

TRANSCRIPTS FOR: MISC. ISSUES AND INFORMATION SECTION

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1 JAILHOUSE SNITCHES WHO SPOKE TO MR. LEE. THAT'S THE FIRST
2 THING.

3 THE SECOND THING, WHICH I THINK IS MORE
4 COMPELLING AND OF CONCERN OF MY LEARNED COLLEAGUES AND FOR
5 THE COURT IS THAT GIVEN THE FACTS OF THIS CASE, I WILL IN
6 FACT OPERATE AS A SECOND PROSECUTOR. WE'RE SAYING MR. LEE
7 IS SAYING, YES, THEY DID IT. AS TO WHY THEY DID IT, THAT
8 BECOMES THE ISSUE. IN THIS CASE WAS IT IN RESPONSE TO,
9 YOU KNOW, PROFESSOR MORIARITY OVER HERE, THE GRAND SCHEMER
10 HERE, OR WAS IT FOR FAR DIFFERENT MOTIVATIONS? EITHER FOR
11 MR. ANDERSON'S PERSONAL MOTIVATIONS OR BECAUSE WE HAVE
12 BASICALLY A JUNKIE GANG THAT DECIDED TO GO FOR THE BIGGER
13 POT OF GOLD RATHER THAN BREAKING INTO CARS TO SUPPORT
14 THEIR METH HABIT. I'M JUST GIVING THE COURT A TASTE OF
15 WHAT OUR PARTICULAR APPROACH IS.

16 IN ANY EVENT, MR. LEE IS FAR DISTANCED FROM
17 THEM. AND THROUGHOUT THIS CASE, EVERY TIME SOMEONE GETS
18 UP FOR THE GOVERNMENT, IT IS GOING TO BE VERY SUPPORTIVE
19 CROSS-EXAMINATION IN MANY REGARDS FROM MR. LEE, WITH THE
20 EXCEPTION PERHAPS OF MS. PERETTI FOR REASONS THAT WE'VE
21 ALREADY DISCUSSED. I DON'T REALLY THINK I NEED TO SAY
22 ANYTHING MORE, YOUR HONOR. I THINK IT IS LAID OUT IN THE
23 PAPERS, BUT I WANTED TO ACCENT THOSE PARTICULAR POINTS
24 WHICH I THINK SHOULD GIVE PAUSE TO THE IDEA THAT MY
25 COLLEAGUES HERE ARE GOING TO GET A FAIR TRIAL, AND
26 CERTAINLY IT IS MY POSITION THAT MR. LEE IS NOT GETTING A
27 FAIR TRIAL BY BEING LUMPED IN WITH THEM. THANK YOU, YOUR
28 HONOR.

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1 THE COURT: THANK YOU.

2 AND I BELIEVE, MR. BRADLEY,
3 MS. VANDENBOSCH, YOU JOIN IN THAT -- IN THE MOTION TO
4 SEVER MR. LEE FROM THE BALANCE OF THE DEFENDANTS?

5 MR. BRADLEY: YES, THAT'S CORRECT, YOUR HONOR.
6 AND PRIOR TO ADDRESSING THIS ISSUE, I THINK IT -- I WOULD
7 LIKE TO FILE WITH THE COURT A TWO PAGE SUMMARY OF
8 MR. SCAPARO'S STATEMENT THAT WE RECEIVED IN DISCOVERY. I
9 THINK THIS -- THIS JUST ADDS ON TO PROBLEMS IN HAVING
10 MR. LEE IN THIS TRIAL. IF I MIGHT, COULD I HAVE THIS
11 MARKED AS A TWO PAGE EXHIBIT AND ASK THE COURT TO JUST
12 TAKE A LOOK AT IT? IT'S LESS THAN A PAGE-AND-A-HALF.

13 THE COURT: DO OTHER COUNSEL HAVE COPIES OF
14 THIS? OR WERE THEY --

15 MR. BRADLEY: EVERYONE HAS SEEN IT AND IT IS
16 MARKED PAGES 8258 AND 8259 IN DISCOVERY, WHICH IS THE
17 SCAPARO SUMMARY.

18 MR. WILLIAMS: YES, I RECEIVED IT.

19 MR. MC ALLISTER: I DON'T HAVE IT WITH ME, YOUR
20 HONOR, BUT I HAVE A GENERAL CONCEPT OF WHAT HE SAID, SO -

21 MR. BRADLEY: WOULD YOU LIKE TO REVIEW IT BEFORE
22 I GIVE IT --

23 MR. MC ALLISTER: NO, THAT'S FINE.

24 THE COURT: ALL RIGHT, THANK YOU.

25 AND DO YOU NEED THIS BACK?

26 MR. BRADLEY: NO, I GAVE IT TO FILE WITH THE
27 COURT TO BE PART OF THE MOTION TO SEVER.

28 THE COURT: NO, IT'S GOING TO BE FILED, BUT DO

1 HE HAD BEEN FINANCING THIS, OF LATE, BY A
2 SERIES OF HOME HITS OR HOME BURGLARIES, BECAUSE YOU
3 WILL LEARN THAT THE VERY DAY BEFORE APRIL 14TH, HE
4 HAD BEEN WITH MR. ANDERSON ON THAT HIT, THE HOME
5 RIGHT NEXT DOOR TO THE BRUCKERS, THE VERY DAY
6 BEFORE. HE HAD ALSO BEEN ON OTHER HITS, YOU WILL
7 LEARN, AND THE D.A. HAS TALKED ABOUT SOME OF THOSE.

8 THE COURT: MR. ROAKE, WATCH THIS PLACARD. IT
9 FELL OVER.

10 MR. ROAKE: I'M SORRY, YOUR HONOR.

11 THE COURT: THAT'S OKAY.

12 MR. ROAKE: THE TWO OF THEM WERE IN A WORLD
13 WHERE THEY WERE UNDEREDUCATED, JOBLESS, AND
14 SUPPORTING THEIR METH HABITS OR METH ADDICTION WITH
15 THINGS OTHER THAN NORMAL JOBS.

16 ENTER INTO THIS WORLD, AROUND THE BEGINNING
17 OF APRIL, ERIC ANDERSON. ERIC ANDERSON, WHO WAS
18 OLDER AND A MAN WHO HAD A GUN AND WHO HAD A PLAN.
19 HE WAS SIGNIFICANTLY OLDER, YOU WILL LEARN, THAN
20 THESE LOST BOYS.

21 BUT HE WAS NO PETER PAN. HE WAS MORE LIKE
22 A PIED PIPER, AND HE MET THEIR NEEDS -- ERIC HAD
23 THEIR NEEDS IN MIND, BUT HE HAD DIFFERENT NEEDS, AND
24 YOU WILL LEARN THROUGHOUT THIS TRIAL THAT HE HAD
25 ALSO DARKER CONNECTIONS.

26 THAT MORNING IN EARLY APRIL -- THERE WERE
27 APPARENTLY TWO MEETINGS IN APRIL. THE MORNING OF
28 THE EVENT, YOU WILL HEAR THAT, AT HANDSHOE'S

1 TRAILER, WHERE THESE FOLKS WOULD MEET, THAT
2 HANDSHOE, HUHN, AND ANDERSON WERE DIVIDING LOOT
3 ACQUIRED FROM ANOTHER BURGLARY.

4 YOU WILL ALSO LEARN THAT THERE WAS USE OF
5 METHAMPHETAMINE THAT VERY MORNING. THIS IS THE TIME
6 IN APRIL AND THIS MEETING THAT THEY TALK ABOUT, AND
7 YOU'LL HEAR SO MUCH ABOUT, IN APRIL. IN THAT
8 TRAILER, ALSO, WAS THE SHADOW OF THE BURGLARY THAT
9 HAD HAPPENED THE VERY DAY BEFORE, THE VERY DAY
10 BEFORE. AND THEY WERE LOOK FOR FUNDING
11 OPPORTUNITIES.

12 NOW, ON THAT DAY, APRIL 14TH, WITH
13 ERIC ANDERSON CHOREOGRAPHING WHAT WAS GOING ON WITH
14 A GUN IN HIS HAND, YOU WILL LEARN THAT THEY PLANNED
15 THAT DAY'S ACTIVITIES.

16 YOU WILL LEARN OF THE DRAWING OF A MAP --
17 AND THE D.A. HAS ALREADY TALKED ABOUT HOW BRANDON
18 BROUGHT THAT MAP OUT -- THE MAP THAT DEPICTED THE
19 AREA THAT THEY HAD HIT THE VERY DAY BEFORE.

20 BRANDON HANDSHOE AND ERIC ANDERSON KNEW
21 THAT AREA, BECAUSE THE VERY DAY BEFORE, THEY HAD
22 TRIPPED AN ALARM IN A HOME AND HAD TO SKEDADDLE OUT
23 OF THERE. THEY KNEW THE AREA.

24 NOT ONLY WERE MAPS BEING DRAWN THAT
25 MORNING, APRIL 14TH -- AND REMEMBER WHO IS AT THIS
26 MEETING: VALERIE PERETTI, ZACH PAULSON, AND THE
27 THREE I MENTIONED, ANDERSON, HUHN, AND HANDSHOE.

28 NOT ONLY WAS PLANNING TAKING PLACE, BUT THE

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135

Placard Mr. Roake

DIVISION OF SPOILS WAS DONE, AND THE COMMENT WAS MADE, YOU WILL LEARN THROUGH THE EVIDENCE, THAT "YOU HAVE TO BE HERE TO BE PART OF THIS," MUCH TO ZACH PAULSON'S CHAGRIN. THOSE THAT WENT ONLY GOT INVOLVED IN THE TALK OF THIS SPLIT.

DISGUISES WERE BROUGHT OUT -- AND THE D.A. HAS TALKED ABOUT THAT -- DISGUISES SUCH AS WIGS AND MUSTACHES, ALL FROM ERIC ANDERSON'S KIT BAG. NO DISCUSSION OF THE EL CAJON SPEEDWAY, NO DISCUSSION OF ADDRESSES, NO DISCUSSION OF NAMES.

YOU WILL ALSO LEARN, ON THAT FATEFUL MORNING, BEFORE STEVEN BRUCKER LOST HIS LIFE, OF THREATS THAT WERE MADE. LET ME GET THIS EXACTLY RIGHT, BECAUSE IT'S COMING IN VERBATIM. "WE'RE GOING TO DO THIS, RIGHT, BOYS?" "WE'RE GOING TO DO THIS, RIGHT, BOYS?" THOSE ARE THE WORDS OF ERIC ANDERSON TO APOLLO HUHN AND THE YOUNGER HANDSHOE.

YOU WILL ALSO LEARN OF THREATS MADE TO VALERIE PERETTI AND HER UNBORN CHILD. REMEMBER, VALERIE PERETTI WAS THERE AT THAT MEETING, AT ALL TIMES DURING THOSE APRIL 14TH MEETINGS, AND HANDSHOE AND HUHN THROUGH THE COURSE OF THIS.

CROSS-EXAMINATION IS ALSO EVIDENCE, AND YOU WILL HEAR AT ANY OF THE MEETINGS, AT ANY OF THE TIMES, THERE WAS NO TALK OF RANDY LEE BEING ANYWHERE NEAR.

YOU WILL LEARN THAT HE WAS NOT PART OF HANDSHOE'S TRAILER TRIBE, THIS GROUP OF PEOPLE THAT

*Handshoe
the evidence*

*2nd
Bom*

WTH

MET THERE; THAT ERIC ANDERSON, THE EVIDENCE SHOWS, DIDN'T EVEN KNOW RANDY LEE, HAD NEVER TALKED TO HIM.

YOU WILL LEARN THAT HE WAS NOT MENTIONED, ONLY ROBBERS, "ONLY THE PEOPLE THAT GO GET A CUT OF THIS," NOTHING ABOUT PERCENTAGE. AND, FINALLY, YOU WILL LEARN THAT HE WAS NOT THREATENED, THE ONLY ONE NOT THREATENED THAT DAY. HANDSHOE WAS THREATENED, HUHN WAS THREATENED, VALERIE PERETTI WAS THREATENED, BUT ERIC ANDERSON HAD NO WORDS FOR RANDY LEE, FOR OBVIOUS REASONS.

THE EVENT ITSELF IS JUST AS THE D.A. SAID. IT WAS A DRIVE TO A WELL-HEELED AREA FROM THAT MOBILE HOME PARK, HANDSHOE'S TRAILER, LED BY ERIC, WHO KNEW THE WAY, BECAUSE HE HAD BEEN THERE THE DAY BEFORE.

AND ERIC, WHO HAD NOT SPOKEN TO RANDY -- BUT THE DISTRICT ATTORNEY HAS CHARGED RANDY LEE IN THIS CASE, SO JUST AS THE D.A. HAD TO TALK ABOUT THE APOSTOLI ISSUES UNDER CERTAIN CIRCUMSTANCES, SO, TOO, IT WOULD BE UNFAIR IF I DIDN'T POINT OUT CERTAIN THINGS THAT WE MUST DEAL WITH, COMMENTS THAT THE D.A. TALKED ABOUT.

IN TERMS OF COMMENTS YOU WILL HEAR FROM ONE SOURCE, AND THAT SOURCE IS VALERIE PERETTI, JUST AS THE JUDGE INSTRUCTED YOU ON SOME OF THE ELEMENTS, SO, TOO, THE JUDGE TALKED TO YOU ABOUT CREDIBILITY, WHAT YOU LISTEN TO IN TERMS OF WHETHER OR NOT YOU BELIEVE SOMEONE.

EL CAJON, CALIFORNIA, MAY 23, 2005, VOL. 15
10:35 A.M.

THE COURT: MR. ROAKE.

MR. ROAKE: THANK YOU, YOUR HONOR.

THERE'S A POEM WHICH OPENS WITH THE LINE
"APRIL IS THE CRUELEST MONTH."

AND APRIL OF 2003 WAS TRULY THE CRUELEST
MONTH FOR THE VICTIM IN THIS CASE, STEVEN BRUCKER,
AND IT WAS ALSO THE CRUELEST MONTH FOR TWO OTHER
INDIVIDUALS, ALTHOUGH TO A MUCH LESSER DEGREE, AND
THOSE ARE TO THE KIDS APOLLO HUHN AND
BRANDON HANDSHOE, WHERE THE EVIDENCE WILL SHOW THAT
IT WAS ONLY IN APRIL, NOT EARLIER -- NOT EARLIER,
ONLY IN APRIL -- WHEN THE THREE OF THESE
INDIVIDUALS, HUHN, ANDERSON AND HANDSHOE, STUMBLED
ON A HOME IN ONE OF THE NICER AREAS OF EL CAJON, IN
AN AREA THAT ERIC ANDERSON HAD BEEN TARGETING FOR A
SERIES OF BURGLARIES.

THE ACTIVITY ON THIS DAY WAS LED BY
ERIC ANDERSON, AN OLDER MAN THAN THESE TWO YOUTHS.
IT WAS SPURRED BY THE NEED FOR METHAMPHETAMINE AND
DRUGS ON THE PART OF THESE KIDS, AND IT WAS SPARKED
BY THE FACT THAT, THE DAY BEFORE APRIL 14TH, THE
VERY DAY BEFORE, HANDSHOE AND ANDERSON HAD TRIED TO
HIT A HOUSE NEXT DOOR, UNFORTUNATELY, NEXT DOOR TO
THE BRUCKERS.

APRIL 2003 FOUND APOLLO HUHN AND

*2 NO
accuses me
of crimes not
charged with!
Proven false*

BRANDON HANDSHOE LIVING ON A DAY-TO-DAY BASIS.
NEITHER OF THESE TWO INDIVIDUALS WERE LONG-TERM
PLANNERS, BY ANY MEANS.

APOLLO HUHN, YOU WILL LEARN THROUGH THE
EVIDENCE, WAS VIRTUALLY HOMELESS AT THAT POINT. HE
HAD DRIFTED FROM FOSTER HOMES, AND HE WAS LIVING
WITH BRANDON HANDSHOE, IN HANDSHOE'S MOBILE HOME OR
TRAILER.

FROM TIME TO TIME, HANDSHOE HELPED HIM OUT.
THAT WAS LOGICAL BECAUSE, AS YOU WILL FIND THROUGH
THE EVIDENCE, HANDSHOE'S MOM WAS NEVER HOME, SO THAT
TRAILER BECAME, FOR THOSE KIDS IN THAT PARK --
WHETHER YOU CALL IT A TRAILER PARK OR MOBILE HOME
PARK, IT BECAME A HAVEN FOR THEM, WHERE THEY WERE
LEFT ALONE TO DO WHAT THEY DO.

HE WAS ALSO, YOU WILL LEARN THROUGH THE
EVIDENCE, USING TOO MANY DRUGS, METHAMPHETAMINE AT
THE TIME, MR. HUHN.

AND, FINALLY, AND PROBABLY MOST STARTLING
OF ALL, HE HAD RECENTLY FOUND OUT THAT HE WAS NOW A
FATHER BY VALERIE PERETTI, A 14-YEAR-OLD WHO WAS
PREGNANT, AND ALL THE CONCERNS THAT THAT IMPLIES.
THAT WAS APOLLO HUHN.

AT THE SAME TIME, IN APRIL OF 2003,
BRANDON HANDSHOE WAS HAVING HIS TROUBLES. YOU WILL
LEARN THROUGH HIS OWN TESTIMONY THAT HE WAS USING
AND HAS BEEN USING UP TO A GRAM OF METHAMPHETAMINE A
DAY, A GRAM A DAY.

1 DIVISION OF SPOILS WAS DONE, AND THE COMMENT WAS
2 MADE, YOU WILL LEARN THROUGH THE EVIDENCE, THAT "YOU
3 HAVE TO BE HERE TO BE PART OF THIS," MUCH TO
4 ZACH PAULSON'S CHAGRIN. THOSE THAT WENT ONLY GOT
5 INVOLVED IN THE TALK OF THIS SPLIT.

6 DISGUISES WERE BROUGHT OUT -- AND THE D.A.
7 HAS TALKED ABOUT THAT -- DISGUISES SUCH AS WIGS AND
8 MUSTACHES, ALL FROM ERIC ANDERSON'S KIT BAG. NO
9 DISCUSSION OF THE EL CAJON SPEEDWAY, NO DISCUSSION
10 OF ADDRESSES, NO DISCUSSION OF NAMES.

11 YOU WILL ALSO LEARN, ON THAT FATEFUL
12 MORNING, BEFORE STEVEN BRUCKER LOST HIS LIFE, OF
13 THREATS THAT WERE MADE. LET ME GET THIS EXACTLY
14 RIGHT, BECAUSE IT'S COMING IN VERBATIM. "WE'RE
15 GOING TO DO THIS, RIGHT, BOYS?" "WE'RE GOING TO DO
16 THIS, RIGHT, BOYS?" THOSE ARE THE WORDS OF ERIC
17 ANDERSON TO APOLLO HUHN AND THE YOUNGER HANDSHOE.

18 YOU WILL ALSO LEARN OF THREATS MADE TO
19 VALERIE PERETTI AND HER UNBORN CHILD. REMEMBER,
20 VALERIE PERETTI WAS THERE AT THAT MEETING, AT ALL
21 TIMES DURING THOSE APRIL 14TH MEETINGS, AND HANDSHOE
22 AND HUHN THROUGH THE COURSE OF THIS.

23 CROSS-EXAMINATION IS ALSO EVIDENCE, AND YOU
24 WILL HEAR AT ANY OF THE MEETINGS, AT ANY OF THE
25 TIMES, THERE WAS NO TALK OF RANDY LEE BEING ANYWHERE
26 NEAR.

27 YOU WILL LEARN THAT HE WAS NOT PART OF
28 HANDSHOE'S TRAILER TRIBE, THIS GROUP OF PEOPLE THAT

*Mistakes
The Evidence*

*2nd
Proof*

WTF!

1 MET THERE; THAT ERIC ANDERSON, THE EVIDENCE SHOWS,
2 DIDN'T EVEN KNOW RANDY LEE, HAD NEVER TALKED TO HIM.

3 YOU WILL LEARN THAT HE WAS NOT MENTIONED,
4 ONLY ROBBERS, "ONLY THE PEOPLE THAT GO GET A CUT OF
5 THIS," NOTHING ABOUT PERCENTAGE. AND, FINALLY, YOU
6 WILL LEARN THAT HE WAS NOT THREATENED, THE ONLY ONE
7 NOT THREATENED THAT DAY. HANDSHOE WAS THREATENED,
8 HUHN WAS THREATENED, VALERIE PERETTI WAS THREATENED,
9 BUT ERIC ANDERSON HAD NO WORDS FOR RANDY LEE, FOR
10 OBVIOUS REASONS.

11 THE EVENT ITSELF IS JUST AS THE D.A. SAID.
12 IT WAS A DRIVE TO A WELL-HEELED AREA FROM THAT
13 MOBILE HOME PARK, HANDSHOE'S TRAILER, LED BY ERIC,
14 WHO KNEW THE WAY, BECAUSE HE HAD BEEN THERE THE DAY
15 BEFORE.

16 AND ERIC, WHO HAD NOT SPOKEN TO RANDY --
17 BUT THE DISTRICT ATTORNEY HAS CHARGED RANDY LEE IN
18 THIS CASE, SO JUST AS THE D.A. HAD TO TALK ABOUT THE
19 APOSTOLI ISSUES UNDER CERTAIN CIRCUMSTANCES, SO,
20 TOO, IT WOULD BE UNFAIR IF I DIDN'T POINT OUT
21 CERTAIN THINGS THAT WE MUST DEAL WITH, COMMENTS THAT
22 THE D.A. TALKED ABOUT.

23 IN TERMS OF COMMENTS YOU WILL HEAR FROM ONE
24 SOURCE, AND THAT SOURCE IS VALERIE PERETTI, JUST AS
25 THE JUDGE INSTRUCTED YOU ON SOME OF THE ELEMENTS,
26 SO, TOO, THE JUDGE TALKED TO YOU ABOUT CREDIBILITY,
27 WHAT YOU LISTEN TO IN TERMS OF WHETHER OR NOT YOU
28 BELIEVE SOMEONE.

1 MR. MCALLISTER GOT THE SAME PACKET THAT I
2 RELEASED TO OTHER COUNSEL. THERE IS THE NAME OF A
3 VICTIM, A DATE.

4 AND, MR. MCALLISTER, IF YOU COULD,
5 OBVIOUSLY, DELEGATE TO SOMEONE TO TRY TO COME UP
6 WITH THAT ARREST REPORT AND CRIME REPORT. I SEE YOU
7 DELEGATING ALREADY.

8 SO, MS. VANDENBOSCH, I AM DIRECTING THE
9 DISTRICT ATTORNEY AT THE EARLIEST POSSIBLE TIME,
10 THROUGH THE SHERIFF'S DEPARTMENT -- AND I CAN SEE
11 MR. BAKER GETTING READY TO HAND THAT TO
12 DETECTIVE GOLDBERG NOW -- GET THE -- IT MAY BE A
13 SCHOOL INVESTIGATION, NOT A SHERIFF'S INVESTIGATION.

14 IT HAPPENED ON CAMPUS; IS THAT CORRECT?

15 MS. VANDENBOSCH: I BELIEVE THE ORIGINAL
16 INCIDENT HAPPENED ON CAMPUS, BUT I THINK THE THREAT
17 THE FOLLOWING DAY HAPPENED SOMEWHERE ELSE.

18 THE COURT: ALL RIGHT. ANYTHING FURTHER?

19 MS. VANDENBOSCH: THE SECOND DISCOVERY ISSUE HAS
20 TO DO SPECIFICALLY WITH MR. ROAKE.

21 THE COURT: WITH MR. --

22 MS. VANDENBOSCH: ROAKE.

23 THE COURT: OH.

24 MS. VANDENBOSCH: WHEN I GAVE OUT DISCOVERY
25 PACKETS, WHEN I GAVE IT TO MR. MCALLISTER, I
26 PROVIDED ALL DEFENSE COUNSEL WITH A PACKET OF OUR
27 WITNESS STATEMENTS.

28 MR. ROAKE WAS VERY, VERY CLEAR IN HIS

1 OPENING STATEMENT, IF HE HADN'T BEEN BEFORE, THAT HE
2 WAS INTENDING TO GO AFTER MR. ANDERSON AS A SECOND
3 PROSECUTOR, AND HE ALSO MADE REFERENCE TO DARK
4 FORCES AND VARIOUS OTHER THINGS.

5 I THINK AT THIS POINT I HAVE NOT RECEIVED
6 ANY DISCOVERY FROM MR. ROAKE -- I DON'T KNOW IF HE'S
7 PROVIDED MR. MCALLISTER WITH IT, BUT I HAVE RECEIVED
8 NO DISCOVERY FROM MR. ROAKE AS TO WHAT ANY OF THESE
9 WITNESSES MIGHT TESTIFY TO WITH RESPECT TO DARK
10 FORCES OR ANYTHING ELSE.

11 AND AT THIS POINT, I AM MAKING A REQUEST OF
12 MR. ROAKE FOR WITNESS STATEMENTS AS TO ANYBODY HE
13 INTENDS TO CALL DURING THIS TRIAL THAT HAVE ANY
14 BEARING WHATSOEVER ON MR. ANDERSON'S CASE.

15 MR. ROAKE: I WOULD BE PLEASED TO PROVIDE HER
16 WHAT SHE IS ENTITLED TO, YOUR HONOR, AND I HAVE
17 PROVIDED DISCOVERY TO MR. MCALLISTER.

18 THE COURT: NOW, IN TERMS --

19 MR. ROAKE: ALTHOUGH, I AM NOT A SECOND
20 PROSECUTOR UNDER DISCOVERY STATUTES.

21 THE COURT: UNDER 1054, IF THERE ARE REPORTS OF
22 WITNESSES THAT MR. ROAKE INTENDS TO CALL, I'M
23 ORDERING MR. ROAKE TO TURN THOSE OVER TO THE
24 DISTRICT ATTORNEY, AND THOSE REPORTS SHOULD BE
25 DISTRIBUTED TO ALL COUNSEL.

26 MS. VANDENBOSCH: OKAY.

27 THE COURT: ALL RIGHT.

28 MS. ROSENFELD: FOR THE RECORD, I DO JOIN IN

1 OF THE SEALING REQUEST THIS MORNING.

2 THE COURT: THE DATE THAT THAT -- THERE'S A DATE
3 STAMP ON THAT; THAT WOULD BE THE DATE THAT THE COURT
4 RECEIVED IT. I'M ASSUMING --

5 MS. ROSENFELD: THAT WOULD BE APRIL 6TH.

6 THE COURT: APRIL 6TH?

7 MS. ROSENFELD: ACCORDING TO WHAT I HAVE.

8 MR. MCALLISTER: NO, I --

9 THE COURT: THAT CAN'T BE RIGHT.

10 MS. VANDENBOSCH: MAY 2ND.

11 THE COURT: MAY 2ND. ALL RIGHT.

12 MS. ROSENFELD: I'M SORRY, MAY 2ND.

13 THE COURT: FILED MAY 2ND.

14 MS. ROSENFELD: SO, YOUR HONOR, I'M -- JUST TO
15 MAKE THE RECORD CLEAR, THEN, THAT WAS THE DAY THAT
16 WE BEGAN SELECTION OF OUR JURY IN -- IN MR. HUHN'S
17 CASE. AND BASED ON THAT BEING A PART OF THE RECORD,
18 OR AT LEAST THE COURT HAVING KNOWLEDGE OF IT, I ASK
19 THE COURT TO CONSIDER THAT, BECAUSE THEN THE JURY
20 SHOULD NOT HAVE BEEN TOLD THAT QUESTION 71 WAS THE
21 LAW, BECAUSE IT WASN'T THE LAW AS TO BRANDON
22 HANDSHOE. AND THE COURT WAS AWARE OF THAT, THEN, BY
23 THE TIME WE COMPLETED OUR VOIR DIRE, SO --

24 THE COURT: ALL RIGHT. THANK YOU,
25 MS. ROSENFELD.

26 COUNSEL, I'M GOING TO -- MR. LEE,
27 MR. ANDERSON, MR. HUHN -- TAKE A HALF-HOUR RECESS,
28 RULE ON THOSE ISSUES THAT I CAN RULE ON. AND BASED

1 UPON THE RULINGS, IF THERE IS ADDITIONAL DISCUSSION
2 REGARDING LOGISTICS, WE'LL GET THOSE ON THE RECORD.
3 SO WE'RE IN RECESS FOR HALF AN HOUR.

4
5 (RECESS.)

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1 UP IN THE AIR. IF IT'S GOING TO BE USED, THERE HAS
2 TO BE REASONABLE NOTICE. AND SO TODAY IS THE 17TH.
3 TWO WEEKS FROM TODAY WOULD BE THE DEADLINE FOR
4 PROVIDING ADDITIONAL DISCOVERY REGARDING THAT
5 ALLEGED PENALTY PHASE AGGRAVANT.

6 MS. VANDENBOSCH: YOUR HONOR, I HAVE A CONCERN
7 ABOUT A COMMENT MR. MCALLISTER MADE. MR. MCALLISTER
8 INDICATED THERE WAS SOME SORT OF AUDIOTAPE WHEREIN
9 ERIC ANDERSON ADMITS HIS INVOLVEMENT TO THIS RIOT.
10 I DON'T REMEMBER EVER HAVING RECEIVED ANYTHING LIKE
11 THAT. WE RECEIVED AUDIOTAPES WHEREIN HE TALKS WITH
12 HIS MOTHER AND GRANDMOTHER ABOUT THE ZACHARY PAULSON
13 INCIDENT, BUT NOTHING CONCERNING ANY RIOT, SO I
14 DON'T KNOW IF HE WAS MISTAKEN OR IF THERE'S
15 SOMETHING OUT THERE THAT WE DON'T HAVE.

16 MR. MCALLISTER: YOUR HONOR, I SAID AUDIOTAPE;
17 WHAT I SHOULD HAVE SAID WAS C.D., AND IT'S ON THE
18 SAME C.D.

19 THE COURT: MAYBE -- BECAUSE I SEE A PERPLEXED
20 LOOK BY MS. VANDENBOSCH. THAT MAKES SENSE TO YOU,
21 IT -- ALL RIGHT. IT APPARENTLY DOES.

22 ANYTHING FURTHER, MS. VANDENBOSCH, ON
23 BEHALF OF MR. ANDERSON?

24 MS. VANDENBOSCH: THERE ARE SOME MECHANICS IN
25 TERMS OF OPENING STATEMENT.

26 THE COURT: OKAY.

27 MS. VANDENBOSCH: AND PRE-INSTRUCTION AND
28 COMMENTS THAT THE COURT'S GOING TO MAKE CONCERNING

1 BRANDON HANDSHOE'S --

2 THE COURT: OKAY.

3 MS. VANDENBOSCH: I THINK THERE ARE SOME PEOPLE
4 FROM THAT FIRST DAY WHO DID IN FACT -- IN FACT THAT
5 FIRST DAY, A FEW PEOPLE WHO DID IN FACT MAKE IT ON
6 TO THE JURY, AND OBVIOUSLY SAW BRANDON HANDSHOE
7 SITTING AS PART -- AS ONE OF THE THREE DEFENDANTS IN
8 THIS CASE.

9 THE COURT: ALL RIGHT. AND DO YOU HAVE ANY
10 SUGGESTION IN THAT RESPECT? AS YOU KNOW, THE
11 FOLLOWING DAY I PRESENTED A PROPOSAL TO COUNSEL,
12 KIND OF A MODIFIED CALJIC 17.46. AND THE CONSENSUS,
13 I BELIEVE IT WAS A CONSENSUS, OR AT LEAST
14 MR. ANDERSON'S POSITION WAS NO, YOU'D RATHER JUST
15 HAVE NO COMMENT AT THIS TIME. SO YOU CAN ASSUME IF
16 ANYTHING IS GOING TO BE SAID, IT WILL BE SAID ALONG
17 THOSE LINES; IS THAT WHAT YOU'RE LOOKING FOR?

18 MS. VANDENBOSCH: YES. MAYBE WE COULD TALK
19 ABOUT IT --

20 THE COURT: SURE.

21 MS. VANDENBOSCH: -- THEN ADDRESS IT AFTER THE
22 COURT HAS HAD A CHANCE TO --

23 THE COURT: ALL RIGHT.

24 MR. MCALLISTER.

25 MR. MCALLISTER: I HAVE ONE REQUEST, YOUR HONOR.
26 AS THE COURT IS AWARE, THIS IS AN EXTREMELY COMPLEX
27 CASE, AND THE BURDEN IS ON THE PEOPLE TO PROVE EACH
28 AND EVERY ELEMENT AGAINST EACH AND EVERY DEFENDANT.

*Just seen Handshoe
Beane
WIT*

1 FREE TALK 30 DAYS PRIOR TO TRIAL, BUT SINCE NO
 2 AGREEMENT HAD BEEN REACHED WITH MR. HANDSHOE FOR HIS
 3 TESTIMONY, I UNDERSTAND WHY THAT WAS NOT TURNED OVER
 4 TO US. THERE WAS NO WAY HE COULD CALL MR. HANDSHOE
 5 WITHOUT MR. HANDSHOE AGREEING TO SOME COOPERATION
 6 AGREEMENT, BUT THAT DOES NOT CHANGE THE FACT THAT
 7 ALL OF US ARE PUT IN THE POSITION OF BEING UNFAIRLY
 8 SURPRISED AT THE LAST MOMENT. I THINK WHEN I SAY 30
 9 DAY'S CONTINUANCE AS AN ALTERNATIVE TO A MISTRIAL,
 10 I'M RELYING ON THE DISCOVERY STATUTES AND THE TIME
 11 LIMITS IN THE DISCOVERY STATUTE AS SOME KIND OF
 12 PRESUMPTION OF THE AMOUNT OF TIME THAT'S NEEDED TO
 13 AVOID AN UNFAIR, LAST-MINUTE SURPRISE LIKE THIS.

14 AS TO THE DISCOVERY MOTION, I THINK
 15 MS. ROSENFELD MAY HAVE SOME COMMENTS ON DISCOVERY.
 16 I THINK MS. VANDENBOSCH MAY HAVE SOME ADDITIONAL
 17 COMMENTS AS WELL. WHAT I HAVE FOCUSED ON HERE IS A
 18 REQUEST THAT WE RECEIVE ALL COMMUNICATION BACK AND
 19 FORTH BETWEEN MR. WILLIAMS AND MR. MCALLISTER HAVING
 20 TO DO WITH BENEFITS CONFERRED ON MR. HANDSHOE,
 21 HAVING TO DO WITH ANY PROFFERS OF MR. HANDSHOE'S
 22 TESTIMONY. I THINK WE'RE ENTITLED AT THIS POINT TO
 23 ANY INDUCEMENT FOR ANY INFORMATION HAVING TO DO WITH
 24 INDUCEMENTS FOR MR. HANDSHOE'S TESTIMONY.

25 WE'RE ENTITLED TO ANY STATEMENTS BY
 26 MR. HANDSHOE THAT ARE IN ANY WAY CONTRADICTORY OF
 27 WHAT'S IN THE FREE TALK THAT WE'VE BEEN PROVIDED
 28 WITH. AND I'VE CITED CASES FROM THE NINTH CIRCUIT

1 THAT SAY EVEN WHERE THE ATTORNEY-CLIENT PRIVILEGE --
 2 MR. HANDSHOE'S ATTORNEY-CLIENT PRIVILEGE MAY BE
 3 IMPLICATED, THAT PRIVILEGE IS PIERCED BY
 4 MR. ANDERSON'S SIXTH AMENDMENT RIGHT TO CONFRONT THE
 5 WITNESSES AGAINST HIM.

6 AS TO THE ISSUE OF THE EXCLUSION OF
 7 MR. HANDSHOE'S TESTIMONY, I HAVE SEEN THESE
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 9 NUMBER OF THEM IN THIS COUNTY. AND I'VE GOT TO SAY
 10 THAT I HAVE NOT SEEN THE CLAUSE THAT I THINK CREATES
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 12 MOTION -- THIS MORNING, I QUOTED FROM THE AGREEMENT
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 14 WHERE MR. HANDSHOE CONFIRMS THAT WHAT HE TOLD TO THE
 15 DISTRICT ATTORNEY ON THAT DATE WAS THE TRUTH. NOW,
 16 THAT CREATES THE PROBLEM, BECAUSE BY A PROMISE TO
 17 TELL THE TRUTH, HE IS IN FACT LOCKING HIMSELF IN TO
 18 THE INFORMATION THAT WAS DISCLOSED IN THE FREE TALK.

19 THERE ARE A NUMBER OF CASES THAT TALK ABOUT
 20 THIS. AND AS I SAY, I HAVEN'T HAD AN OPPORTUNITY TO
 21 FULLY BRIEF THIS. ONE CASE THAT I FOUND THAT IS --
 22 THAT IS CLOSE, THAT IS SIMILAR TO THE LANGUAGE
 23 THAT'S IN THIS PARTICULAR AGREEMENT IS PEOPLE VS.
 24 GARRISON, 47 CAL. 3D, 746, AT PAGES 767 THROUGH 771.
 25 NOW, IN -- IN THAT CASE, THE SAME CLAIM WAS MADE
 26 THAT WE'RE MAKING HERE, AND THE SUPREME COURT FOUND
 27 THAT THERE WAS NOT A VIOLATION OF MEDINA AND ALLEN.
 28 BUT I THINK THE REASONING OF THE COURT THERE IS

1 MISTRIAL, IT'S DENIED. THE RENEWED MOTION ON BEHALF
2 OF MR. ANDERSON IS ALSO DENIED.

3 MR. ROAKE: YOUR HONOR, I'M SORRY. MR. LEE HAD
4 JOINED MR. ANDERSON'S MOTION.

5 THE COURT: AS TO THE MISTRIAL?

6 MR. ROAKE: YES, YOUR HONOR.

7 THE COURT: ALL RIGHT. MR. LEE'S MOTION,
8 MR. ANDERSON'S MOTION FOR A MISTRIAL ON PREVIOUSLY
9 STATED GROUNDS IS DENIED.

10 AS TO THE MOTION TO CONTINUE, WHICH IS A
11 MOTION BY MR. ANDERSON AND MR. HUHN, NOT JOINED IN
12 BY MR. LEE, THERE HAS BEEN WHAT I WILL CALL A
13 SURPRISING TURN OF EVENTS.

14 MR. HANDSHOE LAST WEEK ELECTING TO ENTER
15 INTO A PLEA AGREEMENT, HE IS NO LONGER GOING TO BE
16 TRIED IN THIS TRIAL. I FIND THAT THERE HAS NOT BEEN
17 ANY SIGNIFICANT SHIFT IN THE PROSECUTION THEORY OF
18 THE CASE AS A RESULT OF REVIEWING THE FREE TALK
19 TRANSCRIPT.

20 IT APPEARS THAT WHAT MR. HANDSHOE IS
21 WILLING TO SAY -- AND, IN MANY PLACES, HE DOESN'T
22 HAVE MUCH TO SAY -- IT IS CONSISTENT WITH THE
23 PROSECUTION'S THEORY THAT'S LAID OUT IN COUNT 2,
24 STEP BY STEP, IN THE ALLEGED OVERT ACTS.

25 THERE IS NO SUBSTANTIAL CHANGE IN WHAT THE
26 PEOPLE WILL BE PRESENTING. AND, IN ESSENCE, IT
27 APPEARS THAT MR. HANDSHOE'S TESTIMONY WOULD BE
28 CUMULATIVE OF THAT EVIDENCE THAT THE PEOPLE HAVE

1 ALREADY PUT ON THE TABLE.

2 AS TO FURTHER CONSIDERATION REGARDING
3 WHETHER THE INTEREST OF JUSTICE WOULD BE SERVED BY
4 CONTINUING THE CASE FOR A PERIOD OF TIME,
5 MR. MCALLISTER INDICATED THAT MR. HANDSHOE WILL BE
6 CALLED TO TESTIFY TOWARDS THE TAIL END OF THE CASE,
7 WHICH I'M INTERPRETING TO MEAN IN ABOUT A MONTH.

8 AS TO THE ISSUE OF: WE'RE CAUGHT SHORT.
9 WE DON'T HAVE 30 DAYS' ADVANCE NOTICE ON SOME
10 CRUCIAL INFORMATION THAT MIGHT BE HELD BY THE
11 SAN DIEGO SHERIFF IN TERMS OF MEDICAL OR PSYCHIATRIC
12 TREATMENT, IN TERMS OF PSYCHIATRIC RECORDS,
13 OBVIOUSLY, IF THERE ARE SUCH RECORDS, IT WILL BE MY
14 DUTY TO REVIEW THOSE AND DETERMINE WHETHER THE
15 PRIVILEGE IS OVERCOME BY A NEED TO KNOW. AND,
16 TYPICALLY, ACCORDING TO *PEOPLE VERSUS HAMMOND*, THAT
17 OCCURS AT TRIAL, NOT PRIOR TO TRIAL.

18 SO I DON'T FIND THAT THERE HAS BEEN AN
19 UNUSUAL HANDICAP NOW CREATED FOR THE DEFENSE IN
20 RESPONDING TO THE SURPRISE TURN OF EVENTS, WHICH IS
21 MR. HANDSHOE BEING A PROSECUTION WITNESS.

22 FOR ALL THOSE REASONS, I FIND THE INTEREST
23 OF JUSTICE WOULD NOT BE SERVED BY ANOTHER
24 CONTINUANCE OF THE TRIAL, AND THE REQUEST TO
25 CONTINUE IS DENIED.

26 AS TO THE DISCOVERY ISSUES -- AND THAT IS
27 GOING TO BE A BIT DISJOINTED, BECAUSE THERE WERE A
28 VARIETY OF DISCOVERY ISSUES RAISED --

1 JURORS?

2 MR. MCALLISTER: WELL, NOT JUST THAT THEY'LL BE
3 SHOWN TO BOTH JURIES, BUT I HAVE A COPY FOR EACH
4 JURY.

5 THE COURT: BUT THE STARTING POINT BEING YOU CAN
6 IDENTIFY 80 PERCENT OF YOUR EXHIBITS WOULD BE SHOWN
7 TO BOTH JURIES, AND THEN 20 PERCENT WOULD BE FARMED
8 OUT SEPARATELY, NOT BE SHOWN TO EACH JURY?

9 MR. MCALLISTER: RIGHT.

10 THE COURT: MY THOUGHT -- AND WE'LL GET INPUT
11 FROM MELISSA -- IS THAT YOU NOT GO THROUGH THE
12 PAINFUL PROCESS OF DUPLICATE EXHIBIT TAGS FOR THE
13 80 PERCENT; THAT IT RECEIVE THE TYPICAL, SINGLE
14 EXHIBIT NUMBER, AND THAT AT THE END OF THE CASE WE
15 ENSURE THAT A DUPLICATE OF THAT SAME TAG GETS
16 APPLIED TO THE EXHIBITS THAT WILL GO INTO ONE JURY
17 ROOM AND ENSURE THAT THE OTHERS ARE IN THE SECOND
18 JURY ROOM.

19 FOR THE REMAINING 20 PERCENT, I THINK WE'LL
20 HAVE TO WORK OUT A CODE WITH THE CLERK THAT THAT IS
21 71-H, FOR THE HUNN JURY, AND THIS IS 74-LA, LEE AND
22 ANDERSON.

23 ANY OTHER SUGGESTIONS? OKAY.

24 MR. ROAKE, YOU INDICATED YOU HAD NOTHING
25 FURTHER?

26 MR. ROAKE: NOTHING FURTHER.

27 THE COURT: AND MS. VANDENBOSCH?

28 MS. VANDENBOSCH: I THINK THERE WERE TWO ISSUES:

1 HOW WE WERE GOING TO HANDLE THE ISSUE OF BRANDON'S
2 ABSENCE DURING THE TRIAL. BUT THE OTHER THING I
3 WANT TO BRING UP IS: THERE HAVE BEEN VARIOUS
4 REQUESTS OF MS. ROSENFELD AND MYSELF OF HOW WE'RE
5 GOING TO SORT OF REALISTICALLY ANTICIPATE WHO THE
6 NEXT WITNESSES ARE GOING TO BE.

7 AND SO AS TO BE PROPERLY PREPARED -- AND I
8 KNOW WE DO HAVE A HEADS-UP, APPARENTLY, FOR WEEK
9 ONE, THAT IT WOULD BE VALERIE PERETTI AND
10 ZACHARY PAULSON. HOWEVER, I'M CONCERNED NOW THAT WE
11 WILL CLEARLY -- THERE ARE A BUNCH OF ISSUES WE
12 HAVEN'T RESOLVED YET, BOTH WITH RESPECT TO THE
13 IMPEACHMENT OF JEFF GARDENER, WHO IS A DEFENSE
14 WITNESS, AS WELL AS NOW THIS WHOLE ISSUE OF BRANDON.

15 OBVIOUSLY, THERE IS GOING TO BE A LOT OF
16 WORK THAT WILL BE ONGOING WHILE WE ARE IN TRIAL, SO
17 I THINK IT WOULD BEHOOVE ALL OF US TO HAVE -- TO BE
18 ABLE TO BE AS EFFECTIVE AS POSSIBLE IN OUR
19 PREPARATION FOR THE CASE.

20 MR. MCALLISTER HAS STATED NOW THAT
21 JOSHUA FERNANDEZ IS ON HIS WITNESS LIST, BUT IN AN
22 ABUNDANCE OF CAUTION, HE PUT ALL SORTS OF NAMES ON
23 HIS WITNESS LIST OF PEOPLE WHO MAY WELL NEVER
24 TESTIFY IN THE CASE. I THINK THERE ARE AT LEAST 90
25 CIVILIAN WITNESSES ON THE PEOPLE'S PROSECUTION LIST,
26 AS WELL AS PROBABLY ABOUT 30 TO 33 LAW ENFORCEMENT
27 OFFICERS.

28 I THINK IT'S COMPLETELY UNFAIR, GIVEN THE

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say has not involved

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1 LEE THAT WE DON'T HAVE. ESSENTIALLY THE NEW
2 INTERVIEW, YOUR HONOR, WITH NICOLE BLIND WHO I
3 MIGHT SAY SHE IS NOT CURRENTLY ON THE PROSECUTION'S
4 WITNESS LIST, AND SO I WOULD LIKE TO FIND OUT IF SHE
5 IS GOING TO BE CALLED AS A WITNESS.

6 MR. MCALLISTER: THE PEOPLE DO INTEND TO CALL
7 MS. BLIND. SHE IS NOT ON THE WITNESS LIST BECAUSE
8 WE HAD NOT DISCOVERED HER AS A WITNESS AT THE TIME
9 THAT THE LISTS WERE SUBMITTED.

10 MS. ROSENFELD: OKAY. YOU SAID YOU -- YOU DO
11 INTEND TO CALL HER?

12 MR. MCALLISTER: I DO.

13 MS. ROSENFELD: OKAY. THANK YOU. IN THAT CASE,
14 THEN, IT BECOMES -- WELL, EITHER WAY, WE NEED
15 DISCOVERY OF THE OTHER AUDIOTAPES. MY UNDERSTANDING
16 OF -- FROM LISTENING TO HER RECENT INTERVIEW IS THAT
17 SHE SEEMED TO SAY THAT THE SECOND INTERVIEW OF --
18 THE SECOND SOCIAL VISIT OF MY CLIENT BY MS. BLIND
19 WAS AT THE BEHEST OF THE LEE FAMILY, AND THAT THEY
20 HAD SOMEHOW SUGGESTED TO HER THAT SHE GO TALK TO
21 APOLLO HUHN AND TRY TO GET HIM TO SAY THAT RANDY LEE
22 WAS NOT INVOLVED. SO CERTAINLY IF SHE MET WITH
23 RANDY LEE, WE DON'T HAVE THAT TAPE EITHER. MY
24 UNDERSTANDING IS -- AT THIS POINT IS THAT ALL OF THE
25 DEFENDANTS' SOCIAL VISITS WERE TAPED, AND I WOULD
26 ASK THAT ALL OF THOSE SOCIAL VISIT TAPES NOW BE
27 DISCOVERED AND RELEASED TO US.

28 MR. MCALLISTER: YOUR HONOR, WE HAVE PROVIDED

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1 COUNSEL WITH ALL AUDIO CONVERSATIONS REGARDING
2 SOCIAL VISITS THAT WE HAVE. THERE MAY HAVE BEEN
3 OTHER SOCIAL VISITS THAT WERE NOT TAPED, BUT WE DO
4 NOT HAVE THOSE TAPES.

5 MS. ROSENFELD: I WOULD JUST ASK IF AN INQUIRY
6 WAS MADE TO THE JAIL TO -- TO SEE IF PERHAPS THOSE
7 TAPES ARE THERE AND WE JUST HAVEN'T RECEIVED THEM.
8 I MEAN, THAT SEEMS TO BE THE SITUATION WITH THE
9 TELEPHONE CALLS, THAT ALL OF A SUDDEN WE GOT A SLEW
10 OF A YEAR-PLUS WORTH OF TELEPHONE CALLS THAT
11 APPARENTLY WERE UNKNOWN TO HAVE BEEN RECORDED UNTIL
12 THE PROSECUTION HAD ASKED FOR THEM. SO I WOULD JUST
13 ASK THEM TO DOUBLE-CHECK THE JAIL INVESTIGATION UNIT
14 AND SEE IF PERHAPS THESE TAPES INDEED EXIST, BECAUSE
15 THERE CERTAINLY WAS THE REQUEST IN PLACE, AT LEAST
16 AFTER MAY 22ND. AS WE DISCOVERED FROM THE IN LIMINE
17 MOTIONS THAT AT LEAST AFTER MAY 22ND, THERE WAS A
18 REQUEST TO TAPE ALL JAIL SOCIAL VISITS OF APOLLO
19 HUHN. AND MY UNDERSTANDING IS THAT ALL THE
20 DEFENDANTS HAD THAT SAME REQUEST IN THEIR JAIL
21 RECORDS.

22 I HAVE OTHER ITEMS; SHOULD I GO ON?

23 THE COURT: SURE.

24 MS. ROSENFELD: OKAY. SOME OF THE WITNESSES,
25 AND I APPRECIATE THE PROSECUTION PROVIDED US WITH
26 CURRENT RAP SHEETS ON ALL THE WITNESSES THAT WERE ON
27 HIS WITNESS LIST. WHAT WE'RE GOING TO NEED, THOUGH,
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1 FREE TALK 30 DAYS PRIOR TO TRIAL, BUT SINCE NO
 2 AGREEMENT HAD BEEN REACHED WITH MR. HANDSHOE FOR HIS
 3 TESTIMONY, I UNDERSTAND WHY THAT WAS NOT TURNED OVER
 4 TO US. THERE WAS NO WAY HE COULD CALL MR. HANDSHOE
 5 WITHOUT MR. HANDSHOE AGREEING TO SOME COOPERATION
 6 AGREEMENT, BUT THAT DOES NOT CHANGE THE FACT THAT
 7 ALL OF US ARE PUT IN THE POSITION OF BEING UNFAIRLY
 8 SURPRISED AT THE LAST MOMENT. I THINK WHEN I SAY 30
 9 DAY'S CONTINUANCE AS AN ALTERNATIVE TO A MISTRIAL,
 10 I'M RELYING ON THE DISCOVERY STATUTES AND THE TIME
 11 LIMITS IN THE DISCOVERY STATUTE AS SOME KIND OF
 12 PRESUMPTION OF THE AMOUNT OF TIME THAT'S NEEDED TO
 13 AVOID AN UNFAIR, LAST-MINUTE SURPRISE LIKE THIS.

14 AS TO THE DISCOVERY MOTION, I THINK
 15 MS. ROSENFELD MAY HAVE SOME COMMENTS ON DISCOVERY.
 16 I THINK MS. VANDENBOSCH MAY HAVE SOME ADDITIONAL
 17 COMMENTS AS WELL. WHAT I HAVE FOCUSED ON HERE IS A
 18 REQUEST THAT WE RECEIVE ALL COMMUNICATION BACK AND
 19 FORTH BETWEEN MR. WILLIAMS AND MR. MCALLISTER HAVING
 20 TO DO WITH BENEFITS CONFERRED ON MR. HANDSHOE,
 21 HAVING TO DO WITH ANY PROFFERS OF MR. HANDSHOE'S
 22 TESTIMONY. I THINK WE'RE ENTITLED AT THIS POINT TO
 23 ANY INDUCEMENT FOR ANY INFORMATION HAVING TO DO WITH
 24 INDUCEMENTS FOR MR. HANDSHOE'S TESTIMONY.

25 WE'RE ENTITLED TO ANY STATEMENTS BY
 26 MR. HANDSHOE THAT ARE IN ANY WAY CONTRADICTORY OF
 27 WHAT'S IN THE FREE TALK THAT WE'VE BEEN PROVIDED
 28 WITH. AND I'VE CITED CASES FROM THE NINTH CIRCUIT

1 THAT SAY EVEN WHERE THE ATTORNEY-CLIENT PRIVILEGE --
 2 MR. HANDSHOE'S ATTORNEY-CLIENT PRIVILEGE MAY BE
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 17 TELL THE TRUTH, HE IS IN FACT LOCKING HIMSELF IN TO
 18 THE INFORMATION THAT WAS DISCLOSED IN THE FREE TALK.

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 20 THIS. AND AS I SAY, I HAVEN'T HAD AN OPPORTUNITY TO
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 25 NOW, IN -- IN THAT CASE, THE SAME CLAIM WAS MADE
 26 THAT WE'RE MAKING HERE, AND THE SUPREME COURT FOUND
 27 THAT THERE WAS NOT A VIOLATION OF MEDINA AND ALLEN.
 28 BUT I THINK THE REASONING OF THE COURT THERE IS

1 HOUSE?

2 A. YES.

3 MR. ROAKE: YOUR HONOR, MAY I HAVE A CONTINUING
4 OBJECTION TO THIS ON THE GROUNDS OF HEARSAY? AND I
5 WOULD BE HAPPY TO GO SIDEBAR, IF I CAN; AS WELL AS
6 THESE ARE ARGUMENTATIVE QUESTIONS AND THEY'VE BEEN
7 ASKED AND ANSWERED.

8 THE COURT: ALL RIGHT. OVERRULED ON ALL
9 GROUNDS. I THINK THIS LAST ONE WAS ASKED AND
10 ANSWERED, BUT IT'S GETTING STARTED AGAIN, SETTING A
11 STARTING POINT FOR THE NEXT SERIES OF QUESTIONS.

12 BY MR. MCALLISTER:

13 Q. ALL RIGHT. DO YOU REMEMBER DURING THAT
14 CONVERSATION MR. LEE SAYING ANYTHING ABOUT
15 MR. BRUCKER?

16 A. I -- YEAH. I REMEMBER HIM SAYING THAT
17 MR. BRUCKER WAS SHOT. AND I KNEW WHAT HE WAS
18 TALKING ABOUT BECAUSE I SEEN THE -- I SEEN IT OVER
19 THE NEWS THAT HE -- THAT HE DIED.

20 Q. THAT THAT WAS THE HOUSE THAT HE WAS
21 SPEAKING OF? YOU HAVE TO ANSWER OUT LOUD.

22 A. YES.

23 Q. THEN AT A LATER TIME, AFTER YOU WERE
24 ARRESTED AND AFTER MR. LEE HAD BEEN ARRESTED, DID
25 YOU HAVE A CONVERSATION WHILE THE BOTH OF YOU WERE
26 IN CUSTODY?

27 A. YES.

28 Q. AND WHEN DID THAT HAPPEN?

1 A. WHEN I WAS AT VISTA.

2 Q. WHEN YOU WERE AT THE VISTA JAIL?

3 A. YES.

4 Q. AND WHERE WERE YOU THAT -- THAT YOU
5 HAPPENED TO BE TOGETHER WITH MR. LEE?

6 A. WELL, WHEN WE WERE AT VISTA, WE WERE
7 SITTING ACROSS FROM HIM -- BASICALLY I COULD TALK TO
8 HIM THERE, BUT WE REALLY DIDN'T SAY MUCH. HE JUST
9 KEPT ON SAYING, "TELL THE TRUTH. TELL THE TRUTH."

10 Q. DID HE EVER MAKE ANY OFFER TO YOU DURING
11 THAT CONVERSATION?

12 A. YES.

13 Q. WHAT DID HE SAY TO YOU?

14 A. HE SAID -- I FORGET HOW HE SAID IT, BUT HE
15 TOLD ME THAT -- TO -- TO TELL THE TRUTH. AND THEN
16 I -- I DON'T KNOW HOW HE SAID IT, BUT HE WAS TELLING
17 ME TO -- THAT HE WAS -- HE'D LOOK AFTER MY FAMILY
18 AND HE WOULD PUT MONEY ON MY BOOKS IF I SAID -- IF I
19 SAID THAT HE DIDN'T HAVE NOTHING TO DO WITH IT.

20 Q. SO MR. LEE INDICATED THAT IF YOU WOULD SAY
21 THAT --

22 MR. ROAKE: THIS IS LEADING, YOUR HONOR, AND
23 ARGUMENTATIVE AS PHRASED.

24 THE COURT: IT LOOKS LIKE IT'S STARTING TO BE A
25 LEADING QUESTION.

26 MR. MCALLISTER: WELL, I'M JUST TRYING TO
27 CLARIFY.

28 THE COURT: ALL RIGHT. DON'T GIVE A RECOUNT OF

1 WHAT HE SAID. CLARIFICATION IS FINE.

2 BY MR. MCALLISTER:

3 Q. DURING THAT TIME THAT YOU WERE TOGETHER,
4 YOU WERE OFFERED MONEY?

5 MR. ROAKE: SAME OBJECTION, YOUR HONOR.

6 THE COURT: ALL RIGHT. OBJECTION IS SUSTAINED.

7 BY MR. MCALLISTER:

8 Q. WELL, TELL US AGAIN --

9 MR. ROAKE: ASKED AND ANSWERED, YOUR HONOR.

10 THE COURT: WELL, WE DON'T KNOW YET.

11 MR. ROAKE: WELL, "AGAIN" IS THE GIVEAWAY.

12 BY MR. MCALLISTER:

13 Q. WHAT EXACTLY WAS IT THAT MR. LEE SAID ABOUT
14 MONEY?

15 A. HE SAID HE WOULD PUT MONEY ON MY BOOKS AND
16 LOOK AFTER MY FAMILY.

17 Q. AND IN ORDER FOR HIM TO DO THAT, WHAT DID
18 HE SAY HE WANTED YOU TO DO?

19 A. TO SAY THAT HE HAD NO PART IN IT.

20 Q. NOW, FROM THE -- FROM THE TIME THAT
21 MR. BRUCKER WAS KILLED ON APRIL THE 14TH OF 2003
22 UNTIL THE TIME THAT -- I'M SORRY, LET ME TAKE THAT
23 BACK AND START AGAIN.

24 FROM THE FIRST TIME THAT YOU HEARD MR. LEE
25 MENTION THE SUBJECT OF A ROBBERY, TO THE TIME THAT
26 MR. BRUCKER WAS KILLED ON APRIL THE 13TH OF 2003 --

27 A. 14TH.

28 Q. APRIL 14TH OF 2003, THANK YOU,

1 MR. HANDSHOE -- DID MR. LEE EVER COME TO YOU AND
2 SAY, FORGET IT. I DON'T WANT TO HAVE ANY PART OF
3 THIS?

4 A. NO.

5 MR. ROAKE: RELEVANCE, YOUR HONOR, OBJECTION.

6 THE COURT: OVERRULED. THE ANSWER IS NO.

7 THE WITNESS: NO.

8 MR. ROAKE: IT'S A LEADING QUESTION, YOUR HONOR,
9 AS WELL.

10 THE COURT: THE OBJECTION IS OVERRULED.

11 BY MR. MCALLISTER:

12 Q. WERE YOU EVER PRESENT? SO I'M ONLY ASKING
13 YOU WHAT YOU PERSONALLY HEARD, WHEN -- DURING THAT
14 SAME TIME FRAME WHERE MR. LEE WENT TO APOLLO HUHN
15 AND SAID, I DON'T WANT TO HAVE ANYTHING TO DO WITH
16 THIS --

17 MR. ROAKE: YOUR HONOR, OBJECTION. THIS IS
18 ARGUMENTATIVE.

19 THE COURT: OVERRULED.

20 THE WITNESS: WHAT WAS THE QUESTION AGAIN?

21 BY MR. MCALLISTER:

22 Q. WERE YOU EVER PRESENT BETWEEN THOSE DATES
23 WHEN YOU FIRST HEARD ABOUT THE IDEA OF A ROBBERY --

24 A. YES.

25 Q. -- UNTIL MR. BRUCKER WAS KILLED? WERE YOU
26 EVER PRESENT WHEN MR. LEE WENT TO MR. HUHN AND SAID,
27 HEY, LOOK, I DON'T WANT TO HAVE ANYTHING TO DO WITH
28 THIS?

1 INVOLVEMENT IN ANY -- ANY GANG OR GROUP LIKE THAT.
2 I CERTAINLY DON'T WANT IT TO BECOME AN ISSUE IN THIS
3 TRIAL.

4 I CERTAINLY DON'T WANT THE INFERENCE OF A
5 GANG BEING MENTIONED BEFORE THIS JURY. THAT JUST
6 CREATES A WHOLE ADDITIONAL HOST OF ISSUES, THAT I'M
7 SURE NOBODY WANTS TO GET INTO. AND SO I WOULD ASK
8 THAT -- I MEAN, I DON'T HAVE ANY INFORMATION ON IT,
9 SO I DON'T KNOW EXACTLY WHAT I'M ASKING THE COURT TO
10 DO, EXCEPT ORDER THAT IT NOT BE MENTIONED BEFORE, AT
11 LEAST THE HUHN JURY, THIS ISSUE OF PECKERWOODS AND
12 HIS ALLEGED ASSOCIATION WITH THEM.

13 THE COURT: ALL RIGHT. NOW, FROM WHAT I RECALL,
14 I'M ASSUMING YOUR REMARKS ARE ADDRESSED TO ALL
15 SIDES, NOT JUST THE PROSECUTION, BECAUSE IT SEEMS IN
16 TERMS OF WHENEVER THIS TERM COMES UP, GANGS, WHETHER
17 IT'S HELL'S ANGELS OR PECKERWOODS, IT IS FROM EITHER
18 MR. LEE OR -- AND I THINK MS. VANDENBOSCH RAISED
19 THAT THE LAST TIME AROUND, MR. MCALLISTER. I'M
20 ASSUMING THAT GANG AFFILIATION, WHETHER IT BE HELL'S
21 ANGELS OR PECKERWOODS, IS NOT PART OF THE PEOPLE'S
22 CASE?

23 MR. MCALLISTER: IT IS NOT, YOUR HONOR.

24 THE COURT: ALL RIGHT. SO --

25 MS. ROSENFELD: JUST TO BE CLEAR, THE -- WHAT I
26 AM ASKING THE COURT TO EXCLUDE IS ANY ASSOCIATION MY
27 CLIENT HAS WITH THESE ORGANIZATIONS. IF THEY COME
28 UP IN SOME OTHER CONTEXT, AS LONG AS MY CLIENT IS

1 NOT TERMED TO BE AN ASSOCIATE, THEN I HAVE NO
2 PROBLEM WITH IT.

3 THE COURT: ALL RIGHT. WELL, I -- AT THIS
4 POINT, I GUESS ALL WE CAN DO IS YOU'VE PLACED ALL
5 SIDES ON NOTICE THAT WITHOUT SOME FOUNDATION, THERE
6 SHOULD BE NO REFERENCE TO MR. HUHN AS A POTENTIAL
7 AFFILIATE OR ASSOCIATE OR MEMBER OF SOME TYPE OF
8 GANG. AND RIGHT NOW, I HAVE NO INFORMATION TO THAT
9 EFFECT, SO I WOULD BE INCLINED TO AGREE WITH YOU,
10 THAT THERE SHOULD BE NO REFERENCE MADE TO MR. HUHN
11 BEING A MEMBER OF ANY GANG.

12 MS. VANDENBOSCH.

13 MS. VANDENBOSCH: YES, YOUR HONOR, I WOULD HAVE
14 NO OBJECTION TO BRINGING THIS INFORMATION OUT, OUT
15 OF THE PRESENCE OF MR. HUHN'S JURY, BUT MY
16 RECOLLECTION OF LISTENING TO THESE MANY JAILHOUSE
17 CONVERSATIONS IS THAT MR. HUHN SPECIFICALLY REFERS
18 TO HIMSELF AS A PECKERWOOD, AND REFERS TO THE
19 PECKERWOOD GANG IN VARIOUS CONVERSATIONS THAT HE HAS
20 TO OUTSIDERS, INCLUDING VALERIE PERETTI.

21 MY CONCERN IS THIS: WHEN ZACHARY PAULSON
22 WAS ARRESTED THIS LAST TIME ON THE PAROLE VIOLATION
23 AND IS BOOKED IN TO CUSTODY, OBVIOUSLY, AS THE COURT
24 SAW, HE SPECIFICALLY INDICATES THAT HE IS A MEMBER
25 OF THE PECKERWOOD GANG. I MEAN, THAT'S THE NOTATION
26 THAT'S PUT ON HIS FILE. HE ALSO, IN OTHER
27 STATEMENTS AFTER THAT SAME ARREST, MAKES COMMENTS OF
28 HAVING TESTIFIED AGAINST ERIC ANDERSON AND FOR -- IN

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in future ↓

1 FAVOR OF APOLLO HUHN AND BRANDON HANDSHOE. MY
 2 UNDERSTANDING IS THAT BOTH BRANDON HANDSHOE AND
 3 APOLLO HUHN HAVE ASSOCIATIONS, AFFILIATIONS WITH THE
 4 PECKERWOOD GANG, AS DOES ZACHARY PAULSON. THAT
 5 CREATES A CLEAR BIAS IN HIS OWN MIND TOWARDS BRANDON
 6 AND APOLLO AND AWAY FROM ERIC ANDERSON, WHO HAS NO
 7 AFFILIATION WITH THAT PARTICULAR GANG.

8 AND I THINK, SPECIFICALLY IN LIGHT OF HIS
 9 OWN STATEMENTS, IN ONE OF THE REPORTS AFTER THE
 10 INCIDENT IN THE JAIL IS, I TESTIFIED FOR APOLLO HUHN
 11 AND BRANDON HANDSHOE. THAT MAY NOT HAVE BEEN THE
 12 WAY OTHER PEOPLE PERCEIVED IT. THAT'S THE WAY HE
 13 PERCEIVED IT. AND I THINK THAT SHOWS A CLEAR BIAS
 14 TOWARD BRANDON AND APOLLO. AND I THINK IN LARGE
 15 PART, DUE TO A FRIENDSHIP AND AN AFFILIATION
 16 ASSOCIATION WITH THE SAME -- WITH THE SAME GANG,
 17 WHICH IS THE PECKERWOODS.

18 THE COURT: I UNDERSTAND YOUR ARGUMENT, AND WITH
 19 THE APPROPRIATE FOUNDATION, IT MAY BE THAT WE'RE IN
 20 A SITUATION WHERE SOME REFERENCE TO THAT WOULD BE
 21 ALLOWED.

22 MS. VANDENBOSCH, YOU MAY RECALL WHEN THIS
 23 WAS LAST RAISED, I -- I INDICATED SOME SKEPTICISM
 24 ABOUT THE ENTRY ON THAT MOST RECENT DOCUMENT. AND I
 25 HAVE YET TO GO BACK AND TRY TO CREATE THIS -- THIS
 26 THREAD. I EXPRESSED JUST A -- JUST A BELIEF THAT
 27 THAT REFERENCE WAS ENTERED BY SOME C.Y.A. JUVENILE
 28 OR JAIL CLERK OR OFFICER BASED UPON PREVIOUS

1 REFERENCES AND PREVIOUS RECORDS. THAT IT DOESN'T
 2 NECESSARILY CONSTITUTE A STATEMENT BY MR. PAULSON
 3 THAT "I AM A MEMBER TODAY," FEBRUARY 2005, OR
 4 WHENEVER THIS INCIDENT OCCURRED OF PECKERWOODS. SO
 5 I HAVE YET TO DO THAT.

6 AND I THINK ALL I CAN SAY RIGHT NOW IS YOU
 7 MAKE A PERSUASIVE ARGUMENT IN TERMS OF THE JURY
 8 CONSIDERING FACTORS THAT MAY LEAD TO SOME TYPE OF
 9 BIAS, INTEREST, OR MOTIVE TO SHAPE TESTIMONY.

10 AND, MS. ROSENFELD, MS. VANDENBOSCH HAS
 11 SAID SHE HAS NO PROBLEM KEEPING THIS, YOU KNOW, AWAY
 12 FROM THE HUHN JURY, BUT RIGHT NOW, I CAN'T MAKE A
 13 FINE-TUNED CALL ON THIS TYPE OF EVIDENTIARY ISSUE.
 14 I CAN JUST AGREE WITH MS. VANDENBOSCH, IT MAKES
 15 SENSE TO ME THAT IF SOMEONE IS SHADING THEIR
 16 TESTIMONY IN FAVOR OF SOMEONE THAT THEY HAVE SOME
 17 AFFILIATION WITH, THAT THE EXAMINER BE ALLOWED TO
 18 BRING THAT OUT WITH A POSSIBLY LIMITING INSTRUCTION
 19 TO THE JURORS THAT THE REASON WE'RE MAKING REFERENCE
 20 TO THIS IS AS FOLLOWS, NOT FOR ANY OTHER PURPOSE.
 21 SO --

22 MS. ROSENFELD: WELL, I DON'T SEE WHY THAT
 23 REFERENCE OR THAT PORTION COULD NOT BE PRESENTED
 24 ONLY TO THE ANDERSON JURY, ESPECIALLY WHEN THERE IS
 25 NO FOUNDATION FOR -- FOR IT AT THIS POINT. AND I --

26 THE COURT: OKAY. YOU MAY BE RIGHT. I'M JUST
 27 TRYING TO GET US ALONG HERE. I GUESS CONCEPTUALLY I
 28 TEND TO AGREE WITH MS. VANDENBOSCH, THAT IF THERE IS

1 A. THEY'RE A RACIST GANG AGAINST BLACKS.

2 Q. IS YOUR BOYFRIEND AFRICAN-AMERICAN?

3 A. YES.

4 Q. AND AFTER SHE SAID THIS TO YOU, WHAT DID
5 YOU DO?

6 A. ME AND MY BOYFRIEND STARTED WALKING AWAY.

7 Q. DID YOU EVER HIT HER IN ANY WAY?

8 A. NO.

9 Q. MS. RITTERBUSH, THIS STORY OF VALERIE
10 PERETTI SAYING THAT YOU HIT HER; THAT IS, YOU WERE
11 INVOLVED IN A PHYSICAL CONFRONTATION WITH HER AND
12 THAT YOUR BOYFRIEND SHOWED HER A GUN, IS THAT
13 TYPICAL OF VALERIE PERETTI AND THE WAY SHE MAKES UP
14 STORIES?

15 A. YES.

16 MR. MCALLISTER: OBJECTION, YOUR HONOR.

17 THE COURT: SUSTAINED.

18 BY MS. VANDENBOSCH:

19 Q. HAVE YOU HEARD HER MAKE UP STORIES LIKE
20 THIS ON OTHER OCCASIONS?

21 MR. MCALLISTER: OBJECTION, YOUR HONOR.

22 THE COURT: SUSTAINED.

23 MS. VANDENBOSCH: I HAVE NO FURTHER QUESTIONS.

24 THE COURT: MR. MCALLISTER.

25 RECROSS-EXAMINATION

26 BY MR. MCALLISTER:

1 (Q. PARKWAY PLAZA, TO YOUR KNOWLEDGE, IS NOT
2 LOCATED AT 745 EAST BRADLEY; IS IT?

3 A. NO.

4 MR. MCALLISTER: THANK YOU. I HAVE NO FURTHER
5 QUESTIONS.

6 MS. VANDENBOSCH: YOUR HONOR, I DO HAVE -- I'M
7 SORRY, I DID WANT TO ASK A QUESTION -- QUESTIONS.

8 THE COURT: GO AHEAD.

9
10 REDIRECT EXAMINATION (RESUMED)

11 BY MS. VANDENBOSCH:

12 Q. MS. RITTERBUSH, TO YOUR KNOWLEDGE, IN THE
13 LAST COUPLE OF DAYS HAS VALERIE PERETTI BEEN TRYING
14 TO CALL YOUR HOUSE?

15 A. MY MOM SAYS SHE HAS BEEN CALLING MY HOUSE,
16 YES.

17 Q. AND HAVE YOU BEEN RETURNING HER CALLS?

18 A. NO.

19 Q. HAS ANYBODY FROM THE DISTRICT ATTORNEY'S
20 OFFICE BEEN CALLING YOUR BOYFRIEND'S HOUSE, YOUR
21 BOYFRIEND'S PARENTS' HOUSE TO TRY AND LOCATE
22 YOU?

23 A. YES.

24 Q. AND WHO HAS THAT BEEN?

25 A. STEVE BAKER.

26 Q. AND WHERE HAS HE BEEN CALLING?

27 A. HE HAD CALLED MY BOYFRIEND'S DAD'S HOUSE

1 INVOLVEMENT IN ANY -- ANY GANG OR GROUP LIKE THAT.
 2 I CERTAINLY DON'T WANT IT TO BECOME AN ISSUE IN THIS
 3 TRIAL.

4 I CERTAINLY DON'T WANT THE INFERENCE OF A
 5 GANG BEING MENTIONED BEFORE THIS JURY. THAT JUST
 6 CREATES A WHOLE ADDITIONAL HOST OF ISSUES, THAT I'M
 7 SURE NOBODY WANTS TO GET INTO. AND SO I WOULD ASK
 8 THAT -- I MEAN, I DON'T HAVE ANY INFORMATION ON IT,
 9 SO I DON'T KNOW EXACTLY WHAT I'M ASKING THE COURT TO
 10 DO, EXCEPT ORDER THAT IT NOT BE MENTIONED BEFORE, AT
 11 LEAST THE HUHN JURY, THIS ISSUE OF PECKERWOODS AND
 12 HIS ALLEGED ASSOCIATION WITH THEM.

13 THE COURT: ALL RIGHT. NOW, FROM WHAT I RECALL,
 14 I'M ASSUMING YOUR REMARKS ARE ADDRESSED TO ALL
 15 SIDES, NOT JUST THE PROSECUTION, BECAUSE IT SEEMS IN
 16 TERMS OF WHENEVER THIS TERM COMES UP, GANGS, WHETHER
 17 IT'S HELL'S ANGELS OR PECKERWOODS, IT IS FROM EITHER
 18 MR. LEE OR -- AND I THINK MS. VANDENBOSCH RAISED
 19 THAT THE LAST TIME AROUND, MR. MCALLISTER. I'M
 20 ASSUMING THAT GANG AFFILIATION, WHETHER IT BE HELL'S
 21 ANGELS OR PECKERWOODS, IS NOT PART OF THE PEOPLE'S
 22 CASE?

23 MR. MCALLISTER: IT IS NOT, YOUR HONOR.

24 THE COURT: ALL RIGHT. SO --

25 MS. ROSENFELD: JUST TO BE CLEAR, THE -- WHAT I
 26 AM ASKING THE COURT TO EXCLUDE IS ANY ASSOCIATION MY
 27 CLIENT HAS WITH THESE ORGANIZATIONS. IF THEY COME
 28 UP IN SOME OTHER CONTEXT, AS LONG AS MY CLIENT IS

1 NOT TERMED TO BE AN ASSOCIATE, THEN I HAVE NO
 2 PROBLEM WITH IT.

3 THE COURT: ALL RIGHT. WELL, I -- AT THIS
 4 POINT, I GUESS ALL WE CAN DO IS YOU'VE PLACED ALL
 5 SIDES ON NOTICE THAT WITHOUT SOME FOUNDATION, THERE
 6 SHOULD BE NO REFERENCE TO MR. HUHN AS A POTENTIAL
 7 AFFILIATE OR ASSOCIATE OR MEMBER OF SOME TYPE OF
 8 GANG. AND RIGHT NOW, I HAVE NO INFORMATION TO THAT
 9 EFFECT, SO I WOULD BE INCLINED TO AGREE WITH YOU,
 10 THAT THERE SHOULD BE NO REFERENCE MADE TO MR. HUHN
 11 BEING A MEMBER OF ANY GANG.

12 MS. VANDENBOSCH.

13 MS. VANDENBOSCH: YES, YOUR HONOR, I WOULD HAVE
 14 NO OBJECTION TO BRINGING THIS INFORMATION OUT, OUT
 15 OF THE PRESENCE OF MR. HUHN'S JURY, BUT MY
 16 RECOLLECTION OF LISTENING TO THESE MANY JAILHOUSE
 17 CONVERSATIONS IS THAT MR. HUHN SPECIFICALLY REFERS
 18 TO HIMSELF AS A PECKERWOOD, AND REFERS TO THE
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 his buddies ↓

1 LIVING WITH YOU A LOT DURING THAT PERIOD; IS THAT
2 RIGHT?

3 A. HE'D STAY AT MY HOUSE A LOT.

4 Q. HE STAYED AT YOUR HOUSE A LOT?

5 A. YES.

6 Q. IN FACT, HE DIVIDED HIS TIME BETWEEN
7 VALERIE PERETTI'S HOUSE AND YOUR HOUSE; IS THAT
8 RIGHT?

9 A. I'D SAY SO.

10 MR. MCALLISTER: OBJECTION, YOUR HONOR, CALLS
11 FOR SPECULATION.

12 THE COURT: OVERRULED.

13 THE WITNESS: YES, I -- YEAH.

14 BY MS. VANDENBOSCH:

15 Q. AND IT'S NOT -- IT'S NOT UNFAIR TO DESCRIBE
16 APOLLO HUHNS AS A VERY CLOSE FRIEND?

17 A. YES.

18 Q. OKAY. AND YOU ALSO KNEW RANDY LEE; IS THAT
19 RIGHT?

20 A. YES.

21 Q. IN FACT, RANDY LEE HAD GROWN UP IN THE SAME
22 MOBILE HOME PARK AS APOLLO HUHNS?

23 A. YES.

24 Q. SO YOU KNEW RANDY LEE FROM WAY BACK; IS
25 THAT RIGHT?

26 A. YES.

27 Q. AND ERIC ANDERSON YOU HAD JUST MET A COUPLE
28 OF DAYS BEFORE; IS THAT RIGHT?

1 A. YES.

2 Q. IN FACT, YOU'D ONLY SEEN HIM A TOTAL OF
3 ABOUT FIVE OR SIX TIMES?

4 A. YES.

5 Q. AND HE WAS NOT A CLOSE FRIEND OF YOURS AT
6 ALL; IS THAT FAIR TO SAY?

7 A. YES.

8 Q. NOW, MR. HANDSHOE, YOU WERE THE FIRST
9 PERSON TO BE ARRESTED IN THIS CASE; IS THAT RIGHT?

10 A. YES.

11 Q. OKAY. DO YOU REMEMBER THE DAY YOU WERE
12 ARRESTED?

13 A. MAY 14TH.

14 Q. MAY 14TH OF 2003?

15 A. YES.

16 Q. AND SO ABOUT A MONTH, EXACTLY A MONTH
17 AFTER -- AFTER MR. BRUCKER WAS KILLED?

18 A. YES.

19 Q. AND ON THAT DAY, YOU WERE SPECIFICALLY
20 TAKEN IN TO -- ARRESTED BY SHERIFF'S DEPUTIES AND
21 TAKEN INTO AN INTERVIEW ROOM; IS THAT RIGHT?

22 A. YES.

23 Q. AND YOU WERE TOLD --

24 MR. MCALLISTER: YOUR HONOR, I'M GOING TO
25 OBJECT, AND I THINK WE NEED A SIDEBAR.

26 THE COURT: WELL, I REALLY HOPED WE COULD AVOID
27 SIDEBARS. IS THIS A LINE OF QUESTIONING THAT YOU
28 CAN POSTPONE UNTIL OUR BREAK, MS. VANDENBOSCH, OR IS

1 SUSPECT?

2 A. THAT'S CORRECT.

3 MR. MCALLISTER: THANK YOU.

4 I HAVE NO FURTHER QUESTIONS AT THIS TIME.

5 THE COURT: ALL RIGHT.

6 RECOGNIZING THAT YOU HAVEN'T COMPLETED YOUR
7 DIRECT EXAMINATION, DETECTIVE, THANK YOU.

8 THE WITNESS: YOU'RE WELCOME, YOUR HONOR.

9 THE COURT: I KNOW IT'S COMING IN BITS AND
10 PIECES, BUT IT'S HELPING US USE OUR TIME. AND SO
11 JUST TO GIVE NOTICE TO DETECTIVE GOLDBERG, YOU DON'T
12 WANT HIM ON THE WITNESS STAND AT 1:30, SINCE HE'S
13 HERE TYPICALLY?

14 MS. VANDENBOSCH: RIGHT. IF HE DOESN'T MIND.

15 THE COURT: OKAY. ALL RIGHT.

16 LADIES AND GENTLEMEN OF THE LAVENDER PANEL,
17 THANK YOU SO MUCH DURING THIS MUSICAL CHAIRS THAT
18 WE'VE PLAYED THIS MORNING. THIS IS TIME FOR THE
19 LUNCH BREAK. IT'S GOING TO BE THE NORMAL LUNCH
20 BREAK FROM NOW UNTIL 1:30. DON'T DISCUSS THE CASE.
21 DON'T FORM OPINIONS. GATHER OUTSIDE AT 1:30 AND
22 WE'LL CONTINUE TO BRING YOU IN FOR MORE TESTIMONY.
23 WE'RE IN RECESS FOR LUNCH.

24
25 (THE LAVENDER JURY PANEL RECESSES FOR LUNCH.)

26
27 THE COURT: COUNSEL, BEFORE TAKING OFF, I'VE
28 POSTPONED IT AGAIN AND AGAIN, AND I INDICATED I WAS

1 STICKING WITH MY TENTATIVE AS TO THE 1118.1 MOTION
2 OF MR. LEE ON COUNT 2. I'D LIKE TO JUST MAKE A
3 BRIEF RECORD AS TO MY REASONING. I'M RELYING ON
4 SOME GENERAL LANGUAGE IN THE CASE OF PEOPLE VS.
5 SAMARJIAN, S-A-M-A-R-J-I-A-N, 240 CAL.APP. 2D AT 13.
6 BASICALLY SUMMARIZING WHAT HAPPENS WHEN
7 CIRCUMSTANTIAL EVIDENCE IS USED IN REFERENCE, OF
8 COURSE, TO THE FACT THAT IN MANY -- IN FACT MOST
9 CONSPIRACY CASES THERE HAS TO BE A RELIANCE ON
10 CIRCUMSTANTIAL EVIDENCE.

11 AND IT STATES, "WHILE MANY ACTS WHICH
12 FURTHER AN ILLEGAL PURPOSE MAY SUFFICE TO MAKE A
13 PERSON A STATUTORY PRINCIPAL IN A CRIME, AIDING AND
14 ABETTING IS NOT ENOUGH TO CREATE LIABILITY FOR THE
15 CRIME OF CONSPIRACY. ALTHOUGH IT IS TRUE THAT THE
16 EXISTENCE OF REQUISITE AGREEMENT MAY BE PROVED
17 INDIRECTLY OR BY CIRCUMSTANTIAL EVIDENCE, STILL THE
18 ULTIMATE FACT TO BE PROVED IS THE ACTUAL EXISTENCE
19 OF AN AGREEMENT."

20 AND OUR SUPREME COURT HAS POINTED OUT THAT
21 THERE ARE TWO ELEMENTS TO THE CONSPIRACY CHARGE --
22 TWO MENTAL ELEMENTS RATHER. FIRST, THE INTENT TO
23 AGREE; AND SECOND, THE INTENT TO COMMIT THE
24 UNDERLYING OFFENSE.

25 OFTENTIMES, AND I'VE REFERRED TO A TREATISE
26 ON THE PROSECUTION AND DEFENSE OF CONSPIRACY CASES.
27 IT IS BY PAUL MARCUS; IT IS A 2002 TREATISE AT
28 SECTION 2.09 REGARDING THIS ISSUE OF INTENT OR