

COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,)

PLAINTIFF-RESPONDENT,)

VS.)

TAUMU JAMES,)

DEFENDANT-APPELLANT.)

NO. KA085233-02

CONSOLIDATED W/

NO. KA086790-01

MAR 16 2011
COPY

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE CHARLAINE F. OLMEDO, JUDGE PRESIDING

REPORTERS' TRANSCRIPT ON APPEAL

AUGUST 4, 5, 2010

APPEARANCES:

FOR PLAINTIFF-RESPONDENT:

KAMALA HARRIS
STATE ATTORNEY GENERAL
300 SOUTH SPRING STREET
NORTH TOWER, SUITE 1701
LOS ANGELES, CA 90013

FOR DEFENDANT-APPELLANT:

IN PROPRIA PERSONA

VOLUME 3 OF 5 VOLUMES
PAGES 901 TO 998-1200
PAGES 1201 TO 1284-1500

KATHRYN L. MAUTZ, CSR #11539
OFFICIAL COURT REPORTER

1 CASE NUMBER: KA085233
2 CASE NAME: PEOPLE VS. TAUMU JAMES
3 LOS ANGELES, CALIFORNIA WEDNESDAY, AUGUST 4, 2010
4 DEPARTMENT NO. 121 HON. CHARLAINE F. OLMEDO, JUDGE
5 REPORTER: KATHRYN L. MAUTZ, CSR NO. 11539
6 TIME: A.M. SESSION
7 APPEARANCES: (AS HERETOFORE NOTED.)
8

9 (THE FOLLOWING PROCEEDINGS
10 WERE HELD IN OPEN COURT IN
11 THE PRESENCE OF THE JURY:)

12
13 (MINERVA CLEMENTS, INTERPRETING FOR
14 THE WITNESS ENGLISH INTO SPANISH
15 AND SPANISH INTO ENGLISH.)
16

17 THE COURT: ON THE RECORD IN PEOPLE VERSUS JAMES,
18 KA085233. MR. JAMES IS PRESENT WITH MR. EVANS.
19 MR. GOUDY IS PRESENT. ALL OF OUR JURORS ARE PRESENT, AND
20 WE HAVE MR. GONZALEZ BACK ON THE STAND.

21 SIR, I WOULD LIKE TO REMIND YOU THAT YOU
22 REMAIN UNDER OATH AT THIS TIME.

23 AND PEOPLE, YOU MAY CONTINUE YOUR DIRECT
24 EXAMINATION.

25 MR. GOUDY: THANK YOU, YOUR HONOR.

26 ///

27 ///

28 ///

1 DIRECT EXAMINATION (RESUMED)

2 BY MR. GOUDY:

3 Q MR. GONZALEZ, WE LEFT OFF THAT YOU WERE
4 LAYING ON THE FLOOR, AND SOMEBODY WAS TRYING TO GET YOU
5 UP. DO YOU RECALL THAT?

6 A YES.

7 Q NOW, WHEN SOMEONE WAS TRYING TO GET YOU TO
8 GET UP OFF THE FLOOR, WERE THEY ABLE TO?

9 A NO.

10 Q WHY NOT?

11 A BECAUSE I KIND OF PRETENDED THAT I HAD
12 FAINTED.

13 Q AS THEY WERE TRYING TO GET YOU UP, DID THEY
14 SAY ANYTHING TO YOU?

15 A NO.

16 Q DID YOU EVER SEE BRENDA COME INTO THE HOUSE
17 FROM THE GARAGE?

18 A I DIDN'T SEE HER, BUT I DID HEAR THAT SHE
19 WAS ENTERING, CRYING.

20 MR. EVANS: MOTION TO STRIKE. CALLS FOR HEARSAY.

21 THE COURT: OVERRULED.

22 BY MR. GOUDY:

23 Q AND WHEN YOU HEARD HER ENTER THE HOUSE
24 CRYING, COULD YOU TELL IF SHE WAS ALONE OR IF THERE WAS
25 SOMEBODY WITH HER?

26 A I ONLY HEARD STEPS, LIKE, COMING FORWARD
27 ONLY.

28 Q WHEN YOU HEARD THE STEPS COMING FORWARD,

1 WAS IT STEPS OF ONE PERSON OR MORE THAN ONE PERSON?

2 A MORE THAN ONE PERSON.

3 Q BESIDES GRABBING YOU AND TRYING TO LIFT YOU
4 UP, DID ANY OF THE OTHER -- DID ANY OF THE INTRUDERS
5 TOUCH YOU?

6 A YES. I FELT AS IF SOMEONE WAS STEPPING ON
7 MY BACK.

8 Q AND WHEN WAS THAT?

9 A WHEN I WAS ON THE FLOOR.

10 Q WHEN YOU FELT AS THOUGH SOMEBODY WAS
11 STEPPING ON YOUR BACK, WAS THAT AS SOON AS YOU WENT ON
12 THE FLOOR, OR WAS IT SOMETIME DURING THE COURSE OF THE
13 EVENTS?

14 A IT WAS AS SOON AS I PLACED MYSELF ON THE
15 GROUND.

16 Q WHILE EVERYTHING -- WHILE YOU WERE LAYING
17 ON THE FLOOR, DID YOU HEAR PEOPLE WHO WERE NOT YOUR
18 FAMILY MEMBERS TALKING?

19 A YES.

20 Q WHAT WERE THEY SAYING?

21 A THEY WERE COMMUNICATING IN ENGLISH.

22 Q DID YOU HEAR ANYONE WHO WAS NOT YOUR FAMILY
23 MEMBER SPEAKING IN SPANISH?

24 A NO.

25 Q HOW LONG WERE YOU ON THE FLOOR?

26 A I BELIEVE THAT -- APPROXIMATELY SOME FIVE
27 MINUTES OR POSSIBLY MORE.

28 Q WHEN YOU GOT UP FROM THE FLOOR, WERE THE

1 INTRUDERS STILL IN YOUR HOUSE?

2 A NO.

3 Q DID YOU HEAR THE INTRUDERS LEAVE?

4 A YES.

5 Q HOW SOON AFTER THE INTRUDERS LEFT DID YOU
6 GET UP?

7 A SOME 20 SECONDS AFTER.

8 Q AND WHAT DID YOU DO WHEN YOU GOT UP FROM
9 THE FLOOR?

10 A ASKED -- INQUIRED ABOUT MY FAMILY.

11 Q AND AFTER YOU INQUIRED ABOUT YOUR FAMILY --
12 WELL, WHEN YOU INQUIRED ABOUT YOUR FAMILY, DID YOU STAY
13 IN THE LIVING ROOM, OR DID YOU GO TO OTHER PARTS OF YOUR
14 HOUSE?

15 A NO. BY THEN WE WERE IN THE LIVING ROOM.

16 Q DID YOU HAVE TO GO TO OTHER PARTS OF YOUR
17 HOUSE TO LOOK AROUND?

18 A NO.

19 Q AT SOME POINT IN TIME DID YOU GO INTO YOUR
20 BEDROOM?

21 A AFTER THE POLICE ARRIVED, YES.

22 Q AND HOW MUCH TIME PASSED FROM WHEN YOU GOT
23 UP FROM THE FLOOR UNTIL THE POLICE ARRIVED?

24 A I WOULD SAY SOME THREE MINUTES.

25 Q AND WHEN THE POLICE ARRIVED, HOW MANY
26 POLICE ARRIVED?

27 A FOUR OR FIVE ARRIVED.

28 Q WHEN YOU WENT INTO YOUR BEDROOM AFTER THE

1 POLICE ARRIVED, DID YOU NOTICE ANYTHING MISSING?

2 MR. EVANS: LACK OF FOUNDATION.

3 THE COURT: OVERRULED.

4 THE WITNESS: AT THE MOMENT, I DIDN'T ASK ABOUT
5 ANYTHING.

6 BY MR. GOUDY:

7 Q DO YOU HAVE A SAFE IN YOUR BEDROOM?

8 A YES.

9 Q AND BEFORE THE INTRUDERS CAME INTO YOUR
10 HOUSE, WAS THE SAFE OPEN OR CLOSED?

11 A IT WAS CLOSED.

12 Q WHEN YOU WENT INTO -- IS THE SAFE IN YOUR
13 BEDROOM?

14 A YES.

15 Q WHEN YOU WENT INTO YOUR BEDROOM AFTER THE
16 INTRUDERS LEFT, WAS THE SAFE OPENED OR CLOSED?

17 A IT WAS OPEN.

18 Q DID YOU SEE ANYONE OPEN THE SAFE?

19 A NO.

20 Q DID YOU EVER HEAR ANYONE SAY ANYTHING ABOUT
21 THE SAFE WHILE THE INTRUDERS WERE IN THE HOUSE?

22 MR. EVANS: HEARSAY.

23 THE COURT: THAT ANSWER DOES NOT CALL FOR
24 HEARSAY. IT'S YES OR NO.

25 THE WITNESS: YES.

26 BY MR. GOUDY:

27 Q DID YOU EVER HEAR ANY OF THE INTRUDERS SAY
28 ANYTHING ABOUT THE SAFE?

1 A YES.

2 Q WHAT DID YOU HEAR THE INTRUDERS SAY ABOUT
3 THE SAFE?

4 A I HEARD SOMEONE SAY, QUOTE, "OPEN THE
5 SAFE."

6 Q WHEN YOU HEARD AN INTRUDER SAY, "OPEN THE
7 SAFE," WHERE WERE YOU IN THE HOUSE?

8 A I WAS LAYING DOWN ON -- IN THE LIVING
9 ROOM.

10 Q COULD YOU TELL WHERE THE PERSON WHO SAID
11 "OPEN THE SAFE" WAS WHEN HE SAID THAT?

12 A I HEARD AS IF THE PERSON WAS CLOSE TO THE
13 BATHROOM, MORE OR LESS AROUND THERE.

14 MR. GOUDY: MAY I APPROACH, YOUR HONOR?

15 THE COURT: YOU MAY.

16 BY MR. GOUDY:

17 Q MR. GONZALEZ, IF YOU COULD LOOK AT
18 PEOPLE'S 1 FOR IDENTIFICATION, DO YOU RECOGNIZE WHAT THIS
19 (INDICATING) IS A DIAGRAM OF?

20 A YES.

21 Q WHAT IS THAT A DIAGRAM OF?

22 A IT'S A DIAGRAM OF MY HOUSE.

23 Q AND WHEN YOU HEARD ONE OF THE INTRUDERS SAY
24 SOMETHING ABOUT THE -- SAY "OPEN THE SAFE," WHAT ROOM
25 WERE YOU IN? IF YOU COULD POINT TO US, PLEASE.

26 A I WAS HERE (INDICATING).

27 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
28 WITNESS HAS POINTED TO AN AREA WHICH IS MARKED "LIVING

1 ROOM."

2 BY MR. GOUDY:

3 Q AND WHERE YOU POINTED YOUR FINGER, IS THAT
4 BASICALLY WHERE YOU WERE AT, ON THE FLOOR OF THE LIVING
5 ROOM?

6 A YES.

7 Q COULD YOU POINT TO THAT AREA AGAIN?

8 A (WITNESS COMPLIES.)

9 MR. GOUDY: AND YOUR HONOR, I WILL WRITE IN BLUE
10 INK AN R.G. WHERE THE WITNESS HAS PLACED HIS FINGER,
11 WHICH WOULD BE JUST BELOW THE FRONT DOOR ENTRANCE IN THE
12 LIVING ROOM.

13 THE COURT: THE RECORD WILL SO INDICATE.

14 BY MR. GOUDY:

15 Q AND WHEN YOU HEARD THE PERSON SAY "OPEN THE
16 SAFE," FROM WHAT AREA OF THE HOUSE WAS THAT PERSON AT?

17 A POSSIBLY AROUND THIS AREA (INDICATING).

18 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
19 WITNESS HAS POINTED TO AN AREA WHICH APPEARS TO BE A
20 HALLWAY BETWEEN AN AREA MARKED "BATHROOM" AND "BEDROOM,"
21 AND THE BEDROOM HAS THE INITIALS R.G. AND F.G.

22 THE COURT: THE RECORD WILL SO REFLECT.

23 BY MR. GOUDY:

24 Q AT SOME POINT IN TIME AFTER THE INTRUDERS
25 LEFT, DID YOU NOTICE ANYTHING OF YOURS MISSING?

26 A YES. I WAS MISSING MY TELEPHONES.

27 Q WHAT TYPE OF PHONES? WERE THEY CELL
28 PHONES?

1 A YES.

2 Q HOW MANY?

3 A THERE WERE TWO PHONES. ONE WAS MINE, A
4 PERSONAL PHONE OF MINE, AND THE OTHER ONE MY WORK'S.

5 Q PRIOR TO THE INTRUDERS COMING INTO YOUR
6 HOUSE, WHERE WERE YOUR TWO CELL PHONES?

7 A THEY WERE FOUND IN THE -- THEY WERE FOUND
8 WHERE WE SLEEP AT, IN THE BEDROOM.

9 Q NOW, WHEN YOU SAY THEY WERE FOUND WHERE YOU
10 WERE SLEEPING, IS THAT WHERE THEY WERE LEFT, OR DID YOU
11 FIND THEM AFTER THE INTRUDERS LEFT?

12 A THAT'S WHERE I HAD LEFT THEM.

13 Q AND WERE THEY ON ANY PARTICULAR -- WERE
14 THEY IN ANY PARTICULAR SPOT IN THAT ROOM?

15 A YES. ON TOP OF THE DRESSER.

16 Q AND WHEN YOU WENT BACK INTO YOUR ROOM, YOUR
17 BEDROOM, AT SOME POINT -- DID YOU LOOK AROUND FOR YOUR
18 CELL PHONE?

19 A YES.

20 Q DID YOU FIND THEM?

21 A NO.

22 Q DID YOU LOOK THROUGH THE ENTIRE HOUSE FOR
23 YOUR CELL PHONES?

24 A NO.

25 Q DID YOU EVER FIND YOUR CELL PHONES?

26 A NO.

27 Q WHEN THE POLICE OFFICERS ARRIVED, DID THEY
28 EVER TAKE YOU TO ANOTHER LOCATION?

1 A NO.

2 Q DID THEY EVER SHOW -- HAVE YOU LOOK AT A
3 PERSON THAT NIGHT?

4 A YES.

5 Q AND WHERE WERE YOU AT WHEN YOU LOOKED AT
6 THIS PERSON?

7 A I WAS IN THE POLICE CAR.

8 Q WERE YOU AT YOUR HOUSE IN THE POLICE CAR?

9 A I WAS TAKEN FROM THE HOUSE TO SOME
10 LOCATION.

11 Q DO YOU RECALL THE LOCATION?

12 A YES. A SCHOOL.

13 Q HOW FAR IS THE SCHOOL FROM YOUR HOUSE?

14 A APPROXIMATELY ABOUT FOUR BLOCKS.

15 MR. GOUDY: MAY I APPROACH, YOUR HONOR?

16 THE COURT: YOU MAY.

17 BY MR. GOUDY:

18 Q DO YOU KNOW WHAT STREETS THE SCHOOL IS ON?

19 A YES.

20 Q WHAT STREETS?

21 A IT'S ON LOMITAS AND 5TH STREET.

22 Q LOOKING AT PEOPLE'S 2 FOR IDENTIFICATION,
23 DO YOU KNOW WHAT THIS (INDICATING) IS A MAP OF?

24 A YES. IT'S THE MAP THAT'S CLOSE TO MY
25 HOUSE.

26 Q AND DO YOU SEE ON THE MAP WHERE THE SCHOOL
27 IS LOCATED?

28 A YES.

1 Q WHERE?

2 A THIS IS 5TH STREET (INDICATING), SO IT'S
3 5TH STREET AND LOMITAS. SO IT'S AROUND HERE
4 (INDICATING).

5 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
6 WITNESS HAS POINTED TO THE AREA WHERE THE "V.H.S." IS
7 INDICATED ON THE DIAGRAM.

8 THE COURT: THE RECORD WILL SO REFLECT.

9 BY MR. GOUDY:

10 Q WHERE WOULD YOUR HOUSE BE?

11 A MY HOUSE IS BY -- THIS STREET ISN'T ON
12 HERE.

13 Q THE NAME OF THE STREET ISN'T LISTED?

14 A IT'S TRAILSIDE. NO.

15 Q DO YOU SEE THIS LITTLE RED THING WITH THE
16 MARK THAT LOOKS LIKE A PIN (INDICATING)?

17 A YES.

18 Q DO YOU SEE WHERE IT'S POINTING TO ON THE
19 DIAGRAM?

20 A YES.

21 Q AND 5TH AVENUE ON THE DIAGRAM MAKES A TURN
22 GOING TOWARDS THE LEFT OF THE DIAGRAM. DO YOU SEE THAT
23 (INDICATING)?

24 A YES.

25 Q DO YOU KNOW WHAT STREET THAT IS?

26 A 5TH STREET, AND THIS (INDICATING) IS
27 TRAILSIDE.

28 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE

1 WITNESS HAS USED HIS FINGER AND GONE DOWN FROM THE CENTER
2 OF THE DIAGRAM TOWARDS THE BOTTOM, SHOWING 5TH AVENUE,
3 AND THEN INDICATING A LINE AS TRAILSIDE.

4 THE COURT: ALL RIGHT.

5 BY MR. GOUDY:

6 Q IS THAT CORRECT?

7 A YES.

8 Q THIS LINE I AM POINTING TO (INDICATING),
9 THIS STREET IS TRAILSIDE?

10 A YES.

11 MR. GOUDY: I AM WRITING "TRAILSIDE" IN BLUE INK
12 UNDERNEATH THAT LINE.

13 BY MR. GOUDY:

14 Q AND IS THAT THE STREET YOUR HOUSE IS ON?

15 A YES.

16 THE INTERPRETER: YOUR HONOR, MAY THE INTERPRETERS
17 SWITCH?

18 THE COURT: YES.

19

20 (ANA MILLARUELO, INTERPRETING FOR
21 THE WITNESS ENGLISH INTO SPANISH
22 AND SPANISH INTO ENGLISH.)

23

24 BY MR. GOUDY:

25 Q GOING FROM 5TH TO TRAILSIDE, IS THERE A
26 STREET ON THE OTHER END OF TRAILSIDE FROM 5TH?

27 A YES. THERE'S ANOTHER STREET OVER HERE
28 (INDICATING).

1 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
2 WITNESS HAS POINTED TO A STREET THAT INTERSECTS TRAILSIDE
3 ABOUT MIDDLE THROUGH WHERE 5TH AVENUE IS UNTIL THE END.

4 THE COURT: THE RECORD WILL SO REFLECT.
5 BY MR. GOUDY:

6 Q DOES TRAILSIDE HAVE ANOTHER STREET AT THE
7 OTHER END, OR DOES IT DEAD-END?

8 A IT'S A DEAD-END STREET.

9 Q AND FROM YOUR HOUSE, HOW MANY HOUSES DOWN
10 BEFORE TRAILSIDE DEAD-ENDS?

11 A THERE'S, LIKE, FOUR OR FIVE HOUSES.

12 Q AND WHAT'S AT THE END OF TRAILSIDE WHERE IT
13 DEAD-ENDS?

14 A THERE'S -- THERE'S NO EXIT. THERE'S HOUSES
15 THERE.

16 Q WHEN THE POLICE TOOK YOU TO THE SCHOOL TO
17 HAVE YOU LOOK AT SOMEBODY, WAS THERE SOMEBODY THERE YOU
18 RECOGNIZED?

19 A YES.

20 Q AND HOW DID YOU RECOGNIZE THIS PERSON?

21 A BECAUSE HE HAD BEEN AT MY HOUSE.

22 Q WAS HE ONE OF THE INTRUDERS IN YOUR HOUSE?

23 A YES.

24 Q AND WHICH OF THE INTRUDERS WAS HE?

25 A HE WAS THE ONE WHO PUT A GUN TO MY HEAD.

26 Q DID HE WEAR A MASK WHILE HE WAS IN YOUR
27 HOUSE?

28 A NO. HE WAS NOT WEARING A MASK.

1 Q WHEN HE PUT A GUN TO YOUR HEAD, WHEN WAS
2 THAT IN RELATIONSHIP TO WHEN THEY FIRST CAME INTO YOUR
3 HOUSE?

4 A IT WAS ONLY WHEN THEY CAME IN, RIGHT
5 AWAY.

6 Q AND WHEN HE PUT THE GUN TO YOUR HEAD, DID
7 HE TELL YOU TO DO ANYTHING?

8 A YES.

9 Q WHAT DID HE SAY?

10 A HE TOLD ME, QUOTE, "GET ON THE FLOOR."

11 Q AND COULD YOU TELL WHETHER OR NOT THAT WAS
12 THE INDIVIDUAL WHO IT FELT LIKE HAD HIS FOOT ON YOUR
13 BACK?

14 A YES.

15 Q COULD YOU DESCRIBE THAT PERSON? WAS HE
16 TALL OR SHORT?

17 A THAT PERSON WAS ABOUT 5'10".

18 Q WAS HE THIN? CHUNKY? MEDIUM?

19 A HE HAD A STRONG BUILD.

20 Q WHEN YOU SAY "A STRONG BUILD," DID HE LOOK
21 MUSCULAR, OR DID HE LOOK ROUND?

22 A A LITTLE CHUBBY.

23 Q WHEN YOU WENT TO THE SCHOOL, DID YOU
24 IDENTIFY THE PERSON TO THE POLICE OFFICERS AS THAT BEING
25 ONE OF THE PERSONS WHO HAD CAME INTO YOUR HOUSE?

26 A YES.

27 MR. GOUDY: NOTHING FURTHER.

28 THE COURT: CROSS-EXAMINATION.

1 MR. EVANS: THANK YOU, YOUR HONOR. YES.

2

3

CROSS-EXAMINATION

4

BY MR. EVANS:

5

6

7

Q MR. GONZALEZ, WHEN YOU INITIALLY SAW THE
INDIVIDUALS ENTER YOUR HOUSE, HOW MANY PEOPLE IN TOTAL
DID YOU SEE ENTER THE HOUSE?

8

A I SAW THREE PEOPLE COME IN.

9

10

11

Q AND OF THOSE THREE PEOPLE, YOU INDICATED
ONE INDIVIDUAL WAS WEARING -- WAS NOT WEARING A MASK,
CORRECT, AND THE OTHER TWO WERE?

12

A YES.

13

14

Q NOW, YOU TESTIFIED PREVIOUSLY IN THIS CASE;
IS THAT CORRECT?

15

A YES.

16

Q AND THAT WAS ON JUNE 12TH, 2009?

17

A YES.

18

Q AND YOU WERE UNDER OATH AT THAT TIME?

19

A YES.

20

21

Q AND SO YOU UNDERSTOOD THAT YOU WERE THERE
TO TELL THE TRUTH AND NOTHING BUT THE TRUTH; CORRECT?

22

A YES.

23

24

25

26

Q AND WHEN YOU TESTIFIED PREVIOUSLY ON
JUNE 12TH, 2009, IN THIS MATTER, YOU INDICATED THAT ONLY
ONE OF THE THREE INDIVIDUALS ENTERED WEARING A MASK;
CORRECT?

27

A I DON'T REMEMBER.

28

Q SIR, WERE YOU ASKED A QUESTION AT THE

1 PREVIOUS HEARING, "DID ANYTHING UNUSUAL HAPPEN WHILE YOU
2 WERE WATCHING TELEVISION IN THE ROOM, IN THE LIVING
3 ROOM?" WERE YOU ASKED THAT QUESTION?

4 A I DON'T REMEMBER EXACTLY.

5 MR. EVANS: YOUR HONOR, MAY I APPROACH AND HAVE
6 THE INTERPRETER READ THE LINES, GO OVER THE LINES?

7 THE COURT: YES.

8 MR. EVANS: THANK YOU.

9 THE COURT: HAVE HIM READ IT AND THEN ASK THE
10 QUESTION.

11

12 (A PAUSE IN THE PROCEEDINGS.)

13

14 BY MR. EVANS:

15 Q SIR, AT THE PREVIOUS HEARING ON JUNE 12TH,
16 2009, YOU INDICATED THAT THREE INDIVIDUALS ENTERED THE
17 LOCATION, ONE WITH A MASK AND TWO WITHOUT A MASK; IS THAT
18 CORRECT?

19 A WELL, IF IT'S IN WRITING THERE, IT MAY BE
20 TRUE.

21 Q YOU DOUBT THE ACCURACY OF THE TRANSCRIPTS
22 THAT YOU JUST REVIEWED?

23 MR. GOUDY: OBJECTION. ARGUMENTATIVE.

24 THE COURT: SUSTAINED. REPHRASE THE QUESTION.

25 BY MR. EVANS:

26 Q DO YOU BELIEVE THE TRANSCRIPTS THAT WERE
27 JUST READ TO YOU, THAT PORTION OF THE TRANSCRIPTS, ARE
28 INACCURATE?

1 MR. GOUDY: OBJECTION. RELEVANCE.

2 THE COURT: SIR, DO YOU REMEMBER SAYING THAT OR
3 NOT?

4 THE WITNESS: I DON'T REMEMBER EXACTLY.

5 THE COURT: ALL RIGHT. IF YOU WANT TO READ IT
6 INTO THE RECORD, YOU MAY.

7 MR. EVANS: YES.

8 BY MR. EVANS:

9 Q BEGINNING ON LINE 4, PAGE 38.

10 (READING:)

11 QUESTION: DID ANYTHING UNUSUAL
12 HAPPEN WHILE YOU WERE WATCHING
13 TELEVISION IN THE LIVING ROOM?

14 ANSWER: YES.

15 QUESTION: WHAT HAPPENED, SIR?

16 ANSWER: WHEN I WAS WATCHING
17 TELEVISION, I SAW THREE PEOPLE COME
18 IN. ONE WAS MASKED, AND TWO WERE NOT.

19 IS THAT WHAT YOU TESTIFIED TO PREVIOUSLY?

20 THE COURT: WELL, IT'S COMING AS A PAST
21 RECOLLECTION RECORDED. SO YOU MAY ASK YOUR NEXT
22 QUESTION.

23 BY MR. EVANS:

24 Q SIR, DO YOU REMEMBER SPEAKING TO TWO
25 SHERIFF'S DEPUTIES ON DECEMBER 1ST, 2008? THAT WOULD BE
26 APPROXIMATELY EIGHT DAYS AFTER THE INCIDENT.

27 A YES.

28 Q AND ONE OF THE INDIVIDUALS THAT YOU SPOKE

1 TO WAS THE GENTLEMAN THAT WAS SITTING HERE (INDICATING)
2 RIGHT NEXT TO MR. GOUDY YESTERDAY, THE AFRICAN-AMERICAN
3 DETECTIVE?

4 A YES.

5 Q AND WOULD IT BE FAIR THAT WHEN YOU SPOKE TO
6 DETECTIVE CHISM, YOU ALSO INDICATED THAT ONLY ONE SUSPECT
7 WAS WEARING A MASK?

8 A YES.

9 Q NOW, AFTER THIS INCIDENT, YOU WERE BROUGHT
10 BY SHERIFF'S DEPUTIES OUT TO A LOCATION NEAR A SCHOOL TO
11 IDENTIFY AN INDIVIDUAL OR POTENTIALLY IDENTIFY AN
12 INDIVIDUAL; IS THAT CORRECT?

13 A YES.

14 Q AT THAT TIME YOU SAW AN INDIVIDUAL WHILE
15 YOU WERE SITTING IN THE POLICE VEHICLE; IS THAT CORRECT?

16 A YES.

17 Q IS THAT INDIVIDUAL SITTING IN COURT HERE
18 TODAY?

19 A NO.

20 MR. EVANS: NOTHING FURTHER.

21 THE COURT: ANY REDIRECT?

22 MR. GOUDY: YES.

23

24 REDIRECT EXAMINATION

25 BY MR. GOUDY:

26 Q WHEN YOU TESTIFIED PREVIOUSLY, I WASN'T
27 THERE, WAS I?

28 MR. EVANS: OBJECTION. RELEVANCE.

1 THE COURT: OVERRULED.

2 THE WITNESS: NO.

3 BY MR. GOUDY:

4 Q THE PERSON WHO CAME IN AND PUT A GUN TO
5 YOUR HEAD WHO WASN'T WEARING A MASK, WAS HE IN THE
6 COURTROOM THEN?

7 MR. EVANS: BEYOND THE SCOPE.

8 THE COURT: I WILL ALLOW HIM TO REOPEN BRIEFLY.

9 MR. GOUDY: THANK YOU, YOUR HONOR.

10 THE WITNESS: I AM SORRY. I AM NOT SURE I
11 UNDERSTOOD THE QUESTION VERY WELL.

12 BY MR. GOUDY:

13 Q WHEN YOU TESTIFIED BEFORE, WAS THERE
14 SOMEBODY IN THE COURTROOM AT THAT TIME WHO WAS ONE OF THE
15 PEOPLE WHO CAME INTO YOUR HOUSE WITH GUNS?

16 A COULD YOU PLEASE BE A LITTLE MORE SPECIFIC
17 WITH YOUR QUESTION?

18 Q YOU WERE JUST ASKED ABOUT WHEN YOU
19 TESTIFIED BEFORE; CORRECT?

20 A YES.

21 Q DO YOU RECALL TESTIFYING BEFORE?

22 A YES.

23 Q AND DO YOU RECALL WHEN YOU TESTIFIED BEFORE
24 IF THERE WAS ANYBODY IN THE COURTROOM AT THAT TIME WHO
25 WAS ONE OF THE INTRUDERS WHO CAME INTO YOUR HOUSE WITH
26 GUNS?

27 A YES.

28 Q AND DID YOU POINT THAT PERSON OUT?

1 A YES.

2 MR. GOUDY: YOUR HONOR, I WOULD ASK TO REOPEN TO
3 GO INTO ANOTHER AREA, IF I MAY.

4 THE COURT: ALL RIGHT.

5 BY MR. GOUDY:

6 Q THE NIGHT THAT THIS HAPPENED, NOVEMBER 23RD
7 OF 2008, WERE YOU SHOWN ANY OTHER PEOPLE BY THE POLICE
8 BESIDES THE ONE GUY YOU RECOGNIZED FROM YOUR HOUSE?

9 A NO.

10 MR. GOUDY: NOTHING FURTHER.

11 THE COURT: RECROSS?

12 MR. EVANS: NO, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN, SIR.

14 PEOPLE, YOU MAY CALL YOUR NEXT WITNESS.

15 MR. GOUDY: THE PEOPLE CALL NANCY JARDINES.

16

17 (ANA MILLARUELO, INTERPRETING FOR
18 THE WITNESS ENGLISH INTO SPANISH
19 AND SPANISH INTO ENGLISH.)

20

21 NANCY JARDINES,
22 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND
23 TESTIFIED AS FOLLOWS:

24 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

25 YOU DO SOLEMNLY STATE THE TESTIMONY YOU ARE
26 ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
27 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
28 TRUTH, SO HELP YOU GOD.

1 THE WITNESS: YES.

2 THE CLERK: HAVE A SEAT, PLEASE.

3 TELL US YOUR FULL NAME, THROUGH THE
4 INTERPRETER, AND SPELL IT.

5 THE WITNESS: NANCY JARDINES.

6 THE INTERPRETER: INTERPRETER SPELLING, YOUR
7 HONOR?

8 THE COURT: PLEASE?

9 THE WITNESS: NANCY JARDINES, N-A-N-C-Y,
10 J-A-R-D-I-N-E-S.

11 THE COURT: AND SHE IS USING THE ASSISTANCE OF
12 THE COURT-CERTIFIED INTERPRETER IN SPANISH.

13 YOU MAY BEGIN.

14 MR. GOUDY: THANK YOU.

15

16 DIRECT EXAMINATION

17 BY MR. GOUDY:

18 Q MS. JARDINES, ON NOVEMBER 23RD OF 2008,
19 WHERE DID YOU LIVE?

20 THE INTERPRETER: COUNSEL, THE LAST PART OF THE
21 QUESTION AGAIN FOR THE INTERPRETER.

22 BY MR. GOUDY:

23 Q WHERE DID YOU LIVE?

24 A ON 14050 TRAILSIDE DRIVE,
25 CITY OF INDUSTRY.

26 Q WHO DID YOU LIVE THERE WITH?

27 A WITH MY MOM, WITH HER HUSBAND, MY
28 STEPSISTERS, MY STEPBROTHER, MY CHILDREN, MY STEPSISTER'S

1 HUSBAND, HER SON, AND MY OTHER STEPSISTER'S CHILDREN.

2 Q AND IN THE HOUSE WHERE WAS YOUR BEDROOM?

3 A IN THE BACK OF THE HOUSE.

4 MR. GOUDY: MAY I APPROACH, YOUR HONOR?

5 THE COURT: YOU MAY.

6 BY MR. GOUDY:

7 Q SHOWING YOU WHAT HAS BEEN MARKED AS
8 PEOPLE'S 1 FOR IDENTIFICATION, DO YOU RECOGNIZE WHAT THIS
9 IS A DIAGRAM OF (INDICATING)?

10 A IT'S MY HOUSE.

11 Q AND CAN YOU TELL US WHICH BEDROOM WAS
12 YOURS?

13 A (INDICATING).

14 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
15 WITNESS HAS POINTED TO THE AREA IN THE UPPER LEFT-HAND
16 CORNER OF THE DIAGRAM THAT SAYS "BEDROOM" AND HAS THE
17 INITIALS "N.J."

18 THE COURT: THE RECORD WILL SO REFLECT.

19 BY MR. GOUDY:

20 Q AT APPROXIMATELY 8:45 ON NOVEMBER 3RD OF
21 2008, DID ANYTHING UNUSUAL HAPPEN AT YOUR HOUSE?

22 A YES. SEVERAL PEOPLE CAME IN WITH WEAPONS.

23 Q AND WHAT TYPE OF WEAPONS DID THEY HAVE?

24 A GUNS AND A WEAPON THAT WAS KIND OF LIKE A
25 RIFLE, BUT IT WAS SHORT.

26 Q HOW MANY PEOPLE DID YOU SEE COME INTO YOUR
27 HOUSE?

28 A FIVE.

1 Q WHEN THE -- COULD YOU TELL IF THEY WERE
2 MALE OR FEMALE?

3 A ALL MALE.

4 Q WHEN THEY CAME IN, HOW WERE THEY DRESSED?

5 A SOME WERE WEARING MASKS, AND SOME WERE
6 NOT.

7 Q HOW MANY WERE WEARING MASKS?

8 A I AM SURE THAT TWO OF THEM WERE, BUT I AM
9 NOT QUITE SURE IF THREE OF THEM WERE.

10 Q WHERE WERE YOU AT WHEN THE MEN CAME INTO
11 THE HOUSE?

12 A IN THE KITCHEN.

13 Q AND FROM WHERE YOU WERE AT IN THE KITCHEN,
14 COULD YOU SEE THE FRONT DOOR?

15 A NO.

16 Q COULD YOU SEE THE BACK DOOR?

17 A YES.

18 Q THE MEN THAT CAME INTO YOUR HOUSE, DID THEY
19 COME IN THROUGH THE FRONT OR THE BACK DOOR?

20 A THE FRONT DOOR.

21 Q WHEN DID YOU FIRST -- WHAT MADE YOU REALIZE
22 THERE WERE PEOPLE IN YOUR HOUSE THAT WERE NOT YOUR FAMILY
23 MEMBERS?

24 A WELL, MAINLY YOU COULD HEAR VOICES. AND
25 LATER ONE OF THEM APPROACHED MY MOM, AND MY MOM HAD ONE
26 OF MY CHILDREN WITH HER.

27 Q NOW, WHEN YOU HEARD THE VOICES, COULD YOU
28 SEE ANY OF THE INTRUDERS AT THAT POINT?

1 A WHEN I HEARD THE VOICES, MY MOM APPROACHED
2 THEM, AND THAT'S WHEN I ALSO APPROACHED.

3 Q WAS YOUR MOM IN THE KITCHEN WITH YOU?

4 A NO. SHE WAS WALKING DOWN THE HALLWAY WITH
5 MY SON.

6 Q HOW OLD IS YOUR SON?

7 A HE'S FIVE YEARS OLD NOW.

8 Q BACK THEN HE WAS THREE?

9 A (NO AUDIBLE RESPONSE.)

10 Q IS THAT "YES"?

11 A YES. SORRY.

12 Q COULD YOU TELL WHAT RACE THE MEN WERE?

13 A BLACK.

14 Q ALL FIVE OF THEM?

15 A NO. ONE OF THEM WAS HISPANIC BECAUSE HE
16 SPOKE SPANISH.

17 Q THE ONES WHO WERE WEARING MASKS, HOW COULD
18 YOU TELL WHAT RACE THEY WERE?

19 A BECAUSE THEIR MOUTHS, NOSES AND EYES WERE
20 NOT COVERED, AND NEITHER WERE THEIR HANDS.

21 Q WERE THE -- THE ONE WHO WAS HISPANIC, WAS
22 HE WEARING A MASK?

23 A NO.

24 Q WHEN YOU APPROACHED THE MEN, WHERE WERE
25 THEY IN YOUR HOUSE?

26 A IN THE LIVING ROOM.

27 Q WERE ANY OF YOUR FAMILY MEMBERS IN THE
28 LIVING ROOM AT THAT TIME?

1 A MY MOM'S HUSBAND WAS.

2 Q IS THAT RAFAEL GONZALEZ?

3 A YES.

4 Q IS HE THE GENTLEMAN THAT JUST LEFT THE
5 COURTROOM?

6 A YES.

7 Q WHEN YOU WENT INTO THE LIVING ROOM WHEN THE
8 INTRUDERS WERE THERE, WHERE WAS YOUR MOTHER'S HUSBAND?

9 A I WAS NOT IN THE LIVING ROOM. I WENT OVER
10 THERE TO GET MY SON, BUT MY MOTHER'S HUSBAND WAS THERE,
11 WATCHING TELEVISION.

12 Q IS THAT WHEN THE -- WHEN YOU SAY YOU DIDN'T
13 GO INTO THE LIVING ROOM, WHEN THE MEN CAME INTO YOUR
14 HOUSE, DID YOU EVER LEAVE THE KITCHEN AREA AND GO TO
15 ANOTHER PART OF THE HOUSE?

16 A I PICKED UP MY SON, AND I WENT TO MY ROOM.

17 Q WHEN YOU PICKED UP YOUR SON, WHAT ROOM WERE
18 YOU IN?

19 A IN THE KITCHEN. IN THE KITCHEN I PICKED
20 UP -- MY SON APPROACHED ME, AND I WENT TO MY BEDROOM TO
21 TAKE MY SON THERE.

22 Q AND WHEN YOU GOT YOUR SON AND THEN HEADED
23 BACK TO YOUR BEDROOM, DID YOU SEE INTO THE LIVING ROOM?

24 A NO.

25 Q WHEN YOU GOT YOUR SON, DID YOU HEAR ANY OF
26 THE INTRUDERS SAY ANYTHING?

27 A YES. THEY WERE ASKING WHERE THE SAFE WAS
28 AND THE MONEY.

1 Q WAS THAT IN ENGLISH OR IN SPANISH?

2 A IN ENGLISH.

3 Q DO YOU UNDERSTAND SOME ENGLISH?

4 A YES.

5 Q WHEN YOU GOT YOUR SON, HOW MANY OF THE
6 INTRUDERS COULD YOU SEE AT THAT POINT?

7 A TWO.

8 Q WHERE WERE THEY?

9 A AT THE ENTRANCE TO WHAT THE CORRIDOR WOULD
10 BE.

11 Q WHEN THE INTRUDERS CAME -- WHEN YOU
12 REALIZED INTRUDERS WERE INSIDE OF YOUR HOUSE, DO YOU KNOW
13 WHERE BRENDA WAS?

14 A IN THE GARAGE.

15 Q DID YOU HEAR ANYTHING FROM THE GARAGE?

16 A YES. I HEARD SOME SCREAMING, BUT I DIDN'T
17 PAY THAT MUCH ATTENTION BECAUSE AT TIMES SHE WOULD BE IN
18 THERE TALKING ON THE PHONE.

19 Q AND WHEN YOU GOT YOUR SON, DID YOU GO BACK
20 TO YOUR BEDROOM?

21 A YES. THAT'S WHERE MY OTHER SON WAS.

22 Q HOW OLD WAS YOUR OTHER SON AT THAT TIME?

23 A THEY'RE THE SAME AGE. THEY ARE TWINS.

24 Q WHEN YOU WENT BACK TO YOUR BEDROOM, HAD YOU
25 SEEN ANY ADDITIONAL INTRUDERS BESIDES THE FIRST TWO?

26 A NO.

27 Q THE FIRST TWO INTRUDERS THAT YOU SAW, WERE
28 THEY MASKED? UNMASKED? ONE WAS MASKED? ONE WASN'T

1 MASKED? HOW WERE THEY?

2 A ONE WAS AND ONE WAS NOT.

3 Q AND THE ONE THAT WAS NOT, WAS HE HISPANIC
4 OR AFRICAN-AMERICAN?

5 A AFRICAN-AMERICAN.

6 Q AS YOU WERE GOING BACK TO YOUR BEDROOM, DID
7 YOU HEAR ANY OF THE INTRUDERS SAY ANYTHING ELSE?

8 A NO. THEY WERE JUST ASKING ABOUT THE SAFE
9 AND THE MONEY.

10 Q DID YOU ACTUALLY GET BACK INTO YOUR
11 BEDROOM?

12 A YES. I DID GO IN TO LEAVE MY SON THERE.

13 Q DID YOU EVER COME BACK OUT OF YOUR BEDROOM?

14 A THEY WENT THERE TO PULL ME OUT OF MY
15 BEDROOM.

16 Q WHO? WHO IS "THEY"?

17 A THE TWO AFRICAN-AMERICANS, AND THEY HAD MY
18 MOM WITH THEM. THEY HAD A GUN TO HER BACK.

19 Q AND WAS THIS THE HANDGUN OR WAS THIS THE
20 GUN THAT WAS BIGGER THAT LOOKED KIND OF LIKE A RIFLE BUT
21 WAS SHORTER THAN A RIFLE?

22 A NO. THE SHORT GUN. THE HISPANIC GUY WAS
23 THE ONE THAT HAD THE SHORT RIFLE.

24 Q AND THE TWO MEN THAT CAME AND GOT YOU, WERE
25 THEY MASKED OR UNMASKED OR ONE OF EACH?

26 A ONE HAD A MASK, AND THE OTHER DID NOT.

27 Q DID BOTH OF THEM -- OF THOSE MEN HAVE
28 HANDGUNS?

1 A YES.

2 Q WERE THEY BOTH HOLDING HANDGUNS AT YOUR
3 MOM'S BACK?

4 A NO. ONLY ONE OF THEM WAS.

5 Q AND THE ONE WHO WAS NOT HOLDING THE GUN TO
6 YOUR MOM'S BACK, WHEN HE GOT BACK TO YOUR BEDROOM WHAT
7 DID HE DO?

8 A HE WAS STANDING BEHIND THEM, THAT'S ALL,
9 BEHIND MY MOM AND THE OTHER GUY.

10 Q DID THEY SAY ANYTHING TO YOU?

11 A WHEN I OPENED THE DOOR, THE FIRST THING
12 THEY ASKED ME WAS IF I HAD CALLED THE POLICE.

13 Q HAD YOU CALLED THE POLICE?

14 A NO. I HAD NOT.

15 Q THEN WHAT DID THEY SAY TO YOU, IF ANYTHING?

16 A THEY ASKED ME WHERE THE PHONE WAS. I GAVE
17 IT TO THEM, AND THEY TOOK IT OFF THE HOOK.

18 Q I AM SORRY. AND THEY --

19 A AND THEY TOOK IT OFF THE HOOK.

20 Q AND WHERE WAS THE PHONE? WAS IT IN YOUR
21 BEDROOM OR OUTSIDE OF YOUR BEDROOM?

22 A INSIDE.

23 Q WAS IT ON THE WALL BY THE DOOR, THE
24 OPPOSITE WALL? WHERE WAS IT IN YOUR BEDROOM?

25 A BEHIND THE DOOR.

26 Q DID BOTH OF THE MEN GO INTO YOUR BEDROOM,
27 OR JUST ONE?

28 A JUST ONE OF THEM. THE OTHER ONE OPENED THE

1 BACK DOOR. WE HAVE A SECURITY SYSTEM, AND WHEN THE DOORS
2 ARE OPENED, A BELL RINGS. AND HE ASKED ME IF SOMEONE WAS
3 RINGING THE BELL AT THE DOOR.

4 Q DID YOU RESPOND TO HIM?

5 A YES. I SAID NO, THAT IT WAS JUST THAT THE
6 DOOR WOULD MAKE THAT SOUND WHEN IT WAS OPENED.

7 Q WHEN THE MAN CAME INTO YOUR ROOM AND TOOK
8 THE PHONE OFF THE HOOK, WHERE WAS YOUR MOM?

9 A STANDING BY THE DOOR, NEXT TO HIM, AND HE
10 WAS STILL POINTING A GUN AT HER.

11 Q WHEN THE MAN WENT INTO YOUR ROOM AND TOOK
12 THE PHONE OFF THE HOOK, WHAT WAS HE DOING WITH THE GUN?

13 A POINTING IT AT MY MOM.

14 Q BOTH MEN?

15 A NO. JUST ONE OF THEM WAS. THE OTHER ONE
16 WAS JUST STANDING THERE.

17 Q THE ONE WHO CAME INTO YOUR ROOM AND TOOK
18 THE PHONE OFF YOUR HOOK, WAS THAT THE ONE WHO WENT TO THE
19 DOOR AND OPENED THE BACK DOOR?

20 A NO.

21 Q WHEN THE ONE -- WHILE ONE OF THE MEN WAS
22 OPENING THE BACK DOOR, WHERE WAS THE OTHER MAN?

23 A OKAY. THAT'S WHEN -- OKAY. THE ONE WHO
24 OPENED THE BACK DOOR -- I HAD ALREADY STEPPED JUST
25 OUTSIDE MY BEDROOM DOOR. THEY HAD ALREADY TAKEN THE
26 PHONE OFF THE HOOK. WHEN I WAS ASKED THAT, THE ONE WHO
27 HAD MY MOM HAD ALREADY STARTED WALKING TOWARDS MY MOM'S
28 BEDROOM. THAT'S WHERE THE SAFE IS, AND I ALSO WENT WITH

1 THEM. THEY TOOK ME WITH THEM.

2 Q AND WHEN THE PERSON WHO WAS WITH YOUR MOM
3 STARTED WALKING TOWARDS YOUR MOM'S ROOM, WHERE WAS THE
4 OTHER MAN?

5 A HE WAS -- THAT'S WHEN HE OPENED THE DOOR
6 AND HE ASKED ME WHAT WAS THAT NOISE.

7 Q WHEN YOU STARTED WALKING TOWARDS YOUR MOM'S
8 ROOM, WHERE WERE THE TWO MEN?

9 A THEY WERE LEADING US TO MY MOM'S BEDROOM
10 WITH THE GUNS.

11 Q WERE THEY IN FRONT OF YOU, BEHIND YOU, OR
12 TO YOUR SIDE?

13 A THEY WERE NEXT TO US.

14 Q WERE THEY -- WHEN YOU SAY "NEXT TO US,"
15 THEY WERE ON YOUR SIDE?

16 A UH-HUH, YES.

17 Q WAS ONE OF THE MEN ON ONE SIDE OF YOU, ONE
18 OF THE MEN ON THE OTHER SIDE OF YOU, OR WAS YOUR MOM ON
19 ONE SIDE OF YOU?

20 A ONE WAS LEADING MY MOM, AND THE OTHER ONE
21 WAS LEADING ME.

22 Q AND THE ONE THAT WAS LEADING YOU, WHERE WAS
23 HIS GUN WHILE HE WAS LEADING YOU?

24 A IN HIS HAND.

25 Q WAS IT POINTED IN ANY DIRECTION?

26 A HE JUST HAD IT LIKE THIS, CLOSE TO ME
27 (INDICATING).

28 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE

1 WITNESS POINTED TO HER RIGHT SIDE.

2 THE WITNESS: YES.

3 THE COURT: THE RECORD WILL SO REFLECT.

4 BY MR. GOUDY:

5 Q HOW LONG WERE YOU IN YOUR BACK BEDROOM
6 BEFORE THE TWO MEN CAME WITH YOUR MOM?

7 A NOT MORE THAN A MINUTE.

8 Q AND WHERE DID THEY TAKE YOU?

9 A TO MY MOM'S BEDROOM WHERE THE SAFE IS.

10 Q AND WHEN YOU GOT TO YOUR MOM'S BEDROOM, YOU
11 HAD TO WALK THROUGH THE DINING ROOM?

12 A YES, AND THE KITCHEN.

13 Q AND THE LIVING ROOM?

14 A NO. NOT THE LIVING ROOM. IT'S THE
15 CORRIDOR. THE LIVING ROOM IS OFF TO ONE SIDE.

16 Q COULD YOU SEE INTO THE LIVING ROOM?

17 A I COULD SEE, BUT THERE WAS JUST ONE MAN
18 STANDING THERE. AND I DID SEE HIM, BUT I COULDN'T SEE
19 ANYTHING ELSE.

20 Q COULD YOU SEE YOUR MOTHER'S HUSBAND?

21 A NO.

22 Q WHEN YOU WALKED FROM YOUR BEDROOM OR LEFT
23 FROM YOUR BEDROOM TO YOUR MOTHER'S BEDROOM, DID YOU SEE
24 ANY OF YOUR OTHER FAMILY MEMBERS?

25 A YES. BRENDA AND HER CHILDREN WERE LAYING
26 ON THE FLOOR.

27 Q WHERE?

28 A IN THE HALLWAY.

1 Q WHICH HALLWAY?

2 A THE HALLWAY THAT IS THERE RIGHT BEFORE YOU
3 GO INTO MY MOM'S BEDROOM.

4 Q DID YOU ACTUALLY GO INTO YOUR MOM'S
5 BEDROOM?

6 A YES.

7 Q HOW WIDE IS THAT HALLWAY?

8 A WELL, IF TWO PEOPLE ARE STANDING THERE, YOU
9 CAN'T FIT MORE THAN TWO PEOPLE.

10 Q DID YOU HAVE TO STEP OVER BRENDA AND HER
11 CHILDREN TO GET INTO YOUR MOM'S ROOM?

12 A NO. THEY WERE RIGHT AT THE ENTRANCE TO THE
13 HALLWAY WHERE THE LIVING ROOM ENDS, RIGHT AT THE
14 ENTRANCE.

15 Q OF THE HALLWAY GOING FROM THE LIVING ROOM
16 BACK TO YOUR MOM'S BEDROOM?

17 A SORRY?

18 Q THE HALLWAY THAT GOES FROM THE LIVING ROOM
19 TO YOUR MOM'S BEDROOM?

20 A YES. THAT HALLWAY CONNECTS TO ONE BATHROOM
21 AND FOUR BEDROOMS, MY MOM'S, BRENDA'S, WALTER'S, AND
22 JANET'S --

23 THE INTERPRETER: INTERPRETER CORRECTION.

24 "ANNETTE'S."

25 MR. GOUDY: MAY I APPROACH, YOUR HONOR?

26 THE COURT: YOU MAY.

27 BY MR. GOUDY:

28 Q LOOKING AGAIN AT PEOPLE'S 1 FOR

1 IDENTIFICATION, THERE IS A HALLWAY THAT GOES FROM THE
2 LIVING ROOM DOWN TOWARDS THE BEDROOMS; CORRECT?

3 A YES.

4 Q AND THEN THERE IS A LITTLE HALLWAY THAT
5 DIVIDES THE THREE BEDROOMS AND ONE BATHROOM; CORRECT?

6 A YES.

7 Q WHICH HALLWAY WAS BRENDA AND HER CHILDREN
8 IN WHEN YOU WENT BACK TO YOUR MOM'S BEDROOM?

9 A OVER HERE (INDICATING).

10 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
11 WITNESS HAS POINTED TO AN AREA THAT WOULD BE JUST TO THE
12 RIGHT OF THE HALLWAY, GOING FROM THE LIVING ROOM TO THE
13 BEDROOMS ON THE MAP.

14 THE COURT: THE RECORD WILL SO REFLECT.

15 BY MR. GOUDY:

16 Q WHILE YOU WERE WALKING BACK TO YOUR MOM'S
17 BEDROOM, WERE THE MEN SAYING ANYTHING?

18 A THEY KEPT ASKING WHERE THE MONEY AND THE
19 SAFE WERE. THEY WANTED US TO OPEN THE SAFE.

20 Q NOW, COULD YOU TELL IF THE TWO MEN WHO WENT
21 BACK TO YOUR BEDROOM WERE THE SAME TWO INTRUDERS THAT YOU
22 FIRST SAW?

23 A YES.

24 Q WERE THEY THE SAME TWO?

25 A YES.

26 Q AT SOME POINT IN TIME YOU SAW MORE
27 INTRUDERS?

28 A YES.

1 Q AND WHERE DID YOU FIRST SEE MORE
2 INTRUDERS?

3 A AT THE ENTRANCE TO THE HALLWAY WHERE BRENDA
4 AND HER CHILDREN WERE. ANOTHER ONE WAS IN THE LIVING
5 ROOM, AND ANOTHER ONE WAS STANDING AT BRENDA'S BEDROOM
6 DOOR.

7 Q AND WHICH ONE OF THOSE WERE NOT WEARING
8 MASKS?

9 A THE ONE WHO ASKED ME ABOUT THE DOOR, ABOUT
10 THE NOISE IT MADE, WAS NOT WEARING A MASK, AND THE
11 HISPANIC WAS NOT EITHER.

12 Q WHEN YOU GOT TO YOUR MOM'S BEDROOM, WHAT
13 HAPPENED?

14 A ONE OF THEM REMOVED THE PILLOWCASES FROM
15 THE -- TOOK THE PILLOWCASES OFF THE PILLOWS, AND ONE OF
16 THEM OPENED THE SAFE.

17 THE INTERPRETER: YOUR HONOR, MAY THE INTERPRETER
18 INQUIRE?

19 THE COURT: YES.

20

21 (OFF-THE-RECORD DISCUSSION WAS
22 HELD BETWEEN THE INTERPRETER
23 AND WITNESS.)

24

25 THE WITNESS: AND ONE OF THE MEN ASKED MY MOM TO
26 FILL THE PILLOWCASE UP WITH MONEY. HE THOUGHT THE MONEY
27 WAS IN THERE.

28 ///

1 BY MR. GOUDY:

2 Q DID SOMEONE FROM YOUR FAMILY OPEN THE SAFE,
3 OR DID ONE OF THE INTRUDERS OPEN THE SAFE?

4 A MY MOM OPENED IT.

5 Q AND WHEN YOUR MOM OPENED THE SAFE, WHERE
6 WERE YOU?

7 A I WAS THERE IN HER BEDROOM, TO ONE SIDE OF
8 THE SAFE.

9 Q WHEN THE SAFE WAS OPENED, WAS THERE ANY
10 MONEY INSIDE OF IT?

11 A NO.

12 Q WHAT WAS INSIDE OF THE SAFE?

13 A JUST PAPERS.

14 Q DID THE INTRUDERS TAKE ANYTHING FROM THE
15 SAFE?

16 A A BOX WITH SOME RINGS, JEWELRY, EARRINGS.

17 Q AND WHEN THEY TOOK THE BOX WITH THE JEWELRY
18 AND EARRINGS AND RINGS, DID THEY JUST TAKE THE BOX, OR
19 DID THEY PUT IT INTO THE PILLOWCASE?

20 THE INTERPRETER: COUNSEL, DID THEY PUT THEM IN
21 WHAT?

22 BY MR. GOUDY:

23 Q IN THE PILLOWCASE.

24 A OH, NO. NO. THEY DIDN'T TAKE ANY
25 PILLOWCASE. I MEAN, THEY HAD JUST GRABBED IT, BUT THEY
26 GAVE UP BECAUSE THEY DIDN'T HAVE ANY MONEY THEY COULD
27 TAKE.

28 Q WHEN THEY TOOK THE BOX WITH THE JEWELRY IN

1 IT, WERE YOU STILL IN YOUR MOM'S ROOM?

2 A YES, AND THEY KEPT ASKING FOR THE MONEY.
3 WE WALKED OUT OF MY MOM'S BEDROOM. WHEN WE WALKED OUT,
4 BRENDA AND HER CHILDREN HAD CHANGED PLACES.

5 Q WHERE WERE BRENDA AND HER CHILDREN WHEN YOU
6 CAME OUT OF THE BEDROOM?

7 A AT THAT MOMENT THEY WERE LAYING DOWN IN
8 FRONT OF BRENDA'S BEDROOM.

9 Q THE --

10 A ONE OF THE MEN TOOK HENRY, BRENDA'S SON,
11 AND POINTED THE GUN AT HIM AND TOLD US HE WAS NOT PLAYING
12 GAMES. IF WE DIDN'T GIVE HIM ANY MONEY, HE WOULD HURT
13 HIM.

14 Q WAS THAT MAN WEARING A MASK OR NOT WEARING
15 A MASK?

16 A HE WAS, BUT HE THOUGHT WE DID NOT
17 UNDERSTAND HIM BECAUSE HE WAS SPEAKING TO US IN ENGLISH.
18 SO THEN --

19 Q WHEN THE PERSON TOOK HENRY AND HELD THE GUN
20 ON HENRY, WAS THAT THE SAME MASKED MAN THAT WENT BACK TO
21 YOUR ROOM OR A DIFFERENT MASKED MAN?

22 A NO. IT WAS THE SAME ONE.

23 Q DURING THE TIME PERIOD FROM WHEN YOU LEFT
24 YOUR ROOM TO WHEN THE MASKED MAN TOOK HENRY AND SAID --
25 AND POINTED THE GUN AT HIM, WERE YOU ALWAYS WITH THAT
26 PARTICULAR MASKED MAN?

27 A YES.

28 Q HOW FAR AWAY FROM THAT MASKED MAN WERE YOU

1 DURING THAT TIME PERIOD?

2 A THE WHOLE TIME HE WAS NEAR ME.

3 Q WHEN HE GRABBED HENRY, WHERE WERE YOU AT?

4 A STANDING IN THE DOORWAY OF MY MOM'S
5 BEDROOM.

6 Q AND WERE YOU LOOKING AT HIM AS HE GRABBED
7 HENRY?

8 A YES.

9 Q WHEN HE GRABBED HENRY AND THREATENED YOU
10 ALL, DID YOU GUYS DO ANYTHING?

11 A NO. WE TOLD HIM WE DID NOT HAVE ANY
12 MONEY.

13 Q WHEN YOU SAID YOU DID NOT HAVE ANY MONEY,
14 WHAT DID THE MASKED MAN WHO WAS HOLDING HENRY DO?

15 A HE TOLD THE HISPANIC MAN TO TRANSLATE, TO
16 TELL US, TO TELL US THAT HE WAS NOT PLAYING GAMES AND
17 THAT HE WAS GOING TO HURT SOMEBODY.

18 Q NOW, DID THE HISPANIC MAN TRANSLATE THAT
19 INTO SPANISH?

20 A HE DID.

21 Q DID YOU UNDERSTAND WHAT THE MASKED MAN WAS
22 SAYING BEFORE HE TOLD THE HISPANIC MAN TO TRANSLATE?

23 A YES.

24 Q AND WHEN THE HISPANIC MAN TRANSLATED THE
25 THREAT INTO SPANISH, WHAT DID YOU SAY?

26 A MY MOM ANSWERED THAT WE DIDN'T HAVE ANY
27 MONEY.

28 Q THEN WHAT HAPPENED?

1 A AT THAT MOMENT WALTER CAME OUT OF HIS ROOM,
2 AND I TOLD HIM TO LAY DOWN ON THE FLOOR.

3 Q YOU TOLD WALTER TO LAY DOWN?

4 A YES.

5 Q WHAT DID THE INTRUDER SAYING, IF ANYTHING,
6 WHEN WALTER CAME OUT OF THE ROOM?

7 A THEY TOLD HIM TO GET DOWN ON THE GROUND,
8 AND THEY STARTED TO TALK AMONGST THEMSELVES, SAYING THAT
9 HE HAD BEEN IN HIS BEDROOM THE WHOLE TIME, THAT HE HAD
10 PROBABLY ALREADY REALIZED WHAT WAS GOING ON AND HAD
11 PROBABLY ALREADY CALLED THE POLICE.

12 Q NOW, WHEN YOU SAY THEY WERE TALKING AMONGST
13 THEMSELVES, HOW MANY OF THE INTRUDERS WERE TALKING?

14 A THREE OF THEM.

15 Q THE MASKED MAN THAT YOU HAD BEEN WITH THE
16 WHOLE TIME?

17 A YES.

18 Q AND WHICH OTHER TWO?

19 A THE HISPANIC AND THE ONE WHO OPENED THE
20 BACK DOOR.

21 Q AFTER THEY TALKED AMONG THEMSELVES, WHAT
22 DID THEY DO?

23 A THEY LEFT.

24 Q DID YOU SEE THEM LEAVE YOUR HOUSE?

25 A YES.

26 Q WHICH DOOR DID THEY LEAVE OUT OF?

27 A THE FRONT DOOR.

28 Q DID YOU SEE ALL FIVE OF THEM LEAVE AT ONE

1 TIME?

2 A NO. ONLY THE LAST THREE.

3 Q WHEN THE LAST THREE LEFT AND WENT OUT OF
4 THE FRONT DOOR, WERE THE OTHER TWO ALREADY GONE?

5 A YES. THEY'RE THE ONES WHO WERE IN THE
6 LIVING ROOM.

7 Q AFTER THE INTRUDERS LEFT, DID YOU LOOK
8 AROUND TO SEE IF ANYTHING WAS MISSING?

9 A NO. I CLOSED THE DOOR.

10 Q AT SOME POINT IN TIME DID YOU LOOK AROUND
11 TO SEE IF ANYTHING WAS MISSING?

12 A NOT IF ANYTHING WAS MISSING, JUST IF
13 EVERYBODY WAS ALL RIGHT.

14 Q AND WAS EVERYBODY ALL RIGHT?

15 A YES. ONLY SCARED.

16 Q DID THE PEOPLE, THE INTRUDERS, LEAVE WITH
17 THE BOX WITH THE JEWELRY?

18 A ACTUALLY, I WASN'T REALLY AWARE IF THEY HAD
19 TAKEN IT WITH THEM OR NOT, BUT WHEN WE LOOKED FOR IT, IT
20 WAS NOT THERE.

21 Q SO AT SOME POINT IN TIME YOU LOOKED AROUND
22 TO SEE IF ANYTHING WAS MISSING?

23 A AFTER THEY LEFT.

24 Q YES. AFTER THEY LEFT?

25 A YES.

26 Q AND DID YOU FIND THE BOX WITH THE JEWELRY
27 IN IT?

28 A NO. NOR BRENDA'S WALLET, NOR MY MOM'S

1 HUSBAND'S PHONES, NOR MY MOM'S PHONE.

2 Q AT SOME POINT IN TIME THE SHERIFFS ARRIVED?

3 A YES.

4 Q HOW MUCH TIME PASSED FROM WHEN THE
5 INTRUDERS LEFT DID THE SHERIFFS ARRIVE?

6 A THREE TO FIVE MINUTES. NOT MORE THAN FIVE
7 MINUTES.

8 Q NOW, DURING THIS TIME WHILE ALL THE
9 INTRUDERS WERE IN YOUR HOUSE, WHO ALL WAS HOME?

10 A SHOULD I NAME EVERYBODY WHO WAS THERE?

11 Q WELL, LET -- WAS YOUR -- YOUR MOM AND DAD
12 WERE THERE? OR EXCUSE ME. YOUR MOM AND YOUR MOM'S
13 HUSBAND; CORRECT?

14 A CORRECT. AND BRENDA WAS THERE.

15 Q AND HER TWO KIDS?

16 A CORRECT.

17 Q YOUR TWO KIDS?

18 A CORRECT.

19 Q WALTER WAS THERE?

20 A UH-HUH.

21 Q IS THAT "YES"?

22 A YES.

23 Q WHAT ABOUT ANNETTE?

24 A ANNETTE, HER HUSBAND, AND HER SON WERE IN
25 HER BEDROOM.

26 Q DID YOU EVER SEE ANNETTE, HER HUSBAND, OR
27 HER SON COME OUT OF THEIR BEDROOM?

28 A NO.

1 Q DID YOU SEE ANNETTE AT ANY TIME DURING
2 THE -- WHEN THE INTRUDERS WERE THERE?

3 A NO.

4 Q IN THE ROOM THAT YOUR BEDROOM IS, THERE'S A
5 DOOR IN YOUR BEDROOM; CORRECT?

6 A CORRECT.

7 Q AND THE ROOM NEXT TO YOUR BEDROOM THAT THE
8 DOOR SEPARATES YOUR BEDROOM FROM, WHAT ROOM IS THAT?

9 A THAT'S JUST LIKE A PLAYROOM FOR MY
10 CHILDREN, WHERE MY CHILDREN DO THEIR THERAPY.

11 Q THERE'S A -- ARE THERE ANY WINDOWS IN THAT
12 ROOM?

13 A THERE'S THREE WINDOWS IN THAT BEDROOM.
14 ONE, TWO, ANNETTE'S ROOM, AND TWO OUT TO THE YARD.

15 THE COURT: I AM GOING TO GO AHEAD AND STOP YOU
16 THERE. WE ARE GOING TO TAKE OUR BREAK. I DO HAVE A FEW
17 CALENDAR MATTERS TO FINISH UP.

18 LADIES AND GENTLEMEN, I AM ORDERING YOU
19 BACK HERE AT 1:30. WE WILL SEE YOU BACK THEN.

20 MS. JARDINES, YOU ARE ALSO ORDERED BACK AT
21 1:30.

22 THE WITNESS: OKAY. THANK YOU.

23

24 (A DISCUSSION WAS HELD BETWEEN
25 THE COURT AND COUNSEL WHICH
26 WAS NOT REPORTED.)

27 ///

28 ///

(WHEREUPON THE LUNCH RECESS
WAS TAKEN UNTIL 1:30 P.M.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CASE NUMBER: KA085233
2 CASE NAME: PEOPLE VS. TAUMU JAMES
3 LOS ANGELES, CALIFORNIA WEDNESDAY, AUGUST 4, 2010
4 DEPARTMENT NO. 121 HON. CHARLAINE F. OLMEDO, JUDGE
5 REPORTER: KATHRYN L. MAUTZ, CSR NO. 11539
6 TIME: P.M. SESSION
7 APPEARANCES: (AS HERETOFORE NOTED.)
8

9 (THE FOLLOWING PROCEEDINGS
10 WERE HELD IN OPEN COURT
11 OUTSIDE THE PRESENCE OF THE
12 JURY:)
13

14 THE COURT: ON THE RECORD. WE HAVE MR. JAMES AND
15 WE HAVE COUNSEL. OUR JURORS ARE NOT PRESENT.

16 AT THE CONCLUSION, JUST BEFORE OUR LUNCH
17 BREAK, DEFENSE COUNSEL ASKED THE COURT FOR PERMISSION TO
18 TAKE PEOPLE'S NUMBER 7, THE SKI MASK, BACK INTO LOCK-UP,
19 WITHOUT MR. GOUDY. YOU JUST DIDN'T WANT MR. GOUDY TO
20 SEE, BUT YOU WANTED TO HAVE YOUR CLIENT AND YOU LOOK AT
21 THE SKI MASK; IS THAT CORRECT?

22 MR. EVANS: THERE ARE SOME THINGS I NEED TO DO
23 WITH THE SKI MASK, YES.

24 THE COURT: AND MR. GOUDY, THE BASIS OF YOUR
25 OBJECTION IS BECAUSE EVEN THOUGH YOU'VE RECOVERED THE
26 D.N.A. AND IT CAME BACK TO MR. JAMES, AND EVEN THOUGH THE
27 EVIDENCE HAS NO LONGER BEEN SECURED FOR D.N.A., YOUR
28 CONCERN IS THAT IF THERE IS A CONVICTION AND THERE IS A

1 SUBSEQUENT REVERSAL AND IF THIS EVIDENCE IS LOST, SHOULD
2 YOU WANT TO RETEST IT AGAIN, THEN THERE IS AN EXPLANATION
3 AS TO WHY HIS D.N.A. IS ON IT?

4 MR. GOUDY: WELL, THAT, AND BECAUSE THE WAY IT WAS
5 PRESENTED TO ME WAS THE SKI MASK WOULD GO BACK INTO
6 LOCK-UP WITH DEFENSE COUNSEL AND THE DEFENDANT.

7 THE COURT: AND THE BAILIFF.

8 MR. GOUDY: WELL, AND THAT -- AND AS I THOUGHT
9 ABOUT THAT, IT CREATES ANOTHER ISSUE. BUT CERTAINLY WE
10 NEVER GIVE EVIDENCE TO THE DEFENSE TO JUST HAVE WITHOUT
11 SOMEBODY THERE.

12 THE COURT: WELL, THEY GIVE IT TO THEIR EXPERTS
13 ALL THE TIME AND ALLOW THEIR EXPERTS ACCESS TO TEST IT.

14 MR. GOUDY: CORRECT, BUT THERE WAS ALWAYS SOMEONE
15 THERE FROM THE INVESTIGATION WITH THEM.

16 THE COURT: THAT IS NOT THE CASE AT TIMES. I HAVE
17 DEFINITELY SIGNED THE ORDERS THAT HAVE RELEASED PHYSICAL
18 ITEMS TO DEFENSE EXPERTS.

19 MR. GOUDY: WE DON'T DO TAPES. WE DON'T DO D.N.A.
20 NOTHING LIKE THAT IS EVER DONE.

21 BUT IN THIS CASE, NOW WE ARE MAKING THE
22 BAILIFF ANOTHER WITNESS.

23 THE COURT: JUST TELL ME WHAT IS THE BASIS OF YOUR
24 OBJECTION? DO YOU NOT WANT HIM TO TRY IT ON BACK IN
25 LOCK-UP? IS THAT YOUR OBJECTION?

26 MR. GOUDY: YES. THAT'S IT.

27 THE COURT: AND ON WHAT BASIS ARE YOU OBJECTING?
28 IS IT THE BASIS THAT IN THE FUTURE, IF YOU NEED TO RETEST

1 IT, IT TAINTS IT?

2 MR. GOUDY: THAT IS PART OF IT AS WELL, BUT WE
3 HAVE NO CONTROL. I DON'T KNOW WHAT HE'S GOING TO DO TO
4 THE MASK. I DON'T KNOW IF SOMEHOW THEY -- I MEAN, WHAT
5 IF THEY SOMEHOW DESTROY IT? NOT REALLY DESTROY IT BUT
6 RIP SOMETHING OR DO SOMETHING? NOW WE ARE IN A DIFFERENT
7 POSTURE. I DON'T KNOW.

8 THE COURT: DO YOU HAVE A POLICE WITNESS? DO YOU
9 HAVE AN INVESTIGATOR HERE?

10 MR. GOUDY: NO. HE'S NOT BACK UNTIL FRIDAY.
11 THAT'S WHY WE COULD HAVE DONE IT YESTERDAY WITH DETECTIVE
12 CHISM HERE, BUT HE IS NOT HERE. AND EVERYBODY KNEW --
13 WELL, I SHOULDN'T SAY EVERYBODY BUT --

14 THE COURT: LET ME ASK YOU THIS. ARE YOU WILLING
15 TO GIVE A STIPULATION THAT YOUR CLIENT'S D.N.A. IS ON
16 THAT MASK FROM THE TIME THAT THE POLICE RECOVERED IT ON
17 5TH STREET?

18 MR. EVANS: WELL, AGAIN, I BELIEVE THAT THE
19 TESTIMONY IS GOING TO BE THAT THAT'S THE PARTICULAR MASK
20 WHERE THEY FOUND THE D.N.A. I THINK THAT IS IT. BUT THE
21 WAY THE TESTIMONY IS GOING IN THIS CASE, I DON'T KNOW.

22 MR. GOUDY: IT'S TOUGH FOR ME TO ARGUE BECAUSE
23 NOBODY HAS TOLD ME WHAT THEY ARE GOING TO DO. I AM
24 ASSUMING THEY ARE GOING TO PUT THE MASK ON HIM.

25 THE COURT: IF YOU SUBMITTED AN EX PARTE
26 APPLICATION TO THE COURT PRETRIAL AFTER YOU HAD REQUESTED
27 IT TO BE TESTED, ARE YOU SAYING THAT HE WOULD HAVE TO
28 DISCLOSE TO YOU WHAT HE WANTED TO DO IN HIS DEFENSE TO

1 HAVE AN EXAMINATION OF THIS PHYSICAL ITEM?

2 MR. GOUDY: NO, BUT I WOULD BE OBJECTING TO HIM
3 TAKING THE EVIDENCE FROM THE EVIDENCE LOCKER WITHOUT
4 SOMEBODY THERE.

5 THE COURT: AND YOUR OBJECTION WOULD BE BASED ON
6 HIM TAMPERING WITH IT. AS LONG AS WE SECURE IT TO MAKE
7 SURE THERE IS NO TAMPERING, THEN THERE IS NO BASIS FOR
8 YOUR OBJECTION. THAT LEAVES US WITH THE ONE OTHER
9 OBJECTION THAT IF THERE IS SOME SORT OF REVERSAL AND THIS
10 HAS TO BE RETESTED, YOU WANT TO SECURE THE D.N.A.
11 EVIDENCE.

12 NOW, TO ME THAT SEEMS A LITTLE BIT
13 FARFETCHED, ESPECIALLY IN LIGHT OF THE FACT THAT THIS
14 ITEM HAS NOT BEEN PRESERVED FOR D.N.A. SINCE ITS INITIAL
15 TESTING, AND WE HAVE HAD WITNESSES HANDLING IT SINCE
16 THEN, AND IT IS UNCONTESTEDLY NOT PRESERVED FOR D.N.A. AT
17 THIS POINT.

18 BE THAT AS IT MAY, I MAY CONSIDER IT IF
19 THERE IS A WAY TO SECURE IT, THAT IT'S NOT BEING TAMPERED
20 WITH; AND TWO, THAT THERE IS A STIPULATION THAT HIS
21 D.N.A. IS ON IT. AND IF YOU ARE NOT WILLING TO GIVE THAT
22 STIPULATION, THEN I AM NOT GOING TO DO SOMETHING THAT
23 MESSES UP THE TESTING.

24 SO WE ARE GOING TO GET STARTED WITH OUR
25 WITNESSES, AND YOU CAN DECIDE WHAT YOU WANT TO DO. WE
26 ARE ONLY GOING TO GO FOR AN HOUR AND A HALF. IF YOU NEED
27 TO RECALL THIS WITNESS, THEN YOU CAN RECALL THE WITNESS.
28 SHE WILL GO HOME FOR THE DAY, BUT SHE WILL BE SUBJECT TO

1 BEING RECALLED.

2 MR. EVANS: ALL I NEED IS AN OFFER OF PROOF THAT
3 THIS PARTICULAR MASK THAT'S IN PEOPLE'S 7 IS THE ONE THAT
4 THEY TESTED. IF THAT'S THE OFFER OF PROOF, THEN I AM
5 WILLING TO STIPULATE BECAUSE WE ARE NOT CONTESTING THE
6 D.N.A. PROCEDURES OR THE FINDING THAT HIS D.N.A. IS ON
7 IT.

8 THE COURT: WE CAN TAKE THIS UP. IF IT IS WITH
9 THIS WITNESS YOU WANT TO DO IT, I AM NOT GOING TO RELEASE
10 THIS WITNESS AFTER HER TESTIMONY. IF YOU WANT TO CALL
11 HER IN YOUR CASE IN CHIEF, THEN WE CAN TAKE UP WHETHER OR
12 NOT THIS IS AN APPROPRIATE PROCEDURE TO DO IN THE CASE IN
13 CHIEF.

14 MR. EVANS: YES, YOUR HONOR.

15

16 (COUNSEL CONFERRED SOTTO VOCE.)

17

18 THE COURT: LET'S BRING IN OUR JURORS.

19 THERE'S ONLY A FEW THINGS THEY CAN DO BACK
20 THERE WITH THE MASK.

21 MR. GOUDY: I UNDERSTAND.

22 THE COURT: SO IT DOESN'T TAKE A VERY CREATIVE
23 PERSON TO FIGURE OUT WHAT IT IS THEY WANT TO DO.

24 MR. GOUDY: THAT WOULD MAKE IT A HECK OF A LOT
25 EASIER IF I KNEW THAT. AND IF THE BAILIFF WAS GOING TO
26 BE BACK THERE, THEN IT'S NOT REALLY ATTORNEY-CLIENT
27 PRIVILEGE, BECAUSE THERE IS GOING TO BE A THIRD PARTY
28 PRESENT.

1 THE COURT: NO. NO. THERE IS ALWAYS
2 ATTORNEY-CLIENT PRIVILEGE, EVEN WITH THE BAILIFFS,
3 BECAUSE OF THE CUSTODY SITUATION. THEY CAN HAVE A
4 BAILIFF PRESENT WHILE THE ATTORNEY IS TALKING, AND IT'S
5 STILL ATTORNEY-CLIENT PRIVILEGE.

6 MR. GOUDY: OH, THAT'S TRUE.

7
8 (THE FOLLOWING PROCEEDINGS
9 WERE HELD IN OPEN COURT IN
10 THE PRESENCE OF THE JURY:)

11
12 (MINERVA CLEMENTS, INTERPRETING FOR
13 THE WITNESS ENGLISH INTO SPANISH
14 AND SPANISH INTO ENGLISH.)

15
16 THE COURT: BACK ON THE RECORD IN PEOPLE VERSUS
17 JAMES. MR. JAMES IS PRESENT. BOTH COUNSEL ARE PRESENT.
18 ALL OF OUR JURORS ARE PRESENT. THIS IS KA085233, AND
19 MR. JARDINES IS BACK ON THE STAND, USING THE ASSISTANCE
20 OF OUR CERTIFIED COURT INTERPRETER.

21 YOU MAY CONTINUE, MR. GOUDY.

22 MR. GOUDY: THANK YOU, YOUR HONOR.

23
24 DIRECT EXAMINATION (RESUMED)

25 BY MR. GOUDY:

26 Q MR. JARDINES, AFTER THE OFFICERS ARRIVED --
27 DO YOU RECALL HOW MANY OFFICERS ARRIVED?

28 A OH, NO. MANY.

1 Q DID YOU EVENTUALLY GO SOMEWHERE WITH SOME
2 OF THE OFFICERS?

3 A YOU MEAN THE DAY THAT ALL THIS HAPPENED?

4 Q YES.

5 A YES.

6 Q WHERE DID YOU GO?

7 A WE WERE TAKEN TO THE PARKING LOT OF THE
8 HIGH SCHOOL THAT'S CLOSE TO MY HOUSE TO SEE IF WE COULD
9 RECOGNIZE ONE OF THE ONES THAT HAD BEEN CAUGHT.

10 Q AND DID YOU SEE SOMEBODY THERE AT THE HIGH
11 SCHOOL IN THE PARKING LOT?

12 A YES.

13 Q DID YOU RECOGNIZE THAT INDIVIDUAL?

14 A YES.

15 Q AND THE INDIVIDUAL THAT YOU RECOGNIZED,
16 WHERE DID YOU RECOGNIZE THAT INDIVIDUAL FROM?

17 A THAT'S THE ONE THAT OPENED THE REAR DOOR,
18 THE ONE THAT ASKED ME WHY WAS THAT DOOR MAKING A SOUND
19 LIKE THAT WHEN IT WOULD OPEN.

20 Q WAS THIS ONE OF THE PEOPLE WITH THE MASK OR
21 WITHOUT THE MASK?

22 A WITHOUT THE MASK.

23 Q AND WHEN YOU WENT THERE WITH THE SHERIFF'S
24 DEPUTIES, DID YOU TELL THEM THAT YOU RECOGNIZED HIM FROM
25 BEING IN YOUR HOUSE?

26 A YES.

27 Q WERE YOU SHOWN OR ASKED TO LOOK AT ANY
28 OTHER INDIVIDUALS THAT NIGHT?

1 A YES.

2 Q HOW MANY OTHER INDIVIDUALS?

3 A TWO.

4 Q AND WHERE WERE THOSE INDIVIDUALS WHEN YOU
5 WERE ASKED TO LOOK AT THEM?

6 A THEY HAD THEM SEATED ON THE SIDEWALK.

7 Q AND WHEN YOU LOOKED AT THOSE INDIVIDUALS,
8 WERE YOU WITH ANY OF YOUR FAMILY MEMBERS?

9 A YES.

10 Q WHO?

11 A WITH MY MOTHER'S HUSBAND.

12 Q AND DID YOU RECOGNIZE THOSE TWO INDIVIDUALS
13 AS HAVING SEEN THEM PREVIOUSLY?

14 A NO.

15 Q AND DID YOU TELL THE POLICE OFFICERS THAT
16 THOSE PEOPLE WERE NOT INVOLVED WITH THE MEN WHO CAME INTO
17 YOUR HOUSE?

18 A YES.

19 Q WHAT RACE WERE THOSE TWO MEN?

20 A ALSO BLACK.

21 Q HOW MUCH TIME PASSED FROM WHEN YOU WERE
22 SHOWN THE MAN WHO WAS ONE OF THE ONES THAT WENT INTO YOUR
23 HOUSE AND THE OTHER TWO?

24 A MAYBE 40 MINUTES TO AN HOUR.

25 Q HAD YOU -- WHO DID YOU SEE FIRST, THE TWO
26 OR THE ONE?

27 A ONE.

28 Q AND AFTER YOU SAW THE ONE AT THE SCHOOL,

1 DID YOU GO BACK TO YOUR HOUSE?

2 A YES.

3 Q AND THEN THEY TOOK YOU TO THE LOCATION
4 WHERE THE OTHER TWO WERE SITTING ON THE SIDE?

5 A YES.

6 Q AT SOME POINT IN TIME -- ACTUALLY, THE NEXT
7 DAY DID ONE OF THE DETECTIVES SHOW YOU A SET OF
8 PHOTOGRAPHS?

9 A WE WERE SHOWN PHOTOGRAPHS ON SEVERAL
10 OCCASIONS, LIKE TWICE, TWO.

11 Q WELL, THE FIRST TIME -- DO YOU KNOW WHO
12 DETECTIVE CHISM IS?

13 A YES.

14 Q DO YOU KNOW WHO DETECTIVE RICHARDSON IS?

15 A YES.

16 Q DID DETECTIVE RICHARDSON EVER SHOW YOU ANY
17 PHOTOGRAPHS?

18 A THEY WOULD ALMOST ALWAYS COME TOGETHER.

19 Q WELL, DO YOU REMEMBER A TIME WHEN DETECTIVE
20 RICHARDSON SHOWED YOU PHOTOGRAPHS?

21 A YES.

22 MR. GOUDY: YOUR HONOR, I HAVE TWO SHEETS OF
23 PAPER. THE FIRST IS A WITNESS ADMONITION FOR MUG
24 SHOW-UPS. IT HAS THE SIGNATURE OF NANCY JARDINES WITH
25 THE DATE 11/4/08. I'D ASK THAT THIS BE MARKED AS
26 PEOPLE'S 8 FOR IDENTIFICATION.

27 THE COURT: IT WILL BE SO MARKED.

28 ///

1 (MARKED FOR IDENTIFICATION
2 PEOPLE'S EXHIBIT NO. 8,
3 WITNESS ADMONITION.)
4

5 MR. GOUDY: AND THE NEXT ONE IS A COPY WITH SIX
6 PHOTOGRAPHS. ONE IS CIRCLED, AND THERE IS WRITING IN
7 SPANISH UNDER ANOTHER THEM. I'D ASK THAT THIS BE MARKED
8 AS PEOPLE'S 9 FOR IDENTIFICATION.

9 THE COURT: IT WILL BE SO MARKED.
10

11 (MARKED FOR IDENTIFICATION
12 PEOPLE'S EXHIBIT NO. 9,
13 SIX-PACK.)
14

15 MR. GOUDY: MAY I APPROACH?

16 THE COURT: YOU MAY.

17 BY MR. GOUDY:

18 Q SHOWING YOU WHAT HAS BEEN MARKED AS
19 PEOPLE'S 8 FOR IDENTIFICATION, DO YOU RECOGNIZE THIS
20 SHEET (INDICATING) OF PAPER?

21 A YES.

22 Q AND THERE ARE FOUR THINGS AT THE TOP HERE
23 WRITTEN DOWN. DID DETECTIVE RICHARDSON READ THOSE TO
24 YOU --

25 A YES.

26 Q -- BEFORE HE SHOWED YOU THE PHOTOGRAPHS?

27 A YES.

28 Q AND DID YOU SIGN YOUR NAME WHERE IT SAYS

1 "SIGNATURE" AFTER BEING READ THIS AND LOOKING AT THE
2 PHOTOGRAPHS?

3 A YES.

4 Q THE DATE AND TIME THAT'S THERE, DID YOU
5 WRITE THAT, OR DID SOMEBODY ELSE WRITE THAT?

6 A NO. I DID.

7 Q AND YOU WROTE 11/24/08, THE TIME 5:50 P.M.?

8 A YES.

9 Q IS THAT THE DATE AND TIME THAT DETECTIVE
10 RICHARDSON SHOWED YOU THE PHOTOGRAPHS?

11 A YES.

12 Q SHOWING YOU WHAT HAS BEEN MARKED AS
13 PEOPLE'S 9 FOR IDENTIFICATION, DO YOU RECOGNIZE THIS?

14 A YES.

15 Q WHAT IS THIS?

16 A THAT'S THE PHOTOGRAPH OF THE MAN THAT CAME
17 INTO THE HOUSE THAT OPENED THE REAR DOOR.

18 Q DID DETECTIVE RICHARDSON SHOW YOU THESE
19 PHOTOGRAPHS?

20 A YES.

21 Q AND AFTER HE SHOWED YOU THESE PHOTOGRAPHS,
22 DID YOU CIRCLE ONE OF THE PHOTOGRAPHS AS SOMEONE YOU
23 RECOGNIZED?

24 A YES.

25 Q THERE IS A CIRCLE AROUND PHOTOGRAPH
26 NUMBER 5. DID YOU CIRCLE THE PERSON DEPICTED IN
27 PHOTOGRAPH NUMBER 5?

28 A YES, AND I PLACED MY INITIALS.

1 Q AND YOUR INITIAL IS N.J. RIGHT THERE AT THE
2 BOTTOM?

3 A YES.

4 Q THERE'S SOME WRITING UNDERNEATH THAT IN
5 SPANISH. DID YOU WRITE THAT?

6 A YES.

7 Q AND WHAT DID YOU WRITE?

8 A DO YOU WANT ME TO READ THAT?

9 Q PLEASE.

10 A IT SAYS, "THIS PERSON HAD A GUN, OPENED THE
11 REAR DOOR, AND ASKED WHY WAS IT MAKING A SOUND. HE
12 INDICATED FOR ME TO GO AND OPEN THE SAFE WITH MY MOTHER."

13 Q WHEN YOU WENT WITH THE SHERIFF'S DEPUTY TO
14 THE SCHOOL AND LOOKED AND SAW SOMEBODY THERE THAT YOU
15 RECOGNIZED FROM BEING ONE OF THE INTRUDERS IN YOUR HOUSE,
16 WAS THAT THE PERSON IN PHOTOGRAPH 5?

17 A YES.

18 Q AT SOME POINT IN TIME DID DETECTIVE CHISM
19 SHOW YOU SOME PHOTOGRAPHS?

20 A AT WHAT TIME?

21 Q WELL, DID HE EVER SHOW YOU PHOTOGRAPHS
22 FIRST?

23 A AFTER THE ONE THAT I HAVE BEEN SHOWN RIGHT
24 NOW?

25 Q YES.

26 A YES.

27 Q AND HOW MUCH TIME PASSED FROM WHEN YOU SAW
28 THE PHOTOGRAPHS WITH THE PERSON THAT YOU SAW -- WHO

1 OPENED THE BACK DOOR TO WHEN DETECTIVE CHISM SHOWED YOU
2 SOME PHOTOGRAPHS?

3 A I DON'T REMEMBER THE EXACT TIME.

4 Q WAS IT THE NEXT DAY?

5 A NO.

6 Q WAS IT A WEEK LATER?

7 A NO. IT WAS MORE TIME AFTER THAT, BUT I
8 DON'T REMEMBER WHEN.

9 Q DO YOU RECALL THE DATE OF JUNE 2ND OF 2009?

10 A NO. I DO REMEMBER THAT WE WERE SHOWN SOME
11 PHOTOGRAPHS AFTERWARDS, BUT I DON'T REMEMBER THE DATE.

12 Q DO YOU REMEMBER COMING TO COURT ON THIS ONE
13 TIME BEFORE WHERE YOU HAD TO TESTIFY?

14 A NOT THIS ONE. IT WAS THE EL MONTE COURT.

15 Q BUT YOU WENT TO COURT, AND YOU TESTIFIED
16 REGARDING THE PEOPLE COMING INTO YOUR HOUSE?

17 A YES.

18 Q AND THAT WAS ON JUNE 12TH OF 2009?

19 A JUNE? I DON'T QUITE REMEMBER. WE DID GO
20 TO EL MONTE. WE WENT IN DECEMBER OF 2008. BUT I DON'T
21 REMEMBER WHEN IT WAS THAT WE WENT, IF WE WENT BACK TO
22 COURT, BECAUSE HE WOULD TELL US THAT HE WOULD CALL US TO
23 LET US KNOW, BUT THEN HE WOULDN'T CALL.

24 Q AND THERE WERE A COUPLE OF TIMES THAT YOU
25 DIDN'T HAVE TO GO, BUT THERE WAS ONE TIME THAT YOU HAD TO
26 GO AND TESTIFY?

27 A YES.

28 Q AND THE TIME THAT YOU HAD TO GO TO COURT

1 AND TESTIFY, WAS THAT IN JUNE OF 2009?

2 A NOT THE FIRST TIME. THE FIRST TIME WAS IN
3 DECEMBER OF 2008.

4 Q THE FIRST TIME YOU WENT TO COURT?

5 A YES.

6 Q AND THEN YOU TESTIFIED -- DID YOU TESTIFY
7 IN JUNE OF 2009?

8 A I DON'T REMEMBER.

9 Q HOW MANY TIMES, NOT COUNTING THIS TIME,
10 HAVE YOU HAD TO TESTIFY ABOUT WHAT HAPPENED AT YOUR
11 HOUSE?

12 A YOU MEAN IN COURT?

13 Q YES.

14 A FOR SURE ONCE, BUT SEVERAL TIMES DETECTIVES
15 AND POLICE HAVE ARRIVED AT THE HOUSE.

16 Q I AM JUST TALKING ABOUT WHERE YOU ACTUALLY
17 CAME INTO COURT AND SOMEBODY ASKED YOU QUESTIONS.

18 A ONLY IN DECEMBER.

19

20 (COUNSEL CONFERRED SOTTO VOCE.)

21

22 MR. GOUDY: COUNSEL, AT THIS TIME WILL YOU
23 STIPULATE THAT THE DATE THAT DETECTIVE CHISM SHOWED
24 MS. JARDINES THE SIX-PACK PHOTOGRAPH, WHICH WE WOULD ASK
25 THAT IT BE CURRENTLY MARKED AS PEOPLE'S 10 FOR
26 IDENTIFICATION --

27 THE COURT: IT WILL BE SO MARKED.

28 ///

1 (MARKED FOR IDENTIFICATION
2 PEOPLE'S EXHIBIT NO. 10,
3 SIX-PACK.)
4

5 MR. GOUDY: -- AND THAT THE PRELIMINARY HEARING
6 TOOK PLACE WAS ON JUNE 12TH OF 2009.

7 MR. EVANS: I STIPULATE TO BOTH FACTS.

8 THE COURT: I AM SORRY. THE PRELIM WAS?

9 MR. GOUDY: JUNE 12TH.

10 THE COURT: AND WHEN WAS PEOPLE'S 10?

11 MR. GOUDY: PEOPLE'S 10 WAS JUNE 2ND.

12 THE COURT: AND THAT WAS '09?

13 MR. GOUDY: CORRECT.

14 THE COURT: ALL RIGHT.

15 MR. GOUDY: I ALSO HAVE A PHOTOCOPY OF
16 PEOPLE'S 10. I WOULD ASK THAT IT BE MARKED AS
17 PEOPLE'S 11 FOR IDENTIFICATION, AND I AM MARKING A P-11
18 IN THE UPPER RIGHT-HAND CORNER IN BLUE INK.

19 THE COURT: IT WILL BE SO MARKED.
20

21 (MARKED FOR IDENTIFICATION
22 PEOPLE'S EXHIBIT NO. 11,
23 PHOTOCOPY OF SIX-PACK.)
24

25 BY MR. GOUDY:

26 Q NOW, WHEN YOU WENT TO COURT AND TESTIFIED,
27 WAS THERE AN INDIVIDUAL IN THE COURTROOM ON THAT DATE WHO
28 HAD BEEN ONE OF THE INTRUDERS IN YOUR HOUSE IN NOVEMBER

1 OF 2008?

2 A YES.

3 Q AND DID YOU RECOGNIZE THAT PERSON?

4 A YES.

5 Q WHICH PERSON WAS THAT?

6 A THE ONE THAT APPEARS ON THE PHOTOGRAPH.

7 Q THE PHOTOGRAPH YOU CIRCLED IN PEOPLE'S 9?

8 A YES.

9 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
10 WITNESS POINTED TO PHOTOGRAPH 5 IN PEOPLE'S 9 FOR
11 IDENTIFICATION.

12 THE COURT: THE RECORD WILL SO REFLECT.

13 BY MR. GOUDY:

14 Q NOW, WHEN DETECTIVE CHISM SHOWED YOU
15 PHOTOGRAPHS, THOSE WERE DIFFERENT PHOTOGRAPHS THAN THE
16 ONES I JUST SHOWED YOU; CORRECT?

17 A YES.

18 Q AND DID HE SHOW YOU THOSE PHOTOGRAPHS
19 BEFORE OR AFTER YOU HAD TO TESTIFY IN EL MONTE COURT?

20 A YOU MEAN THE SECOND PACKET OF PHOTOGRAPHS?

21 Q YES.

22 A AFTER WE TESTIFIED.

23 MR. GOUDY: MAY I APPROACH?

24 THE COURT: YOU MAY.

25 BY MR. GOUDY:

26 Q SHOWING YOU WHAT HAS BEEN MARKED AS
27 PEOPLE'S 10 FOR IDENTIFICATION, DO YOU RECOGNIZE THAT
28 (INDICATING)?

1 A YES.

2 Q AND HOW DO YOU RECOGNIZE THAT?

3 A THAT I RECOGNIZE WHAT?

4 Q WHAT THIS IS.

5 A OH, BECAUSE THE DETECTIVE SHOWED IT TO US.

6 Q WHICH DETECTIVE? DETECTIVE CHISM OR

7 DETECTIVE RICHARDSON?

8 A CHISM.

9 Q SHOWING YOU WHAT HAS BEEN MARKED AS
10 PEOPLE'S 11 FOR IDENTIFICATION, WHAT IS THIS
11 (INDICATING)?

12 A THE SAME -- THE SAME THING, EXCEPT THAT
13 THIS ONE IS THE ONE THAT I PUT A CIRCLE AROUND.

14 Q AND PEOPLE'S 11 IS A PHOTOCOPY OF
15 PEOPLE'S 10?

16 A I DIDN'T UNDERSTAND THAT.

17 Q IS PEOPLE'S 11 A PHOTOCOPY OF PEOPLE'S 10?

18 A YES. YES. IT'S A COPY.

19 Q AND DID YOU CIRCLE A PHOTOGRAPH, ONE OF THE
20 SIX PHOTOGRAPHS IN PEOPLE'S 11?

21 A YES. MY INITIALS ARE ON THERE.

22 Q AND WHICH PHOTOGRAPH DID YOU CIRCLE? COULD
23 YOU POINT TO IT, PLEASE?

24 A THIS ONE (INDICATING).

25 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
26 WITNESS HAS POINTED TO THE PHOTOGRAPH WHICH IS ON THE
27 BOTTOM ROW ON THE LEFT.

28 THE COURT: THE RECORD WILL SO REFLECT.

1 BY MR. GOUDY:

2 Q AND THERE ARE INITIALS UNDERNEATH THAT
3 CIRCLE. ARE THOSE YOUR INITIALS?

4 A YES.

5 Q DID YOU PUT YOUR INITIALS THERE?

6 A YES.

7 Q DID YOU RECOGNIZE THE INDIVIDUAL IN THAT
8 PHOTOGRAPH FROM SOMEWHERE?

9 A FROM THE PERSON THAT ENTERED MY HOUSE.

10 Q AND WHICH PERSON -- WHICH ONE OF THE ONES
11 WHO ENTERED YOUR HOUSE IS THAT PERSON?

12 A IT'S THE ONE THAT ENTERED INTO MY BEDROOM
13 AND THE ONE THAT TOOK THE PHONE OFF THE HOOK, THE PHONE
14 THAT MY MOM WOULD CARRY EVERYWHERE.

15 Q AND WHAT ELSE DID -- THE PERSON WHO'S IN
16 THAT PHOTOGRAPH THAT YOU CIRCLED ON PEOPLE'S 11, WHAT
17 ELSE DID HE DO ON NOVEMBER 23RD, 2008, AT YOUR HOUSE?

18 A HE'S THE ONE THAT KEPT ON INSISTING THAT
19 THE SAFE BE OPENED AND THE ONE THAT THREATENED HENRY.

20 Q NOW, THAT PERSON HAD ON A MASK; CORRECT?

21 A YES.

22 Q WHEN YOU LOOKED AT THESE PHOTOGRAPHS, HOW
23 WERE YOU ABLE TO SAY THAT THE PERSON IN THE PHOTOGRAPH
24 WAS THE PERSON WHO HAD ON THE MASK AT YOUR HOUSE WHO WENT
25 TO YOUR BACK BEDROOM, TOOK THE PHONE OFF THE HOOK,
26 THREATENED HENRY, AND INSISTED THERE WAS MONEY?

27 A BECAUSE HE HAD NOT COVERED THE MOUTH, NOR
28 THE NOSE, NOR THE EYES.

1 Q WHEN YOU SAY HE DID NOT COVER THEM, COULD
2 YOU SEE THE PERSON'S EYES THROUGH THE MASK?

3 A YES.

4 Q COULD YOU SEE THE PERSON'S NOSE?

5 A YES.

6 Q COULD YOU SEE --

7 A AND HIS MOUTH.

8 Q AND WHEN YOU LOOKED AT THAT PHOTOGRAPH THAT
9 YOU CIRCLED IN PEOPLE'S 11, DID YOU RECOGNIZE THAT
10 INDIVIDUAL BASED UPON HIS EYES, NOSE, AND MOUTH?

11 A THAT'S CORRECT.

12 Q WHEN DETECTIVE CHISM CAME OUT TO YOUR HOUSE
13 AND SHOWED YOU THOSE PHOTOGRAPHS, HAD YOU -- HAD SOMEONE
14 IN YOUR HOUSE RECEIVED A LETTER INDICATING THAT A PERSON
15 BY THE NAME OF TAUMU JAMES WAS A SUSPECT IN THE CASE?

16 A YES.

17 Q AND BASED UPON THAT LETTER AND INFORMATION
18 IN THAT LETTER, DID SOMEONE IN YOUR FAMILY GO ON THE
19 INTERNET?

20 A AFTER A LONG -- AFTER THE DETECTIVE WENT TO
21 THE HOUSE.

22 Q WELL, DID YOU EVER LOOK AT THE PHOTOGRAPH
23 OF THE PERSON ON THE INTERNET BEFORE YOU LOOKED AT THOSE
24 PHOTOGRAPHS?

25 A NOT BEFORE.

26 Q THE PERSON IN THAT PHOTOGRAPH, IS THAT
27 PERSON IN THE COURTROOM RIGHT NOW?

28 A YES.

1 Q WHERE IS THAT PERSON SITTING, AND WHAT IS
2 THAT PERSON WEARING RIGHT NOW?

3 A HE HAS ON A BLUE SHIRT AND A RED TIE.

4 THE COURT: INDICATING MR. JAMES FOR THE RECORD.

5 MR. GOUDY: THANK YOU, YOUR HONOR.

6 BY MR. GOUDY:

7 Q AND THE PERSON THAT YOU JUST IDENTIFIED
8 SITTING AT THE END IN THE BLUE SHIRT AND THE RED TIE, WAS
9 THAT PERSON IN YOUR HOUSE ON NOVEMBER 23RD, 2008?

10 A YES.

11 Q WHAT DID THAT PERSON DO INSIDE YOUR HOUSE,
12 THE PERSON WHO IS DOWN THERE IN THE BLUE SHIRT AND THE
13 RED TIE ON NOVEMBER 23RD, 2008?

14 A THREATENED ALL OF US. HE WOULD SAY THAT HE
15 WANTED MONEY AND FOR US TO OPEN THE SAFE.

16 Q ARE YOU CERTAIN THAT THE PERSON AT THE END
17 OF THE TABLE WAS ONE OF THE MEN WHO CAME INTO YOUR HOUSE
18 ON NOVEMBER 23RD, 2008, AND THREATENED YOU AND HAD A GUN?

19 A YES.

20 MR. GOUDY: NOTHING FURTHER.

21 THE COURT: CROSS-EXAMINATION.

22 MR. EVANS: YES. THANK YOU.

23
24 CROSS-EXAMINATION

25 BY MR. EVANS:

26 Q YOU INDICATED THAT YOU SAW FIVE PEOPLE
27 INSIDE YOUR HOUSE THAT WERE NOT FAMILY MEMBERS ON
28 NOVEMBER 23RD, 2008; IS THAT CORRECT?

1 A CORRECT.

2 Q WHEN YOU TESTIFIED PREVIOUSLY IN THIS
3 CASE -- WHEN YOU TESTIFIED PREVIOUSLY IN THIS CASE -- YOU
4 REMEMBER TESTIFYING; CORRECT?

5 A TESTIFIED WHERE?

6 Q IN EL MONTE COURT.

7 A YES.

8 Q AND PRIOR TO TESTIFYING, YOU SWORE TO TELL
9 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH;
10 CORRECT?

11 A CORRECT.

12 Q AND AT THAT TIME WHEN YOU WERE ASKED HOW
13 MANY PEOPLE TOTAL OR SUSPECTS WERE IN THE HOUSE, YOU
14 INDICATED THERE WERE FOUR; CORRECT?

15 A I DON'T KNOW. I SAID -- I DON'T KNOW WHAT
16 IS WRITTEN DOWN THERE, BUT I DID SAY THAT I HAD SEEN FOUR
17 THAT I HAD SEEN VERY WELL AND THAT THERE WAS ANOTHER ONE
18 THAT KEPT MOVING BACK AND FORTH LIKE A SHADOW, AND I DID
19 NOT -- COULD NOT SEE THE FACE.

20 Q DID YOU INDICATE THAT THERE WERE FOUR
21 PEOPLE IN THE HOUSE TOTAL?

22 A THAT I WOULD BE SURE OF, YES.

23 Q YOU NEVER INDICATED THAT THERE WERE FIVE;
24 CORRECT?

25 A I DON'T KNOW WHAT THEY WROTE ON THERE, BUT
26 I DID SAY THAT I HAD SEEN FIVE BUT THAT THE ONES THAT I
27 WOULD BE VERY CERTAIN OF WOULD BE FOUR.

28 Q WOULD IT REFRESH YOUR RECOLLECTION TO

1 REVIEW A PORTION OF THE TRANSCRIPT OF YOUR TESTIMONY?

2 A I DON'T UNDERSTAND.

3 MR. EVANS: MAY I APPROACH, YOUR HONOR?

4 THE COURT: YES.

5

6 (OFF-THE-RECORD DISCUSSION WAS

7 HELD BETWEEN MR. EVANS AND THE

8 INTERPRETER.)

9

10 THE INTERPRETER: YOUR HONOR, I HAVE BEEN ASKED
11 TO READ LINES 11 THROUGH 14.

12 THE COURT: ALL RIGHT.

13

14 (OFF-THE-RECORD DISCUSSION WAS

15 HELD BETWEEN THE INTERPRETER

16 AND WITNESS.)

17

18 THE WITNESS: YES. THAT'S TRUE.

19 BY MR. EVANS:

20 Q YOU WERE ABLE TO READ THAT; RIGHT?

21 A YES.

22 Q OKAY. SO YOU TESTIFIED PREVIOUSLY THAT YOU
23 SAW FOUR MEN TOTAL; CORRECT?

24 A OKAY.

25 Q SO THAT WOULD BE CORRECT?

26 A YES.

27 Q NOW, YOU'RE INDICATING THAT THE GENTLEMAN
28 SITTING OVER THERE ON THE LEFT WAS ONE OF THE PEOPLE THAT

1 WAS INSIDE YOUR HOUSE ON NOVEMBER 23RD, 2008; IS THAT
2 CORRECT?

3 A YES.

4 Q AND HE WAS WEARING A MASK; IS THAT
5 CORRECT?

6 A THAT'S CORRECT.

7 Q AND SO WE'RE CLEAR, WHEN HE WAS WEARING A
8 MASK, YOU WERE ABLE TO SEE HIS EYES; CORRECT?

9 A CORRECT.

10 Q AND THAT'S BECAUSE THERE WERE HOLES IN THE
11 MASK SO THAT HIS EYES, YOU COULD SEE INTO THE AREA WHERE
12 HIS EYES WOULD BE; RIGHT? THAT'S A FAIR STATEMENT?

13 A I DIDN'T UNDERSTAND IT.

14 Q THE MASK HAD A CUT AROUND THE EYES. THAT'S
15 WHY YOU COULD SEE THE EYES; CORRECT?

16 A OH, YES.

17 Q AND THE MASK HAD A CUT AROUND THE NOSE.
18 THAT'S WHY YOU COULD SEE THE NOSE; CORRECT?

19 A CORRECT. AND THE MOUTH.

20 Q AND THE MASK HAD A CUT AROUND THE MOUTH.
21 THAT'S WHY YOU COULD SEE THE MOUTH; CORRECT?

22 A CORRECT.

23 Q AND THAT'S SOMETHING THAT IS VERY CLEAR IN
24 YOUR MIND AS YOU EVEN SIT HERE TODAY; CORRECT?

25 A YES.

26 Q AND YOU REMEMBER -- YOU REMEMBER THAT
27 CLEARLY ON NOVEMBER 23RD, 2008; CORRECT?

28 A CORRECT.

1 Q NOW, THE INDIVIDUAL THAT YOU'RE IDENTIFYING
2 AS MR. JAMES WEARING THE MASK, RIGHT, AND YOU'RE SAYING
3 HE HAD CUTS IN HIS EYES, THE NOSE, AND THE MOUTH, RIGHT,
4 OVER THE MASK?

5 A THAT'S CORRECT.

6 Q ALL RIGHT. AND SO THE MASK ALSO COVERED
7 COMPLETELY DOWN THROUGH HIS NECK BECAUSE YOU COULDN'T SEE
8 HIS NECK. FAIR STATEMENT?

9 A TRUE. YOU COULDN'T SEE THE NECK, AND YOU
10 COULDN'T SEE THE HAIR.

11 Q OKAY. AND NOW, MR. JAMES, HE WAS -- AS YOU
12 REMEMBER, HE WAS THE PERSON THAT INITIALLY CAME IN THE
13 KITCHEN WEARING THE MASK; CORRECT?

14 A CORRECT.

15 Q NOW --

16 A THAT'S THE FIRST ONE I SAW.

17 Q AND SO WE ARE JUST CLEAR, MR. JAMES IS WITH
18 YOU IN THE KITCHEN; CORRECT?

19 A NO. HE WASN'T IN THE KITCHEN. HE WAS
20 STANDING AT THE ENTRANCE TO THE KITCHEN.

21 Q OKAY. BUT WHEN YOU WERE IN THE KITCHEN,
22 YOU IDENTIFIED TWO MEN THAT YOU SAW IN THE KITCHEN. ONE
23 OF THEM WAS MR. JAMES; CORRECT?

24 A CORRECT.

25 Q ALL RIGHT. WHEN YOU TESTIFIED
26 PREVIOUSLY -- WHEN YOU TESTIFIED PREVIOUSLY, YOU
27 INDICATED THAT THE GENTLEMAN IN THE KITCHEN WEARING A
28 MASK, YOU IDENTIFIED HIM AS A MAN WITH A THIN BUILD;

1 CORRECT?

2 A CORRECT.

3 Q AND YOU ALSO IDENTIFIED HIM AS A MAN WHO
4 WAS DARK-SKINNED; CORRECT?

5 A THAT'S CORRECT.

6 Q HOW COULD YOU TELL HE HAD DARK SKIN?

7 A BECAUSE YOU COULD SEE THE NOSE, AND YOU
8 COULD SEE THE LIPS, AND YOU COULD SEE THE HANDS.

9 Q AND THE NOSE WAS VERY DISTINCTIVE TO YOU;
10 CORRECT?

11 A ABOVE ALL, THE LIPS.

12 Q BUT THE NOSE WAS DISTINCTIVE AS WELL;
13 CORRECT?

14 A YES.

15 Q AND YOU ALSO INDICATED THAT THE MAN WHO WAS
16 WEARING A MASK IN THE KITCHEN WAS YOUNG IN TERMS OF HIS
17 AGE?

18 A THAT'S CORRECT.

19 Q HOW COULD YOU TELL HE WAS YOUNG?

20 A BECAUSE YOU COULDN'T SEE ANY WRINKLES
21 AROUND HIS EYES.

22 Q SO HOW MUCH OF THE EYES HAD BEEN CUT OUT?
23 WAS IT ALL THE WAY DOWN TOWARD THE CHEEK AREA?

24 A ALL OF THIS, YES, YOU COULD SEE HIM.

25 Q SO DOWN TO THE CHEEKBONES, BELOW THE
26 EYELIDS AND THE EYES?

27 A YES.

28 Q AND ALL THE WAY AROUND OVER THE TOP THE

1 EYEBROWS; CORRECT? ALL OF THAT WAS CUT OUT?

2 A I CAN'T TELL YOU EXACTLY, BUT YOU COULD
3 TELL THAT HE WAS YOUNG.

4 Q BECAUSE HE DIDN'T HAVE WRINKLES; RIGHT? IS
5 THAT WHAT YOU'RE SAYING?

6 A NO.

7 Q IS THAT WHAT YOU'RE SAYING? I AM TRYING TO
8 FIND OUT WHAT THE BASIS IS OF YOU BELIEVING HE WAS A
9 YOUNG MAN.

10 A WHAT IS MY BASIS FOR SAYING THAT HE WAS
11 YOUNG? BECAUSE HE HAD NO WRINKLES.

12 Q YOU ALSO IDENTIFIED THAT HE WAS AN
13 AFRICAN-AMERICAN OR A BLACK MAN; CORRECT?

14 A YES.

15 Q AND THAT'S BECAUSE OF THE COLOR OF HIS
16 SKIN?

17 A THAT'S THE SAME QUESTION YOU'VE ALREADY
18 ASKED ME. BECAUSE OF THE EYES. BECAUSE OF THE HANDS,
19 THE MOUTH.

20 Q WELL, WHAT WAS DISTINCTIVE ABOUT HIS EYES
21 THAT MADE YOU BELIEVE HE WAS AFRICAN-AMERICAN?

22 A NO, NOT THE EYES. THE NOSE, THE MOUTH, THE
23 HANDS, THE SKIN TONE, THE COLOR OF THE SKIN OF THE HANDS.

24 Q SO WHAT WAS DISTINCTIVE ABOUT HIS NOSE THAT
25 MADE YOU THINK HE WAS AFRICAN-AMERICAN?

26 A YOU COULD ALSO SEE THE SKIN COLOR OVER THE
27 NOSE ALSO.

28 Q THE DARK SKIN COLOR; RIGHT?

1 A CORRECT.

2 Q WHAT WAS DISTINCTIVE ABOUT HIS LIPS THAT
3 MADE YOU THINK THAT HE WAS AFRICAN-AMERICAN?

4 A YOU CANNOT COMPARE THE DARK SKIN TO A LIGHT
5 SKIN. RIGHT AWAY YOU COULD SAY -- YOU COULD SEE THAT THE
6 PERSON HAS DARK SKIN BECAUSE OF THE COLOR OF THE LIPS.

7 Q SO YOU'RE SAYING AFRICAN-AMERICANS HAVE
8 DIFFERENT COLOR LIPS OF PEOPLE OF OTHER RACES?

9 A NOT THE LIPS, BUT AROUND THE LIPS YOU CAN
10 SEE THE SKIN COLOR.

11 THE INTERPRETER: YOUR HONOR, MAY THE INTERPRETERS
12 SWITCH AT THIS POINT?

13 THE COURT: YES.

14 THE INTERPRETER: THANK YOU.

15

16 (ANA MILLARUELO, INTERPRETING FOR
17 THE WITNESS ENGLISH INTO SPANISH
18 AND SPANISH INTO ENGLISH.)

19

20 BY MR. EVANS:

21 Q SO YOU IDENTIFIED MR. JAMES AS AN
22 AFRICAN-AMERICAN BECAUSE YOU BELIEVED HE HAD A DARK NOSE,
23 DARK-COLORED NOSE; CORRECT?

24 MR. GOUDY: OBJECTION. MISSTATES THE EVIDENCE.

25 THE COURT: SUSTAINED.

26 IF YOU WANT TO REPHRASE THE QUESTION.

27 BY MR. EVANS:

28 Q THE ONLY DISTINCTIVE FEATURE THAT YOU

1 NOTICED ABOUT MR. JAMES' NOSE WAS THE DARK COLOR. FAIR
2 STATEMENT?

3 A I DON'T UNDERSTAND THE QUESTION.

4 Q OKAY. YOU SAID THAT YOU WERE ABLE TO
5 IDENTIFY MR. JAMES BECAUSE OF HIS NOSE; CORRECT?

6 MR. GOUDY: OBJECTION. MISSTATES THE EVIDENCE.

7 THE COURT: SUSTAINED.

8 THE WITNESS: NOT EXACTLY BECAUSE OF HIS NOSE.

9 BY MR. EVANS:

10 Q WHEN YOU SAW THE SIX-PACK PHOTOGRAPH OF
11 MR. JAMES, YOU INDICATED THAT YOU COULD IDENTIFY HIM
12 BECAUSE OF THE EYES, NOSE, AND MOUTH?

13 A CORRECT.

14 Q WHAT, IF ANYTHING, WAS DISTINCTIVE ABOUT
15 HIS NOSE?

16 A OH, MY GOD. YOU KNOW, I WAS NOT PAYING
17 ATTENTION TO WHETHER HE HAD A NICE NOSE OR NOT.

18 Q I AM NOT ASKING YOU THAT. I AM ASKING WERE
19 THERE ANY DISTINCTIVE FEATURES REGARDING HIS NOSE?

20 A NO.

21 Q NOTHING?

22 A WELL, LOOKING AT HIM THROUGH THE MASK, ALL
23 YOU COULD SEE OF HIM WERE HIS EYES, HIS NOSE, AND HIS
24 MOUTH.

25 Q OKAY. AND WHEN YOU SAW HIS NOSE, GOING
26 BACK TO NOVEMBER 23RD, 2008, WHAT DO YOU REMEMBER SEEING
27 AS IT RELATES TO HIS NOSE?

28 A NOTHING. ONLY THAT -- I MEAN, WHAT IS THE

1 POINT REGARDING THE NOSE?

2 THE COURT: ALL RIGHT. MA'AM, I KNOW SOMETIMES
3 THE QUESTIONS CAN GET FRUSTRATING BECAUSE YOU FEEL LIKE
4 YOU'RE REPEATING YOURSELF. BUT IF THERE IS NO OBJECTION,
5 THEN JUST DO THE BEST YOU CAN TO ANSWER THE QUESTION.
6 AND IF YOU DON'T UNDERSTAND THE QUESTION, YOU CAN SAY YOU
7 DON'T UNDERSTAND IT.

8 THE WITNESS: OKAY.

9 MR. EVANS: DID SHE ANSWER THE QUESTION?

10 THE WITNESS: COULD YOU PLEASE REPEAT THE
11 QUESTION?

12 MR. EVANS: IF I CAN HAVE IT READ BACK.

13

14 (THE RECORD WAS READ.)

15

16 THE WITNESS: I DON'T REMEMBER.

17 BY MR. EVANS:

18 Q WHEN YOU WERE WITH MR. JAMES OR THE
19 INDIVIDUAL WHO WAS WEARING A MASK IN THE KITCHEN, HOW
20 CLOSE WAS HE TO YOU, APPROXIMATELY?

21 A NOT MORE THAN A FOOT AWAY FROM ME.

22 Q OKAY. SO HE WAS WITHIN A FOOT OF YOU WHEN
23 YOU SAW HIM IN THE KITCHEN; CORRECT?

24 A NOT IN THE KITCHEN. WHEN HE WENT TO GET ME
25 FROM MY BEDROOM.

26 Q OKAY. BUT WHEN YOU SAW HIM IN THE KITCHEN,
27 HOW CLOSE WAS HE TO YOU?

28 A ABOUT 3 FEET FROM ME.

1 Q AND THEN WHEN HE CAME -- WHEN THE PERSON
2 WITH THE MASK CAME TO THE DOOR OF YOUR BEDROOM, HE WAS
3 WITHIN A FOOT OF YOU; CORRECT?

4 A CORRECT.

5 Q AND WHEN YOU SAW HIM IN THE HALLWAY, HOW
6 CLOSE WAS HE TO YOU, THE MAN WITH THE MASK?

7 A HE WAS REAL CLOSE TO ME THE WHOLE TIME.

8 Q WITHIN A FOOT OF YOU THE WHOLE TIME?

9 A MOST OF THE TIME.

10 Q ON NOVEMBER 23RD, AFTER THE SUSPECTS LEFT
11 OR THE INDIVIDUALS LEFT YOUR HOUSE, YOU HAD AN
12 OPPORTUNITY TO SPEAK WITH SHERIFF'S DEPUTIES REGARDING
13 WHAT HAD HAPPENED; CORRECT?

14 A I AM SORRY. I DIDN'T UNDERSTAND.

15 Q DID YOU HAVE A CHANCE TO TALK TO SHERIFF'S
16 DEPUTIES ON THE NIGHT OF NOVEMBER 23RD, 2008, AFTER THE
17 INDIVIDUALS LEFT YOUR HOUSE?

18 A YES.

19 Q AT THAT TIME WOULD YOU SAY THAT YOUR MEMORY
20 OF THE EVENTS THAT OCCURRED INSIDE YOUR HOUSE WERE CLEAR
21 IN YOUR MIND?

22 A AT THAT TIME, YES.

23 Q WHEN YOU SPOKE TO SHERIFF'S DEPUTIES, YOU
24 INDICATED THAT THERE WERE TWO SUSPECTS IN THE KITCHEN;
25 CORRECT?

26 A I DON'T REMEMBER. I DON'T REMEMBER IF
27 THAT'S WHAT I SAID.

28 Q ALL RIGHT. DO YOU REMEMBER SAYING THERE

1 WAS ONE SUSPECT YOU BELIEVED WAS WEARING A MASK?

2 A I -- IT'S NOT THAT I BELIEVE THAT. I AM
3 SURE HE WAS WEARING A MASK.

4 Q I AM ASKING YOU ABOUT YOUR CONVERSATION
5 WITH SHERIFF'S DEPUTIES. THAT'S WHAT I WANT YOU TO FOCUS
6 ON, PLEASE.

7 A OKAY.

8 Q ALL RIGHT. NOW, I AM TRYING TO SAY -- WHAT
9 I AM SAYING HERE, WHEN YOU SPOKE TO SHERIFF'S DEPUTIES,
10 DID YOU TALK TO THEM ABOUT THE MAN WHO WAS WEARING A MASK
11 THAT YOU SAW IN THE KITCHEN?

12 MR. GOUDY: OBJECTION. VAGUE AS TO TIME.

13 THE COURT: AS FAR AS -- YOU MEAN THE INCIDENT OR
14 WHICH CONVERSATION?

15 MR. GOUDY: CORRECT. WHICH CONVERSATION?

16 THE COURT: OKAY. IF YOU WANT TO SPECIFY. I
17 THINK YOU DID SPECIFY, BUT IMMEDIATELY AFTER THE
18 INCIDENT?

19 MR. EVANS: IMMEDIATELY AFTER THE INCIDENT.

20 THE WITNESS: YES. IF I SPOKE TO THE SHERIFFS
21 AFTER, WHAT HAPPENED?

22 BY MR. EVANS:

23 Q YES.

24 A YES. I DID TALK TO THEM.

25 Q OKAY. AND DID YOU TALK TO THEM ABOUT THE
26 GENTLEMAN WHO YOU SAW IN THE KITCHEN WEARING A MASK?

27 A YES.

28 Q WOULD IT BE FAIR TO SAY THAT YOU NEVER TOLD

1 THE DEPUTIES ANYTHING ABOUT THE EYES OF THE INDIVIDUAL
2 WHO WAS WEARING A MASK?

3 A NO. THAT WOULD NOT BE FAIR TO SAY THAT.

4 Q THAT'S NOT TRUE THEN?

5 A IS WHAT NOT TRUE, THAT I SAID THAT?

6 Q I AM SORRY. YOU NEED TO SPEAK UP. I
7 DIDN'T HEAR YOU.

8 A I DID SAY THAT. I SPOKE TO THEM.

9 Q OKAY. SO WHEN YOU WERE SPEAKING TO
10 SHERIFF'S DEPUTIES IMMEDIATELY AFTER THE INCIDENT ON
11 NOVEMBER 23RD, 2008, YOU TOLD THEM THAT YOU COULD
12 IDENTIFY THE PERSON WHO WAS WEARING THE MASK WHO YOU SAW
13 IN THE KITCHEN IF YOU SAW HIM AGAIN IN THE FUTURE. DID
14 YOU TELL THEM THAT?

15 A I DON'T REMEMBER.

16 Q OKAY. DID YOU SAY THAT THE INDIVIDUAL WHO
17 HAD THE MASK ON THAT YOU SAW IN THE KITCHEN YOU COULD
18 IDENTIFY IF YOU SAW HIS EYES, NOSE, AND MOUTH AGAIN?

19 A ARE YOU ASKING ME, OR ARE YOU ASSERTING
20 THAT?

21 THE COURT: HE'S ASKING IF YOU TOLD THE SHERIFF'S
22 DEPUTIES THAT YOU COULD IDENTIFY THE PERSON WITH THE MASK
23 ON IF YOU SAW THEIR EYES, NOSE, AND MOUTH AGAIN.

24 THE WITNESS: I AM NOT SURE IF I SAID THAT. I
25 DON'T REMEMBER IF I SAID THAT OR NOT AT THAT TIME.
26 BY MR. EVANS:

27 Q DID YOU DESCRIBE THE MASK THAT THE
28 INDIVIDUAL WAS WEARING THAT YOU SAW IN THE KITCHEN? DID

1 YOU DESCRIBE IT TO SHERIFF'S DEPUTIES ON NOVEMBER 23RD,
2 2008, IMMEDIATELY AFTER THE INCIDENT?

3 A YES, I DID.

4 Q YOU DID?

5 A YES.

6 Q YOU'RE SURE ABOUT THAT?

7 A YES.

8 MR. GOUDY: OBJECTION. ARGUMENTATIVE.

9 THE COURT: OVERRULED.

10 MR. GOUDY: WITHDRAWN.

11 BY MR. EVANS:

12 Q NOW, YOU INDICATED THAT ON JUNE 2ND, 2009,
13 YOU WERE LOOKING AT A GROUP OF SIX PHOTOGRAPHS. I
14 BELIEVE THAT WAS IN PEOPLE'S 10 AND 11, THESE TWO
15 DOCUMENTS IN FRONT OF YOU (INDICATING).

16 A I DON'T REMEMBER THE DATE, BUT I DO
17 REMEMBER LOOKING AT THOSE PICTURES.

18 Q ALL RIGHT. AND PRIOR TO LOOKING AT THOSE
19 PICTURES, YOU WERE WITH THE DETECTIVE, AND DETECTIVE
20 CHISM TOLD YOU, "I HAVE SOME PICTURES TO SHOW YOU";
21 CORRECT?

22 A WHEN HE CAME OVER, HE TOLD US HE WAS GOING
23 TO SHOW US SOME PICTURES.

24 Q OKAY. LET'S GO BACK. SOMEONE IN YOUR
25 HOUSE PRIOR TO YOU LOOKING AT THOSE PHOTOGRAPHS RECEIVED
26 A LETTER ABOUT MR. JAMES; CORRECT?

27 A I DON'T -- I DON'T REMEMBER WHETHER IT WAS
28 BEFORE OR AFTER.

1 Q BEFORE OR AFTER WHEN YOU LOOKED AT THE
2 PHOTOGRAPHS THAT YOU HAVE IN FRONT OF YOU?

3 A RIGHT.

4 Q YOU LOOKED AT THE PHOTOGRAPHS. HOW MANY
5 TIMES DID DETECTIVES COME TO YOUR HOUSE WITH PHOTOGRAPHS
6 PRIOR TO LOOKING AT THE ONES THAT ARE IN FRONT OF YOU?

7 A HOW MANY TIMES? THE PICTURES, JUST ONE
8 TIME WITH THE OTHER PERSON WITH THE CIRCLE AROUND HIM IN
9 THE OTHER GROUP.

10 Q YOU INDICATED ON DIRECT THAT SOMEONE IN
11 YOUR HOUSE RECEIVED A LETTER ABOUT MR. JAMES BEING A
12 SUSPECT IN THIS CASE; CORRECT?

13 A YES.

14 Q WHEN DID THEY RECEIVE THAT LETTER?

15 A I DON'T HAVE THE EXACT DATE. I DON'T
16 REMEMBER.

17 Q WHEN DID YOU LEARN ABOUT THE LETTER?

18 A WHEN IT WAS RECEIVED.

19 Q OKAY. SO WHATEVER DATE IT WAS RECEIVED BY
20 THE PEOPLE IN YOUR HOUSE, YOU WERE INFORMED ABOUT THE
21 LETTER; CORRECT?

22 A YES.

23 Q OKAY. AND WAS THAT THE FIRST TIME YOU HAD
24 EVER HEARD THE NAME TAUMU JAMES?

25 A YES.

26 Q AND THEN IT WAS AFTER THAT -- WAS IT
27 IMMEDIATELY AFTER THAT THAT SOMEONE FROM YOUR HOUSE WENT
28 ON THE INTERNET TO LOOK UP THE PHOTOGRAPH OF MR. JAMES?

1 A NO.

2 Q WHEN DID THAT OCCUR?

3 A AFTER THE DETECTIVE SHOWED US THESE
4 PHOTOGRAPHS.

5 Q SO YOU'RE SAYING THAT -- I WANT YOU TO BE
6 CLEAR. YOU'RE SAYING WITH THE DATES IN MIND, THESE
7 PHOTOGRAPHS (INDICATING), PEOPLE'S 10 AND PEOPLE'S 11,
8 THOSE PHOTOGRAPHS IN THOSE TWO DOCUMENTS WERE SHOWN TO
9 YOU BEFORE ANYONE IN YOUR FAMILY WENT ON THE INTERNET AND
10 LOOKED AT THE PHOTOGRAPHS? IS THAT YOUR TESTIMONY?

11 MR. GOUDY: OBJECTION. SPECULATION.

12 THE COURT: IF YOU KNOW.

13 THE WITNESS: COULD YOU PLEASE REPEAT THE
14 QUESTION?

15 MR. EVANS: YES.

16 BY MR. EVANS:

17 Q I WANT TO KNOW WHICH OCCURRED FIRST.

18 A OKAY.

19 Q DID YOU LOOK AT THESE PHOTOGRAPHS FIRST
20 (INDICATING), THE ONES THAT ARE LOCATED IN PEOPLE'S 10
21 AND PEOPLE'S 11, OR DID SOMEONE IN YOUR FAMILY GO ON THE
22 INTERNET, LOOKING UP A PHOTOGRAPH OF MR. JAMES? WHICH
23 ONE OCCURRED FIRST?

24 MR. GOUDY: AGAIN, OBJECTION. SPECULATION.

25 THE COURT: IF YOU KNOW, MA'AM.

26 THE WITNESS: OKAY. THE LETTER WAS RECEIVED
27 FIRST. THEN THE DETECTIVE CAME TO SHOW US THE PICTURES,
28 TO RECOGNIZE THEM, AND WRITE DOWN OUR INITIALS. AND THEN

1 SOMEONE FROM MY FAMILY SAW HIM IN THE COMPUTER.

2 BY MR. EVANS:

3 Q OKAY. NOW, WHEN SOMEONE FROM YOUR FAMILY
4 WENT ON THE INTERNET, OBTAINED THE PHOTOGRAPH OF
5 MR. JAMES, DID YOU SEE THAT PHOTOGRAPH AFTER THEY LOOKED
6 IT UP?

7 A YES, BUT WE HAD ALREADY SEEN THESE
8 PICTURES.

9 Q OKAY. AND YOU DID SO AT THE SAME TIME OR
10 RIGHT AFTER THEY LOOKED IT UP ON THE INTERNET? FAIR
11 STATEMENT?

12 A WHETHER I DID IT AT THE SAME TIME AS THE
13 OTHERS DID IT?

14 Q OKAY. SOMEONE IN YOUR FAMILY WENT ON THE
15 INTERNET AND LOOKED UP MR. JAMES' PHOTO; CORRECT?

16 A OKAY. YES.

17 Q HOW SOON AFTER THAT POINT DID YOU LOOK AT
18 THE PHOTO OF MR. JAMES THAT WAS ON THE INTERNET?

19 A WE SAW THEM AT THAT MOMENT.

20 Q YOU ALL SAW IT TOGETHER?

21 A YES.

22 Q OKAY. AND WHEN YOU SAY YOU ALL SAW IT
23 TOGETHER, WHO ARE THE PEOPLE LOOKING AT THE PHOTOGRAPH ON
24 THE INTERNET TOGETHER? WHO WAS WITH YOU?

25 A ANNETTE, BRENDA. I DON'T REMEMBER IF MY
26 MOM WAS THERE. AND I.

27 Q YOUR MOM WAS POSSIBLY THERE?

28 A I DON'T REMEMBER.

1 Q NOW, YOU LIVE IN THE SAME HOUSE AS YOUR
2 MOM, STEPFATHER, AND YOUR SISTERS; CORRECT?

3 A THEY'RE MY STEPSISTERS.

4 Q OKAY.

5 A YES.

6 Q SO BRENDA AND ANNETTE ARE YOUR STEPSISTERS?

7 A YES, AND SO IS WALTER.

8 Q WALTER IS YOUR STEPBROTHER?

9 A CORRECT.

10 Q ALL RIGHT. AND WOULD YOU SAY THAT YOU'RE A
11 CLOSE FAMILY?

12 A CORRECT. YES.

13 Q YOU'RE VERY CLOSE, WOULD YOU SAY?

14 A YES.

15 Q YOU SHARE THINGS AMONGST ONE ANOTHER?

16 A YES.

17 Q OKAY.

18 A LIKE ANY FAMILY WOULD.

19 Q I AM TRYING TO UNDERSTAND NOW, YOU WALK
20 DOWN THE HALLWAY AND YOU SEE YOUR SISTER AND HER
21 CHILDREN, BRENDA AND HER CHILDREN ON THE FLOOR OF THE
22 HALLWAY; CORRECT?

23 A CORRECT.

24 Q AND AT THAT TIME YOU SEE AN INDIVIDUAL THAT
25 YOU DO NOT RECOGNIZE WHO YOU BELIEVE IS A SUSPECT IN THIS
26 CASE; CORRECT?

27 A OKAY. BUT I HAD ALREADY PICKED UP MY SON
28 AND TAKEN HIM TO MY BEDROOM, AND THEY HAD ALREADY GONE TO

1 PULL ME OUT OF MY BEDROOM BY THE TIME I SAW THAT.

2 Q OKAY. SO THE TWO PEOPLE YOU SAW IN THE
3 KITCHEN, ONE WEARING A MASK AND ONE WITHOUT A MASK, CAME
4 TO YOUR BEDROOM AS WELL, CORRECT, WITH YOUR MOTHER?

5 A OKAY. IN THE KITCHEN, IN THE HALLWAY I
6 ONLY SAW ONE. WHEN THEY CAME TO PULL ME OUT OF MY
7 BEDROOM, THERE WERE TWO PEOPLE THEN.

8 Q ALL RIGHT. WHEN YOU CAME OUT OF THE
9 BEDROOM, YOU SAW TWO ADDITIONAL PEOPLE OTHER THAN THE
10 PEOPLE YOU SAW IN THE KITCHEN INITIALLY; CORRECT?

11 A DO YOU MEAN WHEN I CAME OUT OF MY BEDROOM
12 IF I SAW TWO PEOPLE -- IF I SAW TWO ADDITIONAL PEOPLE WHO
13 WERE DIFFERENT?

14 Q THAT WERE NOT YOUR FAMILY MEMBERS,
15 CORRECT.

16 A OH, YES.

17 THE COURT: OR DO YOU MEAN DIFFERENT THAN THE TWO
18 PEOPLE WHO WERE IN THE KITCHEN?

19 MR. EVANS: BOTH.

20 THE COURT: WELL, THEY ARE TWO DIFFERENT
21 QUESTIONS. SO WHY DON'T WE START OVER.

22 BY MR. EVANS:

23 Q YOU SAW TWO PEOPLE IN THE KITCHEN WHO WERE
24 NOT FAMILY MEMBERS. ONE WAS WEARING A MASK, AND ONE WAS
25 NOT WEARING A MASK; CORRECT?

26 A OKAY. WHAT POINT ARE WE TALKING ABOUT?
27 WHEN IT ALL STARTED, WHEN I HADN'T GONE TO MY BEDROOM
28 YET?

1 Q YES.

2 A OKAY. IF WE ARE TALKING ABOUT THAT POINT,
3 I ONLY SAW ONE PERSON STANDING AT THE ENTRANCE TO THE
4 HALLWAY. THAT'S WHEN I WENT TO MY BEDROOM. WHEN I WAS
5 PULLED OUT, THAT'S WHEN I SAW TWO PEOPLE OUTSIDE OF MY
6 BEDROOM WHO WERE NOT MY FAMILY MEMBERS.

7 Q AND THOSE WERE THE SAME TWO PEOPLE THAT YOU
8 SAW IN THE KITCHEN PREVIOUSLY; CORRECT?

9 A I NEVER SAID I SAW TWO PEOPLE IN THE
10 KITCHEN WHEN IT ALL STARTED. THERE WAS ONLY ONE, THE
11 FIRST ONE I SAW.

12 Q I THOUGHT YOU SAID THAT THERE WERE TWO
13 PEOPLE, ONE WITH THE MASK AND ONE WITHOUT A MASK IN THE
14 KITCHEN.

15 A NO. THAT WAS WHEN THEY CAME TO PULL ME OUT
16 OF MY BEDROOM.

17 Q ALL RIGHT. THEN THE PERSON THAT YOU SAW IN
18 THE HALLWAY WHEN YOU WENT TO YOUR BEDROOM, WAS THAT A
19 DIFFERENT PERSON THAN THE TWO PEOPLE THAT YOU SAW AT YOUR
20 BEDROOM DOOR WITH YOUR MOTHER?

21 A NO. ONE OF THEM WAS THE SAME.

22 Q NOW, THE GENTLEMAN THAT YOU SAW IN THE
23 KITCHEN WHO WAS WEARING A MASK --

24 A YES.

25 Q -- SO WE ARE CLEAR, HE DIDN'T HAVE ANYTHING
26 ON HIS HANDS; CORRECT? NO GLOVES?

27 A OH, OKAY. HE HAD NO GLOVES ON. HE HAD A
28 WEAPON.

1 Q OKAY. HE WAS WITHOUT A GLOVE; CORRECT?

2 A CORRECT.

3 Q AND THAT INDIVIDUAL WHO WAS WEARING THE
4 MASK WHO HAD NO GLOVES ON, WHO YOU SAW INITIALLY IN THE
5 KITCHEN, WENT INTO YOUR BEDROOM; CORRECT?

6 A CORRECT. HE'S THE ONE THAT GRABBED THE
7 PHONE AND TOOK IT OFF THE HOOK.

8 Q AND HE DID SO WITH HIS BARE HAND; CORRECT?

9 A YES.

10 Q WHAT ELSE DID HE TOUCH WITH HIS HANDS THAT
11 YOU SAW ON THAT EVENING ON NOVEMBER 23RD, 2008?

12 A WHAT ELSE DID HE TOUCH?

13 Q YES, IN THE HOUSE.

14 A HE OPENED THE DOOR.

15 Q HOW MANY DOORS?

16 A MY BEDROOM DOOR.

17 Q AND WHEN YOU SAY HE OPENED IT, DID HE TOUCH
18 THE KNOB, GRIP IT, TOUCH IT, TURN IT, AND OPEN IT?

19 A WELL, THAT'S HOW YOU OPEN A DOOR.

20 Q I AM ASKING HOW HE DID IT ON THAT
21 PARTICULAR EVENING.

22 A I FIGURE THAT IS HOW HE OPENED IT. HE
23 OPENED IT FROM THE OUTSIDE, AND I WAS INSIDE.

24 Q WHEN HE WALKED INSIDE, YOU SAW HIS HAND ON
25 THE KNOB; CORRECT?

26 A I DON'T REMEMBER.

27 Q ALL RIGHT. BUT YOU'RE SURE HE TOUCHED THE
28 DOOR; RIGHT?

1 A I AM SURE HE OPENED THE DOOR. I AM SURE HE
2 TOOK THE PHONE OFF THE HOOK.

3 Q YOU SAW HIM TAKE THE PHONE OFF THE HOOK;
4 CORRECT?

5 A YES.

6 Q AND WHAT ELSE DID HE TOUCH IN THE HOUSE?

7 A WHAT ELSE DID HE TOUCH? THE SAFE.

8 Q HE TOUCHED THE SAFE. WHERE DID HE TOUCH
9 THE SAFE?

10 A WHEN THEY OPENED THE DOOR TO IT, WHEN MY
11 MOM PUNCHED IN THE PIN AND THEY OPENED THE DOOR.

12 Q SO WE ARE CLEAR, THERE IS A HANDLE ON THE
13 SAFE; RIGHT?

14 A CORRECT.

15 Q SO WHEN YOU WORKED THE COMBINATION TO THE
16 LOCK, THE IDEA IS TO TOUCH THE HANDLE AND OPEN IT;
17 RIGHT?

18 A YES.

19 Q AND HE TOOK HIS BARE HAND, TOUCHED THAT
20 HANDLE AND OPENED IT, RIGHT, AS FAR AS YOU REMEMBER?

21 A OKAY. MY MOM OPENED THE SAFE, BUT HE
22 PULLED THE DOOR OPEN COMPLETELY.

23 Q OKAY. WHEN YOU WERE SPEAKING TO THE
24 SHERIFF'S DEPUTIES ON NOVEMBER 23RD, 2008, DID YOU TELL
25 THEM THAT THE SUSPECT WHO WAS WEARING A MASK GRABBED THE
26 PHONE WITH HIS BARE HANDS?

27 A YES.

28 Q YOU'RE SURE ABOUT THAT?

1 A YES.

2 Q AND DID YOU TELL THEM THAT HE TOUCHED THE
3 SAFE HANDLE OR DOOR WITH HIS BARE HANDS?

4 A ABOUT THE SAFE? I DON'T REMEMBER, BUT I
5 DID TELL THEM THAT HE HAD GRABBED THE PHONE.

6 Q DID YOU TELL THEM THAT HE HAD OPENED THE
7 SAFE?

8 A NO. HE DID NOT OPEN IT. MY MOM WAS THE
9 ONE WHO PUNCHED IN THE PIN AND OPENED IT, BUT HE WAS
10 LOOKING FOR MONEY.

11 Q DID YOU TELL THE SHERIFF'S DEPUTIES THAT
12 THE GENTLEMAN WHO WAS WEARING THE MASK OPENED YOUR
13 BEDROOM DOOR?

14 A I DON'T REMEMBER.

15 Q DID YOU TELL THE SHERIFF'S DEPUTIES THAT
16 YOU COULD SEE HIS HANDS?

17 A YES.

18 Q YOU'RE SURE ABOUT THAT?

19 A YES, BECAUSE I TOLD THEM HE WAS
20 DARK-SKINNED.

21 Q WHERE IN THE HOUSE IS THE COMPUTER THAT HAS
22 ACCESS TO THE INTERNET WHERE YOU VIEWED MR. JAMES? WHERE
23 IN THE HOUSE WAS IT LOCATED?

24 A IN WALTER'S BEDROOM.

25 Q AND WHERE IS THE STUDY ON THE DIAGRAM
26 HERE?

27 A IT'S A BEDROOM. IT'S OVER HERE
28 (INDICATING).

1 Q IS THAT IN YOUR STEPBROTHER WALTER'S
2 BEDROOM?

3 A YES. YES.

4 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
5 WITNESS HAS POINTED TO AN AREA THAT HAS A DOOR THAT HAS
6 WRITTEN "BEDROOM" AND THE INITIALS W.G. ON IT.

7 THE COURT: THE RECORD WILL SO REFLECT.

8 BY MR. EVANS:

9 Q ON JULY 11TH, 2010 -- THAT MEANS LAST
10 MONTH -- DO YOU REMEMBER SPEAKING TO AN INVESTIGATOR OR
11 TWO INVESTIGATORS?

12 A LAST MONTH?

13 Q YES.

14 A THERE WAS AN INVESTIGATOR AND THE LADY.

15 Q THE LADY WAS WORKING WITH THE INVESTIGATOR,
16 INTERPRETING IN SPANISH; CORRECT?

17 A YES.

18 Q AND THEY TOLD YOU THEY WERE FROM MY OFFICE?

19 A YES.

20 Q AND WHEN YOU SPOKE TO THEM AT THAT TIME, DO
21 YOU REMEMBER THEM ASKING YOU QUESTIONS ABOUT THE INTERNET
22 PHOTOGRAPH OF MR. JAMES?

23 A YES.

24 Q DID YOU TELL THEM, MEANING THE INVESTIGATOR
25 AND THE WOMAN THAT WAS TRANSLATING FOR HIM, THAT YOU SAW
26 THE INTERNET PHOTOGRAPH PRIOR TO LOOKING AT THE SIX-PACK
27 PHOTOS THAT'S PEOPLE'S 10 AND 11 RIGHT IN FRONT OF YOU?

28 A IF I SAW THE PHOTOGRAPH BEFORE SEEING THIS

1 PACKET ON THE INTERNET?

2 THE COURT: THE QUESTION IS DID YOU TELL THEM THAT
3 YOU SAW THE PHOTO BEFORE YOU LOOKED AT THE PHOTOS THAT
4 ARE IN FRONT OF YOU ON PEOPLE'S 10 AND PEOPLE'S 11?

5 THE WITNESS: NO.

6 BY MR. EVANS:

7 Q NEVER?

8 A I TOLD THEM I SAW A PICTURE LATER. HE
9 ASKED US IF WE HAD SEEN ANY PICTURES.

10 Q MY QUESTION IS, DID YOU TELL THE
11 INVESTIGATOR AND THE WOMAN THAT WAS WITH HIM THAT YOU SAW
12 THE INTERNET PHOTOGRAPH OF MR. JAMES PRIOR TO VIEWING THE
13 PICTURES THAT ARE CONTAINED IN PEOPLE'S 10 AND
14 PEOPLE'S 11?

15 A NOT BEFORE. I TOLD THEM THAT WE SAW THE
16 PICTURE BUT --

17 THE INTERPRETER: YOUR HONOR, MAY THE INTERPRETER
18 INQUIRE?

19 THE COURT: YES.

20

21 (OFF-THE-RECORD DISCUSSION WAS
22 HELD BETWEEN THE INTERPRETER
23 AND WITNESS.)

24

25 THE WITNESS: THAT WE SAW THE PICTURE, BUT NOT
26 BEFORE WE SAW THIS ONE.

27 BY MR. EVANS:

28 Q DID YOU TELL THEM THAT YOU CHOSE THE

1 PHOTOGRAPH THAT YOU CIRCLED IN PEOPLE'S 11 BECAUSE YOU
2 HAD SEEN THE INTERNET PHOTOGRAPH BEFORE, AND YOU BASED
3 THE IDENTIFICATION UPON THE INTERNET PHOTOGRAPH?

4 A NO.

5 Q YOU INDICATED THAT YOU SAW A GENTLEMAN WHO
6 YOU BELIEVE WAS A MALE HISPANIC, IS THAT CORRECT, WHO
7 WAS -- THAT WAS A SUSPECT?

8 A YES.

9 Q WAS HE WEARING A MASK?

10 A NO.

11 Q WOULD IT BE FAIR TO SAY YOU ONLY SAW ONE
12 PERSON WEARING A MASK ON THE NIGHT OF NOVEMBER 3RD, 2008?

13 A THAT I AM SURE OF, YES.

14 MR. EVANS: YOUR HONOR, I NEED ONE OF THE
15 EXHIBITS.

16 THE CLERK: WHICH ONE?

17 MR. EVANS: PEOPLE'S 7.

18 MR. EVANS: SHOULD WE HAVE HER PUT ON GLOVES?

19 THE CLERK: I DON'T HAVE ANY GLOVES.

20 MR. EVANS: I CAN HANDLE IT. THAT'S FINE. IF SHE
21 IS MORE COMFORTABLE, WE CAN OFFER THEM TO HER.

22 THE WITNESS: WHAT IS THAT FOR?

23 BY MR. EVANS:

24 Q I AM GOING TO ASK YOU TO HANDLE A PIECE OF
25 EVIDENCE. I AM GOING TO GIVE YOU A CHOICE. I CAN PUT
26 THE GLOVES ON AND SHOW YOU THE ITEM, OR YOU CAN PUT THE
27 GLOVES ON AND LOOK AT THE ITEM. I WILL GIVE YOU THE
28 CHOICE. WHICH DO YOU FEEL MORE COMFORTABLE?

1 THE COURT: YOU MIGHT WANT TO TELL HER WHAT THE
2 ITEM IS.

3 MR. EVANS: THE ITEM IS A HAT.

4 THE WITNESS: WELL, BETTER THAT YOU HOLD IT.

5 BY MR. EVANS:

6 Q BETTER FOR ME TO HOLD IT?

7 THE COURT: AND AS FAR AS THE ITEM DESCRIPTION,
8 THE ITEM WILL SPEAK FOR ITSELF.

9 BY MR. EVANS:

10 Q I AM SHOWING YOU WHAT HAS BEEN PREVIOUSLY
11 MARKED PEOPLE'S 7. MAY I COME CLOSER TO SHOW YOU?

12 A YES.

13 MR. EVANS: IF I MAY.

14 MR. GOUDY: AND IF I MAY, YOUR HONOR.

15 THE COURT: YES.

16 BY MR. EVANS:

17 Q THIS APPEARS TO BE -- WELL, HOW WOULD YOU
18 DESCRIBE THIS?

19 A IT'S A BEANIE.

20 THE COURT: AND MR. EVANS HAS REMOVED THE ITEM
21 FROM THE BAG, AND HE IS HOLDING IT OUT FOR MS. JARDINES'
22 INSPECTION.

23 MR. EVANS: YES. I HAVE REMOVED THE ITEM THAT WAS
24 CONTAINED IN THE PACKAGE, THE ENVELOPE, PEOPLE'S 7, AND I
25 AM SHOWING IT TO THE WITNESS AT THIS TIME.

26 BY MR. EVANS:

27 Q THIS LOOKS LIKE A HAT?

28 A YES.

1 Q IT LOOKS LIKE THERE ARE TWO HOLES CUT IN
2 IT; RIGHT?

3 A YES.

4 Q AND ONE HOLE CUT BELOW IT; RIGHT?

5 A UH-HUH.

6 Q SO ON PEOPLE'S 7, YOU SEE A TOTAL OF THREE
7 HOLES; CORRECT?

8 A CORRECT.

9 Q NOW, AS YOU LOOK AT THIS ITEM, IS THIS THE
10 MASK THAT YOU SAW MR. JAMES WEARING ON NOVEMBER 23RD,
11 2008?

12 A I CAN'T SAY FOR SURE THAT THAT'S THE ONE HE
13 WAS WEARING.

14 Q DOES IT LOOK LIKE IT?

15 A IT DOES, BUT HIS MOUTH WAS NOT COVERED.

16 Q SO THE MASK THAT YOU SAW THE PERSON YOU
17 BELIEVED TO BE MR. JAMES WEARING HAD ONE MORE HOLE THAN
18 THIS ONE; CORRECT?

19 A CORRECT.

20 Q SO NOW LOOKING AT THIS, IN LIGHT OF THAT,
21 WOULD YOU SAY THAT THIS IS PROBABLY NOT THE MASK THAT YOU
22 SAW MR. JAMES WEARING?

23 MR. GOUDY: OBJECTION. CALLS FOR SPECULATION.

24 THE COURT: OVERRULED.

25 THE WITNESS: I CAN'T SAY -- I MEAN, I CAN'T SAY
26 ANYTHING FOR SURE.

27 BY MR. EVANS:

28 Q WELL, WHAT YOU CAN SAY FOR SURE IS THAT THE

1 MASK THAT YOU SAW MR. JAMES WEARING HAD HOLES CUT FOR THE
2 EYES; CORRECT?

3 A CORRECT.

4 Q A HOLE CUT FOR THE NOSE; CORRECT?

5 A CORRECT.

6 Q AND YOU CAN SAY FOR CERTAIN THAT THERE WAS
7 A HOLE CUT FOR HIS MOUTH; CORRECT?

8 A CORRECT.

9 Q AND WHAT WE CAN SAY FOR CERTAIN ABOUT
10 PEOPLE'S 7 IS THAT THERE'S HOLES CUT FOR THE EYES OR --
11 APPARENTLY FOR THE EYES; CORRECT?

12 A CORRECT.

13 Q AND THERE'S ONE THAT APPEARS TO BE CUT FOR
14 THE NOSE OR THE MOUTH; CORRECT?

15 A CORRECT.

16 Q AND THERE'S NO ADDITIONAL CUT HERE IN
17 PEOPLE'S 7 FOR THE MOUTH; CORRECT?

18 A CORRECT.

19 Q OKAY. SO THIS IS PROBABLY NOT THE MASK
20 THAT YOU SAW MR. JAMES WEARING; CORRECT?

21 MR. GOUDY: OBJECTION.

22 THE COURT: SUSTAINED. IT'S ASKED AND ANSWERED,
23 AND IT CALLS FOR SPECULATION.

24 MR. EVANS: I AM REPLACING THE ITEM BACK IN THE
25 EVIDENCE ENVELOPE. I HAVE GIVEN THE ENVELOPE TO
26 MR. GOUDY.

27 THE COURT: AND REMOVING YOUR GLOVES.

28 MR. EVANS: YES.

1 ONE MOMENT, YOUR HONOR. MAY I HAVE A
2 MOMENT?

3 THE COURT: YOU MAY.

4
5 (COUNSEL AND CLIENT CONFERRED
6 SOTTO VOCE.)

7
8 MR. EVANS: I HAVE NOTHING FURTHER AT THIS TIME,
9 SUBJECT TO RECALL.

10 THE COURT: REDIRECT EXAMINATION.

11
12 REDIRECT EXAMINATION

13 BY MR. GOUDY:

14 Q WHEN YOU WERE TALKING TO THE SHERIFFS THE
15 NIGHT THAT THIS HAPPENED, WERE THE EVENTS FRESHER IN YOUR
16 MIND THAN THEY ARE NOW?

17 A YES. AT THAT TIME, YES.

18 Q AND WHEN YOU WENT TO COURT AND TESTIFIED
19 THE FIRST TIME, WERE THE EVENTS FRESHER IN YOUR MIND THAN
20 THEY ARE NOW?

21 A YES. I MEAN, IT'S BEEN ALMOST TWO YEARS.

22 Q WHEN YOU TALKED TO DETECTIVE CHISM, WHEN HE
23 SHOWED YOU THOSE PHOTOGRAPHS, PEOPLE'S 10 AND 11, WERE
24 THE EVENTS FRESHER IN YOUR MIND THEN THAN THEY ARE NOW?

25 A AT THAT TIME, YES.

26 Q WHEN YOU SPOKE TO DETECTIVE CHISM WHEN
27 HE SHOWED YOU THESE PHOTOGRAPHS, PEOPLE'S 10 AND
28 PEOPLE'S 11, DID HE ASK YOU IF YOU HAD SEEN A PHOTOGRAPH

1 ON THE INTERNET?

2 A NO. I DON'T REMEMBER.

3 Q DID YOU TELL DETECTIVE CHISM THAT YOU DID
4 NOT SEE A PHOTOGRAPH ON THE INTERNET OF A PERSON NAMED
5 TAUMU JAMES?

6 A WELL, I HAD NO REASON TO TELL HIM THAT
7 BECAUSE I HADN'T SEEN IT YET.

8 Q THE MAN IN THE MASK -- WELL, THE DEFENDANT
9 DOWN THERE AT THE END OF THE TABLE, WHAT ELSE WAS HE
10 WEARING THAT NIGHT WHEN HE WAS AT YOUR HOUSE?

11 A HE WAS WEARING A DARK SWEATER. I AM NOT
12 SURE IF IT WAS BLACK OR BLUE.

13 Q WHAT KIND OF SWEATER? DID IT HAVE HOOD OR
14 NOT HAVE A HOOD?

15 A I DON'T REMEMBER.

16 Q WAS IT A V-NECK WHERE IT CAME DOWN, OR DID
17 IT COME UP ON HIS NECK?

18 A WHAT IS THE DIFFERENCE BETWEEN THEM?

19 Q ONE THAT COMES DOWN HIS CHEST, WHERE THE
20 COLLAR COMES DOWN TO A "V" ON HIS CHEST, OR DID THE
21 COLLAR GO UP TO HIS NECK?

22 A I DON'T REMEMBER.

23 Q WHEN YOU SAW THE DEFENDANT IN THE MASK, YOU
24 COULD SEE HIS EYES?

25 A CORRECT.

26 Q YOU COULD SEE HIS NOSE?

27 A CORRECT.

28 Q AND YOU COULD SEE HIS MOUTH?

1 A CORRECT.

2 Q COULD YOU TELL IF THE MASK HE WAS WEARING
3 WAS PULLED UP OVER HIS MOUTH?

4 A I DON'T REMEMBER, BUT I COULD SEE HIS
5 MOUTH.

6 Q DO YOU RECALL WHAT KIND OF PANTS HE WAS
7 WEARING?

8 A WELL, ONE OF THEM WAS WEARING JEANS, BUT I
9 AM NOT SURE IF IT WAS HIM.

10 Q SO YOU DON'T RECALL SPECIFICALLY WHAT THE
11 DEFENDANT WAS WEARING ON HIS LEGS?

12 A NO.

13 MR. GOUDY: NOTHING FURTHER.

14 THE COURT: RECROSS?

15 MR. EVANS: BRIEFLY.

16 THE COURT: OKAY.

17

18 RECROSS-EXAMINATION

19 BY MR. EVANS:

20 Q WHEN YOU TESTIFIED PREVIOUSLY IN EL MONTE
21 COURT, YOU INDICATED THAT YOU COULD SEE THE EYES, NOSE,
22 AND MOUTH OF THE INDIVIDUAL WHO WAS WEARING THE MASK;
23 CORRECT?

24 A CORRECT.

25 MR. EVANS: NOTHING FURTHER.

26 THE COURT: ANYTHING FURTHER, MR. GOUDY, AT THIS
27 TIME?

28 MR. GOUDY: NO, YOUR HONOR.

1 THE COURT: MA'AM, YOU MAY STEP DOWN, BUT YOU ARE
2 SUBJECT TO RECALL.

3 THE WITNESS: OKAY.

4 THE COURT: LADIES AND GENTLEMEN, WE WILL BE IN
5 RECESS.

6 NUMBER 12, GOOD LUCK ON YOUR FINAL.

7 ALL OF YOU ARE ORDERED BACK HERE TOMORROW
8 AT 10:45 IN THE MORNING. WE WILL SEE YOU ALL AT 10:45.

9 KEEP IN MIND THE COURT'S ADMONITION. THANK
10 YOU.

11
12 (THE FOLLOWING PROCEEDINGS
13 WERE HELD IN OPEN COURT
14 OUTSIDE THE PRESENCE OF THE
15 JURY:)

16
17 THE COURT: ALL OF OUR JURORS AND OUR WITNESS
18 HAVE NOW LEFT.

19 GENTLEMEN, THIS MAY RESOLVE HOW YOU HANDLE
20 THE ISSUE OF NUMBER 7. IF THERE IS A REQUEST TO HAVE A
21 DEMONSTRATION IN COURT AS FAR AS HAVING MR. JAMES PUT ON
22 THE MASK IN COURT, THE COURT IS NOT GOING TO ALLOW
23 MR. JAMES TO ACTUALLY PUT THE MASK ON IN COURT FOR THESE
24 REASONS, BUT THIS IS WHAT I WILL ALLOW:

25 DEMONSTRATIONS, REENACTMENTS, SIMULATIONS
26 ARE ADMITTED AT THE TRIAL COURT'S DISCRETION. THE
27 PROPONENT OF SUCH EVIDENCE BEARS THE BURDEN OF LAYING
28 ADEQUATE FOUNDATION TO SHOW THAT THE EXPERIMENT IS

1 RELEVANT, THE EXPERIMENT WAS OR WILL BE CONDUCTED UNDER
2 CONDITIONS SUBSTANTIALLY SIMILAR TO THOSE THAT EXISTED AT
3 THE TIME OF THE ACTUAL EVENT IN QUESTION. THE EXPERIMENT
4 WILL NOT CONSUME UNDUE TIME, CONFUSE THE ISSUES, OR
5 MISLEAD THE JURY. AND ANY EXPERT WHO CONDUCTS AND
6 TESTIFIES ABOUT THE EXPERIMENT POSSESSES THE PROPER
7 QUALIFICATIONS, AND THAT'S PEOPLE VERSUS TURNER, A 1994
8 CASE AT 8 CAL.4TH 137 AT PAGE 198, AND PEOPLE VERSUS
9 BONIN, A 1989 CASE AT 47 CAL.3RD 808, PAGE 847.

10 IN RULING ON THE ADMISSIBILITY OF A
11 REENACTMENT, THE COURT MUST DETERMINE WHETHER IT, ONE, IS
12 A REASONABLE REPRESENTATION OF WHAT IT PURPORTS TO
13 PORTRAY; AND TWO, WILL ASSIST THE JURORS IN DETERMINING
14 THE FACTS OF THE CASE AND WON'T MISLEAD THEM. THAT'S AT
15 PEOPLE VERSUS RODRIGUES, A 1994 CASE AT 8 CAL.4TH 1060 AT
16 PAGE 114 (SIC).

17 NOW, IN THIS PARTICULAR CASE, THE REASON
18 WHY I AM NOT GOING TO HAVE MR. JAMES PUT ON THE MASK IN
19 FRONT OF THE JURORS, WHETHER IT WAS THE DEFENSE TO
20 REQUEST IT OR WHETHER THE PEOPLE REQUEST IT, IS BECAUSE
21 WE ARE TALKING ABOUT A SWEATER HAT/CAP THAT CAN STRETCH
22 OR BE MANIPULATED IN DIFFERENT WAYS, AND I AM NOT GOING
23 TO HAVE -- IF THE DEFENSE SEEKS TO INTRODUCE IT, THEN
24 HAVE MR. GOUDY COMING OVER TO MR. JAMES AND SAYING, WELL,
25 IF CAN YOU PULL THE WHOLE DOWN FOR THE NOSE, CAN IT
26 STRETCH TO THE MOUTH, OR DO ALL SORTS OF MACHINATIONS IN
27 FRONT OF THE JURORS AT THIS PARTICULAR TIME FOR THE
28 EXPERIMENT. WE ARE NOT GOING TO DO THAT. I BELIEVE IT

1 WILL BE UNDULY TIME CONSUMPTIVE, AND IT CAN ALSO
2 POTENTIALLY MISLEAD THE JURORS, AND I DON'T WANT PEOPLE
3 SITTING THERE, RIGHT AT MR. JAMES, MANIPULATING AROUND
4 HIS FACE WITH SOME HAT. WHAT BOTH SIDES -- AND THIS IS
5 SEPARATE FROM THE ISSUE OF D.N.A. EVIDENCE STILL ON THE
6 HAT, SLASH, MASK, HOWEVER YOU WANT TO REFER TO IT.

7 WHAT I WILL ALLOW EITHER SIDE TO DO IS IF
8 YOU WANT TO GET A STYROFOAM HEAD FROM A WIG SHOP AND PUT
9 THE MASK ON THE HEAD TO SEE HOW IT WOULD FIT JUST WITH
10 REGARD TO SHOWING WHERE THE HOLES GENERALLY ARE AND HOW
11 THEY MIGHT STRETCH, EITHER ONE OF YOU CAN DO THAT. BUT
12 WE ARE NOT GOING TO HAVE MR. JAMES BE A LIVE MODEL.

13 SO I BELIEVE THAT THAT WILL TAKE AWAY ANY
14 POTENTIAL PREJUDICE TO EITHER SIDE AS FAR AS BEING
15 PROBATIVE, BECAUSE THE JURORS ARE NOT GOING TO BE ABLE TO
16 HAVE MR. JAMES BACK THERE AND TEST IT AND DO ALL SORTS OF
17 STUFF WITH MR. JAMES BACK THERE. SO WE ARE NOT GOING TO
18 HAVE THESE LIVE DEMONSTRATIONS HERE. IF YOU WANT TO SHOW
19 HOW IT MIGHT FIT ON A PERSON, YOU CAN BRING IN A
20 STYROFOAM HEAD.

21 MR. EVANS: BUT IT'S NOT A DEMONSTRATION. THIS
22 IS -- WE ARE NOT REENACTING SOMETHING. I MEAN, WE ARE
23 JUST SAYING THIS DOESN'T FIT.

24 THE COURT: IT'S A DEMONSTRATION. IT IS CLEARLY A
25 DEMONSTRATION, AND IT IS AT MY DISCRETION, AND THAT IS
26 WHAT I AM RULING. SO YOU CAN BRING IN THE STYROFOAM HEAD
27 IF YOU WANT.

28 MR. EVANS: WELL, I WILL HAVE TO GET ONE THE SAME

1 SIZE AS HIS HEAD FOR IT TO BE APPROPRIATE. SO NOW I HAVE
2 TO DO HEAD MEASUREMENTS AND SEE IF I CAN FIND THIS.

3 THE COURT: BECAUSE I AM SURELY NOT GOING TO ALLOW
4 MR. JAMES BACK THERE IN THE JURY ROOM IN CASE THE JURORS
5 WANT TO SEE THAT AGAIN. I AM NOT ALLOWING THAT.

6 MR. EVANS: OKAY. I MEAN, I DISAGREE WITH THE
7 COURT. I MEAN, IT'S INTERESTING THAT THE CASE CAME OUT
8 IN '94, AND THERE WAS NO PROBLEM OBVIOUSLY IN THE MOST
9 FAMOUS TRIAL IN THE PAST 25 YEARS.

10 THE COURT: I AM NOT SURE IF THERE WAS AN
11 OBJECTION MADE. AND WHAT HAPPENED IN ANOTHER COURT
12 DOESN'T NECESSARILY BIND THIS PARTICULAR COURT,
13 ESPECIALLY IN LIGHT OF THE ABSENCE OF ANY OBJECTION.

14 WHAT I AM SAYING IS ACTUALLY WHAT I HAVE
15 JUST SAID ON THE RECORD. SO IF YOU WANT TO BRING IN CASE
16 LAW THAT SAYS I AM WRONG, I WILL CERTAINLY BE HAPPY TO
17 RECONSIDER IT.

18 MR. EVANS: I AM JUST GOING TO NEED TO TAKE HIS
19 MEASUREMENTS. I AM NOT PREPARED TO DO THAT RIGHT NOW. I
20 HAVE GOT TO FIGURE OUT WHERE I CAN GET THIS STYROFOAM. I
21 MIGHT ADD A WITNESS.

22 THE COURT: I ALSO THINK BASED UPON WHAT THE
23 WITNESS TESTIFIED, THAT WHAT WAS CUT OUT WAS THE EYES,
24 NOSE, AND MOUTH, OBVIOUSLY THAT'S BEEN EXPLORED AT LENGTH
25 THE DIFFERENCE BETWEEN FOUR HOLES AND THREE HOLES.

26 HOW MUCH OF THE SKIN SHOWED AND THE NECK
27 DIDN'T SHOW, THOSE ARE ISSUES THAT THE JURY OBVIOUSLY CAN
28 CONSIDER, AND THAT'S SOMETHING THAT IS ADDRESSED WHEN YOU

1 BRING IN THE STYROFOAM HEAD.

2 IF YOU ARE GOING TO ASK THIS WITNESS TO
3 TAKE A LOOK AT MR. JAMES WITH A SKI MASK ON AND SAY IS
4 THAT THE PERSON THAT SHE SAW, THEN THAT'S A DEMONSTRATION
5 THAT IS NOT BEING COMMITTED UNDER THE SAME CIRCUMSTANCES
6 AS THE NIGHT IN QUESTION.

7 MR. EVANS: BUT WHAT IS DIFFICULT, YOUR HONOR, IN
8 THIS SITUATION, IS THAT THERE ARE CLAIMS REGARDING THE
9 SIZE OF THE HOLES WHICH -- AND THE SKIN THAT'S THERE AND
10 WHAT IS ABLE TO BE SEEN, WHICH WITHOUT PUTTING THAT ON
11 MR. JAMES' HEAD, IS ALMOST IMPOSSIBLE TO REALLY -- FOR ME
12 TO EVEN -- IT'S ALMOST SPECULATION ON THE PART OF THE
13 JURY TO CONSIDER THAT.

14 THE COURT: THE ITEM SPEAKS FOR ITSELF. THAT'S MY
15 RULING.

16 MR. EVANS: WOULD THE COURT CONSIDER A PHOTOGRAPH
17 TAKEN?

18 THE COURT: NO, ESPECIALLY SINCE WE ARE DEALING
19 WITH AN ITEM THAT STRETCHES.

20 MR. EVANS: AN ITEM THAT STRETCHES?

21 THE COURT: STRETCHES.

22 MOREOVER, I AM NOT CERTAIN -- YOU ARE
23 DEALING WITH WHAT APPEARS TO THE COURT THAT THIS WAS SOME
24 SORT OF BEANIE. THIS ISN'T LIKE A SKI MASK THAT WAS
25 FASHIONED AS A SKI MASK. HOLES WERE CUT INTO THIS. IT
26 HAS BEEN ALMOST TWO YEARS SINCE THIS INCIDENT. AND WHILE
27 I AM NOT SURE HOW MUCH YOU KNOW ABOUT SEWING, IT IS NOT
28 UNCOMMON IF YOU CUT SOME ITEM, PARTICULARLY OF A

1 SWEATER-TYPE MATERIAL, AND IT'S NOT STITCHED TO PREVENT
2 UNRAVELING, THAT THOSE HOLES MIGHT NOT HAVE CHANGED IN
3 SHAPE AND IN FORM SINCE THE ORIGINAL TIME THAT THOSE
4 CUTTINGS TOOK PLACE. AND SO I DON'T FIND THE
5 CIRCUMSTANCES ARE WHOLLY SIMILAR TO WHAT OCCURRED ON THAT
6 PARTICULAR NIGHT.

7 BUT I DO THINK WHERE THEY ARE ON A HUMAN
8 HEAD, WHERE THE HOLES ARE ON A HUMAN HEAD, HOW MUCH OF
9 THE SKIN MAY HAVE SHOWN CAN BE ADEQUATELY EXPLORED WITH A
10 STYROFOAM HEAD.

11 MR. EVANS: SO THE COURT, IF I AM ABLE TO FIND A
12 STYROFOAM HEAD THAT'S THE SAME SIZE AS MR. JAMES, WILL
13 ALLOW ME TO DO SO AND HAVE THE EVIDENCE REGARDLESS OF
14 MR. GOUDY PRESENT?

15 THE COURT: WHAT?

16 MR. EVANS: I CAN DO THAT WITHOUT MR. GOUDY BEING
17 PRESENT, AND I CAN MAKE THE DECISION WHETHER I AM GOING
18 TO INTRODUCE IT?

19 MR. GOUDY: I HAVE NO OBJECTION TO THAT BECAUSE
20 YOU CAN DO THAT --

21 THE COURT: THAT'S FINE. IF MR. GOUDY WANTS TO DO
22 THAT, HE CAN DO THAT. EITHER ONE.

23 MR. EVANS: OKAY.

24 (THE MATTER WAS CONTINUED
25 TO THURSDAY, AUGUST 5, 2010,
26 AT 10:45 A.M. FOR FURTHER
27 PROCEEDINGS.)

28 (THE NEXT PAGE NUMBER IS 1201.)

1 CASE NUMBER: KA085233
2 CASE NAME: PEOPLE VS. TAUMU JAMES
3 LOS ANGELES, CALIFORNIA THURSDAY, AUGUST 5, 2010
4 DEPARTMENT NO. 121 HON. CHARLAINE F. OLMEDO, JUDGE
5 REPORTER: KATHRYN L. MAUTZ, CSR NO. 11539
6 TIME: A.M. SESSION
7 APPEARANCES: (AS HERETOFORE NOTED.)
8

9 (A DISCUSSION WAS HELD BETWEEN
10 THE COURT AND COUNSEL WHICH
11 WAS NOT REPORTED.)
12

13 (WHEREUPON THE LUNCH RECESS
14 WAS TAKEN UNTIL 1:30 P.M.)
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 CASE NUMBER: KA085233
2 CASE NAME: PEOPLE VS. TAUMU JAMES
3 LOS ANGELES, CALIFORNIA THURSDAY, AUGUST 5, 2010
4 DEPARTMENT NO. 121 HON. CHARLAINE F. OLMEDO, JUDGE
5 REPORTER: KATHRYN L. MAUTZ, CSR NO. 11539
6 TIME: P.M. SESSION
7 APPEARANCES: (AS HERETOFORE NOTED.)
8

9 (THE FOLLOWING PROCEEDINGS
10 WERE HELD IN OPEN COURT IN
11 THE PRESENCE OF THE JURY:)
12

13 THE COURT: GOOD AFTERNOON, LADIES AND
14 GENTLEMEN. THANK YOU SO MUCH FOR YOUR PATIENCE TODAY.

15 WE ARE BACK ON THE RECORD WITH MR. JAMES,
16 AND BOTH COUNSEL ARE PRESENT. ALL OF OUR JURORS ARE
17 PRESENT.

18 AND YOU MAY CALL YOUR NEXT WITNESS,
19 MR. GOUDY.

20 MR. GOUDY: AT THIS TIME THE PEOPLE CALL ANNETTE
21 SAAVEDRA.
22

23 ANNETTE SAAVEDRA,
24 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND
25 TESTIFIED AS FOLLOWS:

26 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

27 YOU DO SOLEMNLY STATE THE TESTIMONY YOU ARE
28 ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT

1 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
2 TRUTH, SO HELP YOU GOD.

3 THE WITNESS: YES.

4 THE CLERK: THANK YOU.

5 HAVE A SEAT IN THE WITNESS STAND. PLEASE
6 PULL THE MICROPHONE UNDERNEATH YOUR CHIN.

7 PLEASE TELL US YOUR FULL NAME AND SPELL
8 YOUR FULL NAME.

9 THE WITNESS: ANNETTE SAAVEDRA. SAAVEDRA IS
10 S-A-A-V-E-D-R-A, COMMON SPELLING FOR ANNETTE.

11 THE CLERK: THANK YOU.

12 THE COURT: ALL RIGHT. YOU MAY BEGIN.

13 MR. GOUDY: THANK YOU, YOUR HONOR.

14
15 DIRECT EXAMINATION

16 BY MR. GOUDY:

17 Q MS. SAAVEDRA, ON NOVEMBER 23RD OF 2008,
18 WHERE DID YOU LIVE?

19 A THE ADDRESS?

20 Q YES.

21 A 14050 TRAILSIDE DRIVE, LA PUENTE,
22 CALIFORNIA.

23 Q THAT'S IN LOS ANGELES COUNTY?

24 A YES.

25 Q AND WHO DID YOU LIVE THERE WITH?

26 A MY DAD.

27 Q AND WHAT IS HIS NAME?

28 A RAFAEL GONZALEZ.

1 Q WHO ELSE LIVED AT THE HOUSE?

2 A EVERYBODY THAT LIVED IN THERE?

3 Q EVERYBODY.

4 A RAFAEL GONZALEZ, FELICITAS GONZALEZ, BRENDA
5 GONZALEZ, HENRY BARRAGAN -- NO. BRENDA BARRAGAN, HENRY
6 BARRAGAN, CHANTEL BARRAGAN, WALTER GONZALEZ, NANCY
7 JARDINES, NOA (PHONETIC) FERNANDEZ, FABIAN HERNANDEZ, AND
8 MY HUSBAND, WHICH IS JOSE SAAVEDRA, AND MY SON.

9 Q HOW OLD IS YOUR SON?

10 A NOW HE IS FOUR.

11 Q BACK THEN HE WAS TWO?

12 A YES.

13 Q AND AT ABOUT 8:45 IN THE EVENING ON
14 NOVEMBER 23RD OF 2008, DID SOMETHING UNUSUAL HAPPEN AT
15 YOUR HOUSE?

16 A YES.

17 Q WHAT HAPPENED?

18 A SOMEONE WENT IN OUR HOUSE WITH GUNS. AND I
19 WAS IN MY BEDROOM, PUTTING MY SON TO SLEEP WITH MY
20 HUSBAND, AND I HEARD SOME NOISES.

21

22 (THE WITNESS BEGINS TO CRY.)

23

24 BY MR. GOUDY:

25 Q JUST TAKE A SECOND.

26 A AND I PEEKED THROUGH THE WINDOW, AND I SAW
27 SOME MEN THAT WERE THERE.

28 Q NOW, LET'S BACK UP FOR A SECOND.

1 A OKAY.

2 Q NOW, YOU WERE IN YOUR BEDROOM WITH YOUR SON
3 AND YOUR HUSBAND; IS THAT CORRECT?

4 A YES.

5 Q NOW, CAN YOU SEE THIS DIAGRAM OVER HERE
6 (INDICATING)?

7 MR. GOUDY: IF I MAY APPROACH, YOUR HONOR.

8 THE COURT: YOU MAY.

9 BY MR. GOUDY:

10 Q LOOKING AT PEOPLE'S 1 FOR IDENTIFICATION,
11 DO YOU RECOGNIZE WHAT THIS IS A DIAGRAM OF?

12 A UH-HUH.

13 Q IS THAT "YES"?

14 A YES.

15 Q WHAT IS THIS A DIAGRAM OF?

16 A OUR HOUSE.

17 Q AND CAN YOU TELL ME WHERE YOUR BEDROOM IS?

18 A THIS IS MY BEDROOM (INDICATING).

19 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
20 WITNESS HAS POINTED TO AN AREA ON THE DIAGRAM THAT HAS
21 "BEDROOM" WRITTEN IN IT AND THE INITIALS "A.S."

22 THE WITNESS: YES.

23 THE COURT: THE RECORD WILL SO REFLECT.

24 BY MR. GOUDY:

25 Q AND THAT'S WHERE YOU WERE AT WITH YOUR
26 HUSBAND AND YOUR SON?

27 A YES.

28 Q NOW, DOES YOUR ROOM HAVE A WINDOW?

1 A YES, IT DOES.

2 Q DOES IT LOOK OUTSIDE OR INSIDE?

3 A IT LOOKS INSIDE.

4 Q INSIDE THE HOUSE?

5 A INSIDE THE HOUSE.

6 Q AND IS THAT WINDOW ON THE DIAGRAM?

7 A I BELIEVE IT'S THIS RIGHT HERE

8 (INDICATING).

9 Q THAT WOULD BE WHERE THE WINDOW IS IN THE
10 BEDROOM?

11 A WHERE THE WINDOW IS.

12 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
13 WITNESS HAS POINTED TO AN AREA THAT WOULD BE TO THE LEFT
14 OF THE INITIALS A.S., AND IT'S DESIGNATED BY TWO
15 HORIZONTAL LINES.

16 THE COURT: ALL RIGHT.

17 BY MR. GOUDY:

18 Q NOW, WHEN DID YOU FIRST BECOME AWARE THAT
19 THERE WERE PEOPLE IN YOUR HOUSE WHO WERE NOT YOUR FAMILY
20 MEMBERS?

21 A WHEN I PEEKED THROUGH THE WINDOW AND I
22 HEARD.

23 Q YOU HEARD? WHAT DID YOU HEAR?

24 A I HEARD SOMEBODY SAY, "GIVE ME THE FUCKING
25 MONEY." THAT'S WHEN I KNEW IT WASN'T NONE OF OUR FAMILY
26 MEMBERS.

27 Q NOW, WAS THAT BEFORE OR AFTER YOU LOOKED IN
28 THE WINDOW?

1 A THAT WAS BEFORE.

2 Q YOU HEARD SOMEBODY SAY THAT?

3 A YES.

4 Q THAT WINDOW, DOES IT HAVE SOME TYPE OF
5 WINDOW COVERING ON IT?

6 A DO YOU MEAN LIKE --

7 Q CURTAINS? BLINDS?

8 A BLINDS.

9 Q AND WERE THE BLINDS OPENED OR CLOSED?

10 A THEY WERE CLOSED.

11 Q WHEN YOU HEARD THE PERSON THAT WASN'T A
12 FAMILY MEMBER OF YOURS ASKING FOR THE FUCKING MONEY,
13 COULD YOU TELL WHERE THAT VOICE WAS COMING FROM?

14 A YES, I DID.

15 Q WHERE WAS THAT VOICE COMING FROM?

16 A THE BACK LIVING ROOM.

17 Q IS THAT THE ROOM THAT THE WINDOW -- THAT
18 SHARES THE WINDOW WITH YOUR ROOM?

19 A YES, IT DOES.

20 Q AND AT THAT POINT IN TIME, IS THAT WHEN YOU
21 LOOKED THROUGH THE WINDOW?

22 A YES.

23 Q DID YOU PULL UP THE BLIND, OR DID YOU JUST
24 LEAVE THEM OPEN?

25 A I JUST PEEKED.

26 Q AND WHAT DID YOU SEE?

27 A I SAW SOME MEN THERE WITH GUNS.

28 Q HOW MANY MEN?

1 A APPROXIMATELY FOUR.

2 Q AND WHEN YOU SAW THESE FOUR MEN, WHERE WERE
3 THEY AT?

4 A THEY WERE IN THE BACK LIVING ROOM, GOING
5 TOWARDS MY SISTER'S ROOM.

6 Q AND WHICH SISTER IS THAT?

7 A NANCY.

8 Q COULD YOU SEE NANCY AT THAT POINT?

9 A I DID NOT SEE NANCY AT THAT POINT.

10 Q DID YOU SEE NANCY AT ALL?

11 A NO. THE PERSON WHO I SAW WAS MY STEPMOM,
12 WHICH IS FELICITAS.

13 Q AND WHERE WAS FELICITAS?

14 A SHE WAS GOING TOWARDS NANCY'S ROOM.

15 Q AND WHERE WERE THE MEN IN RELATIONSHIP TO
16 FELICITAS?

17 A RIGHT THERE.

18 Q HOW MANY MEN WERE RIGHT THERE?

19 A APPROXIMATELY FOUR MEN.

20 Q WERE THEY ALL HUDDLED TOGETHER? WERE THEY
21 SEPARATED BY ANY DISTANCE?

22 A ALL I CAN REMEMBER WAS THAT THEY WERE ALL
23 THERE. LIKE, I JUST PEEKED RIGHT QUICK, AND I JUST SAW
24 THEM THERE.

25 Q AND AFTER YOU PEEKED RIGHT QUICK, WHAT DID
26 YOU DO?

27 A I GOT MY CELL PHONE, AND I CALLED 911.

28 Q DID YOU KEEP PEEKING THROUGH THE BLINDS?

1 A NO, I DIDN'T.

2 Q ABOUT HOW LONG WAS IT THAT YOU PEEKED
3 THROUGH THE BLINDS?

4 A HOW LONG DID I LOOK THROUGH THE BLINDS?

5 Q YES.

6 A I WOULD SAY WITHIN, LIKE, A MINUTE OR LESS
7 THAN A MINUTE.

8 Q AND DURING THAT TIME YOU WERE LOOKING AT
9 THE BLIND, DID YOU EVER SEE ONE OF THE MEN GO INTO
10 NANCY'S ROOM?

11 A YES, I DID.

12 Q DID YOU SEE NANCY COME OUT OF HER ROOM?

13 A NO, I DIDN'T.

14 Q HOW MANY MEN DID YOU SEE GO INTO NANCY'S
15 ROOM?

16 A I SAW ONE GO INTO HER ROOM.

17 Q AND WHEN THE MAN WENT INTO NANCY'S ROOM,
18 WHERE WERE THE OTHER MEN?

19 A THEY WERE OUTSIDE OF HER ROOM WITH
20 FELICITAS.

21 Q DID YOU EVER SEE ANY OF THOSE MEN LEAVE
22 THAT ROOM AND GO TO ANOTHER PART OF YOUR HOUSE?

23 A NO, I DIDN'T.

24 Q IS THAT WHEN YOU STOPPED LOOKING?

25 A YES. THAT'S WHEN I STOPPED LOOKING.

26 Q DID YOU HEAR ANYTHING ELSE OTHER THAN THE
27 FIRST THING OF SOMEBODY ASKING FOR THE MONEY?

28 A YES, I DID. I HEARD -- WHEN THEY -- WHEN I

1 WAS ON THE PHONE DIALING 911, I WAS TALKING TO THE
2 OPERATOR THERE, AND I HEARD THEM WALK IN THE KITCHEN
3 THROUGH THE HALLWAY THAT GOES INTO MY ROOM.

4 Q OKAY. YOU COULD HEAR THEM WALKING?

5 A I COULD HEAR THEM WALKING.

6 Q COULD YOU HEAR THEM SAY ANYTHING?

7 A I DON'T REMEMBER THAT, BUT I DID -- I DID
8 REMEMBER THAT I HEARD THEM WALKING TOWARDS MY BEDROOM,
9 AND THAT'S WHEN I TOLD THE OPERATOR THAT I HAD TO HANG UP
10 BECAUSE THEY WERE COMING TO GET ME.

11 Q WHILE THE MEN WERE IN YOUR HOUSE, DID YOU
12 EVER COME OUT OF YOUR ROOM?

13 A NO.

14 Q DID YOUR HUSBAND EVER LEAVE THE ROOM?

15 A NOT WHILE THE MEN WERE IN THERE.

16 Q WHAT ABOUT YOUR SON?

17 A NO.

18 Q WHEN YOU EVENTUALLY CAME OUT OF YOUR
19 ROOM --

20 A YES.

21 Q -- WHO IS THE FIRST PERSON YOU SAW?

22 A MY SISTER AND MY DAD.

23 Q PARDON?

24 A MY SISTER BRENDA AND MY DAD.

25 Q WHERE WERE THEY?

26 A THEY WERE STANDING IN FRONT OF MY SISTER'S
27 ROOM, MY SISTER BRENDA'S ROOM.

28 Q AND WHERE IS THAT IN RELATIONSHIP TO YOUR

1 ROOM?

2 A IF THIS IS (INDICATING) -- IF THIS IS THE
3 DOOR TO MY ROOM (INDICATING), I CAME -- WE CAME OUT OF MY
4 ROOM (INDICATING), AND THIS IS MY SISTER BRENDA'S ROOM
5 (INDICATING). THEY WERE STANDING HERE (INDICATING), IN
6 THE HALLWAY.

7 MR. GOUDY: FOR THE RECORD, THE WITNESS INDICATED
8 A DIAGONAL LINE IN THE AREA MARKED "BEDROOM" WITH THE
9 INITIALS "A.S." AND THEN SAID "THEY WERE RIGHT HERE" AND
10 PUT -- POINTED TO AN AREA WHICH IS AN OPENING JUST NEXT
11 TO THE AREA MARKED "BEDROOM" WITH THE INITIALS "B.B."

12 THE COURT: THE RECORD WILL SO REFLECT.

13 BY MR. GOUDY:

14 Q SO BRENDA'S ROOM IS ACROSS THE HALL FROM
15 YOURS AND ONE ROOM OVER; CORRECT?

16 A YES. YES.

17 Q DID YOU SEE CHANTEL OR HENRY?

18 A AT THAT MOMENT I DID NOT SEE THEM.

19 Q HOW LONG WERE YOU IN YOUR ROOM AFTER YOU
20 STOPPED LOOKING IN THE BLINDS BEFORE YOU CAME OUT?

21 A HOW LONG WAS I IN MY ROOM WHEN I --

22 Q AFTER YOU LOOKED IN THE BLIND, YOU STOPPED
23 LOOKING RIGHT THROUGH THE BLINDS?

24 A UH-HUH.

25 Q HOW LONG WAS IT FROM THAT POINT TO WHEN YOU
26 LEFT YOUR ROOM?

27 A IF I AM NOT MISTAKEN, IT WAS ABOUT FOUR OR
28 FIVE MINUTES.

1 Q WHEN YOU CAME OUT OF YOUR ROOM, DID YOU
2 COME OUT OF YOUR ROOM BY YOURSELF, OR DID YOU COME OUT
3 WITH YOUR HUSBAND AND YOUR SON?

4 A MY HUSBAND CAME OUT OF THE ROOM FIRST, AND
5 THEN I CAME OUT, AND THEN MY SON CAME OUT.

6 Q AND AFTER YOU CAME OUT OF THE ROOM, WHERE
7 DID YOU GO?

8 A WHEN I CAME OUT OF MY ROOM, I WAS IN THE
9 HALLWAY WITH MY SISTER, BRENDA, AND MY DAD.

10 Q AND DID YOU GUYS STAY IN THE HALLWAY, OR
11 DID YOU EVENTUALLY GO INTO OTHER PARTS OF THE HOUSE?

12 A WELL, WE WENT OUTSIDE, ACTUALLY, BECAUSE I
13 BELIEVE THE POLICE HAD ALREADY GOT THERE.

14 Q WHEN YOU CAME OUT OF YOUR ROOM, HAD THE
15 SHERIFF'S DEPUTIES ARRIVED?

16 A NO. NOT YET.

17 Q HOW LONG AFTER YOU CAME OUT OF YOUR ROOM
18 DID YOU REALIZE SHERIFF'S DEPUTIES WERE THERE?

19 A I WOULD SAY ABOUT THREE OR FOUR MINUTES
20 AFTER.

21 Q COULD YOU TELL BY LOOKING AT THE PEOPLE WHO
22 WERE IN YOUR HOUSE IF THEY WERE MALE OR FEMALE?

23 A YES.

24 Q AND THE FOUR PEOPLE THAT YOU SAW, WERE THEY
25 ALL MALE?

26 A YES.

27 Q COULD YOU TELL -- WERE ANY OF THEM WEARING
28 MASKS?

1 A YES.

2 Q HOW MANY?

3 A I BELIEVE TWO.

4 Q AND THE TWO THAT WEREN'T WEARING MASKS,
5 COULD YOU TELL WHAT RACE THEY WERE?

6 A YES.

7 Q WHAT RACE WERE THEY?

8 A ONE WAS MEXICAN, AND ONE WAS AFRO-AMERICAN.

9 Q AND THE TWO THAT WERE WEARING MASKS, WERE
10 YOU ABLE TO TELL WHAT RACE THEY WERE?

11 A YES.

12 Q HOW WERE YOU ABLE TO TELL WHAT RACE THEY
13 WERE?

14 A BECAUSE YOU COULD SEE THE SKIN (INDICATING)
15 IN THEIR EYES AND AROUND THE MOUTH (INDICATING).

16 Q SO EVEN THOUGH THEY HAD ON MASKS, YOU COULD
17 SEE PART OF THEIR FACE?

18 A YES.

19 Q WHICH PART?

20 A THE EYES, THE MOUTH.

21 Q ON BOTH MEN?

22 A I BELIEVE SO.

23 Q AND WHAT RACE WERE THEY?

24 A AFRO-AMERICAN.

25 Q BOTH OF THEM?

26 A YES.

27 Q AT SOME POINT IN TIME AFTER THIS
28 HAPPENED -- WELL, DO YOU KNOW DETECTIVE CHISM AND

1 DETECTIVE RICHARDSON?

2 A YES.

3 Q YOU KNOW WHICH ONE IS WHICH; CORRECT?

4 A YES.

5 Q ON JUNE 2ND OF 2009, DID DETECTIVE CHISM
6 COME TO YOUR HOUSE WITH SOME PHOTOGRAPHS FOR YOU TO LOOK
7 AT?

8 A YES.

9 Q AND WHEN HE CAME TO YOUR HOUSE TO SHOW YOU
10 THE PHOTOGRAPHS, DID YOU TELL THEM ABOUT A LETTER THAT
11 SOMEONE IN YOUR HOUSE HAD RECEIVED INDICATING THAT A
12 PERSON NAMED TAUMU JAMES MAY BE A SUSPECT IN YOUR CASE?

13 A YES.

14 Q DID HE ASK YOU ABOUT THE LETTER BEFORE YOU
15 TOLD HIM?

16 A NO.

17 Q DID YOU TELL DETECTIVE CHISM THAT BASED
18 UPON THE INFORMATION IN THAT LETTER THAT YOU WENT ON THE
19 INTERNET AND SAW A PICTURE OF A PERSON NAMED TAUMU JAMES?

20 A CAN YOU REPEAT THE QUESTION, PLEASE?

21 Q DID YOU TELL DETECTIVE CHISM THAT BASED
22 UPON THE INFORMATION IN THE LETTER THAT WAS RECEIVED AT
23 YOUR HOUSE THAT YOU WENT ON THE INTERNET AND SAW A
24 PICTURE OF TAUMU JAMES?

25 A YES.

26 Q PRIOR TO YOU TELLING HIM THAT, DID HE ASK
27 YOU IF YOU HAD DONE THAT?

28 A NO.

1 Q SO YOU OFFERED UP THE INFORMATION ON YOUR
2 OWN?

3 A YES, I DID.

4 Q DID YOU LOOK AT SOME PHOTOGRAPHS AFTER
5 TELLING THIS TO DETECTIVE CHISM?

6 A DID I SEE SOME PHOTOGRAPHS AFTER TELLING
7 HIM ABOUT THE LETTER?

8 Q YES.

9 A YES.

10 Q HE SHOWED THEM TO YOU; CORRECT?

11 A HE SHOWED THEM TO ME, YES.

12 MR. GOUDY: MAY I APPROACH, YOUR HONOR?

13 THE COURT: YOU MAY.

14 BY MR. GOUDY:

15 Q SHOWING YOU WHAT HAS BEEN MARKED AS
16 PEOPLE'S 10 FOR IDENTIFICATION, DO YOU RECOGNIZE WHAT
17 THIS (INDICATING) IS?

18 A YES.

19 Q WHAT IS THIS?

20 A IT'S THE DIAGRAM THAT THE DETECTIVE SHOWED
21 US.

22 Q IN THE PHOTOGRAPHS THAT DETECTIVE CHISM
23 SHOWED YOU?

24 A YES.

25 Q AND IT WAS BASICALLY JUST LIKE THIS
26 (INDICATING); RIGHT?

27 A YES.

28 Q DO YOU RECALL PICKING OUT ONE OF THOSE

1 PHOTOGRAPHS?

2 A YES.

3 Q DO YOU RECALL WHICH ONE YOU PICKED OUT?

4 A I BELIEVE I PICKED THIS ONE (INDICATING).

5 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
6 WITNESS HAS POINTED TO THE PHOTOGRAPH WHICH IS IN THE
7 BOTTOM ROW, ON THE LEFT.

8 THE COURT: THE RECORD WILL SO REFLECT.

9 BY MR. GOUDY:

10 Q AND WHEN YOU PICKED OUT THAT PHOTOGRAPH,
11 DID YOU TELL DETECTIVE CHISM WHY YOU WERE PICKING OUT
12 THAT PHOTOGRAPH?

13 A DID I TELL HIM WHY I WAS --

14 Q OR WHERE YOU HAD SEEN THAT PERSON BEFORE?

15 A YES.

16 Q WHAT DID YOU TELL HIM?

17 A I TOLD HIM THAT I HAD WENT ON THE INTERNET
18 AND SAW A PICTURE.

19 Q AND THAT WAS THE PERSON IN THE PICTURE?

20 A AND THAT WAS THE PERSON IN THE PICTURE.

21 Q WHEN YOU TALKED TO DETECTIVE CHISM, WHO
22 ELSE WAS THERE FROM YOUR FAMILY?

23 A WHEN I IDENTIFIED THE PICTURE?

24 Q YES.

25 A NOBODY ELSE WAS THERE.

26 Q YOU WERE SEPARATE?

27 A I WAS SEPARATE.

28 Q WHO ELSE WAS AT THE HOUSE AT THAT TIME?

1 A I DON'T REMEMBER WHO ELSE WAS AT THE HOUSE
2 AT THAT TIME.

3 Q AND WHAT ABOUT WHEN YOU WERE -- WHEN YOU
4 LOOKED AT THE PHOTOGRAPH ON THE INTERNET, WHO WAS THERE?

5 A WHO WAS ON THE PICTURE OF THE INTERNET?

6 Q YES.

7 A THE GUY THAT --

8 Q NO. WHO ELSE WAS AT YOUR HOUSE? WHO ELSE
9 WAS WITH YOU?

10 A OH, LOOKING AT THE PICTURE?

11 Q YES.

12 A IT WAS FELICITAS, AND I BELIEVE NANCY AND
13 BRENDA WERE THERE.

14 Q AND WHEN YOU TALKED TO DETECTIVE CHISM, YOU
15 TOLD THEM THE TRUTH ABOUT GOING ON THE INTERNET, AND
16 THAT'S WHY YOU WERE PICKING OUT THE PHOTOGRAPH; CORRECT?

17 A YES. I TOLD THEM THE TRUTH.

18 Q AND WERE THE EVENTS FRESHER IN YOUR MIND AT
19 THAT TIME THAN THEY ARE TODAY?

20 A YES, THEY WERE.

21 Q ABOUT HOW MUCH TIME PASSED FROM WHEN YOU
22 LOOKED AT THE PHOTOGRAPH ON THE INTERNET TO WHEN
23 DETECTIVE CHISM CAME AND SHOWED YOU THE PHOTOGRAPHS?

24 A HONESTLY, I DON'T REMEMBER.

25 Q WELL, CAN YOU SAY IF IT WAS THE NEXT DAY?

26 A I DON'T REMEMBER IF IT WAS THE NEXT DAY,
27 BUT IT WASN'T THAT LONG. IT WASN'T, LIKE, MONTHS. YOU
28 KNOW, IT WAS A COUPLE DAYS OR -- EXACTLY, I DON'T KNOW

1 HOW MANY DAYS IT WAS BUT --

2 Q A FEW DAYS?

3 A YES.

4 Q AND THE PERSON THAT YOU PICKED OUT IN
5 PEOPLE'S 10 FOR IDENTIFICATION, IS THAT PERSON IN THE
6 ROOM RIGHT NOW?

7 A YES.

8 Q WHERE IS HE SITTING, AND WHAT IS HE WEARING
9 RIGHT NOW?

10 A HE'S SITTING OVER THERE (INDICATING) WITH
11 THE RED TIE.

12 THE COURT: INDICATING MR. JAMES FOR THE RECORD.

13 MR. GOUDY: NOTHING FURTHER.

14 THE COURT: CROSS-EXAMINATION.

15 MR. EVANS: THANK YOU, YOUR HONOR.

16

17 CROSS-EXAMINATION

18 BY MR. EVANS:

19 Q ON NOVEMBER 23RD, 2008, AFTER YOU SAW THE
20 PEOPLE THAT YOU DIDN'T RECOGNIZE IN YOUR HOUSE, YOU
21 STAYED IN THE BEDROOM THE WHOLE TIME UNTIL THEY HAD LEFT
22 YOUR HOUSE; CORRECT?

23 A CORRECT.

24 Q AS DID YOUR HUSBAND; CORRECT?

25 A CORRECT.

26 Q AND AS DID YOUR SON; CORRECT?

27 A YES.

28 Q NOW, AFTER THE INCIDENT, SHERIFF'S DEPUTIES

1 ARRIVED AT YOUR HOUSE?

2 A AFTER THE INCIDENT, YES.

3 Q AND WOULD YOU SAY -- HOW MUCH TIME HAD
4 ELAPSED BETWEEN THE TIME THAT YOU HAD WALKED OUT OF YOUR
5 BEDROOM UNTIL THE TIME THAT YOU SAW SHERIFF'S DEPUTIES AT
6 THE HOUSE?

7 A AFTER I WALKED OUT OF MY BEDROOM, IT WAS
8 ABOUT FOUR OR FIVE MINUTES.

9 Q AND AT THAT TIME DID YOU HAVE AN
10 OPPORTUNITY TO SPEAK WITH SHERIFF DEPUTIES ABOUT WHAT YOU
11 SAW OR WITNESSED JUST PREVIOUSLY?

12 A IF I SPOKE TO THE DEPUTIES? YES, I DID.

13 Q AND DID YOU RELATE TO THEM BASICALLY
14 EVERYTHING THAT YOU TOLD US HERE TODAY?

15 A YES.

16 Q DID YOU TELL THE SHERIFF'S DEPUTIES THAT
17 YOU WERE ABLE TO SEE THE EYES AND THE MOUTHS OF THE
18 INDIVIDUALS WHO WERE WEARING MASKS?

19 A I BELIEVE I DID. I DON'T REMEMBER.

20 Q YOU DON'T RECALL?

21 A NO. IT WAS ALMOST TWO YEARS AGO.

22 Q BUT YOU BELIEVE YOU DID?

23 A I BELIEVE I DID.

24 Q ON JUNE 2ND, 2009, DETECTIVE CHISM CAME TO
25 YOUR HOUSE; IS THAT CORRECT?

26 A YES.

27 Q AND AT THAT TIME, HE WAS GOING TO SHOW
28 YOU -- HE TOLD YOU HE WAS GOING TO SHOW YOU SOME

1 PHOTOGRAPHS; IS THAT CORRECT?

2 A YES.

3 Q AND IT WAS THE PHOTOGRAPHS THAT ARE
4 CONTAINED HERE IN PEOPLE'S 10; IS THAT CORRECT?

5 A THIS IS WHAT HE SHOWED US, YES.

6 Q IS THAT THE ONLY GROUP OF PHOTOGRAPHS THAT
7 YOU VIEWED ON JUNE 2ND, 2009?

8 A WHAT DO YOU MEAN? IF IT'S -- IF THIS WAS
9 THE ONLY THING WE SAW?

10 Q YES.

11 A I BELIEVE SO.

12 Q NOW, IT WOULD BE FAIR TO SAY THAT DETECTIVE
13 CHISM DID NOT HAVE YOU CIRCLE ANY OF THE PHOTOGRAPHS ON
14 THE PAGE; IS THAT CORRECT? DID HE ASK YOU TO CIRCLE A
15 PHOTOGRAPH ON THE PAGE THAT YOU RECOGNIZED?

16 A OF THAT DAY?

17 Q YES.

18 A DID HE ASK US TO CIRCLE -- TO IDENTIFY,
19 YES.

20 Q WELL, I AM ASKING YOU IF HE ASKED YOU TO
21 CIRCLE A PHOTOGRAPH THAT YOU RECOGNIZED ON THAT PAGE.

22 A I BELIEVE SO.

23 Q DID YOU CIRCLE A PHOTOGRAPH ON THAT DAY?

24 A I POINTED IT OUT, YEAH, WHICH ONE IT WAS,
25 YEAH.

26 Q AND THAT MEANS THAT YOU USED YOUR FINGER
27 AND YOU POINTED ON THE PIECE OF PAPER TO THE PHOTOGRAPH
28 THAT YOU RECOGNIZED; CORRECT?

1 A YES.

2 Q DID YOU ACTUALLY TAKE A PEN OR A PENCIL AND
3 CIRCLE THE PHOTOGRAPH?

4 A I HONESTLY DON'T REMEMBER THAT.

5 Q NOW, WAS IT PRIOR TO LOOKING AT THE
6 PHOTOGRAPHS THAT YOU INDICATED YOU TOLD DETECTIVE CHISM
7 THAT YOU HAD READ A LETTER? WHAT HAPPENED FIRST? DID
8 YOU LOOK AT THOSE PHOTOGRAPHS, OR DID YOU TELL DETECTIVE
9 CHISM ABOUT THE LETTER?

10 A I BELIEVE I SAW THE PICTURES FIRST AND THEN
11 TOLD HIM ABOUT THE LETTER.

12 Q AND IN THE LETTER IT WAS YOUR
13 UNDERSTANDING, FROM WHAT YOU REMEMBER, THAT YOU TOLD
14 DETECTIVE CHISM YOU REMEMBER RECEIVING A LETTER ABOUT A
15 GENTLEMAN BY THE NAME OF TAUMU JAMES, WHO IN THE LETTER
16 IT WAS INDICATED HE MIGHT BE A SUSPECT IN THE CASE THAT
17 YOU ARE TESTIFYING ABOUT HERE TODAY; CORRECT?

18 A CAN YOU REPEAT THE QUESTION, PLEASE?

19 Q OF COURSE. YOU TOLD DETECTIVE CHISM THAT
20 THE LETTER BASICALLY SAID TAUMU JAMES IS A SUSPECT IN A
21 CASE THAT YOU WERE INVOLVED WITH THAT OCCURRED ON
22 NOVEMBER 23RD, 2008?

23 A I BELIEVE SO.

24 Q AND THEN YOU TOLD HIM THAT AFTER THAT, YOU
25 WENT ON THE INTERNET TO LOOK UP MR. JAMES' PHOTOGRAPH;
26 CORRECT?

27 A I IDENTIFIED THE PICTURE FIRST, AND THEN I
28 TOLD HIM ABOUT THE LETTER.

1 Q AND THEN AFTER THAT DID YOU TELL HIM ABOUT
2 THE SEARCH THAT YOU DID ON THE INTERNET TO LOOK UP
3 MR. JAMES' PHOTOGRAPH?

4 A YES.

5 Q WHEN DID YOU SEARCH THE INTERNET TO LOOK AT
6 MR. JAMES' PHOTOGRAPH?

7 A I DON'T RECALL.

8 Q WHEN DID YOU RECEIVE THE LETTER AND READ IT
9 FOR THE FIRST TIME?

10 A I DON'T REMEMBER THAT.

11 Q ALL YOU CAN SAY AT THIS POINT IS THAT YOU
12 RECEIVED THE LETTER, READ IT, AND WENT ON THE INTERNET
13 PRIOR TO JUNE 2ND, 2009; CORRECT?

14 A THAT I RECEIVED THE LETTER FIRST? I AM
15 SORRY. CAN YOU REPEAT THE QUESTION?

16 Q YOU RECEIVED THE LETTER BEFORE JUNE 2ND,
17 2009. YOU CAN TELL US THAT; CORRECT?

18 A UH-HUH.

19 THE COURT: IS THAT "YES"?

20 THE WITNESS: YES.

21 BY MR. EVANS:

22 Q YES? IS THAT "YES"?

23 A OKAY. IF I RECEIVED THE LETTER BEFORE
24 JUNE 2ND? IS THAT WHAT YOU'RE ASKING ME?

25 Q JUNE 2ND, 2009, YES, THAT'S WHAT I AM
26 ASKING.

27 A BEFORE DETECTIVE CHISM CAME AND BROUGHT
28 THIS TO US, THIS DIAGRAM (INDICATING) WITH THE PICTURES?

1 IS THAT WHAT YOU'RE ASKING ME?

2 Q YES.

3 A YES.

4 Q YES, YOU RECEIVED THE LETTER BEFORE JUNE
5 2ND, 2009; CORRECT?

6 A YES.

7 MR. GOUDY: FOR THE RECORD, THE WITNESS HAS
8 INDICATED PEOPLE'S 10 WHEN SHE SAID "THIS DIAGRAM."

9 THE COURT: YES.

10 BY MR. EVANS:

11 Q AND YOU WENT ON THE INTERNET TO LOOK UP
12 MR. JAMES' PHOTOGRAPH PRIOR TO JUNE 2ND, 2009; CORRECT?

13 A YES.

14 Q WHEN YOU READ THE LETTER, WAS THAT THE
15 FIRST TIME YOU HAD HEARD THE NAME TAUMU JAMES?

16 A I BELIEVE SO.

17 Q NOW, WHEN YOU WENT ON THE INTERNET, HOW
18 MANY TIMES DID YOU GO ON THE INTERNET TO LOOK UP
19 MR. JAMES' PHOTOGRAPH?

20 A ONCE.

21 Q AND THAT WAS THE ONLY TIME?

22 A YES.

23 Q AND AT THAT TIME, WHEN YOU WERE LOOKING AT
24 THE PHOTOGRAPH, FELICITAS GONZALEZ WAS WITH YOU; IS THAT
25 CORRECT?

26 A YES.

27 Q NANCY JARDINES WAS WITH YOU?

28 A I BELIEVE SO.

1 Q AND BRENDA BARRAGAN WAS WITH YOU AS WELL;
2 IS THAT CORRECT?

3 A YES.

4 Q AND YOU'RE SURE ABOUT THAT; CORRECT?

5 A YES.

6 Q NOW, WHEN DETECTIVE CHISM WAS THERE WITH
7 YOU, YOU INFORMED HIM THAT YOU COULD NOT SPECIFICALLY
8 IDENTIFY ANY OF THE SUSPECTS THAT WERE IN YOUR HOUSE ON
9 NOVEMBER 23RD, 2008; IS THAT CORRECT?

10 A WHEN DETECTIVE CHISM WAS THERE THAT DAY ON
11 JUNE 2ND? IS THAT WHAT YOU'RE TALKING ABOUT?

12 Q YES.

13 A THE ONLY PERSON I CAN IDENTIFY IS THE
14 PERSON THAT I SAW ON THE INTERNET.

15 Q SO ALL YOU COULD DO WAS SAY, "I SAW A
16 PHOTOGRAPH OF MR. JAMES ON THE INTERNET"; CORRECT?

17 A YES.

18 Q AND BASED UPON VIEWING THAT INTERNET
19 PHOTOGRAPH, YOU PICKED OUT -- YOU PICKED THE PHOTO IN
20 PEOPLE'S 10; CORRECT?

21 A CORRECT.

22 Q SO THAT WAS BASED SOLELY UPON WHAT YOU SAW
23 ON THE INTERNET; CORRECT?

24 A CORRECT.

25 Q SO WHAT I AM ASKING YOU IS, WHEN YOU SPOKE
26 TO DETECTIVE CHISM, DID YOU ALSO INDICATE TO HIM THAT YOU
27 COULD NOT IDENTIFY ANY OF THE SUSPECTS THAT WERE IN YOUR
28 HOUSE ON NOVEMBER 23RD, 2008?

1 MR. GOUDY: OBJECTION. ASKED AND ANSWERED.

2 THE COURT: OVERRULED.

3 YOU MAY ANSWER, MA'AM.

4 THE WITNESS: CAN YOU REPEAT THE QUESTION?

5 MR. EVANS: I WOULD LIKE TO HAVE IT READ BACK,
6 PLEASE.

7 THE COURT: ALL RIGHT.

8

9 (THE RECORD WAS READ.)

10

11 THE WITNESS: I CAN ONLY IDENTIFY, LIKE I SAID,
12 THE PERSON THAT I SAW ON THE INTERNET.

13 MR. EVANS: WOULD YOU ASK THE WITNESS TO ANSWER MY
14 QUESTION?

15 THE COURT: I THINK SHE IS DOING THE BEST SHE CAN.
16 IF YOU WANT TO ASK IT A DIFFERENT WAY, I WILL GIVE YOU
17 SOME LEEWAY.

18 BY MR. EVANS:

19 Q DID YOU TELL DETECTIVE CHISM THAT YOU COULD
20 NOT IDENTIFY TAUMU JAMES AS ONE OF THE PEOPLE WHO WAS
21 INSIDE YOUR HOUSE ON NOVEMBER 23RD, 2008? YES OR NO?

22 A I TOLD HIM THAT I CAN ONLY -- I CAN
23 IDENTIFY THE PERSON THAT I SAW ON THE INTERNET. I AM NOT
24 GOING TO SAY YES OR NO TO THAT, BECAUSE I DID SEE
25 SOMEBODY ON THE INTERNET.

26 Q I AM ASKING YOU DID YOU TELL DETECTIVE
27 CHISM YOU COULD NOT IDENTIFY MR. JAMES AS A PERSON BEING
28 INSIDE YOUR HOUSE ON NOVEMBER 23RD, 2008? DID YOU TELL

1 HIM THAT?

2 THE COURT: AND MA'AM, THE QUESTION ACTUALLY CALLS
3 FOR WHAT YOU TOLD THE DETECTIVE AS OPPOSED TO WHAT YOU
4 MAY HAVE SEEN OR WHEN YOU SAW IT. SO THE QUESTION IS DID
5 YOU TELL DETECTIVE CHISM --

6 THE WITNESS: I DON'T REMEMBER.

7 THE COURT: ALL RIGHT.

8 MR. EVANS: ONE MOMENT, YOUR HONOR.

9

10 (SHORT PAUSE IN THE PROCEEDINGS.)

11

12 MR. EVANS: NOTHING FURTHER AT THIS TIME.

13 THE COURT: ALL RIGHT. THANK YOU.

14 REDIRECT.

15 MR. GOUDY: NO, YOUR HONOR. NO FURTHER
16 QUESTIONS.

17 THE COURT: ALL RIGHT. THANK YOU, MA'AM. YOU MAY
18 STEP DOWN.

19 PEOPLE, YOU MAY CALL YOUR NEXT WITNESS.

20 MR. GOUDY: FELICITAS GONZALEZ.

21

22 (MINERVA CLEMENTS, INTERPRETING FOR
23 THE WITNESS ENGLISH INTO SPANISH
24 AND SPANISH INTO ENGLISH.)

25

26 FELICITAS GONZALEZ,
27 CALLED AS A WITNESS BY THE PEOPLE, WAS SWORN AND
28 TESTIFIED THROUGH THE INTERPRETER AS FOLLOWS:

1 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

2 YOU DO SOLEMNLY STATE THE TESTIMONY YOU ARE
3 ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
4 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
5 TRUTH, SO HELP YOU GOD.

6 THE WITNESS: YES.

7 THE CLERK: THANK YOU. HAVE A SEAT IN THE WITNESS
8 STAND.

9 THROUGH THE INTERPRETER, PLEASE TELL US
10 YOUR FULL NAME AND SPELL YOUR FULL NAME.

11 THE WITNESS: FELICITAS GONZALEZ.

12 THE INTERPRETER: YOUR HONOR, INTERPRETER
13 SPELLING, FELICITAS, F-E-L-I-C-I-T-A-S, GONZALEZ,
14 G-O-N-Z-A-L-E-Z.

15 THE COURT: THANK YOU.

16 PEOPLE, YOU MAY BEGIN.

17 MR. GOUDY: THANK YOU, YOUR HONOR.

18

19 DIRECT EXAMINATION

20 BY MR. GOUDY:

21 Q MS. GONZALEZ, ON NOVEMBER 23RD, 2008, WHERE
22 DID YOU LIVE?

23 A AT TRAILSIDE, CITY OF INDUSTRY.

24 Q WHO DID YOU LIVE THERE WITH?

25 A MY HUSBAND, MY CHILDREN, AND MY
26 GRANDCHILDREN.

27 Q AND HOW MANY CHILDREN?

28 A NANCY, BRENDA, ANNETTE, AND ALAN, WALTER

1 ALAN.

2 Q AND HOW MANY GRANDCHILDREN WERE THERE?

3 A AND MY SON-IN-LAW. YES, MY SON-IN-LAW.

4 Q AND YOUR GRANDCHILDREN, HOW MANY

5 GRANDCHILDREN WERE IN THE HOUSE?

6 A FIVE.

7 Q AT ABOUT 8:45 ON NOVEMBER 23RD, 2008, DID

8 ANYTHING UNUSUAL HAPPEN?

9 A YES.

10 Q WHAT HAPPENED?

11 A SOME MASKED MEN CAME IN, BROKE IN.

12 Q AND WHEN THE MASKED MEN CAME IN, WHERE WERE

13 YOU IN THE HOUSE?

14 A I WAS -- I EXITED MY BEDROOM, AND I SAW ONE

15 OF THEM. I ENCOUNTERED ONE OF THEM IN THE HALLWAY.

16 Q WHAT MADE YOU COME OUT OF YOUR BEDROOM?

17 A MY GRANDSON WENT OUT RUNNING, AND I WENT

18 AFTER HIM.

19 Q WHEN YOUR GRANDSON WENT OUT RUNNING, HAD

20 YOU BECOME AWARE THAT THERE WERE INTRUDERS IN YOUR

21 HOUSE?

22 A NO.

23 Q AND WHICH GRANDSON WAS THIS?

24 A FABIAN.

25 THE INTERPRETER: F-A-B-I-A-N.

26 BY MR. GOUDY:

27 Q AND WHO IS HIS MOTHER?

28 A NANCY.

1 Q WHEN YOU SAW THE FIRST INTRUDER, THE
2 MASKED MAN, WHERE WAS THE MASKED MAN STANDING?

3 A HE WAS WALKING. HE WALKED IN THE HALLWAY;
4 AND AS I CAME OUT, I ENCOUNTERED HIM IN THE HALLWAY.

5 Q NOW, IS THIS THE HALLWAY (INDICATING) THAT
6 COMES FROM THE LIVING ROOM TO YOUR BEDROOM OR THE HALLWAY
7 BETWEEN THE BEDROOMS AND THE BATHROOM?

8 A IT'S LIKE THIS AND LIKE THIS (INDICATING),
9 AND MY BEDROOM IS IN THE CORNER.

10 MR. GOUDY: MAY I APPROACH, YOUR HONOR?

11 THE COURT: YOU MAY.

12 BY MR. GOUDY:

13 Q CAN YOU SEE THE DIAGRAM I AM POINTING TO
14 RIGHT NOW (INDICATING)? DO YOU SEE THIS DIAGRAM?

15 A UH-HUH, YES.

16 THE COURT: AND YOU ARE REFERRING TO PEOPLE'S 1?

17 MR. GOUDY: YES, YOUR HONOR.

18 BY MR. GOUDY:

19 Q DO YOU RECOGNIZE WHAT THIS IS A DIAGRAM OF?

20 A YES.

21 Q WHAT?

22 A IT'S MY HOUSE.

23 Q NOW, WHERE IS YOUR -- WHERE IS THE BEDROOM
24 THAT YOU CAME OUT OF?

25 MR. GOUDY: IF THE WITNESS MAY BE ALLOWED TO STEP
26 DOWN.

27 THE COURT: SHE MAY.

28 THE WITNESS: OKAY. THIS IS MY BEDROOM

1 (INDICATING) .

2 BY MR. GOUDY:

3 Q AND THAT'S THE BEDROOM YOU WALKED OUT OF?

4 A YES.

5 Q AND WHEN YOU CAME OUT OF THE BEDROOM AND
6 SAW THE MASKED MAN, WHERE WAS THE MASKED MAN?

7 A HE WALKED THROUGH THE HALLWAY, AND I CAME
8 OUT OF THE BEDROOM.

9 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
10 WITNESS HAS POINTED TO THE ROOM MARKED "BEDROOM" WITH THE
11 INITIALS R.G. AND F.G. AS INDICATING HER BEDROOM, AND THE
12 HALLWAY IS THE HALLWAY THAT COMES FROM THE LIVING ROOM
13 THAT SEPARATES THE BATHROOM AND THE BEDROOM WITH THE
14 INITIALS R.G. AND F.G.

15 THE COURT: ALL RIGHT.

16 THE WITNESS: YES.

17 BY MR. GOUDY:

18 Q WHEN YOU SAW THE MASKED MAN IN THE HALLWAY,
19 WHAT DID YOU DO?

20 A I ALMOST RAN INTO HIM. HE WAS VERY CLOSE.

21 Q DID YOU HEAR ANYBODY SAY ANYTHING AT THAT
22 POINT?

23 A NO.

24 Q COULD YOU HEAR ANYBODY SAYING ANYTHING IN
25 THE OTHER PARTS OF THE HOUSE?

26 A NO.

27 Q DO YOU KNOW WHERE YOUR HUSBAND WAS AT THAT
28 POINT?

1 A YES.

2 Q WHERE?

3 A IN THE LIVING ROOM.

4 Q COULD YOU SEE HIM?

5 A NO. I KNEW HE WAS THERE.

6 Q WHAT ABOUT BRENDA? DO YOU KNOW WHERE SHE
7 WAS?

8 A NO.

9 Q AT WHAT POINT IN TIME DID YOU STOP WHEN YOU
10 SAW THE MASKED MAN?

11 A WHEN I ENCOUNTERED HIM AND HE POINTED A GUN
12 AT ME.

13 Q COULD YOU TELL WHAT RACE THIS MASKED MAN
14 WAS?

15 A AFTERWARDS, YES.

16 Q NOW, WHEN YOU SAY AFTERWARDS, WHAT DO YOU
17 MEAN?

18 A WHEN I FIRST ENCOUNTERED HIM IN THE
19 HALLWAY, THE LIGHT TO THE HALLWAY WAS NOT ON.

20 Q SOMETIME WHILE THE PERSON WAS -- THE MASKED
21 MAN WAS IN YOUR HOUSE, YOU WERE ABLE TO TELL WHAT RACE HE
22 WAS; IS THAT CORRECT?

23 A YES.

24 Q AND WHAT RACE WAS HE?

25 A BLACK.

26 Q DID YOU SEE ANY OTHER INTRUDERS IN YOUR
27 HOUSE BESIDES THE FIRST MASKED MAN THAT YOU SAW IN THE
28 HALLWAY?

1 A YES. RIGHT AWAY A WHITE ONE CAME WHERE HE
2 WAS AT.

3 Q AND WAS THAT PERSON WEARING A MASK?

4 A NO.

5 Q DID HE SPEAK TO YOU?

6 A YES.

7 Q IN WHAT LANGUAGE DID HE SPEAK TO YOU?

8 A IN SPANISH.

9 Q NOW, THE FIRST MASKED MAN THAT YOU CAME
10 INTO CONTACT WITH, DID YOU SEE ANYTHING IN HIS HANDS?

11 A YES.

12 Q WHAT WAS IN HIS HANDS?

13 A A GUN.

14 Q WAS THIS A HANDGUN OR A LONGER GUN?

15 A THERE WERE TWO GUNS. I DON'T KNOW WHICH
16 HAD THE LARGER GUN OR THE SMALLER GUN.

17 Q THE MAN WHO SPOKE TO YOU IN SPANISH, DID HE
18 HAVE A GUN?

19 A YES.

20 Q NOW, THE MAN WHO SPOKE TO YOU IN SPANISH,
21 WHAT DID HE SAY TO YOU?

22 A HE TOLD ME THAT IF -- IF I DID NOT DO WHAT
23 THE BLACK MAN WOULD TELL ME TO DO, OPEN THE SAFE, THEN HE
24 WOULD SHOOT HENRY ON THE HEAD.

25 Q NOW, WHO IS HENRY?

26 THE INTERPRETER: COUNSEL, THERE WAS MORE TO THAT.

27 THE WITNESS: AND THAT HE WAS NOT PLAYING GAMES.

28 ///

1 BY MR. GOUDY:

2 Q WHO IS HENRY?

3 A MY GRANDSON.

4 Q AT THAT POINT IN TIME, WHEN THE MAN SPOKE
5 TO YOU IN SPANISH, COULD YOU SEE HENRY?

6 A YES. YES.

7 Q WHERE WAS HENRY?

8 A THEY CAME OUT OF THEIR BEDROOM WHEN THEY
9 HEARD NOISE.

10 Q WHEN YOU SAY "THEY," WHO CAME OUT OF THE
11 BEDROOM?

12 A HENRY AND CHANTEL.

13 Q AND WHO IS CHANTEL?

14 A MY GRANDDAUGHTER.

15 Q IS THAT HENRY'S SISTER?

16 A YES.

17 Q AT THAT TIME HOW OLD WAS HENRY?

18 A SIX YEARS. SIX YEARS.

19 Q AND HOW OLD WAS CHANTEL?

20 A NINE. OH, YES, NINE.

21 Q WHEN THE MAN TOLD YOU THAT HE WASN'T
22 PLAYING AROUND OR HE WOULD SHOOT HENRY, DID YOU STAY IN
23 THE HALLWAY, OR DID YOU GO SOMEWHERE ELSE?

24 A HE TOOK ME TO NANCY'S ROOM.

25 Q WAS THIS BEFORE OR AFTER HE THREATENED
26 HENRY?

27 A AFTER.

28 Q AND WHEN YOU SAY HE TOOK YOU TO NANCY'S

1 ROOM, WHICH PERSON? THE MAN WHO SPOKE SPANISH OR THE MAN
2 IN THE MASK?

3 A THE ONE WITH THE MASK.

4 Q AND WHEN HE TOOK YOU TO NANCY'S ROOM, DID
5 YOU SEE ANYONE ELSE IN YOUR FAMILY DURING THAT TIME
6 PERIOD?

7 A I SAW MY HUSBAND.

8 Q WHERE WAS HE?

9 A LAYING IN THE LIVING ROOM.

10 Q AND DID YOU SEE ANY OTHER INTRUDERS AT THAT
11 TIME?

12 A THERE IN THE LIVING ROOM I DIDN'T SEE
13 ANYONE, ONLY MY HUSBAND LAYING DOWN.

14 Q WAS THERE AN INTRUDER NEXT TO YOUR HUSBAND?

15 A NO, BECAUSE HE DIDN'T ALLOW ME TO TURN.
16 WHEN I TRIED TO TURN, HE FORCED ME TO WALK.

17 Q NOW, WHEN YOU SAY "HE," ARE YOU REFERRING
18 TO THE MASKED MAN?

19 A YES.

20 Q WHEN THE MASKED MAN TOOK YOU TO NANCY'S
21 ROOM, WHERE DID THE MAN WHO SPOKE TO YOU IN SPANISH --
22 DID HE STAY IN THE HALLWAY OR DID HE FOLLOW YOU?

23 A HE WOULD ALWAYS WALK CLOSE TO THE MASKED
24 MAN.

25 Q WHERE IS NANCY'S ROOM IN THE HOUSE?

26 A IN THE REAR PART, BY THE DINING ROOM, THE
27 KITCHEN, AND THE DINING ROOM.

28 Q NOW, NANCY'S SON THAT RAN OUT OF YOUR ROOM

1 WHEN YOU ENCOUNTERED THE MASKED MAN, WHERE DID HE GO,
2 YOUR GRANDSON?

3 A HE RAN TOWARDS THE KITCHEN.

4 Q DID YOU TELL HIM TO GO ANYWHERE?

5 A NO. THEY -- THEY DON'T UNDERSTAND. THEY
6 HAVE SPECIAL NEEDS.

7 Q WHEN YOU SAY "THEY," WHO ARE YOU REFERRING
8 TO?

9 A NOA AND FABIAN. THEY ARE TWINS.

10 Q THOSE ARE NANCY'S SONS?

11 A YES.

12 Q WHEN YOU WENT TO THE HALLWAY, GOING BACK
13 TOWARDS NANCY'S ROOM, HOW FAR DID YOU GET?

14 A I JUST EXITED THE BEDROOM. I WASN'T ABLE
15 TO WALK VERY MUCH.

16 Q DID THEY TAKE YOU ALL THE WAY BACK TO
17 NANCY'S ROOM?

18 A YES.

19 Q DID YOU GO INTO NANCY'S ROOM?

20 A YES.

21 Q DID YOU -- WHEN YOU WENT INTO NANCY'S ROOM,
22 WAS NANCY IN HER ROOM?

23 A YES.

24 Q WHO WAS IN NANCY'S ROOM WITH HER, IF
25 ANYONE?

26 A NOA AND FABIAN.

27 Q DID ANY OF THE INTRUDERS GO INTO NANCY'S
28 ROOM?

1 A YES. THE MASKED ONE.

2 Q WHEN YOU WENT -- HOW MANY INTRUDERS DID YOU
3 SEE IN YOUR HOUSE IN TOTAL?

4 A I ONLY SAW THREE WHEN IN THE REAR. THERE
5 WAS THE MASKED ONE WITH ME, THE HISPANIC, AND THEN
6 ANOTHER ONE ARRIVED THAT DID NOT HAVE A MASK ON.

7 Q WHAT RACE WAS HE?

8 A BLACK.

9 Q NOW, WHEN YOU SAY HE ARRIVED, WHERE WERE
10 YOU AT WHEN YOU SAW THIS BLACK MAN WHO DID NOT HAVE A
11 MASK ON?

12 A I WAS AT THE DOOR OF NANCY'S BEDROOM
13 BECAUSE THE MASKED ONE WENT AND PULLED OUT THE TELEPHONE
14 IN NANCY'S ROOM.

15 Q NOW, WHEN YOU SAY YOU WERE AT THE DOOR,
16 WERE YOU INSIDE OF HER ROOM OR OUTSIDE OF HER ROOM AT THE
17 DOOR?

18 A OUTSIDE.

19 Q WHEN YOU GOT TO NANCY'S ROOM, HOW MANY OF
20 THE INTRUDERS WERE WITH YOU WHEN YOU FIRST GOT TO HER
21 DOORWAY?

22 A TWO. THE MASKED ONE WAS WALKING WITH ME.
23 SO WAS THE HISPANIC. THE THIRD ONE, I DON'T KNOW AT WHAT
24 TIME WHEN HE GOT THERE.

25 Q IN THE ROOM NEXT TO NANCY'S ROOM WHERE THE
26 ROOM THAT HER DOORWAY SEPARATES -- WHERE HER ROOM IS AT,
27 THE DOORWAY WHEN YOU ARE IN THE ROOM GOING INTO NANCY'S
28 ROOM, IS THERE A BACK DOOR GOING TO THE BACKYARD?

1 A YES.

2 Q DID ANYONE -- DID YOU SEE ANYONE OPEN THAT
3 DOOR?

4 A YES. THE BLACK MAN THAT DID NOT HAVE A
5 MASK ON OPENED IT.

6 Q AND WHERE WERE YOU WHEN THAT MAN OPENED THE
7 DOOR?

8 A NEXT TO THE DOOR TO NANCY'S BEDROOM.

9 Q WHEN YOU WENT INTO NANCY'S ROOM, WHO WENT
10 IN FIRST? YOU OR THE MASKED MAN?

11 A I OPENED THE DOOR, AND HE GOT IN.

12 Q WHEN -- DID YOU EVER GO -- LEAVE THE AREA
13 OF NANCY'S ROOM?

14 A NO.

15 Q DID YOU GO BACK TO YOUR BEDROOM?

16 A YES.

17 Q WHEN DID YOU GO BACK TO YOUR BEDROOM?

18 A WHEN HE AGAIN TOLD ME THAT I HAD TO GO AND
19 OPEN THE SAFE.

20 Q WHEN YOU SAY "HE," WHO IS THAT?

21 A THE ONE WITH THE MASK.

22 Q AND WHEN YOU WENT BACK TO YOUR BEDROOM, WHO
23 WENT WITH YOU, IF ANYONE?

24 A NANCY, THE MAN WITH THE MASK ON, AND THE
25 WHITE ONE.

26 Q WHEN YOU WENT BACK TO YOUR BEDROOM, DID YOU
27 SEE ANYONE ELSE IN YOUR FAMILY?

28 A YES.

1 Q WHO DID YOU SEE?

2 A BRENDA, HENRY, AND CHANTEL WERE ON THE
3 FLOOR.

4 Q WHERE WERE THEY ON THE FLOOR?

5 A IN FRONT OF THE BATHROOM, IN THE HALLWAY.

6 Q WERE THEY STANDING THERE?

7 A NO. THEY WERE ON THE FLOOR, LAYING ON THE
8 FLOOR, AND THERE WAS A MAN WITH THEM, POINTING A GUN AT
9 THEM.

10 Q AND WAS THIS A DIFFERENT PERSON THAN THE
11 ONES THAT YOU'VE ALREADY MENTIONED?

12 A YES.

13 Q SO THIS WOULD BE A FOURTH INTRUDER?

14 A YES.

15 Q AND DID THIS PERSON HAVE A MASK ON?

16 A I DIDN'T SEE HIM BECAUSE I SAW HIM FROM THE
17 BACK.

18 Q AND WHERE WAS THAT PERSON WHEN YOU SAW HIM
19 FROM THE BACK?

20 A IN THE HALLWAY, WHERE BRENDA AND THE
21 CHILDREN WERE LAYING ON THE FLOOR. I JUST SAW THAT HE
22 WAS POINTING A WEAPON AT THEM.

23 Q AND WAS THIS A HANDGUN OR A BIG GUN?

24 A I WASN'T ABLE TO SEE IT BECAUSE THE MASKED
25 ONE FORCED ME TO GO INSIDE MY BEDROOM.

26 Q AND WHEN YOU WENT INSIDE YOUR BEDROOM, WHO
27 WENT IN THERE WITH YOU?

28 A THE ONE WITH THE MASK, THE WHITE ONE, AND

1 NANCY.

2 Q AND WHEN YOU GOT -- DURING THIS TIME PERIOD
3 THAT YOU WALKED FROM NANCY'S ROOM TO YOUR -- BACK TO YOUR
4 BEDROOM, DID ANYONE SAY ANYTHING TO YOU?

5 A NO. I WAS ONLY TOLD THAT I HAD TO OPEN
6 THE SAFE.

7 Q AND WHEN YOU GOT TO YOUR BEDROOM, IS THERE
8 A SAFE THERE?

9 A YES.

10 Q WHERE IS THAT IN YOUR BEDROOM?

11 A NEXT TO THE DOOR TO THE BATHROOM.

12 Q THERE IS A BATHROOM IN YOUR -- A BATHROOM
13 ATTACHED TO YOUR BEDROOM?

14 A IT'S INSIDE MY BEDROOM.

15 Q LOOKING AT --

16 MR. GOUDY: IF I MAY APPROACH, YOUR HONOR.

17 THE COURT: YOU MAY.

18 BY MR. GOUDY:

19 Q LOOKING AT PEOPLE'S 1 FOR IDENTIFICATION,
20 WOULD THE BATHROOM BE TOWARDS THE OUTSIDE OF THE HOUSE OR
21 TOWARDS THE INSIDE OF THE HOUSE?

22 A IT'S INSIDE THE BEDROOM. IT DOESN'T HAVE A
23 DOOR LEADING TO ANYWHERE ELSE.

24 MR. GOUDY: IF THE WITNESS MAY BE ALLOWED TO STEP
25 DOWN TO THE DIAGRAM.

26 THE COURT: YES.

27 BY MR. GOUDY:

28 Q WOULD THE BATHROOM BE ON THIS SIDE

1 (INDICATING) -- POINTING TO THE TOP OF THE DIAGRAM, YOUR
2 HONOR -- TO THIS SIDE (INDICATING), POINTING TO THE
3 MIDDLE OF THE DIAGRAM, OR BETWEEN -- OR MORE TOWARDS
4 WHERE THE GARAGE IS (INDICATING)?

5 A OH, I REMEMBER, BUT I CAN'T SAY THE WAY IT
6 IS.

7 Q WHEN YOU WALK INTO YOUR BEDROOM FROM THE
8 HALLWAY TO GO TO THE BATHROOM, DO YOU GO STRAIGHT, DO YOU
9 MAKE A LEFT, OR DO YOU MAKE A RIGHT?

10 A NO. TO THE RIGHT.

11 Q SO IF THIS IS YOUR BEDROOM (INDICATING),
12 INDICATING THE ROOM WITH R.G. AND F.G., YOU WOULD WALK IN
13 THE DOORWAY AND MAKE A RIGHT; IS THAT CORRECT?

14 A YES.

15 Q WHEN YOU GOT INTO YOUR BEDROOM WITH NANCY,
16 THE MASKED MAN, AND THE MAN WHO SPOKE TO YOU IN SPANISH,
17 DID YOU OPEN THE SAFE?

18 A YES.

19 Q DID YOU OPEN THE SAFE RIGHT AWAY, OR WAS
20 THERE SOME TIME THAT PASSED?

21 A WHEN I CAME BACK FROM NANCY'S ROOM, I
22 OPENED IT RIGHT AWAY.

23 Q AT ANY POINT IN TIME DID THE MASKED MAN GO
24 TO ANYONE ELSE IN THE FAMILY WHILE YOU WERE -- BEFORE YOU
25 OPENED THE SAFE?

26 A NO.

27 Q WHEN YOU OPENED THE SAFE, WAS THERE
28 ANYTHING INSIDE OF IT?

1 A MY JEWELRY.

2 Q WAS THE JEWELRY -- I AM SORRY.

3 A AND MY HUSBAND'S.

4 Q WAS THE JEWELRY LAYING LOOSE IN THE SAFE,
5 OR WAS IT IN A TYPE OF CONTAINER?

6 A NO. THEY WERE IN LITTLE BOXES.

7 Q AND WHAT HAPPENED TO THOSE LITTLE BOXES?

8 A THE MAN WITH THE MASK ON TOOK THEM AND PUT
9 THEM INSIDE HIS POCKET.

10 Q WHEN YOU OPENED THE SAFE, DID ANY OF THE
11 INTRUDERS SAY ANYTHING TO YOU?

12 A YES, THAT WHERE WAS THE MONEY?

13 Q AND DID YOU SAY ANYTHING IN RETURN?

14 A YES. I TOLD HIM THAT I DIDN'T HAVE ANY
15 MONEY.

16 Q DID ANYONE SAY ANYTHING AFTER THAT?

17 A NO. HE JUST INSISTED WHERE WAS THE MONEY,
18 FOR ME TO TELL HIM WHERE THE MONEY WAS.

19 Q AND WHEN YOU SAY HE INSISTED, WHO INSISTED?

20 A THE ONE WITH THE MASK ON.

21 Q AT SOME POINT IN TIME WERE YOU ABLE TO TELL
22 WHAT RACE THE MAN IN THE MASK WAS?

23 A YES.

24 Q WHEN WAS THAT?

25 A WHEN HE WAS POINTING THE GUN AT MY
26 FOREHEAD, HE WOULD GET VERY, VERY CLOSE TO ME AND I WAS
27 ABLE TO SEE THE SKIN AROUND HIS EYES AND HIS MOUTH, AND I
28 COULD TELL THAT HE WAS BLACK.

1 Q WHEN DID HE POINT THE GUN AT YOUR HEAD?

2 A WHEN HE FOUND ME IN THE HALLWAY.

3 Q WAS THAT THE ONLY TIME?

4 A NO. AND WHEN HE WOULD TELL ME THAT I HAD
5 TO OPEN THE, QUOTE, SAFE, THAT I HAD TO OPEN THE SAFE,
6 AND ALSO WHEN HE TOLD ME THAT IF I WOULD NOT OPEN THE
7 SAFE, HE WAS GOING TO SHOOT HENRY. WHEN HE WOULD TALK TO
8 ME, HE WOULD POINT THE GUN AT ME, AND HE WOULD GET VERY
9 CLOSE. HE WOULD NOT TALK LOUDLY, BUT HE GOT VERY CLOSE
10 TO ME.

11 Q AND WHEN HE SPOKE TO YOU, DID HE SPEAK TO
12 YOU IN ENGLISH OR IN SPANISH?

13 A IN ENGLISH.

14 Q WERE YOU ABLE TO UNDERSTAND HIM?

15 A YES.

16 Q AFTER YOU OPENED THE SAFE AND THE PERSON
17 TOOK THE JEWELRY, THE BOX WITH THE JEWELRY, AND PUT IT IN
18 HIS POCKET, WHAT HAPPENED NEXT?

19 A WALTER CAME OUT OF HIS BEDROOM. WHEN THEY
20 SAW HIM, I JUST KEPT ON SAYING FOR HIM TO THROW HIMSELF
21 ON THE GROUND AND TO DO WHATEVER THEY WOULD SAY.

22 Q DID YOU HEAR ANY OF THE INTRUDERS SAY
23 ANYTHING TO WALTER?

24 A THE ONE THAT HAD BRENDA TOLD HIM TO THROW
25 HIMSELF ON THE GROUND.

26 Q AND DID WALTER GET ON THE FLOOR?

27 A YES.

28 Q THEN WHAT HAPPENED?

1 A ONE OF THEM SAID THAT WALTER HAD BEEN IN
2 THE BEDROOM ALL ALONG AND FOR THEM TO RUN.

3 Q AND DID YOU SEE THE INTRUDERS RUN?

4 A YES.

5 Q WHEN THEY RAN, WHERE WERE YOU?

6 A IN THE DOOR OF THE BEDROOM.

7 Q YOUR BEDROOM?

8 A YES.

9 Q AND DID YOU SEE THEM RUN DOWN THE HALL
10 TOWARDS THE LIVING ROOM?

11 A YES.

12 Q HOW MANY INTRUDERS RAN DOWN THE HALLWAY
13 TOWARDS THE LIVING ROOM?

14 A THERE WERE THREE AND ANOTHER ONE THAT HAD
15 MY HUSBAND.

16 Q AND THE ONE WHO HAD YOUR HUSBAND, WHICH ONE
17 OF THE FOUR WAS HE?

18 A THE ONE THAT DID NOT HAVE A MASK ON THAT
19 HAD OPENED THE BACK DOOR.

20 Q COULD YOU SEE THE FOUR MEN LEAVE YOUR
21 HOUSE?

22 A YES.

23 Q WHICH DOOR DID THEY LEAVE FROM?

24 A THE FRONT DOOR.

25 Q WHEN THE FOUR MEN LEFT YOUR HOUSE, HOW LONG
26 WAS IT BEFORE THE SHERIFFS ARRIVED?

27 A ABOUT TWO TO THREE MINUTES.

28 Q AND PRIOR TO THE POLICE ARRIVING AFTER THE

1 MEN LEFT, WHAT DID YOU DO?

2 A WHEN WE RAN -- NANCY, MY DAUGHTER, AND I
3 RAN. WE LOCKED THE DOOR, AND THEN WE WANTED TO SEE IF
4 EVERYONE WAS OKAY.

5 Q AT SOME POINT IN TIME DID YOU LOOK AROUND
6 THE HOUSE TO SEE IF ANYTHING WAS MISSING?

7 A YES.

8 Q AND WHEN DID YOU LOOK AROUND THE HOUSE TO
9 SEE IF ANYTHING WAS MISSING?

10 A WHEN THE POLICE ARRIVED, THEN WE ALL BEGAN
11 TO LOOK AROUND THE HOUSE TO SEE IF THERE WAS ANYTHING
12 MISSING. I KNEW THAT THE JEWELRY, HE HAD TAKEN THAT.

13 Q DID YOU NOTICE ANYTHING ELSE OF YOURS
14 MISSING?

15 A THEY TOOK MY CELL PHONE AND THE KEYS TO MY
16 CAR AND TWO CELL -- TWO CELLULAR PHONES BELONGING TO MY
17 HUSBAND.

18 Q YOUR CELL PHONE. WHERE WAS THAT IN THE
19 HOUSE PRIOR TO THE INTRUDERS COMING IN?

20 A ON THE DRESSER.

21 Q IN WHAT ROOM?

22 A IN MY BEDROOM.

23 Q AND WHERE IS THAT DRESSER IN RELATIONSHIP
24 TO THE SAFE?

25 A THE SAFE IS HERE (INDICATING), AND THE
26 DRESSER IS ON THIS SIDE (INDICATING).

27 Q OKAY. SINCE WE CAN'T SEE WHAT YOU ARE
28 DOING, IS THE DRESSER TO THE LEFT OR TO THE RIGHT OF THE

1 SAFE?

2 A THE RIGHT.

3 Q ABOUT HOW FAR AWAY FROM THE SAFE IS THE
4 DRESSER?

5 A ABOUT A YARD.

6 Q WHERE WERE YOUR KEYS?

7 A NEXT TO THE CELL PHONE.

8 Q AND DO YOU KNOW WHERE YOUR HUSBAND'S CELL
9 PHONES WERE?

10 A YES. THEY WERE NEXT TO MINE.

11 Q AFTER THE POLICE -- THE SHERIFF'S DEPUTIES
12 ARRIVED, WERE YOU EVER ASKED OR DID THEY EVER TAKE YOU TO
13 A LOCATION TO LOOK AT SOMEBODY?

14 A NO.

15 Q DO YOU KNOW WHO DETECTIVE RICHARDSON IS?

16 A YES.

17 Q DO YOU KNOW WHO DETECTIVE CHISM IS?

18 A YES.

19 Q ON JUNE 2ND OF 2009, DID DETECTIVE CHISM
20 COME TO YOUR HOUSE?

21 A I DON'T REMEMBER THE DATE.

22 Q DID DETECTIVE CHISM COME TO YOUR HOUSE WITH
23 SOME PHOTOGRAPHS TO SHOW YOU?

24 A YES.

25 Q DO YOU RECALL THE DATE THAT HE DID THAT?

26 A NO.

27 Q WAS IT THE DAY AFTER THIS HAPPENED?

28 A NO.

1 Q WAS IT QUITE A WHILE AFTER IT HAPPENED?

2 A YES.

3 Q AND WHEN DETECTIVE CHISM CAME TO SHOW YOU
4 THE PHOTOGRAPHS, WHO IN YOUR FAMILY WAS THERE?

5 A BRENDA, ANNETTE, NANCY, RAFAEL. I DON'T
6 KNOW WHETHER OR NOT WALTER WAS THERE.

7 Q WERE YOU SHOWN SOME PHOTOGRAPHS BY
8 DETECTIVE CHISM?

9 A YES.

10 MR. GOUDY: MAY I APPROACH?

11 THE COURT: YOU MAY.

12 BY MR. GOUDY:

13 Q SHOWING YOU WHAT HAS BEEN MARKED AS
14 PEOPLE'S 10 FOR IDENTIFICATION, DO YOU RECOGNIZE WHAT
15 THIS (INDICATING) IS?

16 A COULD YOU SAY THAT AGAIN?

17 Q DO YOU RECOGNIZE WHAT THIS IS (INDICATING),
18 THIS THING THAT HAS THE P-10 IN THE BOTTOM CORNER?

19 A NO.

20 Q HAVE YOU SEEN THESE PHOTOGRAPHS BEFORE?

21 A WHEN THE DETECTIVE SHOWED THEM TO ME.

22 Q AND THAT'S DETECTIVE CHISM?

23 A YES.

24 Q AND WHEN DETECTIVE CHISM SHOWED YOU THOSE
25 PHOTOGRAPHS IN PEOPLE'S 10 FOR IDENTIFICATION, DID YOU
26 TELL HIM THAT SOMEBODY IN YOUR HOUSE HAD RECEIVED A
27 LETTER?

28 A I TOLD HIM.

1 Q AND WHEN YOU TOLD HIM THAT SOMEBODY HAD
2 RECEIVED A LETTER, DID YOU TELL HIM THAT THE LETTER
3 INDICATED THAT SOMEBODY NAMED TAUMU JAMES WAS A SUSPECT
4 IN A CASE INVOLVING YOU AND YOUR FAMILY?

5 A YES.

6 Q DID YOU TELL DETECTIVE CHISM THAT SOMEONE
7 IN YOUR FAMILY WENT ON THE INTERNET AND FOUND A PICTURE
8 OF TAUMU JAMES?

9 A YES.

10 Q DID YOU TELL DETECTIVE CHISM THAT YOU SAW
11 THAT PHOTOGRAPH OF TAUMU JAMES?

12 A YES.

13 Q WHEN YOU TOLD THAT TO DETECTIVE CHISM, WAS
14 THAT BEFORE OR AFTER YOU LOOKED AT THOSE PHOTOGRAPHS IN
15 FRONT OF YOU?

16 A I DON'T REMEMBER WHETHER I TOLD HIM BEFORE
17 OR AFTER.

18 Q WHEN YOU LOOKED AT THE PHOTOGRAPHS, WERE
19 OTHER MEMBERS OF YOUR FAMILY IN THE SAME ROOM WITH YOU?

20 A ANNETTE AND I.

21 Q WHEN YOU WENT ON -- WHEN YOU SAW THE
22 PICTURE ON THE INTERNET, WHO WAS WITH YOU?

23 A ANNETTE.

24 Q WAS BRENDA THERE?

25 A I DON'T REMEMBER.

26 Q WAS NANCY THERE?

27 A I DON'T REMEMBER.

28 Q BUT YOU REMEMBER ANNETTE?

1 A YES.

2 Q WHEN DETECTIVE CHISM SHOWED YOU THE
3 PHOTOGRAPHS, PEOPLE'S 10 FOR IDENTIFICATION, DID YOU PICK
4 OUT ANY OF THE PHOTOGRAPHS?

5 A YES.

6 Q WHICH PHOTOGRAPH DID YOU PICK OUT?

7 A THIS ONE (INDICATING).

8 MR. GOUDY: FOR THE RECORD, YOUR HONOR, THE
9 WITNESS HAS POINTED TO THE PHOTOGRAPH ON THE BOTTOM ROW
10 ON THE FAR LEFT.

11 THE COURT: THE RECORD WILL SO REFLECT.

12 THE WITNESS: COULD I DRINK SOME WATER?

13 THE COURT: PLEASE.

14 BY MR. GOUDY:

15 Q THE PERSON THAT WAS IN THE PHOTOGRAPH THAT
16 YOU PICKED OUT, IS THAT PERSON IN THE COURTROOM RIGHT
17 NOW?

18 A YES.

19 Q WHERE IS THAT PERSON SITTING, AND WHAT IS
20 THAT PERSON WEARING RIGHT NOW?

21 A A RED TIE, A DARK BLUE SHIRT.

22 THE COURT: INDICATING MR. JAMES FOR THE RECORD.

23 MR. GOUDY: THANK YOU, YOUR HONOR.

24 NOTHING FURTHER.

25 THE WITNESS: COULD I POINT HIM OUT?

26 MR. GOUDY: PLEASE.

27 THE WITNESS: IT'S HIM (INDICATING).

28 MR. GOUDY: FOR THE RECORD, THE WITNESS HAS

1 POINTED OUT THE DEFENDANT.

2 THE COURT: THE RECORD WILL SO REFLECT.

3 AND WE WILL TAKE OUR BREAK NOW BECAUSE IT'S
4 3:00 O'CLOCK, AND WE WILL START YOUR CROSS IN 15 MINUTES.

5 LADIES AND GENTLEMEN, WE WILL BE IN A
6 15-MINUTE RECESS. KEEP IN MIND THE COURT'S ADMONITION.
7 THANK YOU.

8

9 (RECESS.)

10

11 THE COURT: ON THE RECORD IN PEOPLE VERSUS
12 JAMES. MR. JAMES IS PRESENT. BOTH COUNSEL ARE PRESENT.
13 ALL OF OUR JURORS ARE PRESENT.

14 AND MR. EVANS, IF YOU WOULD LIKE TO BEGIN
15 CROSS-EXAMINATION.

16 MA'AM -- OUR WITNESS IS BACK ON THE
17 STAND -- I WOULD LIKE TO REMIND YOU THAT YOU REMAIN UNDER
18 OATH AT THIS TIME.

19 AND SHE IS CONTINUING TO USE THE SERVICES
20 OF OUR CERTIFIED SPANISH LANGUAGE INTERPRETER.

21 MR. EVANS.

22 MR. EVANS: THANK YOU, YOUR HONOR.

23

24 CROSS-EXAMINATION

25 BY MR. EVANS:

26 Q MS. GONZALEZ, AFTER THE INDIVIDUALS LEFT
27 YOUR HOUSE, SHERIFF'S DEPUTIES ARRIVED A COUPLE MINUTES
28 LATER; IS THAT CORRECT?

1 A YES.

2 Q AND AT THAT TIME DID YOU SPEAK TO SHERIFF'S
3 DEPUTIES ABOUT WHAT HAD JUST PREVIOUSLY HAPPENED?

4 A YES.

5 Q AND AT THE TIME THAT YOU SPOKE TO THE
6 DEPUTIES ON NOVEMBER 23RD, 2008, WOULD IT BE FAIR TO SAY
7 THAT THE EVENTS THAT JUST OCCURRED WERE CLEAR IN YOUR
8 MIND?

9 A YES.

10 Q CERTAINLY BETTER THAN THEY ARE TODAY;
11 CORRECT?

12 A YES.

13 Q WHEN YOU SPOKE TO SHERIFF'S DEPUTIES, DID
14 YOU SAY THAT A MASKED MAN POINTED A GUN AT YOU?

15 A YES.

16 Q ARE YOU SURE ABOUT THAT?

17 A YES.

18 Q ISN'T IT TRUE THAT THE ONLY PERSON THAT YOU
19 IDENTIFIED AS POINTING A GUN AT YOU TO THE SHERIFF'S
20 DEPUTIES WHEN YOU SPOKE TO THEM ON NOVEMBER 23RD, 2008,
21 WAS THE INDIVIDUAL WITHOUT A MASK WHO SPOKE TO YOU IN
22 SPANISH?

23 A NO.

24 Q THAT WOULD NOT BE TRUE THEN?

25 A I DIDN'T SAY THAT ONLY HE WAS THE ONE THAT
26 I HAD IDENTIFIED.

27 Q AND ISN'T IT TRUE THAT YOU ONLY IDENTIFIED
28 AN INDIVIDUAL WITHOUT A MASK AS THE PERSON WHO POINTED A

1 GUN AT YOU?

2 A NO.

3 Q YOU INDICATED THAT A MASKED MAN TOOK YOU TO
4 NANCY'S ROOM; CORRECT?

5 A YES.

6 Q BUT WHEN YOU SPOKE TO SHERIFF'S DEPUTIES
7 IMMEDIATELY AFTER THE EVENT ON NOVEMBER 23RD, YOU NEVER
8 MENTIONED A MASKED MAN TAKING YOU TO NANCY'S ROOM; IS
9 THAT CORRECT?

10 A NO.

11 Q YOU ALSO INDICATED PREVIOUSLY THAT A MASKED
12 MAN WENT INTO NANCY'S ROOM; IS THAT CORRECT?

13 A YES.

14 Q BUT WHEN YOU SPOKE TO SHERIFF'S DEPUTIES ON
15 NOVEMBER 23RD, 2008, YOU NEVER MENTIONED ANYTHING ABOUT A
16 MASKED MAN GOING INTO NANCY'S ROOM; ISN'T THAT CORRECT?

17 A NO.

18 Q IN FACT, WHEN YOU SPOKE TO SHERIFF'S
19 DEPUTIES ON NOVEMBER 23RD, 2008, YOU ONLY MENTIONED A
20 MASKED MAN GOING INTO YOUR ROOM; ISN'T THAT CORRECT?

21 A NO.

22 Q YOU PREVIOUSLY TESTIFIED THAT A MASKED MAN
23 GRABBED NANCY'S PHONE AND TOOK IT OFF THE HOOK; CORRECT?

24 A YES.

25 Q AND THAT PHONE WAS LOCATED IN NANCY'S
26 BEDROOM; CORRECT?

27 A YES.

28 Q BUT WHEN YOU SPOKE TO SHERIFF'S DEPUTIES ON

1 NOVEMBER 23RD, 2008, ISN'T IT TRUE THAT YOU NEVER MADE
2 MENTION OF A MASKED MAN TAKING THAT PHONE, REFERRING TO
3 THE PHONE IN NANCY'S ROOM, OFF THE HOOK?

4 A I DON'T REMEMBER.

5 Q YOU DON'T REMEMBER WHAT?

6 A WHETHER OR NOT I MENTIONED THAT THE MASKED
7 MAN TOOK NANCY'S PHONE.

8 Q WOULD IT BE FAIR TO SAY THAT THE FIRST TIME
9 YOU LEARNED ABOUT ANYTHING OR HEARD ANYTHING ABOUT A
10 MASKED MAN TOUCHING NANCY'S PHONE WAS LAST NIGHT WHEN YOU
11 SPOKE TO NANCY?

12 A NO.

13 Q DID YOU SPEAK TO NANCY YESTERDAY ABOUT HER
14 TESTIMONY THAT SHE GAVE?

15 A NO.

16 Q DID YOU TELL SHERIFF'S DEPUTIES, AS FAR AS
17 YOU CAN REMEMBER, EVERYTHING YOU TESTIFIED TO HERE
18 TODAY? AND I AM REFERRING TO EITHER ON THE 23RD OF
19 NOVEMBER 2008 OR WHEN DETECTIVE CHISM MET WITH YOU.

20 A I DIDN'T UNDERSTAND THE QUESTION.

21 Q AS TO THE EVENTS THAT OCCURRED ON
22 NOVEMBER 23RD, 2008, WHEN YOU SPOKE TO SHERIFF'S DEPUTIES
23 ON THAT SAME DAY --

24 A YES.

25 Q -- DID YOU TELL THEM WHAT YOU TOLD US HERE
26 TODAY UNDER OATH?

27 MR. GOUDY: OBJECTION. VAGUE.

28 THE COURT: SUSTAINED.

1 BY MR. EVANS:

2 Q DID YOU TALK TO SHERIFF'S DEPUTIES ON
3 NOVEMBER 23RD, 2008?

4 A YES.

5 Q DID YOU TELL THEM EVERYTHING YOU'VE TOLD US
6 HERE TODAY ABOUT WHAT OCCURRED INSIDE YOUR HOME ON
7 NOVEMBER 23RD, 2008?

8 A YES. YES.

9 Q NOW, WHEN YOU WENT BACK INTO YOUR BEDROOM,
10 YOU TESTIFIED THAT THE MASKED MAN WENT WITH YOU; IS THAT
11 CORRECT?

12 A YES.

13 Q DID HE TELL YOU TO OPEN THE SAFE?

14 A YES.

15 Q DID HE DO SO IN ENGLISH OR IN SPANISH?

16 A IN ENGLISH.

17 Q DID YOU TELL SHERIFF'S DEPUTIES ON
18 NOVEMBER 23RD, 2008, THAT THE MASKED MAN IS THE ONE WHO
19 TOLD YOU TO OPEN THE SAFE?

20 A YES.

21 Q ISN'T IT TRUE THAT YOU NEVER MENTIONED THE
22 MASKED MAN IN RELATION TO TELLING YOU TO OPEN THE SAFE?
23 YOU NEVER MENTIONED THAT TO SHERIFF'S DEPUTIES; ISN'T
24 THAT CORRECT?

25 A NO.

26 Q YOU INDICATED THE MAN WITH THE MASK TOOK
27 JEWELRY AND PUT IT IN HIS POCKET; IS THAT CORRECT?

28 A YES.

1 Q AND YOU REMEMBER ACTUALLY SEEING THAT OCCUR
2 ON NOVEMBER 23RD, 2008; CORRECT?

3 A YES.

4 Q AND THAT WAS A SIGNIFICANT EVENT BECAUSE
5 SOME OF YOUR ITEMS OF JEWELRY WERE TAKEN FROM YOU;
6 CORRECT?

7 A YES.

8 Q BUT YOU NEVER TOLD SHERIFF'S DEPUTIES ON
9 NOVEMBER 23RD, 2008, THAT IT WAS THE MASKED MAN WHO PUT
10 THE JEWELRY IN HIS POCKET; ISN'T THAT CORRECT?

11 A NO.

12 Q YOU INDICATED THAT THE MASKED MAN POINTED A
13 GUN AT YOUR FOREHEAD; ISN'T THAT CORRECT?

14 A YES.

15 Q AND HE DID SO -- YOU SAID HE DID SO IN THE
16 HALLWAY --

17 A YES.

18 Q -- CORRECT?

19 A YES.

20 Q BUT YOU NEVER TOLD SHERIFF'S DEPUTIES ON
21 NOVEMBER 23RD, 2008, THAT A MASKED MAN POINTED A GUN AT
22 YOUR FOREHEAD WHILE YOU WERE IN THE HALLWAY WITH HIM;
23 ISN'T THAT CORRECT?

24 A YES. I DID SAY IT.

25 Q TO THE SHERIFF'S DEPUTIES?

26 A YES.

27 Q ON NOVEMBER 23RD, 2008; IS THAT CORRECT?

28 A YES.

1 Q YOU'RE SURE ABOUT THAT?

2 A I'M SURE.

3 Q YOU INDICATED THAT THE MASKED MAN POINTED A
4 GUN AT YOUR FOREHEAD PRIOR TO ASKING YOU OR DEMANDING
5 THAT YOU OPEN THE SAFE. IS THAT WHAT YOU TESTIFIED TO?

6 A YES.

7 Q WOULD IT BE PRETTY FAIR TO STATE, MA'AM,
8 THAT AT THE TIME THAT SOMEONE WAS POINTING THE GUN AT
9 YOU, THAT WAS A SIGNIFICANT EVENT THAT YOU REMEMBERED
10 IMMEDIATELY THEREAFTER? FAIR STATEMENT?

11 A I DIDN'T UNDERSTAND.

12 Q WAS IT SOMETHING THAT IMPACTED YOU
13 SIGNIFICANTLY WHEN SOMEONE WAS POINTING A GUN AT YOU ON
14 NOVEMBER 23RD, 2008?

15 A YES.

16 Q SOMETHING THAT YOU PROBABLY DIDN'T
17 FORGET WHEN YOU WERE TELLING SHERIFF'S DEPUTIES ON
18 NOVEMBER 23RD, 2008; CORRECT?

19 A CORRECT.

20 Q ALL RIGHT. SO IT'S FAIR TO SAY THAT YOU
21 TOLD SHERIFF'S DEPUTIES ABOUT THE TIME THAT YOU HAD A GUN
22 POINTED AT YOUR HEAD; CORRECT?

23 A YES.

24 Q BUT YOU NEVER TOLD SHERIFF'S DEPUTIES ON
25 NOVEMBER 23RD, 2008, THAT PRIOR -- THAT THE MASKED MAN
26 POINTED A GUN AT YOUR FOREHEAD WHEN HE WAS ORDERING YOU
27 TO OPEN THE SAFE; ISN'T THAT CORRECT?

28 A I TOLD IT TO THEM.

1 Q YOU INDICATED THAT THE MASKED MAN POINTED A
2 GUN AT YOUR FOREHEAD AND SAID HE WAS GOING TO SHOOT HENRY
3 IF YOU DIDN'T OPEN THE SAFE; CORRECT?

4 A YES.

5 Q BUT ON NOVEMBER 23RD, 2008, YOU NEVER
6 MENTIONED ANYTHING TO SHERIFF'S DEPUTIES ABOUT A MASKED
7 MAN POINTING A GUN AT YOUR HEAD WHILE THREATENING TO
8 SHOOT HENRY; ISN'T THAT CORRECT?

9 A I DID DO THAT.

10 Q SO THAT WOULD BE INCORRECT? IS THAT YOUR
11 STATEMENT?

12 A I DON'T UNDERSTAND.

13 Q ALL RIGHT. LET ME TRY AGAIN. YOU NEVER
14 TOLD SHERIFF'S DEPUTIES THAT THE MASKED MAN POINTED A GUN
15 AT YOUR FOREHEAD WHEN HE THREATENED TO SHOOT HENRY; ISN'T
16 THAT CORRECT?

17 A WHEN HE SAID HE WAS GOING TO SHOOT HENRY,
18 HE WAS NOT POINTING AT ME. HE WAS POINTING AT HENRY.

19 Q YOU NEVER TOLD SHERIFF'S DEPUTIES ON
20 NOVEMBER 23RD, 2008, THAT THE MASKED MAN THREATENED TO
21 SHOOT HENRY; ISN'T THAT CORRECT?

22 A NO. I DID TELL THEM.

23 Q AND YOU NEVER TOLD SHERIFF'S DEPUTIES ON
24 NOVEMBER 23RD, 2008, THAT THE MASKED MAN EVEN POINTED A
25 WEAPON AT HENRY; ISN'T THAT CORRECT?

26 A THAT IS NOT CORRECT.

27 Q NOW, YOU INDICATED THAT THE PERSON WHO WAS
28 WEARING A MASK, YOU WERE ABLE TO SEE THE SKIN AROUND HIS

1 EYES; CORRECT?

2 A YES.

3 Q BUT WHEN YOU SPOKE TO SHERIFF'S DEPUTIES ON
4 NOVEMBER 23RD, 2008, YOU NEVER INDICATED TO THEM THAT YOU
5 COULD SEE THE SKIN AROUND THE INDIVIDUAL'S EYES WHO WAS
6 WEARING A MASK; ISN'T THAT CORRECT?

7 A YES, I DID.

8 Q YES, YOU DID WHAT?

9 A I DID SAY THAT I COULD SEE HIS MOUTH AND
10 HIS EYES.

11 Q AND YOU'RE INDICATING THAT YOU TOLD THAT TO
12 SHERIFF'S DEPUTIES ON NOVEMBER 23RD, 2008?

13 A YES.

14 Q YOU NEVER MENTIONED THAT. YOU NEVER
15 MENTIONED ANYTHING ABOUT SKIN AROUND THE MOUTH OR SKIN OR
16 AROUND THE EYES TO SHERIFF'S DEPUTIES ON NOVEMBER 23RD,
17 2008; ISN'T THAT CORRECT?

18 MR. GOUDY: OBJECTION. ASKED AND ANSWERED.

19 THE COURT: SUSTAINED.

20 BY MR. EVANS:

21 Q ISN'T IT TRUE, MA'AM, THAT YOU SAID THAT
22 THE INDIVIDUAL WHO SPOKE SPANISH TO YOU WHO WAS EITHER A
23 MALE WHITE OR A MALE HISPANIC WAS THE PERSON WHO ORDERED
24 YOU TO OPEN THE SAFE? ISN'T THAT WHAT YOU TOLD SHERIFF'S
25 DEPUTIES ON NOVEMBER 23RD, 2008?

26 A NO.

27 Q AND ISN'T IT TRUE, MA'AM, ON NOVEMBER 30TH,
28 2008, WHEN YOU SPOKE TO SHERIFF'S DEPUTIES, THAT IT WAS

1 THE MALE WHITE OR THE MALE HISPANIC WHO SPOKE SPANISH TO
2 YOU, THAT HE WAS THE ONE WHO THREATENED TO SHOOT HENRY?
3 ISN'T THAT CORRECT?

4 A NO.

5 Q SOMETIME AFTER THIS EVENT ON NOVEMBER 23RD,
6 2008, YOU SPOKE TO A DETECTIVE CHISM FROM THE LOS ANGELES
7 COUNTY SHERIFF'S DEPARTMENT; IS THAT CORRECT?

8 A YES.

9 Q AND YOU TOLD HIM THAT SOMEONE IN YOUR
10 FAMILY HAD RECEIVED A LETTER ABOUT TAUMU JAMES BEING A
11 SUSPECT IN THE INCIDENT THAT OCCURRED ON NOVEMBER 23RD,
12 2008; CORRECT?

13 A ALL OF THE FAMILY RECEIVED A LETTER.

14 Q ALL OF THE FAMILY?

15 A YES.

16 Q WAS THAT THE FIRST TIME -- WHEN YOU READ
17 THAT LETTER, WAS THAT THE FIRST TIME THAT YOU HEARD THE
18 NAME TAUMU JAMES?

19 A YES.

20 Q AND YOU TOLD -- DID YOU TELL DETECTIVE
21 CHISM THAT?

22 A YES.

23 Q NOW, WAS IT AFTER THAT, AFTER YOU RECEIVED
24 THE LETTER AND READ THE LETTER, THAT YOU WENT ON THE
25 INTERNET WITH YOUR DAUGHTER ANNETTE?

26 A YES.

27 Q HOW MUCH TIME AFTER YOU HAD READ THE LETTER
28 DID YOU GO ON THE INTERNET?

1 A I DON'T REMEMBER.

2 Q WHEN YOU WENT ON THE INTERNET, YOU SAW A
3 PICTURE OF MR. TAUMU JAMES; IS THAT CORRECT?

4 A YES.

5 Q AND THEN IT WAS AFTER YOU SAW THE PICTURE
6 OF MR. JAMES OR A PHOTOGRAPH OF MR. JAMES THAT YOU LOOKED
7 AT THIS DOCUMENT (INDICATING), WHICH HAS BEEN PREVIOUSLY
8 MARKED AS PEOPLE'S 10?

9 A YES.

10 Q AND AFTER DETECTIVE CHISM SHOWED YOU THAT
11 DOCUMENT OR A SIMILAR ONE AS YOU SEE THERE IN
12 PEOPLE'S 10, YOU PICKED ONE OF THE PHOTOGRAPHS; IS THAT
13 CORRECT?

14 A YES.

15 Q AND YOU INDICATED THAT YOU COULD IDENTIFY
16 ONE OF THE INDIVIDUALS; IS THAT CORRECT?

17 A YES.

18 Q AND YOUR IDENTIFICATION -- THE PICTURE THAT
19 YOU CHOSE, YOU BASED THAT IDENTIFICATION UPON WHAT YOU
20 HAD SEEN PREVIOUSLY ON THE INTERNET, SPECIFICALLY THE
21 PHOTOGRAPH OF MR. JAMES; CORRECT?

22 A YES.

23 Q AND YOUR PICKING THAT PHOTOGRAPH OR PICKING
24 THE PHOTOGRAPH THAT YOU DID IN PEOPLE'S 10, THAT DECISION
25 OR THAT CHOICE WAS BASED SOLELY UPON WHAT YOU HAD SEEN
26 PREVIOUSLY ON THE INTERNET, REFERRING TO THE PHOTOGRAPH
27 OF MR. JAMES; CORRECT?

28 A NO.

1 Q IT WAS NOT BASED SOLELY UPON IT?

2 A NO.

3 Q ISN'T IT TRUE THAT WHEN YOU SPOKE TO
4 DETECTIVE CHISM, YOU TOLD HIM THAT YOU PICKED THE
5 PHOTOGRAPH IN PEOPLE'S 10 BASED SOLELY UPON WHAT YOU HAD
6 SEEN ON THE INTERNET, SPECIFICALLY THE PHOTOGRAPH OF
7 MR. JAMES? ISN'T THAT WHAT YOU TOLD DETECTIVE CHISM?

8 A NO. NO.

9 Q AND ISN'T IT TRUE THAT WHEN YOU SPOKE TO
10 DETECTIVE CHISM, YOU INDICATED TO HIM THAT YOU COULD NOT
11 PROVIDE AN INDEPENDENT RECOLLECTION OF THE EVENTS THAT
12 OCCURRED ON NOVEMBER 23RD, 2008?

13 A NO.

14 Q ON JULY 6TH, 2009, ISN'T IT TRUE, MA'AM,
15 THAT YOU TOLD DETECTIVE CHISM THAT YOU IDENTIFIED
16 MR. JAMES' PHOTOGRAPH IN THE SIX-PACK THAT YOU HAVE IN
17 FRONT OF YOU IN THE DOCUMENT MARKED AS PEOPLE'S 10
18 BECAUSE YOU SAW MR. JAMES' PICTURE ON THE INTERNET?
19 ISN'T THAT CORRECT?

20 A NO.

21 MR. EVANS: NOTHING FURTHER.

22 THE COURT: ALL RIGHT. REDIRECT.

23

24 REDIRECT EXAMINATION

25 BY MR. GOUDY:

26 Q DID YOU SPEAK TO NANCY LAST NIGHT ABOUT HER
27 TESTIMONY?

28 A NO.

1 Q WHY NOT?

2 A I ARRIVED HOME VERY LATE, AND SHE WAS
3 ALREADY ASLEEP. SHE WAS IN HER BEDROOM WITH THE
4 CHILDREN.

5 Q THE NIGHT THAT THE PEOPLE CAME TO YOUR
6 HOUSE, HOW MANY SHERIFF'S DEPUTIES CAME TO YOUR HOUSE?

7 A I DON'T REMEMBER.

8 Q MORE THAN TWO?

9 A YES.

10 Q MORE THAN FIVE?

11 A I AM NOT SURE.

12 Q HOW MANY OF THOSE SHERIFF'S DEPUTIES DID
13 YOU TALK TO?

14 A I DON'T REMEMBER BECAUSE ONE WOULD ASK AND
15 THEN ANOTHER WOULD COME, BUT I DON'T REMEMBER HOW MANY
16 THERE WERE.

17 Q BUT YOU SPOKE TO MORE THAN ONE?

18 A YES.

19 Q YOU TESTIFIED EARLIER THAT YOU KNOW
20 DETECTIVE RICHARDSON; IS THAT CORRECT?

21 A YES.

22 Q DID YOU TALK TO DETECTIVE RICHARDSON THAT
23 NIGHT?

24 A I DON'T REMEMBER.

25 Q DID YOU HAVE TALK TO DETECTIVE RICHARDSON
26 ABOUT WHAT HAPPENED THAT NIGHT?

27 A YES.

28 Q DID YOU TALK TO DETECTIVE CHISM ABOUT WHAT

1 HAPPENED THAT NIGHT?

2 A YES.

3 Q DID YOU TELL DETECTIVE RICHARDSON THAT --
4 EXCUSE ME. DID YOU EVER TELL DETECTIVE CHISM THAT IT WAS
5 THE MASKED MAN WHO TOLD YOU TO OPEN THE SAFE?

6 A YES.

7 Q WHEN DETECTIVE CHISM SHOWED YOU THE
8 PHOTOGRAPHS THAT ARE IN FRONT OF YOU RIGHT THERE --
9 PEOPLE'S 10 FOR THE RECORD, YOUR HONOR -- HOW MANY TIMES
10 DID HE DO THAT?

11 A ONLY ONCE.

12 Q AND WHEN HE SHOWED YOU THOSE PHOTOGRAPHS,
13 DO YOU KNOW IF THAT WAS THE SAME DAY THAT HE SHOWED THOSE
14 PHOTOGRAPHS TO YOUR DAUGHTERS?

15 A NO.

16 Q YOU DON'T KNOW OR IT WAS NOT THE SAME DAY?

17 A I DON'T KNOW.

18 Q DID YOU EVER TELL DETECTIVE CHISM THAT YOU
19 COULD TELL THE RACE OF THE MAN IN THE MASK BECAUSE OF THE
20 SKIN AROUND HIS EYES AND THE MOUTH?

21 A YES.

22 MR. GOUDY: NOTHING FURTHER.

23 THE COURT: RECROSS.

24 MR. EVANS: BRIEFLY.

25 THE WITNESS: I AM READY.

26 ///

27 ///

28 ///

RECROSS-EXAMINATION

BY MR. EVANS:

Q DID YOU SPEAK TO NANCY THIS MORNING ABOUT
HER TESTIMONY YESTERDAY?

A NO.

Q ON NOVEMBER 23RD, DO YOU REMEMBER HOW MANY
DEPUTIES YOU SPOKE TO?

A NO. NO.

Q DID YOU SEE A DEPUTY OUT IN THE HALL TODAY
THAT YOU SPOKE TO ON THE NIGHT OF NOVEMBER 23RD, 2008?

A YES.

Q AND DID YOU -- AND DID YOU TELL THAT DEPUTY
EVERYTHING THAT YOU'VE TOLD US ABOUT WHAT HAPPENED ON
NOVEMBER 23RD, 2008, AS FAR AS YOU CAN REMEMBER?

A YES.

MR. EVANS: NOTHING FURTHER.

THE COURT: ANYTHING FURTHER?

FURTHER REDIRECT EXAMINATION

BY MR. GOUDY:

Q THE DEPUTY YOU SAW IN THE HALLWAY, HOW MANY
TIMES HAVE YOU SEEN HIM SINCE NOVEMBER 23RD, 2008?

A I SAW HIM ON THE 23RD OF NOVEMBER. HE WAS
THE FIRST TO ARRIVE AT THE HOUSE. I DO REMEMBER THAT. I
SAW HIM ON THE 18TH OF DECEMBER, WHEN I WENT TO COURT,
2008.

Q ANY OTHER TIME?

A HERE.

1 Q BESIDES HERE?

2 A NO.

3 MR. GOUDY: NOTHING FURTHER.

4 THE COURT: ANYTHING ELSE?

5 MR. EVANS: NOTHING.

6 THE COURT: ALL RIGHT. THANK YOU. YOU MAY STEP
7 DOWN.

8 MR. GOUDY: SUBJECT TO RECALL.

9 THE COURT: BUT YOU ARE SUBJECT TO RECALL, MA'AM.
10 THANK YOU.

11 YOU MAY GET YOUR NEXT WITNESS.

12 MR. GOUDY: AT THIS TIME THE PEOPLE CALL DEPUTY
13 CARIAGA.

14
15 SEAN CARIAGA,
16 RECALLED AS A WITNESS BY THE PEOPLE, WAS PREVIOUSLY SWORN
17 AND TESTIFIED AS FOLLOWS:

18
19 THE COURT: GO AHEAD AND HAVE A SEAT, SIR.

20 ALL RIGHT. DEPUTY SEAN CARIAGA IS BACK ON
21 THE STAND.

22 SIR, I WOULD LIKE TO REMIND YOU THAT YOU
23 REMAIN UNDER OATH AT THIS TIME.

24 THE WITNESS: YES, YOUR HONOR.

25 THE COURT: PEOPLE.

26 ///

27 ///

28 ///

REDIRECT EXAMINATION (RESUMED)

BY MR. GOUDY:

Q DEPUTY, GOING BACK TO NOVEMBER 23RD OF 2008, DID YOU LEAVE THE HOUSE AND GO TO VALLEY HIGH SCHOOL?

A YES.

Q TO DO FIELD SHOW-UPS; CORRECT?

A CORRECT.

Q AND WHEN YOU LEFT HOUSE, HOW MANY RESIDENTS OF THE HOUSE WOULD YOU GO WITH TO THE SCHOOL?

A ONE AT A TIME.

Q WHEN YOU LEFT THE HOUSE AND WENT TO THE SCHOOL, WERE THERE OTHER DEPUTIES AT THE HOUSE WITH THE OTHER VICTIMS?

A YES.

Q AND HOW MANY TIMES DID YOU GO BACK AND FORTH TO THE SCHOOL?

A AT LEAST THREE.

Q AND EACH TIME THERE WOULD BE OTHER DEPUTIES WITH THE VICTIMS?

A I BELIEVE SO. I AM NOT POSITIVE, BUT I BELIEVE SO.

Q NOW, AT SOME POINT IN TIME AFTER GOING TO THE SCHOOL, DID YOU TAKE ANY WITNESSES TO ANY OTHER LOCATION?

A YES.

Q AND WHERE WAS THAT?

A I DON'T REMEMBER IF IT WAS THE PARKING LOT

1 OF VALLEY HIGH OR IF IT WAS ON THE STREET JUST RIGHT
2 OUTSIDE OF VALLEY HIGH ON LOMITAS.

3 Q DO YOU RECALL HOW MANY WITNESSES YOU TOOK
4 THERE -- VICTIMS YOU TOOK THERE?

5 A I DON'T REMEMBER HOW MANY I TOOK.

6 Q AND FOR WHAT REASON DID YOU TAKE THEM TO
7 THAT OTHER LOCATION?

8 A WE HAD TWO OTHER YOUNG MEN DETAINED THAT AT
9 FIRST WE THOUGHT MIGHT HAVE BEEN INVOLVED. IT WAS MY
10 OPINION VERY SHORTLY AFTERWARDS THAT THEY WERE NOT
11 INVOLVED. HOWEVER, IN FAIRNESS TO THE PERSON THAT WE HAD
12 DETAINED, WE THOUGHT WE SHOULD DO A FIELD SHOW-UP OF
13 THESE TWO GENTLEMEN ALSO.

14 Q SO YOU DID ANOTHER FIELD SHOW-UP WITH SOME
15 OF THE RESIDENTS OF 14050 TRAILSIDE DRIVE?

16 A YES.

17 Q AND DID THEY IDENTIFY THOSE INDIVIDUALS AS
18 BEING INVOLVED OR NOT BEING INVOLVED?

19 A THEY ELIMINATED THEM AS BEING INVOLVED.

20 Q SO THEY SAID THEY WEREN'T -- THEY DIDN'T GO
21 INTO THEIR HOUSE?

22 A CORRECT.

23 Q WHEN YOU SPOKE TO THE RESIDENTS OF -- WELL,
24 DID YOU SPEAK TO THE LADY WHO JUST LEFT THE COURTROOM?

25 A YES.

26 Q AND DO YOU RECALL HER NAME?

27 A I DO NOT RECALL HER NAME.

28 Q WOULD FELICITAS GONZALEZ SOUND FAMILIAR?

1 A I WOULD KNOW BETTER BY MY REPORT, BUT I
2 REMEMBER SHE WAS THE MOTHER AT THE HOUSE.

3 Q AND WHEN YOU SPOKE TO HER, COULD YOU
4 INDICATE WHAT -- WAS SHE CALM? NERVOUS? EXCITED?

5 A SHE WAS FRANTIC.

6 Q HOW LONG DID YOU TALK TO HER?

7 A I -- WE HAD TO SPEAK TO HER SEVERAL
8 DIFFERENT TIMES BECAUSE, LIKE I SAID, WHEN WE FIRST GOT
9 THERE, WE HAD TO GET AS MUCH INFORMATION AS WE COULD
10 QUICKLY SO WE COULD GET IT OUT TO THE FIELD UNITS. THEN
11 WE WOULD COME BACK AFTER THAT AND INTERVIEW A LITTLE MORE
12 THOROUGHLY. I COULDN'T TELL YOU HOW LONG WE TALKED TO
13 HER. WE TALKED TO EACH INDIVIDUAL WITNESS PROBABLY TWO
14 OR THREE TIMES.

15 Q WHEN YOU TALKED TO THE WITNESSES TWO OR
16 THREE TIMES, WHAT IS THE PURPOSE FOR YOU GETTING INITIAL
17 INFORMATION?

18 A INITIAL INFORMATION TO GET OUT TO OUR FIELD
19 UNITS WHO ARE LOOKING FOR SUSPECTS.

20 Q AND IN THIS CASE, DID YOU KNOW WHETHER OR
21 NOT A DETECTIVE WOULD AT SOME POINT IN TIME COME TO
22 INTERVIEW THE WITNESSES?

23 A THAT'S THE TYPICAL PROCEDURE. AFTER WE DO
24 OUR FIELD INVESTIGATION, WHICH IS VERY -- IT'S VERY
25 GENERAL -- A DETECTIVE WILL USUALLY SIT DOWN WITH THEM
26 THE NEXT DAY, WHEN THEY ARE A LOT MORE CALM, AND TRY TO
27 GO THROUGH THE DETAILS.

28 Q AND YOU KNOW THAT'S GOING TO HAPPEN;

1 CORRECT?

2 A I SUPPOSE THAT THAT'S WHAT IS GOING TO
3 HAPPEN.

4 Q IT DOESN'T HAPPEN IN EVERY CASE; CORRECT?

5 A NOT EVERY CASE.

6 Q IN A CASE LIKE THIS?

7 A MORE THAN LIKELY.

8 Q AND WHEN YOU TALKED TO THE WITNESSES, DID
9 YOU TALK TO THEM ALONE OR WITH A PARTNER?

10 A I HAD MY PARTNER THERE THE ENTIRE TIME.

11 Q AND WHEN YOU WOULD TALK TO THE WITNESSES,
12 DID YOU TALK TO THEM ALONE, OR WERE THEY IN, LIKE, A
13 GROUP?

14 A NO. WELL, AT FIRST, WHEN WE FIRST GET
15 THERE, WE USUALLY HAVE TWO OR THREE PEOPLE GIVING US
16 INFORMATION AT ONE TIME, AND THAT'S HOW WE GET OUR
17 INITIAL INFORMATION OUT TO THE FIELD UNITS. THEN WE TAKE
18 EVERYBODY SEPARATELY AND SPEAK TO THEM SEPARATELY.

19 Q AND WHEN YOU SPEAK TO THE WITNESSES
20 SEPARATELY, ARE THERE OTHER DEPUTIES WITH THE OTHER
21 WITNESSES?

22 A SOMETIMES. MAYBE. MAYBE NOT.

23 Q DO YOU RECALL IF THAT HAPPENED IN THIS
24 CASE?

25 A I REMEMBER THERE WERE A NUMBER OF DEPUTIES
26 AT THE HOUSE. I COULDN'T TELL YOU IF WE WERE SPEAKING TO
27 ONE PARTICULAR WITNESS, IF THERE WERE -- YOU KNOW, HOW
28 MANY DEPUTIES WERE IN THE HOUSE AT THAT TIME.

1 Q BECAUSE YOU'RE TALKING TO SOMEONE, AND YOU
2 DON'T KNOW WHAT ELSE IS GOING ON IN THE HOUSE?

3 A YES.

4 Q WERE YOU EVER GIVEN A PHYSICAL DESCRIPTION
5 OF THE SUSPECTS?

6 A YES.

7 Q DID THE LADY WHO JUST LEFT THE COURTROOM
8 GIVE YOU A PHYSICAL DESCRIPTION?

9 A YES.

10 Q DO YOU RECALL WHAT THAT PHYSICAL
11 DESCRIPTION WAS?

12 A NO, I DON'T.

13 Q DO YOU RECALL HOW MANY PEOPLE SHE SAID
14 THERE WERE?

15 A FOUR ALTOGETHER.

16 Q DO YOU RECALL IF SHE GAVE YOU THE RACES OF
17 THOSE INDIVIDUALS?

18 A I BELIEVE SHE SAID THAT THERE WERE THREE
19 THAT WERE BLACK AND ONE THAT WAS WHITE.

20 Q DO YOU RECALL IF SHE TOLD YOU HOW SHE WAS
21 ABLE TO SEE THE RACE OF THE INDIVIDUALS IF THEY WERE
22 WEARING MASKS?

23 A I REMEMBER I DID HEAR -- I AM NOT SURE IF
24 IT'S FROM HER, BUT SOMEBODY DID SAY THAT THEY BELIEVED
25 SOME OF THE MALES WERE BLACK BY THEIR VOICE, AND SHE ALSO
26 TOLD ME THAT THE WHITE MALE SPOKE TO HER IN SPANISH.

27 Q WHEN YOU WRITE YOUR REPORT, DO YOU WRITE
28 EVERY SINGLE THING DOWN IN YOUR REPORT THAT THEY HAVE

1 TOLD YOU?

2 A OBVIOUSLY I AM NOT A STENOGRAPHER. I CAN'T
3 WRITE DOWN EVERYTHING THAT THEY SAY. HOWEVER, I TRY TO
4 WRITE DOWN THE THINGS THAT I FEEL ARE IMPORTANT FOR ME TO
5 REMEMBER WHEN I TESTIFY.

6 Q AND WHEN YOU TALK -- HOW MANY VICTIM
7 WITNESSES DID YOU TALK TO THAT NIGHT?

8 A I BELIEVE ALTOGETHER THERE WERE NINE PEOPLE
9 IN THE HOUSE.

10 Q AND DO YOU DO YOUR REPORT AFTER YOU'VE
11 TALKED TO EVERYONE?

12 A WE DO OUR REPORT MANY HOURS LATER, YES.

13 Q AND WHEN YOU DO YOUR REPORT, IF EVERYBODY
14 TELLS YOU -- OR IF A MAJORITY OF THE PEOPLE TELL YOU THE
15 SAME INFORMATION, DO YOU PUT THAT DOWN IN EACH PERSON'S
16 STATEMENT?

17 A WE PUT DOWN EACH PERSON'S STATEMENT
18 SEPARATELY. I AM NOT SURE WHAT YOU'RE ASKING.

19 Q WELL, LET'S SAY IF EVERYBODY GAVE YOU A
20 SIMILAR DESCRIPTION, WOULD YOU PUT DOWN THE DESCRIPTION
21 IN EACH SECTION?

22 A I WOULD PUT DOWN WHATEVER EACH PERSON TOLD
23 ME. AND IF THEY WERE DIFFERENT, IF THEY DESCRIBED
24 SUSPECT 1 AS BEING 5'10", SOME OF THEM SAID 5'10" AND
25 SOME OF THEM SAID 5'6" OR 5'8", I WOULD PUT EXACTLY WHAT
26 THEY SAID BECAUSE EVERYBODY SEES THINGS DIFFERENTLY.

27 Q AND ON YOUR REPORT IS THERE A LOCATION TO
28 WRITE DOWN THE SEX AND THE RACE OF THE SUSPECTS?

1 A YES.

2 Q AND DID YOU DO THAT FOR ALL FOUR OF THE
3 SUSPECTS?

4 A YES.

5 Q AND WHERE DID YOU GET THAT INFORMATION?

6 A BASED ON EVERYTHING THAT THE WITNESSES TOLD
7 ME.

8 MR. GOUDY: NOTHING FURTHER.

9 THE COURT: RECROSS-EXAMINATION.

10 MR. EVANS: THANK YOU.

11

12 RECROSS-EXAMINATION

13 BY MR. EVANS:

14 Q DO YOU HAVE A COPY OF YOUR REPORT UP THERE,
15 JUST IN CASE?

16 A YES. YES, I DO.

17 Q AT ANY TIME YOU NEED TO REFER TO YOUR
18 REPORT TO REFRESH YOUR RECOLLECTION, PLEASE DO SO.

19 A THANK YOU.

20 THE COURT: JUST LET US KNOW THAT YOU ARE
21 REFERRING TO IT, THOUGH.

22 THE WITNESS: YES, YOUR HONOR.

23 THE COURT: THANK YOU.

24 BY MR. EVANS:

25 Q ON NOVEMBER 23RD, 2008, YOU HAD THE
26 OPPORTUNITY TO INTERVIEW A NUMBER OF THE PEOPLE WHO WERE
27 IN THE HOUSE RELATING TO A ROBBERY INCIDENT; IS THAT
28 CORRECT?

1 A YES, SIR.

2 Q DID YOU SPEAK TO A WOMAN BY THE NAME OF
3 FELICITAS GONZALEZ?

4 A I DON'T REMEMBER THE NAMES; BUT IF IT'S THE
5 LADY THAT JUST WALKED OUT, YES.

6 Q YOU REMEMBER SPEAKING TO HER?

7 A YES.

8 Q AND WAS SHE LISTED AS VICTIM 3 IN YOUR
9 REPORT?

10 A YES. I BELIEVE SO.

11 Q AND WHEN YOU SPOKE TO HER, DID YOU GIVE HER
12 PLENTY OF OPPORTUNITY TO TELL YOU WHAT HAD HAPPENED?

13 A SHE HAD PLENTY OF OPPORTUNITY TO TELL US.

14 Q YOU DIDN'T CUT HER OFF OR SAY NO, WE DON'T
15 NEED TO TALK ABOUT THIS ANYMORE? YOU NEVER SAID ANYTHING
16 LIKE THAT TO HER; RIGHT?

17 A NO.

18 Q BECAUSE AT THAT POINT IT'S IMMEDIATELY
19 AFTER THE EVENT, AND YOU KNOW AS A TRAINED DEPUTY THAT
20 IT'S IMPORTANT -- IF THERE ARE IMPORTANT DETAILS, THEY
21 ARE PROBABLY GOING TO REMEMBER THEM AT THAT TIME. FAIR
22 STATEMENT?

23 A YES.

24 Q AND SO WHAT YOU INCLUDED IN YOUR REPORT
25 WERE THE IMPORTANT DETAILS OR FACTS THAT YOU BELIEVED
26 WERE IMPORTANT THAT SHE GAVE YOU ABOUT WHAT HAD JUST
27 OCCURRED AT THE RESIDENCE; CORRECT?

28 A YES, SIR.

1 Q AND WHEN YOU SPOKE TO HER, WOULD IT BE FAIR
2 TO SAY THAT SHE NEVER IDENTIFIED A MASKED INDIVIDUAL
3 POINTING A GUN AT HER; CORRECT?

4 A I WOULD HAVE TO READ THE STATEMENT AGAIN.

5 Q IF THAT WOULD REFRESH YOUR RECOLLECTION,
6 PLEASE DO SO.

7 THE COURT: YOU MAY.

8 THE WITNESS: THANK YOU.

9 SHE TOLD ME THAT A CAUCASIAN MALE POINTED A
10 GUN AT HER.

11 BY MR. EVANS:

12 Q DID SHE EVER MENTION TO YOU THAT A MASKED
13 MAN POINTED A GUN AT HER?

14 A NO.

15 Q DID SHE EVER MENTION TO YOU THAT A MASKED
16 MAN TOOK HER INTO NANCY JARDINES' BEDROOM?

17 A I KNOW WE WERE TOLD THAT SHE WAS TAKEN INTO
18 A BEDROOM BY SUSPECTS. WHETHER OR NOT THE PERSON WAS
19 MASKED, I DON'T BELIEVE I HAVE THAT DETAIL IN MY REPORT,
20 AND I DON'T REMEMBER IF SHE TOLD ME THAT.

21 Q ISN'T IT FAIR THAT SHE SAID THAT -- THE
22 ONLY MENTION OF THE MASKED MAN WAS THAT HE WENT INTO HER
23 BEDROOM?

24 A I THINK THAT'S FAIR.

25 Q DID SHE INDICATE TO YOU IN ANY MANNER THAT
26 A MASKED MAN TOOK A PHONE OFF THE HOOK IN A BEDROOM?

27 A I DON'T REMEMBER THAT DETAIL.

28 Q AND THAT'S NOT IN YOUR REPORT; IS THAT A

1 FAIR STATEMENT?

2 A I DON'T BELIEVE IT IS.

3 Q DID SHE INDICATE TO YOU THAT A MASKED MAN
4 TOOK JEWELRY AND PUT IT IN HIS POCKET?

5 A I DON'T REMEMBER THAT DETAIL.

6 Q DID SHE EVER INDICATE TO YOU THAT SHE --
7 THAT A MASKED MAN POINTED A GUN AT HER FOREHEAD IN THE
8 HALLWAY?

9 A THE ONLY THING THAT I HAVE WRITTEN DOWN WAS
10 THAT A CAUCASIAN MALE POINTED A GUN AT HER. SO NO, I
11 DON'T REMEMBER THAT DETAIL.

12 Q SO THERE'S NO INDICATION IN ANY MANNER THAT
13 A MASKED MAN POINTED A GUN AT HER FOREHEAD?

14 A IT'S NOT IN MY REPORT, AND NOT TO MY
15 RECOLLECTION.

16 Q NOW, DID MS. GONZALEZ GIVE YOU ANY
17 INDICATION OF SOMETHING DISTINCTIVE ABOUT THE PERSON
18 WEARING A MASK REGARDING HIS EYES OR HIS MOUTH?

19 A I BELIEVE THAT THE PERSON THAT WAS -- THAT
20 SHE REFERRED TO WEARING A MASK -- I WOULD HAVE TO READ MY
21 REPORT AGAIN.

22 Q IF THAT WOULD REFRESH YOUR RECOLLECTION.

23 A YES.

24 THE COURT: YOU MAY DO SO.

25 THE WITNESS: I DON'T HAVE ANY MORE DETAIL FROM
26 HER ABOUT THE MASK, JUST THAT THERE WAS A MASKED MAN.

27 BY MR. EVANS:

28 Q NOW, IN YOUR REPORT THERE'S A -- AS TO EACH

1 SUSPECT, THERE IS A DESIGNATED AREA TO PUT EITHER THE
2 DESCRIPTION OR COLOR OF EYES; CORRECT?

3 A YES.

4 Q ALL RIGHT. AND IN YOUR REPORT DID YOU NOTE
5 ANY INFORMATION ABOUT UNIDENTIFIED SUSPECTS' EYES?

6 A I DON'T BELIEVE SO, BUT I NEED TO LOOK AT
7 MY REPORT.

8 Q IF THAT WOULD REFRESH YOUR RECOLLECTION.

9 A NO. I AM SORRY. I AM SORRY. I TAKE THAT
10 BACK. ON ONE OF THE SUSPECTS WHO WE DESIGNATED AS
11 NUMBER 4, A MALE WHITE, BROWN EYES, 5'10", THIN BUILD.

12 Q SO THERE WAS ONLY SOME INFORMATION ABOUT
13 THE DESCRIPTION OF THE EYES AS IT RELATED TO THE MALE
14 WHITE?

15 A CORRECT.

16 Q NOW, DID YOU SPEAK TO A WOMAN BY THE NAME
17 OF NANCY JARDINES ON NOVEMBER 23RD, 2008?

18 A I DON'T REMEMBER THE NAME, AND I WOULD HAVE
19 TO LOOK ON THE REPORT.

20 Q IF THAT WOULD REFRESH YOUR RECOLLECTION.

21 A I REFERRED TO HER AS VICTIM 4. LET ME
22 JUST SEE WHICH ONE SHE WAS. OKAY.

23 Q YOU REMEMBER NOW? DOES THAT REFRESH YOUR
24 RECOLLECTION?

25 A YES.

26 Q YOU SPOKE TO A WOMAN BY THE NAME OF NANCY
27 JARDINES; IS THAT CORRECT?

28 A YES.

1 Q AND WHEN YOU SPOKE TO HER, DID YOU GIVE HER
2 AN OPPORTUNITY TO TELL YOU AT LEAST EVERYTHING THAT SHE
3 COULD HAVE REMEMBERED ABOUT WHAT HAD JUST OCCURRED IN HER
4 RESIDENCE?

5 A YES.

6 Q ALL RIGHT. YOU DIDN'T CUT HER OFF IN ANY
7 WAY?

8 A NO.

9 Q AND AT THAT TIME WHEN YOU SPOKE TO HER, SHE
10 INDICATED TO YOU THAT THERE WAS A PERSON IN THE KITCHEN
11 THAT HAD A MASK ON; IS THAT CORRECT?

12 A I BELIEVE SO.

13 Q AND DID SHE GIVE YOU ANY DESCRIPTION OF THE
14 MASK?

15 A AGAIN, I WOULD HAVE TO READ HER WHOLE
16 STATEMENT.

17 Q AND IF THAT WOULD REFRESH YOUR RECOLLECTION
18 TO LOOK AT YOUR REPORT.

19 A YES.

20 OKAY. I AM SORRY. WHAT WAS THE QUESTION
21 AGAIN, SIR?

22 Q DID SHE TELL YOU OR GIVE YOU ANY
23 DESCRIPTION OF THE MASK THAT SHE SAW THAT WAS WORN BY
24 THE PERSON SHE SAW IN THE KITCHEN?

25 A THE ONLY DESCRIPTION I GOT WAS OF A PERSON
26 WHO HAD A MASK PULLED NOT OVER HIS FACE BUT PULLED UP.

27 Q THERE WERE TWO PEOPLE THAT SHE IDENTIFIED
28 THAT WERE IN THE KITCHEN; CORRECT?

1 A LET ME DOUBLE CHECK AGAIN.

2 I ONLY HAVE DETAIL ABOUT THE PERSON THAT
3 DID NOT HAVE THE MASK ON FROM HER.

4 Q BUT SHE TOLD YOU THAT THERE WERE TWO PEOPLE
5 IN THE KITCHEN, ONE SUSPECT WEARING A MASK AND ONE NOT
6 WEARING A MASK?

7 A NO. MY -- THAT MIGHT HAVE HAPPENED, BUT
8 WHAT I HAVE IN MY REPORT IS THAT THERE WERE FOUR MALES.
9 SHE WAS IN THE KITCHEN, AND THERE WERE FOUR MALES IN THE
10 LIVING ROOM, AND SHE BECAME CLOSE TO ONE OF THE MALES
11 THAT DID NOT HAVE THE MASK ON.

12 Q HOW MANY MALES DID SHE IDENTIFY THAT SHE
13 SAW IN THE KITCHEN?

14 A I DON'T -- THERE WEREN'T ANY KITCHEN. SHE
15 WAS IN THE KITCHEN, AND I BELIEVE THEY WERE IN THE LIVING
16 ROOM. I BELIEVE THAT'S WHAT MY REPORT SAYS, TOO.

17 Q OKAY. DID SHE PROVIDE YOU WITH A
18 DESCRIPTION OF A MASK WORN BY THE SUSPECT, THE ONE WHERE
19 IT WAS PULLED OVER THE FACE?

20 A I DON'T RECALL THAT. I HAVEN'T READ THAT
21 IN MY REPORT.

22 Q DID SHE NOTE ANY DISTINCTIVE
23 CHARACTERISTICS ABOUT ANY INDIVIDUALS WEARING A MASK,
24 PARTICULARLY EYES, NOSE, OR MOUTH?

25 A NO.

26 Q DID SHE MENTION TO YOU, MS. JARDINES, THAT
27 SHE SAW A SUSPECT WITH A MASK TAKE A PHONE OFF THE HOOK
28 IN HER BEDROOM?

1 A I DON'T RECALL THAT.

2 Q AND THAT'S NOT IN YOUR REPORT; CORRECT?

3 A NOT THAT I HAVE READ, NO.

4 Q NOW, DID YOU SEND ANY ITEMS OUT FOR
5 FINGERPRINTING?

6 A I BELIEVE WE SENT A GUN OUT FOR
7 FINGERPRINTING AND THE MAGAZINE.

8 Q BECAUSE YOU BELIEVED THAT SOMEONE TOUCHED
9 THE WEAPON THAT WAS FOUND; CORRECT?

10 A AT ONE TIME, YES. I KNOW THAT THE VICTIMS
11 TOLD US THAT THE SUSPECTS WERE ALL WEARING GLOVES. SO
12 THE CHANCES OF GETTING FINGERPRINTS WERE PROBABLY SLIM,
13 BUT YES, WE DID.

14 Q SO THE ONLY ITEM YOU SENT OUT FOR PRINTS
15 THEN WAS THE GUN; CORRECT?

16 A THAT I REMEMBER, YES.

17 Q SO IF YOU HAD BEEN TOLD AS A TRAINED DEPUTY
18 THAT SOMEONE HAD TOUCHED A PHONE IN THE ROOM WITH THEIR
19 BARE HANDS, YOU WOULD HAVE SENT THAT PHONE OUT FOR
20 PRINTS. FAIR STATEMENT?

21 A YES.

22 Q OR ANY SURFACE THAT WAS TOUCHED WITH BARE
23 HANDS BY A SUSPECT, YOU WOULD HAVE BROUGHT IN A PRINT
24 PERSON OR A FORENSICS PERSON TO TRY AND LIFT SOME
25 PRINTS?

26 A YES.

27 Q AND YOU DIDN'T DO SO IN THIS CASE, OTHER
28 THAN THE GUN?

1 A NO, BECAUSE I SPECIFICALLY ASKED ALL THE
2 FOLKS IN THE HOUSE IF THEY WERE WEARING GLOVES, AND I WAS
3 TOLD THAT THEY WERE WEARING GLOVES.

4 Q DID YOU SPEAK TO A WOMAN BY THE NAME OF
5 BRENDA BARRAGAN?

6 A I RECOGNIZE THAT NAME, YES.

7 Q AND DID SHE INDICATE TO YOU THAT THE ONLY
8 PERSON SHE COULD IDENTIFY WAS THE PERSON THAT SHE SAW
9 THAT WAS NOT WEARING A MASK?

10 MR. GOUDY: OBJECTION. HEARSAY.

11 THE COURT: OVERRULED.

12 MR. GOUDY: MAY WE APPROACH?

13 THE COURT: ALL RIGHT.

14
15 (THE FOLLOWING PROCEEDINGS
16 WERE HELD AT SIDEBAR:)

17
18 MR. GOUDY: SHE WAS NEVER CONFRONTED WITH THE
19 STATEMENT OF WHAT SHE TOLD THE POLICE. SHE IS NOT
20 SUBJECT TO RECALL.

21 THE COURT: WE ARE STILL GOING ON IN THIS CASE.
22 SO IF HE WANTS TO TRY AND SUBPOENA HER --

23 MR. GOUDY: BUT AT THIS POINT --

24 THE COURT: I CAN TAKE IT SUBJECT TO WHATEVER I
25 WANT TO FOR JUDICIAL ECONOMY.

26 MR. GOUDY: THAT'S FINE.

27 THE COURT: AND I WILL HAVE TO GO THROUGH MY
28 NOTES, BUT I WILL ALLOW IT.

1 (THE FOLLOWING PROCEEDINGS
2 WERE HELD IN OPEN COURT IN
3 THE PRESENCE OF THE JURY:)

4

5 BY MR. EVANS:

6 Q ON NOVEMBER 23RD, 2008, DID MS. BARRAGAN
7 TELL YOU THE ONLY PERSON SHE COULD IDENTIFY WAS THE
8 PERSON SHE SAW WHO WAS NOT WEARING A MASK?

9 A I DON'T REMEMBER SPECIFICALLY SHE SAID THAT
10 WOULD BE THE ONLY PERSON, BUT I DO REMEMBER SPECIFICALLY
11 HER SAYING THAT SHE WOULD DEFINITELY BE ABLE TO IDENTIFY
12 THE PERSON THAT WASN'T WEARING THE MASK.

13 Q DID SHE INDICATE THAT SHE COULD IDENTIFY
14 ANY OTHER INDIVIDUALS THAT WERE IN THE LOCATION?

15 A I DON'T RECALL IF SHE SPECIFICALLY SAID SHE
16 COULD. I CAN LOOK IN MY REPORT. I DON'T REMEMBER THAT,
17 THOUGH.

18 Q IF THAT WOULD REFRESH YOUR RECOLLECTION.

19 THE COURT: COUNSEL, DO YOU HAVE MUCH FURTHER?

20 MR. EVANS: I HAVE ONE FURTHER QUESTION.

21 THE COURT: OKAY. AND HOW MUCH REDIRECT DO YOU
22 HAVE?

23 MR. GOUDY: NOT VERY MUCH, YOUR HONOR.

24 THE WITNESS: ALL I HAVE AND ALL THAT I REMEMBER
25 IS SHE SAID SHE COULD DEFINITELY IDENTIFY THE SUSPECT
26 THAT DID NOT HAVE THE MASK.

27 MR. EVANS: YOUR HONOR, JUST TWO QUESTIONS. ONE
28 IS FOUNDATIONAL, AND ONE IS SUBSTANTIVE.

1 THE COURT: BRIEFLY.

2 BY MR. EVANS:

3 Q DID YOU SPEAK TO A WOMAN BY THE NAME OF
4 ANNETTE SAAVEDRA ON 11/23/2008?

5 A I DON'T RECOGNIZE THAT NAME. I WILL HAVE
6 TO LOOK.

7 THE COURT: YOU MAY DO SO.

8 THE WITNESS: OKAY. I DESIGNATED HER AS VICTIM
9 NUMBER 6. IF I COULD JUST LOOK AND SEE WHO SHE WAS REAL
10 QUICK. OKAY.

11 BY MR. EVANS:

12 Q YOU DID?

13 A YES.

14 Q DID MS. SAAVEDRA INDICATE TO YOU THAT SHE
15 SAW THE EYES AND MOUTH OF THE INDIVIDUALS THAT SHE SAW
16 WEARING A MASK?

17 A NO.

18 MR. EVANS: NOTHING FURTHER.

19 THE COURT: RE-REDIRECT.

20

21 FURTHER REDIRECT EXAMINATION

22 BY MR. GOUDY:

23 Q DID YOU SPEAK TO EACH ONE OF THESE
24 WITNESSES MULTIPLE TIMES THAT NIGHT?

25 A I BELIEVE I SPOKE TO ALL OF THEM SEVERAL
26 TIMES, YES.

27 Q LET'S START WITH FELICITAS GONZALEZ, THE
28 LADY THAT JUST LEFT.

1 THE COURT: IF WE ARE GOING TO GO THROUGH ALL OF
2 THOSE STATEMENTS, WE WILL TAKE OUR BREAK NOW.

3 MR. GOUDY: I AM NOT GOING THROUGH ALL OF THEM. I
4 JUST WANT HIM TO REFER TO HIS REPORT IN REFERENCE TO HOW
5 MUCH --

6 THE COURT: I MEAN, I DON'T WANT TO CUT YOU OFF,
7 AND IT'S -- BECAUSE OF TRANSPORTATION AND BUDGET ISSUES,
8 IF YOU HAVE MORE THAN THREE OR FOUR QUESTIONS -- AND IT
9 SEEMS LIKE YOU PROBABLY DO --

10 MR. GOUDY: I WILL HAVE MORE THAN THREE OR FOUR
11 QUESTIONS WITHOUT A DOUBT.

12 THE COURT: THEN WE WILL GO AHEAD AND BREAK NOW.

13 SO LADIES AND GENTLEMEN, KEEP IN MIND THE
14 COURT'S ADMONITION. WE ARE GOING TO RETURN TOMORROW AT
15 10:15 IN THE MORNING, A LITTLE EARLIER THAN USUAL.
16 10:15.

17 KEEP IN MIND THE COURT'S ADMONITION.

18 DEPUTY, YOU ARE ORDERED BACK FOR 10:15 IN
19 THE MORNING.

20 ALTERNATE JUROR NO. 2: I CAN'T MAKE IT AT 10:00.

21 THE COURT: WHEN DO YOU THINK YOU WOULD BE DONE?

22 ALTERNATE JUROR NO. 2: MORE LIKE 11:00 O'CLOCK.

23 THE COURT: CAN YOU BE HERE AT 11:00 O'CLOCK?

24 ALTERNATE JUROR NO. 2: YES. I DON'T KNOW WITH
25 TRAFFIC, THOUGH.

26 THE COURT: OKAY. I AM GOING TO ORDER YOU ALL
27 BACK AT 11:00 A.M. SO BE HERE AT 11:00 A.M.

28 ///

1 (THE FOLLOWING PROCEEDINGS
2 WERE HELD IN OPEN COURT
3 OUTSIDE THE PRESENCE OF THE
4 JURY:)

5
6 THE COURT: OUR JURORS HAVE LEFT.

7 JUST SO THE RECORD IS CLEAR, BASED UPON
8 DEPUTY CARIAGA'S LAST ANSWER, I DON'T FIND THAT THERE IS
9 AN INCONSISTENCY CONCERNING MS. BARRAGAN'S IDENTIFICATION
10 AT THIS PARTICULAR POINT. SO I DON'T NECESSARILY SEE THE
11 NEED TO CALL AND CONFRONT HER WITH THIS PARTICULAR
12 QUESTION BECAUSE HE HASN'T SAID THAT SHE COULDN'T I.D.
13 ANYONE.

14 MR. GOUDY: THEN IF IT'S NOT INCONSISTENT, THEN IT
15 WOULD BE HEARSAY.

16 THE COURT: WELL, AT THIS POINT IT'S JUST -- I AM
17 GOING TO ALLOW IT TO REMAIN. SHE SAID THE PERSON SHE
18 COULD FOR SURE I.D. IS THE PERSON NOT WEARING A MASK. I
19 THINK THAT'S JUST CLARIFICATION REGARDING HER ABILITY TO
20 I.D., BUT I DON'T THINK IT'S NECESSARILY INCONSISTENT
21 WITH NOT BEING ABLE TO I.D. ANYONE ELSE.

22 MR. GOUDY: OKAY.

23 THE COURT: WE WILL SEE YOU ALL TOMORROW AT
24 11:00 A.M.

25 ///

26 ///

27 ///

28 ///

(THE MATTER WAS CONTINUED
TO FRIDAY, AUGUST 6, 2010,
AT 11:00 A.M. FOR FURTHER
PROCEEDINGS.)

(THE NEXT PAGE NUMBER IS 1501.)