

No. S270723

In the Supreme Court of the State of California

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,
v.
ANDRES QUINONEZ REYES,
Defendant and Appellant.

Fourth Appellate District, Division Three, Case No. G059251
Orange County Superior Court, Case No. 04CF2780
The Honorable Richard M. King, Judge

**EXHIBIT B PART 3 OF 3 IN SUPPORT OF RESPONDENT'S
REQUEST FOR JUDICIAL NOTICE**

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1 THE COURSE OF DELIBERATIONS. SO LET ME JUST ASK YOU A
2 COUPLE OF QUESTIONS.

3 WHAT WAS YOUR PLAN FOR TOMORROW?

4 WHEN WERE YOU GOING TO LEAVE FOR CORONA?

5 ALTERNATE JUROR #3: I HAD NO IDEA IF THE JURY WOULD
6 GET, YOU KNOW, THE DELIBERATIONS THIS EVENING OR NOT, OR
7 START IN THE MORNING. AND, OF COURSE, I HAD NO IDEA WHAT MY
8 ROLE WAS WHILE THEY WERE DELIBERATING. SO I'M SORT OF UP IN
9 THE AIR ABOUT IT.

10 THE COURT: HERE IS THE SITUATION: ONCE EVERYONE HEARS
11 THE LAST OF THE ARGUMENT, WHICH, QUITE HONESTLY, MR. GELLER
12 IS ESTIMATING AT 20 MINUTES -- BUT I KNOW HIM. HE'LL GO
13 HOME. HE'LL THINK ABOUT IT. HE'LL COME BACK AND PROBABLY
14 TALK FOR HALF AN HOUR. AND ONCE I FINISH THE LAST OF THE
15 INSTRUCTIONS, WHICH WILL TAKE ABOUT, NO MORE THAN TEN
16 MINUTES, AND THAT INCLUDES A CONVERSATION WITH THE
17 ALTERNATES, THE ALTERNATES WOULD BE RELEASED AND PLACED
18 ON-CALL. THERE WOULD BE NO RESTRICTION ON YOU. AND, OF
19 COURSE, I WOULD EXPECT THAT AS SOON AS YOU'RE RELEASED FROM
20 HERE TOMORROW MORNING YOU WOULD HEAD OUT TO ATTEND TO YOUR
21 PERSONAL MATTER.

22 THE QUESTION I HAVE FOR YOU IS WHETHER YOU WOULD
23 BE WILLING TO COME IN HERE TOMORROW MORNING AT NINE AND
24 PROBABLY BE OUT OF HERE NO LATER THAN TEN, AND THEN HIT THE
25 ROAD FOR CORONA. WOULD THAT BE SUFFICIENT?

26 ALTERNATE JUROR #3: ABSOLUTELY. THAT WOULD BE FINE.

1 THE COURT: ARE YOU PLANNING TO DRIVE WITH A WIFE OR
2 OTHER FAMILY MEMBERS?

3 ALTERNATE JUROR #3: NO, I WAS GOING BY MYSELF.

4 THE COURT: YOU'RE GOING BY YOURSELF. ALL RIGHT.

5 WILL YOU COME TOMORROW AT NINE O'CLOCK? AND, IN
6 THE UNLIKELY EVENT THAT IT APPEARS THAT WE HAVE TO GO PAST
7 TEN, I WILL STOP EVERYTHING AND WE'LL READDRESS THIS ISSUE.

8 ALTERNATE JUROR #3: I HAVE TOLD OTHERS THAT I'M ON A
9 JURY AND I DIDN'T KNOW WHAT THE SITUATION WOULD BE. AND,
10 YOU KNOW, I MIGHT BE THERE. I MIGHT BE LATE. I MIGHT NOT
11 BE THERE AT ALL. SO THEY'RE AWARE OF WHAT THE SITUATION IS.
12 SO I'LL JUST GO ALONG WITH, YOU KNOW, WHATEVER WORKS BEST
13 FOR THE COURT.

14 THE COURT: I WANT YOU TO BE ABLE TO ATTEND THIS. IT'S
15 AN IMPORTANT THING IN YOUR LIFE. SO I WANT TO WORK WITH YOU
16 TO THAT EXTENT.

17 BUT DO YOU THINK TWO HOURS WOULD BE ENOUGH TO GET
18 YOU THERE?

19 ALTERNATE JUROR #3: I THINK TWO HOURS WOULD BE MORE
20 THAN SUFFICIENT. I DON'T THINK THE TRAFFIC WOULD BE VERY
21 HEAVY. I THINK I COULD GET THERE, YOU KNOW, IN AN HOUR AND
22 A HALF OR SO.

23 THE COURT: ALL RIGHT. WE'LL SEE YOU TOMORROW MORNING
24 AT NINE. AND I WILL MOVE HEAVEN AND EARTH TO START ON TIME.
25 AND I'LL SHOOT MR. GELLER A FEW DIRTY LOOKS SO HE'LL KEEP
26 HIS ARGUMENT TO A MINIMUM.

1 ALTERNATE JUROR #3: THANK YOU. I APPRECIATE THAT.

2 THE COURT: OKAY. HAVE A GOOD EVENING.

3 (PAUSE IN PROCEEDINGS.)

4 THE COURT: THE JUROR HAS LEFT.

5 AT SIDEBAR, MR. BROTT, YOU INDICATED TO ME THAT
6 YOU HAVE AN OBLIGATION AT HARBOR COURT TOMORROW. HOWEVER,
7 WE HAVE TO GET THIS TRIAL TO CONCLUSION TOMORROW MORNING
8 FIRST THING. SO I AM ORDERING YOU TO BE PERSONALLY PRESENT
9 HERE AT NINE A.M.

10 MR. BROTT: I'LL BE HERE.

11 THE COURT: IF YOU NEED ME TO TALK TO ANYONE AT HARBOR
12 COURT, ANYONE WHO LIKES ME, THEN I'D BE HAPPY TO DO THAT.

13 MR. BROTT: HOW ARE YOU AND JUDGE ROBISON GETTING
14 ALONG?

15 THE COURT: GREAT. PERFECTLY.

16 MR. BROTT: GREAT.

17 THE COURT: OKAY. WE'RE IN RECESS.

18

19 (EVENING RECESS.)

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FINAL INDEX

CLOSING ARGUMENTS OF COUNSEL:

BY MR. GELLER..... 568

1 SANTA ANA, CALIFORNIA - TUESDAY, JUNE 6, 2006

2 MORNING SESSION

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4
5 (THE FOLLOWING PROCEEDINGS WERE HAD IN
6 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

7 THE COURT: WE'RE ON THE RECORD IN PEOPLE VS. REYES,
8 CASE NUMBER 04CF2780. RECORD SHOULD REFLECT DEFENDANT IS
9 PRESENT WITH COUNSEL, AND THE PEOPLE ARE REPRESENTED.

10 I JUST CONFERRED WITH COUNSEL INFORMALLY OFF THE
11 RECORD TO ADVISE YOU, GENTLEMEN, THAT WE HAD RECEIVED A
12 TELEPHONE MESSAGE FROM JUROR NO. 1 THAT SHE HAD BEEN IN,
13 WHAT SHE DESCRIBED AS, A "VERY BAD CAR ACCIDENT" AND THAT
14 SHE SIMPLY COULDN'T GET TO COURT. SHE DID LEAVE A CELL
15 PHONE NUMBER. MY CLERK HAS CALLED HER BACK AND ATTEMPTED TO
16 ASCERTAIN WHETHER SHE WAS INJURED, AND CAN ONLY DETERMINE
17 FROM THE CONVERSATION THAT SHE'S VERY SHAKEN UP.

18 THE CLERK: YES, VERY. I COULDN'T GET HER TO SAY
19 WHETHER SHE WAS GOING TO THE HOSPITAL OR WHAT WAS HAPPENING.
20 SHE JUST KEPT SAYING, "IT'S REALLY BAD."

21 THE COURT: SO THAT'S ALL THE INFORMATION WE HAVE.

22 AND IT IS MY INFORMATION THAT COUNSEL WILL
23 STIPULATE TO EXCUSE JUROR NO. 1 AT THIS TIME AND TO REPLACE
24 JUROR NO. 1 WITH ALTERNATE NO. 1.

25 IS THAT CORRECT, MR. BROTT?

26 MR. BROTT: YES.

LYNN O. PETERSON, OFFICIAL COURT REPORTER

1 THE COURT: AND, MR. GELLER?

2 MR. GELLER: YES.

3 THE COURT: ANYTHING EITHER ONE OF YOU NEED ON THIS
4 POINT ON THE RECORD?

5 MR. BROTT: NO.

6 MR. GELLER: NO.

7 THE COURT: ALL RIGHT. NOW WE CAN BRING THE JURORS IN.

8 (PAUSE IN PROCEEDINGS.)

9 (THE FOLLOWING PROCEEDINGS WERE HAD IN
10 OPEN COURT IN THE PRESENCE OF THE JURY:)

11 THE COURT: GOOD MORNING. WE ARE RESUMING WITH THE
12 JURY IN PEOPLE VS. ANDRES REYES, CASE NUMBER 04CF2780.
13 RECORD SHOULD REFLECT THAT MR. REYES IS PRESENT WITH HIS
14 ATTORNEY, MR. BROTT. THE PEOPLE ARE REPRESENTED BY
15 MR. GELLER. AND FOURTEEN JURORS HAVE RETURNED TO THE
16 COURTROOM AT THIS HOUR.

17 LADIES AND GENTLEMEN, JUROR NO. 1 HAS EXPERIENCED
18 AN EMERGENCY THAT PREVENTS HER FROM CONTINUING WITH THE
19 TRIAL, AND SO WE'RE GOING TO BE CHANGING YOUR SEATING A
20 LITTLE BIT.

21 ALTERNATE NO. 1, YOU'RE NOW SEATED AS JUROR
22 NO. 1. I'LL ASK YOU TO TAKE THAT SEAT AT THE OPPOSITE END
23 OF THE ROW YOU'RE IN. TAKE THE SEAT CLOSEST TO ME.

24 ALTERNATE NO. 2, WOULD YOU BE KIND ENOUGH TO MOVE
25 ONE ROW UP, SO THAT ALTERNATE NO. 3 CAN NOW JOIN US IN THE
26 JURY BOX.

1 YOU'RE ACTUALLY GOING TO DISCOVER THAT YOU WERE
2 PROBABLY IN A MORE COMFORTABLE CHAIR THAN YOU ARE NOW.

3 AND JUROR NO. 7 HAS WHEELS ON HER CHAIR. THE
4 REASON IS WE'VE BEEN REMODELING THE COURTHOUSE, STARTING
5 WITH THE TOP FLOOR. WE DID THE 11TH FLOOR FIRST WHERE I WAS
6 BEFORE. AND THEN WE DID THE 10TH FLOOR, 9TH. WE JUST
7 FINISHED THE 8TH. I THINK THEY'RE WORKING ON THE 7TH NOW.

8 AND ONE OF THE REASONS FOR THE REMODEL, I HATE TO
9 SAY, WAS TO RELIEVE THE BUILDING OF ANY ASBESTOS CONTENT.
10 BUT IT ALSO TO MAKE THE COURTROOMS MORE A.D.A. APPROVED AND
11 ACCESSIBLE FOR HANDICAPPED PERSONS, WHICH IS WHY YOU NOTICE
12 WE HAVE A WITNESS BOX THAT'S NOW FLUSH WITH THE FLOOR. IT
13 USED TO BE THAT YOU HAD TO TAKE TWO OR THREE STEPS UP TO GET
14 INTO THE WITNESS BOX. IT'S NOW FLUSH WITH THE FLOOR. AND
15 THAT SEAT, NO. 7, CAN BE REMOVED TO ACCOMMODATE A
16 WHEELCHAIR.

17 BELIEVE IT OR NOT, THIS AISLEWAY -- AND I DO FIND
18 IT HARD TO BELIEVE -- IS EXACTLY WIDE ENOUGH TO PERMIT A
19 WHEELCHAIR TO COME INTO THE COURTROOM. BEFORE THAT WE HAD
20 TO TAKE TESTIMONY FROM DISABLED PERSONS WHILE THEY WERE
21 SEATED OVER AT THE BAR, RATHER THAN BRINGING THEM TO THE
22 WITNESS STAND. SO NOW THINGS ARE MUCH BETTER. WE THINK.
23 TOO BAD THEY DID A LOUSY JOB ON THE WALLPAPER WHILE THEY
24 WERE AT IT, BUT THERE'S NOTHING I COULD DO ABOUT THAT.

25 ALL RIGHT. WE'RE ALL TOGETHER THEN ONCE AGAIN.

26 AND WHEN WE RECESSED LAST EVENING, MR. BROTT HAD

1 CONTINUED HIS FINAL ARGUMENT ON BEHALF OF THE DEFENDANT.
2 AND NOW WE'LL HEAR LAST FROM THE PEOPLE.

3 MR. GELLER, WHENEVER YOU'RE READY, YOU MAY
4 PROCEED.

5 MR. GELLER: THANK YOU.

6 GOOD MORNING.

7 THE ADVANTAGE OF HAVING THE EVENING IS THAT I
8 COULD KIND OF SYNTHESIZE MY ARGUMENT. I PROBABLY WILL BE A
9 LITTLE CLEARER. THE DISADVANTAGE, AGAIN, IS I'M STILL IN
10 TRIAL AND I DON'T -- YOU KNOW, 3:30 IN THE MORNING COMES
11 AROUND AND I WAKE UP AND I THINK ABOUT WHAT I WANT TO SAY TO
12 YOU FOLKS. SO, I IMAGINE I'LL PROBABLY TAKE 20, 30 MINUTES
13 HERE, BUT THERE ARE SOME VERY IMPORTANT POINTS THAT I WANT
14 TO BRING OUT TO YOU.

15 MR. BROTTE YESTERDAY SHARED WITH YOU THAT HIS
16 THEME WAS PROOF BEYOND A REASONABLE DOUBT, THAT I HAVE NOT
17 MET MY BURDEN. MY THEME, AGAIN, WAS BACKUP. AND HIS THEME
18 WAS BEYOND A REASONABLE DOUBT. AND I THINK IT'S JUST
19 IMPORTANT TO SHARE WITH YOU THAT THIS STANDARD OF PROOF,
20 PROOF BEYOND A REASONABLE DOUBT, IS THE EXACT SAME STANDARD
21 OF PROOF THAT IS APPLIED IN EVERY CRIMINAL CASE IN THIS
22 COURTHOUSE, IN EVERY COURTHOUSE IN THE COUNTY, EVERY
23 COURTHOUSE IN THE STATE, EVERY CRIMINAL COURTHOUSE IN THE
24 COUNTRY. THAT IS THE CRIMINAL STANDARD OF PROOF THAT HAS
25 BEEN USED IN EVERY JURY TRIAL FOR HUNDREDS OF YEARS.

26 SO, DON'T BE AFRAID THAT THIS IS SOME

1 UNATTAINABLE BURDEN. AGAIN, IT IS NOT PROOF BEYOND ALL
2 POSSIBLE DOUBT. I DO NOT HAVE TO PROVE MY CASE BEYOND ALL
3 POSSIBLE DOUBT, BEYOND A SHADOW OF A DOUBT. DON'T HOLD ME
4 TO THAT BURDEN BECAUSE I HAVEN'T PROVEN MY CASE BEYOND ALL
5 POSSIBLE DOUBT. THAT'S NOT THE STANDARD OF THE LAW. THAT'S
6 NOT THE LAW IN THIS CASE.

7 AND I'M GOING TO GIVE YOU AN EXAMPLE OF THIS.
8 I'M GOING TO GIVE YOU AN EXAMPLE OF SOMETHING MR. BROTT SAID
9 YESTERDAY. AND IT'S NOT MY INTENT HERE TO BEAT UP ON
10 MR. BROTT, BUT I HAVE TO COUCH IT, I HAVE TO RESPOND TO THE
11 THINGS THAT HE SHARED WITH YOU FOLKS.

12 SO MR. BROTT YESTERDAY IN HIS ARGUMENT MENTIONED
13 THAT I HAVEN'T EVEN SHOWN THAT F-TROOP SHOT THE GUN; ALL
14 I'VE SHOWN IS THAT SOMEBODY WHO MATCHES OR LOOSELY MATCHES
15 FRANK LOPEZ' PHYSICAL DESCRIPTION SHOT THE GUN. AND I'M
16 GOING TO DEMONSTRATE TO YOU HOW I HAVE PROVEN THAT BEYOND A
17 REASONABLE DOUBT.

18 AND THE WAY YOU DO THAT IS YOU APPLY FACTS. YOU
19 LOOK AT THE FACTS OF THIS CASE AND YOU APPLY YOUR COMMON
20 SENSE, AND YOU APPLY YOUR REASON, AND YOU DRAW REASONABLE
21 INFERENCES, AND YOU REJECT UNREASONABLE ONES, AND YOU
22 EMBRACE REASONABLE INFERENCES. SO, THE FACTS THAT I THINK
23 ARE REALLY UNCONTROVERTED THAT HAVE BEEN DEMONSTRATED:

24 MICHAEL CONTRERAS, DEFENDANT'S FRIEND, SAYS THAT
25 FRANK LOPEZ, SEVERO DE LA RIVA AND DEFENDANT ARE IN
26 EL SALVADOR PARK. THAT'S FACT NO. 1.

1 FACT NO. 2: MICHAEL CONTRERAS SAYS THEY LEFT ON
2 THEIR BICYCLES.

3 FACT NO. 3: MICHAEL CONTRERAS IDENTIFIES A
4 REVOLVER THAT HAS A BROWN HANDLE THAT'S LONG. A LONG GUN.
5 HE IDENTIFIED THIS TO A "T." I MEAN, HE ABSOLUTELY NAILED
6 THE DESCRIPTION OF THIS GUN.

7 AND I THINK IT'S IMPORTANT WHEN WE TALK ABOUT
8 DETECTIVE ASHBY COMING HERE INTO COURT AND TELLING YOU FOLKS
9 WHAT MICHAEL CONTRERAS TOLD HIM, WHICH, BY THE WAY, WAS A
10 TAPE-RECORDED STATEMENT. MICHAEL CONTRERAS WAS PORTRAYED BY
11 MR. BROTT AS A SPECIAL ED. STUDENT WHO WAS KIND OF PUTTY IN
12 THE HANDS OF DETECTIVE ASHBY, WHO DETECTIVE ASHBY, A
13 SEASONED SANTA ANA GANG COP, WOULD HAVE NO PROBLEM GETTING
14 MICHAEL CONTRERAS TO SAY WHATEVER HE WANTED TO SAY.

15 ADDITIONALLY, IF ANYTHING DETECTIVE ASHBY .
16 TESTIFIED TO WASN'T ACTUALLY SAID BY MICHAEL CONTRERAS,
17 WHILE HE DOESN'T HAVE A BURDEN OF PROOF, DON'T THINK FOR A
18 SECOND THAT MR. BROTT WOULDN'T HAVE PLAYED THE AUDIOTAPE
19 THAT MEMORIALIZED THE CONVERSATION THAT MICHAEL CONTRERAS
20 HAD WITH DETECTIVE ASHBY AFTER THE HOMICIDE.
21 MICHAEL CONTRERAS ABSOLUTELY NAILED THE DESCRIPTION OF THAT
22 FIREARM. SO THAT'S FACT NO. 3.

23 DETECTIVE SELINSKE SAYS THAT SOMEBODY WHO IS
24 6'2," 165 POUNDS IS SHOVING THE GUN IN HIS PANTS AFTER THE
25 SHOOTING AND RIDING AWAY ON A BICYCLE. DETECTIVE RONDOU
26 SAYS THAT THAT MATCHES THE PHYSICAL DESCRIPTION OF

1 FRANK LOPEZ.

2 THIS DEFENDANT HAS THE MURDER WEAPON, DOING A
3 GANG-VIOLENT CRIME 39 MINUTES LATER. HE'S SEEN ON A
4 BICYCLE.

5 AND, FURTHERMORE, HE SAYS TO DETECTIVE RONDOU,
6 "FIVE OF MY HOMIES AND I DID A MURDER, BUT I DIDN'T SHOOT."

7 SO, THOSE ARE THE FACTS. THOSE ARE THE BUILDING
8 BLOCKS THAT I'M ASKING YOU TO DRAW A REASONABLE INFERENCE --

9 MR. BROTT: YOUR HONOR, I HATE TO INTERRUPT, BUT I
10 BELIEVE THAT MISSTATES THE EVIDENCE, "WE DID A MURDER."

11 THE COURT: I WILL SUSTAIN THAT OBJECTION. AND I WILL
12 DIRECT THE JURY TO DISREGARD THAT STATEMENT THAT MR. GELLER
13 HAS MADE CONCERNING THE STATEMENT THAT WAS MADE BY THE
14 DEFENDANT.

15 IF YOU WANT TO CORRECT IT, YOU MAY DO SO,
16 MR. GELLER, BUT THAT WAS NOT WHAT WAS IN EVIDENCE FROM MY
17 RECOLLECTION.

18 MR. GELLER: "FIVE OF MY HOMIES AND I WERE AT A
19 SHOOTING DOWN AT WILLITS AND SULLIVAN." WE CAN ATTRIBUTE
20 WHAT WE WANT TO THE SHOOTING.

21 AND IF THERE'S ANYTHING THAT I SAY OR ANYTHING
22 THAT MR. BROTT HAS SAID THAT CONFLICTS WITH YOUR
23 RECOLLECTION OF THE EVIDENCE, YOU ALWAYS HAVE THE ABILITY TO
24 HAVE THE REPORTER READ BACK ANY PIECE OF THIS -- ANY BIT OF
25 THE TESTIMONY IN THIS CASE. SO THAT'S WHAT WAS SAID.

26 THOSE PIECES OF EVIDENCE, THOSE BUILDING BLOCKS,

1 WHAT OTHER, WHAT OTHER, QUITE FRANKLY, POSSIBLE, LET ALONE
2 REASONABLE, INFERENCE CAN YOU DRAW FROM ALL OF THOSE FACTS,
3 OTHER THAN F-TROOP, SPECIFICALLY FRANK LOPEZ, DID THE
4 SHOOTING? SO THAT'S JUST AN EXAMPLE OF PROOF BEYOND A
5 REASONABLE DOUBT.

6 OF COURSE, WE HAVE EVEN MORE INFORMATION.

7 WE HAVE DETECTIVE RONDOU GIVING YOU INFORMATION
8 ABOUT A GANG GUN AND WHAT A GANG GUN MEANS.

9 WE HAVE DETECTIVE RONDOU TALKING ABOUT F-TROOP
10 AND THEIR RIVAL WEST MYRTLE.

11 SO, I MEAN, WHAT HAPPENED TO THIS GUN? THIS GUN
12 THAT MICHAEL CONTRERAS DESCRIBES TO A "T," WHO IS IN HIS
13 HANDS, THE DEFENDANT'S HANDS, HALF AN HOUR OR SO AFTER THE
14 MURDER.

15 WHAT? DID SOME OTHER GANG GET THE GUN IN THE
16 INTERIM OR SOMETHING? BECAUSE WE KNOW THAT IS THE MURDER
17 WEAPON.

18 HOW CAN ANYBODY SAY THAT WE DON'T KNOW F-TROOP
19 DID THIS MURDER? IT DOESN'T HAVE TO BE ON VIDEOTAPE. WE
20 DON'T HAVE TO HAVE 20 EYEWITNESSES TO SAY WHAT HAPPENED OUT
21 THERE. THAT WOULD JUST BE TOO HIGH OF A BURDEN. WE WOULD
22 NEVER BE ABLE TO PROVE A CRIME IF THAT'S THE REQUIRED LEVEL
23 OF PROOF THAT WAS NECESSARY TO PROVE SOMETHING BEYOND A
24 REASONABLE DOUBT.

25 I'D LIKE TO TALK ABOUT DETECTIVE RONDOU.
26 DETECTIVE RONDOU WAS REFERRED TO YESTERDAY AS, ESSENTIALLY,

1 A PUPPET. HE'LL SAY WHATEVER I WANT HIM TO SAY. HE'LL COME
2 INTO COURT AND SAY WHATEVER I WANT HIM TO SAY AS LONG AS IT
3 HELPS MY CASE. I'M NOT GOING TO REITERATE DETECTIVE
4 RONDOU'S EXPERIENCE, BUT HE'S BEEN A POLICE OFFICER FOR A
5 VERY LONG TIME. HE'S A SWORN POLICE OFFICER. HE WORKED FOR
6 THE LOS ANGELES POLICE DEPARTMENT. HE WORKS FOR THE
7 SANTA ANA POLICE DEPARTMENT PRESENTLY. HE IS A GANG
8 HOMICIDE INVESTIGATOR. THAT IS WHAT HE DOES.

9 HE IS A POLICE OFFICER WHO EVERY DAY FACES GANG
10 VIOLENCE ON THE STREETS OF SANTA ANA. ESSENTIALLY, HE PUTS
11 HIS LIFE ON THE LINE EVERY DAY HE GOES OUT ON THE STREETS OF
12 SANTA ANA. HE IS NOT JUST A HIRED GUN. HE IS NOT SIMPLY
13 HERE TO TELL YOU FOLKS SOMETHING THAT WILL MAKE MY CASE
14 BETTER. HE SPEAKS WITH GANGSTERS DAILY. HE'S DONE SO
15 THOUSANDS OF TIMES IN THE COURSE OF HIS CAREER. HE SPEAKS
16 WITH COLLEAGUES, OTHER DETECTIVES AT SANTA ANA, WHO ALSO
17 SPEAK WITH GANG MEMBERS DAILY. HE GOES TO CONFERENCES WHERE
18 DETECTIVES FROM OTHER AGENCIES, BOTH IN ORANGE COUNTY AND
19 ELSEWHERE IN SOUTHERN CALIFORNIA, SPEAK WITH GANG MEMBERS
20 AND THEY SHARE THEIR COLLECTIVE EXPERIENCE. SO NOW YOU'RE
21 TALKING ABOUT TENS TO HUNDREDS OF THOUSANDS OF CONVERSATIONS
22 WITH GANG MEMBERS THAT HE IS PRIVY TO, IN THE SENSE THAT
23 THEY SHARE KNOWLEDGE. THEY SHARE THIS INFORMATION. "THEY"
24 BEING THE DETECTIVES.

25 AND SO WHEN A GANG MEMBER WHO IS UP IN
26 L.A. COUNTY SAYS SOMETHING ABOUT A GANG GUN, AND A GANG

1 MEMBER DOWN IN SANTA ANA SAYS SOMETHING ABOUT A GANG GUN,
2 AND THOSE TWO HAVE NEVER MET AND THE TWO THEORIES MATCH,
3 WELL, NOW WE CAN TALK ABOUT A GANG GUN, OR WE CAN TALK ABOUT
4 RESPECT, OR WE CAN TALK ABOUT BACKUP WITH A HIGH LEVEL OF
5 CONFIDENCE BECAUSE YOU HAVE PEOPLE, GANG MEMBERS,
6 INDEPENDENTLY CORROBORATING EACH OTHER WITH RESPECT TO THESE
7 CONCEPTS.

8 JURY INSTRUCTION 332 TELLS YOU HOW TO EVALUATE
9 EXPERT WITNESS TESTIMONY. AND I'M GOING TO READ IT AGAIN
10 FOR YOU, A PORTION OF IT.

11 "A WITNESS WAS ALLOWED TO TESTIFY AS
12 AN EXPERT AND TO GIVE OPINIONS. YOU MUST
13 CONSIDER THE OPINIONS, BUT YOU ARE NOT
14 REQUIRED TO ACCEPT THEM AS TRUE OR CORRECT.
15 THE MEANING AND IMPORTANCE OF ANY OPINION
16 ARE FOR YOU TO DECIDE. IN EVALUATING THE
17 BELIEVABILITY OF AN EXPERT WITNESS FOLLOW
18 THE INSTRUCTIONS ABOUT THE BELIEVABILITY OF
19 WITNESSES GENERALLY.

20 "IN ADDITION, CONSIDER THE EXPERT'S
21 KNOWLEDGE, SKILL, EXPERIENCE, TRAINING,
22 EDUCATION, THE REASONS THE EXPERT GAVE FOR
23 ANY OPINION AND THE FACTS OR INFORMATION
24 UPON WHICH THE EXPERT RELIED IN REACHING
25 THAT OPINION. YOU MUST DECIDE WHETHER
26 INFORMATION ON WHICH THE EXPERT RELIED WAS

1 TRUE AND ACCURATE. YOU MAY DISREGARD ANY
2 OPINION THAT YOU FIND UNBELIEVABLE,
3 UNREASONABLE OR UNSUPPORTED BY THE
4 EVIDENCE."

5 THAT'S THE GUIDANCE THE JUDGE GIVES YOU IN
6 EVALUATING EXPERT WITNESSES.

7 FRANKLY, WHAT HE TESTIFIED TO WAS PRETTY MUCH
8 COMMON SENSE. I DON'T THINK THERE WAS A SINGLE PIECE OF
9 EVIDENCE THAT HE SHARED OR A SINGLE BIT OF HIS OPINION THAT
10 HE SHARED WITH ANY OF US THAT MAYBE WE ALREADY DIDN'T EVEN
11 KNOW. WHAT HE TOLD YOU WAS COMMON SENSE. BUT HE HAS A
12 UNIQUE POSITION, BASED UPON HIS EXPERIENCE, TO BRING YOU
13 INTO THAT WORLD, TO TAKE YOU OUT OF THIS COURTROOM, TO TAKE
14 YOU AWAY FROM WITNESSES, TO PUT YOU ON THE CORNER OF WILLITS
15 AND SULLIVAN, TO BRING YOU TO EL SALVADOR PARK, TO SEE WHAT
16 GOES ON, NOT WHILE YOU HAVE A DEFENDANT MEEKLY SITTING HERE
17 IN COURT, BUT WHAT GOES ON IN THE REAL WORLD IN THE GANG
18 SUBCULTURE.

19 BECAUSE, LADIES AND GENTLEMEN, ANDY REYES HAS
20 BEEN SITTING HERE IN COURT FOR THE PAST TWO WEEKS. THAT IS
21 NOT WHAT HE WAS ALL ABOUT TWO YEARS AGO, BACK IN AUGUST OF
22 2004 WHEN HE'S PUTTING GUNS IN PEOPLE'S NECKS, WHEN HE'S IN
23 THE PARK AT EL SALVADOR PARK WHERE HIS HOMIES ARE SHOWING
24 GUNS, WHERE HE'S GETTING ON HIS BICYCLE AND RIDING INTO
25 RIVAL TERRITORY.

26 ADDITIONALLY, I TAKE EXCEPTION TO THE ANALOGY

1 WITH RESPECT TO A BASKETBALL TEAM, ANALOGIZING A BASKETBALL
2 TEAM TO A GANG. REMEMBER, A CRIMINAL STREET GANG HAS A
3 SPECIFIC DEFINITION UNDER THE LAW. A CRIMINAL STREET GANG
4 ENGAGES IN A PATTERN OF ONGOING CRIMINAL ACTIVITY. IT'S
5 THREE OR MORE MEMBERS. WHAT THEY DO IS THEY COMMIT VIOLENT
6 CRIMES. THAT'S NOT WHAT A BASKETBALL TEAM DOES. HE MIGHT
7 AS WELL HAVE BEEN SAYING THE BOY SCOUTS. THEIR PRIMARY
8 ACTIVITIES ARE BAD CRIMES, LIKE MURDER AND FIREARMS
9 ALLEGATIONS, ASSAULTS.

10 SO, IF YOU WERE LOOKING AT THE LAW WITH RESPECT
11 TO NATURAL AND PROBABLE CONSEQUENCES, WHEN YOU'RE LOOKING AT
12 THE LAW AS TO TRY TO DETERMINE WHETHER IT'S REASONABLE TO
13 EXPECT A MURDER TO OCCUR WHEN SIX HOMIES GO DOWN TO RIVAL
14 TERRITORY ARMED, YOU CAN'T POSSIBLY ANALOGIZE THAT TO A
15 FIGHT BREAKING OUT AT A BASKETBALL GAME. BECAUSE IF A FIGHT
16 BREAKS OUT AT A BASKETBALL GAME, AND YOU DON'T HAVE GANG
17 MEMBERS INVOLVED, THEN YOU PROBABLY ARE SAYING, OH, MY GOSH,
18 I CAN'T BELIEVE SOMEBODY GOT STABBED IN THE COURSE OF A
19 BASKETBALL GAME. THERE'S A HUGE DISTINCTION HERE. THAT'S
20 THE DIFFERENCE.

21 IT'S A PERFECT ANALOGY TO ILLUSTRATE THE CONCEPT
22 OF NATURAL AND PROBABLE CONSEQUENCES. HE'S DONE THAT FOR
23 YOU BY TALKING ABOUT A BASKETBALL TEAM WHERE SOMEBODY GETS
24 STABBED. BECAUSE, AGAIN, UNDER THAT NATURAL AND PROBABLE
25 CONSEQUENCE THEORY THAT I SHOWED YOU YESTERDAY, THAT THE
26 COURT DEFINED FOR YOU, YOU PROBABLY AREN'T THINKING, I CAN'T

1 BELIEVE SOMEBODY GOT STABBED IN THE COURSE OF A BASKETBALL
2 GAME. SO IF THE GUARD DID THE STABBING, WE'RE NOT GOING TO
3 HOLD THE CENTER RESPONSIBLE FOR MURDER BECAUSE IT JUST
4 DOESN'T FLOW. BUT WHEN THE GUARD ON THE GANG GOES OUT, AND
5 HE'S GOT THE GUN, AND THE CENTER IS THERE TO BACK HIM UP,
6 WE'RE GOING TO HOLD THE CENTER RESPONSIBLE FOR THAT MURDER.
7 THE LAW SAYS THAT.

8 AND I WANT TO SHARE THIS WITH YOU. I WANT TO
9 MAKE THIS PERFECTLY CLEAR, IN CASE THIS HAS KIND OF BEEN
10 LOST IN THE TRANSLATION.

11 WITH RESPECT TO PRINCIPALS, WITH RESPECT TO
12 PERPETRATORS, A PERSON MAY BE GUILTY OF A CRIME IN TWO WAYS:
13 ONE, HE MAY HAVE DIRECTLY COMMITTED THE CRIME. FRANK LOPEZ
14 MURDERING PEDRO ROSARIO. OR, HE MAY HAVE AIDED AND ABETTED
15 SOMEONE ELSE WHO COMMITTED THE CRIME. THEY'RE ALL TREATED
16 EQUALLY. A PERSON IS EQUALLY GUILTY OF THE CRIME, WHETHER
17 HE COMMITTED IT PERSONALLY OR AIDED AND ABETTED.

18 AND THE SAME CONCEPT IS TRUE WITH RESPECT TO
19 CONSPIRACY. IF THEY WERE ALL IN THE CONSPIRACY TOGETHER, IF
20 THEY ALL HAVE MADE THE AGREEMENT TO GO OUT AND COMMIT
21 SOMETHING LESSER THAN MURDER, AND A MURDER ENDS UP
22 RESULTING, WE'RE GOING TO TREAT THEM EQUALLY RESPONSIBLE FOR
23 THAT. THE LAW SAYS THAT. AND YOU FOLKS SHOULD TOO.

24 MR. BROTT, UNFORTUNATELY, MISSTATED THE LAW WITH
25 RESPECT TO AIDING AND ABETTING. AND I'LL TELL YOU WHERE
26 THAT HAPPENED.

1 MR. BROTT IN HIS ARGUMENT SAID THAT TO BE GUILTY
2 OF AIDING AND ABETTING, TO BE GUILTY ON THE THEORY OF AIDING
3 AND ABETTING HE HAD -- HE, THE DEFENDANT -- HAD TO HAVE THE
4 INTENT TO KILL. AND THAT IS ABSOLUTELY A FALSITY. HE
5 DOESN'T. AND I'LL TELL YOU WHY. BECAUSE THE SHOOTER
6 DOESN'T EVEN HAVE TO HAVE AN INTENT TO KILL TO BE GUILTY OF
7 SECOND DEGREE MURDER. THE SHOOTER DOESN'T HAVE TO HAVE THE
8 INTENT TO KILL TO BE GUILTY OF SECOND DEGREE MURDER UNDER A
9 THEORY OF IMPLIED MALICE. SO YOU CAN'T POSSIBLY HAVE THE
10 DEFENDANT WHO IS NOT THE SHOOTER BE HELD TO A HIGHER MENTAL
11 STATE THAN THE SHOOTER.

12 THESE ARE THE ELEMENTS OF AIDING AND ABETTING:

13 "A MURDER WAS COMMITTED." THE DEFENDANT KNEW
14 THAT THE SHOOTER INTENDED TO COMMIT THE CRIME. HE KNEW THAT
15 THE SHOOTER INTENDED TO SHOOT AT THE CAR.

16 "BEFORE OR DURING THE COMMISSION OF THE CRIME,
17 THE DEFENDANT INTENDED TO AID AND ABET THE SHOOTER IN
18 COMMITTING THE CRIME." HE INTENDED, AS I HAVE SAID, TO BACK
19 HIM UP, TO BE THERE FOR SUPPORT, TO OFFER ADVICE, ENCOURAGE.

20 "THE DEFENDANT'S WORDS OR CONDUCT DID IN FACT AID
21 AND ABET." HE WAS THERE WITH THE INTENT TO ENCOURAGE. HE
22 WAS PRESENT, BACKING HIM UP.

23 THOSE ARE THE ELEMENTS. NOWHERE IN HERE DOES IT
24 SAY HE HAS TO HAVE AN INTENT TO KILL. THAT'S NOT THE LAW.
25 DOESN'T HAVE TO.

26 AND THEN, TO REMIND YOU, THE FACTORS THAT YOU CAN

1 LOOK AT ARE THE FOLLOWING: HE HAS TO HAVE THE INTENT THAT
2 THE SHOOTER SHOOT AT THE CAR. HE DOESN'T HAVE TO HAVE THE
3 INTENT TO KILL.

4 SO, IF YOU FOLKS, WHEN YOU GO DELIBERATE THIS
5 CASE, YOU DECIDE, YOU KNOW WHAT, MR. GELLER, I THINK THIS IS
6 JUST A SECOND DEGREE MURDER. I THINK THAT WE'RE GOING TO
7 ANALYZE FRANK LOPEZ' CONDUCT THAT HE DIDN'T HAVE THE INTENT
8 TO KILL, THIS WAS AN IMPLIED MALICE MURDER, THAT HE SHOT AT
9 A CAR, THAT WHICH WAS INHERENTLY DANGEROUS TO HUMAN LIFE,
10 AND, AS A RESULT, A MURDER OCCURRED. IF YOU APPLIED
11 MR. BROTT'S THEORY UNDER AIDING AND ABETTING, YOU'D HAVE TO
12 WALK THE DEFENDANT RIGHT OUT THE DOOR BECAUSE HE DIDN'T HAVE
13 AN INTENT TO KILL. BUT THAT'S NOT THE LAW. HE HAS TO HAVE
14 THE INTENT THAT THE SHOOTER SHOOT. THAT'S IT. IT'S THAT
15 SIMPLE. AND THAT'S FROM INSTRUCTIONS 400 AND 401.

16 WHAT I DON'T HAVE TO DO IS SPECIFICALLY DEFINE
17 EVERYBODY'S ROLE OUT THERE. I JUST DON'T HAVE TO DO IT.
18 THE LAW DOESN'T REQUIRE ME TO DO IT. THE LAW OF CONSPIRACY
19 DOESN'T REQUIRE ME TO DO THAT.

20 I DON'T HAVE TO SAY -- I DON'T HAVE TO SAY
21 ANDY REYES WAS HERE, AND FRANK LOPEZ WAS HERE, AND
22 SEVERO DE LA RIVA WAS HERE. I JUST DON'T HAVE TO DO THAT.
23 I DON'T HAVE TO PROVIDE YOU FOLKS A VIDEOTAPE OF WHERE
24 EVERYONE WAS, WHAT EVERYONE WAS SPECIFICALLY DOING.
25 CONSPIRACY IS THE LAW OF ONE FOR ALL, ALL FOR ONE.

26 AND THAT'S ILLUSTRATED AGAIN BY ONE OF THE

1 INSTRUCTIONS THE JUDGE READ TO YOU. IT'S INSTRUCTION 418.
2 AND WHAT IT SAYS, ESSENTIALLY, IS THAT WHEN ONE CONSPIRATOR
3 SAYS SOMETHING IN THE COURSE OF A CONSPIRACY, WHILE THE
4 CONSPIRACY IS GOING ON, AND IN FURTHERANCE OF THAT
5 CONSPIRACY, THAT STATEMENT GETS TO BE USED AGAINST ALL
6 MEMBERS OF THE CONSPIRACY. SO WHEN ONE OF THEM IS YELLING,
7 HEY, STOP THAT CAR. HEY, WE WANT TO TALK TO YOU. HEY, YOU
8 KNOW, WHATEVER HE'S YELLING OUT THERE, THAT STATEMENT IS
9 ATTRIBUTED TO ALL OF THEM. AND WE DON'T HAVE TO DETERMINE,
10 AND YOU DON'T HAVE TO DETERMINE, MORE IMPORTANTLY, WHO SAID
11 IT. AS LONG AS THEY'RE ALL ACTING TOGETHER IN FURTHERANCE
12 OF THAT CONSPIRACY. AND THAT INFORMATION CAME FROM
13 STEVE GARCIA IN HIS TESTIMONY.

14 THESE ARE NOT KIDS RIDING AROUND SANTA ANA.
15 THESE ARE NOT KIDS JUST OUT ON A STROLL ON A SUMMER
16 AFTERNOON. MR. BROTT WANTS YOU FOLKS TO BELIEVE THAT, TO
17 EMBRACE THAT, THAT HIS CLIENT IS JUST A 15-YEAR-OLD KID OUT
18 ON A STROLL ON SUMMER VACATION. BUT THAT IS JUST NOT
19 CONSISTENT WITH THE FACTS OF THIS CASE.

20 THESE ARE ARMED GANG MEMBERS RIDING INTO RIVAL
21 TERRITORY, KILLING SOMEBODY WHO, AT LEAST ONE OF THEM
22 BELIEVED, WAS A WEST MYRTLE GANG MEMBER.

23 YOU CANNOT CONSIDER PENALTY OR PUNISHMENT. IT IS
24 ABSOLUTELY NOT BEFORE YOU IN THIS CASE. IT IS NOT BEFORE
25 YOU IN YOUR DECISION-MAKING PROCESS.

26 EVERYBODY HAS A ROLE IN THIS TRIAL.

1 I HAVE A ROLE TO PRESENT THE EVIDENCE ON BEHALF
2 OF THE PEOPLE OF THE STATE OF CALIFORNIA.

3 MR. BROTT HAS A ROLE TO DEFEND HIS CLIENT
4 VIGOROUSLY, TO MAKE SURE HIS CONSTITUTIONAL RIGHTS ARE
5 PROTECTED.

6 YOUR ROLE IS TO IMPASSIVELY EXAMINE THE EVIDENCE,
7 DETERMINE THE FACTS, APPLY THE LAW, AND REACH A VERDICT.

8 IF YOU REACH A VERDICT, AND IT'S GUILTY, THEN IT
9 BECOMES THE JUDGE'S TURN TO IMPOSE THE APPROPRIATE
10 PUNISHMENT.

11 BUT YOU CANNOT GO BACK THERE AND THINK ABOUT WHAT
12 WILL OUR VERDICT DO TO A 15-YEAR OLD KID? THAT IS WHOLLY
13 INAPPROPRIATE. I TALKED TO YOU ABOUT THIS IN JURY
14 SELECTION. I CANNOT STRESS THAT ENOUGH. WE HAVE TO TRUST
15 THE JUDGE THAT SHE WILL DISH OUT THE APPROPRIATE SENTENCE
16 UNDER THE CIRCUMSTANCES.

17 YOU CAN'T FEEL SORRY FOR THE DEFENDANT. THE SAME
18 WAY YOU CAN'T FEEL SORRY FOR PEDRO ROSARIO. YOU CAN'T
19 CONVICT THE DEFENDANT SIMPLY BECAUSE PEDRO ROSARIO IS DEAD.
20 YOU CONVICT HIM BECAUSE I'VE PROVEN MY CASE. YOU CAN'T
21 ACQUIT HIM BECAUSE YOU FEEL SORRY FOR HIM, BECAUSE THE
22 IMPACT OF YOUR CONVICTION IS GOING TO HAVE ON MAYBE HIS
23 FAMILY MEMBERS OR ANYTHING OF THAT NATURE.

24 I THINK IT'S IMPORTANT BECAUSE, AGAIN, MR. BROTT
25 ATTACKED DETECTIVE RONDOU'S CREDIBILITY, WHAT HE WAS SAYING.
26 WHAT I'M GOING TO READ FOR YOU NOW BRIEFLY IS PORTIONS OF

1 HIS TRANSCRIPT.

2 AND, AGAIN, AS I SAID, IF YOU QUESTION ANYTHING
3 ABOUT YOUR RECOLLECTION CONCERNING WHAT WAS SAID HERE IN
4 COURT, THEN YOU HAVE THE ABILITY TO HAVE THAT READ BACK TO
5 YOU. BUT I WANT TO READ A COUPLE PORTIONS OF HIS TESTIMONY
6 TO YOU TO EMPHASIZE A FEW POINTS.

7 FIRST PART DEALS WITH THE BENEFIT TO THE GANG AND
8 THE DEFENDANT. AND I ASKED HIM:

9 "QUESTION: WITH RESPECT TO GANG
10 MEMBERS, EVEN WHEN THEY'VE BEEN ARRESTED FOR
11 EVEN SOMETHING AS SIMPLE AS POSSESSION OF A
12 FIREARM, THEY'RE SITTING THERE BRAGGING TO
13 YOU ABOUT THE GUN AND HOW THEY GOT IT, WHERE
14 IT COMES FROM?

15 RONDOU ANSWERED:

16 "ANSWER: GANG MEMBERS CAN'T STAND
17 NOT TO BRAG ABOUT IT, THAT'S PART OF HOW
18 THEIR REPUTATION IS ENHANCED. IF THEY'RE
19 OUT THERE DOING THE DRIVE-BY SHOOTING, THEY
20 GO AND COMMIT A MURDER ON A RIVAL GANG, IF
21 THEY DON'T TELL PEOPLE THEY DID IT, THEY
22 DON'T GET CREDIT FOR IT, SO THEIR PERSONAL
23 REPUTATION WITHIN THE GANG DOESN'T GET
24 HEIGHTENED TO WHERE THEY'RE DOWN FOR THEIR
25 NEIGHBORHOOD OR WHATEVER IT MAY BE. AND THE
26 GANG ITSELF. GANGS FUNCTION BY INSTILLING

1 FEAR AND INTIMIDATION, NOT ONLY IN COMMUNITY
2 PEOPLE, BUT BY OTHER GANGS. IF OTHER GANGS
3 FEAR THEM, THEY'LL BACK OFF AND NOT WANT TO
4 HAVE PROBLEMS WITH THAT GANG. SO THE MORE
5 VIOLENT THE GANG, THE MORE FEAR THAT'S
6 INSTILLED, THE REPUTATION IS THEN
7 HEIGHTENED."

8 I'M READING PORTIONS OF HIS TRANSCRIPT TO YOU TO
9 REFRESH YOUR MEMORIES AS TO WHAT HE SAID AND TO SHOW YOU
10 THAT THIS CRIME WAS A GANG HOMICIDE. THERE CAN BE NO
11 QUESTION THIS WAS A GANG-MOTIVATED MURDER.

12 WITH RESPECT TO THE ROLE OF NON-SHOOTERS:

13 "QUESTION: LET'S SAY THERE'S A
14 NUMBER OF GANG MEMBERS THAT GO OUT AND DO
15 THIS DRIVE-BY SHOOTING. WHAT'S THE IMPACT
16 OF THE OTHER PEOPLE WHO ARE PRESENT AT THE
17 TIME?

18 "ANSWER: EVERYBODY THAT GOES AND
19 PARTICIPATES IS GOING TO GET THE SAME AMOUNT
20 OF RESPECT AND STATUS AS THE GUY THAT PULLED
21 THE TRIGGER. THEY MIGHT AS WELL HAVE PULLED
22 THE TRIGGER TOO. THEY'RE THERE FOR BACKUP.
23 THEY'RE THERE TO SUPPORT WHAT'S GOING ON
24 THERE. THEY'RE THERE TO HELP WHOEVER HAS
25 THE GUN, IF THERE'S ONLY ONE GUN THERE.
26 THEY'RE THERE TO MAKE SURE THAT PERSON --

1 THEY'RE THERE TO SUPPORT THAT PERSON.
2 THEY'RE THERE TO BACK THEM UP IN ANY
3 INCIDENT. THEY'RE TRUSTED TO BE THERE.
4 THEY'RE TRUSTED WITHIN THE GANG THAT IF THE
5 PERSON NEEDS HELP OR BACKUP THEY ARE THERE
6 FIRST AND FOREMOST. SO THEIR STATUS IS THE
7 SAME AS ALL FOR ONE AND ONE FOR ALL."

8 ANDY REYES IS A TRUSTED GANG MEMBER. ANDY REYES
9 IS TRUSTED WITH THE MURDER WEAPON RIGHT AFTER THE SHOOTING.
10 THAT'S THE LEVEL OF STATUS ANDY REYES HAS IN THAT GANG.

11 OF THE SIX PEOPLE WHO WERE THERE, WHO IS THE ONE
12 WHO LEFT WITH THE MURDER WEAPON? ANDY REYES, TO GO OUT AND
13 COMMIT FURTHER GANG VIOLENT ACTS.

14 WITH RESPECT TO MR. REYES BEING AN ACTIVE
15 PARTICIPANT IN F-TROOP, WHICH MR. BROTT, BY THE WAY,
16 ESSENTIALLY CONCEDED:

17 "QUESTION: WHAT IS IT ABOUT THE
18 HOMICIDE THAT YOU'RE RELYING ON TO INDICATE
19 WHETHER OR NOT YOU BELIEVE ANDY REYES WAS AN
20 ACTIVE PARTICIPANT IN THE F-TROOP CRIMINAL
21 STREET GANG ON AUGUST 10TH OF '04?

22 "ANSWER: WELL, THERE'S A NUMBER OF
23 FACTORS. THE FACT THAT HE'S IN EL SALVADOR
24 PARK PRIOR TO THE MURDER WITH OTHER F-TROOP
25 GANG MEMBERS. HE'S ENTRUSTED TO BE SHOWN A
26 HANDGUN FROM AN F-TROOP GANG MEMBER. HE

1 PEDALS DOWN ON A BIKE WITH OTHER F-TROOP
2 GANG MEMBERS ARMED, GOING THROUGH RIVAL GANG
3 TERRITORY. THE FACT THAT HE'S AT THIS
4 HOMICIDE WHEN THE HOMICIDE TAKES PLACE.
5 HE'S IN THE GROUP ACTING AS ONE. HE COMES
6 BACK FROM THE HOMICIDE AND ENDS UP WITH THE
7 HOMICIDE WEAPON 39 MINUTES LATER, COMMITTING
8 ANOTHER VIOLENT FELONY, INCLUDING HITTING
9 THE PERSON UP, ASKING HIM WHAT GANG THEY
10 WERE FROM PRIOR TO THAT VIOLENT ENCOUNTER."

11 WITH RESPECT TO GANG MEMBERS, F-TROOPERS,
12 SPECIFICALLY, BEING IN RIVAL TERRITORY WITHOUT A GUN:

13 "ANSWER: WELL, I'VE TALKED TO, LIKE
14 I SAID, A NUMBER OF GANG MEMBERS OVER THE
15 YEARS THAT TELL ME IF THEY PLAN ON GOING
16 INTO RIVAL TERRITORY, THEY'RE GOING TO ARM
17 THEMSELVES OR THEY'RE NOT GOING TO GO
18 BECAUSE THEY KNOW WHAT THEY'RE GOING TO
19 ENCOUNTER OR VERY WELL COULD ENCOUNTER.
20 DURING THIS INVESTIGATION I TALKED TO ONE OF
21 THE CO-DEFENDANTS, ISRAEL LOPEZ, WHO TOLD ME
22 HE WOULD NEVER GO DOWN TO WEST MYRTLE
23 TERRITORY WITHOUT BEING ARMED."

24 AGAIN, RONDOU IS RELYING ON COUNTLESS
25 CONVERSATIONS HE PERSONALLY HAS HAD AND HE COLLECTIVELY,
26 THROUGH HIS COLLEAGUES, HAVE HAD WITH RESPECT TO THIS VERY

1 SPECIFIC ISSUE ABOUT GANG MEMBERS GOING INTO RIVAL
2 TERRITORY. ALL OF THIS IS TO SHOW HE JUST WASN'T MERELY
3 PRESENT. HE JUST WASN'T A WITNESS TO THIS HOMICIDE.

4 WHY DID THIS CRIME BENEFIT F-TROOP?

5 WHY WAS IT DONE FOR THE BENEFIT OF F-TROOP AND IN
6 ASSOCIATION WITH F-TROOP?

7 "ANSWER: BASED ON THE FACTS YOU
8 GAVE, YOU'VE GOT MULTIPLE F-TROOP GANG
9 MEMBERS THERE, SO YOU'RE IN ASSOCIATION
10 WITH. THERE'S MULTIPLE GUYS THERE. AND
11 LIKE WE DISCUSSED EARLIER, THE SHOOTING OF A
12 RIVAL GANG MEMBER IN RIVAL TERRITORY IS A
13 BIG PRIZE. AND NOT ONLY ARE THE REPUTATIONS
14 OF THE GUYS INVOLVED IN THIS, ALL OF THEM
15 INVOLVED IN THIS, GOING TO BE HEIGHTENED,
16 BUT THE F-TROOP GANG ITSELF FOR GOING OVER
17 THERE AND KILLING A RIVAL, THEIR REPUTATION
18 AS WELL IS GOING TO BE HEIGHTENED."

19 I MEAN, MR. BROTT WANTS YOU TO BELIEVE THAT HIS
20 CLIENT, BY MERELY BEING PRESENT AT THE SCENE OF THIS MURDER,
21 IS NO MORE INVOLVED THAN DETECTIVE SELINSKE WHO WAS MERELY
22 PRESENT AT THE MURDER, OR STEVE GARCIA WHO WAS MERELY
23 PRESENT AT THE MURDER, OR ANY OF THE OTHER PEOPLE WHO WOULD
24 HAVE BEEN OUT THERE TO SEE THIS. THAT'S JUST NOT A CREDIBLE
25 WAY TO LOOK AT THIS EVIDENCE. IT JUST ISN'T.

26 BUT YOU KNOW, MR. BROTT'S CLIENT DIDN'T GIVE HIM

1 A LOT TO WORK WITH IN THIS CASE. I MEAN, HE JUST DIDN'T.
2 WE'RE BOTH STUCK WITH THE FACTS. THE FACTS ARE THE FACTS.
3 THE FACTS ARE KIND OF, AGAIN, WELL SETTLED IN THIS CASE.
4 IT'S JUST THE INTERPRETATION OF THAT AS IT RELATES TO THE
5 LAW. YOU KNOW, WHEN MR. BROTT'S CLIENT GOES OUT AND DOES
6 ANOTHER VIOLENT GANG-RELATED CRIME WITH THE MURDER WEAPON,
7 IT JUST DOESN'T FLY VERY WELL WITH RESPECT TO HIM BEING
8 MERELY PRESENT. THAT'S JUST AN UNREASONABLE INFERENCE.

9 LADIES AND GENTLEMEN, A GUILTY VERDICT IN THIS
10 CASE IS WHAT IS REALLY REQUIRED. IT'S REQUIRED BECAUSE
11 PEDRO ROSARIO WAS VICIOUSLY EXECUTED THAT DAY, JUST SHOT IN
12 THE BACK OF THE HEAD, WHILE DRIVING ON A TUESDAY AFTERNOON
13 IN BROAD DAYLIGHT BY A BUNCH OF PUNKS RIDING BICYCLES WHO
14 HAD A GUN. WE CAN'T TOLERATE THAT KIND OF BEHAVIOR. WE
15 CAN'T TOLERATE THAT KIND OF BEHAVIOR IN A GANG CONTEXT. WE
16 CAN'T ONLY HOLD THE SHOOTER RESPONSIBLE. THE LAW DOESN'T.
17 THE LAW HOLDS THEM ALL RESPONSIBLE. YOU SHOULD TOO.

18 MR. ROSARIO WAS IN THE WRONG PLACE AT THE WRONG
19 TIME. THAT DEFENDANT WAS NOT. HE MADE CHOICES TO BE THERE.
20 HE SAW A GUN IN THE PARK WITH ALL OF HIS HOMIES. HE WENT
21 WITH THEM INTO RIVAL TERRITORY. A MAN GOT SHOT AND KILLED.
22 AND WHAT DID HE DO? HIS DAY WASN'T DONE. HE GOT THE MURDER
23 WEAPON AND HE WENT OUT AND COMMITTED MORE VIOLENT GANG
24 CRIME. THOSE ARE THE DECISIONS HE MADE THAT DAY. PLEASE
25 HOLD HIM ACCOUNTABLE FOR THOSE DECISIONS.

26 THANK YOU.

1 THE COURT: LADIES AND GENTLEMEN, I'M GOING TO READ YOU
2 JUST A PORTION OF THE TESTIMONY THAT WAS GIVEN BY
3 INVESTIGATOR RONDOU ON THE FIRST DAY OF TRIAL. THIS IS THE
4 STATE OF THE RECORD WITH RESPECT TO WHAT THE DEFENDANT SAID
5 ON HIS WAY TO CUSTODY.

6 QUESTION FROM MR. GELLER:

7 "QUESTION: VERY WELL. AND WHAT IS
8 IT THAT ANDY REYES SAID TO YOU AND
9 INVESTIGATOR ZEPEDA FROM THE BACK SEAT OF
10 THAT CAR AS YOU WERE DRIVING TO JUVI?

11 "ANSWER: HE ASKED ME AND DETECTIVE
12 ZEPEDA WHAT HE WAS -- WHAT HIS CHARGES WERE.

13 "QUESTION: WHAT DID DO YOU IN
14 RESPONSE TO THAT INQUIRY?

15 "ANSWER: I SHOWED HIM THE -- THERE'S
16 AN ENTRANCE BOOKING. IT'S A BOOKING SLIP,
17 BASICALLY, WITH THE PERSON'S NAME, AND THEIR
18 DATE OF BIRTH, AND WHERE THEY LIVE, AND THE
19 BOOKING CHARGES AND SOME OTHER IDENTIFYING
20 INFORMATION. I HELD IT UP AND SHOWED IT TO
21 HIM. I SAID, "IT LOOKS LIKE IT'S A
22 PROBATION VIOLATION. YOU'RE CHARGES ARE
23 PROBATION VIOLATION."

24 "QUESTION: WHAT HAPPENED NEXT?

25 "ANSWER: HE TOLD ME, 'NO, I'M GOING
26 TO BE CHARGED WITH MURDER, BECAUSE ME AND

1 FIVE OF MY HOMIES WERE DOWN ON SULLIVAN AT A
2 SHOOTING. AND I DIDN'T SHOOT, BUT BECAUSE I
3 WAS THERE WITH MY HOMIES, I'M GOING TO GET
4 CHARGED WITH MURDER TOO.' ALSO."

5 THAT'S THE STATE OF THE RECORD. THANK YOU VERY
6 MUCH FOR YOUR PATIENCE WHILE WE PULLED THAT UP.

7 WHEN YOU GO INTO THE JURY ROOM, THE FIRST THING
8 YOU SHOULD DO IS CHOOSE A FOREPERSON. THE FOREPERSON SHOULD
9 SEE TO IT THAT YOUR DISCUSSIONS ARE CARRIED ON IN AN
10 ORGANIZED WAY AND THAT EVERYONE HAS A FAIR CHANCE TO BE
11 HEARD.

12 IT IS YOUR DUTY TO TALK WITH ONE ANOTHER AND TO
13 DELIBERATE IN THE JURY ROOM. YOU SHOULD TRY TO AGREE ON A
14 VERDICT IF YOU CAN. EACH OF YOU MUST DECIDE THE CASE FOR
15 YOURSELF, BUT ONLY AFTER YOU HAVE DISCUSSED THE EVIDENCE
16 WITH THE OTHER JURORS. DO NOT HESITATE TO CHANGE YOUR MIND
17 IF YOU BECOME CONVINCED THAT YOU ARE WRONG. BUT DO NOT
18 CHANGE YOUR MIND JUST BECAUSE OTHER JURORS DISAGREE WITH
19 YOU.

20 KEEP AN OPEN MIND AND OPENLY EXCHANGE YOUR
21 THOUGHTS AND IDEAS ABOUT THIS CASE. STATING YOUR OPINIONS
22 TOO STRONGLY AT THE BEGINNING OR IMMEDIATELY ANNOUNCING HOW
23 YOU PLAN TO VOTE MAY INTERFERE WITH AN OPEN DISCUSSION.
24 PLEASE TREAT ONE ANOTHER COURTEOUSLY. YOUR ROLE IS TO BE AN
25 IMPARTIAL JUDGE OF THE FACTS, NOT TO ACT AS AN ADVOCATE FOR
26 ONE SIDE OR THE OTHER.

1 AS I TOLD YOU AT THE BEGINNING OF THE TRIAL, DO
2 NOT TALK ABOUT THE CASE OR ABOUT ANY OF THE PEOPLE OR ANY
3 SUBJECT INVOLVED IN IT WITH ANYONE, INCLUDING, BUT NOT
4 LIMITED TO, YOUR SPOUSE OR OTHER FAMILY OR FRIENDS,
5 SPIRITUAL LEADERS OR ADVISORS, OR THERAPISTS. YOU MUST
6 DISCUSS THE CASE ONLY IN THE JURY ROOM AND ONLY WHEN ALL
7 JURORS ARE PRESENT. DO NOT DISCUSS YOUR DELIBERATIONS WITH
8 ANYONE.

9 DURING THE TRIAL, SEVERAL ITEMS WERE RECEIVED
10 INTO EVIDENCE. YOU MAY EXAMINE WHATEVER EXHIBITS YOU THINK
11 WILL HELP YOU IN YOUR DELIBERATIONS. THESE EXHIBITS WILL BE
12 SENT INTO THE JURY ROOM WITH YOU WHEN YOU BEGIN TO
13 DELIBERATE. IF YOU WISH TO SEE THE GUN OR THE BULLET,
14 PLEASE REQUEST THEM IN WRITING.

15 IF YOU NEED TO COMMUNICATE WITH ME WHILE YOU ARE
16 DELIBERATING, SEND A NOTE THROUGH THE BAILIFF, SIGNED BY THE
17 FOREPERSON, OR BY ONE OR MORE MEMBERS OF THE JURY. TO HAVE
18 A COMPLETE RECORD OF THIS TRIAL IT IS IMPORTANT THAT YOU NOT
19 COMMUNICATE WITH ME EXCEPT BY WRITTEN NOTE. IF YOU HAVE
20 QUESTIONS, I WILL TALK WITH THE ATTORNEYS BEFORE I ANSWER,
21 SO IT MAY TAKE SOME TIME. YOU SHOULD CONTINUE YOUR
22 DELIBERATIONS WHILE YOU WAIT FOR MY ANSWER. I WILL ANSWER
23 ANY QUESTIONS IN WRITING OR ORALLY HERE IN OPEN COURT.

24 DO NOT REVEAL TO ME OR ANYONE ELSE HOW THE VOTE
25 STANDS ON THE QUESTION OF GUILT OR ISSUES IN THIS CASE
26 UNLESS I ASK YOU TO DO SO.

1 YOUR VERDICT ON EACH COUNT AND ANY SPECIAL
2 FINDINGS MUST BE UNANIMOUS. THIS MEANS THAT TO RETURN A
3 VERDICT, ALL OF YOU MUST AGREE TO IT.

4 IT IS NOT MY ROLE TO TELL YOU WHAT YOUR VERDICT
5 SHOULD BE. DO NOT TAKE ANYTHING I SAID OR DID DURING THE
6 TRIAL AS AN INDICATION OF WHAT I THINK ABOUT THE FACTS, THE
7 WITNESSES, OR WHAT YOUR VERDICT SHOULD BE.

8 YOU WILL BE GIVEN VERDICT FORMS. AS SOON AS ALL
9 JURORS HAVE AGREED ON A VERDICT, THE FOREPERSON MUST SIGN
10 AND DATE THE APPROPRIATE VERDICT FORMS AND NOTIFY THE
11 BAILIFF. IF YOU ARE ABLE TO REACH A UNANIMOUS DECISION ONLY
12 ON -- IF YOU'RE ABLE TO REACH A UNANIMOUS DECISION ON ONLY
13 ONE OR ONLY SOME OF THE CHARGES, FILL IN THOSE VERDICT FORMS
14 ONLY AND NOTIFY THE BAILIFF. RETURN ANY UNSIGNED VERDICT
15 FORMS.

16 ALTERNATES JURORS 2 AND 3, THE JURY IS NOW
17 DELIBERATING, BUT YOU ARE STILL ALTERNATE JURORS AND ARE
18 BOUND BY MY EARLIER INSTRUCTIONS ABOUT YOUR CONDUCT. DO NOT
19 TALK ABOUT THE CASE OR ABOUT ANY OF THE PEOPLE OR ANY
20 SUBJECT INVOLVED IN IT WITH ANYONE, NOT EVEN YOUR FAMILY OR
21 FRIENDS, AND NOT EVEN WITH EACH OTHER. DO NOT HAVE ANY
22 CONTACT WITH THE DELIBERATING JURORS. DO NOT DECIDE HOW YOU
23 WOULD VOTE IF YOU WERE DELIBERATING. DO NOT FORM OR EXPRESS
24 AN OPINION ABOUT THE ISSUES IN THIS CASE UNLESS YOU ARE
25 SUBSTITUTED FOR ONE OF THE DELIBERATING JURORS.

26 THE CLERK WILL SWEAR THE BAILIFF.

1 (BAILIFF SWORN.)

2 THE COURT: A COUPLE OF THINGS BEFORE YOU BEGIN YOUR
3 DELIBERATIONS. FIRST OF ALL, WE DO TAKE EXTRA CARE WITH
4 FIREARMS. I WILL TELL YOU THAT THE FIREARM IN THIS CASE HAS
5 BEEN CLEARED AND INSPECTED BY MY BAILIFF, AND A TRIGGER LOCK
6 HAS BEEN PUT ON THE GUN. EVEN THOUGH IT'S EMPTY AND EVEN
7 THOUGH IT'S LOCKED, WE DO TAKE EXTRAORDINARY CAUTION WITH AN
8 ITEM SUCH AS THAT, AND ALSO WITH ANY ROUNDS OR BULLETS THAT
9 WERE INTRODUCED INTO EVIDENCE. THAT'S WHY WE WANT YOU TO
10 ASK FOR IT.

11 IF YOU DO ASK FOR IT, YOU'RE ENTITLED TO LOOK IT
12 OVER FOR AS LONG AS YOU NEED OR HOWEVER YOU NEED TO DO SO.
13 BUT WHEN YOU DO, THE BAILIFF WILL BE IN THE JURY ROOM WITH
14 YOU. SO, DO NOT DELIBERATE WHILE HE IS IN THERE. JUST USE
15 THE TIME THAT HE'S IN THERE WITH THE FIREARM TO INSPECT THE
16 WEAPON. AND PLEASE DON'T HAVE ANY DISCUSSIONS WHILE HE'S IN
17 THERE. YOU DON'T WANT TO PUT HIM IN AN AWKWARD POSITION.
18 AND HE'S NOT ENTITLED TO LISTEN TO OR PARTICIPATE IN YOUR
19 DELIBERATIONS IN ANY WAY.

20 I'M GOING TO HAVE JAY ACCOMPANY THE 12 SEATED
21 JURORS INTO THE JURY ROOM IN A MOMENT. YOU'RE GOING TO TAKE
22 YOUR PERSONAL BELONGINGS AND YOUR NOTEBOOKS. HE'S GOING TO
23 SHOW YOU HOW TO COMMUNICATE WITH US OUT HERE. AND I'M GOING
24 TO, WHILE HE'S GONE, HAVE A LITTLE CONVERSATION WITH THE TWO
25 ALTERNATES BEFORE I RELEASE YOU. SO IF YOU'LL GO AHEAD, YOU
26 CAN BEGIN YOUR DELIBERATIONS.

1 THE BAILIFF: BRING ALL YOUR PERSONAL ITEMS WITH YOU.

2 (JURY EXCUSED TO BEGIN DELIBERATIONS.)

3 THE COURT: GENTLEMEN, ON A BLANK PIECE OF PAPER IN
4 YOUR NOTEBOOKS, WOULD YOU WRITE DOWN ALL OF THE PHONE
5 NUMBERS WHERE YOU MIGHT LIKELY BE IN THE NEXT DAY OR TWO.
6 I'M LOOKING FOR HOME, CELL, IF YOU HAVE ONE, BUSINESS, IF
7 YOU PLAN TO GO.

8 I AM ABOUT TO RELEASE YOU AND LET YOU GO ON ABOUT
9 YOUR BUSINESS. IF SOMETHING HAPPENS THAT WOULD REQUIRE THAT
10 YOU REPLACE ONE OF THE DELIBERATING JURORS, OF COURSE WE
11 WILL MAKE ARRANGEMENTS TO BRING YOU BACK DOWN.

12 I DON'T EXPECT THAT. THEY LOOK PRETTY HEALTHY TO
13 ME, BUT YOU NEVER KNOW. ANYTHING CAN HAPPEN.

14 YOU WILL RECEIVE A PHONE CALL FROM US IN ANY
15 EVENT. SO IF YOU DO GET OUR CALL, DON'T AUTOMATICALLY
16 ASSUME IT MEANS YOU HAVE TO DROP EVERYTHING AND RUSH RIGHT
17 DOWN HERE. WE HAVE A PRACTICE IN THIS DEPARTMENT OF CALLING
18 OUR ALTERNATE JURORS WHEN THE TRIAL IS OVER TO LET YOU KNOW
19 THAT THE TRIAL IS OVER AND WHAT THE RESULT WAS.

20 AND, IN ADDITION, IF YOU BECOME UNAVAILABLE OR IF
21 YOU'RE CURIOUS AS TO WHETHER ANYTHING HAS HAPPENED, YOU
22 MIGHT NOT HAVE HEARD FROM US AND YOU THINK WE MAY HAVE
23 FORGOTTEN TO CALL YOU -- WE ONLY DID THAT ONCE OR TWICE IN
24 OUR HISTORY TOGETHER -- BUT IF THAT'S A CONCERN OF YOURS,
25 FEEL FREE TO CALL US AND CHECK ON THE STATE OF DELIBERATIONS
26 AT ANY TIME.

1 AND ALSO, IF YOU DO BECOME UNAVAILABLE, PLEASE
2 CALL AND LET US KNOW WHAT YOUR PROBLEM IS SO THAT IF WE DO
3 HAVE TO SEAT AN ALTERNATE WE KNOW WHAT WE'RE DEALING WITH.

4 GENTLEMEN, THIS MAY BE MY LAST TIME TO SPEAK TO
5 YOU, AND SO I WANT TO THANK YOU VERY MUCH FOR YOUR
6 PARTICIPATION IN THE TRIAL. YOU GAVE IT YOUR UNDIVIDED
7 ATTENTION AND YOU PARTICIPATED FULLY AND COMPLETELY. I HOPE
8 THAT IF YOU DON'T ULTIMATELY DELIBERATE ON THIS CASE, IT
9 DOESN'T DIMINISH THE IMPORTANCE OF THE ROLE THAT YOU PLAYED
10 AS FAR AS YOU'RE CONCERNED. WE CAN'T DO OUR JOBS WITHOUT
11 PEOPLE WHO ARE WILLING TO SERVE, TO PARTICIPATE, TO GIVE OF
12 THEMSELVES. AND THIS YOU HAVE INDEED DONE FOR US AND WE ARE
13 VERY GRATEFUL TO YOU.

14 I WANT TO THANK YOU TOO ON BEHALF OF THE
15 DEFENDANT AND THE ATTORNEYS IN THIS CASE. AND ON BEHALF OF
16 MY STAFF. IT'S BEEN A PLEASURE TO HAVE YOU WITH US.

17 YOU'RE FREE TO GO. THANK YOU AGAIN.

18 (ALTERNATES EXCUSED.)

19 (THE FOLLOWING PROCEEDINGS WERE HAD IN
20 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

21 THE COURT: ANYBODY NEED ANYTHING ON THE RECORD?

22 MR. BROTT: NO.

23 MR. GELLER: NO.

24 THE COURT: OKAY. THANK YOU VERY MUCH.

25 (EVENING RECESS.)

26 -O00-

1144

1 SANTA ANA, CALIFORNIA - WEDNESDAY, JUNE 7, 2006

2 AFTERNOON SESSION

3 -000-

4
5 (THE FOLLOWING PROCEEDINGS WERE HAD IN
6 OPEN COURT IN THE PRESENCE OF THE JURY:)

7 THE COURT: GOOD AFTERNOON.

8 I KNOW, YOU'RE TIRED. ME TOO.

9 WE ARE RESUMING IN PEOPLE VS. ANDRES REYES, CASE
10 NUMBER 04CF2780. RECORD SHOULD REFLECT DEFENDANT IS PRESENT
11 WITH HIS COUNSEL, MR. BROTT. THE PEOPLE ARE REPRESENTED BY
12 MR. GELLER. TWELVE JURORS HAVE RETURNED TO THE COURTROOM AT
13 THIS TIME AT THE COURT'S INVITATION.

14 LADIES AND GENTLEMEN, AT 3:20 P.M., WHICH WAS
15 ABOUT A HALF-HOUR AGO, YOU SUBMITTED A COMMUNICATION TO THE
16 COURT THAT SAYS, "WE HAVE AGREED ON COUNT 1, BUT WE ARE
17 UNABLE TO AGREE ON THE DEGREE." AND SO WE'VE ASSEMBLED
18 EVERYONE HERE TO ADDRESS THAT. I'M GOING TO START MY
19 INQUIRY BY CHATTING WITH THE FOREPERSON OF THIS JURY.

20 AND I'M INFORMED THAT'S YOU, JUROR NO. 8; IS THAT
21 RIGHT?

22 JUROR 8: YES, MA'AM.

23 THE COURT: MY FIRST QUESTION IS: HAVE YOU DELIBERATED
24 ON COUNT 2, PARTICIPATION IN A CRIMINAL STREET GANG?

25 HAVE YOU CONDUCTED DELIBERATIONS WITH RESPECT TO
26 THAT CHARGE?

LYNN O. PETERSON, OFFICIAL COURT REPORTER

1 JURY FOREPERSON: YES, MA'AM.

2 THE COURT: HAVE YOU REACHED A CONCLUSION ON THAT
3 CHARGE, YES OR NO?

4 JURY FOREPERSON: YES, MA'AM.

5 THE COURT: DID YOU IN YOUR DELIBERATIONS DISCUSS THE
6 ENHANCING ALLEGATION WITH RESPECT TO COUNT 1, THE MURDER
7 CHARGE?

8 IN OTHER WORDS, DID YOU DISCUSS THE COMMISSION OF
9 A CRIME FOR THE BENEFIT OF, AT THE DIRECTION OF, OR IN
10 ASSOCIATION WITH A CRIMINAL STREET GANG?

11 JURY FOREPERSON: YES, MA'AM.

12 THE COURT: AND I THINK THE ANSWER IS YES TO THE NEXT
13 QUESTION BASED ON A QUESTION THAT YOU SUBMITTED TO US. DID
14 YOU ALSO DISCUSS THE ALLEGATION THAT THERE WAS VICARIOUS USE
15 OF A FIREARM DURING THE COMMISSION OF THE CRIME?

16 JURY FOREPERSON: YES, MA'AM.

17 THE COURT: DID YOU REACH CONCLUSIONS WITH RESPECT TO
18 THOSE TWO ENHANCING ALLEGATIONS AS THEY WOULD RELATE TO
19 COUNT 1?

20 JURY FOREPERSON: IN REGARDS TO THE VICARIOUS USE OF
21 FIREARM?

22 THE COURT: YES. DID YOU COME TO AN AGREEMENT, ALL 12
23 OF YOU?

24 JURY FOREPERSON: YES.

25 THE COURT: YES OR NO?

26 JURY FOREPERSON: YES.

1 THE COURT: I DON'T KNOW WHAT THE AGREEMENT WAS. I
2 DON'T WANT TO KNOW WHAT THE AGREEMENT WAS.

3 JURY FOREPERSON: ABSOLUTELY.

4 THE COURT: DID YOU COME TO AN AGREEMENT WITH RESPECT
5 TO THE GANG ALLEGATION AS TO COUNT 1?

6 JURY FOREPERSON: YES, MA'AM.

7 THE COURT: SO THE ONLY POINT OF CONTENTION NOW IS THE
8 DECISION THAT NEEDS TO BE MADE BETWEEN FIRST DEGREE AND
9 SECOND DEGREE AND NO OTHER ISSUES ARE LEFT TO BE ADDRESSED;
10 IS THAT FAIR TO SAY?

11 JURY FOREPERSON: YES, MA'AM.

12 THE COURT: COUNSEL, IF YOU HAVE ADDITIONAL INQUIRY FOR
13 THE COURT, I'LL SEE YOU AT SIDEBAR.

14 MR. BROTT: I DON'T HAVE ANY.

15 MR. GELLER: I THINK WE'RE FINE WITH THAT.

16 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I AM
17 GOING TO RETURN YOU TO THE JURY ROOM FOR A BRIEF TIME WHILE
18 I CONFER WITH COUNSEL ON THE RECORD OUTSIDE YOUR PRESENCE.
19 WON'T BE LONG. BUT WOULD YOU PLEASE STEP BACK INTO THE JURY
20 ROOM. AND THANK YOU FOR YOUR PATIENCE.

21 (THE FOLLOWING PROCEEDINGS WERE HAD IN
22 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

23 THE COURT: THE RECORD SHOULD REFLECT THAT THE COURT
24 CONFERRED INFORMALLY WITH COUNSEL IN CHAMBERS BEFORE WE
25 BROUGHT THE JURY OUT AND WENT ON THE RECORD. AND IN THAT
26 CONFERENCE BOTH OF YOU ASKED ME TO ASK THE QUESTIONS OF THE

1 JURORS THAT I JUST ASKED OF THE FOREPERSON. AND THEN I
2 TURNED TO YOU AND ASKED IF YOU HAD ANY ADDITIONAL INQUIRY
3 FOR THE COURT.

4 IS THAT FAIR TO SAY, MR. GELLER?

5 MR. GELLER: YES.

6 THE COURT: AND, MR. BROTT?

7 MR. BROTT: YES.

8 THE COURT: AND SO WHERE DO WE GO FROM HERE?

9 MR. GELLER: YOUR HONOR, IN LIGHT OF THE COURT'S
10 INQUIRY AND THE FOREPERSON'S ANSWERS TO THE COURT'S INQUIRY,
11 I WOULD MAKE A MOTION AT THIS TIME TO DISMISS FIRST DEGREE
12 MURDER ONLY, LEAVING THE ONLY VIABLE OPTION LEFT FOR THIS
13 JURY SECOND DEGREE MURDER, GUILTY OR NOT GUILTY, AS TO
14 COUNT 1.

15 THE COURT: ANYTHING YOU WANT TO SAY?

16 MR. BROTT: I DON'T HAVE ANY CONTROL OVER THAT.

17 THE COURT: OKAY. I WILL GRANT THE MOTION TO DISMISS
18 FIRST DEGREE MURDER. I WILL ASK THE JURORS TO RETURN TO THE
19 COURTROOM WITH ALL OF THE VERDICT FORMS SO THAT I CAN REMOVE
20 THE FIRST DEGREE MURDER VERDICT FORMS FROM THEIR PACKET, AND
21 THEN I WILL RETURN THEM TO THE JURY ROOM WITH ALL OF THE
22 FORMS.

23 IS THAT ACCEPTABLE?

24 MR. BROTT: YES.

25 MR. GELLER: I WOULD LIKE -- MY REQUEST IS THAT THE
26 COURT MAKE IT CLEAR, SO THAT THERE'S REALLY NO GUESSWORK,

1 THAT FIRST DEGREE MURDER IS NO LONGER SOMETHING THEY NEED TO
2 DECIDE. THAT THEIR DECISION ON COUNT 1 IS SIMPLY GUILTY OR
3 NOT GUILTY OF SECOND DEGREE MURDER.

4 THE COURT: I THINK I CAN DO THAT, MR. GELLER.

5 MR. GELLER: OKAY.

6 THE COURT: OKAY.

7 (PAUSE IN PROCEEDINGS.)

8 (THE FOLLOWING PROCEEDINGS WERE HAD IN
9 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

10 THE COURT: ARE YOU SAYING I CAN'T INFORM THEM THAT THE
11 MOTION TO DISMISS WAS GRANTED?

12 MR. GELLER: NO. I'M SAYING -- I SUPPOSE YOU COULD
13 TELL THEM THAT THE MOTION TO DISMISS WAS GRANTED.

14 THE COURT: THAT WOULD EXPLAIN IT TO THEM.

15 MR. GELLER: YEAH. THAT WOULD BE FINE.

16 THE COURT: ALL RIGHT.

17 MR. GELLER: AND AS A RESULT, THAT THE ONLY THING
18 THAT'S BEFORE THEM IS SECOND DEGREE MURDER GUILTY/NOT
19 GUILTY.

20 THE COURT: THAT WAS MY INTENTION.

21 MR. GELLER: OKAY.

22 (THE FOLLOWING PROCEEDINGS WERE HAD IN
23 OPEN COURT IN THE PRESENCE OF THE JURY:)

24 THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I HAVE
25 INVITED YOU TO REJOIN US HERE IN OPEN COURT. AND I ALSO
26 DIRECTED MY BAILIFF TO ASK THE FOREPERSON TO BRING ALL OF

1 THE VERDICT FORMS BACK INTO THE COURTROOM.

2 AND, JUROR NO. 8, HAVE YOU DONE SO?

3 JURY FOREPERSON: YES, YOUR HONOR.

4 THE COURT: WOULD YOU HAND THE VERDICT FORMS TO THE
5 BAILIFF, PLEASE.

6 AS I EXPECTED, ALL OF THE VERDICT FORMS ARE
7 BLANK. THEY HAVE NOT BEEN SIGNED.

8 LADIES AND GENTLEMEN, I HAVE JUST GRANTED A
9 MOTION TO DISMISS MURDER IN THE FIRST DEGREE. AND I AM
10 REMOVING FROM YOUR PACKET OF VERDICT FORMS THE TWO VERDICT
11 FORMS THAT RELATE TO MURDER IN THE FIRST DEGREE. THAT ISSUE
12 IS NO LONGER BEFORE YOU.

13 AT THIS TIME WE ARE GOING TO RETURN THE VERDICT
14 FORMS THAT REMAIN IN THE PACKET TO YOU AND RETURN YOU TO THE
15 DELIBERATION ROOM FOR YOUR CONSIDERATION OF MURDER IN THE
16 SECOND DEGREE ONLY IN COUNT 1.

17 DO YOU UNDERSTAND WHAT I'VE SAID, JUROR NO. 8?

18 JURY FOREPERSON: YES, YOUR HONOR.

19 THE COURT: IS THERE ANYONE OF THE 11 OF YOU THAT
20 DIDN'T UNDERSTAND ME JUST NOW? NO HANDS. EVERYONE SEEMS TO
21 KNOW WHAT I'M SAYING.

22 I'M GOING TO GIVE THE VERDICT FORMS BACK TO
23 DEPUTY HANSON. HE'LL RETURN YOU TO THE JURY ROOM, AND YOU
24 WILL ADVISE US. THANK YOU.

25 (JURY CONTINUES TO DELIBERATE.)

26 (THE FOLLOWING PROCEEDINGS WERE HAD IN

1 OPEN COURT IN THE PRESENCE OF THE JURY:)

2 THE COURT: ALL RIGHT. WE ARE RETURNING TO PEOPLE
3 VERSUS REYES, 04CF2780. DEFENDANT IS PRESENT WITH COUNSEL.
4 PEOPLE ARE REPRESENTED. OUR 12 JURORS HAVE RETURNED TO THE
5 COURTROOM AT THIS HOUR.

6 LADIES AND GENTLEMEN, I'VE BEEN INFORMED THAT THE
7 JURY HAS REACHED VERDICTS AND FINDINGS IN THIS CASE.

8 IS THAT CORRECT, JUROR NO. 8?

9 JURY FOREPERSON: YES, YOUR HONOR.

10 THE COURT: WOULD YOU HAND ALL OF THE VERDICT FORMS
11 PLEASE, ONCE AGAIN, TO THE BAILIFF.

12 (PAUSE IN PROCEEDINGS.)

13 THE COURT: COUNSEL, THERE ARE SEVERAL VERDICT FORMS.
14 WILL YOU WAIVE READING OF THE TITLE AND CAPTION ON ALL BUT
15 THE FIRST?

16 MR. BROTT: YES.

17 MR. GELLER: YES.

18 THE COURT: THE CLERK WILL READ THE VERDICTS AND
19 FINDINGS.

20 THE CLERK:

21 "SUPERIOR COURT OF CALIFORNIA, COUNTY
22 OF ORANGE, CENTRAL JUSTICE CENTER. THE
23 PEOPLE OF THE STATE OF CALIFORNIA,
24 PLAINTIFF, VERSUS ANDRES QUINONEZ REYES,
25 DEFENDANT. CASE NUMBER 04CF2780.

26 "VERDICT: WE, THE JURY, IN THE

1 ABOVE-ENTITLED ACTION, FIND THE DEFENDANT
2 ANDRES QUINONEZ REYES GUILTY OF THE CRIME OF
3 FELONY, TO WIT: VIOLATION OF SECTION 187
4 SUBDIVISION (A) OF THE PENAL CODE OF THE
5 STATE OF CALIFORNIA, MURDER, AS CHARGED IN
6 COUNT 1 OF THE INFORMATION, IN THE SECOND
7 DEGREE.

8 "VICTIM: PEDRO JAVIER ROSARIO.

9 "DATE: 6/7/06.

10 "JUROR NO. 8, FOREPERSON."

11 "FINDING: WE, THE JURY, IN THE
12 ABOVE-ENTITLED ACTION, FIND IT TO BE TRUE
13 THAT THE DEFENDANT ANDRES QUINONEZ REYES,
14 DURING THE COMMISSION OF THE CRIME AS
15 ALLEGED IN COUNT 1 OF THE INFORMATION, TO
16 WIT: VIOLATION OF SECTION 187
17 SUBDIVISION (A) OF THE PENAL CODE, MURDER,
18 COMMITTED THAT CRIME FOR THE BENEFIT OF, AT
19 THE DIRECTION OF, AND IN ASSOCIATION WITH A
20 CRIMINAL STREET GANG, TO WIT: F-TROOP, WITH
21 THE SPECIFIC INTENT TO PROMOTE, FURTHER AND
22 ASSIST IN CRIMINAL CONDUCT BY MEMBERS OF
23 THAT GANG WITHIN THE MEANING OF PENAL CODE
24 SECTION 186.22 SUBDIVISION (B)
25 SUBDIVISION (1).

26 "DATE: 6/7/06.

LYNN O. PETERSON, OFFICIAL COURT REPORTER

1 "JUROR NO. 8, FOREPERSON."

2 "FINDING: WE, THE JURY, IN THE
3 ABOVE-ENTITLED ACTION, FIND IT TO BE TRUE
4 THAT THE DEFENDANT ANDRES QUINONEZ REYES,
5 WHO WAS A PRINCIPAL, VICARIOUSLY DISCHARGED
6 A FIREARM CAUSING GREAT BODILY INJURY OR
7 DEATH, DURING THE COMMISSION OF THE OFFENSE
8 ALLEGED IN COUNT 1 OF THE INFORMATION,
9 VIOLATION OF SECTION 187 SUBDIVISION (A) OF
10 THE PENAL CODE OF THE STATE OF CALIFORNIA,
11 MURDER, WITHIN THE MEANING OF PENAL CODE
12 SECTION 12022.53 SUBDIVISION (D) SUBDIVISION
13 (E) SUBDIVISION (1).

14 "DATE: 6/7/06.

15 "JUROR NO. 8, FOREPERSON."

16 "VERDICT: WE, THE JURY, IN THE
17 ABOVE-ENTITLED ACTION, FIND THE DEFENDANT
18 ANDRES QUINONEZ REYES GUILTY OF THE CRIME OF
19 FELONY, TO WIT: VIOLATION OF SECTION 186.22
20 SUBDIVISION (A) OF THE PENAL CODE OF THE
21 STATE OF CALIFORNIA, STREET TERRORISM, AS
22 CHARGED IN COUNT 2 OF THE INFORMATION.

23 "DATE: 6/7/06.

24 "JUROR NO. 8, FOREPERSON."

25 LADIES AND GENTLEMEN OF THE JURY, ARE THESE YOUR
26 VERDICTS AND FINDINGS?

1 THE JURY: YES.

2 THE COURT: DOES EITHER COUNSEL WISH THE JURY POLLED?

3 MR. BROTT: NO.

4 MR. GELLER: NO.

5 THE COURT: POLLING HAVING BEEN WAIVED, THE CLERK WILL
6 RECORD THE VERDICTS.

7 ANYTHING FURTHER REQUIRED OF THE JURY BEFORE THEY
8 ARE DISCHARGED?

9 MR. BROTT: NO.

10 MR. GELLER: NO.

11 THE COURT: ALL RIGHT.

12 LADIES AND GENTLEMEN, YOU'VE NOW COMPLETED YOUR
13 JURY SERVICE IN THIS CASE. ON BEHALF OF ALL OF THE JUDGES
14 OF THE COURT, PLEASE ACCEPT MY THANKS FOR YOUR TIME AND
15 EFFORT.

16 NOW THAT THE CASE IS OVER, YOU MAY CHOOSE WHETHER
17 OR NOT TO DISCUSS THE CASE AND YOUR DELIBERATIONS WITH
18 ANYONE. I REMIND YOU THAT UNDER CALIFORNIA LAW YOU MUST
19 WAIT AT LEAST 90 DAYS BEFORE NEGOTIATING OR AGREEING TO
20 ACCEPT ANY PAYMENT FOR INFORMATION ABOUT THE CASE.

21 LET ME TELL YOU ABOUT SOME RULES THE LAW PUTS IN
22 PLACE FOR YOUR CONVENIENCE AND PROTECTION.

23 THE LAWYERS IN THIS CASE, THE DEFENDANT, OR THEIR
24 REPRESENTATIVES MAY NOW TALK TO YOU ABOUT THE CASE,
25 INCLUDING YOUR DELIBERATIONS OR VERDICT. THOSE DISCUSSIONS
26 MUST OCCUR AT A REASONABLE TIME AND PLACE AND WITH YOUR

1 CONSENT. PLEASE IMMEDIATELY REPORT TO THE COURT ANY
2 UNREASONABLE CONTACT MADE WITHOUT YOUR CONSENT BY THE
3 LAWYERS IN THIS CASE, THEIR REPRESENTATIVES, OR THE
4 DEFENDANT. A LAWYER, REPRESENTATIVE OR DEFENDANT WHO
5 VIOLATES THESE RULES, VIOLATES A COURT ORDER AND MAY BE
6 FINED.

7 I ORDER THAT THE COURT'S RECORD OF PERSONAL JUROR
8 IDENTIFYING INFORMATION, INCLUDING NAMES, ADDRESSES AND
9 TELEPHONE NUMBERS, BE SEALED UNTIL FURTHER ORDER OF THIS
10 COURT.

11 IF IN THE FUTURE THE COURT IS ASKED TO DECIDE
12 WHETHER THIS INFORMATION WILL BE RELEASED, NOTICE WILL BE
13 SENT TO ANY JUROR WHOSE INFORMATION IS INVOLVED. YOU MAY
14 OPPOSE THE RELEASE OF THIS INFORMATION AND ASK THAT ANY
15 HEARING ON THE RELEASE BE CLOSED TO THE PUBLIC. THE COURT
16 WILL DECIDE WHETHER AND UNDER WHAT CONDITIONS ANY
17 INFORMATION MAY BE DISCLOSED.

18 NOW, I WANT TO INFORMALLY THANK YOU VERY MUCH FOR
19 THE SERVICE THAT YOU'VE GIVEN TO US. I KNOW THAT WE MADE IT
20 MORE DIFFICULT FOR YOU BY HAVING THE TRIAL BROKEN UP BY DAYS
21 OF ABSENCE OF THE COURT. AND I COULD TELL FROM THE REREADS
22 THAT YOU REQUESTED THAT YOU WANTED TO BE EXTRAORDINARILY
23 CAREFUL AND THOROUGH IN YOUR DELIBERATIONS. AND YOU'VE
24 WORKED VERY HARD. THERE'S NO DOUBT IN MY MIND THAT YOU'VE
25 GIVEN THIS MATTER YOUR ABSOLUTE, UNDIVIDED ATTENTION. AND I
26 DO THINK YOU PROBABLY FOUND, IF YOU HAVEN'T SERVED ON A JURY

1 BEFORE, THAT JURY SERVICE CAN BE A LITTLE MORE DIFFICULT
2 THAN YOU MIGHT HAVE EXPECTED. BUT YOU HAVE SERVED US ALL
3 VERY WELL. AND WE ARE ALL VERY GRATEFUL TO YOU.

4 I WANT TO THANK YOU TOO ON BEHALF OF THE
5 ATTORNEYS, AS WELL AS MY COURT STAFF. IT'S BEEN A PLEASURE
6 HAVING YOU WITH US.

7 I'M GOING TO BE WITH THE ATTORNEYS FOR ABOUT TWO
8 MORE MINUTES AFTER YOU DEPART THE COURTROOM. AND THEN THEY
9 WILL BE EXITING THROUGH THOSE BACK DOORS INTO THE HALLWAY.
10 IF ANY OF YOU WOULD LIKE TO STAY AND CHAT WITH THEM ABOUT
11 ANY ASPECTS OF THE TRIAL, I'M SURE THEY WOULD BE HAPPY TO
12 TALK TO YOU.

13 I KNOW THAT WHEN I WAS LITIGATING CASES IT WAS
14 ALWAYS HELPFUL TO MY DEVELOPMENT AS A TRIAL LAWYER, NO
15 MATTER HOW MUCH EXPERIENCE I GOT, TO HEAR BACK FROM JURORS.
16 IF THERE WAS ANYTHING IN PARTICULAR THAT WAS TROUBLESOME FOR
17 YOU, IF YOU FELT THAT SOMETHING COULD HAVE BEEN PRESENTED IN
18 A DIFFERENT, PERHAPS A BETTER WAY, IF THERE WAS SOME
19 EVIDENCE YOU DIDN'T GET THAT WOULD HAVE MADE YOUR
20 DECISION-MAKING PROCESS MORE EASY, IF THERE WAS ANYTHING YOU
21 HAD TO SAY AT ALL, I WAS ALWAYS INTERESTED IN HEARING WHAT
22 JURORS HAD TO SAY. BUT THIS, OF COURSE, IS NOT REQUIRED.
23 YOU ARE FREE TO LEAVE THE COURTROOM AT THIS TIME. YOU
24 CERTAINLY DON'T HAVE TO STAY AND TALK WITH THE ATTORNEYS
25 WHEN THEY COME OUT.

26 ONE FAVOR I WOULD ASK OF YOU, IF YOU WOULDN'T

1 MIND, OR MAYBE YOU COULD DESIGNATE ONE REPRESENTATIVE TO DO
2 THIS, IF SOMEONE COULD STOP ON THE THIRD FLOOR AND RETURN
3 THOSE BADGES THAT YOU'RE STILL WEARING TO THE JURY ASSEMBLY
4 ROOM, WE'D APPRECIATE IT. IF YOU GET ALL THE WAY TO YOUR
5 CAR AND YOU REALIZE YOU STILL HAVE YOUR BADGE, DON'T COME
6 BACK TO THE COURTHOUSE. WE WILL FIND A WAY TO PAY FOR THE
7 PLASTIC THAT YOU'VE LEFT WITH.

8 I ALSO WANT TO ASSURE YOU THAT I DID RECEIVE A
9 REQUEST CONCERNING THE ORDER OF THE COURT AND HOW WE'RE
10 GOING TO CLOSE THIS EVENING, AND I'M GRANTING THAT REQUEST.
11 THE SPECTATORS WILL REMAIN IN THE COURTROOM UNTIL THEY ARE
12 EXCUSED BY THE BAILIFF, AND THEY WILL NOT BE EXCUSED BY THE
13 BAILIFF UNTIL YOU HAVE CLEARED THE BUILDING.

14 SO, FEEL FREE, IF YOU WOULD LIKE TO STAY AND TALK
15 WITH THE ATTORNEYS, TO DO SO. THEY'LL BE COMING OUT NEXT.

16 ONCE AGAIN, LADIES AND GENTLEMEN, WE ARE ALL
17 DEEPLY GRATEFUL FOR YOUR SERVICE. MY STAFF AND I DO
18 APPRECIATE HAVING YOU HERE THE LAST SEVERAL WEEKS. WE HOPE
19 THAT YOU FOUND SOMETHING POSITIVE FROM THIS EXPERIENCE.
20 CERTAINLY, YOU ARE DOING YOUR PART TO PROTECT THE FREEDOMS
21 THAT WE HAVE AND ENJOY IN THIS COUNTRY, JUST AS SO MANY
22 OTHERS ARE DOING SO WITH THEIR LIVES. SO, THANK YOU VERY,
23 VERY MUCH.

24 YOU ARE NOW EXCUSED.

25 (JURY EXCUSED.)

26 /////

1 (THE FOLLOWING PROCEEDINGS WERE HAD IN
2 OPEN COURT OUT OF THE PRESENCE OF THE JURY:)

3 THE COURT: IT'S MY UNDERSTANDING FROM INFORMAL
4 CONFERENCES WITH COUNSEL THAT MR. REYES WOULD LIKE TO WAIVE
5 HIS RIGHT TO BE SENTENCED WITHIN 20 COURT DAYS AND ASK TO BE
6 SENTENCED ON JULY 21ST.

7 IS THAT RIGHT?

8 MR. BROTT: YES.

9 THE COURT: ALL RIGHT WITH YOU, MR. GELLER?

10 MR. GELLER: THAT'S FINE, YOUR HONOR.

11 THE COURT: MR. REYES, YOU HAVE A RIGHT TO BE SENTENCED
12 ON THIS CASE WITHIN 20 COURT DAYS FROM TODAY'S DATE. YOUR
13 ATTORNEY IS ASKING ME TO SET YOUR SENTENCING FOR JULY 21ST,
14 2006.

15 DO YOU UNDERSTAND?

16 THE DEFENDANT: YES.

17 THE COURT: IF WE SET IT THAT FAR OUT, THEN WE'LL BE
18 ABLE TO OBTAIN A VERY THOROUGH AND COMPLETE REPORT FROM THE
19 PROBATION DEPARTMENT WITH THEIR RECOMMENDATION CONCERNING
20 SENTENCING.

21 DO YOU UNDERSTAND?

22 THE DEFENDANT: YES.

23 THE COURT: BUT IN ORDER FOR ME TO SET JULY 21 FOR YOUR
24 SENTENCING, YOU HAVE TO GIVE UP YOUR RIGHT TO BE SENTENCED
25 WITHIN 20 COURT DAYS FROM TODAY.

26 DO YOU UNDERSTAND THAT?

1 THE DEFENDANT: YES.

2 THE COURT: IS THAT WHAT YOU WISH TO DO?

3 THE DEFENDANT: YES.

4 THE COURT: JOIN?

5 MR. BROTT: YES.

6 THE COURT: MATTER WILL BE REFERRED TO THE PROBATION
7 DEPARTMENT FOR PREPARATION OF A PROBATION AND SENTENCING
8 REPORT FOR THE COURT'S CONSIDERATION.

9 PROBATION IS ORDERED TO HAVE THE REPORT, WITH
10 COPIES AVAILABLE TO COUNSEL, TO THE COURT WITHIN FIVE DAYS
11 OF THE PROBATION HEARING.

12 THE DEFENDANT WILL BE HELD IN CUSTODY WITHOUT
13 BAIL PENDING SENTENCING.

14 IS ANYTHING FURTHER REQUIRED?

15 MR. BROTT: NO.

16 MR. GELLER: NO.

17 THANK YOU, YOUR HONOR.

18 THE COURT: THANK YOU VERY MUCH.

19 MR. GELLER: THANK YOU FOR THE COURT'S TIME.

20 THE COURT: THANK YOU.

21 SPECTATORS REMAIN UNTIL THE BAILIFF EXCUSES YOU.

22

23

24 (EVENING RECESS.)

25 -000-

26

1 SANTA ANA, CALIFORNIA - TUESDAY, JULY 25, 2006

2 AFTERNOON SESSION

3 -000-

4
5 (THE FOLLOWING PROCEEDINGS WERE HAD IN
6 OPEN COURT:)

7 THE COURT: ALL RIGHT. NO. 1 ON TODAY'S CALENDAR,
8 PEOPLE VS. ANDRES QUINONEZ REYES, CASE NUMBER 04CF2780.
9 THIS MATTER IS HERE FOR PROBATION AND SENTENCING REPORT.

10 MAY I HAVE YOUR APPEARANCES, PLEASE.

11 MR. GELLER: MARK GELLER, DEPUTY DISTRICT ATTORNEY, FOR
12 THE PEOPLE.

13 MR. BROTT: JIM BROTT FOR MR. REYES. HE'S PRESENT.

14 THE COURT: PRELIMINARILY, I'D LIKE THE RECORD TO NOTE
15 THAT WE ATTEMPTED TO HOLD THIS PROCEEDING WHEN IT WAS SET
16 LAST FRIDAY, JULY 21, 2006. WE WERE UNABLE TO SECURE THE
17 TRANSPORTATION OF THE DEFENDANT. APPARENTLY, HIS HOUSING
18 HAD BEEN CHANGED FROM SANTA ANA CITY JAIL TO A JUVENILE
19 DETENTION FACILITY AND THE TRANSPORTATION ORDERS WERE NOT
20 FORWARDED WHEN HIS DETENTION CHANGED. SO WE JUST COULDN'T
21 GET HIM UP HERE ON FRIDAY. AND BECAUSE HE IS ORDERED
22 SEPARATED FROM OTHER PRISONERS, WE FELT WE MIGHT RUN INTO
23 THE SIMILAR PROBLEM IF WE ATTEMPTED TO BRING HIM IN
24 YESTERDAY, MONDAY. SO THIS AFTERNOON WAS AGREED TO BY BOTH
25 COUNSEL.

26 IS THERE ANYTHING YOU WANT TO ADD TO THE RECORD

LYNN O. PETERSON, OFFICIAL COURT REPORTER

1 WITH RESPECT TO THAT, MR. BROTT?

2 MR. BROTT: NO, YOUR HONOR.

3 THE COURT: AND, MR. GELLER?

4 MR. GELLER: NO, THANK YOU.

5 THE COURT: ALL RIGHT. THE COURT --

6 MR. BROTT: YOUR HONOR, MR. REYES UNDERSTANDS THE
7 PROBLEMS AND WAIVES ANY PROBLEM WITH HIS TRANSPORTATION ON
8 FRIDAY AND AGAIN YESTERDAY.

9 IS THAT TRUE, MR. REYES?

10 THE DEFENDANT: YES.

11 MR. BROTT: I JOIN.

12 THE COURT: OKAY. I DO HAVE A VAGUE RECOLLECTION THAT
13 WHEN WE SET THE DATE FOR SENTENCING I DID ADVISE MR. REYES
14 THAT HE NEEDED TO WAIVE TIME FOR SENTENCING TO FRIDAY'S
15 DATE, JULY 21ST, OR WITHIN A REASONABLE TIME OF FRIDAY'S
16 DATE. AND THAT'S USUALLY SAID TO ENCOMPASS UNFORESEEN
17 CIRCUMSTANCES, SUCH AS THAT WHICH WE FACED LAST FRIDAY.

18 BUT, IN ANY EVENT, THANK YOU, MR. REYES. WE ARE
19 GOING TO PROCEED AT THIS TIME.

20 COUNSEL, WAIVE ARRAIGNMENT FOR JUDGMENT AND
21 SENTENCING?

22 MR. BROTT: YES.

23 THE COURT: ANY LEGAL CAUSE WHY SENTENCE SHOULD NOT NOW
24 BE IMPOSED?

25 MR. BROTT: NO.

26 THE COURT: COURT HAS RECEIVED, READ AND CONSIDERED A

1 REPORT PREPARED BY THE ORANGE COUNTY PROBATION DEPARTMENT.
2 IT CONSISTS OF 20 PAGES, PLUS ATTACHMENTS. I'M AFFIXING MY
3 SIGNATURE THERETO TO INDICATE THAT I HAVE READ AND
4 CONSIDERED IT.

5 HAVE BOTH COUNSEL HAD AN OPPORTUNITY TO READ THE
6 REPORT AS WELL AS THE ATTACHMENTS, MR. GELLER?

7 MR. GELLER: YES.

8 MR. BROTT: YES.

9 THE COURT: IN ADDITION, THE COURT RECEIVED A
10 SENTENCING BRIEF FILED BY AND ON BEHALF OF THE PEOPLE
11 CONSISTING OF TWO PAGES. I'M INITIALING THAT BRIEF NOW TO
12 INDICATE THAT I READ IT AS WELL.

13 IS THERE A VICTIM-IMPACT STATEMENT?

14 MR. GELLER: THERE IS NOT. WE'VE HAD NO CONTACT WITH
15 ANY OF THE VICTIM'S FAMILY MEMBERS. THE VICTIM/WITNESS
16 OFFICE HAS MADE BEST EFFORTS THROUGHOUT THE PENDENCY OF THIS
17 ENTIRE CASE AND NO ONE'S COME FORTH ON BEHALF OF THE VICTIM.

18 THE COURT: DO THE PEOPLE WISH TO BE HEARD?

19 MR. GELLER: I'M SUBMITTING ON MY BRIEF.

20 THE COURT: MR. BROTT, IS THERE ANYTHING YOU WANT ME TO
21 CONSIDER FROM ANYONE CLOSE TO THE DEFENDANT?

22 MR. BROTT: WELL, THE LETTERS SUBMITTED, OF COURSE, ON
23 BEHALF OF THE DEFENDANT IN THE PROBATION REPORT, WHICH I
24 KNOW THE COURT HAS READ AND CONSIDERED. I WOULD LIKE TO
25 EMPHASIZE MY STATEMENTS THAT I MADE IN THE PRE-SENTENCE
26 REPORT, THAT IS, THAT MR. REYES IS A NON-SHOOTER IN A

1 SITUATION HERE WHERE HE'S BEEN FOUND GUILTY OF AIDING AND
2 ABETTING. I FEEL THAT BECAUSE OF HIS AGE AND BECAUSE OF
3 DISPARITY IN THE LAW THAT IT IS CRUEL AND UNUSUAL TO
4 SENTENCE A DEFENDANT, WHO WAS 15 AT THE TIME OF THE CRIME,
5 AS A NON-SHOOTER TO, ESSENTIALLY, THE SAME AS THOUGH HE HAD
6 FIRED THE WEAPON. AND I WOULD MAKE MY ARGUMENT THAT IT'S
7 CRUEL AND UNUSUAL. IT VIOLATES THE SPIRIT, IF NOT THE
8 LETTER, OF THE LAW. AND I'LL SUBMIT IT.

9 THE COURT: DOES YOUR CLIENT WISH TO BE HEARD?

10 MR. BROTT: NO, YOUR HONOR.

11 THE COURT: OKAY. WELL, MR. REYES -- AND I CALL YOU
12 MR. REYES BECAUSE YOU ARE SITTING HERE IN ADULT COURT -- I
13 REALLY WANTED TO TRY TO DO SOMETHING FOR YOU, IF I COULD. I
14 LOOKED AT THE LAW WITH RESPECT TO REFERRING YOU OUT TO THE
15 YOUTH AUTHORITY FOR AN AMENABILITY REPORT. BUT THE LAW DOES
16 NOT PROVIDE FOR ANY SENTENCE OTHER THAN WHAT I'M ABOUT TO
17 IMPOSE.

18 AND THE REASON I WANTED TO TRY AND DO SOMETHING
19 FOR YOU IS BECAUSE YOU SIT HERE 17 YEARS OLD. YOU'RE ONLY
20 5'6" TALL, AND WEIGH 110 POUNDS. AND YOU'RE HERE FOR ANY
21 NUMBER OF REASONS, SOME OF WHICH BOIL DOWN TO THE FACT THAT
22 WHEN WE'RE 15 YEARS OLD WE MAKE STUPID DECISIONS AND DUMB
23 MISTAKES. AND I THINK THAT EVEN YOUR ATTORNEY, AS WISE AS
24 HE IS, MADE STUPID DECISIONS AND DUMB MISTAKES, BECAUSE I
25 KNOW I MADE STUPID DECISIONS AND DUMB MISTAKES AT THE AGE OF
26 15. BUT I NEVER JOINED A CRIMINAL STREET GANG. I NEVER

1 DEFACED PUBLIC PROPERTY. I NEVER PUT MY GANG INSIGNIA ON
2 THE WALLS OF A JUVENILE DETENTION FACILITY. I NEVER
3 PARTICIPATED IN A GROUP MURDER. I NEVER USED A GUN, CARRIED
4 A GUN, THREATENED ANYONE WITH A GUN. SO, EVEN THOUGH I FELT
5 FROM READING THE PROBATION REPORT THAT YOU HAD MADE STUPID
6 MISTAKES, THERE ISN'T MUCH I CAN DO AS YOU FACE THE
7 CONSEQUENCES OF THESE STUPID MISTAKES.

8 YOU TOOK A LIFE. YOU WERE PART OF A GROUP THAT
9 TOOK A LIFE.

10 AND THE LAW HAS EVOLVED OVER THE LAST 25 OR 30
11 YEARS THAT I'VE BEEN INVOLVED IN CRIMINAL LAW, BECAUSE THE
12 PEOPLE WHO ARE MEMBERS OF THE COMMUNITY ARE SICK AND TIRED
13 OF HAVING LIVES TAKEN BY GANG MEMBERS, TEENAGE HOODLUMS WHO
14 WALK THE STREETS WITH GUNS AND COMMIT CRIMES AND DESTROY
15 THEIR PROPERTY AND DESTROY THEIR FAMILIES AND INJURE OTHER
16 PEOPLE AND BEAT-UP ONE ANOTHER. AND SO THE PEOPLE IN THE
17 COMMUNITY SAY TO THE PEOPLE WHO MAKE THE LAWS, YOU'VE GOT TO
18 DO SOMETHING ABOUT THIS. AND, IF THAT DOESN'T WORK, THE
19 PEOPLE IN THE COMMUNITIES SIGN PETITIONS AND PUT INITIATIVES
20 ON THE BALLOT TO MAKE STRONGER LAWS TO TELL EVERYONE THAT
21 SOMETHING NEEDS TO BE DONE ABOUT THIS.

22 AND SO NOW WE HAVE THE GANG STATUTES. 186.22.
23 AND NOW WE'VE LOST THE DISCRETION, AT LEAST, THE JUDGE'S
24 HAVE LOST THE DISCRETION, IN DECIDING WHETHER JUVENILES
25 SHOULD BE TRIED AS JUVENILES OR AS ADULTS. THAT'S NOW LEFT
26 TO THE PROSECUTORS. THEY MAKE THAT DECISION. AND NOW THE

1 COURTS ARE TOLD, BY VIRTUE OF THE LAW, THAT WHEN A JUVENILE
2 COMMITS A MURDER, I DON'T HAVE THE DISCRETION TO DETERMINE
3 THAT YOU MIGHT BE AMENABLE TO TREATMENT, OR SUBJECT TO
4 REHABILITATION, OR LIKELY TO BE REHABILITATED AND MAKE ANY
5 DECISION CONTRARY TO WHAT THE LAW SAYS THE PUNISHMENT HAS TO
6 BE FOR MURDER. SO HERE WE SIT.

7 AND THE ONLY THING THAT I CAN HOPE FOR YOU IS
8 THAT YOU SPEND THIS TIME INCARCERATED THINKING ABOUT YOUR
9 STUPID MISTAKES AND STUPID DECISIONS, SO THAT IF YOU ARE
10 EVER BLESSED WITH A RELEASE ON PAROLE YOU WILL NOT MAKE
11 STUPID MISTAKES AND STUPID DECISIONS. BUT YOU WILL PAY BACK
12 THE COMMUNITY FOR THE LIFE THAT YOU HAVE TAKEN AND FOR THE
13 DAMAGE THAT YOU HAVE CAUSED, AND YOU WILL REPAY YOUR FAMILY
14 FOR WHAT YOU HAVE PUT THEM THROUGH.

15 I WILL TELL YOU THAT I HAVE A DEEP CONCERN ABOUT
16 YOUR BROTHER EDDIE, BECAUSE HE WAS IN COURT WHEN I THOUGHT
17 HE WAS GOING TO BE A WITNESS. AND I GOT THE IMPRESSION HE
18 WASN'T IN SCHOOL. AND HE MAY BE FOLLOWING YOU DOWN YOUR
19 PATH. I HOPE THAT IS NOT THE CASE.

20 I DON'T MEAN TO LECTURE YOU, MR. REYES, BUT I DO
21 MEAN TO TRY TO EXPLAIN TO YOU WHY YOU ARE HERE AT THIS
22 MOMENT IN TIME IN FRONT OF ME AND WHY I MUST DO WHAT I MUST
23 DO. BECAUSE THIS IS THE LAW. AND I DON'T CHALLENGE IT.
24 AND I DON'T THINK IT'S WRONG BECAUSE I'M PART OF THAT
25 COMMUNITY WHO DOESN'T WANT MY PARK BENCHES WRITTEN ON OR MY
26 JUVENILE DETENTION FACILITIES MARRED OR MY CHILDREN OR THE

1 YOUTHS IN MY COMMUNITY RUNNING AROUND WITH GUNS AND SHOOTING
2 PEOPLE WHO LIVE NEARBY.

3 ON COUNT 1 OF THE INFORMATION, THE COURT NOW
4 SENTENCES THE DEFENDANT TO THE MANDATORY REQUIRED 15 YEARS
5 TO LIFE IMPRISONMENT IN THE STATE PRISON.

6 AS TO THE 12022.53 (D) (E) (1) ALLEGATION WITH
7 RESPECT TO COUNT 1, THE COURT NOW IMPOSES THE MANDATORY
8 SENTENCE OF 25 CONSECUTIVE YEARS TO LIFE, FOR A TOTAL
9 CONFINEMENT IN THE STATE PRISON OF 40 YEARS TO LIFE.

10 AS TO THE 186.22 SUBDIVISION (B) SUBDIVISION (1)
11 ALLEGATION WITH RESPECT TO COUNT 1, THE COURT WILL IMPOSE
12 TEN YEARS IN THE STATE PRISON CONSECUTIVE, AND STAY THAT
13 SENTENCE. BECAUSE IT IS THIS COURT'S VIEW, AFTER CONFERENCE
14 WITH COUNSEL, THAT THE 186.22 (B) (1) ALLEGATION IS PRECLUDED
15 BY THE PROVISIONS OF PENAL CODE SECTION 654 WITH RESPECT TO
16 THE 12022.53 (D) (E) (1) ALLEGATION.

17 AS TO COUNT 2, STREET TERRORISM, 186.22
18 SUBDIVISION (A), THE DEFENDANT, HAVING BEEN FOUND GUILTY OF
19 THAT COUNT, THE COURT DOES NOW SENTENCE THE DEFENDANT TO THE
20 MIDTERM OF TWO YEARS CONFINEMENT IN THE STATE PRISON AND
21 ORDERS THAT CHARGE TO RUN CONCURRENT TO THE CHARGE IN
22 COUNT 1.

23 ONE MOMENT.

24 THE COURT DETERMINES THAT CONCURRENT SENTENCE IS
25 APPROPRIATE IN THIS CASE BECAUSE IT DOES APPEAR THAT THE
26 CRIME IN COUNT 1 AND THE CRIME IN COUNT 2 AND THE OBJECTIVES

1 OF THOSE CRIMES WERE NOT INDEPENDENT OF EACH OTHER, DID NOT
2 INVOLVE SEPARATE ACTS OF VIOLENCE, AND WERE NOT COMMITTED AT
3 DIFFERENT TIMES OR SEPARATE PLACES.

4 I NEED CREDITS. SHALL I USE THE PROBATION
5 CREDITS PLUS?

6 MR. BROTT: YES, PLUS 4.

7 THE COURT: THEY'RE SHOWING DAYS IN CUSTODY 710, PLUS 4
8 IS 714.

9 DOES THAT APPEAR TO BE THE ACTUAL DAYS IN
10 CUSTODY, MR. BROTT?

11 MR. BROTT: YES.

12 THE COURT: IS HE ENTITLED TO ANY CONDUCT CREDITS?

13 MR. GELLER: NO, HE'S NOT.

14 MR. BROTT: NO, YOUR HONOR.

15 THE COURT: ALL RIGHT. 714 ACTUAL DAYS IN CUSTODY AS
16 AGAINST THE 40-YEAR-TO-LIFE COMMITMENT HERETOFORE IMPOSED BY
17 THE COURT.

18 DEFENDANT IS ORDERED TO PAY \$200 TO THE STATE
19 RESTITUTION FUND, PURSUANT TO PENAL CODE SECTION 1202.4.

20 IF IN FACT, MR. REYES, YOU ARE EVER RELEASED ON A
21 PERIOD OF PAROLE, THAT PAROLE COULD BE FOR UP TO THREE YEARS
22 OR LONGER AND YOU WOULD BE SUBJECT TO A RETURN TO STATE
23 PRISON CONFINEMENT FOR EACH AND EVERY VIOLATION OF YOUR
24 PAROLE FOR UP TO ONE YEAR OR LONGER. YOU WOULD ALSO BE
25 SUBJECT TO A \$200 PAROLE REVOCATION FEE FOR EACH AND EVERY
26 VIOLATION OF PAROLE. TODAY THE COURT WILL IMPOSE A \$200

1 PAROLE REVOCATION FEE AND STAY IT, PENDING ANY VIOLATION OF
2 PAROLE.

3 I'M ALSO REQUIRED TO IMPOSE THE MANDATORY \$20
4 SECURITY FEE FOR EACH COUNT ON WHICH YOU WERE SENTENCED
5 TODAY. THAT'S COUNTS 1 AND 2, FOR A TOTAL OF \$40.

6 MR. GELLER: MAY I INTERRUPT THE COURT, PLEASE?

7 THE COURT: YES.

8 MR. GELLER: HE'S ACTUALLY ON PAROLE FOR LIFE. IT'S A
9 LIFE SENTENCE. HE'D BE ON PAROLE FOR LIFE, YOUR HONOR.

10 THE COURT: THANK YOU VERY MUCH.

11 WHEN I SAID, "UP TO THREE YEARS OR LONGER," THAT
12 WAS BECAUSE I DIDN'T KNOW, APPARENTLY, YOU'RE ON PAROLE FOR
13 LIFE IF YOU DO MAKE PAROLE IN THE FUTURE. THAT'S GOING TO
14 BE A LONG WAYS AWAY, IF IT HAPPENS AT ALL.

15 I DO NOT FIND, AS THE PROBATION OFFICER ASKED ME
16 TO DO, THAT THE DEFENDANT HAS THE ABILITY TO PAY FOR THE
17 COST OF THE FELONY PRE-SENTENCE REPORT IN THE AMOUNT OF
18 \$2,762.17. AND INASMUCH AS I HAVE MADE THAT FINDING, I AM
19 NOT ORDERING THE DEFENDANT TO PAY THAT AMOUNT, EVEN AT THE
20 MONTHLY RATE DETERMINED BY THE PROBATION OFFICER.

21 I WILL ORDER THAT THE DEFENDANT PROVIDE
22 FINGERPRINTS, AS WELL AS BLOOD AND SALIVA SAMPLES, FOR DNA
23 TESTING PURSUANT TO PENAL CODE SECTIONS 296 AND 296.1.

24 I DO NOT KNOW IF YOU ARE A CITIZEN OF THE UNITED
25 STATES, MR. REYES, OR NOT. I BELIEVE THAT YOU ARE. BUT IF
26 YOU ARE NOT, THIS CONVICTION WILL RESULT IN DEPORTATION,

1 EXCLUSION FROM ADMISSION TO THE UNITED STATES OR DENIAL OF
2 NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES, IF
3 INDEED YOU ARE EVER RELEASED.

4 YOU NEED TO LISTEN TO THIS NOW VERY CAREFULLY.

5 YOU HAVE A RIGHT TO APPEAL FROM THE SENTENCE
6 THAT'S BEING IMPOSED BY THE COURT.

7 IF YOU WISH TO APPEAL YOU MUST DO SO IN WRITING
8 WITH THE CLERK OF THIS COURT WITHIN 60 DAYS FROM TODAY'S
9 DATE.

10 IF YOU WISH TO APPEAL AND CANNOT AFFORD AN
11 ATTORNEY TO REPRESENT YOU, ONE WILL BE APPOINTED FOR YOU
12 FREE OF CHARGE.

13 YOU ALSO HAVE A RIGHT TO A TRANSCRIPT AND RECORD
14 OF THESE PROCEEDINGS FREE OF CHARGE AND OF THE TRIAL FREE OF
15 CHARGE IN ORDER TO PURSUE YOUR APPEAL.

16 DO YOU UNDERSTAND YOUR RIGHTS TO APPEAL?

17 THE DEFENDANT: YES.

18 THE COURT: MR. BROTT, CAN I HAVE YOUR ASSURANCE THAT
19 YOU WILL FILE A NOTICE OF APPEAL ON BEHALF OF MR. REYES.

20 MR. BROTT: I HAVE IT IN MY HAND. AND I WAS ATTEMPTING
21 TO FILE IT WITH THIS COURT, BUT I'LL TAKE IT DOWNSTAIRS AND
22 FILE IT WITHIN THE NEXT TEN MINUTES.

23 THE COURT: THANK YOU VERY MUCH, SIR, FOR THAT
24 ASSURANCE. I WAS CONCERNED.

25 LET ME HAVE A MOMENT WITH MY CLERK.

26 (DISCUSSION HELD OFF THE RECORD.)

1 ANYTHING FURTHER FROM COUNSEL? MR. BROTT?

2 MR. BROTT: I'D LIKE THE COURT TO ORDER THE DEFENDANT
3 HOUSED AT THE CYA PENDING DETERMINATION OF HIS SUITABILITY.

4 THE COURT: MR. GELLER, DID YOU WANT TO BE HEARD?

5 MR. GELLER: NO. I'LL SUBMIT.

6 THE COURT: ALL RIGHT. I BELIEVE THAT THE DEFENDANT
7 COMES WITHIN THE MEANING OF WELFARE AND INSTITUTIONS CODE
8 208 THAT PRECLUDES HIS EXPOSURE TO PERSONS 18 YEARS OR OVER,
9 BY VIRTUE OF THE FACT THAT THE DEFENDANT IS CURRENTLY 17
10 YEARS.

11 IN ADDITION, I DO BELIEVE THAT HE COMES WITHIN
12 THE PARAMETERS OF WELFARE AND INSTITUTIONS CODE SECTION
13 1731.5. I DO FIND THAT HE WAS LESS THAN 21 YEARS AT THE
14 TIME OF HIS APPREHENSION. IT DOES NOT APPEAR TO ME THAT HE
15 IS SENTENCED TO DEATH AND/OR IMPRISONMENT FOR LIFE WITH OR
16 WITHOUT THE POSSIBILITY OF PAROLE. HE IS NOT BEING GRANTED
17 PROBATION. AND, THEREFORE, IT WOULD APPEAR TO ME THAT THE
18 YOUTH AUTHORITY MUST ACCEPT THIS DEFENDANT FOR HOUSING.
19 CONSEQUENTLY, THE COURT WILL ORDER THAT THE DEFENDANT BE
20 HOUSED AT THE CALIFORNIA YOUTH AUTHORITY.

21 TO THE EXTENT THAT THE COURT CAN MAKE A FURTHER
22 ORDER THAT HE BE HOUSED THERE UNTIL THE AGE OF 25, THE COURT
23 SO ORDERS.

24 ANYTHING FURTHER, MR. BROTT, ON THIS QUESTION?

25 MR. BROTT: NO.

26 THE COURT: ANYTHING ELSE FROM YOU, MR. GELLER?

1 MR. GELLER: NO. THANK YOU, YOUR HONOR.

2 THE COURT: ALL RIGHT. THANK YOU BOTH VERY MUCH FOR
3 THE WORK YOU'VE DONE ON THIS CASE. I APPRECIATE IT.

4 MR. BROTT: THANK YOU, YOUR HONOR.

5 MR. GELLER: THANK YOU.

6

7 (END OF PROCEEDINGS.)

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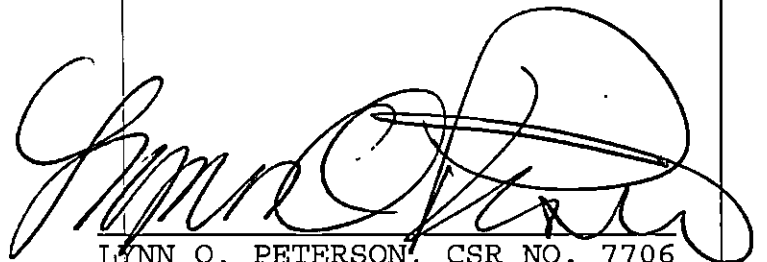
25

26

REPORTER'S CERTIFICATE

I, LYNN O. PETERSON, CSR NO. 7706, OFFICIAL COURT REPORTER, DO HEREBY CERTIFY THAT THE FOREGOING REPORTER'S TRANSCRIPT IS A FULL, TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES THEREOF, AND A FULL, TRUE AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.

DATED AT SANTA ANA, CALIFORNIA, THIS 12TH DAY OF SEPTEMBER, 2006.

A large, stylized handwritten signature in black ink, appearing to read 'Lynn O. Peterson', is written over the printed name and title.

LYNN O. PETERSON, CSR NO. 7706
OFFICIAL COURT REPORTER

NO. G037395

THE PEOPLE OF THE STATE OF CALIFORNIA,
VS.
ANDRES QUINONEZ REYES.

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

I, ALAN SLATER, CHIEF EXECUTIVE OFFICER AND CLERK
OF THE SUPERIOR COURT, IN AND FOR THE COUNTY OF ORANGE,
STATE OF CALIFORNIA, HEREBY CERTIFY: THAT I AM NOT A PARTY
TO THE WITHIN ACTION OR PROCEEDING; THAT ON

_____, 20____, I SERVED THE WITHIN
REPORTER'S TRANSCRIPT ON APPEAL ON ANDRES QUINONEZ REYES,
DEFENDANT IN SAID ACTION OR PROCEEDING, BY DEPOSITING A TRUE
COPY THEREOF, ENCLOSED IN A SEALED ENVELOPE, WITH FEES
THEREON FULLY PREPAID, WITH THE FEDERAL EXPRESS STATION AT
SANTA ANA, CALIFORNIA, ADDRESSED AS FOLLOWS:

ANDRES QUINONEZ REYES
C/O APPELLATE DEFENDERS
555 W. BEECH STREET, #300
SAN DIEGO, CALIFORNIA 92101

ALAN SLATER, CHIEF EXECUTIVE
OFFICER AND CLERK OF THE
SUPERIOR COURT

BY: _____
DEPUTY

LYNN O. PETERSON, OFFICIAL COURT REPORTER

RECEIVED BY ALAN SLATER, CHIEF EXECUTIVE OFFICER
AND CLERK OF THE SUPERIOR COURT, A COPY OF THE REPORTER'S
TRANSCRIPT ON APPEAL CONSISTING OF _____ VOLUMES IN THE
ABOVE-ENTITLED MATTER THIS _____ DAY OF _____,
20____.

(SIGNATURE OF RECIPIENT)

I HEREBY CERTIFY THAT THE ATTORNEY GENERAL'S COPY
WAS TRANSMITTED TO THE DISTRICT ATTORNEY FOR REVIEW ON
_____ DAY OF _____, 20____.

ALAN SLATER, CHIEF EXECUTIVE
OFFICER AND CLERK OF THE
SUPERIOR COURT

BY: _____

DEPUTY

I HEREBY CERTIFY THAT ALL PROPOSED CORRECTIONS OF
THE FOREGOING REPORTER'S TRANSCRIPT HAVE BEEN DETERMINED AND
CORRECTED IN ACCORDANCE THEREWITH, AND THE SAME IS CERTIFIED
AS CORRECT.

DATED THIS _____ DAY OF _____, 20____.

JUDGE OF THE SUPERIOR COURT

LYNN O. PETERSON, OFFICIAL COURT REPORTER

I HEREBY CERTIFY THAT A COPY OF THE WITHIN
REPORTER'S TRANSCRIPT WAS TRANSMITTED TO THE ATTORNEY
GENERAL OF THE STATE OF CALIFORNIA ON THIS _____ DAY OF
_____, 20____.

ALAN SLATER, CHIEF EXECUTIVE
OFFICER AND CLERK OF THE
SUPERIOR COURT

BY: _____
DEPUTY

CLERK'S CERTIFICATE

NOTICE OF COMPLETION OF THE REPORTER'S TRANSCRIPT
ON APPEAL OF THE WITHIN ACTION HAVING BEEN DELIVERED TO THE
ATTORNEYS REPRESENTING THE APPELLANT AND RESPONDENT, AND NO
REQUEST FOR CORRECTION OF SAID TRANSCRIPT ON APPEAL HAVING
BEEN FILED, AND THE TIME FOR SAID FILING HAVING EXPIRED;

PURSUANT TO RULE 35(C) OF THE RULES OF APPEAL, I
HEREBY CERTIFY THE FOREGOING RECORD TO BE A FULL, TRUE AND
CORRECT TRANSCRIPT ON APPEAL.

DATED THIS _____ DAY OF _____, 20____.

ALAN SLATER, CHIEF EXECUTIVE
OFFICER AND CLERK OF THE
SUPERIOR COURT OF THE STATE OF
CALIFORNIA, IN AND FOR THE
COUNTY OF ORANGE.

BY: _____
DEPUTY

LYNN O. PETERSON, OFFICIAL COURT REPORTER

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PEOPLE v.
REYES**

Case Number: **S270723**

Lower Court Case Number: **G059251**

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: **Jennifer.Truong@doj.ca.gov**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
EXHIBITS	Exhibit A _Part 1 of 2
EXHIBITS	Exhibit A _Part 2 of 2
EXHIBITS	Exhibit B _Part 1 of 3
EXHIBITS	Exhibit B _Part 2 of 3
EXHIBITS	Exhibit B _Part 3 of 3

Service Recipients:

Person Served	Email Address	Type	Date / Time
Jennifer Truong Department of Justice, Office of the Attorney General-San Diego 285868	Jennifer.Truong@doj.ca.gov	e-Serve	4/7/2022 4:48:48 PM
Gerald Miller Court Added 120030	miller120030@gmail.com	e-Serve	4/7/2022 4:48:48 PM
Richard Levy Richard A. Levy 126824	rlevy@richardalevy.com	e-Serve	4/7/2022 4:48:48 PM
Lindsey Schiller Department of Justice, Office of the Attorney General-San Diego	lindsey.schiller@doj.ca.gov	e-Serve	4/7/2022 4:48:48 PM
Richard Levy Attorney at Law	levy@richardalevy.com	e-Serve	4/7/2022 4:48:48 PM
Liza Nickolas CA Attorney General's Office - San Diego	liza.nickolas@doj.ca.gov	e-Serve	4/7/2022 4:48:48 PM
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			PM
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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

4/7/2022

 Date

/s/Liza Nickolas

 Signature

Truong, Jennifer (285868)

 Last Name, First Name (PNum)

Department of Justice, Office of the Attorney General-San Diego

 Law Firm