









Appellate...: A

Case No....: 003047

Year..... 09

Type.....: TRANSCRIPT

Volume.....: 006

SUPERIOR COURT OF NEW JERSEY CRIMINAL DIVISION - MIDDLESEX COUNTY INDICTMENT NO. 07-10-1579 APP. DIV. DOCKET NO. A- 003047-09-

STATE OF NEW JERSEY,

Complainant,

vs.

Transcript of Proceedings
 (Trial - Vol. I)

PABLIO MACHADO,

Defendant.

Place: Middlesex County Courthouse

56 Paterson Street

New Brunswick, N.J. 08903

Date: DECEMBER 16, 2008

BEFORE:

THE HONORABLE BARBARA STOLTE, J.S.C., and a Jury

TRANSCRIPT ORDERED BY: DANIEL GONZALEZ, ESQ.

(Perez & Gonzalez)

APPEARANCES:

MANUEL SAMEIRO, ESQ. Middlesex County Assistant Prosecutor Attorney for the State

DANIEL GONZALEZ, ESQ. (Perez & Gonzalez) Attorney for the Defendant

APR 1 5 2010

Georgeann Crowell, C.C.R. Official Court Reporter Middlesex County Courthouse P.O. Box 964

New Brunswick, New Jersey

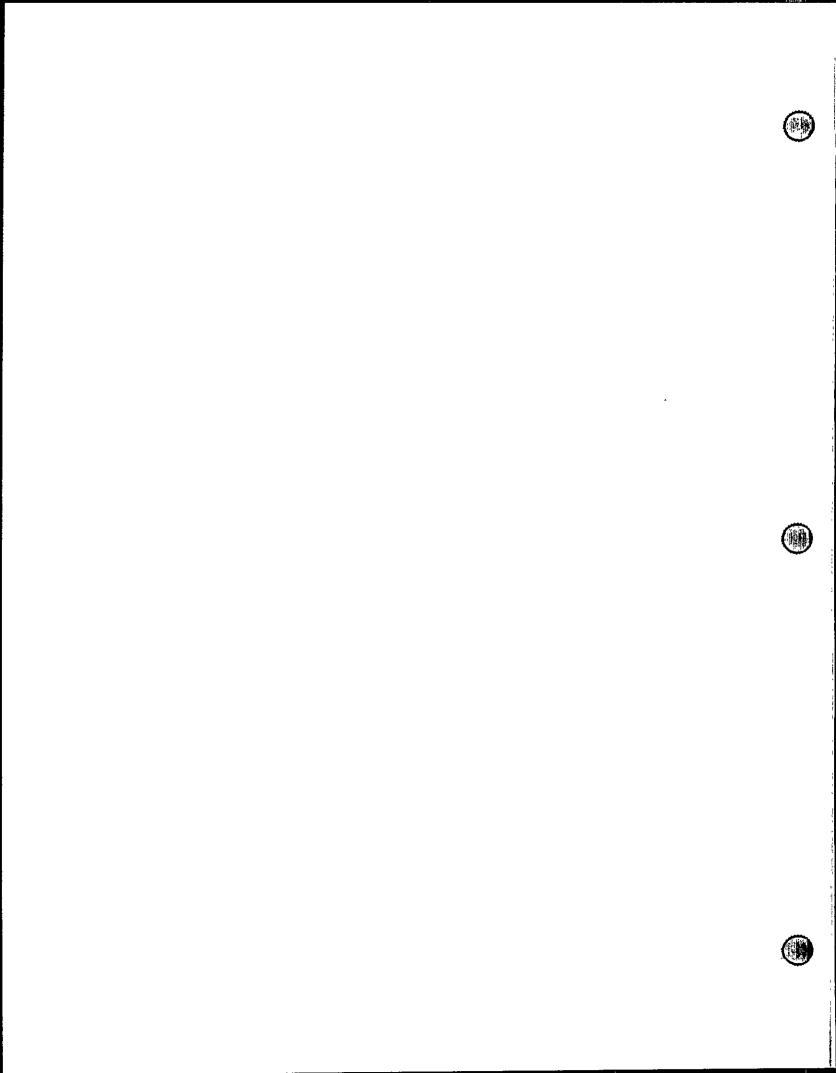


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   Openings
                                                              15
        By Mr. Sameiro
 5
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                                                              30
 6
 7
8
                            <u>Direct</u>
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                                             Redirect
    State Witness
9
   WILMER CEDILLO
10
        By Mr. Sameiro
                               38
11
                                         71
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12
1.3
1.4
15
16
17
18
19
20
21
22
23
24
25
                             (Colloquy)
                                                               3
            THE COURT: Okay.
                                Let's bring the jury in.
 1
 2
            (Whereupon, the jury enters the courtroom.)
            THE COURT: All right, ladies and gentlemen.
 3
   I do apologize for the delay. Let me let you know the
 5
   time schedule. Give you an idea of what is going to be
   happening right now.
 7
            I have some instructions I have to give you.
   They will take about 15, 20 minutes. I'll give you
 8
   those instructions. Then instead of breaking up the
 9
   openings, I will let you go to lunch.
                                            I will let you
10
   go to lunch at probably five after twelve, or so.
11
   want you back at one. One o'clock, instead of 1:30.
12
13
    We normally break an hour for lunch.
14
            Then after lunch we will have the opening
15
    statements of both Counsel, and the witnesses are here.
16
   We're ready to provide. We're just moving our time
17
    frame up a little bit regarding lunch.
18
            Now, ladies and gentlemen of the jury, you
19
   have been selected as the jury in this case. As you
20
   know, this is a criminal case. To assist you in
21
   better understanding your function and your duties, I
22
   will tell you how the case will proceed.
23
            You are the sole judges of the facts.
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determination of the facts is to be based solely upon

the evidence submitted during the course of the trial.

24



(Colloguy)

Now, when I use the term evidence, I mean the testimony of the witnesses, who will testify, and any exhibits that may be marked into evidence, and which will be taken into the jury room, for your review at the end of the case.

The first order of business will be the Prosecutor's opening statement. In the opening statement, the Prosecutor will present the State's contentions and will outline what he expects to prove. Following that, the defense will make an opening statement. What is said in opening statements is not evidence. Evidence will come from the witnesses who will testify, and from whatever documents or tangible items, that are received in Evidence.

During the trial, the attorneys may make objections as evidence is offered, or they may address motions to me. They have a right, indeed, a duty, to make objections and motions, when it seems to them to be proper to do so. And I have a duty to rule on those objections and motions based upon the law.

Anything that may be excluded by me is not evidence, and must not be considered by you in your deliberations. Sometimes these evidence questions, or legal questions, will be heard in your presence, in open court. At other times, at sidebar. Or you may be

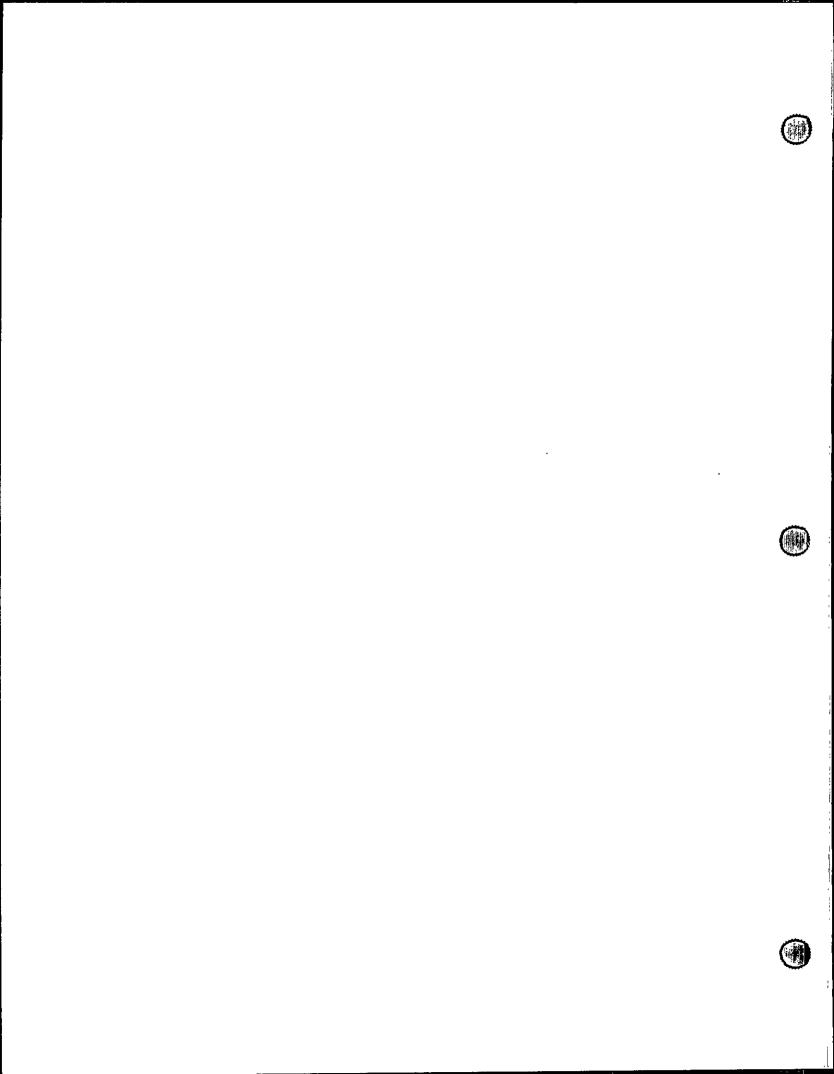
(Colloquy)

excused to go to a jury room, so, we can discuss the issue in open court.

As I say that to you, that's one of those things that we did this morning. Discussing an issue in open court. Therefore, we did not bring you up. Now, I realize when this occurs during the trial, you may have to go to the jury deliberation room for a short period of time. I realize that being confined in the jury room, for any length of time, is not very pleasant. I do ask your indulgence and your patience. I'm sure you realize, these legal arguments must be heard outside your presence.

You should not conclude, because I rule one way or another, that I have any feelings about the outcome of this case. I do not. But even if I did, you would have to disregard them. Since you will be the sole judges of the facts in this case.

Now, during the trial, from time to time, there shall be recesses. And during any of those recesses, I direct that you not discuss the case among yourselves. And when I recess you overnight, you must not discuss the case, or the testimony, with any members of your family, or any other persons. The reason, of course, is that you should not begin any deliberations until the entire case has been concluded.



Meaning until you've heard all of the witnesses, until you've heard the final arguments of Counsel, and you've had my instructions as to the law. It would be improper for any outside influence to intrude upon your thinking.

(Colloguy)

If anyone should attempt to discuss the case with you, you should report that fact to me, or my staff, immediately. During the trial, you are not to speak or to attempt to, with any of the attorneys, the witnesses, or the defendant. Nor are they permitted or able to speak to you or associate with you. This separation should not be regarded as rudeness; but rather as a proper precaution, to insure fairness to both sides.

If anyone connected with this case, or any other person, approaches you, or attempts to influence you, in any way, do not discuss it with the other jurors. Simply tell the Sheriff's Officers, and I will be notified immediately.

Now, your deliberations should be based on the testimony in the case, without any outside influence or opinions, of relatives or friends. Additionally, I must instruct you not to read any newspaper article that may pertain to this case. I do not know if there will be any newspaper or other media

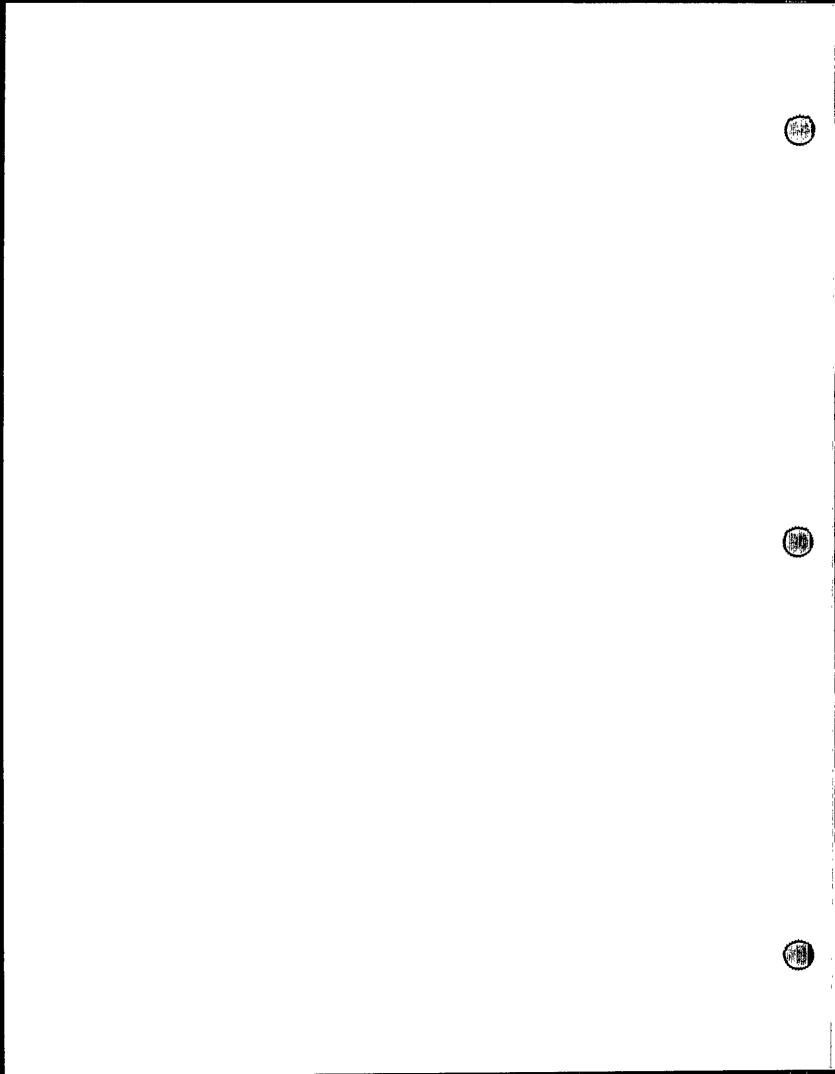
(Colloquy)

coverage of the trial.

But you are instructed to completely avoid reading or listening to any newspaper or media account, or listening to anybody else discuss them. I am sure that you can understand why this instruction is so important. Newspaper and media accounts are not evidence. They are often based upon second or third hand information, purely hearsay, not always accurate, and not subject to examination by the attorneys.

Now, I have no way to monitor you in this area. But I must rely upon your good faith, and the fact that you have been sworn to comply with the instructions of the Court, so, that both sides may receive a fair trial. Because this instruction is so important, it is my duty to remind you of it at the end of each day's proceedings. Since you are the sole judges of the facts, you must pay careful and close attention to the testimony. It is important that you carry with you to the jury room, not only a clear recollection of what the testimony was, but also a recollection of the manner in which it was given.

It will be your duty to pay careful attention to all of the testimony. If you are unable to hear any witness, I ask that you indicate that to me by raising your hand, so, I may instruct the witness to speak



(Colloquy)

2 required to pass upon all questions of fact, including 3 the credibility or the believability of the witnesses. 4 Now, you will not be permitted to visit the scene of 5 the alleged incident, do your own research, or 6 otherwise conduct your own investigation. Your verdict 7 must be based solely on the evidence that is introduced 8 in this courtroom.

louder and/or more clearly. As jurors, you will be

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Now, in this case, jurors will not be taking notes. Experience has shown that note-taking can be distracting. It is better to depend upon the combined recollection of the jurors than upon notes taken by one or more of them.

At the conclusion of the testimony, the attorneys will speak to you, once again, in summation. At that time, they will present to you their final arguments, based upon their respective recollection of the evidence. Again, the summations are not evidence. But it is each attorney's recollection as to the evidence. But it is your recollection, as to the evidence presented, that is controlling.

Following the summations, you will receive your final instructions on the law from me. Then you will retire to consider your verdict. You are not to form or express an opinion on this case; but are to

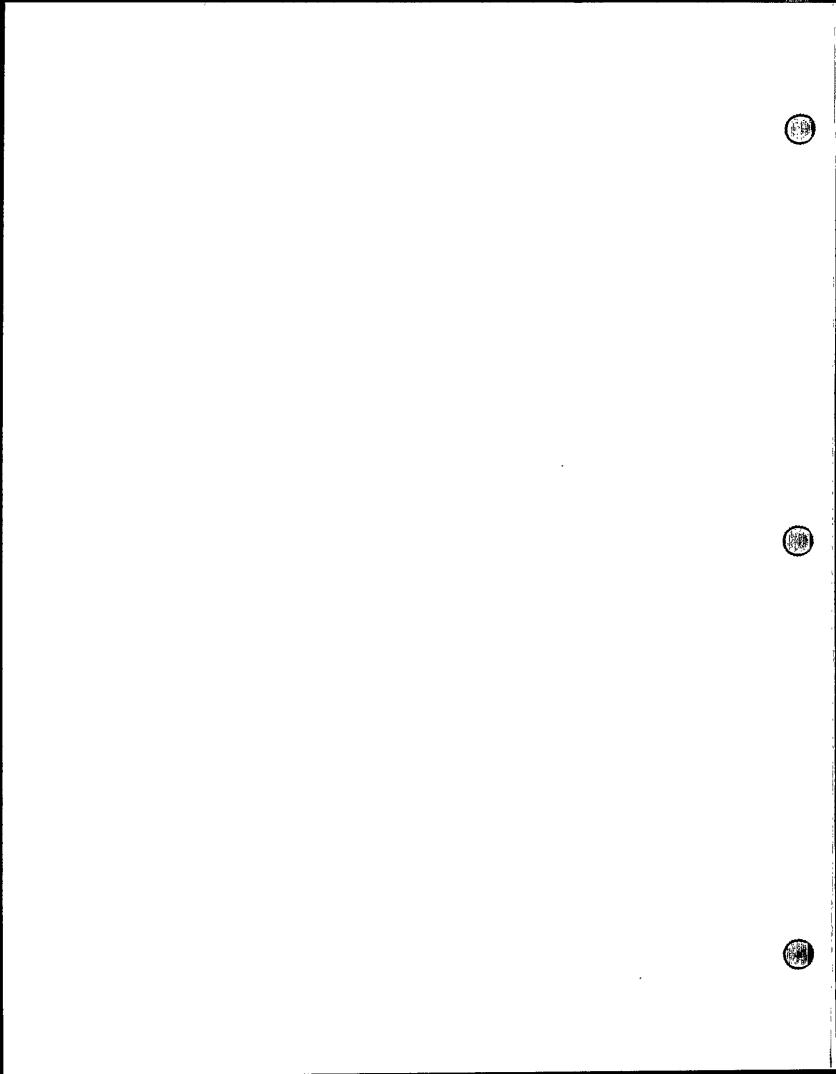
(Colloquy)

keep an open mind, until you have heard all of the testimony, have heard the summations, and have had the benefit of my instructions as to the applicable law, and have been told to begin your deliberations. It is your duty to weigh the evidence calmly, without bias, passion, prejudice, or sympathy. And to decide the issues upon the merits.

You, as jurors, should find your facts from the evidence educed during the trial. Now, evidence can be either direct or circumstantial. Direct evidence means evidence that directly proves a fact, without an inference, and which, if it is true, conclusively establishes that fact.

On the other hand, circumstantial evidence means evidence that proves a fact, from which an inference of the existence of the 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, that are established by the evidence.

It is not necessary that facts be proven by direct evidence. They may be proven by circumstantial evidence, or by a combination of direct evidence and circumstantial evidence. Both direct and circumstantial evidence are acceptable as a means of proof. Indeed, in many cases, circumstantial evidence



(Colloquy) 10

may be more satisfying, certain, and persuasive than direct evidence.

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In any event, both circumstantial and direct evidence should be scrutinized and evaluated carefully. A conviction may be based on circumstantial evidence alone, or in combination with direct evidence, provided, of course, that it convinces you of the defendant's guilt, beyond a reasonable doubt. Conversely, if circumstantial evidence gives rise to a reasonable doubt, in your minds, as to the defendant's guilt, then the defendant must be found not guilty.

I am just going to give you a simple illustration regarding circumstantial and direct evidence. The problem is proving that it snowed during the night. Direct evidence is testimony indicating that the witness observed snow falling during the night. That is an example of direct evidence.

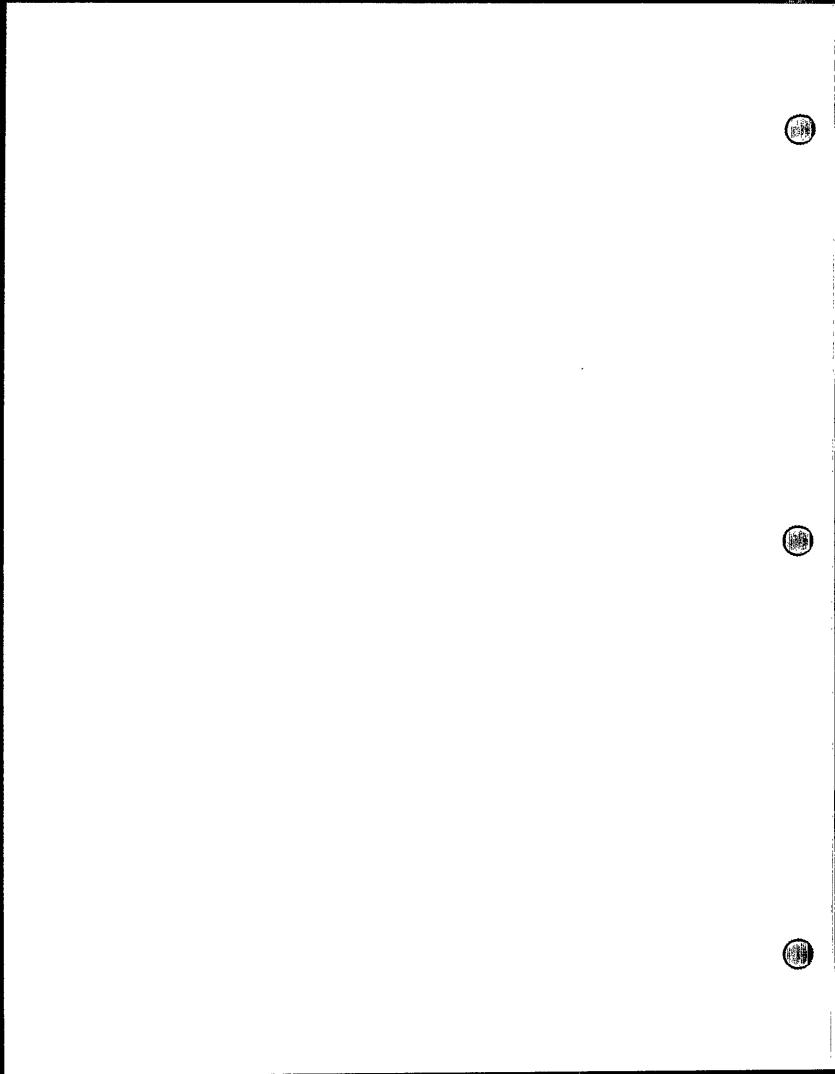
And here's one of circumstantial evidence. Testimony indicating there was no snow on the ground before the witness went to sleep. And that when he arose in the morning, it was not snowing; but the ground was snow covered. The former directly goes to prove the fact that snow fell during the night, while the latter establishes facts from which the inference, that it snowed during the night can be drawn.

(Colloquy)

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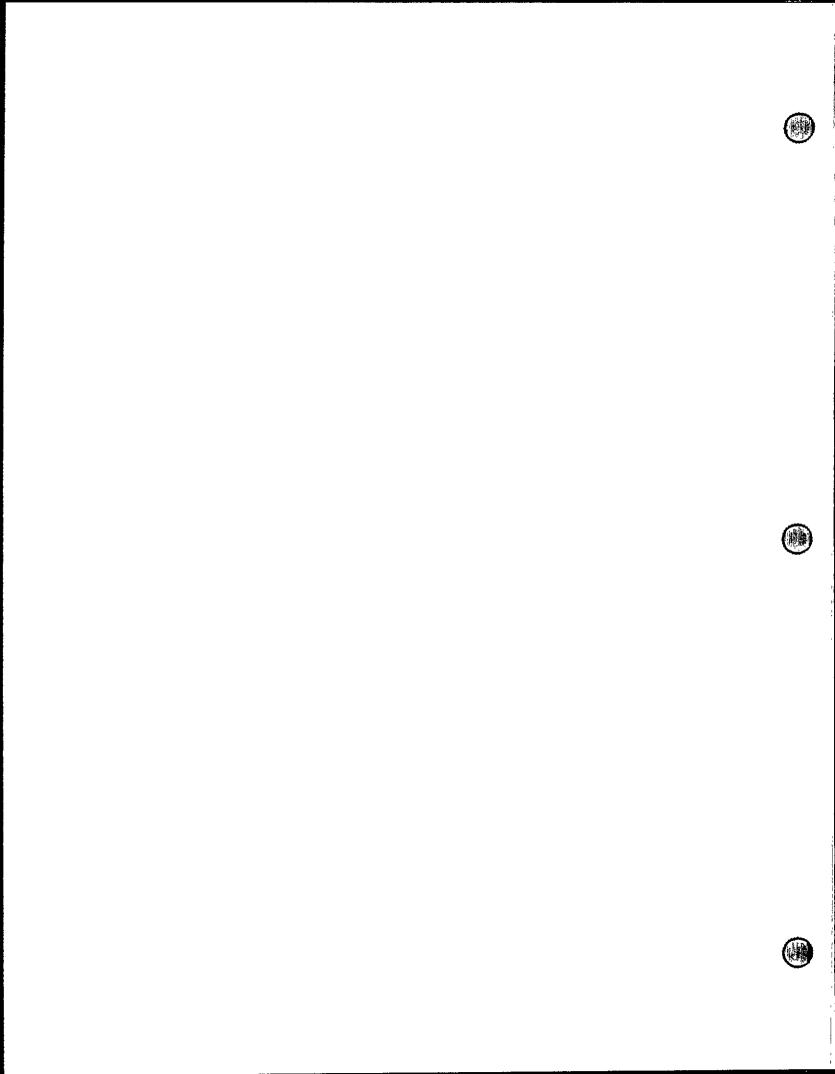
Now, the judges of the facts, you are also 1 going to be determining the credibility of the 2 witnesses. And in determining whether a witness is worthy of belief, and, therefore, credible, you may 4 take into consideration the following: The appearance 5 and the demeanor of a witness; the manner in which he or she may testify; the witness' interest in the 8 outcome of the trial, if any; his or her means of 9 obtaining knowledge of the facts; the witness' power of discernment, meaning their judgment, their 10 understanding; his or her ability to reason, observe, 11 12 recollect, and relate; the possible bias, if any, in favor of the side for whom the witness testifies; the 13 14 extent to which, if at all, each witness is either 15 corroborated or contradicted, supported or discredited, by other evidence; whether the witness testified with 16 17 an intent to deceive you; the reasonableness or unreasonableness of the witness' testimony; and any and 18 19 all other matters in the evidence which serve to 20 support or discredit his or her testimony. 21 During your deliberations, you may ask, what

During your deliberations, you may ask, what is the more reasonable, the more probable, or the more logical version. Now, inconsistencies or discrepancies, in the testimony of a witness, or between the testimony of different witnesses, may or

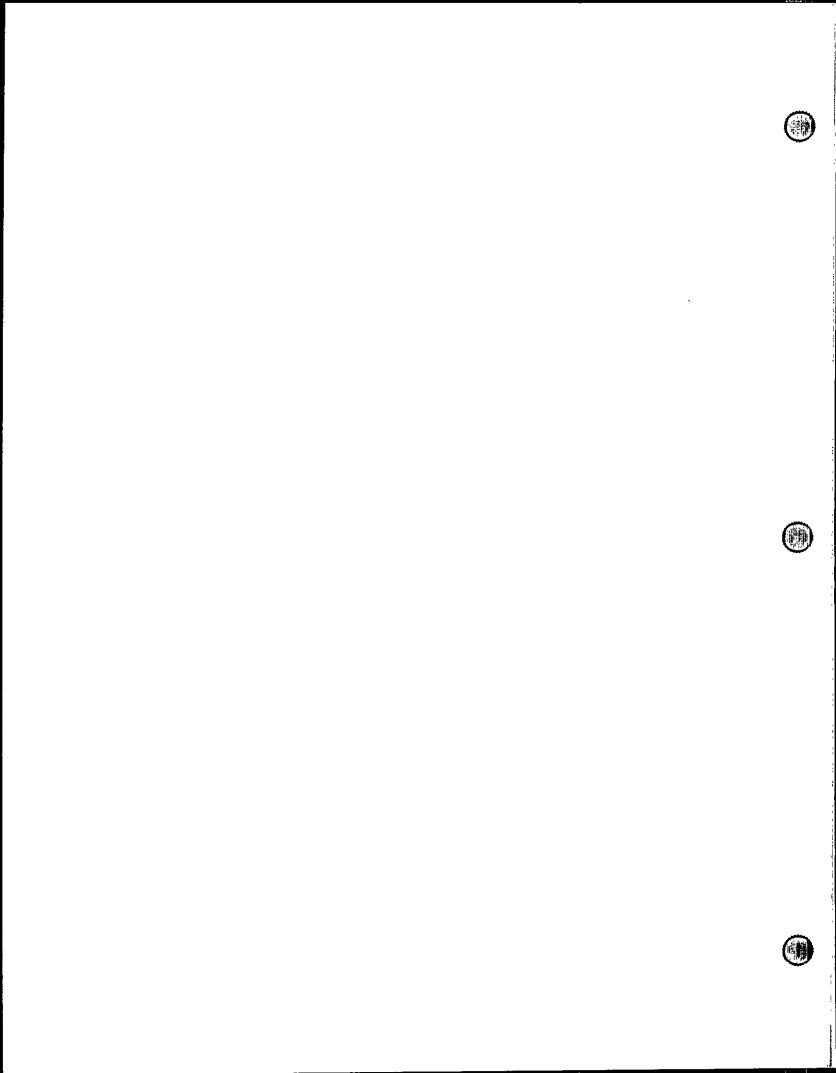


(Colloguy) may not cause you to discredit such testimony. Two or more persons, witnessing an incident, may see or hear 2 it differently. An innocent misrecollection, like a failure to recollect, is not an uncommon experience. In weighing the effect of any discrepancies, consider whether it pertains to a matter of importance, or an unimportant detail. And whether the discrepancy results from an innocent error, or from a willful 8 9 falsehood. Now, you will note that a jury of 14 has been 10 drawn in this case. At the conclusion of all of the 11 12 evidence, and the charge of the Court, there will be a random selection in which two jurors will be selected 13 to act as alternates. The 12 remaining jurors will 14 then deliberate and return a verdict. At this point, 15 we do not know who the alternates will be. Whether or 16 17 not their services will be needed. Therefore, I direct that all jurors pay equal attention to the evidence, as 18 presented, and to the Court's rulings, which are 19 applicable in this case. 20 21 Okay. Now, that just takes us -- It is just about five of twelve. Counsel, can I just see you at 22 23 sidebar? (Whereupon, the following discussion occurred 24 at sidebar.) 25 13 (Colloquy) Do you want to do the openings 1 THE COURT: 2 now? Do we have enough time? We can go a little 3 longer. I would prefer to do it at one. 4 MR. SAMEIRO: 5 THE COURT: Okay. 6 MR. GONZALEZ: I have no objection. 7 THE COURT: Okay. 8 (Whereupon, the sidebar discussion 9 concluded.) 10 (Whereupon, the hearing continued in the presence of the jury.) 11 Okay. So, let me let you break 12 THE COURT: 13 for lunch now. I would ask you to be back -- If you can be back at five of one, I really intend to bring 14you up at one. I promise. And we'll start right up 15 with the trial. So, five of one. Enjoy your lunch. 16 17 Again, do not discuss the case. You haven't heard 18 anything in the case. 19 In any event, please do not discuss the case, 20 in any way do your own research, look at anything in the paper, if there is anything in the paper, or listen 21 22 to anybody else discuss it. But please have a nice 23 lunch. See you back at five of one. We will bring you 24 right back. Okay. Thank you.

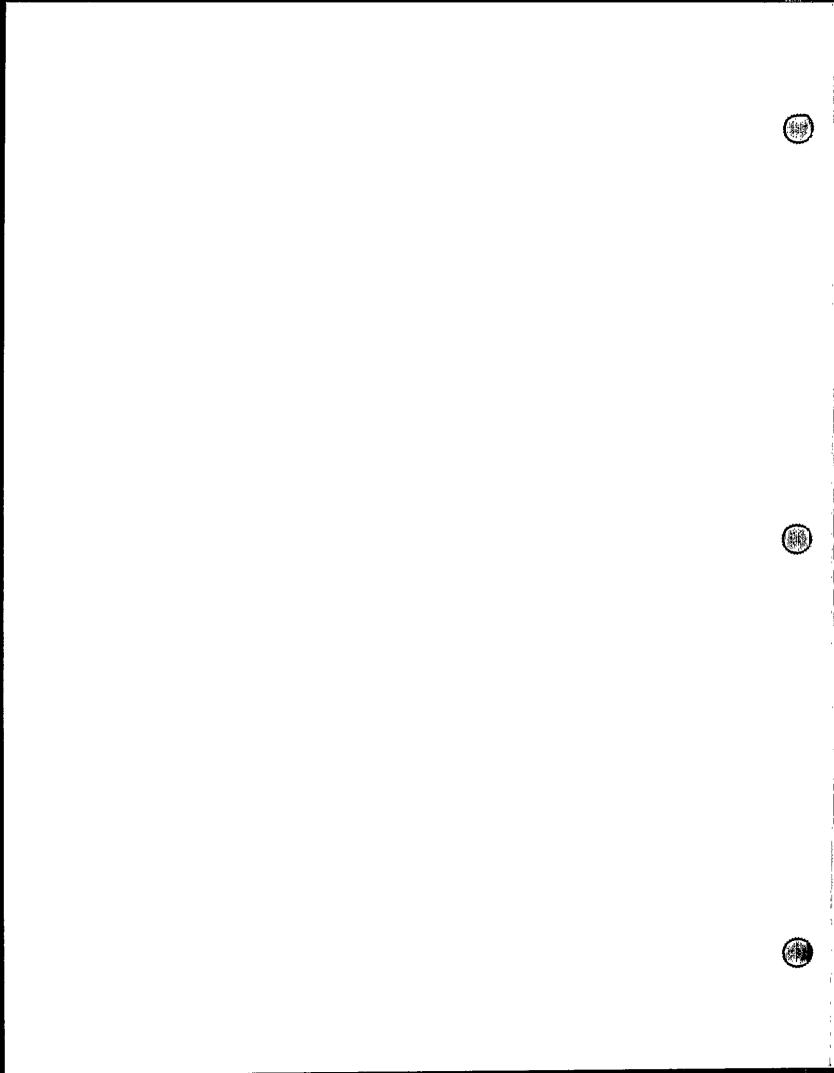
(Whereupon, the jury leaves the courtroom for



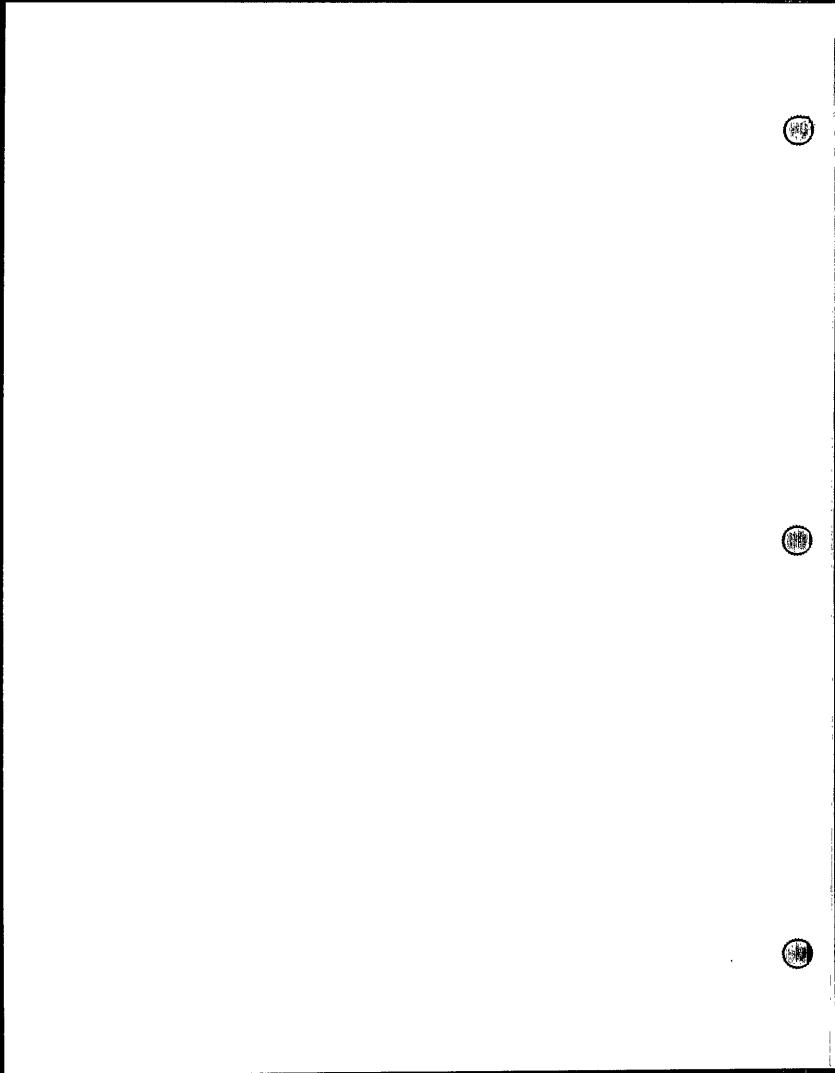
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(Colloguy)
                                                           14
 1
   lunch.)
 2
            (Whereupon, the hearing continued outside the
 3
   presence of the jury.)
 4
            THE COURT: Okay. Be back at one o'clock.
 5
   Thank you.
 6
            MR. SAMEIRO:
                          Thank you.
 7
                           Thank you.
            MR. GONZALEZ:
 8
            (Whereupon, a luncheon recess was taken.)
            (Whereupon, the hearing continued after
 9
10
   lunch.)
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24
25
                           (Openings)
                                                           15
            AFTERNOON
                                 SESSION
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 2
            (Whereupon, the jury enters the courtroom.)
 3
            THE COURT: Thank you, folks. Please have a
 4
   seat.
            All right, folks. Are we ready?
 5
 6
            MR. SAMEIRO: Yes, Judge.
 7
            MR. GONZALEZ:
                          Yes, Judge.
 8
            THE COURT: As I had indicated, the first
   order of business this afternoon would be the opening
 9
   statements. And when we do the opening statements,
10
   the State starts first.
11
12
            Mr. Sameiro?
13
            MR. SAMEIRO: Thank you, your Honor.
14
            May it please the Court, Counsel, and ladies
15
   and gentlemen of the jury. Thank you for your
               I know you've been waiting all day to hear
16
   patience.
               It's now 1:30. I'm ready to begin.
17
   us start.
            I want to begin my opening by first telling
18
19
   you, there is an expression out there I think applies
20
   to the case. You should think about it throughout the
21
   proceedings. Have you ever heard, that a picture is
22
   worth a thousand words? I see that some of you are
23
   shaking your heads yes. That expression really
24
   embraces the notion that language is imperfect.
25
   human beings, try to express ideas, concepts, try to
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16
                            (Openings)
   describe facts. We have to use words in a language
 1
 2
   system, and use words --
 3
            MR. GONZALEZ: Judge, I object. Can we go to
 4
   sidebar?
            THE COURT: All right.
 5
                                    Sidebar.
 6
            (Whereupon, the following discussion occurred
 7
   at sidebar.)
 8
            MR. GONZALEZ: Judge, it sounds more like a
   closing than an opening statement.
 9
            THE COURT:
                       Okay.
10
            MR. GONZALEZ:
                           He is supposed to be giving a
11
12
   basic recitation of the facts, what he intends to
   prove. And an opening statement is not a, I guess, I'd
13
   say, a play on words, so to speak.
                                        It's
14
   straightforward.
15
                          Openings are supposed to be
16
            MR. SAMEIRO:
   what I intend to prove.
17
            MR. GONZALEZ: It sounds like -- more like --
18
   closing arguments. Which is what I was saying.
19
   wouldn't object at the time of closing argument.
20
21
            During openings, it is pretty
   straightforward, what the State intends to prove.
22
   We're not making arguments at this point.
23
   presenting what it is that he's going to prove.
24
            THE COURT:
                       Okay.
25
                                                            17
                            (Openings)
            MR. SAMEIRO: Judge, I haven't argued
 1
 2
   anything yet.
            MR. GONZALEZ: Judge, I would ask that Mr.
 3
   Sameiro please be told to preempt. Your Honor noticed
 4
   the comments made by Mr. Sameiro. Now, I did make an
 5
   objection already. And this type of thing, I'd ask
   that that be kept out of the trial. All the antics, so
 7
   to speak, be kept out of the trial. And that he be so
 8
   instructed --
 9
10
            MR. SAMEIRO:
                          The only antics demonstrated so
11
   far --
12
            THE COURT: One at a time. Don't interrupt
13
   each other.
14
            MR. GONZALEZ: This is not an opening.
15
            MR. SAMEIRO: I think Counsel should be
   admonished at this point as to his frivolous
16
17
   objections. I'd ask the Court to allow me to get back
18
   to my opening. There is nothing else that he needs to
19
   say.
20
            MR. GONZALEZ: Also, Judge, sidebars, the
21
   reason for sidebars, is to keep our voices low.
22
   speak loudly. It is obvious that Mr. Sameiro wants to
23
   put on a show, so to speak. And I just want to
24
   circumvent all of that. I want to have some niceties.
25
   I want to play nice is what I'm saying.
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THE COURT: Well, here's the thing regarding
 1
   anv comments.
                  I always tell them, that the comments by
   Counsel are not controlling. They shouldn't be
   considered. I would agree, there shouldn't be comments
   on anybody's part. There is really no need. That is
 5
 6
   the first issue.
            I'm still not sure what your objection is.
 7
   He has only been talking for 30 seconds. I mean, maybe
 8
   the next sentence was something about words, getting
 9
10
   what people say.
           MR. SAMEIRO: Right. Who the potential
11
   witnesses are, how the pictures in the case are
12
13
   important.
            THE COURT: I can't see any objection at this
14
           I will overrule your objection.
15
   point.
           MR. GONZALEZ: Okay.
16
           MR. SAMEIRO: I really haven't gotten a
17
   chance to start yet. I'd like you to overrule it in
18
   the presence of the jury. So, the jury knows that I
19
   did not start off doing anything wrong.
20
           MR. GONZALEZ: I don't think you need to
21
22 overrule it in the presence of the jury. What happens
   on the record at sidebar, things are overruled and
23
   things are granted. And I think with that in mind, you
24
   don't need to do it in front of the jury. Again, he
25
                                                           19
                           (Openings)
  wants to put on a show. I don't think it is necessary.
           MR. SAMEIRO: I do think it is necessary.
 2
                        I think for 30 seconds of an
 3
            THE COURT:
   opening, I don't think -- There is absolutely nothing
   yet about the case. It's only been 30 seconds.
 5
   is really no objection, and no need to come to sidebar.
            I will overrule your objection.
 7
 8
           MR. SAMEIRO: Thank you, your Honor.
 9
           MR. GONZALEZ:
                           Thank you.
            (Whereupon, the sidebar discussion
10
11
   concluded.)
            (Whereupon, the hearing continued in the
12
13
   presence of the jury.)
14
            THE COURT: For the record, the objection is
15
               You may continue.
   overruled.
           MR. SAMEIRO: As I was saying, words are an
16
17
   imperfect medium, in which you convey an item, an idea,
   sometimes even interruptions. It is a good way of
18
19
   expressing a thought. It is part of the process of
   indicating something. We say that a picture is worth a
20
   thousand words. We're also saying that a photograph
21
   says it all. We don't really need to describe it in
22
23
   detail. But it is what it is.
24
           Now, you are going to see photographs in this
          There are some here to prove this point.
25
   case.
```



1 are going to see the photographs that were shown to Mr.

2 Wilmer Cedillo, the victim of the armed robbery. And

3 in the package was the picture of the defendant

(indicating). Which I'm showing to you here in my left

5 hand (indicating), and five other pictures of a similar

6 nature. Like this one, which, for the record, has a

number on it. I'll go with the last four or five

8 digits 7531A. A guy who bears a very striking

9 resemblance to Mr. Machado, the defendant who is seated 10 behind me (indicating).

Why am I telling you this? Because I would be spending a lot of time here today, trying to describe for you what these two men look like (indicating). In fact, I will prove that point, by asking you all, to try to describe me, and then compare your description amongst one another. Would all 14 of you have the same description? No. Why? Because words are an imperfect medium to describe facts and circumstances, or things that can be better said with photographs.

I'm sure many of you would get my height wrong. I'm sure many of you would get my weight wrong. Who would be paying attention to the color of my eyes? How many of would have said brown versus hazel. These are things that human beings do in error, when they are

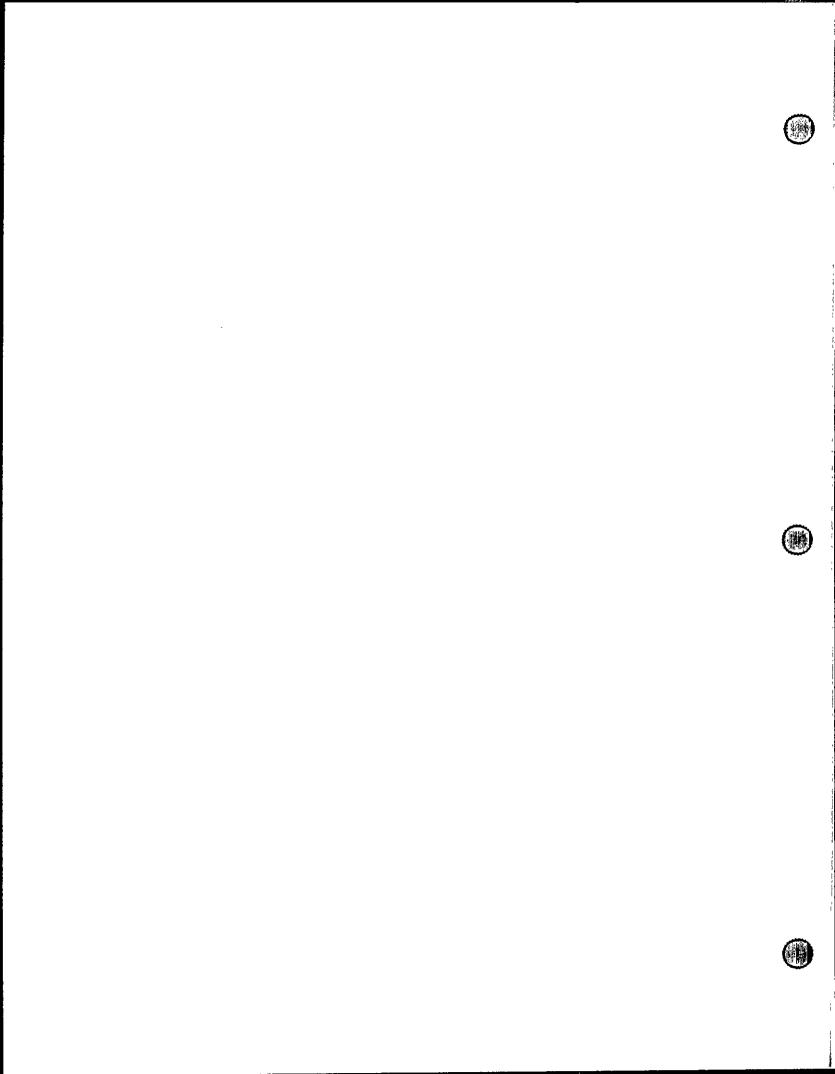
(Openings)

1 asked to give descriptions. Sometimes they get it 2 wrong.

That is, when they're asked to describe in words. But, you know what, when you ask the person to look at some photographs, and say, do you recognize the guy who robbed you in these pictures? He picks out Mr. Machado. You're going to have to ask yourself, well, was that a reliable identification. Ladies and gentlemen, that is an issue in this case.

I submit, after you hear all the evidence, you won't dispute that there was an armed robbery that took place on April 24, 2007 of Mr. Cedillo, who was a taxicab driver that day, who was called by someone to drive him from 58 Lee Avenue to 400 Lee Avenue here in the City of New Brunswick, where he was robbed at the end of this short cab ride. He was robbed at gunpoint.

He's going to tell you what happened. He is going to tell you, he had about five hundred dollars taken from him, and some other items. I believe, jewelry, a cell phone, other items he may have had. You're not going to have any doubt about that. But you're going -- What you're going to have to focus on is whether or not he properly identified Mr. Machado as his assailant. So, you see, Mr. Cedillo was robbed by several people. And he couldn't identify them all.



(Openings)

Because some of them were wearing masks.

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2 You see, he was set up. He made his pick-up at 58 Lee Avenue. Two people got in the car. Unfortunately, Mr. Machado, he got in the front seat. And the victim could look at him, could identify him. He wasn't wearing a mask. When the cab fare was over, when the ride ended at 400 Lee Avenue, there was other 7 This group of people robbed Mr. people waiting there. 8 9 They used guns. They used handguns. were visible, of course, to the victim. Obviously, the 10 armed robber wants to brandish the gun to instill fear, 11 to overcome his victim, so, he could take money from 12 13 him.

And the only person, frankly, that got 14 identified was Mr. Machado. Now, how did that happen? 15 Well, after the victim got robbed, he collected 16 himself. He was punched. I believe, he bled a little. 17 18 Of course, he was traumatized by the robbery. after he shook that off, after a little bit, he went to 19 the police, about an hour later. He walked into police 20 headquarters. By the way, this happened around 4:40 in 21 the morning, 4:30 in the morning. So, when the victim 22 goes to the police station, he describes what happens. 23 What happened to him. He used words. 24

Remember that. No pictures at the Okay.

(Openings)

time. Nobody to say to him, is this the guy.

1 Fortunately, for Mr. Cedillo, our victim, he knew that

his cab company traps the numbers from the people who

call for a fare. You see, this isn't the kind of a

taxi service you see in New York City, where you can 5

flag people down. The way the Victoria Taxicab Company 7

works is that you call the company. The cab goes to make the pick-up. Then he drives the person to

8 9 wherever they want to go.

Now, knowing that the company routinely traps these numbers on the caller ID, Mr. Cedillo knew that, hey, that is important information. Let me find out what that number is. He took that number to the police. And they noted it in their report, among other things. A specific ten digit number. The specific ten digit number was 732-801-5418.

16 17 Now, how that works, everybody has a cell You get the call, the number is trapped. 18 phone. 19 you can never miss a call. You know who called you. 20 It is very reliable. The caller ID was very reliable.

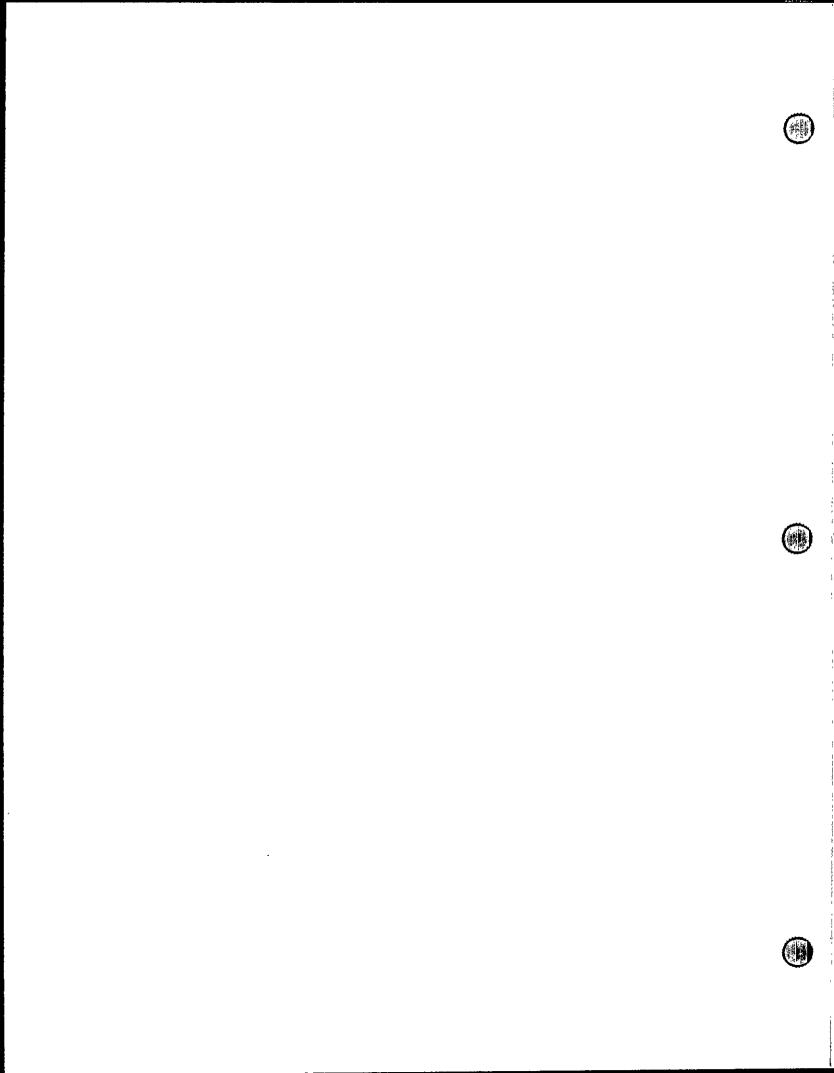
21 The dispatcher who saw it, went and looked at the

phone, and wrote it down. And actually told Mr. 22

23 Cedillo what the number was. He wrote it down, he then

24 gave that number, that information, to the police.

25 they put it in their report.



All right. Well, since Mr. Cedillo didn't 1 know who Mr. Machado was at the time, that the police 2 had to do an investigation to find out who the person was, as well as find out who the others were. Now, the police, they did have that phone number. And they tried to do a look-up on the subscriber information. It came back to somebody named Mendosa, who said he was 7 That's information that the company born in Honduras. 9 kept for this phone that you buy, this pre-paid phone. And, on the day that the information came back, 10 Detective John Selesky did a records check within his 11 own police database. 12 13

And, guess what? It turns out, that Detective Selesky discovered that Mr. Machado had an 14 interaction with a police officer in June of the same year, about a month earlier. Remember, the incident took place in July -- excuse me -- in April. records check came back in July. And when they had this information from Sprint or the Nextel Company, 19 whatever it was, Selesky runs a check through the 20 internal database, and comes up with Mr. Machado's 21 Pablo Machado. With the same phone number in 22 the database. And guess what his address was? that was also kept in the police database. How about 24 400 Lee Avenue?

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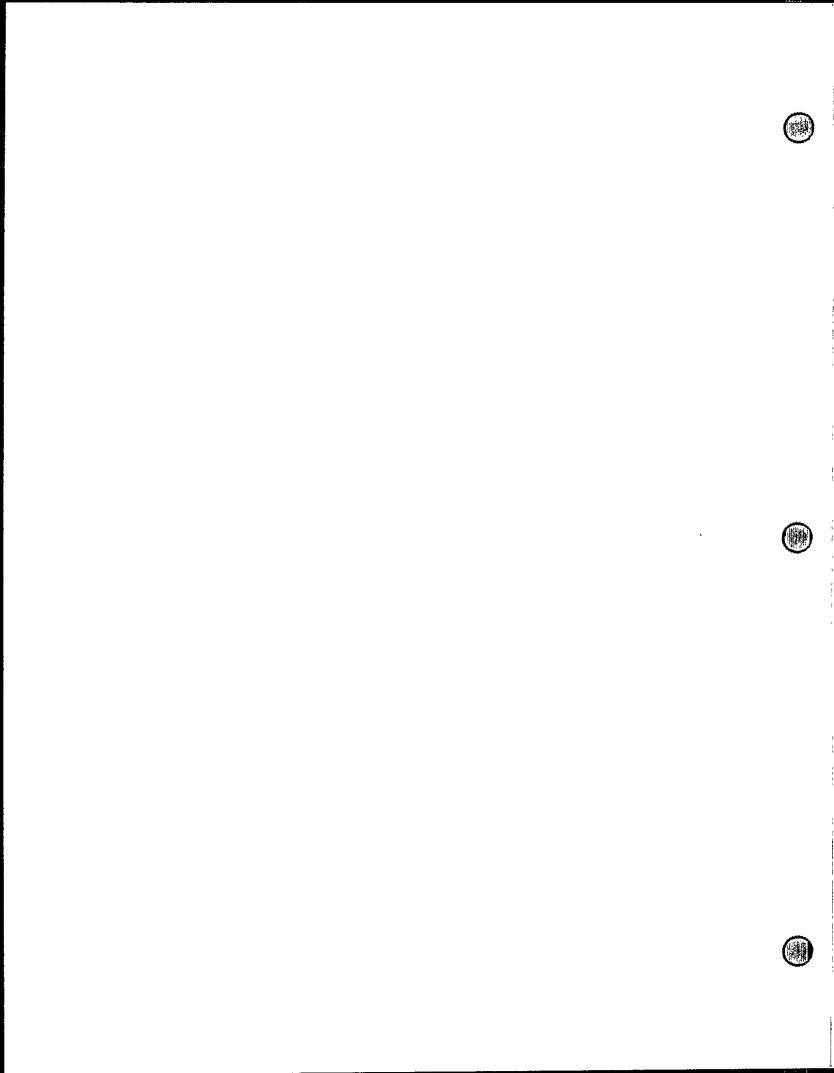
(Openings)

25

Now, knowing that this case was open, Selesky says -- wait a minute -- we have an active investigation about someone who called, using this phone number, taking this victim to 400 Lee Avenue. Here's Pablo Machado coming up, as the person who gave this address and phone number to the police a month It didn't take long for Detective Selesky to earlier. find a photograph of the defendant. You can get these pictures from driver's license information, passports. You really shouldn't infer anything from the photo. So, the police got the information.

And, frankly, with this information, they selected, the police put six pictures together. got two (indicating). I'm only going to pick up two of a similar nature (indicating). With the defendant as their suspect, of course, and five others, to see if Mr. Machado -- excuse me -- Mr. Cedillo could make an identification. And they do that in a very unique way.

You see, the Attorney General of New Jersey has these guidelines that the police follow. quidelines are intended to insure fairness and objectivity, when it comes to a photo array procedure. The first thing that is done is that the police use an officer who is not connected with the case at all. that someone couldn't give a non-verbal clue, for



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(Openings)
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example, when the right picture was picked.

2. So, you have someone who doesn't know who the 3 Someone not involved in the investigation. Someone simply putting photographs in front of the witness, to see if an ID could be made. That's done after instructions are read to the witness. case, the instructions were done in Spanish. 7 Mr. Cedillo speaks Spanish. He understood the 8 instructions. And then was shown the photographs. 9 10 Now, I'm not going to have to describe for you, nor will Sergeant -- excuse me -- Sergio Matias 11 12 have to describe how this photo array procedure took place. Remember, a picture is worth a thousand words. 13 In this case, I have got a motion picture, a video, of 14 that photo array procedure for you all to see. 15 have this equipment here (indicating). I have the 16 laptop connected to the projector. There is the 17 This is the laptop, there is the DVD. 18 screen. The whole procedure is videotaped. Right now 19 the video is frozen at 22:04:04, which is, I think, 20 21 using military time, 10:04 p.m. The date stamp is 7 --July 25, 2007. You see that on the laptop and on the 22 It is going to be a lot easier to display, 23 screen. once I get the tape going. That is an empty room. 24 25 saw that there is a chair there. That's the police

(Openings)

27

station.

24

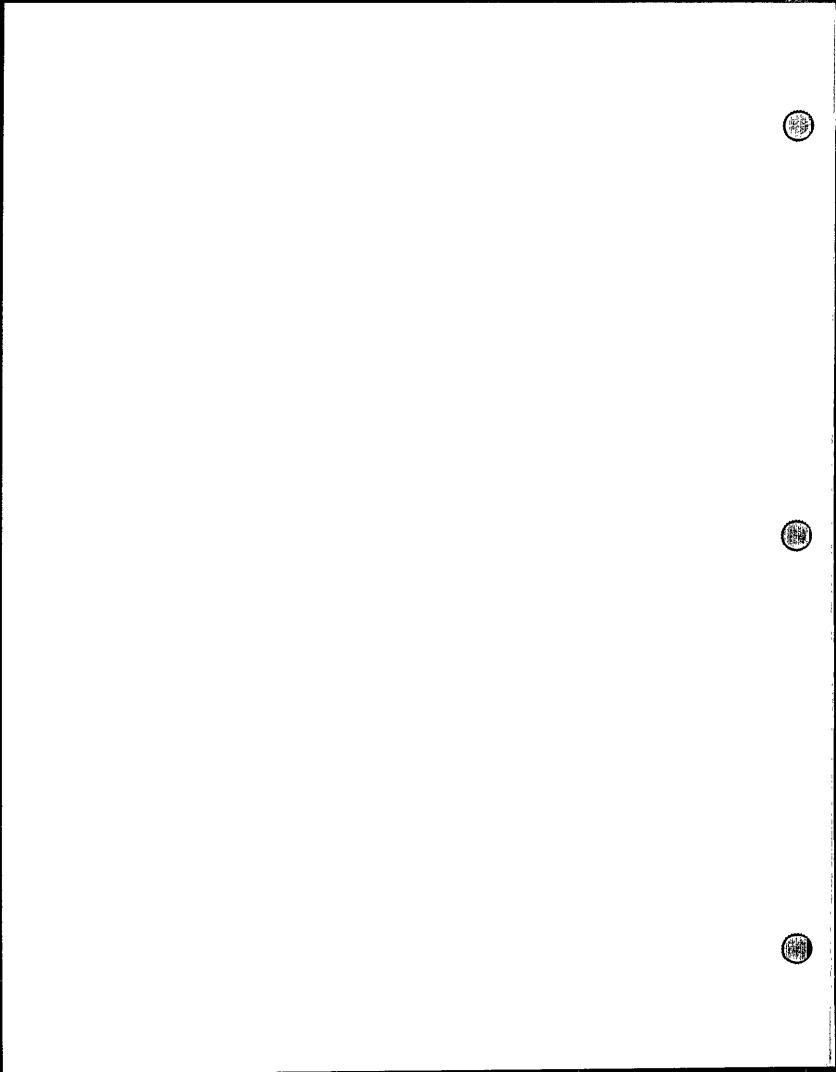
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1 2 As soon as I hit play, you are going to see Mr. Cedillo come in. Actually, he's not the first to come in. Officer Matias comes in. You can't miss him. He is a bald-headed guy. I think he still has a shaved 5 head. He is out there. He's identified. The guy in By the way, he'll come in and read the 7 instructions to the victim. Then he'll show the 8 pictures one at a time. You're going to see how 9 reliable it is, because you're going to see for 10 11 yourselves, without my describing it, how Mr. Cedillo 12 says, "that's him. That's him. That's him." Now, I just said "that's him" three times. 13 Georgeann Crowell really couldn't take down any of the 14 15 gestures. It's those gestures that matter. 16 body language that matters. It's the level of certainty described for you, with these physical 17 18 gestures, that matter. 19 Ladies and gentlemen, if all we had was the photographs, a photographic identification, you could 20 21 convict Mr. Machado for the crimes charged in the 22 Indictment, if you believed it to be reliable. 23 should, because you'll hear from Mr. Cedillo. You will

see, he is a likeable guy, kind of like the kid next

door. He works hard, trying to make ends meet.



(Openings)

When he loses this money, obviously, the cab 1 company could lose a chunk of their profits. lost his valuables and such. It was a real loss to him. You know, you'll see that. He's a credible guy. You'll get that from the tape. But you'll first have an opportunity to meet him, if you will, when he comes in and answers questions. He'll tell you what 7 Whether he can make an in-court ID. 8 happened. 9 see that he is not prompted by anyone to make an in-court ID. He is not shown pictures in advance. 10 passage of time may affect his ability to identify the 11 guy in court. He may very well say, "yeah, that's him. 12 That's the guy I remember." We'll find out. 13 Now, ladies and gentlemen, in a nutshell 14 15 that's my case. You have the photographic ID, which is reliable, and the corroborating evidence, of the 16 defendant's own cell phone, used to make the call, 17 which took the victim right to where the defendant 18 That is proof, beyond any doubt, that these 19 lives. 20 crimes happened. The defendant is charged with conspiracy to 21 commit the robbery with others. The armed robbery, 22 some terroristic threats, possession of a handgun for 23 an unlawful purpose, to use it for a robbery. 24

(Openings)

29

Pablo Machado doesn't have a permit to carry a gun. You'll hear that. And some terroristic threats.

the gun without a permit. Yes, the police checked.

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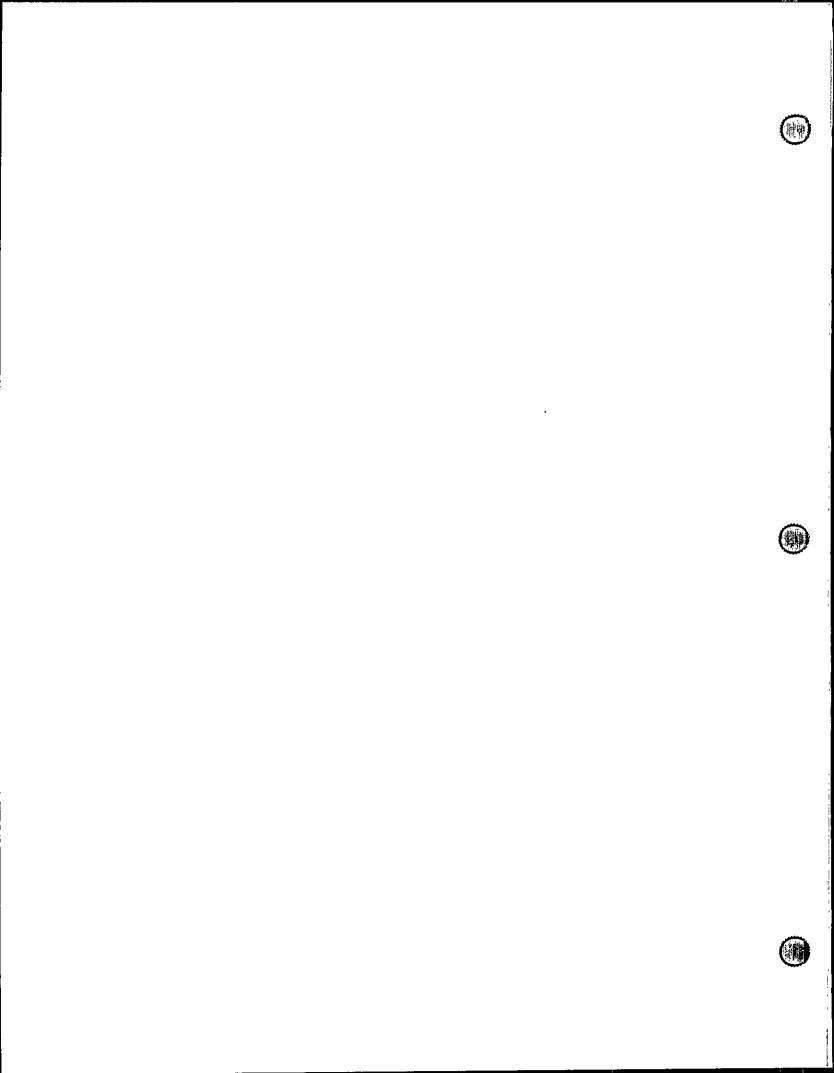
Ladies and gentlemen, you may be wondering why Counsel and I get up, when you walk in, and we also get up when you leave. You might think that's reserved for her Honor, who has a robe, who is the Judge of this trial. Well, you have that same cloak. Instead of being judges of the law, you're judges of the facts. And you might as well all be wearing that robe.

And you might as well all be wearing that robe.

As judges of the facts, you're important to

this process. Mr. Gonzalez and I respect that. 11 know that your job is a crucial one in this justice 12 13 system that we try to perfect, that we try to present to you. We try to present to you evidence that's 14 15 reliable. We try to give you positions that you will 16 listen to. And, in the end, we trust in your judgment. We know that, as the finders of fact, you're going to 17 pay attention to the witnesses, judge their 18 19 credibility, and use your collective, hundreds of years 20 of common sense, among yourselves. Don't leave that 21 outside.

You know, the Judge mentioned the snowflake example in her circumstantial evidence and direct evidence instruction. Well, it's snowing out today. I don't know the last time that I heard the example



given, when it wasn't snowing and then it snowed later. 1 It's warm inside. It's better to be inside than out. We don't have the sun to distract us. We don't have the nice weather. I know it is the holiday season. this holiday season, you are all anxious to get on with your affairs.

I want to tell you, on behalf of the State, I appreciate your service, and that you didn't just say anything to get out of your jury duty, like some people When I get up, when Mr. Gonzalez gets up, it's because we respect your role in the case. All I ask that you be objective and fair to both sides. to the evidence. And at the end, after you hear the Judge instruct you on the legal principles, just do the Thank you. right thing.

THE COURT: Thank you, Mr. Sameiro.

Mr. Gonzalez?

17 18 MR. GONZALEZ: May it please the Court, Judge, Mr. Sameiro, ladies and gentlemen of the jury, 19 Mr. Machado, first and foremost, I'd just like to thank 20 you all for being here. I realize that we have got 21 some Christmas shopping, that we'd rather be in many 22 other places, working. We have lots of other things to 23 do in our lives. You guys are all here willingly. 24 Some of us more willing than others. However, we're 25

(Openings)

31

here, nonetheless.

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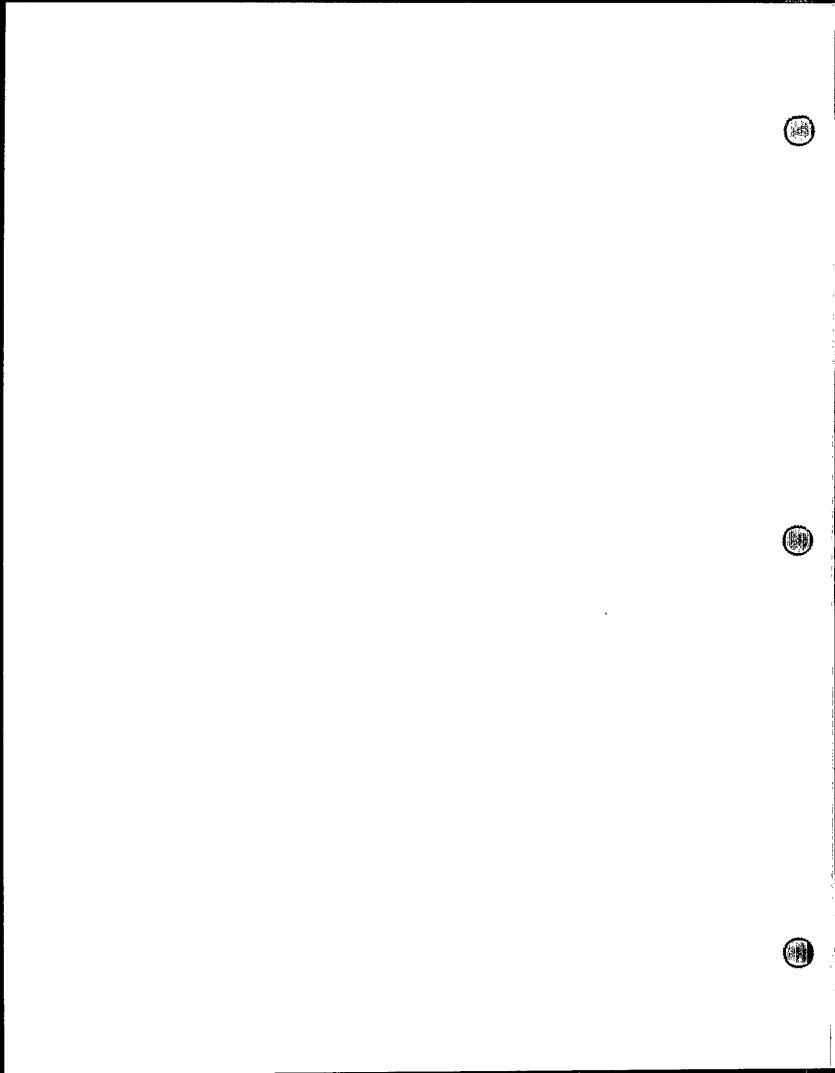
24 25

We're here to serve a purpose, in this great country of ours. All of you remember the old adage, we are a society of the people, by the people, and for the people. You remember that from history. This is where you guys get to be the people that make the decision. At the end of the day, when this case is all over, you guys are going to go back and deliberate. And when you deliberate, you're going to have to use your common sense.

You're going to make inferences, draw some conclusions. You are going to use each other and discuss things. You're going to draw on your own personal experiences. You're going to figure things At the end of the case, you're going to have a That verdict is going to be a collective verdict. And it's also going to be a singular verdict. Meaning each and every one of you sees something different, in all 14 of these chairs. We all have our own experiences. I want you all to use those things. Mr. Sameiro and I decided that you are a good I think when we say that we're satisfied with

the jury as constituted, it's because we think that each and every person in this group will sit, put all

their biases aside, be fair and impartial.



(Openings)

Now, very frankly, I don't have to do anything. Nor does Mr. Machado. We can sit here quietly, and never say anything. It is the State's burden to prove each and every element of the offenses charged in this case, all seven, beyond a reasonable doubt. Pretty simple. You'll have that charge. And then there is the particular elements that the State must prove, in order for you to find guilt on each particular charge. We'll go through that at the end of this trial, when we do our closing arguments.

Now, it's not that difficult. But what I want you to know is that, it's the State's burden. We don't have to come in here and disprove anything. They have to prove it. Now, Mr. Sameiro came before you, and said, this is the way it happened. I believe, he started with, April 23rd, April 24th, Mr. Cedillo was driving for a taxicab company -- excuse me -- from 58 Lee Avenue to 400 Lee Avenue. When he arrives at 400 Lee Avenue, he gets robbed by five people.

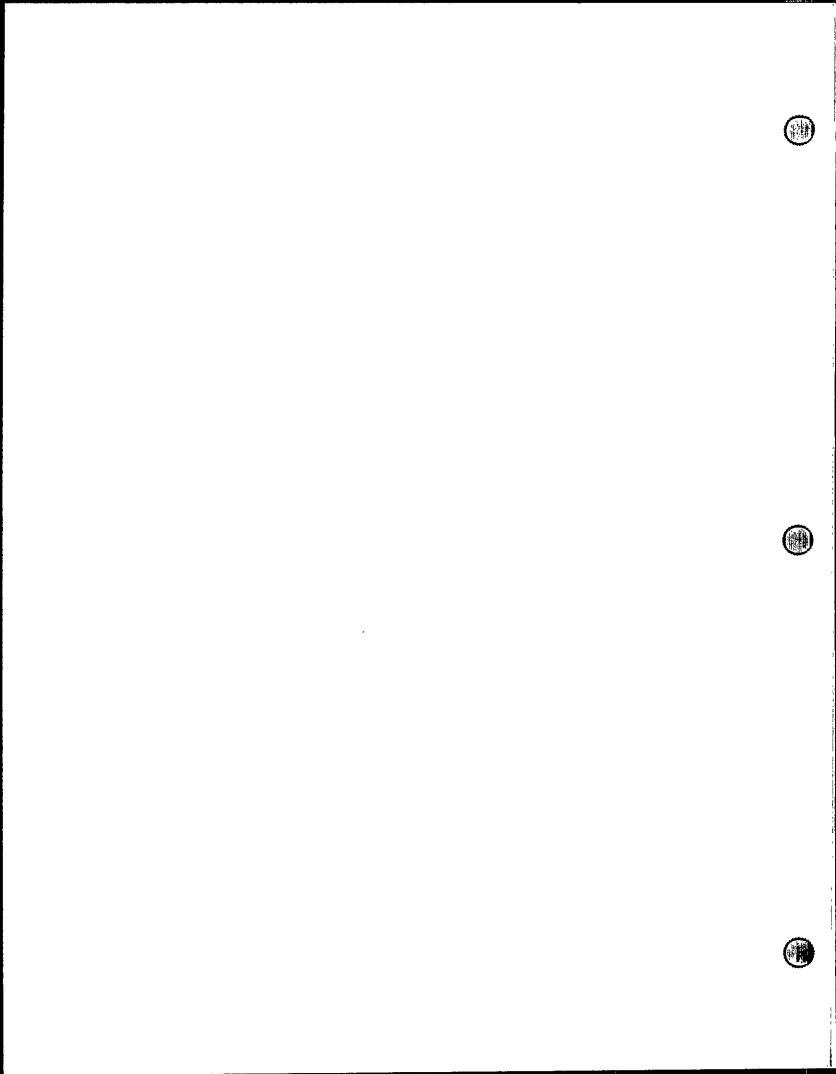
All right. Now, you're going to find out, with the investigation that the police officers do, with regard to trying to ascertain, to find out who those five people are. Now, if the police officers did beyond what they should have done, you'll hear from Detective Selesky. He investigated this. He was the

(Openings)

lead detective. You'll hear from Detective Bobadilla, who is one of the New Brunswick police officers, that takes the initial report from Wilmer Cedillo. You're going to hear from all of these people. You're going to hear what the State did, what the police officers did. Upon finding the information, where did the investigation go?

I want you all to -- this is most important -- I want you all to scrutinize these things. I want you to look at it. What could they have done to make sure, not that there was one person there, that there were five people there? The first charge in this particular Indictment is conspiracy. Conspiracy requires how many people? Right? More than one. Sitting at the table is one person. And I'd like you to know, very simply -- simply said -- that Mr. Machado, as he sits in this seat right now, is not quilty.

I want you to erase from your mind, if a person sits in the chair, he is presumed guilty, as some people say. We're talking about the judiciary system. He is presumed not guilty. He's not guilty until Mr. Sameiro, through that witness box, proves to you all, each and every element of the offenses charged. It's important. I'm going to advance to you



(Openings)

all, that Mr. Machado is going to sit in this chair, and when the conclusion of this trial happens, he's going to still be not guilty. Because the State is not going to meet their burden.

Now, Mr. Sameiro went to the facts, and said something about Mr. Machado sitting in the front seat of the taxicab. I'm not going to get into the facts. It's his job to bring the facts to you. He got into his computer, and the identification procedures, and the good things about the computer identification procedure is it also captures Mr. Cedillo's statement to the police on, I believe, it's July 25th, when he actually makes that statement.

Listen to what he says, what he forgets, what he doesn't forget. Listen to what he says when he comes in here today, what he forgets, what he doesn't forget. Consider also his initial statement to the police, to Detective Bobadilla -- right -- what is his description of the perpetrators in this particular case. That is the paramount issue, that you all have to deal with for this case.

If I walk out of this room, I've just been talking for about 15, 20 minutes in front of you. Now, if I walk out of this room, three months down the line, you will probably remember what? Remember who I was?

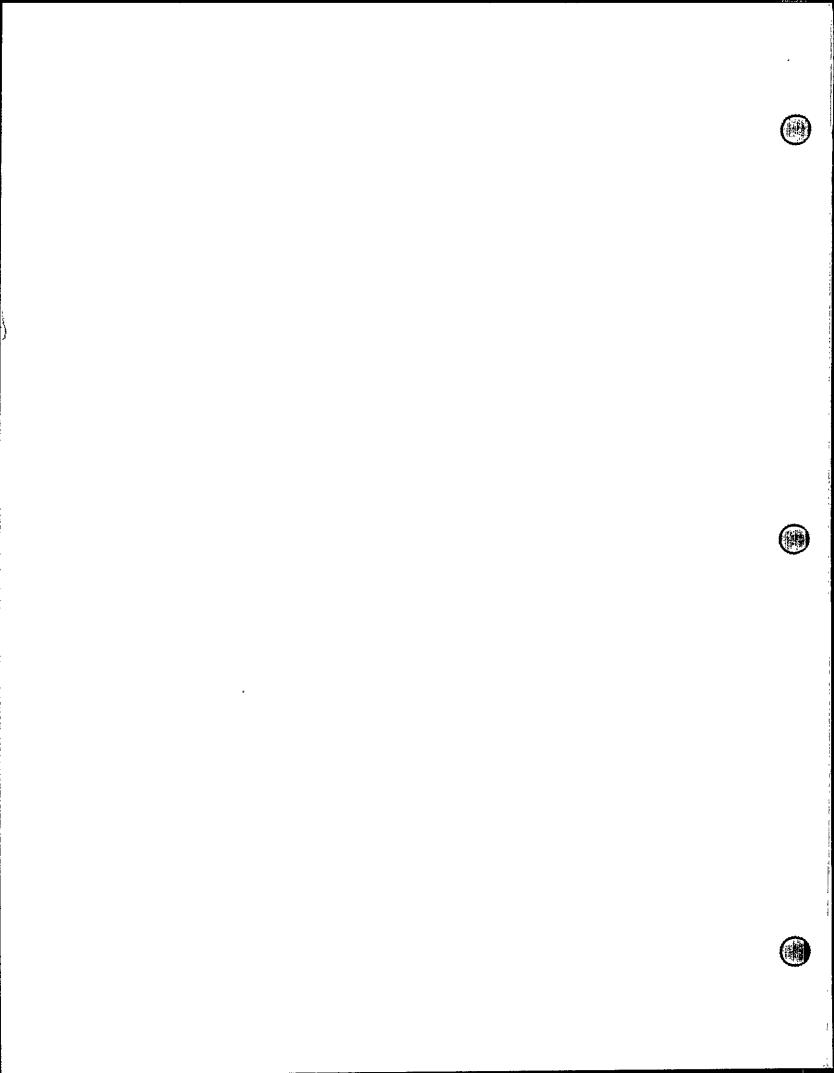
(Openings)

The identification procedure in this particular case happens three months down the line.

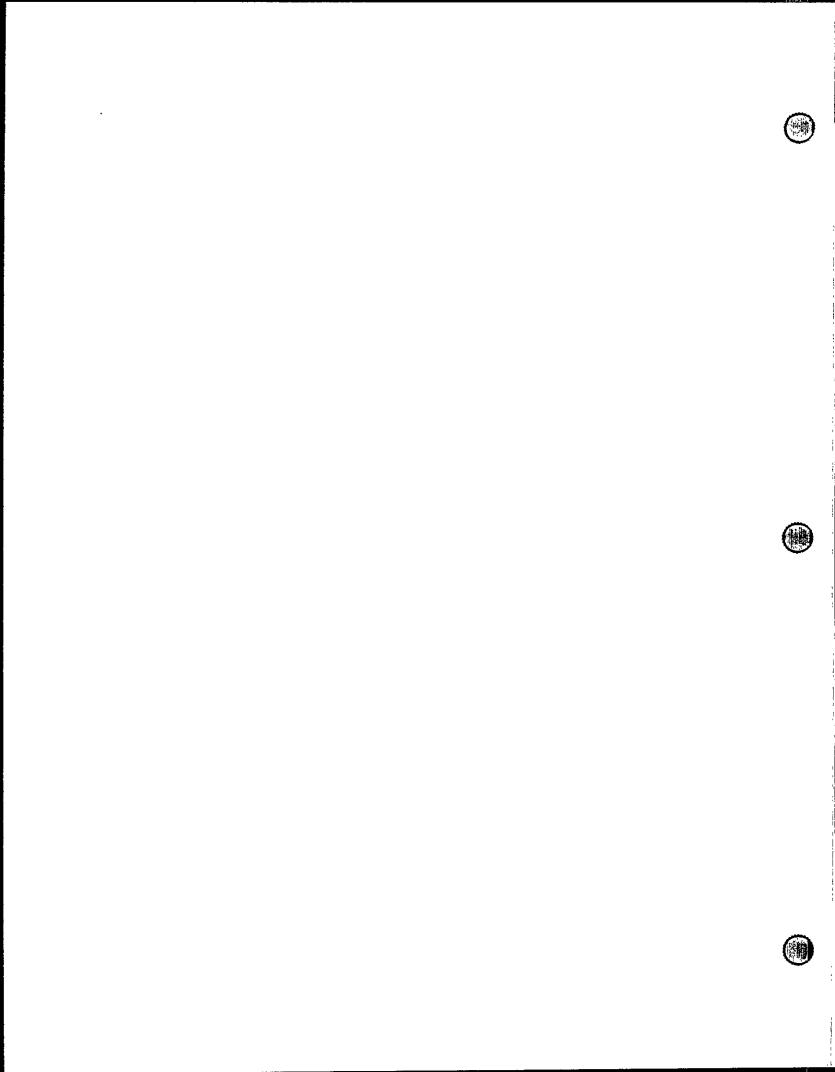
All right. An initial description is given. You'll hear the initial description. It's not him. A subsequent description is given. And these photos are brought before the gentleman, and he says pick one. You're going to take into account the fact it was nighttime when this alleged robbery occurred, the ability of the person to view the alleged assailants. The changing of the stories, means the person is unsure, doesn't really know.

I don't know if you have all been victims of a crime. If someone comes up to you, and says, hey, aren't you so and so. You say, I'm not so and so. They made a mistake. It happens all the time, in very simple interactions between people. Aren't you so and so? How do I know you? You don't remember that person. You may have had a conversation with them. He may be related to you.

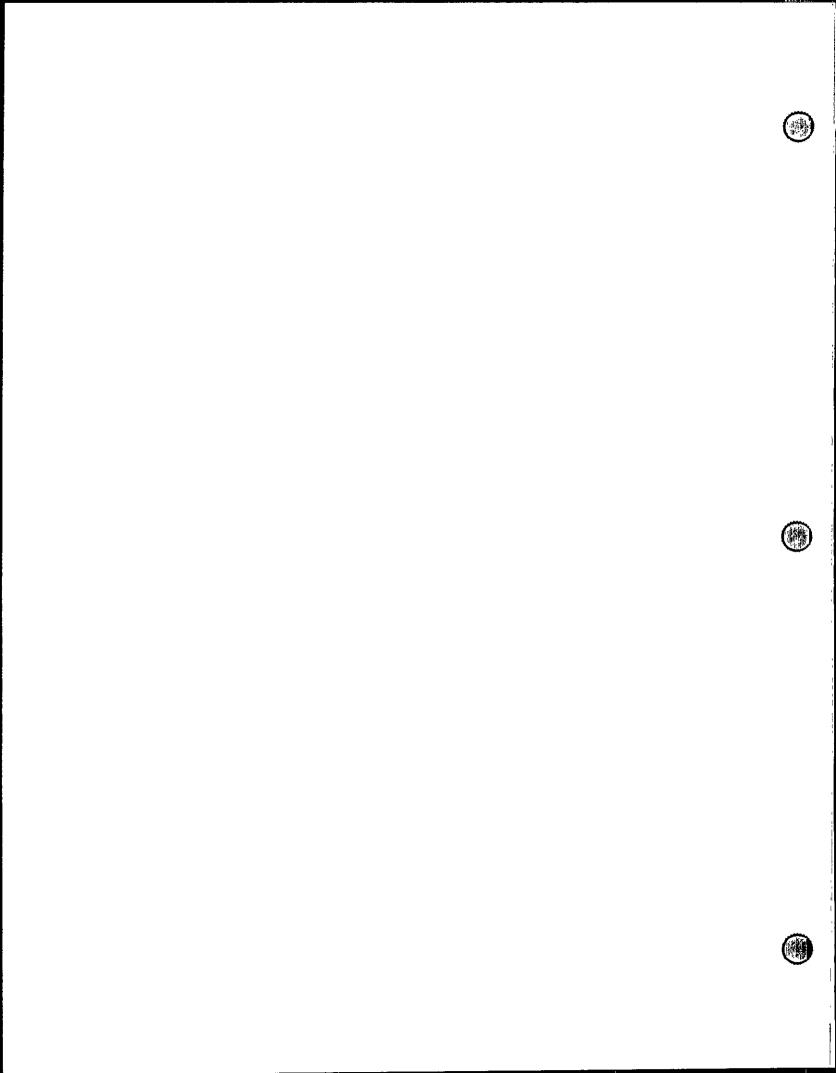
But what I'm saying to you is very simply, identifications, in and of themselves, are difficult things to do. Misidentifications are not as difficult. If you all are following me there? As I said, it's the State's burden to prove that. It wouldn't be any fun if the defense attorney in a particular case didn't ask



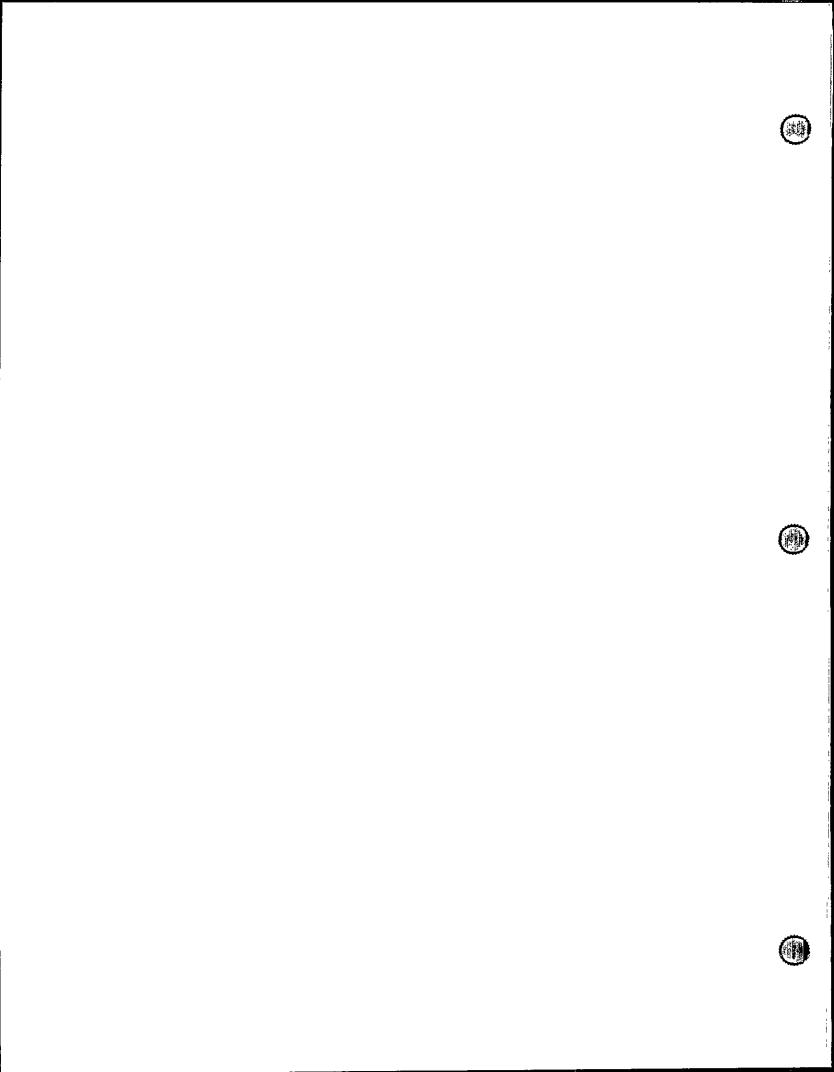
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(Openings)
                                                             36
   questions, didn't draw conclusions, didn't make
 1
   arguments. It wouldn't be any fun, this process.
 2
   concept of a trial wouldn't be that much fun.
 3
            Now, it's not like on TV. A lot of you
   mentioned that you watch Law and Order, CSI, all these
   different programs, where everything happens in a half
   hour. You guys have been sitting and waiting for way
 7
   longer than a half hour; right? So, with that being
 8
   said -- with that being said -- use your good judgment,
 9
   use your scrutiny, think about how you, yourself, would
10
   judge the effectiveness of the officers, to view a
11
   charge, to go about an investigation. You are going to
12
   hear about all those things.
13
            Once again, I thank you on behalf of Mr.
14
   Machado and myself. One, for enduring the lengthy
15
   process of jury selection, and then the lengthy process
16
   of waiting and waiting. We're going to have some snow
17
             I'm not going to be speaking to you directly.
18
   It's snowing outside right now. So, be careful driving
19
           I realize that can be very difficult.
20
   home.
21
   probably have to go shopping, whatever the case is.
   I'm happy that you are all here, because our process,
22
   and living in this country, is so great. And a person
23
   has the opportunity to be brought before a jury, like
24
   you all, to make a decision, as the people, so to
25
                            (Colloguy)
                                                            37
 1
   speak.
 2
            Thank you.
                        Thank you, Mr. Gonzalez.
 3
            THE COURT:
            Excuse me one second.
 4
 5
            All right, ladies and gentlemen. We're just
 6
   going to break you for a moment. Put you right on the
            I need about 10 or 15 minutes. We'll bring you
 7
                   Please remember, do not discuss the
 8
   right back in.
   case among yourselves, or with anybody else.
 9
            (Whereupon, the jury leaves the courtroom.)
10
            (Whereupon, the hearing continued outside the
11
12
   presence of the jury.)
13
            THE COURT: Okay. Let's take a break for a
14
   few minutes.
15
            MR. GONZALEZ:
                           Thank you.
16
            MR. SAMEIRO:
                          Thank you.
            THE COURT: Thank you.
17
18
            (Whereupon, a short recess was taken.)
19
            (Whereupon, the hearing continued.)
20
            (Whereupon, the jury enters the courtroom.)
21
            THE COURT:
                        Thank you, folks. Please have a
22
   seat.
23
            All right. State, call your first witness.
24
            MR. SAMEIRO:
                          The State would like to call
   Mr. Wilmer Cedillo, who will require the use of the
25
```



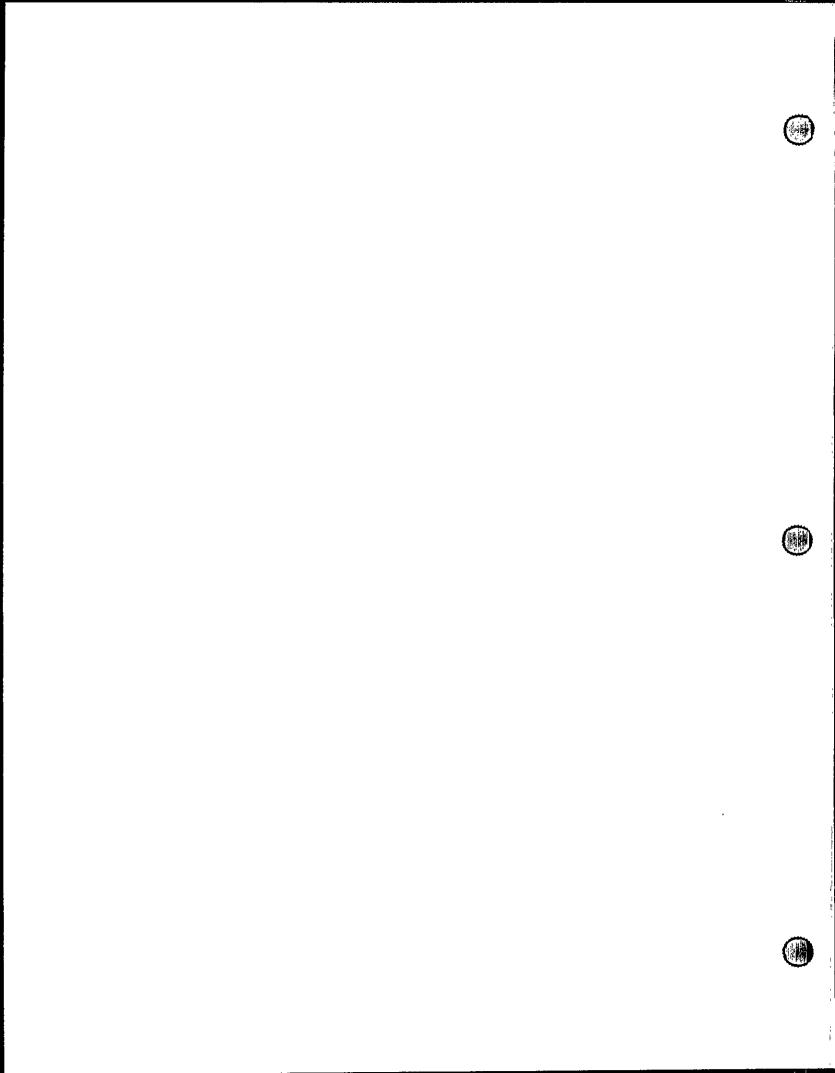
```
W. Cedillo - direct
                                                           38
 1
   translator.
 2
            THE COURT: All right.
 3
                 CEDILLO, called as a witness on
   WILMER
   behalf of the State, being duly sworn, testifies, with
   the use of a Spanish Interpreter, as follows:
   DIRECT EXAMINATION BY MR. SAMEIRO:
 7
                      You can have a seat.
 8
            THE COURT:
            (Whereupon, the witness complies.)
 9
            Mr. Cedillo, and Madam Interpreter, I'm
10
   standing here for a reason. When I ask questions,
11
   please project your voices, so, everybody can hear you,
12
13
   including Juror Number 14.
        (Witness shakes his head.)
14
15
            Okay?
       Q
16
   Α
       Okay.
            Can you tell us what town you live in, sir?
17
       In New Brunswick.
18
            How long have you lived in New Brunswick?
19
20
       12 years.
  A
21
       Q
           How old are you?
22 A
       28 years old.
23
           Where were you born?
       Honduras.
24 A
           Are you here in this country legally?
25
                      W. Cedillo - direct
                                                           39
             I have a work permit.
 1
   Α
 2
       Q
           That means you work?
 3
       Yeah.
   Α
           What do you for a living?
 4
        I work in a factory, driving a forklift.
 5
   Α
            Now, I can barely hear you. I'll ask you to
   pick up your voice, even though you are talking to her,
 7
   the Spanish Interpreter.
 8
 9
       Okay.
   Α
            THE COURT: Project. All right?
10
11
            (Whereupon, the witness shakes his head.)
12
            You have to say "yes" or "no." Don't shake
       Q
   your head.
13
14
       Yes. Yes.
   Α
15
            That's another rule. Miss Crowell can't
16
   write down that you are shaking your head.
17
   affirmative responses.
18
            THE COURT: What we're going to do is, put
19
   the microphone up a little bit for you, and then turn
20
           That way you can be a little louder.
21
   appreciate that. That way you can just direct your
22
   response right into the microphone.
23
           THE WITNESS:
                          Okay.
24
           You said you worked in a factory?
       Q
25
   Α
       Yes.
```



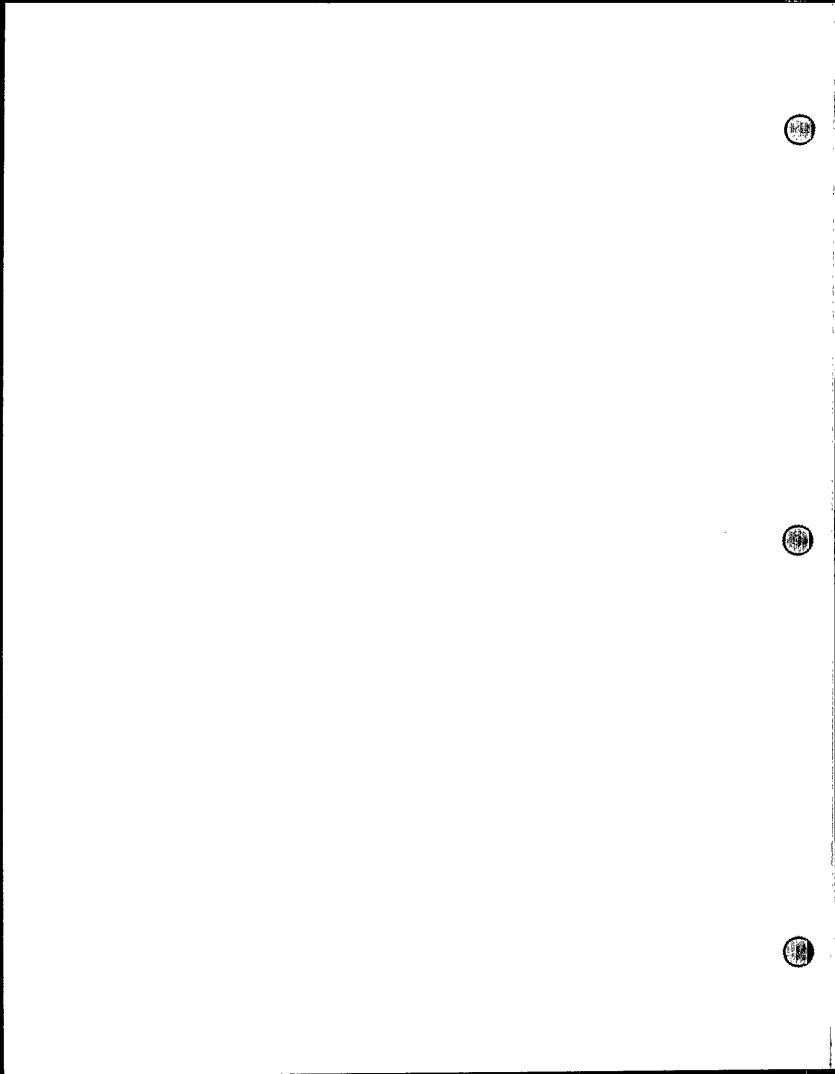
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40
                       W. Cedillo - direct
                          What do you do in a factory?
 1
            There we go.
        I work on a forklift in a company.
 2
   Α
 3
            How long have you held that job?
 4
        It's been a year.
   Α
            Before that, did you ever work for a taxicab
 5
 6
   company?
 7
        Yes.
   Α
 8
            Which one?
        Q.
 9
        Acapulco Taxi.
   Α
            What did you do for Acapulco?
10
        I worked for the owner.
                                 Driver.
11
            So, you drove a cab?
12
        Q
13 A
        I drove a cab.
            How long did you do that?
14
15
        For three years.
   Α
            Are you married, single, divorced?
16
17
        Single.
   Α
            Were you working for the cab company on April
18
        0
   24, 2007?
19
        Yes.
20
   Α
21
            Do you remember picking up a fare at 58 Lee
22 Avenue that day?
        Yes.
23
   Α
            What do you remember about that fare?
24
        Q
        Everything.
25
   Α
                       W. Cedillo - direct
                                                             41
            What time of the day or night did that
 1
        Q
 2
   happen?
 3
        Around 4:40.
   Α
 4
            A.m. or p.m.?
        Q.
 5
        A.m.
   Α
 6
            So, the sun wasn't up yet?
        0
 7
   Α
        No.
            Do you remember how you were dispatched to 58
 8
 9
   Lee Avenue?
10
        Yes. Yes.
   Α
11
            Tell us.
        Q
        I was told to make a pick up. The base told me,
12
13
   that is the job.
14
            When you say the base, is there a dispatcher
        Q
   at the headquarters of the cab company?
15
              Yes.
16
            How does he communicate with you?
17
        Q
        Through the radio.
18
19
            So, you got a radio transmission from the
20
   dispatcher?
21
   A
        Yes.
22
            On that day, telling you to go to 58 Lee
   Avenue to make a pick up?
        Yes.
24
   Α
25
        Q
            Is that the way it normally works?
                                                  You pick
```



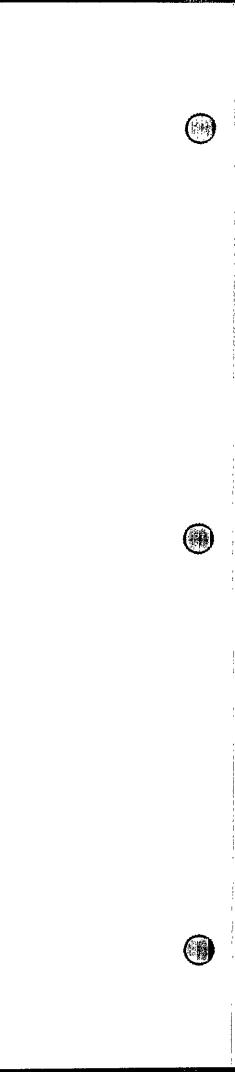
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W. Cedillo - direct
   up the cab fares through the dispatcher only?
 1
   Α
        Yes.
              Yes.
            Do you know if the dispatcher records the
   telephone numbers of the people who called for the
 5
   fare?
       Yes. Yes.
 7
            Can you explain how he does that?
        When the customer calls, he writes it in a
 8
   notebook with a pencil. And writes down the telephone
   number, and where the person is, and where they're
10
11
   going.
            Does he do that through a caller ID system on
12
        0
13
   the phone?
14
       Yes.
            That's done with every fare?
15
        Q
16
  Α
       Yes.
17
            So, when you were told by the dispatcher, to
   go to 58 Lee, I assume you took the trip; right?
18
19
        Yes.
            Was this the beginning of your shift or at
20
        Q
21 the end of your shift?
22
        Towards the end.
            When would you have ended that night or early
23
        0
24 morning?
25
       At six.
   Α
                                                             43
                       W. Cedillo - direct
            When did you start your shift that day?
 1
 2
   Α
        I started at five p.m.
            That's a long shift then?
 3
                    It is all night.
 4
             Yes.
   Α
        Yes.
            Do you have a practice, where you return the
 5
   receipts to the office periodically throughout the day?
   I mean, the money that you collect?
 7
        That would depend. Because he trusted me. So, I
 8
   would keep the accounts for up to two days.
 9
            How much would you collect on any given day?
10
        The maximum is two hundred twenty for a night.
11
  A
            That's your pay?
12
        Q
13
       No. No.
                 It's half and half with the owner.
            How many receipts, or how much money, would
14
   you collect on an average night?
15
                                      Is it that two
16
   hundred twenty?
17
        It depends.
                     It depends on how the night goes.
   Α
18
            On April 24, 2007, were you collecting all
19
   the day's receipts at that time, when you were
20
   dispatched to 58 Lee?
21
   Α
       Yes. Yes.
22
           You remember how much money you had before
23
   you went to 58 Lee?
24
        $500.00.
   Α
25
           Was that for one night or two night's travel?
```



```
W. Cedillo - direct
 1
       Two nights, veah.
   Α
 2
            That's because the company trusted you with
   that money?
   Α
       Yes. Yes.
                  Exactly.
            So, let's get to 58 Lee. What happened when
   you arrived at that destination to pick up your fare?
       I picked up two people there. They told me, they
   was going to 400 Lee.
           How far is 400 Lee from 58 Lee?
 9
       About a mile.
10
  Α
           And I assume that going from 58 to 400 is
11
12 straight on that street?
13 A
       Yes.
14
           This is in the City of New Brunswick;
15 correct?
16
  Α
       Yes.
17
           Do you remember anything about the two people
  that got in your car at 58 Lee?
18
       Yes. One of them.
19
           Describe the one that you recall.
20
       I couldn't describe the person; but I know him
21
22 very well.
           Well enough to tell us if he's in the
23
24 courtroom or not?
       Yes. Yes.
25
                      W. Cedillo - direct
                                                           45
          You see the person?
 1
       Q.
 2
   Α
       Yes.
 3
           Can you tell us where he is?
       Q
 4
       Yes.
  Α
 5
           Please do that.
        (Witness complies.) (Witness indicating).
           You have pointed in the direction towards
 8 your right side of the courtroom. Could you tell us
 9
   with an article of clothing, that he or she is wearing,
   who that person is?
10
       Sky blue shirt.
11
12
            THE COURT: All right. For the record, he
13 indicated the defendant.
14
           MR. SAMEIRO: That's the defendant.
15 believe Mr. Gonzalez's shirt comes anywhere near that
           Thank you.
16
   color.
17
           Have you seen this person since having an
   encounter with him on April 24, 2007?
18
19
       Yes, I see him.
20
       Q
           Where did you see him?
21
   Α
       On Remsen.
22
           This is before you went to the police station
23
  in July to look at some pictures?
24
   Α
       Yes.
             Yes.
                   That's right.
25
           Since that time, have you ever seen him
```



```
46
                       W. Cedillo - direct
   again?
 2
   Α
       No.
            No.
            Now, you remember him as one of the two
  people that got in your cab on the night or the early
   morning of April 24, 2007?
       Yes.
 7
            Where did he get inside your vehicle?
        0
        On this side (indicating). On my side
 9
   (indicating).
            What kind of car were you driving?
10
                            It was the number two.
        It was like a van.
11
            So, you were driving a van?
12
       A taxi. A taxi.
13
            Did it have a front compartment and a back
14
15
  compartment?
16
       Yes. Yes.
17
            It wasn't a two-door vehicle? It was a four
18
   door?
       Yes. Yes.
19
   Α
            Did the defendant sit next to you in the
20
21
  front passenger seat then?
22
   Α
       Yes. Yes.
23
            What about the other guy? Where did he go?
       The other one was behind me.
24
            Did you get a good look at him?
25
                       W. Cedillo - direct
                                                             47
        The one who was next to me, I did.
   Α
 1
 2
            I'm talking about the guy who sat behind you.
   Did you get a good look at him?
       No. No. Because I was driving. So, I couldn't
   look back.
 5
            What happened when these two men, including
   the defendant, got in the van? Tell us what happened
   at 58 Lee, once they get in?
        I asked where they were going. They told me to
 9
   Α
10
   400 Lee.
            THE INTERPRETER: The Interpreter requests
11
12
   repetition.
13
        I told the dispatcher. Because you have to report
   in when you pick someone up. He said, to 400 Lee?
14
         That's it.
                     That's the one.
15
   Yes.
16
            Was there anything unusual about the
17
   defendant -- I'm using unusual -- I'm asking you, was
   there anything unusual about going to 400 Lee at that
18
   time? Was there anything that struck you as being odd
19
20
   at that moment?
21
            No.
   Α
       No.
                  No.
22
            So, did you take the defendant, and his
23
   companion, to 400 Lee?
24
   Α
       Yes.
25
           How long did that take?
```



```
W. Cedillo - direct
       It was quick.
           What happened on the trip to 400 Lee?
  Anything?
       They asked me, how much it was. I say, four
            They say, no. They point the gun at me, and
   dollars.
   they say, this is a hold-up. Give the money, all you
   have on you, and they hit me.
          Now, you used the word, "they." Let's break
  it down. What about the defendant? What did he
   specifically do?
       He pointed the gun at me, and he hit me. I closed
   my eyes. You get anxious. I closed my eyes. I said,
   I'll give you all the money. But don't do anything
   else to me.
           MR. SAMEIRO: Your Honor, with all due
16 respect, I heard the witness say something in Spanish.
   He used his right fist (indicating), in an effort to
   show that he was being punched in the face.
19 know if the Translator or the Interpreter caught that.
   If the witness said that he was struck, I'd like to
21 know if that was an accurate perception on my part.
22 For the record, I'm bilingual.
                      Can I ask the Interpreter to have
           THE COURT:
24 him repeat his response?
           What happened with the defendant and the gun?
                                                           49
                      W. Cedillo - direct
  I want to ask you flat out, did he hit you?
       He pointed the gun at me with one hand.
   with the other one. The other ones took the money off
   me.
           Did you get hit in the face?
       Q
       Yes.
             Yes.
           You made a gesture before towards your nose.
  Were you hit in the nose (indicating)?
       Yes. Yes. That's where I was hit.
           Did this defendant do this to you?
       Yes. Yes. Exactly.
           Did that happen inside the van while you were
  at or near 400 Lee?
       400, yes. Yes, at 400.
          Were you inside or outside the van when that
   took place?
       Inside the van. I wanted to leave but they
18 wouldn't let me.
           When you say, "they," how many people are we
20 talking about?
       The two who were there. And the others came out.
```

And I can't describe how many there were. You get scared. And you don't remember any more. You don't

remember any more. You just want them to not hurt you.

1

2

8

9

10

11

12

13

14

15

17

18

20

23

25

5

7

9

11 A

10

12 13

14 15

16

17

19

22

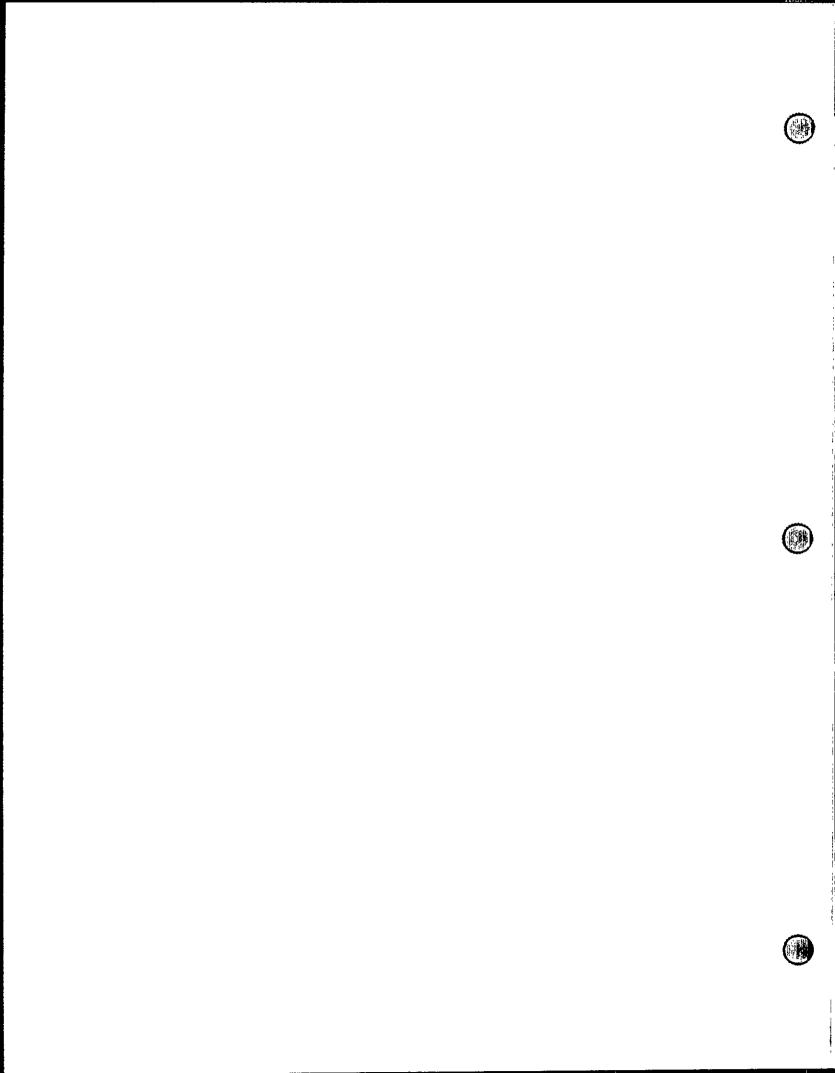
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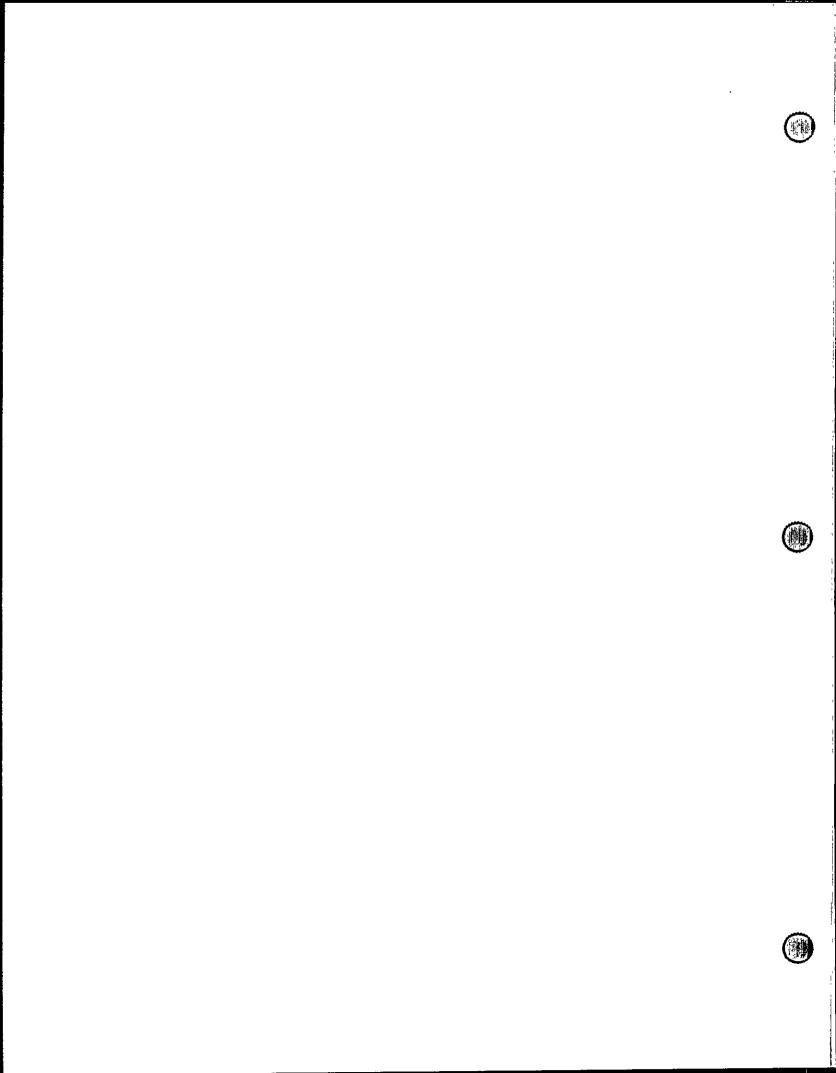
21 A

You do what they say.

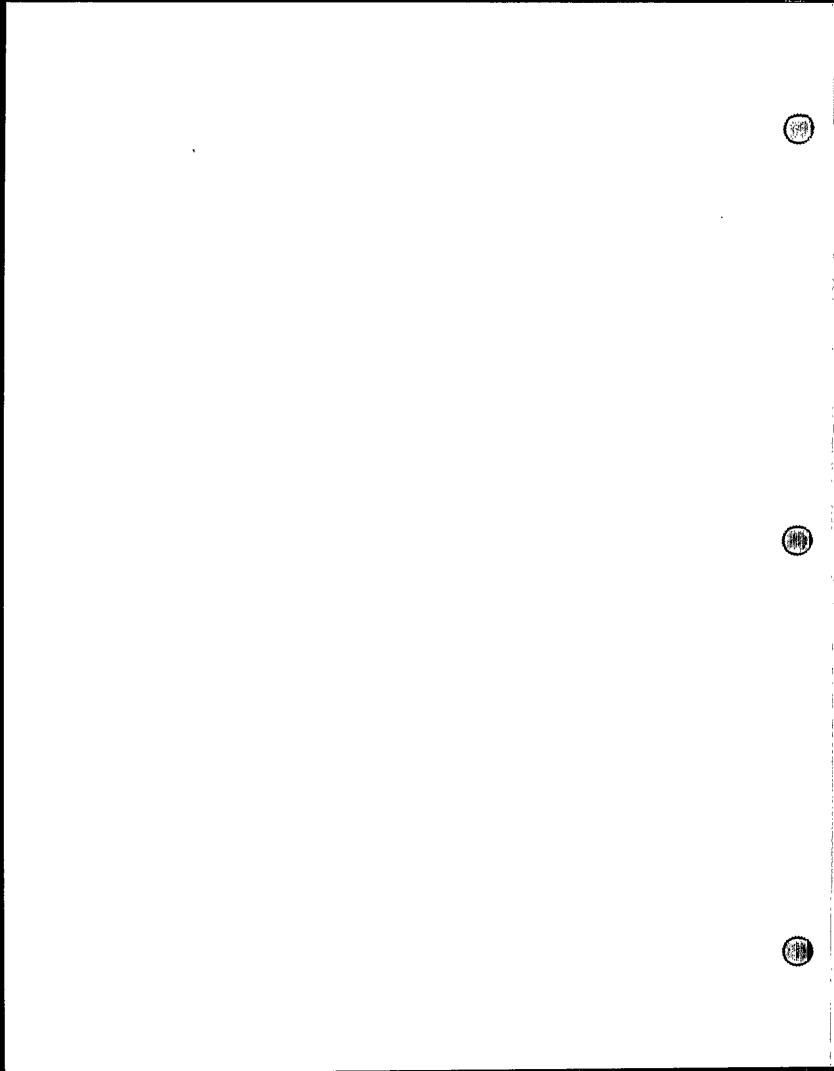
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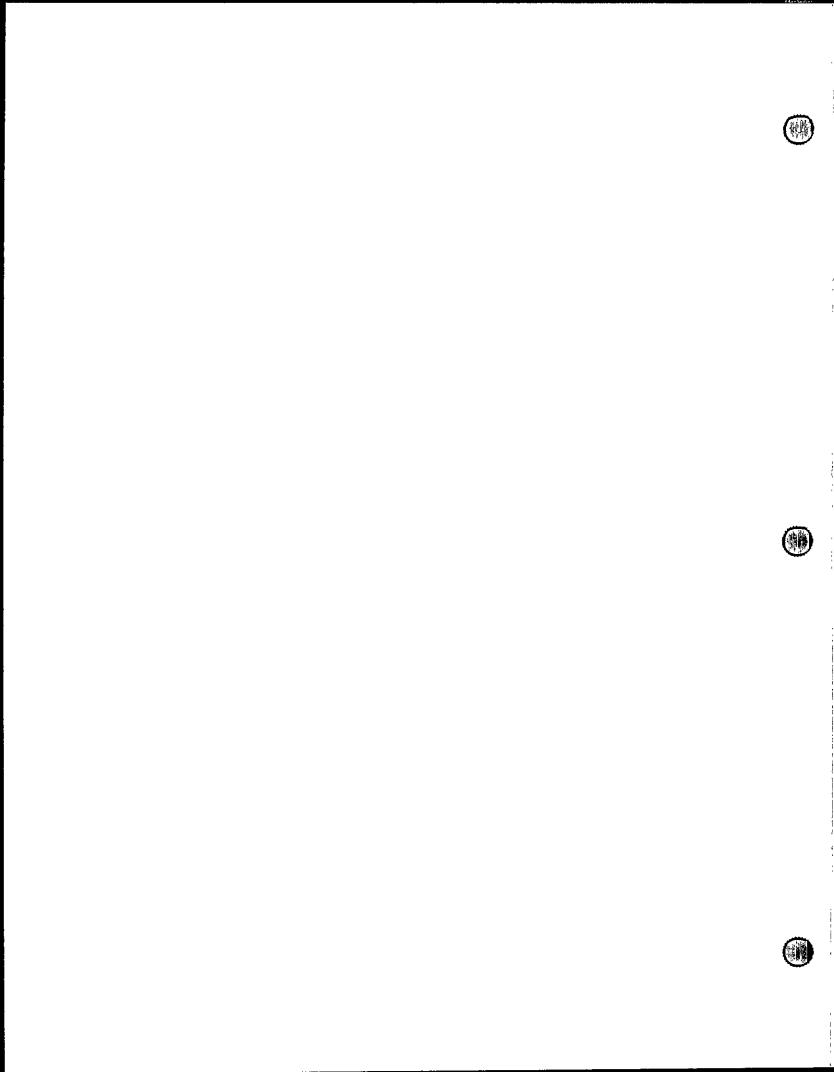


```
W. Cedillo - direct
                                                             50
            This assault, did it take place when the van
 1
   was stopped at 400 Lee?
       Yes.
           Did you see other people outside the van come
        Q
   towards you and participate in this?
              That's right.
        Yes.
 7
            How many other people outside the van were
   involved in this?
        About three.
                      I don't know.
                                     About three.
 9
                               They came out from behind
   know because it was dark.
10
               There were a lot of cars there.
11
12
            Were any of these people wearing any kinds of
13
   masks?
              The ones who were there.
14
       Yes.
            Meaning outside the van.
15
16
   Α
       Outside.
17
           Was the defendant wearing a mask?
18
                  He didn't.
       No. No.
19
            Is the compartment inside your van lit?
                                                      Is
   there an inside light inside your van?
20
21
        There is; but they didn't let anything be done.
            If the door opens, does the light come on?
22
23
        Yes.
             Yes.
            So, when Mr. Machado, the defendant, got
24
   inside your van at 58 Lee, you had the light assisting
25
                       W. Cedillo - direct
                                                             51
   you in looking at him; correct?
 1
 2
       Yes.
            Back at 58 Lee, inside the van, how close
   would you say he was to you when you looked at him for
   the first time?
       No.
            Because he was talking there next to me.
   Next to me.
            Let me ask you the question in another way.
   How close is the driver's seat in the van to the
   passenger seat?
10
        It's like from here to here (indicating).
11
12
           Would you say that's about a foot, a foot and
13
   a half?
              About a foot or a foot and a half.
14
       Yes.
15
           Do you have any problems with your vision?
16
   Α
       No.
17
            So, you were able to get a clear,
   unobstructed view of Mr. Machado in the van when he got
19
   in?
       Yes. Yes.
20
   Α
21
            Did you get the same kind of view of the
22
   people outside the van, at 400 Lee?
                                         Those out there in
   the dark with their masks on?
23
24
   Α
       Yes.
25
           Now, did you see the kind of gun Mr. Machado
```

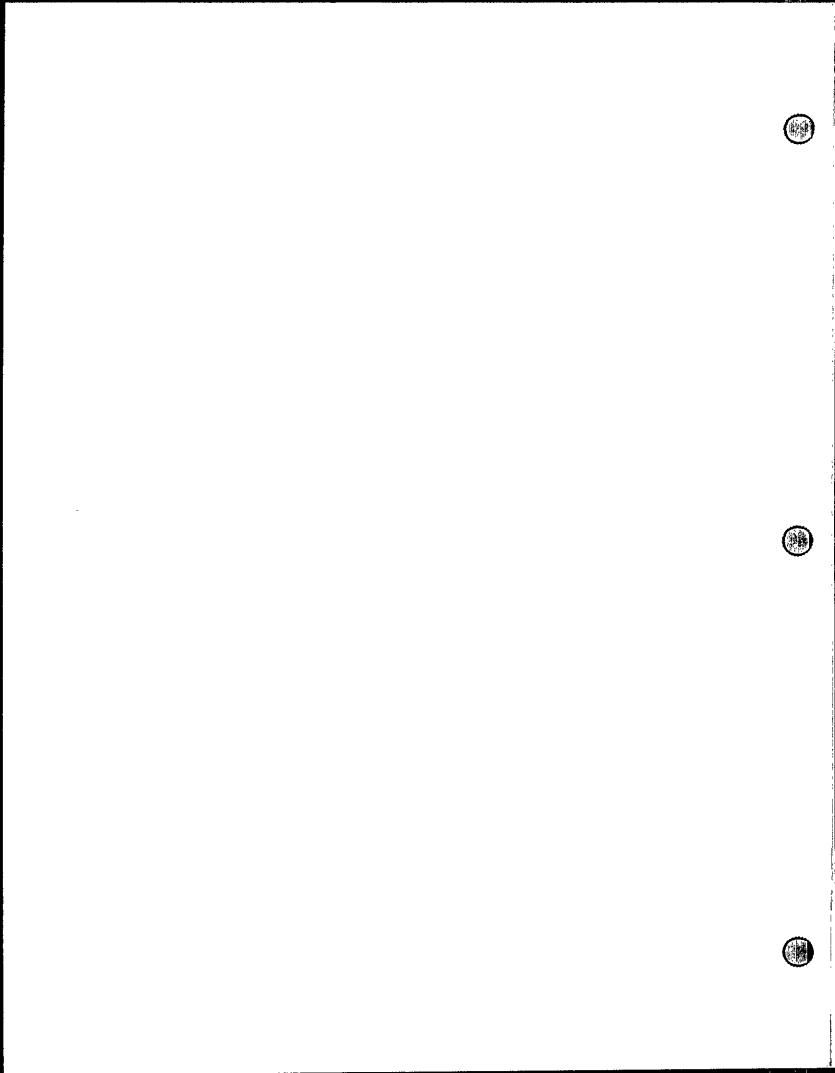


```
W. Cedillo - direct
                                                           52
   had in his hand?
 1
       One of those guns like they have over there.
 2
           You said "pistola"?
 3
 4
       It was small.
   Α
            "Pistola," to me, implies a handgun. Was it
 5
   a handgun?
 7
       Yes. A handgun.
   Α
           Was this gun pointed at you?
 8
 9
       Yes. Yes.
   Α
           Did anybody else have a gun?
10
       Q
11
             The ones who came from outside.
       Yes.
           Were you, eventually, taken out of the van?
12
   Did you get out of the van?
13
       No. They kept me in there and took everything
14
15
   away from me.
           While you were behind the driver's seat,
16
17
   behind the wheel?
       Yes. That's where they took everything away from
18
   Α
19
   me.
20
            What was taken from you?
       Q
       My cell phone first. The very first thing was the
21
   cell phone. And from there, I had a chain on.
           What kind of a chain?
23
       Q
       Excuse me?
24
   Α
           What kind of a chain?
25
                      W. Cedillo - direct
                                                           53
       A silver one.
 1
  Α
           You have made reference to a chain being
 3 around your neck. It was like a necklace?
       Yes. Yes.
   A
           Was it silver?
 5
       Q
       Yes. Yes, it was.
 6 A
           What was the chain worth?
 7
       My uncle gave it to me as a present when I came
 8
 9 here. So, I don't know.
10
            If you had to approximate, how much would you
        Q
11 say it was worth?
       Maybe $30.00 or so.
12
   Α
13
           What else was taken from you?
14 A
       The five hundred dollars, my cell phone.
                                                  That was
   it. And a work permit.
15
           Was that a photo ID that you had?
16
        It's an ID. It's a permit that immigration sends
17
   Α
18
   me, so, that I can work.
19
           It's valuable out on the street, is it not?
20
       Yes. But I reported it to immigration. And they
   Α
21
   changed the number.
22
           That was in your wallet, I take it?
23
       Yes. Yes. It was mostly because of that, that I
   Α
24
   made the report.
25
           Did they take your wallet also?
```

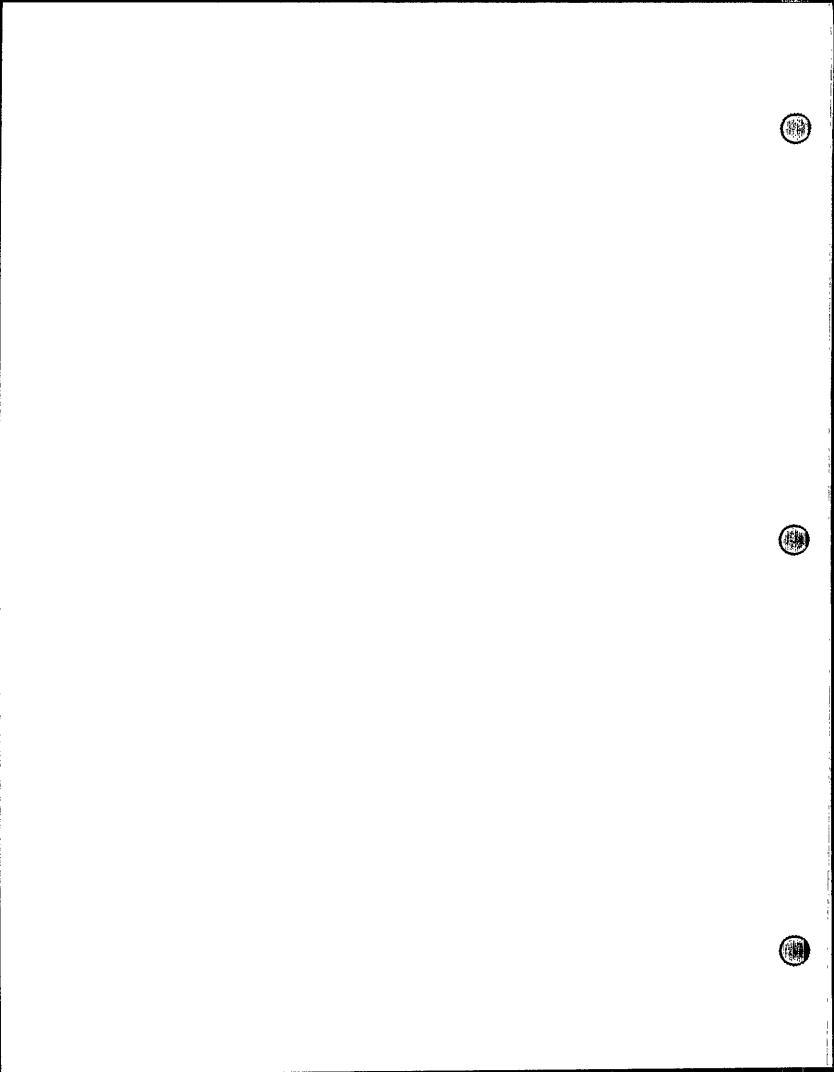




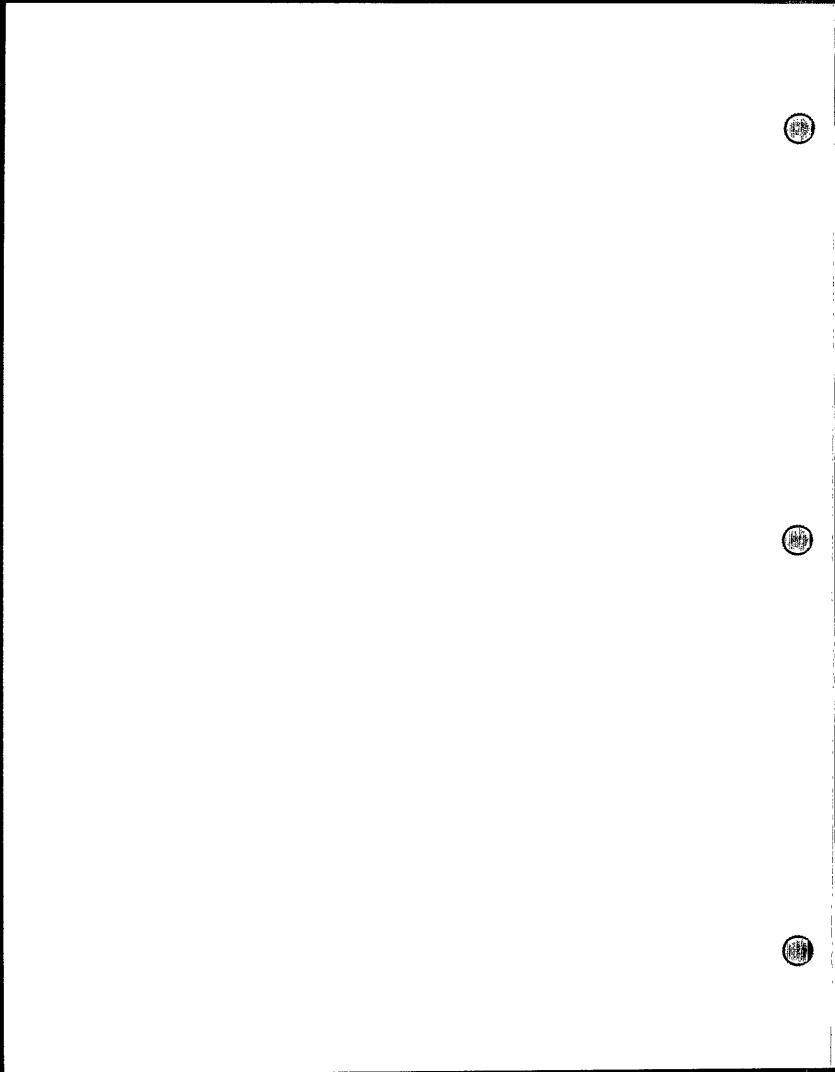
```
W. Cedillo - direct
                                                             56
            So, how did they disable the radio?
 1
        They pulled the cable out.
 2
   Α
 3
            This is a radio you keep by the center
 4
   console?
 5
   Α
        Yes. Yes.
            Did they say anything to you, or amongst
   themselves, about your cell phone and this two-way
 8
   radio?
 9
        No. He said to me, that if I reported it to the
   police, he had other friends who could hurt me.
10
            Now, who told you this?
11
        Q
        He did.
12
   Α
13
            Who is he?
        0
       The one in the sky blue shirt.
14 A
            Are you nervous looking at him today?
15
16 A
       Of course, I am.
17
            Once everyone from his group leaves -- By
   "his" I'm referring to the defendant. I'm pointing at
18
   him. You told us you then went to your dispatcher's
19
             Is that what you did?
20
   office?
                  He told me, they called from this
21
        No.
             No.
             And then he gave me that number. And that's
22 number.
   why I wrote it down and brought it over here.
23
   brought it over here to give to the police, and I made
24
25 the report.
                       W. Cedillo - direct
                                                            57
            We'll get to that in a few minutes.
 1
   want to know where you went from 400 Lee, after you
   were robbed.
        To 153 Joyce Kilmer.
   Α
            What's at 153 Joyce Kilmer?
 5
   A
        That's where my boss lives.
 7
        Q.
            You told him what happened?
 8
   A
       Yes. Yes.
            Did he give you the phone number that was
 9
   utilized to call in the 58 Lee ride?
10
11
        Yes. The dispatcher called the owner.
12
            With that information, you, subsequently,
13
   went to the police station?
14
        Yes.
   Α
15
            Did you go directly to the police?
16
       No. Because I was talking to the boss for awhile.
17
   And then I walked over here.
18
           Did you clean yourself up in any way before
19
   you went to the police?
20
              I cleaned myself up. The cars' owner was
        Yes.
21
   cleaning me up over there.
22
           How were you cleaned up? What did you have
23
   to clean on yourself?
24
       The blood from my nose.
           Did you have any other injuries besides a
25
```



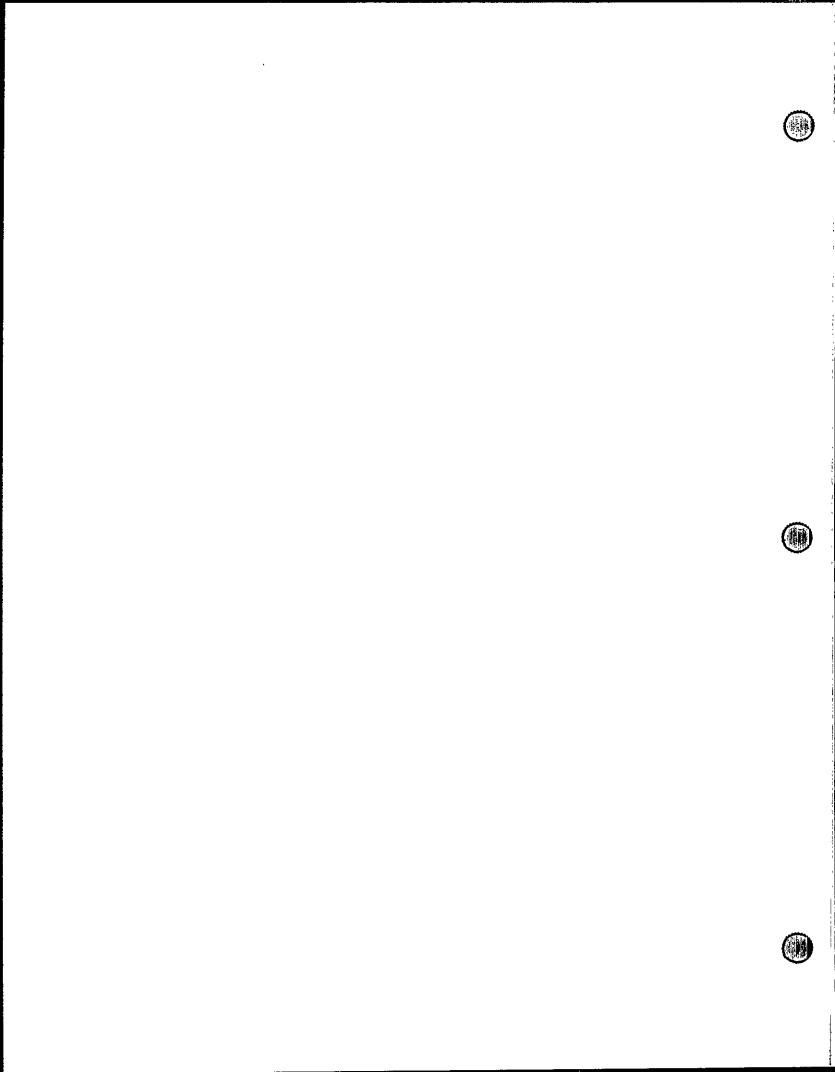
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W. Cedillo - direct
                                                            58
   bloody nose?
 1
       No, I didn't.
 2
   Α
           Was your nose broken as a result of this?
 3
       No. Just bleeding. It was just from being hit.
   Α
            Did you see a doctor or go to a hospital over
 5
   any of this?
 7
       No.
             No.
   Α
 8
            Did blood get on your shirt?
       Yes, it did.
 9
   Α
            Did you change your shirt before you went to
10
   the police station?
11
             No, I didn't.
12
       No.
            Did a lot of the blood get on the shirt or a
13
       0
   little bit?
14
15
       A little blood.
            Now, when you went to the police station, can
16
   you estimate how many minutes or hours it was after the
17
   event took place?
18
       I couldn't tell you. But in an hour.
19
            Within an hour, a half hour?
20
21
        I couldn't tell you.
                              I couldn't tell you, because
   Α
   that's already a year and a half ago.
22
            It wasn't the next day or two weeks later,
23
24 was it, when you went to the police?
25
       Oh, yes.
   Α
                                                            59
                       W. Cedillo - direct
            Let me rephrase my question. Did you go to
 1
   the police to make your initial report a day later or a
   week later?
 3
       No.
             The same day.
   Α
            As you said, within an hour; right?
       The same night. I was over there waiting there
   until somebody who spoke Spanish arrived.
 7
            You went to the police station. You did the
   best you can with your English; correct?
 9
                    But I was told to wait until someone
10
       Yes.
             Yes.
   who spoke Spanish got there.
11
            How much English do you speak or understand?
12
13
        I can't speak it; but I understand very little.
            Very little. Do you remember the name of the
14
15
   officers you spoke to when you gave your report?
16
       Not that day.
17
            But later on, you determined or learned what
       \circ
18
   his name was?
19
              Yes.
   Α
       Yes.
            What was his name?
20
       They call him Bobadilla.
21
  Α
22
            In fact, you saw Officer Bobadilla today
   outside in the hallway when you were waiting to
23
24
   testify, did you not?
25
       Yes.
```



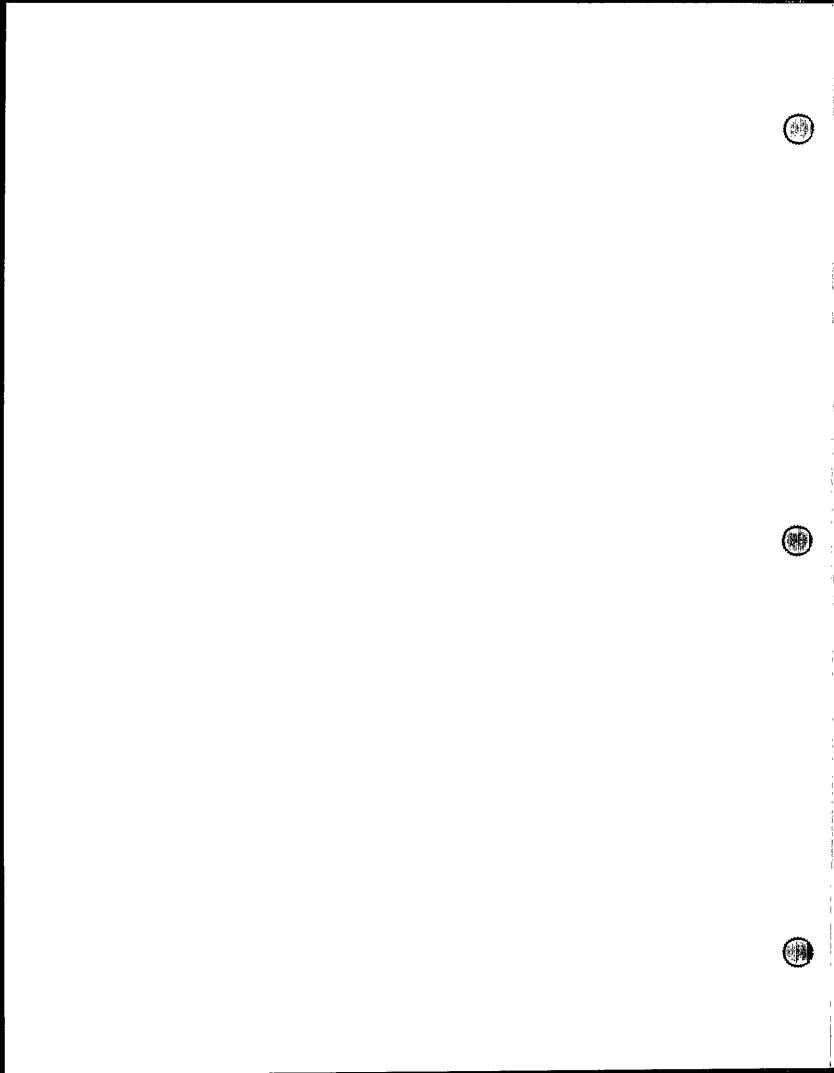
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W. Cedillo - direct
                                                            60
            You remember the man in the suit as the
   person you spoke to, to give this report?
       Yes.
           He was wearing a business suit, not a police
        Q
   uniform; right?
       Yes.
   Α
 7
           You told him what happened?
        Q
 8
   Α
       Yes.
            Do you remember where you had this
 9
   conversation with him?
10
        The day that I was robbed, or right now?
11
12
            Do you remember where you spoke to Officer
   Bobadilla at the police station?
13
              Yes.
14
       Yes.
            Was it in a room with a big table and chairs,
15
        Q.
  or what? You tell me.
16
              In a room like that, with a table.
17
        Yes.
            You were brought inside, and asked by the
18
   officers to explain what happened; right?
19
20
       Yes.
   Α
            Do you remember if you were videotaped on
21
        Q
22
   that day?
       No. Not that day.
23
            How much time did you spend with Officer
24
25 Bobadilla giving him your account of what occurred?
                       W. Cedillo - direct
                                                            61
   Could you tell us how long this took?
 1
        About a half an hour. A half hour or longer.
 2
            Were you asked to put in your own words what
 3
   happened?
 4
 5
       Yes.
            So, you signed -- You wrote out a statement?
 6
        Yes.
 7
   Α
           MR. SAMEIRO: Judge, I don't have that. I'll
 8
 9
   declare that.
10
            You gave that to the police?
11
  Α
       What?
           A written statement.
12
        Q
13
       No. Not written.
                           They wrote down what I told
           I told them what happened, he wrote it down.
14
   them.
15
            I want to know if you wrote down something in
   your own words, which I presume would be in Spanish?
16
17
       No.
             No.
            So, you had a conversation with the officer,
18
   and he wrote down what you said; right?
19
20
       Yes. And he told me to sign it.
21
            Okay. Now, did you give him the phone number
   that you got from the boss? The phone number that was
22
23
   utilized to place the call, that got you to 58 Lee
24
   Avenue?
25
   Α
       Yes.
```



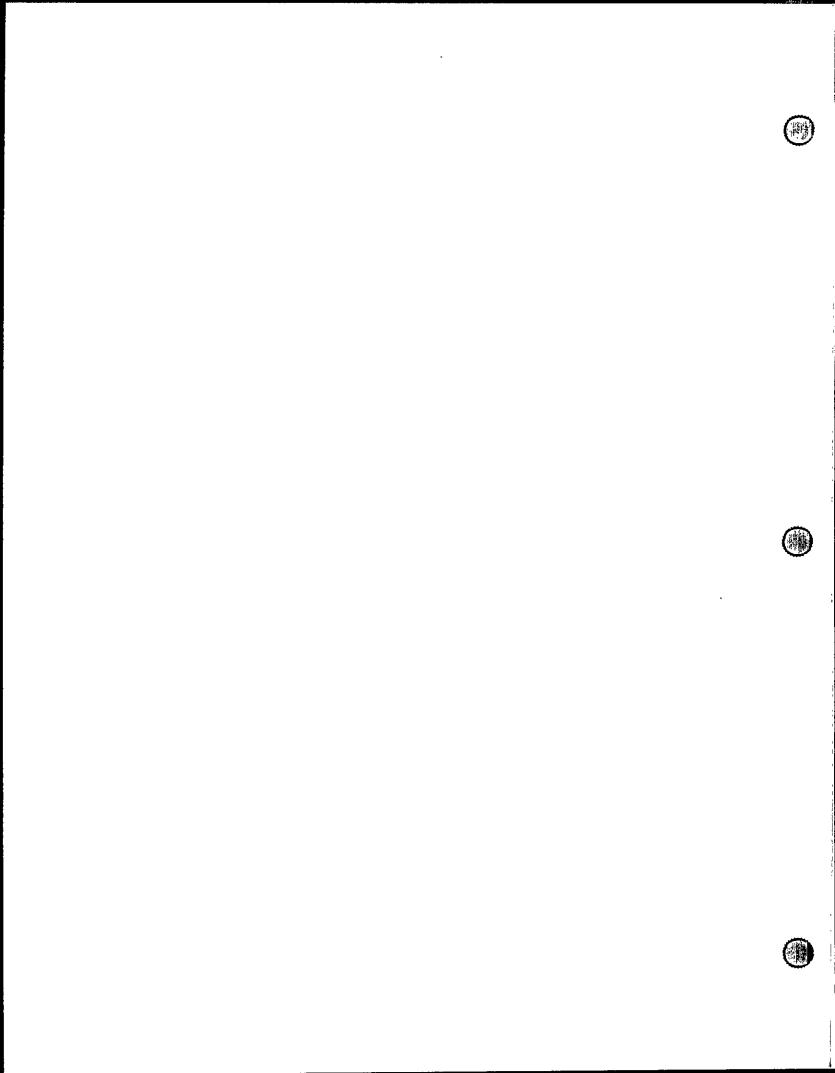
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W. Cedillo - direct
            Was that a ten digit phone number?
 1
        I looked at it on the report just now. And I
   Α
   remembered it.
            I showed you the report outside in the
   hallway, while you were waiting to testify?
                   Yes. And I remember.
             Yes.
 7
           And that refreshed your memory as to the
        Q
   number?
 8
 9
       Uh-hum.
                 Yes.
            I'm going to show you what's marked S-5.
10
   I'll focus on the second page, towards the bottom
11
   (indicating). Is that the report that I showed you
12
13
   earlier?
14
       Yes.
15
            Does that have the number that you gave to
        0
   the officer?
16
17
   Α
       Yes.
            What's that number?
18
        Q
       732-801-5418.
19
  Α
            That's what came from the caller ID at the
20
21 dispatch?
22
       Yes.
   Α
            How are these numbers kept? In any kind of
23
   log book by the taxicab company?
24
              They're kept for a week or two in a
25
        Yes.
                       W. Cedillo - direct
                                                            63
   notebook. And after that, they're thrown away.
 1
            I was going to ask you, how long they keep
           You anticipated my next question. All right.
   them.
   So, this report, that you gave to Officer Bobadilla,
   was on April 24, 2007; right?
 5
        Yes.
 6
   Α
            So, by May 24, 2007, the number you just
 7
   reported would not be found on this book?
 8
 9
       Not any more.
10
            It's a good thing you wrote it down; right?
        Q
       Yes.
11
  A
12
            Because you gave that to the police officers,
13
   knowing that that would help identify the person who
14
   robbed you; correct?
15
   Α
        Yes.
16
        Q
            Do you know Pablo Machado?
17
       No. Until that day.
   Α
                   You had never interacted with him
18
       Q
            Right.
19
   before that day?
20
       No.
            Never.
                    Never.
   Α
21
            So, it's not like you could go to the police
22
   station, and say "Pablo Machado robbed me"; right?
23
       What's that?
24
           You couldn't name the armed robber for the
       Q
25 police, could you?
```



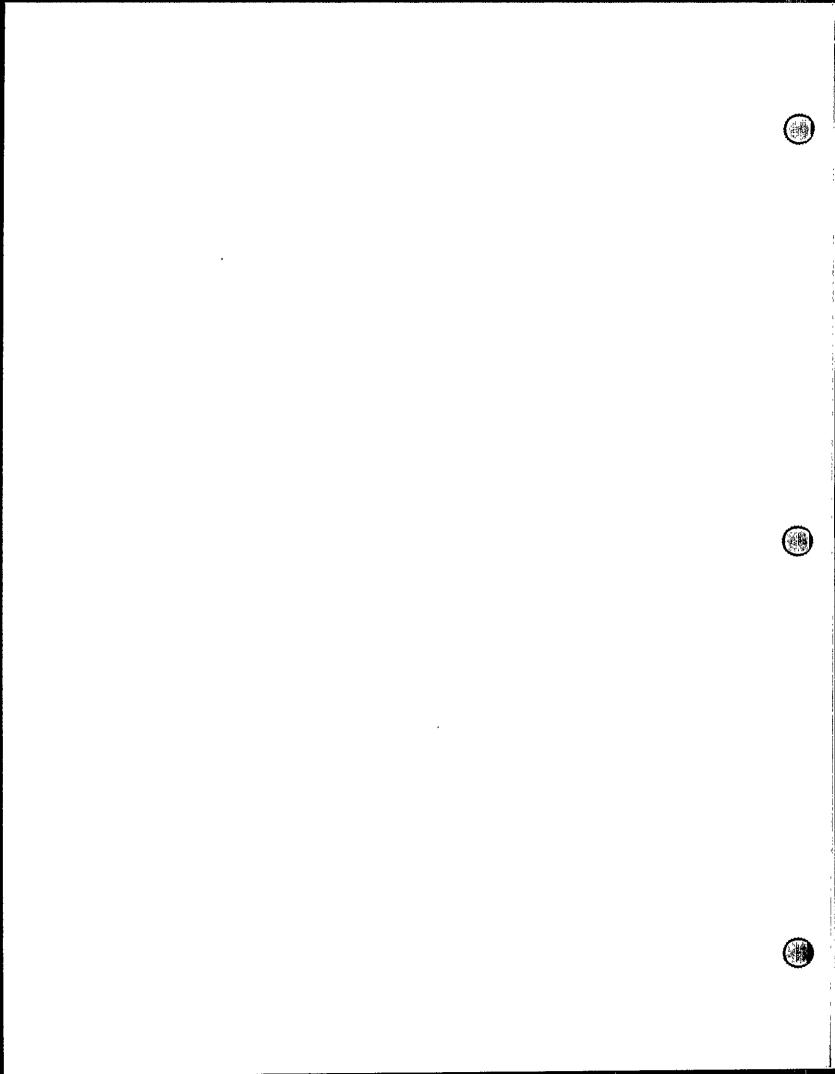
```
W. Cedillo - direct
 1
   Α
       Yes.
 2
        Q
           You didn't know him by name; right?
 3
       No.
   Α
           All you had was a description that you could
   provide in words to the police; correct?
 5
        Yes.
             Yes. Because, after that, I would go down
   Remsen, and instead of getting --
 7
            MR. SAMEIRO:
                          Judge, I'll --
 8
 9
            MR. GONZALEZ:
                          Objection.
10
            MR. SAMEIRO:
                         I'm not contesting the
  objection. It's because I know what he said before the
11
12
   translation.
13
            THE COURT: So, we'll strike the response.
            Mr. Cedillo, it's important that, from this
14
   moment on, you answer my questions directly.
15
16
       Okay.
            Let's go back. Prior to April 24, 2007, you
17
   didn't know Mr. Machado, from anybody else; correct?
18
19
            When you spoke to the police, you gave them a
20
   verbal description of how he appeared to you on that
21
22
   day; correct?
23
        Yes.
             Yes.
            As well as everything else that was involved;
24
25
   correct?
                       W. Cedillo - direct
                                                            65
                    I couldn't describe the other one.
       Yes.
             Yes.
 1
   Α
   Just him.
 2
            And you remember what you said to the
   officers about his general description?
 5
        Yes.
            What was the description?
 6
        Q
        That he was like this (indicating).
 7
                                             That he had a
   Α
   receding hairline like this (indicating).
 8
 9
            Anything else?
        Q
        Later, they called me to look at some photographs.
10
   And they showed me the photo. And I told them -- I
11
   told them that that was the person.
12
            We're getting ahead now. We'll get into what
13
14
   happened with the photos. But, right now, let's stay
   focused on your conversation with Officer Bobadilla.
15
            THE INTERPRETER: Could the Interpreters
16
17
   switch at this time?
18
            THE COURT: Certainly.
19
            I'm going to stay focused on your
20
   conversation with Officer Bobadilla. I'm interested
   in developing what you told him. In developing what
21
   you told him, about what this man looked like.
22
23
   you mentioned, so far, that you said to him, the armed
24
   robber had a receding hairline?
25
       Yes.
             Yes.
```



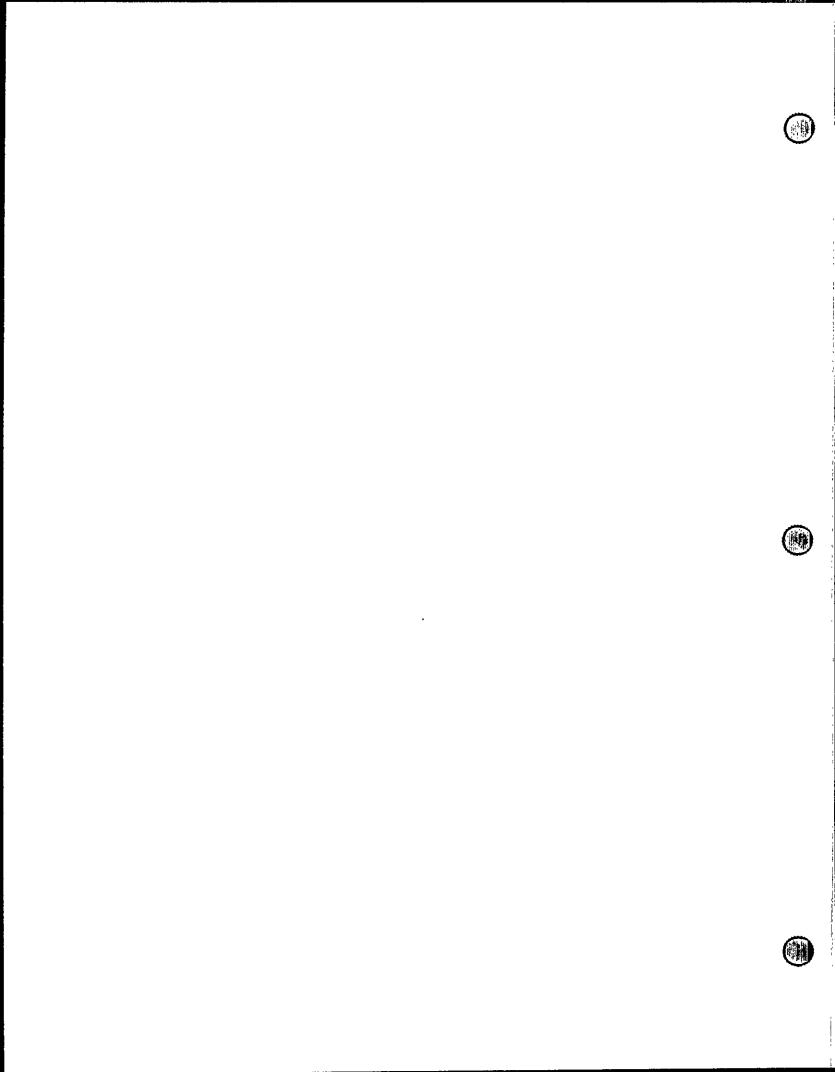
```
Cedillo - direct
                                                            66
            Was there anything else you recall telling
 1
        Q.
   him?
        I don't remember more.
   Α
            Now, did there come a time -- come a point in
   time -- when you were asked to look at certain
   photographs?
 7
        Yes.
   Α
            Do you remember, generally, when that took
 8
 9
   place?
       No. No. Maybe later.
                                Like six months later.
10
   Α
            If I told you, July 25, 2007, would that jar
11
12
   your memory?
13
   Α
        Yes.
              Around July.
            Do you remember coming into the police
14
   station, and talking to one of the officers about the
15
   case all over again?
16
17
   Α
        Yes.
            Do you remember, specifically, talking to
18
   Officer Sergio Matias about photographs?
19
20
        Yes.
            Did you see him outside in the hallway today
21
        0
22 as well?
23
        Yes.
              Yes.
                   Yes.
           He was in uniform; right?
24
        Q
25
  A
       Yes.
                                                            67
                       W. Cedillo - direct
            He had long black hair?
 1
        Q
 2
        No.
             He has no hair.
   Α
            Bald as a cue ball; right?
 3
        O.
 4
   A
        Yes.
 5
            So, he was the guy you spoke to in July;
   right?
 7
   Α
        Yes.
            You recall being brought into a room where
 8
   these photographs were shown to you?
10
        Yes.
            Do you remember the officers going through
11
        0
   certain instructions with you, before the pictures
12
13
   were shown?
        Yes.
14
   Α
15
            Do you know if this was videotaped, this
   process?
16
17
        I realized later that it was recorded.
18
            They didn't tell you upfront?
        Q
19
   Α
        No.
20
            Now, I'm going to ask if you recall the kinds
21 of instructions you were given that day, before you
   were looking at any pictures. Now, do you remember
22
   being given a set of instructions?
23
24
   Α
       Yes.
25
            I'm going to show you what's marked S-3.
```



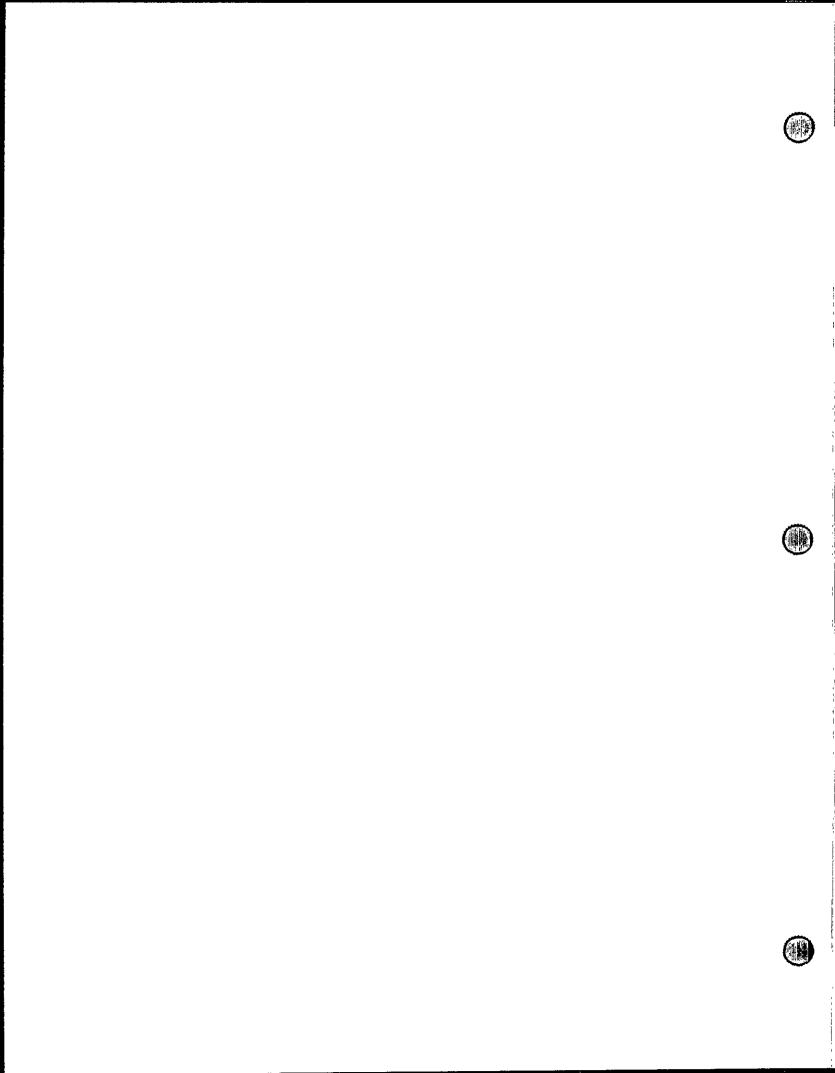
```
W. Cedillo - direct
                                                            68
   Look at the bottom of that.
 1
        (Witness complies.)
 2
   Α
            Is that your signature on that document?
 3
 4
       (No verbal response.)
   Α
 5
            Maybe I got the wrong side.
 6
       Right here (indicating).
   A
 7
            Up top. My mistake. That is Sergio Matias'
 8
   signature?
 9
   Α
       Yeah.
            Okay. How about the other side?
10
              This is mine (indicating).
11
            Do you remember, ultimately, looking at a
12
13 particular photograph, and signing the back of that
   picture?
14
15
       Yes.
              Yeah.
   Α
            I'm going to show you one of the pictures
16
17
  contained in S-2-A. I'm going to ask you, with respect
   to the photo, using the last several digits, 33223-A,
18
   if this is your signature, your initials, on the back
19
   of that (indicating)?
20
21
   Α
       Yes, it is.
22
            Can I have that?
       Q
        (Witness complies.)
23
  Α
            MR. SAMEIRO: Judge, this may be a little out
24
25 of order. Being that Officer Sergio Matias will
                       W. Cedillo - direct
                                                            69
  authenticate the DVD. Since the witness is here, since
 1
   I have S-1 cued up, at this appropriate time stamp,
   22:04:04, I'd like to just play it for a few seconds,
   if there is no objection by Counsel.
            THE COURT:
                       Any objection?
 5
 6
            MR. GONZALEZ: Judge, I don't have an
 7
   objection.
 8
            MR. SAMEIRO:
                          I'm going to ask the witness if
   that's him in the photograph.
 9
10
            THE COURT: If there is no objection, I'll
   allow it.
11
12
            MR. GONZALEZ:
                           I have no objection.
            Look over there, Mr. Cedillo.
13
14
        (Witness complies.)
   Α
            I have stopped it at 22:04:15. Is that you
15
   in the picture, sir?
16
17
       Yes.
              Yes.
18
           Remember who that was there in front of you?
19
       Yes.
   Α
              Yes.
20
            Is that when you were looking at certain
21
  photographs?
22
       Yes.
23
            You picked out this one that you initialed;
       Q.
24
   right?
           Over here (indicating)?
25
       Yes.
```



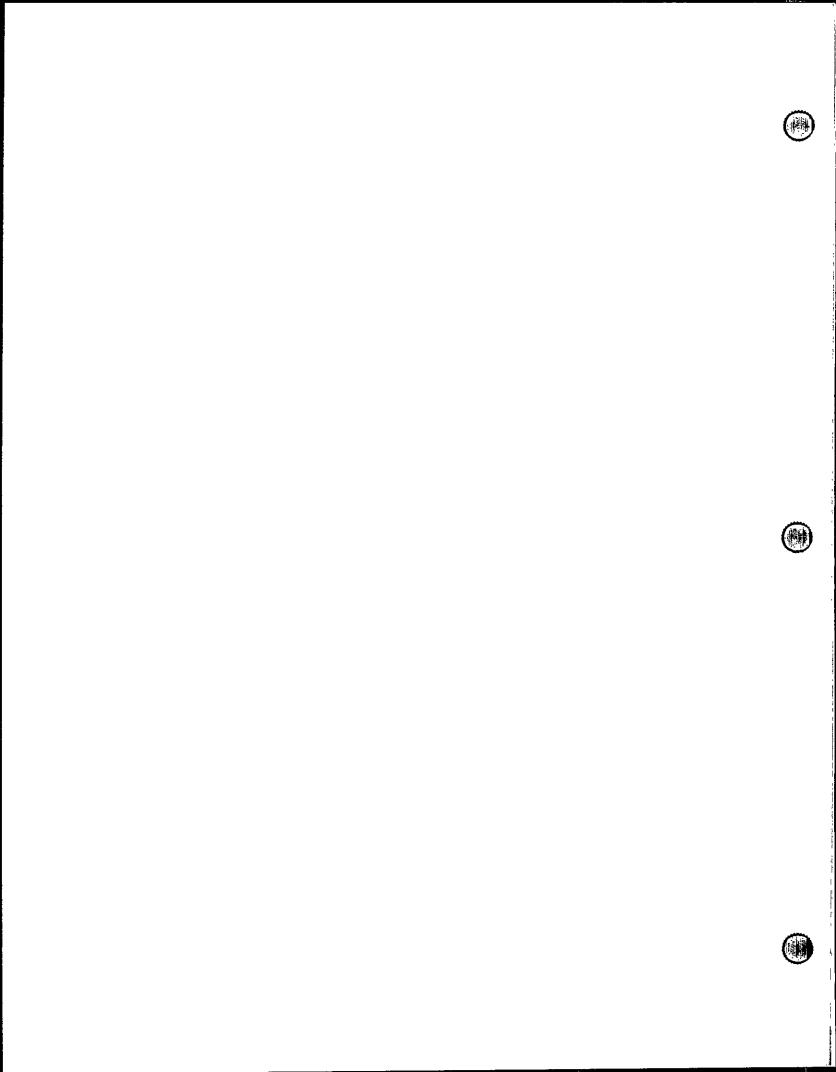
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W. Cedillo - direct
           Now, with respect to the photograph that you
 1
   identified, in July of '07 -- this way -- forget about
 2
   that now. How certain are you that that's the man that
   robbed you at gunpoint, back in April of '07?
        I am sure. I am sure that he is the one.
            MR. GONZALEZ: Objection, Judge.
 6
 7
            THE COURT: I'm just going to limit his
   answer to what has already been translated.
 8
                          I can explain to the Court
 9
            MR. SAMEIRO:
10
   later.
            THE COURT: I'll just ask that you consider
11
   just that portion that has been translated.
12
            MR. SAMEIRO: I just ask the witness to stop.
13
            Mr. Cedillo, this guy with sky blue shirt, is
14
   he the one that robbed you in April of '07?
15
16
        Yes. Yes.
            Seeing him here in court today, are you
17
   certain that he's the man?
18
        Yes. Yes. Of course.
19
                                Yes.
            How certain are you?
20
                   I am sure. I know he is the one.
21
   A
        I am sure.
22
            MR. SAMEIRO: Judge, I have no further
23
  questions.
            THE COURT: Thank you.
24
            Folks, are we okay to continue on?
                                                Does
25
                       W. Cedillo - cross
                                                            71
   anybody need to take a break? Are we okay?
 1
            Okay. Mr. Gonzalez?
 2
            MR. SAMEIRO: Judge, I'm just going to
 3
 4
  retrieve my exhibit.
            THE COURT:
                       Thank you.
 5
   CROSS-EXAMINATION BY MR. GONZALEZ:
            Mr. Cedillo, how are you today?
 7
        0
 8
       Fine.
   Α
 9
            My name is Daniel Gonzalez. I'm going to ask
   you some additional questions with regard to what you
10
   have testified today. Is that okay?
11
12
        Okay.
   Α
13
           Everything you testified today, you swore on
   the Bible, it's the truth; right?
14
15
   Α
       Yes.
16
           Would you say that your memory is the best
17
   today? Would you say that your memory is the best
   today with regard to the incident?
18
19
       Yes.
20
            So, your memory of the events, that
        Q
21
   transpired on April 24, 2007, your memory of those
22
   events are best right now; correct?
23
   Α
       Yes.
24
           And it's better today, because you have gone
25
   over things; right?
```



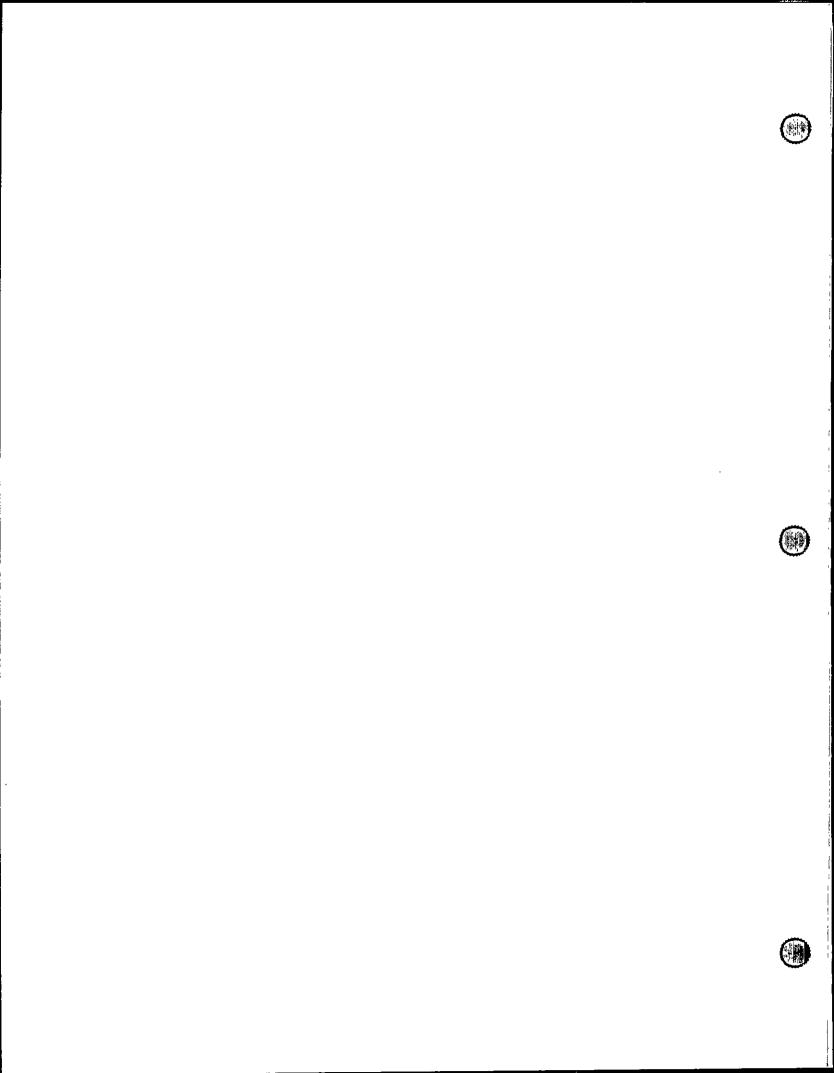
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72
                       W. Cedillo - cross
 1
   Α
       Yes.
 2
           You went over things with the Prosecutor;
 3
   correct?
       Yes.
            You also went over things with the police
 5
   officers that are outside in the hallway? Detective
   Bobadilla -- excuse me -- Officer Bobadilla and
 7
   Detective -- and Officer Matias? I'm sorry.
 9
          So, I can make it more clear. So, you don't
   have to answer that. Strike that. You went over
10
   things in the hallway with Officer Matias; correct?
11
            THE INTERPRETER:
                             Detective?
12
13
            MR. GONZALEZ: Officer.
14
   Α
       Yes.
             Yes.
            You also went over your testimony with
15
   Officer Bobadilla; correct?
16
17
       Yes.
            You also -- although he doesn't speak Spanish
18
   -- you spoke with Detective Selesky; correct?
19
       With which Detective?
20
   Α
            Detective Selesky. He's non-Spanish
21
22
  speaking.
23
       No. They translated that.
            But you spoke to him, and then they
24
25
   translated?
                       W. Cedillo - cross
                                                            73
   Α
       Yes.
 1
           So, the reason your memory is so good today,
   is because you went over these things; correct?
       Yes. But I remember well the day that happened to
 5
   me.
            Now, you remember better on the day that it
 7
   happened; correct?
       Yes, because I am seeing the person today. Today,
 8
   I'm seeing the person who did that to me.
 9
10
            The things that you told Officer Bobadilla,
   on the date that this actually occurred, April 24th, is
11
   the same things that you have told the Court today;
12
13
   correct?
14
       Yes.
   Α
15
            They are also the same things that you have
   related to Detective Selesky and Officer Matias, at the
16
   time where you were interviewed at the New Brunswick
17
18
   Police Department, when you made this identification;
19
   correct?
20
       Excuse me?
21
            THE INTERPRETER:
                              The Interpreter needs that
22
   question repeated, please.
23
            THE COURT: I ask you to do that, Mr.
24
   Gonzalez.
25
            It may not be word for word. But I'll try.
```



```
W. Cedillo - cross
   You also told Detective Selesky and Officer Matias, on
 1
   the date that you made the identification, on July
   25th, you told them the same story as well; correct?
 4
       Yes.
              Yes.
            Now, by way of background, you said you've
   been working as a taxi driver for three years; correct?
 7
       Yes.
            Today you said you worked for Acapulco Taxi;
 8
        Q
 9
   correct?
              I did work there for three years.
10
       Yes.
            So, that is the only taxi company that you
11
   have worked for?
12
13
   Ά
       Yes.
            Do you remember telling Officer Bobadilla,
14
   that you worked for Victoria Taxi, on April 24th?
15
        They are the same. Victoria and Acapulco is the
16
17
   same.
           The same company.
            You have talked about how you get paid with
18
   regard to your taxi driving; correct?
19
20
        They just do half and half.
                                     Half and half with
21
   the owner.
            Half and half, meaning the taxi driver, or
22
        Q
23 the owner of the taxi, gets 50 percent of the proceeds
   that you make on any given day?
24
25
        Yeah.
               Whatever I make during the day, we share it
   Α
                       W. Cedillo - cross
                                                            75
   half and half.
            What's your boss' name?
        His name was -- Well, his name is Juan Perez.
 3
   \mathbf{A}
            Now, you started -- First, April 24th, what
 4
  day of the week was it?
        I can't tell you what day.
            April 23rd, you probably can't tell me what
  day of the week that was either?
 8
 9
   Α
       No.
             No.
                  No.
            You mentioned earlier, two hundred twenty
10
11 dollars was probably the maximum you make on any given
12
   day; right?
       In one day, two hundred twenty. Something like
13
           In one day. Some days are good. Some days are
14
   that.
15
         Some days you get more than that.
   bad.
16
            The best days -- Well, the best day of the
   week, that you normally drive, and make that much
17
   money, what days are they?
18
19
       Friday, Saturday and Sunday, and Monday.
20
            Friday, Saturday, Sunday, Monday?
       (Witness shakes his head.)
21
                                    Yes.
   \mathbf{A}
22
            Do you remember telling Detective -- excuse
23
   me -- Officer Bobadilla, that you recognized the person
   that robbed you from before?
24
25
       Yes.
   Α
```



```
W. Cedillo - cross
            So that, on April 24, 2007, when you talked
   to Officer Bobadilla, you told him that you recognized
   the quy from before; correct?
       No. Well, I don't remember. But I do remember
   that he robbed me.
           Okay. So, before you said, in response to
   Mr. Sameiro's questions, you said that April 24th, you
   never knew Pablo Machado; correct?
                             I hadn't seen him.
       Yes. Yes. No.
 9
                        No.
           You had never seen him before; right?
10
11
       No. No.
12
            So, your testimony today is that, you never
   knew Pablo before April 24th; correct?
13
           MR. SAMEIRO:
                         I'm objecting. Two different
14
15 concepts in place. Whether he saw him versus whether
16 he knows him. There is a distinction. There is a
17
   difference.
            THE COURT: I'm going to sustain the
18
19 objection. I just ask you to rephrase the question.
   think there could be a little confusion regarding that.
20
21
           MR. GONZALEZ: I'll move on. I think he
22 already said it.
           Now, I'll move on. Do you remember giving a
23
   description to Officer Bobadilla?
24
                   I told him that I knew him on this
25
       Yes. Yes.
                       W. Cedillo - cross
                                                           77
  day, because I saw him during the night.
 1
           Didn't you tell Officer Bobadilla, that one
 3 of the gentlemen that assaulted you, was five feet
   eight inches.
       Yes. I told him, more or less, like me, yes.
 5
           You also told Officer Bobadilla, what the
 7
   people were wearing on that date; correct?
       Yes. Yes. Yes.
           You also told Officer Bobadilla, on that
 9
10
   date, that one person was wearing a hat; correct?
       Yes. Yes. Yes.
11
12
           And that the other person wasn't wearing
13 anything; correct?
14
       No. No. No.
           And that he had a receding hairline?
15
       Yes. Yes. I remember him well. Very well.
16 A
17
           Are you sure that you didn't tell Officer
  Bobadilla that the second person was wearing a bandanna
18
19
   on his head?
20
   Α
       Yeah. Yes.
                    Yes.
                          Whatever is in the report,
21
  that's what I told him.
22
           So, whatever is in the report is what you
23
   told him; correct?
24
       Yes.
             Yes. What is in the report -- All of the
   things that happened on that day is in there.
25
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W. Cedillo - cross
           Do you remember telling Officer Bobadilla,
   the two gentlemen that got in the taxicab were in the
   back seat?
       No.
            No.
                 One was sitting next to me. That is
   him. The other one was in the back.
           So, that's what you told Officer Bobadilla?
   That is, one was on the side of you and one was in the
 8
   back?
             That I remember, yes.
 9
   Α
       Yes.
           You testified earlier, that Pablo was sitting
10
   next to you, in the passenger seat; correct?
11
                   Yes.
12
       Yes. Yes.
13
            So, if you're sitting there. Mr. Machado, as
  you said earlier, put the gun to the right side of your
14
   head; correct?
15
                          Judge, I'm going to object to
16
           MR. SAMEIRO:
17 that. He never said the gun was put to his right side.
            THE COURT: I'll sustain the objection and
18
19 ask that you rephrase the question.
           Where was the gun pointed? Where was the gun
20
       Q
21
   put?
       In here (indicating).
22
23
            You're gesturing to what part of your head?
       Yes. Yes. Yes. Here (indicating). He was on my
24
25
   -- He was to the side.
                       W. Cedillo - cross
            That's the right side of your head?
 1
 2
       Yes.
             Yes.
                   Yes.
   Α
           Do you remember telling Officer Bobadilla,
 3
```

Q Do you remember telling Officer Bobadilla, 4 that the person that put the pistol to your head, was 5 sitting behind you, and put the gun to the left side of 6 your head?

7 A No. No. No. You are confusing me. Because you 8 are making me -- asking me such questions. I told him 9 what happened. If you can ask him, he knows. He's the 10 one who robbed me. I remember it was him.

11 MR. GONZALEZ: I'd ask that the defendant 12 (sic) answer the question.

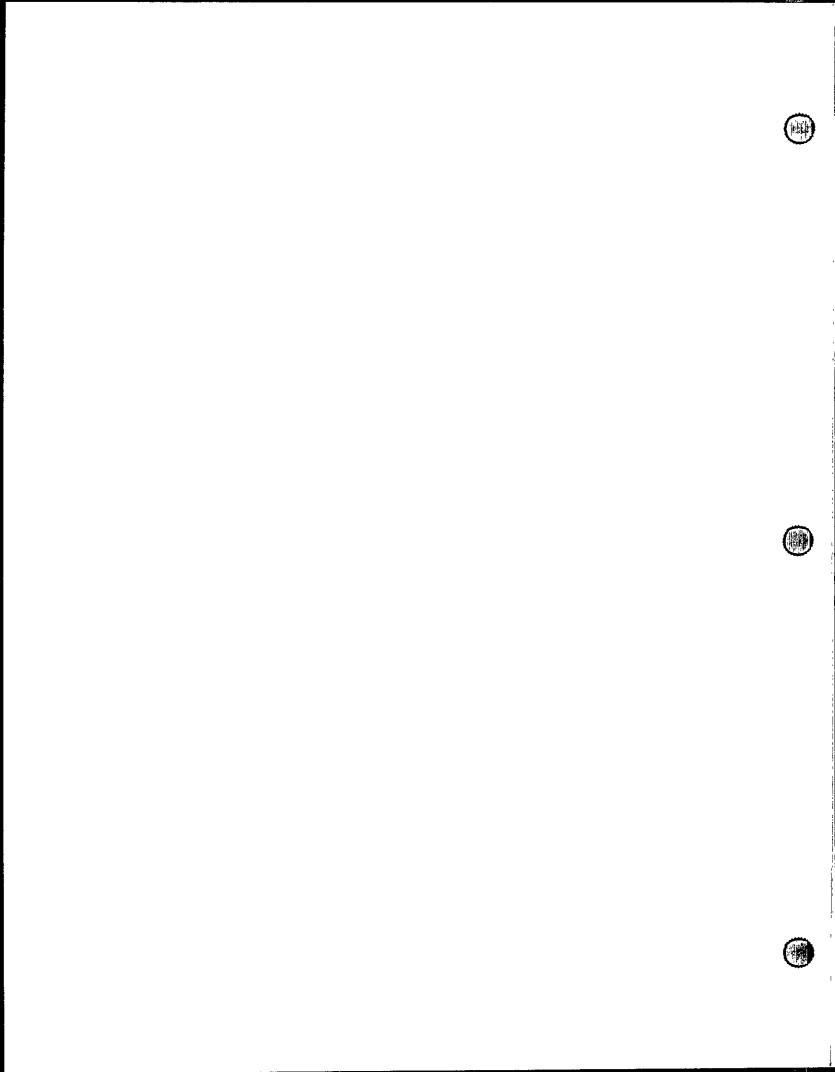
13 MR. SAMEIRO: I'm sorry. I should have 14 interjected earlier.

15 MR. GONZALEZ: I'd ask that the -- excuse me 16 -- the witness, Mr. Cedillo, answer only the 17 questions --

MR. SAMEIRO: Judge, I think I can assist.

19 I'll ask the Court to instruct the witness not to
20 divulge things that may have happened subsequent to
21 this event. Let's focus on what happened on April
22 24th.

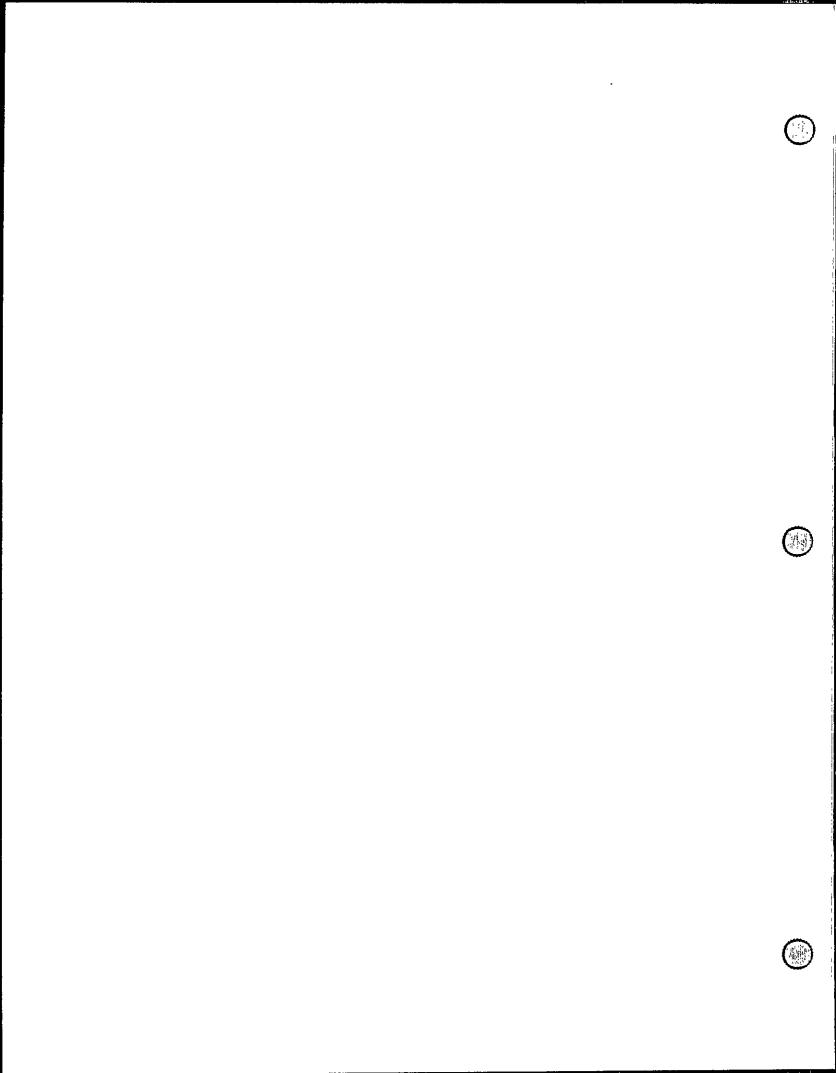
THE COURT: All right. Mr. Cedillo, do you understand that? Just listen to the question. Just answer the question that is being asked.



```
W. Cedillo - cross
            THE WITNESS: Okay.
 1
                      All right. Thank you.
 2
            THE COURT:
           Did you tell Officer Bobadilla, on April
   24th, what the people in the car were wearing?
       The one sitting in the back, no. But he was
   wearing something like a handkerchief. But then he
                 It was a black kerchief. Like a
   took it off.
   kerchief. When they robbed me, he took it off.
   took -- When they took everything, they told me to
 9
   close my eyes. Otherwise, they would continue hitting
10
   me, and whatever they said. I did, so, they wouldn't
11
   do anything else to me.
12
13
           So, you're telling the Court today, your
   answer to that question, is that Mr. Machado was
14
   wearing a black bandanna on that day?
15
       Yes. Yes. Yes.
16
17
           You're sure of that?
18
       Yes. Yes. Yes.
           Didn't you tell Officer Bobadilla, that the
19
   person was wearing a white bandanna?
20
              Well, I remember he was wearing a bandanna.
21
       Yeah.
            Do you remember what color the guys were
22
23
   wearing?
       How can I remember that?
                                  It was dark.
24
            So, it was dark. So, you don't know what
25
                       W. Cedillo - cross
                                                            81
   they were wearing?
 1
 2
       Well, yes. But I cannot tell you the color of the
   clothing. If I had known that something like that was
   going to happen --
 4
           MR. GONZALEZ: Judge, I would just ask again,
 5
 6 that he just answer the question.
           MR. SAMEIRO: That answer should have been,
 7
   and should be translated. Can I ask that the response
 8
 9
   be translated or repeated?
                       I thought it was translated while
10
            THE COURT:
  the objection was going on.
11
            THE WITNESS: Could you repeat it once more?
12
            MR. GONZALEZ: I don't recall the exact
13
14
   question.
           The exact question was something to the
15
   effect of, that you don't remember what the people on
16
17
   that date were wearing; correct?
18
       But I told you, a bandanna. But I cannot describe
19
   the color of the clothing, as that was a year and a
20
   half ago, maybe more.
21
           So, you never saw the color of the peoples'
22
   clothing, because it was dark; right?
23
       Yes; but -- Well, the passenger was talking to me.
24
   And I recognize him well. I recognize him really well.
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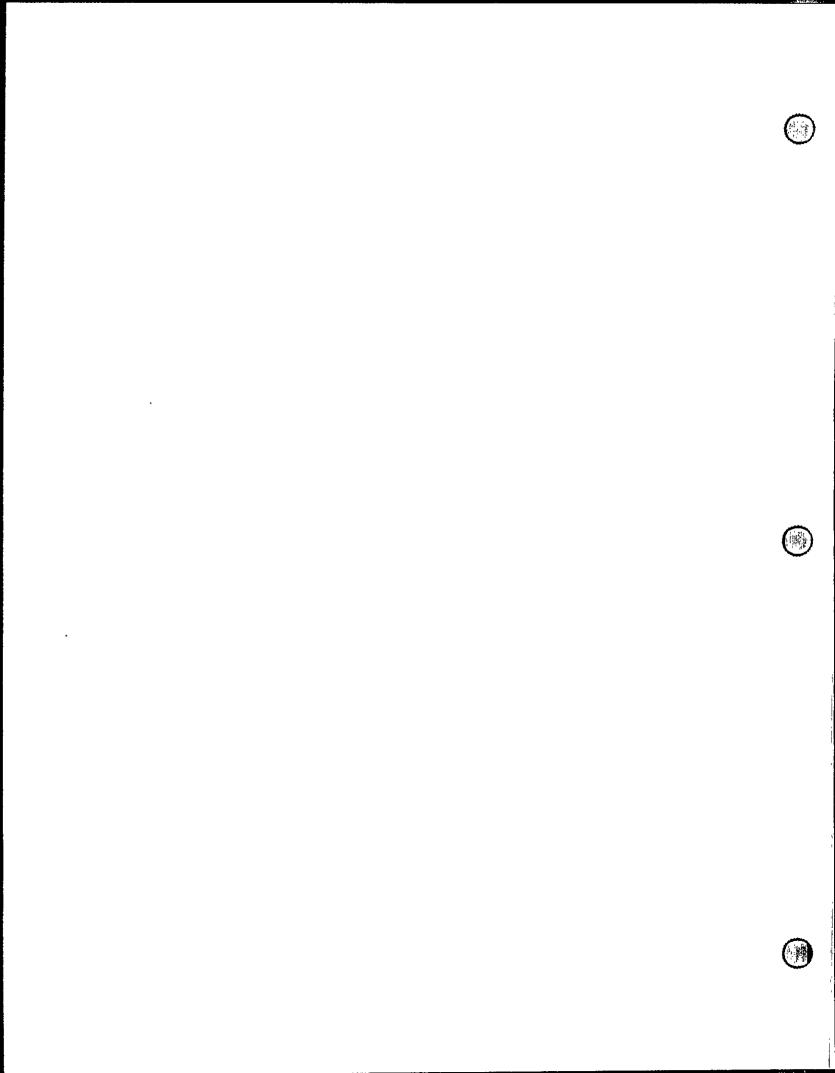
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It was him.



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W. Cedillo - cross
            Didn't you tell Officer Bobadilla, that one
 1
        Q
   of the guys was wearing a white sweater, and the other
   quy was wearing a black sweater?
             I didn't tell him anything. I didn't tell
   Α
       No.
   him about the clothing.
 6
            Did he ask you?
 7
              Of course, he asked. But I told him, that
   Α
        Yes.
    all I remember was the person who did this to me. And
    later as I was driving --
 9
                           Objection. He is not talking
10
            MR. GONZALEZ:
   about April 24th.
11
12
            MR. SAMEIRO: He is not talking about the
13
   24th.
            THE COURT: Again, Mr. Cedillo, just focus on
14
15
   the question regarding April 24th. All right?
16
            THE WITNESS: Okay.
17
            You testified earlier, that there was only
18
   one punch; right?
        Yes.
19
   Α
20
            So, we have this event. There is only one
   punch that makes your nose bleed. Then you don't
21
   really recall what happened after that; correct?
22
              Yes.
                   Yes.
23
        Yes.
24
            So, you didn't tell Officer Bobadilla that
   you were punched and kicked at the time of this alleged
25
                       W. Cedillo - cross
 1
   robbery?
 2
            No.
                  I mentioned one punch. That they hit me
   Α
       No.
   here in my nose (indicating).
 4
            So, it wasn't numerous punches; correct?
        Q.
 5
        No. One. And he told me to close my eyes.
   Α
 6
            You told Officer Bobadilla also that the gun
 7
   came from the person outside of the vehicle, not any of
   the people inside of the vehicle; correct?
             I told him, the one inside.
                                          But also that
10
   the people outside -- Also the ones that came from the
11
   other cars.
            Now, you also, thereafter, on July 25th, you
12
13
   go and you make an identification, via these
14
   photographs; correct?
15
       Yes.
16
           You then made a statement?
       Q
17
       Yes.
18
           Concerning what happened on that date;
       Q
19
   correct?
20
                    They told me, they were going to show
       Yes. Yes.
21
   me some photographs.
           Then after they showed you the photographs,
22
23
   they asked you about the events that happened; correct?
24
       Yes. Yes.
                    Yes.
25
           On that date, you described their clothing,
```



They tell

10 Q. That's Juan Perez; right? Yes. 11 12 Whose car you were driving? Were you driving 13 Juan Perez's car? The company's car. The taxi. The taxi, 14Yes. Acapulco Taxi. 15 16 The car you were driving, was it a Lincoln? 17 It was a van. I can't tell you. It is used as a Α 18 taxi. 19 You don't know what type of vehicle you've 20 been driving for three years? You don't know what type 21 of vehicle you are driving? 22 It is number two. And number two, it was a van. 23 So, you don't remember what kind of car you 24 were driving?

No. Because there is so many brands.

didn't you?

No.

No.

Yes.

Yes.

Yes.

correct?

Yes.

Yes.

Yes.

7 8

9

10

11 12

13

14

15

16

17

18

19

20 21

22

23

24

25

1

2

7 8

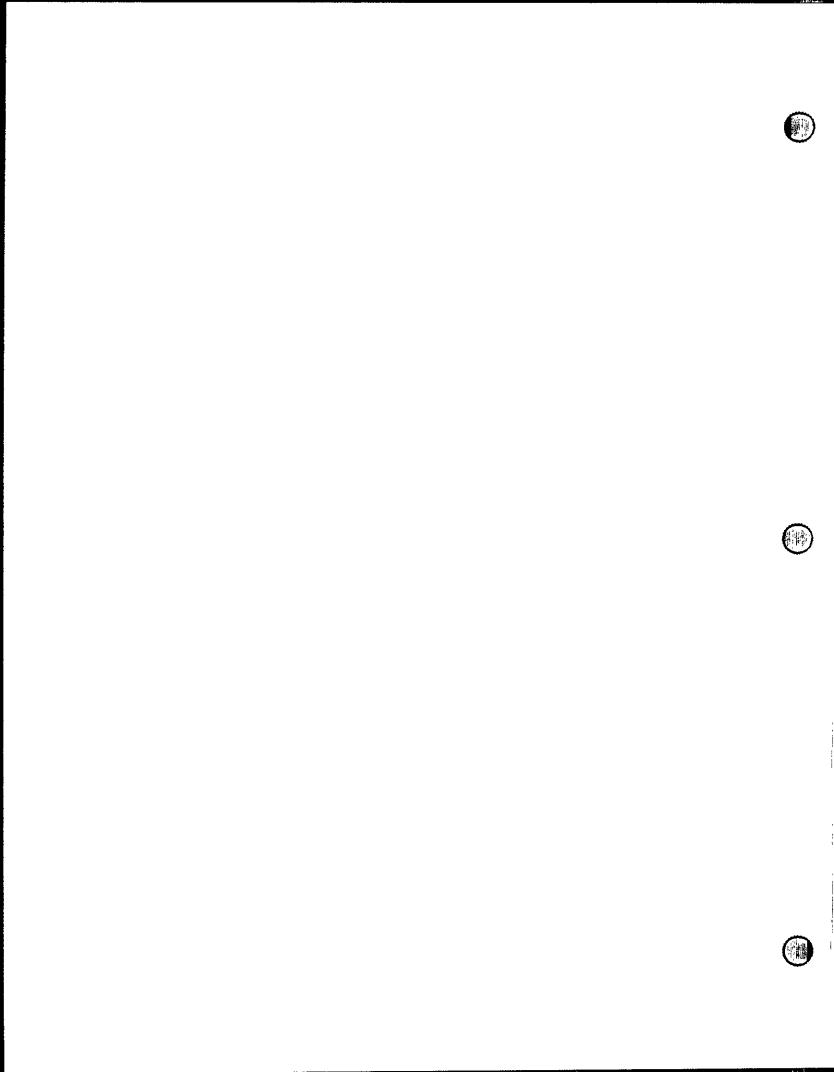
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25

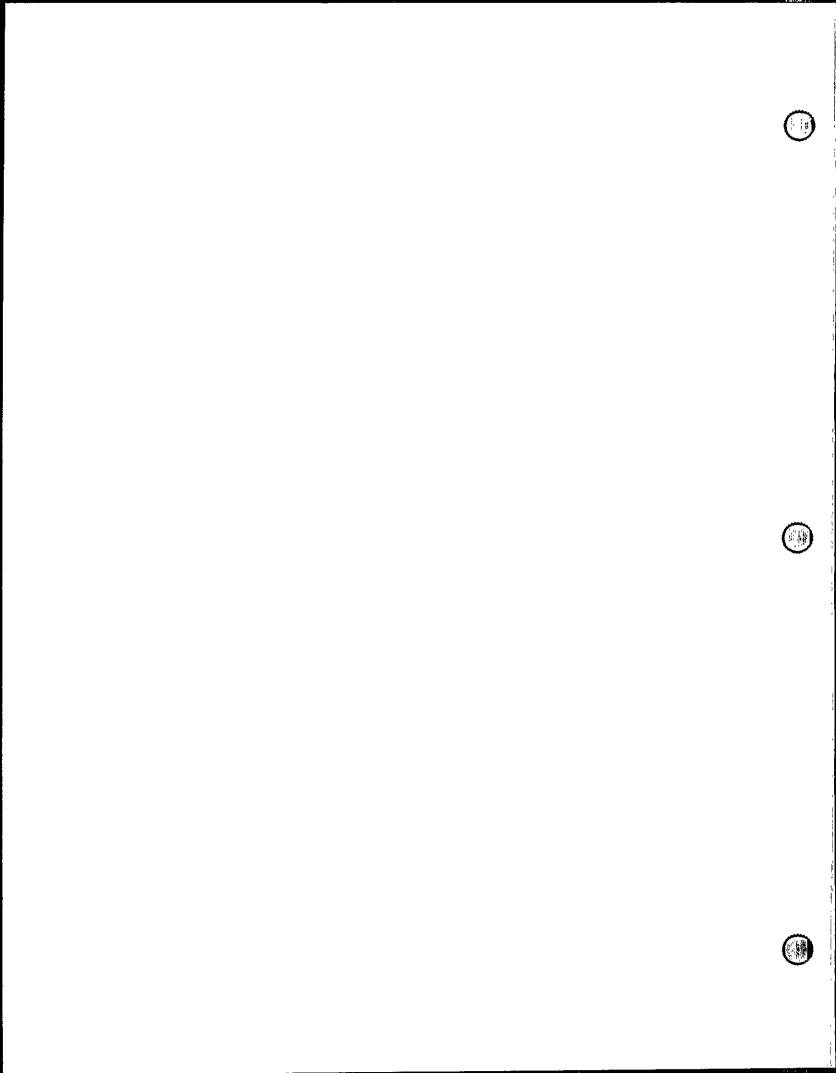
Α

Α

(sic).



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W. Cedillo - cross
                                                           86
   you to get any car. Whatever car is available. And
 1
   that's the car you go and pick.
          Didn't you tell them, on July 25th, you
  weren't sure if it was a Honda or a Lincoln? You're
   not sure?
       Yes. Yes.
 7
           Was it a Honda or was it a Lincoln?
       I can't tell you, because there is several cars
           There are about 40 cars. The one that I drove
10
   is the one that they gave me.
           You got number --
11
       What I know, it was number two.
12
   Α
           When you got the phone number, you got the
13
14 phone number from the base; right?
       The dispatcher. The dispatcher gave it to my
15
          And he gave it to me. So, I could come and make
16 boss.
17
   the report.
           So, Juan wrote down the number, and he gave
18
19 it to you?
                         I brought it here, and gave it
20
                   Yes.
       Yes.
             Yes.
21 to the person who did the report.
           So, you gave that piece of paper, that you
22
23 wrote the phone number on -- Don't you give the piece
  of paper to Officer Bobadilla?
24
25
       Yes.
   Α
                       W. Cedillo - cross
                                                           87
           You told Officer Bobadilla, you got it from
   the dispatcher; right?
                   The dispatcher.
 3
       Yes. Yes.
   Α
           You never mentioned anything to Officer
 4
  Bobadilla about going to 153 Joyce Kilmer Avenue, did
   vou?
            I don't remember; but --
   Α
       No.
 8
           Do you remember telling Officer Bobadilla,
   that you went to a pay phone to call the dispatcher, to
   find out what the number was?
10
       Yes. But it didn't work.
                                   So, then I went to my
11
   boss' house, knocked on the apartment door, and then he
12
13
  called the base, to let them know that I had been
14
   robbed.
           Who was the dispatcher that was working that
15
       0
   night?
16
17
       It was a Mexican.
18
           You don't know who it was?
       Yes. He's called "el flaco," meaning skinny.
19
  {f A}
20
           You never worked as a dispatcher before;
21 right?
22 A
       No.
23
           You never been on the phone before? You
24
   never been on the phone dispatching people, to tell
25
   them to go where they're going to go; right?
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88
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W. Cedillo - cross No. No. Because they call you there, and you go 1 Α They call you, whenever there is a mistake. there. And I go there, and you watch how they receive the calls and all that. The people that robbed you that day, they

didn't take your receipts that day, did they? No. No. We don't use receipts. We trust 8 people.

So, you don't keep receipts in the car, as 9 0 you told Mr. Sameiro earlier; correct? 10

Would you please repeat the question? 11

12 You told Mr. Sameiro earlier, that you keep the receipts in the car; correct? 13

The accounts. The accounts. 14

Nobody took the accounts from you; correct? 15 MR. SAMEIRO: Judge, I'm going to interject 16 17 here with respect to the last response. I don't believe that the witness means "accounts" when he uses 18 the words, "las cuentas." I don't think that is what 19 20 he is referring to.

21 You testified earlier, there were receipts in the car; right? You testified earlier you had 22 receipts in the car? 23

I didn't say anything about receipts. 24 No. said about the accounts, the money, that was stolen 25

W. Cedillo - cross

89

from me. 1

2 MR. SAMEIRO: The "las cuentas," that he's describing, in Spanish, it's a written log of how much money you bring in on any particular day. 4

Can we ask him if that's what he means by 5 that word?

THE COURT: What's the word? 7 MR. SAMEIRO: "Las cuentas." 8

THE COURT: What do you mean by that?

9 What does "las cuentas" mean? 10

MR. SAMEIRO: "Las cuentas" is money. It's 11

12 It's currency. money.

13 MR. GONZALEZ: Judge, this is my

cross-examination. 14

MR. SAMEIRO: Well, Judge, I think the jury 15 should not be misled by the misinterpretation. 16

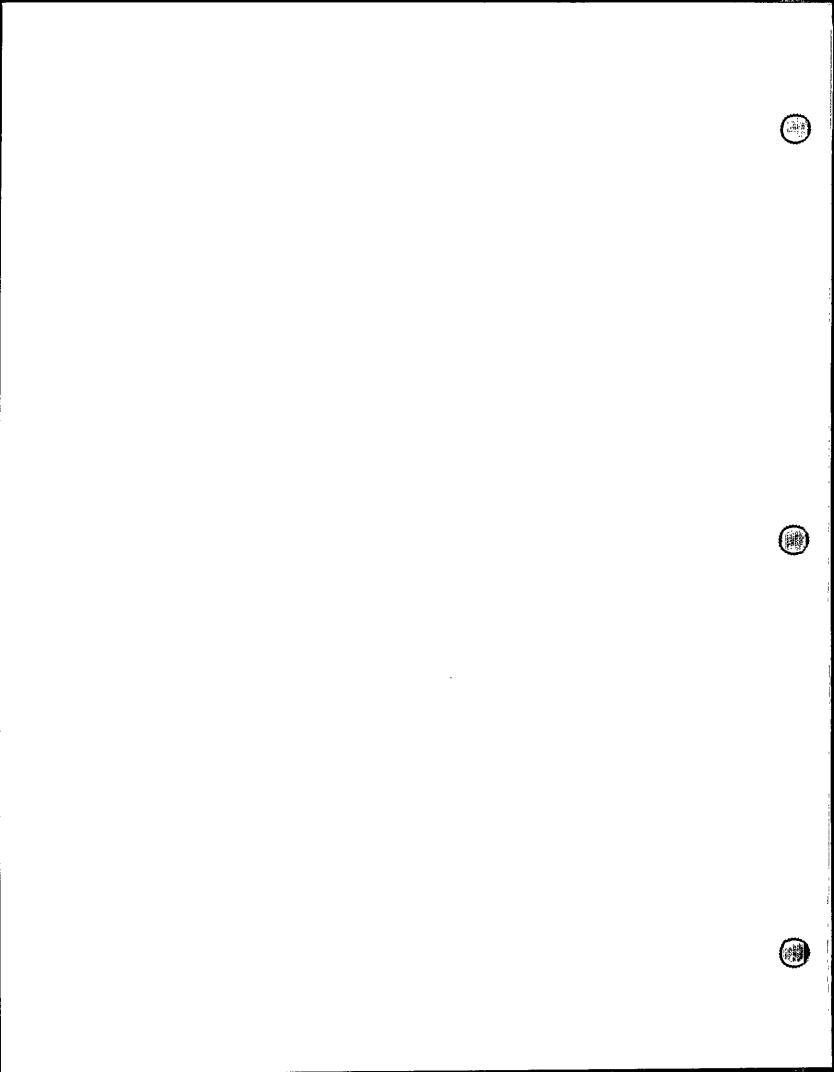
17 THE COURT: I agree.

MR. SAMEIRO: And I say that with all due 18 19 respect to the Interpreters.

20 Judge, I think that you know that we both 21 speak Spanish, too.

22 THE COURT: I just think, the reality is, we 23 have to make certain that the translation is accurate.

24 And if any assistance is needed, sobeit. We are all 25 here just to get a correct translation of what the



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91
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W. Cedillo - cross
   witness means. He's explained it, by speaking Spanish.
 1
   Let's have another question.
            So, you write down by the "cuentas," by the
   account, that --
           MR. SAMEIRO: I object. I'm going to object
 5
   to the use of the term "account." Just minutes ago,
   the witness said, that's not what I mean by that. If I
   understood his answer, it was currency, money.
 8
            THE COURT: He can ask the question. He can
 9
   explain it. I will overrule the objection, and just
10
   allow the question.
11
            Is it just an account, or do you also have a
12
13
   log of how much money you bring in? Is it just the
   money, the account, or "cuentas"? Or do you also take
14
   a log down of how much money you bring in?
15
            Just the money. Just what we make on that
16
17
   night.
           Now, you testified earlier, that every two
18
19 weeks, the taxi company gets rid of the call logs that
   they have at the taxi company; correct?
20
21
       Yes. Yes.
22
       0
           Have you seen them do that before?
       Will you please repeat the question?
23 A
           Have you seen them do that before?
24
25 A Do what?
                       W. Cedillo - cross
            Get rid of the log books.
 1
       Yes. They do that every two weeks. They do that
 2
   all the time. If there is not a complaint in two weeks
   from the clients, from the customers, they throw that
   in the garbage.
 5
            So, you're saying, your boss, or whoever is
        Q
   at the Victoria or Acapulco Taxicab, destroys all of
 7
   the log books of the calls that come in; correct?
 8
       Yes.
             Yes.
                   Yes.
 9
   Α
10
            Now, on July 25th, when you went to make the
  identification, you know now it was videotaped;
11
12
   correct?
13
       Yes. Yes.
           On that particular date, you told the
14
15
   officers there what happened on April 24th; right?
16
       Yes.
17
            MR. GONZALEZ:
                          Judge, I'd like the
18 opportunity, there is certain points on the video per
19
   se -- okay -- that was videotaped. I'd like the
20 opportunity to set it up. I don't know if it is a good
21
   time to break. Because I'd like to use the video, for
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him to refresh his recollection. Also, to show him

MR. GONZALEZ: What he told the New Brunswick

Okay.

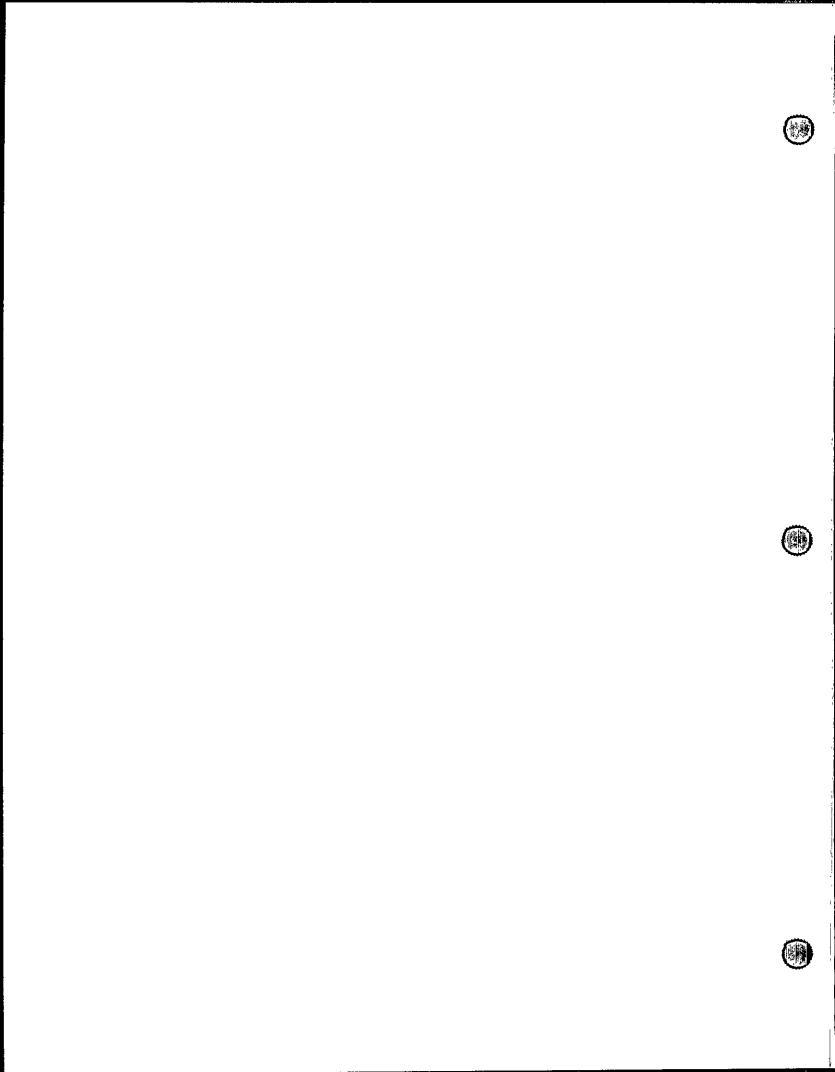
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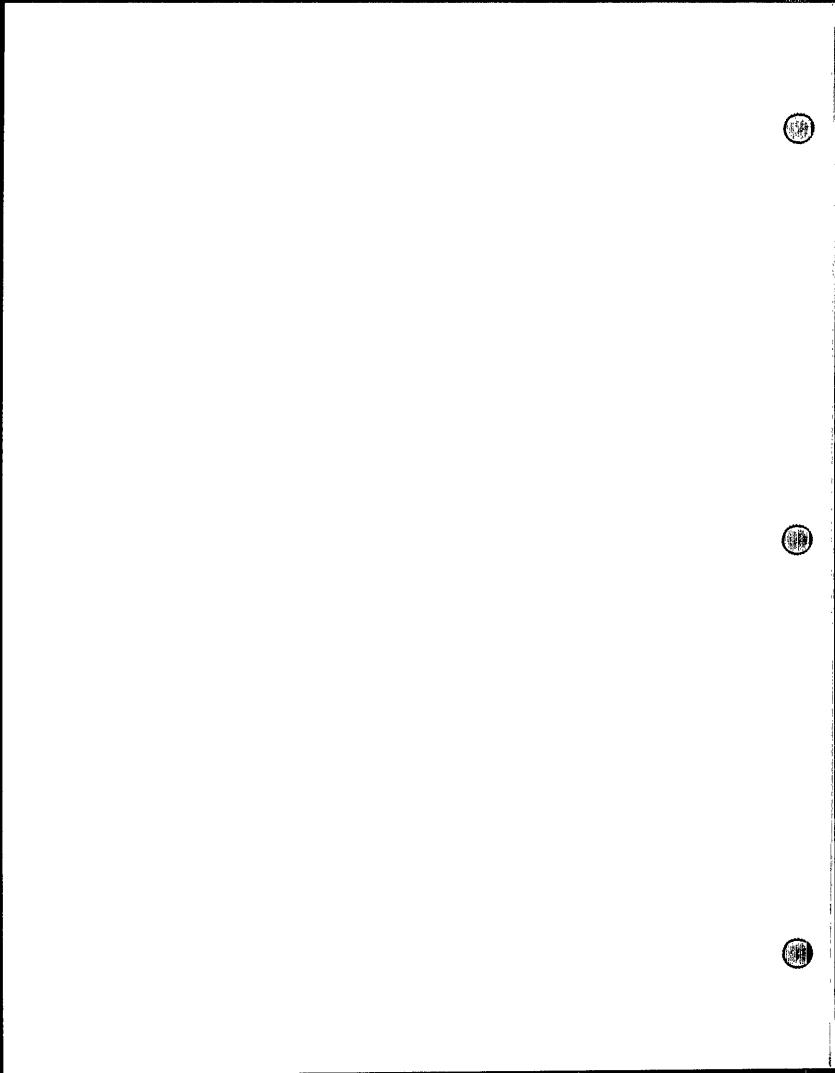
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23 what he told --

THE COURT:



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(Colloquy)
                                                            92
   Police Officers on that date. But I'd like to -- But
   there is certain items in there, that I think are key
   to my examination of this witness.
 4
            THE COURT:
                       All right.
 5
            MR. GONZALEZ:
                           I'm going to need to cue the
   video to a certain specific spot.
            MR. SAMEIRO: Judge, I don't think the
 7
 8
   witness' recollection needs to be refreshed.
   what Counsel said. If there is a question posed and
 9
   the witness doesn't remember the answer, then I
10
   wouldn't object to the statement being used to refresh
11
   his memory. But that's not how you do it. You pose
12
13
   the question, and you wait to hear the witness say, "I
14
   don't recall." We haven't gotten to that yet.
            And I certainly don't have an objection if
15
   the entire statement is played, beginning to end,
16
17
   because there is a pre-interview on the tape, where the
   defendant -- excuse me -- the victim was interviewed
18
19
   again.
            THE COURT:
20
                        Okay.
            MR. GONZALEZ: We can discuss that, Judge.
21
22
   But I don't object to the video being played either.
            THE COURT:
                       All right.
23
                           I think the lion's share of
24
            MR. GONZALEZ:
    it, I don't object to.
25
                            (Colloquy)
                                                           93
                        We can discuss what portions, or
            THE COURT:
 1
 2
   what -- if there is anything there.
            MR. GONZALEZ: But I don't object to it.
 3
    can discuss that.
 4
                       How long is the video?
 5
            THE COURT:
 6
            MR. GONZALEZ: You know, as to his statement,
 7
    I don't recall the actual -- A total of 25 minutes.
 8
            MR. SAMEIRO: A total of 25 minutes.
 9
            MR. GONZALEZ: Up until -- I think the
    identification portion of it is about 13 minutes.
10
            THE COURT: Okay. We'll talk about it.
11
12
            MR. SAMEIRO: And then there is John Selesky.
   And there is an Interpreter.
13
14
            THE COURT:
                       All right.
15
            MR. SAMEIRO: I'm not referring to the photo
            There is an interview that occurs afterwards.
16
17
            THE COURT: Oh, afterwards. Then why don't
   we do it. All right. It is already quarter after
18
19
          We can take our break now. We can go back to
20
   the playing of the tape, if it is being agreed upon.
21
   If there is a portion, that you can have cued up, or
22
   if you just want to play the whole tape.
23
            Either way, it takes us past 4:30, with the
24
          And I assume you will have questions as you go
25
   through the tape.
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94
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(Colloquy)

MR. GONZALEZ: Yes, Judge,.

THE COURT: Then let's break for the day now. And we'll start with however you want to start with tomorrow, either portions or the entire tape.

So, ladies and gentlemen, I'm going to break you for the evening and ask you to be back downstairs at 8:30. We will bring you up as close to 9:00 as possible, to continue with the trial. Please remember not to discuss the case among yourselves or with anybody also. Don't go to the scene, or anything along those lines. Don't read anything, if there is anything, in the paper. Don't listen to anybody else discuss anything in the paper. Please have a nice evening. Please be back downstairs at 8:30. We will bring you upstairs as close to 9:00 as possible.

15 bring you upstairs as close to 9:00 as possible.

16 (Whereupon, the jury leaves the courtroom for 17 the day.)

18 (Whereupon, the hearing continued outside the 19 presence of the jury.)

THE COURT: All right. So, I don't know if you just want to play the tape, and then ask him questions regarding that.

MR. GONZALEZ: I think we'll cue it up. I'll 24 review it. There is a whole bunch of stuff on it. I 25 think the only portion, for the purposes of an alleged

(Colloquy)

95

1 threatening, that happens only on the last part of the 2 tape. That can be cut out.

MR. SAMEIRO: You know, Judge, you may be in the dark about this. Because I didn't want to put this in the case. I could have; but I chose not to. It's been reported that, since the event took place, prior to the defendant's arrest, the victim had an encounter with the defendant. He made a threat to him on the street. That's the episode.

9 street. That's the episode.

10 THE COURT: That the alleged victim made to
11 Mr. Machado?

12 MR. SAMEIRO: No. The other way around.
13 THE COURT: Oh, the other way around. Okay
14 MR. GONZALEZ: Supposedly they were hanging

15 out.

1

2

5

7

9

10

11

12 13

14

3

4

5

7

8

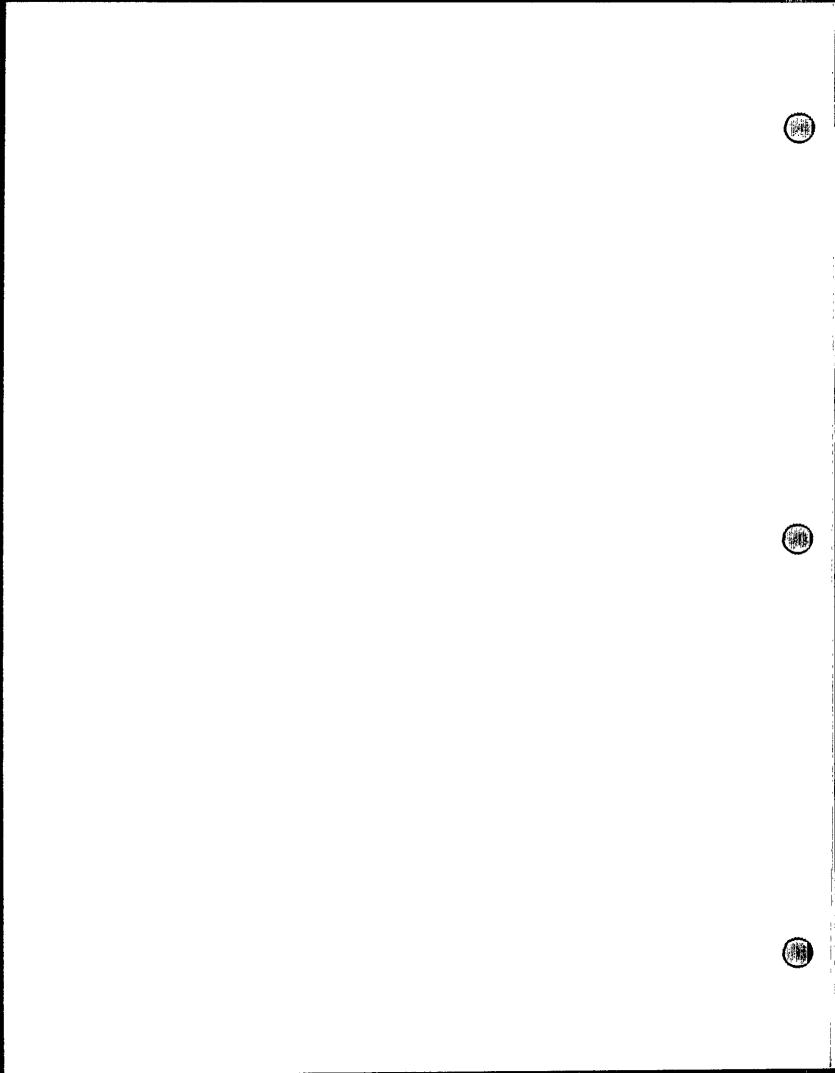
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17 18 MR. SAMEIRO: The defendant threatened the victim, post the event, and before he was arrested.

THE COURT: I see.

MR. SAMEIRO: And I didn't want to get into that. And I know he has prior convictions for witness tampering. I just didn't want to get into a whole can of worms, relevant to this case.

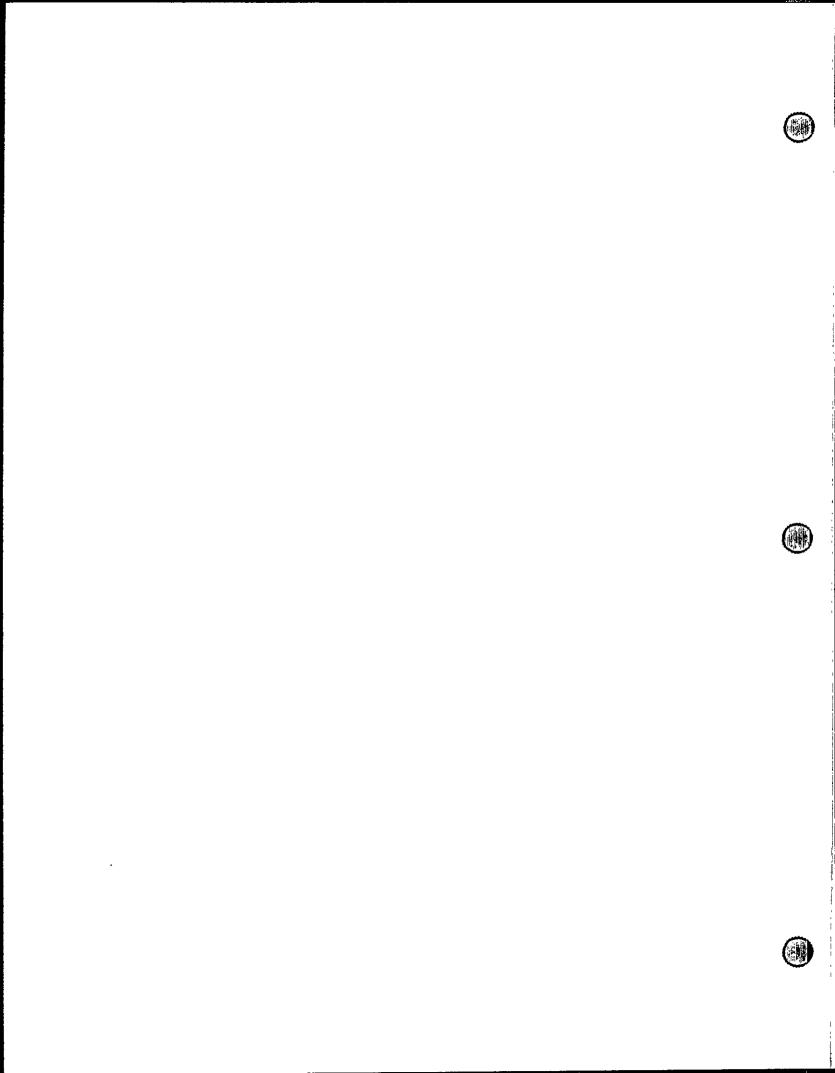
It assists me on the identification. But I wanted to keep it clean. I'm telling the Court, I purposely avoided that. I didn't really want to get



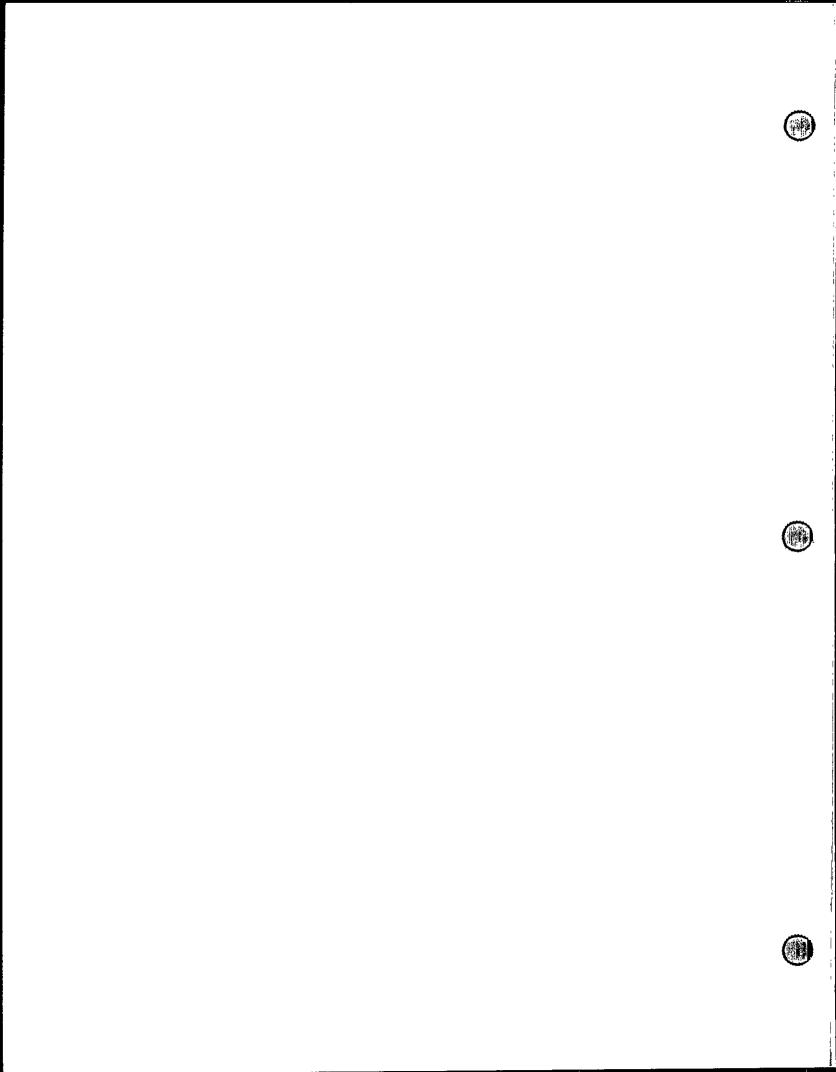
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into it either by the objections.
 1
 2
            THE COURT:
                       Okay.
            MR. GONZALEZ: Well, Mr. Sameiro did a good
 3
 4
   job of alerting the jury, even though --
            THE COURT: I certainly didn't know.
 5
 6
   been listening.
 7
                               That's not fair.
                                                  There is
            MR. SAMEIRO: No.
   another episode. They don't know that from me.
 8
 9
   threat.
                        Although there may have been some
10
            THE COURT:
   episode between the defendant and the alleged victim,
11
12
   and I've been listening. All I can really glean from
13
   it --
                          Frankly, the problem, Judge, is
14
            MR. SAMEIRO:
15
   that we're both fluent in Spanish.
                                        Mr. Gonzalez is ten
   times better than I am.
                             We start to hear the witness
16
17
   get into it, and, so, we attempted to successfully stop
   the Interpreter from going into it, having the witness
18
19
   get into it.
                        I thought you did that.
20
            THE COURT:
21
   right, I don't understand Spanish. Okay.
                                               So, Counsel,
   between the two of you, you'll decide what you want to
22
   do tomorrow regarding the tape, putting the tape on.
23
            MR. SAMEIRO: We'll review it and decide what
24
   we're going to do with regard to the video. We'll have
25
                            (Colloguy)
                                                             97
                          I'll probably use my computer,
 1
    it all set up prior.
   and just use the jack to go into it.
 2
            THE COURT:
                       All right.
                                    We will see what
 3
 4
   happens tomorrow.
                       Whatever you decide.
 5
            MR. SAMEIRO:
                          I have a copy of the DVD.
                           I have it, too.
 6
            MR. GONZALEZ:
                               Mr. Cedillo, we will need
 7
            THE COURT: Okay.
   you back here tomorrow at 9:00 o'clock. We're going to
 8
 9
   resume your testimony.
                          Okay.
10
            THE WITNESS:
            MR. SAMEIRO:
                          I know he's not happy about
11
          He has work obligations.
12
   that.
13
            THE COURT:
                        If you need a letter for your
   employer, we'll be happy to give you a letter for your
14
   employer, letting them know you were here, and that you
15
   are required to be here tomorrow.
16
                                       Okay?
                                 But I don't think they
17
            THE WITNESS:
                          Okay.
   will let me come tomorrow, because there is a lot of
18
          And today he told me that. And I said what I
19
20
   was going to say. And that is true, that he robbed me.
21
   I know him.
22
            THE COURT:
                        Okay.
                               We're just not done.
23
   There is still some questions that have not been put to
24
   you.
         We'll finish up in the morning tomorrow.
25
            THE WITNESS: Okay. Could you give me a
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(Colloguy)

96



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98
                            (Colloquy)
   letter, so, I can take it to there?
 1
 2
            THE COURT:
                        Oh, absolutely.
 3
            MR. SAMEIRO: Absolutely.
 4
            THE COURT: That we'll get for him before he
 5
   leaves today.
 6
            THE COURT: All right.
 7
            MR. GONZALEZ:
                           Judge, I neglected -- I told
 8
   Mr. Sameiro, prior to doing our opening statements,
   that I was going to ask, subsequent to the opening
 9
10
   statements, before he called the last witnesses, that I
   would ask for a sequestration of the witnesses.
11
   they not speak to each other. I think they are
12
13
   actually ordered to do so.
                        That was the first witness.
14
            THE COURT:
                           I just wanted to address the
15
            MR. GONZALEZ:
16
   issue on the record.
            THE COURT: Why don't we tell him then in
17
18
   Spanish.
           Mr. Cedillo, there is a request for you not
19
   to speak to any of the witnesses regarding your
20
   testimony here today. And, so, don't discuss it with
21
  any of the police officers, or any of the potential
22
23
   witnesses.
24
            THE WITNESS:
                          All right.
                        Thank you. We'll see you here at
            THE COURT:
25
                                                            99
                            (Colloquy)
  9:00 o'clock.
 1
 2
            THE WITNESS: Yes.
            THE COURT: But we will give you a letter.
 3
  Just wait for that letter.
 4
 5
            THE WITNESS: Okay.
            (Whereupon, the witness is excused for the
 6
 7
   day.)
 8
            MR. SAMEIRO:
                          Thank you.
 9
                           Thank you.
            MR. GONZALEZ:
10
            THE COURT: See you tomorrow. Have a nice
11
            Thank you.
  night.
12
            (Whereupon, the hearing concluded for the
13
   day.)
14
15
16
17
18
19
20
21
22
23
24
25
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CERTIFICATION

I, GEORGEANN CROWELL, C.C.R., License Number XI00983, an Official Court Reporter in and for the State of New Jersey, do hereby certify the foregoing to be prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of my stenographic notes taken in the above matter to the best of my knowledge and ability.

Georgeann Crowell, C.C.R. Official Court Reporter Middlesex County Courthouse P.O. Box 964 New Brunswick, New Jersey

Date: FEBRUARY 8, 2010

