

# TRANSCRIPTS FOR: HANDSHOE'S TESTIMONY

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1 Q. OKAY. AND I'M GOING TO SHOW YOU WHAT'S  
2 BEEN MARKED PEOPLE'S EXHIBIT 37, AND I'M GOING TO  
3 ASK YOU TO LOOK AT PHOTOGRAPH "E" ON THAT EXHIBIT.  
4 AND LET US KNOW WHO THAT IS?

5 A. ERIK SWANSON.

6 Q. SO THAT'S ERIK SWANSON. AND THAT'S THE  
7 FELLOW THAT YOU HAVE IDENTIFIED AS BOTH YOUR BUDDY  
8 AND YOUR SUPPLIER?

9 A. YES.

10 Q. AND DURING THIS PERIOD WHEN YOU WERE TAKING  
11 SO MUCH METHAMPHETAMINE, WOULD IT BE FAIR TO SAY  
12 THAT YOU WENT ON BINGES?

13 A. YEAH.

14 Q. OKAY. YOU LAUGHED. WHAT EXACTLY IS A  
15 BINGE?

16 A. WELL, TWEAKING FOR A CERTAIN PERIOD OF TIME  
17 WITHOUT STOPPING.

18 Q. OKAY. WHAT DOES "TWEAKING" MEAN?

19 A. DOING DRUGS.

20 Q. OKAY. AND "BY DRUGS," WE'RE TALKING ABOUT  
21 METHAMPHETAMINE?

22 A. YES.

23 Q. SO WHEN YOU GO ON A BINGE, THAT MEANS THAT  
24 YOU USE METHAMPHETAMINE CONSTANTLY, NIGHT AND DAY,  
25 FOR A PERIOD OF -- OF DAYS OR WEEKS SOMETIMES?

26 A. YES.

27 Q. OKAY. AND YOU WERE INVOLVED IN THAT SORT  
28 OF ACTIVITY; IS THAT RIGHT?

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1 A. YES, I WAS.

2 Q. YOU WERE INVOLVED IN THAT WITH APOLLO HUHN?

3 A. YES, I WAS.

4 Q. WITH ZACHARY PAULSON?

5 A. YES.

6 Q. WITH TOMMY HUNTER?

7 A. YES.

8 Q. AND WITH OTHER FRIENDS WHO USED TO COME  
9 OVER AND HANG -- HANG OUT AT YOUR HOUSE; IS THAT  
10 RIGHT?

11 A. THAT'S RIGHT.

12 Q. AND IN -- YOU WEREN'T WORKING AROUND APRIL  
13 OF 2003, WERE YOU?

14 A. WHAT'S THAT?

15 Q. YOU WEREN'T WORKING?

16 A. NO. I WASN'T WORKING.

17 Q. OKAY. AND SO, IN FACT, YOU WOULD NEED  
18 MONEY TO GET THIS METHAMPHETAMINE; IS THAT RIGHT?

19 A. NOT ALL THE TIME.

20 Q. NOT ALL THE TIME. SOMETIMES PEOPLE WOULD  
21 GIVE IT TO YOU?

22 A. YES, THEY WOULD.

23 Q. SO ERIK SWANSON WOULD SOMETIMES GIVE YOU  
24 DRUGS?

25 A. YES, HE WOULD.

26 Q. OKAY. BUT SOMETIMES, I'M ASSUMING, YOU  
27 WOULD HAVE TO BUY IT?

28 A. OH, YES.

1 Q. DURING THAT FREE TALK, DID MR. HANDSHOE  
2 MAKE ANY MENTION OF A PARTICULAR ATTEMPTED BURGLARY  
3 IN THE AREA OF MEDILL AVENUE?

4 A. YES, MA'AM.

5 Q. AND WHAT DID HE SAY IN THAT REGARD?

6 A. THAT HE AND MR. ANDERSON HAD GONE TO AN  
7 ADDRESS NEAR THE VICTIM'S AND ATTEMPTED TO BREAK IN.

8 Q. AND DID HE -- WAS HE SPECIFIC AT ALL AS TO  
9 WHAT HAD HAPPENED DURING THE ATTEMPT TO BREAK IN?

10 A. YES, MA'AM.

11 Q. AND WHAT HAD HAPPENED?

12 A. HE TOLD US THAT MR. ANDERSON HAD KICKED IN  
13 THE DOOR.

14 Q. OKAY. AND DID HE INDICATE TO YOU, AS A  
15 RESULT OF THE DOOR BEING KICKED IN, THAT ANYTHING  
16 FURTHER HAPPENED?

17 A. YES, MA'AM.

18 Q. AND WHAT HAPPENED?

19 A. AN ALARM WENT OFF.

20 Q. AND DID HE INDICATE TO YOU WHEN, IN  
21 RELATION TO THE BRUCKER HOMICIDE, THIS ATTEMPTED  
22 BURGLARY HAD SUPPOSEDLY OCCURRED?

23 A. DAY BEFORE.

24 Q. AND AT THE END OF YOUR FREE TALK WITH  
25 MR. HANDSHOE, DID YOU MAKE ANY ATTEMPT TO LOCATE THE  
26 EXACT ADDRESS WHERE THIS ATTEMPTED BURGLARY HAD  
27 SUPPOSEDLY OCCURRED?

28 A. YES, MA'AM.

1 Q. AND HOW DID YOU DO THAT?

2 A. WE DROVE MR. HANDSHOE AND HIS ATTORNEY UP  
3 INTO THE AREA.

4 Q. UP INTO THE AREA?

5 A. YES, MA'AM.

6 Q. AND WHEN YOU SAY "THE AREA," YOU MEAN THE  
7 AREA OF MEDILL AVENUE?

8 A. YES, MA'AM.

9 Q. IS IT MEDILL OR MEDILL?

10 A. I HAVE NO IDEA.

11 Q. AND WHEN YOU WENT INTO THAT AREA, WAS  
12 MR. HANDSHOE, IN FACT, ABLE TO POINT OUT AN EXACT  
13 HOME WHERE THIS SUPPOSED ATTEMPTED BURGLARY HAD  
14 OCCURRED?

15 A. YES, MA'AM.

16 Q. AND DID YOU TAKE NOTE OF THE ADDRESS OF  
17 THAT PARTICULAR HOME?

18 A. I DID.

19 Q. AND WHAT WAS THE ADDRESS OF THE HOME THAT  
20 MR. HANDSHOE SHOWED YOU?

21 A. 8122 MEDILL.

22 Q. AND DID HE SHOW YOU THAT ADDRESS ON THE  
23 SAME DAY THAT YOU HAD THE FREE TALK WITH HIM?

24 A. YES, MA'AM.

25 MS. VANDENBOSCH: THANK YOU. THAT'S ALL I HAVE  
26 FOR MR. GOLDBERG.

27 THE COURT: MR. MCALLISTER.  
28

1 ACTUALLY MET HIM FOUR OR FIVE TIMES; IS THAT RIGHT?

2 A. THAT'S RIGHT.

3 Q. AND THE FIRST TIME THAT YOU MET HIM WAS  
4 JUST A COUPLE OF DAYS BEFORE APRIL 14; IS THAT  
5 RIGHT?

6 A. THAT'S RIGHT.

7 Q. NOW, IN YOUR FREE TALK, YOU MENTION GOING  
8 WITH ERIC ANDERSON TO -- TO ANOTHER LOCATION THE DAY  
9 BEFORE THE -- BEFORE YOU WENT TO MR. BRUCKER'S  
10 HOUSE?

11 A. THAT'S RIGHT.

12 Q. AND YOU TOLD DETECTIVE GOLDBERG AND MR.  
13 BAKER HERE THAT ON THE DAY BEFORE, OR MAYBE A COUPLE  
14 OF DAYS BEFORE YOU WENT TO MR. BRUCKER'S HOUSE ON  
15 APRIL 14<sup>TH</sup>, YOU TOLD HIM THAT A COUPLE DAYS BEFORE  
16 YOU AND ERIC ANDERSON HAD BEEN IN THAT SAME  
17 LOCATION; IS THAT RIGHT?

18 A. THAT'S RIGHT.

19 MR. MCALLISTER: YOUR HONOR, I'M GOING TO OBJECT  
20 TO THE FORM OF THE QUESTION.

21 THE COURT: YES. YOU CAN ASK HIM ABOUT THE  
22 HISTORY OF THE EVENTS. THE WAY YOU'RE POSING IT  
23 RIGHT NOW, WE'RE TALKING ABOUT WHAT HE TOLD THE  
24 OFFICERS.

25 MS. VANDENBOSCH: OKAY.

26 BY MS. VANDENBOSCH:

27 Q. YOU -- IT IS YOUR TESTIMONY AS YOU SIT --  
28 WELL, DID YOU GO WITH ERIC ANDERSON -- WOULD IT BE

1 YOUR TESTIMONY THAT YOU WENT WITH ERIC ANDERSON TO  
2 ANOTHER LOCATION ON MEDILL AVENUE BEFORE APRIL 14<sup>TH</sup>?

3 A. YES, I DID.

4 Q. AND THAT WAS WITHIN A DAY OR A COUPLE OF  
5 DAYS BEFORE?

6 A. YES.

7 Q. OKAY. AND YOU TOLD THE -- THE -- YOU TOLD  
8 MR. MCALLISTER AND MR. BAKER ABOUT THAT DURING YOUR  
9 FREE TALK; IS THAT RIGHT?

10 A. YES, I DID.

11 Q. AND YOU TOLD THEM THAT IN FACT YOU GUYS HAD  
12 GONE AND ATTEMPTED TO BURGLARIZE THIS HOUSE AND ERIC  
13 ANDERSON HAD RAMMED THE DOOR AND THE ALARM HAD GONE  
14 OFF?

15 A. YES.

16 Q. AND SO YOU GUYS HAD BEEN SCARED OFF?

17 A. YES.

18 Q. AND AFTER YOUR FREE TALK WITH MR. GOLDBERG  
19 AND -- AND THE REST OF THE GROUP, YOU ACTUALLY TOOK  
20 MR. GOLDBERG TO THE LOCATION AND POINTED OUT THE  
21 EXACT HOUSE THAT YOU AND ERIC ANDERSON HAD ATTEMPTED  
22 TO BURGLARIZE A DAY OR TWO BEFORE; IS THAT RIGHT?

23 A. THAT'S RIGHT.

24 Q. AND THEY TOOK DOWN THE ADDRESS?

25 A. I BELIEVE SO.

26 Q. YOU WERE ASKED BY MR. MCALLISTER ABOUT A  
27 GUN THAT ERIC ANDERSON MAY HAVE HAD ON APRIL 14<sup>TH</sup>.  
28 DO YOU REMEMBER THAT?

1 A. YES.

2 Q. AND YOU SAID IT WAS A .45?

3 A. YES.

4 Q. OKAY. AND YOU KNOW IT WAS A .45 HOW?

5 A. BECAUSE I WAS THE ONE THAT FOUND IT.

6 Q. YOU WERE THE ONE THAT FOUND IT?

7 A. YES.

8 Q. SO IT WOULD BE YOUR TESTIMONY, AS YOU'RE  
9 SITTING HERE TODAY, THAT YOU FOUND A .45 THAT ERIC  
10 ANDERSON HAD IN HIS POSSESSION ON APRIL 14<sup>TH</sup>?

11 A. YES, I DID.

12 Q. AND YOU FOUND IT WHERE?

13 A. IN ANOTHER HOUSE THAT ME AND HIM  
14 BURGLARIZED.

15 Q. SO YOUR TESTIMONY, AS YOU SIT HERE TODAY,  
16 THAT NOT ONLY DID YOU AND ERIC ANDERSON GO TO A  
17 HOUSE IN THE AREA OF MR. BRUCKER'S HOUSE A DAY OR  
18 TWO BEFORE AND ACTIVATE AN ALARM, BUT YOU ALSO  
19 PARTICIPATED IN ANOTHER BURGLARY?

20 A. THAT'S RIGHT.

21 Q. AND YOU ALSO TOLD DETECTIVE GOLDBERG ABOUT  
22 THAT BURGLARY; IS THAT RIGHT?

23 A. THAT'S RIGHT.

24 Q. AND YOU TOLD HIM THAT ON APRIL 11<sup>TH</sup>?

25 A. THAT'S RIGHT.

26 Q. AND AFTER YOUR FREE TALK, YOU TOOK  
27 DETECTIVE GOLDBERG AND THE REST OF THE GROUP TO THE  
28 AREA WHERE YOU REMEMBERED THE BURGLARY TAKING PLACE?

1 A. THAT'S RIGHT.

2 Q. AND YOU POINTED OUT AN AREA IN SPRING  
3 VALLEY CALLED DICTIONARY HILL?

4 A. THAT'S RIGHT.

5 Q. AND YOU SPECIFICALLY TOLD THEM THAT A .45  
6 HAD BEEN TAKEN FROM THAT BURGLARY?

7 A. THAT'S RIGHT.

8 Q. AND YOU TOLD THEM THAT HAD HAPPENED A  
9 COUPLE DAYS BEFORE APRIL 14<sup>TH</sup>?

10 A. THAT'S RIGHT.

11 Q. DO YOU RECALL, GOING TO THE BURGLARY IN THE  
12 AREA OF DICTIONARY HILL, DO YOU RECALL APPROXIMATELY  
13 WHAT TIME THAT WAS?

14 A. AROUND AFTERNOON.

15 THE COURT: THE ACTUAL BURGLARY OR THE REVISIT  
16 WITH THE DETECTIVES?

17 MS. VANDENBOSCH: SORRY.

18 BY MS. VANDENBOSCH:

19 Q. NO, THE ACTUAL BURGLARY. DO YOU -- OF THE  
20 HOUSE THAT YOU DESCRIBED ON DICTIONARY HILL, FROM  
21 WHICH THE .45 WAS TAKEN, DO YOU RECALL WHAT TIME OF  
22 DAY THAT WAS?

23 A. AROUND, LIKE, 1:00 OR 2:00.

24 Q. AROUND, LIKE, 1:00 OR 2:00?

25 THE COURT: OF THE EVENING --

26 THE WITNESS: IN THE EVENING.

27 BY MS. VANDENBOSCH:

28 Q. IN THE EVENING?

1 THEN YOU HAVE HIM LATER IN THE AFTERNOON,  
2 ERIC ANDERSON, TRYING TO CONTACT THE HANDSHOE HOME,  
3 THE PERETTI HOME, AND THE HANDSHOE HOME AGAIN. AND  
4 WHAT DO YOU HAVE HERE? A TOTAL OF SIX SECONDS TO  
5 THE PERETTI HOME.

6 "IS APOLLO THERE? IS BRANDON THERE?"

7 "NO."

8 THEN YOU HAVE A TOTAL OF 75 SECONDS OF A  
9 CALL TO BRANDON HANDSHOE. 75 SECONDS TO PLAN  
10 SOMETHING THAT'S GOING TO GO DOWN THE FOLLOWING DAY?  
11 THE PROSECUTION WANTED YOU TO THINK THAT THERE WERE  
12 SO MANY CALLS AND THERE WAS ALL THIS PLANNING GOING  
13 ON. BUT WHEN YOU ACTUALLY LOOK AT THE RECORDS, YOU  
14 HAVE A TOTAL OF 75 SECONDS TO THE HANDSHOE HOME.

15 LADIES AND GENTLEMEN, I WANT TO GO HERE TO  
16 ALSO TALK ABOUT THE CELL SITE LOCATION A LITTLE BIT,  
17 RATHER THAN COMING BACK TO IT, BECAUSE WHAT YOU CAN  
18 SEE FROM THESE -- THIS EXHIBIT IS INSTRUCTIVE FOR  
19 ANOTHER REASON AS WELL.

20 IT'S CLEAR THAT BRANDON HANDSHOE IS NOT  
21 ANSWERING HIS PHONE, PERHAPS BECAUSE HE'S NOT HOME.  
22 YOU'LL RECALL THAT APRIL 13TH IS THE DAY THAT  
23 BRANDON HANDSHOE CLAIMS HE AND ERIC ANDERSON WERE  
24 OVER IN THE AREA OF MEDILL AVENUE ATTEMPTING ANOTHER  
25 BURGLARY.

26 AND WHEN DID HE TELL YOU THAT WAS? IT WAS  
27 IN THE AFTERNOON HOURS OF THE 13TH. HE AND ERIC  
28 ANDERSON WERE IN THE AREA OF MEDILL AVENUE.

*Proof - Phone records show Handshoe & Peretti  
were lying!*

1 WHERE DO THESE PHONE RECORDS SHOW THAT  
2 MR. ANDERSON WAS IN THE AFTERNOON HOURS? IN THE  
3 MORNING, HE'S TRYING TO GET IN TOUCH WITH  
4 BRANDON HANDSHOE. IN THE AFTERNOON HOURS:  
5 4324 CLAIREMONT MESA BOULEVARD; 4740 CLAIREMONT MESA  
6 BOULEVARD, THAT'S AT 12:53; AT ONE, HE'S AT  
7 9630 CHESAPEAKE DRIVE; AT 2:47, HE'S UP IN POWAY.

8 THERE IS ANOTHER EXHIBIT WHICH ACTUALLY  
9 SHOWS YOU THE EXACT LOCATION OF WHERE HE IS. AND  
10 THIS IS A DEFENSE EXHIBIT. AND IT SHOWS YOU IN THE  
11 AFTERNOON HOURS THIS IS WHERE HE IS.

12 THE ONLY TIME HE'S EVER IN EAST COUNTY IS  
13 IN THE EARLY MORNING HOURS. AND WHAT IS HE TRYING  
14 TO DO IN THE EARLY MORNING HOURS? HE'S TRYING TO  
15 CALL BRANDON HANDSHOE.

16 IN THE AFTERNOON, HE'S WAY OVER IN THE  
17 OTHER AREA OF TOWN, IN THE CLAIREMONT MESA AREA OF  
18 TOWN, AND THEN HE GOES NORTHBOUND FROM THERE BACK UP  
19 TO POWAY. HE COULDN'T HAVE BEEN WITH  
20 BRANDON HANDSHOE ON APRIL 13TH DOING A DRY RUN,  
21 TRYING TO SEE WHAT ON EARTH THERE WAS TO ROB IN THE  
22 MEDILL AREA OF SAN DIEGO. HE WAS WAY OVER HERE,  
23 SOMETHING THAT COMPLETELY DISPROVES  
24 BRANDON HANDSHOE'S TESTIMONY.

25 LET'S GO -- I'M SORRY, ONE OTHER THING ON  
26 THAT, AND I WON'T BRING IT OUT AGAIN.

27 YOU ALSO HEARD VALERIE PERETTI SAY THAT SHE  
28 ONLY MET ERIC ANDERSON ONCE BEFORE. AND WHEN DID

1 AND AT 4:57. THESE ARE DEFINITELY LONGER CALLS THAN  
2 WE HAVE HAD IN THE PAST. AND, I SUBMIT TO YOU,  
3 LADIES AND GENTLEMEN, THAT YOU KNOW FROM BRANDON  
4 HANDSHOE'S OWN TESTIMONY THAT HE HAS JUST BEEN  
5 INVOLVED IN A ROBBERY THAT WENT BAD, A ROBBERY IN  
6 WHICH SOMEONE WAS KILLED.

7 IF BRANDON HANDSHOE IS A LITTLE BIT MORE  
8 TALKATIVE THAN HE USUALLY IS, IT DOES NOT INDICATE  
9 IN ANY WAY THAT ERIC ANDERSON WAS TALKING TO HIM  
10 ABOUT THIS CASE. IT RATHER SHOWS THAT  
11 BRANDON HANDSHOE, WHO HAS BEEN ABANDONED BY  
12 VALERIE PERETTI AND APOLLO HUHNN WHEN THEY WENT TO  
13 EAT, THAT BRANDON HANDSHOE IS DESPERATE TO HAVE  
14 SOMEBODY TO TALK TO. HE MAY BE MORE TALKATIVE THAN  
15 USUAL. BUT NONE OF THESE CALLS INDICATE THAT HE AND  
16 ERIC ANDERSON ARE TALKING ANYTHING ABOUT THIS  
17 PARTICULAR HOMICIDE.

18 THE CALLS AT 10 O'CLOCK, 10:58. AND,  
19 AGAIN, AT 10:58, THE CELL PHONE SITES ARE AGAIN IN  
20 THE POWAY -- IN THE MAST BOULEVARD AREA. THE  
21 PROSECUTION WILL ARGUE THAT THESE ARE THE CALLS THAT  
22 RELATE TO THE PICKING UP OF THE BAGS THAT WERE  
23 SUPPOSEDLY LEFT THERE.

24 WELL, YOU HEARD MR. HANDSHOE SAY INITIALLY,  
25 "I DON'T THINK IT WAS THE SAME NIGHT THAT HE PICKED  
26 UP THE BAGS. I THINK IT WAS ANOTHER NIGHT."

27 AND THE ACTUAL CELL SITE INFORMATION DOES  
28 NOT BEAR OUT THE FACT THAT ERIC ANDERSON EVER, ON

1 THAT NIGHT OR ON THE 15TH, EVER WENT TO PICK UP THE  
2 BAGS.

3 I APOLOGIZE, I KNOW THAT MOST OF YOU CAN'T  
4 SEE IT, BUT THIS IS SOMETHING, OBVIOUSLY, YOU'RE  
5 GOING TO HAVE IN THE DELIBERATION ROOM. AND WHAT I  
6 WANT TO DO HERE, LADIES AND GENTLEMEN, IS JUST TO  
7 TALK A LITTLE BIT ABOUT: LET'S ASSUME THE D.A.'S  
8 THEORY IS CORRECT. LET'S ASSUME FOR THE MOMENT THAT  
9 IT'S CORRECT, AND SEE IF THEY CAN PROVE IT USING  
10 THIS MAP.

11 WHAT DO WE KNOW ABOUT THE AREA ABOUT --  
12 LET'S SAY AROUND NOON, WHERE THE 12:09 CALL WAS  
13 MADE. IT WAS MADE FROM THIS PARTICULAR -- WHERE WAS  
14 IT PICKED UP? IN THE AREA OF THE CELL SITE IN  
15 QUAIL CANYON. WE KNOW THAT THAT WOULD BE THE CELL  
16 SITE THAT WOULD PICK UP A CALL MADE FROM  
17 BRANDON HANDSHOE'S HOUSE, BUT IT WOULD LIKEWISE PICK  
18 UP A CALL MADE FROM TERESA COKE'S HOUSE.

19 WE HAVE HERE THE BRUCKER HOME. LET'S  
20 ASSUME, BASED ON THESE PHONE RECORDS, THAT  
21 MR. ANDERSON WAS IN THE VICINITY AT THE BRUCKER  
22 RESIDENCE AROUND 2:25. 2:25 IS WHEN MR. BRUCKER WAS  
23 SHOT.

24 \* YOU SHOULD NOTE THAT NOWHERE IN ANY, ANY  
25 CELL SITE RECORDS ARE ANY CALLS ON MR. ANDERSON'S  
26 CELL PHONE REGISTERED TO THE CELL SITE NEAR THE  
27 BRUCKER RESIDENCE, WHICH IS A COMPLETELY DIFFERENT  
28 CELL SITE THAT DIDN'T PICK UP ANY CALLS FROM

MR. ANDERSON'S PHONE.

LET'S ASSUME HE WAS HERE AT 2:25. LET'S ASSUME IT HAPPENED LIKE BRANDON HANDSHOE SAID: HE WAS SITTING IN THE CAR, THEY COME RUNNING BACK, AND THEY TAKE OFF.

WHAT DOES BRANDON HANDSHOE TELL YOU? THAT THEY GOT IN THE CAR AND THEY DIDN'T GO BACK TO THE PECAN PARK MOBILE HOME PARK. FOR SOME REASON, HE HAD MR. ANDERSON DRIVE HIM ALL THE WAY TO THE FAY HOME IN DUNBAR LANE. DOESN'T REMEMBER WHETHER THEY TOOK THE 8 OR SOME OTHER ROUTE.

BUT WE HAVE THE HOMICIDE OCCURRING AT 2:25, AND THEN YOU CAN IMAGINE ALL THE PANDEMONIUM IS ALONG WITH IT: PEOPLE HAVE TO GET BACK IN THE CAR, THEY HAVE TO GET OUT, TRAVELING ALL THIS DISTANCE, ALL THE WAY OVER HERE TO DUNBAR LANE, THEN DOING SOMETHING AT DUNBAR LANE, LETTING BRANDON HANDSHOE OUT OF THE CAR, DOING SOMETHING ELSE, APPARENTLY DOING SOME TALKING, THEN PRESUMABLY COMING BACK IN THIS DIRECTION, BECAUSE APOLLO HUHN GETS DROPPED OFF AT SOME POINT.

WE DON'T KNOW EXACTLY WHERE HE WAS DROPPED OFF, HOW HE WAS DROPPED OFF, BUT HE GETS DROPPED OFF, BECAUSE VALERIE PERETTI SAYS HE ENDS UP BACK AT BRANDON HANDSHOE'S HOUSE.

SO WE'VE GOT THEM GOING ALL THE WAY OVER THERE, ALL THE WAY TO THE FAY HOME, AND THEN COMING ALL THE WAY BACK HERE, AND THEN GOING ALL THE WAY UP

\* *get to mention it if all of all was  
leaves from my grandpa's place to go to mine, then on this route!*

HERE AND BACK UP HERE IN LESS THAN HALF AN HOUR.

LADIES AND GENTLEMEN, AROUND THREE O'CLOCK IN THE AFTERNOON -- SO IN THE AFTERNOON TRAFFIC -- THAT'S A LOT OF AREA TO COVER IN LESS THAN HALF AN HOUR.

AND THE SAME THING APPLIES WHEN YOU LOOK AT THIS CELL SITE MAP IN RELATION TO BRANDON SUPPOSEDLY -- IF ERIC ANDERSON IS SUPPOSEDLY PICKING UP THE BAGS LATER THAT EVENING.

WHAT DO WE KNOW FROM THOSE CALLS? WE KNOW THAT AT 10:08, 10:09 AND 10:10, HE'S WAY UP HERE IN POWAY. HE'S AT HIS HOUSE. NOW, IT'S THE PROSECUTION'S THEORY THAT HE THEN DRIVES DOWN, I'M ASSUMING PICKS UP THE BAGS AT BRANDON HANDSHOE'S HOUSE, AND THEN LEAVES.

LET'S FOLLOW HIS ROUTE. COMES DOWN THE 15, COMES ACROSS, ACROSS HERE. THE NEXT CALLS ARE PICKED UP IN THE AREA OF MAST BOULEVARD. AND THEN THE FOLLOWING CALL -- SO THE CALL AT 10:58. AS HE'S DRIVING, THE CALL AT 10:58, WHICH IS THIS PARTICULAR ONE, IT STARTS AT THE MAST BOULEVARD CELL SITE, BUT IT IS THEN PICKED UP AND ENDS AT THE RIO MARIA CELL SITE.

\* WHAT DOES THAT SHOW, LADIES AND GENTLEMEN? THAT MR. ANDERSON IS NOT HEADED EAST AND SOUTHBOUND TO THE HANDSHOE HOME. RATHER, HE IS HEADED NORTHBOUND. THIS IS A CELL SITE THAT FINISHES OFF THAT CALL THAT HE MAKES TO BRANDON HANDSHOE. HE IS

*this is  
what he  
told.*

*#3  
chose no  
grind  
that he  
again at  
what he  
stay in  
doing!*

Q. GOOD MORNING, MR. STEVENS.

A. MORNING.

Q. MR. STEVENS, COULD YOU TELL US HOW YOU'RE CURRENTLY EMPLOYED.

A. I OWN SAFE AND SOUND ALARM COMPANY.

Q. AND COULD YOU TELL US A LITTLE BIT ABOUT SAFE AND SOUND ALARM COMPANY.

A. WE INSTALL SECURITY SYSTEMS, CLOSED-CIRCUIT T.V., AND ACCESS CONTROL, CLOSED CIRCUIT. WE MONITOR THOSE.

Q. SO YOU INSTALL THESE SYSTEMS, DID YOU SAY?

A. YES, MA'AM.

Q. AND HOW LONG HAVE YOU BEEN WITH SAFE AND SOUND COMPANY?

A. I STARTED THE COMPANY IN 1982.

Q. 1982?

A. YES, MA'AM.

Q. AND ARE YOU THE SOLE PROPRIETOR OF THE COMPANY?

A. YES, MA'AM.

Q. AND AS THE SOLE PROPRIETOR OF THE COMPANY, WHAT ARE YOUR DUTIES?

A. WE'RE A SMALL COMPANY, SO I DO MOST OF THE INSTALLATIONS AND SERVICE WORK MYSELF. I ALSO MANAGE THE BUSINESS, DO SALES, AND PRETTY MUCH WEAR ALL THE HATS.

Q. AND ARE YOU ONE OF THE PERSONS IN THE COMPANY IN CHARGE OF KEEPING BUSINESS RECORDS?

A. YES, MA'AM.

Q. AND DO YOU KEEP RECORDS OF ALL THE LOCATIONS IN WHICH YOU HAVE INSTALLED AND ARE MAINTAINING ALARM SYSTEMS?

A. YES.

Q. AND DO YOU DO THAT IN THE REGULAR COURSE OF YOUR BUSINESS?

A. YES, I DO.

Q. NOW, MR. STEVENS, DO YOU CURRENTLY PROVIDE ALARM MAINTENANCE AT AN ADDRESS OF 8122 MEDILL AVENUE?

A. I WILL REFER TO MY NOTE, HERE.

YES, 8122 MEDILL, I HAVE AN ACCOUNT THERE.

Q. MEDILL?

A. RIGHT.

Q. DID YOU INSTALL THE ALARM AT THAT PARTICULAR RESIDENCE?

A. YES, I DID.

Q. DO YOU RECALL WHEN YOU INSTALLED THE ALARM?

A. IT WAS -- AS I RECALL, IT WAS AUGUST OF 2000.

Q. AUGUST OF 2000?

A. YES, MA'AM.

Q. AND SINCE AUGUST OF 2000, SINCE THE ALARM WAS INSTALLED AT THAT ADDRESS, HAS YOUR COMPANY BEEN IN CHARGE OF MAINTAINING THE ALARM AT THAT ADDRESS?

A. WE MONITOR THE ALARM AT THAT ADDRESS, AND PROVIDE MAINTENANCE WHEN NECESSARY.



1 Q. WHEN YOU SAY "MONITOR," WHAT DO YOU MEAN?

2 A. WHEN THE ALARM SYSTEM IS TRIGGERED, WHETHER  
3 IT'S FOR A TROUBLE OR ALARM CONDITION, WE GET AN  
4 ELECTRONIC SIGNAL AT OUR CENTRAL STATION. THE  
5 STATION THEN INTERPRETS THE SIGNAL AND TAKES ACTION,  
6 WHETHER IT'S AN ALARM, WE CALL THE POLICE, CALL THE  
7 PREMISES AND SO FORTH.

8 Q. MR. STEVENS, I'M HAVING TROUBLE HEARING YOU  
9 BACK HERE. I DON'T KNOW IF THE JURORS ARE. YOU CAN  
10 MOVE THE MICROPHONE A LITTLE CLOSER OR MOVE CLOSER  
11 TO THE MICROPHONE.

12 COULD I PERHAPS ASK IF THERE ARE QUESTIONS  
13 THAT NEED TO BE REPEATED BASED ON NOT HAVING HEARD  
14 RESPONSES? OKAY.

15 THE COURT: SO FAR SO GOOD. THANK YOU.

16 MS. VANDENBOSCH: OKAY.

17 BY MS. VANDENBOSCH:

18 Q. SO. MR. STEVENS, WHEN AN ALARM SYSTEM AT A  
19 CERTAIN LOCATION IS TRIGGERED, IN OTHER WORDS, IT'S  
20 SET OFF, DOES SAFE AND SOUND ALARM COMPANY KEEP  
21 RECORDS OF THAT?

22 A. YES, MA'AM.

23 Q. NOW, YOU INDICATED THAT YOU HAD INSTALLED  
24 THE ALARM AT 8122 MEDILL BACK IN AUGUST OF 2000; IS  
25 THAT RIGHT?

26 A. THAT'S CORRECT.

27 Q. WERE YOU MONITORING THE ALARM SYSTEM AT  
28 THAT ADDRESS IN APRIL OF 2003?

1 A. YES.

2 Q. AND HAVE YOU HAD AN OPPORTUNITY MORE  
3 RECENTLY TO REVIEW THE RECORDS YOU KEEP IN THE  
4 COURSE OF YOUR BUSINESS REGARDING ALARM ACTIVITY AT  
5 THAT ADDRESS?

6 A. YES.

7 Q. AND WERE YOU SPECIFICALLY ASKED BY A MEMBER  
8 OF THE ALTERNATE PUBLIC DEFENDER'S OFFICE TO REVIEW  
9 ALARM ACTIVITY AT THAT ADDRESS FOR THE MONTH OF  
10 APRIL 2003?

11 A. YES, I WAS.

12 Q. AND DO YOU RECALL THE SPECIFIC DATES YOU  
13 WERE ASKED TO REVIEW?

14 A. I BELIEVE IT WAS THE ENTIRE MONTH OF APRIL,  
15 2003.

16 Q. THE ENTIRE MONTH OF APRIL, 2003?

17 A. YES, MA'AM.

18 Q. OKAY. AND WERE YOU -- DID YOU, IN FACT,  
19 REVIEW THOSE RECORDS?

20 A. THE RECORDS ARE KEPT AT THE CENTRAL  
21 STATION, AND I REQUESTED THAT THE CENTRAL STATION  
22 SUPERVISOR REVIEW THOSE RECORDS. SHE DID.

23 Q. AND DID YOU GET A RESPONSE TO YOUR REQUEST?

24 A. YES, MA'AM.

25 Q. DID THE RECORDS OF SAFE AND SOUND ALARM  
26 COMPANY SHOW ANY RECORDS OF ANY ALARM BEING  
27 TRIGGERED AT 8122 MEDILL AVENUE DURING THE MONTH OF  
28 APRIL?

MR. ROAKE, ANY THOUGHTS?

MR. ROAKE: NO, YOUR HONOR. I'M PREPARED TO GO ON FRIDAY, BUT MONDAY WOULD BE FINE.

THE COURT: ONE OF THE -- KIND OF THE PROBLEMS -- NO, I GUESS IT'S NOT A PROBLEM.

MS. VANDENBOSCH, WHAT ARE YOUR THOUGHTS?

MS. VANDENBOSCH: MONDAY IS FINE.

THE COURT: MS. ROSENFELD, YOUR THOUGHTS ARE PROBABLY MORE CRUCIAL.

MS. ROSENFELD: I WAS REALLY HOPING THAT IT WOULD BE FRIDAY, BECAUSE THAT WOULD, OBVIOUSLY, GIVE ME MORE TIME TO REVIEW WHAT'S HAPPENED SO FAR, BUT ALSO BECAUSE I'M CONCERNED ABOUT GETTING ALL THE JURY INSTRUCTIONS FINALIZED. I ASSUME WE WILL BE DOING THAT PROBABLY WEDNESDAY.

THE COURT: THAT'S WHAT I'M HOPING FOR.

WE'VE DONE SOME WORK ON THE JURY INSTRUCTIONS, AS YOU KNOW, AND I'M HOPEFUL THAT IT'S NOT GOING TO TAKE MORE THAN AN HOUR TO FINISH UP ANY ARGUMENT ON REMAINING JURY INSTRUCTIONS.

IF YOU'RE SAYING YOU WERE HOPING FRIDAY WOULD BE ARGUMENT, IT MAY BE THAT THAT'S THE WAY IT UNFOLDS AFTER WE DETERMINE THE LENGTH OF TIME THAT'S REQUIRED FOR REBUTTAL AND ACTUALLY STRUCTURING THE JURY.

BUT RIGHT NOW, IN TERMS OF THE GOLD PANEL BEING FIRST, YOU'RE WILLING TO CONCEDE TO THAT?

MS. ROSENFELD: YES.

THE COURT: MR. MCALLISTER?

MR. MCALLISTER: MAKES NO DIFFERENCE TO ME, JUDGE.

THE COURT: ALL RIGHT. MR. ROAKE, ANYTHING YOU WOULD LIKE TO RAISE BEFORE YOU DEPART, AND MR. LEE?

MR. ROAKE: NO, YOUR HONOR.

THE COURT: MS. VANDENBOSCH, MR. BRADLEY?

MS. VANDENBOSCH: YES, THERE IS, YOUR HONOR.

AS THE COURT WILL RECALL, PROBABLY ABOUT A WEEK AGO, I -- AND I WANTED TO ASK THAT QUESTION ON THE RECORD -- I SPECIFICALLY ASKED MR. MCALLISTER IF THERE HAD BEEN ANY FOLLOW-UP INVESTIGATION REGARDING -- BY HIS OFFICE OR THE SHERIFF'S DEPARTMENT REGARDING THE ALLEGED ATTEMPTED BURGLARY AT 8122 MEDILL, AND, LIKEWISE, WHETHER THERE HAD BEEN ANY FOLLOW-UP INVESTIGATION AS TO THE ALLEGED BURGLARY UP IN THE DICTIONARY HILL AREA.

AND MR. MCALLISTER REPRESENTED TO ME THAT THERE WAS -- THAT THERE HAD BEEN SOME FOLLOW-UP INVESTIGATION DONE, BUT NOTHING OF CONSEQUENCE -- NOTHING OF ANY CONSEQUENCE HAD RESULTED FROM THAT INVESTIGATION.

WE HAVE NOT RECEIVED ANY TYPE OF A REPORT CONCERNING ANYTHING THAT WAS DONE, EVEN THOUGH MR. JACK STEVENS INDICATED HE HAD SPOKEN WITH SOMEBODY FROM THE DISTRICT ATTORNEY'S OFFICE AND TOLD THEM THERE WAS NO ALARM TRIGGERED AROUND THAT TIME, BUT WE HAVE RECEIVED NO REPORT OF THAT.

1 A. YES.

2 Q. AND YOU SAID IT WAS A .45?

3 A. YES.

4 Q. OKAY. AND YOU KNOW IT WAS A .45 HOW?

5 A. BECAUSE I WAS THE ONE THAT FOUND IT.

6 Q. YOU WERE THE ONE THAT FOUND IT?

7 A. YES.

8 Q. SO IT WOULD BE YOUR TESTIMONY, AS YOU'RE  
9 SITTING HERE TODAY, THAT YOU FOUND A .45 THAT ERIC  
10 ANDERSON HAD IN HIS POSSESSION ON APRIL 14<sup>TH</sup>?

11 A. YES. I DID.

12 Q. AND YOU FOUND IT WHERE?

13 A. IN ANOTHER HOUSE THAT ME AND HIM  
14 BURGLARIZED.

15 Q. SO YOUR TESTIMONY, AS YOU SIT HERE TODAY,  
16 THAT NOT ONLY DID YOU AND ERIC ANDERSON GO TO A  
17 HOUSE IN THE AREA OF MR. BRUCKER'S HOUSE A DAY OR  
18 TWO BEFORE AND ACTIVATE AN ALARM, BUT YOU ALSO  
19 PARTICIPATED IN ANOTHER BURGLARY?

20 A. THAT'S RIGHT.

21 Q. AND YOU ALSO TOLD DETECTIVE GOLDBERG ABOUT  
22 THAT BURGLARY; IS THAT RIGHT?

23 A. THAT'S RIGHT.

24 Q. AND YOU TOLD HIM THAT ON APRIL 11<sup>TH</sup>?

25 A. THAT'S RIGHT.

26 Q. AND AFTER YOUR FREE TALK, YOU TOOK  
27 DETECTIVE GOLDBERG AND THE REST OF THE GROUP TO THE  
28 AREA WHERE YOU REMEMBERED THE BURGLARY TAKING PLACE?

1 A. THAT'S RIGHT.

2 Q. AND YOU POINTED OUT AN AREA IN SPRING  
3 VALLEY CALLED DICTIONARY HILL?

4 A. THAT'S RIGHT.

5 Q. AND YOU SPECIFICALLY TOLD THEM THAT A .45  
6 HAD BEEN TAKEN FROM THAT BURGLARY?

7 A. THAT'S RIGHT.

8 Q. AND YOU TOLD THEM THAT HAD HAPPENED A  
9 COUPLE DAYS BEFORE APRIL 14<sup>TH</sup>?

10 A. THAT'S RIGHT.

11 Q. DO YOU RECALL, GOING TO THE BURGLARY IN THE  
12 AREA OF DICTIONARY HILL, DO YOU RECALL APPROXIMATELY  
13 WHAT TIME THAT WAS?

14 A. AROUND AFTERNOON.

15 THE COURT: THE ACTUAL BURGLARY OR THE REVISIT  
16 WITH THE DETECTIVES?

17 MS. VANDENBOSCH: SORRY.

18 BY MS. VANDENBOSCH:

19 Q. NO, THE ACTUAL BURGLARY. DO YOU -- OF THE  
20 HOUSE THAT YOU DESCRIBED ON DICTIONARY HILL, FROM  
21 WHICH THE .45 WAS TAKEN, DO YOU RECALL WHAT TIME OF  
22 DAY THAT WAS?

23 A. AROUND, LIKE, 1:00 OR 2:00.

24 Q. AROUND, LIKE, 1:00 OR 2:00?

25 THE COURT: OF THE EVENING --

26 THE WITNESS: IN THE EVENING.

27 BY MS. VANDENBOSCH:

28 Q. IN THE EVENING?

1 OFFICIAL REQUEST THAT, FROM NOW ON, WE DO THE  
2 SIDEBARS AS WE WERE -- AS WE DID THIS LAST ONE, IN  
3 OTHER WORDS, OUTSIDE THE COURTROOM? BECAUSE I HAD  
4 THE DISTINCT IMPRESSION THAT IF WE TALKED LOUD  
5 ENOUGH FOR EVERYONE TO HEAR, THAT AT THE VERY LEAST  
6 THE JURORS OVER ON THE RIGHT-HAND SIDE OF THE  
7 COURTROOM COULD ALSO HEAR US.

8 THE COURT: SURE.

9 AND, MR. ROAKE, I DON'T WANT TO BLOW THIS  
10 OUT OF PROPORTION, BUT PLEASE MONITOR YOURSELF. YOU  
11 SEEM TO BE AFFIRMING THE GOOD STATEMENTS OF THIS  
12 WITNESS A LITTLE TOO VISIBLY WITH YOUR STATEMENTS.

13 MR. ROAKE: YES, YOUR HONOR. I'LL BE MINDFUL OF  
14 THAT.

15 THE COURT: THANK YOU.

16 MS. ROSENFELD: YOUR HONOR, I WANTED TO MENTION,  
17 I HAVEN'T SEEN MR. WILLIAMS, AND MR. HANDSHOE  
18 OBVIOUSLY IS -- I DON'T KNOW IF HE DECLINED TO BE  
19 HERE THIS MORNING, BUT PERHAPS SOMEBODY SHOULD LET  
20 HIM KNOW THAT MR. HANDSHOE IS HERE.

21 THE COURT: DO YOU WANT TO? I'M NOT GOING TO  
22 CALL HIM. I'M NOT SURE WHAT HIS FUNCTION WOULD BE.

23 MS. ROSENFELD: JUST SUGGESTING IT.

24 (LUNCHEON RECESS.)  
25  
26  
27  
28

1 EL CAJON, CALIFORNIA, JUNE 3, 2005, 1:30 P.M.

2 --000--

3 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT,  
4 OUTSIDE THE PRESENCE OF BOTH THE GOLD AND LAVENDER  
5 JURIES:)

6 THE COURT: WE'RE IN SESSION, OUTSIDE THE  
7 PRESENCE OF THE BOTH PANELS. MR. HANDSHOE IS NOT IN  
8 THE COURTROOM. MR. LEE IS HERE, MR. ANDERSON,  
9 MR. HUHN. EACH OF OUR ATTORNEYS ARE PRESENT.

10 MS. VANDENBOSCH.

11 MS. VANDENBOSCH: YES, YOUR HONOR, DURING THE  
12 APRIL 11<sup>TH</sup> FREE TALK, MR. HANDERSON -- MR. HANDSHOE  
13 MENTIONS TWO INCIDENTS WHICH THE SHERIFF'S  
14 DEPARTMENT AND THE DISTRICT ATTORNEY'S OFFICE THEN  
15 FOLLOWS UP ON. HE MENTIONS AN ALLEGED ATTEMPTED  
16 BURGLARY IN THE AREA OF THE BRUCKER -- THE BRUCKER  
17 RESIDENCE THE DAY OR A COUPLE DAYS BEFORE  
18 MR. BRUCKER WAS KILLED. AND THEN HE ALSO MENTIONS A  
19 BURGLARY OF A HOUSE ON DICTIONARY HILL, IN THE  
20 SPRING VALLEY AREA, WHERE SUPPOSEDLY A .45 WAS  
21 STOLEN.

22 IT IS CLEAR FROM THE FREE TALK, THE  
23 DISCUSSIONS AT THE END OF THE FREE TALK, THAT THE  
24 SHERIFF'S AND THE DISTRICT ATTORNEY'S OFFICE TAKE  
25 MR. HANDSHOE, HE POINTS THE HOUSE OUT ON MEDILL  
26 AVENUE, WHERE THE -- WHERE THE ATTEMPTED BURGLARY  
27 ALLEGEDLY OCCURS. AND HE ALSO POINTS OUT THE AREA  
28 AND GIVES THE DATE OF THE ALLEGED BURGLARY IN SPRING

2<sup>nd</sup> Burg Dec 11-1

Handshoe invest

P.A. disp.

found similar Burg for Report

Issues

4623

4624

1 Q. NOW, MR. HANDSHOE ALSO TALKED TO YOU ABOUT  
2 ANOTHER BURGLARY THAT HE HAD SUPPOSEDLY COMMITTED  
3 WITH ERIC ANDERSON; IS THAT RIGHT?

4 A. YES, MA'AM.

5 Q. AND DO YOU RECALL SPECIFICALLY WHAT HE TOLD  
6 YOU ABOUT THAT?

7 A. IT WAS IN THE GENERAL AREA OF, I WOULD SAY,  
8 JAMACHA BOULEVARD, SWEETWATER ROAD, APPLE ROAD, AND  
9 LA PRESA AVENUE.

10 Q. DID HE DESCRIBE THE AREA BY ANY PARTICULAR  
11 NAME?

12 A. HE USED THE WORD "DICTIONARY HILL," BUT THE  
13 PLACE HE TOOK US TO WAS NOT ON THE HILL; IT WAS DOWN  
14 BELOW IT, AT THE BOTTOM.

15 Q. DID HE INDICATE TO YOU WHETHER SOME ITEMS  
16 HAD BEEN TAKEN FROM A RESIDENCE IN THAT AREA?

17 A. YES, MA'AM.

18 Q. AND DID HE INDICATE TO YOU THAT WAS A  
19 RESIDENCE WHERE HE HAD FOUND A .45?

20 A. YES, MA'AM.

21 Q. AND DID HE INDICATE TO YOU THAT THERE WERE  
22 ALSO SOME ADDITIONAL ITEMS THAT WERE TAKEN?

23 A. YES, MA'AM.

24 Q. SOME JEWELRY?

25 A. YES, MA'AM.

26 Q. AND A COUPLE OF GUITARS?

27 A. YES, MA'AM.

28 Q. AS YOU DID WITH THE MEDILL STREET ATTEMPTED

1 BURGLARY, DID YOU ALSO ASK MR. HANDSHOE AFTER THE  
2 FREE TALK TO COME WITH YOU IN YOUR VEHICLE AND POINT  
3 OUT THE LOCATION WHERE THIS OTHER BURGLARY HAD  
4 SUPPOSEDLY OCCURRED?

5 A. YES, MA'AM, WE DID.

6 Q. AND DID HE, IN FACT, GO WITH YOU?

7 A. HE DID.

8 Q. AND WAS HE ABLE TO LOCATE THE GENERAL AREA  
9 WHERE HE REMEMBERED THIS BURGLARY HAVING OCCURRED?

10 A. THE AREA, YES.

11 Q. AND DID HE TELL YOU WHEN THIS BURGLARY HAD  
12 SUPPOSEDLY OCCURRED?

13 A. I BELIEVE IT WAS WITHIN THE WEEK PRIOR TO  
14 THE HOMICIDE.

15 Q. PRIOR TO THE HOMICIDE. SO SOMEWHERE WITHIN  
16 A FEW DAYS PRIOR TO APRIL 14TH OF 2003?

17 A. THAT WOULD BE CORRECT.

18 Q. AND WOULD IT BE FAIR TO SAY THAT, AFTER  
19 HEARING THAT FROM MR. HANDSHOE BACK ON APRIL 11TH OF  
20 2003, YOU CHECKED POLICE RECORDS TO SEE WHETHER  
21 THERE WAS ANY INDEPENDENT REPORT CONCERNING SUCH A  
22 BURGLARY?

23 A. I DID.

24 Q. DID YOU FIND ANYTHING?

25 A. WE FOUND A BURGLARY THAT WAS SIMILAR IN  
26 THAT AREA.

27 Q. AND DID YOU HAVE ANY REPORT CONCERNING  
28 THAT?

XX  
TYPO  
2005

? ! ? XX

*W/hold Grid*

4625

1 A. I TURNED THE INFORMATION OVER TO MR. BAKER  
2 FOR FOLLOW-UP.

3 Q. YOU TURNED IT OVER TO MR. BAKER?

4 A. YES.

5 Q. WHEN DID YOU TURN IT OVER?

6 A. WHEN I GOT IT BACK, WHATEVER DAY -- IT WAS  
7 THE 12TH, SO I WOULD SAY WHEN CRIME ANALYSIS  
8 FINISHED UP GIVING ME THE INFORMATION.

9 Q. SO ARE WE TALKING ABOUT APRIL OF 2005, YOU  
10 GOT ADDITIONAL INFORMATION?

11 A. YES, MA'AM.

12 Q. AND YOU GAVE THAT TO MR. MCALLISTER AT THAT  
13 TIME?

14 A. NO, I GAVE IT TO MR. BAKER.

15 Q. GAVE IT TO MR. BAKER.

16 DO YOU RECALL THE ADDRESS OF THAT  
17 PARTICULAR BURGLARY?

18 A. NO.

19 Q. NOW, I'M GOING TO GO BRIEFLY, DETECTIVE  
20 GOLDBERG, TO YOUR INTERVIEWS OF VALERIE PERETTI.

21 A. YES, MA'AM.

22 Q. NOW, YOU INTERVIEWED HER A COUPLE OF TIMES;  
23 IS THAT RIGHT?

24 A. I DID.

25 Q. AND WAS SHE THE FIRST -- WERE YOU THE  
26 FIRST, TO YOUR KNOWLEDGE, LAW ENFORCEMENT OFFICER  
27 WHO HAD INTERVIEWED HER?

28 A. YES, MA'AM.

*lie*

*(P) \*\*\**

*Just lie about very early 1990s*

4626

1 Q. AND YOU'VE INDICATED EARLIER THAT THAT WAS  
2 ON MAY 12TH OF 2003?

3 A. YES, MA'AM.

4 Q. AND THAT WAS AT THE SANTEE SHERIFF'S  
5 STATION?

6 A. YES, MA'AM.

7 Q. NOW, IN THE COURSE OF THAT INTERVIEW, DID  
8 YOU SPECIFICALLY ASK MS. PERETTI TO DESCRIBE THE WIG  
9 THAT MR. ANDERSON WAS SUPPOSEDLY WEARING?

10 A. YES, MA'AM.

11 Q. AND DO YOU RECALL HOW SHE DESCRIBED IT TO  
12 YOU?

13 A. SALT AND PEPPER.

14 Q. SHE DESCRIBED IT AS A SALT-AND-PEPPER WIG?

15 A. I BELIEVE SO, YES, MA'AM.

16 MS. VANDENBOSCH: YOUR HONOR, I'M SORRY, I NEED  
17 JUST A MOMENT.

18 THE COURT: SURE.

19 MS. VANDENBOSCH: I WAS STARING RIGHT AT IT.  
20 BY MS. VANDENBOSCH:

21 Q. ARE YOU SURE ABOUT THAT?

22 A. TO THE BEST OF MY RECOLLECTION.

23 Q. FROM WHAT YOU REMEMBER, WAS THAT STATEMENT  
24 OF VALERIE PERETTI ON MAY 12TH RECORDED?

25 A. IT WAS.

26 Q. AND WAS A TRANSCRIPT MADE OF THAT  
27 INTERVIEW?

28 A. IT WAS.

1 MR. ROAKE, ANY THOUGHTS?

2 MR. ROAKE: NO, YOUR HONOR. I'M PREPARED TO GO  
3 ON FRIDAY, BUT MONDAY WOULD BE FINE.

4 THE COURT: ONE OF THE -- KIND OF THE  
5 PROBLEMS -- NO, I GUESS IT'S NOT A PROBLEM.

6 MS. VANDENBOSCH, WHAT ARE YOUR THOUGHTS?

7 MS. VANDENBOSCH: MONDAY IS FINE.

8 THE COURT: MS. ROSENFELD, YOUR THOUGHTS ARE  
9 PROBABLY MORE CRUCIAL.

10 MS. ROSENFELD: I WAS REALLY HOPING THAT IT  
11 WOULD BE FRIDAY, BECAUSE THAT WOULD, OBVIOUSLY, GIVE  
12 ME MORE TIME TO REVIEW WHAT'S HAPPENED SO FAR, BUT  
13 ALSO BECAUSE I'M CONCERNED ABOUT GETTING ALL THE  
14 JURY INSTRUCTIONS FINALIZED. I ASSUME WE WILL BE  
15 DOING THAT PROBABLY WEDNESDAY.

16 THE COURT: THAT'S WHAT I'M HOPING FOR.

17 WE'VE DONE SOME WORK ON THE JURY  
18 INSTRUCTIONS, AS YOU KNOW, AND I'M HOPEFUL THAT IT'S  
19 NOT GOING TO TAKE MORE THAN AN HOUR TO FINISH UP ANY  
20 ARGUMENT ON REMAINING JURY INSTRUCTIONS.

21 IF YOU'RE SAYING YOU WERE HOPING FRIDAY  
22 WOULD BE ARGUMENT, IT MAY BE THAT THAT'S THE WAY IT  
23 UNFOLDS AFTER WE DETERMINE THE LENGTH OF TIME THAT'S  
24 REQUIRED FOR REBUTTAL AND ACTUALLY STRUCTURING THE  
25 JURY.

26 BUT RIGHT NOW, IN TERMS OF THE GOLD PANEL  
27 BEING FIRST, YOU'RE WILLING TO CONCEDE TO THAT?

28 MS. ROSENFELD: YES.

1 THE COURT: MR. MCALLISTER?

2 MR. MCALLISTER: MAKES NO DIFFERENCE TO ME,  
3 JUDGE.

4 THE COURT: ALL RIGHT. MR. ROAKE, ANYTHING YOU  
5 WOULD LIKE TO RAISE BEFORE YOU DEPART, AND MR. LEE?

6 MR. ROAKE: NO, YOUR HONOR.

7 THE COURT: MS. VANDENBOSCH, MR. BRADLEY?

8 MS. VANDENBOSCH: YES, THERE IS, YOUR HONOR.

9 AS THE COURT WILL RECALL, PROBABLY ABOUT A  
10 WEEK AGO, I -- AND I WANTED TO ASK THAT QUESTION ON  
11 THE RECORD -- I SPECIFICALLY ASKED MR. MCALLISTER IF  
12 THERE HAD BEEN ANY FOLLOW-UP INVESTIGATION  
13 REGARDING -- BY HIS OFFICE OR THE SHERIFF'S  
14 DEPARTMENT REGARDING THE ALLEGED ATTEMPTED BURGLARY  
15 AT 8122 MEDILL, AND, LIKEWISE, WHETHER THERE HAD  
16 BEEN ANY FOLLOW-UP INVESTIGATION AS TO THE ALLEGED  
17 BURGLARY UP IN THE DICTIONARY HILL AREA.

18 AND MR. MCALLISTER REPRESENTED TO ME THAT  
19 THERE WAS -- THAT THERE HAD BEEN SOME FOLLOW-UP  
20 INVESTIGATION DONE, BUT NOTHING OF CONSEQUENCE --  
21 NOTHING OF ANY CONSEQUENCE HAD RESULTED FROM THAT  
22 INVESTIGATION.

23 WE HAVE NOT RECEIVED ANY TYPE OF A REPORT  
24 CONCERNING ANYTHING THAT WAS DONE, EVEN THOUGH  
25 MR. JACK STEVENS INDICATED HE HAD SPOKEN WITH  
26 SOMEBODY FROM THE DISTRICT ATTORNEY'S OFFICE AND  
27 TOLD THEM THERE WAS NO ALARM TRIGGERED AROUND THAT  
28 TIME, BUT WE HAVE RECEIVED NO REPORT OF THAT.

Q. DURING THAT FREE TALK, DID MR. HANDSHOE  
MAKE ANY MENTION OF A PARTICULAR ATTEMPTED BURGLARY  
IN THE AREA OF MEDILL AVENUE?

A. YES, MA'AM.

Q. AND WHAT DID HE SAY IN THAT REGARD?

A. THAT HE AND MR. ANDERSON HAD GONE TO AN  
ADDRESS NEAR THE VICTIM'S AND ATTEMPTED TO BREAK IN.

Q. AND DID HE -- WAS HE SPECIFIC AT ALL AS TO  
WHAT HAD HAPPENED DURING THE ATTEMPT TO BREAK IN?

A. YES, MA'AM.

Q. AND WHAT HAD HAPPENED?

A. HE TOLD US THAT MR. ANDERSON HAD KICKED IN  
THE DOOR.

Q. OKAY. AND DID HE INDICATE TO YOU, AS A  
RESULT OF THE DOOR BEING KICKED IN, THAT ANYTHING  
FURTHER HAPPENED?

A. YES, MA'AM.

Q. AND WHAT HAPPENED?

A. AN ALARM WENT OFF.

Q. AND DID HE INDICATE TO YOU WHEN, IN  
RELATION TO THE BRUCKER HOMICIDE, THIS ATTEMPTED  
BURGLARY HAD SUPPOSEDLY OCCURRED?

A. DAY BEFORE.

Q. AND AT THE END OF YOUR FREE TALK WITH  
MR. HANDSHOE, DID YOU MAKE ANY ATTEMPT TO LOCATE THE  
EXACT ADDRESS WHERE THIS ATTEMPTED BURGLARY HAD  
SUPPOSEDLY OCCURRED?

A. YES, MA'AM.

Q. AND HOW DID YOU DO THAT?

A. WE DROVE MR. HANDSHOE AND HIS ATTORNEY UP  
INTO THE AREA.

Q. UP INTO THE AREA?

A. YES, MA'AM.

Q. AND WHEN YOU SAY "THE AREA," YOU MEAN THE  
AREA OF MEDILL AVENUE?

A. YES, MA'AM.

Q. IS IT MEDILL OR MEDILL?

A. I HAVE NO IDEA.

Q. AND WHEN YOU WENT INTO THAT AREA, WAS  
MR. HANDSHOE, IN FACT, ABLE TO POINT OUT AN EXACT  
HOME WHERE THIS SUPPOSED ATTEMPTED BURGLARY HAD  
OCCURRED?

A. YES, MA'AM.

Q. AND DID YOU TAKE NOTE OF THE ADDRESS OF  
THAT PARTICULAR HOME?

A. I DID.

Q. AND WHAT WAS THE ADDRESS OF THE HOME THAT  
MR. HANDSHOE SHOWED YOU?

A. 8122 MEDILL.

Q. AND DID HE SHOW YOU THAT ADDRESS ON THE  
SAME DAY THAT YOU HAD THE FREE TALK WITH HIM?

A. YES, MA'AM.

MS. VANDENBOSCH: THANK YOU. THAT'S ALL I HAVE  
FOR MR. GOLDBERG.

THE COURT: MR. MCALLISTER.



IN ANY EVENT, NOW I ASK MR. GOLDBERG ON THE  
STAND WHAT I ASSUME TO BE A VERY SAFE QUESTION, AND  
HE MAKES A COMMENT THAT THERE WAS A SIMILAR BURGLARY  
IN THE AREA, AND THAT HE HAS -- HAD THAT REPORT  
SINCE MAY -- EXCUSE ME, APRIL 12TH OR 13TH OF 2005.  
IT'S ALREADY TWO MONTHS AGO, HE GAVE IT TO  
MR. BAKER, AND WE HAVE NOT RECEIVED ANYTHING.

THE COURT: WELL, LET ME START WITH THIS. IT  
APPEARS TO ME, IN RESPONSE TO THOSE QUESTIONS, YOU  
WERE BEING GIVEN A SIGNAL THAT THE PEOPLE DO NOT  
INTEND TO CALL A WITNESS REGARDING PUTTING TWO AND  
TWO TOGETHER.

YES, THERE WAS A BURGLARY, WE'VE CONFIRMED  
IT, 8122 MEDILL. YES, THERE WAS A BURGLARY AT THE  
DICTIONARY HILL AREA. SO, THEREFORE, NO REPORT  
WOULD BE REQUIRED UNDER 1054.

I THINK THE QUESTION NOW SHIFTS: IS THERE  
SOMETHING THAT COULD BE CONCEIVABLY CONSIDERED  
EXCULPATORY THAT HAS BEEN UNCOVERED BY THE PEOPLE AS  
A RESULT OF CHECKING INTO THE ALARM AND CHECKING  
INTO A SIMILAR BURGLARY?

MR. MCALLISTER: WE HAVE -- LET ME BACK UP AND  
DO THE HISTORY ON THIS REAL BRIEFLY.

ANY INFORMATION THAT CAME FROM THE FREE  
TALK THAT WE HAD WITH MR. HANDSHOE WAS ONLY  
INFORMATION AVAILABLE TO US AND USABLE INFORMATION  
IF AND WHEN WE HAD A DEAL.

WE HAD PURSUED GETTING A DEAL, AND THEN, AS

THIS COURT IS WELL AWARE, THERE WAS NO DEAL, SO ANY  
INVESTIGATION INTO ANY OF THOSE ISSUES WAS CURTAILED  
BECAUSE WE WEREN'T -- AS I VIEWED IT, WE WEREN'T  
ENTITLED TO USE THAT INFORMATION.

THEN, OF COURSE, WE ENDED UP WITH A DEAL,  
AND I MADE GENERAL INQUIRY THROUGH COMPUTER REPORTS  
AND THINGS LIKE THAT: IS THERE ANY SPECIFIC  
EVIDENCE OF REPORTS WHICH SUBSTANTIATE THESE  
PARTICULAR CLAIMS? AND THE ANSWER IS NO.

THAT'S WHY WHEN MR. BRADLEY, I BELIEVE IT  
WAS -- I DON'T BELIEVE IT WAS MS. VANDENBOSCH --  
ASKED, "ARE THERE GOING TO BE ANY MORE REPORTS  
REGARDING THESE BURGLARIES OR THINGS THAT HANDSHOE  
SAID?" AND I SAID, "NO, THERE'S NOT." THAT'S STILL  
THE PEOPLE'S POSITION.

MR. BRADLEY: WHAT WAS THE --

THE COURT: GO AHEAD. YOU HAD A QUESTION.

MR. BRADLEY: WHAT DID WE JUST HEAR, THAT  
THERE'S A REPORT SIMILAR TO WHAT MR. HANDSHOE  
DESCRIBED?

MR. MCALLISTER: NOT SIMILAR ENOUGH THAT WE  
COULD BE ABLE TO SAY, YES, THIS IS PROOF OF THAT  
BURGLARY.

THE COURT: I THINK WE HAVE TO KIND OF REFRAME  
THIS IN TERMS OF THE ABSENCE OF SOMETHING THAT  
SUBSTANTIATES THOSE CLAIMS, I THINK AT THIS STAGE  
WOULD CLEARLY BE CONSIDERED EXCULPATORY, IN THE FACT  
THAT IT GOES TO THE CREDIBILITY OF A KEY WITNESS FOR

Even though judge said this, it's still never been heard  
over.

1 THE PROSECUTION.

2 SO IF THE END RESULT WAS, "WE'VE CHECKED  
3 THIS OUT, AND WE CANNOT FIND ANYTHING OTHER THAN A  
4 VAGUELY SIMILAR BURGLARY OVER ON JAMACHA OR  
5 WHATEVER," I THINK THAT SHOULD BE TURNED OVER.

6 MR. MCALLISTER: THAT'S WHAT I SAID, THOUGH.

7 THE COURT: IN TERMS OF THE SIMILARITY IS THERE  
8 ANYTHING THAT YOU CAN PROVIDE SO THAT -- I'M  
9 ASSUMING, MS. VANDENBOSCH, YOU WOULD LIKE TO BE ABLE  
10 TO FRAME A QUESTION TO ONE OF THE INVESTIGATORS, "IS  
11 IT TRUE YOU COULDN'T FIND ANYTHING THAT WAS  
12 CONSISTENT WITH MR. HANDSHOE'S STATEMENT?"

13 MS. VANDENBOSCH: AND I WOULD HAVE FRAMED IT  
14 THAT WAY, EXCEPT MR. GOLDBERG WAS MY WITNESS, SO I  
15 DIDN'T FEEL LIKE I COULD ASK A LEADING QUESTION.

16 MR. BRADLEY: THE JURY HAS A COMPLETELY FALSE  
17 IMPRESSION AT THIS POINT. THEY THINK THERE IS  
18 SOMETHING THE PROSECUTION HAS FOUND THAT  
19 CORROBORATES WHAT MR. HANDSHOE SAID ABOUT THIS  
20 BURGLARY ON DICTIONARY HILL. THAT'S WHAT THEY'RE  
21 GOING TO GET OUT OF THAT TESTIMONY.

22 THE COURT: DETECTIVE GOLDBERG HAS NOT BEEN  
23 EXCUSED, SO HE WILL BE SUBJECT TO FOLLOW-UP. AND IF  
24 YOU REVISIT THIS, I WON'T SUSTAIN AN OBJECTION THAT  
25 IT'S BEYOND THE SCOPE OF YOUR ORIGINAL DIRECT.

26 SO I WOULD SUGGEST THAT MAYBE YOU GET  
27 TOGETHER BEFORE THAT OCCURS SO THAT YOU CAN GET THE  
28 DETAILS AS TO WHETHER OR NOT YOU WANT TO FOLLOW UP

*all this stuff was a 45  
Helen or not, b. A. wants  
to keep it vague, so he can  
cause doubt.*

1 AS TO HOW SIMILAR OR WHETHER IT'S GOING TO BE A  
2 CONCLUSION -- IT WASN'T SIMILAR ENOUGH FOR US TO  
3 CONCLUDE THAT THAT SUBSTANTIATED MR. HANDSHOE'S  
4 DESCRIPTION.

5 MS. VANDENBOSCH: YOUR HONOR, THERE WAS ONE  
6 ADDITIONAL THING I WANTED TO BRING UP FROM THIS  
7 MORNING, AND I DID OBJECT TO IT AT THE TIME, BUT I  
8 THINK IT REALLY SHOWS A TREMENDOUS AMOUNT OF BAD  
9 FAITH ON THE PART OF THE PROSECUTOR.

10 WHEN THEY WERE ATTEMPTING TO -- I SUPPOSE  
11 IT WAS IMPEACH MS. RITTERBUSH BASED ON WHO HER  
12 BOYFRIEND IS. THEY WERE ALLOWED TO ASK WHERE IS HE  
13 FROM, LOS ANGELES.

14 THAT WOULD HAVE BEEN A LEGITIMATE QUESTION,  
15 BASED ON MY INQUIRY, WHETHER HER BOYFRIEND'S FATHER  
16 HAD BEEN CONTACTED IN LOS ANGELES, BUT THEN  
17 MR. MCALLISTER HAD TO GO ONE STEP FURTHER AND SAY,  
18 "WELL, WHICH AREA OF LOS ANGELES IS THAT IN?"

19 IT HAS ABSOLUTELY NO RELEVANCE TO THE CASE.  
20 AND TO SPECIFY THAT IT WAS THE COMPTON AREA OF  
21 LOS ANGELES, THEREBY GIVING ALL THE NEGATIVE  
22 CONNOTATIONS THAT GO ALONG WITH GANG AFFILIATION,  
23 CRIMINAL HISTORY, THAT GO ALONG WITH THE STEREOTYPE  
24 OF COMPTON -- A QUESTION FROM LOS ANGELES WOULD HAVE  
25 BEEN APPROPRIATE. ANYTHING MORE THAN THAT, I THINK,  
26 SHOWS EXTREME BAD FAITH ON THE PART OF THE  
27 PROSECUTION AND AN ATTEMPT TO DISPARAGE WITNESSES  
28 THROUGH THEIR ASSOCIATION WITHOUT ANY EVIDENCE

1 IT BEEN SO LONG AGO THAT YOU MAY NOT REMEMBER IT.

2 IN THE PRESENTATION OF EVIDENCE, THE  
3 PARTIES CAN AGREE AMONG THEMSELVES THAT CERTAIN  
4 THINGS BE TREATED AS A PROVEN FACT, WITHOUT A  
5 WITNESS BEING CALLED TO TESTIFY TO A PARTICULAR  
6 FACT. IT'S CALLED A STIPULATION, IN OTHER WORDS, AN  
7 AGREEMENT THAT SOMETHING HAS BEEN PROVEN.

8 MS. VANDENBOSCH, ON BEHALF OF MR. ANDERSON,  
9 IS GOING TO RECITE CERTAIN THINGS AT THIS TIME TO  
10 YOU, AND THEN SHE IS GOING TO ASK IF MR. ROAKE  
11 AGREES AND IF MR. MCALLISTER AGREES. AND IF THEY  
12 DO, THEN YOU'RE TO TREAT THE STATEMENT BY THE  
13 ATTORNEY AS A PROVEN FACT.

14 MS. VANDENBOSCH: YOUR HONOR, CAN I READ ALL OF  
15 THEM AT ONCE AND THEN ASK?

16 THE COURT: SURE.

17 MS. VANDENBOSCH: LADIES AND GENTLEMEN, THE  
18 PARTIES STIPULATE THAT, BASED ON RECORDS RECEIVED  
19 FROM BODY BEAUTIFUL CAR WASH IN POWAY,  
20 TRAVIS NORTHCUTT'S TERMINATION DATE OF EMPLOYMENT  
21 WAS MARCH 10TH, 2003.

22 THE PARTIES ALSO STIPULATE THAT  
23 TRAVIS NORTHCUTT IS CURRENTLY LIVING IN THE  
24 SACRAMENTO AREA OF CALIFORNIA.

25 AND, LASTLY, THE PARTIES DO LIKEWISE  
26 STIPULATE THAT COMPUTERIZED LAW ENFORCEMENT RECORDS  
27 FOR THE WEEK PRECEDING APRIL 14TH, 2003, WERE  
28 CHECKED, AND NO CRIME REPORTS WERE LOCATED THAT

1 WOULD COINCIDE WITH THE TESTIMONY OF  
2 BRANDON HANDSHOE THAT A SPECIFIC BURGLARY WAS  
3 COMMITTED IN OR AROUND THE DICTIONARY HILL AREA OF  
4 EAST COUNTY DURING THAT TIME.

5 I WILL ASK AT THIS TIME, MR. MCALLISTER, DO  
6 YOU AGREE WITH THAT STIPULATION?

7 MR. MCALLISTER: THE PEOPLE STIPULATE,  
8 YOUR HONOR.

9 MR. ROAKE: YES, YOUR HONOR, MR. LEE STIPULATES.  
10 THE COURT: THERE HAS BEEN AN AGREEMENT. NOW  
11 I'M DIRECTING THE JURORS TO TREAT THOSE STIPULATIONS  
12 AS A PROVEN FACT.

13 WITH THAT, MS. VANDENBOSCH, AND CONDITIONED  
14 UPON THE RECEIPT OF THE EXHIBITS THAT HAVE BEEN  
15 MARKED AND REFERRED TO DURING THE COURSE OF  
16 MR. ANDERSON'S PRESENTATION OF EVIDENCE, DOES  
17 MR. ANDERSON REST?

18 MS. VANDENBOSCH: YES. THANK YOU.

19 THE COURT: THANK YOU, MS. VANDENBOSCH.

20 MR. MCALLISTER, THE PEOPLE HAVE SOME  
21 REBUTTAL EVIDENCE?

22 MR. MCALLISTER: YES, YOUR HONOR. WE WOULD CALL  
23 MR. BAKER TO THE STAND.

24 THE COURT: MR. BAKER, YOU REMAIN UNDER OATH  
25 FROM YOUR PREVIOUS APPEARANCE AT THE WITNESS STAND.

26  
27 STEVEN BAKER, VOLUME 28.  
28 CALLED BY THE PEOPLE, HAVING BEEN FIRST DULY SWORN,

1 (THE DAY BEFORE OR A COUPLE OF DAYS BEFORE YOU WENT  
2 TO THE BRUCKER RESIDENCE ON APRIL 14TH?)

3 A. YES.

4 Q. AND THAT WAS A DAY WHEN A DOOR WAS RAMMED  
5 AND THE ALARM WAS SET OFF AND YOU GUYS RAN?

6 A. YES.

7 Q. AND YOU POINTED THE ADDRESS OUT TO  
8 MR. GOLDBERG AND STEVE BAKER ON A PRIOR OCCASION; IS  
9 THAT RIGHT?

10 A. YES.

11 Q. AND THE SECOND ONE YOU'RE TALKING ABOUT WAS  
12 THE ONE THAT YOU ALSO TOLD US ABOUT ON FRIDAY, WHERE  
13 THERE WAS A BURGLARY IN AN AREA CALLED  
14 DICTIONARY HILL IN SPRING VALLEY?

15 A. YES, SOMEWHERE AROUND THERE.

16 Q. SOMEWHERE AROUND THERE?

17 AND YOU ACTUALLY TOOK DETECTIVE GOLDBERG  
18 AND MR. BAKER TO THAT LOCATION AS WELL?

19 A. YES.

20 Q. AND YOU TRIED TO SHOW THEM --  
21 THE COURT: MS. VANDENBOSCH, IF THIS IS A  
22 FOUNDATION, IT'S MUCH TOO LENGTHY.

23 MS. VANDENBOSCH: OKAY.

24 BY MS. VANDENBOSCH:

25 Q. BUT THAT'S THE ONE YOU'RE REFERRING TO WHEN  
26 YOU'RE ASKED -- WHEN YOU WERE ASKED BY  
27 MR. MCALLISTER ABOUT PRIOR OCCASIONS?

28 A. YES.

1 Q. YOU'RE TALKING ABOUT THE DICTIONARY HILL  
2 INCIDENT AND THE INCIDENT ON MEDILL AVENUE?

3 A. YES.

4 Q. NOW, MR. HANDSHOE, WOULD IT BE FAIR TO SAY  
5 THAT YOU HAVE HAD NO CONTACT WITH ERIC ANDERSON,  
6 ASIDE FROM COMING TO COURT, SINCE HIS ARREST?

7 A. THAT'S RIGHT.

8 Q. AND WOULD IT ALSO BE FAIR TO SAY THAT  
9 YOU'VE HAD CONTACT WITH APOLLO HUHN?

10 A. HAVE I HAD CONTACT WITH APOLLO HUHN?

11 Q. YES.

12 A. NO.

13 Q. ARE YOU SURE ABOUT THAT?

14 A. YES.

15 Q. WELL, LET ME ASK YOU THIS: HAVE YOU HAD AN  
16 OPPORTUNITY TO, SINCE THE TWO OF YOU HAVE BEEN  
17 ARRESTED, TO DISCUSS THE CASE WITH APOLLO HUHN?

18 A. NO.

19 Q. ARE YOU SURE ABOUT THAT?

20 A. PRETTY SURE.

21 Q. HE WAS PRETTY MUCH YOUR BEST FRIEND PRIOR  
22 TO YOUR ARREST; IS THAT RIGHT?

23 A. YES.

24 Q. DO YOU REMEMBER SPECIFICALLY BEING ASKED BY  
25 DETECTIVE GOLDBERG AND STEVE BAKER, DURING YOUR FREE  
26 TALK BACK ON APRIL 11TH OF 2005, WHETHER YOU HAD ANY  
27 CONTACT WITH APOLLO HUHN?

28 A. NO.

1 Q. IF I SHOWED YOU A TRANSCRIPT OF THAT TALK,  
2 WOULD THAT HELP REFRESH YOUR RECOLLECTION?

3 A. YES.

4 Q. I'M GOING TO SHOW YOU PAGE 71 OF THE  
5 TRANSCRIPT OF THE APRIL 11TH CONVERSATION, AND I'M  
6 GOING TO ASK YOU TO READ LINES 12 THROUGH 27.

7 MS. ROSENFELD: I'M SORRY, WHAT PAGE?

8 MS. VANDENBOSCH: 71.

9 MS. ROSENFELD: THANK YOU.

10 BY MS. VANDENBOSCH:

11 Q. JUST LET ME KNOW WHEN YOU'RE DONE.

12 A. I'M DONE.

13 Q. DOES THAT HELP REFRESH YOUR RECOLLECTION AS  
14 TO WHETHER YOU AND APOLLO HUHN HAVE HAD AN  
15 OPPORTUNITY TO DISCUSS THIS CASE SINCE YOU'VE BOTH  
16 BEEN ARRESTED?

17 A. YES.

18 Q. IN FACT, YOU TOLD MR. BAKER, BACK ON  
19 APRIL 11TH, THAT DURING THE LAST COURT HEARING, YOU  
20 AND APOLLO HAD TALKED; IS THAT RIGHT?

21 A. THAT'S RIGHT.

22 Q. AND THAT WOULD HAVE BEEN THE LAST COURT  
23 HEARING PRIOR TO APRIL 11TH?

24 A. YES.

25 Q. SO THE LAST COURT HEARING PRIOR TO YOUR  
26 FREE TALK?

27 A. YES.

28 Q. AND YOU TOLD HIM, MR. BAKER, AFTER YOU HAD

1 TALKED TO -- YOU SAID YOU TALKED TO APOLLO, AND  
2 MR. BAKER SPECIFICALLY ASKED, "WHAT DID APOLLO SAY  
3 ABOUT THIS?"

4 DO YOU REMEMBER THAT?

5 A. YES.

6 Q. AND YOU SAID, "LAST TIME, LAST COURT  
7 HEARING, HE SAID" --

8 MR. MCALLISTER: OBJECTION, YOUR HONOR, HEARSAY.

9 THE COURT: OVERRULED.

10 BY MS. VANDENBOSCH:

11 Q. HE SAID, "YEAH" -- SOMETHING  
12 UNINTELLIGIBLE -- "THIS AND THAT."

13 HE SAID, "DON'T WORRY. I'M LOOKING OUT FOR  
14 YOU, THOUGH."

15 I TOLD HIM THAT I WAS -- FROM WHAT I TOLD  
16 HIM," SOMETHING, "CONVERSATIONS THAT I'LL MAKE YOU  
17 LOOK GOOD, OR WHATEVER."

18 DO YOU REMEMBER THAT?

19 A. YES.

20 Q. SO YOU REMEMBER -- NOW THAT YOUR  
21 RECOLLECTION HAS BEEN REFRESHED, YOU REMEMBER A  
22 CONVERSATION WITH APOLLO HUHN AT THE LAST COURT  
23 HEARING BEFORE YOUR FREE TALK WHERE YOU TOLD HIM YOU  
24 WOULD MAKE HIM LOOK GOOD, AND HE TOLD YOU THAT HE  
25 WOULD MAKE YOU LOOK GOOD?

26 A. NO.

27 Q. YOU DON'T REMEMBER THAT?

28 A. NO.

1 Q. ISN'T THAT WHAT YOU TOLD MR. BAKER?  
 2 A. NO.  
 3 Q. WHAT DID YOU TELL MR. BAKER, THEN?  
 4 A. I FORGET.  
 5 Q. OKAY. WELL, YOU JUST HAD A CHANCE TO  
 6 REFRESH YOUR RECOLLECTION WITH THE TRANSCRIPT.  
 7 A. YES.  
 8 Q. YOU HAVE STILL FORGOTTEN WHAT YOU TOLD HIM?  
 9 A. YES.  
 10 Q. OKAY. YOU HAVE ALSO HAD SOME CONTACT WITH  
 11 RANDY LEE SINCE THE TWO OF YOU HAVE BEEN ARRESTED;  
 12 IS THAT RIGHT?  
 13 A. THAT'S RIGHT.  
 14 Q. IN FACT --  
 15 A. YES.  
 16 Q. -- YOU HAVE KNOWN RANDY LEE FOR QUITE A  
 17 WHILE, AND THE TWO OF YOU GREW UP TOGETHER?  
 18 A. YEAH.  
 19 Q. AND YOU REFERRED TO RANDY LEE AS YOUR  
 20 "HOMIE"; IS THAT RIGHT?  
 21 A. I GUESS SO.  
 22 Q. IN FACT, IN CERTAIN -- DO YOU WRITE LETTERS  
 23 FROM JAIL?  
 24 A. YES.  
 25 Q. IN FACT, YOU WRITE A LOT OF LETTERS; IS  
 26 THAT RIGHT?  
 27 A. YES.  
 28 Q. AND IN A CERTAIN LETTER TO AN M. WASHINGTON

1 BACK ON AUGUST 11TH OF 2003, YOU TOLD  
 2 MR. WASHINGTON, "ONE OF MY HOMIES IS IN YOUR TANK,  
 3 RANDY LEE. TELL HIM I SAID WHAT'S UP."  
 4 DO YOU REMEMBER THAT?"  
 5 A. NO, I DON'T.  
 6 MS. VANDENBOSCH: WOULD THE COURT WANT ME TO  
 7 HAVE IT MARKED IF I'M JUST REFRESHING HIS  
 8 RECOLLECTION?  
 9 THE COURT: NO.  
 10 BY MS. VANDENBOSCH:  
 11 Q. MR. HANDSHOE, I'M GOING TO SHOW YOU TWO  
 12 PAGES. AND, FOR THE RECORD, THEY ARE DISCOVERY  
 13 PAGES 5394 AND 5395.  
 14 PAGE 1 APPEARS TO BE AN ENVELOPE WITH YOUR  
 15 NAME AS THE SENDER, AND ADDRESSED TO DO AN  
 16 M. WASHINGTON, AND THEN THE SECOND PAGE APPEARS TO  
 17 BE A LETTER SIGNED, "YOUR HOMIE, BRANDON."  
 18 AND I WANT YOU TO LOOK AT THAT AND LET ME  
 19 KNOW IF YOU RECOGNIZE IT.  
 20 DO YOU RECOGNIZE THAT LETTER?  
 21 A. YES.  
 22 Q. AND THAT'S, IN FACT, A LETTER THAT YOU  
 23 WROTE AN M. WASHINGTON WHILE YOU WERE IN CUSTODY?  
 24 A. YES.  
 25 Q. AND YOU HAD FOUND OUT THAT RANDY LEE WAS IN  
 26 MR. WASHINGTON'S TANK, AND YOU, IN FACT, TOLD HIM TO  
 27 SAY "WHAT'S UP" TO RANDY LEE, YOUR HOMIE?  
 28 A. YES.

1 Q. OKAY. AND ISN'T IT TRUE THAT YOU AND  
2 RANDY LEE HAVE ALSO HAD AN OPPORTUNITY TO DISCUSS  
3 THIS CASE?

4 A. NOT REALLY, BUT KIND -- SOMEWHAT.

5 Q. YOU'VE HAD AN OPPORTUNITY TO TALK THINGS  
6 THROUGH?

7 MR. MCALLISTER: OBJECTION, YOUR HONOR, VAGUE AS  
8 TO TIME AND VAGUE AS TO CONTENT.

9 THE COURT: OVERRULED AT THIS TIME.

10 I'M ASSUMING YOU'RE TRYING TO SET A  
11 FOUNDATION FOR THAT; RIGHT?

12 MS. VANDENBOSCH: YES.

13 BY MS. VANDENBOSCH:

14 Q. BACK IN THE END OF JUNE, 2003, DO YOU  
15 REMEMBER BEING HOUSED WITH RANDY LEE?

16 A. NO.

17 Q. DO YOU REMEMBER WHERE YOU WERE HOUSED IN  
18 JUNE OF 2003?

19 A. I THINK VISTA.

20 Q. DO YOU REMEMBER EVER BEING HOUSED WITH  
21 RANDY LEE AT VISTA?

22 A. NO. I MEAN, HE WAS THERE, BUT WE WEREN'T  
23 IN THE SAME TANK.

24 Q. SO DO YOU REMEMBER BEING IN A POSITION TO  
25 DISCUSS RANDY LEE'S SITUATION WITH HIM?

26 A. I SEEN HIM IN THE TANK ACROSS, BUT NOTHING,  
27 REALLY.

28 Q. AGAIN, YOU DO RECALL THAT YOU WROTE LETTERS

1 TO PEOPLE WHILE IN CUSTODY?

2 A. YES.

3 Q. AND DO YOU KNOW A PERSON BY THE NAME OF  
4 SANDY GARCIA?

5 A. YES.

6 Q. AND WHO IS SHE?

7 A. MY FRIEND.

8 Q. AND DO YOU RECALL EVER WRITING HER A  
9 LETTER?

10 A. YES.

11 Q. I'M GOING TO SHOW YOU, AGAIN, A TWO-PAGE  
12 DOCUMENT. FOR THE RECORD, IT'S DISCOVERY PAGES 5386  
13 AND 5387, AND THE TOP IS A PHOTOCOPY OF AN ENVELOPE  
14 WITH YOU AS THE SENDER ADDRESSED TO SANDY GARCIA,  
15 AND THE SECOND PAGE IS A HANDWRITTEN LETTER THAT'S  
16 ABOUT HALF THAT PAGE.

17 I WANT YOU TO LOOK AT THAT AND TELL ME  
18 WHETHER YOU RECOGNIZE IT.

19 MR. MCALLISTER: YOUR HONOR, I'M GOING TO OBJECT  
20 AS BEYOND THE SCOPE.

21 THE COURT: WELL, IN A MOMENT, I'M GOING TO  
22 SUSTAIN THAT OBJECTION.

23 I'LL ALLOW YOU TO FOLLOW UP ON THIS, AND  
24 THEN WE HAVE TO MOVE ALONG TO RECROSS.

25 MS. VANDENBOSCH: RIGHT.

26 BY MS. VANDENBOSCH:

27 Q. HAVE YOU HAD A CHANCE TO REVIEW THAT?

28 A. YES.

1 Q. WELL, DID RANDY LEE SAY TO YOU, "JUST KEEP  
2 ME OUT OF IT, AND I'LL MAKE SURE YOU HAVE MONEY ON  
3 YOUR BOOKS, THIS AND THAT, AND YOUR FAMILY'S OKAY,"  
4 AND STUFF LIKE THAT?

5 MR. ROAKE: OBJECTION, YOUR HONOR.

6 THE COURT: THE OBJECTION IS?

7 MR. ROAKE: THE OBJECTION IS HEARSAY. IT'S  
8 ASKED AND ANSWERED.

9 THE COURT: OVERRULED.

10 BY MR. MCALLISTER:

11 Q. IS THAT WHAT RANDY LEE SAID TO YOU?

12 A. SOMETHING ALONG THOSE LINES.

13 Q. AND THEN DO YOU REMEMBER AT A LATER TIME --

14 MR. MCALLISTER: FOR COUNSEL'S BENEFIT, I WILL  
15 REFER TO PAGE 70, LINES 20 THROUGH 25.

16 BY MR. MCALLISTER:

17 Q. YOU MADE THAT STATEMENT MORE THAN ONCE,  
18 DIDN'T YOU?

19 A. WHAT STATEMENT WOULD THAT BE?

20 Q. THE STATEMENT ABOUT WHAT RANDY LEE SAID TO  
21 YOU ON THE BUS.

22 A. I THINK SO.

23 Q. WOULD IT HELP REFRESH YOUR RECOLLECTION FOR  
24 ME TO SHOW YOU A PORTION OF THAT TRANSCRIPT?

25 A. YES.

26 MR. MCALLISTER: FOR COUNSEL'S BENEFIT, I'M  
27 REFERRING TO PAGE 70, AGAIN, LINE 20 THROUGH 25.

28 BY MR. MCALLISTER:

1 Q. MR. HANDSHOE, JUST READ LINES 20 THROUGH 25  
2 TO YOURSELF, AND THEN LET ME KNOW WHEN YOU'RE DONE.

3 DOES THAT HELP REFRESH YOUR RECOLLECTION?

4 A. YES.

5 Q. NOW, DO YOU REMEMBER SAYING THAT RANDY LEE  
6 SAID TO YOU, "IF YOU KEEP ME OUT OF THIS, I'LL MAKE  
7 SURE YOU'VE GOT MONEY ON YOUR BOOKS"?

8 A. YES.

9 Q. AND YOU SAID THAT TWICE IN THAT INTERVIEW  
10 THAT YOU'VE SEEN NOW TODAY; CORRECT?

11 A. YES.

12 MR. ROAKE: OBJECTION, YOUR HONOR,  
13 ARGUMENTATIVE.

14 THE COURT: OVERRULED. ANSWER STANDS, "YES."

15 BY MR. MCALLISTER:

16 Q. NOW I'D LIKE TO MOVE TO A TIME AFTER  
17 MR. BRUCKER WAS SHOT BUT BEFORE YOU WERE ARRESTED.

18 MR. ROAKE ASKED YOU SOME QUESTIONS ABOUT  
19 WHEN RANDY LEE CAME TO YOU AND TALKED TO YOU  
20 ABOUT -- DURING THAT TIME FRAME.

21 DO YOU REMEMBER THAT?

22 A. YES.

23 Q. AND WHEN MR. LEE CAME TO YOU BEFORE YOU  
24 WERE ARRESTED, BUT AFTER MR. BRUCKER WAS SHOT, WHAT  
25 DID HE SAY TO YOU?

26 A. HE JUST SAID SOMETHING ALONG THE LINES THAT  
27 "I KNOW YOU GUYS WENT OVER THERE."

28 MR. ROAKE: OBJECTION, ASKED AND ANSWERED.



3791

1 A. NO.

2 Q. NO. YOU MENTIONED TO US EARLIER THAT AFTER  
3 MR. BRUCKER WAS KILLED, MR. ANDERSON HAD MADE A  
4 THREAT?

5 A. YES.

6 Q. AND WHAT WAS THE THREAT?

7 A. HE SAID IF WE WERE TO SAY ANYTHING, WE  
8 WOULD BE NEXT.

9 Q. NOW, PRIOR TO THE TIME THAT YOU WENT TO THE  
10 BRUCKER HOME -- NOW AGAIN WE'RE TALKING ABOUT APRIL  
11 THE 14<sup>TH</sup> -- PRIOR TO THE TIME THAT YOU WENT THERE,  
12 HAD MR. -- ON THAT DAY, HAD MR. ANDERSON MADE ANY  
13 THREATS TO MAKE YOU GO ALONG ON THE CRIME?

14 A. NOT THAT I KNOW OF.

15 Q. DID YOU HEAR MR. ANDERSON MAKE ANY THREATS  
16 TOWARD MR. HUHN TO MAKE HIM GO ALONG ON THE CRIME?

17 A. NO.

18 Q. WHY DID YOU GO ON THE -- ON THAT DAY TO THE  
19 BRUCKER HOME, YOU PERSONALLY?

20 A. BECAUSE I WAS SCARED AND I WAS GOING TO GO  
21 HELP A FRIEND.

22 Q. YOU WERE SCARED BECAUSE OF -- OF DOING A  
23 BURGLARY?

24 A. SCARED OF ERIC AND DOING THE BURGLARY,  
25 BOTH.

26 Q. WELL, I'M ASKING YOU, DID MR. ANDERSON  
27 THREATEN YOU INTO GOING ALONG TO DO THE BURGLARY?

28 A. NO, HE DIDN'T.

3792

1 Q. AND DID YOU EVER HEAR HIM THREATEN APOLLO  
2 HUHN TO GO ALONG AND DO THE BURGLARY?

3 A. NO, I DIDN'T.

4 Q. DID YOU -- OF YOUR OWN PERSONAL KNOWLEDGE,  
5 DID YOU HAVE ANY DISCUSSIONS WITH MR. HUHN ABOUT  
6 NEEDING MONEY?

7 A. YES. HE SAID HE NEEDED MONEY BECAUSE HE  
8 HAD A KID ON THE WAY.

9 Q. AND DURING THAT CONVERSATION, DID HE TELL  
10 YOU THAT THAT'S WHY HE WAS GOING ALONG?

11 A. THAT'S WHY HE SAID HE WANTED MONEY. HE WAS  
12 IN NEED OF MONEY BEFORE THE -- THAT -- BEFORE THEY  
13 EVEN CAME OVER THAT DAY.

14 Q. NOW, GOING TO THAT TIME AT -- ON APRIL THE  
15 14<sup>TH</sup> OF 2003, BEFORE YOU LEFT TO GO TO THE BRUCKER  
16 HOME, WHERE DID YOU LEAVE FROM?

17 A. MY HOUSE.

18 Q. AND WHERE IS YOUR HOME LOCATED?

19 A. RIOS CANYON.

20 Q. AND PRIOR TO THE TIME THAT YOU LEFT, HOW  
21 LONG -- BEFORE YOU LEFT, HOW LONG HAD YOU BEEN AT  
22 THE MOBILE HOME?

23 A. I'D SAY ABOUT MAYBE AN HOUR OR TWO.

24 Q. AND WHO WAS THERE AT THAT TIME?

25 A. ME, APOLLO, ERIC, AND VALERIE.

26 Q. AND PRIOR, BEFORE YOU WENT TO THE BRUCKER  
27 HOME, DID YOU SEE ANYBODY WITH A GUN?

28 A. YES. I SEEN ERIC WITH A GUN.

3793

1 Q. OKAY. AND WHAT KIND OF GUN DID YOU SEE HIM  
2 WITH?

3 A. A BLACK .45.

4 Q. AND PRIOR TO THE TIME THAT YOU LEFT TO GO  
5 DO THE CRIME, DID YOU SEE ERIC DO ANYTHING WITH THAT  
6 GUN?

7 A. YES. HE WAS JACKING ROUNDS OUT OF IT AT MY  
8 HOUSE.

9 Q. AND DURING THE TIME THAT HE WAS JACKING  
10 ROUNDS, DID HE SAY ANYTHING ABOUT GOING TO DO THE  
11 CRIME?

12 A. HE SAID, WE'RE GOING TO GO DO THIS RIGHT,  
13 OR SOMETHING ALONG THOSE LINES.

14 Q. NOW, DID ANYBODY ELSE HAVE A GUN THAT DAY?

15 A. I DID.

16 Q. AND WHAT KIND OF GUN DID YOU HAVE?

17 A. A SILVER .25.

18 Q. AND WAS IT -- WAS IT A SEMIAUTOMATIC OR A  
19 REVOLVER-TYPE WEAPON?

20 A. SEMIAUTOMATIC.

21 Q. AND WHERE DID YOU HAVE THE GUN?

22 A. IN MY POCKET.

23 Q. FROM THE TIME THAT YOU LEFT THE MOBILE  
24 HOME, YOUR HOUSE, UNTIL AFTER MR. BRUCKER WAS SHOT,  
25 JUST IMMEDIATELY AFTER HE WAS SHOT, DID YOU EVER  
26 TAKE THAT GUN OUT?

27 A. NO.

28 Q. DID YOU USE THAT GUN, YOU PERSONALLY USE

3794

1 THAT GUN DURING THE COMMISSION OF THIS CRIME?

2 A. WHAT -- WHAT DO YOU MEAN?

3 Q. DID YOU PERSONALLY TAKE THAT GUN OUT TO USE  
4 IT IN ANY WAY WHILE COMMITTING THIS CRIME?

5 A. NO, I DIDN'T. I WAS JUST -- I TOOK IT JUST  
6 CAUSE -- I JUST TOOK IT JUST -- JUST TO HAVE IT.

7 Q. HAD YOU EVER FIRED THAT GUN?

8 A. NO, I HAVEN'T.

9 Q. AND WHERE DID THAT GUN COME FROM?

10 A. ERIC.

11 Q. ERIC ANDERSON?

12 A. YES.

13 Q. DID HE GIVE THAT GUN TO YOU?

14 A. YES.

15 Q. AND WHEN?

16 A. I'D SAY THE DAY BEFORE, TWO DAYS BEFORE.

17 MR. MCALLISTER: IF I COULD HAVE JUST A MOMENT,  
18 YOUR HONOR?

19 THE COURT: SURE.

20 BY MR. MCALLISTER:

21 Q. DURING -- I ASKED YOU ABOUT A CONVERSATION  
22 THAT YOU HAD WITH -- WITH MR. LEE A COUPLE DAYS  
23 AFTER THE CRIME, BUT BEFORE YOU WERE ARRESTED. DO  
24 YOU REMEMBER ME ASKING YOU THOSE QUESTIONS?

25 A. EXCUSE ME, CAN YOU ASK THE QUESTION?

26 Q. OKAY. WELL, THAT'S WHY I JUST WANT TO SET  
27 THE TIME FRAME. I ASKED YOU ABOUT A CONVERSATION  
28 THAT YOU HAD WITH MR. LEE A COUPLE DAYS AFTER

Continuation

3938

1 THE COURT: SUSTAINED.

2 MR. MCALLISTER: I DON'T WANT TO MAKE A SPEAKING  
3 RESPONSE, YOUR HONOR.

4 BY MR. MCALLISTER:

5 Q. DID MR. LEE RAISE THE ISSUE OF MR. BRUCKER  
6 BY NAME DURING THAT MEETING?

7 A. I'M NOT SURE, BUT HE PROBABLY DID.

8 MR. ROAKE: OBJECTION, MOVE TO STRIKE.

9 THE COURT: SUSTAINED AS TO SPECULATION.

10 BY MR. MCALLISTER:

11 Q. DO YOU REMEMBER TELLING US IN THE  
12 APRIL 11TH OF 2005 INTERVIEW THAT MR. LEE MENTIONED  
13 MR. BRUCKER BY NAME?

14 A. NO.

15 Q. WOULD IT HELP REFRESH YOUR RECOLLECTION IF  
16 I SHOWED YOU A PORTION OF THAT INTERVIEW?

17 A. YES.

18 MR. MCALLISTER: FOR COUNSEL'S BENEFIT, I'M  
19 REFERRING TO PAGE 49, LINES 3 THROUGH 13.

20 BY MR. MCALLISTER:

21 Q. SIR, AGAIN, IF YOU WOULD READ TO YOURSELF  
22 LINES 3 THROUGH 13, AND TELL ME WHEN YOU'VE HAD A  
23 CHANCE TO READ THAT.

24 HAVE YOU HAD A CHANCE TO READ THAT, SIR?

25 A. YES.

26 Q. DOES THAT HELP REFRESH YOUR RECOLLECTION AS  
27 TO WHETHER OR NOT MR. LEE CAME TO YOU AND MENTIONED  
28 MR. BRUCKER BY NAME?

3939

1 A. YES.

2 Q. AND JUST FOR POINT OF CLARIFICATION, THAT  
3 WAS BEFORE YOU WERE ARRESTED, CORRECT?

4 A. YES.

5 Q. DO YOU REMEMBER HOW MUCH BEFORE YOU WERE  
6 ARRESTED?

7 A. LIKE, TWO OR THREE DAYS AFTER MR. BRUCKER  
8 WAS SHOT.

9 Q. YOU WERE ASKED BY MR. ROAKE SOME QUESTIONS  
10 REGARDING AN OFFER BY MR. LEE TO DRIVE YOU BY THE  
11 HOUSE.

12 DO YOU REMEMBER THAT?

13 A. WHAT WAS THAT?

14 Q. YOU WERE ASKED BY MR. ROAKE ON  
15 CROSS-EXAMINATION ABOUT AN OFFER BY RANDY LEE TO  
16 DRIVE YOU BY THE HOUSE PRIOR TO THE CRIME.

17 DO YOU REMEMBER THAT?

18 A. SOMEWHAT, YEAH.

19 Q. DID MR. LEE OFFER TO DRIVE YOU BY THE  
20 HOUSE, THE HOUSE THAT HE WAS DISCUSSING, REGARDING  
21 DOING A ROBBERY?

22 MR. ROAKE: YOUR HONOR, THIS HAS BEEN ASKED AND  
23 ANSWERED.

24 THE COURT: SUSTAINED. IT HAS.

25 NOW, IF THERE IS SOMETHING THAT NEEDS TO BE  
26 CLARIFIED, IF THERE IS SOME INCONSISTENCY, GO AHEAD.  
27 THAT HAS BEEN ASKED AND ANSWERED IN HIS DIRECT  
28 EXAMINATION.

Copy 1st

3940

3941

MR. MCALLISTER: WELL, IT WAS CHALLENGED,  
YOUR HONOR, IN CROSS.

THE COURT: IF IT NEEDS REHABILITATION, FINE,  
BUT IT HAS TO BE SOMETHING OTHER THAN REPEATING THE  
SAME STATEMENT.

BY MR. MCALLISTER:

Q. DID MR. LEE AGREE TO DRIVE YOU BY THE  
HOUSE?

A. NO.

Q. DO YOU REMEMBER TELLING MR. BAKER AND  
MR. GOLDBERG THAT, IN FACT, MR. LEE DID AGREE TO  
DRIVE YOU BY THE HOUSE?

MR. ROAKE: THAT'S MISSTATING THE EVIDENCE,  
YOUR HONOR.

THE COURT: IT'S A QUESTION. GO AHEAD.

THE WITNESS: NO, I DON'T.

MR. ROAKE: I WITHDRAW MY OBJECTION.

BY MR. MCALLISTER:

Q. DID MR. LEE TELL YOU HE WAS WILLING TO  
DRIVE YOU BY THE HOUSE?

MR. ROAKE: OBJECTION, ASKED AND ANSWERED.

THE COURT: OVERRULED.

YOU CAN ANSWER THAT.

THE WITNESS: I THINK SO.

BY MR. MCALLISTER:

Q. IN FACT, DO YOU REMEMBER SAYING THAT TO  
MR. BAKER AND MR. GOLDBERG DURING THAT INTERVIEW?

MR. ROAKE: OBJECTION, YOUR HONOR, IMPROPER

HEARSAY, IMPROPER BOLSTERING, ARGUMENTATIVE, BEYOND  
THE SCOPE.

THE COURT: OVERRULED.

THE WITNESS: I DON'T KNOW.

BY MR. MCALLISTER:

Q. WOULD IT HELP REFRESH YOUR RECOLLECTION IF  
I SHOWED YOU A PORTION OF THE TRANSCRIPT REGARDING  
THAT APRIL 11TH INTERVIEW?

A. YES.

MR. MCALLISTER: FOR COUNSEL'S BENEFIT, I'M  
REFERRING TO PAGE 51, LINES 17 THROUGH 23.

BY MR. MCALLISTER:

Q. AGAIN, MR. HANDSHOE, IF YOU WOULD READ  
LINES 17 THROUGH 23 TO YOURSELF, AND THEN WHEN  
YOU'RE DONE, JUST LET ME KNOW.

DID YOU HAVE A CHANCE TO REVIEW THIS?

A. YES.

Q. DOES THAT REFRESH YOUR RECOLLECTION AS TO  
WHETHER OR NOT MR. LEE WAS WILLING TO DRIVE YOU BY  
THE HOUSE?

A. YES.

Q. AND DID HE INDICATE HE WAS WILLING?

A. YES.

MR. ROAKE: IT'S A CONTINUING OBJECTION,  
YOUR HONOR.

THE COURT: CONTINUING OBJECTION, I'VE OVERRULED  
IT.

DO YOU HAVE ANOTHER SUBJECT MATTER NOW?

1 CHATS, RIGHT?  
 2 A. PROBABLY.  
 3 Q. OKAY. AND THAT TOOK -- I THINK YOU SAID IT  
 4 TOOK PLACE A COUPLE MONTHS AFTER THE FIRST  
 5 CONVERSATION?  
 6 A. YES.  
 7 Q. OKAY. AND IN THAT CONVERSATION, NOTHING  
 8 ELSE WAS SAID REGARDING THE SPECIFICS?  
 9 A. YES.  
 10 Q. AND IN THESE CONVERSATIONS, MOST OF THE  
 11 CONVERSATIONS THAT TOOK PLACE, THESE FIVE  
 12 CONVERSATIONS INVOLVING MR. LEE THAT YOU SAY  
 13 HAPPENED, AT MOST, THE CONVERSATION WAS: "IF YOU DO  
 14 THIS, HERE IS A PLACE"?  
 15 A. YES.  
 16 Q. OKAY. AND YOU DON'T REMEMBER ANYTHING AT  
 17 ALL ABOUT A PERCENTAGE, RIGHT?  
 18 A. NO, I DON'T.  
 19 Q. FAIR ENOUGH.  
 20 AND AS A MATTER OF FACT, OVER ALL THESE  
 21 FOUR OR FIVE CONVERSATIONS, WHEN ASKED, YOU SAID YOU  
 22 NEVER THOUGHT IT WOULD BE DONE, RIGHT?  
 23 A. THAT'S RIGHT.  
 24 Q. AND YOUR IMPRESSION WAS THAT MR. LEE DIDN'T  
 25 THINK IT WOULD BE DONE, RIGHT?  
 26 A. THAT'S RIGHT.  
 27 MR. MCALLISTER: OBJECTION, YOUR HONOR.  
 28 BY MR. ROAKE:

1 Q. AND YOU WERE ASKED THAT --  
 2 THE COURT: HOLD ON A SECOND.  
 3 MR. MCALLISTER: OBJECTION, CALLS FOR  
 4 SPECULATION.  
 5 THE COURT: AND SUSTAINED AS TO ANY RESPONSE HE  
 6 HAD OF MR. LEE.  
 7 MR. MCALLISTER: AND MOVE TO STRIKE.  
 8 THE COURT: DISREGARD THE RESPONSE AND TREAT IT  
 9 AS THOUGH YOU'D NEVER HEARD IT.  
 10 BY MR. ROAKE:  
 11 Q. ARE YOU FAMILIAR WITH THE TERM OF "TWEAKER  
 12 TALK"?  
 13 A. YES.  
 14 Q. DID YOU SORT OF THINK THIS WAS IMAGININGS?  
 15 A. YES.  
 16 Q. "TWEAKER TALK"?  
 17 A. YES.  
 18 Q. NOW, YOU DID KNOW MR. PAULSON? I'M NOW  
 19 GOING TO MOVE TO MR. PAULSON.  
 20 A. YES.  
 21 Q. HE DID DRUGS WITH YOU AS WELL, RIGHT?  
 22 A. YES.  
 23 Q. AND HE WAS INVOLVED IN SOME CAPERS WITH YOU  
 24 TO GET DRUG MONEY?  
 25 A. YES.  
 26 Q. OKAY. NOW, THERE WAS SOME TALK ABOUT  
 27 WHETHER MR. PAULSON WAS PRESENT WITH YOU AT CERTAIN  
 28 MEETINGS. DO YOU REMEMBER THAT?

*Dr. Belen Legon 3-7-76*

3909

1 A. YES.

2 Q. AND THAT TALK OCCURRED REGARDING THE  
3 PRELIMINARY HEARING?

4 A. YES.

5 Q. AND YOU DID NOT BELIEVE -- YOUR SENSE WAS  
6 THAT YOU DID NOT AGREE WITH HIS TAKE ON WHAT  
7 OCCURRED, CORRECT?

8 A. YES.

9 Q. YOU DIDN'T THINK HE WAS BEING TRUTHFUL?

10 A. YES.

11 MR. MCALLISTER: OBJECTION, YOUR HONOR.

12 THE COURT: SUSTAINED. STRIKE IT. DISREGARD  
13 IT.

14 LADIES AND GENTLEMEN, THIS IS NOT THE  
15 PROVINCE OF A WITNESS TO DECIDE WHETHER SOMEONE ELSE  
16 IS BEING TRUTHFUL OR UNTRUTHFUL.

17 GO AHEAD, MR. ROAKE.

18 BY MR. ROAKE:

19 Q. YOU DID NOT AGREE WITH HIM; IS THAT  
20 RIGHT -- AS TO HIS TAKE?

21 A. THAT'S RIGHT.

22 Q. LET'S TALK NOW ABOUT MR. ERIC ANDERSON, ALL  
23 RIGHT?

24 YOU HAD BEEN WORKING WITH MR. ANDERSON,  
25 HITTING SOME -- HITTING A HOUSE, RIGHT?

26 A. YES.

27 Q. DOING SOME BURGLARIES?

28 A. ONE.

3910

1 Q. OKAY. AND ONE ATTEMPTED ONE, RIGHT?

2 A. YES.

3 Q. OKAY. AND THAT WAS JUST THE DAY BEFORE  
4 APRIL 14TH?

5 A. THE DAY BEFORE OR TWO DAYS, THREE DAYS  
6 BEFORE.

7 Q. RIGHT.

8 AND THAT WAS THE HOUSE THAT WAS RIGHT NEXT  
9 TO THE BRUCKERS'?

10 A. YES.

11 Q. OKAY. AND THAT WAS UNSUCCESSFUL, RIGHT?

12 A. YES.

13 Q. YOU TRIPPED AN ALARM?

14 A. YES.

15 Q. THE TWO OF YOU TOOK OFF?

16 A. YES.

17 Q. AND THAT WAS UNINHABITED, RIGHT, THAT  
18 HOUSE?

19 A. YES.

20 Q. OKAY.

21 MS. VANDENBOSCH: OBJECTION, CALLS FOR  
22 SPECULATION.

23 THE COURT: SUSTAINED.

24 MR. ROAKE: IT'S FINE, YOUR HONOR. THANK YOU.

25 BY MR. ROAKE:

26 Q. TO YOUR KNOWLEDGE, TO YOUR KNOWLEDGE, YOU  
27 NEVER SAW ERIC ANDERSON WITH MR. LEE, RIGHT?

28 A. NO, I HAVEN'T.

THE COURT: SUSTAINED.

MR. MCALLISTER: I DON'T WANT TO MAKE A SPEAKING RESPONSE, YOUR HONOR.

BY MR. MCALLISTER:

Q. DID MR. LEE RAISE THE ISSUE OF MR. BRUCKER BY NAME DURING THAT MEETING?

A. I'M NOT SURE, BUT HE PROBABLY DID.

MR. ROAKE: OBJECTION, MOVE TO STRIKE.

THE COURT: SUSTAINED AS TO SPECULATION.

BY MR. MCALLISTER:

Q. DO YOU REMEMBER TELLING US IN THE APRIL 11TH OF 2005 INTERVIEW THAT MR. LEE MENTIONED MR. BRUCKER BY NAME?

A. NO.

Q. WOULD IT HELP REFRESH YOUR RECOLLECTION IF I SHOWED YOU A PORTION OF THAT INTERVIEW?

A. YES.

MR. MCALLISTER: FOR COUNSEL'S BENEFIT, I'M REFERRING TO PAGE 49, LINES 3 THROUGH 13.

BY MR. MCALLISTER:

Q. SIR, AGAIN, IF YOU WOULD READ TO YOURSELF LINES 3 THROUGH 13, AND TELL ME WHEN YOU'VE HAD A CHANCE TO READ THAT.

HAVE YOU HAD A CHANCE TO READ THAT, SIR?

A. YES.

Q. DOES THAT HELP REFRESH YOUR RECOLLECTION AS TO WHETHER OR NOT MR. LEE CAME TO YOU AND MENTIONED MR. BRUCKER BY NAME?

A. YES.

Q. AND JUST FOR POINT OF CLARIFICATION, THAT WAS BEFORE YOU WERE ARRESTED, CORRECT?

A. YES.

Q. DO YOU REMEMBER HOW MUCH BEFORE YOU WERE ARRESTED?

A. LIKE, TWO OR THREE DAYS AFTER MR. BRUCKER WAS SHOT.

Q. YOU WERE ASKED BY MR. ROAKE SOME QUESTIONS REGARDING AN OFFER BY MR. LEE TO DRIVE YOU BY THE HOUSE.

DO YOU REMEMBER THAT?

A. WHAT WAS THAT?

Q. YOU WERE ASKED BY MR. ROAKE ON CROSS-EXAMINATION ABOUT AN OFFER BY RANDY LEE TO DRIVE YOU BY THE HOUSE PRIOR TO THE CRIME.

DO YOU REMEMBER THAT?

A. SOMEWHAT, YEAH.

Q. DID MR. LEE OFFER TO DRIVE YOU BY THE HOUSE, THE HOUSE THAT HE WAS DISCUSSING, REGARDING DOING A ROBBERY?

MR. ROAKE: YOUR HONOR, THIS HAS BEEN ASKED AND ANSWERED.

THE COURT: SUSTAINED. IT HAS.

NOW, IF THERE IS SOMETHING THAT NEEDS TO BE CLARIFIED, IF THERE IS SOME INCONSISTENCY, GO AHEAD. THAT HAS BEEN ASKED AND ANSWERED IN HIS DIRECT EXAMINATION.

3940

MR. MCALLISTER: WELL, IT WAS CHALLENGED,  
YOUR HONOR, IN CROSS.

THE COURT: IF IT NEEDS REHABILITATION, FINE,  
BUT IT HAS TO BE SOMETHING OTHER THAN REPEATING THE  
SAME STATEMENT.

BY MR. MCALLISTER:

Q. DID MR. LEE AGREE TO DRIVE YOU BY THE  
HOUSE?

A. NO.

Q. DO YOU REMEMBER TELLING MR. BAKER AND  
MR. GOLDBERG THAT, IN FACT, MR. LEE DID AGREE TO  
DRIVE YOU BY THE HOUSE?

MR. ROAKE: THAT'S MISSTATING THE EVIDENCE,  
YOUR HONOR.

THE COURT: IT'S A QUESTION. GO AHEAD.

THE WITNESS: NO, I DON'T.

MR. ROAKE: I WITHDRAW MY OBJECTION.

BY MR. MCALLISTER:

Q. DID MR. LEE TELL YOU HE WAS WILLING TO  
DRIVE YOU BY THE HOUSE?

MR. ROAKE: OBJECTION, ASKED AND ANSWERED.

THE COURT: OVERRULED.

YOU CAN ANSWER THAT.

THE WITNESS: I THINK SO.

BY MR. MCALLISTER:

Q. IN FACT, DO YOU REMEMBER SAYING THAT TO  
MR. BAKER AND MR. GOLDBERG DURING THAT INTERVIEW?

MR. ROAKE: OBJECTION, YOUR HONOR, IMPROPER

3941

HEARSAY, IMPROPER BOLSTERING, ARGUMENTATIVE, BEYOND  
THE SCOPE.

THE COURT: OVERRULED.

THE WITNESS: I DON'T KNOW.

BY MR. MCALLISTER:

Q. WOULD IT HELP REFRESH YOUR RECOLLECTION IF  
I SHOWED YOU A PORTION OF THE TRANSCRIPT REGARDING  
THAT APRIL 11TH INTERVIEW?

A. YES.

MR. MCALLISTER: FOR COUNSEL'S BENEFIT, I'M  
REFERRING TO PAGE 51, LINES 17 THROUGH 23.

BY MR. MCALLISTER:

Q. AGAIN, MR. HANDSHOE, IF YOU WOULD READ  
LINES 17 THROUGH 23 TO YOURSELF, AND THEN WHEN  
YOU'RE DONE, JUST LET ME KNOW.

DID YOU HAVE A CHANCE TO REVIEW THIS?

A. YES.

Q. DOES THAT REFRESH YOUR RECOLLECTION AS TO  
WHETHER OR NOT MR. LEE WAS WILLING TO DRIVE YOU BY  
THE HOUSE?

A. YES.

Q. AND DID HE INDICATE HE WAS WILLING?

A. YES.

MR. ROAKE: IT'S A CONTINUING OBJECTION,  
YOUR HONOR.

THE COURT: CONTINUING OBJECTION, I'VE OVERRULED  
IT.

DO YOU HAVE ANOTHER SUBJECT MATTER NOW?



454 Men  
Anderson

H. Cortin 7-201

3976

1 A. YES.

2 Q. -- AT THE PECAN PARK AND RIOS CANYON  
3 LOCATIONS?

4 MR. MCALLISTER: OBJECTION, YOUR HONOR,  
5 RELEVANCE.

6 THE COURT: ONE OR TWO MORE QUESTIONS. 352  
7 GROUNDS, I'M GOING TO LIMIT YOU.

8 MS. VANDENBOSCH: OKAY. YEAH.

9 BY MS. VANDENBOSCH:

10 Q. IT'S GOTTEN YOU INVOLVED IN FIGHTS AROUND  
11 YOUR HOUSE AND THE RIOS CANYON MOBILE HOME PARK?

12 A. YES.

13 Q. AND IT'S LIKEWISE GOTTEN YOU INVOLVED IN  
14 FIGHTS AFTER YOU WENT INTO JAIL?

15 A. YES.

16 THE COURT: MS. VANDENBOSCH, WE'RE GOING TO HAVE  
17 TO TAKE THE MORNING BREAK IN JUST A FEW MINUTES.  
18 CAN YOU FINISH YOUR RECROSS IN A COUPLE MINUTES IF  
19 WE EXTEND THE TIME FOR THE BREAK A BIT, OR DO YOU  
20 FEEL YOU'RE GOING TO BE TAKING SUBSTANTIALLY MORE  
21 TIME?

22 MS. VANDENBOSCH: I DON'T THINK I'LL BE MORE  
23 THAN FIVE OR TEN MINUTES.

24 THE COURT: WHY DON'T WE FINISH UP YOUR RECROSS.

25 BY MS. VANDENBOSCH:

26 Q. YOU WERE SPECIFICALLY ASKED BY  
27 MR. MCALLISTER ON REDIRECT ABOUT THE BAGS THAT WERE  
28 LEFT AT YOUR HOUSE; IS THAT RIGHT?

3977

1 A. YES.

2 Q. AND YOU SAID THAT -- WHEN YOU WERE ASKED  
3 WHEN ERIC ANDERSON CAME TO PICK UP THESE BAGS, YOU  
4 SAID, "WELL, IT COULD HAVE BEEN THE SAME DAY"?

5 A. COULD HAVE BEEN.

6 Q. AND, IN FACT, YOU WERE ASKED THAT SPECIFIC  
7 QUESTION ON FRIDAY, WHETHER IT WAS THE SAME DAY OR  
8 SOMETIME AFTERWARDS, AND AT THAT POINT YOU SAID,  
9 "I'M PRETTY SURE IT WASN'T THE SAME NIGHT. IT MUST  
10 HAVE BEEN THE NEXT NIGHT."

11 DO YOU REMEMBER THAT?

12 A. YES.

13 Q. NOW, MR. HANDSHOE, YOU CONFIRMED THAT YOU  
14 ONLY MET ERIC ANDERSON A COUPLE OF DAYS BEFORE THE  
15 MIDDLE OF APRIL; IS THAT RIGHT?

16 A. YES.

17 Q. BEFORE YOU WERE INVOLVED IN THE BRUCKER  
18 HOMICIDE?

19 A. YES.

20 Q. AND YOU HAD SEEN HIM A TOTAL OF FOUR OR  
21 FIVE TIMES?

22 A. YES.

23 Q. AND WOULD IT BE FAIR TO SAY THAT YOU HAD  
24 TRIED CALLING HIM ON A COUPLE OF OCCASIONS?

25 A. YES, PROBABLY.

26 Q. I'M SORRY?

27 A. PROBABLY, YES.

28 Q. YOU DON'T HAVE ANY SPECIFIC RECOLLECTION,

1 TRAVELING NORTHBOUND TOWARDS THE BARONA CASINO,  
2 WHICH IS, IN FACT, THE LOCATION THAT HE MAKES A CALL  
3 AT 11:53 P.M. FROM.

4 THIS CELL SITE MAP COMPLETELY CONTRADICTS  
5 BRANDON HANDSHOE'S TESTIMONY AS THE PROSECUTION  
6 TRIED TO TAILOR IT, TO ERIC ANDERSON'S STOPPING BY  
7 THAT NIGHT TO PICK UP ANY BAGS HE MAY HAVE LEFT  
8 BEHIND.

9 AND THE SAME, LADIES AND GENTLEMEN, IS TRUE  
10 FOR THE 15TH. THE 15TH, AGAIN, INTERESTINGLY, EVEN  
11 THOUGH YOU'VE SUPPOSEDLY JUST COMMITTED A ROBBERY  
12 WITH SOMEBODY THE DAY BEFORE, YOU MAKE ABSOLUTELY NO  
13 ATTEMPT TO CONTACT THIS PERSON TO TELL THEM TO SHUT  
14 UP. BE QUIET. YOU MAKE ABSOLUTELY NO ATTEMPT TO  
15 CONTACT HIM. INSTEAD, YOU GO TO WORK.

16 AND WHAT YOU WILL SEE FROM THIS CELL SITE  
17 INFORMATION IS THAT, THE ENTIRE DAY, ERIC ANDERSON  
18 WAS IN THE POWAY AREA, SO HE COULD NOT HAVE GONE  
19 BACK TO BRANDON HANDSHOE'S ON THE 15TH, EITHER, TO  
20 PICK UP THOSE MYSTERIOUS BAGS THAT WERE LEFT BEHIND.  
21 THE ENTIRE DAY, HE'S UP IN THE POWAY AREA.

22 THIS CELL SITE INFORMATION CORROBORATES  
23 BOTH JEFF GARDNER AND JIM STEVENS STATING THAT  
24 ERIC ANDERSON WAS WORKING THAT DAY, AND THEN THIS IS  
25 ALSO THE CELL SITE MAP, WHICH GIVES THE LOCATION OF  
26 THE CALLS AND INDICATES THAT THEY WERE ALL FROM THE  
27 POWAY AREA. JUST CORROBORATES THE CALLS THEMSELVES.  
28 NO CALLS WHATSOEVER TO BRANDON HANDSHOE.

*Some reference  
X of #3 via.*

1 THEN WHAT YOU HAVE, THE FOLLOWING -- AFTER  
2 THE 15TH, YOU WOULD THINK THAT IF MR. ANDERSON WERE  
3 INVOLVED IN THIS PARTICULAR CRIME AND HE WERE SO  
4 BOUND AND DETERMINED TO MAKE SURE THAT  
5 BRANDON HANDSHOE OR APOLLO HUHN NEVER SAID ANYTHING  
6 TO ANYBODY, YOU WOULD THINK THERE WOULD BE SOME  
7 ATTEMPT TO, REALLY, CONTACT THEM AND REALLY TALK TO  
8 THEM AND REALLY SAY, YOU KNOW, "YOU GUYS YOU BETTER  
9 SHUT UP. YOU BETTER KEEP YOUR MOUTHS SHUT. YOU  
10 BETTER NOT SAY A THING, BECAUSE IF YOU DO, YOU'RE IN  
11 TROUBLE."

12 THIS IS THE TOTAL NUMBER OF CALLS TO  
13 BRANDON HANDSHOE AFTER APRIL 14TH. NONE ON THE  
14 15TH. ON THE 16TH, 3:30, ONE MINUTE OR LESS.  
15 APRIL 17TH, YOU HAVE A FEW CALLS, AGAIN, ONE MINUTE  
16 OR LESS, TWO MINUTES OR LESS, ONE MINUTE OR LESS.  
17 APRIL 20TH, THE LAST ONE, ONE MINUTE OR LESS.

18 LADIES AND GENTLEMEN, WE KNOW THAT  
19 ERIC ANDERSON WAS WHAT WE CALL A TATTOO ARTIST. WE  
20 KNOW THAT HE WENT TO PEOPLE'S HOUSES, DID TATTOO  
21 WORK AT THEIR HOUSE. HE SOMETIMES HAD PEOPLE COME  
22 TO HIS HOUSE.

23 WE KNOW THAT APOLLO HUHN AND  
24 BRANDON HANDSHOE HAD HIS CAR. WE KNOW THAT  
25 APOLLO HUHN AND BRANDON HANDSHOE WERE INTERESTED IN  
26 TATTOO. WE KNOW THAT THEY HAD SEEN ERIC ANDERSON'S  
27 PRIOR TATTOO WORK. JOHN MICHELS, SHANA GILHAM,  
28 CHARISSA LAIN, ALL THOSE PEOPLE KNEW ERIC ANDERSON

DO YOU REMEMBER THAT?

A. YES.

Q. AND DO YOU REMEMBER WHAT COLOR YOU SAID IT WAS?

A. BROWNISH-GRAY, MAYBE SILVER, SILVER-ISH.

Q. OKAY. IN FACT, YOUR TESTIMONY EARLIER TODAY WAS GRAYISH-SILVER; IS THAT RIGHT?

A. YES, YES.

Q. AND DO YOU REMEMBER HOW YOU DESCRIBED THE COLOR OF THE HAIR PIECE WHEN YOU HAD YOUR FREE TALK ON APRIL 11TH?

A. NO, I DON'T.

Q. DO YOU REMEMBER DESCRIBING IT AT THAT TIME AS BROWNISH?

A. IT WAS BROWNISH AND, LIKE -- KIND OF LIKE ALL DIFFERENT COLORS, BUT IT WAS LIKE -- I DON'T KNOW HOW TO EXPLAIN THE COLORS, BUT IT WAS, LIKE, KIND OF LIKE GRAYISH-BROWN, IN A WAY.

Q. THAT'S HOW YOU REMEMBER IT.

AND YOU REMEMBER IT BEING ABOUT SHOULDER LENGTH?

A. ALMOST TO THE SHOULDER.

Q. NOW, YOU SAID THAT MR. ANDERSON WAS ALSO WEARING A BASEBALL CAP?

A. THAT'S RIGHT.

Q. AND WHAT DID THIS BASEBALL CAP LOOK LIKE?

A. I DON'T REMEMBER. I THINK IT WAS BLACK.

Q. AND, IN FACT, WHEN YOU WERE ASKED WHAT THIS

BASEBALL CAP LOOKED LIKE ON APRIL 11TH, YOU SAID, "NO, I DON'T REMEMBER WHAT THE BASEBALL CAP LOOKED LIKE" --

A. NO.

Q. -- IS THAT RIGHT?

A. THAT'S RIGHT.

Q. AND YOU DON'T RECALL ANY BEARD BEING A PART OF THIS DISGUISE?

A. NO, I DON'T.

Q. AND YOU WERE SPECIFICALLY ASKED WHERE THESE DISGUISES MIGHT HAVE COME FROM; IS THAT RIGHT?

A. YES.

Q. AND YOU SAID ON APRIL 11TH THAT THESE DISGUISES CAME OUT OF SOME SORT OF A BOX OR BAG?

A. THAT'S RIGHT.

Q. SO AS YOU SIT HERE TODAY, YOU DON'T REMEMBER WHETHER THESE DISGUISES CAME OUT OF A BOX OR A BAG?

A. IT WAS KIND OF LIKE A DUFFEL BAG, BUT IT WAS KIND OF LIKE A BOX, LIKE, LIKE KIND OF LIKE A SUITCASE BOX.

Q. LIKE A SUITCASE BOX?

A. YEAH, KIND OF LIKE THAT.

Q. WAS IT LEATHER?

A. I THINK IT WAS BLACK.

Q. WAS IT LEATHER OR CANVAS?

A. HE HAD A COUPLE BAGS.

Q. YOU DON'T REMEMBER WHETHER THEY WERE

1 LEATHER OR CANVAS?

2 A. NO.

3 Q. NOW, THIS DISGUISE -- THIS HAIR PIECE THAT  
4 ERIC ANDERSON HAD ON, DID HE HAVE THIS ON THE ENTIRE  
5 TIME YOU WERE WITH HIM?

6 A. FROM WHEN WE LEFT MY HOUSE UNTIL I GOT OUT  
7 OF THE CAR.

8 Q. OKAY. AND YOU SAID YOU GOT OUT OF CAR NEAR  
9 YOUR FRIEND RORY'S HOUSE?

10 A. THAT'S RIGHT.

11 Q. SO WHEN YOU LAST SAW MR. ANDERSON, IT'S  
12 YOUR TESTIMONY THAT HE STILL HAD THE HAIR PIECE ON?

13 A. YES.

14 Q. AND YOU HAVE NO IDEA WHAT HAPPENED TO ANY  
15 OF THE --

16 A. NO, I DON'T.

17 Q. -- THESE DISGUISES?

18 A. NO, I DON'T.

19 Q. DURING THE TIME THAT YOU WERE AT YOUR  
20 HOUSE, PRIOR TO GOING TO THE BRUCKER HOUSE, NOBODY  
21 CALLED ERIK SWANSON FROM YOUR HOUSE; IS THAT RIGHT?

22 A. MAY BE. POSSIBLE.

23 Q. YOU WERE SPECIFICALLY ASKED THAT BY  
24 DETECTIVE GOLDBERG AND MR. BAKER; IS THAT RIGHT?

25 A. I'M NOT SURE.

26 Q. WELL, DO YOU REMEMBER SAYING AT THAT TIME  
27 THAT YOU DON'T REMEMBER ANYBODY CALLING ERIK SWANSON  
28 FROM YOUR HOUSE ON THAT DATE?

1 A. I DON'T RECALL. WHO KNOWS WHO CALLED HIM?  
2 COULD HAVE BEEN ME, COULD HAVE BEEN APOLLO. WHO  
3 KNOWS? I DON'T KNOW IF HE WAS EVEN CALLED THAT DAY  
4 OR NOT.

5 Q. BUT YOU CERTAINLY DON'T REMEMBER CALLING  
6 HIM YOURSELF?

7 A. YES.

8 Q. NOW, YOU MENTIONED THAT YOU DID HAVE A .22  
9 IN YOUR POSSESSION DURING THIS OCCASION?

10 A. IT WAS EITHER A .22 OR A .25. I THOUGHT IT  
11 WAS A .25, BUT IT COULD HAVE BEEN A .22.

12 Q. SO YOU'RE NOT SURE WHAT CALIBER IT WAS?

13 A. NO, I'M NOT SURE.

14 Q. AND YOU ALSO MENTIONED THAT AT SOME POINT  
15 YOU HAD A WALKIE-TALKIE?

16 A. YES, THAT'S RIGHT.

17 Q. DO YOU REMEMBER HOW THE ISSUE OF A  
18 WALKIE-TALKIE CAME UP?

19 A. NO, I DON'T.

20 Q. WELL, WHEN YOU WERE TALKING TO MR. BAKER  
21 AND MR. GOLDBERG ON APRIL 11TH, DO YOU REMEMBER WHO  
22 IT WAS WHO ACTUALLY ASKED YOU ABOUT A WALKIE-TALKIE?

23 A. NO.

24 Q. IN OTHER WORDS, YOU DIDN'T VOLUNTEER THAT  
25 THERE WAS A WALKIE-TALKIE INVOLVED, DID YOU?

26 A. I'M NOT SURE.

27 Q. DO YOU REMEMBER MR. GOLDBERG ASKING YOU WAS  
28 THERE A WALKIE-TALKIE INVOLVED?

1 A. YES.  
 2 Q. -- IS THAT RIGHT?  
 3 AND YOU CONTINUED TO SEE HIM UNTIL YOU  
 4 FOUND OUT HE HAD ACTUALLY BEEN ARRESTED; IS THAT  
 5 RIGHT?  
 6 MR. MCALLISTER: YOUR HONOR, I'M GOING TO  
 7 OBJECT. THIS IS BEYOND THE SCOPE OF DIRECT  
 8 EXAMINATION.  
 9 THE COURT: WELL, RIGHT NOW IT'S GENERALLY  
 10 WITHIN THE FRAMEWORK.  
 11 SO ANYTHING FURTHER REGARDING THAT  
 12 BACKGROUND, MS. VANDENBOSCH?  
 13 MS. VANDENBOSCH: I DON'T BELIEVE SO.  
 14 THE COURT: OKAY.  
 15 BY MS. VANDENBOSCH:  
 16 Q. OKAY. NOW, YOU SAID THAT BRANDON STAYED AT  
 17 YOUR HOUSE FOR A PERIOD OF TIME; HE SEEMED UPSET.  
 18 AND THEN HE -- YOU GAVE HIM A RIDE HOME; IS THAT  
 19 RIGHT?  
 20 A. YES.  
 21 Q. DID HE ASK YOU FOR A RIDE HOME, OR DID YOU  
 22 JUST OFFER IT?  
 23 A. WELL, HE ASKED ME BECAUSE HE DIDN'T HAVE  
 24 ANY BUS MONEY.  
 25 Q. OKAY. AND THEN YOU, IN FACT, DROVE HIM  
 26 HOME?  
 27 A. UH-HUH.  
 28 Q. AND THAT WAS TO THE -- TO A MOBILE HOME IN

1 PECAN PARK?  
 2 A. YES.  
 3 Q. MOBILE HOME PARK; IS THAT RIGHT?  
 4 A. THAT'S CORRECT.  
 5 Q. AND THAT'S WHERE YOU REMEMBERED HIM LIVING  
 6 FROM WHEN YOU KNEW HIM EARLIER?  
 7 A. YEAH. I'D NEVER BEEN THERE BEFORE, BUT WE  
 8 ALWAYS JUST SKATEBOARDED AROUND THERE.  
 9 Q. AND HE WAS A -- SO HE SHOWED YOU WHERE HE  
 10 WAS LIVING AND YOU DROVE HIM --  
 11 A. TO THERE.  
 12 Q. -- TO THERE? AND THEN YOU WENT IN, YOU  
 13 SAID; IS THAT RIGHT?  
 14 A. FOR A COUPLE OF MINUTES, YES.  
 15 Q. FOR A COUPLE OF MINUTES. AND, IN FACT, YOU  
 16 SAW OTHER PEOPLE THERE; IS THAT RIGHT?  
 17 A. THERE WAS TWO OTHER PEOPLE THERE, YES.  
 18 Q. IN FACT, THERE WAS -- THERE WAS A MALE --  
 19 EXCUSE ME, THERE WAS A GIRL?  
 20 A. YES.  
 21 Q. AND THEN THERE WERE IN FACT TWO MALES; IS  
 22 THAT RIGHT?  
 23 A. INCLUDING BRANDON, YES.  
 24 Q. TWO MALES INCLUDING BRANDON?  
 25 A. NO. BRANDON AND THEN ONE OTHER MALE. I  
 26 WASN'T SURE WHO HE WAS.  
 27 Q. OKAY. MR. FAY, DO YOU REMEMBER -- YOU'VE  
 28 TALKED TO LAW ENFORCEMENT A COUPLE OF TIMES

Bry

3707

1 CONCERNING YOUR OBSERVATIONS; IS THAT RIGHT?

2 A. YES.

3 Q. THE FIRST TIME YOU SPOKE TO THEM WAS ON  
4 MAY 15<sup>TH</sup>?

5 A. I THINK SO, YEAH.

6 Q. RIGHT AFTER BRANDON HAD BEEN ARRESTED?

7 A. AT THE TIME I -- I WAS TAKING  
8 ANTIDEPRESSANTS AND SEVERELY ABUSING DRUGS, WHICH  
9 I'M CLEAN NOW, BUT -- SO, YES. I MEAN, IF I -- IF I  
10 REMEMBER CORRECTLY.

11 Q. I'M SORRY. DO YOU REMEMBER -- YOU SPOKE  
12 ONE -- TO LAW ENFORCEMENT FOR THE FIRST TIME ON  
13 MAY 15<sup>TH</sup>, JUST AFTER BRANDON WAS ARRESTED, AND THEN  
14 YOU SPOKE TO LAW ENFORCEMENT A SECOND TIME ON  
15 JULY 24<sup>TH</sup>; IS THAT RIGHT?

16 A. YES.

17 Q. A LITTLE BIT LATER?

18 A. YEAH.

19 THE COURT: AND YOU HAVE TO ANSWER AUDIBLY, GIVE  
20 US A YES OR NO.

21 THE WITNESS: I -- YES.

22 THE COURT: THESE JURORS HAVE TO HEAR YOU AS  
23 WELL.

24 THANKS, MR. FAY.

25 THE WITNESS: UH-HUH.

26 BY MS. VANDENBOSCH:

27 Q. THEN YOU WERE ASKED -- SPECIFICALLY ASKED  
28 BY LAW ENFORCEMENT, SPECIFICALLY DETECTIVE GOLDBERG,

3708

1 WHO IS IN COURT TODAY, ABOUT WHEN YOU DROVE BRANDON  
2 HOME, WHETHER THERE WERE OTHER PEOPLE AT THE MOBILE  
3 HOME.

4 DO YOU REMEMBER THAT?

5 A. UH-HUH, YES.

6 Q. YES, YOU REMEMBER THAT? AND DO YOU  
7 REMEMBER SPECIFICALLY BEING ASKED WHO WAS THERE, WHO  
8 WAS -- WHO ELSE WAS THERE?

9 A. I CAN'T REMEMBER.

10 Q. DO YOU REMEMBER STATING THAT A MALE AND A  
11 FEMALE AND THEN -- TWO MALES AND A FEMALE. DO YOU  
12 REMEMBER SAYING THAT?

13 A. INCLUDING BRANDON, YES.

14 Q. OKAY. WELL, YOU WERE SPECIFICALLY ASKED IF  
15 THERE WERE OTHER PEOPLE THERE OTHER THAN BRANDON?

16 A. TO MY KNOWLEDGE TODAY, I CAN RECALL A MALE  
17 AND A FEMALE AND THEN BRANDON.

18 Q. OKAY. WOULD IT BE FAIR TO SAY THAT YOUR  
19 MEMORY WAS BETTER BACK IN JULY OF 2003?

20 A. WITH ME BEING ON ALL THE DRUGS, I -- I  
21 COULDN'T SAY.

22 Q. OKAY.

23 A. I -- I WAS PRETTY BAD FOR A WHILE.

24 Q. OKAY. BUT YOU DO REMEMBER TALKING TO LAW  
25 ENFORCEMENT ON THAT -- ON THAT DAY?

26 A. YES.

27 Q. AND YOU DO REMEMBER THAT THE -- THAT THE  
28 INTERVIEW WAS BEING TAPE-RECORDED?

1 A. YES.

2 Q. OKAY. AND HAVE YOU EVER SEEN A TRANSCRIPT  
3 OF THAT PARTICULAR INTERVIEW?

4 A. WELL, BEFORE I WAS HERE ON TUESDAY, THEY  
5 ALLOWED ME FIVE MINUTES TO LOOK AT A HUGE PACKET.  
6 (INDICATING.) AND I DIDN'T EVEN HAVE A CHANCE TO  
7 READ THROUGH MORE THAN FOUR PAGES, FIVE PAGES.

8 Q. OKAY. SO IN PREPARATION FOR YOUR TESTIMONY  
9 TODAY, YOU CAME UP TO THE DISTRICT ATTORNEY'S  
10 OFFICE?

11 A. YEAH, BUT THEN THEY TOLD ME TO COME RIGHT  
12 BACK DOWN HERE. AND I DIDN'T HAVE A CHANCE TO  
13 REVIEW IT.

14 Q. YOU WERE GIVEN A PACKET OF PAPERS THAT THEY  
15 WANTED YOU TO READ BEFORE YOU TESTIFIED TODAY?

16 A. AND I ONLY GOT THROUGH ABOUT SEVEN TO TEN  
17 PAGES OUT OF A BIG STACK. (INDICATING.)

18 Q. OKAY. SO YOU DON'T REMEMBER DESCRIBING THE  
19 TWO MALES TO LAW ENFORCEMENT ON JULY 24<sup>TH</sup> AS ONE  
20 BEING TALLER, ONE WAS THIN, KIND OF A LITTLE BIT  
21 TALLER LIKE ME; YOU DON'T REMEMBER THOSE  
22 DESCRIPTIONS?

23 A. I -- I KIND OF REMEMBER. I JUST -- TO  
24 MY -- LIKE I SAID TODAY, I JUST CAN ONLY REMEMBER  
25 THE TWO PEOPLE BESIDES BRANDON BEING THERE.

26 Q. OKAY. OKAY. NOW, YOU SAID THAT AT SOME  
27 POINT BRANDON HANDSHOE GAVE YOU A GUN; IS THAT  
28 RIGHT?

1 A. WELL, I DIDN'T TOUCH IT. I GAVE HIM A SHOE  
2 BOX TO PUT IT IN.

3 Q. OKAY. THAT'S WHAT I WANT --

4 A. YES.

5 Q. -- TO GO TO. HE DIDN'T GIVE YOU THIS GUN  
6 ON THAT FIRST DAY THAT YOU SAW HIM; IS THAT RIGHT?

7 A. I DON'T -- NO, NO.

8 Q. OKAY. IN FACT, THE FIRST DAY YOU SAW HIM  
9 AFTER HAVING NOT SEEN HIM FOR SO LONG, HE SEEMED  
10 UPSET; YOU GUYS TALKED A LITTLE BIT AND THEN YOU  
11 DROVE HIM HOME?

12 A. AND NOTHING ABOUT ANY OF THIS. WE JUST --  
13 TO BE PERFECTLY HONEST WITH YOU, WE JUST DID SOME  
14 DRUGS.

15 Q. OKAY. SO BRANDON CAME TO YOUR HOUSE THAT  
16 DAY AND HE SEEMED UPSET. AND THE TWO OF YOU DID  
17 SOME MORE DRUGS TOGETHER AND YOU SEEMED -- IS THAT A  
18 YES?

19 A. THAT IS CORRECT, YES.

20 Q. AND DID HE SEEM HIGH TO YOU WHEN HE GOT  
21 THERE?

22 A. I COULDN'T TELL. HE WAS SHAKING, NERVOUS.  
23 SO I -- PROBABLY, YES.

24 Q. OKAY. AND WHAT KIND OF DRUGS DID YOU DO  
25 ONCE HE GOT THERE?

26 A. METHAMPHETAMINE.

27 Q. OKAY. DID YOU SMOKE IT?

28 A. YES, MA'AM.

1 A. HE PROBABLY DID.

2 Q. AND THEN HE ASKED YOU -- YOU SAID THAT,  
3 "OH, THE WALKIE-TALKIE ALSO CAME OUT OF THIS BAG OR  
4 BOX"?

5 A. YES.

6 Q. AND YOU SPECIFICALLY TOLD HIM THAT, IN  
7 FACT, YOU TRIED OUT THE WALKIE-TALKIE AT YOUR HOUSE  
8 BEFORE LEAVING TO MAKE SURE THAT THE WALKIE-TALKIE  
9 WORKED?

10 A. YES.

11 Q. AND AT SOME LATER TIME, JUST A COUPLE OF  
12 DAYS AGO, IN FACT, YOU WERE SHOWN A WALKIE-TALKIE?

13 A. THAT'S RIGHT.

14 Q. BACK ON APRIL 11TH, YOU WERE ASKED TO  
15 DESCRIBE THE WALKIE-TALKIE. DO YOU REMEMBER THAT?

16 A. NO, I DON'T.

17 Q. DO YOU REMEMBER NOT BEING ABLE TO DESCRIBE  
18 IT?

19 A. YES.

20 Q. BUT A COUPLE OF DAYS AGO, WHEN MR. BAKER  
21 AND MR. GOLDBERG CAME BACK TO SEE YOU, THEY ACTUALLY  
22 HAD A WALKIE-TALKIE WITH THEM; IS THAT RIGHT?

23 A. YES, THEY DID.

24 Q. AND THEY SHOWED YOU THIS WALKIE-TALKIE?

25 A. YES, THEY DID.

26 Q. AND YOU LOOKED AT THE WALKIE-TALKIE?

27 A. YES.

28 Q. AND YOU SAID, "OH, THAT'S NOT THE

WTF?

WTF? & Confusion.

1 WALKIE-TALKIE THAT" --

2 A. I SAID IT COULD HAVE BEEN, BUT I DON'T  
3 THINK IT WAS.

4 Q. AND YOU, IN FACT, GAVE AT THAT POINT A  
5 SPECIFIC DESCRIPTION OF THE WALKIE-TALKIE --

6 A. I THOUGHT IT WAS BLACK AND ORANGE, BUT THAT  
7 COULD HAVE BEEN IT, BUT WHO KNOWS? IT WAS SO LONG  
8 AGO.

9 Q. OKAY. IN FACT, WHEN YOU WERE ASKED ABOUT  
10 THE WALKIE-TALKIE, YOU DESCRIBED IT AS BEING BIGGER  
11 THAN THE ONE MR. GOLDBERG HAS?

12 A. I THOUGHT IT WAS A LITTLE BIGGER.

13 Q. AND YOU SAID IT WAS ORANGE?

14 A. BLACK AND ORANGE, I THOUGHT.

15 Q. SO NOW YOU REMEMBER IT BEING BLACK AND  
16 ORANGE?

17 A. I DON'T REMEMBER IT BEING BLACK AND ORANGE,  
18 BUT -- I'M NOT TOO SURE.

19 Q. BUT YOU REMEMBER THEM SHOWING YOU THE  
20 WALKIE-TALKIE?

21 A. YES, I DO.

22 Q. AND EVEN JUNE 2ND, A COUPLE OF DAYS AGO,  
23 YOU WERE AGAIN ASKED TO DESCRIBE THE WALKIE-TALKIE  
24 THAT YOU USED, RIGHT?

25 A. YES.

26 Q. AND YOU SAID YOU COULDN'T DESCRIBE IT?

27 A. YES.

28 Q. AND THEN, WHEN YOU WERE SHOWN A PARTICULAR



Rory - Valerie 1.

Colleying 1.

3865

1 WALKIE-TALKIE, YOU WERE ASKED IF THIS LOOKED LIKE  
2 IT?  
3 A. YES.  
4 Q. AND YOU SAID -- YOU WERE ASKED, "WAS IT  
5 BIGGER?"  
6 A. YES, I WAS ASKED IF IT WAS BIGGER.  
7 Q. AND YOU SAID, "I THINK SO"?  
8 A. YES.  
9 Q. AND YOU THEN SAID, "I THINK IT WAS  
10 ORANGER" --  
11 A. YES.  
12 Q. -- IS THAT RIGHT?  
13 AND THEN YOU WERE ASKED "OH, IT WAS ORANGE  
14 IN COLOR?"  
15 A. YES.  
16 Q. AND YOU SAID, "YES, IT WAS"?  
17 A. I SAID I WASN'T SURE, BUT I THINK IT WAS.  
18 Q. AND, IN FACT, THE PARTICULAR WALKIE-TALKIE  
19 THAT YOU HAD, YOU GAVE TO RORY FAY; IS THAT RIGHT?  
20 A. THAT'S RIGHT.  
21 Q. SO BEFORE WE GO THERE, YOU TESTIFIED ABOUT  
22 A COUPLE OF THINGS THAT HAPPENED WHEN YOU WERE AT  
23 THE -- ON MEDILL AVENUE AT THE BRUCKER RESIDENCE.  
24 YOU DESCRIBED THAT YOU PULLED INTO THE  
25 DRIVEWAY AND STOPPED; IS THAT RIGHT?  
26 A. THAT'S RIGHT.  
27 Q. AND AFTER EVERYBODY CAME RUNNING -- YOU  
28 STAYED IN THE CAR; IS THAT RIGHT?

WALKIE  
VAL

3866

1 A. THAT'S RIGHT.  
2 Q. AND WHEN YOU LEFT YOUR HOUSE THERE ON -- IN  
3 PECAN PARK, WHERE IN THE VEHICLE WERE YOU SITTING?  
4 A. IN THE BACK.  
5 Q. SO YOU WERE SITTING IN THE BACK SEAT?  
6 A. YES.  
7 Q. AND APOLLO WAS SITTING IN THE FRONT?  
8 A. YES, PASSENGER.  
9 Q. SO WHEN VALERIE DESCRIBED YOU SITTING IN  
10 THE FRONT SEAT, WAS SHE MISTAKEN ABOUT THAT?  
11 A. YES, SHE WAS. I DON'T THINK SHE COULD HAVE  
12 SEEN US LEAVE, BUT WHO KNOWS?  
13 Q. AND WHEN YOU ARRIVED --  
14 MS. VANDENBOSCH: I'M SORRY, YOUR HONOR. I DO  
15 NEED TO FIND A MAP.  
16 BY MS. VANDENBOSCH:  
17 Q. YOU WERE SPECIFICALLY ASKED BY  
18 MR. MCALLISTER THE ROUTE THAT YOU TOOK INTO -- TO  
19 GET TO THE BRUCKER RESIDENCE; IS THAT RIGHT?  
20 A. THAT'S RIGHT.  
21 Q. AND WHAT YOU TOLD MR. MCALLISTER IS THAT,  
22 TO THE BEST OF YOUR RECOLLECTION, YOU CAME UP MEDILL  
23 AVENUE?  
24 A. THAT'S RIGHT.  
25 Q. AND YOU LEFT -- AFTER EVERYBODY CAME  
26 RUNNING BACK TO THE CAR, YOU LEFT THE SAME WAY?  
27 A. YES.  
28 Q. SO I'M REFERRING NOW TO WHAT'S BEEN MARKED

3869

3870

1 Q. AND YOU SPENT, IN FACT, ABOUT ONE OR TWO  
2 HOURS THERE?

3 A. THAT'S RIGHT.

4 Q. AND WHILE YOU WERE AT RORY FAY'S HOUSE, IT  
5 WOULD BE YOUR TESTIMONY THAT YOU GAVE HIM SOMETHING?

6 A. THAT'S RIGHT.

7 Q. SO RIGHT DURING THAT FIRST VISIT WITH  
8 RORY FAY, YOU GAVE HIM THE GUN THAT YOU HAD?

9 A. THAT'S RIGHT.

10 Q. AND YOU ASKED HIM TO GET RID OF IT?

11 A. I TOLD HIM TO HOLD ON TO IT FOR ME.

12 Q. TOLD HIM TO HOLD ON TO IT?

13 AND THIS WAS BEFORE HE DROVE YOU HOME THAT  
14 FIRST TIME?

15 A. THAT'S RIGHT.

16 Q. AND IT WOULD BE YOUR TESTIMONY THAT YOU  
17 LIKEWISE GIVE RORY FAY THIS WALKIE-TALKIE?

18 A. YES.

19 Q. AND THAT'S, IN FACT, WHAT YOU TOLD  
20 MR. GOLDBERG AND MR. BAKER BACK ON APRIL 11TH?

21 A. YES.

22 Q. AND YOU CONFIRMED THAT A COUPLE OF DAYS  
23 AGO?

24 A. YES.

25 Q. DID YOU SEE WHAT RORY FAY DID WITH THE GUN  
26 AND THE WALKIE-TALKIE?

27 A. NO, I DIDN'T.

28 Q. SO ALL YOU KNOW IS THAT YOU LEFT IT THERE?

1 A. YES.

2 Q. AND YOU LEFT BOTH THOSE ITEMS THERE ON THE  
3 DAY OF THE HOMICIDE?

4 A. YES.

5 Q. YOU STAYED AT RORY FAY'S HOUSE ONE TO TWO  
6 HOURS, YOU SAID?

7 A. YES.

8 Q. AND THEN YOU GOT RORY FAY TO DRIVE YOU  
9 HOME?

10 A. YES.

11 Q. WHAT'S THE DISTANCE BETWEEN RORY FAY'S  
12 HOUSE AND YOUR HOUSE IN PECAN PARK?

13 A. MAYBE TWO OR THREE MILES.

14 Q. TWO OR THREE MILES?

15 SO IT TOOK, WHAT, ABOUT FIVE MINUTES TO GET  
16 THERE?

17 A. YES.

18 Q. AND WHEN YOU GOT BACK TO YOUR HOUSE AT  
19 PECAN PARK, ONLY VALERIE PERETTI WAS THERE; IS THAT  
20 RIGHT?

21 A. I'M NOT SURE.

22 Q. WELL, WHO WAS THERE?

23 A. COULD HAVE BEEN APOLLO AND VALERIE OR JUST  
24 VALERIE.

25 Q. WELL, YOU TESTIFIED A LITTLE BIT EARLIER  
26 THAT, WHEN YOU GOT BACK TO YOUR HOUSE, THAT  
27 APOLLO HUHN WAS ALREADY THERE. DO YOU REMEMBER  
28 SAYING THAT?

1 PEOPLE'S EXHIBIT 15. AND I'M GOING TO POINT WITH MY  
2 HAND. I'M GOING TO POINT TO MEDILL AVENUE, OKAY?

3 AND YOU SEE WHERE THE BRUCKER RESIDENCE IS  
4 MARKED?

5 A. YES.

6 Q. SO IT'S MY UNDERSTANDING FROM YOUR  
7 TESTIMONY THAT IN THE VEHICLE TRAVELED DOWN MEDILL  
8 TO THE BRUCKER RESIDENCE, AND THEN AFTER, WHEN YOU  
9 GUYS WERE LEAVING, YOU AGAIN WENT BACK UP MEDILL,  
10 TOWARDS AURORA?

11 A. YES.

12 Q. THAT'S THE ROUTE THAT YOU TOOK?

13 A. YES.

14 Q. OKAY. YOU NEVER TRAVELED DOWN THIS AREA  
15 HERE, DOWN AMELIA?

16 A. NOT THAT I RECALL.

17 Q. AND YOU INDICATED THAT YOU ACTUALLY PULLED  
18 INTO THE DRIVEWAY?

19 A. YES.

20 Q. AND WERE FACING FORWARD IN THE DRIVEWAY?

21 A. I'M NOT FOR SURE, BUT I THINK WE WERE  
22 FACING FORWARD IN THE DRIVEWAY.

23 Q. AND, IN FACT, IT'S YOUR TESTIMONY THAT  
24 AFTER EVERYBODY CAME RUNNING BACK TO THE VEHICLE,  
25 YOU GUYS BACKED OUT OF THE DRIVEWAY; IS THAT RIGHT?

26 A. I'M PRETTY SURE WE DID, BUT I'M NOT FOR  
27 SURE FOR SURE, BUT ...

28 Q. AND THAT'S WHAT YOU TOLD MR. GOLDBERG AND

1 MR. BAKER BACK ON APRIL 11TH, THAT, IN FACT, YOU  
2 GUYS HAD BACKED OUT?

3 A. YES.

4 Q. AND YOU ARE, THEN, DRIVEN TO YOUR FRIEND  
5 RORY FAY'S HOUSE; IS THAT RIGHT?

6 A. THAT'S RIGHT.

> 7 Q. AND THIS IS A FELLOW YOU HADN'T SEEN IN  
8 ABOUT FOUR YEARS?

> 9 A. NO, PROBABLY ABOUT A YEAR AND A HALF, MAYBE  
10 TWO.

11 Q. AND YOU DON'T REMEMBER THE ROUTE THAT YOU  
12 TOOK TO RORY'S HOUSE. COULD HAVE BEEN OLD  
13 HIGHWAY 80, COULD HAVE BEEN THE 8?

14 A. YES.

15 Q. YOU DON'T REMEMBER?

16 A. I DON'T REMEMBER.

17 Q. BUT YOU GOT TO RORY FAY'S HOUSE?

18 A. THAT'S RIGHT.

19 Q. AND YOU WENT UP TO HIS HOUSE. AND DO YOU  
20 REMEMBER WHO WAS HOME?

21 A. I'M NOT SURE IF HIS MOM WAS HOME. YEAH, I  
22 THINK HIS MOM WAS HOME. I THINK HIS MOM WAS HOME,  
23 HIM AND HIS MOM.

24 Q. HE AND HIS MOM WERE HOME?

25 A. YES, I THINK SO.

26 Q. AND YOU THEN SPENT A BIT OF TIME WITH  
27 RORY FAY?

28 A. THAT'S RIGHT.

1 A. I SAID HE COULD HAVE BEEN, IF I'M CORRECT.  
 2 Q. DO YOU REMEMBER SAYING HE COULD HAVE BEEN?  
 3 A. YES.  
 4 Q. OKAY. DO YOU REMEMBER AS YOU SIT HERE  
 5 RIGHT NOW?  
 6 A. NO.  
 7 Q. AND, IN FACT, WHAT YOU TOLD  
 8 DETECTIVE GOLDBERG AND MR. BAKER BACK ON APRIL 11TH  
 9 WAS THAT VALERIE PERETTI WAS THERE WHEN YOU GOT BACK  
 10 TO THE -- TO YOUR HOUSE, AND THAT APOLLO ARRIVED 15,  
 11 20 MINUTES LATER?  
 12 A. YES.  
 13 Q. SO THAT'S WHAT YOU REMEMBER TELLING  
 14 MR. GOLDBERG BACK ON APRIL 11TH?  
 15 A. YES.  
 16 Q. SO WHAT YOU SAID TODAY ABOUT APOLLO ALREADY  
 17 AT THE TRAILER WHEN YOU GOT HOME, WAS THAT JUST A  
 18 MISTAKE?  
 19 A. YEAH.  
 20 Q. SO YOU NOW REMEMBER THAT APOLLO GOT BACK 15  
 21 TO 20 MINUTES AFTER YOU.  
 22 AND WHAT HAPPENED AFTER THAT?  
 23 A. TALKED FOR A LITTLE BIT, AND THEY LEFT.  
 24 Q. THEY LEFT?  
 25 A. YES.  
 26 Q. IN FACT, THEY WENT DOWN TO THE LOCAL BURGER  
 27 KING TO HAVE SOMETHING TO EAT; IS THAT RIGHT?  
 28 A. YES.

1 Q. THAT'S WHAT YOU REMEMBER THEM DOING?  
 2 A. YES.  
 3 Q. OKAY. NOW, AS TO THESE BAGS OR THESE BOXES  
 4 THAT WERE -- THAT WERE THERE, WERE ANY LEFT BEHIND?  
 5 A. YES, THEY WERE.  
 6 Q. AND WOULD IT BE YOUR TESTIMONY THAT  
 7 MR. ANDERSON CAME BY TO PICK THEM UP AT SOME POINT?  
 8 A. YES.  
 9 Q. AND WOULD IT BE -- WHEN DID HE COME BY TO  
 10 PICK THEM UP?  
 11 A. EITHER THE NEXT DAY OR TWO DAYS AFTERWARDS.  
 12 Q. IN FACT, WHEN YOU WERE ASKED THAT SPECIFIC  
 13 QUESTION BY DETECTIVE GOLDBERG ON APRIL 11TH, YOU  
 14 SAID MR. ANDERSON CAME BY EITHER THE SAME NIGHT OR  
 15 THE FOLLOWING NIGHT TO PICK UP THOSE BAGS?  
 16 A. I'M PRETTY SURE IT WASN'T THE SAME NIGHT.  
 17 IT MUST HAVE BEEN THE NEXT NIGHT.  
 18 Q. SO EITHER THE SAME NIGHT OR THE NEXT NIGHT?  
 19 A. PRETTY SURE IT WAS THE NEXT NIGHT.  
 20 Q. AND THAT'S WHAT YOU REMEMBER TELLING  
 21 DETECTIVE GOLDBERG BACK IN APRIL?  
 22 A. YES.  
 23 Q. I'M ALMOST FINISHED HERE, MR. HANDSHOE.  
 24 BUT YOU WERE SPECIFICALLY ASKED ABOUT  
 25 ZACHARY PAULSON. DO YOU REMEMBER THAT?  
 26 A. ABOUT WHAT?  
 27 Q. ABOUT ZACHARY PAULSON.  
 28 A. WHAT ABOUT HIM?

1 Q. HE'S A FRIEND OF YOURS; IS THAT RIGHT?  
 2 A. THAT'S RIGHT, HE WAS.  
 3 Q. HE WAS?  
 4 A. YES.  
 5 Q. HE'S ONE OF THE GUYS WHO HUNG OUT AT YOUR  
 6 HOUSE?  
 7 A. YES.  
 8 Q. AND YOU HEARD HIM TESTIFY AT THE  
 9 PRELIMINARY HEARING?  
 10 A. YES, I DID.  
 11 Q. AND YOU HEARD HIM TESTIFY THAT HE WAS  
 12 PRESENT DURING CERTAIN CONVERSATIONS THAT TOOK  
 13 PLACE?  
 14 A. YES.  
 15 Q. AND WOULD IT BE FAIR TO SAY YOU HAVE NO  
 16 MEMORY OF HIM ACTUALLY BEING PRESENT DURING ANY  
 17 CONVERSATIONS?  
 18 A. I REMEMBER HIM BEING PRESENT DURING  
 19 CONVERSATIONS, BUT I DON'T KNOW WHAT WE TALKED ABOUT  
 20 AT THAT TIME OR --  
 21 Q. IN FACT, YOU TOLD MR. GOLDBERG,  
 22 DETECTIVE GOLDBERG, THAT YOU DIDN'T THINK THAT  
 23 ZACHARY PAULSON WAS BEING TRUTHFUL ABOUT THE MEETING  
 24 THAT YOU GUYS HAD?  
 25 A. YES.  
 26 Q. AND YOU WERE LIKEWISE ASKED ABOUT  
 27 VALERIE PERETTI. DO YOU REMEMBER THAT?  
 28 A. YES.

1 MR. MCALLISTER: YOUR HONOR, I'M GOING TO  
 2 OBJECT.  
 3 THE COURT: IS IT THE SAME?  
 4 MR. MCALLISTER: YES.  
 5 THE COURT: SUSTAINED, IF YOU'RE GOING TO ELICIT  
 6 FROM HIM AN OPINION AS TO THE TRUTHFULNESS OF  
 7 ANOTHER WITNESS.  
 8 BY MS. VANDENBOSCH:  
 9 Q. YOU HEARD VALERIE PERETTI TESTIFY AT THE  
 10 PRELIMINARY HEARING?  
 11 A. YES, I DID.  
 12 Q. YOU DIDN'T HEAR HER TESTIFY AT THE TRIAL?  
 13 A. NO, I DIDN'T.  
 14 Q. BASED ON THE WAY YOU HEARD HER TESTIFY AT  
 15 THE PRELIMINARY HEARING, WOULD YOU AGREE WITH HER  
 16 TESTIMONY AS TO HOW THINGS HAPPENED?  
 17 A. SOME OF IT.  
 18 Q. AND WITH OTHER PARTS, YOU WOULD SAY SHE  
 19 WASN'T BEING TRUTHFUL?  
 20 A. YES.  
 21 MR. MCALLISTER: OBJECTION, YOUR HONOR.  
 22 THE COURT: SAME RULING.  
 23 DISREGARD THE RESPONSE, REGARDING  
 24 TRUTHFULNESS. TREAT IT AS THOUGH YOU'D NEVER HEARD  
 25 IT.  
 26 MS. VANDENBOSCH: I HAVE NO FURTHER QUESTIONS.  
 27 THE COURT: THANK YOU, MS. VANDENBOSCH.  
 28 MS. ROSENFELD, ARE YOU GOING TO BE NEXT?

1 Q. AND SO BRANDON HANDSHOE DIDN'T GIVE YOU  
2 ANYTHING ON THAT DAY?

3 A. NO.

4 Q. IN FACT, YOU -- THE TWO OF YOU STARTED  
5 SEEING EACH OTHER A LITTLE BIT MORE REGULARLY AFTER  
6 THAT?

7 A. HE WOULD JUST COME UP OCCASIONALLY, YES.

8 Q. AND HE DIDN'T GIVE YOU ANYTHING THE SECOND  
9 TIME HE SAW YOU?

10 A. SEE, I -- I CAN'T RECALL. IT WAS ONE OF  
11 THE DAYS HE BROUGHT THE GUN UP AND ANOTHER DAY HE  
12 BROUGHT A PILE OF JUNK JEWELRY. AND THOSE WERE THE  
13 ONLY TWO THINGS HE'S EVER BROUGHT UP.

14 Q. OKAY. SO LET'S GO TO THAT THEN. DO YOU  
15 RECALL IT BEING MAYBE LIKE THE THIRD OR FOURTH VISIT  
16 THAT BRANDON HANDSHOE CAME TO YOUR HOUSE AND HE  
17 GAVE -- AND HE TRIED TO GIVE YOU A GUN?

18 A. YES.

19 Q. AND THE WAY HE TRIED TO GIVE YOU THIS, THE  
20 GUN, WAS TO SAY, DO YOU KNOW ANYBODY WHO WANTS THIS;  
21 IS THAT RIGHT?

22 A. I CAN'T RECALL. HE JUST WANTED TO GET RID  
23 OF IT.

24 Q. OKAY. HE SAID SOMETHING LIKE DO YOU KNOW  
25 ANYBODY WHO WANTS TO BUY THIS?

26 A. I DON'T RECALL THAT.

27 Q. DO YOU RECALL ALSO TALKING TO LAW  
28 ENFORCEMENT, THIS TIME SOMEBODY FROM THE DISTRICT

1 ATTORNEY'S OFFICE, STEVE BAKER?

2 A. YEAH.

3 Q. A FELLOW WITH GRAY HAIR AND A BEARD?

4 A. YES.

5 Q. AND YOUR MOTHER WAS ALSO PRESENT DURING  
6 THAT INTERVIEW?

7 A. YES.

8 Q. AND DO YOU REMEMBER DURING THAT INTERVIEW  
9 BEING ASKED ABOUT WHETHER BRANDON HANDSHOE GAVE YOU  
10 ANY GUNS?

11 A. YES.

12 Q. AND DO YOU REMEMBER SAYING DURING THAT  
13 INTERVIEW THAT YOU COULDN'T -- THAT IT WAS  
14 APPROXIMATELY THE THIRD OR FOURTH TIME THAT YOU HAD  
15 ACTUALLY SEEN HIM AFTER THIS FIRST TIME THAT HE GAVE  
16 YOU THE GUN?

17 A. YES.

18 Q. AND THAT HE SAID SOMETHING LIKE DO YOU KNOW  
19 ANYBODY WHO WANTS TO BUY THIS?

20 A. I DON'T RECALL.

21 Q. OKAY. YOU SAID YOU DIDN'T HAVE A CHANCE TO  
22 REVIEW ALL THE PAPERWORK THAT YOU WERE GIVEN AT THE  
23 DISTRICT ATTORNEY'S OFFICE. DO YOU THINK IF I GAVE  
24 YOU A TRANSCRIPT OF YOUR TESTIMONY -- OF YOUR  
25 STATEMENTS BACK IN AUGUST OF 2003, WOULD THAT HELP  
26 YOU REMEMBER WHAT YOU SAID?

27 A. WELL, IT'S -- I MEAN, YEAH, BUT I -- I -- I  
28 DON'T EVEN KNOW IF WHAT I SAID WAS OUT OF

1 NERVOUSNESS AND BEING UNDER THE INFLUENCE. I MEAN,  
2 I KNOW WHAT I -- I KNOW WHAT I KNOW TODAY, AND  
3 THAT'S JUST THE FACT THAT HE CAME UP A COUPLE TIMES,  
4 HE BROUGHT A GUN, PUT IT IN THE DUMPSTER, AND I TOOK  
5 HIM HOME.

6 Q. SO YOU DON'T REMEMBER HIM ASKING YOU IF YOU  
7 WANTED TO BUY IT?

8 A. NO.

9 Q. AND THEN IF YOU DIDN'T WANT TO BUY IT, DID  
10 YOU KNOW SOMEBODY ELSE WHO DID WANT TO BUY IT?

11 A. ALL I RECALL IS THAT HE WANTED TO GET RID  
12 OF IT.

13 Q. OKAY. AND, IN FACT, THAT'S WHAT HE SAID TO  
14 YOU, IF YOU DON'T WANT TO BUY IT AND IF YOU DON'T  
15 KNOW SOMEBODY ELSE WHO WANTS TO BUY IT, WILL YOU GET  
16 RID OF IT FOR ME?

17 A. YEAH. HE JUST WANTED TO GET RID OF IT, NOT  
18 NECESSARILY SELL IT. HE WANTED IT OUT OF HIS  
19 POSSESSION.

20 Q. WOULD IT BE FAIR TO SAY THAT YOU THEN GAVE  
21 HIM A SHOE BOX?

22 A. YES.

23 Q. AND DID HE TAKE THE SHOE BOX?

24 A. YEAH. AND HE PUT IT IN THE DUMPSTER  
25 OUTSIDE.

26 Q. DID YOU ACTUALLY SEE HIM PUT IT IN THE  
27 DUMPSTER?

28 A. UH-HUH.

1 Q. IS THAT A YES?

2 A. YES. SORRY.

3 Q. SO YOU SAW HIM, YOU SAW BRANDON HANDSHOE  
4 TAKE THE GUN THAT HE HAD, PUT IT IN A SHOE BOX, AND  
5 PUT THAT SHOE BOX IN THE DUMPSTER?

6 A. YES.

7 Q. NOW, YOU MENTIONED THAT THE ONLY TWO THINGS  
8 THAT BRANDON HANDSHOE HAS -- HAS EVER TRIED TO GIVE  
9 YOU HAVE BEEN THIS GUN AND THEN A BOX FULL OF  
10 JEWELRY; IS THAT RIGHT?

11 A. A HANDFUL OF JUNK JEWELRY, YES.

12 Q. A HANDFUL OF JUNK JEWELRY?

13 A. YES.

14 Q. IN FACT, HE NEVER TRIED TO GIVE YOU A  
15 WALKIE-TALKIE; IS THAT RIGHT?

16 A. THAT'S -- NO. HE HASN'T.

17 Q. HE NEVER DID?

18 A. NO.

19 MS. VANDENBOSCH: THANK YOU. I HAVE NO FURTHER  
20 QUESTIONS.

21 THE COURT: MS. ROSENFELD?

22 MS. ROSENFELD: JUST A COUPLE QUESTIONS.

23 THE COURT: MS. ROSENFELD, HOLD ON JUST A  
24 SECOND. WE'RE GOING TO HAVE A CHANGING OF THE  
25 GUARD. KATIE HAS BEEN GOING FOR A WHILE.

26 AND WHILE TONI IS TAKING OVER, THIS IS  
27 CLAY, TONI'S SON, WHO IS JUST SITTING IN AND  
28 WATCHING HIS MOM WORK THIS MORNING.

1 IT --

2 MS. VANDENBOSCH: WELL, PERHAPS I COULD MAYBE  
3 WORD IT DIFFERENTLY AND SEE.

4 THE COURT: LET'S TRY IT AND SEE. IF IT  
5 TRIGGERS THE SAME OBJECTION --

6 MS. VANDENBOSCH: I DON'T REMEMBER WHAT MY LAST  
7 QUESTION WAS.

8 BY MS. VANDENBOSCH:

9 Q. YOU WERE BEING ADVISED THAT YOU WERE BEING  
10 CHARGED WITH MURDER?

11 A. YES.

12 Q. AND YOU WERE ALSO ADVISED OF YOUR  
13 CONSTITUTIONAL RIGHTS TO REMAIN SILENT?

14 A. YES.

15 Q. AND YOU WERE TOLD THAT ANYTHING YOU SAY IN  
16 COURT COULD BE USED AGAINST YOU?

17 A. YES.

18 MR. MCALLISTER: YOUR HONOR, I'M GOING TO  
19 OBJECT.

20 THE COURT: ALL RIGHT. SUSTAINED.

21 MS. VANDENBOSCH: OKAY.

22 BY MS. VANDENBOSCH:

23 Q. YOU WERE GIVEN AN OPPORTUNITY TO GIVE A  
24 STATEMENT; IS THAT RIGHT?

25 A. YES.

26 MR. MCALLISTER: OBJECTION, YOUR HONOR. WE  
27 REALLY NEED A SIDEBAR IF COUNSEL IS --

28 THE COURT: MS. VANDENBOSCH, IF THERE'S NOTHING

1 MORE TO IT THAN THIS, I AM GOING TO SUSTAIN THE  
2 OBJECTION AND STRIKE IT ALL. IS THAT ALL THERE IS  
3 TO IT IN TERMS OF DECLINING TO COMMUNICATE WITH LAW  
4 ENFORCEMENT AT THAT TIME? IF IT IS, TELL ME. IF WE  
5 NEED A SIDEBAR, TELL ME AND WE'LL HAVE ONE.

6 MS. VANDENBOSCH: PERHAPS I COULD REPHRASE IT.

7 BY MS. VANDENBOSCH:

8 Q. THE FIRST TIME YOU GAVE A STATEMENT TO  
9 ANYBODY IN LAW ENFORCEMENT WAS IN -- WAS ON  
10 APRIL 11<sup>TH</sup> OF 2005; IS THAT FAIR?

11 A. MAY 14<sup>TH</sup>. OH, WAIT. OH, YOU MEAN TO -- TO  
12 THE D.A.?

13 Q. YES.

14 A. YES.

15 Q. SO YOUR FIRST STATEMENT TO LAW ENFORCEMENT  
16 WAS APRIL 11<sup>TH</sup> OF 2005?

17 A. YES.

18 Q. NOW, MR. HANDSHOE, AFTER YOU WERE ARRESTED  
19 FOR MURDER, YOU WERE ARRAIGNED AND YOU PLED NOT  
20 GUILTY; IS THAT RIGHT?

21 A. YES.

22 Q. AND YOU VERY, VERY QUICKLY FOUND OUT THAT  
23 NOT ONLY WERE THEY CHARGING YOU WITH MURDER, BUT  
24 THEY WERE ASKING FOR A SENTENCE, IF YOU WERE  
25 CONVICTED, OF LIFE WITHOUT POSSIBILITY OF PAROLE?

26 A. YES.

27 Q. AND LIFE WITHOUT POSSIBILITY OF PAROLE  
28 MEANS YOU NEVER, EVER LEAVE STATE PRISON?



A. YES.

Q. AND YOU UNDERSTOOD THAT?

A. YES.

Q. AND ISN'T IT FAIR THAT YOU -- YOU HAD A LAWYER REPRESENTING YOU?

A. YES.

Q. AND THAT LAWYER WAS A FELLOW BY THE NAME OF ALLAN WILLIAMS?

A. YES.

Q. AND ISN'T IT FAIR TO SAY THAT BETWEEN MAY 14<sup>TH</sup>, WHEN YOU WERE ARRESTED, AND APRIL 11<sup>TH</sup> OF 2005, WHEN YOU GAVE YOUR FIRST STATEMENT TO LAW ENFORCEMENT, YOU AND YOUR LAWYER WERE WORKING VERY, VERY ACTIVELY TO TRY TO GET YOU A PLEA BARGAIN?

A. YEAH, I'D SAY SO.

Q. IN FACT, THE FOCUS OF YOUR TIME THE LAST TWO YEARS HAS BEEN TO GET YOU A PLEA BARGAIN IN THIS CASE?

A. YEAH.

Q. THAT'S WHAT YOU WANTED TO DO?

A. I WANTED TO GO HOME. SO --

Q. YOU WANTED TO GET A PLEA BARGAIN?

A. YEAH.

Q. AND IN THE LAST TWO YEARS YOU HAVE BEEN TO EACH AND EVERY COURT APPEARANCE THAT MR. LEE, AND MR. ANDERSON, AND MR. HUHN HAVE BEEN AT; IS THAT RIGHT?

A. THAT'S RIGHT.

Q. OKAY. ALL FOUR OF YOU USED TO COME TO COURT TOGETHER?

A. YES.

Q. AND YOU SAT THROUGH THE ENTIRE PRELIMINARY HEARING?

A. YES, I DID.

Q. AND YOU -- THAT WAS ABOUT A FIVE- OR SIX-DAY PRELIMINARY HEARING; IS THAT RIGHT?

A. I THINK IT WAS EIGHT, IF I --

Q. EIGHT DAYS; IT WAS PRETTY LONG?

A. YEAH.

Q. THERE WERE A LOT OF WITNESSES THAT TESTIFIED?

A. YES.

Q. AND YOU LISTENED TO EACH AND EVERY ONE OF THOSE WITNESSES TESTIFY?

A. YES, I DID.

Q. AND YOU WERE HERE DURING EVERY MOTION HEARING THAT WE HAD?

A. YES, I WAS.

Q. AND YOU KNEW EXACTLY WHAT THE PROS -- WHAT MR. MCALLISTER'S THEORY OF THE CASE WAS?

A. MR. MCALLISTER'S THEORY OF THE CASE WAS?

Q. YES. I'M SORRY, THAT'S NOT A GOOD QUESTION.

YOU KNEW EXACTLY WHAT MR. MCALLISTER BELIEVED HAD HAPPENED; IS THAT RIGHT?

MR. MCALLISTER: OBJECTION, YOUR HONOR, CALLS

1 FOR SPECULATION BY THIS WITNESS.

2 THE COURT: WELL --

3 MR. MCALLISTER: IMPROPER CONCLUSION.

4 THE COURT: I'LL ALLOW THAT LINE OF QUESTIONING,  
5 IF IT SIMPLY IS BASED UPON WHAT HE SAW AND  
6 CONCLUSION FROM WHAT HE SAW.

7 MS. VANDENBOSCH: I'LL -- PERHAPS I'LL REPHRASE  
8 IT.

9 THE COURT: ALL RIGHT.

10 BY MS. VANDENBOSCH:

11 Q. MR. HANDSHOE, IN ALL OF THE PRIOR COURT  
12 APPEARANCES, YOU HAVE HEARD MR. MCALLISTER ARGUE  
13 THAT HE BELIEVES THAT ERIC ANDERSON PARTICIPATED IN  
14 THIS CRIME AND THAT ERIC ANDERSON, IN FACT, SHOT  
15 MR. BRUCKER?

16 A. YES.

17 Q. YOU HAVE HEARD HIM SAY THAT ON NUMEROUS,  
18 NUMEROUS OCCASIONS?

19 A. YES.

20 Q. AND YOU WERE UNSUCCESSFUL IN TRYING TO PLEA  
21 BARGAIN YOUR CASE; IS THAT RIGHT?

22 A. WHAT DO YOU MEAN? I WAS NOT GETTING  
23 PLEA -- A PLEA BARGAIN?

24 Q. YOU WERE NOT GETTING A PLEA BARGAIN THAT  
25 YOU LIKED; IS THAT RIGHT?

26 A. THAT'S RIGHT.

27 Q. AND YOU, AT A CERTAIN POINT, GOT YOUR  
28 ATTORNEY TO ARRANGE WHAT IS CALLED A FREE TALK WITH

1 THE DISTRICT ATTORNEY'S OFFICE; IS THAT RIGHT?

2 A. THAT'S RIGHT.

3 Q. AND THAT WAS THE TALK THAT WE ARE TALKING  
4 ABOUT ON APRIL 11<sup>TH</sup> OF 2005?

5 A. YES.

6 Q. AND YOU WERE TRANSPORTED FROM COUNTY JAIL  
7 TO THE DISTRICT ATTORNEY'S OFFICE?

8 A. YES, I WAS.

9 Q. AND MR. MCALLISTER WAS PRESENT?

10 A. YES.

11 Q. MR. BAKER WAS PRESENT?

12 A. YES.

13 Q. AND MR. GOLDBERG WAS PRESENT?

14 A. YES.

15 Q. AND YOUR ATTORNEY, MR. WILLIAMS, WAS ALSO  
16 PRESENT?

17 A. YES, HE WAS.

18 Q. AND GOING INTO THAT CONVERSATION, YOU KNEW  
19 THAT IT WAS -- THAT NOTHING WAS GUARANTEED; IS THAT  
20 RIGHT?

21 A. YES.

22 Q. IN OTHER WORDS, THE PURPOSE OF THAT  
23 CONVERSATION, OF THAT FREE TALK, WAS FOR  
24 MR. MCALLISTER TO DECIDE WHETHER YOU HAD INFORMATION  
25 THAT WOULD BE USEFUL TO HIM?

26 A. YES.

27 Q. AND YOU KNEW THAT HE BELIEVED THAT ERIC  
28 ANDERSON SHOT MR. BRUCKER --

Q. WELL, WHAT DO YOU MEAN?

A. WHEN I WAS PARANOID?

Q. YEAH.

A. I WAS PARANOID.

Q. YOU WEREN'T SCARED OF PEOPLE?

A. OH, NO.

Q. AND, IN FACT, DURING THAT PERIOD, YOU WERE GETTING INTO A LOT OF FIGHTS?

MR. MCALLISTER: OBJECTION, YOUR HONOR, RELEVANCE, BUT ALSO VAGUE AS TO WHAT PERIOD.

THE COURT: ALL RIGHT. AS TO MEMORY PERCEPTION, ABILITY TO RECALL, GO AHEAD AND EXAMINE HIM, BUT SUSTAINED AS TO RELEVANCY ON FIGHTS.

MS. VANDENBOSCH: WELL, YOUR HONOR --

THE COURT: WE'LL HEAR YOU AT THE BREAK.

MS. VANDENBOSCH: OKAY. OKAY. THAT'S FINE.

BY MS. VANDENBOSCH:

Q. IN FACT, WHEN YOU WERE BOOKED INTO -- INTO COUNTY JAIL, YOU SPECIFICALLY ASKED TO SEE A PSYCHIATRIC NURSE; IS THAT RIGHT?

A. YES, I DID.

Q. AND YOU ASKED TO SEE THIS NURSE BECAUSE YOU WERE HALLUCINATING; IS THAT RIGHT?

A. NOT REALLY.

Q. OKAY. YOU DIDN'T TELL A NURSE BACK ON MAY 24<sup>TH</sup> OF 2003, TEN DAYS AFTER YOU WERE PLACED INTO CUSTODY, THAT YOU WERE HALLUCINATING?

A. I PROBABLY -- I WAS LYING THEN.

Q. OH, YOU WERE LYING?

A. YES, I WAS.

Q. WHY WOULD YOU LIE TO THE NURSE?

A. BECAUSE I THOUGHT IT WOULD HELP MY CASE.

Q. YOU LIED TO THE NURSE BECAUSE YOU THOUGHT IT WOULD HELP YOUR CASE?

A. YES, I DID.

Q. AND THEN YOU WERE SEEN BY ANOTHER NURSE ON MAY 27<sup>TH</sup> OF 2003, ABOUT 13 DAYS AFTER YOU WERE ARRESTED, AND YOU TOLD THAT PARTICULAR NURSE THAT YOU HAD THIS BELIEF THAT WESTSIDE GANGSTERS WERE INVOLVED WITH THE GOVERNMENT?

A. OH, YEAH, I DID. YEAH.

Q. WAS THAT -- WAS THAT A REAL BELIEF?

A. YEAH, IT WAS.

Q. OKAY. SO ON MAY 27<sup>TH</sup> OF 2003 YOU WERE FEELING THAT THERE WERE WESTSIDE GANGSTERS, AND THAT THEY WERE SOMEHOW INVOLVED WITH THE -- WITH THE GOVERNMENT IN SOME WAY?

A. YES.

Q. OKAY. WAS THAT SOMETHING THAT YOU OFTEN THOUGHT?

A. OH, NO.

Q. WHY DID YOU BRING IT TO THIS PARTICULAR NURSE'S ATTENTION?

A. I DON'T KNOW, I JUST DIDN'T -- I DIDN'T WANT TO BE ON MAIN LINE.

Q. OH, YOU DIDN'T WANT TO BE ON MAIN LINE?

CI RECORDS

**SUPREME COURT  
of the STATE OF CALIFORNIA**

(California Rules of Court, Rules 8.144, 8.610)

PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF AND RESPONDENT

vs.

ERIC STEVE ANDERSON

DEFENDANT AND APPELLANT

**COPY**

**FROM SAN DIEGO COUNTY**

HON. LANTZ LEWIS

**JUDGE**

NO. D0138474

**CLERK'S TRANSCRIPT**

*Supplemental* Volume 45 of

EDMUND G. BROWN, JR., ATTY. GENERAL  
STATE OF CALIFORNIA  
110 WEST "A" STREET  
SAN DIEGO, CA 92101  
BY: DEPUTY

JOANNA MCKIM  
ATTORNEY AT LAW  
P.O. BOX 19493  
SAN DIEGO CA 92159-0493

ATTORNEY FOR PLAINTIFF &  
RESPONDENT

ATTORNEY FOR DEFENDANT &  
APPELLANT

TO: CALIF. APPELLATE PROJECT  
101 2ND ST STE 600  
SAN FRANCISCO CA 94105

09156

00031  
F I L E  
Clerk of the Court Use Only  
Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
PEOPLE vs <u>BRANDON HANDSHOE</u>	Defendant
PLEA OF GUILTY/NO CONTEST - FELONY	
MAY 11 2005 By: M. BODTKE, Deputy	
Court Number: <u>SCF 230405</u>	DA Number: <u>MAH 630</u>

I, the defendant in the above-entitled case, in support of my plea of Guilty/No Contest, personally declare as follows:

1. Of those charges now filed against me in this case, I plead Guilty to the following offenses and admit the enhancements, allegations and prior convictions as follows: BH

COUNT	CHARGE	ENHANCEMENT/ALLEGATION
<u>1</u>	<u>PC 192(a) Voluntary Manslaughter</u>	<u>PC 12022.5(b)(1)</u>
<u>2</u>	<u>PC 664/211/212.5/213</u>	<u>PC 12022.5(b)(1)</u>
PRIORS: (LIST ALLEGATION SECTION, CONVICTION DATE, COUNTY, CASE NUMBER, AND CHARGE)		

2. I have not been induced to enter this plea by any promise or representation of any kind, except: (State any agreement with the District Attorney.)

STIPULATED 17 YEARS STATE PRISON AT \$500.  
I WILL TESTIFY AND TELL THE TRUTH IN THIS CASE. SEE ADDENDUM. BH

3. I am entering my plea freely and voluntarily, without fear or threat to me or anyone closely related to me. BH

4. I understand that a plea of No Contest is the same as a plea of Guilty for all purposes. BH

5. I am sober and my judgment is not impaired. I have not consumed any drug, alcohol or narcotic within the past 24 hours. BH

CONSTITUTIONAL RIGHTS

6a. I understand that I have the right to be represented by a lawyer at all stages of the proceedings. I can hire my own lawyer or the Court will appoint a lawyer for me if I cannot afford one. BH

I understand that as to all charges, allegations and prior convictions filed against me I also have the following constitutional rights, which I now give up to enter my plea of guilty/no contest:

6b. I have the right to a speedy and public trial by jury. I now give up this right. BH

6c. I have the right to confront and cross-examine all the witnesses against me. I now give up this right. BH

6d. I have the right to remain silent (unless I choose to testify on my own behalf). I now give up this right. BH

6e. I have the right to present evidence in my behalf and to have the court subpoena my witnesses at no cost to me. I now give up this right. BH

Defendant:

BRANDON HANDSHOE

CASE NUMBER:

SCC 230405

## CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

- 7a. I understand that I may receive this maximum punishment as a result of my plea: 22 years in State Prison, \$20,000 fine and 4 years parole (4, 7, 14, life) with return to prison for every parole violation. If I am not sentenced to prison I may receive probation for a period up to 5 years or the maximum prison term, whichever is greater. As conditions of probation I may be given up to a year in jail custody, plus the fine, and any other conditions deemed reasonable by the Court. I understand that if I violate any condition of probation I can be sent to State Prison for the maximum term as stated above. ☒ BH
- 7b. I understand that I must pay a restitution fine (\$200 - \$10,000), that I will also be subject to a suspended fine in the same amount, and that I must pay full restitution to all victims. ☒ BH
- 7c. I understand that my conviction in this case will be a serious/violent felony ("strike") resulting in mandatory denial of probation and substantially increased penalties in any future felony case. ☒ BH
- 7d. I understand that if I am not a U.S. citizen, this plea of Guilty/No Contest may result in my removal/deportation, exclusion from admission to the U.S. and denial of naturalization. Additionally, if this plea is to an "Aggravated Felony" listed on the back of this form, then I will be deported, excluded from admission to the U.S., and denied naturalization. ☒ BH
- 7e. I understand that my plea of Guilty or No Contest in this case could result in revocation of my probation or parole in other cases, and consecutive sentences. ☒ BH
- 7f. My attorney has explained to me that other possible consequences of this plea may be: (Circle applicable consequences.) ☒ BH

- |   |  |   |
|---|--|---|
| (1) Consecutive sentences                                     | (7) Priorable (increased punishment for future offenses) | (13) Reduced conduct credits                |
| (2) Loss of driving privileges                                | (8) Prison prior   | (a) Violent Felony (No credit or max. 15%)  |
| (3) Commitment to Youth Authority                             | (9) Mandatory prison                                     | (b) Prior Strike(s) (No credit to max. 20%) |
| (4) Registration as an arson / sex / narcotic / gang offender | (10) Presumptive prison                                  | (c) Murder on/after 6/3/98 (No credit)      |
| (5) Cannot possess firearms or ammunition                     | (11) Sexually Violent Predator Law                       | (14) Loss of public assistance              |
| (6) Blood test and saliva sample                              | (12) Possible/Mandatory hormone suppression treatment    | (15) AIDS education program                 |
|   |  | (16) Other: _____                           |

## OTHER WAIVERS

8. (Appeal Rights) I give up my right to appeal the following: 1) denial of my 1538.5 motion, 2) issues related to strikes priors (under PC sections 667(b)-(i) and 1170.12), and 3) any sentence stipulated herein. ☒ BH
9. (Harvey Waiver) The sentencing judge may consider my prior criminal history and the entire factual background of the case, including any unfiled, dismissed or stricken charges or allegations or cases when granting probation, ordering restitution or imposing sentence. ☒ BH
10. (Arbuckle Waiver) I give up my right to be sentenced by the judge who accepts this plea. ☐
11. (Probation Report) I give up my right to a full probation report before sentencing. ☐

ST 09158

00033

Defendant: <u>BRANDON HANDSHOE</u>	CASE NUMBER: <u>SCC 230403</u>
------------------------------------	--------------------------------

## PLEA

12. I now plead Guilty/No Contest and admit the charges, convictions and allegations described in paragraph #1, above. I admit that on the dates charged, I: (Describe facts as to each charge and allegation)

People v. Wood, Alford v. N.C.  
To Auto LWP. FURTHER OFFER TO TAKE AND  
PRELIMINARY HEARING. STIPULATED TO

VSH

13. I declare under penalty of perjury that I have read, understood, and initialed each item above and any attached addendum, and everything on the form and any attached addendum is true and correct.

BH

Dated: 5-11-05 Defendant's Signature Brandon Handshoe

Defendant's Address: SAN DIEGO COUNTY JAIL  
 Street

City State Zip  
 Telephone Number: ( )



Defendant's Right Thumb Print

## ATTORNEY'S STATEMENT

I, the attorney for the defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges and possible defenses with the defendant, and the consequences of this plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Dated: 5-11-05 W. Allen  
 (Print Name) Attorney for Defendant (Signature)  
 (Circle one: PD / APD / PCC / RETAINED)

## INTERPRETER'S STATEMENT (If Applicable)

I, the sworn language interpreter in this proceeding, truly translated for the defendant the entire contents of this form and any attached addendum. The defendant indicated understanding of the contents of this form and any addendum and then initialed and signed the form and any addendum.

Dated: 5/11/05 GLENN McALLISTER  
 (Print Name) Court Interpreter (Signature)

## PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff, by its attorney, the District Attorney for the County of San Diego, concurs with the defendant's plea of Guilty/No Contest as set forth above.

Dated: 5/11/05 GLENN McALLISTER  
 (Print Name) Deputy District Attorney (Signature)

## COURT'S FINDING AND ORDER

The Court, having questioned the defendant and defendant's attorney concerning the defendant's plea of Guilty/No Contest and admissions of the prior convictions and allegations, if any, finds that: The defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's plea and admissions are freely and voluntarily made; the defendant understands the nature of the charges and the consequences of the plea and admissions; and there is a factual basis for same. The Court accepts the defendant's plea and admissions, and the defendant is convicted thereby.

Dated: 5/11/05 Caniz Lewis  
 Judge of the Superior Court

OFFICE OF  
**THE DISTRICT ATTORNEY**  
COUNTY OF SAN DIEGO

BONNIE M. DUMANIS  
DISTRICT ATTORNEY

By: M. BODTKE, Deputy  
MAY 11 2005

El Cajon  
250 E. Main  
El Cajon, CA 92020  
(619) 441-4588

<http://www.sandiegoda.com>

Pursuant to the agreement set forth in this letter, it is the understanding of the District Attorney of San Diego County, the defendant **BRANDON HANDSHOE**, and the defendant's attorney W. ALLAN WILLIAMS, that the defendant will plead guilty to the crime of Voluntary Manslaughter (PC 192(a)) Attempted Residential Robbery (PC664/211/212.5) with the use of a firearm (PC 12022.53(b)) in the death of STEPHEN BRUCKER on April 14, 2003. The plea is an agreed upon set of lesser offenses to the crimes charged in Counts One and Two of the Amended Information.

The defendant also agrees to waive all appellate rights. The defendant also agrees that his recorded statement of April 11, 2005, will provide the factual basis for his stipulated plea.

**The sentence will be set as follows:**

PC 192(a) Voluntary Manslaughter Mid Term	6 years
PC 664.211/212.5 Attempted Residential Robbery	1 year (1/3 mid term)
PC 12022.53(b)	10 years
<b>TOTAL TERM AT 85%</b>	<b>17 years</b>

Defendant agrees that he will cooperate by providing information to law enforcement officers and by testifying in any and all proceeding relating to ERIC ANDERSON, APOLLO HUHNS and RANDY LEE, including but not limited to the April 14, 2003 murder of STEPHEN BRUCKER and any other criminal matter filed against the above-listed defendants.

On April 11, 2005 defendant gave a taped statement to investigators regarding his knowledge of the circumstances surrounding the attempted robbery/burglary and murder of STEPHEN BRUCKER. Defendant confirms that his statement is true and accurate as to his observations, his actions, and the actions of ERIC ANDERSON, APOLLO HUHNS and RANDY LEE. Defendant agrees to submit to subsequent interviews if deemed necessary.



X Overriding all else, it is understood that this agreement extracts from BRANDON HANDSHOE an obligation to do nothing more other than to plead guilty to the listed crimes and to tell the truth. At all times the defendant shall tell the truth, and nothing other than the truth, both during the investigation and on the witness stand. Defendant shall tell the truth no matter who asks the questions - investigators, prosecutors, judges or defense attorneys. It is further understood that defendant shall lose the benefits of this agreement for any intentional deviation from the truth, and if a false statement occurs while he is on the witness stand, he shall be subjected to prosecution for perjury.

This agreement is automatically voided if BRANDON HANDSHOE violates his obligation to tell the truth or refuses to testify in any grand jury or court proceeding. However, everything defendant has told law enforcement officers after the commencement of this agreement can be used against him.

I, BRANDON HANDSHOE, have read this agreement and discussed it with my attorney. I understand the terms of the agreement and I voluntarily accept them. I will plead guilty to PC 192(a), PC 66/4/211/212.5 and admit a violation of PC 12022.53(b) and waive all appellate rights. I agree to testify at all grand jury and court proceedings in exchange for the benefit which I am going to receive pursuant to this agreement.

DATED: May 11, 2005



BRANDON HANDSHOE,  
Defendant



W. ALLAN WILLIAMS,  
Counsel for Mr. HANDSHOE



GLENN McALLISTER,  
Deputy District Attorney

## AGGRAVATED FELONIES

ANY CONVICTION OF A NON-CITIZEN FOR AN "AGGRAVATED FELONY" AS DEFINED UNDER 8 U.S.C. 1101(a)(43), WILL RESULT IN REMOVAL/DEPORTATION, EXCLUSION, AND DENIAL OF NATURALIZATION.

"AGGRAVATED FELONIES" include, but are not limited to, the following crimes and any attempt or conspiracy to commit such crimes, even if the conviction is a misdemeanor under state law: [The only exception to the applicability of state misdemeanors is where the offense (as listed below) specifically requires a felony conviction.]

### 1. ANY CRIME OF VIOLENCE\*

(Includes any offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any felony offense that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. (18 U.S.C. §16).)

### 2. BURGLARY (Except vehicle or vessel unless used as a residence.) \*

### 3. CHILD PORNOGRAPHY OFFENSES

### 4. CONTROLLED SUBSTANCES:

- a) FELONY POSSESSION OF ANY CONTROLLED SUBSTANCE.
- b) MISDEMEANOR POSSESSION OF ANY CONTROLLED SUBSTANCE when the defendant has previously been convicted of any drug related offense.
- c) POSSESSION FOR SALE OF ANY CONTROLLED SUBSTANCE
- d) SALE OF ANY CONTROLLED SUBSTANCE
- e) TRANSPORTATION OF ANY CONTROLLED SUBSTANCE
- f) MANUFACTURE/DISTRIBUTION OF ANY CONTROLLED SUBSTANCE AND CULTIVATION OF MARIJUANA

### 5. FELONY D.U.I. (Any type.)\*

### 6. FAILURE TO APPEAR ON A FELONY CASE

### 7. FORGERY \*

### 8. FRAUD (Where loss to victim or victims exceeds \$10,000.)

### 9. MONEY LAUNDERING (If amount over \$10,000.)

### 10. MURDER

### 11. PERJURY/SUBORNATION of Perjury or Bribery of a Witness\*

### 12. PIMPING/PANDERING/OPERATING A PROSTITUTION BUSINESS

### 13. RAPE

### 14. RECEIVING STOLEN PROPERTY \*

### 15. ROBBERY \*

### 16. SEXUAL ABUSE OF A MINOR (Touching is not required, e.g.: Indecent Exposure.)

### 17. THEFT (Any type or amount)\*

### 18. TRAFFICKING IN FIREARMS AND EXPLOSIVES.

### 19. TRAFFICKING IN VEHICLES WITH ALTERED VINS\*

### 20. DEMAND FOR OR RECEIPT OF RANSOM

\* Where the term imposed is at least one year, whether or not any or all of that term is stayed or suspended at the time of sentencing.

Following Handshoe's change of plea, the defense sought to exclude his testimony at trial. According to the defense, Handshoe's plea bargain was conditioned on the truthfulness of his statement to the police in violation of *People v. Medina* (1974) 41 Cal.App.3d 438 and *People v. Garrison* (1989) 47 Cal.3d 746. The combination of this condition and his promise to testify truthfully bound him to testify in accordance with his pretrial statement. (7 CT 1427-30.) The trial court found Handshoe's agreement did not require him to do more than tell the truth. (13 RT 2233-34.) At a later hearing on the subject, the trial court found the overriding clause in the agreement was to tell the truth with no specification of what version of events constituted the truth. The trial court found nothing in its inquiry suggested truthfulness would be measured by his confirmation that what he previously said on April 11, 2005 was true. The trial court decided it would not exclude Handshoe's trial testimony. (15 RT 2275-76.) The defense raised the issue again in appellant's motion for new trial which the trial court denied. (8 CT 1674-75; 38 RT 5735.)

The plea agreement between Handshoe and the district attorney dated May 11, 2005 specifying a total term at 85 percent of 17 years read in relevant part as follows:

"Defendant agrees that he will cooperate by providing information to law enforcement officers and by testifying in any and all proceeding relating to Eric Anderson, Apollo Huhn and Randy Lee, including but not limited to the April 14, 2003 murder of Stephen Brucker and any other criminal matter filed against the above-listed defendants.

On April 11, 2005 defendant gave a taped statement to investigators regarding his knowledge of the circumstances surrounding the attempted robbery/burglary and murder of Stephen

Brucker. Defendant confirms that his statement is true and accurate as to his observations, actions and the actions of Eric Anderson, Apollo Huhn and Randy Lee. . .

Overriding all else, it is understood that this agreement extracts from Brandon Handshoe an obligation to do nothing more other than to plead guilty to the listed crimes and to tell the truth. At all times the defendant shall tell the truth, and nothing other than the truth, both during the investigation and on the witness stand. Defendant shall tell the truth no matter who asks the questions – investigators, prosecutors, judges or defense attorneys. It is further understood that defendant shall lose the benefits of this agreement for any intentional deviation from the truth, and if a false statement occurs while he is on the witness stand, he shall be subjected to prosecution for perjury.

This agreement is automatically voided if Brandon Handshoe violates his obligation to tell the truth or refuses to testify in any grand jury or court proceeding.” (43 CT 9008-09, bold in original;

Pros. Ex. No. 66.)

Handshoe testified that he arranged a free talk on April 11, 2005 with the district attorney’s office, the purpose of which was for the prosecutor to see if he had useful information. (22 RT 3803-04.) He initially turned down an offer for 22 years, holding out for 15 years, and agreeing to 17 years.

Before taking the plea bargain, Handshoe had to agree the statement he provided on April 11, 2005 was true. (22 RT 3805-07.) Handshoe was unaware of the provision that he would lose the benefits of the agreement for any intentional deviation from the truth and that if he gave a false statement while testifying he would be subject to perjury prosecution.

Handshoe knew of the provision that the agreement would be automatically

*typo?*