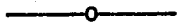


ATTORNEY GENERAL

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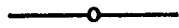
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STATE OF CALIFORNIA



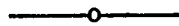
THE PEOPLE OF THE STATE OF CALIFORNIA
 Plaintiff
 and Respondent/~~Appellant~~
 VS
 MILTON, WILLIAM
 Defendant
 and Appellant/~~Respondent~~

No. TA039953

B131757 DV7



CLERK'S TRANSCRIPT



Appearances:

Counsel for Plaintiff and Respondent:
THE ATTORNEY GENERAL

Counsel for Defendant and Appellant:

Appeal from the Superior Court,
County of Los Angeles

Honorable **RON SLICK** Judge

c/o C.A.P.

*1Ct - 166
2Ct - 385
1ENV*

Date Mailed to:
 Defendant (in pro per) _____
 Defendant's Trial Attorney _____
 Defendant's Appellate Attorney _____
 District Attorney _____
 Attorney General _____

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NOTICE TO APPELLANT

In the event that a request for correction is filed, counsel should deliver this copy of this transcript to the court clerk at the time of the hearing so that it may be conformed.

CLERK'S TRANSCRIPT

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TA039953

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IN THE MUNICIPAL COURT OF COMPTON JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

HON. MARCELITA V. HAYNES, JUDGE DIVISION 001

THE PEOPLE OF THE STATE)
OF CALIFORNIA,)
)
) PLAINTIFF,)
)
) VS.)
)
) WILLIAM MILTON,)
)
) DEFENDANT.)
)

CASE NO. TA039953
VIOLATION SECTION:
CT. 1 - 211 PC

REPORTER'S TRANSCRIPT
PRELIMINARY HEARING
SEPTEMBER 29, 1998

FILED
LOS ANGELES SUPERIOR COURT
OCT 13 1998
JOHN A. CLARKE, CLERK
L. Bell
BY L. BELL, DEPUTY

APPEARANCES

FOR THE PEOPLE: GIL GARCETTI, DISTRICT ATTORNEY
BY: HENRY KERNER
DEPUTY DISTRICT ATTORNEY
200 WEST COMPTON BOULEVARD
COMPTON, CALIFORNIA 90220

FOR THE DEFENDANT: MICHAEL P. JUDGE, PUBLIC DEFENDER
BY: JERRY WEIL
DEPUTY PUBLIC DEFENDER
200 WEST COMPTON BOULEVARD
COMPTON, CALIFORNIA 90220

SPANISH LANGUAGE INTERPRETER: GEORGE PYE

REPORTED BY: CAROLYN J. LARSON, CSR 2565
OFFICIAL REPORTER

HTA: OCTOBER 13, 1998
DEPARTMENT C

ORIGINAL

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I N D E X

<u>PEOPLE'S WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
AVILA, JUAN	5	10			

DEFENSE WITNESSES:

NONE

EXHIBITS

(NONE OFFERED.)

1 COMPTON, CALIFORNIA - TUESDAY, SEPTEMBER 29, 1998

2 2:55 P.M.

3
4 THE COURT: CALLING THE CASE OF WILLIAM MILTON,
5 TA039953.

6 IS THAT YOUR TRUE AND COMPLETE NAME, MR. MILTON?

7 THE DEFENDANT: BEG PARDON?

8 THE COURT: IS THAT YOUR TRUE AND COMPLETE NAME?

9 THE DEFENDANT: YES.

10 THE COURT: DO YOU HAVE A MIDDLE NAME?

11 THE DEFENDANT: YEAH, M.

12 THE COURT: JUST THE INITIAL M?

13 THE DEFENDANT: YEAH.

14 THE COURT: THE COMPLAINT IS AMENDED BY INTERLINEATION
15 AND WILL REFLECT THE DEFENDANT'S TRUE NAME.

16 MR. WEIL ON BEHALF OF MR. GOLUB, CORRECT?

17 MR. WEIL: YES.

18 THE COURT: COUNSEL AND DEFENDANT WAIVE READING OF THE
19 COMPLAINT, STATEMENT OF RIGHTS?

20 MR. WEIL: SO WAIVED.

21 THE COURT: MOTION TO EXCLUDE WITNESSES IS GRANTED,
22 EXCEPT FOR THE PEOPLE'S FIRST TESTIFYING WITNESS.

23 MR. WEIL, ANY WITNESSES TODAY?

24 MR. WEIL: NO.

25 THE COURT: ALL RIGHT, PEOPLE.

26 MR. KERNER: YES, WE'RE GOING TO HAVE A COUPLE OF
27 WITNESSES STEP OUTSIDE. I ALSO WOULD ASK THAT DETECTIVE ANNA
28 CARLISLE BE DESIGNATED AS THE INVESTIGATING OFFICER AND REMAIN.

1 THE COURT: YES.

2 MR. KERNER: THANK YOU?

3 THE COURT: FIRST WITNESS.

4 MR. KERNER: JUAN AVILA.

5 THE COURT: THE WITNESS IS UTILIZING THE SERVICES OF
6 THE SPANISH INTERPRETER.

7

8

JUAN AVILA,

9 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND TESTIFIED
10 THROUGH THE SPANISH LANGUAGE INTERPRETER AS FOLLOWS:

11 THE CLERK: YOU DO SOLEMNLY SWEAR THE TESTIMONY YOU ARE
12 ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL
13 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO
14 HELP YOU GOD.

15 THE WITNESS: YES.

16 THE CLERK: PLEASE TAKE THE WITNESS STAND.

17 PLEASE STATE YOUR FULL NAME AND SPELL YOUR LAST
18 NAME FOR THE RECORD.

19 THE WITNESS: DO I HAVE TO SPELL IT?

20 THE COURT: INTERPRETER'S SPELLING IS FINE. JUST STATE
21 YOUR NAME.

22 THE WITNESS: MY NAME IS JUAN AVILA.

23 THE INTERPRETER: A-V-I-L-A, YOUR HONOR.

24 THE COURT: THANK YOU.

25 PROCEED.

26 MR. KERNER: THANK YOU.

27 ///

28 ///

DIRECT EXAMINATION

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BY MR. KERNER:

Q. GOOD AFTERNOON, MR. AVILA.

A. GOOD AFTERNOON.

Q. WHERE DO YOU WORK, SIR?

A. I WORK IN TAM'S.

Q. AND IS TAM'S A RESTAURANT?

A. YES.

Q. OKAY. AND REFERRING YOU TO THE DATE OF
SEPTEMBER 6TH, 1998, AT ABOUT 1:30 IN THE MORNING, WERE YOU
WALKING HOME FROM THIS TAM'S RESTAURANT?

A. YES.

Q. AND WERE YOU NEAR 95TH STREET AND FIGUEROA IN
THE CITY AND COUNTY OF LOS ANGELES?

A. YES.

Q. AND DID YOU ENCOUNTER SOMEBODY NEAR THAT
INTERSECTION?

A. COULD YOU PLEASE REPEAT THE QUESTION.

Q. DID SOMEBODY APPROACH YOU?

A. YES.

Q. OKAY. AND WHAT DID THAT PERSON DO?

A. HE CAME VERY CLOSE TO ME.

Q. AND DID HE SAY ANYTHING?

A. I APPROACHED HIM, AND HE ASKED ME IF I HAD ANY
MONEY ON ME, AND I SAID NO.

Q. OKAY. AND WHAT HAPPENED THEN?

A. AND AFTER, HE ASKED ME, IF I COULD BE INTERESTED
IN SOME "MOTA," WHICH MEANS DRUGS.

1 Q. AND WHAT DID YOU ANSWER?

2 A. I TOLD HIM NO.

3 Q. AND WHAT HAPPENED NEXT?

4 A. THEN HE ASKED ME, "WHAT DO YOU HAVE IN THIS
5 POCKET?" I SAID, "NOTHING," I HAD JUST A PAIR OF PANTS.

6 Q. OKAY. AND BY "POCKET" WAS HE POINTING TO
7 ANYTHING ON YOUR BODY?

8 A. WITH HIS HAND, HE SIGNALLED THE PLACE WHERE HE
9 THOUGHT I HAD SOMETHING.

10 Q. OKAY. AND WHAT PLACE WAS THAT?

11 A. IN THE BAG WHERE I HAD THE PAIR OF PANTS.

12 Q. OKAY. SO YOU WERE CARRYING A BAG WITH YOU?

13 A. UH-HUH, I HAD MY PANTS IN A BAG.

14 Q. AND GO AHEAD, WHY DON'T YOU PICK IT UP? WHAT
15 HAPPENED AFTER HE ASKED YOU THE QUESTION ABOUT THE POCKET?

16 A. AFTER, HE CAME REAL, REAL CLOSE TO ME, AND THEN
17 HE SAYS -- HE SAYS -- HE SAYS -- HE PUTS HIS FINGERS, HIS TWO
18 FINGERS AND THEN HE PUT HIS FINGERS IN MY POCKET, THEN I BACK
19 UP, THEN HE PUT HIS HAND IN HIS REAR POCKET AS IF HE WOULD HAVE
20 SOME KIND OF A WEAPON OR AS IF HE WOULD BE READY TO DRAW A
21 WEAPON.

22 Q. OKAY. SO JUST TO GO BACK, SO HE PUT ONE HAND IN
23 YOUR POCKET AND ONE HAND IN HIS POCKET?

24 A. NO, HE ONLY PUT TWO FINGERS IN MY POCKET.

25 Q. OKAY. AND DID HE REMOVE ANYTHING OUT OF YOUR
26 POCKET?

27 A. NOT AT THAT MOMENT, NO.

28 Q. OKAY. SO WHAT HAPPENED?

1 A. AFTER WHEN I THOUGHT THAT HE HAD A WEAPON, IT
2 COULD HAVE BEEN A GUN, IT COULD NOT HAVE BEEN A GUN. AND
3 BECAUSE I BECAME VERY SCARED AT THAT POINT, HE PUT HIS HANDS IN
4 MY POCKETS.

5 Q. BOTH HANDS OR JUST ONE HAND?

6 A. THE TWO OF THEM.

7 Q. OKAY. AND WHAT HAPPENED? DID HE TAKE ANYTHING
8 OUT?

9 A. HE TOOK OUT EVERYTHING I HAD IN MY POCKETS.

10 Q. AND WHAT WAS THAT?

11 A. IN THE FRONT POCKET, I HAD COINS, AND IN MY REAR
12 POCKETS, I HAD MY MONEY WHICH WAS A \$20 BILL.

13 Q. OKAY. SO DID HE TAKE THE COINS AND THE \$20
14 BILL?

15 A. EVERYTHING, AND THE ONLY THING THAT I WAS ABLE
16 TO RETRIEVE FROM HIM WERE MY KEYS.

17 Q. OKAY. NOW, WHEN YOU SAY "RETRIEVE," DID HE GIVE
18 THEM BACK TO YOU OR DID YOU TAKE THEM BACK?

19 A. BEFORE, BEFORE HE SEARCHED ME, I TOLD HIM
20 ALREADY THAT I HAVE MY KEYS AND THAT HE SHOULD SPARE THOSE KEYS
21 BECAUSE I NEEDED THEM.

22 THE COURT: SO HE NEVER TOOK THE KEYS?

23 THE WITNESS: NO, BECAUSE --

24 THE COURT: EITHER YES OR NO.

25 THE WITNESS: BECAUSE HE DID NOT REALIZE, YOUR HONOR, I
26 HAD THE KEYS.

27 THE COURT: EVERYTHING AFTER "NO" IS STRICKEN.

28 NEXT QUESTION.

1 Q. BY MR. KERNER: OKAY, DID THE DEFENDANT EVER
2 TAKE THE KEYS OUT OF YOUR POCKET?

3 THE COURT: THAT'S IRRELEVANT.

4 THE WITNESS: HE DID NOT TAKE THE KEYS OUT.

5 Q. BY MR. KERNER: OKAY. AND WHICH POCKET WERE
6 THOSE KEYS IN?

7 THE COURT: IT'S IRRELEVANT SINCE HE NEVER TOOK THEM.
8 OKAY, LET'S GO ON, LET'S GO ON.

9 Q. BY MR. KERNER: WHICH POCKET WERE THE COINS IN?

10 A. THIS SIDE.

11 Q. OKAY. CAN YOU --

12 IS THAT THE RIGHT FRONT POCKET?

13 A. RIGHT FRONT POCKET.

14 Q. OKAY. AND WHICH POCKET WAS THE \$20 BILL IN?

15 A. IN THE REAR POCKET.

16 Q. THE ONE ON THE RIGHT SIDE?

17 A. YES.

18 Q. DID THE DEFENDANT EVER GIVE YOU THE COINS OR THE
19 \$20 BILL BACK, OR DID THE PERSON GIVE THOSE BACK TO YOU?

20 A. HE DIDN'T GIVE THEM BACK TO ME ANY MORE.

21 Q. OKAY. DID HE TAKE ANYTHING ELSE?

22 A. OH, YES.

23 Q. WHAT WAS THAT?

24 A. THE PAIR OF PANTS I HAD WITH ME.

25 Q. THE ONES YOU WERE CARRYING?

26 THE COURT: YES OR NO.

27 THE WITNESS: YES.

28 THE COURT: THANK YOU.

1 Q. BY MR. KERNER: AFTER HE TOOK THE PANTS, DID THE
2 MAN TAKE OFF, LEAVE?

3 A. HE LEFT.

4 Q. THE PERSON WHO DID ALL THIS TO YOU, DO TO YOU
5 SEE THAT PERSON IN COURT TODAY?

6 A. YES.

7 Q. COULD YOU POINT TO WHERE THAT PERSON IS AND
8 DESCRIBE THAT PERSON'S CLOTHING AS YOU SEE IT TODAY.

9 A. HE HAS AN ORANGE JUMPSUIT.

10 THE COURT: INDICATING THE DEFENDANT.

11 THE WITNESS: AND HE WAS MILTON, OF COURSE.

12 MR. KERNER: OKAY.

13 MR. WEIL: MOVE TO STRIKE AS NON-RESPONSIVE.

14 THE COURT: EVERYTHING AFTER THE ANSWER, AFTER WHERE
15 THE COURT INDICATED THE DEFENDANT.

16 IS THAT ALL YOU HAVE TO ASK THIS WITNESS?

17 MR. KERNER: I HAVE ONE MORE QUESTION.

18 Q. THE PERSON YOU JUST DESCRIBED AND JUST
19 IDENTIFIED WHO ROBBED YOU, HAD YOU SEEN THAT PERSON PRIOR TO
20 THIS NIGHT?

21 A. YES.

22 Q. HOW OFTEN?

23 A. THREE TIMES A MONTH.

24 Q. AND YOU KNOW THIS PERSON AS MILTON?

25 THE COURT: YES OR NO.

26 THE WITNESS: YES, YES.

27 MR. KERNER: OKAY, THANK YOU. NOTHING FURTHER.

28 THE COURT: MR. WEIL.

1 Q. AND YOU NEVER RECOVERED THAT BAG OR THE PANTS
2 INSIDE THE BAG?

3 A. NO.

4 Q. AND THE POLICE NEVER RETURNED ANY OF YOUR
5 PROPERTY TO YOU; IS THAT CORRECT?

6 A. NO.

7 Q. NOW, AFTER THIS PROPERTY WAS TAKEN FROM YOU, DID
8 YOU CALL THE POLICE?

9 A. YES.

10 Q. HOW MUCH TIME WENT BY FROM THE TIME YOUR
11 PROPERTY WAS TAKEN UNTIL YOU CALLED THE POLICE?

12 MR. KERNER: OBJECTION, RELEVANCE.

13 THE COURT: SUSTAINED.

14 Q. BY MR. KERNER: WERE YOU EVER ASKED TO LOOK AT
15 SOMEONE IN CUSTODY, THAT THE POLICE HAD IN CUSTODY?

16 MR. KERNER: OBJECTION, RELEVANCE.

17 MR. WEIL: IT GOES TO THE IDENTIFICATION IN COURT, YOUR
18 HONOR.

19 THE COURT: WELL, HE SAYS HE KNEW THE MAN WAY BEFORE.
20 IT'S SUSTAINED. IT'S BEYOND THE SCOPE OF DIRECT, ALSO. AND
21 IT'S NOT A SITUATION WHERE HE SAYS HE DIDN'T KNOW THE PERSON
22 BEFORE.

23 Q. BY MR. WEIL: WHAT WAS THE PERSON WEARING WHO
24 TOOK YOUR PROPERTY?

25 A. SINCE IT WAS DARK, I ONLY NOTICED THAT HE HAD A
26 PAIR OF BLACK PANTS ON HIM. HE ALSO HAD A BLACK VEST ON HIM,
27 AND HE HAD, I DON'T KNOW HOW TO EXPLAIN, A VERY, VERY SHORT
28 SHIRT.

1 Q. SHORT-SLEEVED SHIRT?

2 A. NO, NOT REALLY. IT WAS ONE OF THOSE WHICH ARE
3 PRACTICALLY GLUED TO YOUR BODY AND THAT HAS NO SLEEVES.

4 Q. LIKE A TANK TOP?

5 A. YES.

6 Q. AND THE TANK TOP WAS ALSO BLACK?

7 A. GREEN.

8 Q. ALL RIGHT. LIGHT GREEN OR DARK GREEN?

9 A. DARK GREEN.

10 Q. AND THE VEST YOU SAY WAS BLACK?

11 A. YES, THE VEST WAS BLACK.

12 Q. WAS IT A LEATHER VEST OR A CLOTH VEST?

13 A. IT WAS CLOTH.

14 Q. ALL RIGHT. WAS THIS PERSON WEARING A HAT?

15 A. NO.

16 Q. WHAT COLOR -- DID YOU SEE THE PERSON'S FACE
17 PRETTY CLEARLY?

18 A. YES.

19 Q. WHAT COLOR WERE THE PERSON'S EYES?

20 MR. KERNER: OBJECTION, IRRELEVANT.

21 THE COURT: GOES TO IDENTIFICATION. OVERRULED.

22 Q. BY MR. WEIL: WHAT COLOR WERE THE PERSON'S EYES?

23 A. THE WAY I SAW THEM, THEY WERE KIND OF GREEN BUT
24 A GREEN THAT COULD TURN TO BE A VERY DARK GREEN.

25 Q. SO NOT A LIGHT GREEN, A DARK GREEN?

26 THE COURT: NO, HE DIDN'T ASK -- JUST YES OR NO.

27 THE WITNESS: YES.

28 Q. BY MR. WEIL: AFTER THE PERSON TOOK THE BAG FROM

1 YOU AND THE MONEY, WHERE DID THAT PERSON GO?

2 A. HE FOLLOWED ME AND I TURNED AROUND TO SEE HIM.

3 Q. FOR HOW LONG A DISTANCE DID HE FOLLOW YOU?

4 A. DIDN'T GO AFTER ME, HE STOOD STILL BY THE BUS
5 STOP WHILE I KEPT WALKING AWAY FROM HIM.

6 Q. OKAY. AND HOW MUCH LONGER AFTER THAT DID YOU
7 CALL THE POLICE?

8 THE COURT: OBJECTION SUSTAINED.

9 MR. WEIL: CAN I KNOW THE GROUNDS, YOUR HONOR?

10 THE COURT: IT'S IRRELEVANT.

11 Q. BY MR. WEIL: IT WAS DARK THAT NIGHT, CORRECT?

12 A. YES.

13 Q. AND THE AREA WHERE YOU WERE APPROACHED WAS ALSO
14 DARK?

15 A. IT WAS EVEN DARKER THEN.

16 Q. SO YOU BELIEVE YOU RECOGNIZED THIS PERSON AS
17 SOMEONE YOU SAW EARLIER, CORRECT?

18 A. I HAD SEEN HIM BEFORE.

19 Q. ALL RIGHT. YOU BELIEVE YOU HAD SEEN HIM
20 BEFORE?

21 MR. KERNER: I'D OBJECT TO THE FORM OF THE QUESTION.

22 THE COURT: SUSTAINED.

23 MR. WEIL: IT'S A LEADING QUESTION. I CAN'T ASK A
24 LEADING QUESTION NOW?

25 THE COURT: MR. WEIL -- OFF THE RECORD.

26 (DISCUSSION OFF THE RECORD.)

27 THE COURT: BACK ON THE RECORD.

28 NO, YOU CAN'T ASK THAT QUESTION. SUSTAINED.

1 MR. WEIL: ALL RIGHT, YOUR HONOR, FOR THE RECORD I
2 WOULD MOVE TO STRIKE THE TESTIMONY OF THIS WITNESS'S DIRECT
3 EXAMINATION.

4 THE COURT: DENIED, YOU HAVE NOT BEEN DENIED CROSS-
5 EXAMINATION. IF YOU ASK PROPER QUESTIONS, THEY HAVE BEEN
6 ALLOWED. IT'S IRRELEVANT WHEN THEY CALLED THE POLICE.
7 IMMATERIAL AS WELL, AND YOUR QUESTION IS ALSO ARGUMENTATIVE.
8 TIME FRAME HAS NO REFERENCE TO WHAT IS OCCURRING HERE, WHEN HE
9 CALLED THE POLICE HAS NOTHING TO DO WITH ANYTHING. HE KNEW
10 YOUR CLIENT BEFORE COURT TODAY, THE FACT THAT HE IDENTIFIED HIM
11 IS THERE. THIS IS NOT A CASE WHERE IT IS A STRANGER.

12 DO YOU HAVE ANY MORE QUESTIONS FOR HIM?

13 MR. WEIL: APPARENTLY NOT.

14 THE COURT: WELL, NO, MR. WEIL, YOU CAN ASK HIM
15 QUESTIONS IF YOU WANT, BUT DO NOT COME IN HERE APPARENTLY AS
16 THOUGH I AM NOT GIVING THIS DEFENDANT AN OPPORTUNITY THROUGH
17 YOU TO QUESTION THIS WITNESS. THIS WITNESS CAN BE CROSS-
18 EXAMINED BUT YOU ARE NOT GOING TO GO BEYOND THE SCOPE OF
19 DIRECT. YOU ARE NOT GOING TO GO INTO THINGS THAT ARE
20 IRRELEVANT. WHETHER YOU AGREE WITH THE COURT OR NOT, YOU
21 HAVEN'T GOTTEN TO THIS SEAT YET, SO IF YOU WANT TO ASK HIM
22 QUESTIONS, YOU MAY. IF YOU CHOOSE NOT TO ASK QUESTIONS, IT IS
23 NOT BECAUSE I'M NOT ALLOWING YOU. YOU HAVE CHOSEN NOT TO AND
24 THE RECORD WILL BE VERY CLEAR.

25 MR. WEIL: I UNDERSTAND, YOUR HONOR.

26 THE COURT: DO YOU HAVE ANY OTHER QUESTIONS FOR HIM?

27 MR. WEIL: IF I MAY HAVE A MOMENT?

28 THE COURT: YES.

1 Q. BY MR. WEIL: CAN YOU DESCRIBE THE SHOES THIS
2 PERSON WAS WEARING?

3 A. I DIDN'T NOTICE IT.

4 Q. ANY JEWELRY THAT YOU RECALL?

5 A. NO.

6 Q. ANY SCARS OR TATTOOS THAT YOU RECALL?

7 A. NO.

8 MR. WEIL: I HAVE NOTHING FURTHER.

9 THE COURT: ANY REDIRECT?

10 MR. KERNER: NO REDIRECT, THANK YOU.

11 THE COURT: THANK YOU, SIR.

12 ANY OTHER WITNESSES ON THIS CASE?

13 MR. KERNER: THERE ARE NO FURTHER WITNESSES ON THIS
14 CASE. THERE IS AN OUT ON BAIL ALLEGATION.

15 THE COURT: THAT IS NOT REQUIRED FOR THE PRELIMINARY
16 HEARING.

17 MR. KERNER: THANK YOU.

18 THE COURT: PEOPLE REST?

19 MR. KERNER: YES.

20 THE COURT: AFFIRMATIVE DEFENSE OR MOTIONS?

21 MR. WEIL: NO AFFIRMATIVE DEFENSE, JUST RENEW MY MOTION
22 TO STRIKE. I'LL SUBMIT IT.

23 THE COURT: DENIED.

24 SUBMITTED BY THE PEOPLE?

25 MR. KERNER: YES, YOUR HONOR.

26 THE COURT: IT APPEARING TO ME FROM THE EVIDENCE
27 PRESENTED THAT A VIOLATION OF PENAL CODE SECTION 211, SECOND
28 DEGREE ROBBERY, HAS BEEN COMMITTED, SUFFICIENT CAUSE TO BELIEVE

1 THE DEFENDANT GUILTY OF THE SAME --

2 MR. GOLUB IS IN WHICH DEPARTMENT?

3 (DISCUSSION OFF THE RECORD.)

4 THE COURT: BACK ON THE RECORD. IT APPEARS THAT
5 MR. GOLUB IS A FLOATER. ALSO, THE RECORD SHOULD REFLECT THE
6 DEFENDANT SAID HIS NAME TO THE COURT LAST TIME, AT ANOTHER
7 PROCEEDING, WAS WILLIAM MATHIAS MILTON. THIS COMPLAINT IS
8 AMENDED BY INTERLINEATION TO REFLECT THAT.

9 HELD TO ANSWER, LOS ANGELES SUPERIOR COURT,
10 SOUTH-CENTRAL DISTRICT, DEPARTMENT C AS IN CHARLES, OCTOBER 13,
11 1998, 8:30 IN THE MORNING.

12 PRE-PLEA REPORT IS ORDERED. DEFENDANT NOT TO BE
13 INTERVIEWED.

14 (PROCEEDINGS CONCLUDED.)

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1
2 IN THE MUNICIPAL COURT OF COMPTON JUDICIAL DISTRICT
3
4 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

5 HON. MARCELITA V. HAYNES, JUDGE DIVISION 001

6 THE PEOPLE OF THE STATE)
7 OF CALIFORNIA,)

8 PLAINTIFF,)

9 -VS-)

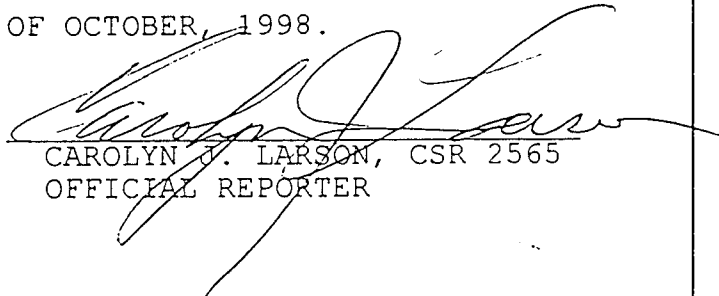
NO. TA039953

10 WILLIAM MILTON,)

11 DEFENDANT.)
12

13
14 I HEREBY CERTIFY THAT I AM A CERTIFIED SHORTHAND
15 REPORTER AND OFFICIAL REPORTER OF THE ABOVE-ENTITLED
16 COURT; THAT ON THE 29TH DAY OF SEPTEMBER, 1998, I WAS
17 ASSIGNED TO REPORT, AND DID CORRECTLY REPORT, THE
18 PROCEEDINGS CONTAINED HEREIN; THAT THE FOREGOING IS A
19 TRUE AND CORRECT TRANSCRIPTION OF MY SAID NOTES, AND A
20 FULL, TRUE AND CORRECT STATEMENT OF SAID TESTIMONY AND
21 PROCEEDINGS.

22 DATED THIS 10TH DAY OF OCTOBER, 1998.

23
24 
25 CAROLYN J. LARSON, CSR 2565
26 OFFICIAL REPORTER
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

000018

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
01 WILLIAM MILTON (8/3/1966) (Bk# 5785588)
Defendant(s).

CASE NO. TA039953

FILED
LOS ANGELES SUPERIOR COURT

INFORMATION

OCT 13 1998

Arraignment Hearing
Date: 10/13/1998
Department: SC C

JOHN A. CLARKE, CLERK
A.D.H. P
BY: C. DICKEY, DEPUTY
1604

INFORMATION
SUMMARY

<u>Ct. No.</u>	<u>Charge</u>	<u>Charge Range</u>	<u>Defendant</u>	<u>Special Allegation</u>	<u>Alleg. Effect</u>
1	PC 211	2-3-5	MILTON, WILLIAM	PC 12022.1 PC 1170.12(a)-(d) PC 667(a)(1)	+2 Yrs MSP Check Code +5 yrs per prior

The District Attorney of the County of Los Angeles, by this Information alleges that:

COUNT 1

On or about September 6, 1998, in the County of Los Angeles, the crime of SECOND DEGREE ROBBERY, in violation of PENAL CODE SECTION 211, a Felony, was committed by WILLIAM MILTON, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of JUAN AVILA.

"Notice: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that at the time of the commission of the above offense, the defendant(s), WILLIAM MILTON, was released from custody on bail or Own Recognizance in Case Number TA039734 within the meaning of Penal Code section 12022.1.

It is further alleged pursuant to Penal Code sections 1170.12(a) through (d) and 667(b) through (i) as to count(s) 1 that said defendant(s), WILLIAM MILTON, has suffered the following prior conviction of a serious or violent felony or juvenile adjudication:

000019

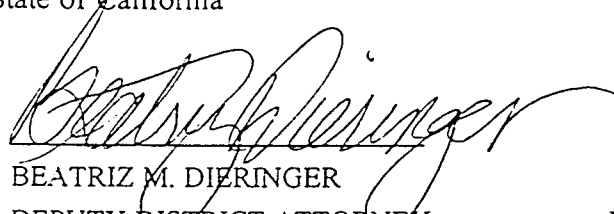
<u>Case No.</u>	<u>Code/Statute</u>	<u>Conv. Date</u>	<u>County of Court</u>	<u>State</u>	<u>Court Type</u>
N71914	ROBBERY	05/22/1987	WAUKEGAN	IL	SUPERIOR

It is further alleged as to count(s) 1 that said defendant(s), WILLIAM MILTON, was on and about the 22nd day of May, 1987, in the Superior Court of the State of Illinois, for the County of Waukegan, convicted of the serious felony, to wit, ROBBERY, case number N71914, in violation of Section 211 of the Penal Code, an offense which includes all of the elements of California Penal Code Section 211, within the meaning of Penal Code section 667(a)(1).

* * * * *

THIS INFORMATION CONSISTS OF 1 COUNT(S).

GIL GARCETTI
DISTRICT ATTORNEY
County of Los Angeles,
State of California

BY: 
BEATRIZ M. DIERINGER
DEPUTY DISTRICT ATTORNEY

Filed in Superior Court,
County of Los Angeles

/RYW

DATED: 10/13/98

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

000020

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
01 WILLIAM MILTON (8/3/1966) (Bk# 5785588)
Defendant(s).

CASE NO. TA039953

FILED
LOS ANGELES SUPERIOR COURT

AMENDED NOV 23 1998
INFORMATION
JOHN A. CLARKE, CLERK
B.D.H.
Pretrial Conference BY G. DICKEY, DEPUTY
Date: November 23, 1998
Department: SC-C

INFORMATION
SUMMARY

Ct. No.	Charge	Charge Range	Defendant	Special Allegation	Alleg. Effect
1	PC 211	2-3-5	MILTON, WILLIAM	PC 12022.1 PC 1170.12(a)-(d) PC 667(a)(1) PC 667(a)(1) PC 667.5(b)	+2 Yrs MSP Check Code +5 yrs per prior +5 yrs per prior +1 yr. per prior

The District Attorney of the County of Los Angeles, by this Information alleges that:

COUNT 1

On or about September 6, 1998, in the County of Los Angeles, the crime of SECOND DEGREE ROBBERY, in violation of PENAL CODE SECTION 211, a Felony, was committed by WILLIAM MILTON, who did unlawfully, and by means of force and fear take personal property from the person, possession, and immediate presence of JUAN AVILA.

"Notice: The above offense is a serious felony within the meaning of Penal Code section 1192.7(c)."

It is further alleged that at the time of the commission of the above offense, the defendant(s), WILLIAM MILTON, was released from custody on bail or Own Recognizance in Case Number TA039734 within the meaning of Penal Code section 12022.1.

It is further alleged pursuant to Penal Code sections 1170.12(a) through (d) and 667(b) through (i) as to count(s) 1 that said defendant(s), WILLIAM MILTON, has suffered the following prior conviction of a

serious or violent felony or juvenile adjudication:

<u>Case No.</u>	<u>Code/Statute</u>	<u>Conv. Date</u>	<u>County of Court</u>	<u>State</u>	<u>Court Type</u>
87CF242	ARMED-ROBBERY	05/19/1987	LAKE	IL	CIRCUIT
87CF241	ROBBERY	05/19/1987	LAKE	IL	CIRCUIT

It is further alleged as to count(s) 1 that said defendant(s), WILLIAM MILTON, was on and about the 19th day of May, 1987, in the 19th Judicial Circuit Court of the State of Illinois, for the County of Lake, convicted of a serious felony, to wit: ARMED ROBBERY, in violation of section unknown of the Penal Code, case 87CF242 within the meaning of Penal Code Section 667(a)(1).

It is further alleged as to count(s) 1 that said defendant(s), WILLIAM MILTON, was on and about the 19th day of May, 1987, in the 19th Judicial Circuit Court of the State of Illinois, for the County of Lake, convicted of a serious felony, to wit: ROBBERY, in violation of section unknown of the Penal Code, case 87CF241 within the meaning of Penal Code Section 667(a)(1).

It is further alleged as to count(s) 1 pursuant to Penal Code section 667.5(b) that the defendant(s), WILLIAM MILTON, has suffered the following prior conviction(s):

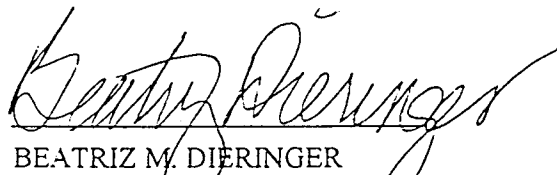
<u>Case No.</u>	<u>Code/Statute</u>	<u>Conv. Date</u>	<u>County of Court</u>	<u>State</u>	<u>Court Type</u>
93CF1236	UNLAWFUL USE OF WEAPONS BY A FELON	08/12/1993	LAKE	IL	CIRCUIT
93CF1476	UNLAWFUL USE OF WEAPONS BY A FELON	08/12/1993	LAKE	IL	CIRCUIT

and that a term was served as described in Penal Code section 667.5 for said offense(s), and that the defendant(s) did not remain free of prison custody for, and did commit an offense resulting in a felony conviction during, a period of five years subsequent to the conclusion of said term.

* * * * *

THIS INFORMATION CONSISTS OF 1 COUNT(S).

GIL GARCETTI
DISTRICT ATTORNEY
County of Los Angeles,
State of California

BY: 
BEATRIZ M. DIERINGER
DEPUTY DISTRICT ATTORNEY

Filed in Superior Court,
County of Los Angeles

/EL

DATED: 11/23/98

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

000003

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 10/13/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 10/13/98 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCC

CASE CALLED FOR ARRAIGNMENT

PARTIES: ARTHUR M. LEW (JUDGE) PHIL LOYA (CLERK)
SYLVIA ALSTON (REP) BEATRIZ D. DIERINGER (DDA)

PUBLIC DEFENDER APPOINTED. PAUL GOLUB - P.D.

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

INFORMATION FILED AND THE DEFENDANT IS ARRAIGNED.

DEFENDANT PLEADS NOT GUILTY TO COUNT 01, 211 PC - ROBBERY.

DEFENDANT DENIES SPECIAL ALLEGATIONS

NEXT SCHEDULED EVENT:

11/12/98 830 AM PRETRIAL CONFERENCE DIST L.A. SUPERIOR-SO CENTRAL DEPT SCH

NEXT SCHEDULED EVENT 2:

12/10/98 830 AM JURY TRIAL DIST L.A. SUPERIOR-SO CENTRAL DEPT SCA

DAY 58 OF 60

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000024

DATE PRINTED: 11/12/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 11/12/98 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCH

CASE CALLED FOR PRETRIAL CONFERENCE

PARTIES: JACK MORGAN (JUDGE) JEFF SUMMERS (CLERK)
BECKY MCKINNEY (REP) JAMES R KIMMEL (DDA)

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC
DEFENDER APPEARING BY A. DEGROOT

DEFENDANT IS NOT PRESENT.
PRE-TRIAL IS CONTINUED TO THE BELOW DATE AND TIME.

NEXT SCHEDULED EVENT:
11/18/98 830 AM PRETRIAL CONFERENCE DIST L.A. SUPERIOR-SO CENTRAL DEPT SCH

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000025

DATE PRINTED: 11/18/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 11/18/98 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCC
CASE CALLED FOR PRETRIAL CONFERENCE

PARTIES: ARTHUR M. LEW (JUDGE) GERALD DICKEY (CLERK)
SYLVIA ALSTON (REP) SEAN HASSETT (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC
DEFENDER

(NO LEGAL FILE) MATTER IS CONTINUED TO DATE AND TIME BELOW.
DEFENDANT ORDERED TO RETURN.

NEXT SCHEDULED EVENT:

UPON MOTION OF COURT
11/23/98 830 AM PRETRIAL CONFERENCE DIST L.A. SUPERIOR-SO CENTRAL DEPT SCC

NEXT SCHEDULED EVENT 2:
JURY TRIAL

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000026

DATE PRINTED: 11/23/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 11/23/98 AT 830 AM IN L.A. SUPERIOR-50 CENTRAL DEPT SCC

CASE CALLED FOR PRETRIAL CONFERENCE

PARTIES: ARTHUR M. LEW (JUDGE) GERALD DICKEY (CLERK)
SYLVIA ALSTON (REP) BEATRIZ D. DIERINGER (DDA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

AMENDED INFORMATION FILED. DEFENDANT IS REARRAIGNED AND ENTERS PLEA OF NOT GUILTY AND DENIES ALLEGATIONS. PRE-TRIAL IS PLACED OFF CALENDAR. TRIAL DATE OF 12-10-98 REMAINS AS DAY 58 OF 60 IN DEPARTMENT SCA. DEFENDANT ORDERED TO APPEAR IN DEPARTMENT SCA ON DATE AND TIME BELOW.

NEXT SCHEDULED EVENT:

UPON MOTION OF COURT
JURY TRIAL

CUSTODY STATUS: DEFENDANT REMANDED

000027

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/10/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/10/98 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCA

CASE CALLED FOR JURY TRIAL

PARTIES: ROSE HOM (JUDGE) STANLEY FERRELL (CLERK)
ELIZABETH SMITH (REP) BEATRIZ D. DIERINGER (DDA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

ATTACHMENT DEFAULTERS ARE ISSUED AND HELD FOR WITNESSES: R. AVILA AND J. AVILA. DETECTIVE CARLYSLE, OFFICER ONEIL AND OFFICER SHEPPARD ARE PLACED ON CALL. WITNESS R. CARAMILLO IS ORDERED TO RETURN

NEXT SCHEDULED EVENT:
12/14/98 830 AM JURY TRIAL DIST L.A. SUPERIOR-SO CENTRAL DEPT SCA

PAGE 60 OF 60

CUSTODY STATUS: DEFENDANT REMANDED

LAW OFFICES OF THE PUBLIC DEFENDERS
BY: Paul Golub
200 WEST COMPTON BLVD., 8TH FLOOR
COMPTON, CALIFORNIA 90220
Telephone: (310) 603-8067

DEC 14 1998

JOHN A. CLARKE, CLERK

Joyce Kamida

BY JOYCE KAMIDA, DEPUTY

Attorney for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. TA039953
))
Plaintiff,)	PREMPTORY
)	CHALLENGE
v.))
)	(170.6 CCP)
))
William Milton))
Defendant.))

I Paul D. Golub

declare that:

I am the attorney for a party to the within action. the Honorable Jack Morgan, the Judge before whom the trial of the aforesaid action is pending, is prejudiced against the party or the interest of the party so that affiant cannot or believes that he cannot have a fair and impartial trial before such judge.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 14th day of December, 1998, at Compton, California.

Respectfully submitted,
MICHAEL P. JUDGE, PUBLIC DEFENDER

By Paul D. Golub

Deputy Public Defender

000029

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/14/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/14/98 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCA

CASE CALLED FOR JURY TRIAL

PARTIES: ROSE HOM (JUDGE) CARLIN LEE (CLERK)
SHIRLEEN FRAILICH (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

CAUSE IS TRANSFERRED TO DEPARTMENT 260 FORTHWITH FOR TRIAL.

OUT OF THE PRESENCE OF DEFENDANT AND HIS COUNSEL: JUAN AVILA,
ASSISTED BY SPANISH INTERPRETOR VENTURA TORRES IS ORDERED TO
RETURN TO THIS COURT 12/15/98.

NEXT SCHEDULED EVENT:

12/14/98 130 PM JURY TRIAL DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

DAY 10 OF 10

CUSTODY STATUS: DEFENDANT REMANDED

000000

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/14/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/14/98 AT 130 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

ON DEFENSE MOTION, MATTER IS TRAILED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
12/15/98 130 PM JURY TRIAL DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/15/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/15/98 AT 130 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

A PROSPECTIVE PANEL OF 50 JURORS ARE GIVEN THE OATH RE QUALIFICATIONS. THE COURT READS THE INFORMATION PARTIALLY. THE COURT INSTRUCTS THE JURY AND VOIR DIRE BEGINS. A PANEL OF 12 JURORS AND 2 ALTERNATES ARE GIVEN THE OATH TO TRY THE CAUSE. THE JURY INFORMATION SHEET IS FILED IN THE CONFIDENTIAL ENVELOPE HEREIN. THE JURY IS ADMONISHED AND ORDERED TO RETURN ON DATE BELOW.

BOTH COUNSEL ARE ORDERED TO RETURN TO THIS DEPT. AT 9:00AM FOR 402 MOTIONS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

12/16/98 130 PM JURY TRIAL DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000932

DATE PRINTED: 12/16/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/16/98 AT 130 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

OUT OF THE PRESENCE OF THE JURY; DEFENDANT'S 402 MOTION COMES ON FOR HEARING. SAID MOTION IS ARGUED AND DENIED. THE COURT ALLOWS 911 TAPE TO BE HEARD BY THE JURY AS FULLY REFLECTED IN THE OFFICIAL NOTES OF THE COURT REPORTER. THE COURT ALLOWS THE PREVIOUS CONVICTIONS OF FEBRUARY 1997 TO BE PRESENTED TO THE JURY. THE COURT TAKES WEAPONS CASES OF AUGUST 1993 UNDER SUBMISSION.

DEBRA DONSON A SPANISH INTERPRETER WITH AN OATH ON FILE, IS SWORN AS A WITNESS TO INTERPRET A CASSETTE TAPE. PEOPLE'S EXHIBIT 1(A CASSETTE TAPE) IS MARKED FOR IDENTIFICATION ONLY.

BOTH COUNSEL STIPULATE THAT PEOPLE'S EXHIBIT 1 IS A 911 TAPE FROM POLICE AGENCY. THE TAPE IS PLAYED IN OPEN COURT.

IN THE PRESENCE OF THE JURY;

TRIAL IS RESUMED FROM DECEMBER 15, 1998 WITH ALL JURORS AND PARTIES PRESENT AS HERETOFORE. THE PEOPLE MAKE AN OPENING STATEMENT. THE DEFENDANT GIVES AN OPENING STATEMENT.

JUAN AVILA IS SWORN AND TESTIFIES FOR THE PEOPLE. DEBRA DONSON INTERPRETS ENGLISH TO SPANISH FOR THIS WITNESS.

000003

CASE NO. TA039953
DEF NO. 01

DATE PRINTED 12/16/98

PEOPLE'S EXHIBITS' 3 (POSTERBOARD WITH 5 PHOTOGRAPHS ATTACHED),
4 (HANDDRAWN DIAGRAM), 5 (8X10 PHOTOGRAPH), 6 (PHOTOGRAPH) AND 2 (BROWN PAPER BAG) ARE MARKED FOR IDENTIFICATION ONLY
ROLANDO CAMARILLO IS SWORN AND TESTIFIES FOR THE PEOPLE.
THE JURY IS ADMONISHED AND ORDERED TO RETURN ON DATE BELOW.
JOSE HERRERA IS ORDERED TO RETURN ON DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

12/17/98 200 PM JURY TRIAL IN PROGRESS DIST L.A. SUPERIOR-SO CENTRAL DEPT

SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000034

DATE PRINTED: 12/17/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/17/98 AT 200 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

TRIAL IS RESUMED FROM DECEMBER 16, 1998 WITH ALL JURORS AND PARTIES PRESENT AS HERETOFORE. ROLANDO CAMARILLO PREVIOUSLY SWORN RESUMES TESTIMONY.

OUTSIDE THE PRESENCE OF THE JURY;
PEOPLE'S MOTION TO ALLOW NEW DISCOVERY TO BE INTRODUCED TO THE JURY IS HEARD AND GRANTED AS FULLY REFLECTED IN THE OFFICIAL

NOTES OF THE COURT REPORTER.

IN THE PRESENCE OF THE JURY;
JOSE HERRERA, AND ALLEN SHEPHERD ARE SWORN AND TESTIFY FOR THE PEOPLE.

THE JURY IS ADMONISHED AND ALL PARTIES ARE ORDERED TO RETURN ON DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

12/21/98 130 PM JURY TRIAL IN PROGRESS DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

CASE NO. TA039953
DEF NO. 01

DATE PRINTED 12/17/98

000035

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000036

DATE PRINTED: 12/21/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/21/98 AT 130 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

TRIAL IS RESUMED FROM DECEMBER 17, 1998 WITH ALL JURORS AND PARTIES PRESENT AS HERETOFORE. OUT OF THE PRESENCE OF THE JURY; THE COURT'S RULING ON WEAPONS CASES IN 1993 ARE DENIED AS FULLY REFLECTED IN THE OFFICIAL NOTES OF THE COURT REPORTER. PEOPLE'S EXHIBITS 1 THROUGH 6 ARE MARKED AND ADMITTED INTO EVIDENCE. PEOPLE REST.

IN THE PRESENCE OF THE JURY;
ANNA CARLISLE IS SWORN AND TESTIFY FOR THE DEFENDANT. WILLIAM MILTON IS SWORN AND TESTIFIES ON HIS OWN BEHALF.
THE DEFENDANT RESTS. BOTH SIDES REST.
OUT OF THE PRESENCE OF THE JURY; COURT AND COUNSEL DISCUSS JURY INSTRUCTIONS AS FULLY REFLECTED IN THE OFFICIAL NOTES OF THE COURT REPORTER.

IN THE PRESENCE OF THE JURY; THE COURT READS JURY INSTRUCTIONS. THE JURY IS ADMONISHED AND ALL PARTIES ARE ORDERED TO RETURN ON DATE BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
12/22/98 130 PM JURY TRIAL IN PROGRESS DIST L.A. SUPERIOR-SO CENTRAL DEPT

000037

CASE NO. TA039953
DEF NO. 01

DATE PRINTED 12/21/98

SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000003

DATE PRINTED: 12/22/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/22/98 AT 130 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
YVETTE BURLEY (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

TRIAL IS RESUMED FROM DECEMBER 21, 1998 WITH ALL JURORS AND PARTIES PRESENT AS HERETOFORE.

THE PEOPLE GIVE CLOSING ARGUMENTS. THE DEFENDANT GIVES CLOSING ARGUMENT. THE PEOPLE GIVE REBUTTAL.

THE COURT FURTHER INSTRUCTS THE JURY. THE BAILIFF IS SWORN TO

TAKE CHARGE OF THE JURY. THE JURY IS ADMONISHED AND ORDERED TO RETURN ON DATE BELOW. ALL PARTIES ARE ORDERED TO RETURN ON DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
12/23/98 900 AM JURY TRIAL IN PROGRESS DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED



SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

No. 260

PEO

No. TA039953
(Space below for filing
Stamp only)

INSTRUCTIONS { GIVEN
REFUSED

Plaintiff,

William Milton vs.

Consisting of

32

pages herein

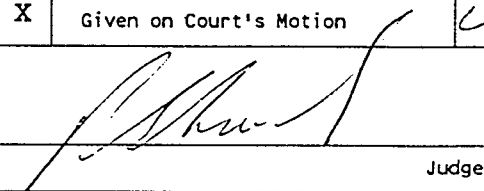
Defendant.

R Slick

Judge Presiding.

RESPECTIVE DUTIES OF JUDGE AND JURY

ESS. COURT

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused					
Withdrawn					

Print Date: 11/1996

1.00 - 1 of 2

Members of the Jury:

You have heard all the evidence, and now it is my duty to instruct you on the law that applies to this case.

You must base your decision on the facts and the law.

You have two duties to perform. First, you must determine what facts have been proved from the evidence received in the trial and not from any other source. A "fact" is something proved by the evidence or by stipulation. A stipulation is an agreement between attorneys regarding the facts. Second, you must apply the law that I state to you, to the facts, as you determine them, and in this way arrive at your verdict.

You must accept and follow the law as I state it to you, regardless of whether you agree with the law. If anything concerning the law said by the attorneys in their arguments or at any other time during the trial conflicts with my instructions on the law, you must follow my instructions.

You must not be influenced by pity for or prejudice against a defendant. You must not be biased against a defendant because he has been arrested for this offense, charged with a crime, or brought to trial. None of these circumstances is evidence of guilt and you must not infer or assume from any or all of them that a defendant is more likely to be guilty than not guilty. You must not be influenced by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling. Both the People and a defendant have a right to expect that you will

CALJIC 1.00

000041

RESPECTIVE DUTIES OF JUDGE AND JURY

1.00 - 2 of 2

2

conscientiously consider and weigh the evidence, apply the law, and reach a just verdict regardless of the consequences.

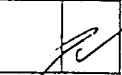
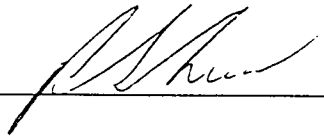
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3

CALJIC 1.01

INSTRUCTIONS TO BE CONSIDERED AS A WHOLE

000042

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

1.01

3

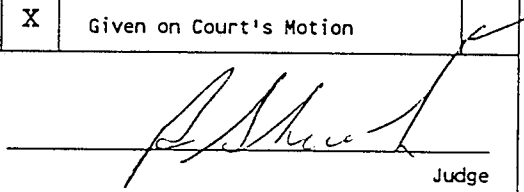
If any rule, direction or idea is repeated or stated in different ways in these instructions, no emphasis is intended and you must not draw any inference because of its repetition. Do not single out any particular sentence or any individual point or instruction and ignore the others. Consider the instructions as a whole and each in light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

CALJIC 1.02

STATEMENTS OF COUNSEL--EVIDENCE STRICKEN OUT
INSINUATIONS OF QUESTIONS--STIPULATED FACTS

000043

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

1.02

Statements made by the attorneys during the trial are not evidence. However, if the attorneys have stipulated or agreed to a fact, you must regard that fact as proven.

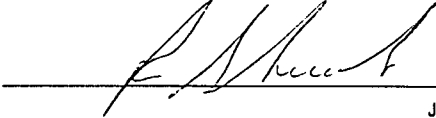
If an objection was sustained to a question, do not guess what the answer might have been. Do not speculate as to the reason for the objection.

Do not assume to be true any insinuation suggested by a question asked a witness. A question is not evidence and may be considered only as it helps you to understand the answer. Do not consider for any purpose any offer of evidence that was rejected, or any evidence that was stricken by the court; treat it as though you had never heard of it.

CALJIC 1.03

JUROR FORBIDDEN TO MAKE ANY
INDEPENDENT INVESTIGATION

000044

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

1.03

5

You must decide all questions of fact in this case from the evidence received in this trial and not from any other source.

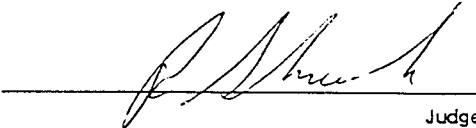
You must not independently investigate the facts or the law or consider or discuss facts as to which there is no evidence. This means, for example, that you must not on your own visit the scene, conduct experiments, or consult reference works or persons for additional information.

You must not discuss this case with any other person except a fellow juror, and then only after the case is submitted to you for your decision and only when all twelve jurors are present in the jury room.

CALJIC 1.05

JUROR'S USE OF NOTES

000045

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

1.05

6

Notes are only an aid to memory and should not take precedence over recollection. A juror who does not take notes should rely on his or her recollection of the evidence and not be influenced by the fact that other jurors do take notes. Notes are for the note-taker's own personal use in refreshing his or her recollection of the evidence.

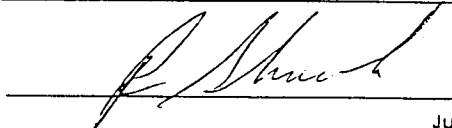
Finally, should any discrepancy exist between a juror's recollection of the evidence and a juror's notes, or between one juror's recollection and that of another, you may request that the reporter read back the relevant testimony which must prevail.

7

CALJIC 2.00

DIRECT AND CIRCUMSTANTIAL EVIDENCE--INFERENCES

000046

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

2.00

7

Evidence consists of testimony of witnesses, writings, material objects, or anything presented to the senses and offered to prove the existence or non-existence of a fact.

Evidence is either direct or circumstantial.

Direct evidence is evidence that directly proves a fact. It is evidence which by itself, if found to be true, establishes that fact.

Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn.

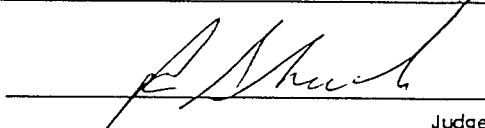
An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence.

It is not necessary that facts be proved by direct evidence. They may be proved also by circumstantial evidence or by a combination of direct and circumstantial evidence. Both direct and circumstantial evidence are acceptable as a means of proof. Neither is entitled to any greater weight than the other.

8

CALJIC 2.01

SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE--GENERALLY 000047

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

2.01

8

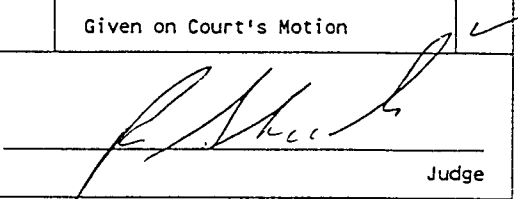
However, a finding of guilt as to any crime may not be based on circumstantial evidence unless the proved circumstances are not only (1) consistent with the theory that the defendant is guilty of the crime, but (2) cannot be reconciled with any other rational conclusion.

Further, each fact which is essential to complete a set of circumstances necessary to establish the defendant's guilt must be proved beyond a reasonable doubt. In other words, before an inference essential to establish guilt may be found to have been proved beyond a reasonable doubt, each fact or circumstance on which the inference necessarily rests must be proved beyond a reasonable doubt.

Also, if the circumstantial evidence permits two reasonable interpretations, one of which points to the defendant's guilt and the other to his innocence, you must adopt that interpretation that points to the defendant's innocence, and reject that interpretation that points to his guilt.

If, on the other hand, one interpretation of this evidence appears to you to be reasonable and the other interpretation to be unreasonable, you must accept the reasonable interpretation and reject the unreasonable.

PRODUCTION OF ALL AVAILABLE EVIDENCE NOT REQUIRED

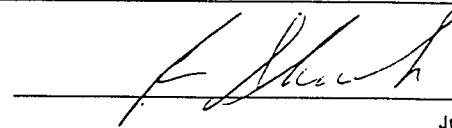
Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	<input checked="" type="checkbox"/>
Refused					
Withdrawn					
Judge					

Print Date: 11/1996

2.11

Neither side is required to call as witnesses all persons who may have been present at any of the events disclosed by the evidence or who may appear to have some knowledge of these events. Neither side is required to produce all objects or documents mentioned or suggested by the evidence.

PRIOR CONSISTENT OR INCONSISTENT STATEMENTS AS EVIDENCE

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	<input checked="" type="checkbox"/>
Refused					
Withdrawn					

Judge

Print Date: 11/1996

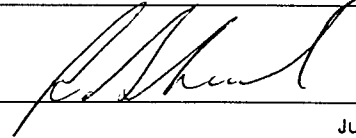
2.13

Evidence that at some other time a witness made a statement or statements that are inconsistent or consistent with his or her testimony in this trial, may be considered by you not only for the purpose of testing the credibility of the witness, but also as evidence of the truth of the facts as stated by the witness on that former occasion.

CALJIC 2.20

000050

BELIEVABILITY OF WITNESS

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

2.20

Every person who testifies under oath is a witness. You are the sole judges of the believability of a witness and the weight to be given the testimony of each witness.

In determining the believability of a witness you may consider anything that has a tendency to prove or disprove the truthfulness of the testimony of the witness, including but not limited to any of the following:

The extent of the opportunity or ability of the witness to see or hear or otherwise become aware of any matter about which the witness testified;

The ability of the witness to remember or to communicate any matter about which the witness testified;

The character and quality of that testimony;

The demeanor and manner of the witness while testifying;

The existence or nonexistence of a bias, interest, or other motive;

The existence or nonexistence of any fact testified to by the witness;

The attitude of the witness toward this action or toward the giving of testimony;

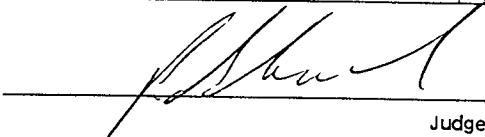
A statement previously made by the witness that is consistent or inconsistent with his testimony;

The witness' prior conviction of a felony.

CALJIC 2.21.1

000051

DISCREPANCIES IN TESTIMONY

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

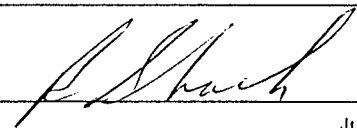
2.21.1

Discrepancies in a witness's testimony or between a witness's testimony and that of other witnesses, if there were any, do not necessarily mean that a witness should be discredited. Failure of recollection is common. Innocent misrecollection is not uncommon. Two persons witnessing an incident or a transaction often will see or hear it differently. Whether a discrepancy pertains to an important matter or only to something trivial should be considered by you.

CALJIC 2.27

000055

SUFFICIENCY OF TESTIMONY OF ONE WITNESS

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

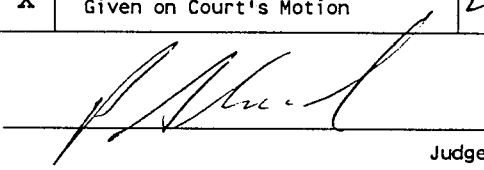
2.27

You should give the testimony of a single witness whatever weight you think it deserves. Testimony by one witness which you believe concerning any fact is sufficient for the proof of that fact. You should carefully review all the evidence upon which the proof of that fact depends.

CALJIC 2.90

000057

**PRESUMPTION OF INNOCENCE--REASONABLE DOUBT--
BURDEN OF PROOF**

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	2 ✓
Refused					
Withdrawn					

Print Date: 11/1996

2.90

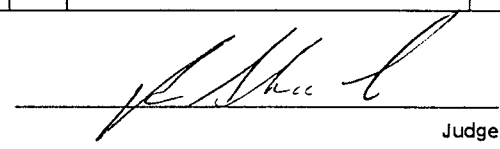
A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to a verdict of not guilty. This presumption places upon the People the burden of proving him guilty beyond a reasonable doubt.

Reasonable doubt is defined as follows: It is not a mere possible doubt; because everything relating to human affairs is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge.

CALJIC 3.31

000058

CONCURRENCE OF ACT AND SPECIFIC INTENT

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused					
Withdrawn					

Print Date: 11/1996

3.31

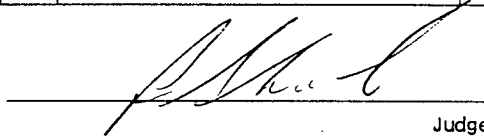
In the crime charged there must exist a union or joint operation of act or conduct and a certain specific intent in the mind of the perpetrator. Unless this specific intent exists the crime to which it relates is not committed.

The specific intent required is included in the definition of the crime set forth elsewhere in these instructions.

CALJIC 2.02

SUFFICIENCY OF CIRCUMSTANTIAL EVIDENCE TO PROVE SPECIFIC INTENT OR MENTAL STATE

000059

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

2.02

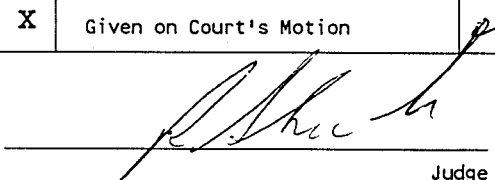
The specific intent with which an act is done may be shown by the circumstances surrounding the commission of the act. However, you may not find the defendant guilty of the crime charged, unless the proved circumstances are not only (1) consistent with the theory that the defendant had the required specific intent but (2) cannot be reconciled with any other rational conclusion.

Also, if the evidence as to specific intent permits two reasonable interpretations, one of which points to the existence of the specific intent and the other its absence, you must adopt that interpretation which points its absence. If, on the other hand, one interpretation of the evidence as to the specific intent appears to you to be reasonable and the other interpretation to be unreasonable, you must accept the reasonable interpretation and reject the unreasonable.

CALJIC 9.40

**ROBBERY
(PENAL CODE § 211)**

000000

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	
Refused					
Withdrawn					

Judge

Print Date: 11/1996

9.40

Defendant is accused of having committed the crime of robbery, a violation of Section 211 of the Penal Code.

Every person who takes personal property in the possession of another, against the will and from the person or immediate presence of that person, accomplished by means of force or fear and with the specific intent permanently to deprive that person of the property, is guilty of the crime of robbery in violation of Penal Code Section 211.

"Against the will" means without consent.

In order to prove this crime, each of the following elements must be proved:

1. A person had possession of property of some value however slight;
2. The property was taken from that person or from his immediate presence;
3. The property was taken against the will of that person;
4. The taking was accomplished either by force or fear; and
5. The property was taken with the specific intent permanently to deprive that person of the property.

No. TAO39953

I, JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK of the Superior Court for the County and State aforesaid, do hereby certify that I have compared this transcript with the original documents on file and/or of record in this office and it is a full, true and correct copy.



JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK
of the Superior Court of California, County of Los Angeles

Date: 5/3/99

By *M. Plaza*, Deputy
M. PLAZA

- Notice of Completion of the Clerk's Transcripts on appeal of the within action having been mailed/delivered to the attorneys representing the appellant and the respondent pursuant to Rule 35(c) of the Rules on Appeal, I hereby certify the foregoing record consisting of 179 pages to be a full, true and correct transcript on appeal.

JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK
of the Superior Court of California, County of Los Angeles

Date: _____

By _____, Deputy

- Portions of this transcript are governed by the provisions of Code of Civil Procedure Section 237(a)(2), and all of the personal juror identifying information has been redacted.

JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK
of the Superior Court of California, County of Los Angeles

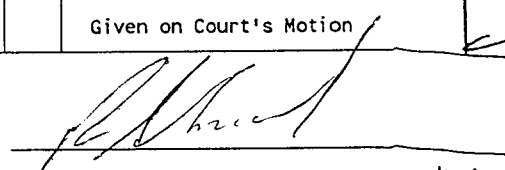
Date: 5/3/99

By *M. Plaza*, Deputy
M. PLAZA

CALJIC 17.30

JURY NOT TO TAKE CUE FROM THE JUDGE

00001-1

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

17.30

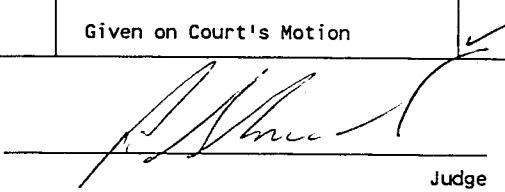
22

I have not intended by anything I have said or done, or by any questions that I may have asked, or by any ruling I may have made, to intimate or suggest what you should find to be the facts, or that I believe or disbelieve any witness.

If anything I have done or said has seemed to so indicate, you will disregard it and form your own conclusion.

CALJIC 17.31

ALL INSTRUCTIONS NOT NECESSARILY APPLICABLE 000062

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					

Judge

Print Date: 11/1996

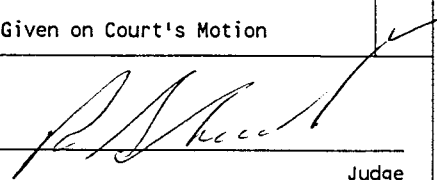
17.31

23

The purpose of the court's instructions is to provide you with the applicable law so that you may arrive at a just and lawful verdict. Whether some instructions apply will depend upon what you find to be the facts. Disregard any instruction which applies to facts determined by you not to exist. Do not conclude that because an instruction has been given I am expressing an opinion as to the facts.

CALJIC 17.40

INDIVIDUAL OPINION REQUIRED--DUTY TO DELIBERATE 000063

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

17.40

The People and the defendant are entitled to the individual opinion of each juror.

Each of you must consider the evidence for the purpose of reaching a verdict if you can do so. Each of you must decide the case for yourself, but should do so only after discussing the evidence and instructions with the other jurors.

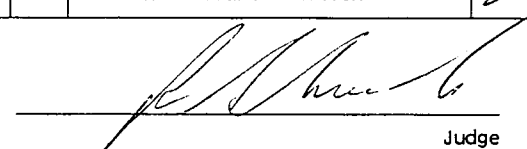
Do not hesitate to change an opinion if you are convinced it is wrong. However, do not decide any question in a particular way because a majority of the jurors, or any of them, favor that decision.

Do not decide any issue in this case by the flip of a coin, or by any other chance determination.

CALJIC 17.41

HOW JURORS SHOULD APPROACH THEIR TASK

000064

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996


17.41

The attitude and conduct of jurors at all times are very important. It is rarely helpful for a juror at the beginning of deliberations to express an emphatic opinion on the case or to announce a determination to stand for a certain verdict. When one does that at the outset, a sense of pride may be aroused, and one may hesitate to change a position even if shown it is wrong. Remember that you are not partisans or advocates in this matter. You are impartial judges of the facts.

CALJIC 17.42

JURY MUST NOT CONSIDER PENALTY--NON-CAPITAL CASE

000065

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

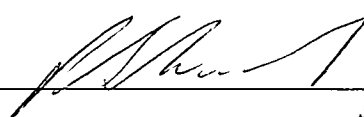
17.42

In your deliberations do not discuss or consider the subject of penalty or punishment. That subject must not in any way affect your verdict.

CALJIC 17.43

JURY DELIBERATIONS

000066

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

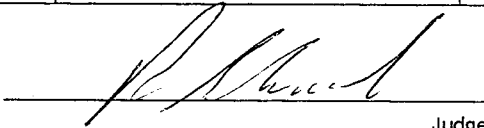
17.43

During deliberations, any question or request the jury may have should be addressed to the Court. Please understand that counsel must first be contacted before a response can be formulated. If a readback of testimony is requested, the reporter will delete objections, rulings, and sidebar conferences so that you will hear only the evidence that was actually presented. Please understand that it may take time to provide a response. Continue deliberating until you are called back into the courtroom.

CALJIC 17.45

000067

MANNER OF RECORDING INSTRUCTION OF NO SIGNIFICANCE--CONTENT ONLY GOVERNS

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

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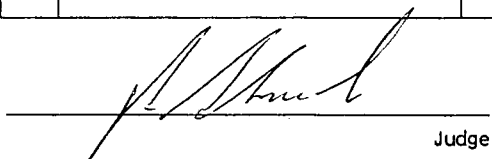
28

The instructions which I am now giving to you will be made available in written form for your deliberations. They must not be defaced in any way.

CALJIC 17.47

ADMONITION AGAINST DISCLOSURE OF JURY BALLOTING

000068

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified		Given on Court's Motion	<input checked="" type="checkbox"/>
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

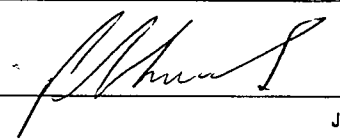
17.47

Do not disclose to anyone outside the jury, not even to me or any member of my staff, either orally or in writing, how you may be divided numerically in your balloting as to any issue, unless I specifically direct otherwise.

CALJIC 17.49

000069

USE OF MULTIPLE VERDICT FORMS--IMPLIED ACQUITTAL-FIRST

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	✓
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

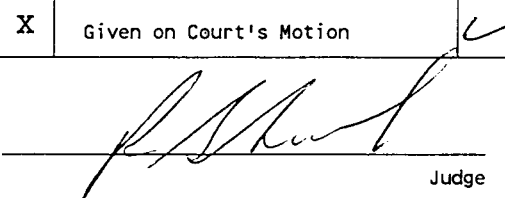
17.49

In this case there are 2 possible verdicts. These various possible verdicts are set forth in the forms of verdict which you will receive. Only one of the possible verdicts may be returned by you. If you all have agreed upon one verdict, the corresponding form is the only verdict form to be signed. The other forms are to be left unsigned.

CALJIC 17.50 (1997 Revision)

CONCLUDING INSTRUCTION

000070

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	<input checked="" type="checkbox"/>
Refused					
Withdrawn					
Judge					

Print Date: 7/1997

17.50

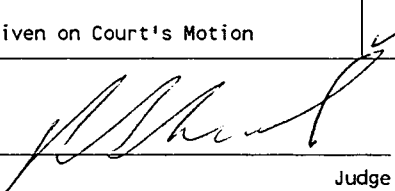
31

You shall now retire and select one of your number to act as foreperson. He or she will preside over your deliberations. In order to reach a verdict, all twelve jurors must agree to the decision. As soon as you have agreed upon a verdict, so that each may state truthfully that the verdict express his or her vote, have it dated and signed by your foreperson and then return with it to this courtroom. Return any unsigned verdict forms.

CALJIC 17.53

ADMONITION TO ALTERNATE JURORS

000071

Requested by People		Requested by Defendant		Requested by	
Given as Requested		Given as Modified	X	Given on Court's Motion	
Refused		 _____ Judge			
Withdrawn					

Print Date: 11/1996

17.53

As for the Alternate Jurors, you are still bound by the admonition that you are not to converse among yourselves or with anyone else on any subject connected with this trial, or to form or express any opinion on it until the case is submitted to you, which means until such time as you are substituted in for one of the 12 jurors now deliberating on the case. This also means that you are not to decide how you would vote if you were deliberating with the other jurors.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES 000072

<p>The People of the State of California</p> <p>Plaintiff</p> <p>vs.</p> <p>WILLIAM MILTON</p>	<p>Case Number</p> <p>TA039953</p> <p>Department</p> <p>SCQ</p>
<p>Verdict (Guilty)</p>	
<p> </p>	

We, the Jury in the above-entitled action, find the Defendant WILLIAM MILTON guilty of the crime of SECOND DEGREE ROBBERY, in violation of PENAL CODE SECTION 211 a Felony, as charged in count 1 of the information.

FILED
LOS ANGELES SUPERIOR COURT
DEC 23 1993
JONIA L. WILKIE, CLERK
BY M. PLEASANT, DEPUTY

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000073

DATE PRINTED: 12/23/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/23/98 AT 900 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL IN PROGRESS

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
YVETTE BURLEY (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

COUNT (01) : DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

NEXT SCHEDULED EVENT:

VERDICT

TRIAL IS RESUMED FROM DECEMBER 22, 1998 WITH ALL JURORS AND PARTIES PRESENT AS HERETOFORE. DELIBERATIONS BEGIN AT 9:10AM.

THE JURORS TAKE A BREAK AT 10:20AM. AT 10:40AM DELIBERATIONS RESUME. AT 12:10PM THE JURY BREAKS FOR LUNCH.

AT 1:40PM DELIBERATIONS COMMENCE. AT 3:33PM THE JURY ANNOUNCES THEY HAVE REACHED A VERDICT. AT 3:45PM THE FOLLOWING VERDICT IS READ: (TITLE OF COURT AND CAUSE; WE, THE JURY, IN THE ABOVE-ENTITLED ACTION, FIND THE DEFENDANT WILLIAM MILTON GUILTY OF THE CRIME OF SECOND DEGREE ROBBERY, IN VIOLATION OF PENAL CODE SECTION 211 A FELONY, AS CHARGED IN COUNT 1 OF THE INFORMATION. THIS 23RD DAY OF DECEMBER, 1998, SIGNED FOREPERSON. SAID VERDICT IS FILED IN THE CONFIDENTIAL ENVELOPE HEREIN. THE COURT READS THE INFORMATION RE PRIOR CONVICTIONS. THE COURT INFORMS THE JURY THE PRIOR CONVICTION PHASE IS TO BE DECIDED BY THE JURY. THE JURY IS ADMONISHED AND ORDERED TO RETURN ON DATE BELOW.

CASE NO. TA039953
DEF NO. 01

DATE PRINTED 12/23/98

000074

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

12/28/98 130 PM JURY TRIAL TRAILED DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 12/28/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/28/98 AT 130 PM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL TRAILED

PARTIES: RON SLICK (JUDGE) CARLIN LEE (CLERK)
YVETTE BURLEY (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

TRIAL, CONTINUED FROM 12/23/98, RESUMES.

OUT OF THE PRESENCE OF THE JURY:

DEFENDANT WAIVES HIS RIGHTS TO TRIAL ON THE PRIORS; ADMITS THE PRIORS ALLEGED, EXCEPT THAT DEFENDANT WILL ASK THE COURT TO STRIKE ONE OF THE PRIORS AND DOES NOT ADMIT THAT THE PRIOR IN CASE #87CF241 IS A SERIOUS FELONY, PENDING PEOPLE PROVIDING

PROOF THAT THE CONVICTION MEETS CALIFORNIA STANDARDS.

MATTER IS CONTINUED TO BELOW DATE TO ALLOW PEOPLE TO PROVE-UP USE OF GUN IN THE PRIOR CASE #87CF241.

THE JURY IS THANKED AND EXCUSED, AND ALL PARTIES ARE ORDERED TO RETURN ON DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

UPON MOTION OF COURT
12/30/98 830 AM JURY TRIAL TRAILED DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

000076

CASE NO. TA039953
DEF NO. 01

DATE PRINTED 12/28/98

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000077

DATE PRINTED: 12/30/98

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 12/30/98 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL TRAILED

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

ON PEOPLE'S MOTION, THE COURT FINDS GOOD CAUSE TO CONTINUE THE ABOVE MATTER TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
01/06/99 830 AM JURY TRIAL TRAILED DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

1 GIL GARCETTI
District Attorney
2 BETH L. WIDMARK
Deputy District Attorney
3 200 West Compton Boulevard
Compton, California 90220
4 Telephone: (310) 603-7548

5 Attorney for the People

LOS ANGELES SUPERIOR COURT

JAN 06 1999

JOHN A. CLARKE, CLERK
M. Pleasant
BY M. PLEASANT, DEPUTY

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 PEOPLE OF THE STATE OF CALIFORNIA,

Case No. TA039953

12 Plaintiff,

13 v.

PEOPLE'S BRIEF
REGARDING NATURE
OF PRIOR AS A
STRIKE

14 WILLIAM MILTON,

15 Defendant.

Court: Dept 260
Date: 1/7/99

17 TO THE HONORABLE RON SLICK, COMMISSIONER, DEFENDANT AND HIS
18 COUNSEL:

19 People hereby request that this Court find each of the
20 defendant's prior robbery convictions to be strikes pursuant to
21 Penal Code Section 1170.12 (a) - (d) and 667(b) - (i).

22 The defendant has suffered a number of prior convictions from
23 Lake County in the state of Illinois. The two alleged as strike
24 priors are an armed robbery conviction (after a jury trial) in case
25 number 87-CF-242 and a robbery conviction (after a plea) in case
26 number 87-CF-241.

27 Upon further investigation the People discovered--and
28 immediately notified the defense--that the Illinois statute for

1 robbery does not include the element of the specific intent to
2 permanently deprive. The fact that their robbery statute does not
3 match California's means that as a robbery this conviction cannot
4 qualify as a strike. Penal Code Section (hereinafter P.C.) 1170.12
5 (c)(2).

6 This lead to a closer look at the certified documents from
7 Lake County. The documents contain, inter alia, notes made at the
8 time of sentencing. The notes appear to have been made by the
9 sentencing judge during a factual plea. The notes indicate that
10 the defendant used a gun during the robbery.

11 This information is clearly a part of the certified record of
12 the conviction. This information, therefore, provides this Court
13 with the ability to determine that this particular conviction is a
14 strike. P.C 1170.12 (b)(1); 1192.7(c)(8); 1192.7(c)(23).

15 Even though the defendant did not admit to the armed
16 allegation this Court may still consider it. This Court may
17 consider the defendant's prior conduct for the purpose of
18 determining if the prior conviction is serious or violent. People
19 v. Guerrero (1988) 44 Cal.3d 343, 348 (Court can consider the
20 pleadings and court records in determining whether the earlier
21 burglary was residential); People v. Gonzales (1994) 29 Cal.App.4th
22 1684, 1688 (Court may consider facts of the earlier case which were
23 not plead or proved/admitted to determine if vehicular manslaughter
24 qualified as a serious felony); People v. Castellanos (1990) 219
25 Cal.App.3d 1163 (Excellent history of the issue regarding looking
26 behind the conviction to determine the nature of defendant's
27 conduct). The courts have found that entire record even includes
28 an appellate opinion from a foreign jurisdiction. People v.

1 Woodell (1998) 17 Cal.4th 448. This gives all of us the
2 understanding that the courts wish this to be a real search for the
3 truth and not be bound by procedural issues which prevent an airing
4 of all of the facts. In other words if this defendant's conduct
5 qualifies then lets know that and punish him accordingly.

6 Further evidence of this intent is that the courts have
7 consistently found that there is no due process, confrontation or
8 hearsay problems with looking at the entire court record. This
9 Court may consider the entire court record of the prior proceeding
10 to determine the nature of the prior conviction. Id.

11 This cases seem to compel this Court to examine the notes of
12 the judge, in the prior proceeding, and utilize that information to
13 determine the strike nature of the conduct. Here this Court may
14 consider the fact that the defendant used a gun in the prior
15 robbery to determine that it is a serious crime and thus qualifies
16 as a strike conviction. The entire record of conviction is open
17 for review regarding the nature of the prior. Guerrero, at 355.
18 The Supreme Court declared in People v. Myers (1993) 5 Cal.4th
19 1193, 1201 that the Guerrero rule also applies to out of state
20 convictions.

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1 The People, therefore, respectfully submit that based upon the
2 entire record of this defendant's prior conduct in the robbery case
3 (241) that he has suffered a strike conviction. This defendant has
4 spent almost his entire adult life earning a life sentence. As
5 tragic as that fact is this defendant put himself in the position
6 of deserving a life sentence.

7 Dated: January 5, 1999

8 RESPECTFULLY SUBMITTED,
9 GIL GARCETTI,
District Attorney

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11
12 BETH L. WIDMARK
13 Deputy District Attorney
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LAW OFFICES OF THE PUBLIC DEFENDER
 BY: PAUL D. GOLUB, DEPUTY PUBLIC DEFENDER
 STATE BAR NUMBER 112627
 200 WEST COMPTON BLVD., 8TH FLOOR
 COMPTON, CALIFORNIA 90220
 TELEPHONE: (310) 603-8067

FILED
 LOS ANGELES SUPERIOR COURT

JAN 06 1999

JOHN A. CLARKE, CLERK
M. Pleasant
 BY M. PLEASANT, DEPUTY

Attorney for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. TA039953
)	
Plaintiff,)	DEFENDANT'S BRIEF
)	REGARDING NATURE OF
v.)	PRIOR AS A STRIKE
)	
WILLIAM MILTON,)	Date: January 7, 1999
)	Time: 9:00 a.m.
Defendant.)	Dept: 260
)	

Defendant hereby requests that the court not find defendant's priors to be strikes pursuant to Penal Code Sections 1170 and 667.

In particular, 87-CF-242, should not be found to be a strike. It is a robbery conviction from the state of Illinois. It is agreed that the State of Illinois is missing an element of California's definition of robbery. The people contend, however, that it can be shown from the face of the entire record that the defendant personally used a dangerous or deadly weapon during this crime, thus making defendant's conviction a serious felony even though the armed allegation itself was actually dismissed.

The defendant contends that reliance on this rule is incorrect here when the basis for the strike would be a dismissed enhancement and there is no ambiguity in the charge itself such as burglary in California prior to 1982 or Penal Code Section 245(a)(1) which can be assault with a deadly weapon or assault with intent to commit great bodily injury.

Moreover, even if the people could go beyond the face of the record here, the current information is insufficient as a matter of law to show an armed robbery. Even assuming the people's assertion is correct that the handwritten portion of the plea is the judge's writings at the time of the plea, since it is not stated where this information came from, this statement cannot be used. This precise issue was decided by the Court of Appeals in People v. Lewis (1996) 44 Cal.App.4th 845. These notes are hearsay and without a statement in the record or proof in the record where this statement is from, it is inadmissible hearsay. People v. Lewis, Id. While some statements as to the actual facts could be admissible, other renditions of the facts, such as those from the police reports or from the probation officer (unless directly a confession from the defendant to the probation officer) remain inadmissible hearsay that cannot be considered part of the record. See People v. Reed (1996) 13 Cal.4th 217.

Dated this 6th day of January, 1999.

Respectfully submitted,

MICHAEL P. JUDGE, PUBLIC DEFENDER

BY: Paul D. Golub

PAUL D. GOLUB
Deputy Public Defender

000084

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 01/06/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 01/06/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL TRAILED

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) NONE (DDA)

THE DEFENDANT IS PRESENT (IN LOCK UP) AND REPRESENTED BY PAUL GOLUB DEPUTY
PUBLIC DEFENDER

DISTRICT ATTY NOT PRESENT IN COURT, ON PEOPLE'S MOTION
TELEPHONICALLY, MATTER IS TRAILED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

01/07/99 830 AM JURY TRIAL TRAILED DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

000085

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 01/07/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 01/07/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR JURY TRIAL TRAILED

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

THE DEFENDANT FAILS TO APPEAR, WITH SUFFICIENT EXCUSE. (MISS-OUT) AND
REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

ON JOINT MOTION OF COUNSEL, MATTER IS TRAILED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

01/13/99 830 AM MOTION DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

1 GIL GARCETTI
 District Attorney
 2 BETH L. WIDMARK
 Deputy District Attorney
 3 200 West Compton Boulevard
 Compton, California 90220
 4 Telephone: (310) 603-7548

5 Attorney for the People
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FILED
 LOS ANGELES SUPERIOR COURT

JAN 09 1999

JOHN A. CLARKE, CLERK
M. Pleasant
 BY M. PLEASANT, DEPUTY

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 PEOPLE OF THE STATE OF CALIFORNIA,

Case No. TA039953

11 Plaintiff,

12 v.

PEOPLE'S REPLY
 REGARDING NATURE
 OF PRIOR AS A
 STRIKE

13 WILLIAM MILTON,

14 Defendant.

Court: Dept 260

Date: 1/13/99

15 _____ /
 16 TO THE HONORABLE RON SLICK, COMMISSIONER, DEFENDANT AND HIS
 17 COUNSEL:

18 This is a reply to the defense response to the People's brief
 19 regarding the nature of the defendant's prior conviction. The
 20 particular conviction involves a plea to a count of robbery. After
 21 a review of the sentencing documents the People noted that there
 22 was a rendition of the facts which were handwritten. Closer
 23 examination of the documents reveals that it was probably the
 24 sentencing judge who wrote the notes. The notes indicate that the
 25 defendant utilized a gun during the robbery.

26 Now in addition to these certified sentencing documents to
 27 prove that the defendant utilized a gun during that robbery (case
 28 241) the People also have procured a certified copy of the

1 sentencing transcript. The transcript reveals that there was a
2 stipulation of facts filed on May 11, 1987 (eight days prior to the
3 sentencing hearing on May 19, 1987) which confirmed the facts
4 listed in the handwritten notes. (Sentencing Transcript, at Page
5 36) The sentencing transcript reveals that in the presence of the
6 defendant and his counsel the judge recited the facts as listed in
7 the stipulation. (Id.)

8 The stipulated facts in 241 indicated that the victim Doren
9 left the Jewel-T Company after cashing his check. He was
10 stopped. Money was demanded from the victim by William
11 Milton, the defendant, who possessed a handgun. And the sum
12 of three hundred thirty-eight dollars was taken from the
13 victim, Daniel Doren.

14 In addition to taking the money, the defendant Milton made
15 a statement to the Waukegan Police Department that he
16 participated in and did take the money as is described in the
17 stipulation which was received on May 11, 1987, by this
18 Court.

19 (Sentencing Transcript, Pages 36-37 also see Page 40)

20 This clears up the issue with regard to whether the defendant
21 utilized a deadly or dangerous weapon and personally used a firearm
22 during the commission of the crime. The crime, therefore,
23 qualifies as a strike. P.C. 1170.12 (b)(1); 1192.7 (c)(8);
24 1192.7(c)(23).

25 The People contend that the sentencing documents alone prove
26 that the prior is a strike. The issues then become; (1) whether
27 this Court can utilize that information regarding allegations not
28 plead or proved and (2) whether this Court can also utilize the
sentencing transcript as part of the court record to prove the
nature of the crime.

The People submit that an answer of yes to either question
leads to a three strike sentence. The People further submit that
the answer to both questions is yes.

1 First, even the defense cases of Lewis and Reed stand for the
 2 proposition that a court may utilize information outside the actual
 3 charge in order to prove whether it is a serious or violent crime.
 4 Reed stands for the proposition that a court may use a court record
 5 to prove that a straight second degree robbery conviction was one
 6 in which the defendant actually utilized a gun. Lewis does not
 7 prohibit the use of documents to prove the true nature of the crime
 8 it merely states that a court cannot utilize prison records which
 9 were created almost two months after the judgment. The latter
 10 court wanted only the utilization of documents leading to the
 11 judgment which is exactly what the People are asking this Court to
 12 rely upon.

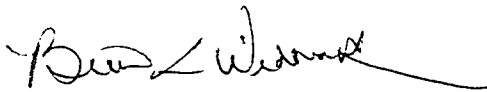
13 Furthermore in a case cited by the People, Woodell the
 14 California Supreme Court in February 1998 allowed the admission of
 15 the Court of Appeal record to prove the nature of the prior crime.
 16 Woodell, at 456. In Woodall the submission was to the jury to
 17 determine if a gun was used in the foreign prior in order to prove
 18 if that conviction was a strike. That is exactly the issue which
 19 we are facing here. The Supreme Court found no hearsay issues and
 20 no constitutional issues preventing the Court of Appeal record to
 21 prove the facts of the underlying case.

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1 The People, therefore, respectfully request that this Court
2 utilize the certified documents provided by the state of Illinois
3 to find that the defendant has suffered two prior strike
4 convictions. The People request this finding because it is the
5 truth and it is allowable by law.

6 Dated: January 7, 1999

7 RESPECTFULLY SUBMITTED,
8 GIL GARCETTI,
9 District Attorney

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11 BETH L. WIDMARK
12 Deputy District Attorney
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ILLINOIS
DEPARTMENT
OF
CORRECTIONS

Jim Edgar 000000
Governor

Odie Washington
Director

Dixon Correctional Center / 2600 North Brinton Avenue / Dixon, Il. 61021 / Telephone: (815) 288-5561
TDD: (800) 526-0844

May 21, 1998

Gil Garcetti
District Attorney
200 W. Compton Blvd. 7th Floor
Compton, CA 90220

Re: William Milton
IDOC: N-71914

Dear Mr. Garcetti:

This will acknowledge receipt of your request for information regarding the above noted individual.

In response to your request for copies of records, enclosed please find my Affidavit certifying authenticity of copies or photographs of the below listed documentation from the Master Record File of ex-inmate Milton:

Sentence and Commitment Order:	Lake County 87-CF-241 87-CF-242
	Robbery Armed Robbery
Statement of Facts:	Brief Description of Cases
Fingerprint Card:	taken 09/21/92
Photograph:	taken 09/18/92

I trust this is responsive to your request. Should you require additional information, please advise.

Sincerely,

Jim Utley
Jim Utley
Record Office Supervisor
Dixon Correctional Center

JU:JD:lw
Attachments
cc: Master File

TYPE OF HEARING	TRIAL
CASE NO.	41039953
PEO	EXH. NO. 7
ADMITTED IN EVIDENCE	
DATE	1-13-99
FRANK S. ZOKIN, COUNTY CLERK/EXECUTIVE OFFICER	
BY:	<i>M. Diarent</i> DEPUTY

DA-215

(U. S. Rev. Statutes, Sec. 906. Attestation by Official Custodian, Certificate of Presiding Judge, Certificate of Clerk to official character of Judge.)

STATE OF ILLINOIS S.S.
COUNTY OF LEE

I, JIM UTLEY, hereby certify that I am the RECORD OFFICE SUPERVISOR of the (Name of Official Custodian) (Official Position) DIXON CORRECTIONAL CENTER a penal institution of the State of ILLINOIS situate in the county and State (Name of Penitentiary or Reformatory) aforesaid; that in my legal custody as such officer are the original files and records of persons heretofore committed to said penal institution; that the

(1) Photograph (2) Fingerprint record and (3) Commitment attached hereto are copies of the original records of William Milton N-71914 a person heretofore committed to said penal institution and who served a term of imprisonment therein; that I have compared the foregoing and attached copies with their respective originals now on file in my office and each thereof contains, and is, a full, true and correct transcript and copy from its said original.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of May, A.D. 19 98

Jim Utley (Signature)
RECORD OFFICE SUPERVISOR (Official Title)

STATE OF ILLINOIS S.S.
COUNTY OF LEE

I, MARTIN D. HILL, Presiding Judge of CIRCUIT COURT OF LEE COUNTY

State of ILLINOIS, County of LEE, which Court is a Court of Record having a seal, do hereby certify that JIM UTLEY, whose name is subscribed to the above Certificate, was at the date thereof, and is now (Name of Person Certifying Above)

RECORD OFFICE SUPERVISOR of the DIXON CORRECTIONAL CENTER and is the legal keeper and the officer (Official Capacity of one Certifying) (Name of Penitentiary or Reformatory) having the legal custody of the original records of said DIXON CORRECTIONAL CENTER; that the said Certificate is (Name of Penitentiary or Reformatory) in due form; and that the signature subscribed thereto is his genuine signature.

IN WITNESS WHEREOF, I have hereunto subscribed my name in my official character as such Judge, at the County and State aforesaid, this 21st day of May, A.D. 19 98

Martin D. Hill (Signature)
Judge of CIRCUIT COURT OF LEE COUNTY

STATE OF ILLINOIS S.S.
COUNTY OF LEE

I, DENISE MCCAFFREY, Clerk of Circuit Court of the State of ILLINOIS, (Name of Clerk) County of LEE, which Court is a Court of Record having a seal which is annexed hereto, do hereby certify that MARTIN D. HILL (Name of Judge)

whose name is subscribed to the foregoing Certificate of due attestation, was, at the time of signing the same, Judge of CIRCUIT COURT OF LEE COUNTY aforesaid, and was duly commissioned, qualified and authorized by law to execute said (Name of Court) Certificate. And I do further certify that the signature of the above-named Judge to the said Certificate of due attestation is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and annexed the seal of the 15th JUDICIAL CIRCUIT at my office in said County, this 21st day of May, A.D. 1998

Denise McCaffrey (Signature)
Clerk of Circuit Court of Lee County

(SEAL)

HCU Box
224
000092



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF BRANCH & AREA OPERATIONS

GIL GARCETTI • District Attorney
SANDRA L. BUTTITTA • Chief Deputy District Attorney
R. DAN MURPHY • Assistant District Attorney

ROGER GUNSON • Director
Region I

May 4, 1998

Via Fax: (618) 533-4111 X261

Centralia Correctional Center
Shattuc Road
Centralia, Illinois 62801

Attn: Ms. Brenda Cremeens
Records Section

Re: MILTON, WILLIAM
PRISON ID NO.: N71914
CHARGE: ARMED ROBBERY/ROBBERY
DOB: 08-03-66
FBI NO.: 186106EA5

*Disposal Cont
3-9-98
04.27.93*

Dear Ms. Cremeens:

Thank you for your prompt response to my request for the Pen Pack for the above referenced person. However, we actually need a certified copy of the Mittimus for an armed robbery and robbery conviction in which he was imprisoned on or about May 22, 1987. If you should require the photo and fingerprint card from the Pen Pack that I have already received, please call me and I will send it back. This packet will be used to prove a prior conviction in a case (TA038987) now pending in Los Angeles County Superior Court.

Send documents to: L.A. County District Attorney's Office
200 W. Compton Blvd., 7th Floor
Compton, California 90220
Attn: Richard Sato

If you have any questions, please call me at (310) 603-7538. Once again, thank you for your assistance in this matter.

Sincerely,

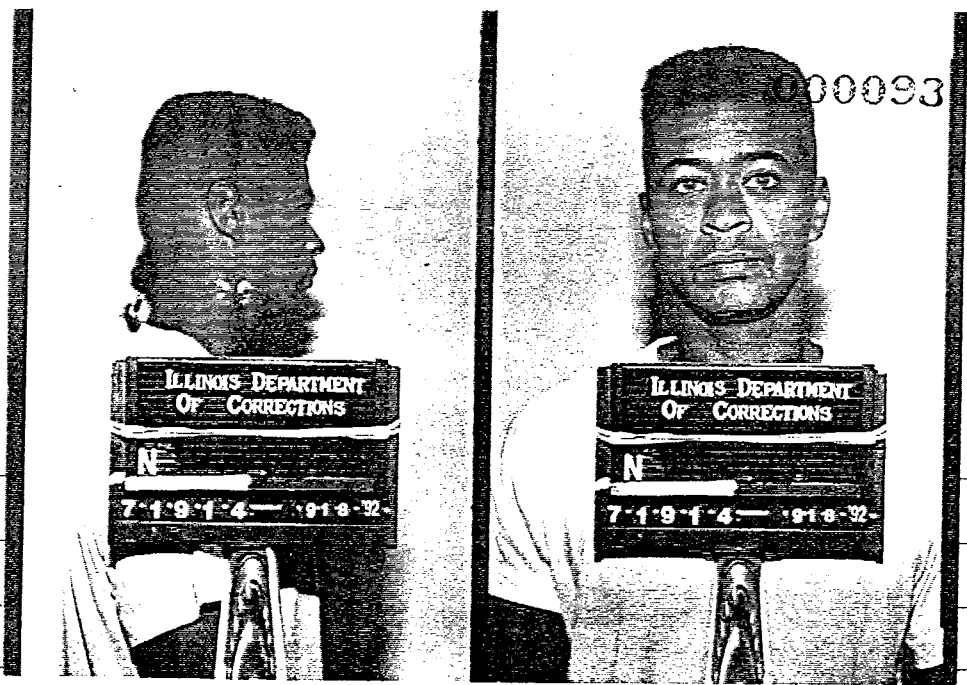
GIL GARCETTI
District Attorney

By *Richard Sato*

RICHARD SATO
Paralegal

200 W. Compton Blvd.
Room 700
Compton, CA 90220-3183
(310) 603-7483

000093



RESIDENT'S NAME
MILTON, William

ALIAS(S)

REGISTER NUMBER
N71914

COLOR

1. - Right Thumb	2. - R. Index Finger	3. - R. Middle Finger	4. - R. Ring Finger	5. - R. Little Finger
6. - Left Thumb	7. - L. Index Finger	8. - L. Middle Finger	9. - L. Ring Finger	10. - L. Little Finger

Four fingers taken simultaneously	Amputations	Four fingers taken simultaneously
Left Hand 		Right Hand
	Left Thumb 	Right Thumb

FBI NUMBER

ILLINOIS B OF I. NUMBER

RESIDENT'S SIGNATURE

IMPRESSIONS TAKEN BY. *GA*

DATE *9/24/02*

PLEASE DO NOT FOLD THIS CARD

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

000094

FILED

MAY 19 1987

MITTIMUS FOR STATE PENAL INSTITUTIONS

PLEAS before said Circuit Court held in the city of WAUKEGAN

on May 19, 19 87

Sally D. Coffelt
CIRCUIT CLERK

Present: HONORABLE Jack Hoogasian, Judge of the Circuit Court
Fred L. Foreman, State's Attorney
Robert H. Babcox, Sheriff

Attest: Sally D. Coffelt
(Clerk of the Circuit Court)

BE IT REMEMBERED that on said date the following, among other proceedings, were had and entered of record in said Court:

THE PEOPLE OF THE STATE OF ILLINOIS
vs.
William Milton
Defendant
No. 87CF241

JUDGMENT AND SENTENCE

Now come THE PEOPLE OF THE STATE OF ILLINOIS, by Fred L. Foreman, State's Attorney of Lake County, and the defendant, in person and by counsel, Burnell Dixon Private Counsel, and now neither the defendant nor defendant's counsel saying anything further why the judgment of the court should not now be pronounced against said defendant on the Plea of guilty heretofore entered to the charge of Robbery as charged in the complaint or indictment returned in this cause on February 23, 19 87;

Therefore, it is ordered and adjudged by the court that said defendant is guilty of the crime of Robbery

as charged in the indictment or complaint herein. The court finds the age of said defendant to be 20 years.

The court having offered to hear evidence in aggravation and mitigation of the offense as to the moral character, life, family, occupation, and criminal record of defendant, and the presentation of evidence having been heard by the court, the defendant having nothing further to say, the court hereby sentences said defendant to imprisonment in a penitentiary and fixes the term of imprisonment at Def sentenced to the Department of Corrections for a period of seven (7) years - Said sentence to run concurrent with sentence imposed in 87CF24 Def to receive credit for time served in the Lake County Jail.

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

Jed

AMENDED MITTIMUS FOR STATE PENAL INSTITUTIONS

PLEAS before said Circuit Court held in the city of WAUKEGAN, Illinois on November 15, 19 89.

Present: HONORABLE Harry D. Hartel, Jr., Judge of the Circuit Court
Fred L. Foreman, State's Attorney
Clinton O. Grinnell, Sheriff

Attest: Sally D. Coffelt
(Clerk of the Circuit Court)

N-71914

BE IT REMEMBERED that on said date the following, among other proceedings, were had and entered of record in said Court:

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

William Milton

N-71914

Defendant

No. 87CF242

FILED NOV 15 1989

AMENDED JUDGMENT AND SENTENCE

it
CIRCUIT CLERK

Now come THE PEOPLE OF THE STATE OF ILLINOIS, by Fred L. Foreman, State's Attorney of Lake County, and the defendant, in person and by counsel, Burnell Dixon, and now neither the defendant nor defendant's counsel saying anything further why the judgment of the court should not now be pronounced against said defendant on the trial of guilty heretofore entered to the charge of Armed Robbery

information filed as charged in the complaint or indictment returned in this cause on February 23, 19 87;

Therefore, it is ordered and adjudged by the court that said defendant is guilty of the crime of

Armed Robbery

as charged in the ~~information or indictment returned~~ information herein.

The court finds the age of said defendant to be _____ years.

The court having offered to hear evidence in aggravation and mitigation of the offense as to the moral character, life, family, occupation, and criminal record of defendant, and the presentation of evidence having been heard by the court _____, the defendant having nothing further to say, the court hereby sentences said defendant to imprisonment in a penitentiary and fixes the term of imprisonment at (12) years with credit given for time served.

Def was resentenced from 30 years to 12 years per the appellate court. Said sentence is concurrent with sentence imposed in 87CF241.

(Insert definite period or indeterminate term as required)

It is further ordered and adjudged that the defendant be taken from the bar of this court to the common jail of said county, and from there be taken by the sheriff of said county to the Illinois State Penitentiary.

and be delivered to the Department of Corrections, and said Department of Corrections is hereby commanded to confine the defendant for the term above fixed, or until discharged by due process of law.

It is further ordered that said defendant pay the costs of these proceedings and that a mittimus be issued and executed without delay.

NOV 15 1989



Dated November 15, 19 89.

ENTER:

[Signature]
CIRCUIT CLERK

[Signature]
(Judge)

STATE OF ILLINOIS, }
LAKE County, } ss.

The undersigned Clerk of the Circuit Court of the above named Court does hereby certify the above to be a true and complete copy of an order entered of record in said Court in the case of THE PEOPLE OF THE STATE OF ILLINOIS versus William Milton, Information for Armed Robbery, General Number 87CF242.

Signed and sealed before me

November 15, 19 89.

(Official Seal Affixed)

[Signature]
(Clerk of the Circuit Court)

To the Sheriff of LAKE County to Execute

STATE OF ILLINOIS, }
County, } ss.

I certify that the defendant has been held in custody in the County Jail _____ days; and I have delivered the person named in the within mittimus to _____

on _____, 19 _____.

Dated _____, 19 _____.

Costs:	
Clerk	\$ <u>40.00</u>
Sheriff	\$ _____
State's Attorney	\$ <u>30.00</u>
CSF FEE	\$ <u>10.00</u>

(Sheriff)
By: _____
(Deputy)

TYPE OF HEARING *TRIAL*
CASE NO. *1703903*
100 EXH. NO. *8*
ADMITTED IN EVIDENCE
DATE *1-13-99*
FRANK S. ZOLIN, COUNTY CLERK/EXECUTIVE OFFICER
BY: *M. Pleasant* DEPUTY

ON 5/19/87

000098

COURT VACATES THE JUDGMENT ON COUNTS 3 AND 4 OF THE CHARGES OF ROBBERY AND THEFT HOWEVER THE VERDICTS STILL STAND - DEF ADJUDGED GUILTY OF THE CHARGE OF ARMED ROBBERY AS CHARGED IN COUNT 2 OF THE INFORMATION.

() A trial by jury was waived by the defendant, who was represented by Attorney _____ and thereafter the Court found the defendant guilty of _____ on _____.

() The defendant, after having been fully advised of his rights, and while represented by Attorney _____, withdrew his plea of not guilty and entered a plea of guilty to _____ on _____.

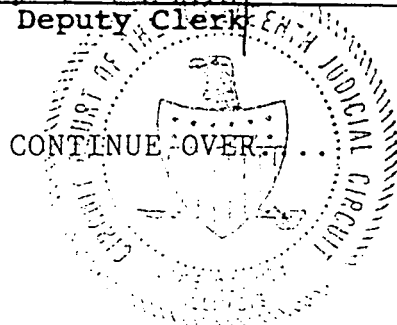
IV. On 5/19/87, judgment was entered on the conviction and the defendant was sentenced by the Honorable JUDGE JACK HOOGASIAN, Judge, to 30 YEARS IN THE DEPARTMENT OF CORRECTIONS SAID SENTENCE TO RUN CONCURRENT WITH SENTENCE IMPOSED IN 87 CF 24 - DEF RECEIVED CREDIT FOR TIME SERVED IN THE LAKE COUNTY JAIL - DEF ASSESSED COURT COSTS.

I hereby certify that the foregoing has been entered of record on the above captioned case.

Sally D. Coffelt
SALLY D. COFFELT
Clerk of the Circuit Court
Lake County, Illinois

BY: [Signature]
Deputy Clerk

Dated at Waukegan, Illinois this
17 day of SEPTEMBER 99 98.



000100

ON 11/15/89

DEF WAS NOT PRESENT - THE APPELLATE COURT MODIFIES DEFS SENTENCE TO 12 YEARS IN THE DEPARTMENT OF CORRECTIONS WITH CREDIT FOR TIME SERVED - SAID SENTENCE IS CONCURRENT WITH SENTENCE IMPOSED IN 87 CF 241 - CLERK IS DIRECTED TO PREPARE AMENDED MITTIMUS - DEF REMAINS IN THE DEPARTMENT OF CORRECTIONS.
(SEE AMENDED JUDGMENT AND SENTENCE).

TYPE OF HEARING *TRIAL*
CASE NO. *1703953*
EXH. NO. *9*
DATE *1-13-99*
BY: *M. P. ...*
DEPUTY
FRANK S. ZOLIN, COUNTY CLERK/EXECUTIVE OFFICER

ADMITTED IN EVIDENCE

000102

() A trial by jury was waived by the defendant, who was represented by Attorney _____ and thereafter the Court found the defendant guilty of _____ on _____.

(X) The defendant, after having been fully advised of his rights, and while represented by Attorney JOY PALMER APD, withdrew his plea of not guilty and entered a plea of guilty to UNLAWFUL USE OF A WEAPON BY A FELON AS CHARGED IN COUNT 1 on 8/12/93.

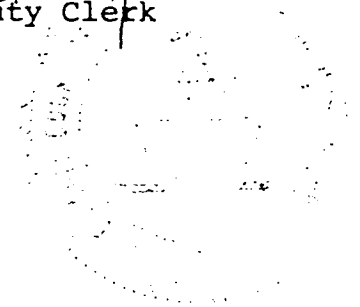
IV. On 8/12/93, judgment was entered on the conviction and the defendant was sentenced by the Honorable JUDGE RAYMOND J. MCKOSKI Judge, to 3 YEARS IN THE DEPARTMENT OF CORRECTIONS SAID SENTENCE TO RUN CONSECUTIVE TO 93 CF 1236 - DEF GIVEN CREDIT FOR 27 DAYS TIME SERVED.

I hereby certify that the foregoing has been entered of record on the above captioned case.

Sally D. Coffelt
SALLY D. COFFELT
Clerk of the Circuit Court
Lake County, Illinois

BY: [Signature]
Deputy Clerk

Dated at Waukegan, Illinois this 18 day of SEPTEMBER 19 98.




000105


STATE OF ILLINOIS)
) SS
COUNTY OF L A K E)

I, SALLY D. COFFELT, Clerk of the Circuit Court of the Nineteenth Judicial Circuit, Lake County, in and for the State of Illinois, and the keeper of the records, files and seal thereof, do hereby certify that the annexed is a true and correct copy of STATEMENT OF CONVICTION in a certain cause lately pending in said Court, wherein The People of the State of Illinois were Plaintiffs and WILLIAM M. MILTON was Defendant, General No. 93 CF 1476.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of said Court, at Waukegan, Illinois.

SEPTEMBER 18 19 98


SALLY D. COFFELT
Clerk of the Circuit Court

BY: 
Deputy Clerk.



000106

TYPE OF HEARING	TRIAL
CASE NO.	TH039953
PCO	EXH. NO. 10
ADMITTED IN EVIDENCE	
DATE	1-13-99
FRANK S. ZOLTY, COUNTY CLERK/EXECUTIVE OFFICER	
BY:	M. Pleasant DEPUTY

() A trial by jury was waived by the defendant, who was represented by Attorney _____ and thereafter the Court found the defendant guilty of _____ on _____.

(X) The defendant, after having been fully advised of his rights, and while represented by Attorney JOY PALMER APD, withdrew his plea of not guilty and entered a plea of guilty to UNLAWFUL USE OF A WEAPON BY A FELON on 8/12/93.

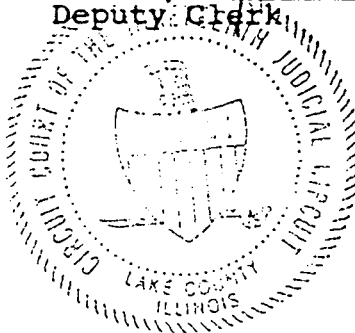
IV. On 8/12/93, judgment was entered on the conviction and the defendant was sentenced by the Honorable JUDGE RAYMOND J. MCKOSK Judge, to 2 YEARS IN THE DEPARTMENT OF CORRECTIONS - SAID SENTENCE TO RUN CONSECUTIVE TO 93 CF 1236 - DEF GIVEN CREDIT FOR 27 DAYS TIME SERVED IN THE LAKE COUNTY JAIL.

I hereby certify that the foregoing has been entered of record on the above captioned case.

Sally D. Coffelt
SALLY D. COFFELT
Clerk of the Circuit Court
Lake County, Illinois

BY: [Signature]
Deputy Clerk

Dated at Waukegan, Illinois this
18 day of SEPTEMBER 19 98



000110

TYPE OF HEARING	TRIAL
CASE NO.	PO 9953
PCO	EXH. NO. 11
ADMITTED IN EVIDENCE	
DATE	1-13-99
FRANK S. ZOLIN COUNTY CLERK/RECORDS OFFICER	
BY	<i>[Signature]</i> DEPUTY

Certified Copy

from

**Circuit Court of THE NINETEENTH JUDICIAL CIRCUIT,
Lake County, Illinois**

FILED

JUL - 9 1987

STATE OF ILLINOIS)
) SS.
COUNTY OF L A K E)

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS
CIRCUIT CLERK

THE PEOPLE OF THE STATE OF ILLINOIS)
)
) Plaintiff,)
)
) -VS-)
)
) WILLIAM MILTON,)
)
) Defendant.)

No. 87 CF 242

REPORT OF PROCEEDINGS had in the above entitled cause
before the Honorable JACK HOOGASIAN, Judge of said Court,
on the 19th day of May, A.D., 1987; a.m. proceedings.

APPEARANCES:

MR. GEORGE STRICKLAND and MR. JEFFREY PAVLETIC,
Assistant State's Attorney,
on behalf of the People;

MR. BURNELL DIXON,
Attorney at Law,
on behalf of the Defendant William
Milton;

DONALD W. CLARK, C.S.R.
COURTHOUSE
WAUKEGAN, ILLINOIS
LICENSE NO. 84-2420

(Whereupon the following
proceedings were had in
open court.)

MR. STRICKLAND: "People of the State of Illinois
versus William Milton; 87 CF 241, 87 CF 242". The People
are represented by Assistant State's Attorneys George
Strickland and Jeffrey Pavletic. The Defendant is
present in the custody of the Lake County Sheriff
represented by his attorney Mr. Burnell Dixon.

At this time the matter comes on today, your
Honor, for both post-trial petitions from Mr. Dixon and
sentencing.

THE COURT: What's the gentleman's name?

MR. STRICKLAND: "Milton", your Honor.

MR. DIXON: Good morning. For the record, my name
is Burnell Dixon representing the Defendant William
Milton. Your Honor, I have here a motion for new trial
in Case Number 87 CF 242. It is based on the following
information, your Honor. That the Court erred in the
following manners: Number one, the Court failed to grant
me a -- a continuance on April 19, 1987.

THE COURT: Wait a minute, please.

MR. DIXON: Yes, your Honor.

1 THE COURT: All right. Let the record show all the
2 parties are present in open court. The defendant is
3 present in his own proper person, and -- and as is his
4 attorney Burnell Dixon, II. The People are represented
5 by George Strickland and Jeff Pavletic, Assistant State's
6 Attorneys. The cause comes on for hearing pursuant to a
7 motion for new trial.

8 Are you ready to argue, sir?

9 MR. DIXON: Yes, your Honor. I am, your Honor.

10 THE COURT: Proceed.

11 MR. DIXON: Your Honor, I believe that the Court
12 erred in the following manners: In failing to grant me a
13 continuance since I was counsel of record of April 6,
14 1937, and the case was tried on April 19th, thereby
15 depriving my client of meaningful representation under
16 the Sixth Amendment of the United States Constitution.
17 Also on that date, the State tendered to me discovery
18 which was my first day of receiving such discovery,
19 thereby depriving me of -- thereby depriving my client of
20 a fair trial, and due process of law.

21 The discovery I'm speaking of is a written
22 statement by one Rolanda Hicks incriminating my client,
23 which I had no knowledge of before the day of trial. The
24 verdict was against the weight of evidence; that the

1 defendant was denied due process of law; that the State
2 failed to prove every material allegation of the offense
3 beyond a reasonable doubt.

4 I believe that also the Court also erred in
5 failing to give jury instructions on behalf of -- on
6 behalf of my client, and giving the jury instructions
7 that the State proffered.

8 THE COURT: What's that? Say that again about the
9 instructions.

10 MR. DIXON: I believe the Court erred in giving the
11 jury instructions on behalf of the State over the
12 defendant's objections. Those jury instructions failed
13 to -- to instruct the jury on compulsion, a defense which
14 was submitted to the Court in writing before the trial.
15 The State failed to offer any evidence to rebut
16 compulsion.

17 I believe the Court also erred in overruling
18 the defendant's motion for a directed verdict at the
19 closing of the case.

20 I believe that your Honor's failure to instruct
21 the jury on defendant's defense denied him of the
22 fundamental right to have his theory of the defense
23 proffered to the jury. Where there are opposing
24 theories as to guilt or innocence which arise out of the

1 same facts, the defendant is entitled to an instruction
2 that if his conduct could from the evidence be referred
3 to one of two intentions, one criminal and one innocent,
4 that it is the duty of the jury to presume that such
5 conduct is innocent, and it was factuated by innocent
6 intent.

7 The defendant has a fundamental right to have
8 the jury instructed on his theory of the case, on his
9 defense of the case. Without such instruction, the
10 defendant had no representation, and had no case.

11 The defendant also has the right to have the
12 jury instructed on his theory of the case, and on the law
13 applicable to any state of facts which the jury might
14 properly find that have been proved, even if the facts
15 upon which the defense is based are contrary to the
16 defendant's own testimony. And that's cited in the case
17 of People versus Johnson, 100 Ill. App. 2nd, 13.

18 THE COURT: It was which proposition now?

19 MR. DIXON: The defendant has the right to have the
20 jury instructed on his theory of the case, and the law
21 applicable to any state of facts which the jury might
22 properly find to have been proved, even if the facts upon
23 which the defense is based is contrary to the defendant's
24 own testimony. But, in this -- in this case the

1 defendant testified that he felt compelled in that point
2 of view, and I believe respectfully that's an issue of
3 fact which is the jury's to decide, not your Honor.

4 The verdict is based on evidentiary facts which
5 do not exclude every reasonable hypothesis consistent
6 with the innocence of the defendant. Therefore, I humbly
7 ask your Honor to please grant us a new trial.

8 MR. PAVLETIC: May I respond briefly, Judge?

9 THE COURT: Yes.

10 MR. DIXON: Your Honor, one more thing before you go
11 on. I believe that the failure to give the jury
12 instructions are probably the most fundamental error.

13 THE COURT: Failure to --

14 MR. DIXON: To give the jury instruction on
15 compulsion is probably the most fundamental error.

16 THE COURT: You have already covered that.

17 MR. DIXON: I just want to stress that, Judge.
18 Thank you.

19 MR. PAVLETIC: Judge, I'll be very brief. There is
20 three main points that counsel indicates in his
21 post-trial motion. I'll address those accordingly.

22 With respect to the motion to continue, first
23 of all, Judge, counsel had ample time from the time that
24 he filed his appearance in this case down in the Clerk's

1 office to the time of trial to prepare a relevant
2 defense, and interview all witnesses. With respect to
3 that, your Honor granted him a continuance the first time
4 that he was in this case that it came for trial.

5 As I indicated, that was in fact granted, and
6 you indicated that a further continuance would not be
7 forthcoming in the future should the defense make a
8 similar motion. Counsel at that time indicated on the
9 record that he would be ready for trial on the next date.
10 I think enough is said with respect to that point.

11 With respect to the next point regarding the
12 discovery violations, all discovery in this case was
13 originally given to Mr. Keefe of the Public Defender's
14 Office when he was originally assigned to the case. All
15 of that to our understanding has been tendered to Mr.
16 Dixon upon his entering the case. When Mr. Dixon
17 indicated to Mr. Strickland that he did not have some
18 various statements in the police reports, Mr. Strickland
19 tendered those to counsel immediately.

20 Furthermore, Judge, it should be noted for the
21 record that the State in no shape, manner or form used
22 any testimony or any facts with respect to Rolanda Hicks'
23 statement to -- in the police reports. We did not use
24 any of her -- any -- any relevant remarks that she made

1 to the police in our case in chief.

2 She turned out to be the Defense's witness in
3 this case. The Defense had spoken to her prior to trial.
4 She in fact testified for the Defense, and they had full
5 access to Rolanda Hicks.

6 Furthermore, Judge, if there is any violation
7 of discovery in this case, it would seem to me that
8 that's on the part of Mr. Dixon who tendered us less than
9 an hour prior to trial a compulsion defense which we had
10 no notice of prior to trial, nor at any time during the
11 pendency of Mr. Dixon's appearance on behalf of the
12 defendant.

13 With respect to the compulsion defense, Judge,
14 counsel seems to merge that argument together with some
15 case law regarding the fact that the Court should have
16 instructed them as to the compulsion defense. Counsel
17 cites People versus Lefler, again, 230 N. E. 2d, 827,
18 and People versus Johnson, 241 N.E. 2d, 584. And in
19 both cases, Judge, they were homicide cases, and I have
20 in fact pulled those cases and have those ready to
21 present to your Honor.

22 Both those cases indicated basically that
23 proffered instructions stating in effect that if a
24 defense's act was lawful --- was lawful and if he had no

1 intention of killing the victim, he should be acquitted,
2 was properly refused in that it did not correctly state
3 the law. Basically both the -- both the Lefler case and
4 the Johnson case stand for the proposition that where
5 there are various issues of law which are going to be
6 tendered via the jury instructions, they must be tendered
7 in an appropriate manner according to the law.

8 With respect to the last case counsel cited,
9 People versus Lucas, 243 N.E. 2d, 228, that counsel
10 cites in his motion, part of the dicta in that case is
11 that -- that instructions should not only state permanent
12 law, but should make application of law purports to state
13 as to facts that may be found by the jury. However, the
14 case also stands for the proposition, Judge, that refusal
15 to give defendant's requested instructions which
16 improperly express that the jury had an unqualified duty
17 to consider the defense of necessity and did not
18 sufficiently explain that the jury had to find the
19 existence of elements on which the defense of necessity
20 is legally based was proved. In other words, the Court
21 was proper in denying that instruction because it did not
22 state the law properly.

23 Now, your Honor, pointed out pursuant to
24 Chapter 38, Section 77, during trial that in order for

1 there to be compulsion there must be a threat or menace
2 of imminent infliction of death or great bodily harm.
3 If he -- that being the defendant -- reasonably believed
4 death or great bodily harm will be inflicted upon him if
5 he does not perform such conduct, and there is nothing,
6 Judge, in any shape, manner or form that occurred during
7 this trial pursuant to any testimony in this case which
8 established a compulsion defense.

9 During the case we cited two cases to your
10 Honor: People versus Colon at 372 N.E. 2d, 871, and
11 People versus Rodriquez -- common spelling -- at 30
12 Ill. App. 3d, 118; and both of those cases -- cases,
13 Judge, stood for the proposition that under Section 7-11
14 of the law there must be the threat or menace of the
15 imminent infliction of death or great bodily harm, and
16 that the defendant must reasonably believe that death or
17 great bodily harm would be inflicted upon him.

18 We tendered those cases to the Court as well,
19 and again I have copies of those for your Honor's perusal
20 if you so desire. Therefore, Judge, based on counsel's
21 cases, and based on the compulsion cases which we
22 tendered it should be -- it should be apparent that the
23 law requires that if you are going to instruct a jury as
24 to different propositions of law that they must be

1 accurate. First of all, that they must be applicable to
2 the facts in the case; and, secondly, where those cases
3 -- where those instructions are applicable they must be
4 tendered in the appropriate form according to what the
5 law actually is. And the reason your Honor refused to
6 tender the compulsion instruction is because the facts
7 and the proofs did not sustain the tendering of such a
8 defense; and, therefore, this was properly denied by your
9 Honor.

10 The only other point, Judge, that counsel
11 indicates in his motion is that the defendant was --
12 strike that -- that the verdict was against the -- the
13 weight of the evidence, and the defendant was denied due
14 process of law as well as equal protection of the laws.

15 Judge, your Honor has always taken very copious
16 notes in this case with respect to what the State's
17 testimony was, and the defense's testimony as well. And,
18 in fact, every element of armed robbery was proven guilty
19 beyond a reasonable doubt in this case -- each and every
20 element. And we would ask that you consider the
21 defendant's motion for a new trial, and, in fact, deny it
22 on all grounds, and proceed to sentencing at this time.

23 THE COURT: Anything else?

24 MR. DIXON: May I, your Honor?

1 THE COURT: Without repeating.

2 MR. DIXON: Your Honor -- yes, your Honor. But I do
3 disagree with some of the statements made by respective
4 counsel State's Attorney. I don't believe that it is the
5 judge's function respectfully to decide questions of
6 facts before the courtroom. The judge's function is to
7 decide questions of law, and whether or not the defendant
8 believed he was compelled, I believe, is a question of
9 fact for the jury to decide.

10 I respectfully agree with the State's
11 characterization of your Honor's opinion on that matter
12 because I know the law clearly states that if a person
13 believes he is threatened, then that is all that's
14 necessary for compulsion.

15 As far as me supposing to be read for trial on
16 April 19th, I would have been ready for trial had the
17 State tendered me all discovery that they had within
18 their purview. It is not the Public Defender's
19 responsibility to tender me discovery. It is the State's.
20 My case is against the State, not the Public Defender.
21 The State failed to make sure I had all the discovery. I
22 didn't know I didn't have discovery, subsequently, when I
23 appeared in court and found that they had a statement by
24 one of my witnesses, I was not prepared for that

000123

1 statement.

2 Nothing further, your Honor.

3 THE COURT: All right. I'll just address what has
4 been mentioned here in open court. First, dealing with
5 the continuance, you did have adequate time, Mr. Dixon.
6 You had come to this court, and when you substituted
7 yourself the Public Defender at that time gave you
8 everything he had, and you were advised of the state of
9 the trial regarding the material received subsequently
10 pertaining to Hicks. The State gave you what they
11 subsequently had regarding Hicks, so that was in your
12 possession, and you had ample opportunity to talk with
13 Hicks.

14 As a matter of fact, the State didn't even use
15 Hicks. You used Hicks as a defense witness. So this
16 indicates to me that you had an opportunity to go over
17 the material given to you from the State, and to prepare
18 whatever it was that you had with Hicks.

19 Regarding the jury instructions, the Court at
20 the time made comments regarding each of the instructions
21 as they were tendered. As a matter of fact, the Court
22 even extended itself by typing a couple of the
23 instructions on your behalf because you had given to this
24 Court, contrary to the I.P.I, contrary to the forms as

1 the law requires, a series of instructions that was
2 presumably copied from I.P.I. And they're all here in
3 the record, so that if there is an appeal, the Appellate
4 Court can find them.

5 And the Court extended itself in giving those
6 instructions which were pursuant to the law, and denied
7 those that were not pursuant to the law and inconsistent
8 with the evidence.

9 Finally, dealing with this compulsion, we had
10 an extensive discussion, and I read into the record the
11 comments of the Committee on Section 7-11 of Chapter 38
12 Illinois Revised Statutes when it was first adopted in
13 this state. So that is preserved, and I would
14 re-enunciate the same thing now as I did then.

15 Among other things, the State in its argument
16 at -- in response to what you have said to me, you said
17 -- and this is during the instructions when an objection
18 was made by the State -- you said, "Compulsion is a state
19 of mind as to what the reasonable man believes or feels."
20 And the State brought no one in, and I don't see how they
21 could object for as we know that once the affirmative
22 defense of compulsion is established, then the burden is
23 upon the State to overcome it, but the duty is upon the
24 Defense to establish the affirmative defense of

1 compulsion.

2 Instructions dealing with compulsion were
3 denied because the evidence in this court was
4 insufficient to show that the Defendant Milton reasonably
5 believed that he had the state of mind as to what a
6 reasonable man believes. The Defense never established
7 the defense of compulsion in its side of the case.

8 And for those reasons, and for the other
9 reasons that I had mentioned when we had our arguments
10 over the instruction on compulsion, specifically People's
11 Exhibits 13.01(d), 14.02, and 14.04, these instructions
12 which were prepared for the benefit of the Defense,
13 instructions on compulsion were denied, and the -- the
14 instruction dealing with 13.02(d), and 14.02, and 14.04
15 were given in its place, all pursuant to the record as
16 previously argued and stated.

17 Since these are the major points that were
18 raised, and since these have been in detail covered
19 during the argument, your motion for a new trial shall be
20 and is hereby denied.

21 Are we ready for sentencing?

22 MR. STRICKLAND: Yes, Judge.

23 THE COURT: You have got the P.S.I.? Did you read
24 the presentencing investigative report?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. The sentencing goes in
3 regard to 87 CF 241 as well as 87 CF 242. 242 is the
4 trial, and it's in 242 that the motion for a new trial
5 was denied. 241 is wherein the defendant entered a
6 straight plea to robbery, Count 2, on May 11, 1987, and
7 the presentencing investigative report was ordered.
8 Counts 1 and 3 were to be nolle prossed. At that time
9 because of the motion 1 and 3 were nolle prossed.

10 Are we ready to proceed?

11 MR. STRICKLAND: Judge --

12 THE COURT: Are there any additions or corrections
13 you desire to make to the presentencing investigative
14 report?

15 MR. DIXON: Your Honor, the presentencing
16 investigative report is -- there are certain errors
17 contained within. Essentially, there is -- that
18 indicates on page five that there was a bench warrant
19 issued to Mr. Milton for selling without a business
20 license, which he has no knowledge of, or was never
21 served or arrested on that charge.

22 THE COURT: Which line, sir?

23 MR. DIXON: Page five, July 10th, 1986, warrant.

24 THE COURT: That's line twenty-five?

1 MR. DIXON: I'm sorry, your Honor, line twenty-five.

2 THE COURT: For selling without a business?

3 MR. DIXON: For selling without a business license.

4 THE COURT: Were you ever in Southgate, California?

5 THE DEFENDANT: Yes, I was.

6 MR. DIXON: Also, your Honor, there -- the accuracy
7 on page seven, line twenty-six through thirty-two, in
8 that Mr. Milton never reported to the probation officer.
9 He graduated from North Chicago. He indicates that he
10 graduated from high school in California, and also
11 attended a community college in California, not the
12 College of Lake County in Grayslake.

13 THE COURT: He didn't graduate from North Chicago?

14 THE DEFENDANT: No.

15 THE COURT: You graduated from what high school?

16 THE DEFENDANT: Southgate High School.

17 THE COURT: Where, sir?

18 THE DEFENDANT: Southgate High School.

19 THE COURT: In California?

20 THE DEFENDANT: Yes.

21 THE COURT: What town?

22 THE DEFENDANT: Southgate, California.

23 THE COURT: Where is Southgate?

24 THE DEFENDANT: In California.

1 THE COURT: I know. Where? North, east, south,
2 west?

3 THE DEFENDANT: That's east.

4 MR. DIXON: Close to L.A.?

5 THE DEFENDANT: Right.

6 THE COURT: Where? Near Los Angeles?

7 THE DEFENDANT: About a mile -- a mile out of Los
8 Angeles -- a mile east of Los Angeles.

9 THE COURT: How far from Pasadena or Arcadia?

10 THE DEFENDANT: About ten, fifteen miles.

11 THE COURT: All right. Okay. And you are not from
12 North Chicago High School?

13 THE DEFENDANT: No.

14 THE COURT: When did you graduate? What date?

15 THE DEFENDANT: June, 1984.

16 THE COURT: In 1984?

17 THE DEFENDANT: In June.

18 THE COURT: All right, sir. What else, sir?

19 MR. DIXON: That he attended -- where was that? Not
20 the College of Lake County --

21 THE DEFENDANT: Community College.

22 THE COURT: In Carlton (phonetic), California; yes?

23 THE DEFENDANT: Carlton Community College; yes.

24 THE COURT: In Carlton, California?

1 THE DEFENDANT: Yes.

2 THE COURT: How long did you go there?

3 THE DEFENDANT: One year.

4 THE COURT: All right, sir. What else?

5 MR. DIXON: In line eighteen --

6 THE COURT: On which page?

7 MR. DIXON: On page seven -- the same page, your
8 Honor. It states that Mr. Milton has a son residing with
9 Mrs. Segarre. Mrs. Segarre resides in California, your
10 Honor.

11 THE COURT: Where?

12 THE DEFENDANT: Huntington Park, California.

13 MR. DIXON: And his son also resides in California,
14 your Honor.

15 THE COURT: All right, sir. What else?

16 MR. DIXON: That the defendant has -- on page two,
17 your Honor. I'm sorry, page two, line five. That the
18 various aliases listed for the defendant -- one or two of
19 these gentlemen are druggers. That's it, your Honor.

20 THE COURT: All right. Other than that, it is
21 correct and satisfactory?

22 MR. DIXON: Is that correct and satisfactory?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you -- have you read the

1 presentencing investigative report?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Pursuant to the defendant's
4 reading of the report, it's the order of the Court that
5 pursuant to Section 10.05 of Chapter 38 the Clerk shall
6 receive and file it as the law provides. So ordered.

7 Next, arguments?

8 MR. STRICKLAND: Your Honor, on behalf of the State
9 I'll make the argument.

10 As you just recited on the record, Mr. Milton
11 is here to be sentenced as to two separate incidents that
12 took place in Waukegan. The first being the jury trial
13 which the Court heard where Dale Posedel was returning
14 from doing his laundry. He was out in the street, and he
15 was approached by a car driven by the defendant Milton.

16 Dale Posedel testified at that time that Mr.
17 Milton got out of the car, pointed a gun at him, and
18 threatened him, forced him into the car where he was
19 robbed of his goods. He testified that he was extremely
20 frightened during the time this event took place, and
21 didn't know what was going to happen to him, whether the
22 gun was going to be shot at him or not.

23 The second incident involving Daniel Doren who
24 was returning home from cashing his payroll check, and he

1 was on a bicycle, and once again in the evening hours
2 he's riding down a street in Waukegan, and once again he
3 is accosted by the defendant William Milton who
4 approaches him with a weapon, threatens him, and was --
5 Mr. Doren lost his entire paycheck of over three hundred
6 dollars to Mr. Milton.

7 So, he will be sentenced for armed robbery, and
8 robbery, both crimes of violence, Judge. Both very
9 serious crimes. I think when you look at the factors in
10 aggravation you are going to see a number of them do
11 apply.

12 Number one, the defendant's conduct caused or
13 threatened serious harm. Obviously, pointing a loaded
14 gun at somebody's face threatens serious harm. As you
15 recall, that gun was loaded that Mr. Milton pointed at
16 Dale Posedel.

17 Number two, the defendant received compensation
18 for committing the offense. Obviously, Judge, in both
19 cases the defendant received compensation. Particularly
20 in Mr. Doren's case where Mr. Doren lost over three
21 hundred dollars after cashing his check.

22 Number three, the defendant has a history of
23 prior delinquency or criminal activity. You can see from
24 the presentencing investigation, Judge, that the

1 defendant has been involved before. And that brings up
2 something else that I would like -- like to point out to
3 the Court. You know, I'd like to point out to the Court,
4 your Honor, on March 6th, Mr. Milton appeared before your
5 Honor and asked for a bond hearing. Mr. Milton was at
6 that time being held on both of these cases in custody.

7 The Court at that time had Mr. Milton sworn in
8 to tell the truth. At the time the Court was advised by
9 Mr. Milton that he had never been arrested before.
10 Outside of these two cases, that Mr. Milton had never
11 been arrested before. As you can see from this
12 presentencing investigation, Mr. Milton lied under oath
13 to the Court because he has been arrested before. Not
14 only has he been arrested and convicted before, but there
15 are warrants outstanding -- bench warrants outstanding.
16 So he is -- he was obviously picked up on charges in
17 California and fled bond in California.

18 You can see he had a number of cases. He had a
19 robbery case which apparently is classified as a
20 misdemeanor in California. A bench warrant was issued on
21 that last September. You can see that he had a charge of
22 under the influence of controlled substance, and a
23 warrant issued for him. You can see that he has been
24 convicted of under the influence of a controlled

1 substance as well as having been arrested for driving on
2 a suspended license, and being convicted. So, he -- as
3 he -- he looked at the Court and in an effort to get a
4 recognizance bond or a pre-trial release, he lied to the
5 court.

6 And you will also recall his testimony in this
7 jury trial, your Honor, where he attempted to place all
8 the blame in this case on his co-defendant, Banard Cobb,
9 trying to absolve himself of all the guilty. Obviously,
10 the jury's verdict and the time which it took to reach
11 that verdict shows the jury did not believe any of that
12 testimony. That's obvious from the verdict.

13 Your Honor, I know the last factor in
14 aggravation, number seven, is that the sentence is
15 necessary to deter others from committing the same crime.
16 Outside of viewing the way Mr. Milton has conducted
17 himself throughout these appearances in court, your
18 Honor, this is perhaps one of the most important factors
19 in aggravation that has to do with this case.

20 Both victims were minding their own business,
21 using public streets in Waukegan, one just cashing a
22 check, one returning from doing his laundry. Both
23 accosted on the street by Mr. Milton who is brandishing a
24 weapon. Your Honor, obviously, an armed robbery is a

1 very dangerous offense. It's a -- a violent offense, and
2 it's one of the offenses that should be most repugnant to
3 society.

4 One of the things that -- main things we're
5 interested in is attempting to keep the streets of
6 Waukegan safe. Incidents like this make it impossible
7 for any -- anyone who travels the streets of Waukegan,
8 especially at nighttime to feel that they are safe. This
9 wasn't even that late at night when Mr. Milton did this.
10 He -- it was just after the sun had gone down, basically,
11 in each event, Judge.

12 Basically it's for us to deter others from
13 committing offenses of this sort, Judge; and, obviously,
14 when somebody takes a loaded gun and points it in
15 somebody's face things can escalate, and that's a very
16 serious situation.

17 For the reasons that I have stated before,
18 Judge, and the reasons that you have seen, Mr. Milton's
19 conduct, he has not shown remorse in this case. He tries
20 to place blame on others for his actions. For the fact
21 that he's lied to this Court before, and for how serious
22 the offenses he's committed are, I would ask that you
23 sentence him to a substantial period of time in the
24 Department of Corrections.

1 THE COURT: Mr. Dixon?

2 MR. DIXON: Your Honor, the aggravating factors
3 recited by the opposing counsel, Mr. Strickland, I
4 disagree with. There was never any testimony that --
5 that indicated that Mr. Milton received any compensation,
6 and the money that he had on him was mere pennies, or one
7 or two dollars. There was no -- no testimony was taken
8 from the co-defendant about the conversation that he had
9 on him. I don't know why he can blame the conversation
10 aspect on the Defendant William Milton.

11 As far as his prior history, your Honor, Mr.
12 Milton is twenty years old. Mr. Milton believed that the
13 misdemeanors that he was charged with were just mere
14 tickets, that they were not substantial enough to inform
15 this court. Mr. Milton will speak on his -- in his own
16 behalf at whatever time your Honor articulates, but I
17 believe those factors should be considered by your Honor
18 before sentencing.

19 As far as the jury rendering a swift verdict in
20 record time, I believe that was because of the mere fact
21 that the jury was given -- that Mr. Milton's defense that
22 was -- that was issued all throughout the case, that was
23 the basis of his defense, without the defense they did
24 not issue a verdict in record time, and I object to the

1 State's characterization like that.

2 Nothing further, your Honor. Mr. Milton would
3 like to make a statement, your Honor.

4 THE COURT: He will be given that opportunity, sir.

5 MR. DIXON: Thank you, your Honor.

6 THE COURT: Mr. Milton, stand here between the
7 attorneys. What if anything do you have to say, sir?

8 THE DEFENDANT: Well, I'd like to say that my prior
9 history of arrests -- the arrests were just tickets for
10 under the influence, misdemeanors. I was just given a
11 ticket and let go twice. And the robbery for -- as far
12 as I'm concerned, they wanted me to testify. That's why
13 the robbery was classified a misdemeanor, not a felony.
14 I failed to appear in court to testify against two other
15 suspects, so they issued a warrant out -- a warrant for
16 robbery, but it was a misdemeanor.

17 Your Honor -- your Honor, it's a felony because
18 I don't have any part or anything to do with it. Also,
19 I'd like to say was that I will pay restitution for the
20 February -- February 2nd to Mr. --

21 MR. DIXON: Doren.

22 THE DEFENDANT: -- to Mr. Doren. But, honestly,
23 your Honor, I was compelled on the February 9th case, and
24 I am ready to be rehabilitated.

1 THE COURT: Okay. Was that three hundred
2 thirty-eight dollars in currency or check at that point
3 taken from Mr. Doren?

4 MR. STRICKLAND: Currency, Judge. Currency.

5 THE COURT: Not a check?

6 MR. STRICKLAND: That's correct, Judge. He just
7 cashed his check.

8 THE COURT: All right. All right. How many more --
9 off the record.

10 (Whereupon an off-the-
11 record discussion was
12 had.)

13 THE COURT: All right. In regard to 242, the jury
14 returned the following verdict -- verdict finding you
15 guilty of robbery, and a verdict finding you guilty of
16 theft from a person. And at this time in a judgment --
17 strike the words "and at this time".

18 The Court will --

19 MR. DIXON: Your Honor? Excuse me, your Honor, may
20 I interject for a second?

21 THE COURT: You may.

22 MR. DIXON: Would you not include the lesser
23 included offense of --

24 THE COURT: I'm just going to withdraw the judgment. -

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT

LAKE COUNTY

MAY 19 1987

000138

MITTIMUS FOR STATE PENAL INSTITUTIONS

PLEAS before said Circuit Court held in the city of WAUKEGAN

on May 19, 19 87

Sally D. Coffelt
CIRCUIT CLERK

Present: HONORABLE Jack Hoogasian, Judge of the Circuit Court
Fred L. Foreman, State's Attorney
Robert H. Babcox, Sheriff

Attest: Sally D. Coffelt
(Clerk of the Circuit Court)

BE IT REMEMBERED that on said date the following, among other proceedings, were had and entered of record in said Court:

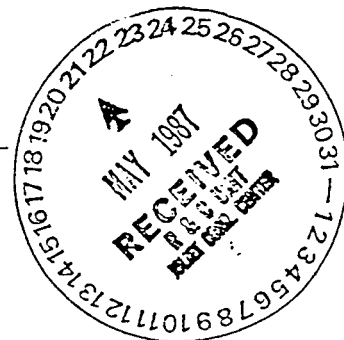
THE PEOPLE OF THE STATE OF ILLINOIS

vs.

William Milton

Defendant

No. 87CF242



JUDGMENT AND SENTENCE

Now come THE PEOPLE OF THE STATE OF ILLINOIS, by Fred L. Foreman, State's Attorney of Lake County, and the defendant, in person and by counsel,

Burnell Dixon Private Counsel

and now neither the defendant nor defendant's counsel saying anything further why the judgment of the court should not now be pronounced against said defendant on the Verdict of guilty heretofore entered to the charge of Armed Robbery

as charged in the complaint or indictment returned in this cause on February 23, 19 87;

Therefore, it is ordered and adjudged by the court that said defendant is guilty of the crime of

Armed Robbery

as charged in the complaint or indictment herein.

The court finds the age of said defendant to be 20 years.

The court having offered to hear evidence in aggravation and mitigation of the offense as to the moral character, life, family, occupation, and criminal record of defendant, and the presentation of evidence having been heard by the court

the defendant having nothing further to say, the court hereby sentences said defendant to imprisonment in a

penitentiary and fixes the term of imprisonment at Def sentenced to the Department of Corrections for a period of 30 years - Said sentence to run concurrent with sentence imposed in 87CF241

(Insert definite period or indeterminate term as required)

Def to receive credit for time served in the Lake County Jail.

UNITED STATES OF AMERICA

000140

STATE OF ILLINOIS)
APPELLATE COURT) ss:
SECOND DISTRICT)

At a Session of the Appellate Court begun and held at Elgin on the 1st of January, in the year of our Lord one thousand nine hundred and eighty-nine within and for the Second District of Illinois:

Present: Honorable GEORGE W. UNVERZAGT, Presiding Justice
Honorables MARVIN D. DUNN, Justice Honorable WILLIAM R. NASH, Justice
Honorables LAWRENCE D. INGLIS, Justice Honorable PHILIP G. REINHARD, Justice
Honorables GEORGE W. LINDBERG, Justice Honorable ALFRED E. WOODWARD, Justice
Honorables ROBERT D. MCLAREN, Justice
LOREN J. STROTZ, Clerk
F. JOHN RANDALL, Sheriff

#2-87-0521 CONSOLIDATED CASE/S: 2-87-0612
PEOPLE OF THE STATE OF ILLINOIS,
Plaintiff-Appellee,
v.
WILLIAM M. MILTON,
Defendant-Appellant.

APPEAL FROM THE
CIRCUIT COURT OF
Lake County

TRIAL COURT NO.
87CF 241
87CF 242

FILED
NOV 6 1989

MANDATE

BE IT REMEMBERED, that, to-wit: On the 4th day of May, 1989, an Opinion of the aforementioned Court was entered of record and in accordance with the views expressed in the attached opinion the defendant's judgment of conviction is affirmed, the sentence imposed thereon is modified as specified, we reduce defendant's sentence of 30 years' imprisonment to 12 years' imprisonment pursuant to the authority given this Court under Supreme Court Rule 615 (b)(4). 167 Ill. 2d R. 615 (b)(4)

Judgment affirmed; sentence modified.

Costs to be taxed according to law, and \$50 statutory fee assessed as costs against appellant.

CERTIFICATE

I, LOREN J. STROTZ, Clerk of the Appellate Court, Second District of the State of Illinois, and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true copy of the final order of said Appellate Court, in the above entitled cause of record in my said office.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court this 3rd. day of November, 1989, A.D.

Loren J. Strotz
Clerk of the Appellate Court
Second District

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

000141

IN THE CIRCUIT COURT OF THE
Count 2 of 4 NINETEENTH JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

And now on this day comes into open Court in his own proper person, Fred L. Foreman, State's Attorney in and for the said County of Lake, in the State of Illinois, in the name and by the authority of the The People of the State of Illinois, and prosecutes in this behalf, for and on behalf of The People aforesaid, and gives the said Court to be informed and understand, that

WILLIAM MILTON , late of said County of Lake and State of Illinois aforesaid, on to-wit: the 9th day of February in the year of our Lord, One Thousand Nine Hundred and eighty-seven at and within the said County of Lake and State of Illinois aforesaid, WILLIAM MILTON committed the offense of ARMED ROBBERY in violation of Illinois Revised Statutes, Chapter 38 18-2(a) in that the said defendant while armed with a dangerous weapon, a gun, took property, being \$40.00 United States Currency, from the person of Dale Poedel, by threatening the imminent use of force.

contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the same People of the State of Illinois

State's Attorney in and for the County of Lake
in the State of Illinois

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

being first duly sworn on oath deposes and says that the foregoing Information is true.

Subscribed and sworn to before me this _____ day of _____ A.D., 19 _____

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

000142

IN THE CIRCUIT COURT OF THE
Count 2 of 3 NINETEENTH JUDICIAL CIRCUIT, LAKE COUNTY, ILLINOIS

And now on this day comes into open Court in his own proper person, Fred L. Foreman, State's Attorney in and for the said County of Lake, in the State of Illinois, in the name and by the authority of the The People of the State of Illinois, and prosecutes in this behalf, for and on behalf of The People aforesaid, and gives the said Court to be informed and understand, that

WILLIAM MILTON, late of said County of Lake and State of Illinois aforesaid, on to-wit: the 2nd day of February in the year of our Lord, One Thousand Nine Hundred and eighty-seven at and within the said County of Lake and State of Illinois aforesaid, WILLIAM MILTON committed the offense of ROBBERY in violation of Illinois Revised Statutes, chapter 38, section 18-1, in that said defendant took property, being a wallet and \$338.00 United States currency, from the person of Daniel Dornan, by threatening the imminent use of force.

Class II.

Dornan left Jewel after cashing his check.
Stopped. Money demanded. Δ had a gun.
*338. -
 Δ admitted to Wagon PD he took money.

contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the same People of the State of Illinois

State's Attorney in and for the County of Lake
in the State of Illinois

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

being first duly sworn on oath deposes and says that the foregoing Information is true.
Subscribed and sworn to before me this _____ day of _____ A.D., 19____

Notary Public

1 MR. DIXON: Okay, your Honor. Thank you.

2 THE COURT: You are welcome, sir.

3 The Court at this time will withdraw the
4 judgments heretofore entered in regard to the offense of
5 robbery and theft from person in 87 CF 242. However, the
6 verdicts still stand, but the judgments as to those two
7 offenses which are the lesser included of the armed
8 robbery shall be vacated, and only the judgment as to the
9 armed robbery in 87 CF 242 will stand, and the defendant
10 will be sentenced accordingly in regard to the armed
11 robbery.

12 In 87 CF 241, the May 11th, 1987, offense, the
13 defendant entered a plea of guilty to the offense of
14 robbery as more fully set forth in Count 2 thereof.
15 Counts 1 and 3, the armed robbery and the -- and the
16 theft from person were nolle prossed.

17 The stipulated facts in 241 indicated that the
18 victim Doren left the Jewel-T Company after cashing his
19 check. He was stopped. Money was demanded from the
20 victim by William Milton, the defendant, who possessed a
21 handgun. And the sum of three hundred thirty-eight
22 dollars was taken from the victim, Daniel Doren.

23 In addition to taking the money, the defendant
24 Milton made a statement to the Waukegan Police Department

1 that he participated in and did take the money as is
2 described in the stipulation which was received on May
3 11, 1987, by this Court.

4 You persisted in your plea of robbery in that
5 particular case, judgment was entered accordingly.

6 In 87 CF 242, we had a trial of your case which
7 commenced April 20th, 1987, and concluded on Wednesday,
8 April 22, 1987. The defendant -- I'm sorry -- the jury
9 returned verdicts in open court finding you guilty of
10 armed robbery, robbery, and theft from a person. And
11 these verdicts were accepted by the court and filed in
12 this cause of action, and judgment was entered
13 accordingly, and a few moments ago this Court vacated the
14 judgments entered for the lesser included offenses of
15 robbery and theft from a person which leaves only the
16 armed robbery.

17 Upon sentencing you will be transferred to the
18 Department of Corrections where you will be incarcerated
19 until you have served your sentence. The law provides
20 that you become eligible for parole after you have served
21 one-half your sentence in the Department of Corrections.
22 And each time I use the word "Department of Corrections",
23 I refer to prison, the penitentiary, or the reformatory,
24 whichever way you wish to describe it.

1 After you have served one-half of your
2 sentence, you become eligible for parole. Once the
3 Parole and Pardon Division of the Department of
4 Corrections releases you upon parole, it becomes your
5 manifest duty to conform with all rules and regulations
6 of the Department of Corrections, and not violate any
7 laws and rules or regulations. Because if you do,
8 without any formal hearing in any court, including this
9 court, you can be remanded or returned to the Department
10 of Corrections -- prison, and you must remain there until
11 you have served the balance of the time that you owe the
12 State of Illinois pursuant to the sentence that this
13 Court will impose upon you.

14 You were described and told that the penalty
15 for robbery as a Class 2 offense is it is punishable by a
16 specific term of three to seven years' incarceration in
17 the Department of Corrections. You were also told that
18 in the proper case if you have a criminal record,
19 depending upon what it is, an extended term can be
20 imposed of not less than seven to a specific term of not
21 more than fourteen years. And in each case, within the
22 Court's discretion, a fine of up to ten thousand dollars.

23 In the armed robbery case of 87 CF 242, the
24 laws of Illinois state that it becomes incumbent upon

1 this Court to sentence you to a minimum incarceration of
2 not less than six years for a maximum of thirty years.
3 The Court has the option of sentencing you to any
4 specific term between six and thirty years, but it is
5 incumbent upon me to sentence you. You don't become
6 eligible for any parole or -- I mean, probation.

7 If you have a criminal record which falls into
8 the proper category, you may become eligible for an
9 extended term of thirty to a specific term of not more
10 than sixty years, and or a fine in either case of up to
11 ten thousand dollars, depending upon the criminal record.
12 However, we don't have anything which indicates that you
13 would become eligible for an extended term in either
14 file.

15 Therefore, this Court will not be considering
16 any extended term. The maximum that this Court can
17 therefore sentence you will be to a term of thirty years.
18 So, I have the option of a discretionary sentence of
19 three to seven years for a specific term, and to a
20 mandatory minimum of six years to a maximum of thirty
21 years; do you understand, sir?

22 THE DEFENDANT: Yes, sir; I do.

23 THE COURT: Do you have any questions about the
24 sentence that I just indicated to you?

1 THE DEFENDANT: No, sir.

2 THE COURT: All right. You know the Court listened
3 and observed, and the Court heard your testimony on the
4 stand which was certainly inconsistent with the direct
5 proof during the case in chief, which is during the trial
6 by the State's Attorney. You admitted that -- your
7 explanation while you were under oath was entirely
8 different than the story you had previously given Officer
9 Moore. And, quite frankly, I was left with the
10 impression that you were lying. And I won't go into all
11 the details of your testimony because that's already on
12 record.

13 You denied having a gun in your hand. You
14 denies many things which were absolutely inconsistent.
15 But, in any event, the jury of your peers heard the facts
16 and returned a verdict accordingly.

17 Now, armed robbery is -- is a serious offense.
18 It is one of the nine serious felonies in the State of
19 Illinois as well defined by legislation. And in 87 CF
20 242 you used a gun. You stopped the victim Posedel. You
21 forced this individual into the automobile.

22 In 87 CF 241, the victim Doren was riding his
23 bicycle. You stopped him, and again at the point of a
24 gun you took about three hundred thirty-eight dollars in

1 cash from this individual.

2 In each of the two respective offenses you
3 deliberately held a gun -- a loaded gun -- upon an
4 individual. Time after time I have told individuals, and
5 I'm going to tell you that he who participates in an
6 offense of violence against another with a gun is going
7 to be punished. And the sentence I am going to give is
8 for the purpose of punishment. And, quite candidly, I
9 can't even accept your word where you say, "I will make
10 restitution. I am ready to be rehabilitated."

11 I see no remorse within you. I see not a --
12 even an iota of feeling that you would try to convert
13 your way to the standards and rules and regulations which
14 govern society accordingly. Nothing.

15 Exterior-wise you appear as an -- as an
16 innocent, pure individual. But, within you you are
17 diabolic. You are awesome. You put others in fear.
18 Awesome -- because you have a gun. Now, the irony of the
19 situation is you were working at the time too, at Jewel.
20 Making yourself a few dollars. Your grandmother
21 according to the presentencing investigative report
22 indicates that you were also receiving Township
23 Assistance, at least while you were unemployed. I'm just
24 curious as to why you received financial assistance and

1 also a salary from Jewel too.

2 I'll also take into consideration the fact that
3 you lied to me as Mr. Strickland indicated when you said
4 you had never been in trouble before, whereas the
5 presentencing investigative report indicates that there
6 are bench warrants for your arrested for robbery based
7 upon a warrant from Southgate Police Department dated
8 September 15, 1986. And that source of information was
9 from Southgate, and Huntington, California District
10 Attorneys. Plus the fact that you have a warrant
11 outstanding dated May 6th, 1986, from the Los Angeles
12 Sheriff's Office and/or Police Department.

13 This Court has a duty to protect the public.
14 This Court has a duty to indicate to others that if they
15 participate in such a crime that they shall suffer the
16 consequences. This Court wants nobody in this county
17 hurt or put in a position of being the victim of a crime,
18 albeit a crime of property or a crime against a person,
19 or crime of violence, or a borderline crime.

20 The first sentence that will be imposed will be
21 in 87 CF 241 for the reasons that I have enunciated. It
22 is the order of this Court that you shall be sentenced to
23 the Department of Corrections for the offense of robbery
24 as more fully set forth in Count 2 of the information

1 heretofore filed to which you entered a plea of guilty to
2 a maximum sentence of seven years, plus court costs.
3 That is so ordered.

4 In file 87 CF 242 it is the order of this Court
5 that you be sentenced to the Department of Corrections
6 for the offense of armed robbery to a maximum of thirty
7 years plus court costs; and you are to be remanded to the
8 custody of the Sheriff for transmittal to the Department
9 of Corrections within ten days hereof. And you are to
10 remain incarcerated until you have fully served the
11 sentences.

12 The reason I'm giving you the thirty-year
13 sentence is because of instead of giving a consecutive
14 sentence, I'm going to make both sentences concurrent,
15 one with the other. So, 87 CF 241 will be concurrent
16 with the 87 CF 242, and 87 CF 242 shall be concurrent
17 with the sentencing in 87 CF 241. It is so ordered.

18 Now, you have the right within thirty days to
19 file a notice of appeal in 87 CF 242 because of the
20 trial. In 87 CF 241 you have a right within thirty days
21 to file a written motion to vacate. If you file a
22 written motion to vacate within thirty days, the Court
23 will set it for a hearing. And if it is denied you then
24 have thirty days from date of denial to file with the

1 Clerk of the Circuit Court or directly with the Court a
2 notice of appeal.

3 In 87 CF 241 it becomes manifest upon you that
4 you in 241, however, shall first file a motion to vacate
5 if it is your desire to file a notice of appeal. If you
6 do not file your notice of -- I'm sorry -- your motion to
7 vacate -- if you do not file your motion to vacate within
8 thirty days, you cannot file a notice of appeal.

9 In any event, once the notice of appeals are
10 filed or requested, the Court will appoint the State
11 Appellate Defender Project if you are without funds, or
12 you may continue with your attorney of your own choice,
13 including Mr. Dixon. The Court will order a copy of the
14 transcript in either file, or the file on which the notice
15 of appeal is filed, and it will be sent to the attorney
16 or the State Appellate Defender Project who represents
17 you on appeal. And the State Appellate Defender Project
18 or the attorney you have prior to retained in this cause
19 of action on appeal will then review it and make the
20 determination as to what review court this matter will
21 go.

22 Because of the sentence, on motion of the
23 State's Attorney, 86 TR 107300 and 87 TR 3293, 87 TR
24 13292, 87 TR 13291, and 87 TR 13290 shall be and are

1 hereby nolle prossed. Is this your motion?

2 MR. STRICKLAND: Yes, Judge.

3 MR. PAVLETIC: Yes, Judge.

4 THE COURT: So ordered. The defendant is remanded
5 to the custody of the Sheriff.

6 (Which were all the pro-
7 ceedings had and evidence
8 adduced in the above-
9 entitled cause this date.)

10 ****

11

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 01/13/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 01/13/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR MOTION

PARTIES: RON SLICK (JUDGE) BERNARD J. COSME (CLERK)
 WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

COUNSELS' JOINT MOTIONS FOR NATURE OF PRIOR AS A STRIKE IS CALLED FOR HEARING. THE COURT HAS READ AND CONSIDERED PRIOR MOTIONS, TRANSCRIPT PROCEEDINGS OF ILLINOIS, AND 1 PRIOR ROBBERY. THE COURT FINDS THAT THE DEFENDANT USED A GUN IN THE ILLINOIS CASES AND FINDS THEM TO BE STRIKES, AS FULLY REFLECTED IN THE OFFICIAL NOTES OF THE COURT REPORTER.

PEOPLE'S EXHIBITS' 7 (AN 11 PAGE DOCUMENT), 8,9, AND 10 (ALL 3 PAGED DOCUMENTS), AND 11 (A TRANSCRIPT DATED 07-09-97) ARE ADMITTED INTO EVIDENCE.

ALL PARTIES ARE ORDERED TO RETURN ON DATE BELOW.

COURT ORDERS AND FINDINGS:

THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
02/10/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000156

DATE PRINTED: 02/10/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 02/10/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
CYNTHIA COSTELLO (REP) BETH L. VANARNAM (DA)

THE DEFENDANT IS PRESENT (IN LOCK UP) AND NOT REPRESENTED BY COUNSEL
PER TELEPHONE CONTACT OF BOTH COUNSEL, THIS MATTER IS TRAILED TO
DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

02/11/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000157

DATE PRINTED: 02/11/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 02/11/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
CYNTHIA COSTELLO (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY PAUL GOLUB DEPUTY PUBLIC DEFENDER

ON JOINT MOTION, THIS MATTER IS CONTINUED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

03/04/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000158

DATE PRINTED: 03/05/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 03/04/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) CHARLES KEEN (CLERK)
NONE (REP) BETH L. VANARNAM (DA)

THE DEFENDANT IS PRESENT (IN LOCK UP) AND REPRESENTED BY PAUL GOLUB DEPUTY
PUBLIC DEFENDER

COUNSEL NOT APPEARING AND HEARING OFFICER NOT AVAILABLE
MATTER TRAILS TO DATE INDICATED.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:

03/08/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

000153

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/08/99

CASE NO. TA039953

○ THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

○ INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

○ ON 03/08/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) NONE (DDA)

○ DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY C. BONILLO DEPUTY PUBLIC DEFENDER

LILLIAN GONZALEZ, DISTRICT ATTORNEY IS STANDING IN FOR BETH WIDMARK. PAUL GOLUB, DEFENDANT'S ATTORNEY IS OUT SICK TODAY.

○ ABOVE NAMED COUNSEL IS STANDING IN FOR MR. GOLUB. ON JOINT MOTION OF COURT AND COUNSEL, MATTER IS CONTINUED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

○ -THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:

03/17/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

○ CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 03/17/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 03/17/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) STEVEN DICKMAN (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY P. GOLUB DEPUTY PUBLIC DEFENDER

ABOVE NAMED COUNSEL FOR THE PEOPLE, IS STANDING IN FOR BETH WIDMARK, D.A.. ON JOINT MOTION OF COUNSEL, THIS MATTER IS CONTINUED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
03/30/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000161

DATE PRINTED: 03/30/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 03/30/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) LILIANA H. GONZALEZ (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBERT J. HILL DEPUTY PUBLIC DEFENDER

ABOVE NAMED COUNSEL(S) ARE STANDING IN FOR BETH WIDMARK, AND PAUL GOLUB. ON JOINT MOTION OF COUNSEL, MATTER IS CONTINUED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
04/14/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000102

DATE PRINTED: 04/14/99

CASE NO. TA039953

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

ON 04/14/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) LILIANA H. GONZALEZ (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY GREGORY MCCAMBRIDGE DEPUTY
PUBLIC DEFENDER

THE ABOVE NAMED COUNSEL(S) ARE STANDING IN FOR BETH WIDMARK, D.A
AND PAUL GOLUB P.D.. MATTER IS CONTINUED TO DATE BELOW.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
04/26/99 830 AM PROBATION AND SENTENCE HEARING DIST L.A. SUPERIOR-SO
CENTRAL DEPT SCQ

CUSTODY STATUS: DEFENDANT REMANDED

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

000163

DATE PRINTED: 04/29/99

CASE NO. TA039953

○ THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: WILLIAM MILTON

○ INFORMATION FILED ON 10/13/98.

COUNT 01: 211 PC FEL - ROBBERY.

○ ON 04/26/99 AT 830 AM IN L.A. SUPERIOR-SO CENTRAL DEPT SCQ

CASE CALLED FOR PROBATION AND SENTENCE HEARING

THIS IS A THIRD STRIKE CASE.

○ PARTIES: RON SLICK (JUDGE) MELANIE PLEASANT (CLERK)
WENDY GRAVES (REP) BETH L. VANARNAM (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY GREGORY MCCAMBRIDGE DEPUTY
PUBLIC DEFENDER APPEARING BY PAUL GOLUB

○ AS TO COUNT (01):

COURT ORDERS PROBATION DENIED.

025 YEARS TO LIFE IMPRISONMENT AS TO COUNT (01)

○ DEFENDANT GIVEN TOTAL CREDIT FOR 349 DAYS IN CUSTODY 233 DAYS ACTUAL CUSTODY
AND 116 DAYS GOOD TIME/WORK TIME

TEMPORARY COMMITMENT ISSUED.

IN ADDITION:

○ -THE DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION
1202.4(B) PENAL CODE IN THE AMOUNT OF \$200.00.

-MAKE RESTITUTION PURSUANT TO SECTION 1202.45 PENAL
CODE IN THE SUM OF \$200.00. SAID FINE SHALL BE STAYED UPON
COMPLETION OF SENTENCE.

○ -THE COURT ADVISES THE DEFENDANT OF APPEAL RIGHTS.

-THE COURT ADVISES THE DEFENDANT OF PAROLE RIGHTS.

-NOTICE OF APPEAL RECEIVED.

000104

CASE NO. TA039953
DEF NO. 01

DATE PRINTED 04/29/99

PURSUANT TO SECTION 667(A)(1) PC, THE DEFENDANT IS SENTENCED TO
TO 5 YEARS IN ANY STATE PRISON. TOTAL SENTENCE IS AS FOLLOWS:
COUNT 01: 25 YEARS TO LIFE + 5 YEARS = 30 YEARS TO LIFE IN ANY
STATE PRISON. SENTENCE IS PURSUANT TO SECTIONS 1170.12(A)-(D)
AND 667.5(B).

COUNT (01): DISPOSITION: FOUND GUILTY - CONVICTED BY JURY

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

CUSTODY STATUS: DEFENDANT REMANDED

**ABSTRACT OF JUDGMENT - PRISON COMMITMENT
INDETERMINATE SENTENCE**

000165

FORM CR 292

- SUPERIOR
- MUNICIPAL
- JUSTICE

COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

FILED
LOS ANGELES SUPERIOR COURT

APR 29 1999

JOHN A. CLARKE, CLERK
F. Tillage
BY P. TILLAGE, DEPUTY

COURT (I.D.)
190013

BRANCH OR JUDICIAL DISTRICT: SOUTH CENTRAL

PEOPLE OF THE STATE OF CALIFORNIA versus

PRESENT

TA039953 - A

DEFENDANT: MILTON, WILLIAM

NOT PRESENT

- B

- C

- D

- E

COMMITMENT TO STATE PRISON

AMENDED

ABSTRACT OF JUDGMENT

ABSTRACT

DATE OF HEARING (MO) (DAY) (YR)

04-26-99

DEPT. NO.

SCQ

JUDGE

R SLICK

CLERK

M PLEASANT

REPORTED BY W GRAVES

COUNSEL FOR DEFENDANT B VANARNAM

COUNSEL FOR PROSECUTOR G MCCABRIDGE

PROBATION NO. X-112878 PROBATION OFFICER

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONIES:

ADDITIONAL COUNTS ARE LISTED ON ATTACHMENT _____ (NUMBER OF PAGES)

COUNT	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION			CONVICTED BY				CONCURRENT	CONSECUTIVE	654 STAY	
					MO	DAY	YEAR	JURY TRIAL	COURT TRIAL	PLEA	CONCURRENT				CONSECUTIVE
<u>1</u>	<u>PC</u>	<u>211**</u>	<u>2ND DEG ROBBERY</u>	<u>98</u>	<u>12</u>	<u>23</u>	<u>98</u>	<u>X</u>							

2. ENHANCEMENTS charged and found true **TIED TO SPECIFIC COUNTS** (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC.: For each count list enhancements horizontally. Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add up time for enhancements on each line and enter line total in right-hand column.

Count	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Total

3. ENHANCEMENTS charged and found true **FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS** (mainly § 667-series) and OTHER: List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under the same section, repeat it for each enhancement (e.g., if 2 non-violent prior prison terms under § 667.5(b), list § 667.5(b) 2 times). Enter time imposed for each or "S" for stayed or stricken. DO NOT LIST enhancements charged but not found true or stricken under § 1385. Add time for these enhancements and enter total in right-hand column. Also enter here any other enhancement not provided for in space 2.

Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Enhancement	Yrs. or "S"	Total
<u>667(A)(1)</u>	<u>5</u>									<u>5</u>

4. Defendant was sentenced to State Prison for an indeterminate term:

A. For LIFE WITHOUT THE POSSIBILITY OF PAROLE on counts _____

B. For LIFE WITH POSSIBILITY OF PAROLE on counts _____

C. For 15 years to life, WITH POSSIBILITY OF PAROLE on counts _____

D. For 25 years to life, WITH POSSIBILITY OF PAROLE on counts 1

E. For other term prescribed by law on counts _____ (Specify term on separate sheet if necessary.)

PLUS enhancement time shown above.

5. Indeterminate sentence shown on this abstract to be served consecutive to concurrent with any prior uncompleted sentence(s).

6. Other Orders: (List all consecutive/concurrent sentence relationships, fines, etc. if not shown above)

TOTAL TERM - COUNT 1 25 YEARS TO LIFE PLUS 5 YEARS PURSUANT TO 667(A)(1) TOTALING 30 YEARS TO LIFE. SENTENCE IS PURSUANT TO SECTIONS 1170.12(A)-(D) AND 667.5(B). DEFENDANT IS TO PAY A RESTITUTION FINE PURSUANT TO SECTION 1202.4(B) PENAL CODE IN THE AMT OF \$200.00. MAKE RESTITUTION TO SECTION 1202.45 PENAL CODE IN THE SUM OF \$200.00. SAID FINE SHALL BE STAYED UPON COMPLETION OF SENTENCE.

(Use an additional page if necessary.)

7. The Court advised the defendant of all appeal rights in accordance with rule 470, California Rules of Court. (AFTER TRIAL ONLY)

8. EXECUTION OF SENTENCE IMPOSED:

A. AT INITIAL SENTENCING HEARING

B. AT RESENTENCING PURSUANT TO DECISION ON APPEAL

C. AFTER REVOCATION OF PROBATION

D. AT RESENTENCING PURSUANT TO RECALL OF COMMITMENT (PC § 1170(d))

E. OTHER _____

9. DATE OF SENTENCE PRONOUNCED (MO) (DAY) (YR)

04-26-99

CREDIT FOR TIME SPENT IN CUSTODY

349

INCLUDING:

ACTUAL LOCAL TIME

233

LOCAL CONDUCT CREDITS

116

STATE INSTITUTIONS

DMH

CDC

10. DEFENDANT IS REMANDED TO THE CUSTODY OF THE SHERIFF, TO BE DELIVERED:

- FORTHWITH INTO THE CUSTODY OF THE DIRECTOR OF CORRECTIONS AT THE RECEPTION-GUIDANCE CENTER LOCATED AT:
 - CALIF. INSTITUTION FOR WOMEN-FRONTERA
 - WASCO
 - OTHER (SPECIFY) _____
- AFTER 48 HOURS, EXCLUDING SATURDAYS, SUNDAYS AND HOLIDAYS
- CCWF-CHOWCHILLA
- SAN QUENTIN
- CALIF. INSTITUTIONS FOR MEN-CHINO
- R.J. DONAVAN
- DEJEL VOC. INST.

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

F. TILLAGE

F. Tillage

DATE

04-29-99

This form is prescribed under Penal Code § 1213.5 to satisfy the requirements of § 1213 for indeterminate sentences. Attachments may be used but must be referred to in this document.

Form Approved by the Judicial Council of California Effective January 1, 1993

ABSTRACT OF JUDGMENT - PRISON COMMITMENT - INDETERMINATE

CR 292

Pen. C. § 1213.5

DISTRIBUTION

PINK COPY-COURT FILE

YELLOW COPY-DEPARTMENT OF CORRECTIONS

Ronald M. Plaza

LAW OFFICES OF THE PUBLIC DEFENDER
 BY: PAUL GOLUB , Deputy Public Defender
 200 WEST COMPTON BLVD. 8TH FLOOR
 COMPTON, CALIFORNIA 90220
 TELEPHONE: (310) 603-8067

APR 26 1999

Attorney for Defendant

FILED
 LOS ANGELES SUPERIOR COURT

APR 26 1999

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

JOHN A. CLARKE, CLERK

M. Plaza

BY M. PLAZA, DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO. TA03 ⁹⁹ 53
))
Plaintiff,)	NOTICE
)	OF
v.)	APPEAL
))
WILLIAM MILTON ,))
))
Defendant.))
))

Defendant hereby appeals from the judgment entered against him in the above-entitled matter on April 26, 1999.

Defendant is indigent and requests the appointment of counsel on appeal.

Dated this 26th day of April, 1999.

Paul D. Golub

Trial Counsel for Defendant,
 Proceeding in Propria Persona

AUG 09 1999

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

DOCKET
CR LA
No. 1999 DA 1685
Entered by _____
Date _____

THE PEOPLE OF THE STATE OF CALIFORNIA,)	
)	
PLAINTIFF-RESPONDENT,)	SUPERIOR COURT
)	
VS.)	NO. TA039953
)	
WILLIAM MILTON,)	
)	
DEFENDANT-APPELLANT.)	

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY
HONORABLE RONALD J. SLICK, JUDGE PRO TEM PRESIDING
REPORTERS' TRANSCRIPT ON APPEAL

NOVEMBER 23, 1998
DECEMBER 15, 16, 17 AND 21, 1998

APPEARANCES:

RESPONDENT: BILL LOCKYER
STATE ATTORNEY GENERAL
300 SOUTH SPRING STREET
LOS ANGELES, CALIFORNIA 90013

APPELLANT: IN PROPRIA PERSONA

Copy

VOLUME 1 OF 2	SYLVIA ALSTON, CSR #6236
PAGES 1 THROUGH 269	YVETTE BURLEY, CSR #8343
	CYNTHIA COSTELLO, CSR #10117
	DOROTHY W. GRAVES, CSR #3123
	OFFICIAL REPORTERS

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM

4
5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
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PLAINTIFF,) SUPERIOR COURT
VS.) NO. TA039953
WILLIAM MILTON,)
DEFENDANT.)

REPORTERS' TRANSCRIPT ON APPEAL

NOVEMBER 23, 1998
DECEMBER 15, 16, 17, 21, 22, 23, 28 AND 30, 1998
JANUARY 6, 7 AND 13, 1999
FEBRUARY 11, MARCH 8, 17 AND 30, 1999
APRIL 14 AND 26, 1999

APPEARANCES:

FOR THE PLAINTIFF: GIL GARCETTI, DISTRICT ATTORNEY
BY: BETH WIDMARK, DEPUTY
18000 CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

FOR THE DEFENDANT: MICHAEL P. JUDGE,
PUBLIC DEFENDER
BY: PAUL GOLUB, DEPUTY
19-513 CRIMINAL COURTS BUILDING
210 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

SYLVIA ALSTON, CSR #6236
YVETTE BURLEY, CSR #8343
CYNTHIA COSTELLO, CSR #10117
DOROTHY W. GRAVES, CSR #3123
OFFICIAL REPORTERS

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PEOPLE'S 11, TRANSCRIPT.)

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365 2

1 CASE NUMBER: TA039953
2 CASE NAME: WILLIAM MILTON
3 DEPARTMENT SC "L" HON. ARTHUR M. LEW, JUDGE
4 COMPTON, CALIFORNIA MONDAY, NOVEMBER 23, 1999
5 REPORTER: SYLVIA A. ALSTON, CSR NO. 6236
6 TIME: A.M. SESSION
7 APPEARANCES: PAUL GOLUB, DEPUTY PUBLIC DEFENDER;
8 BEATRIZ DIERINGER, DEPUTY DISTRICT ATTORNEY

9

10 THE COURT: WILLIAM MILTON, TA039734 AND
11 WILLIAM MILTON, TA039953. MR. MILTON IS PRESENT
12 WITH MR. GOLUB, MS. DIERINGER FOR THE PEOPLE. AND
13 WE ARE HERE FOR PRETRIAL CONFERENCE TODAY. AND
14 THERE IS AN AMENDED INFORMATION FILED AS TO EACH
15 CASE. AND YOU HAVE COPIES OF THOSE, MR. GOLUB?

16 MR. GOLUB: YES, YOUR HONOR.

17 THE COURT: WAIVE FURTHER READING OF THE
18 STATEMENT OF RIGHTS ON EACH OF THE NEW INFORMATIONS
19 AS AMENDED?

20 MR. GOLUB: YES.

21 THE COURT: NOT GUILTY AND DENIAL AS TO EACH
22 CASE?

23 MR. GOLUB: YES.

24 I HAVE BEEN SPEAKING TO THE PEOPLE, YOUR
25 HONOR, AND THERE ARE TWO CASES. AND THE 953 CASE,
26 WHICH IS ACTUALLY THE NEWER ONE, BUT JUST ABOUT BY A
27 MONTH, THEY ARE BOTH ACTUALLY PRETTY YOUNG CASES, IS
28 THE MORE SERIOUS CASE.

1 THE COURT: THE JULY CASE IS NOT THAT YOUNG.

2 MR. GOLUB: WELL JULY. THEY HAVE BOTH BEEN
3 IN SUPERIOR COURT SINCE OCTOBER.

4 ANYWAY, THE BOTTOM LINE IS, WE WOULD
5 LIKE TO KEEP THE TRIAL DATE FOR THE 953 CASE, WHICH
6 IS A ROBBERY BECAUSE THAT CASE IS NOT GOING TO BE
7 RESOLVED BY THE OTHER CASE. SO WE WOULD LIKE TO GO
8 TO TRIAL ON THAT CASE ON DECEMBER 10 AND WE WOULD
9 LIKE TO PUT THE OTHER CASE OVER TO PROBABLY JUST
10 AFTER THE FIRST OF THE YEAR, ABOUT THREE WEEKS
11 BECAUSE THAT CASE MIGHT BE RESOLVED BY RESOLVING THE
12 ROBBERY CASE.

13 THE COURT: PEOPLE DON'T HAVE ANY OBJECTION?

14 MS. DIERINGER: NO.

15 THE COURT: THE 953 CASE WILL REMAIN ON THE
16 TRIAL CALENDAR FOR DECEMBER 10 AS 58 OF 60 IN
17 DEPARTMENT A AT 8:30 IN THE MORNING. PARTIES AND
18 COUNSEL ARE ORDERED TO THAT DEPARTMENT AT THAT TIME.

19 AS TO THE 734 CASE?

20 MR. GOLUB: WE CAN PUT IT IN A.

21 THE COURT: WE CAN LEAVE IT IN HERE. I DON'T
22 LIKE TO MAKE CASES FLOAT AROUND IN THERE.

23 MR. GOLUB: HOW ABOUT JANUARY 4TH THEN AS 0
24 OF 10? JANUARY 4TH OKAY WITH YOU? HOW ABOUT IN
25 HERE ON JANUARY 4TH, YOUR HONOR?

26 THE COURT: THAT'S AS GOOD A DATE AS ANY. AS
27 TO THE CASE ENDING IN 734, MR. MILTON, YOU HAVE A
28 RIGHT TO HAVE YOUR TRIAL ON CASE NUMBER TA039734

1 START NO LATER THAN TWO DAYS AFTER DECEMBER 10TH OF
2 THIS YEAR. DO YOU UNDERSTAND THAT RIGHT?

3 THE DEFENDANT: YES.

4 THE COURT: DO YOU GIVE UP THAT RIGHT?

5 THE DEFENDANT: YES.

6 THE COURT: 10 DAYS OF JANUARY 4 OF 1999, YOU
7 FURTHER AGREE YOUR TRIAL CAN START?

8 THE DEFENDANT: YES.

9 MR. GOLUB: JOIN.

10 THE COURT: THE TRIAL TIME HAVING BEEN
11 WAIVED, THE TRIAL DATE IS ADVANCED TO JANUARY 4,
12 1999, IN THIS DEPARTMENT AS DAY 0 OF 10. PARTIES
13 AND COUNSEL ARE ORDERED BACK AT THAT TIME.

14 (THE PROCEEDINGS WERE CONCLUDED.)

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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA DECEMBER 15, 1998
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: P. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, PAUL
10 GOLUB, DEPUTY PUBLIC DEFENDER; BETH WIDMARK,
11 DEPUTY DISTRICT ATTORNEY, REPRESENTING
12 THE PEOPLE OF THE STATE OF CALIFORNIA.
13

14 THE COURT: OKAY. THIS IS THE CASE OF PEOPLE VERSUS
15 WILLIAM MILTON.

16 GOOD AFTERNOON, LADIES AND GENTLEMEN.

17 BEFORE WE -- SWEAR THE PANEL.

18 THE CLERK: EVERYONE PLEASE STAND.

19 RAISE YOUR RIGHT HAND.

20 DO YOU AND EACH OF YOU UNDERSTAND AND AGREE THAT
21 YOU WILL ACCURATELY AND TRUTHFULLY ANSWER UNDER PENALTY OF
22 PERJURY ALL QUESTIONS PROPOUNDED TO YOU CONCERNING YOUR
23 QUALIFICATIONS AND COMPETENCY TO SERVE AS A TRIAL JUROR IN
24 THE MATTER NOW PENDING BEFORE THIS COURT AND THAT FAILURE TO
25 DO SO MAY SUBJECT YOU TO CRIMINAL PROSECUTION. IF YOU
26 UNDERSTAND AND AGREE, PLEASE ANSWER "I DO."
27

28 (PROSPECTIVE JURORS ANSWERED AFFIRMATIVELY.)

1
2 THE CLERK: PLEASE BE SEATED.

3
4 (VOIR DIRE OF PROSPECTIVE JURORS.)

5
6 THE COURT: SWEAR THE 12 JURORS, PLEASE.

7 THE CLERK: PLEASE STAND.

8 RAISE YOUR RIGHT HAND.

9 DO YOU AND EACH OF YOU UNDERSTAND AND AGREE THAT
10 YOU WILL WELL AND TRULY TRY THE CAUSE NOW PENDING BEFORE THIS
11 COURT AND A TRUE VERDICT RENDER ACCORDING ONLY TO THE
12 EVIDENCE AND INSTRUCTIONS OF THIS COURT PRESENTED TO YOU. IF
13 YOU UNDERSTAND AND AGREE, PLEASE ANSWER "I DO."

14
15 (JURORS ANSWERED AFFIRMATIVELY.)

16
17 THE CLERK: THANK YOU.

18 PLEASE BE SEATED.

19 THE COURT: OKAY. WE'LL HAVE TWO PEREMPTORIES -- I MEAN
20 TWO JURORS, TWO PEREMPTORIES EACH.

21 AND, SIR, FOR TO HELP ME KEEP TRACK OF YOU, I AM
22 GOING TO ASK JUROR NO. 18 TO SIT IN THE JUROR NO. 13 CHAIR.
23 AND THEN I AM GOING TO ASK FOR THREE MORE NAMES PICKED. IT'S
24 JUST EASIER FOR ME TO KEEP TRACK THIS WAY.

25
26 (VOIR DIRE OF PROSPECTIVE ALTERNATE JURORS.)

27
28 THE COURT: OKAY. SWEAR THE TWO JURORS.

1 THE CLERK: PLEASE STAND.

2 RAISE YOUR RIGHT HAND.

3 DO EACH OF YOU UNDERSTAND AND AGREE THAT YOU WILL
4 WELL AND TRULY TRY THE CAUSE NOW PENDING BEFORE THIS COURT
5 AND A TRUE VERDICT RENDER ACCORDING ONLY TO THE EVIDENCE
6 PRESENTED TO YOU AND TO THE INSTRUCTION OF THIS COURT. IF
7 YOU UNDERSTAND AND AGREE, PLEASE ANSWER "I DO."

8

9 (ALTERNATE JURORS ANSWERED IN THE AFFIRMATIVE.)

10

11 THE CLERK: THANK YOU.

12 PLEASE BE SEATED.

13 THE COURT: OKAY. ALL THE REST OF THE JURORS CAN RETURN
14 TO THE JURY ASSEMBLY ROOM. YOU TWO, YOU CAN GO.

15 GET OUT A PEN, WRITE DOWN MY PHONE NUMBER. MAYBE
16 YOU CAN BORROW SOME FROM THE OTHER JURORS. I JUST WANT TO
17 MAKE SURE IF THERE IS -- WE'RE GOING TO START 1:30 TOMORROW
18 AFTERNOON, AND WE'RE GOING TO DO IT -- 1:30. WE'RE GOING TO
19 DO IT IN DEPARTMENT 260. IT'S ON THIS FLOOR. IT'S RIGHT
20 DOWN THE HALL.

21 A JUROR: WE NEED PAPERS. GOT PENS?

22 THE BAILIFF: THERE IS SOME JURY BOOKS BEHIND NO. 7, IF
23 YOU WANT TO GRAB SOME OF THOSE.

24 A JUROR: YOU WERE SAYING?

25 THE COURT: DEPARTMENT 260, TWO-SIX-ZERO. IT'S THE 12TH
26 FLOOR. IT'S TWO COURTROOMS DOWN.

27 NOW, I DON'T -- WHAT I WANT YOU TO DO IS -- I HAVE
28 A WAITING AREA INSIDE THE FIRST DOOR. YOU CAN COME IN AND

1 WAIT IN THAT WAITING AREA. THERE IS A WAITING AREA, AND THE
2 COURTROOM IS AFTER THAT. SO YOU CAN FEEL FREE TO COME IN AND
3 USE THAT ROOM.

4 WE'RE GOING TO START 1:30. WE'RE GOING TO START ON
5 TIME, I HOPE. THAT'S MY PLAN, AND HERE IS THE PHONE NUMBER
6 IN CASE THERE IS A PROBLEM: AREA 3-1-0, 6-0-3-7-1-6-2.

7 NOW, PLEASE -- I AM GOING TO SAY THIS OVER -- A FEW
8 TIMES -- DO NOT -- YOU DON'T KNOW TOO MUCH ABOUT THE CASE,
9 ANYWAY, NOW; BUT DO NOT DISCUSS THE CASE AMONGST YOURSELVES
10 NOR WITH ANYBODY ELSE NOR LET ANYONE APPROACH YOU ON ANY
11 SUBJECT RELATING TO THIS CASE OR EXPRESS OR FORM AN OPINION
12 ON ANY MATTER RELATING TO THIS CASE. AND WITH THAT, YOU
13 FOLKS HAVE A PLEASANT EVENING. SEE YOU TOMORROW AT 1:30.

14 YES, NO. 9.

15 JUROR NO. 9: BECAUSE OF THE PHONE NUMBER HERE, DO WE
16 CALL AT A CERTAIN TIME OR JUST --

17 THE COURT: NO. I ONLY WANT TO HEAR FROM YOU IF THERE
18 IS A PROBLEM --

19 JUROR NO. 9: OH, OKAY.

20 THE COURT: -- IF THERE IS A PROBLEM, AUTOMOBILE
21 ACCIDENT OR SOMETHING. MAKE IT SERIOUS, OKAY?

22 YES.

23 ANOTHER JUROR: YOU -- YOU GAVE US A SCHEDULE EARLIER
24 OF -- OF THE WEEK. IT WAS WEDNESDAY AT 1:30. THEN YOU SAID
25 THURSDAY AT --

26 THE COURT: THURSDAY AT 2:00.

27 ANOTHER JUROR: AT 2:00 O'CLOCK?

28 JUROR NO. 10: OH. SO THURSDAY WILL BE AT 2:00?

1 THE COURT: THURSDAY WILL START AT 2:00.

2 ALTERNATE NO. 2: AND -- AND FRIDAY?

3 THE COURT: FRIDAY WE'RE NOT WORKING.

4 OKAY. HAVE A GOOD NIGHT. YOU ARE FREE TO GO.

5

6 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

7

8 THE COURT: I'M SORRY WE WENT A LITTLE BIT PAST 4:30. I
9 REALLY THOUGHT IT WAS WORTH IT.

10 MR. GOLUB: YEAH. I UNDERSTAND.

11 THE COURT: OKAY. YOU ARE ORDERED BACK -- DEFENDANT IS
12 ORDERED BACK AT 8:30 TOMORROW MORNING, AND SO WE'LL START AT
13 1:30, WHATEVER TIME'S CONVENIENT FOR YOU TWO TO COME TO MY
14 COURT.

15 MR. GOLUB: WHEN DO YOU THINK IT'LL BE A GOOD TIME THAT
16 WE'LL BE FREE? YOU KNOW -- I KNOW SOMETIMES THINGS AREN'T
17 READY IN THE MORNING OR SOMETIMES --

18 MS. WIDMARK: WANT THIS ON THE RECORD, YOUR HONOR?

19 THE COURT: AVAILABLE AT 8:30.

20 MS. WIDMARK: YOUR HONOR, CAN THIS BE OFF THE RECORD?

21 THE COURT: YEAH, THIS CAN BE OFF THE RECORD.

22

23 (OFF-THE-RECORD DISCUSSION.)

24

25 (THE MATTER WAS CONTINUED TO
26 DECEMBER 16, 1998 AT 1:30 P. M.
27 FOR FURTHER PROCEEDINGS.)

28

1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA DECEMBER 16, 1998
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: DOROTHY W. GRAVES, CSR #3123
7 TIME: A. M. SESSION
8

9 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)
10

11 THE COURT: THIS IS PEOPLE VERSUS WILLIAM MILTON. HE IS
12 HERE WITH COUNSEL. JURY IS NOT PRESENT.

13 WE HAVE TWO ISSUES.

14 DO YOU WANT TO MAKE A MOTION? DO YOU WANT TO PUT
15 IN A MOTION FOR --

16 MR. GOLUB: YES, 402 MOTION ON THE -- I HAVE BEEN TOLD
17 THE PROSECUTION WOULD LIKE TO INTRODUCE A 9-1-1 TAPE, AND I
18 AM OBJECTING ON RELEVANCY AND HEARSAY GROUNDS.

19 THE COURT: OKAY. I'VE GOT -- I'VE GOT THE TAPE HERE.
20 I -- I -- SINCE THE TAPE IS IN SPANISH, WHAT I SUGGEST IS THE
21 INTERPRET -- THE SPANISH INTERPRETER'S NOT HERE. PERHAPS --
22 IT APPEARS TO BE SHORT. WE'LL GO THROUGH THE TAPE. MAYBE --
23 MIGHT GO THROUGH THE TAPE TWICE. WE'LL LET IT PLAY ONCE,
24 JUST TO GET THE FLAVOR OF IT, SEE HOW IT SOUNDS.

25 OH, WE HAVE OUR INTERPRETER HERE. WE'LL HAVE THE
26 INTERPRETER INTERPRET IT ONE TIME, TOO, AND SHE MAY HAVE TO
27 STOP -- I DON'T -- I DON'T KNOW -- HOW FAST CAN YOU INTERPRET
28 A TAPE FOR US?

1 THE INTERPRETER: IF I CAN INTERPRET --

2 THE COURT: A TAPE.

3 MR. GOLUB: LET --

4 MS. WIDMARK: LET ME SPEAK TO HER FOR A SECOND.

5 THE COURT: A 9-1-1 --

6

7 (A CONFERENCE WAS HELD BETWEEN THE

8 DEPUTY DISTRICT ATTORNEY AND THE

9 INTERPRETER.)

10

11 MS. WIDMARK: I CAN'T FIND MY COP -- COPY OF THE
12 TRANSCRIPT.

13

14 (FURTHER CONFERENCE BETWEEN THE

15 DEPUTY DISTRICT ATTORNEY AND THE

16 INTERPRETER.)

17

18 MS. WIDMARK: I LEFT MY COPY IN YOUR CHAMBERS. I CAN'T
19 FIND MY COPY.

20 MAY I USE YOURS?

21 MR. GOLUB: I NEVER LOST ONE.

22 MS. WIDMARK: MAY I BORROW YOUR COPY?

23

24 (FURTHER CONFERENCE BETWEEN THE

25 DEPUTY DISTRICT ATTORNEY AND THE

26 INTERPRETER.)

27

28 MS. WIDMARK: WHAT SHE IS SAYING IS SHE WANTS TO GO INTO

1 HER OFFICE WITH HER COMPUTER AND JUST TYPE IT UP INSTEAD OF
2 INTERPRETING STANDING HERE.

3 THE INTERPRETER: YES. I PREFER DOING IT THAT WAY.
4 MAYBE SOMEBODY ELSE WILL DO IT.

5 MS. WIDMARK: SO MAYBE WE CAN ARGUE THE OTHER MOTIONS.

6 THE COURT: I WOULDN'T CARE IF YOU STOP AND STARTED IT,
7 IF YOU WENT A LITTLE BIT --

8 THE INTERPRETER: UM-HUM.

9 THE COURT: WELL, SEE, WHAT -- I WAS GOING TO -- TO
10 HEAR -- HEAR THE TAPE COMPLETELY THROUGH ONE TIME AND SEE HOW
11 IT SOUNDED AND THEN HAVE ONE TIME, YOU THINK, YOU COULD STOP
12 AND START IT, YOU KNOW.

13 THE INTERPRETER: YEAH, BUT I PREFER DOING IT IN MY
14 OFFICE, IF IT'S --

15 THE COURT: OKAY.

16 MS. WIDMARK: SHOULD WE ARGUE THE OTHER MOTION WHILE SHE
17 DOES THAT?

18 THE COURT: OKAY. WE'LL GO AHEAD AND DO THAT.

19 OKAY. SECOND -- WE'LL PUT THAT ON HOLD FOR JUST A
20 MINUTE.

21 THE SECOND MOTION IS ABOUT THE PRIORS, RIGHT?

22 MR. GOLUB: YES, YOUR HONOR.

23 THE COURT: AND IF THIS -- IF THIS DEFENDANT TESTIFIES,
24 PEOPLE, WHAT PRIORS DO YOU INTEND TO IMPEACH HIM WITH?

25 MS. WIDMARK: THE ONES LISTED IN THE INFORMATION, THE
26 TWO 19 -- OH, HERE IS MY -- THE TWO 1987 ROBBERIES, AND IF
27 IN FACT I FIND A CASE 'CAUSE I AM NOT POSITIVE ABOUT THIS IF
28 IN FACT A FELON IN POSSESSION OF A GUN IS A CRIME OF MORAL

1 TURPITUDE, THEN THE TWO OF THOSE FROM 1993. AND PEOPLE WOULD
2 SUBMIT THAT THESE ARE NOT REMOTE SINCE HIS RECORD SHOWS THAT
3 HE HAS CONTINUED TO BE ARRESTED AND CONVICTED OF CRIMES UP
4 UNTIL THE PRESENT.

5 HE'S GOT PENDING 11350 NOW. HE HAD A 484 THAT HE
6 JUST PLED TO. HE'S GOT A COUPLE OF OTHER -- ONE OTHER 484
7 AND A 11364, ALL FROM '97 AND '98. SO HE HAS NOT STOPPED
8 COMMITTING CRIME SO THAT IT IS RELEVANT WITH REGARD TO THE
9 JURY'S WEIGHING OF HIS CREDIBILITY WHILE HE IS ON THE WITNESS
10 STAND, AND WE'D ASK TO HAVE THOSE FOUR ADMITTED IF HE CHOOSES
11 TO TAKE THE STAND.

12 THE COURT: LET ME ASK YOU THIS -- I WILL HEAR FROM
13 COUNSEL IN A MINUTE. I SEE THERE IS THE SAME CONVICTION ON
14 BOTH ROB -- IS THAT -- IS THAT ONE INCIDENT OR IS IT TWO
15 SEPARATE ROBBERIES?

16 MS. WIDMARK: TWO SEPARATE ROBBERIES -- ONE COMMITMENT
17 TO PRISON BUT TWO SEPARATE ROBBERIES. THEY HAVE TWO SEPARATE
18 CASE NUMBERS.

19 THE COURT: HOW FAR APART? DO YOU KNOW HOW FAR APART?

20 MS. WIDMARK: I CERTAINLY CAN CHECK THAT, YOUR HONOR.

21

22 (PAUSE.)

23

24 MS. WIDMARK: ONE IS FEBRUARY 9TH, 1987. AND THE OTHER
25 ONE IS FEBRUARY 2ND, 1987, TWO SEPARATE ROBBERIES.

26 THE COURT: NOW, THE TWO UNLAWFUL USES OF WEAPONS
27 CHARGES, THAT'S CONVICTION OF THE SAME DATE. AND HOW FAR
28 APART ARE THEY?

1 MS. WIDMARK: THEY ALSO HAVE THE SAME COMMITMENT DATE OF
2 EACH OTHER IN TWO SEPARATE CASE NUMBERS. YEAH, THEY HAVE THE
3 SAME COMMITMENT OF 8/12/93 -- I AM JUST TRYING TO FIND THE
4 ACTUAL OFFENSE DATE -- AND THEY HAVE -- I THINK I HAVE SAID
5 THEY HAVE TWO SEPARATE CASE NUMBERS. I JUST HAVE IT ONE --
6 THE -- THE ONE CASE WITH THE CASE NO. 93CF1476 WAS AN
7 INDICTMENT FROM JULY 28TH, 1993. AND THE OTHER ONE,
8 93CF1236, LOOKS LIKE THERE IS AN INFORMATION FILED 7/1/93.
9 SO THERE -- THERE -- DEFINITELY OCCURRED ON TWO SEPARATE
10 OCCASIONS ARISING FROM TWO SEPARATE CHARGING DOCUMENTS.

11 THE COURT: OKAY. AND FOR THE RECORD STATE THE ACTIVITY
12 OF THIS DEFENDANT SINCE --

13 MS. WIDMARK: CERTAINLY, YOUR HONOR.

14 THE COURT: -- AUGUST 12, '93.

15 MS. WIDMARK: I AM LOOKING AT THE PREPLEA REPORT WHICH
16 SHOWS THAT SINCE THE TIME OF '93 HE'S -- AS FAR AS ACTUAL
17 CONVICTIONS, HE'S HAD A CONVICTION IN '97, JANUARY, '97 ON A
18 CASE OF A -- ARREST IN JANUARY, '97 ON 11364 THAT HE WAS
19 CONVICTED OF, AN ARREST IN JUNE OF '97 FOR 484 THAT HE WAS
20 CONVICTED OF AND AN ARREST ON A 484 IN AUGUST OF '98 THAT HE
21 WAS ARREST -- THAT HE WAS CONVICTED OF. AND I BELIEVE HE
22 PLED TO THAT COUNT JUST TWO DAYS AGO. OBVIOUSLY, WHEN IT WAS
23 FILED, WE DID NOT CATCH HIS STRIKES ON THAT PARTICULAR CASE.

24 OTHER THAN THOSE ACTUAL ARRESTS, HE HAS SEVERAL --
25 EXCUSE ME -- THOSE ACTUAL CONVICTIONS HE HAS OTHER ARRESTS.
26 LOOKING AT THE RAP SHEET THAT IS PROVIDED, HE'S GOT -- OH,
27 AND HE HAS ALSO GOT A PENDING 11350 IN TA039734, ALSO,
28 ANOTHER THREE STRIKES CASE. OTHER THAN WHAT I HAVE STATED

1 BEFORE, HE'S GOT A BURGLARY -- A RESIDENTIAL BURGLARY THAT
2 WAS DISMISSED ON A 995 MOTION THAT WAS AN ARREST FROM
3 3/12/98.

4 HE'S GOT, IT LOOKS LIKE, AN ARREST DATE OF 3/27/98
5 FOR RECEIVING STOLEN PROPERTY THAT WAS ALSO DISMISSED. AND
6 THEN HE'S GOT THE ARREST ON THE 11350. THAT LOOKS LIKE IT
7 WAS JULY 25TH, 1998. THEN THERE APPEARS TO BE A MARCH 8, '98
8 BURGLARY ARREST WITH AN UNKNOWN DISPOSITION. AND THEN YOU
9 COME TO '96 -- '98 WHERE HE HAS THIS PARTICULAR ARREST. IT
10 ALSO LOOKS AS THOUGH IN JUNE, '86 HE HAS A 1385 DISMISSAL ON
11 A WILFUL CRUELTY TO CHILD AND UNDER THE INFLUENCE THAT WAS
12 DISMISSED IN OCTOBER, '93. SO HE CERTAINLY HAS NOT BEEN OUT
13 OF TOUCH WITH THE CRIMINAL JUSTICE SYSTEM.

14 THE COURT: MR. GOLUB.

15 MR. GOLUB: EXCUSE ME?

16 THE COURT: DO YOU -- AND YOUR OBJECTION IS?

17 MR. GOLUB: I HAVE SEVERAL -- MANY OBJECTIONS, YOUR
18 HONOR. FIRST, UNDER BEAGLE AND CASTRO THE COURT HAS --
19 CASTRO WAS AFTER PROP. 8 -- THE COURT HAS THE OBLIGATION TO
20 CONSIDER WHETHER IT WOULD BE PROPER FOR THE COURT TO USE ALL
21 OF THE DEFENDANT'S OR ALLOW THE PROSECUTION TO USE ALL OF THE
22 DEFENDANT'S PRIORS AGAINST HIM OR ANY OF THEM, AND THE COURT
23 HAS TO BALANCE THE -- THE PREJUDICE OR THE UNDUE PREJUDICE TO
24 THE DEFENDANT BECAUSE OF THE FACT THAT JURORS TEND TO FIND
25 PEOPLE GUILTY WHEN THEY HEAR ABOUT A DEFENDANT'S RECORD
26 SOLELY BASED UPON THE PAST RECORD, NO MATTER HOW MANY
27 ADMONITIONS THE COURT GIVES OR WHETHER THE COURT BELIEVES
28 THAT HAPPENS OR NOT. BASICALLY, IT'S BEEN A FINDING BY THE

1 SUPREME COURT OF THIS STATE THAT IS SOMETHING THAT DOES
2 OCCUR. AND THAT -- THAT IS THE DANGER THAT WE FACE HERE.

3 NOW, IF THE COURT WAS GOING TO USE, STARTING WITH
4 THE ROBBERY CONVICTIONS -- FIRST OF ALL, THE ROBBERY
5 CONVICTIONS DID OCCUR IN 1987. THERE IS NO ALLEGATIONS OF
6 ANY OTHER ROBBERY ARRESTS OR CONVICTIONS SINCE THEN EXCEPT
7 FOR THIS CASE. THIS CASE -- THIS ROBBERY -- HIS TWO PRIOR
8 CONVICTIONS ARE FOR ROBBERY. IT WOULD BE UNDULY PREJUDICIAL
9 FOR THE COURT TO USE THE ROBBERY CONVICTIONS AS SUCH. THE
10 COURT CAN SANITIZE CONVICTIONS THAT IS WELL ESTABLISHED IN
11 THE COURTS OF APPEAL AND THE SUPREME COURT. AND THAT IS
12 SOMETIMES THE APPROPRIATE METHOD TO USE, PARTICULARLY WHEN
13 IT'S THE SAME CRIME THAT'S -- THE DEFENDANT IS FACING HERE,
14 THAT HIS PRIORS ARE --

15 THE COURT: EXCUSE ME. LET ME STOP YOU JUST FOR A
16 MOMENT.

17 MR. GOLUB: RIGHT.

18 THE COURT: PEOPLE, DO YOU HAVE AN OBJECTION IF WE SAID
19 IT WAS A THEFT-RELATED FELONY -- IF WE SAID THAT THESE TWO
20 PRIOR CONVICTIONS IN 1987 WERE THEFT-RELATED FELONIES?

21 MS. WIDMARK: THE PROBLEM WITH THAT IS IS THAT -- THAT
22 HE IS GETTING UP ON THE WITNESS STAND WITH SOME SORT OF MASK
23 OF -- THAT ANOTHER WITNESS MAY NOT HAVE, AND I KNOW THAT THE
24 COURT DOES HAVE TO WEIGH IT UNDER 352. AND I DO KNOW THAT
25 THE COURTS OF APPEAL HAVE LOOKED AT HOW A PROSECUTOR ARGUES
26 IT, AND I KNOW THAT I ARGUE IT STRICTLY -- STRICTLY FOR
27 CREDIBILITY. AND, CERTAINLY, IF ANY OF -- EITHER MY CIVILIAN
28 WITNESSES HAD THIS TYPE OF A RECORD, THEY WOULD NOT BE

1 PROTECTED.

2 AND I UNDERSTAND THE DEFENDANT GETS FURTHER
3 PROTECTION; BUT WHEN WE'RE TALKING ABOUT HERE IS IS THAT HE
4 HAS -- THIS IS HIS RECORD. HE HAS A RECORD FOR THESE 211'S,
5 AND I THINK THE JURY OUGHT TO KNOW THAT UNDER PROPOSITION 8
6 WHICH CERTAINLY DIDN'T ABROGATE 352; BUT UNDER PROPOSITION 8
7 ALL RELEVANT EVIDENCE IS ADMITTED, AND THAT'S CERTAINLY
8 RELEVANT TO THEIR ABILITY BECAUSE IT'S -- IT'S NOT ONLY A
9 THEFT-RELATED FELONY CONVICTION BUT IT'S A THEFT-RELATED
10 CONVICTION THAT REALLY GOES TO WHETHER THE DEFENDANT'S GOING
11 TO TELL THE TRUTH WITH REGARD TO A ROBBERY AS OPPOSED TO JUST
12 SORT OF BREAKING INTO A CAR.

13 THE COURT: YOU MAY CONTINUE.

14 MR. GOLUB: YES.

15 EXCUSE ME, YOUR HONOR?

16 THE COURT: YOU CAN CONTINUE.

17 MR. GOLUB: YES.

18 THE THEFT THE PEOPLE WANT YOU TO USE, THE 211,
19 RATHER THAN JUST A THEFT-RELATED OFFENSE, AND I THINK ANY
20 CRIME OF MORAL TURPITUDE, IS -- IS SUFFICIENT; BUT AT LEAST
21 THEFT-RELATED OFFENSE GETS IT AWAY FROM THE EXACT CRIME
22 THAT'S BEING CHARGED HERE. AND THE PEOPLE SAID THAT HE IS --
23 THAT HE WOULD SUDDENLY BE TAKING THE STAND WITH A MASK OF
24 CONCEALMENT, AND THAT'S NOT TRUE.

25 THE COURT IS -- IF THE COURT DOES EITHER CRIME OF
26 MORAL TURPITUDE OR THEFT-RELATED OFFENSE, IS LETTING 'EM KNOW
27 THAT THAT'S -- THAT HE HAS THESE CRIMES, AND THAT'S EXACTLY
28 WHAT THE JURY IS SUPPOSED TO CONSIDER. IT'S NOT SUPPOSED TO

1 CONSIDER THAT HE HAD THE TWO SAME CRIMES THAT WE HAVE HERE
2 AND, THUS, HE IS LIKELY TO COMMIT THIS ROBBERY. THAT'S THE
3 EXACT PROBLEM WE HAVE. AND THAT IS THE THEFT-RELATED
4 OFFENSE, IF THE COURT WANTS TO USE THAT ONE, SHOWS THAT HE IS
5 WILLING TO DO SOMETHING OF -- OF BAD MORAL CHARACTER.

6 THAT'S EXACTLY WHAT WE ARE SUPPOSED TO BE USING
7 WITH IMPEACHMENT. THAT'S EXACTLY WHAT WAS SUPPOSED TO BE
8 DOING. AND YOU'RE RIGHT, PROPOSITION 8 DID NOT ABROGATE
9 EITHER THE -- AND IT'S CODE SECTION 352 AND SPECIFICALLY THE
10 COURT'S ABILITY TO LIMIT OR MODIFY THE CHARGES BECAUSE THAT'S
11 EXACTLY WHAT CASTRO -- CASTRO HELD. AND THE COURT SHOULD
12 CONSIDER THOSE. THAT'S AS TO THOSE -- AS TO THOSE TWO
13 CHARGES.

14 THE COURT: WHAT ABOUT THE OTHER TWO --

15 MR. GOLUB: THE OTHER TWO?

16 THE COURT: -- AND THIS IS ASSUMING I HAVEN'T SEEN ANY
17 CASES THAT -- THAT -- THAT THEY ARE MORAL TURPITUDE. I KNOW
18 THAT JUST POSSESSING A GUN ISN'T MORAL TURPITUDE. IT'S A
19 MATTER OF WHETHER IT'S A FELON WITH A GUN.

20 MR. GOLUB: MY CLIENT TELLS THAT HE HAS TWO CONVICTIONS
21 FOR -- IT WAS AMMUNITION THAT HE HAD, NOT THE ACTUAL WEAPON
22 THAT HE WAS ARRESTED FOR AND THAT IN ILLINOIS THAT -- THAT'S
23 THE CHARGES. AND THOSE ARE ALL ENCOMPASSING, AND THAT'S
24 WHAT -- ALL HE HAD WHERE ACTUALLY WAS THE AMMUNITION WHICH
25 FURTHER CONFUSES -- I DON'T HAVE A COPY OF THE CHICAGO
26 PENAL -- PENAL CODE. I DON'T -- I DON'T KNOW IF THE PEOPLE
27 DO, BUT THAT, YOU KNOW -- FURTHER, YOU KNOW, WE SHOULD
28 HAVE --

1 THE COURT: DO WE HAVE A COPY OF THE ABSTRACT OF
2 JUDGMENT OR ANYTHING FROM --

3 MS. WIDMARK: YEAH, I DO. AND IT CHARGES UNLAWFUL USE
4 OF A WEAPON BY A FELON, AND THAT'S WHAT THE -- THAT'S WHAT
5 THE -- WHAT BOTH OF THE CHARGES AND BOTH OF THE CONVICTIONS
6 SAY.

7 THE COURT: I AM SORRY FOR INTERRUPTING. YOU MAY --

8 MR. GOLUB: SO THAT'S -- SO ALL I KNOW IS THAT THAT'S
9 THE CHARGES. I DON'T KNOW -- WE DON'T HAVE THE STATUTES TO
10 SHOW WHAT THOSE CHARGES, YOU KNOW, MEAN, WHAT ARE THE
11 ELEMENTS OF THOSE OFFENSES, YOU KNOW, IN OTHER STATES. THERE
12 ARE DIFFERENT ELEMENTS TO DIFFERENT OFFENSES ON SOME
13 OCCASIONS, AND MY CLIENT SAYS THAT HE HAS -- CONVICTED FOR
14 HAVING AMMUNITION.

15 I MEAN WE CAN HAVE A WHOLE HEARING ON THIS OUTSIDE
16 OF THE JURY'S PRESENCE IF THAT'S -- IF THAT'S WHAT WE NEED.
17 I DON'T BELIEVE WHEN HE IS GOING TO DENY THAT HE ILLEGALLY
18 POSSESSED A WEAPON TO USE THIS WHEN WE ARE NOT -- WE CAN
19 CERTAINLY -- WE CAN'T BE CERTAIN THAT THOSE ARE THE CHARGES.
20 UNDERSTAND WE'RE AT A LITTLE LOSS HERE; BUT, YOU KNOW, THAT'S
21 ONE OF THE PROBLEMS WITH HAVING VERY LIMITED INFORMATION ON
22 OUT-OF-STATE PRIORS.

23 MS. WIDMARK: THE PEOPLE AREN'T AT A LOSS. HE IS
24 CHARGED, HE IS CONVICTED -- HE PLED OR WAS CONVICTED OF AN
25 UNLAWFUL USE OF A WEAPON BY A FELON, COUNSEL.

26 MR. GOLUB: WE DON'T KNOW -- SORRY.

27 MS. WIDMARK: THAT'S WHAT HE IS CONVICTED OF.

28 THE COURT: OKAY. WAIT A MINUTE. HE DIDN'T FINISH.

1 ARE YOU FINISHED WITH YOUR --

2 MR. GOLUB: WELL, THE ONLY THING I WANTED TO SAY IS THAT
3 WE DON'T KNOW WHAT THE ELEMENTS OF THAT -- OF THAT OFFENSE
4 ARE IN THIS -- YOU KNOW, IN THE STATE OF CHICAGO OR THE STATE
5 OF ILLINOIS. SO -- AND I DON'T THINK WE CAN -- WE CAN GO
6 JUST BY, YOU KNOW, THE TERMS -- YOU KNOW, JUST BY THE
7 ABSTRACT WHICH JUST SHOWS THE CONVICTION ON THE -- YOU KNOW,
8 ON A PIECE OF PAPER. JUST USES THAT LANGUAGE.

9 DOESN'T SHOW US WHAT THE STATUTE ACTUALLY IS.
10 DOESN'T EVEN SHOW THE FACTS OF THE CASE. IT DOESN'T SAY LIKE
11 ON THE OTHER -- ON THE ROBBERIES THEY AT LEAST HAVE A SUMMARY
12 OF WHAT, YOU KNOW, THE DEFENDANT SUPPOSEDLY DID. IF WE --
13 LOOKING AT THEIR ROBBERY CONVICTIONS, THOSE TALK ABOUT HOW HE
14 TOOK CERTAIN AMOUNT OF MONEY USING FORCE OR FEAR FROM HIS
15 PERSON. HERE, ALL WE HAVE IS A -- ONE LINE SAYING HE WAS
16 CONVICTED OF UNLAWFUL USE OF A WEAPON.

17 MS. WIDMARK: AND THAT'S ALL THAT'S RELEVANT. IT ISN'T
18 THE FACTS BEHIND. IF I WERE TO TRY TO GET INTO THE FACTS
19 BEHIND THE CRIME, YOU KNOW, THAT WOULD BE IRRELEVANT.

20 OH.

21 THE COURT: I AM GOING TO WAIT TO RULE ON THAT UNTIL
22 I -- SATISFIED THAT IT'S A CRIME OF MORAL TURPITUDE.

23 MS. WIDMARK: AND AS FOR THE OTHER, COUNSEL IS TALKING
24 ABOUT THE RELEVANCY. CERTAINLY, WHEN WE'RE TALKING ABOUT THE
25 RELEVANCY, THE RELEVANCY IS THE READINESS TO DO EVIL, THE
26 MORAL TURPITUDE. AND, CERTAINLY, IT IS MUCH MORE RELEVANT,
27 WHEN YOU'RE TALKING READINESS TO DO EVIL, THAT THERE IS A
28 CONVICTION FOR ROBBERY THAN A CONVICTION FOR SOME UNKNOWN

1 THEFT OFFENSE.

2 THE COURT: SUBMIT IT?

3 MS. WIDMARK: SUBMIT IT.

4 MR. GOLUB: YES, YOUR HONOR.

5 THE COURT: OKAY. I -- I THINK I AM GOING TO LET THE --
6 THE ROBBERIES IN AS ROBBERIES. AND THE REASON IS IS, FIRST,
7 I THINK YOU DON'T HAVE A REMOTE ISSUE BECAUSE OF THE
8 DEFENDANT'S CONDUCT BETWEEN 1987 AND NOW. SECONDLY, HOWEVER,
9 THOUGH, IT'S -- THESE ARE 12 YEARS OLD. AND HE -- IT WOULD
10 SEEM IF HE DID A -- IF THIS WAS A ROBBERY THAT OCCURRED A
11 YEAR AGO, IT WOULD BE MORE LIKELY THAT THE JURY WOULD SAY,
12 "THIS GUY'S A ROBBER, AND THAT'S ALL HE IS. SO WE ARE GOING
13 TO CONVICT HIM." BUT THIS IS TEN YEARS OLD, AND I DON'T
14 THINK THAT SAME ARGUMENT APPLIES. SO I AM GOING TO ALLOW THE
15 ROBBERIES IN.

16 I AM GOING TO TAKE THE WEAPONS UNDER SUBMISSION,
17 AND -- AND, YOU KNOW, I AM GOING TO LOOK -- THE TWO THINGS I
18 AM GOING TO LOOK AT IS, FIRST, IF THEY ARE TURPITUDE -- I'D
19 LIKE TO READ THE CASE -- AND, SECONDLY, SINCE THEY ARE SO
20 CLOSE AND SINCE I HAVE A HARD TIME SEEING HOW THAT HAS --
21 WELL, I MAY LET ONE OF THOSE IN. I MAY NOT LET THE OTHER IN,
22 BUT I'LL SEE WHAT -- SEE WHAT THE PEOPLE COME UP WITH BY WAY
23 OF A CASE.

24 MS. WIDMARK: OKAY.

25 THE COURT: YOU CAN ALL STAY HERE.

26 WE'RE OFF THE RECORD NOW.

27

28 (OFF-THE-RECORD DISCUSSION RE UNRELATED

1 MATTER.)

2
3 (THE COURT HEARD OTHER UNRELATED MATTERS.)

4
5 THE COURT: OKAY. THIS IS PEOPLE VERSUS WILLIAM MILTON.
6 DEFENDANT'S HERE WITH -- BOTH LAWYERS ARE PRESENT.

7 YOU MAY PROCEED.

8 MS. WIDMARK: YES, YOUR HONOR. WE WOULD LIKE TO HAVE
9 THE 9-1-1 TAPE ADMITTED. THE CIRCUMSTANCES ARE -- IS THAT --

10 THE COURT: WELL, LET'S --

11 MS. WIDMARK: HOW DO YOU WANT ME TO PROCEED?

12 THE COURT: LET'S DO IT THIS WAY. I AM -- I AM GOING
13 TO -- WHY DON'T I LISTEN TO JUST THE TRANSLATION OF THE TAPE
14 FIRST AND THEN -- THEN -- I'LL LISTEN TO THE TAPE, AND THEN
15 YOU CAN MAKE WHATEVER MOTIONS YOU'RE GOING TO MAKE.

16 MS. WIDMARK: WHAT DO YOU MEAN LISTEN TO THE
17 TRANSLATION? YOU WANT IT READ BY THE --

18 THE COURT: YES, AND SHE CAN -- SHE CAN READ IT INTO THE
19 RECORD. WHY DON'T YOU CALL HER AS A WITNESS?

20 MS. WIDMARK: YES. I CALL DEBRA DONSON.

21 THE WITNESS: WHOOPS.

22 THE CLERK: TO INTERPRET?

23 THE COURT: JUST SWEAR HER AS A WITNESS.
24
25
26
27
28

1 DEBRA DONSON,
2 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND TESTIFIED AS
3 FOLLOWS:

4 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU
5 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE
6 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO
7 HELP YOU GOD.

8 THE WITNESS: YES.

9 THE CLERK: BE SEATED.

10 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

11 THE WITNESS: DEBRA DONSON, D-O-N-S-O-N.

12 THE COURT: ALSO, WE'LL MARK THE TAPE THAT'S IN QUESTION
13 AS PEOPLE'S 1 FOR IDENTIFICATION.

14 MS. WIDMARK: THANK YOU, YOUR HONOR.

15

16 (MARKED FOR IDENTIFICATION,

17 PEOPLE'S 1, TAPE.)

18

19 DIRECT EXAMINATION

20 BY MS. WIDMARK:

21 Q. MISS DONSON, WHAT'S YOUR OCCUPATION AND YOUR
22 ASSIGNMENT?

23 A. I WORK AS A SPANISH INTERPRETER HERE IN COMPTON
24 SUPERIOR COURT.

25 Q. OKAY.

26 AND DID YOU HAVE AN OPPORTUNITY ALONG WITH ANOTHER
27 INTERPRETER TO LISTEN TO THE TAPE THAT'S BEEN MARKED AS
28 PEOPLE'S NO. 1 FOR IDENTIFICATION I AM HOLDING UP?

1 A. YES.

2 Q. AND ALONG WITH HER WERE YOU ABLE TO DO A
3 TRANSLATION OF AT LEAST MOST OF THE TAPE?

4 A. YES.

5 Q. AND DO YOU HAVE THAT TRANSLATION IN FRONT OF YOU?

6 A. YES.

7 Q. WOULD YOU PLEASE SLOWLY READ IT INTO THE RECORD.

8 A. YES (READING:)

9 OPERATOR: UNINTELLIGIBLE.

10 CALLER: HELLO, OPERATOR.

11 YES. HOW CAN I HELP YOU?

12 CALLER: UNINTELLIGIBLE, I WAS JUST ROBBED.

13 OPERATOR: WHO ROBBED YOU?

14 CALLER: UNINTELLIGIBLE, A BLACK PERSON.

15 OPERATOR: WHAT ADDRESS?

16 CALLER: AT 76TH AND FIGUEROA.

17 OPERATOR: WHERE IS HE NOW?

18 CALLER: IT'S THAT IT'S -- UNINTELLIGIBLE.

19 OPERATOR: NO, UNINTELLIGIBLE, AT -- YOU'RE AT
20 74 AND FIGUEROA RIGHT NOW?

21 CALLER: NO. I AM ON 92ND, 92ND AND -- WHAT
22 IT IS IS I WAS ALREADY ON MY WAY HOME --

23 OPERATOR: UN-HUH.

24 CALLER: -- AND -- I MEAN, AND HE TELLS ME,
25 "NO. WELL, GIVE ME YOUR MONEY." I DON'T HAVE ANY
26 MONEY, AND HE PULLED A WEAPON ON ME, UNINTELLIGIBLE.

27 OPERATOR: WHAT KIND OF WEAPON?

28 CALLER: I DIDN'T SEE IT RIGHT, BUT --

1 OPERATOR: WHAT KIND OF WEAPON?

2 CALLER: I MEAN I DIDN'T SEE IT, BUT HE JUST
3 PUT HIS HAND INSIDE. I MEAN --

4 OPERATOR: LIKE -- AS IF HE HAD WHAT? A GUN?

5 CALLER: UN-HUH, AND --

6 OPERATOR: WHAT DID HE LOOK LIKE? BLACK?
7 WHITE? ORIENTAL? HISPANIC?

8 CALLER: HE IS AFRO AMERICAN.

9 OPERATOR: BLACK?

10 CALLER: UN-HUH.

11 OPERATOR: WHAT COLOR SHIRT AND WHAT PANTS
12 DID HE HAVE ON?

13 CALLER: ALL BLACK -- BLACK AND A SHIRT
14 UNDERNEATH LIKE -- I MEAN JUST SHORT.

15 OPERATOR: AND HE DIDN'T HIT YOU OR ANYTHING?

16 CALLER: NO. I MEAN HE JUST WANTED TO HIT ME.
17 THAT'S ALL.

18 FOR THE RECORD THAT'S AN AMBIGUITY THERE. IT COULD
19 BE "HE JUST WANTED TO HIT ME" OR "YOU JUST TRIED TO HIT ME."
20 (READING:)

21 BUT I, UNINTELLIGIBLE, LET HIM HAVE IT ALL.

22 OPERATOR: YOU DON'T NEED PARAMEDICS, DO YOU?

23 CALLER: UN-HUH.

24 OPERATOR: NO? YOU DON'T -- YOU DON'T NEED
25 PARAMEDICS, RIGHT?

26 CALLER: NO, NO.

27 OPERATOR: WHAT'S YOUR NAME?

28 CALLER: JUAN.

1 OPERATOR: AND THE TELEPHONE NUMBER WHERE YOU
2 WILL BE?

3 CALLER: WHAT?

4 OPERATOR: THE TELEPHONE WHERE YOU'RE CALLING
5 FROM.

6 CALLER: IT'S A PUBLIC PHONE.

7 OPERATOR: OKAY. I'LL SEND THE POLICE THERE,
8 OKAY?

9 CALLER: OKAY.

10 THE COURT: MR. GOLUB, DO YOU HAVE ANY QUESTIONS OF THE
11 INTERPRETER?

12 MR. GOLUB: NO, YOUR HONOR.

13 THE COURT: THANK YOU. YOU MAY STEP DOWN.

14 MS. WIDMARK: THANK YOU.

15 THE COURT: IF YOU WOULD PLAY THE TAPE FOR ME.

16 MS. WIDMARK: CERTAINLY, YOUR HONOR.

17 WE MAY NEED YOU FOR A WITNESS LATER ON IN THE DAY.

18 SO --

19 THE INTERPRETER: OKAY, YOUR HONOR.

20 MS. WIDMARK: AND WE'RE ALSO GOING TO NEED AN
21 INTERPRETER FOR THE WITNESS.

22 THE COURT: OKAY.

23 MS. WIDMARK: BUT I DON'T KNOW IF WE DO THAT FROM THE
24 CENTRAL POOL OR FROM YOU AND PRISCILLA.

25 THE INTERPRETER: WE'LL -- WE'LL FIGURE IT OUT.

26 THE COURT: PEOPLE'S 1 FOR IDENTIFICATION FOR PURPOSES
27 OF THIS 402, WILL BOTH SIDES STIPULATE THAT THAT WAS THE --
28 THAT'S A -- A 9-1-1 TAPE THAT CAME IN TO THE POLICE AGENCY?

1 MR. GOLUB: YES.

2 MS. WIDMARK: MAY I, YOUR HONOR?

3

4 (TAPE PLAYED.)

5

6 THE COURT: OKAY. I HAVE HEARD THE TAPE. IT DOESN'T --
7 LISTENING TO THE SPANISH TRANS -- THE ORIGINAL TAPE DOESN'T
8 REALLY HELP A LOT, BUT I HEARD IT.

9 MR. GOLUB: UM-HUM.

10 THE COURT: AND YOUR -- YOUR POSITION IS, MR. GOLUB?

11 MR. GOLUB: WELL, I AM OBJECTING TO THE INTRODUCTION OF
12 THE TAPE. IT'S IRRELEVANT, AND IT'S HEARSAY. SO THERE IS NO
13 RELEVANCE TO THE -- TO THE FACT THAT -- YOU KNOW, TO WHAT'S
14 SAID ON THE TAPE. AND THE FACT THAT HE CALLED THE POLICE,
15 THAT JUST LETS US KNOW THAT THE POLICE, YOU KNOW -- THAT'LL
16 EXPLAIN WHY THE POLICE GOT THERE; BUT THE ACTUAL CALL IS NOT
17 RELEVANT.

18 I DON'T -- DON'T SEE HOW IT IS. THE -- THERE IS NO
19 RELEVANCE TO -- IN THE LAW TO US HEARING HOW A WITNESS
20 DESCRIBED OR REPORTED AN ASSAULT, AND JUST -- IT'S NOT
21 RELEVANT BECAUSE TO SHOW WHETHER IT MATCHES THE DESCRIPTION
22 OR NOT OR IF IT WAS, YOU KNOW, AN -- SOMEHOW SHOWN TO BE
23 ACCURATE, THE ONLY TIME IT MAY BE IS IF I TRY AND IMPEACH HIM
24 WITH SOMETHING FROM IT. THEN IT MAY BECOME RELEVANT TO
25 EVERYTHING HE SAID; BUT UNTIL THAT POINT COMES, PRIOR
26 CONSISTENT STATEMENTS ARE NOT -- ARE NOT RELEVANT EVIDENCE.

27 IT'S ALSO HEARSAY, AND I DON'T SEE IT BEING A
28 SPONTANEOUS STATEMENT. THE EVIDENCE WILL SHOW -- WE HAVE

1 ALREADY DISCUSSED IT EARLIER. THE PERSON WILL TESTIFY THAT
2 AFTER THE ROBBERY OCCURRED HE WENT OVER TO A SECURITY GUARD
3 IN AN APARTMENT BUILDING AND HE TRIED TO MOTION THE SECURITY
4 GUARD OVER; THE SECURITY GUARD WENT OVER TO HIM -- OH, I MEAN
5 TOLD -- DIDN'T GO OVER TO HIM, WAVED HIM OVER; HE CAME OVER;
6 HE TOLD THE PERSON HE HAD BEEN ROBBED; HE WAS TOLD, "I CAN'T
7 HELP YOU, BUT IF YOU WANT, YOU CAN CALL 9-1-1. HERE IS A
8 TELEPHONE."

9 AND SO IT'S NOT A SPONTANEOUS STATEMENT. HE'S
10 ALREADY SPOKEN TO THE SECURITY GUARD ABOUT IT, NOT GIVING
11 DETAILS; BUT IT'S ALREADY THE NEXT PERSON HE'S CONTACTING.
12 SO I DON'T SEE IT BEING -- FALLING INTO ANY EXCEPTION UNDER
13 THE HEARSAY RULE. SO IT'S BOTH HEARSAY, AND IT'S IRRELEVANT.

14 THE COURT: OKAY. I THINK TO BE FAIR FOR THE RECORD AND
15 TO BE CLEAR IS THIS EVENT HAPPENED, WHATEVER THE EVENT WAS.

16 MR. GOLUB: UM-HUM.

17 THE COURT: THE DECLARANT WENT TO A SECURITY GUARD IN A
18 MATTER OF MINUTES OR SOMETHING -- OR SOMETHING LIKE THAT.

19 MS. WIDMARK: LESS -- LESS THAN MINUTES, YOUR HONOR.

20 THE COURT: WITHIN A COUPLE MINUTES. THEN -- THEN THE
21 SECURITY GUARD DIRECTED HIM TO MAKE A 9-1-1 CALL, AND THEN HE
22 MADE THE 9-1-1 CALL. AND WE HEARD THE -- ISN'T THAT HOW IT
23 WENT?

24 MS. WIDMARK: WELL, I WOULDN'T SAY, "DIRECTED."
25 THAT'S --

26 THE COURT: OKAY. NOT DIRECTED. HE HAD A CONVERSATION
27 WITH -- WITH THE SECURITY GUARD, AND THE SECURITY GUARD TOLD
28 HIM HE CAN'T HELP HIM AND HE SHOULD MAKE A 9-1-1 CALL.

1 MR. GOLUB: WELL, ACTUALLY, THE FIRST THING THAT
2 HAPPENED IS HE MOTION -- HE ASKED THE SECURITY GUARD TO COME
3 TO HIM, AND THE SECURITY GUARD MOTIONED HIM, THE VICTIM, OVER
4 TO THE SECURITY GUARD. SO THAT'S THE FIRST -- SO HE WALKED
5 OVER THERE. HE SAID HE COULDN'T HELP HIM AFTER HE TOLD HIM
6 WHAT HAPPENED, AND THEN HE BROUGHT HIM INSIDE THE BUILDING.
7 HE WAS -- THE PHONE CALL WAS MADE FROM INSIDE THE BUILDING.
8 SO -- YES. SO THAT'S WHAT HAPPENED.

9 I AM NOT SURE OF THE EXACT TIME FRAME, BUT IT WAS
10 CLEARLY NO MORE THAN MINUTES. AND -- I DON'T THINK IT COULD
11 HAVE HAPPENED IN LESS THAN A MINUTE; BUT IT'S NO MORE THAN A
12 FEW MINUTES, I AM SURE, BY THE TIME THE PHONE CALL. BUT THE
13 POINT IS HE SPOKE TO THE SECURITY GUARD WHO THEN GAVE HIM THE
14 PHONE, AND THAT'S WHEN HE MADE THE CALL.

15 THE COURT: OKAY. I -- I THINK IT'S -- I THINK IT IS
16 RELEVANT TO SHOW THAT THE DEFENDANT WAS ROBBED BY A BLACK
17 MAN, AND -- IT'S CLEARLY RELEVANT. THE ONLY QUESTION I THINK
18 YOU HAVE IS IS WHETHER IT'S HEARSAY AND, THEREFORE, NOT
19 ADMISSIBLE. WELL, CLEARLY, IT'S HEARSAY. AND I JUST REFER
20 TO SECTION 1240 OF THE EVIDENCE CODE. I THINK IT'S A
21 SPONTANEOUS DECLARATION. I DON'T THINK YOU HAVE TO MEASURE
22 IN TIME, BUT IN THIS CASE IT WAS VERY SHORT. AND -- AND IT
23 JUST MEETS ALL THE CRITERIA OF 1240 OF THE EVIDENCE CODE. SO
24 I AM GOING TO PERMIT IT.

25 MR. GOLUB: AND I THINK MAYBE THE STATEMENT TO THE
26 SECURITY GUARD IS A SPONTANEOUS STATEMENT. I DON'T SEE HOW
27 THE 9-1-1 CALL IS. THANK YOU.

28 THE COURT: AND THEN WE WILL START AT 1:30.

1 MS. WIDMARK: BE READY. I AM -- I HAVE GOT -- MAY WE
2 DISCUSS THIS OFF THE RECORD?

3 THE COURT: OKAY. WE DON'T NEED THE RECORD.
4

5 (OFF-THE-RECORD DISCUSSION.)
6

7 THE COURT: OKAY. 1:30. YOU JUST HAVE HIM HERE DRESSED
8 AT 1:30.
9

10 (THE NOON RECESS WAS TAKEN UNTIL
11 1:30 P. M. OF THE SAME DAY.)
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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA DECEMBER 16, 1998
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: DOROTHY W. GRAVES, CSR #3123
7 TIME: P. M. SESSION
8

9 THE COURT: OKAY. THIS IS THE CASE OF PEOPLE VERSUS
10 WILLIAM MILTON. EVERYBODY IS PRESENT. ALL THE JURORS ARE
11 PRESENT AND ON TIME.

12 AND GOOD AFTERNOON.

13 NOW YOU SEE WHAT THE INSIDE OF A JUVENILE COURTROOM
14 LOOKS LIKE. NOT A WHOLE LOT DIFFERENT THAN A BIG COURTROOM
15 EXCEPT WE DON'T HAVE AN AUDIENCE, AS YOU CAN SEE, AND IT IS A
16 LITTLE BIT SMALLER; BUT WE'LL GET ALONG JUST FINE IN HERE.

17 BEFORE WE BEGIN, LET ME JUST OUTLINE JUST A FEW
18 THINGS WITH YOU. AS I INDICATED YESTERDAY, THE LAWYERS ARE
19 GOING TO BE ACTIVE IN THE CASE; BUT WHEN THEY ARE OUT IN THE
20 HALL -- AND WE HAVE AN OPEN SETTING HERE, SO YOU WILL BE OUT
21 THERE AND YOU WILL BE WALKING BY EACH OTHER -- AND WHAT
22 THEY'LL DO IS THEY WILL IGNORE YOU, THEY WILL PRETEND THAT
23 YOU DON'T EXIST. AND YOU SHOULD PRETEND THAT THEY DON'T
24 EXIST.

25 AND -- AND ONCE IN A WHILE YOU MIGHT END UP IN THE
26 SAME ELEVATOR WITH THEM. I THINK THEY'LL TRY TO AVOID THAT,
27 BUT IT MIGHT HAPPEN. AND IF IT DOES AND IF YOU'RE TALKING
28 ABOUT SOMETHING, IT'S BEST THAT YOU JUST STOP TALKING AND

1 WAIT UNTIL THE ELEVATOR GETS OPEN AND YOU SEPARATE
2 THEMSELVES. IT'S NOT ONLY THE RIGHT THING TO DO; BUT IF YOU
3 CAN IMAGINE IF SOMEONE WAS LOOKING IN AND -- AND WATCHED YOU,
4 IT WOULDN'T LOOK TOO GOOD IF YOU WERE TALKING TO ONE OF THE
5 LAWYERS.

6 THE ORDER OF THE TRIAL IS GOING TO BE -- GO
7 SOMETHING LIKE THIS: IN A FEW MOMENTS WE'RE GOING TO HAVE
8 OPENING STATEMENTS, AND OPENING STATEMENTS ARE DESIGNED JUST
9 FOR THE LAWYERS TO GIVE YOU AN OUTLINE AS TO WHAT THEY INTEND
10 TO SHOW. AND WHAT THEY SAY IS NOT EVIDENCE. IT'S JUST TO
11 KIND OF HELP YOU PUT THE PIECES IN THEIR PROPER PLACE BECAUSE
12 SOMETIMES -- ALTHOUGH THE LAWYERS WILL TRY TO PUT THEM IN A
13 LOGICAL ORDER, SOMETIMES WITNESSES MAY NOT BE AVAILABLE, YOU
14 GET EVIDENCE IN THE WRONG ORDER. AND IT -- JUST KIND OF HELP
15 YOU LOOK AT THEIR CASE.

16 THE NEXT PART, OF COURSE, IS THE EVIDENTIARY PART
17 WHERE THE WITNESSES WILL BE PRESENTED TO YOU AND THEN
18 SOMETIMES PHYSICAL EVIDENCE. AND I DON'T KNOW WHAT'S GOING
19 TO BE PRESENTED, BUT THAT'S THE EVIDENCE STAGE. I WILL --
20 WHAT I USUALLY DO IS GIVE SOME INSTRUCTIONS BEFORE CLOSING
21 ARGUMENTS. IN FACT, I GIVE MOST OF THEM BEFORE THE CLOSING
22 ARGUMENTS. AND THE LAWYERS WILL ARGUE THE CASE, AND THEN
23 THEY'LL HAVE A CHANCE TO TELL YOU WHAT THEY THINK THEY HAVE
24 PROVEN. AS OPPOSED TO THE OPENING STATEMENTS, THEY'RE JUST
25 GOING TO SHOW WHAT THEY'RE GOING TO SHOW; BUT THE CLOSING
26 STATEMENTS GIVE MORE OF AN OPINION, AND THEY CAN ARGUE THEIR
27 CASE OPPOSED TO JUST TELLING YOU WHAT THEY THINK THEY'RE
28 GOING TO SHOW.

1 AS I INDICATED TO YOU EARLIER, I WILL RULE ON THE
2 LAW AND YOU WILL RULE ON THE FACTS. AND I THINK I SAID IT,
3 CREDIBILITY IS YOUR DECISION TO MAKE. AND PLEASE DON'T GET
4 ANY CLUE FROM ANYTHING I DO. I WILL NOT HAVE AN OPINION, AND
5 YOU SHOULDN'T TAKE ANYTHING I DO TO INDICATE THAT I HAVE AN
6 OPINION. WHAT I DO IS NOT IMPORTANT FOR THAT REGARD, ANYWAY.
7 IT'S YOUR DECISION TO MAKE.

8 DURING THE TRIAL OBJECTIONS WILL BE MADE FROM TIME
9 TO TIME. EACH PARTY -- EITHER PARTY, THEY WILL MAKE AN
10 OBJECTION AND STATE THEIR GROUNDS. IF I AGREE WITH THE
11 OBJECTION, I WILL SUSTAIN IT, YOU WON'T HEAR THE ANSWER. IF
12 I DON'T AGREE WITH THE OBJECTION, I WILL RULE -- RULE AND YOU
13 WILL HEAR THE ANSWER. OCCASIONALLY YOU WILL HEAR AN ANSWER
14 THAT WILL COME OUT BEFORE AN OBJECTION AND I WILL STRIKE THE
15 ANSWER FOR SOME REASON. IF I DO, YOU'RE JUST GOING TO HAVE
16 TO TREAT IT AS THOUGH YOU NEVER HEARD OF IT. IT WAS STRICKEN
17 FOR A REASON, AND YOU'RE JUST GOING TO HAVE TO ACCEPT THAT.

18 WHEN THE LAWYERS MAKE THESE OBJECTION, THEY
19 WILL -- THEY WILL COME TO THE BENCH AND WE'LL BE TELLING
20 SECRET. IF YOU THINK WE'RE KEEPING SECRETS FROM YOU, WE ARE
21 KEEPING SECRETS FROM YOU. ACTUALLY, WHAT IT'S -- THIS IS
22 SUCH A SMALL ROOM, WHAT I LIKE TO DO IS JUST STEP RIGHT
23 THROUGH THE DOOR AND WE'LL HAVE OUR CONFERENCE RIGHT IN THE
24 HALLWAY AND THEN COME BACK AND DO WHAT WE HAVE TO DO. AND IT
25 WORKS OUT THAT -- BETTER THAT WAY. IF WE HAPPEN TO BE
26 TALKING ABOUT SOMETHING AND YOU OVERHEAR IT, WELL, JUST TRY
27 NOT TO LISTEN. IT WON'T -- IT WON'T HELP YOU IN DECIDING THE
28 CASE. I PROMISE YOU THAT.

1 COUPLE OF GENERAL THINGS. DON'T GO TO THE SCENE OF
2 THE CRIME OR ANY AREA MENTIONED BY THE EVIDENCE. DON'T DO
3 ANY INVESTIGATION. IF YOU WOULD DO THESE THINGS, MAYBE YOU
4 SHOULD BE A WITNESS TESTIFYING ON THE CASE RATHER THAN BEING
5 TRIAL JURORS. DON'T MAKE ANY -- REFER TO ANY REFERENCE
6 WORKS, AND REALLY IMPORTANT THAT YOU NOT CONFER TO ANYONE OR
7 AMONGST YOURSELVES OR WITH ANYONE OUTSIDE THE PRESENCE AND
8 UNTIL ALL 12 OF YOU ARE SEATED IN THE JURY ROOM, AND THEN YOU
9 WILL HAVE A CHANCE TO TALK. UNTIL THAT TIME YOU'RE NOT TO
10 TALK.

11 NOW, WHAT I'LL DO IS AT THE END OF THE DAY I WILL
12 REMIND YOU, AND I WILL TRY TO RE -- TO REMIND YOU AT THE
13 BREAK, NOT TO -- TO NOT TALK TO EACH OTHER ABOUT THE CASE NOR
14 WITH ANYBODY ELSE.

15 Y'ALL HAVE NOTEBOOKS. YOU USE THEM AS YOU PLEASE.
16 SOME OF YOU MAY WANT TO TAKE NOTES. SOME OF YOU MAY NOT WANT
17 TO TAKE NOTES. THE ONLY THING I'D LIKE TO SAY AS A MATTER OF
18 JUST A SUGGESTION IS FOR THE NOTE-TAKERS. REMEMBER THAT
19 YOU'RE JUDGES AND YOU HAVE TO -- AND PART OF DECIDING A CASE
20 IS SIZING UP A WITNESS, AND YOU CAN'T SIZE UP A WITNESS IF
21 YOU'RE TAKING -- IF YOU'RE CONCENTRATING ON YOUR NOTES.
22 SOMETIMES IT'S BETTER TO LOOK AROUND, SEE WHAT'S GOING ON,
23 SEE WHAT THE WITNESS LOOKS LIKE TO YOU BECAUSE YOU'RE THE
24 ONES THAT ARE GOING TO HAVE TO JUDGE THAT WITNESS. SO THINK
25 ABOUT THAT.

26 ALSO, WHEN YOU'RE DELIBERATING, THE FACT THAT
27 SOMEONE TOOK A NOTE AND SOMEONE DIDN'T TAKE A NOTE, THAT
28 DOESN'T NECESSARILY MEAN THAT THE ONE THAT TOOK THE NOTE

1 REMEMBERS IT ANY BETTER THAN THE ONE THAT DIDN'T TAKE A NOTE.
2 CAN'T GO IN THERE AND SAY, "I KNOW IT'S THIS WAY 'CAUSE I
3 TOOK A NOTE." EACH ONE OF YOU ARE INDEPENDENT JURORS, AND
4 EACH ONE OF YOU SHOULD REMEMBER THE EVIDENCE AS YOU HEAR IT.
5 AND YOU'RE ALL ON EQUAL FOOTING REGARDLESS OF WHETHER YOU
6 TAKE NOTES OR NOT.

7 IF YOU NEED READBACK OF TESTIMONY -- THE REPORTER
8 WILL TAKE EVERY WORD DOWN THAT'S SAID DURING THE COURSE OF
9 THE TRIAL -- I -- I ONLY ASK THIS: THAT -- THAT YOU MAKE
10 SURE YOU REALLY NEED IT BECAUSE IT'S -- IT'S AN EFFORT TO GET
11 THE READBACK TO YOU. WE HAVE TO CONTACT THE LAWYERS -- SOME
12 OF THE LAWYERS AND STRIKE OUT THE PARTS THAT SHOULD BE
13 STRICKEN OUT AND THEN -- DO THAT. AND THEN WHILE THAT'S
14 BEING DONE, I CAN'T DO ANYTHING ELSE BECAUSE MY REPORTER --
15 MY REPORTER'S READING BACK TESTIMONY. AND I NEED HER FOR --
16 FOR SOMETHING ELSE. SO -- BUT, ON THE OTHER HAND, IF IT'S
17 IMPORTANT AND YOU NEED IT TO DECIDE THE CASE, BY ALL MEANS
18 ASK. I DON'T WANT TO TELL YOU YOU CAN'T DO IT. I JUST WANT
19 YOU TO MAKE A SERIOUS DECISION WHEN YOU -- IF YOU REACH THAT
20 POINT WHERE YOU THINK YOU NEED READBACK.

21 LIKE TO INTRODUCE YOU TO THE PEOPLE IN THE
22 COURTROOM. BRENDA GARLAND, SHE IS OUR BAILIFF. AND SHE WILL
23 BE TAKING CARE OF YOU, AS WILL OTHER PEOPLE. IF YOU HAVE ANY
24 QUESTIONS, GET HER ATTENTION AND ASK HER A QUESTION, AND SHE
25 WILL CONVEY ANY QUESTION TO ME THAT YOU NEED.

26 MELANIE PLEASANT IS OUR CLERK. SHE SITS OVER HERE,
27 AND SHE WILL HELP ME KEEP TRACK OF THE EVIDENCE AND SWEAR
28 WITNESSES. AND SHE WILL BE ACTIVE.

1 WENDY GRAVES IS THE REPORTER, AND SHE'LL TAKE DOWN
2 EVERY WORD THAT'S SAID.

3 THERE IS ONE MORE PERSON IN THE COURTROOM, MISS
4 DOBBINS. SHE WILL -- HAS NOTHING TO DO WITH THIS TRIAL. SHE
5 IS JUST -- SHE -- SHE IS A JUVENILE PROBATION OFFICER AND
6 HELPS ME WITH ALL THE JUVENILE WORK, AND SHE WILL BE USING
7 THAT DESK TO DO HER WORK. SHE HAS NOTHING TO DO WITH THE
8 TRIAL.

9 AND, AGAIN, I AM GOING TO TAKE A BREAK IN THE
10 MIDDLE OF EACH SESSION; BUT IF YOU NEED A BREAK FOR SOME
11 REASON, YOU'RE UNCOMFORTABLE, ALL'S YOU HAVE TO DO IS GET MY
12 ATTENTION AND I WILL GIVE YOU THAT BREAK.

13 MISS WIDMARK, ARE YOU READY TO MAKE A OPENING
14 STATEMENT?

15 MS. WIDMARK: YES. I JUST NEED ONE MOMENT WITH DEFENSE
16 COUNSEL --

17 THE COURT: OKAY.

18 MS. WIDMARK: -- IF I MAY.

19
20 (A CONFERENCE WAS HELD BETWEEN COUNSEL.)

21
22 MS. WIDMARK: THANK YOU, YOUR HONOR.

23 THE COURT: YOU MAY PROCEED.

24 MS. WIDMARK: THANK YOU.
25
26
27
28

1 AT ABOUT 1:00 A. M., OKAY? AND HE LIVES IN THE AREA OF 76TH
2 AND FIGUEROA. SO HE LIVES NORTH OF WHERE THE TAM'S
3 RESTAURANT IS. HE GETS OFF WORK AT ABOUT 1:00. HE CROSSES
4 TO THE EAST SIDE OF THE STREET 'CAUSE TAM'S IS ON THE WEST
5 SIDE OF FIGUEROA. HE CROSSES ON THE EAST SIDE OF FIGUEROA
6 'CAUSE HE IS GOING TO CATCH THE BUS HOME, CATCH THE BUS
7 NORTH.

8 HE WAITS FOR THE BUS. NO BUS. HE THEN STARTS
9 WALKING NORTH, KIND OF LOOKING FOR THE BUS. AND HE KEEPS
10 WALKING NORTH FROM CENTURY, GOING TO 76TH AND FIGUEROA. AS
11 HE IS WALKING NORTH -- AND IT'S ABOUT 1:20, 1:30 IN THE
12 MORNING AT THIS POINT WHEN THE 16-YEAR-OLD KID IS HAVING TO
13 WALK HOME FROM WORK -- HE IS WALKING HOME -- WHERE HE LIVES
14 WITH HIS MOTHER -- HE IS WALKING HOME, AND HE ENCOUNTERS THE
15 DEFENDANT WHO IS STANDING IN THE AREA OF 92ND AND FIGUEROA ON
16 THE EAST SIDE OF THE STREET.

17 SO HE IS STANDING THERE. AND THE VICTIM, JUAN
18 AVILA IS WALKING NORTHBOUND. AND, OF COURSE, THERE IS THE
19 VICTIM -- I MEAN THERE IS THE DEFENDANT, MR. MILTON.
20 MR. MILTON STANDS IN JUAN AVILA'S WAY, STANDS IN THE
21 SIDEWALK. AND MR. AVILA, THE VICTIM RECOGNIZES MR. MILTON.
22 HE'S -- THE VICTIM'S SEEN MR. MILTON BEFORE, SEEN MR. MILTON
23 AT TAM'S RESTAURANT. HAS SEEN HIM BEFORE, KNOWS HIM.
24 DOESN'T KNOW HIM OTHER THAN TO HAVE SEEN HIM AND OTHER
25 THAN MR. MILTON ASKS HIM ON A FAIRLY REGULAR BASIS WHEN HE
26 SEES HIM, "DO YOU WANT TO BUY DRUGS?" AND THE VICTIM, JUAN
27 AVILA ALWAYS SAYS, "NO."

28 SO THIS NIGHT AS THE VICTIM, MR. AVILA IS WALKING

1 NORTH ON FIGUEROA, HE ENCOUNTERS MR. MILTON. MR. MILTON
2 SAYS, "DO YOU HAVE ANY MONEY?" JUAN SAYS, "NO." MR. MILTON
3 THEN SAYS, "DO YOU WANT ANY DRUGS?" SO NO. 1 WAS "DO YOU
4 HAVE ANY MONEY?" "NO." NUMBER 2 IS "DO YOU WANT ANY DRUGS,"
5 YOU KNOW, TO SEE IF HE HAS MONEY. "NO." THE VICTIM THEN
6 SAYS, "NO" TO THE SECOND QUESTION.

7 OKAY. SO YOU HAVE THE FIRST QUESTION DOESN'T WORK,
8 SECOND QUESTION. SO THEN THE THIRD IS TO -- FOR THIS MAN,
9 MR. MILTON TO REACH BEHIND UNDER HIS JACKET AS IF HE'S GOT A
10 GUN. THAT'S WHAT JUAN AVILA WAS WORRIED ABOUT. AND HE FROZE
11 IN FEAR, OKAY? HE FROZE IN FEAR THAT HE WAS GOING TO GET
12 SHOT. AND AS HE FROZE IN FEAR, THIS MAN THEN STARTS TO FEEL
13 FOR JUAN'S PROPERTY AND TAKES -- ACTUALLY REACHES INTO JUAN'S
14 POCKETS AND TAKES HIS PROPERTY AND THEN TELLS JUAN, "DON'T
15 TELL THE POLICE."

16 THIS MAN THEN WALKS SOUTHBOUND DOWN FIGUEROA. JUAN
17 TURNS AROUND, AND HE IS GOING TO GO NORTHBOUND. AND JUST --
18 SO JUAN AND THE DEFENDANT ARE AT 92ND AND FIGUEROA AT 91ST.
19 BETWEEN 91 AND 92 AND FIGUEROA YOU'VE GOT 9130 FIGUEROA DOWN
20 THE EAST SIDE OF THE STREET. IT'S AN APARTMENT COMPLEX, THE
21 FIGUEROA COURT APARTMENTS. STANDING IN AN ALCOVE THERE IS A
22 SECURITY GUARD, MR. CAMARILLO. HE IS IN HIS UNIFORM. HE IS
23 WORKING SECURITY AT THE FIGUEROA COURT APARTMENTS.

24 MR. CAMARILLO SEES WHAT'S GOING ON. CAN'T REALLY
25 TELL WHO IT IS OR ANYTHING BUT SEES THE PATTING, SEES THE
26 DEFENDANT OR SEES A PERSON STANDING THERE, SEES ANOTHER
27 PERSON WALKING UP, SEES A PERSON BEING PATTED DOWN AND HAVING
28 HIS POCKETS REACHED INTO, SEES THAT PERSON WHO HAD HIS

1 POCKETS REACHED INTO COME TOWARDS HIM AFTER THE OTHER PERSON
2 GOES SOUTHBOUND.

3 JUAN GOES UP TO ROLANDO CAMARILLO AND SAYS, "HELP
4 ME. HELP ME." MR. CAMARILLO SAYS, "THERE IS NOTHING --" HE
5 SAYS, "HELP ME. HELP ME. I HAVE JUST BEEN ROBBED."
6 MR. CAMARILLO SAYS, "THERE IS NOTHING I CAN DO TO HELP YOU
7 OTHER THAN TO LET YOU CALL THE POLICE." HE LETS JUAN INTO
8 THE LOBBY OF THE FIGUEROA COURT APARTMENTS, LETS HIM INTO THE
9 LOBBY SO THAT HE CAN TALK TO THE POLICE. 9-1-1 IS DIALED.
10 YOU WILL HEAR THE TAPE. YOU WILL SEE THE TRANSLATION. JUAN
11 TALKS TO THE DISPATCHER, TELLS THE DISPATCHER, A FEMALE
12 DISPATCHER, THAT HE'S BEEN ROBBED, THAT -- THAT THE PERSON IS
13 AN AFRICAN AMERICAN AND THAT HE'S WEARING ALL BLACK.

14 THE POLICE COME FAIRLY QUICKLY. THEY -- WHAT
15 HAPPENS IS IS JUAN AND MR. CAMARILLO STEP BACK OUT, ARE
16 STANDING OUT IN FRONT OF THE APARTMENT THERE AT 9130. THE
17 POLICE ARRIVE PRETTY QUICKLY. OFFICER HERRERA AND OFFICER
18 YAMAMOTO, THEY ARRIVE PRETTY QUICKLY. THEY GET A VERY QUICK
19 DESCRIPTION. THEY THEN GO LOOKING FOR THE PERSON. THEY
20 DON'T WANT TO WASTE ANYTIME. SO THEY GO LOOKING FOR THE
21 PERSON.

22 THEY HEAD SOUTHBOUND ON FIGUEROA. THEY SEE A
23 PERSON, MR. MILTON WHO FITS THE DESCRIPTION. HE IS WALKING
24 WESTBOUND ON 95TH TOWARDS FIGUEROA. SO HE IS RIGHT ALMOST AT
25 THE CORNER OF 95TH AND FIGUEROA, RIGHT THERE, OKAY? HE FITS
26 THE DESCRIPTION. HE IS WEARING ALL BLACK. THEY STOP HIM.
27 THEY THEN CALL IN TO COMMUNICATIONS AND SAY, I BELIEVE, BUT
28 DON'T HOLD ME TO THIS, "CODE SIX, SUSPECT -- POSSIBLE SUSPECT

1 IN CUSTODY." SO ANOTHER UNIT, PARTNERS, POLICE OFFICERS ARE
2 AT THE APARTMENT NOW WITH JUAN TO TRANSPORT JUAN TO 95TH AND
3 FIGUEROA TO SEE IF THEY'VE GOT THE RIGHT PERSON.

4 IT'S CALLED A FIELD SHOW-UP 'CAUSE THEY CERTAINLY
5 DON'T WANT TO ARREST MR. MILTON IF YOU KNOW THE VICTIM'S
6 GOING TO SAY, "NO, THAT'S NOT THE GUY." BUT REMEMBER, JUAN
7 KNOWS MR. MILTON. THEY TAKE JUAN TO 95TH AND FIGUEROA, AND
8 JUAN IDENTIFIES HIM AND SAYS, "THAT'S HIM." OFFICER HERRERA
9 DOES THE INTERPRETING BECAUSE JUAN SPEAKS SPANISH. AND
10 OFFICER HERRERA DOES THE INTERPRETING, GETS THE INFORMATION
11 FOR THE REPORT FOR OFFICER O'NEAL TO WRITE THE REPORT AND --
12 AND CONFIRMS THE IDENTIFICATION THAT, YES, THAT'S HIM.
13 MR. MILTON'S ARRESTED.

14 WHEN MR. MILTON IS ARRESTED THESE MINUTES LATER AND
15 AFTER BEING ON 95TH STREET, HE NO LONGER HAS THE PROPERTY ON
16 HIM. THE OFFICERS KIND OF DO A LITTLE BIT OF A LOOK TO SEE
17 IF THEY CAN SEE ANYTHING, BUT WE DON'T KNOW WHERE THE
18 PROPERTY IS. MR. AVILA WILL ALSO TELL YOU THAT HE CAME TO
19 COURT BEFORE AT A HEARING IN MUNICIPAL COURT AND THAT IN
20 COURT HE ALSO IDENTIFIED MR. MILTON AS THE PERSON WHO ROBBED
21 HIM THAT NIGHT, WEARING THE CLOTHING AS HE DESCRIBED TO THE
22 9-1-1 OPERATOR AND ALSO THAT HE KNEW HIM. THAT'S THE PERSON.
23 THAT IS WHY MR. MILTON IS HERE CHARGED WITH ROBBERY UPON JUAN
24 AVILA.

25 THANK YOU.

26 THE COURT: MR. GOLUB, DO YOU WISH TO MAKE A STATEMENT
27 AT THIS TIME?

28 MR. GOLUB: YES, YOUR HONOR.

1 THE COURT: PLEASE DO.

2 MR. GOLUB: THANK YOU.

3

4

OPENING STATEMENT

5 BY MR. GOLUB:

6 THE EVIDENCE WILL SHOW THAT WILLIAM MILTON DID NOT
7 ROB JUAN AVILA.

8 LADIES AND GENTLEMEN, FIRST THING I SHOULD REMIND
9 YOU IS THAT WHAT I SAY, JUST LIKE WHAT THE PROSECUTOR SAYS,
10 IS NOT EVIDENCE. I THINK THE JUDGE MENTIONED THIS A MINUTE
11 AGO. THE ONLY EVIDENCE THAT YOU WILL HAVE IS THE TESTIMONY
12 OF THE WITNESSES PRESENTING EXHIBITS THAT COME IN. I KNOW
13 MS. WIDMARK IS VERY INTELLIGENT, ARTICULATE PERSON. AND SHE
14 JUST TOLD YOU WHAT SHE BELIEVES THE PROSECUTION EVIDENCE WILL
15 SHOW, JUST LIKE I AM ABOUT TO TELL YOU WHAT I BELIEVE THE
16 EVIDENCE -- WELL, WHAT I BELIEVE THE EVIDENCE WILL SHOW IN
17 THIS CASE; BUT WHAT WE SAY IS NOT THE EVIDENCE.

18 SO WHAT WILL THE EVIDENCE SHOW? THE EVIDENCE WILL
19 SHOW THAT JUAN AVILA LEFT WORK AT TAM'S THAT DAY, NOT TO GO
20 DIRECTLY HOME BUT TO PURCHASE SOME MARIJUANA. THE EVIDENCE
21 WILL SHOW THAT HE KNOWS WILLIAM MILTON -- NOT WELL, BUT THEY
22 KNOW EACH OTHER -- THEY'VE SEEN EACH OTHER MANY TIMES AROUND,
23 MOSTLY AROUND TAM'S. THE EVIDENCE WILL SHOW THAT JUAN AVILA
24 ASKED WILLIAM MILTON IF HE CAN PURCHASE SOME MARIJUANA.

25 WILLIAM MILTON DOES NOT REGULARLY SELL MARIJUANA,
26 BUT HE KNEW WHERE HE CAN GET SOME. SO HE SAID, "OKAY"; BUT
27 HE SAID HE NEEDED THE MONEY, HE NEEDED TO GO UP AND GET IT.
28 JUAN AVILA WAS A LITTLE HESITANT TO JUST GIVE HIM THE MONEY,

1 BUT HE SHOWED HIM THE APARTMENT BUILDING WHERE HE WAS GOING
2 TO GO GET THE MARIJUANA. HE -- THEN JUAN AVILA SAID, "OKAY."
3 WILLIAM MILTON ASSURED HIM HE WILL BE RIGHT BACK. HE FIGURED
4 HE WAS GOING TO BE ABLE TO GET A LITTLE BIT OF MARIJUANA FOR
5 HIMSELF OUT OF THIS TRANSACTION. SO HE WENT AHEAD AND DID
6 IT.

7 SO HE WENT TOWARDS THE APARTMENT BUILDING; BUT AS
8 HE DID, HE SAW THE DEALER ACTUALLY DOWN THE NEXT BLOCK. SO
9 HE KEPT GOING, AND HE MET UP WITH THE DEALER. HE GAVE HIM
10 THE \$20. HIS NAME IS TINY. TINY WENT UPSTAIRS TO THE
11 APARTMENT BUILDING TO GO GET THE MARIJUANA; BUT JUAN AVILA IN
12 THE MEANTIME, WE MUST ASSUME, SAW WILLIAM MILTON GO PAST THE
13 APARTMENT BUILDING AND GOT VERY UPSET. AND THAT'S WHEN HE
14 WENT AND TOLD MR. CAMARILLO THAT HE HAD BEEN ROBBED.

15 THAT IS THE SUM TOTAL OF WHAT HAPPENED EXCEPT
16 WILLIAM MILTON IS ARRESTED WITHIN MINUTES -- LESS THAN
17 MINUTES LATER. OFFICERS COME IMMEDIATELY TO THE SCENE, FIND
18 MR. MILTON AT 95TH AND FIGUEROA, JUST A BLOCK OR TWO AWAY OR
19 TWO BLOCKS WHERE IT HAPPENED -- HE'S HAD NO TIME TO DO
20 ANYTHING -- AND HE HAS NO \$20 ON HIM, THE COIN THAT WAS
21 SUPPOSEDLY TAKEN ON HIM, NO PAIR OF PANTS ON HIM, NO BAG WITH
22 A PAIR OF PANTS. NOTHING IS ON HIM, AND HE'S HAD NO
23 OPPORTUNITY TO GET RID OF THE EVIDENCE. AND THINK OF THAT AS
24 YOU'RE THINKING ABOUT THE CREDIBILITY OF THE WITNESSES IN
25 THIS CASE. THE EVIDENCE WILL SHOW THAT WILLIAM MILTON DID
26 NOT ROB JUAN AVILA.

27 THANK YOU, LADIES AND GENTLEMEN.

28 THE COURT: PEOPLE, CALL YOUR FIRST WITNESS.

1 MS. WIDMARK: THANK YOU. WE CALL JUAN AVILA. IF I
2 MAY --

3 THE COURT: YES.

4
5 (PAUSE.)

6
7 JUAN CARLOS AVILA CONTRERAS,
8 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND TESTIFIED AS
9 FOLLOWS:

10 THE CLERK: PLEASE APPROACH THE WITNESS STAND.

11 RAISE YOUR RIGHT HAND.

12 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
13 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
14 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
15 TRUTH, SO HELP YOU GOD.

16 THE WITNESS: (IN ENGLISH:) YES.

17 THE INTERPRETER: YES.

18 THE CLERK: PLEASE BE SEATED.

19 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

20 THE WITNESS: JUAN CARLOS AVILA CONTRERAS.

21 THE CLERK: IF YOU WILL SPELL YOUR NAME.

22 THE WITNESS: J-U-A-N, C-A-R-L-O-S, A-V-I-L-A,
23 C-O-N-T-R-E-R-A-S.

24 THE COURT: PROCEED.
25
26
27
28

1 DIRECT EXAMINATION

2 BY MS. WIDMARK:

3 Q. JUAN, ARE YOU A LITTLE NERVOUS?

4 A. NO. IT'S OKAY.

5 Q. JUAN, ON SEPTEMBER 6TH, 1998 WERE YOU WORKING?

6 A. (IN ENGLISH:) YES.

7 THE INTERPRETER: YES.

8 BY MS. WIDMARK:

9 Q. WOULD YOU RATHER SPEAK IN ENGLISH OR IN SPANISH?

10 A. (IN ENGLISH:) SPANISH.

11 Q. SO I NEED YOU TO GO AHEAD AND SPEAK IN SPANISH.

12 ARE YOU MORE COMFORTABLE SPEAKING IN SPANISH THAN
13 ENGLISH?

14 A. YES.

15 Q. OKAY.

16 SO I NEED TO HAVE YOU, THEN, USE THE INTERPRETER.
17 GO AHEAD AND SPEAK IN SPANISH, AND SHE WILL INTERPRET IT INTO
18 ENGLISH IF YOU'RE MORE COMFORTABLE SPEAKING SPANISH.

19 A. (IN ENGLISH:) OKAY.

20 Q. AND WHERE DID YOU WORK ON SEPTEMBER 6, 1998?

21 A. AT TAM'S.

22 Q. AND WHERE IS TAM'S LOCATED?

23 A. (IN ENGLISH:) CENTURY AND FIGUEROA.

24 THE INTERPRETER: CENTURY AND FIGUEROA.

25 BY MS. WIDMARK:

26 Q. IS THAT IN THE CITY AND COUNTY OF LOS ANGELES?

27 A. YES.

28 Q. ON SEPTEMBER 6TH, 1998 WHAT TIME DID YOU GET OFF

1 WORK?

2 A. AT 1:00.

3 Q. IS THAT 1:00 IN THE MORNING OR IN THE AFTERNOON?

4 A. GOING TOWARDS DAWN.

5 Q. SO IT WAS DARK OUT?

6 A. YES.

7 Q. SO WHEN YOU GOT OFF WORK, WHERE DID YOU GO?

8 A. TOWARDS MY HOME.

9 Q. AND HOW DID YOU WANT TO GET HOME?

10 A. BUS.

11 Q. AND DID YOU CATCH A BUS THAT NIGHT?

12 A. I DIDN'T GET ONE.

13 Q. AND WHEN YOU GOT OFF WORK, DID YOU GO SOMEWHERE TO
14 WAIT FOR THE BUS?

15 A. YES.

16 Q. AND WHERE DID YOU GO?

17 A. CENTURY AND FIGUEROA.

18 Q. AND WAS THAT ON THE SAME SIDE OF THE STREET AS
19 TAM'S OR THE OPPOSITE SIDE?

20 A. THE OTHER SIDE OF THE STREET.

21 Q. IS THAT THE EAST SIDE OF THE STREET?

22 A. YES.

23 Q. SO YOU'RE ON THE EAST SIDE OF THE STREET, AND
24 YOU'RE WAITING FOR THE BUS.

25 DID THE BUS COME?

26 A. NO.

27 Q. WHAT DID YOU DO?

28 A. I STARTED WALKING.

1 Q. AND WHICH DIRECTION WERE YOU WALKING?

2 A. NORTH.

3 Q. ON FIGUEROA?

4 A. YES.

5 Q. WHERE DO YOU -- WHERE DO YOU LIVE? WHAT AREA DO
6 YOU LIVE IN? WHAT ARE THE MAJOR CROSS STREETS?

7 A. SEVENTY-SIXTH.

8 Q. AND WHAT STREET?

9 A. FIGUEROA.

10 Q. SO YOU'RE WALKING NORTH TOWARDS OR I SHOULD SAY
11 AWAY FROM TAM'S.

12 ARE YOU LOOKING FOR THE BUS?

13 A. YES.

14 Q. AND SOME POINT WHEN YOU WERE WALKING ON FIGUEROA ON
15 THE EAST SIDE OF THE STREET DID YOU ENCOUNTER ANYONE WHO YOU
16 SEE HERE IN COURT TODAY?

17 A. YES.

18 Q. AND WHERE IS THAT PERSON SEATED AND WHAT ARE THEY
19 WEARING TODAY THAT YOU ENCOUNTERED THAT NIGHT?

20 A. IN THE WHITE SHIRT.

21 Q. OKAY.

22 AND WHERE IS THE PERSON SEATED? YOU CAN POINT.

23 A. THERE.

24 THE COURT: THE WITNESS HAS POINTED TO THE DEFENDANT.

25 BY MS. WIDMARK:

26 Q. AND ABOUT WHERE WERE YOU WHEN YOU ENCOUNTERED
27 MR. MILTON?

28 A. ON 92ND STREET.

1 Q. WERE YOU ON 92ND STREET OR WERE YOU STILL ON
2 FIGUEROA?

3 A. I WAS GOING ON FIGUEROA, AND 92ND RUNS THROUGH IT
4 THERE.

5 Q. HAD YOU SEEN MR. MILTON PRIOR TO THAT NIGHT?

6 A. YES.

7 Q. ABOUT HOW MANY OCCASIONS?

8 A. THREE TIMES.

9 Q. AND WHERE DID YOU SEE HIM?

10 A. TAM'S.

11 Q. WHILE YOU WERE WORKING?

12 A. NO.

13 Q. WERE YOU WORKING AT TAM'S WHEN YOU SAW HIM?

14 A. YES.

15 Q. AND WAS HE -- DID YOU EVER SPEAK TO HIM PRIOR TO
16 THIS NIGHT?

17 A. NO.

18 Q. DID HE EVER SPEAK TO YOU?

19 A. YES.

20 Q. AND WOULD HE ASK YOU ANYTHING IN PARTICULAR WHEN
21 YOU SAW HIM ON THESE THREE OCCASIONS PRIOR TO THE 6TH OF
22 SEPTEMBER?

23 A. YES.

24 Q. AND WHAT WOULD HE ASK YOU?

25 A. HE WOULD OFFER ME MARIJUANA.

26 Q. DID HE EVER OFFER YOU ANYTHING ELSE?

27 A. NO.

28 Q. AND WHEN HE OFFERED YOU MARIJUANA, WHAT DID YOU SAY

1 ON THESE THREE OCCASIONS?

2 A. THAT I DIDN'T LIKE IT.

3 Q. SO DID YOU EVER BUY MARIJUANA FROM HIM?

4 A. NO.

5 Q. SO HE'D ASK YOU THOSE QUESTIONS, AND ON THIS
6 PARTICULAR NIGHT AS YOU ARE WALKING NORTHBOUND ON FIGUEROA
7 YOU ENCOUNTER MR. MILTON AGAIN.

8 IS THAT CORRECT?

9 A. YES.

10 Q. DOES HE ASK YOU SOMETHING?

11 A. YES.

12 Q. WHAT DID HE ASK YOU?

13 A. WHERE I WAS GOING.

14 Q. AND DID YOU TELL HIM WHERE YOU WERE GOING?

15 A. YES.

16 Q. WHAT'D YOU TELL HIM?

17 A. TO MY HOUSE.

18 Q. DID HE ASK YOU ANYTHING ELSE?

19 A. NO.

20 Q. AFTER HE ASKED YOU IF YOU'RE GOING TO YOUR HOUSE,
21 DID YOU CONTINUE ON YOUR WAY?

22 A. NO.

23 Q. WHAT HAPPENED?

24 A. HE FRISKED MY POCKETS.

25 Q. DID HE EVER ASK YOU FOR MONEY?

26 A. YES.

27 Q. WHEN DID HE ASK YOU FOR MONEY?

28 A. I SAID I DIDN'T HAVE ANY.

1 Q. WHEN DID HE ASK YOU?

2 A. WHEN I WAS STANDING THERE.

3 Q. SO HE ASKED YOU FOR MONEY. YOU SAID YOU DIDN'T
4 HAVE ANY?

5 A. UN-HUH.

6 Q. DID HE ASK YOU SOMETHING AFTER THAT?

7 A. YES.

8 Q. AND WHAT DID HE ASK YOU?

9 A. IF I WANTED MARIJUANA.

10 Q. AND WHAT DID YOU SAY?

11 A. "NO."

12 Q. AND WHAT DID HE DO, IF ANYTHING, AFTER YOU SAID YOU
13 DIDN'T WANT MARIJUANA?

14 A. HE GRABBED MY --

15 THE INTERPRETER: MAY I -- EXCUSE ME. MAY I CLARIFY,
16 YOUR HONOR.

17 THE COURT: YES.

18

19 (A CONFERENCE WAS HELD BETWEEN THE
20 WITNESS AND THE COURT INTERPRETER.)

21

22 THE WITNESS: HE FRISKED MY RIGHT POCKET AND THEN MY
23 LEFT, AND THAT'S WHEN HE PUT HIS HAND IN THE BACK TOWARD THE
24 RIGHT POCKET.

25 BY MS. WIDMARK:

26 Q. DID HE PUT HIS HAND IN YOUR POCKET?

27 A. YES.

28 Q. ONE OF HIS HANDS WENT INTO HIS POCKET. WHERE WAS

1 HIS OTHER HAND?

2 A. HIS LEFT HAND.

3 Q. AND THAT WAS HIS LEFT HAND, THE ONE THAT WAS GOING
4 INTO YOUR POCKET?

5 A. YES.

6 Q. AND WHERE WAS HIS RIGHT HAND?

7 A. AT HIS BACK.

8 Q. IS THAT -- YOUR HONOR, IF I MAY HAVE HIM STEP DOWN
9 FOR A MOMENT.

10 THE COURT: YOU MAY.

11 BY MS. WIDMARK:

12 Q. IF YOU CAN STEP DOWN, JUAN, AND SHOW US WHERE HIS
13 RIGHT HAND WAS.

14 A. HERE.

15 MS. WIDMARK: YOUR HONOR, FOR THE RECORD IT APPEARS IN
16 HIS BACK AT ABOUT HIS WAISTBAND WITH HIS ELBOW POINTING OUT.

17 THE COURT: SLIGHTLY ABOVE HIS WAISTBAND, YES.

18 MS. WIDMARK: THANK YOU.

19 Q. AND -- GO AHEAD AND HAVE A SEAT.

20 AND, JUAN, DID HIS -- WAS HIS HAND -- WELL, LET
21 ME -- LET ME BACK UP A MINUTE.

22 WAS HE WEARING A JACKET?

23 A. YES.

24 Q. WAS HIS HAND OVER HIS JACKET OR UNDER HIS JACKET,
25 THE RIGHT HAND?

26 A. UNDERNEATH IT.

27 Q. DID HE SAY ANYTHING WITH REGARD TO HIS HAND BEING
28 UNDERNEATH HIS JACKET?

1 A. HE MADE AS IF HE HAD A WEAPON.

2 Q. DID HE SAY ANYTHING ABOUT A WEAPON?

3 A. NO.

4 Q. DID HE WARN YOU IN ANY WAY?

5 A. JUST FOR ME NOT TO YELL.

6 Q. AND WHEN HE PUT HIS HAND -- RIGHT HAND BEHIND HIM
7 UNDERNEATH HIS JACKET TOWARDS HIS BACK WAISTBAND, WHAT WERE
8 YOU CONCERNED WITH, IF ANYTHING?

9 A. BECAUSE I THOUGHT HE WAS GOING TO TAKE OUT A KNIFE
10 OR SOME OTHER KIND OF WEAPON.

11 Q. WHAT OTHER KIND OF WEAPON?

12 A. A GUN -- PARDON ME; CORRECTION -- A KNIFE OR --
13 OR -- OR WHATEVER ELSE HE COULD -- I THOUGHT SOMETHING ELSE
14 WOULD BE TAKEN OUT.

15 Q. WHAT WERE YOU AFRAID THAT HE MIGHT TAKE OUT OTHER
16 THAN A KNIFE?

17 A. THAT SOMETHING BAD WAS GOING TO HAPPEN TO ME.

18 Q. HOW DID YOU FEEL?

19 A. FEARFUL.

20 Q. AND WHAT DID YOU DO IN RESPONSE TO FEELING FEARFUL?

21 A. I DIDN'T DO ANYTHING BECAUSE HE WAS TELLING ME NOT
22 TO DO ANYTHING.

23 Q. AND WHEN HE REACHED INTO YOUR POCKET, WHAT WAS THE
24 FIRST POCKET HE REACHED INTO?

25 A. MY RIGHT POCKET.

26 Q. WAS THAT THE FRONT POCKET OR THE BACK POCKET?

27 A. FRONT.

28 Q. DID HE TAKE ANYTHING OUT OF YOUR RIGHT FRONT

1 POCKET?

2 A. NO. ALL I HAD WERE A FEW OF MY SISTER'S THINGS.

3 Q. AND WHAT ABOUT YOUR OTHER POCKETS? DID HE REACH
4 INTO ANY OF YOUR OTHER POCKETS?

5 A. YES.

6 Q. WHICH POCKET?

7 A. THE RIGHT ONE.

8 Q. THE RIGHT ONE.

9 WHERE?

10 A. RIGHT -- RIGHT HERE, THE LITTLE -- THE LITTLE ONE
11 HERE.

12 Q. OKAY.

13 SO LIKE A LITTLE COIN POCKET?

14 A. (IN ENGLISH:) YEAH.

15 THE INTERPRETER: YEAH.

16 BY MS. WIDMARK:

17 Q. AND DID HE GET ANYTHING OUT OF THERE?

18 A. HE TRIED TO TAKE A HOUSE -- A KEY. WAS MY HOUSE
19 KEY.

20 Q. DID HE TAKE YOUR HOUSE KEY?

21 A. YES.

22 Q. WHAT -- DID HE REACH INTO ANY OF YOUR OTHER
23 POCKETS?

24 A. NO.

25 Q. DID HE TAKE ANY MONEY FROM YOU?

26 A. YES.

27 Q. WHERE WAS YOUR MONEY?

28 A. IN MY RIGHT BACK POCKET.

1 Q. HOW DID HE GET YOUR MONEY FROM YOUR RIGHT BACK
2 POCKET?

3 A. HE TURNED AROUND AND TOOK IT OUT.

4 Q. SO DID HE REACH INTO THAT POCKET?

5 A. YES.

6 Q. AND HOW MUCH MONEY DID YOU HAVE?

7 A. \$20.

8 Q. AND DID HE TAKE THAT?

9 A. YES.

10 Q. WHILE HE WAS DOING THIS, DID HE STILL HAVE HIS
11 RIGHT HAND IN HIS BACK WAISTBAND?

12 A. YES.

13 Q. WERE YOU CARRYING ANYTHING?

14 A. YES.

15 Q. AND WHAT WERE YOU CARRYING?

16 A. BAG.

17 Q. AND WHAT WAS IN THE BAG, IF ANYTHING?

18 A. PANTS.

19 Q. NEW PANTS? OLD PANTS?

20 A. YES, NEW ONES.

21 Q. DID HE TAKE THOSE?

22 A. YES.

23 Q. DID YOU TALK TO HIM ABOUT THOSE PANTS?

24 A. YES. I ASKED HIM NOT TO TAKE THEM.

25 Q. AND WHAT WAS HIS RESPONSE, IF ANYTHING?

26 A. "NO," HE TOLD ME. HE JUST WENT LIKE THAT -- LIKE
27 LOOKED AT ME LIKE THAT AND GRABBED THEM FROM ME.

28 MR. WIDMARK: OKAY.

1 YOUR HONOR, FOR THE RECORD SORT OF SHRUGGED HIS
2 SHOULDERS.

3 THE COURT: YEAH, HE DID THAT.

4 MS. WIDMARK: THANK YOU.

5 Q. DID HE TAKE ANYTHING ELSE?

6 A. NO.

7 Q. AND AFTER HE TOOK THE \$20 AND THE PANTS THAT YOU
8 WERE CARRYING, WHAT HAPPENED?

9 A. HE TOLD ME TO GO.

10 Q. DID HE TELL YOU ANYTHING ELSE?

11 A. NO. HE JUST SAID NOT TO CALL THE POLICE.

12 Q. AND DID YOU GO?

13 A. YES.

14 Q. AND WHICH DIRECTION DID YOU GO IN?

15 A. NORTHWARD.

16 Q. ON FIGUEROA?

17 A. YES.

18 Q. AND WHERE DID HE GO?

19 A. HE WENT BACK.

20 Q. OKAY.

21 WOULD THAT BE SOUTH?

22 A. YES.

23 Q. AND WHEN YOU WENT NORTH ON FIGUEROA, DID YOU SEE
24 SOMEBODY?

25 A. YES. I SAW ROLANDO.

26 Q. DID YOU KNOW HIM BEFORE THAT NIGHT?

27 A. NO.

28 Q. AND HOW WAS ROLANDO DRESSED?

1 A. LIKE A SECURITY.

2 Q. AND WHAT HAPPENED WHEN YOU SAW ROLANDO? WHAT DID
3 YOU DO?

4 A. I ASKED HIM IF I COULD HAVE HIS PHONE TO CALL THE
5 POLICE.

6 Q. DID YOU ASK HIM FOR HELP?

7 A. YES.

8 Q. DID YOU TELL HIM WHAT HAPPENED?

9 A. UN-HUH.

10 Q. IS THAT "YES"?

11 A. YES, BUT HE HAD SEEN IT.

12 Q. AND WHAT DID YOU TELL ROLANDO?

13 A. THAT I HAD BEEN ROBBED.

14 Q. AND DID ROLANDO LET YOU -- ROLANDO LET YOU IN
15 SOMEWHERE?

16 A. YES.

17 Q. AND WHERE DID HE LET YOU IN?

18 A. INSIDE AT THE OFFICE WHERE HE WAS.

19 Q. AT THE APARTMENTS?

20 A. YES.

21 Q. AND DID YOU TALK TO THE POLICE?

22 A. YES.

23 Q. AND DID YOU TELL HIM WHAT HAD HAPPENED?

24 A. YES.

25 Q. AFTER YOU TALKED TO THE POLICE, WERE THERE OFFICERS
26 WHO ARRIVED?

27 A. YES.

28 Q. AND DID THEY ASK YOU ANY QUESTIONS?

1 A. YES.

2 Q. DID YOU TELL HIM WHAT THE PERSON LOOKED LIKE WHO
3 HAD ROBBED YOU?

4 A. YES.

5 Q. DID THOSE OFFICERS THEN LEAVE?

6 A. YES.

7 Q. AT SOME POINT THEN, JUAN, DID SOME OTHER OFFICERS
8 ARRIVE?

9 A. NO.

10 Q. WERE YOU TAKEN SOMEWHERE IN A POLICE CAR?

11 A. YES.

12 Q. AND WERE THOSE OFFICERS, WHERE DID THEY PICK YOU UP
13 FROM?

14 A. AT 92ND STREET WITH ROLANDO.

15 Q. AND WHERE DID THEY TAKE YOU?

16 A. WHERE THEY HAD GOTTEN THE ONE THAT HAD ROBBED ME.

17 Q. AND WAS THAT NORTH OR SOUTH?

18 A. SOUTH.

19 Q. AND WHEN THEY TOOK YOU THERE, DID YOU SEE THE
20 PERSON WHO ROBBED YOU?

21 A. YES.

22 Q. THE PERSON IN COURT?

23 A. YES.

24 MS. WIDMARK: YOUR -- YOUR HONOR, MAY I APPROACH.

25 THE COURT: YES.

26 MS. WIDMARK: YOUR HONOR, I HAVE A SET OF PHOTOGRAPHS.

27 MAY THESE ACTUALLY BE MARKED PEOPLE'S NO. 3 FOR

28 IDENTIFICATION.

1 THE COURT: YES.

2 MS. WIDMARK: THANK YOU. PREVIOUSLY SHOWN TO COUNSEL.

3

4 (MARKED FOR IDENTIFICATION,

5 PEOPLE'S 3, PHOTOGRAPHS.)

6

7 MS. WIDMARK: BE ABLE TO SEE THEM HERE. PERHAPS IF --
8 YOUR HONOR, PERHAPS IF THE JURORS CAN'T SEE THEM, THEY CAN
9 STEP DOWN. I DON'T QUITE KNOW HOW ELSE TO DO IT. HOW DO YOU
10 DO IT IN HERE? SHALL I PUSH IT FURTHER UP?

11 THE COURT: TURN IT MORE, YES.

12 MS. WIDMARK: OKAY. THAT'S A BETTER IDEA.

13 AND THEN HAVE HIM STEP DOWN?

14 THE COURT: YES.

15 MS. WIDMARK: WHY -- CONTINUE. YOU GO AHEAD.

16 THE COURT: DOES ANY ONE OF THE JURORS CANNOT SEE THE
17 PHOTOGRAPHS?

18 MS. WIDMARK: THEY ARE A LITTLE FAR AWAY. I REALIZE
19 THAT.

20 JUROR NO. 1: THAT'S BETTER.

21 MS. WIDMARK: CAN YOU SEE?

22 IF I CAN HAVE HIM STEP DOWN, YOUR HONOR.

23 THE COURT: YES.

24 BY MS. WIDMARK:

25 Q. GO AHEAD AND TAKE A LOOK AT THESE PHOTOGRAPHS.

26 DO YOU RECOGNIZE THE AREA DEPICTED IN THESE
27 PHOTOGRAPHS?

28 A. YES.

1 Q. AND WHAT STREET ARE THEY SHOWING?

2 A. NINETY-SECOND.

3 Q. OKAY.

4 AND WHAT OTHER STREET?

5 A. AND FIGUEROA.

6 Q. OKAY.

7 DO YOU SEE IN ANY OF THESE PHOTOGRAPHS THE AREA

8 WHERE YOU WERE ROBBED?

9 A. YES.

10 Q. AND WHICH PHOTOGRAPH? YOU CAN POINT TO IT.

11 A. HERE IT WAS.

12 Q. IN "D."

13 DO YOU ALSO SEE IT IN ANOTHER PHOTOGRAPH?

14 A. YES.

15 Q. WHICH PHOTOGRAPH?

16 A. HERE.

17 Q. IN "A."

18 OKAY.

19 AND LOOKING -- LOOKING AT "A," CAN YOU POINT WHERE

20 YOU WERE WHEN YOU ENCOUNTERED MR. MILTON AND HE ROBBED YOU?

21 CAN YOU POINT ON THE PHOTO?

22 A. HERE.

23 Q. OKAY.

24 SO RIGHT IN FRONT OR RIGHT NORTH OF WHERE THE PALM
25 TREE SHADOW IS ON THE SIDEWALK.

26 WOULD THAT BE CORRECT?

27 A. YES.

28 Q. AND LOOKING AT "D," THEN, IT WOULD BE JUST MAYBE

1 EVEN WITH THIS TIRE THAT'S SITTING IN THE GREEN THAT YOU WERE
2 ON THE SIDEWALK.

3 WOULD THAT BE CORRECT?
4

5 A. IT WAS HERE.

6 Q. OKAY.

7 SO FURTHER NORTH THAN THAT.
8 WOULD THAT BE CORRECT?

9 A. YES.

10 Q. OKAY.

11 LOOKING AT "B," PEOPLE'S 3-B, WHAT AREA DOES THAT
12 SHOW YOU?

13 A. (IN ENGLISH:) FIGUEROA STREET --
14 THE INTERPRETER: FIGUEROA STREET.

15 THE WITNESS: -- AND THE APARTMENTS.
16 BY MS. WIDMARK:

17 Q. AND WHAT SIGNIFICANCE DO THOSE APARTMENTS HAVE?
18 A. THAT WAS WHERE I FOUND THE SECURITY, MA'AM.
19 Q. OKAY.

20 SO THAT'S WHERE ROLANDO WAS.
21 IS THAT CORRECT?

22 A. YES.

23 Q. AND IS THAT SHOWN CLOSER HERE IN "C"?
24 A. YES.

25 Q. AND IT LOOKS LIKE IN "C" THERE IS A LOBBY THERE.
26 A. YEAH. I WENT INSIDE THERE.

27 Q. IS THAT WHERE YOU MADE YOUR PHONE CALL?
28 A. YES.

Q. LOOKING AT THE PHOTO MARKED 3-E, WHAT DIRECTION IS

1 THIS LOOKING?

2 A. NORTH.

3 Q. AND WHAT STREET WOULD BE RIGHT SOUTH?

4 A. NINETY-THIRD.

5 Q. NINETY-THIRD.

6 IS IT -- IS THE APARTMENT BUILDING BETWEEN --

7 A. (IN ENGLISH:) NINETY-ONE.

8 THE INTERPRETER: NINETY-ONE.

9 BY MS. WIDMARK:

10 Q. AND IS THE APARTMENT BUILDING BETWEEN WHAT STREETS?

11 A. FIGUEROA AND BETWEEN 92, 91.

12 Q. OH, OKAY.

13 SO THEN THE STREET WOULD BE JUST SOUTH 92ND STREET?

14 A. YES.

15 MS. WIDMARK: GO AHEAD AND HAVE A SEAT.

16 YOUR HONOR, MAY I APPROACH.

17 THE COURT: YES.

18 MS. WIDMARK: I HAVE A DIAGRAM. MAY THIS BE MARKED AS

19 PEOPLE'S NO. 4 FOR IDENTIFICATION.

20 THE COURT: YES.

21 MS. WIDMARK: A NOT SO ARTISTIC DIAGRAM BUT A DIAGRAM.

22

23 (MARKED FOR IDENTIFICATION,

24 PEOPLE'S 4, DIAGRAM.)

25

26 BY MS. WIDMARK:

27 Q. JUAN, WHY DON'T YOU GO AHEAD AND STEP DOWN?

28 LOOKING AT THIS DIAGRAM, ASSUMING THAT THIS NORTH,

1 SOUTH IS FIGUEROA, CAN YOU MARK ON THIS DIAGRAM WITH THIS
2 GREEN PEN WHERE YOU WERE?

3 OKAY. IF THIS IS -- LET ME EXPLAIN 'CAUSE IT'S NOT
4 VERY CLEAR. THIS BEING 91ST, THIS BEING 92ND, THIS BEING
5 93RD, OKAY? AND, ALSO -- AND -- AND THE TOP OF THE PAPER
6 BEING NORTH.

7 DOES THAT HELP?

8 A. (IN ENGLISH:) YEAH.

9 THE INTERPRETER: YEAH.

10 BY MS. WIDMARK:

11 Q. OKAY.

12 'CAUSE I KNOW IT'S NO THOMAS GUIDE.

13 WHERE WERE YOU? GO AHEAD AND JUST POINT TO IT.

14 A. HERE.

15 Q. OKAY.

16 WERE YOU IN THE STREET OR WERE YOU IN THE SIDEWALK?

17 A. ON THE SIDEWALK.

18 MS. WIDMARK: THANK YOU.

19 GO AHEAD AND HAVE A SEAT.

20 YOUR HONOR, I HAVE TWO PHOTOGRAPHS, ONE AN
21 EIGHT-BY-TEN. PREVIOUSLY SHOWN TO COUNSEL. MAY THIS BE
22 MARKED NO. 5.

23 THE COURT: SO ORDERED.

24

25 (MARKED FOR IDENTIFICATION,

26 PEOPLE'S 5, PHOTOGRAPH.)

27

28 MS. WIDMARK: AND A SMALL BOOKING PHOTO. MAY

1 THIS -- ALSO SHOWN TO COUNSEL. MAY THIS BE MARKED NO. 6.

2 THE COURT: SO ORDERED.

3 MS. WIDMARK: THANK YOU.

4

5 (MARKED FOR IDENTIFICATION,
6 PEOPLE'S 6, BOOKING PHOTOGRAPH.)

7

8 MS. WIDMARK: MAY I APPROACH THE WITNESS.

9 THE COURT: YES.

10 BY MS. WIDMARK:

11 Q. LOOKING AT WHAT'S BEEN MARKED AS PEOPLE'S NO. 5 AND
12 NO. 6, JUAN.

13 IF I MAY HAVE HIM STEP DOWN.

14 THE COURT: YES.

15 MS. WIDMARK: IT'S KIND OF SMALL.

16 Q. LOOKING AT NO. 5.

17 IS THIS THE WAY MR. MILTON LOOKED ON SEPTEMBER 6TH?

18 A. YES.

19 Q. AND LOOKING AT NO. 6, THE SMALL PICTURE.

20 WAS THAT THE WAY HE LOOKED, AND WAS THAT WHAT HE
21 WAS WEARING WHEN HE ROBBED YOU?

22 A. YES.

23 MS. WIDMARK: THANK YOU.

24 YOUR HONOR, AT THIS POINT I'D LIKE TO SET THE TAPE
25 UP, IF I CAN. MAY I DO THAT.

26 THE COURT: (SHAKES HEAD UP AND DOWN).

27 MS. WIDMARK: OH, YOU KNOW WHAT? I -- YOU KNOW WHAT,
28 YOUR HONOR? I REALIZE THAT I HAD NOT -- AFTER DISCUSSIONS I

1 HAD NOT MADE COPIES FOR THE JURY WHICH I NEED TO DO OF THE
2 TRANSCRIPT.

3 THE COURT: WE'LL MAKE COPIES FOR YOU.

4

5 (PAUSE.)

6

7 THE COURT: WILL THE LAWYERS APPROACH THE BENCH FOR A
8 MOMENT.

9

10 (A CONFERENCE WAS HELD AT THE BENCH,
11 NOT REPORTED.)

12

13 MS. WIDMARK: IF I MAY HAND THEM TO THE JURY, YOUR
14 HONOR.

15 THE COURT: YES.

16

17 (PAUSE.)

18

19 MS. WIDMARK: MAY I PROCEED, YOUR HONOR.

20 THE COURT: YOU MAY.

21 MS. WIDMARK: COUNSEL, YOU AGREE THAT THE REPORTER
22 DOESN'T HAVE TO TAKE THIS DOWN?

23 THE COURT: SHE CAN'T TAKE DOWN SPANISH, ANYWAY.

24 MR. GOLUB: NO.

25 THE COURT: ARE YOU GOING TO STIPULATE THAT THIS -- THAT
26 THIS TRANSCRIPT IS A TRANSLATION OF THAT TAPE THAT YOU'RE
27 GOING TO PLAY FOR THE JURY IN SPANISH?

28 MS. WIDMARK: PEOPLE WOULD STIPULATE.

1 MR. GOLUB: YES, YOUR HONOR.

2 THE COURT: LADIES AND GENTLEMEN, YOU'RE GOING TO HEAR A
3 TAPE IN SPANISH. SO YOU'RE NOT GOING TO UNDERSTAND IT. AND
4 THE JURORS WHO CAN SPEAK SPANISH, I'D ASK YOU NOT TO TRY TO
5 TRANSLATE IT YOURSELF. AND SO THAT YOU'RE ALL ON THE SAME
6 GROUND, WE PROVIDE YOU -- PROVIDED YOU WITH A TRANSLATION, IF
7 YOU CAN JUST READ THE TRANSLATION INSTEAD OF LISTENING TO
8 THE -- INSTEAD OF TRYING TO FIGURE OUT WHAT'S ON THE TAPE.

9 PROCEED.

10 MS. WIDMARK: THANKS.

11

12 (TAPE PLAYED.)

13

14 BY MS. WIDMARK:

15 Q. JUAN, WAS THAT YOUR VOICE TALKING TO THE OFFICER?

16 A. YES.

17 THE COURT: WOULD YOU TAKE THE -- THE TRANSCRIPTS AND
18 JUST PASS THEM -- PASS THEM ALL THE -- DOWN TO YOUR -- WELL,
19 WHY DON'T YOU JUST PICK THEM UP?

20 MS. WIDMARK: OKAY.

21

22 (PAUSE.)

23

24 THE COURT: I SHOULD TELL YOU, LADIES AND GENTLEMEN, A
25 STIPULATION IS JUST NOTHING MORE THAN AN AGREEMENT BETWEEN
26 THE LAWYERS. AND I WILL INSTRUCT YOU FURTHER ON THAT AT THE
27 END OF THE CASE.

28 PROCEED.

1 BY MS. WIDMARK:

2 Q. JUAN, WAS THAT YOUR VOICE FROM SEPTEMBER 6TH, 1998
3 TALKING TO THE POLICE OFFICER?

4 A. YES.

5 Q. AND THAT WAS FROM THE LOBBY THERE AT THE
6 APARTMENTS.

7 IS THAT CORRECT?

8 IS THAT WHERE YOU WERE CALLING FROM?

9 A. YES.

10 Q. YOU TOLD THE OPERATOR THAT YOU WERE AT 76TH AND
11 FIGUEROA?

12 A. NO.

13 Q. DO YOU REMEMBER HEARING IT ON THE TAPE, YOU SAID
14 76TH AND FIGUEROA?

15 A. YES.

16 Q. WHAT WERE YOU TELLING HER?

17 A. I WAS -- TOLD THAT I LIVED AT 76TH, BUT THEN I SAID
18 BACK THAT I WAS ON 92ND.

19 MS. WIDMARK: YOUR HONOR, I BELIEVE THE TAPE HAS BEEN
20 PREVIOUSLY MARKED AS PEOPLE'S NO. 1 FOR IDENTIFICATION FOR
21 THE RECORD.

22 THE COURT: IT'S MARKED PEOPLE'S 1.

23 MS. WIDMARK: MAY I HAVE A MOMENT.

24 THE COURT: YES.

25

26 (A CONFERENCE WAS HELD BETWEEN THE
27 DEPUTY DISTRICT ATTORNEY AND THE
28 INVESTIGATING OFFICER.)

1
2 MS. WIDMARK: HAVE NOTHING FURTHER AT THIS TIME, YOUR
3 HONOR.

4 THE COURT: CROSS-EXAMINATION.

5 MR. GOLUB: THANK YOU.

6 MAY I APPROACH FOR A MOMENT, YOUR HONOR.

7 THE COURT: YOU MAY.

8 MR. GOLUB: SORRY, LADIES --
9

10 CROSS-EXAMINATION

11 BY MR. GOLUB:

12 Q. MR. AVILA, YOU SAID YOU CALLED FROM A PUBLIC PHONE?

13 A. YES.

14 Q. AND THERE WAS A PUBLIC PHONE IN THE LOBBY?

15 A. YES.

16 Q. WAS THAT A PAY PHONE?

17 A. YES.

18 Q. WHEN YOU FIRST SAW MR. MILTON THAT NIGHT, WHERE WAS
19 HE?

20 A. AT TAM'S RESTAURANT.

21 Q. SO YOU SAW HIM EARLIER THAT NIGHT AT TAM'S
22 RESTAURANT?

23 A. NO.

24 Q. WHEN YOU FIRST SAW MR. MILTON THAT NIGHT, WHERE WAS
25 HE?

26 A. THAT WAS WHEN HE ROBBED ME.

27 Q. WHERE WAS HE STANDING?

28 A. HE WAS STANDING AT THE CORNER ON 92ND.

1 Q. NINETY-SECOND AND WHAT OTHER STREET?

2 A. FIGUEROA.

3 Q. OKAY.

4 WAS THERE ANYTHING RIGHT AT THAT CORNER?

5 A. YES.

6 Q. WHAT?

7 A. SHOP.

8 Q. DO YOU RECALL TEST -- TELLING THE POLICE OFFICERS
9 THAT WHEN YOU FIRST SAW MR. MILTON HE WAS AT THE BUS STOP?

10 A. YES.

11 Q. IS THAT WHERE HE WAS?

12 A. YES.

13 Q. SO HE WAS NOT ON THE CORNER? HE WAS AT THE BUS
14 STOP?

15 A. NO. BEFORE -- THERE WAS A BUNCH -- BUS BENCH AT
16 THAT CORNER BEFORE.

17 Q. YOU'RE SAYING THAT NIGHT THERE WAS NO BUS BENCH
18 THERE?

19 A. YES, THERE WAS A BENCH THERE.

20 Q. YOU TOLD -- RECALL TELLING THE POLICE OFFICERS THAT
21 WHEN YOU FIRST -- THAT WHEN YOU OBSERVED MR. MILTON, HE WAS
22 STANDING BY A BUS STOP BENCH LOCATED AT THE NORTHEAST CORNER
23 OF 92ND AND FIGUEROA?

24 A. I WAS -- I TOLD THEM THAT I WAS WALKING AND WAITING
25 FOR THE BUS WHEN I TURNED AROUND TO SEE. THAT WAS WHEN HE
26 WAS THERE.

27 Q. SO YOU DIDN'T TELL THE POLICE OFFICERS THAT --

28 A. I TOLD THEM THAT I WAS WAITING FOR THE BUS.

1 MR. GOLUB: MOTION TO STRIKE, NONRESPONSIVE, YOUR HONOR.

2 THE COURT: SUSTAINED.

3 BY MR. GOLUB:

4 Q. DID YOU TELL THE POLICE OFFICERS THAT WHEN YOU SAW
5 MR. MILTON HE WAS STANDING AT THE BUS STOP?

6 A. YES.

7 Q. NOW, YOU SAID YOU HAVE SEEN MR. MILTON BEFORE.

8 IS THAT CORRECT?

9 A. BEFORE, BUT NOT THAT SAME DAY.

10 Q. HOW MANY TIMES BEFORE HAD YOU SEEN HIM?

11 A. THREE.

12 Q. YOU RECALL TESTIFYING PREVIOUSLY THAT YOU SAID YOU
13 HAD SEEN HIM THREE TIMES A MONTH?

14 A. YES, I SAW HIM THREE TIMES A MONTH.

15 Q. AND WHERE DID YOU USED TO SEE HIM?

16 A. TAM'S.

17 Q. AND WHAT TAM'S DID YOU USED TO SEE HIM AT?

18 A. ON CENTURY AND FIGUEROA.

19 Q. DID YOU EVER WORK AT THE TAM'S ON CEN -- ON
20 FIGUEROA AND MANCHESTER?

21 A. NO.

22 Q. YOU ALWAYS WORKED AT THE TAM'S ON CENTURY AND
23 FIGUEROA?

24 A. YES.

25 Q. AND THAT'S WHERE YOU USED TO SEE MR. MILTON?

26 A. YES.

27 Q. AND DID HE EVER PURCHASE FOOD FROM TAM'S?

28 A. NO. HE WAS ALWAYS STANDING THERE AT -- HE WOULD

1 ASK THE PEOPLE THAT WERE COMING THERE FOR MONEY OR WHATEVER.

2 Q. SO HE WAS BASICALLY JUST HANGING OUT ON THE STREET
3 IN FRONT OF TAM'S?

4 A. YES. HE WOULD -- HE WOULD BE THERE WITH HIS
5 FRIEND; BUT WHEN I WOULD ARRIVE, AT TIMES HE ASKED ME FOR
6 MONEY OR SOMETIMES HE'D OFFER ME. BUT I GAVE HIM -- I WOULD
7 GIVE HIM ALWAYS A DOLLAR.

8 Q. OH.

9 SO YOU WOULD GIVE -- YOU HAVE GIVEN HIM MONEY ON
10 SEVERAL OCCASIONS?

11 MS. WIDMARK: OBJECTION, MISSTATES THE TESTIMONY,
12 "SEVERAL OCCASIONS."

13 THE COURT: OVERRULED.

14 BY MR. GOLUB:

15 Q. HOW MANY TIMES DID YOU -- WELL, HE HASN'T ANSWERED
16 THE QUESTION.

17 I'M SORRY. DO YOU UNDERSTAND THE LAST QUESTION?

18 A. WHICH ONE?

19 Q. OKAY. WELL, I'LL WITHDRAW IT, START OVER.

20 HOW MANY TIMES DID YOU GIVE HIM MONEY?

21 A. ONCE.

22 Q. OH. OKAY.

23 AND YOU GAVE HIM A DOLLAR ONCE?

24 A. UN-HUH.

25 Q. AND HE ASKED YOU FOR MONEY ON SEVERAL OCCASIONS?

26 A. YES.

27 Q. HOW MANY TIMES?

28 A. JUST TWO TIMES. THAT'S ALL.

1 Q. AND YOU'RE SAYING HE ASKED IF YOU WANTED TO BUY ANY
2 DRUGS IN THE PAST?

3 A. YES.

4 Q. HOW MANY TIMES?

5 A. ONCE AT TAM'S AND ONCE WHEN HE ROBBED ME.

6 Q. AND -- AND DID HE JUST MENTION DRUGS OR DID HE
7 MENTION SOMETHING IN PARTICULAR THE TIME BEFORE THE ROBBERY?

8 A. HE WOULD JUST MENTION DRUGS.

9 Q. NOT MARIJUANA?

10 A. IN PARTICULAR, YES, MARIJUANA.

11 Q. DID HE MENTION ANY OTHER DRUGS?

12 A. THE -- THE LAST -- THE LAST TIME I SAW HIM THERE,
13 HE MENTIONED MARIJUANA AND COKE.

14 Q. WHEN YOU SAY THE LAST TIME YOU SAW HIM THERE, WHICH
15 TIME ARE YOU TALKING ABOUT? THE NIGHT OF THE ROBBERY OR A
16 DIFFERENT TIME?

17 A. IT WAS AT TAM'S, AT TAM'S, THE LAST TIME I SAW HIM
18 AT TAM'S.

19 Q. HE MENTIONED MARIJUANA AND COCAINE?

20 A. YES.

21 Q. DIDN'T -- THEN YOU SAID THERE WAS ANOTHER TIME HE
22 MENTIONED ONLY MARIJUANA?

23 A. WHEN HE ROBBED ME, IT WAS MARIJUANA. HE JUST SAID,
24 "MARIJUANA."

25 Q. DID YOU KNOW -- DID YOU KNOW THE PERSON'S NAME
26 PRIOR TO THE NIGHT OF THE ROBBERY?

27 A. YES.

28 Q. AND WHAT DID YOU KNOW HIS NAME AS?

1 A. BY MILTON.

2 THE COURT: EXCUSE ME, COUNSEL. I THINK THIS IS A GOOD
3 TIME TO TAKE OUR AFTERNOON RECESS.

4 WE'LL BE IN RECESS FOR 15 MINUTES, LADIES AND
5 GENTLEMEN. PLEASE BE BACK HERE AT 3:15, AND DO NOT DISCUSS
6 THE CASE AMONGST YOURSELVES NOR WITH ANYBODY ELSE. AND THE
7 ROOM OUT THERE IS YOURS. I DON'T HAVE A GOOD JURY ROOM
8 BECAUSE WE SHARE THE ROOM BACK THERE WITH SO MANY OTHER
9 COURTS. SO PLEASE CONSIDER THAT ROOM OUTSIDE YOUR ROOM FOR
10 NOW.

11 THE BAILIFF: PLEASE LEAVE YOUR FOLDERS, THOUGH.

12
13 (RECESS.)

14
15 THE COURT: OKAY. EVERYBODY'S -- EVERYBODY'S BACK.

16 MR. GOLUB, YOU MAY CONTINUE WITH YOUR
17 CROSS-EXAMINATION.

18 MR. GOLUB: THANK YOU.

19 Q. MR. AVILA, YOU DID TESTIFY AT THE PRELIMINARY
20 HEARING THAT YOU HAVE SEEN MR. MILTON THREE TIMES A MONTH,
21 ISN'T THAT CORRECT, NOT JUST THREE TIMES?

22 MS. WIDMARK: OBJECTION, ASKED AND ANSWERED.

23 THE COURT: OVERRULED.

24 THE WITNESS: I SAW HIM THREE TIMES.

25 BY MR. GOLUB:

26 Q. NOT THREE TIMES A MONTH?

27 A. YES, IT WAS THREE TIMES A MONTH.

28 Q. AND DIDN'T YOU TELL THIS DETECTIVE SITTING RIGHT

1 HERE THAT MR. MILTON HAS APPROACHED YOU ON PRIOR OCCASIONS
2 WITH OFFERS TO SELL DRUGS AND THAT YOU ALWAYS REFUSED HIS
3 OFFERS?

4 A. YEAH. I ALWAYS SAID, "NO." I'D ALWAYS SAY, "NO."

5 Q. BUT IT WASN'T JUST ON ONE PRIOR OCCASION? IT WAS
6 ON MANY OCCASIONS?

7 A. JUST THREE TIMES. THAT'S --

8 Q. SO IT'S THREE PRIOR TIMES HE'S OFFERED TO SELL YOU
9 DRUGS, AND YOU HAVE TURNED HIM DOWN?

10 A. NO. THE FIRST TIME HE ASKED ME FOR MONEY, AND HE
11 JUST ASKED ME IF I WANTED MARIJUANA. AND I SAID, "NO." SO
12 THERE WAS ANOTHER TIME I SAW HIM. IT WAS LIKE FACE-TO-FACE.
13 AND THEN THE THIRD TIME WAS WHEN HE ASKED ME FOR MONEY AGAIN,
14 I SAID I DIDN'T HAVE ANY, HE ASKED ME IF I WANTED COKE OR
15 MARIJUANA. AND THE LAST TIME WAS WHEN HE ROBBED ME.

16 Q. SO THAT'S FOUR TIMES NOW?

17 A. YES. I JUST SAW HIM THREE TIMES AT TAM'S, AND THE
18 LAST TIME WHEN I SAW HIM WAS WHEN HE ROBBED ME THERE ON 92ND.

19 Q. DIRECT -- DIRECTING COUNSEL AND THE COURT TO PAGE
20 NINE OF THE PRELIMINARY HEARING TRANSCRIPT.

21 DO YOU RECALL BEING ASKED BY THE DISTRICT ATTORNEY,
22 LINE 18 (READING:)

23 THE PERSON YOU JUST DESCRIBED AND JUST
24 IDENTIFIED WHO ROBBED YOU --

25 MS. WIDMARK: I'M SORRY. WHICH LINE?

26 MR. GOLUB: EIGHTEEN.

27 MS. WIDMARK: OH. THANK YOU.

28 MR. GOLUB: (READING:)

1 -- HAD YOU SEEN THAT PERSON PRIOR TO THIS
2 NIGHT?

3 A YES.

4 Q HOW OFTEN?

5 A THREE TIMES A MONTH.

6 Q. DO YOU RECALL TESTIFYING TO THAT?

7 A. YES.

8 Q. AND IS THAT TRUE, YOU USED TO SEE HIM THREE TIMES A
9 MONTH?

10 A. YES.

11 Q. OKAY.

12 AND YOU KNOW THIS PERSON, YOU KNOW HIS LAST NAME.
13 CORRECT?

14 A. HIS -- HIS LAST NAME I KNEW BY THE TIME WHEN I GOT
15 TO COURT HERE. I JUST KNEW HIS NAME BUT JUST AS MILTON.

16 Q. SO EVEN BEFORE YOU CAME TO COURT YOU KNOW HIM AS
17 MILTON?

18 A. MILTON. AND THEN WHEN I GOT HERE FOR THE COURT,
19 I -- I SAW THAT IT WAS MILTON WILLIAMS.

20 Q. OKAY.

21 BUT IT WAS BACK AT TAM'S YOU KNEW HIM AS MILTON?

22 A. YES, MILTON.

23 Q. NOW, WHEN YOU FIRST SAW MR. MILTON THE NIGHT OF THE
24 ROBBERY, WAS HE WALKING OR WAS HE STANDING STILL?

25 A. HE WAS THERE STANDING.

26 Q. OKAY.

27 DO YOU RECALL TELLING THE DETECTIVE THAT MR. MILTON
28 APPROACHED YOU ON THE SIDEWALK?

1 A. YES. WHEN I SAW HIM, HE WAS STANDING; BUT WHEN HE
2 SAW ME, HE APPROACHED. AND SINCE I HAD SEEN HIM THREE TIMES
3 AT TAM'S, I SAID, "HEY, HOW ARE YOU?" HE SAID, "HEY."
4 "MARIJUANA, MARIJUANA?" HE SAID. AND I SAID, "NO." AND HE
5 SAID, "WHAT YOU -- DO YOU HAVE IN THE BAG?" AND I SAID,
6 "SOME PANTS." AND THEN SUDDENLY I WAS GOING, AND HE PUT THE
7 HAND -- HIS HAND IN THE BACK. AND HE STARTED PUTTING HIS
8 HAND IN MY POCKETS.

9 Q. SO, NOW, YOU SAID, "HEY, HOW ARE YOU?"

10 A. YES, BECAUSE HE APPROACHED ME.

11 Q. HE -- WEREN'T YOU WALKING PAST HIM?

12 A. YES, WALKING, PASSING BY.

13 Q. YOU WERE WALKING NORTH ON FIGUEROA.

14 CORRECT?

15 A. NORTH.

16 Q. SO YOU WERE WALKING RIGHT PAST HIM.

17 CORRECT?

18 A. UN-HUH. HE WAS LIKE THAT. AND THEN WHEN HE SAW
19 ME, HE APPROACHED LIKE THAT. AND THEN I KEPT WALKING.

20 Q. WELL, WE HAD TROUBLE UNDERSTANDING "LIKE THAT." SO
21 MAYBE YOU CAN JUST EXPLAIN A LITTLE BIT BETTER.

22 YOU WERE WALKING NORTH ON FIGUEROA?

23 A. YES.

24 Q. YOU HAD TO WALK RIGHT PAST THE BUS STOP.

25 CORRECT?

26 A. YES. I WAS WALKING LIKE THAT, AND HE WAS STANDING
27 THERE AT THE 92ND CORNER. AND HE APPROACHED, AND I HADN'T --
28 HE IS GOING LIKE THAT. AND -- AND I SAID, "WHAT'S UP?" AND

1 HE SAID -- AND I SAID, "NO. I AM GOING TO MY HOUSE." AND
2 THAT WAS WHEN HE STARTED TO TAKE THE BAG AND EVERYTHING.

3 Q. YOU SAID, "WHAT'S UP"?

4 A. I SAID, "WHAT'S UP?" "HOW ARE YOU?" I SAID. AND
5 THAT WAS WHEN -- I DON'T KNOW, AND IT'S STRANGE BECAUSE --
6 BECAUSE I HAD GIVEN HIM MONEY THE OTHER TIME AND I DON'T KNOW
7 WHY -- I DON'T KNOW WHY HE DID THAT TO ME THEN.

8 Q. HAD HE EVER BEEN VIOLENT TO YOU BEFORE?

9 A. NO.

10 Q. PERHAPS YOU CAN STEP DOWN FOR A MINUTE, MR. AVILA.
11 YOU SEE PEOPLE'S 3-E, THE PHOTOGRAPH WHICH SHOWS WHAT APPEARS
12 TO BE A BUS STOP AND A BENCH? DO YOU SEE THAT?

13 A. (IN ENGLISH:) YEAH.

14 THE INTERPRETER: YEAH.

15 BY MR. GOLUB:

16 Q. OKAY.

17 WERE YOU WALKING NORTH ON THIS SIDE OF THE STREET
18 THAT'S SHOWN IN 3-E?

19 A. IN -- GOING NORTH THERE.

20 Q. SO YOU'RE GOING FROM THE BOTTOM OF THE PICTURE TO
21 THE TOP OF THE PICTURE?

22 MS. WIDMARK: OBJECTION, VAGUE AS TO TIME.

23 THE COURT: SUSTAINED.

24 BY MR. GOLUB:

25 Q. WHEN YOU FIRST SAW MR. MILTON, WERE YOU WALKING
26 NORTHBOUND ON FIGUEROA?

27 A. YES, NORTH.

28 Q. OKAY.

1 FROM THE BOTTOM OF THE PICTURE TO THE TOP OF THE
2 PICTURE.

3 CORRECT?

4 MS. WIDMARK: OBJECTION, AGAIN, VAGUE AS TO TIME.

5 THE COURT: OVERRULED.

6 THE WITNESS: WHAT WAS IT YOU SAID?

7 BY MR. GOLUB:

8 Q. BY "NORTH" YOU MEAN FROM THE BOTTOM OF THE PICTURE
9 TO THE TOP OF THE PICTURE?

10 A. NO. I WAS GOING UP.

11 Q. OKAY.

12 AND MR. MILTON WAS STANDING STILL SOMEWHERE.

13 IS THAT CORRECT?

14 A. NO. HE WAS HERE.

15 MS. WIDMARK: YOUR HONOR, FOR THE RECORD 3-A?

16 THE COURT: YES.

17 MR. GOLUB: HE IS POINTING AT -- OKAY -- AT 3-A.

18 Q. AND WHERE IN 3-A WAS HE?

19 A. HE WAS HERE.

20 Q. SHOWING --

21 A. HE WAS HERE STANDING. AND WHEN I WAS WALKING, HE
22 PASSED BY HERE.

23 THE COURT: YOU WANT TO DESCRIBE THE AREA, COUNSEL?

24 MR. GOLUB: YES. IT APPEARS IN 3-A THERE IS A -- THERE
25 ARE A LOT OF TREES, BUT THE TREE THAT'S THE FIRST ONE IN THE
26 PHOTOGRAPH IS CLOSEST TO THE CORNER THAT'S DEPICTED. THERE
27 APPEARS TO BE A LIGHT AND A WALK SIGN ON A LAMPPOST RIGHT
28 NEXT TO THAT TREE, AND THERE IS A TIRE RIGHT PAST THE TREE

1 JUST A LITTLE BIT FURTHER IN THE PHOTOGRAPH.

2 Q. AND PERHAPS WE CAN -- YOU CAN HAVE A BIG "M" FOR
3 WHERE YOU FIRST SAW MR. MILTON OR WHERE MR. MILTON WAS
4 STANDING WHEN YOU FIRST SAW HIM.

5 A. NO, THERE WAS NOTHING. HE WASN'T HERE.

6 Q. WHERE WAS HE?

7 A. THIS TREE? THIS TREE? IT WAS -- IT WAS VERY DARK.
8 AND WHERE THE -- WHERE THE SHADE IS MORE OR LESS, THAT'S
9 WHERE HE WAS. IT LOOKS REAL DARK, BUT HE WASN'T -- HE WASN'T
10 CROSSING THE STREET OR ANYTHING. HE WAS HERE.

11 Q. HE WAS STANDING STILL?

12 A. YEAH. HE WAS HERE. HE WAS THERE WHEN HE SAW ME.
13 HE RAN TOWARDS HERE.

14 MS. WIDMARK: YOU KNOW, FOR THE RECORD, YOUR HONOR, HE
15 IS -- APPEARS TO BE POINTING AT THE PARKWAY GREEN AREA
16 BETWEEN THE SIDEWALK AND THE STREET.

17 MR. GOLUB: WELL, LET'S MAKE IT PERFECTLY CLEAR.

18 Q. WHY DON'T YOU PUT AN "M" AT THE SPOT WHERE YOU
19 FIRST SAW MR. MILTON ON THE NIGHT OF THE ROBBERY? WHERE WAS
20 HE WHEN YOU FIRST SAW HIM? PUT AN "M" THERE.

21 A. (COMPLIES).

22 Q. OKAY.

23 CAN YOU CIRCLE THAT "M" SO WE CAN MAKE SURE WE SEE
24 IT?

25 A. (COMPLIES).

26 Q. OKAY.

27 NOW, THAT'S THE VERY FIRST PLACE WHERE YOU SAW
28 MR. MILTON ON THE NIGHT OF THE ROBBERY.

1 CORRECT?

2 A. YES.

3 Q. AND WAS HE STANDING STILL OR WAS HE MOVING WHEN YOU
4 FIRST SAW HIM?

5 A. HE JUST WAS WALKING. HE WAS LIKE -- JUST LIKE
6 THIS, LIKE THIS.

7 Q. SO WAS HE WALKING OR WAS HE BASICALLY STANDING
8 STILL?

9 A. HE WAS STANDING.

10 Q. THANK YOU. YOU CAN SIT DOWN.

11 WELL, ACTUALLY, DO YOU KNOW WHERE THE BUS STOP IS
12 OVER BY 92ND STREET OR DO YOU NEED TO LOOK AT THE PICTURE? I
13 AM SORRY.

14 A. I -- YEAH, BUT WE WASN'T STANDING THERE. I SAW HIM
15 WALKING. AT ONE -- AT ONE MOMENT I KNOW THAT HE WAS STANDING
16 AT THE BUS STOP, AND I TOLD HIM -- I WAS TURNING AROUND RIGHT
17 HERE, MORE BACK TO WHERE THE BUS WAS. AND WHEN I WAS COMING,
18 HE WAS ALREADY THERE. AND THAT WAS WHEN HE APPROACHED ME AND
19 SAID, "HEY."

20 MR. GOLUB: OKAY.

21 MS. WIDMARK: AND THAT'S PEOPLE'S 3-A AGAIN --

22 THE COURT: YES.

23 MS. WIDMARK: -- FOR THE RECORD.

24 BY MR. GOLUB:

25 Q. SO DID YOU SEE HIM BY THE BUS STOP OR NOT?

26 A. NO. HE WAS HERE.

27 Q. OKAY.

28 SO WHEN YOU FIRST SAW MR. MILTON, HE WAS WHERE YOU

1 PUT THE "M" IN PEOPLE'S 3-A.

2 CORRECT?

3 A. (IN ENGLISH:) YES.

4 THE INTERPRETER: YES.

5 BY MR. GOLUB:

6 Q. AND HE WAS STANDING STILL?

7 A. YES. HE WAS THERE.

8 Q. AND YOU WERE WALKING ON THIS STREET?

9 A. UN-HUH.

10 Q. NOW, ON THIS STREET, THIS IS 92ND STREET AND
11 FIGUEROA IN 3-A.

12 CORRECT?

13 A. YES.

14 Q. AND WHERE WOULD THE APARTMENT BUILDING THAT'S SHOWN
15 IN 3-A BE IF YOU CONTINUED? IN "A" WHERE WOULD IT BE? WOULD
16 IT BE BY THE BOTTOM OR BY THE TOP OR SOMEWHERE ELSE?

17 A. DOWN.

18 Q. OKAY.

19 SO YOU WERE WALKING FROM HERE IN THE MIDDLE OF THE
20 PICTURE TOWARDS THE BOTTOM OF THE PICTURE?

21 A. YEAH.

22 Q. AND THAT'S NORTH.

23 CORRECT?

24 A. YEAH.

25 Q. OKAY.

26 SO DID YOU -- DID YOU GET ACROSS THE STREET BEFORE
27 HE STOPPED YOU?

28 A. NO. BARELY -- I BARELY WAS COMING RIGHT HERE.

1 Q. OKAY.

2 SO YOU'RE SAYING THE ROBBERY OCCURRED RIGHT BY
3 WHERE YOU PUT THE "M"?

4 A. YES.

5 CAN I SIT DOWN NOW?

6 THE COURT: YES.

7 BY MR. GOLUB:

8 Q. DO YOU RECALL TELLING POLICE OFFICERS ON THE NIGHT
9 OF THE ROBBERY THAT YOU SAW MR. MILTON STANDING BY A BUS STOP
10 BENCH LOCATED AT THE NORTHEAST CORNER OF 92ND STREET AND
11 FIGUEROA?

12 A. NO. I TOLD THEM THAT I WAS TURNING AROUND FOR THE
13 BUS.

14 Q. SO YOU DID NOT TELL THEM THAT YOU SAW MR. MILTON
15 STANDING BY A BUS STOP BENCH LOCATED AT THE NORTHEAST CORNER
16 OF 92ND AND FIGUEROA.

17 IS THAT CORRECT?

18 A. NO. I TOLD THEM THAT HE WAS STANDING ON 92ND IN
19 THE CORNER, THAT -- I DIDN'T -- I DIDN'T TELL THEM THAT HE
20 WAS THERE SITTING DOWN. I DIDN'T TELL 'EM ANYTHING LIKE
21 THAT.

22 Q. DIDN'T YOU GO ON TO TELL THEM THAT YOU APPROACHED
23 THE SUSPECT?

24 A. NO. HE APPROACHED. I WAS WALKING, AND HE
25 APPROACHED.

26 MR. GOLUB: EXCUSE ME ONE SECOND.

27

28 (PAUSE.)

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BY MR. GOLUB:

Q. DO YOU RECALL TESTIFYING AT YOUR PRELIMINARY HEARING THAT YOU APPROACHED MR. MILTON?

MS. WIDMARK: COUNSEL.

MR. GOLUB: I'M SORRY. PAGE FIVE, LINE 24, 25.

MS. WIDMARK: THANK YOU.

BY MR. GOLUB:

Q. DO YOU RECALL TESTIFYING TO THAT?

A. I DON'T REMEMBER.

Q. WELL, WOULD YOU HAVE SAID THAT?

A. NO.

Q. LET ME DIRECT YOU TO PAGE FIVE, LINES 22 THROUGH 25 (READING:)

Q AND DID HE SAY ANYTHING?

A I APPROACHED HIM, AND HE ASKED ME IF I HAD ANY MONEY ON ME. AND I SAID, "NO."

A. YES.

Q. NOW, MR. AVILA, DO YOU UNDERSTAND ANY ENGLISH AT ALL?

A. (IN ENGLISH:) YEAH.

THE INTERPRETER: YEAH.

BY MR. GOLUB:

Q. OKAY.

YOU SPEAK SOME ENGLISH?

A. (IN ENGLISH:) A LITTLE.

THE INTERPRETER: A LITTLE.

MR. GOLUB: OKAY.

1 THE COURT: KEEP ANSWERING THE QUESTIONS IN SPANISH.

2 THE WITNESS: (IN ENGLISH:) OKAY.

3 BY MR. GOLUB:

4 Q. AND DID YOU -- OKAY.

5 SO, NOW, WHEN YOU -- WELL, WHEN MR. MILTON SPOKE TO
6 YOU AND ASKED YOU IF YOU HAD ANY MONEY, DID HE ASK YOU IN
7 ENGLISH OR SPANISH?

8 A. HE -- HE WAS SPEAKING TO ME A LITTLE IN SPANISH.
9 AND -- AND -- AND THEN AT ONE MOMENT HE SAID, "WHERE IS THE
10 MONEY?"

11 Q. WHAT DID HE SAY TO YOU IN SPANISH?

12 A. IF I WANTED MARIJUANA, AND HE SAID -- AND HE SAID
13 WHERE I WAS GOING AND -- WHAT ELSE DID HE SAY? HE -- HE SAID
14 WHERE IS MY MONEY. AND I SAID NO, WHAT I HAD IN THE BAG.

15 Q. SO HE ASKED YOU ALL OF THESE QUESTIONS IN SPANISH?

16 A. YES.

17 Q. AND THEN AT SOME POINT HE SAID, "WHERE IS THE
18 MONEY" IN ENGLISH?

19 A. I DIDN'T TELL HIM -- I -- I DIDN'T SAY ANYTHING
20 ABOUT WHERE I HAD THE MONEY OR ANYTHING. I DIDN'T SAY
21 ANYTHING.

22 Q. WHAT DID HE START -- WHAT DID HE SAY TO YOU IN
23 ENGLISH?

24 A. HE JUST SAID, "WHERE IS THE MONEY?"

25 Q. SO HE SAID -- HE SAID -- MR. MILTON SAID THAT TO
26 YOU IN ENGLISH?

27 A. YES.

28 Q. BUT EVERYTHING ELSE HE SAID TO YOU IN SPANISH?

1 A. YES.

2 Q. AND THE PRIOR TIMES THAT HE SPOKE TO YOU ON THE
3 PRIOR OCCASIONS DID HE SPEAK TO YOU IN ENGLISH OR IN SPANISH?

4 A. WE NEVER HAD TALKED TALKED. LIKE HE WOULD JUST ASK
5 ME IF I HAD MONEY OR IF I WANTED MARIJUANA. WE DIDN'T TALK
6 ABOUT ANYTHING ELSE. JUST THAT.

7 Q. BUT WHEN HE ASKED YOU THOSE QUESTIONS, DID HE SPEAK
8 TO YOU IN ENGLISH OR SPANISH?

9 A. SPANISH.

10 Q. NOW, ON THE NIGHT OF THE ROBBERY HE ASKED YOU IF --
11 THE FIRST THING HE ASKED YOU IS IF YOU HAD ANY MONEY?

12 A. NO. THE FIRST QUESTION WAS HE ASKED IF I WANTED
13 MARIJUANA.

14 Q. OKAY.

15 AND HE DIDN'T ASK YOU IF YOU WANTED MARIJUANA OR
16 COCAINE?

17 A. NO. THAT WASN'T THAT NIGHT. THAT NIGHT HE JUST
18 SAID, "MARIJUANA."

19 Q. DIDN'T YOU TELL THE POLICE OFFICERS WHO YOU SPOKE
20 TO THAT HE ASKED IF YOU WANTED -- "DO YOU WANT SOME COCAINE
21 OR MARIJUANA"?

22 A. NO. THAT DAY I TOLD HIM -- THE DAYS BACK HE HAD
23 ASKED ME IF I WANTED MARIJUANA OR COKE.

24 Q. WELL, ISN'T IT TRUE THAT YOU DIDN'T MENTION THE
25 PRIOR INCIDENTS TO THESE OFFICERS AT ALL, YOU WERE TALKING
26 ONLY ABOUT THE NIGHT OF THE ROBBERY?

27 A. I TOLD THEM THAT DAYS BACK I HAD MET HIM.

28 Q. NOW, YOU SAID THE FIRST THING THAT WAS SAID WAS YOU

1 SAID, "WHAT'S UP" TO HIM OR "HEY THERE" OR SOMETHING LIKE
2 THAT?

3 A. WHAT WAS THAT?

4 Q. OKAY.

5 DIDN'T YOU SAY SOMETHING TO MR. MILTON FIRST?

6 A. THE DAY OF THE ROBBERY?

7 Q. THE DAY OF THE ROBBERY, YES.

8 A. NO. I WAS WALKING. THAT WAS WHEN HE TURNED
9 AROUND. SO THEN HE APPROACHED ME. AND I SAID, "HEY, HOW ARE
10 YOU?" AND THEN AFTERWARD HE SAID, "HEY, YOU WANT SOME
11 MARIJUANA?" AND I SAID, "NO, NO." AND THEN HE ASKED IF I
12 HAD ANY. I SAID, "NO." AND AFTERWARDS IT WAS LIKE HE GOT
13 MAD, AND THAT WAS WHEN HE PUT HIS HAND IN THE BACK. AND HE
14 STARTED TO FRISK ME.

15 Q. SO HE STARTED -- HE PUT HIS HAND IN THE BACK, AND
16 YOU WERE AFRAID THAT IT MIGHT BE A KNIFE.

17 IS THAT CORRECT?

18 A. YES, KNIFE, A GUN OR SOMETHING ELSE.

19 Q. OKAY.

20 HE DIDN'T PUT HIS HAND IN HIS JACKET AND SIMULATE A
21 GUN LIKE THIS?

22 A. NO.

23 MR. GOLUB: FOR THE RECORD, YOUR HONOR, I AM -- HAVE MY
24 HAND IN MY JACKET POCKET. AND IT LOOK -- APPEARS THAT I HAVE
25 A FINGER POINTED FORWARD.

26 THE COURT: IT DOES.

27 THE WITNESS: BUT -- NO.

28 BY MR. GOLUB:

1 Q. SO HE DID NOT SIMULATE A HANDGUN IN HIS POCKET IN
2 HIS JACKET?

3 A. NO. HE JUST PUT HIS HAND AT HIS BACK.

4 Q. NOW, AFTER HE PUT HIS HAND IN HIS BACK, THAT WAS
5 HIS RIGHT HAND HE PUT IN HIS BACK.

6 CORRECT?

7 WHAT?

8 A. (SHAKES HEAD UP AND DOWN).

9 Q. WHAT DID HE DO WITH HIS LEFT HAND?

10 A. HE STARTED FRISKING ME.

11 Q. AND WAS THAT WITH HIS WHOLE HAND?

12 THE INTERPRETER: EXCUSE ME?

13 BY MR. GOLUB:

14 Q. WAS THAT WITH HIS WHOLE HAND?

15 A. YES.

16 Q. OKAY.

17 DID HE PUT ANY -- ANY OF HIS HAND OR ANY FINGERS IN
18 YOUR POCKET AT THIS POINT IN TIME?

19 A. I -- I PUT MY HAND TO GET HOLD OF MY KEY.

20 Q. YOU PUT YOUR HAND IN YOUR POCKET?

21 A. YES, IN THE LITTLE -- IN THE LITTLE PANTS POCKET.

22 Q. HAD HE GONE INTO YOUR POCKETS YET OR WAS HE JUST
23 FRISKING YOU?

24 A. HE -- HE WAS DOING WITH MY POCKETS LIKE THAT,
25 AND -- AND THEN SINCE I HAD THE KEYS TO GET IN MY HOUSE, I
26 TRIED TO TAKE THEM OUT QUICK. AND HE JUST STARTED KIND OF
27 LOOKING UGLY AT ME, AND THEN -- AND THEN HE DIDN'T SEE IT OR
28 SOMETHING; BUT I HAD IT IN MY HAND.

1 Q. OKAY.

2 DID YOU ASK HIM NOT TO TAKE YOUR KEY?

3 A. I -- AT NO TIME DID I TELL HIM. HE DIDN'T SEE THAT
4 I HAD THE KEY.

5 Q. DID HE SAY SOMETHING TO YOU LIKE "DON'T MOVE OR
6 I'LL SHOOT"?

7 A. NO. HE JUST SAID, "SH, SH," LIKE THAT,
8 AND -- WITH HIS FACE. AND WHEN I TRIED TO MOVE, HE WENT LIKE
9 THAT AS IF HE WAS GOING TO GET SOMETHING OUT.

10 Q. SO YOU DON'T REMEMBER HIM SAYING, "DON'T MOVE OR
11 I'LL SHOOT"?

12 A. NO.

13 Q. DIDN'T YOU TELL THE POLICE OFFICERS THAT HE SAID,
14 "DON'T MOVE OR I'LL SHOOT"?

15 A. NO.

16 Q. AFTER HE FRISKED YOU, DID HE START PUTTING HIS HAND
17 IN YOUR POCKET?

18 A. YES. HE STARTED PUTTING HIS HANDS IN.

19 Q. HANDS? BOTH HANDS?

20 A. NO. JUST ONE, JUST ONE, THE LEFT ONE.

21 Q. SO HE'S PUTTING HIS HANDS IN YOUR POCKET --

22 MS. WIDMARK: OBJECTION, MISSTATES THE TESTIMONY,
23 "PUTTING."

24 BY MR. GOLUB:

25 Q. HE IS PUTTING --

26 THE COURT: OVERRULED.

27 BY MR. GOLUB:

28 Q. WELL, HE IS PUTTING ONE HAND IN YOUR POCKET?

1 A. HE -- HE PUT IN ALL -- HE WAS JUST FRISKING ALL OF
2 MY POCKETS WITH THE LEFT HAND.

3 Q. WHEN YOU SAY, "FRISKING," WAS THE LEFT HAND GOING
4 INTO YOUR POCKETS OR NOT?

5 A. YES. HE WAS PUTTING IT INSIDE.

6 Q. OKAY.

7 AND ALL THIS TIME HIS RIGHT HAND IS BEHIND HIS
8 BACK?

9 A. YES.

10 Q. DID HE GO THROUGH ALL OF YOUR POCKETS OR JUST SOME
11 OF THEM?

12 A. HE WENT THROUGH ALL OF THEM.

13 Q. AND THAT'S JUST WITH -- JUST WITH THE LEFT HAND?

14 A. YES.

15 Q. YOU HAD SOME COINS IN ONE OF YOUR POCKETS?

16 A. I HAD SOME CHANGE IN MY HAND -- I MEAN IN MY
17 RIGHT -- I MEAN MY LEFT POCKET.

18 Q. DID YOU TELL THE POLICE OFFICERS ABOUT THE CHANGE
19 THAT HE TOOK FROM YOU?

20 A. YES.

21 Q. DID YOU TELL THE DETECTIVE ABOUT THE CHANGE THAT
22 THE MAN TOOK FROM YOU?

23 A. NO.

24 Q. DID YOU TELL THE DETECTIVE THAT THE DEFENDANT HAD
25 HIS RIGHT HAND IN HIS JACKET AND POINTED IT TOWARD -- TOWARDS
26 YOU IN SUCH A WAY TO MAKE YOU BELIEVE HE WAS CONCEALING A GUN
27 IN HIS POCKET?

28 A. NO. I SAID HE HAD HIS HAND IN HIS BACK -- I MEAN

1 UNDERNEATH THE JACKET. HE HAD THE HAND UNDERNEATH IT.

2 Q. DID YOU TELL THE DETECTIVE THAT MR. MILTON SAID,
3 "DON'T MOVE OR I'LL SHOOT"?

4 A. NO, I DIDN'T SAY THAT.

5 Q. FACT, DIDN'T YOU TELL THE DETECTIVE THAT MR. MILTON
6 SAID IN SPANISH, "DON'T MOVE OR I'LL SHOOT"?

7 A. NO.

8 Q. NOW, YOU HAD A BAG FROM YOUR HANDS?

9 A. YES.

10 Q. THIS BAG WAS BIG ENOUGH TO -- TO HAVE --

11 A. IT WAS -- IT WAS A PLASTIC BAG.

12 Q. IT WAS BIG ENOUGH TO HAVE A PAIR OF JEANS INSIDE OF
13 IT?

14 A. NO. IT WAS -- THEY WERE LEVI PANTS. I HAD 'EM ALL
15 ROLLED UP.

16 Q. AND THEY WERE -- THE PANTS WERE INSIDE THE BAG?

17 A. YES. I HAD 'EM LIKE THIS.

18 MR. GOLUB: "LIKE THIS," INDICATING UNDER HIS ARM, YOUR
19 HONOR?

20 THE COURT: YES.

21 THE WITNESS: YEAH. I HAD 'EM LIKE THIS.

22 BY MR. GOLUB:

23 Q. DO YOU RECALL TESTIFYING AT THE PRELIMINARY HEARING
24 ORIGINALLY -- PAGE SIX, LINE 22 THROUGH 24.

25 RECALL TESTIFYING ORIGINALLY THAT "HE ONLY PUT TWO
26 FINGERS IN MY POCKET"?

27 A. NO. HE PUT -- IN THE CASE -- THE -- THE PREVIOUS
28 CASE I SAID THAT HE HAD PUT HIS WHOLE HAND IN.

1 Q. OKAY.

2 WELL, ACTUALLY, STARTING AT LINE 14, QUESTION BY
3 THE DISTRICT ATTORNEY (READING:)

4 GO AHEAD. WHY DON'T YOU PICK IT UP? WHAT
5 HAPPENED AFTER HE ASKED YOU THE QUESTION ABOUT THE
6 POCKET?

7 A AFTER HE CAME REAL CLOSE TO ME, AND THEN
8 HE SAYS -- HE PUTS HIS FINGERS -- HIS TWO FINGERS, AND
9 THEN -- HE PUT HIS FINGERS IN MY POCKET. THEN I BACKED
10 UP. THEN HE PUT HIS HAND IN HIS REAR POCKET AS IF HE
11 WOULD HAVE SOME KIND OF A WEAPON OR AS IF HE WOULD BE
12 READY TO DRAW A WEAPON.

13 Q OKAY. SO JUST TO GO BACK, SO HE PUT ONE
14 HAND IN YOUR POCKET AND ONE HAND IN HIS POCKET?

15 A NO. HE ONLY PUT TWO FINGERS IN MY POCKET.

16 A. NO. HE PUT MY WHOLE HAND -- I MEAN HIS WHOLE HAND.

17 MR. GOLUB: WELL, WILL COUNSEL STIPULATE THAT THAT WAS
18 THE PRELIMINARY HEARING --

19 MS. WIDMARK: I DON'T HAVE ANY PROBLEMS WITH IT.

20 MR. GOLUB: YES. THANK YOU. THAT WAS THE PRELIMINARY
21 HEARING TESTIMONY?

22 MS. WIDMARK: WELL, THAT WAS THE TRANSCRIPT. YOU AND I
23 WEREN'T THERE, BUT THAT WAS --

24 MR. GOLUB: THAT'S WHAT THE TRANSCRIPT SAYS.

25 THE COURT: OKAY.

26 WHAT THEY ARE AGREEING IS -- THE LAST SCENARIO
27 THEY JUST WENT THROUGH, THEY ARE AGREEING THAT THAT WAS THE
28 TESTIMONY AT THE PRELIMINARY HEARING.

1 BY MR. GOLUB:

2 Q. AND THEN DO YOU RECALL TESTIFYING THAT THEREAFTER
3 HE PUT BOTH OF HIS HANDS INTO YOUR POCKET?

4 MS. WIDMARK: PAGE AND LINE.

5 MR. GOLUB: PAGE SEVEN, LINES ONE THROUGH SIX.

6 THE WITNESS: JUST ONE BECAUSE HE TOLD ME -- WHEN I
7 FIRST GOT THERE, HE ASKED ME WHAT I HAD. AND I SHOWED HIM
8 THE BAG, AND I HAD PANTS. AND THEN WHEN HE -- AND THEN WHEN
9 HE WENT THROUGH ALL OF MY POCKETS, HE -- THEN HE GRABBED WITH
10 HIS LEFT HAND THE BAG.

11 MR. GOLUB: OKAY. IT'S ACTUALLY STARTING ON PAGE SIX,
12 LINE 28 (READING:)

13 Q OKAY. SO WHAT HAPPENED?

14 A -- OH, WAIT. I AM JUST GOING TO READ YOU
15 SOMETHING, AND I AM GOING TO ASK YOU IF THIS IS TRUE OR NOT.
16 ANSWER -- OKAY -- WELL, START OFF (READING:)

17 Q OKAY. SO WHAT HAPPENED?

18 A AFTER WHEN I THOUGHT HE HAD A WEAPON, IT
19 COULD HAVE BEEN A GUN, IT COULD NOT HAVE BEEN A GUN.
20 AND BECAUSE I BECAME VERY SCARED AT THAT POINT, HE PUT
21 HIS HANDS IN MY POCKET.

22 Q BOTH HANDS OR JUST ONE HAND?

23 A THE TWO OF THEM.

24 MS. WIDMARK: COUNSEL, I HEARD YOU SAY, "POCKET" OR --
25 THE TRANSCRIPT SAYS, "POCKETS."

26 MR. GOLUB: I THOUGHT I SAID, "POCKET." BUT IF I
27 DIDN'T, "HE PUT HIS HANDS IN MY POCKETS." AND THEN
28 (READING:)

1 Q BOTH HANDS OR JUST ONE HAND?

2 A THE TWO OF THEM.

3 Q. SO IS THAT CORRECT?

4 A. NO.

5 MR. GOLUB: WILL COUNSEL STIPULATE THAT IS THE
6 TRANSCRIPT OF THE PRELIMINARY HEARING?

7 MS. WIDMARK: THROUGH THE INTERPRETER, YEAH.

8 BY MR. GOLUB:

9 Q. DO YOU RECALL TESTIFYING PREVIOUSLY -- IT'S ON PAGE
10 SEVEN -- THAT YOU TOLD MR. MILTON THAT YOU HAVE KEYS?

11 A. NO. I SAID -- I SAID, WELL, HE PUT HIS HAND HERE.
12 AND THEN BEFORE HE PUT IT HERE, I MANAGED TO GET THEM LIKE
13 THAT. AND THEN AFTER HE PUT THE WHOLE HAND IN.

14 Q. OKAY.

15 QUESTION -- WELL, STARTING ON LINE 13 GOING ALL THE
16 WAY THROUGH 26 (READING:)

17 SO DID HE -- OKAY (READING:)

18 SO DID HE TAKE THE COINS AND A \$20 BILL?

19 A EVERYTHING, AND THE ONLY THING THAT I WAS
20 ABLE TO RETRIEVE FROM HIM WERE MY KEYS.

21 Q OKAY. NOW, WHEN YOU SAY, "RETRIEVE," DID
22 HE GIVE THEM BACK TO YOU OR DID YOU TAKE THEM BACK?

23 A BEFORE -- BEFORE HE SEARCHED ME I TOLD HIM
24 ALREADY THAT I HAD MY KEYS AND THAT HE SHOULD SPARE
25 THOSE KEYS BECAUSE I NEEDED THEM.

26 THE COURT: SO HE NEVER TOOK THE KEYS?

27 THE WITNESS: NO --

28

1 (A CONFERENCE WAS HELD BETWEEN COUNSEL.)

2

3 MR. GOLUB: SO (READING:)

4 NO, BECAUSE HE DID NOT REALIZE, YOUR
5 HONOR, I HAD THE KEYS.

6 Q. SO YOU ARE BOTH SAYING THAT HE HAD THE -- YOU TOLD
7 HIM -- SO ISN'T IT TRUE THAT YOU HAVE TESTIFIED THAT YOU TOLD
8 HIM YOU HAD -- YOU -- THAT YOU HAD THE KEYS AND YOU WANTED TO
9 KEEP THEM?

10 A. NO, I DIDN'T TELL HIM. I TOLD HIM -- I DIDN'T TELL
11 HIM THAT I HAD THE KEYS.

12 Q. DID THE PERSON LOOK THROUGH THE BAG -- DID
13 MR. MILTON LOOK THROUGH THE BAG?

14 A. THE ONE I HAD IN MY HAND?

15 Q. YES.

16 A. YES.

17 Q. NOW, AFTER THIS HAPPENED WHO LEFT FIRST? YOURSELF
18 OR MR. MILTON?

19 A. I -- I DIDN'T TURN AROUND. THEN AFTER THAT I WENT
20 ON MY WAY. THE ONE THAT TOLD ME -- THE ONE -- THE ONE THAT
21 TOLD ME HE HAD GONE IN A BUILDING WAS THE SECURITY PERSON.

22 MR. GOLUB: OKAY.

23 MOTION TO STRIKE WHAT THE OTHER PERSON SAID AS
24 HEARSAY.

25 THE COURT: SUSTAINED. THAT'S STRICKEN.

26 BY MR. GOLUB:

27 Q. OKAY.

28 WHAT I AM ASKING YOU, MR. AVILA, IS AFTER YOUR

1 PROPERTY WAS TAKEN BY MR. MILTON, WHO LEFT? WHO WALKED AWAY?

2 A. I DID.

3 Q. AND YOU KEPT WALKING NORTHBOUND?

4 A. YES.

5 Q. DID YOU SEE WHERE MR. MILTON WENT?

6 A. NO.

7 Q. YOU RECALL TELLING THE FIRST OFFICERS THAT AFTER HE

8 TOOK THE PROPERTY MR. MILTON WALKED SOUTHBOUND ON FIGUEROA?

9 A. YES.

10 Q. SO YOU DID TELL HIM -- TELL THE OFFICERS THAT?

11 A. YES.

12 Q. DID YOU SEE MR. MILTON WALK SOUTHBOUND ON FIGUEROA?

13 A. NO. I TOLD THE POLICE THAT BECAUSE WHEN MR. --

14 WHEN -- ROLANDO, HE IS THE ONE THAT TOLD ME BECAUSE WHEN I

15 WAS CALLING, HE WAS WATCHING WHERE HE WAS GOING.

16 Q. DID YOU TELL THE DETECTIVE THAT THE DEFENDANT THEN

17 FLED SOUTH ON FIGUEROA?

18 A. TO THE POLICE YOU MEAN?

19 Q. TO THIS DETECTIVE WHO IS RIGHT HERE.

20 A. I DON'T REMEMBER. I DON'T REMEMBER.

21 Q. DID YOU TALK TO THE DETECTIVE ABOUT THIS?

22 A. WITH THE ATTORNEY.

23 Q. YOU SPOKE -- THAT'S BEEN IN THE LAST FEW DAYS?

24 A. YES. I WAS TALKING -- I HAVE BEEN TALKING TO THE

25 TWO OF THEM.

26 Q. RIGHT, BUT REMEMBER A COUPLE OF DAYS AFTER THE

27 INCIDENT DIDN'T YOU SPEAK TO THE DETECTIVE ON THE TELEPHONE

28 WITH THE HELP OF YOUR SISTER?

1 A. WHEN -- WHEN THE DETECTIVE CALLED MY HOUSE YOU
2 MEAN?

3 Q. YES.

4 A. YES.

5 Q. AND DIDN'T YOU TELL THE DETECTIVE THAT MR. MILTON
6 FLED SOUTHBOUND ON FIGUEROA?

7 A. YES, BECAUSE I ALREADY KNEW BECAUSE -- 'CAUSE WHEN
8 I -- WHEN I -- WHEN I LEFT, I DIDN'T KNOW ANYTHING OR WHERE
9 HE HAD GONE; BUT WHEN I GOT THERE WITH ROLANDO, HE TOLD ME
10 BECAUSE HE WAS LOOKING TOWARDS HERE AND I WAS GOING TOWARDS
11 HERE.

12 Q. LET'S LOOK AT THE PRELIMINARY HEARING TRANSCRIPT,
13 PAGE 12, THE LAST LINE, BEGINNING ON LINE 13 -- I MEAN
14 PAGE 13 (READING:)

15 Q -- THE DEFENSE ATTORNEY -- AFTER
16 THE PERSON TOOK THE BAG FROM YOU AND THE MONEY, WHERE
17 DID THAT PERSON GO?

18 A HE FOLLOWED ME, AND I TURNED AROUND TO SEE
19 HIM.

20 Q FOR HOW LONG A DISTANCE DID HE FOLLOW YOU?

21 A DIDN'T GO AFTER ME. HE STOOD STILL BY THE
22 BUS STOP WHILE I KEPT WALKING AWAY FROM HIM.

23 A. I NEVER TURNED AROUND.

24 MR. GOLUB: WILL COUNSEL STIPULATE THAT THAT IS THE
25 TESTIMONY FROM THE PRELIMINARY HEARING TRANSCRIPT?

26 MS. WIDMARK: I'LL STIPULATE THAT'S THE TRANSCRIPT, YES,
27 CERTAINLY.

28 THE COURT: IT'S STIPULATED.

1 MR. GOLUB: I HAVE NO FURTHER QUESTIONS AT THIS TIME.
2 THOUGH, DEFENDANT -- HAVE ONE MOMENT.

3
4 (A CONFERENCE WAS HELD BETWEEN COUNSEL
5 AND THE DEFENDANT.)

6
7 MR. GOLUB: NOTHING FURTHER AT THIS TIME, YOUR HONOR.

8 THE COURT: REDIRECT?

9 MS. WIDMARK: YES, YOUR HONOR.

10
11 REDIRECT EXAMINATION

12 BY MS. WIDMARK:

13 Q. JUAN, HOW OLD ARE YOU?

14 A. SIXTEEN.

15 Q. YOU GOING TO HIGH SCHOOL?

16 A. YES.

17 Q. ON THAT NIGHT WHO ACTUALLY DIALED THAT PAY PHONE?

18 A. I DID.

19 Q. AND HOW DID YOU USE THE PAY PHONE? DID YOU HAVE
20 ANY COINS LEFT?

21 A. NO. DON ROLANDO LENT IT TO ME.

22 Q. SO ROLANDO LET YOU CALL?

23 A. YES.

24 Q. AND WHERE ARE YOU WORKING NOW?

25 A. AT THE AIRPORT.

26 Q. NOW, YOU SAY YOU SAW THE DEFENDANT THREE TIMES?

27 A. YES.

28 Q. PRIOR TO THE NIGHT YOU WERE ROBBED?

1 A. YES.

2 Q. OVER WHAT PERIOD OF TIME DID YOU SEE HIM THREE
3 TIMES? DOES THAT MAKE SENSE?

4 A. SOMETIMES I'D SEE HIM TWO WEEKS, THEN A WEEK;
5 BUT -- BUT THE THREE TIMES WEREN'T ONE RIGHT AFTER THE OTHER.

6 Q. WAS THAT DURING ONE MONTH?

7 A. YES.

8 Q. IS THIS THE ONLY TIME THAT YOU SAW THE DEFENDANT
9 WHEN YOU WERE BY YOURSELF?

10 A. WHEN HE ROBBED ME?

11 Q. YES.

12 A. YES.

13 MS. WIDMARK: YOUR HONOR, MAY I APPROACH.

14 THE COURT: YES.

15 BY MS. WIDMARK:

16 Q. LOOKING AT PEOPLE'S 3-E FOR IDENTIFICATION.

17 DID YOU GO TO THIS AREA? CAN YOU SEE THIS OR DO
18 YOU NEED TO STEP DOWN?

19 A. I CAN SEE IT.

20 Q. DID YOU GO TO THE -- THIS AREA AFTER --

21 THE COURT: WHY DON'T YOU GET DOWN? I THINK YOU CAN SEE
22 BETTER IF YOU GET DOWN.

23 BY MS. WIDMARK:

24 Q. DID YOU GO TO THIS AREA AFTER YOU WERE ROBBED?

25 A. YES.

26 Q. GO AHEAD AND RESUME YOUR SEAT.

27 WERE YOU WALKING -- WHEN YOU WERE WALKING

28 NORTHBOUND ON FIGUEROA, WERE YOU WALKING TOWARDS WHERE THE

1 DEFENDANT WAS STANDING?

2 A. YES.

3 Q. AND IN THAT WAY WERE YOU APPROACHING HIM?

4 A. NO. HE APPROACHED ME.

5 Q. YOU WERE JUST WALKING IN HIS DIRECTION?

6 A. YES.

7 Q. OKAY.

8 LET'S TALK ABOUT THAT.

9 WAS MR. MILTON -- YOU GOT THE "M" THERE -- WAS HE
10 STANDING IN LIKE -- WAS HE STANDING ON THE SIDEWALK OR WAS HE
11 STANDING IN THE GRASS AREA?

12 A. WHERE THE GRASS IS.

13 Q. AND WERE YOU WALKING ON THE SIDEWALK?

14 A. YES.

15 Q. OKAY.

16 NOW, AS YOU'RE WALKING NORTH ON FIGUEROA, WAS HE
17 NORTH AND WEST OF YOU?

18 A. YES.

19 Q. AND DID HE SOMEHOW MOVE FROM THAT POSITION OF BEING
20 NORTH AND WEST AS YOU APPROACHED?

21 A. NO. HE WAS THERE STANDING. AND WHEN HE SAW ME, HE
22 TURNED AROUND. AND THAT WAS WHEN -- WHEN ALL THAT HAPPENED.

23 Q. OKAY.

24 AND YOU SAY HE TURNED AROUND?

25 A. YES.

26 Q. DID HE STAY ON THE GRASS AREA?

27 A. NO. THEN HE TOOK MAYBE TWO STEPS FORWARD.

28 Q. OKAY.

1 SO WHEN HE TURNED AROUND, WAS HE FACING THE
2 SIDEWALK?

3 A. HE WAS WALKING NORTH.

4 Q. ON THE GRASS AREA?

5 A. NO. ON THE SIDEWALK.

6 Q. AND WAS HE IN FRONT OF YOU AT THAT POINT?

7 A. YES.

8 Q. AND AT SOME POINT DID HE STOP?

9 A. ME?

10 Q. NO. MR. MILTON.

11 A. NO. HE JUST TURNED AROUND.

12 Q. OKAY.

13 WHEN HE TURNED AROUND, WAS HE THEN FACE-TO-FACE
14 WITH YOU?

15 A. YES.

16 Q. AND WAS THAT WHEN YOU ASKED HIM, "WHAT'S UP" OR
17 "HOW ARE YOU"?

18 A. YES.

19 Q. WERE YOU NERVOUS THEN?

20 A. NO. I -- THE ONLY THING HE ASKED ME WAS JUST --
21 THE FIRST THING HE ASKED ME THEN AFTER I GREETED HIM, HE
22 ASKED ME IF I WANTED MARIJUANA; BUT NO.

23 Q. AND YOU SAID AT SOME TIME HE PUT HIS HAND IN HIS
24 BACK?

25 A. THAT WAS AFTER I TOLD HIM NOT TO PUT HIS HANDS IN
26 THE BAG.

27 Q. AND WHEN HE PUT HIS HANDS IN THE BACK, WAS THAT
28 OVER OR UNDER HIS JACKET?

1 A. IT WAS UNDER HIS JACKET.

2 Q. DID YOU ALSO USE AN INTERPRETER AT THE PRELIMINARY
3 HEARING?

4 A. YES.

5 Q. AND AT THE PRELIMINARY HEARING DID YOU IDENTIFY
6 THIS MAN AS THE MAN WHO ROBBED YOU ON SEPTEMBER 6TH?

7 A. YES.

8 Q. AND AT THE PRELIMINARY HEARING DID YOU TELL THE
9 COURT THAT MR. MILTON DID NOT REALIZE THAT YOU HAD YOUR KEYS?

10 A. YES, YES.

11 Q. JUAN, ARE YOU SURE THAT THIS IS THE MAN WHO ROBBED
12 YOU?

13 A. YES.

14 MS. WIDMARK: THANK YOU.

15 NOTHING FURTHER AT THIS TIME.

16 THE COURT: ANYTHING ELSE?

17 MR. GOLUB: NO FURTHER QUESTIONS AT THIS TIME, YOUR
18 HONOR.

19 THE COURT: THANK YOU, SIR. YOU MAY STEP DOWN. WAIT
20 OUTSIDE UNTIL WE RECESS.

21 MS. WIDMARK: DID YOU WANT TO ADMONISH HIM ABOUT NOT
22 DISCUSSING THE CASE WITH ANYONE?

23 THE COURT: YEAH.

24 SIR, DO NOT DISCUSS THE CASE WITH ANYBODY ELSE
25 EXCEPT THE LAWYERS UNTIL THE CASE IS OVER.

26 THE WITNESS: (IN ENGLISH:) OKAY.

27 THE INTERPRETER: OKAY.

28 THE COURT: BUT WAIT OUTSIDE UNTIL 4:30.

1 CALL YOUR NEXT WITNESS.

2 MS. WIDMARK: THANK YOU. CALL MR. CAMARILLO.

3

4

ROLANDO CAMARILLO,

5 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND TESTIFIED AS

6 FOLLOWS:

7

THE CLERK: APPROACH THE WITNESS STAND.

8

RAISE YOUR RIGHT HAND.

9

YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY

10 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

11 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE

12 TRUTH, SO HELP YOU GOD.

13 THE WITNESS: I DO.

14 THE CLERK: PLEASE BE SEATED.

15 STATE AND SPELL YOUR NAME FOR THE RECORD.

16 THE WITNESS: MY NAME IS ROLANDO CAMARILLO,

17 R-O-L-A-N-D-O, C-A-M-A-R-I-L-L-O.

18 THE COURT: PROCEED.

19 MS. WIDMARK: THANK YOU, YOUR HONOR.

20

21

DIRECT EXAMINATION

22 BY MS. WIDMARK:

23 Q. MR. CAMARILLO, ON SEPTEMBER 6TH, 1998 AT ABOUT 1:00

24 IN THE MORNING WERE YOU WORKING?

25 A. YES, I WAS.

26 Q. AND WHERE WERE YOU WORKING?

27 A. AT 9130 SOUTH FIGUEROA.

28 Q. AND WHAT WERE YOU WORKING AS?

1 A. AT SOME APARTMENTS COM -- APARTMENTS.

2 Q. YOU WERE WORKING AT -- I'M SORRY?

3 A. SOME APARTMENTS.

4 Q. AND WHAT WERE YOU WORKING AS?

5 A. SECURITY OFFICER.

6 Q. AND DO YOU ALWAYS WORK AT THOSE APARTMENTS?

7 A. YES.

8 Q. DO YOU WORK FOR A SECURITY COMPANY?

9 A. YES.

10 Q. AND DOES THE SECURITY COMPANY SEND YOU TO DIFFERENT
11 PLACES EACH DAY?

12 A. YES.

13 Q. WHEN DID YOUR SHIFT START THAT DAY?

14 A. AT 7:00.

15 Q. P. M.?

16 A. YES, 7:00 P. M.

17 Q. I'M SORRY?

18 A. 7:00 P. M.

19 Q. ON THAT DAY WHEN YOU WERE WORKING AT 9130 FIGUEROA
20 AS A SECURITY OFFICER WERE YOU IN UNIFORM?

21 A. YES, I WAS.

22 Q. AND AT ABOUT 1:30 IN THE MORNING WHERE WERE YOU?

23 A. WAS OUTSIDE SMOKING A CIGARETTE IN FRONT OF THE
24 BUILDING.

25 MS. WIDMARK: YOUR HONOR, MAY I APPROACH.

26 THE COURT: YES.

27 BY MS. WIDMARK:

28 Q. MR. CAMARILLO, I AM GOING TO HAVE YOU STEP DOWN, IF

1 THE COURT WILL ALLOW --

2 THE COURT: YOU MAY STEP DOWN.

3 BY MS. WIDMARK:

4 Q. LOOKING AT THIS GROUP OF PHOTOGRAPHS MARKED
5 PEOPLE'S NO. 3 FOR IDENTIFICATION.

6 DO YOU RECOGNIZE WHAT THESE PHOTOGRAPHS DEPICT?

7 A. YES. THOSE ARE -- THAT'S WHERE I WORK AT -- WHERE
8 I WORK AT.

9 Q. THAT'S ONE OF THE PLACES WHERE YOU WERE ASSIGNED TO
10 WORK?

11 A. YES.

12 Q. AND LOOKING AT 3-C, THE PICTURE IN THE MIDDLE, DO
13 YOU RECOGNIZE THAT?

14 A. YEAH. THAT'S THE FRONT OF THE -- THE LOBBY, FRONT
15 OF THE BUILDING.

16 Q. DO YOU SEE ANY PHOTOGRAPH THAT SHOW WHERE YOU WERE
17 STANDING AT ABOUT 1:30 IN THE MORNING ON SEPTEMBER 6TH?

18 A. YES. "B" AND "C."

19 Q. OKAY.

20 AND CAN YOU GO AHEAD AND POINT SO THAT THE JURY AND
21 THE COURT CAN SEE WHERE YOU WERE STANDING AT ABOUT THAT TIME
22 HAVING YOUR CIGARETTE?

23 A. RIGHT HERE. I WAS STANDING RIGHT HERE IN FRONT OF
24 THE DOOR.

25 Q. OKAY.

26 AND POINTING AT "C." OKAY.

27 A. AND I -- ON "B" I WAS STANDING RIGHT HERE.

28 Q. OKAY.

1 AND THERE APPEARS TO BE A FENCE AROUND THAT -- THAT
2 PARTICULAR BUILDING.

3 COULD YOU SEE SOUTHBOUND?

4 A. YES. I WAS RIGHT ON THE BORDER RIGHT HERE WHERE
5 THE GATE STARTS OF THE BUILDING.

6 Q. YOU MEAN THE FENCE?

7 A. YEAH, YES.

8 Q. OKAY.

9 WHY DON'T YOU GO AHEAD AND HAVE A SEAT?

10 NOW, THAT PARTICULAR BUILDING, BETWEEN WHAT STREETS
11 IS IT ON FIGUEROA?

12 A. THAT'S -- THAT'S 92ND AND 91ST STREET.

13 Q. AND IS THAT ON THE EAST SIDE OF THE STREET?

14 A. YES.

15 Q. AND ON -- AND THAT EVENING -- WELL, LET ME BACK UP
16 A MINUTE.

17 PRIOR TO THAT NIGHT HOW LONG HAD YOU BEEN OFF AND
18 ON AGAIN ASSIGNED TO SECURITY THERE AT 9130?

19 A. I WAS THERE SINCE IT WAS OPEN, ABOUT A COUPLE OF
20 MONTHS AGO -- FOUR OR FIVE MONTHS AGO.

21 Q. ABOUT HOW MANY OCCASIONS HAVE YOU BEEN ASSIGNED TO
22 BE AT THAT BUILDING? CAN YOU -- CAN YOU TELL ME?

23 A. AROUND 20, 30 TIMES.

24 Q. SO YOU HAVE GOTTEN FAIRLY FAMILIAR WITH THE AREA?

25 A. YES.

26 Q. SO YOU'RE STANDING OUT THERE AT ABOUT 1:30 IN THE
27 MORNING HAVING YOUR CIGARETTE.

28 DID YOU HAVE AN OCCASION TO LOOK SOUTHBOUND?

1 A. YES.

2 Q. AND DID YOU NOTICE ONE PERSON STANDING SOUTH OF
3 YOU?

4 A. YES.

5 Q. AND LOOKING AT PEOPLE'S 3, THE PHOTOGRAPHS.
6 IF HE MAY STEP DOWN, YOUR HONOR.

7 THE COURT: STEP DOWN.

8 BY MS. WIDMARK:

9 Q. DO YOU SEE ANY PHOTOGRAPHS THAT DEPICT WHERE THAT
10 ONE PERSON WAS STANDING?

11 A. ON "A," RIGHT ABOUT HERE.

12 Q. OKAY.

13 YOU'RE POINTING TO THE "M" WITH THE CIRCLE?

14 A. YES, YES.

15 Q. OKAY.

16 AND YOU SAW A PERSON STANDING THERE.

17 YOU CAN GO AHEAD AND RESUME YOUR SEAT.

18 YOU SAW A PERSON STANDING THERE.

19 MR. CAMARILLO, COULD YOU TELL WHETHER IT WAS A MALE
20 OR A FEMALE?

21 A. NO. I THOUGHT IT WAS A FEMALE AT THAT TIME.

22 Q. WHY DID YOU THINK IT WAS A FEMALE?

23 A. THAT PLACE IS REAL -- THAT STREET IS KNOWN TO HAVE
24 A LOT OF PROSTITUTION.

25 Q. YOU SEE PROSTITUTES STAND AT THAT LOCATION?

26 A. YES, I HAVE.

27 Q. THAT EXACT LOCATION?

28 A. YES, YES.

1 Q. AND SO THE PERSON THAT WAS JUST STANDING THERE, HOW
2 LONG DID YOU NOTICE THAT PERSON STANDING THERE?

3 A. FOR MORE THAN TEN MINUTES.

4 Q. SO THEY'RE JUST STANDING THERE.

5 AND WHAT, IF ANYTHING, DID YOU SEE?

6 A. I SEEN HIM THERE FOR A WHILE, AND THEN I SEE
7 ANOTHER PERSON WALKING TOWARDS WHERE -- TOWARDS OUR DIRECTION
8 AND --

9 Q. IS THAT NORTHBOUND?

10 A. YES, AND SUDDENLY THAT PERSON THAT WAS WALKING
11 NORTHBOUND STOPPED AT THAT LOCATION WHERE THAT PERSON THAT
12 WAS STANDING THERE. SEEING THAT THEY WERE TALKING
13 THAT TIME --

14 Q. AND WHAT DID YOU SEE THE PERSON THAT YOU THOUGHT
15 WAS A FEMALE AT THAT POINT, WHAT DID YOU SEE THAT PERSON DO?

16 A. IT SEEMED LIKE THEY WERE TALKING. THEN AFTER
17 PROBABLY ABOUT A MINUTE SEEN HIM PATTING HIM DOWN WITH ONE
18 HAND.

19 Q. OKAY.

20 PAT -- I'M SORRY. I AM NOT QUITE HEARING WHAT
21 YOU'RE SAYING.

22 A. PATTING HIM DOWN, SEARCHING HIM WITH ONE HAND.

23 Q. AND WHERE WAS THE OTHER HAND?

24 A. IT WAS IN FRONT OF HIS SWEATER OR JACKET. COULDN'T
25 TELL WHAT IT WAS, IF IT WAS -- IF IT WAS A SWEATER OR A
26 JACKET.

27 Q. SO DID YOU SEE AN ARM PROTRUDING OUT OF THE PERSON
28 THAT WAS DOING THE FRISKING?

1 A. YES.

2 Q. OKAY.

3 SO THE ELBOW BEING OUT AND THE ARM --

4 A. TOWARDS THE FRONT OF HIS WAIST.

5 Q. OKAY.

6 AND WHAT DID YOU THINK?

7 A. WELL, AT THAT MOMENT WHEN I SEEN HIM -- WHEN I SEEN
8 THE PERSON THAT WAS STANDING THERE PATTING HIM DOWN, WELL,
9 THOUGHT THAT HE WAS GETTING ROBBED AT THAT TIME.

10 Q. WHAT DID YOU THINK ABOUT THE HAND NEAR THE WAIST?

11 A. PROBABLY COULD HAVE A GUN OR A KNIFE.

12 Q. AND DID YOU SEE THE PERSON WHO WAS PATTING THE
13 OTHER PERSON DOWN, DID YOU SEE THAT PERSON ACTUALLY GO INTO
14 THE POCKETS OF THE PERSON STANDING THERE?

15 A. YES, THROUGH ALL FOUR POCKETS.

16 Q. FROM WHERE YOU WERE COULD YOU ACTUALLY SEE ANYTHING
17 REMOVED?

18 A. NO.

19 Q. OKAY.

20 WAS THERE THE REGULAR STREETLIGHTING ALONG THE EAST
21 SIDE?

22 A. IT WAS OFF -- IT WAS OFF THAT NIGHT.

23 Q. WHAT WAS OFF? I'M SORRY.

24 A. THE LIGHT. IT WAS NOT ON.

25 Q. OKAY.

26 YOU'RE SAYING ONE OF THE LIGHTS IN THE LIGHTSTAND
27 THAT ARE ON THE EAST SIDE OF THE STREET WAS OUT?

28 A. YES.

1 Q. WHICH ONE?

2 A. THE ONE RIGHT UNDER THEM.

3 Q. OKAY.

4 DEPICTED IN WHICH PHOTOGRAPH, MR. CAMARILLO?

5 A. RIGHT HERE. RIGHT ON -- WHERE THEY WERE AT THERE
6 IS A STREETLIGHT.

7 Q. AND THAT ONE WAS OUT THAT NIGHT?

8 A. YES, YES.

9 Q. SO ONCE YOU SAW THE PERSON REACHING INTO THE
10 POCKETS OF THE OTHER PERSON, WHAT HAPPENED AFTER THAT?

11 A. THE PERSON THAT WAS SEARCHING HIM STARTED WALKING
12 THE OPPOSITE WAY.

13 Q. WHICH -- WHAT DO YOU MEAN "THE OPPOSITE WAY"?

14 A. SOUTHBOUND ON FIGUEROA.

15 Q. AND WHAT HAPPENED TO THE OTHER PERSON?

16 A. THE OTHER PERSON STARTED WALKING TOWARDS ME
17 NORTHBOUND ON FIGUEROA. HE CROSSED THE STREET.

18 Q. NOW, CROSSED WHICH STREET?

19 A. NINETY-SECOND STREET.

20 Q. SO WALKING NORTHBOUND ON FIGUEROA ACROSS 92ND
21 STREET.

22 AND WHAT HAPPENED?

23 A. STARTED DOING SIGNS TO ME MORE OR LESS WITH HIS
24 HANDS, TELLING ME TO COME HERE. AND AS SOON AS HE GOT
25 CLOSER, I HEARD HIM TELLING ME TO HELP HIM 'CAUSE HE JUST GOT
26 ROBBED.

27 Q. AND WAS HE SAYING THIS TO YOU IN ENGLISH OR IN
28 SPANISH?

1 A. SPANISH.

2 Q. AND THE PERSON WHO WAS SAYING THIS TO YOU, IS THAT
3 THE BOY THAT JUST LEFT?

4 A. YES.

5 MS. WIDMARK: FOR THE RECORD, MR. AVILA?

6 THE COURT: YES.

7 MS. WIDMARK: THANK YOU.

8 Q. SO AFTER MR. AVILA TOLD YOU TO HELP HIM, HELP HIM,
9 HE HAD JUST BEEN ROBBED, WHAT DID YOU DO?

10 A. I ASKED HIM THAT I COULDN'T DO ANYTHING TO THE
11 PERSON THAT ROBBED HIM BUT THE ONLY THING I COULD DO, TO ASK
12 HIM TO STEP INSIDE THE LOBBY AND I WILL CALL THE POLICE FOR
13 HIM.

14 Q. AND HOW DID HE SEEM TO YOU?

15 A. SCARED, NERVOUS.

16 MR. GOLUB: OBJECTION, YOUR HONOR. THAT'S SPECULATION.

17 THE COURT: SUSTAINED.

18 MR. GOLUB: MOTION TO STRIKE.

19 THE COURT: STRICKEN.

20 MS. WIDMARK: YOUR HONOR, MAY I ASK IT A DIFFERENT WAY,
21 THEN.

22 THE COURT: ASK HIM AGAIN.

23 BY MS. WIDMARK:

24 Q. HOW DID HE APPEAR TO YOU?

25 A. NERVOUS.

26 Q. ANYTHING ELSE?

27 A. NO. I JUST ASKED HIM TO STEP INSIDE THE LOBBY,
28 CALL THE POLICE -- POLICE. AND THE DISPATCHER ASKED ME IF

1 THE VICTIM WAS THERE WITH ME. I TOLD HIM, "YES." THEY ASKED
2 ME TO PASS THE PHONE TO HIM, AND I BELIEVE THEY GOT A
3 TRANSLATOR. AND AFTER THAT HE HUNG UP THE PHONE, AND HE
4 FINISHED.

5 Q. I'M SORRY. I'M MISSING WHAT YOU'RE SAYING.

6 ARE YOU A LITTLE NERVOUS NOW?

7 A. YES, I AM.

8 Q. OKAY.

9 SO TAKE A DEEP BREATH.

10 AND YOU SAY HE GOT ON THE PHONE?

11 A. RIGHT.

12 Q. WERE YOU THERE WHILE HE WAS TALKING TO THE
13 DISPATCHER?

14 A. YES. I WAS ON THE SIDE OF HIM.

15 Q. AND DID YOU HELP HIM CALL?

16 A. YES.

17 Q. DID YOU HEAR HIM FINISH HIS CONVERSATION WITH THE
18 DISPATCHER?

19 A. NO.

20 Q. WHERE WERE YOU?

21 A. WELL, THE PHONE IS RIGHT BEHIND THE LOBBY. THERE
22 IS A -- IT DIVIDES THE PARKING LOT AND THE LOBBY. I WAS
23 RIGHT INSIDE THE LOBBY, PROBABLY LIKE TWO OR THREE STEPS FROM
24 HIM, BUT INSIDE THE LOBBY.

25 Q. AND AFTER HE FINISHED HIS CONVERSATION, WHAT, IF
26 ANYTHING, DID YOU TWO DO?

27 A. WE STOOD INSIDE THE LOBBY. AND THEN WHEN WE SEEN
28 THE POLICE OFFICER SHOW, WE STEPPED OUT.

1 Q. AND YOU MET THEM OUT FRONT?

2 A. YES.

3 Q. NOW, WHEN YOU SAW MR. AVALON -- OH, LET ME ASK YOU
4 THIS:

5 PRIOR TO SEEING MR. AVILA WALK FORWARD AND ASKING
6 YOU FOR YOUR HELP, HAD YOU EVER SEEN HIM BEFORE THAT?

7 A. NO.

8 Q. DID YOU KNOW HIM AT ALL?

9 A. NO.

10 Q. AND WHEN HE IS WALKING TOWARDS YOU ASKING FOR HELP,
11 DID YOU SEE WHAT THE OTHER PERSON DID?

12 A. JUST STARTED WALKING SOUTHBOUND.

13 Q. DID YOU SEE THE OTHER PERSON GO ANYWHERE OTHER THAN
14 WALKING SOUTHBOUND?

15 A. NO.

16 Q. SO ONCE YOU STEPPED OUTSIDE WHEN YOU SAW THE POLICE
17 CAR, DID YOU MEET WITH THE OFFICERS?

18 A. OUTSIDE THE BUILDING, YES.

19 Q. YES.

20 AND WAS ONE OF THE OFFICERS HIS -- SPANISH?

21 A. YES.

22 Q. AND ONE OF THEM JAPANESE OR ASIAN?

23 A. YES.

24 Q. AND HOW LONG WERE THOSE OFFICERS THERE?

25 A. THEY TOOK A QUICK REPORT, THE DESCRIPTION OF THE
26 SUSPECT. AND IT WAS NO MORE THAN FIVE MINUTES, AND THEN THEY
27 LEFT.

28 Q. AND WHICH DIRECTION DID THEY GO?

1 A. SOUTHBOUND ON FIGUEROA.

2 Q. OKAY.

3 AND DID SOME OTHER OFFICERS ARRIVE?

4 A. YES.

5 Q. AND WERE THOSE WHAT? TWO WHITE OFFICERS?

6 A. YES.

7 Q. AND WHAT DID THOSE TWO WHITE OFFICERS DO?

8 A. THEY TOOK THE REPORT DOWN, THE DESCRIPTION OF THE
9 SUSPECT. THEY ASKED HIM WHAT THEY TOOK FROM HIM, AND --

10 Q. WERE YOU TRANSLATING?

11 A. YES.

12 THE COURT: OKAY. IT'S A GOOD TIME TO STOP. MY WATCH
13 IS MORE ACCURATE THAN THAT. IT IS 4:30.

14 LADIES AND GENTLEMEN, WE WILL RECESS FOR THE
15 NIGHT, 2:00 O'CLOCK TOMORROW. AND DO NOT DISCUSS THE CASE
16 AMONGST YOURSELVES NOR WITH ANYBODY ELSE NOR EXPRESS OR FORM
17 AN OPINION ON ANYTHING RELATING TO THIS CASE, AND YOU GUYS
18 HAVE A PLEASANT EVENING.

19

20 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

21

22 THE COURT: OKAY, SIR, YOU ARE ORDERED BACK TO THIS
23 DEPARTMENT TOMORROW AFTERNOON AT 2:00 O'CLOCK. JUST BE HERE
24 A FEW MINUTES EARLY SO MAKE SURE WE START RIGHT AT 2:00.

25 AND YOU WANT TO BRING IN THAT -- YOUR OTHER ONES?

26 MS. WIDMARK: YEAH, LET'S DO THAT.

27 THE COURT: SIR, DO NOT DISCUSS YOUR TESTIMONY WITH
28 ANYBODY ELSE. IT'S OKAY TO TALK TO THE LAWYERS, BUT DON'T

1 TALK TO ANYBODY ELSE ABOUT THIS UNTIL THE CASE IS OVER.

2 THE WITNESS: OKAY.

3 THE COURT: OKAY. YOU CAN STEP DOWN.

4 THE WITNESS: THANK YOU.

5 THE COURT: OKAY.

6 MR. AVILA, I -- I DON'T KNOW FOR SURE THAT WE'LL
7 NEED YOU. PROBABLY WE WON'T, BUT I DON'T KNOW. AND I NEED
8 YOU TO BE ON CALL TO THE COURT, AND WHAT I'D LIKE YOU TO DO
9 IS -- FOR WHEN, POSSIBLY?

10 MR. GOLUB: PROBABLY MONDAY AFTERNOON BECAUSE I HAVE A
11 FEELING --

12 THE COURT: IF WE NEED YOU, IT WOULD BE MONDAY
13 AFTERNOON; BUT WE'D KNOW MONDAY MORNING.

14 WOULD'N'T WE?

15 MR. GOLUB: YES.

16 THE COURT: OKAY. WHERE -- IF YOU COULD GIVE THE
17 LAWYERS YOUR PHONE NUMBER AND -- AND WHERE YOU WILL BE MONDAY
18 MORNING SO WE CAN CALL YOU TO MAKE SURE YOU'RE HERE MONDAY
19 AFTERNOON IF WE NEED YOU.

20 AND WHAT TIME WOULD YOU -- LET'S SAY 10:00 O'CLOCK.
21 YOU WANT --

22 MR. GOLUB: WELL, YEAH. I'D PROBABLY KNOW BY THURSDAY
23 AFTERNOON. SO WE CAN CALL -- SHOULD HAVE ALL WEEKEND TO
24 CALL. SO --

25 THE COURT: OKAY. SO --

26 MR. GOLUB: -- BUT BY 10:00, FOR SURE BY 9:00, EVEN.

27 THE COURT: SO THEY'LL KNOW BY 9:00 O'CLOCK MONDAY
28 MORNING BUT PROBABLY NO SOONER THAN THAT, AND THEY JUST NEED

1 A PHONE NUMBER THAT THEY CAN CALL YOU TO TELL YOU IF THEY
2 NEED YOU.

3 WILL YOU DO THAT FOR ME?

4 MR. AVILA: YES.

5 THE COURT: OKAY. HE IS ON CALL.

6 THE CLERK: IS THE OFFICER ORDERED BACK?

7 THE COURT: DO YOU WANT ANYBODY ORDERED BACK?

8 MS. WIDMARK: YES. OFFICER HERRERA.

9 THE COURT: OFFICER HERRERA, WHAT'S YOUR FIRST NAME?

10 OFFICER HERRERA: JOSE, SIR.

11 THE COURT: YOU ARE ORDERED BACK TO THIS DEPARTMENT
12 TOMORROW 2:00 O'CLOCK.

13 OFFICER HERRERA: YES, SIR.

14 THE COURT: I TAKE IT THE LADIES -- BOTH LADIES IN RED
15 WILL BE HERE AUTOMATICALLY.

16 THE INVESTIGATING OFFICER: WE'LL DECIDE ON A NEW COLOR
17 TOMORROW.

18 MS. WIDMARK: WELL, WE GOT TO DECIDE ON COLORS THAT
19 DON'T MATCH TOMORROW. BLUE AND RED.

20

21 (THE MATTER WAS CONTINUED TO
22 DECEMBER 17, 1998 AT 2:00 P. M.
23 FOR FURTHER PROCEEDINGS.)

24

25

26

27

28

1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA DECEMBER 17, 1998
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: DOROTHY W. GRAVES, CSR #3123
7 TIME: P. M. SESSION

8

9 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

10

11 THE COURT: OKAY. WE'RE ON THE RECORD.

12 OKAY. GO AHEAD.

13 MR. GOLUB: THERE WAS A STATEMENT BY AN OFFICER HERRERA
14 GIVEN TO THE DISTRICT ATTORNEY YESTERDAY SUPPOSEDLY MY CLIENT
15 MADE SOME KIND OF ADMISSION OR CONFESSION, AND I AM GOING TO
16 OBJECT TO ITS INTRODUCTION OR ANY REFERENCE OF IT IN FRONT OF
17 THE JURY. BASICALLY, UNTIL YESTERDAY HE -- IT WAS NEVER TOLD
18 TO ME OR I WAS NEVER INFORMED ABOUT IT. IT'S NOT ACTUALLY
19 THE DISTRICT ATTORNEY'S FAULT. SHE WAS FIRST INFORMED ABOUT
20 IT YESTERDAY, TOO; BUT I STILL THINK THAT'S LATE -- LATE
21 DISCOVERY.

22 THE COURT: OKAY.

23 WHEN ARE YOU GOING TO GET TO HERRERA?

24 MS. WIDMARK: AFTER CAMARILLO.

25 THE COURT: WE'LL TAKE A BREAK AFTER CAMARILLO AND DEAL
26 WITH IT.

27 MS. WIDMARK: OKAY.

28 MR. GOLUB: OKAY.

1 MS. WIDMARK: AND THEN AFTER THE JURY I WILL BRING HIM
2 IN.

3 I THINK I AM STILL ON DIRECT, AREN'T I? I COULDN'T
4 RECALL.

5 THE COURT: YOU ARE STILL ON DIRECT.

6 MS. WIDMARK: THANK YOU.

7

8 (PROCEEDINGS IN PRESENCE OF JURY.)

9

10 THE COURT: GOOD AFTERNOON, EVERYBODY.

11 MS. WIDMARK: YOUR HONOR, MAY HE RESUME THE STAND.

12 THE COURT: YES.

13

14

ROLANDO CAMARILLO,

15 THE WITNESS ON THE STAND AT THE TIME OF ADJOURNMENT, RESUMED
16 THE STAND AND TESTIFIED FURTHER AS FOLLOWS:

17 THE COURT: OKAY. EVERYBODY IS IN THEIR PLACE.

18 AND YOU MAY CONTINUE WITH YOUR DIRECT EXAMINATION.

19 MS. WIDMARK: THANK YOU.

20 THE CLERK: YOUR HONOR, CAN HE JUST STATE HIS NAME FOR
21 THE RECORD, PLEASE?

22 THE COURT: STATE YOUR NAME FOR THE RECORD.

23 THE WITNESS: MY NAME IS ROLANDO CAMARILLO.

24 THE COURT: PROCEED.

25 MS. WIDMARK: THANK YOU, YOUR HONOR.

26

27

28

1 DIRECT EXAMINATION (RESUMED)

2 BY MS. WIDMARK:

3 Q. MR. CAMARILLO, I THINK YESTERDAY WHEN YOU WERE
4 TESTIFYING YOU SAID THAT YOU STARTED WORK AT 9130 FIGUEROA AT
5 ABOUT 7:00 O'CLOCK THAT NIGHT?

6 A. YES.

7 Q. AND AT ABOUT 1:30 YOU WERE STANDING OUTSIDE HAVING
8 A CIGARETTE.

9 IS THAT RIGHT?

10 A. YES.

11 Q. AND AT ABOUT THAT TIME, AT 1:30 YOU HAPPENED TO
12 LOOK SOUTH AND YOU SAW WHAT? JUST ONE INDIVIDUAL?

13 A. AT THAT TIME, YES.

14 Q. AND AT SOME POINT YOU SAW ANOTHER INDIVIDUAL.

15 IS THAT CORRECT?

16 A. YES.

17 Q. AND THAT OTHER INDIVIDUAL THAT YOU SAW, THE SECOND
18 INDIVIDUAL, WHERE WERE THEY COMING FROM?

19 A. HE WAS COMING FROM SOUTHBOUND, WALKING NORTHBOUND.

20 Q. AND WHEN HE ENCOUNTERED THE SECOND INDIVIDUAL THAT
21 YOU HAD SEEN STANDING THERE, THE ONE WHO YOU THOUGHT WAS A
22 FEMALE, YOU SAID THAT YOU SAW THAT PERSON DO SOMETHING TO THE
23 PERSON THAT HAD BEEN WALKING NORTHBOUND?24 A. RIGHT. HE WAS SEARCHING HIM, ONE HAND. THAT'S --
25 THAT'S ALL I COULD SEE WAS WITH ONE HAND HE WAS SEARCHING ALL
26 FOUR POCKETS, NEAR THE SHOES, LIFTING UP HIS PANTS, PATTING
27 HIM DOWN, YOU KNOW, COMPLETELY.

28 Q. AND DID YOU ACTUALLY SEE THIS PERSON THAT WAS DOING

1 THIS PATTING DOWN, DID YOU ACTUALLY SEE THAT PERSON REACH
2 INTO THE POCKETS OF THE PERSON WHO HAD BEEN WALKING
3 NORTHBOUND?

4 A. YES.

5 Q. AND WHICH POCKETS DID YOU SEE THAT PERSON REACH
6 INTO?

7 A. ALL FOUR OF THEM.

8 Q. AND AFTER THE PERSON THAT YOU HAD SEEN STANDING
9 THERE REACHED INTO THE POCKETS, DID YOU ACTUALLY SEE ANYTHING
10 TAKEN OUT OF THE POCKETS FROM THE PERSON WALKING NORTHBOUND?

11 A. NO, I DIDN'T. IT WAS KIND OF -- KIND OF DARK, BUT
12 I DIDN'T SEE HIM REMOVING ANYTHING OUT OF HIS POCKETS.

13 Q. AND YOU SAID IT WAS DARK.

14 WHY WAS IT DARK THERE?

15 A. ONE OF THE STREETLIGHTS WERE -- WAS OFF THAT DAY.

16 Q. AND WHICH STREETLIGHT WAS ACTUALLY OUT?

17 YOUR HONOR, MAY I APPROACH.

18 THE COURT: YES.

19 MS. WIDMARK: MOVE THIS SO IT'S IN ITS PLACE HERE.

20 Q. OKAY. YOU WANT TO STEP DOWN?

21 WHICH STREETLIGHT WAS OUT?

22 A. THIS ONE ON PICTURE "A"?

23 Q. YES.

24 A. RIGHT UNDER -- ON TOP OF "M," RIGHT HERE.

25 Q. OKAY.

26 SO PEOPLE'S 3-A, RIGHT WHERE THE "M" AND THE CIRCLE
27 IS?

28 A. YES.

1 Q. OKAY.

2 GO AHEAD AND HAVE A SEAT.

3 AFTER YOU SAW THIS PERSON PATTING DOWN THE OTHER
4 PERSON AND REACHING INTO THE POCKETS OF THAT OTHER PERSON,
5 WHAT DID YOU SEE HAPPEN?

6 A. I JUST SEE HIM USING ONE HAND.

7 Q. OKAY.

8 A. THE OTHER HAND WAS IN FRONT OF HIM. I BELIEVE IT
9 WAS A SWEATER OR A JACKET I COULDN'T TELL. IT WAS KIND OF
10 DARK. JUST SEEING PART OF HIS ELBOW.

11 Q. OKAY.

12 YOU COULD SEE THE PERSON WHO WAS DOING THE PATTING
13 DOWN WAS PATTING DOWN WITH ONE HAND AND THEN HAD THE ELBOW
14 OUT OF THE OTHER?

15 A. RIGHT.

16 Q. AND WHAT -- WHAT HAPPENED AFTER YOU SAW THAT PERSON
17 PATTING DOWN AND GOING INTO THE POCKETS WITH THE ONE HAND?

18 A. AFTER FIVE MINUTES -- IT WAS LESS THAN FIVE
19 MINUTES -- THE PERSON THAT WAS WALKING TOWARD MY DIRECTION --
20 PERSON THAT WAS STANDING THERE, HE FINISHED WHAT HE WAS
21 DOING. HE STARTED WALKING THE OPPOSITE WAY. THAT WOULD HAVE
22 BEEN SOUTHBOUND ON FIGUEROA. THEN THE PERSON THAT WAS --
23 WELL, THE VICTIM STARTED WALKING TOWARDS ME ACROSS 92ND
24 STREET.

25 Q. OKAY.

26 LET ME STOP YOU THERE.

27 WHEN YOU SAW THE PERSON WHO WAS DOING THE PATTING
28 DOWN WITH ONE HAND AND HAD THE OTHER HAND WITH THE ELBOW OUT,

1 WHAT WERE YOU CONCERNED ABOUT WITH REGARD TO THE HAND WHERE
2 THE ELBOW WAS OUT?

3 A. MY CONCERN WAS --

4 MR. GOLUB: OBJECTION. IT'S IRRELEVANT WHAT HIS CONCERN
5 WAS.

6 THE COURT: SUSTAINED.

7 BY MS. WIDMARK:

8 Q. WHAT DID IT LOOK LIKE TO YOU?

9 A. MY SUSPICION --

10 MR. GOLUB: OBJECTION. THAT'S SPECULATION.

11 THE COURT: SUSTAINED.

12 YOU JUST HAVE TO SAY WHAT YOU SAW.

13 THE WITNESS: OKAY. I JUST SEEN -- I COULD HAVE --
14 THOUGHT IT WOULD HAVE BEEN A KNIFE OR GUN OR ANYTHING, YOU
15 KNOW --

16 MR. GOLUB: OBJECTION --

17 THE WITNESS: -- SOME SORT OF WEAPON.

18 MR. GOLUB: -- SPECULATION AS TO WHAT HE THOUGHT, MOTION
19 TO STRIKE.

20 THE COURT: SUSTAINED.

21 BY MS. WIDMARK:

22 Q. SO --

23 MR. GOLUB: GRANTED, YOUR HONOR, THE MOTION TO STRIKE?

24 THE COURT: STRICKEN.

25 BY MS. WIDMARK:

26 Q. SO ONCE YOU SAW THE PERSON WHO WAS PATTING DOWN
27 WITH ONE HAND HAD THE OTHER ELBOW OUT, YOU SAID THAT PERSON
28 GOT DONE WITH WHAT THEY WERE DOING, GOING INTO THE POCKETS

1 AND THEN PROCEEDED SOUTHBOUND.

2 IS THAT CORRECT?

3 A. YES.

4 Q. AND THE PERSON THAT YOU'RE DESCRIBING AS THE VICTIM
5 CAME NORTHBOUND, WAS THAT IN YOUR DIRECTION?

6 A. YES.

7 Q. AND AT THE TIME THE PERSON WAS COMING NORTHBOUND IN
8 YOUR DIRECTION AFTER HAVING THE POCKETS GONE THROUGH, WHERE
9 WERE YOU STANDING LOOKING?

10 A. I WAS STILL IN THE SAME PLACE, RIGHT IN FRONT OF
11 THE BUILDING OF WHERE IT SHOWS, PICTURE C.

12 Q. OKAY.

13 SO YOU WERE STANDING IN FRONT OF THERE.

14 DO YOU ALSO SEE IT IN 3-B?

15 A. "B," YES.

16 MS. WIDMARK: OKAY.

17 MAY I APPROACH, YOUR HONOR.

18 THE COURT: YES.

19 BY MS. WIDMARK:

20 Q. LOOKING -- MR. CAMARILLO, LOOKING AT 3-B COMPARED
21 TO 3-C IS IF SOMEONE WAS STANDING HERE BY WHERE THE GRASS
22 IS, IT LOOKS LIKE A PARKWAY IN 3-B, AND LOOKING EASTBOUND
23 WOULD THEY BE SEEING WHAT'S IN "C"? IS THAT MAKING SENSE, MY
24 QUESTION?

25 A. COULDN'T UNDERSTAND.

26 Q. OKAY.

27 LET'S SAY I AM STANDING HERE AS IN 3-B.

28 A. RIGHT.

1 Q. I AM STANDING IN THIS GRASS AREA ACROSS FROM THE
2 SIDEWALK, AND I AM LOOKING EASTBOUND.

3 AM I SEEING THE VIEW IN "C"?

4 A. YES.

5 Q. OKAY.

6 SO THIS IS THE FRONT OF THE BUILDING IN "C," AND
7 IT'S ACTUALLY SORT OF AN ALCOVE AREA THAT LEADS TO THE GATE,
8 THE ALCOVE AREA DEPICTED IN "B."

9 IS THAT CORRECT?

10 A. RIGHT.

11 Q. SO YOU'RE STANDING IN THAT SORT OF ALCOVE AREA.

12 IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND WHAT HAPPENS WHEN THE PERSON COMES NORTHBOUND
15 AFTER HIS POCKETS HAVE BEEN GONE THROUGH?

16 A. HE ASKED ME FOR HELP. I ASKED HIM TO COME CLOSER
17 TO ME 'CAUSE I COULDN'T DO ANYTHING FROM, YOU KNOW, OUT OF
18 MY -- OUT OF THE BUILDING. AND HE GOT CLOSER. SO THAT'S
19 WHEN HE TOLD ME THAT HE JUST GOT ROBBED. SO I ASKED HIM THE
20 ONLY THING I COULD DO FOR HIM IS CALL THE POLICE FOR HIM, AND
21 I ASKED HIM TO STEP INSIDE THE LOBBY. I CALLED THE POLICE.
22 THE DISPATCHER ASKED ME TO SPEAK TO THE VICTIM. I HAND OVER
23 THE PHONE TO THE VICTIM, AND AFTER THAT THAT WAS IT.

24 Q. AND SO YOU HELPED HIM CALL?

25 A. YES.

26 Q. AND AFTER HE -- AFTER HE CALLED, DID YOU REMAIN IN
27 THE LOBBY WITH HIM?

28 A. YES.

1 Q. AND AT SOME POINT DID POLICE OFFICERS ARRIVE?

2 A. AFTER HE HUNG UP, LIKE THREE MINUTES LATER WE -- WE
3 SEEN THE UNIT DRIVED UP. AND WE STEPPED OUT IN FRONT OF THE
4 BUILDING.

5 Q. SO THE POLICE CAR PULLED UP ONTO FIGUEROA THERE IN
6 FRONT OF THE BUILDING?

7 A. YES.

8 Q. AND THAT IF -- YOU STEPPED OUT.

9 WHAT HAPPENED?

10 A. THEY TOOK A QUICK REPORT.

11 Q. WERE THEY -- WERE THEY ASKING QUESTIONS OF BOTH YOU
12 AND JUAN?

13 A. THEY WERE JUST ASKING QUESTIONS TO HIM. I WAS JUST
14 TRANSLATING.

15 Q. AND THE TWO OFFICERS, THEY WERE OFFICER -- WAS IT A
16 HISPANIC OFFICER AND AN ASIAN OFFICER AT THAT POINT?

17 A. I -- I BELIEVE SO, YES.

18 Q. AND HOW LONG WERE THEY THERE WITH YOU?

19 A. TOOK A QUICK REPORT. PROBABLY LIKE NO MORE THAN
20 THREE MINUTES.

21 Q. THEY BASICALLY WANTED A DESCRIPTION?

22 A. YES.

23 MR. GOLUB: OBJECTION, LEADING.

24 THE COURT: SUSTAINED.

25 BY MS. WIDMARK:

26 Q. AND AFTER THEY SPOKE WITH YOU OR -- EXCUSE ME --
27 SPOKE WITH JUAN WITH YOU THERE, DID YOU SEE THEM LEAVE?

28 A. YES.

1 Q. AND WHAT DIRECTION DID THEY GO?

2 A. THEY WENT SOUTHBOUND ON FIGUEROA.

3 Q. AND ONCE THEY WENT SOUTHBOUND ON FIGUEROA, WAS
4 THERE ANOTHER POLICE CAR THAT ARRIVED?

5 A. YES.

6 Q. ABOUT HOW LONG AFTER?

7 A. LESS THAN FIVE MINUTES, ALSO.

8 Q. AND WERE THOSE TWO OFFICERS, WERE THEY WHITE?

9 A. YES.

10 Q. NOW, ONCE THE TWO OFFICERS ARRIVED, HOW LONG WERE
11 THEY THERE?

12 A. ALSO, ABOUT FIVE MINUTES AFTER GOT THE CALL THAT
13 THEY DETAINED SOMEONE DOWN NEAR CENTURY DOWN SOUTHBOUND
14 FIGUEROA.

15 Q. AND WHAT HAPPENED THEN?

16 A. THEY ASKED THE VICTIM TO GO WITH THEM TO IDENTIFY
17 IF THAT WAS THE PERSON THAT HAD ROBBED HIM ON FIGUEROA.

18 Q. AND ONCE THAT HAPPENED, DID YOU GO WITH THEM OR DID
19 YOU STAY THERE?

20 A. I STAYED AT THE LOCATION.

21 Q. AND WHEN YOU'RE TALKING ABOUT THE VICTIM, YOU'RE
22 TALKING ABOUT JUAN THAT WAS HERE YESTERDAY?

23 A. YES.

24 Q. YOU EVER SEE HIM BEFORE THAT NIGHT?

25 A. NO.

26 Q. AND AFTER HE LEFT WITH THE POLICE, DID YOU EVER SEE
27 HIM AGAIN?

28 A. THEY BROUGHT HIM BACK, AND THEN AFTER THAT I

1 HAVEN'T SEEN HIM SINCE THEN UNTIL --

2 Q. I'M SORRY?

3 A. THEY BROUGHT HIM BACK -- THEY TOOK HIM AND BROUGHT
4 HIM BACK, AND THAT WAS THE LAST TIME I SEEN HIM UNTIL WE CAME
5 HERE TO COURT.

6 MS. WIDMARK: MAY I HAVE A MOMENT, YOUR HONOR.

7 THE COURT: YES.

8

9 (PAUSE.)

10

11 MS. WIDMARK: NOTHING FURTHER AT THIS TIME.

12 THE COURT: CROSS-EXAM.

13 MR. GOLUB: THANK YOU.

14

15

CROSS-EXAMINATION

16 BY MR. GOLUB:

17 Q. GOOD AFTERNOON, MR. CAMARILLO.

18 A. GOOD AFTERNOON.

19 Q. NOW, MR. CAMARILLO, DO YOU REMEMBER SPEAKING TO A
20 DETECTIVE ON THE PHONE A COUPLE OF DAYS AFTER THE INCIDENT?

21 A. YES.

22 Q. OKAY.

23 AND WAS THAT DETECTIVE CARLISLE?

24 A. I BELIEVE SO, YES.

25 Q. OKAY.

26 ISN'T IT TRUE YOU TOLD DETECTIVE CARLISLE THAT YOU
27 WERE NOT QUITE SURE WHAT WAS GOING ON AS YOU WATCHED --

28 A. AT THE BEGINNING, YES.

1 Q. ISN'T IT TRUE THAT YOU JUST TOLD HER YOU WEREN'T
2 QUITE SURE WHAT WAS GOING ON AS YOU WATCHED AND THAT YOU
3 NEVER TOLD HER THAT YOU THOUGHT THAT THERE WAS A ROBBERY
4 OCCURRING?

5 A. AT THE BEGINNING, YES. AND THEN AFTER I SEEN THE
6 PERSON THAT WAS STANDING ON FIGUEROA SEARCHING HIM, THAT'S
7 WHEN IT CAME TO MY MIND THAT HE WAS GETTING ROBBED.

8 Q. AND THAT'S WHAT YOU TOLD DETECTIVE CARLISLE?

9 A. I BELIEVE SO.

10 Q. DIDN'T YOU TELL DETECTIVE CARLISLE THAT YOU
11 CONTINUED TO WATCH, NOT QUITE SURE WHAT WAS GOING ON AND THAT
12 WAS ALL THAT YOU SAID ABOUT -- ABOUT THAT IN TERMS OF KNOWING
13 WHETHER A ROBBERY WAS TAKING PLACE OR NOT?

14 A. I BELIEVE, YES.

15 Q. SO YOU CAN'T TELL DETECTIVE CARLISLE THAT YOU
16 FIGURED OUT A ROBBERY WAS GOING ON?

17 A. YES.

18 Q. AND THAT'S BECAUSE YOU REALLY DIDN'T FIGURE OUT A
19 ROBBERY WAS GOING ON, DID YOU?

20 A. WELL, I KNEW WHEN -- WHEN THE --

21 Q. YOU KNEW WHEN IT -- WHEN JUAN CAME UP AND TOLD YOU.
22 RIGHT?

23 A. RIGHT, AND THEN KIND OF AFTER THAT I REALIZED IT
24 WAS A ROBBERY AFTER I SEEN HIM, THE PERSON THAT WAS
25 STANDING --

26 Q. SO IT WASN'T UNTIL AFTER JUAN CAME UP AND SPOKE TO
27 YOU THAT YOU REALIZED THAT THERE WAS -- REALIZED OR YOU
28 THOUGHT THAT THERE WAS A ROBBERY.

1 CORRECT?

2 A. RIGHT.

3 Q. THAT'S BECAUSE JUAN TOLD YOU.

4 RIGHT?

5 JUAN TOLD YOU HE HAD -- HE HAD BEEN ROBBED.

6 RIGHT?

7 A. YES.

8 Q. NOW, APPROXIMATELY HOW FAR AWAY WERE YOU STANDING
9 FROM WHERE THESE TWO PEOPLE WERE, BY THE WAY?

10 A. IT'S ABOUT 70 TO 65 YARDS AWAY.

11 Q. HOW MANY?

12 A. SEVENTY TO 65 YARDS AWAY.

13 Q. SO YOU'D SAY MAYBE 65 OR 70 YARDS?

14 A. YES.

15 Q. NOW, YOU WERE WORKING AS A SECURITY OFFICER IN THE
16 BUILDING THAT NIGHT.

17 IS THAT CORRECT?

18 A. YES.

19 Q. AND YOU CAME OUTSIDE TO SMOKE A CIGARETTE.

20 IS THAT CORRECT?

21 A. THAT'S CORRECT.

22 Q. AND HOW LONG WERE YOU OUTSIDE BEFORE THIS INCIDENT
23 OCCURRED?

24 A. WHEN I WAS SMOKING A CIGARETTE OR BEFORE?

25 Q. EXCUSE ME. HOW LONG WERE YOU OUTSIDE BEFORE --
26 BEFORE THE INCIDENT OCCURRED, I MEAN, RIGHT.

27 A. I HAD STEPPED OUT FOR -- FOR A WHILE -- FOR FIVE
28 MINUTES BEFORE I SEEN JUAN STEP INTO -- WELL, COMING DOWN --

1 DOWN FIGUEROA.

2 Q. AND HOW LONG BEFORE YOU SAW THE TWO PEOPLE GET
3 TOGETHER?

4 A. I HAD STEPPED OUT FIVE MINUTES AGO, AND THEN I CAME
5 BACK OUT. AND THEN THAT'S WHEN I WAS SMOKING A CIGARETTE.

6 Q. SO YOU WERE OUTSIDE, AND THEN YOU WENT BACK INSIDE?

7 A. RIGHT.

8 Q. OKAY.

9 WHEN YOU WERE OUTSIDE, YOU SAW JUAN WALKING
10 NORTHBOUND ON FIGUEROA?

11 A. THE FIRST TIME THAT I STEPPED OUT, I JUST SEEN ONE
12 PERSON STANDING THERE.

13 Q. AND WHERE WAS THIS PERSON STANDING?

14 A. ON -- ON SOUTH FIGUEROA ON -- WELL, CAN I SHOW ON
15 THE PICTURE?

16 Q. YES, PLEASE.

17 IF THE WITNESS CAN STAND UP, YOUR HONOR.

18 THE COURT: YES.

19 THE WITNESS: HE WAS STANDING RIGHT HERE, JUST STANDING
20 THERE FOR A WHILE.

21 BY MR. GOLUB:

22 Q. JUST BY THAT "M"?

23 A. YES.

24 Q. SO YOU SAW THAT PERSON STANDING THERE, AND THEN YOU
25 WENT OUTSIDE, THEN YOU WENT BACK INSIDE.

26 IS THAT CORRECT?

27 A. RIGHT.

28 Q. OKAY.

1 THEN YOU CAME BACK OUTSIDE AGAIN?

2 A. RIGHT.

3 Q. AND WERE YOU SMOKING A CIGARETTE THAT SECOND TIME?

4 A. THE SECOND TIME, YES.

5 Q. AND THAT'S WHEN YOU SAW JUAN AVILA WALKING
6 NORTHBOUND.

7 RIGHT?

8 A. RIGHT, THAT'S CORRECT.

9 Q. AND DO YOU RECALL TALKING TO A -- AN INVESTIGATOR A
10 COUPLE OF WEEKS AGO ABOUT THE CASE, MR. FOX?

11 A. NOT -- NOT SURE. I DON'T REMEMBER. PROBABLY HAVE,
12 YES.

13 Q. DO YOU REMEMBER SPEAKING TO SOMEBODY ABOUT THIS
14 CASE A COUPLE OF WEEKS AGO?

15 A. YES.

16 Q. OKAY.

17 DO YOU REMEMBER TELLING THIS PERSON THAT YOU SAW A
18 MAN DRESSED ALL IN BLACK WALK FROM THE SOUTHWEST CORNER OF
19 92ND AND FIGUEROA EASTBOUND ACROSS FIGUEROA TO THE SOUTHEAST
20 CORNER OF 92ND AND FIGUEROA WHERE HE MET UP WITH THE VICTIM?

21 A. CAN YOU REPEAT THAT AGAIN?

22 Q. DO YOU RECALL TELLING SOMEBODY APPROXIMATELY TWO
23 WEEKS AGO THAT --

24 MS. WIDMARK: CAN YOU IDENTIFY THE PERSON?

25 BY MR. GOLUB:

26 Q. DO YOU RECALL TELLING MR. RICHARD FOX APPROXIMATELY
27 TWO WEEKS AGO THAT YOU SAW A MAN DRESSED ALL IN BLACK WALK
28 FROM THE SOUTHWEST CORNER OF 92ND AND FIGUEROA EAST ACROSS

1 FIGUEROA TO THE SOUTHEAST CORNER OF 92ND AND FIGUEROA AND
2 MEET UP WITH JUAN AVILA?

3 A. NO, NEVER SAID THAT.

4 Q. SO THE WHOLE TIME THAT YOU SAW THE MAN IN BLACK HE
5 WAS STANDING RIGHT BY THAT "M"?

6 A. YES.

7 Q. DO YOU RECALL TELLING THE DETECTIVE THAT YOU SAW
8 THE MAN IN BLACK APPROACH THE VICTIM THERE ON 92ND STREET?

9 A. STEPPED IN FRONT OF HIM.

10 MS. WIDMARK: I'M SORRY. SAID TO WHO? I'M SORRY,
11 COUNSEL.

12 BY MR. GOLUB:

13 Q. THAT -- DID YOU TELL THE DETECTIVE THAT YOU SAW A
14 MAN DRESSED ALL IN BLACK APPROACH THE VICTIM NEAR 92ND
15 STREET?

16 A. NOT IN THOSE WORDS.

17 Q. NOW -- NOW, YOU SAID THAT YOU SAW THE MAN IN BLACK
18 BEGAN PATTING DOWN THE VICTIM WITH ONE HAND?

19 A. YES.

20 Q. NOW, DID YOU SEE THIS MAN WALKING SLOWLY AROUND THE
21 VICTIM?

22 A. YES.

23 Q. NOW, YOU SAID YOU ALSO SAW THIS MAN FROM WHERE YOU
24 WERE STANDING GOING INTO THE PERSON'S POCKETS, ACTUALLY?

25 A. YES.

26 Q. OKAY.

27 DID YOU TELL THE DETECTIVE THAT?

28 A. I BELIEVE SO, YES.

1 Q. NOW, MAYBE I'M WRONG; BUT I BELIEVE ON DIRECT
2 EXAMINATION YESTERDAY YOU SAID YOU HAD BEEN OUTSIDE FOR LIKE
3 15 MINUTES. SO -- IS THAT WRONG? WAS THAT INCORRECT?

4 A. YEAH.

5 Q. YOU WEREN'T OUTSIDE FOR 15 MINUTES?

6 A. NO.

7 Q. YOU HAD JUST -- HOW LONG WERE YOU OUTSIDE? FOR
8 ABOUT FIVE MINUTES YOU SAID?

9 A. NO MORE THAN TEN MINUTES, BETWEEN TEN MINUTES.

10 Q. NOW, WERE YOU OUTSIDE OF THE GATE IN PEOPLE'S C?

11 A. YES.

12 Q. SO WHEN I SAY, "OUTSIDE OF THE GATE," YOU HAD
13 WALKED THROUGH THIS GATE, AND YOU WERE CLOSER TO THE
14 SIDEWALK?

15 A. THAT'S CORRECT.

16 Q. OKAY.

17 AND YOU WERE -- WERE YOU PAST THE EDGE OF THE FENCE
18 THAT I AM POINTING TO IN PEOPLE'S B -- 3-B?

19 A. YES. I WAS LIKE THROUGH THE WATERLINE, RIGHT
20 THERE, THE SIDEWALK. AND THEN IT STARTS -- THAT DIVIDES THE
21 GATE. I WAS RIGHT ABOUT THERE.

22 Q. OKAY.

23 SO YOU WERE RIGHT AT THE CORNER OF THE -- THE GATE
24 IN PEOPLE'S B, RIGHT WHERE MY PEN IS POINTING?

25 A. NO. LITTLE BIT FURTHER DOWN.

26 Q. WELL, MAYBE YOU CAN STEP DOWN AND SHOW US WHERE YOU
27 WERE STANDING.

28 A. I WAS ABOUT RIGHT HERE, RIGHT ON THE CENTER.

1 Q. OKAY.

2 WOULD IT PERHAPS BE BEST IF YOU PUT A MARK -- AN
3 "R" OVER THERE?

4 A. AN "R"?

5 Q. YES. WITH THE RED MARKER IS FINE.

6 A. (MARKING).

7 Q. OKAY.

8 DO YOU MIND CIRCLING IT, PLEASE?

9 A. (COMPLIES).

10 Q. NOW, THAT'S WHERE YOU WERE -- YOU CAN SIT DOWN.

11 THANK YOU.

12 SO THAT'S WHERE YOU WERE STANDING WHEN YOU MADE
13 THESE OBSERVATIONS?

14 A. YES.

15 Q. AND THE LIGHT THAT APPEARS TO BE RIGHT NEXT TO THE
16 "M" WAS OUT.

17 IS THAT CORRECT?

18 A. THAT'S CORRECT.

19 Q. AND THAT'S IN PEOPLE'S 3-A?

20 A. YES.

21 Q. AND DO YOU SEE THIS BUS -- BUS STOP THAT APPEAR --
22 WELL, WHAT APPEARS TO BE A BUS STOP IN PEOPLE'S 3-E?

23 A. YES.

24 Q. OKAY.

25 AND IS THAT ON THE NORTHERN SIDE OF 92ND STREET ON
26 THE EAST SIDE?

27 A. YES.

28 Q. SO THAT'S CLOSER TO WHERE YOU WERE?

1 A. THAT'S CORRECT.

2 Q. AND YOU NEVER SAW MISS -- YOU NEVER SAW THE OTHER
3 PERSON WHO WASN'T JUAN AVILA AT THAT BUS STOP BENCH THAT
4 NIGHT?

5 A. NO.

6 Q. NOW, DID YOU EVER SEE -- WHEN I SAY, "MR. AVILA,"
7 YOU KNOW WHO I AM TALKING ABOUT.

8 RIGHT?

9 A. YES.

10 Q. DID YOU EVER SEE HIM WITH A BAG THAT NIGHT?

11 A. NO. IT WAS KIND OF DARK.

12 Q. WELL, DID YOU SEE HIM WITH A BAG THAT NIGHT?

13 A. NO, NO.

14 Q. DID YOU SEE THE OTHER PERSON WITH A BAG THAT NIGHT?

15 A. NO.

16 Q. WHILE YOU WERE MAKING THESE OBSERVATIONS, DID YOU
17 GO INSIDE AND CALL THE POLICE?

18 A. NO.

19 Q. AND YOU DIDN'T GO AND CALL THE POLICE UNTIL
20 MR. AVILA CAME OVER TO YOU.

21 IS THAT CORRECT?

22 A. THAT'S CORRECT.

23 Q. NOW, DID YOU GIVE A STATEMENT TO THE FIRST TWO
24 OFFICERS THAT CAME ALONG, THE HISPANIC OFFICER AND THE ASIAN
25 OFFICER?

26 A. THE FIRST ONES?

27 Q. YES.

28 A. NO.

1 Q. YOU SAID THAT YOU WERE TRANSLATING FOR THEM?

2 A. YES.

3 Q. WHO WERE YOU SPEAKING TO? BOTH OFFICERS OR JUST
4 ONE OF THEM?

5 A. ONE OF THEM.

6 Q. WHICH ONE WAS THAT?

7 A. BELIEVE I GAVE THE REPORT TO THE MEXICAN OFFICER,
8 BELIEVE.

9 Q. AND YOU WERE TRANSLATING THE -- WHAT MR. AVILA WAS
10 SAYING TO THIS OFFICER?

11 A. RIGHT.

12 Q. AND -- AND YOU WERE JUST TRANSLATING WHILE
13 MR. AVILA SAID -- YOU NEVER GAVE YOUR OWN STATEMENT OF WHAT
14 YOU SAW AT THAT TIME.

15 IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. AND THEN TWO OTHER OFFICERS WHO HAVE BEEN DESCRIBED
18 AS TWO WHITE OFFICERS CAME BY A FEW -- A FEW MINUTES LATER OR
19 EVEN LESS.

20 RIGHT?

21 A. RIGHT.

22 Q. AND THEY CAME BY, AND THEY SPOKE TO THE VICTIM
23 AGAIN?

24 A. YES.

25 Q. OKAY.

26 AND WERE YOU TRANSLATING AGAIN?

27 A. YES, YES.

28 Q. OKAY.

1 AND THEY TOOK A STATEMENT AS TO WHAT MR. AVILA SAID
2 HAPPENED.

3 IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. OKAY.

6 AND DID YOU GIVE THEM YOUR OWN STATEMENT AS TO WHAT
7 YOU SAW?

8 A. AT THAT TIME, NO.

9 Q. AT ANY TIME THAT NIGHT DID YOU?

10 A. NO.

11 Q. SO THE FIRST STATEMENT THAT YOU GAVE TO ANYBODY
12 AT -- ABOUT WHAT YOU SAW TO THIS INCIDENT WAS WHEN YOU SPOKE
13 TO THE DETECTIVE A COUPLE OF DAYS LATER?

14 A. YES.

15 Q. AND THAT'S AFTER MR. AVILA CAME UP AND TOLD YOU HE
16 HAD -- HE HAD BEEN ROBBED, RIGHT, AND AFTER THE 9-1-1
17 TELEPHONE CALL.

18 CORRECT?

19 A. THAT'S CORRECT.

20 Q. AND AFTER YOU TRANSLATED TWICE FOR MR. AVILA AS TO
21 WHAT HAPPENED.

22 CORRECT?

23 A. THAT'S CORRECT.

24 Q. YOU SAW THIS -- THIS MAN PATTING DOWN MR. AVILA
25 WHILE HE WAS WALKING AROUND SLOWLY CIRCLING HIM?

26 A. YES.

27 Q. AND HE WAS HOLDING ONE HAND CLOSE TO THE WAIST?

28 A. IT WAS IN FRONT OF HIM.

1 Q. COULD YOU SHOW US WHERE THAT HAND WAS?

2 A. ABOUT RIGHT HERE.

3 Q. WAS IT THE RIGHT HAND OR THE LEFT HAND?

4 A. I SEEN THE LEFT HAND.

5 Q. HM?

6 A. AT THAT -- AT THAT DISTANCE I SEEN THE LEFT HAND.

7 Q. THAT WAS CLOSE TO THE WAIST?

8 A. YES.

9 MR. GOLUB: AND, YOUR HONOR, FOR THE RECORD HE HAS HIS
10 HAND BASICALLY RIGHT ON HIS STOMACH IT APPEARS.

11 THE COURT: RIGHT ABOUT -- RIGHT ABOUT WHERE HIS BELT
12 IS, RIGHT IN THE -- RIGHT IN THE MIDDLE OF HIS BELT IN THE
13 FRONT.

14 BY MR. GOLUB:

15 Q. COULD YOU SEE HIS HAND WAS OUTSIDE OF HIS CLOTHES
16 OR --

17 A. NO, I COULDN'T SEE.

18 Q. YOU COULDN'T SEE THE HAND AT ALL. SO --

19 A. I COULDN'T SEE IF IT WAS OUTSIDE OR INSIDE.

20 Q. IT WAS TOO DARK?

21 A. YES.

22 Q. DID YOU HEAR ANY CONVERSATION TAKING PLACE BETWEEN
23 THE TWO MEN?

24 A. NO.

25 Q. TOO FAR AWAY?

26 A. YES.

27 Q. THEN HOW LONG DID THIS TAKE?

28 A. NO MORE THAN FIVE, TEN MINUTES -- NO MORE THAN FIVE

1 MINUTES.

2 Q. RECALL TELLING THE DETECTIVE THAT IT TOOK ABOUT ONE
3 TO TWO MINUTES?

4 A. IN BETWEEN THERE, YES -- WELL, LESS THAN FIVE
5 MINUTES.

6 Q. DOES ONE TO TWO MINUTES SOUND FAIR?

7 A. YEAH.

8 Q. OKAY.

9 NOW, THE -- WHO WALKED AWAY FIRST?

10 A. THE PERSON THAT WAS STANDING THERE AT THE
11 BEGINNING.

12 Q. THE ONE YOU ORIGINALLY THOUGHT WAS A WOMAN?

13 A. YES.

14 Q. AND NOT MR. AVILA?

15 A. YES.

16 Q. AND HE WALKED SOUTHBOUND WHICH WAS FURTHER AWAY
17 FROM YOU.

18 CORRECT?

19 A. YES.

20 Q. AND MR. AVILA WALKED TOWARDS YOU?

21 A. YES.

22 Q. HOW FAR -- AND THEN TRIED TO GET YOUR ATTENTION OR
23 SOMETHING LIKE THAT.

24 RIGHT?

25 A. AS SOON AS HE CROSSED THE STREET, AS SOON AS HE GOT
26 NEAR -- NEAR THE BUS STOP, PASSING THE BENCH.

27 Q. YES.

28 AND HOW DID HE TRY AND GET YOUR ATTENTION?

1 A. HE WAS -- HE WAS WAVING AT ME WITH HIS RIGHT HAND.

2 Q. DID HE START WHISPERING TO YOU OR --

3 A. HE WAS -- I DIDN'T HEAR HIM, YOU KNOW. HE DIDN'T
4 SPEAK LOUDLY. SO I ASKED HIM TO GET CLOSER. AND WHEN HE GOT
5 CLOSER, THAT'S WHEN HE TOLD ME THAT HE JUST GOT ROBBED, TO
6 HELP HIM.

7 Q. AND WHEN -- NOW, DID YOU SEE WHERE THE OTHER PERSON
8 WENT ON FIGUEROA? YOU SAW THEM STARTING TO WALK SOUTHBOUND.
9 DID YOU SEE?

10 A. I JUST SEEN THEM -- IT WAS KIND OF DARK. HE GOT
11 FURTHER, JUST KIND OF WHISKED AWAY. REAL DARK.

12 Q. YOU DIDN'T SEE THE PERSON GO INTO ANY BUILDING OR
13 ANYTHING LIKE THAT?

14 A. NO.

15 Q. YOU'RE NOT SURE WHERE THE PERSON WENT THERE, A
16 BLOCK OR TWO?

17 A. RIGHT.

18 Q. AND BY THEN YOU WERE INSIDE, ANYWAY.

19 ISN'T THAT CORRECT?

20 A. YEAH, THAT'S CORRECT.

21 MR. GOLUB: I HAVE NO FURTHER QUESTIONS.

22 THE COURT: REDIRECT?

23 MS. WIDMARK: YES.

24

25 REDIRECT EXAMINATION

26 BY MS. WIDMARK:

27 Q. THE PERSON THAT CAME AND SPOKE TO YOU, THIS RICHARD
28 FOX, DID HE IDENTIFY HIMSELF AS A DEFENSE INVESTIGATOR?

1 A. NEVER TALKED TO NO ONE IN PERSON. IT WAS JUST
2 THROUGH THE PHONE.

3 Q. AND WHEN YOU TALKED TO THIS PERSON, RICHARD FOX
4 OVER THE PHONE, DID HE IDENTIFY HIMSELF AS A DEFENSE
5 INVESTIGATOR?

6 A. THEY JUST TOLD ME THAT HE WAS A DETECTIVE AND THEN
7 TOLD ME HIS NAME.

8 Q. SO YOU JUST THOUGHT IT WAS A REGULAR DETECTIVE?

9 A. RIGHT.

10 Q. AND DID YOU TELL THIS PERSON THAT YOU THOUGHT WAS A
11 REGULAR DETECTIVE WHAT YOU HAD TOLD DETECTIVE CARLISLE?

12 A. BELIEVE SO, YES.

13 Q. ANY DIFFERENCES THAT YOU CAN THINK OF?

14 A. NO.

15 Q. WHEN YOU SAW THE PERSON WE NOW KNOW IS JUAN, AS HE
16 IS WALKING NORTHBOUND, DID YOU SEE ANYTHING TUCKED UP UNDER
17 HIS ARM?

18 A. NO.

19 Q. YOU COULDN'T SEE IF THERE WAS A BAG OR ANYTHING
20 TUCKED UNDER HIS ARM?

21 A. NO.

22 Q. AND THE TRANSLATING YOU DID FOR THE OFFICERS, YOU
23 SAY YOU DID IT DURING THE FIRST AND THE SECOND SET OF
24 OFFICERS?

25 A. YES.

26 Q. DO YOU REMEMBER WHETHER THE HISPANIC OFFICER SPOKE
27 SPANISH?

28 A. AS I REMEMBER, NO.

1 Q. DO YOU REMEMBER TELLING DETECTIVE CARLISLE THAT THE
2 PERSON YOU SAW STANDING THERE WAS DRESSED ALL IN BLACK?

3 A. YES. SEEMED LIKE HE WAS IN DARK CLOTHES.

4 Q. NOW, WHEN YOU COME HERE AND YOU TESTIFY UNDER OATH
5 THAT YOU SAW THAT OTHER PERSON PATTING DOWN JUAN AND REACHING
6 INTO HIS POCKETS, ARE YOU TELLING US THAT BECAUSE THAT'S WHAT
7 JUAN TOLD YOU THAT NIGHT?

8 A. NO.

9 Q. WHY ARE YOU TELLING US THAT?

10 A. THAT'S WHAT I SEEN AT THAT TIME.

11 Q. WHEN WAS THE FIRST TIME ANYBODY EVER ASKED YOU WHAT
12 YOU SAW?

13 A. THE FIRST PHONE CALL THAT I -- THAT I RECEIVED IN
14 THE MORNING.

15 Q. FROM DETECTIVE CARLISLE?

16 A. YES.

17 Q. SO THAT WAS YOUR FIRST OPPORTUNITY TO TELL ANYBODY
18 WHAT YOU SAW?

19 A. YES.

20 MR. GOLUB: WELL, OBJECTION, YOUR HONOR. THAT'S
21 ARGUMENTATIVE.

22 THE COURT: OVERRULED.

23 BY MS. WIDMARK:

24 Q. COULD YOU SEE WELL ENOUGH OUT THERE THAT NIGHT TO
25 IDENTIFY WHO THE PERSON WAS WHO WAS GOING THROUGH THE
26 POCKETS?

27 A. NO.

28 Q. JUST SO -- THAT THE PERSON WAS IN ALL BLACK?

1 A. YES.

2 MS. WIDMARK: NOTHING FURTHER AT THIS TIME.

3 MR. GOLUB: ONE OR TWO QUESTIONS.

4

5

REXCROSS-EXAMINATION

6

BY MR. GOLUB:

7 Q. IS -- ISN'T IT TRUE, MR. CAMARILLO, THAT YOU TOLD
8 THE DETECTIVE THAT YOU CONTINUED TO WATCH THE TWO PEOPLE, NOT
9 QUITE SURE WHAT WAS GOING ON AND THAT AFTER ONE OR TWO
10 MINUTES THE MAN DRESSED ALL IN BLACK CALMLY WALKED AWAY
11 SOUTHBOUND ON FIGUEROA, THAT THE VICTIM WALKED OVER NEAR THE
12 WITNESS AND BEGAN TO MOTION FOR THE WITNESS TO COME OVER TO
13 HIM AND THAT YOU, STILL NOT SURE WHAT HAD TRANSPIRED, TOLD
14 THE VICTIM TO COME OVER TO YOU?

15 ISN'T THAT WHAT YOU TOLD THE DETECTIVE?

16 MS. WIDMARK: I -- YOUR HONOR --

17 THE COURT: OVERRULED.

18 MS. WIDMARK: NO. I AM JUST -- WITNESS? I AM CONFUSED.

19 BY MR. GOLUB:

20 Q. BEGAN TO MOTION FOR JUAN TO COME OVER TO YOU?

21 A. YES.

22 Q. SO YOU TOLD DETECTIVE CARLISLE THAT EVEN AFTER JUAN
23 WAS MOTIONING TO YOU, EVEN AFTER HE CROSSED THE STREET AND
24 WAS ASKING YOU TO COME OVER, THAT YOU STILL WEREN'T SURE WHAT
25 HAD TRANSPIRED.

26 THAT'S WHAT YOU TOLD DETECTIVE CARLISLE?

27 A. BELIEVE SO.

28 MR. GOLUB: OKAY. THANK YOU.

1 NO FURTHER QUESTIONS.

2 MS. WIDMARK: YOUR HONOR, I'D LIKE TO HAVE A MOMENT.

3

4 (PAUSE.)

5

6 MS. WIDMARK: NOTHING FURTHER.

7 THE COURT: SIR, THANK YOU. YOU MAY STEP DOWN.

8 THE WITNESS: THANK YOU.

9 MR. GOLUB: MAY HE JUST REMAIN ON CALL FOR --

10 THE COURT: YES. RE -- RE -- JUST REMAIN ON CALL, AND
11 JUST BE AVAILABLE. I DON'T THINK WE'LL NEED YOU; BUT IN CASE
12 WE DO, GIVE YOUR NAME, YOUR --

13 THE WITNESS: NO. THEY HAVE IT.

14 THE COURT: OKAY.

15 CALL YOUR NEXT WITNESS.

16 MS. WIDMARK: CERTAINLY. WE CALL OFFICER HERRERA.

17 THE COURT: AND, SIR, YOU ARE NOT TO DISCUSS THE CASE
18 WITH ANYBODY EXCEPT IF THE LAWYERS ASK YOU A QUESTION.

19 MS. WIDMARK: YOUR HONOR, IF WE COULD TAKE A SLIGHT
20 BREAK. I THINK THERE IS SOMETHING WE NEED TO HANDLE.

21 THE COURT: CAN YOU TAKE A DIFFERENT WITNESS FIRST?

22 MS. WIDMARK: I DON'T KNOW IF I HAVE A DIFFERENT WITNESS
23 HERE. I JUST HAVE HERRERA HERE.

24 THE COURT: OKAY.

25 THERE IS SOMETHING I HAVE TO TAKE UP OUTSIDE YOUR
26 PRESENCE, AND WE'LL USE THIS TIME TO TAKE A BREAK. I WANT TO
27 BE ABLE TO GIVE THE REPORTER A BREAK, TOO. SO IT'S GOING TO
28 BE A LITTLE BIT LONGER THAN 15 MINUTES. WE'RE GOING TO TRY

1 TO GET OUR BUSINESS DONE BY -- IN ABOUT 20 MINUTES -- SAY,
2 20, 25, LIKE FIVE MINUTES AFTER. WE GO A LITTLE OVER, I'LL
3 LET YOU KNOW. AND DON'T TALK ABOUT THE CASE.

4
5 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

6
7 THE COURT: OKAY. NOW, WHAT DO WE HAVE?

8 MS. WIDMARK: WHEN I WAS INTERVIEWING OFFICER HERRERA --
9 I SPOKE TO HIM BRIEFLY ON THE PHONE A FEW DAYS AGO, AND THEN
10 I INTERVIEWED HIM YESTERDAY WHEN HE CAME IN. AND I, YOU
11 KNOW, ASKED OPEN-ENDED QUESTIONS WHEN I INTERVIEWED HIM FOR
12 TRIAL. AND I SAID, "OKAY. SO YOU GO DOWN THERE TO -- AND
13 YOU SEE SOMEONE WHO MEETS THE DESCRIPTION OF THE PERSON WHO
14 HAD ROBBED JUAN AVILA. WHAT DID YOU DO?" AND HE SAID, "WE
15 GOT OUT OF THE CAR." AND I SAID, "WHAT HAPPENED?" HE SAID,
16 "THE DEFENDANT WAS WALKING WESTBOUND ON 95TH APPROACHING
17 FIGUEROA."

18 AND HE SAID THE REPORT'S WRONG. THE REPORT HAS HIM
19 LIKE ON 90 -- FIGUEROA WALKING BETWEEN 94TH AND 95TH. HE
20 SAID HE WAS ACTUALLY WALKING ON 95TH WESTBOUND TOWARDS
21 FIGUEROA. I THINK HE SAID HE CAME OUT AS FAR AS THE CORNER,
22 SEES THE OFFICERS, OFFICERS GET OUT OF THE CAR, HE THEN PUTS
23 UP HIS HANDS AND SAYS, "YEAH, I DID IT." AND HE IS KIND OF
24 LAUGHING ABOUT IT. HE SAYS, "I DIDN'T KNOW IF HE WAS JOKING
25 OR WHAT." BUT HE SAID, "YEAH, I DID IT." AND THAT WAS THE
26 FIRST TIME I HAD EVER HEARD OF IT. THAT'S WHY BEFORE MY
27 OPENING STATEMENT I WANTED TO TELL COUNSEL. AND BECAUSE WE
28 WERE GOING TO TALK ABOUT THIS, I DIDN'T USE IT IN OPENING

1 STATEMENT.

2 THE COURT: DID HE MAKE A REPORT?

3 MS. WIDMARK: NO, HE DIDN'T WRITE THE REPORT. THE
4 REPORT WAS WRITTEN BY OFFICER SHEPHERD, AND I ASKED HIM IF HE
5 HAD TOLD THE OFFICERS THAT. AND HE SAID HE DIDN'T RECALL
6 WHETHER HE HAD TOLD THEM OR NOT. I ASKED HIM IF HE WAS
7 INTERVIEWED AT THE PRELIMINARY HEARING. HE SAID HE WAS NOT.
8 HE WAS THERE, BUT HE DIDN'T TESTIFY. AND THEY TOLD HIM THEY
9 DIDN'T NEED HIM, AND --

10 MR. GOLUB: I JUST REMEMBERED I WANTED TO ASK
11 MR. CAMARILLO IF HE TESTIFIED AT THE PRELIMINARY HEARING. I
12 JUST -- UNLESS YOU WANT TO STIPULATE THAT HE DIDN'T.

13 MS. WIDMARK: HE DID.

14 MR. GOLUB: YOU WANT TO STIPULATE THAT HE --

15 MS. WIDMARK: I WOULD SAY IT'S IRRELEVANT. SO IF -- IF
16 THE COURT CAN FIND SOME RELEVANCE, I'LL STIPULATE TO IT.

17 MR. GOLUB: WELL, WE HAVE BEEN TALKING ABOUT HIS PRIOR
18 TESTIMONY.

19 MS. WIDMARK: WHOSE?

20 MR. GOLUB: MR. CAMARILLO'S. I MEAN HIS PRIOR
21 STATEMENT. I'M SORRY.

22 MS. WIDMARK: YEAH, BUT -- ANYWAY -- OKAY.

23 THE COURT: I -- I THINK IT'S RELEVANT. WHY DON'T
24 YOU --

25 MR. GOLUB: WE'LL STIPULATE. THAT'S ALL.

26 MS. WIDMARK: IF THE COURT FINDS IT'S IRRELEVANT, I'LL
27 STIPULATE.

28 OKAY. THAT'S FINE.

1 MR. GOLUB: I'M SORRY. WE'RE GETTING BACK TO THE --

2 MS. WIDMARK: THAT'S -- SO THAT'S WHY I TOOK COUNSEL TO
3 THE SIDE BEFORE MY OPENING STATEMENT 'CAUSE I DIDN'T WANT TO
4 SAY IT IN OPENING STATEMENT UNTIL HE KNEW IT, UNTIL I HAD
5 GIVEN HIM DISCOVERY ON IT. AND HE ASKED ME NOT TO SAY IT
6 DURING OPENING STATEMENT, AND I DIDN'T HAVE ANY PROBLEMS WITH
7 THAT.

8 MR. GOLUB: WELL, I JUST WANTED TO RAISE IT TO THE COURT
9 BEFORE -- AND, OBVIOUSLY, IT'S NO FAULT OF MS. WIDMARK'S; BUT
10 THE PROBLEM WE HAVE NOW IS BEING GIVEN DISCOVERY, YOU KNOW,
11 BASICALLY AFTER THE TRIAL STARTS. SO -- YOU KNOW, AFTER THEY
12 PICK THE JURY AND RIGHT AS WE ARE ABOUT TO DO OPENING
13 STATEMENTS ALLEGED OCCURRED ANY STATEMENT BY MY CLIENT. AND
14 IT'S A LITTLE LATE IN THE GAME TO BE -- START GIVING
15 INFORMATION SUCH AS THAT.

16 THE COURT: WELL, FIRST OFF, IN A -- FIRST, IF THIS WAS
17 A CIVILIAN WITNESS, CIVILIANS COME UP WITH SOMETHING ALL THE
18 TIME AT THE LAST MINUTE THEY FORGOT TO TELL THE POLICE. IF
19 THIS WAS A CIVILIAN WITNESS, WE WOULDN'T EVEN BE TALKING
20 ABOUT IT. THE ONLY THING --

21 MR. GOLUB: WELL, WE COULD BE TALKING ABOUT IT; BUT --
22 DEPENDING ON THE IMPORTANCE, BUT I UNDERSTAND THERE IS A
23 SLIGHT -- THERE IS A SLIGHT DIFFERENCE. I MEAN WE WOULD BE
24 TALKING ABOUT IT, BUT I THINK THE STANDARD WOULD BE
25 DIFFERENT. I AGREE WITH THE COURT ON THAT.

26 THE COURT: SO, NOW, DO YOU KNOW ANYTHING -- WHAT YOU'RE
27 COMPLAINING ABOUT IS YOU'RE SAYING BECAUSE HE IS A POLICE
28 OFFICER AND HE KNOWS SOMETHING HE IS OBLIGATED TO WRITE IT

1 DOWN OR HE CAN'T USE IT?

2 MR. GOLUB: I THINK THERE IS AN OBLIGATION ON HIS PART
3 TO GIVE FORWARD INFORMATION THAT'S IMPORTANT TO THE CASE.
4 THAT'S -- CLEARLY HE HAS THAT OBLIGATION, AND THIS IS
5 OBVIOUSLY SOME PRETTY IMPORTANT ISSUE. CAN CERTAINLY
6 UNDERSTAND WHY MS. WIDMARK WOULD WANT TO USE IT. IT'S
7 DAMAGING, AND IT'S SOMETHING THAT I FELT I SHOULD HAVE HAD AN
8 OPPORTUNITY TO EXPLORE DURING THE -- MY COURSE OF
9 REPRESENTING MR. MILTON WHICH HAS BEEN ABOUT FOUR MONTHS.

10 MS. WIDMARK: YOUR HONOR, I THINK THE CASE LAW ON
11 DISCOVERY IS PRETTY CLEAR. IT TALKS ABOUT -- I THINK IT'S --
12 EVEN THE TURNER CASE TALKS ABOUT DISCOVERY, TALKS ABOUT HOW,
13 YOU KNOW, AS WE ALL KNOW -- WE HAVE ALL BEEN DOING THIS A
14 WHILE -- TRIALS ARE FLUID. AND, CERTAINLY, AN OFFICER SHOULD
15 UNDERSTAND THE SIGNIFICANCE OF THAT STATEMENT AND MAKE SURE
16 IT'S IN A REPORT. HOWEVER, JUST BECAUSE IT ISN'T DOESN'T
17 MEAN WE DON'T GET TO USE IT.

18 THE EXTREME SANCTION I BELIEVE IT IS TERMED, THE
19 EXTREME SANCTION OF LEAVING OUT EVIDENCE, ESPECIALLY AFTER
20 PROPOSITION 8, IS EXCLUSION IS NOT THE FIRST OPTION. I MEAN
21 IT'S ALWAYS THE FIRST OPTION THE DEFENSE COMES UP WITH, BUT
22 THE COURT OF APPEALS -- AND I BELIEVE TURNER IS A SUPREME
23 COURT CASE -- A CALIFORNIA SUPREME COURT CASE -- MADE IT VERY
24 CLEAR THAT EXCLUSION ISN'T AT -- THE FIRST OPTION THAT YOU
25 TAKE.

26 COUNSEL HAD TOLD ME, "HEY, I'D LIKE TO SPEAK TO MY
27 CLIENT ABOUT THIS FIRST." AND I SAID, "ABSOLUTELY. I WON'T
28 USE IT IN OPENING STATEMENT." GIVE HIM AN OPPORTUNITY, BUT

1 EXCLUSION OF RELEVANT EVIDENCE IS NOT THE FIRST OPTION.
2 CERTAINLY, IF THE COURT WANTS TO HAVE THE PEOPLE STIPULATE
3 THAT THE FIRST TIME -- IN FACT, I WILL BRING IT OUT -- THE
4 FIRST TIME WE EVER KNEW ABOUT IT WAS YESTERDAY AFTERNOON THAT
5 IT DIDN'T END UP IN A REPORT --

6 THE COURT: HOLD IT. I AM SURE IF YOU FAIL TO BRING IT
7 OUT --

8 MS. WIDMARK: COUNSEL WILL, BUT THAT -- THAT -- THAT --
9 YOU KNOW THE WHOLE -- THE INSTRUCTION ABOUT LATE DISCOVERY.
10 ALTHOUGH I DON'T THINK THAT REALLY FALLS NECESSARILY ON THE
11 PEOPLE, THERE IS A LOT OF THINGS THAT CAN BE DONE SHORT OF
12 THAT EXCLUSION.

13 THE COURT: ANYTHING ELSE?

14 MR. GOLUB: WELL, I JUST THINK THAT WE ALSO HAVE THE
15 FACT IN THE RELIABILITY OF A STATEMENT TOLD TO US FOR THE
16 FIRST TIME FOUR MONTHS AFTER THE FACT WHICH HAS -- IS NOT
17 NECESSARILY AN ADMISSION, ANYWAY, YOU KNOW. IT'S NOT
18 COMPLETELY CLEAR AS TO WHAT I DID, WHY. SO, THEREFORE, I
19 THINK GIVEN THAT IT'S AN ORAL ADMISSION OF QUESTIONABLE
20 NATURE, I THINK ITS RELIABILITY SHOULD FACTOR INTO THE FACT
21 THAT IT SHOULD -- SHOULD NOT BE USED IN THIS CASE.

22 THE COURT: OKAY. YOUR MOTION IS DENIED. I AM GOING TO
23 LET IT IN.

24 OKAY. LET'S TAKE A BREAK NOW.

25
26 (OFF-THE-RECORD DISCUSSION CONCERNING
27 UNRELATED MATTERS.)
28

1 (RECESS.)

2
3 THE COURT: OKAY. EVERYBODY'S BACK.

4 WE GOT OTHER BUSINESS DONE. HOPE YOU HAD A GOOD
5 BREAK.

6 PEOPLE, CALL YOUR NEXT WITNESS.

7 MS. WIDMARK: THANK YOU. WE CALL OFFICER HERRERA.

8
9 JOSE MANUEL HERRERA,

10 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND TESTIFIED AS
11 FOLLOWS:

12 THE CLERK: APPROACH THE WITNESS STAND.

13 RAISE YOUR RIGHT HAND.

14 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
15 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
16 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
17 TRUTH, SO HELP YOU GOD.

18 THE WITNESS: YES, I DO.

19 THE CLERK: AND BE SEATED.

20 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

21 THE WITNESS: JOSE MANUEL HERRERA, J-O-S-E, MIDDLE NAME
22 OF M-A-N-U-E-L, LAST NAME, H-E-R-R-E-R-A.

23 THE COURT: PROCEED.

24 MS. WIDMARK: THANK YOU.
25
26
27
28

1 DIRECT EXAMINATION

2 BY MS. WIDMARK:

3 Q. OFFICER HERRERA, DO YOU REMEMBER ON SEPTEMBER 6TH,
4 1998 WHAT WAS YOUR OCCUPATION AND YOUR ASSIGNMENT?5 A. I WAS WORKING FOR THE CITY OF LOS ANGELES AS A
6 POLICE OFFICER, ASSIGNED TO SOUTHEAST.

7 Q. AND WERE YOU WORKING ALONE OR WITH A PARTNER?

8 A. I WAS WORKING WITH A PARTNER.

9 Q. AND WHAT TIME DID YOU START WORK THAT NIGHT?

10 A. ROLL CALL IS AT 10:45.

11 Q. ARE YOU STILL ON THAT SHIFT?

12 A. NO, MA'AM, I AM NOT.

13 Q. DID YOU WORK LAST NIGHT?

14 A. NO, I DID NOT.

15 Q. SO YOU STARTED AT 10:45?

16 A. YES.

17 Q. AND WHO WERE YOU WORKING WITH?

18 A. OFFICER YAMAMOTO.

19 Q. AND WHO WAS DRIVING THAT NIGHT?

20 A. OFFICER YAMAMOTO.

21 Q. AT ABOUT 1:30 IN THE MORNING WERE YOU MONITORING A
22 CALL?

23 A. YES, WE WERE.

24 Q. AND WHAT CALL WAS THAT?

25 A. IT WAS A 211 THAT HAD JUST OCCURRED ON FIGUEROA.

26 Q. AND A 211 IS WHAT?

27 A. A ROBBERY.

28 Q. AND DID THAT CALL TELL YOU WHERE TO GO?

1 A. YES.

2 Q. AND DID YOU GO TO WHERE THE CALL DIRECTED YOU?

3 A. YES, WE DID.

4 Q. WAS IT ACTUALLY YOUR CALL?

5 A. NO. IT WAS -- WE WERE WORKING 18A21 --

6 Q. I'M SORRY. YOU'RE GOING TO HAVE TO SLOW DOWN A
7 LITTLE BIT.

8 A. THE RADIO CALL WAS ASSIGNED TO 18A1, AND MY PARTNER
9 AND I WERE WORKING 18A21.

10 Q. IS THAT THE UNIT NUMBER?

11 A. YES.

12 Q. THE UNIT BEING THE CAR?

13 A. YES.

14 Q. AND SO DOES THE DISPATCHER THEN ASSIGN CERTAIN
15 CALLS TO CERTAIN UNITS?

16 A. THE DIVISION IS BROKEN UP INTO R. D.'S AND --

17 Q. WHAT'S AN --

18 A. REPORTING DISTRICT, AND AN "A" CAR -- BASICALLY,
19 "A" CAR IS ASSIGNED TO A COUPLE OF R. D.'S. SO A1 WAS
20 ASSIGNED -- IS IN THAT AREA.

21 Q. AND SO THAT'S WHY THEY WERE ASSIGNED?

22 A. YES.

23 Q. AND SO IS THAT WHERE YOU SAY YOU WERE MONITORING A
24 CALL?

25 A. YES.

26 Q. AND WHY DID YOU RESPOND?

27 A. IT WAS A HIGH PRIORITY CRIME -- FELONY CRIME, AND
28 AT THAT TIME WE WERE JUST ASSIGNED A LOUD PARTY CALL. SO WE

1 WERE IN THE AREA, AND WE RESPONDED.

2 Q. BECAUSE A ROBBERY JUST OCCURRED HAS A HIGHER
3 PRIORITY THAN A LOUD PARTY?

4 A. YES.

5 Q. SO ONCE YOU MONITORED THAT CALL, HEARD THE LOCATION
6 YOU WERE TO GO TO, DID YOU GO TO THAT LOCATION?

7 A. YES, WE DID.

8 Q. AND WHAT WAS THAT LOCATION?

9 A. BY -- I BELIEVE IT WAS A -- 9130 FIGUEROA.

10 Q. AND WHEN YOU GOT TO 9130 FIGUEROA, DID YOU MEET
11 ANYBODY THERE?

12 A. YES. WE WERE MET BY WITNESS AND A VICTIM OF THE
13 CRIME.

14 Q. AND YOU WERE HERE YESTERDAY?

15 A. YES.

16 Q. OKAY.

17 DID YOU SEE BOTH OF THEM HERE YESTERDAY?

18 A. YES, I DID.

19 Q. AND DID YOU SEE ONE OF THEM HERE TODAY?

20 A. YES, I DID.

21 Q. AND THE ONE THAT WAS HERE TODAY WAS?

22 A. WAS THE WITNESS.

23 Q. AND WHEN YOU GOT TO THE LOCATION, WHERE WERE THE
24 WITNESS AND THE VICTIM?

25 A. THEY WERE IN FRONT OF THE APARTMENTS AT 9130
26 FIGUEROA.

27 MS. WIDMARK: YOUR HONOR, MAY I APPROACH.

28 THE COURT: YES.

1 BY MS. WIDMARK:

2 Q. LOOKING AT THE SET OF PHOTOGRAPHS MARKED PEOPLE'S
3 NO. 3. LET ME PULL THIS UP.

4 IS THAT THE APARTMENT THAT'S DEPICTED IN
5 PICTURE C?

6 A. YES, PICTURE C.

7 Q. SO WERE THEY OUT IN FRONT OF THE APARTMENTS THERE?

8 A. YES, THEY WERE. THEY WERE OUTSIDE OF THE GATES.

9 Q. I AM SORRY?

10 A. THEY WERE OUTSIDE OF THE GATES.

11 Q. AND ONCE YOU PULLED UP WHAT WAS YOUR PURPOSE?

12 A. WE ASKED THEM A QUICK -- TO GIVE US A QUICK
13 DESCRIPTION OF THE SUSPECT AND HIS LAST KNOWN DIRECTION.

14 Q. AND WHO DID YOU SPEAK TO?

15 A. THE WITNESS.

16 Q. OKAY.

17 DID YOU GET ANY INFORMATION AT THAT POINT DIRECTLY
18 FROM THE VICTIM?

19 A. NO.

20 Q. AND DID YOU SPEAK TO THE WITNESS -- YOUR HONOR, FOR
21 THE RECORD MR. CAMARILLO.

22 THE COURT: YES.

23 BY MS. WIDMARK:

24 Q. DID YOU SPEAK TO MR. CAMARILLO IN ENGLISH OR IN
25 SPANISH?

26 A. IN ENGLISH.

27 Q. AND DID HE GIVE YOU THE DESCRIPTION?

28 A. YES, HE DID.

1 Q. AND WHAT DID YOU DO ONCE YOU GOT THE DESCRIPTION
2 FROM MR. CAMARILLO?

3 A. WE HEADED IN THE DIRECTION OF HIS LAST KNOWN
4 TRAVEL.

5 Q. YOU MEAN THE SUSPECT'S?

6 A. YES.

7 Q. AND WHERE WAS THAT?

8 A. SOUTHBOUND FIGUEROA FROM 92ND.

9 MS. WIDMARK: MAY HE STEP DOWN, YOUR HONOR.

10 THE COURT: YES.

11 BY MS. WIDMARK:

12 Q. OFFICER, WOULD YOU STEP DOWN AND LOOK AT WHAT'S
13 BEEN MARKED -- OH, I DON'T KNOW THE NUMBER ANYMORE. I
14 BELIEVE THE DIAGRAM'S NO. 5.

15 MELANIE, IF YOU CAN HELP ME OUT.

16 I'LL JUST REFER TO IT AS THE DIAGRAM. I THINK
17 IT'LL BE FINE FOR THE RECORD AT THIS POINT, YOUR HONOR. IT'S
18 BEEN IDENTIFIED BEFORE.

19 SO LOOKING AT THE DIAGRAM, DO YOU SEE THE AREA
20 WHERE YOU WENT TO ONCE YOU HAD MONITORED THE CALL?

21 A. YES.

22 THE COURT: IT'S FOUR.

23 BY MS. WIDMARK:

24 Q. AND -- THANK YOU.

25 AND WHERE WAS THAT?

26 A. RIGHT HERE BETWEEN 91 AND 92 AND FIGUEROA, 9130.

27 Q. OKAY.

28 AND THEN WHEN YOU PULLED UP THERE, WERE YOU FACING

1 NORTHBOUND OR SOUTHBOUND?

2 A. WE WERE FACING NORTHBOUND.

3 Q. AND THEN WHAT DID YOU AND YOUR PARTNER, OFFICER
4 YAMAMOTO DO?

5 A. AT THAT POINT WE JUST OBTAINED A QUICK DESCRIPTION
6 OF THE SUSPECT AND HIS LAST DIRECTION OF TRAVEL. ONCE WE
7 OBTAINED THAT, WE HEADED IN THE SUSPECT'S LAST DIRECTION.

8 Q. WHICH WAS?

9 A. SOUTHBOUND.

10 Q. SO YOU AND YOUR PARTNER DID WHAT? MAKE A U-TURN?

11 A. WE CONDUCTED A U-TURN AND WENT SOUTHBOUND FIGUEROA.

12 Q. SO YOU'RE GOING SOUTHBOUND FIGUEROA.

13 AND HOW FAST ARE YOU TRAVELING AT THAT POINT?

14 A. I'D SAY ABOUT MAYBE 20 OR 25 MILES AN HOUR SO WE
15 COULD HAVE A GOOD VISUAL OF THE PED ACTIVITY ON BOTH SIDES OF
16 THE STREET.

17 Q. I'M SORRY. WHAT ACTIVITY?

18 A. PEDESTRIAN ACTIVITY.

19 Q. SO YOU'RE TRAVELING SOUTHBOUND ON FIGUEROA AT
20 ABOUT, DID YOU SAY, 25 MILES AN HOUR?

21 A. TWENTY TO 25 MILES AN HOUR.

22 Q. AND YOU'RE TRAVELING DOWN THERE, AND DID YOU SEE
23 ANYBODY THAT CAUGHT YOUR ATTENTION?

24 A. YES. WHEN WE APPROACHED 95TH STREET, I DIRECTED MY
25 PARTNER TO HIS LEFT 'CAUSE I SAW A SUSPECT MATCHING THE
26 DESCRIPTION WALKING WESTBOUND 95 STREET.

27 Q. OKAY.

28 SO CAN YOU GO AHEAD AND PERHAPS WITH THIS BLUE PEN

1 AND PUT A -- OH, I DON'T KNOW -- MAYBE A LITTLE RECTANGLE IN
2 WHERE YOU AND YOUR PARTNER WERE WHEN YOU FIRST NOTICED THE
3 PERSON WALKING WESTBOUND ON 95 WHEN YOU FIRST -- WHERE YOU
4 GUYS FIRST WERE?

5 A. (COMPLIES).

6 Q. OKAY.

7 WAIT A MINUTE.

8 YOU'RE -- ARE YOU SAYING THAT YOU WERE DRIVING
9 NORTHBOUND?

10 A. NO. SORRY.

11 (MARKING).

12 Q. SO YOU WERE ON THE WEST SIDE OF THE STREET
13 TRAVELING SOUTHBOUND, AND YOU'RE LOOKING ACROSS YOUR PARTNER
14 AND SEEING SOMEBODY WALKING WESTBOUND ON 95 TOWARDS FIGUEROA.

15 CORRECT?

16 A. YES.

17 Q. AND WITH THIS RED CAN YOU PUT A CIRCLE WHERE YOU
18 SAW THE PERSON WALKING WESTBOUND ON 95?

19 A. (COMPLIES).

20 Q. OH, IT'S NOT WORKING TOO WELL.

21 WERE YOU ON THE SIDEWALK OR THE STREET?

22 A. SIDEWALK.

23 Q. AND WHAT DID -- WHAT DID YOU AND YOUR PARTNER DO IN
24 RESPONSE TO YOUR OBSERVATION OF THE PERSON THAT MET THE
25 DESCRIPTION?

26 A. MY PARTNER CONDUCTED A U-TURN --

27 Q. OKAY.

28 GO AHEAD.

1 A. -- AT THE CORNER.

2 Q. AND WITH THE BLUE PEN YOU'RE SHOWING -- OKAY.

3 AND SO SORT OF A HALF U-TURN TO BE FACING DIRECTLY
4 INTO THE CORNER OF 95TH AND FIGUEROA AT THE NORTHEAST SIDE.

5 CORRECT?

6 A. YES.

7 Q. OKAY.

8 AND SO WERE YOUR HEADLIGHTS THEN ON THE SUSPECT?

9 A. YES. I TURNED ON MY SPOTLIGHT AND DIRECTED IT
10 TOWARDS THE SUSPECT.

11 Q. OKAY.

12 AND WERE THE HEADLIGHTS ALSO ON HIM OR WAS HE NOT
13 EVEN WITH THE CAR?

14 A. HE WAS IN -- YEAH. I'D SAY HE WAS ABOUT MAYBE TEN
15 FEET FROM THE CAR.

16 Q. OKAY.

17 YOU CAN RESUME YOUR SEAT.

18 SO, OFFICER HERRERA, YOU SEE THIS PERSON MEETING
19 THE DESCRIPTION THAT HAD BEEN GIVEN TO YOU AT 9130; YOU HAVE
20 YOUR PARTNER MAKE THIS SORT OF HALF U-TURN; THE PERSON'S NOW
21 IN YOUR LIGHTS. YOU CAN FULLY SEE THIS PERSON AT THIS POINT?

22 A. YES.

23 Q. AND THE PERSON THAT YOU SAW IN YOUR HEADLIGHTS
24 THERE ON 95 WALKING WESTBOUND TOWARDS FIGUEROA, DO YOU SEE
25 THAT PERSON HERE IN COURT TODAY?

26 A. YES, I DO.

27 Q. AND WHERE IS THE PERSON SEATED, AND WHAT ARE THEY
28 WEARING TODAY?

1 A. HE IS SITTING AT THE DEFENDANT'S TABLE WEARING A
2 WHITE COLLARED SHIRT.

3 THE COURT: FOR THE RECORD THE WITNESS HAS INDICATED THE
4 DEFENDANT.

5 MS. WIDMARK: THANK YOU.

6 Q. ONCE YOU HAVE DONE THIS, YOU AND YOUR PARTNER ARE
7 FACING MR. MILTON, YOU'VE GOT THE LIGHTS ON HIM, WHAT, IF
8 ANYTHING, OCCURS AT THAT POINT?

9 A. THE SUSPECT PUTS UP HIS HANDS AND SAYS, "YEAH, I
10 DID IT" AND KIND OF LAUGHS.

11 Q. OKAY.

12 WHERE WERE YOU WHEN THAT STATEMENT WAS MADE,
13 OFFICER HERRERA?

14 A. I WAS EXITING MY CAR, EXITING THE RIGHT SIDE OF THE
15 PASSENGER'S DOOR, THE POLICE VEHICLE.

16 Q. OKAY.

17 SO YOU'RE GETTING OUT OF THE RIGHT-HAND DOOR.
18 OFFICER YAMAMOTO'S GETTING OUT OF THE LEFT-HAND DRIVER'S
19 SIDE.

20 CORRECT?

21 A. YES.

22 Q. OKAY.

23 AND ARE YOU NOW IN EYE CONTACT WITH MR. MILTON?

24 A. YES.

25 Q. AND IS IT AT THAT POINT THAT HE PUT UP HIS HANDS
26 AND SAID, "YEAH, I DID IT" AND LAUGHED?

27 A. YES.

28 Q. HAD YOU TOLD HIM WHY YOU WERE INTERESTED IN HIM?

1 A. NO.

2 Q. HE JUST -- THAT WAS THE FIRST THING OUT OF
3 ANYBODY'S MOUTH?

4 A. WELL, I TOLD HIM TO PUT HIS HANDS UP AS I WAS
5 EXITING THE CAR.

6 Q. OKAY.

7 SO LET ME BACK UP, THEN.

8 YOU'RE GETTING OUT OF THE RIGHT SIDE OF THE CAR.
9 WHAT'S THE NEXT THING THAT HAPPENS?

10 A. THEN HE PUTS UP HIS HANDS RIGHT AWAY AND SAID,
11 "YEAH, I DID IT" --

12 Q. OKAY.

13 A. -- YES.

14 Q. THINK OF IT ALMOST LIKE A MOVIE. OKAY.

15 SO THE FIRST THING IS YOU'RE GETTING OUT OF THE
16 CAR.

17 DO YOU SPEAK FIRST OR DOES HE SPEAK FIRST?

18 A. I SPEAK FIRST.

19 Q. OKAY.

20 THAT'S -- THAT'S -- GO AHEAD AND TELL US IN THE
21 ORDER THAT IT ACTUALLY OCCURRED.

22 SO YOU PULL UP. YOU GO TO GET OUT OF YOUR CAR.
23 WHAT'S HAPPENING? TELL US.

24 A. OKAY. AS I AM GETTING OUT OF MY CAR ORDERING
25 SUSPECT TO PUT HIS HANDS UP, AT THAT POINT HE RAISES UP BOTH
26 OF HIS ARMS AND SAYS, "YEAH, I DID IT" AND LAUGHS.

27 Q. AND WHAT IS THE NEXT THING THAT OCCURS ONCE HE
28 SAYS, "YEAH, I DID IT" AND LAUGHED?

1 A. I BELIEVE MY PARTNER PUT US AT CODE SIX AT 95TH AND
2 FIGUEROA ON POSSIBLE ROBBERY SUSPECT.

3 Q. AND WHAT'S A CODE SIX?

4 A. A CODE SIX MEANS WE'RE AT A LOCATION.

5 Q. SO YOU'RE STOPPED?

6 A. YES.

7 Q. AND SO YOU'RE -- THERE IS -- IS -- WHERE IS
8 MR. MILTON AT THIS POINT?

9 A. HE IS DIRECTLY IN FRONT OF OUR BLACK AND WHITE
10 ABOUT TEN FEET AWAY WITH HIS HANDS UP.

11 Q. ARE YOU STANDING NEAR HIM?

12 A. NO. I AM STILL AT MY DOOR. ONCE MY PARTNER PUT US
13 AT THE LOCATION, THEN WE STARTED MOVING FORWARD TOWARDS THE
14 SUSPECT.

15 Q. AND WHAT OCCURRED?

16 A. WE PUT HANDCUFFS ON HIM AND ADVISED 18A1, OFFICER
17 O'NEAL AND SHEPHERD THAT WE HAD A SUSPECT.

18 Q. SO YOU ADVISED O'NEAL AND SHEPHERD.

19 NOW, OFFICERS O'NEAL AND SHEPHERD, WERE THEY THE
20 OFFICERS THAT WERE ASSIGNED TO THIS CALL?

21 A. YES.

22 Q. AND SO AFTER MR. MILTON IS HANDCUFFED, WHAT HAPPENS
23 AFTER THAT?

24 A. I CONDUCTED A QUICK SEARCH ON HIM, MAKE SURE HE
25 DIDN'T HAVE ANY WEAPONS 'CAUSE THE COMMENTS OF THE CALL
26 STATED THAT IT WAS A POSSIBLE HANDGUN INVOLVED.

27 Q. AND DID YOU FIND ANYTHING?

28 A. NO, WE DID NOT.

1 Q. DID YOU SEARCH HIM THAT NIGHT MORE THOROUGHLY?

2 A. AFTER THE FIELD SHOW-UP, YES, WE DID.

3 Q. AND WAS THERE ANYTHING FOUND ON HIM?

4 A. NO.

5 Q. NOTHING.

6 SO NOW HE'S HANDCUFFED, YOU HAVE PATTED HIM DOWN
7 FOR WEAPONS, FOUND NOTHING. WHAT HAPPENS NOW?

8 A. OFFICER O'NEAL AND SHEPHERD BROUGHT THE VICTIM TO
9 CONDUCT A FIELD SHOW-UP.

10 Q. AND WHEN YOU'RE SAYING, "THE VICTIM," YOU'RE
11 TALKING ABOUT JUAN AVILA?

12 A. YES.

13 Q. SO THEY BRING JUAN AVILA TO THE LOCATION YOU WERE
14 AT, THERE AT 95TH AND FIGUEROA.

15 IS THAT CORRECT?

16 A. YES.

17 Q. AND WHERE IS MR. MILTON WHEN O'NEAL AND SHEPHERD
18 ARE COMING UP WITH THE VICTIM?

19 A. HE IS STILL STANDING AT THE CORNER. HE WAS NOT
20 MOVED FROM THERE.

21 Q. OKAY.

22 WITH THE LIGHTS ON HIM?

23 A. WITH THE LIGHTS ON HIM.

24 Q. OKAY.

25 AND WITH THE HANDCUFFS ON HIM?

26 A. YES.

27 Q. AND ARE YOU STANDING NEXT TO HIM OR IS SOMEBODY
28 STANDING NEXT TO HIM?

1 A. YES. I WAS STANDING NEXT TO HIM HOLDING ONTO HIS
2 ARM.

3 Q. AND AS -- AS THEY COME UP, WHAT HAPPENS? WHAT'S
4 THE NEXT THING THAT'S OCCURRING?

5 A. IT WAS A BRIEF MOMENT OF SILENCE. THEN HE ADVISED
6 US VIA OUR RADIO SIMPLEX THAT WE HAD A POSSIBLE POSITIVE
7 MATCH ON THE SUSPECT.

8 Q. AND -- AND THAT INDICATED TO YOU THAT THERE IS
9 IDENTIFICATION?

10 A. YES.

11 Q. AND TO GO AHEAD AND ARREST MR. MILTON?

12 A. YES.

13 Q. AFTER YOU GET THAT ADVISEMENT FROM O'NEAL AND
14 SHEPHERD THAT THERE IS AN IDENTIFICATION AND THAT IT'S
15 MR. MILTON, WHAT'S THE NEXT THING THAT OCCURRED?

16 A. THAT'S WHEN WE CONDUCTED A THOROUGH SEARCH ON
17 HIM -- ON THE SUSPECT.

18 Q. YOU AND YOUR PARTNER?

19 A. YES.

20 Q. GOING INTO POCKETS, EVERYTHING?

21 A. YES.

22 Q. AND LOOKING AT THE ENLARGED PHOTO THERE, THE
23 EIGHT-BY-TEN, APPEARS TO BE A BOOKING PHOTO, WAS THAT THE WAY
24 MR. MILTON LOOKED THAT NIGHT?

25 A. YES.

26 Q. AND LOOKING AT THE SMALLER PHOTO -- YOU MAY WANT TO
27 GET DOWN FROM THE SEAT.

28 IF HE MAY, YOUR HONOR.

1 A. YES.

2 Q. HE WAS WEARING THAT DARK CLOTHING?

3 A. YES, HE WAS.

4 Q. AND AFTER THE THOROUGH SEARCH, YOU AND YOUR PARTNER
5 FOUND NOTHING ON HIM AT ALL?

6 A. NO.

7 Q. DID YOU AND YOUR PARTNER EVER HEAD UP 95TH STREET
8 AND LOOK FOR ANY OF THE PROPERTY?

9 A. AFTER WE CONDUCTED THE SEARCH, WE PUT HIM IN THE
10 BACK SEAT OF OUR CAR, AND WE SEARCHED JUST THE IMMEDIATE AREA
11 SURROUNDING HIM; BUT WE DID NOT GO FARTHER EAST ON 95TH.

12 Q. DID YOU FIND ANYTHING?

13 A. NO.

14 Q. AND HE WAS ACTUALLY WALKING WESTBOUND WHEN YOU SAW
15 HIM.

16 CORRECT?

17 A. YES.

18 Q. AFTER -- AFTER YOU DID THE THOROUGH SEARCH, WHAT
19 OCCURRED?

20 A. WE PUT HIM IN THE BACK SEAT OF THE BLACK AND WHITE,
21 WE CONDUCTED THE SEARCH AROUND HIM AND OFFICER O'NEAL AND
22 SHEPHERD PULLED UP CLOSER. AND THAT'S WHEN I INTERPRETED THE
23 VICTIM'S STATEMENTS FOR THE OFFICERS.

24 Q. SO WHERE IS THE VICTIM THEN?

25 A. HE IS ON FIGUEROA FACING SOUTHBOUND AT 95TH.

26 Q. OKAY.

27 WAS HE INSIDE OR OUTSIDE OF THE CAR?

28 A. HE WAS INSIDE IN THE BACK SEAT OF OFFICER O'NEAL

1 AND SHEPHERD'S BLACK-AND-WHITE.

2 Q. AND SO YOU TWO PULL UP NEXT TO EACH OTHER AND JUAN
3 AVILA IS SPEAKING AND YOU ARE INTERPRETING.

4 CORRECT?

5 A. YES.

6 Q. AND THEN OFFICER SHEPHERD IS WHAT? TAKING NOTES?

7 A. YES.

8 Q. SO IT'S GOING FROM MR. AVILA TO YOU TO OFFICER
9 SHEPHERD.

10 CORRECT?

11 A. YES.

12 Q. AND ONCE YOU DO THIS, HOW LONG A PERIOD OF TIME DID
13 THIS TAKE OFFICER HERRERA? DO YOU REMEMBER?

14 A. I'D SAY ABOUT TEN MINUTES.

15 Q. AND AT THIS POINT IS MR. MILTON IN THE BACK OF YOUR
16 PATROL CAR?

17 A. YES.

18 Q. SO THIS IS GOING ON, TAKES ABOUT TEN MINUTES AND
19 THEN WHAT OCCURRED?

20 A. ME AND OFFICER YAMAMOTO TRANSPORTED THE DEFENDANT
21 BACK TO THE STATION SO OFFICER SHEPHERD AND O'NEAL COULD
22 FURTHER INVESTIGATE WITH THE WITNESS AND GET HIS STATEMENTS.

23 Q. SO EVEN THOUGH IT WAS KIND OF THEIR CALL AND THEIR
24 ARREST, YOU TRANSPORTED THE DEFENDANT TO THE STATION FOR
25 FURTHER BOOKING?

26 A. YES.

27 MS. WIDMARK: NOTHING FURTHER AT THIS TIME.

28 THE COURT: MR. GOLUB.

1 MR. GOLUB: THANK YOU.

2

3

CROSS-EXAMINATION

4

BY MR. GOLUB:

5

Q. OFFICER HERRERA, ISN'T IT TRUE YOU TOLD OFFICER
6 SHEPHERD AND O'NEAL THAT YOU SAW THE DEFENDANT WALKING
7 SOUTHBOUND ON FIGUEROA?

8

A. NO, WE DID NOT.

9

MR. GOLUB: OBJECTION, MOTION TO STRIKE "WE," YOUR
10 HONOR.

11

THE WITNESS: NO, I DID NOT.

12

THE COURT: YES. STRICKEN.

13

BY MR. GOLUB:

14

Q. AND, NOW, YOU WROTE UP A REPORT INDICATING THAT
15 MR. MILTON MADE THAT STATEMENT TO YOU THAT "I DID IT"?

16

A. NO. I DID NOT WRITE A REPORT.

17

Q. SO YOU'RE TELLING US THAT MR. MILTON SUPPOSEDLY
18 MADE SOME KIND OF CONFESSION AS TO SOMETHING TO YOU BUT YOU
19 DIDN'T BOTHER TO WRITE UP A REPORT LETTING US KNOW ABOUT IT?

20

A. I GAVE ALL OF MY INFORMATION TO OFFICER O'NEAL AND
21 SHEPHERD 'CAUSE THEY WERE GOING TO CONDUCT THE INVESTIGATION
22 OF THE CRIME.

23

Q. SO YOU TOLD THEM THAT HE SAID THIS?

24

A. YES. WE GAVE ALL OUR INFORMATION TO HIM.

25

Q. I AM NOT TALKING ABOUT ALL YOUR INFORMATION. I AM
26 ASKING ABOUT THAT STATEMENT WHICH IS SUPPOSEDLY SOME KIND OF
27 ADMISSION OF SOME SORT.

28

A. YES, I DID.

1 Q. YOU TOLD THAT TO OFFICER -- WHO DID YOU TELL IT TO?

2 A. OFFICER O'NEAL AND SHEPHERD.

3 Q. BOTH OF THEM?

4 A. YES.

5 Q. THEY WERE BOTH PRESENT?

6 A. YES, THEY WERE BOTH PRESENT.

7 Q. OFFICER SHEPHERD WAS DEFINITELY PRESENT WHEN YOU
8 SAID THIS.

9 A. YES.

10 Q. DID YOU REVIEW HIS REPORTS WHEN THEY WERE FINISHED?

11 A. NO, I DID NOT.

12 Q. NOW, YOU CAME TO COURT AT THE TIME OF THE
13 PRELIMINARY HEARING.

14 IS THAT CORRECT?

15 A. YES, I DID.

16 Q. DID YOU TESTIFY AT THE PRELIMINARY HEARING?

17 A. NO, I DID NOT.

18 Q. DID YOU REVIEW THE REPORTS AT THAT POINT IN TIME?

19 A. YES, I DID.

20 Q. OKAY.

21 DID YOU SEE ANYWHERE IN THOSE REPORTS THE STATEMENT
22 THAT MR. MILTON SUPPOSEDLY MADE?

23 A. NO, I DID NOT.

24 Q. DID YOU TELL ANYBODY ABOUT THAT?

25 A. NO, I DID NOT.

26 Q. DON'T YOU THINK IT'S IMPORTANT IF SOMEBODY
27 SUPPOSEDLY MAKES SOME KIND OF CONFESSION THAT TO MAKE SURE
28 THAT THERE IS A REPORT ABOUT IT?

1 A. YES.

2 Q. AND YOU DIDN'T DO THAT AT THE TIME OF THE ARREST,
3 DID YOU?

4 A. NO, I DID NOT.

5 Q. AND YOU DIDN'T DO IT EVEN AT THE TIME OF THE
6 PRELIMINARY HEARING WHEN YOU HAD A CHANCE TO REVIEW THE
7 REPORTS, DID YOU?

8 A. NO, I DID NOT.

9 Q. AND DID YOU TELL ANYBODY ELSE ABOUT THIS BEFORE
10 YESTERDAY?

11 A. NO, I DID NOT.

12 Q. AND YESTERDAY WHEN YOU WERE IN COURT YOU TOLD
13 MS. WIDMARK ABOUT THIS?

14 A. YES, I DID.

15 Q. IT'S YOUR TESTIMONY THAT YOU TOLD OFFICER SHEPHERD
16 AND O'NEAL ABOUT THIS ON THE DAY THAT THIS HAPPENED OF
17 WHAT -- THAT MR. MILTON SAID, "I DID IT"? THAT'S YOUR
18 TESTIMONY, THAT YOU TOLD OFFICER SHEPHERD AND O'NEAL ABOUT
19 THIS?

20 A. YES, I DID.

21 Q. YOU TOLD THEM THAT MR. MILTON SAID, "I DID IT"?

22 A. YES, I DID.

23 Q. AND YOU TOLD THEM YOU SAW MR. MILTON WALKING
24 WESTBOUND ON 95TH STREET?

25 A. YES, I DID.

26 Q. DO YOU HAVE ANY IDEA WHY THEY WOULD WRITE IN THEIR
27 REPORT THAT YOU SAW MR. MILTON WALKING SOUTHBOUND ON
28 FIGUEROA?

1 A. NO, I DON'T KNOW WHY.

2 Q. YOU HAVE ANY REASON WHY THEY WOULD NOT PUT IN --
3 MR. MILTON'S SUPPOSED ADMISSION INTO THEIR POLICE REPORT?

4 A. NO, I DON'T.

5 Q. NOW, WHEN DID YOU -- WHEN DID YOU FIRST SPEAK TO
6 MR. AVILA?

7 A. MR. AVILA IS THE VICTIM LAST NAME?

8 Q. YES, THE PERSON WHO SUPPOSEDLY WAS ROBBED.

9 A. OKAY. I SPOKE TO HIM NOT UNTIL AFTER WE CONDUCTED
10 THE FIELD SHOW-UP, WHEN I WAS TRANSLATING FOR OFFICER O'NEAL
11 AND SHEPHERD.

12 Q. AND THAT'S AT THE FIRST TIME THAT YOU LEARNED THE
13 PROPERTY THAT WAS TAKEN OR DID YOU KNOW WHICH PROPERTY WAS
14 TAKEN BEFORE THAT?

15 A. WE KNEW BEFORE THAT.

16 Q. HOW DID YOU KNOW THAT?

17 A. THE WITNESS TOLD US.

18 Q. BACK WHEN YOU FIRST ARRIVED AT 9130, EVEN BEFORE
19 YOU SAW MR. MILTON?

20 A. YES.

21 Q. SO AFTER MR. MILTON SAID, "I DID IT" AND LAUGHED,
22 DID YOU GO AND ASK HIM WHERE THE PROPERTY IS?

23 A. NO, I DID NOT.

24 Q. THERE HE IS SUPPOSEDLY ADMITTING TO YOU HE DID
25 SOMETHING OR CONFESSING.

26 DID YOU -- WELL, ALL HE SAID IS "I DID IT" AND
27 LAUGHED?

28 A. YES.

1 Q. DID YOU TRY AND FOLLOW UP WITH HIM TO TRY AND FIND
2 OUT WHAT HE DID?

3 A. NO, I DID NOT.

4 Q. YOU DIDN'T BOTHER TO TRY AND QUESTION HIM AT ALL?

5 A. NO.

6 Q. YOU JUST GOING TO LET THAT STAY LIKE IT WAS LYING
7 THERE, "I DID IT" WITH A LAUGH AND JUST MOVE ON?

8 A. WELL, WE GET A LOT OF SARCASM LIKE THAT. SO, NO, I
9 DID NOT FOLLOW UP ON IT.

10 Q. YOU SAID -- SO YOU JUST TOOK IT AS SARCASM LIKE YOU
11 DIDN'T KNOW WHAT -- WHAT THAT MEANT?

12 A. YES.

13 Q. BUT YOU HAD ALREADY SPOKEN TO THE VICTIM, AND YOU
14 KNEW WHAT WAS TAKEN.

15 CORRECT?

16 A. YES.

17 MS. WIDMARK: OBJECTION, MISSTATES THE TESTIMONY THAT HE
18 HAD ALREADY SPOKEN TO THE VICTIM.

19 BY MR. GOLUB:

20 Q. WELL, YOU HAD SPOKEN --

21 THE COURT: SUSTAINED.

22 MR. GOLUB: ALL RIGHT.

23 Q. YOU HAD SPOKEN TO SOMEBODY WHO KNEW WHAT PROPERTY
24 WAS SUPPOSEDLY MISSING?

25 A. YES.

26 Q. AND YOU FELT THAT MR. MILTON MATCHED THAT
27 DESCRIPTION.

28 RIGHT?

1 A. YES.

2 Q. NOW, WHEN YOU MADE THAT U-TURN, STARTED TO GO OVER
3 TO MR. MILTON, DID HE RUN AWAY FROM YOU?

4 A. NO, HE DID NOT.

5 Q. AND AS YOU GOT OUT OF THE CAR, TOLD HIM TO PUT HIS
6 HANDS UP, HE DID THAT?

7 A. YES, HE DID.

8 Q. NOW, AFTER YOU GOT THE CALL, YOU WENT TO 9130
9 FIGUEROA. AND MR. CAMARILLO AND MR. AVILA WERE OUTSIDE
10 WAITING FOR YOU.

11 CORRECT?

12 A. YES.

13 Q. DID YOU GET OUT OF THE PATROL CAR?

14 A. NO, I DID NOT.

15 Q. DID YOUR PARTNER GET OUT OF THE PATROL CAR?

16 A. NO, HE DID NOT.

17 Q. DID THE BOTH OF THEM APPROACH THE PATROL CAR?

18 A. YES, THEY DID.

19 Q. BOTH OF THEM DID?

20 A. YES, THEY DID.

21 Q. BY "BOTH OF THEM" I MEAN MR. CAMARILLO AND
22 MR. AVILA.

23 A. YES.

24 Q. AND YOU WERE THE PASSENGER THAT NIGHT?

25 A. YES, I WAS.

26 Q. SO YOU WERE CLOSER TO THE TWO OF THEM AS THEY
27 APPROACHED YOU?

28 A. YES, I WAS.

1 Q. AND WAS YOUR WINDOW DOWN?

2 A. YES, IT WAS.

3 Q. DID YOU START TALKING TO THEM?

4 A. YES, I DID.

5 Q. AND YOU WERE TALKING TO MR. CAMARILLO IN ENGLISH?

6 A. YES.

7 Q. COULD YOU SEE MR. AVILA STANDING THERE NEXT TO

8 MR. CAMARILLO AS YOU WERE TALKING?

9 A. YES.

10 Q. AND YOU WERE -- YOU WERE GETTING INFORMATION FROM

11 MR. CAMARILLO?

12 A. YES.

13 Q. OKAY.

14 DIDN'T YOU ASK MR. CAMARILLO TO ASK MR. AVILA WHAT

15 HAPPENED?

16 A. NO, I DID NOT.

17 Q. YOU DIDN'T SEE MR. AVILA TALKING TO MR. CAMARILLO,

18 TRANSLATING FOR HIM?

19 A. NO, I DID NOT.

20 Q. AND YOU'RE FLUENT IN SPANISH?

21 A. YES, I AM.

22 Q. YOU'RE SPEAKING TO MR. CAMARILLO IN ENGLISH?

23 A. YES.

24 Q. AND MR. AVILA WAS RIGHT NEXT TO MR. CAMARILLO?

25 A. YES, HE WAS.

26 Q. AND YOU DIDN'T SEE HIM SAY A SINGLE WORD?

27 A. NO, I DID NOT.

28 Q. NOW, DIDN'T THE CALL -- DIDN'T THE CALL THAT CAME

1 OUT ALREADY TELL YOU THAT A ROBBERY JUST OCCURRED, SUSPECT
2 WEARING ALL BLACK, SIMULATING A HANDGUN?

3 A. YES, IT DID.

4 Q. OKAY.

5 SO YOU ALREADY HAD THE INFORMATION ABOUT WHAT THE
6 SUSPECT LOOKED LIKE TO A CERTAIN EXTENT?

7 A. YES.

8 Q. AND, NOW, MR. MILTON WAS IN THE BACK SEAT WHEN YOU
9 WENT TO LOOK FOR THE PANTS. I GUESS YOU WENT TO LOOK FOR A
10 BAG AND FOR MONEY OR YOU WENT TO LOOK AROUND THE IMMEDIATE
11 AREA TO SEE IF YOU SAW ANYTHING?

12 A. YES.

13 Q. AND, NOW, MR. MILTON SUPPOSEDLY HAD TOLD YOU HE
14 HAD -- HE DID IT. YOU DIDN'T ASK HIM WHERE THE STUFF WAS?

15 A. NO, I DID NOT.

16 Q. LET ME JUST GET THE DATE. THIS WAS ON -- THIS
17 OCCURRED ON SEPTEMBER 6.

18 CORRECT?

19 A. YES.

20 Q. OKAY.

21 AND THE PRELIMINARY HEARING OCCURRED ON SEPTEMBER
22 THE 29TH.

23 CORRECT?

24 A. YES.

25 Q. AND YOU WERE SITTING IN THE COURTROOM.

26 RIGHT?

27 A. NO. I WAS DISMISSED.

28 Q. OKAY.

1 WELL, NOT AT THE TIME OF THE PRELIMINARY HEARING,
2 BUT BEFORE IT OCCURRED. YOU WERE SITTING IN THE COURTROOM
3 THAT MORNING?

4 A. YES.

5 Q. HOW LONG WERE YOU IN THE COURTROOM?

6 A. I DON'T RECALL.

7 Q. IT WAS MORE THAN AN HOUR, WASN'T IT?

8 A. I WENT TO SEVERAL PRELIMINARY HEARINGS, AND SOME OF
9 THEM I GOT DISMISSED RIGHT AWAY. SOME OF THEM I DID SIT IN
10 THE COURTROOM FOR A LENGTH OF TIME.

11 Q. YOU HAD ENOUGH TIME TO READ THE POLICE REPORT.

12 CORRECT?

13 A. YES, I DID.

14 Q. OKAY.

15 AND YOU'RE SITTING THERE READING THE POLICE REPORT.
16 IT'S YOUR TESTIMONY STILL TODAY THAT YOU REVIEWED IT, SAW
17 THERE WAS NOTHING ABOUT A STATEMENT FROM MR. MILTON AND YOU
18 DIDN'T TELL ANYBODY ABOUT THAT?

19 A. NO, I DID NOT.

20 Q. AND YOU READ THAT STATEMENT IN THE -- IN THE POLICE
21 REPORT THAT YOU SAW MR. MILTON WALKING SOUTHBOUND ON
22 FIGUEROA.

23 CORRECT?

24 A. DID I READ THAT IN THE REPORT?

25 Q. YES.

26 A. YES, I DID.

27 Q. DID YOU TELL ANYBODY THAT WAS WRONG?

28 A. NO, I DID NOT.

1 MR. GOLUB: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

2 THE COURT: DO YOU HAVE ANY REDIRECT?

3 MS. WIDMARK: YES.

4

5

REDIRECT EXAMINATION

6

BY MS. WIDMARK:

7

Q. OFFICER HERRERA, DID YOU TELL ME IT WAS WRONG?

8

A. YES, I DID.

9

Q. AND WHEN DID YOU TELL ME THAT IT WAS WRONG WITH
10 REGARD TO WHERE MR. MILTON WAS WHEN YOU FIRST SAW HIM?

11

A. YESTERDAY IN OUR INTERVIEW.

12

Q. AND IS THAT THE SAME TIME THAT YOU TOLD ME -- WHEN
13 I ASKED YOU, "OKAY. WHAT HAPPENED," YOU TOLD ME HE SAID,
14 "YEAH, I DID IT"?

15

A. YES, I DID.

16

Q. ARE YOU MAKING IT UP?

17

A. NO, I AM NOT.

18

Q. IS THAT WHAT HAPPENED?

19

A. YES, IT WAS.

20

Q. AND YOU SAID YOU THOUGHT IT WAS KIND OF SARCASTIC.
21 WHAT DO YOU MEAN BY THAT?

22

A. WELL, WE CONDUCT A LOT OF PED STOPS --

23

Q. OKAY.

24

A. -- PEDESTRIAN STOPS. A LOT OF 'EM, "YEAH --" THEY
25 DO SAY SARCASTIC REMARKS AS "YEAH, I DID IT" OR "DON'T PLANT
26 A GUN ON ME" OR "I DON'T GOT ANYTHING. I DIDN'T DO
27 ANYTHING." THEY START LAUGHING.

28

Q. WHETHER THEY DID OR NOT, WHETHER --

1 A. RIGHT.

2 Q. AND SO HE SAYS, "YEAH, I DID IT" AND STARTED
3 LAUGHING?

4 A. YES, HE DID.

5 Q. DID MR. MILTON MATCH THE DESCRIPTION THAT YOU GOT
6 WHEN YOU WENT TO THE SCENE AT 9130?

7 MR. GOLUB: WELL, OBJECTION. THAT'S SPEC -- WELL,
8 THAT'S A CONCLUSION AT THIS TIME.

9 THE COURT: SUSTAINED.

10 BY MS. WIDMARK:

11 Q. YOU GOT A DESCRIPTION OF MR. MILTON, DIDN'T YOU?

12 A. YES, I DID.

13 Q. AND BASED ON THAT DESCRIPTION DID YOU STOP HIM?

14 A. YES, I DID.

15 Q. WHAT WAS YOUR PURPOSE WHEN YOU FIRST ARRIVED AT
16 9130?

17 A. TO GET A QUICK DESCRIPTION OF THE SUSPECT AND HIS
18 LAST DIRECTION OF TRAVEL.

19 Q. WHY?

20 A. SO THAT WE COULD GO OUT AND TRY GET A SUSPECT
21 'CAUSE IT HAD JUST OCCURRED A COUPLE OF MINUTES AGO.

22 Q. HELPING OUT SHEPHERD AND O'NEAL?

23 A. YES.

24 MS. WIDMARK: THANK YOU.

25 NOTHING FURTHER AT THIS TIME.

26

27

28

1 RE-CROSS-EXAMINATION

2 BY MR. GOLUB:

3 Q. SIR, YOU JUST SAID, "PEOPLE" WHEN YOU STOP -- YOU
4 STOP A LOT OF PEDESTRIANS, HUH?

5 A. YES.

6 Q. AND WHEN YOU -- YOU STOP THEM, DO A LOT OF THEM
7 TELL YOU, "PLEASE, DON'T PLANT THINGS ON ME"?

8 A. YES.

9 Q. IS THAT BECAUSE PEOPLE IN SOUTH CENTRAL LOS ANGELES
10 ARE AFRAID THAT OFFICERS ARE GOING TO MAKE THINGS UP ABOUT
11 THEM?

12 MS. WIDMARK: OBJECTION, IRRELEVANT.

13 THE COURT: SUSTAINED.

14 BY MR. GOLUB:

15 Q. SO YOU'RE TELLING THAT THE REPORT THAT THIS
16 STATEMENT THAT OFFICER SHEPHERD WROTE ON THE DAY OF THE
17 INCIDENT ARE WRONG?

18 A. YES.

19 MR. GOLUB: THANK YOU.

20 I HAVE NO FURTHER QUESTIONS.

21 THE COURT: OKAY.

22 THANK YOU, SIR. YOU MAY STEP DOWN.

23 MR. GOLUB: MAY HE REMAIN ON CALL?

24 THE COURT: YES.

25 JUST REMAIN ON CALL.

26 MR. GOLUB: MAY HE REMAIN ON CALL? I'M SORRY.

27 THE COURT: THAT'S WHAT I SAID.

28 MR. GOLUB: OH -- OH, I'M SORRY. I THOUGHT YOU SAID,

1 "IN THE HALL."

2 THE COURT: PARDON?

3 MR. GOLUB: I THOUGHT YOU SAID, "REMAIN IN THE HALL."

4 THE COURT: CALL YOUR NEXT WITNESS.

5 MS. WIDMARK: OFFICER SHEPHERD.

6
7 ALLEN SHEPHERD,

8 CALLED BY THE PEOPLE AS A WITNESS, WAS SWORN AND TESTIFIED AS
9 FOLLOWS:

10 THE COURT: PLEASE APPROACH THE WITNESS STAND.

11 THE CLERK: BEFORE BEING SEATED RAISE YOUR RIGHT HAND.

12 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
13 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
14 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
15 TRUTH, SO HELP YOU GOD.

16 THE WITNESS: I DO.

17 THE CLERK: BE SEATED.

18 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

19 THE WITNESS: ALLEN SHEPHERD. FIRST NAME IS A-L-L-E-N,
20 LAST NAME, S -- S-H-E-P-H-E-R-D.

21 THE COURT: PROCEED.

22 MS. WIDMARK: THANK YOU.

23
24 DIRECT EXAMINATION

25 BY MS. WIDMARK:

26 Q. OFFICER SHEPHERD, WHAT WAS YOUR OCCUPATION AND
27 ASSIGNMENT ON SEPTEMBER 6, 1998?

28 A. I WAS ASSIGNED AS A POLICE OFFICER TO THE CITY OF

1 LOS ANGELES.

2 Q. AND WERE YOU WORKING ON THAT DATE?

3 A. CORRECT.

4 Q. WHAT TIME DID YOU START?

5 A. WE STARTED ROLL CALL AT 2245 HOURS WHICH IS
6 10:45 P. M. ON THE DAY BEFORE, SEPTEMBER THE 5TH.

7 Q. OKAY.

8 I AM GOING TO HAVE YOU SIT BACK AND MAYBE SPEAK A
9 LITTLE SLOWER.

10 A. OKAY.

11 Q. MAKE IT EASIER.

12 OKAY.

13 SO IT WAS 10:45 IS ROLL CALL.

14 IS THAT CORRECT?

15 A. CORRECT.

16 Q. AND DO YOU RECALL WHAT UNIT YOU WERE ASSIGNED TO?

17 A. YES. IT WAS 18-ADAM-1.

18 Q. AND WHO WERE YOU WORKING WITH?

19 A. I WAS WORKING WITH A PARTNER, OFFICER O'NEAL. HIS
20 SERIAL NUMBER IS 33740.

21 Q. AND YOU AND OFFICER O'NEAL, AT ABOUT 1:30 IN THE
22 MORNING DID YOU RECEIVE A CALL?

23 A. YES, WE DID, MA'AM.

24 Q. AND WHAT WAS THE CALL?

25 A. THE RADIO CALL AND THE COMMENTS STATED A 211 JUST
26 OCCURRED, A MALE BLACK WEARING ALL BLACK SIMULATED A HANDGUN.
27 AND THEN THAT WAS THE -- THAT WAS IT FOR --

28 Q. THAT WAS THE CALL?

1 A. CORRECT.

2 Q. AND DID IT GIVE YOU A LOCATION?

3 A. YES, IT DID, MA'AM.

4 Q. AND WHAT WAS THE LOCATION?

5 A. I DON'T RECALL THE EXACT ADDRESS, BUT I REMEMBER IT
6 WAS ON 92ND STREET AND FIGUEROA.

7 Q. SO DID YOU GO TO THAT LOCATION?

8 A. YES, WE DID.

9 Q. AND WERE YOU AWARE THAT YOU WERE NOT THE FIRST
10 OFFICERS TO ARRIVE AT THAT LOCATION?

11 A. ME AND MY PARTNER WEREN'T THE FIRST OFFICERS TO
12 ARRIVE AT THAT LOCATION.

13 Q. 9130?

14 A. CORRECT.

15 Q. SO YOU GET TO 9130, AND WHAT HAPPENS?

16 A. WE ARE MET BY MR. AVILA WHICH WAS LATER IDENTIFIED
17 AS A VICTIM AND MR. I BELIEVE CAMARILLO WHICH WAS LATER
18 IDENTIFIED AS A SECURITY OFFICER AT THE APARTMENT. THERE IS
19 AN APARTMENT COMPLEX THERE FOR THE FIGUEROA, I THINK, COURT
20 APARTMENTS.

21 MS. WIDMARK: OKAY.

22 YOUR HONOR, MAY I APPROACH.

23 THE COURT: YES.

24 BY MS. WIDMARK:

25 Q. JUST SO THAT WE'RE ALL ON THE SAME PAGE, LOOKING AT
26 PEOPLE'S NO. 3 FOR IDENTIFICATION.

27 LOOKING AT PICTURE C, IS THIS THE COMPLEX WHERE YOU
28 WENT?

1 YOU MAY STEP DOWN IF IT'S --

2 A. NO. THAT'S CORRECT. I COULD SEE IT FROM HERE.

3 Q. SO YOU RECEIVED THE CALL, YOU GO TO THE LOCATION
4 AND YOU GET TO THE LOCATION AND YOU MEET WITH MR. AVILA AND
5 MR. CAMARILLO.

6 IS THAT CORRECT?

7 A. CORRECT, MA'AM.

8 Q. OKAY.

9 WHEN YOU GET THERE AND YOU MEET WITH THEM, DID
10 EITHER YOU OR OFFICER O'NEAL SPEAK SPANISH?

11 A. NO.

12 Q. AND SO WERE YOU OBTAINING INFORMATION FROM THE
13 VICTIM AT THAT POINT?

14 A. I WAS ATTEMPTING TO RECEIVE INFORMATION FOR WHAT'S
15 CALLED INITIAL CRIME BROADCAST WITH THE USE OF THE SECURITY
16 OFFICER, MR. CAMARILLO.

17 Q. AND WHILE YOU ARE THERE GETTING THE INFORMATION
18 USING MR. CAMARILLO -- I AM ASSUMING YOU ARE USING HIM AS AN
19 INTERPRETER.

20 A. CORRECT.

21 Q. DID YOU GET A CALL FROM OTHER OFFICERS?

22 A. YES, WE DID, MA'AM.

23 Q. AND WHO WERE THEY?

24 A. IT WAS OFFICER YAMAMOTO AND OFFICER HERRERA THAT
25 WERE ASSIGNED TO 18-ADAM-21 THAT NIGHT.

26 Q. AND WHAT WAS THE INFORMATION THAT YOU RECEIVED FROM
27 OFFICERS YAMAMOTO AND HERRERA?

28 A. THAT THEY HAD POS -- THEY HAVE A DETAINED A

1 POSSIBLE DETAINED SUSPECT AT THEIR LOCATION ON 95 AND
2 FIGUEROA THAT WAS WEARING ALL BLACK.

3 Q. AND WHEN WE'RE TALKING ABOUT OFFICER HERRERA, WE'RE
4 TALKING ABOUT THE OFFICER WHO JUST LEFT?

5 A. CORRECT.

6 Q. SO WHAT DID YOU DO IN RESPONSE TO THAT INFORMATION?

7 A. AT THAT POINT MY -- ME AND MY PARTNER, OFFICER
8 O'NEAL -- OFFICER O'NEAL EXPLAINED TO THE VICTIM WAS CALLED A
9 FIELD SHOW-UP ADMONISHMENT, THAT WE POSSIBLY HAVE A
10 INDIVIDUAL DETAINED ON 95 AND FIGUEROA THAT MAY BE LINKED TO
11 THE CRIME THAT JUST OCCURRED AND HE IS UNDER -- NOT UNDER
12 ARREST BUT HE IS DETAINED AT THE TIME, HE IS IN CUFFS,
13 HOWEVER, JUST BECAUSE HE IS IN CUFFS DOESN'T MEAN HE IS
14 ARRESTED, WE ARE JUST GOING TO USE -- GOING TO DO A FIELD
15 SHOW-UP TO EITHER ELIMINATE OR DETERMINE IF IT WAS THE
16 INDIVIDUAL THAT COMMITTED THE CRIME.

17 Q. OKAY.

18 SO YOU'RE TELLING THAT IT MAY OR MAY NOT BE THE
19 PERSON?

20 A. CORRECT.

21 Q. THAT YOU DON'T WANT TO DETAIN HIM ANY LONGER IF
22 IT'S NOT THE PERSON?

23 A. CORRECT. THAT'S -- MY PARTNER RELAYED THAT TO
24 THE -- THE WIT.

25 Q. THAT WAS OFFICER O'NEAL?

26 A. CORRECT.

27 Q. AND AFTER THAT ADMONISHMENT HAD BEEN GIVEN, WHAT,
28 IF ANYTHING, OCCURRED?

1 A. THEN WE TRANSPORTED OUR VICTIM, MR. AVILA TO THE 95
2 AND FIGUEROA FOR THE FIELD SHOW-UP.

3 Q. SO YOU GET TO 95TH AND FIGUEROA.

4 WHERE IS MR. AVILA?

5 A. HE IS IN OUR -- BACK SEAT OF OUR VEHICLE.

6 Q. DID YOU SEE OFFICER HERRERA, YAMAMOTO WITH ANYONE
7 IN CUSTODY?

8 A. CORRECT.

9 Q. DO YOU SEE THAT PERSON HERE IN COURT TODAY?

10 A. YES, I DO, MA'AM.

11 Q. WHERE IS THE PERSON SEATED, AND WHAT ARE THEY
12 WEARING TODAY?

13 A. HE IS SEATED TO MY RIGHT. HE IS WEARING ALL -- A
14 WHITE SHIRT. AND THAT'S IT, REALLY.

15 THE COURT: WITNESS IS INDICATING THE DEFENDANT FOR THE
16 RECORD.

17 MS. WIDMARK: THANK YOU.

18 Q. SO YOU SEE MR. MILTON.

19 WHAT HAPPENS AFTER THAT?

20 A. AS SOON AS WE GET TO THE LOCATION, MR. AVILA, HE
21 STATES IN ENGLISH, "THAT'S HIM."

22 Q. AND COULD YOU EASILY SEE -- WAS THERE ENOUGH LIGHT
23 AND SUCH THAT YOU COULD EASILY SEE MR. MILTON?

24 A. CORRECT.

25 Q. AND ONCE MR. AVILA, JUAN, SAYS, "THAT'S HIM," WHAT
26 HAPPENS?

27 A. AT THAT POINT MR. MILTON WAS PLACED INTO CUSTODY
28 FOR THE STREET 211, AND THEN THAT'S WHEN HERRERA THEN

1 TRANSLATED WITH MR. AVILA OF THE CIRCUMSTANCES OF THE CRIME.

2 Q. AND WERE YOU TAKING NOTES?

3 A. NOT A -- TIME WHEN THEY WERE INTERVIEWING.
4 AFTERWARDS, MR. HERRERA RELATED TO ME WHAT OCCURRED. THAT'S
5 WHY THEN -- I AM NOT SURE IF I TOOK NOTES DOWN, BUT HE TOLD
6 ME WHAT HAPPENED -- OCCURRED.

7 Q. OKAY.

8 SO LET ME -- LET ME TRY TO GET THIS STRAIGHT.
9 YOU'RE OUT THERE, AND YOU HAVE OFFICER HERRERA.

10 WHERE IS OFFICER HERRERA WHEN HE IS INTERPRETING?

11 A. HE IS BACK IN THE VEHICLE WITH -- WELL, HE IS
12 OUTSIDE OF THE VEHICLE; BUT THE SU -- THE VICTIM IS STILL --
13 MR. AVILA IS STILL IN THE BACK OF THE CAR.

14 Q. SO HE IS INTERPRETING THROUGH THE CAR LISTENING TO
15 MR. -- OR TO JUAN -- YOU'RE -- YOU'RE LISTENING TO WHAT
16 HERRERA IS SAYING THAT JUAN IS SAYING.

17 CORRECT?

18 A. I AM IN THE VICINITY, YES. AND I HEAR THEM TALKING
19 BACK AND FORTH.

20 Q. AND THEN AT SOME LATER POINT OFFICER HERRERA TELLS
21 YOU WHAT JUAN HAS TOLD HIM.

22 IS THAT RIGHT?

23 A. CORRECT.

24 Q. AND HOW MUCH LATER?

25 A. OH, NOT EVEN -- AS SOON AS THE INTERVIEW WAS DONE
26 THERE IN THE FIELD. SO MAYBE FIVE, TEN MINUTES AFTERWARDS.

27 Q. AND THEN HE TELLS YOU WHAT HAPPENED, AND THEN YOU
28 WRITE NOTES?

1 A. CORRECT.

2 Q. AND THEN FROM THOSE NOTES WHAT HAPPENS?

3 A. MR. MILTON WAS THEN TRANSPORTED TO SOUTHEAST
4 STATION AND THEN WE JUST PROCESSED HIM FOR BOOKING AND WE DO
5 REPORTS.

6 Q. OKAY.

7 SO -- I GUESS I NEED TO BE CLEAR. YOU'VE GOT A
8 ONE-PAGE TYPED REPORT.

9 CORRECT?

10 A. CORRECT.

11 Q. THAT'S YOUR REPORT IN THIS CASE.

12 CORRECT?

13 A. CORRECT.

14 Q. AND THIS IS THE TOTAL -- THIS IS -- THIS IS THE
15 TOTAL OF YOUR REPORT.

16 CORRECT?

17 A. CORRECT.

18 Q. SO YOU HAVE WRITTEN NOTES.

19 AND HOW DOES IT GET INTO THIS TYPEWRITTEN FORM?
20 THAT'S MY QUESTION. DO YOU KNOW?

21 A. I DON'T UNDERSTAND THE QUESTION. I REALLY DON'T.

22 Q. YOU WRITE IT -- YOU'RE THERE; YOU'RE WRITING NOTES;
23 YOU'RE TALKING TO OFFICER HERRERA.

24 CORRECT?

25 A. OKAY. CORRECT.

26 Q. WHAT HAPPENS TO THOSE HANDWRITTEN NOTES THAT MAKES
27 IT END UP BEING A TYPEWRITTEN REPORT? DO YOU SUBMIT IT AND
28 SOMEBODY TYPES IT FOR YOU? DO YOU GO --

1 A. OH, NO. I -- I WRITE IT MYSELF.

2 Q. OKAY.

3 THAT'S --

4 A. OKAY.

5 Q. SO YOU'VE GOT SOME SORT OF A COMPUTER OR SOMETHING?

6 A. CORRECT. THE STATION HAVE A COMPUTER THAT WE USE
7 TO -- TO WRITE THE REPORTS.

8 Q. OKAY. OKAY.

9 SO IS OFFICER HERRERA TALKING TO YOU WHILE YOU'RE
10 DOING THIS OR DID YOU DO IT ON TWO SEPARATE OCCASIONS?

11 A. TWO SEPARATE OCCASIONS. HE TOLD ME WHAT HAD
12 HAPPENED THEN. AFTERWARDS WE ASKED AFTER WE TRANSPORTED
13 MR. MILTON TO THE STATION. I JUST WROTE THE REPORT THERE.

14 Q. OKAY.

15 AND HE WAS TRANSPORTED BY OFFICER HERRERA AND
16 YAMAMOTO, CORRECT, BECAUSE --

17 A. YEAH, I BELIEVE SO.

18 Q. EVEN THOUGH IT WAS TECHNICALLY YOUR ARREST?

19 A. CORRECT.

20 Q. SO OFFICER -- SO OFFICER HERRERA TELLS YOU IN THE
21 FIELD WHAT HAPPENED. YOU WRITE SOME NOTES.

22 WHAT -- DO YOU HAVE A NOTE PAD?

23 A. I AM NOT SURE WHETHER I WROTE NOTES OR NOT. I MAY
24 JUST -- I MAY HAVE PLACED THEM ON A -- WHAT'S CALLED A F. I.
25 CARD, A FIELD INTERROGATION CARD. AND -- BUT I -- IT MAY BE
26 IN MY FIELD OFFICER'S NOTEBOOK, BUT I AM NOT SURE I DID OR
27 NOT. I -- WOULD BE IN TWO PLACES, EITHER ON A FIELD
28 INTERROGATION CARD OR MY FIELD OFFICER'S NOTEBOOK.

1 Q. OKAY.

2 IS THERE A POSSIBILITY, OFFICER SHEPHERD, THAT YOU
3 DIDN'T WRITE ANY NOTES?

4 A. THAT'S POSSIBLE. THAT'S POSSIBLE.

5 Q. OKAY.

6 YOU MIGHT HAVE JUST WRITTEN THIS FROM MEMORY?

7 A. CORRECT.

8 Q. TAKING WHAT OFFICER HERRERA SAID, WHAT -- WHAT YOU
9 LEARNED WHEN YOU FIRST ARRIVED AT THE SCENE, EVERYTHING AND
10 PUTTING IT IN THIS --

11 A. CORRECT.

12 MS. WIDMARK: OKAY.

13 NOTHING FURTHER.

14

15 CROSS-EXAMINATION

16 BY MR. GOLUB:

17 Q. GOOD AFTERNOON, OFFICER SHEPHERD.

18 A. GOOD AFTERNOON, SIR.

19 Q. NOW, WHEN YOU GOT TO 9130 FIGUEROA, DID YOU SEE
20 MR. AVILA AND MR. CAMARILLO IMMEDIATELY?

21 A. YES.

22 Q. WHERE WERE THEY?

23 A. THEY WERE STANDING RIGHT IN FRONT OF THE LOCATION
24 THERE AT THE APARTMENT COMPLEX.

25 Q. AND DID YOU GET OUTSIDE OF YOUR CAR TO GO SPEAK TO
26 THEM OR DID THEY COME TO YOU?

27 A. WE GOT OUTSIDE OF OUR VEHICLE.

28 Q. BOTH YOURSELF AND YOUR PARTNER?

1 A. CORRECT, SIR.

2 Q. AND DID THE TWO OF YOU START TALKING TO THEM RIGHT
3 AWAY?

4 A. I PRETTY MUCH INITIATED ALL THE CONVERSATION IN THE
5 BEGINNING, TRYING TO DETERMINE WHAT HAD HAPPENED AND TO GET A
6 INITIAL CRIME BROADCAST OUT.

7 Q. OKAY.

8 NOW, WHO WERE YOU TALKING TO?

9 A. I WAS TALKING AT FIRST TO MR. AVILA. THEN ONCE I
10 RECOGNIZED HE COULD NOT SPEAK ENGLISH, HE PREFERRED TO SPEAK
11 SPANISH AND THAT'S WHEN I BEGAN TO USE THE WITNESS,
12 MR. CAMARILLO.

13 Q. SO WAS YOUR PARTNER STANDING RIGHT NEXT TO YOU AS
14 WELL?

15 A. CORRECT. HE WAS IN THE PRESENCE.

16 Q. BUT YOU WERE DOING MOST OF THE TALKING?

17 A. CORRECT.

18 Q. AND YOU WERE USING MR. CAMARILLO OR YOU WERE
19 TALKING TO MR. CAMARILLO, BUT YOU WERE USING HIM MOSTLY AS AN
20 INTERPRETER?

21 A. CORRECT.

22 Q. YOU WERE TRYING TO GET INFORMATION FROM MR. AVILA
23 AS TO WHAT HAPPENED?

24 A. CORRECT.

25 Q. SO -- SO YOU WERE ALREADY GETTING INFORMATION ABOUT
26 HOW THE ROBBERY OCCURRED FROM THEM OR WERE YOU JUST GETTING
27 MORE BASIC INFORMATION LIKE DESCRIPTION?

28 A. MORE OR LESS WHAT HAD OCCURRED; BUT WE GOT THERE,

1 IT -- ALMOST WITHIN -- NOT EVEN -- MAYBE A MINUTE, 30
2 SECONDS. WE WERE AT 18-ADAM-21 WITH A POSSIBLE DETAINED
3 SUSPECT, YOU KNOW. SO BEFORE I WAS ABLE TO EVEN GET ANYTHING
4 GOING, YOU KNOW, THAT HAD ALREADY BEEN ESTABLISHED.

5 Q. AND -- OKAY.

6 BUT DID YOU CONTINUE TO TALK TO MR. CAMARILLO AND
7 MR. AVILA FOR A MINUTE OR TWO OR DID YOU -- ABOUT WHAT HAD
8 HAPPENED OR DID YOU IMMEDIATELY STOP?

9 A. WE PRETTY MUCH JUST STOPPED OUR INVESTIGATION AT
10 THAT TIME.

11 Q. BUT YOU HAD GOTTEN SOME INFORMATION AS TO WHAT HAD
12 HAPPENED ALREADY?

13 A. MAYBE VERY BRIEF, THAT MAYBE HE WAS ROBBED AND IT
14 WAS A MALE BLACK, AND THAT WAS POSSIBLY IT.

15 Q. AND -- OKAY.

16 NOW -- THEN WHAT WAS THE NEXT THING THAT HAPPENED
17 AFTER YOU GOT THE CALL FROM THE OTHER -- THE OTHER OFFICERS?

18 A. ME AND MY PARTNER DECIDED WE WERE GOING TO DO THE
19 IN-FIELD SHOW-UP, AND THAT'S WHEN MY PARTNER ADVISED -- WELL,
20 ADVISED MR. AVILA THROUGH THE USE OF MR. CAMARILLO OF A FIELD
21 SHOW-UP ADMISSION.

22 Q. AND -- BUT YOU LEFT MR. CAMARILLO AT THE APARTMENT
23 BUILDINGS, AND YOU TOOK MR. AVILA ONLY?

24 A. CORRECT, SIR.

25 Q. NOW, DID OFFICERS HERRERA AND YAMAMOTO TELL YOU
26 WHERE THEY FOUND MR. MILTON?

27 A. YES.

28 Q. WHERE DID THEY FIND HIM?

1 A. THEY OBSERVED HIM WALKING SOUTHBOUND ON THE EAST
2 SIDE -- SIDEWALK APPROACHING 95TH STREET.

3 Q. SO -- NOW, THE EAST SIDEWALK IS -- IF THIS IS --
4 IF, LOOKING AT PEOPLE'S 4, NORTHBOUND IS UP, IS THE RIGHT
5 SIDE OF THE DIAGRAM EAST?

6 A. CORRECT.

7 Q. OKAY.

8 AND THEY -- THEY OBSERVED HIM WALKING SOUTHBOUND ON
9 FIGUEROA.

10 CORRECT?

11 MS. WIDMARK: OBJECTION, MISSTATES THE TESTIMONY THAT
12 THEY OBSERVED HIM DOING THAT. I THINK THE TESTIMONY WAS THAT
13 THAT'S WHAT OFFICER SHEPHERD UNDERSTOOD FROM HIM.

14 THE COURT: OVERRULED. THAT'S JUST A LEADING QUESTION.
15 BY MR. GOLUB:

16 Q. SO THEY OBSERVED HIM WALKING SOUTHBOUND ON
17 FIGUEROA.

18 CORRECT?

19 A. CORRECT, APPROACHING 95TH STREET.

20 Q. THANK YOU.

21 AND THEY TOLD YOU THAT THEY HAD FELT THAT HE
22 MATCHED THE DESCRIPTION SO THAT THEY HAD DETAINED HIM?

23 A. CORRECT.

24 Q. AND THAT'S WHEN YOU COMMUNICATED TO THEM THERE WAS
25 GOING TO BE A FIELD SHOW-UP?

26 A. ONCE THEY -- THEY COMMUNICATED TO US THAT THEY HAD
27 A POSSIBLE -- YES.

28 Q. AND YOU WERE -- BOTH YOU AND OFFICER O'NEAL WERE IN

1 THE CAR WITH MR. AVILA WHEN YOU TRANSPORTED HIM?

2 A. CORRECT.

3 Q. AND AS SOON AS HE GOT THERE, MR. AVILA SAID IN
4 ENGLISH "THAT'S HIM"?

5 A. CORRECT, SIR.

6 Q. NOW, HERRERA SPOKE TO MR. AVILA IN MORE DETAIL AS
7 TO WHAT HAPPENED; BUT SINCE IT WAS YOUR REPORT, HE WAS DOING
8 IT ON YOUR BEHALF AS A TRANSLATOR?

9 A. CORRECT.

10 Q. NOW -- NOW -- AND YOU WROTE THE REPORT THE SAME
11 NIGHT.

12 IS THAT CORRECT?

13 A. CORRECT.

14 Q. AND YOU CAN'T RECALL TODAY IF YOU TOOK NOTES OR
15 IF -- IF YOU JUST DID IT FROM MEMORY ONCE YOU GOT BACK TO THE
16 STATION?

17 A. I AM NOT SURE.

18 Q. IS IT YOUR USUAL PRACTICE TO TAKE NOTES?

19 A. DEPENDING ON THE CIRCUMSTANCES OF THE CRIME AND THE
20 DETAIL, I MAY TAKE NOTES, HOW MANY PEOPLE WE HAVE INVOLVED,
21 YOU KNOW. I JUST DON'T WANT TO BE CONFUSED TO -- I -- SO I
22 MAY TAKE NOTES ON THOSE CIRCUMSTANCES.

23 Q. WOULD YOU WRITE DOWN SOMETHING IN THE POLICE REPORT
24 THAT YOU WEREN'T TOLD?

25 A. NO.

26 Q. THROUGH OFFICER HERRERA DID MR. AVILA STATE THAT HE
27 WAS WALKING NORTHBOUND ON FIGUEROA WHEN HE SAW MR. MILTON
28 STANDING BY A BUS STOP BENCH?

1 A. EXCUSE ME? ONE MORE TIME.

2 Q. DID MR. AVILA STATE THAT HE WAS WALKING NORTHBOUND
3 ON FIGUEROA APPROACHING 92ND STREET WHEN HE OBSERVED MR. --
4 WHEN HE OBSERVED MR. MILTON STANDING BY A BUS STOP BENCH?

5 MS. WIDMARK: OBJECTION, HEARSAY. HE COULD HAVE ASKED
6 OFFICER HERRERA.

7 THE COURT: SUSTAINED.

8 MR. GOLUB: OH, MAY WE APPROACH, YOUR HONOR.

9 THE COURT: ASK IT IN A DIFFERENT WAY.

10 MR. GOLUB: IT'S NOT -- I DON'T THINK THAT'S GOING TO
11 CURE IT.

12 THE COURT: FIRST WITHOUT THE REPORTER.

13

14 (A CONFERENCE WAS HELD AT THE BENCH,
15 NOT REPORTED.)

16

17 THE COURT: GO AHEAD.

18 I -- I REVERSE MYSELF AND OVERRULE THAT OBJECTION.
19 BY MR. GOLUB:

20 Q. SHALL I REPEAT THE QUESTION AGAIN, OFFICER?

21 A. I -- I REMEMBER.

22 Q. OKAY.

23 A. WELL, HERRERA TOLD ME -- TOLD ME THAT STATEMENT
24 THERE. MR. AVILA DID NOT.

25 Q. WELL, HERRERA TRANSLATED FOR YOU WHAT AVILA'S
26 STATEMENTS WERE.

27 CORRECT?

28 A. CORRECT.

1 Q. OKAY.

2 SO AVILA SAID THROUGH HERRERA TO YOU THAT HE SAW
3 MR. MILTON BY A BUS STOP BENCH.

4 IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. AT THE NORTHEAST CORNER OF 92ND AND FIGUEROA.
7 CORRECT?

8 A. CORRECT.

9 Q. AND AS MR. AVILA APPROACHED MR. MILTON, MR. MILTON
10 STATED IN SPANISH "DO YOU WANT SOME COCAINE OR MARIJUANA"?

11 A. CORRECT.

12 Q. AND AFTER MR. AVILA SAID, "NO," THE SUSPECT WITH
13 HIS RIGHT HAND SIMULATED A HANDGUN THROUGH HIS JACKET?

14 A. YES, SIR.

15 Q. AND IN SPANISH SAID, "DON'T MOVE OR I'LL SHOOT"?

16 A. CORRECT.

17 Q. THAT'S MR. MILTON SAYING TO MR. AVILA IN SPANISH
18 "DON'T MOVE OR I'LL SHOOT"?

19 A. THAT'S CORRECT.

20 Q. AND THAT'S WHAT OFFICER HERRERA TRANSLATED FOR YOU
21 AS MR. AVILA'S STATEMENT?

22 A. YES, SIR.

23 Q. NOW, DID MR. AVILA THROUGH OFFICER HERRERA TELL YOU
24 ANYTHING ABOUT ANY COINS?

25 A. NOT THAT I RECALL.

26 Q. WOULD IT HELP YOU TO REFRESH -- WOULD IT HELP
27 REFRESH YOUR RECOLLECTION TO REVIEW YOUR REPORT RIGHT NOW
28 JUST TO MAKE SURE?

1 A. I KNOW THERE WAS NO COINS INVOLVED WITH THE CRIME.

2 Q. AT LEAST AS WAS TOLD TO YOU?

3 A. YEAH, CORRECT.

4 Q. NOW, DID OFFICER HERRERA TELL YOU ABOUT ANY
5 STATEMENTS MADE BY MR. MILTON?

6 A. NOT -- NOT THAT I REMEMBER.

7 Q. OKAY.

8 WELL, WOULD IT REFRESH YOUR RECOLLECTION TO LOOK AT
9 YOUR REPORT JUST TO MAKE SURE?

10 A. SURE, I CAN LOOK AT IT.

11

12 (PAUSE.)

13

14 THAT'S A STATEMENT THAT HE MADE.

15 Q. DID OFFICER HERRERA TELL YOU OR DID ANY OFFICER
16 TELL YOU ABOUT ANY STATEMENT MADE BY OFFICER MILT -- BY
17 MR. MILTON AT ANY POINT IN TIME?

18 A. NO.

19 Q. THERE IS NOTHING IN YOUR REPORT ABOUT ANY
20 STATEMENT, AND YOU REMEMBER NO SUCH STATEMENT.

21 IS THAT CORRECT?

22 A. ARE YOU TALKING ABOUT HIS INVOLVEMENT OF WHAT HAD
23 HAPPENED?

24 Q. DID MR. MILTON MAKE ANY STATEMENT CONCERNING THE
25 CRIME?

26 A. NOT THAT I RECALL, NO.

27 Q. AND YOU JUST REVIEWED YOUR REPORT.

28 CORRECT?

1 A. CORRECT.

2 Q. SO JUST SITTING HERE TODAY, YOU DON'T RECALL BEING
3 TOLD ABOUT ANY CONFESSION OF MR. MILTON?

4 A. I DO NOT RECALL IT, NO.

5 Q. THAT WOULD BE SOMETHING PRETTY IMPORTANT TO -- TO
6 INCLUDE IN YOUR REPORT IF THERE WAS A CONFESSION.

7 ISN'T THAT CORRECT?

8 A. CORRECT.

9 Q. YOU'RE NOT IN THE HABIT OF LEAVING OUT CONFESSIONS
10 OUT OF POLICE REPORTS, ARE YOU?

11 A. NO. IF HE DID CONFESS, I DEFINITELY WOULD HAVE PUT
12 THAT IN THERE.

13 MR. GOLUB: THANK YOU.

14 NO FURTHER QUESTIONS.

15 THE COURT: REDIRECT?

16

17 REDIRECT EXAMINATION

18 BY MS. WIDMARK:

19 Q. OFFICER SHEPHERD, DO YOU RECALL OFFICER HERRERA
20 TELLING YOU THAT THE VICTIM, JUAN SAID THAT THE DEFENDANT WAS
21 THROUGH HIS JACKET SIMULATING A HANDGUN?

22 A. CORRECT.

23 Q. AND THAT THERE WAS A THREAT MADE TO THE VICTIM BY
24 THE DEFENDANT?

25 A. CORRECT, MA'AM.

26 Q. AND HOW LONG HAVE YOU BEEN AN OFFICER?

27 A. APPROXIMATELY TWO YEARS NOW, MA'AM.

28 Q. TWO YEARS?

1 AND IN THOSE TWO YEARS HAVE YOU EVER MADE A MISTAKE
2 WITH REGARD TO ANY POLICE REPORTS?

3 A. I AM SURE I HAVE.

4 Q. I DON'T MEAN TO PUT YOU ON THE SPOT. I KNOW -- NOT
5 PURPOSEFUL?

6 A. NO.

7 MS. WIDMARK: THANK YOU.

8 NOTHING FURTHER AT THIS TIME.

9 THE COURT: DO YOU HAVE ANYTHING?

10 MR. GOLUB: NOT NOW.

11
12 (A CONFERENCE WAS HELD BETWEEN COUNSEL.)

13
14 MS. WIDMARK: NOTHING FURTHER OF THIS WITNESS.

15 THE COURT: OKAY.

16 SIR, YOU MAY STEP DOWN --

17 THE WITNESS: YES, SIR.

18 THE COURT: -- WITH THE REPORT.

19 MS. WIDMARK: I AM GOING TO SEE IF THERE IS THE OTHER
20 OFFICER. COUNSEL WANTS ME TO CHECK.

21
22 (PAUSE.)

23
24 THE COURT: YOU WANT TO APPROACH?

25 MS. WIDMARK: YEAH.

26
27 (A CONFERENCE WAS HELD AT THE BENCH,
28 NOT REPORTED.)

1
2 THE COURT: OKAY. WE'RE GOING TO TAKE OUR AFTERNOON
3 RECESS AT THIS TIME. WE ARE ON SCHEDULE. YOU'RE ORDERED
4 BACK TO THIS DEPARTMENT MONDAY AT 1:30. SO MONDAY. TAKE A
5 LONG WEEKEND, AND DO NOT DISCUSS THE CASE AMONGST YOURSELVES
6 NOR WITH ANYBODY ELSE NOR EXPRESS OR FORM AN OPINION ON ANY
7 SUBJECT RELATING TO THIS CASE. AND WITH THAT, YOU GUYS HAVE
8 A HAPPY, LONG WEEKEND.

9 OKAY.

10 IF YOU HAVE TO GO TO WORK TOMORROW, SOME OF YOUR
11 EMPLOYERS WANT YOU TO GO, THAT'S UP TO YOU.

12
13 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

14
15 THE COURT: OKAY. DEFENDANT'S ORDERED BACK MONDAY
16 MORNING AT 8:30.

17 MS. WIDMARK: I'LL GET SHEPHERD IN HERE TO BE ORDERED
18 BACK.

19 THE COURT: HUH?

20 MS. WIDMARK: YOU WANT ME TO BRING OFFICER SHEPHERD BACK
21 IN TO BE ORDERED BACK?

22 THE COURT: SURE, AND WHAT IF I -- I DON'T HAVE TOO BUSY
23 OF A MORNING, IT LOOKS LIKE, MONDAY MORNING. SO IF YOU HAVE
24 ANY -- WE HAVE ANYTHING TO DO OUTSIDE THE JURY, WE'LL DO
25 IT -- LET'S DO IT MONDAY MORNING.

26 MR. GOLUB: OKAY. I DON'T ANTICIPATE ANYTHING. I JUST
27 NEED DETECTIVE CARLISLE FOR ABOUT FIVE OR TEN MINUTES AND
28 THEN DETECTIVE -- I MEAN OFFICER HERRERA FOR FIVE OR TEN

1 MINUTES. AND IF -- DEPENDING ON HIS TESTIMONY, I MIGHT OR
2 MIGHT NOT NEED SHEPHERD; BUT JUST IN CASE.

3 MS. WIDMARK: I CAN JUST PUT THEM ON ON MONDAY IN
4 WHATEVER ORDER COUNSEL WANTS.

5 THE COURT: DO YOU NEED ANYBODY ORDERED BACK?

6 MS. WIDMARK: YES. LET ME HAVE OFFICER SHEPHERD ORDERED
7 BACK.

8 OFFICER SHEPHERD: YOUR HONOR, I AM SUBPOENAED ALREADY
9 FOR THIS BUILDING ON MONDAY. AND I'LL BE HERE.

10 MR. GOLUB: WE JUST NEED YOU FOR THE AFTERNOON.

11 OFFICER SHEPHERD: AFTERNOON? OH, OKAY.

12 MR. GOLUB: RIGHT. THIS WON'T GO IN THE MORNING. GO TO
13 WHATEVER COURT YOU HAVE TO.

14 THE COURT: OKAY.

15 OFF THE RECORD.

16
17 (OFF-THE-RECORD DISCUSSION.)

18
19 THE COURT: OKAY. WHO DO YOU WANT ORDERED BACK?

20 MS. WIDMARK: THIS IS OFFICER SHEPHERD.

21 THE COURT: OFFICER SHEPHERD, YOU ARE ORDERED BACK TO
22 THIS DEPARTMENT MONDAY AFTERNOON AT 1:30.

23 MS. WIDMARK: IF COUNSEL CHANGES HIS MIND, I'LL -- I'LL
24 GIVE OFFICER SHEPHERD A CALL. I'VE GOT HIS CELL PHONE
25 NUMBER.

26 THE COURT: PLEASE BE HERE AT THIS TIME. AND ALL THE
27 WITNESSES, HAVE THEM HERE AT 1:30 SO WE CAN START AND GET
28 THEM DOWN.

1 OKAY. WE'RE IN RECESS.

2
3 (THE MATTER WAS CONTINUED TO
4 DECEMBER 21, 1998 AT 1:30 P. M.
5 FOR FURTHER PROCEEDINGS.)
6
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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA DECEMBER 21, 1998
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: DOROTHY W. GRAVES, CSR #3123
7 TIME: P. M. SESSION
8

9 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)
10

11 MR. GOLUB: THE LAST THING WE HAD TO TAKE UP WITH THE
12 PRIORS, THE COURT HAD TENTATIVELY SAID IT WAS GOING TO ALLOW
13 THE TWO ROBBERIES IN AS ROBBERIES OVER MY OBJECTION WHERE I
14 WOULD ASK THE COURT TO -- AT LEAST TO NOT ALLOW THEM IN OR TO
15 AT LEAST SANITIZE THEM BECAUSE IT'S THE SAME CRIME THAT'S --
16 THAT'S HERE, AND I THINK THAT REALLY IS GOING TO PREJUDICE
17 THE DEFENDANT.

18 AND THEN THERE WAS ALSO THE ISSUE OF THE CLIENT HAD
19 ONE OR TWO PRIORS FOR -- IT APPEARS, SIMILAR TO OUR EX-CON
20 WITH A GUN STATUTE FROM ILLINOIS. HOWEVER, MY CLIENT SAYS
21 THAT HE ONLY HAD AMMUNITION ON HIM. AND IT'S AN ILLINOIS
22 STATUTE. I DON'T KNOW IF THE PEOPLE WERE ABLE TO GET A COPY
23 OF THE STATUTE OR THE RECORD. THE PEOPLE SHOW -- JUST SHOW
24 THE CONVICTION.

25 UNLIKE THE ROBBERY DOCUMENTS THAT THEY HAVE, THEY
26 WOULD SHOW HE ACTUALLY WAS CONVICTED OF TAKING PROPERTY BY
27 FORCE OR FEAR WITH A WEAPON FROM THE PERSON. IT DOESN'T --
28 DOESN'T SHOW THAT IN THAT -- IN THEIR DOCUMENTS.

1 THE COURT: MISS WIDMARK, WHAT DO YOU HAVE?

2 MS. WIDMARK: YES. I TALKED TO THE ILLINOIS
3 AUTHORITIES. I TALKED TO A GENTLEMAN AT THE ILLINOIS STATE
4 ATTORNEY'S OFFICE IN CHICAGO. HE PULLED IT UP ON THE
5 COMPUTER, AND HE -- THE JULY 17, 1993 CASE. AND YOUR CLIENT
6 SHOULD BE VERY WELL AWARE OF THIS, HAD -- SO IT JUST SORT OF
7 BURNS ME -- HE KNOWS WHAT HE WAS ARRESTED FOR. HE WAS
8 ARRESTED FOR UNLAWFUL USE OF A WEAPON AND THREE COUNTS OF
9 AGGRAVATED ASSAULT.

10 NOW, UNLESS HE WAS THROWING THAT AMMUNITION AT
11 THESE VICTIMS, IT WAS A GUN, OKAY? NOW, THAT'S THE -- THAT'S
12 THE ONE -- THE 7/17/93. NOW, THE EARLIER ONE WHICH ACTUALLY
13 WAS 6/11/93 WAS AN ILLEGAL POSSESSION OF A WEAPON BY A FELON.
14 NOW, THAT PARTICULAR STATUTE CAN COVER BOTH, YOU KNOW. WE
15 HAVE TWO SEPARATE STATUTES FOR A FELONY POSSESSION OF
16 AMMUNITION AND A FELONY POSSESSION OF A GUN. THEY DON'T --
17 IT IS ALL-ENCOMPASSING. AND I COULD NOT CONFIRM WITH THE
18 LAKE COUNTY -- STATE'S ATTORNEY'S OFFICE, RATHER, THAT
19 PARTICULAR ILLEGAL POSSESSION OF A WEAPON WAS ACTUALLY A GUN.

20 I COULD NOT CONFIRM THAT; BUT AS FOR THE OTHER
21 ONE -- AS FOR THE OTHER ONE, WE KNOW THAT THE REPRESENTATIONS
22 CAN'T BE CORRECT BECAUSE HE WAS ALSO CHARGED WITH AGGRAVATED
23 ASSAULT WITH A DEADLY WEAPON ON THREE DIFFERENT VICTIMS. AND
24 IT TOOK -- IT TOOK ME A LONG TIME JUST TO FIND THAT OUT.
25 AND, FRANKLY, I AM A LITTLE IRRITATED THAT I HAD TO WASTE MY
26 TIME WHEN IT CLEARLY WASN'T AMMUNITION.

27 MR. GOLUB: WELL, FIRST OF ALL, THE STATUTE, IF IT
28 ENCOMPASSES BOTH, WE DON'T KNOW -- IS THERE A -- PLEA

1 BARGAINS? WE DON'T KNOW WHAT HE ACTUALLY PLED TO. I MEAN,
2 IF HE PLED TO -- HE COULD HAVE JUST ADMITTED HAVING
3 AMMUNITION. I DON'T -- WE DON'T KNOW WHAT HE HAD. I KNOW
4 THIS IS ALL HEARSAY, BUT MS. WIDMARK FOUND OUT THAT THE
5 STATUTE INCLUDES BOTH WEAPONS AND AMMUNITION. SO IT COULD BE
6 ONE OR THE OTHER, AND WE DON'T -- WE DON'T HAVE IN DETAIL
7 WHAT HE ACTUALLY ADMIT OR PLED TO. SO IT COULD BE EITHER
8 ONE. SO THAT'S -- IT WOULD NOT BE APPROPRIATE TO HAVE -- YOU
9 KNOW, TO HAVE HIM IMPEACHED ON THIS.

10 I THINK IT'S BAD ENOUGH ALREADY HAVING THE
11 ROBBERY -- ROBBERY STAT -- I MEAN THE ROBBERY CONVICTIONS
12 COME UP AS ROBBERIES; BUT BE THAT AS IT MAY, THE FACT THAT
13 THEIR STATUTE INCLUDES --

14 THE COURT: OKAY. YOU READY? I AM READY TO RULE.

15 MR. GOLUB: -- AMMUNITION -- YEAH, I AM READY; BUT I
16 JUST WANT -- SO, ANYWAY, THE FACT THAT THEIR STATUTE
17 INCLUDES -- INCLUDES AMMUNITION OR A WEAPON, I -- I DON'T SEE
18 HOW WE CAN GO AHEAD WITHOUT THE SPECIFIC -- SPECIFIC
19 INFORMATION INCLUDED, WITHOUT THE SPECIFIC PROOF. HOW CAN WE
20 IMPEACH HIM WITH THE -- WITH THE WEAPON WHEN THERE IS NO
21 PROOF THAT IT WAS A WEAPON AS OPPOSED TO THE AMMUNITION?

22 MS. WIDMARK: JUST ONE POINT, YOUR HONOR. I THINK WE
23 HAVE A GOOD FAITH BELIEF, WHICH IS ALL THAT'S REQUIRED, WITH
24 REGARD TO THE 7/17/93 THAT IT WAS UNLAWFUL USE OF A WEAPON.
25 AND THAT CRIME INVOLVES TURPITUDE. I DON'T BELIEVE -- I HAVE
26 A GOOD FAITH BELIEF WITH REGARD TO THE JUNE 11, 1993 WHICH IS
27 JUST ILLEGAL USE OF A WEAPON AND COULD -- AND COULD INVOLVE
28 SIMPLY AMMUNITION.

1 SO WE'D ASK SIMPLY TO BE ABLE TO USE THE 7/17/93
2 CONVICTION TO IMPEACH WITH THE COURT LIMITING IT TO USE WITH
3 REGARD TO THE BELIEVABILITY OF A WITNESS AND --

4 THE COURT: OKAY. I AM READY TO RULE.

5 MS. WIDMARK: OKAY.

6 THE COURT: READY?

7 MR. GOLUB: WELL, I THINK WE SHOULD HAVE A FULL 402
8 HEARING ON IT BECAUSE WITH MY CLIENT TESTIFYING, IF
9 NECESSARY, IT'S NOT --

10 THE COURT: WELL, OKAY. HE CAN TESTIFY.

11 LET'S BRING IN THE JURY.

12 IF HE WANTS TO TESTIFY BEFORE, HE CAN DO THAT.

13 OKAY. BRING IN THE -- BRING IN THE JURY.

14 MR. GOLUB: SO WE'LL TAKE A BREAK WHEN THE -- AFTER THEY
15 REST?

16 THE COURT: THEY REST, WE WILL TAKE A BREAK AND HAVE
17 YOUR WITNESS.

18
19 (PROCEEDINGS IN PRESENCE OF JURY.)

20
21 THE COURT: OKAY. THE JURORS ARE ALL HERE, EVEN THE ONE
22 WHO HAD TO BATTLE A SNOWSTORM TO GET HERE.

23 OKAY. PEOPLE, CALL YOUR NEXT WITNESS.

24 MS. WIDMARK: YOUR HONOR, PEOPLE ASK THAT PEOPLE'S
25 EXHIBITS BE ADMITTED INTO EVIDENCE. BELIEVE IT'S ONE THROUGH
26 SIX.

27 THE COURT: I INTEND TO DO IT.

28 WISH TO BE HEARD?

1 MS. WIDMARK: I'M SORRY?

2 MR. GOLUB: COULD WE JUST APPROACH FOR ONE SECOND?

3 THE COURT: SURE. DO YOU NEED THE REPORTER?

4 MR. GOLUB: NO.

5

6 (A CONFERENCE WAS HELD AT THE BENCH,

7 NOT REPORTED.)

8

9 THE COURT: OKAY. THE ITEMS ARE RECEIVED.

10 MS. WIDMARK: THANK YOU, YOUR HONOR.

11

12 (RECEIVED INTO EVIDENCE,

13 PEOPLE'S EXHIBITS 1 THROUGH

14 6.)

15

16 MS. WIDMARK: AT THIS POINT PEOPLE REST.

17 THE COURT: MR. GOLUB, YOU MAY PROCEED.

18 MR. GOLUB: THANK YOU. DEFENSE FIRST WOULD LIKE TO CALL

19 DETECTIVE CARLISLE TO THE STAND, YOUR HONOR.

20

21 D E F E N S E

22

23 ANNA CARLISLE,

24 CALLED BY THE DEFENDANT AS A WITNESS, WAS SWORN AND TESTIFIED

25 AS FOLLOWS:

26 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU

27 MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT SHALL BE

28 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO

1 HELP YOU GOD.

2 THE WITNESS: YES.

3 THE CLERK: WILL YOU BE SEATED, PLEASE.

4 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

5 THE WITNESS: ANNA CARLISLE, A-N-N-A, C-A-R-L-I-S-L-E.

6 THE COURT: PROCEED.

7 MR. GOLUB: THANK YOU, YOUR HONOR.

8
9 DIRECT EXAMINATION

10 BY MR. GOLUB:

11 Q. GOOD AFTERNOON, DETECTIVE CARLISLE.

12 A. GOOD AFTERNOON.

13 Q. NOW, YOU ARE THE DETECTIVE IN CHARGE OF THIS CASE?

14 A. YES, SIR.

15 Q. AND HOW LONG HAVE YOU -- YOU -- HOW LONG HAVE YOU
16 BEEN WITH THE LOS ANGELES POLICE DEPARTMENT?

17 A. SINCE SEPTEMBER OF 1991.

18 Q. AND AS PART OF YOUR RESPONSIBILITIES TO THIS CASE
19 DID YOU SPEAK -- SPEAK TO JUAN AVILA?

20 A. YES.

21 Q. OKAY.

22 AND WHEN DID YOU CALL HIM?

23 A. I CALLED HIM WHEN I RECEIVED THE CASE AND WAS
24 INFORMED THAT THE DEFENDANT WAS IN CUSTODY. I CALLED HIM
25 THAT MORNING, AND -- I BELIEVE IT WAS A MONDAY -- SPOKE TO
26 HIM ON THE PHONE.

27 Q. OKAY.

28 IS THAT WOULD HAVE BEEN THE LENGTH OF DAYS AFTER

1 THE ROBBERY MAYBE TWO DAYS AFTER THE ROBBERY?

2 A. THAT'S CORRECT.

3 Q. AND, NOW, DID YOU SPEAK TO HIM IN ENGLISH OR
4 SPANISH?

5 A. WELL, I -- I BEGAN THE CONVERSATION BY ASKING FOR
6 HIM, HE CAME TO THE PHONE AND I STARTED A CONVERSATION WITH
7 HIM IN ENGLISH. AND SINCE I DON'T KNOW SPANISH AND IT WAS
8 VERY DIFFICULT, HE PUT HIS SISTER ON THE PHONE.

9 Q. AND SO, BASICALLY, YOU WERE ASKING THE SISTER
10 QUESTIONS AND SHE WAS THEN TRANSLATING FOR HIM AND SHE WAS
11 RESPONDING TO THE QUESTIONS?

12 A. THAT'S CORRECT.

13 Q. NOW -- NOW, DID MR. AVILA TELL YOU EXACTLY WHERE HE
14 WAS WHEN HE WAS APPROACHED -- WHEN HE WAS FIRST APPROACHED BY
15 THE DEFENDANT?

16 A. EXACTLY -- I DON'T RECALL EXACTLY. HE GAVE ME A
17 CORNER.

18 Q. AND DO YOU RECALL WHAT THAT WAS?

19 A. YES. NINETY-SECOND AND FIGUEROA.

20 Q. DID HE JUST SAY HE WAS APPROACHED ON THE SIDEWALK
21 BY THE DEFENDANT?

22 A. YES. HE SAID HE WAS WALKING NORTHBOUND AND THE
23 DEFENDANT APPROACHED HIM.

24 MS. WIDMARK: OBJECTION AND MOVE TO STRIKE THAT HE SAID
25 THAT. MY UNDERSTANDING IS THE SISTER IS SAYING IT.

26 THE COURT: WELL, SUSTAINED.

27 MR. GOLUB: YOUR HONOR, MAY WE APPROACH WITH THE
28 REPORTER.

1 THE COURT: YES.

2

3 (THE FOLLOWING PROCEEDINGS WERE HELD

4 AT THE BENCH:)

5

6 MR. GOLUB: I THINK THE LAW IS CLEAR THAT WE ARE ALLOWED
7 TO HAVE INTERVIEWS TESTIMONY BY THE POLICE OFFICER ABOUT
8 STATEMENTS MADE BY WITNESSES AND TRANSLATE THROUGH
9 TRANSLATORS, AND THAT'S -- THE OFFICERS HAVE ALWAYS BEEN
10 ALLOWED TO TESTIFY. ALL WE HAVE TO DO -- AND IT'S THE
11 STATEMENT -- IT'S CONSIDERED UNDER THE LAW THE STATEMENT OF
12 THE ACTUAL WITNESS THAT YOU CAN BRING OUT THE CIRCUMSTANCES.
13 AND I HAVE ALREADY DONE THAT OF, YOU KNOW, HOW THEY WERE
14 CONDUCTED; BUT I DON'T HAVE TO SAY THAT THE SISTER SAID IT.
15 IT'S THE WITNESS, MR. AVILA WHO IS MAKING THE STATEMENT.
16 IT'S JUST THROUGH THE TRANSLATOR, AND I THINK THAT'S -- THE
17 LAW IS CLEAR ON THAT -- ON THAT.

18 MS. WIDMARK: IT'S ONE THING WHEN YOU'VE GOT AN OFFICER
19 TRANSLATING THAT MAY BE CERTIFIED BY THE DEPARTMENT, AND IT'S
20 ALSO THE SAME THING WHEN YOU'RE TALKING ABOUT AN INTERPRETER
21 THAT'S CERTIFIED BY THE COURTS; BUT WHEN YOU'RE TALKING ABOUT
22 A SISTER WHO WE DON'T EVEN KNOW HOW LITERATE SHE IS
23 INTERPRETING, THEN WE'RE NOT TALKING ABOUT THE SENSE OF
24 ACCURACY THAT THE COURTS WERE DISCUSSING WITH REGARD TO
25 EITHER AN OFFICER WHO IS CERTIFIED OR A COURT INTERPRETER WHO
26 IS CERTIFIED.

27 EVEN IF THE OFFICER ISN'T CERTIFIED, CERTAINLY, THE
28 OFFICER HAS, YOU KNOW, SORT OF LIABILITY WITH REGARD TO

1 INTERPRETATION, THAT WE HAVE NO IDEA WHO THE STRANGER IS, WE
2 DON'T HAVE ANY IDEA OF WHAT -- WHAT SHE IS SAYING OR HOW SHE
3 IS ELABORATING AND ESPECIALLY WHEN IT'S HIS SISTER WHO MAY
4 HAVE SOME SORT OF -- ANOTHER AGENDA THAT WE DON'T EVEN KNOW
5 ABOUT WITH REGARD TO BEING CLOSE TO HER BROTHER OR NOT CLOSE
6 TO HER BROTHER.

7 I MEAN, THERE IS NO PROBLEM WITH -- WITH SAYING
8 THAT THAT'S WHAT THE SISTER SAID; BUT I HAVE NO IDEA IF
9 THAT'S EXACTLY WHAT HE SAID WHEN HE WAS ASKED IF HE SAID SOME
10 OF THE STATEMENTS. HE SAID, "NO," CERTAINLY, IF THEY WANT TO
11 SAY, "HEY, THAT'S WHAT HIS SISTER SAID HE SAID," THAT'S FINE.
12 I AM NOT EVEN RAISING ANY HEARSAY OBJECTION TO THAT. I'M
13 JUST SAYING LET'S KEEP THE RECORD CLEAR ABOUT WHO IS SAYING
14 IT, IT'S HIS SISTER, NOT HIM; BUT I AM NOT RAISING A HEARSAY
15 OBJECTION WHICH I THINK I COULD JUST IN THE SAKE OF TIME.

16 MR. GOLUB: I --

17 THE COURT: I THINK YOU PROBABLY COULD, TOO.

18 WHAT'S THE MATTER WITH THAT?

19 MR. GOLUB: THIS CASE IS -- I MEAN, WE CAN START PULLING
20 'EM AND TAKE IT -- ALL AFTERNOON; BUT THE CASES ARE CLEAR
21 THAT POLICE OFFICERS ARE ALLOWED TO INTERVIEW WITNESSES
22 THROUGH INTERPRETERS AND TO TESTIFY AS TO WHAT WAS SAID AND
23 USE IT FOR IMPEACHMENT, FOR SPONTANEOUS STATEMENTS OR FOR
24 WHOEVER. AND IT DOESN'T HAVE TO BE CERTIFIED INTERPRETERS --
25 INTERPRETERS.

26 THAT'S WHAT -- THERE ARE CASES THAT ALLOW -- HAVE
27 ALLOWED POLICE OFFICERS TO DO THAT, AND IT'S -- THE
28 STATEMENTS ARE THE WITNESSES'. YOU JUST HAVE TO MAKE IT

1 CLEAR, AND YOU ARE ALLOWED TO BRING OUT HOW -- UNDER WHAT
2 CONDITIONS THOSE STATEMENTS WERE MADE.

3 THE COURT: WHAT -- WE'RE NOT TALKING A WHOLE LOT OF
4 DIFFERENCE HERE.

5 MR. GOLUB: NO, WE'RE NOT.

6 THE COURT: WE'RE -- WE'RE KIND OF TRYING TO SPLIT A
7 HAIR THAT DOESN'T NEED SPLITTING. IF -- IF SHE IS WILLING
8 NOT TO OBJECT ON HEARSAY, WHAT'S WRONG WITH YOU SAYING THIS
9 IS WHAT THE SISTER IS SAYING THAT HE SAID? WHY DON'T YOU
10 MAKE IT CLEAR TO THE JURY SO THEY CAN SEE WHAT'S HAPPENING?

11 MR. GOLUB: WELL, I THINK I MADE IT PRETTY CLEAR
12 ALREADY. I HAVE ALREADY BROUGHT IT UP THAT THE SISTER GOT ON
13 THE PHONE AND WAS DOING THE TALKING TO HER.

14 MS. WIDMARK: BUT THEN IT'S HE SAID SHE SAID, AND IT
15 WASN'T HE SAID SHE SAID.

16 MR. GOLUB: I THINK UNDER THE LAW I AM ENTITLED TO DO IT
17 THIS WAY. IF YOU WANT TO STOP ME, THAT'S FINE. I THINK
18 UNDER THE LAW IT'S PROPER, AND I THINK THE CASES HAVE ALLOWED
19 PEOPLE TO DO THIS.

20 THE COURT: ALL RIGHT. I THINK WE'LL DO IT THE OTHER
21 WAY SHE SAID.

22 MR. GOLUB: OKAY.

23
24 (THE FOLLOWING PROCEEDINGS WERE HELD
25 IN THE PRESENCE OF THE JURY:)

26
27 MR. GOLUB: SO IF I MAY REPHRASE THE QUESTION, YOUR
28 HONOR.

1 THE COURT: YOU MAY.

2 MR. GOLUB: THANK YOU.

3 Q. MR. AVILA'S SISTER TOLD YOU THAT JUAN WAS
4 APPROACHED ON THE SIDEWALK BY THE DEFENDANT?

5 A. CORRECT.

6 Q. AND YOU WERE ASKING THE SISTER TO ASK JUAN THESE
7 QUESTIONS AND TO GET THE ANSWER BACK FROM THE SISTER?

8 A. THAT'S CORRECT.

9 Q. AND DID JUAN TELL YOU THAT THE PERSON WANTED TO BUY
10 SOME MARIJUANA OR COCAINE?

11 MS. WIDMARK: OBJECTION, MISSTATES THE TESTIMONY THAT
12 JUAN TOLD HER ANYTHING. WE'RE BACK TO THE SAME ISSUE.

13 THE COURT: REPHRASE THE QUESTION, PLEASE.

14 MR. GOLUB: OKAY.

15 Q. AND DID THE SISTER TELL YOU THAT JUAN SAID IT WAS
16 ASKED IF HE WANTED TO BUY SOME MARIJUANA OR COCAINE?

17 A. YES.

18 Q. AND THAT WAS BOTH MARIJUANA AND COCAINE?

19 A. THAT'S MY RECOLLECTION, YES.

20 Q. AND THAT'S WHAT'S IN YOUR REPORT?

21 A. YES.

22 Q. OKAY.

23 DID THE SISTER TELL YOU THAT JUAN SAID HE'S BEEN
24 OFFERED DRUGS BEFORE BY THIS MAN?

25 A. YES.

26 Q. DID THEY SAY HOW MANY TIMES?

27 A. NO.

28 Q. DID THEY SAY IT WAS MORE THAN ONCE?

1 A. IT WAS PLURAL.

2 Q. AND DID THE SISTER TELL YOU HOW JUAN SAID THE
3 PERSON POSSIBLY PULLED A WEAPON ON 'EM OR SIMULATED A WEAPON?

4 A. YES.

5 Q. HOW WAS THAT?

6 A. WELL, SHE SAID THEY HAVE THE RIGHT HAND OR HE HAD
7 THE RIGHT HAND IN HIS JACKET. AND THEN I ASKED THE QUESTION,
8 "IN THE POCKET?" AND SHE ASKED HIM. AND THEN SHE SAID,
9 "YES."

10 Q. OKAY.

11 AND WAS IT POINTED AT IN ANY WAY?

12 A. NO -- WELL, COULD I REFRESH MY RECOLLECTION ON MY
13 REPORT? I DON'T RECALL THAT.

14 Q. PLEASE FEEL FREE.

15

16 (PAUSE.)

17

18 A. YES.

19 Q. DO YOU REMEMBER NOW WHAT -- WHAT'S SAID --

20 A. I DO.

21 Q. -- OR WHAT SHE SAID HE SAID?

22 A. THE SISTER SAID THAT THE POCKET AND THE WEAPON WAS
23 POINTED TOWARDS HIM.

24 Q. SO IT'S YOUR UNDERSTANDING IT WAS SOMETHING LIKE
25 THIS?

26 A. THAT'S THE WAY I WAS VISUALIZING IT AS SHE TOLD ME,
27 YES.

28 MR. GOLUB: MAY THE RECORD REFLECT I HAVE MY HAND IN MY

1 POCKET WITH THE INDEX FINGER POINTING FORWARD.

2 THE COURT: YES.

3 BY MR. GOLUB:

4 Q. AND DID SHE TELL THAT JUAN SAID THE DEFENDANT SAID
5 SOMETHING OR THE SUSPECT SAID SOMETHING IN SPANISH?

6 A. YES.

7 Q. WHAT DID THE PERSON SAY AT FIRST IN SPANISH?

8 A. "DON'T MOVE OR I'LL SHOOT."

9 Q. AND -- AND DID THE VICTIM -- AFTER THE SUSPECT
10 LEFT, DID THE SISTER TELL YOU THAT MR. AVILA APPROACHED
11 SOMEBODY?

12 A. YES.

13 Q. WHO DID HE APPROACH?

14 A. A SECURITY GUARD.

15 MR. GOLUB: THANK YOU.

16 I HAVE NO FURTHER QUESTIONS.

17 THE COURT: CROSS-EXAMINE.

18 MS. WIDMARK: YES.

19
20 CROSS-EXAMINATION

21 BY MS. WIDMARK:

22 Q. DETECTIVE CARLISLE, YOU SAID YOU HAVE BEEN A
23 DETECTIVE FOR WHAT? SEVEN YEARS.

24 IS THAT CORRECT?

25 A. NO. DETECTIVE SINCE EARLY PART OF THIS YEAR.

26 Q. BUT A POLICE OFFICER FOR ABOUT SEVEN YEARS?

27 A. THAT'S CORRECT.

28 Q. AND ABOUT HOW MANY CASES OVER THE LAST SEVEN YEARS

1 HAVE YOU INVESTIGATED?

2 A. AS AN -- AS A DETECTIVE?

3 Q. AS A DETECTIVE, AS A POLICE OFFICER HOW MANY
4 INVESTIGATIONS HAVE YOU CONDUCTED?

5 A. THAT WOULD BE PROBABLY -- I DON'T KNOW. THAT WOULD
6 BE -- TOUGH -- A THOUSAND. I DON'T KNOW. A LOT, A LOT.

7 Q. AT LEAST HUNDREDS?

8 A. AT LEAST HUNDREDS, MANY HUNDREDS.

9 Q. AND YOU HAVE HAD AN OPPORTUNITY, CERTAINLY AS A
10 DETECTIVE, TO PUT TOGETHER A CASE AND COME TO THE DISTRICT
11 ATTORNEY'S OFFICE AND ASK FOR FILING OF CHARGES.

12 IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND DID YOU DO THAT IN THIS CASE?

15 A. YES.

16 MR. GOLUB: WELL, OBJECTION, YOUR HONOR. THAT'S
17 IRRELEVANT.

18 THE COURT: SUSTAINED.

19 MR. GOLUB: MOTION TO STRIKE.

20 THE COURT: STRICKEN.

21 BY MS. WIDMARK:

22 Q. AND IN THIS PARTICULAR CASE YOU SPOKE WITH THE
23 DEFENDANT'S -- EXCUSE ME -- THE VICTIM'S SISTER.

24 IS THAT CORRECT?

25 A. YES.

26 Q. AND IS THAT LORENA?

27 A. LORENA.

28 Q. HAD YOU EVER MET LORENA?

1 A. NO.

2 Q. DO YOU HAVE A WORKING KNOWLEDGE OF SPANISH?

3 A. NO.

4 Q. DO YOU KNOW WHETHER HER INTERPRETATION WAS IN ANY
5 WAY ACCURATE WITH REGARD TO WHAT JUAN WAS TELLING HER?

6 A. THAT, I CAN'T SAY. IT WAS A THREE-WAY CONVERSATION
7 ON THE TELEPHONE, ME TALKING TO HER, HER TALKING TO HIM. AND
8 THEN THAT'S HOW I GOT MY INFORMATION.

9 Q. AND WHEN YOU DID TALK TO HER, DID SHE TELL YOU
10 WHETHER JUAN SAID THAT THE DEFENDANT WAS SPEAKING TO HER IN
11 SPANISH THE NIGHT HE ROBBED THE VICTIM?

12 A. I RECALL THAT BEING SAID, YES.

13 Q. THAT, IN FACT, MR. MILTON WAS SPEAKING SPANISH TO
14 THE VICTIM?

15 A. YES.

16 Q. DID -- DID YOU EVER -- YOU SAID THAT YOU VISUALIZED
17 WHAT LORENA WAS SAYING THAT JUAN HAD SAID.

18 IS THAT CORRECT?

19 A. RIGHT.

20 Q. SO DID YOU EVER ASK JUAN TO RE-ENACT THE ROBBERY?

21 A. NO, NO, NOT --

22 Q. AND YOU MET HIM IN PERSON WHAT? THE DAY OF THE
23 PRELIMINARY HEARING?

24 A. I SERVED HIM WITH A SUBPOENA FOR THE PRELIMINARY
25 HEARING, AND THAT'S THE FIRST TIME I MET HIM IN PERSON.

26 Q. AND THAT'S JUST PART OF YOUR REGULAR DUTIES WITH
27 EVERY CASE WHERE YOU HAVE A FELONY PRELIMINARY HEARING SET?

28 A. THAT'S CORRECT.

- 1 Q. AND HE CAME TO COURT?
- 2 A. YES.
- 3 Q. AND AT THAT POINT WERE YOU PRESENT WHEN HE WAS
- 4 INTERVIEWED?
- 5 A. ON THE WITNESS STAND?
- 6 Q. WAS HE INTERVIEWED PRIOR TO TESTIFYING?
- 7 A. NO.
- 8 Q. AND MR. GOLUB AND MYSELF, WE WEREN'T THERE.
- 9 IS THAT CORRECT?
- 10 A. THAT'S CORRECT.
- 11 Q. AND HE TESTIFIED THEN AT THE PRELIMINARY HEARING?
- 12 A. YES.
- 13 Q. AND AFTER HE TESTIFIED AT THE -- EXCUSE ME.
- 14 SO YOU WATCHED HIM TESTIFY AT THE PRELIMINARY
- 15 HEARING?
- 16 A. YES.
- 17 Q. AND YOU ALSO HAD A CHANCE TO INTERVIEW
- 18 MR. CAMARILLO.
- 19 IS THAT CORRECT?
- 20 A. YES.
- 21 Q. DID HE TESTIFY AT THE PRELIMINARY HEARING?
- 22 A. NO, HE DIDN'T.
- 23 Q. WAS HE CALLED AS A WITNESS AT ALL?
- 24 A. HE WAS THERE AND SUBPOENAED, AND HE -- HE WAS NOT
- 25 CALLED.
- 26 Q. AND THAT WAS AT THE PRELIMINARY HEARING JUST IN
- 27 FRONT OF A JUDGE THERE IN MUNICIPAL COURT?
- 28 A. CORRECT, YES.

1 Q. DID -- WHEN YOU WERE INTERVIEWING JUAN THROUGH HIS
2 SISTER, LORENA, DID HE TELL YOU THAT HE HAD ALWAYS REFUSED
3 THE DEFENDANT'S OFFERS FOR DRUGS?

4 A. YES, HE DID.

5 Q. IS THERE ANYTHING ABOUT THE TESTIMONY OF MR. AVILA
6 EITHER AT THE PRELIMINARY HEARING OR HERE IN ANY OF YOUR
7 INTERVIEWS OF THE WITNESSES, ANY OF THE TESTIMONY THAT YOU
8 HEARD THAT CAUSES YOU CONCERN WITH REGARD TO THIS CASE?

9 MR. GOLUB: OBJECTION, THAT'S -- CALLS FOR A CONCLUSION.

10 THE COURT: SUSTAINED.

11 BY MS. WIDMARK:

12 Q. DID THE VICTIM ALSO TELL YOU, BESIDES MONEY BEING
13 TAKEN FROM HIM, THAT A PAIR OF JEANS WERE ALSO TAKEN FROM HIM
14 DURING THE ROBBERY?

15 A. YES, HE DID TELL ME THAT.

16 MS. WIDMARK: NOTHING FURTHER AT THIS TIME.

17 MR. GOLUB: JUST A COUPLE.

18
19 REDIRECT EXAMINATION

20 BY MR. GOLUB:

21 Q. I KNOW YOU HAVE INVESTIGATED A LOT OF CASES,
22 DETECTIVE; BUT WHAT DID YOU DO WITH THIS INFORMATION AS YOU
23 WERE GETTING IT FROM -- FROM LORENA AND JUAN AVILA?

24 A. WELL, I WAS SITTING AT MY DESK WITH MY COMPUTER.
25 AND I IMMEDIATELY WROTE MY REPORT. I HAD TO SUBMIT THAT CASE
26 IMMEDIATELY BECAUSE WE HAVE A CERTAIN AMOUNT OF TIME TO FILE
27 OUR CASES. SO I JUST IMMEDIATELY TYPED IT.

28 Q. SO THE INFORMATION WAS WRITTEN DOWN WHILE THIS WAS

1 GOING ON OR RIGHT AFTERWARDS?

2 A. RIGHT AFTERWARDS.

3 Q. AND YOU MENTIONED THAT LORENA SAID THAT JUAN SAID
4 THE SUSPECT SPOKE IN SPANISH.

5 IS THAT CORRECT?

6 A. CORRECT.

7 Q. AND AT LEAST ONE THING THAT HE SAID WAS "DON'T MOVE
8 OR I'LL SHOOT."

9 IS THAT CORRECT?

10 A. RIGHT.

11 Q. AND YOU DIDN'T HAVE JUAN AT ANY POINT EVER --
12 MR. AVILA RE-ENACT THE -- HOW THE ROBBERY OCCURRED, DID YOU?
13 DID YOU HAVE HIM RE-ENACT THE ROBBERY WHILE YOU WERE SPEAKING
14 TO HIM WITH LORENA?

15 A. OVER THE TELEPHONE?

16 Q. YEAH.

17 A. WELL, I DON'T KNOW WHAT YOU MEAN BY "RE-ENACT."
18 I -- I PICTURED THAT AS AN IN-PERSON TYPE THING. I REACT --
19 RE-ENACT HE IS WALKING UP THE STREET, DEFENDANT APPROACHED
20 HIM, THOSE -- THOSE SORTS OF THINGS, YES.

21 Q. SO YOU DID ASK ABOUT HOW IT HAPPENED?

22 A. OH, SURE.

23 Q. RIGHT.

24 AND -- OKAY.

25 AND HE WAS NOT STANDING IN FRONT OF YOU SO YOU
26 COULDN'T ASK HIM TO SHOW YOU.

27 CORRECT?

28 A. THAT'S CORRECT.

1 Q. OKAY.

2 BUT LORENA DID TELL YOU HE SAID THAT HE HAD HIS
3 RIGHT HAND IN HIS JACKET AND POINTED IT TOWARD THE VICTIM.

4 IS THAT CORRECT?

5 A. HE SAID -- I REMEMBER THIS PART OF THE CONVERSATION
6 BECAUSE SHE -- SHE SAID HE HAD HIS RIGHT HAND IN THE JACKET.
7 AND I SAID, "OH, YOU MEAN THE POCKET?" AND THEN THEY HAD A
8 CONVERSATION. AND SHE CAME BACK AND SAID, "YEAH, IN THE
9 POCKET."

10 Q. AND THAT THE -- WHAT WAS EVER IN THE POCKET WAS
11 POINTED TOWARD THE VICTIM?

12 A. RIGHT, YES.

13 MR. GOLUB: THANK YOU.

14 I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

15 THE COURT: ANY RECROSS?

16 MS. WIDMARK: YES.

17

18 RECROSS-EXAMINATION

19 BY MS. WIDMARK:

20 Q. DETECTIVE CARLISLE, DID YOU ASK WHEN THEY SAID --
21 WHEN LORENA SAID THAT HE HAD THE GUN OR THE WEAPON IN THE
22 POCKET, DID YOU ASK WHETHER IT WAS THE FRONT POCKET OR THE
23 BACK POCKET?

24 A. I DIDN'T ASK THAT QUESTION.

25 MS. WIDMARK: NOTHING FURTHER.

26 THE COURT: OKAY.

27 MA'AM, THANK YOU. YOU MAY STEP DOWN.

28 THE WITNESS: I'M SORRY?

1 THE COURT: MR. GOLUB.

2 MR. GOLUB: DEFENSE WOULD NOW LIKE TO CALL WILLIAM
3 MILTON TO THE STAND, YOUR HONOR.

4 THE COURT: DO YOU WANT TO -- WE HAVE A MATTER TO TAKE
5 UP BEFORE --

6 MR. GOLUB: OH, YES, YOUR HONOR.

7 THE COURT: DO YOU WANT TO TAKE UP THAT FIRST?

8 MR. GOLUB: YES, WE PROBABLY SHOULD.

9 THE COURT: OKAY.

10 I -- I -- I DO HAVE ONE MORE MATTER I HAVE TO TAKE
11 UP OUTSIDE THE PRESENCE OF YOU, AND I DON'T THINK IT'LL TAKE
12 MUCH OVER TEN MINUTES. SO TAKE -- TAKE A SHORT BREAK, AND
13 WE'LL NOT TAKE A REPORTER BREAK. SO AS SOON AS WE GET THIS
14 OVER, WE'LL CALL YOU BACK; BUT FEEL FREE TO USE, OF COURSE,
15 THE WAITING AREA OUT THERE.

16 MS. WIDMARK: YOUR HONOR, MAY I EXCUSE THE OFFICERS.

17 THE COURT: YES.

18

19 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

20

21 THE COURT: OKAY. THE JURY HAS LEFT THE ROOM.

22 WE'RE DOWN TO THIS JULY 17, 1993 PRIOR BECAUSE -- I
23 AM NOT GOING TO GIVE THEM THE OTHER GUN PRIOR. SO WE'RE
24 DOWN -- THE ONLY ISSUE LEFT IS THE ONE PRIOR, AND WE'RE
25 STRUGGLING RIGHT NOW OVER WHAT THE -- THE QUALITY OR WHAT
26 THEIR PRIOR REALLY WAS.

27 MR. GOLUB: RIGHT.

28 THE COURT: YOU MAY PROCEED.

1 MR. GOLUB: YEAH. WELL, THE FIRST COMMENT THAT I HAVE
2 IS WE KNOW THROUGH HEAR -- I MEAN -- THROUGH -- THROUGH
3 HEARSAY, LET'S SAY, THE PEOPLE HAVE A GOOD FAITH -- FAITH
4 BELIEF THAT THERE WAS AN ARREST AT ONE POINT FOR AGGRAVATED
5 ASSAULT. AND THIS STATUTE -- AND WE HAVE NO IDEA WHAT THE
6 FACTS ARE -- THE CASE ARE -- WHAT THE CONVICTION WAS ACTUALLY
7 FOR.

8 IT COULD BE FOR AMMUNITION OR FOR A WEAPON, AND MY
9 CLIENT IS -- SAYS THAT IT WAS FOR AMMUNITION ONLY. AND HE
10 IS -- WE NEED TO -- WE CAN HAVE HIM TESTIFY, BUT THE WHOLE
11 PURPOSE -- AND THIS IS IN THE NATURE OF A 402 HEARING -- IS
12 THE PEOPLE HAVE SOME INFORMATION THAT IT WAS -- THAT IT WAS
13 EX-CON-WITH-A-GUN CONVICTION WHICH INCLUDES WEAPONS AND
14 AMMUNITION AND THERE WAS ORIGINALLY AN ARREST AND INCLUDED
15 AGGRAVATED ASSAULT.

16 BUT WE HAVE NO FURTHER INFORMATION, AND I DON'T --
17 I THINK UNDER THE -- THE LAW AND ALSO WITH MY CLIENT
18 TESTIFYING, I THINK THAT ALL THEY'RE GOING TO BE ABLE TO DO
19 IS ASK HIM THIS QUESTION, AND THEN HE IS GOING TO SAY, "NO."
20 AND IT'S JUST LEADING THE JURY, IT'S GOING TO CONFUSE THE
21 JURY AND WE'RE GOING TO GET INTO A COLLATERAL FIGHT ABOUT
22 WHAT HE SUFFERED A CONVICTION OF. AND THEY DON'T REALLY -- I
23 DON'T THINK THAT THEY SHOULD -- I THINK THE ROBBERY
24 CONVICTIONS ARE MUCH WORSE.

25 THE COURT: OKAY. I GUESS POSSESSION -- EX-CON WITH
26 POSSESSION OF BULLETS IS NOT A CRIME OF TURPITUDE.

27 MR. GOLUB: I DON'T THINK SO.

28 MS. WIDMARK: I WOULDN'T ARGUE --

1 THE COURT: OKAY.

2 MS. WIDMARK: THERE IS -- THERE IS A COUPLE OF THINGS.

3 THE COURT: YEAH. IF HE GETS UP AND SAYS, "NO" -- HE
4 HAS A GOOD POINT. IF HE COMES UP AND SAYS, "NO, THAT'S NOT
5 TRUE. I HAD BULLETS," THEN --

6 MS. WIDMARK: WELL, HE HAS TO SAY, "YES." HE WAS
7 CONVICTED OF UNLAWFUL USE OF A WEAPON BY A FELON. HE HAS TO
8 SAY, "YES" TO THAT BECAUSE WE HAVE THE DOCUMENTS THAT SAY
9 THAT'S WHAT HE WAS CONVICTED OF. IF WE'D ARGUE THAT,
10 CERTAINLY, WHEN YOU'RE TALKING ABOUT A FELON IN POSSESSION OF
11 A WEAPON, WE'RE TALKING ABOUT THAT. CERTAINLY, HAVING A GUN
12 IS -- IS MORE RELEVANT WITH REGARD TO READINESS TO DO EVIL,
13 OKAY, WHICH IS THE TURPITUDE STANDARD.

14 HOWEVER, I WOULDN'T COMPLETELY RULE OUT -- AND I
15 TRIED TO FIND A CASE ON THIS, BUT MOST PEOPLE DON'T EVEN KNOW
16 THE STATUTE EXISTS IN CALIFORNIA THAT HAS IT AS A CRIME TO
17 HAVE AMMUNITION AS A FELON. SO FINDING CASES THAT SAY THAT
18 YOU CAN USE IT FOR IMPEACHMENT WAS IMPOSSIBLE; BUT I'D
19 CERTAINLY ARGUE, ALTHOUGH NOT AS STRONGLY, IT STILL SHOWS A
20 READINESS TO DO EVIL FOR A FELON TO BE IN POSSESSION OF AN --
21 AMMUNITION.

22 HERE, WHAT WE HAVE IS WE HAVE WHAT THE PEOPLE
23 BELIEVE IS THE DEFENDANT'S DISINGENUOUS STATEMENT THAT IN
24 FACT ALL HE HAD WAS AMMUNITION WHEN HE WAS ARRESTED ON
25 JULY 17TH OR FOR THE JULY 17, 1993 CASE WHEN IN FACT HE IS
26 CHARGED WITH UNLAWFUL USE OF A WEAPON BY A FELON AND THREE
27 COUNTS OF AGGRAVATED ASSAULT WITH A DEADLY WEAPON, OKAY.

28 AND IT DEFIES ANY LOGIC TO SAY THAT ALL HE WAS

1 CARRYING AT THAT TIME WERE -- WAS AMMUNITION. THERE I ASKED
2 THEM, "WHY WOULD SOMEBODY BE CHARGED WITH AGGRAVATED ASSAULT
3 WITH A DEADLY WEAPON?" THEY SAID, "WELL, IT WOULD HAVE TO BE
4 EITHER A FEDERAL EMPLOYEE, SOMEBODY ELDERLY, SERIOUS ATTACK,
5 CAUSING G. B. I. AND ACTUAL GUN." THOSE WERE THE THINGS.
6 THAT'S WHY I SAY WITH REGARD TO THAT ONE THAT WE HAVE A GOOD
7 FAITH BELIEF. AND ALL THE DEFENDANT NEEDS TO SAY IS, "YES,
8 HE WAS CONVICTED AS A FELON -- UNLAWFUL USE OF A WEAPON BY A
9 FELON." THAT'S ALL HE HAS TO SAY, BUT IT DEFIES ANY SORT OF
10 LOGIC TO SAY THAT WITH THAT PARTICULAR ONE ALL HE HAD WAS
11 AMMUNITION WHEN HE'S GOT THREE COUNTS OF AGGRAVATED ASSAULT
12 WITH A DEADLY WEAPON.

13 LIKE I SAID, THE PEOPLE ARE NOT ASKING FOR THE
14 JUNE 11 'CAUSE I COULDN'T CONFIRM IT AND IT WOULDN'T BE
15 PROPER.

16 THE COURT: I AM NOT GOING TO LET YOU DO IT. I THINK
17 IT'S TOO SPECULATIVE. SO WE'RE JUST GOING TO DO THE
18 ROBBERIES.

19 AND THEN YOU'RE READY TO HAVE YOUR CLIENT TESTIFY?

20 MR. GOLUB: YES.

21 THE COURT: OKAY.

22 LET'S -- HE CAN SIT RIGHT HERE, IF THAT'S OKAY.

23 AND DO YOU MIND, MR. PATTERSON, IF YOU JUST BRING
24 YOUR MINOR IN HERE?

25 MR. PATTERSON: THAT'S NOT A PROBLEM AT ALL, YOUR HONOR.
26 IT'S -- IT'S THE SAME PERSON FROM -- THAT WE ORDERED BACK FOR
27 WEDNESDAY.

28 THE COURT: OKAY.

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(THE COURT HEARD AN UNRELATED MATTER.)

MR. GOLUB: FINALLY -- OH -- ON THE ROBBERY --

THE COURT: MINOR IS DETAINED.

MR. GOLUB: -- ON THE ROBBERIES -- THE ROBBERIES,
ALLOWED TO SAY IT'S ARMED ROBBERIES OR --

THE COURT: NO. I THINK THESE ARE JUST ROBBERIES
ROBBERIES.

MS. WIDMARK: SO THERE IS AN ARMED ROBBERY, AND THERE IS
A ROBBERY. AND, CERTAINLY, ARMED ROBBERY IS MUCH MORE
RELEVANT WITH REGARD TO READINESS TO DO EVIL, JUST THE SAME
AS WE WERE TALKING ABOUT THE BULLETS AND THE GUN. THE ONE IS
A STRAIGHT ROBBERY, AND ONE IS AN ARMED ROBBERY.

MR. GOLUB: I THINK THAT IN OUR -- I KNOW IN CALIFORNIA
WE JUST HAVE ROBBERY. WE DON'T HAVE ARMED ROBBERY. SO WE
HAVE ROBBERY, AND THEN USE IS JUST AN ENHANCEMENT. SO I
THINK UNDER THE LAW IT'S JUST YOU GET TO IMPEACH SOMEBODY ON
ROBBERY, NOT ON ARMED ROBBERY.

I JUST WANTED TO BRING THIS UP BECAUSE THERE WAS A
LITTLE BIT OF A CONFUSION. I THINK IN CALIFORNIA WE JUST
IMPEACH PEOPLE THAT HAVE ROBBERY CONVICTIONS. I DON'T
BELIEVE THAT WE IMPEACH ROBBERY WITH ENHANCEMENTS OF THE USE.
SO --

MS. WIDMARK: THAT'S -- THAT'S WHAT HE IS CONVICTED OF.

MR. GOLUB: RIGHT, BUT IN CALIFORNIA WHICH IS THE LAW OF
THIS STATE I BELIEVE THAT HE IS ALLOWED TO BE CONVICTED -- I
MEAN IMPEACHED WITH ROBBERY CONVICTIONS BECAUSE THAT'S WHAT

1 PENAL CODE SECTION 211 IS AFTER, THAT WE JUST HAVE USE
2 ENHANCEMENTS. WE DON'T ALLOW PEOPLE TO BE -- TO GO INTO THE
3 ENHANCEMENTS WHICH --

4 THE COURT: I DON'T KNOW WHY WE WOULDN'T -- I HAVE NOT
5 READ A CASE ON THAT, BUT I DON'T SEE ANYTHING WRONG WITH
6 SAYING EVEN IN CALIFORNIA THAT HE WAS CONVICTED OF ROBBERY
7 WITH A GUN. WHAT WOULD BE WRONG WITH THAT? I HAVE NOT READ
8 ANY CASES ON THAT, BUT IT SEEMS LOGICAL TO ME.

9 MR. GOLUB: ROBBERY ITSELF, THE READINESS TO DO EVIL,
10 WHETHER HE HAS A GUN OR NOT, I DON'T THINK THERE -- IS NOT
11 NECESSARILY -- I THINK NOT THAT RELEVANT.

12 THE COURT: OKAY. AND I AM GOING TO LET THAT IN.

13 IT'S BEEN TEN MINUTES. YOU WANT TO BRING THE JURY
14 IN?

15 MR. GOLUB: YOUR HONOR, FOR THE RECORD -- FOR THE RECORD
16 I OBJECT TO THE USE OF THE ARMED ALLEGATION AND, ALSO, THE
17 TAPE --

18 THE COURT: THE TAPE.

19 MR. GOLUB: -- WHICH I THINK WAS PEOPLE'S 1.

20 THE COURT: AND I THINK YOU HAVE PREVIOUSLY PRESENTED
21 THAT ARGUMENT.

22 OKAY. THANK YOU.

23

24 (PROCEEDINGS IN PRESENCE OF JURY.)

25

26 THE COURT: IT WAS TEN MINUTES.

27 MR. GOLUB, CALL YOUR NEXT WITNESS, PLEASE.

28 MR. GOLUB: WILLIAM MILTON, YOUR HONOR.

1 WILLIAM MILTON,
2 THE DEFENDANT HEREIN, CALLED AS A WITNESS ON HIS OWN BEHALF,
3 WAS SWORN AND TESTIFIED AS FOLLOWS:

4 THE CLERK: PLEASE APPROACH THE WITNESS STAND AND RAISE
5 YOUR RIGHT HAND.

6 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
7 YOU MAY GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
8 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
9 TRUTH, SO HELP YOU GOD.

10 THE WITNESS: I DO.

11 THE CLERK: YOU MAY BE SEATED.

12 PLEASE STATE AND SPELL YOUR NAME FOR THE RECORD.

13 THE WITNESS: MY NAME IS WILLIAM MILTON, M-I-L-T-O-N.

14 THE COURT: IF YOU LEAN CLOSER.

15 THE WITNESS: THANK YOU.

16 MR. GOLUB: IF I MAY JUST --
17

18 DIRECT EXAMINATION

19 BY MR. GOLUB:

20 Q. MR. MILTON, ON THE NIGHT OF SEPTEMBER 6, OKAY,
21 WHERE WERE YOU AT APPROXIMATELY 1:30 IN THE MORNING?

22 A. I WAS AT FIGUEROA AND 92ND STREET BUS STOP.

23 Q. AND DO YOU SEE THE BUS STOP IN ANY OF THESE
24 PHOTOGRAPHS?

25 A. COULD YOU TURN THIS A LITTLE BIT, MA'AM?

26 RIGHT THERE IN "E."

27 Q. OKAY.

28 PEOPLE'S 3-E?

1 A. YES.

2 Q. OKAY.

3 WHERE THAT BUS STOP SIGN AND BUS STOP BENCH ARE?

4 A. YES.

5 Q. OKAY.

6 THAT'S WHERE YOU WERE AT ABOUT 1:30 IN THE MORNING
7 ON SEPTEMBER 6TH?

8 A. YES.

9 Q. OKAY.

10 WHAT WERE YOU DOING AT THE BUS STOP?

11 A. I WAS WAITING FOR A FRIEND.

12 Q. AND WHAT WAS THE FRIEND SUPPOSED TO DO?

13 A. WE WAS GOING TO MY HOUSE.

14 Q. AND WHAT WAS THE FRIEND'S NAME?

15 A. WANDRA POWELL WHITHERSPOON.

16 Q. OKAY.

17 NOW, WAS SHE SUPPOSED TO PICK YOU UP AT THE BUS
18 STOP?

19 A. YES.

20 Q. NOW, DO YOU -- YOUR HOUSE, DO YOU LIVE -- WHERE DO
21 YOU -- WHERE WERE YOU LIVING AT THE TIME?

22 A. 1056 AND A HALF WEST 98TH STREET.

23 Q. OKAY.

24 IS THAT CLOSE TO THIS AREA?

25 A. YEAH, YEAH. TWO MAIN STREETS OVER FROM FIGUEROA.

26 Q. ARE YOU FAMILIAR WITH FIGUEROA, THEN?

27 A. YES, I AM.

28 Q. NOW, AS YOU WERE AT THE BUS STOP, DID YOU -- DID

1 YOU SEE ANYBODY APPROACH YOU?

2 A. WHAT I KNOW IS JUAN AVALON WALKING TOWARD ME. HE
3 WAS WALKING NORTHBOUND.

4 Q. OKAY.

5 SO AT SOME POINT YOU SAW JUAN AVILA WALKING
6 NORTHBOUND TOWARDS YOU?

7 A. YES.

8 Q. AND HAD YOU EVER SEEN MR. AVILA BEFORE?

9 A. YES, I HAVE SEEN HIM AROUND.

10 Q. AND WHERE DID YOU USED TO SEE HIM?

11 A. AT TAM'S RESTAURANT LOCATED ON CENTURY AND
12 FIGUEROA.

13 Q. AND APPROXIMATELY HOW MANY TIMES HAD YOU SEEN HIM
14 BEFORE?

15 A. DOZEN TIME. HE IS ALWAYS AROUND THERE.

16 Q. AND DO YOU HANG AROUND THERE, TOO?

17 A. YES. HANG OUT.

18 Q. AND HAD YOU EVER SPOKEN TO HIM BEFORE?

19 A. I HAVE NEVER SPOKEN WITH HIM, BUT WANDRA HAS.

20 Q. AND WHEN YOU -- WERE YOU PRESENT DURING THAT
21 CONVERSATION?

22 A. NO.

23 Q. DID YOU HEAR THE CONVERSATION?

24 A. WELL, SHE TOLD ME THAT --

25 MS. WIDMARK: OBJECTION, HEARSAY.

26 THE COURT: SUSTAINED.

27 BY MR. GOLUB:

28 Q. SO YOU DIDN'T PERSONALLY HEAR THE CONVERSATION?

1 A. NO.

2 Q. OKAY.

3 NOW, WHEN -- WHEN HE APPROACHED YOU, WHAT WAS THE
4 FIRST THING THAT HAPPENED?

5 A. HE SAYS -- ASKED, "WHERE WAS -- HEY, YOU HAVE
6 WEED?"

7 Q. AND WHAT DID YOU SAY?

8 A. I SAID, "NO, I DON'T HAVE WEED; BUT I CAN GET YOU
9 SOME WEED."

10 Q. AND WHAT HAPPENED AFTER THAT?

11 A. HE SAYS, "WELL, GIVE ME 20."

12 Q. AND WHAT WAS THE NEXT THING THAT HAPPENED?

13 A. HE HANDED ME A \$20 BILL. AND I TOLD HIM, "YOU
14 SEE --" CAN I STAND UP?

15 Q. YOU WANT TO POINT SOMETHING TO US?

16 A. YES.

17 Q. OKAY.

18 GO AHEAD.

19 A. I TOLD HIM, "YOU SEE THESE APARTMENTS RIGHT HERE?"
20 TOLD HIM --

21 MR. GOLUB: POINTING IN PEOPLE'S 3-A, YOUR HONOR, IN
22 TOWARD THE UPPER HALF OF THE PHOTOGRAPH --

23 THE COURT: YES.

24 MR. GOLUB: -- ON THE EAST SIDE OF THE STREET.

25 THE WITNESS: THIS IS THE WEED SPOT.

26 BY MR. GOLUB:

27 Q. OKAY. THANK YOU, MR. MILTON.

28 WHEN YOU SAY, "THIS IS THE WEED SPOT," POINTING TO

1 THOSE APARTMENT BUILDINGS, WHAT DO YOU MEAN BY THAT?

2 A. TOLD HIM I CAN GO TO THOSE APARTMENTS AND GET HIM
3 SOME WEED.

4 Q. OKAY.

5 WERE YOU SELLING -- WHEN YOU SAY, "WEED," DO YOU
6 MEAN MARIJUANA?

7 A. MARIJUANA.

8 Q. AND WERE YOU SELLING WEED THAT -- AT -- THAT
9 MORNING?

10 A. NO. I DON'T SELL NARCOTICS.

11 Q. BUT YOU KNOW WHERE YOU CAN BUY SOME?

12 A. I KNOW WHERE I CAN PURCHASE THEM, YEAH.

13 Q. AND YOU AGREED TO DO THIS FOR MR. AVILA?

14 A. YES.

15 Q. WHAT DID YOU EXPECT TO GET OUT OF THIS?

16 A. LAW OF THE STREET. I WANTED -- I WANTED A BLUNT
17 (PHONETIC), I WANTED A RETURN.

18 Q. SO WHEN YOU'D GO PURCHASE FOR HIM, YOU WOULD GET --
19 YOU WOULD GET SOME MARIJUANA OUT OF THE PURCHASE?

20 A. I HAVE A LITTLE, RIGHT.

21 Q. THAT'S -- YOU SAID THE LAW OF THE STREET.

22 A. THAT'S JUST THE -- THAT'S WHAT YOU DO WHEN YOU GO
23 GET SOMETHING FOR SOMEONE ON THE STREETS.

24 Q. AND, NOW, WHAT HAPPENED -- WHAT HAPPENED AFTER HE
25 SAID HE WANTED A 20 AND -- WHAT WAS THE NEXT THING THAT
26 HAPPENED?

27 A. HE ASKED ME -- HE SAY -- HIS WORDS WERE "YOU COME
28 BACK?" I TOLD HIM, "YEAH, I AM COMING BACK." AND THEN I

1 PROCEEDED TO WALK NORTH -- WHAT'S THAT? -- SOUTHBOUND.

2 Q. OKAY.

3 THEN YOU STARTED GOING SOUTHBOUND?

4 A. UM-HUM.

5 Q. ALONG FIGUEROA?

6 A. RIGHT.

7 Q. WHAT WAS THE NEXT THING THAT HAPPENED AFTER THAT?

8 A. NOW, INSTEAD OF GOING TO THOSE APARTMENTS RIGHT
9 THERE I JUST POINTED TO, I SEEN THE WEED -- THE DEALER'S NAME
10 IS TINY. HE'S LOCATED FURTHER UP ON 95TH ON THE SAME --
11 THE EAST SIDE OF THE STREET HERE. I SEE HIM AND JUST
12 BYPASSED APARTMENTS THAT I HAD INDICATED TO JUAN THAT I WOULD
13 BE GOING TO.

14 Q. OKAY.

15 SO YOU HAD TOLD MR. AVILA WHERE YOU WERE GOING TO
16 PURCHASE THE WEED?

17 A. EXACTLY.

18 Q. BUT YOU DID NOT GO THERE?

19 A. NO. I KEPT GOING.

20 Q. YOU SAW THIS -- WAS THIS A MAN OR A WOMAN?

21 A. IT'S A MAN.

22 Q. AND HIS NAME IS TINY?

23 A. TINY.

24 Q. AND THAT'S THE PERSON THAT YOU WERE LOOKING FOR,
25 ANYWAY?

26 A. YES.

27 Q. OKAY.

28 AND YOU SAW HIM ON 95TH AND FIGUEROA?

1 A. NINETY-FIFTH AND FIGUEROA.

2 Q. AND WHAT DID YOU DO WHEN YOU SAW TINY?

3 A. I STARTED WALKING IN HIS DIRECTION FURTHER SOUTH.

4 Q. WHAT IS THE NEXT THING THAT HAPPENED AFTER THAT?

5 A. I HEAR JUAN SAY, "HEY," AS THOUGH I AM RUNNING OFF
6 WITH HIS MONEY.

7 Q. AND WHAT DID YOU DO WHEN HE SAID, "HEY"?

8 A. JUST TURNED AROUND AND DID LIKE THIS, MEANING
9 GESTURING, "I WILL BE RIGHT BACK." DIDN'T SAY ANYTHING.
10 JUST PUT MY HAND OUT.

11 Q. WHAT WAS THE NEXT THING THAT HAPPENED?

12 A. I WALKED UP TO TINY AND TOLD HIM TO GIVE ME A 20.

13 Q. OKAY.

14 AND WHAT DID -- WHAT WAS THE NEXT THING THAT
15 HAPPENED AFTER THAT?

16 A. HE TOOK THE 20 AND WENT TO HIS STASH.

17 Q. OKAY.

18 NOW, WHERE DID HE GO?

19 A. THIS IS SOUTH. THAT'S 95TH. HE WENT FURTHER EAST,
20 SAY, A COUPLE OF HOUSES. HE DIDN'T KEEP IT ON HIM. JUST
21 WENT TO HIS STASH.

22 Q. SO HE WENT FURTHER EAST YOU SAID.
23 YOU WENT TO HIS STASH?

24 A. HE WENT TO HIS STASH.

25 Q. HIS STASH IS IN HIS APARTMENT?

26 A. NO -- WELL, NOT THAT NIGHT.

27 Q. WELL, DO YOU KNOW WHERE HE WAS GOING?

28 A. YEAH, I KNEW WHERE HE WAS GOING, YES.

1 Q. WHERE WAS HE GOING?

2 A. TO HIS STASH.

3 Q. WHERE WAS HIS STASH?

4 A. A COUPLE OF HOUSES EAST FROM THE BLOCK OF 95TH.

5 Q. WAS THAT A HOUSE THAT HE LIVED IN OR --

6 A. NO. THOSE WERE SOME ABANDONED APARTMENTS THERE.

7 Q. SO A COUPLE OF HOUSES. THERE IS AN ABANDONED

8 APARTMENT WHERE PEOPLE KEEP STASHES?

9 A. RIGHT. THEY DON'T CARRY IT ON THEM ON THE STREETS.
10 GET POLICE RUN UP ON 'EM, THEY'RE CAUGHT.

11 Q. AND WHAT WAS THE NEXT THING THAT HAPPENED AFTER
12 TINY LEFT?

13 A. I WAS STANDING ON THE CORNER. DIDN'T -- BEEN NO
14 MORE THAN THREE MINUTES I SEE A BLACK-AND-WHITE PASS ME BY,
15 MAKE A U-TURN, COME RIGHT UP ON ME AND DRAW THEIR GUNS OUT.

16 Q. WAS THAT OFFICER HERRERA AND HIS PARTNER?

17 A. I DON'T REMEMBER OFFICER HERRERA; BUT I DO REMEMBER
18 THE ASIAN GUY, YAMAMOTO.

19 Q. YAMAMOTO?

20 A. YEAH.

21 Q. SO -- OKAY.

22 SO YOU BELIEVE IT WAS NO MORE THAN THREE MINUTES
23 THAT YOU WERE STANDING OUT ON THE CORNER?

24 A. IT WAS MINUTES, THREE MINUTES.

25 Q. AND WHEN YOU WERE STANDING ON THE CORNER, WHICH
26 CORNER, AGAIN, WAS THIS?

27 A. NINETY-FIFTH, FIGUEROA, ON THIS SIDE. IT'S THE
28 EAST SIDE OF THE STREET.

1 Q. OKAY.

2 NOW, WHEN THE OFFICERS PULLED UP, WERE YOU WALKING
3 ON 95TH STREET WESTBOUND?

4 A. STANDING. I AM WAITING FOR TINY TO RETURN WITH --
5 WITH THE WEED.

6 Q. OKAY. OKAY.

7 SO YOU WERE NOT WALKING -- YOU WERE NOT WALKING
8 WESTBOUND ON 95TH STREET?

9 A. STANDING.

10 Q. YOU WERE ON FIGUEROA?

11 A. ON FIGUEROA, 95TH.

12 Q. RIGHT AT 95TH STREET?

13 A. NINETY-FIFTH STREET, ON THE CORNER.

14 Q. NOW, DO YOU -- OKAY.

15 DO YOU KNOW ANY SPANISH?

16 A. I DO NOT SPEAK SPANISH.

17 Q. AND LET ME JUST GET THIS OTHER DIAGRAM JUST FOR ONE
18 SECOND. BEFORE I DO THAT, SO -- YOU SEE PEOPLE'S 3-A RIGHT
19 HERE WITH THE -- WITH THE "M" THAT'S CIRCLED? DO YOU SEE
20 THAT?

21 A. I SEE IT.

22 Q. OKAY.

23 SO WERE YOU STANDING OVER THERE AT THE TIME THAT
24 YOU -- MR. AVILA WALKED UP TO YOU?

25 A. YEAH. I WAS STANDING AT THE BUS STOP.

26 Q. SO LOOKING AT PEOPLE'S 4, THE DIAGRAM.

27 DO YOU SEE 95TH AND FIGUEROA IN THAT DIAGRAM?

28 A. WHERE THE LITTLE RED DOT IS.

1 Q. ALL RIGHT.

2 BUT WERE YOU -- OKAY. RIGHT.

3 BUT YOUR TESTIMONY, YOU WERE NOT WALKING WESTBOUND
4 ON 95TH STREET? YOU WERE ACTUALLY ON THE CORNER?

5 A. STANDING ON THE CORNER OF 95TH, RIGHT THERE.

6 Q. AND WAS THAT THE CORNER THAT YOU WERE ON, THOUGH?

7 A. CAN I GET UP?

8 Q. SURE.

9 A. THAT IS THE CORNER, CORRECT?

10 Q. YES.

11 A. THIS IS THE CORNER. RIGHT HERE ON THE CORNER.

12 Q. NOW, DID YOU ROB MR. AVILA OF ANY PROPERTY?

13 A. NO, I DID NOT.

14 Q. DID YOU --

15 A. I DID NOT ROB JUAN AVILA.

16 Q. DID YOU PRETEND TO HAVE A GUN OR SOME OTHER WEAPON
17 AND DEMAND PROPERTY FROM HIM?

18 A. NO, I DID NOT.

19 Q. DID YOU TAKE ANY COINS OR \$20 -- \$20 OR A BAG FROM
20 HIM?

21 A. NO, I DID NOT.

22 Q. OKAY.

23 DID YOU TELL HIM IN SPANISH "DON'T MOVE OR I'LL
24 SHOOT"?

25 A. I DON'T SPEAK SPANISH. NO, I DID NOT.

26 Q. DID YOU GO INTO HIS POCKETS WITH YOUR HAND?

27 A. NO, I DID NOT.

28 Q. NOW, BACK IN 1987 HOW OLD WERE YOU?

1 A. I WAS 20 YEARS OLD.

2 Q. AND WERE YOU CONVICTED OF TWO COUNTS OF ROBBERY
3 BACK IN 1987 -- WELL, WERE YOU CONVICTED OF ROBBERY TWICE IN
4 1987?

5 A. STATE OF ILLINOIS, YES.

6 Q. AND HOW OLD ARE YOU NOW?

7 A. I'M 32.

8 Q. AND IN THOSE CASES DID YOU GO TO TRIAL -- WELL,
9 I'LL WITHDRAW THOSE QUESTIONS. THANK YOU.

10 NO FURTHER QUESTIONS, YOUR HONOR, AT THIS TIME.

11 THE COURT: CROSS-EXAM?

12 MS. WIDMARK: YES.

13

14

CROSS-EXAMINATION

15

BY MS. WIDMARK:

16

17

Q. MR. MILTON, WAS ONE OF YOUR ROBBERIES AN ARMED
ROBBERY? WERE YOU CONVICTED OF AN ARMED ROBBERY?

18

A. YES.

19

20

Q. AND WERE YOU CONVICTED IN ANOTHER CASE OF A
SEPARATE ROBBERY?

21

A. I PLED GUILTY.

22

Q. HOW TALL ARE YOU?

23

A. I'M FIVE-SEVEN.

24

Q. AND HOW MUCH DO YOU WEIGH?

25

A. ONE HUNDRED FORTY POUNDS, 50 POUNDS.

26

27

Q. LOOKING AT THIS BLOW-UP OF A BOOKING PHOTO,
PEOPLE'S NO. 5 FOR IDENTIFICATION.

28

IS THIS WHAT YOU WERE WEARING ON SEPTEMBER 6TH?

1 A. YES.

2 Q. AND LOOKING AT THE SMALLER PHOTO, NO. 6. SHOWS
3 DARK PANTS.

4 YOU WERE IN ALL DARK CLOTHES THAT NIGHT?

5 A. YES.

6 Q. YOU LIVE AT THE ADDRESS ON 98TH STREET THERE IN LOS
7 ANGELES.

8 HOW LONG HAVE YOU BEEN THERE?

9 A. SINCE DECEMBER -- I MEAN DECEMBER, 1996.

10 Q. SO YOU'RE PRETTY FAMILIAR WITH THAT AREA.

11 IS THAT CORRECT?

12 A. YES, I AM.

13 Q. AND YOU LIVE AT THAT 98TH STREET ADDRESS WITH YOUR
14 MOTHER?

15 A. YES.

16 Q. WHAT'S YOUR MOTHER'S NAME?

17 A. GENOVEVA MILTON.

18 Q. I'M SORRY. WHAT'S THE FIRST NAME?

19 A. GENOVEVA, G-E-N-O-V-E-V-A, M-I-L-T-O-N.

20 Q. AND IS YOUR MOTHER HISPANIC?

21 A. YES, SHE IS.

22 Q. DOES YOUR MOTHER SPEAK SPANISH?

23 A. MY MOTHER DID NOT SPEAK SPANISH.

24 Q. SO YOU HAVE BEEN HANGING OUT IN THAT AREA ON
25 FIGUEROA SINCE ABOUT 1996.

26 IS THAT CORRECT?

27 MR. GOLUB: WELL, OBJECTION, IRRELEVANT.

28 THE COURT: OVERRULED.

1 THE WITNESS: ABOUT 1997.

2 BY MS. WIDMARK:

3 Q. OKAY.

4 AND HOW LONG HAVE YOU KNOWN TINY?

5 A. JUST MET TINY 19 -- ABOUT -- ABOUT THREE MONTHS.

6 Q. AND TINY SELLS MARIJUANA THERE ON FIGUEROA.

7 IS THAT CORRECT?

8 A. YES, HE DO, THERE AND AT TAM'S.

9 Q. AND -- AND WHO SOLD MARIJUANA IN THAT AREA PRIOR TO
10 TINY COMING THREE MONTHS AGO?

11 MR. GOLUB: OBJECTION, IRRELEVANT.

12 THE COURT: SUSTAINED.

13 MS. WIDMARK: MAY WE APPROACH, YOUR HONOR, OR SHALL I
14 MOVE ON?

15 THE COURT: MOVE ON.

16 MS. WIDMARK: I'LL JUST MOVE ON.

17 Q. WHEN YOU HAVE HUNG OUT AT TAM'S, WHAT WERE YOU
18 DOING THERE?

19 A. I DON'T UNDERSTAND YOUR QUESTION.

20 Q. WHAT WERE YOU DOING AT TAM'S? YOU SAID YOU'D HANG
21 OUT THERE. WHAT ARE YOU DOING THERE?

22 A. EAT, HANG OUT WITH FRIENDS.

23 Q. DID YOU EVER ASK ANYBODY FOR MONEY?

24 A. I PUMP GAS OCCASIONALLY. YES.

25 Q. DID YOU EVER ASK ANYBODY FOR MONEY WHEN YOU WERE AT
26 TAM'S?

27 A. DID I EVER -- DID I EVER ASK ANYONE FOR MONEY FOR
28 TAM'S? YES, I HAVE ASKED SOME MONEY -- MONEY AT TAM'S FROM

1 TIME TO TIME.

2 Q. OKAY.

3 DID YOU ASK JUAN FOR MONEY?

4 A. I HAVE NEVER SPOKEN TO JUAN EXCEPT THAT NIGHT HE
5 CAME AND APPROACHED ME.

6 Q. SO HE'S NEVER GIVEN YOU A DOLLAR?

7 A. NEVER GIVEN ME ANYTHING.

8 Q. DID YOU EVER ASK HIM IF HE WANTED TO BUY MARIJUANA?

9 A. I NEVER ASKED JUAN DID HE WANT TO BUY MARIJUANA,
10 NO.

11 Q. BUT YOU KNEW HOW TO DO IT?

12 A. WHEN HE ASKED ME, I KNEW WHERE TO GET IT.

13 Q. AND HAVE YOU EVER GOTTEN MARIJUANA?

14 A. HAVE I EVER --

15 Q. PRIOR TO THAT NIGHT.

16 A. NO.

17 Q. NEVER HAVE?

18 A. NO, I NEVER PURCHASED ANY MARIJUANA PRIOR TO THAT
19 NIGHT.

20 Q. EVER? YOU NEVER PURCHASED MARIJUANA OR DRUGS FOR
21 ANYBODY.

22 IS THAT CORRECT?

23 A. NO. I DIDN'T SAY THAT.

24 Q. HAD YOU EVER PURCHASED MARIJUANA OR DRUGS FOR
25 ANYBODY PRIOR TO THAT NIGHT?

26 A. YES, I HAVE.

27 Q. ON HOW MANY OCCASIONS?

28 MR. GOLUB: WELL, OBJECTION. IT'S VAGUE AND AMBIGUOUS

1 AS TO WHERE, IRRELEVANT.

2 THE COURT: SUSTAINED.

3 MS. WIDMARK: YOUR HONOR, MAY WE APPROACH.

4 THE COURT: NO. YOU CAN BE MORE SPECIFIC.

5 MS. WIDMARK: OKAY.

6 Q. HAD YOU -- HAD YOU PURCHASED MARIJUANA OR DRUGS FOR
7 ANYBODY?

8 MR. GOLUB: WELL, OBJECTION. THAT'S ASKED AND ANSWERED.

9 THE COURT: OVERRULED.

10 THE WITNESS: YEAH, IN THE PAST, YES.

11 BY MS. WIDMARK:

12 Q. HOW LONG AGO?

13 MR. GOLUB: WELL, OBJECTION, IRRELEVANT. IT'S
14 OVERBROAD.

15 THE COURT: OVERRULED.

16 THE WITNESS: DON'T REMEMBER.

17 BY MS. WIDMARK:

18 Q. HOW MANY OCCASIONS?

19 A. I DO NOT REMEMBER, MA'AM.

20 Q. MORE THAN ONE?

21 A. MORE THAN ONE, YES.

22 Q. MORE THAN FIVE?

23 MR. GOLUB: OBJECTION, IRRELEVANT, YOUR HONOR. MAY WE
24 APPROACH.

25 THE COURT: NO. OVERRULED.

26 BY MS. WIDMARK:

27 Q. MORE THAN FIVE?

28 A. YES.

1 Q. MORE THAN TEN?

2 A. I WOULDN'T SAY MORE THAN TEN.

3 Q. OKAY.

4 SO MORE THAN FIVE AND LESS -- LESS THAN TEN?

5 A. YEAH, SOMEWHERE AROUND THERE.

6 Q. OVER WHAT PERIOD OF TIME?

7 A. I DO NOT REMEMBER, MA'AM.

8 Q. SINCE 1997?

9 A. SINCE 1997. I HAVE TO SAY I DON'T REMEMBER. I
10 DON'T KNOW. YOU WANT ME TO GIVE AN ANSWER, I WOULD SAY,

11 "YES."

12 Q. BECAUSE IT WAS ABOUT DECEMBER, '96 THAT YOU GOT TO
13 THE AREA.

14 IS THAT CORRECT?

15 A. RIGHT.

16 Q. AND YOU KNEW TINY SOLD MARIJUANA BECAUSE YOU WOULD
17 SEE HIM AT TAM'S.

18 IS THAT CORRECT?

19 A. YES.

20 Q. DID YOU HANG OUT WITH TINY?

21 A. NO, I DID NOT.

22 Q. BUT YOU UNDERSTOOD WHAT THE LAW OF THE STREET WAS,
23 DIDN'T YOU?

24 A. YES.

25 Q. AND THERE IS A LOT OF LAWS OF THE STREET, AREN'T
26 THERE?

27 A. YES.

28 Q. AND ONE OF THE LAWS OF THE STREET IS THAT YOU DON'T

1 TALK TO THE POLICE, ISN'T IT?

2 MR. GOLUB: WELL, OBJECTION. IT'S IRRELEVANT.

3 THE COURT: SUSTAINED.

4 BY MS. WIDMARK:

5 Q. YOU SAY THAT JUAN APPROACHED YOU AS YOU SAT ON THE
6 BUS BENCH WAITING FOR WANDRA.

7 IS THAT CORRECT?

8 A. NO. I STOOD AT THE BUS STOP.

9 Q. SO YOU ARE STANDING AT THE BUS STOP WAITING FOR
10 WANDRA AND JUAN APPROACHES YOU.

11 IS THAT CORRECT?

12 A. THAT'S CORRECT.

13 Q. AND IMMEDIATELY SAYS TO YOU SOMETHING ABOUT WEED.

14 IS THAT CORRECT?

15 A. HE SAYS, "HEY, YOU GOT WEED?"

16 Q. HAVE YOU EVER SOLD TO JUAN BEFORE?

17 A. NO.

18 Q. HAVE YOU EVER OFFERED TO SELL TO JUAN BEFORE?

19 A. NO, I DID NOT.

20 Q. HAVE YOU EVER OFFERED TO GO GET HIM MARIJUANA
21 BEFORE?

22 A. NO.

23 Q. BUT JUST OUT OF THE BLUE HE WALKS UP TO YOU AND
24 SAYS, "WEED"?

25 A. YES, MA'AM.

26 Q. OKAY.

27 AND HE GIVES YOU A 20.

28 IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND WHERE DID THIS \$20 BILL COME FROM?

3 A. FROM HIS HAND.

4 Q. SO HE JUST HAD A \$20 BILL IN HIS HAND?

5 A. HE HAD A \$20 BILL IN HIS HAND FOLDED UP.

6 Q. AND HE HANDS THE \$20 TO YOU.

7 IS THAT CORRECT?

8 A. THAT'S CORRECT.

9 Q. FIRST TIME YOU HAVE EVER HAD A CONVERSATION WITH
10 HIM.

11 IS THAT CORRECT?

12 A. FIRST TIME I HAVE HAD A CONVERSATION WITH MR. JUAN.

13 Q. BUT HE HANDED YOU \$20?

14 A. THAT IS CORRECT.

15 Q. AND YOU WALK AWAY?

16 A. THAT IS CORRECT.

17 Q. AND HOW MUCH MARIJUANA DO YOU GET FOR \$20?

18 A. YOU GET EITHER TWO DIME SACKS -- I THINK THEY ARE
19 ABOUT ONE INCH BY ONE INCH -- OR FOUR \$5 SACKS, QUARTER INCH
20 BY A QUARTER INCH, FOUR -- FOUR -- COULD I SAY -- FOUR --
21 FOUR FIVES IS 20.

22 Q. SO YOU GET TWO DIME OR FOUR NICKEL?

23 A. EXACTLY.

24 Q. AND SO HE GIVES YOU THIS \$20, AND THEN HOW MUCH OF
25 IT ARE YOU GOING TO GET?

26 A. I AM GOING TO GET \$5.

27 Q. SO THEN YOU'RE OUT LOOKING FOR FOUR NICKEL BAGS
28 THEN.

1 IS THAT CORRECT?

2 A. I AM LOOKING FOR A \$20 BAG, WHATEVER IT BE --
3 WHATEVER IS AVAILABLE AT NIGHT -- AT THAT TIME OF NIGHT,
4 WHETHER IT BE TWO DIMES OR FOUR NICKELS.

5 Q. BECAUSE YOU KNOW HOW THIS WORKS.

6 CORRECT?

7 A. YES.

8 Q. SO YOU'RE OUT THERE -- YOUR HONOR, MAY I APPROACH.

9 THE COURT: YES.

10 BY MS. WIDMARK:

11 Q. SO YOU'RE OUT THERE -- LOOKING AT PEOPLE'S --
12 LOOKING AT PEOPLE'S NO. 3.

13 YOU'RE OUT THERE ON FIGUEROA AT THIS BUS BENCH OR
14 STANDING BY THIS BUS BENCH DEPICTED IN PEOPLE'S 3.

15 ISN'T THAT CORRECT?

16 A. YES.

17 Q. OKAY.

18 AND DO YOU SEE MR. CAMARILLO STANDING OUT IN FRONT
19 OF THE APARTMENT COMPLEX THERE DEPICTED IN PEOPLE'S 3-B?

20 A. I DON'T SEE HIM.

21 Q. YOU DIDN'T SEE HIM AT ALL THAT NIGHT?

22 A. NO, NO, I DIDN'T SEE HIM.

23 Q. SO THE FIRST TIME YOU EVER SAW MR. CAMARILLO WAS
24 WHEN YOU SAW HIM IN COURT.

25 IS THAT CORRECT?

26 A. THAT'S CORRECT.

27 Q. YOU DIDN'T KNOW HIM FROM BEFORE, DID YOU?

28 A. NO.

1 Q. AND YOU DIDN'T SEE ANYBODY STANDING IN FRONT OF
2 9130 SMOKING A CIGARETTE, DID YOU?

3 A. I DID NOT.

4 Q. IS THAT THE ONLY TIME ON SEPTEMBER 6TH OUT THERE ON
5 FIGUEROA, IS THAT THE ONLY TIME THAT YOU HAVE EVER BEEN ALONE
6 WITH THE VICTIM?

7 A. I BEG PARDON?

8 Q. IS THAT THE ONLY TIME YOU HAVE EVER BEEN ALONE WITH
9 JUAN AVILA, THE VICTIM?

10 A. I DON'T UNDERSTAND THAT QUESTION.

11 Q. HAVE YOU EVER BEEN ALONE WITH JUAN AVILA OTHER THAN
12 THAT NIGHT?

13 A. WHEN HE APPROACHED ME WE WERE ALONE.

14 Q. OTHER THAN THAT NIGHT HAD YOU EVER BEEN ALONE WITH
15 HIM?

16 A. NO.

17 Q. NEVER HAD A PROBLEM WITH MR. AVILA BEFORE, HAVE
18 YOU?

19 A. NO.

20 Q. WHEN YOU'RE GOING DOWN TO MEET TINY, WHEN YOU
21 TURNED AROUND, DID YOU SEE JUAN GOING UP TO SPEAK TO THE
22 SECURITY GUARD THERE AT 9130?

23 A. NO, I DID NOT. THE ONLY TIME I TURNED AROUND IS
24 WHEN I HEAR "HEY" WHEN I PASSED THE AREA THAT I HAD INDICATED
25 I WOULD BE GOING TO.

26 Q. SO YOU TAKE THE MONEY FROM MR. AVILA, AND YOU TOLD
27 HIM WHERE YOU WERE GOING.

28 IS THAT RIGHT?

1 A. HE HANDED ME THE MONEY, YES, AND I TOLD HIM WHERE I
2 WAS GOING.

3 Q. AND YOU TOOK IT FROM HIM?

4 A. I ACCEPTED IT, YES.

5 Q. NOW, YOU SAID YOU WERE MEETING WANDRA. WHERE DOES
6 WANDRA LIVE?

7 A. WANDRA POWELL WHITHERSPOON. SHE DOESN'T HAVE A
8 STEADY ADDRESS.

9 Q. DOES SHE HAVE A CAR?

10 A. SHE DOES HAVE A CAR.

11 Q. ABOUT HOW OLD IS SHE?

12 A. FORTY-THREE -- APPROXIMATELY 43.

13 Q. AND HOW LONG HAD YOU KNOWN HER?

14 A. I MET HER -- ABOUT FOUR OR FIVE MONTHS.

15 Q. AND HOW OFTEN WOULD YOU SEE HER?

16 A. EVERY DAY.

17 Q. DID YOU EVER SEE OFFICER HERRERA THAT NIGHT?

18 A. AGAIN, I DON'T RECALL SEEING HIM. I DO REMEMBER
19 THE ASIAN GENTLEMAN, MR. YAMAMOTO; BUT I CAN'T RECALL OFFICER
20 HERRERA.

21 Q. YOU DON'T RECALL HIM THERE THAT NIGHT.

22 IS THAT CORRECT?

23 A. I DON'T RECALL HIM THERE THAT NIGHT.

24 Q. EVER SEE OFFICER HERRERA? DID YOU KNOW HIM BEFORE
25 THAT?

26 A. NO, I DID NOT.

27 Q. SO IS IT YOUR TESTIMONY THAT JUAN AVILA IS JUST
28 MAKING THIS WHOLE THING UP?

1 MR. GOLUB: WELL, OBJECTION. IT'S SPECULATION ON HIS
2 PART.

3 THE COURT: SUSTAINED.
4 BY MS. WIDMARK:

5 Q. SO WHEN JUAN AVILA WAS WALKING NORTHBOUND, DID YOU
6 BLOCK HIS PATH?

7 A. I BEG PARDON?

8 Q. DID YOU BLOCK HIS PATH?

9 A. NO, I DID NOT.

10 Q. DID YOU ASK HIM IF HE WANTED TO BUY DRUGS?

11 A. NO.

12 Q. DID YOU ASK HIM IF HE HAD ANY MONEY?

13 A. NO, I DID NOT.

14 Q. EVER ASK HIM FOR MONEY BEFORE?

15 A. NO, I DID NOT.

16 Q. AND DID YOU THEN TAKE YOUR HAND AND ACT AS IF YOU
17 HAD A WEAPON?

18 A. NO, MA'AM.

19 Q. AND DID YOU EVER THEN STAND OUT THERE ON 92ND AND
20 FIGUEROA AND REACH INTO HIS POCKET AND TAKE HIS MONEY?

21 A. NO, MA'AM, I HAVEN'T.

22 Q. SO IT'S ALL MADE UP?

23 A. IT'S ALL MADE UP. HE'S WRONG.

24 Q. THIS MAN THAT YOU HAVE NEVER HAD A PROBLEM WITH
25 BEFORE.

26 CORRECT?

27 A. CORRECT.

28 MS. WIDMARK: YOUR HONOR, IF I CAN JUST HAVE A MOMENT.

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(PAUSE.)

Q. AND WHEN JUAN WALKED UP FIGUEROA AND HE HAD THE \$20, DID YOU ALSO SEE THE BAG UNDER HIS ARM WHERE HE HAD HIS NEW JEANS?

A. I DON'T UNDERSTAND THE QUESTION. PLEASE --

Q. OKAY.

JUAN'S WALKING UP NORTHBOUND ON FIGUEROA. HE'S GOT THE \$20.

DID YOU -- DID YOU ALSO SEE A BAG UNDER HIS ARM WITH HIS NEW JEANS?

A. I DID NOT SEE A BAG, MA'AM. I ONLY SEEN THE \$20 ONLY WHEN HE HANDED IT TO ME. THAT'S WHEN I NOTICED IT.

Q. DIDN'T SEE THE BAG?

A. DIDN'T SEE ANY TYPE OF BAG OR ANYTHING LIKE THAT.

Q. AND WOULD IT BE CORRECT TO SAY, MR. MILTON, THAT BETWEEN EARLY '97 UP UNTIL SEPTEMBER, '98 YOU WERE OUT AND ABOUT ON THOSE STREETS EVERY DAY?

THAT BE CORRECT?

A. NOT FIGUEROA, NO.

Q. WERE YOU OUT -- YOU DIDN'T GO ON FIGUEROA EVERY DAY?

A. NO. TAM'S, OCCASIONALLY THE CAR WASH ON HOOVER AND CENTURY, THE -- THE PIZZA HUT ON VERMONT AND CENTURY.

Q. SO THE GENERAL AREA YOU WERE OUT AND ABOUT EVERY DAY.

IS THAT CORRECT?

1 A. NOT THIS AREA, NO.

2 Q. I AM TALKING FROM CENTURY ALL THE WAY TO 92ND ON
3 FIGUEROA.

4 WERE YOU OUT AND ABOUT IN THAT AREA ABOUT -- EVERY
5 DAY?

6 A. NO. IT'S RARE THAT I COME OUT THIS AREA HERE.

7 Q. HOW OFTEN WERE YOU AT TAM'S?

8 A. OCCASIONALLY, LIKE I SAY -- QUITE FREQUENTLY BUT
9 NOT EVERY DAY.

10 Q. HOW MANY TIMES A WEEK?

11 A. THREE TIMES A WEEK.

12 Q. FOR THE LAST COUPLE OF YEARS?

13 A. NO. '97.

14 Q. THROUGH '97 AND PARTWAY THROUGH '98.

15 CORRECT?

16 A. RIGHT.

17 Q. AND WERE YOU AT TAM'S EARLIER THAT EVENING ON
18 SEPTEMBER 6TH?

19 A. THAT EVENING SEPTEMBER 6TH? NO.

20 Q. WERE YOU THERE EARLIER BEING SEPTEMBER 5TH UP UNTIL
21 BEFORE MIDNIGHT?

22 A. NO. I CAN'T RECALL THAT FAR BACK, BUT SEPTEMBER --
23 SOMETIME SEPTEMBER, YEAH, I WAS AT TAM'S.

24 Q. AND YOU KNEW THAT JUAN WORKED AT TAM'S.

25 CORRECT?

26 A. NO. I SEEN HIM AROUND. DON'T KNOW HE WORKED
27 THERE.

28 Q. HOW -- YOU SAID YOU SAW HIM A DOZEN TIMES?

1 A. I SEEN HIM AROUND. THAT'S WHAT I SAID.

2 Q. NEVER SAW HIM WORKING THERE?

3 A. NEVER SEEN HIM INSIDE THAT PLACE. JUST SEEN HIM
4 AROUND.

5 Q. DID YOU EVER SEE HIM AT TAM'S?

6 A. NEVER SEEN HIM INSIDE THAT PLACE MEANING TAM'S, BUT
7 I HAVE SEEN HIM AROUND.

8 Q. EVER SEE HIM AT NIGHT IN THAT AREA?

9 MR. GOLUB: WELL, OBJECTION. IT'S VAGUE AS TO WHAT
10 AREA.

11 MS. WIDMARK: I'LL WITHDRAW IT.

12 Q. YOU'RE THERE ON 92ND WAITING FOR WANDRA. WHEN DID
13 YOU TALK TO WANDRA THAT NIGHT?

14 A. I TALKED TO HER -- I SPOKE WITH HER ABOUT TWO
15 HOURS PRIOR TO JUAN APPROACHING ME.

16 Q. OKAY.

17 AND WHERE WERE YOU WHEN YOU SPOKE TO HER?

18 A. I WAS AT THE CAR WASH.

19 Q. WHICH CAR WASH?

20 A. HOOVER AND CENTURY.

21 Q. I'M SORRY?

22 A. IT'S LOCATED ON HOOVER AND CENTURY.

23 Q. WHAT? A BLOCK OR TWO AWAY FROM TAM'S?

24 A. THE NEXT MAIN STREET OVER.

25 Q. SO A BLOCK AWAY FROM TAM'S.

26 CORRECT?

27 A. NO. IT'S TWO BLOCKS. IT'S GOT BARING CROSS, THEN
28 HOOVER. SO IT'S TWO BLOCKS.

1 Q. AND YOU DECIDED -- WAS IT SHE THAT DECIDED THAT YOU
2 WERE GOING TO MEET AT 92ND AND FIGUEROA?

3 A. I WAS RIDING AROUND WITH HER. AND SHE DROPPED ME
4 OFF AT THE BUS STOP, TOLD ME TO WAIT FOR HER, SHE HAD TO TAKE
5 CARE OF SOME BUSINESS WHICH I WASN'T ALLOWED TO ATTEND.

6 Q. WHAT BUSINESS WAS THAT?

7 A. I DON'T --

8 MR. GOLUB: OBJECTION. THAT'S IRRELEVANT.

9 THE COURT: SUSTAINED.

10 BY MS. WIDMARK:

11 Q. SO SHE DROPPED YOU RIGHT THERE?

12 A. EXACTLY.

13 Q. AND WHEN WAS SHE TO BE BACK?

14 A. TWO HOURS.

15 Q. WHAT TIME DID SHE DROP YOU OFF?

16 A. I -- 11:00 O'CLOCK, MAYBE. I CAN'T RECOLLECT.

17 Q. SHE DROPPED YOU OFF AT 11:00.

18 AND WHEN DID SHE SAY SHE'D COME AND PICK YOU UP?

19 A. TWO HOURS.

20 Q. SO AT 1:00 A. M. SHE WAS TO COME PICK YOU UP?

21 A. APPROXIMATELY, YES.

22 Q. AND YOU WERE SUPPOSED TO BE THERE TO MEET HER.

23 IS THAT CORRECT?

24 A. YES.

25 MS. WIDMARK: YOUR HONOR, IF I COULD HAVE A MOMENT.

26
27 (A CONFERENCE WAS HELD BETWEEN THE
28 DEPUTY DISTRICT ATTORNEY AND THE

1 INVESTIGATING OFFICER.)

2
3 BY MS. WIDMARK:

4 Q. YOU REMEMBER WHEN THE OFFICERS CAME UP AT 95TH AND
5 FIGUEROA? DO YOU REMEMBER THAT?

6 A. WHEN THEY DID A U-TURN, WHEN THEY -- EXCUSE ME.
7 WHEN THEY DID A U-TURN?

8 MS. WIDMARK: YES.

9 MAY I APPROACH, YOUR HONOR.

10 THE COURT: YES.

11 THE WITNESS: YES, I REMEMBER THAT.

12 BY MS. WIDMARK:

13 Q. OKAY.

14 SO WHICH DIRECTION -- WHICH DIRECTION WERE THE
15 OFFICERS GOING WHEN YOU SAW 'EM?

16 A. THEY WERE GOING SOUTHBOUND.

17 Q. SO THEY WERE COMING SOUTHBOUND ON THE WEST SIDE OF
18 THE STREET.

19 IS THAT CORRECT?

20 A. YES, MA'AM.

21 Q. OKAY.

22 HOW MANY OFFICERS? DO YOU REMEMBER?

23 A. I KNOW THERE IS TWO. THERE IS ALWAYS TWO IN A CAR.

24 Q. AND WHAT DID YOU SEE HIM DO?

25 A. MADE A U-TURN.

26 Q. WHERE WAS THE U-TURN?

27 A. CAN I SHOW YOU?

28 Q. YOU CAN JUST SAY WHICH STREET.

1 A. YOU SEE THE LITTLE ARROW -- THE LITTLE BLUE ARROW
2 THERE?

3 Q. YES. DOWN HERE AT 95TH AND FIGUEROA?

4 A. YES, MA'AM. HE MADE A U-TURN -- HE IS -- HE IS
5 PRETTY ACCURATE THERE --AND RIGHT THERE.

6 Q. AND THEY FACE THE CORNER.

7 IS THAT CORRECT?

8 A. YES.

9 Q. AND WHEN THEY FACE THE CORNER, YOU WERE ALL LIT UP
10 BY THEIR HEADLIGHTS AND SPOTLIGHT.

11 CORRECT?

12 A. YES, I WAS.

13 Q. OKAY.

14 AND YOU SAW THE OFFICERS GET OUT OF THE CAR.

15 IS THAT CORRECT?

16 A. I COULDN'T HELP BUT TO SEE THEM.

17 Q. THEY GET OUT OF THE CAR, AND WHAT'S THE FIRST THING
18 THEY TELL YOU?

19 A. CAN I SAY IT HERE?

20 Q. THEY TELL YOU TO PUT YOUR HANDS ON YOUR HEAD?

21 A. NO. "PUT YOUR FUCKING HANDS ON YOUR HEAD."

22 Q. OKAY.

23 AND YOU'RE PUTTING YOUR HANDS OUT. ARE YOU SAYING
24 THAT THEY HAD THEIR GUNS DRAWN?

25 A. GUNS DRAWN.

26 Q. AND YOU COULD SEE THEM CLEARLY WITH THE LIGHTS IN
27 YOUR EYES.

28 IS THAT CORRECT?

1 A. I COULD SEE 'EM. I COULD HEAR THE CLICKS. I KNOW
2 IT WAS GUNS.

3 Q. OKAY.

4 SO YOU KNOW GUNS.

5 A (NO AUDIBLE RESPONSE).

6 MR. GOLUB: OBJECTION, YOUR HONOR. IT'S ARGUMENTATIVE.

7 THE COURT: OVERRULED.

8 BY MS. WIDMARK:

9 Q. AND AS YOU'RE PUTTING YOUR HANDS ON YOUR HEAD, DID
10 YOU SAY TO OFFICERS HERRERA AND YAMAMOTO, "YEAH, I DID IT"
11 AND LAUGH?

12 A. NO. TOLD ME TO "PUT YOUR FUCKING HANDS UP, TURN
13 AROUND, GET DOWN ON YOUR KNEES AND LAY FLAT ON THE GROUND."

14 Q. AND WHAT DID YOU SAY?

15 A. I DIDN'T SAY ANYTHING. I DID EXACTLY WHAT I WAS
16 TOLD.

17 Q. SO IT'S YOUR TESTIMONY THAT YOU DIDN'T SAY, "YEAH,
18 I DID IT"?

19 A. I DID NOT SAY, "I DID IT."

20 Q. EVEN JOKING?

21 A. DIDN'T SAY ANYTHING, MA'AM.

22 Q. HAD YOU EVER SEEN OFFICER YAMAMOTO BEFORE THAT
23 NIGHT?

24 A. NOT THAT I CAN RECALL.

25 Q. SO YOU DIDN'T KNOW HIM, EITHER?

26 A. NO.

27 MS. WIDMARK: NOTHING FURTHER AT THIS TIME, YOUR HONOR.

28 THE COURT: REDIRECT?

1 MR. GOLUB: YES.

2
3 REDIRECT EXAMINATION

4 BY MR. GOLUB:

5 Q. HAVE YOU EVER SEEN JUAN IN FRONT OF TAM'S PRIOR TO
6 THAT NIGHT?

7 A. YES, I HAVE.

8 Q. IS THAT WHERE YOU SAW HIM ALMOST ALL OF THOSE 12
9 TIMES YOU HAVE SEEN HIM?

10 A. YES.

11 Q. WHEN YOU WERE ARRESTED, DID YOU HAVE ANY COINS ON
12 YOU?

13 A. NO, I DIDN'T.

14 Q. DID YOU HAVE \$20 ON YOU?

15 A. NO.

16 Q. DID YOU HAVE A PAIR OF PANTS ON YOU?

17 A. NO.

18 Q. OTHER THAN THE PANTS YOU WERE WEARING?

19 A. WELL, I HAD THOSE ON.

20 Q. OKAY.

21 NOW, DID YOU HAVE A BAG WITH PANTS IN THEM?

22 A. NO.

23 Q. BY THE WAY, OVER BY TAM'S ARE THERE PEOPLE WHO KNOW
24 YOU THAT ARE OVER THERE WITH -- EVER?

25 A. YES.

26 Q. ARE YOU KNOWN AS MILTON?

27 A. NO. CHICAGO. GO BY CHICAGO ON THE STREETS OF
28 L. A. OR I GO BY -- I HAVE A TATTOO ON MY ARM -- BRONCO

1 BILLY. I DO NOT GO BY MILTON ON THE STREETS. THAT'S MY LAST
2 NAME. THAT WOULD BE FOOLISH.

3 Q. SO -- ANYWAY, SO YOU DON'T GO BY -- OKAY.

4 YOU'RE NOT KNOWN ON THE STREETS AS MILTON?

5 A. NO.

6 Q. NOW, DID IT SURPRISE YOU THAT JUAN ASKED FOR DRUGS
7 THAT NIGHT?

8 A. I SEEN HIM TALKING TO WANDRA, YEAH. IT SURPRISED
9 ME HE DID.

10 MS. WIDMARK: OBJECTION, RELEVANCE.

11 THE COURT: OVERRULED.

12 BY MR. GOLUB:

13 Q. IT SURPRISED YOU A LITTLE THAT HE ASKED YOU FOR
14 DRUGS?

15 A. YES.

16 Q. DID IT COMPLETELY SHOCK YOU?

17 MS. WIDMARK: OBJECTION, IRRELEVANT. AND I BELIEVE IT'S
18 GOING TO CALL FOR HEARSAY.

19 THE COURT: SUSTAINED.

20 MR. GOLUB: OKAY. THANK YOU.

21 I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

22 THE COURT: THAT IT?

23 MS. WIDMARK: I JUST HAVE -- I JUST HAVE ONE.
24
25
26
27
28

1 RECROSS-EXAMINATION

2 BY MS. WIDMARK:

3 Q. HOW MUCH TIME PASSED, MR. MILTON, BETWEEN THE TIME
4 WHERE YOU MET WITH JUAN OUT ON THE STREET AND THE OFFICERS
5 ARRESTED YOU? HOW MUCH TIME?

6 A. APPROXIMATELY THREE TO EIGHT MINUTES, MAYBE.

7 Q. SO THREE TO EIGHT MINUTES FOR YOU TO SPEAK WITH
8 JUAN, GO DOWN -- GO DOWN TO 95TH, MEET WITH TINY AND FOR TINY
9 TO DISAPPEAR.

10 IS THAT CORRECT?

11 A. I DON'T KNOW ABOUT ALL THAT, BUT I KNOW FROM THE
12 TIME I SPEAK WITH JUAN TO THE TIME THE POLICE APPROACHED ME,
13 NO MORE THAN EIGHT MINUTES HAD ELAPSED.14 Q. AND THAT'S WHAT OCCURRED BETWEEN THOSE EIGHT TO
15 THREE MINUTES.

16 IS THAT CORRECT?

17 A. I WOULD HAVE TO SAY YES.

18 MS. WIDMARK: THANK YOU.

19 NOTHING FURTHER.
20

21 FURTHER REDIRECT EXAMINATION

22 BY MR. GOLUB:

23 Q. MR. MILTON, YOU PREVIOUSLY SAID THAT IT WAS
24 APPROXIMATELY THREE MINUTES FROM THE TIME YOU SPOKE TO TINY
25 TILL HE LEFT AND THE POLICE CAME.

26 IS THAT CORRECT?

27 A. YES.

28 Q. OKAY.

1 AND SO THAT MEANS FROM THE TIME YOU SPOKE TO JUAN
2 AND THEN WALKED DOWN TO TINY, THAT WAS NO MORE THAN FIVE
3 MINUTES, YOU BELIEVE?

4 A. RIGHT, CORRECT.

5 MR. GOLUB: THANK YOU.

6 I HAVE NO FURTHER QUESTIONS.

7 THE COURT: OKAY, SIR. THANK YOU.

8 MS. WIDMARK: WELL, YOUR HONOR, NO, NO. I HAVE A COUPLE
9 OF QUESTIONS, IF I MAY.

10 THE COURT: YOU MAY.

11 MS. WIDMARK: THANKS. IF I MAY REOPEN, YOUR HONOR.

12
13 FURTHER RECROSS-EXAMINATION

14 BY MS. WIDMARK:

15 Q. YOU SAID THAT TINY WOULD HANG OUT AT TAM'S, HAD
16 BEEN THERE FOR ABOUT THREE MONTHS.

17 IS THAT CORRECT?

18 A. I HAVE SEEN HIM AROUND TWO -- AROUND THREE MONTHS.

19 Q. AND IT WAS PRETTY WELL KNOWN THAT TINY WAS SELLING
20 MARIJUANA THERE ON THE STREET.

21 IS THAT CORRECT?

22 A. YES.

23 Q. AND PRETTY WELL KNOWN WITH THE PEOPLE THAT YOU HUNG
24 OUT WITH AT TAM'S.

25 IS THAT CORRECT?

26 A. COULDN'T ACCOUNT FOR WHAT THEY'RE THINKING OR KNOW.

27 Q. DID YOU EVER SEE ANYBODY YOU WERE HANGING OUT WITH
28 TALK TO TINY?

1 A. SOME PEOPLE HANG OUT, SPEAK WITH THEM FROM TIME TO
2 TIME.

3 Q. AND YOU SAID -- AND I MISSED THIS -- YOUR NICKNAMES
4 ON THE STREET WERE CHICAGO, STREETS OF L. A.

5 IS THAT CORRECT?

6 A. NO. ON THE STREETS OF L. A., MA'AM, MY NAME WILL
7 BE CHICAGO. EVERYBODY KNOWS I AM FROM ILLINOIS, PEOPLE THAT
8 I HANG AROUND.

9 Q. OR BRONCO BILLY?

10 A. OR BRONCO BILLY, EXACTLY.

11 MS. WIDMARK: THANK YOU.

12 NOTHING FURTHER AT THIS TIME.

13 MR. GOLUB: I'M SORRY, YOUR HONOR, BUT I DO HAVE TO ASK
14 A QUESTION ABOUT THE LAST --

15 THE COURT: BASED ON THOSE QUESTIONS. OKAY.

16 MR. GOLUB: HUH?

17 THE COURT: BASED HER QUESTIONS.

18 MR. GOLUB: YES.

19
20 FURTHER REDIRECT EXAMINATION

21 BY MR. GOLUB:

22 Q. NOW, I KNOW I FORGOT -- OKAY. OH, YES.

23 BUT -- NOW, DID YOU SEE TINY WHEN YOU WERE TALKING
24 TO JUAN?

25 A. NO.

26 Q. YOU JUST SAW HIM LATER?

27 A. SAW HIM AS I WENT FURTHER SOUTH 'CAUSE WHEN I AM
28 GOING FURTHER SOUTH I AM COMING CLOSER TO HIM, IF THAT MAKES

1 SENSE.

2 MR. GOLUB: THANK YOU.

3 NO FURTHER QUESTIONS.

4 THE COURT: OKAY, SIR, YOU MAY STEP DOWN.

5 YOU REST?

6 MR. GOLUB: AT THIS TIME, YOUR HONOR, DEFENSE RESTS.

7 THE COURT: PEOPLE REST?

8 MS. WIDMARK: YES.

9 THE COURT: OKAY.

10 WELL, WE'RE GOING TO TAKE A BREAK AT -- I INTEND TO
11 DO FOR THE REST OF THE DAY IS WE'RE GOING TO TAKE A FEW
12 MINUTES, AND I WANT TO REVIEW THE JURY INSTRUCTIONS. AND
13 THEN IN ABOUT -- I'LL GIVE YOU ABOUT A 20-MINUTE BREAK SO WE
14 HAVE TIME TO DO THAT AND THEN INTEND TO READ THOSE
15 INSTRUCTIONS TO YOU, AND THEN WE'LL BREAK FOR THE EVENING.
16 AND TOMORROW AFTERNOON AT 1:30 WE'LL COME BACK, AND THE
17 LAWYERS -- IT MAKES A LOT BETTER. YOU WILL HEAR BOTH LAWYERS
18 IN THE SAME TIME PERIOD, AND I THINK IT'LL HELP YOU.

19 OKAY. TAKE A BREAK UNTIL -- 20 MINUTES.

20 AND COULD I SEE THE LAWYERS?

21 MR. GOLUB: YES.

22

23 (A CONFERENCE WAS HELD IN CHAMBERS,
24 NOT REPORTED.)

25

26 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

27

28 THE COURT: OKAY. WE'RE BACK IN SESSION. THE JURORS

1 ARE NOT PRESENT.

2 WE HAD A CONVERSATION IN CHAMBERS ON JURY
3 INSTRUCTIONS.

4 AND I BELIEVE, MR. GOLUB, THAT YOU AGREED THAT 272,
5 291 AND 292 WOULD NOT BE REQUESTED BY YOU.

6 MR. GOLUB: RIGHT. I AM ASKING TO LEAVE THEM OUT, YOUR
7 HONOR. I DON'T FEEL THEY'RE NECESSARY FOR THIS CASE. WOULD
8 POSSIBLY CONFUSE THE JURY FURTHER.

9 MS. WIDMARK: AND EMPHASIZE THE ADMISSION.

10 THE COURT: I AGREE. I AGREE, AND -- BUT YOU BOTH HAD A
11 CHANCE TO LOOK AT THE INSTRUCTIONS.

12 HAVE ANY OTHER OBJECTIONS YOU WISH TO MAKE?

13 MR. GOLUB: NO, YOUR HONOR.

14 MS. WIDMARK: NO, YOUR HONOR.

15 MR. GOLUB: AND THE ONLY OTHER THING IS WE HAD JUST --
16 WE HAD MENTIONED IT AT SIDEBAR WITHOUT THE REPORTER SO I
17 WOULD JUST PUT ON THE RECORD BEFORE THE COURT ACCEPTED THE
18 EXHIBITS, I RESTATED MY OBJECTION TO THE TAPE THAT I -- WE
19 HAD PREVIOUSLY HAD THE 402 ON.

20 THE COURT: RIGHT.

21 MR. GOLUB: SO I WAS OBJECTING TO THE ADMISSION OF THE
22 TAPE BOTH ON RELEVANCY AND HEARSAY GROUND.

23 THE COURT: OKAY. YOUR OBJECTION IS OVERRULED.

24 MR. GOLUB: THANK YOU.

25 THE COURT: BRING IN THE JURY.

26
27 (PROCEEDINGS IN PRESENCE OF JURY.)
28

1 THE COURT: OKAY. ALL THE MEMBERS OF THE JURY ARE BACK.
2 THIS'LL PROBABLY TAKE ABOUT 15 MINUTES.

3
4 JURY INSTRUCTIONS

5 BY THE COURT: (READING)

6 MEMBERS OF THE JURY, YOU HAVE HEARD ALL THE
7 EVIDENCE, AND IT IS NOW MY DUTY TO INSTRUCT YOU ON THE
8 LAW THAT APPLIES TO THIS CASE.

9 YOU MUST BASE YOUR DECISION ON THE FACTS AND
10 THE LAW.

11 YOU HAVE TWO DUTIES TO PERFORM. FIRST, YOU
12 MUST DETERMINE WHAT FACTS HAVE BEEN PROVED FROM THE
13 EVIDENCE RECEIVED IN THE TRIAL AND NOT FROM ANY OTHER
14 SOURCE. A "FACT" IS SOMETHING PROVED BY THE EVIDENCE OR
15 BY STIPULATION. A STIPULATION IS AN AGREEMENT BETWEEN
16 ATTORNEYS REGARDING THE FACTS. SECOND, YOU MUST APPLY
17 THE LAW THAT I STATE TO YOU TO THE FACTS AS YOU
18 DETERMINE THEM AND IN THIS WAY ARRIVE AT YOUR VERDICT.

19 YOU MUST ACCEPT AND FOLLOW THE LAW AS I STATE
20 IT TO YOU REGARDLESS OF WHETHER YOU AGREE WITH THE LAW.
21 IF ANYTHING CONCERNING THE LAW SAID BY THE ATTORNEYS IN
22 THEIR ARGUMENTS OR AT ANY OTHER TIME DURING THE TRIAL
23 CONFLICTS WITH MY INSTRUCTIONS ON THE LAW, YOU MUST
24 FOLLOW MY INSTRUCTIONS.

25 YOU MUST NOT BE INFLUENCED BY PITY FOR OR
26 PREJUDICE AGAINST A DEFENDANT. YOU MUST NOT BE BIASED
27 AGAINST A DEFENDANT BECAUSE HE HAS BEEN ARRESTED FOR
28 THIS OFFENSE, CHARGED WITH A CRIME OR BROUGHT TO TRIAL.

1 NONE OF THESE CIRCUMSTANCES IS EVIDENCE OF GUILT, AND
2 YOU MUST NOT INFER OR ASSUME FROM ANY OR ALL OF THEM
3 THAT A DEFENDANT IS MORE LIKELY TO BE GUILTY THAN NOT
4 GUILTY. YOU MUST NOT BE INFLUENCED BY MERE SENTIMENT,
5 CONJECTURE, SYMPATHY, PASSION, PREJUDICE, PUBLIC OPINION
6 OR PUBLIC FEELING. BOTH THE PEOPLE AND THE DEFENDANT
7 HAVE THE RIGHT TO EXPECT THAT YOU WILL CONSCIENTIOUSLY
8 CONSIDER AND WEIGH THE EVIDENCE AND APPLY THE LAW AND
9 REACH A JUST VERDICT REGARDLESS OF THE CONSEQUENCES.

10
11 IF ANY RULE, DIRECTION OR IDEA IS REPEATED OR
12 STATED IN DIFFERENT WAYS IN THESE INSTRUCTIONS, NO
13 EMPHASIS IS INTENDED, AND YOU MUST NOT DRAW ANY
14 INFERENCE BECAUSE OF ITS REPETITION. DO NOT SINGLE OUT
15 ANY PARTICULAR SENTENCE OR ANY INDIVIDUAL POINT OR
16 INSTRUCTION AND IGNORE THE OTHERS. CONSIDER THE
17 INSTRUCTIONS AS A WHOLE AND EACH IN LIGHT OF ALL THE
18 OTHERS.

19 THE ORDER IN WHICH THE INSTRUCTIONS ARE GIVEN
20 HAS NO SIGNIFICANCE AS TO THEIR RELATIVE IMPORTANCE.

21
22 STATEMENTS MADE BY THE ATTORNEYS DURING THE
23 TRIAL ARE NOT EVIDENCE.

24 HOWEVER, THE ATTORNEYS HAVE -- IF THE
25 ATTORNEYS HAVE STIPULATED OR AGREED TO A FACT, YOU MUST
26 REGARD THAT FACT AS PROVEN. IF AN OBJECTION WAS
27 SUSTAINED TO A QUESTION, DO NOT GUESS WHAT THE ANSWER
28 MIGHT HAVE BEEN. DO NOT SPECULATE AS TO THE REASON FOR

1 THE OBJECTION. DO NOT ASSUME TO BE TRUE ANY INSINUATION
2 SUGGESTED BY A QUESTION ASKED A WITNESS. A QUESTION IS
3 NOT EVIDENCE AND MAY BE CONSIDERED ONLY AS IT HELPS YOU
4 UNDERSTAND THE ANSWER. DO NOT CONSIDER FOR ANY PURPOSE
5 ANY OFFER OF EVIDENCE THAT WAS REJECTED OR ANY EVIDENCE
6 THAT WAS STRICKEN BY THE COURT. TREAT IT AS THOUGH YOU
7 HAD NEVER HEARD OF IT.

8 YOU MUST DECIDE ALL QUESTIONS OF FACT IN THIS
9 CASE FROM THE EVIDENCE RECEIVED IN THIS TRIAL AND NOT
10 FROM ANY OTHER SOURCE. YOU MUST NOT INDEPENDENTLY
11 INVESTIGATE THE FACTS OR THE LAW OR CONSIDER OR DISCUSS
12 FACTS AS TO WHICH THERE IS NO EVIDENCE. THIS MEANS, FOR
13 EXAMPLE, THAT YOU MUST NOT ON YOUR OWN VISIT THE SCENE,
14 CONDUCT EXPERIMENTS OR CONSULT REFERENCE WORKS OR
15 PERSONS FOR ADDITIONAL INFORMATION. YOU MUST NOT
16 DISCUSS THIS CASE WITH ANY OTHER PERSON EXCEPT A FELLOW
17 JUROR AND THEN ONLY AFTER THE CASE IS SUBMITTED TO YOU
18 FOR YOUR DECISION AND ONLY WHEN ALL 12 JURORS ARE
19 PRESENT IN THE JURY ROOM.

20
21 NOTES ARE ONLY AN AID TO MEMORY AND SHOULD NOT
22 TAKE PRECEDENCE OVER RECOLLECTION. A JUROR WHO DOES NOT
23 TAKE NOTES SHOULD RELY ON HIS OR HER RECOLLECTION OF THE
24 EVIDENCE AND NOT BE INFLUENCED BY THE FACT THAT OTHER
25 JURORS DO TAKE NOTES. NOTES ARE FOR THE NOTE-TAKER'S
26 OWN PERSONAL USE IN REFRESHING HIS OR HER RECOLLECTION
27 OF THE EVIDENCE.

28 FINALLY, SHOULD ANY DISCREPANCY EXIST BETWEEN

1 A JUROR'S RECOLLECTION OF THE EVIDENCE AND A JUROR'S
2 NOTES OR BETWEEN ONE JUROR'S RECOLLECTION AND THAT OF
3 ANOTHER, YOU MAY REQUEST THAT THE REPORTER READ BACK THE
4 RELEVANT TESTIMONY WHICH MUST PREVAIL.

5
6 EVIDENCE CONSISTS OF TESTIMONY OF WITNESSES,
7 WRITINGS, MATERIAL OBJECTS OR ANYTHING PRESENTED TO THE
8 SENSES AND OFFERED TO PROVE THE EXISTENCE OR
9 NONEXISTENCE OF A FACT.

10 EVIDENCE IS EITHER DIRECT OR CIRCUMSTANTIAL.

11 DIRECT EVIDENCE IS EVIDENCE THAT DIRECTLY
12 PROVES A FACT. IT IS EVIDENCE BY WHICH ITSELF, IF FOUND
13 TO BE TRUE, ESTABLISHES THAT FACT.

14 CIRCUMSTANTIAL EVIDENCE IS EVIDENCE THAT, IF
15 FOUND TO BE TRUE, PROVES A FACT FROM WHICH AN INFERENCE
16 OF THE EXISTENCE OF ANOTHER FACT MAY BE DRAWN.

17 AN INFERENCE IS A DEDUCTION OF FACT THAT MAY
18 LOGICALLY AND REASONABLY BE DRAWN FROM ANOTHER GROUP OF
19 FACTS ESTABLISHED BY THE EVIDENCE.

20 IT IS NOT NECESSARY THAT FACTS BE PROVED BY
21 DIRECT EVIDENCE. THEY MAY BE PROVED, ALSO, BY
22 CIRCUMSTANTIAL EVIDENCE OR BY A COMBINATION OF DIRECT
23 AND CIRCUMSTANTIAL EVIDENCE. BOTH DIRECT AND
24 CIRCUMSTANTIAL EVIDENCE ARE ACCEPTABLE AS MEANS OF
25 PROOF. NEITHER IS ENTITLED TO ANY GREAT -- ANY GREATER
26 WEIGHT THAN THE OTHER.

27
28 HOWEVER, A FINDING OF GUILT AS TO ANY CRIME

1 MAY NOT BE BASED ON CIRCUMSTANTIAL EVIDENCE UNLESS THE
2 PROVED CIRCUMSTANCES ARE NOT ONLY, ONE, CONSISTENT WITH
3 THE THEORY THE DEFENDANT IS GUILTY OF THE CRIME BUT,
4 TWO, CANNOT BE RECONCILED WITH ANY OTHER RATIONAL
5 CONCLUSION.

6 FURTHER, EACH FACT WHICH IS ESSENTIAL TO
7 COMPLETE A SET OF CIRCUMSTANCES NECESSARY TO ESTABLISH
8 THE DEFENDANT'S GUILT MUST BE PROVED BEYOND A REASONABLE
9 DOUBT. IN OTHER WORDS, BEFORE AN INFERENCE ESSENTIAL TO
10 ESTABLISH GUILT MAY BE FOUND TO HAVE BEEN PROVED BEYOND
11 A REASONABLE DOUBT EACH FACT OR CIRCUMSTANCE ON WHICH
12 THE INFERENCE NECESSARILY RESTS MUST BE PROVED BEYOND A
13 REASONABLE DOUBT.

14 ALSO, IF THE CIRCUMSTANTIAL EVIDENCE PERMITS
15 TWO REASONABLE INTERPRETATIONS, ONE OF WHICH POINTS TO
16 THE DEFENDANT'S GUILT AND THE OTHER TO HIS INNOCENCE,
17 YOU MUST ADOPT THAT INTERPRETATION THAT POINTS TO THE
18 DEFENDANT'S INNOCENCE AND REJECT THAT INTERPRETATION
19 THAT POINTS TO HIS GUILT.

20 IF, ON THE OTHER HAND, ONE INTERPRETATION OF
21 THE EVIDENCE APPEARS TO YOU TO BE REASONABLE AND THE
22 OTHER INTERPRETATION TO BE UNREASONABLE, YOU MUST ACCEPT
23 THE REASONABLE INTERPRETATION AND REJECT THE
24 UNREASONABLE.

25
26 NEITHER SIDE IS REQUIRED TO CALL AS WITNESSES
27 ALL PERSONS WHO MAY HAVE BEEN PRESENT AT ANY OF THE
28 EVENTS DISCLOSED BY THE EVIDENCE OR WHO MAY APPEAR TO

1 HAVE SOME KNOWLEDGE OF THESE EVENTS. NEITHER SIDE IS
2 REQUIRED TO PROVE ALL OBJECTS OR -- EXCUSE ME. NEITHER
3 SIDE IS REQUIRED TO PRODUCE ALL OBJECTS OR DOCUMENTS
4 MENTIONED OR SUGGESTED BY THE EVIDENCE.

5
6 EVIDENCE THAT AT SOME OTHER TIME A WITNESS
7 MADE A STATEMENT OR STATEMENTS THAT ARE INCONSISTENT OR
8 CONSISTENT WITH HIS OR HER MEMORY IN THE TRIAL MAY BE
9 CONSIDERED BY YOU NOT ONLY FOR THE PURPOSE OF TESTING
10 THE CREDIBILITY OF THE WITNESS BUT ALSO AS EVIDENCE OF
11 THE TRUTH OF THE FACTS AS STATED BY THE WITNESS ON THAT
12 FORMER OCCASION.

13
14 EVERY PERSON WHO TESTIFIES UNDER OATH IS A
15 WITNESS. YOU ARE THE SOLE JUDGES OF THE BELIEVABILITY
16 OF A WITNESS AND THE WEIGHT TO BE GIVEN THE TESTIMONY OF
17 EACH WITNESS.

18 IN DETERMINING THE BELIEVABILITY OF A WITNESS
19 YOU MAY CONSIDER ANYTHING THAT HAS A TENDENCY TO PROVE
20 OR DISPROVE THE TRUTHFULNESS OF THE TESTIMONY OF THE
21 WITNESS, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

22 THE EXTENT OF THE OPPORTUNITY OR ABILITY OF A
23 WITNESS TO SEE OR HEAR OR OTHERWISE BECOME AWARE OF ANY
24 MATTER ABOUT WHICH THE WITNESS HAS TESTIFIED;

25 THE ABILITY OF THE WITNESS TO REMEMBER OR TO
26 COMMUNICATE ANY MATTER ABOUT WHICH THE WITNESS HAS
27 TESTIFIED;

28 THE CHARACTER AND QUALITY OF THAT TESTIMONY;

1 THE DEMEANOR AND MANNER OF THE WITNESS WHILE
2 TESTIFYING;

3 THE EXISTENCE OR NONEXISTENCE OF A BIAS,
4 INTEREST OR OTHER MOTIVE;

5 THE EXISTENCE OR NONEXISTENCE OF ANY FACT
6 TESTIFIED TO BY THE WITNESS;

7 THE ATTITUDE OF THE WITNESS TOWARDS THIS
8 ACTION OR TOWARDS THE GIVING OF TESTIMONY;

9 A STATEMENT PREVIOUSLY MADE BY A WITNESS THAT
10 IS CONSISTENT OR INCONSISTENT WITH HIS TESTIMONY;

11 THE WITNESS'S PRIOR CONVICTION OF A FELONY.

12
13 DISCREPANCIES IN A WITNESS'S TESTIMONY OR
14 BETWEEN A WITNESS'S TESTIMONY AND THAT OF OTHER
15 WITNESSES, IF THERE WERE ANY, DO NOT NECESSARILY MEAN
16 THAT A WITNESS SHOULD BE DISCREDITED. FAILURE OF
17 RECOLLECTION IS COMMON. INNOCENT MISRECOLLECTION IS NOT
18 UNCOMMON. TWO PERSONS -- PERSONS WITNESSING AN
19 INCIDENT OFTEN WILL SEE OR HEAR IT DIFFERENTLY. WHETHER
20 A DISCREPANCY PERMITS (SIC) TO AN IMPORTANT MATTER OR
21 ONLY TO SOMETHING TRIVIAL SHOULD BE CONSIDERED BY YOU.
22

23 A WITNESS WHO WAS WILFULLY FALSE IN ONE
24 MATERIAL PART OF HIS OR HER TESTIMONY IS TO BE
25 DISTRUSTED IN OTHERS. YOU MAY REJECT THE WHOLE
26 TESTIMONY OF A WITNESS WHO WILFULLY HAS TESTIFIED
27 FALSELY AS TO A MATERIAL POINT UNLESS FROM ALL THE
28 EVIDENCE YOU BELIEVE THE PROBABILITY OF TRUTH FAVORS HIS

1 OR HER TESTIMONY IN OTHER PARTICULARS.

2
3 YOU ARE NOT BOUND TO DECIDE AN ISSUE OF FACT
4 IN ACCORDANCE WITH THE TESTIMONY OF A NUMBER OF
5 WITNESSES WHICH DOES NOT CONVINCING YOU AS AGAINST THE
6 TESTIMONY OF A LESSER NUMBER OF OTHER EVIDENCE WHICH
7 APPEALS TO YOUR MIND WITH MORE CONVINCING FORCE. YOU
8 MAY NOT DISREGARD THE TESTIMONY OF THE GREATER NUMBER OF
9 WITNESSES MERELY FROM CAPRICE, WHIM OR PREJUDICE OR FROM
10 A DESIRE TO FAVOR ONE SIDE AGAINST THE OTHER. YOU MUST
11 NOT DECIDE AN ISSUE BY THE SIMPLE PROCESS OF COUNTING
12 THE NUMBER OF WITNESSES. THE FINAL TEST IS NOT IN THE
13 NUMBER OF WITNESSES BUT IN THE CONVINCING FORCE OF THE
14 EVIDENCE.

15
16 THE FACT THAT A WITNESS HAS BEEN CONVICTED OF
17 A FELONY, IF THIS IS A FACT, MAY BE CONSIDERED BY YOU
18 ONLY FOR THE PURPOSE OF DETERMINING THE BELIEVABILITY OF
19 THE WITNESS. THE FACT OF A CONVICTION DOES NOT
20 NECESSARILY DESTROY OR IMPAIR A WITNESS'S BELIEVABILITY.
21 IT IS ONE OF THE CIRCUMSTANCES THAT YOU MAY TAKE INTO
22 CONSIDERATION IN THE WEIGHING THE TESTIMONY OF THAT
23 WITNESS.

24
25 YOU SHOULD GIVE THE TESTIMONY OF A SINGLE
26 WITNESS WHATEVER WEIGHT YOU THINK IT DESERVES.
27 TESTIMONY BY ONE WITNESS WHICH YOU BELIEVE CONCERNING
28 ANY FACT IS SUFFICIENT FOR THE PROOF OF THAT FACT. YOU

1 SHOULD CAREFULLY REVIEW ALL THE EVIDENCE UPON WHICH THE
2 PROOF OF THAT FACT DEPENDS.

3
4 A CONFESSION IS A STATEMENT MADE BY A
5 DEFENDANT IN WHICH HE HAS ACKNOWLEDGED HIS GUILT OF THE
6 CRIME FOR WHICH HE IS ON TRIAL. IN ORDER TO CONSTITUTE
7 A CONFESSION, A STATEMENT MUST ACKNOWLEDGE PARTICIPATION
8 IN THE CRIME AS WELL AS THE REQUIRED CRIMINAL INTENT.
9 AN ADMISSION IS A STATEMENT MADE BY A DEFENDANT WHICH
10 DOES NOT BY ITSELF ACKNOWLEDGE HIS GUILT OF THE CRIME
11 FOR WHICH THE DEFENDANT IS ON TRIAL BUT WHICH STATEMENT
12 TENDS TO PROVE HIS GUILT WHEN CONSIDERED WITH THE REST
13 OF THE EVIDENCE. YOU ARE NOT THE -- YOU ARE THE
14 EXCLUSIVE JUDGES AS TO WHETHER THE DEFENDANT MADE A
15 CONFESSION OR AN ADMISSION AND, IF SO, WHETHER THE
16 STATEMENT IS TRUE IN WHOLE OR IN PART.

17 EVIDENCE OF AN ORAL CONFESSION OR ORAL
18 ADMISSION OF THE DEFENDANT MADE IN COURT SHOULD BE
19 VIEWED WITH CAUTION -- EXCUSE ME. EVIDENCE OF AN ORAL
20 CONFESSION OR ORAL ADMISSION OF THE DEFENDANT NOT MADE
21 IN COURT SHOULD BE VIEWED WITH CAUTION.

22
23 A DEFENDANT IN A CRIMINAL ACTION IS PRESUMED
24 TO BE INNOCENT UNTIL THE CONTRARY IS PROVED. AND IN
25 CASE OF A REASONABLE DOUBT, WHETHER HIS GUILT IS
26 SATISFACTORILY SHOWN, HE IS ENTITLED TO A VERDICT OF NOT
27 GUILTY. THIS PRESUMPTION PLACES UPON THE PEOPLE THE
28 BURDEN OF PROVING HIM GUILTY BEYOND A REASONABLE DOUBT.

1 REASONABLE DOUBT IS DEFINED AS FOLLOWS: IT IS
2 NOT A MERE POSSIBLE DOUBT BECAUSE EVERYTHING RELATING TO
3 HUMAN AFFAIRS IS OPEN TO SOME POSSIBLE OR IMAGINARY
4 DOUBT. IT IS THAT STATE OF THE CASE WHICH, AFTER THE
5 ENTIRE COMPARISON AND CONSIDERATION OF ALL THE EVIDENCE,
6 LEAVES THE MINDS OF THE JURORS IN THAT CONDITION THAT
7 THEY CANNOT SAY THEY FEEL AN ABIDING CONVICTION OF THE
8 TRUTH OF THE CHARGE.

9
10 IN THE CRIME CHARGED THERE MUST -- MUST EXIST
11 A UNION OR JOINT OPERATION OF ACT OR CONDUCT AND A
12 CERTAIN SPECIFIC INTENT IN THE MIND OF THE PERPETRATOR.
13 UNLESS THIS SPECIFIC INTENT EXISTS, THE CRIME TO WHICH
14 IT RELATES IS NOT COMMITTED. THE SPECIFIC INTENT
15 REQUIRED IS INCLUDED IN THE DEFINITION OF THE CRIME SET
16 FORTH ELSEWHERE IN THESE INSTRUCTIONS.

17
18 THE SPECIFIC INTENT WITH WHICH AN ACT IS DONE
19 MAY BE SHOWN BY THE CIRCUMSTANCES SURROUNDING THE
20 COMMISSION OF THAT ACT. HOWEVER, YOU MAY NOT FIND THE
21 DEFENDANT GUILTY OF THE CRIME CHARGED UNLESS THE PROVED
22 CIRCUMSTANCES ARE NOT ONLY, ONE, CONSISTENT WITH THE
23 THEORY THE DEFENDANT HAD THE REQUIRED SPECIFIC INTENT
24 BUT, TWO, CANNOT BE RECONCILED WITH ANY OTHER RATIONAL
25 CONCLUSION. ALSO, IF THE EVIDENCE AS TO SPECIFIC INTENT
26 PERMITS TWO REASONABLE INTERPRETATION, ONE OF WHICH
27 POINTS TO THE EXISTENCE OF THE SPECIFIC INTENT AND THE
28 OTHER TO ITS ABSENCE, YOU MUST ADOPT THAT INTERPRETATION

1 WHICH POINTS TO ITS ABSENCE. IF, ON THE OTHER HAND, ONE
2 INTERPRETATION OF THE EVIDENCE AS TO THE SPECIFIC INTENT
3 APPEARS TO YOU TO BE REASONABLE AND THE OTHER
4 INTERPRETATION TO BE UNREASONABLE, YOU MUST ACCEPT THE
5 REASONABLE INTERPRETATION AND REJECT THE UNREASONABLE.
6

7 DEFENDANT IS ACCUSED OF HAVING COMMITTED THE
8 CRIME OF ROBBERY, A VIOLATION OF SECTION 211 OF THE
9 PENAL CODE. EVERY PERSON WHO TAKES PERSONAL PROPERTY IN
10 THE POSSESSION OF ANOTHER AGAINST THE WILL OR FROM THE
11 PERSON OR IMMEDIATE PRESENCE OF THAT PERSON,
12 ACCOMPLISHED BY MEANS OF FORCE OR FEAR AND WITH SPECIFIC
13 INTENT PERMANENTLY TO DEPRIVE THAT PERSON OF THE
14 PROPERTY IS GUILTY OF THE CRIME OF ROBBERY, IN VIOLATION
15 OF PENAL CODE SECTION 211.

16 "AGAINST THE WILL" MEANS WITHOUT CONSENT. IN
17 ORDER TO PROVE THIS CRIME, EACH OF THE FOLLOWING
18 ELEMENTS MUST BE PROVED:

19 ONE, A PERSON HAD POSSESSION OF PROPERTY OF
20 SOME VALUE, HOWEVER SLIGHT;

21 TWO, THE PROPERTY WAS TAKEN FROM THAT PERSON
22 OR FROM HIS IMMEDIATE PRESENCE;

23 THREE, THE PROPERTY WAS TAKEN AGAINST THE WILL
24 OF THAT PERSON;

25 FOUR, THE TAKING WAS ACCOMPLISHED EITHER BY
26 FORCE OR FEAR; AND

27 FIVE, THE PROPERTY WAS TAKEN WITH THE SPECIFIC
28 INTENT PERMANENTLY DEPRIVE -- TO DEPRIVE THAT PERSON OF

1 THE PROPERTY.

2 I AM GOING TO EXCUSE YOU NOW FOR THIS EVENING, AND
3 GOING TO REMIND YOU ONCE AGAIN -- NOW YOU HAVE HEARD THE
4 LAW -- BASICALLY THE LAW ON THE FACTS, I AM GOING TO REMIND
5 YOU ONE MORE TIME YOU ARE NOT TO DISCUSS THE CASE AMONGST
6 YOURSELVES NOR WITH ANYBODY ELSE OR EXPRESS OR FORM AN
7 OPINION ON ANYTHING RELATING TO THIS CASE. WITH THAT, HAVE A
8 PLEASANT EVENING. AND WE'LL HAVE THE ARGUMENTS FOR YOU
9 TOMORROW AFTERNOON AT 1:30.

10
11 (PROCEEDINGS OUTSIDE PRESENCE OF JURY.)

12
13 THE COURT: OKAY. WE'RE IN RECESS UNTIL 1:30 TOMORROW
14 AFTERNOON.

15
16 (THE MATTER WAS CONTINUED TO
17 DECEMBER 22, 1998 AT 1:30 P. M.
18 FOR FURTHER PROCEEDINGS.)

19
20
21
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23
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28

1 CASE NUMBER: TA039953
2 CASE NAME: PEOPLE VS. MILTON
3 COMPTON, CALIFORNIA DECEMBER 22, 1998
4 DEPARTMENT SCQ HON. RON SLICK, JUDGE
5 REPORTER: YVETTE R. BURLEY, CSR #8343
6 TIME: P.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT, WILLIAM MILTON, PRESENT IN COURT
10 REPRESENTED BY PAUL GOLUB, DEPUTY PUBLIC
11 DEFENDER; BETH L. WIDMARK, DEPUTY DISTRICT
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE
13 STATE OF CALIFORNIA.
14

15 THE COURT: OKAY, GOOD AFTERNOON. ALL THE JURORS
16 ARE PRESENT AND YOU'VE DONE BETTER THAN ME. I'M SORRY
17 WE'RE GETTING THE LATE START THIS AFTERNOON. THE LAWYERS
18 ARE GOING TO PRESENT THEIR ARGUMENTS NOW, AND THEY ARE
19 ALLOWED TO TALK ABOUT THE FACTS AND THE LAW, AND THEY'LL
20 DO THEIR VERY BEST, I'M SURE, TO REPRESENT TO YOU THE
21 FACTS AS THEY REMEMBER THEM. THE ONLY THING I ASK YOU TO
22 DO IS TO REMEMBER THAT YOU'RE THE ONES WHO REMEMBER WHAT
23 THE FACTS ARE. YOU HEARD THE EVIDENCE.

24 MS. WIDMARK.

25 MS. WIDMARK: THANK YOU, YOUR HONOR.

26 GOOD AFTERNOON. IT'S VERY CLOSE TO IT BEING
27 YOUR TIME WITH THE CASE EXCLUSIVELY. IF YOU CAN JUST
28 BARE WITH US TODAY. SO NOW AS THE JUDGE SAID, YOU'VE GOT

1 ALL THE EVIDENCE. YOU'VE GOT ALL THE EVIDENCE, AND NOW
2 IT'S TIME FOR YOU TO TAKE THE FACTS, TAKE THE LAW AS THE
3 COURT GAVE YOU AND PLEASE, PLEASE USE YOUR COMMON SENSE.
4 ALL OF YOU HAVE LIFE EXPERIENCES. IT'S GIVEN YOU AN
5 AMOUNT OF COMMON SENSE. IT'S GIVEN YOU AN ABILITY TO
6 LOOK AT PEOPLE, EXAMINE THE FACTS, EXAMINE THE LAW AND
7 COME TO A DETERMINATION. EACH OF YOU HAS THE ABILITY TO
8 DO THAT. DON'T TAKE THE EASY WAY OUT. YOU'VE BEEN VERY
9 DILIGENT. YOU'VE BEEN INCREDIBLY ATTENTIVE EVEN THOUGH
10 THIS WEEK WITH THE HOLIDAY COMING ALONG, THIS ISN'T
11 EXACTLY WHAT WE EXPECT TO BE THINKING ABOUT. USE THAT
12 COMMON SENSE AND WORK DILIGENTLY WHEN YOU ARE IN THE JURY
13 ROOM, AND DON'T TAKE THE EASY WAY OUT. IT'S A VERY
14 SERIOUS CASE AS YOU'VE SEEN, AND THE PEOPLE SUBMIT THAT
15 ONCE YOU TAKE A LOOK AT ALL THE FACTS, REALLY LOOK AT IT,
16 REALLY EXAMINE IT, REALLY THINK ABOUT THE Demeanor OF THE
17 WITNESSES AND WHAT THEY SAID, AND WHAT YOU HAVE TO
18 BELIEVE AND WHAT YOU ARE GOING TO HAVE TO DETERMINE AS
19 HARD AS IT MAY BE THAT SOMEONE IS LYING, AND A LOT OF THE
20 TIME WE DON'T WANT TO HAVE TO DO THAT. WE WANT TO SORT
21 OF TAKE THE MIDDLE GROUND. YOU ARE GOING TO HAVE TO DO
22 -- YOU'RE GOING TO HAVE TO DECIDE THAT SOMEONE IS LYING.
23 THE PEOPLE SUBMIT THAT ONCE YOU EXAMINE ALL THE EVIDENCE,
24 THINK ABOUT HOW THE WITNESSES WERE TESTIFYING AND WHAT
25 THEY SAID, THAT YOU'LL FIND MR. MILTON GUILTY OF ROBBERY
26 OF JUAN AVILA.

27 NOW, LET'S LOOK AT WHAT ROBBERY IS. AS I
28 TALKED ABOUT IN THE OPENING STATEMENTS, THERE ARE CERTAIN

1 ELEMENTS FOR ROBBERY. OKAY, SO LET'S LOOK AT THOSE FACTS
2 THAT GO WITH THE ELEMENTS OF ROBBERY. FIRST OF ALL, YOU
3 HAVE TO HAVE A PERSON IN POSSESSION OF PROPERTY. WELL,
4 WE KNOW JUAN AVILA WAS IN POSSESSION OF MONEY AND HIS NEW
5 PANTS, OKAY. THE SECOND IS THAT IT WAS TAKEN DIRECTLY
6 FROM THE VICTIM. YES, WILLIAM MILTON, THIS DEFENDANT
7 TOOK THE PROPERTY FROM JUAN'S POCKETS, PROBABLY FROM HIS
8 POCKETS AND AND PANTS UNDER HIS ARM. REMEMBER HE SAID HE
9 HAD PANTS, THOSE JEANS UNDER HIS ARM IN A BAG, THAT HE
10 DID IT AGAINST THE WILL OF THE VICTIM. IN OTHER WORDS,
11 THAT JUAN DIDN'T GIVE ANYONE PERMISSION TO TAKE HIS
12 PROPERTY, TO TAKE HIS MONEY, AND TAKE HIS PANTS. THE
13 FOURTH ELEMENT IS THAT THE PROPERTY HAS TO BE TAKEN BY
14 FORCE OR FEAR, BUT WE'LL JUST LIMIT IT HERE TO THOSE
15 FACTS, WHICH IS THE FEAR. JUAN TESTIFIED THAT HE FROZE
16 IN FEAR. HE WAS AFRAID THIS MAN WAS GOING TO DO HIM
17 HARM. AND NO. 5, THAT THE PROPERTY BE TAKEN WITH THE
18 SPECIFIC INTENT TO DEPRIVE. REMEMBER YESTERDAY THE JUDGE
19 WAS TALKING WITH ABOUT THAT THIS WAS A SPECIFIC INTENT
20 CRIME, THAT IS, SPECIFIC INTENT TO PERMANENTLY DEPRIVE
21 THE VICTIM OF HIS PROPERTY AND WHAT EVIDENCE DO WE HAVE
22 OF THAT. WE HAVE MR. MILTON NEVER RETURNED THE PROPERTY
23 TO EITHER THE POLICE OR TO ANYONE. OKAY, HE STASHED IT
24 AWAY, CLEAR CONSCIOUSNESS OF GUILT. HE GOT RID OF THAT
25 PROPERTY. HE DOESN'T HAVE ANYTHING ON HIM. HE'S
26 MR. CLEAN AT THE TIME HE'S ARRESTED. HE NEVER RETURNED
27 THE PROPERTY.

28 THESE ARE THE ELEMENTS THAT ARE NECESSARY TO

1 PROVE MR. MILTON GUILTY OF THE ROBBERY OF JUAN AVILA.
2 NOW, I THINK THE MOST IMPORTANT DAY OF TESTIMONY WAS THE
3 FIRST DAY OF TESTIMONY BECAUSE THAT IS WHEN YOU HEARD
4 FROM THE VICTIM, AND THAT IS WHEN YOU HEARD FROM THE
5 WITNESS. THE WITNESS AND THE VICTIM DIDN'T KNOW EACH
6 OTHER, AND THE WITNESS DIDN'T KNOW THE DEFENDANT BEFORE
7 THAT NIGHT. THEY DIDN'T KNOW EACH OTHER BEFORE THAT
8 NIGHT. IN FACT, THE WITNESS DIDN'T EVEN KNOW THE
9 DEFENDANT THAT NIGHT, COULDN'T IDENTIFY HIM, THOUGHT THAT
10 THE DEFENDANT WAS A WOMAN THAT NIGHT, AND WHY DID THE
11 WITNESS THINK HE WAS A WOMAN BECAUSE HE WAS STANDING IN
12 THIS AREA ON 92ND AND FIGUEROA. YOU REMEMBER HIM
13 STANDING IN AN AREA AT 92ND AND FIGUEROA UNDER A
14 LIGHTPOST WHERE IT WASN'T LIT. REMEMBER HE WAS STANDING
15 IN A DARK AREA. HE'S STANDING WHERE MR. CAMARILLO, THE
16 WITNESS KNOWS PROSTITUTES TO HANG OUT, AND YOU LOOK AT
17 THE DEFENDANT. HE TESTIFIED TO HIS, YOU KNOW, HEIGHT AND
18 WEIGHT, YOU KNOW. WHEN YOU LOOK AT HIM IN THIS
19 PHOTOGRAPH, THIS BOOKING PHOTOGRAPH, THAT IS ENLARGED,
20 YOU SEE, YOU KNOW, SLIGHTLY YOU COULD UNDERSTAND WHY 75
21 YARDS AWAY UNDER DARKENED LIGHTS, HE MIGHT THINK THAT
22 HE'S A WOMAN. AND THE WITNESS TOLD YOU THAT HONESTLY
23 HE'S SAYING, "OH, I'M GOING TO TELL YOU EVERYTHING JUAN
24 AVILA TOLD ME THAT NIGHT." HE'S TESTIFYING FROM HIS
25 MEMORY. HE SAYS, YEAH, I LOOKED OVER AND I THOUGHT THAT
26 WAS A WOMAN, AND THEN HE SAYS HE SEES SOMEONE COMING
27 NORTHBOUND UP FIGUEROA, YOU KNOW. IT'S JUAN AVILA, THE
28 16 YEAR-OLD BOY THAT HAS GOT TO WALK HOME BECAUSE HE

1 CAN'T CATCH A BUS. HE'S WALKING UP FIGUEROA BY HIMSELF
2 BECAUSE THERE'S NO BUS. HE'S GOT GOOD REASON TO BE OUT
3 THERE ON THE STREET AT 1:30 IN THE MORNING. HE LIVES AT
4 FIGUEROA AND 76TH. HE WORKS AT TAMS LEAST AT THAT TIME.
5 NOW, THANK GOODNESS, HE'S NOT WORKING THERE ANYMORE.
6 HE'S WORKING AT THE AIRPORT, BUT AT THAT TIME HE WAS
7 WORKING AT CENTURY AND FIGUREOA. HE'S GOT TO GET HOME.
8 HE'S GOT A LEGITIMATE REASON TO BE WALKING UP THAT STREET
9 THAT NIGHT, AND YOU HAVE THE DEFENDANT. NOW, THE PEOPLE
10 WOULD SUBMIT THE MOST IMPORTANT DAY OF THE TESTIMONY AND
11 MR. GOLUB MAY SAY THE SAME THING, BUT HE MAY SAY FOR
12 DIFFERENT REASONS. MR. GOLUB IS A VERY GOOD LAWYER. MR.
13 MILTON HAS BEEN LUCKY TO BE REPRESENTED BY MR. GOLUB.
14 LET'S LOOK AT THE TESTIMONY WITH REGARD TO WHAT HAPPENED
15 OUT THERE. AND REALLY WHAT WE HAVE TO DO IS WE HAVE TO
16 BELIEVE
17 JUAN AVILA AND WE HAVE TO BELIEVE THE WITNESS WITH REGARD
18 TO WHAT OCCURRED, BUT LET'S JUST LOOK AT JUAN AVILA.
19 LET'S LOOK AT HIS TESTIMONY AND SAY, WELL, WAIT A MINUTE.
20 HE COULD COME IN HERE AND HE COULD SAY ANYTHING. OKAY,
21 WELL THEN WE NEED TO LOOK AT WHAT BACKS UP HIS TESTIMONY.
22 THE WORD THAT WE LIKE TO USE IN THE LAW IS WHAT
23 CORROBORATES HIS TESTIMONY, WHY CAN WE SAY HE IS
24 BELIEVABLE. FIRST OF ALL, WHAT WE'VE GOT IS WE'VE GOT
25 JUAN'S TESTIMONY. IT DOES NOT SIMPLY STAND ALONE.
26 THERE'S CORROBORATION OF THE TRUTH OF HIS TESTIMONY AND
27 THIS CORROBORATION NOT ONLY DEPENDS ON THE FACTS BUT
28 DEPENDS ON OTHER EVIDENCE. IT DEPENDS ON YOUR COMMON

1 SENSE TO LOOK AT WHAT JUAN AVILA SAID. FIRST OF ALL,
2 JUAN AVILA WAS CARRYING \$20 AND SOME COINS AND THESE NEW
3 PANTS. OKAY, WHY DOES THAT HELP HIS TESTIMONY BECAUSE
4 HE'S NOT CARRYING AN ENTIRE BANK ROLL, AND HE'S BEEN
5 ROBBED OF HUNDREDS OF DOLLARS. NO, HE'S SAYING I WAS
6 JUST CARRYING \$20 AND SOME COINS. I WAS CARRYING MY KEY,
7 BUT I HAD MY KEY WHEN I LEFT, AND I'M CARRYING THESE NEW
8 PANTS, OKAY. WHY ARE WE TELLING YOU THIS INTERESTING
9 ARRAY OF THINGS? BECAUSE THAT IS WHAT HE WAS CARRYING
10 THAT NIGHT. HE'S NOT MAKING THIS UP THAT HE HAD THIS NEW
11 PAIR OF PANTS UNDERNEATH HIS ARM. THAT'S WHAT HE WAS
12 CARRYING THAT NIGHT. THEN HE'S WALKING HOME FROM WORK.
13 HE HAD A LEGITIMATE REASON TO BE WALKING DOWN THAT STREET
14 THAT NIGHT. IT'S NOT JUST THAT HE HANGS OUT IN THAT AREA
15 EVERYDAY, EVERY AFTERNOON, EVERY EVENING. IN FACT, HE
16 WAS GOING FROM HIS WORK AT TAMS, AND WE KNOW HE WORKED AT
17 TAMS. THERE WASN'T ANYBODY THAT CAME IN HERE AND SAID HE
18 DIDN'T, AND CERTAINLY YOU KNOW THE DEFENSE WOULD HAVE
19 BROUGHT SOMEONE IN IF HE WAS NOT WORKING AT TAMS. HE WAS
20 WORKING AT TAMS THAT NIGHT. HE'S TRYING TO GET HOME.
21 THIS 16-YEAR OLD KID IS TRYING TO GET HOME. WHAT ELSE DO
22 WE HAVE THAT CORROBORATES JUAN'S TESTIMONY. ROLONDO
23 CAMARILLO SAYS HE SAW A PERSON STANDING THERE, STANDING
24 IN THE SAME GRASSY AREA WHERE THE VICTIM SAYS THAT
25 MR. MILTON WAS STANDING IN THE DARK AREA, ISN'T THAT
26 INTERESTING, UNDER THE LAMP. WHY WOULD ROLONDO CAMARILLO
27 SAY THAT BECAUSE IT WAS THE TRUTH. HE DIDN'T REALLY GET
28 A GOOD LOOK AT MR. MILTON BECAUSE HE'S LOOKING 75 YARDS

1 AWAY IN THAT DARKENED AREA. ROLONDO CAMARILLO SEES THE
2 PAT-DOWN. HE TELLS US HE SEES IT. HE SEES A PAT-DOWN.
3 HE SEES THE PERSON GOING INTO THE VICTIMS POCKETS, AND HE
4 ALSO SEES WHAT HE BELIEVES IS THE HAND AT THE WAISTBAND
5 OF THE PERSON DOING THE SEARCHING. IN OTHER WORDS, THE
6 SEARCHING IS BEING DONE WITH ONE HAND, AND THE OTHER HAND
7 IS AT THE WAIST. AGAIN, YOU LOOK AT THAT AND YOU SAY IF
8 HE WERE IN THIS GRAND CONSPIRACY, NOT HAVING KNOWN EACH
9 OTHER BEFORE THAT NIGHT WERE IN THIS GRAND CONSPIRACY
10 TO GET THIS MAN WRONGFULLY CONVICTED. THEIR STORIES ARE
11 NOT GOING TO MATCH. HE SAYS HE SAW THE FRONT. IF YOU
12 USE YOUR COMMON SENSE, THAT MAKES SENSE BECAUSE WHAT HE'S
13 SEEING, HE SEES THAT ELBOW OUT. THAT IS WHAT HE'S
14 SAYING, AND MAYBE HIS EXPERIENCE IS THAT THE HAND IS IN
15 FRONT OF THIS ELBOW. HE'S GOT TO BE WORRIED ABOUT A
16 WEAPON. THAT WASN'T WHAT HAPPENED ACCORDING TO
17 MR. AVILA. THAT IS ALL ROLONDO CAMARILLO SEES, AND HE'S
18 TESTIFYING TO WHAT HE SEES. HE DOESN'T JUST PARROT JUAN
19 AVILA. THEN WHAT HAPPENS AFTER ROLONDO CAMARILLO SEES
20 THAT HE SEES SOMEONE WALKING CLOSER TO HIM, WALKING
21 NORTHBOUND ACROSS 92ND COMING CLOSER TO 9130, COMING
22 CLOSER, AND HE SAYS HE WANTS ROLONDO TO COME OVER TO
23 WHERE HE IS, AND ROLONDO SAYS NO. HE'S GOING TO STAY
24 THERE. HE TELLS HIM TO COME OVER HERE. THE VICTIM THEN
25 COMES OVER THERE. WHAT IS THE FIRST THING THAT HAPPENS?
26 HE SAYS "HELP ME. HELP ME. I'VE BEEN ROBBED." IN
27 SPANISH. THAT COMES OUT OF THE VICTIM'S MOUTH. HE SAYS
28 THAT BECAUSE IT'S THE TRUTH. ROLONDO CAMARILLO SAYS,

1 "THERE'S NOT MUCH I CAN DO. I CAN ONLY SHOW YOU INSIDE,
2 HELP YOU CALL THE POLICE," AND THAT IS WHAT HAPPENED. HE
3 HELPS HIM CALL THE POLICE. ALSO, ROLONDO CAMARILLO SAYS
4 HE SEES ANOTHER OTHER PERSON ROB ANOTHER PERSON. HE
5 THINKS HE SEES A FEMALE, SEES THEM GO SOUTHBOUND. THEN,
6 JUAN IMMEDIATELY, WITH THE HELP OF ROLONDO CAMARILLO,
7 CALLS 911. YOU HEARD THE TAPE. YOU READ THE
8 TRANSCRIPTS, AND THEY WERE SORT OF FALLING ALL OVER
9 THEMSELVES A LITTLE BIT. THIS IS NOT A SMOOTH
10 TRANSCRIPTED EVENT. WHAT THIS IS, IS A 911 CALL OF
11 SOMEONE BEING ROBBED AND IS EXCITED REPORTING IT TO THE
12 POLICE, AND YOU HEAR THE OPERATOR SAY "911." THEN YOU
13 HEAR THE TAPE IN SPANISH, BUT YOU SAW THE TRANSCRIPTION
14 WHICH WAS, "HELLO." THE OPERATOR ASKED IF SHE COULD BE
15 OF HELP, AND WHAT DOES THE CALLER SAYS, "I'VE BEEN ROBBED
16 RIGHT NOW."

17 "WHO ROBBED YOU?"

18 CALLER: "A BLACK."

19 OKAY, SO IT'S NOT A NICE CALM CONVERSATION. IT'S
20 SOMETHING THAT IS HAPPENING IN THE HEAT OF THE MOMENT
21 PERPETRATED BY MR. MILTON. THE OPERATOR THEN SAYS, "WHAT
22 IS THE ADDRESS," AND JUAN AVILA, WHAT DOES HE SAY "76TH
23 AND FIGUREOA." WHAT IS HE TELLING THE OPERATOR? HE'S
24 TELLING THE OPERATOR WHERE HE LIVES BECAUSE THAT IS WHAT
25 HE SAID WHERE HE LIVES. SHE THEN ASKS WHERE HE WAS NOW.
26 THE CALLER SAYS, "92ND." "NO, ARE YOU AT 76TH AND
27 FIGUEROA NOW?" CALLER "92ND. I WAS ON MY WAY HOME WHEN
28 HE ASKED ME FOR MY MONEY. I DON'T HAVE MONEY SO HE

1 PULLED OUT A WEAPON." WHAT TYPE OF WEAPON? CALLER, "I
2 DIDN'T SEE IT, BUT HE SIMPLY STUCK HIS HAND."
3 OPERATOR: "WHAT DID HE HAVE? WAS IT LIKE A
4 GUN? WHAT DID HE LOOK LIKE, BLACK, WHITE, ORIENTAL?"
5 CALLER: "AFRICAN AMERICAN."
6 OPERATOR: "BLACK."
7 CALLER: "HUH-HUH."
8 OPERATOR: "WHAT COLOR SHIRT AND PANTS DID HE
9 HAVE ON?"
10 CALLER: "ALL IN BLACK AND UNDER IT LOOKED
11 LIKE HE HAS SHORT SHIRT."
12 OPERATOR: "AND DID HE HIT YOU OR ANYTHING?"
13 CALLER: "NO, HE WANTED TO HIT ME, BUT I GAVE
14 HIM ALL."
15 OPERATOR: "DO YOU NEED PARAMEDICS?"
16 CALLER: "UH-UH."
17 OPERATOR: NO, YOU DON'T NEED PARAMEDICS TO
18 COME; RIGHT?"
19 THE CALLER: "NO."
20 "WHAT IS YOUR NAME?"
21 CALLER: "JUAN."
22 "THE NUMBER WHERE YOU WILL BE. EXCUSE ME,
23 THE NUMBER FROM WHERE YOU ARE CALLING FROM."
24 CALLER: THIS IS A PUBLIC PHONE."
25 OPERATEOR: THE POLICE ARE ON THEIR WAY.
26 "OKAY, OKAY, BYE."
27 SO THIS IS NOT SOME SORT OF SMOOTH THING WHERE
28 JUAN IS SAYING, I'M MAD. I'M GOING TO JUST NAIL HIM,

1 OKAY. HE'S SAYING WHAT WAS HAPPENING RIGHT AT THE
2 MOMENT, AND HE CALLS THE POLICE. CERTAINLY, IF HE HADN'T
3 CALLED THE POLICE, CERTAINLY IF HE HADN'T REPORTED IT,
4 THAT WOULD BE SOMETHING THAT YOU COULD CONSIDER WITH
5 REGARD TO WHETHER IT REALLY HAPPENED, BUT HERE HE DID,
6 AND REMEMBER THE 911 CALL WHEN YOU HEARD IT, AND I DON'T
7 KNOW IF YOU GOT A CHANCE -- I'M SURE SOME OF YOU SAW
8 MR. AVILA ON THE STAND, BUT WHEN THE 911 TAPE WAS BEING
9 PLAYED AT THE END OF THAT WHEN WE WERE SORT OF FOOLING
10 AROUND WITH TRANSCRIPTS, HE LOOKED LIKE HE WAS GOING TO
11 CRY. HE'S A 16-YEAR OLD BOY. HE'S BEEN THROUGH A
12 ROBBERY, AND THEN HE GOES BACK THROUGH IT. YOU CAN HEAR
13 HIS OWN VOICE RIGHT AT THE TIME THAT IT HAPPENED. IT
14 REALLY TOOK HIM BACK, NOT THE REACTION YOU GET FROM SOME
15 GUY JUST SETTING UP THIS DEFENDANT. THEN THE POLICE
16 FOUND MR. MILTON JUST WHERE MR. CAMARILLO AND MR. AVILA
17 SAID HE WAS. MR. AVILA SAYS HE'S WEARING ALL BLACK,
18 AFRICAN AMERICAN WEARING ALL BLACK AFTER MR. CAMARILLO
19 SAID HE SAW HIM IN THE AREA ON THE FIGUEROA. JUAN
20 IDENTIFIED THE DEFENDANT WHO DID THE ROBBERY. HE'S TAKEN
21 THERE, AND HE SAYS, "THAT IS HIM." SAYS THAT TO THE
22 POLICE. HE IDENTIFIES HIM. JUAN SPEAKS TO THE POLICE,
23 AND HE'S ALSO INTERVIEWED BY DETECTIVE CARLYLE. HE THEN
24 SAYS THAT THIS DEFENDANT, MR. MILTON, IS THE ONE WHO DID
25 THE ROBBERY.

26 THE DEFENDANT SAYS NO THERE WAS NO ROBBERY,
27 AND THAT IS MR. MILTON, A CONVICTED OF FELON. THERE'S
28 NOTHING BACKING HIM UP. HE CAN COME UP THERE AND SAY

1 ANYTHING BECAUSE THERE'S NOTHING BACKING UP HIS
2 STATEMENT. IT IS UNCORROBORATED TESTIMONY AFTER ALL THE
3 WITNESSES STATEMENTS WERE MADE KNOWN, OKAY. KEEP THAT IN
4 MIND. NOW, WHY DO YOU GET TO KNOW THAT
5 MR. MILTON IS A TWICE CONVICTED FELON. WHY DO YOU GET TO
6 KNOW THAT? YOU ONLY GET TO KNOW IT FOR ONE REASON, AND
7 THAT IS THAT YOU GET TO USE THE FACT THAT HE'S BEEN
8 CONVICTED OF THOSE FELONIES TO DETERMINE THE
9 BELIEVEABILITY OF THE WITNESS. NOW, THIS RULE DOES NOT
10 JUST APPLY TO THE DEFENDANT. IT APPLIES TO ALL
11 WITNESSES, OKAY. ANY WITNESS WHO TAKES THE STAND IF
12 THEY'VE BEEN CONVICTED OF A FELONY INVOLVING MORAL
13 TURPITUDE, YOU GET TO KNOW ABOUT IT. AND WHY DO YOU GET
14 TO KNOW ABOUT IT? WHAT DIFFERENCE DOES IT MAKE THAT
15 SOMEONE HAS BEEN CONVICTED OF A FELONY INVOLVING MORAL
16 TURPITUDE. HOW DOES THAT PLAY IN THE DECISION MAKING?
17 WHEN YOU GET THE JURY INSTRUCTIONS, ONE TELLS YOU GET TO
18 GIVE IT AS MUCH WEIGHT AS YOU WANT, AS YOU FEEL IS
19 IMPORTANT, OR YOU CAN TOTALLY DISCARD IT. IT'S UP TO
20 YOU, BUT THE REASON YOU GET TO KNOW IT IS WHEN YOU THINK
21 ABOUT IT, IT'S ABOUT IF SOMEONE IS GOING TO GET TO THE
22 TRUTH.

23 USE YOUR COMMON SENSE. LET'S SAY YOU'RE
24 GOING TO LOAN SOMEONE SOME MONEY. YOU'RE GOING TO WANT
25 TO KNOW A LITTLE BIT ABOUT THEM BEFORE YOU LOAN THEM THIS
26 AMOUNT OF MONEY. WHAT THE COURT IS TELLING YOU IS THAT
27 IS ONE OF THE THINGS YOU GET TO KNOW BECAUSE YOU WANT TO
28 KNOW SOMETHING ABOUT HIM BECAUSE YOU WANT TO KNOW IF THEY

1 ARE GOOD ON THEIR PROMISE TO PAY YOU BACK. JUST LIKE ARE
2 THEY GOING TO BE GOOD ON THEIR PROMISE TO TELL THE TRUTH,
3 THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH. SO THAT IS
4 THE ISSUE. ARE THEY GOING TO KEEP THEIR PROMISE. WELL,
5 YOU ARE GOING TO WANT TO KNOW SOMETHING ABOUT THEM BEFORE
6 YOU LOAN SOME MONEY. ARE THEY GOING TO KEEP THAT PROMISE
7 THAT THEY ARE GOING TO PAY IT BACK, AND WHAT THE COURT IS
8 TELLING YOU IS THAT ONE OF THE PIECES OF INFORMATION THAT
9 YOU GET TO HAVE ABOUT WHETHER THEY ARE GOING TO KEEP THAT
10 PROMISE IS JUST LIKE IF SOMEONE IS GOING TO LOAN YOU
11 MONEY, WHETHER THEY ARE GOING TO KEEP THEIR PROMISE TO
12 PAY IT BACK, RATHER THEY'VE BEEN CONVICTED OF A FELONY.
13 AND THIS DEFENDANT HAS BEEN CONVICTED OF TWO FELONIES
14 INVOLVING MORAL TURPITUDE, ROBBERY AND ARMED ROBBERY, AND
15 THAT IS WHAT YOU CAN CONSIDER IT FOR WHETHER WHEN HE GETS
16 UP THERE, YOU CAN BELIEVE HIM THAT HE'S TELLING THE
17 TRUTH. AND THE PEOPLE SUBMIT THAT IT'S SIGNIFICANT, AND
18 THAT, IN FACT, HE'S NOT TELLING THE TRUTH.

19 ONE OTHER THING THAT I DIDN'T PUT ON THIS
20 CHART IS I THINK IT'S SIGNIFICANT THAT YOU LOOK AT THE
21 DEFENDANT'S TESTIMONY. THE VICTIM SAYS THE DEFENDANT,
22 THAT NIGHT, SPOKE SPANISH TO HIM. ONE OF THE THINGS IS
23 THAT THE DEFENDANT'S MOTHER IS HISPANIC. HOW WOULD THE
24 VICTIM EVEN KNOW THAT. MAYBE JUST A COINCIDENCE, BUT IT
25 CERTAINLY CORROBORATES THE STATEMENT WITH REGARD TO HIM
26 SPEAKING SPANISH WHETHER THE DEFENDANT WANTS TO ADMIT
27 THAT OR ON. THE DEFENDANT ALSO WANTS TO TELL YOU THAT HE
28 DOESN'T REMEMBER OFFICER HERNANDEZ. WELL, IF I WAS HIM,

1 I PROBABLY WOULDN'T WANT TO REMEMBER OFFICER HERNANDEZ
2 EITHER. THE OFFICER WAS THE ONE THAT SAW HIM SAY
3 LAUGHING SARCASTICALLY, "YEAH, I DID IT. YEAH, I DID
4 IT," AND WHAT IS WHAT JUAN TELLS YOU. HE TELLS YOU ALSO,
5 "I'VE SEEN THE DEFENDANT BEFORE. HE ASKED ME FOR MONEY.
6 I GAVE HIM A DOLLAR. HE ASKED ME IF I WANTED TO BUY
7 DRUGS." HE SAID, "NO," AND HE WAS PRETTY CLEAR ABOUT
8 THAT. HE HAD SEEN AND TALKED TO THE DEFENDANT BEFORE,
9 NOT A BIG DEAL, NOT SOMETHING THAT HE NEEDS TO MAKEUP,
10 JUST HAPPENS TO BE THE TRUTH, AND HE STATED THE TRUTH.
11 SO YOU'VE GOT THE VICTIM. HE'S WORKING AND GOING TO
12 SCHOOL THE LIVING WITH HIS MOTHER, LIVING WITH SISTER,
13 WORKING AND GOING TO SCHOOL, MAKING SOME OPPORTUNITY FOR
14 HIMSELF AND HIS LIFE. THEN YOU HAVE THE DEFENDANT. HE'S
15 HANGING OUT AT TAMS, HANGING OUT AT THE CAR WASH, AND THE
16 PEOPLE SUBMIT, NOT TAKING RESPONSIBILITY FOR HIMSELF AND
17 FOR THE CRIMES THAT HE'S COMMITTED, BUT THE VICTIM IS
18 TAKING RESPONSIBILITY. AND, IN FACT, HE HAS COME IN HERE
19 AND TESTIFIED. HE HASN'T WALKED AWAY FROM THIS CASE AND
20 SHOULD BE APPLAUDED FOR THAT SINCE YOU KNOW HE'S A BUSY
21 KID. HE'S NOT ONLY GOING TO HIGH SCHOOL, HE'S WORKING --

22 MR. GOLUB: WELL, OBJECTION, YOUR HONOR. THE VICTIM
23 IS NOT ON TRIAL. THAT IS IMPROPER ARGUMENT.

24 THE COURT: SUSTAINED.

25 MS. WIDMARK: YOUR HONOR, MAY I APPROACH FOR A
26 MOMENT?

27 THE COURT: NO, THE VICTIM HAD TO BE HERE. HE WAS
28 ORDERED HERE.

1 MS. WIDMARK: AND IF YOU ARE TO BELIEVE THE DEFENSE,
2 THE VICTIM IS MAKING ALL OF THIS UP, HAS THE TIME TO MAKE
3 ALL OF THIS UP AND CARRY ON THIS SHAM.

4 YOU SHOULD BE MAKING THIS DECISION BASED ON
5 YOUR COMMON SENSE, NOT WITH REGARD TO PUNISHMENT, NOT
6 WITH REGARD TO PITY, BUT MAKING YOUR DECISION BASED UPON
7 WHAT THE FACTS ARE HERE. THAT IS NOT AN EASY DECISION TO
8 MAKE THIS WEEK, BUT YOU ARE ALL UP TO THAT TASK.

9 NOW, I GUESS, LIKE I SAID, MR. GOLUB IS A
10 GOOD LAWYER AND HE TALKED TO THE WITNESSES ABOUT THE
11 INCONSISTENCIES BETWEEN THE STATEMENTS. HE REALLY
12 HAMMERED HOME THAT, "DON'T MOVE OR I'LL SHOOT," OKAY, AS
13 IF THE VICTIM MADE THAT UP THAT DAY, AND NOW IS SAYING,
14 NO, HE DIDN'T SAY IT BECAUSE IT WAS A LIE. I THINK WHEN
15 YOU LOOK AT THOSE TYPES OF STATEMENTS AND YOU LOOK AT THE
16 FACT THAT IT'S OCCURRING WITH REGARD TO A 16 YEAR-OLD
17 KID. DOES IT MEAN THAT OFFICER HERNANDEZ IS LYING?
18 MR. CAMARILLO IS LYING? MR. AVILA IS LYING? BUT THE
19 DEFENSE HAS TO BRING IT UP. IT'S A GOOD DEFENSE, AND
20 THEY REALLY HAVE VERY LITTLE ELSE WHEN THEY'VE GOT THE
21 UNCORROBORATED STATEMENTS OF THE DEFENDANT. SO THE COURT
22 WILL GIVE YOU THIS INSTRUCTION. THIS IS PART OF THE
23 INSTRUCTIONS WITH REGARD TO DISCREPANCIES IN TESTIMONY,
24 AND WHAT IT SAYS IS, YES, LOOK AT THAT. WEIGH IT.
25 YOU'VE GOT TO LOOK AT WHAT'S PART OF THE EVIDENCE. LOOK
26 AT IT. WEIGH IT, AND THEN COME DOWN AND TAKE A LOOK AT
27 THE FAILURE OF RECOLLECTION, COMMON SENSE.
28 MISRECOLLECTION IS NOT UNCOMMON. IT IS A FACT ALSO THAT

1 TWO PERSONS WITNESSING AN INCIDENT OR A TRANSACTION WILL
2 SEE IT OR HEAR IT DIFFERENTLY. THIS IS PART OF THE LAW
3 THAT THE COURT GAVE YOU. WHY DO YOU GET THAT INSTRUCTION
4 BECAUSE, YOU KNOW, THAT THIS IS COMMON SENSE. YOU KNOW
5 IF YOU'VE GOT TWO PEOPLE VIEWING AN EVENT FROM TWO
6 DIFFERENT AREAS OR DIFFERENT PERIODS OF TIME THAT HAS
7 PASSED SUCH AS IN THIS CASE FROM SEPTEMBER TO DECEMBER,
8 YOU'RE GOING TO HAVE SOME DIFFERENCES EVEN IF YOU
9 DON'T -- EVEN IF ALL THE WITNESSES ARE MATCHING
10 PERFECTLY, THEN YOU'VE GOT A PROBLEM. AGAIN, YOU LOOK AT
11 THE LAW, AND IT SAYS, NO, AND THAT MAKES SENSE BECAUSE AS
12 THE JURY INSTRUCTION THAT YOU WERE GIVEN YESTERDAY SAYS.
13 IT IS WITH REGARD TO REASONABLE DOUBT BECAUSE THAT IS THE
14 STANDARD WE HAVE TO MEET. TALKING ABOUT THE REASONABLE
15 DOUBT, IT IS NOT A MERE POSSIBLE DOUBT BECAUSE EVERYTHING
16 RELATING TO HUMAN AFFAIRS IS OPEN TO SOME PROBABLE OR
17 IMAGINARY DOUBT. IN OTHER WORDS, IT IS A GOOD DEFENSE TO
18 TRY AND HOLD US TO A PERFECT CASE. THAT IS NOT THE LAW.
19 THE LAW IS NOT BEYOND ALL DOUBT. ALSO, THE FACT THAT IF
20 IT IS A PERFECT CASE, THEN YOU'VE GOT TO WORRY. I MEAN,
21 LIKE I SAID, IT COMES BACK TO COMMON SENSE. THINK ABOUT
22 IT. JUST USING AN EXAMPLE OF CHILDREN. LET'S SAY YOU'VE
23 GOT A COUPLE KIDS, AND THEY'VE DONE SOMETHING THAT THEY
24 WANT TO GET AWAY WITH, OR THEY ARE JUST AFRAID OF GETTING
25 IN TROUBLE AND SO THEY SIT DOWN TOGETHER AND SAY, OKAY,
26 YOU KNOW, WE BETTER GET OUR STORIES STRAIGHT BEFORE WE GO
27 HOME. SIT DOWN AND PLAN THE STORY SO THEY MATCH WHEN WE
28 GET HOME. THAT IS WHEN YOU SHOULD WORRY WHEN IT ALL

1 MATCHES PERFECTLY BECAUSE PEOPLE ARE IN DIFFERENT PLACES,
2 VIEWING DIFFERENT EVENTS, AND IT'S OVER A PERIOD OF TIME.
3 IF YOU WATCHED JUAN AVILA TESTIFY SITTING UP THERE, A
4 NERVOUS 16 YEAR-OLD KID TRYING DESPERATELY TO RELATE WHAT
5 HAPPENED TO HIM. HIS LEG WAS KIND OF SHAKING, FIRST ONE
6 LEG, THEN IT WAS THE OTHER, NOT REALLY WANTING TO LET
7 THEM CROSS. LET'S JUST USE COMMON SENSE. WE'RE ALL
8 NERVOUS WHEN SOMEONE IS SPEAKING TO US IN THIS TYPE OF
9 SETTING NOT BECAUSE IT'S A LIE, BUT BECAUSE HE'S BEING
10 GENUINE. THEN WE HAVE THE TESTIMONY OF THE OFFICERS.
11 YOU HAD OFFICER SHEPARD, A NICE YOUNG OFFICER. WHEN I
12 ASKED HIM ABOUT WHETHER HE'S EVER MADE A MISTAKE ON A
13 REPORT, THE NICE YOUNG OFFICER WHO HAS BEEN THERE FOR TWO
14 YEARS DOING HIS JOB, BUT HE KNOWS HE'S HAD INNOCENT
15 MISRECOLLECTION. HE MADE ONE OF THEM BECAUSE HE BELIEVED
16 THAT HE WAS THE FIRST OFFICER ON THE SCENE. CLEARLY, HE
17 WASN'T. REMEMBER HE SAID, "WE WERE THE FIRST ONES TO GET
18 TO 9130." HE WASN'T. HERNANDEZ WAS THE FIRST, BUT HE
19 DOESN'T KNOW HERNANDEZ, HADN'T TOLD HIM, HADN'T REALLY
20 MATTERED, BUT HE BELIEVES THAT IT'S AN INNOCENT
21 MISRECOLLECTION, MAYBE JUST A MISTAKE, JUST AN INNOCENT
22 MISTAKE. IS HE BEING HONEST? YES, TO THE BEST OF HIS
23 KNOWLEDGE. HE'S BEING HONEST. HE THOUGHT HE WAS THE
24 FIRST ONE OUT THERE. HE WASN'T. COMPARE WHAT HE DID TO
25 WHAT OFFICER HERNANDEZ DID. OFFICER HERNANDEZ GETS TO
26 THE SCENE. HE IMMEDIATELY STAYS IN THE CAR HAS THEM COME
27 OVER. GETS THE INFORMATION THAT THE SUBJECT IS DRESSED
28 IN ALL BLACK. CONFIRMS HE'S WEARING ALL BLACK, CONFIRMS

1 THE DESCRIPTION, AND IMMEDIATELY GOES, BECAUSE A ROBBERY
2 JUST OCCURRED. OFFICER SHEPARD GETS THERE. THEY GET OUT
3 OF THE CAR. THEY WALK OVER. THEY START TO HAVE THIS
4 ELABORATE CONVERSATION. OF COURSE, OFFICER HERNANDEZ IS
5 CALLING SAYING, "WE'VE GOT THE SUSPECT," AND THEY WANTED
6 THE VICTIM TO COME FOR A FIELD SHOW-UP BECAUSE HE WANTED
7 TO LET HIM GO IF IT WAS NOT THE RIGHT GUY. SO OFFICER
8 SHEPARD IS A NICE GUY, BUT WE KNOW THAT HE ISN'T ALL
9 CORRECT ON HIS INFORMATION. THEN HE SAYS THAT HE'S TYPED
10 THIS, GOSH, IT'S LESS THAN ONE PAGE REPORT HAVING TO DO
11 WITH THE WHOLE EVENINGS EVENTS, AND HE'S TYPING IT, AND
12 HE SAYS I CAN'T REALLY REMEMBER IF I DID IT WITH NOTES OR
13 MEMO. HE'S GETING INFORMATION FROM A VARIETY OF SOURCES
14 THEN RELYING ON HIS OWN MEMORY AND DOING IT IN GOOD
15 FAITH, BUT YOU HAVE TO KEEP THAT IN MIND. HE'S TAKING
16 ALL THIS INFORMATION AND THIS IS A FAIRLY YOUNG OFFICER.
17 HE TYPES IT UP AND IS DOING ABSOLUTELY THE BEST JOB, BUT
18 THERE CERTAINLY MIGHT HAVE BEEN A BETTER WAY FOR HIM TO
19 HANDLE IT. AND THEN WE HAVE OFFICER HERNANDEZ, ANOTHER
20 YOU KNOW SEEMINGLY DILIGENT OFFICER. HE'S GOT NO REAL
21 AXE TO GRIND WHEN HE SAID HE NEVER MET THE DEFENDANT
22 BEFORE. HE SAID I'VE NEVER KNOWN HIM. IN FACT, HE
23 DOESN'T REMEMBER HIM FROM THAT NIGHT, BUT WHAT OFFICER
24 HERNANDEZ TELLS US AND IN THE BEST OF ALL WORLDS, NOT
25 THAT THIS IS A PERFECT WORLD, CERTAINLY THE DEFENSE WOULD
26 LIKE TO HOLD US TO WHAT OFFICER HERNANDEZ WOULD HAVE SAID
27 THAT NIGHT. OH, BY THE WAY, HE SAYS, "YEAH, I DID IT."
28 OFFICER HERNANDEZ, I THINK, WAS TAKING THAT SORT OF

1 ADMISSION NOT VERY SERIOUS EVEN THOUGH WHEN HE TESTIFIED
2 HE SAID MR. MILTON WAS SORT OF LAUGHING, AND YOU KNOW
3 JUST SORT OF SAID IT SARCASTICALLY. WHEN YOU THINK ABOUT
4 WHAT MR. MILTON DID, HIS Demeanor, HOW HE LOOKED ON THE
5 STAND. YOU COULD SEE HIM DOING -- HE DID ALOT OF
6 LAUGHING, VERY CASUAL, TOOK THINGS FAIRLY LIGHTLY ON THE
7 STAND HERE EVEN ON THE STAND HERE, BUT THERE'S NO REASON
8 FOR OFFICER, AND CERTAINLY IF HE'S GOING TO LIE, RISK HIS
9 CAREER. IT'S GOING TO BE IN BETTER STATEMENT THAN A
10 SARCASTIC, "YEAH I DID IT," AND YOU CAN GET A LOOK AT
11 THAT, NOT AS A CONFESSION BUT WITHIN THE CONTEXT OF
12 EVERYTHING AS AN ADMISSION, AND OFFICER HERNANDEZ ALREADY
13 TELLS US THAT OFFICER SHEPARD WAS WRONG WITH REGARD TO
14 WHERE MR. MILTON WAS. WHEN YOU LOOK AT THE CASE AND YOU
15 TAKE YOUR COMMON SENSE, YOU NEED TO BE VERY CLEAR ABOUT
16 WHAT YOU HAVE TO BELIEVE WITH REGARD TO BELIEVING THE
17 DEFENDANT'S TESTIMONY, AND THERE'S REALLY NO EASY WAY OUT
18 HERE.

19 WHAT YOU HAVE TO BELIEVE IS JUAN AVILA GOT
20 MAD BECAUSE HE THOUGHT HE WAS GETTING BURNED ON A
21 TWENTY-DOLLAR MARIJUANA DEAL. THAT HE GOT SO MAD THIS
22 KID THAT WAS FAIRLY PASSIVE ON THE WITNESS STAND. NOBODY
23 WAS REALLY ABLE TO GET HIM TO GET UPSET UP THERE, VERY
24 FAIRLY PASSIVE THAT HE IS MANAGED TO MUSTER SUCH A SENSE
25 OF VENEGENCE THAT HE IS GOING TO PUSH THIS TO THE WALL.
26 YOU'VE GOT TO BELIEVE THE FACT THAT JUAN AVILA GOT UP
27 HERE, AND HE LIED ON THE WITNESS STAND AND AT THE
28 PRELIMINARY HEARING. HE TOTALLY FABRICATED THIS WHOLE

1 THING, AND THAT ROLONDO CAMARILLO, WITH NO AXE TO GRIND,
2 GOT UP ON THE WITNESS STAND AND TOTALLY LIED AND GAVE A
3 FALSE STATEMENT TO THE POLICE. YOU'VE GOT TO BELIEVE
4 THAT THEY ARE THE LAW BREAKERS. THEY ARE THE ONES
5 COMMITTING CRIME, MAKING FALSE STATEMENTS TO THE POLICE,
6 AND YOU'VE GOT TO BELIEVE THAT OFFICER HERNANDEZ IS A
7 LIAR ALSO, AND HE SAYS THE DEFENDANT HERE SAID SORT OF IN
8 A JOKING WAY, "YEAH I DID IT." THESE PEOPLE HAVE BEEN
9 SHOWN TO HAVE NO REAL REASON TO PURSUE THIS DEFENDANT
10 OTHER THAN THESE ARE THE EVENTS THAT OCCURRED. THINK
11 BACK TO MR. AVILA'S TESTIMONY AND THINK BACK TO
12 MR. CAMARILLO'S TESTIMONY BOTH ON THE FIRST DAY AND THE
13 SECOND DAY. WHAT WE'VE GOT HERE, THOUGH, IS WE'VE GOT
14 THE TESTIMONY OF JUAN AVILA CORROBORATED BY THESE EVENTS,
15 THE TESTIMONY OF ROLONDO CAMARILLO AS TO WHAT HAPPENED,
16 AND THE TESTIMONY OF OFFICER HERNANDEZ AS TO WHAT
17 HAPPENED. YOU HEARD THE JUDGE TALK ABOUT DIRECT AND
18 CIRCUMSTANTIAL EVIDENCE. THIS IS DIRECT EVIDENCE. JUAN
19 AVILA IS ROBBED, SEES HIMSELF BEING ROBBED, FEELS THE
20 FEAR, TELLS YOU ABOUT THE FEAR. THIS IS DIRECT EVIDENCE.
21 THERE'S NO INFERENCE TO BE DRAWN. THEN THEY HAVE
22 MR. CAMARILLO WHO SEES THE PAT-DOWN, SEES THE DEFENDANT
23 GOING INTO THE POCKETS. THIS IS DIRECT EVIDENCE OF WHAT
24 HAPPENED THAT NIGHT, AND IT'S DIRECT EVIDENCE THAT POINTS
25 TO THIS MAN AND MAKES THIS MAN RESPONSIBLE FOR THE
26 ROBBERY ON JUAN AVILA.

27 THANK YOU.

28 THE COURT: MR. GOLUB.

1 MR. GOLUB: THANK YOU.

2 MR. GOLUB: WILLIAM MILTON DID NOT ROB JUAN AVILA.
3 JUAN AVILA GAVE WILLIAM MILTON \$20 TO GO BUY SOME
4 MARIJUANA. WHEN JUAN AVILA THOUGHT THAT WILLIAM MILTON
5 WAS JUST GOING TO RIP HIM OFF, TAKE THE MONEY AND LEAVE.
6 HE GOT MAD AND THAT IS WHEN HE WENT TO MR. CAMARILLO, AND
7 THEN THEY CALLED THE POLICE. NOW, JUAN AVILA'S STORY HAS
8 SIGNIFICANTLY CHANGED EVERY TIME HE TELLS IT FROM THE
9 TIME THAT HE FIRST TOLD THE POLICE WHEN HE CALLED 911
10 THAT NIGHT UNTIL THE TIME HE CAME TO COURT. NOW, WHY
11 WOULD THAT HAPPEN BECAUSE HE'S LYING. PEOPLE WHO MAKE UP
12 STORIES WHO LIE CANNOT REMEMBER THE DETAILS OF THE STORY.
13 USE YOUR COMMON SENSE. THINK ABOUT THAT. THIS WAS JUST
14 A SHORT, 30 SECOND TRANSACTION. THAT IS HOW LONG IT TOOK.
15 IT WAS JUST A MATTER OF SECONDS, A MINUTE AT MOST. HE
16 SHOULD BE ABLE TO REMEMBER THE DETAILS OF THE TRANSACTION
17 OF WHAT OCCURRED, BUT IF HE JUST MADE UP SOMETHING AND
18 LIED. IT'S NOT SURPRISING THAT HE WOULDN'T BE ABLE TO
19 REMEMBER THEM ALL THAT THEY WOULD CHANGE FROM THE FIRST
20 TIME AND SECOND TIME WHEN HE SPOKE TO THE POLICE WITHIN A
21 DAY OR TWO OF WHAT HAPPENED UNTIL SEVERAL WEEKS LATER AND
22 THEN A FEW MONTHS LATER WHEN HE TESTIFIED BEFORE YOU.
23 ALL RIGHT, AND THAT IS A MATTER OF COMMON SENSE, AND YOU
24 NEED TO USE YOUR COMMON SENSE HERE IN THIS CASE AND
25 THINKING ABOUT THIS BECAUSE YOU ARE TRYING TO FIGURE OUT
26 WHAT THE TRUTH IS, AND SO NOBODY WANTS TO YOU LEAVE YOUR
27 LIFE EXPERIENCES, YOUR COMMON SENSE AT HOME. THAT IS
28 WHAT YOU'RE DOING. YOU DON'T NEED TO KNOW ANY LAW EXCEPT

1 WHAT THE COURT HAS GIVEN YOU, BUT AS JUDGES OF THE FACTS,
2 YOU HAVE TO BRING YOUR LIFE EXPERIENCE. THAT IS WHY WE
3 ASK 12 PEOPLE TO COME FROM THE COMMUNITY TO MAKE THIS
4 DECISION. AND, YES, IT'S TRUE. THERE ARE GOING TO BE
5 DISCREPANCIES IN TESTIMONY ESPECIALLY BETWEEN TWO PEOPLE.
6 NOBODY COULD EXPECT ANYONE TO SEE EVERYTHING EXACTLY THE
7 SAME OR HEAR EVERYTHING EXACTLY THE SAME ESPECIALLY IF
8 THEY ARE AT DIFFERENT PLACES ESPECIALLY AS TIME GOES ON,
9 BUT YOU WOULD EXPECT THAT THE SAME PERSON WOULD NOT HAVE
10 HIS TESTIMONY KEEP CHANGING TIME AFTER TIME AFTER TIME AS
11 MR. AVILA'S HAS.

12 WILLIAM MILTON, ON THE OTHER HAND, WAS ABLE
13 TO GIVE YOU A STRAIGHTFORWARD ACCOUNT OF WHAT OCCURRED ON
14 THAT NIGHT. THERE WAS NO IMPEACHMENT OF HIS TESTIMONY.
15 HIS TESTIMONY MAKES SENSE. YOU MAY NOT LIKE HIS
16 LIFESTYLE, BUT THAT IS NOT WHAT THE ISSUE IS HERE AT ALL.
17 IT IS WHAT OCCURRED THAT NIGHT. NOW, ACTUALLY THE ISSUE
18 IS WHETHER THE PROSECUTION HAS PROVEN WILLIAM MILTON
19 GUILTY BEYOND A REASONABLE DOUBT BECAUSE IT'S NOT JUST A
20 MATTER OF WHETHER YOU THINK HE DID IT OR NOT. IT'S A
21 MATTER THAT WILLIAM MILTON IS PRESUMED INNOCENT. HE'S
22 STILL PRESUMED INNOCENT RIGHT NOW JUST AS HE WAS AT THE
23 BEGINNING OF THE TRIAL. HE'S PRESUMED INNOCENT ALL THE
24 WAY THROUGH UNLESS AND UNTIL YOU FIND HIM GUILTY BEYOND A
25 REASONABLE DOUBT. NOW, THAT IS THE HIGHEST STANDARD THE
26 LAW ALLOWS. IT'S HIGHER THAN IF YOU HAVE SAT ON CIVIL
27 TRIALS WHERE IT'S JUST A PREPONDERANCE OF THE EVIDENCE,
28 MORE LIKELY THAN NOT. THERE ARE OTHER STANDARDS. THE

1 LAW IS CLEAR AND CONVINCING EVIDENCE IS ONE, BUT PROOF
2 BEYOND A REASONABLE DOUBT IS NOT THAT STANDARD EITHER.
3 IT'S THE HIGHEST STANDARD THE LAW ALLOWS. THE JUDGE WILL
4 GIVE YOU INSTRUCTIONS AND WHEN YOU SIT THERE AND YOU
5 DELIBERATE, THAT IS THE STANDARD THAT YOU HAVE TO USE
6 WHEN DECIDING THIS CASE.

7 NOW, I WANT TO GO INTO SOME DETAILS INTO WHY
8 I JUST MADE MY STATEMENTS BEFORE ABOUT MR. AVILA AND
9 MR. MILTON, THOUGH. I DO WANT MAKE JUST ONE COMMENT
10 REALLY QUICKLY. I WAS HERE JUST AS THE PROSECUTOR WAS
11 HERE. I DON'T THINK THAT MR. MILTON WAS ON THE STAND
12 TAKING THIS VERY LIGHTLY. YOU HAVE TO MAKE YOUR OWN
13 DECISION ABOUT ALL THE CREDIBILITY OF ALL THE WITNESSES
14 AND HOW THEY ACTED. I DIDN'T SEE MR. MILTON UP ON THE
15 STAND TAKING THIS VERY LIGHTLY AT ALL. IT APPEARS HE'S
16 TAKING THIS VERY SERIOUSLY TO ME. MR. AVILA DIDN'T
17 APPEAR THAT NERVOUS. YOU KNOW, IF HE APPEARED A LITTLE
18 NERVOUS, MAYBE THIS HAS GONE A LITTLE FURTHER THAN HE
19 EVER PLANNED FROM TELLING THE SECURITY GUARD THAT HE WAS
20 ROBBED WHEN HE GOT MAD AND CALLED THE POLICE, BEING
21 FORCED TO COME TO COURT AND TESTIFYING UNDER OATH TWO
22 TIMES, AND IF YOU LISTEN TO THAT 911 CALL, IT SOUNDS LIKE
23 THE 911 OPERATOR IS THE ONE WHO IS EXCITED. YOU WILL
24 HAVE THAT TAPE AVAILABLE TO YOU IN THE JURY ROOM.
25 MR. AVILA, ON THAT CALL, SOUNDS VERY CALM TO ME,
26 EXTREMELY CALM FOR SOMEONE WHO WAS JUST ROBBED
27 SUPPOSEDLY. HE DOES NOT SOUND EXCITED AT ALL. IT'S THE
28 911 OPERATOR WHO SOUNDS MORE EXCITED.

1 NOW, WHEN WE START OUT THAT NIGHT, IT WAS A
2 CALL FROM JUAN AVILA. THE ROBBERY HAD JUST TAKEN PLACE,
3 AND FROM ALL THE REPORTS, THE POLICE REPORTS THAT NIGHT,
4 HE'S THE ONLY WITNESS WHO OBSERVED ANYTHING AT LEAST FROM
5 ANY REPORTS THAT NIGHT. WE HAVE NOTHING FROM ROLONDO
6 CAMARILLO OF ANY OBSERVATION THAT HE MADE THAT NIGHT,
7 THEN SUDDENLY HE SAYS MORE AND MORE. I'LL GET INTO THAT
8 IN ONE SECOND, BUT REMEMBER WHEN HE TOLD DETECTIVE
9 CARLYLE WHICH I'LL GET BACK INTO IN JUST A SECOND, BUT
10 THEN HE COMES TO COURT NOW AND HE'S SAYING MORE AND MORE.
11 THEN OFFICER HERNANDEZ, FOR THE FIRST TIME NOW, COMING
12 FORWARD WITH INFORMATION THAT MR. MILTON SAID, "I DID
13 IT," WHATEVER THAT MEANS, IN A LAUGHING SORT OF MATTER.
14 THAT OFFICER HERNANDEZ DIDN'T EVEN TAKE SERIOUS. IF WE
15 KEPT THE CASE GOING FOR A FEW MORE MONTHS, I'M AFRAID
16 THAT HALF OF LOS ANGELES WOULD NOW SUDDENLY BE WITNESSES
17 ON THE CASE BECAUSE FROM THAT VERY FIRST NIGHT IT WAS
18 ONLY JUAN AVILA. THAT WAS THE ONLY INFORMATION WE HAD.
19 THEN WE HAVE ROLONDO CAMARILLO WHO SPEAKS TO DETECTIVE
20 CARLYLE A DAY OR TWO AFTER THE EVENTS. NOW, JUST THINK
21 WHEN ROLONDO CAMARILLO SPEAKS TO DETECTIVE CARLYLE WE HAD
22 HEARD FROM JUAN AVILA THREE OR FOUR DIFFERENT STATEMENTS
23 HERE. HE HAD ALREADY HEARD JUAN AVILA TELLING ROLONDO
24 CAMARILLO THAT HE WAS ROBBED. WE HAD THE 911 CALL WHICH
25 WE LISTENED TO PART OF. HE SAID HE WALKED OUT AT THE
26 END. THEN ROLONDO CAMARILLO TOLD US HE INTERPRETED FOR
27 HERNANDEZ AND YAMAMOTO WHAT JUAN AVILA SAID WHAT HAPPENED
28 TO HIM. THEN HE INTERPRETED IT AGAIN FOR SHEPARD AND HIS

1 PARTNER, O'NEAL. SO ROLONDO CAMARILLO THAT NIGHT
2 HEARING, ACCORDING TO HIM, JUAN AVILA'S VERSION OF THE
3 EVENTS BASICALLY FOUR TIMES, OR AT LEAST PARTS OF IT FOUR
4 TIMES. NOW, THERE'S NO INDICATION THAT HE EVER SAID ON
5 THAT NIGHT THAT HE SAW WHAT WAS GOING ON, NOWHERE IN THE
6 REPORTS, NOWHERE ANYWHERE DID HE EVER. IN FACT, HE
7 ADMITTED HE NEVER TOLD ANYBODY THAT HE SAW WHAT WAS GOING
8 ON THAT NIGHT. THE FIRST TIME HE TALKS TO ANYBODY ABOUT
9 WHAT HE SAW WAS WHEN HE SPEAKS TO DETECTIVE CARLYLE AND
10 WHAT DID HE ADMIT TO DETECTIVE CARLYLE, HE TOLD HER AS HE
11 WATCHED HE WAS NOT QUITE SURE WHAT WAS GOING ON AFTER ONE
12 OR TWO MINUTES THE MAN IN BLACK WALKS SOUTHBOUND ON
13 FIGUEROA. THE VICTIM MOTIONS FOR HIM TO COME OVER, AND
14 CAMARILLO WAS STILL NOT SURE WHAT HAPPENED. HE TOLD THE
15 VICTIM TO WALK OVER TO HIM, AND JUAN AVILA SAID HE HAD
16 BEEN ROBBED. THAT WAS HIS TESTIMONY. ROLONDO CAMARILLO
17 HE ADMITTED THAT IS WHAT HE TOLD DETECTIVE CARLYLE A
18 DAY OR TWO AFTERWARDS. SO HE'S ADMITTING THAT IT WAS A
19 DAY OR TWO AFTERWARDS, THAT EVEN AFTER THE MAN WALKED
20 AWAY, PERSON WALKED AWAY, HE STILL WAS NOT SURE WHAT HAD
21 GONE ON, AND WHEN HE TESTIFIES AT THE TRIAL HERE, THAT IS
22 SEVERAL MONTHS LATER, HE NOW BELIEVES HE WAS ROBBED. I
23 DON'T KNOW IF HE'S LYING BECAUSE HE FELT LIKE THIS REALLY
24 HAPPENED. HE MISSED IT. HE FELT BAD. I DON'T KNOW IF
25 HE'S JUST NOW BELIEVES IF HE SAYS MORE THAN WHAT HE DID
26 SEE, BUT IT'S NOT MY JOB TO FIGURE OUT WHY HE'S SAYING
27 WHAT HE'S SAYING. THERE'S NO NEED TO SPECULATE AS TO
28 THAT.

1 THE JUDGE GAVE YOU AN INSTRUCTION YESTERDAY
2 THAT EVIDENCE THAT AT SOME OTHER TIME A WITNESS MADE A
3 STATEMENT OR MADE STATEMENTS THAT ARE INCONSISTENT
4 WITH HIS OR HER TESTIMONY IN THIS TRIAL MAY BE CONSIDERED
5 BY YOU, NOT ONLY FOR THE PURPOSE OF TESTING THE
6 CREDIBILITY OF THE WITNESS, BUT ALSO AS EVIDENCE OF THE
7 TRUTH OF THE FACTS AS STATED BY THE WITNESS ON THAT
8 FORMER OCCASION. SO IN OTHER WORDS, YOU CAN TAKE IT AS
9 THE TRUTH WHEN HE ADMITS HE TOLD DETECTIVE CARLYLE THAT
10 EVEN AFTER THE PERSON WALKED AWAY HE STILL WASN'T SURE
11 WHAT HAD HAPPENED BECAUSE THAT IS WHAT HE ADMITTED, AND
12 DETECTIVE CARLYLE WAS SITTING RIGHT THERE. IF THAT
13 WASN'T WHAT HE TOLD DETECTIVE CARLYLE, YOU CAN BE SURE
14 THAT THE PROSECUTION WOULD HAVE PUT DETECTIVE CARLYLE UP
15 THERE TO SAY THAT IS NOT WHAT WAS TOLD TO HER BECAUSE IN
16 FACT THAT IS WHAT WAS TOLD TO HER. SO A DAY OR TWO AFTER
17 THE INCIDENT ROLONDO CAMARILLO ADMITTED THAT HE REALLY
18 DIDN'T EVEN KNOW WHAT HAS HAPPENED UNTIL JUAN AVILA CAME
19 UP AND SAID HE HAD BEEN ROBBED. NOW, WHAT'S ALSO
20 INTERESTING IS THAT HE SAID HE SAW SOMEONE STANDING OVER
21 THERE IN THAT AREA WHERE THE "M" IS. THEN HE LEFT. HE
22 CAME BACK AT SOME POINT. HE SAID HE SMOKED A CIGARETTE.
23 HE CAME BACK. HE THOUGHT IT WAS WOMAN. I WONDER IF
24 THERE WAS A WOMAN THERE, IF THAT IS THE AREA WHERE
25 PROSTITUTES COME OUT, AND IT COULD HAVE BEEN A PROSTITUTE
26 OVER THERE WHO CAME AND LEFT. WE DON'T KNOW, BUT THEN AT
27 SOME POINT HE SEES MR. AVILA AND MR. MILTON, AND IF HE
28 WASN'T EVEN SURE IF THERE'S TWO OF THEM TOGETHER AND IF

1 HE WASN'T EVEN SURE WHAT HAD HAPPENED, IT'S ONCE AGAIN
2 NOT OUR JOB TO SPECULATE. ALL WE KNOW IS THAT HE TOLD
3 DETECTIVE CARLYLE HE WASN'T SURE WHAT HAD HAPPENED UNTIL
4 JUAN AVILA TOLD HIM HE HAD BEEN ROBBED. IT APPEARS THAT
5 ROLONDO CAMARILLO ADMITTED THAT HE DIDN'T SEE NEARLY AS
6 MUCH AS HE DID TO US HERE. MAYBE FROM ALL THOSE TIMES HE
7 SPOKE TO JUAN AVILA HE REMEMBERS A LITTLE BIT MORE THAN
8 HE ACTUALLY SAW. HE MAY NOT EVEN BE LYING. HE MAY
9 ACTUALLY THINK HE SAW THAT. ALSO, I JUST WANT TO POINT
10 OUT A COUPLE OF THINGS ABOUT ROLONDO CAMARILLO'S
11 TESTIMONY. THE FIRST THING IS WHERE DID HE SAY HE SAW
12 THE RIGHT HAND. I BELIEVE HE SAW IT RIGHT OVER HERE.
13 WELL, IF YOU REMEMBER JUAN AVILA SAYS HE SAW IT HERE.
14 THE PEOPLE ARE SAYING HE JUST SAW THE ELBOW, AND THAT IS
15 IT, BUT IF YOU REMEMBER JUAN AVILA'S TESTIMONY TO THE
16 POLICE OFFICERS, BOTH TO HERNANDEZ AND SHEPARD AND ALSO
17 TO DETECTIVE CARLYLE, HE'S CLAIMING THAT THE GUN WAS IN
18 FRONT LIKE THIS. SO IF THAT IS WHAT HE TOLD THE OFFICER
19 THAT NIGHT, THAT IS WHAT ROLONDO CAMARILLO SAW. NOW, HE
20 DOESN'T REMEMBER IT BEING IN THE JACKET. HE DOES NOT
21 KNOW THE DEAL WAS GONE THROUGH, BUT IF JUAN AVILA SAID
22 FIRST NIGHT THAT THE HAND WAS IN FRONT AND POINTING AT
23 HIM SIMULATING A GUN, THEN THAT WOULD BE CONSISTENT WITH
24 WHAT ROLONDO CAMARILLO WAS TOLD BY MR. AVILA NOT THAT IT
25 WAS IN THE BACK. OBVIOUSLY, HE'S NOT GOING TO REMEMBER
26 EVERY SINGLE DETAIL PERFECTLY OF WHAT JUAN AVILA SAID
27 NECESSARILY THAT WE CAN'T HOLD HIM TO THAT STANDARD, BUT
28 THERE ARE SOME IMPORTANT THINGS LIKE THE GUN BEING IN

1 FRONT. HE REMEMBERS IT THAT WAY. MR. SHEPARD HAD THAT
2 WAY. DETECTIVE CARLYLE HAD IT THAT WAY, AND I'LL TALK
3 ABOUT THIS MORE IN A SECOND, AND YOU REMEMBER HE SAID HE
4 REMEMBERED THE SUSPECTS CIRCLING AROUND THE VICTIM AS HE
5 PATTED HIM DOWN. THAT IS WHAT ROLONDO CAMARILLO
6 TESTIFIED TO THAT HE CIRCLED AROUND THE VICTIM AND PATTED
7 HIM DOWN. IF YOU REMEMBER THE TESTIMONY OF JUAN AVILA
8 THE PERSON ALWAYS STAYED IN THE SAME PLACE AND WENT INTO
9 HIS POCKETS. HE DIDN'T EVEN MENTION PATTING DOWN. I
10 BELIEVE HE JUST MENTIONED GOING INTO POCKETS, NEVER
11 CIRCLING. ALSO, WHAT'S VERY INTERESTING IS THAT
12 MR. CAMARILLO NEVER SAW ANY PANTS OR A BAG ON JUAN AVILA.
13 I WIL FOLLOW THAT UP IN JUST A MINUTE. NOW, THE
14 PROSECUTION WOULD HAVE YOU BELIEVE THAT ALL OF THE POINTS
15 THAT THEY MADE CORROBORATES JUAN AVILA. SOMEHOW JUST THE
16 FACT THAT HE SAYS HE'S CARRYING \$20 AND COINS AND PANTS,
17 THAT CORROBORATES HE WAS ROBBED. HOW DOES IT? THERE'S
18 NO CORROBORATION.

19 NOW, WILLIAM MILTON LIVES IN THAT
20 NEIGHBORHOOD. HE LIVES AT 1057 98TH STREET SO THERE'S
21 EVERY REASON FOR WILLIAM MILTON TO BE THERE. JUST LIKE
22 JUAN AVILA HAD REASON TO BE THERE. HE'S JUST COMING FROM
23 TAMS. WE DIDN'T SUBPOENA ANY RECORDS TO PROVE WHETHER HE
24 WORKED THERE OR NOT. THAT IS NOT REALLY THE ISSUE. THE
25 ISSUE IS WAS HE ROBBED OR DID HE TRY TO BUY SOME
26 MARIJUANA AND GET MAD AND PANIC ONCE THE DEAL LOOKED LIKE
27 IT WAS GOING BAD. PROBABLY TO THIS DAY HE STILL PROBABLY
28 DOESN'T KNOW WHAT MR. MILTON'S INTENTION WERE, AND THEN

1 THE TESTIMONY THAT MR. MILTON WAS FOUND WHERE CAMARILLO
2 AND AVILA SAID HE WAS AND WAS WEARING THE DARK CLOTHEING.
3 WELL, WE ALL KNOW -- THERE'S NO DISPUTE ABOUT WHAT --
4 ABOUT THE CLOTHING HE WAS WEARING, AND WE ALL AGREED HE
5 WALKED SOUTHBOUND. IT'S NOT CORROBORATION OF AVILA AND
6 CAMARILLO ON ANYTHING. THEY, OBVIOUSLY, DIDN'T PULL
7 MR. MILTON OUT OF THIN AIR. WE ALL KNOW THAT MR. MILTON
8 AND MR. AVILA MET. THE ISSUE IS WHAT HAPPENED. NONE OF
9 THAT CORROBORATES, CONFIRMS ANYTHING WHAT MR. CAMARILLO
10 OR MR. MILTON SAID OR MR. AVILA SAID.

11 NOW, OFFICER HERNANDEZ TESTIFIED THAT
12 MR. MILTON WAS WALKING ON 95TH STREET WESTBOUND. THAT'S
13 WHAT HIS TESTIMONY WAS. WELL, THE PROBLEM WITH THAT IS
14 OFFICER SHEPARD WROTE A REPORT, AND ISN'T IT NICE. POOR
15 OFFICER SHEPARD WROTE THIS REPORT, AND I CAN JUST IMAGINE
16 IF HE WAS TRYING TO BACKUP EVERYTHING HE SAID IN THE
17 REPORT, BACKED UP WHAT THE PROSECUTION WANTED TO HAVE
18 THERE, SUDDENLY FROM THIS, YOU KNOW, YOUNG OFFICER WHO IS
19 OBVIOUSLY GREEN, I'M SURE HE WOULD HAVE HIS
20 CHARACTERIZATION WOULD HAVE CHANGED THAT. OFFICER
21 SHEPARD WAS IN CHARGE OF THE CASE SO HE HAD TO WRITE THE
22 REPORT, AND HE WROTE IT AND WAS TOLD BY OFFICER HERNANDEZ
23 THE DEFENDANT AS SOUTHBOUND ON 95TH STREET. WHY WOULD HE
24 SAY ANYTHING ELSE. I'M SORRY, ON FIGUEROA. WHY WOULD HE
25 SAY ANYTHING ELSE IF HE WAS ON 95TH STREET. IF ANYTHING,
26 YOU'D THINK MAYBE HE'S CONFUSED WITH NORTHBOUND OR
27 SOUTHBOUND, BUT WHY HE WOULD SUDDENLY PUT DOWN FIGUEROA
28 IF THE PERSON WAS WESTBOUND ON 95TH STREET, AND IF HE IS

1 GOING WESTBOUND ON 95TH STREET, IT MAKES NO SENSE.
2 EVERYONE AGREES EVERYTHING HERE HAPPENED IN MINUTES.
3 THIS ALL HAPPENED SO FAST. HOW COULD IT POSSIBLY HAVE
4 BEEN THAT MR. MILTON WENT THERE AND WAS ALREADY COMING
5 BACK. IT JUST COULDN'T HAVE HAPPENED. IT WAS TOO QUICK.
6 THAT COULDN'T BE POSSIBLE. FIRST, MR. MILTON TESTIFIED
7 THAT HE ACTUALLY WAS ON THE CORNER OF FIGUREOA AND 95TH
8 STREET AND HERNANDEZ MADE THE U-TURN AND STOPPED THERE,
9 AND THEY JUST, AND HE HAD BEEN WALKING SOUTHBOUND ON 95TH
10 STREET. THE ORIGINAL POLICE REPORT MAKES MUCH MORE
11 SENSE, AND IN REALITY MR. MILTON'S TESTIMONY THAT HE WAS
12 ON THE CORNER OF 95TH AND FIGUEROA MAKES A LOT OF SENSE.
13 THIS ALL HAPPENED WITHIN A FEW MINUTES. HE COULDN'T HAVE
14 GOTTEN VERY FAR. HE WAS GOING SOMEWHERE AND THEN COME
15 BACK. NOW, FURTHERMORE OFFICER HERNANDEZ, TALKING ABOUT
16 PEOPLE WHO TOOK THINGS LIGHTLY, SUPPOSEDLY HE DOESN'T
17 EVEN CHECK ON THE INFORMATION HE HAS THAT NIGHT. THEN HE
18 COMES TO COURT. HE SAYS AT THE PRELIMINARY HEARING ON
19 SEPTMEBER 29, ABOUT 23 DAYS AFTER, HE READS THE REPORT
20 AND HE REALIZES IT'S WRONG. HE DOESN'T TELL ANYBODY
21 ABOUT THIS, NOT A D.A., NOT OFFICER SHEPARD, DOESN'T TRY
22 TO MAKE ANY CORRECTIONS AT ALL. THIS REPORT IS TOTALLY
23 WRONG REACHES OUT SUPPOSEDLY A CONFESSION OR ADMISSION BY
24 THE DEFENDANT. HE DOES NOT MAKE ANY MENTION OF THAT,
25 DOESN'T BOTHER TO TELL ANYBODY ABOUT THAT. NOW, WHO'S
26 TAKING THAT VERY LIGHTLY. NOT ONLY THAT, WHAT'S THE
27 PURPOSE OF WRITING POLICE REPORTS. WELL, WE WOULD HOPE
28 THESE POLICE REPORTS, OBVIOUSLY, ARE USED IN THE COURT

1 SYSTEM. THEY ARE USED BY THE JUDGE, THE PROSECUTOR, THE
2 DEFENSE ATTORNEYS AND THE JURORS. ACTUALLY, EVERYBODY
3 HAS TO USE THOSE REPORTS. I MEAN IT'S HOW WE KNOW WHAT
4 HAPPENED AT AN INCIDENT. THESE POLICE OFFICERS GO
5 THROUGH TRAINING. THEY HAVE TO GO THROUGH -- I DON'T
6 KNOW. THEY GO OUT IN THE FIELD. THEY WRITE THESE
7 REPORTS ALL TIME. THEY HAVE TO KNOW THE IMPORTANCE OF
8 THESE REPORTS. WE GET THE REPORT HERE IN COURT AFTER
9 THIS CASE HAS GONE ON FOR THREE OR FOUR MONTHS IN TRIAL,
10 AND THEN SUDDENLY EVERYTHING IN THE REPORT IS WRONG OR
11 LEFT OUT. WHAT'S THE POINT OF HAVING THESE POLICE
12 REPORTS IF THEY ARE COMPLETELY WRONG, IF THEY DON'T
13 RECORD WHAT ACTUALLY HAPPENED OUT THERE THAT DAY. IF
14 THEY ARE NOT THERE SO THAT WE KNOW WHAT HAPPENED OUT
15 THERE, WHAT'S THE POINT OF HAVING THESE POLICE REPORTS.
16 WHY DO THEY WRITE THESE POLICE REPORTS. WOULD YOU
17 BELIEVE SOMETHING WRITTEN THE DAY IT HAPPENS, OR
18 SOMETHING WHEN SOMETHING SOMONE FOUR MONTHS LATER SAYS
19 THAT IS ALL WRONG? WHAT WOULD YOU FEEL IF THE TWO
20 OFFICERS COME HERE. ONE FEELS THAT THAT IS WHAT HE WROTE
21 DOWN THAT DAY, AND ANOTHER ONE COMES IN AND TELLS YOU
22 FOUR MONTHS AGO THIS IS WHAT HAPPENED, AND YEAH WE'RE
23 SUPPOSED TO WRITE ALL THAT DOWN, BUT I DIDN'T BOTHER OR
24 WHAT IS WRITTEN DOWN IS ALL WRONG. WHICH WOULD YOU WANT
25 TO BELIEVE, AND WHICH DO YOU THINK YOU SHOULD BELIEVE.
26 DETECTIVE SHEPARD TOLD YOU HE WAS NEVER TOLD
27 ABOUT AN ADMISSION. OFFICER HERNANDEZ CLAIMED HE TOLD
28 SHEPARD. NOW, IS DETECTIVE SHEPARD SO INCOMPETENT AN

1 OFFICER THAT HE DIDN'T BOTHER TO WRITE DOWN THE FACT THAT
2 MR. MILTON ADMITTED TO THIS CRIME SUPPOSEDLY OR SAID
3 SOMETHING. IT'S ALSO FOUR MONTHS LATER. THERE'S A LOT
4 OF DANGER IF OFFICER HERNANDEZ SAYS HE MAKES A LOT OF
5 STOPS. I WONDER WHY HE'S STOPPING SO MANY PEDESTRIANS,
6 BUT WE DON'T HAVE TO GO INTO THAT TODAY.

7 MS. WIDMARK: OBJECTION, YOUR HONOR, NO TESTIMONY.

8 THE COURT: OVERRULED.

9 MR. GOLUB: HE'S SAYING PEOPLE ARE ALWAYS TELLING
10 HIM "I DID IT" OR SOMETHING. MAYBE HE'S CONFUSING THIS
11 WITH ANOTHER CASE. HE'S ALSO TELLING ME THAT PEOPLE ARE
12 ALWAYS TELLING HIM OR ASKING HIM NOT TO PLANT THINGS ON
13 THEM. IT'S A SAD STATE OF AFFAIRS, FIRST OF ALL, WHEN
14 PEOPLE ON THE STREET ARE HAVING TO SAY THAT TO THE POLICE
15 OFFICERS, AND THIS IS WAY HE TALKED ABOUT THE WHOLE
16 INCIDENT, SEEMED VERY ARROGANT TO ME, BUT IT'S UP TO YOU
17 TO DECIDE THE TESTIMONY AND CREDIBILITY AND QUALITY AND
18 CHARACTER OF EACH OF THE WITNESSES. YOU CERTAINLY CAN
19 FEEL GOOD. EVERYTHING THAT IS WRITTEN IN BLACK AND WHITE
20 ISN'T TRUE, AND SUDDENLY FOUR MONTHS LATER, THERE'S A
21 WHOLE NEW VERSION OF THE EVENTS. THAT IS NOT WHAT THE
22 SYSTEM IS SUPPOSED TO BE ABOUT. ALSO, WHEN THEY TALK
23 ABOUT CONFESSION AND ADMISSIONS, I DON'T KNOW HE DID IT
24 IN A LAUGHING MANNER. I DON'T KNOW IF THAT MEANS
25 ANYTHING ANYWAY AND CERTAINLY IS NOT EVIDENCE OF AN ORAL
26 CONFESSION OR AN ORAL ADMISSION. ANY TESTIMONY THAT IS
27 NOT MADE IN COURT SHOULD BE VIEWED WITH CAUTION. UNDER
28 THESE CIRCUMSTANCES YOU SHOULDN'T EVEN BOTHER TO CONSIDER

1 IT.

2 NOW, ONE OTHER THING ABOUT OFFICER
3 HERNANDEZ, GIVEN THIS IS ABOUT OFFICER HERNANDEZ. I
4 THOUGHT IT WAS MORE APPROPRIATE TO USE OFFICER SHEPARD,
5 AS TO THE STATEMENTS THAT JUAN AVILA MADE ON THAT FIRST
6 NIGHT. IT'S BECAUSE OFFICER SHEPARD WAS THE ONE
7 ENTRUSTED TO WRITE DOWN WHAT THE STATEMENTS WERE, AND WE
8 HAD THEM ON PAPER. THAT IS WHY OFFICER SHEPARD WAS USED
9 TO TELL YOU WHAT JUAN AVILA SAID THAT NIGHT EVEN THOUGH
10 IT WAS THROUGH OFFICER HERNANDEZ.

11 NOW, WILLIAM MILTON, ON THE OTHER HAND, HE
12 WAS NOT INCONSISTENT IN HIS VERSION OF THE EVENTS. HE
13 TOLD YOU WHAT HAPPENED IN A STRAIGHTFORWARD MANNER. HE
14 CONFIRMED HE WAS ON 95TH AND FIGUREOA. HE WAS ON
15 FIGUREOA AT THE CORNER OF 95TH. HE CONFIRMED THE TIME
16 FRAME OF EVERYTHING THAT HAPPENED AND HOW SHORT A TIME
17 PERIOD IT HAPPENED IN, AND IF HE SAID IT WAS NO MORE THAN
18 EIGHT MINUTES, THE ENTIRE THING, INCLUDING ABOUT THREE
19 MINUTES, YOU KNOW, THREE TO EIGHT MINUTES HE SAID
20 INCLUDING EVERYTHING FROM THE TIME HE GOT THERE, AND THAT
21 SEEMS TO BASICALLY BE IN LINE WITH HOW FAST THE POLICE
22 ARRIVED. AND THIS INCIDENT FROM THE TIME THEY VERY FIRST
23 STARTED TALKING, TOOK MAYBE ABOUT FIVE, SIX MINUTES,
24 MAYBE A MINUTE LONGER, MAYBE A MINUTE LESS SOMEWHERE
25 WITHIN THAT NEIGHBORHOOD. HE TOLD YOU THAT HE HAD SEEN
26 JUAN AVILA ABOUT A DOZEN TIMES BEFORE AT TAMS. HE DIDN'T
27 KNOW THAT HE WORKED THERE, BUT HE USED TO SEE HIM HANGING
28 AROUND OUTSIDE, WHICH IS INTERESTING BECAUSE JUAN AVILA

1 TOLD US HE'S ONLY SEEN HIM THREE TIMES, THIS BEING THE
2 THIRD TIME. I THINK THE NUMBER CHANGED IN HIS TESTIMONY
3 ONCE OR TWICE FROM WHEN HE STARTED TESTIFYING UNTIL
4 AFTERWARDS, BUT HE TESTIFIED AT THE PRELIMINARY HEARING
5 THAT HE USED TO SEE HIM THREE TIMES A MONTH THERE.
6 MR. MILTON SAID HE'D KNOWN HIM. HE'D SEEN HIM ABOUT 12
7 TIMES.

8 IT APPEARS THAT DRUGS WERE SOLD AT TAMS OR AT
9 LEAST DRUG DEALERS HANG OUT THERE, AND SO THERE IS REASON
10 TO BELIEVE THAT JUAN AVILA WOULD EXPECT THAT WILLIAM
11 MILTON COULD POSSIBLY HELP HIM OUT IN PROCURING SOME
12 MARIJUANA. THERE'S A REASON WHY WILLIAM MILTON WOULD BE
13 THERE SO HE'D BE ABLE TO GET SOME MARIJUANA FOR HIMSELF.

14 THERE IS NO INDICATION THAT WILLIAM MILTON
15 SPEAKS SPANISH. THE DEFENSE IS NOT OBLIGATED TO PROVE
16 ANYTHING. WILLIAM MILTON SAYS EVEN HIS MOTHER DOES NOT
17 SPEAK SPANISH. HE GREW UP IN CHICAGO. HE DIDN'T EVEN
18 GROW UP OUT HERE. THE ONLY THING HE WAS IMPEACHED ON WAS
19 HIS TWO FELONY CONVICTIONS FOR ROBBERY THAT OCCURRED WHEN
20 HE WAS 20 YEARS OLD IN 1987. NOW, THOSE CANNOT BE USED
21 BY THE PROSECUTION IN ANY WAY TO PROVE THAT HE DID THIS
22 CRIME. THE ONLY REASON YOU CAN CONSIDER THESE TWO
23 CONVICTIONS IS ON HIS CREDIBILITY, AND THAT IS ONE FACTOR
24 FOR YOU TO CONSIDER. AND IN CONSIDERING HIS CREDIBILITY,
25 IT'S IMPORTANT ONE FOR YOU -- YOU DO NOT HAVE TO USE IT
26 AT ALL IF YOU SO CHOSSE. IT'S JUST ONE FACTOR FOR YOU TO
27 CONSIDER IN CONSIDERING HIS TESTIMONY, AND IT'S ONLY
28 ONE OF THE MANY FACTORS FOR YOU TO CONSIDER IN THINKING

1 ABOUT IT.

2 IN TERMS OF HIS CREDIBILITY, MR. MILTON'S
3 STORY IS NOT UNCORROBORATED. THINK ABOUT WHERE HE SAID
4 HE WAS. MR. MILTON SAID HE WAS ON A BUS BENCH. WHERE
5 DID JUAN AVILA SAY HE WAS AT FIRST THAT NIGHT? WHERE DID
6 HE SAY THEY WERE? ACCORDING TO OFFICER SHEPARD,
7 MR. MILTON AND MR. AVILA MET AT THE BUS BENCH. THAT IS
8 WHERE MR. MILTON APPROACHED MR. AVILA ACCORDING MR. AVILA
9 AT THE BENCH, AT THE BUS BENCH. NOT ONLY THAT, THE
10 CORROBORATION THAT HE DID NOT COMMIT THESE ROBBERIES ARE
11 WHERE IS THE MONEY? WHERE'S THE TWENTY-DOLLAR BILL?
12 WHERE ARE THE CINS? WHERE'S THE BAG? WHERE ARE THEY?
13 THIS IS NOT SOMETHING WHERE HE WAS CAUGHT HOURS LATER OR
14 DAYS LATER. HE WAS CAUGHT MINUTES LATER. THE PEOPLE ARE
15 GOING TO CLAIM HE STASHED IT SOME WHERE, EVEN THE MONEY.
16 WHY WOULD HE STASH MONEY? THERE'S NO REASON. THERE WAS
17 NO EXPECTATION THAT HE WAS GOING TO BE CAUGHT BY THE
18 POLICE. IT WAS IMPOSSIBLE FOR HIM TO GET ANYWHERE.
19 WHERE COULD HE HAVE GOTTEN TO? WHERE COULD THIS HAVE
20 BEEN STASHED? THERE WAS NO INDICATION THAT HE WAS GOING
21 TO CAUGHT SO QUICKLY. AND WHY WOULD HE STASH MONEY?
22 WHERE IS THE MONEY? WHERE IS THE BAG? WHERE ARE THE
23 PANTS? WHERE ARE THE COINS?

24 THE COURT: EXCUSE ME, MR. GOLUB. IS THIS A GOOD
25 TIME TO TAKE A BREAK?

26 MR. GOLUB: YES.

27 THE COURT: WE WILL TAKE A 15-MINUTE RECESS AT THIS
28 TIME. BE BACK HERE AT 3:15 ACCORDING THAT THIS CLOCK.

1 I'M NOT SURE WHAT YOUR CLOCK SAYS SO 15 MINUTES, AND
2 DON'T TALK ABOUT THE CASE AMONG YOURSELVES NOR WITH
3 ANYBODY ELSE.

4 (RECESS)

5 THE COURT: OKAY, EVERYBODY IS BACK AT 3:15.

6 MR. GOLUB, YOU MAY PROCEED.

7 MR. GOLUB: I GUESS THIS IS GOOD TIME RIGHT NOW TO
8 SAY THIS IS GOING TO BE THE LAST TIME YOU AND I WILL
9 SPEAK, AND WE WOULD LIKE TO THANK EVERYONE FOR YOUR TIME
10 AND ATTENTION THAT YOU SPENT ON THIS CASE. IT ISN'T AN
11 EASY TIME OF YEAR TO BE HERE, AND I HOPE NOBODY HAS TOO
12 MUCH SHOPPING LEFT TO DO, BUT IT IS IMPORTANT FOR
13 EVERYONE TO BE HERE, AND WE'RE ACTUALLY VERY GLAD
14 EVERYBODY TAKES THEIR JOB AS SERIOUS AS I KNOW ALL OF YOU
15 DO.

16 BACKING UP TO THE VERY LAST POINT. I WAS
17 TALKING ABOUT THE FACT THAT MR. MILTON DIDN'T HAVE THE
18 PANTS OR THE COINS OR THE MONEY ON HIM. GIVEN THE
19 PROSECUTION'S BURDEN IS TO PROVE THE CASE BEYOND A
20 REASONABLE DOUBT, ONE HAS TO THINK ABOUT THEIR CASE IN
21 THOSE TERMS IN CONSIDERING THE TIME FRAME. WHY DIDN'T
22 MR. MILTON HAVE THEM? AND I DON'T ACCEPT THE
23 PROSECUTION'S VERSION THAT THE ITEMS WERE STASHED. IT
24 MAKES ABSOLUTELY NO COMMON SENSE THAT HE WOULD STASH THE
25 MONEY.

26 NOW, WHEN THIS CASE STARTED WHEN THE TRIAL
27 STARTED A WEEK AGO, WE HAD WITNESSES TO THE CRIME. WE
28 HAD JUAN AVILA SAYING HE WAS ROBBED. HE'S GIVEN SEVERAL

1 DIFFERENT VERSIONS OF THE MUCH EVENTS I'M JUST ABOUT TO
2 GO THROUGH. WE HAD MR. CAMARILLO TELLING DETECTIVE
3 CARLYLE THE ONLY PERSON HE HAD SPOKEN TO EVEN AFTER THE
4 PERSON WALKED AWAY HE DIDN'T REALLY KNOW WHAT HAD GONE
5 ON, AND WE HAD NO STATEMENT FROM OFFICER HERNANDEZ. SO
6 THREE AND A HALF MONTHS AFTER THE EVENT, ALL WE HAD WERE
7 SEVERAL DIFFERENT VERSIONS BY JUAN AVILA, AND I JUST WANT
8 YOU TO KEEP THAT IN MIND AS YOU THINK ABOUT THE CASE AND
9 USE YOUR COMMON SENSE ON THE CASE AS TO WHAT
10 MR. CAMARILLO REALLY REMEMBERS HAPPENING, WHAT OFFICER
11 HERNANDEZ REALLY REMEMBERS. AS TO JUAN AVILA, THERE ARE
12 SO MANY DISCREPANCIES IN HIS STATEMENT. I DON'T WANT TO
13 GO THROUGH THEM. I PROBABLY WOULD NOT BE ABLE TO GO
14 THROUGH EVERY SINGLE ONE OF THEM. THERE ARE SOME
15 DISCREPANCIES. YES, DISCREPANCIES CAN OCCUR IN EVEN ONE
16 PERSON'S TESTIMONY. THERE ARE TIMES WHEN HE SAID THAT
17 MR. MILTON FLED, AND THEN I THINK HE CHANGED HIS STORY AT
18 THE PRELIMINARY HEARING, AND THEN WHEN MR. MILTON
19 FOLLOWED HIM, AND THEN MR. MILTON STOOD BY THE BUS STOP,
20 I BELIEVE WAS THE TESTIMONY BY MR. AVILA AT PRELIMINARY
21 HEARING, WHICH WAS READ FOR YOUR BENEFIT HERE TOO AND
22 WHILE MR. AVILA KEPT WALKING AWAY FROM HIM. SO THAT WAS
23 HIS TESTIMONY AT PRELIMINARY HEARING IF YOU RECALL THAT
24 WAS READ INTO THE COURTROOM HERE. SO SOME MISTAKES ARE
25 POSSIBLE. MAYBE HE MADE A MISTAKE AS TO WHO WALKED AWAY,
26 BUT IT'S INTERESTING THAT THE SECOND TIME THAT THE BUS
27 STOP IS MENTIONED IS WHERE MR. MILTON WAS ONCE BY OFFICER
28 SHEPARD, ONCE BY MR. AVILA AT PRELIMINARY HEARING. THAT

1 IS TWICE. THAT IS WHERE MR. MILTON SAYS HE WAS, AND IT'S
2 ALSO WHERE HE PUT TWO FINGERS IN THE POCKETS WHICH WAS
3 SAID AT THE PRELIMINARY HEARING AS OPPOSED TO THE WHOLE
4 HAND. I'M NOT GOING TO SAY EVERY SINGLE POINT BY ITSELF.
5 IT'S NOT GOING TO BE THAT CRUCIAL, BUT YOU HAVE TO TAKE
6 EVERYTHING HE SAYS TOGETHER, AND TALKING ABOUT MR. AVILA,
7 OBVIOUSLY, HE USED AN INTERPRETER. HIS ENGLISH ISN'T
8 PERFECT. THAT IS A POSSIBILITY THAT SOME THINGS CAN GET
9 LOST IN THE TRANSLATION. BUT, FIRST OF ALL, WE'RE GOING
10 TO HAVE TO HOLD THAT AGAINST MR. MILTON BECAUSE THERE'S A
11 POSSIBILITY THAT THERE WAS SOME THINGS WRONG IN THE
12 TRANSLATION. SECONDLY, SEVERAL OF THE THINGS THAT WERE
13 SAID TO THE ORIGINAL POLICE OFFICER ON THE SCENE, YOU
14 KNOW, THAT NIGHT WERE ALSO SAID TO DETECTIVE CARLYLE, AND
15 I FIND IT UNBELIEVEABLE THAT THE SAME STATEMENTS, WHICH
16 SUPPOSEDLY WERE NOT MADE ACCORDING TO MR. AVILA NOW CAME
17 UP AS TO BOTH DETECTIVE CARLYLE AND THROUGH OFFICER
18 SHEPARD. SPECIFICALLY, WHAT I'M TALKING ABOUT ARE THESE.
19 THE PERSON HAD HIS HAND IN THE POCKET SIMULATING A GUN
20 POINTED TOWARD HIM. AND NOW IS THERE A POSSIBILITY THAT
21 THERE WOULD BE SOME CONFUSION IF MAYBE HE JUST SAID IT
22 ONCE. MAYBE, BUT THAT IS WHAT WAS TOLD TO OFFICER
23 SHEPARD THROUGH OFFICER HERNANDEZ AND ALSO DETECTIVE
24 CARLYLE WHEN SHE SPOKE TO JUAN AVILA'S SISTER ON THE
25 PHONE. AND WHEN JUAN WAS BEING ASKED THE QUESTIONS, SHE
26 SPECIFICALLY EVEN ASKED HIM ABOUT IT BEING IN THE POCKET,
27 AND HE SAID YES. NOW, HE COMES TO COURT AND IT'S BEHIND
28 HIS BACK. DETECTIVE CARLYLE SPECIFICALLY ASKED HIM ABOUT

1 THE POSITIONING OF THE GUN, OR I'M SORRY HAND SIMULATING
2 THE GUN, AND IT CAME OUT BASICALLY THE SAME AS IT WAS
3 TOLD TO OFFICER SHEPARD. WE CAN'T REALLY ATTRIBUTE THIS
4 TO SOME KIND OF TRANSLATION PROBLEM WHEN TWICE IT WAS
5 SAID TO THE FIRST OFFICER AND TO DETECTIVE CARLYLE, AND
6 DETECTIVE CARLYLE SAID SHE EVEN MADE A POINT OF
7 CLARIFYING WHERE IT WAS. THEN HE COMES TO COURT, AND HE
8 TELLS US, NO, THAT IS NOT IT. HE TELLS US IT WAS SOME
9 WHERE DIFFERENT THAN WHAT HE SAID BEFORE. HE DENIES THAT
10 THAT IS WHERE THAT GUN WAS. WE ALSO HAVE WHERE HE SAID,
11 "DON'T MOVE OR I'LL SHOOT" IN SPANISH. MR. MILTON
12 SUPPOSEDLY SAID, "DON'T MOVE OR I'LL SHOOT" IN SPANISH
13 BOTH TO OFFICER SHEPARD THROUGH OFFICER HERNANDEZ, AND
14 ALSO WHEN DETECTIVE CARLYLE WAS ON THE PHONE. SO THAT IS
15 TWICE, AGAIN, THE STATEMENT SUPPOSEDLY WAS MADE, "DON'T
16 MOVE OR I'LL SHOOT." THAT IS NOT WHAT WAS SAID WHEN HE
17 CAME TO COURT. HE GAVE A DIFFERENT VERSION OF THE
18 EVENTS. FURTHER HE SAID THAT MR. MILTON OFFERED HIM
19 COCAINE OR MARIJUANA, NOT JUST MARIJUANA AND WAS
20 CONSISTENT ON THAT. IT WAS JUST MARIJUANA HERE, BUT IT
21 WAS CLEAR FROM BOTH REPORTS IT WAS COCAINE OR MARIJUANA
22 IN BOTH OFFICER SHEPARD'S REPORT AND ALSO IN DETECTIVE
23 CARLYLE'S REPORT BOTH TIMES. AND THERE ARE MORE IN
24 DETECTIVE CARLYLE'S REPORT. HE SAID THAT HE HAD BEEN
25 OFFERED DRUGS ON MANY OCCASIONS. WELL, HERE IT WAS
26 DIFFERENT. IT WAS ONLY ONCE BEFORE, AND IT WAS PLURAL TO
27 DETECTIVE CARLYLE, BUT THE FIRST THREE INSTANCES ARE
28 ESPECIALLY IMPORTANT BECAUSE TWICE BOTH TO THE ORIGINAL

1 OFFICERS AT THE SCENE AND ALSO TO THE DETECTIVE HE SAID
2 SOMETHING, AND THEN HE COMES TO COURT AND SAYS SOMETHING
3 DIFFERENT. AND WHY IS THAT IMPORTANT BECAUSE THIS
4 INCIDENT ONLY TOOK PLACE -- HOW LONG DID IT TAKE FOR --
5 THEY SAID ALMOST NOTHING TO EACH OTHER. IT WAS JUST A
6 FEW WORDS. IF THOSE WORDS WERE WORDS THAT REALLY
7 TRANSPIRED, HE WOULD REMEMBER THEM, BUT IF HE'S LYING AND
8 HE'S CHANGING THE WORDS AROUND BECAUSE HE WAS MAD AND HE
9 WANTED TO TELL ROLONDO CAMARILLO HE WAS ROBBED, HE
10 WOULDN'T REMEMBER THE WORDS THREE MONTHS LATER. IF,
11 "DON'T MOVE OR I'LL SHOOT," WAS SAID TO HIM IN SPANISH,
12 HE WOULD REMEMBER THAT TODAY OR LAST WEEK WHEN HE
13 TESTIFIED. WHEN HE HE BUT VERY CLEAR THAT WAS NOT SAID
14 TO HIM, BUT YET HE TOLD OFFICER SHEPARD AND DETECTIVE
15 CARLYLE THAT THAT WAS WHAT WAS SAID. SO YOU CAN'T BLAME
16 IT ON INTERPRETATION PROBLEMS BECAUSE HOW COME IT COMES
17 UP TWICE, NOT JUST ONCE, BUT TWICE? ALSO, WITH THE
18 SIMULATED GUN IN THE FRONT POCKET VERSUS IN THE BACK. IF
19 THAT IS HOW THE PERSON HOLDS HAND AND YOU'RE IN FEAR FOR
20 YOUR LIFE, HE TELLS THAT TO TWO PEOPLE. THEN HOW COME
21 THREE AND A HALF MONTHS LATER SUDDENLY IT'S IN THE BACK.
22 IF YOU ARE IN FEAR FOR YOUR LIFE, THAT IS WHAT YOU SHOULD
23 REMEMBER. YOU SHOULD REMEMBER ALSO IF IT WAS COCAINE OR
24 MARIJUANA OR JUST MARIJUANA. HE ALSO MENTIONED THE BUS
25 BENCH.

26 ALSO, ON THE 911 TAPE AND TO THE OFFICERS ON
27 THE SCENE HE KNEW THE PERSON'S NAME. HOW COME HE DIDN'T
28 TELL ANYBODY? ON THE 911 TAPE HE JUST SAYS IT WAS BLACK

1 WHO ROBBED ME OR AFRICAN AMERICAN THAT ROBBED ME. HE DOES
2 NOT SAY HE KNEW HIM. HE KNOWS HIM. HE KNOWS HIS NAME IS
3 MILTON. MR. MILTON SAYS THAT HE DOES NOT GO BY MR.
4 MILTON ON THE STREET. HOW MANY PEOPLE GO BY THEIR LAST
5 NAME OUT ON THE STREET. SO HOW COME HE DIDN'T SAY THAT?
6 AND IF NOT ON THE 911 TAPE, HE DIDN'T EVEN TELL THE
7 OFFICER BECAUSE I THINK HE WAS LYING ABOUT WHAT HAD
8 HAPPENED, AND HE DIDN'T WANT TO EVEN ACKNOWLEDGE THAT HE
9 KNEW THE PERSON. JUAN AVILA LIED. HE WAS MAD, AND THEN
10 HE WAS FORCED TO COME COURT. HE WAS FORCED TO CARRY ON
11 WITH THIS LIE. WILLIAM MILTON IS NOT GUILTY OF ROBBING
12 MR. AVILA, AND THAT IS ABOUT IT.

13 THANK YOU, LADIES AND GENTLEMEN.

14 THE COURT: MS. WIDMARK.

15 MS. WIDMARK: THANK YOU.

16 THE ONLY THING JUAN AVILA WAS FORCED TO DO
17 WAS HAVING HIS PROPERTY TAKEN BY MR. MILTON. WHAT DO WE
18 HAVE WITH REGARD TO THE DEFENDANT'S GUILT OF THE ROBBERY
19 OF JUAN AVILA. I'LL DO IT LIKE THAT SO EVERYBODY CAN SEE
20 MY NOTES. IT MAY BE A LITTLE BIT EASIER. WHAT DO WE
21 HAVE? WE'VE GOT THE TESTIMONY OF TWO WITNESSES OF THE
22 DEFENDANT'S GUILT, TWO WITNESSES THAT HAVE NO AXE TO
23 GRIND WITH REGARD TO THIS DEFENDANT. CERTAINLY, ROLONDO
24 CAMARILLO DOES NOT. IT'S INTERESTING THAT COUNSEL WOULD
25 SAY MAYBE ROLONDO WAS WRONG BECAUSE HE'S KIND OF A NICE
26 GUY. MAYBE HE'S JUST ACCEPTING THE FACTS AS JUAN SAID
27 THEM. THIS IS HIS OWN MEMORIES BECAUSE JUAN HAD SAID
28 THEM. WELL, THAT DOES NOT MAKE MUCH SENSE BECAUSE

1 COUNSEL IS SAYING WELL ONCE HE GETS TO COURT, THEN HE IS
2 MAKING UP MORE INFORMATION. YET, ALL THE STATEMENTS THAT
3 HE GOT FROM JUAN AVILA WERE BEFORE HE WAS INTERVIEWED BY
4 DETECTIVE CARLYLE. SO ANY INCONSISTENCIES WITH REGARD TO
5 HIS INTERVIEW BY DETECTIVE CARLYLE AND HIS MORE THOROUGH
6 EXAMINATION ON THE WITNESS STAND ISN'T BECAUSE BETWEEN
7 THOSE TIMES HE TALKED TO MR. AVILA. IN FACT, HE TALKED
8 TO JUAN AVILA BEFORE HE TALKED TO DETECTIVE CARLYLE, YES.
9 WE KNOW THAT NIGHT ROLONDO CAMARILLO TESTIFIED THAT NO
10 ONE EVER INTERVIEWED HIM ABOUT WHAT HE SAW, OKAY.
11 OFFICER SHEPARD NEVER DID INTERVIEW HIM. THE FIRST
12 PERSON THAT EVER INTERVIEWED HIM ASKED WHAT HE SAW WAS
13 DETECTIVE CARLYLE, AND SHE JUST SPOKE HIM ON THE PHONE.
14 AND THEN HE COMES HERE TO COURT, AND HE'S ASKED FOR MUCH
15 MORE DETAILED AS TO ACTUALLY WHAT HE SAW, AND HE
16 TESTIFIED TRUTHFULLY ABOUT WHAT HE SAW. SO YOU HAVE TWO
17 WITNESSES TESTIFYING WITH REGARD TO THE GUILT OF THE
18 DEFENDANT. THE VICTIM TESTIMONY BOTH AT THE TIME THE
19 DEFENDANT ROBBED HIM, THE VICTIM IMMEDIATELY TELLS THE
20 WITNESS OF THE ROBBERY. THE VICTIM SPEAKS TO THE 911
21 OPERATOR. YOU HAVE OFFICER HERNANDEZ WHO ARRIVES
22 CONFIRMS THE DESCRIPTION, DIRECTION OF TRAVEL OF THE
23 DEFENDANT, AND GOES IN THAT DIRECTION AND FINDS THE
24 DEFENDANT.

25 YOU HAVE THE DEFENDANT LAUGHING, SAYING,
26 "YEAH, I DID IT." YOU HAVE THE WITNESS TESTIFYING THAT
27 THE VICTIM IS ROBBED, AND THE WITNESS ROLONDO CAMARILLO
28 IS SAYING THEY ARE ABOUT 75 YARDS AWAY, OKAY. IF WE'RE

1 GOING TO BELIEVE THE DEFENDANT, THEY WERE IN FACT CLOSER.
2 WHY WOULDN'T ROLONDO CAMARILLO SAY I THINK THEY WER
3 CLOSER? I COULD SEE MORE. I COULD HEAR MORE. IF THAT
4 WAS THE TRUTH, HE WOULD HAVE TOLD YOU THAT. THE TRUTH
5 WAS THAT MR. MILTON WAS OVER IN THIS GRASSY AREA,
6 DARKENED AREA DEPICTED IN PEOPLE'S 3-A. HE SIMPLY IS
7 TELLING YOU WHAT HE SAW. HE BELIEVES THE PERSON TO BE
8 FEMALE. HE SEES THE VICTIM WALKING NORTHBOUND, SEES THE
9 VICTIM AND THE PERSON STANDING AT 92ND SEEMINGLY HAVING A
10 CONVERSATION. HE SAYS THIS. HE TELLS US THIS FROM THE
11 WITNESS STAND. HE SAYS HE SEES THE PERSON WHOSE BEING
12 ROBBED APPROACHED, AND HE DOES TESTIFY TO THE PATTING
13 DOWN AND JUAN TESTIFIED TO THE PATTING DOWN. THEY BOTH
14 DID. HE SEES THE PERSON WHO'S BEING SEARCHED, HAS HIS
15 HANDS AT THE WAIST AS IF HAVING A WEAPON. THE WITNESS
16 SEES THAT SEARCHING PERSON GO SOUTHBOUND. THE VICTIM
17 IMMEDIATELY TELLS THE WITNESS. THE WITNESS HELPS THE
18 VICTIM CALL 911.

19 THOSE ARE THE FACTS, AND THE VICTIM,
20 JUAN AVILA, WAS CROSS-EXAMINED HERE AND WAS
21 CROSS-EXAMINED AT THE PRELIMINARY HEARING, AND HE'S VERY
22 CLEAR THAT THIS MAN ROBBED HIM. IT'S INTERESTING THAT
23 WHEN HE'S BEING CROSS-EXAMINED HERE, MR. GOLUB IS A VERY
24 GOOD LAWYER, A VERY WELL-EDUCATED MAN FACING A 16
25 YEAR-OLD FAIRLY UNSOPHISTICATED KID. HE NEVER ASKS JUAN
26 AVILA ANYTHING ABOUT THE DEFENSE. NEVER SAYS TO HIM,
27 "COME ON, LET'S GET REAL CLEAR ABOUT WHAT HAPPENED. YOU
28 WERE REALLY OUT THERE BUYING MARIJUANA." HE DOES NOT

1 EVER EVEN ASK HIM ABOUT THAT. IT WAS SHOCKING WHEN WE
2 HEARD HIS OPENING STATEMENT. HE HAS THIS SEEMING LIAR
3 WHO'S MADE THIS WHOLE THING UP ON THE STAND, THIS DRUG
4 DEALING LIAR AND DOES NOT EVEN ASK HIM ABOUT IT. WHY?
5 BECAUSE IT'S NOT THE TRUTH. BECAUSE IT IS A STORY MADE
6 UP BY THIS DEFENDANT.

7 NOW, LET'S LOOK AT WHAT WE HAVE GOT TO
8 BELIEVE. WHAT YOU HAVE TO BELIEVE IS THAT THIS DEFENDANT
9 HAS TO CHARM YOU INTO BELIEVING HIS VERSION. AND YOU'VE
10 GOT TWO VERSIONS, AND, YES, THERE'S A PRESUMPTION OF
11 INNOCENCE, AND YOU GET TO COMPARE WHAT'S BEING SAID
12 BECAUSE HE DECIDED TO TESTIFY SO COMPARE IT. LOOK AT IT.
13 LOOK AT THE STORY THAT HE SAYS HAPPENED, OKAY.

14 THE DEFENSE ATTORNEY SAYS THERE ARE DRUG
15 DEALERS HANGING OUT AT TAMS, GREAT. SO OUR VICTIM LEAVES
16 TAMS WHERE HE WORKS. THIS IS A HANGOUT FOR DRUG DEALERS.
17 HE LEAVES TAMS. HE DOES NOT BUY HIS MARIJUANA FROM THE
18 DRUG DEALERS AT TAMS. HE LEAVES TAMS, TRAVELS NORTHBOUND
19 ON FIGUEROA, PASSES TINY BECAUSE WE KNOW HE IS OUT ON
20 FIGUEROA. IF YOU WERE TO BELIEVE THE DEFENDANT'S
21 STATEMENT, PEOPLE KNOW DRUG DEALERS THAT HANG OUT AT TAMS
22 WHERE THE VICTIM WORKS. NOW, IF WE BELIEVE THE
23 DEFENDANT'S STATEMENT, THE VICTIM WALKS DOWN THE STREET
24 PASSING UP DRUG DEALERS, PASSING DRUG DEALERS ALONG THE
25 WAY, WALKS ALONG UNTIL HE ENCOUNTERS THE DEFENDANT. HE
26 ENCOUNTERS THE DEFENDANT WHO'S BEEN SITTING, STANDING AT
27 THE SAME BUS STOP FOR TWO YEARS WAITING FOR ONE PERSON.
28 WHY SHE LEFT AND WHY SHE'S WAITING, WE DON'T KNOW. HE'S

1 BEEN SITTING THERE WAITING FOR HER, AND THE VICTIM THEN
2 COMES UP. JUAN COMES. JUAN DOES NOT KNOW ANYTHING ABOUT
3 THE DEFENDANT ACCORDING TO THE DEFENDANT. THE DEFENDANT
4 NEVER HAD A CONVERSATION WITH JUAN. THE DEFENDANT NEVER
5 ASKED JUAN, "DO YOU WANT ANY DRUGS." HE NEVER HAD A
6 CONVERSATION, BUT THE VICTIM IS GOING TO COME UP TO --
7 AFTER PASSING TINY, AFTER LEAVING TAMS AND SAY WE'D. HE
8 JUST WALKS UP AND SAYS HE WANTS SOME WEED AND HAS \$20 IN
9 HIS HAND. JUST WALKING UP FIGUEROA WITH IT IN HIS HAND
10 AND GIVES THE \$20 TO THIS MAN WHO HE'S NEVER KNOWN TO BUY
11 DRUGS FROM. HE GIVES THE \$20 TO THIS MAN. THAT IS AN
12 INTERESTING STORY. EVEN WHEN THE DEFENDANT TESTIFIED,
13 YOU KNOW IT'S COME IN AS \$20, \$10. SO THE VICTIM IS EVEN
14 GOING TO WAIT THERE WHILE THE DEFENDANT LEAVES EVEN
15 THOUGH HE'S BEEN WAITING TWO HOURS FOR JUAN. HE JUST
16 WANTS THAT WOMAN TO COME BACK. HE'S WAITING FOR HER, BUT
17 HE'S WILLING TO GET A LITTLE BIT OF DOPE OUT OF IT, OKAY,
18 AND SOMEHOW OR ANOTHER HE KNOWS ENOUGH OR THE VICTIM
19 KNOWS ENOUGH TO EXPLAIN THAT. THE DEFENDANT SAYS HE
20 REASSURES THE VICTIM THAT HE'S GOING OVER TO AN APARTMENT
21 BUILDING TO GET THE DRUGS. NOW, REASSURING HIM THAT HE'S
22 NOT RUNNING OFF WITH HIS MONEY AS IF THIS IS AN HONORABLE
23 MAN, OKAY. THAT IS WHAT HE WANTS YOU TO BELIEVE. THIS
24 IS WHAT YOU HAVE TO BELIEVE BECAUSE YOU HAVE THEM TO
25 COMPARE, AND IF HE'S LYING, HE'S GUILTY. WHY ELSE LIE,
26 BUT WHAT YOU HAVE TO BELIEVE THAT HE LEAVES THERE THAT
27 HE'S GOING TO THE APARTMENT BUILDING, BUT HE, YOU KNOW,
28 HEARS JUAN YELL, "HEY." MR. CAMARILLO HEARD SOMEONE

1 YELLING HEY. HE'S SECURITY. SOMEONE YELLING HEY IS
2 GOING TO CATCH HIS ATTENTION TO THE SECURITY. CERTAINLY,
3 HE YELLS HEY. THE DEFENDANT TURNS AROUND PUT HIS HAND
4 LIKE DON'T WORRY. NO PROBLEM. I'M GETTING IT FOR YOU.
5 SOMEHOW THIS ENGAGES THIS KID SO MUCH THAT HE THEN RUNS
6 OFF TO THE SECURITY GUARD, TELLS A LIE AND CONTINUES THIS
7 LIE TO TODAY. NO, NO, NO, NO.

8 WHERE'S WANDA. WE CANNOT COMMENT ON
9 WITNESSES WHO HAVEN'T BEEN CALLED. WANDA WOULDN'T BE
10 CALLED. NO, LIKE THE PREDATOR THAT HE WAS THAT NIGHT,
11 THE DEFENDANT IS STANDING IN HIS DARKENED AREA ON THE
12 GRASSY AREA. FUNNY THING, WHEN THE VICTIM COMES BY, WHEN
13 HE'S GOING ON THAT THE PREDATOR THAT HE WAS THAT NIGHT
14 STANDING IN THIS DARKENED AREA. I BELIEVE ONE THING THAT
15 THE DEFENDANT TESTIFIED. WE SUBMIT THAT HE DID NOT SEE
16 ROLONDO CAMARILLO, AND WHY WOULDN'T HE SEE ROLONDO
17 CAMARILLO? BECAUSE ROLONDO TESTIFIED THAT HE LOOKED AT
18 THIS PICTURE, THAT ROLONDO WAS STANDING SORT OF IN THIS
19 AREA HERE. THAT THEY WERE 75 YARDS AWAY. ROLONDO COULD
20 SEE THEM. THEY COULDN'T REALLY SEE HIM. WE KNOW THAT
21 THE VICTIM DIDN'T SEE HIM UNTIL HE CAME CLOSER, AND THE
22 VICTIM, THIS SPANISH SPOKE GOES TO THE FIRST PERSON THAT
23 LOOKS ANY ANYTHING LAW ENFORCEMENT ROLONDO OUT THERE IN A
24 SECURITY GUARD OUTFIT.

25 ACCORDING TO THE DEFENSE, THEY ARE ALL
26 LIARS, INCLUDING OFFICER HERNANDEZ. THE DEFENSE WANTS
27 YOU TO BELIEVE HE'S GOING TO COME IN HERE AND RISKI HIS
28 CAREER JUST TO SAY THAT THE DEFENDANT SAID, "YEAH, I DID

1 IT." NO. ESPECIALLY WHEN YOU THINK ABOUT THE
2 DEFENDANT'S Demeanor ON THE WITNESS STAND. WE ALL HEARD
3 HIM LAUGH ABOUT WELL, NO, NOT THOSE PANTS. WHEN HE WAS
4 ASKED A QUESTION, HE WOULD LOOK AT HIS ATTORNEY. THEN HE
5 LOOKS AT YOU AND ANSWERS, HE LOOKS VERY CHARMING. HE
6 WAS VERY RELAXED UP THERE, VERY MUCH THE PERSON OFFICER
7 HERNANDEZ SAW AT THE SCENE, NOT TAKING IT SERIOUSLY THEN.
8 NOT TAKING IT SERIOUSLY ON THE WITNESS STAND. THINK
9 ABOUT IT. IF SOMEONE WAS COMING IN HERE AND ACCUSING YOU
10 OF DOING THIS ROBBERY YOU DIDN'T DO, ARE YOU GOING TO BE
11 THAT RELAXED AND CHARMING AND LAUGHING? I DON'T KNOW.
12 I'D BE UPSET. I'D BE REALLY ANGRY. I'D BE MAD AT THE
13 VICTIM. I'D BE REALLY MAD AT THE VICTIM AT THE PRESENT
14 TIME HERE. I'M DOING HIS HIM A FAVOR. HE HAS THE
15 AUDACITY TO COME IN HERE AND MAKE THIS CHARGE AGAINST ME.
16 NO, THAT IS NOT THE PERSON WE SAW ON THE WITNESS STAND
17 YESTERDAY. WE SAW MR. RELAXED, MR. LAUGHING, MR.
18 COMFORTABLE. I'D ASK A QUESTION. HE DIDN'T LOOK AT ME.
19 HE LOOKED BACK AT HIS ATTORNEY, LOOKED BACK HERE TO HIS
20 ATTORNEY. WHY? BECAUSE HE WAS JUST TELLING ME, YOU
21 KNOW, COMFORTABLY WHAT WAS GOING WHEN HIS ATTORNEY JUST
22 FOLLOW RIGHT ALONG WHEN HE WOULD REPEAT THEM. HE DIDN'T
23 UNDERSTAND THEM. HE WAS SARCASTIC. THAT IS NOT THE
24 Demeanor OF AN INNOCENT MAN WHO'S JUST APPALLED OF WHAT
25 HAS HAPPENED TO HIM BECAUSE CERTAINLY IF THIS IS A
26 CONSPIRACY WITH JUAN AVILA AND WITH ROLONDO CAMARILLO AND
27 WITH OFFICER HERNANDEZ, BOY I'D BE MAD IF I WAS HIM, BUT
28 HE WASN'T BECAUSE IT ISN'T.

1 IT'S VERY IMPORTANT BECAUSE LIKE I SAID,
2 YOU'VE GOT TWO STORIES. NOW YOU'VE GOT TO COMPARE THEM.
3 HE DECIDES TO TESTIFY. YOU CAN NOW LOOK AND SEE. WEIGH
4 WHAT THE LAW TELLS YOU. WHAT DID THE JUDGE READ
5 REGARDING BELIEVABILITY OF THE WITNESSES. WHAT ARE THE
6 FACTORS TO BE CONSIDERED THAT CAN BE CONSIDERED, AND
7 THESE ARE NOT THE ONLY ONES. IT'S NOT LIMITED TO THESE.
8 YOU CAN USE ANYTHING, BUT THIS IS GUIDEPPOST. THE
9 JUDGE GAVE YOU, THAT IS THE CHARACTER AND QUALITY OF THAT
10 TESTIMONY. THAT MEANS HOW DO THEY LOOK ON THE WITNESS
11 STAND. HOW DO THEY TESTIFY. WHETHER YOU BELIEVE THEY
12 WERE TELLING THE TRUTH OR NOT.

13 WHEN YOU DID SEE JUAN AVILA TESTIFY, HE WAS
14 NERVOUS. HE SAW THAT LEG GO ONE WAY AND GO TO THE OTHER.
15 MR. GOLUB WANTS IT BOTH WAYS. HE KNOWS HE WAS NOT
16 RELAXED. BUT IF HE NERVOUS, IT'S BECAUSE HE'S A 16
17 YEAR-OLD KID BEING BROUGHT IN HERE TO TALK ABOUT A VERY
18 FRIGHTENING EVENT THAT NIGHT. THE DEMEANOR AND MANNER OF
19 THE WITNESS WHILE TESTIFYING, I THINK THAT IS YOU CAN
20 DETERMINE WHETHER YOU THINK IT'S DIFFERENT TO ME TO ME.
21 IT'S QUITE THE SAME. THE EXISTENCE OR NONEXISTENCE OF
22 BIAS OR OTHER MOTIVE. LOOK AT THE MOTIVE TO LIE. IT'S
23 NOT JUAN AVILA. HE'S THE VICTIM OF THE CRIME. IT'S NOT
24 ROLONDO CAMARILLO. HE GAINS NOTHING FROM THIS, SORRY.
25 AND IT CERTAINLY IS NOT OFFICER HERNANDEZ. HE DOES NOT
26 GAIN ANYTHING IF HE'S COMMITTED PERJURY. THE ONLY
27 PERSON WHO GAINS FROM GETTING UP HERE AND SITTING HERE
28 AND LYING IS THE DEFENDANT. HE GETS TO NOT TAKE

1 RESPONSIBILITY FOR HIS OWN ACTIONS. PERHAPS HE BELIEVED
2 THAT JUAN AVILA WAS AN EASY TARGET, YOUNG SPANISH
3 SPEAKING GUY, PERHAPS AN EASY TARGET WHO WORKS AT TAMS.
4 WELL, HE DIDN'T TURN OUT TO BE THAT EASY, BUT WHEN YOU
5 LOOK AT THE EXISTANCE OR NONEXISTENCE OF BIAS, THE ONLY
6 ONE WITH BIAS, INTEREST, OR MOTIVE TO LIE IS THIS MAN.

7 AGAIN, THINK ABOUT THE DEFENDANT. THINK
8 ABOUT HIS KIND OF LAUGHING, LOOKING AT YOU, KIND OF
9 LEANING FORWARD AND SAYING, "OH, NO. I DIDN'T DO THAT."
10 HE WAS VERY, VERY, VERY INTERESTED IN CHARMING YOU.

11 JUAN AVILA WAS VERY INTERESTED IN JUST SAYING
12 WHAT HAPPENED AND GETTING THIS PART OF HIS LIFE BEHIND
13 HIM. YOU HAVE TO CONSIDER PREVIOUS STATEMENTS,
14 PREVIOUSLY MADE BY THE WITNESSES THAT ARE CONSISTENT OR
15 INCONSISTENT WITH HIS TESTIMONY. NOW, YOU HAVE TO LOOK
16 AT THE CONSISTENCIES OR INCONSISTENCIES AND DECIDE HOW
17 IMPORTANT THEY ARE. THAT IS PART OF YOUR JOB.

18 THE DEFENDANT'S PRIOR CONVICTIONS OF THE
19 FELONY. LIKE I SAID, IT'S NOT THE WITNESSES, BUT THE
20 DEFENDANT WHO IS THE ONLY ONE WITH PRIOR CONVICTIONS.
21 YOU ARE TO USE THAT ONLY WITH REGARD TO THE BELIEVABILITY
22 OF HIM AS A WITNESS. WHEN WE LOOK AT SOME OF THE THESE
23 INCONSISTENCIES THAT COUNSEL WAS TALKING ABOUT, WHAT
24 WE'VE GOT IS NOTHING THAT AMOUNTS TO A SIGNIFICANT CHANGE
25 EVERY TIME THEY TELL THE STORY, WHICH IS WHAT WE HAD
26 PROMISED YOU WERE GOING TO HEAR. IT'S NOT AT ALL WHAT
27 YOU HEARD. WHAT YOU HEARD IS THINGS LIKE, 'OH, HE SAID
28 SOMETHING THREATENING ABOUT SHOOTING ME, AND NOW THE

1 VICTIM IS QUITE HONEST AND DOES NOT REMEMBER THAT. HE
2 DOES NOT REMEMBER HIM SAYING THAT. HE VERY EASILY COULD
3 HAVE SAID, YEAH, HE SAID THAT THREAT TOO BECAUSE WHAT HE
4 TELLING UP THERE IS WHAT HE REMEMBERS. HE'S GIVING YOU
5 HONESTLY WHAT HE REMEMBERS. WHAT HE REMEMBERS IS -- HE
6 DOES NOT REMEMBER A THREAT. DID HE REMEMBER THE THREAT
7 EARLIER, YES. AND HOW DO WE KNOW THAT BECAUSE HE TOLD
8 HIM ABOUT THE THREAT EARLIER. DO I THINK THAT THE
9 OFFICERS ARE, YOU KNOW, LYING, NO. I JUST THINK THAT WE
10 WOULD SUBMIT THAT HE JUST SIMPLY DOES NOT REMEMBER
11 BECAUSE HE CERTAINLY COULD HAVE PUT THAT -- SAID, YEAH,
12 YOU KNOW HE SAID THAT TO ME. HE JUST DOES NOT REMEMBER.
13 HE'S NOT SWITCHING HIS STORY. HE'S DOING THE AT BEST JOB
14 HE CAN TO TELL YOU WHAT HAPPENED DURING THIS INCREDIBLY
15 TRAUMATIC EVENT. YOU KNOW, HE DID NOT -- IT'S NOT AS IF
16 HE DECIDED ON A LIE. THEN HE PRACTICED IT. HE IS SIMPLY
17 TELLING YOU WHAT HE REMEMBERS HAPPENED TO HIM THAT NIGHT.

18 WHEN JUAN AVILA TESTIFIED THAT, IN FACT,
19 MR. MILTON HAD ASKED HIM ABOUT WHETHER HE WANTED TO BUY
20 DRUGS OR MARIJUANA, COCAINE OR MARIJUANA IN THE PAST AND
21 THAT NIGHT, HE REMEMBERED THAT MR. MILTON AGAIN ASKED HIM
22 ABOUT BUYING DRUGS. WHETHER IT WAS MARIJUANA OR WHETHER
23 IT WAS MARIJUANA FOR COCAINE ON THAT OCCASION, HE ASKED
24 IF HE WANTED TO BUY SOME DRUGS, WHICH IS REALLY A
25 TERRIFIC WAY GO GET SOMEONE TO PULL OUT THEIR MONEY. THE
26 TESTIMONY WAS THAT WHAT HAPPENED, WHETHER IT WAS ACTUALLY
27 MARIJUANA THAT NIGHT OR MARIJUANA AND COCAINE LIKE IT WAS
28 BEFORE, THAT IS NOT SOMETHING THAT IS GOING TO BE

1 FOREMOST IN ONE'S MIND. AGAIN, THE VICTIM SAID THE
2 DEFENDANT ASKED HIM ABOUT BUYING DRUGS. HE AGAIN SAID
3 NO. THESE ARE WHAT WE WOULD CALL DIFFERENCES WITHOUT A
4 DISTINCTION. IT CERTAINLY DOES NOTEQUAL ONE MAKING UP AN
5 ENTIRELY ELABORATE STORY, AND IT CERTAINLY DOES NOT MEAN
6 SOME SORT OF SIGNIFICANT CHANGE EVERY TIME THEY COME TO
7 COURT.

8 MR. CAMARILLO SAID HE WASN'T SURE, WASN'T
9 QUITE SURE WHAT WAS GOING ON OUT. THERE WAS SOME SORT OF
10 PAT-DOWN. HE THINKS IT WAS WOMAN. HE ISN'T QUITE SURE
11 WHAT'S GOING ON THERE. HE THINKS IT MIGHT BE A ROBBERY,
12 BUT HE'S NOT SURE WHAT'S GOING ON THERE. A GOOD SECURITY
13 GUARD THINKS THAT COULD BE HAPPENING NOT REALLY PART OF
14 HIS JURISDICTION SO HE'S A LITTLE BIT WEARY ABOUT GETTING
15 IN THE MIDDLE, BUT HE THINKS IT WOULD BE ROBBERY, THERE'S
16 NOT THERE'S NOTHING PARTICULARLY NOT COULD BE IDENTITY
17 ABOUT THAT HE ALWAYS CONSISTENT PAT-DOWN. IT'S JUST AS
18 JUAN TESTIFIED IT OCCURRED. SO IT'S NICE TO CARVE THESE
19 LITTLE THINGS, TRY TO BUILD THEM UP. BUT THE FACT IS
20 THEY DON'T AMOUNT TO JUAN AVILA MAKING THE WHOLE THING UP
21 AND ROLONDO MAKING THIS WHOLE THING UP. IT'S INTERESTING
22 THIS WHOLE JACKET GUN THING BECAUSE THE ONLY PERSON WE'VE
23 SEEN THIS DO IS DEFENSE COUNSEL, THE ONLY PERSON WE'VE
24 SEEN STICK HIS HAND IN HIS POCKET.

25 WHAT'S BEEN THE TESTIMONY AS TO WHAT JUAN
26 AVILA HAS SAID. HE SAID HE HAD HIS HAND STUCK IN HIS
27 JACKET, OKAY. CONSISTENT WITH THIS, HE SAID HE HAD A
28 HAND IN HIS POCKET ACTING AS IF HE HAD GUN.

1 DETECTIVE CARLYLE SAID WHEN SHE -- VISUALIZE
2 THIS. NEVER DID JUAN AVILA SAY THAT HE SAW A HAND STUCK
3 IN HIS JACKET, AND HE SAID IN A POCKET ACCORDING THROUGH
4 HIS SISTER, LORANIA, WHICH POCKET. THE ONLY PERSON THAT
5 HAS DONE THIS IS MR. GOLUB. THAT IS NOT AT ALL WHAT JUAN
6 EVER SAID. WAS THAT SOME SORT OF INFERENCE THAT WAS
7 DRAWN BY DETECTIVE CARLYLE WHO WAS TALKING ABOUT THE GUN
8 ON THE PHONE STUCK IN THE POCKET, NOT WHAT JUAN MEANT.
9 IT'S NOT WHAT HE SAID STUCK IN THE JACKET, LIKE HAVING A
10 WEAPON, AND SHE DIDN'T KNOW WHETHER IT WAS THE FRONT
11 POCKET OR BACK POCKET. THE IDEA THAT SOMEHOW HE'S LYING,
12 AND HE MADE ALL THIS UP BECAUSE HE AND DETECTIVE CARLYLE
13 HAVE COME TO A CONCLUSION. THAT IS VERY UNFAIR TO
14 MR. AVILA.

15 CERTAINLY MR. AVILA WORKS AT TAMS AND THAT IS
16 IMPORTANT BECAUSE THE DEFENSE WOULD HAVE HAD SOMEONE IN
17 HERE TO SAY WHAT A BIG LIAR JUAN IS. HE DOESN'T WORK AT
18 TAMS, OKAY. IT'S VERY RELEVANT, AND HE DOES WORK THERE.
19 HE TOLD YOU HE WORKED THERE. AND RATHER THE DEFENDANT
20 WANTS TO ADMIT IT HE KNEW HE WORKED THERE. HERNANDEZ
21 CERTAINLY DOES NOT SAY HE KNEW HE WORKED THERE HE KNEW
22 HE'D HAVE MONEY THAT IS WHY HE KNEW HE COULD GET MONEY
23 FROM HIM THAT NIGHT. MR. MILTON IS A SAVVY MAN. HE
24 KNOWS WHAT HE'S DOING. HE THOUGHT HE KNEW WHAT HE WAS
25 DOING THAT NIGHT PICKING ON THIS TEENAGE SPANISH SPEAKING
26 KID, BUT IT WAS NOT AS EASY AS HE THOUGHT.

27 THE ARGUMENT WITH REGARD TO NOT HAVING ENOUGH
28 TIME TO GET RID OF THE PROPERTIES, BUT WE KNOW FROM MR.

1 MILTON'S OWN STATEMENT THAT HE HAD ENOUGH TIME TO GET RID
2 OF THE PROPERTY. HE DIDN'T HAVE THE \$20 ON HIM, AND
3 CERTAINLY HE'D WANTED TO GET RID OF THE PROPERTY BECAUSE
4 HE HAD TAKEN JUAN'S MONEY BECAUSE IF HE HAD \$20 AND SOME
5 COINS ON HIM, CERTAINLY WE WOULD HAVE HAD IT IN FRONT OF
6 THE JURY. IT IS SIMPLY CONSCIOUSNESS OF GUILT TO GET RID
7 OF IT ALL, TO GET RID OF IT, WELL, STASH IT UP ON 95TH.
8 HE CAN STASH IT IN A BUSH OR TREE, WHATEVER. I DON'T
9 KNOW. WE JUST KNOW THAT THAT NIGHT HE HAD NO PROPERTY ON
10 HIM, AND WE KNOW HE HAD ENOUGH TIME TO GET RID OF IT
11 BECAUSE, HE, HIMSELF HAD \$20, AND THAT WASN'T ON HIM
12 EITHER SO TO SAY THERE WASN'T ENOUGH TIME DEFIES THE
13 DEFENDANT'S OWN STATEMENT IN THIS COURT. AND SO TO
14 CORROBORATES THE DEFENDANT'S TESTIMONY TO SAY THAT THE
15 DEFENDANT KNEW HOW MUCH TIME IT TOOK, WELL, OF COURSE,
16 HE DID. HE KNEW HOW MUCH TIME IT WAS BETWEEN WHEN HE DID
17 THE ROBBERY AND WHEN HE GOT STOPPED. THAT DOES NOT
18 CORROBORATE ANYTHING BUT THAT THE DEFENDANT DID A
19 ROBBERY. OF COURSE, HE'S GOING TO KNOW HOW MUCH TIME IT
20 TOOK, AND, OF COURSE, HE'S GOING TO KNOW THE AREA. THE
21 POINT IS THAT WHEN YOU LOOK AT ALL THE EVIDENCE, THE FACT
22 THAT JUAN AVILA DID ABSOLUTELY EVERYTHING TO REPORT THE
23 CRIME, TO FOLLOW-UP ON IT, TO SAY EXACTLY WHAT HE HAD ON
24 HIM, NOT ACT LIKE IT WAS SOME HUGE AMOUNT OF MONEY, JUST
25 \$20 DOLLARS AND SOME COINS AND A NEW PAIR PANTS, AND THE
26 FACT THAT MR. CAMARILLO DIDN'T SEE THE PANTS STUCK UNDER
27 HIS ARM, THAT JUST MEANS THAT MR. CAMARILLO DIDN'T DECIDE
28 BECAUSE WE KNOW THAT JUAN TOLD THE OFFICER THAT NIGHT

1 THAT HE HAD A PAIR OF PANTS WITH HIM TOO. THE FACT THAT
2 MR. CAMARILLO SAID HE DIDN'T SEE THEM JUST SHOWED MR.
3 CAMARILLO IS TALKING ABOUT WHAT HE WHAT HE SAW. HE'S NOT
4 MAKING THAT UP. HE'S NOT JUST PARROTING WHAT JUAN TOLD
5 HIM THAT NIGHT. THE SAME WAY THAT OFFICER HERNANDEZ IS
6 NOT JUST PARROTING WHAT'S IN THE REPORT. HE'S
7 REMEMBERING EXACTLY WHAT HAPPENED, EXACTLY WHAT HE SAW.
8 EXACTLY WHAT HE HEARD.

9 WHEN YOU LOOK AT THAT AND WHEN YOU COMPARE IT
10 TO THE ILLOGICAL STATEMENT, THE STATEMENT TOTALLY LACKS
11 COMMON SENSE. REMEMBER TO TAKE ALL EVIDENCE TOGETHER AND
12 REMEMBER JUAN AVILA ON THE STAND. REMEMBER ROLONDO
13 CAMARILLO ON THE STAND AND PLEASE REMEMBER THE DEFENDANT
14 ON THE STAND, AND THINK ABOUT ALL THAT TOGETHER. DON'T
15 IGNORE THE DEFENSE BECAUSE IT IS EVIDENCE. CONSIDER IT
16 TOO. I ASK YOU TO CONSIDER IT. WHEN YOU PULL ALL OF
17 THAT TOGETHER, IT LEADS TO ONE CONCLUSION, AND THAT IS
18 MR. MILTON IS GUILTY BEYOND A REASONABLE DOUBT OF THE
19 ROBBERY OF JUAN AVILA. AND WHEN WE TALK ABOUT REASONABLE
20 DOUBT, IT'S THE SAME STANDARD AS EVERY OTHER CRIMINAL
21 CASE. THERE'S NOT A DIFFERENT ONE FOR MR. MILTON OR MR.
22 AVILA AND FOR ROBBERY, AND THAT THE TESTIMONY THAT YOU
23 GOT WAS DIRECTLY AS TO WHAT HAPPENED AND IS SUFFICIENT TO
24 FIND MR. MILTON GUILTY BECAUSE HE IS GUILTY OF ROBBING
25 JUAN AVILA. THANK YOU.

26 THE COURT: THANK YOU, MS. WIDMARK AND MR. GOLUB.

27 I HAVE NOT INTENDED BY ANYTHING I HAVE SAID
28 OR DONE OR BY ANY QUESTION I MAY HAVE ASKED OR BY ANY

1 RULING I MAY HAVE MADE TO INTIMATE OR SUGGEST WHAT YOU
2 SHOULD FIND ON FACTS OR THAT I BELIEVE OR DISBELIEVE ANY
3 WITNESSES. IF ANYTHING I HAVE DONE OR SAID HAS SEEMED TO
4 SO INDICATE, YOU WILL DISREGARD FORM YOUR OWN CONCLUSION.
5 THE PURPOSE OF THE COURT'S INSTRUCTIONS IS TO PROVIDE YOU
6 WITH THE APPLICABLE LAW SO THAT YOU MAY ARRIVE AT A JUST
7 AND LAWFUL VERDICT. WHETHER THE INSTRUCTION APPLIES WILL
8 DEPEND ON WHAT YOU FIND TO BE THE FACTS.

9 DISREGARD ANY INSTRUCTION WHICH APPLIES TO
10 FACTS DETERMINED BY YOU NOT TO EXIST. DO NOT CONCLUDE
11 THAT BECAUSE AN INSTRUCTION HAS BEEN GIVEN I'M EXPRESSING
12 AN OPINION AS TO THE FACTS.

13 THE PEOPLE AND THE DEFENDANT ARE ENTITLED TO
14 THE INDIVIDUAL OPINION OF EACH JUROR. EACH OF YOU MUST
15 CONSIDER THE EVIDENCE FOR THE PURPOSE OF REACHING A
16 VERDICT IF YOU CAN DO SO. EACH OF YOU MUST DECIDE THE
17 CASE FOR YOURSELF, BUT YOU SHOULD DO SO ONLY AFTER
18 DISCUSSING THE EVIDENCE AND INSTRUCTIONS WITH THE OTHER
19 JURORS. DO NOT HESITATE TO CHANGE AN OPINION IF YOU ARE
20 CONVINCED IT IS WRONG. HOWEVER, DO NOT DECIDE ANY
21 QUESTION IN A PARTICULAR WAY BECAUSE A MAJORITY OF THE
22 JURORS OR ANY OF THEM FAVOR THAT DECISION. DO NOT DECIDE
23 ANY ISSUE IN THIS CASE BY FLIP OF A COIN OR BY ANY OTHER
24 CHANCE DETERMINATION.

25 THE ATTITUDE AND THE CONDUCT OF THE JURORS AT
26 ALL TIMES ARE VERY IMPORTANT. IT IS RARELY HELPFUL FOR A
27 JUROR AT THE BEGINNING OF THE DELIBERATIONS TO EXPRESS AN
28 EMPHATIC OPINION ON THE CASE OR TO ANNOUNCE A

1 DETERMINATION TO STAND FOR A CERTAIN VERDICT. WHEN ONE
2 DOES THAT AT THE OUTSET, A SENSE PRIDE MAY BE AROUSED,
3 AND THE JUROR MIGHT HESITATE TO CHANGE THEIR OPINION EVEN
4 IF IT SHOWN TO BE WRONG. REMEMBER THAT YOU ARE PARTISANS
5 OR ADVOCATES OF THE MATTER. YOU ARE IMPARTIAL JUDGES OF
6 THE FACTS.

7 IN YOUR DELIBERATIONS, DO NOT DISCUSS OR
8 CONSIDER THE SUBJECT OF PENALTIES OR PUNISHMENT. THAT
9 SUBJECT MUST NOT IN ANY WAY AFFECT YOUR VERDICT.

10 DURING YOUR DELIBERATIONS, ANY QUESTION OR
11 REQUEST THE JURY MAY HAVE SHOULD BE ADDRESSED TO THE
12 COURT. PLEASE UNDERSTAND THAT COUNSEL MUST FIRST BE
13 CONTACTED BEFORE A RESPONSE CAN BE FORMULATE. IF A READ
14 BACK OF TESTIMONY IS REQUESTED, THE REPORTER WILL DELETE
15 OBJECTIONS, RULINGS, AND SIDE BAR CONFERENCES SO THAT YOU
16 WILL HEAR ONLY THE EVIDENCE THAT WAS ACTUALLY PRESENTED.
17 PLEASE UNDERSTAND THAT IT MAY TAKE SOME TIME TO PROVIDE A
18 RESPONSE. CONTINE TO DELIBERATE UNTIL YOU ARE CALLED
19 BACK INTO THE COURTROOM.

20 THE INSTRUCTIONS WHICH I AM NOW GIVING YOU
21 YOU WILL BE MADE AVAILABLE IN WRITTEN FORM IN THE JURY
22 DELIBERATION ROOM. THEY MUST NOT BE DEFACED IN ANY WAY.
23 DO NOT DISCLOSE WITH ANYONE OUTSIDE THE JURY, NOT EVEN TO
24 ME OR ANY MEMBER OF MY STAFF, ORALLY OR IN WRITING, HOW
25 YOU MAY BE DIVIDED NUMERICALLY, NOT BALLOTING ANY ISSUE
26 UNLESS I DIRECT OTHERWISE.

27 IN THIS CASE, THERE ARE TWO POSSIBLE
28 VERDICTS. THESE VARIOUS POSSIBLE VERDICTS ARE SET FORTH

1 IN THE FORMS OF VERDICT, WHICH YOU WILL NOW RECEIVE.
2 ONLY ONE OF THE POSSIBLE VERDICTS MAY BE RETURNED BY YOU.
3 IF YOU HAVE ALL AGREED UPON ONE VERDICT AND CORRESPONDING
4 FORM ON THE VERDICT FORM TO BE SIGNED THE OTHER TERMS ARE
5 TO BE LEFT UNSIGNED. YOU SHALL NOW RETIRE. SELECT ONE
6 OF YOUR NUMBER TO ACT AS FOREPERSON. HE OR SHE WILL
7 PRESIDE OVER YOUR DELIBERATIONS.

8 IN ORDER TO REACH A VERDICT, ALL 12 JURORS
9 MUST AGREE TO THE DECISION. AS SOON AS YOU HAVE AN
10 AGREED UPON VERDICT SO THAT EACH JUROR MAY STATE
11 TRUTHFULLY THAT THE VERDICT EXPRESSED IS HIS OR HER VOTE,
12 HAVE IT DATED AND SIGNED BY YOUR FOREPERSON AND THEN
13 RETURN IT TO THIS COURTROOM, RETURNING ANY UNSIGNED
14 VERDICT FORMS.

15 AS FOR THE ALTERNATE JURORS, YOU ARE STILL
16 BOUND BY THE ADMONITION THAT YOU ARE NOT TO CONVERSE
17 AMONG YOURSELVES OR WITH ANYONE ELSE ON ANY SUBJECT
18 CONNECTED WITH THE TRIAL OR TO FORM OR EXPRESS AN OPINION
19 ON ANY ISSUE UNTIL THE CASE IS SUBMITTED TO YOU, WHICH
20 MEANS UNTIL SUCH TIME AS YOU ARE SUBSTITUTED IN FOR ONE
21 OF THE 12 JURORS AND DELIVERATING ON THE CASE. THIS ALSO
22 MEANS THAT YOU ARE NOT TO DECIDE HOW YOU WOULD VOTE IF
23 YOU WERE DELIBERATING FOR THE OTHER JURORS.

24 SWEAR THE BAILIFF.

25 THE CLERK: YOU DO SOLEMNLY SWEAR THAT YOU WILL
26 TAKE CHARGE OF THE JURY AND KEEP THEM TOGETHER, THAT YOU
27 WILL NOT SPEAK TO THEM YOURSELF, OR ALLOW ANYONE ELSE TO
28 SPEAK TO THEM UPON ANY SUBJECT CONNECTED WITH THIS CASE,

1 EXCEPT BY ORDER OF THE COURT, AND WHEN THEY HAVE AGREED
2 UPON A VERDICT, YOU WILL RETURN THEM INTO COURT, SO HELP
3 YOU GOD?

4 THE BAILIFF: I DO.

5 THE COURT: I'M GOING TO RELEASE YOU FOR THE EVENING
6 NOW AND ORDER YOU BACK AT 9:00 TOMORROW MORNING. YOU
7 WILL WORK FROM 9:00 TO 12:00 AND THEN FROM 1:30 TO 4:00
8 UNTIL YOU REACH A VERDICT, AND EACH BREAK REMEMBER THAT
9 YOU CAN ONLY TALK ABOUT THE CASE WHEN ALL 12 ARE TOGETHER
10 AND IN THE JURY ROOM SO WHEN GO OUT FOR A BREAK YOU HAVE
11 TO STOP TALKING ABOUT THE CASE. WHEN YOU GO TO LUNCH,
12 YOU HAVE TO STOP TALKING ABOUT THE CASE. DON'T TALK WITH
13 ANYONE ELSE ABOUT THE CASE. AGAIN, YOU'RE NOT TO
14 DELIBERATE SO STILL DON'T TALK ABOUT THE CASE.

15 HAVE A PLEASANT EVENING. SEE YOU TOMORROW
16 MORNING AT 9:00.

17 ONE LAST THING, I DID THINK I'M NOT GOING IF
18 FOR REASONABLE REACH VERDICT, YOU ARE NOT GOING TO
19 DELIBERATE THURSDAY AFTERNOON, THE DAY BEFORE CHRISTMAS.
20 WE'RE GOING TO CUT OUT OF HERE AT NOON. THE BUILDING IS
21 BEING CLOSED DOWN IN THE AFTERNOON EARLY FOR SOME
22 SECURITY REASON BY THE SHERIFF.

23 HAVE A PLEASANT EVENING.

24 (JURY LEAVES THE COURTROOM.)

25 THE COURT: THE JURY HAS LEFT THE ROOM. WILL BOTH
26 SIDES AGREE THAT THE JURY CAN ASSEMBLE AT 9:00 CLOCK BY
27 THEMSELVES, AND YOU WILL NOT HAVE TO BE HERE, AND I
28 WOULDN'T TALK TO THEM AGAIN, THAT THEY HE WILL BE

1 RELEASED FOR LUNCH, COME BACK AT 1:30 WITHOUT YOU BEING
2 HERE AND WE GIVE SEPARATE ADMONITON ABOUT NOT TALK?

3 MS. WIDMARK: FOR BREAKS?

4 THE COURT: FOR BREAKS.

5 MR. GOLUB: YES.

6 MS. WIDMARK: YES.

7 THE COURT: THEN ALL WE NEED TO HAVE ARE YOUR
8 NUMBERS SO WE CAN CALL YOU IF THERE'S QUESTION. OF
9 COURSE, WE'LL CALL YOU RIGHT AWAY.

10 MR. GOLUB: THANK YOU.

11 THE COURT: DEFENDANT ORDERED BACK TOMORROW MORNING
12 AT 8:30.

13 (THE PROCEEDINGS WERE CONCLUDED.)

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1 CASE NUMBER: TA039953
2 CASE NAME: PEOPLE VS. MILTON
3 COMPTON, CALIFORNIA DECEMBER 23, 1998
4 DEPARTMENT SCQ HON. RON SLICK, JUDGE
5 REPORTER: YVETTE R. BURLEY, CSR #8343
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT, WILLIAM MILTON, PRESENT IN COURT
10 REPRESENTED BY PAUL GOLUB, DEPUTY PUBLIC
11 DEFENDER; BETH L. WIDMARK, DEPUTY DISTRICT
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE
13 STATE OF CALIFORNIA;

14
15 THE COURT: THIS IS PEOPLE VS. MILTON. DEFENDANT IS
16 HERE AS WELL AS ALL THE JURORS.

17 WHO'S OUR FOREPERSON. HAVE YOU REACHED A
18 VERDICT?

19 THE FOREPERSON: YES, WE HAVE, YOUR HONOR.

20 THE COURT: WOULD YOU HAND THE VERDICT FORMS TO THE
21 BAILIFF, PLEASE.

22 THE COURT: THE CLERK WILL READ THE VERDICTS.

23 THE CLERK: TITLE OF COURT AND CAUSE. WE THE JURY
24 IN THE ABOVE-ENTITLED ACTION FIND THE DEFENDANT, WILLIAM
25 MILTON, GUILTY OF THE CRIME OF SECOND DEGREE ROBBERY IN
26 VIOLATION OF PENAL CODE SECTION 211, A FELONY, AS CHARGED
27 IN COUNT 1 OF THE INFORMATION THIS 23RD DAY OF DECEMBER
28 SIGNED THE FOREPERSON.

1 THE COURT: IS THIS YOUR VERDICT?

2 THE JURY PANEL: YES.

3 THE COURT: WOULD YOU LIKE THE YOUR POLLED?

4 MR. GOLUB: YES, PLEASE, YOUR HONOR.

5 THE COURT: WHEN YOU'RE SEAT NUMBER IS CALLED,
6 PLEASE ANSWER YES OR NO IF THE GUILTY VERDICT IS YOURS.

7 JUROR NO. 1?

8 JUROR NO. 1: YES.

9 THE COURT: NO. 2?

10 JUROR NO. 2: YES.

11 THE COURT: NO. 3?

12 JUROR NO. 3: YES.

13 THE COURT: NO. 4?

14 JUROR NO. 4: YES.

15 THE COURT: NO. 5?

16 JUROR NO. 5: YES.

17 THE COURT: NO 6?

18 JUROR NO. 6: YES.

19 THE COURT: NO. 7?

20 JUROR NO. 7: YES.

21 THE COURT: NO. 8?

22 JUROR NO. 8: YES.

23 THE COURT: JUROR NO. 9?

24 JUROR NO. 9: YES.

25 THE COURT: NO. 10?

26 JUROR NO. 10: YES.

27 THE COURT: NO. 11?

28 JUROR NO. 11: YES.

1 THE COURT: JUROR NO. 12?

2 JUROR NO 12: YES.

3 THE COURT: OKAY, LADIES AND GENTLEMEN, WE'RE NOT
4 QUITE DONE WITH YOU. I'M GOING TO ASK ALL 14 OF YOU NOW
5 TO GO BACK INTO THE JURY ROOM FOR JUST A COUPLE MINUTES.
6 I'LL HAVE YOU RIGHT BACK OUT. NOW, YOU ARE REMINDED NONE
7 OF YOU ARE TO DISCUSS THIS CASE NOR ANYTHING ABOUT THE
8 CASE. YOU NO LONGER CAN DISCUSS THE CASE WITH YOUR
9 FELLOW JURORS OR THE ALTERNATES OR ANYTHING. SO I'M JUST
10 GOING TO HAVE YOU COME BACK IN. I'LL SPEAK TO YOU IN A
11 MINUTE.

12 (DISCUSSION HELD OFF THE RECORD.)

13 THE COURT: MR. GOLUB, WHAT DOES HE WANT TO DO?

14 MR. GOLUB: HE'S NOT SURE. SO IF THAT IS THE CASE,
15 I GUESS, WE'RE GOING TO HAVE TO THE JURY DO IT, BUT IF --

16 THE COURT: WELL, LET'S BRING OUT THE JURY, AND
17 WE'LL HAVE THEM DO IT IF HE'S NOT SURE.

18 MR. GOLUB: RIGHT.

19 THE COURT: OKAY, ALL 14 JURORS ARE BACK. LET ME
20 READ A COUPLE MORE PARAGRAPHS IN THE INFORMATION THAT I
21 HAD READ TO YOU A FEW DAYS AGO.

22 IT IS FURTHER ALLEGED THAT AS TO COUNT 1
23 THAT SAID DEFENDANT, WILLIAM MILTON, WAS ON OR ABOUT THE
24 19TH DAY OF MAY 1987 IN THE 19TH JUDICIAL CIRCUIT COURT
25 IN THE STATE OF ILLINOIS FOR THE COUNTY OF LAKE,
26 CONVICTED OF A SERIOUS FELONY, TO WIT, ARMED ROBBERY IN
27 VIOLATION OF SECTION, UNKNOWN WHAT THE SECTION IS OF THE
28 PENAL CODE, CASE NO. 87CF242.

1 WITHIN THE MEANING OF PENAL CODE SECTION
2 667(A)(1), IT'S FURTHER ALLEGED THAT THE DEFENDANT
3 WILLIAM MILTON WAS ON OR ABOUT THE 19TH OF MAY 1987 IN
4 THE 19TH JUDICIAL CIRCUIT, STATE OF ILLINOIS FOR THE
5 COUNTY OF LAKE WAS CONVICTED OF A SERIOUS FELONY, TO WIT,
6 ROBBERY, CASE NO. 87CF2412.

7 WITHIN THE MEANING OF PENAL CODE SECTION
8 667(A)(1), IT IS FURTHER ALLEGED AS TO COUNT 1 PURSUANT
9 TO PENAL CODE SECTION 667.5(B) THAT THE DEFENDANT,
10 WILLIAM MILTON, HAS SUFFERED THE FOLLOWING PRIOR
11 CONVICTIONS: CASE NO. 93CF1236, UNLAWFUL USE OF WEAPONS
12 BY A FELON, A CONVICTION DATE OF AUGUST 12, 1993 IN LAKE
13 COUNTY OF ILLINOIS. ALSO CASE NO. 93CF1476, UNLAWFUL USE
14 OF A WEAPON BY A FELON, CONVICTION DATE AUGUST 12, 1993
15 IN LAKE COUNTY ILLINOIS.

16 MS. WIDMARK: YOUR HONOR, I'M SORRY.

17 THE COURT: AND THAT THE TERM WAS SERVED AS
18 DESCRIBED IN PENAL CODE SECTION 667.5 FOR SAID OFFENSES,
19 AND THAT THE DEFENDANT DID NOT REMAIN FREE OF PRISON
20 CUSTODY FOR AND DID COMMIT AN OFFENSE RESULTING IN FELONY
21 CONVICTION DURING A PERIOD OF FIVE YEARS SUBSEQUENT TO
22 THE CONCLUSION OF SAID TERM. THE DEFENDANT HAS ENTERED A
23 DENIAL TO THESE ALLEGATIONS

24 MS. WIDMARK: YOUR HONOR, AND THERE IS THE ONE
25 PURSUANT TO PENAL CODE SECTION 1170.1(A) THROUGH (D) AND
26 667 AT THE BOTTOM, WHICH HAVE THE ONES PURSUANT TO PENAL
27 CODE SECTION 1170.12(A). DID YOU DO THE 667(B) THROUGH
28 (I) AT THE BOTTOM OF THE FIRST PAGE?

1 THE COURT: I DID MENTION THOSE.

2 MS. WIDMARK: OKAY, THEY ARE MENTIONED TWICE.

3 THE COURT: OKAY, I THINK THAT COVERS IT. SO WE'RE
4 NOT GOING TO DO THIS TODAY SO WHAT YOU'RE GOING TO HAVE
5 TO DO IS DETERMINE WHETHER THESE PRIOR CONVICTIONS OF
6 FELONIES ARE TRUE. THAT IS A DECISION FOR THE JURY.
7 OBVIOUSLY, IT'S 4:00, AND WE CAN'T DO IT TODAY. TOMORROW
8 MORNING I'M NOT GOING TO BE ABLE TO DO IT BECAUSE OF MY
9 NORMAL JUVENILE COURT DUTIES, AND THE COURT IS BEING SHUT
10 DOWN FOR SOME KIND OF DRILL BY THE SHERIFF'S DEPARTMENT
11 TOMORROW AFTERNOON. THEREFORE, WE'RE GOING TO HAVE TO
12 CONTINUE WITH THIS PHASE OF THE TRIAL, AND IT WILL BE A
13 SHORT PHASE. WE'RE GOING TO HAVE TO CONTINUE THIS PHASE
14 OF THE TRIAL UNTIL MONDAY AFTERNOON. SO YOU'VE GOT THIS
15 ONE TASK TO DO IN THE MEANTIME. YOU'RE ORDERED NOT TO
16 DISCUSS THE CASE ANYMORE AMONG YOURSELVES NOR WITH
17 ANYBODY ELSE NOR EXPRESS OR FORM AN OPINION AS TO ANY
18 OTHER MATTER RELATING TO THIS CASE UNTIL THE 12 OF YOU
19 ARE AGAIN ASKED TO DELIBERATE.

20 WITH THAT, YOU FOLKS HAVE A PLEASANT EVENING
21 AND HAVE A REALLY GOOD CHRISTMAS AND THANK YOU FOR YOUR
22 TIME, AND I'LL SEE YOU MONDAY AFTERNOON AT 1:30.

23 OKAY, MR. MILTON, YOU'RE ORDERED BACK TO THIS
24 DEPARTMENT MONDAY MORNING, DECEMBER 28, AT 8:30 IN THE
25 MORNING.

26 (THE PROCEEDINGS WERE CONCLUDED.)

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28

1 CASE NUMBER: TA039953
2 CASE NAME: PEOPLE VS. MILTON
3 COMPTON, CALIFORNIA DECEMBER 28, 1998
4 DEPARTMENT SCQ HON. RON SLICK, JUDGE
5 REPORTER: YVETTE R. BURLEY, CSR #8343
6 TIME: A.M. SESSION

7
8

9 APPEARANCES:

10 DEFENDANT, WILLIAM MILTON, PRESENT IN COURT
11 REPRESENTED BY PAUL GOLUB, DEPUTY PUBLIC
12 DEFENDER; BETH L. WIDMARK, DEPUTY DISTRICT
13 ATTORNEY, REPRESENTING THE PEOPLE OF THE
14 STATE OF CALIFORNIA.

15
16

17 THE COURT: THIS IS PEOPLE VS. MILTON. DEFENDANT IS
18 HERE WITH HIS LAWYER, AND WE'RE HERE DEALING WITH THE
19 PRIORS.

20 PEOPLE.

21 MS. WIDMARK: I BELIEVE THAT -- WELL, TO START OFF
22 THE RECORD, I BELIEVE THE DEFENDANT IS GOING TO HE
23 ESSENTIALLY ADMITTING THE PRIORS. THERE'S A LITTLE
24 PROBLEM THAT WE'RE GOING TO SUBMIT TO THE COURT.

25 MR. GOLUB: MAYBE I CAN JUST BE CLEAR AND
26 MS. WIDMARK CORRECT ME IF I'M WRONG ABOUT ANYTHING.
27 THERE ARE THREE PRIORS AT ISSUE, TWO ROBBERY PRIORS AND
28 THERE'S ONE WHERE THERE ARE TWO CONVICTIONS FOR UNLAWFUL

1 USE OF A WEAPON, AND THE DEFENDANT INTENDS TO ADMIT THAT
2 HE HAS THESE THREE CONVICTIONS IN THE STATE OF ILLINOIS.

3 NOW, IN THE STATE OF ILLINOIS, ROBBERY IS
4 MISSING ONE OF THE ELEMENTS THAT CALIFORNIA HAS IN OUR
5 STATUTE, THE INTENT TO PERMANENTLY DEPRIVE. HOWEVER, THE
6 PEOPLE FEEL THAT THEY CAN PROVE THAT THE TWO ROBBERY
7 PRIORS ARE STRIKE PRIORS BECAUSE OF USE OF A WEAPON. ONE
8 OF THEM THE CONVICTION ITSELF WAS FOR ARMED ROBBERY. THE
9 SECOND ONE WASN'T, BUT THEY FEEL THAT THERE IS CERTAIN
10 LANGUAGE IN THE RECORD ITSELF THAT THEY CAN SHOW THAT
11 THERE IS CERTAINLY LAW ABOUT GOING BEHIND THE FACE OF THE
12 RECORD SO WE ARE DISPUTING THAT THEY'LL BE ABLE TO DO
13 THAT IN THIS CASE OR AT LEAST TO SHOW THAT THAT WAS A
14 ROBBERY CONVICTION WITHIN THE MEANING OF THE STATE OF
15 CALIFORNIA THAT THEY CANNOT PROVE THAT THERE WAS USE OF A
16 GUN. SO THAT IS BASICALLY GOING TO BE THE ISSUE. HE IS
17 GOING TO ADMIT THAT HE HAS SUFFERED THE CONVICTIONS, BUT
18 HE'S GOING TO BE ALLOWED TO CHALLENGE THIS PRIOR. THE
19 PEOPLE ARE GOING TO BE ALLOWED TO BRING FORTH THEIR PROOF
20 TO SHOW THIS, AND THEY WANT TO PUT IT OVER UNTIL WE CAN
21 DO THAT, OKAY.

22 WE WILL AGREE TO PUT THIS OVER SO THE PEOPLE
23 CAN TRY TO GET ANY MORE DOCUMENTS THAT THEY FEEL THAT
24 THEY CAN, AND THAT WE COULD HAVE THE ACTUAL ARGUMENTS ON
25 WEDNESDAY AS TO WHETHER OR NOT THERE IS SUFFICIENT PROOF
26 OF USE OF A GUN FOR THIS PRIOR SO THAT THE PEOPLE CAN
27 SHOW THAT HE HAS TWO STRIKE PRIORS, AND THAT IS BASICALLY
28 IT, AND I THINK THAT THE PEOPLE ALSO SAID THEY WERE GOING

1 TO ASK THE COURT FOR 31 YEARS TO LIFE IF THERE'S A
2 CONVICTION, AND IF THE ROMERO MOTION IS NOT GRANTED AND
3 THAT THEY'LL NOT PROCEED ON THE 11350 CASE, BUT THAT IS
4 FURTHER DOWN THE LINE.

5 THE COURT: OKAY, LET'S TAKE THE PLEA OF THE PRIORS,
6 AND THE GREAT STATE OF ILLINOIS, I THINK, WE HAVE FAX
7 MACHINE, THEY CAN FAX THE FILES HERE, CAN'T THEY?

8 MS. WIDMARK: YES.

9 THE COURT: OKAY.

10 MS. WIDMARK: YOUR TRUE NAME IS WILLIAM MILTON?

11 THE DEFENDANT: YES.

12 MS. WIDMARK: MR. MILTON, IT'S ALLEGED THAT YOU HAVE
13 TWO PRIOR CONVICTIONS PURSUANT TO 1170.8.12(A) THROUGH
14 (D), AND 667(B) THROUGH (I) OF THE PENAL CODE ON THOSE
15 PRIOR CONVICTIONS BEING STRIKE PRIORS B87CF242, AN ARMED
16 ROBBERY, CONVICTION DATE OF MAY 19, 1987, OUT OF LAKE
17 COUNTY, ILLINOIS; AND 87CF2412 THAT BEING A ROBBERY. IT
18 ALSO STATES THE SAME CONVICTION DATE IN LAKE COUNTY
19 ILLINOIS.

20 YOUR HONOR, IF I MAY HAVE A MOMENT?

21 THE COURT: YES.

22 MS. WIDMARK: DO YOU ADMIT THAT YOU'VE SUFFERED
23 THESE PRIOR CONVICTIONS PURSUANT TO PENAL CODE 1170.1?

24 MR. GOLUB: WITH THE CAVEAT THAT WE JUST WENT
25 THROUGH A MINUTE AGO.

26 THE COURT: YES.

27 THE DEFENDANT: YES.

28 MS. WIDMARK: THAT BEING THAT YOU CAN CHALLENGE

1 PURSUANT TO PEOPLE VS. ROMERO WITH THIS JUDGE AND TRY TO
2 CONVINCED THIS JUDGE TO STRIKE THE STRIKE, AND THAT
3 THERE'S THE ISSUE WITH REGARD TO THE 87CF241 CASE WITH
4 REGARD TO WHETHER IT'S AN ARMED ROBBERY FOR THE PURPOSE
5 OF A STRIKE?

6 THE DEFENDANT: YES.

7 MS. WIDMARK: THOSE ARE THE CAVEATS THAT WE'VE GOT
8 WITH REGARD TO THOSE, AND IF YOU ARE SENTENCED THAT WE
9 WOULD ASK FOR A SENTENCE OF NO MORE THAN 31 YEARS TO LIFE
10 AS OPPOSED TO 36 YEARS TO LIFE THAT YOU'RE ACTUALLY
11 ELIGIBLE FOR, AND THAT IF YOU WERE SENTENCED TO 31 YEARS
12 TO LIFE, WE WOULD DISMISS THE 11350.

13 OTHERWISE, WE'LL GO FORWARD ON THAT PENDING
14 CASE.

15 IS THAT YOUR UNDERSTANDING?

16 THE DEFENDANT: I UNDERSTAND.

17 MS. WIDMARK: ALSO AS TO THE ROBBERY 87CF242, DO YOU
18 ALSO ADMIT THAT PURSUANT TO PENAL CODE SECTION 667(A)(1)
19 THAT IT'S A SERIOUS FELONY, THAT IS, FIVE YEAR PRIOR.

20 DO YOU ADMIT THAT?

21 THE DEFENDANT: YES.

22 MS. WIDMARK: AFTER CONSULTING WITH YOUR LAWYER, DO
23 YOU ADMIT THAT?

24 THE DEFENDANT: YES.

25 MS. WIDMARK: WITH REGARD TO 93CF1236, THAT IS,
26 UNLAWFUL USE OF WEAPON BY A FELON WITH THE CONVICTION
27 DATE OF AUGUST 12, 1993, ALSO IN LAKE COUNTY, ILLINOIS
28 PURSUANT TO PENAL CODE SECTION 667.5(B). THAT'S THE ONE

1 YEAR PRIOR.

2 DO YOU ADMIT THAT PRIOR CONVICTION?

3 THE DEFENDANT: YES.

4 MS. WIDMARK: MR. MILTON, YOU HAVE THE RIGHT TO HAVE
5 A JURY TRIAL IN THESE PRIORS. IN OTHER WORDS, YOU HAVE
6 THE RIGHT TO HAVE THE SAME JURY TO COME BACK IN THIS
7 AFTERNOON AND TO HAVE THE PEOPLE PUT ON TESTIMONY OF
8 PROOF BEYOND A REASONABLE DOUBT THAT YOU'VE BEEN
9 CONVICTED OF THESE PRIORS. IN OTHER WORDS, WE MUST CALL
10 WITNESSES. YOU HAVE THE RIGHT TO CONFRONT AND
11 CROSS-EXAMINE THOSE WITNESSES. YOU HAVE THE SUBPOENA
12 POWER OF THE COURT AVAILABLE TO YOU AT NO COST. YOU HAVE
13 THE RIGHT TO REMAIN SILENT. IN OTHER WORDS, YOU HAVE THE
14 RIGHT TO TAKE THE STAND ON YOUR OWN BEHALF. THESE ARE
15 YOUR CONSTITUTIONAL RIGHTS. YOU HAVE THE RIGHT TO THEM.
16 YOU HAVE TO RIGHT TO A JURY TRIAL WITH REGARD TO THESE
17 PRIOR CONVICTIONS.

18 DO YOU WAIVE AND GIVE UP THESE RIGHTS?

19 THE DEFENDANT: YES.

20 MS. WIDMARK: DO YOU UNDERSTAND THOSE RIGHTS?

21 THE DEFENDANT: YES.

22 MS. WIDMARK: YOU ALSO HAVE THE RIGHT TO A COURT
23 TRIAL. THAT IS WHERE YOU COULD WAIVE THE JURY AND HAVE
24 ALL THOSE CONSTITUTIONAL RIGHTS APPLY TO A COURT TRIAL
25 WHERE THIS JUDGE WOULD DECIDE WHETHER YOU WERE ACTUALLY
26 CONVICTED OF THESE CRIMES.

27 DO YOU WAIVE AND GIVE UP YOUR RIGHT TO A
28 COURT TRIAL?

1 THE DEFENDANT: YES.

2 MS. WIDMARK: AND DO YOU UNDERSTAND WHAT A COURT
3 TRIAL IS?

4 THE DEFENDANT: YES, I DO.

5 MS. WIDMARK: DOES COUNSEL JOIN IN THE ADMISSIONS,
6 THE PLEA, AND STIPULATE THAT THERE'S A FACTUAL BASIS?

7 MR. GOLUB: YES.

8 THE COURT: ONE LAST THING THAT YOU DO HAVE DURING
9 THE TRIAL, YOU HAVE THE RIGHT TO TESTIFY OR REFUSE TO
10 TESTIFY.

11 THAT IS YOUR RIGHT; DO YOU UNDERSTAND THAT?

12 THE DEFENDANT: YES.

13 THE COURT: YOU'RE GOING TO GIVE UP THAT RIGHT AS
14 WELL?

15 THE DEFENDANT: YES.

16 THE COURT: OKAY.

17 MS. WIDMARK: AND, MR. MILTON, YOU HAVE THE RIGHT TO
18 HAVE THESE ISSUES DECIDED TODAY. DO YOU WAIVE AND GIVE
19 UP THAT RIGHT SO THAT THE CASE WILL GO OVER TO WEDNESDAY,
20 THE 13TH OF JANUARY TO HANDLE THIS ISSUE?

21 THE DEFENDANT: YES.

22 MS. WIDMARK: COUNSEL JOIN?

23 MR. GOLUB: YES.

24 THE COURT: THE DEFENDANT HAS KNOWINGLY,
25 INTELLIGENTLY WAIVED HIS RIGHT TO JURY TRIAL, RIGHT TO
26 CONFRONT AND CROSS-EXAMINE THE WITNESSES, THE RIGHT
27 AGAINST SELF-INCRIMINATION. THE ADMISSION OF THE PRIORS
28 APPEARS TO BE FREELY AND VOLUNTARILY MADE, AND THERE'S A

1 FACTUAL BASIS FOR THAT ADMISSION. OF COURSE, WITH THE
2 LITTLE EXCEPTION THAT I'LL RULE ON WEDNESDAY. SO WE WILL
3 ACCEPT THE ADMISSION OF THE PRIORS.

4 THE DEFENDANT IS ORDERED BACK TO THIS
5 DEPARTMENT WEDNESDAY MORNING AT 8:30.

6 THE DEFENDANT: OKAY.

7 THE COURT: OKAY, AND WHAT I'LL DO IS, YOU DON'T
8 HAVE TO COME BACK AT 1:30 I'LL JUST --

9 MS. WIDMARK: WE WILL.

10 THE COURT: IF YOU WANT THEN, YOU CAN TALK TO THE
11 JURORS ALSO, BUT I'LL EXCUSE THE JURORS AT 1:30 IF YOU
12 ARE NOT HERE.

13 MR. GOLUB: I DON'T NEED TO BE.

14 THE COURT: OKAY, THE DEFENDANT IS REMANDED.

15 (RECESS)

16 THE COURT: THIS IS PEOPLE VS. MILTON. WE'RE ALMOST
17 ALL HERE, BUT I DECIDED TO START TO TELL YOU FOLKS THE
18 ISSUE THAT YOU WERE GOING TO HAVE TO DECIDE WE JUST
19 SETTLED THAT ISSUE. THE LAWYERS AND THE DEFENDANT, WE
20 SETTLED THAT ISSUE SO YOU DON'T HAVE TO DECIDE IT, AND
21 I'M SORRY I MADE YOU COME BACK JUST FOR THAT, BUT NOW YOU
22 HAVE NOTHING TO DO. SO THANK YOU FOR COMING BACK. BUT,
23 YOU KNOW, IT'S IMPORTANT THAT YOU WERE HERE, AND YOU CAME
24 BACK BECAUSE IF IT WASN'T FOR YOU BEING HERE, THE THING
25 MIGHT NOT HAVE SETTLED SO WE DIDN'T HAVE TIME TO DO IT
26 THURSDAY ANYWAY. SO THANK YOU FOR THAT AND THANK YOU FOR
27 YOUR ATTENTION. THANK YOU. I'VE TOLD YOU ALL ALONG NOT
28 TO DISCUSS THE CASE WITH ANYBODY ELSE, BUT, WELL, THAT IS

1 NO LONGER THE CASE.

2 I THINK SOME OF THE LAWYERS MAY WANT TO TALK
3 TO YOU. IF YOU'D LIKE TO TALK TO THEM, FEEL FREE. I
4 RECOMMEND YOU DO TALK TO THEM. THEY ARE PRETTY GOOD
5 PEOPLE AND SOMETIMES THAT KIND OF THING HELPS, BUT IT'S
6 YOUR DECISION. YOU DON'T HAVE TO TALK. YOU CAN DO
7 WHATEVER YOU FEEL LIKE.

8 ONE LAST THING. THINGS HAVE CHANGED IN THE
9 LAST COUPLE OF YEARS FROM WHAT THEY USED TO BE. IT USED
10 TO BE A JUDGE GETS ASSIGNED TO JUVENILE AND THAT IS ALL.
11 IF HE GETS DONE EARLY, HE GETS TO GO HOME. THOSE DAYS
12 ARE LONG GONE, AND THE COURTS ARE PRESSED TO DO MORE AND
13 MORE WORK. AS A RESULT, WE HAVE TO HELP EACH OTHER. I
14 HAVE TO HELP THE ADULTS. THEY WILL HELP ME SOMETIMES.

15 NOW, ALL THE INJURIES ARE HERE. THE CASE IS
16 OVER. YOU GUYS CAN TALK TO ANYBODY OR DON'T HAVE TO TALK
17 TO ANYBODY. IT'S YOUR CHOICE. I THINK THE LAWYERS WOULD
18 WANT TO TALK TO YOU, BUT AS A RESULT, WE DON'T HAVE A
19 COMFORTABLE PLACE. ALL THE OTHER COURTROOMS, THEY HAVE
20 THEIR OWN JURY ROOM. IT MAKES THINGS A LITTLE BETTER.
21 YOU DON'T HAVE THAT, AND OF COURSE THIS ROOM IS A LITTLE
22 BIT SMALLER, BUT ANYWAY THANK YOU FOR YOUR JURY SERVICE,
23 AND YOU ARE EXCUSED.

24 I THINK YOU HAVE TO GO TO THE JURY ASSEMBLY
25 ROOM TO TELL THEM YOU'RE ALL DONE, BUT YOU'RE EXCUSED.
26 YOU'RE FREE TO GO, AND I HOPE YOU HAD A GOOD CHRISTMAS,
27 AND I HOPE YOU HAVE A GOOD NEW YEARS.

28 YOU'RE FREE TO GO.

(THE PROCEEDINGS WERE CONCLUDED.)

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1 CASE NUMBER: TA039953
2 CASE NAME: PEOPLE VS. MILTON
3 COMPTON, CALIFORNIA DECEMBER 30, 1998
4 DEPARTMENT SCQ HON. RON SLICK, JUDGE
5 REPORTER: YVETTE R. BURLEY, CSR #8343
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 DEFENDANT, WILLIAM MILTON, PRESENT IN COURT
10 REPRESENTED BY PAUL GOLUB, DEPUTY PUBLIC
11 DEFENDANT; BETH L. WIDMARK, DEPUTY DISTRICT
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE
13 STATE OF CALIFORNIA.
14

15 THE COURT: THIS IS PEOPLE VS. WILLIAM MILTON. THE
16 DEFENDANT IS HERE WITH HIS COUNSEL. THE DEFENDANT IS
17 HERE WITH HIS LAWYER, AND WE'RE HERE FOR A CONTINUATION
18 OF THE -- ACTUALLY IT'S A CONTINUANCE OF THE PRIORS
19 TRIAL.

20 MR. GOLUB: YES, YOUR HONOR.

21 MS. WIDMARK: I THINK IT'S ACTUALLY WE'RE JUST INTO
22 THE LEGAL ISSUE. THE JURY PART HAS BEEN COMPLETED, AND
23 WE'RE JUST INTO THE LEGAL ISSUE WITH REGARD TO ONE OF THE
24 STRIKES, ONE OF THE PRIOR CONVICTIONS WHETHER IT'S
25 ACTUALLY A STRIKE AND THEN THE SETTING OF ANY ROMERO
26 HEARING.

27 MR. GOLUB: WELL, WE'RE STILL ACTUALLY IN THE TRIAL
28 SINCE IT HAS BEEN SUBMITTED; RIGHT?

1 THE COURT: ANYWAY YOUR MOTION IS?

2 MS. WIDMARK: I SPOKE TO THE ILLINOIS AUTHORITIES.
3 THE PRIOR CONVICTION THAT WE'RE SEEKING IS AN ILLINOIS
4 PRIOR, AND I SPOKE TO THEM YESTERDAY. THEY HAVE FOUND
5 OUT THAT THAT PARTICULAR FILE IS STILL WITH THE COURT OF
6 APPEALS. FOR SOME REASON, IT SAT OVER THERE FOR YEARS.
7 THE GENTLEMAN I SPOKE TO HAS ORDERED IT FROM THE COURT OF
8 APPEALS. HE EXPECTS IT TO BE BACK IN LAKE COUNTY
9 DISTRICT COURT CLERK'S OFFICE BY MONDAY AND WITH FEDERAL
10 EXPRESS THE PAGES I NEED, WHAT I'VE REQUESTED, THERE'S
11 ABOUT 30 PAGES OF SENTENCE HEARING ON MAY 19, 1987, AND
12 THAT IS WHAT I'VE REQUESTED. I THINK THAT WILL PROVIDE
13 US WITH THE INFORMATION THAT WE NEED WITH REGARD TO THE
14 UNDERLYING FACTS OF THE CASE AND THEN WE WOULD BE GOING
15 THROUGH A LEGAL ARGUMENT WITH REGARD TO WHETHER THE COURT
16 CAN CONSIDER THAT.

17 THE COURT: YOU'RE ASKING FOR A CONTINUANCE TO WHAT
18 DATE?

19 MS. WIDMARK: LET'S GO TO -- WE HAD -- LET'S HOPE
20 FOR THE BEST. WE HAD THE 6TH?

21 THE COURT: MR. GOLUB, WE HAD THE 6TH.

22 MR. GOLUB: WE WILL SUBMIT, YOUR HONOR.

23 MS. WIDMARK: DOES HE WAIVE TIME UNTIL WEDNESDAY THE
24 6TH?

25 THE COURT: I DON'T THINK HE HAS TO. YOU KNOW, I
26 REALLY THINK THAT I'M AWARE OF THE 60-DAY SPEEDY TRIAL
27 RULE, AND HE'S HAD THAT, AND I THINK THAT EVEN THOUGH
28 THAT JURY IS A PART OF THAT DETERMINATION, THIS IS REALLY

1 A PART OF SENTENCING.

2 MR. GOLUB: WELL, I THINK IT'S ACTUALLY PART OF THE
3 COURT TRIAL. WE'RE NOT OPPOSING THE CONTINUANCE UNTIL
4 THE 6TH FOR THE PEOPLE TO GET THIS DOCUMENT, THESE
5 DOCUMENTS.

6 MS. WIDMARK: I AGREE PARTIALLY WITH THE COURT.
7 ACTUALLY THE TRIAL PART AS FAR AS WHETHER HE HAS SUFFERED
8 THIS CONVICTION AND WHETHER IT'S HIM HAS ALREADY BEEN
9 SETTLED BY HIS ADMISSION. SO, THEREFORE, THOSE TWO
10 ISSUES ARE SETTLED. NOW, WE'RE INTO MORE THE LEGAL
11 ISSUES, WHICH THE COURT WOULD DECIDE WE AGREED.

12 THE COURT: ANYWAY THE DEFENDANT IS ORDERED BACK TO
13 THIS DEPARTMENT JANUARY 6 AT 8:30.

14 MS. WIDMARK: HE WAIVES TIME JUST IN CASE?

15 MR. GOLUB: TO THAT DAY. I DON'T THINK HE WOULD
16 HAVE A PROBLEM WAITING UNTIL THAT DAY.

17 THE COURT: WAIVE TIME TO THAT DAY.

18 THE DEFENDANT: YES.

19 THE COURT: I THINK WHAT THE D.A. IS SAYING YOU HAVE
20 A RIGHT TO HAVE A HEARING TODAY, AND SHE'S ASKING YOU TO
21 GIVE UP THAT RIGHT SO IT WOULDN'T BE UNTIL JANUARY 6.

22 IS THAT OKAY?

23 THE DEFENDANT: THAT'S FINE.

24 THE COURT: OKAY.

25 MR. GOLUB: THANK YOU.

26 THE COURT: I'M NOT SURE THAT IS NECESSARY

27 MR. GOLUB: I THINK I MEAN COURT COULD FIND GOOD
28 CAUSE IN THE FACT THAT THERE IS SOME INFORMATION MISSING.

1 I THINK IT IS STILL PART OF THE TRIAL, BUT WE'RE NOT
2 OPPOSED --

3 THE COURT: OKAY.

4 MR. GOLUB: -- TO IT GOING OVER TO THE 6TH.

5 THE COURT: OKAY, THANK YOU.

6 THE DEFENDANT IS REMANDED.

7 (THE PROCEEDINGS WERE CONCLUDED.)
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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA JANUARY 6, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: A. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT NOT BEING PRESENT BUT REPRESENTED
10 BY COUNSEL, PAUL GOLUB, DEPUTY PUBLIC
11 DEFENDER; LILIANA GONZALEZ, DEPUTY DISTRICT
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE
13 STATE OF CALIFORNIA.
14

15 THE COURT: IN PEOPLE VERSUS MILTON, I JUST LEARNED THE
16 DISTRICT ATTORNEY IS SICK. WE'LL JUST TRAIL -- THE MINOR'S
17 OR THE DEFENDANT'S LAWYER IS PRESENT. DEFENDANT'S NOT.
18 WE'LL JUST TRAIL THE MATTER UNTIL TOMORROW UNTIL SHE GETS
19 BACK.

20 OKAY.

21 MR. GOLUB: THANK YOU.
22

23 (THE MATTER WAS CONTINUED TO
24 JANUARY 7, 1999 AT 8:30 A. M.
25 FOR FURTHER PROCEEDINGS.)
26
27
28

1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA JANUARY 7, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: A. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT NOT BEING PRESENT BUT REPRESENTED
10 BY COUNSEL, PAUL GOLUB, DEPUTY PUBLIC
11 DEFENDER; BETH WIDMARK, DEPUTY DISTRICT
12 ATTORNEY, REPRESENTING THE PEOPLE OF THE STATE
13 OF CALIFORNIA.
14

15 THE COURT: OKAY. IN THE CASE OF PEOPLE VERSUS MILTON,
16 I UNDERSTAND MR. MILTON MISSED THE BUS THIS MORNING.

17 MR. GOLUB: YEAH. ACTUALLY, IT APPEARS THAT HE WASN'T
18 ORDERED OUT OR SOMEHOW THEY LOST THE PAPER. HE IS NOT
19 SCHEDULED FOR TODAY AT ALL. SO WE'LL HAVE TO DO THIS -- IT
20 LOOKS LIKE WEDNESDAY IS THE FIRST AVAILABLE DAY.

21 THE COURT: NEXT WEDNESDAY?

22 MR. GOLUB: YEAH. THOUGH, THAT CAN BE -- RIGHT. IT
23 COULD BE A WILD DAY FOR US; BUT IF WE DON'T DO THIS IN THE
24 MORNING FIRST BEFORE WE START THE TRIAL, WHO KNOWS WHEN WE'RE
25 GOING TO GET TO DO IT?

26 MS. WIDMARK: WHAT WE'LL PROBABLY DO IS -- WE'VE GOT
27 ANOTHER CASE STARTING ON WEDNESDAY, MR. PAUL GOLUB AND I. SO
28 WE'LL PROBABLY GET SENT OUT FROM "A" AND THEN TALK TO THAT

1 JUDGE, START HANDLING THINGS TO START PICKING A JURY.

2 THE COURT: IF WON'T TAKE A LONG TIME, I WILL
3 ACCOMMODATE YOU.

4 MS. WIDMARK: THANK YOU, JUDGE. APPRECIATE THAT.

5 THE COURT: AT LEAST DO MY BEST TO ACCOMMODATE YOU.

6 OKAY. THEN MR. MILTON IS ORDERED OUT OF -- ORDERED
7 TO BE HERE ON THE -- JANUARY 13TH.

8 MR. GOLUB: THANK YOU.

9 MS. WIDMARK: THANKS, JUDGE.

10

11 (THE MATTER WAS CONTINUED TO
12 JANUARY 13, 1999 AT 8:30 A. M.
13 FOR FURTHER PROCEEDINGS.)

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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA JANUARY 13, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: P. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, PAUL
10 GOLUB, DEPUTY PUBLIC DEFENDER; BETH WIDMARK,
11 DEPUTY DISTRICT ATTORNEY, REPRESENTING THE
12 PEOPLE OF THE STATE OF CALIFORNIA.
13

14 THE COURT: I HAVE READ AND CONSIDERED THE -- THE PRIOR
15 MOTIONS, AND I ALSO READ THE RECENT PLEADINGS BY THE PEOPLE.
16 I JUST READ THAT TODAY, AND THEN I ALSO READ THE TRANSCRIPT
17 OF THE PROCEEDINGS THAT OCCURRED IN THE STATE OF ILLINOIS AS
18 TO THE ONE -- ONE OF THE ROBBERY PRIORS THAT IS ALLEGED OR
19 IT'S ARGUED BY THE PEOPLE THAT THE DEFENDANT WAS ARMED, THUS,
20 MAKING THAT A STRIKE.

21 YOU WISH TO BE HEARD?

22 MR. GOLUB: YES, YOUR HONOR.

23 THE COURT: IT'S THE PEOPLE'S MOTION. MAYBE -- WELL,
24 IT'S YOUR MOTION. YOU GO FIRST. GO AHEAD.

25 MR. GOLUB: OKAY.

26 I THINK THE CASES CITED IN MY BRIEF, YOUR HONOR,
27 MAKE IT CLEAR THAT IF IT WAS JUST THE NOTES IN THE PLEA
28 TRANSCRIPT THAT THE PEOPLE WERE RELYING ON, THAT WOULD BE

1 INSUFFICIENT AS A MATTER OF LAW. THE CASE I THINK IS RIGHT
2 ON POINT THERE; BUT NOW THE PEOPLE HAVE GOTTEN THE TRANSCRIPT
3 OF THE -- OF THE PLEA WHICH -- WHICH RAISES A DIFFERENT ISSUE
4 BECAUSE NOW THAT THEY HAVE A STATEMENT IN HERE FROM THE COURT
5 SAYING IN 87CF2401, THE MAY 11TH, 1987 OFFENSE THE DEFENDANT
6 ENTERED A PLEA OF GUILTY TO THE OFFENSE OF ROBBERY IS MORE
7 FULLY SET FORTH IN COUNT 2 THEREOF.

8 THEN THEY GO ON (READING:)

9 THE STIPULATED FACTS IN 241 INDICATED THE
10 VICTIM DOREN LEFT THE JEWEL-T COMPANY AFTER HE WAS
11 CASHING HIS CHECK. HE WAS STOPPED. MONEY WAS DEMANDED
12 FROM THE VICTIM BY WILLIAM MILTON, THE DEFENDANT WHO
13 POSSESSED THE HANDGUN. AND THE SUM OF \$338 WAS TAKEN
14 FROM THE VICTIM.

15 SO THAT'S, NOW, I THINK WHAT THE PEOPLE ARE RELYING
16 ON TO TRY AND GO BEHIND THE RECORD TO SHOW THAT THE ROBBERY
17 OFFENSE IS A STRIKE.

18 BASICALLY, I HAVE THREE THINGS I WANT THE COURT TO
19 CONSIDER. THE FIRST ONE, I THINK THE MOST IMPORTANT ONE, IS
20 THAT EVEN IN THAT STIPULATED FACTS, IT SAYS THAT THE
21 DEFENDANT POSSESSED A HANDGUN. DOES NOT SAY THAT HE USED A
22 HANDGUN. REMEMBER, THE -- IT'S PERSONAL USE THAT IS REQUIRED
23 IN ORDER TO MAKE THE CRIME A SERIOUS FELONY. AND IF I CAN
24 JUST GO TO --

25
26 (PAUSE.)

27
28 IT'S 1192.7(C)23 WHICH IS WHAT THE PEOPLE ARE

1 ARGUING WHICH MAKES THIS A STRIKE, ANY FELONY IN WHICH
2 DEFENDANT PERSONALLY USED A DANGEROUS OR DEADLY WEAPON. NO
3 ARGUMENT THAT THE GUN IS A DANGEROUS OR DEADLY WEAPON, AND
4 IT'S IN THE STIPULATED FACTS. IT JUST SAYS, "HE POSSESSED A
5 HANDGUN." THERE IS NO INDICATION THAT HE ACTUALLY PERSONALLY
6 USED IT, AND NOTHING IN THE FACTS THEMSELVES WHEREIN USE CAN
7 BE INFERRED.

8 SO THE FACT THAT HE WAS IN POSSESSION OF A HANDGUN,
9 IF WE'RE GOING TO ACCEPT THE STIPULATED FACTS AS GOING -- IF
10 WE CAN GO BEHIND THE ACTUAL CONVICTION ITSELF TO PROVE
11 FURTHER ELEMENTS, THAT'S STILL SIMPLY POSSESSION AND NOT --
12 NOT USE. AND I THINK IT'S USE THAT WE NEED, AND I'D ALSO
13 LIKE TO ARGUE THAT THE -- IN THIS CASE -- IT'S ALREADY IN MY
14 MOVING PAPERS; I AM JUST GOING TO GO OVER THAT VERY
15 QUICKLY -- IF IT WAS ASSAULT WITH A DEADLY WEAPON, YOU KNOW,
16 245(A)(1), WE'RE TRYING TO SHOW THAT IT'S EITHER ASSAULT WITH
17 A DEADLY WEAPON OR ASSAULT WITH INTENT TO COMMIT GREAT BODILY
18 INJURY, THAT'S THE KIND OF CASE THAT WE NEED TO GO BEHIND THE
19 RECORD IN, NOT IN A CHARGE LIKE THIS WHICH IS MORE ANALOGOUS
20 TO LIKE A 10851 OR MUNDANE BURGLARY AFTER 1982 WHERE WE HAVE
21 A SET CHARGE WHICH IS NOT A STRIKE. I DON'T BELIEVE IT'S
22 PROPER TO GO BEHIND THE RECORD TO SHOW THAT THE ORIGINAL
23 CHARGE WAS REALLY A ROBBERY OR -- OR SOME KIND OF ASSAULT
24 WITH A FIREARM OR SOMETHING LIKE THAT. I THINK WHERE THE
25 CHARGE ITSELF IS -- IS NOT A STRIKE I DON'T THINK WE SHOULD
26 BE ABLE TO GO BEHIND THE RECORD.

27 AND, FINALLY, THERE WAS -- USED TO BE A PROPOSITION
28 WITH -- WHERE THE LEAST ADJUDICATED ELEMENTS WERE THE -- THE

1 PROPER -- WERE THE PROPER ONES TO CONSIDER. AND THIS WOULD
2 NOT FALL IN THAT CATEGORY. IN OTHER WORDS, THIS WOULD NOT
3 BECOME A STRIKE; THOUGH, THERE IS A QUESTION AS TO WHETHER
4 THAT DOCTRINE IS STILL VIABLE WITH THE GUERRERO CASES. BUT I
5 THINK THE FIRST TWO POINTS ARE MUCH MORE VALID, ESPECIALLY
6 THE ONE ABOUT THE STIPULATED FACTS JUST SHOW POSSESSION OF A
7 HANDGUN AND NOT ACTUAL USE.

8 THE COURT: PEOPLE.

9 MS. WIDMARK: YES, YOUR HONOR. WE DO HAVE THE
10 TRANSCRIPT -- THE PEOPLE DO SUBMIT THAT -- THE CERTIFIED
11 DOCUMENTS. AND IF I MAY, YOUR HONOR, LET ME GO AHEAD AND
12 ADMIT THOSE INTO EVIDENCE, THE CERTIFIED DOCUMENTS SO THE
13 COURT WILL BE AWARE OF THEM. I HAVE AN 11-PAGE SET OF
14 DOCUMENTS WITH THE ILLINOIS DEPARTMENT OF CORRECTIONS AS
15 THE -- AS THE COVER PAGE.

16 MAY THIS BE MARKED PEOPLE'S NEXT IN ORDER FOR THE
17 TRIAL. I BELIEVE IT'S GOING TO BE NINE, BUT WOULD IT --

18 THE COURT: WE'LL FIND WHATEVER IT IS.

19 MS. WIDMARK: SHALL I GO AHEAD AND MARK THEM -- JUST
20 MARK THEM PEOPLE'S NO. 1 STARTING WITH THIS HEARING?

21 THE CLERK: WELL, NO. THEY HAVE TO BE --

22 THE COURT: WHATEVER THE NEXT NUMBER IS.

23 MS. WIDMARK: AND THE FOLLOWING SET OF DOCUMENTS WITH
24 THE NUMBERS 8 -- 87CF242 -- THESE ARE FROM THE CIRCUIT COURT
25 FROM LAKE COUNTY -- THREE-PAGE DOCUMENT, THE NEXT BEING
26 ANOTHER SET FROM LAKE COUNTY WITH THE CASE NO. 93CF1476 AND
27 THE NEXT, ALSO FROM LAKE COUNTY, 93CF1236.

28 MAY THESE BE ADMITTED INTO EVIDENCE, YOUR HONOR.

1 THE CLERK: SO THAT'S FOUR, BETH?

2 MS. WIDMARK: YES.

3 THE CLERK: THE NEXT IN LINE IS NO. 7.

4 MS. WIDMARK: BE NO. 7 --

5 THE CLERK: YEAH.

6 MS. WIDMARK: -- OR NO. 8?

7 THE COURT: SEVEN, NEXT -- NEXT, NO. 7.

8 MS. WIDMARK: OKAY. NUMBER -- I AM GOING TO GO AHEAD
9 AND MARK ON THESE, IF I MAY, YOUR HONOR. I'LL JUST PUT A
10 LITTLE MARK IN THE LEFT-HAND CORNER SEVEN, EIGHT, NINE AND
11 TEN. AND THEN I BELIEVE THE COURT HAS THE CERTIFIED COPY
12 ORIGINAL OF THE TRANSCRIPT, ALSO FROM LAKE COUNTY, DATED
13 MAY 19, 1987.

14 MAY THAT BE PEOPLE'S 11.

15 THE COURT: YES.

16 MS. WIDMARK: THANK YOU.

17

18 (MARKED FOR IDENTIFICATION,
19 PEOPLE'S 7, 8, 9, 10 AND 11,
20 11-PAGE SET OF DOCUMENTS, THREE-
21 PAGE DOCUMENT, SET OF DOCUMENTS,
22 TWO AND TRANSCRIPT.)

23

24 MAY EACH OF THESE BE ADMITTED INTO EVIDENCE?

25 THE COURT: YES.

26 MR. GOLUB: WELL, I'LL -- I'LL -- I'LL OBJECT, HEARSAY,
27 LACK OF FOUNDATION. I'LL SUBMIT.

28 THE COURT: OKAY. I'LL ACCEPT THEM IN EVIDENCE.

1
2 (RECEIVED IN EVIDENCE,
3 PEOPLE'S EXHIBITS 7, 8,
4 9, 10 AND 11.)
5

6 MS. WIDMARK: MAY I APPROACH.

7 THE COURT: YES.

8 MS. WIDMARK: THE PEOPLE SUBMIT THAT AS THE COURT WILL
9 BE ABLE TO SEE, THERE IS HANDWRITTEN NOTES IN LIKE A BLACK
10 TYPE FELT PEN. THE NOTES -- WHEN YOU LOOK AT THE JUDGE'S
11 SIGNATURE, THE NOTES APPEAR TO BE IN THE SAME PEN IN THE SAME
12 HANDWRITING AS THE JUDGE'S. AND NOW WE KNOW THOSE NOTES
13 REFLECT WHAT WAS GOING ON ON MAY 19TH, THE DATE OF THE
14 SENTENCING BECAUSE WE HAVE THE TRANSCRIPT OF THAT DATE.

15 WITH REGARD TO -- MR. GOLUB IS A VERY GOOD LAWYER.
16 I REMEMBER DURING THE TRIAL THINKING ABOUT HIS PARTICULAR
17 APPROACH, BUT IT IS ALSO AKIN TO HOW MANY ANGELS CAN DANCE ON
18 THE HEAD OF A PIN. HE IS VERY GOOD AT THE DETAILS. THE
19 PROBLEM IS IS THAT HIS CLIENT USED A GUN DURING A ROBBERY,
20 AND THAT IS SUFFICIENT FOR IT TO BE A STRIKE BY EVERY CASE
21 THAT WE CAN LOOK AT.

22 ALSO, WHAT -- WHAT I CODED IN MY REPLY WAS ON
23 PAGE 36 OF THE TRANSCRIPT -- WHEN YOU GO TO PAGE 40 OF THE
24 TRANSCRIPT, YOU HAVE THE JUDGE SAYING, STARTING AT LINE 22
25 IN 87CF241 "THE VICTIM DOREN WAS RIDING HIS BICYCLE. YOU --"
26 MEANING THE DEFENDANT "-- STOPPED HIM --" AND, AGAIN,
27 MEANING, BECAUSE THIS WAS THE TRIAL JUDGE WHO PRESIDED OVER
28 87CF242 WHERE THE DEFENDANT WAS FOUND GUILTY OF ARMED

1 ROBBERY, HE IS SAYING AGAIN, QUOTE, AT THE POINT OF A GUN YOU
2 TOOK ABOUT \$338 IN CASH FROM THIS INDIVIDUAL.

3 CLEARLY, COMMON SENSE TELLS US ALL THAT WHEN WE'RE
4 TALKING ABOUT SOMEBODY WITH THIS GUN DURING THIS ROBBERY,
5 WE'RE TALKING ABOUT SOMEBODY USING A GUN DURING A ROBBERY.
6 THAT'S THE ONLY THING THAT LOGIC CAN TELL US, AND THERE IS
7 CERTAINLY NO REASON THAT THIS DEFENDANT SHOULD NOT BE HELD
8 RESPONSIBLE AS THE LAW ALLOWS.

9 SO WE HAVE THE CERTIFIED DOCUMENTS, AND WE ALSO
10 HAVE THE TRANSCRIPT THAT MAKES IT VERY CLEAR THAT HE DID USE
11 A GUN DURING A ROBBERY. AND, THUS, IT'S A STRIKE.
12 OBVIOUSLY, THE SUPREME COURT IN FEBRUARY, 1998 IN THE WOODSELL
13 CASE, W-O-O-D-E-L-L, AS I HAVE CITED IS -- CALIFORNIA SUPREME
14 COURT -- IS TELLING THE LOWER COURTS THIS IS A SEARCH FOR THE
15 TRUTH, OKAY?

16 WE'RE NOT GOING TO GET ALL BOUND UP AS LONG AS
17 YOU'VE GOT TRUSTWORTHY INFORMATION. IN THAT CASE IT WAS A
18 FOREIGN PRIOR WHERE THEY WERE LOOKING TO SEE IF IT WAS --
19 ACTUALLY FELL WITHIN THE STRIKE LAW. IT WAS A FOREIGN PRIOR
20 THAT THE COURT ALLOWED THE -- THE FOREIGN APPELLATE COURT
21 TRANSCRIPT RENDITION OF THE FACTS TO BE USED BY THE JURY, AND
22 THAT'S TO DETERMINE WHETHER IT WAS A STRIKE OR NOT. CLEARLY,
23 THE SUPREME COURT'S TELLING US IT IS A SEARCH FOR THE TRUTH,
24 LET'S LOOK AT WHAT HE ACTUALLY DID, AND LET'S PUNISH HIM FOR
25 WHAT HE ACTUALLY DID. THE COURT DOESN'T FIND ANY DUE PROCESS
26 CONFRONTATION OR HEARSAY PROBLEMS WITH LOOKING AT THE RECORD.

27 COUNSEL TALKS ABOUT BEING ABLE TO LOOK BEHIND AND
28 TALKS ABOUT THE DISTINCTION BETWEEN THIS CASE AND AN A. D. W.

1 HOWEVER, COUNSEL CITED THE REED CASE, R-E-E-D. THAT CASE THE
2 COURT WAS TALKING ABOUT BEING ABLE TO LOOK BEHIND
3 SPECIFICALLY A SECOND DEGREE ROBBERY TO SEE IF IT WAS IN FACT
4 ONE WHERE A GUN WAS USED. AND THAT COURT HAD A PROBLEM
5 BECAUSE THE LOWER COURT WAS USING A PROBATION REPORT AND
6 SAID, "NO, YOU CAN'T DO THAT." BUT THE PROCEDURE BEING ABLE
7 TO LOOK BEHIND THE RECORD TO SEE IF THAT ROBBERY WAS ONE
8 WHERE A GUN WAS USED, YOU ARE ALLOWED TO LOOK AT THE RECORD.
9 THEY JUST DIDN'T LIKE PROBATION REPORTS FOR OBVIOUS REASONS.

10 THE LEWIS CASE CITED BY THE DEFENSE, THE COURT
11 DOESN'T HAVE ANY PROBLEM IN LOOKING BEHIND THE ACTUAL --
12 WHAT'S ACTUALLY ON THE SENTENCING DOCUMENTS TO SEE IF IT'S A
13 STRIKE OR TO SEE IF IT'S A SERIOUS FELONY. THE ONLY PROBLEM
14 IN THE LEWIS CASE WAS THEY WERE TRYING TO USE A PRISON RECORD
15 THAT WAS MADE TWO MONTHS AFTER THE JUDGMENT. AND THE COURT
16 SAYS, "NO. YOU'VE GOT TO LOOK AT THE DOCUMENTS LEADING TO
17 THE JUDGMENT." AND THAT'S CLEARLY WHAT WE HAVE DONE HERE.

18 WE'VE GOT THE TRANSCRIPT OF HIS SENTENCING, AND
19 WE'VE GOT THE DOCUMENTS OF HIS SENTENCING. AND AS FAR AS THE
20 PEOPLE ARE CONCERNED, IT'S TIED UP IN A RIBBON. AND THE
21 DEFENDANT MAY NOT BE HAPPY WITH WHAT'S INSIDE THE PACKAGE,
22 BUT IT'S HIS CREATION.

23 MR. GOLUB: JUST ONE SECOND, PLEASE, YOUR HONOR.

24
25 (A CONFERENCE WAS HELD BETWEEN COUNSEL.)

26
27 MR. GOLUB: YES, YOUR HONOR. IN -- WELL, TWO THINGS.
28 FIRST, IN THE -- AS TO THE JUDGE'S NOTES, THE LEWIS CASE

1 SPECIFICALLY TALKED ABOUT HOW YOU CAN USE JUST THE JUDGE'S
2 NOTES TO DECIDE BECAUSE IT'S NOT CLEAR WHETHER -- WHERE THEY
3 COME FROM.

4 NOW, THE ISSUE IN THE TRANSCRIPT IS DIFFERENT
5 BECAUSE WE HAVE THE ACTUAL TRANSCRIPT HERE. AND WE HAVE,
6 FIRST OF ALL, THE STIPULATED FACTS JUST TALKS
7 ABOUT HE WAS IN POSSESSION OF A GUN. THERE WAS NO USE OF A
8 GUN MENTIONED. AND THEN ON PAGE 40 OF THE TRANSCRIPT WHERE
9 HE GETS THESE FACTS, JUST LIKE IN THE LEWIS CASE WHERE THOSE
10 ARE HANDWRITTEN NOTES, WE DON'T KNOW WHERE HE GETS THOSE
11 FACTS FROM.

12 I DON'T BELIEVE IT'S PROPER TO USE THOSE. IN FACT,
13 IN TERMS OF STIPULATED FACTS, I AM NOT SURE WHO OR WHAT
14 STIPULATED TO ANYTHING; BUT EVEN IF THE COURT WANTED TO USE
15 THOSE FACTS, IT STILL ONLY SAYS, "POSSESSED A GUN." AND SO,
16 THEREFORE, I DON'T THINK THAT THE COURT CAN FIND THAT THERE
17 WAS PERSONAL USE OF A GUN WITHIN THE MEANING OF 1192.7(C)23
18 AND SHOULD NOT BE A STRIKE.

19 THE COURT: OKAY. I AM GOING TO MAKE THE -- FIRST, I
20 SEE NOTHING WRONG WITH GOING BEYOND THE -- BEYOND THE COURT
21 RECORD TO -- TO DETERMINE WHAT REALLY HAPPENED. AND IN DOING
22 THAT, I AM SATISFIED THAT THE DEFENDANT USED A GUN IN BOTH
23 THESE -- THESE PRIOR ROBBERIES. AND I AM -- I AM SATISFIED
24 THAT THEY'RE BOTH STRIKES. SO I AM GOING TO MAKE THAT
25 FINDING.

26 WHAT DO YOU WANT TO DO NOW?

27 MR. GOLUB: WELL, I BELIEVE WE TALKED ABOUT THE
28 PROCEDURE, IF THE COURT DID FIND THEM BOTH STRIKES, WE DID

1 WANT TO HAVE AN EXPERT APPOINTED AND PUT THIS MATTER OVER.
2 YOU THINK IT WOULD BE FIVE WEEKS TO BE SAFE? IT SHOULD BE
3 ABLE TO BE DONE IN FOUR WEEKS, BUT I JUST WANT TO MAKE IT A
4 FIFTH WEEK, JUST TO BE SAFE.

5 MS. WIDMARK: CAN'T WE DO IT IN THREE?

6 MR. GOLUB: WELL, WE CAN TRY IT IN FOUR, JUST TO MAKE
7 SURE. I WILL TRY IT IN FOUR WEEKS BECAUSE IT DOESN'T ALWAYS
8 QUITE HAPPEN AS QUICK AS WE LIKE.

9 THE COURT: WE GOT A COUPLE OF HOL -- HOW ABOUT THE 16TH
10 OF FEBRUARY?

11 MR. GOLUB: THAT SHOULD BE FINE.

12 THE COURT: WAIT A MINUTE. I SKIPPED A WEEK.

13 THE CLERK: YEAH. THE 11TH IS A COURT DAY.

14 MR. GOLUB: FOUR WEEKS FROM TODAY WOULD BE THE 10TH OF
15 FEBRUARY.

16 THE COURT: TENTH. OKAY, 10TH.

17 MR. GOLUB: WE CAN TRY THE 10TH. I WILL MAKE EVERY
18 EFFORT TO GET THAT -- TO GET THAT DONE.

19 THE COURT: DEFENDANT'S ORDERED BACK TO THIS DEPARTMENT
20 FEBRUARY 10TH --

21 MR. GOLUB: FOR SENTENCING.

22 THE COURT: -- FOR SENTENCING.

23 MR. GOLUB: AND, NOW, WE ACTUALLY GOT THE SECOND CASE
24 SENT UP HERE.

25 THE COURT: YOU WANT TO SET THAT FOR TRIAL ON THE --

26 MS. WIDMARK: TENTH.

27 THE COURT: -- 10TH?

28 MR. GOLUB: PROBABLY SHOULD MAKE IT ZERO OF TEN BECAUSE

1 I THINK EITHER WAY IT'S -- IT'S -- MAY GO AWAY, BUT WHETHER
2 OR NOT IT DOES --

3 THE COURT: OKAY, MR. MILTON, WHAT WE'RE TALKING ABOUT
4 IS YOUR SECOND TRIAL, THE TRIAL THAT YOU HAVE HERE PENDING.
5 YOU HAVE A RIGHT -- I BELIEVE TODAY IS THE LAST DAY. YOU
6 HAVE A RIGHT TO HAVE THE CASE TRIED TODAY.

7 MR. GOLUB: OR TOMORROW. I BELIEVE IT'S NEXT TO THE
8 LAST DAY.

9 THE COURT: TOMORROW.

10 AND YOU CAN HAVE THAT TRIAL IF YOU WANT -- IF YOU
11 WANT IT, AND IF THE TRIAL -- IF YOU WANT THE TRIAL AND WE
12 DIDN'T DO THE TRIAL, THEN THE CASE WOULD BE DISMISSED.

13 WHAT YOUR LAWYER IS ASKING IS THAT TRIAL TO GO OVER
14 TO FEBRUARY 10TH. IF IT GOES OVER TO FEBRUARY 10TH, WHAT I
15 AM ASKING YOU TO DO IS TO WAIVE TEN ADDITIONAL DAYS WHICH
16 MEANS THIS CASE CAN NOW -- COULD THEN BE BROUGHT TO TRIAL ON
17 FEBRUARY 10TH OR WITHIN TEN DAYS AFTER FEBRUARY 10TH.

18 DO YOU GIVE UP YOUR RIGHT TO A SPEEDY TRIAL TO THAT
19 EXTENT?

20 THE DEFENDANT: YEAH.

21 THE COURT: DEFENDANT'S ORDERED BACK TO THIS DEPARTMENT,
22 THEN, THE 10TH FOR TRIAL ON THE CASE NO. TA039734.

23 MR. GOLUB: THANK YOU.

24 THE COURT: OKAY. SEE YOU LATER.

25
26 (THE MATTER WAS CONTINUED TO
27 FEBRUARY 10, 1999 AT 8:30 A. M.
28 FOR FURTHER PROCEEDINGS.)

1 CASE NUMBER: TA039953
2 CASE NAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA FEBRUARY 11, 1999
4 DEPARTMENT 260 HON. RONALD SLICK. COMM.
5 REPORTER: CYNTHIA COSTELLO, CSR #10117
6 TIME: A.M. SESSION
7

8 APPEARANCES:

9 (THE DEFENDANT BEING PRESENT AND
10 REPRESENTED BY COUNSEL, DENNIS GOLUB,
11 ATTORNEY AT LAW; THE PEOPLE BEING
12 REPRESENTED BY DAVID NEWBARR, DEPUTY
13 DISTRICT ATTORNEY OF LOS ANGELES
14 COUNTY.)
15

16 THE COURT: THIS IS PEOPLE VERSUS WILLIAM
17 MILTON. DEFENDANT IS HERE WITH HIS LAWYER.

18 THE COURT: WHAT DATE DID YOU SAY?

19 MR. GOLOB: MARCH 4TH.

20 THE COURT: DEFENDANT IS ORDERED BACK HERE
21 MARCH 4TH FOR SENTENCING.

22 MR. MILTON, I DID RECEIVE SOME
23 DOCUMENTS THAT YOU WROTE TO ME. I WANT TO SHOW YOUR
24 LAWYER. THE PROPER TIME FOR ME TO READ THEM IS AT THE
25 TIME OF SENTENCING. AND I'LL LET YOUR LAWYER READ THEM
26 FIRST BEFORE I READ THEM.

27 MR. NEWBARR: HE NEEDS TO WAIVE TIME WITH
28 REGARD TO THE OPEN 11350.

1 THE COURT: THAT'S RIGHT.

2 MR. GOLOB: I THINK IT'S 0 OF 10.

3 THE COURT: THERE IS ANOTHER TRIAL PENDING.
4 WHAT'S THE CHARGE ON THAT?

5 MR. NEWBARR: IT'S AN 11350.

6 THE COURT: 11350, POSSESSION OF COCAINE.

7 MR. NEWBARR: AND IT WAS 0 OF 10 YESTERDAY.

8 THE COURT: YOU HAVE A RIGHT TO HAVE A TRIAL
9 ON THIS WITHIN TEN DAYS OF TODAY. IT MUST START WITHIN
10 TEN DAYS OF TODAY. WHAT YOUR LAWYER IS ASKING IS FOR
11 THAT CASE TO TRAIL OVER TO MARCH 4TH AS 0 OF 10, AND FOR
12 YOU TO GIVE UP YOUR RIGHT TO A SPEEDY TRIAL, SO THAT THE
13 TRIAL CAN START ON MARCH 4TH OR WITHIN TEN DAYS OF THAT
14 DATE.

15 ARE YOU WILLING TO GIVE UP YOUR RIGHT
16 TO A SPEEDY TRIAL?

17 THE DEFENDANT: YES.

18 MR. NEWBARR: IT'S ACTUALLY HE HAS A RIGHT TO
19 GO TO TRIAL WITHIN NINE DAYS OF TODAY.

20 THE COURT: ALL RIGHT. NINE DAYS FROM TODAY
21 INSTEAD OF TEN.

22 MR. NEWBARR: IT WAS 0 OF 10 YESTERDAY. IT
23 WILL BE 0 OF 10 ON MARCH 4TH --

24 MR. GOLOB: YES.

25 MR. NEWBARR: -- IS WHAT HE AGREED TO. THANK
26 YOU.

27 (END OF PROCEEDINGS.)

28

* * *

1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA MARCH 8, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: A. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, CELINE
10 BONILLO, DEPUTY PUBLIC DEFENDER; LILIANA
11 GONZALEZ, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: OKAY. THIS IS PEOPLE VERSUS WILLIAM MILTON.
16 OKAY. THE DEFENDANT'S HERE WITH HIS LAWYER.

17 I JUST OVERHEARD YOUR LAWYER TELLING YOU HOW --
18 THAT YOUR LAWYER THAT'S HANDLING THIS CASE IS ILL AND HE
19 NEEDS SOME MORE TIME, AND WHAT -- WHAT IS BEING ASKED OF YOU
20 IS TO CONTINUE THIS MATTER TO THE 17TH OF MARCH FOR
21 SENTENCING; BUT YOU HAVE TWO CASES. ONE CASE WE'LL JUST PUT
22 OVER TO MARCH 17, IF THAT'S OKAY WITH YOU, FOR SENTENCING.
23 THE OTHER CASE IS THE CASE THAT YOU ARE HERE FOR TRIAL.
24 THAT'S CASE NO. T. -- WHICH IS WHICH? THE CASE YOU'RE HERE
25 ON TRIAL IS TA039734.

26 TODAY IS THE THIRD DAY OF TEN, MEANING THE D. A.
27 HAS SEVEN DAYS LEFT TO BRING YOU TO TRIAL. WHAT YOUR LAWYER
28 IS REQUESTING AGAIN IS THIS MATTER -- THIS TRIAL GO OVER TO

1 THE 17TH, AND I AM ASKING YOU TO WAIVE TIME AGAIN SO THAT THE
2 17TH WILL BE ZERO OF TEN. IN OTHER WORDS, WHEN YOU COME BACK
3 ON THE 17TH FOR YOUR SENTENCING ON THE ONE CASE, THAT IT --
4 CASE WILL NOT GO TO TRIAL, THE PEOPLE WILL NOT HAVE TO BRING
5 YOU TO TRIAL UNTIL TEN DAYS AFTER MARCH 17TH.

6 IS THAT AGREEABLE WITH YOU?

7 THE DEFENDANT: YES, IT IS.

8 THE COURT: OKAY.

9 AND YOU CONSENT TO THE CONTINUANCE OF THE -- OF
10 YOUR SENTENCING UNTIL THAT DAY AS WELL?

11 THE DEFENDANT: YES, I DO.

12 THE COURT: DEFENDANT'S ORDERED BACK HERE MARCH 17 FOR
13 SENTENCING AND TRIAL.

14
15 (THE MATTER WAS CONTINUED TO
16 MARCH 17, 1999 AT 8:30 A. M.
17 FOR FURTHER PROCEEDINGS.)
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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA MARCH 17, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: P. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, PAUL
10 GOLUB, DEPUTY PUBLIC DEFENDER; STEVEN
11 DICKMAN, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: THIS IS PEOPLE VERSUS MILTON. HE IS HERE
16 WITH HIS DEFENDANT.

17 SIR, THIS CASE IS GOING TO BE CONTINUED. THE
18 LAWYERS HAVE AGREED TO CONTINUE THIS CASE TO MARCH 30TH FOR
19 TWO REASONS: I'VE GOT TWO CASES, AS YOU KNOW, WE TALKED
20 ABOUT IN THE PAST. ONE CASE IS FOR SENTENCING, AND WE'LL PUT
21 THAT OVER FOR MARCH 30. THE SECOND CASE IS HERE FOR TRIAL,
22 AND -- AND THAT'S WHAT WE TALKED ABOUT.

23 YOU HAVE A RIGHT TO HAVE THAT CASE TRIED TODAY OR
24 WITHIN TEN DAYS OF TODAY. WHAT I AM ASKING YOU AND THE
25 LAWYERS ARE ASKING YOU IS TO CONTINUE THIS TRIAL UNTIL
26 MARCH 30TH SO THE PEOPLE WILL HAVE TEN DAYS FROM MARCH 30TH
27 TO BRING THAT CASE TO TRIAL.

28 WILL YOU GIVE UP YOUR SPEEDY TRIAL RIGHTS TO THAT

1 EXTENT?

2 THE DEFENDANT: YES.

3 THE COURT: AND DO YOU ALSO CONSENT THAT THE SENTENCING
4 PUT OVER AS WELL TO MARCH 30TH?

5 THE DEFENDANT: YES.

6 THE COURT: YOU ARE ORDERED BACK TO THIS DEPARTMENT
7 MARCH 30 AT 8:30 IN THE MORNING.

8 MR. GOLUB: THANK YOU.

9 THE CLERK: ZERO OF TEN?

10 THE COURT: ZERO OF TEN.

11

12 (THE MATTER WAS CONTINUED TO
13 MARCH 30, 1999 AT 8:30 A. M.
14 FOR FURTHER PROCEEDINGS.)

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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA MARCH 30, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: A. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, ROBERT
10 HILL, DEPUTY PUBLIC DEFENDER; LILIANA
11 GONZALEZ, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: OKAY. WELL, LET'S JUST DO WILLIAM MILTON.
16 WILLIAM'S HERE WITH MR. HILL.

17 WOULD YOU STAND IN FOR MR. GOLUB?

18 MR. HILL: I WILL FOR TODAY ONLY.

19 THE COURT: OKAY.

20 WHAT'S HAPPENING IS THAT YOUR LAWYER GOT SENT OUT
21 OF THE BUILDING TO GO TO TRIAL AND HE'S STUCK AND HE HAS TO
22 DO THAT. SO HE WON'T BE BACK HERE UNTIL -- DID HE GIVE YOU
23 THE DATE?

24 MR. HILL: I DON'T HAVE A SPECIFIC DATE. I THINK THE
25 CLERK HAS --

26 THE COURT: MISS GONZALEZ, WILL YOU STAND IN FOR THE
27 D. A.'S OFFICE?

28 MS. GONZALEZ: SURE.

1 THE COURT: THE DATE IS?

2 THE CLERK: APRIL 14 ON BOTH MATTERS.

3 THE COURT: OKAY.

4 SO I AM GOING TO ORDER YOU BACK TO THIS DEPARTMENT
5 APRIL 14 --

6 THE CLERK: ZERO OF TEN ON THE OTHER.

7 THE COURT: -- AT 8:30.

8 NOW, YOU'RE COMING BACK FOR SENTENCING ON THE ONE
9 CASE. ON THE OTHER CASE YOU'RE COMING BACK FOR TRIAL.
10 TODAY -- THE D. A. HAS TEN DAYS TO GET YOU TO TRIAL FROM
11 TODAY OR DISMISS THE CASE, AND THEY'RE PREPARED TO DO IT IF
12 THEY HAVE TO; BUT WHAT YOUR LAWYER AND THE D. A. WANTS TO DO
13 IS PUT THIS THING OVER SO THEY'LL HAVE TEN DAYS FROM THE NEW
14 DATE TO GET YOU TO TRIAL OR DISMISS THE CASE.

15 DO YOU UNDERSTAND THAT?

16 THE DEFENDANT: YES.

17 THE COURT: DO YOU GIVE UP YOUR RIGHT TO A SPEEDY TRIAL
18 TO THAT EXTENT?

19 THE DEFENDANT: YES.

20 THE COURT: OKAY.

21 DEFENDANT'S REMANDED.

22

23 (THE MATTER WAS CONTINUED TO
24 APRIL 14, 1999 AT 8:30 A. M.
25 FOR FURTHER PROCEEDINGS.)
26
27
28

1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA APRIL 14, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: A. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, GREGORY
10 MCCAMBRIDGE, DEPUTY PUBLIC DEFENDER; LILIANA
11 GONZALEZ, DEPUTY DISTRICT ATTORNEY,
12 REPRESENTING THE PEOPLE OF THE STATE OF
13 CALIFORNIA.
14

15 THE COURT: WHY DON'T YOU --

16 THE CLERK: TERESA.

17 THE COURT: YEAH. LET ME -- LET ME -- WOULD YOU STAND
18 IN FOR THE -- FOR MR. GOLUB --

19 MR. MCCAMBRIDGE: WHO IS HE?

20 THE COURT: -- JUST TO CONTINUE THIS CASE? HE IS A
21 PUBLIC DEFENDER. CALLED ME --

22 MR. MCCAMBRIDGE: GOLUB?

23 THE COURT: GOLUB.

24 MS. GONZALEZ: AND MR. DICKMAN --

25 THE COURT: AND MR. --

26 MS. GONZALEZ: -- OR IS IT MISS WIDMARK?

27 THE CLERK: WIDMARK.

28 THE COURT: THIS IS WILLIAM MILTON.

1 MR. MILTON, WE'RE BACK HERE IN THE SAME SITUATION
2 WE WERE THE LAST TIME. AND YOU MUST BE SICK OF IT BY NOW AS
3 I AM SICK OF IT. YOUR LAWYER'S CALLED AND WANTS THE CASE
4 CONTINUED FOR A COUPLE WEEKS.

5 DO YOU WANT TO DO THAT?

6 THE DEFENDANT: SURE.

7 THE COURT: WHAT DATE IS IT?

8 THE CLERK: APRIL 26.

9 THE COURT: AS -- AS YOU STAND HERE TODAY, YOU HAVE
10 GOT -- YOU HAVE THE RIGHT TO HAVE ME SENTENCE YOU TODAY ON
11 YOUR CASE. YOU ALSO HAVE A RIGHT TO GO TO TRIAL TODAY OR
12 WITHIN TEN DAYS OF TODAY ON THAT SECOND CASE THAT YOU HAVE
13 PENDING.

14 DO YOU UNDERSTAND THAT?

15 THE DEFENDANT: YEAH.

16 THE COURT: AND IF I CONTINUE THIS CASE OVER TO THE
17 26TH, THEN THE TEN DAYS WILL START TO RUN ON THE 26TH. THE
18 PEOPLE WILL THEN HAVE TEN DAYS TO GET YOU TO TRIAL FROM THE
19 26TH OR DISMISS THE CASE.

20 YOU UNDERSTAND THAT?

21 THE DEFENDANT: YES, I DO.

22 THE COURT: DO YOU -- DO YOU GIVE UP YOUR RIGHT TO
23 SPEEDY TRIAL TO THAT EXTENT?

24 THE DEFENDANT: YES, I DO.

25 THE COURT: DEFENDANT'S ORDERED BACK TO THIS DEPARTMENT
26 APRIL 26 AT 8:30 FOR TRIAL AND SENTENCING.

27
28 (THE MATTER WAS CONTINUED TO

1 APRIL 26, 1999 AT 8:30 A. M.

2 FOR FURTHER PROCEEDINGS.)

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1 CASENUMBER: TA039953
2 CASENAME: PEOPLE VS. WILLIAM MILTON
3 COMPTON, CALIFORNIA APRIL 26, 1999
4 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
5 REPORTER: DOROTHY W. GRAVES, CSR #3123
6 TIME: A. M. SESSION
7

8 APPEARANCES:

9 DEFENDANT PRESENT WITH HIS COUNSEL, PAUL
10 GOLUB, DEPUTY PUBLIC DEFENDER; BETH WIDMARK,
11 DEPUTY DISTRICT ATTORNEY, REPRESENTING THE
12 PEOPLE OF THE STATE OF CALIFORNIA.
13

14 THE COURT: THIS IS WILLIAM MILTON. DEFENDANT'S HERE
15 WITH HIS LAWYER.

16 MATTER IS HERE FOR SENTENCING.

17 MR. GOLUB: YES, YOUR HONOR.

18 THE COURT: DO YOU HAVE A MOTION?

19 MR. GOLUB: YES, YOUR HONOR. WE WERE GOING TO REQUEST
20 UNDER PEOPLE VERSUS ROMERO THAT THE COURT CONSIDER STRIKING
21 ONE OF THE STRIKES. AS YOU KNOW, UNDER ROMERO THE COURT DOES
22 HAVE THE POWER TO STRIKE THE STRIKES, THE COURT CAN CONSIDER
23 VARIOUS REASONS AND THEN ON THE RECORD STATE WHY THE COURT IS
24 DOING SO.

25 MR. MILTON HAS TWO PRIOR STRIKE CONVICTIONS.
26 THEY'RE BOTH FROM THE SAME PERIOD OF TIME IN -- BACK IN
27 ILLINOIS MANY YEARS AGO, AND -- OKAY. HE HAD HIS TWO CRIMES
28 OF VIOLENCE. BOTH OCCURRED MANY YEARS AGO IN THE STATE OF

1 ILLINOIS. AND SINCE THEN HE DID HAVE TWO FELONY CONVICTIONS;
2 BUT THEY WERE EITHER FOR POSSESSION OF GUNS OR AMMUNITION, NO
3 OFFENSE INVOLVING MORAL TURPITUDE OR ACTUAL VIOLENCE. AND
4 THIS OFFENSE DID NOT ENCOMPASS ANY WEAPONS. IT WAS THROUGH
5 THE USE OF FORCE OR FEAR, BUT THAT WAS -- THAT WAS IT.

6 MR. MILTON HAS DONE THINGS WITH HIS LIFE. HE WENT
7 ON TO COMPLETE COLLEGE, AND HE DOES HAVE THE DEGREES. AND HE
8 DOES HAVE COPIES OF TRANSCRIPTS I WOULD LIKE TO SHOW -- I
9 BELIEVE I PREVIOUSLY SHOWN THEM TO COUNSEL.

10 MS. WIDMARK: YOU HAVE TOLD ME ABOUT IT.

11 MR. GOLUB: COUNSEL SAYS I HAVE TOLD THEM ABOUT IT, BUT
12 I HAVE NEVER SHOWN HER THOSE. AND HIS ROBBERY CONVICTIONS
13 WERE IN '87. HE WENT AND FINISHED -- WENT ON TO FINISH, GOT
14 AN A. A. DEGREE IN -- RIGHT. HE GOT -- HE COMPLETED ACTUALLY
15 BOTH AN A. A. AND A B. A. WHILE IN PRISON, AND IT JUST -- IT
16 WOULD SEEM A SHAME TO HAVE SOMEBODY WITH MR. MILTON'S
17 POTENTIAL SPENDING THE REST OF HIS LIFE IN PRISON.

18 IT -- HIS TWO CRIMES OF VIOLENCE, AGAIN, BOTH
19 HAPPENED IN 1987 AT -- EVEN THOUGH THERE WERE TWO SEPARATE
20 VICTIMS, THEY BOTH HAPPENED CLOSE IN TIME. AND THAT WAS --
21 AND THOSE WERE BOTH OF HIS STRIKES.

22 I BELIEVE MR. MILTON WANTS TO ADDRESS THE COURT AS
23 WELL. I AM JUST GOING TO HAND THE COURT SOME DOCUMENTS.

24

25 (A CONFERENCE WAS HELD BETWEEN COUNSEL
26 AND THE DEFENDANT.)

27

28 MR. GOLUB: SO HE'D LIKE TO EXPLAIN THESE DOCUMENTS TO

1 YOU BEFORE I ACTUALLY HAND THEM TO YOU.

2 THE COURT: YOU MAY DO SO.

3 GO AHEAD.

4 THE DEFENDANT: I HAVE SUBMITTED TO YOU --

5 THE COURT: I SHOULD SAY FOR THE RECORD -- WELL, I -- I
6 DID -- ARE YOU TALKING ABOUT THE LETTER?

7 THE DEFENDANT: RIGHT.

8 THE COURT: YOU DID SUBMIT ME A LETTER, EIGHT PAGES.
9 AND I DID READ IT.

10 MS. WIDMARK: YOUR HONOR, MAY I SEE THE LETTER. I HAVE
11 NOT SEEN THAT. MAY I APPROACH.

12 THE COURT: SURE.

13 MS. WIDMARK: THANK YOU.

14 THE COURT: GO AHEAD.

15 THE DEFENDANT: BASICALLY JUST WANT TO REITERATE SOME
16 THINGS THAT I HAD SUBMITTED TO YOU PREVIOUSLY. WRITTEN THEM
17 DOWN SO I WON'T FORGET THEM.

18 CONTRARY TO WHAT THE STATE'S ATTORNEY IS TRYING TO
19 SUGGEST ON -- MY RECORD -- RECORD -- EXCUSE ME; I AM A LITTLE
20 NERVOUS -- I WOULD LIKE TO TAKE THIS OPPORTUNITY TO ASK THIS
21 COURT TO PLEASE TAKE INTO CONSIDERATION SOME OF THE POSITIVE
22 THINGS I'VE DONE IN THE PAST. I HAVE DONE A LOT OF GOOD IN
23 MY PAST, AND I HAVE ACCOMPLISHED MANY THINGS.

24 WHEN I WAS SENT TO THE ILLINOIS DEPARTMENT OF
25 CORRECTIONS IN 1987, I WAS 20 YEARS OLD, A HIGH SCHOOL
26 DROPOUT AND HAD NO ACA -- ACADEMIC OR VOCATIONAL SKILLS; BUT
27 I DIDN'T JUST SIT AROUND IN THE PRISON SYSTEM AND DO NOTHING.
28 I AT LEAST TRIED TO UTILIZE MY TIME WISELY. WHAT MY ATTORNEY

1 WAS TRYING TO SAY IS THAT WHILE I WAS IN THE DEPARTMENT OF
2 CORRECTIONS I DID EARN A DEGREE IN '87, ASSOCIATE DEGREE IN
3 1989, A BACHELOR DEGREE IN 1992. I MAJORED IN SOCIAL SCIENCE
4 AND MADE THE DEAN'S LIST AT BOTH UNIVERSITIES. I ALSO
5 RECEIVED CERTIFICATES FROM THE ILLINOIS STATE BOARD OF
6 EDUCATION ACKNOWLEDGING MY COMPLETION OF 950 PROFICIENCY
7 HOURS OF HANDS-ON TRAINING IN GRAPHIC ARTS. HAVE ALSO TAKEN
8 COURSES IN AIDS AWARENESS AND OTHER COMMUNICABLE DISEASES.

9 I'VE WORKED WITH AGENCIES SUCH AS THE NORTH CHICAGO
10 DEVELOPMENTAL CENTER, THE CHILD AND FAMILY SERVICES OF
11 ILLINOIS, AUSCO GRAPHICS AND TAD TELECOMMUNICATIONS. AS I
12 STIPULATED PREVIOUSLY, LIKE I SAID IN THE CORRESPONDENCE I
13 HAVE SUBMITTED TO YOU, I ALSO HAVE DONE A VARIETY OF
14 VOLUNTEER WORK.

15 I CAME TO LOS ANGELES IN 1996 AFTER A FAILED
16 RELATIONSHIP AND THE DEATH OF MY FATHER. I WAS ALSO AN
17 ADDICT. FIGURED THAT A GEOGRAPHICAL CHANGE FROM ILLINOIS TO
18 CALIFORNIA WOULD BE AN AID TO MY RECOVERY FROM MY DRUG
19 ADDICTION, BUT I WAS WRONG. I DIDN'T KNOW ANY BETTER. I
20 ALSO CAME TO LOS ANGELES WITH INTENTIONS OF OBTAINING GAINFUL
21 EMPLOYMENT THAT WOULD ENABLE ME TO ASSIST MY MOTHER WITH HER
22 FINANCES AS WELL AS FINANCIALLY SUPPORT MY TWO KIDS. I HAVE
23 TWO BOYS, WILLIAM MILTON, JR., AGE 14 AND JUSTIN MILTON, AGE
24 FOUR.

25 I HAD MANAGED TO COMPLETE TRAINING PROGRAM IN
26 FIBER-OPTICS AND COPPER CABLE SPLICING AT MAXINE WATERS
27 COMMUNICATE -- COMMUNITY -- COMMUNITY VOCATIONAL TRAINING
28 CENTER. I STIPULATED THAT IN THE LETTER AS WELL, BUT THAT

1 WAS AS FAR AS IT GOT.

2 MY CRACK ADDICTION HAD PROGRESSED SO RAPIDLY THAT
3 NOTHING ELSE SEEMED TO MATTER TO ME. IT WAS AS THOUGH MY
4 EFFORTS OF BETTERING MYSELF BECOME A PRODUCTIVE CITIZEN OF
5 SOCIETY WERE FUTILE. I EVENTUALLY LOST EVERYTHING FROM
6 PERSONAL RELATIONSHIPS TO MY SELF-RESPECT. EVEN MY HEALTH
7 HAD BEGAN TO DETERIORATE. YOU TOOK A LOOK AT THE PICTURE
8 THAT WAS PRESENTED AT TRIAL BY THE STATE. I MEAN YOU CAN
9 EASILY CONCLUDE THAT THERE WAS -- SOMETHING -- THERE -- WAS
10 OR IS WRONG WITH ME. ALSO FOUND MYSELF WHERE MOST JUNKIES
11 HUNG OUT, IN THE STREETS. AND I REMAINED IN THE STREETS
12 UNTIL THE NIGHT OF SEPTEMBER 6, 1998.

13 NOW, A JURY SAYS THAT I AM GUILTY OF SECOND DEGREE
14 ROBBERY. I PERSONALLY FEEL, YOUR HONOR, THAT THE GUILTY
15 VERDICT THAT WAS REACHED BY THE JURY HAD A LOT TO DO WITH THE
16 ABSOLUTE FALSE STATEMENTS OFFICER HERRERA DELIBERATELY AND
17 MALICIOUSLY MADE UNDER OATH. I HAVE TO SAY THAT. IT WAS
18 UNFAIR. IT WAS ALSO UNFAIR, I FEEL, THAT THE STATE DID NOT
19 EVEN ATTEMPT TO NEGOTIATE WITH ME. I MEAN I WASN'T OFFERED A
20 NEGOTIATION PLEA, ALTERNATIVE, NOTHING.

21 EVEN DURING MY STAY AT THE CENTRAL REGIONAL
22 DETENTION FACILITY IN LYNWOOD I VOLUNTARILY A -- ATTENDED AND
23 COMPLETED CLASSES IN IMPROVED PARENTING AND PERSONAL
24 RELATIONSHIPS. I AM JUST HOPING THAT THIS, TOO, WOULD REVEAL
25 TO THIS COURT SOMETHING ABOUT MY CHARACTER AS WELL AS MY
26 WILLINGNESS TO SEEK HELP.

27 YOU HAVE THE COURT LETTERS AND -- FROM THE
28 INSTRUCTORS ALONG WITH CERTIFIED COPIES OF MY ACADEMIC

1 TRANSCRIPTS AND VOCATIONAL CERTIFICATE IN FRONT OF YOU. I AM
2 NOT A MENACE TO SOCIETY. I AM NOT A THREAT TO SOCIETY, AND
3 SOCIETY IS NOT AT RISK BY ME BEING ON THE STREETS. I AM NOT
4 AND NEVER HAVE BEEN INVOLVED WITH GANGS OF ANY KIND IN ANY
5 STATE NOR AM I AFFILIATE OF ANY EXTREMIST OR RADICAL GROUP OR
6 ORGANIZATION OF ANY TYPE IN ANY STATE.

7 NOT ONCE SINCE I HAVE BEEN APPEARING IN YOUR
8 COURTROOM HAVE I BEHAVED OR EVEN SPOKEN IN SUCH A WAY THAT
9 WOULD LEAD YOU TO BELIEVE THAT I AM THIS HORRIBLE, VIOLENT
10 CREATURE THAT THE STATE CONTENDS THAT I AM. AT TIMES WHEN I
11 DIDN'T AGREE WITH WHAT WAS BEING SAID OR A PARTICULAR RULING
12 DURING THE COURSE OF THIS TRIAL I REMAINED RESPECTFUL. I
13 HAVE NOT BEEN DISRESPECTFUL TOWARD ANYONE. I HAVE EXTENDED
14 MY FULL COOPERATION DURING THIS ENTIRE ORDEAL. I FEEL THAT
15 THAT HAS TO COUNT FOR SOMETHING.

16 YOUR HONOR, I WANT TO ALSO SAY THAT I AM TRULY
17 SORRY FOR ALL THAT HAS HAPPENED ON THE NIGHT OF SEPTEMBER 6
18 OF 1998. I AM TRULY SORRY FOR ALL THAT HAD HAPPENED TO
19 MR. AVILA AND TO MYSELF. I MEAN THAT GENUINELY AND
20 WHOLEHEARTEDLY. I AM SORRY FOR EVERYTHING. I NEED HELP FOR
21 A DRUG ADDICTION, NOT LIFE IN PRISON. PLEASE ALLOW ME THE
22 CHANCE TO PROVE MY INTEGRITY AGAIN. I ASK THAT THIS COURT
23 PLEASE CONSIDER THESE THINGS WHEN RENDERING ITS DECISION.
24 THANK YOU.

25 THE COURT: PEOPLE.

26 MS. WIDMARK: YES, YOUR HONOR.

27 I THINK MR. MILTON'S RECORD SPEAKS VERY CLEARLY
28 WITH REGARD TO GIVING -- GIVING HIM A CHANCE TO PROVE HIS

1 INTEGRITY. WHEN WE LOOK BACK AND WE TALK ABOUT ROMERO, THE
2 ROMERO COURT GAVE ALL COURTS THE ABILITY TO STRIKE A STRIKE;
3 BUT THE COURT WAS VERY, VERY CLEAR IN ROMERO THAT BEFORE A
4 STRIKE CAN BE STRICKEN THAT THE TRIAL COURT MUST FIT WITHIN
5 THE CONVENTIONAL SENTENCING GUIDELINES, CANNOT GO OUTSIDE
6 THAT.

7 IN OTHER WORDS, THE DEFENSE HASN'T SPOKEN ANYTHING
8 ABOUT THE RULES OF COURT. THAT'S WHERE WE START. WE LOOK AT
9 THE RULES OF COURT, AND WE LOOK AT RULE 421. AND WE SAY --
10 WELL, LET'S START WITH RULE 423. THAT'S THE NINE FACTORS IN
11 MITIGATION RELATING TO THE CRIME, SIX FACTORS RELATING TO THE
12 DEFENDANT. I HAVE FOUND NONE -- AND PERHAPS COUNSEL CAN
13 CORRECT ME. I HAVE FOUND NONE THAT PERTAIN TO THIS
14 INDIVIDUAL OR THIS CRIME.

15 WE LOOK AT RULE 421, THE CIRCUMSTANCES IN
16 AGGRAVATION, THERE APPEAR TO BE A NUMBER THAT APPLY TO THIS
17 DEFENDANT IN THIS CRIME. IN SUBSECTION A, THIS CRIME WE LOOK
18 AT THE VICTIM. WE SAY HE WAS PARTICULARLY VULNERABLE. THERE
19 WAS A 16-YEAR-OLD KID WALKING HOME AT NIGHT FROM HIS JOB. WE
20 LOOK AT THE CRIME, AND I BELIEVE WE CAN SAY THAT THERE WAS
21 SOME PLANNING INVOLVED.

22 MR. MILTON WAS STANDING UNDER A DARKENED -- EXCUSE
23 ME -- STREETLIGHT IN THE PATH OF THE VICTIM COMING HOME, AND
24 HE KNEW THE VICTIM. IN SPITE OF HIS TESTIMONY, HE KNEW THE
25 VICTIM. HE KNEW HIM FROM HIS WORK. HE KNEW THAT HE WORKED
26 AT THE HAMBURGER STAND. YET HE WAS WAITING FOR HIM, BEING A
27 PREDATOR JUST AS HE'S BEEN IN THE PAST.

28 WE LOOK AT SUBSECTION B OF RULE 421 OF THE RULES OF

1 COURT AND WE SEE A -- CIRCUMSTANCES RELATING TO THE
2 DEFENDANT: NO. 1, THAT HE'S BEEN A SERIOUS DANGER TO
3 SOCIETY; NO. 2, THAT HIS ADULT CONVICTIONS HAVE BEEN NUMEROUS
4 AND THAT HE HAS SERVED PRIOR PRISON TERMS. SINCE THERE ARE
5 NO MITIGATING CIRCUMSTANCES AND ONLY AGGRAVATING
6 CIRCUMSTANCES, THE PROBATION DEPARTMENT HAS SAID THAT HE IS
7 A -- AN INDIVIDUAL THAT DESERVES THE HIGH TERM.

8 FURTHERMORE, IN LOOKING AT THE CASE LAW, LOOKING AT
9 ROMERO, LOOKING AT PEOPLE VERSUS WILLIAMS WHICH IS A CASE OUT
10 OF NORWALK WHERE THE JUDGE STRUCK A STRIKE IN A DRIVING UNDER
11 THE INFLUENCE CASE -- AND JUSTICE MOSK, YOU KNOW, THE LIBERAL
12 MEMBER OF THE COURT, WAS PRETTY SEVERE IN HIS DISCUSSION WITH
13 REGARD TO THAT DECISION BY THE TRIAL COURT SAYING THAT YOU
14 CANNOT GO OUT OF THE SENTENCING SCHEME IN ORDER TO MAKE A
15 ROMERO DECISION. IT MUST BE WITHIN THE CONVENTIONAL
16 SENTENCING SCHEME. AND THE COURT OF APPEALS HAS BACKED THAT
17 NOTION IN PEOPLE VERSUS MCGLOTHIN. THAT WAS A ROBBERY
18 INVOLVING ELDERLY VICTIMS.

19 AGAIN, YOU MUST APPLY GENERALLY APPLICABLE
20 SENTENCING PRINCIPLES AND NOT GO OUTSIDE OF THAT. NOTHING
21 THAT THE DEFENSE HAS PRESENTED GOES TO THOSE GENERALLY
22 ACCEPTED SENTENCING PRINCIPLES AS LAID OUT IN THE RULES OF
23 COURT. WE HAVE TO LOOK AT THIS PARTICULAR CRIME IN THAT THIS
24 DEFENDANT, MR. MILTON HAS BEEN A THREAT TO THE COMMUNITY FOR
25 NOW OVER TEN YEARS. HE HAS CLEARLY BEEN A PREDATOR BOTH IN
26 THE STATE OF ILLINOIS AND NOW IN THE STATE OF CALIFORNIA,
27 HAVING HIS TWO ARMED ROBBERY CONVICTIONS IN 1987. AND THE
28 COURT HAS THE TRANSCRIPT THAT THE PEOPLE USED WITH REGARD TO

1 PROVING THAT BOTH OF THE ROBBERY CONVICTIONS WERE STRIKES.

2 AND LOOKING AT PAGE 41, THE JUDGE IN THAT
3 PARTICULAR CASE SENTENCING, JUDGE SAID SOMETHING THAT I THINK
4 APPLIES HERE TODAY, QUOTE, "I SEE NO REMORSE WITHIN YOU. I
5 SEE NOT EVEN AN IOTA OF FEELING THAT YOU WOULD TRY TO CONVERT
6 YOUR WAY TO THE STANDARDS AND RULES AND REGULATIONS WHICH
7 GOVERN SOCIETY ACCORDINGLY, NOTHING." CLEARLY THIS JUDGE WAS
8 QUITE PROPHETIC IN HIS REMARKS TO THE DEFENDANT.

9 HE SAYS, "EXTERIOR WISE YOU APPEAR AS AN INNOCENT,
10 PURE INDIVIDUAL; BUT WITHIN YOU YOU ARE DIABOLICAL. YOU ARE
11 AWESOME. YOU PUT OTHERS IN FEAR, AWESOME BECAUSE YOU HAVE A
12 GUN. NOW, THE IRONY OF THE SITUATION IS YOU WERE WORKING AT
13 THE TIME, TOO." SO IT DOESN'T MATTER THAT MR. MILTON HAS A
14 CHANCE, AND CLEARLY HE HAD A CHANCE. HE GOT HIMSELF
15 EDUCATED, AND HE HAD -- AND HE HAD OPPORTUNITIES. AND HE
16 CHOSE NOT TO FOLLOW THEM.

17 HE -- INSTEAD HE WANTS TO SIT HERE TODAY AND
18 PRESENT HIMSELF AS THE VICTIM AND PRESENT -- JUST AS HE DID
19 AT TRIAL, PRESENTING HIMSELF AS THE VICTIM OF SOME SORT OF A
20 PLOT WHERE EVERYBODY WAS LYING AND EVERYBODY WAS MISTAKEN AND
21 HE WAS THE INNOCENT MAN. HE WANTS TO AGAIN SAY THAT HE'S THE
22 VICTIM OF OFFICER HERRERA, OF THE PEOPLE NOT DOING A PLEA
23 BARGAIN WITH HIM -- CLEARLY HE IS NOT A CANDIDATE FOR SUCH A
24 DISCUSSION -- AND THAT HE IS A VICTIM TO HIS DRUG PROBLEM.

25 HE IS -- THE PEOPLE WOULD SUBMIT HE IS EXACTLY THE
26 TYPE OF INDIVIDUAL THAT BOTH THE PEOPLE OF THE STATE OF
27 CALIFORNIA AND THE LEGISLATURE WERE ENVISIONING WHEN ENACTING
28 THE THREE STRIKES LAW. THERE IS NO DOUBT -- THERE WAS NO

1 DOUBT TO THE JUDGE IN ILLINOIS OVER TEN YEARS AGO AND THERE
2 IS NO DOUBT TODAY THAT HE DID NOT GET LIFE IN PRISON, HE
3 WOULD AGAIN BE A PREDATOR AND BE PREYING UPON OTHER INNOCENT
4 MEMBERS OF THE COMMUNITY. AND WE'D ASK FOR THE COURT TO GO
5 AHEAD AND SENTENCE HIM WITHOUT STRIKING A STRIKE TO WHAT I
6 BELIEVE WAS DISCUSSED.

7 WE HAVE STRICKEN ONE OF THE FIVE-YEAR PRIORS. SO I
8 THINK IT IS AT THIS POINT 20 -- EXCUSE ME. THIRTY-ONE TO
9 LIFE IS THE CALCULATION, AND WE'D ASK THAT HE BE SENTENCED TO
10 THAT AMOUNT. HE HAS CLEARLY SPENT A GREAT DEAL OF TIME
11 EARNING THAT SENTENCE.

12 WE'D SUBMIT IT.

13 THE COURT: MR. GOLUB.

14 MR. GOLUB: YES, YOUR HONOR, JUST A COUPLE THINGS AS TO
15 THE CRIME ITSELF. DON'T BELIEVE THAT MR. AVILA IS
16 PARTICULARLY VULNERABLE UNDER THE STANDARDS. WE SAW HIM IN
17 COURT. HE WAS WELL OVER SIX FEET TALL. HE WAS A 16-YEAR-OLD
18 WHO WAS WORKING FULL-TIME. HE DID NOT APPEAR AS -- AS A
19 CHILD BUT BASICALLY AS A YOUNG ADULT, AND THERE WAS ALSO NOT
20 PLANNING IN THIS EVENT.

21 MR. MILTON WAS STANDING, BUT THERE IS NO EVIDENCE
22 THAT HE WAS STANDING THERE SPECIFICALLY WAITING TO ATTACK
23 MR. -- MR. AVILA OR ANYBODY ELSE WHO WAS WALKING BY. SO I
24 DON'T THINK THOSE TWO WOULD BE CIRCUMSTANCES IN AGGRAVATION.
25 AND, YES, THERE HAS TO BE SOME KIND OF MITIGATION BEFORE A
26 COURT WOULD STRIKE A STRIKE.

27 IN THIS CASE WE DO HAVE THREE -- THREE THINGS.
28 FIRST OF ALL, BOTH OF THE STRIKES, EVEN THOUGH THEY WERE

1 SEPARATE CASES, TOOK PLACE IN 1987. SO THEY'RE -- BOTH
2 OCCURRED AT A SIMILAR TIME, AND THEY BOTH OCCURRED MORE THAN
3 11 YEARS BEFORE THIS -- THIS OFFENSE OCCURRED. IN ADDITION,
4 MR. MILTON OUTLINES HIS DRUG ADDICTION BY HIS OWN STATEMENTS.
5 AND THAT HAS TO BE CONSIDERED OR SHOULD BE CONSIDERED BY THIS
6 COURT. AND, FINALLY, MR. MILTON HAS DONE SOMETHING WITH HIS
7 LIFE SINCE HIS STRIKES. HE WENT AHEAD AND GOT A COLLEGE
8 EDUCATION, AND HE DID ASK ME FOR THE COURT TO LOOK AT THESE
9 DOCUMENTS. FIRST THERE ARE TRANSCRIPTS. THEN THERE ARE SOME
10 CERTIFICATES, IF I CAN JUST --

11 THE COURT: YOU MAY APPROACH.

12 MR. GOLUB: AND I WILL SUBMIT, YOUR HONOR.

13
14 (PAUSE.)

15
16 MS. WIDMARK: YOUR HONOR, MAY I APPROACH, RETURN THIS TO
17 THE COURT.

18 THE COURT: SURE.

19 MS. WIDMARK: YOUR HONOR, MAY I SAY ONE THING ABOUT
20 COUNSEL'S STATEMENT.

21 THE COURT: YOU MAY.

22 MS. WIDMARK: NONE OF THE CIRCUMSTANCES IN MITIGATION
23 THAT COUNSEL JUST ENUMERATED ARE LISTED WITHIN RULE 423 THAT
24 I CAN SEE.

25 MR. GOLUB: BUT THEN, AGAIN, THOSE ARE JUST GENERAL
26 GUIDELINES. AND ANYTHING THAT SHOULD BE CONSIDERED
27 MITIGATION CAN BE BY THE COURT.

28 THE COURT: OKAY. INsofar AS THE ROMERO MOTION, I AM

1 GOING TO DENY YOUR MOTION. I -- I -- THERE IS NO MITIGATING
2 CIRCUMSTANCES THAT COME CLOSE TO THE AGGRAVATING
3 CIRCUMSTANCES, AND I REALLY -- I THINK IT WOULD BE AN ABUSE
4 OF DISCRETION TO DO OTHERWISE. SO I TEND TO DENY, AND YOUR
5 MOTION IS DENIED.

6 WISH TO BE HEARD ANY FURTHER ON SENTENCE?

7 MR. GOLUB: NO, YOUR HONOR.

8 THE COURT: PEOPLE.

9 MS. WIDMARK: NO, YOUR HONOR.

10 THE COURT: OKAY. I WILL SENTENCE HIM FOR THE ROBBERY
11 THAT OCCURRED IN -- SEPTEMBER 6, 1998 -- THAT'S COUNT 1 -- TO
12 THE TERM OF -- PRISON FOR THE TERM OF 25 YEARS TO LIFE.
13 AND -- AND FOR THE PRIOR, THE 667(A)(1) PRIOR, I AM GOING TO
14 ADD ON FIVE YEARS. AND I AM GOING TO STRIKE THE 667.5(B)
15 PRIOR, AND IT'LL BE A TOTAL TERM OF 30 YEARS TO LIFE.

16 I'LL ISSUE -- I'LL ORDER A \$200 RESTITUTION --
17 RESTITUTION FINE AND ANOTHER \$200 PAROLE VIOLATION FINE THAT
18 HE'LL PAY ONLY IF HE IS IN VIOLATION OF PAROLE, AND I WILL
19 STAY THAT. TOTAL TIME IS 30 YEARS.

20 SIR, YOU HAVE A RIGHT -- 30 YEARS TO LIFE.

21 YOU HAVE A RIGHT TO APPEAL.

22 MR. GOLUB: YOUR HONOR, I DO HAVE THE APPELLATE PAPERS
23 HERE. I WOULD LIKE TO LODGE THEM WITH THE CLERK.

24 THE COURT: YOU MAY DO SO.

25 YOU ALSO HAVE A RIGHT TO A FREE LAWYER ON APPEAL.

26 AND HE'S ENTITLED TO CREDITS IN THE AMOUNT --

27 MR. GOLUB: TWO HUNDRED THIRTY-THREE ACTUAL DAYS, YOUR
28 HONOR.

1 THE COURT: THAT'S WHAT I CALCULATED, ALSO. I DON'T
2 KNOW WHAT THE CREDITS ARE.

3 MS. WIDMARK: FIFTY PERCENT.

4 MR. GOLUB: IS IT 50?

5 MS. WIDMARK: YEAH.

6 MR. GOLUB: IT'S 50. AT LEAST ON STRIKE CASES IT'S 50
7 PERCENT. THERE IS --

8 MS. WIDMARK: NO WEAPON.

9 THE COURT: OKAY.

10 MR. GOLUB: RIGHT.

11 THE COURT: WELL, COMES TO -- I GIVE TWO DAYS CREDIT FOR
12 EVERY FOUR DAYS.

13 MR. GOLUB: SO I GET -- I GET 116, 233 WHICH IS 349.

14 THE COURT: YOU GET WHAT, NOW?

15 MR. GOLUB: TWO-THIRTY -- 233 ACTUAL DAYS, 116 DAYS OF
16 GOOD TIME-WORK TIME, 349 DAYS.

17 THE COURT: JUST A MINUTE.

18

19 (PAUSE.)

20

21 THE COURT: YEAH, THAT'S -- THAT'S RIGHT. NO, ACTUALLY,
22 YOU GET A HUNDRED -- YEAH, 116 -- 116 DAYS CREDIT AND A TOTAL
23 OF 345 -- 349 DAYS.

24 AND WE HAVE THE OTHER CASE, TOO, THE 11350.

25 AND YOU'RE MOVING TO DISMISS?

26 MS. WIDMARK: IN FURTHERANCE OF JUSTICE, 1385, WE ARE
27 MOVING TO DISMISS THE 11350. I DON'T KNOW THE CASE NUMBER,
28 IF THE COURT COULD TELL ME THAT.

1 MR. GOLUB: COULD WE AGREE TO WITHDRAW THE TRANSCRIPTS,
2 YOUR HONOR, THAT HE HANDED TO YOU?

3 THE COURT: YEAH.

4 MR. GOLUB: YEAH?

5 THE COURT: YES.

6 MR. GOLUB: THANK YOU.

7 THE COURT: AND IT'S CASE NO. TA039734.

8 MS. WIDMARK: THANK YOU, YOUR HONOR.

9 THE COURT: GOOD LUCK TO YOU, SIR.

10
11 (PROCEEDINGS CONCLUDED.)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SC "C" HON. ARTHUR M. LEW, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

WILLIAM MILTON,)

DEFENDANT.)

NO. TA039953

REPORTER'S
CERTIFICATE

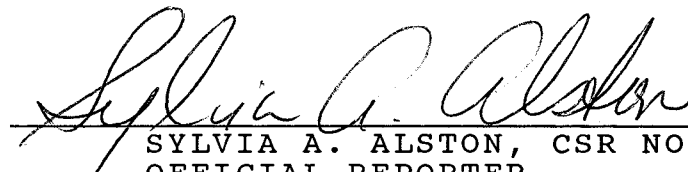
STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

SS

I, SYLVIA A. ALSTON, OFFICIAL REPORTER
OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY
THAT THE FOREGOING PAGES 1 THROUGH 3 COMPRISE A
FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS
HELD IN THE MATTER OF THE ABOVE-ENTITLED CAUSE ON
NOVEMBER 23, 1998.

DATED THIS 7TH DAY OF MAY, 1998.



SYLVIA A. ALSTON, CSR NO. 6236
OFFICIAL REPORTER

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES

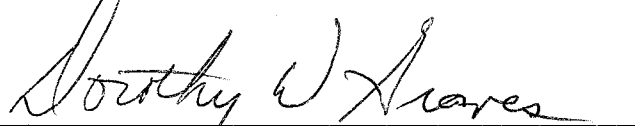
3 DEPARTMENT SCQ HON. RONALD J. SLICK, JUDGE PRO TEM
4

5 THE PEOPLE OF THE STATE OF CALIFORNIA,)
6)
7) PLAINTIFF,) SUPERIOR COURT
8)
9) VS.) NO. TA039953
10)
11) WILLIAM MILTON,)
12)
13) DEFENDANT.) REPORTER'S
14) CERTIFICATE
15)

16 STATE OF CALIFORNIA)
17) SS
18) COUNTY OF LOS ANGELES)

19 I, DOROTHY W. GRAVES, CSR #3123, OFFICIAL
20 REPORTER OF THE SUPERIOR COURT OF THE STATE OF
21 CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
22 CERTIFY THAT THE FOREGOING PAGES, 4 THROUGH 269, 347 THROUGH
23 360, 363 THROUGH 385, INCLUSIVE, COMPRISE A FULL, TRUE, AND
24 CORRECT TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS TAKEN IN
25 THE ABOVE-ENTITLED MATTER ON DECEMBER 15, 16, 17, 21, 1998,
26 JANUARY 6, 7, 13, MARCH 8, 17, 30, APRIL 14, 26, 1999.

27 DATED THIS 12TH DAY OF MAY, 1999.

28 
DOROTHY W. GRAVES, CSR #3123
OFFICIAL REPORTER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 206

HON. RONALD SLICK, COMM.

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
PLAINTIFF,)
)
VS.)
)
WILLIAM MILTON,)
)
DEFENDANT.)

NO. TA039953
REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)
) .SS
COUNTY OF LOS ANGELES)

I, CYNTHIA COSTELLO, CSR NUMBER 10117,
COURT REPORTER OF THE SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY
CERTIFY THAT THE FOREGOING PAGES, 361 THROUGH 362,
COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE
PROCEEDINGS AND TESTIMONY TAKEN IN THE ABOVE-ENTITLED
MATTER ON 11 FEBRUARY 1999.

DATED THIS 26TH DAY OF MAY 1999.



CYNTHIA COSTELLO, CSR NO. 10117

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SCQ

HON. RON SLICK, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)
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) PLAINTIFF,)
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) VS.)
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) 01 WILLIAM MILTON,)
)
) DEFENDANT.)

TA039953

STATE OF CALIFORNIA)
)
) SS
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) COUNTY OF LOS ANGELES)

I, YVETTE R. BURLEY, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
PAGES 270 THROUGH 327, ³²⁸ INCLUSIVE, COMPRISE A FULL, TRUE
AND CORRECT TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS
TAKEN IN THE ABOVE-ENTITLED MATTER ON DECEMBER 22, 1998.

DATED THIS 27TH DAY OF MAY, 1999.


YVETTE R. BURLEY, CSR #8343

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SCQ

HON. RON SLICK, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF,)

VS.)

TA039953

01 WILLIAM MILTON,)

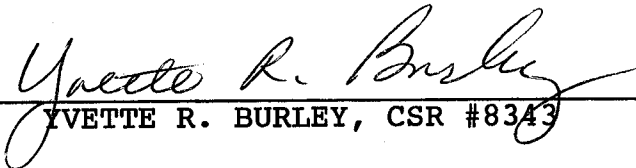
DEFENDANT.)

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

SS

I, YVETTE R. BURLEY, CSR #8343, OFFICIAL REPORTER
OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES 329 THROUGH 333 INCLUSIVE, COMPRISE A
FULL, TRUE AND CORRECT TRANSCRIPT OF THE TESTIMONY AND
PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER ON
DECEMBER 23, 1998.

DATED THIS 27TH DAY OF MAY, 1999.


YVETTE R. BURLEY, CSR #8343

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SCQ

HON. RON SLICK, JUDGE

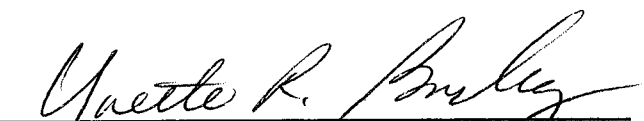
THE PEOPLE OF THE STATE OF CALIFORNIA,)
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) VS.)
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) DEFENDANT.)

TA039953

STATE OF CALIFORNIA)
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) SS
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) COUNTY OF LOS ANGELES)

I, YVETTE R. BURLEY, CSR #8343, OFFICIAL REPORTER
OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES 334 THROUGH 342 INCLUSIVE, COMPRISE A
FULL, TRUE AND CORRECT TRANSCRIPT OF THE TESTIMONY AND
PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER ON
DECEMBER 28, 1998.

DATED THIS 27TH DAY OF MAY, 1999.



YVETTE R. BURLEY, CSR #8343

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SCQ

HON. RON SLICK, JUDGE

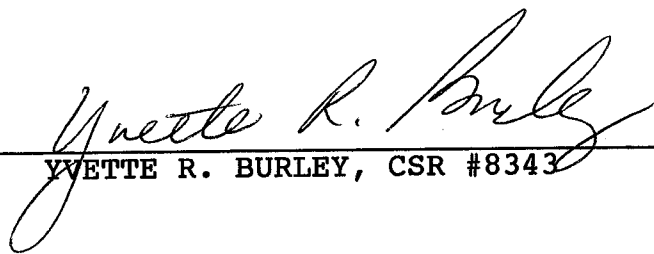
THE PEOPLE OF THE STATE OF CALIFORNIA,)
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) VS.)
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) 01 WILLIAM MILTON,)
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) DEFENDANT.)
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TA039953

STATE OF CALIFORNIA)
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) COUNTY OF LOS ANGELES)
) SS

I, YVETTE R. BURLEY, CSR #8343, OFFICIAL REPORTER
OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES 343 THROUGH 346, INCLUSIVE, COMPRISE A
FULL, TRUE AND CORRECT TRANSCRIPT OF THE TESTIMONY AND
PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER ON
DECEMBER 30, 1998.

DATED THIS 27TH DAY OF MAY, 1999.



YVETTE R. BURLEY, CSR #8343

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MAY 10 2000
LOS ANGELES
SUPERIOR COURT

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM MILTON,

Defendant and Appellant.

B131757

(Super. Ct. No. TA039953)

COURT OF APPEAL - SECOND DIST.

FILED

MAY 10 2000

JOSEPH A. LANE Clerk

Deputy Clerk

APPEAL from a judgment of the Superior Court of Los Angeles County.

Ronald J. Slick, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Peter A. Leeming, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, David P. Druliner, Chief Assistant Attorney General, Carol Wendelin Pollack, Senior Assistant Attorney General, John R. Gorey, Supervising Deputy Attorney General, and Renee Rich, Deputy Attorney General, for Plaintiff and Respondent.

RECEIVED
MAY 18 2000

William Milton appeals from the judgment entered following a jury trial resulting in his conviction of second degree robbery. In bifurcated proceedings, he admitted he had two prior Illinois convictions of robbery which were the predicates for a prior serious felony enhancement and sentencing under the Three Strikes law. He requested a court trial solely on the issue of whether the prior convictions constituted "serious" felonies within the meaning of Penal Code section 1192.7, subdivision (c). The court found his two Illinois convictions constituted "serious" felonies and he was sentenced under the Three Strikes law.

On appeal he contends: (1) the trial court abused its discretion by failing to impose sanctions for belated disclosure of a statement purportedly made by appellant; (2) the evidence is insufficient to show the Illinois convictions constituted "serious" felonies; (3) the court abused its discretion when it refused to strike prior convictions; (4) applying the Three Strikes law to appellant denied him his rights to due process under the federal and state constitutions; and (5) his term in state prison constitutes cruel and unusual punishment.

FACTS

A. Trial Evidence.

The trial evidence established, shortly after 1 a.m. on September 6, 1998, Juan Avila was walking up Figueroa Street from Century Boulevard in Los Angeles after getting off work at Tam's Restaurant. He lived near Figueroa and 76th Streets.

At 92nd and Figueroa Streets, Avila encountered appellant. Avila had seen appellant several times previously at Tam's Restaurant. Appellant was always peddling marijuana, which Avila refused. Previously, Avila had given appellant money since appellant was destitute. Appellant demanded money from Avila and behaved as if he

was armed with a weapon and took Avila's money from his pockets. Appellant also took a new pair of jeans Avila was carrying in a shopping bag.

After appellant emptied Avila's pockets, appellant proceeded southbound on Figueroa Street. Avila, who was frightened, obtained assistance from Rolando Camarillo, a security guard at a nearby apartment complex. Avila telephoned "911" from the apartment lobby and Los Angeles Police Officer Allen Shepherd and his partner arrived and took the robbery report.

Camarillo witnessed the robbery, but it took him a few minutes to realize one of the two persons across the street was being robbed.

Officer Jose Herrera and his partner got a description of the robber from Avila and drove southbound. They saw appellant walking westbound on 95th Street from Figueroa Street. They detained appellant. When Herrera asked appellant to put up his hands, appellant complied and volunteered, "Yeah, I did it," and laughed. No stolen property was found on appellant's person, or in the vicinity. Shepherd drove Avila to the detention site and Avila identified appellant as the robber.

After the arrest, Herrera described the events of the detention to Shepherd, who authored the police report. Herrera testified he told Shepherd about appellant admitting the robbery. Herrera was not a witness at the preliminary hearing, but reviewed the police report at that time. He did not mention to anyone Shepherd had omitted the admission from the police report. He told the prosecutor immediately before trial about appellant's admission.

Shepherd testified he did not put the volunteered statement into the police report. Shepherd said he did not recall Herrera telling him appellant had admitted the robbery. If Herrera had told him appellant made an admission, he would have put it into the report.

Appellant testified and claimed he received a \$20 bill from Avila to make a marijuana purchase. Appellant claimed he was off making the purchase for Avila when he was detained. Appellant denied the robbery and making the admission he committed the robbery.

B. Defense Request for a Sanction of Exclusion of Evidence For Belated Discovery.

Out of the presence of the jury, trial counsel asked the statement be excluded from evidence since it was not revealed to him until immediately before the trial. Trial counsel frankly stated the late disclosure was not deliberate. The prosecutor told him she became aware of the statement only belatedly.

The court held a brief hearing on the issue of the belated disclosure. The prosecutor told the court Herrera spontaneously disclosed the admission during her interview of him in preparation for trial. Herrera told her he did not recall if he told Shepherd about the admission or not. Herrera said he wasn't interviewed at the preliminary hearing and did not testify at the hearing.

Trial counsel advanced no reason for a sanction except the statement was disclosed belatedly and it was "unreliable." The prosecutor argued a sanction of exclusion was too severe under the circumstances.

The court refused to exclude the admission from evidence.

C. Court Trial On The Issue Of Whether The Illinois Convictions Constituted Serious Felonies.

During the bifurcated proceedings on the prior convictions, the prosecutor introduced into evidence a Penal Code section 969b prison package from the Illinois Department of Corrections. The abstracts of judgment in the package showed, in case No. 87CF241, appellant pled guilty to "robbery" on February 23, 1987 and, in case No. 87CF242, he was found guilty by a jury of "armed robbery" on April 22, 1987. He was sentenced to concurrent prison terms, respectively, of 7 years and 30 years.

The People also put into evidence a certified copy of the reporter's transcript for the sentencing proceedings of May 19, 1987, for case Nos. 87CF241 and 87CF242. In sentencing appellant, the Illinois court stated, in case No. 87CF241, appellant pled guilty

to robbery. The stipulated facts for that case were that appellant demanded and took money from the victim and appellant "possessed" a handgun. Later, in imposing sentence, the Illinois court observed in aggravation, in both offenses, appellant took money by pointing a loaded firearm at his victims.

During the current bifurcated trial, trial counsel claimed the offense of "robbery" in Illinois does not require an intent to permanently deprive and the People had not proved the robbery convictions were "California" robberies. Trial counsel also disputed the quality of proof showing the offenses were committed with the "use of a firearm" or the "use of a weapon" under Penal Code section 1192.7.

The Illinois court made a finding that appellant "used a gun" during both "robberies" and the prior convictions constituted "serious felonies" under Penal Code section 1192.7.

D. Sentencing Proceedings.

At sentencing, the court read and considered a probation report showing appellant was currently 32 years old. As a juvenile, he committed grand theft at age 17 and was confined in Juvenile Hall. In 1987, in Illinois, he was convicted of two counts of robbery and imprisoned for seven years. In 1993, in Illinois, he was convicted of two counts of the unlawful use of weapons by a felon and was committed to prison for three years. In 1997 he was convicted in California for possessing narcotic paraphernalia, a pipe, and jailed for two days. Also in 1997 he was convicted of petty theft and was convicted of an infraction. In 1998 he was arrested for petty theft. A bench warrant was outstanding after his 1998 arrest. The court noted during sentencing that appellant had a charge of possessing a controlled substance trailing the instant case. That offense was dismissed following sentencing in the current case.

Appellant requested the court strike the predicate convictions qualifying appellant for sentencing under the Three Strikes law. Trial counsel argued both prior "strike"

convictions arose from remote criminal episodes which occurred about the same time. Appellant was 20 years old when he committed the robberies. The offenses appellant committed in the last several years did not involve actual violence.

Appellant personally told the court he had accomplished a great deal after his Illinois prison commitment. He went to prison in 1987 as a high school dropout.¹ He earned an "A.A." and bachelor's degree in prison by 1992. He majored in Social Science and made the Dean's list. He completed a certificate for 950 hours of "hands-on" training in graphic arts. He later worked with such agencies as the North Chicago Developmental Center, the Child and Family Services of Illinois, Ausco Graphics and Tad Communications. He had done a variety of volunteer work. He had hoped when he moved to California the new environment would assist in his rehabilitation. He managed to complete a training program in Fiber-optics and copper cable splicing at Maxine Waters Community Vocational Training Center. Appellant then returned to "crack" addiction, which progressed rapidly, and he lost everything, including his health. He was out "on the streets" when he committed the current offense. Appellant told the court Officer Herrera's claims he admitted the robbery was a lie. The state never offered him a favorable plea bargain and he was forced to have a trial. He was not a threat to society. He was cooperative and respectful during the court proceedings. He had remorse. He needed help with his addiction, not a prison commitment.

The prosecutor argued appellant was the sort of offender for which the Three Strikes law was intended. The victim was age 16 and was walking home late at night from his employment. The victim was particularly vulnerable. The offense was planned. Appellant had served prior prison terms. All the factors were aggravating. To strike a prior conviction would be an abuse of discretion.

¹ This fact is contradicted by the 1987 Illinois sentencing proceedings in which appellant claimed he was a graduate of South Gate High School.

obtaining appellant's conviction. On this record, the trial court properly exercised its discretion by permitting the People to use the admission at trial. (*People v. Edwards* (1993) 17 Cal.App.4th 1248, 1263-1265; *People v. Jackson, supra*, 15 Cal.App.4th at pp. 1200-1204; *People v. Wimberly* (1992) 5 Cal.App.4th 773, 792-793.) Appellant never asked to continue the trial to prepare to meet the belatedly disclosed evidence. Appellant is required to ask for a continuance in the trial court to meet the evidence before he can successfully complain about belated discovery on appeal. (See *People v. Cummings* (1993) 4 Cal.4th 1233, 1326.)

II. APPELLANT HAD TWO QUALIFYING ILLINOIS CONVICTIONS.

Appellant contends his 1987 Illinois robbery conviction in case No. 87CF241 did not qualify as a "strike." We disagree.

The court properly found two "California" serious felony convictions. The court was entitled to look at the entire record of conviction to determine the substance of the foreign convictions. (*People v. Myers* (1993) 5 Cal.4th 1193, 1195; *People v. Hayes* (1992) 6 Cal.App.4th 616, 620-625 & fn. 6.) The abstract of judgment, the stipulated facts of the offense in question and the Illinois court's sentencing comments show appellant obtained the proceeds of both robberies by pointing and threatening the victims with a handgun. This evidence is sufficient to show appellant committed a "California" robbery in case No. 87CR241, as well as to show appellant committed "any . . . felony . . . with the use of a firearm."

The reporter's transcript of the sentencing proceedings was a certified copy from the pertinent court file in the Circuit Court of the Nineteenth Judicial Circuit in Lake County, Illinois. The Illinois court's comments at the 1987 sentencing proceedings constituted the Illinois judgment. These court proceedings were admissible as part of the "entire record" of appellant's conviction and since the oral proceedings of sentencing constituted the judgment. (Evid. Code, § 1280; *People v. Woodell* (1998) 17 Cal.4th 448,

454-455; *People v. Smith* (1988) 206 Cal.App.3d 340, 345-346.) Appellant had an opportunity to object to the Illinois court's sentencing comments during the sentencing proceedings and did not object to the findings of fact made by the court which showed a "use" of the firearm and a showing the taking of the property was with the intent to permanently deprive the victim of its ownership and possession. In these circumstances, the official stipulation of facts for the plea and the Illinois court's comments in aggravation at sentencing were sufficiently reliable to be used against appellant in the instant criminal proceedings. (*People v. Reed* (1996) 13 Cal.4th 217, 223-225; see also, *People v. Houck* (1998) 66 Cal.App.4th 350, 354-355; *People v. Lewis* (1996) 44 Cal.App.4th 845, 850-855.)

III. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY REFUSING TO STRIKE PRIOR CONVICTIONS.

The facts presented to the court at the bifurcated hearing on the truth of the prior convictions and at sentencing showed appellant was a serious recidivist. He was addicted to controlled substances and had done nothing over the years to rehabilitate himself. The current robbery was similar to his 1987 convictions, except on this occasion, he feigned the use of a deadly weapon or firearm. He again was using violence to steal to feed his addiction. He had additional felony convictions in Illinois for the unlawful use of a firearm. His 1987 robberies were not "remote" since there was no significant gap in his criminal conduct. Appellant had served two separate prison terms. The court properly exercised its discretion by examining the question of the appropriateness of appellant's sentence and considered his individual characteristics, his history, the facts of the current offense and the likelihood of rehabilitation. The court did not abuse its discretion by finding appellant was the sort of offender the Three Strikes law was designed to punish. (*People v. Williams* (1998) 17 Cal.4th 148, 158-161; see also, *People v. Garcia* (1999)

20 Cal.4th 490, 503; *People v. Superior Court (Romero)*, *supra*, 13 Cal.3d at pp. 529-531; *People v. Myers* (1999) 69 Cal.App.4th 305, 310.)

IV. SENTENCING APPELLANT UNDER THE THREE STRIKES LAW DID NOT VIOLATE DUE PROCESS.

Appellant makes a shotgun due process attack on the Three Strikes law. He complains he has a “due process right to the consistent and rational application of sentencing laws”; the district attorney pursues highly inconsistent charging practices that expose defendants to a risk of arbitrary enforcement; and “California law does not sufficiently protect persons facing a life sentence under the ‘three Strikes’ law from the risk of arbitrary imposition of that sentence.” He also complains the Three Strikes law is so draconian, it ““should trouble any thinking person,”” and he cites *People v. Andrews* (1998) 65 Cal.App.4th 1098, 1102, in which the court observed there is disparity from county to county as to how prosecutors implement the Three Strikes law. He also complains “the enormous variances between jurisdictions, when examined by the ‘amorphous’ standards set out for the review of convictions and governing the judicial power to strike a conviction under [Penal Code] section 1385, are insufficient to ensure rational and consistent application of the three strikes law.” He complains a statement of reasons is required when a court refuses to strike prior convictions.

We find no evidence in this record that the Three Strikes law was arbitrarily applied to appellant. If appellant wished to pursue a claim of varying punishment based on the county in which a three strikes offender is prosecuted, it was incumbent upon appellant to produce evidence of arbitrariness in the trial court or on appeal. (See *People v. McPeters* (1992) 2 Cal.4th 1148, 1170.) Appellant cannot obtain relief by merely citing this court to *People v. Andrews*.

That there is prosecutorial discretion to select those eligible cases in which a Three Strikes sentence is sought does not, in and of itself, evidence an arbitrary and capricious

punishment system or offend principles of equal protection, due process, or cruel and/or unusual punishment. (Cf. *People v. Lucas* (1995) 12 Cal.4th 415, 476-478; *People v. Keenan* (1988) 46 Cal.3d 478, 505.) Disparities in sentencing are an inevitable part of our criminal justice system under a properly channeled sentencing scheme. The disparities do not establish a constitutional violation. (*People v. Keenan, supra*, 46 Cal.3d at p. 506, citing *McCleskey v. Kemp* (1987) 481 U.S. 279, 307, 308 & fn. 28.) Appellant has not shown prosecutorial discretion exercised in his case was a matter of intentional and invidious discrimination and thus has not demonstrated a constitutional violation. (*Oyler v. Boles* (1962) 368 U.S. 448, 456; *People v. Keenan, supra*, 46 Cal.3d at p. 507.)

The Three Strikes law attempts to punish those felons who are “serious” or “violent” recidivists with doubled or life terms. Prosecutors and courts make reasoned attempts to apply the law fairly. The leniency a court can exercise under Penal Code section 1385 does not render the law arbitrary. Rather, its use permits the court and the People to eliminate the unfairness which might otherwise result from a rigid application of the law. The courts have set statewide guidelines for granting leniency. (See *People v. Williams, supra*, 17 Cal.4th at pp. 158-161.) Due process does not demand more, or that trial courts make a statement of reasons for refusing to exercise leniency. (See *People v. Gillispie* (1997) 60 Cal.App.4th 429, 433.)

V. A THREE STRIKES LIFE TERM PLUS FIVE YEARS FOR THE SERIOUS FELONY ENHANCEMENT DOES NOT CONSTITUTE DISPROPORTIONATE PUNISHMENT.

Appellant was a serious recidivist who had suffered previous similar convictions for robbery. There was no gap in his continuous criminal conduct. The only mitigating circumstance was appellant’s claim of his outstanding performance in obtaining a college degree while in prison. That mitigating factor was not sufficient to overcome the other

serious circumstances of his criminal history and the seriousness of the current robbery. On this record, we cannot say appellant's punishment was disproportionate. (*Harmelin v. Michigan* (1991) 501 U.S. 957, 965; *Rummel v. Estelle* (1980) 445 U.S. 263, 284; *People v. Dillon* (1983) 34 Cal.3d 441, 478; *People v. Cooper* (1996) 43 Cal.App.4th 815, 820; *People v. Kinsey* (1995) 40 Cal.App.4th 1621, 1630-1631; *People v. Cartwright* (1995) 39 Cal.App.4th 1123, 1134-1137.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

JOHNSON, Acting P.J.

We concur:

WOODS, J.

NEAL, J.

STATE OF CALIFORNIA
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA
Supreme Court of CaliforniaCase Name: **MILTON (WILLIAM) ON H.C.**Case Number: **S259954**Lower Court Case Number: **B297354**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **bradkaiserman@gmail.com**
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Title(s) of papers e-served:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

10/20/2021

Date

/s/Brad Kaiserman

Signature

Kaiserman, Brad (266220)

Last Name, First Name (PNum)

Brad K. Kaiserman, Esq.

Law Firm