

A-2039-0674

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CRIMINAL PART  
ESSEX COUNTY, IND. NO: 03-06-2254  
A# 2039-06

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STATE OF NEW JERSEY, :  
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 :  
 vs. :  
 :  
 LUIS F. DaSILVA, :  
 Defendant. :  
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**RECEIVED**  
**APPELLATE DIVISION**  
SEP 14 2007  
**SUPERIOR COURT**  
**OF NEW JERSEY**

**FILED**  
**APPELLATE DIVISION**  
SEP 14 2007  
*John M. Chockley*  
CLERK

Place: Essex County Courthouse  
50 Market Street  
Newark, New Jersey  
Date: June 9, 2004  
Pages: 1 - 100

BEFORE:

HONORABLE PETER J. VAZQUEZ, J.S.C., AND A JURY.

TRANSCRIPT ORDERED BY:

HELEN C. GODBY, ESQ., (Office of the Public Defender)

APPEARANCES:

THOMAS McTIGUE, ESQ., Assistant Prosecutor, For the  
County of Essex, Attorney for the State

RONALD CAMPSON, ESQ., (Pope, Bergrin & Verdesco),  
Attorney for the Defendant

DENISE ELBECK, C.S.R., C.M.  
Official Court Reporter  
Essex County Courts Building  
50 Market Street  
Newark, New Jersey 07102

*NW*

		I N D E X			
Witnesses		Direct	Cross	Redirect	Recross
1					
2	Witnesses				
3	For the State				
4	ANTONIO NARCISCO	37	42		
5	MARK GREIMEL	47	53		
6	JAIME REYES	56	67		
7	ANA GOYA	78	86	96, 97	97
8					
9					
10					
E V I D E N C E					
11	Exhibits		Ident.	Evid.	
12	S-24K, Photo			52	
13					
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Colloquy

1 THE COURT: Bring her out.

2 COURT OFFICER: Ms. Franklin, right?

3 THE COURT: Yes.

4 (Juror brought into courtroom)

5 THE COURT: Good morning, Ms. Franklin. You

6 had said there was something you needed to tell us?

7 THE JUROR: Yes. I know I stated I was

8 unemployed, but I started a new job Monday, so I just

9 didn't want it -- you know, they told me one or two

10 days, and I know that this may last a little longer,

11 and I didn't want it to interfere with my new job. I

12 have been unemployed for three months.

13 THE COURT: Where do you work?

14 THE JUROR: Well, I'm not working anywhere

15 now, but I will start working for the County starting

16 Monday in the Hall of Records.

17 THE COURT: Who are you working for starting

18 Monday?

19 THE JUROR: Phil Elijah.

20 THE COURT: Say that again.

21 THE JUROR: Phil Elijah, Chief of Staff.

22 THE COURT: Right, for the government, the

23 county government. Well then, you get paid.

24 THE JUROR: Well, I don't start until Monday.

25 They are not paying me this week, I start on Monday.

Colloquy

4

1 THE COURT: I understand that. Because, of  
2 course, you are not losing anything this week because  
3 you are not working any way. As a matter of fact, you  
4 are getting five dollars a day for the first three days  
5 and 40 dollars a day on the fourth day. And starting  
6 next week, since are you a county employee, they will  
7 pay you; right?  
8 THE JUROR: I hope that's the way it works.  
9 THE COURT: That's the way it works.  
10 THE JUROR: I hope that's the way it works.  
11 THE COURT: Well, you are free to call there  
12 at the first break we take today, which will be lunch  
13 time, but I can't imagine that the government of this  
14 county will not pay one of its own employees to start  
15 as to be a juror in this county.  
16 THE JUROR: I was suppose to start this past  
17 Monday, but they won't start me because I had jury  
18 duty.  
19 THE COURT: I understand that. Now they have  
20 agreed to start you, they should start you and they  
21 should pay you. If that's a problem with that, you let  
22 me know, okay?  
23 THE JUROR: Okay.  
24 (Juror excused from the courtroom)  
25 (Jury panels brought into the courtroom and

Colloquy

5

1 jury selection continues)  
2 (Whereupon a jury of 14 are duly selected)  
3 THE COURT: All right now swear in the jury.  
4 (Jury sworn)  
5 THE COURT: The balance of panel is excused  
6 to return to Jury Control on the 4th floor. Thank you.  
7 (Balance of panel excused)  
8 THE COURT: All right ladies and gentlemen,  
9 you are the jury that's been selected to try this case.  
10 And so that you have an idea of how this is going to  
11 proceed, I'm going to give you a hint about that right  
12 now, a general outline.  
13 You are the sole judges of the facts in this  
14 case. Your determination of those facts is to be based  
15 solely on the evidence that is introduced in this case.  
16 Now, when I use the term "evidence," I mean  
17 principally the testimony of witnesses who testify on  
18 the witness stand here to my right, but it also  
19 includes any exhibits that are marked into evidence  
20 during the course of the case.  
21 Now, any time an item, whether it's a piece  
22 of paper or a physical object, is given to a witness,  
23 it is usually marked for identification. That's so the  
24 record understands what it is. That doesn't make it  
25 evidence yet, it has to be marked into evidence. And

1 only those items which are marked into evidence go into  
2 the juryroom with you at the end of case.

3 For example, police reports are very often  
4 used and marked for identification, but rarely, if  
5 ever, are they marked into evidence, or do they go into  
6 the juryroom. Okay? So only those things that are  
7 marked into evidence go into the juryroom with you.

8 The first order of business will be the  
9 Prosecutor's opening statement in which he will outline  
10 the State's contentions and what he expects to prove.  
11 After that, the defense counsel, if he chooses, will  
12 also give an opening statement.

13 What is said in these opening statements,  
14 that is not evidence. As I said, evidence only comes  
15 from the testimony of witnesses and physical items  
16 introduced into evidence.

17 During the trial, the attorneys may make  
18 objections as evidence is offered, or they may address  
19 motions to me. They have a right and indeed a duty to  
20 do so under appropriate circumstances, and my job is to  
21 rule upon those objections because they are based on  
22 the law. You deal with the facts, I deal with the law.

23 If you hear me say that an objection is  
24 overruled, that means I am ruling against the attorney  
25 making the objection. If I say the objection is

1 sustained, I am ruling in favor of the attorney making  
2 the objection. I also may just say "I won't allow it"  
3 or "I will allow it."

4 Anything excluded by me is not evidence and  
5 must not be considered by you in your deliberations.  
6 Sometimes these evidence questions or legal questions  
7 will be heard in your presence in open court. That's  
8 only when they are short and we don't need any  
9 discussion.

10 For example, someone may say "I object,  
11 leading question," or "I object, hearsay." I know what  
12 the means, I don't need any discussion and I can just  
13 rule on it quickly.

14 However, at other times we may go to sidebar  
15 or we may even excuse you if we think it's going to be  
16 more than just a few minutes either to the juryroom or,  
17 if it's close to break time, for a break. And then  
18 we'll discuss that matter without your being present.  
19 We do this because it is a legal issue for me to decide  
20 that you're not involved with. And sometimes I am sure  
21 jurors wonder what the heck is going on and why they  
22 can't know about it, and basically, for example, if  
23 there's an objection to a question, I very often have  
24 to hear what the proposed answer to that question is  
25 going to be in order to rule on it.

1 Now, if we did that in your presence, and you  
2 heard the proposed answer, and then I sustained the  
3 objection and didn't let it in, well then, you have  
4 already heard it. So I have got to tell you, even  
5 though you heard it, forget about it, and I know you  
6 can't forget about it, so remember it, but don't  
7 consider it. So rather than go through that exercise,  
8 we do it out of your presence so we don't have to go  
9 through that mental gymnastics. And then if it doesn't  
10 come in, it doesn't come in, you don't hear it. And if  
11 it comes in, it's okay for you to hear it.

12 Now, you should not conclude because I rule  
13 one way or another that I have any feelings about the  
14 outcome of case. But if I did, you should disregard  
15 that because you are the sole judges of the facts in  
16 the case.

17 Now, during the trial, there will be  
18 recesses. Generally we take a mid-morning recess and  
19 lunch around 12:30 for an hour, and then a midafternoon  
20 recess. We try to finish by 4 o'clock.

21 I direct that you not discuss the case  
22 amongst yourselves, or when you recess over night, not  
23 to discuss the case or testimony with any members of  
24 your family or any other persons. The reason, of  
25 course, is that you should not begin deliberations

1 until the entire case has been concluded; meaning,  
2 until you have heard all of the witnesses, the final  
3 arguments, and my instructions as to the law.

4 It would be improper for any outside  
5 influences to intrude upon your thinking. So if anyone  
6 should ever attempt to discuss the case with you, you  
7 should report that fact. You should avoid it, but you  
8 should also report that fact to me or my staff  
9 immediately. And most importantly, not discuss it with  
10 anyone else, especially not with a fellow juror.  
11 Because God forbid you heard something that you  
12 shouldn't hear, that would disqualify you from being a  
13 jury. If you went and told all your other jurors, that  
14 would disqualify everybody, and we would have to start  
15 all over.

16 If you have a cell phone, pager, any other  
17 communication devise, you must turn that devise off  
18 while in the courtroom. Similarly, you must turn off  
19 all cell phones, pagers and any communications devises  
20 and cannot use them for any purpose while in the jury  
21 deliberation room. There should be a telephone number  
22 of the Court posted in the jury room. And if you need  
23 to have somebody contact you, they can contact the  
24 Court's number, and then we'll get that message to you  
25 if there's some emergent purpose for that.

1           During the trial, are you not to speak or  
2 associate with any of the attorneys, any of the  
3 witnesses, or the defendant, and they are not permitted  
4 to associate or speak with you. This separation should  
5 not be regarded as rudeness, but rather as proper  
6 precaution for both sides. So when you see an attorney  
7 or somebody in the hallway and they don't speak to you  
8 or say good morning or good afternoon, it's not because  
9 they are not nice people, it's because they are  
10 following the instructions of the Court. And if anyone  
11 connected with this case or any other person approaches  
12 you or attempts to influence you in any way, again, do  
13 not discuss it with any other jurors or anyone else,  
14 but inform me, through my staff, immediately.

15           Now, your deliberations should be based on  
16 the testimony in the case without any outside  
17 influences, not from any relatives or from friends.  
18 Additionally, I instruct you not to listen to or read  
19 any newspaper articles or other media accounts  
20 pertaining to this case. I don't know if there's going  
21 to be any, but I will tell you that you are to avoid  
22 them and not read any, or watch any, or listen to any,  
23 or listen to anybody discussing any media accounts of  
24 this, or any similar case, because you won't know it  
25 was about this case until you actually read an article.

1           So if you see any article that involves any charges  
2 similar to the charges in this case, do not read it.  
3 I'm sure you can understand that this is an important  
4 instruction. Newspaper and media accounts are not  
5 evidence. They are often based upon second- and  
6 third-hand information. They are purely hearsay. They  
7 certainly are not always accurate, and not subject to  
8 cross examination, as other evidence is in this court.

9           Since you are the sole judges of facts, you  
10 must pay close attention to the testimony. It is  
11 important that you carry with you into the juryroom not  
12 only a clear recollection of what the testimony was,  
13 but also a recollection of the manner in which the  
14 testimony was given.

15           It will be your duty to pay careful attention  
16 to all the testimony. So if you are unable to hear a  
17 witness, especially those of you at the end of jury  
18 box, let me know. Raise your hand so you can get my  
19 attention so we can ask the witness to speak up.

20           As jurors, you will be required to pass upon  
21 all questions of fact, including the credibility or  
22 believability of the witnesses. You are not permitted  
23 to visit the scene of the alleged incident, do your own  
24 research, or otherwise do your own investigation.  
25           Again, the verdict must be based solely on the evidence

1 introduced in this courtroom.

2 Jurors are not permitted to take notes.  
3 Experience has shown us that note taking can be  
4 distracting, and it's better to depend on the combined  
5 recollections of all the jurors than upon notes taken  
6 by one or more of them.

7 At the conclusion of the testimony, the  
8 attorneys will speak to you once again in summation.  
9 At that time, they will present to you their final  
10 arguments based upon their respective recollections of  
11 the evidence. Again, this is not evidence, but their  
12 recollections of the evidence. And it is your  
13 recollection of the evidence that is controlling.

14 Following summations, you will receive your  
15 final instructions on the law from me, and you will  
16 then retire to consider your verdict. You are not to  
17 form or express an opinion on this case, but you are to  
18 keep an open mind until you have heard all the  
19 testimony, the summations, have had the benefit of my  
20 instructions on the applicable law, and have been  
21 instructed by me to begin your deliberations.

22 It is your duty to weigh the evidence calmly,  
23 without any bias, passion, prejudice or sympathy, and  
24 to decide the issues on the merits. You, as a juror,  
25 should find your facts from the evidence adduced during

1 the course of the trial, and that evidence can be  
2 either direct evidence or circumstantial evidence.

3 Direct evidence means evidence that directly  
4 proves a fact, without an inference, and which, in  
5 itself, if true, exclusive establishes that fact.

6 On the other hand, circumstantial evidence  
7 means evidence that means evidence that proves a fact  
8 from which the inference of another fact may be drawn.  
9 An inference is a deduction of fact that may logically  
10 and reasonably be drawn from another fact or group of  
11 facts established by the evidence.

12 The example we like to give with regard to  
13 the difference between direct and circumstantial  
14 evidence is as follows. If a person testified on the  
15 witness stand that they went to bed at night, looked  
16 out the window and saw snow falling, that is direct  
17 evidence of the fact that snow was falling that night.

18 On the other hand, if the person testified  
19 they went to bed at night, looked out the window,  
20 didn't see any snow, but when they woke up the next  
21 morning at dawn, they saw snow on the ground, well that  
22 is circumstantial evidence. They didn't see it snow,  
23 but from that testimony, you can infer that it snowed  
24 during the night.

25 It is not necessary that facts be proven by

1 direct evidence. They can be proven by direct  
2 evidence, circumstantial evidence, or a combination  
3 thereof. In many cases, circumstantial evidence may be  
4 more certain, satisfying or persuasive to you on a  
5 particular fact than even direct evidence.

6 As judges of the facts, you are to determine  
7 the credibility of witnesses. And in determining  
8 whether a witness is worthy of belief and therefore  
9 credible, you may take into consideration the  
10 following: The appearance and demeanor of the witness;  
11 the manner in which the witness may testify; the  
12 witness's interest in the outcome of trial, if any; the  
13 witnesses means of obtaining knowledge of the facts;  
14 the witness's power of discernment, meaning the  
15 witness's judgment, the witness's understanding, the  
16 witness's ability to reason, observe, recollect and  
17 relate; the possible bias, if any, on the side for  
18 whom the witness testified; the extent to which, if at  
19 all, either witness is either corroborated or  
20 contradicted, supported or discredited by other  
21 evidence; whether the witness testifies with an intent  
22 to deceive you; the reasonableness or unreasonableness  
23 of the testimony the witness gives; and any and all  
24 other matters in the evidence which serve to support or  
25 discredit that testimony to you.

1 During your deliberations, you may ask  
2 yourself what is more reasonable, what is more  
3 probable, what is the most logically version?

4 Now, inconsistencies or discrepancies in the  
5 testimony of a witness or between the testimony of more  
6 than one witness, may or may not cause you to discredit  
7 the testimony. Two or more persons seeing or hearing  
8 the same thing may see or hear it differently. An  
9 innocent misrecollection, like a failure to recollect,  
10 is not an uncommon experience.

11 So when weighing the effect of a discrepancy,  
12 consider whether or not it pertains to a matter of  
13 importance or an unimportant detail and whether the  
14 discrepancy results from an innocent error or a willful  
15 falsehood.

16 Now, the defendant stands before you on an  
17 indictment, eight counts, and he is presumed to be  
18 innocent. And unless each and every essential element  
19 of the charge contained in a particular count of that  
20 indictment is proved beyond a reasonable doubt, the  
21 defendant must be found not guilty of the charge.

22 On the other hand, if each essential element  
23 of an offense charged in the indictment is proved  
24 beyond a reasonable doubt, then he must be found guilty  
25 of that offense.

1 The burden of proving each element of the  
2 charge rests upon the State, and that burden never  
3 shifts to the defendant. It is not the obligation of  
4 the defendant in a criminal case to prove his innocence  
5 or to offer any proof of his innocence.

6 The State has the burden of proving the  
7 defendant guilty beyond a reasonable doubt. And some  
8 of you have served in civil cases before where you were  
9 told that in a civil case it's only necessary to prove  
10 something is more likely true than not true. They used  
11 the greater weight or preponderance of the evidence  
12 test.

13 In criminal cases, the State's proof must be  
14 more powerful than that, it must be beyond a reasonable  
15 doubt. The prosecution must prove its case by more  
16 than a mere preponderance of the evidence, yet not  
17 necessarily to an absolute certainty.

18 A reasonable doubt is an honest and  
19 reasonable uncertainty in your minds about the guilt of  
20 the defendant after you have given full and impartial  
21 consideration to all of the evidence. A reasonable  
22 doubt arises from the evidence, itself, or from a lack  
23 of evidence. It is a doubt that a reasonable person,  
24 hearing the same evidence, would have. Proof beyond a  
25 reasonable doubt is proof, for example, that leaves you

1 firmly convinced of the defendant's guilt.

2 In this world we know very few things with  
3 absolute certainty. And in criminal case, the law does  
4 not require proof that overcomes every possible doubt.  
5 But if based on your consideration of the evidence, you  
6 are firmly convinced of the defendant's guilt, then you  
7 should find him guilty. On the other hand, if are you  
8 not firmly convinced the defendant's guilt, you must  
9 give him the benefit of the doubt and find him not  
10 guilty.

11 You will note that a jury of 14 has been  
12 drawn in this case. At the conclusion of all of the  
13 evidence, the charge of the Court, they'll be a random  
14 selection. Two of you will be drawn as alternates. We  
15 do not know who those two people will be at this point,  
16 so obviously all of you should pay careful attention to  
17 all of the testimony and to my rulings during the  
18 course of the case.

19 All jurors have juror badges. They should  
20 continue to wear them at all times so that everybody  
21 recognizes that you are a juror. You no longer have to  
22 go and scan in and scan out. Your attendance is now  
23 taken here in the courtroom. At all times you should  
24 avoid contact with any attorneys, witnesses, or  
25 defendant in this case.

1 So to achieve that purpose, when I excuse you  
2 from this courtroom, whether it's for a break or for  
3 lunch, leave the floor immediately. I will ask  
4 everybody here to wait until the jury leaves the floor,  
5 and you will leave the floor and go wherever you are  
6 going. Do not stop and use the bathroom on this floor.  
7 Do not use the phones on this floor. Just leave. And  
8 when I tell you to come back, try to come back at  
9 approximately that time. We don't want you to be late,  
10 but we don't want you too early either, and that's to  
11 avoid contact with witnesses who may be sitting around  
12 here waiting to come in, or something like that.

13 There will be interpreters used in this case.  
14 They are both Spanish and Portuguese, I believe.

15 MR. McTIGUE: Yes, Your Honor.

16 THE COURT: If any of you understand Spanish  
17 or Portuguese, the important instruction is you must,  
18 you are required to adopt the translation of the  
19 interpreter. Even if, for some reason, you think that  
20 you understood it differently, you must adopt the  
21 translator's interpretation of what was said by the  
22 witness.

23 Counsel, sidebar.

24 (Sidebar conference off the record)

25 THE COURT: All right, ladies and gentlemen.

1 You are going to have an extra long lunch hour today  
2 because I have to go to the Gibraltar Building. I need  
3 a little head time to do that. You're excused for  
4 lunch. We'll see you back at 1:30, 1:35, 1:40, because  
5 I have to walk back from the Gibraltar Building. If  
6 I'm there for a half hour, I probably won't be back in  
7 this courtroom by 1:30, maybe 1:40. Okay. We'll see  
8 you after lunch.

9 (Jury excused)

10 THE COURT: Do you need the record for  
11 anything else?

12 MR. McTIGUE: No, Your Honor.

13 MR. SAMPSON: No.

14 THE COURT: All right, we'll see you at 1:30.

15 (Lunch recess)

16 (Jury brought out)

17 THE COURT: Mr. McTigue, you ready to  
18 proceed?

19 MR. McTIGUE: Yes, sir, I am.

20 THE COURT: Please go ahead with your  
21 opening.

22 MR. McTIGUE: Judge Vazquez, counsel, ladies  
23 and gentlemen of the jury. Just to reintroduce myself,  
24 my name is Tom McTigue. I'm an assistant Essex County  
25 Prosecutor, and I will be presenting evidence to you,

1 the jury, who will hear this case in the matter of  
2 State vs. Luis Fernando DaSilva.

3 Judge Vazquez has told you what the charge  
4 are. I will briefly recap those charges. Mr. DaSilva  
5 is charged in eight counts in an indictment. This is  
6 an informational document. It tells the defendant of  
7 those charges of which he is in jeopardy of being  
8 convicted.

9 The indictment charges that on November 4,  
10 2002, in the city of Newark, that Luis Fernando  
11 DaSilva, during the course of committing a robbery or  
12 in the flight thereafter, did kill Felix Chininin, a  
13 crime known as felony murder.

14 It is further charged that Luis DaSilva did  
15 knowingly and purposely, by his own conduct, did murder  
16 Felix Chininin. Again, it's the crime of murder.

17 It is charged that on November 4, 2002, Luis  
18 Fernando DaSilva committed an act of robbery upon the  
19 person of Felix Chininin.

20 It is charged that on that date, he neither  
21 had the lawful right to possess a handgun, nor did he  
22 have a permit to purchase or carry same.

23 It is further charged that he did possess  
24 that weapon unlawfully on that date with the purpose to  
25 use it unlawfully against the person or property of

1 another; in this case, against the person of Felix  
2 Chininin.

3 It is further charged that on November 14th,  
4 2002, that Luis DaSilva did knowingly threaten a  
5 witness in this case, Alexis Tixi, by threatening him  
6 with physical harm; then he did so by committing a  
7 further crime of by threatening to commit a crime of  
8 violence against Mr. Tixi, which is a crime known as  
9 terroristic threats.

10 And finally, it is charged that on January  
11 10th, the year 2003, that Mr. DaSilva was unlawfully in  
12 the possession of a handgun belonging to a gentleman by  
13 the name of Jesus Paz, knowing that gun to have been  
14 stolen from Mr. Paz.

15 That's the formal nature of the charge before  
16 you, and it's my obligation in an opening to advise you  
17 formally of those charges.

18 An opening is a further function and places a  
19 further burden on the State. That is the time when the  
20 State is called upon, as a matter of law, to outline  
21 the nature of case which are you to hear and indicate  
22 to you what the State expects to be able to prove.

23 This case is about the death of Felix  
24 Chininin, a young man who would have been 20 years old  
25 today. On November 3rd, late hours, in the early

1 morning hours of November 4, 2002, you will hear that  
2 he was employed as a limousine driver at a cab company  
3 in Newark known as the Millennium Cab Company. His  
4 company workers saw him that night and they spoke with  
5 him and his employers were aware of his whereabouts  
6 with dispatch records, which you will have. And we  
7 will speak to the people who last saw him at work, and  
8 you will learn that the way he worked at that limousine  
9 company involved the collection of cash from the people  
10 he picked up. That Millennium Cab Company is a radio  
11 dispatch service, but that the drivers operate  
12 independently and collect their cash from passengers as  
13 they go through the evening.

14 You will also learn that on that night, his  
15 co-workers observed that Felix Chininin had something,  
16 he enjoyed something in his car, he had a brand new DVD  
17 player, a lap top computer devise, and he showed his  
18 co-employees this, and that was the last time they saw  
19 him.

20 The last person to see Felix Chininin alive  
21 in this world will testify before you. He's a  
22 gentleman by the name of Anton Narcisco, and he will  
23 tell you that as he was driving to his home from the  
24 Down Neck area of Newark, approximately 4 o'clock in  
25 the morning of November 4th, he saw a man on Thomas

1 Street staggering, struggling in the street, holding  
2 his head which appeared to be bloody.

3 Mr. Narcisco went around the block to some  
4 police officers he had seen a short distance away who  
5 were actually making a stop of another vehicle. Mr.  
6 Narcisco brought the police there and they found the  
7 body of Felix Chininin lying in the street in a pool of  
8 blood.

9 Shortly thereafter, you will hear that the  
10 car that he had been driving was not found in the area,  
11 it was found approximately four and a half, five miles  
12 away in the city of Elizabeth, on Virginia Street,  
13 where it had been abandoned.

14 And you will hear from the detectives and the  
15 investigators who processed the crime scene, that upon  
16 examining the vehicle found at the Virginia Street  
17 address, and determining that it was in fact the  
18 vehicle that had been operated by Felix Chininin, they  
19 will tell you about the condition of the interior of  
20 that vehicle, which contained the blood of the dead  
21 man, they found additional evidence. They found a  
22 shell casing and a slug that had passed through the  
23 head of Felix Chininin. It was recovered and taken  
24 into evidence.

25 You will also hear what was not recovered;

1 namely, the brand new DVD player; nor was any cash  
2 found on Felix Chininin's body. You will hear how the  
3 investigation proceeded. How the Essex County  
4 Prosecutor's Office and the Newark Police proceeded to  
5 try and solve this crime.

6 You will hear that there was no rush to  
7 judgment, that the police followed a number of leads,  
8 but ultimately they received information again through  
9 the employees of Millennium Cab Company. That  
10 information led them to a young man by the name of Alex  
11 Tixi that you will hear from.

12 Mr. Tixi was interviewed by investigators  
13 from the Prosecutor's Office, and he indicated clearly  
14 during the taking of his first statement that he knew  
15 who shot and killed Felix Chininin, and that was the  
16 person he knew as Fernando, who he ultimately  
17 identified as Luis Fernando DaSilva.

18 Based on information provided by Mr. Tixi,  
19 the police were led to additional witnesses, both of  
20 whom you will hear from. One is a young man by the  
21 name of Carlos Marquinez. Mr. Marquinez also gave a  
22 statement and, again, he implicated Luis Fernando  
23 DaSilva as the person responsible for the death of  
24 Felix Chininin.

25 Now, both men gave statements. There are

1 disparities in them. And as the Judge indicated, you  
2 will have to weigh those disparities.

3 One thing they are clear on, ladies and  
4 gentlemen, is the role of Mr. DaSilva. Their own  
5 roles, that's something that will be discussed with  
6 them. Based on those two statements, a third witness  
7 was interviewed, Josephina Garcia. She, again,  
8 corroborates the events described by Mr. Tixi and by  
9 Mr. Marquinez.

10 They all indicate that at night, they saw  
11 Fernando, as he was known to them, with a black lap top  
12 computer he had never had before, and what appeared to  
13 be blood stains on his clothing and blood on that  
14 computer.

15 Additional information was also provided,  
16 ladies and gentlemen, information as to how Mr. DaSilva  
17 got the gun, how Luis DaSilva came to be in possession  
18 of Jesus Paz's gun.

19 You will hear from Jesus Paz. He's a Newark  
20 police officer. He will tell you that his gun was  
21 stolen while he was on vacation at a time when Luis  
22 DaSilva was a tenant in his building.

23 That information came to the law enforcement  
24 authorities first, however, through Carlos Marquinez,  
25 and then we checked and found that it was a Newark

1 Police weapon. Up to that point, ladies and gentlemen,  
2 we had a description of a weapon, we didn't have the  
3 weapon. We did have certain evidence referring to a  
4 casing, and you will hear the efforts that were made  
5 with regard to the search of certain vehicles that were  
6 involved or supposed to be involved in this incident  
7 and evidence which was recovered.

8 You will also learn that a great deal of  
9 effort was made to try and locate Mr. DaSilva over a  
10 period of six months, including help from his family  
11 members.

12 Ultimately, he was arrested. Before he was  
13 arrested, the gun which was determined to be the gun  
14 that was used to kill Felix Chininin, was recovered.  
15 It was recovered from a young man by the name of  
16 Nicholas Castro Garcia, who was charged with possession  
17 of that weapon. Further questioning about where he got  
18 the weapon, he indicated and will tell you that he got  
19 it from Mr. DaSilva. He purchased that weapon from  
20 him. And you will hear people listed as experts  
21 indicating that that gun is a match to the shell casing  
22 found in the car that Felix Chininin died in and the  
23 bullet that caused his death.

24 You will also hear about the circumstances  
25 attendant upon the arrest of Mr. DaSilva and his

1 attempts to escape arrest by law enforcement  
2 authorities. That, ladies and gentlemen, is a brief  
3 overview of the case that you will have before you.

4 I ask you to listen carefully to the  
5 evidence, pay attention to the witnesses. Some of the  
6 witnesses are going to speak to you through  
7 interpreters. Okay? Be patient and indulgent with  
8 that, because they have important things to say to you,  
9 and it's important that you listen to them and observe  
10 them as they testify.

11 At the end of case I will have an opportunity  
12 to speak with you further in summation, and at that  
13 time comment further upon the evidence which you will  
14 hear during the trial. Thank you.

15 THE COURT: Mr. Sampson.

16 MR. SAMPSON: Thank you, your Honor.

17 Good afternoon, ladies and gentlemen. My  
18 name is Ronald Sampson. I'm an attorney at law and I  
19 represent the defendant, which is Mr. Luis DaSilva. We  
20 are here, ladies and gentlemen, because since the very  
21 beginning of this case, this defendant has maintained  
22 his innocence of the charges against him.

23 Now, you have been told by the assistant  
24 prosecutor that there is an 8-count indictment against  
25 Mr. DaSilva, and that's in fact true.

1           However, as the Judge has instructed you,  
2 that indictment is no way proof of the guilt of the  
3 defendant. An indictment, this piece of paper, is what  
4 is known as an informative pleading. It informs an  
5 individual of what the charges are against him or her.  
6 It is in no way proof.

7           Because the case was presented to the grand  
8 jury, they returned an indictment. But as some of you  
9 may know from your jury experience, that before the  
10 grand jury, the defendant doesn't appear, his lawyer  
11 didn't appear, there's no examination of witnesses by  
12 defense counsel. It is wholly a creature controlled by  
13 the Prosecutor's Office. And in this case the  
14 prosecutor presented evidence, and based upon that  
15 evidence, the grand jury returned an indictment.

16          Now, I should tell you, as long as I have  
17 been doing this, every time I hear the assistant  
18 prosecutor do his opening statement, I always ask  
19 myself: What am I doing here? Because this sounds  
20 like a slam dunk. It sounds like they have got it.  
21 But you know what, ladies and gentlemen, that's why we  
22 are here having a trial, because now you get to hear  
23 all of the evidence in this particular case.

24          You will be what is known as the judges of  
25 the facts. Judge Vazquez, as he has explained to you,

1 is the judge of law. He's going to control these  
2 proceedings.

3           Ultimately, ladies and gentlemen, as the  
4 judges of the facts, you are going to get to make a  
5 determination as to what the State of New Jersey has  
6 been able to prove, and if it met its burden of proving  
7 this case beyond a reasonable doubt.

8           The Judge has explained to you briefly what  
9 that standard is, and at the conclusion of the case,  
10 the Judge is going to instruct you on the law. He's  
11 going to tell you exactly what that means. And without  
12 stepping on the Judge's toes, which is simply he's  
13 going to tell you that the State, the Prosecutor's  
14 Office, through its witnesses, has to prove its case  
15 beyond a reasonable doubt.

16          We suggest to you, ladies and gentlemen, that  
17 after you listen to all the evidence in this case, and  
18 what's proved and what's not proved, based upon the  
19 evidence they have and what they don't have, and based  
20 upon the lies and inconsistencies and contradictions of  
21 their witnesses, you will be convinced that you have an  
22 honest and reasonable uncertainty as to the guilt or  
23 the innocence of Luis DaSilva.

24          Now, as we sit rear right now, ladies and  
25 gentlemen, based upon the oath that you swore to as

1 jurors, you are under an obligation to presume this  
2 defendant not guilty of the charges against him. That  
3 means, as we sit here, you have to presume he is  
4 innocent of the charges. And as this case goes  
5 forward, and as you listen to all the witnesses, you  
6 listen to myself, you listen to the assistant  
7 prosecutor, you have to presume him innocent of the  
8 charges.

9 And that presumption of innocence remains  
10 with this defendant until after hearing all the  
11 evidence and being instructed in the law, you find that  
12 the State of New Jersey, through its witnesses, has  
13 proved this case beyond a reasonable doubt.

14 The Judge has instructed you already what  
15 reasonable doubt means. Some of you know from civil  
16 cases that the civil case, an accident case, where  
17 there's money on the line, they just have to prove it  
18 by a preponderance of the evidence. It's like a  
19 seesaw, who ever is slightly heavier wins. But, ladies  
20 and gentlemen, this is a criminal case. He is on trial  
21 for the murder of Felix Chinin, and in a criminal  
22 case, the burden on the State is much higher. They  
23 have to prove their case beyond a reasonable doubt.  
24 The burden of proof is on the State, it's on the  
25 Prosecutor's Office. They brought these charges, they

1 have to prove them.

2 The defense, the defendant, has no obligation  
3 whatever to have to prove anything. I remember in  
4 philosophy they used to tell us: You can't prove a  
5 negative proposition. You can't prove that something  
6 didn't happen. So Mr. DaSilva now, and at all times,  
7 has maintained his innocence of the charges against  
8 him.

9 The prosecutor, through its case, is going to  
10 let you know that this man has had the full force of  
11 the State brought against him. He's had the Newark  
12 Police. He's had the Essex County Prosecutor's Office.  
13 He's had the FBI. He's had the U.S. Customs Service.  
14 Everyone is looking to prove the case against Luis  
15 DaSilva.

16 But you know what, ladies and gentlemen,  
17 after all of that, their case is going to come down to  
18 the testimony of three individuals. The prosecutor has  
19 already told you about Alexis Tixi. He told you about  
20 Carlos Marquez and Josephina Garcia.

21 If I can just go back for a minute. I told  
22 you that the full force of the State has been brought  
23 against Mr. DaSilva. But you know what, when the case  
24 goes in, there's not going to be one bit of fingerprint  
25 evidence. There's not going to be one bit of blood

1 evidence. There's going to be no fiber evidence.  
2 None of Mr. Chininin's property was recovered  
3 from Mr. DaSilva. That DVD player was never recovered.  
4 He talked about his cell phone that was taken from him.  
5 It was never recovered, and it certainly wasn't  
6 recovered from that man. The money that was allegedly  
7 taken was not recovered. You know what they did find,  
8 months later, six months later, even after Mr. DaSilva  
9 was arrested, they found Mr. Chininin's driver's  
10 license at one of the shore resorts down South Jersey,  
11 I forget which one at the moment, but it was never  
12 recovered from Mr. DaSilva.

13 The State is going to show you some horrific  
14 photographs, and I'm sorry you have to go through that.  
15 I'm sorry his family is going to look at this. But you  
16 will see one thing from these photographs, given the  
17 amount of blood that was at the crime scene and the  
18 amount of blood that was on the streets of Newark, if  
19 Mr. DaSilva was present, there would have been blood  
20 all over him, on his boots, on his clothing, on his  
21 hands.

22 And I told you that the State of New Jersey  
23 brought to bear all of its scientific and police  
24 expertise, and you know what, you will hear testimony  
25 that the police seized Mr. DaSilva's clothes. They

1 seized his car. They seized his boots. And you know  
2 what, not a single drop of blood was found on Mr.  
3 DaSilva, on his clothes, in his car anywhere.

4 Now, you heard the assistant prosecutor tell  
5 you about the enormous lengths that the State went to  
6 investigate this case, and I agree with that. They did  
7 a lot of work on this. You are going to hear probably  
8 about cell phones, and how your cell phones work, and  
9 how every cell phone has a signal, an identification.  
10 So that like it or not, the telephone company and the  
11 government can tell where you are virtually every  
12 minute of the day if you have got your cell phone on.  
13 They can tell where every cell phone call is placed  
14 from, and who made it, and to whom.

15 Now, I raise that because throughout this you  
16 will hear these people, you will hear Marquinez, Tixi,  
17 and other people talk about phone calls that were made,  
18 pages that were made. Well, today is the time for the  
19 State to come forward with the proofs. But you know  
20 what, we suggest to you that the evidence wouldn't show  
21 that they can prove, they are not going to be able to  
22 prove any of these phone calls were allegedly made, and  
23 you will see stacks of reports from T Mobile, and AT&T,  
24 and every cell phone company around, and you know what,  
25 they can't prove. They can't prove any of these phone

1 calls.

2 They are going to tell you, and you will hear  
3 that based on information they received, they did begin  
4 an investigation that led them to Alex Tixi, and he  
5 gave a statement. Remember what the statement said  
6 just minutes ago? He said something about Mr. Tixi in  
7 his first statement identifying Luis DaSilva as being  
8 involved.

9 Ladies and gentlemen, what you will really  
10 hear is that this guy gave three statements. And I  
11 suggest to you, ladies and gentlemen, when you weigh  
12 the three statements, you will be firmly convinced that  
13 not only did he change his statement, but he flat out  
14 lied. The Prosecutor's Office concluded that he flat  
15 out lied, the first time, any way; and then he gave  
16 another statement, he changed that, then he decided to  
17 give a third statement.

18 And then his boy, Carlos Marquinez, his  
19 friend, this guy, they interviewed him. They interview  
20 Mr. Tixi two weeks earlier. Two weeks later they got  
21 around to viewing or interviewing Carlos Marquinez.  
22 According to Mr. Tixi, he and Carlos talked every day.  
23 By the time they got around to interviewing Carlos, he  
24 gave a statement that's completely different, that  
25 tells a completely different story.

1 Now, if they were telling the truth, there's  
2 no way they could tell completely different stories.  
3 Then just to firm it up, they get a statement from  
4 Josephina Garcia, who is the girlfriend of Carlos  
5 Marquinez. I know this is complex, it takes forever to  
6 read through this file. There was a lot of stuff.  
7 When Josephina gave a statement, she tells a completely  
8 different story.

9 Ladies and gentlemen, the stories that are  
10 told here aren't consistent. They are not credible. I  
11 tell you one of the versions of events that you may  
12 hear. You may hear that Alex Tixi told the police,  
13 told investigators from the Prosecutor's Office that on  
14 the morning of November the 4th, just after the murder  
15 of Mr. Chininin, that Carlos got a phone call from Luis  
16 DaSilva, and you know what he said? He said: Yeah, he  
17 asked us to come down to Penn Station in Newark, 7:45,  
18 on a Monday morning, to pick him up. And you know when  
19 we got there to Penn Station in Newark, he was outside  
20 waiting for us and his clothes were splattered with  
21 blood.

22 Well, ladies and gentlemen, you are going to  
23 have to assess credibility. We bring you together, we  
24 bring you from all walks of life because we want you to  
25 use your God-given common sense. We want you to use

1 what you know about the world as it is.

2 Newark Penn Station, 8 o'clock on a Monday  
3 morning, there's a man walking around splattered in  
4 blood with a blood soaked lap top computer. That's the  
5 story. His witness told, and you will hear it, and you  
6 will hear how it changed. Ladies and gentlemen, you  
7 are going to have to judge the credibility of a  
8 witness -- of the witnesses, all the witnesses.

9 What does the Judge tell you? You are going  
10 to have to make a determination whether there was an  
11 intent to deceive. Yeah, there was some intent to  
12 deceive here. When he said, Alex said he didn't know  
13 anything about it, there was an attempt to deceive you.

14 The Judge told you when you make a  
15 determination on the credibility of a witness, what did  
16 he say, whether there is corroboration of the stories  
17 hanging together, or there's contradiction. If one guy  
18 says "I was there," and the other guy says "No, he  
19 wasn't," that's a patent contradiction. How did you  
20 assess the credibility?

21 That's the kind of case that this is. There  
22 is no direct evidence. There's no direct evidence  
23 against Mr. DaSilva. You have got three people telling  
24 a story. Three people telling the story because they  
25 don't want to admit that when they were viewing the

1 events, they were drinking and they were doing drugs.  
2 That's their testimony. This is in their statements.  
3 You will make a determination. Those are the State's  
4 witnesses.

5 There is no direct evidence. Remember the  
6 Judge told you the story, and I will leave it here, but  
7 you remember the Judge asked you, told you the  
8 difference between direct evidence and circumstantial  
9 evidence, and suppose you are trying to make a  
10 determination whether it rained the night before? You  
11 might say: Well, I went to bed, it was dry. When I  
12 woke up in the morning, the driveway was drenched and  
13 my car was wet, and the windows were wet. Is it rain  
14 in my house? It might have been that the kids were  
15 outside playing with the hose. You could still come to  
16 the same conclusion.

17 In this case, ladies and gentlemen, the  
18 evidence is not clear. The evidence, ladies and  
19 gentlemen, is what comes from the witness stand, the  
20 testimony of people who come in and testify before you.  
21 That's the evidence. And I suggest to you, ladies and  
22 gentlemen, that the evidence in this case doesn't  
23 exist. And because the evidence doesn't exist, and  
24 there are contradictions and inconsistencies, that at  
25 the conclusion of this case, you will come to the

1 conclusion that the State of New Jersey has failed in  
2 its burden to prove each and every element of the  
3 offense charged beyond a reasonable doubt.

4 And because of that, ladies and gentlemen,  
5 and because of that, at the conclusion of this case,  
6 you must vote and find this defendant not guilty.  
7 Thank you.

8 THE COURT: Call your first witness.

9 MR. McTIGUE: Yes, Judge. The State calls as  
10 its first witness Antonio Narcisco.

11 Judge, Mr. Narcisco will be using the  
12 services of a court interpreter.

13 MR. SAMPSON: No objection, your Honor.

14 THE COURT: Swear in the interpreter, first.  
15 (Interpreter sworn)

16 MR. McTIGUE: Paulo Flora, Portuguese/English  
17 interpreter.

18 THE COURT: Go ahead, Mr. McTigue.

19 DIRECT EXAMINATION BY MR. McTIGUE:

20 Q. Good afternoon, Mr. Narcisco.

21 A. Good afternoon.

22 Q. I'm going to ask you to keep your voice up so  
23 the interpreter can understand what you are saying.  
24 And I ask you to wait as the interpreter gives your  
25 full answer before beginning to continue to speak

1 again.

2 All right, Mr. Narcisco, I'm going to ask you  
3 some things, some questions about things you may have  
4 seen or heard in the early morning hours of November 4,  
5 2002. Do you recall being in the area of Thomas Street  
6 and Pacific Avenue on that date?

7 A. Yes.

8 Q. Around what time were you in that area?

9 A. Three fifteen in the morning or so.

10 Q. And were you on foot or in a vehicle?

11 A. I was in my car.

12 Q. And where had you come from and where were  
13 you going to?

14 A. That night I went to my cousins's bar River Bank,  
15 and I was with him until about 2:30 or so, and then we  
16 went to a dinner to have a coffee. I don't know what  
17 time we left. I was probably going home, it was  
18 probably about 3:15 or so.

19 Q. You indicated you were coming from a place  
20 called the River Bank. What type of place is that?

21 A. It's a bar.

22 Q. And what was your purpose in being there that  
23 night?

24 A. Because the owner is my cousin, so, you know, I  
25 went there to talk to him.

- 1 Q. And what time was it that you left the River  
2 Bank, if you know, approximately?  
3 A. Two thirty, more or less. I don't know the exact  
4 time.  
5 Q. And from there, I believe you said you went  
6 to a diner?  
7 A. Yes, Andrew's Diner.  
8 Q. After leaving the diner, where were you  
9 going?  
10 A. To my home.  
11 Q. And without telling us the exact address, but  
12 on what street is your home, or was it on that day?  
13 A. I live on 33 Gopal Street.  
14 Q. And at some point, on your route of travel,  
15 were you on Pacific Street?  
16 A. I was following Pacific to go home.  
17 Q. All right.  
18 At some point did you turn onto Thomas  
19 Street?  
20 A. Yes. That's the way I usually go home.  
21 Q. All right.  
22 And did you see anything unusual that evening  
23 or that morning as you turned onto Thomas Street?  
24 A. Yes.  
25 Q. What was it you saw, sir?

- 1 A. When I was making a right on Pacific, I was making  
2 a right from Pacific to Thomas, I was making a right on  
3 Thomas, I saw somebody walking in the middle of the  
4 road with his hands on his head and I thought he was  
5 drunk. Then I stopped the car about 50 feet away or so  
6 because I wanted to see what was going on. I was  
7 afraid I was going to run him over or something. Then  
8 after about 30 seconds, he walked toward the sidewalks  
9 and he fell down. And then I started in my car. And  
10 when I got closer to the person, I opened the  
11 passenger's side window and I saw that his head was  
12 full of blood. Since I have been on Pacific and I  
13 noticed that there were two detectives there that had  
14 stopped two people, two black guys, then I went back  
15 and I went and called them.  
16 Q. Did you go in your car?  
17 A. I went in my car.  
18 Q. And did the police come back with you to  
19 Thomas Street?  
20 A. Yes.  
21 Q. And did you remain there for any time?  
22 A. Yes. Plenty of time after that I went to Franklin  
23 Street, at eight o'clock in the morning.  
24 Q. All right.  
25 And while you were at Franklin Street, is

- 1 that police headquarters?  
2 A. Yes. Yeah, I guess that's where they take you.  
3 That's where they took me.  
4 Q. And did you give a written statement to the  
5 police that morning?  
6 A. They had asked me what had happened, and I guess  
7 they wrote it down. They took pictures and  
8 fingerprints.  
9 Q. All right.  
10 I'm going to show you an exhibit which has  
11 been marked S-2 for identification. Do you recognize  
12 that?  
13 A. Yes.  
14 Q. Is that a statement that you gave to the  
15 Newark Police?  
16 A. Yes.  
17 Q. And did anyone assist you in translating  
18 that?  
19 A. No, because the person who was speaking with me  
20 was Spanish, and they could understand well.  
21 Q. All right.  
22 Have you had a chance to review this  
23 statement prior to today's testimony?  
24 A. Yes.  
25 Q. All right.

- 1 While you were on Thomas Street, did you see  
2 any other cars driving back and forth at the time you  
3 were on the street?  
4 A. No.  
5 Q. Did you see anything that looked like a  
6 limousine or a Town Car on the street as you were  
7 driving there?  
8 A. No. No, I didn't see any cars or anybody.  
9 MR. McTIGUE: No further questions, Judge.  
10 THE COURT: Cross examine.  
11 CROSS EXAMINATION BY MR. SAMPSON:  
12 Q. Mr. Narcisco, on November the 4th, 2002, you  
13 gave a statement to the Newark Police Department.  
14 Correct?  
15 A. Uh huh, yes.  
16 Q. And when you gave that statement, you tried  
17 to be as accurate as you could?  
18 A. Yes. Yes.  
19 Q. Today you say you left the River Bank Bar  
20 around 2:30 in the morning. Correct?  
21 A. Yes, more or less.  
22 Q. Is it true that on November the 4th, 2002,  
23 you said you left the restaurant at 3 a.m.?  
24 A. The exact time I don't know, but I know that we  
25 left approximately at that time, 2:30, 3, I don't know

1 the exact time.

2 Q. But my question is, when you gave the  
3 statement, you said that you left at 3 a.m. Correct?

4 A. It's possible that I said that. Since I was  
5 nervous, I didn't look at the time, it's possible I  
6 said that.

7 Q. Did you read the statement before you signed  
8 it?

9 A. Yes, I read it.

10 Q. And in the statement it says you left the  
11 restaurant around 3 o'clock. Correct?

12 A. It probably was.

13 Q. Okay.

14 And is it also fair to say that in the  
15 statement you did not mention stopping at the diner for  
16 coffee?

17 MR. McTIGUE: Objection, Judge.

18 THE COURT: Hold it, there's an objection.

19 MR. McTIGUE: That's not what he testified.

20 There was no mention of anything taken at the  
21 restaurant.

22 THE COURT: I'm sorry, I'm going to have to  
23 hear you at sidebar.

24 (The following takes place at sidebar)

25 THE COURT: What was the last thing he said.

1 Mr. McTigue?

2 MR. McTIGUE: He said he went to a diner, he  
3 didn't indicate what he had at the diner at all.

4 MR. SAMPSON: I thought he said he stopped at  
5 the dinner for coffee. He did say he stopped at the  
6 diner for coffee.

7 MR. McTIGUE: Okay, I withdraw then.

8 (The following takes place in open court)

9 THE COURT: Go ahead, Mr. Sampson.

10 Q. Sir, you said that you left the restaurant at  
11 2:30 and went to a diner for coffee. Correct?

12 A. Yes.

13 Q. But in your statement of November the 4th,  
14 you did not mention stopping at the diner for coffee.  
15 True?

16 A. I don't recall. They asked me where I was coming  
17 from or where I was going, I told them I was going  
18 home.

19 Q. Now, you saw this man in the street on Thomas  
20 Street. Correct?

21 A. Yes.

22 Q. And he was staggering?

23 A. Yes.

24 Q. And at some point you saw him fall to the  
25 ground?

- 1 A. Yes. I stopped the car because, you know, I was  
2 afraid of running him over, so I waited, and then he  
3 fell down on the sidewalk.  
4 Q. When he first fell, how close did you get to  
5 him?  
6 A. Fifty feet, give or take.  
7 Q. Could you see that he was bleeding from that  
8 distance?  
9 A. No. But afterwards I started moving with my car  
10 and then when I opened the driver's -- the passenger's  
11 window, that's when I saw that he had blood on his  
12 face.  
13 Q. Is that when you went to get the police?  
14 A. Yes.  
15 Q. And did you return back to where this man was  
16 lying after you got the police?  
17 A. Yes.  
18 Q. And when you returned, how close did you come  
19 to him at that point?  
20 A. A couple of feet. I wasn't that close, maybe four  
21 or five feet I saw him.  
22 Q. And in your statement you say that he had a  
23 lot of blood on his head and face. Correct?  
24 A. Yes.  
25 Q. And you also said that the guy was in bad

- 1 condition. Correct?  
2 A. Yes, from what it appeared to be because of the  
3 blood.  
4 Q. And from when you left to get the police and  
5 came back, did the man continue to bleed as he lay on  
6 the sidewalk?  
7 MR. McTIGUE: Judge, I'll object only just as  
8 to the ability to --  
9 MR. SAMPSON: Judge, I will rephrase the  
10 question.  
11 THE COURT: Go ahead.  
12 Q. When you returned to the scene, was there a  
13 lot of blood on the sidewalk?  
14 A. When I came back with the police?  
15 Q. Yes.  
16 A. I think so, though I didn't come real close to him  
17 because the police didn't let me come close to him.  
18 Like I said, I was a few feet away. The policeman  
19 said: He's in bad shape. And he said: Do you know  
20 him? And I said no.  
21 MR. McTIGUE: Objection.  
22 THE COURT: Don't tell us what somebody else  
23 told you unless you are specifically asked.  
24 THE WITNESS: Okay.  
25 Q. In general, was there blood on the sidewalk

- 1 that you could see?  
2 A. No, blood on the sidewalk, I did not see. I saw  
3 it on his face.  
4 MR. SAMPSON: Thank you, sir, I have no more  
5 questions.  
6 THE COURT: Mr. McTigue.  
7 MR. MCTIGUE: Nothing further, Judge.  
8 THE COURT: You may step down.  
9 (Witness excused)  
10 THE COURT: Next witness, Mr. McTigue.  
11 MR. MCTIGUE: I call police Officer Greimel.  
12 M A R K G R E I M E L, Sworn.  
13 DIRECT EXAMINATION BY MR. MCTIGUE:  
14 Q. Officer Greimel, I take it you are employed  
15 as a Newark police officer?  
16 A. Yes, I am.  
17 Q. Were you so employed back on November 4th in  
18 the year 2004? Excuse me, 2002.  
19 A. 2002, yes, I was.  
20 Q. And do you recall being involved in an  
21 incident that -- being involving in the shooting death  
22 of an individual?  
23 A. Yes, I do.  
24 Q. What was your tour of duty that night?  
25 A. I was working midnights that night. I'm not

- 1 exactly sure whether it was 11 to 7, or midnight to 6,  
2 but it was midnights.  
3 Q. Were you working alone or with a partner?  
4 A. I had a partner.  
5 Q. And the name of your partner?  
6 A. Officer Daniel Gregorio.  
7 Q. And what was the area of your patrol that  
8 night?  
9 A. East District of Newark.  
10 Q. All right.  
11 And at or about 3:50 in the morning, did you  
12 become aware of a shooting incident?  
13 A. Yes, I did.  
14 Q. Could you tell us how you came to be aware of  
15 that?  
16 A. We were backing up a unit on a motor vehicle stop  
17 at Warwick and Pacific, when an individual, a Mr.  
18 Antonio Narcisco, came by and flegged us down and said  
19 there was a man walking in the middle of street  
20 bleeding from the head, he had blood all over his face,  
21 and he wanted us to follow him to where the individual  
22 was. We did such, and we found the victim, Mr.  
23 Chininin, later identified as Mr. Chininin, laying on  
24 his back, half in the road, half on the sidewalk, and  
25 in front of 241 Thomas Street. He was little alive at

- 1 that point. He was bleeding profusely from his head.  
2 He was gurgling, but he was unconscious and  
3 unresponsive.  
4 Q. Did you make any attempt to communicate with  
5 him?  
6 A. Oh, yes. Yes, we tried to revive him, tried to  
7 talk to him, but, I mean, there was -- all he could do  
8 was gurgle at that point.  
9 Q. Did you know if he was breathing?  
10 A. Yes, he was, he was breathing, definitely alive.  
11 Q. How far away were you located when Mr.  
12 Narcisco came and got you? How far away is that?  
13 A. Approximately 10 blocks from where Mr. Chinin  
14 was.  
15 Q. All right.  
16 Were you in plain clothes or uniform that  
17 night?  
18 A. Plain clothes, unmarked.  
19 Q. Was another marked vehicle there?  
20 A. Yes. We were backing up Unit 315, Officer Munoz  
21 and Pereira.  
22 Q. All right.  
23 And did Mr. Narcisco get out of his car to  
24 approach you?  
25 A. Yes. He jumped out of his car and, you know, was

- 1 yelling that there was an individual who was injured.  
2 He was bleeding from his face, driving around, he was  
3 very concerned. He wanted us to get there as soon as  
4 possible. Followed him right over there. We were  
5 there within a matter of a minute or so from when he  
6 approach us.  
7 Q. Did you place Mr. Narcisco in your vehicle or  
8 you followed his vehicle?  
9 A. Followed his vehicle.  
10 Q. Other than being excited, as you have  
11 described, did you notice anything unusual about Mr.  
12 Narcisco's condition?  
13 A. No, he was fine. He was just excited because he  
14 saw the injured individual. He was concerned for the  
15 safety.  
16 Q. All right.  
17 Now, upon making the observation that you did  
18 at the scene, what did you do?  
19 A. We immediately called for EMS to respond to render  
20 aid. We attempted to render aid also. We notified for  
21 a supervisor to respond. And, you know, else responded  
22 and administered aid, and took the victim to the  
23 hospital, UMDNJ, and we immediately secured the scene.  
24 Q. And did you keep the scene secure until other  
25 officers arrived?

- 1 A. Yes. We notified Robbery/Homicide. Sergeant  
2 Ferreira responded with a detective. If I may I have  
3 to look at the report.  
4 Q. Well, I'm going to show you a report which  
5 has been marked S-1 for identification.  
6 A. Sergeant Ferreira responded to the scene.  
7 Q. Use the -- please use the marked exhibit.  
8 A. It's a marked exhibit S-1. Let's see, we had  
9 Sergeant Ferreira and Detective Holmes respond to the  
10 scene.  
11 Q. Okay.  
12 And just for the record, S-1 is a report  
13 prepared by Daniel Gregorio?  
14 A. Yes, it is by my partner that night.  
15 Q. All right.  
16 You have had the opportunity to review this?  
17 A. Yes, I have.  
18 Q. All right.  
19 Did you take any photos that night?  
20 A. Yes, we took one, one photo from a Polaroid camera  
21 we had in the back of our vehicle.  
22 Q. What did you take a photo of?  
23 A. Of the victim who was still alive at the point  
24 still at the scene before EMS took him to the hospital.  
25 Q. I'm going to show you an exhibit which has

- 1 been marked S-24K. It appears to be a blow-up of a  
2 photograph.  
3 A. That's the photograph we took at the scene of the  
4 victim. It shows him lying half on the sidewalk, the  
5 upper torso with blood coming from his head.  
6 Q. And this was taken as you were at the scene?  
7 A. As we were at the scene while he was still alive.  
8 Q. And there appears to be --  
9 A. There's a large amount of blood emanating from the  
10 rear of his head; thick, coagulated blood.  
11 Q. Does this photograph as enlarged, fairly and  
12 accurately depict what you observed of the person who  
13 you responded to that evening?  
14 A. Oh, yes. Yes, it does.  
15 MR. McTIGUE: I move this in evidence, your  
16 Honor.  
17 THE COURT: Any objection?  
18 MR. SAMPSON: No objection, your Honor.  
19 THE COURT: S-24K is in evidence.  
20 MR. SAMPSON: What was the mark, please, your  
21 Honor?  
22 THE COURT: S-24K.  
23 (Item marked in evidence)  
24 Q. Officer, if you could turn your back to the  
25 Judge, I'm sure the Court will forgive you.

- 1                    You indicated this is Mr. Chininin as you saw  
2 him that evening?  
3 A. Yes, it is.  
4 Q. And you indicated there was a large pool  
5 of coagulated blood?  
6 A. Yes, right in this area, was emanating from the  
7 rear of his head flowing that way.  
8 Q. Thank you.  
9                    MR. McTIGUE: I have no further questions of  
10 this officer, Judge.  
11                    THE COURT: Cross examine.  
12 CROSS EXAMINATION BY MR. SAMPSON:  
13 Q. Officer, can you tell us what time you were  
14 flagged down by Mr. Narcisco?  
15 A. Approximately 3:50 in the morning.  
16 Q. Approximately what?  
17 A. Three fifty in the morning, 3:50 a.m.  
18 Q. Did you take notes? Did you take notes of  
19 that fact when you were at the scene?  
20 A. I looked at my watch at the time, noted the time.  
21 Q. Okay.  
22                    Now, you also indicated that you were with  
23 Mr. Chininin for a period of time. Correct?  
24 A. Yes.  
25 Q. At the scene?

- 1 A. Yes, awaiting EMS.  
2 Q. And you also say you tried to administer aid?  
3 A. We tried to attempt to see what was wrong with the  
4 individual, but he was breathing and he obviously had a  
5 pulse, so you couldn't give CPR.  
6 Q. Did you make any efforts to stop the  
7 bleeding?  
8 A. You know, we just waited for EMS cause they were  
9 on the way. It only took a matter of a minute or so  
10 for them to show up, to my recollection. It wasn't  
11 that long a period of time.  
12 Q. As you stood -- were you kneeling or standing  
13 over Mr. Chininin?  
14 A. I was standing and kneeling by him at one point.  
15 Q. And as you stood there, he continued to  
16 bleed?  
17 A. He was bleeding, yes, he was.  
18 Q. Sir, there was a lot of blood on the scene?  
19 A. Yes, there was a lot of blood before we even  
20 arrived.  
21 Q. And you also at the scene found one of the  
22 decedent's shoes; is that correct?  
23 A. Yes. It was one of his shoes about 10 feet away  
24 from him in the street.  
25 Q. In fact, both shoes were at the scene,

1 weren't they?

2 A. One was on him when we arrived, and one was in the  
3 street. After EMS left, both were in the street cause  
4 I guess when they were administering aid to him, the  
5 other one must have fallen off.

6 Q. And finally, Officer, from your observations  
7 at the scene, there was also blood on the sidewalk in  
8 the general area of Mr. Chininin?

9 A. Yes.

10 MR. SAMPSON: Thank you, sir, I have no more  
11 questions.

12 MR. McTIGUE: Nothing further of this  
13 witness, Judge.

14 THE COURT: Thank you, sir, you may step  
15 down.

16 (Witness excused)

17 THE COURT: We'll take a 10-minute break at  
18 this time, ladies and gentlemen. When I take a break,  
19 usually I decide whether I want you to stay in the  
20 jury room or leave the courtroom. If you leave the  
21 courtroom, you must leave the floor. So you may leave  
22 if you like, but it's only for 10 minutes. And if you  
23 do leave, you have to leave the floor, okay?  
24 Ten-minute break.

25 (Jury excused)

1 MR. McTIGUE: May I see you with counsel at  
2 sidebar, Judge, off record?

3 THE COURT: Yes.

4 (Sidebar conference off the record)

5 (Recess)

6 (Jury brought into courtroom).

7 THE COURT: Mr. McTigue.

8 MR. McTIGUE: Yes. The State calls as its  
9 next witness, Jaimie Reyes.

10 J A I M E R E Y E S, Sworn.

11 MR. McTIGUE: Thank you, Judge.

12 DIRECT EXAMINATION BY MR. McTIGUE:

13 Q. Good afternoon, Mr. Reyes.

14 A. Good afternoon.

15 Q. Sir, I'm going to ask you to keep your voice  
16 up so all the jurors can hear what you have to say.

17 A. Okay.

18 Q. And keep your answers verbal rather than nod  
19 or shake of head. Okay?

20 A. Okay.

21 Q. All right.

22 Mr. Reyes, did you know a young man by the  
23 name of Felix Chininin?

24 A. Yes.

25 Q. How is it that you know Felix Chininin?

- 1 A. We used to work together.  
2 Q. All right.  
3 Where were you working together?  
4 A. We used to work together in a cab company named  
5 Millennium.  
6 Q. And where is the Millennium Cab Company  
7 located?  
8 A. The company is located in Newark, New Jersey.  
9 Q. And what type of cab company is that? Is  
10 that a dispatch agency? Do drivers own their own  
11 vehicle, or are the vehicles owned by Millennium?  
12 A. It's a livery company. We have a permit. That's  
13 a limo service, and we are dispatched by our company.  
14 Q. And when did you start to begin to work  
15 there?  
16 A. Probably about two months prior to his death.  
17 Q. And you are, obviously, I take it, aware that  
18 Felix Chininin died?  
19 A. Yes.  
20 Q. Are you aware that he died on November 4th,  
21 in the year 2002?  
22 A. Yes. Yes, he did.  
23 Q. All right.  
24 Mr. Reyes, did you give a statement to the  
25 Newark Police with regard to your knowledge about the

- 1 circumstances attendant on the death of Felix Chininin?  
2 A. Can you repeat the question, please?  
3 Q. I will try.  
4 THE COURT: You don't have to speak into in  
5 microphone, it's not amplifying. Just keep your voice  
6 up.  
7 Q. Did you give a statement to the police  
8 telling them what if anything you knew about the  
9 circumstances of Felix Chininin's death, his  
10 whereabouts earlier the day?  
11 A. Yes, I did.  
12 Q. I'm going to show you an exhibit which,  
13 Judge, I have marked S-72 for identification.  
14 Showing Mr. Reyes a statement which has been  
15 marked S-72 for identification, it appears to be a  
16 three-page statement given by you on November 4, 2002,  
17 about 2:10 p.m. it started. Do you recognize that?  
18 A. Yes, I do.  
19 Q. Is that your statement?  
20 A. Yes, it is.  
21 Q. And in it did you answer the questions that  
22 were asked of you by the Newark Police?  
23 A. Yes.  
24 Q. Okay.  
25 Now, you indicated that you worked at

- 1 Millennium Cab Company as -- do you work for  
2 Millennium, or do you work for an independent  
3 contractor?  
4 A. Independent contractor affiliated with Millennium.  
5 Q. Now, when you drive a limousine or a Town Car  
6 for Millennium, how do you collect fares?  
7 A. Cash.  
8 Q. Is that cash turned over to Millennium?  
9 A. No.  
10 Q. How is that distributed?  
11 A. The call is given to me, I go pick up the call,  
12 and we charge them, they give us the money and you keep  
13 it.  
14 Q. All right.  
15 And then if you have somebody you were  
16 subcontracting for, you would pay them directly?  
17 A. You will actually exchange money with them, yes.  
18 Q. Now, when did you become aware that Felix  
19 Chininin had been killed?  
20 A. I believe it was November 4th, that day.  
21 Q. From whom did you find out that Felix  
22 Chininin had been killed?  
23 A. The company owner, Ana Goya.  
24 Q. Okay.  
25 Do you recall around what time that was?

- 1 A. No, I don't. I really don't.  
2 Q. Was it in the evening, morning?  
3 A. In the morning, early in the morning.  
4 Q. Of November 4th?  
5 A. Of November 4th, yes.  
6 Q. Had you been with Felix Chininin earlier that  
7 night?  
8 A. No. Before November 3rd?  
9 Q. Before midnight.  
10 A. Yes. Yes, I was with him.  
11 Q. Under what circumstance -- first, what time  
12 did you see him?  
13 A. I start my shift around 6 p.m., and I probably saw  
14 him around 7 p.m., 7, 8, somewhere around there, and we  
15 exchanged some words. I sat on his car for a while and  
16 he was watching a movie, and that's when I saw him.  
17 Q. All right.  
18 Where was it that you met him at that time?  
19 A. There's a store in Harrison, New Jersey, called  
20 Quick Chek, and he was parked there.  
21 Q. All right.  
22 And is there anything special about Quick  
23 Chek with regard to Millennium cab drivers?  
24 A. We go there and meet. We meet there and the  
25 parking lot is pretty big, so we just go there and

- 1 gather together, and get together, plenty of space for  
2 the cars, so we all park there and there's food too.  
3 Q. Excuse me?  
4 A. And there is food that you can eat.  
5 Q. And you gas up there too?  
6 A. No, we can't. Close by, yes.  
7 Q. All right.  
8 Were you friendly with Felix Chininin at this  
9 time?  
10 A. Friends with him, yes. Yes, we were very  
11 acquainted. I knew his history. He had a son. He was  
12 sending money to his family. And as far as I know, he  
13 loved his son and he looked just like him.  
14 Q. Now, what were you doing with Mr. Chininin  
15 when you met him earlier that day? You indicated you  
16 were sitting on his car watching a movie?  
17 A. Yeah, I was watching a movie, yes.  
18 Q. Where was the movie?  
19 A. He had a computer. He had a computer in his car,  
20 and he had a -- he was playing a movie on his computer.  
21 He had a DVD in it.  
22 Q. All right.  
23 And how is that powered, by battery or --  
24 A. Yes, it was powered by the car battery through the  
25 cigarette lighter adaptor.

- 1 Q. Is that a cable system?  
2 A. Yeah, where you have your, you know, your  
3 cigarette lighter, you take that off and you can  
4 actually plug -- you can plug some source of direct  
5 energy or alternative energy to whatever you want to  
6 use it.  
7 Q. And that evening, as you saw Mr. Chininin  
8 with a DVD player in his Town Car, I take it what type  
9 of car did he have?  
10 A. He didn't have a -- he did have a Lincoln Town  
11 Car.  
12 Q. Were you sitting in the car at that time or  
13 were you watching him from outside?  
14 A. I actual got into the car, and he had the lap top  
15 right next to him on his right side, so I sat next to  
16 him on my left side. I was right in the middle, and it  
17 was plugged to his car.  
18 Q. All right.  
19 Was that with cables?  
20 A. Yes.  
21 Q. Did you help him with those cables in any  
22 way?  
23 A. No. I did help him to fix his cigarette lighter,  
24 that way he can operate his --  
25 Q. I take it that the cables plugged into the

- 1 cigarette lighter?  
2 A. They do, yes.  
3 MR. McTIGUE: Exhibit S-35 for  
4 identification, Judge.  
5 Mr. Reyes, I'm going to show you an exhibit  
6 which has been marked S-35 for identification, and I'm  
7 looking at the contents of that, there appears to be  
8 some types of -- some sort of cables. Do you recognize  
9 these?  
10 A. Yes. I do.  
11 Q. What do you recognize these to be?  
12 A. It was something similar that he had in his  
13 computer.  
14 Q. All right.  
15 Is this the type of mechanism that Mr.  
16 Chininin was using, to your observations, to power his  
17 DVD player in the car?  
18 A. I can say yes.  
19 Q. How are you able to recognize that?  
20 A. From this flat piece right here I think is a  
21 transformer, and it changes the power into certain  
22 AMPs.  
23 Q. Do you recall what movie you watched that  
24 night?  
25 A. Yes. He was watching, actually, Sniper. It's a

- 1 movie about two American soldiers sent on a mission in  
2 South America.  
3 Q. Did you watch it with him for any period of  
4 time?  
5 A. I have seen the movie before, so we commented about  
6 it really quick. Probably about two, three minutes.  
7 Two minutes.  
8 Q. All right.  
9 Now, around what time of night was this?  
10 A. With the movie, I can say about -- between 7, or  
11 8, or 9, somewhere around there.  
12 Q. Was that the last time you saw Felix?  
13 A. No, I actually saw him later that night.  
14 Q. When was that, sir?  
15 A. Our dispatchers actually change shift around  
16 midnight, or after midnight, and at that night we had  
17 two dispatchers. We had two dispatchers, and they were  
18 changing shift. They requested a vehicle to go and  
19 pick them up and Felix was one of them to pick them up.  
20 But somehow they ended up saying that they actually  
21 wanted someone else to pick them up, so they called in  
22 for another vehicle, and that was me, so I went to  
23 assist.  
24 Q. At what time was that?  
25 A. Probably was around one, around the time they

1 exchanged shift.  
2 Q. All right.  
3 And the two people you had to pick up, who  
4 were they?  
5 A. Dispatchers.  
6 Q. Where were they going?  
7 A. One of them -- they were girls, and one of them  
8 was going to Harrison, and the other one to North  
9 Newark.  
10 Q. Do you recall the names?  
11 A. The one in Harrison is named Yvonna, her last  
12 name, I really don't know. And the other girl's name  
13 was Gloria, don't know her last name either.  
14 Q. All right.  
15 And why was it that Felix -- why were you  
16 called in rather than Felix Chininin, if you know?  
17 A. They always called him to go and pick them up and  
18 take them home, so I don't know if that day was slow  
19 for him, but he probably wanted to make some money and  
20 they just called in for another car. I went to pick  
21 them up.  
22 Q. And was that the last time you saw Felix  
23 Chininin?  
24 A. I saw his vehicle at that time. I picked up the  
25 girls, we went up, I went to drop the first girl in

1 Harrison, actually, and they requested me to stop at  
2 Quick Chek, which is located in Harrison. He was  
3 following me, I noticed at the point that he was  
4 following me, and when we pulled into Quick Chek, he  
5 didn't know I was pulling in, so he went around the  
6 street and came back. One of the girls went in -- both  
7 of the girls went in. When they were coming out, he  
8 was parked there. And somehow he said to them: Come  
9 on, let me take you. And they said no, they were going  
10 to go with me. So that was my last -- that was  
11 actually -- that was the last time I saw him.  
12 Q. Did you, other than seeing him, did you have  
13 any further contact with him that night?  
14 A. That was pretty much the last time I saw him.  
15 Q. Was there anything unusual about his  
16 demeanor, the way he appeared that night?  
17 A. At the last moment I think he just wanted them to,  
18 at least one of them to go with him. He wanted them to  
19 go with him. Like saying, "I'm sorry for the joke," or  
20 something like that. I can't actually say what he was  
21 thinking.  
22 Q. From your observations of him through the  
23 evening and morning hours, was there anything -- was  
24 there anything unusual about your friend?  
25 A. No. No. In what aspect?

- 1 Q. Anything unusual or out of the ordinary that  
2 he may have noticed?  
3 A. Just that probably he wanted to take them.  
4 Q. Okay.  
5 MR. McTIGUE: I have no further questions of  
6 this witness, Judge.  
7 THE COURT: Cross examine.  
8 CROSS EXAMINATION BY MR. SAMPSON:  
9 Q. Mr. Reyes, you said you worked for Millennium  
10 Cab about two months prior to this. Correct?  
11 A. Yes.  
12 Q. How often did you work?  
13 A. Almost every day.  
14 Q. And what's the area that Millennium Cab  
15 serves, what towns?  
16 A. We take care of the, let's see, the east, the  
17 eastside of Newark, which will be the Down Neck area,  
18 which is the Ironbound; Harrison, East Newark, Kearny,  
19 North Arlington, and sometimes the northside of Newark.  
20 Very rare, the southside.  
21 Q. And so you pick up people in all those  
22 different towns?  
23 A. Yes, we do.  
24 Q. And you said Down Neck, is that the Ironbound  
25 section?

- 1 A. That would be the Ironbound, yes.  
2 Q. So you're familiar with that area. Correct?  
3 A. Yes, I am.  
4 Q. What's the main street down that area?  
5 A. For everybody it would be like Ferry Street.  
6 Q. Ferry Street.  
7 And in terms of the business, the Millennium  
8 Cab, all those cars have radios?  
9 A. They do. Yes, they do.  
10 Q. So that if you are dispatched by Millennium  
11 Cab, they usually call you on the radio?  
12 A. Yes. Yes, they do.  
13 Q. And when you are driving your cab, and  
14 there's a call to another vehicle via the radio, can  
15 you hear it?  
16 A. If you have the system, yes, you can.  
17 Q. And most of the cars for Millennium Cab are  
18 equipped with that system. Correct?  
19 A. It depends on the radio. I couldn't be specific  
20 on that because it depends on the model.  
21 Q. Well, in addition to the radio then, some of  
22 the drivers also have their own individual cell phones.  
23 Correct?  
24 A. Yes, they do.  
25 Q. And that serves as kind of a backup, if they

1 can't get you on the radio, they would call you on your  
2 cell phone?

3 A. Yes.

4 Q. And so Ana Goya, the owner and the  
5 dispatcher, would have the option of calling you on the  
6 radio or calling you via your cell phone. Correct?

7 MR. McTIGUE: Judge, I will object, just as  
8 to the option of another person.

9 THE COURT: Well, that objection is sustained  
10 as to what the other person's option is, but you can  
11 ask the question without that.

12 Q. You received communications from your  
13 dispatcher via the radio and/or your cell phone.  
14 Correct?

15 A. If they have your number, yes.

16 Q. Okay.

17 Now, when you were questioned by the police  
18 on November the 4th, 2002, one of the questions they  
19 asked you was whether or not Felix had a cell phone.  
20 Is that correct? Do you remember being asked that  
21 question?

22 A. I don't recall, but I did mention that I called  
23 him.

24 Q. So you had his cell phone number. Correct?

25 A. Yes.

1 Q. And when you spoke to the police, do you  
2 recall if they asked you for Felix's cell phone number?

3 A. Yes.

4 Q. You gave it to them?

5 A. I did. I did.

6 Q. By the way, what name -- you said that you  
7 had known him for a period of about -- did you know  
8 Felix before you started working at Millennium Cab?

9 A. No.

10 Q. So then you would have known him for about  
11 two months at the time of his death?

12 A. Yes.

13 Q. And when you worked with him, sometimes you  
14 guys would hang out at Quick Chek or other locations  
15 just talking, sometimes?

16 A. Yeah, we would do that very frequently because  
17 it's not busy at night, so we do that.

18 Q. What name did you know him under? What did  
19 you call him?

20 A. Well, what I call him, Luis.

21 Q. Luis.

22 And with regard to -- you said you were an  
23 independent contractor; correct?

24 A. Each vehicle -- no each vehicle should be an  
25 independent contractor.

- 1 Q. And in terms of Millennium Cab, you pay them  
2 a fee, and then they dispatch calls to you?  
3 A. Yes. We pay for the services of, you know,  
4 providing us with customers.  
5 Q. So you don't have to account to Millennium  
6 Cab for fares, you don't have to tell them how much you  
7 took in on a particular night, do you?  
8 A. No. But most likely they will know.  
9 Q. How will they know?  
10 A. Well, you will -- all the cars are registered and  
11 they are priced. Local calls, six dollars, five  
12 dollars; long run out of town, depending which town  
13 they are going and when a customer calls, they call  
14 right here, I am going here, and they can actually make  
15 an estimate.  
16 Q. And you indicated that on this particular  
17 night, around 7 o'clock, you say Mr. Chininin was over  
18 at the Quick Chek?  
19 A. Yes.  
20 Q. And at that time he was looking at a video --  
21 a DVD, I'm sorry?  
22 A. It was in a computer, and the computer is equipped  
23 with the DVD system.  
24 Q. And do you know what kind of computer it was?  
25 A. It was a lap top, about -- I really don't know the

- 1 size of the screen, but I can point it out to you. It  
2 was about a little bigger than this one. I have no  
3 idea what size that is.  
4 Q. Do you know the make or model or name of the  
5 manufacturer?  
6 A. No, not specifically.  
7 Q. Now, you also indicated that you are familiar  
8 with the power cord that was used to power that DVD  
9 player?  
10 A. The devise?  
11 Q. Yeah.  
12 A. Yes.  
13 Q. Is that one you could buy at Radio Shack or  
14 something like that?  
15 A. Back then, I don't know. Right now, yes, because  
16 they got, you know, through the years, they have been  
17 more in demand and they have all this these parts. But  
18 the computer was pretty sophisticated. I think they  
19 probably wouldn't have it at Radio Shack.  
20 Q. Did you yourself ever use this devise? Did  
21 you ever handle it or play a DVD on it, or do anything  
22 with it?  
23 A. No.  
24 Q. Other than viewing DVDs, did you ever see  
25 your friend do anything with that devise, like go on

- 1 line or anything? Could he do that?  
2 MR. McTIGUE: Judge --  
3 A. He probably could, but --  
4 THE COURT: Hold it.  
5 MR. McTIGUE: Judge, I will object to  
6 speculation as to what somebody could.  
7 THE COURT: All right, sustained.  
8 Q. My question was, did you ever see him do  
9 that?  
10 A. No. No, I never saw him -- just played movies.  
11 Q. You only saw him use it for the purpose of  
12 viewing DVDs. Correct?  
13 A. Just saw him playing that particular movie,  
14 actually.  
15 Q. And you were inside the vehicle that  
16 particular night viewing the DVD with him for a short  
17 period of time?  
18 A. Two minutes. About two minutes.  
19 Q. Did you see any other DVDs in the car that  
20 evening?  
21 A. No.  
22 Q. To your knowledge, did he have a collection  
23 of DVDs in the car, or did he give you a choice of  
24 movies to watch?  
25 A. I think he did have some other movies he did

- 1 mention, but I never saw them.  
2 Q. But on that particular evening, did you see  
3 any DVDs in the car other than Sniper?  
4 A. No.  
5 Q. And you indicated at approximately 1 a.m. it  
6 was the end of the shift for the dispatcher from  
7 Millennium Cab. Correct?  
8 A. Yes.  
9 Q. Yvonna and Gloria. Correct?  
10 A. Yes.  
11 Q. And while you were inside your vehicle, you  
12 could hear them call for Mr. Chinin to pick them up?  
13 A. No, actually they threw the call in the air and  
14 he's the one that picked it up.  
15 Q. Okay.  
16 Just to broadcast for anyone to come pick  
17 them up and take them home?  
18 A. Yes. But around that time everybody knows it is  
19 them, so nobody wants to go.  
20 Q. He volunteered to go?  
21 A. Anyone that picks up the call, they are the one  
22 that takes it.  
23 Q. He had a choice as to whether or not to go  
24 pick them up or not?  
25 A. Yes.

1 Q. And did you indicate that he was taking too  
2 long to get there, so they called for someone else?

3 A. No, I actually -- I didn't say that. I actually  
4 said that he got there, but he knew that it was them,  
5 so he didn't want to take them. And the dispatcher,  
6 knowing that, they actually requested another vehicle,  
7 and that would be me, to go pick them up and I was  
8 close to it, so I did it.

9 Q. Do you know why he didn't want to take them?

10 A. I stated that he usually did take them home, so  
11 therefore this time, don't know if he was playing,  
12 don't know about why, but I do know that he said no  
13 because they don't pay. But it sounded more  
14 sarcastically than the fact, because we all knew that  
15 they don't pay because they are dispatchers.

16 Q. Was he having any kind of personal  
17 relationship with either of these women?

18 A. Excuse me?

19 Q. Was he having any kind of personal  
20 relationship with either of these women beyond --

21 MR. McTIGUE: Judge, at this point I will  
22 object to relevance.

23 THE COURT: I'll allow the question.

24 A. Just professional as basically  
25 dispatcher/driver --

1 Q. Okay.

2 A. -- relationship.

3 Q. Now, on this particular night, as you were  
4 driving these two women home --

5 A. Yes.

6 Q. -- you stopped at Quick Chek?

7 A. Yes, I did.

8 Q. And why did you stop at Quick Chek?

9 A. One of the dispatchers that just got off wanted to  
10 buy a pack of Newports, cigarettes.

11 Q. And when you pulled into Quick Chek to let  
12 her out, was it at that point that you saw Mr. Chininin  
13 in his car?

14 A. For them to get out?

15 Q. Yes. Did you see him at Quick Chek?

16 A. I did. But after I dropped them off, he was  
17 following us, and he went around and came back to Quick  
18 Chek because he didn't know that I was coming there.

19 Q. Do you know why he was following you, or is  
20 he just going to Quick Chek at the same time?

21 MR. McTIGUE: Judge, again, it's inviting  
22 speculation as to the thought process of another  
23 person.

24 THE COURT: Sustained.

25 Q. Well, you said he was following you. Did you

- 1 speak to him about that?  
2 A. No. No.  
3 Q. And the last time you saw him was while he  
4 was in the Quick Chek parking lot?  
5 A. That would be the last time when he pulled next to  
6 me, yes.  
7 Q. You are familiar with the Quick Chek parking  
8 lot, you have been there on several occasions?  
9 A. Many occasions, yes.  
10 Q. Do you know if they have a video surveillance  
11 system outside the Quick Chek?  
12 A. Yeah, they do. Actually there's a bank ATM close  
13 by.  
14 Q. So that if you are in the Quick Chek parking  
15 lot, they would be able to see you and record your  
16 presence?  
17 A. Yes, they will.  
18 Q. And to your knowledge, was Mr. Chininin  
19 having any problems with anyone at that time?  
20 A. No. No.  
21 Q. Do you know an individual by the name of  
22 Carlos Marquez?  
23 A. No.  
24 MR. SAMPSON: Thank you, Mr. Reyes.  
25 I have no more questions, your Honor.

- 1 THE COURT: Nothing else?  
2 MR. McTIGUE: Nothing further.  
3 THE COURT: You may step down. Thank you.  
4 (Witness excused)  
5 THE COURT: Mr. McTigue.  
6 MR. McTIGUE: Please call Ana Goya.  
7 A N A G O Y A, Sworn.  
8 DIRECT EXAMINATION BY MR. McTIGUE:  
9 Q. Good afternoon, Ms. Goya. If you can keep  
10 your voice up --  
11 A. Good afternoon.  
12 Q. -- so everybody can hear you.  
13 Ms. Goya, back in November, 2002, were you  
14 associated with the Millennium Cab Company?  
15 A. Yes.  
16 Q. And what was the nature of your relationship  
17 with the Millennium Cab Company?  
18 A. I was the owner of the company.  
19 Q. And what type of company was that, what  
20 business did it operate?  
21 A. A dispatch company, a taxi service.  
22 Q. All right.  
23 And would that work with the individual  
24 drivers?  
25 A. Oh, they work like on a basis like independent

- 1 contractor. And I take the calls in the base and I  
2 dispatch over the radio.
- 3 Q. And were they charged a set monthly fee for  
4 that service?
- 5 A. Usually we charge a fee, a flat fee every single  
6 week.
- 7 Q. And how are fares controlled? Who decides  
8 what to charge for fares?
- 9 A. We are regulated by the Town of Newark, City Hall  
10 Taxi Division. They give us a list, a price with all  
11 the prices on there.
- 12 Q. Is there specified prices for certain lengths  
13 of trips and certain durations of trips?
- 14 A. Yes.
- 15 Q. And at that time in November, was Felix  
16 Chininin working with Millennium Cab?
- 17 A. Yes, he was.
- 18 Q. All right.  
19 Do you know a man named Sergio Eras?
- 20 A. Yes.
- 21 Q. And what was Mr. Eras's relationship, if any,  
22 to Felix Chininin, if you know?
- 23 A. Mr. Eras, he was at that time the owner of the car  
24 that Felix Chininin was driving.
- 25 Q. All right.

- 1 Was Felix Chininin actually working with Mr.  
2 Eras?
- 3 A. Yes.
- 4 Q. In other words, correct me if I'm wrong, but  
5 Mr. Chininin would drive Mr. Eras's car for a certain  
6 part of the day?
- 7 A. Yes.
- 8 Q. And he would be paid by Mr. Eras?
- 9 A. Yes.
- 10 Q. He would not be paid by Millennium Cab?
- 11 A. No.
- 12 Q. So he would not be an employee of Millennium  
13 Cab, but as you put it, an independent contractor?
- 14 A. Yes. Actually Mr. Eras was the independent  
15 contractor.
- 16 Q. And Mr. Chininin was through him?
- 17 A. Yes.
- 18 Q. All right.  
19 Now, as part of your business, did Millennium  
20 Cab keep a copy of dispatch logs?
- 21 A. Yes.
- 22 Q. And were those records kept in the normal  
23 course of business?
- 24 A. Yes.
- 25 Q. I'm going to show you an exhibit marked S-71.

- 1 Judge, for identification.  
2 Ms. Goya, showing you an exhibit which has  
3 been marked S-73. Do you recognize what that is?  
4 A. Yes.  
5 Q. What is that?  
6 A. This is all the trips that Felix Chininin took  
7 that night.  
8 Q. Do the records cover a certain period of  
9 time.  
10 A. Yes. This is the first call he took, up to the  
11 last one.  
12 Q. And it shows what trips he went on, on the  
13 days of November 3?  
14 A. Yes, this is that.  
15 Q. And November 4?  
16 A. Let me see, where are the days? Right here.  
17 Q. All right.  
18 And these are the calls that he went on, on  
19 November 3?  
20 A. Yeah, November 3, 2002.  
21 Q. Further, starting at 11:38?  
22 A. Yes.  
23 Q. And it shows a car number?  
24 A. Yes, you can see it in this column.  
25 Q. What does that indicate?

- 1 A. That's the car number, and this is the driver's  
2 name in here.  
3 Q. All right.  
4 And what does D time mean?  
5 A. Oh, this is the time that we dispatch the call.  
6 Q. Yes.  
7 A. Not the time we receive it, the time that we  
8 dispatch it.  
9 Q. So C time is call time?  
10 A. Yes.  
11 Q. And D time is dispatch time?  
12 A. Yes.  
13 Q. Now, does it show the last call that was  
14 received by Felix Chininin?  
15 A. Yes, this one.  
16 Q. And to what address was that?  
17 A. Right here, 330 Woodside in Newark.  
18 Q. And what time was that received?  
19 A. At 2:56 a.m.  
20 Q. On November 4?  
21 A. November 4, 2002.  
22 Q. And dispatch, the same time?  
23 A. Yes.  
24 Q. Okay.  
25 And there are no further entries after that?

- 1 A. No further calls.  
2 Q. Now, Ms. Goya, at some point did you learn  
3 that Felix Chininin had been killed?  
4 A. Yes.  
5 Q. How is it that you found out about his death?  
6 A. Somebody called me.  
7 Q. Who was that, if you know?  
8 A. The dispatcher.  
9 Q. And the name of dispatcher, if you know?  
10 A. Jaimie Solano.  
11 Q. And what did you do after getting that  
12 information?  
13 A. I run right away to the base.  
14 Q. Excuse me?  
15 A. I went right away to the base.  
16 Q. All right.  
17 What was your purpose in going to the base?  
18 A. To find out what's going on.  
19 Q. All right.  
20 And were you able to find out any further  
21 information at that point?  
22 I apologize to you and the jury, your Honor,  
23 I thought it was off.  
24 I am sorry, Miss Goya. Before you were  
25 interrupted by my behavior, what did you do when you

- 1 got to the base?  
2 A. I asked Jaimie, and there was another person that I  
3 don't recall right now, "what's going on?" And they  
4 say: "We got a problem. Somebody called and say that  
5 one of our taxis was parked in his driveway, and he was  
6 calling the police to tow that car."  
7 Q. All right.  
8 Did you yourself go down to the scene where  
9 it had been found?  
10 A. No, I remain the base.  
11 Q. All right..  
12 At some point thereafter, do you have an  
13 employee by the name of Gloria Nieves?  
14 A. Yes.  
15 Q. Did you have an employee by the name Yvonna?  
16 A. Yes.  
17 Q. Do you recall Yvonna's last name?  
18 A. No. Oh, yes, I'm sorry. But it's hard for me to  
19 say. It's Yucocu (phonetic). It was an Italian name,  
20 Yucocu.  
21 Q. Are you able to spell it?  
22 A. No.  
23 Q. Now, what job did Gloria Nieves have at  
24 Millennium Cab?  
25 A. She was a dispatcher too.

- 1 A. No further calls.  
2 Q. Now, Ms. Goya, at some point did you learn  
3 that Felix Chininin had been killed?  
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24 Millennium Cab?  
25 A. She was a dispatcher too.

- 1 Q. Were you at the base in the late night hours  
2 of November 3, or the early morning hours of November  
3 4?  
4 A. Early morning, November 4.  
5 Q. Around what time?  
6 A. It had to be sometime around 6 to 7.  
7 Q. In the a.m.?  
8 A. A.m., yes, when they call me, yes.  
9 Q. And that would have been after you got the  
10 news of Felix Chininin's death?  
11 A. Yes.  
12 Q. So you were not there earlier that evening?  
13 A. No.  
14 Q. Or that morning?  
15 A. Not that morning.  
16 Q. All right.  
17 At some point after learning of the death of  
18 Felix Chininin, did Gloria Nieves advise you that she  
19 had received some information on the telephone?  
20 A. Yes.  
21 Q. Without telling me the content of what she  
22 may have said to you, did it pertain to the death of  
23 Felix Chininin?  
24 A. Yes, it was related to that.  
25 Q. All right.

- 1 Upon receiving that information from Gloria  
2 Nieves, did you urge her to contact the police?  
3 A. Yes, I did.  
4 Q. Did you, yourself, contact the police or did  
5 you just urge her to?  
6 A. No, I told Gloria to do it because she was the one  
7 who received the call.  
8 Q. Do you know what date that was?  
9 A. No.  
10 Q. Was it several days or a longer period of  
11 time after the death of Felix Chininin?  
12 A. It was after the death.  
13 Q. Do you recall how long?  
14 A. Maybe two days.  
15 Q. And that's when Gloria Nieves first told you?  
16 A. Yes.  
17 MR. McTIGUE: I have no further questions of  
18 this witness.  
19 THE COURT: Mr. Sampson.  
20 CROSS EXAMINATION BY MR. SAMPSON:  
21 Q. Ms. Goya, how long have you operated  
22 Millennium Cab Company?  
23 A. I have the company for almost three years.  
24 Q. Do you know how long Mr. Chininin had been  
25 driving for Mr. Eras?

- 1 A. He was driving for a period almost of six months.  
2 Q. And in terms of your business, you receive  
3 phone calls from different areas throughout Essex  
4 County. Correct?  
5 A. Essex and any town.  
6 Q. All right.  
7 But primarily the calls are from Newark,  
8 Morrison, Kearny, North Arlington?  
9 A. Yes.  
10 Q. And I take it that your company has a number  
11 of phone lines. Correct?  
12 A. Yes.  
13 Q. How many phone numbers are there for  
14 Millennium taxi?  
15 A. At the time when I owned the car,  
16 Q. Well, I'm sorry, you no longer own the  
17 company?  
18 A. No, sir.  
19 Q. As of when did you stop owning the company?  
20 A. I sold the company last year, April 30, 2003.  
21 Q. And you were located back -- you were located  
22 down on Market Street here in Newark?  
23 A. 528 Market Street in Newark.  
24 Q. I'm sorry, ma'am, before I interrupted you,  
25 you were saying that you had a number of telephone

- 1 lines. Correct?  
2 A. Yes.  
3 Q. How many numbers did you have?  
4 A. At that time, I have eight phone lines, but a  
5 1-800 number.  
6 Q. And one of those was for a fax, for instance,  
7 a fax line?  
8 A. One for fax.  
9 Q. And on the other line is people would call  
10 you for service from these various towns. Correct?  
11 A. Well, most of my customers, as I print on their  
12 business card, they have almost all the numbers.  
13 Q. And at some point, ma'am, you did have  
14 conversations with members of the Essex County  
15 Prosecutor's Office about this case. Correct?  
16 A. Yes. When we have the news that Felix was killed,  
17 yes.  
18 Q. And one of the things that he asked you about  
19 was all of your phone numbers. Correct?  
20 A. Yes.  
21 Q. And did you give them all of your phone  
22 numbers?  
23 A. Yes.  
24 Q. Now, in terms of dispatching to these  
25 independent contractors, to do so, did you do that over

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5 A. Essex and any town.  
6 Q. All right.  
7 But primarily the calls are from Newark,  
8 Morrison, Kearny, North Arlington?  
9 A. Yes.  
10 Q. And I take it that your company has a number  
11 of phone lines. Correct?  
12 A. Yes.  
13 Q. How many phone numbers are there for  
14 Millennium taxi?  
15 A. At the time when I owned the car,  
16 Q. Well, I'm sorry, you no longer own the  
17 company?  
18 A. No, sir.  
19 Q. As of when did you stop owning the company?  
20 A. I sold the company last year, April 30, 2003.  
21 Q. And you were located back -- you were located  
22 down on Market Street here in Newark?  
23 A. 528 Market Street in Newark.  
24 Q. I'm sorry, ma'am, before I interrupted you,  
25 you were saying that you had a number of telephone

- 1 lines. Correct?  
2 A. Yes.  
3 Q. How many numbers did you have?  
4 A. At that time, I have eight phone lines, but a  
5 1-800 number.  
6 Q. And one of those was for a fax, for instance,  
7 a fax line?  
8 A. One for fax.  
9 Q. And on the other line is people would call  
10 you for service from these various towns. Correct?  
11 A. Well, most of my customers, as I print on their  
12 business card, they have almost all the numbers.  
13 Q. And at some point, ma'am, you did have  
14 conversations with members of the Essex County  
15 Prosecutor's Office about this case. Correct?  
16 A. Yes. When we have the news that Felix was killed,  
17 yes.  
18 Q. And one of the things that he asked you about  
19 was all of your phone numbers. Correct?  
20 A. Yes.  
21 Q. And did you give them all of your phone  
22 numbers?  
23 A. Yes.  
24 Q. Now, in terms of dispatching to these  
25 independent contractors, to do so, did you do that over

- 1 A. He was driving for a period almost of six months.  
2 Q. And in terms of your business, you receive  
3 phone calls from different areas throughout Essex  
4 County. Correct?  
5 A. Essex and any town.  
6 Q. All right.  
7 But primarily the calls are from Newark,  
8 Morrison, Kearny, North Arlington?  
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11 of phone lines. Correct?  
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19 was all of your phone numbers. Correct?  
20 A. Yes.  
21 Q. And did you give them all of your phone  
22 numbers?  
23 A. Yes.  
24 Q. Now, in terms of dispatching to these  
25 independent contractors, to do so, did you do that over

- 1 the radio?  
2 A. Yes.  
3 Q. Sometimes your dispatchers also had cell  
4 phone numbers for the various drivers. Correct?  
5 A. No.  
6 Q. No, none of the drivers had cell phones?  
7 A. They have cell, but the rule of the company, and I  
8 was the owner at that time, every single call has to be  
9 dispatched over the radio.  
10 Q. Okay.  
11 Well, suppose you made a call via the radio  
12 and the driver didn't answer, what would you do then?  
13 A. If I know that the driver was in let's say a bad  
14 area, something dangerous that I know because I used to  
15 be a driver for nine years.  
16 Q. Yes.  
17 A. I will try to contact him by cell.  
18 Q. All right.  
19 So an emergency situation you would use the  
20 driver's cell phone to contact him. Right?  
21 A. Yes.  
22 Q. In fact, with regard to Mr. Chininin, when  
23 they weren't able to reach him over the radio later  
24 that morning, they did make an attempt to reach him on  
25 his cell phone?

- 1 MR. McTIGUE: Objection to the form of  
2 question, Judge. If Mr. Sampson wants to find out --  
3 (The following takes place at sidebar)  
4 MR. McTIGUE: He's eliciting hearsay. The  
5 witness is going to testify, and I haven't objected to  
6 a lot of stuff as far as relevance and stuff, but, you  
7 know.  
8 MR. SAMPSON: Just if she knows, Judge, after  
9 they call the guy on the radio.  
10 THE COURT: How is she going to know?  
11 MR. SAMPSON: I was asking. How is she going  
12 to know is the pertinent point. She's going to know  
13 only because somebody told her.  
14 THE COURT: Well then ask, her specifically  
15 what her business records reveal.  
16 MR. McTIGUE: She wasn't present during that  
17 period of time.  
18 MR. SAMPSON: That's why we have records.  
19 (The following takes place in open court)  
20 Q. Ma'am, you indicated that if you weren't able  
21 to reach a driver via the radio, the company might then  
22 attempt to reach him on the cell phone. Correct?  
23 A. Yes.  
24 Q. Do you know on November the 4th, 2002, if any  
25 efforts were made to reach Mr. Chininin via his cell

- 1 phone that morning, if you know?  
2 A. I'm not pretty sure, but I think Jaimie, the  
3 dispatcher, he did.  
4 Q. Now, also in terms of your business, you  
5 indicated to the assistant prosecutor that your rates  
6 are set by the City of Newark?  
7 A. Yes.  
8 Q. During the period of time that you owned the  
9 business, do those rates change?  
10 A. No.  
11 Q. So that any passenger -- if I called you and  
12 said I wanted to go from Harrison to downtown Newark to  
13 Ferry Street, the price would always be the same.  
14 Correct?  
15 A. It would depend what part of Ferry Street.  
16 Q. Is there -- what would the approximate price  
17 be?  
18 A. Let's see. From any point in Harrison going to  
19 Penn Station, the flat rate was eight dollars.  
20 Q. Eight dollars?  
21 A. Yes.  
22 Q. Suppose I wanted to go a little bit further  
23 downtown, suppose I wanted to go to Pacific Street, how  
24 much would the fair be?  
25 A. Let's see. 1200 Broad Street, that would be 10

- 1 dollars.  
2 Q. But Pacific Street is down further?  
3 A. Oh, Pacific Street?  
4 Q. Yes, ma'am.  
5 A. Ten dollars.  
6 Q. Ten dollars, okay.  
7 And that ten-dollar price would -- it's  
8 always ten, it was always that way while you worked, or  
9 while you owned Millennium Cab Company, that would have  
10 been the fair. Correct?  
11 A. Yes.  
12 Q. Now, you indicated that whenever a call was  
13 placed, or whenever a call was received by you and you  
14 dispatched it, you kept a record. Correct?  
15 A. Yes.  
16 Q. And the last call that you received for Mr.  
17 Chininin would have been on November the 4th, 2002, at  
18 about 2:56 a.m. Right?  
19 A. Yes.  
20 Q. And according to the records that you kept,  
21 that was from 330 Woodside Avenue in Newark. Correct?  
22 A. Yes.  
23 Q. Ma'am, do you have a procedure for the  
24 drivers in terms of safety, that is, if you receive a  
25 call and there's no one at that address, what do you

1 do?  
2 A. Okay. If I send a driver to a certain address and  
3 nobody show up?  
4 Q. Yes.  
5 A. He's suppose to give to the customer like five  
6 minutes, all right, and if nobody show up, he has to  
7 move.  
8 Q. Is he directed to call back to the dispatch  
9 and tell them that no one was there?  
10 A. Yes.  
11 Q. And this particular case, on November the  
12 4th, 2002, did you ever get a call back from Mr.  
13 Chininin regarding the 330 Woodside Avenue call?  
14 A. I wasn't dispatching at that time.  
15 Q. And who was the dispatcher at that time?  
16 A. Jaimie Solano.  
17 Q. And so it would be Mr. Solano who would have  
18 gotten the call if such a call were made?  
19 A. Yes.  
20 Q. Ma'am, I'm going to ask, after Mr. Chininin's  
21 death, this must have really upset the other drivers.  
22 MR. McTIGUE: Judge, objection.  
23 MR. SAMPSON: I will try to tie it together,  
24 Judge.  
25 THE COURT: I'll allow it.

1 A. I won't say upset, everybody was afraid.  
2 Q. Afraid.  
3 While you were there and on the premises, in  
4 the days just after his death, was there discussion  
5 between the drivers about what had happened, if you  
6 know?  
7 MR. McTIGUE: Judge, I'll object. It's  
8 eliciting hearsay.  
9 THE COURT: Well, that's basically a yes or  
10 no answer.  
11 You can answer that question yes or no.  
12 Q. Was there discussion amongst the drivers  
13 about what had happened?  
14 A. Not only between --  
15 THE COURT: That's enough, no.  
16 Q. And you indicated that at some point later,  
17 Gloria Nieves received a telephone call regarding Mr.  
18 Chininin's death. Correct?  
19 A. Yes.  
20 Q. And you indicated that you passed that  
21 information onto the Prosecutor's Office or the police.  
22 Is that correct?  
23 A. No.  
24 Q. You did not pass it on?  
25 A. No, it wasn't me.

1 Q. I'm sorry, ma'am. I was just asking when you  
2 were answering questions for the prosecutor, did you  
3 say that that information, that you had passed that  
4 information to the police?  
5 A. It wasn't me.  
6 Q. It was Ms. Nieves?  
7 A. Yes.  
8 Q. You never had any conversations with the  
9 police about the information that was received in their  
10 telephone call. Correct?  
11 A. No.  
12 MR. McTIGUE: Judge, I'll object.  
13 THE COURT: It has already been asked and  
14 answered.  
15 MR. McTIGUE: That's the problem, Judge, but  
16 it's --  
17 THE COURT: Let's not have this conversation.  
18 If you want to put something on the record, come to  
19 sidebar.  
20 MR. McTIGUE: I think I made the point,  
21 Judge.  
22 MR. SAMPSON: Thank you, ma'am, I have no  
23 more questions.  
24 THE COURT: Anything else?  
25 MR. McTIGUE: Yes.

1 REDIRECT EXAMINATION BY MR. McTIGUE:  
2 Q. Ms. Goya, did you take calls from Elizabeth?  
3 A. Yes.  
4 Q. Is that within the area you serve?  
5 A. We serve any area that the customer call us.  
6 Q. Okay.  
7 And I think you may have indicated, this is  
8 before, I just want to clarify, it appears that on the  
9 records you gave that there are 27 calls made to Felix  
10 Chininin?  
11 A. Yes, 27 calls.  
12 Q. All right.  
13 And in the usual course of events, he would  
14 have collected a fair on each of those?  
15 A. Yes.  
16 Q. Is there any minimum fair that is charged for  
17 the use of a car service?  
18 A. Yes. The minimum stop at that time was five  
19 dollars, the minimum stop.  
20 Q. For no matter how short a trip?  
21 A. No, the minimum was five.  
22 Q. Is there any maximum, or is that something  
23 set by a schedule published by the City?  
24 A. It's set by the City.  
25 Q. All right.

1 And as I understand it then, that money  
2 collected for fares would not have been turned over to  
3 you during the course of day?  
4 A. No.  
5 Q. And no one on your behalf?  
6 A. No.  
7 Q. So in the usual course of events, that money  
8 would remain in the possession of the cab driver,  
9 subject to him fulfilling whatever agreement he had  
10 with the person he was working with or for?  
11 A. Yes.  
12 MR. McTIGUE: Nothing further.  
13 RE-CROSS EXAMINATION BY MR. SAMPSON:  
14 Q. Ma'am, based on those 26 or 27 fares that  
15 evening, you don't know how much money Mr. Chinini  
16 would have collected on that date, do you?  
17 A. No.  
18 THE COURT: Anything else?  
19 REDIRECT EXAMINATION BY MR. McTIGUE:  
20 Q. You don't know the exact amount, do you?  
21 A. Not the exact amount, no.  
22 THE COURT: Anything further?  
23 MR. SAMPSON: Nothing further.  
24 THE COURT: You may step down.  
25 THE WITNESS: Thank you.

## Colloquy

1 (Witness excused)  
2 MR. SAMPSON: Your Honor, may we approach  
3 sidebar, please?  
4 (The following takes place at sidebar)  
5 MR. SAMPSON: Judge, I just wanted to ask  
6 your intentions because of all the witnesses, the next  
7 one, if this is -- well, the next witness, as indicated  
8 by the prosecutor, may be the most lengthy, so I was  
9 just wondering if you intended to press on?  
10 THE COURT: No, I'm not intending to press  
11 on, unless there's a problem --  
12 MR. McTIGUE: Let me just double check.  
13 The witness will be available tomorrow,  
14 Judge.  
15 THE COURT: Okay, we'll adjourn for the  
16 evening.  
17 MR. McTIGUE: Thank you.  
18 (The following takes place in open court)  
19 THE COURT: Ladies and gentlemen, we'll  
20 adjourn for the evening at this time. We'll see you  
21 tomorrow morning at 9 o'clock. And remember, do not  
22 discuss the case, avoid any media that would have to do  
23 with this case, or any similar case. And if anyone  
24 should ever approach you, you would of course avoid  
25 that. But if anyone did ever approach you to speak

1 with you about this case, you would report that to me  
2 immediately and not speak with any other juror about  
3 that.

4 Have a good evening, we'll see you tomorrow  
5 morning at 9 o'clock.

6 (Jury excused)

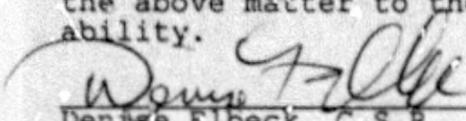
7 THE COURT: Mr. McTigue, you have one item  
8 that you mark already in evidence. You want me to hang  
9 onto that or are you going to keep it?

10 MR. McTIGUE: In you don't mind, Judge, it  
11 saves me toting it.

12 (Court adjourned)

13 \* \*  
14 CERTIFICATION  
15

16 I, Denise Elbeck, C.S.R., License Number X101121,  
17 an Official Court Reporter in and for the State of New  
18 Jersey, do hereby certify the foregoing to be prepared  
19 in full compliance with the current Transcript Format  
20 for Judicial Proceedings and is a true and accurate  
21 compressed transcript of my stenographic notes taken in  
22 the above matter to the best of my knowledge and  
23 ability.  
24  
25

  
21 Denise Elbeck, C.S.R.  
22 Essex County Courts Building

September 7, 2007  
Date