

1 from the heart, say things that we don't mean, say things  
2 that humiliate us, shame us. We speak from the heart. We  
3 speak from the soul. We try to do what's right in life.

4 As I stand before you today, I tell you that as an  
5 attorney -- and you have heard it on the recordings, you've  
6 seen it in this case from individuals that have testified --  
7 I'm an individual that gets emotional, is emotionally  
8 charged, puts their heart and puts their soul in their  
9 representation to make sure that individuals know that I  
10 care about them, that they have somebody to rely upon in  
11 life, someone that they can turn to during their darkest  
12 times.

13 Although I'm a grown man, a lot older than I wish  
14 I was, I've gotten a lot grayer since this incident has  
15 begun, but I know at times I have felt the pain and heard  
16 the cries of my clients.

17 And as Tommy Moran said, You know, Paul just  
18 didn't sleep. He was at the jails at 7:30 in the morning on  
19 Saturdays and Sundays. I can't keep up with him.

20 I tried to let the client know that when they  
21 call, I will be there, when they need me, they could turn to  
22 me.

23 And you get caught up in their emotions, you get  
24 caught up in their cases, you get caught up in their  
25 families, you get caught up in the pain, discomfort, and

1       anguish that they feel and suffer. You try to work  
2       tirelessly and endlessly as if they're your own children,  
3       and if they're your own family. You try to treat them as  
4       you would want any other lawyer, anybody that you turn to in  
5       a time of need would treat them also, like they're your own  
6       children, like they're your own brothers, sisters, fathers,  
7       and mothers.

8               I tried to hold the prosecution to their burden of  
9       proof as an attorney, tried to represent the Constitution of  
10      the United States as both a major in the United States Army  
11      and a soldier as well as an attorney, tried to be there for  
12      the downtrodden, tried to be there for the underdog, the  
13      destitute, tried to have somebody and show the client and  
14      the people that they have somebody that will stand up for  
15      them, somebody that's willing to fight for them and take on,  
16      take on that big fight, that massive fight, try to hold the  
17      Constitution and the prosecution to their constitutional  
18      burden of proof.

19             As I stand here today as an attorney and as a  
20      defendant, as the accused in this case, as I stand here  
21      before you as an individual with very serious charges and  
22      allegations against them, an individual not only who served  
23      in the military for over 25 years, retired as a major, but  
24      as a homicide prosecutor, as a Federal prosecutor, as a  
25      defense attorney who represented law enforcement officers

2 accused of crimes, I ask you to do for me what I asked so  
3 many juries in the past to do for my clients: To hold the  
4 prosecution to their burden of proof, beyond and to the  
5 exclusion of -- beyond and to the exclusion of a reasonable  
6 doubt, to make them prove their case by logical, credible,  
7 believable evidence beyond a reasonable doubt, or to meet  
8 your burden as jurors, as the arbiters of the facts in this  
9 case.

10 Rasheem King testified before you, and he said  
11 that when he cried out from a jail cell, lonely, with no  
12 money for a representative, Paul came to him, and, though he  
13 had no funds, He's the first person in my life who showed me  
14 someone cared and treated me like a human being.

15 When Shelton Leverett, the prosecution's own  
16 witness, a cooperating witness, came to me and told me how  
17 lonely and depressed and what pain he's in, over 20 times,  
18 as he admitted, he came to me, conversations that were  
19 recorded and even not recorded, not even played for you, not  
20 even part of this case, he needed my help and needed a  
21 shoulder to cry on, and I tried to be there for him. And he  
22 admitted to you that Paul Bergrin showed me that he cared,  
23 and Paul Bergrin talked about him and convinced him, not  
24 knowing he's a cooperating witness, to give up the streets,  
25 to give up drug dealing, to work hard and to earn an honest  
living.

CHARLES P. MCGUIRE, C.C.R. P4499

1                   You have to take everything in tot  
2       look at this case. You can't take one or two  
3       out of context. You have to see what develop  
4       that was set, what was meant, what was in my m  
5       to ask yourself, if Paul Bergrin was a drug dealer, then  
6       Shelton Leverett would have been supplied drugs. If  
7       Paul Bergrin ever under any circumstances intended Shelton  
8       Leverett to meet Abdul Williams, then Paul Bergrin would  
9       have called Abdul Williams and said, Shelton Leverett is  
10      calling you, talk to this guy, set up a meeting. If Paul  
11      Bergrin ever wanted Abdul Williams and Shelton Leverett to  
12      have any interaction whatsoever, he would have called  
13      Shelton Leverett when Abdul Williams was released and  
14      working in my office. If Paul Bergrin ever wanted Shelton  
15      Leverett to deal one gram of drugs, in which Paul Bergrin is  
16      supposedly a big drug dealer, could have made thousands and  
17      thousands and thousands of dollars, then Paul Bergrin would  
18      have set up a meeting.

19                It's because of Paul Bergrin's intent, his heart,  
20      and his lack of action that Abdul Williams never, ever  
21      called Shelton Leverett back when he had his number locked  
22      into his phone, that Shelton Leverett gave up the idea of  
23      ever meeting Abdul Williams and conducting a drug  
24      transaction to which Paul Bergrin would have profited.

25                These are the things that you have to consider and

1 take into consideration. This proves intent. This proves  
2 my state of mind.

3 If I was a drug dealer who wanted to consummate an  
4 action instead of building up the confidence of Shelton  
5 Leverett to trust me -- like he said: I'm glad you talked  
6 to me so I had somebody to confide in. I had to get inside  
7 Shelton Leverett's mind and convince him that the streets  
8 aren't for him. So you build up their confidence and then  
9 you convince them.

10 If Paul Bergrin was a drug dealer, Paul Bergrin  
11 wanted drug transactions to occur, start with Shelton  
12 Leverett. Start with individuals offered a telephone count,  
13 six years, six years after dealing crack on the streets of  
14 Newark, six years after being a career criminal facing life  
15 in prison, he's facing life as a career criminal for all the  
16 crack that he dealt, he comes to me. He doesn't plead  
17 guilty, he has no guilty plea by the Government, so he has  
18 nothing to lose so now he could tell the truth because he's  
19 getting time served, he's getting no time. He has what they  
20 call a telephone count, which is a very minimal offense, a  
21 reduced sentence, a reduced time. Now he could take the  
22 stand and tell the truth. Not like the other witnesses in  
23 this case, who are facing a plethora of time, who have to in  
24 the sole discretion of the prosecution appease them, and,  
25 like the words of Anthony Young, tell them what they want to

1 hear when they want to hear it; keep them in amazement; make  
2 sure that they're happy, that they listen to you, that they  
3 care what you're saying, because that's the only way you  
4 will ever keep from going to jail.

5 Listen to the words of Lemont Love. I can't do  
6 anything for that man. I haven't spoke to him in six, five  
7 and a half to six years, no contact, no seeing. He comes  
8 here, he has no motive to fabricate, he has nothing that I  
9 could do for the man. And he tells you, They came to me and  
10 they would have walked me; instead of me getting a 12-year  
11 sentence, all I had to do is lie against Paul Bergrin, but I  
12 refused to do it.

13 When you have witness after witness, cooperator  
14 after cooperator who are facing this kind of anguish and  
15 time and misery, their freedom taken away from them, unless  
16 they're accepted as a cooperating witness, unless they get  
17 that 5K1.1 letter, what do you think they're going to do?  
18 What do you think they're going to say?

19 In the words, the exact words of Abdul Williams:  
20 It's your life, Paul, versus mine, and I made the decision  
21 that my life is worth more than yours.

22 In this case, I have lost everything, except my  
23 pride and my dignity. I have lost everything I've worked  
24 for, except the fact that now I get to come before you as  
25 ladies and gentlemen of the jury, as the real triers of



1 fact, to re-establish myself, to lift that black cloud off  
2 the ceiling, off the sky, that's been laying over my head,  
3 and to show and prove to everyone that this system of  
4 justice works.

5 And as the prosecution asked for justice, that's  
6 what I ask for. I asked at the beginning, and I'll ask at  
7 the end. You are the finders of fact. You are the triers  
8 of the facts in this case. It's only when you determine  
9 where the truth lies will justice ever be done.

10 In the Abu Ghraib case, the time going overseas,  
11 like James Cortopassi said, You were flying back and forth,  
12 overseas when these military police officers, my fellow  
13 soldiers cried out for help.

14 There are a lot of things I was blinded by, like  
15 Yolanda and Alejandro, a lot of things I was blinded by and  
16 turned a blind eye because I couldn't see, I didn't believe  
17 it. I wouldn't believe it.

18 But I never intended under any circumstances for  
19 anybody to be hurt. I never intended under any  
20 circumstances for anybody to ever be killed. I never  
21 intended under any circumstances for one gram of drugs ever  
22 to exchange hands with anyone under my guise, under my  
23 leadership.

24 They talk about distorting the facts and spinning  
25 the facts. The prosecution spent half his summation into

1        what Paul Bergrin's going to argue, what Paul Bergrin has  
2        said.

3                    Well, what about the Hassan Miller recording?  
4        They played one excerpt about Anthony Young saying  
5        Paul Bergrin's going to go to jail, knowing that occurred,  
6        on page 48 of the transcript, when Anthony Young told you  
7        and swore that without a doubt and to an absolute certainty,  
8        based upon what Hassan Miller had said to me, I knew that he  
9        was recording me halfway through.

10                    Talk about distorting the facts.

11                    They talk about a stipulation of me not  
12        representing Hakeem Curry since 2002 and me going to the  
13        jail on 10 occasions over a nine-month, eight-, nine-month  
14        period of time.

15                    What does that mean to you: That I just give up  
16        persons that I'm representing, I just don't care about them  
17        and about their families and about their lives? What does  
18        that mean to you?

19                    They tell you about conversations, three phone  
20        calls with Alejandro Castro to my phone. They don't even  
21        know if the phone's in my hand or Yolanda, my supposed wife  
22        and girlfriend, has it. No intercepted calls, no content,  
23        no substance. Three calls over years and years of  
24        investigation for someone that I'm supposed to be dealing  
25        with, paying me \$2,500 a month to store drugs, when he's



1       supposed to be my partner and I'm going to him and his  
2       family for connections and contacts.

3               Talk about distorting the facts and taking facts  
4       out of context.

5               They talk about a December the 9th meeting that  
6       they showed you with Jason, a five-star member of the  
7       Bloods.

8               You know, ladies and gentlemen of the jury, based  
9       upon this investigation if Jason was really a five-star  
10      general in the Bloods, he would have been identified,  
11      photographed, and there would have been evidence about him.  
12      If Oscar was ever privy to any conversations with me and  
13      Jason but for idle chatter and bullshit in the car of me and  
14      him, then it would have been recorded. Oscar would not have  
15      said that, I didn't hear the conversation, I couldn't record  
16      it because I was too far away.

17              If I ever intended to deal drugs with Oscar  
18      Cordova or Vincent Esteves under any circumstances,  
19      Vincent Esteves -- Oscar offered me cocaine for \$4,000 a  
20      kilo that he said he was getting from the Ochoas and the  
21      Herrerias, and I turned him down. I could have been a  
22      zillionaire, not even a billionaire. Oscar offered me  
23      cocaine for \$15,000 a kilo from his friends in Mexico. I  
24      turned it down. I said, just pay me the legal fees that you  
25      owe me.

1                   Vinny Esteves asked me for contacts -- gave me  
2                   contacts, David in Colombia, Wilfredo, but he had to admit  
3                   Paul never contacted them.

4                   That's this big drug dealer, Paul Bergrin. Not  
5                   one number exchanged with Oscar. Not one person ever  
6                   introduced. Not one person ever met. Never met anybody,  
7                   never saw anybody, never any numbers exchanged, never any  
8                   deals even attempted to be consummated.

9                   That's how you know intent. That's how you know,  
10                  words without meaning, words without substance.

11                  Nobody is trying to hide facts from you. Nobody  
12                  is trying to conceal facts from you. I tried to defend  
13                  myself to the best I could.

14                  And, ladies and gentlemen of the jury, sometimes I  
15                  know I got aggressive, sometimes I got obnoxious. But  
16                  you're talking about human emotions by an individual whose  
17                  life is at stake, so sometimes, you act based upon your  
18                  emotions and your feelings.

19                  They talk about the fact in this case of  
20                  Paul Bergrin not knowing about the Vincent Esteves  
21                  investigation.

22                  We had an investigative summary, and not one  
23                  witness - and they have the burden of proof beyond a  
24                  reasonable doubt - not one witness could come by and ever  
25                  state when Paul Bergrin had that investigative summary. Not

1 one witness. Remember that.

2 Remember, we made at least three bail motions.  
3 Chantal made bail motions. Hector Rodriguez made bail  
4 motions. That investigative summary was given out from the  
5 beginning. I had my client's statement. As soon as your  
6 client makes a statement in State Courts, you get it. I  
7 knew he had confessed right away to everything.

8 MR. GAY: Objection, Judge. That's just not true.  
9 There's no evidence of it, and he knows that's false. The  
10 discovery -- there's been no testimony about that. That's  
11 false.

12 THE COURT: I don't recall it. I will caution  
13 Mr. Bergrin that he knows to stay within the facts that came  
14 out during trial.

15 And I'll remind the jury that it's going to be  
16 their recollection of the facts that count.

17 Go ahead, Mr. Bergrin.

18 MR. BERGRIN: Thank you, sir.

19 You know, ladies and gentlemen of the jury, that  
20 if there was a scintilla of evidence, if they had one  
21 witness that they could bring forth to say that Paul Bergrin  
22 didn't have that investigative summary that laid out the  
23 entire case that you'll have with you, then it would have  
24 been brought forth to you.

25 They would have brought forth the prosecutor from

1 the Monmouth County Prosecutor's Office, Jim Jones, to show  
2 you that I didn't have that investigative summary from the  
3 beginning of the Esteves case.

4 They could empty every cell, they could bring  
5 forth witness after witness. But when you have witnesses  
6 with no integrity, no moral fiber, with the agendas that  
7 they have, with the backgrounds that they have, individuals,  
8 15, 16, 17 felony convictions, individuals who are not  
9 charged with thousands of kilograms of heroin, the most  
10 potent drug, and putting it on the streets of Newark, their  
11 families aren't charged with assisting them in major  
12 narcotic transactions, individuals facing thousands and  
13 thousands of kilograms of cocaine, they're not charged, how  
14 can you ever believe a word that comes out of their mouth?  
15 How can you do that?

16 You can't.

17 I pray with all my heart and soul that you find it  
18 impossible to separate facts from fiction in this case. You  
19 see that based upon inconsistencies, when people are  
20 inconsistent, when people are lying -- and Anthony Young  
21 admitted in 2007 that he's a good liar, under sworn  
22 testimony -- it creates inconsistencies. When you have  
23 fabrications, when people can't tell and separate the lies  
24 from the truth, that's reasonable doubt in and of itself.  
25 When you have inconsistencies, that's reasonable doubt.

1 When you have lies, that's reasonable doubt. When you have  
2 individuals with a motive to fabricate, that's reasonable  
3 doubt. When you have an investigation and a lack of a  
4 quality investigation, that's reasonable doubt.

5 You heard all these names, Yolanda Jauregui, Ramon  
6 Jimenez, Maria Correia; the warnings given to Steven  
7 Cortopassi and James Cortopassi. But not one word from  
8 these witnesses. When you hear the names of Edward Peoples  
9 and the fact that he used my name in a letter, and his  
10 girlfriend, Anyea Williams; Jamal Muhammad, the individual  
11 supposedly coached into making a statement and falsify the  
12 statement for Abdul Williams; when you hear about Pedro  
13 Ramos in the Pozo case; Tito getting the gun from on  
14 December 8, Justo Cepeda; Nelson Esteves; Michael Lopez;  
15 Jason Nieves; Diedre Baskerville; Jamal McNeil; Jamal  
16 Baskerville; Horatio Joines; Mira in the prostitution case,  
17 according to Tommy Moran that I was going to pay her to  
18 testify falsely against James Cortopassi; Jason Itzler. You  
19 have to ask yourself, you have to ask yourself, some of  
20 these people are not charged. None of them are charged.  
21 Where are they? Where are they? Where are they? Where's  
22 their credible evidence? Why weren't they called if the  
23 prosecution's witnesses are telling the truth? Why weren't  
24 they called to substantiate and corroborate the witnesses?  
25 Ask yourself that question. You have to ask yourself that

1 question, I beg you, because all I want you to do is  
2 determine the truth, the whole truth, and nothing but the  
3 truth. That's all I've asked from the beginning, and that's  
4 all I've asked in the end.

5 When you talk about individuals, on May the 20th  
6 of 2009, the evidence shows that I was arrested. When I was  
7 arrested, I cried out with the words "not guilty." On that  
8 date, I saw my daughter cuffed behind her back, nine years  
9 old, in a Catholic school uniform, plaid skirt, plaid vest.  
10 I knew that this case was personal, and I knew, ladies and  
11 gentlemen of the jury, that I would have to fight with all  
12 my heart and soul to vindicate myself. And that's what I'm  
13 coming before you and trying to do. That's what I'm trying  
14 to do.

15 Look at the facts of the Kemo McCray case. Please  
16 look at them. You have an individual, the agent in this  
17 case, the lead agent who put this case together for the  
18 prosecution, Shawn Brokos. She gets a call from Chris  
19 Spruel, an informant of hers, that there's a shotgun at the  
20 home of Delphine Smith, where Kemo McCray is living. She  
21 wants Kemo McKay to be a cooperating witness. She is  
22 desperate for Kemo McCray to be her informant.

23 She goes to the house knowing - knowing - that the  
24 shotgun is Kemo McCray's, knowing that it's not Delphine  
25 Smith's. She goes to the house. Kemo McCray runs out the



1 back door.

2 She tells Delphine Smith, Get Kemo into this --  
3 into the F.B.I. or we're going to arrest you. Knowing that  
4 she's innocent of these charges.

5 Kemo McCray comes in to the F.B.I. the next day.  
6 She tells Kemo McCray that, Unless you admit to the  
7 shotgun -- knowing he's a career criminal, knowing he's got  
8 an robbery conviction, armed robbery, knowing he's got a  
9 drug conviction, knowing he's got escape convictions --  
10 unless you come forward and admit the gun is yours and agree  
11 to cooperate, then we are going to lock up your mother,  
12 knowing she's innocent.

13 So it starts with that premise. Kemo McCray  
14 decides to cooperate. She knows that he's not going to be  
15 prosecuted because the U. S. Attorney's Office has told her  
16 that. Knowing that he's not going to be prosecuted, she  
17 never tells him that, never tells that to Kemo McCray.

18 She uses him as an informant. She has Kemo McCray  
19 buy on six separate occasions very small amount of drugs  
20 from William Baskerville, who's convinced to sell Kemo  
21 McCray by his brother Rakim Baskerville drugs, knowing,  
22 knowing that William Baskerville tells Kemo McCray, I don't  
23 sell these small amounts. Six separate times, 26 grams  
24 twice, 28 grams twice, 50 grams twice, signature crimes,  
25 close to Kemo's house. She has William Baskerville selling

1       this to Kemo knowing, knowing that he's going to identify  
2       the person because he doesn't deal these kind of drugs,  
3       doesn't deal in these small quantities.

4               In the middle of the transaction, she's using Kemo  
5       McCray on Richard Hosten. She gives Kemo McCray her  
6       boyfriend's cell phone number -- the boyfriend's cell phone,  
7       and what happens? Richard Hosten calls the cell phone, and  
8       it says, this is Michael Brokos of the Federal Bureau of  
9       Investigation. You heard Mr. Hosten. Not what Brokos said  
10      or what was said, that, This is Mike. You heard Richard  
11      Hosten testify: This is Michael Brokos of the F.B.I.

12             She pays Kemo McCray a small amount of money, not  
13      enough to even pay his expenses, knowing that he has to  
14      live, knowing that he has to pay expenses, and knowing that  
15      he has only one way to make a living, and that's by dealing  
16      drugs.

17             Kemo McCray is using drugs, as we know from the  
18      toxicology report when he came up positive for cocaine.  
19      He's dealing crack cocaine. He's dealing heroin. He's  
20      dealing cocaine.

21             She gets a complete report about the fact that his  
22      life is in jeopardy from Lakeisha Wilson. People are coming  
23      up to her and saying they're looking for Kemo, they're  
24      looking to hurt him.

25             Instead of arresting him, instead of protecting

1 him, she allows him to deal drugs, saying that she has no  
2 idea that he's doing it, in the 'hood, in the community,  
3 where his life is in danger.

4 She arrests William Baskerville. When William  
5 Baskerville's arrested, instead of keeping him separate from  
6 Richard Hosten, they're put in the same cell together, where  
7 they could corroborate with each other.

8 And William Baskerville knows, knows that the  
9 informant is Kemo McCray based upon the small amount of  
10 drugs that were sold and the fact that he only sold that to  
11 one person, and based upon speaking to Hosten and the facts  
12 learned about the cell phone and their discussions with each  
13 other.

14 My job when I received the call on November 25th  
15 of 2003 was to represent William Baskerville the best way I  
16 can. We were going for a bail hearing, but please, please  
17 understand this, please understand this: The facts of the  
18 case that were known in a very quick period of time is that  
19 there was six hand-to-hand sales to an undercover -- to a  
20 confidential informant working undercover with the F.B.I.

21 Recall the transactions were observed by law  
22 enforcement officers before Mr. McCray met with William  
23 Baskerville, who recorded conversations that I was informed  
24 about, that Mr. William Baskerville was informed about. We  
25 knew that there were recordings before he met William

1 Baskerville. We knew that there was surveillance, there was  
2 videos, there were hand-to-hand deals.

3 What attorney under any circumstances could ever  
4 represent to anybody who's a career criminal or their  
5 families or their loved ones or strangers that they're going  
6 to get bail, that they could beat the case if there's no  
7 informant. They've got recordings before. They have  
8 observed hand-to-hand transactions. They have videos. They  
9 have the drugs.

10 The underlying premise of their case is absurd.  
11 No attorney, especially an experienced one, could ever make  
12 that representation to people that he's going to be held  
13 accountable to.

14 That's why you know that Anthony Young is not  
15 telling the truth. That's why you know it. No attorney  
16 could have or would have ever made that representation, that  
17 if Kemo was not there, then William Baskerville is getting  
18 bail and he's going free. No one could ever make that  
19 representation.

20 In this particular case, they rely upon  
21 individuals, individuals with the backgrounds that they  
22 have.

23 I stand here before you today clothed in a sacred  
24 shroud that I told you in my opening statement called the  
25 presumption of innocence. Even as you hear my closing

1 statement, even as you hear the judge's charge, even as you  
2 go upstairs to deliberate, unless you find that each element  
3 of the offense is proven to you beyond a reasonable doubt,  
4 that sacred shroud called the presumption of innocence  
5 protects me as it would protect you and every one of your  
6 loved ones who sat in that seat; that unless the prosecution  
7 proves their case beyond a reasonable doubt, you must, you  
8 must find me not guilty.

9 When they bring forth career criminals -- and I  
10 just want to go through very quickly, generally, the  
11 individuals that they have here.

12 They have individuals like Lachoy Walker. Lachoy  
13 Walker hears a statement in 2002, allegedly in 2002. He  
14 begins to cooperate in 2004. As he told you, he never  
15 tells, proffer session after proffer session, meeting after  
16 meeting, testimony in court, plea of guilty, never, ever  
17 mentions Paul Bergrin and Paul Bergrin saying that Hakeem  
18 Curry is bagging money to meet Paul Bergrin's connect.  
19 Never, never. Is asked in a sworn plea before a Federal  
20 judge who Hakeem Curry's connects are. Never mentions  
21 Paul Bergrin or Paul Bergrin's connect, or Paul Bergrin  
22 introduced him to a connect. Proffer after proffer, trial  
23 preparation after trial preparation in multiple trials,  
24 never mentions it.

25 Nine years later, in 2011, for the first time, in



1 my first trial, he mentions it.

2 And you're supposed to believe the integrity of  
3 someone like that.

4 I ask you to not allow the spillover from one  
5 incident to the other to pollute the integrity of the  
6 charges, to influence you. Each case is separate. Each  
7 witness is separate. Don't allow them to allow that  
8 spillover of one witness, one testimony into the other.  
9 Don't allow that to happen, ladies and gentlemen of the  
10 jury.

11 Please realize, as Mr. Cline said, Agent Cline:  
12 You've handled a lot of cases, Paul, you've represented a  
13 lot of people. You had a successful practice.

14 And I wouldn't jeopardize it, and I didn't  
15 jeopardize it. I may have said stupid things that I'm  
16 totally demoralized and embarrassed and humiliated about,  
17 and at times I wanted to crawl as deep as I can underneath  
18 that table. So help me God, I would have if I could have.  
19 But under no circumstances can anybody ever say when you  
20 look at the totality of everything, what happened, and what  
21 I knew, and what any experienced attorney would know, that I  
22 ever intended or attempted to make anything happen or intend  
23 anything to happen.

24 It makes no sense, and I didn't do it.

25 Look at the motives of the individuals.



1           Look at Abdul Williams, for instance. Talk about  
2 opportunists. While a cooperating witness, he's asked a  
3 question about the seven-kilogram transaction he conducts  
4 with his father, his cousin, Yolanda Jauregui, Alejandro  
5 Castro, from the jail, while Paul Bergrin's incarcerated.

6           Denies it. Denies it.

7           And they know that he did it. And they do nothing  
8 to investigate it.

9           Look at the fact that he's got 17 convictions, is  
10 dealing thousands and thousands of kilograms, running  
11 Bradley Courts, dealt hundreds and hundreds of kilograms of  
12 cocaine on his own.

13           They've charged him with less than five kilograms  
14 of cocaine. He's facing 17 years. Do you know why?  
15 Because they don't charge him with the cocaine that he's  
16 dealt because he's pleading guilty and cooperating with  
17 them. They don't charge him with the thousands and  
18 thousands of kilograms of heroin, giving him automatic life,  
19 because he's cooperating.

20           Look at Oscar Cordova. How could you ever believe  
21 a word that he says, his interpretations? How can you  
22 believe that he didn't manipulate the tapes, the amount of  
23 unintelligibles, a individual who, when first he's debriefed  
24 by the U.S. Attorneys on the case, by the Federal agents,  
25 says he committed 15 murders.

1                   And then the next question out of his mouth is, Am  
2                   I going to get in trouble?

3                   Well, we think you should see a lawyer.

4                   What about my rapes?

5                   Comes back after a lawyer represents him a few  
6                   days later and says, You know what? I didn't commit 15  
7                   murders. I have information on 15 murders. Says he has  
8                   information on five murders related to Lord Gino.

9                   He's not even related to Lord Gino, can't give any  
10                  information at all.

11                  Accuses Vinny Esteves of committing four murders.  
12                  This is when he's cooperating. Says Vinny Esteves solicited  
13                  him for three murders. All complete lies.

14                  Says he deals with the Ochoas, the Herreras, Funny  
15                  Face, William Martinez, who is on the 10 Most Wanted List  
16                  which came out. Says he provided protection for Vinny  
17                  Esteves.

18                  Called in a death threat on himself, saying the  
19                  Latin Kings put out a \$250,000 hit on his life. Swears to  
20                  you, commits blatant perjury. They give him immunity so  
21                  he's not even going to have be prosecuted for it. Not even  
22                  revealed by them. The United States Marshals, after he  
23                  testifies, when he gets off the stand, says give me your  
24                  phone. They look up the fact that he committed perjury, not  
25                  Brokos, not Gay, not Minish. It would have gone undetected.

1 You would have never heard about it. The man committed  
2 perjury and lied before you.

3 Uses cocaine, uses marijuana. Sees Tommy Moran --  
4 not like Tommy Moran says, unbeknownst to him and  
5 unsuspecting to him, Anna Camacho laced a marijuana  
6 cigarette with PCP. You heard Oscar's testimony. That's  
7 enough for you to completely discredit everything Moran  
8 said. On every time he was with Moran, he was using PCP and  
9 marijuana, smoking it in front of him.

10 How would Oscar know this to be able to testify  
11 before you if Moran didn't do it and it was unbeknownst to  
12 Moran that Anna Camacho laced the marijuana cigarette with  
13 PCP on the last day that he ever met with Oscar? How would  
14 Oscar know that if it wasn't done repeatedly?

15 How can you accept a word out of Tommy Moran's  
16 mouth that he used cocaine on occasion when he repeatedly  
17 used it in the presence of Oscar and smoked marijuana and  
18 did what he did?

19 Oscar came before you and said, Oh, I never called  
20 for prostitutes for my room.

21 When we played the recording, you knew he  
22 committed perjury and lied to you.

23 Oscar told you that he never sent a prostitute to  
24 my room on August the 5th and told her to tell Paul Bergrin  
25 his father's Lord Gino, that he's Lord Gino's son, to tell

1 Paul Bergrin that she works for the Latin Kings.

2 How would I, Paul Bergrin, ever believe a word out  
3 of the mouth of Oscar when there when this prostitute told  
4 me that?

5 Tom Moran. You had a chance during my  
6 cross-examination to listen to what he told his  
7 psychologist. It wasn't an occasional drink, like he said.  
8 He was drinking every day. He was using cocaine during the  
9 week. You heard Vinny Esteves about how he was coming to  
10 court coked up, how he was meeting his wife all coked up,  
11 how he supplied Oscar with drugs they smoked together. It  
12 wasn't a one-time thing about PCP.

13 You have individuals like Anthony Young, who says  
14 that if his attorneys had told him to tell the truth, then  
15 he would have never falsely incriminated and accused Jamal  
16 McNeil of the murders.

17 Well, you know that he lied about that. You know  
18 he committed perjury before you because Shawn Brokos said it  
19 in the presence of his attorney, Melissa Hawkins told him to  
20 tell the truth.

21 You heard Paul Feinberg. Paul Feinberg's not  
22 going to lie for me. He told him to tell the truth.

23 You heard Anthony Young say how Brokos promised  
24 him he's going to be released. You heard Brokos say she  
25 never made that promise.

1 One time after another, and these are only small  
2 examples.

3 You heard Anthony Young say that every weapon of  
4 the Curry organization was bought altered to automatic. You  
5 know that every weapon seized in this case, five of them,  
6 including the weapon of Anthony Young that was seized in  
7 July of 2004, not one of them was an automatic.

8 You have the fact of Ben's, Ben Hohn. Maybe  
9 Ben Hohn believes he's Jesus Christ, but if he believes he's  
10 Jesus Christ, then there's no way he's going to lie.  
11 There's no way he's going to lie and put his hand on the  
12 bible and affirm a lie if he's Jesus Christ. He's never  
13 even met me in his life. He's not going to lie for Paul  
14 Bergrin.

15 You know one thing: Anthony Young never took any  
16 murder weapons to Ben Hohn's the day of the homicide. The  
17 first time he ever went to Ben Hohn's was just like Ben Hohn  
18 said: In either October or November of 2004, not March,  
19 which is consistent with Devon Jones telling you about the  
20 fact that it was cold outside, not 70 degrees, people were  
21 bundled up, and it was toward the end of the year.

22 And I'm only using these as examples.

23 You heard Anthony Young deny that he committed the  
24 arson of Rashidah Tarver's house that was burned to the  
25 ground. You heard Anthony Young deny that he pointed a

1       versus yours, Paul. It was an easy decision.

2               Using as examples, look at Rondre Kelly. Look at  
3 Rondre Kelly, dealing thousands of kilograms of heroin, the  
4 heroin originating in New Jersey to Pennsylvania. He's  
5 facing life in New York, life in Pennsylvania. He never  
6 gets charged by the U.S. Attorney for all the drugs he's  
7 dealt in Pennsylvania, heroin or cocaine. Never gets  
8 charged. That's why he's only facing 14 years. Doesn't  
9 come forward for three years later, three years later, after  
10 he's sentenced and got 14 years, knowing, not knowing  
11 whether he's going to get charged in New Jersey or not.

12              Is that motivation to lie about Paul Bergrin?

13              Again, going back to Abdul Williams: 7,500 bags  
14 of heroin a week, in school zones, in public housing  
15 projects - totally overlooked. Shootings overlooked.  
16 Suspect in a murder case, overlooked.

17              Is that enough bias for you, ladies and gentlemen  
18 of the jury?

19              Vinny Esteves gets convicted, pleads guilty to 25  
20 years. A year and a half after this case, he gets a  
21 sentence of 25 years. Two prior convictions, leader of a  
22 narcotic organization. He's doing at least 20 years on  
23 that, with an infant at home. For the first time after he  
24 gets sentenced does he come in and talk about Paul Bergrin:  
25 He has a discovery in his hand, he has an indictment in his



1 hand. The benefit of talking to Albert Castro, another  
2 cooperator who he's locked up with.

3 it's like Abdul Williams and Eugene Braswell:  
4 They put them together in the same jail, the Hudson County  
5 Jail. It's like Rondre Kelly and Albert Castro, locked up,  
6 with the same lawyer coming to see both of them.

7 That's what this case is all about.

8 Look at Eugene Braswell, a correction officer, law  
9 enforcement officer, a law enforcement officer. He gets  
10 locked up by the State of New Jersey, charged with leader of  
11 a narcotic organization, facing the minimum 25 years in  
12 State Prison. They allow him out on bail. He doesn't say a  
13 word about Paul Bergrin. Gets arrested federally, is  
14 charged with a lifetime offense. They release him on bail.  
15 For the first time, he mentions my name.

16 Think of it. A correction officer, police  
17 officer, locked up. Think of it. Facing life, state, life,  
18 Federal, and he gets a concurrent deal in the state, he's  
19 not going to do any time, they're going to run it together.  
20 And they talk about the fact that, oh, you committed a third  
21 offense while out on Federal bail, so we're not going to  
22 give you credit for the middle indictment.

23 So what? So what? He has the other two offenses,  
24 the state and the third indictment all running together, all  
25 running together with each other.

1                   And he's not going to lie about Paul Bergrin?  
2           He's not going to tell them what they want to hear about  
3           Paul Bergrin?

4                   Tommy Moran, going back to him. He's in the  
5           Hudson County Jail, locked in a cell 33 hours straight. You  
6           heard my cross-examination of him. Thirty-three hours  
7           without coming out. Five steps forward and three steps to  
8           the side. Thirty-three hours straight in a small cell,  
9           never locked up before, facing four counts of aggravated  
10          assault - while he's drunk, he smashes into a van in  
11          Monmouth County, facing a second-degree eluding charge in  
12          Hudson County. And you heard Lemont Love. He got six years  
13          on his first time.

14                  Freddie Massimi, who came before you, went to see  
15          him at Hudson County, went to see him at Bergen County Jail.  
16          That's his friend. He's not going to lie for me. He's not  
17          going to do anything to hurt Tom Moran. And you heard him,  
18          how Tom Moran was going crazy, couldn't take being locked  
19          up.

20                  He broke and lied. He knew the way out was  
21          through Paul Bergrin. You have an individual that for eight  
22          to 10 proffer sessions, eight to 10 meetings with the  
23          prosecutors, when he's dying to be a cooperating witness,  
24          begging to be a cooperating witness because he can't take  
25          being locked up the way he is, a year and a half later, he

1 mentions the fact that he -- oh, I had this conversation  
2 with Paul Bergrin at the Essex County Jail about the Kemo  
3 case.

4 But he doesn't tell the prosecutor, doesn't tell  
5 you, ladies and gentlemen of the jury, about all the  
6 Internet research, about his father, his friends sending him  
7 newspaper articles. He has all the discovery in his hand,  
8 all the recordings in his hand.

9 That's what this case is about: Moral fiber and  
10 moral integrity.

11 Richard Pozo, running a \$150 million cocaine  
12 distribution network in New Jersey, \$150 million over 20  
13 years, leader of a narcotic organization, gets indicted in  
14 Union County. The man gets time served - time served.

15 And all these witnesses come forward and say, Oh,  
16 it's up to the judge; we don't know what time we're going to  
17 get.

18 But look at Lachoy Walker, look at Pozo, look at  
19 Richard Hosten, look at Eric Dock, all their witnesses, all  
20 cooperators, every single one of them got time served.  
21 Every single one of them were career criminals facing 20  
22 years, 25 years, life in prison. They know they're walking  
23 out of here after their testimony against Paul Bergrin.  
24 They know that. Anthony Young knows that his sentence is  
25 getting reduced to probably nothing once he testifies

1       against me. He knows that. They all know that.

2               To have them believe and have them say, Oh, we  
3       have no idea, it's up to the judge: It's not fair to you.  
4       It's not fair to you.

5               Look at the examples of the witnesses that  
6       testified: Walker, Hosten, Dock, Choy Walker, every one of  
7       them career criminals with similar records.

8               That's enough to create reasonable doubt, ladies  
9       and gentlemen of the jury.

10              I want to go through the Kemo murder case as I  
11       started before, but let me go through it in sequence now.

12              I get the call, the call came to me, ladies and  
13       gentlemen of the jury, as the call records show, from  
14       Diedre Baskerville, not Hakeem Curry. Diedre Baskerville  
15       called me twice in the morning on November 25th from her  
16       home phone at about 10:30 and from her cell phone a little  
17       after that to represent her husband, William Baskerville.

18              And I represented him as I would anybody else,  
19       anybody else. Let's dispel one thing right away. If  
20       William Baskerville had any inclination to be a cooperating  
21       witness, Paul Bergrin and a slew of horses could not have  
22       ever held him back from cooperating. Nothing would have  
23       held him back. He could have called the prosecutors, his  
24       wife could have called them.

25              In 2005, I wasn't even representing him. From

1       2005 to 2013, he has two different attorneys. Years before  
2       his trial, from 2005 to 2007, two different attorneys.  
3       Never once did he even attempt to think about cooperating.

4               So let's dispel that, that Paul Bergrin had  
5       anything to do with convincing William Baskerville not to  
6       cooperate, because Paul Bergrin didn't have that power.  
7       Paul Bergrin couldn't have done it. William Baskerville is  
8       an experienced criminal. If he wants to call the  
9       Prosecutor's Office, or when the F.B.I. came to see him on  
10      two occasions at the jail, if he wanted to cooperate, by the  
11      grace of God, he would have cooperated, and there's nothing  
12      that Paul Bergrin ever could have done.

13             So Diedre Baskerville calls me at 10:25 in the  
14      morning. The first call I get from Hakeem Curry is after  
15      2:30, ladies and gentlemen of the jury, and they talk about  
16      the phone calls on November 25th. Look at the times. One  
17      is for one minute, and one is for two minutes. One is for  
18      one minute, and one is for two minutes.

19             And they forget to tell you during their  
20      summations that Hakeem Curry is the first cousin of  
21      William Baskerville, and as I brought out, they grew up  
22      being raised by the same grandmother, who was like their  
23      mother, in the same house. What they failed to tell you is,  
24      like Lachoy Walker and like Shelton Leverett said: Hakeem  
25      Curry and William Baskerville, there's no organization that



1 both of them are part of. William Baskerville once in a  
2 blue moon gets his drugs from Hakeem Curry. They're not  
3 interrelated. Nobody's worried about William Baskerville  
4 cooperating. Nobody's worried about any hierarchy falling.  
5 They're family. They love each other.

6 I go to court on that day, and before going to  
7 court, Anthony Young tells you there's a meeting, there's a  
8 meeting on 17th Street and Avon Avenue, and he says that  
9 Diedre Baskerville showed up at that meeting.

10 Well, you know he's lying again. You know he's  
11 lying because Diedre Baskerville is at her house when she  
12 says so. We have the phone records. That's why he changes  
13 his testimony from one trial to the other, because we  
14 confront him with the phone records showing that Diedre  
15 Baskerville couldn't have been there.

16 He originally said that Hakeem Curry was at the  
17 meeting and then changes it. He says Horatio Joines was at  
18 the meeting. And ask yourself, in your God-given common  
19 sense, a term that I love to use, if Horatio Joines is being  
20 looked at as an informant, who's going to ever talk to him  
21 about the William Baskerville case in front of Horatio  
22 Joines?

23 So I go to court in this particular case, and the  
24 prosecution again lays out the case, the magnitude of the  
25 case, the magnitude of the investigation, the avalanche of



1 evidence against him. And I call Hakeem Curry, and I admit  
2 that to you, and I admitted it to the newspapers because I  
3 have nothing to hide. I didn't do anything wrong. I didn't  
4 do anything that any defense counsel would not have done. I  
5 called his family - his family. I spoke to Diedre  
6 Baskerville, as the phone records show, in the afternoon,  
7 and I spoke to Hakeem Curry. And as Anthony Young even had  
8 to admit when I spoke to Hakeem Curry in the car, when I  
9 spoke to him in the car, all I did was read the complaint:  
10 William Baskerville is charged with selling 26 grams to --  
11 and instead of saying confidential informant, I said the  
12 name Kemo. That's all I did. I didn't say, Oh, yeah, and  
13 the informant is Kemo. As Anthony Young testified, I read  
14 the complaint and then substituted the name Kemo for  
15 confidential informant. That's what was done. All the  
16 transactions -- this is his first cousin, like his brother,  
17 just like I did to Diedre Baskerville.

18 And how else is any attorney, whether it be me or  
19 anybody else, how can we ever argue pursuant to the bail  
20 statute at the next scheduled event, the detention hearing,  
21 how could we argue any facts at all about the case, about  
22 the Judge setting a bail, which is a pro forma argument,  
23 like Paul Feinberg said, like sending in a motion to  
24 suppress when you have an issue when evidence is seized.  
25 You're going through the motions, but you know it's not

1 going to be granted because he's a career criminal. But how  
2 are you going to argue it unless you speak to the people  
3 that you know, the people that he knows is family, his  
4 friends, his acquaintances about the individual who he has  
5 allegedly sold the cocaine to?

6 And what's the difference if I tell him or William  
7 Baskerville tells him? William Baskerville is on the phone,  
8 like Richard Hosten said. He was on the phone immediately,  
9 telling his family who the informant was. Immediately,  
10 before even I made the phone call.

11 There was never any intent for anybody, anybody,  
12 to harm a hair of the head of Kemo because it did not matter  
13 whether Kemo was there or whether he didn't show up. It did  
14 not matter.

15 But the important thing is -- please hear me on  
16 this: Anthony Young in prior testimony, I brought it out in  
17 sworn testimony in this trial, just like I brought it out in  
18 2011, in 2007, he said and swore to the fact that on  
19 November 25th, not with any meeting with Paul Bergrin, not  
20 with any meeting of waiting for Paul Bergrin to tell him  
21 about the case, he made the decision that if you cross the  
22 Baskervilles, the exact words that came out of his mouth, if  
23 you cross a Baskerville -- cross him, not be a witness  
24 against him; he got stabbed in the back, he got used,  
25 William Baskerville, by Kemo McCray -- if you cross a

1 Baskerville, you kill them. That's why Anthony Young made  
2 the decision on November the 25th. That's why the decision  
3 was made.

4 And he told you that when he came before you and  
5 testified, Oh, we didn't know, we didn't know that William  
6 Baskerville was facing life until Paul Bergrin came to this  
7 meeting, first and foremost, multiple times, multiple times  
8 in sworn testimony, hand on the bible, before another jury,  
9 four to five days after William Baskerville's arrest.

10 But he told the F.B.I. on January 14th the meeting  
11 occurred that night of November the 25th.

12 He changes every single time the amount of people  
13 that were there, who was there, when the meeting occurred,  
14 what was said during the meeting.

15 The bottom line is, he swore in 2007 that it was  
16 Hakeem Curry on November 25th, the day of William  
17 Baskerville's arrest, who told him that William Baskerville  
18 is facing life. He swore in prior testimony he made the  
19 decision on November 25th to kill Kemo McCray. If that's  
20 the case, then it didn't happen during any meetings with  
21 Paul Bergrin that never occurred.

22 Why do you think, ladies and gentlemen of the  
23 jury, why do you think that there's no chatter setting up  
24 this meeting, any meeting at all with Paul Bergrin? Why do  
25 you think, ladies and gentlemen of the jury, there's no

1 chatter about anything having occurred at the meeting, after  
2 the meeting, during the meeting? Why do you think that  
3 nobody, nobody, except for Anthony Young, says that there  
4 was a meeting? That's not observed by anybody. But they  
5 don't have one witness, even witnesses that aren't charged,  
6 to ever come forth and say that there was a meeting, that  
7 Paul Bergrin came up and Paul Bergrin made these nonsensical  
8 statements.

9 Because it never occurred. It never occurred.  
10 And you have to rely upon the word and the mouth of Anthony  
11 Young to convict me of the Kemo McCray murder.

12 Just think of it. They say, Oh, we have  
13 corroboration, we have 404(b) evidence.

14 Moran doesn't come forward, for 10 proffer  
15 sessions, two years later, begging to be a cooperating  
16 witness. And what does he do anyway? He spits out exactly  
17 what's contained in the newspaper article that Paul Bergrin  
18 has admitted to. I'm not denying it. If I wanted to hide  
19 it and cover it, I would have made no statements to the  
20 press. But I knew that I didn't do anything wrong. I was  
21 doing my job, putting my heart and soul into the  
22 representation of William Baskerville.

23 It hurts, it devastates you when you listen to  
24 people testify when you know that they're lying, you know  
25 that they're lying. There's reasonable doubt based upon

1 Anthony Young's record alone.

2 But consider this, ladies and gentlemen of the  
3 jury. You have the fact that there was a GPS device located  
4 and found on Hakeem Curry's vehicle a week before the  
5 murder. He comes into my office, and I tell his wife, it's  
6 bad, it's bad, he's in deep trouble, Federal investigation.  
7 You know if there's a GPS device that he's going to be  
8 arrested soon.

9 What attorney, what human being, what man, what  
10 anybody would participate, be part of a murder of a Federal  
11 witness knowing, knowing that there's a Federal  
12 investigation and a GPS device found on his client's  
13 vehicle?

14 This is so wrong. It's so wrong. It's impossible  
15 for Anthony Young to be telling the truth when you have over  
16 100 inconsistencies between his F.B.I. statements, between  
17 his testimony in 2007 and his testimony in 2011.

18 That's why you have so many different versions, so  
19 many different incidents and events.

20 There's no way William Baskerville's getting bail.  
21 There's no way, even with God representing William  
22 Baskerville, he's beating the case, and no way any attorney  
23 with any kind of experience who's being held accountable and  
24 responsible for these individuals would ever give that kind  
25 of nonsensical advice.



1 But, what's more important, you heard Eric Dock's  
2 testimony that William Baskerville was looking for a  
3 sentencing expert. Remember that? William Baskerville  
4 never intended to go to trial and Paul Bergrin never  
5 intended to take him to trial. He was looking for a  
6 sentencing expert to help him on sentencing to get the least  
7 sentence possible.

8 And in the words of William Baskerville, Don't  
9 fuckin' tell Paul anything about the sentencing expert, let  
10 him do his job, let him work for the best plea, let him work  
11 on my best sentence.

12 You heard William Baskerville tell Eric Dock,  
13 according to Eric Dock, that he was going to fire  
14 Paul Bergrin and he's waiting for his brother  
15 Rakim Baskerville and his cousin Hakeem Curry to get him  
16 funds.

17 If I'm involved in a murder, a conspiracy, in a  
18 plot, the last thing he's going to do is distance me from  
19 the case and look to hire another attorney.

20 Those words, No Kemo, no case never came out of my  
21 mouth, and there's no evidence to depict that, other than  
22 the words of Anthony Young.

23 You heard me cross-examine, you heard me  
24 cross-examine Agent Brokos as to what she put into her  
25 report, her 302 report of January the 14th, and in that



1 report, she says -- which is the second version that Anthony  
2 Young gave. The first version is when he called  
3 Special Agent Gale on January 14th and he said that he was  
4 in a car with Rakim Baskerville. He told Agent Brokos two  
5 times that he was in the car with Rakim Baskerville. He  
6 testified in 2007 five separate times, five separate times  
7 he said he's in the car with Rakim Baskerville when Paul  
8 Bergrin called.

9 Why would he change it? Why would he change it?  
10 How do you know he's lying? How do you know he's committing  
11 perjury and changing and altering what he says?

12 Because he was confronted with the fact that Rakim  
13 Baskerville could not have been there because of phone  
14 records. So he changes his testimony and lies. He's like  
15 the weather: He changes it. As the wind blows, he changes  
16 it.

17 But he told her that on November 25th, he told  
18 Agent Brokos on January 14th of 2005, when he wants to be a  
19 cooperator, when he admits that he uses Paul Bergrin's name  
20 to open the door -- and he admitted it, the words came out  
21 of his mouth before you that Paul Bergrin came to 16th  
22 Street. And remember when I -- remember when I  
23 interviewed -- excuse me, when I cross-examined Agent  
24 Brokos, I had her read this from her 302? But Anthony Young  
25 denied, he took the witness stand and completely denied that

1 he said any of this. He told her that Paul Bergrin came to  
2 16th Street, had a meeting on November 25th, which he now  
3 denies, with Hakeem Curry, Anthony Young, Rakim Baskerville,  
4 and Jamal Baskerville, that I spoke only to Curry, that I  
5 spoke to Curry, nobody else, and as I was walking back to my  
6 car, I said the words, no Kamo, no case, and put my thumb  
7 up.

8 He tells Agent Gale when he wants to cooperate on  
9 January 14th that while he was in the car, that's when  
10 Paul Bergrin said the words. That's all he said, the words,  
11 No Kemo, no case.

12 He swore before a jury in 2007 that Paul Bergrin  
13 said he showed up at a meeting and for the first time they  
14 found out, for the first time, they found out about William  
15 Baskerville and the fact that he could get released and go  
16 free. But he says Paul Bergrin wanted -- said that he  
17 wanted Kemo dead.

18 He lied. He committed perjury. That's reasonable  
19 doubt of itself, because, when I questioned him, he admitted  
20 that he never said that. I questioned him in 2011, I  
21 questioned him in 2013, now, and he says no, you know what,  
22 I never said that.

23 Then why did you swear those words to a jury? If  
24 I never said those -- those are powerful words, I want a man  
25 dead.

1                   He says, All you said was get rid of or take care  
2                   of.

3                   Those words didn't even come out of my mouth.  
4                   Just like the fact of the fact that he said and swore that  
5                   he knew on November 25th about life for William Baskerville  
6                   -- excuse me, from Hakeem Curry, not from Paul Bergrin.  
7                   Just like he made the decision on November 25th from Hakeem  
8                   Curry and him, not Paul Bergrin, to do anything to Mr.  
9                   McCray.

10                  Anthony Young is real desperate to get out of  
11                  jail, as you saw by the way he contacted the F.B.I.

12                  And again, ladies and gentlemen of the jury, he  
13                  expected freedom, as he's caught on the recording saying,  
14                  and as Miss Tarver swore to you, a schoolteacher -- no  
15                  motive to fabricate. She doesn't even know me. Why is she  
16                  going to say these words? Why is she going to testify  
17                  favorably for Paul Bergrin? She's not testifying against  
18                  Anthony Young. Anthony Young's not on trial. There's no  
19                  way she's going to lie. There's no way she's going to  
20                  commit perjury for Paul Bergrin. She has nothing to gain,  
21                  no motive to fabricate whatsoever.

22                  Anthony Young, even when he said in his third  
23                  version, third version, three different times, three  
24                  different statements to her that he's getting witness  
25                  protection, the house, money, and not doing any jail time.

1       That's when he said he mentioned the name Paul.

2               Anthony Young tells you that the reason he went to  
3       the F.B.I. is because he wants protection. He wants  
4       protection.

5               If you want protection, then why do you tell --  
6       why don't you give Agent Gale when you first called the  
7       F.B.I., the first person that you talked to, on January  
8       14th, why don't you give him the name of the people you need  
9       protection from, Jamal Baskerville and Jamal McNeil? Why  
10      don't you ever tell Agent Brokos on January 14th or January  
11      18th, when you have a face-to-face with her, that you need  
12      protection?

13              He says he went to the F.B.I. because he wanted to  
14      take Jamal Baskerville and Jamal McNeil off the street.

15              Well, Anthony Young, you know what? If you don't  
16      know the law of conspiracy, like he swore to you, if you  
17      don't know the law of conspiracy, why are you making Jamal  
18      Baskerville a lookout, a lookout, so that he gets arrested  
19      and taken off the street?

20              He never knows when to stop lying. Why are you  
21      caught on a recording on August the 3rd of 2005 with  
22      Hassan Miller, your confidant and friend at the jail, at  
23      the beginning of the recording, teaching him about the law  
24      of conspiracy if you don't know the law of conspiracy?

25              He is constantly scheming, constantly scamming,

1 constantly lying. That's why he had to admit in 2007 that  
2 he's a good liar. Inconsistency after inconsistency. You  
3 don't have that many inconsistencies. You don't change your  
4 story every time it comes out of your mouth unless you're  
5 not telling the truth, the whole truth, and nothing but the  
6 truth.

7 He changed the times of the meetings. First it's  
8 on November 25th. Then it's four to five days, multiple  
9 times, he said, after William Baskerville's arrested. Then  
10 it's after Thanksgiving.

11 you just don't know when to believe him. You  
12 don't know what to believe. He can't separate fact from  
13 fiction, so how can you believe him?

14 That's reasonable doubt enough, ladies and  
15 gentlemen of the jury. That's reasonable doubt enough.

16 But when you read the detention hearing of  
17 December 4th, you'll see, you'll see that pursuant to the  
18 Bail Reform Act, which I'm obligated to follow when trying  
19 to seek a bail for someone, I argue about the credibility of  
20 Mr. McCray, about the fact that he's an individual with  
21 prior convictions.

22 How can I know that? How can I argue that without  
23 finding out about him? And that's all I ever did was my  
24 job.

25 You heard Richard Hosten, the prosecution's own



1 witness, talk about how angry he was, William Baskerville,  
2 that he was tricked by Kemo McCray. He used the words on  
3 the telephone, I'm in jail because of this fuckin' bum, I'm  
4 in jail, as soon as he got back to Hudson County, talking to  
5 his family, his wife.

6 That's reasonable doubt itself.

7 But look at March 2nd. Bring yourself to March  
8 2nd. Before that, they're searching for Mr. McCray.  
9 Anthony Young comes before you and he swears that, We were  
10 looking for Mr. McCray. We went to Bradley Courts. We're  
11 not going to speak to just anybody about Kemo because we  
12 don't want to be identified.

13 But then in the same breath, he tells you that he  
14 goes into the buildings at Bradley Court asking a stranger,  
15 with his gun out, where Kemo lives.

16 I mean, the words that come out of his mouth,  
17 they're just small examples that you've got to put it all  
18 and piece it all together because they're small examples of  
19 lie after lie after inconsistency after inconsistency.

20 He says that one of the reasons he went to the  
21 F.B.I. on January the 14th and contacted them was because  
22 Rashidah Tarver told Jamal Baskerville and Jamal  
23 Baskerville's wife that they killed Nut's girlfriend.

24 Rashidah Tarver would admit that. Why would she  
25 deny that? Why would she deny that? That's his impetus,



1 his reason, his motivation for going to the F.B.I. Rashidah  
2 Tarver tells you that never happened. That never happened.

3 That's reasonable doubt itself, ladies and  
4 gentlemen of the jury. One lie, one inconsistency after  
5 another.

6 You have Anthony Young telling you that they don't  
7 lock up Jamal McNeil and Jamal Baskerville for this alleged  
8 murder in Irvington of an innocent woman because all they  
9 have is my word, Anthony Young.

10 They don't charge Jamal Baskerville, Jamal McNeil,  
11 Horatio Joines, anybody except William Baskerville and me  
12 with the murder of Kemo McCray because all they have is the  
13 word of Anthony Young.

14 Then how can you accept his word now and convict  
15 me of anything?

16 Look at March the 2nd, the day of the homicide  
17 itself. He says there's a meeting on 17th Street. He  
18 changes everything. When he speaks to the F.B.I., he says  
19 that the getaway car two times he says is a Grand Prix.  
20 When he takes the witness stand before you, he says he never  
21 told the F.B.I. was a Grand Prix, they made that up, the  
22 F.B.I. You heard him.

23 He tells the F.B.I. that Rakim Baskerville changed  
24 the license plate -- took the license plates off the getaway  
25 car. He testifies before you: Oh, no, it was me and Rakim

1 Baskerville. I never told that to the F.B.I.

2 He gives three separate versions about who asked  
3 him to do the murder. First he swears, and you heard me on  
4 cross-examination, he says that William Baskerville demanded  
5 and ordered that Kemo be killed because William Baskerville  
6 was tricked and fooled.

7 Then he changes his testimony and says, no, it was  
8 ordered by Rakim Baskerville.

9 Then he changes his testimony and says nobody  
10 orders Anthony Young what to do, nobody demanded Anthony  
11 Young what to do.

12 Then he finally says, Oh, yeah, it was Hakeem  
13 Curry and Rakim Baskerville.

14 He comes before you and tells you that he's got  
15 \$60,000 at the time of the homicide, March the 2nd, sitting  
16 in his house. \$60,000. He told you that. He swore to  
17 that.

18 In November, when he's arrested for a gun case and  
19 fighting for his life, he can't pay more than a thousand  
20 dollar retainer to Paul Feinberg, and, and, he needs the  
21 \$7,500 that's allegedly offered to him in this case to do  
22 the murder, with \$60,000 sitting in his house.

23 It's just one lie and one incredulous statement  
24 after another, after another. It just never stops.

25 He says and he tells you that the murder was

1 committed with orders, with demands, but then when he  
2 testifies, he says that nobody could demand him, nobody  
3 orders Anthony Young what to do, I did it 'cause I wanted to  
4 do it.

5 You just can't separate it, you never could  
6 separate any kind of fact from fiction.

7 He says that the cars, motorcycles are put into  
8 the name of a Newark police officer that lives next door to  
9 Jamal Baskerville on 17th Street, on 17th Avenue.

10 You know they would have called the police officer  
11 to testify to that if there was truth to that at all. You  
12 know they would have questioned him to say that these people  
13 gather on this date, did you see them there at any time, if  
14 it was true.

15 You just don't know what to believe. You can't  
16 separate fact from fiction with this man.

17 He says that all the weapons, like I said before,  
18 were altered to automatic. The ballistics expert told you  
19 that that's not true. It was a semiautomatic weapon.

20 But, most importantly, he says and swore to you  
21 and swore in testimony that the .45 caliber gun that he was  
22 arrested with in July was an automatic weapon when you know  
23 that it wasn't, based upon proof that I presented.

24 They make all these efforts, all these efforts to  
25 conceal the car that's going to the murder scene, hide the

1 fact that it's got license plates. Yet when the murder  
2 occurs, instead of getting rid of it in Newark and getting  
3 rid of it right away, he drives by himself with  
4 Rakim Baskerville through Newark all the way to West Orange.

5 He talks about the fact that Jamal Baskerville  
6 took them to the house where Mr. McCray was working on 18th  
7 Street and South Orange Avenue, but then left the scene.

8 Then why, why did you tell the F.B.I. that Jamal  
9 Baskerville stayed on the scene, that Jamal Baskerville  
10 remained there as a lookout?

11 You just don't know when to separate fact and  
12 fiction.

13 He says that and told the F.B.I. that Horatio  
14 Joines -- here's a individual who knows Mr. McCray, Anthony  
15 Young since they're 12 years old. They did time together  
16 every single day of their life for two years they served  
17 together in a juvenile center. He knows McCray since he's  
18 12 years old. And then he says and tells the F.B.I. and  
19 swears to it again before Judge -- well, before the Federal  
20 Judge when he pleads guilty, Judge Pisano, that Horatio  
21 Joines was on 19th Street, 19th Street, not even the street  
22 where Kemo McCray was working, 18th Street and South Orange  
23 Avenue, and that Horatio Joines with a two-way radio on his  
24 wrist called Rakim Baskerville to identify Mr. McCray.

25 Well, you know that's a lie. You know that's

1       blatant perjury, because Horatio Joines cooperated when he  
2       was questioned and said, I was with my girlfriend, who was  
3       experiencing problems with her pregnancy at Beth Israel  
4       Hospital, and Brokos checked it out and found that his  
5       girlfriend was in Beth Israel Hospital.

6               But think to yourself, using your God-given common  
7       sense and logic and reason: Why would Horatio Joines first  
8       of all be standing on 19th Street, and, second of all, to  
9       identify someone who's working on a house on 18th Street  
10      that you can't see, but, most importantly, why would Horatio  
11      Joines be out there to make any identifications when  
12      according to Anthony Young he could clearly see the house  
13      that they're working on?

14             Anthony Young talks to you about the fact that him  
15      and Rakim Baskerville are sitting in the car, and they make  
16      the decision to shoot Mr. McCray left-handed.

17             You know based upon Dr. Shaikh's testimony, you  
18      know based upon logic and reasoning that someone's not going  
19      to do a murder with a non-dominant hand, the murder of an  
20      F.B.I. informant, a Government informant with his  
21      non-dominant hand.

22             But you also know, most importantly, that in May,  
23      in May, he had called up, May of that year, 2004, he had  
24      called up the F.B.I. and left a message for Brokos that the  
25      shooter shot left-handed.



1                   Why? Why? Why do you know that's a lie? Because  
2                   he found out and admitted on the stand that Jamal McNeil was  
3                   left-handed. Jamal McNeil was left-handed. That's why he  
4                   said that. That's why he testified to that, to be  
5                   consistent with the telephone call that he left when he had  
6                   found out and he was trying to point the finger at  
7                   Jamal McNeil for almost a year and a half.

8                   But think about that in and of itself, ladies and  
9                   gentlemen of the jury. Here's his friend. He has no  
10                  conversation with him. He's not threatened by Jamal McNeil.  
11                  He says that according to Jamal Baskerville, they said that  
12                  they're going to get him.

13                  Here's an individual with 15 prior multiple  
14                  convictions, multiple shootings, gun arrest, is dealing out  
15                  in the street every single day, every single day up until  
16                  he's arrested in February 2005, running crews on Alexander  
17                  Street. He's going to worry about Jamal McNeil or Jamal  
18                  Baskerville?

19                  But, most importantly, think about this. How can  
20                  you accept one word? How can't you find reasonable doubt in  
21                  and of itself on this?

22                  For almost a year and a half, proffer session  
23                  after proffer session, he goes in to the F.B.I. and he  
24                  swears and he tells them with his attorney present, looking  
25                  them right in the eyes, willing to take the witness stand,



1       that witness stand, swear on the bible that he saw Jamal  
2       McNeil shoot and execute Kemo McCray, shoot him in the head,  
3       shoot him dead. He swore to that fact to the F.B.I. over  
4       and over and over again.

5               There's no justification, there's no defense to  
6       that. And you're going to believe one word that comes out  
7       of his mouth, when he's willing to see another human being  
8       arrested, charged, indicted, taken away from his children  
9       and his family, like the lies about Horatio Joines, like the  
10      lies about Rakim Baskerville being in the car when he knows  
11      he wasn't, like the lies about Horatio Joines being at the  
12      scene when he wasn't?

13             His own friend. His own friend, he's willing to  
14      take the witness stand, put his hand on the bible and swear  
15      that he committed an execution murder.

16             But for the fact that Johnny Davis did not  
17      identify Jamal McNeil, you might have been jurors in  
18      United States v. Jamal McNeil, who would have been sitting  
19      there.

20             Think about that. Think about that. Think about  
21      the fact if Jamal McNeil was convicted and got the death  
22      penalty based upon Anthony Young.

23             If that isn't reasonable doubt enough to -- to  
24      completely disavow every word that came out of his mouth,  
25      then nothing ever will be.

1           The life of another human being, the liberty of  
2           another human being, the freedom of another human being, the  
3           misery and sorrow and pain of another human being means  
4           nothing to Anthony Young, like the rest of their witnesses.  
5           It's all about them. It's all about getting out of jail,  
6           saving time, sacrificing somebody else's life and liberty  
7           for theirs. That's what this case comes down to. That's  
8           what it's all about.

9           Think about the logic, the logic, the reasonable  
10          --

11          Bruce, can I use you one second? I'm sorry.

12          (Mr. Levy approaches the podium)

13          MR. BERGRIN: Ladies and gentlemen of the jury,  
14          just look. It is physically, forensically, and  
15          scientifically completely impossible for the homicide, the  
16          shooting to have occurred as Anthony Young described.

17          He says that everything that he told the F.B.I.  
18          was the truth, except he switched Malsey. Well, we know  
19          that's not true. We know that's a lie in and of itself  
20          because of the cars, i.e., that being a Grand Prix, the  
21          license plate being changed by Rakim Baskerville, he told  
22          the F.B.I., and a whole host of other different things,  
23          Jamal Baskerville being at the scene, we know all those were  
24          complete lies to the F.B.I.

25          BUT think about this. He's holding -- he says

1 he's holding the gun in his left hand. He walks up to the  
2 individual from the back, an individual who knows him since  
3 he's 12 years old, he's going to sneak him behind him, grabs  
4 him by the right shoulder, spins him around. If he's spun  
5 around, ladies and gentlemen of the jury, he has the gun in  
6 his left hand, okay, if he's spun around the way anybody  
7 would be spun if you grabbed them, okay, he's going to be  
8 shot on the right side.

9 All the shots --

10 (to Mr. Levy ) Thank you, thank you very much.

11 All the shots -- I'm sorry -- all the shots to  
12 Mr. McCray was on his left side.

13 And anything that he testified to -- remember,  
14 Stacey Williams, Detective Sabur admitted Stacey Williams  
15 said there was two people standing outside of the Sand Pit  
16 before the murder and after the murder and during the  
17 murder. Remember what Rashidah Tarver said. He told her he  
18 was a spectator. Anybody could have seen and testified what  
19 he testified to.

20 But the most important thing is, it could not have  
21 physically, forensically, and scientifically happened as  
22 Anthony Young said.

23 Think about this also. In order for the homicide  
24 to have occurred, remember what Dr. Shaikh said? It's not  
25 credible, it's not consistent with the credible evidence; he

1 would have to hold the gun like this and move his arm in  
2 this position for the gun to have shot and the bullets come  
3 out where Mr. McCray was shot if he went up behind him.  
4 Just think, Mr. McCray is in front of him. He'd have to  
5 take his arm in a non-dominant shooting hand, twist the gun,  
6 twist his arm and shoot Mr. McCray.

7 Why doesn't that make sense? Think about it. He  
8 says he shot Mr. McCray three to four times on the sidewalk  
9 and Mr. McCray fell face down. Medical testimony proves  
10 that's nonsense, it couldn't have happened like that.  
11 There's no abrasions. Scientific evidence proves and  
12 forensic evidence that it couldn't have happened like that  
13 because Mr. McCray was never shot on the sidewalk like  
14 Anthony Young said, and if he was the shooter, he would have  
15 known that.

16 Think about it. Anybody that does a shooting like  
17 Anthony Young says would know that the person's wearing a  
18 bandanna, a do-rag on his head. When he testified and swore  
19 in 2007, he didn't know whether Mr. McCray wore a bandanna  
20 on his head. Only did he admit it before you, ladies and  
21 gentlemen of the jury. I cross-examined him. In 2007, he  
22 said that he didn't remember Mr. McCray wearing a do-rag on  
23 his head.

24 Anybody who did the shooting would remember that.  
25 Anybody that saw Mr. McCray that day would know what he

1 looks like and know exactly what Anthony Young is saying.

2 But think about it. If you shoot somebody three  
3 to four times and as they're falling continue to shoot at  
4 them, isn't there going to be more shell casings on the  
5 floor than four? Isn't there going to be more shell casings  
6 on the floor than four?

7 THE COURT: Mr. Bergrin, let me know when it would  
8 be a good opportunity to take a short break.

9 MR. BERGRIN: We can take it now, Judge.

10 THE COURT: Now is okay? You don't have to. It's  
11 all right?

12 MR. BERGRIN: I could go longer, Judge.

13 THE COURT: I just want -- the next few minutes be  
14 okay?

15 MR. BERGRIN: Yes, sir.

16 THE COURT: Whatever is a better place. Go ahead.

17 MR. BERGRIN: He said that he was standing in the  
18 Big Bites doorway. This is an active restaurant, with  
19 video. He's known in the area. He's been there for 25  
20 years, just like being -- just like him being in the car and  
21 sitting out there, there are people walking back and forth.  
22 Nobody sees him. Nobody identifies him. An individual that  
23 grew up in the area, that's lived there for 25 years.

24 Bring forth one independent, objective, and  
25 neutral witness. Bring forth another witness involved in



1       this case that saw Anthony Young in that car or do the  
2       shooting.

3               He says that he snuck up to Mr. McCray and he says  
4       -- and he said that the reason he was able not to be seen  
5       and noticed is because it was cold outside.

6               And they insult your intelligence and say, Oh,  
7       look, they're wearing jackets.

8               Those are the windbreakers and the jackets that  
9       identify them as law enforcement officers. If it was 117  
10      degrees outside, they'd be wearing those jackets.

11              He says he snuck up to him, pulled his hat down  
12      low, wearing gloves, pulled his fleece up, and he wouldn't  
13      be noticed because of the cold outside.

14              It was 70 degrees outside.

15              Everything that he says, every word out of his  
16      mouth is ludicrous. It's absurd. It's preposterous.

17              Detective Gozsa testified in a prior hearing in  
18      2007 in sworn testimony that the victim was shot in what  
19      appeared to be a linear pattern, which means the person was  
20      running.

21              ANTHONY Young says that the vehicle pulled up and  
22      he had to jump over the body.

23              Not one witness identifies anybody jumping over  
24      the body. As a matter of fact, Johnny Davis, Stacey  
25      Williams, every witness out there said that the person ran



1 to a parked car that was on the corner of 19th Street and  
2 South Orange Avenue.

3 He lies about everything. It's just not minor  
4 lies. It's something that an individual who's involved  
5 would know and say and do.

6 He says to you that he was out there and that he  
7 did the shooting.

8 Look at the fact of Johnny Davis, ladies and  
9 gentlemen of the jury. You as the triers of fact know that  
10 one of the ways to determine if an individual is lying is by  
11 their eyes, the mirror of the soul, and the way they came  
12 across.

13 Johnny Davis was so close to Mr. McCray that he  
14 felt the powder burn against the neck of Johnny Davis.  
15 Johnny Davis was so close to Mr. McCray that he was able to  
16 see the person that did the shooting taking the gun with his  
17 right hand, not his left hand, and putting it into his  
18 waistband.

19 Every witness at the scene, including Johnny  
20 Davis, within seconds and minutes of the shooting said that  
21 the shooter had braids, shoulder length. None of them ever  
22 saw anybody with a Yankee hat or bald head as Anthony Young  
23 was.

24 But one thing you will never, ever forget is when  
25 Johnny Davis looked each and every one of you in the eyes

1 and said, I will never forget that face as long as I live.

2 And Johnny Davis tried a little bit to help the  
3 prosecution in reference to an identification, but one thing  
4 he could never deny is that on March the 2nd, within an  
5 hour, he gave a detailed description of the person, a sworn  
6 statement to Detective Vitiello at the homicide squad, 22  
7 Franklin in the new police department, and he said the man  
8 that shot and killed my son on March the 2nd at two o'clock  
9 in the afternoon had shoulder-length braids, dreadlocks.

10 And don't ever forget, don't ever minimize,  
11 because this man forgot to bring it up, that on March the  
12 3rd, the next day after the shooting, Johnny Davis was in a  
13 store when who walked in? Malik Lattimore. Malik Lattimore  
14 walked into the store and says, You remember me? Don't  
15 forget my face.

16 And you know what? Johnny Davis will never forget  
17 that face. No human being ever will. Because you'll see it  
18 every single day as long as you live, as you try to recount  
19 those dates and those details.

20 That's why you know there's a problem with this  
21 case.

22 When they searched the dungeon, you know that the  
23 shell casings found on the floor there were Winchester nine  
24 millimeter Luger shell casings. When they searched the  
25 dungeon, where Malik Lattimore lived, what kind of shell

1 casings did they find, ladies and gentlemen of the jury?  
2 You heard Detective Snowden. Over a hundred manufacturers  
3 of nine millimeter shells and casings, according to the  
4 ballistics expert from the Newark police department.

5 Winchester nine millimeter Luger shell casings.

6 Think about this. Think about this. A drug  
7 kingpin like Hakeem Curry is going to drive up, known, known  
8 by everybody, under Federal investigation, he's going to  
9 place himself on the scene, but, more stupidly, he's going  
10 to drive up to the body, the drug kingpin, known in the  
11 area, drive up to the body with a police officer being  
12 there. And you heard my cross-examination. There was a  
13 police officer out there. Think about this: A drug kingpin  
14 is going to meet the shooter, who has DNA and blood on him,  
15 and the murder weapon, at a location in West Orange, put him  
16 in his car and drive all the way from West Orange to Newark.

17 Think about this. The person that does a murder  
18 is going to take the bloodstained clothing, put it in the  
19 back of his vehicle, not even in the trunk, but he has the  
20 audacity to tell you he puts it on the floor in the  
21 backseat, where police officers could see him, and he admits  
22 that he's hassled by the police and stopped by the police,  
23 him and Rakim Baskerville constantly stopped. And he's  
24 going to drive to Alexander Street, through the 'hood, with  
25 the bloodstained clothing on his back. And not only leave

1       it there - park his car and go sit outside while these drug  
2       crews are dealing drugs in front of him in a high-drug area.

3               It makes no sense because it didn't happen.

4               Think about this. He tells the F.B.I. that he  
5       left -- that he left the bag of clothing in the car while he  
6       showered. For hours and hours and hours. He's going to  
7       leave bloodstained clothing with the DNA of a victim of a  
8       homicide, not knowing if he's identified, known in the area  
9       for 25 years, but then tells you he took the clothing into  
10      the house.

11              Why would there be those grave inconsistencies?

12              Think about the three versions that he gave in  
13      going to Ben Hohn, Malsey, Rakim and him. Think about how  
14      many times he changed. But the most important thing is, he  
15      told you, and it's an insult to your intelligence, that,  
16      one, Rashidah Tarver was told now, but in 2007, she knew  
17      nothing about it, and, B, most importantly, that Rakim  
18      Baskerville drove from his house in Rashidah Tarver's  
19      vehicle with the gun on his lap, the murder weapon used to  
20      kill an informant.

21              He told the F.B.I. in the 302 that he took the  
22      murder weapon the next day to Ben's.

23              You saw the stipulation. You heard Devon Jones.  
24      No weapon was taken there until the end of the year.

25              Anthony Young never had that murder weapon.

1       Anthony Young never melted that murder weapon. There is no  
2       way anybody's going to keep a murder weapon that was used to  
3       kill an informant in their possession until the end of the  
4       year.

5                   and there's no testimony to controvert that.  
6       Nothing.

7                   THE COURT: We're going to take our short break  
8       now.

9                   MR. BERGRIN: Yes, Your Honor.

10                  THE COURT: Short break.

11                  THE COURT CLERK: All rise.

12                  Just place your notebooks on your chairs.

13                  (The jury exits)

14                  (Recess taken)

15                  (Defendant present)

16                  THE COURT: I'll reduce the 15 minutes of your  
17       time that we -- you get an extra 15.

18                  MR. BERGRIN: You'll reduce the 15 minutes?

19                  THE COURT: I'll take away -- yes, you get an  
20       extra 15 minutes.

21                  MR. BERGRIN: Oh, thank you, sir.

22                  THE COURT: Just as I did with Mr. --

23                  MR. BERGRIN: Thank you. Thank you, sir. God  
24       bless you.

25                  THE COURT CLERK: All rise.

1 (The jury enters)

2 THE COURT: You may be seated.

3 Okay. Mr. Bergrin, continue.

4 MR. BERGRIN: Thank you.

5 Thank you, ladies and gentlemen.

6 Ladies and gentlemen, on March the 6th,  
7 Christopher Spruel was coming back from a makeshift memorial  
8 on 19th Street and South Orange Avenue when an individual  
9 with dreadlocks down to his shoulders approached him and  
10 threatened him.

11 MR. GAY: Judge, where -- there's no evidence of  
12 any of this.

13 MR. BERGRIN: This is Detective Sabur.

14 MR. GAY: No, no.

15 THE COURT: What, Mr. Bergrin? I didn't hear what  
16 you said.

17 MR. GAY: Your Honor, you know what? It's not  
18 even important. I'm going to move into other things.

19 THE COURT: Okay.

20 MR. BERGRIN: What we have here is suggestibility,  
21 but no accountability.

22 look at Norberto Velez, Norberto Velez, who I  
23 haven't talked to in over five years. They went to him  
24 because we put him on the witness list, and they went to him  
25 and said, over and over and over again, the same question,



1 with him. I questioned him. He came to me like he said,  
2 and I refused to represent him, I told him I didn't have the  
3 time. What did he call me? A cracker motherfucker. He  
4 admitted that he called me a cracker.

5 Goes out of his way to hurt people's families.  
6 How can you ever, ever accept one word out of his mouth, a  
7 human being like that?

8 He says his mother and father have been to my  
9 office. Call his mother and father. Their people are the  
10 cooperators. Never met them in my life.

11 But based upon John Davis's testimony and based  
12 upon the lack of motivation of John Davis in any way to  
13 assist Paul Bergrin, based upon John Davis putting his  
14 signature on two photographs, one photograph of Anthony  
15 Young and saying, I swear I am 1,000-percent certain to an  
16 absolute certainty that that man did not shoot and kill my  
17 son on March 2nd, and putting his signature on a photograph,  
18 saying that this man Malik Lattimore I am more than  
19 1,000-percent certain shot and killed my son on March 2nd,  
20 that's enough for you to disavow, disbelieve and discredit  
21 everything that Anthony Young says.

22 And they try to say to you, with the audacity and  
23 a straight face, well, they put the photographs of the  
24 investigators who took the stand, well, the investigators  
25 lied to Johnny Davis.

1                   What's important? What's important? John Davis  
2                   said that he told the investigators the truth, the whole  
3                   truth, and nothing but the truth. John Davis says that the  
4                   people that I identified in the photographs, I meant exactly  
5                   what I said.

6                   July 23rd, John Davis makes a photographic  
7                   identification of Malik Lattimore. Is that just  
8                   coincidence? Is that just coincidence? They never asked  
9                   the man, they never asked him what he means by "resembles."  
10                  He says, I am sure that that's the man that resembles the  
11                  person that shot and killed my son. They never asked him  
12                  what it means.

13                  Do you think they want to get to the truth, the  
14                  whole truth, and nothing but the truth? If they did, then  
15                  they would have shown photographs of Anthony Young and Malik  
16                  Lattimore to Stacey Williams, who was out there on March the  
17                  2nd and said I may be able to identify, I may be able to  
18                  identify the shooter. She never did that.

19                  And you call this a competent, fair, neutral,  
20                  objective investigation?

21                  A man who's breaking into kitchens while a  
22                  cooperating witness, to steal food while he's a cooperating  
23                  witness; a man who's breaking the law, rules and  
24                  regulations, using other people's telephone privileges while  
25                  in prison as a cooperating witness.

1 God bless you, ma'am.

2 A JUROR: Thank you.

3 MR. BERGRIN: Never stops.

4 But you know what? I don't have to prove my  
5 innocence. If there's a reasonable doubt, then you must  
6 find me not guilty of Counts 12 and 13 and the violent  
7 crimes in aid of racketeering.

8 But listen, please, hear me on this. I could  
9 prove my innocence in reference to the Anthony Young case  
10 and the Kemo murder, because you heard the words of  
11 Eric Dock, their own witness. They tried to convince  
12 Eric Dock: Oh, when William Baskerville was talking to you  
13 at the Hudson County Jail about the murder, when William  
14 Baskerville was talking to you, did William Baskerville mean  
15 that they're looking for the witness in another case?

16 Remember he said Yes on the direct examination?  
17 But then I pressed him and said, you didn't mean yes. You  
18 wrote a diary. You testified before the grand jury that  
19 William Baskerville said Malik Lattimore and Rakim  
20 Baskerville were looking for Kemo.

21 But here's the most important aspect. He says  
22 that he had conversations with William Baskerville in  
23 January of 2005, and when he had the conversations with  
24 William Baskerville in January 2005, William Baskerville was  
25 asking him about conspiracy, about what would happen if Kemo

1        McCray was not a witness.

2                Please hear me. Please. If William Baskerville's  
3 family is visiting him at the jail, and he's speaking to  
4 them on the phone, and Paul Bergrin had any meeting and told  
5 them, without Kemo, there's no case, or if Paul Bergrin was  
6 involved in the murder of Kemo, then William Baskerville  
7 would know the law of conspiracy, he would know that without  
8 Kemo, there's no case. He wouldn't be asking for the advice  
9 of Eric Dock and Troy Bell.

10              And what's more important, William Baskerville  
11 told Eric Dock, and he diaried it, Paul Bergrin asked  
12 William Baskerville if I -- if William Baskerville thinks  
13 Hakeem Curry had anything to do with the murder of Kemo  
14 McCray.

15              How doesn't that create reasonable doubt in and of  
16 itself? Eric Dock has never met me in his life. He's never  
17 seen me. And it's in his diary. In his diary.

18              And he told him that the reason why Malik  
19 Lattimore and Rakim Baskerville was looking for Mr. McCray  
20 is not because he's a witness on the case, but because he  
21 crossed him, did him wrong.

22              Remember how Rakim Baskerville told Anthony Young  
23 after the murder, allegedly, Fuck Paul, don't tell him  
24 anything. Remember that? Remember how now William  
25 Baskerville tells Eric Dock, Fuck Paul, I'm getting rid of

1 him as my attorney.

2 I had nothing to do with Kemo McCray, nothing  
3 whatsoever, because William Baskerville would never have  
4 said those words. I would have never said those words to  
5 William Baskerville.

6 And, most importantly, William Baskerville sued me  
7 in 2008, you have the fee arbitration award, for the  
8 attorney fees that he paid me. So if I had anything to do  
9 with the Kemo McCray, would be antagonizing me and trying to  
10 hurt me?

11 He would be the first one on that witness stand  
12 against me.

13 Look at the visitation records of William  
14 Baskerville, and you'll see how Anthony Young is lying about  
15 Jamal McNeil visiting him eight to nine times. Look at  
16 those records. They're in evidence.

17 They tried to bolster the testimony of Anthony  
18 Young with Richard Pozo. Richard Pozo. You have an  
19 individual -- and I stated before -- who gets indicted in  
20 New Jersey, 25 years to life, \$150 million cocaine  
21 organization, polluting your streets, your communities,  
22 thousands upon thousands upon thousands of kilograms, making  
23 \$150 million a year, and they don't charge him. They don't  
24 charge him. They let him walk out the door. He's walking  
25 out the door.



1                   And he's still committing crimes, they don't  
2 charge him. He's still involved in narcotics.

3                   I asked him, aren't you still going to go-go bars?

4                   Yeah.

5                   How are you paying for it?

6                   Oh, I'm living in the negative.

7                   You get arrested for DWI, you don't go back to  
8 Federal prison. You're on supervised release, which is like  
9 parole. No. Why? Because they, them. You get arrested  
10 for threatening the life of your girlfriend. He doesn't go  
11 back to Federal prison while on parole, supervised release.  
12 Why?

13                  You have Peter Willis. They tried to question --  
14 they tried to question Mr. Willis, Peter Willis. No way, no  
15 way in God's creation, 40 years of practice, a trustee of  
16 the defense association, ethics, no way he's going to  
17 testify falsely for Paul Bergrin or anybody.

18                  He tells you that he was present during the  
19 interview at the Passaic County Jail. Paul Bergrin might  
20 have got there first, but when they -- by the time they  
21 brought Richard Pozo down, he was there. Never any mention  
22 about informant. And even if I started the conversation  
23 with Richard Pozo, he's representing him for 15 years. You  
24 know Pozo would have said something to him. You know you  
25 would have seen a change in his attitude if I asked Pozo to



1 kill a witness. You know he would have seen some -- he  
2 would have felt it, he would have seen it. You get that  
3 sixth sense. There would have been some change in Pozo,  
4 some disposition, some attitude. He hears nothing, Pozo  
5 says nothing to him.

6 But what's the most important thing? You heard  
7 Pozo testify that Paul Bergrin said the words to him, let's  
8 get rid of that headache, Pedro Ramos, while in the Passaic  
9 County Jail, in the same day, the same day that Peter Willis  
10 came to see him.

11 They knew that. Talk about deception and pulling  
12 wool over people's eyes. Why would you even ask Mr. Willis:  
13 Well, did you know Paul Bergrin was there on another date  
14 when you know Pozo said that it happened the same day that  
15 you were there?

16 But let's get to the bottom. Let's get to the  
17 bottom of this. Okay?

18 Talk about motives to fabricate. That was a  
19 massive investigation, over a year, thousands of intercepted  
20 telephone conversations, like Peter Willis said, a massive,  
21 giant investigation. Nobody, nobody had any conception  
22 whatsoever that Pedro Ramos or who the cooperating witness  
23 was or whether even cooperating witnesses were used in the  
24 case, were used in the case. No idea. He's talking to  
25 Pedro Ramos on the telephone up until the day of his arrest,

1 as Pozo said, talking to him from my office, though they  
2 suspect him to be an informant. He told you that he  
3 suspected somebody else to be an informant, and he named  
4 that person to you. No threats to that person, who might be  
5 the informant. We have no clue. Peter Willis would have  
6 testified to that, who the informants were.

7 Why in God's creation would any defense counsel,  
8 especially one like myself, who is experienced, go up to  
9 Pozo and say, let's get rid of the headache? What is that  
10 going to do in a massive investigation like this?

11 We get to Texas. We're in this holding cell in  
12 Waco. We're in another cell in another jail. Pozo makes no  
13 mention whatsoever of informants. Neither does  
14 Paul Bergrin. We still don't know who the informants are.  
15 We don't even have the discovery yet.

16 How can they say that?

17 The power of suggestion. The power of Richard  
18 Pozo getting out and not being prosecuted in New Jersey.

19 Richard Pozo and I and Mr. Willis had a big  
20 falling out because we let him sit for two weeks in jail.  
21 He was disgusted. You heard him say how many times he  
22 called my office, how his family called my office because we  
23 couldn't get his passport straightened out in Washington,  
24 D. C.

25 No way anybody, no way anybody would ever tell

1 him, oh, let's get rid of the headache, because getting rid  
2 of Pedro Ramos would do nothing for Richard Pozo.

3 you heard me cross-examine. You heard how many  
4 times he used my name and lied: I told him to title cars in  
5 other people's names.

6 The cars were titled years before he even met me.

7 Oh, I had something to do with the titling of the  
8 speedboat into John's name.

9 I had nothing to do with that. It was done way  
10 before he even met me.

11 I introduced him to a person to get a birth  
12 certificate. \$200, \$200 he's going to pay for a birth  
13 certificate, okay? He's going to meet a strange woman --  
14 just think about it, you know, you've got to close your eyes  
15 and almost think about what these people say. He's going to  
16 meet a strange woman who he can't describe, doesn't know who  
17 she is, can't give us even any way to reach her, doesn't  
18 know what kind of car she's driving, on Halsey Street in  
19 Newark, and buy a \$200 birth certificate from her because  
20 Paul Bergrin arranged that.

21 It almost -- it gets -- it almost gets to be  
22 almost ludicrous after a while.

23 Out of the clear blue sky, clear blue sky, Paul  
24 talks to him about Pedro Ramos and doing anything to Pedro  
25 Ramos when he's not even a suspect about being a cooperating

1 witness and informant. It's his confidant, it's his  
2 partner. Nobody knows that.

3 And all they have is the words, the words of  
4 Richard Pozo, his \$150 million cocaine business for over 10  
5 years, family owns a tire and auto body shop, jewelry store,  
6 cigar store. And he's going to come to Paul Bergrin, whose  
7 corporation, Premium, makes, what, \$10,000 a year, and  
8 Paul Bergrin's going to launder millions of dollars for him,  
9 put a Rolls Royce in his name, and Paul Bergrin's going to  
10 want to buy drugs from him, or Paul Bergrin's going to want  
11 to fix him up with people to sell drugs.

12 Then why would he use me? Why would he hire me to  
13 go to Texas if that happened?

14 It doesn't make sense because it didn't happen.  
15 And all you have is the word of Richard Pozo, who's proven,  
16 proved that he lied under oath, proved that he wasn't  
17 telling you the truth, proved through Peter Willis that he's  
18 not telling the truth.

19 They try to bolster the testimony under 404(b),  
20 the mighty 404(b), of Anthony Young with Vincent Esteves.

21 You have an individual, again, who doesn't come  
22 forth until he has discovery in his hand, doesn't come forth  
23 until he's read all the newspaper articles and until he's  
24 sentenced to 25 years in prison, with a newborn infant.  
25 When Vincent Esteves came to me for him to hire me, it's

1 time that you feel the pain in your heart. He had an  
2 infant. His wife was locked up. They had no water, even,  
3 to turn on in the house, no food, nowhere to live, nowhere  
4 for his baby to live, no one to take care of his baby. You  
5 heard him on the witness stand. Losing everything that he  
6 owned.

7 I take a minimal amount of money, I think it was  
8 \$60,000, for four attorneys. And then, think of it, think  
9 of it, ladies and gentlemen of the jury. Here he takes the  
10 witness stand and completely lies to you, like Tommy Moran:  
11 Oh, Paul Bergrin got all the attorneys in the case involved  
12 so nobody would cooperate against Vincent Esteves.

13 You know that's a strike to his integrity even of  
14 itself. That's reasonable doubt in and of itself. There's  
15 four people that had attorneys as a result of Paul Bergrin:  
16 Vincent Esteves; his wife; his brother-in-law, who he gave  
17 up in a confession, and his cousin, Michael Lopez. All the  
18 other 11 Defendants, including the people that could hurt  
19 him the most, Hector Rodriguez, Mark Andrews, the person  
20 that was the air booker, all the other important people are  
21 on their own.

22 They just used these people to spit out what they  
23 think a jury wants to hear. But you know what? You have  
24 the last word. They determine in their sole discretion  
25 who's telling the truth. But now you determine who's



1       telling the truth.

2               You're going to hear and you heard in court a  
3       telephone -- excuse me, a conference with Vincent Esteves  
4       when he called my office on November the 18th during a  
5       conference. And what did he say? Paul, you keep saying the  
6       same shit over and over again, affidavits and statements,  
7       the same shit over and over again, Paul. 4127B2B. You keep  
8       saying the same shit over and over again.

9               Let's move into the vein sent Esteves case, ladies  
10       and gentlemen of the jury.

11              You have Oscar, the alleged hitman. I went  
12       through the fact and I won't do it ad nauseam because I  
13       don't want to bore you to death and I really don't have the  
14       time, but he lies consistently over and over again to the  
15       F.B.I., to D.E.A., to the U. S. Attorney's Office, commits  
16       perjury. You know what he says. He turns the recorder on  
17       and off, he admits to one time, you heard him, he admitted  
18       to one time on December the 9th. But there's a lot more  
19       times, a lot more conversations that weren't recorded, a lot  
20       of unintelligibles. And you heard our expert, Mr. Reames,  
21       about how to manipulate and change conversations.

22              He's drinking, doing drugs, violating every piece  
23       of the law. He gets arrested in Chicago by the Chicago  
24       police and tells them that he's working as an undercover and  
25       that he has permission to engage in illegality. They call



1 and contact the F.B.I. and they say, it's a complete lie,  
2 arrest him. But they allow him to continue cooperation. He  
3 calls in this the threat on himself. They do no  
4 investigation. Costs them thousands and thousands of  
5 dollars. He's constantly lying.

6 But here's what you have to consider. This is the  
7 most important thing, and let me get right to it.

8 You have to decide my intent, my knowledge, what I  
9 know and how I reacted and why I said certain things. And  
10 I'm telling you, I am humiliated, ashamed, and embarrassed  
11 at some of the words that came out of my mouth. And if I  
12 could crawl right in front of you and beg forgiveness,  
13 that's what I'd do.

14 But I have to deal with what was said, and you  
15 have to believe that there was never any intent to do  
16 anything - anything - to any witness at all, never any  
17 intent and never any capacity. And why was that? Just like  
18 in Shelton Leverett: Because Paul Bergrin controlled the  
19 inability for Oscar Cordova to ever get a physical  
20 description, to ascertain whereabouts of anyone, to ever  
21 have actionable intelligence, to ever do anything.  
22 Paul Bergrin controlled that, and Oscar Cordova controlled  
23 that, because he knew nothing, and Paul Bergrin wasn't going  
24 to allow him to know anything.

25 I never trusted or never believed a word of Oscar.

1 And you know what's proven to you? They attacked Ana Aviles  
2 DeStefano personally with those e-mails, the obnoxious  
3 e-mails between her and I. But you know what? And you have  
4 to understand this. She was confronted because of her  
5 contacts. And she testified and swore to you as a woman who  
6 really believes in Christianity, a woman who believes in the  
7 oath, and she told you that, that Lord Gino was disavowed  
8 and denounced his renunciation of the Latin Kings in 2007.  
9 We knew that based upon her research. We knew that Oscar  
10 Cordova was not the son of Lord Gino. He came here.

11 But you know what's more important? They  
12 confirmed that. Remember the last one, the last witness to  
13 testify, Agent Brokos was on the stand on the day that I  
14 tried to -- with a shortened day, where I couldn't get most  
15 of my stuff in through her? One thing that she said to you  
16 is that she received an e-mail on August the 18th, August  
17 the 18th of 2008 from Maria Correia, a cooperating witness,  
18 a Latin Queen, that Paul Bergrin, Yolanda Jauregui know that  
19 Oscar Cordova's an informant. And I know you remember that.  
20 Which corroborates and substantiates completely Ana Aviles,  
21 who also told me that he's an informant.

22 This case was a bunch of immature, ludicrous,  
23 stupid gamesmanship, utter stupidity, and role-playing.  
24 That's all it is, despite Moran's sworn testimony, despite  
25 Esteves's testimony.

1           Moran testifies that Paul Bergrin's law practice  
2   was decimated. My income from ADP never changed. I  
3   received the same salary. Expenses might have gone up.  
4   What I took in might have been less. But my salary, as I  
5   showed you, never changed a bit. The amount of employees I  
6   employed never changed. Their salaries never changed. My  
7   expenses and what I received as benefits never changed at  
8   all, even with the prostitution charge.

9           But what's most important, Thomas Moran completely  
10   lied and fabricated this when he said that Paul Bergrin's  
11   practice was decimated. But, more importantly, he said that  
12   Paul Bergrin had to win the Esteves case - no pleas at all.  
13   They're not even thinking about plea. Paul Bergrin's not  
14   going to plea. He has to win the Esteves case to put  
15   himself back on the map for a decimated practice.

16           What did Vincent Esteves tell you?

17           From day one when I met Vincent Esteves, all we  
18   talked about, all we planned for was the best plea agreement  
19   that saves Vincent Esteves years and saves his wife from  
20   going to prison.

21           Tommy Moran testifies it was a financial case, it  
22   was a case based upon witnesses and a financial case.

23           It never was. Tom Moran didn't read the  
24   discovery. Tom Moran didn't know about the discovery.  
25   Tom Moran was very minimally involved because of his amount

1 of coke usage, and, as Vincent Esteves said, every time he  
2 saw his wife, he was coked up. That's why he thought that  
3 Oscar only came to New Jersey four times when Oscar was here  
4 over 10 times.

5 Vinny Esteves swore to you that we never, ever  
6 intended to go to trial in this case, it was always thought  
7 about as a plea.

8 You heard that on July the 7th of 2008 is when I  
9 was contacted by Oscar Cordova. He also told you that it's  
10 forbidden, forbidden for the Latin King -- Latin King 101 --  
11 for any Latin King to discuss nation business.

12 Oscar Cordova comes to me -- you have to almost  
13 close your eyes and picture this. He comes to me on July  
14 the 7th. I am Oscar Cordova. I am the son of Lord Gino,  
15 the head of the Latin Kings. I'm sent here to meet Vincent  
16 Esteves's connect and to help Vincent Esteves out. I'm sent  
17 here by the Ochoas and the Herreras, the leaders of the  
18 largest cartels, Mexican and Colombian, in the free world.

19 Anybody, anybody hearing that that has any  
20 criminal background at all representing individuals, who was  
21 ever a prosecutor, knows that one never discussed Nation  
22 King business to a stranger he's never met in his life, but,  
23 two, if he's here to meet Vincent Esteves's connects, why  
24 would he be sent here to meet Vincent Esteves's connects  
25 when he's directed connected to the Ochoas and the Herreras,

1 the number-one people? Vincent Esteves is down here.  
2 They're up here. Not even on the same stratosphere.

3 He said and he admitted that he told me he was  
4 sent by the Ochoas and the Herreras to meet Esteves's  
5 connect, that Lord Gino's his father. He tells me that Lord  
6 Gino is in the Supermax facility, the ADX in Florence,  
7 Colorado, underground, the most strict, restrictive, as he  
8 testified, facility on the earth. Everything is monitored,  
9 your sounds, your words, your breathing, telephone calls.  
10 Everything's completely monitored. They know how many  
11 pieces of toilet paper you use. There's no contact with  
12 humans, it's all by robots. He tells me that his father's  
13 communicating by cell phone with him, his father makes  
14 three-way calls. His father put him on -- it's all on  
15 recording, his father put A & E on his visitors list and  
16 then -- remember he said -- he denied saying that, then I  
17 showed him it in the transcript?

18 I'm getting all this from Oscar Cordova. He's  
19 telling me that -- you know, who he's sent by. This is the  
20 first day I meet him.

21 The second day I meet him, the second -- and  
22 that's for five or 10 minutes. The second day I meet him,  
23 on July the 10th, he's telling me he's going to commit a  
24 murder and asking me if I want to be involved in a murder  
25 with him.



1 I know him for five minutes. I know Vinny Esteves  
2 for two weeks.

3 Tell me that's not role-playing, gamesmanship,  
4 just stupidity, immaturity. But no intent.

5 I knew, I knew and any defense lawyer would know  
6 that Vincent Esteves has no connections left. One of the  
7 first things that you're given is the confession or the  
8 statement by your client. Vincent Esteves completely  
9 confessed on the day of his arrest on May 29 --

10 MR. GAY: I'm going to object to this. There's  
11 absolutely no evidence of this, and Mr. Bergrin knows full  
12 well this is absolutely false.

13 THE COURT: Mr. Bergrin?

14 MR. BERGRIN: Your Honor, Vicente Esteves  
15 testified to this.

16 MR. GAY: No, Paul -- listen. No, no.

17 MR. BERGRIN: Vincent Esteves testified to this,  
18 Your Honor.

19 MR. GAY: That's absolutely false. Mr. Bergrin  
20 knows this is false. There's no testimony of this. This is  
21 absolutely false. He knows darn well he didn't get  
22 discovery until January 26th of 2009. That's the testimony.

23 MR. BERGRIN: You have Vincent Esteves --

24 THE COURT: Well, wait a minute.

25 Again, gentlemen, I just can't recall that. I'll



1 leave it to the jury. They have their notes, their  
2 recollection.

3 MR. BERGRIN: Thank you, Your Honor.

4 THE COURT: But I will again caution that we must  
5 stay within --

6 MR. BERGRIN: Absolutely.

7 THE COURT: -- facts that have been presented to  
8 the jury.

9 Go ahead.

10 MR. BERGRIN: Vincent Esteves testified that we  
11 had to prepare for motions and Vincent Esteves testified  
12 that he told me that he had confessed. The confession  
13 completely, completely obliterated Vinny Esteves's ability,  
14 any ability whatsoever for Vincent Esteves to ever under any  
15 circumstances operate as a drug dealer or have any  
16 connections.

17 Vincent Esteves gave up Pepe. He gave up Patty.  
18 He gave up his own brother-in-law, his flesh and blood. He  
19 gave up how he was getting drugs, how he transported them,  
20 where he transported them. He gave up his Netherlands  
21 connection. He gave up Dave in Colombia. He gave up Ed.  
22 He gave up his Dominican contacts. He gave up every single  
23 thing that he knows.

24 But here's -- this is more important. Vincent  
25 Esteves is remaining in jail. He remains in jail. His wife

1 remains in jail. Nobody helped him. Nobody. If he had  
2 contacts, if he had contacts, just, please, use your  
3 God-given common sense, it doesn't take rocket science like  
4 -- like they expect. Anybody, any defense lawyer would  
5 know. He remains in jail. His wife remains in jail.  
6 Nobody to help with bail, food for his baby, get him out,  
7 defense of his case. If any connect wanted to continue  
8 doing business with him and didn't hide, if any connect  
9 wanted to be reached, they know who the defense counsel is.  
10 If any connect wanted to continue business or wasn't running  
11 from Vinny Esteves -- and one thing he admitted is that  
12 Patty completely changed his telephone number. Remember  
13 Vinny Esteves said and swore under my cross-examination that  
14 Patty wouldn't do business with him or wouldn't talk to him  
15 because Vinny Esteves had been arrested and Patty had his  
16 money? So how can he say that we didn't know about his  
17 background?

18 He had no more connects. He was out of business.  
19 He was never doing business again. Impossible. He gave up  
20 everybody, the leaders of the cartels. He even gave up the  
21 airport carts, the way he got his drugs into the country.

22 If any connect's going to make millions of dollars  
23 and do business in the future with Esteves, they would have  
24 helped him. Nobody came forth. They all ran for the hills.

25 We find out based upon the telephone -- based upon

1 the conversations with Oscar, he says that he is sent and  
2 Vinny says he's sent by the Mexicans. He's sent by the  
3 Mexicans, the same people that Vinny deals with, same people  
4 that sent the 75 kilograms of cocaine. He says Oscar's sent  
5 by Pepe and Patty, the same people that Junior works for,  
6 Chen-Pui, the same people that Brigilio Noyola, the truck  
7 driver, works for. That's who sends Oscar.

8 But you'll hear right away during the recordings  
9 Oscar says -- first he says that he spoke to the truck  
10 driver. Remember Oscar said that on July 10th: I spoke to  
11 that truck driver, I don't know what he said? But then in  
12 the next breath, I'm questioning Oscar and testing him, and  
13 he's saying he didn't know the truck driver was arrested.  
14 He didn't know the 75 kilograms of cocaine was seized. He  
15 didn't know that the truck driver called Vinny Esteves.  
16 It's all on the recordings the first time I meet with Oscar,  
17 July 10th.

18 He says that he knows Pepe, but then he says he  
19 doesn't know Pepe. He says that he knows Junior, but only a  
20 little bit, he only met him a couple times, but then  
21 admitted that he didn't know Junior. He says that he knows  
22 Patty, but then admits that he doesn't know Patty.

23 So now we have the fact that he's not Lord Gino's  
24 son, he's not connected to the Latin Kings, Lord Gino is no  
25 longer running the Latin Kings, he's lying about his father

1 at the Supermax and how he communicates with him, he's lying  
2 about his father ordering murders, ordering payments to  
3 attorneys, when they're going to be paid, ordering him to do  
4 murders from the Supermax facility, ordering him about  
5 taking over territories, running the Latin Kings from the  
6 Supermax facility, so we know he's lying about all of that.

7 We know Vinny is lying about him having  
8 connections. We know Vinny has confessed to the point that  
9 he's given up his own flesh and blood. We know that  
10 nobody's coming forth to bail Vinny out, help them.

11 So what attorney under any circumstances -- ask  
12 yourselves: What attorney under any circumstances is going  
13 to truly and sincerely ever believe that, A, Oscar's a  
14 hitman, B, that Oscar's going to do any murder? What  
15 attorney, what any human being would agree to do a murder  
16 with Oscar or Vinny Esteves knowing these facts, that  
17 Oscar's an informant, he's not sent by the people that  
18 allegedly Vinny Esteves said sent him, the Mexicans, because  
19 he knows no one, and that Vinny Esteves is an informant  
20 himself and a cooperating witness himself, and so is Hector  
21 Rodriguez. What human being is going to deal with these  
22 individuals? What individual is going to not string them  
23 along like I did? What individual is not going to know that  
24 under no circumstances is anybody to be hurt?

25 You have complete, blatant and absolute lies. Go

1 through -- I mean, think of even what Tom Moran says, how it  
2 makes no sense.

3 Vinny Esteves never truly trusted Tom Moran.  
4 Tom Moran says that the telephones were brought in for two  
5 purposes: One, so Vinny Esteves could speak to Oscar about  
6 getting us money on the case, because that's all we're  
7 interested in. Every conversation starts, do you have the  
8 money that, you know, you promised. Over 20 times he  
9 promised money, all different amounts, 20, 30, 40, 50, a  
10 hundred thousand dollars. I have it with me; I could reach  
11 it; I could get it very quickly. And the second reason was,  
12 so Vinny Esteves -- you heard the words come out of Tom  
13 Moran -- so Vinny Esteves could find out who Oscar truly is.  
14 So Vinny Esteves could find out who Oscar truly is. That's  
15 why on the September the 6th -- and listen to that  
16 conversation, September 6th, where Vinny Esteves tells  
17 Oscar, Hold off on doing anything until I get out, hold off  
18 on doing anything until I get out. This is after the  
19 conversation in August, where Vincent Esteves gives his  
20 alleged blessing for Oscar to do anything.

21 You have Tom Moran, who's a severe, severe  
22 alcoholic. You have Tom Moran, who's using drugs almost on  
23 a daily basis, who has no clue about the extent of the  
24 investigation, who's what, what the discovery says, as  
25 clearly evidenced by the November 17th meeting with me and



1 Oscar and Tom Moran where Tom Moran says, we have to get on  
2 the same page; there's no communication; I don't know, I  
3 have no clue who the informants are, speak to Paul.

4 Who in their right mind is going to ever speak to  
5 me on the first meeting about killing somebody? I know the  
6 man, again, for five minutes, 10 minutes.

7 Think to yourselves, ladies and gentlemen. If I  
8 wanted to locate Junior the Panamanian, I would have done  
9 some investigation. I did none. They could prove -- they  
10 could point to not one thing that I ever did to investigate  
11 Junior.

12 He kept asking me, Oscar, for a photograph. I  
13 provide him nothing. And then I'm thinking: He said he  
14 knew him -- before he denied knowing everybody, he says he  
15 knows Junior, he says his people know Junior. Then why does  
16 he need a photograph Mr. Me? His people will tell him what  
17 Junior looks like. Why does he need a description?

18 Never a description. Never a photograph. Never a  
19 location.

20 He tells me, Paul, the only way I could identify  
21 Junior, because my people, my people have no clue who he is  
22 or where he is, is through you and Michael Lopez. He meets  
23 Michael Lopez through me, and what does Michael Lopez tell  
24 him? He knows nothing. He gave him misinformation, like  
25 military intelligence, when you tell the enemy false



1 information. Oh, a friend of a friend's sister saw him at a  
2 car wash with Florida plates, but I believe that's  
3 misinformation, we have no idea where he is.

4 That's after having the conversation with me and  
5 me telling Michael Lopez that.

6 He talks about meeting Fu. Tom Moran comes in and  
7 says oh, it's Fuquan Mange. Tom Moran had no idea. Oscar  
8 never met Fu. Why didn't Oscar meet Fu? Because Paul  
9 Bergrin wouldn't allow it.

10 I had him believing and Tom Moran believing that  
11 Fu, an African-American young male, was a Chinese fireman  
12 somewhere in Newark. That's exactly what the conversations  
13 show, the recordings show on November the 17th.

14 He says I got to go through the locals, I got to  
15 go through -- and he admitted, Oscar, he admitted to you,  
16 they can't now go and say that they don't believe Oscar,  
17 they admitted that -- he admit that the only chance he had  
18 to locate Junior was through Michael Lopez, and he got  
19 nothing from Lopez, nothing from him.

20 They talk about the December 9th conversation, and  
21 I'll get into December the 8th, but let's talk about the  
22 December 9th conversation.

23 On December 9th, ladies and gentlemen of the jury,  
24 after Oscar says to me, after the small clip that they  
25 showed you, after Oscar says to me, Will it help, Paul, will

1       it help? You know, I say to him, Oscar where is the truck  
2       driver? Where is the truck driver?

3               Knowing that the truck driver's Noyola and not  
4       Junior.

5               And what does Oscar say to me?

6               He falls to me and he says the truck driver's in  
7       New Jersey, Paul. He's the one -- he's the one living with  
8       his girlfriend who's a stripper. That's right in the  
9       recording. I know he's lying. I know he has absolutely no  
10      way to locate anybody, no way to know, have any clue where  
11      anybody is, ladies and gentlemen of the jury.

12              How many hitmen do you know that every time they  
13      see you, they're promising to pay you money? Pay you money.

14              And I'm not supposed to know that there's  
15      something wrong with him, that he's lying.

16              As I used to ask juries: Just give me the benefit  
17      of the doubt. Give me the benefit of the doubt. That's all  
18      what I've told you is reasonable doubt, every single  
19      episode, every single significance: Getting Oscar no  
20      information, going nowhere, leading to dead ends, prolonging  
21      -- and you hear Oscar say over and over again, oh, my father  
22      is angry because it's taking so long.

23              Father angry from the Supermax? Just like he's  
24      directing you to do the murder yourself. Just like you've  
25      killed hundreds of times.

1           If you heard anybody say that in your presence,  
2           you, as lay individuals, not involved with criminals, not  
3           involved in defense, not former prosecutors, if you heard  
4           anybody say, Oh, yeah, I've killed hundreds of times, you're  
5           going to laugh at them. You're going to know that they're  
6           full of it. You're going to know not to believe one word  
7           out of their mouth.

8           He threatened to kill everybody, Oscar: Junior  
9           the Panamanian, Tapia, Jose Tapia, Arsenio Alejo, the  
10          accountant, the architect, a judge's son, which he denied  
11          but then we pointed out and he admitted it, Pepe, El Senor,  
12          the senior member of the Mexican cartel. And you're not  
13          supposed to know that he's not -- that you can't believe a  
14          word that he says.

15          Eugene Braswell, they talk about him and Muhammady  
16          Tunkarad. If I was serious with Oscar, I give him -- and  
17          you saw the piece of paper -- East 166th Street. Eugene  
18          Braswell testified that I told him the guy's locked up, he's  
19          in Rikers Island. He's on an immigration detainer in  
20          Warren.

21          You heard their expert, Afanasewicz, testify that  
22          166th Street runs for miles. There's a lot of buildings. I  
23          know the guy's locked up. Oscar keeps telling me he's got  
24          connections in The Bronx, you hear it on the recordings,  
25          that he's got Kings in The Bronx. Oh yeah, Oscar? Find

1       this guy and tell me about him, knowing the guy's in jail,  
2       knowing he can never find him, knowing it's an impossibility  
3       because the guy's in jail.

4               How can anybody say I wasn't testing and playing  
5       with him and prolonging this?

6               After three months, and after promising to help  
7       Chantal with the bail, help Vinny Esteves with the bail --  
8       remember Tommy Moran told you that the bail was \$5 million?  
9       No, the bail was \$2 million.

10              Anybody with connections could have made that  
11       bail. Chantal's locked up. Nobody helps them, nobody at  
12       all. After Oscar promising to bring properties, get people  
13       to sign for them, help with their bail, help with the  
14       forensic accountant, help with the architect. Nobody. He  
15       helps with nobody. He brings \$20,000 after three months,  
16       and that's after painfully begging for him. And he says,  
17       Paul, work with me, things are bad. You heard that. Paul,  
18       work with me.

19              He asks me to go see a friend of his father's. If  
20       I believed that his father was Lord Gino, if I believed that  
21       Lord Gino had any power, if I believed Oscar, for one  
22       second, I would have ran to the jail to see his father's  
23       friend that he said Oscar is charged with murder and some  
24       other drug offenses. But I knew the guy can't be believed  
25       and I said, Yeah, I'll go see him, Oscar, give me \$300 for

1 an interpreter.

2 Who would say that to him? Who would say that to  
3 him?

4 It's absolute role-playing at the worst with the  
5 most obnoxious thing you could have.

6 Tom Moran says that I have properties transferred  
7 to me from Vinny Esteves, but I never intended to use them  
8 as collateral. You heard Vinny Esteves testify that's all  
9 we talked about. He signed the properties over to me so  
10 that we could use them for collateral and Chantal Esteves.  
11 Nothing was hidden. My home address was used. My Social  
12 Security number.

13 I'm a drug dealer? I'm a big drug dealer?  
14 Oscar offers me kilograms of cocaine for \$4,000, \$4,000,  
15 from Martha Ochoa. They get it all day long. If you  
16 believe Eugene Braswell, he's paying 20,- to \$21,000.

17 Nobody gets kilograms that cheap. Paul Bergrin  
18 does nothing, never asks, never even asks for a number, for  
19 a setup. Never even mentions it again. The next day, he  
20 comes back. This is in July of 2008. He says, oh, Paul, my  
21 friend went to Mexico, he got really cheap kilograms,  
22 15,500. I took 80. I got 20 for you. And I tell him, what  
23 do I tell him? Get rid of it and give me the \$30,000 that  
24 you promised up front.

25 Big drug dealer Paul Bergrin can make millions and



1 millions of dollars, 4,000 a kilo, unheard of. Vinny was  
2 paying, a big drug dealer like Vinny was paying \$6,000 a  
3 kilo. I could supply Pozo. I could supply the  
4 United States of America at that price.

5 Nothing. Nothing.

6 If that doesn't show intent and create reasonable  
7 doubt, then nothing ever will.

8 Talk about individuals, drug dealing. You heard  
9 little Robert Vannoy, 16 years old. He's not going to lie.  
10 That's Yolanda's nephew. He never saw me with Yolanda and  
11 Alejandro. He knows that they were dealing behind my back.  
12 He said it. He swore to it on the witness stand. He's  
13 nothing to me. Norberto Velez is nothing to me. You heard  
14 him swear about the fact that I wasn't involved in drug  
15 dealing.

16 The woman that I fell in love with, unfortunately,  
17 is having a relationship with Alejandro Castro behind my  
18 back. I suspect it. I'm going to do business with this  
19 man? I'm going to do anything with this man?

20 He talks about -- Oscar talks about the fact, oh,  
21 Paul Bergrin's going to introduce him to connections in  
22 Chicago.

23 Chicago, where he lives.

24 Never a telephone number. Never a name, never a  
25 connection, never a meeting, never, Paul Bergrin ever

1 requests a meeting, never Paul Bergrin ever asks him to  
2 bring him drugs, set up a meeting, give me a sample, meet  
3 this person, talk to this person.

4 Nothing.

5 If that doesn't show intent and lack of intent on  
6 my part, if that doesn't create reasonable doubt in and of  
7 itself.

8 Oscar's involved in rival wars that he talks about  
9 on the tape with all kinds of -- the gang Disciples and the  
10 Latin Kings are fighting with them in Chicago.

11 Every time I meet the man, he's alone. He's going  
12 to do a murder alone, no lookout, no car, no gun, the leader  
13 of the Latin Kings. But oh, yeah, Paul Bergrin's going to  
14 believe him.

15 Every single time that he comes in to meet me, he  
16 asks for a woman. The leader of the Latin Kings is asking  
17 me to provide him a woman. Every single time. He should  
18 have thousands and thousands and thousands of Latin Queens  
19 at his disposal if you're the leader.

20 But I'm not supposed to know that he's a liar and  
21 a fake, someone not to be trusted and someone not to be  
22 believed.

23 I fly out on August the 5th, a Wednesday. I know  
24 my daughter was mistaken, believing it was a Friday or  
25 Saturday. I flew out on a Wednesday, August the 5th of

1       2008, to see my new grandchild. That was the purpose of me  
2       going to Chicago. I stopped, I met with Oscar. Talk about  
3       role-playing. I tell the limousine driver to make circles  
4       in case anybody's following us. I talk about the forensic  
5       accountant, Dennis Krousos, when Vinnie Esteves told you  
6       from day one we knew that we had to hire a forensic  
7       accountant, and Krousos was not a forensic accountant. If  
8       anything I said about Krousos, if he was ever threatened, if  
9       I ever intimidated him, if I ever coerced him, you know they  
10      would have put him on the witness stand. You know it.

11               Moran lied because he read the discovery when I  
12      told Oscar, I told Oscar that we're going to use Dennis  
13      Krousos as a forensic accountant so that he creates a  
14      privilege so they can't talk to him. That's a complete lie.  
15      He wasn't a forensic accountant. We needed money for an  
16      accountant. I kept begging Oscar, we needed money for an  
17      investigator. I kept begging Oscar for that.

18               Tom Moran read the discovery and tried to spin it  
19      out and lie to create himself having credibility.

20               I go to Chicago, again, on August the 5th. Oscar  
21      promises me -- you heard him on the recording -- come out,  
22      Paul, I'll pay for everything, room, car, dinner.

23               D.E.A. gives him money for me for a hotel room.  
24      Oscar steals it. I pay for my own hotel room, then meet my  
25      daughter the morning.

1       that I have to write Vinny Esteves a letter to make sure  
2       that this is what he wants me to do.

3               There was never any intent. No one ever expected  
4       anything to happen.

5               He tells me he paid Vinny's debts, millions of  
6       dollars in Vinny's debts to the drug dealers on the  
7       recording. Vinny owes all this money. He went to his  
8       people, the Herreras, to find Junior.

9               You know that's a lie. We knew that it was a lie.  
10       He lied over and over and over again. He couldn't be  
11       believed. One word out of his mouth was never believed.

12              Again, ladies and gentlemen of the jury, you have  
13       Oscar, who's suspected to be an informant, trapped in lie  
14       and inconsistency after another, impossible to know where  
15       any of the witnesses are. The witnesses aren't even  
16       important to the case with a confession in thousands of  
17       intercepted conversations and multiple cooperating  
18       witnesses. And you have Vinny Esteves, who's a cooperating  
19       witness in and of itself left in jail by his connections.

20              Nobody ever under any circumstances ever intended  
21       anything to happen to any witness. And it's an insult to  
22       your intelligence to ever believe that that's what Paul  
23       Bergrin wanted.

24              I just want to shoot through real fast the  
25       credibility of Tom Moran.

1                   Look at his words in his bail motion, ladies and  
2 gentlemen of the jury. "No one ever believed Oscar was a  
3 hitman."

4                   "No one ever believed Oscar was a hitman."

5                   And that's true.

6                   "Tom Moran did not believe Oscar was a hitman. To  
7 think so is preposterous and is a term deployed by the  
8 Government in a calculated manner to create hysteria  
9 surrounding the case."

10                  The words of Tom Moran through his counsel.

11                  "If Mr. Moran truly believed in the plan and was  
12 complicit in trying to provide a weapon to the informant  
13 Oscar, he had access to weapons. Moran is confident once  
14 all facts are brought to light there will be no doubt he  
15 ever truly contemplated or ever participated in a scheme of  
16 violence. It was wild talk. To believe otherwise is  
17 preposterous."

18                  I agree. I agree. I agree.

19                  Scrutinize Tom Moran, ladies and gentlemen of the  
20 jury. Scrutinize him, please. Scrutinize the  
21 inconsistencies, ladies and gentlemen of the jury, about how  
22 many times Tom Moran fabricated a lie, from the lock in the  
23 storage area of 710 Summer Avenue to Alejandro coming down  
24 with the keys.

25                  I was arrested on May the 20th of 2009.



1 Everything that I owned was searched. Not one -- God bless  
2 you, ma'am -- not one key to anywhere. Not one key to  
3 anywhere.

4 Tom Moran said we were in the process of building  
5 a Subway's at Isabela's Restaurant. Not one contract, not  
6 one individual from any corporation to testify we even spoke  
7 or dealt with any kind of people from Subway's.

8 Tom Moran says that he knew about Oscar and knew  
9 about the case and that he stayed with me, despite all my  
10 criminality, he stayed with me because I promised him a part  
11 in a hotel-casino in Florida. You heard and you listened to  
12 the tape about Paul Bergrin buying a hotel-casino in  
13 Florida.

14 You know how preposterous that is. You know how  
15 absurd that is. The casinos in Miami and Fort Lauderdale,  
16 Florida, South Florida are owned by the Indians on Indian  
17 reservations. So it was just idle chatter, bullshit to  
18 Oscar, and Tom Moran bought it because he listened to the  
19 conversations.

20 It's like the forensic accountant, Tom Moran  
21 reading it and buying it and biting on it and using it  
22 against Paul Bergrin and to his advantage to try to bolster  
23 his credibility, and his -- and his really wanting to be a  
24 cooperation and to have the Government accept him as a  
25 cooperator with information that they could use on him

1       against me.

2                   You know that, again, Oscar -- excuse me --

3       Tom Moran was locked into solitary confinement 33 hours  
4       straight. He broke. He went crazy, like Freddie Massimi  
5       said.

6                   You know, ladies and gentlemen of the jury,  
7       Tom Moran testified about the bail amount.

8                   Incorrect.

9                   He testified that he never saw that Vinny Esteves  
10       summary that was prepared by the Monmouth County  
11       Prosecutor's. Of course he never saw it, because he didn't  
12       read all the discovery.

13                   Tom Moran told you that Vinny deeded over  
14       beachfront, waterfront properties to Paul Bergrin.

15                   It was three lots on Tennent Road in the middle of  
16       Manalapan, not even close to the Jersey shore.

17                   It's just one embellishment, one lie, one false  
18       representation after another how Paul Bergrin was in control  
19       of the case so that nobody cooperates.

20                   Oh, yeah, Vinny Esteves's wife, his  
21       brother-in-law, and his cousin: That's how Paul Bergrin  
22       represented all the cooperators against Vinny Esteves.

23                   Tom Moran was being groomed to take over Paul  
24       Bergrin's practice because Paul Bergrin was afraid of going  
25       to prison? The man had two major open felony cases, four

1 counts of aggravated assault in Monmouth, a second-degree  
2 eluding in Hudson County. He was an alcoholic and a drug  
3 addict. Freddie Massimi testified I was on the verge of  
4 terminating him multiple times. I'm grooming him to take  
5 over my practice? He doesn't even show up to court for me  
6 when I'm on vacation. Burns me. I'm grooming him to take  
7 over my practice, an individual that has no will have no  
8 license in the future.

9 I mean, when does it stop? When does it stop? He  
10 waits between 10 and 20 proffer sessions over a two-year  
11 period of time, after reading and not until he received  
12 Internet articles, newspaper articles from his father and  
13 friends that he never tells the Government about in any of  
14 the proffer sessions to come forth with allegedly what I say  
15 to him at the Essex County Jail.

16 He kept volunteering information to try to hurt  
17 me. That's how desperate he is for that big 5K1 letter so  
18 he walks out, like Lachoy Walker, Eric Dock, Richard Hosten,  
19 and Richard Pozo.

20 Thank God for Vito Rappa. Thank God for him,  
21 because if Vito is telling a lie and if Vito had threatened  
22 or had anybody threatened like Tom Moran said he looks at  
23 you, oh, Paul Bergrin was sending a strong message, strong  
24 message, remember, the dramatics in Tom Moran to  
25 Cortopassis, about Cortopassi testifying against him.

1           James Cortopassi would have sworn to that on the  
2       witness stand if anybody threatened him. Steve Cortopassi  
3       was out in the hallway. They would have called him and  
4       subpoenaed him if anybody threatened him, if they had any  
5       evidence by Vito Rappa that he was not telling the truth.

6           Just a reasonable doubt alone in his lies, talking  
7       to Oscar behind my back about methamphetamines, about  
8       pornography: Don't tell Paul, don't tell Paul, repeatedly,  
9       don't tell Paul we're going out, don't tell Paul we talked  
10      about this.

11          Why? If Paul is such a criminal, if Paul is such  
12      a drug dealer, if Paul is out there and really believed and  
13      he really believed that I wanted to kill witnesses, you're  
14      going to hide the fact that you're talking to Oscar about  
15      methamphetamines and pornography and whatever else you talk  
16      about with Oscar, or that you go out with Oscar?

17          It doesn't make sense because it's ludicrous and  
18      it didn't happen.

19          That's reasonable doubt alone.

20          Vinny Esteves talked about in his letter Avianca  
21      Airlines, contact my friend at Avianca Airlines to get drugs  
22      in.

23          If Paul Bergrin's a drug dealer, if Paul Bergrin  
24      wants to succeed in drugs, if Paul Bergrin wants Oscar  
25      Cordova to be successful in drugs, Paul Bergrin's going to

1 contact his contact and his friends at Avianca Airlines. If  
2 Paul Bergrin wanted to do drugs and be involved in drugs, he  
3 would have contacted Dave, the contact that Vinny Esteves  
4 said he gave me. If Paul Bergrin wanted to do a drug  
5 transaction and he could have made absolute money, then he  
6 would have contacted Wilfredo, the drug connection that  
7 Vinny Esteves allegedly gave me.

8 Never any contact, any never reaching out, nothing  
9 - nothing.

10 If that doesn't show intent, if that doesn't show  
11 my lack of intent, if that doesn't show where I was headed,  
12 then you know.

13 They try to bolster the drug case. They had a  
14 pole camera up for 60 days at 710 Summer Avenue. Nothing.  
15 Nothing at all. Never Paul Bergrin going to 710 Summer  
16 Avenue. Never Paul Bergrin meeting there with anybody. No  
17 forensic evidence on Paul Bergrin ever going to 710 Summer  
18 Avenue. Nothing. There would have been something. There  
19 would have been some connection, some nexus.

20 They try to bolster the drug case with Rakim  
21 Kelly. If you listen to the conversations with Rakim Kelly  
22 and Yolanda, you'll hear, and you're with me, you'll hear me  
23 telling Yolanda, I don't want you involved with these  
24 people, and Yolanda saying to Paul, I'm not, Paul, I'm not.  
25 I'm yelling at her, I'm heartbroken when I hear what these

1 people have come to me for, for the legal fees, saying that  
2 they gave it to Rondre Kelly and Yolanda was involved. I  
3 tell Yolanda, you shouldn't be introducing Rondre Kelly to  
4 these people. She says, I didn't, Paul, they just wanted  
5 the number to help this kid get out of jail, because this  
6 kid, meaning Alejandro Castro, is doing business with them.

7 Why would she be explaining that to me if I'm  
8 involved at all?

9 They show you one conversation between her and  
10 Jesse, but you've got to realize, you have to realize that  
11 she's lying to everybody. She's trying to convince Jesse  
12 what to say. When you hear the words come out of my mouth,  
13 out of Rondre Kelly's mouth, at a conversation between us,  
14 you can make out and you understand.

15 I tell these Mexicans, don't trust Rondre Kelly, don't  
16 do business with him. If I'm involved and I'm making  
17 commissions, and that's my connections, I'm not going to say  
18 that.

19 If that doesn't prove and establish reasonable  
20 doubt, I don't know what is.

21 I keep Alejandro Castro in jail for 11 months. If  
22 he's my partner, if I'm doing business with him, I'd get him  
23 out, just like I got Norberto Velez out.

24 They talk about three phone calls to me. They  
25 can't even say that I received those phone calls and Yolanda



1 has my phone, but you know that Alejandro Castro was calling  
2 my office for an immigration case that we had taken.

3 THE COURT: You've got about 30 minutes.

4 MR. GAY: I'm not familiar with any evidence of  
5 that, Judge.

6 THE COURT: Wait. What was that?

7 MR. GAY: The last thing that Mr. Bergrin said,  
8 there's absolutely no evidence of any of that.

9 MR. BERGRIN: I'm going to move on, Judge.

10 THE COURT: All right. You have 30 minutes.

11 MR. BERGRIN: You have Rondre's Kelly's word, and  
12 only his word. No corroboration, no substantiation. You  
13 have me on the telephone telling Rondre Kelly, I'm not  
14 involved in your business, I don't care what you do. I'm  
15 going to talk openly with Yolanda, allow Yolanda to talk  
16 openly with me, but I'm going to say that to Rondre Kelly on  
17 a recorded line. Not one surveillance ever of me and Kelly  
18 when they have him under investigation with Yolanda.  
19 Yolanda is speaking to these people, these Mexicans, Pelo  
20 and Jesse, setting up the deals, the times, the  
21 transactions. Any complaints that Rondre Kelly has is going  
22 through Yolanda.

23 The house. You have Rondre Kelly swearing to his  
24 attorney, signing an affidavit, willing to cooperate with  
25 the prosecutors that he bought the house from Sulaimun

1       Jenkins, paid \$30,000 because of its condition, not from  
2       Paul Bergrin.

3               I bought the house from Sulaimun Jenkins, but it  
4       was in such dilapidated condition. Sulaimun dealt with  
5       Rondre Kelly and sold him the house.

6               You have the fact that Rondre Kelly made a profit  
7       on the house. You're saying that he's doing cocaine  
8       business with me because of the fact that I screwed him out  
9       of the house and the repairs that he made. The man made a  
10      \$40,000 profit. He made \$150,000 on the house.

11              It doesn't make sense. It doesn't make sense  
12      because it didn't happen.

13              You have my meeting at the strip mall, but the  
14      meeting at the strip mall is because of the fact that  
15      they're arguing about fees and the fact that Alejandro  
16      Castro is still in jail. That's it. That's it. Nothing  
17      else.

18              Abdul Williams. He sure could remember things on  
19      direct examination, but during cross-examination, he  
20      remembers nothing. In reference to his bribery case, we had  
21      a parole hearing. At the parole hearing, the police officer  
22      said, I didn't see you. Why would Abdul Williams -- if I'm  
23      involved in the bribery with Abdul Williams, if Abdul  
24      Williams knows that I'm involved in the bribery, why would  
25      he be preparing his witnesses so meticulously before they

1 meet me, before they meet me, going over the phone, over and  
2 over again, make sure you tell Paul this, make sure you tell  
3 Paul this, being prepared and prepped and coached, suggested  
4 to.

5 I would be the one preparing them and coaching  
6 them.

7 It didn't happen. It didn't happen.

8 You have Abdul Williams saying that in reference  
9 to the gun case that he called me from the back of the  
10 police car and I told him not to admit that the gun was his.  
11 You heard him say that under sworn testimony because he  
12 tried to explain away the fact that he let his baby sister  
13 get arrested, charged, indicted.

14 That's the kind of man you're dealing with. That  
15 creates reasonable doubt itself, not counting his 17 felony  
16 convictions, the fact that he was never charged with all the  
17 heroin and the cocaine distribution, which would give him a  
18 life sentence.

19 Police officer, Detective Adkins testified that  
20 that never happened. It was on speakerphone. He heard it.  
21 The person on the other line never told him that.

22 So you have Abdul Williams trapped in lies. That  
23 creates reasonable doubt of itself.

24 You have Paul talking to him about the facts of  
25 the case, the discovery, telling what the police reports

1 say, telling him how to defend the case, a police union  
2 attorney telling him, Abdul Williams, on the telephone to  
3 make an internal affairs complaint.

4 Nobody would ever do that that represents a police  
5 union unless you believe in your client and believe what he  
6 said.

7 Eugene Braswell talks about \$50,000 and Chavis, a  
8 drug dealer, I stole \$50,000, I didn't do any work to get  
9 him out of jail, people on the street complaining.

10 Paul Bergrin wouldn't be here today if that was  
11 true. Completely makes up facts. The only thing you have  
12 is the word of Eugene Braswell, an individual with  
13 connections all over the place, Texas, Florida, bringing  
14 cocaine up, distributing cocaine.

15 He's not going to deal with Alejandro Castro  
16 because of the language barrier? He brings his  
17 sister-in-law, her name was Linda Ramos, with him for the  
18 narcotic transaction.

19 Where's Linda Ramos?

20 He says he met Alejandro Castro in the hall --  
21 excuse me -- in the lobby of the hotel with his girlfriend,  
22 and they talked cocaine business.

23 Where's this girlfriend?

24 No corroboration.

25 He said that I took cocaine out of the ceiling

1 tiles in my office during the day, during business hours.

2 Nobody sees him.

3 He says I conducted transactions in the hallway of  
4 a hotel. They have surveillance tapes. They have all kinds  
5 of security there.

6 Bring forth corroboration.

7 He says that nobody knows, nobody knows these  
8 dealings with Paul Bergrin, not his brother, nobody he's  
9 dealing with, not his girlfriend, not Linda Ramos.

10 Coincidence? The man's facing double life in  
11 prison, 25 years in the state.

12 Let's talk about the Norberto Velez case, Norberto  
13 Velez case and -- ladies and gentlemen of the jury, you have  
14 Julio Izquierdo. I didn't realize how important the  
15 neighbor's testimony was, but, you know what? Here's a  
16 C.P.A., chief financial officer. He sees Marilu Velez pull  
17 into the driveway and get out of the car. She testified  
18 that she parked across the street because she was afraid of  
19 Norberto Velez. She testified that she never got out of the  
20 car.

21 That's enough to create reasonable doubt. But  
22 what you need to do is you need to listen to these facts.  
23 You need to listen to these facts.

24 Carolyn Velez the day after the verdict in her  
25 mother's custody, okay, the day of the verdict, she's in the

1 house with her whole mother's family, her aunt, her uncle,  
2 cousins. Nobody discusses the verdict with her. Nobody  
3 discusses the verdict. She comes and gives a recorded  
4 statement to the Essex County Prosecutor's Office, and in  
5 that recorded statement, she says that Paul Bergrin never  
6 told me to lie for almost an hour and a half into the  
7 conversation, Paul Bergrin never coached me. She says that  
8 Paul Bergrin lied to me, but never told me to lie, and Paul  
9 Bergrin lied to me because he believed -- and you heard her  
10 say that, you heard her say that on cross-examination --  
11 because he believed what my mother -- what my grandmother  
12 and my father told me.

13 Three's minimal contact between Norberto Velez,  
14 me, and Carolyn from November 19th of 2001, the day Norberto  
15 Velez is charged with the stabbing, but they talk about the  
16 fact that her mother didn't have the knife.

17 Just think about this, ladies and gentlemen of the  
18 jury. Think about this, because it's very, very important,  
19 very important.

20 Here's a lady who's scared to death of Norberto  
21 Velez. She stops by his house in the morning. She pulls  
22 down Little Street, makes a left toward the Adelaide Street  
23 school. She sees Norberto Velez following her in the car.  
24 You've got to close your eyes and almost imagine this.  
25 Instead of -- and she's afraid Norberto is going to kidnap



1 her daughter Carolyn. She parks across the street from the  
2 school, across the street, instead of allowing her daughter  
3 to get out on the same side of the street and run into the  
4 school. Her daughter gets out, and by happenstance, if  
5 Norberto Velez is following her there, how is he waiting for  
6 her at the school if he follows her there, by the way? He's  
7 crying, his eyes are purple, okay, he's been crying for  
8 days, because it's a bad, bitter custody dispute, and  
9 Carolyn Velez is nothing but a pawn in that custody dispute.  
10 It's horrible, no children should ever live through this or  
11 experience it, but it was between her and her husband.

12 She gets to the school, Carolyn Velez, and she  
13 goes in the school. Marilu Velez doesn't take off. She  
14 doesn't take off. Why? Because she has to have the knife.  
15 She doesn't take off. Please listen, please, I beg you.

16 She sees Norberto Velez coming from the school,  
17 crossing Adelaide Street and going toward his car, walking  
18 across the street where she's parked. She doesn't take off.  
19 She sees Norberto Velez getting in his car. She doesn't  
20 take off. She sees Norberto Velez pulling behind her car  
21 from three cars away. She doesn't take off. She sees  
22 Norberto Velez coming out of his car and approaching her  
23 car, the driver's side. She doesn't take off. He tries to  
24 open the door. She has her cell phone. She doesn't dial  
25 9/11, she doesn't do anything.

1                   Norberto Velez walks around the back of the car.  
2                   She doesn't take off. Norberto Velez touches the passenger  
3                   door. She doesn't take off.

4                   Norberto Velez tells her to open the door. She's  
5                   scared to death. She's scared to death of him. What does  
6                   she do? She rolls down the window enough that he's able to  
7                   put both hands in, both hands in.

8                   Norberto Velez opens the door. She doesn't dial  
9                   911, she says she doesn't hit "send." Why? Why? It's  
10                  almost insulting to believe, because she has the knife with  
11                  her.

12                 Norberto Velez gets in the car. She says that  
13                 Norberto Velez stabbed her four to five times in the chest,  
14                 and she says Norberto Velez stabbed her in the heart. You  
15                 heard her say that. She says that she grabbed the knife,  
16                 and Norberto Velez -- the blade of the knife, Norberto Velez  
17                 pulled it.

18                 She has one penetrating knife wound. She has one  
19                 stab wound. All the other injuries are superficial. No  
20                 injuries to her hand to depict that she ever had a knife  
21                 pulled out of her hand.

22                 That's reasonable doubt.

23                 Carolyn Velez's statement to the investigator  
24                 during almost the whole recording, the day after the  
25                 verdict, that's reasonable doubt. Carolyn Velez testified

1 about Paul Bergrin cursing at her on the telephone, but when  
2 she recounted that incident, when she recounted that  
3 incident to the Prosecutor's Office, when she was  
4 cooperating with them, she says that Norberto Velez grabbed  
5 her by her neck, he punched the cabinet, and that she went  
6 to sleep after that. Nothing about Paul Bergrin.

7 The power of suggestion. The investigator  
8 questions her at the end of the tape: And Paul Bergrin  
9 didn't do this, I mean, Paul Bergrin didn't coach you on  
10 that?

11 For almost the whole tape she says Paul Bergrin  
12 never told her to lie. In reference to the certification,  
13 she says that she was in Paul Bergrin's office, that  
14 Paul Bergrin had boxing gloves there, I wasn't going to tell  
15 him that I -- I lied.

16 On April 24th and 25th, when she went to the  
17 Prosecutor's Office, she would have told them that Paul  
18 Bergrin coached me and told her to lie. It was right before  
19 the trial.

20 That's reasonable doubt. That creates reasonable  
21 doubt.

22 Every injury to her was minor or superficial  
23 except to one hemothorax, and even that injury, if you think  
24 about it, was two and a half centimeters, less than a half  
25 an inch. One stab wound. It shouldn't have happened, and I

1 wish it didn't happen.

2 But that's reasonable doubt in and of itself, what  
3 she said to the Prosecutor's Office, Carolyn Velez, what she  
4 said to the Prosecutor's Office on April 24th and 25th and  
5 the day after the verdict. Reasonable doubt is what Julio  
6 Izquierdo said. Reasonable doubt is the facts of the case  
7 and that it couldn't have happened the way Marilu Velez  
8 describes.

9 Ladies and gentlemen of the jury, you had Jason  
10 LeBoeuf, an attorney, present who took the certification of  
11 Carolyn Velez.

12 Call him. Call him. If there is controversy, if  
13 she was coached in front of Jason LeBoeuf like she said,  
14 call him. You have corroboration. Why not do that?

15 And the Edward Peoples case, ladies and gentlemen  
16 of the jury. Where's Edward Peoples? Where's Anyea  
17 Williams, his girlfriend? Call them.

18 Paul Bergrin got people to lie? Marvin McCloud,  
19 got him to lie on the witness stand? Call Marvin McCloud.  
20 Bring him forth before this jury. You have the right to see  
21 that.

22 You have one witness, Gregory Smith, with seven  
23 felony convictions, and you had a chance to observe him.  
24 You had a chance to determine where the truth lies. You had  
25 a chance to look at him.

1           A judge found Edward Peoples's letter to Anyea  
2 Williams and my participation to be incredulous.

3           He saw me for five minutes one time in his life,  
4 and when I questioned him on the witness stand, Gregory  
5 Smith, under sworn testimony, hand on the bible, what did he  
6 say? Paul came to see me. Paul was taking notes. I told  
7 Paul -- I told Paul what happened. Paul was taking notes.

8           I mean, essentially, that's it. His exact words  
9 were, Paul asked him questions, Paul Bergrin writing things  
10 down.

11           Not one time did Paul Bergrin ever tell him to  
12 lie, and not one time did Paul Bergrin coach him. Nine days  
13 after I give him as a potential witness in the case, he goes  
14 to the Prosecutor's Office, he gives a videotaped statement  
15 to Detective DeMaio of the Prosecutor's Office, and he tells  
16 them he hasn't spoke to Paul Bergrin. From that day until  
17 2011, he never made any kind of representations that Paul  
18 Bergrin did anything wrong.

19           How can you ever, ever believe this man?

20           I was doing my job and representing Peoples to the  
21 best of my ability.

22           Roger Imhof comes before you and says, Oh, Paul  
23 Bergrin was trembling, was nervous when we told him that we  
24 arrested Anyea.

25           Then I showed him the fax. I found out by fax

1 machine. Unless he can look through a fax machine and see  
2 me trembling and nervous?

3 it's just not true. It's not true. And you have  
4 the affirmative evidence for that.

5 Gregory Smith just lied one time after another,  
6 one time after another. That's reasonable doubt alone.

7 He says that a correction officer was present when  
8 Edward Peoples confessed to a murder. He said a correction  
9 officer was present.

10 I questioned him on the witness stand. The Judge  
11 ordered him, under oath, ordered him to answer me. What did  
12 he say? He doesn't know whether the CO, the correction  
13 officer, is black or white, man or woman, what he looks  
14 like, what she looks like. Can't describe her.

15 He gets into this Court, he says, Oh, I wasn't  
16 going to admit that, but then I asked him questions about  
17 the CO so we can get that CO here to corroborate what he  
18 said, and he can't do anything now, can't identify, can't  
19 tell you anything about the correction officer.

20 He lied to the prosecution one time after another,  
21 said he wasn't expecting any benefit by the result of his  
22 cooperation. But then I show him the video statement, he  
23 says that he was expecting to receive help on his charge,  
24 and he did. He did. With a second-degree eluding,  
25 second-degree endangering the welfare of a child, using a



1 motor vehicle as a deadly weapon, he walked out of court.

2 He walked out the day he was sentenced. Time served.

3 He's blackmailing Edward Peoples. This is the  
4 person that you're going to believe to convict me, the one  
5 witness? He's blackmailing Edward Peoples, telling him he  
6 wants \$10,000 to testify falsely, to commit perjury. First  
7 he asked for his \$75,000 bail to be paid. He's an  
8 opportunist. He gets before you and he testifies, well, I  
9 wasn't going to take that money, I wasn't going to testify  
10 falsely. But in the video, he admitted that he was going to  
11 testify and take Edward Peoples's money.

12 When do you believe him? When do you say where  
13 does the truth lie? When do you say to yourself, I need to  
14 determine the truth, the whole truth, and nothing but the  
15 truth?

16 You're going to convict me of Edward Peoples based  
17 upon Gregory Smith and Gregory Smith alone? Because that's  
18 all they have. That's all they had.

19 They had an expert, Detective William Davis, a  
20 perfect expert in handwriting analysis. Take my  
21 handwriting. See if I signed any of those checks that went  
22 to Jason Itzler. Take my handwriting, analyze the letters  
23 to the Parole Board. Analyze it. You show me and you prove  
24 to this jury that I signed any of those checks or those  
25 letters.

1                   They know why they didn't take my handwriting:  
2           Because it would show them that I didn't.

3                   A man who's willing to perjure himself, Gregory  
4           Smith, over and over and over again, tells you about Edward  
5           Peoples, tells you about the fact that he studies the law,  
6           that he's intelligent.

7                   Edward Peoples wrote that letter to Anyea to try  
8           to convince her not to testify, tried to use me to establish  
9           credibility.

10                  Call Anyea Williams.

11                  How can you do that? How can you ever convict me  
12           based upon the word of Gregory Smith?

13                  You observed him. You heard him. You heard his  
14           inconsistencies. You heard his sworn testimony from the  
15           trial of Edward Peoples, about what I did and what I didn't  
16           do. You heard what he said in the video. How could you  
17           ever, ever, under any circumstances not find reasonable  
18           doubt with Gregory Smith?

19                  They call, they talk about a prostitution case.  
20           Paul Bergrin pled guilty to a misdemeanor, misdemeanor in  
21           the prostitution case. Paul Bergrin pled guilty.

22                  This is different. These are charges of  
23           interstate travel to promote it.

24                  Ladies and gentlemen of the jury, what witness  
25           have they called with any credibility to establish that?

1                   None.

2                   As Natalie McLennan had testified, she was never  
3                   around. She had to use cocaine to stay awake. She had to  
4                   use cocaine as a daily existence. She OD'ed six times. She  
5                   was on heroin, ketamine, cocaine, all kinds of other drugs  
6                   when she was working as an escort.

7                   James Cortopassi.

8                   Bring one witness without an agenda. Bring one  
9                   witness who's neutral and objective.

10                  The only chance that kid has, the only chance that  
11                  kid has of ever becoming a licensed lawyer is if they write  
12                  a letter for him to the licensing board and get his license  
13                  for him. Otherwise, no chance.

14                  Bring forth one witness.

15                  Of course, I sent in incorporation papers, but  
16                  look, I'm the registered agent. That's what a lawyer does.  
17                  That's what a lawyer does. James Cortopassi comes before  
18                  you and tells you that he doesn't know -- he doesn't know  
19                  the name of the girl. He says it's Victoria running the  
20                  corporation.

21                  Why? Because he's having a relationship with the  
22                  person who's running the escort service, Erica. I had to  
23                  remind him of that. He didn't bring it forth to you. He  
24                  didn't bring it forth to you.

25                  There's a video system. As James Cortopassi and

1       Natalie McLennan told you, they know ever person that comes  
2       into New York Confidential. They know every person that  
3       leaves.

4               Show me when I'm there.

5               I'm involved in the midst of Iraq. I'm in the  
6       middle of the Abu Ghraib case.

7               Show me one time that you see me on that video,  
8       objective evidence, not an individual who's trying to come  
9       back to this country and see her father, who's heavily  
10      involved in drugs and was an addict at the time that this  
11      occurs. Not James Cortopassi, who admitted that he started  
12      a business behind my back to profit. Show me, show me an  
13      objective witness.

14              Bring in Jason Itzler. Bring in Jason Itzler.  
15      You say he didn't do any work? You say I'm lying about all  
16      this stuff? Bring in Jason Itzler.

17              In five weeks, that corporation was dissolved. If  
18      I'm making profits and benefiting by New York Confidential,  
19      is Paul Bergrin going to be the one that dissolves the  
20      corporation in five weeks?

21              THE COURT: We're going to wrap up in 10 minutes,  
22      Mr. Bergrin.

23              MR. BERGRIN: Yes, sir.

24              They talk about the \$20,000 that was paid by  
25      Oscar. You heard Nancy Araujo say when she testified that

1 Paul Bergrin didn't fill out forms. Paul Bergrin delegated  
2 that kind of material. Paul Bergrin didn't send any faxes.

3 Let me them prove beyond a reasonable doubt that I  
4 ever had any intent to not file any forms with the I.R.S. I  
5 sent in the form on Dente Brothers for \$20,000 cash. Why  
6 would I not send it on this? If I'm going to lie, I'll just  
7 put it under a fictitious name, if their theory, you know,  
8 has any kind of validity to it.

9 They charge me with racketeering enterprise,  
10 running my law office, running it as a racketeering  
11 exercise.

12 All I ever did, all I ever intended to do, all I  
13 ever wanted to do was pour my heart and soul into the  
14 representation of every single person that walked through  
15 that office and anybody that needed my help, whether they be  
16 a soldier, whether they be a criminal, whether they be an  
17 individual who has millions of dollars or an individual  
18 who's penniless. Give them my heart, give them my soul, be  
19 willing to work night and day to them to make sure that they  
20 have the proper legal representation, to take that shroud of  
21 reasonable doubt and to wrap it around them, to challenge  
22 the United States Government, to challenge the State of  
23 New Jersey, to make sure that they're treated the same way,  
24 the exact same way I want my son, my daughter, my mother, my  
25 father, my sister, my brother, the same way you would.

1                   This case is full of reasonable doubt. Take each  
2                   and every incident. Look at the witnesses, their  
3                   background, their baggage, their motive to fabricate, what  
4                   they have to lose if they didn't cooperate. Who determines  
5                   where the truth lies in is in the sole discretion of the  
6                   prosecution. How many times they hid things from you that  
7                   had to be brought out in cross-examination? How many  
8                   inconsistencies, how many lies?

9                   Look at their reasons to lie: Lifetimes in  
10                  prison, family members charged, not being charged with  
11                  thousands and thousands and thousands of kilograms of  
12                  heroin, the most lethal drug, that kills our kids in the  
13                  community. Tons of cocaine. Properties they bought with  
14                  drugs not even seized. Money they made from drugs not even  
15                  taken. Look and scrutinize their weaknesses.

16                 All I ever asked from day one is for you to  
17                 determine where the truth lies and to treat me the exact  
18                 same way you would want the most precious person in your  
19                 love life treated.

20                 All I ever asked from day one when we began this  
21                 trial is for you to seek justice, and only when you  
22                 determine where the truth lies will justice be done.

23                 You're going to think about this case a long time  
24                 after it's over. You're going to think about it whether  
25                 you're lying in bed, when you're driving to work, when



1       you're with your loved one, a quiet moment in your life even  
2       at your work desk. You're going to think about this case.  
3       You're going to probably dream about this case.

4               And I ask you to think about it long and hard,  
5       because when you go into that jury room to deliberate, there  
6       is no tomorrow nor me. There is no tomorrow. I'll be  
7       waiting for your verdict. And I know, I know that if you  
8       scrutinize each and every witness who's come forth here and  
9       you say to yourself, where were these other witnesses, why  
10      didn't they call them, they have the burden of proof, did  
11      they prove their case against Paul Bergrin beyond and to the  
12      exclusion of -- beyond and to the exclusion of a reasonable  
13      doubt, did they meet their burden of proof, I know and I'm  
14      confident that each and every one of you individually and  
15      then as a group will find me not guilty.

16             Thank you for your time.

17             THE COURT: Thank you.

18             All right. Mr. Gay, I assume you'll have a short  
19      rebuttal tomorrow morning.

20             MR. GAY: I will have a rebuttal tomorrow morning,  
21      Judge.

22             THE COURT: No, no, you missed the operative word  
23      there, Mr. Gay.

24             (Laughter)

25             THE COURT: Okay. Rebuttal tomorrow morning.

1       Then I will charge the jury.

2               Unfortunately, it is a significant charge, and as  
3       you can well imagine, it's going to take probably an hour  
4       and a half, two hours for the charge alone. Then you'll get  
5       the case, so I'm assuming you'll have the case tomorrow  
6       around noon or thereabouts.

7               Okay?

8               Please don't discuss the case. There's still more  
9       that you're going to hear.

10              Believe me, once you get everything you need,  
11       you'll have as much time as you need to deliberate.

12              Don't discuss the case. Don't read about the  
13       case. Don't watch anything about the case, and certainly  
14       don't do any independent research.

15              And, oh, tomorrow, I think we're breaking at 3:30.  
16       Someone has an obligation. Okay. That's what we'll be  
17       doing.

18              See you tomorrow.

19              THE COURT CLERK: All rise.

20              (The jury exits)

21              THE COURT: Be seated.

22              Mr. Sanders, do you have, something or Mr. Gay?

23              MR. GAY: Yes, we have a couple of things,  
24       actually, Judge.

25              Judge, first of all, I think the Court will recall

1       that this morning, I did for lack of a better word remind  
2       Mr. Bergrin about certain things, and he has stepped over  
3       the line on, at minimum, two of the things we discussed this  
4       morning.

5               THE COURT:   What?

6               MR. GAY:   The first is, he got up and argued  
7       clearly, over and over again, that the Carolyn Velez tape,  
8       the one that was used to impeach her, he argued it as  
9       affirmative evidence of his innocence, and based on what the  
10      Court ruled previously, that tape now comes into evidence,  
11      and -- it's the Government's position.

12              The second thing is, Judge, that -- his comments  
13      about the, I didn't sign the letters relating to the  
14      prostitution.

15              So it's clear, Judge, that is what he pled guilty  
16      to in New York. Overt acts on the conspiracy he pled guilty  
17      to included the very letters he's now claiming not to have  
18      signed and sent.

19              So it's the Government's position that even in  
20      addition to the stipulation which came in, the indictment  
21      now comes in and so does the guilty plea minutes for that to  
22      prove that, because, again, this is why we had the  
23      stipulation was so that he couldn't get up and make this  
24      argument, the very one he made. He promised he wasn't going  
25      to do this. That's why we entered into the stipulation. He

1 has now violated that. We get this into evidence.

2 MR. LUSTBERG: Judge, with respect to the --  
3 leaving aside the Carolyn Velez tape for a second, with  
4 respect to the prostitution case, I would ask the Court as I  
5 have all along in this matter to read that colloquy. What  
6 it talks about is that, I performed some series of overt  
7 acts. It does not refer to anything in particular.

8 I mean, what Mr. Gay wants is for Mr. Bergrin to  
9 have nothing to say about the prostitution case. He was  
10 very clear with what he said, that what he pled guilty to in  
11 New York was a misdemeanor, one thing, and what he did in  
12 New Jersey, what's charged here is this interstate travel  
13 issue on another. At no point -- let them take out the  
14 colloquy. There's no place in that colloquy ever where he  
15 says anything about any letters or anything. There is  
16 nothing in the colloquy that is inconsistent with what he  
17 said.

18 And they keep wanting to get in the indictment and  
19 the guilty plea. Your Honor, take a look at them. You are  
20 not going to see anything that contradicts anything that  
21 Mr. Bergrin said.

22 THE COURT: I'll take a look. By tomorrow  
23 morning, I want to see the colloquy, because I haven't seen  
24 that.

25 MR. GAY: Okay.

1           THE COURT: And then I'll make a determination as  
2           to what, if anything, we can do with it. If I think there  
3           has been a violation of any ruling, I'll consider letting  
4           you read the colloquy to the jury. But I think at first let  
5           me look at it myself and make that determination.

6           With respect to the Velez?

7           MR. LUSTBERG: So I'm not sure I heard the parts  
8           of it where Mr. Bergrin actually referenced the tape. I  
9           mean, certainly --

10          THE COURT: Well, he did. He referenced the tape,  
11          and he made it clear that except for the end, over and over,  
12          it was exculpatory.

13          And, quite frankly, I recall during the testimony  
14          about this, I think, and I guess we could find it in the  
15          transcripts that we have, one of the issues that came up was  
16          that there was indeed possibly a statement or some portion  
17          of that tape that was exculpatory, but then, as I understand  
18          it, there were other parts that were not. And also, I  
19          thought it was the argument of the Government that that was  
20          used for impeachment purposes only, therefore not for the  
21          truth of the statements made.

22          So, again, if you can point out to me -- I'm not  
23          opening up a whole new can of worms here.

24          MR. GAY: Well, Judge -- sorry, if I can just say,  
25          though, and I want to make sure that what I remember, my

1 recollection of this is that the Government wanted to move  
2 the tape in because we believed it was now affirmative  
3 evidence. It was the defense that said we are only using  
4 this for impeachment. So that was the basis for the Court  
5 keeping the tape out.

6 Now we find out that's absolutely not true. The  
7 tape should have been put in -- if you would have known this  
8 back then, the tape would have come into evidence. So I  
9 don't see why we shouldn't be in that position now, Judge.

10 THE COURT: And do what? To reopen the case and  
11 start playing the tape for this jury?

12 MR. GAY: No, we're not going to play the tape,  
13 Judge. This is now something that is in evidence, the  
14 ruling before excluding it gets changed, and I get to make  
15 whatever arguments I want based on this mand the jury can  
16 listen to this if they care to do so.

17 THE COURT: How about it?

18 MR. GAY: That's my proposition.

19 THE COURT: How about it?

20 MR. BERGRIN: Judge, their argument is absurd.  
21 First of all, in my summation, I talked about Carolyn Velez  
22 and how her words, which establishes her credibility, Your  
23 Honor, establishes reasonable doubt, okay? I didn't ask for  
24 them to consider it as affirmative evidence. I said -- my  
25 entire argument, Your Honor, was based strictly and solely



1 on the fact that her credibility is in question based upon  
2 what she said. That's exactly what I said to the jury.

3 THE COURT: Well, here's what I'll do,  
4 Mr. Bergrin. I'm going to want to see the transcript.  
5 Quite frankly, I don't remember it that way. I think in  
6 your summation, you specifically stated that that -- the  
7 statements or that which was in that video or the tape were  
8 exculpatory. And I think that if the rulings were as I  
9 think they were with respect to the fact that it was only  
10 used for impeachment purposes, this would then go beyond and  
11 I would consider letting the prosecution mention it in their  
12 rebuttal. But I'm going to want to see --

13 MR. BERGRIN: I'm certain, Judge. I'm certain of  
14 what I said.

15 THE COURT: Well, Mr. Bergrin, I'm not as certain,  
16 but, to be fair, I'm going to look at the transcript, we'll  
17 have it by morning, I'll let counsel look at it, and you can  
18 point out to me the portion that you're talking about, and  
19 you might even want to look back to the transcript with  
20 respect to --

21 MR. GAY: Yes, we will.

22 THE COURT: -- the argument on the tapes  
23 originally to refresh me.

24 Yes?

25 MR. SANDERS: Can I just remind you, Your Honor,

1       and I'll get to the jury charge in a second, but I just want  
2       to remind you that we had asked to put the entire tape in --

3               THE COURT: I remember.

4               MR. SANDERS: -- and you agreed with it.

5               THE COURT: Initially, I did.

6               MR. SANDERS: Right, and then you reversed your  
7       ruling based upon the representation from the defense.

8               THE COURT: Let the record reflect once again  
9       Sanders pointed out that I reversed my ruling.

10              (Laughter)

11              THE COURT: You're correct, Mr. Sanders, I do  
12       recall that, and -- because I thought it was the fair thing  
13       to do at the time.

14              But even if we have some changes to this, it will  
15       be of a limited nature. But let me see what I -- I want to  
16       see what Mr. Bergrin just said in his summation, that  
17       portion about Velez, and then I'll want to see what the  
18       Government's argument is vis-à-vis what the original ruling  
19       was on the tape and how that affects what was said in  
20       Mr. Bergrin's summation and what the Government should be  
21       allowed to do as a result thereof.

22              Now, what else?

23              MR. SANDERS: Well, I'm happy to report the jury  
24       charge is finalized. Mr. Lustberg and I worked out our last  
25       remaining issue, and I can print out as many copies as Your

1 THE COURT: I'll give you an hour.

2 MR. GAY: Okay.

3 THE COURT: That's it.

4 MR. GAY: Okay.

5 THE COURT: Anything else?

6 And remind me in the morning we never did put in  
7 that judicial notice on the calendar.

8 MR. GAY: Oh, yes.

9 THE COURT: We'll do that first thing in the  
10 morning. Just remind me. Okay?

11 All right. Thank you. I'll see you all in the  
12 morning, 8:30.

13 (Matter adjourned until Thursday, March 14, 2013,  
14 commencing at 8:30 a.m.)

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**INDEX**

**Page:**

**CLOSING ARGUMENTS:**

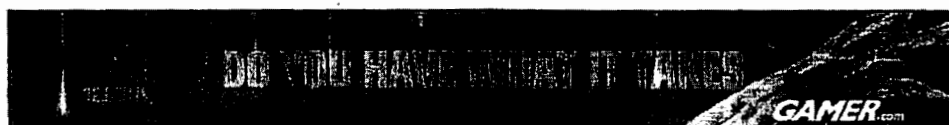
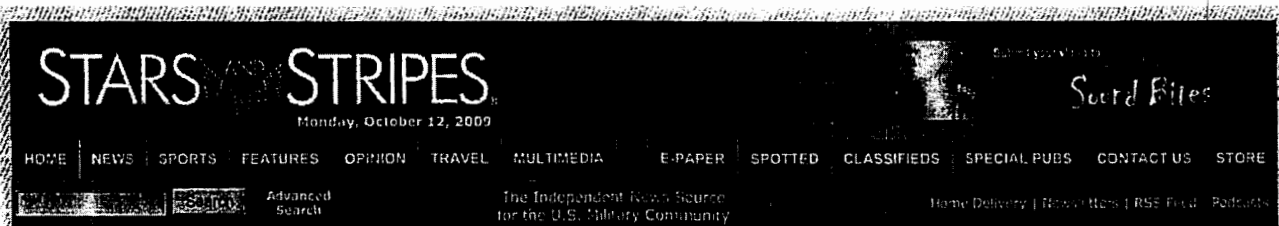
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P4676



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## Parker's legal teams claim he has been made a scapegoat

By Terry Boyd, Stars and Stripes  
European edition, Sunday, February 19, 2006

Without Maj. Thomas Roughneen, Pvt. James Leon Parker might have disappeared into the Army's criminal justice system.

But in an unusual move, Roughneen, Parker's defense attorney, alerted the media about Parker's court proceedings, going so far as to e-mail a detailed description of the case. In a court-martial last Thanksgiving, Parker, then a staff sergeant, was convicted of dereliction of duty and negligent homicide in the accidental discharge death of Pfc. Gunnar D. Becker.

Before the lawyer's alert, the Army had not made public the circumstances of Becker's death, nor the fact that Parker was being tried.

Roughneen, a New Jersey National Guard officer, would later send out another synopsis of the court-martial, this time to fellow New Jersey attorney Paul Bergrin, a retired Army officer known for his defense of Sgt. Javal Davis, a 372nd Military Police Company soldier, who was tried as part of the Abu Ghraib abuse trials.

Picking up Parker's case, Bergrin and his investigator, Richard Russell, argue that Parker is the scapegoat in an incident in which no one else in the chain of command — including the soldier who actually caused the discharge — received so much as a letter of reprimand.

On Jan. 13, 2005, Becker was killed by an accidental discharge on the Abrams tank that Parker was commanding at Forward Operating Base Marez near Mosul, Iraq. Becker and another soldier, Sgt. Indarr Eugenia Mallari, were handling a heavy machine gun when the M248's unguarded "butterfly" trigger accidentally depressed, firing a .50-caliber round into Becker's head.

Defying Parker's direct order not to touch the weapons, Becker and Mallari were trying to stow the weapon, according to Bergrin and Russell. Parker was charged in the incident because his tank crew did not to clear weapons as the tank entered the FOB during a firefight.

A miscarriage of justice, according to Roughneen and Bergrin, is that Parker was convicted even though he had ordered his crew not to touch the weapons.

Despite the heavy fighting — nine soldiers were injured in the firefight — Parker was preparing to return to the battle outside the FOB, something none of the other soldiers was anxious to do, according to Roughneen.

"What was wrong with SSG Parker?" he wrote in his narrative account to the media. "Why was he insistent on returning to the violent firefight?"

Entering the FOB after a mortar attack, Parker did not tell his crew to clear weapons, Roughneen wrote. That was, however, not unusual practice at the FOB. In fact, two Strykers escorting Parker's tank did not stop to clear their weapons, according to testimony.

At the time of the discharge, Parker was sitting in his command position with his radio headset on and map in hand, monitoring the firefight on his Blue Forces Tracker Computer System, plotting a course back to the battle. He could neither see nor hear what Becker and Mallari were doing, Roughneen and Bergrin contend.

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Terry Boyd / S&S  
Members of Staff Sgt. James Parker's new legal team are, from left, attorney Paul W. Bergrin, associate Brook Barnett and investigator Richard Russell. — [AP/Wide World](#)



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At one point, Mallari turned off the tank's radios, prompting Parker to scream, "Why the [expletive] are you turning off the radio? Turn it back on!"

The circumstances that led to Becker's death began long before the shooting itself, according to Roughneen and Parker's wife, DeRessia Parker.

Parker was "sliced away" from his regular unit, 2nd Battalion, 63rd Armored Regiment of the 1st Infantry Division, and reassigned to a Stryker Brigade Task force under the Hawaii-based 25th Infantry Division.

Arriving at his new unit, Parker — who had just been promoted to tank commander — and other noncommissioned officers tried without success to "level" crew experience by mixing experienced and inexperienced tankers. DeRessia Parker said her husband, a career soldier, expressed deep concerns about the ability of his own men. At one point, Parker ordered one of his soldiers not to handle the M-2 after a platoon sergeant described the soldier's handling of weapons as "nightmarish," according to Roughneen's account. Indeed, Bergin and Russell said, Parker's crew was not even qualified on the M-2.

By contrast, Parker's nine-year career had been exemplary, without any safety violations, according to Bergin, Roughneen and DeRessia Parker.

In addition to other medals and letters of recommendation, Parker was awarded the Army Commendation Medal with a "valor" device for bravery and heroism in the battle of Baqouba in November 2004.

In addition to the circumstances leading up to Becker's death, Bergin asserts there were irregularities in Parker's court-martial, including critical files being destroyed and some files not being turned over to defense attorneys.

Roughneen also called the Criminal Investigation Command case flawed, with all the incidents contributing to the accident "minimized."

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CASE NO : 96000401 FP IND : Y CASE STATUS : COMPLETE  
CASE INIT DATE : 01 03 1996 CRIME TYPE : NARCOTICS  
DEFN NO : 001 DEFENDANT NAME : BROWN RAIQUAN  
DEFN STAT : ACTIVE/NON-FUGITIVE CHANGE DATE : 08 19 2003  
CHARG DOC : INDICTMENT INDIC/ACC NO : 96-06-01958-I  
DISP DATE : 12 02 2003 ACTION : GUILTY  
REASON : GUILTY PLEA AS CHARG SENTENCE DATE : 01 20 2004  
JUDGE : JUDGE H PROSECUTOR : MCTIGUET ATTORNEY : BERGRINP  
SEL CASE NO : 94002993 FP IND : Y CASE STATUS : COMPLETE  
CASE INIT DATE : 04 07 1994 CRIME TYPE : NARCOTICS  
DEFN NO : 001 DEFENDANT NAME : LOYAL AL-QUAN  
DEFN STAT : ACTIVE/NON-FUGITIVE CHANGE DATE : 07 31 2003  
CHARG DOC : INDICTMENT INDIC/ACC NO : 94-10-03492-I  
DISP DATE : 03 22 1996 ACTION : GUILTY  
REASON : GUILTY PLEA AS CHARG SENTENCE DATE : 01 20 2004  
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FD-302 (Rev. 10-6-95)

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/24/2011

On February 2, 2011, RICHARD ROBERTS met with Special Agent (SA) SHAWN A. BROCKOS, IRS SA STEPHEN D. CLINE, and Assistant United States Attorneys (AUSA) JOHN GAY and JOSEPH MINISH, at the United States Attorneys Office (USAO), 970 Broad Street, Newark, NJ.

ROBERTS advised that he had met with ABDUL WILLIAMS several weeks ago regarding possible legal representation of WILLIAMS for WILLIAMS' pending Federal charges. ROBERTS advised that during the meeting with WILLIAMS, he mentioned to WILLIAMS that there is a reporter working on a story relating to PAUL BERGRIN. ROBERTS told WILLIAMS that after the Federal trial against BERGRIN is over, ROBERTS would like WILLIAMS to meet with this reporter to discuss WILLIAMS' interaction with BERGRIN.

ROBERTS advised that he has not mentioned the possible book or movie deal related to BERGRIN to any of ROBERTS' other clients. He advised that going forward, he will not mention anything about the topic with any of his clients.

Investigation on 02/02/2011 at Newark, NJ

File # 272A-NK-115490-3161 Date dictated 02/21/2011


by SA Shawn A. Brockos  
SA Stephen D. Cline/bah


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P4679

# awyer wants Bush on witness stand

By Michael Georgy, Matthew GreenBaghdad  
June 22, 2004

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A lawyer defending a United States soldier charged with abusing prisoners in Iraq said yesterday that he would seek to put US President George Bush and Secretary of Defence Donald Rumsfeld on the witness stand.

Civilian defence counsel Paul Bergrin said Mr Bush and Mr Rumsfeld had sidestepped the Geneva Convention in their war on terror.

He said his client, Sergeant Javal Davis, was instructed daily to soften up Iraqi prisoners to obtain intelligence.

"Mr Bush gave a speech declaring his war on terror and said the Geneva Convention no longer applied," Mr Bergrin told reporters after an impassioned address in the court room.

He accused Mr Rumsfeld and other top US officials of trying to redefine the definitions of abuse and torture.

Pretrial hearings are being held in Baghdad this week for Davis, Specialist Charles Graner and Staff Sergeant Ivan Frederick, following the publication in April of images of sexual and physical humiliation of Iraqi prisoners that sparked worldwide outrage.

The photographs of smirking American soldiers tormenting naked detainees prompted accusations that policies adopted in Mr Bush's war on terror had encouraged the cruelty.

"My client was not even instructed for five minutes on the meaning of the Geneva Convention, nor was he trained to work in a prison. He was instructed on a daily basis by military intelligence and civilian contractors to soften up and loosen up detainees so he could save American soldiers from getting slaughtered," Mr Bergrin said.

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During yesterday's hearing, the US military judge handling the case agreed to Mr Bergrin's request to question top American generals.

The judge, Colonel James Pohl, said Central Command chief General John Abizaid and Iraq commander Lieutenant-General Ricardo Sanchez could be interviewed.

The US Army, keen to demonstrate it is weeding out the culprits, has launched investigations into seven low-ranking suspects in relation to abuse at the Abu Ghraib prison, which US officials have blamed on a few wayward individuals.

The hearing, at a convention centre built by Saddam Hussein, aims to resolve outstanding legal issues ahead of any courts martial. The trio have yet to plead.

Graner, who faces the most serious accusations, could be sentenced to more than 24 years in jail if convicted.

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# Karpinski Interview Sparks New Call for Rumsfeld Testimony

By Leon Worden  
*Signal City Editor*

Tuesday, July 13, 2004

**\*MEDIA—MANDATORY CREDIT: The Signal newspaper of Santa Clarita, Calif.**

A former Abu Ghraib prison guard will use a recently published Signal interview in an effort to elicit Defense Secretary Donald Rumsfeld's testimony, his attorney said Monday.

Sgt. Javal Davis, 26, of New Jersey, has claimed since charges were filed against him in April that he was acting on orders to "soften up" detainees for interrogation sessions last fall.

Leaked portions of an Army report said four military intelligence officers and contractors, including John B. Israel of Canyon Country, were responsible for the prisoner abuse, but no explanation of the accusation has been released to the public.

On June 21, Davis' attorneys convinced a military judge to order testimony from Davis' superior officers, all the way up to four-star Gen. John Abizaid, commander of U.S. forces in the Middle East, to determine what, if any, instructions he received.

But the judge, Col. James Pohl, didn't see sufficient cause to order testimony from Rumsfeld or Stephen A. Cambone, Rumsfeld's undersecretary for intelligence.

Although allegations have swirled at lower echelons, no general officer had publicly intimated that Rumsfeld had anything to do with the approval of interrogation methods at the Iraqi prison.

That changed June 29, a week after Davis' hearing in Baghdad, when Brig. Gen. Janis Karpinski told The Signal that she saw memos where Rumsfeld "signed and agreed to" the use of particular interrogation tactics.

Karpinski, commander of detention operations throughout Iraq last fall, said she didn't see the approvals from Rumsfeld at the time, "but since all of this has come out, I've not only seen, but I've been asked about some of those documents."

The memos were "about using the same techniques that were successful in Guantanamo Bay, at Abu Ghraib," she said in the interview, published July 4.

On June 22, the Pentagon released memos showing Rumsfeld approved a list of interrogation tactics in late 2002 for use at Guantanamo Bay, including stripping, hooding



Sgt. Javal "Sean" Davis



and sensory deprivation.

The Pentagon flatly denied Karpinski's claim that Rumsfeld approved similar tactics for Iraq.

"The secretary of defense was not involved in the process in Iraq or the Central Command theater," a Pentagon spokesman said July 2. "He wasn't asked to approve anything."

\* But Paul Bergrin, Davis' civilian attorney, wants to hear it directly from the source.

Bergrin said Monday he is renewing his call "for demanding Secretary Rumsfeld to testify under oath, based on the direct link as stated by Brig. Gen. Karpinski" in the Signal interview.

Bergrin said he'll file a motion by Friday asking Pohl to reconsider.

A Pentagon official said Monday that the Defense Department "will cooperate with any due process," and said it doesn't get involved in the calling of witnesses.

Contesting or consenting to Bergrin's motion would be up to the Central Command prosecutor, whose spokeswoman in Baghdad could not be reached by press time.

Karpinski said Monday she believes it is important for all pertinent information to come out.

"Whatever it takes to ensure the soldiers are given the best opportunities to gather all necessary information and evidence, is what they need to allow," she told The Signal.

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June 21, 2004

# Abu Ghraib A 'Crime Scene'

## Judge In Abuse Case Says Prison Cannot Be Destroyed

By Jarrett Murphy

[Play CBS Video 2 Americans Killed In Iraq](#)

Elizabeth Palmer reports on a new round of lethal attacks Iraq, including a mortar barrage on a U.S. base in Baghdad that killed two Americans, one a soldier, the other a civilian contractor.



Inside Abu Ghraib (AP)

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Womack said there was "a good chance" he would seek to question Defense Secretary Donald H. Rumsfeld although he doubted he would try to depose Mr. Bush, although "certainly we will be considering it."

The judge, Col. James Pohl, issued the orders in pretrial hearings for Graner, Sgt. Javal S. Davis and Staff Sgt. Ivan L. "Chip" Frederick II. They are among seven soldiers accused of abusing prisoners. One of them, Spc. Jeremy C. Sivits, pleaded guilty last month and was sentenced to a year in prison.

Mr. Bush had offered to dismantle the facility to help remove the stain of torture and abuse from the new Iraq — an offer Iraqi officials had already dismissed. Saddam Hussein used Abu Ghraib to torture and murder his opponents.

(CBS/AP) A military judge Monday declared the notorious Abu Ghraib prison a crime scene that cannot be dismantled — as President Bush had offered — and denied defense motions to move the trial of soldiers accused of abusing prisoners there out of Iraq.

Lawyers for three soldiers accused of mistreating prisoners at Abu Ghraib disputed allegations that their clients were involved in illegal torture. The lawyers insisted their clients were following orders by senior officers and military intelligence.

"We can't have American soldiers in a war zone questioning the legality of orders," Guy Womack, the civilian lawyer for one of the defendants, Spc. Charles A. Graner Jr., told reporters.

Civilian lawyers for Davis and Graner won permission to seek testimony from the top U.S. general in Iraq, Lt. Gen. Ricardo Sanchez and from the chief of the U.S. Central Command, Gen. John Abizaid.

But the judge turned down a request to seek testimony from higher-ranking witnesses including Rumsfeld, at this time. Pohl left open the possibility of calling other senior figures if the defense could show their testimony was relevant — which Womack said the lawyers intended to do.

Defense lawyers for the soldiers have long maintained their clients were simply following orders and that instructions for harsh treatment to detainees came from the highest levels of the U.S. government.

Davis' civil lawyer, Paul Bergrin, told reporters during a recess that he thought the hearing had gone well. He said lower-echelon troops at the prison had worked under intense pressure from their commanders and the CIA and were using "Israeli methods" — including nudity — known to work against Arab prisoners.

Lawyers for Davis and Graner also sought unsuccessfully to have the trial moved to the United States or Germany. However, Pohl said he might reconsider his ruling if future events in Iraq precluded a fair trial.

The judge granted a request by Bergrin to declassify all parts of an Army investigation report conducted by Maj. Gen. Antonio Taguba.

Davis' military lawyer, Capt. Scott Dunn, failed to win an order to reopen the Article 32 investigation, which would have in effect dismissed the current charges. Dunn had argued that the military failed to make available a witness during the Article 32 proceedings, which ended with a recommendation for court martial.

Dunn said he wanted to question an inmate at Abu Ghraib.

"We couldn't go to him. They wouldn't bring him to us. They said it was impossible to obtain any telephone testimony. We object to not obtaining his testimony at all," Dunn said.

The Army has argued that a sharp rise in violence around the Abu Ghraib prison in April, including the siege of nearby Fallujah, made the area around the detention center too dangerous.

But Dunn said his client still had a right to confront his accusers.

Bergrin, Davis' civilian lawyer, said last week in the United States that he would argue for a dismissal of charges because of "improper command influence" extending all the way to Mr. Bush.

Bergrin alleged that senior U.S. military officers sanctioned harsh treatment of detainees at Abu Ghraib prison and said he would seek evidence that Davis was simply following orders.

A hearing for Frederick was postponed because his civilian lawyer did not show. No date for a trial has been set but Womack said he did not believe it would begin before October.

Frederick's civilian lawyer, Gary Myers, has said he will ask the judge for an investigator to assist in his client's defense. Myers also said he would request a new Article 32 hearing because his client was not allowed to gather evidence or interrogate witnesses at his first session.

The abuse scandal broke in April when **CBS News' 60 Minutes II** aired photographs of hooded and naked prisoners. Since then other photographs showing sexual humiliation have surfaced in a scandal that has sparked massive international criticism and undercut the moral authority of the U.S.-led mission in Iraq.

A hearing for another soldier charged in the scandal, Pfc. Lynndie England, 21, will be held separately on Tuesday at Fort Bragg, N.C., where she is now stationed.

The military has not decided whether to refer the cases against two others — Spc. Sabrina Harman and Pfc. Megan Ambuhl — to courts martial.

In related developments:

Time Magazine reports Senate Armed Services Committee investigators are looking into the possible sexual abuse of female prisoners.

The New York Times reports military and intelligence officials claim — contrary to Bush administration assertions — that none of the hundreds of detainees at Guantanamo Bay are senior operatives of al Qaeda, and only a few dozen are sworn al Qaeda members.

Britain's Ministry of Defense said Monday that it would investigate a newspaper's allegations that the bodies of Iraqis killed in a firefight with British soldiers were mutilated and showed signs of torture.



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## Interrogators hid identities

By Toni Looy, USA TODAY

Efforts to determine who orchestrated the abuse of Iraqi detainees at Abu Ghraib prison may be complicated by the ways in which many military intelligence officials, covert U.S. agents and civilian contractors obscured their identities.



Prisoners at Abu Ghraib appear to be surrounded by U.S. soldiers. According to testimony, some military personnel removed their name tags. NBC News via AP

Intelligence officers, agents and interrogators at the prison did not wear name tags or display insignia indicating rank, according to testimony at an April 7 hearing for Sgt. Javel Davis, one of seven military police officers accused of abuse. Dressed in desert camouflage uniforms or casual clothes, military and civilian intelligence operatives blended in with other soldiers, and some of them responded coyly when MPs asked their names, says Paul Bergin, a Newark, N.J., lawyer who represents Davis.

In an interview, Bergin quoted Davis, 26, as saying that when he asked some of the mysterious agents and interrogators for their names, they would say, "I'm Special Agent John Doe," or "I'm Special Agent in Charge James Bond." (Related graphic: [Abuse photos, more on Abu Ghraib](#))

Some of the MPs have been able to identify civilian and military interrogators who they say encouraged the abuse, and photos that MPs took of detainees being abused have allowed investigators to zero in on several other suspects. But as the defense strategies begin to take shape for Davis and other reservists charged with mistreatment of detainees, dereliction of duty and other offenses, Bergin says he is struggling to identify many of the shadowy covert operatives he claims directed the abuse from October to December.

Davis' defense also is hampered by the decisions of three of his supervisors to invoke their right to remain silent under the military's version of the Fifth Amendment.

The supervisors — including Capt. Donald Reese, commander of the 372nd Military Police Company — refused to testify at Davis' hearing to avoid potentially incriminating themselves.

**Some MPs face courts-martial** Bergin says he is concerned about Davis' ability to get a fair trial if the defense can't call such key witnesses because Davis doesn't know their names or they refuse to testify. Like attorneys for other accused MPs, Bergin plans to argue that military intelligence officials, CIA officers and civilian interrogators manipulated Davis and other MPs into "softening up" prisoners for interrogations.

But showing that the responsibility for the abuse goes up the chain of command could be difficult if defense attorneys cannot determine the identities of intelligence officers and interrogators who worked with the MPs.

**Q: What is the status of the cases against the seven military police officers charged?**

**A:** Military commanders decided to convene courts-martial against four of the MPs who have been charged with mistreatment of detainees, dereliction of duties and other offenses.

Spec. Jeremy Smith, one of the four, pleaded guilty. He was sentenced to one year in prison and received a bad-conduct discharge. His sentence is not final; the officer who initiated the charges could trim the sentence as part of the plea bargain. Smith struck with the military. Smith was tried in a "special" court-martial, in which one year was the maximum sentence. He is cooperating with investigators.

Three others — Sgt. Javel Davis, 26; Staff Sgt. Ivan Frederick, 37; and Spec. Charles Griner, 35 — face "general" courts-martial. Such proceedings are the military's version of felony trials; convictions could bring stiffer penalties than what Smith received. They will be arraigned June 21 at a hearing in Baghdad before Col. James Pohl, a military judge based in Germany.

**Q: What is the status of the remaining three MPs?**

**A:** Decisions by commanders are pending on whether Pfc. Lyndie England, 21; Spec. Sabrina Harman, 28; and Spec. Megan Ambush, 20, will face general courts-martial.

**Q: Lawyers often talk about "discovery." What is it?**

**A:** Discovery is the process by which prosecutors and defense attorneys provide each other with evidence that each side needs to prove its case. As is the case in civilian courts, prosecutors in military courts must turn over all statements, documents, reports and scientific tests to the defense. Defense attorneys are obligated to share their witnesses' names before trial and to notify prosecutors of any alibi or insanity claims. A judge resolves disputes over what is relevant.

**Q: What types of motions have been filed so far by the attorneys for the MPs?**

**A:** Some attorneys asked for a change of venue for the trial of their clients. But those requests

"This is a major problem," Bergin says. "They refused to provide their identities."

**Prison logs haphazard**

It is common for intelligence officers to shield their identities from prisoners, military analysts say. However, the prison's records should contain such information.

But sign-in logs were kept haphazardly at Abu Ghraib. Without such documentation or photos, defense attorneys and military investigators could have trouble finding evidence — besides someone's memory — to link individual intelligence officers and interrogators to specific acts of abuse.

In an April 15 report recommending that Davis face a court-martial, military investigating officer Maj. John Coughlin said that several civilian contract workers "present whereabouts (are) unknown." He also said that "James Bond" appeared on a prison log and is an "agent not known, and believed to be a fictitious name."

Meanwhile, military prosecutors appear to be developing a theory of the case that dovetails with the stance taken by top officials at the Pentagon: that the abuse was not systemic and was the work of a small group of low-level soldiers. The seven charged so far are from the 372nd MP Company, based near Cumberland, Md.

The battle lines between the soldiers and their prosecutors are being drawn over whether defense attorneys should have access to records that they believe could show that superior officers knew about the abuses at Abu Ghraib and looked the other way.

Among the documents that Davis' attorneys want: records of activities within the prison last year as it prepared for a visit by Lt. Gen. Ricardo Sanchez, commander of military forces in Iraq, and reports produced after he left.

In their first skirmish with prosecutors, Davis' attorneys tried to call more than 30 witnesses to testify at an Article 32 hearing, which is the military's version of a civilian grand jury proceeding and a preliminary hearing. Four testified.

Several of the witnesses sought by the defense were from the 372nd MP Company and the 205th Military Intelligence Brigade, based in Germany. They had been redeployed, and the military refused to bring them back to Baghdad to testify at Davis' hearing.

But witnesses who testified filled in more detail about several incidents of abuse that have been frozen in time by photographs that captured soldiers forcing prisoners into sexually provocative poses, supposedly to try to extract information about Iraqi insurgents.

According to a military summary of Davis' hearing obtained by USA TODAY, witnesses also revealed that military intelligence and "OGA" operatives — people from "other government agencies" who the MPs believed to be CIA officers — argued for at least two days over who should dispose of the body of a badly beaten prisoner who died during questioning in a shower room. While the unidentified intelligence officers bickered, the body was kept packed in ice.



rarely are granted in the military, which pride itself on being able to convene courts-martial anywhere in the world — on a ship at sea or in a war zone.

**Q: Do the discovery requests offer hints about the defense strategies?**

**A:** Yes, in Davis' case, his attorneys are zeroing in on the role of superior officers. They asked the military to turn over prisoner logs, incident reports, training records and orders regarding interrogation tactics used on various detainees. The military judge will mediate any disputes that arise between prosecutors and defense attorneys throughout the evidence-sharing process.

By Teri Loev

The 372nd initially was assigned to provide security for military convoys. By October, the unit's mission changed dramatically when it was assigned to guard captives at Abu Ghraib.

In mid-January, one of the unit's own, Spc. Joseph Darby, 24, went to commanders with a CD-ROM of graphic pictures of Iraqi prisoners being abused.

An investigation began, and Maj. Gen. Antonio Taguba documented "numerous incidents of sadistic, blatant and wanton criminal abuses" of prisoners by MPs. The Pentagon also began a separate criminal investigation into alleged wrongdoing by military intelligence officers.

(The CIA also has asked the Justice Department to examine at least two deaths of Iraqi prisoners. And Justice officials, at the Pentagon's request, are probing alleged abuse by a civilian contractor.)

In the wake of those probes, Spc. Jeremy Shvits, one of the seven accused reservists from the 372nd, pleaded guilty and agreed to testify against his friends.

Soldiers testified at Davis' hearing that the 372nd received two days of on-the-job training from the 72nd MP Company, which was leaving Abu Ghraib.

There were no "SOPs" — standard operating procedures — for handling detainees, the soldiers testified. There was no training on how to deal with the Arab culture. And there were no written instructions provided by commanders on the treatment of prisoners of war under the internationally accepted Geneva Conventions.

Very little, it turns out, was put in writing at the prison, Taguba concluded. When it was, the information often was wrong or incomplete, according to testimony.

Unprofessional behavior was the norm at the prison, Taguba found. Soldiers didn't salute superiors. They wore civilian clothes at times, and they wrote personal messages on their helmets and caps.

#### Tensions rise

At first, the Maryland reserve unit guarded fewer than 200 prisoners. But the number soared to up to 1,600 as the Iraqi insurgency movement stepped up deadly roadside bombings.

Military intelligence officials were placed in charge of the MPs at Abu Ghraib on Oct. 12, not long after the Pentagon sent Maj. Gen. Geoffrey Miller, commander of the military's prison at Guantanamo Bay, Cuba, to Iraq to assess the quality of intelligence-gathering efforts at the U.S.-controlled prisons.

Other witnesses testified that as the abuses escalated in an Abu Ghraib cellblock known as Tier 1, the MPs' supervisors — commissioned and non-commissioned officers — avoided the area, especially during the night shift. If supervisors showed up at all, according to testimony, it was only for a few minutes — sometimes seconds — at a time.

Against this backdrop, families of the accused soldiers say they are increasingly concerned that many superior officers will escape courts-martial and that the accused MPs will take the fall for a scandal that has damaged the USA's reputation as a proponent and protector of human rights.

"You have officers who were very close to these enlisted persons," Bergtini says. "They essentially slept in the same area. You can't tell me they didn't know what was going on."

#### 'Sadistic, blatant' abuses

When the 372nd MP Company arrived in Iraq last spring, it was a close-knit group of men and women, most of them from small towns near Creasstown, Md.

Two MPs with experience as civilian corrections officers — Staff Sgt. Ivan Frederick, 37, of Buckingham, Va., and Spc. Charles Graner, 35, of Urontown, Pa. — took the lead in preparing prisoners for interrogation, according to testimony at Davis' hearing.

By Nov. 8, tensions inside and outside Abu Ghraib had escalated. That week 27 U.S. troops were killed in Iraq. The abuse on cellblocks 1A and 1B entered a new phase of cruelty amid pressure to learn more about the insurgency.

It began when seven prisoners suspected of starting a riot at another prison, Camp Ganci, were brought to Abu Ghraib, according to testimony at Davis' hearing.

The prisoners' hands were bound by plastic cuffs, and sandbags were put over their heads. "It is a long walk from in-processing to Tier 1," Spc. Matthew Wisdom testified. "The escorts were leading them into walls and cell bars as they walked with them."

At first, the prisoners, who were still clothed, were placed in a "dog pile" on the floor. Davis allegedly jumped on the prisoners and stomped on their hands and feet. Unlike Graner and Frederick, Davis is not charged with sexually humiliating prisoners.

By the time the night shift ended the next morning, the seven suspected riot leaders had been stripped, arranged in a human pyramid and ordered to masturbate.

One prisoner was forced to stand on a box of military meals, with a wire attached to his penis, and threatened with electrocution if he lost his balance. Photos taken that night by the soldiers became worldwide symbols of the abuse.

According to testimony at Davis' hearing, a platoon sergeant, Shannon Snider, was nearby when Davis jumped on the prisoners. But Snider told investigators that Snider stuck around for "two minutes or less" after admonishing Davis and that Snider missed the worst abuse. Taguba recommended that Snider be relieved of duty and reprimanded for not reporting Davis.

Another supervisor, Staff Sgt. Robert Elliot, brought the seven suspected leaders of the Ganci riot to Abu Ghraib. But Elliot, a squad leader, left the tier after about "20 seconds or so," Snider said.

Snider and Elliot invoked their rights against self-incrimination and refused to testify at Davis' hearing. Spc. Jason Kenner, another MP, testified that he rarely saw superior officers in the prison, checking up on underlings. "If they didn't walk the tier, they wouldn't see the nakedness," he said.

Capt. Scott Dunn, Davis' military lawyer in Baghdad, is asking prosecutors to turn over evidence that documents what superior officers and enlisted supervisors did or didn't do at Abu Ghraib.

Dunn wants all prisoner logs and written authorizations from up the chain of command for "unusual or different treatment of detainees." He also is demanding that the military provide names of all military intelligence officials, CIA officers, FBI agents and civilian contract interrogators who questioned prisoners at Abu Ghraib.

Capt. John McCabe, the military prosecutor, has refused. He said the requests for records on superior officers' activities and Sanchez's visit are "overly vague and non-specific." A military judge will mediate the dispute before trial, just as a judge would in a civilian court.

In court papers, McCabe also said the defense knows as much as he does about the identities of government agents and contract workers who were at the prison.

#### The pursuit of higher-ups

To show that Davis was doing what he was told, his lawyers face the daunting task of identifying the specific order and the person who gave it, says retired Marine lieutenant colonel Gary Solis, a former military prosecutor who teaches the laws of war at Georgetown University in Washington.

Then, Solis says, they must show that the order was "lawful." Under military law, following an order cannot

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be used as a defense to a charge of criminal wrongdoing if it was unlawful.

But Solis says the defense is on the right track in pursuing superior officers and other supervisors who failed to spot the abuse and stop it.

In his report, Taguba recommended reprimands and reassignments for several higher-ranking MP and military intelligence personnel, including Brig. Gen. Janis Karpinski, commander of the 800th MP Brigade, who was in charge of the prison.

Taguba also found that two military intelligence officials and two civilian contract workers were "either directly or indirectly responsible for abuses at Abu Ghraib." They are: Col. Thomas Pappas, commander of the 205th MI Brigade; Lt. Col. Steve Jordan, former director of the military's Joint Interrogation and Debriefing Center in Iraq; Steven Stephanowicz, a civilian interrogator employed by CACI International Inc.; and John Israel, a civilian interpreter employed by CACI.

Stephanowicz was accused in Taguba's report of instructing MPs in "setting conditions" for interrogations, knowing that his suggestions "equated to physical abuse." Stephanowicz's attorney, Henry Hockeimer of Philadelphia, says Stephanowicz no longer is in Iraq but is still employed by CACI.

Taguba recommended that Pappas' failures be examined in the Pentagon's military intelligence probe and that Jordan be relieved of duty for lying to investigators.

Solis says the military must do more. "This crap about career-ending reprimands doesn't get it," he says. "Officers have to go to court-martial." If they aren't charged, Solis says, "that adds a new layer of injustice to the wrongs that have been committed."

Bill Lawson, Frederick's uncle, says that "my nephew will take his licks, but they need to prosecute everybody else" involved in the abuse scandal.

At Davis' hearing, two prosecution witnesses and four soldiers called by the defense sounded a similar theme: The MPs wanted to please the military intelligence officers and civilian interrogators and did not question them.

Sgt. Hydrue Joyner of the 372nd said that like the others, he also did not challenge Graner and Frederick, the MPs with civilian prison guard experience.

"I am not a corrections officer," Joyner testified. "I'm just an MP, on the road fighting the forces of evil."

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## ABU GHRAIB: Top Commanders Face Questioning on Prison Abuse

By EDWARD WONG

The New York Times

June 22, 2004

BAGHDAD, Iraq, June 21 — A military judge ruled Monday that the top American commanders currently involved in the Iraq war will have to submit to questioning by lawyers for two servicemen charged in the Abu Ghraib prison abuse case. The defense lawyers said they would show that the most senior military and civilian officials approved interrogation methods that violated the Geneva Conventions.

Among those who could be questioned are Gen. John P. Abizaid, commander of the United States Central Command, and Lt. Gen. Ricardo S. Sanchez, the senior American commander in Iraq; and Lt. Gen. Thomas F. Metz, who is overseeing daily military operations.

The judge, Col. James Pohl, also called Abu Ghraib a "crime scene" and ordered the government to "take all steps possible" to preserve the prison, 15 miles west of Baghdad. That command, issued during a pretrial hearing, seemed to override an earlier pledge by President Bush to raze the prison. A defense lawyer, Paul Bergrin, said members of the court should "smell the fecal matter and the urine" that the prison guards lived with every day.

As the court proceedings got under way, Islamic guerrillas threatened to behead a South Korean civilian hostage by sundown, unless the South Korean government canceled plans to send 3,000 troops to Iraq. The deadline passed without any news on the hostage's fate. The South Korean government said Monday that it would not change its plans to send the troops.

Four marines were killed by insurgents on Monday in the western town of Ramadi, the American military said. The men mysteriously lacked the helmets and body armor that soldiers routinely wear. Ramadi is an area of increasing concern to military officials.

Iran on Monday seized three small British Royal Navy boats being delivered to the Iraqi Riverine Patrol Service, saying they had strayed into Iranian waters. [Page A7.]

Judge Pohl's order to preserve Abu Ghraib came during pretrial hearings for Specialist Charles A. Graner Jr., whom investigators call a ringleader of the seven military police officers accused of torturing prisoners and photographing them, and Sgt. Javal S. Davis. A third scheduled hearing, for Staff Sgt. Ivan L. Frederick II, did not go forward because the civilian lawyer for Sergeant Frederick failed to show up, citing the extreme danger here.

The hearings gave the strongest indication to date that defense lawyers plan to pin blame for the abuses on the most senior officials in the White House and Pentagon, as well as the top generals in Iraq. They suggested in arguments on Monday that the officials had created an atmosphere that encouraged the flouting of the conventions of war during interrogations.

"I feel that all seven M.P.'s are being made scapegoats," Guy Womack, the civilian lawyer for Specialist



Graner, told reporters after his client's hearing. "No one can suggest with a straight face that these M.P.'s were acting alone."

The three defendants, dressed in their tan desert uniforms, sat quietly the entire day in a makeshift courtroom inside the fortified American headquarters in central Baghdad. Their lawyers did the talking. Mr. Graner, a former corrections officer, stared at the black-robed judge from behind silver-rimmed glasses.

Among other things, Mr. Graner is accused of ordering prisoners to masturbate in front of each other and of punching an Iraqi so hard in the head that he lost consciousness. If found guilty, Mr. Graner faces a maximum sentence of up to 24 and a half years in prison and a dishonorable discharge.

Last month, Specialist Jeremy C. Sivits pleaded guilty and was sentenced to a year in prison.

The Army on Monday postponed a hearing for Pfc. Lynndie R. England, who was photographed holding a naked Iraqi inmate on a leash, until the week of July 12. The hearing had been scheduled for Tuesday.

Mr. Womack said the seven military police guards were following instructions from the military intelligence officers who ran the prison. But he added that the ultimate responsibility lay with Mr. Bush and Defense Secretary Donald H. Rumsfeld, both of whom indicated after the Sept. 11 attacks that the Geneva Conventions regarding the treatment of prisoners no longer applied.

"Because of the war on terrorism, the highest levels of government authorized an unusual proceeding," Mr. Womack said. In this atmosphere, he added, officials "lessened the normal restraints on interrogations."

American commanders have sought to portray the seven accused soldiers as a rogue outfit acting on their own.

Mr. Womack said he had evidence that a senior male Army officer was present during several of the interrogation sessions captured in the photographs whose release started the prison scandal in April. The officer tried to hide the interrogations from outsiders, Mr. Womack said. He declined to identify the officer.

Mr. Womack also asked the judge to order the government to release several memos written at the top levels of the Bush administration that showed officials trying to stretch the allowable limits for prisoner interrogations. Recent news reports have said that the memos — including one by the White House counsel, Alberto R. Gonzales, that called the Geneva Conventions "quaint" — were written to advise Mr. Bush that international laws concerning torture did not apply to "unlawful combatants" captured during the "war on terror."

Judge Pohl denied the motion, saying that discussions taking place in Washington did not appear relevant to the immediate cases.

The judge also denied a similar request by Mr. Bergrin, a civilian lawyer for Sergeant Davis, who said L. Paul Bremer III, the top American administrator in Iraq, had written a memo asking for a definition of interrogation methods for prisoners. Mr. Rumsfeld and his top aide for intelligence policy, Stephen A. Cambone, also wrote memos asking for such clarifications, Mr. Bergrin said.

But Judge Pohl did say the American government had to make available for interviews all the top commanders currently involved in the Iraq war. In addition to General Abizaid, General Sanchez and

General Metz, those could include Maj. Gen. Geoffrey D. Miller, who controls American-run prisons in Iraq; and Maj. Gen. Barbara Fast, in charge of intelligence operations here.

Depending on what emerges in the interviews, the lawyers could decide to call the commanders to the witness stand or ask them to give a deposition.

Mr. Womack also said there was "a good chance" that he would try to question Mr. Rumsfeld.

Mr. Bergrin's plans were even more ambitious. "We will ask to have the president of the United States as a witness," he said. "Whether that's granted, that's a different story."

The two lawyers also asked the judge to move the venue of the courts-martial out of Iraq, arguing that the dangers here will dissuade civilian witnesses from attending. While soldiers who are witnesses can be ordered to travel anywhere, civilians can be compelled to attend trials only in the United States.

Judge Pohl denied the motions on the grounds they were "speculative," but said he would revisit the situation if hostilities here changed.

The prosecutor, Capt. Christopher Graveline, agreed to some demands from the defense. The government will turn over copies of background files on the Iraqi prisoners after the files are cleared of any classified material, he said. It will also declassify all parts of the Army report written by Maj. Gen. Antonio M. Taguba, who recently concluded a three-month investigation of interrogation practices at Abu Ghraib.

Judge Pohl ordered lawyers for both sides to file all motions by July 31. He also rescheduled Sergeant Frederick's hearing for July 23, despite harshly denouncing his civilian lawyer for failing to appear Monday.

Mr. Womack said the trials were not likely to start until October at the earliest, after both sides have interviewed possible witnesses.

# TAIPEI TIMES

## Crime scene declared at Abu Ghraib

**STAYING PUT :** A military judge ordered the jail not be destroyed nor the trial moved, but he also denied a request that Donald Rumsfeld take the stand

AP AND REUTERS , BAGHDAD AND LONDON

Tue, Jun 22, 2004 - Page 1

A military judge yesterday declared the notorious Abu Ghraib prison near Baghdad a crime scene that cannot be dismantled -- as US President George W. Bush had offered -- and denied a defense motion to move the trial of a soldier accused of abusing prisoners there out of Iraq.

The judge, Colonel James Pohl, issued the orders at pretrial hearings for Sergeant Javal Davis, one of the seven soldiers who had been accused of mistreating Iraqi detainees. One of the seven, Specialist Jeremy Sivits, pleaded guilty last month and was sentenced to one year in prison.

Pohl was also to hear motions yesterday in the cases against two other defendants, Specialist Charles Graner, Jr., and Staff Sergeant Ivan Frederick II.

In the first hearing, Pohl turned down motions submitted by Davis' lawyers to move the trial from Iraq and to order a new Article 32 hearing, the military equivalent of a grand jury proceeding.

Pohl declared the prison a crime scene and said it could not be destroyed until the case was adjudicated. Bush had offered to dismantle the facility to help remove the stain of torture and abuse from the new Iraq -- an offer Iraqi officials had already dismissed.

Former Iraqi president Saddam Hussein used Abu Ghraib to torture and murder his opponents.

Davis' civilian lawyer, Paul Bergrin, won permission to seek testimony from the top US general in Iraq, Lieutenant General Ricardo Sanchez, and from the chief of the US Central Command, General John Abizaid.

But the judge turned down a request to seek testimony from higher-ranking witnesses, including US Defense Secretary Donald Rumsfeld.

But Pohl left open the possibility of calling other senior figures if the defense could show their



testimony was relevant.

Defense lawyers for the soldiers have long maintained their clients were simply following orders and that instructions for harsh treatment of detainees came from the highest levels of the US government.

Bergrin told reporters during a recess that he thought the hearing had gone well. He said that lower-echelon troops at the prison had worked under intense pressure from their commanders and the CIA and were using "Israeli methods" -- including nudity -- known to work against Arab prisoners.

The hearings took place in the Baghdad Convention Center in the heavily guarded Green Zone, the nerve center of the US-run occupation of Iraq. US authorities hope the proceedings will convince Iraqis that the US does not tolerate abuses of civil liberties.

Davis' military lawyer, Captain Scott Dunn, failed to win an order to reopen the Article 32 investigation, which would have dismissed the current charges. Dunn had argued that the military failed to make available a witness during the Article 32 proceedings, which ended with a recommendation for court martial.

However, the judge granted a request by Bergrin to declassify all parts of an Army investigation report conducted by Major General Antonio Taguba.

As the session began, Dunn, the military lawyer, said the defense understood that security conditions in Iraq made it difficult to provide access to some witnesses. He wanted to question an inmate at Abu Ghraib.

Dunn said his client still had a right to confront his accusers.

"We couldn't go to him. They wouldn't bring him to us. They said it was impossible to obtain any telephone testimony. We object to not obtaining his testimony at all," Dunn said.

Meanwhile, four US soldiers were found dead in a building site in the town of Ramadi, west of Baghdad, apparently killed in an attack by insurgents, witnesses said.

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## Bush wanted on stand in abuse trial

**A lawyer defending a US soldier charged with abusing prisoners in Iraq has said he would seek to put US President George Bush and Secretary of Defence Donald Rumsfeld on the witness stand.**

Last Modified: 21 Jun 2004 09:38 GMT

**Seven US soldiers are being investigated for abuse** (Courtesy : Washington Post)

A lawyer defending a US soldier charged with abusing prisoners in Iraq has said he would seek to put US President George Bush and Secretary of Defence Donald Rumsfeld on the witness stand.

Bush and Rumsfeld sidestepped the Geneva Convention in their "war on terror", civilian defence counsel Paul Bergrin said on Monday.

He was speaking to reporters after an impassioned address in the courtroom on the first day of initial hearings being held in Baghdad this week for three US soldiers facing abuse charges.

Bergrin has however won permission to seek testimony from the top US general in Iraq, Lieutenant General Ricardo Sanchez and from the chief of the US Central Command, General John Abizaid.

Bergrin said his client, Sergeant Javal Davis, was instructed on a daily basis to soften up Iraqi prisoners to obtain intelligence.

"Bush gave a speech declaring his war on terror and said the Geneva Convention no longer applied," Bergrin told reporters after an impassioned address in the courtroom.

He accused Rumsfeld and other top US officials of trying to redefine the definitions of abuse and torture in a campaign aimed at influencing lawyers at the Department of Justice.

Pretrial hearings are being held in Baghdad this week for Davis, Specialist Charles Graner and Staff Sergeant Ivan Frederick, reviving notorious images of sexual and physical humiliation that sparked worldwide outrage.

### Ghraib - a crime scene

The presiding judge Colonel James Pohl, has declared the prison a crime scene and said it could not be destroyed until the case is adjudicated.

The photographs of smirking American soldiers tormenting naked detainees rocked the US military when they emerged in April, prompting claims that policies adopted in President George Bush's "war on terror" had encouraged the cruelty.

The US army has launched investigations into seven low-ranking suspects in relation to abuse at Abu Ghraib.

Two of the three suspects to appear on Monday face charges over abuses depicted in some of the most widely circulated images - including a human



pyramid of naked detainees, a woman soldier holding a detainee on a leash and a hooded man standing on a box trailing wires from his wrists.

The Abu Ghraib prison in Baghdad was infamous under ousted dictator Saddam Hussein as a place where his opponents were tortured, lending extra symbolism to images of abuse by US troops.

The start date for the three soldiers' court martial has not been set, but may be announced by Pohl, after the hearing which began on Monday, and may last several days. All three suspects have yet to plead.

The hearing in the US-led administration's Green Zone headquarters may deal with little more than routine procedural matters, but might confront more significant issues such as any possible disputes over evidence, a US army officer said.

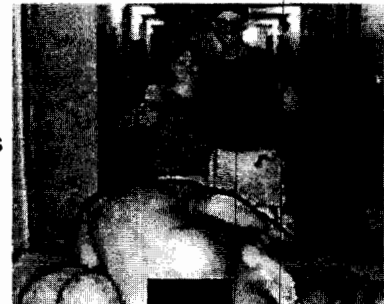
The US military has conducted at least 80 courts martial in Iraq since last year's invasion, on charges ranging from theft or assault to involuntary manslaughter, the officer said.

### **Horrific photos**

Graner, who faces the most serious accusations, could be sentenced to up to 24 years and six months in jail if convicted of various charges.

He is accused of photographing a detainee being dragged by Private First Class Lynndie England on a leash, and posing for a picture by a pile of naked detainees in November, the date when most of the alleged abuses took place.

Graner is also charged with forcing prisoners to strip naked and masturbate in front of each other, and forcing one detainee to simulate oral sex on another, before taking a picture.



**Graner faces most serious charges, including the taking of this picture**

Frederick faces charges including participating in an incident where a prisoner was hooded and made to stand on a box with wires attached to him, and told he would be electrocuted if he fell off - an image splashed on front pages worldwide.

Davis faces charges including jumping on a pile of detainees and stamping on prisoners' hands.

One US soldier, Specialist Jeremy Sivits, was sentenced to a year in prison in May after pleading guilty at a special court martial to abuse charges. England is expected to learn this month if she is to be court martialled.

Source: Agencies





## Intel Officers May Testify in Abu Ghraib Trial

Tuesday , August 24, 2004

Associated Press

MANNHEIM, Germany —

The U.S. military judge hearing the Abu Ghraib abuse said Tuesday that prosecutors have until Sept. 17 to file charges against top military intelligence commanders or he will consider forcing them to testify under a grant of immunity.

But Col. James Pohl rejected a request from the attorney for **Spc. Javal Davis** ([search](#)) to make Secretary of Defense **Donald H. Rumsfeld** ([search](#)) submit to an interview about treatment of prisoners. He said the request could be raised again if the defense made a stronger argument tying purported Rumsfeld comments on detainees to what happened at **Abu Ghraib** ([search](#)).

"There's got to be some links in that chain," Pohl said.

The lawyer for another of the seven Army reservists charged in the scandal said prosecutors had agreed to drop some charges against his client in return for a guilty plea on the others at a sentencing hearing Oct. 20 in Baghdad. Prosecutors were not immediately available to comment.

**Staff Sgt. Ivan L. "Chip" Frederick II** ([search](#)) issued a statement Monday saying he would plead guilty to some charges. He is charged with maltreating detainees, conspiracy to maltreat detainees, dereliction of duty and wrongfully committing an indecent act.

His lawyer, Gary Myers, would not specify which charges Frederick would plead guilty to, and he refused to discuss whether his client would spend time in prison. The only other soldier to plead guilty, **Spc. Jeremy C. Sivits** ([search](#)), was sentenced to a year in jail.

A prosecutor, Maj. Michael Holly, said two U.S. military intelligence soldiers would be charged soon with abuses at Abu Ghraib. That would be the first charges against members of a military intelligence unit.

Speaking in court, Holly gave no details on the charges but said they would be filed against **Spc. Armin J. Cruz** and **Spc. Roman Krol** of the 325th Military Intelligence Battalion.

Davis previously named Cruz and Krol as the men who directed incidents of abuse and humiliation at Abu Ghraib. He said Cruz and Krol forced prisoners to crawl across the prison floor while demanding that they confess to raping a boy in prison. Davis said Cruz and Krol also handcuffed the naked men together face-to-face, forcing them to embrace.

Davis and the other military police reservists accused of abusing prisoners at the Baghdad prison have insisted they were following orders from military intelligence officers and civilian contractors.

Davis' civilian attorney, Paul Bergrin, asked the court to grant immunity from prosecution to **Col. Thomas Pappas** ([search](#)), the military intelligence commander at Abu Ghraib, and several other officers who may have known of the abuse but have refused to talk to investigators citing their right to avoid self-incrimination.

Such testimony could broaden the case beyond the six low-ranking Army reservists and raise the possibility that intelligence officers and others within the military encouraged the abuse to gain information about Iraqi insurgents battling U.S. troops.

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A grant of immunity could remove a key obstacle to their testimony. But Holly argued the officers themselves could face charges after the military completes a report into the role of military intelligence at detention facilities, which is expected to be presented to Congress early next month.

The judge gave the prosecution until Sept. 17 to convince him they should not be compelled to testify. Pohl made it clear, however, that if the government did not intend to file major charges against the officers by then, he would probably grant them immunity to testify.

"This would appear to be critical information to the defendants ... that this was condoned by the higher-ups," Pohl said.

However, Pohl said Davis' defense had not presented enough evidence to establish that comments allegedly made by Rumsfeld authorizing rough treatment of detainees at Guantanamo Bay had resulted in abuse at Abu Ghraib.

"I'm not saying there is not a link; I'm saying at this point you haven't shown me sufficient evidence," Pohl said.

A Pentagon report scheduled to be released Tuesday puts some of the blame for the scandal on Rumsfeld and other senior civilian and military officials, a source in Washington said. The source said they are faulted for allowing detention centers to operate under confusing policies on permitted interrogation techniques.

The report also concludes that commanders failed to address overcrowding at the prisons and handed off oversight of prisoners to subordinates, The New York Times said.

During his court appearance, Davis admitted that he initially lied to a military investigator by saying he did not take part in maltreatment.

Davis said he was exhausted after a grueling day manning a watchtower and made the false statement because he wanted the Jan. 14 interview to end. He said he went back to investigators the next day and confessed.

"I was dishonest about the things I was accused of," Davis told the hearing. "I wanted to maintain my integrity."

His lawyer pounced on testimony by the military investigating agent, Manora Iem, that he was also tired when he interviewed Davis.

"You knew that you were tired that day and yet you put nothing in the report," defense lawyer Paul Bergrin said.

Iem said he took no notes during the interview but drafted a five-page report of Davis' statements that the soldier signed. Iem said Davis told him "that he had seen things that were immoral" and described several of them.

Davis, who along with the other accused reservists, was in the 372nd Military Police Company, based in Cresaptown, Md., is among soldiers accused of piling naked Iraqi prisoners into a human pyramid and photographing themselves standing by, grinning and giving the thumbs-up sign. Davis, Frederick and Spc. Charles Graner ([search](#)) also allegedly jumped on the pile of prisoners.

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**COURT-MARTIAL**

## Soldier who awaits court-martial aiding in probe

May 18, 2004

A U.S. soldier awaiting court-martial in connection with the Abu Ghraib prisoner-abuse scandal is cooperating with investigators and described harsh actions by members of his unit, according to a statement obtained by CNN.

Spc. Jeremy Sivits faces a special court-martial -- the military equivalent of a civilian misdemeanor court -- on Wednesday.

In his statement, Sivits told investigators that Spc. Charles Graner forced the prisoners to disrobe, mocked them and "punched [a] detainee with a closed fist so hard in the temple that it knocked the detainee unconscious."

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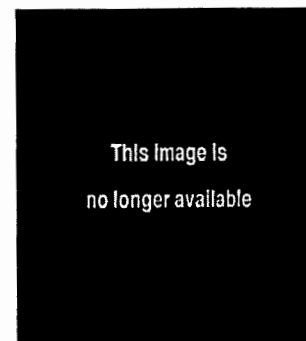
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Spc. Charles Graner says he was following orders from civilians and military intelligence.

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"He was joking, laughing," Sivits said, according to the statement. "Like he was enjoying it."

Graner will be arraigned in a court-martial proceeding Thursday, military spokesman Brig. Gen. Mark Kimmitt said.

Graner was charged with conspiracy to maltreat prisoners; dereliction of duty for allowing prisoners to be maltreated; cruelty and maltreatment; maltreatment of prisoners; assault of prisoners; committing indecent acts; adultery; and obstruction of justice, Kimmitt told reporters in Baghdad.

Staff Sgt. Ivan "Chip" Frederick and Sgt. Javal Davis face arraignment in general courts-martial -- military courts that handle felony-level offenses -- on Thursday.

The four men are members of the 372nd Military Police Company. Three other soldiers have also been charged in connection with prisoner abuses.

Houston, Texas, attorney Guy Womack, representing Graner, told CNN that "anyone would try to deflect blame rather than accept responsibility for what he's doing," referring to Sivits' allegations about his client.

Graner contends that he was ordered by civilian and military intelligence to participate in the activities in question, and that one of the photographs that came to light this month is proof.

The picture, Womack said, is taken from above, with the photographer looking down on a pile of at least three or four naked Iraqi prisoners who are shackled together in contorted positions.

Standing beside the pile is Graner, with his hands on his hips, and a man Womack said his client identified as a civilian contract employee dressed in military fatigues. Womack said partial views of four military intelligence agents can also be seen in the photograph.



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"The photo we presented is proof of what we've been saying because it shows military intelligence and civilian intelligence where this activity is taking place," Womack said.

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#### COURT-MARTIAL

## Soldier who awaits court-martial aiding in probe

May 18, 2004

(Page 2 of 2)

Paul Bergrin, attorney for Davis, said his client was ordered to do what he did, but denied Davis "committed any criminal acts."

"He went to his chain of command. He questioned some of the interrogation techniques, and he was told as a soldier he was to follow orders and that intelligence wants additional information," Bergrin said on CNN's "American Morning."

Davis' superiors, Bergrin said, told him it was important to "break the prisoners" in order to "save the lives of innocent soldiers on the outside and civilians and individuals like Nicholas Berg."

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Berg was the Pennsylvania businessman whose beheading was posted on a Web page this week. The Abu Ghraib abuses depicted in the photographs took place last fall.

His client, Bergrin said, committed "certain acts but didn't commit any criminal acts."

Bergrin denied statements attributed to Sivits accusing Davis of stomping on the fingers of prisoners and jumping on top of a pile of naked prisoners.

Davis' father, Jonathan Davis, described his son as "a good soldier ... directed to do a job, and that's exactly what he did."

"I think it's just a ploy or whatever have you to put it all on the smaller guys," the elder Davis said. "As I play chess, they are just pawns. There are bigger people behind this."

Bergrin described the conditions under which military police worked at Abu Ghraib as "the most deplorable, inhuman conditions any soldier had to experience" with 14-to-18 hour days, seven days a week.

"He's been there for 13 months, and he's kept this schedule up," Bergrin said. "There's no chaplains to talk to, nobody to go to for guidance, leadership."

Bergrin also described the detainees as "the most horrendous, dangerous, despicable human beings."

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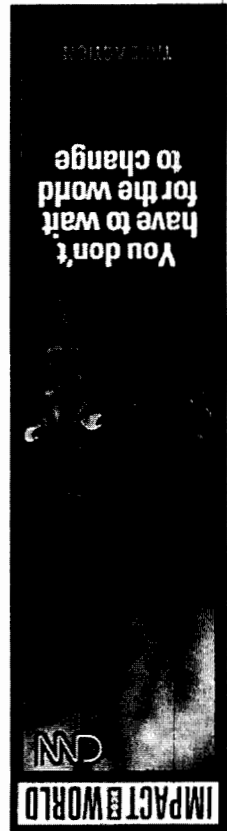
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Standoff in Najaf; Prison Abuse Scandal; Olympics Update

Aired August 19, 2004 - 9:00 ET

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BILL HEMMER, CNN ANCHOR: Breaking news this hour out of Najaf. The standoff with Muqtada al-Sadr and his militia could be coming to an intense and violent end. A surprising development in the Scott Peterson case. That case put on hold until Monday of next week.

And a massive blaze in the West. Thousands of acres are scorched, hundreds of homes possibly threatened.

All this hour on AMERICAN MORNING.

ANNOUNCER: From the CNN Broadcast Center in New York, this is AMERICAN MORNING with Bill Hemmer and Soledad O'Brien.

HEMMER: All right. Good morning, everyone. We have a busy Thursday here. Soledad is out resting. Heidi Collins working with us here.

Good morning to you.

HEIDI COLLINS, CNN ANCHOR: Good morning.

HEMMER: And listening to these reports out of Iraq about 30 minutes ago, that standoff in that city now of Najaf could be coming to a head. There's smoke billowing from the shrine where al-Sadr has holed himself up. Also said to be upwards of 2,000 fighters in and around that shrine. In a moment, back to Baghdad live, we'll get you an update as best we can at this point.

COLLINS: Also, the Army is getting set to release its report on the Abu Ghraib prison abuse scandal. Already it is drawing criticism from some corners because of who it does not blame. In a moment, we'll talk to an attorney for one of the soldiers charged.

HEMMER: Also, the Scott Peterson case. Mentioned this. Amber Frey will have to wait until Monday to be cross-examined, maybe even later than that.

The jury was sent home yesterday. We'll explain why in a moment here as best we can figure out. Closed chambers for the judge yesterday with these attorneys. So, we'll talk about that in a moment.

COLLINS: Meanwhile, Jack's here now once again.

JACK CAFFERTY, CNN ANCHOR: Murder trial out in Chicago, Cook County. It was all settled in three days, a murder that occurred over a counterfeit \$50 bill. The jury took two hours to convict the guilty defendant. And a member of that jury was Oprah Winfrey.

The "Question of the Day" is, should celebrities serve on juries? The other "Question of the Day" is, why can't all trials be done in three days with two hours of jury deliberation? They ought to get an award out there for that. That's pretty good stuff.

HEMMER: Thank you, Jack.

CAFFERTY: Yes.

HEMMER: Let's get straight away to Baghdad right now and try to figure out what's happening in Najaf. There's been new fighting in Najaf outside the shrine where the radical cleric Muqtada al-Sadr is believed to be holed up. John Vause is in Baghdad now trying to get updates for us now.

John, good afternoon there. What do you have?

JOHN VAUSE, CNN CORRESPONDENT: Yes. And good morning to you, Bill.

By all accounts, some fierce fighting around the Imam Ali Mosque, a scene of the standoff now for more than two weeks with the radical Shiite cleric Muqtada al-Sadr. We have CNN producer Kianne Sadeq on the line now from Najaf. She was inside that mosque just a short time ago.

Kianne, what can you tell us about the current state of the fighting there in Najaf?

KIANNE SADEQ, CNN PRODUCER: Well, John, I just came out of the mosque. When we went in there, it was actually very fearsome. We walked -- we drove in very carefully with a group of journalists in a -- in about a 10-car convoy.

Now, the entire street, about 100 meters -- 100 to 150 meters leading up to the Imam Ali Mosque is completely destroyed. All the shops, all -- I mean, it's completely destroyed.

Windows are shattered. The pillars are broken. Stores are shut.

It is just a ghost land. There -- all there is now is a large group of Mehdi Army, which are -- occupy that area. And just -- just before you get there, there are American tanks.

So, we walked in, and once we walked into the mosque, we were cheered on, we were very well received by members of the Mehdi Army. We were very well received. They were cheering and chanting about everything they were doing. They were very proud to be in there, and didn't -- had absolutely no intentions of leaving.

There were some women in there. Of course, a very few, maybe five or six. But there were some women in there. In fact, there were some children in there.



We also saw medical help. They seemed to have -- there seemed to be some supplies for medical support in that mosque, and some people dressed in smocks that seemed to be doctors. I'm not sure if they were, but they seemed to be doctors there to care for the injured.

And we -- we -- we were in there. We were given an opportunity to walk inside. There's a large room where they sit all the (INAUDIBLE) for Muqtada al-Sadr. We did not see Muqtada al-Sadr. We do not know if he is in there or not, even though we were told that he is in fact not in there.

We were -- while you're in the mosque, you hear constant firing, RPG fire, mortar fire. I mean, I'm not exactly sure about this, but all different kinds of loud firing constantly going on. It does -- it does not stop. It does not stop. It keeps going on and on and on and on.

The mosque seems to be OK, just some minor damage to the two pillars in the mosque. Minor damage, but nothing serious to the mosque. Everything outside of the mosque seems to be totaled -- John.

VAUSE: Kianne, a couple of questions here. What can you tell us about the movement of U.S. forces, the position of snipers around the mosque, and the tanks, and the U.S. Marines currently deployed in Najaf?

SADEQ: Yes, John. As a matter of fact, we arrived here yesterday sometime around -- in the afternoon. And around 4:00 or 5:00 in the evening, we tried -- attempted to go to the mosque, and there was an extreme amount of sniper fire. Extreme amount of sniper fire seems to be coming from both sides, from the American side, as well as the Iraqi side. And it's a very dangerous area to go through, because it seems like these people are not seeing who's coming by.

We were told by some people in the neighborhood that in fact there was a dead body that had been in its position for about three days and they could not move it out of the way because they could not risk going into that street and to take that body away because of the amount of sniper fire. We heard many, many shots, John.

We tried to go there again this morning, and once again we were stopped by a large amount of sniper fire. And it's just too dangerous to either walk or go in vehicles, because you don't know where these bullets are flying.

We ended up going in there by the help of actually every side. We were helped by the governor's office, as well as by the U.S. military.

They surrounded the outskirts of the mosque with -- with their tanks. And you have to get by them. But once you're by them, you also have to get by the Mehdi Army before you can get into the mosque.

So, there's a surround -- there's a ring around the mosque of U.S. military. Just after you get past that, there's about 100 to 150 meters of Mehdi Army militia, and -- with -- just hiding, you know,

around in the streets near -- leading to the mosque. And you have to be able to get by both.

We were lucky enough -- we were lucky enough to get by both -- both groups. And we were led into the mosque. And we were in fact helped by both sides to leave the mosque.

We were told that we must leave the mosque, even if we wanted to stay. They were going to assist us out of the mosque because they felt that it would be too dangerous for us to stay there any longer. So, they -- you know, they made us all leave, and we had all -- we all ended up leaving in a convoy together.

Our hotel is very near to that area. But it's not -- not where any of -- any of the fighting is going on. And we drove up here.

VAUSE: OK.

SADEQ: And everybody is safe.

VAUSE: And Kianne, whilst you were inside that mosque, you had a chance to speak with one of Muqtada al-Sadr's senior aides. He said that Muqtada al-Sadr, the cleric, is not inside the mosque. They did not tell you where he is. But did he give you a reason why Muqtada al-Sadr is refusing to negotiate on this ultimatum, this ultimatum that was delivered by the minister of state a few hours ago?

SADEQ: Well, in fact, John, what the -- what his aides told me, Ahmed Shavani (ph), what his aides told me, and as well as (INAUDIBLE) who were in there, they said that in fact he did want to -- they said that in fact Muqtada al-Sadr did want to negotiate with this delegation from the National Congress -- the National Congress, and the reason why he did not was because the attacks and the loud sounds of explosions outside the mosque were far too many.

He also said that today that they are not going to respond to this request by the government, by the minister of state who gave (ph) pressure over here. He said, "We will not respond to this because we are not negotiating with these people." He said, "We are negotiating with the National Council. So, if they want to negotiate with us, we want to negotiate with them."

But this minister of state does not have anything to do with the National Council. These (INAUDIBLE) people who we want to negotiate with -- John.

VAUSE: OK. CNN producer Kianne Sadeq, who was recently just inside the Imam Ali Mosque, the scene -- or the focus, rather, of what appears to be some very, very intense fighting in Najaf.

Bill, a couple of important points to recap there from what Kianne was saying. Firstly, spokespersons for Muqtada al-Sadr saying that the radical Shiite cleric is in fact not inside the mosque. Whether or not that is true, whether we can independently verify that in any way -- but they're certainly claiming that he is in nowhere inside the Imam Ali Mosque right now. And the reason why Muqtada al-Sadr has not listened or not heeded those ultimatums coming from the minister of state, according to Muqtada al-Sadr's spokesperson, he does not recognize the

authority of the Iraqi interim government. And according to Kianne, who spoke with these aides to al-Sadr, al-Sadr was apparently willing to negotiate with that delegation which arrived in Najaf on Tuesday from the Iraqi National Conference.

That was a gathering of more than 1,000 delegates here in Baghdad over the last four days or so. The reason being that they were more representatives of the Iraqi people than the interim Iraqi government -- Bill.

HEMMER: All right. John, thanks. Good work, too, in Baghdad. John Vause reporting there.

And also to Kianne and her crew down in Najaf, stay safe over there as they continue to give us exclusive looks inside now, not just to that shrine, but also what's happening in the area just outside of it.

Analysis from Ken Pollack, Saban Center, Brookings Institution down in D.C., here in New York today.

And good morning. Ken. Listening to this, the strategy is pretty obvious from both sides. But what is Sadr's strategy ultimately? Does he want to pay for his life with this?

KEN POLLACK, BROOKINGS INSTITUTION: I don't think so. You know, we don't know a whole lot about this man.

He's a young guy. It's unclear exactly what he wants. But all the indications that we've gotten, both from people who seem to know him and what we've seen from him over the last 16 months, indicate this is not someone who wants to die a martyr.

This is someone who wants to be a powerbroker in Iraq. He's playing a game of brinksmanship. And part of the problem is he doesn't really know how to play it terribly well. But it doesn't seem that he actually wants to go down in a blaze of glory.

HEMMER: You say he's playing a dangerous game.

POLLACK: Well, the problem is, of course, that he is taking things right to the brink. He is trying to push us and then pull back at the last minute. The problem is, he doesn't really understand where our red lines are. And he doesn't know when the United States may suddenly decide, along with Ayad Allawi, the game is up, enough is enough.

HEMMER: As far as being a political partner -- and that has been talked about throughout the week, about coming to Baghdad and sitting in with the current government and figure out some sort of relationship -- is that done now? Does that (INAUDIBLE)? How do you respond or react after this? POLLACK: Honestly, Bill, it's the kind of thing where I think Americans would all say, all right, the guy has shown his colors, forget about it. In the Middle East, in Iraq, it's a completely different story. Don't ever count Muqtada al-Sadr out.

My guess is that if we do negotiate our way out of this situation, there are going to be members

of the Iraqi National Conference who are going to want to bring him in. And he may send delegates. He may not himself play, but he may send personnel to participate.

HEMMER: What do you think about the U.S. military right now, based on your best gauge here, working on behalf of Iraqi national force, Ayad Allawi a very tough test of his own leadership? At this point, is this going the way they want it to go?

POLLACK: Obviously I'm sure they would like to have it done already. They would have liked to have had it concluded several weeks ago. But my sense is, getting little bits and pieces here and there, is that the commanders on the ground understand how difficult a problem this is. And in truth, they've come up with a much better strategy in Najaf than, say, that they originally used in Fallujah several months ago.

They're working on both the political and military tract simultaneously. They're trying to squeeze al-Sadr, convince him that he has no hope of actually surviving in the mosque, and his choice is either die there or give up.

It's a strategy which is very, very time-consuming. It's nerve-racking. It's frustrating. But believe it or not, it actually does seem to be working.

But of course, the proof will be in the pudding. It will be judged by whether or not he actually gets out without us having to root him out.

HEMMER: Do you consider Najaf to be just one item on a list of items in Iraq?

POLLACK: Yes.

HEMMER: Or do you believe this is truly an important event for getting peace to that country more quickly?

POLLACK: Unfortunately, it's a little of both. But it's more the former than the latter.

There are whole number of different things that need to happen inside of Iraq. But dealing with the Mehdi Army is a very important one.

Najaf is a critical city. The Shrine of Imam Ali is one of the two holiest sites in Shia Islam. Having the Mehdi Army in there is a big problem for us and for the new Iraqi government. They've got to be gotten out. But once they're gone, we shouldn't assume that suddenly everything's going to be easy in Iraq. There is a long list, as you suggested, of other issues that need to be dealt with.

HEMMER: Thanks, Ken, Saban Center here in New York today. Nice to see you.

POLLACK: Thank you.

HEMMER: All right -- Heidi.

COLLINS: About 15 minutes past the hour now. Time for a look at some of today's other news with Carol Costello.

Carol, good morning.

CAROL COSTELLO, CNN ANCHOR: Good morning, Heidi. Thank you.

Homeland Security Undersecretary Asa Hutchinson will be on Capitol Hill today. Hutchinson will testify before the Judiciary Committee in another hearing on the 9/11 report. The Senate panel is focusing on federal law enforcement and border security. The House International Relations Committee is also expected to meet in just about an hour from now.

The United Nations is remembering 22 of its colleagues killed one years ago today in a suicide bombing in Iraq. A memorial is now under way at the U.N. headquarters in New York. The deputy secretary-general is in attendance. Simultaneous ceremonies are being held in Geneva and Jordan.

A massive wind-driven fire is forcing hundreds of residents to flee their homes near Dryden in central Washington State. Nearly 13,000 acres have now been consumed. More than 1,500 firefighters are battling the blaze, which has been burning now for more than a week. No injuries reported.

And we told you yesterday about a 56-year-old package that contained the burial flag of a fallen World War II veteran. Well, the man's 82-year-old sister now has the flag. A Michigan postmaster tracked down the woman after the package mysteriously arrived from Belgium last week. She plans to display her brother's flag outside of her home in Alabama.

So, it was a nice, happy ending. Finally.

COLLINS: Yes, that's a good one. All right. Carol, thanks a lot.

Going to check on the weather now. Chad Myers standing by with the very latest forecast.

(WEATHER REPORT)

COLLINS: All right. Chad, thanks so much for that.

HEMMER: We'll get a break here in a moment. The surprise delay in the Scott Peterson trial, what's holding up that case. We'll have a look at that in a moment here. COLLINS: And back live to Athens Olympics. Guess what the big story was last night? A man by the name of Paul Hamm. Twelfth place, then fourth place, then the gold medal.

HEMMER: What a night. You're right.

COLLINS: We've got it all coming up on AMERICAN MORNING.

(COMMERCIAL BREAK)

HEMMER: The number of people caught in the Abu Ghraib prison scandal may expand from seven to about two dozen, we're told. An Army report due out next week is expected to recommend disciplinary and in some cases criminal action against a number of people, including some commanders at the prison. But no one higher than that.

Javal Davis is one of the original soldiers charged. His attorney, Paul Bergrin, is my guest now here in New York.

And good morning to you.

PAUL BERGRIN, LAWYER FOR SGT. JAVAL DAVIS: Good morning. Thank you for having me.

HEMMER: Thank you for being here. The Army's conclusion the abuse was the work of out of control soldiers at the local level, not the higher-up level. Your reaction to that is what?

BERGRIN: You know, that's in a report that we really anticipated. Since the Fay investigation, we knew that they would whitewash the actual superior commissioned officers that were involved in the scandal, as well as the politicians in Washington, D.C. But we know, based upon our proofs and our investigations, that the highest level of the government approved the interrogation techniques that were used at Abu Ghraib. And we're ready to prove that.

HEMMER: Where is your proof and your evidence?

BERGRIN: Well, if you look at the chronology and the charts, we know that back in August of 2003, there was a meeting held between Donald Rumsfeld, Stephen Cambone, the undersecretary of intelligence and defense, as well as Major General Miller, who was in charge of the prisoners at Guantanamo Bay.

At that time, Major General Miller was told that he has to "Gitmotize," take the interrogation techniques from Guantanamo Bay and bring them to Iraq, specifically Abu Ghraib, for intelligence acquisition.

We knew at that particular time that Major General Miller at that time traveled from Cuba to Iraq to speak to the commanders there in about September of 2003. During that meeting, Cambone also traveled to Iraq, Lieutenant General Sanchez visited the Abu Ghraib prison, and a host of other politicians, as well as high-level commanders. And at that time, about a month later, is when the photographs were taken and the intelligence acquisitions occurred. HEMMER: Now, your client specifically has talked about stepping on the hands and toes of prisoners. Why has he said that's necessary?

BERGRIN: Well, it was necessary to control the prisoners, to let the prisoners know that they can't react against the American people.

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(COMMERCIAL BREAK)

COLLINS: OK, you've had a moment to think about it now. The 1908 games in London saw the induction of what Olympic tradition?

The answer? The opening ceremonies. The 1908 games in London was the first where athletes walked into an Olympic stadium behind their national flags. Beautiful.

HEMMER: And today's the most expensive ticket you can find.

COLLINS: Yes?

HEMMER: Costly.

COLLINS: I bet it is.

United States is ahead in the medal comp, though, at the Olympics, as day six of the competition already under way. Mark McKay joining us now with an update from Athens.

Mark, U.S. men's basketball team seems to be the story today?

MARK MCKAY, CNN CORRESPONDENT: Yes, it certainly is. They certainly are, Heidi. And I can bet that many people wouldn't blame Larry Brown, the coach of this team, if they lost today, that he might as well just go ahead and vacation in the Greek Isles. I mean, that has been (INAUDIBLE) for team USA.

They struggled again against Australia from outside. They're outside, shooting a bit atrocious. But it didn't prevent them from winning. Team USA winning within the past half hour, 89-79. Tim Duncan leading the way in the point total with 18. Shawn Marion and Allen Iverson adding 16 points a piece.

The U.S. women's softball squad, they just keep rolling. They're not losing. In fact, they've won 76 straights. They beat the host nation, Greece, 7-0.

Now, in the pool, let's talk about Michael Phelps. He looks unbeatable for gold tonight here in Athens in the 200-meter individual medley. Phelps, the teenager from Baltimore, already a five-time medalist here at the games. He has recorded the seven fastest times in history over this distance.

Heidi, I know that in gymnastics Paul Hamm had you up late last night. I think he had all...

COLLINS: Barely.

MCKAY: ... of North America up late. Yes, the 21-year-old from Wisconsin basically dazzled on the map. A fall on his vaults landing sent him stumbling into the judge's table. But then Hamm is able to come back on the high bar and win gold.

HEMMER: And who -- who told him to do that?

BERGRIN: He was specifically ordered by his commanders, Sergeant First Class Schneider, Staff Sergeant Fredericks (ph), who was involved in this case, as well as other intelligence individuals. He was told that these are the only ways to control the prisoner, these are the only ways to acquire intelligence information from them. And certain methods and technologies must be used in order to obtain that information.

HEMMER: And you're going up the chain slowly here. Who told them to do that then? The names are what?

BERGRIN: They were ordered by Colonel Pappas (ph), who now is asserting his Article 31 rights, refusing to be -- refusing to be interviewed or testify; Lieutenant Colonel Stephen Jordan (ph), who has invoked his Article 31 rights; the commanders of the military intelligence battalion and brigade that were in charge of intelligence at the prison. And it works its way up the chain of command from there.

HEMMER: In a military court you can prove all that?

BERGRIN: In a military court we're ready, willing and able to prove that.

HEMMER: When will you see your client next?

BERGRIN: I'll see him tonight. I'm flying to Mannheim, Germany, with the motions. And the legal issues and the motions are going to be resolved within the next couple of days.

HEMMER: Paul Bergin is the lawyer for Javal Davis. And we will follow this closely.

BERGRIN: Thank you.

HEMMER: Thanks for your time.

BERGRIN: Thank you.

HEMMER: Sure -- Heidi.

COLLINS: Still to come, when picking a jury, should celebrities be passed over? That's ahead.

Plus, the U.S. men's hoops team has just wrapped up its third game of the Olympics. Find out whether it's another nightmare.

And try your hand at our Olympics challenge now. There you see it. The 1908 games in London saw the induction of what Olympic tradition? The answer and an update on today's U.S. basketball game after the break.

For 52 years, gymnasts from Asia and the former Soviet Union have dominated this event. Heidi, I will go there. Paul can Hamm it up if he wants to.

COLLINS: Ha, we've been waiting for you to say that, Mark. All right. It was a great one last night, that's for sure. Appreciate it very much. Mark McKay coming to us from Athens.

HEMMER: Paul Hamm, wonderful. Jack Cafferty, "Question of the Day."

Good morning.

CAFFERTY: Oprah Winfrey on a jury out in Chicago at a murder trial. It just took them two hours to convict the defendant. But she was a big distraction coming in and out of the courthouse. And we thought we'd ask your thoughts this morning on whether celebrities ought to be members of juries.

Dennis in West Windsor, New Jersey, writes: "The potential for Oprah having an undue influence in the deliberations is obvious. The judge should have thanked her for showing up and then told her to go."

Paul in Rhinebeck, New York: "Absolutely not. In general, movie and TV personalities only see fit to do their civic duties when it enhances their fame. Objectivity is impossible when they're worried about their public persona."

David in McHenry, Illinois, writes: "Personally, I don't think most celebrities are intelligent enough to serve on juries."

Might have something there, David.

And Barry in Waynesboro, Pennsylvania, says: "Celebrities should be subjected to the same rules as the rest of us. However, there are some who would be nothing but a distraction to the trial. Can you imagine Michael Jackson in a jury box?"

Barry, he's going to be at the defendant's table, I think, pretty soon in a trial situation.

HEMMER: Oprah's going to make a show out of this, right? She's going to do an hour with the members of the jury around there.

CAFFERTY: Swell.

HEMMER: We can learn an awful lot about what happened there.

CAFFERTY: By watching Oprah Winfrey?

COLLINS: Sure.

CAFFERTY: I'll make a note of that. I got the Olympics and Oprah now are the things that I have -- on my must-see list of things to watch. HEMMER: Well, you just come to us and we'll fill you in.

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New York

# The Baddest Lawyer in the History of Jersey

And that's saying something.

By Mark Jacobson Published Jun 5, 2011



Illustrations by Jesse Lenz

(Photo: Noah Addis/The Star-Ledger (Bergrin); Stephen Mulcahey/Alamy (gunmen); Getty Images (briefcase); Ian Marlow/Alamy (police car); Izmostock/Alamy (Bentley); Getty Images (women [this material is being used for illustrative puposes only; the women depicted are models]))

Clay D., a moon-faced man in his early thirties who, by his own matter-of-fact admission, has spent a good deal of his life “shooting at people” in and around Newark, New Jersey, was talking about his first attorney-

• client meeting with lawyer Paul Bergrin.

"Someone got killed, and they were trying to put it on me," remembers Clay, as he asked to be called.

"First-degree murder, can't fuck with that, so I got Paul. He was the biggest name out there. He drove his Bentley down Clinton Avenue, and it was like, 'Don't you punks even think about jacking that.' Everyone said he was wide open. But I didn't know how wide open until that day. I'm in his office two minutes. He says he's looked at my case, and only one witness can hurt me. Then he says, 'Okay, what are we going to do about this person? She's a user, right? Why don't we give her a hot shot? Just *stick* her.'"

Asked if it bothered him to hear his attorney suggest such a course of action, Clay laughed and pulled up his shirt to reveal several scars on his abdomen, the result of being shot three times with a pistol. As chance would have it, the shooter was another of Bergrin's clients, Clay said, not that this mattered.

"Just not my time," Clay said nonchalantly. Two of the bullets passed harmlessly through his body. Another slug lodged in his stomach muscles. "I was working out, had abs like a rock. They stopped the bullet." This was how it was on the streets in Central Newark, Clay said, kill or be killed. East Orange and parts of Irvington were no better. You got rich one day, were blown away the next. It was a different world out there, with completely different rules.

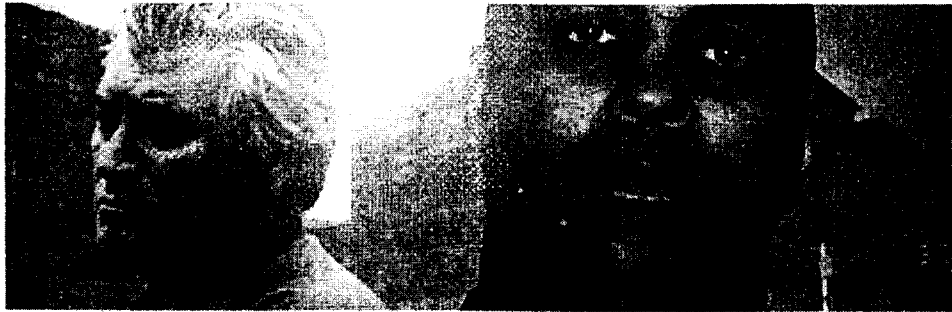
"That's why I needed Paul," Clay said. "I can't have some bullshit lawyer in suspenders and I'm supposed say thanks because he got my sentence down to twenty years. I'm paying top dollar, and I demand legal brilliance. Someone who will consider *all* the options. I don't want no loser. I want a winner ... Paul Bergrin was a winner. Let me tell you, whatever happens to him, there ain't ever gonna be no other lawyer like Paul Bergrin."

In New Jersey, nothing beats Essex County, 130 square miles of urban melodrama stretching from the now sudden-death ghetto streets of Philip Roth's old Weequahic Newark neighborhood to the big-as-the-Ritz engagement rings at the Short Hills Mall. Famous crooks who have plied their trade this side of the Pulaski Skyway include Lucky Luciano, Longy Zwillman, and Richie "the Boot" Boiardo, who, legend has it, burned his enemies' remains in the furnace of his castlelike Livingston home. Equally greedy, if less folkloric, has been Essex's epic succession of corrupt politicians, voted in and not. Good luck to Cory Booker, everyone's favorite walking infomercial for well-tailored municipal uplift, but the smart money is against him. The last three Newark mayors were convicted of one charge or another.

A strong candidate for addition to this list—in a twisted legalistic category all his own—is the 55-year old Paul Bergrin, Esq., who awaits trial in a federal lock-up facing charges that are a good bet to keep him behind bars for the rest of his life. Advocate to killers, whorehouse proprietors, bum-check-passing beauty queens, Lil' Kim, and a thousand forgotten street hoodlums from Newark's bad wards, Bergrin has run the gamut of Jersey jurisprudence in his 30 years on the scene. In the early eighties, following a stint in the Army, Bergrin joined the then—legendarily kleptocratic Essex County prosecutor's office, where he forged a reputation as a square-jawed inquisitor of the local criminal class. In 1987, Bergrin moved up to the exalted precincts of the United States Attorney's Newark office, where he served under both Samuel Alito and Michael Chertoff. Men like these did not stuff envelopes of cash into their pockets in parking lots; they joined the Supreme Court and ran the government's response to Hurricane Katrina. By 1991, Bergrin, whose courtroom self-presentation often included swank Brioni suits offset by a skeezy pencil-thin mustache, was in business for himself, becoming one of the most controversial, and high-billing, criminal-

defense attorneys the county had ever seen. His 2009 arrest completes the possibly fated Essex full circle.

Despite Bergrin's hopes, expressed in an e-mail, that God provide the neutral observer "the wisdom to see through this indictment and case," the government brief against him is comprehensive. According to the 95-page document, Bergrin, in rough ascending order of immorality, (a) operated a real-estate scam that defrauded lenders of over \$1 million; (b) ran a high-volume drug dealership big enough for 120 pounds of uncut cocaine to be found at a North Newark restaurant owned by Bergrin's mistress and co-defendant, Yolanda Jauregui; and, most spectacularly, (c) set up witnesses to be murdered before they could testify against his clients.



Angelo Prisco (left), Hakeem Curry (right). A Genovese capo in New Jersey, Prisco, known as "The Horn," is currently serving a life sentence for the murder of another capo who'd robbed Genovese gambling operations. Curry, Newark's reigning heroin kingpin in 2004, put out a hit on potential witness Kemo McCray, reputedly following Bergrin's legal advice: No Kemo, no case.  
(Photo: Star-Ledger (Prisco))

Cornerstone to the government's case against Bergrin are the alleged events of March 2, 2004, when Kemo Deshawn McCray was shot in the head three times while crossing the intersection of 19th Street and South Orange Avenue in Newark. The Feds contend the murder was the culmination of a chain of events that began when McCray, a federal informant (i.e., snitch), purchased a quantity of crack cocaine from one William Baskerville, a lieutenant in the drug posse run by his cousin, Hakeem Curry, the fearsome "E. T. Hak," Newark's then-reigning dope kingpin.

Snagged in the buy-and-bust, Baskerville was represented by Paul Bergrin, reputed "house counsel" for Curry's organization. It was during one jailhouse attorney-client meeting, the Feds contend, that Baskerville told Bergrin that Kemo McCray had fingered him. If so, McCray figured to be a convincing witness in any trial. According to federal wiretap evidence, Bergrin discussed the problem with Curry, who paid assassin Anthony Young \$15,000 to kill McCray. The Feds maintain that Bergrin signed off on this solution, offering the succinct legal opinion, "No Kemo, no case."

There was more. According to the indictment, in 2008, Bergrin traveled to Chicago, where he attempted to hire a hit man to rub out a troublesome informant in a case against another client, accused drug trafficker - Vicente Esteves. The "hit man" turned out to be a government witness who recorded his dealings with Bergrin, including a snippet where the lawyer allegedly laid out the murder plan. "I got it all figured out," - Bergrin is quoted as saying. "Put on a ski mask and make it look like a robbery ... It cannot under any circumstances look like a hit."

The indictment stunned even the most jaded Essex County observers. One well-known lawyer whose career in the area goes back to the early seventies, said, "If Paul is guilty of half the things they say, he'd be the craziest, most evil lawyer in the history of the State of New Jersey. That is saying something."



It is now two years since Bergrin's arrest. Denied bail, he awaits his long-delayed trial (now scheduled for October) in Brooklyn's Metropolitan Detention Center, where he spent several months in solitary confinement, apparently at the insistence of the Feds. "Mr. Bergrin participated in numerous plots to kill witnesses," Assistant U.S. Attorney John Gay said at his bail hearing. "If he is willing to go to those lengths on behalf of his clients, he is certainly willing to do it for his own freedom." But if Bergrin has been out of sight, he is far from out of mind, especially on Park Place, the block-long stretch in downtown Newark where many defense attorneys have offices.

This is Newark's criminal-justice Tin Pan Alley, where the jammed-up, at least those with enough money to avoid the public defender, come to seek representation. At any one time there can be half a dozen - breaking-and-entering men, dope pushers, and members of who-knows-how-many sets of Brick City Bloods sharing an elevator ride with cleaning ladies and misdirected guests from the nearby Robert Treat Best Western Hotel. Few Park Place lawyers are of the white-shoe variety. "A lot of them were cops, went to law school at night," said one longtime observer of the scene. "They've seen it all and don't care all that much whether their clients are guilty or innocent. They're there to win cases, nothing more or less."

Paul Bergrin, graduate of Nova Southeastern law school in Fort Lauderdale, Florida, for a time was the biggest fish on the street. Parking his Bentley and BMW in the lot around the corner on Mulberry Street, Bergrin met his clients, people like Angelo "The Horn" Prisco, a Genovese caporegime, and ranking Latin King coronas, in his huge office on the tenth floor at 50 Park Place. And for legal eagles who continue to work here, their fallen former colleague remains an unsettling, cautionary, obsessed-about presence.

With the trial still pending, the U.S. Attorney's office had issued a neo-fatwa against talking about the case—no surprise since everyone knew the Feds had a particular hatred of Bergrin. How could they not? First he works in their office, then he supposedly helps murder one of their witnesses. Also galling was the fact that they'd earlier mishandled a piece of wiretap evidence, blowing a previous attempt to indict him in 2005. They weren't taking any chances this time.

Still, it was hard to stop talking about Paul Bergrin. Almost everyone on Park Place knew him personally. Many remembered him as "a good guy," the sort who would "give you the shirt off his back, lend you \$10,000 without even blinking." However, when it came to Bergrin's insistence on his total innocence, eyes began rolling—especially in regard to the disappearance of witnesses.



William Baskerville (left), Yolanda Jauregui (right). Baskerville was a Hakeem Curry lieutenant. He allegedly told Bergrin that Kemo McCray was an informant. Jauregui was Bergrin's very possessive mistress and alleged partner in crime. She recently copped a plea deal.

"'No witness, no case'—that was Paul's motto," said one attorney. "There was this guy with a tattoo of the

scales of justice on his back. Below the scales was the quote, 'No witness, no case—Paul Bergrin.' When your customers are all criminals, what's better advertising than a prison tattoo?"

Everyone had his Paul Bergrin story—how he started off with one client, then switched to another defendant in the same case, got the second guy to flip against the first, and kept the money from both. There were tales of how Bergrin planned to open a \$30 million gambling casino in the Costa Rican cloud forest. And of course, there was the whorehouse deal. Bergrin had taken control of one of Manhattan's ritziest escort services and started bringing a steady stream of cops, lawyers, and even a prison official to the brothel's Worth Street headquarters, where the samples were free.

Bergrin had gone rogue all right: "He'd crossed the line."

It was a phrase that came up over and over again—the line, that border between what was allowed and what was not, the edge over which the rule of law dropped into Hobbesian free-for-all. In places like Essex County, with the tragic legacy of the 1967 Newark riots and its more or less permanent poverty class, definitions of right and wrong tend to be more pliable than a stone tablet brought down from Sinai's. But even here, there was a point of no return.

In retrospect, Park Place lawyers noted insufficiently heeded red flags. Times when they should have "known." Said one former associate, "these stone-cold criminals would come to the office, and Paul would say he 'guaranteed' he would get them an acquittal. How do you guarantee an acquittal?"

"I always regarded Paul as a good lawyer," said another colleague. "No one worked harder or was better prepared. But he'd always be bragging about how he won fourteen straight homicide cases. Clarence Darrow can't win fourteen homicide cases in a row, but Paul Bergrin can. When someone starts winning unwinnable cases, you notice. But never in a thousand years would I have imagined he would go this far. I mean, dealing dope out of your law office, killing witnesses? Who does that?"

There isn't much background on Bergrin, other than his own version. Son of a Brooklyn cop, he says he was considered "incorrigible" and sent to a Brooklyn boys' home. At 17, he enlisted in the Army, eventually becoming a member of the elite 75th Ranger Regiment. He married his high-school sweetheart, had children, and lived in Marlboro, an upscale community in Monmouth County where he is remembered by neighbors as "totally normal ... just another dad down the block." But as most who worked with him say, there was another side that was off-limits. "Paul was easygoing, accessible. But then there would be these time he'd go into his office and lock the door. You knew something was going on and you better stay away."

Asked if there was any moment when Bergrin might have first crossed the line, several pointed to an incident during his tenure with the U.S. Attorney in the late eighties. With his Nova diploma, fractured grammar, and rough-hewn Essex-prosecutor manner, Bergrin was an odd fit with the federales. He put a large-size pinup calendar on his wall. But he had something his Harvard colleagues did not. While they had busied themselves preparing A-plus briefs, Bergrin had been facing down Essex County juries. "He had a lot of experience and carried himself like a hard-charger," said one lawyer who served in the U.S. Attorney's office along with Bergrin. "Some people found that intimidating."

The event in question centered on a 1989 corruption case the Feds were pressing against two investigators from the Essex County prosecutor's office. The defendants were widely regarded as "filthy," and the case appeared routine. Until, that is, Assistant U.S. Attorney Paul Bergrin surprisingly took the stand as a



character witness for one of the defendants. He worked with the man when he was county prosecutor, Bergrin testified, and he'd found them to have "a reputation for truth, veracity, and integrity."

Recalling the episode more than twenty years later, one judge remained nonplused. "Here you have someone who is working for the government testifying against the government. This is what might be called a questionable career move."

"They didn't fire him," said one of Bergrin's U.S. Attorney colleagues. "They just took away all his cases. He'd come to work, and there would be nothing for him to do. For Paul, that had to be hell. Eventually he quit."

What happened remains a mystery. Why would someone so ambitious—Bergrin often said he dreamed of being a U.S. senator—throw away a job that had catapulted people like Rudy Giuliani to stardom? Some thought the Essex investigator had something on Bergrin and had blackmailed him into testifying. For his part, Bergrin contended that he was his friend, and when friends are in trouble you come through, no matter how much it costs you.

"For anyone else, it would have been a setback, a career-killer. But Paul made it work for him," said one prosecutor. Taking the local side against the haughty Feds, the jurisdictional town over gown, was an ultra-Jersey stiff finger for all time—an act worthy of an Essex County Machiavelli and one that would pay off big-time. "Even then, Paul was playing to the street," said a Park Place lawyer. "He knew where the money was."

Bergrin first hit the papers as a criminal lawyer in 1991, during his defense of a housewife accused of serving teens Jell-O shots at a party; a 15-year-old guest was hospitalized and died an hour later. By 1992, he was already under indictment for evidence tampering in a federal racketeering case. The charges were dropped two years later, setting the pattern for what would become a twenty-year legal tightrope walk.

Few denied Bergrin was an exceedingly talented, if occasionally overwrought, courtroom performer. "He had that military thing about him from his Army days," said one observer. "He *commanded* the room. But it was more than that. Paul was passionate. This is Newark. Most of the defendants are black, and here was this white guy who seemed to really give a shit whether his client went to jail or not. In a place where today's juror is tomorrow's defendant, that connects."

Said a local hustler with "double-figure" arrests behind him who I'll call "Melvin B.," "I've had a hundred fucking lawyers in my life, and Paul Bergrin was only one who looked me in the eye like a man. He cared. He knew the reality, how the deck was stacked, and was willing to fight fire with fire. He went to war for you. That's why Paul was loved in the streets. Shit, Paul was *revered* in the streets."

"Bergrin knew how the deck was stacked. He was willing to fight fire with fire. That's why he was loved in the streets."

Then, casually, Melvin let drop that he had done "a little legal work" for Paul Bergrin from time to time. "Yeah, I might have fixed a jury or two." It was easy, Melvin said. "You don't have to win; a hung jury is good enough." Melvin explained his M.O. First he got himself into the jury-pool room. "When you're a

black man in Newark, you're always going to know someone or someone who knows someone. You ask around. Find out who's on which jury, make a deal. But sometimes they'll come to you.

Listening to a description of a well-known Bergrin case in which Melvin claimed to have given a juror \$10,000, one prosecutor exclaimed, "That's exactly what I heard!"

This was the problem going up against Paul Bergrin in court, the prosecutor said. He was smart and without conscience. He knew the street, and he knew the system too. He knew how the prosecutor's office worked, the calendar issues, the money constraints, when the bureaucrats would throw up their hands and drop the case. He had people on the inside. He made it his business to defend cops who got themselves in trouble and did work for the PBA. "That buys a lot of loyalty," one prosecutor said. "When you had a lead in a Paul case, you had to act fast because you worried some cop would tip him off."

Eventually, the prosecutor's office investigated a number of Bergrin cases in which witnesses suddenly recanted or were killed. These included a 2006 trial in which Bergrin's client James Dawson was acquitted of murder following the death of the key witness, Syreeta Lee. Bergrin said, "The only witness was Syreeta Lee. She is now dead. So there is no other evidence against my client." Another Bergrin client, Norberto Velez, was charged with trying to kill his wife, repeatedly stabbing her in full view of their 8-year-old daughter. At trial, the child changed her story, absolving her father. Later the girl admitted in open court that Bergrin had coached her to lie on the stand.

It was awful, heartbreaking stuff, the prosecutor agreed. But, still, even with all he knew, he couldn't find it in his heart to hate Bergrin. "What can I tell you, part of me still likes the guy. It is a strange thing."

For all his transgressions, emotionally it isn't an open-and-shut case with Bergrin. Many in Newark are highly sympathetic to Bergrin's persistent defense of American soldiers accused of crimes during the Iraq War. In 2004, Bergrin defended Sergeant Javal Davis of the U.S. Army 372nd Military Police Company, who was charged with abusing Iraqi detainees at Abu Ghraib prison. According to witnesses, Davis, a onetime track-and-field star at his Roselle, New Jersey, high school, twice jumped onto a pile of naked prisoners. Davis was also said to have accompanied Lynndie England in stomping on detainees' fingers and feet.

Declaring that Davis was only following orders, Bergrin requested subpoenas for Secretary of Defense Donald Rumsfeld and President George W. Bush. They were the ones who changed the rules of engagement regarding treatment of the enemy, Bergrin charged, not Javal Davis. Colleagues recognized the subpoenas (which were denied) as typical Bergrin grandstanding, a histrionic ploy from the Park Place playbook. But it struck a chord with Fran Hunsaker, mother of William Hunsaker, a member of the 101st Airborne Division who was accused of participating in the 2006 execution of three suspected Al Qaeda operatives near Samarra. Hunsaker was eventually sentenced to serve eighteen years, but Fran Hunsaker remains "eternally grateful to Paul. He was the only one who really stood up for those boys. He made five trips to Iraq at his own expense. He was a David against an army of Goliaths. That's why he's in trouble now. That indictment is one big lie. I know Paul, and that's just not him. His soul is good. I think of my son Bill in Leavenworth and Paul in jail in Brooklyn and see them the same way. Two innocents crushed by a corrupt system."

Bergrin agreed with this sentiment. In a series of e-mails sent from his Brooklyn cell, the Iraq cases were

the only thing he wanted to discuss. It was like the rest of that stuff never happened. He saw defending members of the American military as a solemn duty. Several of his relatives had served in the armed forces, Bergrin wrote. "All I ever dreamed of was following in their footsteps." To him, the plight of the American soldier was no different from that of "the vast majority" of the people he defended in Newark. As he told a reporter during the Davis trial, "the pressures on an Army or Marine captain and a Bloods crew leader are the same. These guys are soldiers, pawns in the game, thrown into battle, and no one cares what happens to them."

This was the core of the matter, as Bergrin explained on a YouTube video called "Know Your Rights," in which he tells an East Orange community group that if he'd learned anything in his legal career, it was that police could not be trusted to tell the truth. "If you ever sit on a jury ... if you ever have an opportunity to speak to other individuals, then let them know that we live in a system where people are treated differently, and the only way you can fight it is by pouring your entire body, heart, and soul into each and every case. And that is what I intend to do."

On Park Place, such commentary did not go unnoticed. "Paul said he was a street lawyer," said one attorney, "that he functioned according the laws of the street, not those made up to serve crooked politicians and protectors of power. He sounded like some sixties radical. And I thought, *Well, he's right.* Things aren't fair. The system sucks. I see the inequities every day. Hearing Paul talk like that made me think he could have really been something, a leader, an inspiration. I also thought, if this is what Paul believes, and that's his justification for everything he's done, he's out of his fucking mind."

This has become a key point of discussion on Park Place: Bergrin's mental state. Words like "megalomania," "narcissist," and "sociopath" have been bandied about in the buffed hallways of the Essex County courthouse.

On this topic I submit an encounter I had with Bergrin back in 2005, when I was working on a story on the demise of NY Confidential, the aforementioned escort service near City Hall. Jason Itzler, the agency's mercurial founder, was then imprisoned on Rikers Island, facing prostitution and money-laundering charges. Itzler was not worried, however. He had unshakable faith in his lawyer, Paul Bergrin.

"I was still on parole from this Ecstasy-smuggling bust at Newark Airport and had a 9 p.m. curfew, which was messing up my ability to run the agency," Itzler said. "So I went to see Paul. I heard he could fix anything in New Jersey. I tell him my problem and he says, 'Okay, give me \$10,000! Right now! In cash!' I told him I only had \$8,000. He said, 'But you've got the rest at your place. Let's go.' We get into his BMW, barrel through the Holland Tunnel. Paul looks at the murals, the baby grand piano, the girls. 'Forget the \$2,000,' he says. A few days later, Itzler had a no-show job as a paralegal in Bergrin's law office, supposedly working until three in the morning on difficult legal matters like the Javal Davis case. Bergrin wrote letters to the parole board attesting to Itzler's excellent progress toward rehabilitating himself.

"I loved and trusted Paul," Itzler summed up. "The one thing I never expected was for him to leave me to rot on Rikers Island while he put the agency in his name and took it over completely. I probably should have seen it coming, but I was so high on Special K I didn't know which end was up."

Back in 2005, Bergrin was happy to talk about NY Confidential, but he asked if we could meet near Mount Sinai hospital. He was tired of the law, Bergrin said. Thinking he might better serve his fellow man as a



doctor, he told me he was attending medical school. Wearing a slick blue suit and red tie, his thick mat of dyed black hair receding from an expansive forehead, Bergrin was friendly in a gold-cuff-link way, handing me the phone number of the famous Natalia, NY Confidential's much-ballyhooed No. 1 attraction. "You'll like her," he said with a wink. Then, checking his watch, he said he had go to class. It was a basically uneventful conversation, except Bergrin was apparently not attending Mount Sinai or any other such institution. Why he went through all the trouble I never knew.

Bergrin's 2007 arrest in the NY Confidential case, in which he was charged with laundering more than \$800,000 in the agency's proceeds, was the first tangible clue to many on Park Place that the lawyer had seriously jumped the tracks. What wasn't a surprise was the sex angle. Said one longtime associate, "Paul didn't drink, didn't take drugs, but with women, he was a madman. White, black, skinny, fat, good-looking, ugly, crack whores, how and where, it didn't matter. He'd make this cocktail, Viagra, Cialis, Levitra, and wash it down with Red Bull. He said it made you fuck all night. I told him he was going to give himself a heart attack, but he didn't care."

Central to Bergrin's hectic love life was his longtime mistress and alleged partner in the dope business, the diminutive Yolanda Jauregui, with whom he shared an apartment in Nutley while maintaining his stately home in Marlboro with his wife, Barbara, and their children.

"Yolanda had Paul by the balls. He was probably supporting most of her family," said one lawyer.

Even though Yolanda was insanely jealous, Bergrin continued to screw around. Said one lawyer, "I come in the office, and Paul is totally on edge. He says he has a chick up at the Robert Treat Hotel and gives me a couple hundred to get rid of her. I knock, this hand comes out, snatches the money, and the door slams. Then I hear, 'Tell that fuck it's going to take a lot more than that.' I told Paul, and he flipped. He said if Yolanda found out, she was going kill him. She might have, too. Everyone in the office was scared of her." On a number of occasions Bergrin showed up at the office with black eyes or a bandaged cheek. "Everyone was sure Yolanda slugged him."

When he announced the indictment, in May 2009, then-acting U.S. Attorney Ralph Marra said Bergrin "essentially became one of the criminals he represents." No one disagreed with that. But somehow simple condemnation seemed too easy in Bergrin's case. The story was a tragedy, but it was a particularly Essex County kind of tragedy.

Bergrin's current legal adviser, Lawrence S. Lustberg, graduate of Harvard Law, cum laude, 1983, said to have been shortlisted for the A.G. job in President Obama's cabinet, is not a Park Place lawyer. Lustberg said he took Bergrin's case because "originally they were asking for the death penalty, which was outrageous. I also had my doubts that Paul could get a fair trial in this environment." Attacking the government's rico indictment against Bergrin, Lustberg said he will try the case "on the law."

On Park Place, however, there are doubts about this strategy. "Larry Lustberg is a brilliant attorney," said one barrister. "But you can't try this case on the law. You have to pull something out of left field. Something the jury will believe." Asked what that might be, the lawyer said, "Insanity! If Paul himself was trying the case, that's what he would do: Stand up straight, with that military bearing, look the judge straight in the eye, and say, 'Not guilty, your honor, by reason of insanity.'"

There is evidence to support this theory. First of all, it is virtually impossible that Bergrin did not know the

Feds were monitoring his actions. They'd been after him since the Kemo McCray murder, reputedly tracking his every move. Yet he continued on his hellbent course, allegedly conspiring to eliminate witnesses, fixing cases, selling drugs. Personally instructing the government "hit man" to "put on a ski mask" was not even the topper. Later transcripts detailed how Bergrin supposedly expressed a desire to personally take part in the rubout, much to the horror of the "hit man."

Beyond this is Bergrin's increasingly bizarre behavior. "In the last couple of years he started telling everyone he was dying," said one Essex lawyer. "But he wasn't going to take any chemo. That was for pussies. He was going to face the disease like a man. Everyone was really sorry for him. He started using it as an excuse to get out of trying cases," the lawyer said. It was as if Bergrin's total obsession to win every case had morphed into an all-consuming fear of losing. "It got so he didn't want to do any cases outside of Essex County. And if one of those cases started to go south, that's when he'd get sick. Someone else from the firm would step in. That way, if it was a loser, it didn't go on Paul's record."

The cancer, if cancer there was, has not been mentioned since. "He was the best-looking terminal-cancer patient you ever saw," said one colleague. "One day a friend of mine saw him running through the courthouse parking lot, and Paul turns around, yells 'Remission!' and keeps going."

Now entering his third year behind bars, Bergrin says he is using his prison time to get closer to his Jewishness. He prays each morning with tefillin and thinks about "the suffering experienced by our people." He has also completed his memoirs, which he says will "enable the fair-minded reader" to "see through this indictment to objectively determine the truth, whole truth, and nothing but the truth. There was not an attorney in the United States who worked harder than me, served his fellow soldier with more dedication, and loved his children as much as me." He predicts the book will be "a national best seller."

Back in Jersey, Bergrin's legend grows. Like Bonnie and Clyde, the roster of crimes he supposedly committed, cases he fixed, expands by the day. His name has turned up in the lyrics of East Orange rappers.

"He's a local legend," said one Essex prosecutor. "Paul was made for this place. He might have done terrible things, but it was Essex that helped him get away with it. Face it, criminals have been running things here for a hundred years. When you walk into a courtroom and a whole row of guys you know are Bloods are sitting in the back row, who is going to testify then? No one believes what the cops say on the stand. They haven't, really, since the riots. If there was ever a place for which the phrase 'It is what it is' was made for, it is Essex." For all the good intentions, a lot slipped through the cracks, which was just the sort of environment where someone like Paul Bergrin could work out his own particular criminal drama.

Meanwhile, the wheels of justice grind on. Over the past year, Thomas Moran and Vicente Esteves, both named in the indictment, have made deals with the Feds, likely "flipping" on Bergrin. Only last month it was reported that Yolanda Jauregui had followed suit, pleading guilty to racketeering, conspiracy, and drug-dealing charges. It is expected that Bergrin will also flip, if he hasn't already, and start singing about his life and times as New Jersey's baddest lawyer.

"There's some cases over at the U.S. Attorney's office that might be coming from Paul," said one Essex County judge.



Asked who might be sweating, the judge laughed. "The question is, who's not?" he said.

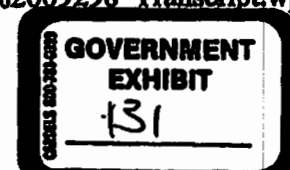
862-205-9273%20Sprint%202003-11-25%2014-26-02%2009298\_Transcript.wpd  
COREYGRUBBS/mtm

CASE: C3-03-0017  
PHONE: 862-205-9273 SPRINT  
CALL: 9298  
INCOMING: 9735897537  
DATE: NOVEMBER 25, 2003  
TIME: 14:26:02 - 14:28:05  
PARTICIPANTS:

CURRY, IBN (HAK)

BERGRIN, PAUL (PB)

C3-03-0017 862-205-9273%20Sprint%202003-11-25%2014-26-02%2009298\_Transcript.wpd



J-04389

P4721

**PHONE RINGS**

**HAK: Hello**

**PB: Et**

**HAK: Yeah**

**PB: Hey your boy got arrested.**

**HAK: For what?**

**PB: I got the complaint right in front of me, its possession with the intent to distribute and distribution more than 5 grams of crack cocaine and essentially what they are alleging is that he sold crack cocaine on one, two, three, four times to an undercover confidential witness. March 18<sup>th</sup>, 2003 sold 26 grams**

**HAK: March 18<sup>th</sup> 26 grams, what else?**

**PB: March 18, 2003, May 22<sup>nd</sup> 26 grams**

**HAK: May 22<sup>nd</sup>**

**PB: September 9<sup>th</sup>, 28 grams,**

**HAK: September 9<sup>th</sup>, 28 grams**

**PB: and October 23, 28 grams**

**HAK: to an informant or to an agent?**

**PB: handed the...its alls cw's, confidential witness, confidential witness, 4 times confidential witness**

**HAK: How bad is that**

**PB: I don't know. I don't know if they had him under surveillance. I don't know where it was done. The actual complaint was signed by Sean Manson a Special Agent from the FBI. I don't know if they had him under surveillance, I don't know if this guy was wired for sound. I don't know. I'm going to try to find that out today. The US Attorney is asking for detention without**

**C3-03-0017 862-205-9273%20Sprint%202003-11-25%2014-26-02%2009298\_Transcript.wpd**

bail. No bail

HAK: Is you going in with the hearing with him?

PB: Yeah its before Judge Falk, Mark Falk, I don't know him real well. So what's going to happen today is there probably gonna ask...they're allowed three days to ask for a detention hearing

HAK: yeah

PB: And that's what they'll probably do. And they'll probably indict within the next three days because that gives them probable cause

HAK: Alright so what time is he going to Court?

PB: 3:30

HAK: You're going with him, right? Alright, so call me after court and I'll meet with you in the office

PB: Okay, bro

HAK: But you're going with him, definitely, right?

PB: Yeah I have to. Definitely, I already entered my appearance

HAK: Okay

PB: Okay Brother?

HAK: Alright

PB: Alright buddy.

CONVERSATION ENDS

transcript 11-25-03 16 call 9349.wpd

CASE: C3-03-0017  
PHONE: 862-205-9273 SPRINT  
CALL: 9349  
INCOMING: 9739850994  
DATE: NOVEMBER 25, 2003  
TIME: 16:00:23 - 16:01:44

**PARTICIPANTS:**

CURRY, IBN, a/k/a "Hak"

BERGRIN, PAUL

UNIDENTIFIED COURTHOUSE EMPLOYEE



J-04392

P4724



[TELEPHONE RINGS]

IBN CURRY: Paul.

PAUL BERGRIN: Hey Hak, I just came from, you know, I just came from magistrate's court, I'm going over to the actual cell block. [TO BACKGROUND:] Hey (inaudible). Where is he, on the fifth floor across the street? [UI]-

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] Where?

BERGRIN: [TO BACKGROUND:] [UI.]

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] [UI] fourth floor.

BERGRIN: [TO BACKGROUND:] I know, but where do they take the prisoners, across the street?

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] Yeah, go here, and uh, you want to press the basement.

BERGRIN: [TO BACKGROUND:] Mm-hmm.

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] And you go right down-

BERGRIN: [TO BACKGROUND:] All right.

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] But buzz the, dial 295, because there's nobody else over there.

BERGRIN: [TO BACKGROUND:] Oh, okay.

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] You get in, make the left, there is going to be a phone and another set of doors, 295 on the-

BERGRIN: [TO BACKGROUND:] All right. Thanks a million.

COURTHOUSE EMPLOYEE: [IN BACKGROUND:] Okay, guys [UI]-

BERGRIN: Hak.

HAK: Yeah.

BERGRIN: They bind him pretty heavy. They got four,

four hand-to-hand sales. They say they have him recorded and under surveillance, with surveillance video. He's facing life, you know?

HAK: Yeah.

BERGRIN: Yeah. Um, the informant, [UI], he said, I got a chance to speak to William, and he said the informant is a guy by the name of K-Mo.

HAK: K-Mo?

BERGRIN: Yeah.

HAK: From where?

BERGRIN: I don't know. He's gonna, I'm going to go over now and speak to him and see him.

HAK: All right, get detail and detail and call me back.

BERGRIN: All right.

**CALLS ON 11/25/03 AS OF 1/6/05**

<b>Malik Latimore</b>	<b>(973) 418-1342 cell</b>
<b>Rakim Baskerville</b>	<b>(973) 885-5719 cell</b>
<b>Diedra Baskerville</b>	<b>(908) 620-0414 home, (908) 413-0848 cell</b>
<b>HC Jail</b>	<b>(908) 690-5631</b>
<b>Paul Bergrin</b>	<b>(973) 985-0994 cell</b>

- |     |         |  |
|-----|---------|--|
| 1)  | 10:33am | Call from Bergrin to Diedra Baskerville home phone |
| 2)  | 10:45am | Call from Bergrin to Diedra Baskerville cell phone |
| 3)  | 11:57am | Call from Latimore to Curry                        |
| 4)  | 2:05pm  | Call from Curry to Rakim Baskerville               |
| 5)  | 3:59pm  | Call from Bergrin to Curry                         |
| 6)  | 4:01pm  | Call from Curry to Rakim Baskerville               |
| 7)  | 4:16pm  | Call from Horatio Joines to Rakim Baskerville      |
| 8)  | 4:17pm  | Call from Rakim Baskerville to Curry               |
| 9)  | 4:17pm  | Call from Bergrin to Curry (per Curry's records)   |
| 9)  | 4:18pm  | Call from Bergrin to Curry (per Bergrin's records) |
| 10) | 4:19pm  | Call from Bergrin to Diedra Baskerville home phone |
| 11) | 4:36pm  | Call from Curry to Rakim Baskerville               |
| 12) | 5:23pm  | Call from HC Jail to Diedra Baskerville home phone |
| 13) | 5:31pm  | Call from HC Jail to Diedra Baskerville home phone |
| 14) | 7:02pm  | Call from Latimore to Curry                        |
| 15) | 9:01pm  | Call from Latimore to Curry                        |

**Diedra Baskerville's cell phone records have not yet been received as of 1/6/05**

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 06/28/2004

On June 17, 2004, RODERICK BOYD, a Federal inmate at Passaic County Jail, was interviewed by the undersigned agents in the presence of his attorney, LAURIE FIERRO, telephone (201) 489-9888. BOYD had requested to speak to the agents regarding information on HAKIM CURRIE and CURRIE's associates.

BOYD is currently incarcerated with NORMAN SANDERS, OSCAR LAST NAME UNKNOWN, JASON HANNIBLE, ALQUADIR CLARK, MALIK LATIMORE, TAHID MITCHELL, ATIF AMEEN aka SAH. NORMAN SANDERS' girlfriend, PAULA, brought him a picture of LACHOY WALKER, at the instruction of HAKIM CURRIE, with further instruction to "Kill on Sight" or KOS because WALKER is a snitch. The picture shows WALKER standing alone in front of the BELLAGIO in Las Vegas two years ago at CURRIE's wedding.

PHIL, a drug dealer in the area of 30 Lenox Avenue, is bringing in money to SANDERS, and SANDERS distributes it to the rest of the crew. SANDERS is in charge now that CURRIE has been moved to Monmouth County Jail.

PHIL runs a large scale drug operation out the apartment building at 30 Lenox Avenue, East Orange. PHIL, age approximately 27, originally from Avon Avenue, has six to eight "runners" who work for him around the clock selling heroin and crack cocaine. He stashes the drugs inside apartment 480. The apartment belongs to his girlfriend's mother, TERESA LAST NAME UNKNOWN.

BOYD advised that LATIMORE and SANDERS talk openly about killing a snitch on S. Orange and 19th Street, Newark. LATIMORE killed him, and is still waiting on getting paid from CURRIE for the job. CURRIE owes LATIMORE \$37,000.

CURRIE hired PAUL BERGRIN to represent the members of his crew. CURRIE is paying BERGRIN directly, and BERGRIN is conspiring with his associates to represent CURRIE's associates. BERGRIN is calling the shots from behind the scenes, and CURRIE is paying him cash, under the table, in return.

Investigation on 06/17/04 at Paterson, NJ

File # 166E-NK-109413-M, 166E-NK-109314-B

Date dictated 6/17/04

by SO HENRY DILLON

by SA SHAWN A. MANSON/sam

**ESSEX COUNTY PROSECUTOR'S OFFICE****EVIDENCE CONTROL FORM**

Fill in all applicable fields, all information must be typed or printed clearly

Defendant(s):	Investigator: Susan Bzik	Badge # 203	
Victim: Kemo Mcray	P #:	Ind. #:	
Type of Offense: Homicide	Agency: Newark	Evidence Received From: Crime Scene	
Returned by: (print name)	Signature:	Date Received: 7/1/05	
Received by: (print name) Shawn A. Manson	Signature: <i>Shawn A. Manson</i>	Time Received: 10:55A	
Comments:	CC#: Homicide # 24-04		

**List Items Separately**

Itemized Description of Evidence	IN	OUT	IN	OUT	IN	OUT	IN	OUT
1. 48 photographs- crime scene	IN							
	OUT							
2.	IN							
	OUT							
3.	IN							
	OUT							
4.	IN							
	OUT							
5.	IN							
	OUT							
6.	IN							
	OUT							
7.	IN							
	OUT							
8.	IN							
	OUT							
9.	IN							
	OUT							
10.	IN							
	OUT							



5220

1 limitation. Obviously, it's not a word-for-word recitation.

2 THE COURT: The point is the newspaper article  
3 itself is hearsay. Contained within the article is all kinds  
4 of information about crimes and conspiracies not charged in  
5 this case, there are expressions of Government agents and law  
6 enforcement agents' opinions about crimes in general and about  
7 crimes not charged in this case and as a result, the newspaper  
8 article, aside from those hearsay and improper opinions type  
9 of evidence, the newspaper article itself is further precluded  
10 in my view by evidence Rule 403, because the information in  
11 the newspaper article is so prejudicial and there is no way  
12 for the defense to possibly rebut it, that it is unfairly  
13 prejudicial as a Rule 403 analysis would require me to find.

14 MR. MINISH: That's fine.

15 I just wanted to make sure that I'm not talking about  
16 moving the article in, just that that testimony can be  
17 elicited from Mr. Dock if he was involved in it.

18 THE COURT: I don't know what Mr. Dock is going to  
19 say.

20 MR. MINISH: I don't either word-for-word, but I'm  
21 saying that sort of information is what I expect.

22 THE COURT: The way the newspaper article was  
23 properly used, going back to the testimony of Bell, was did  
24 there come a time when you realized that you had information  
25 from Mr. Baskerville that was significant to you? Yes.

JOANNE M. CARUSO, CSR, CRR, OFFICIAL COURT REPORTER, TRENTON, N.J.

5221

1 When was that? It was when he read a newspaper  
2 article.

3 MR. MINISH: And why?

4 THE COURT: And then he testified the newspaper  
5 article was significant because it mentioned Hakim Curry and  
6 it mentioned murders.

7 MR. MINISH: Absolutely. I just want to make sure.

8 THE COURT: That's what Bell said which made the use  
9 of the newspaper article as a triggering significant event in  
10 his decision to recall the statements that were made to him by  
11 Mr. Baskerville.

12 MR. MINISH: Absolutely.

13 THE COURT: Now, I don't know what Dock is going to  
14 say. If he says something like that, then so be it.

15 MR. MINISH: Okay.

16 THE CLERK: All rise.

17 (Trial adjourned until Monday morning, April 23,  
18 2007, at 9:30 a.m.)  
19  
20  
21  
22  
23  
24  
25

JOANNE M. CARUSO, CSR, CRR, OFFICIAL COURT REPORTER, TRENTON, N.J.

5218

1 (Jury is excused and the following takes place out  
2 of the presence of the jury.)

3 THE COURT: You want to talk about scheduling. We  
4 have Mr. Dock for Monday. Will he take the day?

5 MR. MINISH: Similar to this.

6 THE COURT: Okay. Then what?

7 MR. FRAZER: Then we have Roberta Klots from the U.S.  
8 Attorney's Office, the librarian, who hopefully we can do, if  
9 we finish in a similar fashion, try to get her on Monday. She  
10 wouldn't take more than a half hour.

11 THE COURT: Okay.

12 MR. FRAZER: Then Tuesday that leaves us the marshal,  
13 Mr. Bill Cannon and the DEA, Greg Hilton.

14 We anticipate finishing fairly early on Tuesday,  
15 ~~being any undue delay.~~

16 THE COURT: Then we'll move into the defense.

17 MR. FRAZER: Yes.

18 THE COURT: So I would ask you, Mr. Herman, Mr.  
19 Kayser, I would simply ask you to advise us as soon as you can  
20 as to what we can anticipate.

21 I need, once again, I need a proposed jury  
22 instruction.

23 MR. MINISH: It's our intention on Friday to send the  
24 Court and defense counsel, tomorrow, send in a jury charge.

25 THE COURT: Fine.

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5219

1 MR. MINISH: With respect to the defense, Judge, at  
2 this point the Government is making an official request of at  
3 least the world of people, besides obviously the defendant,  
4 that are possible witnesses.

5 MR. HERMAN: I told them before lunch or after lunch.

6 THE COURT: I'm sorry?

7 MR. HERMAN: I gave the Government two names of  
8 potential witnesses.

9 MR. MINISH: Rasheeda Tarver and I forget.

10 MR. HERMAN: Deidra Baskerville.

11 THE COURT: That's it.

12 MR. MINISH: That's the whole world beside the  
13 defendant?

14 MR. HERMAN: If it changes, we'll let him know.

15 ~~MR. MINISH: If we can resolve the one legal issue~~

16 with respect to that Star-Ledger article. The same topic will  
17 come up with Mr. Dock.

18 I want to make sure I understand your Honor's ruling  
19 correctly. It's my understanding that Mr. Dock will be able  
20 to testify that when he read that article, based on the fact  
21 that it had E.T. Hak mentioned and witnesses murdered  
22 mentioned, that he was able to put two and two together?

23 THE COURT: I don't know what Mr. Dock is going to  
24 say. That's what Bell said.

25 MR. MINISH: No, no, I'm just talking as far as

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P4731

-5216-

1 what we do, if this factors in, we're going to be going into  
2 Tuesday on testimony.

3 THE COURT: No question about it.

4 It's going to take us ten minutes to get Mr. Dock up  
5 here.

6 MR. MINISH: It seems to me a waste.

7 THE COURT: Mr. Herman.

8 MR. KAYSER: Makes no difference to us.

9 THE COURT: Let's break for the day. Again, we're  
10 into 200 pages all ready. This is going in at a remarkable  
11 pace.

12 If there is no objection, I'll have the clerk excuse  
13 the jury right from the jury room and we'll see everybody back  
14 here Monday morning.

15 I will also have the clerk advise the jury that it

16 looks like the Government's case will rest on Tuesday  
17 sometime.

18 MR. MINISH: That's correct.

19 MR. FRAZER: Do we want to discuss scheduling past  
20 that?

21 THE COURT: Let's have the jury excused so we can  
22 relax a little bit.

23 When they're all leaving, have them wait behind the  
24 back row, okay.

25 Wait right there for a minute.

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-5217-

1 (The following takes place in the presence of the  
2 jury.)

3 THE COURT: As you're leaving, I just want to repeat  
4 the instruction I have been giving at the end of everyday.

5 Because of the weekend break, it's important.

6 Don't discuss the case with anyone or permit anyone  
7 to discuss it with you. Try to avoid anything that touches on  
8 the subject matter of the case.

9 We'll see everybody Monday.

10 Have a safe weekend.  
11  
12  
13  
14  
15

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Bell - Redirect/Minish 5214

1 A No, you all just sit and look. Whatever you all ain't  
 2 saying nothing. You all just sit there and see whatever I got  
 3 to say, that's it.  
 4 You asked me a question and I answered it. I mean, I  
 5 don't say nothing. You all just sit there and look at me.  
 6 See what information I got.  
 7 MR. MINISH: Nothing further.  
 8 THE COURT: Anything else?  
 9 MR. HERNAN: No, Judge.  
 10 THE COURT: You're excused.  
 11 Ladies and gentlemen, you can go into the jury room.  
 12 I'm going to discuss with counsel the balance of the day and  
 13 advise you immediately.  
 14 THE CLERK: All rise.  
 15 Before you leave, I forgot this yesterday as well  
 16 The instruction as to Mr. Bell is as similar with  
 17 other witnesses, you should not consider his decision to plead  
 18 guilty or testify as evidence against the defendant. You may  
 19 consider what he expects to receive from his testimony in  
 20 considering his credibility.  
 21 Likewise, with respect to Mr. York yesterday, you  
 22 should not consider his decision to plead guilty or the fact  
 23 that he has a cooperation agreement as any evidence of the  
 24 defendant's guilt, but you may consider those agreements in  
 25 connection with your assessment of his credibility.

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5215

1 Thank you.  
 2 (Jury is excused and the following takes place out of  
 3 the presence of the jury.)  
 4 (Troy Bell leaves the courtroom.)  
 5 THE COURT: Did I hear correctly that he does not  
 6 have a cooperation agreement?  
 7 MR. MINISH: That's correct.  
 8 THE COURT: When was he sentenced?  
 9 MR. MINISH: I honestly don't know. I can only go by  
 10 what he said. He said November of '04.  
 11 THE COURT: How is it, by what mechanism, by what  
 12 procedural mechanism does he expect any kind of consideration  
 13 for his cooperation?  
 14 MR. MINISH: Rule 35.  
 15 THE COURT: Isn't there a time limit when that  
 16 motion can be made?  
 17 MR. MINISH: Yes, Judge, I believe there is but I  
 18 think the cooperation started beforehand, that we will be able  
 19 to make it.  
 20 THE COURT: Nobody brought it up. I just ask the  
 21 question out of curiosity.  
 22 MR. MINISH: It's our intention.  
 23 THE COURT: What's your pleasure? It's 2:25. You  
 24 want to start with Mr. Dock or break for the day?  
 25 MR. MINISH: I think at this point, regardless of

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P4733

Bell - Redirect/Minish -5212-

1 A When I saw the article, that's when I took him serious.  
 2 If it wasn't for that article, I wouldn't be up here on the  
 3 stand today.  
 4 Q Okay.  
 5 Well, let's get to that.  
 6 You also said you wouldn't be on the stand if Eric Dock  
 7 had not said the defendant was a big SK?  
 8 What did you mean by that?  
 9 A Because like I said, in jail, you're taught to mind your  
 10 business. I seen people sell weed in jail, sell heroin in  
 11 jail, I seen people get stabbed in jail, jumped. You're  
 12 taught to mind your business. You don't say nothing.  
 13 So him saying that, I was just minding my business. It  
 14 was just -- plus it ain't really concern me because I was too  
 15 ~~concerned about my own situation. That's why, if Eric Dock~~  
 16 never would have said that, I wouldn't even be on the stand  
 17 today.  
 18 Q You mean you would have just continued to mind your own  
 19 business?  
 20 A Yes.  
 21 Q And at some point, Eric Dock put in your head the idea of  
 22 cooperation?  
 23 A Yes. Said he was a big SK. He asked me, do you want to  
 24 write? I said why not?  
 25 Q So you decided to cooperate?

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Bell - Redirect/Minish -5213-

1 A Yes.  
 2 Q Was that your decision or Eric Dock's decision?  
 3 A Eric Dock. Then I agree with him. I say, why not?  
 4 Q I'm only talking about when you decided to write the  
 5 letter and cooperate, was that your decision or Eric Dock's?  
 6 A My decision.  
 7 Q And in your mind, is there a difference between  
 8 cooperating in a drug case or a case about a murder of a  
 9 federal witness?  
 10 A Is there a difference?  
 11 Q Say in importance?  
 12 A Yeah. A murder case is bigger than a drug case.  
 13 Q Mr. Herman asked you some questions about meetings you  
 14 had with myself or with the agents?  
 15 A Yes.  
 16 Q At any point did myself or any members of my office or of  
 17 law enforcement ever tell you what to say?  
 18 A No.  
 19 Q What's the first thing you were told at the beginning of  
 20 every meeting?  
 21 A If I lie, I get nothing.  
 22 Q Were you told to tell the truth?  
 23 A Yes.  
 24 Q At any point did I tell you or anybody else tell you how  
 25 to answer questions?

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Bell - Redirect/Minish - 5210

1 Q Did he -- he also asked you whether you believe  
2 everything you heard in jail.  
3 When William Baskerville told you from all I know, my  
4 informant is dead, did you believe that?  
5 A Yeah. He said -- say the question again.  
6 Q Mr. Herman asked you whether you can believe everything  
7 in jail?  
8 A Yeah.  
9 Q When the defendant told you, for all I know, my informant  
10 is dead, did you think he was lying to you?  
11 A No. A person can say anything sometimes.  
12 Did I think he was lying? I ain't even really --  
13 Q Did you have a thought one way or the other at the time?  
14 A Could have been lying, could have been telling the truth.  
15 ~~It wasn't like, it really didn't concern me. I was like, dude~~  
16 must be crazy saying something like that.  
17 Q Did there come a time when in your mind you thought he  
18 was telling the truth?  
19 A Yes.  
20 Q When was that?  
21 A When I read the news article.  
22 Q And what in the news article made you believe that?  
23 MR. HERMAN: Objection, Judge.  
24 THE COURT: Sustained.  
25 MR. MINISH: Judge, redirect covering the area.

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Bell - Redirect/Minish - 5211

1 THE COURT: I sustained the objection.  
2 Next question.  
3 Q How about the statement, my dudes are out there looking  
4 for an informant to put a bullet in his melon, did you believe  
5 that at the time?  
6 A That's the same statement.  
7 Q Well, it was the same conversation?  
8 A Yeah, same conversation.  
9 Q All of those sort of comments that you testified to, at  
10 the time they were made, were you sure one way or the other  
11 whether the defendant was telling the truth?  
12 A He could have been telling the truth, but I wasn't --  
13 see, in jail you taught to mind your business. I mean, in  
14 jail or the streets, but in jail you're taught to mind your  
15 business.  
16 Him saying that, I mind my business. It really wasn't  
17 my business and it wasn't my -- I was worried about myself too  
18 much to be concerned with that.  
19 Q Did there come a time and, again, so we just do this  
20 once, all of those statements you testified to that the  
21 defendant made?  
22 A I didn't take him seriously until I read the letters --  
23 until I saw the newspaper.  
24 Q Okay.  
25 So something in that article?

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P4735

Bell - Cross/Herman 5208

- 1 Q A big SK1?
- 2 A No, that's what Eric Dock told me. Will was a big SK1.
- 3 Q Eric Dock told you that Will was a big SK1?
- 4 A Yes.
- 5 Q And what did that mean?
- 6 A SK1 is you get a downward departure for cooperating with
- 7 the Government, substantial assistance to the Government.
- 8 Q What's a big SK1?
- 9 A That was his expression, a big SK1, I guess.
- 10 Q Don't guess. If you know, what did he mean?
- 11 Sometimes people tell you things and you don't know
- 12 what they mean, right?
- 13 A He just said he's a big SK1.
- 14 Q Did that have any significance to you?
- 15 A ~~It just that made me want to~~ if he never would have
- 16 said that, I never would have thought about doing nothing. I
- 17 wouldn't even be on the stand today.
- 18 If Eric Dock would never said that, I wouldn't never be
- 19 on the stand today.
- 20 Q The reason you're on the stand today is because Eric Dock
- 21 told you that Will Baskerville is a big SK1?
- 22 A Yes.
- 23 Q That must have meant something to you?
- 24 A Yes.
- 25 Q Because that changed your whole approach, right?

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Bell - Cross/Herman 5209

- 1 A Yes.
- 2 Q You decided at that point, Will Baskerville's a big SK1,
- 3 I got to get involved with this, right?
- 4 A Yes.
- 5 Q And what does it mean, a big SK1?
- 6 A If you provide substantial assistance to the Government,
- 7 if you cooperate, the Government will put in a letter to the
- 8 judge asking him to reduce your sentence before you get
- 9 sentenced.
- 10 Q That's a SK1?
- 11 A Yes.
- 12 Q And a big SK1, is this really could be a home run for
- 13 you, right?
- 14 A Eric Dock, yes, he probably meant that.
- 15 Q Well, give me one second
- 16 (Pause.)
- 17 MR. HERMAN: That's all I have, thanks.
- 18 THE COURT: Any redirect?
- 19 MR. MINISH: Yes, Judge.
- 20 REDIRECT EXAMINATION BY MR. MINISH:
- 21 Q Mr. Herman asked you about what Eric Dock told you about
- 22 his informant.
- 23 Did Eric Dock ever tell you that he had his guys out on
- 24 the street looking to put a bullet in his informant's melon?
- 25 A No.

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Bell - Cross/Herman 5206

- 1 A A lot -- a lot of times I did, cause everybody else was  
2 talking about him.
- 3 Q About E.T. Hak?
- 4 A I was asking Will, was it true. Like Ali told me this  
5 and Will would be like, no, he say, yeah, then he say no,  
6 because he told me, by the time Ali told me that E.T. Hak was  
7 having sex with this girl named Lisa Ray, she's an actress --  
8 Q I'm not asking you about that. That's not responsive to  
9 my question.
- 10 What I was asking you was, were you fascinated with  
11 this drug lifestyle?
- 12 A Yes.
- 13 Q And did you aspire to that? Did you want that to be for  
14 you?
- 15 A No, I wasn't. I just liked the way they was, you know,  
16 the way they was getting money and the way they was spending  
17 money, things they was doing at that point. Yeah.
- 18 Q You thought that was really cool?
- 19 A Yeah.
- 20 Q And did you ever, when you were on the streets, did you  
21 try to get big like that?
- 22 A Yeah, but I wasn't on their level. I tried to, but it  
23 wasn't nowhere compared to what they was doing or E.T. Hak was  
24 doing.
- 25 Q What you heard anyway?

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Bell - Cross/Herman 5207

- 1 A I guess, Will, too. Because he buy his wife a \$2,000  
2 bag, so I definitely wasn't.
- 3 Q You saw a picture of that bag, right? You see a picture  
4 of the bag?
- 5 A No.
- 6 Q And he didn't go to E. T. Hak's wedding, did he?
- 7 A No, he told me he didn't.
- 8 Q No reason to believe he went to E. T. Hak's wedding?
- 9 A He told me he didn't go to his wedding cause he said the  
10 feds is on E.T. Hak.
- 11 Q Sometimes you believe him, sometimes you didn't, right?
- 12 A Yeah, sometimes I didn't believe him.
- 13 No, not that I didn't believe him. I said people in  
14 jail say anything. I wasn't referring as far as that part,  
15 yeah, that was probably true.
- 16 Q People in jail say anything, right?
- 17 A Yeah, but I wasn't referring to that.
- 18 Q But in general, you don't believe everything you hear in  
19 jail, right?
- 20 A But I heard about E.T. Hak. I mean, if one person, five  
21 people say the same or similar thing, it must be true. He  
22 must have been doing his thing. He knew him.
- 23 Q You thought Mr. Baskerville was a big 5K.
- 24 Is that what you said today?
- 25 A A big 5K1.

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P4737

Bell - Cross/Herman 5204

1 around three-way calls.  
 2 Q How do you do it?  
 3 A When you dial the person, the person got to call them and  
 4 tell them, I need to call a three-way. Give them the number,  
 5 then you hang up. When you call, when you call back, the  
 6 automated saying this is a collect call from such and such,  
 7 that's when the other person dial the number, click over, dial  
 8 the number and click back over. Then they press five or  
 9 whatever to accept your call.  
 10 Q And does that cut off then, that three-way call?  
 11 A No, cause they doing it while the automated voice is  
 12 still going. If you try to make a three-way call, like just  
 13 talking to a person, call such and such for me on three-way,  
 14 once you do that, it will click off.  
 15 Q Okay.

16 Did you ever do that, make a three-way call?  
 17 A Yes.  
 18 Q And you were successful in doing it?  
 19 A Yes.  
 20 Q And it didn't get cut off?  
 21 A No, because there was a phone in Hudson County, Will told  
 22 me you can make three-way calls on.  
 23 Q In Hudson County?  
 24 A Yes.  
 25 Q And did they tape record the calls?

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Bell - Cross/Herman 5205

1 A I think that phone was broke.  
 2 Q Phone was broke?  
 3 A It let you dial -- you call somebody collect, yo, call  
 4 such and such and they call them and the call go through.  
 5 That one phone allow you to make three-way calls.  
 6 Q And how long did that phone exist like that?  
 7 A Since he told me, since I have been there.  
 8 Q How long?  
 9 A He told me like couple months after I be there. He told  
 10 me you can make three-way calls on that phone.  
 11 Q And when was that?  
 12 A February, March.  
 13 Q Okay.  
 14 So everybody used that phone to make three-way calls?  
 15 A Whoever know about it.

16 Q And the guards didn't know anything about it?  
 17 A I don't think the guards knew.  
 18 Q Let me ask you this: You told us that you were  
 19 fascinated by the lifestyle of drug dealers, right?  
 20 A Not drug dealers, but I was fascinated with E.T. Hak,  
 21 like his lifestyle cause I used to hear so much about it.  
 22 Q You heard about it from his uncle, Reginald Curry?  
 23 A Yes.  
 24 Q But you didn't know whether Reginald Curry was telling  
 25 you the truth, right?

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Bell - Cross/Herman 5202

- 1 Now you told us that when you're in the Hudson County  
2 Jail, there's -- they tape record the calls, right?  
3 A Yes.  
4 Q So if you make what is it, a collect call?  
5 A Yes.  
6 Q That you believe somebody is tape recording the call,  
7 right?  
8 A It said, yes, it could be monitored. The phone calls  
9 could be monitored.  
10 Q They tell you right there when you pick up the phone?  
11 A Yes.  
12 Q Is that right?  
13 A Yes.  
14 Q But you're saying there's a way you can make a three-way  
15 call and no one can hear what's being said?  
16 A Yeah, because you're not allowed to make three-way calls.  
17 Any state jails in New Jersey, not allowed to make three, it  
18 tells you, you're not allowed to make three-way calls.  
19 Q What happens if you make a three-way call?  
20 A It cuts off.  
21 Q How many state jails have you been in?  
22 A Quite a few.  
23 Q Five, 6?  
24 A Different jails, about seven, eight.  
25 Q So you have been to seven, eight jails in New Jersey,

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Bell - Cross/Herman 5203

- 1 right?  
2 A Yes.  
3 Q And you have been in jails outside of New Jersey?  
4 A Just the federal prison.  
5 Q Okay.  
6 A And two -- Fort Devons Federal Prison in Pennsylvania.  
7 Q So you have been in eight New Jersey jails and two  
8 federal prisons?  
9 A Yes.  
10 Q Is federal prison like New Jersey jails or not?  
11 A You can't make no -- you're not allowed to make  
12 three-way calls in the feds either.  
13 Q All right.  
14 So with regard to phone calls, every jail you have been  
15 in, you can't make a three-way call, right?  
16 A Right.  
17 Q And if you make a three-way call, what happens, they cut  
18 it off?  
19 A Yes.  
20 Q And did you ever make phone calls?  
21 A Yes.  
22 Q And were you careful as to what you said on the call?  
23 A I made a phone call, mostly to my mother.  
24 Q Okay.  
25 A If you make a three-way call, people know how to get

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P4739



Bell - Cross/Herman 5200

1 Q Did he tell you that it was a light-skinned crack head  
2 who had set him up?

3 A Yes.

4 Q And why did he know that? How did he know that?

5 A How did Eric Dock know that?

6 Q No, how did he tell you that he knew that?

7 A How did he tell me that?

8 Q You're good friends with Eric Dock, right?

9 A Yes.

10 Q He's talking about his case?

11 A Yes.

12 Q He said a light-skinned crack head set me up?

13 A Yes.

14 Q Did he tell you how he knew that?

15 A Yes.

16 Q What did he tell you?

17 A He told me him and his co-defendants, four co-defendants  
18 figured out who the informant was when they was in the holding  
19 cell in the federal courthouse.

20 Q Okay.

21 So he had tried to figure out who the informant was on  
22 his case, right?

23 A Yeah. He said they figured it out.

24 Q They figured it out?

25 A Yes.

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Bell - Cross/Herman 5201

1 Q Based on the type of drug sales that he was doing to this  
2 particular person, so he told you?

3 A He just said he figured it out, him and his  
4 co-defendants. He didn't say like as far as -- he just told  
5 as far as -- he just said they figured it out when they was in  
6 the courthouse.

7 Q Okay.

8 A He didn't tell us how he figured it out.

9 Q Never did?

10 A No.

11 Q The whole time?

12 A He was just telling us who his informant was. After that  
13 he just told us who was his informant.

14 Q He knew who his informant was?

15 A Yes.

16 Q And he told you?

17 A Yes.

18 Q And this is something that you talked with Mr. Dock a lot  
19 about, about his charges?

20 A No, I ain't talking about that a lot. No.

21 Q You talked about other things?

22 A Yeah.

23 Q What's a case jumper? Do you know what a case jumper is?

24 A No.

25 Q Never heard that?

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Bell - Cross/Herman 5198

1 A Yes.

2 Q And did you and your lawyer --

3 MR. MINISH: I object to this line of questioning.

4 We're moving into an area that's going to be contradictory to

5 your Honor's ruling.

6 THE COURT: I don't know about that. Let's see what

7 the question is.

8 Q Here's the question: Did you and your lawyer, when you

9 went in front of Judge Walls, did you and your lawyer say to

10 Judge Walls, give me, Troy Bell, give me a break, cut some off

11 my time because I was in the hospital because my jaw was

12 broken and because I was hearing voices?

13 A And yes, and we argued something else, too. Blakely v.

14 Washington case.

15 Q Legal argument?

16 A Yes.

17 Q I understand that. That's before the Supreme Court.

18 You know about those cases, right?

19 A Yes.

20 Q Guidelines apply or they don't apply?

21 A Yes.

22 Q They got to be advisory or they're mandatory?

23 A Yes.

24 Q You're in the law library all the time?

25 A Yes.

Bell - Cross/Herman 5199

1 Q And you're trying to think of ways to get less time,

2 right?

3 A No, not -- well, if you want to say it like that. As far

4 as my broken jaw situation, yeah, voices, yeah.

5 Q So you never heard voices, right?

6 A No.

7 Q You lied to the doctor about hearing voices, right?

8 A Yes.

9 Q Then you lied to the judge and said I was hearing voices

10 and I should get a break on my sentence, right?

11 A Yes.

12 Q Now, you told us on direct, Eric Dock figured out who his

13 co-defendant was, right, --

14 A Yes.

15 Q -- on the drug case?

16 A Yes.

17 Q It was a light-skinned crack head?

18 A Yes.

19 Q And he knew that because the guy had a thousand dollars

20 or more to spend?

21 A No, they figured it out when they was all in the holding

22 cell together, him and his co-defendants.

23 Q I'm just telling you -- I'm asking you what Eric Dock

24 told you.

25 A Yes.

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P4741

Bell - Cross/Herman 5196

1 Q So then you wrote to Mr. Vasquez, right?

2 A Yes.

3 Q And you said, "I don't know how much time I will get, but

4 I can't do ten or 12 years. I'm going to commit suicide if I

5 got to do that much time," right?

6 A Yes.

7 Q Was that in your mind at the time, you were going to

8 commit suicide?

9 A At the time, a little bit.

10 Q Nobody was listening to you, right?

11 A Nobody was listening to you?

12 Q Nobody in the Government was listening to you, right?

13 A No, no.

14 Q In fact, Mr. Vasquez told your lawyer, tell Mr. Bell stop

15 writing to me, we have nothing that we want to deal with Mr.

16 Bell?

17 A Yes.

18 Q True?

19 Now, when you went to -- you have been sentenced on

20 the federal charge, right?

21 A Yes.

22 Q And when you went in front of the judge, did you ask the

23 judge to give you less time because you had been in the

24 hospital?

25 A Cause my broken jaw, yeah. Yes.

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Bell - Cross/Herman 5197

1 Q That was part of the pitch that you were making or your

2 lawyer was making to the judge?

3 A In my sentencing memorandum? Yes.

4 Q Is that what you were stressing at the time?

5 A Yes.

6 Q All right.

7 And did your lawyer say you were in the hospital for a

8 broken jaw or because you were hearing voices?

9 A Both.

10 Q Both?

11 A Yes.

12 Q So when you went in front of that judge, who was the

13 judge?

14 A Judge Wallis.

15 Q Judge Wallis up in Newark?

16 A Yes.

17 Q You and your lawyer were taking the position that you

18 should get a break on your sentencing because you were in the

19 hospital and you were hearing voices?

20 A My jaw got broke.

21 Q I understand that.

22 That must have been painful, right?

23 A Yes.

24 Q But you also were in the hospital for five months because

25 you told the doctor you were hearing voices, right?

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Bell - Cross/Herman 5194

- 1 Q Joey Merlino had beat his case, right?
- 2 A Yes.
- 3 Q So he was going to be transferred anyway?
- 4 A Yes.
- 5 Q But you wanted to be the one to be the link to the
- 6 prosecutor, right?
- 7 A Yes.
- 8 Q You wanted to wear a wire, right?
- 9 A Yes.
- 10 Q You didn't want Mr. Baskerville talking to anybody but
- 11 you, right?
- 12 A Me and Eric Dock.
- 13 Q You don't mention Eric Dock in this letter?
- 14 A No.
- 15 Q Right?
- 16 A No, cause Eric Dock ain't want his name in the letter.
- 17 Q And did they ever wire you up?
- 18 A No.
- 19 Q So there were no wires for you, right?
- 20 A No.
- 21 Q Now, you also wrote a letter to Mr. Vasquez, right?
- 22 A Yes.
- 23 MR. HERMAN: Judge, can I have this marked D-13.
- 24 (D-13, letter, is marked for identification.)
- 25 Q Mr. Bell, please look at what we marked for our purposes

Bell - Cross/Herman 5195

- 1 here as D-13.
- 2 I'll ask you if you can tell the jury what that is? Do
- 3 you know what that is?
- 4 A Yeah. Yes.
- 5 Q That's a letter that you wrote -- did you write that
- 6 letter?
- 7 A Yes.
- 8 Q Did anybody dictate that letter?
- 9 A No.
- 10 Q All right.
- 11 You wrote that to Mr. Vasquez, right?
- 12 A Yes.
- 13 Q And there is no date on the letter, right?
- 14 A No.
- 15 Q When did you -- do you know when you wrote that letter?
- 16 A In the summertime.
- 17 Q Summertime?
- 18 A Summertime.
- 19 Q What year?
- 20 A 2004.
- 21 Q Okay.
- 22 This was after the time when you wrote to Mr. Gay and
- 23 the agents came to see you and you wouldn't tell them anything
- 24 and they didn't come to see you again, right?
- 25 A Yes.

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P4743

Bell - Cross/Herman 5192

- 1 Q So why did you write that to Mr. Gay?
- 2 A Cause Eric Dock ain't want his name in there.
- 3 Q Dock didn't want his name in it?
- 4 A No.
- 5 Q He didn't want to have any credit for all the information
- 6 that he was supposedly going to give him?
- 7 A No, he told me -- he said when -- If they come see you,
- 8 cause we was doubting they were going to come see. If they
- 9 come see you, make sure he tell them two of us this
- 10 information.
- 11 Q Why were you doubting that they would come?
- 12 A Cause we probably thought they had enough evidence or
- 13 whatever, I don't know.
- 14 Q You thought they wouldn't be interested in talking to
- 15 you, right?

- 16 A Yeah.
- 17 Q And, in fact, you said, "I am in a unique position to
- 18 wear a wire"?
- 19 A Yes.
- 20 Q Did you say that?
- 21 A Yes.
- 22 Q And what did you mean by that?
- 23 A Wear a wire, try to get -- so I can get information, wear
- 24 a wire and get information out of William Baskerville.
- 25 Q And do people do that in jail?

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Bell - Cross/Herman 5193

- 1 A No.
- 2 Q What's that?
- 3 A No.
- 4 Q People don't wear wires in jail?
- 5 A Some people, very few.
- 6 Q And but you wanted to wear a wire, right?
- 7 A Yes.
- 8 Q To get Mr. Baskerville to say certain things, right?
- 9 A Yes.
- 10 Q And so then they would have it on tape, right?
- 11 A Yes.
- 12 Q Because that way they could be sure he actually said
- 13 those things, right?
- 14 A Yes.
- 15 Q If they don't have the wire, they just have you?

- 16 A Right.
- 17 Q And they didn't seem to be too interested in talking to
- 18 you, right?
- 19 A Yes.
- 20 Q And then you said, "you should transfer Joey Marlingo
- 21 cause his case is over with"?
- 22 A Yes.
- 23 Q "And then it only be me for him to talk to, to see us as
- 24 some type of advisors," right?
- 25 A Yes.

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Bell - Cross/Herman 5190

- 1 A Yeah.
- 2 Q But nobody came to see Troy Bell, right?
- 3 A No.
- 4 Q And then the next year, 2005, January, February, when they finally came to see you?
- 5 A Yes.
- 6 Q And where were you then?
- 7 A I was in federal prison.
- 8 Q Where?
- 9 A Pennsylvania.
- 10 Q Lewisburg?
- 11 A No.
- 12 Q All right.
- 13 Q You were in a federal prison on the Jamaica charge, right?

- 14 A Yes.
- 15 Q And they came to see you.
- 16 Was it Shawn Manson that came to see you?
- 17 A Yes.
- 18 Q And did you say, where you been? I been having this information since last April and I tore up all these notes?
- 19 A No, I forgot about it.
- 20 Q Did you ever tell anybody until today that you had notes?
- 21 A No, I told my lawyer.
- 22 Q Miss Hardaway?

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Bell - Cross/Herman 5191

- 1 A Yes.
- 2 Q All the times you sat with the Government, the four times you had interviews with Mr. Minish?
- 3 A Yeah, yeah, yeah.
- 4 Q You told them?
- 5 A Yeah.
- 6 Q You told them that you tore up the notes?
- 7 A Yeah. Yes.
- 8 Q Now, the letter that you wrote -- do you have Government exhibit 614 in evidence?
- 9 Mr. Bell, I'm handing you Government exhibit 614 in evidence.
- 10 That's the letter that you wrote to Mr. Gay on March 14, 2004, right?

- 11 A Yes.
- 12 Q And you wrote it, but Dock dictated it, right?
- 13 A Yes.
- 14 Q And in the letter you said -- in the middle of the letter you said, "he", meaning William Baskerville, "only confides in me and Joey Merlino. We're all housed in the same tier, parentheses unit together," right?
- 15 A Yes.
- 16 Q And is that true, that he only confided in you and Joey Merlino?
- 17 A No, no.

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P4745

Bell - Cross/Herman 5188

1 A Drugs and something else.

2 Q Some fraud or something?

3 A Yes.

4 Q And that's the guy you're going to for advice, right?

5 A Yes.

6 Q Okay.

7 And so April goes by and that's when you made the

8 notes, right?

9 A Third, fourth week in March, yeah.

10 Q March?

11 A Yes.

12 Q Okay.

13 And then you kept them. How long did you keep the

14 notes?

15 A 'Til about end of April, sometime in May. Around that

16 area.

17 Q Then you tore them up and threw them in the toilet,

18 right?

19 A We tore them up, I tore them up and threw them in the  
20 toilet.

21 Q I or we, that's what I'm confused.

22 Who tore them up?

23 A Eric Dock told me to tear them up and throw them in the  
24 toilet in case the federal Government come and try to send

25 somebody in and take the law and try to use it and not give me

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Bell - Cross/Herman 5189

1 no credit, not give us no credit for it.

2 Q Give the two of you credit for it?

3 A Yes.

4 Q All right.

5 So April goes by, the Government doesn't come see you,  
6 right?

7 A No.

8 Q May, nobody comes?

9 A No, they call, they pulled Eric Dock over there.

10 Q I'm talking about you.

11 A No.

12 Q You were the one who wrote the letter, right?

13 A But they came and got Eric Dock.

14 Q You're not Eric Dock.

15 A No.

16 Q So April, May, June, July, August, September, October,

17 November, December, that whole year the Government's not

18 interested in talking to you, right?

19 A No, cause they came and got Eric Dock. They got his  
20 statement and then they told him, tell Troy don't write us no  
21 more letters, we be there to see him.

22 Q Were you trying to get credit for your information?

23 A Yeah.

24 Q There's Dock telling information and he's getting credit,  
25 right?

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Bell - Cross/Herman 5186

1 He said -- she said -- John Vasquez all this  
 2 information and he was supposed to get -- he was promised this  
 3 and promised that and they ain't give it to him, so that's why  
 4 I held out my information. That's why I wouldn't give it to  
 5 them right there.  
 6 Q You were looking for something in return, right?  
 7 A Yeah.  
 8 Q So your lawyer was Cynthia Hardaway, right?  
 9 A Yes.  
 10 Q A court-appointed lawyer, right?  
 11 A Yes.  
 12 Q And it was your understanding that you were going to give  
 13 information to Mr. Vasquez from the Prosecutor's Office?  
 14 A When I first got locked up, I had a proffer. This was  
 15 2002, on my case, surrounding my case.

16 Q The Jamaica case?  
 17 A Yes.  
 18 Q Okay.  
 19 A And the agreement was if I give up information, I was  
 20 going to get a bail and I was going to go home on bail and a  
 21 SK1, but I never got it.  
 22 So when Shawn and them came, when I wrote them and they  
 23 came and they wanted my information, I wasn't going to give it  
 24 to them cause I got screwed over the last time. I didn't want  
 25 to get screwed over again. They take my information and use

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Bell - Cross/Herman 5187

1 it and not give me nothing. I didn't want to do that.  
 2 Q Okay.  
 3 So after that, they didn't come see you, this was what,  
 4 in March? They came to see you in March, after you wrote the  
 5 letter?  
 6 A Yes.  
 7 Q So April, they don't come see you, right?  
 8 A No, cause I went back to the tier. I went back to the  
 9 tier, I told Eric Dock that that was them that came to see me.  
 10 I told them it was us. I gave them your name and they wrote  
 11 it down and said they would get back see you.  
 12 Dock says, no, don't go. They take your information,  
 13 get the information from you and they might not call me and  
 14 I'll be fucked. So he said cancel the meeting.

15 That's what I did. Next day, I called my lawyer and  
 16 told her to cancel the meeting.

17 Q So you're talking to Eric Dock, right?

18 A Yes.

19 Q He's like a paralegal?

20 A He know the law. He's not a certified paralegal.

21 Q I mean, there were paralegals in the law library, right?

22 A Yes.

23 Q But Dock is an inmate, right?

24 A Yes.

25 Q What was he in for?

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P4747

Bell - Cross/Herman 5184

- 1 A Yes.
- 2 Q And you tell them you have information about Mr.
- 3 Baskerville, right?
- 4 A Yes.
- 5 Q And did they say, okay, we want to talk to you?
- 6 A Yes, cause I didn't want to give them the information. I
- 7 ain't giving no information cause they -- cause I thought they
- 8 was going to try to not give me nothing, no credit for it and
- 9 try to use my statement or whatever and not give me no credit.
- 10 That's why I wouldn't give them no information.
- 11 Q So you wanted a deal, right?
- 12 A Yes.
- 13 Q Or an arrangement or an agreement, right?
- 14 A Yes.
- 15 Q I mean, you know what a cooperation agreement is, right?
- 16 A Yes.
- 17 Q You wanted something in writing, is that what it was?
- 18 A No, I just -- I ain't want to get screwed around so
- 19 that's why I didn't want to give them the information.
- 20 Q So you don't give them any information, right, or did
- 21 you?
- 22 A Not -- no, they asked me certain questions but I didn't
- 23 give them no information. They asked me how did I know Will
- 24 or know E.T. Hak. That's when I answered them simple
- 25 questions, but they was trying to ask me other questions. I

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Bell - Cross/Herman 5185

- 1 wouldn't answer them.
- 2 Q You didn't answer them?
- 3 A No.
- 4 Q But you had wrote them a letter and said you wanted to
- 5 talk to them, right?
- 6 A Yeah.
- 7 Q So they came to talk to you and you had no information
- 8 for them, right?
- 9 A Yeah, I had information for them. I just didn't want to
- 10 tell them. I didn't want to get screwed.
- 11 Q Get what?
- 12 A I didn't want to get screwed over, I didn't want them to
- 13 like not -- use my information and not give me nothing.
- 14 Q Did you tell them that?
- 15 A My lawyer was telling them. She said, yeah, he had a
- 16 proffer with John Vasquez. He gave him all this information
- 17 and John Vasquez said he would give him bail and all that and
- 18 he didn't stick to it.
- 19 Q Give you a bail?
- 20 A Yes.
- 21 Q Were you sentenced at the time?
- 22 A No, no, this was -- John Vasquez is my U.S. Attorney. My
- 23 lawyer, when we met up with the agents in Hudson County, my
- 24 lawyer told Agent Shawn, John Vasquez, my U.S. Attorney, I had
- 25 a proffer with him about my case, certain information.

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Bell - Cross/Herman 5182

- 1 Q They had already been torn up?
- 2 A No, I didn't start writing them 'til third or fourth week
- 3 of March.
- 4 Q So they saw you --
- 5 A Yeah.
- 6 Q -- before you even wrote the notes?
- 7 A Yeah.
- 8 Q And did they say they want to talk to you about what's
- 9 going on?
- 10 A Yeah, yeah, they did. They wanted to talk to me about
- 11 what was going on.
- 12 Q And cause you had information about Mr. Baskerville?
- 13 A Yes.
- 14 Q Right?
- 15 A Yes.
- 16 Q And they were interested, right?
- 17 A Yes.
- 18 Q And then you went back and a week or so later, you wrote
- 19 the letter on March 14, right?
- 20 A Yes.
- 21 Q Government exhibit 614, you saw that earlier today?
- 22 A Yes.
- 23 Q That's your letter or actually that's the letter that
- 24 Dock dictated to you, right?
- 25 A Yes.

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Bell - Cross/Herman 5183

- 1 Q Because you wrote the letter because you have better
- 2 handwriting?
- 3 A Yes.
- 4 Q But it's Dock's words, right?
- 5 A Yes.
- 6 Q And about a week later, Government agents came to see
- 7 you, right?
- 8 A Yes.
- 9 Q And you said, we have information about or I have
- 10 information, I, Troy Bell, have information about William
- 11 Baskerville, right?
- 12 A Yes.
- 13 Q And they said we're interested in that?
- 14 A They came, they came like a week later, yes.
- 15 Q And when did they come again?
- 16 A Well, they came to see me when I was in federal prison.
- 17 Q When?
- 18 A February, 2005.
- 19 Q They don't see you until February, 2005?
- 20 A Yes.
- 21 Q So you write to them on March 14th, 2004, and you say I
- 22 have information about William Baskerville, right?
- 23 A Yes.
- 24 Q And they come about a week later and they talk to you,
- 25 right?

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P4749



Bell - Cross/Herman 5180

- 1 Q What's that?
- 2 A We was going to give it to the U.S. Attorney's Office.
- 3 Q Who is we?
- 4 A Me and Eric Dock.
- 5 Q That's what I'm asking you.
- 6 Did you share your notes with Eric Dock?
- 7 A Yeah, I used to give it to him.
- 8 Q Sir --
- 9 A Yes. He used to be in there with us when we used to have these conversations.
- 10
- 11 Q Who is in there?
- 12 A Eric Dock used -- he was in the cell with us when me and
- 13 will was having these conversations.
- 14 Q That's not what I asked you.
- 15 I asked you, you were taking notes, right?

- 16 A Yes.
- 17 Q Did you show the notes to Eric Dock?
- 18 A Yes.
- 19 Q Was he writing his own notes based on your notes?
- 20 A No, no.
- 21 Q He wasn't?
- 22 A No.
- 23 Q So as far as you knew, you were the only person taking notes, right?
- 24
- 25 A Yes.

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Bell - Cross/Herman 5181

- 1 Q And how long did you take the notes?
- 2 A Sometime in April or May.
- 3 Q Okay.
- 4 And what was the purpose of your taking the notes?
- 5 A We was going to give it to the U.S. Attorney's Office.
- 6 Q You and Dock?
- 7 A Yes.
- 8 Q Were you kind of working together with Dock?
- 9 A No, we wasn't working together.
- 10 Q Okay.
- 11 Now, did you give them to the U.S. Attorney's Office?
- 12 A No, we tore it up cause we thought they was going to come
- 13 send somebody to take it and not give us no credit for it, so
- 14 we tore it up.
- 15 Q So all the notes are torn up?

- 16 A Yes, tore it up and flushed it in the toilet.
- 17 Q Flushed it down the toilet.
- 18 So those notes are gone, right?
- 19 A Yes.
- 20 Q And you haven't seen any notes since that time, right?
- 21 A No.
- 22 Q Now, when did the U.S. Attorneys come to talk to you?
- 23 A A week after I wrote them.
- 24 Q Had you had the notes at that time?
- 25 A No.

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Bell - Cross/Herzman 5178

1 start taking notes, kept a log of what he was saying.

2 Q Who kept the log?

3 A Me.

4 Q You kept a log?

5 A Yeah.

6 Q And you wrote it out?

7 A Yes.

8 Q Okay.

9 And what happened to that log?

10 A Tore it up, threw it away.

11 Q When did you do that?

12 A Around April or May.

13 Q Of 2000 and --

14 A 2004.

15 Q 2004?

16 A Yes.

17 Q So you had written a bunch of notes?

18 A Yes.

19 Q Is that right, you?

20 A Not a bunch of notes, we keeping a log.

21 Q You say "we," you tell me who the we is?

22 A I was.

23 Q Well, was it we?

24 A No.

25 Q Just you?

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Bell - Cross/Herzman 5179

1 A Yes.

2 Q Troy Bell?

3 A Yes.

4 Q You're taking down notes?

5 A Yes.

6 Q When did you start doing that?

7 A After I found out his informant was dead.

8 Q And that would have been about March 9 or so, 2004?

9 A Well, as far as when I start taking notes?

10 Q That's what I'm asking you.

11 A Probably like third or fourth week of March.

12 Q Okay.

13 Third or fourth week in March, you start taking down  
14 notes, right?

15 A Yes.

16 Q And what were you writing on the notes?

17 A Conversations we had.

18 Q And were you writing about conversations that had taken  
19 place in March or were you writing about conversations that  
20 took place beforehand?

21 A Some that took place beforehand and some that was taking  
22 place in March, some that took place in April.

23 Q Okay.

24 And what was the purpose of your taking these notes?  
25 A I was going to give it to the U.S. Attorney's Office.

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P4751

Bell - Cross/Herman 5176

1 Q He would be on the run for 20 years or something?  
 2 A No, he was on the -- yeah, he was facing 20 years.  
 3 Q He had been on the run in California, you told the jury  
 4 this morning?  
 5 A Yes, for ten years.  
 6 Q Ten years he was on the run from some charge in Jersey?  
 7 A Right.  
 8 Q Did he ever tell you what the charge was?  
 9 A I think it was drugs.  
 10 Q He's on the run for ten years in California because of a  
 11 drug charge?  
 12 A Yes.  
 13 Q Okay.  
 14 THE COURT: Move along, Mr. Herman.  
 15 MR. HERMAN: Thank you, Judge.

16 Q Now, with regard to Mr. Dock, did you ever see any papers  
 17 that Mr. Dock prepared?  
 18 THE COURT: You mean legal papers?  
 19 MR. HERMAN: No.  
 20 THE COURT: Anything?  
 21 Q That he wrote out?  
 22 A As far as what?  
 23 Q Anything, did you ever see Dock, papers that Dock said?  
 24 A No, no.  
 25 Q Have you ever seen that?

Bell - Cross/Herman 5177

1 A Any letters or anything that he wrote?  
 2 Q Well, notes that he made to himself or anybody else?  
 3 A No.  
 4 Q And the prosecutor never showed you the notes that, some  
 5 notes that Mr. Dock might have made?  
 6 A No.  
 7 Q Okay.  
 8 And did he make notes?  
 9 MR. MINISH: Judge, I believe he's already answered  
 10 the question. He doesn't know.  
 11 THE COURT: Do you know? Do you know if he ever  
 12 made notes about anything?  
 13 THE WITNESS: No.  
 14 Q Did you make notes?  
 15 A As far as what?

16 Q Well, you told us about conversations, almost  
 17 word-for-word conversations that took place three years ago,  
 18 right?  
 19 A Yes.  
 20 Q Or more, right?  
 21 A Yeah.  
 22 Q True?  
 23 A Yes.  
 24 Q Were you taking notes at the time?  
 25 A Well, after we found out Will informant was there, we

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Bell - Cross/Herman 5174

1 leave the hospital, right?

2 A Yeah, I was ready to go handle my case.

3 Q All right.

4 When you told the doctor you were better, that wasn't

5 true because there was nothing wrong with you, right?

6 A Yes.

7 Q But you were able to convince a psychiatrist that you

8 were hearing voices, right?

9 A Yes.

10 Q Okay.

11 You went back -- did you go back to Passaic County Jail

12 or where did you go?

13 A They send me back to Passaic County Jail.

14 Q How long were you there?

15 A For a month.

16 Q And then you went to Hudson?

17 A Yes.

18 Q And that's when you met Eric Dock?

19 A Well, I already knew Eric Dock. He was the only person I

20 knew on the tier.

21 Q How did you know Eric Dock?

22 A From Passaic County.

23 Q From previously you had been in Passaic County?

24 A Yes.

25 Q All right.

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Bell - Cross/Herman 5175

1 And did you say that you and Eric Dock were friends?

2 A Yes.

3 Q And that -- you would tell him about -- you told us you

4 spent hours and hours with Eric Dock, right?

5 A Yes.

6 Q You told him all about -- you talked about your life and

7 your crimes that you had committed, that type of thing?

8 A Yes.

9 Q And did he tell you the same thing about him?

10 A Yes.

11 Q What did he tell you?

12 A He told me like when he was out there doing --

13 MR. MINISH: Judge, we object. Hearsay, and Eric

14 Dock will be called and counsel can ask him these questions.

15 THE COURT: Nevertheless, it's cross-examination.

16 MR. FRAZER: It's hearsay.

17 THE COURT: Move along, Mr. Herman.

18 Q You were close to Eric Dock, right?

19 A Yes.

20 Q And you knew that he had been on the run for some charge,

21 he told you that, on direct?

22 A Yes.

23 Q You said that on direct examination, Mr. Minish asked

24 you?

25 A Yes.

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P4753

Bell - Cross/Herman 5172

1 Q You were in jail without a bail, right?

2 A Yes.

3 Q You were detained, right?

4 A Yes.

5 Q Did you have a bail?

6 A No.

7 Q You were detained and you were waiting trial for your case, right?

8 A Yes.

9 Q And some individual hit you in the jaw, breaks your jaw after a fight, right?

10 A Yes.

11 Q Then you go to the federal jail hospital in Massachusetts, right?

12 A Yes.

13 Q And when you're there, you lie to a doctor and say you're hearing voices, right?

14 A Yes.

15 Q You weren't hearing voices, were you?

16 A No.

17 Q How did you know to say to the doctor you were hearing voices?

18 A Somebody told me.

19 Q Who told you?

20 A Somebody told me if you say that, they keep you there

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Bell - Cross/Herman 5173

1 longer.

2 Q Like you're crazy, right?

3 A Yeah.

4 Q Did they keep you there longer?

5 A For five months.

6 Q You stayed for five months?

7 A Yes.

8 Q So for five months, did you tell the doctor you were hearing voices?

9 A Yes.

10 Q But you weren't, right?

11 A No.

12 Q And but it worked, right, the lie worked?

13 A I stayed there five months 'til I told them I was ready to go back.

14 Q Well, you can't just check in or check out to a federal hospital, right?

15 A No.

16 Q So you said, you told us the reason that you were able to stay there was you told the doctor you were hearing voices, right?

17 A Yeah. I told him I was feeling better.

18 Q After five months?

19 A Yeah.

20 Q Because you were ready to go back -- you were ready to

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Bell - Cross/Herman -5170-

1 Q And you break your jaw, right?

2 A Yes.

3 Q You wind up going to a prison hospital?

4 A Yes.

5 Q Where was that?

6 A Fort Devons, in Massachusetts.

7 Q And that was because of the broken jaw or some other

8 problem?

9 A Some other problem and the broken -- for some other

10 problem.

11 Q And what was the other problem?

12 MR. MINISH: Objection, Judge. The Court already

13 made a ruling with respect to this.

14 Q You said on direct --

15 MR. HERMAN: -- He said he was hearing voices, Judge.

16 That's what I'm getting into.

17 THE COURT: You went there for the broken jaw?

18 THE WITNESS: Yes.

19 Q Did you tell somebody that you were hearing voices?

20 A Yes.

21 MR. HERMAN: You brought it out on direct.

22 Q Did you tell somebody that you were hearing voices?

23 A Yes.

24 Q Who did you tell you were hearing voices?

25 A The psychiatrist.

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Bell - Cross/Herman -5171-

1 Q Where?

2 A Fort Devons.

3 Q Okay.

4 And were you hearing voices?

5 A No.

6 Q And why did you tell the psychiatrist that you were

7 hearing voices?

8 A So they could keep me there cause I didn't want to go

9 back to Passaic County.

10 Q Because you were afraid, right?

11 A Yes.

12 Q And there is no facility in New Jersey for federal

13 prisoners, right?

14 A No.

15 Q So you would have to be in some county jail, right?

16 A Yes.

17 Q Like Passaic?

18 THE COURT: May I ask a question?

19 At the time you were in this hospital, was this

20 before you had pled guilty to the drug case in federal court?

21 THE WITNESS: Yeah, it was before I pled guilty.

22 THE COURT: It was before you pled guilty?

23 THE WITNESS: Yes.

24 THE COURT: Okay.

25 MR. HERMAN: Thank you, Judge.

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P4755

Bell - Cross/Herman 5168

1 Q And she got caught, right?

2 A Yes.

3 Q And her sister got caught?

4 A Yes.

5 Q And did you all get charged?

6 A Yes.

7 Q And did you plead guilty or did you go to trial?

8 A Pled guilty.

9 Q And how much time -- have you been sentenced on that?

10 A Yes.

11 Q How much time are you doing?

12 A One hundred months.

13 Q That's the 100 months?

14 A Yes.

15 Q That you're doing now, right?

16 A Yes.

17 Q And what about your baby's mother and her sister, what

18 happened to them?

19 A They both got nine months.

20 MR. MINISH: Judge, I object, going beyond the scope

21 of what's necessary.

22 THE COURT: Overruled.

23 Q So your child's mother, you got her involved in drug

24 dealing, right?

25 A Bringing drugs back from New York -- I mean from Jamaica,

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Bell - Cross/Herman 5169

1 yes.

2 Q This was your operation, right?

3 A Well, I was doing it for somebody else. I was just got

4 the girls.

5 Q That's what I said.

6 You got the girls involved in this drug operation?

7 A Yes.

8 Q And as a result of that, your child's mother went to jail

9 for nine months, right?

10 A Yes.

11 Q And you're going to jail for 100 months?

12 A Yes.

13 Q Is that it?

14 A Yes.

15 Q But you want to get out, right?

16 A Yes.

17 Q Now, at some point you're in the Passaic County Jail and

18 some guy breaks your jaw, right?

19 A Yes.

20 Q Why did he break your jaw?

21 A Over an argument.

22 Q You had an argument with him?

23 A Yes.

24 Q And he slugged you?

25 A Yes.

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Bell - Cross/Herman 5166

1 mean.  
2 Q Well, I gather you either went to Jamaica or sent  
3 somebody to Jamaica to buy drugs, right?

4 A Yes.

5 Q Did you go to Jamaica?

6 A Yes.

7 Q How many times?

8 A Two times.

9 Q And did you send somebody to Jamaica?

10 A Yes.

11 Q This is your girlfriend?

12 A No, my baby mother, I got kid by.

13 Q There's a female that you have a child with?

14 A Yes.

15 Q How many children do you have, by the way?

16 A One.

17 Q Okay.

18 And you arranged with the mother of your child to send  
19 her to Jamaica to buy drugs?

20 A Yes.

21 Q And who was watching the baby at that time?

22 A Her mother.

23 Q Her mother was?

24 A Yes.

25 Q So that she could go to Jamaica and buy drugs, right?

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Bell - Cross/Herman 5167

1 A Yes.

2 Q And did you go with her?

3 A Yes, sir. Yes, sir.

4 Q Every time?

5 A Well, I only sent her once.

6 Q But you went twice, right?

7 A Yes.

8 Q So she went once with you, right?

9 A Yes.

10 Q And you and she go to Jamaica and buy drugs, right?

11 A Yes.

12 Q And bring the drugs back on a plane to the United States?

13 A Yes.

14 Q And how did you get caught?

15 A I got caught coming to pick her up, her and her sister.

16 I came to pick her and her sister up at the airport.

17 Q What did the sister have to do with it?

18 A She was bringing drugs, too.

19 Q You got your baby's mother and her sister involved in a  
20 drug transaction to Jamaica, right?

21 A Yes.

22 Q So you could sell the drugs and make money, right?

23 A Yes.

24 Q And you got caught, right?

25 A Yes.

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P4757

Bell - Cross/Herman 5164

- 1 could get the plea?
- 2 A If you want to put it like that.
- 3 Q Well, how would you put it?
- 4 A I took the plea because I was getting ran concurrent to
- 5 my case.
- 6 Q When you take a plea, you have to put your hand on the
- 7 Bible?
- 8 A Yes.
- 9 Q Did you do that today?
- 10 A Yes.
- 11 Q Say I'm going to tell the truth, the whole truth, nothing
- 12 but the truth, right?
- 13 A Yes.
- 14 Q And the judge says to you, Mr. Bell, you're charged with
- 15 this drug case, right?

- 16 A Yes.
- 17 Q And you got to tell me whether these are your drugs or
- 18 not, right?
- 19 A Yes.
- 20 Q And the judge said, were these your drugs, right?
- 21 A I had to tell him that so he could accept the plea.
- 22 Q And he thought you were telling him the truth, right?
- 23 A If he read the discovery, he would have read -- I wrote
- 24 the prosecutor and let him know that the drugs wasn't mine. I
- 25 told him whose drugs it was in the letter.

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Bell - Cross/Herman 5165

- 1 Q Then why -- okay. Thank you, Mr. Bell. Let me move onto
- 2 another subject.
- 3 You got your jaw broken in jail, right?
- 4 A Yes.
- 5 Q And where was that? Where were you?
- 6 A Passaic County.
- 7 Q And who broke your jaw?
- 8 A It was a dude name Dalton Banks.
- 9 Q Who?
- 10 A Dalton Banks.
- 11 Q A guy named Banks?
- 12 A Yes.
- 13 Q When was that, when was your jaw broken?
- 14 A 2003.

- 15 Q And why were you in the Passaic County Jail at that time?
- 16 A On my federal charge, I was there for my federal charges.
- 17 Q Are we now to the Jamaica situation?
- 18 A Yes.
- 19 Q And in the federal charge, were you charged with dealing
- 20 cocaine?
- 21 A No, conspiracy to import it, cocaine.
- 22 Q How much?
- 23 A I think it was a little bit under five, about 500 grams.
- 24 Q You were charged with more than 500 grams, right?
- 25 A That was a separate case. That was a separate trip, I

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Bell - Cross/Herman 5162

- 1 A No, cause it wasn't mine.
- 2 Q Did you tell the judge you were guilty?
- 3 A Yes.
- 4 Q Why did you tell the judge you were guilty if you weren't guilty?
- 5 A Cause I already was pleading guilty to my federal case, so I said, my lawyer was going to get it ran concurrent, so that's why I pled guilty to it. I was assuming I was going to get the time credit, the three years credit but I didn't.
- 6 Q So it was a good deal, right?
- 7 A Yes, it was a good deal.
- 8 Q And so you took the deal, right?
- 9 A Yes.
- 10 Q And you told the judge that the cocaine was yours, right?
- 11 A Yes.

12 Q But the truth is, the cocaine was not yours?

13 A It was not, yeah.

14 Q It was somebody else's?

15 A Yes.

16 Q So were you truthful with the judge?

17 A No, I ain't tell him it was somebody else's.

18 Q You told him it was yours?

19 A I told the prosecutor when I got locked up, I told the prosecutor it wasn't mine.

20 Q Well, you were falsely accused, right?

Bell - Cross/Herman 5163

- 1 A Yes.
- 2 Q So you should have gone to trial, right?
- 3 A Yes.
- 4 Q But you didn't?
- 5 A No.
- 6 Q You pled guilty?
- 7 A Yes.
- 8 Q But you weren't guilty?
- 9 A No, I wasn't guilty.
- 10 Q So when you told the judge you were guilty, you were not being truthful with the judge?
- 11 A I wasn't being truthful with the judge cause I just wanted to plead guilty to the case because it was getting ran concurrent to my federal case.

12 Q So it was a good deal and it was convenient, right?

13 A Yes.

14 Q And when the judge said was this your cocaine --

15 A I had, that's part -- if I don't admit to it, the judge is not going to accept the plea.

16 Q That's the point, right?

17 A Yes.

18 Q You have to tell the judge something that will make the judge take the plea, right?

19 A Yes.

20 Q So you told the judge something that wasn't true so you

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P4759



Bell - Cross/Herman 5160

- 1 Q Okay.
- 2 They violated your parole, right?
- 3 A They violate me cause I stopped going, I stopped
- 4 reporting.
- 5 Q You stopped going to your parole officer?
- 6 A Yes.
- 7 Q Okay.
- 8 Then what about the second parole violation?
- 9 A I caught a new charge so they violated me.
- 10 Q Why were you on parole?
- 11 A I got paroled from the escape and receiving stolen
- 12 property charge.
- 13 Q All right.
- 14 So that was -- that's when you were in the halfway
- 15 house, got the fairing?
- 16 A No, no, no when they caught me on the escape, I ain't
- 17 come home 'till three years later, 'till 2002.
- 18 Q Right.
- 19 A I got locked up in the escape in '97 and I didn't come
- 20 home 'till 2002.
- 21 Q Come home meaning get out of jail?
- 22 A Yeah, get out of jail.
- 23 Q When did you get out of jail, when in 2002?
- 24 A The month of September.
- 25 Q And were you on parole then?

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Bell - Cross/Herman 5161

- 1 A Yes.
- 2 Q And did they violate you?
- 3 A They violate me 2001 cause I caught a new charge.
- 4 Q What was the new charge?
- 5 A Possession of CDS.
- 6 Q What kind?
- 7 A Drugs.
- 8 Q What kind of drugs?
- 9 A It was crack.
- 10 Q Did you have crack?
- 11 A No, it wasn't mine.
- 12 Q It wasn't yours?
- 13 A No.
- 14 Q Did you plead guilty to it?
- 15 A Yes.
- 16 Q So you did it again, you pled guilty to something you
- 17 weren't even guilty of, right?
- 18 A Cause I had the federal case, caught the federal case
- 19 after that and then that's why I pled guilty. If I was still
- 20 on the streets, I probably would have took it to trial. Most
- 21 likely I would have cause I had a lawyer.
- 22 Q Mr. Bell, let me ask you this: When you pled guilty to
- 23 the cocaine charge --
- 24 A Yes.
- 25 Q -- were you guilty?

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Bell - Cross/Herman 5158

- 1 A Yes.
- 2 Q The judge runs those concurrent, right?
- 3 A Yes.
- 4 Q And how much time do you wind up doing on those two charges?
- 5 A Thirty-seven months.
- 7 Q So you have 11 felony convictions, right?
- 8 A Yes, I guess.
- 9 Q You've got one escape charge that you plead guilty to, right?
- 10 A Yes.
- 12 Q You got -- were you ever found in violation of your parole?
- 13 A Twice.
- 15 Q ~~And when were you paroled and what did you violate?~~
- 16 A I was paroled in 1996, and I was violated in 1996.
- 17 Q For what?
- 18 A Not reporting.
- 19 Q So you were released from New Jersey State Prison on parole, right?
- 20 A Yes.
- 22 Q And there are certain rules on parole, right?
- 23 A Yes.
- 24 Q You got to pay fines, you got to report, stay out of trouble, can't use drugs, right?
- 25

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Bell - Cross/Herman 5159

- 1 A Yes.
- 2 Q You didn't bother to report to your parole officer?
- 3 A I went but he told me he was going to violate me if I got found guilty of a little petty theft charge. He told me he was going to violate me if I got found guilty of that and it was summertime and I just stopped going.
- 7 Q You caught a new charge, right?
- 8 A It was a theft, yeah.
- 9 Q What did they say you did?
- 10 A My cousin called the cops on me and said I stole a phone, cell phone and the cell phone, back then, people was getting cell phones hooked up illegally and they charged me with that.
- 13 Q And that was a lie, right?
- 14 A What was a lie?
- 15 Q ~~That your cousin~~
- 16 A Yeah, yeah.
- 17 Q You didn't steal his cell phone, did you?
- 18 A No, no.
- 19 Q What happened to that charge?
- 20 A I think I got 30 days for it.
- 21 Q Did you plead?
- 22 A Yes, cause I was locked up for the parole violation so I pled guilty.
- 24 Q Did you plead guilty to something you didn't do?
- 25 A Yes.

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P4761

Bell - Cross/Herman 5156

1 Q Let me get it straight.

2 A It was stolen.

3 Q You're in a halfway house, right?

4 A Yes.

5 Q Furlough or something?

6 A Yes.

7 Q Which is it, furlough?

8 A Furlough.

9 Q What's a furlough?

10 A You get a pass, they let you go -- the halfway house

11 let's you go on a pass to visit your family or whatever for

12 the weekend.

13 Q So you're already in a halfway house in Trenton, right?

14 Is that where it was?

15 A ~~It was Hamilton Township or Trenton, one of them. Out of~~

16 here somewhere, Mercer County.

17 Q You're in a halfway house, right?

18 A Yes.

19 Q And you're supposed to come back to the halfway house,

20 right?

21 A Yes.

22 Q And the halfway house people say you can go home and

23 visit your family?

24 A Yes.

25 Q Is that what it was? And you never came back, right?

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Bell - Cross/Herman 5157

1 A No.

2 Q And you get caught in a stolen Lexus.

3 Is that what it was?

4 A Yes, when I got arrested.

5 Q How soon after you left the halfway house were you

6 arrested?

7 A Like three months.

8 Q So you leave the halfway house, right, you're out on the

9 street for three months?

10 A Yes.

11 Q They're looking for you, I guess?

12 A Yes.

13 Q Cause you haven't gone back to the halfway house, right?

14 A Yes.

15 Q ~~And then you wind up in a stolen Lexus, right?~~

16 A Yes.

17 Q And any other charges at that time?

18 A A theft charge was in.

19 Q No, at that time, the time you were in the stolen Lexus?

20 A No, no.

21 Q You go back to court, right?

22 A Yes.

23 Q You get five years for being in the stolen Lexus?

24 A Yes.

25 Q Three years on the escape charge?

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Bell - Cross/Herman 5154

- 1 one before you can be paroled?
- 2 A Yes.
- 3 Q And where were you serving your sentence on the state
- 4 court charge?
- 5 A I'm in federal custody. My state time is running
- 6 concurrent to my federal sentence.
- 7 Q All right.
- 8 Were you ever in state prison on the new charge?
- 9 A No.
- 10 Q You just have been in federal prison, right?
- 11 A Yes.
- 12 Q And they're running concurrent, right?
- 13 A Yeah, running together.
- 14 Q So if a federal judge were to reduce your time because of
- 15 cooperation, you'd also want the state court judge to reduce
- 16 your time, right?
- 17 A Yes.
- 18 Q Is that what you're hoping happens?
- 19 A Yes.
- 20 Q Both judges, right?
- 21 A Yes.
- 22 Q Now, you told us in 1997, you had an escape charge?
- 23 A Yes.
- 24 Q And what was that again?
- 25 A I had went to a halfway house out here in Trenton. I

Bell - Cross/Herman 5155

- 1 went on a weekend furlough and I never came back, so they
- 2 charged me with escape.
- 3 Q Were you punished for that charge?
- 4 A I got, yes, I got a three-year sentence.
- 5 Q Did you plead guilty to that charge?
- 6 A Yes.
- 7 Q And what county was that?
- 8 A Mercer County.
- 9 Q Okay.
- 10 And how much time did you do on the three-year
- 11 sentence?
- 12 A I had a five-year sentence running concurrent at that
- 13 time so it was actually a five-year sentence.
- 14 Q On the escape, how much time did you get?
- 15 A Three-year sentence.
- 16 Q And you also had another five-year sentence at the same
- 17 time?
- 18 A That was the receiving stolen property.
- 19 Q What was that?
- 20 A Same year I pled guilty in the same year, over, ran
- 21 concurrent. Receiving stolen property was in Monmouth County
- 22 and the escape was in Mercer County.
- 23 Q So they put them together?
- 24 A Yeah, cause, yes. Cause the day I caught with my escape,
- 25 I had a Lexus.

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P4763

Bell - Cross/Herman 5152

- 1 Q So how much time are you doing now?
- 2 A One hundred months for my federal sentence.
- 3 Q Which judge gave you 100 months?
- 4 A Judge Walls.
- 5 Q Of Newark?
- 6 A Yes, out of Newark.
- 7 Q Okay.
- 8 And how much are you going to have to do on the 100
- 9 months?
- 10 A Seven years, four months, with good time. Take a year
- 11 off. It's really eight years, four months, but they take a
- 12 year off to make it seven years, four months.
- 13 Q How much time have you done?
- 14 A Next month is five years.
- 15 Q On the federal charge?
- 16 A Yes.
- 17 Q Do you have any other charges that you're facing now?
- 18 A I got a 15 with a seven and a half, 15 with a seven and a
- 19 half. That means I got to do seven and a half years before
- 20 I'm eligible for parole, but it's ran concurrent to my federal
- 21 sentence.
- 22 Q Why did they do that?
- 23 A My lawyer got a concurrent, state lawyer got my sentence
- 24 ran concurrently. I pled guilty.
- 25 Q And where was that?

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Bell - Cross/Herman 5153

- 1 A Monmouth County.
- 2 Q And what was that charge?
- 3 A Possession of a controlled dangerous substance.
- 4 Q Drugs?
- 5 A Yes.
- 6 Q Is that the Jamaica case?
- 7 A No, no, no. That's another case.
- 8 Q You had drugs on another time?
- 9 A Yes.
- 10 Q Where?
- 11 A Asbury Park.
- 12 Q Were you selling drugs?
- 13 A Yes.
- 14 Q And you pled guilty to that charge?
- 15 A Yes.
- 16 Q And then the judge gave you a 15-year sentence on that
- 17 charge, right?
- 18 A Yes.
- 19 Q With seven and a half years before you can be paroled in
- 20 the state court, right?
- 21 A Yes.
- 22 Q And how much time have you done on that one?
- 23 A I got two years and one month in. I got two years one
- 24 month served on that sentence.
- 25 Q So you got about five and a half more years to go on that

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Bell - Cross/Herman 5150

- 1 A Yes.
- 2 Q Did you tell the jury you had the gun?
- 3 A Yes.
- 4 Q And you had the drugs?
- 5 A Yes.
- 6 Q And what was the most serious charge?
- 7 A Possession of a weapon for unlawful purpose.
- 8 Q Okay.
- 9 Why did you have the weapon?
- 10 A Protect myself from the guys out there robbing people,
- 11 come to stick people up.
- 12 Q That was back in 1995?
- 13 A Yes.
- 14 Q And were you the victim of something? Did somebody rob
- 15 you?
- 16 A No. It was this guy going around robbing people. He was
- 17 telling people he was going to rob me, so that's why I had my
- 18 gun on me.
- 19 Q Okay.
- 20 And but you got arrested with the gun, right?
- 21 A Yes.
- 22 Q And how much time did you get for those charges?
- 23 A A five flat. It was of the charges, but they all done
- 24 ran concurrent to the five-year sentence.
- 25 Q So the judge gave you what you call a five flat?

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Bell - Cross/Herman 5151

- 1 A Yes.
- 2 Q New Jersey State Prison?
- 3 A Yes.
- 4 Q And where did you go, where did you serve your time?
- 5 A Mountainview Youth Correctional Facility.
- 6 Q How old were you at the time?
- 7 A When I caught the charge, I was 18. When I got
- 8 sentenced, I was 19.
- 9 Q How much time did you do on the five flat?
- 10 A Twenty-three months.
- 11 Q Now, in state court, based on your experience, you don't
- 12 do the whole time, right?
- 13 A No.
- 14 Q If you get a five flat in state court, you did less than
- 15 two years, right?
- 16 A Yes. You got to parole eligibility.
- 17 Q Because you can get paroled out of a state court
- 18 sentence?
- 19 A Yes.
- 20 Q But do you understand the federal system --
- 21 A Yes.
- 22 Q -- with regard to parole?
- 23 A There is no parole.
- 24 Q There is no parole in the federal system, right?
- 25 A No.

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P4765

Bell - Cross/Herman 5148

1 A Yes.

2 Q What kind of drugs?

3 A Cocaine.

4 Q And a gun?

5 A Yes.

6 Q What kind of gun?

7 A I don't recall. Probably was a 32, 32 automatic or something.

8

9 Q And what was the other charge?

10 A Resisting arrest.

11 Q Okay.

12 When did the trial take place?

13 A I think it was in March, '95, somewhere in that area.

14 Q Okay.

15 And you testified, right?

16 A Yes, I testified to beat the most serious charge.

17 I had to testify, that's what my lawyer told me. He

18 said, you got to testify if you want to beat the most serious

19 charge.

20 Q So you beat the most serious charge?

21 A Yes.

22 Q When you say you beat the charge, what are you saying?

23 A I got acquitted.

24 Q You got acquitted?

25 A Yes.

Bell - Cross/Herman 5149

1 Q Are you saying you were guilty, but they didn't find you

2 guilty?

3 A Yeah, I had to go on the stand and admit to my guilt as

4 far as the drugs, but I said I had to use the gun for my

5 protection to beat the most serious charge.

6 Q Who told you that, that you were using the gun for your

7 own protection?

8 A My lawyer say if you say that, you'll beat the most

9 serious charge.

10 Q Who was your lawyer?

11 A Pasulli.

12 Q Mr. Pasulli?

13 A Yes.

14 Q So your lawyer told you what to say, right?

15 A Yes.

16 Q He didn't tell you, tell the truth on the stand?

17 A Yes.

18 Q Well, did you tell the truth?

19 A Yes, that was the truth.

20 Q What's that?

21 A That was the truth.

22 Q Okay.

23 And you were found guilty, right?

24 A Yes.

25 Q Did you have the gun?

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Bell - Cross/Herman 5146

1 A Yes.

2 Q And did you go over your answers with him yesterday?

3 A No, no.

4 Q You didn't give him any answers?

5 A A few, that's it.

6 Q He just gave you questions?

7 A The information I gave him, he was -- he already had it

8 written down. Everything I was telling him the first two

9 times, he wrote it down.

10 The first two times, when he came and saw me when I was

11 in federal prison and at this courthouse, I gave him the

12 information that Will told me.

13 Q But what I'm asking you is, did you see Mr. Minish

14 yesterday?

15 A Yes.

16 Q And did he go over the questions that he was going to ask

17 you?

18 A Yes.

19 Q The same as he asked you today, right?

20 A Yes.

21 Q And you had been over that information three or four

22 times, right?

23 A Yes.

24 Q So you knew exactly what he was going to ask you, right?

25 A Yes. Not exactly, but yes.

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Bell - Cross/Herman 5147

1 Q Same questions, right?

2 A Yes.

3 Q And did he say that the other lawyer might ask you some

4 questions?

5 A No. As far as you?

6 Q Me, a lawyer for Mr. Baskerville?

7 A No, he really didn't discuss that. No.

8 Q Have you ever testified before in court?

9 A At my own trial.

10 Q You went to trial?

11 A Yes.

12 Q Where was that?

13 A Monmouth County.

14 Q And what were you -- how did the trial come out?

15 A I got found guilty on everything except one charge.

16 Q And so did you testify in your own case?

17 A Yes.

18 Q And was there a prosecutor who was cross-examining you on

19 your case?

20 A Yes.

21 Q And what were you charged with?

22 A Possession of a controlled dangerous substance, resisting

23 arrest and gun.

24 Q Possession of controlled dangerous substance which is

25 what, drugs?

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P4767

Bell - Cross/Herman 5144

- 1 Would that be four times?
- 2 A Yes.
- 3 Q Did they meet with you yesterday?
- 4 A That was yesterday.
- 5 Q Did they meet with you yesterday?
- 6 A Yes.
- 7 Q In this building?
- 8 A Yes.
- 9 Q Downstairs in the basement?
- 10 A Yes.
- 11 Q Okay.
- 12 For how long?
- 13 A About 15, 20 minutes.
- 14 Q All right.
- 15 ~~Before that, how much time had you spent with them~~
- 16 preparing for your testimony?
- 17 A About two hours.
- 18 Q Two hours total?
- 19 A Two and a half.
- 20 Q For all four meetings or --
- 21 A Each meeting.
- 22 Q Each meeting was about two hours?
- 23 A Yes, about two and a half, two hours, two and a half
- 24 hours.
- 25 Q Okay.

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Bell - Cross/Herman 5145

- 1 And what kind of things would they talk to you about?
- 2 A We was going over the information I gave them.
- 3 Q So were they asking you questions?
- 4 A Yes.
- 5 Q Just like they did today?
- 6 A Yes.
- 7 Q The same questions, kind of over and over --
- 8 A Same questions.
- 9 Q -- that Mr. Minish asked you today, same questions?
- 10 A Well, he asked me the last two times I saw him.
- 11 The first two times, I told him what I knew.
- 12 Q Okay.
- 13 Last two times, what happened?
- 14 A The last two times, he asked me the questions. He asked
- 15 ~~me questions and I answered them.~~
- 16 Q Was it the same as he did today, the last two times?
- 17 A Yes.
- 18 Q In other words, in the same order?
- 19 A No, no, no. Yesterday, yeah.
- 20 Q Yesterday?
- 21 A Yesterday.
- 22 Q He asked you yesterday the same questions that he asked
- 23 you today, right?
- 24 A Yes.
- 25 Q In the same order, right?

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5142

1 that just highlights it, but at some point, not even now, just  
2 remind the jury that any testimony heard about other drugs is  
3 not a charge here.

4 THE COURT: Okay.

5 Get the jury.

6 THE CLERK: All rise.

Bell - Cross/Herman 5143

1 (The following takes place in the presence of the  
2 jury.)

3 THE COURT: Take your seats, folks.

4 Mr. Herman.

5 MR. HERMAN: Thanks, Judge.

6 CROSS-EXAMINATION BY MR. HERMAN:

7 Q Mr. Bell, good afternoon.

8 A Good afternoon.

9 Q Before you came here to testify today in this case, did  
10 you meet with the Government lawyers?

11 A Yes.

12 Q And when did you meet with them?

13 A About three times, three or four times.

14 Q And within the last week or two weeks or how long?

15 A Last few months.

16 Q Last three months, yes?

17 A Yes.

18 Q And did they meet with you where you're in prison or did  
19 they bring you to their office?

20 A Once in prison and twice in the office.

21 Q Okay.

22 What about here in this building, did they meet with  
23 you in this building?

24 A Once.

25 Q All right.

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P4769



5140

1 that it was an article about E.T. Hak's arrest and then he  
2 went on to say that it made sense to him. You've already got  
3 from him what you're entitled to get.

4 MR. MINISH: But that's about E.T. Hak and the murder  
5 of witnesses.

6 Leaving that part out, it doesn't make any sense  
7 then. If this is just an article about E.T. Hak's arrest,

8 there would be nothing in that, in and of itself, to have this  
9 juror put two and two together. The mention of the murder of  
10 witnesses has to be coupled with E.T. Hak's arrest.

11 THE COURT: It goes on page 60, "What I've shown you  
12 is exhibit 35. Is this the article you read that day? Tell  
13 us the circumstances of how it is you got the opportunity to  
14 read the article.

15 ~~ANSWER: Well, the day the article was circled~~

16 around on the tier, I had went to Eric Dock's like at lunch.

17 I went to his room, I went to his room. He was like reading  
18 this. He gave me the newspaper so I was reading it. When I  
19 noticed, I knew it was about E.T. Hak. I was reading it, I  
20 noticed witnesses started dying."

21 He said what it is you're entitled to get him to say.

22 Enough. The Government exhibit 35 is out.

23 THE CLERK: All rise.

24 (Luncheon recess.)

25

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5141

## AFTERNOON SESSION

1 THE CLERK: All rise.

2 (The following takes place out of the presence of the  
3 jury.)

4 THE COURT: Are we ready to go?

5 MR. MINISH: Yes.

6 THE COURT: Get the witness.

7 We have Mr. Bell's cross-examination and then we have

8 Mr. Dock?

9 MR. MINISH: That's correct, Judge.

10 THE COURT: Let me ask defense counsel, Mr. Kayser,  
11 Mr. Herman, there was testimony from Mr. Bell attributing  
12 statements from Baskerville of dealing heroin.

13 Is there anything about that that's a problem? We

14 already instructed the jury there isn't any heroin

15 distribution in this case.

16 MR. HERMAN: I was surprised that it came in, Judge.

17 I think the jury should be reminded at some point that there  
18 are no heroin charges in this case.

19 THE COURT: Do you want me to strike it? What do

20 you want me to do?

21 MR. HERMAN: Let me discuss it with co-counsel.

22 T R O Y B E L L, previously sworn, resumes the

23 stand.

24 MR. HERMAN: We're not seeking to strike it. I think

25

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1 article dealt with Hakim Curry and the murder of witnesses.  
 2 THE COURT: I could be wrong, but I think he said  
 3 that already. I could be wrong. I'll search the transcript,  
 4 but I think he said that.  
 5 MR. MINISH: I think he said it, but I wasn't sure if  
 6 it was sustained as an objection and what was not.  
 7 Ultimately, if the jury has that as evidence that  
 8 they are allowed to consider, then that would be sufficient.  
 9 That both Hakim -- the fact that Hakim Curry and the fact that  
 10 a murder of witnesses was mentioned in that article, was what  
 11 allowed Troy Bell to put two and two together.  
 12 THE COURT: Let me check the transcript. We'll see  
 13 exactly what he said, but the article is not admissible.  
 14 MR. MINISH: There's also a photograph of Hakim  
 15 Curry, but it's basically the idea the article, the subject  
 16 was Hakim Curry as well as the witnesses dying and that's as  
 17 opposed to just random other articles that may have been  
 18 contained in the Ledger over those months that mention  
 19 murders, why this particular article is what allowed Dock and  
 20 Bell to put this scenario together. I think that's important  
 21 for the jury to understand.  
 22 THE COURT: Here's what he said, page 57 of the  
 23 daily transcript, bottom of page six: "Did there come a time  
 24 when you saw a Star-Ledger newspaper article that was passed  
 25 around the jail in the early part of March?"

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1 "ANSWER: Yes.  
 2 "QUESTION: Can you tell the jury the circumstances  
 3 of what happened?  
 4 "ANSWER: Yeah. It was like probably a few days,  
 5 four or five days after Hak got locked up.  
 6 "QUESTION: That's Hakim Curry?  
 7 "ANSWER: Hakim Curry got locked up, newspaper  
 8 article was floating around in the jail.  
 9 "QUESTION: Excuse me.  
 10 "ANSWER: About his arrest. The newspaper article  
 11 about his arrest is floating around on the tier."  
 12 Going on to page 59, "Do you recognize what I'm  
 13 showing you as exhibit 35?"  
 14 This is bottom of 58, "QUESTION: It's multiple  
 15 pages. Why don't you look at it?"  
 16 "QUESTION: Now, you pointed at the bottom of the  
 17 first page. You were pointing at the bottom of the page?  
 18 What are you pointing at?  
 19 "Article of E.T. Hak.  
 20 "Is that the article you were referring to?  
 21 "ANSWER: Yes.  
 22 "QUESTION: Is that the article you read about E.T.  
 23 Hak's arrest?  
 24 "ANSWER: Yes."  
 25 Then we got into the colloquy. He's already said

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5136

1 article about -- let's put it this way: The title of the  
2 article, "As Agents Closed In, Witnesses Began Dying." DEA and  
3 Newark cops spurred by two slayings arrest 11, link to violent  
4 Essex drug ring.  
5 The article goes on over two pages in the Star-Ledger  
6 of -- of March 9, '04, to talk about all kinds of things  
7 including and generally relating to the conspiracy with which  
8 Curry was charged.

9 It also contains a number of different hearsay  
10 statements from various law enforcement agents. It talks  
11 about evidence which I assume, I'm assuming was relevant to  
12 the Curry conspiracy prosecution because it was not introduced  
13 in this case, about a stash house that the conspirators had,  
14 about law enforcement officers' conclusions as to how the  
15 ~~conspiracy was operating, what they knew, did they clean out~~  
16 the drug stash and it goes on to talk about the homicide of  
17 someone, other than Mr. McCray.  
18 It mentions McCray, but it goes on to talk about the  
19 homicide of somebody else.  
20 Now, all of this, aside from being not relevant to  
21 the prosecution against Mr. Baskerville, contains hearsay  
22 statements, conclusions, opinions, none of which is  
23 appropriately admissible in this case by itself. Certainly  
24 not appropriate admissible in a newspaper article and if for  
25 no other reason, I find it to be inadmissible because of 403.

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5137

1 So the newspaper article itself, to me, it cannot be  
2 admitted as an exhibit here. I think you've gone as far with  
3 it as you can go in terms of refreshing Mr. Bell's  
4 recollection as to when he realized that he might have some  
5 relevant information about the murder of Mr. Baskerville's  
6 informant.

7 He said he looked at the newspaper article, that it  
8 made sense to him. Insofar as that's concerned, I think it's  
9 an appropriate use of the article to refresh his recollection,  
10 but the article itself is inadmissible for at least the  
11 reasons I've stated and maybe even some more, that aren't  
12 necessary.

13 MR. MINISH: Judge, then if that's your Honor's  
14 ruling, I do believe that even consistent with that ruling,  
15 the Government should be able to ask the witness what in that  
16 article made him put two and two together.

17 Because the jury has to have the idea that this was  
18 not a willy-nilly sort of decision he made. There was  
19 information in there that led Troy Bell to say, oh, this must  
20 be associated with.

21 THE COURT: Make a proffer. What would he say? He  
22 said he never knew the informant's name.

23 MR. MINISH: Because --

24 THE COURT: So it mentions --

25 MR. MINISH: It's not that. It's the fact that the

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P4772

Bell - Direct/Minish 5134

1 A Yes.

2 Q Tell the jury why you're testifying.

3 A Cause I want to go home.

4 Q Why do you want to go home?

5 A To be with my family.

6 MR. MINISH: Judge, subject to discussion of the

7 Star-Ledger article, the Government has no further questions.

8 THE COURT: All right. Let's take our lunch break

9 then, folks.

10 You can go into the jury room and be back shortly.

11 THE CLERK: All rise.

5135

(Jury is excused and the following takes place out  
of the presence of the jury.)

(Troy Bell leaves the courtroom.)

THE COURT: Have a seat.

First of all, what is the purpose that the newspaper  
article is offered into evidence, for what purpose?

MR. MINISH: To show the jury -- this is basically  
it. The witness is going to testify that based on information  
he had been given by the defendant, he put that together with  
the article and said, one of those guys must be --

THE COURT: Right.

MR. MINISH: So it is obviously relevant. That was  
what defense counsel's argument was. Their objection was  
based on relevance.

THE COURT: You think the newspaper article itself  
should go in as an exhibit?

MR. MINISH: That's our position, Judge, but at a  
minimum, even if your Honor's not inclined to do that, when I  
tried to follow-up with the question of what in the article  
actually put two and two together for you, at a minimum that  
should come in.

THE COURT: How? I mean, the article, I kept the  
article out for a number of different reasons.

First of all, the newspaper article, it's an exhibit.  
Government exhibit 35, is a newspaper article that is an

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P4773

Bell - Direct/Minish 5132

1 Q Did you ever have a cooperation agreement?

2 A A cooperation agreement? No.

3 MR. MINISH: Judge, I'd like to move G-613 in  
4 evidence.

5 MR. HERMAN: No objection.

6 THE COURT: All right.

7 (G-613, plea agreement, is marked in evidence.)

8 Q You told the jury that when you met with Agent Shawn and  
9 the other people, you decided not to provide any information?

10 A Yes.

11 Q Have you been sentenced on your federal charge?

12 A Yes.

13 Q Between the time from that meeting with Agent Shawn and  
14 when you were sentenced, did you provide any information to  
15 the Government?

16 A As far as will?

17 Q Related to William Baskerville?

18 A No.

19 Q Did there come a time after you were sentenced that you  
20 decided to provide information to the Government?

21 A Yes.

22 Q And you agreed to cooperate in this case?

23 A Yes.

24 Q And you said you were also sentenced on a state charge.

25 Is that correct?

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Bell - Direct/Minish 5133

1 A Yes.

2 Q Now, I know there is no agreement, formal agreement, but  
3 what is your understanding of your responsibility as far as  
4 the cooperation with the Government goes?

5 A Well, my agreement with the Government is if I testify  
6 truthfully, that the Government will put in a motion to the  
7 state and my federal judge asking can they reduce my sentence,  
8 to ask to reduce my sentence.

9 Q So you mentioned a 5K before?

10 A Yes.

11 Q Okay.

12 It's the same thing only after sentence?

13 A Yes.

14 THE COURT: When were you sentenced on your federal  
15 charge?

16 THE WITNESS: Sometime in November, 2004.

17 Q Ultimately, who decides your sentence and whether or not  
18 it gets reduced up to? Whose decision is that?

19 A It's up to the judge.

20 Q That's a federal judge and a state judge?

21 A Yes.

22 Q And if you lie today, what happens? What is the  
23 Government's obligation if you lie?

24 A Nothing. I don't get nothing.

25 Q You've already been sentenced?

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Bell - Direct/Minish 5130

1 He's like, yo, I might go upstairs and see what he  
 2 going to say. I'm going to ask him who came to visit him or  
 3 whatever, see if he going to lie or not.  
 4 Me and Eric Dock say, you better watch out Rick because  
 5 we all knew he was already cooperating. So we talked for a  
 6 few more minutes and then he left and went upstairs. Then he  
 7 came back.  
 8 Q This is the defendant who left?  
 9 A Will left, went upstairs. He came back like probably a  
 10 half hour, half hour or so. He came back.  
 11 Q What did he tell you?  
 12 A He said, yeah, I was upstairs talking to Rick. He said  
 13 Rick -- he said, I asked Rick who came to visit him. He said  
 14 Rick said his girl came to visit him.  
 15 ~~He said, yo, he said, I just came from visit with Paul,~~  
 16 Paul said he seen you on a visit with the agents. He said  
 17 Rick started stuttering. He didn't know what to say.  
 18 He said, Rick didn't tell him the truth. Said yeah,  
 19 the agents came to see him.  
 20 Q Eventually he did tell the truth?  
 21 A Yeah.  
 22 Q Was the defendant upset?  
 23 A No, he asked him why he came to see you. He said Rick  
 24 said they came to see him -- he said they asked him, did you  
 25 know anything about any recent murders. Rick said he told

Bell - Direct/Minish 5131

1 them hell, no. He left. After they finished asking him that,  
 2 he said he got up and left.  
 3 Q The defendant got up and left?  
 4 A No, no. Will was saying after Will finished -- after  
 5 Rick finished talking to the agents, they asked him that  
 6 question, he said hell, no. He said he left.  
 7 Q Rick left?  
 8 A Yeah.  
 9 Q Okay.  
 10 I'm going to show you --  
 11 MR. MINISH: I'm showing defense counsel Government  
 12 exhibit 613.  
 13 MR. HERMAN: Thank you.  
 14 Q Do you recognize what that is?  
 15 A Yeah, that's my plea agreement.  
 16 Q How do you know it's your plea agreement?  
 17 A Cause it got my lawyer name on it.  
 18 Q What's the date?  
 19 A January 31st, 2003.  
 20 Q Is your signature contained on page five?  
 21 A Yes.  
 22 Q And what's the date of that?  
 23 A February 25th, 2003.  
 24 Q And is your lawyer's signature on there also?  
 25 A Yes.

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P4775

Bell - Direct/Minish 5128

1 Q Okay.

2 How did that take care of it?

3 A He said Paul was going to get information to Hak. When

4 he go see Hak, yeah.

5 Q Now --

6 A He said Paul usually go see Hak, cause he say Paul wasn't

7 representing Hak. He said Paul goes to see him cause he was

8 cool.

9 Q Paul was not representing Hak?

10 A No.

11 Q But they were friends?

12 A Yeah, they were friends, so he go visit him.

13 Q You discussed a man named Rick?

14 A Yes.

15 Q ~~Do you recall any conversations, beside the one you~~

16 already discussed, about confirming the informant's name, that

17 the defendant told you about Rick?

18 A Yeah.

19 Q Tell the jury.

20 A One day, me and Eric Dock was in the cell. One day Will

21 had a lawyer visit so he got all his legal work, went out to

22 his lawyer visit.

23 He came back. Me and Eric Dock was in the cell. He

24 came back, he came in the cell. He said, yo, he said Paul

25 just told me --

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Bell - Direct/Minish 5129

1 Q Who?

2 A Paul, his lawyer. He said, my lawyer just told me -- I

3 call him Paul cause that's what he called him.

4 Q That's fine.

5 A He said, my lawyer came. He said, my lawyer said, he

6 said the agents just came and seen somebody. He said Paul had

7 to describe him. He said he was tall, light-skinned black

8 dude with a bald head.

9 Will said, that was Rick. He said Paul came -- Paul

10 said agents came to see Rick.

11 Q One second. I wanted to put up a picture of 207.

12 That's Rick that you were talking about?

13 A Yes.

14 Q All right.

15 ~~What did the defendant say?~~

16 A He said Paul -- when he came from the lawyer visit, he

17 came straight into the room.

18 Q Into what room?

19 A Me and -- Eric Dock cell.

20 He came in. He's like, yo, Paul just -- I just came

21 out of the lawyer visit. He said, Paul told me the agents in

22 my case came to see, they was coming to see somebody. He

23 described Rick.

24 Will's like, yo. He said, I knew Rick just had to go

25 to a visit. We was like, yeah, he did go to visit.

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Bell - Direct/Minish 5126

1 The defendant said Ra-Ra said what?

2 A Defendant said Ra-Ra, the defendant said Ra-Ra had

3 something to do -- the defendant --

4 Q Take your time.

5 A I'm a little nervous.

6 Q You want some water?

7 A Yes.

8 Q Okay.

9 A Yes.

10 Q So?

11 A Will came in the room why we was talking and he said

12 Ra-Ra had the nerve to say some dumb shit to me.

13 He said, he talking about -- he said Ra-Ra said people

14 in Passaic County talking about Will had something to do with

15 his informant being killed.

16 Will said he just -- he got up and said, man, I don't

17 know what you're talking about. He said he left. He said,

18 that's when I came in the room with you all. He said, dude

19 going around trying to put himself in cases.

20 Q What does that mean?

21 A Somebody that's trying like to be an informant.

22 Q Dude trying to put someone?

23 A He trying to put hisself in people cases. That's what he

24 said.

25 Q About Ra-Ra?

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Bell - Direct/Minish 5127

1 A Yeah.

2 Q And Eric Dock was like, yo, you better stay away from

3 Ra-Ra. He probably came over here to get information from

4 you.

5 He said, man, I ain't fucking with the dude, I'm

6 staying the hell away from him.

7 Q When he said "dude," who was he talking about?

8 A Ra-Ra.

9 Q That's the defendant saying that?

10 A Yes.

11 Q Did the defendant say anything about information he

12 passed along about Ra-Ra?

13 A Yeah. One time I told him, I said, you better write Hak

14 and tell him about Ra-Ra. I said, they probably send him over

15 there to Monmouth County.

16 Q Say that again.

17 A I said, you better write Hak and tell him about Ra-Ra. I

18 said, you know, they might send him over there to Monmouth

19 County.

20 Q Why would that matter?

21 A Because E.T. Hak was over there in Monmouth County.

22 Q Okay.

23 A He's like, I already took care of that. I told Paul when

24 he came to visit me. He said, I gave Paul Ra-Ra name and

25 everything.

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P4777

Bell - Direct/Minish 5124

1 dude right there could be your co-defendant.  
 2 He was like no, that ain't my co-defendant. He's like  
 3 no, that ain't my co-defendant.  
 4 We're like, yo, man, that dude. We're like the dude  
 5 right there, that might be your co-defendant because they came  
 6 together.  
 7 He said, no, they didn't come together. He said, they  
 8 know each other and they came at the same time but they said  
 9 they wasn't together, they just happened to come to the same  
 10 time.  
 11 Q Why would that have mattered one way or the other?  
 12 MR. HERMAN: Objection.  
 13 THE COURT: Sustained.  
 14 Q What was the defendant's interest in whether or not he  
 15 had a co-defendant? Did he tell you?  
 16 A Cause they charge him with conspiracy. He wanted to  
 17 know --  
 18 Q Okay.  
 19 While you were in Hudson County, did you meet an  
 20 individual known as Ra-Ra?  
 21 A Yes.  
 22 Q Okay.  
 23 Do you know his real name?  
 24 A No.  
 25 Q I'm going to show you Government exhibit 208 in evidence.

Bell - Direct/Minish 5125

1 Do you know who that is?  
 2 A Yeah, that's Ra-Ra.  
 3 Q Put that one up.  
 4 The person the jury is looking at on the screen is  
 5 Ra-Ra?  
 6 A Yes.  
 7 Q When was he in Hudson County, do you remember?  
 8 A Well, he was in Hudson County twice. One time he came,  
 9 he left, he went to Passaic County and then he came again.  
 10 Q Okay.  
 11 A He came back to Hudson County.  
 12 Q Okay.  
 13 Now, speaking about the time when he came back to  
 14 Hudson County, did the defendant ever tell you anything about  
 15 conversations he had with Ra-Ra?  
 16 A Yes.  
 17 Q Okay.  
 18 Tell the jury what the defendant told you.  
 19 A Well, me and Eric Dock was in the room talking. Will  
 20 came in there. He he's like, yeah, man. He said, Ra-Ra had  
 21 the nerve to say something dumb to me.  
 22 He said, he talking about -- he said Ra-Ra said dudes  
 23 in Passaic County are talking about he had something to do  
 24 with his informant being killed.  
 25 Q I'm sorry. You have to slow down a little bit.

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Bell - Direct/Minish 5122

1 powder form?

2 A Powder form.

3 Q Is powder form cocaine?

4 A How would one stretch powder form cocaine?

5 A You would take some cocaine, put it in a pot, add water,  
6 add baking soda to it.7 If you got a certain amount of cocaine and you add a  
8 certain amount of baking soda, you're stretching it into9 whatever you want, how much baking soda you put on it. You  
10 want to put whatever, whatever you put on it, you can stretch  
11 it to whatever you want.12 He told me he had -- how he stretch his coke. He said  
13 he cook it like what, his cocaine, you put 500, 500 grams of  
14 coke in a pot and you probably add like 250, 300 grams of  
15 ~~baking soda and he make it to 800, 750, 750, 800.~~

16 Q Okay.

17 And what was the substance that was made afterwards?

18 A Crack. It would be seven, 800 grams of crack.

19 Q 500 grams of powder, became 800 grams of crack?

20 A Yes.

21 Q And did he tell you how much he was selling that stuff  
22 for?

23 A Like 23 a gram.

24 I told him, I wish I would have knew you on the streets  
25 because I would have come to see you. I was paying 28 a gram

Bell - Direct/Minish 5123

1 in New York.

2 Q Did he ever, he being the defendant, ever say anything to  
3 you about whether or not he actually sold drugs to his  
4 informant?5 A Yeah. Every time we like -- he used to show me like his  
6 indictment, his complaint, he never denied that he didn't sell  
7 to his informant.8 One time we was -- he let me and Eric Dock read his  
9 wire transcripts.

10 Q What are wire transcripts?

11 A Wire transcripts is a wiretap like somebody wear.

12 Q What do the transcripts look like that you're talking  
13 about?14 A Oh, it's wire transcript, the wire is transcript into  
15 ~~written form, I guess. It's on a~~ it's in paper form.

16 conversations are on paper now.

17 Q Okay.

18 And he let you read that?

19 A Yeah, he let us read that.

20 Q And did he make any comments, "he" being the defendant,  
21 make any comments about it?22 A Well, we was reading the wire transcripts and one time  
23 his informant came to see Will. When he came to see Will,  
24 there was another dude with him.

25 So when we was reading it, we'd like, yo, that's, that

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P4779



Bell - Direct/Minish 5120

- 1 Q Did you ask him any questions?
- 2 A Yes. I asked him would he plead guilty to ten years.
- 3 He said, no, no, I'm not pleading guilty to nothing.
- 4 Q Why not?
- 5 A He said cause he -- he said, I ain't got to no
- 6 co-defendants, I didn't sell to no agents and my informant is
- 7 dead. He said, they ain't got shit on me. He said, I ain't
- 8 pleading guilty to nothing, I'm going to trial.
- 9 Q Did the defendant ever discuss with you anything about
- 10 his drug dealing, his drug business?
- 11 A Yeah. Yes, he did.
- 12 Q Do you recall when he discussed that with you, or if it
- 13 was multiple times?
- 14 A Yeah, a few times, he talked about it, his drug dealings
- 15 or whatever.
- 16 Q Okay.
- 17 What did he tell you?
- 18 A He told me like when -- he told me he used to sell dope,
- 19 heroin. He said his man, one of his man had a connect and he
- 20 put him down, made him like his partner.
- 21 Q I'm sorry, his what?
- 22 A His man, one of his friends.
- 23 Q Okay.
- 24 A Put him down, like made him a partner, but.
- 25 Q Made who a partner?

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Bell - Direct/Minish 5121

- 1 A Made Will a partner. His friend had the drug connect as
- 2 far as this was talking about heroin.
- 3 Q Well, limit ourselves to cocaine.
- 4 A Cocaine, all right.
- 5 Q Did he ever tell you anything about cocaine?
- 6 A Yeah, he told me he was picking up keys or dealing coke
- 7 or coke, cocaine, kilos.
- 8 Q Okay.
- 9 Where was he getting it from?
- 10 A Said he had a connect, I think in New York.
- 11 Q Okay.
- 12 What's a connect?
- 13 A Person that you purchase your drugs from.
- 14 Q Okay.
- 15 So-a source?
- 16 A Yeah, the source.
- 17 Q And did he tell you anything about what he would do with
- 18 the cocaine?
- 19 A Yeah. He told -- cause I asked him, do he stretch his
- 20 coke?
- 21 Q What does that mean, "stretch his coke"?
- 22 A Like make it more, bigger amount.
- 23 Q Okay.
- 24 Let's make sure the jury understands.
- 25 When you say he was buying keys, is that rock form or

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Bell - Direct/Minish 5118

1 Q Hak again is Hakim Curry?

2 A Yes.

3 Q Did the defendant ever tell you any warnings that his

4 lawyer gave him?

5 A Yeah. When he came to see him, one time when he came to

6 see him, he told me his lawyer said they still investigating.

7 The feds are still investigating.

8 He said they monitor his phone calls, his visits and

9 his mail. He told him don't tell nobody about your case.

10 Q I'm sorry?

11 A He said, don't discuss your case with nobody. He told

12 him, don't discuss his case with nobody.

13 Q He was telling you he was told not to discuss the case?

14 A Yeah, he said his lawyer told him that.

15 Q ~~Did he tell you anything about other people that the~~

16 informant may have tried to buy from?

17 A Yeah. He said his informant tried to buy from Hakim and

18 one of his other brothers.

19 Q Again, I'm sorry, I'm having --

20 A He said his informant tried to buy from his brother

21 Rakeem and one of his other brothers. The informant tried to

22 buy from one of his other brothers, too.

23 Q And what happened?

24 A They wouldn't sell him nothing. He said one of his

25 brothers cussed him out cause he came somewhere he wasn't

Bell - Direct/Minish 5119

1 supposed to come.

2 Q The informant?

3 A Yeah. He just popped up. He said one of his brothers

4 cussed him out.

5 Q Do you know the informant's name?

6 A No.

7 Q Did you ever know the informant's name?

8 A No.

9 Q Okay.

10 It's not that you forgot?

11 A No, I never knew his name.

12 Q Did you ever discuss with the defendant a possible plea?

13 MR. HERMAN: I'm sorry, are we?

14 THE COURT: When are we having this conversation,

15 Mr. Minish?

16 MR. MINISH: I can ask him after he says whether or

17 not he had the conversation.

18 THE COURT: Whose plea?

19 Rephrase the question.

20 Q Did you ever discuss with the defendant whether or not he

21 would plead guilty?

22 A Yes.

23 Q Do you recall about when that discussion was?

24 A Yeah. It was around probably June or July.

25 He was --

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P4781

Bell - Direct/Minish 5116

1 I said, yeah. I said, all right. So they set up a date with  
2 my lawyer. I think it was for that next week. They switched  
3 it, they had made a date for like next week for me to go to  
4 the U.S. Attorney's Office.

5 So after the meeting, I went back to the tier. I told  
6 Eric Dock. Eric Dock was like, no. He said, don't have a  
7 meet cause they just take your statement, they might not come  
8 get me. He said, I might get fucked. He said, don't go. He  
9 said, cancel the meeting.

10 I went, called my lawyer the next day and I cancelled  
11 the meeting.

12 Q What is your relationship, status of your relationship  
13 with the defendant at this point, friendly, is it different,  
14 the same?

15 A Yeah, he's friendly, but it's like a fake friendly cause  
16 he's scared we're going to tell on him.

17 Q You still see him all the time?

18 A Everyday he come to the room, join in our conversations.

19 He and Eric Dock would be in his room talking and he just  
20 happened to come through. He join in on our conversations.

21 Q Okay.

22 I want to talk about some of those conversations that  
23 were had after the letter was written, okay.

24 I think you said this before, but it was March 14th,  
25 2004, when you started the letter?

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Bell - Direct/Minish 5117

1 A Yes.

2 Q Did the defendant ever tell you anything about his  
3 lawyer?

4 A Yeah. He told me his lawyer Paul wasn't doing nothing  
5 for him. He said he wanted to put in a motion to dismiss for  
6 vindictive prosecution. He said Paul act like he ain't want  
7 to put it in.

8 Q Vindictive prosecution?

9 A Yes, motion to dismiss for vindictive prosecution.

10 Q And why did he want that motion filed?

11 A Cause I guess he thought U.S. attorneys or whoever the  
12 prosecution was, they was doing it on some vindictive type of  
13 way, so that's it.

14 Q If his attorney wasn't working for him, why didn't he

15 fire him?

16 MR. HERNAN: Objection, Judge.

17 THE COURT: Sustained.

18 Q Did he ever tell you why he didn't fire him?

19 A No, I asked him. I told him, if he ain't doing nothing  
20 for you, fire him, get rid of him. Get another lawyer.

21 He said, no. He said he want to fire him -- he didn't  
22 want to get rid of him cause Paul knew too much. He said he,  
23 Paul's got inside information. He said, I need to pass a  
24 message to Hak, Paul come see me, I get a message to Paul, he  
25 give it to Hak.

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Bell - Direct/Minish -5114

1 A Yes.  
 2 Q Okay.  
 3 A And I went out. I thought I was walking towards medical  
 4 and it was officer waiting in the hallway for me. He took me  
 5 another way. He took me somewhere else.  
 6 Q So the area you describe as medical is not on the tier?  
 7 A No, it's not on the tier. We got to walk, leave the tier  
 8 and we got to walk. It's like a little couple minute walk,  
 9 like two-, three-minute walk.  
 10 Q So where did you end up?  
 11 A The officer stopped me and took me another way. He  
 12 didn't take me to medical, he took me somewhere else.  
 13 Q Had you been to --  
 14 A I was still in the building, but he took me to another  
 15 room-somewhere.  
 16 Q Had you been to that area before?  
 17 A No, never.  
 18 Q All right.  
 19 Where were you ultimately taken, was it just a room or  
 20 somewhere special?  
 21 A It was like a room, office, office type room.  
 22 Q Okay.  
 23 And who was there?  
 24 A Agent Shawn, another F.B.I. agent, homicide detective, my  
 25 lawyer and I think a sergeant or lieutenant of that jail,

Bell - Direct/Minish -5115

1 Hudson County.  
 2 Q Did they -- did law enforcement ask you any questions  
 3 about information you might have had?  
 4 A Yes, they wanted to know what information I had as far as  
 5 regarding to Will.  
 6 Q And what did you tell them?  
 7 A I ain't want to give them no information cause I thought  
 8 they was going to take my information and not give me no  
 9 credit for it.  
 10 Q Okay.  
 11 So what -- the last thing you said, no credit?  
 12 A Yeah, I thought they was going to take my information and  
 13 use it and not give me no credit for it. I really didn't want  
 14 to give it to them.  
 15 Q So did you provide any information that day?  
 16 A No, they asked me certain questions and that was it. I  
 17 wouldn't give them no information.  
 18 Q So did you mention Eric Dock's name to them?  
 19 A Yes, I told them Eric Dock, it wasn't just me, it was me  
 20 and Eric Dock as far as writing it.  
 21 I said Eric Dock, he told me and Eric Dock this  
 22 information. They wrote his name down and said they would get  
 23 to Eric Dock.  
 24 They asked me, do you want to go to the U.S. Attorney's  
 25 Office and talk -- and give a statement to the U.S. Attorney?

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P4783

Bell - Direct/Minish 5112

1 Nothing, we sitting here talking. He stayed, he  
2 chatted with us for a couple of minutes and then he left.  
3 Then Eric Dock was, I told you, I told you Rock was  
4 going to go out there and tell Will. He seen you fumbling and  
5 anything. He said, Rock ain't stupid. I told you he was  
6 going to tell him.

7 So we decided to write the letter, finish write the  
8 letter the next day, during count, during three o'clock count  
9 because at that time we can lock in anybody's cell at three  
10 o'clock count.

11 He wanted to write it in my room, like I tell, I didn't  
12 have no celli. The next day, the next day came, three o'clock  
13 came, three o'clock count came, we sat in there and finished  
14 writing the letter.

15 ~~later on that night, we sent it out or later either~~

16 that night or the next day, I sent it out, sent the letter  
17 out.

18 Q You're not sure what day?

19 A Yeah, I'm not.

20 Q What's the process of getting mail out of Hudson County  
21 from an inmate?

22 A You got to send it, you got to put it in the mailbox.

23 Q There's an actual mailbox that you have access to?

24 A I'm not sure, but I know you got -- you don't have to  
25 give it to an officer.

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Bell - Direct/Minish 5113

1 Burlington County you have to give it to an officer.

2 Q I'm sorry, I'm losing you a little bit.

3 A I think it's a mailbox.

4 I'm not sure, I'm not sure, but we got to put it in the  
5 mailbox and the officers, they collect it in the morning or  
6 later on at night and they take it out to the post office or  
7 whatever.

8 Q Were you ever contacted, again obviously after the time  
9 you mailed the letter, were you ever contacted by anybody in  
10 law enforcement?

11 A Yes. Agents came next week, the following week.

12 Q Okay.

13 Do you recall who the agent was who came?

14 A Agent Shawn and it was another agent, F.B.I. agent. It

15 ~~was a homicide detective, Newark homicide detective and my~~  
16 lawyer.

17 Q Now, you're saying "Agent Shawn."

18 Is that a male or female?

19 A A female.

20 Q Did you have any discussion with the members of the law  
21 enforcement that were there that day?

22 A Yes.

23 Q Where did you meet?

24 A Well, they had called me to medical, it was like --

25 Q They called you to medical?

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Bell - Direct/Minish 5110

1 But why wasn't his name mentioned in the letter?  
 2 A He just told me when they come, if they come see you,  
 3 just let them know I was involved. He didn't want to put his  
 4 name in the letter.

5 Q Was there any incident during the course of writing this  
 6 letter?

7 A Yes. When we was writing the letter, I was on my bed  
 8 writing the letter. I was laying on my stomach and my pillow  
 9 right here and I'm writing letter.

10 While he tell me what to write, I'm writing it. All of  
 11 a sudden, Will cell roommate, Rock came in the room, I  
 12 fumbling with the papers to put my papers over it. Will --

13 Q You said Rock?

14 A Yeah, Rock.

15 Q Do you know his real name?

16 A Eddie Williams.

17 Q I'm going to put 214 in evidence up.

18 Who is that?

19 A Eddie Williams, that's Rock.

20 Q Describe what happened. He saw you fumbling, what did  
 21 you do?

22 A He saw me fumbling with the papers. He looked, he didn't  
 23 say nothing. He asked Eric Dock a question. It was about  
 24 chess or something. He left back out.

25 Q Okay.

Bell - Direct/Minish 5111

1 A So Eric Dock told me put it up, put it up.

2 Q What did you mean, put it up?

3 A Put it up. I put the letter up, I stashed it, I put my  
 4 pillow over the pad.

5 Q I'm sorry, you're talking quickly.

6 What did you do with the letter?

7 A I put the letter up.

8 Q Where is up?

9 A I stashed it, I put it up. I think I put in the folder  
 10 or my mat, I hid it.

11 Q You hid it?

12 A Yeah, I hid it real quick.

13 Q What did you do with the pad?

14 A I put the pillow over my pad.

15 Q Okay.

16 What happened next?

17 A Five minutes later, Will come in the room. He just come  
 18 straight in the room, pick my pillow up and look under my  
 19 pillow and see the pad and put it down.

20 I thought it was bold for him to do it but he did.

21 Q What?

22 A I thought he was bold, real bold doing it, so.

23 Q Was there any conversation about it?

24 A No, he just like, what you all doing? What you all  
 25 doing?

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P4785

Bell - Direct/Minish - 5108

1 tell the U.S. Attorney?

2 A I told him we have some information concerning William  
3 Baskerville.4 MR. MINISH: Judge, I'd like to move Government  
5 exhibit 614 evidence.

6 MR. HERMAN: No objection.

7 THE COURT: All right.

8 (G-614, letter, is marked in evidence.)

9 Q The jury can read this back in the room, but is this the  
10 letter that is on the screen now, is that your letter?

11 A Yes.

12 Q Okay.

13 What was the purpose of writing this letter?

14 A The purpose was to give him my information, what I had  
15 about William Baskerville.16 MR. MINISH: Judge, since this is in evidence, I'd  
17 like to read it to the jury.18 Q "I'm writing this letter concerning a matter that I think  
19 you would be most interested in. First off, I want to say  
20 since I been in the law library, most guys think I'm some type  
21 of paralegal, but the point of this letter is William  
22 Baskerville.23 "Anyway, this particular person confide in me  
24 extraordinary information to me constantly. He tells me about  
25 murders and E.T. Hak," and then in parentheses, "Hakim Curry.

Bell - Direct/Minish - 5109

1 He even tells me about the informant. He only confines in me  
2 and Joey Merlino. We are all housed in the same tier," in  
3 parentheses, "unit together and the basic thinking behind the  
4 letter is I am in a unique position to wear a wire and should  
5 you transfer Joey Merlino, because his case is over with, it  
6 will only -- it will be only me for him to talk to. He see us  
7 as some type of advisors.8 "If you are interested in any of what I'm saying, it  
9 will be wise that you not call me to Newark, but come to this  
10 jail because William Baskerville will be on me if he seen me  
11 going to court.12 "Furthermore, if you come to the jail, should you come,  
13 try to employ the strictest standards of secrecy because these  
14 officers do a great deal of talking."

15 Who are the officers?

16 A The officers that was working the tier.

17 Q The jail employees?

18 A Yes.

19 Q All right.

20 Now, nowhere in this letter is Eric Dock's name  
21 mentioned.

22 Why is that?

23 A Cause he told me if they come see us, let him know that  
24 I'm involved and that's what I did.

25 Q Okay.

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Bell - Direct/Minish 5106

- 1 A We decided to write the U.S. Attorney's Office.  
 2 Q Did you actually write the U.S. Attorney's Office?  
 3 A Yes.  
 4 Q Tell the jury the circumstances of where you were writing  
 5 that letter?  
 6 A Well, later on that day, we went to my cell, cause I  
 7 didn't have a roommate, Eric Dock had a roommate. So he  
 8 didn't want to write it in our cell because his roommate is  
 9 nosy. He didn't want his roommate to find out what he was  
 10 doing. We went and write it in my cell because I had no  
 11 roommate.  
 12 Q How many people are normally in a cell?  
 13 A It's two to a cell.  
 14 Q Okay.  
 15 So you had a single?

- 16 A No, I had a two-man cell, but just at the time I had no  
 17 roommate.  
 18 Q All right.  
 19 And what did you do when you got to your cell?  
 20 Were you and Eric Dock in there by yourself?  
 21 A Me and Eric Dock was there. I told him, I wanted him to  
 22 write the letter, but he said, no, my writing is chicken  
 23 scratch.  
 24 He said, my spelling is not too good. He said, why  
 25 don't you write it?

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Bell - Direct/Minish 5107

- 1 I said, all right, I'll write it.  
 2 Q And did you, in fact, write it?  
 3 A Yes.  
 4 Q Did you make up the words?  
 5 A No. No, I was on my bed, Eric Dock was in the room. He  
 6 was telling me what to say and I was -- and I wrote the  
 7 letter.  
 8 Q He dictated it and you wrote it?  
 9 A Yes.  
 10 MR. MINISH: I've shown defense counsel what's been  
 11 marked Government exhibit 614.  
 12 Q Do you recognize what that is?  
 13 A Yes, that's my letter.  
 14 Q Okay.

Get up to the microphone.

- 16 A Yes, that's my letter.  
 17 Q It's a photocopy of it?  
 18 A Yes.  
 19 Q Okay.  
 20 What's the date of the letter?  
 21 A March 14, 2004.  
 22 Q Did you actually send this letter to the United States  
 23 Attorney's Office?  
 24 A Yes.  
 25 Q And what did you ask for in this letter or what did you

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P4787

Bell - Direct/Minish - 5104

1 Q That's what I had written down.  
 2 What was the discussion?  
 3 A Oh, me and Eric Dock was in the room one day talking and  
 4 Will came in. So he told Will that Er -- he told Will about  
 5 Real, Real was talking about him, saying that --  
 6 Q Talking about who?  
 7 A Talking about Will.  
 8 Q Okay.  
 9 A We told Will that Real was talking about him. Real was  
 10 going around -- he told me and Eric Dock he think Will was  
 11 cooperating. He said, cause he had read the article, too. He  
 12 thought Will had --

13 MR. HERMAN: Objection what he thought.

14 THE COURT: Sustained.

15 Q So he was providing information?

16 A Yes.

17 Q Okay.

18 And what did the defendant say about that?

19 A Oh, he got mad. He said, he said, that nigger pussy. He  
 20 said, if I was home, he said, if he was home, I have him  
 21 killed.

22 Q By "home," you mean out of jail?

23 A Yes.

24 Q Do you know what Real's real name is?

25 A No.

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Bell - Direct/Minish - 5105

1 Q Did there come a time when you and Eric Dock discussed  
 2 whether or not to cooperate with the Government?

3 A Can you repeat that again?

4 Q Did there come a time when you and Eric Dock discussed,  
 5 amongst the two of you, whether to cooperate with the  
 6 Government?

7 A Oh, yes, yes.

8 Q Was that before or after the article came out?

9 A After the article.

10 Q Okay.

11 Tell the jury the circumstances of that discussion.

12 What did you speak about?

13 A Well, I came to Eric Dock after lunch, I came to his  
 14 room. When I came in, we was talking.

15 He said, you know, he might be a big 5K1.

16 Q What did that mean?

17 A 5K1, it's called a downward -- you get a letter from the  
 18 Government and at your sentencing, you ask them to reduce your  
 19 sentence.

20 Q Okay.

21 A For your cooperation, whatever cooperation you provide.

22 Q Okay.

23 Why was the defendant a big 5K1?

24 A Cause he had his informant killed.

25 Q And you had that discussion, what did you decide?

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Bell - Direct/Minish -5102-

1 Q Who is "he," who is he?  
 2 A Will.  
 3 Q Okay.  
 4 Will was talking to?  
 5 A Joe.  
 6 Q And that's Joey Merlino?  
 7 A Yeah.  
 8 Q What did he say?  
 9 A He said he was talking to Joe. He said Joe said if a  
 10 person informant is dead, he said the Government wouldn't tell  
 11 you. They try to get you to plead guilty. He said if you go  
 12 to trial, he said, they'll dismiss it.  
 13 Q "They" being the federal Government?  
 14 A Yes.  
 15 Q Did he say anything about a state case?

16 A Joe?  
 17 Q Yes.  
 18 A No.  
 19 Q After that day or after that conversation, was your  
 20 relationship with the defendant the same?  
 21 A No. He used -- he started coming around everyday. After  
 22 that, he started coming around everyday.  
 23 Q Okay.  
 24 Prior to the day the article came out, he had not come  
 25 around everyday?

Bell - Direct/Minish -5103-

1 A No.  
 2 Q So what did he do when he came around everyday?  
 3 A He wanted to talk. Cause I used to be in Eric Dock cell  
 4 everyday talking to him so he come in and join our  
 5 conversation everyday.  
 6 Q And why did he do that?  
 7 MR. HERMAN: Objection.  
 8 Q Why do you think?  
 9 THE COURT: Sustained.  
 10 Q Was he acting any differently toward you when he was  
 11 there?  
 12 A Yeah. He was like nice. He wanted us to tell him.  
 13 Q So he was being nicer?  
 14 A Yes.  
 15 Q Did the defendant ever discuss an individual named Real

16 with you?  
 17 A Yeah.  
 18 Q About when was that?  
 19 A Sometime in April, sometime in April.  
 20 THE COURT: What was the name?  
 21 THE WITNESS: Real.  
 22 THE COURT: Real?  
 23 MR. MINISH: I don't know how to spell it.  
 24 Q Do you know how to spell it, sir, Real?  
 25 A R- no. R-e-a-l?

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P4789



Bell - Direct/Minish 5100

1 Q Eric Dock came into your cell?

2 A Yes.

3 Q Tell the jury what happened.

4 A So we in my cell. He's like, yo, call Will in. Tell him

5 we read the article. We're going to discuss it with him.

6 So I went and called Will. Will came into the room.

7 Q Okay.

8 What was discussed with Will?

9 A Well, Eric Dock told him, listen, yo, we read the

10 article. Eric Dock started telling him a situation he had

11 when he was back in the '80s. He was telling us about how he

12 had -- he was on the run for -- he was facing 20 years over

13 here in Jersey.

14 He went on the run to west coast. He said when they

15 caught him, they brought him back to Jersey. He said during

16 that ten years he was on the run over there in California, he

17 said the state -- no, he says the informant had died during

18 those ten years. He said the state dismissed it.

19 Q I'm sorry, Eric Dock said the state dismissed his case?

20 A Yeah. He said the state dismissed his case.

21 Q Did the defendant say anything in response to that?

22 A That's when Will just he sat there for a second. He

23 looked like scared because we would know, we knew his

24 informant dead.

25 Q I'm sorry?

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Bell - Direct/Minish 5101

1 A He looked like he was scared, cause he's like we knew his

2 informant was dead. So he was like, he ain't say nothing for

3 a couple of seconds.

4 Q He was scared that you knew?

5 A Yeah. He was scared that me and Eric Dock knew that his

6 informant was dead.

7 So he looked at us and he said, yo, Black, he said, if

8 I got no co-defendants and I ain't sell to no agents and my

9 informant is dead, what do you think will happen to my case?

10 Eric Dock said, your case will get dismissed. The

11 whole case is around your informant.

12 He said, remember you told us about your informant was

13 a confidential witness. Eric Dock is like, they ain't got no

14 case. Your case going to get dismissed, you ain't got no

15 informant.

16 Q At the end of the discussion, did the defendant stay or

17 leave?

18 A He left.

19 Q Do you know where he went?

20 A Well, later on that day me and Eric Dock was in his room

21 talking. Will came back down.

22 Q In Eric Dock's room?

23 A Yeah, Eric Dock room. He came right down, he came into

24 the room and he was talking to us. He said he was talking to

25 Joe.

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Bell - Direct/Minish 5098

1 A Yes.

2 Q Was there anything in that article that made you

3 associate the information provided in the article with William

4 Baskerville?

5 THE COURT: Yes or no.

6 THE WITNESS: Yes.

7 THE COURT: Next question.

8 Q What was it?

9 MR. HERMAN: Objection.

10 THE COURT: Sustained.

11 MR. MINISH: What's the basis for the objection?

12 THE COURT: It's hearsay.

13 I'll articulate the ruling when the jury is not in

14 the room. I'm ruling the article is not admissible, nor can

15 you ask specific questions about the content of the article.

16 MR. MINISH: Judge, we're trying to establish what he

17 is going --

18 THE COURT: Please put another question to the

19 witness, Mr. Minish.

20 Q You said you discussed the situation with Eric Dock.

21 What did you discuss?

22 A After we read the article, I said, after we read the

23 article, I told -- me and Eric Dock started discussing the

24 case, started discussing it.

25 I said -- we say, Will beat his case. Then we saw --

Bell - Direct/Minish 5099

1 saying that's why the agents kept coming to see him, because

2 his informant was dead. That's when we realized his informant

3 was dead, because the agents kept coming to see him and they

4 said he was looking at the death penalty and everything

5 started registering.

6 Q Okay.

7 When you say everything is registering, what's

8 registering?

9 A What he said about his -- they was looking for his

10 informant and then the agents come and say he was looking at

11 the death penalty.

12 That's why we was like, after we read -- after I read

13 the article, I told Eric Dock, yeah, one of those Will

14 informant. He agreed with me.

15 That's when we started discussing it. That's when we

16 said Will could beat his case because his informant is dead.

17 Q Did there come a time on that day when you actually spoke

18 with the defendant?

19 A Yes.

20 Q Okay.

21 Tell the jury about that.

22 A Well, after we finished discussing it, the article, and

23 how Will could beat his case, I went out my room and went to

24 my room. I went out Eric Dock room, Eric Dock followed me a

25 couple of minutes later.

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P4791

Bell - Direct/Minish 5096

1 A Cause of what he told us.  
 2 Q What did he tell you?  
 3 A That his brother and his man was looking for his  
 4 informant to put a bullet in his melon.  
 5 Q Anything else, was your understanding based on anything  
 6 else that the defendant told you?  
 7 A What he told me previously about in January.

8 Q Okay.  
 9 What did he tell you?  
 10 A That his dudes was looking for his informant to put a  
 11 bullet in his melon, they couldn't find him.  
 12 Q Okay.  
 13 So you're speaking very quickly. I want to make sure  
 14 the jury hears.

15 To put a bullet in his melon?

16 A Yes.  
 17 MR. HERMAN: Objection.  
 18 THE COURT: Mr. Minish, he said this four or five  
 19 times. I don't know how many times. We heard it. You don't  
 20 have to repeat his testimony in your questions.  
 21 Please, put another question to the witness.  
 22 Q When he said that, based on what he had already told --  
 23 A When we read the article, me and Eric Dock, Black,  
 24 started discussing it, saying Will would be beat his case  
 25 because his informant --

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Bell - Direct/Minish 5097

1 Q You said Black?  
 2 A Yes.  
 3 Q That's a nickname?  
 4 A Yes, that's what everybody was calling him on the tier,  
 5 Black.  
 6 Q Well, there's a lot of articles about a lot of murders in  
 7 the Star-Ledger.

8 What about --

9 MR. HERMAN: Objection to the question, Judge.

10 THE COURT: It's problematic already.

11 Rephrase.

12 MR. FRAZER: Can we be heard at sidebar?

13 THE COURT: No.

14 Q What about this article made you associate it, the  
 15 information in this article with the defendant?

16 A Cause of what he told me, what he told us about he was  
 17 looking for his informant. That made me think. I knew his  
 18 informant was dead because it said E.T. Hak, you know what I'm  
 19 saying, was looking for his informant, too.

20 Q Okay.

21 I want you to limit your answer to what, if anything,  
 22 in the actual article that made you think --

23 THE COURT: Mr. Minish, the article is not in  
 24 evidence, so put it down.

25 Q The article that I've shown you, Government exhibit 35?

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Bell - Direct/Minish 5094

1 reading it, I noticed witnesses started dying.

2 MR. HERMAN: Objection.

3 THE COURT: Don't tell us what the article said.

4 Put another question, Mr. Minish.

5 Q Did you read the article?

6 A Yes, I read the article.

7 Q And based on what information was provided in that

8 article, what did you and Eric Dock discuss?

9 A That Will informant was there.

10 Q And how did you draw that conclusion from reading this  
11 article?

12 A Cause of what he told us, that he was looking for his  
13 informant.

14 Q Now, again, so the jury is clear, what exactly did he  
15 tell you back January, you said?

16 A January and February.

17 Q I'm sorry?

18 A January and February.

19 Q Okay.

20 What exactly did William Baskerville tell you about his  
21 informant?

22 A First time --

23 THE COURT: You want him to repeat what he testified  
24 to earlier today?

25 MR. MINISH: Judge, it's part of what the analysis is

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Bell - Direct/Minish 5095

1 in connection with this.

2 THE COURT: Forget the article.

3 You're asking him to repeat his earlier testimony?

4 MR. MINISH: Yes.

5 THE COURT: That we heard an hour ago? Is there an  
6 objection?

7 MR. HERMAN: Objection.

8 THE COURT: Sustained.

9 Next question.

10 MR. MINISH: Judge, this is relevant.

11 THE COURT: Next question.

12 Q What thoughts were in your head when you read this  
13 article?

14 MR. HERMAN: Objection.

15 THE COURT: Rephrase the question.

16 MR. MINISH: Judge, I really think we should be heard  
17 at this point.

18 THE COURT: Rephrase the question.

19 Q The Star-Ledger article, you said you read it with Eric

20 Dock, right?

21 A Yes.

22 Q You said you thought based on what you read that the  
23 defendant's informant was dead?

24 A Yes.

25 Q Why?

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P4793

Bell - Direct/Minish 5092

1 Was there another article you read?

2 A Yes, it was about Hakim Curry's arrest.

3 MR. MINISH: Judge, I've shown defense counsel what's

4 been marked Government exhibit 35. If there is no objection,

5 I'd like to move it.

6 MR. HERMAN: There is an objection.

7 THE COURT: There is?

8 MR. HERMAN: Yes.

9 THE COURT: Okay.

10 Q Do you recognize what I'm showing you as exhibit 35?

11 A Yes.

12 Q Okay.

13 It's multiple pages. Why don't you look at it?

14 A Yes.

15 Q Okay.

16 Now, you pointed at the bottom of the first page.

17 You pointing at?

18 A Article about E.T. Hak.

19 Q Is that the article you were referring to?

20 A Yes.

21 Q Is that the article that you were -- you read about E.T.

22 Hak's arrest?

23 A Yes.

24 MR. MINISH: Judge, we have a certification from the

25 Star-Ledger which was provided to defense counsel. We'd like

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Bell - Direct/Minish 5093

1 to move it.

2 MR. HERMAN: It's not the foundation, it's the

3 relevance.

4 MR. MINISH: Perhaps we should go to sidebar.

5 THE COURT: Move on to something else.

6 MR. MINISH: This is the subject matter of a little

7 bit of testimony.

8 THE COURT: May I see it?

9 MR. MINISH: Sure. We can go into a little more of

10 Mr. Bell's testimony.

11 THE COURT: You should, because right now the

12 objection is sustained.

13 You can ask him questions and you can ask him if the

14 article refreshes his recollection, but the article itself at

15 this point is not coming in.

16 Q What I've shown you as exhibit 35, is the article you

17 read that day?

18 A Yes.

19 Q Tell us the circumstances of how it is you got the

20 opportunity to read that article.

21 A Well, the day the article was circling around on the

22 tier, I had went to Eric Dock like at lunch, I went to his

23 room. I went to his room. He was like, read this. He gave

24 me the newspaper. So I was reading it.

25 When I noticed -- I knew it was about E.T. Hak. I was

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Bell - Direct/Minish 5090

1 (The following takes place in the presence of the  
2 jury.)

3 THE COURT: Have a seat when you're in your zone.

4 Mr. Minish.

5 Keep your voice up.

6 DIRECT EXAMINATION CONTINUES BY MR. MINISH:

7 Q Mr. Bell, when we broke, you were talking about  
8 discussions you had with the defendant in early March of 2004,  
9 right?

10 A Yes.

11 Q Did there come a time when you saw a Star-Ledger

12 newspaper article that was passed around the jail in that  
13 early part of March?

14 A Yes.

15 Q Okay.

16 Could you tell the jury the circumstances of what  
17 happened?

18 A Yeah. It was like probably a few days, four or five days  
19 after Hak got locked up.

20 Q That's Hakim Curry?

21 A Hakim Curry got locked up, newspaper article was floating  
22 around in the jail.

23 Q Excuse me?

24 A A newspaper about his arrest, a newspaper article about  
25 his arrest was floating around on the tier.

Bell - Direct/Minish 5091

1 Q When you say "floating around," did you have access to  
2 the Star-Ledger normally?

3 A No.

4 Q Why not?

5 A Cause they didn't allow us to have any papers in there.  
6 You could order it, but nobody had it.

7 Q So how did it happen to be passed around that day?

8 A Will told me a officer that was working on the tier had  
9 brought it in for Joey Merlino because his article was in  
10 there, too, the article of his acquittal was in the paper,  
11 too.

12 Q Okay.

13 A So he brought it in for Joey Merlino.

14 Q An employee of the jail gave it to Joey Merlino?

15 A Yeah. The officer that was working on our tier gave it  
16 to Joey Merlino.

17 Q The defendant told you that?

18 A No, Will told me the officer gave it to Joey Merlino, the  
19 paper to Joey Merlino because his own article was in the paper  
20 of his acquittal.

21 Q Okay.

22 Did you get an opportunity to look at that article?

23 A Yes.

24 Q And what was the article about?

25 I'm not speaking about Joey Merlino's article.

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Bell - Direct/Minish 5088

1 Q Tell the jury what he told you.  
 2 A He told me Hak got married in Vegas, Las Vegas at one of  
 3 the most expensive hotels in Las Vegas.

4 He said he didn't go because he thought the feds was  
 5 probably on, he thought the feds was probably going to be  
 6 there so that's why he didn't go.

7 He said his wife was mad because he didn't want to go.

8 Q To the wedding?

9 A Yes.

10 Q So at this point --

11 THE COURT: Did he tell you when that wedding was?

12 THE WITNESS: No, I don't think so.

13 THE COURT: Okay.

14 Q At this point in March now, the defendant has told you  
 15 about Hakim Curry being arrested and the other information you

16 just told the jury?

17 A Yes.

18 THE COURT: Mr. Minish, we're going to need a  
 19 morning break. I leave to you when.

20 MR. MINISH: This is fine.

21 THE COURT: Let's take a morning break, folks.

22 THE CLERK: All rise.

Bell - Direct/Minish

5089

1 (Jury is excused and the following takes place out  
 2 of the presence of the jury.)

3 THE COURT: You can take him.

4 (Troy Bell leaves the witness stand.)

5 THE COURT: Let's take a short break.  
 6 (Recess.)

7 THE COURT: Get the witness.

8 T R O Y B E L L, previously sworn, resumes the  
 9 stand.

10 THE COURT: Let's get the jury.

11 How much longer on direct, Mr. Minish?

12 MR. MINISH: I hope to be done by the lunch break.

13 THE COURT: Okay.

14 THE CLERK: All rise.

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Bell - Direct/Minish 5086

- 1 Q Why?
- 2 A Cause I was like fascinated with him, his lifestyle, what
- 3 they was doing out there.
- 4 Q What do you mean specifically?
- 5 A Like as far as how much money they was getting and
- 6 clothes, not the clothes, but the cars he had, the money, the
- 7 jewelry and they was going out, going to all the events.
- 8 Q What kind of events?
- 9 A Like they used to go to All-Star or the Greek fest or
- 10 Virginia Beach.
- 11 Q You said All-Star, what did you mean by that?
- 12 A All-Star weekend.

13 MR. HERMAN: Can we have a source for this

14 information?

15 THE COURT: How did you know this?

16 THE WITNESS: Will told me.

17 MR. HERMAN: When?

18 THE COURT: It was from what the defendant told you

19 that you became fascinated by the lifestyle that these people

20 had, or did you have that independently, this fascination?

21 THE WITNESS: I liked the way, cause I never --

22 where I live at, people don't do it the way guys in Newark do

23 it as far as their lifestyle, when they selling drugs. So

24 that fascinated me. Cause I used to hear about them when I

25 was in upstate county from his uncle.

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Bell - Direct/Minish 5087

- 1 Q Who's his uncle?
- 2 A Reginald Curry. We call him Ali.
- 3 Q Whose uncle is that?
- 4 A Hakim Curry uncle.
- 5 That's why I always used to ask Will, cause I wanted to
- 6 see if it was true. Certain things I used to ask Will because
- 7 I wanted to see if Ali was lying or not.
- 8 Ali used to tell me certain things and I used to ask
- 9 Will. Will, like, yeah, sometimes he say yeah, sometimes he
- 10 say no.
- 11 Q These are things about the lifestyle?
- 12 A Yes.
- 13 Q You mentioned the All-Star.
- 14 What did that mean?

15 A All-Star weekend?

16 Q Yeah, what is that?

17 A Oh, that's NBA All-Star weekend. That's when basketball,

18 NBA had all the all stars play in the game, but it's like a

19 weekend event that a lot of big drug dealers, that's where

20 they go.

21 Q Had you ever gone there?

22 A No, no.

23 Q Did the defendant ever tell you anything about Hakim

24 Curry's wedding?

25 A Yes.

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P4797

Bell - Direct/Minish 5084

1 like he was upset. He started telling me his cousin E.T. Hak  
2 got locked up.

3 He said, Hak got locked up. He said, he said his man  
4 Pooh had set him up. He said --

5 Q Whose man Pooh?

6 A Hak, Hak man Pooh had set him up.

7 Q Okay.

8 What did that mean, "set him up"?

9 A I guess he set him up with the DEA or whatever.

10 Q Do you know who arrested Hak?

11 A Yes, he told me the DEA.

12 Q Did he tell you whether other people were arrested?

13 A Yeah. He told me DEA was looking for his brother. He  
14 said they had a search warrant, they raided his house. He  
15 said his brother wasn't there. He said he told me his brother

16 was at a hotel hopping.

17 Q Hotel hopping, why was he doing that?

18 A I don't know. He just said he was going from hotel to  
19 hotel, living in a hotel from hotel.

20 Q Did he tell you whether his brother knew the DEA was  
21 looking for him?

22 A No, he just say his brother -- he said the DEA was  
23 looking for his brother, they had raided his house.

24 Q Okay.

25 Did he tell you which brother it was?

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Bell - Direct/Minish 5085

1 A Rakeem.

2 Q Rakeem.

3 Did he -- now, you said you grew up in Asbury Park,  
4 right?

5 A Yes.

6 Q And you've described your connection with Newark as being  
7 only when you were in jail?

8 A Yes.

9 Q Before you got there, to Hudson County or Passaic County  
10 under this federal arrest, had you heard of Hakim Curry?

11 A No.

12 Q How about Rakeem Baskerville?

13 A No.

14 Q Pooh?

15 A No.

16 Q William Baskerville?

17 A No.

18 Q Did you ever discuss, prior to that day, Hakim Curry with  
19 the defendant?

20 A Prior to that day?

21 Q Yeah, before that?

22 A Yeah.

23 Q Okay.

24 What did you discuss?

25 A I used to always like ask him questions about E.T. Hak.

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Bell - Direct/Minish 5082

1 A Yes.

2 Q How do you know he didn't go to one of the meetings?

3 A Cause he refused it.

4 Q How do you know he refused it?

5 A He came and told us.

6 Q Is that --

7 A Every time they came to see him, he came and told us.

8 Q All right.

9 Now, we're in early March, you said?

10 A Yes.

11 Q Well, we skipped ahead.

12 You were in early March in the first meeting that the

13 defendant was in a lawyer meeting and turned out to be agents?

14 A Yes.

15 Q So let's go back to that early March time.

16 Did there come a time around that early March period

17 when the defendant told you anything about Hakim Curry?

18 A Yes.

19 Q Okay.

20 Tell the jury what he told you.

21 A Like a day or two after E.T. Hak got locked up, I was in

22 the day room.

23 Q You said "E.T. Hak."

24 That's a nickname for Hakim Curry?

25 A Yes.

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Bell - Direct/Minish 5083

1 Q I'm sorry, go ahead.

2 A A couple days after Hak got locked up, Will called me

3 upstairs. So I went upstairs.

4 Q What's upstairs?

5 A Will room is upstairs. It's like the first floor cells

6 and you got second floor cells. His room was right above,

7 directly above Eric Dock cell.

8 Q Where was your cell, first floor or second floor?

9 A My cell was on the first floor on this side. Will was on

10 this side, mine's was on that side of the room.

11 Q Okay.

12 You and Eric Dock are on the first floor?

13 A Yes.

14 Q And the defendant was on the second floor?

15 A Yes.

16 Q How many floors are there?

17 A Two, on the tier it's two.

18 Q Okay.

19 So he called you up to his cell?

20 A Yes.

21 Q And what did he tell you?

22 A He called me up to his cell. We was standing -- we

23 wasn't in his cell, we was like outside by his cell. So we

24 was sitting there.

25 He had like a down expression on his fashion, down,

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P4799



Bell - Direct/Minish 5080

1 Do you know who that is?  
 2 A Yeah. That's Joey Merlino.  
 3 Q You said Joey Merlino?  
 4 A Yes, that's Joey Merlino.  
 5 MR. MINISH: Put this picture up.  
 6 Q The defendant said, I just spoke with him, he came back,  
 7 what did he tell you guys?  
 8 A He said, I just came upstairs talking to Joey. He said  
 9 Joe said a person is facing the death penalty if you kill a  
 10 federal agent or a federal informant.  
 11 Q Did you guys ask him any questions?  
 12 I'm using "you guys," you, Eric Dock, ask the defendant  
 13 any questions?  
 14 A No.  
 15 Q Why not?  
 16 A Cause just didn't ask him, we ain't ask him no questions  
 17 about that. We ain't ask.  
 18 Q Again, you have to keep your voice.  
 19 A No, we ain't ask him no questions about that. He told us  
 20 something new. We didn't know nothing about that.  
 21 Q About what?  
 22 A What constitute the death penalty as far as federal death  
 23 penalty. We didn't know nothing about that. That's something  
 24 he told us.  
 25 Q Did you have any concerns that the defendant may be

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Bell - Direct/Minish 5081

1 cooperating?  
 2 A Yeah.  
 3 Q Tell the jury.  
 4 A Cause the agents came. They came again. He had another  
 5 lawyer visit. They came again, they came two times after  
 6 that. That's when we thought he was trying to cooperate.  
 7 Q And why did you think that?  
 8 A Because we thought that cause that's what we know.  
 9 Everybody in the feds is cooperating so we figure, agents keep  
 10 coming to see him, he might be cooperating.  
 11 Q You don't know what was actually discussed during those  
 12 meetings?  
 13 A No. Cause one reason he came -- one meeting before he  
 14 left, he came and asked us should he go. I think he asked  
 15 somebody else, too.  
 16 A Somebody else told him, yeah. I think we told him no,  
 17 cause we told him no, cause he ain't have his lawyer with him.  
 18 We told him he shouldn't go.  
 19 A One of the meetings he didn't go. When they came and  
 20 called him out for a lawyer visit, one of them he didn't go,  
 21 one of them he did go.  
 22 Q Okay.  
 23 So it was a total of three meetings?  
 24 A Three times they came to see him.  
 25 Q Two times he went and one time he didn't?

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Bell - Direct/Minish 5078

1 Q Okay.

2 A So --

3 Q Is there any process that the inmate has to go through in

4 order to speak with agents, any paperwork involved?

5 A Yes.

6 Q Tell the jury what's involved in that.

7 A Well, I don't know. I know one time he said when he came

8 to see him, they made him sign some paperwork. He said the

9 sergeant made him sign some paperwork before he went and

10 talked to the agents.

11 Q About whether or not he wanted to see them?

12 A Yes.

13 Q Did he say anything else to you -- who else is present

14 during this conversation?

15 A Me and Eric Dock.

16 Q So it's just the three of you?

17 A Me, Eric Dock and William Baskerville.

18 When he came back from the visit, he told us agents

19 came to see him. He said Shawn, Agent Shawn said he was

20 facing the death penalty.

21 He said he asked Agent Shawn what am I facing the death

22 penalty for? She said she wasn't at liberty to tell him.

23 He said she told him his lawyer was trying to protect

24 certain family members and he was going to try to sell Will

25 out. She told Will she would get rid of his lawyer and if you

Bell - Direct/Minish 5079

1 can't afford one, they will, court will find one for him.

2 Q Did he say anything else?

3 A Yeah. She told him, she told him he was looking at life

4 already, but now he's looking at the death penalty.

5 Q And that's the person you said is Agent Shawn?

6 A Yes.

7 Q Did he -- did the defendant ask you or Eric Dock anything

8 about the death penalty?

9 A Yeah. He asked us what constitute the death penalty. We

10 told him we ain't know.

11 He said it got something to do with murders.

12 Q And did the defendant stay with you or leave?

13 A He left. He talked for a few minutes and then he left.

14 Q A few minutes about that conversation or about other

15 things?

16 A That conversation. He finished telling us what Shawn was

17 saying.

18 Q When he left, do you know where he went?

19 A He left, he came back about half hour, hour later.

20 He said, I just came -- me and Eric Dock was still in

21 the room talking. He said, yo, I just came upstairs talking

22 to Joe.

23 Q Who's Joe?

24 A Joe Merlino.

25 Q I'm going to show you Government exhibit 209 in evidence.

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P4801

Bell - Direct/Minish - 5076

1 Q Okay.

2 A Try to get his case dismissed.

3 Q To your knowledge, did that work out for him?

4 A He told his lawyer about it, he said he told his lawyer

5 about it, but his lawyer telling him -- he was telling him it

6 wasn't nothing. They only gave you a rough draft.

7 He really was trying to push the issue, but he realized

8 his lawyer was telling him the truth, it was just a rough

9 draft. He told him the original, the original copy goes to

10 the court, the court clerk. He said that's why he got a rough

11 draft.

12 Q When is the next time you had a conversation -- again

13 you're seeing him everyday, I understand.

14 I want to skip to a conversation that's of consequence

15 of what we're talking about today.

16 When is the next conversation you had with the

17 defendant about again either his informant or the law or his

18 case?

19 A I know the agents had came to seen him.

20 Q Okay.

21 Tell the jury about that, what was the circumstances of

22 the agents coming to visit?

23 A I know it was in the beginning of March. He said he had

24 a lawyer visit. He thought he had a lawyer visit.

25 Q When you say "he," you mean the defendant?

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Bell - Direct/Minish - 5077

1 A Will, yeah. Will thought he had a lawyer visit.

2 I seen him, he had took -- every time he go to a lawyer

3 visit, he take his paperwork, so he took his paperwork and

4 went to the lawyer visit.

5 Q How is the lawyer visit different from say a girlfriend

6 visit?

7 A Attorney visit, you go to a different section from the

8 regular visits.

9 Q Okay.

10 A You and your attorney in the room together and you can

11 talk.

12 Q Okay.

13 So he gathered his stuff and what happened?

14 A He gathered his stuff and he went out toward the lawyer

15 visit.

16 He came back, came to Eric Dock cell. Me and Eric Dock

17 was in the cell talking and he came back.

18 He said agents just came to see me. We like, yeah?

19 He said, yeah, they told me I was facing the death

20 penalty. He had told us he got off the phone with his lawyer

21 Paul and Paul told him -- he said he told Paul that the agents

22 came to see him.

23 He said Paul was mad and said something to the agents

24 or whoever and told him not to have no more contact with his

25 client.

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Bell - Direct/Minish 5074

1 I take a shower, I go dry off, come back out, watch TV 'til  
 2 they call lunch.  
 3 Q After lunch, what did you do?  
 4 A After lunch, I go to Eric Dock room because he was up.  
 5 That was around the time he probably be up.  
 6 I go in Eric Dock room and I be in his room talking to  
 7 him until three o'clock count.  
 8 Q And what were you guys generally talking about?  
 9 A Talking about everything. We talking about sports,  
 10 entertainment, history, social problems, his past, my past,  
 11 gossip. We talk about everything.  
 12 Q About the law?  
 13 A Oh, yeah, the law.  
 14 Q You talk about your cases?  
 15 A Yes, talk about our cases.

16 Q Okay.  
 17 You said that was until count?  
 18 What happened after count?  
 19 A After count, we come out and they serve lunch by around  
 20 four, about five, between five and 6:30.  
 21 Q Lunch or dinner?  
 22 A I mean dinner, dinner.  
 23 Q And what happens after dinner?  
 24 A After dinner, if it's a movie on, I watch a movie.  
 25 Sometimes I ain't even watch a movie, I be in Eric Dock cell

Bell - Direct/Minish 5075

1 talking to him until they call count, 10:00, 10:30.  
 2 Q Okay.  
 3 Is that the count, when you said you have to go back to  
 4 your cell?  
 5 A 10:30 is the last count. That's when you got to stay in  
 6 your cells.  
 7 Q And then went to sleep until breakfast?  
 8 A Yes.  
 9 Q And then each day was similar to that?  
 10 A Same, same routine.  
 11 Q When I interrupted you, you were somewhere in February  
 12 describing conversations with the defendant?  
 13 A Yes.  
 14 Q During that month, do you recall any other conversations  
 15 with the defendant about either his case or about his

16 informant or anything along that lines?  
 17 A Yeah. He said he went to put in a case to challenge the  
 18 indictment.  
 19 Q Why is that?  
 20 A Because the indictment wasn't signed so he wanted to try  
 21 to challenge it.  
 22 Q Explain that to the jury.  
 23 A See, the Grand Jury indictment got to be signed by the  
 24 Grand Jury foreperson. It wasn't signed. His indictment  
 25 wasn't signed, so he wanted to challenge that.

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P4803

Bell - Direct/Minish 5072

1 having that conversation?

2 A Excuse me, I didn't hear.

3 Q It was sometime in February, that conversation?

4 A Yes, yes.

5 Q Tell the jury the next time you had a conversation with  
6 the defendant about either his case or something about the  
7 law.8 Before we get to that, explain to the jury what's the  
9 day like?

10 Do you see the defendant everyday?

11 A Everyday I see.

12 Q Do you talk everyday?

13 A Around this time, we see each other, we say what's up, or  
14 we talk.

15 We see each other in the library definitely, but

16 everyday, it's not a day not -- if you're on a tier together,

17 I'm going to see you everyday. That's just guaranteed. You

18 got to come out the cell to eat and we're going to see each

19 other everyday, all day at some point.

20 Q Okay.

21 Just because of the way the tier is set up?

22 A Yes.

23 Q What was a typical day in Hudson?

24 What time did you wake up?

25 A I woke up before the doors buzz. I wake up, brush my

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Bell - Direct/Minish 5073

1 teeth.

2 Once the doors buzz, I'm -- I go out.

3 Q What time did you have breakfast? Let's start with that.

4 A Breakfast was served like four in the morning.

5 Q And then what happened at four in the morning, did they  
6 let you out?

7 A Breakfast was served at four in the morning.

8 Then they lock us back in our cells after we eat. Then  
9 like between eight and 8:30, they open, they unlock the cells.10 That means when they unlock cells, you can come out the cell  
11 or you can stay in there and continue sleeping.

12 Q Okay.

13 When they unlock the cells, what did you do?

14 A Oh, I come straight out. I come out the cell, I go turn

15 on the TV, I have my Walkman on. I look at TV for a few

16 minutes and then I start working out.

17 Q Okay.

18 A While I'm working out, I pace walk around the tier.

19 Q Okay.

20 So that was your exercise was walking around?

21 A And working out, I do pull ups, push ups.

22 Q By yourself or with other people?

23 A Yeah, by myself.

24 Q And what's the next thing you did after that?

25 A After I finish working out, I go take a shower and after

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Bell - Direct/Minish 5070

1 Q Now, that's another quote.

2 Is that exactly what he said?

3 A That he was looking for him.

4 Q You all handle it?

5 A Yes.

6 Q How is it you remember that?

7 A Cause that's something that people don't say. You keep

8 stuff like that to yourself.

9 For him to say something like that, I thought that's

10 unbelievable cause I never heard nobody say nothing like that.

11 That always stuck in my mind.

12 Q You've spent a considerable amount of time in jail,

13 right?

14 A Yes.

15 Q And do people brag in jail?

16 A Yes, sometimes they do, sometimes they don't. That's in

17 the state, though, state and county.

18 In the feds, no. Some people keep their mouth shut.

19 Q Okay.

20 Now, again, you're saying "in the feds."

21 As the judge asked you, this is a state facility,

22 right?

23 A Yes.

24 Q Are you talking, when you say "in the feds," federal

25 inmates?

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Bell - Direct/Minish 5071

1 A Federal inmates, yes.

2 Q No matter where they are?

3 A Yes.

4 Q Was it unusual, to your knowledge, to speak in code on

5 these phone calls out of the jail?

6 A No.

7 Q So that happened a lot?

8 A Yes.

9 Q What did you think -- what were you thinking when the

10 defendant told you that?

11 A I thought he was crazy.

12 Q All right.

13 Why is that?

14 A For saying something like that. I thought he was bold

15 for even trying to go after a federal informant.

16 Q You said bold?

17 A Yes.

18 Q And why is that bold?

19 A Cause all I knew was, like I told you, everybody was

20 cooperating with the feds. I never heard nobody -- everybody

21 was scared of the feds because they give out so much time.

22 That's why for him to say something like that, I

23 thought he was crazy. Nobody want no problem with the federal

24 Government.

25 Q You said that you were -- sometime in February you were

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P4805

Bell - Direct/Minish 5068

1 him, you all handle it.  
 2 Q You all handle that?  
 3 A You all handle it.  
 4 Q You all handle it?  
 5 A Yes.  
 6 Q And how did he call Rock, did he tell you?  
 7 A He said he called him on a three-way.  
 8 Q Tell the jury what a three-way is.  
 9 A A three-way call is, I call a person collect. I get that  
 10 person to call somebody else, connect all three of us  
 11 together, all three of us be talking at the same time.  
 12 Q What's the purpose of doing it that way?  
 13 A To avoid recording.  
 14 Q Why, how would that avoid recording?  
 15 A Cause all the county jails and state prisons, they don't  
 16 allow you to make three-way calls or federal, they don't allow  
 17 you to make three-way calls.  
 18 Phone automatically shut off when you try to make a  
 19 three-way call, but people know how to get around it, setting  
 20 off a three-way.  
 21 Q What was the last part?  
 22 A People know how to get around it when you making  
 23 three-way call. People know how to get around it for  
 24 preventing the phone from shutting off on a three-way call.  
 25 Q Did the defendant tell you when he made that call?

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Bell - Direct/Minish 5069

1 A After he found out who was the informant.  
 2 Q So that day?  
 3 A Yes.  
 4 THE COURT: Can you tell us when you had this  
 5 conversation with Mr. Baskerville, can you fix a time for it?  
 6 THE WITNESS: It had to be in the beginning of  
 7 February. I don't know what date.  
 8 THE COURT: Okay.  
 9 THE WITNESS: Beginning of February.  
 10 Q So he said he called Rakeem and said, tell Hak and you  
 11 all handle it?  
 12 A Yes.  
 13 Q What did you take that to mean?  
 14 A Kill him.  
 15 Q How did you know that?  
 16 A Cause he told us that he was looking for him to kill him.  
 17 Q That --  
 18 A Yeah. He told us his brother was looking for him to kill  
 19 him.  
 20 Q Prior to that conversation?  
 21 A Yes.  
 22 Q Okay.  
 23 And what did he tell you?  
 24 A His brother Rakeem and Maleek was looking for him to kill  
 25 him.

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Bell - Direct/Minish 5066

1 was from Newark and he said he found out from Rick that the  
 2 same agents that was investigating and arrested him was the  
 3 same agents that was investigating and arresting Rick.  
 4 He said, dude, he had an idea who he sold it to him?  
 5 He said Rick? Said yeah. He said that's when he was sure who  
 6 was his informant.

7 Q I'm going to show you Government exhibit 207 in evidence.

8 Do you recognize who that is?

9 A Yeah. That's Rick.

10 THE WITNESS: Am I speaking loud enough?

11 THE COURT: No.

12 Q Lean closer to the microphone.

13 Put that picture up.

14 That's Rick?

15 A Yes, that's Rick.

16 Q When did you meet Rick?

17 A I met Rick when I came in Hudson County. I ain't really  
 18 talk to Rick like that. I used to see him.

19 When I came in Hudson County, not right away but I meet  
 20 Rick. I used to see him hanging with Will.

21 Q So prior to going to Hudson County, you had never met  
 22 Rick before?

23 A No, no.

24 Q And when you said you weren't like that with Rick, what  
 25 did you mean exactly?

Bell - Direct/Minish 5067

1 A We wasn't cool. I ain't really speak to him like that.

2 Q Like what?

3 A Like say what's up or talk to him, or have conversations  
 4 with him. Never had conversations with him. I just knew him  
 5 from being on the tier.

6 Q Okay.

7 How many people are on a tier, about?

8 A Hudson County, probably about 60 or 70 people on the  
 9 tier.

10 Q Okay.

11 In Hudson County, that was different tiers?

12 A Yes. It's like 20 something tiers throughout the county.

13 Q And did those tiers mix, people go from tier to tier?

14 A No. If this is a tier, we all socialize with each other,  
 15 we all mix and mingle. We only can deal with us.

16 You can't deal with -- if it's say the next courtroom  
 17 over, if that's a tier, no, we can't mix and mingle with them.  
 18 Just everybody on this tier.

19 Q Okay.

20 Now, you said that the defendant told you after  
 21 speaking with Rick, he was sure who his informant was.

22 Did you tell what he did with that information?

23 A Yeah. He said he called his brother Rakeem and told his  
 24 brother Rakeem who was the informant.

25 He told his brother to tell Hak and he said he told

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Bell - Direct/Minish - 5064

1 A Yes.

2 Q Did there come a time when you discussed with the

3 defendant if, whether he had figured out who his informant

4 was?

5 A Yeah.

6 Q Tell the jury about that conversation.

7 A Me and Eric Dock was sitting in a room talking.

8 MR. HERMAN: Can we have a time frame?

9 Q Do you remember about when the conversation was?

10 A Yeah.

11 Me and Eric Dock was sitting in the room talking. Will

12 come through. I remember Eric Dock, he was telling us about

13 how him and his four other co-defendants, they figured out who

14 their informant was.

15 Q Eric Dock?

16 A He was telling me and Will how him and his four other

17 co-defendants figured out their informant when they was in the

18 holding cell in federal courthouse.

19 Q Okay.

20 A He was telling us who his -- Eric Dock was telling us his

21 informant was a light-skinned crack head who was from

22 Paterson, worked in a restaurant in Paterson where -- Eric

23 Dock is from Paterson, too.

24 So Eric Dock was telling us he knew the dude was a

25 crack head and he knew something wasn't right cause he was

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Bell - Direct/Minish - 5065

1 coming with a thousand, a grand or more, a thousand or more to

2 spend with him.

3 Q You have to slow down and explain to the jury what you

4 mean by that.

5 A He came to spend a thousand or a little more than a

6 thousand dollars to spend with him.

7 Q Why was that surprising?

8 A Cause he was getting high, smoking crack. The dude was a

9 crack head.

10 Q It's more money than a crack head would normally --

11 A Yes. Crack heads usually come with 20, 30, sometimes 50.

12 He's coming with a thousand or more than a thousand because he

13 bought from him seven times. He was -- he said he usually was

14 more cautious than that. He said he sold it to him anyway.

15 Q That's Eric Dock speaking?

16 A Yes, Eric Dock.

17 After he finished telling us about his informant, then

18 Will started telling us about his informant.

19 Q What did Will say?

20 A He said the day he was arrested and he was taken to

21 federal court, he said he received his complaint. He said

22 after he read his complaint, he had an idea who the informant

23 was.

24 He said he met Rick in the holding cell in the federal

25 courthouse. He said he was talking to Rick and found out Rick

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Bell - Direct/Minish 5062

1 A Yes.

2 Q So did the defendant go with you right away or was it

3 later?

4 A He was going in.

5 Q Okay.

6 Did you talk, do anything together in the library?

7 A Yeah. I was -- little bit.

8 Q Okay.

9 Tell the jury what was going on.

10 A I probably show him how to look up cases, looking up --

11 Q What?

12 A I show him how to like look up cases like as far as what

13 books to go to. If he was looking up a case, he wouldn't know

14 probably what the book to go to. I show him the book to go

15 to.

16 Q You were assisting in how that worked?

17 A Yes.

18 Q Did he eventually get any better at it, doing the

19 research?

20 A Yes.

21 Q So that's that conversation, you said was in January?

22 A Yes.

23 Q Do you have -- what's the next conversation you have with

24 him regarding the law or his case?

25 A Well, we had started getting real cool.

Bell - Direct/Minish 5063

1 Q What time of year are we in now? Do you know the month?

2 A Like the beginning of February.

3 Q Okay.

4 You're saying you got real cool.

5 What did that mean?

6 A Start talking a lot more.

7 Q Okay.

8 A Started talking a lot more.

9 He told me his brother Rakeem and his man Maleek is

10 looking for his informant to put a bullet in him.

11 Q How did that come up?

12 A We was talking about -- I had asked him a question.

13 Q Do you remember the question?

14 A I forgot the question, but.

15 Q What was the question about?

16 A I asked him something about I said he was crazy for

17 talking about his -- he got people looking for his informant.

18 Q You told him he was crazy?

19 A Yeah. That's when he told me, yeah, his brother Rakeem,

20 his man Maleek looking for his informant to put a bullet in.

21 Q Please keep your voice up so everybody can hear you.

22 Now, you said "his man," what did that mean?

23 A His man? Like one of his associates, somebody he -- an

24 associated with.

25 Q Associated with outside of the jail?

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P4809



Bell - Direct/Minish 5060

1 A Yes. Somebody let him borrow it.  
 2 Q During that conversation that you were telling us about,  
 3 did the defendant say anything about his informant?  
 4 A Yeah. He started laughing and getting all excited,  
 5 talking about -- he said, all I know, my informant could be  
 6 dead. He said, my dudes is looking for him to put a bullet in  
 7 his melon, but they can't find him. He said, I think the feds  
 8 got him in hiding.  
 9 I said, I knowing the feds, they probably do got him  
 10 hiding.  
 11 Q So that was mid-January of '04?  
 12 A Yes.  
 13 Q We're now three years later or three plus years later?  
 14 A Yes.  
 15 Q How is it you remember those words from the defendant?

16 A Cause something like that, being that I be in Passaic  
 17 County, everybody, the majority of the people is cooperating.  
 18 Everybody was scared of the feds.  
 19 That's something that I never heard, cause the feds  
 20 give out so much time, people just either cooperate or if they  
 21 know they're facing that much time, they just go ahead and  
 22 plead guilty.  
 23 The majority of people -- if there's 90 people on the  
 24 tier, at least 80 or 75 is cooperating with the Government.  
 25 So to hear something like that, I couldn't forget nothing like

Bell - Direct/Minish 5061

1 that.  
 2 Q At this point now, how would you describe your  
 3 relationship with the defendant, did you hang out, were you  
 4 friendly, did you talk?  
 5 A We talked sometime cause he come ask about certain things  
 6 about his case.  
 7 Q Okay.  
 8 So legal questions?  
 9 A Yes.  
 10 Q About the law generally or about his case or both?  
 11 A The law or his --  
 12 Q Keep your voice up.  
 13 A About the law, certain things about the law or his case.  
 14 Q How often did you see the defendant?  
 15 A Everyday.

16 Q And did you talk everyday?  
 17 A No.  
 18 Q Did you ever start going to the law library with the  
 19 defendant?  
 20 A Yes, I was going to the law library every time they  
 21 called it out.  
 22 Q Okay.  
 23 So from when you got there in December?  
 24 A Yes.  
 25 Q And this was like a couple times a week?

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Bell - Direct/Minish 5058

1 THE WITNESS: Different tiers.

2 THE COURT: Federal and immigration inmates were

3 separate from state and county inmates?

4 THE WITNESS: Yes.

5 THE COURT: Thank you.

6 Go ahead.

7 MR. MINISH: Thank you, Judge.

8 Q Did you have any conversations, this is after that career

9 offender case, that you spoke about, you spoke with the

10 defendant about.

11 When is the next conversation you had with him

12 regarding the law or his case?

13 A Around mid-January.

14 Q Okay.

15 What was that about?

16 A He had asked us a question.

17 Q You're saying "us."

18 Who is us?

19 A Me and Eric Dock.

20 Q What was the question?

21 A Well, me and Eric Dock was in the day room. Will came up

22 to us. He said, let me ask you a question. He said, can a

23 person conspire with an agent or informant? We both said we

24 ain't know.

25 Q Okay.

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Bell - Direct/Minish 5059

1 A He said, I read in the inmate handbook and in case law

2 where it says a person cannot conspire with an agent or

3 informant.

4 He said, I have been charged with conspiracy and I

5 don't have no co-defendant. Why they going to charge me with

6 conspiracy if I don't have no co-defendants?

7 I said, they probably going to supersede your

8 indictment and bring other people in your indictment.

9 He wasn't -- he didn't want to hear that. I guess

10 he's like, well, he didn't want -- he didn't think that was

11 the answer to what I told him.

12 Q What's the inmate handbook?

13 A Inmate handbook is a book about this thick.

14 Q Okay.

15 Couple inches high? You're holding your fingers apart?

16 A Yes, this thick. Soft cover. It's written by a lawyer

17 in Georgia who practiced federal law. This book you got to

18 pay for this.

19 Q So it's not available in the library?

20 A No, no.

21 Q And what information is contained in that handbook?

22 A If you trying to fight your case, it teach you how to

23 fight your case starting from your arrest all the way to the

24 appeals, to the appeals court.

25 Q And the defendant had a copy of that?

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Bell - Direct/Minish 5056

1 Q Okay.

2 Tell the jury what the set up was for that.

3 A Well, at that time the feds, they only had I think two

4 days to go to the law library.

5 Q You say "the feds."

6 You mean federal inmates?

7 A Federal inmates and I.N.S. went on the same day to go to

8 the law library.

9 Q In that facility, there's federal inmates, I.N.S. inmates

10 and state inmates?

11 A And county inmates, yes.

12 Q So you guys had, federal inmates was two days a week?

13 A Yes.

14 Q Okay.

15 All day?

16 A No, it was like two hours. Some people an hour, some

17 people two hours.

18 Q What was the difference between those people?

19 A Used to clear everybody out and like an hour and let the

20 other group come in. Because it was three floors.

21 We went first. Then the other group would come in, she

22 kick us out early and let other people come down there. There

23 was a third group, so it was like she only give us limited

24 time.

25 Q Okay.

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Bell - Direct/Minish 5057

1 You're saying "she," who is she?

2 A The officer.

3 Q An officer, okay.

4 THE COURT: Mr. Minish, may I?

5 MR. MINISH: Yes.

6 THE COURT: There's mention of I.N.S. inmates, those

7 are people being held in the custody of the immigration

8 service.

9 Now, Mr. Bell, you had federal inmates, these are

10 people waiting trial in federal court or waiting sentencing?

11 THE WITNESS: Yes.

12 THE COURT: You had state inmates, right? These are

13 people waiting trial or pending sentence in state courts?

14 THE WITNESS: Yes.

15 THE COURT: You had county inmates, same thing.

16 right?

17 THE WITNESS: Yes.

18 THE COURT: I.N.S. inmates, immigration people?

19 THE WITNESS: Right.

20 THE COURT: Were these people kept separate in any

21 way in the Hudson County Jail or was everybody commingled?

22 THE WITNESS: Everybody was like they was separate.

23 Federal inmates and I.N.S. inmates was housed together. Then

24 you had county and state, they was housed together.

25 THE COURT: In different places?

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Bell - Direct/Minish 5054

- 1 your table.
- 2 Q About a quarter of the size of the courtroom?
- 3 A Yes.
- 4 Q And you said there's a bunch of books.
- 5 What else is in there?
- 6 A Well, you got a paralegal in there, you got officer in there, you got two civilians in there and then you got copying machine. They had computers that wasn't in use and they got tables where you sit there and do our research.
- 10 Q Now, the officer was there for security?
- 11 A Yes.
- 12 Q All right.
- 13 You said there were two civilians.
- 14 What were the civilians there for?
- 15 A Certain books that was behind their desk that we had to ask them to get and they wouldn't just allow it to be on the shelves.
- 17 Q Okay.
- 18 These were law books?
- 19 A Yes, certain law books.
- 20 Q And you mentioned a paralegal?
- 21 A Yes.
- 22 Q What was the paralegal there for?
- 23 A To help people out as far as pointing them in the right direction to look up as far as their case or statute or just

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Bell - Direct/Minish 5055

- 1 point them in the right direction as far as their case, whatever they looking for, trying to research.
- 3 Q Were the civilians currently inmates of the jail?
- 4 A No, they was regular citizens from the streets.
- 5 Q So jail employees?
- 6 A Yes.
- 7 Q How about the paralegal?
- 8 A Paralegal, he was an inmate.
- 9 Q He was an inmate?
- 10 A Yes.
- 11 Q And that was a specific inmate designated as a paralegal?
- 12 A Yes.
- 13 Q Did you -- do you know how an inmate becomes a paralegal?
- 14 A Yeah. You take a course, paralegal course and sometimes the prisoners or the jails have a paralegal course for certain inmates that want to become a paralegal.
- 17 Q Okay.
- 18 Were you ever a paralegal?
- 19 A No, but I just learned on my own how to research cases.
- 20 Q How about Eric Dock?
- 21 A No, he just learned on his own how to research cases, do research.
- 23 Q Now, were you, as an inmate, able to go to the law library any time you wanted?
- 25 A No.

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P4813

Bell - Direct/Minish - 5052

1 I said I know the feds got to be on him because  
2 everybody talking about him.

3 Q Was he arrested?

4 A No, no. I said, I know the feds got to be on him. When  
5 they catch him, they're going to knock his head off.

6 He's like, that's my cousin.

7 I said, yeah?

8 He's like, yeah, that's my cousin.

9 That's when I found out that E.T. Hak was his cousin.

10 Q Do you know what E. T. Hak's real name is?

11 A I know -- yeah. It's Hakim Curry.

12 Q Okay.

13 Did you eventually develop a relationship with the  
14 defendant, a friendship?

15 A At that point, yeah. It was when I see him, what's up?

16 I see him, go about my business. He say what's up and that  
17 was it.

18 Q I'm sorry?

19 A Like if I see him, like if I'm going toward Eric Dock  
20 cell or roaming the day room, he say what's up, I say what's  
21 up and I keep moving, I keep going where I'm going.

22 Q You didn't spend a lot of time with him?

23 A No.

24 Q Tell the jury what the day room is. You mentioned that a  
25 couple times.

Bell - Direct/Minish - 5053

1 A The day room is probably about as big as this courtroom.

2 Q Okay.

3 What's in there?

4 A It's got two TVs, they have a bunch of chairs by the TVs,  
5 they got tables where we could eat and play cards and that's  
6 where we watch or play cards. It's the day room, play cards,  
7 watch TV, phones, you got the phones in the day room.

8 Q So it's where the inmates hang out unless they're in  
9 their cells?

10 A Yes.

11 THE COURT: Pull the microphone closer to you.

12 Thanks. Talk right into it.

13 THE WITNESS: All right.

14 Q Is there a law library in Hudson County?

15 A Yes.

16 Q Can you describe the law library for us?

17 A Law library is where we go to look up, do research as far  
18 as our cases, find out how much time a charge carry, what the  
19 charge is. You know, that's where we do our research. It's  
20 got a whole bunch of law books.

21 Q How big is it?

22 A It's like --

23 Q About?

24 A From that third curtain all the way to right here, to  
25 this wall and to about as wide as to your table, the end of

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Bell - Direct/Minish 5050

1 Q All right.  
 2 Tell the jury what happened.  
 3 A Like a day or two later, me and Eric Dock was in the room  
 4 talking and Will came in the room with the case. Eric Dock  
 5 was like, what you think about the case?  
 6 He said -- he wasn't really too enthused about the  
 7 case.  
 8 Q Why not?  
 9 A I took it as he ain't think it applied to him.  
 10 Q Okay.  
 11 Did you ask the defendant any questions?  
 12 A Yeah.  
 13 We started -- being that I knew he was from Newark, me  
 14 and Dock started talking about dudes we was in Passaic County  
 15 with that was from Newark. We started asking him, I started  
 16 asking him certain things. I started asking him about certain  
 17 dudes from Newark that he know.  
 18 Q Okay.  
 19 When you're saying you're asking him, you mean the  
 20 defendant?  
 21 A I was asking Will did he know this dude named Red, a dude  
 22 name Russel, a dude name Mikel, and a couple other dudes from  
 23 Newark that I was naming.  
 24 Q Did he know any of them?  
 25 A Yeah, he knew them, plus he was talking about the case,

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Bell - Direct/Minish 5051

1 he knew them. Yes, he knew them.  
 2 Q Okay.  
 3 Anybody in particular that he knew?  
 4 A He knew -- he said he heard about Mikel and what he did.  
 5 I don't know if he particularly -- I'm assuming he knew him.  
 6 MR. HERMAN: Objection to assume.  
 7 THE COURT: Sustained.  
 8 Q Did you ask him about Reginald Curry?  
 9 A At that time?  
 10 Q If it was a different time, that's fine.  
 11 A It was a different time.  
 12 Q Okay.  
 13 A Being that I knew he was from Newark --  
 14 MR. HERMAN: There is no question.  
 15 THE COURT: Put a question to him.  
 16 Q What was the balance of the conversation, tell us what  
 17 you talked about.  
 18 A Being I knew he was from Newark, a lot of people was  
 19 talking about E.T. Hak, so I brought E.T. Hak name up.  
 20 I said, I said, E.T. Hak, I say everybody in Passaic  
 21 County talking about him. Everybody in Passaic County talking  
 22 about him. I said -- hold on a second.  
 23 I was telling him everybody, everybody from Newark was  
 24 talking about him, that was in Passaic County. So I was like  
 25 everybody was talking about him.

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P4815

Bell - Direct/Minish 5048

1 last name is?  
 2 A Baskerville, William Baskerville.  
 3 Q Do you see him in court today?  
 4 A Yes.  
 5 Q Can you identify by the clothing he's wearing?  
 6 A Yes. A blue or -- white shirt.  
 7 Q With the tie?  
 8 A Yes.  
 9 MR. MINISH: For the record, Judge, identifying the  
 10 defendant.  
 11 THE COURT: May I ask a question?  
 12 At this time had your case been completed?  
 13 THE WITNESS: No. My case was still --  
 14 THE COURT: Your case was still pending in federal  
 15 court?

16 THE WITNESS: Yes.  
 17 THE COURT: And this case you wanted Mr. Dock to  
 18 read, did it have anything to do with your case or was it just  
 19 an opinion that you came into possession of?  
 20 THE WITNESS: I thought it might apply to my case  
 21 and his case. That's why I wanted him to read it.  
 22 THE COURT: It wasn't about your case, it was just a  
 23 legal opinion that you came into?  
 24 THE WITNESS: Yes, it was a legal opinion.  
 25 Q So you were introduced to the defendant and tell the jury

Bell - Direct/Minish 5049

1 what happened.  
 2 A So Eric Dock is like I want you to read this case. He  
 3 says it's a good case. He said, let me know what you think  
 4 when you finish reading it.  
 5 Will's like all right. So they was talking for a  
 6 couple of minutes. Will left out the room.  
 7 After he left, Eric Dock told me Will was from Newark.  
 8 He told me he was from Newark.  
 9 Q Prior to being incarcerated in Passaic or Hudson or  
 10 Devons for that matter, the medical facility, did you know  
 11 people from Newark?  
 12 A No, just when I was in Passaic County, that's when I met.  
 13 I did prior time with people in Newark, but on the streets,  
 14 no.  
 15 Q Well, let's limit -- my question is when you're out on

16 the streets.  
 17 Did you have any dealings, criminal or otherwise, with  
 18 people from Newark?  
 19 A No, no, no.  
 20 Q Okay.  
 21 When is the next time you saw the defendant?  
 22 A It was either a day or two later.  
 23 Q Okay.  
 24 So we're still in December?  
 25 A Yes, in December.

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Bell - Direct/Minish 5046

1 own cell.

2 Q Okay.

3 You arrived during the count.

4 Did you see anybody you knew when you got there?

5 A Well, yeah. When I arrived there at count, it was like I

6 had to go in my cell because it was still counting time. I

7 went in my cell, and they didn't count right. It took them a

8 half hour to clear the count.

9 Q When you say clear a count, that means finishing up the

10 count?

11 A Yes, that means the count is all right.

12 Q So you got out of your cell and what did you do?

13 A When I came out my cell, I saw Eric Dock.

14 Q Did you see anybody else you knew?

15 A No.

16 Q Okay.

17 So what did you do when you saw Eric Dock?

18 A When I saw him, I went back to my cell and got this case

19 that I wanted him to see.

20 Q When you say "case," what kind of case?

21 A It was a case about a guy that was a career offender.

22 Q Okay.

23 A And the judge gave the guy a downward departure, a

24 reduced sentence.

25 Q Now, just so the jury understands, when you say case, you

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Bell - Direct/Minish 5047

1 mean like a typed written legal opinion on --

2 A Yeah.

3 Q -- on regular paper?

4 A A court opinion as far as district court or appeals

5 court, all decisions and you can use those cases and try to

6 apply to your case.

7 Q Okay.

8 And did you bring it over to Eric Dock?

9 A Yes.

10 Q Okay.

11 And what did you guys do from there?

12 A Well, when I saw him, I greeted him. We was happy to see

13 each other.

14 I was like, yo, check this case out. I gave him the

15 case so he can read it. So we went in his room and we was

16 talking while he was reading the case.

17 He was reading the case. He's like, yo, this is a good

18 case. He read half of it. He said, yo, this is a good case.

19 He said, I'm going to get my man Will check this case out. He

20 said, is it all right if I let him read it?

21 I said, yeah, go ahead.

22 He went out the cell and called Will in his cell. So

23 Will came in the cell and he introduced me to Will, to each

24 other.

25 Q The man you're referring to as Will, do you know what his

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P4817

Bell - Direct/Minish 5044

- 1 agreed to get me out of here.
- 2 Q So there were safety concerns?
- 3 A Yes, for safety reasons. Yes.
- 4 Q At this point were you cooperating with the U.S.
- 5 Attorney's Office?
- 6 A I had proffer.
- 7 Q Had you signed any agreement with them?
- 8 A No.
- 9 As far as plea agreement?
- 10 Q Well, cooperation agreement is what I was speaking of.
- 11 A It wasn't no cooperation agreement, no.
- 12 Q Okay.
- 13 So this was purely a safety issue?
- 14 A Yes.
- 15 Q And did you ultimately get moved out of Passaic County?
- 16 A Yes.
- 17 Q Where did you go to?
- 18 A Hudson County.
- 19 Q Now, prior to leaving Passaic County, was Eric Dock still
- 20 there?
- 21 A No.
- 22 Q Do you know when he left?
- 23 A No. This guy I knew that was in Passaic County, he told
- 24 me Eric Dock had left.
- 25 Q So sometime when you're at the medical facility, he left?

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Bell - Direct/Minish 5045

- 1 A Yeah, this guy told me that Eric Dock had left and went
- 2 to Hudson County.
- 3 Q So then you're ultimately sent to Hudson County.
- 4 Do you remember about when that was?
- 5 A Probably around the third or fourth week of December,
- 6 2003.
- 7 Q Okay.
- 8 Tell the jury when you arrived at Hudson County, what
- 9 was going on?
- 10 A Well, when I arrived at Hudson County, it was around
- 11 during the three o'clock count.
- 12 Q What's a count?
- 13 A A count is when the jail take a count of the inmate
- 14 population throughout the jail. Each officer got to take a
- 15 count of every inmate on a tier.
- 16 Q So make sure everybody is still there that's supposed to
- 17 be there?
- 18 A Yes.
- 19 Q And what are your requirements as an inmate during a
- 20 count, what do you have to do?
- 21 A Everybody got lock in their cells.
- 22 Q Your calls or can you be anywhere?
- 23 A The three o'clock count you can be in anybody's cell.
- 24 That's in Hudson County.
- 25 At nighttime, when you lock in, you got to be in your

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Bell - Direct/Minish 5042

- 1 As a result of your jaw being broken, what happened?
- 2 A I had went to a Federal Medical Center, FMC Devons.
- 3 Q Devons.
- 4 And that was to treat your injury?
- 5 A Yes. I had a slight problem, some other problems I had.
- 6 Q Well, while you were at Dev -- we'll get to that.
- 7 While you were at Devons --
- 8 A Yeah.
- 9 Q -- did you make any claims to the medical staff there
- 10 that were not true?
- 11 A Yes.
- 12 Q Okay.
- 13 Tell the jury what you said.
- 14 A I told them I was hearing voices.
- 15 Q And what did you mean by "hearing voices"?
- 16 You don't mean like my voice right now?
- 17 A No, I was just telling them I was hearing voices because
- 18 I didn't want to go back to Passaic County right away.
- 19 Q You have to explain that a little.
- 20 Were you actually hearing voices?
- 21 A No, I wasn't hearing voices. I just -- I didn't want to
- 22 go back to Passaic County right away because Passaic County
- 23 was a messed up spot to be in, plus I got my jaw broken in. I
- 24 told the psychiatrist that I was hearing voices so they would
- 25 keep me there longer.

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Bell - Direct/Minish 5043

- 1 Q So they would observe you and not send you back?
- 2 A Yes, yes.
- 3 Q Was the person who broke your jaw still in Passaic
- 4 County, to your knowledge?
- 5 A Yes.
- 6 Q And did you manage to avoid going back to Passaic County
- 7 for awhile?
- 8 A Yes, about five months.
- 9 Q Okay.
- 10 But were you eventually sent back to Passaic County?
- 11 A Yes.
- 12 Q Okay.
- 13 When you got there, was the man who broke your jaw
- 14 still there?
- 15 A Yes.
- 16 Q Okay.
- 17 What did you do?
- 18 A Called my lawyer told him she got to get me out of here
- 19 cause I'm having problems.
- 20 Q Okay.
- 21 Now, did you say anything more than problems?
- 22 A I say I saw him and we -- it was tension between us. I'm
- 23 going to have problems.
- 24 I told her, can she ask -- can she get me out of here.
- 25 She said she call the U.S. Attorney and the U.S. Attorney

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P4819



Bell - Direct/Minish 5040

- 1 A Yes.
- 2 Q What was the criminal trespass?
- 3 A Well, they charged me with burglary saying that I kicked
- 4 in somebody door and ran up in there. Cops chased me and then
- 5 they caught me.
- 6 Q During the chase?
- 7 A During the chase.
- 8 Q You went somewhere where you weren't allowed to go?
- 9 A Yes, yes.
- 10 Q And you were convicted or pled guilty to those charges?
- 11 A Yes.
- 12 Q And you received 15 years with seven and a half in?
- 13 A Yes.
- 14 Q What does that mean?
- 15 A I got to do seven and a half years before I'm eligible
- 16 for parole.
- 17 Q When you were initially arrested on the federal charges,
- 18 where were you housed, what jail facility?
- 19 A Passaic County.
- 20 Q Did you meet a man named Eric Dock there?
- 21 A Yes.
- 22 Q Okay.
- 23 Describe your relationship with Eric Dock.
- 24 A Well, when I got to Passaic County, the day I got, like
- 25 when I got on Eric Dock tier, a couple days on the tier he

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Bell - Direct/Minish 5041

- 1 start talking to me and that's how we start getting cool.
- 2 Ever since then, we was talking everyday.
- 3 Q So just a friendly relationship in jail?
- 4 A Yes.
- 5 Q Did you know him before you got to jail?
- 6 A No.
- 7 Q Okay.
- 8 Were there any other people you knew in Passaic County
- 9 from where you grew up?
- 10 A No.
- 11 Q Let me show you Government exhibit 213 in evidence.
- 12 Who's that?
- 13 A Eric Dock.
- 14 Q Can you put that one up?
- 15 Did there come a time while you were -- how long do
- 16 you think you were in Passaic County for, the initial time?
- 17 A About a year.
- 18 Q Did you have any trouble?
- 19 A Yeah, I got in altercation.
- 20 Q Okay.
- 21 A fight?
- 22 A Yeah. Yes.
- 23 Q Were you injured?
- 24 A Yes, my jaw was broken.
- 25 Q Okay.

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Bell - Direct/Minish 5038

- 1 A Yes.
- 2 Q That wasn't your first brush with the law, though, right?
- 3 A No.
- 4 Q I just want to go through your record a little bit.
- 5 Starting back in March of 1995, you were convicted of a
- 6 number of different charges, correct?
- 7 A Yes.
- 8 Q All right.
- 9 Possession of drugs, possession with intent to
- 10 distribute them, two counts of that, resisting arrest and
- 11 unlawful possession of a weapon?
- 12 A Yes.
- 13 Q Is that right?
- 14 And you got five years, five years, 18 months, 16
- 15 months and five years for those charges?

- 16 A Yes.
- 17 Q And in May of '97, a couple of years later, you were
- 18 charged and convicted of escape?
- 19 A Yes.
- 20 Q And what did you do exactly?
- 21 A I went to a halfway house, they let me go on weekend
- 22 furlough. I never came back.
- 23 Q What's a halfway house?
- 24 A A halfway house is like when you doing time, instead of
- 25 them just letting you go right back out on the streets,

Bell - Direct/Minish 5039

- 1 sometimes they let you go to a halfway house first.
- 2 Q From jail?
- 3 A From jail.
- 4 Q It's an intermediary step before you get out?
- 5 A Yes.
- 6 Q And you work your way back into society?
- 7 A Yes.
- 8 Q All right.
- 9 And you also had a theft and possession of burglary
- 10 tool conviction?
- 11 A Yes.
- 12 Q Receiving stolen property conviction in '98, you got five
- 13 years for that?
- 14 A Yes.
- 15 Q Was that a car?

- 16 A Yes.
- 17 Q And an additional escape conviction.
- 18 What was that for?
- 19 A No, I only had escape conviction.
- 20 Q It's the same one?
- 21 A Yes.
- 22 Q You also had charges in Asbury Park, recent state
- 23 convictions. Is that correct?
- 24 A Yes.
- 25 Q And that involved drugs and a criminal trespass?

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P4821

Bell - Direct/Minish 5036

- 1 Q And do you have any nicknames?
- 2 A Yes.
- 3 Q What nicknames do you have?
- 4 A Self.
- 5 Q S-e-l-f?
- 6 A Yes.
- 7 Q Okay.
- 8 Where did you get that nickname?
- 9 A I used to be a Five Percenter.
- 10 Q What's a Five Percenter?
- 11 A Five Percenter is like an organization. They about by
- 12 peace and try to uplift people.
- 13 Q And how does Self fit into that?
- 14 A It is like one of the names I chose for myself.
- 15 Q I'm going to show you 218 in evidence.

- 16 Do you recognize who that is in that photo?
- 17 A Yes.
- 18 Q Who's that?
- 19 A It's me.
- 20 MR. MINISH: Can you put that up?
- 21 Q Do you remember when this photo was taken?
- 22 A No, not exactly.
- 23 Q Your hair was different back then or just pulled back?
- 24 A Pulled it back.
- 25 Q Are you currently incarcerated?

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Bell - Direct/Minish 5037

- 1 A Yes.
- 2 Q When did you get locked up?
- 3 A May 31st, 2002.
- 4 Q And was it for conspiracy to import cocaine?
- 5 A Yes.
- 6 Q What part did you play in that conspiracy?
- 7 A I was like the organizer.
- 8 Q Okay.
- 9 What exactly did you do as the organizer?
- 10 A I got the girls, I paid them to make the trip to go to
- 11 Jamaica.
- 12 Q Keep your voice up.
- 13 A I had found some girls to take a trip and I paid them to
- 14 go to Jamaica. I was the organizer.
- 15 Q To go to Jamaica?

- 16 A Yeah, go to Jamaica and bring drugs back.
- 17 Q You organized the plane tickets?
- 18 A Yes.
- 19 Q Okay.
- 20 And you knew that they were going down there to get
- 21 cocaine and bring it back?
- 22 A Yes.
- 23 Q And you ultimately pled guilty to that charge?
- 24 A Yes.
- 25 Q And were sentenced to 100 months?

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5033

(The following takes place in the presence of the jury.)

THE COURT: Good morning.

Have a seat.

Sorry for the delay. Witnesses are being transported and sometimes it gets delayed and that's what happened this morning.

We'll wait for Mr. Herman because he is necessary for this, but before he gets here a couple of things.

First of all, I have the note from 31. Thank you, we appreciate your thoughts. Obviously if anybody has any discomfort or you need a break, as I told you in the beginning, just let us know.

Secondly, I have a note from one of you asking why you were followed to your cars by a CSO. Is there a safety concern?

The answer is, the CSOs are under constant instructions to monitor not only the parking lot and coming back and forth from the courthouse to the parking lot because a lot of people use that parking lot, not only you folks; clerk's office personnel, law clerks, a lot of people who work here and jurors in other cases. The CSOs have a duty, a regular duty to monitor the walk area between the parking lot and the courthouse.

They also have an ongoing responsibility to monitor

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5035

MR. MINISH: Troy Bell.

THE COURT: Stand up, Mr. Bell, to be sworn.

T R O Y B E L L, sworn.

THE CLERK: State your name for the record and spell your last name.

THE WITNESS: Troy, B-e-l-l.

THE COURT: Go ahead, Mr. Minish.

MR. MINISH: Thank you.

DIRECT EXAMINATION BY MR. MINISH:

Q Good morning, Mr. Bell.

A Good morning, Mr. Minish.

Q Can you tell the jury how old are you?

A Thirty-one.

Q Where did you grow up?

A Asbury Park.

Q Did you spend all your life there?

A Yes.

Q I'm going to ask you to come close and speak directly into the microphone.

A All right.

Q Keep your voice up so everybody in the jury can hear you.

What's your education?

A Well, I got my GED.

Q Is that for high school?

A Yes.

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P4823

5032

1 April 19, 2007

2 THE CLERK: All rise.

3 (The following takes place out of the presence of the

4 jury.)

5 THE COURT: Good morning.

6 Have a seat.

7 Can we call for Mr. Bell?

8 Good morning, William.

9 THE DEFENDANT: Good morning:

10 MR. KAYSER: I apologize, we were talking.

11 THE COURT: That's all right.

12 (Troy Bell takes the stand.)

13 THE COURT: Get the jury.

14 THE CLERK: All rise.

16

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5034

1 the goings and comings of jurors, you and if there are any

2 other courts that are trying jury cases here. It may have

3 been that the CSO was performing his normal functions by

4 following you to your cars, because that's what they're

5 supposed to do.

6 It may have been the CSO was on his way to his own

7 car at the same time you were, we don't know.

8 To answer the question, there is no extraordinary

9 measure being taken with respect to anything at this point.

10 If anyone is concerned about that, you need not be.

11 The CSOs have an obligation and they perform the

12 function of providing security to the courthouse and I'm sure

13 that's all that this person was doing at the time.

14 It may very well be, by the way, that you have been

15 observed going to and from your cars by the CSOs and you

16 didn't know it, but they do it. That's what they're supposed

17 to do. It is not extraordinary and, frankly, I happy that you

18 noticed somebody was watching you.

19 Now, Mr. Herman is here. We're ready to go.

20 We have a witness.

21

22

23

24

25

JOANNE M. CARUSO, CSR, CRR, OFFICIAL COURT REPORTER, TRENTON, N.J.



1	IN THE UNITED STATES DISTRICT COURT
2	FOR THE DISTRICT OF NEW JERSEY
3	CRIMINAL NO. 03-836
4	UNITED STATES OF AMERICA :
5	-VS- :
6	WILLIAM BASKERVILLE, : TRANSCRIPT OF PROCEEDING
7	Defendant. :
8	Trenton, New Jersey
9	April 19, 2007
10	B E F O R E :
11	THE HONORABLE JOEL A. PISANO
12	UNITED STATES DISTRICT COURT JUDGE
13	A P P E A R A N C E S :
14	CHRISTOPHER CHRISTIE, U.S. Attorney
15	BY: JOSEPH N. MINISH, Assistant U.S. Attorney
16	ROBERT L. FRAZER, Assistant U.S. Attorney
17	For the Government.
18	CARL J. HERMAN, ESQ.,
19	KENNETH W. KAYSER, ESQ.,
20	For the Defendant.
21	Pursuant to Section 753 Title 28 United States
22	Code, the following transcript is certified to be
23	an accurate record as taken stenographically in the
24	above-entitled proceedings.
25	<i>Joanne M. Caruso</i> Joanne M. Caruso, CSR, CRR Official Court Reporter

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1	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
2	TROY BELL				
3	By Mr. Minish	5035	5143	5209	
4	By Mr. Herman				
5					
6	EXHIBITS	DESCRIPTION	EVD.	ID.	
7					
8	G-614	Letter	5108		
9	G-613	Plea Agreement	5132		
10	D-13	Letter		5194	
11					
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JOANNE M. CARUSO, CSR, CRK, OFFICIAL COURT REPORTER, TRENTON, N.J.

*Joanne M. Caruso, CSR, CRK*  
 Official Court Reporter

Pursuant to Section 153 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above-entitled proceedings.

CARR, J. HERMAN, ESQ.,  
 KENNETH W. KAYSER, ESQ.,  
 For the Defendant.

CHRISTOPHER CHRISTIE, U.S. Attorney  
 BY: JOSEPH N. MINISII, Assistant U.S. Attorney  
 ROBERT L. FRAZER, Assistant U.S. Attorney  
 For the Government.

A P P E A R A N C E S:

THE HONORABLE JOEL A. PISANO  
 UNITED STATES DISTRICT COURT JUDGE

R E F O R E:

Trenton, New Jersey  
 April 4, 2007

UNITED STATES OF AMERICA  
 -vs-  
 WILLIAM BASKERVILLE,  
 Defendant.  
 TRANSCRIPT OF PROCEEDING

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW JERSEY  
 CRIMINAL NO. 03-836

1 or innocence of the defendant based only upon the evidence  
2 presented in this courtroom and not upon anything else.

3 Is that all clear to everybody?

4 Good. We're ready to proceed.

5 Counsel, Mr. Minish.

6 MR. MINISH: Thank you, Judge.

7 Your Honor, counsel, members of the jury, good  
8 morning.

9 On March 2nd, 2004, Kemo DeShawn McCray got up early.  
10 He was going to work that day with his step-father, Johnnie  
11 Davis on a construction job up in Newark. The two men, along  
12 with a couple other guys, spent the morning doing  
13 rehabilitation work in this house.

14 Sometime after 1:00 that day, step-father and son  
15 ~~decided to go get some cigarettes. They went out of their~~  
16 house, made a right turn, took a short walk down South Orange  
17 Avenue. They walked up South Orange Avenue, got their  
18 cigarettes and began to walk back to the job site, walked back  
19 to work.

20 What Kemo didn't know was that morning the defendant  
21 also had men working in the area. What Kemo didn't know was  
22 that morning there were men organized waiting to kill him.  
23 Because what Kemo didn't know was back in November, three  
24 months earlier, when the defendant was arrested, he hatched a  
25 plan to have Kemo killed.

1           These men were outside that morning, outside of the  
2 house Kemo worked because earlier that day, one of the  
3 defendant's brothers, Jamal Baskerville, spotted Kemo. What  
4 you'll hear during the course of this trial is that a number  
5 of people on the defendant's behalf had searched for Kemo  
6 McCray from immediately after the defendant was arrested until  
7 that March 2nd day.

8           Jamal Baskerville contacted another one of the  
9 defendant's brothers, Rakim Baskerville, told him he had  
10 spotted Kemo and based on that information, the team was put  
11 together. One of the defendant's cousins, Hakim Curry, two  
12 drug trafficking associates of the defendant, one of whom was  
13 named Jamal McNeil. These men got together to execute the  
14 plan that had been in place since November of the prior year.

15 ~~They got a getaway car, a rental vehicle. They~~  
16 grabbed that car and took off the license plates, both front  
17 and back. They also needed a murder weapon and inside of  
18 Rakeem Baskerville's van there was a secret compartment that  
19 contained a loaded handgun.

20           That handgun was given to the man who would  
21 ultimately shoot and kill Kemo McCray. The set up was  
22 basically this, members of the jury: There's three vehicles.  
23 The first one is the one being driven by Jamal Baskerville. A  
24 second vehicle had Hakim Curry and Jamal McNeil. They were to  
25 act as lookouts.

1           The third vehicle was being driven by the defendant's  
2 brother, Rakeem, because he would act as the getaway driver  
3 and in that vehicle set the shooter.

4           The three vehicles, with Jamal's vehicle leading the  
5 way, went back to the area where Kemo had been spotted. Jamal  
6 Baskerville indicated which house it was that Kemo was working  
7 and then continued on and out of the area. The vehicle that  
8 contained -- driven by Rakeem Baskerville stopped in an area a  
9 couple of doors down from where Kemo worked. The third  
10 vehicle, the one with Hakim Curry and Jamal McNeil, the  
11 lookouts, went out to South Orange Avenue.

12           Now, what you'll come to learn during the course of  
13 this trial is South Orange Avenue is the only street in that  
14 immediate area that has any businesses, any places where  
15 ~~there's food, sodas or cigarettes. This is what they set up...~~

16           So it's clear, this is the basic layout. The house  
17 that Kemo was working on was there. The vehicle that Rakeem  
18 Baskerville drove, the getaway vehicle, was somewhere in that  
19 area. The lookouts' vehicle set up somewhere in this area.

20           When Kemo left the house, he walked down 18th, up  
21 19th towards 20th and somewhere in this area got the  
22 cigarettes and began the walk back. When Kemo was observed  
23 leaving the house with his step-father, the men in this car  
24 used their walkie-talkie function of their cell phones to  
25 contact this vehicle. Kemo's on his way, he's coming.



1           When he came, and made the turn up South Orange  
2 Avenue, the lookouts radioed back, we see him, he's on South  
3 Orange Avenue.

4           The men in this vehicle then, members of the jury,  
5 sprang into action. The getaway vehicle was driven out to  
6 South Orange Avenue, the man who is the shooter armed with his  
7 gun, got out of the vehicle and walked to that area, and he  
8 sat or stood and waited.

9           From what he could see was that coming down the  
10 street was Kemo and his father. As he approached the area of  
11 19th Street, the shooter began to walk towards Kemo. He  
12 walked towards him, crossed 19th on to the block above it,  
13 passed Kemo, turned, grabbed him by the collar and fired four  
14 times, fired again and again, again and again as Kemo  
15 collapsed onto 19th Street, dying of his wounds, as his  
16 step-father looked on helpless.

17           What you'll also hear, members of the jury, is that  
18 the plan had other details. That's where Kemo ultimately  
19 died. During the course of the shooter moving, the getaway  
20 driver was also moving and as Kemo's body fell to 19th Street,  
21 the getaway car was there. The shooter jumped in the car and  
22 the car sped off in this direction.

23           Members of the jury, this was not a random act of  
24 violence. This was a targeted killing. There were other  
25 people in this area that morning, none of them were shot.

1 Although Kemo laid there mortally wounded, he wasn't robbed.  
2 This was a targeted killing of Kemo DeShawn McCray for a very  
3 specific purpose. And that purpose, members of the jury,  
4 you'll come to learn was to assist the defendant.

5 What you'll learn during the course of this trial is  
6 that none of the members, these or others of the conspiracy,  
7 could hope to gain anything from Kemo's murder, except for the  
8 defendant. Because, members of the jury, ultimately what  
9 you'll learn is that this case is about a drug dealer who got  
10 caught by the F.B.I., who was told that he faced a lot of time  
11 in jail, who was told that he would not be given a bail, he  
12 would be kept in jail until his trial, a man who figured out  
13 who the F.B.I.'s informant was and upon making that discovery  
14 of who the F.B.I. informant was, the defendant made a decision  
15 ~~and that decision was to trade a human life, Kemo's life, for~~  
16 a chance to get out of jail.

17 Members of the jury, this all started much earlier.  
18 What you'll come to learn during the course of this case is  
19 prior to the defendant's arrest, back in January of '03, the  
20 F.B.I. initiated an investigation into the drug trafficking  
21 activities of William Baskerville. At that time Kemo McCray  
22 was an F.B.I. informant.

23 Kemo McCray, at the direction of the F.B.I. and under  
24 the supervision of the F.B.I., would attempt to make purchases  
25 of drugs from drug dealers in order to help the F.B.I. build

1 their cases.

2 January became February and during February, Kemo  
3 came to the F.B.I. and said, I've spoken to William  
4 Baskerville. He gave me a contact phone number. He told me  
5 he would sell me crack, so the F.B.I. set up the deal.

6 Now, you'll hear testimony from Special Agent Shawn  
7 Manson who is largely responsible for Kemo during the course  
8 of his time as an F.B.I. informant. What she'll explain to  
9 you is that in order for an informant to make a purchase,  
10 there's a lot of steps that are involved. That numerous phone  
11 calls back and forth to set up time, date, location, the  
12 amount of drugs, the price are all decided beforehand as best  
13 it can be.

14 Then on the day of the actual transaction, there's a  
15 ~~basic system that the F.B.I. goes through. That is they get~~  
16 Kemo and they search him, make sure there is no money or drugs  
17 on him. They put a transmitting device on him in the hopes  
18 that they will be able to hear and record what Kemo says and  
19 what is said to him.

20 He is given buy money which is basically the money  
21 that the F.B.I. provides to purchase the actual drugs. A  
22 surveillance team is set up to try to get as close to the area  
23 where the deal is going to happen without obviously causing  
24 problems for the transaction, without endangering either Kemo  
25 or the agents to tipping off the men involved in the

1 transaction.

2 The agents videotape what they can, listen to what  
3 they can and record what they can. Ultimately, crack cocaine  
4 was exchanged for the buy money that the F.B.I. provided and  
5 Kemo came back to the F.B.I., turned over the crack, again he  
6 was searched to make sure there was no other contraband, the  
7 recording device was removed, he was debriefed, which is  
8 basically F.B.I. or law enforcement talk for interview.

9 What it really is, is just a matter of trying to  
10 gather as much information from Kemo that the agents could not  
11 see, either because of their vantage point or because of the  
12 transmitter, they couldn't hear everything.

13 The drugs are taken and sent to a laboratory to test  
14 them to make sure they're actually crack.

15 ~~What you'll hear, members of the jury, is that these~~  
16 procedures are largely standard from the F.B.I.; that these  
17 procedures have a built-in redundancy and by that I mean  
18 overlapping to the extent they can. There's a very specific  
19 purpose for that. Because every investigative tool does not  
20 always work perfectly each and every time. If there's  
21 something, for example, that's hard to hear on the body mike,  
22 the fact that Kemo was interviewed after will help fill in any  
23 gaps.

24 The fact that the videotape from the angles the  
25 agents were at could not get inside a car when a car was used

1 by the defendant in the transaction, they videotape the car  
2 itself and the license plate and ran the license plate. As it  
3 turns outside, the vehicle that was used was registered to the  
4 defendant.

5           Anyway, that process was used on March 18th for the  
6 first time. March 18, 2003 was the first of these  
7 transactions. Agent Manson will go into great detail with  
8 respect to each and every one of these six transactions. When  
9 you listen to her testimony, there's a couple of things that  
10 you should pay special attention to.

11           Number one, the contact number that is used by the  
12 defendant and how that number is related back to the  
13 defendant.

14           Number two, that the vehicle that's used each time is  
15 ~~the vehicle that is in the defendant's name.~~

16           Ultimately and perhaps most importantly, the  
17 recordings that you will hear, both setting up each  
18 transaction and during each transaction, you will hear the  
19 voice of the defendant.

20           Members of the jury, as you can see, the last  
21 transaction occurred on October 23, 2003. After that  
22 transaction, a couple of weeks later, the F.B.I. and the  
23 United States Attorney's Office gathered the information they  
24 had thus far and went to federal court to seek a complaint  
25 against the defendant.



1           Now, in the process of seeking that complaint, they  
2 also got an arrest warrant for the defendant. The judge at  
3 the time issued both complaint and arrest warrant. That was  
4 November 18th, 2003.

5           One week later, armed with the arrest warrant, on  
6 November 25th, 2003, the F.B.I. moved in and they went to the  
7 defendant's home, they arrested him and you'll hear seized in  
8 excess of \$5,000 in cash.

9           Later that same day, members of the jury, the  
10 defendant was taken to federal court where he had what's  
11 called an initial appearance. What that basically means is  
12 the defendant, as all defendants, are brought to court and  
13 given certain information. Number one, they are provided with  
14 a copy of the complaint, both the defendant and his attorney.  
~~15 They are, in this case, there's an Assistant United States~~  
16 Attorney present, a man named John Gay who was assigned to the  
17 case back in 2003. The judge, during the course of that  
18 hearing, asked the Assistant United States Attorney a couple  
19 of questions.

20           Could you please tell the defendant the charge he  
21 faces and you'll hear that the assistant did provide that  
22 information. The judge also asked, could you tell the  
23 defendant what sort of time in jail he faces if convicted?  
24 The Assistant United States Attorney also told him that; that  
25 he faced up to 40 years in jail.



1           The judge also asked what the Government's position,  
2 the prosecution's position was on bail. What you'll learn  
3 during the course of the trial is that the assistant indicated  
4 that the Government was seeking to detain the defendant.  
5 Again, that's just federal court speak as for being held  
6 without bail pending trial.

7           So it's clear also, members of the jury, the attorney  
8 that represented the defendant on that day is a man named Paul  
9 Bergrin, who is neither Mr. Herman nor Mr. Kayser. By the end  
10 of that hearing, the defendant knew that he was charged with  
11 drug distribution, that he faced up to 40 years, that the  
12 Government was seeking to detain him, but also, most  
13 importantly, he figured out from the complaint that the  
14 informant was Kemo DeShawn McCray.

~~15           Put the complaint up.~~

16           What you'll see on page one of the complaint, that's  
17 largely standard information, United States of America v.  
18 William Baskerville, signature by the judge, date it was  
19 issued. As I told you, November 18th. The statute, which is  
20 the distribution, possession with intent to distribute of  
21 crack cocaine, but it's the second page, members of the jury,  
22 that's the most important.

23           Second page of the complaint you'll see lays out some  
24 basic facts that are alleged at the time the complaint was  
25 issued. What you see in this complaint in that the Government

1 chose four of the transactions to charge the defendant at that  
2 time. What you'll notice is missing is the name Kemo DeShawn  
3 McCray. What you'll see in paragraph one is "handed a  
4 confidential witness, herein after the CW." Then throughout  
5 the balance of the report, CW is used. Kemo or any derivation  
6 of his name is not used.

7 That, members of the jury, and leaving out a couple  
8 of the transactions between Kemo and the defendant were an  
9 attempt, you'll learn by the Government, to keep his identity  
10 secret for as long as possible.

11 However, what you'll come to learn is based on the  
12 amounts, 26 grams, 26 grams, 28 grams, 28 grams, all  
13 approximations at the time, indicated to the defendant that it  
14 must have been Kemo. What you'll come to learn is that the  
15 ~~defendant did not normally sell quantities that small. He was~~  
16 able to figure out from this complaint that it must have been  
17 Kemo.

18 So before that day is up, before he left federal  
19 court on November 25th, 2003, again, the defendant knew he was  
20 facing a lot of time; that the Government was seeking to keep  
21 him in jail and who Kemo was. Armed with that information, he  
22 made a decision and that decision was to pass information  
23 through his lawyer, again, neither of the gentlemen here  
24 today, to his brothers and friends outside, that Kemo's the  
25 guy.

1 By doing so, demanded that Kemo be killed. Members  
2 of the jury, how is it you're going to be presented with all  
3 this information? Well, what you're going to come to see is  
4 that different crimes require different investigative tools.

5 For a case like the drug case, where the Government  
6 and the F.B.I. is involved in a proactive investigation, they  
7 have the luxury of videotape, of recording conversations, of  
8 setting up surveillance.

9 However, in a reactive case, such as the murder,  
10 different tools have to be used. You'll hear evidence of the  
11 crime scene report and the investigation that a number of  
12 shells were found in that area where Kemo died, shells being  
13 the spent cartridges used after a gun is fired.

14 You'll hear testimony from the medical examiner that  
15 ~~Kemo did, in fact, get hit three of the four times the gun was~~  
16 fired and that he did, in fact, die of his gunshot wounds.

17 You'll also hear interviews or information derived by  
18 interviews from people who were there at the scene that day,  
19 who saw and identified the make and color of the getaway car.

20 But ultimately, members of the jury, in a conspiracy  
21 like this, unfortunately, the only people who really knew what  
22 happened that day are members of the conspiracy and the people  
23 that the members of the conspiracy talked to. During the  
24 course of this trial, you will hear from five individuals that  
25 the defendant spoke to about his case, about his plan.

1           You will also hear from a member of the conspiracy  
2 who was present on March 2, 2004, when Kemo was killed. These  
3 men, members of the jury, what you'll learn are the  
4 cooperating witnesses that the Judge spoke to you about.  
5 Remember back during jury selection when the Judge said there  
6 are people who may have pending cases and may testify and  
7 could you be fair and analyze what they have to say? These  
8 are the men that the Judge was talking about.

9           Now, obviously, as the Judge told you then and he  
10 will tell you again, the fact that they are cooperating is  
11 something that you are able to take into account when  
12 analyzing whether or not to believe their testimony. We  
13 invite you to do that.

14           The other factors, as the Judge will tell you to take  
~~15 into account, is the corroboration, which is basically whether~~  
16 or not their testimony, does it make sense logically, does it  
17 fit in with the other facts and testimony that you know, is it  
18 supported by other information, other evidence that you hear?

19           I also want to make it clear to you what the process  
20 is for one of these cooperating witnesses. Now, each of these  
21 men, you'll hear, are somewhat differently situated. One has  
22 been sentenced, a number of them are pending sentence, but at  
23 the end, ultimately, they're all testifying for the same  
24 reason. They are testifying in the hopes of gaining support  
25 from the prosecution to have a lower sentence.

1           The process to become a cooperating witness is this:  
2   An individual will indicate that he's interested in  
3   cooperating. The Government will make a decision whether he's  
4   an appropriate person to cooperate based on any number of  
5   things.

6           If the Government and the individual agree that he  
7   should become a cooperator, the defendant, that individual  
8   must plead guilty to the charges that are pending against him  
9   and sign what's known as a cooperation agreement. In that  
10   cooperation agreement, it basically says, if you cooperate  
11   truthfully, fully in all that is asked of you from the  
12   Government, when you do get sentenced, the Government will  
13   write a letter to whoever the sentencing judge is and tell the  
14   judge, Judge, this individual cooperated, he provided  
15   ~~substantial assistance to the Government, take that into~~  
16   account when sentencing the defendant. We are recommending  
17   that you sentence him to a term less than whatever you would  
18   have given him if he had not cooperated.

19           Now, so it's clear, a couple of things here are  
20   important. Ultimately, the sentencing decision rests with the  
21   judge, never with the prosecution. The Judge will ultimately  
22   sentence the defendant to what he or she thinks is fair. Each  
23   one of these cooperators recognize that.

24           Secondly, if the cooperating witness ultimately does  
25   not provide in this case truthful testimony, he has violated



1 his cooperation agreement and will get no benefit from the  
2 Government, will get no letter from the Government. He will  
3 be sentenced to the charge which he pled guilty by the judge  
4 without any letter on his behalf from the Government.

5 Kemo McCray, members of the jury, is differently  
6 situated than those men. When he became an F.B.I. informant,  
7 there were a couple of things going on. One, he was going to  
8 be a paid informant because he had no charges pending against  
9 him.

10 Number two, you'll hear that there was a shotgun  
11 found in Kemo's home that he was not charged with. So he  
12 never had any actual pending charges, but there was that  
13 shotgun.

14 As you might imagine, there's a reason why Kemo was  
15 ~~chosen of all the people in the area to become a confidential~~  
16 informant for the F.B.I. Well, Kemo had a criminal background  
17 and while that perhaps is unfortunate, it did lend him a lot  
18 of credibility out on the street. This is a man who was not  
19 unfamiliar with the people and their means and their ways in  
20 the various criminal activities that he involved himself in.

21 You'll hear, members of the jury, that Kemo was very  
22 successful during his time as informant. However, ultimately,  
23 three months or so after the defendant was arrested, he  
24 violated the F.B.I.'s rules by lying to them and by selling  
25 drugs unrelated to an F.B.I. investigation.

3280

1 He was, therefore, never used again as an F.B.I.  
2 informant. He was, however, so it's also clear, obligated by  
3 his agreement to testify and to participate as necessary in  
4 all of the cases he had made up until that point.

5 So who are these men you're going to hear from?

6 How is it that you will hear evidence of what the  
7 defendant knew that day immediately after his first court  
8 appearance? Well, members of the jury, the man or one of the  
9 men he was in the cell with immediately after his court  
10 appearance is a man named Richard Hosten. Richard Hosten will  
11 take the stand and tell you that after his initial appearance  
12 and the defendant's initial appearance, they were back in a  
13 holding cell in federal court; that the defendant asked him a  
14 couple of questions.

15 ~~Number one, were you arrested by the same agents that~~  
16 I was? Mr. Hosten told him yes.

17 Did you sell to Kemo? Mr. Hosten said, yes, I did.

18 And that confirmed, you'll hear, in the defendant's  
19 mind what he already knew from reading the complaint, that it  
20 was Kemo who was disguised as CW, confidential witness.

21 You'll also hear from Richard Hosten that there was a  
22 telephone conversation that he saw the defendant have during  
23 which he said the name Kemo over the phone.

24 The next men, how is it you're going to know, how is  
25 the evidence going to be presented to you about the fact that

1 the defendant had his men, his guys out there looking for Kemo  
2 and how is it you're going to learn that while the defendant  
3 was in jail, he was very concerned with a couple of legal  
4 principles. How does conspiracy work? And what happens if my  
5 informant is dead?

6 You'll hear testimony from two men that the defendant  
7 was in jail with, Eric Dock and Troy Bell.

8 You'll hear that during their time in Hudson County  
9 Jail together, there was a lot of interaction; that the  
10 defendant often spoke to both men and, in fact, did legal  
11 research in the legal library that's provided in Hudson County  
12 Jail with Troy Bell.

13 Members of the jury, they will tell you a number of  
14 things that the defendant told them, but most importantly,  
15 ~~again, that he was concerned with the conspiracy and that he~~  
16 had his guys out on the street looking for Kemo to "put a hole  
17 in his melon."

18 Now, members of the jury, what you'll hear both Eric  
19 Dock and Troy Bell tell you is that at first they didn't think  
20 much of what the defendant was telling them. They both spent  
21 a considerable amount of time in jail and they had heard talk  
22 similar to this before, but that a couple of events happened  
23 immediately after Kemo was murdered that made them know that  
24 the defendant was for real; that the defendant's talk was not  
25 cheap; that when he made those statements, he was dead

1 serious.

2           Number one, the defendant told them that immediately  
3 after Kemo's murder, he had a meeting, the F.B.I. came to see  
4 him and the F.B.I. was talking to him about the death penalty  
5 and that he might face the death penalty. He went back, the  
6 defendant, and told Dock and Bell this. They started to  
7 think.

8           Then a couple of days later, a newspaper article came  
9 out in the Star-Ledger and it was passed around the Hudson  
10 County Jail and you'll hear, members of the jury, that that  
11 article included information about witnesses being killed and  
12 the name Hakim Curry, that the defendant had told both Dock  
13 and Bell was his cousin.

14           Now, while Eric Dock and Troy Bell have lengthy  
~~15 criminal histories, they're not dumb. They knew what happened~~  
16 and they chose to try to take advantage of it. After they had  
17 realized that what the defendant had told them was true, they  
18 reached out for the Government and wrote a letter to the  
19 assistant, Mr. Gay, who was in charge of the case at the time,  
20 and said to him, we have information for you, come talk to us.

21           Well, the F.B.I. was sent to speak to Troy Bell. By  
22 the time the F.B.I. got there, despite the fact that Troy  
23 Bell's actually the man that signed the letter, he changed his  
24 mind. He had first said, you know, I'm not comfortable  
25 talking to you, you should talk to Eric Dock and he decided

1 just to be sentenced without any cooperation from the  
2 Government.

3 The defendant -- the Government did then go speak  
4 with Eric Dock. Eric Dock gave them the information that I've  
5 already discussed with you, amongst many other things. Eric  
6 Dock, in fact, you'll learn, took another step and after he  
7 realized the defendant was serious, began to write down the  
8 things he had heard the defendant say.

9 One part of what I'll call his log is a  
10 reconstruction of the conversations that he had with the  
11 defendant prior to realizing he was serious, dated as  
12 accurately as he could.

13 The other section he was doing on a daily basis. If  
14 the defendant told him something, as soon as he was able to,  
15 ~~he would write it down. This log, members of the jury, you'll~~  
16 hear was ultimately turned over to the Government, to the  
17 F.B.I.

18 When both of these men testify, members of the jury,  
19 there's something, a couple of things that you need to keep in  
20 mind. Eric Dock is from Paterson. Troy Bell is from Asbury  
21 Park. The reason that's important is that prior to going into  
22 Hudson County, neither one of those men had any contact with  
23 the defendant, his family members or any of the players  
24 involved in the defendant's world. That's important so that  
25 when you hear the information that they're giving you,



1 recognize that the source is only one, the defendant. Be it  
2 stuff significant to the actual murder or the drug  
3 transactions or personal information about individuals in the  
4 defendant's world, that there is no other way they possibly  
5 could have known that.

6           You'll also hear from a man named Eddie Williams.  
7 Now, Eddie Williams did know the defendant from Newark and, in  
8 fact, the defendant requested that Eddie Williams become his  
9 cellmate, and that request was granted.

10           Eddie Williams will tell you a number of things,  
11 including the defendant knew who is cooperator was, knew who  
12 the informant was; that he was upset with himself for selling  
13 and trying to do a favor to Kemo by selling such small amounts  
14 and it came back and it burned him; and finally, that after a  
15 meeting with the F.B.I., the defendant explained to Eddie  
16 Williams that the F.B.I. is trying to get me to tell them I  
17 had Kemo killed. The defendant admitted that he did, but said  
18 why would I tell them? They don't have anything.

19           And the fifth man you'll hear from, members of the  
20 jury, is a man named Romaine York. This man, you'll hear, was  
21 friends with the defendant's wife prior to going to jail.  
22 That because of that, the defendant and Mr. York were able to  
23 develop a relationship and during the course of the various  
24 conversations they had, the defendant told him a number of  
25 things, too; that there is no way he could even do ten years;

1 that he knew who the F.B.I. informant was; that he had his  
2 guys out looking for him, but they couldn't find him and that  
3 his brother, Rakeem, was going to handle it for him because  
4 Rakeem was going to try to get a man he referred to as Fat Ant  
5 to take care of it.

6 These five men, members of the jury, that spent time  
7 in jail in Hudson County with the defendant are going to tell  
8 you collectively that he knew who the informant was and he had  
9 men out there looking to kill him.

10 How is the evidence of the murder going to come in?  
11 How is it that we're able to walk through a chart that we have  
12 of South Orange Avenue about what happened? Well, members of  
13 the jury, the shooter is going to come in and testify for you.  
14 The man that the defendant referred to as Fat Ant, the man who  
15 ~~was best friends with Rakeem Baskerville, who had been a~~  
16 friend, he will tell you, to the Baskerville family since he  
17 was in grammar school, he will tell you what happened that  
18 day.

19 Now, that man is named Anthony Young. Anthony Young  
20 will tell you that the message that was relayed from the  
21 defendant's attorney, Paul Bergrin, was heard loud and clear  
22 by the men on the outside; that while he drove around in a  
23 Range Rover being driven by Hakim Curry with Rakeem  
24 Baskerville in the front seat, Anthony Young in the back seat,  
25 the conversation the defendant's then attorney saying that

1 Kemo was the guy, that he got the message, as did everyone  
2 else.

3 That is a second meeting, a short time later, at  
4 Jamal Baskerville's home, a meeting that included Jamal  
5 Baskerville, Rakeem Baskerville, Hakim Curry, Jamal McNeil and  
6 Anthony Young. They sat in front of Jamal Baskerville's home  
7 talking until Paul Bergrin arrived, got out of the car and  
8 approached the group and he told them, Will's not getting bail  
9 and if Kemo testifies, defendant's got problems.

10 The co-conspirator, members of the jury, without the  
11 word "murder" ever being uttered, got the message loud and  
12 clear. When Paul Bergrin walked away from the group, turned  
13 back to them and said, remember, "no Kemo, no case." The  
14 co-conspirators got the message loud and clear that the  
15 ~~defendant was demanding Kemo be killed to save his own skin.~~

16 Members of the jury, Anthony Young is not an  
17 individual that you're going to like. He is a cold-blooded  
18 killer, but because you don't like him does not mean what he's  
19 going to tell you is not credible, that the details he's going  
20 to give you are not true.

21 What Anthony Young will do is describe for you those  
22 meetings I talked to you about. He's going to talk to you  
23 about the search that went on for months for Kemo and what  
24 happened on March 2nd, when Kemo was finally located.

25 How they got the rental car and took off the plates,

1 how the murder weapon was taken from the secret compartment in  
2 Rakeem Baskerville's van, how the lookouts were set up, how he  
3 and Rakeem were set up, how they kept in constant contact with  
4 one another over the walkie-talkie function of their cell  
5 phones and how ultimately in broad daylight, at approximately  
6 two o'clock in the afternoon, on South Orange Avenue and 19th,  
7 in the City of Newark, he gunned down Kemo McCray because of  
8 what he had done and what he could do to the defendant.

9           Anthony Young will also tell you that after the  
10 murder was completed, that he and Rakeem Baskerville destroyed  
11 the murder weapon. They brought it to a body shop and had it  
12 melted down so that law enforcement would never be able to  
13 find it.

14           He will also tell you that during the time from the  
15 ~~defendant's arrest until the day Kemo was actually killed, the~~  
16 defendant was asking for updates of the people on the outside,  
17 what's going on? When are you going to get him? When is this  
18 going to happen?

19           Members of the jury, Anthony Young is also what I  
20 referred to you as a cooperating witness. His agreement with  
21 the Government is slightly different than the agreement the  
22 other men have. I want to explain a couple of things to you.

23           Number one, as part of the plea agreement, the  
24 Government agreed not to seek the death penalty against  
25 Anthony Young. The charges that the defendant -- that Anthony

1 Young had to plead to are the same two murder-related counts  
2 that now face the defendant. Anthony Young pled guilty to  
3 conspiracy to murder Kemo because he was a witness and a  
4 conspiracy to murder Kemo to retaliate against him because he  
5 was an informant.

6 As part of that agreement by statute, the defendant  
7 -- Anthony Young faces a mandatory life without parole  
8 sentence. The only exception being if he comes into this  
9 courtroom and testifies truthfully, the Government will write  
10 a letter to the judge and tell, ask the judge, in fact, Judge  
11 Pisano, to sentence him to a term less than mandatory life.

12 The other thing, members of the jury, that you have  
13 to know about Anthony Young is that contact, the manner in  
14 which he came forward to the F.B.I. What you'll come to learn  
15 ~~is that Anthony Young voluntarily approached the F.B.I. with~~  
16 information; that at the time that he contacted and ultimately  
17 spoke to Special Agent Shawn Manson, there were no charges  
18 related to Kemo's death filed against Anthony Young or anyone.  
19 You'll hear from Agent Manson that none were imminent.  
20 Anthony Young came forward voluntarily to the F.B.I. to  
21 provide information about what he described as the murder of a  
22 federal witness.

23 Now, why did he do that? You'll hear through the  
24 testimony that it was a combination of a couple of things.  
25 Number one, he was concerned that someone else might cooperate



1 against him and, number two, that he had had an argument out  
2 on the street with one of the defendant's brothers, an  
3 argument unrelated to William Baskerville, but an argument  
4 that, nonetheless, Anthony Young felt threatened his life. So  
5 he decided to contact the F.B.I.

6 He gave a statement to the F.B.I. at that first  
7 meeting, members of the jury, that is consistent with the  
8 version that I presented to you today, except for one  
9 significant fact. When Anthony Young initially came forward,  
10 he said he was only a lookout. In fact, it was Jamal McNeil  
11 who was the shooter.

12 After a series of meetings, both with the Government  
13 and him with his attorney, Anthony Young, you'll hear,  
14 ultimately came clean, completely.

15 ~~He came into this courtroom and he admitted that he~~  
16 was the shooter, described the conspiracy and pled guilty to  
17 those two charges that I've already told you about. Members  
18 of the jury, all this information that the F.B.I. gathered  
19 from back in January when the drug investigation started  
20 through and past Kemo's murder, the results of that  
21 investigation were ultimately presented to a Grand Jury. The  
22 Grand Jury voted and handed down the indictment that the Judge  
23 has described for you.

24 As the Judge told you, there are six counts related  
25 to the six different transactions, the six different deals,

1 the six different times that the defendant sold crack to Kemo  
2 and while the defendant might have hoped that by killing Kemo  
3 certain evidence wouldn't come in, he was wrong. You'll hear  
4 Kemo's voice on the recordings with respect to those  
5 transactions and since he can't take the stand himself, you'll  
6 hear through Agent Manson information that he provided to the  
7 F.B.I.

8 Working my way backward to count three, the  
9 conspiracy to distribute drugs, as the Judge told you,  
10 conspiracy, when it's boiled down, really becomes an agreement  
11 between two or more people to do something illegal. You'll  
12 hear during Agent Manson's testimony that the defendant had a  
13 connection to get cocaine; that there was another individual  
14 who introduced Kemo to William Baskerville who he worked with  
15 ~~and that, in fact, there was a third person that the defendant~~  
16 told Kemo, if I'm not around, deal with him. If you can't get  
17 me, deal with Ray.

18 That's why, members of the jury, he's charged in a  
19 conspiracy, because he wasn't acting individually, he wasn't  
20 acting on his own.

21 Now, for the two murder-related counts, what you have  
22 is this: One related to a conspiracy to murder Kemo for what  
23 he had all ready done and one related to a conspiracy for what  
24 Kemo could do to the defendant in the future.

25 To what had been done already, it's the retaliation

1 against an informant, for having him locked up, for having him  
2 put in jail.

3           Number two, for what he would do in the future, for  
4 acting as a witness in a proceeding such as this and that is  
5 why there are two separate conspiracies, although they involve  
6 the same people and although they involve the same victim,  
7 there's two different reasons why the defendant acted as he  
8 did.

9           Members of the jury, this is a very important case,  
10 but it's also a very straightforward case. What this case  
11 boils down to is the defendant getting caught dealing drugs,  
12 the defendant being arrested by the F.B.I., the defendant  
13 being told that he faced a large jail sentence, the defendant  
14 being told that he would not be released on bail and the  
15 ~~defendant figuring out that it was Kemo McCray who was the~~  
16 F.B.I. informant, who was responsible in his eyes for his  
17 situation.

18           That ultimately the defendant made a decision that  
19 trading Kemo's life for a chance to avoid prosecution on the  
20 criminal acts he had all ready done was for him a good trade,  
21 that somehow killing Kemo would get him out. The defendant  
22 was wrong, because not only does he face the drug charges, now  
23 on top of those charges, he faces responsibility in count one  
24 and count two of the indictment for his decision to start the  
25 conspiracy that led to Kemo's death.

1           Members of the jury, I am confident that when you  
2 hear the evidence from the witness stand and take the physical  
3 items back with you into the jury room and you apply what you  
4 have seen, what you have heard and what you find to be true to  
5 the law that the Judge gives you, that you will find the  
6 defendant, William Baskerville, guilty of selling drugs to  
7 Kemo, of conspiring to sell drugs, and of murdering Kemo, both  
8 for what he had done and out of fear of what he could do in  
9 the future.

10           Thank you.

11           THE COURT:   Finished?

12           MR. MINISH:   I am.

13           THE COURT:   Thank you.

14           Mr. Herman, do you want to give an opening statement?

15           MR. HERMAN:   Yes.

16           THE COURT:   Do you want to do it now or take a  
17 break?

18           MR. HERMAN:   Take a short break.

19           THE COURT:   We'll come out and hear the opening  
20 statement from the defense and see where we are in terms of  
21 lunch whether we start a witness.

22           THE CLERK:   All rise.

23           (The following takes place out of the presence of the  
24 jury.)

25           THE COURT:   Before we take a break, first of all,