEFENSE. SHE JUST GOT ON THE WITNESS STAND AND
18 STARTED TALKING ABOUT THAT AS IF SHE HAD SEEN IT
19 WHEN WE DID, TWO DAYS AGO.

20 THE COURT: OKAY. WHEN DID SHE SEE THE
21 MOVIE?

22 MS. NAJERA: MY UNDERSTANDING --

23 THE COURT: NOT WHAT SHE SAID HERE, BUT WHEN,
24 TO YOUR KNOWLEDGE, DID SHE SEE IT?

25 MS. NAJERA: THE FIRST TIME SHE EVER SAW IT,

26 I DON'T KNOW.

27 THE COURT: THE LAST TIME.

28 MS. NAJERA: THE SCENE WAS -- THIS MORNING

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1 SHE SAW THAT AND I ELICITED THAT ON DIRECT
2 EXAMINATION. AND I DON'T BELIEVE THAT'S APPROPRIATE
3 DISCOVERY. WHAT WE DO TO TALK TO A WITNESS AND
4 TO --

5 MS. ABRAMSON: SHOWED HER THAT MOVIE?

6 MS. NAJERA: THIS MORNING, YOUR HONOR.

7 THE COURT: OKAY. WELL, YOU DIDN'T BRING IT
8 OUT. IT DIDN'T COME OUT.

9 MS. NAJERA: I THOUGHT I ASKED HER ABOUT
10 THAT.

11 THE COURT: NO, YOU DIDN'T.

12 MS. TOWERY: WELL, THAT'S ALSO --

13 MS. NAJERA: I BELIEVE SHE TESTIFIED SHE HAD
14 SINCE REVIEWED THE SCENE IN THE FILM AND I THINK I
15 ASKED HER ABOUT THAT.

16 THE COURT: NO, YOU DIDN'T ASK HER WHEN SHE
17 DID THAT.

18 MS. TOWERY: WHAT I THINK MS. NAJERA IS
19 SAYING IS THAT THE PROSECUTOR SHOWED HER THAT SCENE
20 THIS MORNING. SHE DIDN'T TAKE IT UPON HERSELF TO

21 RENT THE FILM AND WATCH IT, AND THAT IN AND OF
22 ITSELF IS TAMPERING WITH THE WITNESS, OR VERY
23 BORDERLINE TO THAT, BECAUSE SHE WAS SHOWN THE
24 SCENE. SHE DIDN'T DO IT. AND THEN SHE WAS ASKED TO
25 TESTIFY VERBATIM AS TO WHAT SHE SAW -- THE
26 PROSECUTOR SHOWS HER -- NOT SOMETHING THAT SHE
27 RECALLED FROM LYLE MENENDEZ TELLING HER; NOT
28 SOMETHING SHE RECALLED FROM HAVING SEEN THE MOVIE,

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1 EITHER WITH OR WITHOUT HIM, IF SHE SAW IT AT ALL
2 BEFORE THAT CONVERSATION.

3 SHE TESTIFIED TO SOMETHING THAT THE
4 PROSECUTORS GAVE HER THIS MORNING.

5 THE COURT: OKAY. THAT'S CLEARLY SOMETHING
6 THAT CAN BE BROUGHT OUT IN CROSS-EXAMINATION, AND I
7 ASSUME THAT IT WAS SOMETHING THAT YOU WOULD EXPLORE
8 WITH THE WITNESS.

9 IT SEEMS TO ME, AS FAR AS REFERENCE TO
10 THE PORNOGRAPHY CONNECTION AND THE WITNESS'
11 TESTIMONY THAT SHE TOLD THE PROSECUTORS ABOUT IT
12 DURING THIS OCTOBER 12TH INTERVIEW, AND THE
13 PROSECUTORS AND DETECTIVE ZOELLER HAVE NO NOTATIONS
14 OF IT, THE PROSECUTOR HAS NO RECOLLECTION OF IT, AND
15 THE BEST THE PROSECUTORS CAN SAY IS, WELL, IF THE

16 WITNESS SAID IT IT MUST BE TRUE THAT SHE DID SAY
17 THAT DURING THE INTERVIEW. IT SEEMS TO ME THAT WHEN
18 A WITNESS IS INTERVIEWED ON A PRIOR OCCASION AND
19 DOES NOT MENTION SOMETHING THAT MIGHT OR MIGHT NOT
20 BE IMPORTANT IN THE CASE -- AND THIS SEEMS TO ME AS
21 ONE OF THOSE THINGS THAT IS BEING MAGNIFIED OUT OF
22 ALL SIGNIFICANCE, OUT OF ALL PROPORTION TO WHAT IT
23 REALLY SIGNIFIES -- BUT REGARDLESS OF THAT, IT SEEMS
24 TO ME THAT THE WITNESS SHOULD BE SUBJECT TO
25 IMPEACHMENT THAT THERE IS NO NOTATION AND NO
26 DOCUMENT ANYWHERE THAT WOULD SHOW THAT SHE EVER SAID
27 THIS ON ANY OTHER OCCASION BEFORE SHE TESTIFIED IN
28 COURT. AND THAT IS THE RECORD. AND IT SEEMS TO ME

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1 IT COULD BE BROUGHT OUT EITHER BY STIPULATION OR BY
2 QUESTIONING OF THE WITNESS, THAT THERE IS NO RECORD
3 ANYWHERE THAT SHE HAS EVER SAID THIS BEFORE SAYING
4 IT IN COURT.

5 MS. TOWERY: I THINK THAT WAS DONE, YOUR
6 HONOR, AND THE PROBLEM IS THERE'S NO -- HER RESPONSE
7 WAS THAT SHE DID TELL THE PROSECUTORS. NOW DETECTIVE
8 ZOELLER TELLS US THAT HE WAS OUT OF THE ROOM DURING
9 A PORTION OF THAT INTERVIEW. NOW I'M FACED WITH THE
10 PROSPECT OF CALLING MS. NAJERA AND HAVING MS. NAJERA

11 SAY I DON'T REMEMBER. WELL, MAYBE SHE SAID IT AND

12 MAYBE SHE DIDN'T SAY IT.

13 THE COURT: AS FAR AS I'M CONCERNED, THAT'S A
14 STATEMENT THAT SHE DIDN'T SAY IT. IF SHE DOESN'T
15 REMEMBER IT BEING SAID, I THINK THE INFERENCE IS IT
16 WASN'T SAID. I DON'T SEE HOW YOU CAN HAVE IT BOTH
17 WAYS BY SOME SUCH STATEMENT LIKE THAT.

18 MS. ABRAMSON: THERE'S TWO DIFFERENT ILLS, IF
19 YOU WILL, YOUR HONOR; WHAT THIS ILL ILLUSTRATES, IS
20 NOT CLEAR WHICH IT IS. ONE IS A WITNESS WHO
21 CONTINUALLY MAKES UP NEW INFORMATION ON HER OWN, AND
22 ANOTHER IS A WITNESS WHO MAKES UP NEW INFORMATION
23 BECAUSE THE PROSECUTION'S SUGGESTING THAT SHE DO SO,
24 EITHER BY THE WAY THEY QUESTION HER OR WHAT THEY
25 EXPOSE HER TO; AND TO SAY THAT THIS LEADS TO
26 IMPEACHMENT OF THE WITNESS IF THE PROSECUTION IS
27 SOMEHOW AT FAULT HERE, OR DOING SOMETHING WRONG, WE
28 LOSE THE OPPORTUNITY TO POINT THAT OUT IF WE'RE

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1 FORCED TO TAKE THE POSITION THAT THE WITNESS IS
2 MAKING IT UP.

3 I MEAN, THIS IS NOT THE ONLY WITNESS OR
4 THE ONLY EXAMPLE WHERE PEOPLE ARE TAKING THE STAND
5 IN THIS TRIAL AND WE ARE HEARING THINGS FOR THE

6 FIRST TIME THAT THE PROSECUTION CLEARLY KNOWS
7 THEY'RE GOING TO BE SAYING BECAUSE OF THE WAY THEY
8 QUESTION THEM. AND I DON'T KNOW IF IT'S BECAUSE THE
9 PROSECUTION'S MAKING IT UP AND FEEDING IT TO THE
10 WITNESSES, WHICH IS A FAR MORE SINISTER VIEW, OR
11 SIMPLY KEEPING THINGS SECRET TO SURPRISE US, WHICH
12 IS NOT FAIR.

13 TO SAY OUR ONLY RECOURSE IS TO IMPEACH
14 THE WITNESS, WHEN IT MAY BE THE PROSECUTION THAT
15 NEEDS IMPEACHING, I DON'T THINK IS ADEQUATE. I
16 THINK BEFORE WE CONCLUDE WHAT'S GOING ON HERE, OR
17 TRY TO REACH ANY CONCLUSIONS, WE SHOULD TAKE A LOOK
18 AT THE WAY THE QUESTIONING OCCURRED THIS MORNING OR
19 YESTERDAY AND THEN WE MIGHT HAVE ANOTHER IDEA OF
20 EXACTLY --

21 THE COURT: THAT'S FINE. YOU COULD DO THAT.
22 YOU COULD DO THAT. BUT AT THIS POINT MY VIEW IS
23 THAT, EITHER BY STIPULATION OR THE COURT TAKING
24 JUDICIAL NOTICE, THIS WITNESS NEVER ON ANY OTHER
25 OCCASION NEVER SAID ANYTHING ABOUT THIS BEFORE --
26 IT'S NOT DOCUMENTED OR MENTIONED AT ANY TIME OR
27 PLACE THAT SHE'S EVER SAID IT BEFORE. THE
28 PROSECUTOR SAYING SHE MIGHT HAVE OR MIGHT NOT HAVE

1 SAID IT DOESN'T PROVE SHE MIGHT HAVE SAID IT BEFORE.

2 MS. NAJERA: I HAVE A NOTE, YOUR HONOR, JUST
3 TO BUNGLER UP THE RECORD EVEN MORE. THE ONLY NOTE --
4 I HAVE NOTES RELATING TO PRIOR STATEMENTS THAT
5 MENTION THAT AND I DON'T KNOW WHERE THOSE -- WHAT'S
6 THE WORD -- CROSS-REFERENCE TO -- I JUST HAVE A
7 BUNCH OF NOTES. BUT I DON'T HAVE A NOTE THAT SAYS
8 SHE STATED THIS THING ABOUT THE PORNO INDUSTRY.

9 THAT'S A PROBLEM BECAUSE I HAVE A LOT OF
10 NOTES THAT REFLECT A LOT OF INFORMATION, AND I
11 DIDN'T PUT DOWN WHO SAID WHAT. SO...

12 THE COURT: ALL I CAN SAY IS THE RECORD AT
13 THIS POINT IS SHE DIDN'T SAY IT OR YOU WOULD HAVE
14 PUT IT DOWN.

15 MS. TOWERY: YOUR HONOR, IF THE COURT IS NOT
16 GOING TO CHANGE ITS POSITION ON THIS ISSUE, WHETHER
17 OR NOT A LEADING QUESTION WAS ASKED BY MS. NAJERA OF
18 THE WITNESS YESTERDAY, THEN I WOULD ASK THAT THE
19 COURT TAKE JUDICIAL NOTICE OF THE FACT THAT HAS
20 NEVER BEEN SAID BY THIS WITNESS UNTIL SHE TESTIFIED
21 RIGHT AFTER THE LUNCH BREAK, AND SO INSTRUCT THE
22 JURY, AS A MINIMAL SANCTION FOR THE VIOLATION.

23 THE COURT: OKAY. THE PEOPLE WISH TO BE
24 HEARD ON THAT?

25 MS. NAJERA: I DON'T UNDERSTAND, YOUR HONOR,
26 WHAT COUNSEL FEELS WE VIOLATED. I -- SHE HAS
27 BROUGHT OUT --

28 THE COURT: IT'S NOT A QUESTION OF

1 VIOLATION. IT'S JUST A QUESTION OF TRYING TO PROVE
2 UP THE FACT SHE NEVER IT SAID BEFORE.

3 MS. NAJERA: I UNDERSTAND WHAT THE COURT IS
4 SAYING. I CAN CHECK THE TRANSCRIPT WHEN WE HAVE
5 IT. I BELIEVE SHE'S GONE OVER WITH THIS WITNESS --

6 MS. TOWERY: MY OTHER ALTERNATIVE, YOUR
7 HONOR, IS TO CALL MS. NAJERA TO THE STAND AND ASK TO
8 SEE HER NOTES, AND I CERTAINLY DON'T WANT TO BE
9 PLACED IN THAT POSITION, AND I DOUBT THAT THE COURT
10 WOULD PERMIT ME TO DO THAT, BUT SHE SEEMS TO BE THE
11 ONLY WITNESS TO THIS PRIOR OR LACK OF A PRIOR
12 STATEMENT BY MS. PISARCIK.

13 THE COURT: DID YOU WANT TO BE HEARD
14 FURTHER?

15 MS. NAJERA: NO, YOUR HONOR. I THINK
16 MR. CONN -- WELL, I THINK THAT IT'S FINE IF THE COURT
17 WANTS TO TAKE JUDICIAL NOTICE, THAT'S FINE. I
18 MEAN -- I BELIEVE IF THE COURT DOESN'T DESIRE TO, IT
19 HAS ALREADY BEEN BROUGHT OUT.

20 THE COURT: WELL, HER TESTIMONY IS ONE THING,
21 BUT PROVING IT BY SOME INDEPENDENT MEANS IS MORE
22 PROBATIVE THAN JUST HER TESTIMONY SINCE SHE WOULD BE
23 IMPEACHING HERSELF IF YOU TAKE HER TESTIMONY. SHE

24 DIDN'T SEE IT IN ANY REPORT. SHE'D BE IMPEACHING
25 HERSELF RATHER THAN HAVING IT PROVED UP BY SOME
26 INDEPENDENT LANGUAGE, WHICH WOULD BE EITHER BY YOU
27 TAKING THE WITNESS STAND OR STIPULATING TO IT OR THE
28 COURT TAKING JUDICIAL NOTICE THAT THERE'S NEVER BEEN

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1 ANY STATEMENT RECORDED OF HER THAT REFLECTS THAT
2 SHE'S EVER SAID THIS BEFORE.

3 MR. CONN: WE WOULD ASK THAT THE COURT TAKE
4 JUDICIAL NOTICE.

5 MS. NAJERA: RIGHT. THAT'S FINE.

6 THE COURT: ALL RIGHT. WE'LL BE IN RECESS
7 TILL 1:30.

8 (AT 12:15 P.M. THE NOON
9 RECESS WAS TAKEN UNTIL
10 1:30 P.M. OF THE SAME DAY.)

1

1 VAN NUYS, CALIFORNIA; WEDNESDAY, NOVEMBER 1, 1995
2 2:00 P.M.
3 DEPARTMENT NW "N" HON. STANLEY M. WEISBERG, JUDGE
4 (APPEARANCES AS HERETOFORE NOTED.)
5

6 (THE FOLLOWING PROCEEDINGS WERE
7 HELD IN OPEN COURT OUT OF THE
8 PRESENCE OF THE JURY:)

9

10 THE COURT: ALL RIGHT. THE JURY APPARENTLY
11 IS HERE IN THE JURY ROOM.

12 WHAT DID YOU WANT TO TALK ABOUT?

13 MS. TOWERY: NOTHING. NOTHING OTHER THAN THE
14 REFERENCE IN THE TRANSCRIPT THAT THE REPORTER
15 PROVIDED TO ME. I SHOWED TO MS. NAJERA AND PROVIDED
16 THE COURT WITH A COPY OF IT, AND THAT IS THE
17 REFERENCE TO MS. NAJERA'S QUESTION REGARDING THE
18 PORNOGRAPHY DISCUSSION AND THE WITNESS' CONVERSATION
19 WITH LYLE MENENDEZ, AND THE TRANSCRIPT DOES INDICATE
20 THAT A LEADING QUESTION WAS ASKED BY MS. NAJERA
21 ASKING IF THAT WAS DISCUSSED, TO WHICH AN OBJECTION
22 WAS MADE BY ME, AND THE COURT SUSTAINED IT; AND
23 THEREFORE AFTER THE TESTIMONY WAS ELICITED.

24 I DON'T KNOW WHAT THE PAGE OF THE
25 TRANSCRIPT IS, YOUR HONOR, SINCE THERE'S ONLY THAT
26 ONE COPY.

27 THE COURT: 39265.

28 AND WHAT DID YOU WANT ME TO DO NOW THAT

1 YOU'VE SHOWN THAT TO ME?

2 MS. TOWERY: WELL, THE COURT HAD INQUIRED AS
3 TO EXACTLY WHAT HAD TRANSPIRED AND ASKED ME TO LOOK
4 INTO IT. SO I'VE DONE SO.

5 THE COURT: IT WASN'T REALLY MY INITIAL
6 INQUIRY. SOMEONE ELSE BROUGHT IT UP AS SOMETHING
7 THAT YOU WANTED TO DEAL WITH.

8 MS. TOWERY: WELL, I DO WANT THAT AS PART OF
9 THE RECORD OF THIS ENTIRE ISSUE OF THAT DISCOVERY.

10 THE COURT: AGAIN, IT DOESN'T TELL ME WHETHER
11 OR NOT THE PROSECUTOR KNEW ABOUT IT BEFOREHAND,
12 UNLESS THAT CHANGES HER RECOLLECTION.

13 YOUR POSITION IS -- ANYTHING CHANGED?

14 MS. NAJERA: YOUR HONOR, NO. AS I STATED
15 PREVIOUSLY, I HAD NOTES OF ALL THE PRIOR
16 CONVERSATIONS, OF WHICH THAT WAS A PART OF THOSE
17 NOTES, AND I DON'T HAVE A SPECIFIC RECOLLECTION THAT
18 THAT WAS BROUGHT UP AT THAT TIME. I STATED BEFORE
19 IT MIGHT HAVE, BUT I DIDN'T RECALL IT. AND I STATED
20 BEFORE THAT EVERYTHING THAT WE THOUGHT WAS DIFFERENT
21 WAS PLACED IN NOTES AND HIGHLIGHTED. THAT'S THE
22 BEST I CAN TELL THE COURT.

23 THE COURT: ALL RIGHT. THEN WHY IS IT YOU
24 WON'T STIPULATE TO THAT? WHY DO YOU NEED ME TO TAKE
25 JUDICIAL NOTICE OF THAT?

26 MS. NAJERA: BECAUSE JUST -- I HAVE A NOTE ON
27 THIS. I JUST DON'T REMEMBER -- I DON'T KNOW WHERE IT
28 CAME FROM AND IF IT CAME FROM HER -- I CAN'T SAY IT

1 DIDN'T. THAT'S WHY I'M NOT STIPULATING TO IT. I
2 CAN BE WRONG.

3 THE COURT: WELL THEN, IF IT DID YOU SHOULD
4 HAVE TURNED IT OVER TO THE DEFENSE.

5 MS. NAJERA: I KNOW THAT.

6 THE COURT: SO DO YOU WANT ME TO TELL THE
7 JURY THAT?

8 MR. CONN: NO, NO. WE'RE NOT ASKING THE
9 COURT TO TELL THE JURY THAT THERE'S BEEN A FAILURE
10 OF DISCOVERY. IT'S MY UNDERSTANDING THE COURT WAS
11 GOING TO TELL THE JURY THAT THE STATEMENT THAT THE
12 WITNESS GAVE HERE TODAY WAS NOT PREVIOUSLY RECORDED.

13 THE COURT: RIGHT. WHY CAN'T YOU STIPULATE
14 TO THAT?

15 MR. CONN: WE'LL STIPULATE TO THAT.

16 MS. TOWERY: I WOULD ASK THAT SOMETHING
17 FURTHER THAN THAT BE DONE, YOUR HONOR. CLEARLY,
18 MS. NAJERA DID NOT ASK THAT LEADING QUESTION OUT OF
19 THE BLUE, AND SHE INDICATES THAT SHE MUST HAVE
20 TALKED TO THE WITNESS ABOUT THAT, ALTHOUGH IT'S
21 UNCLEAR WHETHER OR NOT HER NOTES OF ALL THESE
22 DIFFERENT CONVERSATIONS THAT THE WITNESS HAD WITH
23 VARIOUS PEOPLE, WHICH ARE ALL MESHED TOGETHER WITH

24 HER OWN NOTES THAT WERE SUPPOSEDLY DESTROYED,
25 REFERENCE PORNOGRAPHY OR NOT.
26 NOW, IT'S VERY CLEAR THAT PRIOR TO THIS
27 OCTOBER 12TH, 1995 CONVERSATION BETWEEN THE
28 PROSECUTORS AND THIS WITNESS WHO -- OH, GOOD, SHE'S

4

1 GONE. SHE NEVER SAID ANYTHING ABOUT PORNOGRAPHY TO
2 ANYONE. SHE NEVER TESTIFIED ABOUT IT. SHE NEVER
3 GAVE ANY SUCH STATEMENT. NOW, ALL OF A SUDDEN,
4 MS. NAJERA, YESTERDAY, IN A LEADING QUESTION SAYS:
5 DID HE SAY ANYTHING ABOUT PORNOGRAPHY? THAT DIDN'T
6 COME OUT OF THE BLUE. IT DIDN'T JUST POP INTO HER
7 HEAD WHILE SHE'S INQUIRING OF THE WITNESS.

8 SO -- BUT HER POSITION, SINCE NO
9 DISCOVERY HAS BEEN GIVEN TO THE DEFENSE, IS THAT SHE
10 DOESN'T RECALL.

11 I WOULD ASK THAT -- IT PUTS US IN AN
12 IMPOSSIBLE POSITION, AN IMPOSSIBLE POSITION. WE
13 CAN'T IMPEACH THE WITNESS BECAUSE DETECTIVE ZOELLER
14 WASN'T THERE.

15 THE COURT: YOU CAN IMPEACH THE WITNESS BY
16 THE FACT THAT THERE --

17 MS. ABRAMSON: THE WITNESS IS TELLING THE
18 TRUTH. IT'S MS. NAJERA WHO'S LYING.

19 MS. NAJERA: YOUR HONOR, I'M GOING TO ASK
20 THAT SANCTIONS BE DEEMED AGAINST MS. ABRAMSON FOR
21 THAT COMMENT, AND I THINK SHE MADE IT IN COURT RIGHT
22 NOW SO THAT SHE WOULDN'T BE SUED FOR SLANDER. AND
23 THAT IS WHY SHE USED THE COVER OF THIS COURTROOM TO
24 DO THAT.

25 THE COURT: IT'S ALL VERY ENLIGHTENING, BUT
26 DOESN'T REALLY MOVE THIS TRIAL ALONG, THESE LITTLE
27 OUTBURSTS ONE WAY OR THE OTHER.

28 YOU'RE ASKING ME TO MAKE A FINDING WHICH

1 I AM NOT EQUIPPED TO DO BASED UPON THE INFORMATION
2 PRESENTED TO ME. YOU'RE SAYING, WELL, BECAUSE THE
3 QUESTION WAS ASKED, I SHOULD THEN FIND THAT THE
4 PROSECUTION KNEW THIS AHEAD OF TIME. I CAN'T DO
5 THAT.

6 MS. TOWERY: MAYBE THE COURT CAN LOOK AT
7 MS. NAJERA'S NOTES IN CAMERA AND MAKE A
8 DETERMINATION WHETHER OR NOT HER NOTES INDICATE A
9 DISCUSSION ABOUT PORNOGRAPHY. IF SO, THEN CLEARLY
10 THERE WAS A DISCOVERY VIOLATION. WE EITHER HAVE A
11 DISCOVERY VIOLATION, IN WHICH CASE I WOULD ASK THE
12 COURT TO INSTRUCT THE JURY AS A SANCTION THAT THAT
13 TESTIMONY BY THE WITNESS IS UNTRUE. I WOULD ASK FOR

14 THAT SANCTION.

15 THE OTHER POSSIBILITY IS THAT THE
16 WITNESS DIDN'T SAY THAT TO MS. NAJERA. HER NOTES
17 DON'T REFLECT IT. SHE -- SO THE WITNESS' TESTIMONY
18 ON THE STAND IS UNTRUE REGARDING HER PREVIOUS
19 STATEMENT. IF THAT'S THE CASE, THEN I'D ASK THE
20 COURT TO INSTRUCT THE JURY THAT SHE HAS NEVER SAID
21 THAT TO ANYONE ON THE PROSECUTION TEAM PRIOR TO HER
22 TESTIMONY YESTERDAY. SHE'S NEVER MADE THAT A PRIOR
23 CONSISTENT STATEMENT.

24 THOSE ARE THE ONLY TWO POSSIBLE
25 SCENARIOS.

26 THE COURT: ALL RIGHT. IT SEEMS TO ME THAT
27 THE PROSECUTION IN ITS STIPULATION SHOULD GO FURTHER
28 THAN WHAT IT'S PROPOSING; THAT IT'S NOT JUST THAT

1 THIS ISN'T IN THE NOTES, BUT THAT THERE WAS NO
2 EVIDENCE OR INFORMATION THAT SHE EVER MADE THIS
3 STATEMENT BEFORE.

4 MR. CONN: ALL RIGHT. WE'LL STIPULATE TO
5 THAT.

6 THE COURT: BECAUSE THAT'S REALLY THE MOST I
7 CAN CONCLUDE FROM THIS, THAT SHE -- THERE'S NO
8 EVIDENCE THAT SHE'S EVER SAID THIS BEFORE ON ANY

9 OCCASION.

10 NOW, AS TO WHY THE PROSECUTOR ASKED THIS
11 QUESTION, I CAN'T MAKE A FINDING. IT OFTEN HAPPENS
12 DURING TRIALS LAWYERS ASK QUESTIONS; AND QUESTIONS
13 ARE OFTEN ASKED, ESPECIALLY ON A SUBJECT SUCH AS
14 THIS. IT WOULDN'T HAVE HURT THE PROSECUTION IF SHE
15 SAID NO. IT WASN'T AS THOUGH THE PROSECUTION WAS
16 GOING TO LOSE SOMETHING IF SHE SAID NO TO THE
17 QUESTION ABOUT PORNOGRAPHY. IT JUST WOULD HAVE BEEN
18 THE ANSWER. IT'S NOT AS THOUGH THE LAWYER IS ASKING
19 A QUESTION AND DOESN'T KNOW THE ANSWER AND ARE GOING
20 TO BE HURT BY IT. SO THE QUESTION WAS ASKED AND THE
21 ANSWER WAS ULTIMATELY GIVEN. I CAN'T MAKE A FINDING
22 FROM THAT SEQUENCE OF EVENTS THAT THE PROSECUTION
23 WAS WILLFULLY WITHHOLDING MATERIAL THAT SHOULD HAVE
24 BEEN DISCLOSED TO THE DEFENSE.

25 QUITE FRANKLY, WE'VE REALLY CONSUMED A
26 LOT OF TIME OVER SOMETHING THAT IS NOT THAT
27 SIGNIFICANT AN ISSUE TO START WITH. YOU'RE FOCUSING
28 ON A VERY MINOR POINT THAT DOESN'T DESERVE ALL THIS

1 CONSUMPTION OF TIME.

2 MS. TOWERY: WELL, YOUR HONOR, I RESPECTFULLY
3 DISAGREE WITH THE COURT AS TO WHETHER OR NOT IT'S A

4 MINOR POINT. THAT SEEMS TO BE THE CENTRAL POINT OF
5 THE PROSECUTION'S THEORY IN THIS TRIAL.

6 THE COURT: WHAT?

7 MS. TOWERY: THAT IS, THE MAFIA COMMENTS.

8 THE COURT: WELL, THE MAFIA COMMENTS CAME OUT
9 BEFOREHAND. THE ONLY THING YOU'RE TALKING ABOUT IS
10 THE PORNOGRAPHY.

11 MS. TOWERY: THAT'S RIGHT. BUT THAT ADDS
12 CREDIBILITY TO THIS WITNESS' CURRENT VERSION OF WHAT
13 OCCURRED, AS OPPOSED TO HER PREVIOUS VERSION OF WHAT
14 OCCURRED WHERE SHE WASN'T EVEN SURE IF HE SAID MAFIA
15 OR MOB. SHE SAID THAT WAS THE IMPRESSION THAT SHE
16 GOT.

17 THE COURT: THE RECORD WILL NOW BE THAT SHE
18 HAS NEVER SAID IT BEFORE BY STIPULATION, WHICH
19 IMPEACHES HER TESTIMONY.

20 MS. TOWERY: AND AGAIN, I WOULD ASK THAT THE
21 COURT TAKE JUDICIAL NOTICE, NOT BY STIPULATION, BUT
22 THAT THE COURT TAKE JUDICIAL NOTICE.

23 THE COURT: I CAN'T TAKE THAT NOTICE BECAUSE
24 I WASN'T THERE. ALL I CAN DO IS TAKE JUDICIAL
25 NOTICE OF THE FACT THAT IT'S NOT IN ANY REPORTS. I
26 CAN'T GO BEYOND THAT BECAUSE I WASN'T AT THE MEETING
27 AND IT'S NOT AN OFFICIAL RECORD OF ANYTHING THAT I'M
28 LAWFULLY ENTITLED TO TAKE JUDICIAL NOTICE OF.

1 MS. TOWERY: THE COURT CAN FASHION A SANCTION
2 IN THAT WAY.

3 THE COURT: I DON'T HAVE TO. THERE'S GOING
4 TO BE A STIPULATION THAT SHE NEVER SAID IT BEFORE.
5 THAT'S THE PROSECUTION'S STIPULATION, WHICH
6 IMPEACHES HER TESTIMONY.

7 ALL RIGHT. LET'S HAVE THE JURY OUT.

8 YOU MAY STATE THE STIPULATION,
9 MS. TOWERY.

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

13

14 THE COURT: OKAY. THE JURY IS BACK. THE
15 WITNESS IS ON THE WITNESS STAND.

16 YOU MAY CONTINUE YOUR EXAMINATION OR
17 CROSS-EXAMINATION.

18 MS. TOWERY: THANK YOU, YOUR HONOR.

19 I BELIEVE THAT WE HAVE A STIPULATION
20 BETWEEN THE DEFENSE AND THE PROSECUTION, THAT THE
21 STATEMENT MADE BY THE WITNESS REGARDING LYLE
22 MENENDEZ' COMMENTS ABOUT PORNOGRAPHY TO HER IN
23 CONNECTION WITH THE SUPPOSED MAFIA CONVERSATION WERE
24 NEVER MADE BY THE WITNESS TO ANYONE PRIOR TO HER
25 TESTIMONY, INCLUDING THE PROSECUTION TEAM PRESENTLY
26 IN COURT.

27 MR. CONN: SO STIPULATED, YOUR HONOR.

1 AND THE JURY IS TO ACCEPT THAT AS A FACT PROVEN THAT
2 THE WITNESS NEVER SAID THAT ON ANY PREVIOUS
3 OCCASION.

4 ALL RIGHT. YOUR NEXT QUESTION, PLEASE.

5 MS. TOWERY: THANK YOU, YOUR HONOR.

6 MAY I APPROACH, YOUR HONOR?

7 THE COURT: YES.

8 MS. TOWERY: I HAVE A DOCUMENT CONTAINING
9 WHAT APPEAR TO BE TWO CHECKS, WHICH WAS PREVIOUSLY
10 MARKED AS EXHIBIT 381. I'D ASK THAT IT BE MARKED
11 EXHIBIT 157.

12 THE COURT: YES.

13 MS. TOWERY: THANK YOU.

14

15 CROSS-EXAMINATION (RESUMED)

16 BY MS. TOWERY:

17 Q MS. PISARCIK, DO YOU RECOGNIZE THE
18 DOCUMENTS WHICH HAVE BEEN MARKED AS EXHIBIT 157?

19 A YES, I DO.

20 Q WHAT ARE THOSE DOCUMENTS?

21 A THOSE ARE CHECKS.

22 Q PAYABLE TO WHOM?

23 A TO MYSELF.
24 Q FROM WHOM?
25 A FROM LYLE.
26 Q AND WHAT ARE THE DATES ON THE CHECKS?
27 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.
28 THE COURT: OVERRULED.

10

1 THE WITNESS: DECEMBER 10TH, 1989 AND
2 DECEMBER 19TH, 1989.
3 Q BY MS. TOWERY: AND WHAT'S THE AMOUNT OF
4 THE DECEMBER 10, 1989 CHECK?
5 A ONE IS --
6 Q JUST THE DECEMBER 10, 1989.
7 A \$700.
8 Q WHAT DOES IT SAY IN THE MEMO PORTION
9 CHECK?
10 A IT SAYS "PAYCHECK."
11 Q WAS THAT A CHECK THAT LYLE MENENDEZ GAVE
12 YOU DURING THE TIME PERIOD THAT YOU WERE LIVING WITH
13 HIM AT THE MARINA CITY CLUB?
14 A YES, IT LOOKS LIKE IT WAS.
15 Q AND THE NEXT DOCUMENT IS ALSO A CHECK,
16 ISN'T IT?
17 A CORRECT.

18 Q THAT'S PAYABLE TO YOU AS WELL?
19 A YES, IT IS.
20 Q THAT'S FOR \$750; IS THAT CORRECT?
21 A YES.
22 Q AND THAT'S ALSO A CHECK SIGNED BY LYLE
23 MENENDEZ; IS THAT RIGHT?
24 A YES, IT IS.
25 Q AND THAT ALSO IS A CHECK THAT HE GAVE TO
26 YOU WHEN YOU WERE LIVING WITH HIM AT THE MARINA CITY
27 CLUB, CORRECT?
28 A YES. IT DOESN'T SAY "PAYCHECK" ON IT,

11

1 BUT IT IS HIS SIGNATURE.
2 Q WERE YOU AN EMPLOYEE OF LYLE MENENDEZ'
3 DURING THAT TIME PERIOD?
4 A NO.
5 Q AND YOU ACCEPTED THOSE PAYMENTS, DID YOU
6 NOT?
7 A LYLE --
8 Q YES OR NO?
9 A OH, YES.
10 Q NOW, IN TERMS OF THE RESTAURANT THAT YOU
11 WERE GIVING HIM ADVICE ON, WHEN DID HE BUY THAT
12 RESTAURANT?

13 A I DON'T REMEMBER EXACTLY, BUT IT WAS

14 AFTER HIS PARENTS' DEATH.

15 Q WAS IT AFTER YOU LEFT THE MARINA CITY

16 CLUB?

17 A I DON'T REMEMBER.

18 Q YOU DIDN'T GIVE HIM ANY ADVICE ABOUT THE

19 RESTAURANT UNTIL HE BOUGHT IT, DID YOU?

20 A I'M SURE IF LYLE ASKED ME ANYTHING ABOUT

21 THE RESTAURANT, I GAVE HIM AN OPINION ON WHAT HE

22 SHOULD DO.

23 Q MY QUESTION IS --

24 MS. NAJERA: EXCUSE ME, YOUR HONOR. I THINK

25 THE WITNESS WAS TRYING TO ANSWER THE QUESTION AND

26 WAS CUT OFF.

27 THE COURT: HAD YOU FINISHED YOUR ANSWER?

28 THE WITNESS: NO, I HADN'T.

1 THE COURT: YOU MAY CONTINUE.

2 MS. TOWERY: I'D MOVE TO STRIKE IT AS

3 NONRESPONSIVE.

4 THE COURT: LET'S HEAR WHAT THE QUESTION WAS

5 AGAIN.

6 (THE QUESTION WAS READ BACK AS

7 FOLLOWS:

8 "QUESTION: YOU DIDN'T GIVE HIM
9 ANY ADVICE ABOUT THE RESTAURANT UNTIL
10 HE BOUGHT IT, DID YOU?")

11

12 THE COURT: ALL RIGHT. THE ANSWER WAS
13 NONRESPONSIVE. IT IS STRICKEN.

14 Q BY MS. TOWERY: WHEN YOU GAVE HIM ADVICE
15 ABOUT HOW TO RUN THE RESTAURANT, THAT WAS AFTER HE
16 BOUGHT THE RESTAURANT, WASN'T IT?

17 MS. NAJERA: OBJECTION. MISSTATES THE
18 TESTIMONY AND ASSUMES A FACT NOT IN EVIDENCE.

19 THE COURT: WELL, LET'S GET ONE FACT AT A
20 TIME HERE.

21 Q BY MS. TOWERY: OKAY. WE TALKED EARLIER
22 ABOUT ADVICE THAT YOU GAVE TO LYLE MENENDEZ ABOUT
23 HOW MUCH HE SHOULD PAY ERIC TAMM, CORRECT?

24 A CORRECT.

25 Q AND HOW HE SHOULDN'T GET TAKEN BY HIS
26 FRIENDS IN RUNNING THE RESTAURANT; IS THAT RIGHT?

27 A RIGHT.

28 Q AND DID YOU GIVE HIM THIS ADVICE BEFORE

1 HE BOUGHT THE RESTAURANT?

2 A I DON'T REMEMBER.

3 Q WHEN DID YOU FIND OUT THAT HE WAS
4 INTERESTED IN BUYING A RESTAURANT?

5 A I'M -- SOMETIME AFTER HIS PARENTS' DEATH
6 IS WHEN HE STARTED TO PURSUE THIS.

7 Q AND YOU HAVE NO IDEA WHEN THAT WOULD
8 HAVE BEEN?

9 A WELL, CONSIDERING THE FACT THAT HE -- HIS
10 PARENTS DIED IN AUGUST AND IT WAS EITHER SEPTEMBER,
11 OCTOBER, NOVEMBER, DECEMBER, JANUARY OR FEBRUARY
12 BEFORE HE WAS PUT INTO JAIL, I'M SURE IT WAS
13 SOMETIME DURING THAT TIME.

14 Q OKAY. IF HE DIDN'T BUY THE RESTAURANT
15 UNTIL FEBRUARY, WOULD IT BE LIKELY THAT YOU WOULD
16 HAVE BEEN GIVING HIM ADVICE ABOUT ERIK TAMM IN
17 OCTOBER, NOVEMBER, DECEMBER OR JANUARY?

18 A I DON'T KNOW. LYLE AND I COULD HAVE HAD
19 CONVERSATIONS ABOUT HIM WANTING TO BUY IT. I DON'T
20 KNOW. I REALLY DON'T KNOW.

21 Q IF YOU KNEW WHEN ERIK TAMM WAS UNDER
22 CONSIDERATION FOR WORKING AT THE RESTAURANT, WOULD
23 THAT HELP YOU DATE WHEN YOU GAVE HIM THIS ADVICE?

24 A YEAH, IT WOULD, DEFINITELY.

25 Q SO IF ERIK TAMM DID NOT BECOME THE
26 MANAGER OF THE RESTAURANT UNTIL AFTER GLENN STEVENS
27 CEASED MANAGING THE RESTAURANT, THAT WOULD BE AFTER
28 LYLE WAS IN JAIL, WOULDN'T IT?

1 A YEAH, IT COULD HAVE BEEN. AGAIN, I
2 DON'T REMEMBER EXACTLY WHEN GLENN OR ERIK WERE
3 PARTAKING IN THIS.

4 Q WHERE DID YOU BUY THE MIATA THAT YOU
5 TRADED THE SAAB IN FOR?

6 A I'M -- I DON'T REMEMBER. I BELIEVE IT
7 WAS IN -- I THINK IT WAS KRAMER MAZDA, PERHAPS. BUT
8 I'M NOT 100 PERCENT SURE.

9 Q WAS IT A NEW MIATA --

10 A YES, IT WAS --

11 Q -- OR A USED ONE?

12 A IT WAS NEW.

13 Q AND KRAMER MAZDA IS WHERE, IN SANTA
14 MONICA?

15 MS. NAJERA: OBJECTION. IRRELEVANT.

16 THE COURT: SUSTAINED.

17 Q BY MS. TOWERY: DO YOU HAVE ANY
18 PAPERWORK THAT WOULD INDICATE HOW MUCH YOU GOT FOR
19 THE SAAB WHEN YOU TRADED IT IN?

20 A NO. I DON'T CURRENTLY HAVE THAT MAZDA
21 ANYMORE.

22 Q YOU SOLD THE MAZDA?

23 A YES, I DID.

24 Q DO YOU REMEMBER THE LICENSE NUMBER OF
25 IT?

26 A NO, I DON'T.
27 MS. NAJERA: OBJECTION. IRRELEVANT.
28 THE COURT: HER ANSWER IS SHE DOESN'T

15

1 REMEMBER.

2 Q BY MS. TOWERY: NOW, DURING THE TIME
3 THAT YOU WERE LYLE MENENDEZ' GIRLFRIEND, LYLE WAS
4 CLOSER TO YOUR FAMILY THAN YOU WERE TO HIS; IS THAT
5 CORRECT?

6 A NO, I WOULDN'T SAY THAT AT ALL. MOST OF
7 THE TIMES WHEN LYLE VISITED, HE VISITED MY MOM. HE
8 AND MY DAD DIDN'T REALLY GET ALONG THAT WELL. BUT I
9 USUALLY VISITED BOTH OF HIS PARENTS.

10 Q OKAY. AND YOU WERE CLOSE TO BOTH OF HIS
11 PARENTS?

12 MS. NAJERA: OBJECTION. IRRELEVANT.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER THE QUESTION.

15 THE WITNESS: WE DID VERY MANY THINGS
16 TOGETHER.

17 Q BY MS. TOWERY: AND THEY LIKED YOU?

18 A I THINK SO, YES.

19 Q AND THEY APPROVED OF YOUR RELATIONSHIP
20 WITH LYLE; IS THAT CORRECT?

21 MS. NAJERA: OBJECTION. CALLS FOR
22 SPECULATION FROM THE WITNESS.
23 THE COURT: SUSTAINED.
24 Q BY MS. TOWERY: AS BEST YOU COULD
25 DETERMINE FROM YOUR CONTACTS WITH MR. AND
26 MRS. MENENDEZ, THEY BOTH APPROVED OF YOUR GOING OUT
27 WITH THEIR SON; IS THAT RIGHT?
28 MS. NAJERA: OBJECTION. CALLS FOR

16

1 SPECULATION.
2 THE COURT: SUSTAINED.
3 Q BY MS. TOWERY: YOU SAID THAT LYLE WAS
4 VERY CLOSE TO YOUR MOTHER?
5 MS. NAJERA: OBJECTION. IRRELEVANT.
6 THE COURT: OVERRULED.
7 YOU CAN ANSWER THE QUESTION.
8 THE WITNESS: I DON'T KNOW IF HE WAS VERY
9 CLOSE. I MEAN, THEY HAD A NORMAL BOYFRIEND'S -- YOU
10 KNOW, KIND OF RELATIONSHIP, YOU KNOW. SHE WAS NICE
11 TO HIM. HE WAS NICE TO HER. AND IT WAS, YOU KNOW,
12 PRETTY NORMAL, I GUESS I WOULD HAVE TO SAY.
13 Q BY MS. TOWERY: AND YOUR MOTHER STILL
14 KEEPS IN CONTACT WITH HIM, DOESN'T SHE?
15 MS. NAJERA: OBJECTION. IRRELEVANT.

16 THE COURT: OVERRULED.

17 THE WITNESS: I DON'T BELIEVE THAT MY MOTHER

18 STILL CONTACTS LYLE. LYLE CONTINUES TO CONTACT MY

19 MOTHER.

20 Q BY MS. TOWERY: AND THAT'S AGAINST HER

21 WISHES?

22 A IT'S DEFINITELY AGAINST MY WISHES.

23 Q MY QUESTION WAS: IS IT AGAINST HER

24 WISHES, TO THE BEST OF YOUR KNOWLEDGE?

25 A YOU HAVE TO ASK HER.

26 Q YOU TESTIFIED AT THE LAST TRIAL THAT

27 LYLE CONTACTS HER AGAINST HER WISHES, DIDN'T YOU?

28 A YES, I PROBABLY DID.

17

1 Q AND THAT WAS TESTIMONY THAT YOU GAVE IN

2 NOVEMBER OF 1993; IS THAT RIGHT?

3 A THE LAST TESTIMONY.

4 Q IS THAT ABOUT THE TIME THAT YOU GAVE THE

5 TESTIMONY, IN NOVEMBER OF 1993?

6 A I WOULD ASSUME SO.

7 (PAUSE IN PROCEEDINGS.)

8

9 MS. TOWERY: YOUR HONOR, I HAVE A DOCUMENT

10 THAT I'D ASK BE MARKED AS NEXT IN ORDER, 158.

11 THE COURT: 158.

12 MS. TOWERY: AND IT CONSISTS OF AN ENVELOPE

13 CONTAINING A CARD.

14 IF I MAY APPROACH THE WITNESS.

15 THE COURT: YES.

16 MS. TOWERY: THANK YOU.

17 Q I'M SHOWING YOU THE DOCUMENT THAT I JUST

18 MARKED, WHICH IS AN ENVELOPE WITH A CARD INSIDE OF

19 IT.

20 TO WHOM WAS THE ENVELOPE ADDRESSED?

21 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

22 THE COURT: OVERRULED.

23 THE WITNESS: JOSEPH LYLE MENENDEZ.

24 Q BY MS. TOWERY: WHAT'S THE POSTMARK ON

25 THAT ENVELOPE?

26 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

27 THE COURT: LET ME SEE THE CARD AND THE

28 ENVELOPE, PLEASE.

1 (PAUSE IN PROCEEDINGS.)

2

3 THE COURT: I'M GOING TO SUSTAIN THE

4 OBJECTION ON THE GROUNDS OF 352. LET'S MOVE ON TO

5 SOMETHING ELSE.

6 Q BY MS. TOWERY: YOUR MOTHER CONTINUES TO

7 CONTACT LYLE MENENDEZ, DOESN'T SHE?

8 A NOT THAT I'M AWARE OF.

9 Q DID YOU TELL HER NOT TO TALK TO HIM?

10 A I DIDN'T.

11 MS. NAJERA: OBJECTION. IRRELEVANT.

12 THE COURT: SUSTAINED. THE ANSWER IS

13 STRICKEN.

14 Q BY MS. TOWERY: DID YOU TELL HER, WHEN

15 YOU TESTIFIED -- AFTER YOU TESTIFIED AT THE LAST

16 TRIAL, THAT YOU'D NEVER SPEAK TO HER AGAIN IF SHE

17 CAME IN AND CONTRADICTED THE THINGS THAT YOU SAID?

18 MS. NAJERA: OBJECTION. IRRELEVANT.

19 THE COURT: OVERRULED.

20 THE WITNESS: NO.

21 Q BY MS. TOWERY: WAS YOUR MOTHER PREPARED

22 TO COME IN AND TESTIFY AT THE LAST TRIAL?

23 MS. NAJERA: OBJECTION. CALLS FOR

24 SPECULATION.

25 THE COURT: SUSTAINED.

26 Q BY MS. TOWERY: DID YOU BELIEVE THAT

27 YOUR MOTHER WAS GOING TO COME IN AND TESTIFY AT THE

28 LAST TRIAL TO CONTRADICT THINGS THAT YOU SAID?

1 MS. NAJERA: OBJECTION. IRRELEVANT.

2 THE COURT: AT WHAT TIME DID SHE BELIEVE
3 THAT?

4 Q BY MS. TOWERY: AFTER YOU TESTIFIED AT
5 THE LAST TRIAL.

6 THE COURT: OVERRULED.

7 YOU CAN ANSWER THE QUESTION.

8 THE WITNESS: IT DID COME TO MY ATTENTION
9 THAT MY MOTHER HAD INTENTIONS OF COMING OUT HERE TO
10 TESTIFY, NOT TO CONTRADICT ANYTHING THAT I SAID.

11 Q BY MS. TOWERY: DID YOU TELL HER NOT TO?

12 MS. NAJERA: OBJECTION. IRRELEVANT.

13 THE COURT: OVERRULED.

14 YOU CAN ANSWER THE QUESTION.

15 THE WITNESS: MY SISTERS TOLD HER NOT TO.

16 Q BY MS. TOWERY: AND THAT WAS -- DID YOU
17 TELL HER THAT YOU WOULDN'T SPEAK TO HER AGAIN IF SHE
18 CAME OUT HERE AND TESTIFIED?

19 MS. NAJERA: OBJECTION. IRRELEVANT.

20 THE COURT: OVERRULED.

21 YOU CAN ANSWER THE QUESTION.

22 THE WITNESS: NO.

23 Q BY MS. TOWERY: NOW, MANY OF THE THINGS
24 THAT OCCURRED -- THAT YOU'VE TESTIFIED ABOUT IN THIS
25 TRIAL AND THE LAST TRIAL, YOU TOLD YOUR MOTHER
26 ABOUT, DIDN'T YOU?

27 MS. NAJERA: OBJECTION. IRRELEVANT.

28 THE COURT: OVERRULED.

1 THE WITNESS: NOT A LOT OF THINGS, NO.

2 Q BY MS. TOWERY: AND YOUR MOTHER IS VERY
3 ILL AT THE PRESENT, ISN'T SHE?

4 A YES, SHE IS.

5 Q AFTER YOU -- AFTER LYLE WAS ARRESTED AND
6 AFTER --

7 MS. NAJERA: OBJECTION TO THE FORM OF THE
8 QUESTION.

9 THE COURT: OVERRULED.

10 MS. TOWERY: DO YOU NEED A BREAK? IT'S
11 OKAY. WE CAN STOP IF YOU DON'T FEEL ABLE TO ANSWER
12 QUESTIONS.

13 THE WITNESS: I'D LIKE A BREAK, PLEASE.

14 THE COURT: OKAY. WE'LL TAKE A RECESS UNTIL
15 APPROXIMATELY 2:30.

16 (A RECESS WAS TAKEN FROM
17 2:18 P.M. TO 2:35 P.M.)

18

19 THE COURT: ALL RIGHT. THE JURY IS NOT
20 HERE. SOMETHING COUNSEL WANTS TO TALK ABOUT?

21 MS. TOWERY: YES, YOUR HONOR. THE WITNESS IS
22 STILL PRESENT. I'D ASK THAT SHE STEP OUT.

23 THE COURT: OKAY.

24 (THE WITNESS EXITED THE COURTROOM.)

25

26 MS. TOWERY: I'D ASK PERMISSION TO GO BACK
27 INTO THE DOCUMENT WHICH HAS BEEN MARKED AS EXHIBIT
28 158, WHICH I'LL INDICATE FOR THE RECORD IS A CARD IN

21

1 AN ENVELOPE ADDRESSED TO LYLE MENENDEZ IN JAIL FROM
2 PITTSBURGH, PENNSYLVANIA, WITH A POSTMARK OF
3 DECEMBER 1994. IT'S A CHRISTMAS CARD SIGNED BY
4 DONNA STATING: "I HOPE AND PRAY THAT YOU HAVE A
5 WONDERFUL 1995, LOVE DONNA." AND IN HANDWRITING. I
6 BELIEVE THAT THE WITNESS WILL RECOGNIZE HER MOTHER'S
7 HANDWRITING. THE MOTHER'S NAME IS DONNA PISARCIK.

8 AND GIVEN HER DENIAL OF HER MOTHER'S
9 CONTACTS WITH LYLE, HER INDICATION -- WITH LYLE
10 MENENDEZ -- HER INDICATION THAT THAT WAS AGAINST HER
11 WISHES AND HER DENIAL THAT HER MOTHER WAS COMING
12 TO -- WAS PREPARED TO COME TO THE LAST TRIAL TO
13 TESTIFY TO CONTRADICT HER, RATHER IMPLYING THAT SHE
14 WAS COMING TO TESTIFY TO SUPPORT HER TESTIMONY, I
15 THINK I SHOULD BE PERMITTED TO IMPEACH HER WITH THIS
16 DOCUMENT.

17 THE COURT: WELL, NUMBER ONE, IT DOESN'T
18 IMPEACH, AND IF IT DID IMPEACH IT'S ON A HIGHLY
19 COLLATERAL ISSUE.

20 MS. TOWERY: I DON'T INTEND TO ASK HER ANY
21 QUESTIONS ABOUT IT, YOUR HONOR.
22 THE COURT: I UNDERSTAND THAT. MY VIEW IS
23 IT'S IRRELEVANT AND WAY OFF THERE IN NEVERLAND HERE
24 WITH THE EXAMINATION GOING OFF INTO VERY REMOTE
25 ISSUES. AND YOU'VE ASKED QUESTIONS AS TO HER
26 MOTHER'S STATE OF MIND, ASKING THIS WITNESS TO READ
27 HER MOTHER'S STATE OF MIND, THINGS OF THAT SORT.
28 AND AT THIS POINT MY VIEW IS THAT YOU COVERED THE

22

1 TERRITORY AS MUCH AS SHOULD BE PERMITTED.

2 MS. TOWERY: YOUR HONOR, I NEED TO ASK TWO
3 FOLLOW-UP QUESTIONS WITH RESPECT TO HER
4 UNDERSTANDING OF HER MOTHER'S INTENTIONS TO COME TO
5 TESTIFY AT THE PREVIOUS TRIAL.

6 SHE HAS INDICATED SHE WAS AWARE OF THAT
7 AND HER SISTERS TOLD HER MOTHER NOT TO; AND SHE HAS
8 SAID IN HER TESTIMONY THAT HER MOTHER WAS NOT COMING
9 TO CONTRADICT HER. I DO NEED TO ASK HER IF SHE'S
10 AWARE HER MOTHER WAS COMING AT THE REQUEST OF LYLE'S
11 ATTORNEY, MS. LANSING.

12 THE COURT: IT WOULD BE --

13 MS. TOWERY: OTHERWISE, THERE'S AN INFERENCE
14 FROM HER ANSWER THAT'S WRONG, AND I NEED TO

15 FOLLOW-UP ON THAT AND SHOW THAT THAT'S NOT CORRECT.

16 THE COURT: LOOK, YOU GOT YOURSELF INTO THIS

17 BY ASKING THESE QUESTIONS. YOU WANTED TO IMPEACH

18 THIS WITNESS WITH WHAT SOMEONE ELSE MIGHT OR MIGHT

19 NOT HAVE BEEN PREPARED TO DO TWO YEARS AGO AND ASK

20 HER TO READ THAT PERSON'S MIND AND ASK HER WHAT SHE

21 WOULD SAY IN COURT. IT'S ALL IRRELEVANT.

22 MS. TOWERY: HER MOTHER STILL MAY BE ABLE TO --

23 THE COURT: CALL HER IN.

24 MS. TOWERY: I MAY SEEK TO DO THAT OR MAY

25 SEEK TO TRY TO HAVE AN EXAMINATION OF HER IN

26 PITTSBURGH. SHE HAS VERY MANY CONTRADICTORY THINGS

27 TO SAY WITH RESPECT TO THIS WITNESS' TESTIMONY.

28 THE COURT: FINE.

23

1 MS. TOWERY: IT SEEMS THAT THE COURT IS

2 PRECLUDING PROPER CROSS-EXAMINATION WITH RESPECT TO

3 PRIOR INCONSISTENT STATEMENTS BY THIS WITNESS.

4 THE COURT: NO.

5 MS. ABRAMSON: THERE'S ANOTHER ASPECT --

6 THE COURT: FIRST OF ALL, THIS IS ONLY A

7 WITNESS BY LYLE MENENDEZ AND MS. TOWERY IS

8 ADDRESSING THE COURT.

9 I DON'T SEE THIS AS PROPER IMPEACHMENT,

10 AND I DON'T SEE THIS AS PROPER CROSS-EXAMINATION;
11 AND SHOWING THIS CARD AND ASKING FURTHER QUESTIONS
12 ALONG THESE LINES IS IRRELEVANT.

13 WHAT IS IT YOU WANT TO ASK? WHAT
14 QUESTIONS -- WHAT ANSWERS WOULD THIS OTHER PERSON
15 HAVE IMPEACHED THIS WITNESS ABOUT? WHAT IS THE
16 PROOF? WHAT DOES IT POSSIBLY PROVE OTHER THAN IT'S
17 A WASTE OF TIME?

18 MS. TOWERY: IT CAN PROVE THAT THIS WITNESS
19 IS NOT BEING TRUTHFUL IN HER TESTIMONY.

20 THE COURT: ABOUT WHAT?

21 MS. TOWERY: THAT SHE HAS MADE PRIOR
22 INCONSISTENT STATEMENTS ABOUT THINGS SHE'S
23 TESTIFIED.

24 THE COURT: LIKE WHAT?

25 MS. TOWERY: THERE ARE A NUMBER OF THINGS. I
26 HAVEN'T ASKED HER SOME QUESTIONS YET.

27 THE COURT: YOU'RE TRYING TO IMPEACH HER WITH
28 WHAT HER MOTHER WOULD HAVE SAID IF SHE CAME INTO

1 COURT IN 1993 OR '94.

2 MS. TOWERY: NO. THAT GOES TO HER BIAS AND
3 THE FACT THAT SHE DID NOT WANT HER MOTHER TO COME IN
4 AND CONTRADICT ANYTHING SHE SAID.

5 THE COURT: ALL RIGHT. YOU'VE ALREADY GOT IN
6 THE RECORD AS TO HER ANSWERS, AND I'M FORECLOSING
7 ANY FURTHER INQUIRY. I DON'T THINK IT'S PROPER
8 IMPEACHMENT OF THE WITNESS.

9 YOU MADE YOUR RECORD.

10 MS. TOWERY: TO PROTECT THE RECORD, I THINK I
11 HAVE TO SAY ONE MORE THING, AND THAT IS I HAVE TO
12 MOVE TO STRIKE THE ENTIRE TESTIMONY OF THE WITNESS
13 BASED ON THE DENIAL TO CONFRONT AND CROSS-EXAMINE.

14 THE COURT: YOU'VE BEEN MORE THAN AMPLY
15 GIVEN -- GIVEN AMPLE OPPORTUNITY TO CONFRONT AND
16 CROSS-EXAMINE THIS WITNESS. IT'S BEEN GOING ON FOR
17 A LONG TIME. I'VE GIVEN YOU A LOT OF LEEWAY IN THAT
18 REGARD, PRIMARILY BECAUSE THE PROSECUTION WENT INTO
19 AN ENTIRE TIME FRAME WHICH OPENED THIS WITNESS UP TO
20 AN EXAMINATION THAT COVERED A LONGER TIME FRAME THAN
21 I HAD ANTICIPATED WHEN THE PEOPLE INDICATED THEY
22 WERE CALLING HER FOR ONE LIMITED PURPOSE, HAVING TO
23 DO WITH A CONVERSATION IN THE JAIL, AND THEN FROM
24 THAT WE HAD A LIFE HISTORY OF A RELATIONSHIP BETWEEN
25 THESE TWO INDIVIDUALS, WHICH THEN EXPOSED HER TO
26 CROSS-EXAMINATION, WHICH I'VE ALLOWED OVER OBJECTIONS
27 BY THE PROSECUTION. AS FAR AS THIS PARTICULAR
28 INQUIRY, I DON'T THINK IT'S PROPER CROSS-EXAMINATION

1 OR FRUITFUL OR APPROPRIATE IMPEACHMENT.

2 ALL RIGHT. ANYTHING ELSE THAT YOU WANT
3 TO TALK ABOUT?

4 MS. TOWERY: NO.

5 THE COURT: OKAY. HOW MUCH LONGER DO YOU
6 THINK YOU HAVE WITH THIS WITNESS?

7 MS. TOWERY: I THINK PROBABLY ANOTHER 45
8 MINUTES.

9 THE COURT: OKAY. LET'S GET THE WITNESS IN
10 AND THE JURY IN.

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

14

15 THE COURT: ALL RIGHT. THE JURY IS BACK.
16 WE'LL CONTINUE WITH -- HOLD ON ONE SECOND. WE HAVE
17 ONE MISSING.

18 YOU MAY CONTINUE YOUR
19 CROSS-EXAMINATION.

20 MS. TOWERY: THANK YOU, YOUR HONOR.

21 Q AFTER LYLE MENENDEZ WAS ARRESTED HE, AT
22 SOME POINT, RETURNED THE ENGAGEMENT RING THAT HE HAD
23 GIVEN YOU PREVIOUSLY; IS THAT RIGHT?

24 A AFTER HE WAS ARRESTED?

25 Q RIGHT.

26 A YES, THAT'S CORRECT.

27 Q AND DO YOU REMEMBER WHEN THAT WAS?

1 HAVE HAD TO HAVE BEEN IN OCTOBER. SO MAYBE SIX
2 MONTHS OR SO AFTER HE WAS PUT IN JAIL.

3 Q IN OCTOBER OF 1990?

4 A YES.

5 Q WHAT'S SWEETEST DAY?

6 A I THINK IT'S A -- KIND OF A -- ONE OF
7 THOSE HALLMARK HOLIDAYS.

8 Q OKAY.

9 A IN OCTOBER.

10 Q NOW, WHEN LYLE MENENDEZ GAVE YOU THE
11 RING BACK, HE ASKED YOU TO WEAR IT?

12 A YES, HE DID.

13 Q AND YOU DID?

14 A YES.

15 Q AND YOU ALSO GAVE SOMEONE NAMED FATHER
16 KEN A GOLD RING FOR LYLE TO WEAR, DIDN'T YOU?

17 A I GUESS I DID.

18 Q YOU ASKED FATHER KEN TO GIVE IT TO LYLE
19 TO WEAR; IS THAT RIGHT?

20 MS. NAJERA: OBJECTION. IRRELEVANT.

21 THE COURT: OVERRULED.

22 THE WITNESS: YEAH, I GUESS. I DIDN'T

23 REMEMBER UNTIL YOU JUST STATED THAT.

24 Q BY MS. TOWERY: WHO WAS FATHER KEN?

25 MS. NAJERA: OBJECTION. IRRELEVANT.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER THE QUESTION.

28 THE WITNESS: FATHER KEN WAS A PRIEST THAT

27

1 THE FAMILY HAD KNOWN IN THE CALABASAS AREA.

2 Q BY MS. TOWERY: AND HE VISITED LYLE IN

3 JAIL; IS THAT RIGHT?

4 MS. NAJERA: OBJECTION. CALLS FOR

5 SPECULATION.

6 THE COURT: OVERRULED.

7 THE WITNESS: I THINK SEVERAL TIMES. I'M NOT

8 SURE HOW OFTEN.

9 THE COURT: OBJECTION. MOTION TO STRIKE. NO

10 FOUNDATION.

11 THE COURT: OVERRULED.

12 THE ANSWER WILL STAND.

13 Q BY MS. TOWERY: AND AFTER YOU RECEIVED

14 THIS RING FROM LYLE MENENDEZ, DID YOU PLAN TO MARRY

15 HIM?

16 A LYLE AND I HAD TALKED ABOUT AT SOME

17 POINT WHEN HE GOT OUT OF JAIL TO GET MARRIED.

18 Q AND YOU --
19 A WE WERE HOPING.
20 Q AND YOU WROTE HIM A LETTER, WHEN HE WAS
21 IN JAIL, DESCRIBING THE WEDDING THAT YOU WOULD BE
22 HAVING; IS THAT RIGHT?
23 MS. NAJERA: OBJECTION. IRRELEVANT.
24 THE COURT: OVERRULED.
25 THE WITNESS: WELL, IT WAS MORE OF MY -- THE
26 DREAMS THAT I HAD.
27 Q BY MS. TOWERY: I'M SORRY? I DIDN'T
28 HEAR WHAT YOU SAID.

28

1 A IT WAS MORE OF THE DREAMS THAT I HAD
2 THAT SOMEDAY HOPEFULLY WE WOULD HAVE A WEDDING LIKE
3 THAT. PLANS, WE OBVIOUSLY COULDN'T MAKE ANY PLANS.
4 MS. TOWERY: YOUR HONOR, I HAVE A DOCUMENT
5 THAT WAS PREVIOUSLY MARKED EXHIBIT 378.
6 I'D ASK THAT IT BE MARKED 159.
7 THE COURT: 159.
8 MS. TOWERY: AND ASK TO APPROACH.
9 THE COURT: YES.
10 Q BY MS. TOWERY: SHOWING YOU ANOTHER
11 DOCUMENT THAT LOOKS LIKE A LETTER.
12 DO YOU RECOGNIZE THAT DOCUMENT?

13 A YEAH.

14 Q AND THAT'S A LETTER FROM YOU TO LYLE

15 WHILE HE WAS IN JAIL?

16 A YES. IT'S DATED MAY OF 1990.

17 Q AND IN THAT LETTER YOU DESCRIBED THE

18 WEDDING THAT YOU HOPED TO HAVE WITH LYLE WHEN HE'S

19 RELEASED; IS THAT RIGHT?

20 MS. NAJERA: OBJECTION. HEARSAY AS TO THE

21 CONTENT OF THE LETTER.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER THE QUESTION.

24 THE WITNESS: YEAH, IT -- I OBVIOUSLY DIDN'T

25 READ ALL OF IT RIGHT NOW, BUT IT LOOKS LIKE A LETTER

26 THAT I HAD SENT TO LYLE TALKING ABOUT --

27 Q BY MS. TOWERY: DO YOU WANT TO READ IT?

28 A OKAY.

29

1 (PAUSE IN PROCEEDINGS.)

2

3 THE WITNESS: OKAY.

4 Q BY MS. TOWERY: AND IN THE LETTER YOU

5 DESCRIBE THE WEDDING PLANS THAT YOU LOOK FORWARD TO,

6 RIGHT?

7 A YES. AGAIN, THEY WEREN'T PLANS. A

8 CHURCH WAS NEVER CONTRACTED. A PRIEST WAS NEVER
9 ASKED TO OFFICIATE, NOTHING LIKE THAT. THEY WERE
10 DREAMS. IN THAT LETTER IT ALSO STATES THAT LYLE HAD
11 WRITTEN OF THE SAME PLANS OR DREAMS.

12 Q AND YOU WROTE IN THE LETTER THAT YOU
13 WANTED FATHER KEN AS THE PRIEST AT THE WEDDING,
14 DIDN'T YOU?

15 A MM-HMM.

16 Q AND THAT WAS YOUR FEELING AT THE TIME;
17 IS THAT CORRECT?

18 A YES.

19 Q NOW, WHEN YOU FIRST GOT THE RING BACK,
20 DID LYLE GIVE IT TO YOU OR DID SOMEONE ELSE GIVE IT
21 TO YOU?

22 A I BELIEVE TERRY BARALT GAVE IT TO ME.

23 Q AND THEREAFTER, DID YOU GO DOWN TO THE
24 JAIL AND VISIT LYLE?

25 MS. NAJERA: OBJECTION. IRRELEVANT.

26 THE COURT: OVERRULED.

27 YOU CAN ANSWER THE QUESTION.

28 THE WITNESS: WELL, AS I'VE STATED BEFORE, I

1 WENT DOWN THERE MOST EVERY DAY, SO I'M SURE I DID.

2 Q BY MS. TOWERY: AFTER YOU RECEIVED THE

3 RING FROM TERRY BARALT, DID YOU TAKE THE RING WITH
4 YOU TO THE JAIL?

5 A WELL, AFTER I RECEIVED IT, I PROBABLY
6 WORE IT.

7 Q ALL RIGHT. WHEN YOU WENT TO THE JAIL TO
8 SEE LYLE THE NEXT TIME AFTER YOU GOT THE RING FROM
9 TERRY BARALT, DID YOU TELL LYLE THAT HE WAS TO GET
10 DOWN ON HIS KNEE AND PROPOSE TO YOU PROPERLY WHILE
11 AT THE JAIL?

12 A NO, I DON'T REMEMBER DOING THAT.

13 Q YOU NEVER SAID THAT?

14 A I DON'T REMEMBER, NO, SAYING THAT.

15 Q OKAY. DO YOU RECALL WHEN YOU DID GO SEE
16 LYLE THE NEXT TIME AFTER YOU RECEIVED THE RING FROM
17 TERRY BARALT THAT YOUR MOTHER WAS PRESENT?

18 A MY MOM WAS VISITING FOR A PERIOD OF
19 TIME. I DON'T RECALL HER BEING THERE AT THAT TIME.
20 BUT SHE WAS THERE IN CALIFORNIA FOR ABOUT A MONTH
21 VISITING ME.

22 Q WHAT MONTH?

23 A I DON'T REMEMBER EXACTLY.

24 Q WAS A FELLOW NAMED TIM KUSTER PRESENT
25 WHEN YOU DISCUSSED HAVING RECEIVED THE RING WITH
26 LYLE AT THE JAIL?

27 MS. NAJERA: I'D OBJECT AS IRRELEVANT AND
28 ALSO UNDER 352.

1 THE COURT: IT'S UNCLEAR WHAT YOU MEAN BY THE
2 QUESTION.

3 MS. TOWERY: LET ME ASK ANOTHER QUESTION.

4 Q DID YOU DISCUSS WITH LYLE MENENDEZ THE
5 FACT THAT TERRY BARALT HAD GIVEN YOU THIS RING TO
6 WEAR WHEN YOU WENT TO VISIT HIM AT THE JAIL?

7 A WELL, I'M SURE THAT TERRY DIDN'T JUST
8 GIVE ME THE RING. IT WAS UNDER LYLE'S DIRECTION.

9 Q OKAY. MY QUESTION IS: DID YOU DISCUSS
10 IT WITH LYLE AT THE JAIL?

11 A I DON'T REMEMBER.

12 Q DON'T REMEMBER IF YOU EVER SAID ANYTHING
13 TO HIM ABOUT TERRY GAVE ME THIS RING?

14 A WELL, I'M SURE THAT THAT HAPPENED, BUT I
15 DON'T RECALL EXACTLY WHAT WAS SAID OR, YOU KNOW, THE
16 CONVERSATION. BUT OBVIOUSLY IF HE GAVE ME THE RING,
17 I'M SURE I WAS VERY EXCITED. BUT AGAIN, I DON'T
18 REMEMBER.

19 Q DID YOU TELL TIM KUSTER -- WHO IS TIM
20 KUSTER? DO YOU KNOW WHO THAT IS?

21 MS. NAJERA: I'M GOING TO OBJECT. IT'S
22 IRRELEVANT AND ALSO 352.

23 THE COURT: OVERRULED.

24 THE WITNESS: I REMEMBER MEETING MR. KUSTER,
25 BUT I REALLY DON'T KNOW IF HE WAS A FAMILY FRIEND OR
26 HOW HE KNEW LYLE OR ANYTHING LIKE THAT.

27 Q BY MS. TOWERY: OKAY. DID YOU TELL TIM
28 KUSTER THAT YOU HAD -- AFTER YOU RECEIVED THE RING

32

1 FROM TERRY BARALT AND WENT TO THE JAIL TO SEE LYLE,
2 DID YOU TELL TIM KUSTER AT THE JAIL THAT YOU HAD
3 TOLD LYLE THAT HE WAS TO GET DOWN ON ONE KNEE AND
4 PRESENT THE RING TO YOU PROPERLY? DID YOU TELL HIM
5 THAT?

6 MS. NAJERA: I'D OBJECT AS HEARSAY. I'D ALSO
7 OBJECT UNDER 352.

8 THE COURT: OVERRULED.

9 THE WITNESS: NO, I DON'T REMEMBER SAYING
10 THAT.

11 Q BY MS. TOWERY: AND DID YOU TELL TIM
12 KUSTER THAT LYLE WAS SEEN BY OTHER INMATES AND THEY
13 TEASED HIM ABOUT IT WHEN YOU MADE HIM GET DOWN ON
14 ONE KNEE?

15 A NO, I DON'T REMEMBER THAT EITHER.

16 Q DIDN'T HAPPEN?

17 A I DON'T REMEMBER IT HAPPENING.

18 Q AND YOU DON'T REMEMBER THAT YOUR MOTHER
19 WAS PRESENT AS WELL WHEN YOU MADE THESE STATEMENTS
20 TO TIM KUSTER; IS THAT RIGHT?

21 MS. NAJERA: OBJECTION. ARGUMENTATIVE.

22 THE COURT: SUSTAINED.

23 Q BY MS. TOWERY: WAS YOUR MOTHER PRESENT

24 AS WELL WHEN YOU -- STRIKE THAT.

25 WAS YOUR MOTHER PRESENT AT ANY TIME THAT

26 TIM KUSTER WAS PRESENT AT THE JAIL WHEN YOU WENT TO

27 SEE LYLE?

28 MS. NAJERA: OBJECTION. IRRELEVANT.

33

1 THE COURT: OVERRULED.

2 THE WITNESS: I -- SORRY. I DON'T REMEMBER.

3 IT WAS A LONG TIME AGO.

4 Q BY MS. TOWERY: DO YOU STILL HAVE THE

5 RING THAT WAS GIVEN TO YOU?

6 A NO, I DO NOT.

7 Q WHAT HAPPENED TO IT?

8 A ALONG WITH EVERYTHING ELSE THAT LYLE

9 GAVE ME, I GOT RID OF IT.

10 Q HOW DID YOU GET RID OF IT?

11 A WELL, I, ON TWO DIFFERENT OCCASIONS,

12 TRIED TO RETURN IT TO HIM AND HE STATED THAT IT WAS

13 A RING THAT HE HAD MADE FOR ME AND THAT HE DID NOT

14 WANT IT BACK. I DIDN'T WANT TO HAVE ANYTHING TO DO

15 WITH IT AND SO I SOLD IT.

16 Q YOU SOLD IT?

17 A YES, I DID.

18 Q AND THAT WAS AT SOME POINT AFTER YOU
19 BROKE UP WITH HIM IN JANUARY OF 1991?

20 A YES. SEVERAL OF THE STONES HAD BEEN
21 LOST, BUT THE -- PART OF IT, YOU KNOW, I SOLD THE
22 REMAINING STONES.

23 Q AND YOU KEPT THE MONEY; IS THAT RIGHT?

24 A YES, I DID.

25 Q NOW, YOU TALKED ABOUT LYLE MENENDEZ IN
26 DECEMBER OF 1990 HOLDING UP A LETTER FOR YOU TO READ
27 IN THE JAIL; IS THAT RIGHT?

28 A YES.

34

1 Q AND THAT WAS SOMETHING THAT LYLE DID
2 WHEN YOU VISITED HIM AND THERE WAS SOMETHING
3 SENSITIVE THAT YOU WANTED TO DISCUSS; IS THAT
4 CORRECT?

5 A WELL, LYLE, ON PREVIOUS OCCASIONS, IF
6 THERE WAS SOMETHING SENSITIVE, THAT IS ONE WAY HE
7 WOULD COMMUNICATE TO ME, YES, BY WRITING SOMETHING
8 DOWN AND THEN HOLDING IT UP OR HAVING IT PRE-WRITTEN
9 BEFORE HE HAD COME DOWN.

10 Q AND THAT WAS BECAUSE YOU DIDN'T WANT TO
11 TALK ABOUT IT OVER THE PHONES THAT THEY HAVE AT THE

12 JAIL?

13 A CORRECT.

14 Q AND JUST SO THAT THE JURY UNDERSTANDS,
15 YOU DO HAVE A PIECE OF GLASS BETWEEN YOU; IS THAT
16 RIGHT?

17 A YES. THERE'S A PIECE OF GLASS AND
18 YOU'RE COMMUNICATING BY TELEPHONE.

19 Q AND IN THAT LETTER LYLE TOLD YOU THAT HE
20 HAD KILLED HIS PARENTS; IS THAT RIGHT?

21 A YES.

22 Q AND HE ALSO WROTE IN THE LETTER THAT THE
23 REASON WAS THAT ERIK WAS BEING SEXUALLY ABUSED BY
24 MR. MENENDEZ, DIDN'T HE?

25 A YES.

26 Q AND ALSO THAT LYLE WAS BEING SEXUALLY
27 ABUSED BY MRS. MENENDEZ; IS THAT RIGHT?

28 A CORRECT.

1 Q AND THE LETTER ALSO SAID, YOU DON'T KNOW
2 WHAT I'VE BEEN THROUGH, DIDN'T IT?

3 A I DON'T ACTUALLY REMEMBER THAT PART OF
4 IT, BUT IT WAS A VERY LONG LETTER.

5 Q DID YOU REMEMBER THAT PART OF IT WHEN
6 YOU TALKED TO THE PROSECUTORS AND DETECTIVE ZOELLER

7 LAST WEEK?

8 A I DON'T RECALL.

9 Q DID YOU TELL THEM THAT THE LETTER SAID,
10 YOU DON'T KNOW WHAT I'VE BEEN THROUGH, WHEN YOU
11 SPOKE WITH THEM ON OCTOBER 12TH, 1995?

12 A I DON'T REMEMBER. I COULD HAVE. I
13 DON'T REMEMBER.

14 Q YOU DIDN'T READ THE WHOLE LETTER; IS
15 THAT CORRECT?

16 A NO, 'CAUSE LYLE -- WHEN IT GOT TO THE
17 POINT WHERE HE SAID ABOUT HIS MOTHER SEXUALLY
18 ABUSING HIM, I STOPPED AND SAID THAT I DIDN'T
19 BELIEVE THIS. I HAD NEVER SEEN ANYTHING LIKE THIS
20 OF HIS MOTHER TOWARDS HIM, AND THAT I JUST DIDN'T
21 BELIEVE IT AND --

22 Q HOW DID HE KNOW YOU WERE AT THAT POINT?
23 WERE YOU READING OUT LOUD?

24 A IT WAS PRETTY MUCH -- IT WAS VERY EASY TO
25 FOLLOW AND I STOPPED AND I SAID, I DON'T BELIEVE
26 WHAT --

27 Q WASN'T HE HOLDING IT UP TO THE GLASS?

28 MS. NAJERA: OBJECTION. I DON'T BELIEVE THE

2 THE COURT: WHY DON'T YOU FINISH YOUR ANSWER.

3 THE WITNESS: THANK YOU.

4 I JUST SAID THAT I DON'T BELIEVE THAT
5 YOUR MOTHER SEXUALLY ABUSED YOU.

6 Q BY MS. TOWERY: MY QUESTION IS: HOW DID
7 HE KNOW YOU GOT TO THAT PART? HE WAS HOLDING IT UP
8 TO THE GLASS AND YOU WERE READING IT, CORRECT?

9 A CORRECT.

10 Q WERE YOU READING IT OUT LOUD SO HE KNEW
11 WHAT PART YOU WERE AT?

12 A NO, I WAS NOT READING IT OUT LOUD.

13 Q SO YOU SAID I DON'T BELIEVE YOU AND
14 THAT'S WHEN HE TOOK THE LETTER DOWN; IS THAT
15 CORRECT?

16 A YES.

17 Q AND THERE WERE MORE PAGES TO THE LETTER
18 THAT YOU DIDN'T READ; IS THAT RIGHT?

19 A YES.

20 Q DID YOU READ ANYTHING IN THE PART THAT
21 YOU DID READ ABOUT LYLE AND ERIK MENENDEZ BEING
22 AFRAID THAT THEIR PARENTS WOULD KILL THEM?

23 A NO.

24 Q DID YOU READ ANYTHING IN THE PORTION
25 THAT YOU DID READ ABOUT LYLE BEING AFRAID BECAUSE --
26 THAT HIS FATHER WOULD KILL HIM BECAUSE LYLE HAD
27 THREATENED TO REVEAL THE SEXUAL ABUSE OF HIS BROTHER
28 IF IT DIDN'T STOP?

1 A NO.

2 Q SO YOU DON'T KNOW IF THE LETTER SAID
3 THAT OR NOT BECAUSE YOU DIDN'T READ IT ALL, IS THAT
4 CORRECT?

5 A CORRECT.

6 Q BUT YOU DO RECALL ASKING LYLE WHY DIDN'T
7 YOU RUN AWAY; IS THAT RIGHT?

8 A YES.

9 Q AND DID YOU ASK HIM THAT BECAUSE HE
10 WAS -- BECAUSE HE TOLD YOU HE WAS AFRAID?

11 A NO. I ASKED HIM THAT BECAUSE IT CAME TO
12 THE POINT WHERE I WAS VERY UPSET. OBVIOUSLY, I WAS
13 CRYING AND I ASKED HIM: WHY DID YOU DO THIS? HOW
14 COULD -- HOW IN THE WORLD COULD YOU KILL YOUR
15 PARENTS? AND THAT'S WHEN I SAID, YOU KNOW -- I THINK
16 I ASKED HIM: WHY DIDN'T YOU JUST RUN AWAY IF IT WAS
17 SO BAD?

18 Q AND HE SAY THAT HE WANTED TO AND HE
19 TRIED TO, BUT ERIK DIDN'T WANT TO; IS THAT CORRECT?

20 A YES, THAT'S CORRECT.

21 Q NOW, YOU SAID THAT YOU WERE CRYING?

22 A I WAS OBVIOUSLY IN SHOCK AND UPSET.

23 Q WHAT ABOUT LYLE MENENDEZ?

24 A LYLE WAS UPSET ALSO.

25 Q WAS HE CRYING?

26 A YES.

27 Q AND WHEN YOU TOLD LYLE THAT YOU DIDN'T

28 BELIEVE HIM ABOUT THE SEXUAL MOLESTATION, AND HE

38

1 TOOK THE LETTER DOWN, DIDN'T HE SAY TO YOU: I

2 DIDN'T THINK YOU WOULD BELIEVE ME?

3 A I'M NOT QUITE SURE --

4 Q YOU'RE NOT SURE ABOUT THAT?

5 A -- WHAT EXACTLY HAPPENED. THERE WAS A

6 LOT OF CRYING, AND SHORTLY AFTER THE DEPUTIES AGAIN

7 CAME AND TOOK HIM AWAY. WE WEREN'T DOWN THERE FOR

8 MUCH LONGER AFTER THAT.

9 Q MY QUESTION TO YOU IS: AFTER HE TOOK

10 THE LETTER DOWN, DIDN'T HE SAY: I DIDN'T THINK YOU

11 WOULD BELIEVE ME?

12 A HE COULD HAVE SAID THAT.

13 Q DIDN'T YOU TELL THE PROSECUTORS AND

14 DETECTIVE ZOELLER ON OCTOBER 12TH, 1995, THAT LYLE

15 MENENDEZ SAID THAT?

16 A IF IT'S TESTIMONY, I OBVIOUSLY DID.

17 Q NO. I'M ASKING YOU WHAT YOU TOLD THEM

18 WHEN YOU MET WITH THEM A COUPLE WEEKS AGO.

19 A YES. I GUESS I DID.

20 Q DID YOU TELL THEM THAT?

21 A I MUST HAVE, YES.
22 Q DO YOU REMEMBER TELLING THEM THAT?
23 A YES.
24 Q YOU DO REMEMBER TELLING THEM THAT?
25 A YES.
26 Q AND THEN BOTH OF YOU CRIED FOR A WHILE;
27 IS THAT RIGHT?
28 A WELL, LIKE I SAID, IT WASN'T TOO MUCH

39

1 LONGER BEFORE THE DEPUTIES CAME DOWN AND TOOK HIM
2 BACK.
3 Q WAS IT ABOUT 10 TO 20 MINUTES?
4 A IT PROBABLY WAS CLOSER TO ABOUT 10
5 MINUTES.
6 Q DID YOU TELL MS. BOZANICH AND
7 MR. KURIYAMA AND DETECTIVE ZOELLER IN YOUR TAPED
8 SWORN STATEMENT IN 1992 THAT IT WAS 10 TO 20
9 MINUTES?
10 A I REALLY DON'T HAVE THAT TESTIMONY IN
11 FRONT OF ME, SO I REALLY CAN'T REMEMBER.
12 (PAUSE IN PROCEEDINGS.)
13
14 MS. TOWERY: I CAN'T LOCATE IT RIGHT NOW.
15 I'LL COME BACK TO THAT.

16 Q NOW, BEFORE LYLE HELD THE LETTER UP THAT
17 TOLD YOU THAT HE HAD KILLED HIS PARENTS, HAD ANYONE
18 ELSE EVER TOLD YOU THAT LYLE HAD ADMITTED TO KILLING
19 HIS PARENTS?

20 MS. NAJERA: I'D OBJECT, YOUR HONOR. CALLING
21 FOR HEARSAY. AND ALSO I'D OBJECT TO THE USE OF THE
22 FIRST NAME OF THE DEFENDANT.

23 THE COURT: SUSTAINED. SUSTAINED ON BOTH
24 GROUNDS.

25 MS. NAJERA: THANK YOU, YOUR HONOR.

26 Q BY MS. TOWERY: WAS THE TIME THAT LYLE
27 MENENDEZ HELD THE LETTER UP TO YOU IN THE JAIL THAT
28 TOLD YOU THAT HE HAD KILLED HIS PARENTS, THE FIRST

40

1 TIME THAT YOU WERE EVER AWARE THAT LYLE HAD ADMITTED
2 TO DOING THIS?

3 A I WOULD THINK SO, YEAH.

4 Q WELL, IS THAT YOUR RECOLLECTION?

5 A YES.

6 Q AND YOU WERE SHOCKED, WEREN'T YOU?

7 A YES.

8 Q AND THAT WAS IN DECEMBER OF 1990,
9 CORRECT?

10 A I BELIEVE SO. AROUND THAT TIME.

11 Q AND HE TOLD YOU THAT THE REASON THAT HE
12 HAD NEVER TOLD YOU BEFORE WAS BECAUSE YOU HAD NEVER
13 ASKED; ISN'T THAT CORRECT?

14 A YEAH.

15 Q AND HE SAID THAT HE WAS VERY SORRY; IS
16 THAT RIGHT?

17 A THAT'S HOW THE LETTER ACTUALLY STARTED,
18 WAS THAT HE'S SORRY THAT HAD TO LIE TO ME FOR 10
19 MONTHS, AS I CONTINUED TO COME DOWN AND SUPPORT HIM
20 FOR HIS INNOCENCE.

21 Q YOU NEVER ASKED HIM BEFORE THAT TIME
22 BECAUSE YOU NEVER BELIEVED HE COULD DO ANYTHING LIKE
23 THAT; ISN'T THAT CORRECT?

24 A I DIDN'T THINK I HAD TO ASK HIM.

25 Q AND EVEN AFTER HE HELD THE LETTER UP,
26 YOU STILL DIDN'T BELIEVE THAT HE HAD DONE IT; ISN'T
27 THAT RIGHT?

28 A I KIND OF WENT THROUGH A DENIAL THAT HE

1 COULDN'T HAVE DONE THIS AND HE'S JUST SAYING THIS AS
2 PART OF HIS DEFENSE. SO PART OF ME WANTED TO
3 BELIEVE VERY MUCH THAT HE COULDN'T HAVE DONE THIS.

4 Q AND THE REASON THAT YOU THOUGHT THAT HE
5 COULDN'T HAVE DONE THIS WAS BECAUSE HE WAS SOMEONE

6 YOU WERE ENGAGED TO; IS THAT RIGHT?

7 A YES.

8 Q AND YOU HAD PLANS TO MARRY; IS THAT
9 RIGHT?

10 A CORRECT.

11 Q AND HE HAD BEEN GENEROUS WITH YOU; IS
12 THAT RIGHT?

13 A YES.

14 Q AND HE WAS SOMEONE WHO WAS VERY
15 EMOTIONAL WITH YOU; IS THAT RIGHT?

16 A WELL, WE --

17 MS. NAJERA: OBJECTION. VAGUE AS TO TIME.

18 THE COURT: OVERRULED.

19 THE WITNESS: COULD YOU REPEAT, PLEASE.

20 Q BY MS. TOWERY: HE WAS SOMEONE WHO WAS
21 VERY EMOTIONAL WITH YOU; IS THAT RIGHT?

22 A EMOTIONAL AT DIFFERENT TIMES. I MEAN,
23 NOT -- I GUESS I DON'T REALLY UNDERSTAND WHAT YOU
24 MEAN BY EMOTIONAL.

25 (PAUSE IN PROCEEDINGS.)

26

27 MS. NAJERA: I'M GOING TO OBJECT, YOUR HONOR,
28 TO THIS EXHIBIT.

1 THE COURT: ALL RIGHT. ARE YOU ASKING TO

2 MARK THAT AS AN EXHIBIT?

3 MS. TOWERY: YES.

4 THE COURT: OKAY. MARKED AS 160.

5 WHAT DID YOU PROPOSE TO DO WITH IT, JUST

6 SHOW IT TO THE WITNESS AND SEE IF IT REFRESHES HER

7 RECOLLECTION?

8 MS. TOWERY: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT. YOU MAY DO THAT.

10 (PAUSE IN PROCEEDINGS.)

11

12 MS. TOWERY: MAY I APPROACH?

13 THE COURT: YES.

14 Q BY MS. TOWERY: MS. PISARCIK, SHOWING

15 YOU THE DOCUMENT THAT'S BEEN MARKED FOR

16 IDENTIFICATION AS EXHIBIT 160, I'LL ASK YOU TO HAVE

17 A LOOK AT THIS DOCUMENT AND SEE IF YOU RECOGNIZE

18 IT.

19 (PAUSE IN PROCEEDINGS.)

20

21 Q BY MS. TOWERY: HAVE YOU HAD A CHANCE TO

22 LOOK THROUGH IT?

23 A MM-HMM.

24 Q IS THAT A LETTER THAT YOU WROTE TO LYLE

25 MENENDEZ?

26 A YES.

27 Q IS THAT A LETTER THAT YOU WROTE TO HIM

28 WHILE HE WAS IN JAIL?

1 A CORRECT.

2 Q AND DOES THAT REFRESH YOUR RECOLLECTION
3 REGARDING WHETHER OR NOT LYLE MENENDEZ WAS EMOTIONAL
4 WITH YOU?

5 MS. NAJERA: YOUR HONOR, I'D OBJECT THAT IT'S
6 VAGUE AS TO TIME. IT'S ALSO IRRELEVANT WHETHER OR
7 NOT HE WAS EMOTIONAL.

8 THE COURT: SUSTAINED.

9 Q BY MS. TOWERY: PART OF THE REASON YOU
10 DIDN'T BELIEVE THAT HE COULD DO THIS WAS BECAUSE OF
11 YOUR RELATIONSHIP WITH HIM; IS THAT RIGHT?

12 A I CAN'T BELIEVE ANYBODY WOULD DO THIS.

13 Q THAT'S YOUR ANSWER?

14 A YEAH.

15 Q SO WHOEVER TOLD YOU THEY HAD KILLED
16 SOMEONE, YOU WOULD DISBELIEVE THEM, ANYONE IN THE
17 WORLD?

18 A I CAN'T BELIEVE THAT ANYONE WOULD KILL
19 THEIR PARENTS. I FIND THAT HARD TO COMPREHEND.

20 Q OKAY. AND IT HAD NOTHING TO DO -- YOUR
21 DISBELIEF HAD NOTHING TO DO WITH YOUR RELATIONSHIP
22 WITH LYLE MENENDEZ; IS THAT RIGHT?

23 A WELL, I OBVIOUSLY HAD A RELATIONSHIP

24 WITH LYLE AND COULDN'T BELIEVE THAT HE COULD DO

25 THIS.

26 Q SO YOU DIDN'T BELIEVE THAT HE PERSONALLY

27 COULD DO THIS; IS THAT RIGHT?

28 A YES, THAT IS CORRECT.

44

1 Q AND, AGAIN, THAT WAS BECAUSE YOU KNEW

2 HIM; IS THAT RIGHT?

3 MS. NAJERA: OBJECTION. ASKED AND ANSWERED.

4 THE COURT: OVERRULED.

5 YOU CAN ANSWER THE QUESTION.

6 THE WITNESS: AS I STATED, I COULDN'T BELIEVE

7 LYLE OR ANYBODY COULD COMMIT A CRIME LIKE THAT.

8 Q BY MS. TOWERY: YOU NEVER SAID THAT YOU

9 DIDN'T BELIEVE SOMEONE ELSE COULD COMMIT A CRIME

10 LIKE THAT, HAVE YOU?

11 MS. NAJERA: I'M GOING TO OBJECT. THIS IS

12 IRRELEVANT.

13 THE COURT: SUSTAINED.

14 Q BY MS. TOWERY: DIDN'T YOU TELL THE

15 DEPUTY DISTRICT ATTORNEYS, WHEN YOU WERE ASKED ABOUT

16 THIS STATEMENT THAT LYLE MENENDEZ HAD MADE TO YOU,

17 THAT THE REASON YOU NEVER WENT TO THE POLICE AND

18 TOLD THEM HE HAD ADMITTED WAS IN PART YOU JUST

19 COULDN'T BELIEVE IT; IS THAT RIGHT?

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

21 IRRELEVANT.

22 THE COURT: OVERRULED.

23 YOU CAN ANSWER THE QUESTION.

24 THE WITNESS: AS I STATED, I WENT THROUGH A

25 PERIOD OF SHOCK.

26 THE COURT: SHE JUST ASKED YOU WHETHER OR NOT

27 YOU SAID THAT. THAT'S ALL.

28 THE WITNESS: I DON'T REMEMBER.

45

1 MS. TOWERY: MAY I APPROACH THE WITNESS, YOUR
2 HONOR?

3 THE COURT: YES.

4 MS. NAJERA: COUNSEL, ARE YOU REFERRING TO A
5 PARTICULAR LINE?

6 MS. TOWERY: LINES 10 THROUGH 21 AT PAGE 64
7 OF THE SWORN STATEMENT.

8 MS. NAJERA: LINE 10 TO WHAT?

9 MS. TOWERY: 21.

10 Q DOES REVIEWING THAT STATEMENT REFRESH
11 YOUR RECOLLECTION REGARDING YOUR STATE OF MIND, IN
12 PART, AS TO THE REASON YOU DIDN'T TELL THE POLICE
13 THAT LYLE MENENDEZ HAD ADMITTED HE KILLED HIS

14 PARENTS WAS YOU WERE GOING THROUGH A PERIOD OF
15 DENIAL AND YOU COULDN'T BELIEVE THAT HE HAD DONE
16 THAT; IS THAT CORRECT?

17 A YES.

18 Q NOW, AFTER HE TOLD YOU THIS, YOU BROKE
19 UP WITH HIM, CORRECT?

20 A SHORTLY AFTER, YES.

21 Q AND YOU WERE ALSO SEEING SOMEONE ELSE AT
22 THAT TIME, WEREN'T YOU?

23 MS. NAJERA: OBJECTION. IRRELEVANT.

24 THE COURT: OVERRULED.

25 YOU CAN ANSWER THE QUESTION.

26 THE WITNESS: NO, NOT AT THAT TIME, NOT UNTIL
27 AFTER I HAD BROKEN UP WITH LYLE AND STOPPED, YOU
28 KNOW, SEEING HIM.

1 Q BY MS. TOWERY: STOPPED VISITING HIM AT
2 THE JAIL?

3 A YEAH. I MEAN, THERE WAS A PERIOD OF
4 TIME. I WOULD SAY I THINK IT WAS JANUARY THAT I
5 STOPPED GOING DOWN THERE.

6 Q AND DID YOU TELL MS. BOZANICH AND
7 MR. KURIYAMA WHEN YOU TALKED TO THEM IN 1992 THAT
8 YOU HAD BEEN SEEING SOMEBODY ELSE PRIOR TO THE TIME

9 THAT YOU OFFICIALLY BROKE UP WITH HIM?

10 MS. NAJERA: YOUR HONOR, IF COUNSEL'S

11 REFERRING TO SOMETHING, COULD I HAVE THE PAGE AND

12 CITE?

13 MS. TOWERY: PAGE 40.

14 Q DID YOU TELL HIM THAT?

15 MS. NAJERA: CAN I HAVE THE LINE?

16 MS. TOWERY: I'M NOT IMPEACHING HER YET, YOUR

17 HONOR. I HAVEN'T ASKED THE FOUNDATIONAL QUESTION.

18 THE COURT: DO YOU RECALL SAYING THAT?

19 THE WITNESS: CAN YOU REPEAT THAT? I'M

20 SORRY.

21 Q BY MS. TOWERY: DID YOU TELL

22 MS. BOZANICH AND MR. KURIYAMA THAT YOU WERE SEEING

23 SOMEONE ELSE PRIOR TO THE TIME THAT YOU OFFICIALLY

24 BROKE UP WITH LYLE MENENDEZ IN JANUARY OF 1990?

25 A WELL, AFTER I HAD --

26 THE COURT: NO, NO. JUST DID YOU SAY THAT,

27 YES OR NO? IF YOU DON'T REMEMBER, SAY YOU DON'T

28 REMEMBER.

1 THE WITNESS: I'M GOING TO HAVE TO SAY I

2 DON'T REMEMBER.

3 MS. TOWERY: READING FROM THE TRANSCRIPT, IF

4 I MAY, YOUR HONOR, THE SWORN STATEMENT, PAGE 40,

5 LINES 4 THROUGH 13.

6 MS. NAJERA: OBJECT AS HEARSAY. I DON'T
7 BELIEVE IT'S INCONSISTENT.

8 THE COURT: OVERRULED.

9 YOU CAN READ IT.

10 MS. TOWERY: THANK YOU, YOUR HONOR.

11 "QUESTION: AND HOW LONG AFTER
12 THIS CONVERSATION WOULD YOU SAY IT
13 WAS?

14 "ANSWER: SOMETIME IN EARLY
15 JANUARY, MID -- EARLY TO MID JANUARY.

16 "QUESTION: NOT LONG AFTER?

17 "ANSWER: RIGHT. NOW, WHEN I SAY
18 CEASE MY CONTACT, I OFFICIALLY BROKE
19 UP WITH HIM, SAYING THAT -- YOU KNOW,
20 I MEAN, I'M SEEING SOMEONE ELSE --
21 SOMEBODY ELSE AND I HAD BEEN SEEING
22 SOMEBODY ELSE PRIOR TO THAT, AND THAT,
23 YOU KNOW, I DIDN'T WANT TO SEE HIM
24 ANYMORE, ALTHOUGH I DID GO DOWN TO THE
25 JAIL."

26 MS. NAJERA: AND I'D OBJECT. I BELIEVE
27 THERE'S AN INSERTION OF AN "I" AFTER "AND I HAD,"
28 AND I BELIEVE IT'S JUST "AND HAD BEEN SEEING."

1 MS. TOWERY: SHALL I READ IT AGAIN?

2 MS. NAJERA: I BELIEVE THE LINE STARTING ON --

3 MS. TOWERY: I'LL READ THE ENTIRE ANSWER

4 AGAIN.

5 "ANSWER: RIGHT. NOW, WHEN I SAY

6 CEASE MY CONTACT, I OFFICIALLY BROKE

7 UP WITH HIM, SAYING THAT -- YOU KNOW,

8 I MEAN, I'M SEEING SOMEBODY ELSE AND

9 HAD BEEN SEEING SOMEBODY ELSE PRIOR TO

10 THAT, AND THAT, YOU KNOW, I DIDN'T

11 WANT TO SEE HIM ANYMORE, ALTHOUGH I

12 DID GO DOWN TO THE JAIL."

13 Q AND THE PERSON THAT YOU WERE SEEING, AT

14 LEAST AFTER YOU BROKE UP WITH LYLE MENENDEZ,

15 ACCORDING TO YOUR TESTIMONY TODAY, THAT WAS THE SAME

16 FELLOW WHO HELPED YOU MOVE TO THE CALABASAS HOUSE

17 WHEN YOU MOVED FROM BEVERLY HILLS TO CALABASAS?

18 MS. NAJERA: I'M GOING TO OBJECT. ASSUMES A

19 FACT NOT IN EVIDENCE, THAT SHE WAS SEEING SOMEBODY.

20 THE COURT: SUSTAINED.

21 Q BY MS. TOWERY: YOU DID SEE SOMEONE

22 AFTER YOU BROKE UP WITH LYLE MENENDEZ, DIDN'T YOU?

23 A YES.

24 Q AND THAT WAS THE SAME GENTLEMAN WHO

25 HELPED YOU MOVE TO THE CALABASAS HOUSE FROM THE

26 BEVERLY HILLS HOUSE, WASN'T IT?

27 MS. NAJERA: OBJECTION. IRRELEVANT.

1 YOU CAN ANSWER THE QUESTION.

2 THE WITNESS: YES, AND THAT PERSON IS MY
3 HUSBAND TODAY.

4 Q BY MS. TOWERY: YOU MARRIED THAT
5 GENTLEMAN?

6 A YES, I DID.

7 MS. NAJERA: OBJECTION. IRRELEVANT.

8 THE COURT: OVERRULED.

9 THE ANSWER WILL STAND.

10 Q BY MS. TOWERY: DID YOU TELL YOUR
11 PARENTS THAT LYLE MENENDEZ HAD ADMITTED KILLING HIS
12 PARENTS AFTER HE TOLD YOU THAT AT THE JAIL?

13 A YES --

14 MS. NAJERA: I'M GOING TO OBJECT AS
15 IRRELEVANT AND ALSO CALLING FOR HEARSAY.

16 THE COURT: SUSTAINED ON GROUNDS OF
17 RELEVANCY. THE ANSWER IS STRICKEN.

18 Q BY MS. TOWERY: NOW, BEFORE LYLE
19 MENENDEZ TOLD YOU THAT HE HAD KILLED HIS PARENTS,
20 YOU THOUGHT THAT IT WOULDN'T BE VERY LONG BEFORE
21 THINGS WERE CLEARED UP AND LYLE WOULD BE RELEASED;
22 IS THAT RIGHT?

23 A BEFORE LYLE HAD TOLD ME THAT?
24 Q YES.
25 A YES. I WAS OBVIOUSLY VERY HOPEFUL.
26 Q AND YOU THOUGHT THAT, OF COURSE, WOULD
27 BE TAKEN CARE OF AND HE WOULD BE RELEASED FROM JAIL
28 AND YOU COULD GO FORWARD WITH YOUR MARRIAGE PLANS;

50

1 IS THAT RIGHT?

2 A YES.

3 Q AND AFTER HE ADMITTED TO YOU THAT HE HAD
4 KILLED HIS PARENTS, YOU REALIZED THAT HE WASN'T
5 GOING TO BE RELEASED ANY TIME SOON; ISN'T THAT
6 RIGHT?

7 A I REALIZED THAT HE HAD LIED TO ME FOR 10
8 MONTHS.

9 -26088

1 Q. DID YOU RELY THAT HE WAS NOT LIKELY
2 TO BE RELEASED ANY TIME SOON WHEN HE TOLD YOU HE
3 HAD KILLED HIS PARENTS?

4 MS. NAJERA: OBJECTION, YOUR HONOR.

5 THE COURT: OVERRULED. YOU CAN ANSWER THE
6 QUESTION.

7 THE WITNESS: I REALLY DON'T THINK I WAS

8 THINKING ABOUT THAT AT THE TIME.

9 Q. BY MS. TOWERY: DIDN'T OCCUR TO YOU
10 AT ALL?

11 A. LIKE I SAID, I HAD BEEN LIED TO FOR
12 TEN MONTHS, AND I HAD BEEN COMING DOWN TO JAIL AND
13 SUPPORTING A PERSON THAT I THOUGHT WAS 100 PERCENT
14 INNOCENT.

15 Q. SO, YOU NEVER THOUGHT ABOUT WHETHER
16 HE WOULD BE RELEASED OR NOT AFTER HE TOLD YOU HE
17 HAD KILLED HIS PARENTS?

18 A. IT DIDN'T MATTER.

19 Q. AND YOU BROKE UP WITH HIM; IS THAT
20 RIGHT?

21 A. YES.

22 Q. AND IT DIDN'T OCCUR TO YOU THAT
23 PERHAPS HE WOULD NOT BE INHERITING ANY MONEY WHEN
24 YOU FOUND OUT HE HAD KILLED HIS PARENTS, DID IT?

25 A. THAT NEVER CROSSED MY MIND.

26 Q. NEVER CROSSED YOUR MIND?

27 A. NEVER CROSSED MY MIND.

28 Q. NOW, BEFORE LYLE MENENDEZ ADMITTED TO

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1 YOU THAT HE KILLED HIS PARENTS, HE HAD THE
2 CONVERSATION WITH YOU WHERE HE ASKED YOU TO
3 TESTIFY FALSELY; IS THAT RIGHT?

4 A. YES.

5 Q. AND THAT CONVERSATION WAS OVER THE
6 PHONE, IT WASN'T BY LETTER?

7 A. I'M SORRY. COULD YOU REPEAT WHICH
8 CONVERSATION?

9 Q. THAT CONVERSATION HAPPENED AT THE
10 JAIL, DIDN'T IT?

11 A. THE CONVERSATION WHERE HE CONFESSED
12 TO ME THAT HE --

13 Q. NO, THE CONVERSATION WHERE HE ASKED
14 YOU TO TESTIFY FALSELY.

15 A. OH, I'M SORRY. YES.

16 Q. AND WHEN IT OCCURRED AT THE JAIL, HE
17 DIDN'T HOLD THE LETTER UP AND SAY "I WANT YOU TO
18 DO THIS," DID HE?

19 A. NO. HE MAY HAVE WRITTEN SOME THINGS
20 DOWN, BUT IT WASN'T A PRE-WRITTEN LETTER LIKE HE
21 HAD BROUGHT DOWN THAT TIME.

22 Q. HAVE YOU PREVIOUSLY TESTIFIED THAT
23 THE CONVERSATION OCCURRED OVER THE PHONE AT THE
24 JAIL?

25 A. MM-HMM, YES.

26 Q. YOU HAVE PREVIOUSLY SO TESTIFIED?

27 A. I BELIEVE SO.

28 Q. AND WHEN YOU WERE -- WHEN YOU GAVE

1 YOUR SWORN STATEMENT TO THE -- MS. BOZANICH, MR.
2 KURIYAMA AND DETECTIVE ZOELLER IN NOVEMBER OF
3 1992, YOU TOLD THEM ABOUT THIS CONVERSATION THAT
4 YOU HAD, DIDN'T YOU?

5 A. YES.

6 Q. AND AGAIN, THAT STATEMENT WAS UNDER
7 OATH, CORRECT?

8 A. CORRECT.

9 Q. AND A COURT REPORTER WAS PRESENT?

10 A. YES.

11 Q. AND A TAPE PLAYER WAS THERE; IS THAT
12 RIGHT?

13 A. YES.

14 Q. AND THEN WHEN YOU TESTIFIED IN THE
15 TRIAL OF THIS MATTER, YOU AGAIN AFFIRMED THAT WHAT
16 YOU HAD TOLD THE DISTRICT ATTORNEYS AND DETECTIVE
17 ZOELLER IN 1992 UNDER OATH WAS CORRECT; IS THAT
18 RIGHT?

19 A. YES.

20 MS. TOWERY: YOUR HONOR, I HAVE A DOCUMENT
21 THAT'S BEEN PREVIOUSLY MARKED AS EXHIBIT 248. I'D
22 ASK TO MARK IT AS EXHIBIT 161. IS THAT THE NEXT
23 IN ORDER?

24 THE COURT: 161.

25 MS. TOWERY: THANK YOU, YOUR HONOR.

26 MAY I APPROACH?

27 THE COURT: YES.

28 Q. BY MS. TOWERY: WHEN YOU TESTIFIED AT

1 THE PREVIOUS TRIAL, YOU REVIEWED THE DOCUMENT THAT
2 I AM SHOWING YOU NOW, DID YOU NOT?

3 A. LET ME READ IT.

4 OKAY.

5 Q. WHEN YOU TESTIFIED AT THE PREVIOUS
6 TRIAL, YOU REVIEWED THIS DOCUMENT, DIDN'T YOU?

7 A. YES.

8 Q. AND YOU TESTIFIED THAT IT ACCURATELY
9 STATED THE CONVERSATION THAT YOU HAD WITH LYLE
10 MENENDEZ AT THE JAIL IN WHICH HE ASKED YOU TO
11 FALSELY TESTIFY; IS THAT RIGHT?

12 A. CORRECT.

13 Q. AND YOU HAD ALSO REVIEWED THE
14 ENTIRETY OF THE STATEMENT THAT YOU GAVE UNDER OATH
15 AT DIFFERENT TIMES FOR ACCURACY, HAD YOU NOT?

16 A. PREVIOUS STATEMENTS.

17 Q. OTHER THAN WHEN YOU TESTIFIED AT
18 TRIAL ABOUT THIS PARTICULAR PORTION OF THE
19 STATEMENT, HAD YOU REVIEWED THE ENTIRE STATEMENT
20 THAT YOU GAVE FOR ACCURACY?

21 A. YEAH, I GUESS SO.

22 Q. AND WHEN YOU TESTIFIED HERE TODAY ON
23 DIRECT EXAMINATION, YOU GAVE A VERSION OF WHAT
24 LYLE MENENDEZ SAID TO YOU WHEN HE ASKED YOU TO
25 GIVE FALSE TESTIMONY; IS THAT RIGHT?

26 A. THAT IS CORRECT.

27 Q. AND TODAY YOU SAID THAT THE TWO OF
28 YOU HAD SEEN THE MOVIE TOGETHER, DIDN'T YOU?

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1 A. WE HAD.

2 Q. WHEN DID YOU SEE THAT MOVIE TOGETHER?

3 A. I CAN'T BE -- YOU KNOW, I DON'T
4 REMEMBER EXACTLY, BUT WE DID SEE THE MOVIE
5 TOGETHER.

6 Q. DO YOU REMEMBER APPROXIMATELY WHEN
7 YOU SAW IT TOGETHER?

8 A. NO. I THINK WE RENTED IT.

9 Q. DO YOU REMEMBER WHAT CITY YOU WERE
10 IN?

11 A. NO.

12 Q. DO YOU REMEMBER IF ANYONE ELSE WAS
13 PRESENT WHEN YOU SAW THE MOVIE TOGETHER?

14 A. NO. I THINK IT WAS JUST THE TWO OF
15 US.

16 Q. DO YOU RECALL WHAT ENVIRONMENT YOU
17 WERE IN? WERE YOU IN SOMEONE'S HOME?

18 A. I THINK WE WERE JUST IN -- JUST IN
19 THE LIVING ROOM JUST WATCHING THE MOVIE. I MEAN,
20 IT WAS --

21 Q. A LIVING ROOM IN SOME CITY SOMEWHERE?

22 A. IT COULD HAVE BEEN IN THE MARINA CITY
23 CLUB. I REALLY DON'T REMEMBER, THOUGH, I JUST
24 REMEMBER SEEING THE MOVIE.
25 Q. AND YOU REMEMBER WHAT THE MOVIE WAS
26 ABOUT, CORRECT?
27 A. YES.
28 Q. AND DID YOU REMEMBER WHAT THE MOVIE

-26083

1 WAS ABOUT WHEN YOU GAVE YOUR STATEMENT IN 1992?
2 A. YES.
3 Q. DID YOU REMEMBER THAT YOU HAD SEEN IT
4 WITH LYLE MENENDEZ?
5 A. YES.
6 Q. WHY DID YOU TELL MISS BOZANICH AND
7 MR. KURIYAMA AND DETECTIVE ZOELLER AND THE JURY AT
8 THE PREVIOUS TRIAL THAT YOU HADN'T SEEN THE MOVIE
9 BEFORE, OR YOU WEREN'T SURE IF YOU HAD SEEN IT?
10 MS. NAJERA: OBJECTION, MISSTATES THE
11 TESTIMONY.
12 THE COURT: OVERRULED.
13 THE WITNESS: I DID NOT STATE THAT. AS A
14 MATTER OF FACT, JUST IN REREADING THIS I HAD
15 STUTTERED AND CORRECTED MYSELF, SAYING THAT I HAD
16 SEEN THE MOVIE. I JUST HADN'T SEEN IT AFTER THAT
17 FIRST TIME. I HAD NOT REVIEWED THE MOVIE.

18 Q. BY MS. TOWERY: DID YOU TELL THEM YOU
19 HAD SEEN IT WITH LYLE MENENDEZ?

20 A. I DON'T REMEMBER IF I STATED WE HAD
21 SAW IT TOGETHER. I THINK IT WAS JUST I ASSUMED --
22 I HAD ASSUMED THAT THEY KNEW THAT.

23 Q. AND YOU SAY THAT YOU TOLD THEM THAT
24 YOU HAD NOT SEEN THE MOVIE, AND THEN STUTTERED AND
25 SAID THAT YOU HAD SEEN THE MOVIE WHEN YOU TALKED
26 TO THEM?

27 A. WELL, WHAT I WAS REFERRING TO IN THAT
28 STATEMENT WAS THAT I HAD SEEN THE MOVIE, BUT THAT

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1 I HAD NOT REVIEWED THE MOVIE SINCE LYLE HAD ASKED
2 ME TO LIE.

3 Q. AND THE STATEMENT THAT YOU ARE
4 REFERRING TO IS THE FOLLOWING:

5 "Q. AND WHAT HAPPENED
6 IN 'AT CLOSE RANGE'?

7 "A. I DIDN'T -- I HAD
8 SEEN THE MOVIE BEFORE. I DID NOT GO
9 HOME AND WATCH IT. I HAD NOT SEEN
10 IT. BUT IN THAT MOVIE, THE FATHER, I
11 GUESS, MAKES PASSES OR -- I DON'T
12 BELIEVE HE RAPES THE ONE CHARACTER,
13 THE SEAN PENN'S GIRLFRIEND. HE HAD

14 ASKED ME TO SAY THAT THAT'S WHAT
15 HAPPENED."
16 WAS THAT WHAT YOU SAID IN 1992 TO THE
17 DEPUTY DISTRICT ATTORNEYS AND DETECTIVE ZOELLER IN YOUR
18 SWORN STATEMENT?

19 A. AND AS YOU CAN SEE, I WAS CORRECTING
20 MYSELF.

21 MS. NAJERA: YOUR HONOR, MAY THE WITNESS FINISH
22 HER ANSWER?

23 THE COURT: SHE HAD.

24 Q. BY MS. TOWERY: IS THAT WHAT YOU TESTIFIED
25 TO AT THE LAST TRIAL?

26 A. I TESTIFIED THAT I HAD SEEN THE MOVIE, AND
27 THAT I HAD NOT RE-SEEN IT SINCE THE TIME THAT LYLE AND I
28 SAW IT TOGETHER. THAT'S WHAT I WAS TRYING TO SAY.

-26081

1 Q. YOU TESTIFIED EXACTLY TO WHAT IS IN THIS AT
2 THE LAST TRIAL, DID YOU NOT?

3 A. YES.

4 Q. AND NOW YOU ARE SAYING THAT YOU SAW IT WITH
5 LYLE MENENDEZ SOMEWHERE PERHAPS ON VIDEO; IS THAT RIGHT?

6 A. YES.

7 Q. IS IT POSSIBLE THAT YOU SAW IT AT THE
8 THEATRES?

9 A. I -- I REMEMBERED THE MOVIE. IT WAS

10 OBVIOUSLY A VERY VIOLENT MOVIE. I DON'T EXACTLY
11 REMEMBER, BUT I THINK IT WAS ON VIDEO.

12 Q. DID YOU REMEMBER THE MOVIE AT THE TIME YOU
13 TALKED TO THE DEPUTY DISTRICT ATTORNEYS AND DETECTIVE
14 ZOELLER IN 1992?

15 A. THAT I HAD SEEN THE MOVIE? YES.

16 Q. DID YOU REMEMBER THE SCENE THAT YOU WERE
17 TALKING ABOUT IN WHICH THE FATHER MAKES PASSES AT, BUT
18 YOU DON'T BELIEVE THAT HE RAPES THE ONE CHARACTER, SEAN
19 PENN'S GIRLFRIEND?

20 A. I REMEMBERED THE SCENE. WHEN LYLE TALKED
21 TO ME ABOUT THAT SCENE ON THAT DAY, I KNEW EXACTLY WHAT
22 HE WAS REFERRING TO. I DIDN'T REMEMBER IT BEING AS
23 GRAPHIC AS IT WAS.

24 Q. ALL RIGHT.

25 SO, YOU WERE DESCRIBING FOR THE DEPUTY
26 DISTRICT -- FOR MISS BOZANICH AND MR. KURIYAMA AND
27 DETECTIVE ZOELLER IN YOUR STATEMENT UNDER OATH WHAT LYLE
28 MENENDEZ SAID TO YOU ON THAT DAY; IS THAT RIGHT?

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1 A. YES.

2 Q. AND YOUR DESCRIPTION OF WHAT HE ASKED YOU
3 TO DO WAS THAT THE FATHER MADE A PASS AT YOU, OR A
4 PASS -- THE FATHER IN THE MOVIE MADE A PASS AT SEAN
5 PENN'S GIRLFRIEND; IS THAT RIGHT?

6 A. YES.

7 Q. AND WHEN YOU CAME IN HERE AND TESTIFIED
8 TODAY, YOU TOLD -- YOU TOLD A STORY ABOUT A GIRLFRIEND
9 IN A ROOM WITH THE FATHER, AND THE FATHER HAD GIVEN THE
10 GIRL A PILL, AND THAT SHE WAS ULTIMATELY RAPED BY THE
11 FATHER, ET CETERA, ET CETERA; IS THAT RIGHT?

12 A. YES, IT IS.

13 Q. HAVE YOU SEEN THAT MOVIE SINCE YOU SPOKE TO
14 THE DISTRICT ATTORNEYS AND DETECTIVE ZOELLER IN 1992?

15 A. I HAD SEEN IT JUST SEVERAL DAYS AGO --
16 YESTERDAY. I WAS ASKED TO REVIEW THAT SCENE.

17 Q. OKAY. LET ME ASK YOU ANOTHER QUESTION. I
18 WILL GET TO THAT.

19 A. OKAY.

20 Q. DID -- BETWEEN THE TIME THAT YOU TALKED TO
21 LYLE MENENDEZ AT THE JAIL AND THE TIME YOU GAVE THIS
22 STATEMENT IN 1992, DID YOU REVIEW THE MOVIE?

23 A. NO, NOT -- YOU MEAN AFTER HE HAD ASKED ME
24 TO LIE FOR HIM? FROM THAT TIME UNTIL YESTERDAY I HAD
25 NOT SEEN THE MOVIE.

26 Q. SO THEN YOU DIDN'T SEE IT BEFORE YOU GAVE
27 THE STATEMENT?

28 BETWEEN THE TIME HE ASKED YOU TO TESTIFY

-26079

1 FALSELY AND THE TIME YOU GAVE THIS STATEMENT IN 1992 YOU

2 DIDN'T WATCH IT; IS THAT RIGHT?

3 A. CORRECT.

4 Q. AND YOU DIDN'T WATCH IT BETWEEN THE TIME
5 YOU GAVE THE STATEMENT IN 1992 UNTIL THE TIME YOU
6 TESTIFIED IN 1993; IS THAT RIGHT?

7 A. CORRECT.

8 Q. AND YOU SAW THE ENTIRE MOVIE -- DID YOU SAY
9 YESTERDAY?

10 A. NO, NOT THE ENTIRE MOVIE, JUST --

11 Q. DID YOU WATCH PART OF THE MOVIE YESTERDAY?

12 A. JUST THAT ONE SCENE.

13 Q. WHO SHOWED IT TO YOU?

14 A. THE PROSECUTION DID.

15 Q. WHERE DID THEY SHOW THAT TO YOU?

16 A. IN THE OFFICE.

17 Q. DID THEY PICK OUT THE SCENE TO SHOW YOU?

18 A. IT WAS -- THERE WAS SEVERAL SCENES KIND OF
19 RUNNING TOGETHER, BUT YEAH. I MEAN, IT STARTED AT A
20 CERTAIN POINT.

21 Q. YOU DIDN'T LOOK AT THE MOVIE AND SAY "THIS
22 MUST HAVE BEEN THE SCENE HE WAS REFERRING TO", DID YOU?

23 A. THEY ASKED ME IF THAT WAS THE SCENE THAT HE
24 WAS REFERRING TO.

25 Q. WELL, THE SCENE THAT HE WAS REFERRING TO,
26 AS YOU DESCRIBED IT IN 1992, WAS "IN THAT MOVIE THE
27 FATHER, I GUESS, MAKES PASSES OR -- I DON'T BELIEVE HE
28 RAPES THE ONE CHARACTER, THE SEAN PENN'S GIRLFRIEND. HE

1 HAD ASKED ME TO SAY THAT'S WHAT HAD HAPPENED."

2 THAT'S WHAT YOU SAID IN 1992, WASN'T IT?

3 A. IT WAS THE SAME SCENE.

4 Q. HOW DO YOU KNOW IT WAS THE SAME SCENE?

5 LYLE DIDN'T SHOW IT TO YOU, DID HE?

6 A. NO, BUT LYLE TALKED ABOUT IT AND ASKED ME
7 TO SAY THAT, AND THAT WAS THE SCENE HE WAS REFERRING TO.

8 Q. HE ASKED YOU TO SAY THAT HIS FATHER HAD
9 RAPED YOU?

10 A. HE HAD ASKED ME TO WATCH THAT MOVIE AGAIN,
11 WHICH I DID NOT DO, BECAUSE I HAD REMEMBERED IT. I HAD
12 REMEMBERED THE WHOLE ENTIRE MOVIE.

13 AND HE HAD ASKED ME TO SAY THAT IN THE ONE
14 SCENE THAT THE FATHER HAD COME ON TO THE GIRLFRIEND, IF
15 I WOULD SAY THE THINGS THAT HE DID IN THAT SCENE THAT
16 MR. MENENDEZ HAD DONE TO ME.

17 Q. OKAY. HE NEVER SAID "I WANT YOU TO SAY MR.
18 MENENDEZ RAPED YOU," DID HE?

19 A. HE DIDN'T SAY THAT WORD "RAPE". HE SAID
20 THAT SCENE.

21 Q. AND YOU ADDED THAT INTO WHAT HE SAID AFTER
22 YOU WATCHED THE CLIP THAT THE PROSECUTORS SHOWED YOU IN
23 THEIR OFFICE; IS THAT RIGHT?

24 A. WELL, THAT'S THE ONLY SCENE IN THE WHOLE
25 MOVIE WHERE ANYTHING LIKE THAT HAPPENS.

26 Q. MY QUESTION IS YOU ADDED THAT INTO WHAT HE

27 SAID.

28 HE NEVER SAID THAT, DID HE?

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1 A. THE WORD RAPE?

2 Q. YES.

3 A. NO. THAT'S WHAT HE IMPLIED.

4 Q. WELL, YOUR BELIEF AT THE TIME WAS TO THE
5 CONTRARY, WASN'T IT?

6 A. MY BELIEF AT THE TIME WAS THAT I HADN'T
7 SEEN THE MOVIE IN A WHILE, AND THAT I KNEW EXACTLY WHAT
8 LYLE WAS TALKING ABOUT, AND HE WAS ASKING ME TO GET UP
9 ON THE STAND AND SAY THAT HIS FATHER HAD DONE SOMETHING
10 TO ME THAT HE HADN'T DONE.

11 Q. OKAY. AND --

12 A. AND I DON'T THINK HE WOULD SAY THAT IT WAS
13 SHAKING MY HAND.

14 Q. AND YOU KNEW EXACTLY WHAT HE WAS TALKING
15 ABOUT, AND WHAT YOU THOUGHT HE WAS TALKING ABOUT WAS
16 WHAT YOU TOLD MISS BOZANICH, MR. KURIYAMA AND DETECTIVE
17 ZOELLER IN YOUR STATEMENT UNDER OATH AND WHAT YOU
18 TESTIFIED TO AT THE LAST TRIAL, RIGHT?

19 A. YES.

20 MS. NAJERA: OBJECT --

21 Q. BY MS. TOWERY: NOW, YOU ALSO -- BY THE
22 WAY, THERE IS NO RAPE THAT'S SHOWN IN THE ACTUAL FILM,

23 IS THERE?
24 A. HE THROWS HER DOWN ON THE BED AND STARTS
25 TAKING OFF HER CLOTHES, AND YOU HEAR A VERY, VERY LOUD
26 SCREAM.
27 Q. SO, THERE IS NO RAPE, IS THERE, THAT'S
28 SHOWN IN THE FILM?

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1 MS. NAJERA: OBJECTION, ARGUMENTATIVE. AND
2 ACTUALLY THE FILM SPEAKS FOR ITSELF.
3 THE COURT: OVERRULED.
4 Q. BY MS. TOWERY: YOU JUST SAW IT, DIDN'T
5 YOU?
6 A. YES.
7 Q. AND IT DOESN'T SHOW ON THE FILM THE
8 CHARACTER, THE FATHER CHARACTER IN THE FILM RAPES THE
9 GIRLFRIEND; ISN'T THAT RIGHT?
10 MS. NAJERA: YOUR HONOR, I WOULD OBJECT AND SAY
11 THE SCENE SPEAKS FOR ITSELF.
12 THE COURT: I HEARD YOU SAY THAT, AND THE
13 OBJECTION IS OVERRULED.
14 THE WITNESS: I THINK THE SCENE SPOKE FOR ITSELF.
15 Q. BY MS. TOWERY: DO YOU SPEAK FOR YOURSELF?
16 A. I DO.
17 MS. NAJERA: YOUR HONOR, THAT'S ARGUMENTATIVE.
18 THE COURT: OVERRULED.

19 Q. BY MS. TOWERY: MY QUESTION TO YOU IS YOU
20 JUST SAW THE SCENE, THE PROSECUTOR SHOWED IT TO YOU,
21 CORRECT?

22 A. YES.

23 Q. AND THERE IS NO RAPE THAT'S DEPICTED IN
24 THAT FILM THAT YOU SAW, IS THERE?

25 A. WELL, I CAN --

26 Q. YES OR NO. IS THERE A RAPE DEPICTED?

27 A. I CONSIDER THAT RAPE.

28 Q. OKAY.

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1 SO, THROWING HER DOWN ON THE BED AND
2 STARTING TO TEAR HER CLOTHES OFF AND A SCREAM, THAT'S
3 WHAT YOU CONSIDER RAPE?

4 A. YEAH.

5 Q. AND THAT'S WHAT WAS SHOWN ON THE FILM,
6 CORRECT?

7 A. YES.

8 Q. NOW, YOU ALSO SAID IN YOUR TESTIMONY TODAY
9 THAT AFTER YOU REFUSED AND SAID YOU WOULDN'T -- YOU
10 WOULDN'T DO THIS, THAT -- I BELIEVE YOUR TESTIMONY WAS
11 THAT LYLE SAID "WELL, I FIGURED --"

12 THE COURT: OKAY. LET'S REFER TO PEOPLE BY THEIR
13 FULL NAMES HERE.

14 Q. MS. TOWERY: I'M SORRY.

15 LYLE MENENDEZ SAID "WELL, I FIGURED YOU
16 WOULDN'T GO FOR THIS"; IS THAT RIGHT?
17 A. HE DID SAY THAT.
18 Q. AND DID YOU LEAVE SOMETHING OUT ABOUT WHAT
19 HE SAID IN YOUR TESTIMONY THIS MORNING?
20 A. WELL, HE STATED THAT AGAIN THAT HE WAS
21 GOING TO PUT A LARGE SUM OF MONEY IN MY BANK ACCOUNT.
22 Q. NO. I AM ASKING YOU IF YOU LEFT SOMETHING
23 OUT WHEN LYLE SAID "WELL, I FIGURED YOU WOULDN'T GO FOR
24 THIS."
25 DID YOU LEAVE SOMETHING OUT OF THAT
26 STATEMENT?
27 A. IF I DID IT WAS INADVERTENTLY.
28 Q. DID LYLE MENENDEZ SAY TO YOU "THAT'S WHAT I

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1 THOUGHT YOU WOULD SAY, AND THAT'S WHAT I TOLD JOEL YOU
2 WOULD SAY. YOU WOULD NEVER DO THAT."
3 A. HE DID SAY THAT.
4 Q. THAT'S WHAT HE SAID?
5 A. YES.
6 Q. WHO IS JOEL?
7 MS. NAJERA: OBJECTION, CALLS FOR SPECULATION.
8 THE COURT: SUSTAINED.
9 Q. BY MS. TOWERY: DID YOU KNOW WHO JOEL WAS
10 THAT HE WAS REFERRING TO?

11 MS. NAJERA: OBJECTION, CALLS FOR SPECULATION.

12 THE COURT: SUSTAINED.

13 Q. BY MS. TOWERY: DID LYLE MENENDEZ TELL YOU
14 THAT THERE WAS A SCENE WHERE -- IN "AT CLOSE RANGE"
15 WHERE WHAT THEY WANTED YOU TO SAY, HE AND HIS LAWYER,
16 WHICH WAS JOEL AT THE TIME, THAT HE WANTED YOU TO WATCH?

17 A. HE DIDN'T SAY THAT IT WAS HE AND HIS LAWYER
18 WANTED ME TO WATCH IT, NO. HE SAID THAT HE WANTED ME TO
19 WATCH IT.

20 Q. HE NEVER SAID THAT?

21 A. HE DIDN'T SAY THAT JOEL AND HE WANTED ME TO
22 WATCH IT. HE SPECIFICALLY SAID THAT, YOU KNOW, HE
23 WANTED ME TO WATCH IT. YEAH.

24 MS. TOWERY: READING FROM PAGE 56.

25 MS. NAJERA: LINE?

26 MS. TOWERY: LINES 24 THROUGH 28, AND THE
27 FOLLOWING PAGE, LINES ONE THROUGH TWO.

28 WHEN YOU MADE YOUR STATEMENT TO MISS

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1 BOZANICH AND MR. KURIYAMA WHICH YOU SUBSEQUENTLY
2 ADOPTED --

3 MS. NAJERA: YOUR HONOR, I WOULD OBJECT TO THAT
4 AS HEARSAY, THE ENTIRE QUESTION, AND ALSO CALLING FOR
5 SPECULATION ON THIS WITNESS' PART AS TO THE ANSWER.

6 THE COURT: OVERRULED.

7 Q. BY MS. TOWERY: YOU MADE THE FOLLOWING
8 STATEMENT, DIDN'T YOU?

9 "PREVIOUS TO OR PRIOR TO
10 HIM TELLING ME THAT -- WRITING,
11 HOLDING THE LETTER UP, I GUESS HE WAS
12 KIND OF, YOU KNOW, WORKING ON HIS OWN
13 DEFENSE TYPE-THING, AND HE HAD ASKED
14 ME TO WATCH A MOVIE CALLED 'AT CLOSE
15 RANGE', AND THAT -- THAT IS WHAT --
16 IN THAT MOVIE THERE WAS A SCENE WHERE
17 THAT IS WHAT THEY WANTED ME TO SAY,
18 HE AND HIS LAWYER, WHICH WAS JOEL AT
19 THE TIME. THIS IS WHAT LYLE WAS
20 SAYING. I'VE NEVER SPOKEN TO JOEL."
21 ISN'T THAT RIGHT?

22 MS. NAJERA: MOTION TO STRIKE ANY STATEMENT FROM
23 ANYONE OTHER THAN THE DEFENDANT AS HEARSAY.

24 THE COURT: OVERRULED.

25 Q. BY MS. TOWERY: IS THAT WHAT YOU SAID?

26 A. WELL, WHAT I SAID WAS THAT LYLE HAD ASKED
27 ME TO DO THAT, AND THEN AFTER THE FACT -- AFTER THE FACT
28 THAT I SAID NO, I WOULDN'T, THAT'S WHEN HE SAID "I

-26072

1 DIDN'T THINK YOU WOULD DO THIS," AND THAT'S WHEN HE
2 STATED THAT THERE WAS A JOEL. BUT NOT PRIOR TO THE FACT

3 THAT -- NOT PRIOR TO HIM ASKING ME.

4 Q. DID YOU SAY WHAT I JUST READ IN YOUR
5 STATEMENT UNDER OATH?

6 A. I MUST HAVE, YES.

7 Q. AND YOU SAID IT AGAIN AT THE LAST TRIAL,
8 DIDN'T YOU?

9 A. I GUESS SO, YEAH.

10 Q. AND YOU KNEW TO WHOM HE WAS REFERRING WHEN
11 HE SAID JOEL, DIDN'T YOU?

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

14 THE COURT: OVERRULED.

15 THE WITNESS: I HAD NEVER MET A JOEL.

16 Q. BY MS. TOWERY: YOU HAD NO IDEA WHO JOEL
17 WAS AT THE TIME?

18 A. WELL, I KNEW THAT HE WAS --

19 MS. NAJERA: I AM GOING TO OBJECT, STATING THAT
20 IT'S IRRELEVANT AND ALSO CALLS FOR HEARSAY.

21 THE COURT: WELL, OVERRULED ON BOTH THOSE TWO
22 GROUNDS.

23 MS. NAJERA: ALSO CALLS FOR SPECULATION OF THIS
24 WITNESS.

25 THE COURT: SUSTAINED.

26 MS. NAJERA: THANK YOU.

27 Q. BY MS. TOWERY: WELL, YOU SAID JOEL WAS HIS
28 LAWYER IN 1992, DIDN'T YOU?

1 A. I DON'T KNOW IF HE WAS EVER A LAWYER OR HE
2 WAS GOING TO BE A LAWYER. I AGAIN NEVER ACTUALLY MET
3 THE MAN, SO --

4 Q. OKAY. YOUR WORDS WERE -- LET ME READ IT TO
5 YOU AGAIN.

6 MS. NAJERA: YOUR HONOR, I WOULD OBJECT TO ANY
7 READING OF THIS. THE WITNESS HAS NO -- THERE IS NO
8 FOUNDATION FOR THIS ANSWER. IT'S CALLING FOR
9 SPECULATION FROM THIS WITNESS.

10 THE COURT: WELL, EXCEPT THAT IT WAS HER
11 SPECULATION AT THE TIME.

12 SO, OVERRULED.

13 Q. BY MS. TOWERY: YOU SAID UNDER OATH TWO
14 TIMES PREVIOUS THAT "PRIOR TO HIM TELLING ME THAT,
15 WRITING, HOLDING THE LETTER UP, I GUESS HE WAS KIND OF,
16 YOU KNOW, WORKING ON HIS OWN DEFENSE TYPE-THING, AND HE
17 HAD ASKED ME TO WATCH A MOVIE CALLED 'AT CLOSE RANGE',
18 AND THAT -- THAT IS WHAT -- IN THAT MOVIE THERE WAS A
19 SCENE WHERE THAT IS WHAT THEY WANTED ME TO SAY, HE AND
20 HIS LAWYER, WHICH IS JOEL AT THE TIME."

21 A. OKAY.

22 Q. THAT'S WHAT YOU SAID, ISN'T IT?

23 A. OKAY, YES.

24 Q. AND YOU KNEW THAT HIS LAWYER WAS JOEL; IS
25 THAT RIGHT? DID YOU MAKE THAT UP IN 1992?

26 A. NO. I GUESS I JUST DON'T KNOW WHO JOEL IS.
27 I HAVE NEVER SEEN HIM, SO IT'S HARD FOR ME TO THINK BACK

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1 IS, BUT I KNOW THERE WAS A JOEL.

2 Q. AND YOU KNEW THAT JOEL WAS LYLE'S LAWYER AT
3 THE TIME, DIDN'T YOU?

4 MS. NAJERA: OBJECTION.

5 THE COURT: OVERRULED.

6 THE WITNESS: I GUESS SO.

7 Q. BY MS. TOWERY: YOU SAID THAT TWO TIMES
8 UNDER OATH BEFORE NOW, DIDN'T YOU?

9 MS. NAJERA: I WOULD OBJECT. NO FOUNDATION.

10 THE COURT: OVERRULED.

11 Q. BY MS. TOWERY: YES?

12 A. YES.

13 Q. NOW, THE OCCURENCE WHERE -- THAT YOU AND
14 LYLE DISCUSSED ABOUT YOU WATCHING THE MOVIE AND
15 TESTIFYING THAT HIS FATHER MADE A PASS AT YOU --

16 A. RIGHT.

17 Q. THAT NEVER IN FACT HAPPENED, DID IT?

18 A. NO.

19 Q. MR. MENENDEZ NEVER DID MAKE A PASS AT YOU,
20 DID HE?

21 A. NEVER. NEVER.

22 Q. TO YOUR KNOWLEDGE, DID HE EVEN LIKE YOU?

23 MS. NAJERA: OBJECTION, IRRELEVANT. CALLS FOR

24 SPECULATION.
25 THE COURT: OVERRULED.
26 THE WITNESS: I TALKED TO HIM ON THE PHONE. HE
27 CAME AND WATCHED ME PLAY TENNIS. WHEN WE ANNOUNCED OUR
28 ENGAGEMENT, HE TOLD ME THAT HE WOULD LIKE TO HAVE A

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1 PARTY FOR US.
2 Q. BY MS. TOWERY: MY QUESTION IS --
3 MS. NAJERA: I DON'T BELIEVE SHE FINISHED THE
4 ANSWER.
5 MS. TOWERY: MOTION TO STRIKE, NONRESPONSIVE.
6 THE COURT: OBJECTION SUSTAINED. THE ANSWER IS
7 STRICKEN.
8 Q. BY MS. TOWERY: IN REGARDS TO YOUR
9 RELATIONSHIP WITH MR. MENENDEZ, DID HE EVEN LIKE YOU?
10 A. I THOUGHT HE DID.
11 MS. NAJERA: OBJECTION.
12 Q. BY MS. TOWERY: HE LIKED YOU A LOT?
13 MS. NAJERA: OBJECTION, IRRELEVANT AND CALLS FOR
14 SPECULATION.
15 THE COURT: OVERRULED.
16 YOU CAN ANSWER THE QUESTION.
17 THE WITNESS: AS FAR AS I KNEW.
18 Q. BY MS. TOWERY: YOUR HONOR, I DON'T KNOW IF
19 THE COURT WANTS TO TAKE THE BREAK. I HAVE ONE OTHER

20 AREA TO GO INTO THAT'S GOING TO TAKE A LITTLE BIT OF
21 TIME.

22 THE COURT: HOW MUCH LONGER?

23 MS. TOWERY: I THINK ABOUT ANOTHER HALF HOUR, 20
24 MINUTES.

25 THE COURT: DOES THE JURY NEED A BREAK? ANYBODY
26 NEED A BREAK?

27 ONE PERSON NEEDS A BREAK, SO WE WILL RESUME
28 IN TEN MINUTES. WE WILL RESUME AT TEN MINUTES TO THE

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1 HOUR.

2 (BREAK HELD)

3

4 THE COURT: ALL RIGHT. THE COURT IS IN SESSION,
5 IF YOU HADN'T NOTICED.

6 MS. ABRAMSON: SORRY, YOUR HONOR.

7 THE COURT: WHEN THE BAILIFF SAYS THAT THE COURT
8 IS IN SESSION, IT IS IN SESSION.

9 SOMETHING YOU WANT TO TALK ABOUT BEFORE WE
10 RESUME?

11 MS. NAJERA: THERE IS SOMETHING I WANT TO TALK
12 ABOUT BEFORE I START MY REDIRECT.

13 THE COURT: YES.

14 MS. NAJERA: AT THIS POINT, YOUR HONOR, GIVEN THE
15 NATURE OF THE CROSS-EXAMINATION --

16 THE COURT: THE ANSWER IS NO.
17 MS. NAJERA: TO ASK TO SEE THE VIDEO?
18 THE COURT: THE ANSWER IS NO.
19 MS. NAJERA: CAN WE HAVE A BASIS, FOR THE RECORD?
20 IS THERE SOME WAY WE CAN --
21 THE COURT: THE ANSWER IS NO. I DON'T THINK THAT
22 THE EXAMINATION HAS CHANGED THE COURT'S VIEW OF THE
23 MATTER. THE TAPE ITSELF IS IRRELEVANT.
24 MS. NAJERA: I BELIEVE THAT THE PROBLEM IS THAT
25 NOW COUNSEL HAS OPENED THE DOOR ON WHAT -- WHAT WAS
26 ACTUALLY SHOWN IN THAT MOVIE, AND NOW THERE IS SOME
27 QUESTION.
28 THE COURT: I THINK IT WAS OPENED BY YOU SHOWING

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1 THE WITNESS THE MOVIE, THAT'S WHAT HAPPENED. YOU SHOWED
2 THE MOVIE, AND YOU SHOWED IT TO HER WITH THE IDEA THAT
3 YOU WERE GOING TO BE ABLE TO PLAY THE TAPE FOR THE JURY,
4 AND THE ANSWER IS NO.
5 LET'S BRING THE JURY OUT.
6 MS. TOWERY: YOUR HONOR, BEFORE THE JURY COMES
7 OUT, WOULD THE COURT CONSIDER ADMONISHING THE JURY AT
8 THE CLOSE OF TODAY'S SESSION NOT TO GO OUT AND WATCH THE
9 MOVIE, JUST ON THE OFF CHANCE THAT THEY MIGHT BE
10 INCLINED TO DO SO?
11 THE COURT: SURE.

12 MS. TOWERY: THANK YOU.

13 (THE JURY ENTERS THE COURTROOM.)

14

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

16 YOU MAY CONTINUE YOUR CROSS-EXAMINATION.

17 MS. TOWERY: THANK YOU, YOUR HONOR.

18 Q. NOW, YOU MENTIONED IN YOUR DIRECT

19 EXAMINATION THAT BETWEEN THE TIME THAT YOU BROKE UP WITH

20 LYLE MENENDEZ AND THE SPRING OF 1989 AND AUGUST OF 1989

21 YOU USED A CALLING CARD THAT LYLE TOLD YOU WAS HIS

22 CALLING CARD; IS THAT RIGHT?

23 A. YES.

24 Q. AND YOU SAID THAT YOU THOUGHT IT WAS A

25 WATTS LINE; IS THAT RIGHT?

26 A. THAT'S HOW HE DESCRIBED IT TO ME.

27 Q. WHEN HE GAVE IT TO YOU TO USE, HE DESCRIBED

28 IT AS A WATTS LINE?

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1 A. WELL, IT WAS REALLY BEFORE CALLING CARDS

2 HAD COME OUT, AT LEAST BEFORE I HAD ANY EXPERIENCE WITH

3 CALLING CARDS, AND HE DESCRIBED IT AS JUST KIND OF BEING

4 A NUMBER THAT HE HAD ACCESS TO AND THAT -- TO USE, THAT

5 I COULD USE.

6 Q. AND WHAT'S A WATTS LINE?

7 A. I BELIEVE A WATTS LINE IS A LINE WHERE IT'S

8 PAID FOR, I GUESS, MAYBE MONTHLY OR SOMETHING LIKE THAT.

9 Q. BY WHOM?

10 A. I DON'T KNOW.

11 Q. YOU DON'T KNOW WHAT A WATTS LINE IS?

12 A. WELL, I BELIEVE THAT THAT'S WHAT IT IS, BUT

13 I AM NOT SURE.

14 Q. AND YOU WEREN'T SURE AT THE TIME THAT HE

15 GAVE YOU THIS CALLING CARD TO USE; IS THAT RIGHT?

16 A. YEAH.

17 Q. WHEN DID HE GIVE IT TO YOU?

18 A. I WOULD IMAGINE PROBABLY SOMETIME WHEN I

19 WAS LIVING IN BIRMINGHAM, ALABAMA.

20 Q. DURING 1987?

21 A. I REALLY DON'T RECALL.

22 Q. AND YOU ALSO SAID THAT LYLE MENENDEZ SAID

23 THAT IT WAS A LINE FOR YOU AND YOUR SISTER AND OTHERS TO

24 USE JUST ON A CASUAL BASIS; IS THAT RIGHT?

25 A. YES.

26 Q. HOW MANY SISTERS DO YOU HAVE?

27 A. I HAVE TWO.

28 Q. WERE YOU PRESENT WHEN LYLE MENENDEZ GAVE

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1 THIS WATTS LINE NUMBER TO YOUR SISTERS?

2 A. WELL, I WAS IN BIRMINGHAM, ALABAMA AND I

3 REMEMBER MY SISTER BEING THERE, AND I BELIEVE THAT'S THE

4 TIME THAT LYLE GAVE IT TO MY ONE SISTER.

5 Q. ALL RIGHT. SO, YOU WERE PRESENT WHEN LYLE
6 MENENDEZ GAVE THIS WATTS LINE NUMBER TO ONE OF YOUR
7 SISTERS; IS THAT RIGHT?

8 A. WELL, I THINK IT WAS ABOUT THAT SAME TIME.
9 I DON'T PHYSICALLY REMEMBER LYLE SAYING IT TO MY SISTER,
10 YOU KNOW. I DON'T REMEMBER THAT EXACT TIME, PLACE, THAT
11 SORT OF THING.

12 Q. WHAT ABOUT YOUR OTHER SISTER, WERE YOU
13 PRESENT WHEN HE GAVE HER THE WATTS LINE?

14 A. HM-MM, NO.

15 Q. BUT YOU SOMEHOW KNOW THAT HE DID THAT?

16 A. WELL, HE OBVIOUSLY HAD CONTACT WITH MY
17 SISTERS EVEN AFTER I BROKE UP WITH HIM, SO --

18 Q. SO, YOU ARE ASSUMING THAT HE GAVE IT TO
19 YOUR SISTERS AS WELL AS YOURSELF, AND SAID THAT YOU
20 COULD USE IT JUST ON A CASUAL BASIS; IS THAT RIGHT?

21 A. AND THAT'S WHAT MY SISTERS TOLD ME.

22 Q. AND DID HE ALSO GIVE YOU PERMISSION TO USE
23 IT AFTER YOU BROKE UP WITH HIM IN APRIL OR SO OF 1989?

24 A. WELL, NO. THAT TOPIC WAS NEVER DISCUSSED.

25 Q. SO, HE HAD GIVEN IT TO YOU AND PERHAPS YOUR
26 SISTERS WHEN YOU LIVED IN BIRMINGHAM, ALABAMA AND SAID
27 THAT YOU COULD USE IT ON A CASUAL BASIS; IS THAT RIGHT?

28 A. YEAH, I THINK SO.

1 Q. NOW, WHEN THE -- WHEN THE PROSECUTION
2 ORIGINALLY CONTACTED YOU IN THIS CASE, MISS BOZANICH AND
3 DETECTIVE ZOELLER CAME TO YOUR DOOR IN OCTOBER OF 1992;
4 IS THAT RIGHT?

5 A. OCTOBER 1992 DID YOU SAY?

6 Q. 1992.

7 A. OKAY.

8 Q. THEY SHOWED UP AT YOUR HOUSE AND TALKED TO
9 YOU; IS THAT CORRECT?

10 A. RIGHT, YES.

11 Q. AND THEY TOLD YOU THE REASON THEY WERE
12 CONTACTING YOU IS THAT THEY WANTED TO ASK YOU ABOUT A
13 PHONE CALL YOU HAD MADE USING THE MENENDEZ FAMILY CREDIT
14 CARD ON THE SAME DAY AS LYLE'S PARENTS WERE KILLED; IS
15 THAT RIGHT?

16 A. I BELIEVE SO, YES.

17 Q. AND THEY ASKED YOU WHETHER YOU USED THE
18 CARD TO CALL YOUR FRIEND KELLY IN PENNSYLVANIA; IS THAT
19 RIGHT?

20 A. I BELIEVE THAT'S WHAT THEY ASKED, CORRECT.

21 Q. AND YOU TOLD THEM THAT YOU HAD PERMISSION
22 TO USE THE CARD, BUT YOU DID NOT THINK THAT YOU MADE THE
23 PHONE CALL, BECAUSE AT THE TIME OF THE HOMICIDES YOU
24 WEREN'T SEEING LYLE; IS THAT RIGHT?

25 A. ARE YOU ASKING ME IF THAT'S WHAT I STATED?

26 Q. IS THAT WHAT YOU STATED?

27 A. I BELIEVE SO.

28 Q. AND THEN A MONTH LATER YOU GAVE YOUR TAPED

1 STATEMENT UNDER OATH IN NOVEMBER OF 1992, CORRECT?

2 A. MM-HMM.

3 Q. AND AT THAT TIME YOU SAID THAT YOU HAD
4 THOUGHT ABOUT THEIR QUESTION ABOUT YOUR USE OF THAT
5 PHONE CARD AFTER THEY HAD COME TO YOUR HOUSE; ISN'T THAT
6 RIGHT?

7 A. YEAH.

8 Q. AND AT THAT TIME YOU TOLD THEM THAT MRS.
9 MENENDEZ HAD GIVEN YOU PERMISSION TO USE THE CARD TO
10 ARRANGE FOR LYLE TO PLAY IN A TOURNAMENT IN VERMONT THAT
11 WEEKEND; THAT IS THE WEEKEND OF THE HOMICIDES.

12 IS THAT CORRECT?

13 A. YES.

14 Q. AND YOU TOLD THEM THAT YOU HAD SENT MRS.
15 MENENDEZ AN ENTRY BLANK FOR THE TOURNAMENT AND SHE GAVE
16 YOU PERMISSION TO USE THE CARD TO CALL AND MAKE PLANS
17 AND ALL THAT KIND OF STUFF REGARDING THE TOURNAMENT; IS
18 THAT CORRECT?

19 A. MM-HMM, YES.

20 Q. AND YOU DIDN'T MENTION ANYTHING ABOUT LYLE
21 MENENDEZ GIVING YOU A WATTS LINE ALONG WITH YOUR SISTERS
22 TO USE ON A CASUAL BASIS; IS THAT RIGHT?

23 A. WELL, I THINK I TRIED TO EXPLAIN THAT IT
24 WAS -- HE HAD GIVEN THIS NUMBER TO ME AND THAT IT WAS
25 KIND OF LIGHTLY USED, YOU KNOW WHAT I MEAN. I THOUGHT I

26 TRIED TO EXPLAIN THAT.

27 Q. YOU TRIED TO EXPLAIN THAT AT THE TIME THEY
28 TALKED TO YOU IN NOVEMBER OF 1992?

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1 A. WELL, IT'S WHAT I TRIED TO EXPLAIN --

2 Q. TODAY?

3 A. WHEN I WAS QUESTIONED, YES.

4 Q. AND YESTERDAY WHEN YOU WERE ASKED ABOUT IT;
5 IS THAT RIGHT?

6 A. YES, YES. YES.

7 Q. BUT AT THAT TIME YOU TOLD THEM THAT MRS.
8 MENENDEZ HAD GIVEN YOU PERMISSION TO USE THE CARD TO
9 ARRANGE FOR LYLE TO PLAY IN A TOURNAMENT IN VERMONT THAT
10 WEEKEND; ISN'T THAT CORRECT?

11 A. WELL, YES. ON THAT ONE INCIDENT, SHE DID.

12 Q. SO, SHE GAVE YOU SPECIFIC PERMISSION TO USE
13 THAT CARD TO ARRANGE FOR A TOURNAMENT; IS THAT CORRECT?

14 A. WELL, IT WAS KIND OF LIKE "JAMIE, YOU'VE
15 GOT THE CARD NUMBER, RIGHT?"

16 AND I WAS LIKE "YEAH". YOU KNOW, IT WAS
17 VERY CASUAL.

18 Q. AND YOU OBVIOUSLY STAYED IN TOUCH WITH MRS.
19 MENENDEZ AFTER YOU AND LYLE BROKE UP; IS THAT RIGHT?

20 A. NOT REALLY ALL THAT MUCH, BUT JUST AS WE
21 WERE TRYING ARRANGE FOR THIS TOURNAMENT.

22 Q. OKAY. SO, THAT WAS PRETTY MUCH YOUR ONLY
23 CONTACT WITH HER AFTER YOU BROKE UP WITH LYLE IN APRIL
24 OF 1989; IS THAT CORRECT?
25 A. I WOULD THINK SO, PROBABLY.
26 Q. DID YOU CALL HER OR DID SHE CALL YOU?
27 A. I DON'T RECALL. I MEAN, LYLE AND I FIRST
28 STARTED TALKING ABOUT THE TOURNAMENT DURING EARLIER IN

-26061

1 THE SUMMER. WE WERE PLANNING TO MAKE PLANS FOR IT, AND
2 I DON'T RECALL IF I CALLED HER AND TOLD HER I WOULD GET
3 THE ENTRY. I DON'T REMEMBER.
4 Q. YOU WERE LIVING BACK IN THE PRINCETON AREA
5 AT THAT TIME IN LAURENCEVILLE; IS THAT CORRECT?
6 A. IN LAURENCEVILLE, CORRECT, YES.
7 Q. DID YOU USE THE CARD TO CALL MRS. MENENDEZ?
8 A. I DON'T REMEMBER.
9 Q. WAS MRS. MENENDEZ TRYING TO GET THE TWO OF
10 YOU BACK TOGETHER WHEN YOU WERE TALKING TO HER ABOUT
11 ARRANGING FOR LYLE TO GO PLAY IN A TENNIS TOURNAMENT
12 BACK IN VERMONT?
13 MS. NAJERA: OBJECTION, CALLS FOR SPECULATION.
14 THE COURT: OVERRULED. YOU MAY ANSWER THE
15 QUESTION.
16 THE WITNESS: I DON'T REALLY KNOW WHAT HER
17 INTENTIONS WERE OTHER THAN PROVIDING -- TRYING TO GET

18 LYLE ENTERED INTO THE TENNIS TOURNAMENT.

19 Q. BY MS. TOWERY: SHE DIDN'T SAY ANYTHING
20 ABOUT TRYING TO GET THE TWO OF YOU BACK TOGETHER?

21 A. I DON'T THINK THAT WAS A TOPIC OF
22 CONVERSATION AT THAT TIME, NO.

23 Q. NOW, YOU SENT HER AN ENTRY BLANK FOR THE
24 TOURNAMENT; IS THAT RIGHT?

25 MS. NAJERA: OBJECTION, IRRELEVANT.

26 THE COURT: OVERRULED.

27 THE WITNESS: I THINK THAT THAT'S WHAT I DID WAS
28 AS FAR AS I GOT THE ENTRY BLANKS AND FORWARDED ONE, OR

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1 MAYBE SHE WANTED ME TO FILL ONE OUT FOR LYLE. I DON'T
2 REMEMBER.

3 Q. YOU SAID IN 1992 WHEN YOU GAVE YOUR
4 STATEMENT UNDER OATH THAT YOU SENT HER AN ENTRY BLANK
5 FOR THE TOURNAMENT; IS THAT RIGHT?

6 A. THAT MUST HAVE BEEN ACCURATE THEN, YES.

7 Q. AND YOU ALSO SAID THAT YOU WERE TO USE THE
8 CARD TO MAKE PLANS AND ALL THAT KIND OF STUFF REGARDING
9 THE TOURNAMENT; IS THAT RIGHT?

10 A. MM-HMM.

11 Q. YES?

12 A. THAT'S WHAT WE WERE TRYING TO DO.

13 Q. AND DID YOU TALK TO LYLE ABOUT WHETHER HE

14 WAS GOING TO THE TOURNAMENT?

15 MS. NAJERA: OBJECTION, IRRELEVANT.

16 THE COURT: OVERRULED.

17 THE WITNESS: WELL, YES, OF COURSE.

18 Q. BY MS. TOWERY: DID HE SAY HE WAS GOING TO
19 COME?

20 A. I WAS ASSUMING THAT HE WAS GOING TO BE
21 THERE, YES.

22 Q. DID HE SAY HE WAS GOING TO COME?

23 A. AT SOME POINT HE DID, OR I WOULD NOT HAVE
24 BEEN OBVIOUSLY TRYING TO HELP GET HIM THERE.

25 Q. YOUR ANSWER IS YES, HE SAID HE WAS GOING TO
26 COME?

27 A. HE WAS GOING TO TRY, YES.

28 Q. IS YOUR ANSWER YES?

-26059

1 A. YES.

2 Q. DID YOU TESTIFY AT THE LAST TRIAL THAT IT
3 WAS NOT DEFINITE THAT HE WOULD SHOW UP?

4 A. WELL, AS I JUST STATED, HE WAS GOING TO TRY
5 TO COME, SO --

6 Q. DID YOU TESTIFY AT THE LAST TRIAL THAT IT
7 WAS NOT DEFINITE THAT HE WAS GOING TO SHOW UP?

8 A. I DON'T RECALL. I THINK IT'S STATING THE
9 SAME THING, WHAT I JUST SAID.

10 MS. TOWERY: PAGE 22321.

11 MAY I APPROACH, YOUR HONOR?

12 THE COURT: YES.

13 MS. TOWERY: THANK YOU.

14 Q. LET ME JUST SHOW YOU A TRANSCRIPT OF YOUR
15 TESTIMONY AT THE PREVIOUS TRIAL AND ASK YOU TO READ THE
16 LINE AT THE BOTTOM OF PAGE 22321 AND THE FOLLOWING TWO
17 LINES ON THE NEXT PAGE.

18 A. OKAY. WHAT NUMBER?

19 Q. THE BOTTOM LINE.

20 A. OKAY. OKAY.

21 Q. DOES THAT REFRESH YOUR RECOLLECTION AS TO
22 WHETHER OR NOT YOU SAID THAT IT WAS NOT DEFINITE THAT HE
23 WOULD SHOW UP?

24 A. IT SAID THAT, AND I THINK IT'S --

25 Q. DOES THAT REFRESH YOUR RECOLLECTION?

26 A. YES.

27 Q. DID YOU SAY THAT?

28 A. YES.

-26058

1 Q. DID YOU CALL HIM FROM -- YOU WENT TO THE
2 TOURNAMENT, I ASSUME; IS THAT RIGHT?

3 A. YES, I DID.

4 Q. AND WHEN DID THAT TOURNAMENT TAKE PLACE?

5 A. IT WAS --

6 MS. NAJERA: I AM GOING TO OBJECT UNDER 352.

7 THE COURT: OVERRULED.

8 THE WITNESS: IT WAS A WEEKEND TOURNAMENT. I

9 BELIEVE I GOT THERE FRIDAY, AND IT WAS PROBABLY FRIDAY,

10 SATURDAY AND SUNDAY, OVER THE WEEKEND.

11 Q. AND YOU LEFT ON SUNDAY?

12 A. I BELIEVE I DID.

13 Q. AND THAT WOULD HAVE BEEN AUGUST 20TH, 1989,

14 CORRECT?

15 A. CORRECT.

16 Q. DID YOU EVER CALL HIM TO FIND OUT WHY HE

17 DIDN'T SHOW UP AT THE TOURNAMENT?

18 A. I WAS BUSY PLAYING.

19 Q. IS YOUR ANSWER NO?

20 A. YEAH, NO.

21 Q. YOU DID NOT CALL HIM?

22 A. NO, I DID NOT.

23 Q. AND DID YOU EVER CALL MRS. MENENDEZ TO FIND

24 OUT WHY HE DIDN'T SHOW UP AT THE TOURNAMENT?

25 A. NO, I DID NOT.

26 Q. WHAT EXACTLY WERE YOU GOING TO DO TO

27 ARRANGE FOR LYLE MENENDEZ TO PLAY IN THIS TOURNAMENT?

28 MS. NAJERA: OBJECTION, IRRELEVANT.

-26057

1 THE COURT: OVERRULED.

2 THE WITNESS: WELL, ENTRY BLANKS, THAT TYPE OF
3 THING.

4 Q. BY MS. TOWERY: YOU SENT THE ENTRY FORM TO
5 MRS. MENENDEZ; DIDN'T YOU?

6 A. CORRECT.

7 Q. SO, SHE WAS GOING TO DO THAT; ISN'T THAT
8 RIGHT?

9 A. I WOULD ASSUME SO, YES.

10 Q. WHAT ELSE WERE YOU GOING TO ARRANGE? WERE
11 YOU GOING TO ARRANGE HIS FLIGHT?

12 A. NO, NOT THE FLIGHT, BUT PROBABLY HOUSING UP
13 THERE. THERE WAS A LOT OF DIFFERENT THINGS THAT GO INTO
14 PLAYING IN A TENNIS TOURNAMENT.

15 Q. DID YOU ARRANGE HIS HOUSING?

16 A. I DON'T RECALL. I DO RECALL TALKING TO TED
17 MCBETH, WHO WAS A TOURNAMENT DIRECTOR, AND FINDING OUT
18 INFORMATION ABOUT THE MEN'S TOURNAMENT.

19 Q. DID YOU ARRANGE LYLE MENENDEZ' HOUSING?

20 A. I DON'T RECALL.

21 Q. DO YOU KNOW WHERE HE WAS GOING TO BE
22 STAYING IF HE WENT TO THE TOURNAMENT?

23 A. THEY HAD SEPARATE HOUSING. WE HOUSED WITH
24 DIFFERENT FAMILIES.

25 SO, NO, I DON'T KNOW EXACTLY.

26 Q. YOU DON'T KNOW WHERE HE WAS GOING TO STAY
27 IF HE WENT TO THE TOURNAMENT?

28 A. NO.

1 Q. NOW, YOUR FRIEND KELLY WHO YOU CALLED ON
2 AUGUST 20 -- YOU DID CALL YOUR FRIEND KELLY ON AUGUST
3 20TH, DIDN'T YOU?

4 A. MM-HMM.

5 Q. WAS KELLY HELPING TO ARRANGE THE TOURNAMENT
6 FOR LYLE?

7 A. KELLY WAS ACTUALLY ERIK'S GIRLFRIEND, BUT
8 SHE WAS IN THE TENNIS TOURNAMENT.

9 Q. WAS SHE ERIK'S GIRLFRIEND AT THE TIME?

10 MS. NAJERA: I AM GOING TO OBJECT, NO PERSONAL
11 KNOWLEDGE.

12 THE COURT: SUSTAINED.

13 Q. BY MS. TOWERY: DO YOU KNOW WHETHER KELLY
14 WAS ERIK'S GIRLFRIEND AT THAT TIME ON AUGUST 20TH?

15 A. I DON'T REMEMBER. I DON'T THINK SO. I
16 DON'T KNOW.

17 Q. BUT SHE WAS YOUR FRIEND, CORRECT?

18 A. YEAH.

19 Q. AND WHEN YOU CALLED KELLY, DID YOU CALL HER
20 IN PENNSYLVANIA?

21 MS. NAJERA: OBJECTION, IRRELEVANT.

22 THE COURT: OVERRULED.

23 THE WITNESS: OH, I'M SORRY.

24 Q. BY MS. TOWERY: DID YOU CALL KELLY IN
25 PENNSYLVANIA WHEN YOU USED THE CARD TO CALL HER?

26 A. I MUST HAVE. I DON'T KNOW.

27 Q. THAT WAS WHAT THE PROSECUTION CAME TO ASK
28 YOU ABOUT ON -- IN OCTOBER OF 1992 ABOUT YOUR CALLING

-26055

1 YOUR FRIEND KELLY IN PENNSYLVANIA WITH THE CALLING CARD;
2 IS THAT RIGHT?

3 A. CORRECT.

4 Q. AND THE TOURNAMENT WAS IN VERMONT, RIGHT?

5 A. RIGHT.

6 Q. AND THE TOURNAMENT WAS OVER, WASN'T IT?

7 A. IT WAS.

8 Q. NOW, WHEN YOU TESTIFIED AT THE TRIAL, LYLE
9 MENENDEZ' FORMER ATTORNEY, MISS LANSING, SHOWED YOU
10 PHONE RECORDS?

11 A. MM-HMM.

12 Q. OF MANY, MANY CALLS THAT YOU AND YOUR
13 FAMILY MADE USING THE PHONE CARD AFTER YOU BROKE UP WITH
14 LYLE MENENDEZ IN APRIL OF 1989 AND BEFORE AUGUST 20TH;
15 IS THAT CORRECT?

16 A. YES.

17 Q. DURING THAT ENTIRE PERIOD; IS THAT RIGHT?

18 A. YES.

19 Q. AND THOSE PHONE CALLS WEREN'T TO ARRANGE
20 THE TOURNAMENT IN VERMONT, WERE THEY?

21 A. NO.

22 Q. AND BEFORE MISS LANSING SHOWED YOU THOSE

23 RECORDS AT THE LAST TRIAL, YOU SAID THAT YOU DIDN'T
24 RECALL WHETHER YOU USED THE CARD AFTER YOU BROKE UP WITH
25 LYLE MENENDEZ, DIDN'T YOU?

26 A. I MUST HAVE STATED THAT.

27 Q. DID YOU SAY THAT?

28 A. I MUST HAVE. I DON'T REMEMBER, BUT I GUESS

-26054

1 SO.

2 MS. TOWERY: PAGE 22323.

3 MS. NAJERA: THAT'S FINE.

4 MS. TOWERY: MAY I APPROACH, YOUR HONOR?

5 THE COURT: YES.

6 Q. BY MS. TOWERY: I WILL ASK YOU TO LOOK AT

7 PAGE 22323 OF YOUR PRIOR TESTIMONY, LINES 23 THROUGH 28.

8 A. OKAY.

9 Q. DO YOU NOW RECALL THAT YOU TESTIFIED THAT

10 YOU DID NOT REMEMBER CONTINUING TO USE THE PHONE CARD

11 AFTER YOU BROKE UP WITH LYLE MENENDEZ?

12 A. YES.

13 Q. AND THEN YOU REVIEWED THE PHONE RECORDS,

14 DIDN'T YOU?

15 A. CORRECT.

16 Q. AND THAT'S WHEN YOU SAID THAT LYLE MENENDEZ

17 HAD GIVEN YOU PERMISSION TO USE THE PHONE CARD AT ANY

18 TIME; IS THAT RIGHT?

19 A. YEAH. LIKE I SAID, IT WAS A VERY CASUAL
20 THING, AND HE THREW THE NUMBER AROUND TO NOT ONLY ME,
21 I'M SURE OTHER PEOPLE, TOO.

22 Q. AND YOU SAID THAT HE GAVE YOU PERMISSION TO
23 DO THAT ABOUT A YEAR EARLIER; IS THAT RIGHT?

24 A. I WASN'T DEFINITE, BUT I THINK IT WAS
25 SOMETIME WHEN I WAS IN BIRMINGHAM.

26 Q. DID YOU TESTIFY AT THE LAST TRIAL THAT LYLE
27 HAD GIVEN YOU PERMISSION TO USE THE PHONE CARD A YEAR
28 PRIOR?

-26053

1 A. THAT WOULD HAVE BEEN WHEN I WAS IN
2 BIRMINGHAM, YES.

3 Q. YOU WERE IN BIRMINGHAM IN 1988?

4 A. WELL, ALL OF -- WELL, ACTUALLY 1987. ALL
5 OF 1987.

6 Q. AND YOU WERE USING THE PHONE CARD DURING
7 APRIL TO AUGUST OF 1990; IS THAT CORRECT?

8 MS. NAJERA: OBJECTION, IRRELEVANT.

9 THE COURT: OVERRULED.

10 THE WITNESS: CAN YOU REPEAT THOSE DATES?

11 Q. BY MS. TOWERY: YOU WERE USING THE PHONE
12 CARD BETWEEN APRIL OF 1989 AND AUGUST OF 1989; IS THAT
13 RIGHT?

14 A. I BELIEVE THOSE PHONE RECORDS SHOWED THAT I

15 USED IT A FEW TIMES.

16 Q. AND YOU TESTIFIED THAT LYLE HAD GIVEN YOU
17 PERMISSION A YEAR PRIOR; IS THAT CORRECT?

18 A. MM-HMM, MM-HMM.

19 MS. NAJERA: OBJECTION. ASKED AND ANSWERED.

20 THE COURT: OVERRULED.

21 Q. BY MS. TOWERY: YOU ALSO TESTIFIED THAT
22 AFTER YOU WERE SHOWN THE PHONE RECORDS YOU ALSO
23 TESTIFIED THAT YOU MAY HAVE USED IT DURING THE BREAK UP
24 IF YOU TALKED TO HIM SOMETIMES THAT SUMMER; IS THAT
25 RIGHT?

26 A. YES, POSSIBLY.

27 Q. YOU ALSO TESTIFIED THAT HE GAVE THAT CARD
28 TO BOTH YOU AND YOUR SISTERS TO SAY, YOU KNOW, "IF YOU

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1 WANT TO CALL YOUR MOM, MY MOM".

2 DID YOU TESTIFY TO THAT EFFECT?

3 MS. NAJERA: I AM GOING TO OBJECT TO ANYTHING SHE
4 TESTIFIED TO AS HEARSAY WITHOUT A PROPER FOUNDATION.

5 THE COURT: SUSTAINED TO THE QUESTION.

6 Q. BY MS. TOWERY: YOUR TESTIMONY REGARDING
7 THE PHONE CALL YESTERDAY WAS THAT YOU WERE PERMITTED TO
8 USE THIS PHONE CARD, AS WERE YOUR SISTERS, ON A CASUAL
9 BASIS; IS THAT RIGHT?

10 A. CORRECT.

11 MS. NAJERA: I WOULD OBJECT TO ANY QUESTION AS TO
12 THE TESTIMONY WITHOUT A PROPER FOUNDATION.

13 THE COURT: OVERRULED. THE ANSWER WILL STAND.

14 Q. BY MS. TOWERY: AND THERE WERE PHONE CALLS
15 IN THE RECORDS THAT WERE SHOWN TO YOU AT THE PREVIOUS
16 TRIAL FROM YOUR SISTERS TO THEIR FRIENDS; IS THAT RIGHT?

17 MS. NAJERA: OBJECTION, IRRELEVANT WHAT HER
18 SISTERS DID.

19 THE COURT: OVERRULED.

20 THE WITNESS: I REALLY DON'T KNOW WHO THEY
21 CALLED. I DON'T KNOW IF THEY WERE FRIENDS. I DON'T
22 KNOW.

23 Q. BY MS. TOWERY: YOU SAW RECORDS OF PHONE
24 CALLS TO PEOPLE WHO WERE FRIENDS OF YOUR SISTERS; IS
25 THAT RIGHT, WHOSE NAMES YOU RECOGNIZED?

26 A. YEAH. I THINK I RECOGNIZED THE CITIES, NOT
27 NECESSARILY THE NAMES.

28 Q. DID YOU RECOGNIZE THE NAME OF IKE GROSSE OR

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1 GROSSE?

2 A. YES, I DID.

3 Q. AND THAT'S A FRIEND OF YOUR SISTER'S,
4 CORRECT?

5 MS. NAJERA: OBJECTION, YOUR HONOR.

6 THE COURT: OVERRULED.

7 THE WITNESS: MM-HMM.

8 Q. BY MS. TOWERY: YES?

9 A. YES.

10 Q. AND THERE WERE PHONE CALLS MADE TO THAT

11 PERSON, CORRECT?

12 A. YES.

13 Q. AND THERE WERE ALSO PHONE CALLS IN THE

14 RECORDS FROM ALL OF YOU; YOU AND YOUR SISTERS TO YOUR

15 FATHER, CORRECT?

16 A. I BELIEVE SO.

17 MS. NAJERA: I OBJECT TO ANYTHING IN THE RECORDS

18 AS HEARSAY.

19 THE COURT: OVERRULED.

20 THE WITNESS: I BELIEVE SO, YES.

21 Q. BY MS. TOWERY: AND THERE WERE ALSO PHONE

22 CALLS IN THE RECORDS THAT YOU REVIEWED FROM YOU AND YOUR

23 SISTERS TO YOUR MOTHER; IS THAT RIGHT?

24 A. MM-HMM.

25 Q. AND THERE WERE PHONE CALLS FROM YOU OR YOUR

26 SISTERS TO YOUR MOTHER'S HOME IN PITTSBURGH; IS THAT

27 RIGHT?

28 A. I BELIEVE SO.

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1 Q. AND THERE WERE ALSO PHONE CALLS TO YOUR

2 MOTHER'S PLACE OF BUSINESS; IS THAT RIGHT?

3 A. I --

4 MS. NAJERA: I AM GOING TO OBJECT. VAGUE AS TO
5 TIME.

6 THE COURT: SUSTAINED.

7 Q. BY MS. TOWERY: DURING THE TIME FRAME THAT
8 I AM TALKING ABOUT IS THE TIME FRAME BETWEEN APRIL OF
9 1989 THAT YOU -- WHEN YOU BROKE UP WITH LYLE MENENDEZ
10 AND AUGUST 20TH OF 1989.

11 DO YOU UNDERSTAND THAT?

12 A. YES.

13 Q. AND THERE WERE PHONE CALLS TO YOUR MOTHER'S
14 PLACE OF BUSINESS DURING THAT TIME; IS THAT CORRECT?

15 A. I THINK SO, YES.

16 Q. AND WHERE DOES YOUR MOTHER WORK?

17 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT.
18 DOESN'T TIE INTO THIS WITNESS.

19 THE COURT: SUSTAINED.

20 Q. BY MS. TOWERY: THERE WERE ALSO PHONE
21 CALLS -- QUITE A NUMBER OF PHONE CALLS TO A MAN NAMED
22 RICHARD GARRETT; IS THAT RIGHT?

23 A. YES.

24 MS. NAJERA: I AM GOING TO OBJECT AS IRRELEVANT
25 AS TO NO FOUNDATION AS TO THIS WITNESS.

26 THE COURT: OVERRULED.

27 THE WITNESS: YES.

28 Q. BY MS. TOWERY: AND WHEN YOU TESTIFIED AT

1 THE PREVIOUS TRIAL ABOUT THESE PHONE RECORDS, YOU SAID
2 THAT YOU DIDN'T RECOGNIZE THAT NAME, DIDN'T YOU?

3 A. WELL, ON THE PHONE RECORDS IT SAID RICHARD
4 GARRETT, AND HE DIDN'T GO BY RICHARD.

5 Q. YOU SAID THAT YOU DIDN'T RECOGNIZE THE NAME
6 RICHARD GARRETT; IS THAT RIGHT?

7 A. NOT AS RICHARD GARRETT, NO.

8 Q. AND YOU HAD TO BE REMINDED THAT RICHARD
9 GARRETT WAS YOUR ROOMMATE AT MERCER COLLEGE, DIDN'T YOU?

10 A. HE WASN'T MY ROOMMATE AT MERCER COLLEGE,
11 NO.

12 Q. HE WAS NOT YOUR ROOMMATE AT MERCER COLLEGE?

13 A. NO, HE WASN'T. HE WAS MY ROOMMATE -- I
14 RENTED A ROOM FROM HIM IN LAURENCEVILLE. HE DIDN'T GO
15 TO COLLEGE.

16 Q. READING FROM THE TRANSCRIPT AT PAGE 22329,
17 YOUR HONOR, LINES 11 THROUGH 21.

18 MAY I?

19 "Q. WE HAVE A CALL TO
20 SOMEONE NAMED RICHARD GARRETT.

21 WHO IS RICHARD GARRETT?

22 "A. RICHARD GARRETT
23 FROM BIRMINGHAM?

24 "Q. WHO IS RICHARD
25 GARRETT?

26 "A. I DON'T REMEMBER.
27 I DON'T KNOW.

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1 WAS YOUR ROOMMATE WHEN YOU WERE
2 ATTENDING MERCER COLLEGE, DO YOU
3 REMEMBER THAT?

4 "A. RICK, YES.

5 "Q. THAT RICHARD
6 GARRETT?

7 "A. YES, HE WAS A
8 ROOMMATE."

9 WAS THAT YOUR TESTIMONY?

10 A. WELL, YES. BUT YOU JUST ASKED ME IF HE WAS
11 MY COLLEGE ROOMMATE. I WAS ATTENDING SOME CLASSES AT
12 MERCER. HE NEVER WENT TO MERCER COLLEGE. I AM SORRY, I
13 MISUNDERSTOOD.

14 I RENTED A ROOM FROM HIM -- I ACTUALLY MET
15 HIM AT THE RESTAURANT. HE WAS AN EMPLOYEE AT THE
16 RESTAURANT WHERE I WORKED.

17 Q. AND YOU WERE SHOWN RECORDS THAT HAD AS MANY
18 AS ELEVEN LONG DISTANCE CALLS PER DAY ON THE CARD THAT
19 YOU WERE PROVIDED BY YOU AND YOUR FAMILY MEMBERS; ISN'T
20 THAT RIGHT?

21 MS. NAJERA: YOUR HONOR, I AM GOING TO OBJECT TO
22 ANYTHING ABOUT ANY RECORDS, THE CONTENTS THEREOF AS
23 HEARSAY.

24 THE COURT: OVERRULED.
25 Q. BY MS. TOWERY: IS THAT RIGHT?
26 A. I GUESS SO, YES.
27 Q. AND YOU SAID THAT YOU DIDN'T KNOW THAT IT
28 WAS A MENENDEZ FAMILY PHONE CARD THAT YOU WERE USING; IS

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1 THAT RIGHT?
2 A. YES, I DID. AS I STATED, LYLE SAID IT WAS
3 A WATTS LINE OF SOME KIND.
4 Q. AND DO YOU THINK THAT NO ONE PAYS FOR A
5 WATTS LINE?
6 MS. NAJERA: OBJECTION, ARGUMENTATIVE.
7 THE COURT: OVERRULED.
8 THE WITNESS: I GUESS AT THE TIME I REALLY WASN'T
9 THINKING ABOUT IT.
10 Q. BY MS. TOWERY: DID YOU THINK THAT THIS WAS
11 JUST SOMETHING THAT PEOPLE COULD MAKE FREE LONG DISTANCE
12 TELEPHONE CALLS ON?
13 A. I DON'T KNOW.
14 Q. YOU NEVER OFFERED TO PAY FOR THE CALLS THAT
15 YOU MADE, DID YOU?
16 A. NO, I DID NOT.
17 Q. AND YOU NEVER DID PAY FOR THE CALLS THAT
18 YOU MADE, DID YOU?
19 A. I GUESS I WAS NEVER GIVEN A BILL.

20 Q. NO ONE EVER ASKED YOU TO PAY FOR THE CALLS?
21 A. NO, THEY DID NOT.
22 Q. NOW, IN YOUR TESTIMONY YESTERDAY YOU SAID
23 THAT LYLE GAVE YOU THIS CARD FOR YOU AND YOUR SISTERS TO
24 USE ON A CASUAL BASIS; ISN'T THAT RIGHT?
25 A. MM-HMM, YES.
26 Q. AND YOU PREVIOUSLY TESTIFIED THAT LYLE
27 MENENDEZ USED THE CARD ON A CASUAL BASIS, DIDN'T YOU?
28 A. THAT'S THE ONLY WAY I EVER SAW LYLE MAKE A

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1 PHONE CALL WAS WITH THE PHONE CARD OR WITH THAT NUMBER.
2 Q. ALWAYS USED A PHONE CARD OR THAT PHONE
3 CARD; IS THAT RIGHT?
4 A. I AM ASSUMING IT WAS THAT PHONE CARD. I
5 DON'T KNOW FOR SURE.
6 Q. AND YOU USED IT ON A CASUAL BASIS; IS THAT
7 CORRECT?
8 A. YES, IT IS.
9 Q. NOW, FIRST YOU TOLD THE PROSECUTORS THAT
10 YOU DIDN'T THINK YOU USED THE CARD; IS THAT RIGHT, WHEN
11 THEY FIRST CAME TO YOUR HOUSE?
12 A. WELL --
13 Q. YES OR NO?
14 MS. NAJERA: OKAY. I AM GOING OBJECT, YOUR
15 HONOR. I BELIEVE THE WITNESS IS TRYING TO ANSWER THE

16 QUESTION.

17 THE COURT: WELL, IT COULD BE ANSWERED YES OR NO.

18 THE WITNESS: I -- CAN YOU PLEASE RESTATE THE
19 QUESTION?

20 Q. BY MS. TOWERY: WHEN THE PROSECUTORS FIRST
21 CAME TO YOUR HOUSE AND ASKED YOU ABOUT THE PHONE CALL TO
22 KELLY IN PENNSYLVANIA --

23 A. MM-HMM.

24 Q. YOU SAID THAT YOU DIDN'T THINK YOU USED THE
25 CARD, BECAUSE AT THE TIME OF THE HOMICIDES YOU WEREN'T
26 SEEING LYLE; ISN'T THAT WHAT YOU SAID?

27 A. IT IS.

28 Q. AND THEN LATER, A MONTH LATER YOU SAID YOU

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1 HAD THOUGHT ABOUT IT, AND YOU DID USE THE CARD BECAUSE
2 MRS. MENENDEZ HAD GIVEN YOU PERMISSION TO USE THE CARD
3 TO ARRANGE FOR THE TOURNAMENT IN VERMONT; ISN'T THAT
4 RIGHT?

5 A. CORRECT.

6 Q. AND THEN AFTER YOU WERE CONFRONTED WITH
7 PHONE RECORDS SHOWING USE OF THE CARD BY YOU AND YOUR
8 FAMILY FOR THAT ENTIRE PERIOD, AS MANY AS ELEVEN TIMES A
9 DAY, THAT'S WHEN YOU SAID THAT LYLE MENENDEZ SAID YOU
10 COULD USE THAT CARD AT ANY TIME; IS THAT RIGHT?

11 A. YES, IT IS.

12 Q. AND THE FIRST TIME YOU DESCRIBED IT AS A
13 WATTS LINE WAS WHEN YOU TALKED TO THE PROSECUTORS ON
14 OCTOBER 12TH, 1995; ISN'T THAT CORRECT?

15 MS. NAJERA: I AM GOING TO OBJECT UNDER 352, YOUR
16 HONOR.

17 THE COURT: OVERRULED.

18 THE WITNESS: WELL, I HAD A LONG TIME TO THINK
19 ABOUT IT, AND YEAH.

20 Q. BY MS. TOWERY: YOU DID HAVE A LONG TIME TO
21 THINK ABOUT IT, DIDN'T YOU?

22 A. YES.

23 Q. SO, THE FIRST TIME YOU DESCRIBED IT AS A
24 WATTS LINE WAS TWO WEEKS AGO WHEN YOU TALKED TO THESE
25 PROSECUTORS; IS THAT CORRECT?

26 A. WELL, IT WAS THE FIRST TIME THAT IT WAS
27 ASKED OF ME, AND AFTER BEING ABLE TO REVIEW MY
28 TESTIMONY.

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1 Q. WEREN'T YOU ASKED ABOUT THIS PHONE CARD AND
2 USE OF THIS PHONE CARD EXTENSIVELY AT THE LAST TRIAL?

3 A. YES.

4 Q. AND YOU NEVER SAID ANYTHING ABOUT A WATTS
5 LINE, DID YOU?

6 A. NO. NOT AT THAT TIME, NO.

7 Q. AND DIDN'T YOU USE THIS CARD AFTER YOU

8 BROKE UP WITH LYLE MENENDEZ BECAUSE YOU THOUGHT THAT THE
9 MENENDEZ FAMILY WAS RICH AND IT DIDN'T MATTER?

10 A. NO.

11 Q. DIDN'T YOU USE THE CARD BECAUSE YOU THOUGHT
12 NO ONE WOULD NOTICE?

13 A. I THINK I EXPLAINED WHY I USED THE CARD.

14 Q. IS YOUR ANSWER YES OR NO?

15 A. CAN YOU RESTATE QUESTION?

16 Q. DIDN'T YOU USE THE CARD BECAUSE YOU THOUGHT
17 THAT NO ONE WOULD NOTICE?

18 A. NO.

19 Q. NO ONE DID NOTICE THAT YOU WERE USING THE
20 CARD UNTIL THE POLICE CAME AND ASKED YOU ABOUT YOUR
21 PHONE CALL TO KELLY, DID THEY?

22 A. I DON'T KNOW THAT. I DON'T KNOW IF MR. OR
23 MRS. MENENDEZ KNEW. I REALLY DON'T KNOW.

24 Q. NO ONE ASKED YOU TO PAY FOR THE CALLS THAT
25 YOU WERE MAKING; IS THAT RIGHT?

26 A. THAT'S CORRECT. THAT'S CORRECT.

27 Q. NOR TO PAY FOR THE CALLS THAT MEMBERS OF
28 YOUR FAMILY WERE MAKING; IS THAT RIGHT?

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1 A. THAT'S CORRECT.

2 Q. NOW, YOU SAID HERE TODAY THAT YOU AND LYLE
3 MENENDEZ CONTINUED DATING AFTER YOU BROKE UP WITH HIM IN

4 APRIL OF 1989; IS THAT RIGHT?

5 A. I THINK I STATED THAT, YOU KNOW, WE SAW
6 EACH OTHER.

7 Q. DIDN'T YOU SAY THAT YOU CONTINUED DATING?

8 A. AND AS WELL AS DATING OTHER PEOPLE. SO, IT
9 WASN'T EXCLUSIVE.

10 Q. OKAY.

11 WHEN YOU TESTIFIED AT THE PREVIOUS TRIAL
12 DIDN'T YOU SAY THAT YOU AND LYLE MENENDEZ WERE NOT GOING
13 TOGETHER AFTER THE BREAK UP, YOU WERE JUST FRIENDLY?

14 A. YEAH, PROBABLY.

15 Q. AND NOW YOU'RE SAYING THAT YOU WERE DATING
16 HIM DURING THAT SUMMER BECAUSE YOU USED THE CARD AFTER
17 YOU BROKE UP WITH HIM; IS THAT RIGHT?

18 A. WELL, WE SAW EACH OTHER. LIKE I SAID, HE
19 CAME TO SEE ME. AND SO YEAH, WE WERE FRIENDLY.

20 Q. MY QUESTION IS YOU ARE NOW SAYING THAT YOU
21 CONTINUED DATING LYLE MENENDEZ AFTER YOU BROKE YOUR
22 ENGAGEMENT WITH HIM BECAUSE YOU CONTINUED TO USE THAT
23 CARD; ISN'T THAT RIGHT?

24 A. NO, IT WAS BECAUSE I HAD TIME THINK ABOUT
25 THOSE QUESTIONS THAT I WAS ASKED LAST TIME ON THE STAND.
26 IT WAS THE FIRST TIME I WAS EVER ASKED THOSE QUESTIONS.

27 Q. AND YOU HAD TIME TO BE CONFRONTED WITH
28 RECORDS SHOWING YOU JUST HOW MUCH YOU DID USE THE CARD;

1 ISN'T THAT RIGHT?

2 MS. NAJERA: OBJECTION, ARGUMENTATIVE.

3 THE COURT: OVERRULED.

4 THE WITNESS: WELL, IF YOU LOOK AT THOSE CARDS --

5 I MEAN, I DON'T REALLY KNOW HOW MANY TIMES I USED THE

6 CARD, YOU KNOW. AND AS FAR AS I AM CONCERNED, IT WAS

7 LYLE'S RESPONSIBILITY TO TELL WHOEVER HE GAVE THAT CARD

8 TO NOT TO USE IT.

9 Q. INCLUDING YOU?

10 A. YES.

11 Q. SO, AS FAR AS YOU WERE CONCERNED, YOU COULD

12 USE IT UNTIL HE SAID STOP USING IT; IS THAT RIGHT?

13 A. WELL, I DON'T REALLY THINK THAT I USED THE

14 CARD ALL THAT MANY TIMES, TO TELL YOU THE TRUTH. IT WAS

15 SEVERAL TIMES. IT WAS MY MISTAKE TO USE THE CARD

16 OBVIOUSLY.

17 Q. AND AFTER YOU BROKE UP WITH LYLE IN APRIL

18 OF 1989, HE STARTED DATING A WOMAN NAMED CHRISTY, DIDN'T

19 HE?

20 MS. NAJERA: OBJECTION. NO FOUNDATION.

21 THE COURT: SUSTAINED.

22 Q. BY MS. TOWERY: DID HE TELL YOU HE WAS

23 DATING A WOMAN NAMED CHRISTY AFTER YOU BROKE UP WITH

24 HIM?

25 MS. NAJERA: OBJECTION, HEARSAY.

26 THE COURT: SUSTAINED.

27 Q. BY MS. TOWERY: AND YOUR RECOLLECTION

28 REGARDING THE AGREEMENT THAT YOU HAD WITH LYLE MENENDEZ

1 AS WELL AS YOUR FAMILY HAS GOTTEN BETTER OVER THE YEARS,
2 HASN'T IT?

3 A. CAN YOU RESTATE THAT?

4 Q. YOUR RECOLLECTION AS TO WHAT WAS DISCUSSED
5 ABOUT THIS CALLING CARD BETWEEN YOU AND LYLE MENENDEZ
6 HAS IMPROVED SINCE 1992, HASN'T IT?

7 MS. NAJERA: OBJECTION, ARGUMENTATIVE.

8 THE COURT: AS PHRASED IT IS.

9 Q. BY MS. TOWERY: YOU SAID THAT YOU HAVE GONE
10 BACK OVER YOUR TESTIMONY AND NOW YOU REMEMBER THINGS; IS
11 THAT RIGHT?

12 MS. NAJERA: OBJECTION, MISSTATES THE TESTIMONY.

13 THE COURT: OVERRULED.

14 THE WITNESS: WELL, THAT'S PRETTY OBVIOUS THAT
15 THAT'S -- YOU KNOW, WHEN YOU GO OVER TESTIMONY YOU'RE
16 GOING TO REMEMBER.

17 Q. BY MS. TOWERY: THAT'S A YES?

18 A. YES.

19 Q. SO, YOUR RECOLLECTION IS BETTER NOW THAN IT
20 WAS IN 1992 WHEN YOU FIRST STARTED TALKING ABOUT YOUR
21 USE OF THE CARD; IS THAT RIGHT?

22 A. WELL, I'VE HAD TIME TO REVIEW. SO, YES.

23 Q. NOW, YOU MET WITH THE PROSECUTORS FOR THE
24 FIRST TIME IN OCTOBER OF 1992; IS THAT RIGHT, AT YOUR
25 HOUSE?

26 A. YES, WHEN THEY CAME TO MY HOUSE.
27 Q. AND YOU GAVE THE SWORN STATEMENT A MONTH
28 LATER IN 1992; IS THAT RIGHT?

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1 A. YES.
2 Q. AND THEN IN NOVEMBER OF 1993 YOU MET WITH
3 DETECTIVE ZOELLER AGAIN AND GAVE HIM ANOTHER STATEMENT;
4 IS THAT RIGHT?
5 A. NOVEMBER 1993?
6 Q. YES.
7 A. YEAH, I GUESS.
8 Q. AND THEN YOU TESTIFIED FOR THE PROSECUTION
9 AT THE PREVIOUS TRIAL, CORRECT?
10 A. CORRECT.
11 Q. AND YOU MET WITH THE CURRENT PROSECUTORS ON
12 OCTOBER 12TH, 1995; IS THAT CORRECT?
13 A. YES.
14 Q. AND DURING THAT ENTIRE PERIOD OF TIME YOU
15 REFUSED TO MEET WITH THE DEFENSE, DIDN'T YOU?
16 A. THEY NEVER -- I GOT A LETTER ASKING IF I
17 WOULD MEET WITH THEM, BUT NO ONE EVER CONTACTED ME, I
18 DON'T THINK.
19 Q. YOU RECEIVED A LETTER ASKING YOU TO MEET
20 WITH THE DEFENSE?
21 A. WELL, I RECEIVED A LETTER FROM JILL LANSING

22 ASKING TO -- IF I WOULD MEET WITH HER, BUT NO ONE SHOWED
23 UP ON MY FRONT DOOR LIKE THE PROSECUTION DID. I AM SURE
24 I WOULD HAVE ANSWERED THEIR QUESTIONS HAD THEY.

25 Q. OKAY.

26 I HAVE A DOCUMENT, YOUR HONOR, THAT I'D
27 LIKE TO MARK AS -- IS IT 161?

28 THE COURT: 162.

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1 MS. TOWERY: 162. THANK YOU.

2 MAY I APPROACH, YOUR HONOR?

3 THE COURT: YES.

4 Q. BY MS. TOWERY: I AM SHOWING YOU A LETTER,
5 MISS PISARCIK, DATED SEPTEMBER 25, 1992 AND ADDRESSED TO
6 YOU FROM JILL LANSING.

7 A. MM-HMM.

8 Q. IS THAT THE LETTER THAT YOU'RE TALKING
9 ABOUT?

10 A. IT IS.

11 Q. AND YOU DID RECEIVE THAT LETTER, CORRECT?

12 A. YES, I DID.

13 Q. AND YOU RECEIVED IT -- IT'S DATED SEPTEMBER
14 25, 1992.

15 YOU RECEIVED IT SHORTLY THEREAFTER?

16 MS. NAJERA: OBJECT TO ANY REFERENCE TO THE
17 CONTENT AS HEARSAY, PARTICULARLY THE DATE.

18 THE COURT: THERE HASN'T BEEN ANY REPRESENTATION
19 AS TO THE CONTENTS YET.

20 MS. NAJERA: I BELIEVE THE DATE IS WHAT I AM
21 TALKING ABOUT, YOUR HONOR.

22 THE COURT: SHE SAID SHE RECEIVED IT, SO
23 OVERRULED.

24 Q. BY MS. TOWERY: YOU RECEIVED IT SHORTLY
25 AFTER THE DATE OF THE LETTER?

26 A. I BELIEVE SO. I DON'T REMEMBER WHEN I
27 RECEIVED IT.

28 MS. NAJERA: OBJECTION. MOTION TO STRIKE, NO

-26038

1 FOUNDATION.

2 THE COURT: OVERRULED.

3 Q. BY MS. TOWERY: AND THIS WAS THE LETTER IN
4 WHICH YOU WERE REFERRING TO IN WHICH YOU RECEIVED A
5 REQUEST FROM THE DEFENSE TO MEET WITH YOU; IS THAT
6 RIGHT?

7 A. YES.

8 Q. AND MISS LANSING WROTE YOU A PAGE AND A
9 HALF LETTER INDICATING THAT SHE WOULD LIKE TO MEET WITH
10 YOU REGARDLESS OF YOUR FEELINGS ABOUT THE -- ABOUT LYLE
11 OR THE DEFENSE; IS THAT RIGHT?

12 MS. NAJERA: I WOULD OBJECT TO WHAT MISS LANSING
13 WROTE IN THE LETTER AS HEARSAY.

14 THE COURT: SUSTAINED.

15 Q. BY MS. TOWERY: BUT NO ONE EVER FOLLOWED UP
16 ON THAT LETTER; IS THAT YOUR TESTIMONY?

17 MS. NAJERA: I WOULD OBJECT. THAT ASSUMES A FACT
18 NOT IN EVIDENCE. I BELIEVE THE PREVIOUS ANSWER WAS
19 SUSTAINED.

20 THE COURT: OVERRULED.

21 THE WITNESS: WELL, NO. NO ONE SHOWED UP ON MY
22 DOORSTEP, LIKE I SAID. NO ONE CALLED ME.

23 Q. BY MS. TOWERY: YOU RESPONDED TO THAT
24 LETTER, DIDN'T YOU?

25 A. YES. I SAID THAT I DIDN'T WANT TO HAVE
26 ANYTHING TO DO WITH THE CASE, AS I DIDN'T.

27 Q. WELL, I HAVE A DOCUMENT THAT I WOULD ASK TO
28 MARK NEXT IN ORDER, 163, YOUR HONOR.

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1 THE COURT: 163.

2 MS. TOWERY: THANK YOU.

3 MAY I APPROACH, YOUR HONOR?

4 THE COURT: YES.

5 Q. BY MS. TOWERY: SHOWING YOU A HANDWRITTEN
6 SINGLE PAGE LETTER DATED OCTOBER 11, 1992.

7 DO YOU RECOGNIZE THAT DOCUMENT?

8 A. YES.

9 Q. IS THAT A DOCUMENT THAT YOU SENT BACK TO

10 MISS LANSING?

11 A. YES.

12 Q. WOULD YOU READ IT, PLEASE.

13 MS. NAJERA: OBJECTION. CALLS FOR HEARSAY.

14 THE COURT: WHAT'S THE DATE ON THIS LETTER?

15 MS. TOWERY: OCTOBER 11, 1992.

16 THE WITNESS: ELEVEN.

17 THE COURT: WHAT WAS THE DATE ON THE LETTER?

18 MS. TOWERY: SEPTEMBER 25, 1992.

19 THE COURT: ALL RIGHT.

20 YOUR OBJECTION IS WHAT?

21 MS. NAJERA: IT'S HEARSAY, YOUR HONOR.

22 THE COURT: ALL RIGHT. LET ME SEE THE LETTER,

23 PLEASE.

24 OKAY. YOU MAY READ IT.

25 Q. BY MS. TOWERY: WOULD YOU READ IT, PLEASE.

26 THE WITNESS: (READING)

27 "JILL, I AM IN RECEIPT

28 OF YOUR LETTER DATED SEPTEMBER 25TH,

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1 1992. I APPRECIATE YOUR CONCERN FOR

2 MY WELL-BEING, AND I APPRECIATE YOUR

3 UNDERSTANDING THAT I DO NOT WISH TO

4 BE INVOLVED IN THE MENENDEZ CASE.

5 I HAVE NOT BEEN IN

6 CONTACT WITH LYLE OR ANYONE IN THE
7 MENENDEZ FAMILY FOR ONE AND A HALF
8 YEARS, AND DO NOT WISH TO BE.

9 IT IS ENCOURAGING TO
10 KNOW THAT YOU WILL NEVER PUT ME ON
11 THE WITNESS STAND AGAINST MY WISHES.
12 I WILL NOT MEET WITH ANYONE REGARDING
13 THIS CASE VOLUNTARILY.

14 IT IS OF NO CONCERN TO
15 ME WHETHER THIS IS A CAPITAL TRIAL OR
16 ANY OTHER. I DO NOT WISH TO BE
17 INVOLVED.

18 SINCERELY, JAMIE
19 PISARCIK."

20 MS. TOWERY: THANK YOU.

21 I HAVE NO FURTHER QUESTIONS, YOUR HONOR.
22 THE COURT: ALL RIGHT.

23 HOW LONG IS YOUR REDIRECT?

24 MS. NAJERA: I'D SAY ABOUT 40 MINUTES, YOUR
25 HONOR.

26 THE COURT: OKAY.

27 ALL RIGHT. WE WILL BE IN RECESS UNTIL
28 TOMORROW MORNING AT 8:30.

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1 DON'T DISCUSS THIS CASE WITH ANYONE. DON'T

2 LOOK AT ANY OF THE NEWS COVERAGE ABOUT THE MATTER.
3 DON'T SPEAK WITH ANYBODY ABOUT IT IN ANY FORM
4 WHATSOEVER. DON'T FORM ANY FINAL OPINIONS ABOUT THE
5 CASE.

6 THERE HAS BEEN REFERENCE TO A MOVIE DURING
7 THE EXAMINATION OF THIS WITNESS. IT'S VERY IMPORTANT
8 THAT YOU NOT GO OUT AND LOOK AT THAT MOVIE. DON'T RENT
9 IT, DON'T LOOK AT IT. YOUR DECISION IN THIS CASE IS
10 BASED ON THE EVIDENCE YOU SEE HERE IN THE COURTROOM AND
11 NOT ANYTHING OUTSIDE THE COURTROOM, SO YOU ARE NOT TO GO
12 OUT AND DO ANY INVESTIGATING ON YOUR OWN. IT WOULD BE
13 IMPROPER FOR YOU TO DO THAT.

14 ALL RIGHT. WE WILL SEE YOU ALL BACK HERE
15 TOMORROW AT 8:30.

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

18

19 THE COURT: WE WILL BE IN RECESS UNTIL TOMORROW
20 MORNING.

21 MR. CONN: THERE IS ONE THING I WANTED TO PUT ON
22 THE RECORD.

23 THE COURT: YES.

24 MR. CONN: YES. I JUST WANTED TO JUST ADVISE THE
25 COURT OF THE DEVELOPMENTS IN REGARD TO THE EXPERT
26 WITNESSES IN THIS CASE.

27 THE COURT ASKED ME TO INTERVIEW DR.
28 LAWRENCE AND TO DETERMINE WHETHER IN FACT I BELIEVE HE

1 CAN LAY THE FOUNDATION NECESSARY FOR THE INTRODUCTION OF
2 THE TESTIMONY OF ROGER MCCARTHY, AND I DID HAVE A
3 CONVERSATION WITH HIM, AND I AM SATISFIED THAT HE CAN
4 LAY THAT FOUNDATION, AND I WILL PROVIDE -- I WILL
5 DISCUSS WITH COUNSEL THE VARIOUS STATEMENTS THAT HE MADE
6 TO ME CONCERNING THAT ISSUE.

7 THE OTHER THING I WANTED TO PUT ON THE
8 RECORD IS IN REGARD TO THE MANNER IN WHICH WE ARE GOING
9 TO BE PRESENTING THIS EVIDENCE.

10 INITIALLY WE HAD INDICATED THAT WE WOULD
11 PREFER TO DO IT THROUGH MR. MCCARTHY'S COMPUTER. AS I
12 SUSPECTED, I DON'T THINK MR. MCCARTHY PARTICULARLY WANTS
13 TO LEAVE HIS COMPUTER.

14 MS. ABRAMSON: HE DOESN'T HAVE TO. WE DON'T NEED
15 HIS COMPUTER.

16 MR. CONN: WE WILL NEVERTHELESS PRESENT THE
17 EVIDENCE THROUGH PHYSICAL EXHIBITS, THROUGH PHOTOGRAPHS
18 AND ILLUSTRATIONS RATHER THAN USING THE COMPUTER ITSELF.

19 MS. ABRAMSON: WELL, I NEED TO SEE THEN WHAT IT
20 IS, HOW THEY'RE GOING TO DO IT.

21 MR. CONN: IT IS THE SAME THING WE HAVE ALREADY
22 GONE OVER. WE JUST HAVE HARD COPIES OF IT NOW INSTEAD
23 OF DOING IT THROUGH THE COMPUTER.

24 THE BAILIFF: ARE YOU READY JUDGE?

25 THE COURT: YES.

26 THE BAILIFF: JURORS ARE WALKING THROUGH.

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1 MS. ABRAMSON: YOUR HONOR, RATHER THAN HAVE
2 COUNSEL MAKE STATEMENTS TO ME OVER WHICH, AS WE KNOW,
3 PEOPLE CAN DIFFER, I WOULD LIKE HIM TO JUST WRITE DOWN
4 WHAT IT IS BY WAY OF DISCOVERY DR. LAWRENCE IS GOING TO
5 SAY THAT COUNSEL BELIEVES SUPPORTS DR. MCCARTHY'S
6 THEORIES. I DON'T WANT TO GET INTO A SPITTING CONTEST
7 ABOUT HOW THINGS WERE PHRASED OR WHAT MR. CONN SAID, AND
8 IT WOULD BE USELESS FOR ME TO USE ANYTHING WITH DR.
9 LAWRENCE. FOR EXAMPLE, IF DR. LAWRENCE TESTIFIES TO
10 WHAT MR. CONN SAYS VERSUS WHAT HE TOLD ME, I NEED -- OR
11 TO WHAT HE TOLD ME VERSUS WHAT HE TOLD MR. CONN, I STILL
12 THINK IT'S BEST IF MR. CONN GIVES ME NOTES IN WRITING.

13 I AM NOT DOING THAT IN ORDER TO DELAY THE
14 RECEIPT OF DISCOVERY, I JUST DON'T FIND IT'S AS USEFUL
15 IN VERBAL FORM, UNLESS HE WANTS TO RECITE IT ON THE
16 RECORD SO THERE IS A WRITING I CAN USE.

17 THE COURT: I DON'T CARE HOW YOU DO IT. IF YOU
18 WANT TO PUT IT IN WRITING, THAT'S FINE, OR YOU CAN EACH
19 SIT THERE WITH YOUR OWN TAPE RECORDER AND TAPE RECORD
20 IT, AND HAVE A THIRD TAPE RECORDER FOR GOOD MEASURE.
21 BUT I DON'T THINK YOU NEED TO PUT IT ON THE RECORD.

22 MS. ABRAMSON: I JUST WANT TO PUT SOMETHING IN

23 WRITING.

24 MR. CONN: I WILL PUT IT IN WRITING.

25 MS. ABRAMSON: GOOD, AND TOMORROW SOMETIME WE
26 SHOULD TALK ABOUT THE PHOTOGRAPHS THE PEOPLE INTEND TO
27 USE WITH DR. LAWRENCE. DR. MCCARTHY -- I KNOW WHICH
28 ONES I THINK DR. MCCARTHY WAS USING, BUT I DON'T KNOW

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1 WHAT THEY'RE GOING TO SHOW DR. LAWRENCE.

2 THE COURT: FIRST TALK AMONGST YOURSELVES AND GET
3 WHAT IT IS, AND WE WON'T HAVE TO DISCUSS IT ANY FURTHER.

4 MS. NAJERA: THERE WAS ANOTHER WITNESS, MARTYN
5 HOWELL. WE ARE GOING TO HAVE A STIPULATION AS TO HIM AS
6 WELL.

7 MS. ABRAMSON: HOWELL MARTYN.

8 MS. NAJERA: FOR SOME REASON I WANT TO CALL HIM
9 MARTYN HOWELL.

10 MS. ABRAMSON: WE HAVE SOME WRITTEN NOTES THAT
11 FORM THE BASIS OF THE STIPULATION.

12 MS. NAJERA: AS TO MISS SUGARMAN, MISS MCHUGH AND
13 MR. HOWELL, THE COURT KNOWS AND CAN TAKE THEM OFF THE
14 WITNESS LIST. THERE ARE GOING TO BE STIPULATIONS.

15 THE COURT: WE'LL SEE YOU BACK TOMORROW.

16 MS. NAJERA: 8:30.

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)
12 VS.) NO. BA 068880
13)
14 ERIK GALEN MENENDEZ, AND)
15 JOSEPH LYLE MENENDEZ,)
16)
17 DEFENDANTS.)
18)
19

20 REPORTERS' DAILY TRANSCRIPT OF PROCEEDINGS
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23
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29 APPEARANCES:
30 (SEE APPEARANCE PAGE)

1 APPEARANCES:

2

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MARILYN A. FADALE
22 CSR NO. 4547
ANNAMARIE PAPA
23 CSR NO. 8608

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12 JAMIE

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18

19 LEGEND:

A = MS. ABRAMSON C = MR. CONN

20 G = MR. GESSLER L = MR. LEVIN

N = MS. NAJERA T = MS. TOWERY

21

22

23

24

25

26

27

28

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