

1 BY MR. BERGRIN:

2 Q. Now, while you were at the Hudson County Jail, you got  
3 a visit by an attorney by the name of Richard Roberts;  
4 correct?

5 A. I called Richard in anticipation of hiring an  
6 attorney --

7 Q. Cooperation. Yeah -

8 MR GAY: Would you please allow him to finish the  
9 question without Mr. Bergrin interrupting him?

10 THE COURT: Let him finish the question.

11 MR. BERGRIN: Absolutely, Judge. Go ahead, sir.  
12 I didn't mean to interrupt you.

13 A. To answer your question, I did reach out to  
14 Mr. Richard Roberts and asked him to come and consult with  
15 me as far as representation, yes.

16 Q. And he came and consulted with you; correct?

17 A. Yes.

18 Q. And did you ever pay Richard Roberts any money, and  
19 then he returned it?

20 A. Yes.

21 Q. And that was \$5,000 to represent you to cooperate,  
22 correct, in this case.

23 A. Yes, sir.

24 Q. And did you know that Richard Roberts was representing  
25 other cooperators?

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**Newark, New Jersey**  
**March 11, 2013**

**THE HON. DENNIS M. CAVANAUGH, U.S.D.J.,  
AND A JURY**

Pursuant to Section 753, Title 28, United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above entitled proceedings.

P3760

1 MR. LUSTBERG: So that's it, Judge.

2 THE COURT: Okay. I'll allow that.

3 Now, just so we're clear -- well, let's look at  
4 these other proffers that you sent me.

5 MR. LUSTBERG: Yes, and I apologize for how late  
6 it is. The reason, Judge, is because up until today, there  
7 were two others, and we did eliminate them, as I said, after  
8 we spoke to their counsel, that I will tell you that with  
9 regard to each of these two individuals, we have not yet,  
10 although we've tried, we have not yet managed to speak to  
11 their lawyers. So I cannot -- and you had asked us to do  
12 that. We've tried.

13 THE COURT: Well, let me just say this. So far,  
14 every witness that's been writted in has declined to  
15 testify. Okay?

16 Now, what we're dealing with now are two witnesses  
17 that are writted in, and you're asking me for a continuance  
18 until the end of this week, to Thursday, and one on March  
19 19th.

20 MR. BERGRIN: Judge, on Syed Rehman, he has  
21 contacted our investigator on two occasions, he has  
22 contacted Lou Stephens on two occasions and indicated that  
23 he would testify.

24 MR. LUSTBERG: I do think that these ones are  
25 different than some of the others in that these are not

1 people against whom, if I understand correctly, charges are  
2 pending, they have already been sentenced, and so I don't  
3 believe that there's an issue with a pending charge. Nor do  
4 I think the testimony that they're being asked to provide  
5 really implicates any Fifth Amendment rights. So I don't  
6 think it's likely that they'll take the Fifth.

7 THE COURT: The only testimony that I see here  
8 that you want to offer is to undercut the testimony of Abdul  
9 Williams. You're saying that while incarcerated, this  
10 witness in contradiction to that of Williams lied about  
11 Bergrin and whether or not the father and sister of Williams  
12 would be incarcerated as pressured by the Government, I  
13 suppose.

14 What I see here does not rise to the level that  
15 would cause me to give a continuance. I'll place my reasons  
16 on the record, but if this is it, I am not going to continue  
17 this trial. This trial is going forward. There will be no  
18 further continuance. I've given you days off for every  
19 witness that you needed. I've never yet declined to do  
20 that. I am not putting this case off for another week so we  
21 can get two witnesses who, number one, haven't even been  
22 spoken to, I don't know what they're going to testify to,  
23 and the history of this has been, every time that we waited  
24 for these witnesses, all that's happened is they've come in  
25 and when given the opportunity said they will not testify.

1                   So I am not going to give a continuance. I'll  
2 place my further reasons on the record.

3                   MR. BERGRIN: Judge --

4                   THE COURT: So be prepared to go forth with this  
5 case as I've stated.

6                   MR. BERGRIN: Judge, with Syed Rehman, it's much  
7 different.

8                   First of all -- I want to put this on the record  
9 -- Abdul Williams is an extremely material witness on behalf  
10 of the Government. Syed Rehman has been interviewed, Judge.  
11 Syed Rehman has contacted our investigator on two occasions  
12 from the Federal prison where he's located and indicated he  
13 will testify.

14                   Syed Rehman does not have any Fifth Amendment  
15 right. He's not incriminating himself. His case is  
16 completely disposed of, Your Honor. I believe his appeal is  
17 disposed of. He's not in any way --

18                   THE COURT: He should have been contacted sooner.  
19 He should have been brought in sooner.

20                   MR. BERGRIN: Judge, he was -- he was --

21                   THE COURT: Mr. Bergrin, I'm not putting the trial  
22 off. Let me make this clear: This trial is not going off.  
23 We are going forward.

24                   MR. BERGRIN: We're talking about 48 hours, Judge.

25                   THE COURT: We've had three years to do this.

1 It's not 48 hours. And we've had three years to do this.

2 MR. BERGRIN: But Syed Rehman hasn't come forth  
3 until recently, Judge.

4 THE COURT: I am not putting the case off. This  
5 case is going forward.

6 All right. As soon as the witness comes in,  
7 please call me.

8 (Recess taken)

9 (Defendant present)

10 (Jury out)

11 THE COURT: I wanted to place this on the record  
12 before the witness is called.

13 Mr. Bergrin has asked this Court for a continuance  
14 of the trial until March 19th, 2013, or until the soonest  
15 date the Marshals are able to produce two witnesses in  
16 Federal custody whom the defense has subpoenaed or writted  
17 for trial. He wishes to call Syed Rehman, R-e-h-m-a-n, who  
18 is expected to arrive on March 14, and Rahool Drew, who is  
19 expected to arrive on March 19th.

20 The grant or denial of continuance is a decision  
21 entrusted to the discretion of the trial court.

22 See U.S. v. Alessandrello, 637 F.2d 131, 147 (3rd Cir.  
23 1980). The trial judge must be given wide latitude in  
24 arranging the Court's schedule. Virgin Islands v.  
25 Charleswell, 115 F.3d 171, 174 (3rd Cir. 1997). To justify

1 a continuance, the Defendant must make a showing of the  
2 testimony that a witness is expected to give and should show  
3 the witness' availability or willingness to testify.

4 U.S. v. Prudhomme, 13 F.2d 147 (5th Cir. 1994). The absence  
5 of even a material witness does not require the granting of  
6 a continuance unless due diligence to procure their presence  
7 is shown. Heflin v. U.S., 223 F.2d 371 (5th Cir. 1954).

8 Nor is absence of a witness a ground for continuance where  
9 the testimony is insignificant, irrelevant, or cumulative.

10 See U.S. v. Halderman, 559 F.2d 31 (D.C. Cir. 1976);

11 U.S. v. Zemba, 59 Fed. Appx. 459 (3d. Cir. 2003).

12 The Court does not find the two witnesses material  
13 to this case. The expected testimony of Rehman, an alleged  
14 conversation between Abdul Williams and Syed Rehman while  
15 both were incarcerated, is being proffered to undermine the  
16 testimony previously received from Abdul Williams. Rahool  
17 Drew was allegedly present during the conversation between  
18 Rehman and Williams and is expected to corroborate Rehman's  
19 account.

20 The Court is not convinced that a continuance  
21 until March 19th, eight days from today, is necessary or  
22 appropriate in a trial that has already gone on for almost  
23 nine weeks. The Court also notes that Mr. Bergrin has had  
24 ample time to provide the Marshals with necessary writs to  
25 have these witnesses produced in court. The Court does not



1 believe that Mr. Bergrin has been diligent in endeavoring to  
2 secure the attendance of these witnesses.

3 See Younge v. U.S., 223 F. 941 (C.C.A. 4th Cir. 1915).

4 This is not a question of a short delay, and the Court is  
5 not persuaded that the materiality of the witnesses requires  
6 such a continuance. Additionally, the Court notes that  
7 various witnesses called by the defense, at great  
8 inconvenience to the Marshal Service and the Court, have  
9 been produced at this Court only to plead their Fifth  
10 Amendment right and not testify. While there is no  
11 guarantee that these witnesses too would plead the Fifth,  
12 the Court will not grant the continuance on the chance the  
13 two witnesses do decide to testify. I also believe that  
14 this would be an improper imposition on the jury, who have  
15 been very good so far and have put up with a number of  
16 delays because of witnesses failing to show up on time.

17 As the continuance is neither appropriate nor  
18 necessary at this time, the Court denies the motion.

19 All right. Would you knock on that door and see  
20 if my clerk is there?

21 MR. BERGRIN: Judge, could I have five minutes  
22 with the witness?

23 THE COURT: Five minutes with what witness?

24 MR. BERGRIN: With Mr. Love, Judge.

25 THE COURT: I thought he was -- you gave me a



1 two-page statement of what he's going to testify to. What  
2 do we need five minutes for?

3 MR. BERGRIN: Yes, Your Honor. My investigator  
4 spoke to him, but I haven't spoke to him, Judge. I mean,  
5 obviously you know I can't speak to him. Obviously I didn't  
6 go see him.

7 I'm just asking for a slight indulgence with the  
8 Court. We've waited this long. Just give me five minutes,  
9 please, Judge.

10 THE COURT: All right.

11 A DEPUTY MARSHAL: The jury is here.

12 THE COURT: The jury is here?

13 All right. Hold onto the jury for a minute.

14 Speak to him right there, Mr. Bergrin.

15 Ms. Cimino was brought in as counsel.

16 MS. CIMINO: I did speak to him, Judge. I just  
17 want to know if you want me here during this conversation,  
18 or it's not necessary?

19 THE COURT: Do you think it's necessary?

20 MS. CIMINO: I would just like to be here.

21 THE COURT: Okay.

22 MS. CIMINO: I have read the affidavit as well.

23 (Off the record discussion between the Defendant and  
24 the witness with Alyssa Cimino, Esq., appointed counsel for  
25 the witness, present)

1 MR. BERGRIN: Thank you.

2 THE COURT: Would you ask Scott to bring the jury  
3 in?

4 MR. BERGRIN: Thank you, Judge.

5 THE COURT: Okay.

6 MR. BERGRIN: Thank you very much.

7 THE COURT CLERK: All rise.

8 (The jury enters)

9 THE COURT: Be seated.

10 Okay. Scott, please swear in the witness.

11 THE COURT CLERK: Placing your left hand on the  
12 bible, raising your right hand:

13 L E M O N T L O V E, called as a witness on behalf of the  
14 Defendant, and having been duly sworn, testified as follows:

15 THE COURT CLERK: Please be seated.

16 Please state your name, spelling it for the  
17 record.

18 THE WITNESS: Lemont Love, L-e-m-o-n-t, Love,  
19 L-o-v-e.

20 THE COURT: Go ahead, Mr. Bergrin.

21 MR. BERGRIN: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. BERGRIN:

24 Q. Mr. Love, how old are you, sir?

25 A. I'm 32.

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW JERSEY  
3

4       UNITED STATES OF AMERICA           :       Criminal No.  
  :       09-cr-369-DMC  
5                                   v.           :  
6       PAUL W. BERGRIN,                 :       TRANSCRIPT OF  
  :       TRIAL PROCEEDINGS  
7                                   Defendant.   :       VOLUME 34  
      -----x

8  
9   Newark, New Jersey  
10    March 13, 2013  
11  
12

13       BEFORE:

14                   THE HON. DENNIS M. CAVANAUGH, U.S.D.J.,  
15                   AND A JURY  
16  
17  
18

19   Reported by:  
20   CHARLES P. McGUIRE, C.C.R.  
  Official Court Reporter

21  
22       Pursuant to Section 753, Title 28, United States  
23       Code, the following transcript is certified to be  
      an accurate record as taken stenographically in  
      the above entitled proceedings.

24   s/CHARLES P. McGUIRE, C.C.R.  
25

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW JERSEY  
3

4       UNITED STATES OF AMERICA               :       Criminal No.  
  :       09-cr-369-DMC  
5   v.               :  
  :       TRANSCRIPT OF  
6       PAUL W. BERGRIN,                        :       TRIAL PROCEEDINGS  
  :  
7   Defendant.    :       VOLUME 13  
      -----x

8  
9   Newark, New Jersey  
  February 7, 2013  
10  
11  
12

13       BEFORE:

14                       THE HON. DENNIS M. CAVANAUGH, U.S.D.J.,  
15                       AND A JURY  
16  
17  
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24   s/CHARLES P. MCGUIRE, C.C.R.  
25

1 In any event, see if they exist.

2 Let's get the jury, and let's get the witness.

3 Right here, sir. Sit down.

4 When the jury comes in, you don't have to stand.

5 They'll say stand. You can remain seated.

6 THE COURT CLERK: All rise.

7 (The jury enters)

8 THE COURT: Be seated.

9 You may have noticed a few days ago it was too  
10 cold in here, and now it's kind of warm. It's my clerk  
11 Scott's fault.

12 (Laughter)

13 A JUROR: We blamed him anyway.

14 THE COURT: All right. Mr. Minish, next witness,  
15 please.

16 MR. MINISH: May we swear the witness, Judge?

17 R O N D R E K E L L Y, called as a witness on behalf of  
18 the Government, and having been duly sworn, testified as  
19 follows:

20 THE COURT: Mr. Kelly, would you please pull that  
21 microphone close to you and keep your voice up, sir?

22 Just keep your voice up.

23 Okay. Go ahead, Mr. Minish.

24 DIRECT EXAMINATION

25 BY MR. MINISH:



1 Q. I'm sorry, the jury didn't get your name. Would you  
2 state your name again?

3 A. Rondre Kelly, K-e-l-l-y.

4 Q. K-e-l-l-y. And Rondre is R-o-n-d-r-e?

5 A. Yes.

6 Q. Now, Mr. Kelly, how old are you?

7 A. Forty-one.

8 Q. Where were you born? What city?

9 A. In Newark, New Jersey.

10 Q. Could you give the jury the benefit of your education?  
11 How far did you get in school?

12 A. Graduated high school.

13 Q. And after high school, where did you go?

14 A. Went to the National Guard.

15 Q. And about how long were you in the National Guard?

16 A. Two or three years.

17 Q. Are you currently incarcerated?

18 A. Yes.

19 Q. And when were you incarcerated on this present term?

20 A. In 2009.

21 Q. In January?

22 A. Yes.

23 Q. But that wasn't your first involvement with respect to  
24 the criminal justice system; correct?

25 A. Excuse me?

1 Q. This isn't the first time, this jail time now, it's  
2 not the first time you were involved in the criminal justice  
3 system; right?

4 A. No.

5 Q. I want to just go back and discuss a few things that  
6 you've done in your past. Okay?

7 A. Yes.

8 Q. Now, were you arrested in August of 1992 with a number  
9 of other individuals in a vehicle and a gun? And a gun?

10 A. Yes.

11 Q. And was that charge ultimately dismissed as to you?

12 A. Yes.

13 Q. All right. Were you also arrested with a drug offense  
14 and charged in Newark Municipal Court?

15 A. Yes.

16 Q. And did you receive a fine for that?

17 A. Yes.

18 Q. Now, for the third arrest, did you seek the -- did you  
19 seek a specific individual to represent you in court?

20 A. Yes.

21 Q. Okay. And who was that?

22 A. Mr. Bergrin.

23 Q. Okay. And why did you go to Mr. Bergrin?

24 A. He was good. Everybody says he's a great attorney.

25 THE COURT: Okay. You're going to have to keep

1       your voice up. Move closer.

2       A.     Everybody said he's a great attorney.

3       Q.     What kind of case was it?

4       A.     Drug case.

5       Q.     And what exactly happened?

6       A.     I was in a car, couple of friends. They jumped out,  
7       ran. The drugs was left in the car. I didn't run, and I  
8       got arrested.

9       Q.     Because everybody else ran away?

10      A.     Yes.

11      Q.     Okay, and what was the resolution of that case?

12      A.     I was found not guilty at trial.

13      Q.     And where was Mr. Bergrin's office at the time?

14      A.     Bloomfield, Bloomfield Avenue, crosstown somewhere.

15      Q.     Now, --

16               THE COURT: Can you hear him?

17               A JUROR: No.

18               THE COURT: Okay. Pull the microphone closer and  
19       keep your voice up, okay? Those jurors all the way at the  
20       end to hear you, Mr. Kelly.

21               THE WITNESS: Okay.

22               THE COURT: Go ahead.

23       BY MR. MINISH:

24       Q.     So, Mr. Kelly, you were talking about the case where  
25       Mr. Bergrin represented you.

1 A. Yes.

2 Q. What was the end result of that case?

3 A. I was found not guilty.

4 Q. Now, did you develop a relationship with Mr. Bergrin  
5 after that?

6 A. As far as?

7 Q. Did you send him other clients?

8 A. Yes.

9 Q. Okay. And who did you send to Mr. Bergrin?

10 A. Me, my brother, a few friends.

11 Q. Who were the friends?

12 A. Albe, Jack, Gary, Greek. Whoever, whoever needed a  
13 good lawyer.

14 Q. Now, is your brother's name Floyd?

15 A. Yes.

16 Q. With respect to Floyd, was he involved in drug  
17 trafficking with you?

18 A. Yes.

19 Q. Just, if you could briefly describe how it worked with  
20 your brother.

21 A. If I had drugs, I would give them to my brother, he'd  
22 pay me later, tell him what I wanted off of it, and that was  
23 about it.

24 Q. And is that called getting drugs on consignment?

25 A. Yes.

1 Q. Could you just explain that again, that term for the  
2 jury?

3 A. It's like giving it to a person on credit and they pay  
4 you later, take they profit and bring you your profit.

5 Q. And would it be a short time later or a lengthy time  
6 later?

7 A. Repeat that again?

8 Q. Was it -- the period of time between when you give  
9 them the drugs and when they bring back the cash, is that a  
10 long time or a short time?

11 A. A short time.

12 Q. Now, I want to move forward to the fourth arrest.

13 Were you involved in a situation where a car was  
14 pulled over, the police showed up, and you were arrested?

15 A. Yes.

16 Q. Okay. Could you briefly describe that for the jury?

17 A. Two guys pulled up who I knew. They was being  
18 followed by Task Force. One of them had been in jail, had  
19 some pictures of me and him from going to see him, and when  
20 they jumped out on them and checked the car, he had drugs,  
21 and when he asked me was I with them, I said no. Asked me  
22 had I been in jail before. I said no. He told me I was  
23 going to jail that day. So I was arrested as well.

24 Q. Was that charge ultimately dismissed?

25 A. Yes.

1 Q. Now, with respect to arrest number five, were you in  
2 the Short Hills Mall area and then arrested?

3 A. Yes.

4 Q. And again, could you just briefly describe what  
5 happened there?

6 A. Seen a known booster -- that's a person that shoplift.  
7 It was at Short Hills, about holiday time. Asked if I would  
8 give him a ride back, he would give me a discount on  
9 whatever he stole. I agreed. Told him where I was parked.  
10 And by the time the mall closed, he came running out, we  
11 pulled off, we got pulled over, and I was arrested with him  
12 for shoplifting or whatever you want to call it.

13 Q. And what happened with those charges?

14 A. Received a fine.

15 Q. So you were found guilty?

16 A. Yes.

17 Q. All right. Did there come a time when you were  
18 arrested a sixth time when you were accused of being  
19 involved in a shooting?

20 A. Yes.

21 Q. Could you explain that to the jury?

22 A. I was arrested for a shooting in Newark. The guy was  
23 dating one of my sons' mother, and he got shot, and he was  
24 blaming me for doing it.

25 Q. And were you charged a second time with shooting that



1 individual a second time?

2 A. Yes. I got rearrested again. He had got shot again,  
3 said it was me.

4 Q. How about a third time?

5 A. Then there was a third shooting, he said it was me as  
6 well, and I was in Vegas this time. So he kept saying it  
7 was me. Out of Union County was the third one, and I was in  
8 Vegas, so they dismissed the charges. On the other ones, I  
9 was found not guilty.

10 THE COURT: Okay. Your voice keeps tailing off.  
11 You've got to speak up louder so people can hear you. I'm  
12 having trouble understanding you. Please speak up.

13 A. On the third shooting, the guy said it was me, but I  
14 was in Vegas. On the next two, I was found not guilty, and  
15 had a trial in Essex County as well. So it wasn't me who  
16 shot him.

17 Q. Okay. So just the jury is able to follow this, you  
18 are accused by the same guy of shooting you -- of shooting  
19 him on three separate occasions.

20 A. Yes.

21 Q. And on one of those occasions, you had proof that you  
22 were not even in the state.

23 A. Yes.

24 Q. So that charge was dismissed.

25 A. Yes.

1 Q. And then when the other two charges go to trial, that  
2 evidence that you were falsely accused was used?

3 A. Yes, and I was found not guilty.

4 Q. Now, who represented you in that matter?

5 A. First I had obtained Paul Bergrin, and I believe there  
6 was a conflict, so he had to get off of the case. And then  
7 I obtained Richie Roberts.

8 Q. And when you say a conflict, what do you mean?

9 A. I guess he couldn't represent me 'cause he represented  
10 the person.

11 Q. The person who --

12 A. Said I shot him.

13 Q. -- accused you of shooting him.

14 A. Yes.

15 Q. So you went to Mr. Roberts?

16 A. Yes.

17 Q. Now, was there another, additional arrest where your  
18 wallet was found in a vehicle?

19 A. Yes.

20 Q. Okay. Can you briefly describe that to the jury?

21 A. I really wasn't arrested. I had received information  
22 that I had a warrant from -- excuse me.

23 Q. You said you received information that you had a  
24 warrant.

25 A. Yes.

1 Q. Whom did you receive that information from?

2 A. From Paul.

3 Q. By "Paul," you mean Mr. Bergrin?

4 A. Yes.

5 Q. Can you identify him in court today?

6 A. Yes.

7 Q. Okay. What is he wearing?

8 A. Black jacket, look like black and blue tie.

9 THE COURT: For the record.

10 MR. BERGRIN: Identification, Judge.

11 THE COURT: Okay. Go ahead.

12 Q. Can you explain to the jury how Mr. Bergrin informed  
13 you or what Mr. Bergrin told you?

14 A. He called me on the phone, told me he has a warrant  
15 for me out of the Prosecutor's Office. I was on -- I was on  
16 vacation, I don't know, either the Bahamas or Aruba and he  
17 called me and told me there's an arrest warrant for me.

18 Q. And what did you do with that information?

19 A. Think I canceled -- not canceled, ended the trip  
20 early, came back, and I used another attorney to represent  
21 me on it, and turned myself in, and they gave me an ROR.

22 Q. Okay, and were those charges ultimately dismissed  
23 against you also?

24 A. Yes.

25 Q. Okay, and why was that?

1 A. They charged me being that my wallet was in the car  
2 when the people got arrested. I wasn't physically there. I  
3 don't really know why they charged me or how I got done, but  
4 I was charged.

5 Q. When Mr. Bergrin informed you about the warrant being  
6 out for you, did he ask whether you wanted him to represent  
7 you?

8 A. Yes.

9 Q. Okay. What did he say?

10 A. Asked did I want him to take care of it.

11 Q. And what did you tell him?

12 A. I don't know. I don't even remember. I think I just  
13 blew it off. I don't remember.

14 Q. Well, did you tell him yes or no, without the specific  
15 words?

16 A. Not sure. Just told him I would be back, maybe. I'm  
17 uncertain about how it ended. I'm not sure.

18 Q. All right. Did there come a time when you had a  
19 Federal case charged against you?

20 A. Yes.

21 Q. Okay, and was there one in Pittsburgh?

22 A. Yes.

23 Q. And what were the charges related to for that?

24 A. Heroin. Heroin trafficking.

25 Q. And were there charges also -- Federal charges in

1 New York?

2 A. Yes.

3 Q. What did that involve?

4 A. Heroin trafficking as well.

5 Q. Ultimately, did you plead guilty to both of those  
6 charges?

7 A. Yes.

8 Q. And did you agree to cooperate in Pittsburgh?

9 A. Yes.

10 Q. Did you actually have to testify in Pittsburgh?

11 A. No.

12 Q. And did you make an offer that you would cooperate in  
13 New York?

14 A. Yes.

15 Q. Did you actually have to testify in New York?

16 A. No.

17 Q. With respect to both of those charges, were they  
18 handled in Pittsburgh and New York, or was it handled in a  
19 different way -- handled separately, I guess.

20 A. The New York case had got moved to Pittsburgh. First  
21 I had pled out in Pittsburgh, and then once the New York  
22 case got transferred to Pittsburgh as well, I had to plead  
23 out to that as well.

24 Q. So you pled to both cases, but you did so in  
25 Pittsburgh.

1 A. Yes.

2 Q. Now, have you been sentenced on that charge?

3 A. Yes.

4 Q. And how much -- or charges, I should say. How much  
5 time did you get?

6 A. 168 months.

7 Q. With respect to those Federal charges, who was your  
8 first lawyer?

9 A. Richie Roberts.

10 Q. Okay. And did there come a time when Mr. Roberts was  
11 no longer your lawyer?

12 A. Yes.

13 Q. Why is that?

14 A. My case was getting moved to New York -- from New York  
15 to Pittsburgh, and Dickie was having some troubles with his  
16 license as well, and he was no longer going to be a part of  
17 my case anyway because there was a conflict there as well.

18 Q. Okay. What was the conflict?

19 A. He had represented some of the people in Pittsburgh as  
20 well and he couldn't be used for me down there as well.

21 Q. With respect to whether or not you had decided to  
22 cooperate, did that end the discussion with Mr. Roberts?

23 A. Yes.

24 Q. Please explain that to the jury.

25 A. Once I got to the point where I was gonna cooperate,



1       and they asked me about New Jersey, I wasn't sure, I really  
2       didn't want to do it, and Mr. Roberts, we had a  
3       conversation, just told me if I was gonna cooperate against  
4       Mr. Bergrin, he wasn't gonna be able to represent me no  
5       more, but he would take me as far as he could.

6       Q.     And when you say "they," it was members of the United  
7       States Attorney's Office in New Jersey?

8       A.     Excuse me?

9       Q.     Well, let me say it this way. Who was it who  
10      approached you? Was it members of Pittsburgh, New York, or  
11      New Jersey?

12      A.     New Jersey.

13      Q.     But the meeting took place in Pittsburgh.

14      A.     Yes.

15      Q.     Who was the lawyer you had after Mr. Roberts? Did you  
16      get an additional lawyer?

17      A.     Yes.

18      Q.     Who was that?

19      A.     Maurice Snipes.

20      Q.     Did Mr. Snipes carry you all the way through to the  
21      balance of your case?

22      A.     No.

23      Q.     Why not?

24      A.     He didn't represent people who cooperated as well. He  
25      felt the same way.

1 Q. Felt the same way meaning what specifically?

2 A. That if I was gonna testify or cooperate against  
3 Mr. Bergrin, he couldn't represent me.

4 Q. Why not?

5 A. He didn't represent people who cooperate with the  
6 Government.

7 Q. Did ultimately you end up with a third attorney?

8 A. Yes.

9 Q. And who was that?

10 A. Michael Worgul.

11 Q. And is he a Pittsburgh attorney or a New Jersey  
12 attorney?

13 A. Pittsburgh.

14 Q. Just so the jury's clear, Mr. Snipes and Mr. Roberts,  
15 where are there their offices? In New Jersey, New York?

16 A. In New Jersey. New Jersey.

17 Q. And Mr. Worgul: Where is he?

18 A. Out of Pittsburgh.

19 Q. And did he eventually get you through your guilty  
20 plea?

21 A. Yes.

22 Q. Now, just so the jury is clear, when these meetings  
23 are taking place with members of the New Jersey U. S.  
24 Attorney's Office and the agents, are you in jail, or are  
25 you on the street?

1       A.     When I was in the one in New York, I was on the  
2       street. The one in Pittsburgh, I was in jail.

3       Q.     And that's the Allegheny County Jail?

4       A.     Yes.

5       Q.     Now, had you ever been charged in the State of New  
6       Jersey with a Federal case?

7       A.     No.

8       Q.     Are you aware of the reason why not?

9       A.     No.

10      Q.     With respect to other things that you've done, sir,  
11      have you ever used a/k/a, also known as, different names?

12      A.     Yes. Yes.

13      Q.     Okay. And did you use Andre Drake, Damien L.  
14      Robinson?

15      A.     Yes.

16      Q.     Can you explain to the jury why you have done  
17      something like that?

18      A.     Just to cover your true identity when you got arrested  
19      for something small. You can later use your own name for  
20      better employment or whatever.

21      Q.     Just keep your voice up.

22      A.     You just use fake names just to hide your true  
23      identity.

24      Q.     So it's clear, you're not -- are you using this with  
25      law enforcement, or are you using this in your daily life?

1 A. My real name or --

2 Q. These fake names, phony names.

3 A. For law enforcement.

4 Q. So not when you go to the store. If you happen to be  
5 arrested.

6 A. Yes.

7 Q. Obviously at some point you got involved in drug  
8 trafficking. When did it start? How old were you?

9 A. Maybe 13, 14.

10 Q. And what did you get involved in? What sort of drugs  
11 were you trafficking in?

12 A. Cocaine. Weed.

13 Q. Okay. And were you making a lot of money, a little  
14 bit of money?

15 A. A little bit of both.

16 Q. And did that happen throughout high school?

17 A. Yes.

18 Q. Did there come a point when you started to -- well,  
19 let's fast forward to the time when you came back from  
20 military service.

21 Who was supplying you at that time?

22 A. Probably some guys out of New York, just going to  
23 New York, just local people in the neighborhood.

24 Q. And who were they -- you know, I'm sorry, it's a  
25 little hard to hear, but I think it's also sort of

1       pronunciation.

2       A.     Okay.

3       Q.     If you could just speak a little more clearly. I'm  
4       sorry.

5               Let's go right to 2000, okay, around 2000. What  
6       sort of drugs were you dealing?

7       A.     Coke. Cocaine.

8       Q.     And who was your supplier?

9       A.     In 2000, I had Kev, I had Richie, Richie Pozo, Kev  
10      Horton. A few guys out of Elizabeth.

11      Q.     So let's deal with Mr. Horton first, okay? That's  
12      Kevin Horton?

13      A.     Yes.

14      Q.     Now, how much are you getting, how much cocaine, what  
15      sort of volume are you getting from Kevin Horton?

16      A.     Maybe a kilo at a time, one or two.

17      Q.     And that's how often?

18      A.     Three days, two days, depended on how fast it went.

19      Q.     So every three days, you're saying, or two days?

20      A.     Yes, two days. Could be one day, yes.

21      Q.     Do you know who Mr. Horton got his cocaine from?

22      A.     Yes.

23      Q.     Who was that?

24      A.     Mr. Bergrin.

25      Q.     Did you believe it when you were told that?

1 A. No.

2 Q. Now, these Elizabeth guys; how much cocaine were you  
3 getting from them?

4 A. Same, maybe a key or two. Same.

5 Q. And so the jury's clear, are you breaking this kilo  
6 down and selling it in smaller quantities, or are you  
7 selling it as a whole kilo?

8 A. In 2000, I was doing maybe a little bit of both.

9 Q. And who was it you were giving this cocaine to? Were  
10 you standing on a street corner, or giving it to other  
11 people?

12 A. Other dealers. No, not any street corners, never no  
13 street corners, no.

14 Q. Now, was there an individual named Chino who supplied  
15 you with drugs?

16 A. Yes.

17 Q. Okay. If you could just briefly describe that.

18 A. Chino works with Kev. He would meet me when I called  
19 Kev. When I ordered something, he would deliver it.

20 Q. Now, you mentioned the name Richie Pozo. Could you  
21 describe what involvement you had with Mr. Pozo with respect  
22 to getting cocaine?

23 A. I had met Richie through another friend I owned a  
24 junkyard with, and he introduced me to Richie. Richie was a  
25 major player. Got a couple of kilos from Richie.



1 Q. I'm sorry. You have to keep your voice up.

2 A. Okay.

3 Got a couple kilos from Richie, and on the second  
4 time he wanted to offer me more, which was way beyond what I  
5 can handle, and we just left the deal alone after that.

6 Q. I'm going to show you what's been marked Government  
7 Exhibit 3068.

8 Do you know who this is, sir?

9 A. Yes.

10 Q. Who is that?

11 A. Richie Pozo.

12 MR. MINISH: We'd offer that into evidence, Judge.

13 THE COURT: Any objection?

14 MR. BERGRIN: No, Judge.

15 THE COURT: Into evidence.

16 (Government Exhibit 3068 marked in evidence)

17 Q. So now if we could break this down, you talk about  
18 multiple times getting cocaine from Mr. Pozo?

19 A. Yes.

20 Q. The first time, do you remember about how many kilos  
21 you got?

22 A. Maybe two, two or three.

23 Q. And did you distribute those kilos?

24 A. Yes.

25 Q. And there came another time --

1 A. Yes.

2 Q. -- when you got kilos?

3 A. Yes.

4 Q. And do you recall about how many that was?

5 A. Maybe five.

6 Q. And were you able to get rid of those or sell those  
7 kilos?

8 A. Yes.

9 Q. Now, you said there was a third time that it didn't  
10 work out.

11 A. No.

12 Q. Can you just explain that to the jury?

13 A. I believe he wanted me to take a number that was way  
14 beyond what I can handle.

15 Q. Okay. Now, "number"; you mean in price, or volume  
16 of --

17 A. Volume. Volume of pieces.

18 Q. "Pieces." Meaning kilos?

19 A. Kilos, yes.

20 Q. Okay. And why did he want you to take so many?

21 A. He wasn't with the small kind of thing. He wanted --  
22 he was too big for me.

23 Q. Okay. So the jury's clear, on sort of like the chain,  
24 he's further up the --

25 A. Yes.

1 Q. -- drug chain?

2 A. Yes.

3 Q. Do you recall the last time you saw Mr. Pozo?

4 A. No.

5 Q. And was it within years, months, weeks?

6 A. Years.

7 Q. Now, you mentioned another guy that you distribute to  
8 named Chino. Do you know his full name?

9 A. Yes.

10 Q. What's his full name?

11 A. Albert, Alberto Castro.

12 Q. I show you what's been marked Government Exhibit 3051.  
13 Do you recognize who that is?

14 A. Yes.

15 Q. Who is that?

16 A. That's Albe Castro.

17 MR. MINISH: Judge, we offer 3051 in evidence.

18 THE COURT: Any objection?

19 MR. BERGRIN: No objection at all, Judge.

20 THE COURT: Into evidence.

21 (Government Exhibit 3051 marked in evidence)

22 Q. Can you briefly describe your -- well, how did you  
23 meet Mr. Castro?

24 A. I had a car for sale back maybe '91, '92, he bought a  
25 car from me, and from there, we traded little bits of

1 stories about hustling, and from there on. I began selling  
2 Albe coke.

3 Q. Now, when you say hustling, you mean selling  
4 narcotics, selling drugs?

5 A. Selling drugs.

6 Q. And did there come a time when you began to provide  
7 Mr. Castro with cocaine?

8 A. Yes.

9 Q. And how much were you providing Mr. Castro at the  
10 time, like either weekly or --

11 A. Could be weekly, days. It wasn't no set schedule to  
12 it. As needed.

13 Q. Was it multiple kilos at a time, one kilo at a time, a  
14 half kilo at a time?

15 A. When we first met it wasn't never kilos, it was maybe  
16 an ounce or two. Later on, it grew.

17 Q. Now, did there come a time, sir, when you discussed a  
18 real estate purchase with Mr. Bergrin?

19 A. Yes.

20 Q. Will you describe the circumstance of -- well, where  
21 did that happen? Where did the discussion take place?

22 A. At his office.

23 Q. Do you remember what you were doing at his office?

24 A. No, I don't remember that.

25 Q. Do you remember whether you had a pending case, or you

1       were just there?

2       A.       I'm not sure about the pending case, but I know I was  
3       there. Either my brother had a pending case, I believe.

4       Q.       Now, while you were there, explain to the jury what  
5       discussion you had with respect to the real estate.

6       A.       Just a basic discussion about how I was doing on the  
7       streets and how I was doing investing my money into.

8       Q.       Now, when you say on the streets, that means?

9       A.       Hustling. Selling drugs.

10      Q.       And did Mr. Bergrin know you were a drug dealer?

11      A.       Yes.

12      Q.       How would he know that?

13      A.       I only use him for a drug case. He was a criminal  
14      lawyer. All of my friends was arrested for drugs -- drug  
15      dealers, known dealers.

16               THE COURT: Okay. Again, I'm going to have you  
17      ask you, pull that microphone a little closer and raise your  
18      voice a little more.

19               Go ahead.

20      Q.       Now, when you talk about investing your money, if you  
21      could explain to the jury why a drug dealer would want to  
22      invest his money.

23      A.       You want to invest it so you can show legal proceeds  
24      and not just always have cash on hand, a way to clean your  
25      money up.

1 Q. Okay. So how did that work?

2 A. How did which work? The --

3 Q. If I was selling you a house, how would that work?

4 A. I would buy the house from you for cash, and when I  
5 sold it, I received a check from the financial institution  
6 or from another purchaser, and I would clean up whatever  
7 amount of money I had invested. It wouldn't be seen as drug  
8 money any more.

9 Q. Because you're getting a check from another buyer or  
10 from the financial institution.

11 A. Yes.

12 Q. Now, was there a -- at the time, how were you doing on  
13 the streets?

14 A. Pretty good.

15 Q. And were you making your money mostly in cocaine, or  
16 heroin?

17 A. Both.

18 Q. If you could very briefly explain the heroin operation  
19 that you had at the time.

20 A. I had people coming from Pittsburgh, taking maybe 50  
21 or a hundred bricks of heroin. I was probably making two or  
22 three thousand dollars when they came every week. And --

23 Q. Well, let's break it down.

24 Where did the heroin come from?

25 A. The heroin came from a New York guy named Sandy.

1 Q. New York --

2 A. New York connect I had.

3 Q. And now you're saying bricks. What's a brick of  
4 heroin?

5 A. It's 50 bags of -- small package of dope, heroin. A  
6 brick is considered 50 bags.

7 Q. So it's packaged together?

8 A. Yes.

9 Q. And each bag in groups of -- five groups of 10?

10 A. Groups of 10.

11 Q. If you could explain, what is a connect ?

12 A. That's your person who supplies you.

13 Q. With drugs.

14 A. Yes.

15 Q. All right. So you have a connect in New York giving  
16 you heroin in bricks, and what did you do with it?

17 A. I sold them out to people who came from Pittsburgh.

18 Q. And how? Did you drive out to Pittsburgh?

19 A. No, I never came -- went to Pittsburgh. They came to  
20 New Jersey.

21 Q. And how did -- well, just explain to the jury how did  
22 it work. You have this heroin that you got from your  
23 New York connect. How does it get to the people in  
24 Pittsburgh?

25 A. I would get it from the guy in New York. People from



1 Pittsburgh would drive up, and I would give it to them.

2 Every week.

3 Q. Did they just put it on the front seat, or did they  
4 put it somewhere else?

5 A. No, I gave them -- I had got them a few trap cars.

6 Q. What's a trap car?

7 A. Trap cars is like secret compartments in cars. We use  
8 a few switches, and things pull open, like Inspector  
9 Gadget-type thing.

10 Q. And so those are hidden compartments?

11 A. Yes.

12 Q. If I sat in there, would I know where those  
13 compartments were?

14 A. No.

15 Q. Now, with respect to cocaine, how were you doing with  
16 the cocaine?

17 A. Pretty good as well.

18 Q. And what kind of money are you making on the cocaine?

19 A. On the coke, maybe a thousand to \$2,000 a key. Doing  
20 probably maybe three or four a week.

21 Q. So from the drugs, you're making five, 6,000 a week?

22 A. Yes.

23 Q. So now you're -- let's go back to Mr. Bergrin's  
24 office. And he's asked you how are things on the street,  
25 and what did you tell him?

1       A.     Pretty good.

2       Q.     And did he ask you anything with respect to what  
3       you're doing with the money you were making?

4       A.     Yes.

5       Q.     What did he ask you?

6       A.     He basically said I need to start investing my money  
7       and clean it up some, clean it up.

8       Q.     And did he make an offer on how one could do that, on  
9       how you could do that?

10      A.     Told me he had a house that would be a good way to  
11      clean some of it up. And he gave me a house, sold me a  
12      house.

13      Q.     All right. Now, is this the first house you purchased  
14      with drug money?

15      A.     Far as cash, yes.

16      Q.     And I don't know -- you said he sold me a house. Who  
17      is the "he"?

18      A.     Mr. Bergrin.

19      Q.     Do you recall what the address was?

20      A.     I don't know the exact address, but I think it's on  
21      12th Street in Newark.

22      Q.     We'll get back to this document, but just for  
23      refreshing your memory purposes, I'm going to show you  
24      what's been marked Government Exhibit 112.

25               I'm going to direct your attention, sir, to the

1 middle of the document, next to "Description of Land." Does  
2 that help refresh your memory --

3 A. Yes.

4 Q. -- with respect to the address?

5 A. Yes.

6 Q. Okay. Tell the jury what the address is.

7 A. 81 South 12th Street.

8 Q. And where? What city is that in?

9 A. In Newark, New Jersey.

10 Q. Excuse me?

11 A. 81 South 12th Street in Newark, New Jersey.

12 Q. I'm going to show you what's in evidence, 3282.

13 Do you recognize what that is, sir?

14 A. That's Mr. Bergrin's old office.

15 Q. And you say "old office" because he eventually moved  
16 to a new office?

17 A. Yes.

18 Q. Okay. But at the time we're talking about, is this  
19 the office you were in?

20 A. Yes.

21 Q. When you are having this discussion, are you in the  
22 office generally, or Mr. Bergrin's personal office?

23 A. Personal office.

24 Q. Door open or closed?

25 A. Probably closed.

1 Q. Did you, in fact, go and look at 81 South 12th Street?

2 A. Yes.

3 Q. Okay, and what did you think of the house?

4 A. I seen it was getting fixed up. It really didn't  
5 matter to me what it looked like or anything, but if I could  
6 own it outright and get it done the way I wanted to get it  
7 done and clean up the money, it really didn't matter.

8 Q. But it was being fixed up, you said, at the time, when  
9 Mr. Bergrin owned it, you were -- there were workers in the  
10 house.

11 A. Yes.

12 Q. And did you eventually agree to purchase the house?

13 A. Yes.

14 Q. And what was the purchase price that you and Mr.  
15 Bergrin agreed on?

16 A. \$105,000.

17 Q. Now, how did you decide to -- did you and Mr. Bergrin  
18 have a discussion with respect to how you were going to pay  
19 for the house?

20 A. Yes.

21 Q. And what was that discussion?

22 A. I was gonna show some of the money, and then the rest  
23 we wasn't going to show.

24 Q. What does that mean?

25 A. That mean we was gonna have a contract or an agreement

1 showing a purchase price, but not the original purchase  
2 price.

3 Q. So would the purchase price of the contract be higher  
4 or lower?

5 A. Lower.

6 Q. Do you recall what the purchase price on the contract  
7 was?

8 A. 30,000.

9 Q. Now, did you eventually pay that \$30,000 -- or \$30,000  
10 to Mr. Bergrin?

11 A. I believe it was money orders.

12 Q. So yes?

13 A. Yes.

14 Q. All right. And you said in cash and money orders?

15 A. Yes.

16 Q. I'm going to show you what's been marked 1300D.

17 Can you take a look at that, sir, flip the pages?

18 Not that -- just keep on going to -- do you  
19 recognize what's contained in these documents?

20 A. They're money orders, bank money orders. Yes.

21 Q. And that one specifically on the third page; who is  
22 that payable to?

23 A. This page two?

24 Q. The one you're on right there; who is that payable to?

25 A. Paul Bergrin.

- 1 Q. And who is it from?
- 2 A. Charlene Drake.
- 3 Q. And who's Charlene Drake?
- 4 A. My son's mother.
- 5 Q. And how about the next page?
- 6 A. Payable to Paul Bergrin.
- 7 Q. And who is that from?
- 8 A. It don't have anything on this one.
- 9 Yes. Myrtle Drake.
- 10 Q. Who is Myrtle Drake?
- 11 A. Her mom.
- 12 Q. And then on the last page?
- 13 A. Paul Bergrin.
- 14 Q. Okay. And who is that from?
- 15 A. From me.
- 16 Q. Now, I should have done this as we went along, but
- 17 that last one from you is for how much?
- 18 A. 18,000.
- 19 Q. And the one from Myrtle Drake is how much?
- 20 A. 3,000.
- 21 Q. And the one from Charlene Drake is how much?
- 22 A. 4,000.
- 23 Q. And do you see a date on these documents that would
- 24 remind you of when this transaction occurred?
- 25 A. I see the date, yes.

1 Q. And what's the date?

2 A. July 24th, 2003.

3 Q. Okay, and to your memory, does that sound about the  
4 time when you purchased the house?

5 A. It could be. I'm not sure.

6 MR. MINISH: Judge, we offer 1300D into evidence.

7 THE COURT: Any objection?

8 MR. BERGRIN: No, Judge, not at all.

9 THE COURT: In evidence.

10 (Government Exhibit 1300D marked in evidence)

11 MR. MINISH: If we can just run through the last

12 -- yes, the last two pages.

13 Q. So we'll just quickly run through these.

14 That one that the jury is looking at, that's  
15 Charlene Drake in the bottom left-hand corner of the screen?

16 A. Yes.

17 Q. And up in the top is Myrtle Drake for this one?

18 A. Yes.

19 Q. And the last one? And that one is from you.

20 A. Yes.

21 Q. Why did you have -- make payments in other people's  
22 names?

23 A. I didn't have enough to cover what we was trying to  
24 do, and I just needed the help to get it done quick.

25 Q. You didn't have enough money? You didn't have enough

1 cash?

2 A. I didn't have enough show-me cash far as a bank to  
3 withdraw it from like that.

4 Q. Okay. What's show-me cash?

5 A. Show-me cash is considered when your funds could be  
6 verified, like your bank statement or something like that.

7 Q. So clean money.

8 A. Yes.

9 Q. And the purpose of having another person involved was  
10 to have a paper trail?

11 A. Yes.

12 Q. I'm going to show you what's been marked Government  
13 Exhibit 950G.

14 THE COURT: Why don't we find out whether or not  
15 there's going to be an objection beforehand so we can save  
16 the step of having to go through them all with the witness  
17 and then doing it the whole time again with --

18 MR. GAY: Judge, this one is already in evidence  
19 anyway.

20 THE COURT: Okay.

21 MR. MINISH: I'm sorry. Let's pull it up, then.

22 Q. Do you recognize what this is, sir?

23 A. Yes.

24 Q. And what is that?

25 A. This the other one, the real estate transaction that



1 we had done, me and Mr. Bergrin.

2 Q. I'm sorry, Mr. Kelly, I'm really having trouble  
3 hearing you.

4 A. It's the real estate transaction for me and Mr.  
5 Bergrin did.

6 Q. What is that form that you're holding in your hand?

7 A. The HUD-1.

8 Q. And that's for the purchase of 81 South 12th Street?

9 A. Yes.

10 Q. Now, the name of the purchaser is in D. Who is that?

11 A. It's me.

12 Q. And next to it, where I'm pointing, in E; who does  
13 that say?

14 A. Premium Realty Investment Corp.

15 Q. Do you know who that is?

16 A. No.

17 Q. Were any of those checks or money orders made out to  
18 Premium Realty Investment Corp.?

19 A. No.

20 Q. Now, with respect to the balance of the payment for  
21 the house, that's 25,000; right? How did you pay the  
22 balance to Mr. Bergrin?

23 A. Cash.

24 Q. And if you could describe a little bit for the jury  
25 what the process was. On the same day, on the next day? In

1 a big bag, small bag?

2 A. Same day. I had a gym bag with the rest of the money  
3 in it.

4 Q. So how much is in the bag?

5 A. 80,000.

6 MR. MINISH: And I apologize. Could we put that  
7 back up?

8 Q. At the bottom of the 950G, on the first page, whose  
9 signature is that?

10 A. Mr. Bergrin's.

11 Q. Okay. And if we could go to the second page.

12 Whose signature is on that?

13 A. That's mine and Mr. Bergrin.

14 Q. And the contract price according to this is \$30,000?

15 A. Yes.

16 Q. And with \$5,000 in cash?

17 I direct you to line 201 on the left-hand side,  
18 where the deposit had been made of \$5,000.

19 A. Yes.

20 Q. Now, this does not mention any payment of additional  
21 cash. Why is that?

22 A. We was gonna conceal that fact.

23 Q. Why?

24 A. To hide the paper, to hide the money in the amount  
25 that we were selling it, what I was buying it for.

1 Q. Well, why would you do that?

2 A. So it wouldn't show too much capital gain and hide the  
3 fact that I was using drug money to purchase it.

4 Q. Okay. Whose capital gain are you worried about;  
5 yours, or Mr. Bergrin?

6 A. I didn't have any reason to hide the capital gain. I  
7 was the purchaser.

8 Q. So Mr. Bergrin's capital gain?

9 A. Yes.

10 Q. Now, you said you were hiding the fact that it's drug  
11 money. Who does that benefit?

12 A. That benefits me.

13 Q. So, again, now, when you sell the house or take a loan  
14 out, that money would be clean?

15 A. Yes.

16 Q. Did there come a time after your purchase that you  
17 made efforts to fix the house?

18 A. Say that again?

19 Q. After you purchased the house, did there come a time  
20 when you made efforts to fix the house?

21 A. Yes.

22 Q. Would you please explain that to the jury?

23 A. Once I had bought the house and went back a couple  
24 days later, his crew was gone already, so I had to finish it  
25 off.

1 Q. I'm sorry.

2 A. After I purchased the house, the people we had working  
3 on it were gone. They was supposed to finish, but they  
4 didn't.

5 Q. So what did you do?

6 A. I got a crew over there and started repairing it  
7 myself.

8 Q. I'm sorry, Mr. Kelly we're having a real hard time  
9 here.

10 A. I got some people over there and started repairing it  
11 myself.

12 Q. And did you actually make repairs to the home?

13 A. Yes.

14 Q. And did there come a time when you tried to pull clean  
15 money out of the property?

16 A. Yes.

17 Q. How did you do that?

18 A. I attempted to use a mortgage company to get a line of  
19 credit or a home equity loan out of it.

20 Q. And did you actually fill out the paperwork and make  
21 the application?

22 A. Yes.

23 Q. And were you granted that money?

24 A. No.

25 Q. Why not?

1       A.     It came back as the title wasn't clear, someone else  
2       had owned it.

3       Q.     And who was that?

4       A.     I don't remember who the person was.

5       Q.     Did you tell Mr. Bergrin this?

6       A.     Yes.

7       Q.     And what was his response?

8       A.     It was an easy fix, something that could be just done,  
9       something had to be done, and he gave me, put me in contact  
10      with a guy named Sulaimun.

11      Q.     Prior to that day, had you in any contact with  
12      Sulaimun?

13      A.     No, I just met him.

14      Q.     Do you recall his last name?

15      A.     Jenkins. Sulaimun Jenkins.

16      Q.     So if you could describe for the jury how it was you  
17      came to meet Mr. Jenkins.

18      A.     Mr. Bergrin gave me this phone number, and I called  
19      him, and we started back and forth and decided that we'd  
20      meet and do the real estate transaction over and record the  
21      deed.

22      Q.     Was it explained to you how this would help clear  
23      title?

24      A.     Not exactly, no.

25      Q.     So what was the plan, to the best of your knowledge?

1 A. Get Sulaimun, Sulaimun will fix it.

2 Q. And did you get with Sulaimun?

3 A. Yes, I met with Sulaimun. We did another deed, did  
4 another contract of sale, and filled it out, got it  
5 notarized, and we went in and got the deed recorded.

6 Q. And do you know when that was?

7 A. No, I don't remember.

8 Q. I'm going to show you what's been marked again -- let  
9 me show you Government Exhibit 112.

10 MR. MINISH: And we'll offer this into evidence.

11 THE COURT: Any objection?

12 MR. BERGRIN: None at all, Judge.

13 THE COURT: Into evidence.

14 (Government Exhibit 112 marked in evidence)

15 Q. All right. Mr. Kelly, I'm going to put this up on the  
16 screen. I'm going to ask you a few questions about it.

17 Okay?

18 Do you recognize this deed?

19 A. Yes.

20 Q. Now, if I direct your attention to -- you see the word  
21 "Deed" up there at the top?

22 A. Yes.

23 Q. Underneath that, it says "Grantor."

24 A. Yes.

25 Q. Who's the grantor in this?

1 A. Sulaimun Jenkins.

2 Q. But that's not how you paid for the house originally;  
3 correct?

4 A. Yes.

5 Q. Who is the grantee?

6 A. Me.

7 Q. And what is the purchase price?

8 A. \$30,000.

9 Q. Do you know when this was actually filed?

10 A. I don't remember the day, no.

11 Q. So I'm going to direct your attention to the bottom  
12 left, do you see where there's sort of a UPC code here, and  
13 then underneath, towards the bottom left.

14 A. Yes.

15 Q. Okay. And what's the date that it says it was  
16 recorded

17 A. 11/11/2003.

18 Q. And that is after you had originally purchased on July  
19 24th the house?

20 A. Yes.

21 Q. Now, the deed, though, if we can hop back up to the  
22 top, on the left-hand side of your deed, what's the date  
23 that it says this was -- property was granted to you by  
24 Mr. Jenkins?

25 A. July 24th.

1 Q. 2003?

2 A. Yes.

3 Q. And that's the original date of your purchase from Mr.  
4 Bergrin; correct?

5 A. Yes.

6 Q. Did you guys -- excuse me, you and Mr. Jenkins  
7 actually go and file this deed?

8 A. Yes.

9 Q. Where were you filing it?

10 A. The Essex County Courthouse, the little walkway, we  
11 walked it in.

12 Q. Okay. Up on Market Street?

13 A. Yes, on Market Street.

14 Q. Was it explained to you how this would clear title for  
15 you?

16 A. Kind of, but not exactly.

17 Q. Well, give us the kind of version.

18 A. Well, the kind of version I got was Sulaimun knew the  
19 history on the property, so if I started back to square one  
20 where it originated from and where he might have purchased  
21 it from, it would have cleared everything up.

22 Q. Did it, in fact, clear the title?

23 A. No.

24 Q. And how did you find that out?

25 A. Again, I attempted to get a line of credit or a home



1       thought this was a very good small time lawyer.

2       Q.     And did you ask her to assist you in clearing title?

3       A.     Yes.

4       Q.     Do you recall when you approached her?

5       A.     No.

6       Q.     I'm going to show you what's been marked Government  
7       Exhibit 970N.

8               MR. MINISH: We're going to offer this into  
9       evidence, Judge.

10              THE COURT: 970 --

11              MR. MINISH: N, as in Nicholas.

12              THE COURT: Any objection?

13              MR. BERGRIN: No, Judge, no objection.

14              THE COURT: Into evidence.

15              (Government Exhibit 970N marked in evidence)

16       Q.     So if you could look at this, and I'm just going to  
17       direct your attention -- well, let me say this. What is  
18       this document? Do you know what this is?

19       A.     My agreement with her to represent me on fighting to  
20       get the house back.

21       Q.     And what's the date of that?

22       A.     December 13th, 2004.

23       Q.     Now, does that refresh your memory with respect to the  
24       approximate time you spoke with Ms. Clarke?

25       A.     Yes.

1 Q. Did Ms. Clarke come back to you and explain anything  
2 with respect to issues that were involved with the title?

3 A. Yes.

4 Q. And did she explain whether or not the \$750 in that  
5 fee agreement was going to be sufficient?

6 A. No. It's going be more money.

7 Q. And why is that?

8 A. It's gonna be work that she's going to have to do.

9 Q. Well, we'll start with this, 970B.

10 MR. MINISH: I want to offer that in evidence.

11 MR. BERGRIN: There's no objection, Judge.

12 THE COURT: Into evidence.

13 (Government Exhibit 970B marked in evidence)

14 Q. Do you know what this is?

15 A. Yes.

16 Q. What is that?

17 A. It's receipt for the money I gave Ms. Clarke.

18 Q. How much money?

19 A. \$6,000.

20 Q. Is that the sum total you ultimately paid Ms. Clarke,  
21 or did you pay her additional money?

22 A. Additional, more, gave her more money.

23 MR. MINISH: And again, I think, 970A, we're going  
24 to offer into evidence also.

25 MR. BERGRIN: I don't have any objection, Judge.

1 THE COURT: Into evidence.

2 (Government Exhibit 970A marked in evidence)

3 Q. January 19th, if you can look at the bottom, \$6,000,  
4 and then on February 14th of 2005, an additional \$6,000?

5 A. Yes.

6 Q. And did you, in fact, pay that money?

7 A. Yes.

8 Q. Around that time, did your brother have a criminal  
9 matter?

10 A. Yes.

11 Q. That time being January of 2005.

12 A. Yes.

13 Q. And did you discuss that criminal matter with Mr.  
14 Bergrin?

15 A. Yes.

16 Q. And during the course of the discussions, did you  
17 bring up the real estate issue again?

18 A. Yes.

19 Q. And what did you tell Mr. Bergrin?

20 A. Told him I was still having problems with the house,  
21 and I was out of my pocket for a lot of money, and I wanted  
22 some of it from him.

23 Q. Did Mr. Bergrin offer to repay you for the money that  
24 you were out?

25 A. No.

1 Q. Did he make a different offer to you?

2 A. Yes.

3 Q. Could you please explain that to the jury?

4 A. He offered me to be a connect for me, offered me keys  
5 of cocaine.

6 Q. And why would that help you?

7 A. I can make way more money with him being supplied with  
8 coke to me than the money I was out of.

9 Q. Well, if you already had other connects, why would  
10 this connect matter? Why would this be more financially  
11 beneficial to you?

12 A. I took it to be more long term, and if he had more  
13 than I was getting already, it would be beneficial to me.  
14 There was no coke on the streets.

15 Q. There was no what?

16 A. No coke on the streets.

17 Q. Why not?

18 A. There was like a drought. Nobody could get anything.

19 Q. Why couldn't anybody get anything?

20 A. Most of the main players were gone. It was hard to  
21 get.

22 Q. So these main players were gone. Were they jailed,  
23 dead?

24 A. A little bit of both.

25 Q. Who were these main players?

1       A.       Hak was gone, Kev was killed, and the streets was  
2       dried up.

3       Q.       Again, so everybody can hear you, you said Kev was  
4       killed?

5       A.       Yes.

6       Q.       And that's Kevin Horton, the guy you talked about  
7       earlier?

8       A.       Yes.

9       Q.       And the other, you said Hak. Who is Hak?

10      A.       Hak had a -- he's from New Jersey, had a major case,  
11      drugs as well.

12      Q.       Who is he?

13      A.       Who is he?

14      Q.       What's his last name?

15      A.       Curry.

16      Q.       Curry.

17              So, did Mr. Bergrin discuss with you the price?

18      A.       Yes.

19      Q.       Okay. And if you could explain specifically what  
20      Mr. Bergrin said with respect to the price.

21      A.       We discussed the price based on what we thought was  
22      going on on the streets.

23      Q.       Okay, and when you say going on in the streets, what  
24      do you mean by that?

25      A.       What was the going price for a kilo on the streets.

1 Q. And do you recall what it was at the time?

2 A. I believe it was 22, 23. Something in that area, and  
3 he offered to give them to me for 21,000.

4 Q. And why would that be advantageous to you, getting it  
5 cheaper?

6 A. Getting them cheaper was beneficial to me because I  
7 can sell them for cheaper and sell them faster and don't  
8 have so much work to do.

9 Q. Okay. Can you explain to the jury what -- how did the  
10 cheaper price allow you to sell them faster?

11 A. I could sell them to people less than what the going  
12 rate was and get them moved faster, and the going price was  
13 less.

14 Q. And how does it work? If you buy it for 21, what are  
15 you selling it for?

16 A. I get them for 21, I sell them to somebody for 22.  
17 They would in turn either sell them to somebody for 23 or 24  
18 or 25, as it got moved down the road, longer down the line.

19 Q. So you're moving further up the chain in this case.

20 A. Yes.

21 Q. Now, while you're making this money, are you selling  
22 it as a kilo, or breaking it down?

23 A. All kilos.

24 Q. Did you explain to Mr. Bergrin how much -- how many  
25 kilos you could move?

1 A. Yes.

2 Q. Okay. Tell us what -- tell the jury what you said.

3 A. In this conversation, I told him that I could probably  
4 do 40 a month, but initially, I started with 10.

5 Q. Were you serious about doing 40 a month?

6 A. No.

7 Q. Why'd you tell him 40 a month?

8 A. Just to see if he serious or not.

9 Q. And was he serious?

10 A. Yes.

11 Q. Now, did you agree immediately or go discuss things  
12 with other people?

13 A. I discussed things with other people first.

14 Q. So you leave the office now. Explain to the jury what  
15 you did next.

16 A. For a couple of days, I ran around, I told a few guys,  
17 my brother, friends of mine, that I would be having them. I  
18 would do 22, they could tell people 23. As long as I got  
19 22, they could keep the overhead. I did my little runaround  
20 and promoting it. A few days later, I met back with him,  
21 and we started from there.

22 Q. Okay. You said a lot there and I want to -- now, when  
23 you said overhead, what did that mean?

24 A. Excuse me?

25 Q. You said a little overhead. What did that mean?

1       A.     Anything they made extra beyond the 22, they can keep.

2       Q.     As long as you got paid 22.

3       A.     Yes.

4       Q.     Because you were buying them for 21.

5       A.     Yes.

6       Q.     And did that have anything to do with what you  
7       believed the speed of the sales would be?

8       A.     Yes.

9       Q.     Okay. Explain that to the jury.

10      A.     It helps speed up the sales because you are lower than  
11      the average price that's going, and it's gonna speed up the  
12      process because everybody wants it.

13      Q.     So, now -- well, let me ask you, did your  
14      conversations -- based on your conversations, did you decide  
15      to take Mr. Bergrin up on his offer?

16      A.     Yes.

17      Q.     Okay, and what steps did you take then to meet with  
18      Mr. Bergrin with respect to the drugs?

19      A.     I really don't know. I think we had a conversation  
20      and another meeting. The next time we met, I received 10  
21      keys from him.

22      Q.     Could you walk the jury through -- well, where did you  
23      receive them? Let's start with that.

24      A.     Excuse me?

25      Q.     Where?



1 A. At the office.

2 Q. That office you identified before?

3 A. Yes.

4 Q. Right in the main part of the office?

5 A. No.

6 Q. So walk the jury through how the process went.

7 A. Well, the day that I received him, I called him, told  
8 him I was there. We had a conversation on where to park,  
9 and --

10 Q. Sorry?

11 THE COURT: Pull the mike up closer to you.

12 A. The day we finally agreed to meet, we had a  
13 conversation. I called him, told him I was there. He told  
14 me where to park.

15 Q. Okay, and "there" is at the office.

16 A. Yes.

17 Q. Okay. Did you park by the office?

18 A. Yes.

19 MR. MINISH: Judge we're going to offer into  
20 evidence 3287, --

21 MR. BERGRIN: No objection, Judge.

22 MR. MINISH: -- 3284, 3285, and 3286.

23 THE COURT: Into evidence.

24 (Government Exhibits 3284, 3285, 3286 and 3287 marked  
25 in evidence)

1 Q. Let's start with 3287. Can you tell the jury what  
2 you're looking at there?

3 A. Polk Street and Market Street. That's the front of  
4 the office, and the side block on the side.

5 Q. Now, the picture you identified earlier of the office;  
6 if you're facing in this particular picture, is it to the  
7 left or the right?

8 A. Facing the picture, to the right.

9 Q. Now, are you going -- did you travel on Polk Street?

10 A. Yes.

11 Q. Let's look at 3286.

12 What is the jury looking at there?

13 A. That's Polk Street, with the office to the right.

14 Q. And that's a one-way going --

15 A. Yes.

16 MR. MINISH: Now, can I have 3284?

17 Q. What is the jury looking at there?

18 A. The same. Same -- same street, Polk Street, the side  
19 of the building, the office.

20 Q. We're just moved further back down Polk Street?

21 A. Yes.

22 Q. And now, finally, 3285.

23 A. That's the side door to the office where I collect the  
24 kilos or drop off money to him for them.

25 Q. So, now, let's talk about the first time first, okay?

1                   You said you made the arrangements, you said I'm  
2 here. Who did you call and say "I'm here" to?

3       A.       Mr. Bergrin.

4       Q.       And did Mr. Bergrin come down to drop off the kilos?

5       A.       Ramon came.

6       Q.       Who's Ramon?

7       A.       He worked in Mr. Bergrin's office.

8       Q.       Do you know who that is, sir? I'm showing you what is  
9 marked Government Exhibit 3066.

10      A.       That's Ramon.

11      Q.       And who is Ramon? Or at the time, did you know who  
12 Ramon was?

13      A.       No, I just know him from working in the office.

14      Q.       You saw him in Mr. Bergrin's office.

15      A.       Yes.

16      Q.       If you can describe as step by step as you can what  
17 happened after you pulled up.

18      A.       Called him, told him I was there. Told me to park on  
19 that side street by that side door, and out came the long  
20 duffle bag and gave me the 10 kilos.

21      Q.       Just a regular gym bag, duffle bag?

22      A.       Yes.

23      Q.       Did you have any conversation with Ramon?

24      A.       No, just opened the door, put it in, and I pulled off.

25      Q.       I'm sorry?

1 A. No.

2 Q. So then what happens? He comes out. Give us sort of  
3 the play-by-play.

4 A. He comes out. Unlocked the doors. Put it on the  
5 seat.

6 Q. Who puts it on the seat?

7 A. Ramon.

8 Q. Backseat, front seat?

9 A. Backseat, yes.

10 Q. And did he say anything to you or --

11 A. No.

12 Q. No?

13 Do you leave?

14 A. Yes.

15 Q. Does Ramon go back through the door, or go back around  
16 to the front?

17 A. Through the same door.

18 Q. What do you then do with those kilos?

19 A. I began to sell them.

20 Q. And walk the jury through that process.

21 A. I already had a few people waiting that I got them,  
22 actually had them, did my running around, dropped two here,  
23 one here, three to my brother.

24 THE COURT: Would you get closer to the microphone  
25 and raise your voice?

1       A.       I did a little running around.  Already had people  
2       waiting for them.  Two here, three there.  They were gone in  
3       a matter of days.

4       Q.       And had you paid for those kilos or had you received  
5       them on consignment?

6       A.       On consignment, credit, yes.

7       Q.       Credit; is that what you said?

8       A.       Yes.

9       Q.       Now, did you ultimately get rid of all those kilos?

10      A.       Yes.

11      Q.       And did you ultimately get paid for those kilos?

12      A.       Yes.

13      Q.       You were passing them out.  Was that also on  
14      consignment, or were you getting cash up front?

15      A.       No, it was coming up front.

16      Q.       It was coming up front.

17      A.       Yes.

18      Q.       What did you do with the cash once you got it all?

19      A.       I called -- I called Mr. Bergrin, tried to set up a  
20      meet to get the money for him.

21      Q.       And were you able to do that?

22      A.       Yes.

23      Q.       Okay.  How did you package the money?

24      A.       Just regular, in \$20,000 stacks, and that's it, put it  
25      in the gym bag.

1 Q. \$21,000 stacks. You mean one for each kilo?

2 A. Yes.

3 Q. Did there come an additional time when you received  
4 drugs from -- well, I'm sorry. I apologize. Been a long  
5 day.

6 Can you explain giving the money back to  
7 Mr. Bergrin, if you did?

8 A. Yes.

9 Q. Okay. Please explain that.

10 A. Same scenario. When I was done, I would call him,  
11 pull up on the same thing -- same side, on Polk Street, and  
12 receive money in exchange back for more keys.

13 Q. And did you drop off those stacks of \$21,000?

14 A. Yes.

15 Q. And did you, in fact, receive additional kilos?

16 A. Yes.

17 Q. Do you recall about how many days after the first  
18 purchase that was?

19 A. No.

20 Q. Was it months?

21 A. No. Maybe four to five days, not even a week.

22 Q. And did you get more kilos?

23 A. Yes.

24 Q. In that time, was it from Ramon or from Mr. Bergrin?

25 A. The second time, yes, Ramon. Same scenario.

1 Q. And did you give the cash to Ramon?

2 A. Yes.

3 Q. And did he give you kilos, or was that a separate  
4 time?

5 A. Same time.

6 Q. So walk the jury through what happens.

7 THE COURT: Well, he just did, I think.

8 Q. Well, did you call anybody when you arrived?

9 A. Yes. Called Mr. Bergrin, said it would be the same  
10 scenario over again.

11 Q. And did you park in the same area?

12 A. Yes.

13 Q. And did anybody come out of the building?

14 A. Yes.

15 Q. Who came out?

16 A. Ramon again.

17 Q. And did he have -- was he empty-handed or did he have  
18 something?

19 A. No, he had something for me, and I had something for  
20 him.

21 Q. And did you give him the money?

22 A. Yes.

23 Q. And did he give you the cocaine?

24 A. Yes.

25 Q. What did you do with that cocaine?

1       A.     Same, same scenario. Went to the streets, got rid of  
2       it.

3       Q.     Did there come a time when you received your payment  
4       for all of that cocaine?

5       A.     Yes.

6       Q.     And what did you do with that money?

7       A.     My money? Or --

8       Q.     The money you received for all that cocaine.

9       A.     Same. Once I was done, I called and rescheduled and  
10      tried to get it again, the same process.

11      Q.     Do you recall about how many kilos that was?

12      A.     The same. It was 10 again.

13      Q.     Did there come a -- how many times do you think you  
14      did this total at Mr. Bergrin's office?

15      A.     Five or six.

16      Q.     Was it always the same scenario, or was Mr. Bergrin  
17      ever involved personally?

18      A.     Sometimes if I just had money, I would just give him  
19      just money, and if I was doing exchanges, it was with Ramon'  
20      help.

21      Q.     When you gave Mr. -- okay. The exchanges with Ramon;  
22      was it the same way each time?

23      A.     Yes.

24      Q.     And a call to Mr. Bergrin?

25      A.     Yes.



1 Q. With respect to the times you gave cash to  
2 Mr. Bergrin, can you explain that to the jury?

3 A. Could have been late in the day, three, four o'clock,  
4 I probably sold some, I didn't want to take the money home,  
5 and if he was available at the office, I would stop in the  
6 office and just give him the money, whatever I had.

7 Q. Now, did you live in Newark at the time?

8 A. No.

9 Q. Where did you live? What state?

10 A. In Pennsylvania.

11 Q. And did you commute in and out on a daily basis?

12 A. Yes.

13 Q. And did you have a business in the area at the time?

14 A. Yes.

15 Q. And what was the business?

16 A. It's an auto body shop.

17 THE COURT: You know what? I think we're going to  
18 call it a day. It's almost 4:15. It's hot in here. This  
19 gentleman's been on the stand. I think we'll break now.

20 Remember, assuming the weather cooperates or  
21 otherwise, we're going to start tomorrow at nine o'clock,  
22 we're going to go through lunch, and we're going to break at  
23 two. So act accordingly.

24 Don't discuss the case. Don't read or watch  
25 anything about the case. Certainly don't do any research.

1                   We'll see you tomorrow morning.

2                   (The jury exits)

3                   THE COURT: We'll see everybody tomorrow morning  
4                   at eight.

5                   MR. GAY: Judge, there was one thing I wanted to  
6                   put on the record, if that's okay.

7                   THE COURT: Go ahead.

8                   MR. GAY: Judge, this relates back to the  
9                   prostitution testimony.

10                  We entered into a stipulation with Mr. Bergrin  
11                  relating to his guilty plea in New York State, and  
12                  basically, the gist of his cross-examination for every --

13                  Maybe this witness shouldn't be here for this.

14                  THE COURT: Well, they have to wait.

15                  They might be out of there.

16                  MR. GAY: I'm sorry, I forgot the witness was on  
17                  the stand, Judge. I apologize.

18                  (The witness steps down and leaves the courtroom)

19                  MR. GAY: Judge, the gist of his cross-examination  
20                  appears to be that he is going to claim to the jury that  
21                  Jason Itzler actually did legitimate work for him, and  
22                  therefore, his letters to New Jersey Parole were not  
23                  fraudulent.

24                  Just so it's clear, that is exactly what he was  
25                  charged with in New York. That's exactly what he pled to.

1       So for him to get up and say that now, we are then going to  
2       introduce his indictment in that case into evidence to make  
3       it clear that what he pled to is precisely what he's  
4       claiming he didn't do now.

5               So I just want to make sure that's clear. I know,  
6       Mr. Levy, we had a stipulation worked out --

7               THE COURT: Once again, I mean, he hasn't done  
8       that in front of me yet. I don't know what Mr. Bergrin's  
9       tactics will be. If you believe that he does something that  
10      brings that into play, then bring it to my attention and  
11      make your argument and I'll be happy to rule on it.

12              MR. GAY: Just want to make sure I'm putting  
13      everybody on notice of that now, Judge. Thank you.

14              MR. LEVY: Your Honor, we're not agreeing on that,  
15      obviously, but we'll be heard at the appropriate time.

16              THE COURT: I'm not saying you're agreeing. I  
17      didn't make any ruling. I said if it happens we'll deal  
18      with it.

19              MR. BERGRIN: Judge, are we going to get an  
20      on-the-record representation tomorrow in reference to them  
21      checking whether there are any 302s or debriefings by any  
22      Federal agencies or state agencies in reference to this  
23      individual in Pennsylvania and New York?

24              THE COURT: I would like you to find out if you  
25      can.



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14              **AMANDA B. PROTESS, ESQ., and**  
15              **BRUCE LEVY, ESQ.**  
16              **Standby counsel for Defendant**

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1 (Defendant present)

2 (Jury out)

3 THE COURT CLERK: All rise.

4 THE COURT: Good morning. Be seated.

5 All right. What did we have to go over?

6 MR. MINISH: Judge, I guess, number one at least  
7 on the Government's list is to resolve the questions and  
8 issues that Mr. Bergrin raised with respect to disclosures  
9 for Rondre Kelly. I can tell you on Friday we did provide  
10 defense counsel with a number of documents and papers and an  
11 e-mail explaining what was contained, and the long and the  
12 short of it is, as the Government had said on Thursday,  
13 Mr. Kelly was not actually debriefed until he spoke to  
14 members of the New Jersey U. S. Attorney's Office and one  
15 member of the I.R.S. That would be Nancy Hoppock and Steve  
16 Cline. He was not spoken to at all by Pittsburgh until  
17 after he met with New Jersey, and he did speak with the  
18 people in New York, but he was not debriefed. He provided  
19 information with respect to his seller or I guess his  
20 connect in New York for heroin but refused to provide any  
21 information about anything going on in Pennsylvania or in  
22 New Jersey.

23 THE COURT: All right.

24 Anything further, Mr. Lustberg?

25 MR. LUSTBERG: No, Judge. We have those

1 materials. We've passed them on to Mr. Bergrin. To the  
2 extent that they're appropriate for cross-examination, they  
3 are. I'm sure you'll rule on objections as they arise.

4 THE COURT: Yes. I don't see a lot of stuff  
5 that's appropriate for cross-examination here.

6 MR. LUSTBERG: Unless there are prior inconsistent  
7 statements.

8 THE COURT: Well -- I have received a copy of  
9 Mr. Minish's memo that was sent to Mr. Lustberg and others  
10 at his firm. It was sent on 2/8/13 -- that's I guess  
11 Friday --

12 MR. MINISH: Yes, Judge.

13 THE COURT: -- at 3:49 p.m., I received it this  
14 morning due to the snowstorm, and I'm satisfied from the  
15 comments made that there's nothing further that has to be  
16 done with respect to this. Proper documentation has been  
17 produced.

18 Anything else?

19 MR. LUSTBERG: No.

20 THE COURT: I did receive I guess from Mr. Gay a  
21 letter dated February 9 that dealt or deals in some great  
22 detail with certain materials that were demanded during the  
23 testimony or right before the testimony of Lachoy Walker by  
24 defense, and basically -- I'm not going to go through all of  
25 it -- this is a 10-page letter explaining or responding to



1 the discovery requests and objections by defense regarding  
2 either Jencks material, Rule 16 material, Brady material,  
3 Giglio material.

4 I think what I'm going to do -- as I said, I'm  
5 satisfied with the response that I've gotten. I don't think  
6 there's anything further that we have to do with respect to  
7 this. I think what I will eventually do is make this a  
8 Court Exhibit and attach it to my order denying any further  
9 relief regarding the discovery material or Jencks material  
10 represented in the request.

11 Anything further?

12 MR. LUSTBERG: No, Judge. There may be aspects of  
13 that that will arise again that we may wish the opportunity  
14 to at least to respond to.

15 THE COURT: Nobody's ever going to stop you from  
16 making your objections.

17 MR. LUSTBERG: I understand. That's all. Just to  
18 make our record.

19 THE COURT: I have no problem with that. But I am  
20 not going to keep reinventing the wheel. This has been  
21 over, and we're moving forward. If you think there's  
22 something specifically that has to get on the record --

23 MR. LUSTBERG: Not at the moment anyway, Judge.

24 THE COURT: I also have an application from  
25 defense, seeking -- it's an ex parte application, so I'm not



1 going to discuss it in a lot of detail other than to say I'm  
2 looking at it. This is pertaining to the ability of the  
3 defense to serve subpoenas and for me to sign an order since  
4 they don't have the financing to do it.

5 But I think before I do that, I've got to look more  
6 closely at all of these witnesses. A cursory look -- I just  
7 got it this morning and I've been doing a whole lot of other  
8 things today -- I'm not so sure about all of these  
9 witnesses, and I'm going to have to look more closely, and I  
10 may need further response. I don't think it appropriate to  
11 do it so that the prosecution necessarily knows, because I  
12 think that would be unfair to the defense here, but we're  
13 going to look at that. I haven't ignored it. I will look  
14 at it.

15 MR. LUSTBERG: And, Judge, just so the record is  
16 clear, I know that we're on the record and it's an ex parte  
17 application, but we informed the Government that we were  
18 making that application to the Court.

19 THE COURT: Yes.

20 MR. LUSTBERG: And the origin of it is that when  
21 C.J.A. approves funding for investigators, they do not  
22 approve funding for strictly service of subpoenas.

23 THE COURT: I understand.

24 MR. LUSTBERG: So under the rule, we have to go  
25 through the Marshals and therefore through Your Honor, and

1 it would not be unusual for the Court to have questions that  
2 we would answer in an ex parte context, and we're happy to  
3 do that.

4 THE COURT: Well, let me look at it more closely.  
5 We may have to do that. I recognize it's somewhat  
6 time-sensitive because of the Government's requirements.

7 MR. LUSTBERG: And as soon as the Court approves  
8 it and we know who the witnesses actually will be, of  
9 course, we will make appropriate disclosure to the  
10 Government.

11 THE COURT: All right. Thank you.

12 All right. As you know, we aren't sitting  
13 tomorrow. We're going to end today at about 3:30, and we're  
14 not sitting tomorrow, it's a court holiday. I'll be here  
15 with other matters.

16 And we also won't be sitting next Monday. I think  
17 that's a court holiday and/or Post Office holiday. The  
18 building's closed, so that will be a problem.

19 I'll let the jurors know that.

20 Okay. Anything further? Are we ready to proceed?

21 MR. MINISH: Nothing, Judge. This is just one of  
22 those witnesses we have to get out here before --

23 THE COURT: Yes, we've got to get the witness.

24 Sorry about the disruption on Friday, but after  
25 seeing the snow starting to stick on the street in front of

1 my house at six o'clock in the morning, I decided it was the  
2 wiser thing to do, so we contacted everybody as soon as we  
3 could.

4 Okay. Have a seat, sir.

5 All right. I would again ask you to pull that  
6 microphone down. You've got to keep your voice up. Pull it  
7 close to you.

8 We're going to bring the jury out now.

9 R O N D R E K E L L Y, called as a witness on behalf of  
10 the Government, and having been previously sworn, resumed  
11 the stand and testified as follows:

12 THE COURT CLERK: All rise.

13 (The jury enters)

14 THE COURT: You may be seated.

15 You may be seated.

16 Well, good morning, ladies and gentlemen.

17 THE JURY: Good morning.

18 THE COURT: I apologize for any scheduling issues  
19 that we created as a result of Friday, but as I just  
20 mentioned to the attorneys, I'm up pretty early, and when I  
21 first got up around five o'clock or so, it hadn't started  
22 snowing yet, but by the time I looked out the window again  
23 it was starting to stick by six o'clock.

24 That's when I made the determination to get Scott  
25 out of bed and call you.

1 (Laughter)

2 THE COURT: That's not true. He was running  
3 around.

4 But I felt fearful. I know that some of you live  
5 a distance away, and I was just fearful -- and I also heard  
6 that they were closing roads in Essex County at one or two  
7 o'clock, and I figured, at best, we were just going to get a  
8 couple hours in, so I cut it off. I felt that was the  
9 safest thing to do.

10 For today, we might be ending at 3:30, although my  
11 schedule is still in somewhat of a flux, it might go a  
12 little bit longer. We'll decide.

13 We don't sit tomorrow. It's a court holiday.  
14 We'll be sitting, but you won't have to be here.

15 (Off the record discussion)

16 THE COURT: Someone has to leave today at 3:30?  
17 All right.

18 And I think there's another court holiday on  
19 Monday, next Monday? Another president?

20 (Laughter)

21 THE COURT: And I think on that day, the Post  
22 Office is closed, it's a holiday for them, so it's a  
23 production to get into the building, as opposed to tomorrow,  
24 we can be in here, but I have other things that we have to  
25 do. So schedule accordingly, all right? And again, we're

1       trying to move along as best we can, and the lawyers are  
2       cooperating.

3               All right. Mr. Minish, all of that said, sir, do  
4       you want to continue with your witness?

5               MR. MINISH: Yes, Judge, thank you.

6               THE COURT: Mr. Kelly.

7                       DIRECT EXAMINATION (CONTINUED)

8       BY MR. MINISH:

9       Q.     Mr. Kelly, when we broke on Thursday, we were  
10      discussing drug transactions at Mr. Bergrin's office;  
11      correct?

12     A.     Yes.

13     Q.     Okay. Did there come a time -- did there come a time  
14      when you received kilograms of cocaine at a location other  
15      than Mr. Bergrin's office?

16     A.     Yes.

17     Q.     Okay. So, then, the period of time I just want to  
18      make sure the jury's clear about. I'm talking about only  
19      the initial time when you're at Mr. Bergrin's office. Okay?  
20      Can you give an estimate as to how many times you received  
21      cocaine from Mr. Bergrin's office?

22     A.     Maybe three or four times.

23     Q.     Now, do you recall the frequency, how often it  
24      happened? Was it weekly, daily, monthly?

25     A.     Weekly. Maybe weekly.

1 Q. And how about the money: How often did you bring the  
2 money back?

3 A. Same exchange. Same.

4 Q. And you mentioned that there was another individual  
5 involved. Was he the only one to provide you with cocaine,  
6 or did Mr. Bergrin himself personally provide you with any  
7 cocaine from the office?

8 A. From the office, only him, yes, Ramon. Ramon only at  
9 the office.

10 Q. And how about the money: Did you always provide it to  
11 Ramon, or did you provide it also to Mr. Bergrin at times?

12 A. Both.

13 Q. Now, during that time when you met with Ramon, did you  
14 have any conversations with respect to either the money or  
15 the drugs with Ramon?

16 A. No.

17 Q. Did you speak at all with him?

18 A. No.

19 Q. Did there come a time when there was an issue with  
20 respect to the amount of money that you were paying for the  
21 kilograms?

22 A. I don't understand you.

23 Q. Well, let me ask, was there ever an accusation that  
24 the amount of money you were giving him was -- that it  
25 wasn't the amount that you had agreed upon?

1 A. Yes.

2 Q. Okay. Could you please explain that to the jury?

3 A. A few times, maybe a thousand dollars or \$2,000 was  
4 missing out of the money.

5 Q. And who informed you of that?

6 A. Mr. Bergrin.

7 Q. Now, can you explain to the jury what the process is  
8 from you getting your money to giving your money to  
9 Mr. Bergrin? Is it counted? Is it bagged? How is the  
10 money processed?

11 A. Once I receive it, I count it. Before I give it to  
12 him, I go through it, count it all, make sure it's all  
13 there. My money -- my profit was already taken off the top  
14 before I returned it to him, so whatever I had in the bag  
15 belonged to him.

16 Q. So if you -- why did you count it? Why do you go to  
17 such lengths to actually count through hundreds of thousands  
18 of dollars?

19 A. Make sure it's right. It's only good business.

20 Q. And if it wasn't right, who would be held responsible?

21 A. Yes. I would be responsible for what's missing.

22 Q. Okay. So did you, in fact, have an actual  
23 face-to-face or over-the-phone discussion with Mr. Bergrin  
24 about the missing money?

25 A. Yes.



1 Q. Okay. If you would please explain that to the jury.

2 A. In his office, we had a conversation about money was  
3 missing maybe two times.

4 Q. And what was the result? What did you tell him?

5 A. It wasn't me, it had to be Ramon dipping in it before  
6 he got it.

7 Q. I'm sorry, sir?

8 A. Had to be Ramon going in the bag before he received  
9 it.

10 Q. And when you say "he," you mean Mr. Bergrin.

11 A. Yes.

12 Q. And did Mr. Bergrin argue with you, agree with you?

13 A. No argument. He basically agreed that we both thought  
14 it was the same person.

15 Q. Now, did there come a time when the scheduling issues  
16 dealing with Mr. Bergrin's work, lawyer schedule had an  
17 impact on your ability to sell the drugs?

18 A. Yes.

19 Q. Okay. Could you please describe that for the jury?

20 A. Sometime I probably needed access to more drugs, and  
21 he would be working. When he got off, it was bad timing for  
22 me because I would like to be gone around 3:00, 3:30, before  
23 he was done, and there was a little conflict of us meeting  
24 up and getting things in order.

25 Q. Okay. So when you said you'd like to be gone, you



1 mean go home.

2 A. Yes.

3 Q. And why was it a problem for you to leave at three or  
4 3:30 or whatever you said?

5 A. I had maybe a hour and a half drive to get home, and I  
6 would always run into traffic, so I wanted to get a start  
7 before I bumped into traffic.

8 Q. Was Mr. Bergrin available at a schedule that allowed  
9 you to do that?

10 A. Sometimes, not all the time.

11 Q. So what steps, if any, did you take to try to fix that  
12 scheduling issue?

13 A. He -- he sent me to Yolanda and another guy named  
14 Alejandro.

15 Q. And can you describe -- did you meet Mr. Bergrin? Did  
16 you talk on the phone?

17 A. No, we met at the office.

18 Q. Okay. As best as you remember, if you could tell the  
19 jury what happened at that meeting.

20 A. At that meeting, we just basically talked about me  
21 catching up with him and our schedule, and he had reason to  
22 saw to get the problem fixed, and gave me a address, a house  
23 on Little Street.

24 Q. You've got to get closer to the microphone.

25 You said to a house on Little Street?

1 A. Yes.

2 Q. And did Mr. Bergrin tell you who you were going to  
3 meet there?

4 A. No, just told me to call him when I got outside the  
5 house.

6 Q. Call who?

7 A. Call him.

8 Q. Okay. And did you, in fact, go to Little Street?

9 A. Yes.

10 Q. And did you, in fact, call him?

11 A. Yes.

12 Q. Okay. What, if anything, happened after that?

13 A. I called him, told him I was there. Minutes later,  
14 Yolanda and another guy named Alejandro came out, introduced  
15 Yolanda, gave me three more keys of coke, gave me a number,  
16 told if I couldn't get Paul to give her a call.

17 Q. Okay. Did you ever meet either of those people before  
18 that time?

19 A. No.

20 Q. I'm going to show you, sir, what's in evidence  
21 Government Exhibit 3256.

22 Do you recognize what's in that photograph? It  
23 will come up on your screen.

24 A. Yes.

25 Q. Okay, and what is that?

1       A.       That's the house on Little Street.

2       Q.       The one that you went to.

3       A.       Yes.

4       Q.       All right. I'm going to put up another 3073, please.

5               Do you know who that is?

6       A.       Yes.

7       Q.       Who is that?

8       A.       Yolanda.

9       Q.       And that's the woman you met at the house?

10      A.       Yes.

11      Q.       I show you what's been marked Government Exhibit 3052.

12             Do you know who is that a photograph of?

13      A.       Yes.

14      Q.       Who is that?

15      A.       Alejandro.

16             MR. MINISH: I would offer 3052 into evidence.

17             THE COURT: Any objection?

18             MR. BERGRIN: No, I have no objection at all,

19      Judge.

20             THE COURT: Into evidence.

21             (Government Exhibit 3052 marked in evidence)

22      Q.       So the jury is clear, who are they looking at?

23      A.       Alejandro.

24      Q.       And is that the individual that you met at the Little

25      Street house?

1       A.     Yes.

2       Q.     Now, I don't know if it was just me having a little  
3       hard time hearing you, but if you could just describe, after  
4       you call Mr. Bergrin, what happens?

5       A.     I gave him a call, and he come out with a bag, gave me  
6       a few more kilos, introduced each other. She introduced me  
7       to her, to him, said she was Yolanda, this is Alejandro,  
8       gave me a phone number, said if I couldn't reach  
9       Mr. Bergrin, call her.

10      Q.     Now, did you use one phone to call Mr. Bergrin when  
11      you contacted him?

12      A.     No. I think I had three or four phones.

13      Q.     And did you always call Mr. Bergrin on the same phone  
14      number?

15      A.     No. He had extra ones as well.

16      Q.     I'm sorry?

17      A.     He had extra phones as well.

18      Q.     Extra?

19      A.     Yes.

20      Q.     "Extra" meaning one or --

21      A.     Maybe two. He had an extra number for me to call as  
22      well.

23      Q.     Okay. So two, at least two additional ones from his  
24      normal cell phone or --

25      A.     I only had one number outside of --

1 Q. You had one number.

2 A. Yes.

3 Q. Okay.

4 Did you make any plans with either Yolanda or the  
5 man with respect to getting kilos going forward from that  
6 time?

7 A. Did I make plans?

8 Q. Yes.

9 A. I just would call. Wasn't no plans.

10 Q. Well, was --

11 THE COURT: What do you mean by "plans"?

12 Q. Did there come a time when you called that number  
13 again?

14 A. The number that I received from her?

15 Q. Yes.

16 A. Yes.

17 Q. Okay, and what were the circumstances of calling that  
18 number?

19 A. To get more -- get more keys.

20 Q. And who did you pay the money back to then for the  
21 kilos you received that evening?

22 A. To Mr. Bergrin.

23 Q. So over the course of the balance of the year, did you  
24 continue to get kilograms and pay money for those kilograms  
25 from Yolanda?

1       A.     Yes.

2       Q.     Do you recall about how many times that happened?

3       A.     No.

4       Q.     Okay. Can you make an estimate? Weekly, monthly,  
5       daily, something like that?

6       A.     Sometimes once a week, sometimes twice a week. I  
7       don't know how long.

8       Q.     And how many kilos each time are we talking about, if  
9       you can estimate?

10      A.     Most of the time, the average would be 10, sometimes  
11     15, 13, or odd numbers, maybe 16, 17.

12      Q.     Now, with respect to the kilograms you're receiving,  
13     are you paying for any? Are you getting them on  
14     consignment? How does it work?

15      A.     They was advanced, getting them on consignment.

16      Q.     And were you ever getting more than you asked for?

17      A.     Yes.

18      Q.     And could you explain the circumstances of that to the  
19     jury?

20      A.     If there was more available, they just gave them to  
21     me. Wasn't planned, wasn't scheduled or anything. If I  
22     would take them, if I was willing to take them, I just took  
23     them.

24      Q.     So just for example, if you expected to receive 10,  
25     there were times when you received more than that?

1 A. Yes.

2 Q. And what was the understanding you had with respect to  
3 the one, two, five, whatever extra you got?

4 A. Just pay for them when they're gone. That's it. No  
5 -- nothing behind it, nothing extra behind it.

6 Q. Okay. Pay for them when they're gone: After you get  
7 rid of them.

8 A. Yes.

9 Q. Now, during this time period, can you please explain  
10 to the jury what role each of the three individuals -- well,  
11 you've discussed four individuals, I guess -- the four  
12 individuals played. We'll start with Ramon. What role did  
13 Ramon play after you stopped -- after you started dealing  
14 with Yolanda?

15 A. He was -- he wasn't really a role player to me any  
16 more. He wasn't available to me, just based on -- I  
17 probably had a few conversations with him and gave him a few  
18 small sales, but other than that, he wasn't in the picture  
19 no more with me.

20 Q. Okay. As far as getting the kilograms and paying for  
21 them.

22 A. Yes.

23 Q. All right. How about Alejandro, or -- the man?

24 A. He was there on almost every transaction I made after  
25 that point.

1 Q. And was there a period of time when he was not around  
2 during these transactions?

3 A. Not many. Yes. True.

4 Q. How about Yolanda; what role did she play?

5 A. Every time.

6 Q. Every time; what?

7 A. Every time I got more, she was there. That was who I  
8 contacted.

9 Q. How about Mr. Bergrin?

10 A. No, no more.

11 Q. Were there any price issues ever -- arise?

12 A. Yes.

13 Q. Please explain to the jury what price issues.

14 A. We had a price issue, and they wanted an extra  
15 thousand dollars, and when it came to price issues or  
16 something, I would talk to Mr. Bergrin.

17 Q. Why him and not Yolanda?

18 A. In our initial beginning, that's who I negotiated the  
19 price with.

20 Q. So what does that mean?

21 A. Excuse me?

22 Q. What does that mean, because you initially did it with  
23 Mr. Bergrin?

24 A. Well, I just felt that they worked under him, and my  
25 negotiations just started back at the top where I started



1 at.

2 Q. And did you, in fact, have price negotiations with  
3 Mr. Bergrin?

4 A. Yes.

5 Q. Now, putting aside the office that you've already  
6 discussed, was there a time that you met Mr. Bergrin at a  
7 restaurant and -- regarding kilograms of cocaine?

8 A. Yes.

9 Q. Could you please explain that to the jury?

10 A. One time I met him at his restaurant, got a couple of  
11 kilos from him, got some food from him one time. I believe  
12 it was one time, we met over there. Other ones, I'm not  
13 sure about, but I met him over there more than once.

14 Q. I'm sorry, you met him --

15 A. Met him over there more than once. Not sure how many  
16 times.

17 Q. But you do remember one specific time you met him  
18 there.

19 A. Yes.

20 Q. Okay. With whatever detail you can, can you please  
21 explain what happened to the jury, starting with, sort of, I  
22 arrived at the restaurant, then what happened.

23 A. I arrived at the restaurant, expecting to receive  
24 something from him. He offered me some food, told me to try  
25 some black beans -- try some black beans and rice, take some

1 food with me. Got a few kilos from him, and I got some food  
2 as well.

3 Q. So did he just hand them to you in the middle of the  
4 restaurant, or how did you get them?

5 A. No, once he went in and got the food, he came out with  
6 two boxes, the food on top, the kilos on the bottom, and  
7 that was it.

8 Q. And where did you put those kilos?

9 A. In the front seat of the car I was driving. Opened  
10 the door, put it down, and I left.

11 Q. Did you ask for the food, or is the food part of the  
12 cover, or --

13 A. Part -- part of just not pulling them right off of the  
14 box, yes.

15 Q. Did you provide any money at the time to Mr. Bergrin  
16 -- well, or at the restaurant?

17 A. Not that time.

18 Q. Do you recall ever providing money to Mr. Bergrin --

19 A. Yes.

20 Q. -- at the restaurant? Can you please describe that to  
21 the jury?

22 A. I met him over there once, gave him a duffle bag of  
23 money. He threw it in Yolanda's trunk of her car.

24 Q. And I show you --

25 MR. MINISH: If we could put up Government Exhibit

1       3000, already in evidence.

2       Q.     Do you know what you're looking at there, sir?

3       A.     Yes.

4       Q.     Okay. Can you tell the jury what you're looking at?

5       A.     The restaurant.

6       Q.     If you touch the screen, it's a smart screen, you can  
7       actually make, like John Madden used to do like on the --  
8       where is the restaurant?

9               Okay. Great. Thank you.

10              And without going back over it again, is that the  
11     restaurant you were talking about when you had the kilos and  
12     the money with Mr. Bergrin?

13     A.     Yes.

14     Q.     Why did you refer to it as his restaurant?

15     A.     That's when he said, meet him at his restaurant. I  
16     thought it was his restaurant.

17     Q.     Now, you said you put drugs -- and I guess obviously  
18     at some point had to carry money in a vehicle of your own;  
19     is that correct?

20     A.     Yes.

21     Q.     Okay. Could you tell the jury what sort of vehicles  
22     you were using at the time?

23     A.     Customized vans, Tauruses. That's about it.

24     Q.     With respect to the customized van, were there any  
25     hidden compartments or areas?

1 A. Yes.

2 Q. Can you describe that to the jury?

3 A. In the customized van, there's a TV that sits up over  
4 the headliner so that people could watch. The TV would flip  
5 down, and everything was gutted out, and you could fit -- I  
6 can fit maybe 40 or, 40-some kilos in it.

7 Q. So the jury is clear, we're talking about a minivan or  
8 one of those --

9 A. Customized big van.

10 Q. So that old -- the pre-minivan vans.

11 A. Yes.

12 Q. And it had the sliding doors?

13 A. Yes.

14 Q. So where is the television? If I'm sitting in the  
15 driver's seat, where is the television you're talking about?

16 A. Over your head.

17 Q. So if you were sitting in the back, you'd be able to  
18 look at it?

19 A. Yes.

20 Q. And you said there's an area behind it?

21 A. Yes.

22 Q. And if you could just again describe that for the  
23 jury.

24 A. You would power it up, the TV worked off like a remote  
25 power that flipped the TV down and opens up a big space to

1 the hidden compartment.

2 Q. Now, if I was sitting in the back of that van, would I  
3 be able to detect that there was a space behind that TV?

4 A. No.

5 Q. Could I get to that space behind the TV?

6 A. No.

7 Q. And why not?

8 A. You would have to rip the TV out and know how to work  
9 the controls.

10 Q. And do you recall how those controls worked?

11 A. No.

12 Q. Was it one button that you pressed, or a series of  
13 buttons?

14 A. It's a series of buttons.

15 Q. Now, how about, were there any other compartments like  
16 that in the van?

17 A. Yes.

18 Q. And where else were they?

19 A. I had two more in the back panels behind the two  
20 seats. The speakers would flip down, and I could probably  
21 fit maybe five kilos on each side.

22 Q. Five?

23 A. Five kilos on each side.

24 Q. And would the money also fit, depending on which part  
25 of the transaction you were in?

1       A.     Yes.

2       Q.     And did you ever transport these things out in the  
3       open, or did you always use your compartments?

4       A.     Used the compartments mainly, yes.

5       Q.     Now, with respect to the Taurus, how was that -- what  
6       if any compartments were used in the Taurus?

7       A.     The radio would flip down or the air bag would pop up.  
8       I probably could hold maybe two in the radio, two keys in  
9       the air bag, and maybe a hundred and some thousand in the  
10      radio and maybe another 50 in the air bag.

11      Q.     Now, when you say how much money you could fit in  
12      there, was that also dependent on the denominations, like  
13      how big a bill you're talking about?

14      A.     Yes.

15      Q.     What size bills were you generally collecting to pay  
16      Mr. Bergrin?

17      A.     Whatever came, hundreds, fifties, whatever it was.

18      Q.     Were there ones, fives, tens, twenties?

19      A.     No, never no ones and fives.

20      Q.     And then how were they wrapped? Are they in bags,  
21      tied, rubber bands?

22      A.     Rubber bands, ties. It all depends. There's no set  
23      method to it.

24      Q.     I'm sorry?

25      A.     There was really no set method to it.

1 Q. Now, at the time, you had a business; is that correct?

2 A. Yes.

3 Q. And what type of business was it?

4 A. Auto body shop.

5 Q. And at that auto body shop, were you actually doing  
6 auto body work?

7 A. Yes.

8 Q. And were you actually making some money as the auto  
9 body shop, legitimate money?

10 A. Yes.

11 Q. And just so I'm being clear, I mean money not related  
12 to drugs --

13 A. Yes.

14 Q. -- or other products?

15 A. Yes.

16 Q. Did you ever hide any drugs or drug money in the shop?

17 A. No.

18 Q. Why not?

19 A. I didn't want to get -- get hit like that. I would  
20 just leave it parked outside and wouldn't bring no trouble  
21 to the business.

22 Q. So, then, what -- if you had drugs or money with you  
23 and you were at the shop, what did you do with it?

24 A. Just parked it on the streets or around the corner  
25 from the shop.

1 Q. And leave it in the vehicles? Is that what you're  
2 saying?

3 A. Yes.

4 Q. And why did you view that as safer?

5 A. Say that again?

6 Q. Why did you view that as I guess preferable to  
7 bringing drugs or money into your shop?

8 A. Because it wouldn't be directly related to me if it  
9 was outside the shop.

10 Q. You mean if somebody in law enforcement got it?

11 A. Yes.

12 Q. Okay. If someone in law enforcement found your van  
13 and thought there were drugs in there, how would they link  
14 it back to you?

15 A. They probably wouldn't --

16 Q. Why not?

17 A. -- or couldn't. Most of them was never registered to  
18 me, or to the business neither.

19 Q. Or --

20 A. It was never registered to me or the business.

21 Q. I'm going to show you three photographs that are  
22 marked 3346, 47 -- I'm sorry, 3347 and 3348.

23 MR. MINISH: Is there any objection to these  
24 photos?

25 MR. BERGRIN: No.



1 THE COURT: Into evidence.

2 (Government Exhibits 3346, 3347 and 3348 marked in  
3 evidence)

4 Q. If we can put up 3346, can you tell the jury -- 3346,  
5 do you know what's contained in that photograph?

6 A. This is Emmett Street and Avenue C, the corner where  
7 the body shop was.

8 Q. And that's looking towards the body shop or from the  
9 body shop?

10 A. On the opposite street of it.

11 Q. How about 3347?

12 A. That's looking at the body shop right there.

13 Q. Okay. Again, if you could put your finger and circle  
14 the area where the body shop is?

15 (The witness complied.)

16 Q. Now, you said you parked cars in the area, not in the  
17 shop.

18 In that photograph, can you see any of the areas  
19 where you would have parked the cars?

20 A. Yes.

21 Q. And where, if you could put like a line or an X or  
22 something where you're talking about?

23 (The witness complied.)

24 Q. So literally just on the road.

25 A. Yes.

1 Q. Now, during this time, are you also selling heroin?

2 A. Yes.

3 Q. Okay. And again, so the jury is clear, is this heroin  
4 being sold in New Jersey, or is this the heroin that was  
5 going to Pennsylvania?

6 A. Going to Pittsburgh.

7 Q. Okay. So that's the heroin you already discussed.

8 A. Yes.

9 Q. Now, you've mentioned a number of areas, the Little  
10 Street house, Mr. Bergrin's office, as well as the  
11 restaurant. Were there other areas where you got kilograms  
12 of cocaine and/or dropped off money?

13 A. Yes.

14 Q. Okay. Was there a gym involved?

15 A. Yes.

16 Q. How about anything else -- well, why don't you tell  
17 us, what else do you remember?

18 A. Gym, Comfort Suite Hotel on 21, Tops Diner, Red Robin  
19 in Clifton, next to a hotel, La Quinta in Clifton, a condo  
20 complex that was behind the Red Robin and the hotel.

21 Q. Was there a strip mall --

22 A. Yes.

23 Q. -- in Belleville?

24 A. Yes, strip mall in Belleville by the GNC. Meet there.  
25 Nail salon. A few other places.

1 Q. I'm going to show you a series of photographs --

2 MR. MINISH: And I guess ask if Mr. Bergrin has an  
3 objection. They are 3358, 3354, 3356, 3351, 3352, 3231,  
4 3230, 3363, 3376, and 3349.

5 MR. BERGRIN: There's no objection to any of them,  
6 Judge.

7 THE COURT: Into evidence.

8 (Government Exhibits 3230, 3231, 3349, 3351, 3352,  
9 3354, 3356, 3358, 3363 and 3363 marked in evidence)

10 Q. If we could start with 3358, could you tell the jury  
11 what they're looking at there?

12 A. That's the gym in Belleville where we used to meet at.

13 Q. And when you say "we," who is we?

14 A. Me, Yolanda and Alejandro.

15 Q. And how would the transactions work if you were out at  
16 a public place like this?

17 A. We'd either put it in my car and take it out of my  
18 car, simple as that, park next to each other or behind each  
19 other.

20 Q. Are the kilos loose? Is the money loose? Would you  
21 just carry it in your pocket?

22 A. No, in bags.

23 Q. What type of bags?

24 A. Like oversized gym bags.

25 Q. Excuse me. Does that mean both for the money and the

1 kilos, oversized gym bags, or was it some --

2 A. Both.

3 Q. Okay. How about 3354? What's the jury looking at  
4 there?

5 A. That's the GNC we would meet at in Belleville.

6 Q. And that's part of a larger strip mall?

7 A. Yes.

8 Q. And again, this is a public area. How would the  
9 kilograms work -- exchange work there?

10 A. Same way.

11 Q. Just park next to each other?

12 A. Yes.

13 Q. And this is a longer shot of the same area, I believe,  
14 3355. That's the same strip mall?

15 A. Yes.

16 Q. Okay. Did the Dunkin' Donuts have any impact with  
17 these various meetings?

18 A. No.

19 Q. How about 3351?

20 A. Yes.

21 Q. What is the jury looking at there?

22 A. The Comfort Suites on 21.

23 Q. And what if any part did that play in the drug  
24 transactions?

25 A. We would meet there. Same scenario.

1 Q. And --

2 A. Pull next to each other.

3 Q. And you say "meeting." Who were you meeting?

4 A. Yolanda and Flat Top.

5 Q. Did there ever come a time when you met with Yolanda  
6 and any individuals other than Flat Top?

7 A. Yes.

8 Q. Okay. Who was that? Did you know their names?

9 A. No, I did not.

10 Q. Did you know their ethnicity?

11 A. Probably Spanish, same as her.

12 Q. When you say "Flat Top," so the jury's clear, that's  
13 the individual you identified as Alejandro?

14 A. Yes.

15 Q. But you referred to him as Flat Top.

16 A. Yes.

17 MR. MINISH: Put up 3231.

18 Q. Do you recognize what the jury's looking at that  
19 there?

20 A. Yes.

21 Q. Okay. What is that?

22 A. Tops Diner.

23 Q. And were there exchanges made there?

24 A. Yes.

25 Q. For both money and drugs?

1 A. Yes.

2 Q. Now, an overhead shot, 3230. I don't know if you're  
3 able to orient yourself. Do you know what's in that  
4 photograph?

5 A. No.

6 Q. What's that?

7 A. No.

8 Q. It's -- well, I direct your attention, I guess, to  
9 right there on your screen. Can you read what the words say  
10 above there?

11 THE COURT: I don't know -- where --

12 MR. MINISH: I'm sorry. There's a structure to  
13 the left side of it, of the photograph. If it's legible --  
14 maybe it's more legible on my copy.

15 Q. I'm going to direct your attention, sir, to the words  
16 written above that building.

17 A. "Tops Diner"?

18 Q. Okay. So assuming that I'm going to circle, now,  
19 that's Tops Diner, all right?

20 A. Um-h'm.

21 Q. Okay. So I'm going to clear it out.

22 If that's Tops Diner, can you just sort of point  
23 to the areas or put an X or circle the areas where you would  
24 have had these meetings, these transactions?

25 (The witness complied.)

1 Q. So, again, just parking your vehicle in the parking  
2 lot?

3 A. Yes.

4 Q. Now, I'm going to put up 3363.

5 Okay. Do you recognize what that is?

6 A. Yes.

7 Q. Okay. What is that?

8 A. That's the hotel next to the Red Robin.

9 Q. That's the La Quinta you spoke about before?

10 A. Yes.

11 Q. Okay. Now, again, I'm going to try to do the same  
12 thing with an overhead shot. It's Government Exhibit 3336.

13 THE COURT: Well, first of all, clear -- you've  
14 got to clear it.

15 MR. MINISH: Oh, I'm sorry.

16 Q. Sir, I'm going to direct your attention -- it's  
17 probably more legible on mine -- to, just so the jury knows  
18 what we are looking at, that area there. Okay?

19 Can you read what it says there?

20 A. No.

21 THE COURT: Read what it says where?

22 (Laughter)

23 MR. MINISH: It's small. It's easier on -- it's  
24 very difficult on the big photograph, Judge.

25 Q. What road is that?

1       A.     Route 3.

2       Q.     Okay.  So this road here --

3       A.     Um-h'm.

4       Q.     -- is Route 3?

5               All right.  Do you recognize that area to be the  
6     Red Robin area that you were talking about?

7       A.     Yes.

8               MR. BERGRIN:  Objection, Your Honor.  He's putting  
9     words in his mouth.

10              THE COURT:  Yes, I think you're kind of -- do you  
11     recognize --

12              THE WITNESS:  No.

13              THE COURT:  This is a difficult -- this is a  
14     difficult --

15              THE WITNESS:  I recognize Route 3, but anything  
16     else, no.

17       Q.     Okay.  We can skip that.

18               With respect to the Red Robin, then, were there  
19     any transactions in that area, in that parking lot?

20       A.     Yes.

21       Q.     Can you describe how those transactions work?

22       A.     Same:  Meet there, pull up next to each other and make  
23     the exchange.

24       Q.     Did there come any times when you left the area of the  
25     Red Robin and went out of the parking lot to another area or



1 transaction?

2 A. Yes.

3 Q. Would you please describe that to the jury?

4 A. We met behind the hotel, and behind the hotel is  
5 another small condo association. We met at a condo back  
6 there as well.

7 Q. So you're saying a single building, or a complex?

8 A. It's a complex.

9 MR. MINISH: If we could put up 3349.

10 Q. Do you recognize what's contained in that photograph?

11 A. Yes.

12 Q. Okay. What is that?

13 A. That's the condos adjacent, behind the hotel and the  
14 Red Robin, behind the street that ran up and down.

15 Q. Okay. So there's a street behind the Red Robin, and  
16 these are behind that street.

17 A. Yes. This leads to it.

18 Q. Now, what, if anything, happened at these  
19 condominiums?

20 A. Same. We made exchanges here.

21 Q. If you can just describe how it worked.

22 A. Pulled up there, met there, go inside, make the  
23 exchange, and just leave.

24 Q. Okay. You physically went inside?

25 A. Yes.

1 Q. And what did you see when you went inside?

2 A. Empty -- empty -- empty house.

3 Q. Empty house meeting nonfurnished?

4 A. Yes, unfurnished, and it had a lockbox on it.

5 MR. BERGRIN: I didn't hear that last answer.

6 THE COURT: It had a lockbox.

7 THE WITNESS: It had a lockbox on the door.

8 Q. Now, did there come a time, sir, when you learned that  
9 you were -- some of your calls were recorded by the  
10 Government, or wiretaps?

11 A. Yes.

12 Q. And that those calls were during these various  
13 transactions?

14 A. Not sure when they -- what they were or anything. I  
15 just knew that they were.

16 Q. Well, let me ask you this way. Did you have the  
17 opportunity to review a series of recordings and a series of  
18 transcripts that were provided to you by the Government to  
19 review for their accuracy?

20 A. Yes.

21 Q. And were those recordings 4015 -- well, I'm just going  
22 to show them to you.

23 MR. MINISH: I don't know if there's any objection  
24 to any of these.

25 Have you already seen them?

1 MR. BERGRIN: I have.

2 MR. MINISH: No objections or --

3 MR. BERGRIN: No.

4 MR. MINISH: You have no objections?

5 MR. BERGRIN: No objections.

6 MR. MINISH: Judge, for the record, what we're  
7 offering, and I believe there is no objection, are  
8 Government's Exhibits 4015, 4023, 4025, 4026, 4039, 4042,  
9 4047, 4048, 4052, 4088, 4090, and 4223, as well as the  
10 corresponding transcripts, which are 4015B, 4223B, 4023B,  
11 4025B, 4026B, 4039B, 4042B, 4047B, 4048B, 4052B, 4226B,  
12 4088B, 4099B. And we are offering all of those into  
13 evidence.

14 THE COURT: Into evidence.

15 MR. BERGRIN: Judge, the prosecutor knows the  
16 transcripts aren't evidence. I mean, we have no objection  
17 to the recording, but he knows the transcripts aren't  
18 evidence.

19 THE COURT: Well, are you going to object to any  
20 use of the transcript?

21 MR. BERGRIN: No. I'm not going to object to the  
22 use of the transcripts, but obviously they're not into  
23 evidence under the Rules of Evidence.

24 MR. MINISH: Well, I believe the others have been  
25 offered into evidence with Mr. Bergrin's consent, but --

1 THE COURT: Yes.

2 MR. MINISH: -- we can discuss that certainly out  
3 of the presence of the jury.

4 THE COURT: All right. So, for the moment,  
5 everything but the transcripts into evidence.

6 (Government Exhibits 4015, 4023, 4025, 4026, 4039,  
7 4042, 4047, 4048, 4052, 4088, 4090 and 4223 marked in  
8 evidence)

9 THE COURT: Go ahead.

10 BY MR. MINISH:

11 Q. Now, so the jury is clear, sir, just so the record is  
12 clear, I'm just going to show you all of those 4015, 4023,  
13 4025, 4026, 4039, 4042, 4047, 4048, 4052, 4088, 4090, and --  
14 let's see -- 4223, and 4226.

15 On all of those things, are there your initials  
16 and a date?

17 A. Yes.

18 Q. And did you review each one of those?

19 A. Yes.

20 Q. And in conjunction with those, you reviewed the  
21 transcripts.

22 A. Yes.

23 Q. And did you listen and make sure the transcripts  
24 accurately portray what's on the recordings?

25 A. Yes.

1 Q. And where there's attributions, where there's names,  
2 like who was speaking, did you also make sure that was  
3 accurate?

4 A. Yes.

5 MR. MINISH: Judge, I think we're just going to --  
6 we're not going to break for a while. We can run through  
7 the calls, right?

8 THE COURT: It's only quarter to 10.

9 MR. MINISH: Yes. Okay.

10 Judge, we'd like to run through the calls now, and  
11 start with 4015.

12 So if the members of the jury can put their  
13 headphones on. You've each been provided with a transcript  
14 book, it's the one with the gold pegs going through the  
15 three-hole punch, and it's -- remember, it's the green light  
16 switch on the right side.

17 Q. Mr. Kelly, I will give you the transcript book also  
18 and I'll start with the first tab. And here are your  
19 headphones.

20 THE COURT: I don't think I have a copy of the  
21 transcripts.

22 MR. MINISH: I put them on Mr. Creegan's desk. I  
23 have another one for you, Judge.

24 If everybody can put on their headphones .

25 Playing Exhibit 4015.

1                   (Recording marked Government Exhibit marked 4015  
2     played)

3                   (Playback ends)

4     Q.     Mr. Kelly, if you could take the --

5                   All right. Now, Mr. Kelly, I'm going to direct  
6     your attention to certain parts of the transcript and ask  
7     you some questions. Okay?

8     A.     Yes.

9     Q.     All right. On page two, the first page of text, now  
10    -- well, let me ask you this. First of all, who's talking  
11    in this conversation?

12    A.     Me and Yolanda.

13    Q.     And in line 13, where she says to you, "Are you ready  
14    for me today, or no," what does that mean?

15    A.     Asking me am I prepared to either pay for the drugs or  
16    take some more.

17    Q.     All right. Now I'm going to move you over to the next  
18    page?

19                   In line eight, where, again, Yolanda says, "Yeah,  
20    but...did you...did you, did you want the six cars up front  
21    of yours, or no...not really, not yet," what is she talking  
22    about?

23    A.     Talking about six keys, giving me, asking me do I want  
24    them.

25    Q.     Now it doesn't say kilos, it says cars. How do you

1 know she meant kilos?

2 A. That was our way of code talk.

3 Q. That was your --

4 A. That was our way of code talking.

5 Q. Code talking. Okay. And was that planned beforehand?

6 Did you have meetings or --

7 A. No.

8 Q. So how did you know it was code, then?

9 A. Because we wasn't talking about anything or purchasing  
10 anything else, just automatically knew.

11 Q. So between the two of you, there was no other business  
12 is what you're saying.

13 A. Yes.

14 Q. Now, on page three, I'm looking at the bottom there,  
15 line 21, where it says to you, "I think he said six.  
16 Six..."

17 Who is "he"?

18 A. Probably Zach.

19 Q. And that's the guy you're getting them for.

20 A. Yes.

21 Q. Now, going on to page four, and she says, "All right,  
22 five...so, five cars," what does that mean?

23 A. The same, same as keys. Did I say five? She's asking  
24 me, all right, five, so five cars, yeah, talking we --

25 Q. So you had money for five?



1       A.     Yes, five, yes.

2       Q.     And if you got more than five, would those have to be  
3       paid for up front, or would those be on consignment?

4       A.     On consignment.

5       Q.     All right. Then again, if you could just flip to page  
6       seven and go down to line 15.

7               What are you going to do at 12 o'clock or 1:30, if  
8       you look at the balance of that page?

9       A.     Probably have everything in order, had the money ready  
10      to go, and just get it together, then meet with her.

11      Q.     Okay. So the actual transaction time is what you're  
12      arranging here?

13      A.     Yes.

14      Q.     All right. We're going to skip to the next phone  
15      call, and what I'd like to do, just so the jury's clear, is  
16      play the next, one, two, three, four calls in a row.

17               So for now, if we could play 4223.

18               THE COURT: Well, it's 4023?

19               MR. MINISH: No, the third call, Judge, is 4023.

20      The next call is 4223.

21               THE COURT: I'm sorry. Which one are we going to  
22      hear now?

23               MR. MINISH: 4223. We're going to play a series  
24      of calls. They're very short calls, but it's going to be  
25      4223, then 4023, then 4025, and then 4026, and we'll play



1       those consecutively.

2               THE COURT: So you're taking them out of order?

3               Am I misunderstanding?

4               MR. MINISH: Oh, I apologize.

5               Yes, I guess they are out of order, Judge.

6       They're minor in time order, and I apologize. These must  
7       have been put in a different order.

8               THE COURT: Okay. So the first one you're going  
9       to play is 4023?

10              MR. MINISH: 4223.

11              THE COURT: No, you're not listening. I said 4023  
12      and you said 4223. What is the first tape?

13              MR. MINISH: 4223.

14              THE COURT: Then what's the next one?

15              MR. MINISH: 4025.

16              THE COURT: And then what?

17              MR. MINISH: 4026.

18              THE COURT: Okay. So the only one out of order is  
19      the first one. Then we go back to 4023. Correct?

20              MR. MINISH: Yes, sir.

21              THE COURT: Okay. Got that, everybody?

22              MR. MINISH: I apologize, Your Honor.

23              4223.

24              (Recording marked Government Exhibit 4223 played)

25              (Playback ends)

1 MR. MINISH: Then 4023.

2 (Recording marked Government Exhibit 4023 played)

3 (Playback ends)

4 MR. MINISH: And then 4025.

5 (Recording marked Government Exhibit 4025 played)

6 (Playback ends)

7 MR. MINISH: Then, finally, 4026.

8 (Recording marked Government Exhibit 4026 played)

9 (Playback stopped)

10 MR. MINISH: I think everybody can take their  
11 headphones off.

12 BY MR. MINISH:

13 Q. Now, Mr. Kelly, in those series of four conversations,  
14 who is speaking?

15 A. Me and Yolanda.

16 Q. And what are you discussing?

17 A. Trying to meet up.

18 Q. And is this at a location that you had been to before  
19 or had not been before to?

20 A. Had not been to before.

21 Q. Do you recall where this location is?

22 A. Not exactly, no.

23 Q. Not exactly today, you mean.

24 A. Yes.

25 Q. Okay.

1                   And was this the end result of the meeting you  
2       discussed in the very first call we heard?

3       A.     Yes.

4       Q.     And did eventually you meet --

5       A.     Yes.

6       Q.     -- and do the exchange?

7       A.     Yes.

8       Q.     All right.

9                   MR. MINISH: Judge, I'm going to skip ahead to  
10       4039 on December 11th now.

11                   If everybody can put their headphones back on.

12                   (Recording marked Government Exhibit 4039 played)

13                   (Playback ends)

14       BY MR. MINISH:

15       Q.     Now, Mr. Kelly, if you could take the headphones off.

16                   All right. Now, I'm going to refer you to the  
17       transcript, I'm going to start on page two.

18                   And this is 4039B.

19                   On page two, about the middle of the page, when  
20       you say, in line 11, "Nah, I'm gonna bring 'em that car  
21       back," what are you talking about?

22       A.     Which one are you saying? 40 which one?

23       Q.     In -- I'm sorry, I apologize. 4039. Yes, 4039, page  
24       two, the first page of text, starting, if you look at line  
25       11 --

1 A. What's your question?

2 Q. What are you talking about there when you say "Nah,  
3 I'm gonna bring 'em that car back"?

4 A. I'm going to return what I have.

5 THE COURT: What do you mean, what you had?

6 THE WITNESS: I'm going to return drugs back.

7 Q. Why?

8 A. They're bad. Or we going through a negotiation  
9 problem.

10 Q. You have to --

11 A. They either bad, or we going through a negotiation  
12 problem.

13 Q. Okay, and what is the negotiation problem?

14 A. They probably raised the price, wanted to raise the  
15 price.

16 Q. Now, just so the jury understands, you got -- let me  
17 get the number -- 10 kilos and paid for five --

18 A. Yes.

19 Q. -- when you got it. Those other five; was the price  
20 set, or did that at times fluctuate?

21 A. Sometimes it fluctuated.

22 Q. Okay. Can you explain that to the jury?

23 A. She would tell me it's a extra thousand dollars, that  
24 it came from Paul, it was gonna be an extra thousand  
25 dollars, and I ought to reach out to him and clarify it or

1 clear it up.

2 Q. And did you always come to an agreement about what the  
3 price should be or would be?

4 A. Sometimes, yes.

5 Q. Okay. So there were times when you didn't.

6 A. Yes.

7 Q. And this is one of those times?

8 A. Yes.

9 Q. Now, so you're returning.

10 A. Yes.

11 Q. You said it was a negotiation. What do you mean by  
12 negotiation?

13 A. You either say it's gonna be a extra \$500, and I say  
14 no, or could it be two-fifty, anything extra.

15 Q. But I -- you have to explain to the jury why you're  
16 returning them.

17 A. It's going to affect my profit as well, because I  
18 already had people that locked in at a set number, so if I'm  
19 going to receive less, I won't make anything if I don't keep  
20 everybody happy.

21 Q. So then why are you giving them back?

22 A. Because I can't make no money off of them.

23 Q. And is that what you're telling Yolanda here?

24 A. Yes.

25 Q. Is she happy about you returning them?

1       A.     I don't think so.

2       Q.     And then on page three, just so the jury's clear for  
3       how we're going, in lines eight and nine, is this an  
4       arrangement, you returned them the following day?

5       A.     Yes.

6       Q.     All right. Then let's move on to Exhibit 4042,  
7       December 12th at 5:07 p.m. If everybody would put their  
8       headphones back on, please.

9               (Recording marked Government Exhibit 4042 played)

10              (Playback ends)

11      Q.     You need to take the headphones off.

12              All right. Mr. Kelly, I'm going to direct you to  
13      the corresponding transcript, starting on page two, the  
14      first page of text, line 17, and we're in Exhibit 4042B,  
15      where it says, in line 17 on that page, "that T-shirt guy  
16      at"; what are you talking about there?

17      A.     Talking about meeting off of Broad Street where we  
18      meet right under the exit of 15. It's a little guy that  
19      make uniform and T-shirts. It's a little side block that we  
20      meet on.

21      Q.     Had you met there on prior occasions?

22      A.     Yes.

23      Q.     And at those prior occasions, what had you met there  
24      before?

25      A.     Same, exchange, drugs, money, same swap-out.

1 Q. Now, when -- right underneath there, in line 18,  
2 Yolanda's asking, towards the end of line 18: "Anything  
3 good or no?" What is she asking you about?

4 A. Was I able to get rid of them.

5 Q. Get rid of what?

6 A. The drugs.

7 Q. Okay, and that's the extra ones, the ones that you  
8 were given on consignment.

9 A. Yes.

10 Q. That the price had changed.

11 A. Yes.

12 Q. Now, moving on to page three, you're telling her in  
13 effect you don't know what's going on. What are you trying  
14 to convey to her?

15 A. I'm basically just trying to tell her that since the  
16 price went up, I don't know why it slowed down.

17 Q. Do you know why?

18 A. Yes, I know why.

19 Q. Why?

20 A. Because I never really attempted to sell them in the  
21 first place.

22 Q. So you're lying to her.

23 A. Yes.

24 Q. And why are you lying to her? What is the strategy  
25 behind that?

1       A.     Get the price back to where it originally was at.

2       Q.     So you're freezing.

3       A.     Yes.

4       Q.     Now, if we can skip down to line 12, where she is

5       saying "that car has like what, twenty-one miles on it,"

6       what is Yolanda referring to?

7       A.     I should have 21 kilos.

8       Q.     And did you have 21 kilos?

9       A.     At the time, yes.

10      Q.     So then underneath where it says, "uh-uh. Fifteen,"

11      what does that mean?"

12      A.     Six were gone.

13      Q.     So you had gotten rid of six.

14      A.     Yes.

15      Q.     Now, how do you know that "miles" are kilos?

16      A.     We have no other business or any -- we just talk in

17      code like that.

18      Q.     And was that, again, prearranged, or was that just

19      done as you were speaking?

20      A.     Just as we were done speaking.

21      Q.     And then towards the end, when you're referring to the

22      restaurant, what restaurant are you talking about?

23      A.     Paul's restaurant.

24      Q.     All right. Let's skip to the next call, which is

25      4042.



1 THE COURT: Wait. What are you looking at?

2 MR. MINISH: I'm sorry, that was 4042. We're  
3 going to 4047, December 14th at 12:01 p.m.

4 (Recording marked Government Exhibit 4042 played)

5 (Playback ends)

6 Q. Mr. Kelly, if you could look at page two again of that  
7 transcript, in line 11, Yolanda is referring to "Court  
8 yesterday?" Do you recall what that would have been for?

9 A. No.

10 Q. Do you recall around this time of December of '05  
11 whether or not the real estate transaction that you  
12 initially testified with with Mr. Bergrin had been resolved?

13 A. No. I don't know.

14 Q. You don't remember.

15 A. No, don't remember.

16 Q. Again, if you could just stay close to the microphone.

17 A. No, I don't remember.

18 Q. I'm going to refer down to line 18, "about to tow two  
19 cars outta here." Is that real cars, or kilos?

20 A. That's real cars.

21 Q. And how do you know those are real cars as opposed to  
22 the other cars?

23 A. I'm the one really speaking of it, and I'm telling her  
24 to hold up. So those had to be real cars.

25 Q. Because you're doing stuff at your body shop.

1 A. Yes.

2 Q. And are these still the kilos you're trying to return?

3 A. Yes.

4 Q. If you had been told by Mr. Bergrin a lesser price,  
5 would you have kept them?

6 A. Yes.

7 Q. Now let's skip to I guess an hour and a half later  
8 that day, December 14th. It's 4048.

9 (Recording marked Government Exhibit 4048 played)

10 (Playback ends)

11 Q. Mr. Kelly, what's going on in that call?

12 A. I think I have the wrong one. What number you said  
13 again?

14 Q. 4048. Could you hear what was going on in the --  
15 could you hear the --

16 A. I just heard me saying "I'm outside."

17 Q. Okay, and what was going on when you said "I'm  
18 outside"?

19 A. I think we're about to meet.

20 Q. So where are you outside of?

21 A. Could be the restaurant.

22 Q. And that was ultimately returning those kilos you've  
23 discussed.

24 A. Yes.

25 Q. Let's skip forward a couple days to December 16th,

1 4052.

2 (Recording marked Government Exhibit 4052 played)

3 (Playback ends)

4 Q. If you could turn to page two, the first page of the  
5 text.

6 In line five, where it's attributed to Yolanda:

7 "It was only one paper missing there," what did that mean?

8 A. A thousand dollars off.

9 Q. With what you had provided a couple of days earlier.

10 A. Yes.

11 Q. Now, skipping down to line 11, where you say: "Any --  
12 any way you can call him and meet at six o'clock?"

13 What are you talking about there?

14 A. Make a phone call to Mr. Bergrin and give me six more  
15 keys.

16 Q. So the "him" in there is Mr. Bergrin?

17 A. Yes.

18 Q. Now, the six o'clock; how do you know that means  
19 kilos?

20 A. I'm just using code again.

21 Q. And so the jury's clear, this is a code you had a  
22 meeting about?

23 A. No, just naturally, natural talk.

24 Q. Now, in line 13, where Yolanda says, "For what," and  
25 then you follow up with, "I just told you," is that the idea

1 of trying to communicate the code?

2 A. Yes.

3 Q. And then when she says, in line 15, "the 600 cards,"  
4 what does that mean?

5 A. She understood what I was saying, the six keys.

6 Q. And did you eventually get a call back the next day,  
7 or, excuse me, later that day? I'm sorry.

8 A. Yes.

9 MR. MINISH: If we could skip to 4226.

10 (Recording marked Government Exhibit 4226 played)

11 (Playback ends)

12 Q. In this conversation, sir, line 8, who is the "he"?

13 A. Mr. Bergrin.

14 Q. And what was his response to your request for six  
15 additional kilos?

16 A. No.

17 Q. Why did you want them back so shortly after you had  
18 tried to negotiate by giving back the other kilos?

19 A. I probably received a call that somebody wanted them.

20 Q. And you'd be able to make money on that?

21 A. Yes.

22 Q. All right. Then now let's skip ahead a couple of  
23 weeks to December 31st, 4088.

24 (Recording marked Government Exhibit 4088 played)

25 (Playback ends)

1 Q. All right, Mr. Kelly, start on the first page of the  
2 text here, okay, page two of 4088.

3 Do you know who the Mexicans that Mr. -- well, I'm  
4 sorry. Let me say this. Who are you speaking with in this  
5 call?

6 A. Mr. Bergrin, Paul.

7 Q. Now, and where it says "Bergrin," that's Mr. Bergrin,  
8 and "Kelly," it's you?

9 A. Yes.

10 Q. Okay. Now, in line four, where Mr. Bergrin is  
11 referring to Mexicans, do you know who the Mexicans he's  
12 referring to are?

13 A. Yes.

14 Q. Who are they?

15 A. Yolanda and Alejandro.

16 Q. And did you meet anybody else beyond those two?

17 A. No.

18 Q. Did you ever have any dealings with anybody else  
19 associated with them?

20 A. Meaning?

21 Q. Well, at a meeting, if you're dropping off drugs or  
22 picking up money, was there anybody ever there that wasn't  
23 Alejandro or Yolanda?

24 A. No.

25 Q. Now, now, where Mr. Bergrin is saying "I'm not

1 involved in Dre's business, I'm a lawyer," what did you take  
2 that to mean?

3 A. I took it to mean that he was in front of somebody or  
4 he was trying to signal me not to say nothing over the  
5 phone.

6 Q. Signal you, you said.

7 A. Yes.

8 Q. Okay. Now -- well, that's obvious, but it would have  
9 been in front of somebody, what do you mean by that?

10 A. Well, there's some money missing, and maybe he's just  
11 talking -- to clear his way from knowing where that money  
12 really actually is.

13 Q. Now, had you given any money for bail?

14 A. No.

15 Q. Then how about lines 13 and 14, where -- towards the  
16 end of 13 where it says "I don't do business with Dre."

17 What did you take that to mean?

18 A. Don't say anything.

19 Q. I'm sorry?

20 A. Don't say anything.

21 Q. Now, flipping over to -- let's see -- I'm sorry, same  
22 page, line 18, "I did for this kid."

23 Do you know who "the kid" is that's being referred  
24 to.

25 A. Yes.

1 Q. Who is "the kid"?

2 A. Alejandro.

3 Q. And's the guy who you had met at the house Mr. Bergrin  
4 sent you to.

5 A. Yes.

6 Q. Had you heard anything prior to this conversation  
7 about that man Alejandro's status, was he in jail or out of  
8 jail?

9 A. No.

10 Q. Okay. Let's skip over to page three.

11 Now, if you could take a look at line 10, where it  
12 says "you tell me that's not the best lawyering you've ever  
13 seen in your life."

14 And then you respond: "No, but I didn't do no  
15 bail."

16 These things I think to a reader may not be  
17 connected. Can you explain to the jury why Mr. Bergrin is  
18 saying this and you were saying something that seems to be  
19 disconnected?

20 A. Guess we both trying to get our point across and we  
21 not speaking along the same topic. I'm more worried about  
22 the 70,000 that somebody said they gave me for bail money.  
23 I don't know, we both just ranting, I guess, and not really  
24 having a thorough conversation.

25 Q. And what is Mr. Bergrin worried about?

1       A.     Clearing hisself on the phone.

2       Q.     You say clearing?

3       A.     Yes.

4       Q.     Now, line 21, where it says -- you say, "What day you  
5       gonna be back working? I'll stop by there," and then on to  
6       22, I guess, "I'll be back Tuesday," what are you talking  
7       about there?

8       A.     Meeting up.

9       Q.     Meeting up on the phone?

10      A.     No. Probably at the office.

11      Q.     And why would it be advantageous to meet at the office  
12      as opposed to speaking on the phone?

13      A.     I don't know. We need to probably talk in private.

14      Q.     And why would you need to talk in private?

15      A.     Because we just didn't want to talk on the phones,  
16      maybe.

17      Q.     Well, but why not?

18      A.     In case the phones was hot or tapped up, we didn't  
19      want to, you know, want anyone to know what we was talking  
20      about.

21      Q.     And when you say "hot," what do you mean by that?

22      A.     Wiretapped.

23      Q.     All right. Let's flip over to page four, where  
24      Mr. Bergrin says, "All right, we need to talk on Tuesday  
25      because I have, I have something I want to talk to you about



1       that's very serious."

2                   Do you see that?

3       A.     Yes.

4       Q.     At that time, did you have any pending cases?

5       A.     I don't think so. I'm unsure.

6       Q.     Did you have any legal matters with Mr. Bergrin  
7       representing you?

8       A.     No.

9       Q.     And during the course of this time, I know you've said  
10      you don't know exactly the dates, but during the course of  
11      the time from when you first got cocaine from Mr. Bergrin's  
12      office through whenever this ended, did you have Mr. Bergrin  
13      representing you in any criminal cases?

14      A.     No.

15      Q.     Did you have any other real estate transactions with  
16      Mr. Bergrin?

17      A.     No.

18      Q.     Did you have any legitimate legal reason to be at his  
19      office on Tuesday?

20      A.     No.

21      Q.     Now, skipping down to line four, do you know who Baby  
22      Face is?

23      A.     No, I don't remember, no.

24      Q.     I'm sorry?

25      A.     No, I don't remember.

1                   THE COURT: Wait. You don't remember, or you  
2 don't know?

3                   THE WITNESS: I don't remember Baby Face. I don't  
4 know. I'm unsure.

5 Q. So as you sit here now, you don't know, you don't  
6 remember who it was.

7 A. No.

8 Q. Do you know the sort of business he was in?

9                   THE COURT: Well, he just said he doesn't know who  
10 it is.

11 A. No.

12 Q. All right. So, then, let's skip to the final call,  
13 4090.

14 I'm sorry, 4090, four zero nine zero.

15 (Recording marked Government Exhibit 4090 played)

16 (Playback ends)

17 Q. Mr. Kelly, this is you and Yolanda?

18 A. Yes.

19 Q. Okay, and are you discussing -- well, tell us: What  
20 are you discussing?

21 A. She's asking me where I been, how come she ain't heard  
22 from me, and trying to have a little meeting or get-together  
23 and try to get things back going.

24 Q. Continue the drug --

25 A. Yes.

1       what was being talked about in these wiretaps?

2       A.     No.

3       Q.     During meetings -- well, okay.

4               Who was the first group of people you met with law  
5       enforcement?

6       A.     New York.

7       Q.     And did you explain any of this to them --

8       A.     No.

9       Q.     -- that we've discussed today?

10            No.

11           What information, if any, did you provide them?

12       A.     Only -- only stuff out of -- what happened with me in  
13       New York. That was it.

14       Q.     Would you tell them anything about New Jersey?

15       A.     I said no. I said no to the stuff in Pittsburgh as  
16       well.

17       Q.     Did there come a time after that when you actually sat  
18       down with members of the New Jersey Federal law enforcement?

19       A.     What do you mean?

20       Q.     In Ohio, did you have a meeting with members of law  
21       enforcement from New Jersey?

22       A.     Yes.

23       Q.     Okay. And at that time, were you debriefed?

24       A.     Yes.

25       Q.     And at that time, did you make statements with respect

1 to what you've testified to today?

2 A. Yes.

3 Q. And shortly after that or at a meeting after that, did  
4 you eventually explain what the various code was with  
5 respect to these wiretap calls that we've played today?

6 A. Yes.

7 Q. As well as other calls that we didn't play; correct?

8 A. Yes.

9 Q. I'm going to show you, sir, what's been marked  
10 Government Exhibit 7024 and 7025. Okay? And you can just  
11 hold on to them, and I'm going to ask you a few questions.

12 MR. BERGRIN: I can't see that from there, sir.

13 All right.

14 Q. Now, did there come a time, sir, when you were charged  
15 with heroin distribution federally in New York?

16 A. Yes.

17 Q. And did there come a time when you were charged  
18 federally with regard to your heroin trafficking in  
19 Pennsylvania, in Pittsburgh?

20 A. Yes.

21 Q. And ultimately, did you plead guilty to both of those  
22 charges?

23 A. Yes.

24 Q. Do you recall what the maximum penalty was for the  
25 New York charge?

1 A. I believe 10 to life.

2 Q. Ten to life.

3 A. Yes.

4 Q. Okay. So minimum 10 years, maximum of life.

5 A. Yes.

6 Q. How about the Pittsburgh case?

7 A. The same as well.

8 THE COURT: You've got to keep your voice up.

9 A. Same as well.

10 Q. Now, were you -- you ultimately pled guilty to both of  
11 those charges?

12 A. Yes.

13 Q. Okay. Now, if you could take a look at 7024 that's in  
14 front of you.

15 Is that your plea agreement with Pittsburgh with  
16 respect to those heroin charges?

17 A. Yes.

18 Q. And did you review that with your attorney, and you  
19 signed it and he signed it?

20 A. Yes.

21 Q. And so the jury's clear, that's Mr. Worgul, the third  
22 attorney, the one you got out in Pittsburgh; right?

23 A. Yes.

24 Q. And with respect to 7025, that's dated October 27th,  
25 2010, that's the New York charge.

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. And that's also with Mr. Worgul?

5 A. Yes.

6 Q. And do you know how the New York charge got to be  
7 prosecuted in Pennsylvania?

8 A. Yes.

9 Q. How did it happen?

10 A. At a court hearing. Mr. Roberts had some trouble with  
11 his license, and they transferred the case to Pittsburgh.

12 Q. So the New York case got transferred to Pittsburgh.

13 A. Yes.

14 Q. Now, currently, are both the New York and Pittsburgh  
15 case being prosecuted in Pennsylvania, or were they all  
16 prosecuted in Pennsylvania?

17 A. Yes.

18 Q. And have you been sentenced --

19 A. Yes.

20 Q. -- on those two cases? What sentence did you receive?

21 A. 168 months.

22 Q. And that's 14 years?

23 A. Yes.

24 Q. Did you provide any cooperation with respect to  
25 Pittsburgh?

1 A. Yes.

2 Q. Did you provide any cooperation with respect to  
3 New York?

4 A. Yes.

5 Q. Were either of those things taken into account when  
6 you were sentenced?

7 A. No.

8 Q. Why not?

9 A. I wasn't -- I wasn't completely done. I couldn't  
10 receive any credit until all the investigations and things  
11 that I was part of was done.

12 Q. So meaning the New Jersey part.

13 A. Yes.

14 Q. So Pittsburgh is done?

15 A. Yes.

16 Q. New York is done?

17 A. Yes.

18 Q. New Jersey's not?

19 A. No.

20 Q. But you went ahead and got sentenced anyway.

21 A. Yes.

22 Q. So that sentence is without the benefit of any  
23 cooperation.

24 A. Yes.

25 Q. Now, are you expecting after you testify to get the

1 benefit of your cooperation?

2 A. Yes.

3 Q. So you're starting at 14 years.

4 A. Yes.

5 Q. What is your understanding of your obligations with  
6 respect to what's contained in those two Pittsburgh plea  
7 agreements? With respect to -- I'll be more specific --  
8 with respect to your cooperation.

9 A. Come forth, tell the truth, give information and  
10 cooperate, or you don't receive anything.

11 Q. And what if at some point you lie?

12 A. You don't receive anything.

13 Q. Nothing based on your -- how about your Pittsburgh  
14 stuff that you've already done: Do you get credit for that?

15 A. No.

16 Q. How about your New York stuff: Do you get credit for  
17 that?

18 A. No.

19 Q. Now, in that agreement, if you are truthful -- or  
20 those agreements, I should say, if you are truthful and do  
21 substantially assist the Government, what is the  
22 Government's obligation for you?

23 A. File a motion, get a reduced sentence.

24 Q. And ultimately, who decides -- or where is that motion  
25 filed?



1 A. In Pittsburgh.

2 Q. Before, obviously not Judge Cavanaugh, a different  
3 judge?

4 A. Yes, a judge in Pittsburgh.

5 Q. And who will decide what sentence you receive?

6 A. The judge.

7 Q. The Pittsburgh judge?

8 A. Yes.

9 Q. And is there any obligation for that Pittsburgh judge  
10 to go below 14 years?

11 A. No.

12 Q. Now, in these agreements, is there also language which  
13 indicates that Government can't use your own words against  
14 you?

15 A. Yes.

16 Q. So if you provided us information about your  
17 operation, we couldn't turn around and use that to prosecute  
18 you?

19 A. Yes.

20 Q. Mr. Kelly, tell the jury why you are cooperating with  
21 the Government. Why are you testifying today?

22 A. Get a reduced sentence and put it all behind me.  
23 That's it.

24 MR. MINISH: I have nothing further, Judge.

25 THE COURT: All right. I think now we'll take our

1 morning break, about 15 minutes.

2 THE COURT CLERK: All rise.

3 Just leave your stuff on the chairs, please.

4 (The jury exits)

5 (Recess taken)

6 (Defendant present)

7 (Jury out)

8 THE COURT CLERK: All rise.

9 THE COURT: What's the problem?

10 MR. MINISH: Nothing, Judge. We just wanted to  
11 make the Court aware that it came to our attention on the  
12 break that Mr. Bergrin is intending on playing calls with  
13 transcripts --

14 THE COURT: Be seated.

15 Mr. Bergrin is what?

16 MR. MINISH: -- is intending on playing calls I  
17 guess from the same wiretaps from that same month period,  
18 and we don't have a copy of it, nor does the Court, nor will  
19 the jury. We've sent back people to try to get copies. We  
20 just wanted to make the Court aware of what was going on.

21 THE COURT: You mean we don't have transcripts?  
22 We don't have the -- what don't you have a copy of, the  
23 transcripts?

24 MR. MINISH: Transcripts.

25 THE COURT: But these are the same tapes.

1                   MR. MINISH: I guess it's from the same time  
2                   period is my understanding. Mr. Bergrin could I guess speak  
3                   to it better, but --

4                   MR. BERGRIN: They're from the exact same wiretap,  
5                   Your Honor.

6                   THE COURT: The ones we've just listened to, the  
7                   ones we've just been through?

8                   MR. BERGRIN: Yes, but they are ones that weren't  
9                   included.

10                  THE COURT: Other parts of the same taps.

11                  MR. BERGRIN: Yes.

12                  THE COURT: So we just don't have a transcript of  
13                  it.

14                  MR. BERGRIN: I have my copy of the transcript,  
15                  Your Honor, but obviously I don't have the ability to make  
16                  copies where I am, so I need multiple copies made, Judge.

17                  THE COURT: Well, I wish you had brought this to  
18                  my attention earlier this morning. I could have had my  
19                  clerk take care of this for you. Now we have the jurors  
20                  sitting again.

21                  How many pages have you got there, Mr. Bergrin?

22                  MR. BERGRIN: It's not too long, Judge.

23                  THE COURT: Scott, would you ask Rosanna to  
24                  make -- I don't know, how many --

25                  Do you need them right away? Can you start the

1 witness without it?

2 MR. BERGRIN: I can start without it.

3 MR. LEVY: Your Honor, we'll do our best to have  
4 copies made. Mr. Bergrin handwriting, I believe, is on a  
5 number of those. If your intention was to publish them to  
6 the jury, I think we need clean copies.

7 THE COURT: Okay. Well, I obviously can't make  
8 copies if there's writing on them.

9 MR. BERGRIN: That's correct, Judge.

10 THE COURT: Okay. Well, somebody tell me what you  
11 want --

12 MR. BERGRIN: I'll start without it, Judge, and we  
13 can probably do it --

14 MR. LEVY: We'll have them brought over as quickly  
15 as we can.

16 THE COURT: Oh, you're getting them made.

17 MR. LEVY: Yes.

18 THE COURT: Okay. Let's get the witness and then  
19 get the jury.

20 (The witness resumed the stand.)

21 THE COURT: You may be seated.

22 All rise.

23 (The jury enters)

24 THE COURT: Be seated.

25 All right. Mr. Bergrin?

1                   MR. BERGRIN: Thank you, Your Honor. Thank you  
2 very much.

3                   CROSS-EXAMINATION

4 BY MR. BERGRIN:

5 Q. Mr. Kelly, obviously you didn't know that you were  
6 being recorded and that your phone was being tapped during  
7 the pendency of these phone calls; correct?

8 A. Yes.

9 Q. And it's fair to assume that Yolanda didn't know that  
10 also because she spoke openly with you about drugs, about  
11 meetings; correct?

12 A. Yes.

13 Q. About locations; correct?

14 A. Yes.

15 Q. How to conduct the transaction, the price, the amount;  
16 correct?

17 A. No price. You lost me on the price.

18 THE COURT: You have to keep your -- pull the --

19 A. You lost me on the price. I don't think we discussed  
20 no price.

21 Q. You've had a chance to review the recorded  
22 conversations with the prosecution, correct, when you met  
23 with them; right?

24 A. Yes.

25 Q. As a matter of fact, how long did you spend with them,

1       approximately, when you met with them?

2       A.     I don't know. I don't know.

3       Q.     You don't know how long you spent with them?

4       A.     No.

5       Q.     Long time, short time?

6       A.     Short time. Two hours, three hours.

7       Q.     And three hours how many times? Multiple times;  
8       correct?

9       A.     Yes, but I don't know how many.

10      Q.     And they prepped you for trial, correct, and they went  
11      over all the statements that you made, they went over the  
12      reports that you gave; correct?

13      A.     Reports that I gave?

14      Q.     Yes.

15      A.     What do you mean?

16      Q.     You met with them how many times, approximately,  
17      Mr. Kelly?

18      A.     I don't know exactly how many. Four or five.

19      Q.     Is it fair to say you met with them more than 10 --

20               THE COURT: He said four to five.

21      Q.     Four to five times?

22      A.     Yes.

23      Q.     And approximately three to four hours each time?

24      A.     No.

25      Q.     Three hours each time?

1       A.       No.

2                       No.

3       Q.       But they went over the recordings with you; correct?

4       A.       Yes.

5       Q.       And they went over what you had said to different  
6       people at different times; correct?

7       A.       Yes.

8       Q.       And they told you essentially what they're going to  
9       ask you in court today; correct?

10      A.       Yes.

11      Q.       Now, during the pendency of the recordings that you  
12      listened to, you also read transcripts of the recordings;  
13      correct?

14      A.       Read transcripts of it? Yes.

15      Q.       Transcripts of what was said in the recordings; right?

16      A.       Yes. Yes.

17      Q.       Now, isn't it a fact that not one recording contains  
18      you ever or me ever complaining about price; correct?

19      A.       Yes.

20      Q.       About meeting places; correct?

21      A.       Yes.

22      Q.       About anybody telling you to speak to me about any  
23      meeting places, prices, bad drugs, or anything to that  
24      effect; correct?

25      A.       Yes.

1 Q. There's not one recording ever about you talking to me  
2 about drugs at all; correct?

3 A. Yes.

4 Q. There's not one recording about me talking to you in  
5 code about anything; correct?

6 A. Yes.

7 Q. There's not one recording about you telling me that  
8 prices have changed or we discussing any prices or anything  
9 to that effect; correct?

10 A. Yes.

11 Q. And you were under surveillance, too, during these  
12 periods of time, there's not one time that they could ever  
13 say that you ever met with me; correct?

14 A. Yes.

15 Q. Now, you talked about setting up meetings and all  
16 these meetings at different hotels with Yolanda; correct?

17 A. Yes.

18 Q. La Quinta Hotel; I was never at that meeting and I was  
19 never called in reference to any meetings with you and  
20 Yolanda at any of these places; correct?

21 A. Yes.

22 Q. The La Quinta Hotel, the Comfort Inn Suite; correct?

23 A. Yes.

24 Q. The Red Robin Hotel; correct?

25 A. Yes.



1 Q. GNC, the minimall, nail salons; correct?

2 A. Yes.

3 Q. McDonald's, condominium complexes; correct?

4 A. Yes.

5 Q. You two set the meeting place, the time, and how much  
6 are going to be bought and sold; correct?

7 A. Yes.

8 Q. Now, you told this jury a few minutes ago that the  
9 only Hispanics that you've ever met with was Yolanda and --  
10 you called him Flat Top -- Alejandro; correct? Is that what  
11 you said? Just a couple minutes ago under oath.

12 A. Depending on when -- what question he asked me, yes.

13 Q. Now, do you remember speaking to the F.B.I. and being  
14 debriefed in or about -- not even that long ago, April of  
15 2011?

16 A. No.

17 Q. Do you remember ever telling them that you were  
18 present during meetings with Jauregui at the La Quinta Inn,  
19 Comfort Suites, and Tops Diner and there were unidentified  
20 Hispanic males that were present, not Alejandro Castro? Do  
21 you remember saying that?

22 A. No.

23 Q. Do you remember telling the F.B.I. that these were the  
24 same Hispanic males that were present during meetings with  
25 Jauregui at the La Quinta Inn, Comfort Suites, and also Tops

1 Diner? Do you remember saying that?

2 A. Possibility, yes.

3 Q. Would it refresh your recollection if you was to see  
4 any type of report or read any type of memorandum pertaining  
5 to what you might have said?

6 A. Yes, that's possible.

7 MR. BERGRIN: May I approach the witness with  
8 J-13782, Your Honor, sir?

9 THE COURT: Yes.

10 Q. Mr. Kelly, sir, I'm going to show you what has been  
11 marked J-13782, and I'll ask you to read the last paragraph.

12 A. "In approximately -- " --

13 THE COURT: No, read it to yourself.

14 Okay. Does that refresh your recollection?

15 THE WITNESS: Yes.

16 THE COURT: Go ahead, Mr. Bergrin.

17 Q. Now, what you said about meeting with other Hispanic  
18 males -- first of all, I wasn't present at any of these  
19 meetings at the La Quinta Inn, Comfort Suites, and Tops  
20 Diner; correct?

21 A. Correct.

22 Q. And I never directed you to any of these places;  
23 correct?

24 A. Correct.

25 Q. And you never discussed any of these meeting places

1 with me; isn't that a fact, sir?

2 A. Only one place.

3 Q. Only one place.

4 A. Yes.

5 Q. What was that?

6 A. Little Street.

7 Q. The what?

8 A. Little Street.

9 Q. Little Street.

10 Now, you just testified a few minutes ago that the  
11 only Hispanic people that you met with, that you remember  
12 meeting with was Yolanda and -- you called him Flat Top,  
13 we'll call him Alejandro; correct?

14 A. Yes.

15 Q. And isn't it a fact that that wasn't true, that wasn't  
16 accurate; you met with other individuals, correct?

17 A. Yes, that I remembered, yes.

18 Q. And those other individuals were individuals who were  
19 essentially directing Yolanda as well as Alejandro on drug  
20 transactions. They were their bosses; correct? Isn't that  
21 a fact?

22 A. That, I don't know. That, I don't know.

23 Q. They were present with them, Alejandro and Yolanda, on  
24 multiple meetings; correct?

25 A. No.

1 Q. Well, at least three, La Quinta Inn, Comfort Suites  
2 and Tops; isn't that multiple meetings?

3 A. Yes.

4 Q. And they were also present when you paid Yolanda;  
5 correct?

6 A. Yes.

7 Q. Just a little fact I guess you forgot; correct?

8 A. Yes.

9 Q. Now, you testified a few minutes ago, within the last  
10 hour, the fact that you came to the restaurant, and you  
11 identified the photographs of Isabella's; correct?

12 A. Yes.

13 Q. And you said that when you came to the restaurant,  
14 Paul Bergrin went in, brought you out food; correct? That's  
15 what you said?

16 A. Yes.

17 Q. And then Paul Bergrin brought you out multi kilos of  
18 drugs; correct?

19 A. Yes.

20 Q. Do you remember speaking to the F.B.I. about this  
21 exact subject on or about November 23rd of 2010 and saying  
22 that Yolanda brought you out food, a cardboard box with your  
23 dinner, placed it on the passenger side like you said Paul  
24 Bergrin did, and brought you out kilograms of narcotics?

25 A. Yes, one occasion, yes.

1 Q. And you talked about the fact that it was Paul Bergrin  
2 that brought you out 10 kilograms of cocaine, right, at the  
3 restaurant, right?

4 A. Yes.

5 Q. And placed it on your car seat.

6 Isn't the fact that you said it was Yolanda who did  
7 it when you spoke to the F.B.I.?

8 A. Different times, yes.

9 Q. Different times? But you've never told the F.B.I.  
10 under any circumstances -- and you had a chance to read all  
11 your reports, correct, before you testified?

12 A. Yes.

13 Q. Isn't it a fact that you told the F.B.I. it was  
14 Yolanda who did that and you've never told them that it was  
15 Paul Bergrin that ever brought you out food and kilograms of  
16 cocaine and placed it in the front seat of your car? Isn't  
17 that a fact, sir?

18 A. I didn't remember at that time, yes.

19 Q. You didn't remember at that time.

20 A. Yes.

21 Q. Well, this is a debriefing back in 2010, not that long  
22 ago; correct?

23 A. Yes.

24 Q. You sure remembered that Yolanda did it; right?

25 A. Excuse me?

1 Q. You sure remembered that Yolanda did it; right?

2 A. Yes. You as well.

3 Q. But you never told the F.B.I. that Paul Bergrin did  
4 it; right?

5 A. No, never.

6 Q. Well, you had a chance, like you said, to review your  
7 reports before you sat down and testified; right?

8 A. What you have, I never seen.

9 MR. MINISH: I'm sorry, what was the last?

10 THE WITNESS: The paper he had, I never seen.

11 Q. You said that Richard Roberts wouldn't represent you  
12 because you're cooperating; correct?

13 A. Yes, against you, yes.

14 Q. Now, isn't it a fact that it was Mr. Roberts who set  
15 up the meeting when you spoke to the F.B.I. on July the 30th  
16 of 2009 with Mr. Snipes -- I-don't-represent-cooperators --  
17 and you as well as Shawn Manson, Shawn Brokos of the F.B.I.,  
18 Assistant United States Attorney Joe Minish, isn't it a fact  
19 that they were present during the entire meeting on July  
20 30th of 2009 when you were giving evidence against me in a  
21 proffer session in Pittsburgh, Pennsylvania?

22 A. I believe so.

23 Q. Well, you say you believe so. Would it refresh your  
24 recollection if you were to see any type of reports about  
25 that?

1       A.       Yes.    Yes.

2                   MR. BERGRIN:   May I approach the witness, Your  
3       Honor, sir?

4                   THE COURT:    Yes.

5                   MR. BERGRIN:   I'm going to show him what's marked  
6       J-04059.

7       Q.       Is that J-04059, sir?

8       A.       Yes.

9       Q.       Sir, I ask you to look at the first paragraph, which  
10      starts with "On July 30th, 2009..." if you could read it --

11                  MR. MINISH:   Mr. Bergrin, what page are you on?

12                  MR. BERGRIN:   It's J-04059.  It's an investigation  
13      on July 30th of 2009 at Pittsburgh, Pennsylvania with  
14      Mr. Roberts and Mr. Snipes and the F.B.I. and the U.S. --  
15      and you.

16                  Let me know when you have it.  I'll start the  
17      questions.

18                  MR. MINISH:   I got it.

19                  MR. BERGRIN:   Okay.

20      Q.       Now, that's a meeting where you're cooperating; right?  
21      And giving information against Paul Bergrin; right?

22      A.       Yes.

23      Q.       And that's a meeting -- who's present?  What attorneys  
24      are present?

25      A.       Richie's there.



1 Q. Richie?

2 A. Richie Roberts.

3 Q. When you say "Richie," you said Richie Roberts; right?

4 A. Yes.

5 Q. And Mr. Snipes,

6 I-won't-be-a-cooperating-witness-attorney; right?

7 A. Yes.

8 Q. And isn't it a fact it was Richard Roberts and  
9 Mr. Snipes that set that meeting up, sir?

10 A. I don't know about that. I'm not sure about that.

11 Q. Well, did the F.B.I. and Mr. Minish just mysteriously  
12 appear out of the sky?

13 A. No.

14 Q. Somebody had to set it up; right?

15 A. Yes.

16 Q. And your attorneys had to drive and travel from  
17 Newark, New Jersey to Pittsburgh, Pennsylvania; right?

18 A. Yes.

19 Q. And they just happened to be there with a proffer  
20 session with you trying to cooperate; correct?

21 A. Yes.

22 Q. Now, Mr. Kelly, sir, isn't it a fact, sir, that the  
23 last time that I represented you was in the Recram (ph)  
24 Scott attempted murder case, aggravated assault with a gun?

25 A. No, not attempted murder. Just a shooting.



1 Q. A shooting.

2 A. Assault, yes.

3 Q. It was a case where you shot in the back of the head  
4 multiple times my client, Recram Scott, who I represented;  
5 correct?

6 A. Incorrect.

7 Q. It's a case where I refused to represent you after I  
8 found out who the victim was and I dropped out of the case  
9 because I found out that you shot Recram Scott and almost  
10 killed him, almost made him a vegetable; right?

11 A. Incorrect.

12 Q. Well, I didn't represent you; right?

13 A. You represented me on the first time he was shot and  
14 he accused me, not the attempted murder.

15 Q. Well you were in Vegas at the time, so you couldn't  
16 have shot him; right?

17 A. You mixing the charges and the cases up, Mr. Bergrin.  
18 It was three separate occasions.

19 Q. Three separate occasions.

20 A. Yes.

21 Q. The only time that he could identify you was on the  
22 third occasion, when he was shot in the back of the head,  
23 and that's the occasion that I dropped out of the case;  
24 isn't that a fact, sir?

25 A. No, that's incorrect.

1 Q. I didn't represent you on the aggravated assault and  
2 the second degree of Recram Scott; isn't that correct?

3 A. You moving a little too fast.

4 THE COURT: Pull the mike up.

5 A. I'm a correct you.

6 The first shooting that he had, I just had a  
7 regular aggravated assault. He was shot in the legs. That  
8 was the case you was supposed to represent me on, and you  
9 dropped out of the case.

10 Q. Excuse me?

11 A. And you got -- dropped out of the case.

12 Q. I dropped out of the case; correct?

13 A. Yes.

14 Q. Now, that was the last time that I represented you;  
15 correct?

16 A. Yes.

17 Q. And then you went to Mr. Roberts; right?

18 A. Yes.

19 Q. And after that, after I dropped out of the case, after  
20 you shot my client, a kid, Recram Scott, multiple times,  
21 isn't it a fact that you referred every single criminal case  
22 that you had to Mr. Roberts after that?

23 A. First of all, I didn't shoot your client.

24 Q. Okay.

25 A. And not every case, no.

1 Q. What cases did you refer to me after the Recram Scott  
2 case?

3 THE COURT: Wait. Refer to you, or --

4 MR. BERGRIN: Yes, to me, sir. Yes, sir.

5 THE COURT: I thought you said referred to Richard  
6 Roberts.

7 MR. BERGRIN: No, he referred everything to  
8 Richard Roberts.

9 A. I don't know. I don't remember what I referred to  
10 Mr. Roberts neither.

11 Q. So as you sit there today, you have such a detailed  
12 memory of these drug transactions, what house you went to,  
13 the amount of kilograms, the amount of money, but you can't  
14 remember any referrals, correct, either me or Richard  
15 Roberts?

16 A. Well, the drug transaction was basic. It was 10  
17 either a week or in days, and the money amounts never  
18 changed unless it came a problem or the drugs were bad. I  
19 don't have a strong memory of everything. If I said I  
20 remember everything, Mr. Bergrin, I'd be lying to you.

21 Q. Did you tell the F.B.I. that you never sent me another  
22 case after Richard Roberts represented you on Recram Scott?  
23 Do you remember telling them that?

24 A. No, I don't.

25 Q. If you were to see a report, do you think it would

1 refresh your memory?

2 A. Yes.

3 MR. BERGRIN: May I have one second, Judge,  
4 please?

5 THE COURT: Yes.

6 MR. BERGRIN: Thank you, Your Honor.

7 THE COURT: Well, before you refresh his  
8 recollection, why don't you ask him the question? I don't  
9 know if he ever answered your question.

10 Q. Would it refresh your recollection -- do you remember  
11 telling the F.B.I. --

12 THE COURT: Before you get there, ask him the  
13 question that you -- forget what he said to the F.B.I. I  
14 don't know what his answer is to the question about  
15 referring cases.

16 MR. BERGRIN: Okay. I thought that he answered  
17 that, Your Honor. I'm sorry.

18 THE COURT: Well, maybe I missed it. Ask him  
19 again.

20 BY MR. BERGRIN:

21 Q. Did you refer clients to me after Roberts, Richard  
22 Roberts represented you on Recram Scott and I didn't  
23 represent you?

24 A. I don't remember. It's a possibility.

25 Q. Would it refresh your memory if you were to see any

1 type of reports in reference to that?

2 A. It's possible, yes.

3 Q. Now, did you speak to the F.B.I. on July the 22nd of  
4 2010?

5 A. I don't remember.

6 MR. BERGRIN: May I show him, Your Honor, what's  
7 been marked J-04024, Judge?

8 THE COURT: Yes.

9 MR. BERGRIN: Thank you, sir.

10 MR. MINISH: What's the number again?

11 MR. BERGRIN: J-040247.

12 Q. I'm going to show you what's been marked -- well, it's  
13 the second full paragraph, or the third paragraph, and I'll  
14 just ask you to look at that paragraph. Thank you, sir.

15 A. Um-h'm.

16 Q. Just let me know when you've finished, sir.

17 A. Yes.

18 Q. And isn't it a fact that you represented to the F.B.I.  
19 that after Roberts represented you on the shooting of Recram  
20 Scott, you began to send clients to Roberts instead of  
21 Bergrin?

22 A. Yes, that's what it says, yes.

23 Q. Are those the words that came out of your mouth?

24 A. That's what's written here. It's a possibility. But  
25 I still don't remember it.

1 Q. Now, you talked about yesterday with Mr. Minish and a  
2 trial that I had with you in about approximately, what,  
3 1996, 1997, where you were found not guilty?

4 A. Yes.

5 Q. That was a case where you were essentially stopped --  
6 it was a motor vehicle stop; correct?

7 A. No.

8 Q. It was a car where there was drugs found and a lot of  
9 people present; correct?

10 A. What you represented me on?

11 Q. Yes.

12 A. No.

13 Q. What were the facts of that case, sir?

14 A. The facts was, they jumped out -- got pulled over,  
15 they jumped out, they ran. I didn't.

16 Q. So it was a motor vehicle stop --

17 A. Yes.

18 Q. Correct. What I just asked you, and you said no --  
19 where the individuals in the car jumped out and ran;  
20 correct?

21 A. Yes.

22 Q. And you stayed in the car; right?

23 A. Yes.

24 Q. So essentially nobody could prove whose drugs they  
25 were; correct? And you got found not guilty; right?

1 A. Yes.

2 Q. Now, you have dealt in New Jersey a lot of heroin;  
3 correct?

4 A. No.

5 Q. Well, the heroin that you would pick up, you would  
6 bring it to New Jersey; right?

7 A. No. It got brought to New Jersey to me.

8 Q. It got brought to you in New Jersey. So you possessed  
9 it in New Jersey; correct?

10 A. Yes.

11 Q. And then you would hire or use couriers or individuals  
12 to ship the heroin to different locations; correct?

13 A. No. Incorrect.

14 Q. But the heroin was in New Jersey; correct?

15 A. Yes.

16 Q. And isn't it a fact that the United States Attorney's  
17 Office in New Jersey, although the heroin originated in  
18 New Jersey or it was in New Jersey -- and this is a lot of  
19 heroin; right?

20 A. I don't know what you're getting at.

21 Q. I asked a simple question. There was a lot of heroin  
22 that you had in your hands, in your control in New Jersey --

23 A. Yes.

24 Q. -- right? Hundreds of kilograms, correct, over the  
25 course of your dealing; right?



1 A. I would say.

2 Q. Yes?

3 A. Yes.

4 Q. And isn't the fact that you were not charged, you  
5 would have been facing life in prison, but because you  
6 decided to cooperate, you face no time and you don't even  
7 get charged with the heroin that you had in New Jersey?  
8 Correct?

9 A. I only got arrested in New Jersey out of a New York  
10 investigation, so I don't understand what you're asking me  
11 about New Jersey.

12 Q. You had heroin at your Hollywood auto shop, correct,  
13 in New Jersey; correct?

14 A. No.

15 Q. You had heroin in New Jersey, and a lot of it; right?

16 A. Yes.

17 Q. And also, you dealt hundreds of kilograms of cocaine  
18 also; correct?

19 A. Yes.

20 Q. In New Jersey; right?

21 A. Yes.

22 Q. And you had essentially a distribution network where  
23 you had multiple, multiple people working for you; right?

24 A. No. Incorrect.

25 Q. You had people working for you, right, and you



1 distributed the cocaine to them; right?

2 A. Not really working for me. Just buying and taking  
3 they cut and moving on, yes.

4 Q. Okay. So that's not people working for you.

5 A. No, that's not working for me.

6 Q. Right. You distributed hundreds of kilograms of  
7 cocaine besides the heroin in New Jersey; right?

8 A. Yes.

9 Q. And as a matter of fact, you were never charged by the  
10 United States Attorney's Office, the individuals sitting  
11 behind me, for not even one grain, one drop of cocaine that  
12 you distributed; right?

13 A. Yes.

14 Q. A life sentence you would have definitely received for  
15 something like that; right?

16 A. That, I don't know. They didn't --

17 Q. But you would have been facing life in prison; right?

18 A. I don't know.

19 Q. For the heroin that you had in New Jersey, you'd be  
20 facing life for more than one kilogram; correct also, right?

21 A. I don't know.

22 Q. Well, you know from the charges in New York and you  
23 know from the charges in Pennsylvania that more than one  
24 kilogram of heroin and you're looking at 10 to life; right?

25 A. Yes.

1 Q. So then why did you just tell us that you didn't know?

2 A. I didn't know what New Jersey were gonna do or  
3 assuming to do anything. I could only tell you about  
4 New York and Pittsburgh.

5 Q. And you know that you would have been facing life in  
6 New Jersey; correct?

7 A. If I was arrested in New Jersey for anything I did,  
8 but I was arrested in Pittsburgh and New York.

9 Q. Never got charged, right, because you're a cooperating  
10 witness?

11 A. Never got arrested. Never got arrested in New Jersey.

12 Q. Never got arrested and never got charged; right?

13 A. Never got arrested for any cocaine or any heroin in  
14 New Jersey, no. I got arrested in New York for heroin  
15 trafficking. I got arrested in Pittsburgh for heroin  
16 trafficking.

17 Q. Now, you were on a New Jersey wiretap; right?

18 A. Yes.

19 Q. And on the wiretap, you were talking about dealing a  
20 lot of kilograms of cocaine; correct?

21 A. Yes, in code.

22 Q. In code.

23 A. Yes.

24 Q. But it was cocaine that you were talking about; right?

25 A. Yes.

1 Q. And you could be -- you don't have to be a rocket  
2 scientist to figure out what you meant when you said cars,  
3 six, five, meeting here, meeting there; correct? Bad stuff.  
4 Right?

5 A. Incorrect. I sold cars at my shop, so to really just  
6 come and say I wasn't talking about cars is -- is not for  
7 everybody's ears. I sold cars as well.

8 Q. The bottom line is, you talked for extensive, a long  
9 period of time on a wiretap, dealing drugs; correct?

10 A. That's what you said, I guess.

11 Q. Now, you talked about Kevin Horton, and you refer to  
12 him as Kev; right?

13 A. Yes.

14 Q. And you said that Kev -- now, Kev was a heroin dealer;  
15 correct?

16 A. And cocaine.

17 Q. And cocaine.

18 A. Yes.

19 Q. And this is back in 2000, approximately; right?

20 A. Yes.

21 Q. Now, Kevin had his own connections and Kevin was  
22 dealing for a long period of time before he even saw, met,  
23 or came in contact with Paul Bergrin; isn't that a fair  
24 statement?

25 A. I don't know.

1 Q. Now, you said that -- it was your statement to this  
2 jury yesterday that Kev told you that Paul Bergrin's his  
3 connect; right?

4 A. Yes.

5 Q. But you didn't believe him; right?

6 A. Not at first, no.

7 Q. Kev was a major dealer; right?

8 A. Yes.

9 Q. And Kev had a lot of people working for him; right?

10 A. I knew two or three, yes.

11 Q. Well, you knew he had individuals like Rene Mendoza;  
12 right?

13 A. I don't know who that is.

14 Q. Do you know Chino?

15 A. Yes.

16 Q. He was working for him; right?

17 A. Yes.

18 Q. And he had Alton Bryant; right?

19 A. Never dealt with him.

20 Q. He had a network of people and he had his own  
21 connections, correct, and had been doing it for a long  
22 period of time.

23 A. I don't know what he had. I know he served me, I know  
24 he said it came from you, and he sent Chino to meet me when  
25 we -- when we met.

- 1 Q. Now, who was Zach Walker?
- 2 A. A friend of mine's.
- 3 Q. Okay. And what is his involvement with you?
- 4 A. If he had a sale, bring me a sale, make his off the
- 5 top, same as well.
- 6 Q. And he was dealing multiple kilograms; right?
- 7 A. Yes.
- 8 Q. How much coke did Zach Walker deal?
- 9 A. Maybe two, three a week.
- 10 Q. Two, three kilograms a week?
- 11 A. Yes.
- 12 Q. Now, who was Floyd Kelly?
- 13 A. My brother.
- 14 Q. And Floyd Kelly was involved in the heroin trade with
- 15 you; correct?
- 16 A. Yes.
- 17 Q. And Floyd Kelly was involved in the cocaine trade with
- 18 you; right?
- 19 A. Yes.
- 20 Q. Did the Federal Government ever charge Floyd Kelly,
- 21 your brother?
- 22 A. No.
- 23 Q. Zach Walker was your closest friend; correct?
- 24 A. Yes.
- 25 Q. Did the Federal Government ever charge Zach Walker?

1       A.     No.

2       Q.     Now, you got arrested in New York; correct?

3       A.     I got arrested in New Jersey, but the case was out of  
4       New York.

5       Q.     The case was in New York, where you were bringing --  
6       or buying a large amount of heroin; correct?

7       A.     Three kilos of heroin, yes.

8       Q.     Three kilograms of heroin.

9               So on the New York case, you were facing a  
10      statutory punishment of life imprisonment; correct?

11      A.     If I went to trial and lost, yes.

12      Q.     And in Pennsylvania, Pittsburgh, Allegheny County, you  
13      had been caught essentially red-handed, with your hand in  
14      the cookie jar with the heroin distribution; right?

15      A.     I wouldn't say that.

16      Q.     Well, you were caught on multiple, multiple, multiple,  
17      hundreds of wiretaps; correct?

18      A.     Incorrect.

19      Q.     You were caught on recorded conversations in  
20      Pennsylvania; right?

21      A.     Incorrect. Pennsylvania didn't have any recorded or  
22      no wiretaps at all. All they had was cooperating witnesses  
23      to attest to the things that we done. New York had  
24      recordings, not Pittsburgh.

25      Q.     And the cooperating witnesses brought you in

1 red-handed; correct?

2 A. Yes.

3 Q. And as a matter of fact, you would have been facing  
4 life in prison in Pennsylvania, correct, for all the heroin  
5 you distributed.

6 A. Yes, if I went to trial and lost, yes.

7 Q. Now, instead, what you do is, you get the benefits of  
8 cooperation; right?

9 A. What do you mean?

10 Q. You get the benefits of cooperation. Through your  
11 cooperation, you avoid life in New York; correct?

12 A. I wasn't gonna get life in New York anyway. I was  
13 pleading out.

14 Q. You avoid potential life in New York; correct?

15 A. No, I was never going to attempt to go to trial,  
16 Mr. Bergrin. I was going to cop out and take a plea.

17 Q. You avoid potential life in Pennsylvania; correct?

18 A. No.

19 THE COURT: Keep your voice up.

20 A. No. I wasn't gonna go to trial.

21 Q. But you were facing a minimum of 10 years in New York;  
22 correct?

23 A. Yes.

24 Q. Minimum.

25 A. Yes.



- 1 Q. You were facing a minimum of 10 years in Pennsylvania;  
2 correct?
- 3 A. Yes.
- 4 Q. That's a minimum of 20 years in Federal prison. S  
5 that's the minimum; correct?
- 6 A. Yes.
- 7 Q. That's saying that you get the minimum; right?
- 8 A. Excuse me?
- 9 Q. That's if you get the benefit of the minimum; correct?
- 10 A. Yes, that sounds right.
- 11 Q. And based upon your cooperation, you get a completely  
12 free ride on your New York case, and Pennsylvania's going to  
13 give you what they call a concurrent sentence, which means  
14 that your New York case and your Pennsylvania case get run  
15 together; right?
- 16 A. I wouldn't call it a free ride. Yes.
- 17 Q. You got a concurrent sentence, didn't you?
- 18 A. Yes.
- 19 Q. So that means that the New York case runs at the exact  
20 same time as the Pennsylvania case; correct?
- 21 A. Yes, but what you have -- you're an attorney,  
22 Mr. Bergrin. You know as well as me whatever charge that  
23 comes above the Guidelines is what's gonna remain. In my  
24 New York or my Pittsburgh case, whichever one was larger,  
25 that was gonna be the amount of time that I was gonna



1 receive.

2 Q. But you could receive consecutive sentences, which  
3 means they'd run separately also; correct?

4 A. If that was -- up to the judge, yes.

5 Q. That was up to the judge.

6 A. Yes. I'm not sure about how it works.

7 Q. But your cooperation stated and your agreement that  
8 you reached because you cooperated stated that it will run  
9 concurrent and the judge will not run it consecutive,  
10 correct, or they won't recommend to the judge that they run  
11 consecutive; right?

12 A. That was never compensation or anything ever mentioned  
13 to me.

14 Q. Well, as part of your plea agreement, isn't it? It's  
15 in your plea agreement, isn't it?

16 A. But I never was aware that my cases could be not run  
17 concurrent.

18 Q. It was specifically, specifically detailed and put in  
19 your plea agreement; right?

20 A. I don't know.

21 Q. Was it?

22 A. I don't know.

23 Q. Are you telling us that you didn't read your plea  
24 agreement?

25 A. Yes, but I don't remember that.

1 Q. If you were to see your plea agreements, would that  
2 refresh your memory?

3 A. Yes. Yes.

4 MR. BERGRIN: May I have one minute, Judge? I'm  
5 sorry.

6 THE COURT: Yes.

7 MR. BERGRIN: May I have one minute, Judge? I'm  
8 sorry.

9 (Pause)

10 Q. Now, Pennsylvania -- before we get to that question,  
11 Pennsylvania took the New York case; correct?

12 A. Yes.

13 Q. And that's based upon the fact that you were  
14 cooperating, so they could control the New York case;  
15 correct?

16 A. I don't know about that.

17 Q. Well, did they take jurisdiction of a case that  
18 happened in New York?

19 A. Yes.

20 MR. BERGRIN: I'm going to move on until I find  
21 it, Judge.

22 MR. MINISH: Want to show it to him, see if you  
23 can find it?

24 THE COURT: I'm not going to sit here -- is there  
25 a -- does the Government agree that there's a section in the

1 plea agreement?

2 MR. MINISH: I don't see it, Judge.

3 THE COURT: Mr. Bergrin?

4 MR. BERGRIN: There is a section, Judge.

5 THE COURT: Well, I couldn't find it either.

6 MR. BERGRIN: It's the cooperating plea agreement,  
7 Judge.

8 THE COURT: Okay. So that's not one that's marked  
9 yet.

10 MR. BERGRIN: No.

11 THE COURT: All right.

12 Does the Government have a copy of the cooperating  
13 agreement?

14 MR. MINISH: I don't, Judge. My understanding is  
15 the cooperation is laid out in the same agreement.  
16 Pittsburgh's form's a little different than ours.

17 MR. BERGRIN: I'll move on until I find it. I'll  
18 find it during the break, Judge.

19 BY MR. BERGRIN:

20 Q. Now, who is Albert Castro?

21 A. Another friend of mine's.

22 Q. Excuse me?

23 A. Another find of mine's.

24 Q. A friend of yours for at least the last, what; 10, 15  
25 years?

1 A. Maybe longer. Yes.

2 Q. Maybe longer. How many years, Mr. Kelly?

3 A. Probably maybe 20 years.

4 Q. Twenty-year friend. And you both dealt drugs  
5 together; correct?

6 A. Yes.

7 Q. And you supplied him with cocaine; right?

8 A. Yes.

9 Q. What else did you supply him with?

10 A. Cars.

11 Q. Trapped cars, cars with traps in them?

12 A. Yes. Cars.

13 Q. And how much cocaine did you supply him with?

14 A. I don't know in numbers. It's a long time.

15 Q. Hundreds of kilograms of cocaine; correct?

16 A. Yes.

17 Q. Now, you were aware of the fact that Albert Castro had  
18 Richard Roberts also as an attorney; correct?

19 A. Yes.

20 Q. And you were aware that Roberts represented Albert  
21 Castro for cooperation also; correct?

22 A. Incorrect. No. I did not know that.

23 Q. Did you know that in April of 2009, a few short months  
24 before you began your cooperation, that Albert Castro ran  
25 into the U. S. Attorney's Office --

1 met with the United States Government and decided to  
2 cooperate; correct?

3 A. I'm unsure what you're asking me, Mr. Bergrin.

4 Q. Well, the transactions allegedly with me and Yolanda  
5 and Castro, Alejandro Castro, ended approximately in 2006;  
6 correct?

7 A. I don't know the year.

8 Q. You don't know the year?

9 A. No.

10 Q. But you didn't decide to cooperate until at least  
11 three to four years later; right?

12 A. Could be right.

13 Q. Could be right or am right?

14 A. Could be right.

15 Q. Now, when you were sentenced in Pennsylvania and  
16 New York, it didn't include all the heroin that you had  
17 dealt; correct?

18 A. What do you mean?

19 Q. Well, you were dealing approximately 2,500, 2,500 bags  
20 of heroin every week to 10 days; correct?

21 A. Yes.

22 Q. For approximately eight years; right?

23 A. Yes.

24 Q. So you dealt over close to a million bags of heroin;  
25 right?

1       A.     Over an eight-year period, it started off small and  
2       began to get bigger, so the numbers ain't going to be as  
3       accurate.

4       Q.     So between 25,000 and a million bags of heroin you  
5       dealt; correct?

6       A.     I don't know.

7       Q.     And you received, what; a 14-year sentence?

8       A.     Yes.

9       Q.     And you testified that, oh, no, the judge didn't take  
10      into consideration your cooperation; right?

11      A.     Not that I'm aware of, no.

12      Q.     And the judge, I guess, had no idea about your  
13      cooperation when he sentenced you to 14 years for between  
14      500,000 and a million bags of heroin that you put onto the  
15      street into people's veins.

16      A.     Well, I don't know what the judge knew, Mr. Bergrin.  
17      I can't answer that for the judge.

18      Q.     Well, you were standing in front of the judge at the  
19      time of sentencing; right?

20      A.     Yes.

21      Q.     And isn't it a fact that you heard your attorney, and  
22      you, even, told the judge, and you heard the prosecutor talk  
23      to the judge about your cooperation; right?

24      A.     I don't remember that.

25      Q.     So are you telling us that the cooperation was never

1 mentioned in court during the time that you got sentenced to  
2 the 168 months?

3 A. Not that I remember. Not that I remember, Mr.  
4 Bergrin.

5 Q. Now, you said that you began -- your first arrest  
6 occurred in the New York case; correct?

7 A. Yes.

8 Q. And at the time that you were arrested in the New York  
9 case, you decided to cooperate; right?

10 A. Yes.

11 Q. And you did what they call proactive cooperation;  
12 right?

13 A. I don't know the name for it.

14 Q. Okay. Did you make purchases or deliveries in the  
15 New York case?

16 A. Yes.

17 Q. Did you make telephone calls?

18 A. Yes.

19 Q. In the Pennsylvania case, that occurred after  
20 New York; correct?

21 A. Yes.

22 Q. As a matter of fact, because of all your cooperation  
23 in New York, you got out on bail; right?

24 A. No.

25 Q. Did you get out?

1       A.     I was out on bail already.

2       Q.     You were out on bail. And while out on bail, you  
3       commit the Pennsylvania case. You continued to do the  
4       heroin distributions in Pennsylvania; right?

5       A.     Incorrect.

6       Q.     Are you saying that you stopped your distribution of  
7       heroin in Pennsylvania?

8       A.     Yes.

9       Q.     And you did no transactions in Pennsylvania?

10      A.     Yes, that's correct.

11      Q.     Then you were arrested by Pennsylvania; right?

12      A.     Yes.

13      Q.     And you decide to cooperate in Pennsylvania; right?

14      A.     Yes.

15      Q.     And during your cooperation in New York and  
16      Pennsylvania, okay, you understand that you're facing a lot  
17      of jail time; right?

18      A.     Yes.

19      Q.     And you make no mention whatsoever of Paul Bergrin;  
20      correct?

21      A.     I don't remember. I'm not sure.

22               MR. MINISH: Objection, Judge. Just exactly what  
23      we talked about before trial.

24               THE COURT: Mr. Bergrin, we talked about this.

25               MR. BERGRIN: He just said he's not sure, Your



1 Honor, so I'm just --

2 THE COURT: Except that there was an explanation.

3 MR. BERGRIN: I know, Judge, but I just want to  
4 delve into it preliminarily to see if it's accurate, Your  
5 Honor. I don't have to rely upon the representation as made  
6 by Mr. Minish.

7 MR. MINISH: It's not just the representations  
8 made by Mr. Minish, and Mr. Bergrin knows well that he has  
9 reviewed reports and that indicates that Mr. Bergrin's  
10 question would be a misrepresentation of the facts.

11 THE COURT: Mr. Bergrin -- let's go to sidebar.  
12  
13  
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1                   (The following takes place at sidebar)

2                   THE COURT: Mr. Bergrin, this is precisely what we  
3                   said at the beginning this morning when this witness -- we  
4                   weren't going to get into this because the witness  
5                   specifically said -- or the --

6                   MR. BERGRIN: The Government made representations,  
7                   speaking to other United States Attorneys.

8                   THE COURT: But said that they weren't questioning  
9                   him about New Jersey. So you're leaving a false impression  
10                  that he didn't mention Bergrin. That's probably true, but  
11                  he said he wasn't talking about New Jersey. Why would he  
12                  talk about Bergrin? You weren't involved in Pennsylvania  
13                  and New York, so why would he do that?

14                  I mean, this is precisely what we said we weren't  
15                  going to do.

16                  I'm going to stop you from doing this.

17                  MR. BERGRIN: All right.

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1 (The following takes place in open court)

2 THE COURT: Let's go to your next question, sir.

3 MR. BERGRIN: Yes, sir.

4 BY MR. BERGRIN:

5 Q. Now, you made millions of dollars dealing drugs;  
6 correct?

7 A. Yes, fair to say, yes.

8 Q. Fair to say, or did you make it?

9 A. Yes, probably made it, yes.

10 Q. And as a result of your drug dealing, in Pennsylvania,  
11 you just started to give up some properties; correct?

12 A. Whatever they gave down as forfeitures, yes.

13 Q. Excuse me?

14 A. Whatever was listed as forfeitures, yes.

15 Q. But that doesn't include all the properties that you  
16 bought with your heroin and cocaine proceeds; correct?

17 A. I'm not sure.

18 Q. Well, what do you mean, you're not sure? You read the  
19 forfeiture -- excuse me, let me ask the question, Mr. Kelly,  
20 sir. You read the forfeiture provision; correct?

21 A. Yes.

22 Q. And it listed items; correct?

23 A. I didn't list them. The Government listed them.

24 Q. The Government listed them.

25 A. Yes.

1 Q. Isn't it a fact you had a chance to look at that list?

2 A. Yes.

3 Q. And you had a chance to study it because you knew that  
4 what you were forfeiting; right?

5 A. Yes.

6 Q. Isn't that a fact that that does not include all the  
7 properties you bought with drug proceeds? Correct?

8 A. No.

9 Q. Isn't it a fact that it doesn't include all the  
10 jewelry that you bought for yourself and others with drug  
11 proceeds; correct?

12 A. Yes.

13 Q. Isn't it a fact that it doesn't include all the cars  
14 that you bought with drug proceeds; correct?

15 A. Yes.

16 Q. Isn't it a fact that it doesn't include what other  
17 people have in their name as a result of Rondre Kelly  
18 putting it in their name from drug proceeds that you earned?  
19 Correct?

20 A. Nobody has anything in their name that belongs to me.  
21 Everything that was listed in forfeitures was what I had.  
22 Only thing that they didn't have was a little bit of  
23 jewelry. Other than that, everything was listed that I  
24 owned at that time. Nothing was hidden.

25 Q. Now, Hollywood Auto Body is a legitimate business

1       also; right?

2       A.     Yes.

3       Q.     Did you do auto repairs there?

4       A.     Yes.

5       Q.     Did you do auto body work there also?

6       A.     Yes.

7       Q.     And you had bought other properties totally  
8       unassociated with Paul Bergrin, right, investment  
9       properties?

10      A.     Yes.

11      Q.     Now, you also owned a beauty parlor; correct?

12      A.     No, I didn't own that.

13      Q.     Didn't you own a beauty store called My Own Style in  
14      Easton, Pennsylvania?

15      A.     I didn't own that. That was my girlfriend's shop.

16      Q.     It was your girlfriend's shop. And your girlfriend  
17      earned the money to open that shop and buy the property and  
18      pay all the expenses to open it and repair it; correct?

19      A.     Well, all that was done, Mr. Bergrin, from her  
20      previous shop that she had, and I was in jail, already  
21      incarcerated, when she opened up that shop, so I can't say  
22      where she --

23      Q.     And it was bought with the proceeds that you gave her;  
24      correct?

25      A.     No.

1 Q. Now, you said you made millions; correct?

2 A. If you add it all up over the years, of course I made  
3 millions.

4 Q. So you were making more than five to six thousand  
5 dollars a week; right?

6 A. Yes.

7 Q. Now, do you ever remember swearing to the grand jury  
8 that you made between five and six thousand per week?

9 A. No.

10 Q. Now, before I go into -- before I continue, I just  
11 want to ask you some questions about the house.

12 Now, you talked about purchasing a house on  
13 81 South 12th Street; correct?

14 A. Yes.

15 Q. And you said that the purchase price you swore before  
16 the ladies and gentlemen of the jury was \$105,000; right?

17 A. Yes, I believe that's true.

18 Q. Excuse me?

19 A. I believe that's true.

20 Q. Now, you had an attorney that you talked about by the  
21 name of Kecia Clarke; right?

22 A. Yes.

23 Q. And you told Kecia Clarke the truth about everything;  
24 correct?

25 A. No.

1 Q. Oh, so you mean you lied to Ms. Clarke?

2 A. I didn't tell Ms. Clarke about you, no.

3 Q. You didn't tell Ms. Clarke about me. This is  
4 Ms. Clarke that was helping you to straighten out a title;  
5 correct?

6 A. Yes.

7 Q. This is Ms. Clarke that you were hoping would  
8 straighten out a title that Paul Bergrin allegedly gave you  
9 a bad title; correct?

10 A. Yes.

11 Q. Paul Bergrin, who you were just a little bit upset at,  
12 right, for giving you a bad title and you not being able to  
13 sell the property and you being stuck with it; right?

14 A. I was never upset about it.

15 Q. You were never upset with me.

16 A. No.

17 Q. You called me, according to you, several times to  
18 straighten out the title; correct?

19 A. Yes, maybe, but I wasn't upset with you, Paul.

20 Q. You called me several times to pay the legal fees or  
21 to do the legal work to straighten out the title; correct?

22 A. No. That's not true.

23 Q. Didn't you call me in reference to helping you pay the  
24 legal fees?

25 A. I don't remember that.

1 Q. You don't remember that?

2 A. I don't remember calling you that. I remember upon  
3 meeting with you to represent my brother, we discussed it,  
4 but I took my own action as you drug your feet to do no  
5 attempt to help me on it, so I hired another attorney. I  
6 wasn't upset. I wasn't going to get beat out of \$105,000,  
7 so I took the approach to hiring somebody who didn't have  
8 anything to do with the property, and that was the attempt I  
9 took.

10 Q. As a matter of fact, you weren't beat out of anything;  
11 correct?

12 A. Not after I wasted almost 15,- to \$16,000, no.

13 Q. And as a matter of fact, you made a profit by selling  
14 that house; right?

15 A. No.

16 Q. Okay. Hypothetically, if you paid \$105,000, isn't the  
17 fact that you sold it for \$130,000?

18 A. I don't remember the sale price.

19 Q. You got a very selective memory; right, Mr. Kelly?

20 A. No, I don't remember the sale price. If you have it,  
21 you can show it to me and we go from there.

22 Q. All right. I intend to do that.

23 MR. BERGRIN: May I approach the witness, Your  
24 Honor?

25 THE COURT: Yes.



1 Q. Do you know an individual by the name of Melvin Batts,  
2 Jr., and Tara Blanton?

3 A. Yes.

4 Q. Who are they?

5 A. My son's mother and her boyfriend.

6 Q. Your son's mother and her boyfriend?

7 A. And her boyfriend.

8 Q. As you sit here now, are you telling us that you  
9 didn't remember selling them 81 South 12th Street for  
10 \$130,000?

11 A. What I said to you is, I don't remember the purchase  
12 price.

13 Q. The purchase price?

14 A. Yes.

15 Q. Or the sale price?

16 A. The sale price. That they purchased it from me from,  
17 I didn't remember that.

18 MR. BERGRIN: May I approach the witness, please,  
19 Judge?

20 THE COURT: Yes.

21 Q. I show you what has been marked 000234.

22 Is that your signature, Mr. Kelly, as the grantor,  
23 the seller?

24 A. Yes.

25 Q. And is the purchase price of the deed on there?

1 A. Yes.

2 Q. And tell the good ladies and gentlemen of the jury how  
3 much you sold that premise for that you got so beat out of.

4 A. 130,000.

5 Q. But you didn't remember as you sat here; right?

6 A. No.

7 Q. I show you what has been marked as the deed, 000232.  
8 Does it reflect that you sold the house to Melvin Batts,  
9 Jr., and Tara Blanton?

10 A. Yes.

11 Q. Now, you said that these people are -- how are they  
12 related to you?

13 A. She's my other son's mom, and that's her boyfriend.

14 Q. And as you sit here today, you're telling us that you  
15 didn't remember that you sold them the house for \$130,000?

16 THE COURT: Now, we've gone through --

17 A. I told you, Mr. Bergrin, I didn't remember the selling  
18 price.

19 MR. MINISH: Judge, I object to the way  
20 Mr. Bergrin is combining questions. He said he didn't  
21 remember what the price was, and then the next one is,  
22 You're telling the jury you didn't remember that you sold it  
23 it to him, and the price.

24 THE COURT: Well, I'll leave it to the jury to  
25 parse that.

1                   But, I mean, he's said it now three times, four  
2 times. The repetition, we don't need it.

3                   MR. BERGRIN: Okay, Judge. I understand.

4                   THE COURT: You made your point.

5 BY MR. BERGRIN:

6 Q.       Now, you said that I sold you this house for 105,000;  
7 correct?

8 A.       Yes.

9 Q.       And you're about as sure about that as all your  
10 testimony in this whole case; right?

11 A.       Yes.

12 Q.       Did you ever tell the F.B.I. that the house -- you  
13 bought the house for 60,- to \$70,000?

14 A.       Yes.

15 Q.       If I sold you the house for \$105,000, then how can you  
16 have bought it for 60,- and 70,000?

17 A.       If I calculate what I gave you, what was shown on the  
18 contracts, outside of the difference that was the purchase  
19 price of it, it would be roughly close to what I said.  
20 Maybe it was taken out of context and maybe they're split  
21 down into two different denominations, I'm not aware, but it  
22 sounds reasonable to me.

23                   Now, what you asking me is, did I not purchase it  
24 for \$105,000? Yes, I did purchase it for 100-some thousand  
25 dollars. What was on paper is totally different, as you

1 well know.

2 Q. A hundred and something thousand dollars; right?

3 A. A hundred and five, right.

4 Q. My question to you is, isn't it a fact that you told  
5 the Government you paid between 60,- and \$70,000 in one of  
6 the statements you gave?

7 A. It's possible, yes.

8 Q. Is it possible if you were to see your -- if you were  
9 to see an F.B.I. 302, would it refresh your memory as to  
10 what you told them?

11 A. I can take a look, yes.

12 Q. Now, I show you what has been marked 04022.

13 MR. MINISH: 04022?

14 MR. BERGRIN: Yes.

15 Q. Does it reflect that you told the F.B.I. --

16 MR. GAY: Objection to what it reflects, Judge.

17 Q. Did you ever tell the F.B.I. that you had paid between  
18 60,- and \$70,000 in cash?

19 A. Yes, sir, I could have, yes.

20 THE COURT: Well, we just -- this is the first  
21 time you mentioned in cash.

22 How much did you pay for the house?

23 THE WITNESS: I believe 105,000.

24 THE COURT: Then why'd you tell the F.B.I. 60 or  
25 70?

1 THE WITNESS: I don't know.

2 THE COURT: Was some of the house paid for in cash  
3 and some paid some other way?

4 THE WITNESS: Yes.

5 MR. MINISH: Judge, again, Mr. Bergrin is parsing  
6 these things. If Your Honor could take a look, and I will  
7 make an objection, to J-04022, the second paragraph.

8 THE COURT: Yes?

9 MR. MINISH: Mr. Bergrin is speaking as if this  
10 was the entire price that was stated to the F.B.I.

11 THE COURT: Well, I'll leave it to you for  
12 redirect. But I mean, it's so confusing as to what  
13 occurred.

14 Can you explain what occurred with the house?

15 THE WITNESS: I gave some of it in money on the  
16 form in cashier check. The rest was either 60 or 70-some  
17 thousand in cash, I'm uncertain.

18 THE COURT: And what would the total of that have  
19 been?

20 THE WITNESS: It should have been at least  
21 \$105,000.

22 BY MR. BERGRIN:

23 Q. Well, even by your own admission yesterday, isn't the  
24 fact that you identified \$25,000 in money orders that were  
25 paid by Mrs. Drake? Isn't that a fact, sir?

1 A. I don't think she gave 25,000, 'cause some of I gave.

2 Q. So some of it you gave and some of it she gave in  
3 money orders; correct?

4 A. Yes.

5 Q. So even if you were to consider all the money orders,  
6 it wouldn't come to \$105,000; isn't that a fact?

7 A. I don't know. If you let me see it again, we can  
8 calculate it.

9 MR. BERGRIN: That was admitted yesterday, Judge.

10 THE COURT: I recall. I just don't know what the  
11 numbers are.

12 MR. BERGRIN: The three money orders?

13 THE COURT: Oh, the money orders.

14 Do you mean -- was this it, Mr. Bergrin?

15 MR. BERGRIN: Yes, sir.

16 THE COURT: Okay.

17 Scott, let him use it.

18 MR. BERGRIN: I have it, Judge.

19 THE COURT: This is 1300?

20 THE COURT CLERK: D.

21 MR. BERGRIN: Yes, sir.

22 Q. I show you what has been marked 1,300 Delta.

23 Is this the form that you identified yesterday,  
24 Mr. Kelly?

25 A. Yes.

1 Q. And the amounts were \$30,000 in money orders?

2 A. Yes.

3 THE COURT: Well, hold up. Read it. That's not  
4 what it says. You've got to look.

5 THE WITNESS: It has a check for \$18,000, then two  
6 other money orders, plus a \$5,000 deposit at the top as  
7 well, which is 30,000.

8 THE COURT: Okay.

9 Okay. So there's 5,000 in currency, and then the  
10 three money orders.

11 THE WITNESS: Yes.

12 THE COURT: So it's not just three money orders.

13 THE WITNESS: Two money orders.

14 THE COURT: Wait. Oh, a check, and two money  
15 orders, and the currency.

16 THE WITNESS: Yes.

17 THE COURT: Okay. And it totals up to 30, 30,000?

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 BY MR. BERGRIN:

21 Q. And that is the amount that's reflected on the HUD  
22 form; correct?

23 A. Yes.

24 Q. Now, you talked about Ms. Kecia Clarke and helping you  
25 to straighten out the transaction; correct?

1 A. Straighten out the transaction?

2 Q. Straighten out the title; correct?

3 A. Yes.

4 Q. Now, isn't the fact that you did a certification to  
5 the mortgage and title company that was to be admitted in  
6 the Superior Court of New Jersey? Do you remember doing a  
7 certification and swearing to it under oath?

8 A. Yes.

9 Q. Do you remember doing a certification wherein you said  
10 you paid \$30,000 due to disrepair of the property, that it  
11 was a handyman property, and this was prepared for you by  
12 Ms. Kecia Clarke?

13 A. No.

14 Q. Do you remember doing that, Mr. Kelly?

15 A. No.

16 Q. If you were to see it, would it refresh your memory?  
17 Would it?

18 A. Maybe. Maybe, yes.

19 MR. BERGRIN: It's not marked as an exhibit, Your  
20 Honor, so I've marked it as a Defense Exhibit, sir.

21 THE COURT: Go ahead. Which -- I forgot where we  
22 were. Which Defense Exhibit?

23 THE COURT CLERK: One second, Judge.

24 THE COURT: Eight, seven, nine?

25 Eight?



1                   This will be eight. Okay. D-8, Scott.

2                   (Defense Exhibit 8 marked for identification)

3                   MR. BERGRIN: Thank you.

4           Q.       Mr. Kelly, I'm going to show you what has been marked  
5 as Defense Exhibit 8 for identification.

6                   Is this a certification prepared for you by --

7                   MR. MINISH: Mr. Bergrin, I know it's amongst the  
8 exhibits we provided you, 970, but I just want to see what  
9 page it is.

10                  MR. BERGRIN: Excuse me. Can I just have that  
11 back, Mr. Kelly?

12                  (Defense Exhibit 8 was handed to Government's  
13 counsel.)

14                  THE COURT: Is there a J number?

15                  MR. BERGRIN: No, there isn't.

16                  MR. MINISH: It's Exhibit 970, Judge, of the  
17 documents that Ms. Clarke provided.

18                  THE COURT: 970?

19                  MR. MINISH: It's among the documents that --

20                  THE COURT: Go ahead, Mr. Bergrin.

21                  MR. BERGRIN: I'm just marking this separately.  
22 There's too many documents in there.

23                  THE COURT: All right. Go ahead.

24           Q.       Sir, I show you what has been marked as Defense  
25 Exhibit 8 for identification.