

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MARY ARAGON and GERMAN RAMIREZ-GONZALEZ,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for A Writ of *Certiorari* to The United States Court of Appeals for
the Ninth Circuit**

**APPENDIX (VOLUME II) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

DAVID A. SCHLESINGER (counsel of record)
JACOBS & SCHLESINGER LLP
The Douglas Wilson Companies Building
1620 Fifth Avenue, Suite 750
San Diego, CA 92101
Telephone: (619) 230-0012
david@jsslegal.com

Counsel for Petitioner GERMAN RAMIREZ-GONZALEZ

DAVID J. ZUGMAN
BURCHAM & ZUGMAN
402 West Broadway,
Suite 1130
San Diego, CA 92101
Telephone: (619) 699-5931
dzugman@gmail.com

Counsel for Petitioner MARY ARAGON

1 hard copies of 1, 2, 3, 4, and 4A for the clerk?

2 MR. COUGHLIN: Your Honor, we are able to play the
3 video, and we have a hard copy, exactly.

4 THE COURT: No, the other exhibits.

5 MR. COUGHLIN: Yes. Those are the ones that are
6 going -- have been received, and those will go back to the
7 jury. Hard copies.

8 THE COURT: Where are the hard copies?

9 MR. COUGHLIN: I set them in front of him, Your Honor.

10 THE COURT: All right.

11 Rick, do you want to take what has been received into
12 evidence?

13 THE CLERK: Yes, sir.

14 (Clerk takes control of the exhibits)

15 THE CLERK: Thank you.

16 THE COURT: How long is the video?

17 MR. COUGHLIN: Approximately one minute.

18 THE COURT: All right. We'll go another five minutes
19 and then break for lunch.

20 MR. COUGHLIN: Very well, Your Honor.

21 THE COURT: 5 is in evidence.

22 (Government's Exhibit 5 received in evidence)

23 (Video played)

24 MR. COUGHLIN: Stop the video.

25 BY MR. COUGHLIN:

1 Q. Is that where Mr. Patara stopped before coming to you?

2 A. Yes.

3 Q. And did you have to wave him forward?

4 A. Yes, I did.

5 MR. COUGHLIN: Okay, Continue.

6 (Video continues)

7 MR. COUGHLIN: Stop right there.

8 BY MR. COUGHLIN:

9 Q. When was the first time you noticed there was more than one
10 occupant in the vehicle?

11 A. As the vehicle was pulling forward.

12 Q. Could you tell whether there was more than one occupant
13 when the vehicle was stopped 10 or 15 feet before you?

14 A. No.

15 Q. And why is that?

16 A. It's too far. You can't see into the glare of the lights,
17 in the windshield.

18 MR. COUGHLIN: Okay. Go ahead and continue playing,
19 please.

20 (Video continues)

21 MR. COUGHLIN: Okay. Can you stop right there?

22 BY MR. COUGHLIN:

23 Q. So what was the first thing that happened when this vehicle
24 pulled to you -- to your location?

25 A. As the vehicle pulled up, the first thing that came out --

1 nervous.

2 You can bring out what observations he made, but you
3 cannot ask for his opinions.

4 MR. COUGHLIN: Very well. Thank you, Your Honor.

5 BY MR. COUGHLIN:

6 Q. What were your observations of the front seat passenger
7 when you asked him the question?

8 A. He really didn't pay attention to me. He kept looking
9 around, avoiding eye contact with me.

10 Q. And after you had asked this passenger, did you see if
11 there was anyone else in the vehicle?

12 A. Yes. I noticed the back passenger.

13 Q. And at that point in time, could you tell whether he was
14 awake or asleep?

15 A. It appeared he was asleep.

16 Q. Did you have to come back to the back passenger window or
17 did you have conversation with him from the front?

18 A. I had to go to the back passenger window to speak to him.

19 Q. Did you ask the front -- the driver any questions regarding
20 the back seat passenger?

21 A. I did. I asked him if he knew what his citizenship was.

22 Q. And did the front seat passenger, Mr. Patara, respond to
23 that question?

24 A. Yes. He said he was a United States citizen.

25 Q. And based on that response, what did you do?

1 A. I then went to the back -- back seat -- well, the back
2 window to talk to the back seat passenger.

3 Q. And was he awake by that time?

4 A. No, he wasn't.

5 Q. How did he wake up?

6 A. Mr. — the driver reached back and woke him up.

7 Q. Okay. And what -- when he woke him up, what did you
8 observe?

9 A. I observed that he was -- it appeared like he was asleep,
10 waking up, and I asked him for his citizenship.

11 Q. And did you ask that in English or Spanish?

12 A. I asked him in English.

13 Q. And what was his response?

14 A. He said, "Yes," but he said it in a way where he -- like he
15 didn't understand what I was saying or what I was asking.

16 Q. And after that, did you ask another question?

17 A. I asked him again for his citizenship but in the Spanish
18 language.

19 Q. And why did you change to Spanish?

20 A. I figured that maybe he might understand Spanish.

21 Q. And did he respond to your Spanish question?

22 A. Yes, he did. He said he was a U.S. citizen.

23 Q. And after he said he was a United States citizen, did you
24 ask any further questions of the back seat passenger?

25 A. Yes. I asked if he had any identification -- photo

1 identification with him.

2 Q. And what was his response?

3 A. He said he didn't have any.

4 Q. And in connection with that, is that a concern of yours
5 when somebody doesn't have a photo identification?

6 A. Yes, it is.

7 Q. So after you learned that he had no photo identification,
8 did you ask any further questions of the front seat passenger,
9 Mr. Patara?

10 A. Yes, I asked him where they were coming from.

11 Q. And what was his response?

12 A. He said they were coming from the Golden Acorn Casino.

13 Q. And do you have an opinion as to the Golden Acorn Casino.
14 with regard to whether or not that affects your decision as --
15 vis-à-vis the checkpoint?

16 A. Yes.

17 MR. CARLOS: Objection. Relevance and speculation.

18 THE COURT: Sustained.

19 BY MR. COUGHLIN:

20 Q. Have you had opportunity to go to the Golden Acorn Casino?

21 A. Yes, I have.

22 Q. Is border patrol aware that alien smuggling is often
23 started there at the Golden Acorn Casino?

24 MR. CARLOS: Objection. Relevance and leading.

25 MR. ZUGMAN: And 403.

AFTERNOON SESSION

• 2:11 p.m.

THE COURT: Everyone is here.

Let's bring out the jury.

(Jury enters the courtroom)

THE COURT: Just a moment.

Rick,

(Court and Clerk confer)

9 THE COURT: All the jurors are present. You may
10 continue.

11 MR. COUGHLIN: Thank you, Your Honor.

12 BY MR. COUGHLIN

13 Q. Agent Gamez, we were in the midst of playing the video, so
14 I think what I'll do is play the video from start to finish,

15 Go ahead and look at your screen.

16 MR. COUGHLIN: Go ahead and play the video, please.

17 (Video played)

18 MR. COUGHLIN: You can stop the video.

19 BY MR. COUGHLIN

20. Q. Now, in connection with your contact with the Toyota
21. Corolla, approximately how long was the Toyota Corolla in
22. primary?

23 A. It was about a minute, minute and five.

24 Q. And after you finished having your conversation with the
25 occupants, what did you do next?

1 A. I then proceeded to go to secondary inspection area so I
2 can do further investigation, also.

3 Q. Did you direct the vehicle to go into secondary?

4 A. Yes, I did. I directed the vehicle.

5 Q. Do you think you would recognize the driver if you saw him
6 again?

7 A. Yes, I would.

8 Q. Do you see him in the courtroom today?

9 A. Yes, I do.

10 Q. Can you point him out and describe an article of clothing
11 he's wearing?

12 A. He's the individual here in the corner, black suit,
13 burgundy tie, blue shirt, some glasses on.

14 MR. COUGHLIN: Your Honor, at this time I'd like the
15 record reflect he's identified Mr. Patara.

16 THE COURT: Any objection?

17 MR. CARLOS: No, Your Honor.

18 THE COURT: So noted.

19 BY MR. COUGHLIN:

20 Q. Mr. Gamez, could you also recognize a photograph of him if
21 you saw it again?

22 A. Yes.

23 Q. I'm going to ask you to take a look at Government's
24 Exhibit 10, which is before you there. I ask if you recognize
25 what that is.

1 MR. JOHNSON: No objection.

2 MR. ZUGMAN: No objection.

3 THE COURT: In evidence.

4 (Government's Exhibit 12 received in evidence)

5 MR. COUGHLIN: I'd like to publish it to the jury,
6 Your Honor.

7 BY MR. COUGHLIN:

8 Q. Now, Agent Gamez, you indicated that you also went into
9 secondary; is that correct?

10 A. Yes, sir.

11 Q. In secondary, who did you have contact with?

12 A. Both the back seat passenger and the front passenger,
13 Mr. Ramirez.

14 Q. So would that be Mr. Ramirez as well as Mr. Lopez?

15 A. Yes.

16 Q. Okay. Did you have a conversation with Mr. Ramirez in
17 secondary?

18 A. Yes, I did.

19 Q. Did you discuss whether or not he had any immigration
20 documents with him?

21 A. Yes, I did.

22 Q. And what did you ask him about those documents?

23 A. I asked if he had any kind of identification or any
24 paperwork on his immigration status.

25 Q. Did he have any documentation?

1 A. He said he -- he didn't have any.

2 Q. In connection with Mr. Ramirez, did you have any
3 conversation as to why he was in the area?

4 A. Yes, he did.

5 Q. And could you tell us what his response was?

6 A. His response was is that he came out to the casino to
7 celebrate their wives' birthday.

8 Q. Did he indicate what wife, whose wife it was?

9 A. No, he just says "wives".

10 Q. Okay. So in connection with these individuals, at some
11 point in time Mr. Patara was put under arrest; is that correct?

12 A. Yes.

13 Q. And in connection with certain -- certain items, they were
14 taken into custody; is that correct?

15 A. Yes.

16 Q. Were seized, if you will?

17 A. Yes.

18 Q. And were you the seizing officer?

19 A. Yes.

20 Q. I'd like to have you take a look at Government's Exhibit 9,
21 which is there in front of you, and I ask if you recognize that
22 photograph.

23 A. Yes, I do.

24 Q. And is it an accurate depiction of the ID card that you
25 seized that evening?

1 A. No.

2 Q. He basically cooperated with all your commands, I take it?

3 A. Yes.

4 Q. And you told him to stop, he stopped, correct?

5 A. Correct.

6 Q. Told him to identify himself, he identified himself?

7 A. Yeah. Asked for his citizenship, yes.

8 Q. Said, "I'm an American citizen?"

9 A. Yes.

10 Q. By the way, you never met him before, have you? By "him" being Mr. Patara.

12 A. No.

13 Q. You've never seen him before.

14 A. No.

15 Q. Did you ever see him in any type of law enforcement training or anything like that?

17 A. No.

18 Q. Did you ever hear the way he has spoken?

19 A. Have I -- excuse me?

20 Q. Did you ever hear him speak before?

21 A. Just that -- there at primary.

22 Q. Okay. And you would agree with me that he has an accent?

23 A. Yes.

24 Q. Okay. So you never heard him speak before, this is the first time that you've spoke to him.

1 A. No.

2 Q. What do you do?

3 A. Well, he stayed. He -- they were all there with us at the
4 station. The vehicle stayed in secondary at the checkpoint.

5 Q. Okay. But what did you do after you got the fingerprints
6 at the Campo station?

7 A. After I -- after I got the fingerprints at the station, I
8 confirmed that he, in fact, was -- he didn't have any
9 documentations to be here, and we had to place all of them
10 under arrest. Mr. Ramirez under arrest.

11 Q. I don't want to know about "we", I want to know what you
12 did.

13 A. I placed him under arrest.

14 Q. You placed Mr. Ramirez under arrest.

15 A. Yes.

16 Q. All right. And then what did you do --

17 A. What --

18 Q. -- after that?

19 A. After that, I placed Mr. Patara and everybody else under
20 arrest.

21 Q. So I guess theoretically then, this all happened -- not
22 theoretically -- but at the Campo station, after you run the
23 plates, you arrest Mr. Ramirez, right?

24 A. Correct.

25 Q. Cuff him?

1 A. Correct.

2 Q. I take it there's a process that goes on, right?

3 A. Yes. Since they were already there at our station, they
4 were --

5 Q. You keep saying "they"?

6 A. Well, okay. Mr. Patara, Mr. Ramirez, and Mr. Lopez, they
7 all went down to the station. So while they were there at the
8 station taking fingerprints, before we can actually go into our
9 processing center, there's a little facility where they have to
10 usually empty out their pockets, have their property stuff
11 taken away from their person, because they cannot enter the
12 processing center with their property on.

13 Q. I guess I'm having trouble understanding. You indicated
14 that you had the primary contact, you waved the car over to
15 secondary, you spoke to Mr. Ramirez for about three minutes,
16 and then you tried to print him there at the station, and then
17 you drove 5 miles to the Campo station with him. Is that not
18 true?

19 A. Yes.

20 Q. So everybody else is at secondary, right?

21 A. No. Everybody -- Mr. Patara, Mr. Lopez, and Mr. Ramirez,
22 they all went down to the station with us.

23 Q. But not -- not within the same time span that you were,
24 right? They came after you.

25 A. No. They all went down at the same time to the Campo

1 committing crimes, right? You also detain witnesses, correct?

2 A. Correct.

3 Q. And if you believe someone is being smuggled, the arrest is
4 as a material witness, correct?

5 A. Correct.

6 Q. And so based on what you saw, you there arrested
7 Mr. Ramirez-Gonzalez as a material witness.

8 A. Correct.

9 Q. Not as a criminal defendant.

10 A. Correct.

11 MR. JOHNSON: Nothing further, Your Honor.

12 MR. ZUGMAN: Your Honor, I have no questions of this
13 witness.

14 THE COURT: Any redirect?

15 MR. COUGHLIN: Yes, briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. COUGHLIN:

18 Q. Mr. Carlos focused in on where you were standing in
19 relation to the other agents in his questioning. Do you recall
20 that?

21 A. Yes.

22 Q. Were you standing closer to the roadway than the other
23 agents?

24 A. Yes, I was.

25 Q. And they were leaning against the back wall; is that

1 MS. PREWITT: United States at this time calls officer
2 Agent Moreno.

3 THE COURT: Could you take the exhibits?

4 THE CLERK: Mr. Coughlin was taking them and putting
5 them on the table, with the exception of that one. I was
6 watching him as he was doing it.

7 THE COURT: All right.

8 ANGEL MORENO,

9 called as a witness by the Government,
10 having been duly sworn, testified as follows:

11 THE CLERK: Please be seated.

12 State your name for the record and spell your last
13 name, please.

14 THE WITNESS: My name is Angel Moreno. Last name
15 M-o-r-e-n-o.

16 DIRECT EXAMINATION

17 BY MS. PREWITT:

18 Q. Good afternoon.

19 A. Afternoon.

20 Q. Sir, what is your job title?

21 A. Border patrol agent.

22 Q. And how long have you been a border patrol agent?

23 A. For approximately six years.

24 Q. And what are your general duties as a border patrol agent?

25 A. They vary, depending on the location that I'm assigned to.

1 off to the left there.

2 And then down here at the right -- right bottom corner is
3 Mr. Lopez. He was a gentleman that was sitting in the rear
4 passenger's seat.

5 And right over here is Mr. Ramirez. He was the front side
6 passenger of the vehicle.

7 Q. Do you also recognize yourself in this photograph?

8 A. I do. I'm over here next to Mr. Patara.

9 Q. Could you maybe put an X by you?

10 A. I'm sorry?

11 Q. Could you put an X by you?

12 A. Yes.

13 Q. Thank you very much.

14 MS. PREWITT: You can take down the exhibit.

15 BY MS. PREWITT:

16 Q. I'd like to discuss the inspection that occurred in
17 secondary.

18 When the vehicle arrived in secondary, did you speak
19 to the driver, Mr. Patara?

20 A. I did.

21 Q. And who initiated that conversation?

22 A. Mr. Patara did.

23 Q. What did he say?

24 A. He automatically identified himself as a Los Angeles police
25 officer.

1 Q. And what did you say when he identified himself as a
2 Los Angeles police officer?

3 A. I believe I asked him if he had any identification on him.

4 Q. And what did he say?

5 A. Well, before that, he -- he also informed me that he was
6 carrying his service-issued weapon.

7 Q. Okay. So let's take a step back.

8 So he identified himself as an LAPD officer.

9 A. Correct.

10 Q. And then is that when he also identified that he had a
11 service-issued weapon on him?

12 A. Correct. He said, "I'm" -- to paraphrase, he said
13 something to the effect of, "I'm with LAPD and I'm carrying my
14 service weapon on me."

15 Q. And what was your response to learning that information?

16 A. Well, I said, "okay," and then he appeared to reach for his
17 weapon. I said, "Hold on." I was like, "Do you have your
18 badge and credentials with you?" And then he said he did not.

19 Q. Okay. Why did you ask him for his badge or credentials?

20 A. Well, in my training and experience, we've always been told
21 as border patrol agents to always -- if we're going to have our
22 service-issued weapon with us, that we need to have our badge
23 and credentials with us.

24 Q. Okay. And did Mr. Patara provide you with his badge and
25 credentials?

1 A. No.

2 Q. Did he provide you with some other proof that he was an
3 officer of the LAPD?

4 A. He did.

5 Q. And what was that?

6 A. It was a -- what appeared to be a Los Angeles Police
7 Department identification card.

8 Q. Okay. I am showing you -- it should be right in front of
9 you -- what has been marked as United States Exhibit 9. This
10 has already been admitted into evidence.

11 A. Okay.

12 Q. Do you recognize this?

13 A. I do.

14 Q. And what is this?

15 A. That is the identification card that Mr. Patara provided to
16 me.

17 MS. PREWITT: You can take down the exhibit.

18 BY MS. PREWITT:

19 Q. Agent Moreno, you testified earlier that there were video
20 cameras in the secondary inspection area.

21 Have you had an opportunity to watch the video of the
22 secondary inspection that occurred in this case?

23 A. I have.

24 Q. I'd like to have you look at what's been marked as United
25 States Exhibit 6. Do you see that in front of you?

1 be to the left of my screen and to the right of Mr. Patara.

2 Q. And it appears as if you're having a conversation; is that
3 accurate?

4 A. Correct.

5 Q. And who are you speaking to?

6 A. Mr. Patara.

7 MS. PREWITT: If you could just pause it.

8 BY MS. PREWITT:

9 Q. Did you -- when you had a conversation with Mr. Patara, did
10 you ask him any questions pertaining to how he knew any of the
11 passengers that he had traveled with?

12 A. I did.

13 Q. And what did he say?

14 A. Mr. Patara informed me that he knew the front passenger,
15 that it was a friend of his who would -- in the past, I believe
16 he had worked on his house and on his yard. They had some sort
17 of friendship. They had been -- or they had known each other
18 for about five years. And I believe he mentioned that he was
19 his neighbor or lived in the area around where he lived.

20 Q. Did you ask him any questions about why -- well, let me go
21 back.

22 Did he identify for you the name of the front seat
23 passenger?

24 A. Mr. Patara?

25 Q. Yes.

1 A. No.

2 Q. Do you recall the name of the front seat passenger?

3 A. I do.

4 Q. And what is that?

5 A. Mr. Ramirez.

6 Q. Okay. When you were speaking with Mr. Patara here, did you
7 also ask him any questions about why he or the other passengers
8 were in the area?

9 A. I did.

10 Q. And what did he say?

11 A. Mr. Patara said that all three of them had came down to the
12 area with their wives. They had came down to the casinos.

13 Q. And when you say "come down", what do you mean?

14 A. Why -- I can only assume that since Mr. Patara said that
15 he --

16 MR. CARLOS: Objection. Speculative.

17 THE COURT: Sustained.

18 BY MS. PREWITT:

19 Q. Did you ask him any questions about where they had come
20 from?

21 A. Yes, I did.

22 Q. And what did he say?

23 A. Mr. Patara said that they had came down from L.A. down to
24 the casinos.

25 Q. Did you ask him any questions about how he had traveled

1 from L.A. to the casinos?

2 A. I did.

3 Q. You did?

4 A. I did, yes.

5 Q. And what did he say?

6 A. He said him and the other two passengers had came down in a
7 vehicle.

8 Q. And did he mention anything about the wives?

9 A. He did. He mentioned that they had all came down with
10 their wives, and then I asked them -- asked them where their
11 wives were, since there was only three of them.

12 Q. Okay. And what did he say?

13 A. He said that their wives were in a separate car and that
14 their wives had already left.

15 Q. Okay. After you finished speaking to Mr. Patara, did you
16 speak with any of the other occupants of the vehicle?

17 A. I did.

18 Q. Who did you speak to first?

19 A. I spoke to Mr. Lopez.

20 MS. PREWITT: If you could start it at 8:00.

21 (Video played)

22 BY MS. PREWITT:

23 Q. And what are we seeing in this video?

24 A. Right now?

25 Q. Yes.

1 yet. At least I was just questioning him.

2 Q. He was being questioned and detained as a person --

3 A. Correct.

4 Q. -- who was being smuggled.

5 And so let's wait until I finish the questions for
6 our --

7 A. Oh, I'm sorry.

8 Q. -- court reporter.

9 And so another word we use for that is "material
10 witness", correct?

11 A. Correct.

12 Q. And so at that point, that's all he was.

13 A. Not at that point, because we hadn't established alienage
14 yet when I first came into contact with Mr. Ramirez.

15 Q. So once you established alienage, he became a witness to
16 the case, correct?

17 A. That is correct.

18 Q. And by establishing alienage, what we mean is once you've
19 established what country he's a citizen of, right --

20 A. Correct.

21 Q. -- as part of it, and the other part is whether or not he
22 has the right to come to the United States, true?

23 A. That is correct.

24 Q. And at that point, he would have been determined to be a
25 witness, correct, or a smugglee.

1 A. It would depend on the ultimate disposition of the case,
2 but yes, in this particular scenario, yes, that is what took
3 place.

4 MR. JOHNSON: Thank you, Your Honor.

5 MR. ZUGMAN: No questions of this witness, Your Honor.

6 THE COURT: Any redirect?

7 MS. PREWITT: None, Your Honor.

8 THE COURT: Thank you.

9 You can be excused.

10 (Witness excused)

11 THE COURT: We will take a 15-minute break, and then
12 wrap up at 4:30.

13 (Jury leaves the courtroom)

14 (Recess)

15 THE COURT: Everyone is present.

16 Please bring out the jury.

17 THE CLERK: Yes, sir.

18 (Jury enters the courtroom)

19 THE COURT: All the jurors are present.

20 Rick, did you give them the seating chart?

21 THE CLERK: I did, Your Honor.

22 THE COURT: All right. Thank you.

23 Call your next witness.

24 MR. COUGHLIN: Yes, Your Honor. At this time, the
25 government calls to the stand Joseph Wolchko.

1 JOSEPH WOLCHKO,

2 called as a witness by the Government,

3 having been duly sworn, testified as follows:

4 THE CLERK: Please be seated and state your name for
5 the record, spell your last name.

6 THE WITNESS: My name is Joseph Wolchko.

7 W-o-1-c-h-k-o.

8 DIRECT EXAMINATION

9 BY MR. COUGHLIN:

10 Q. What agency do you currently work for?

11 A. The United States Border Patrol.

12 Q. What is your title with them?

13 A. Border patrol agent.

14 Q. And how long have you been with border patrol?

15 A. Over 10 years.

16 Q. What training did you receive when you started in the
17 border patrol?

18 A. The academy. We received training in immigration law,
19 arrest techniques, driving, firearms, self-defense, things of
20 that nature.

21 Q. What is your current assignment?

22 A. I'm currently assigned as a liaison between the border
23 patrol and the U.S. Attorney's Office.

24 Q. And is there a title for that?

25 A. It's border patrol liaison.

1 THE COURT: I'm going to strike the exhibit and
2 instruct the jury to disregard it because it does not
3 completely come from the TECS computer.

4 16 will be struck. I unadmit it into evidence.

5 (Government's Exhibit is struck from being admitted
6 into evidence.)

7 BY MS. PREWITT:

8 Q. Agent Cuevas, I'd like to discuss the checkpoint crossing a
9 little bit further.

10 A. Yes, ma'am.

11 Q. Now, can you remind us what time that checkpoint crossing
12 occurred?

13 A. Eastern time, 10:49.

14 Q. And what is that in Pacific time?

15 A. 7:49. Well, I'm sorry. I'm looking at the port of entry.
16 2:42, so that would be 11:42.

17 Q. 11:42.

18 And was that -- I see that the entry reflects April 24th.

19 A. That --

20 Q. So if we subtract three hours, does that take us to the
21 previous date, April 23rd?

22 A. That is correct, ma'am.

23 Q. Okay. Agent Cuevas, are there cameras at the checkpoint?

24 A. There is.

25 Q. And during the course of your investigation, did you obtain

1 pictures and video footage from the checkpoint for April 23rd?

2 A. I did, ma'am.

3 Q. Agent Cuevas, I'd like to you look at United States
4 Exhibits 17, 47, and 47A. Let me know if you have them in
5 front of you.

6 A. 17, 47 -- yes, ma'am. I have them in front of me.

7 Q. And what are those documents?

8 A. These are images captured by the cameras at the checkpoint,
9 which are similar to the ones at the port of entry. They
10 capture four to five images at once, automatically.

11 And exhibit 17 is the letter -- the certificate of
12 Authenticity for those records when I received them.

13 Q. And were these documents provided to you from the
14 checkpoint?

15 A. Yes. Supervisors at the checkpoint. Yes, ma'am.

16 Q. Agent Cuevas, do you also have a disk in front of you
17 marked as United States Exhibit 46?

18 A. I do.

19 Q. Do you recognize the disk?

20 A. Yes, ma'am.

21 Q. And how do you recognize it?

22 A. This is what I provided the government in regards to the
23 video footage from the checkpoint for the 23rd into the 24th.

24 Q. And how do you know that that's what's on the disk if you
25 haven't -- if you're not able to look at the disk right now?

1 A. Because I provided the government with this.

2 Q. And how do you know you provided it?

3 A. I put my initials on it.

4 Q. Thank you.

5 And do your initials reflect that, therefore, you viewed
6 the contents that appear on that disk?

7 A. Yes, ma'am.

8 Q. And does this disk contain video footage from the
9 checkpoint on April 23rd?

10 A. It does.

11 Q. I'd like to turn to United States Exhibit 17. That's the
12 certification that you described earlier?

13 A. Yes, ma'am.

14 Q. Does this document reflect that the pictures and video
15 footage they provided to you, which are United States Exhibits
16 46, 47, and 47A, were made at or near the time by someone with
17 knowledge of these matters?

18 A. Yes, ma'am.

19 Q. And that such records were kept in the course of a
20 regularly conducted business activity?

21 A. That is correct, yes.

22 Q. And that making the records was a regular business
23 practice?

24 A. Yes, ma'am.

25 MS. PREWITT: At this time, the United States moves to

1 admit United States Exhibits 17, 46, 47, and 47A as business
2 records under Rule 902.11.

3 MR. CARLOS: No objection, Your Honor.

4 MR. ZUGMAN: No objection, Your Honor.

5 MR. JOHNSON: No objection.

6 THE COURT: In evidence.

7 (Government's Exhibits 17, 46, 47, and 47A received in
8 evidence)

9 BY MS. PREWITT:

10 MS. PREWITT: I'd like to begin with Exhibit 47A if we
11 could publish that to the jury.

12 BY MS. PREWITT:

13 Q. Agent Cuevas, what is this photograph?

14 A. It is a photograph that's captured the plate for the
15 vehicle indicated in the image.

16 Q. And is this the kind of automatic capture that you were
17 discussing earlier?

18 A. Yes, ma'am. It's sensor activated.

19 Q. And you recognize the license plate number?

20 A. Yes, ma'am.

21 Q. Who does that vehicle belong to?

22 A. It's registered to Ms. Aragon.

23 MS. PREWITT: I'd like to look at Exhibit 47.

24 BY MS. PREWITT:

25 Q. Agent Cuevas, what is this photograph?

1 A. It is the front camera picture that usually captures the
2 drivers or passengers of the vehicle that's being captured at
3 the time.

4 Q. Okay. And how many occupants are visible in the picture?

5 A. Two, partially. I can see one completely, and I can see
6 the hands for the other one.

7 Q. Okay. And for the individual that you can see completely,
8 do you recognize that individual?

9 A. I do, ma'am.

10 Q. And how do you recognize her?

11 A. I've spoken with her before in person twice.

12 Q. Okay. And who is that?

13 A. Minerva Hernandez, Mr. Patara's spouse.

14 Q. And would you recognize a picture of Ms. Hernandez if you
15 saw it?

16 A. Yes, ma'am.

17 Q. I'd like to show you what's been marked as United States
18 Exhibit 59.

19 A. Okay.

20 Q. Do you recognize this photograph?

21 A. I do.

22 THE COURT: It's not in evidence yet.

23 MS. PREWITT: Sorry, Your Honor.

24 BY MS. PREWITT:

25 Q. And who is it?

1 A. Minerva Hernandez.

2 Q. And does the photograph fairly and accurately depict
3 Ms. Hernandez?

4 A. It does.

5 MS. PREWITT: At this time, the United States would
6 move to admit United States Exhibit 59.

7 MR. CARLOS: I'm sorry. No objection, Your Honor.

8 MR. ZUGMAN: No objection, Your Honor.

9 MR. JOHNSON: No objection.

10 THE COURT: 59 in evidence.

11 (Government's Exhibit 59 received in evidence)

12 MS. PREWITT: I'd like to publish it to the jury at
13 this time.

14 BY MS. PREWITT:

15 Q. Is this Ms. Hernandez?

16 A. It is, ma'am. Yes.

17 MS. PREWITT: We can remove the exhibit.

18 BY MS. PREWITT:

19 Q. I'd like to turn to United States Exhibit 46.

20 You testified this is a video you received from the
21 checkpoint; is that correct?

22 A. It is, ma'am. Yes.

23 Q. From April 23rd?

24 A. Correct.

25 Q. And what does the video show?

1 A. It's a time frame of vehicles coming through the
2 checkpoint.

3 Q. And whose crossing is depicted in that vehicle -- or in
4 that video?

5 A. Ms. Aragon's vehicle. And she's visible in the -- from the
6 primary angle.

7 Q. Thank you for that clarification.

8 I'd like to play the video for the jury, but before we do
9 so, I would just ask, Agent Cuevas, that you please identify
10 the vehicle that belongs to Ms. Aragon as it passes through the
11 frame.

12 A. Okay.

13 (Video played)

14 MS. PREWITT: Is this the clip?

15 MR. JOHNSON: Your Honor, we don't have a video feed
16 on our screen.

17 THE COURT: We'll fix that.

18 (The clerk walks over and screen turns on)

19 MR. JOHNSON: Rick walked over, and it just gave up.

20 MS. PREWITT: Sorry. One second, Your Honor.

21 (Pause in the proceedings)

22 MS. PREWITT: Rick, can we just have this visible for
23 us for a moment?

24 THE CLERK: I'm sorry?

25 MS. PREWITT: Is it possible to just have this visible

1 for us for a moment?

2 THE CLERK: The jury and gallery displays have been
3 muted.

4 MS. PREWITT: Thank you.

5 (Pause in the proceedings)

6 MS. PREWITT: Sorry, Your Honor. We're having some
7 technical difficulties.

8 We can have everyone view the screen again. Sorry for
9 the delay.

10 THE CLERK: They've been unmuted.

11 MS. PREWITT: All right. If we could just play the
12 video.

13 BY MS. PREWITT:

14 Q. And Agent Cuevas, please tell us when Ms. Aragon -- her
15 vehicle enters this --

16 THE COURT: And this is Exhibit 46?

17 MS. PREWITT: Yes, Your Honor.

18 (Video played)

19 THE WITNESS: That's the vehicle.

20 MS. PREWITT: Okay, Agent Cuevas. Thank you.

21 You can pause it.

22 BY MS. PREWITT:

23 Q. Agent Cuevas, what time, based on the timestamp on this,
24 did defendant Aragon, her vehicle, and Ms. Hernandez pass
25 through the checkpoint?

1 A. According to the timestamp, 11:43, about 20 seconds into
2 the minute.

3 Q. Agent Cuevas, was Defendant Aragon's vehicle stopped at the
4 checkpoint?

5 A. It was not.

6 Q. Were any of the occupants in the vehicle asked to show any
7 identification?

8 A. No, ma'am.

9 Q. Were they asked any questions?

10 A. No.

11 Q. What about the vehicle behind Defendant Aragon's vehicle?

12 A. I don't believe they -- they stopped it, either.

13 Q. It wasn't stopped? The occupants weren't asked to show any
14 identification?

15 A. That is correct.

16 Q. or asked any questions?

17 A. No.

18 Q. Agent Cuevas --

19 MS. PREWITT: We can remove the video.

20 BY MS. PREWITT:

21 Q. -- I'd like to ask you about what your investigation
22 revealed about what happened after this vehicle passed through
23 the checkpoint.

24 If you could look for United States Exhibit 20B, which has
25 been previously admitted. It's a spreadsheet up there in front

1 Q. Mr. Lopez, is there a barrier there of some sort where you
2 entered?

3 A. There is a steel barrier. There's a steel fence.

4 Q. And how did you get over the barrier?

5 A. I jumped over it. I jumped.

6 Q. Mr. Lopez, when you illegally entered the United States on
7 April 21st, were you with anyone?

8 A. With Mr. Ramirez.

9 Q. Do you see Mr. Ramirez in the courtroom today?

10 A. He's over there at the end.

11 Q. Can you identify him by an item of clothing?

12 A. He's wearing a suit. The one that's right next to the
13 wall.

14 MS. PREWITT: Your Honor, could the record reflect
15 that the witness has identified Mr. Ramirez?

16 MR. JOHNSON: No objection.

17 THE COURT: So noted.

18 BY MS. PREWITT:

19 Q. Mr. Lopez, where did you meet Mr. Ramirez?

20 A. We met in Tijuana.

21 Q. Before the two of you crossed together, how long had you
22 known Mr. Ramirez?

23 A. About a month or a month and a half.

24 Q. When you two met in Tijuana, did you have conversations
25 about coming together to the United States?

1 A. Yes.

2 Q. Could you please tell the ladies and gentlemen of the jury
3 about that conversation?

4 A. It was at one of these like small restaurant type places.

5 Q. And what did you discuss?

6 A. That we wanted to come across -- well, that I wanted to
7 come across -- well, both of us wanted to come across to the
8 U.S.

9 Q. And did you two discuss working together after the
10 crossing?

11 MR. CARLOS: Objection. Leading.

12 THE COURT: Overruled.

13 THE WITNESS: Yes.

14 BY MS. PREWITT:

15 Q. Can you please tell me about that conversation?

16 A. Well, that he had work as a contractor.

17 Q. What kind of work?

18 A. What he was going to do was concrete work and painting.

19 Q. For whom?

20 A. He hadn't told me anything about that yet, but that he
21 already had work for someone. Because we hadn't come across
22 yet, and I didn't know who that person was.

23 Q. At some point did he tell you who the paint job was for?

24 A. Yes.

25 Q. And who did he say the paint job was for?

1 A. He said that it was something like that it was for a
2 sheriff or something like that.

3 Q. I'd like to ask you a few additional questions about your
4 time in Tijuana.

5 Mr. Lopez, have you ever met Mr. Ramirez's significant
6 other?

7 A. Yes. We met there in Tijuana, the three of us.

8 Q. And how long before you crossed into the United States did
9 you meet Mr. Ramirez's wife?

10 A. About a month --

11 Q. That's --

12 A. -- a month and a half.

13 Q. That's when you first met her in Tijuana?

14 A. Yes.

15 Q. And did you meet her at other times in Tijuana?

16 A. Yes.

17 Q. I'd like to show you what has been marked and already
18 admitted as United States Exhibit 13.

19 Do you recognize this picture?

20 A. It's Mrs. Maria Aragon.

21 Q. Is this the woman that you met with Mr. Ramirez in Tijuana?

22 A. Yes.

23 Q. Did you ever have any conversations with Mr. Ramirez about
24 crossing when this woman was present?

25 A. Well, I don't remember that very clearly, or maybe --

1 could you repeat the question to see if I can --

2 Q. Yes. When you were in Tijuana, and you met Ms. Aragon, at
3 any point did you have conversations with Mr. Ramirez about
4 crossing when Ms. Aragon was present?

5 A. Well, she was always present, the lady was.

6 Q. So is that a yes?

7 A. Yes.

8 Q. I'd like to now turn to the day that you crossed into the
9 United States, April 21st.

10 You testified a moment ago that you crossed near Tecate,
11 correct?

12 A. Yes.

13. Q. How did you get from Tijuana to Tecate?

14 A. The lady gave us a ride.

15. Q. What lady?

16 A. Mrs. Aragon

17 || Q. And who told

18 A She left us at this small place called Nona

19 That's where she dropped us off. We asked her to drop us off
20 there.

21 Q. And once you two were dropped off, is it at that point when
22 you jumped over the border?

23 A. Yes.

24 Q. After you crossed the barrier separating Mexico and the
25 United States, did you walk a long time with Mr. Ramirez?

1 A. About four or six hours.

2 Q. At some point, did someone give you a ride?

3 A. Once inside the U.S.?

4 Q. Yes, sir.

5 A. Yes.

6 Q. Who?

7 A. Mrs. Maria.

8 Q. And is that Ms. Aragon?

9 A. Well, yeah. Mrs. Maria Aragon.

10 Q. And when she gave you this ride, was it in the daytime or
11 was it at the evening at this point?

12 A. It was already getting dark.

13 Q. And where did she pick you and Mr. Ramirez up in the United
14 States?

15 A. On the 80.

16 Q. Mr. Lopez, are you familiar with the Golden Acorn Casino?

17 A. Yes. Because you could see them -- well, I didn't know
18 about them before, but you could see the casinos and some like
19 fans.

20 Q. I want to unpack that a bit.

21 Were you close to the Golden Acorn Casino when you were
22 picked up by Ms. Aragon?

23 A. Yeah. About 800 or 1,000 meters away.

24 Q. Okay. And so were you able to see the casino in the
25 distance?

1 A. Yes.

2 Q. Mr. Lopez, how did Ms. Aragon know where to find you and
3 Mr. Ramirez in order to pick you two up?

4 A. By using a phone.

5 Q. Mr. Ramirez, did he use a phone?

6 A. Yes.

7 Q. And how do you know that he was talking to Ms. Aragon?

8 A. Yes, he was talking to Mrs. Aragon.

9 Q. And how do you know that?

10 A. He was right next to me sitting there. We were both almost
11 side by side.

12 Q. And after Ms. Aragon picked you two up, where did you go?

13 A. Well, I was leaning somewhat in the back seat, and I wasn't
14 able to see well at night. It was around 11:00. But then I
15 saw a hotel. At a hotel.

16 Q. She took you to a hotel?

17 A. Yes.

18 Q. Do you know in what city?

19 A. Afterwards, I did. El Centro.

20 Q. I'd like to show you what's been previously marked and
21 already admitted as United States Exhibit 33A.

22 A. Yes.

23 Q. Mr. Lopez, do you recognize the image in that document?

24 A. Yes.

25 Q. And what is that?

1 A. It's the front of a hotel.

2 Q. Is this the hotel that you stayed at in El Centro?

3 MR. JOHNSON: Objection. Leading.

4 THE COURT: Overruled.

5 BY MS. PREWITT:

6 Q. I'm sorry. I didn't hear the answer.

7 A. Yes.

8 Q. Thank you.

9 Mr. Lopez, how many nights did you stay at this hotel?

10 A. I don't know if it was two or three.

11 Q. Who did you stay with at the hotel?

12 A. It was one room for the three of us, but had two rooms.

13 Q. It was a single hotel room, but with two bedrooms, is -- do
14 I understand that correctly?

15 A. It was one room, but it was connected -- they were
16 connected.

17 Q. And who paid for the hotel?

18 A. Mrs. Maria.

19 Q. I'd like to direct your attention to April 23rd.

20 Did you go to a restaurant that evening?

21 A. Yes. We went to a hamburger place.

22 Q. Okay. Do you recognize -- do you remember the name of the
23 hamburger place?

24 A. I'm not sure if it was a Burger King or a McDonald's.

25 Q. Would you recognize the restaurant if you saw a picture of

1 Q. Mr. Lopez, did you see Mr. Ramirez and Ms. Aragon meet with
2 anyone that night?

3 A. Well, I was already outside here parked. I was smoking a
4 cigarette, and they were talking.

5 Q. Who was talking?

6 A. The black person, another person that had Mexican features
7 or something like that.

8 Q. And were they talking to Mr. Ramirez and Ms. Aragon?

9 A. Yes.

10 Q. Did the man and woman that I believe you just described as
11 a black man and a woman of Hispanic descent, did they ever come
12 inside the McDonald's and sit down?

13 A. No.

14 Q. Did you see them order any food or drink?

15 A. No.

16 Q. Did they enter the restaurant at all?

17 A. No.

18 Q. I'd like to ask you about the conversation that you
19 observed while you were smoking.

20 Did you overhear any of the conversation between Mr. Patara
21 and Mr. Ramirez?

22 A. No. Because they were to one side, and the women were
23 here, and they were to one side.

24 Q. And so let me make sure I'm understanding. You observed
25 the women talking at one spot? okay. And then the men were

1 talking separately.

2 Is it correct that you saw the women talking in one spot?

3 A. Yes.

4 Q. And then you saw the men talking in another location; is
5 that correct?

6 A. Yes.

7 Q. And while you were smoking, did you overhear any
8 conversations about the checkpoint?

9 MR. CARLOS: Objection. Leading.

10 THE COURT: Overruled.

11 MR. CARLOS: Objection.

12 THE WITNESS: Something towards the end when we were
13 about to get into the car.

14 BY MS. PREWITT:

15 Q. And what was that?

16 A. Well, then he said, "Get into the car," Ramirez did.

17 Q. Okay. And before that, when they were talking about the
18 checkpoint, what did you hear?

19 A. Well, that's kind of like an inspection point.

20 Q. Okay. And what did you hear about the checkpoint?

21 A. Just that, that we were about to go north to go through the
22 checkpoint, that inspection site.

23 Q. And who was a part of that conversation?

24 A. Ramirez and the gentleman. And then they told me, "Get
25 in." "Get in," is what they told me, and that's it.

1 Q. And so at that point, did you leave the McDonald's?

2 A. Yes.

3 Q. And what vehicle did you leave in?

4 A. In the car of the person who had arrived there.

5 Q. And where did you sit in that car?

6 A. In the back.

7 Q. And who else was in the car? Who was driving?

8 A. Ramirez and the other person who was driving.

9 Q. And can you describe the driver?

10 A. Well, I could see -- all I could see was his -- since it
11 was night, I could just see the back of this part here.

12 Because I was leaning kind of like this to the side, and I
13 could only see that part of him.

14 Q. And whose car --

15 THE COURT: Indicating the back of the head.

16 MS. PREWITT: Thank you, Your Honor.

17 BY MS. PREWITT:

18 Q. And Mr. Lopez, did the women get into a different car?

19 A. Yes.

20 Q. And whose car did they get into?

21 A. Mrs. Maria's.

22 Q. And who drove that car?

23 A. Mrs. Maria, because it was hers.

24 Q. sir, I'd now like to turn to discuss the Golden Acorn
25 Casino.

1 After you left the McDonald's, did you go to the casino?

2 A. Yes. That's where he stopped, yes.

3 Q. Did you personally go into the casino?

4 A. No, I stayed in the back seat.

5 Q. Did the driver of the vehicle and Mr. Ramirez go into the
6 casino?

7 A. They both got out. Yes, they walked towards the casino,
8 towards the entrance.

9 Q. Do you know why you all stopped at the casino?

10 A. Well, in all honesty, I didn't know why, but they did stop.

11 Q. And did you see the women go into the casino?

12 A. No.

13 Q. Why did you stay in the back seat?

14 A. Ramirez told me to wait.

15 Q. How long were Mr. Ramirez and the driver inside the casino?

16 A. 10 to 15 minutes.

17 Q. When they came back to the car, was someone on the phone?

18 A. I believe so. I don't exactly remember, but I believe so.

19 Q. Okay. Could you hear any part of that conversation?

20 A. No. It was English.

21 Q. Could you understand any part of it?

22 A. No. No.

23 Q. I'd like to ask you now about the checkpoint.

24 When you arrived at the checkpoint, were you awake or were
25 you asleep?

1 A. I was awake. I was just leaning like this.

2 Q. And when you pulled up to the officer at the checkpoint,
3 did he ask you about your citizenship?

4 A. Not until the car stopped. The border -- the patrol people
5 told us to stop.

6 Q. And -- and when the car stopped, did someone ask you about
7 your citizenship status?

8 A. Yes, about my immigration status. If I had papers.

9 Q. And did someone ask you whether or not you were a United
10 States citizen?

11 A. Well, Ramirez told me to say that I was an American
12 citizen.

13 Q. When the officer asked you about your citizenship status,
14 did you tell him that you were a United States citizen?

15 A. Yes. I did say that to him because, like I said, he told
16 me to, so I said, "American citizen."

17 Q. When did Mr. Ramirez tell you to say that?

18 A. When we were stopping. The person that asked us for that
19 came by, and I just saw that he asked something, and he
20 identified himself -- the driver identified himself, he pulled
21 something out from the back, and then the -- and then he went
22 over to the other side where Mr. Ramirez was, and he asked us
23 for our immigration status, if we had a MICO, or an immigration
24 card, or something like that.

25 Q. Okay. I'd like to ask you, after your arrest, sir, were

1 A. Yes. They had us there for about a month. We were there.

2 Q. And what were the conversations that you and Mr. Ramirez
3 had while you were in San Luis?

4 A. About working there in the kitchen.

5 Q. Anything else?

6 A. Just that.

7 Q. Mr. Ramirez --

8 A. So that time could go by fast while we were waiting to get
9 processed out.

10 Q. Sir, do you remember meeting me for the very first time
11 several months ago?

12 A. Yes.

13 Q. And the very first time we meet -- we met, did you tell me
14 the truth?

15 A. No.

16 Q. Mr. Lopez, have we met on other occasions?

17 A. Yes.

18 Q. Mr. Lopez, were you recently charged by my office?

19 A. No.

20 Q. Mr. Lopez, did you plead guilty to a crime this week?

21 A. Oh, yes. This week, yes. Well, you didn't explain it to
22 me clearly.

23 Q. And sir, were you charged by my office for that crime?

24 A. No.

25 Q. Sir, you were not charged by me; is that correct?

1 telling the agent at your arrest that you were fearful about
2 going back to Mexico?

3 A. No, I never said that. But once I did comment on that
4 because my son had been killed, but I never asked for political
5 asylum.

6 Q. Your son was killed in Mexico.

7 A. Yes.

8 Q. When I was asking you those questions at page 32, lines 21
9 through 23, you explained to the Court about your arrest last
10 April. You said, "This was going to be the last time I was
11 going to cross. If not, I was going to return to Mexico
12 because why again?" Correct?

13 A. Yes.

14 Q. And then on another occasion in that deposition you said,
15 at page 34, lines 9 through 12, "If I wasn't able to cross this
16 time, I was going to return to Mexico."

17 A. Yes.

18 Q. And in a third occasion you said, "If I couldn't cross on
19 this one, I was going back to Mexico." And that's page 38,
20 lines 3 through 4.

21 A. Yes.

22 Q. On each of those occasions, you were telling the Court,
23 under penalty of perjury, that you weren't going to cross again
24 illegally into the United States, right?

25 A. Yes.

1 Q. And you meant that promise as much as you meant everything
2 else at that deposition, true?

3 A. Yes. I did say it, yes.

4 Q. And in fact, about January 30th, you entered the country
5 illegally again.

6 A. Because they wanted to do something to me. Something was
7 done to me in Tijuana. That's why I had to jump over to the
8 U.S.

9 Q. So you weren't coming here to work?

10 A. I sent the paperwork to my attorney.

11 Q. You sent the paperwork about the threats made to you to
12 your attorney?

13 A. No. No. In Tijuana, I was threatened.

14 Q. You're claiming now you came to the United States last
15 week --

16 A. And --

17 Q. -- because you were threatened in Tijuana?

18 A. It's been about two weeks.

19 Q. So when you came in last time, when you entered illegally
20 after your deposition, it was because someone had threatened
21 you.

22 A. Yes.

23 Q. Of course, you pled guilty to entering illegally?

24 A. Yes.

25 Q. And the judge was going to sentence you for that crime?

1 A. Yes. He gave me six days.

2 Q. And you made sure the judge knew everything about why you
3 had come here illegally.

4 A. Could you repeat that?

5 Q. You made sure the judge knew why you came here illegally on
6 January 30th.

7 A. Yes, he did find out.

8 Q. Except that I have here the transcript of your sentencing.

9 It's marked as Exhibit F. And you said nothing of the sort to
10 the judge, right?

11 A. About what happened to me?

12 Q. Right. You never told the judge about it.

13 A. Yes, I told him. I told him when it had happened.

14 Q. You told the judge that?

15 A. I told my attorney, because I was assigned an attorney.

16 Q. You told us before you told the judge, now you're saying
17 you told the lawyer?

18 A. No. I just spoke to the attorney, and the attorney --

19 Q. And you're talking --

20 A. -- and the attorney told me that the -- the -- what's his
21 name -- the -- that the judge had given me six days, time
22 served.

23 MR. JOHNSON: Your Honor, if I could just borrow a
24 stapler very quickly.

25 BY MR. JOHNSON:

1 Q. I'm going to mark for identification as Defendant's H
2 portions from the discovery in that case. And these are the
3 notes of the agent who arrested you at 7:40 p.m. on
4 January 30th,

5 Do you remember meeting that agent -- actually, I said
6 January 30th.

7 INTEPRETER: I'm sorry, Your Honor. The interpreter
8 can't hear counsel.

9 BY MR. JOHNSON:

10 Q. You were arrested, actually, on February 5th after entering
11 on January 30th, right?

12 A. Yes.

13 Q. And you talked to an agent of the United States, a law
14 enforcement agent.

15 A. Yes.

16 Q. And that law enforcement agent gave you your Miranda
17 rights.

18 A. Yes.

19 Q. And he asked you why you entered the United States.

20 A. Yes. He did tell me, yes.

21 Q. And in fact, he wrote down that you entered the United
22 States --

23 THE COURT: Well, you cannot ask him what the agent
24 wrote down.

25 MR. JOHNSON: Understood, Your Honor.

1 BY MR. JOHNSON:

2 Q. You told him you came to the United States to work.

3 A. Yes.

4 Q. You didn't tell him you entered the United States because
5 someone threatened you, did you?

6 A. No. I didn't comment on any of that to him because I
7 wasn't asking for asylum.

8 Q. That wasn't -- I didn't just ask you about asylum, did I?

9 A. Well, no.

10 Q. Okay. We're talking about the fact that you promised this
11 Court that you were going to go back to Mexico and stay, right?

12 A. I didn't have any money to go back.

13 Q. But you also promised that you'd come back here voluntarily
14 just to testify, right?

15 A. What was that?

16 Q. You were going to come back here voluntarily to testify in
17 this trial.

18 A. No.

19 Q. Well --

20 A. You mean that I was going to come back for that if I was
21 needed, that I was going to come back to testify?

22 Q. Correct.

23 A. Yes. Yeah. I was asked that if I could, if I could come
24 and testify.

25 The paperwork that I was given when court was over that

1 time, I was given some papers.

2 Q. You're talking about your deposition.

3 A. Well, about that time in court.

4 Q. When we were in court here with Judge Moskowitz the last
5 time --

6 A. Yes.

7 Q. -- this prosecutor here asked you the following question:
8 "Mr. Lopez, do you promise to return to the United States in
9 order to testify at trial?" And your answer was, "Yes," true?

10 A. Could you ask that again?

11 MR. JOHNSON: Page 55, for the record, Your Honor, at
12 lines 1 through 2 -- 1 through 4, excuse me.

13 BY MR. JOHNSON:

14 Q. Ms. Prewitt asked you the following question:

15 "Q. Mr. Lopez, do you promise to return to the United States in
16 order to testify at trial?"

17 And your answer was:

18 "A. Yes."

19 You just nodded your head affirmatively. Is that a yes?

20 A. Well, I was told that I was supposed to -- right? -- that I
21 had to come that time.

22 Q. You promised to return.

23 A. No. No.

24 Q. So you didn't -- so this --

25 A. Sorry. I think I just understood the word that you're

1 trying to tell me.

2 Q. Ms. Prewitt said, "Mr. Lopez, do you promise to return to
3 the United States in order to testify at trial?" You answered
4 her, "Yes."

5 A. I don't remember very well anymore.

6 Q. Okay.

7 MR. JOHNSON: I'd ask the Court to take judicial
8 notice of the transcript, and that's what it says on that day.

9 THE COURT: Any objection?

10 MS. PREWITT: No.

11 MR. CARLOS: No, your Honor.

12 MR. ZUGMAN: No, Your Honor.

13 THE COURT: All right. So noted.

14 MR. JOHNSON: Thank you, Your Honor.

15 BY MR. JOHNSON:

16 Q. And so when you came back to this country, you didn't tell
17 the arresting officer that you were coming to testify, did you?

18 A. No.

19 Q. You didn't tell your lawyer, Mr. Leff, that you were coming
20 here to testify.

21 A. No.

22 Q. You didn't contact your lawyer Mr. Schroth, your lawyer on
23 this case who is sitting in here, did you?

24 A. No.

25 Q. And in fact, when you pled guilty and were sentenced on

1 Q. You're 61, right?

2 A. Say, "American citizen."

3 Q. You're 61, right?

4 A. Yes.

5 Q. You know the difference between the truth and a lie, right?

6 A. Yes.

7 Q. So when he said, "say you're a U.S. citizen," that's a lie,
8 right?

9 A. Of course.

10 Q. But that's what you said.

11 A. Yes.

12 Q. And then later on that night you gave a statement to a
13 border patrol agent, right?

14 A. The next day in the morning.

15 Q. Okay. Does the name Francisco Gamez sound familiar?

16 A. No.

17 Q. Okay. But it was some border patrol agent you gave a
18 statement to?

19 A. Mm-hmm, but I don't remember the name.

20 Q. But you told that guy a bunch of lies, too, right?

21 A. But there was someone there from the border patrol, yes.

22 Q. All right. You said you were a relative of Mr. Ramirez,
23 right?

24 A. Yes.

25 Q. And that wasn't true.

1 A. No.

2 Q. Okay. And is it fair to say that at that point, once you
3 were arrested, your goal was to get out of custody as quickly
4 as you could.

5 A. Yes. For them to release us. Both of us.

6 Q. But that didn't happen for a while, did it?

7 A. No.

8 Q. No. You were --

9 A. Three days.

10 Q. By three days, do you mean eight months?

11 A. No. Three days. Three days is what we were locked up
12 there.

13 Q. Oh,

14 A. Then afterwards, we were transferred to San Diego.

15 Q. From April 24th until at least December 18th of 2018, you
16 were in custody, right?

17 A. Yes.

18 Q. And so during that approximately eight months, you wanted
19 to get out of custody, right?

20 A. Everybody wants to get out of custody. We had been told
21 that we couldn't be locked up there more than three months.

22 That is the previous attorney that I had.

23 Q. Ms. Gunner.

24 A. I don't remember, but it was a female attorney.

25 Q. Okay. Do you remember when you came into this courtroom

1 Q. Did Ms. Prewitt give you a letter, say go to the port of
2 entry, give them that and they'll bring you to court?

3 A. Oh, yes.

4 Q. So why not just use the letter?

5 A. I left it with this lady so that she could safe keep it for
6 me.

7 Q. Okay. And you've met with Ms. Prewitt on how many
8 occasions?

9 A. Well, for today, just today. Or you mean before right now?

10 Q. I do mean before, yes.

11 A. The times that I was required to do so when they brought me
12 here from San Luis Rio Colorado.

13 Q. Right. And when you met with Ms. Prewitt, you lied to her,
14 right?

15 A. Oh, yes. The first time I did.

16 Q. Okay. So it's fair to say that you lie pretty frequently,
17 right?

18 A. Well, the attorney that I had gotten before, she said that
19 I would never get out that way, because I was lying to her.
20 That I was making -- that I was getting this to be a big mess,
21 and that's why she quit.

22 Q. When you got arrested on -- what was it? -- February 5th?
23 February 6th?

24 A. You mean right now or last year? Because you didn't
25 specify.

1 greeting or anything.

2 Q. okay. And in fact, Mr. Ramirez, he never told you that,
3 "I'm going to have my friend Mambasse Patara come and pick us
4 up." He never said that to you, did he?

5 A. Never. I -- I was, in all honesty, there at the
6 McDonald's, and they were talking, and I never met the person.
7 And to date, it's barely now that I'm learning that he's that
8 person.

9 Q. All right. And while you were in Tijuana with Mr. -- with
10 Mr. Ramirez, he never told you, "Hey, I've got this plan to get
11 you up to L.A. in order to do some work."

12 A. He just told me that he had work doing painting and doing
13 cement.

14 Q. Right. But he didn't tell you how he was going to get you
15 there, correct?

16 A. No.

17 Q. And while we're at it, he said that there might be some
18 work with a sheriff.

19 A. No. He never commented on something like that. I just
20 know that he told me that he had work --

21 Q. I mean --

22 A. -- but I never imagined that it was a sheriff. No, I never
23 imagined that. Because I was a roofer. And I told him what it
24 was that I knew how to do. Me. And he said, "Well, we'll work
25 it out together." And that's it. But I never thought that it

1 would be --

2 Q. Mr. Lopez -- Mr. Lopez, you testified earlier today that
3 there was some work with a sheriff. You said that. Don't you
4 remember that? It was just a few hours ago.

5 A. Yes. But what I'm trying to say is that I never thought
6 that it would be, you know, a person like -- well, law
7 enforcement. I mean, we were going to go all the way to San
8 Bernardino. We hadn't gotten across yet. I didn't know what
9 person he was referring to yet.

10 Q. Mr. Lopez -- Mr. Lopez --

11 THE COURT: Well, hold on. Ask your next question.

12 BY MR. CARLOS:

13 Q. Mr. Ramirez never said that he had work with a police
14 officer, right? Is that a "yes" or "no"? That's all I'm
15 asking for.

16 THE COURT: Well, that is not --

17 THE WITNESS: In all honesty --

18 THE COURT: Hold on. That is not responsive.

19 Mr. Lopez, you have to answer "yes" or "no". And if
20 you cannot accurately answer "yes" or "no", you can say that.

21 But the lawyer is asking you a question that would
22 ordinarily call for a "yes" or "no" answer.

23 Try to direct the questions into smaller parts,
24 Mr. Carlos. Like, "Isn't it true that something like that,"
25 and I think there will not be a misunderstanding.

1 BY MR. CARLOS:

2 Q. Mr. Lopez, Listen to my careful -- listen to my question
3 very carefully. All right?

4 Isn't it true that you were not told by Mr. Ramirez that he
5 had work with a police officer?

6 A. He said something like that. I believe so. But I can't
7 remember exactly how right now.

8 Q. And you think that maybe some of it has to do with the
9 fact --

10 THE COURT: Hold on. Next question, please.

11 BY MR. CARLOS:

12 Q. Do you think that maybe some of this has to do with the
13 fact that you know that Mr. Patara -- now you know this now
14 that he's a police officer? That's a --

15 A. Well, I'm barely finding that out now. Well, ever since we
16 were detained, he identified himself as a sheriff, so I really
17 can't say now.

18 Q. So you were asked -- you were asked during your interview
19 with the -- with the border patrol when you were initially
20 detained, they even asked you -- so the question to you was the
21 driver -- the driver didn't know you were an undocumented
22 person. Do you remember that question?

23 A. Something like that.

24 Q. Yeah. And you didn't -- you didn't respond that the driver
25 knew you were undocumented.

1 A. No.

2 Q. Right. That's because he didn't know you were
3 undocumented.

4 A. No.

5 Q. So he didn't -- you didn't tell him you were undocumented.

6 A. No. We never exchanged any words. That's why I'm saying.

7 Q. Okay. There's no question pending. Thank you.

8 So without -- I mean, you don't understand English, but in
9 the car while you were driving, there was no type of arguing
10 going on between the driver and the passenger, correct?

11 A. No.

12 Q. And as you were coming -- were you awake while you were
13 coming up to the checkpoint?

14 A. Yes.

15 Q. Did -- did you see the driver get -- was he nervous or
16 saying something to anybody?

17 A. No.

18 Q. So they just -- they just rolled right up to the stop -- to
19 the checkpoint.

20 A. Yes. That was it. Inspection.

21 Q. I just want -- so we're clear here then, the extent of your
22 entire contact with Mr. Patara here would have been meeting him
23 at the McDonald's and driving to the Golden Acorn Casino,
24 right?

25 A. Yes.

1 Q. You had no conversations with him because you don't speak
2 English.

3 A. No.

4 Q. You never said anything about who you were or where you
5 were from.

6 A. We never exchanged words.

7 Q. And then at the Golden Acorn Casino, you stayed in the car,
8 right?

9 A. No, nothing. I mean, not a single word to that person.

10 Q. At the Golden Acorn Casino, you stayed in the car.

11 A. Yes.

12 Q. So anything that happened inside the casino or on the way
13 back to the car you have no knowledge of.

14 A. No.

15 Q. Was there any conversation that you heard in the car from
16 the Golden Casino to the checkpoint?

17 A. I just saw that they raised the phone once, and they were
18 talking between them when we were on our way. In all honesty,
19 it was nighttime, and that was -- it was dark. That was it.

20 Q. You mean -- you mean Mr. --

21 A. How can you tell when the phone is --

22 Q. You mean Mr. Ramirez is on the phone?

23 A. I don't know. I was in the back, so I can't tell you
24 because I couldn't see well. The windshield is right there, I
25 was inside. It's dark outside. How can you see?

1 those two entities?

2 A. It shows that both entities were in the same location at
3 two different points of time; one down under Campo, and the
4 other near the Golden Acorn Casino.

5 Q. In connection with this particular map, does it show that
6 it was -- the first image there with the circle on the left
7 side of this exhibit was down near the border?

8 A. That's correct.

9 Q. And the other exhibit shows a little farther away from the
10 border; is that correct?

11 A. Correct.

12 Q. Now, you've also indicated that -- or on your exhibit here,
13 there are several displays; an acorn, a badge, and
14 Interstate 8; is that correct?

15 A. Correct.

16 Q. Can you tell us where they are on this exhibit?

17 A. The acorn represents the Golden Acorn Casino. It's just
18 south of I-8 on the eastern portion of the map, the 8s are
19 along the I-8 corridor, and the badge represents the Pine
20 Valley checkpoint for the U.S. Border Patrol.

21 Q. So is it fair to say that later in the evening on the 21st,
22 closer to the 2132 hours, they were in close proximity to the
23 Golden Acorn Casino?

24 A. Yes.

25 MR. COUGHLIN: Could we take a look at Government's

1 Exhibit 48A, and publish that to the jury, please?

2 Now, it looks as though you're still working with
3 the --

4 THE COURT: Hold on. Only 48 is in evidence.

5 MR. COUGHLIN: Your Honor, I thought you had moved all
6 of these in, but I'll ask again. I'm sorry,

7 I'd like to move into evidence --

8 THE COURT: The clerk and I only have 48 in.

9 MR. COUGHLIN: Okay.

10 BY MR. COUGHLIN:

11 Q. Mr. Cromwell, do you recognize Government 48A?

12 A. Yes.

13 Q. Is this an exhibit or a map that you created in connection
14 with the telephone service information you received?

15 A. Yes.

16 MR. COUGHLIN: Your Honor, I'd like to move into
17 evidence Government's 48A.

18 MR. CARLOS: No objection.

19 MR. ZUGMAN: No objection.

20 MR. JOHNSON: No objection.

21 THE COURT: If you want, you can move others in at
22 this time, also.

23 MR. COUGHLIN: Very good. I'll just go one at a time.
24 It's probably easier.

25 THE COURT: All right.

1 MR. COUGHLIN: Please publish 48A to the jury.

2 (Government's Exhibit 48A received in evidence)

3 BY MR. COUGHLIN:

4 Q. In connection with this, the Entity Legend appears to be
5 the same two phone numbers; is that correct?

6 A. That's is correct.

7 Q. What is the date on this particular exhibit?

8 A. It starts in the evening of 4/21/2018 into the early
9 morning of 4/22/2018.

10 Q. And can you tell us, when we're looking at this particular
11 exhibit, what are these circles and then half circles or third
12 circles, what does that tell us in connection with these two
13 displays; the yellow one, the 435, and the purple one, the 951?

14 A. The different circles are going to be the cell site
15 coverage area. And this is an approximation made by the
16 software. Because, depending on the time of day, cell sites
17 can fluctuate how far out or how far back they push power out.
18 So they generally stick to an approximation.

19 But the center of the circles and the very point of that
20 pie shape is going to be the center of where the tower is
21 located. And then again, how far out it goes is an
22 approximation made by the cell site, and the software will put
23 the entity in the middle.

24 So this one cell site only has one -- one panel that goes
25 360 degrees, which is why the 951 number is in the center of

1 A. It's the movement of the cell phone number 435-512-1647
2 leaving from February -- sorry, not February -- April 23rd,
3 2018, all the way through the evening -- or so the early
4 morning of April 24th, 2018.

5 Q. So where does it start on the map, the first number you
6 have on the map up there at the top of this exhibit?

7 A. It starts on the Southeastern portion of California.

8 Q. okay. And do you also have some other displays again that
9 show the Golden Acorn Casino, as well as the checkpoint, on
10 this map?

11 A. That is correct.

12 Q. And Interstate 8, as well, correct?

13 A. Correct.

14 Q. And so the red line coming down from the first date and
15 time show where the phone was hitting off the cell site at that
16 time; is that correct?

17 A. Correct.

18 Q. And the second is at 4/20 -- on 4/23 at 1:48 in the
19 afternoon?

20 A. Yes.

21 Q. And is that the correct time, or did that -- do we have to
22 adjust that in our mind; go forward, backwards or anything like
23 that?

24 A. No. The software adjusts it to local time.

25 Q. Okay. And so as we follow this, we can see that it goes

1 westbound on 8; is that correct?

2 A. That is correct.

3 Q. And at 4/23, if we get to the last two notations at 4/23,
4 at 11:45, it appears as though it's past the checkpoint; is
5 that correct?

6 A. That is correct.

7 Q. And then at 4/24, that's the next day, at 12:39, it's
8 further -- even further out on Interstate 8; is that correct?

9 A. Yes.

10 Q. I'd like you to take a look at 48C and ask if you recognize
11 that particular exhibit.

12 A. Yes.

13 Q. And is this something you created as part of your geo time
14 report?

15 A. Yes.

16 Q. And is there a phone number that you used in connection
17 with preparing this exhibit?

18 A. Yes. This is for phone number 951-376-6589.

19 Q. Okay. And it starts with a 4/23 date; is that correct?

20 A. That's correct.

21 Q. And then it ends at 4/24 at a little after midnight; is
22 that right?

23 A. Correct.

24 Q. Can you take us through where it starts on the map, please?

25 A. First has it out in El Centro.

1 Q. Okay.

2 THE COURT: Are you moving it in?

3 MR. COUGHLIN: I am moving this into evidence, Your
4 Honor, at this time.

5 MR. CARLOS: No objection, Your Honor.

6 MR. ZUGMAN: No objection.

7 MR. JOHNSON: No objection.

8 THE COURT: 48C in evidence.

9 (Government's Exhibit 48C received in evidence)

10 MR. COUGHLIN: Okay. I'd like to publish it to the
11 jury.

12 BY MR. COUGHLIN:

13 Q. So again, this one starts towards the east; is that
14 correct?

15 A. That's correct.

16 Q. And what's the first time on there that's there?

17 A. 10:34 p.m.

18 Q. And what's the last time that it is?

19 A. Last time is the next morning on April 24th at 12:04 a.m.

20 Q. All right. And where is the last place in relation to the
21 checkpoint that it appears to be hitting off of?

22 A. In relation to the border patrol checkpoint?

23 Q. That's correct.

24 A. There's one location to the east of there, and again, from
25 there they go south, just over the border.

1 Q. okay, I'd like you to take a look at Government's Exhibit
2 48D, have you take a look at that. Do you recognize this
3 exhibit?

4 A. Yes.

5 Q. Is this something you prepared in connection with your
6 testimony here today?

7 A. Yes.

8 MR. COUGHLIN: Your Honor, I'd like it move into
9 evidence Government's Exhibit 48D.

10 MR. CARLOS: No objection.

11 MR. ZUGMAN: No objection.

12 MR. JOHNSON: No objection.

13 THE COURT: In evidence.

14 (Government's Exhibit 48D received in evidence)

15 BY MR. COUGHLIN:

16 Q. What phone number did you follow in connection with this
17 exhibit?

18 A. 760-458-1160.

19 Q. And again, you used the same displays; the Golden Acorn
20 Casino with an acorn, the badge for the checkpoint, and
21 Interstate 8 on here; is that correct?

22 A. Yes.

23 Q. And what time of day did you start this particular mapping?

24 A. This starts on April 23rd, 2018, at 9:26 p.m.

25 Q. And what time does it end?

1 A. On April 24th, 2018, at 3:38 a.m.

2 Q. Is that a little closer to the Fontana area, that last
3 call -- or last cell site display or use?

4 A. Yes.

5 Q. I'd like you to take a look at Government's Exhibit 48E and
6 I ask if you recognize this exhibit.

7 A. Yes.

8 Q. And is this something you prepared in connection with your
9 testimony here today?

10 A. Yes.

11 Q. By this particular time, you have come to learn who --
12 whose phone is whose; is that correct?

13 A. Yes.

14 MR. COUGHLIN: Your Honor, at this time I'd like to
15 move into evidence Government's Exhibit 48E.

16 MR. CARLOS: One moment, Your Honor.

17 (Counsel confer)

18 THE COURT: Any objection?

19 MR. CARLOS: I think --

20 MR. COUGHLIN: Counsel had a question. I think we'll
21 be able to deal with that question.

22 Your Honor, could we have a brief break at this point
23 in time to deal with that question?

24 THE COURT: All right. Do you have any other
25 questions for the witness?

1 "amor".

2 Q. And that is to this particular phone, right, the 951
3 number; is that right?

4 A. Yes, that is an incoming call, yes.

5 Q. What time of day was it?

6 A. The latest time is 11:44 p.m. on April 23rd, 2018.

7 Q. UTC minus 7 tells you that this is the time in that day?

8 A. That is correct.

9 Q. Does it give you the duration of the call?

10 A. Yes, approximately 8 minutes and 51 seconds.

11 Q. All right. And then going on to box number 2, can you tell
12 us what is in that box?

13 A. It's also an incoming call from the same number I had just
14 explained, which is 435-512-1647. That is labeled as "mi
15 amor". The approximate time that call was is at 11:40 p.m. on
16 April 23rd, 2018, and the duration of that call is 28 seconds.

17 Q. Now, can you tell us how "mi amor" appears there in
18 connection with an extraction?

19 A. That is a name of a contact within the device.

20 Q. So this isn't something you put in there, this is something
21 the phone owner had as the contact name?

22 A. Yes.

23 Q. And if you would take a look at the remaining four calls on
24 this, 3, 4, 5, and 6. And those are calls that occur earlier
25 on the 23rd; is that correct?

1 A. Yes.

2 Q. What is this?

3 A. It's a memo letterhead showing that the certifying true
4 copies that I requested on February 14th were attached, along
5 with the certification.

6 Q. And that is the documents that we requested; is that
7 correct?

8 A. That's correct.

9 Q. Now, what's the subject name here?

10 A. It's German Ramirez-Gonzalez.

11 Q. And what's the file certification or the A-file number?

12 A. A073442936.

13 Q. And is that the same A-file that you previously testified
14 about?

15 A. Yes, it is.

16 Q. Did you go back to the same A-file and take additional
17 documents?

18 A. Yes. I made copies of documents, yes.

19 Q. And are those the ones that have been certified?

20 A. Yes.

21 Q. Now, one of the new documents here is this document,
22 correct?

23 A. That's correct.

24 Q. And can you tell us a little bit about what this document
25 is?

1 A. That's a summary of an oral decision by an immigration
2 judge.

3 Q. Is it also signed by an immigration judge?

4 A. It is.

5 Q. Is that here at the bottom?

6 A. Correct.

7 Q. And is a person's name or the subject's name on this?

8 A. Yes, in the upper left-hand corner.

9 Q. And he's identified as the respondent?

10 A. Correct.

11 Q. And is there an A-file number on there?

12 A. There is in the upper right-hand corner.

13 Q. And basically, does that match the other A-files that we've
14 been seeing throughout this -- the documents presented as part
15 of this file?

16 A. The A-file, yes, and the other documents.

17 Q. Now, there appears to be a particular box that's checked
18 here; is that right?

19 A. Excuse me. Yes, that's correct.

20 Q. And what does this box say?

21 A. That box says, "Respondent's application for voluntary
22 departure was denied and the respondent was ordered removed to
23 Mexico."

24 Q. Okay. Now in connection with the next document I'm going
25 to show you, take a look at this, if you would. Do you

1 recognize what this is?

2 A. Yes.

3 Q. And was this also in the A-file?

4 A. It was.

5 Q. And was this in the Spanish language?

6 A. Yes.

7 Q. Now, in connection with this, it appears as though in the
8 right-hand corner there is an event number; is that right?

9 A. That's correct.

10 Q. And what does the event number refer to?

11 A. The event number is unique to a station. It's a date and
12 then a number of events in that particular month. And it's
13 associated with that arrest or encounter with that alien.

14 Q. Is the A-file noted there, as well?

15 A. Correct.

16 Q. Is it the name of the individual that this relates to in
17 the left-hand corner -- upper left-hand corner?

18 A. It is.

19 Q. And what name is that?

20 A. It's Ramirez-Gonzalez, German.

21 Q. Okay. Can you tell us when this particular document is
22 executed and how it's executed, if you know?

23 A. Yes. It was executed on 4/30/2012.

24 Q. And who was present when it was executed?

25 A. Border Patrol Agent Oscar Avila Lopez and the defendant.

1 Q. okay. And what does that indicate? If the border patrol
2 agent was there, does that mean he's sitting in front of this
3 individual?

4 A. Yes.

5 Q. And does he have him initial and sign it?

6 A. Yes.

7 Q. And the box -- what are the three options here that could
8 possibly be checked?

9 A. The first option is a request to see an immigration judge,
10 the second option is a request -- or a declaration saying they
11 have fear or danger of returning to their country and they want
12 to see an immigration judge, and the third option is stating
13 that they're illegal and they'd like to return to the United
14 States, and they're waiving their righter to a immigration
15 hearing -- or rather not returning to the United States,
16 returned to their country, and waive their right to a hearing.

17 Q. I'm going to put up what is the translation of that
18 document; is that correct?

19 A. Yes.

20 Q. And this was a direct translation from the document you
21 just were quoting from; is that right?

22 A. That's correct.

23 Q. The initials were just taken and supplanted where they were
24 on the box; is that right?

25 A. Yeah. It appears that part of it was copied from the

1 actual form and other parts were translated.

2 Q. Okay. And again, if you would look at the third box there,
3 what -- what does the -- what is the admission that's being
4 made by this individual who signed this?

5 A. I'll go ahead and read it verbatim. "I admit that I am in
6 the United States illegally, and I do not believe that I would
7 be in danger if I returned to my country. I'll waive my right
8 to a hearing in immigration court. I wish to return to my
9 country as soon as my departure can be arranged. I understand
10 I could remain in detention until my departure."

11 Q. And is there a date on that?

12 A. There is.

13 Q. And the certification of service, is it also part of the
14 document?

15 A. Yes, it is.

16 Q. And who was the individual that certifies this?

17 A. In this case, Border Patrol Agent Oscar Avila Lopez.

18 Q. And when he's certifying something, what exactly is
19 happening? Is this right in front of him, as you've testified?

20 A. Correct.

21 Q. Now, were you able to look back in the A-file to see if
22 this particular agent, Oscar Avila Lopez, was part of the
23 processing of this individual on the date that's noted there?

24 A. Yes, he was.

25 Q. And did he fill out the Record of Deportable and Admissible

1 on April 23rd.

2 Q. Okay, I'd like to direct your attention to an entry on
3 March 14th at 11:37 a.m.

4 A. okay.

MS. PREWITT: That's on page 2 of the document, okay.

6 | BY MS. PREWITT

7 Q. Do you see that entry?

8 A. Yes, ma'am.

9 Q. And what happens on that date and time?

10 A. On March 14th, there was a message sent to Mr. Ramirez
11 showing a receipt.

12 Q. Okay. I'd like to show you what's been marked and already
13 admitted as United States Exhibit 53A.

14 Do you recognize that document?

15 A. Yes, ma'am.

16 Q. And what is it?

17 A. This is just a blown-up version of the receipt that was
18 sent on March 14th.

19 Q. And you stated that this was a receipt for money?

20 A. Yes, ma'am. It's a wire transfer.

21 Q. And who is the recipient of the wire transfer?

22 A. It says "German Ramirez-Gonzalez".

23 Q. And what country was the money sent to?

24 A. Mexico.

25 | 0. Okay. I'd like to direct your attention back to the

1 WhatsApp conversation that we were looking at, Exhibit 53, and
2 to page 3 of the document to entries that are dated April 23rd.

3 A. Okay.

4 MS. PREWITT: Could we zoom in on the top ones?

5 That's good. Thank you.

6 BY MS. PREWITT:

7 Q. And what time is the first contact between Mr. Ramirez and
8 Mr. Patara on April 23rd?

9 A. 6:18 p.m.

10 Q. And what is the manner of that contact?

11 A. It was an incoming call.

12 Q. And how many calls are there between the two of them around
13 that time?

14 A. Three.

15 Q. Are there also text communications through WhatsApp around
16 this time?

17 A. Yes.

18 Q. I'd like to direct your attention to an entry at 7:32 p.m.
19 It appears at the very bottom of the screen in front of you.
20 What happens at that time?

21 A. Patara sent a text message saying, "Text me your wife's
22 number."

23 MS. PREWITT: If we could zoom out and show the
24 entries that come after that.

25 BY MS. PREWITT:

1 Q. And how does Mr. Patara respond -- excuse me -- how does
2 Mr. Ramirez respond to Mr. Patara's request for his wife's
3 number?

4 A. He sends him a phone number 435-512-4617.

5 Q. Do you recognize that phone number?

6 A. I do.

7 Q. Who does it belong to?

8 A. That's Ramirez's wife, Ms. Aragon.

9 Q. And what happens then at 7:36 p.m., right after the phone
10 number is sent?

11 A. Ramirez sends Patara a message saying, "Wal-Mart is on
12 Brawley, so I'm sending you McDonald's."

13 Q. Does he also send him an address?

14 A. He does.

15 Q. Agent Smith, do you recognize that address, 1990 south
16 Fourth Street in El Centro?

17 A. I do.

18 Q. And how do you recognize it?

19 A. I've been there.

20 Q. And what is that an address of?

21 A. It's an address of McDonald's in El Centro.

22 Q. And you're familiar with that McDonald's in El Centro, you
23 stated?

24 A. Yes, ma'am. Yes, ma'am.

25 Q. Did you visit that McDonald's in the course of your

1 investigation in this case?

2 A. I did.

3 Q. I'm showing you what's been marked as United States
4 Exhibits 39 and 39A. Do you recognize these images?

5 A. I do.

6 Q. And what are they?

7 A. The McDonald's at the aforementioned address.

8 Q. And do these photographs --

9 THE COURT: 39 is not in evidence yet.

10 MS. PREWITT: Your Honor, 39 is not in evidence.

11 That's correct.

12 THE COURT: Right.

13 MS. PREWITT: 39A is.

14 BY MS. PREWITT:

15 Q. Do these photographs fairly and accurately depict the
16 McDonald's in El Centro as it appeared in April of 2018?

17 A. They do.

18 MS. PREWITT: At this time, the United States would
19 move to admit Exhibit 39 into evidence.

20 MR. CARLOS: No objection.

21 MR. ZUGMAN: No objection.

22 MR. JOHNSON: No objection.

23 THE COURT: 39 in evidence.

24 (Government's Exhibit 39 received in evidence)

25 BY MS. PREWITT:

1 Q. Now, Agent Smith, what was the purpose of your visit to
2 this McDonald's in April of 2018?

3 A. I was trying to get video surveillance footage from the
4 McDonald's.

5 Q. Were you able to obtain any footage from the McDonald's?

6 A. I was not.

7 Q. I'd like to return back to the exhibit we've been looking
8 at, Exhibit 53.

9 A. Okay.

10 MS. PREWITT: If we could go to page 3 where we left
11 off. Perfect. Thank you.

12 BY MS. PREWITT:

13 Q. Now, where we left off, the address was being sent for the
14 McDonald's in El Centro. And how does Mr. Patara respond to
15 the receipt of the address?

16 A. He first says, "okay, thanks." And then right after that
17 sends another message says, "I'm on the way with Minerva."

18 Q. Do you recognize the name "Minerva" in connection with this
19 case?

20 A. I do.

21 Q. And who is that?

22 A. That's Mr. Patara's wife.

23 Q. And how do you know that?

24 A. I spoke to her not long after the incident. My partner and
25 I went to Mr. Patara's house and spoke with her, and she

1 identified herself.

2 Q. So at 7:56, Patara and Minerva are on the way.

3 How does Defendant Ramirez respond to learning that
4 information?

5 A. He says, "okay, thanks." And then about a minute later
6 says, "How long? I need to wait. Oh, call me when you are
7 close, please."

8 Q. And when that message is sent, are Patara and Minerva
9 Hernandez close by?

10 A. No. They were about two hours away, as per the next
11 message that was sent.

12 Q. So let's look at that next message. What does the next
13 message say?

14 A. It says, "I'm in Temecula. The GPS say two more hours."
15 And then, "Can you guys drive towards the 15 freeway."

16 Q. Did you view the message, "Can you guys drive towards the
17 15 freeway," as significant in any way in your investigation?

18 A. I did.

19 Q. Why did you view that as significant?

20 A. The agents that spoke with them around the time of the
21 arrest, the story that they gave was that they were going to
22 the casino --

23 THE COURT: Well, I think we should discuss this
24 outside the presence of the jury. We'll come back to this.

25 MS. PREWITT: Thank you, Your Honor.

1 BY MS. PREWITT:

2 Q. How does Mr. Ramirez respond when Mr. Patara states, "Can
3 you guys drive towards the 15 freeway?"

4 MS. PREWITT: And if you could zoom in on the next few
5 entries on the next page.

6 THE WITNESS: He says, "No." He says in the first
7 message, "No." And then the second one, "About 20 minutes from
8 Calexico." And then the third one, "We can't get to the 15
9 freeway."

10 BY MS. PREWITT:

11 Q. And the statement, "We can't get to the 15 freeway," did
12 you view that statement as significant in any way during the
13 course of your investigation?

14 A. I did.

15 MR. CARLOS: Objection. Relevance.

16 THE COURT: I will sustain the objection as to the
17 agent's opinion as to the significance of the text.

18 BY MS. PREWITT:

19 Q. Agent Smith, the next message is sent almost two hours
20 later at 9:59 p.m. Do you see that?

21 A. Yes.

22 Q. And what does it say?

23 A. "We are 20 minutes out."

24 Q. Agent Smith, was there any data that was discovered on
25 Mr. Patara's phone that informed your view of where Mr. Patara

1 BY MS. PREWITT:

2 Q. Agent Smith, did you recognize those directions?

3 A. I did.

4 Q. And have you done that drive before?

5 A. I have.

6 Q. And what is the destination that we just listened to?

7 A. The Golden Acorn Casino.

8 Q. Do you know what time -- during the course of your
9 investigation, did you learn what time Defendant Patara arrived
10 at the Golden Acorn Casino?

11 A. 11:35.

12 Q. And how do you know that?

13 A. There's a timestamp on the surveillance footage from the
14 casino.

15 Q. During the course of your investigation, did you obtain
16 surveillance footage from the Golden Acorn Casino?

17 A. Yes, I did.

18 Q. Okay. Before we get to that, I'd like to ask you just a
19 couple questions about the area between the McDonald's in
20 El Centro and the Golden Acorn Casino.

21 A. Okay.

22 Q. How long, approximately, is the drive between those two
23 destinations?

24 A. I would say about 50 minutes.

25 Q. Okay. And are you familiar with the stretch of the I-8

1 time, which actually appears as entry number 2 in this
2 document.

3 BY MS. PREWITT:

4 Q. And is this a text message from whom?

5 A. It's a text message from Minerva to Mr. Patara.

6 Q. And is there a phone number listed there?

7 A. There is.

8 Q. And is that phone number 760-458-1160?

9 A. It is.

10 Q. And who is the contact that is assigned by Mr. Patara to
11 that phone number?

12 A. Minerva Hernandez.

13 Q. Okay, I'm just going to mark on our board the identity of
14 this number.

15 So Agent Smith, there is a text message that is sent on
16 April 23rd at 10:52 p.m., and that is from Ms. Hernandez to
17 Mr. Patara; is that correct?

18 A. Yes, ma'am. Yes.

19 Q. And what does that message state?

20 A. It says, "Be careful. The border patrol just passed."

21 Q. And was that message received?

22 A. The status is "read", so it was received and opened up and
23 read.

24 MR. CARLOS: Objection. Lack of foundation for this
25 witness.

1 Q. It's about 1, 2, 3, 4 entries up from the bottom.

2 A. I do.

3 Q. And what happens at that time?

4 A. Ms. Hernandez called Mr. Patara.

5 Q. And how long does that conversation last?

6 A. 27 seconds.

7 Q. Okay. I'd also like to show you what's been marked as
8 United States Exhibit 20B, which also has already been admitted
9 into evidence. Do you recognize that document?

10 A. I do.

11 Q. And what is it?

12 A. It's toll records and cell site data for Ramirez's phone.

13 Q. I'd like to direct your attention on that document to the
14 very bottom entry on page 1.

15 A. Okay.

16 Q. What happens on April 23rd at 10:53 p.m.?

17 A. Ramirez called Ms. Aragon.

18 Q. And how long did they speak?

19 A. 101 seconds.

20 Q. Okay. I'd like to turn back again to Exhibit 55.

21 A. Okay.

22 Q. And to the very top entry.

23 A. Okay.

24 Q. Is there another contact between Ms. Hernandez and her
25 husband at 11:28 p.m.?

1 A. Yes.

2 Q. And that was a text message?

3 A. Yes.

4 Q. And what does it state?

5 A. "We passed the Golden casino."

6 Q. Okay. I'd now like to turn to discuss the Golden Acorn
7 Casino.

8 You testified earlier, if I'm not mistaken, that you
9 obtained video footage from the casino?

10 A. That's correct.

11 Q. And was that for the evening of April 23rd?

12 A. It was.

13 Q. Okay. I'd like to show you what's been marked as United
14 States Exhibit 45. I'm also going to give you a disk marked as
15 United States Exhibit 44. Do you recognize these documents?

16 A. I do.

17 Q. And what are they?

18 A. The Exhibit 45 is just the piece of paper showing that we
19 received the surveillance footage from the Golden Acorn Casino,
20 and 44 is the disk that has the footage on it.

21 Q. And do you recognize the disk?

22 A. I do.

23 Q. How do you recognize it?

24 A. Because I put my initials on it.

25 Q. And what is on that disk?

1 BY MS. PREWITT:

2 Q. Is this just a different angle of what we just saw?

3 A. Yes, ma'am.

4 (Video continues)

5 BY MS. PREWITT:

6 Q. Agent Smith, what time do defendants Patara and Ramirez
7 exit the Golden Acorn Casino?

8 A. 11:53.

9 MS. PREWITT: You can stop the video.

10 BY MS. PREWITT:

11 Q. I just have a couple more questions, Agent Smith. If you
12 could turn back to United States Exhibit 20B.

13 A. Which one?

14 Q. 20B. I'd like to look at the second page.

15 Agent Smith, approximately nine or so entries down from the
16 top, do you see an inbound call on April 23rd at 11:44 p.m.?

17 A. I do.

18 Q. And who are the participants -- well, what phone numbers
19 are participating in that call?

20 A. So Aragon called Ramirez.

21 Q. And how long did that call last?

22 A. I lost it here. One second.

23 (Pause in the proceedings)

24 THE WITNESS: 548 seconds.

25 BY MS. PREWITT:

1 Q. Is that about nine minutes?

2 A. Yes, ma'am.

3 Q. Okay. Once Defendant Patara and Defendant Ramirez left the
4 Golden Acorn Casino, do you know where they went?

5 A. They went towards the I-8 border patrol checkpoint.

6 Q. What do you base that on?

7 A. Again, the Google prompts. They explain directions from
8 the Golden Acorn Casino towards the checkpoint.

9 Q. Okay, so I would just like to play the last bit of
10 Exhibit 58.

11 (Google prompts audio file continued from disk)

12 BY MS. PREWITT:

13 Q. Are you familiar with the directions or that -- the area
14 that was described in those directions?

15 A. Yes, ma'am.

16 Q. And based on this Google prompt, was there a direct route
17 from the Golden Acorn Casino to the checkpoint?

18 A. No.

19 Q. Can you describe the route that was taken?

20 A. So it explained a route that went from the casino towards
21 the checkpoint, and then went all the way to Buckman Springs
22 Road, got off at Buckman Springs Road, which is the last exit
23 before the checkpoint, got back on the 8 going the other
24 direction, and went to the next exit, Kitchen Creek, got off
25 there, and it kind of sounds like it's trying to get back on,

1 but then --

2 Q. Okay. And so the Buckman Springs exit is -- what is the
3 last exit -- as you're heading west towards the checkpoint,
4 what's the last exit before the checkpoint?

5 A. Buckman Springs Road.

6 Q. Once you pass Buckman Springs Road, are there any other
7 opportunities to exit?

8 A. No.

9 Q. Thank you, Agent Smith.

10 MS. PREWITT: I have no other questions.

11 CROSS-EXAMINATION

12 BY MR. CARLOS:

13 Q. Agent Smith --

14 THE COURT: Hold on. Did you want to take up the
15 issue that I deferred, Ms. Prewitt?

16 MR. CARLOS: Sure, Your Honor. I forgot what it was.

17 MS. PREWITT: Your Honor, I don't need to question the
18 witness further. I'm happy to speak to the court further.

19 THE COURT: Do the jurors need a little break?

20 (Jurors respond in the negative)

21 THE COURT: We're going to 3:30.

22 MR. CARLOS: Thank you.

23 BY MR. CARLOS:

24 Q. Agent, you discussed earlier on direct that you were the
25 case agent on this -- or at least one of the case agents?

1 waited out in the hall.

2 And one of the jurors asked me, "What is going on in
3 there? Do you know? You're a judge."

4 And I said, "Real boring things."

5 (Laughter)

6 THE COURT: And the lawyers and I were going over the
7 evidence and other matters while you were in the jury
8 box [sic], and I apologize for the delay.

9 Mr. Johnson, the Government has rested. You reserved your
10 right to make an opening at this time.

11 MR. JOHNSON: Your Honor, I -- given the proximity to
12 our closing argument, I would waive our right to give an
13 opening statement.

14 THE COURT: All right. You are offering "I" --
15 Exhibit I and Exhibit E in evidence?

16 MR. JOHNSON: That is correct, Your Honor.

17 THE COURT: Would you, for the jury, identify them?

18 MR. JOHNSON: Yes.

19 Your Honor, Exhibit I is the judgment in the criminal case
20 against Fermin Lopez dated February 11th, 2019, and Exhibit E
21 are the portions of the A-file for Fermin Lopez discussed
22 during his cross-examination.

23 THE COURT: What pages?

24 MR. JOHNSON: The pages are Bates-stamped 364 to 374.

25 THE COURT: Does the Government have any other

1 objection other than what we discussed?

2 MS. PREWITT: No, Your Honor.

3 THE COURT: All right. "I" and E in evidence.

4 (Defendants' Exhibits E and I received in evidence)

5 THE COURT: Mr. Johnson, do you wish to call any other
6 witnesses or introduce any other evidence?

7 MR. JOHNSON: No. Thank you, Your Honor.

8 THE COURT: All right. Mr. Zugman?

9 MR. ZUGMAN: No, Your Honor. Thank you.

10 THE COURT: And so Mr. Ramirez and Ms. Aragon rest?

11 MR. ZUGMAN: Yes, Your Honor.

12 THE COURT: Mr. Johnson?

13 MR. JOHNSON: Yes, Your Honor.

14 THE COURT: All right. Mr. Carlos?

15 MR. CARLOS: We call Mr. Patara to the stand,
16 Your Honor.

17 THE COURT: All right.

18 THE CLERK: Please raise your right hand.

19 MAMBASSE PATARA,

20 called as a witness for the Defendants, having been duly sworn,
21 testified as follows:

22 THE WITNESS: Yes, I do.

23 THE CLERK: Please be seated.

24 State your name for the record and spell your last name,
25 please.

1 Mr. Ramirez to you?

2 A. I would say he's an acquaintance.

3 Q. Okay. Now, tell the jury, how did you first meet
4 Mr. Ramirez?

5 A. I met -- one day, I was just in my neighborhood. All the
6 houses are built a way where we get a leak when it's raining at
7 the same spot like all the housing area. So I had a leak in my
8 garage once, and I had to fix. I called someone to come and
9 fix it. Even though I paid a lot of money to get it fixed, the
10 house leaks.

11 So one day, we were expecting, I believe, a week of rain,
12 the forecast. It was going to rain for a week. So I was
13 getting ready to put a plastic. I got on the roof. I put on a
14 plastic by the window that I know leaks. So when I was on my
15 roof -- because my house is a corner house. So I get a lot of
16 vehicular traffic.

17 So as I was on the roof, I saw a car. A car stopped by in
18 front of my -- my garage, and that was the gentleman driving.
19 If I remember, it was a red Dodge pickup truck, like, a
20 construction truck.

21 Q. By "the gentleman," you mean Mr. Ramirez?

22 A. Yes, sir.

23 Q. Okay. So --

24 A. So he come and say, "Hi" to me. He say if I have a
25 problem with my house.

1 So I came down the roof, and I said, "Yeah. You know, I
2 have a leak." And so he identified himself as he does
3 constructions and --

4 Q. Did he fix it?

5 A. He fix it, yes, sir.

6 Q. Okay. And so how did he develop into an acquaintance
7 based on that contact?

8 A. When he fixed -- when he fixed my house -- as a matter of
9 fact, he fixed the house, and a week later, we had a heavy
10 rain. I didn't see any leaks. So I was really pleased. Like
11 I mentioned, my neighborhood have the same problem.

12 So I talked to my next-door neighbor. As a matter of
13 fact, my next-door neighbor saw him when he was fixing my
14 house. So after he was gone, the neighbor asked me, "Did he do
15 a good job?"

16 I'm, like, "Yeah, he did a great job." So now I referred
17 him to my next-door neighbor. He fixed my next-door neighbor's
18 house, and then there was another neighbor, you know, two
19 houses behind my house. So I had a -- I referred him again.

20 So now it became so easy where now he calls me. "Hey, you
21 know what?" He calls me -- when he find a new client, he kind
22 of use me as a referral. So he calls me. "Hey, Mambasse." He
23 call me, and he says, "Hey, I've got this client. I told them
24 that I'm working in the neighborhood. I work for people. They
25 don't believe me. You want to talk to them?"

1 And if I have some free time, I pick up the phone. "Yeah,
2 this guy worked on my house, and he did a great job as far as I
3 know." So I gave him a few -- few clients, sir.

4 Q. And so that sounds like a business relationship or at
5 least just a professional referral that you're giving him, but
6 was -- how did he get your phone number? Let's start there.

7 A. Well, he got my phone number the first day he did a -- he
8 did the work for me.

9 Q. Okay.

10 A. And then -- because after he did my roof -- as a matter of
11 fact, after he did my roof, he did a few other jobs for me in
12 the garage. So that's how. I had to give him my phone number
13 when he calls me so we can communicate.

14 Q. So did it -- did it go past that? I mean -- strike that,
15 Did the relationship get a little friendlier than just you
16 referring him to people?

17 A. Sure. I mean, I would say so because sometimes when I'm
18 off, I'm home, he drives by. He stops. And if I'm home, he
19 calls me. "Hey, I'm in the neighborhood. Are you home?"

20 If I'm working, I tell him I'm working. If I'm home, I
21 say, "Hey, I'm home." He comes. I can buzz my garage. We
22 kind of chat, you know? I like to practice my Spanish. He
23 comes, and we just sit over there and just communicate.

24 And I believe -- I mean, when he worked for me -- see, I
25 grew up different, and when -- when I was little and people

1 come to our house and work, we feed them. My mom do the
2 cooking. My dad give the construction guys food. So when this
3 guy was working for me, if I cook, I invite him. If I'm
4 eating, I give him food, and I'd say that's how we got a
5 little -- maybe a little different.

6 Q. Okay. Did you ever go anywhere socially with him like
7 physically go to, like, a restaurant or a bar, anything like
8 that?

9 A. No, not as I can remember.

10 Q. So how about his -- do you see the individual in the green
11 sweater here, the female at the table? Do you know her?

12 A. Yes, sir.

13 Q. Who is that?

14 A. That's his wife.

15 Q. What is her name that you know?

16 A. Her name is -- I believe her name is Mary, but I -- I
17 mistakenly always call her Maria, Maria, and she doesn't really
18 like it when I call her Maria.

19 Q. So in the previous five years, have you had social
20 interactions with Maria?

21 A. They came to my house, Maria and Victor. I call him -- I
22 know his middle name is Victor. He come -- they come to my
23 house maybe -- I'd say maybe two or three occasions. That was
24 it, but they didn't go anywhere outside of the house.

25 Q. So you -- you know Mr. Ramirez to -- he identified himself

1 as Victor to you?

2 A. The first day I met him, yes, I called him as a Victor.

3 Q. He never said his name was German?

4 A. I mean, I just thought -- I never asked him, "What is your
5 real name?" or something. He just told me his name is Victor.

6 Q. In your phone, you identify him as Victor Construction?

7 A. In my phone, I did put a Victor -- I have a lot of -- I
8 know a lot of Victors, just to know who he is among my Victors,
9 or I had a construct -- Victor Construction to use the name in
10 my phone contact, yes.

11 Q. So I'm going to take you to -- to -- let's just go within
12 a five-month period of April 23rd.

13 Okay. How much contact did you have with Mr. Ramirez
14 during that five-month period?

15 A. Can you please say the timeframe again.

16 Q. Okay. So you were arrested on the early morning of the
17 24th; right? Correct?

18 A. Yes, sir.

19 Q. So stretch back about three months from that. How much
20 contact have you had with Mr. -- Mr. Ramirez?

21 A. Let me see. I believe probably April -- maybe two months
22 prior, we had -- we had a conversation.

23 Q. What did you have a conversation about?

24 A. He called me. I haven't spoken with him in a while. He
25 calls me, and he says, "Hey, I need some help."

1 Q. And the app -- WhatsApp name, Mambasse Patara -- is that
2 you?

3 A. Yes, sir.

4 Q. Okay. So do you see the copy -- the picture there? The
5 attachment?

6 A. Yes, sir.

7 Q. Okay. What is that?

8 A. I believe that's a receipt for -- it's a money transfer
9 receipt.

10 Q. Let me show you what's been marked previously as
11 Government's 53A. Is this a copy of that receipt?

12 A. Yes, sir.

13 Q. Okay. So what is this? What are you doing here?

14 A. Is there any way you can minimize it because it's just --
15 can you make it smaller? Because I can't read the top of this,
16 sir.

17 Okay. I can see better. Thank you.

18 Q. Okay.

19 A. Yeah.

20 Q. Can you see it?

21 A. Yes, sir.

22 Q. So what is this receipt for?

23 A. This is a receipt from a money transfer, I believe,
24 probably via Western Union.

25 Q. And did you cause this receipt to be made?

1 A. Yes, sir. I -- I sent him a hundred dollars.

2 Q. Why did you send him a hundred dollars?

3 A. Like I mentioned earlier, he called me. I believe he
4 called me one day. "Hey, you know what? I'm having a problem
5 with this project. I need some money to buy some tools" or
6 something that he had mentioned.

7 I did not send him the money this same day because I don't
8 really just hand stuff out. So I was, like, "If this guy
9 really needs it, he's going to call me again."

10 So he calls back and says, "Hey, I really need this." So
11 at that point, I sent him a hundred dollars.

12 Q. Showing you what's been marked previously as Government's
13 Exhibit 54.

14 A. All right. So this is from your phone? You recognize
15 this being from your phone?

16 A. Yes, sir.

17 Q. All right. So there is a series of messages, one at
18 Number 9 where it says -- it has the name German Ramirez. What
19 is that?

20 A. When he asked me to send him some money -- like I said, I
21 only knew him as a Victor. So the first thing I told him on
22 the phone is, like, "Okay. So go ahead and take a picture of
23 your ID card and send it to me so at least" -- you know,
24 because I know Western Union -- once you send the money -- I
25 send a lot of money. I have a huge family. So I send the

1 money every month.

2 So I know in order to send the money, you have to get the
3 name right, or the recipient will have a lot of issues. So I
4 told him, "Take a picture. Take a snapshot of your ID card,
5 Send it to me so I can send you some money."

6 Q. Okay. And did you get that?

7 A. No. I believe when I send the message, the next message
8 is -- I didn't -- no message came, which means I didn't get the
9 ID because I -- and I had the money. I was getting ready to
10 send him the money, and then I believe he didn't send me the
11 picture of his ID card. The only thing he send me is a bunch
12 of names, German --

13 Q. "Justice is my name" was in your inbox. Is that from
14 Mr. Ramirez?

15 A. That's from Mr. Ramirez because when he sent me his
16 name -- there was a bunch of names. I don't know which is the
17 first name, last name. So I had to ask him, "Which one is your
18 first name and last name?"

19 Q. Is that why you said, "What is the last name and first
20 name?"

21 A. Yes, sir.

22 Q. And then you sent something that says, "You get it?" Is
23 that you that sent it?

24 A. Yes, sir.

25 Q. What did you mean when you sent that?

1 A. Probably I sent him a -- I believe I -- oh. I took a
2 picture of the receipt -- of the receipt -- the money transfer
3 receipt, and I send it to him. I believe I was asking him if
4 he got it.

5 Q. Is that the -- what we saw previously in Government's
6 Exhibit 53A?

7 A. Yes, sir.

8 Q. And when you say, "Number 253" -- or "26326393. I sent
9 \$100," what does that refer to?

10 A. The numbers -- the serial numbers. That is the
11 transfer -- the transfer number. That's the number I have to
12 give in order for him to have access to the money that I sent
13 him.

14 Q. Okay. So this -- this -- the entire transfer for a
15 hundred dollars is you essentially lending the guy you knew as
16 Victor a hundred dollars because he asked for -- he asked for a
17 loan?

18 MR. COUGHLIN: Your Honor, I'd object.

19 THE WITNESS: Yes, sir.

20 MR. COUGHLIN: Leading.

21 THE COURT: Sustained. Watch the leading, please.

22 MR. CARLOS: Force of habit, Your Honor. Sorry.

23 BY MR. CARLOS:

24 Q. So between March 14th and April 23rd, did you have any
25 contact with Mr. Hernandez? I mean Ramirez. I'm sorry.

1 warrant." I mean, she was all hysterical. She was a little,
2 you know --

3 MR. COUGHLIN: Your Honor, at this time, I'd object to
4 these responses as hearsay.

5 MR. CARLOS: State of mind, Your Honor.

6 THE COURT: I will allow it. Overruled.

7 THE WITNESS: So basically, she say, "I got a ticket.
8 I believe I have a warrant because I haven't paid the ticket."

9 I ask her, "What kind of ticket do you have?"

10 "Oh, I have a ticket for the front plate."

11 I told her, "Big deal. All you have to do is just put the
12 plate." I asked her, "Do you have the plate?"

13 She says, "Yes, I have the front plate."

14 So I said, "All you have to do is put the plate back on."

15 BY MR. CARLOS:

16 Q. Did you offer to sign off any ticket for her?

17 A. That's exactly what I told her, that I don't -- we don't
18 do that, and I actually directed her on the proper way to get
19 the citation fixed. So --

20 Q. Did you talk about anything other than the traffic ticket
21 then?

22 A. At that point, no.

23 Q. Okay. So what happened next?

24 A. And then once that -- I'm done speaking to her, I remember
25 she give the phone back to her husband, and so now I believe I