

1 A. Or after.

2 Q. And you had never, ever, ever been to Ben to ask him
3 such a question, either before or after getting rid of a
4 gun; right?

5 A. Not to melt a gun, no.

6 MR. BERGRIN: Your Honor, may I approach with
7 J-02923?

8 THE COURT: Go ahead.

9 MR. BERGRIN: It was marked D-1 for
10 identification.

11 Q. I show you what has been marked J-02923, and it's
12 marked D-1 for identification, sir.

13 Have you had a chance to look at that?

14 A. Want me to read it, sir?

15 Q. Yes, please, sir.

16 Please let me know when you're finished, sir.

17 A. This is untrue by Mr. Ben.

18 Q. Now, there's an F.B.I. report that you say is untrue
19 or error, saying -- from June of 2006, saying that you took
20 the gun there the next day; correct?

21 A. I'm not saying there's a error. I'm saying if Ben
22 said this --

23 Q. No, I'm asking about the report that I showed you
24 before in reference to Shawn Manson saying that you called
25 her to tell her that the gun was taken to Ben's shop the day

1 after the Kemo shooting. You're saying that that's untrue;
2 correct?

3 A. I'm not saying that -- it's untrue that I went the day
4 before. I went that night. That's what I'm telling you.

5 Q. So if a report was to reflect that you, you being
6 Anthony Young, contacted Agent Manson in June of 2006 to let
7 her know that you took the gun there on March the 3rd, the
8 day after the Kemo shooting, would that be a true statement
9 or would that be a false statement?

10 A. I'm not saying it's false that I contacted her, no.

11 Q. Would that be a true statement or would that be a
12 false statement, Anthony Young?

13 A. Ask the question again, sir.

14 Q. That would be a false statement, right?

15 A. No, I said ask the question again.

16 Q. Now --

17 THE COURT: Rephrase the question, Mr. Bergrin.

18 Q. Would that -- if the report reflected that you took
19 the gun there, the words out of Anthony Young's mouth --

20 THE COURT: Okay. Would that be an accurate or an
21 inaccurate statement?

22 THE WITNESS: That wouldn't be accurate that I
23 took the gun there, yes.

24 THE COURT: Okay. But go, finish the question.

25 Q. -- the day after the shooting, that being March 3rd of

1 2004, in the nighttime, as compared to March 2nd, the day of
2 the shooting?

3 A. That's inaccurate.

4 Q. Now, you've had a chance to review this statement;
5 correct?

6 A. This right here?

7 Q. Yes.

8 A. By Mr. --

9 Q. Mr. Ben Hahn.

10 A. Yes.

11 Q. Ignacious Ben Hahn, right?

12 A. Yes.

13 Q. Now, isn't it a fact that you took --

14 MR. MINISH: Judge, may we be heard about this?

15 THE COURT: Yes, let me see a copy of that. Do
16 you have an extra copy of that 302?

17 MR. BERGRIN: No, I'm so sorry, Judge. I don't.

18 THE COURT: Does anybody have that? Is that part
19 of the --

20 Mr. Young, may I see that, please?

21 THE WITNESS: Yes, sir.

22 MR. BERGRIN: Do you want us to come to sidebar,
23 Judge?

24 THE COURT: No, just a moment.

25 (The document was handed up to the Court.)

1 MR. MINISH: Judge, it's page 2923, 2924, 2925.

2 THE COURT: Yes, I know. I'm reading it right
3 now. Thank you.

4 MR. MINISH: Oh, you have it. I'm sorry.

5 THE COURT: All right. I'll see you at sidebar.

6 (The following takes place at sidebar)

7 THE COURT: All right. Mr. Bergrin, you can't use
8 this the way you're using it.

9 I didn't know it was a 302 report of an interview
10 with Ignacious Benjamin Hahn.

11 Right?

12 MR. MINISH: Yes, Judge.

13 THE COURT: Unless he says I don't recall. You
14 can ask him questions based on this.

15 MR. BERGRIN: Yes, Your Honor.

16 THE COURT: No, but you can't put it in front of
17 him and just say read it. You can ask him questions
18 relating -- depending on what he says. If he says no,
19 that's not true, if he says I don't recall, then you might
20 be able to refresh him with that. But that's the only way
21 you can use it. Okay?

22 MR. BERGRIN: All right, Judge.

23 MR. MINISH: Judge, just so I understand, he's not
24 going to be able to ask questions that say, Didn't Ben Hahn
25 say that, didn't Ben Hahn say that.

1 THE COURT: Right. You can't use the reference to
2 the Ben. You can ask him about substantive things that may
3 be in there and then see what his answer is.

4 MR. BERGRIN: Okay, Judge.

5 THE COURT: All right?

6 MR. BERGRIN: Yes, that's what I'll do, Judge.

7 THE COURT: Okay.

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1 (The following takes place in open court)

2 THE COURT: All right. The objection is
3 sustained.

4 BY MR. BERGRIN:

5 Q. Do you remember taking a gun to Mr. Hahn, Ignacious
6 Benjamin Hahn? That's the individual we're talking about,
7 right, at Frametech Auto Collision, 702 South 12th Street,
8 Newark, New Jersey?

9 A. Yes, that's Ben.

10 Q. That's Ben; right?

11 A. Yes.

12 Q. That's the Ben that you've been doing business with;
13 correct?

14 A. Yes.

15 Q. Since, you said, 1999; right?

16 A. '7, 1997.

17 Q. 1997. I'm sorry. Please excuse me.

18 So that's the Ben that you've been doing business
19 with since 1997; right?

20 A. Yes, sir.

21 Q. The Ben that you trusted so much that you're bringing
22 a murder weapon to him; right?

23 A. Yes.

24 Q. The Ben that you considered your friend and your
25 buddy; right?

1 A. Yes.

2 Q. That you had not only a business relationship but a
3 personal relationship because you're bringing a murder
4 weapon to him; right?

5 A. Well, yes, that would be true.

6 Q. The day of the murder or the day after the murder,
7 depending upon which statement Anthony Young made that
8 particular time; right?

9 A. Yes.

10 Q. Now, did you ever bring a weapon to Ben in August or
11 September of 2004 for the first time?

12 A. August or September, no, sir.

13 Q. Because that would be several, several months after
14 the shooting in this case; right?

15 A. Yes.

16 Q. Did you ever go to Ben in August or September of 2004
17 with Rak?

18 A. No, not that I know of.

19 Q. That being Rakim Baskerville; right?

20 A. Not that I remember, sir.

21 Q. Do you ever remember going there with Rak in August or
22 September of 2004 in a light blue Concord car?

23 A. No.

24 Q. Do you ever remember telling Ben in August or
25 September of 2004: "I want to get rid of a gun for my

1 brother"?

2 A. That's not true.

3 Q. Do you ever remember saying that to Ben?

4 A. No.

5 Q. If you were to review a report dated March --

6 THE COURT: No. Sustained.

7 Q. Would anything refresh your memory or recollection
8 about August or September of 2004 and bringing a gun with
9 Rak to Ignacious Benjamin Hahn, employed at Frametech Auto
10 Collision, 702 South 12th Street, Newark, New Jersey?

11 A. Not at all.

12 Q. Do you ever remember, Mr. Young, going back to
13 Mr. Ignacious Ben Hahn at that same shop in October or
14 November of 2004 with another gun which you had in your
15 waistband?

16 A. Well, I probably went to see him, I had a gun in my
17 waistband. I always go see him.

18 Q. Do you ever remember seeing him in October or November
19 of 2004 with a gun in your waistband and asking Ben to get
20 rid of the gun?

21 A. No, sir.

22 Q. And do you ever remember Ben refusing to get rid of
23 the gun in October or November of 2004?

24 A. No, that's not true.

25 Q. Would anything refresh your recollection in reference

1 to this October-November incident?

2 A. No, sir.

3 Q. If you were to read anything in reference to the
4 August or September --

5 THE COURT: Mr. Bergrin. Mr. Bergrin, no.

6 MR. BERGRIN: All right, Judge. I'll move on.

7 THE COURT: Withdraw that question.

8 Q. Did you go back to Ben in November or December of
9 2004?

10 A. Pretty sure I did. I go down there mostly every day.

11 Q. And do you remember Ben doing any work for you on a
12 motor vehicle, specifically a black Monte Carlo SS?

13 A. Yes.

14 Q. Do you remember -- did you owe Ben any money on that
15 car?

16 A. Yeah, like \$300.

17 Q. \$300.

18 A. Yes.

19 Q. Do you ever remember owing Ben \$1,300 for the car?

20 A. No, sir, not at all.

21 Q. Do you ever remember asking Ben if you could
22 test-drive the car?

23 A. No, sir, I wouldn't ask him that.

24 Q. Do you remember ever asking Ben in November or
25 December 2004 if you could test-drive the car and then

1 taking off and not paying Ben the money that you owed?

2 A. No, sir.

3 Q. Would anything refresh your memory if you were --

4 THE COURT: Mr. -- he said no, so go on, Mr.
5 Bergrin. Next question.

6 Q. Now, there came a point in time, as you've testified,
7 that in January of 2005, you contacted the F.B.I.; correct?

8 A. Yes, sir.

9 Q. And at the time you contacted the F.B.I., you were a
10 career criminal; correct?

11 A. Yes, sir.

12 Q. You had 11 prior felony convictions; right?

13 A. Yes, sir.

14 Q. You had five gun -- well, this was your fifth gun
15 case. You had four gun felony convictions; right?

16 A. Yes.

17 Q. And you were considered what they call a persistent
18 offender career criminal; correct?

19 A. Yes.

20 Q. Now, when you contacted the F.B.I., who was your
21 attorney representing you at the time?

22 A. When I first contacted them --

23 Q. Yes, sir.

24 A. -- I had no -- I had went to court, but I had no
25 representative at that time. He represented me one day.

1 Q. And that was a Mr. Paul Feinberg?

2 A. Yes, sir.

3 Q. And you had paid him to represent you on the gun case,
4 right, the state gun case where you got caught with the
5 .45 caliber gun on Alexander Street in Newark, New Jersey;
6 correct?

7 A. I didn't pay him to represent me on the gun. I paid
8 him to get my bail reinstated.

9 Q. To get your bail reinstated.

10 A. Yes, sir.

11 Q. But he had to enter an appearance on behalf of Anthony
12 Young in State Superior Court in Essex County; correct?

13 A. Yes, sir.

14 Q. Now, at the time that you paid Mr. Feinberg, you gave
15 him money; correct?

16 A. Yes, a thousand dollars.

17 Q. And he got your bail reinstated for you; correct?

18 A. Yes.

19 Q. And he told the Court, I am Paul Feinberg and I
20 represent Anthony Young; correct?

21 A. Yes.

22 Q. Now, you sought his advice; correct?

23 A. Yes, sir.

24 Q. As a matter of fact, you sought Mr. Feinberg's advice
25 and you told him that you wanted to go to the F.B.I.; right?

1 A. No, I didn't tell him that.

2 Q. You told Mr. Feinberg that -- you didn't tell
3 Mr. Feinberg that you wanted to go to the F.B.I. and speak
4 to them.

5 A. No, sir. I said the F.B.I. was trying to contact me,
6 and I may need him to sit in with me. That's what I said.

7 Q. But the F.B.I. wasn't trying to contact you; right?

8 A. Not at all.

9 Q. So, here, you're lying to your own lawyer, who's there
10 to represent you; correct?

11 A. I'm asking for his advice.

12 Q. But you're lying to him in reference to the F.B.I.
13 contacting you; correct?

14 A. Yes. Yes.

15 Q. And you're telling him that they're trying to contact
16 you and you're seeking his legal wisdom and his legal
17 advice; correct?

18 A. Yes.

19 Q. And you wanted him to sit in with you. To be there
20 when you contacted the F.B.I.; correct?

21 A. Yes, if I was to talk to them.

22 Q. And did Mr. Feinberg give you any advice, Mr. Young?

23 A. Yes, sir.

24 Q. And according to you, the only thing that he told you
25 is, You know, Anthony, don't incriminate yourself if you go

1 down there. Whatever you do, don't incriminate yourself.

2 Right?

3 A. Yes.

4 Q. Now, you are absolutely certain as sure as you sit
5 there that Mr. Feinberg didn't tell you to tell the truth;
6 right?

7 A. No, he just said don't incriminate yourself, whatever
8 you do.

9 Q. You are absolutely certain as sure as you sit there
10 today and testify under oath that Mr. Feinberg never told
11 you to tell the truth; right?

12 A. Again, he told me not to implicate myself.

13 Q. Did he ever tell you not -- did he ever tell you to
14 tell the truth? Simple question.

15 A. No.

16 Q. You can answer the question. You understand the
17 question, right?

18 A. No. No, sir.

19 Q. You know what the truth means; right?

20 A. I said no three times.

21 Q. Did he ever tell you to lie to the F.B.I.?

22 A. No, sir.

23 Q. But you're sure that he never told you to tell the
24 truth; right?

25 A. He didn't tell me to tell the truth, he didn't tell me

1 to lie.

2 THE COURT: He's answered it several times,
3 Mr. Bergrin.

4 MR. BERGRIN: I'll move on, Your Honor. I'm
5 sorry.

6 Q. But when you contacted the F.B.I. on January the 14th
7 of 2005, did you tell Mr. Feinberg that you contacted the
8 F.B.I.?

9 A. No, sir.

10 Q. Did you tell any other lawyer?

11 A. That's your question? Did I tell any --

12 Q. Yes, did you tell any other lawyer.

13 A. No. I didn't tell nobody.

14 Q. Now, when you began lying to the F.B.I., when you went
15 down there in January of 2005, did you lie to the F.B.I.
16 because you didn't want to implicate yourself?

17 A. I wasn't incriminating myself, and I was trying to get
18 Jamal and Jamal off the streets.

19 Q. But one of the reasons was because your attorney
20 advised you not to implicate yourself; right?

21 A. That's one of them, yes.

22 Q. And one of the reasons that you lied, because your
23 attorney told you not to -- not to implicate yourself and
24 didn't advise you as your attorney to tell the truth; right?

25 A. No, he just -- he didn't. Not that he advised -- you

1 asking me to answer your question, sir. Not that he told me
2 not to tell the truth. Again, he didn't tell me to lie, he
3 didn't tell me to tell the truth. He just said don't
4 implicate yourself.

5 Q. Now, if Mr. Feinberg had told you to tell the truth,
6 you would have followed his advice; correct?

7 A. I think I'd have asked him to come sit with me and
8 talk to them with me.

9 Q. My question to you is, would you have followed
10 Mr. Feinberg's advice and implicated yourself and told the
11 truth when you first began talking to the F.B.I. in January
12 of 2005 if Mr. Feinberg had told you to tell the truth?

13 A. I don't know, sir. I can't say yes. I can't say no.
14 I don't know.

15 Q. Do you remember being asked that simple question back
16 in 2007 under oath?

17 A. No.

18 Q. Mr. Young --

19 MR. BERGRIN: Your Honor, may I approach the
20 witness with a transcript dated April 17th of 2007, please?

21 THE COURT: April 17th?

22 MR. BERGRIN: Yes, Your Honor.

23 THE COURT: Go ahead.

24 Q. Mr. Young, I'm going to give you a copy of your
25 transcript of your testimony on April the 17th of 2007. I'm

1 going to ask you to concentrate, please, on page 4616 and
2 4617.

3 Is that a copy of your sworn testimony?

4 A. Yes, sir.

5 Q. I'm going to ask you to look at page 4616 first.

6 A. What number?

7 Q. Starting with lines nine and 10.

8 Back in 2007, you told the jury the same thing,
9 that Mr. Feinberg never told you that you should tell the
10 truth; right?

11 A. Yes.

12 Q. Now, you just told the jury that you don't know --
13 that you would not have told the truth and you would not
14 have implicated yourself even if Mr. Feinberg told you to
15 tell the truth; right?

16 A. I said I don't know.

17 Q. You said you don't know.

18 A. Yeah.

19 Q. I ask you, please, to concentrate and look at page
20 4616, line 21.

21 A. Yes.

22 Q. Were you asked a question what you would have done if
23 Mr. Feinberg told you to tell the truth, the whole truth,
24 and nothing but the truth, or words to that effect?

25 A. Yes.

1 Q. And isn't it a fact you swore to that jury that if
2 Mr. Feinberg before you ever met with the F.B.I. would have
3 advised you to tell the truth, then you would have told the
4 truth?

5 A. Could I read my whole answer, sir?

6 Q. Isn't that what you say?

7 A. That ain't what I say. Could I read my whole answer?

8 Q. Yes, read your whole answer.

9 A. I said, "Well, if he would have came and sit" with me
10 "the first day and say tell the truth, I would have told the
11 truth," if he would have came to the F.B.I. station.

12 THE COURT: All right. Why don't you read the
13 actual questions and answers, starting from line one, if
14 you're going to go into this area.

15 MR. BERGRIN: Yes, Your Honor. Let me get a copy
16 of that.

17 Q. Mr. Young, you still have that page open, right?

18 A. Yes, sir.

19 Q. I'm going to ask you to look at line one, question,
20 4616: "So based on what your lawyer said after knowing
21 nothing, you decide that you're going to lie to the F.B.I.,
22 right?"

23 That was the question you were asked?

24 A. Yes, sir.

25 Q. And did you respond: "All I told him I need him to

1 sit in with me while I tell a story of a murder."

2 Correct?

3 A. Yes, sir.

4 Q. And then you -- the question was on line five, "A
5 story"? And you replied "Yeah."

6 A. Yes.

7 Q. And then you were asked a question: "A lie?" And you
8 said "No."

9 A. Yes.

10 Q. But you did lie to the F.B.I.; right?

11 A. Because the man told me don't --

12 Q. No, no, the question is an easy one: You did lie to
13 the F.B.I. --

14 A. Yes, sir.

15 Q. -- right?

16 A. Yes.

17 Q. And this is while you're testifying under oath, right,
18 before another jury in District Court.

19 A. Yes, sir.

20 Q. And you were asked the question on line nine: "You
21 were going to tell the truth to the F.B.I.?"

22 And isn't your answer on line 10: "If he would
23 have told me to tell the truth, yes."

24 A. Yes.

25 Q. Isn't that exactly what you said?

1 A. That's what I said, sir.

2 Q. And isn't it the fact that during that response, you
3 say nothing about sitting in with me. You say, your
4 response out of your mouth to that simple question, if he
5 would have told me to tell the truth, that you would have
6 told the truth from day one of sitting in and talking to the
7 F.B.I.

8 A. Yes, I said that on that line, sir.

9 Q. And then going down to the last question on line 25 --

10 A. Yes.

11 Q. -- excuse me, line 23: So someone has to tell you the
12 truth, Mr. Young?

13 And did you respond on line 24 --

14 THE COURT: Wait. No, no. You misstated that.

15 "But someone has to tell you to tell the truth,
16 Mr. Young."

17 That's the question on line 23.

18 MR. BERGRIN: Yes, Your Honor.

19 THE COURT: And your answer to that was?

20 THE WITNESS: No.

21 THE COURT: Okay.

22 Q. And then you're asked a question on line 25: "You
23 don't usually tell the truth?"

24 And wasn't your response on page 4617, line one
25 the response out of the mouth of Anthony Young, on April

1 17th of 2007: "If a lawyer give you advice, that's the
2 advice you take"?

3 A. Yes. That's what I said.

4 Q. Now, you meet with the F.B.I.; correct?

5 A. Yes, sir.

6 Q. And obviously before you meet with them, there's
7 several telephone calls; correct?

8 A. I don't know about several. I remember one. That's
9 it.

10 Q. There's a telephone call where you contact them;
11 right?

12 A. Yes.

13 Q. And there's a telephone call in which Shawn Manson
14 calls you back; right?

15 A. Yes, I think so. I don't exactly remember if I called
16 her or she called me. I don't remember.

17 Q. And that was on January the 14th; right?

18 A. January the 14th is the first phone call, sir.

19 Q. The first phone call.

20 A. Yeah.

21 Q. And then she calls you back on January the 14th;
22 right?

23 A. No, somebody told me to hold on. I talked to a guy,
24 he told me to hold on and he put me in touch with her.

25 Q. And he put you in touch with her, but you spoke with

1 her on January the 14th.

2 A. Yes.

3 Q. And then you met with them on January the 18th;
4 correct?

5 A. Yes, somewhere around there.

6 Q. About four days later, about three, four days later;
7 right?

8 A. Yes.

9 Q. Now, when you met with them, you didn't ask for a
10 lawyer; correct?

11 A. No, I gave up -- no, I didn't.

12 Q. You didn't ask for a lawyer to sit in with them;
13 right?

14 A. No, I asked for a lawyer after I talked to her.

15 Q. After you talked to them.

16 A. Yes.

17 Q. And you didn't -- you didn't place yourself as the
18 shooter; correct?

19 A. No.

20 Q. You lied to them and you said Malsey was the shooter;
21 right?

22 A. I wasn't implicating myself. That's what I said.
23 Malsey was the shooter.

24 Q. You lied to them and told them that it was Malsey?

25 A. That's correct.

1 Q. Your friend, correct

2 A. At the time, yeah.

3 THE COURT: Mr. Bergrin, we've covered this. If
4 you're laying a foundation --

5 MR. BERGRIN: I am, Judge.

6 THE COURT: Then fine, go into it.

7 Q. Your friend Malsey; right?

8 A. At that time, I didn't consider them friends no more.
9 We was enemies.

10 Q. But he had been a friend for a long time; right?

11 A. Yes, a nice amount of time.

12 Q. And he had not made any threats to you up to that
13 point; right?

14 A. Well, I said something about him. He didn't threaten
15 me.

16 Q. He didn't threaten you at all and he had never been
17 looking for you, to the best of your knowledge; correct?

18 A. To my knowledge, they was.

19 Q. To your knowledge, you had seen Malsey looking for
20 you?

21 A. I didn't say I seen him. To my knowledge, the man,
22 Jamal Baskerville, told me on the phone, We will see you on
23 the streets.

24 Q. So you meet with the F.B.I. in January of 2005, and
25 you meet with them a multitude of times, up to 10 times,

1 correct, before you finally say that I did the shooting;
2 right?

3 A. I don't know if it was 10 times, Mr. Bergrin.

4 Q. It was up to 10 times; right?

5 A. I have no idea.

6 Q. Well, did you ever tell a jury on April 17th that it
7 was up to 10 times that you met with them?

8 A. I may have, but like I said, I don't remember if it
9 was 10 times.

10 Q. It was a lot of times; right?

11 A. Couple times, five or better.

12 Q. Five or better; right?

13 A. Yes.

14 Q. And you remember telling a prior jury that it was
15 eight to 10 times, correct, before you said anything about I
16 being involved, that being Anthony Young.

17 A. Again, I'm pretty sure I told them that I lied
18 multiple times to them people before I told them I was the
19 shooter, but once I said I was the shooter, I gave them the
20 whole truth.

21 Q. Now, during these eight to 10 meetings -- meeting,
22 more than five meetings, anyway, before you gave another
23 version, you had an attorney with you; correct?

24 A. Yes.

25 Q. And that attorney's name was Ms. Hawkins Taylor,

1 right?

2 A. Yes.

3 Q. And Ms. Hawkins Taylor was there to represent you;
4 right?

5 A. Yes.

6 Q. That was your attorney to protect the interests of
7 Anthony Young; right?

8 A. Yes.

9 Q. And isn't it a fact that you never told Ms. Hawkins at
10 any time during any of the meetings that you did the
11 shooting? Right?

12 A. No, I didn't tell her.

13 Q. And Ms. Hawkins was your attorney, not the attorney of
14 the Government or the prosecutors. She was the attorney of
15 Anthony Young, to represent and protect Anthony Young;
16 right?

17 A. Yes.

18 Q. And you had private sessions with her; right?

19 A. A couple, yes.

20 Q. A couple. A couple meaning how many in Anthony
21 Young's mind, Anthony Young's vocabulary?

22 A. Well, maybe three, four meetings with her.

23 Q. Three or four meetings. And then another, anywhere
24 from five to 10 meetings with the prosecutors; right?

25 A. Well, every time that I sat with them, she was there.

1 That's what I'm saying.

2 Q. So you had three to four private meetings with her
3 where she came to the jail that you were in; right?

4 A. No. No, she talked to me before the Government
5 entered the room.

6 Q. Did you have any meetings with her when you were
7 confined?

8 A. I don't remember her coming over to the jail, no.

9 Q. Did you have any telephone conferences with her?

10 A. No, sir.

11 Q. So she meets with you privately; right?

12 A. Yes, before the Government come in the room, yes.

13 Q. And then she tells you and you tell her -- she tells
14 you, excuse me, that, I need you to tell me what happened;
15 right?

16 A. No, she didn't.

17 Q. She never told you as your attorney to let me know
18 what's going on.

19 A. I said no, sir.

20 Q. And you continued to even lie to your attorney; right?

21 A. She never asked me to tell her what's going on. She
22 just said she was there to sit with me, and whatever I say,
23 she want to hear it and make sure everything's all right
24 with me. That's it.

25 Q. And then while you're there with her, you're lying to

1 both her, who's sitting there, and you're lying to the
2 prosecutors; correct?

3 A. Yes, sir.

4 Q. And you're lying to the Federal agents; correct?

5 A. Yes, sir.

6 Q. And she's there during that time to protect your
7 interests; right?

8 A. Yes, sir.

9 Q. And you're thinking about at that time getting into
10 programs, correct, like witness protection?

11 A. What, like that time? No.

12 Q. You're thinking about the benefits to Anthony Young,
13 like his .45 caliber gun case as a career criminal, right?

14 A. Again, I said I wasn't thinking about that, no.

15 Q. So you weren't thinking at all about your gun case.
16 That never even entered into the mind of Anthony Young.

17 A. You asked me was I thinking about getting into the
18 Witness Protection Program. I said no.

19 Q. What about the gun case that you were facing State
20 Prison at that time?

21 A. Yes.

22 Q. And that's important to you, right, not going back to
23 prison?

24 A. Yes.

25 Q. Now, when Ms. Hawkins Taylor is sitting in with you,

1 does Ms. Hawkins Taylor ever tell you in the presence of
2 Agent Manson and the Government prosecutors to tell the
3 truth?

4 A. I don't remember her saying that.

5 Q. As a matter of fact, you testified that she never told
6 you to tell the truth; is that what you said?

7 A. Exactly. I said I don't remember her saying that.

8 Q. And if she had told you to tell the truth, of course,
9 you would have followed your lawyer's advice; right?

10 THE COURT: I'll allow that. Go ahead.

11 A. If she gave me the right advice, yes.

12 Q. If she had told you to tell the truth, you would have
13 followed her advice; correct?

14 A. Maybe, yes.

15 Q. Well, you swore to this jury that you testified to in
16 April of 2007 that if a lawyer gives you advice, you follow
17 it. Isn't that what you swore to that jury?

18 A. Yes, sir, and I just said that again.

19 Q. And if a lawyer had told you to tell the truth, like
20 Ms. Hawkins Taylor, then you would have told the truth and
21 followed it; right?

22 A. Most likely, yes.

23 Q. Now, how long did Ms. Hawkins Taylor represent you?

24 A. Maybe nine, 10 months, something, 11 months. I don't
25 -- I don't know exactly how long. I know I got a new

1 attorney after her, after about nine, maybe 10 months.

2 Q. After over a year; isn't that a fact, Mr. Young?

3 A. You telling me now? I said nine -- that's what I
4 remember, nine and 10 months.

5 Q. So during the nine and 10 months when Mr. Feinberg is
6 representing you and Ms. Hawkins is representing you, no
7 attorney has ever told you the truth, and you continued to
8 lie to the agents; correct?

9 A. Could you reask that question?

10 Q. During the times that Mr. Feinberg advised you and
11 during the times that Ms. Hawkins was your representative
12 and as your attorney, during all these time periods and all
13 these meetings with the prosecutors, you continued to lie;
14 correct?

15 A. Mr. Feinberg never represented me. Again, he never
16 represented me.

17 Q. During the period of time that you had consulted with
18 Mr. Feinberg.

19 A. The one day?

20 Q. The one day --

21 A. Yes.

22 Q. -- where you're absolutely positive and sure he never
23 told you to tell the truth, but only not to implicate
24 yourself; right?

25 A. He just said don't implicate yourself. That's it.

1 Q. Now, the reason that you're telling lies to the
2 Government is because of Feinberg's advice that's stuck in
3 your head, right, the Feinberg that's not representing you,
4 to not implicate yourself; right?

5 A. Yes.

6 Q. And even though you have a new attorney there, do you
7 ever say to your new attorney, Ms. Hawkins Taylor, should I
8 implicate myself and tell the truth?

9 A. No.

10 Q. You continued to lie to both her, the prosecutors, and
11 to the Government agents; correct?

12 A. Yes, sir.

13 Q. And even though you're lying, they're bringing you
14 back time after time; correct?

15 A. Yes.

16 Q. And you're asking and calling them to come back to
17 additional and more proffer sessions; right?

18 A. No, sir.

19 Q. You don't call the Government and say that you want to
20 continue to meet with them, I got more information for you,
21 call me back?

22 A. I told them one time I had information. That was it.

23 Q. One time.

24 A. Yes.

25 Q. And when was that?

1 A. When, like I told you, I laid down that night and I
2 thought about that Malsey was left-handed also, and that was
3 a better plan to set my attack against him. That was the
4 only time I called.

5 Q. But you're in jail at this time; right?

6 A. Exactly, and I thought I was getting out of jail.

7 Q. You're in jail, so Malsey can't get to you; right?

8 A. No, not in jail.

9 Q. And Baskerville can't get to you; right?

10 A. No.

11 Q. So you're protected; right, Mr. Young?

12 A. Yes.

13 Q. So you don't need to lie about Malsey at that
14 particular time; right?

15 A. No, not at that particular time.

16 Q. And if you get out, you could always move away to
17 another area. You have family down in Cincinnati; right?

18 A. Yes, sir.

19 Q. And you have family down south in the Carolinas;
20 right?

21 A. Yes.

22 Q. And at that time, William Baskerville and Hakeem Curry
23 are incarcerated; right?

24 A. Yes, them two, yes.

25 Q. But you continue anyway, you continue to lie to the

1 agents, you continue to lied to your attorney, and you
2 continue to lie to anybody that's asking you questions;
3 right?

4 A. Again, yes.

5 Q. Now, isn't it a fact that you met up to 10 times with
6 the prosecutors before you had Mr. Fusella as your attorney?
7 Up to 10 times?

8 A. Again, it could be up to 10, it could be -- it could
9 be less than 10, sir. I don't exactly remember.

10 Q. And you're telling me that Jamal McNeil Malsey is the
11 shooter and the killer of Kemo; right?

12 A. Yes, sir.

13 Q. And there comes a point in time when you told them the
14 shooter was left-handed; right?

15 A. Yes, sir.

16 Q. Because as you're lying in bed, you're thinking about
17 the shooting; right?

18 A. Yes, I'm thinking about my attack on Malsey, yes.

19 Q. You're thinking about your attack on Malsey, although
20 you're in jail and protected and comfortable; right?

21 A. Trying to go home.

22 Q. You're trying to go home, you're trying to gain your
23 freedom, right?

24 A. At that time, yes.

25 Q. And you'll tell the prosecutors and the agents and

1 your lawyers and anybody that you have to anything in order
2 to gain your freedom, right? That's what you're thinking at
3 that time; right?

4 A. I wouldn't say anything. But anything about Jamal
5 McNeil, right.

6 Q. And Jamal Baskerville; right?

7 A. And Mr. Baskerville, right. He threatened my life.

8 Q. And you're scheming in your mind as to how best and
9 the fastest way to get your freedom; right?

10 A. At that time, yes.

11 Q. And as a matter of fact, did the F.B.I. make any
12 representations to you about your freedom?

13 A. No.

14 Q. You're sure about that.

15 A. They didn't say nothing about my freedom, no.

16 Q. Did Agent Manson ever promise you that you're going
17 home?

18 A. No, she didn't promise me I was going home.

19 Q. Do you ever remember being asked that question under
20 oath?

21 A. No, I don't remember.

22 Q. Do you remember testifying in 2007 to that specific
23 subject matter?

24 A. Maybe to that matter, but like I said, I don't
25 remember, sir.

1 Q. Do you have the transcript in front of you --

2 A. Yes, sir.

3 Q. -- of April 17?

4 A. Yes.

5 Q. Turn to page 4681, please.

6 I ask you to look at and review lines two through
7 15. Start at line two.

8 A. Yes.

9 Q. Did that refresh your memory as to the promises that
10 were made to you by Agent Manson?

11 A. Yes, early on.

12 Q. Does that refresh your recollection, sir, as to the
13 promises made to you by Agent Manson?

14 A. Yes, sir. Yes, sir.

15 Q. And Agent Manson promised you your freedom and to go
16 home; correct?

17 A. Yes, when I first got locked up on a gun charge, yes.

18 Q. Now, that's not a fact that you're going to forget,
19 Mr. Young; correct?

20 A. Well, sure. I could forget that.

21 Q. Because that's the sole reason that you're saying
22 these things when you talk to the F.B.I.: To gain your
23 freedom, to go home; right? You want to go home. You want
24 the streets; right?

25 A. At that time, yes.

1 Q. So when I asked you this question -- let me strike
2 that.

3 During this pretrial preparation session for your
4 testimony in this Court, did Mr. Minish or Ms. Manson tell
5 you to forget about that promise stuff?

6 A. No, not at all.

7 Q. Well, then, how did you forget about it when I asked
8 you the question? Why did I have to refresh your memory?

9 A. Because I didn't remember it, sir. That's why.

10 Q. As a matter of fact, she promised you the benefit of
11 your freedom and going home; correct?

12 A. Yes, for the gun charge.

13 Q. If you told her what she wanted to hear; correct?

14 A. Not what she wanted to hear. It was just, I was
15 telling her what I wanted her to know.

16 Q. And when you didn't get your freedom, you thought that
17 she was not being straight with you; right?

18 A. Yes.

19 Q. And you thought that she had made misrepresentations
20 and lied to you; right?

21 A. That time, yes.

22 Q. And that angered you; right?

23 A. Yes, I was mad that I wasn't home at the time, yes.

24 Q. And that upset you because you believed that the
25 F.B.I. had lied to you, made you promises that they didn't

1 keep; right?

2 A. I wouldn't say promises, but that promise, yes.

3 Q. That promise of your freedom; right?

4 A. Yes.

5 Q. Now, Malsey, Jamal McNeil, according to you did not
6 shoot Kemo; correct?

7 A. Yes.

8 Q. And you were telling the F.B.I. for over a year that
9 you, Anthony Young, saw with your own eyes Malsey walk up to
10 this witness Kemo and shoot him multiple times in the back
11 of his head, causing his death; correct?

12 A. Yes.

13 Q. And you wanted Malsey arrested; isn't that a fact?

14 A. Yes, sir.

15 Q. And you wanted Malsey charged with the first-degree
16 murder of Kemo Deshawn McCray; didn't you?

17 A. Yes, sir.

18 Q. And you, as a matter of fact, even looked at
19 photographs, and you positively identified the photograph of
20 Jamal McNeil, also known as Malsey; right?

21 A. Yes, sir.

22 Q. And you put your signature on that photograph saying
23 and swearing to the F.B.I. that this is the man that shot
24 and killed Kemo McCray, I saw him with my own eyes; right?

25 A. Yes, sir.

1 Q. And you were willing to cooperate; correct?

2 A. Yes, sir.

3 Q. And you were willing to testify against them; correct?

4 A. Yes, sir.

5 Q. And you were willing to watch Malsey get convicted, an
6 innocent man who didn't kill Kemo Deshawn McCray of first
7 degree murder. Isn't that a fact, Mr. Young?

8 A. Yes, sir.

9 Q. And you were willing to watch Malsey potentially face
10 the rest of his life in jail; correct?

11 A. Yes, sir.

12 Q. And possibly even being put to death; right?

13 A. Yes, sir. I wasn't -- not death, but life in prison,
14 yes.

15 Q. Or death. You knew that at that time, you knew -- and
16 don't tell us otherwise -- you knew that that carried with
17 it the death penalty, or the least, life in prison, in fact;
18 correct?

19 A. At that time, no.

20 Q. But you learned about it, right?

21 A. Years later, yes.

22 Q. Years later. But you knew that he was facing life
23 wherein he would never, ever, ever be free; correct?

24 A. Yes.

25 Q. He would die his natural life in Federal prison;

1 correct?

2 A. Yes.

3 Q. And you were willing to take that witness stand, put
4 your hand on the bible and swear under oath in a courtroom
5 like this with the American flag and say, I saw that man
6 commit a murder he did not do.

7 A. Yes.

8 Q. And you were willing to see that man's life being
9 taken completely away from him; right?

10 A. Yes. He was my enemy.

11 MR. BERGRIN: Your Honor, could we take a break,
12 please, for a couple minutes?

13 THE COURT: All right. We'll take a 15-minute
14 break, ladies and gentlemen, and then we'll come back and
15 sit through the afternoon. Okay.

16 So we'll see you back here at 2:30.

17 Please don't discuss anything about the case.

18 THE COURT CLERK: Please rise for the jury.

19 (The jury exits)

20 THE COURT: All right, everyone. Be seated.

21 We'll be back promptly at 2:30.

22 Marshals, if you could make sure that he's here at
23 2:30.

24 We're going to go from 2:30 right until 4:15 or
25 so. We'll see. We'll see how our Court Reporter's going.

1 Okay?

2 (Recess taken)

3 (Defendant present)

4 (Jury out)

5 THE COURT: Remain seated.

6 Mr. Lustberg, I understand you have a matter you
7 want to discuss with me.

8 MR. LUSTBERG: Not specifically. We can do
9 this --

10 THE COURT: Use the microphone, please.

11 MR. LUSTBERG: We don't have it up here so it
12 doesn't help.

13 THE COURT: You don't have a microphone?

14 MR. LUSTBERG: No, because it picks up our
15 communications.

16 THE COURT: Oh.

17 MR. LUSTBERG: Judge, at the conclusion of
18 Mr. Bergrin's cross-examination, we're going to play either
19 two or three excerpts of the tape-recorded conversation
20 between Mr. Young and Hassan Miller about which you heard
21 yesterday.

22 THE COURT: The jail?

23 MR. LUSTBERG: Correct.

24 THE COURT: The body tapes or --

25 MR. LUSTBERG: Yes.

1 All right. By the way, we got a phone call from
2 Mr. Barry. He's the reporter's lawyer.

3 MR. GAY: Mr. Barry, I believe that is, Your
4 Honor. Parry is the reporter. Barry is the lawyer. Yes.

5 THE COURT: And I just turned it over to you.
6 It's their witness, so --

7 MR. GAY: Judge, I am going to be speaking to
8 Mr. Barry this evening after court. It's really just more
9 of a -- I'm going to let him know the timing of when I
10 believe his client will be testifying.

11 THE COURT: Okay.

12 MR. GAY: And I think he has only very brief
13 matters that he wants to just assure himself and his client
14 about the way things are going to proceed.

15 THE COURT: Okay.

16 MR. GAY: That's my understanding.

17 THE COURT: That's what I figured. Okay. All
18 right. Then he might need a few minutes before his client
19 takes the stand. Okay.

20 MR. GAY: Perhaps.

21 THE COURT: All right.

22 THE COURT CLERK: Bring in the witness?

23 THE COURT: Yes.

24 MR. BERGRIN: Judge, may I go to the podium.

25 THE COURT: You can go to the podium.

1 (The witness resumed the stand.)

2 THE COURT CLERK: Please rise for the jury.

3 (The jury enters)

4 THE COURT: All right. Everyone, please be
5 seated.

6 All right. Mr. Bergrin.

7 MR. BERGRIN: Thank you, sir. Thank you very
8 much.

9 BY MR. BERGRIN:

10 Q. Mr. Young, there came a point in time after a year of
11 contact with the F.B.I. which began in January of 2005 that
12 you went to a proffer session at the office of the
13 United States Attorney in Newark, New Jersey with your
14 attorney, Melissa Hawkins Taylor, and you told them that you
15 didn't see anything; correct?

16 A. Yes.

17 Q. And that was essentially the second version that you
18 gave; correct?

19 A. Excuse me. That was with Mr. Fusella.

20 Q. That was with Mr. Fusella. I'm so sorry. With
21 Mr. Gerald Fusella, your attorney; correct?

22 A. Yes, sir.

23 Q. Now, that is the third attorney that had involvement
24 with this case; right?

25 A. No, the second attorney had involvement with the case.

1 Q. Well, Mr. Feinberg you consulted initially; correct?

2 A. Yes.

3 Q. So we'll call him attorney one, Melissa Hawkins Taylor
4 we'll call attorney number two, and now Gerald Fusella
5 attorney number three; correct?

6 A. Yes, sir.

7 Q. And why did you tell them after up to 10 proffer
8 sessions, after over a year of being taken back and forth to
9 the United States Attorney's Office with the F.B.I. and the
10 Government, why did you tell them at that particular time
11 that you didn't see anything and you didn't hear anything?

12 A. Because I now have learned from being in Hudson County
13 Jail on the Federal side that no matter what, if I was there
14 or not, I wasn't going home. If I was there, even if I
15 wasn't the shooter or not, I wasn't going home.

16 Q. And you were angry at Manson, Agent Manson and the
17 F.B.I. because you believed that they had made you
18 representations which they didn't keep; correct?

19 A. Yes, about the firearm.

20 Q. About you going home.

21 A. Yes.

22 Q. About your freedom; correct?

23 A. Yes, sir.

24 Q. In exchange for the information you gave; right?

25 A. Yes, sir.

1 Q. Now, you had no knowledge at that time that a
2 photograph of Jamal McNeil had been shown to Mr. Johnnie
3 Davis; correct?

4 A. No.

5 Q. Did they ever tell you that Johnnie Davis did not
6 identify Mr. McNeil as the shooter?

7 A. No.

8 Q. So you go back to the F.B.I., you go back to the
9 Government, and they are continually bringing you to the
10 U. S. Attorney's Office, correct, to be questioned; right?

11 A. You mean after -- after I received Mr. Fusella?

12 Q. Up -- yes, even up to the time that you had
13 Mr. Fusella, your third attorney.

14 A. The second time with Mr. Fusella, he told me I need to
15 sit down, tell the truth, or get out of it and don't say
16 nothing, no cooperation. He said if you're not going to
17 tell -- because I told him what happened. He said, if
18 you're not going to tell the truth, get out of it, leave it
19 alone, don't say nothing, and he'll handle it from here.

20 And from that day on, I decided to tell the truth.

21 Q. Now, you had been there up to 10 sessions where you
22 completely lied, according to you; right?

23 A. Yes, sir.

24 Q. Then you went back after eight to 10 sessions and you
25 lied again and told them, according to you, that you hadn't

1 been there and you hadn't seen anything; correct?

2 A. Yes, sir.

3 Q. And then you gave them the third version of what you
4 told us today; correct?

5 A. Everything that I have told during this trial, yes.

6 Q. Now, isn't it a fact, sir, that you had been talking
7 to your family and your loved ones about witness protection?

8 A. Well, I have talked to my sister and my father about
9 it, yes.

10 Q. And is that the only ones you talked to?

11 A. The only family members?

12 Q. Only family members.

13 A. Yes, my sister, my father is basically the ones that
14 was -- and it -- you know, with me. I asked their advice,
15 talked to them about it, and yes.

16 Q. What about any of your loved ones?

17 A. My loved ones?

18 Q. Yes.

19 A. Meaning? Other family members?

20 Q. Meaning Rasheeda Tarver. Did you talk to Rasheeda
21 Tarver about going into witness protection with you?

22 A. That was before I even got locked up, sir.

23 Q. Before you got locked up?

24 A. Yeah. I had no conversation with her the whole time I
25 been incarcerated this seven years.

1 Q. So you're telling us on the witness stand under oath
2 that you never spoke to Rasheeda Tarver about going into
3 witness protection with you.

4 A. In the seven years that I have been incarcerated, no.

5 Q. Are you telling us that you never spoke to Rasheeda
6 Tarver about leaving with you and bringing her mother with
7 her and going into witness protection?

8 A. That's untrue, sir.

9 Q. You're telling us under oath that you never told
10 Rasheeda Tarver that not only are you going to get a house,
11 but you're going to get money; correct?

12 A. I didn't tell her that, sir. I told her that I was
13 moving to Charlotte. That was it.

14 Q. What about Hassan Miller?

15 A. Yes.

16 Q. Did you tell Hassan Miller that you were getting
17 witness protection?

18 A. Yeah, after about a year and some change I told him
19 once I start telling the truth, I said, I'm trying to go to
20 the Witness Protection Program, yes.

21 Q. Isn't it a fact that you told him in August of 2005,
22 not after a year, in August of 2005, your first meeting was
23 in January, not over a year, isn't it a fact that in August
24 of 2005, you began to tell Hassan Miller that you're getting
25 witness protection?

1 A. There's a possibility I may have. I may have. I'm
2 not sure, sir, but I may have.

3 Q. Then why did you just tell this jury that after a
4 year, you began to talk to him?

5 A. 'Cause that's what I remember. After a year, I'm
6 definitely -- I definitely told him after a year and some
7 change. But like I said, I may have told him before then.

8 Q. And you told him that you're getting a house; correct?

9 A. No, I didn't tell him I'm getting a house.

10 Q. You told him that you're getting money; right?

11 A. No, sir.

12 Q. And you told him that you're definitely not doing any
13 jail time, and that's exactly what you told Rasheeda Tarver;
14 right?

15 A. No, I -- again, I couldn't have told Ms. Tarver that,
16 and I haven't spoke to Ms. Tarver in seven years that I been
17 locked up, sir.

18 Q. You got locked up in January of 2005; right?

19 A. No, sir. February 1st.

20 Q. February 1st. Excuse me. February 1st. Are you
21 telling us that you had no conversations with Rasheeda
22 Tarver from February 1st of 2005?

23 A. Till today.

24 Q. Till today.

25 A. Yes, sir.

1 Q. And even after you -- did you ever tell Rasheeda
2 Tarver about the homicide of Kemo?

3 A. I probably did. I don't remember, but like I said, I
4 talked to her about a lot of stuff.

5 Q. Did you ever tell Rasheeda Tarver that you did the
6 homicide of Kemo McCray?

7 A. If I talked to her about it, I probably did.

8 Q. Did you ever tell Rasheeda Tarver that Jamal McNeil
9 did the homicide of Kemo McCray?

10 A. No, I don't remember telling her that.

11 Q. Did you ever tell Rasheeda Tarver that Hakeem Curry
12 shot Kemo McCray?

13 A. No, I definitely didn't tell her that.

14 Q. Now, when you made a decision to plead guilty in this
15 case, isn't it a fact that you still expected witness
16 protection?

17 A. Yes, when I pled guilty, yes.

18 Q. And you expected to do no jail time; isn't that a
19 fact?

20 A. Well, that was out the window, sir. I already knew I
21 was doing time after that. I pled guilty to life in prison.

22 Q. Isn't it a fact, sir, even though you pled guilty,
23 with your cooperation, you expected to do no jail time,
24 Mr. Young?

25 A. That's untrue. I copped out to life in prison. How

1 am I expect not to do jail time? That's untrue.

2 Q. You copped out to life in prison, but you didn't get
3 life in prison; right?

4 A. I got 30 years. That's a lot of time.

5 Q. And now you're expecting a reduction from the 30
6 years; isn't that a fact, Mr. Young?

7 A. And I'm pretty sure I'll still be doing a lot of time.
8 Yes.

9 Q. Isn't it a fact that you expect a substantial
10 reduction, Mr. Young?

11 A. Well, I don't know what to expect. If it's not true,
12 all I can say is, I expect a reduction. Whatever Your Honor
13 can give me, that's all I can take.

14 Q. And it's up to the sole discretion of the Judge, right
15 -- excuse me. Your getting a reduction in sentence, the
16 prosecution in their sole discretion makes a determination
17 whether to write a letter to the judge; right?

18 A. Yes, it is determined to them to write the letter,
19 yes.

20 Q. And if they don't write the letter, you get no
21 reduction; right?

22 A. Exactly.

23 Q. Now, you're a good liar; right?

24 A. Again, when I need to be, I can.

25 Q. You're especially a good liar when you need to be;

1 right?

2 A. I don't know if it's good, Mr. Bergrin. I got caught
3 twice trying to lie.

4 Q. Now, in this particular case, you testified in
5 reference to going back to the scene, correct, Mr. Curry
6 going back to the scene.

7 A. Mr. Curry, or myself?

8 Q. Mr. Curry.

9 A. Yes, I testified to him going back to the scene, yes.

10 Q. And as a matter of fact, when the F.B.I. talked to
11 you, you testified that you had gone back to the scene;
12 right?

13 A. That's when I was being untrue, yes.

14 Q. And did you ever tell anybody else besides the F.B.I.
15 and besides the Government that you were at the scene as a
16 spectator?

17 A. No.

18 Q. And you're about as sure about that as you are of your
19 testimony in this case; right?

20 A. And if I told somebody that, I was -- I was hiding the
21 fact that I wasn't being truthful at the time.

22 Q. So you hide the fact that you're not being truthful to
23 Government agents; correct?

24 A. Yes.

25 Q. Correct?

1 A. Yes.

2 Q. To prosecutors?

3 A. When I was being untruthful, yes.

4 Q. To your lawyers?

5 A. Yes.

6 Q. To your friends; correct?

7 A. When I was being untrue, yes.

8 Q. To your loved ones; right?

9 A. No, not to my loved ones.

10 Q. Even to your fiancée; right?

11 A. No.

12 Q. Now, you testified that Curry was parked at the time
13 of the homicide on South Orange Avenue above 20th Street;
14 right?

15 A. Yes.

16 Q. So he was approximately two and a half blocks away
17 from where the homicide occurred; right?

18 A. Yes.

19 Q. And in order for Mr. Curry to go back to the scene, he
20 would have to make a U-turn with his van, correct, or get
21 out of the van and walk down there, right?

22 A. No, he was facing towards us, so he could just drive
23 down.

24 Q. He could drive down.

25 A. Yes, sir.

1 Q. And isn't it a fact that according to you, at the time
2 that he drove down, the police were already there?

3 A. I never said that, sir.

4 Q. You never said that.

5 A. No, I said he -- him and Malsey told me it was a
6 corrections officer out there. I never said the police was
7 there, no, sir.

8 Q. There was a law enforcement officer out there; right?

9 A. You said the police, sir.

10 Q. Isn't a correction officer a police officer?

11 A. Well, I -- I never heard of that, but I know they're
12 correction officer for state prison and jail.

13 Q. And you said that they got out of the van and they
14 walked up to the body; right?

15 A. That's what they told me.

16 Q. And that's with a police officer at the scene; right?

17 A. You keep saying police officer. I'm saying
18 correction --

19 Q. A correction officer.

20 A. Yes, sir.

21 Q. But you have told people that there was a police
22 officer at the scene, correct, including a law enforcement
23 officer at the time that Mr. Curry got out --

24 A. No, sir.

25 Q. -- and according to you looked at the body; right?

1 A. Untrue.

2 Q. So if that appeared in a report, that would be false
3 also; right?

4 A. They may have put a police officer. I still say the
5 two guys told me a correction officer told everybody to back
6 up. That was it.

7 Q. Now, you never informed me and nobody informed me
8 about the Kemo homicide; correct?

9 A. Well, somebody made a statement to inform you, and
10 Rakim said don't --

11 Q. And Rakim said -- excuse me. Rakim says don't tell
12 him nothing; right?

13 A. He said don't tell him shit, let him find out on his
14 own.

15 Q. And that was in front of all of you guys; right?

16 A. The ones that just was involved with the murder, yes,
17 the four of us that was in the van.

18 Q. Have you ever used the words, Tell them what they want
19 to hear and who they want to hear about?

20 A. Yes.

21 Q. And you used that over at the Hudson County Jail when
22 you were advising other people about cooperation; right?

23 A. Yes.

24 Q. Now, I asked you questions before about Ra-Ra, Horatio
25 Joines; correct?

1 A. Ray-Ray.

2 Q. Ray-Ray, I'm sorry. Excuse me. Ray-Ray, Horatio
3 Joines. Correct?

4 A. Yes.

5 Q. And it was your testimony that Horatio Joines was
6 outside and on South Orange Avenue and 19th Street shortly
7 before the shooting of Kemo McCray. Is that your testimony
8 under oath?

9 A. Yes, sir.

10 Q. And when was the first time you told anybody about
11 that?

12 A. The first time I told them? Maybe at a proffer
13 session or something. I don't remember exactly the first
14 time I told them, but I told them plenty of times.

15 Q. Well, you didn't tell them that on January the 14th
16 when you spoke to the first agent that you contacted,
17 correct, at the F.B.I.?

18 A. Well, I barely told him anything. I just talked to
19 him for a couple minutes.

20 Q. And you didn't tell Agent Manson about that which he
21 interviewed you on January 14th; right?

22 A. Maybe not.

23 Q. Maybe not? You looked at the statement multiple
24 times. Isn't it a fact that you never told that to
25 Agent Manson on January the 14th?

1 A. Again, I don't write the -- what you say is a
2 statement, or report, I don't write that. I don't remember
3 telling her. Maybe I did.

4 Q. On January the 18th, when you had a face-to-face with
5 Agent Manson, isn't it the fact that you never told her or
6 Federal agents that interviewed you on January the 18th at
7 the Federal Bureau of Investigation about Horatio Joines?

8 A. I think so.

9 MR. BERGRIN: Your Honor, may I approach with
10 J-02935, 6 and 7?

11 THE COURT: Yes, you may. What number is that?

12 MR. BERGRIN: It's January the 18th statement.

13 Q. Is it contained within that statement, Mr. Young?

14 A. No, sir.

15 Q. Is there anything about Horatio Joines contained
16 within that statement?

17 A. Again, I don't write it. No, sir, it's not in it.

18 Q. Now, in 2007, you testified; correct?

19 A. Yes.

20 Q. And you went through a detail by detail of everything
21 that you remembered at the time of this incident; correct?

22 A. That I was remembering, yes.

23 Q. And isn't the fact that in 2007, you never mentioned
24 Horatio Joines, Ray-Ray, being out on the scene and
25 identifying Kemo for you individuals?

1 A. I don't remember if I explained it with him. I don't
2 remember. But I -- maybe, maybe not.

3 Q. Now, you contacted the F.B.I. in June of 2006, and you
4 gave them information about Horatio Joines, Ray-Ray;
5 correct? Do you remember doing that?

6 A. No, I don't remember.

7 Q. Do you remember telling the F.B.I. that Ray-Ray,
8 Horatio Joines, identified Kemo to you and Rakim?

9 A. You saying I called the F.B.I. and told them that?

10 Q. That's correct, or went to a meeting, but you
11 contacted them.

12 A. Maybe at a proffer session, in a meeting, but I didn't
13 call them.

14 Q. Now, you had known Kemo since he's 12 years old;
15 right?

16 You can answer the question. You don't have to
17 add, subtract.

18 A. There you go.

19 I know who he was.

20 Q. Oh, now you're telling us you knew who he was.

21 A. Yes.

22 Q. You knew what Kemo looked like; correct?

23 A. Yeah, I knew who he was, yes.

24 Q. And Kemo knew who you were; correct?

25 A. Yes.

- 1 Q. And Rakim knew Kemo; correct?
- 2 A. Rakim just met Kemo in maybe 2003.
- 3 Q. Well, didn't Rakim Baskerville do time with Kemo also?
- 4 A. Never.
- 5 Q. Never?
- 6 A. Never.
- 7 Q. And you're positive about that; right?
- 8 A. From -- unless they was in Yardville together. But as
- 9 a juvenile with myself? Never.
- 10 Q. What about as an adult?
- 11 A. Maybe as an adult, because Rakim was in Yardville
- 12 before. If they was, I don't know nothing about it.
- 13 Q. What about at Leesburg State Prison?
- 14 A. Leesburg? Rakim ain't never been in Leesburg.
- 15 Q. So if agents were to testify that Rakim served time
- 16 with Kemo, that would be false?
- 17 A. You just said Leesburg.
- 18 Q. State PRISON.
- 19 A. Oh.
- 20 Q. Any state prison.
- 21 A. If they was in Yardville, New Jersey together, I don't
- 22 know. Rakim was in Yardville, I wasn't there.
- 23 Q. Rakim knew Kemo and knew what Kemo looked like,
- 24 correct, on March the 2nd of 2004.
- 25 A. Yes, he knew what he looked like.

1 Q. So you guys didn't need -- you and Rakim didn't need
2 Horatio Joines, Ray-Ray, to identify anybody for you; right?

3 A. Well, no, not identify him. It was the whole thing of
4 making sure that was him in the house, that's it.

5 Q. Making sure that that was him in the house?

6 A. Yes, sir.

7 Q. But you were seven houses away and you could see Kemo
8 coming out like you said and testified, throwing out
9 garbage; right?

10 A. Seven to 10 houses. That's why we told him to get the
11 fuck out of here.

12 Q. So you didn't need Horatio Joines for that; right?

13 A. We didn't need him. We didn't tell him to come.

14 Q. So you're telling us that Horatio Joines showed up on
15 South Orange Avenue and the scene of the homicide out of the
16 clear blue sky?

17 A. Jamal Baskerville told him we was around there waiting
18 for the kids and he came around there hisself. Will was his
19 man.

20 Q. Then why'd you tell the F.B.I. that Horatio Joines was
21 out there to identify Kemo?

22 A. I said he came out there and identified him. That's
23 what I said.

24 Q. But you didn't need Horatio Joines.

25 A. We didn't ask him to come out there, Mr. Bergrin.

1 Q. But he identified him anyway for you guys; right?

2 A. That's right. He said that's him. Rakim and them
3 told him, Get the fuck out of here, we don't need you.

4 THE WITNESS: Excuse my language, Your Honor.

5 Q. So, essentially, Horatio Joines had nothing to do with
6 this case; correct?

7 A. All he had to do with it is what I told you. That's
8 it.

9 Q. That's it, right?

10 A. That's it.

11 Q. When you pled guilty before Judge Pisano in January of
12 2007, did you tell Judge Pisano that you entered into a
13 conspiracy to murder Kemo with Horatio Joines?

14 A. Yes, if he identified him as part of a conspiracy.
15 Isn't that true?

16 Q. Did you also tell Judge Pisano that Horatio Joines was
17 involved in the murder of Kemo?

18 A. He identified him.

19 Q. Did you ever enter into an illegal agreement with
20 Horatio Joines to retaliate and kill Kemo?

21 A. An illegal agreement?

22 Q. Yes, an illegal agreement with Horatio Joines to
23 retaliate and kill Kemo.

24 A. Well, he helped -- he was with us to make sure, you
25 know, that his man was gonna get out of jail.

1 Q. You said that you knew who Kemo was. We went through
2 this litany of questions; correct?

3 A. Yes, sir.

4 Q. And you knew Kemo since, again, the last 25 years as
5 of March the 2nd; right?

6 A. I met him when I was about, again, like 12 years old.

7 Q. Twelve years old. So Horatio Joines didn't identify
8 anybody for you because you knew who Kemo was; right?

9 A. You keep saying did he identify. Yes, he identified
10 him.

11 Q. And you're telling us that Horatio Joines was out
12 there on March 2nd, 2004 and identified him.

13 A. Yes.

14 Q. But you make no mention of it in any statements, any
15 proffer sessions except -- and no testimony on April of 2007
16 of Horatio Joines doing anything; correct?

17 A. I just told you five minutes ago I said it plenty of
18 times in proffer sessions, plenty.

19 Q. But it appears in none of your important statements;
20 right?

21 A. They ain't my statements, sir. They ain't mine.
22 That's somebody the F.B.I. typed up.

23 Q. And it appears nowhere in April 2007; right?

24 A. Well, from what I read, no.

25 Q. You spoke to the F.B.I., you spoke to your friend

1 Hassan Miller; correct?

2 A. Yes.

3 Q. And when you spoke to Hassan Miller, isn't it a fact
4 that you made representations to him about me and my family?

5 A. We all talked about that. I'm pretty sure I did.

6 Q. You made statements to the effect of the fact that
7 Hakeem Curry paid for my daughter's college; correct?

8 A. Well, I told him I heard that before.

9 Q. And you said that Hakeem Curry had a relationship with
10 my daughter; right?

11 A. I said I heard that before, yes.

12 Q. No, you didn't say you heard it. You said that it was
13 a fact that you knew. Isn't it a fact that you told that to
14 Agent Manson of the F.B.I.?

15 A. No, I didn't tell her that that was a fact. That's
16 not true.

17 MR. BERGRIN: May I approach, Your Honor, with
18 J-03143?

19 THE COURT: What's the number?

20 MR. BERGRIN: 03143.

21 Q. I ask you to look at the fifth paragraph down.

22 A. I'm reading.

23 Q. You told Agent Manson, isn't that a fact --

24 THE COURT: Wait. Wait, Mr. Bergrin.

25 MR. BERGRIN: I'm sorry, Judge.

1 THE COURT: I don't think I have that.

2 MR. BERGRIN: It's March 22nd, 2006, Judge.

3 THE COURT: Okay. I'm sorry. Go ahead.

4 Q. You told Agent Manson in paragraph five that Hakeem
5 Curry had a relationship with my daughter. You didn't say
6 you heard; you didn't say you found out; you didn't say you
7 believe, you didn't say you think. That's what you told the
8 agent; correct?

9 A. No, sir. I told her that's what I heard.

10 Q. What does that statement say, Mr. Young?

11 A. It just say Hakeem helped pay for Bergrin's daughter's
12 college education. Curry and Bergrin's daughter had an
13 ongoing sexual relationship. That's all it say.

14 Q. And you had no knowledge of that whatsoever; isn't
15 that a fact?

16 A. I'll say it again: All I heard him say, that he
17 messed with your daughter. That's it.

18 Q. But you made it appear to the agent that you had
19 personal knowledge of that, isn't that a fact, from that
20 passage in that statement?

21 A. That's not true, sir.

22 Q. You know nothing about my family and you know nothing
23 about my daughter, and you have never seen Hakeem Curry ever
24 under any circumstances with me and my family.

25 A. I never said that, Mr. Bergrin.

1 Q. But you made it appear to the agents that --

2 THE COURT: All right, Mr. Bergrin. You covered
3 the area.

4 Q. You also told the agents that Hakeem Curry bought me a
5 Corvette automobile; correct?

6 A. I said I heard he helped you pay for one of your cars
7 for a case.

8 Q. No. You said that Hakeem Curry bought me a Corvette.
9 Isn't that what you said?

10 A. Again, I'm telling you what I said, that he helped pay
11 for one of your -- that Corvette for a case.

12 Q. Isn't it a fact that I've never had a Corvette in my
13 life?

14 A. That's just what I heard. Again, that's what I'm
15 saying that I heard, sir.

16 Q. You heard it.

17 A. Yes.

18 Q. Who did you hear that from?

19 A. From my crew.

20 Q. Your crew.

21 A. Yeah.

22 Q. Who in your crew told you that?

23 A. Rakim was talking about it.

24 Q. Do you have the April 17th transcript up there?

25 A. No, sir.

1 MR. BERGRIN: Excuse me, Your Honor. I'm sorry.

2 May I have the Court's indulgence one second?

3 THE WITNESS: You say April 17th?

4 Q. Yes.

5 A. Yes.

6 Q. So you do have it up there.

7 A. Yes.

8 Q. Turn to page 4666, line 22.

9 You just swore to this jury that he helped pay for
10 a car. That's what you heard.

11 A. I said that's what I heard, yes.

12 Q. Turn to page 4666, line 22.

13 A. I'm on it.

14 Want me to read it?

15 Q. Isn't it a fact that you told a prior jury in April --
16 on April 17th of 2007 that Hakeem Curry bought me a Corvette
17 automobile?

18 A. That's exactly what I just said.

19 MR. MINISH: Judge, if we could go line by line --

20 THE COURT: Yes, Mr. Bergrin. Go line by line,
21 question and answer, please.

22 MR. BERGRIN: I don't have a copy of that
23 transcript, Judge, I'm sorry.

24 If I may have it.

25 Q. 4666: "And did somebody buy him a car, a Corvette :

1 And line 23:

2 "ANSWER: I say Hak."

3 And next question is, line 24:

4 "QUESTION: Who did?

5 And number 25: "I say Hak did."

6 Correct?

7 A. Yes.

8 THE COURT: Go on to the next page.

9 Q. "Had bought Paul Bergrin a car?

10 You say "That's what I heard." Correct?

11 A. That's what I just said to you, Mr. Bergrin.

12 Q. No, you said bought me a Corvette. You said bought me
13 a car. You testified before this jury that you heard Hakeem
14 bought me a car, not about a Corvette automobile; correct?

15 A. Exactly. I just said a Corvette.

16 Q. And did you ever see him driving that car, and didn't
17 you say on page 4667, line four, "I think I saw the car
18 before." Is that what you answered to that jury?

19 A. I think, yes. I think.

20 Q. You have never seen me in a Corvette automobile in
21 your life; isn't that a fact?

22 A. Saw you in a couple cars, Mr. Bergrin.

23 Q. Isn't a fact -- my question to you is, Mr. Young, it's
24 a simple question, you don't have to volunteer facts -- You
25 have never seen me in a Corvette automobile in your life;

1 isn't that a fact?

2 A. I don't know. I seen you in a couple cars, Mr.
3 Bergrin.

4 THE COURT: All right. But the question just
5 calls for whether you saw him in a Corvette.

6 THE WITNESS: I don't know.

7 THE COURT: Okay.

8 Q. So then why would you tell the jury that you think you
9 saw me in a Corvette automobile?

10 A. Because I think I did.

11 THE COURT: All right. Mr. Bergrin, go into
12 another line of questioning.

13 MR. BERGRIN: I will, Judge.

14 Q. Now, did Jamal McNeil ever visit William Baskerville
15 at the Hudson County Jail?

16 A. Yes.

17 Q. And how many times did he visit him?

18 A. I don't know exactly how many. Maybe five, six, seven
19 times. I don't know. But it was multiple times because he
20 kept bringing me back messages.

21 Q. And do you remember telling a jury that he visited him
22 10 times?

23 A. Yes, it could be around 10.

24 Q. And Jamal McNeil would communicate with you?

25 A. Us.

1 Q. With you as well as others --

2 A. Yes, sir.

3 Q. -- about what Will Baskerville said; right?

4 A. Our crew, yes.

5 Q. Have you ever used the expression, keep the F.B.I. and
6 the Government in amazement?

7 A. Yes, when you committing crimes, yes.

8 Q. And that meant to you, tell them anything; correct?

9 A. No, not tell them anything.

10 Q. Doesn't that mean to you, tell them what they want to
11 hear and about who they want to hear it?

12 A. No.

13 Q. When you said keep them in amazement, isn't that a
14 fact that that that means to you tell them nothing; correct?

15 A. Exactly. I wasn't telling the truth at that time when
16 I said that.

17 Q. To keep lying to them; right?

18 A. I was -- I was talking to Hassan Miller when I said
19 that. I was not telling the truth. Yes.

20 Q. Keep lying to them; right?

21 A. At that time, yes.

22 Q. Now, when you were arrested in January -- excuse me,
23 February of 2005, you were arrested for a domestic violence
24 complaint; correct?

25 A. Yes, I was, I think, for violating a restraining

1 order.

2 Q. And you had threatened Rasheeda Tarver with a gun;
3 isn't that a fact?

4 A. No, I didn't threaten her with a gun. Not at all.

5 Q. You pointed a gun at her; isn't that a fact?

6 A. No, sir.

7 Q. Are you denying that you ever used a gun on Rasheeda
8 Tarver?

9 A. Exactly. She even said it.

10 Q. Now, you were also accused of burning down her house;
11 right?

12 A. I wasn't accused -- I was -- they said I did it. The
13 police didn't accuse me of it, no.

14 Q. Rasheeda Tarver, her sister, and her whole family
15 accused Anthony Young of doing it; correct?

16 A. There again, they accused me, but the law never
17 accused me of that.

18 Q. And they made a complaint to the Newark police
19 department, didn't they?

20 A. They made a complaint, yes.

21 Q. Now, in 2005, Hakeem Curry was arrested; correct?

22 A. 2005?

23 2004.

24 Q. 2004. I'm sorry. March of 2004, Mr. Curry was
25 arrested; correct?

1 A. Yeah, somewhere in that area.

2 Q. And when Mr. Curry was arrested, you didn't know who
3 he was arrested by initially, correct, when you first heard
4 about it.

5 A. Yes, we knew it was the Feds. That's it.

6 Q. You knew it was the Feds.

7 A. Yes.

8 Q. And you knew it couldn't have been the local police;
9 right?

10 A. Local police don't want Hakeem Curry.

11 Q. Hakeem Curry was dealing drugs, right, according to
12 you?

13 A. Yes.

14 Q. And he was in charge of this organization; right?

15 A. Yes.

16 Q. And you're telling us that the local police didn't
17 want Hakeem Curry?

18 A. Local police don't want Hakeem Curry, believe me.

19 Q. You're telling us that the local police had no
20 jurisdiction to arrest Hakeem Curry or didn't want Hakeem
21 Curry.

22 A. I'm not saying they didn't have the jurisdiction.

23 Q. Is that what you're telling us, Mr. Young?

24 A. The man is very big. I know the Feds want him.

25 Q. But the local police didn't want him; right?

1 A. Not that I know of.

2 Q. Now, you also at the time of Mr. Curry's arrest, you
3 learned that the police were looking for Rakim Baskerville;
4 right?

5 A. Yes.

6 Q. And you also knew that they had seized the van; right?

7 A. Yes, they took it from in front of my house.

8 Q. In front of your house, right?

9 A. Right across the street.

10 Q. And inside that van was a stash box; right?

11 A. Two of them.

12 Q. Two of them. And the stash boxes were put in with
13 manufactured -- excuse me. It's non-manufactured parts;
14 correct?

15 A. Yes, it's specialized.

16 Q. Specialized. It's extra wires that don't come from
17 the manufacturer; right?

18 A. Extra everything.

19 Q. Extra everything.

20 And you knew that there was drugs inside those
21 stash boxes; right?

22 A. Yes, sir.

23 Q. And do you remember telling this jury that the Feds
24 aren't going to find the heroin left inside the stash box?

25 A. I said I didn't think they will find it.

1 Q. Here's the Federal Government, correct, who's seizing
2 the van, right, --

3 A. Yes.

4 Q. -- from in front of your house, right?

5 A. Yes.

6 Q. The van has two stash boxes, not one; right?

7 A. Yes, sir.

8 Q. It has extra wiring and extra parts; right?

9 A. That you can't see, yes.

10 Q. That you can't see.

11 A. Yes.

12 Q. And in the mind of Anthony Young, when they take apart
13 this van and search this van, they're not going to find
14 anything in the stash box or even find the stash boxes. Is
15 that what you're telling us under oath?

16 A. Exactly. I didn't think they would take it apart.

17 Q. You didn't think that they would take it apart.

18 A. Not the whole van.

19 Q. And you can testify to that with a straight face in
20 front of this jury.

21 A. I had a friend have a truck took in and they didn't
22 take it apart.

23 Q. This is the van of Rakim Baskerville that's seized by
24 the Federal Bureau of Investigation, correct, and the D.E.A.

25 A. Yes, sir.

1 Q. And in your mind, the way you think is, they're not
2 going to find the heroin in a stash box of a car that they
3 seize, a van. That's the mind of Anthony Young, right, the
4 way you think?

5 A. Yeah, I didn't know if they would find it or not.

6 Q. But you told Mr. Minish during direct examination that
7 they're not going to find it, right, you didn't believe that
8 they would find it?

9 A. I didn't believe it.

10 Q. Mr. Minish also asked you, at the time of Mr. Curry's
11 arrest, you had multiple connections; right?

12 A. He asked me who was my other connection. I said
13 Rasul.

14 Q. So you had more than one connection; right?

15 A. Yes, Rakim's brother-in-law.

16 Q. And you had another connection besides that that --
17 and I asked you a whole group of questions of the fact that
18 you had more than one connect, and you said you had two
19 sources of supply in 2003 and 2004; correct?

20 A. No, I said before, from 1997 to 1999, I had two
21 connects. When I came home, I had two connects, which was
22 Hakeem and Rasul.

23 Q. You were asked questions about 2003 and 2004 having
24 other connects, and you said in 2003 and 2004, before this
25 jury, that you were dealing with two other individuals as

1 Bradley Courts; correct?

2 A. One of his -- one of his right-hand men. That's my
3 man.

4 Q. And he was a major distributor of Hakeem Curry's
5 heroin in Bradley Courts; right?

6 A. Yes, sir.

7 Q. For many years, right?

8 A. Yes, sir.

9 MR. BERGRIN: Your Honor, at this time, we'd like
10 to play a tape recording.

11 THE COURT: All right. You have a tape recording
12 that you wish to play?

13 MR. BERGRIN: Yes, Your Honor, please.

14 THE COURT: Ladies and gentlemen, there's going to
15 be a tape recording played.

16 There's transcripts which Ms. Hansen is going to
17 be handing out to you.

18 MR. LUSTBERG: Judge, we're not sure that the
19 earphones will work, but it should be loud enough so that
20 everybody in the courtroom can hear it.

21 THE COURT: All right. We're not going to use the
22 earphones. It should be loud enough so that everybody
23 should be able to hear it.

24 And as I've explained to you before, the actual
25 evidence is what you hear on the tape, the conversation that

1 you'll hear on the tape. The transcripts are to assist you.
2 Obviously if you hear something that's not what you're
3 reading, it's what you hear that you should rely on. Okay?

4 THE COURT CLERK: Give one to the witness?

5 MR. LUSTBERG: Yes.

6 MR. BERGRIN: Thank you, Ms. Hansen.

7 BY MR. BERGRIN:

8 Q. Now, one of your closest friends at the Hudson County
9 Jail was Hassan Miller; correct?

10 A. Yes, he was a close associate.

11 Q. And you had conversations with Mr. Miller; correct?

12 A. Yes, we had plenty of conversations over the years.

13 Q. And you didn't know that Mr. Miller was going to
14 record you; correct?

15 A. I didn't know, but halfway through the conversation, I
16 felt like he was wired.

17 Q. And there was that intuition?

18 A. No, it was the questions he was asking me and how he
19 came to my room crying.

20 MR. BERGRIN: I ask you to turn to page 16,
21 please, ladies and gentlemen. Track 11, page 16.

22 (The recording was played.)

23 (Playback stopped)

24 Q. Now, I ask you, Mr. Young, to turn to page 16.

25 This conversation occurred on August the 3rd of

1 2005; right?

2 A. Yes.

3 Q. At a time that you believed you were getting witness
4 protection; right?

5 A. Yes.

6 Q. And you believed that you were getting money; right?

7 A. I believed I was getting out, yes.

8 Q. And you believed that you were getting out, and your
9 freedom; right?

10 A. Yes.

11 Q. And that's exactly what you're talking to Hakeem --
12 excuse me, Hassan Miller about; right?

13 A. Um-h'm.

14 Q. And you tell him about you getting money and you tell
15 him about you getting witness protection; right?

16 A. Yes.

17 Q. And then you say to him, "You know what it's called,
18 keep him, let him go." Right?

19 A. Yes.

20 Q. And that to you means keep them interested; right?

21 A. I don't know exactly what I was saying, sir, so I
22 can't tell you.

23 Q. But those words came out of your mouth: "Keep him,
24 let him go," right?

25 A. Yeah, exactly. I don't know what that mean.

1 MR. BERGRIN: Please turn to page 32, track 27,
2 please.

3 This is page 32, ladies and gentlemen, track 27.

4 (The recording was played.)

5 (Playback stopped)

6 Q. Here you're giving Hassan Miller advice; right, Mr.
7 Young?

8 A. Yes, he's asking me for advice.

9 Q. And you're telling him about these white folks,
10 meaning the prosecutors; right?

11 A. Yes, I call white folks white folks.

12 Q. And you're talking about the Federal agents; right?

13 A. Um-h'm. Federal agents, prosecutors, everybody.

14 Q. And you're telling Hassan Miller to "tell them what
15 they want to hear." That's your whole philosophy, right,
16 Mr. Young? Those words came out of the mouth of Anthony
17 Young, right, to his friend, Hassan Miller.

18 A. Yes, sir. He asked me what should he tell them, yes.

19 Q. Tell them what they want to hear; right?

20 A. He asked me about -- he asked me about a murder that
21 he supposed to been involved with, and I said, If that's
22 what they want to hear, tell them what they want to hear.

23 Q. And that's your whole philosophy; right?

24 A. If you want to sit down, give them what they want.
25 They want the truth. That's what they ask for.

1 Q. In August, when you made these statements, you weren't
2 telling the prosecutors or the agents the truth; right?

3 A. I know that, sir, yes.

4 Q. You were deliberately and intentionally lying to them;
5 right?

6 A. I never denied that. Yes.

7 Q. And this is way before, months and months and months
8 before, according to you, you decide to tell the truth;
9 right? Months before.

10 A. Well, I'm answering your question. I don't know how
11 long this was before I told the truth. I don't know how
12 long.

13 Q. And you're telling Mr. Miller that your philosophy is
14 to tell them what they want, and you don't even sit down and
15 you don't even talk and you don't even listen essentially to
16 your lawyer; right?

17 A. Exactly what I told him, if you want to know, I didn't
18 give a damn about Hassan Miller. I told him if that's what
19 they want to hear, if they want to hear -- he came in here
20 telling me about a murder that he supposed to had did, I
21 said tell them what they to hear.

22 Q. And you were giving Hassan Miller advice on how to lie
23 to them and deceive them when he goes in there; correct?

24 A. I don't know about that.

25 Q. Isn't it a fact that you were telling him there was a

1 gang-related murder between the Bloods and the Crips when
2 Hassan Miller was neither a Blood nor a Crip? Isn't that
3 what you told him?

4 A. Well, Hassan Miller used to be a Crip, sir.

5 Q. And isn't it a fact that you told Hassan Miller, tell
6 them -- don't tell them that you killed a person, just tell
7 them that you shot and you don't know who killed him?
8 You're giving him advice opposite it as to what Hassan
9 Miller had told you. Hassan Miller had told you that he did
10 the shooting and he did the killing, and you're telling him
11 not to admit that. Isn't that a fact, sir?

12 A. I might have told him that. I don't remember, though,
13 but I might have.

14 Q. So you're telling him, don't tell them the truth, but
15 tell them other facts that will help you; correct, Mr.
16 Young?

17 A. No, I told him to tell he shot, if I said it, and you
18 tell them that, you tell them you killed him.

19 Q. You didn't tell Mr. Miller that, isn't that a fact,
20 Mr. Young, in this conversation, this recorded conversation?
21 Isn't that a fact, Mr. Young?

22 A. I don't exactly remember everything I told him, Mr.
23 Bergrin.

24 Q. You were telling him how to use the system and what
25 your philosophy is to his advantage; right?

1 A. No, I don't think so.

2 Q. You were telling him to just tell them what they want
3 to hear, but the last thing you were telling him is not to
4 tell the truth to these people; right?

5 A. Well, what they want to hear is the truth, sir.

6 Q. But you weren't telling him to tell the truth. You
7 were telling him to hide the facts of what he did so that he
8 is not responsible for the shooting. Isn't that a fact,
9 Mr. Young?

10 A. I don't know, Mr. Bergrin. I didn't care what
11 happened to him.

12 Q. So you're telling us that you don't remember telling
13 him those kind of things, hide the fact that you did the
14 shooting, hide the fact that you did the killing, hide the
15 fact that your bullet killed the victim when he had told you
16 that he had did it?

17 A. Again, I might have, but I don't remember.

18 Q. And this wasn't even that long ago; right?

19 A. When was it? This was years ago, right?

20 MR. BERGRIN: Turn to, please, track 42.

21 A. It say 2000 -- 2005. This was seven years, almost
22 seven years ago.

23 MR. BERGRIN: It will be page 48, ladies and
24 gentlemen.

25 THE COURT: Page 48?

1 MR. BERGRIN: Yes, sir.

2 (The recording was played.)

3 (Playback stopped)

4 Q. Isn't it a fact that you told Mr. Young that you told
5 Mr. Gay a lot of shit, according to this paragraph in this
6 passageway?

7 A. Yes.

8 Q. And that John Gay knows everything, everything that
9 was around?

10 A. That I told him, yes.

11 Q. And didn't you tell Mr. Young (sic) that you told
12 Mr. Gay that you were a block away looking at it and that he
13 knows about that?

14 A. Yes. I was keeping Hassan unfocused.

15 Q. Well, at that particular time, in August, that's what
16 you told Mr. Gay; right? You're not keeping Mr. Hassan
17 Miller focused; you had told in August of this time, in
18 August of 2005 you're lying, according to you, to the --

19 A. I was.

20 Q. -- Prosecutor's Office and telling them that you were
21 a block away in the van; right?

22 A. And like I said, I was lying at the time.

23 Q. So you're not keeping Mr. Miller focused.

24 A. I said unfocused.

25 Q. Unfocused. And you even say that Mr. Gay knows, that

1 you don't care if you and Hak were in the car together and
2 another niggah did the shooting; correct?

3 A. Yes.

4 Q. And this is your friend Hassan Miller, your good
5 friend; right?

6 A. Well, no, not good friend. Associate, sir. I met him
7 in -- on that unit.

8 Q. Okay, but you considered him a friend and you
9 considered him a confident, that you would talk to him about
10 a murder; right?

11 A. An associate. That's what everybody in jail do.

12 Q. And you say that you told Mr. Gay about that, too,
13 that somebody else did the shooting and that you were a
14 block away with Hakeem Curry; right?

15 A. Yes, I testified to that, yes.

16 Q. And you're also talking about the fact that you went
17 back to the body to see if the person -- that you went back
18 to see if the person was dead; right?

19 A. Yes.

20 Q. And that you verified it; right?

21 A. Yes, I did.

22 Q. What's that remark about cracker? What is that? I
23 don't understand that.

24 A. Same thing I called you before, cracker, that's what
25 we call it. Street slang. Same way I call people niggahs.

1 It's street slang.

2 Q. Who's crackers?

3 A. White folks. I called you a cracker before. You know
4 that.

5 Q. And you said that in the car, then you slip and say
6 "the van with Hak, we haul ass," right?

7 A. Why would I be slipping?

8 Q. Isn't that what you say, "Car in the van with Hak "?

9 A. Yes.

10 Q. And then you say that you hauled ass?

11 A. Yes.

12 Q. After you checked that the body was dead?

13 A. Yes.

14 MR. BERGRIN: Please, page 53, track 49, please.

15 THE COURT: What page, please?

16 MR. BERGRIN: It's 53, page 53, please.

17 THE COURT: Wait till everybody gets to the page
18 before it gets played, okay?

19 (The recording was played.)

20 (Playback stopped)

21 Q. You're telling Hassan Miller, your associate, that you
22 couldn't do anything left-handed, especially shoot a gun
23 left-handed; right?

24 A. Yes, this when I realized he was wired.

25 Q. This is an individual that you trusted enough to talk

1 to; correct?

2 A. Well, I wouldn't say I actually trusted him if I'm
3 thinking he wired right here.

4 Q. You trusted him enough to talk to him about witness
5 protection; right?

6 A. Everybody on the whole unit talked about witness
7 protection.

8 Q. Because it gives you great benefits; right?

9 A. Not at all. If that's what you thinking. No.

10 Q. It gives you a new house; right?

11 A. No. Not at all. That's not true.

12 Q. It gives you money so you don't have to work if you
13 don't want to; right?

14 A. No, that's not true.

15 Q. You talked to your buddies on the tier and you all
16 talk about the benefits of witness protection, right, and
17 what it means to you, right?

18 A. You talk about the benefits of hiding.

19 Q. Benefits of what?

20 A. Hiding.

21 Q. Hiding.

22 A. Yes.

23 Q. And you talk about the money; correct?

24 A. If we do, they don't give you nothing.

25 Q. You talked about the money; correct? You got caught

1 on a recording talking about the money; right?

2 A. Again, we have, but -- yes.

3 Q. So when you just said about 10 seconds ago that you
4 didn't talk about the money, why did you say that when you
5 did talk about the money?

6 A. I didn't say -- I said -- you asked me, you asked me a
7 question before that. You said, the benefits are great. I
8 said no.

9 Q. The benefits of witness protection, you talked about;
10 right?

11 A. Isn't great, no.

12 Q. Well --

13 A. That's what I said: If you thinking that, you wrong.

14 Q. You get money; right?

15 A. What you consider they give you money?

16 Q. You get money; right?

17 A. Yes.

18 Q. You get a new location; right?

19 A. Yes.

20 Q. You get either a house or an apartment; right?

21 A. I never heard of nobody getting a house in my life.

22 Q. And you were so happy about witness protection, you
23 talked to Rasheeda about it and about moving her and her
24 mother with you in witness protection; right?

25 A. No, that's not true.

1 Q. And you were so happy about getting it and felt so
2 good about it that you told Rasheeda Tarver that not only
3 are you going to get witness protection, money, and a house,
4 that you're also not going to do any time because you're
5 going into the program; right?

6 A. No, that's not true.

7 Q. And you're going to get your freedom, which means
8 everything to you; right?

9 A. Well, my freedom mean everything to me, but I knew
10 that wasn't true and I wasn't doing time.

11 Q. And your freedom, as I said, means everything to
12 Anthony Young; right?

13 A. Everybody's freedom mean everything.

14 MR. BERGRIN: I have no further questions, Judge.

15 THE COURT: Redirect, Mr. Minish?

16 MR. MINISH: Yes, Judge.

17 THE COURT: We have time today, so let's proceed.

18 MR. MINISH: Absolutely.

19 REDIRECT EXAMINATION

20 BY MR. MINISH:

21 Q. Mr. Young, you were talking about witness protection.
22 Without telling us exactly where you are located,
23 are you currently incarcerated?

24 A. Yes, sir, doing 30 years.

25 Q. Okay. Are you in the Witness Protection Program?

1 A. Yes, sir.

2 Q. And to your knowledge, could you explain to the jury
3 what the process is, when and if you are ever released from
4 jail, what would happen with respect to the witness security
5 program?

6 A. Well, it's two phases. I'm in a program right now in
7 prison. I'm doing 30 years. And it's up to the U.S.
8 Marshals, not my judge, not my prosecutor, not nobody, it's
9 up to the United States Marshals if they're going to accept
10 me into the second phase. And when they do, all they do is
11 get you an apartment, help you out for some months, not
12 years, not two, three years, just months, until you get a
13 job and get on your feet and take care of yourself. And
14 then they through with you.

15 Q. Now, Mr. Bergrin asked you some questions about
16 whether or not there was a decision to tell Mr. Bergrin
17 after Mr. McCray was murdered.

18 Why didn't you tell Mr. Bergrin? Why didn't the
19 group decide to tell Mr. Bergrin?

20 A. We decided to let him find out on his own, which was a
21 statement from Rakim Baskerville. He said Don't tell Paul
22 shit. Let Paul find out hisself. He felt like if I can't
23 call him and tell him, anything could happen.

24 Q. Meaning what?

25 A. Taped phone conversations, tapped phones, anything.

1 He said, Let him find out on his own.

2 Q. Now, to go back, sir, you were asked some questions
3 about whether or not you told Agent Brokos or then Manson
4 about your concerns for your safety the first time you spoke
5 with her; right? And there was a series of questions.

6 I'm going to show you what's been marked J-06569
7 and 70. I'm using the unredacted version, which has a sub
8 A.

9 Now, I know you've seen that a number of times,
10 sir; correct?

11 A. Yes, sir.

12 Q. Now, in that report, I'm going to direct your
13 attention to the second page, the first full paragraph,
14 okay?

15 A. The first full paragraph?

16 Q. The first full paragraph.

17 A. Yes.

18 Q. The last sentence of that paragraph. Can you read
19 that to the jury?

20 A. It say "Complainant requests protection for himself
21 and his girlfriend."

22 Q. "Slash, wife."

23 A. "Slash, wife."

24 Q. All right. In the prior part of that paragraph --
25 well, let me ask you a question.

1 Where were you staying at the time when you called
2 the F.B.I.?

3 A. Where was I standing?

4 Q. Staying. Where were you living?

5 A. Well, I was living in Maplewood, New Jersey.

6 Q. Okay. When you called, were you in Maplewood?

7 A. No.

8 Q. Where were you? You don't have to give me the town.

9 Were you in the Essex County area?

10 A. Yeah, I was at my girlfriend's house.

11 Q. Okay, and was that close to the Essex County area?

12 A. No, not close-close.

13 Q. And why were you there?

14 A. Because I was trying to stay away from my crew.

15 Q. Now, I'm going to direct your attention again to that
16 same full paragraph, sir, the second sentence.

17 I'm sorry, the third sentence.

18 Could you read that sentence for the jury?

19 A. The third sentence?

20 Q. Yes. It's actually the fourth line down, starts with
21 "Complainant is..."

22 A. "Complainant is represented by Paul Feinberg -- " --

23 Q. The next line down, sir, I'm sorry.

24 A. Oh. "Complainant is currently residing about three
25 hours' drive from the Newark area ."

1 Q. So you did, in fact, express concerns about your
2 safety the very first time you spoke to the F.B.I.; correct?

3 A. Yes, I told them.

4 Q. I apologize, I think I forgot to ask this before. The
5 term Fat Ant, or the nickname Fat Ant has been mentioned
6 randomly. Who is Fat Ant?

7 A. I'm Fat Ant.

8 Q. Okay, and that was a nickname for you?

9 A. Yes.

10 Q. Now, I'm going to show you what's been marked J-09 --
11 I'm sorry, J-02933.

12 I'll give you a copy of this.

13 MR. LUSTBERG: Can we get a date?

14 MR. MINISH: That's the January --

15 MR. LUSTBERG: Okay. Thank you.

16 THE COURT: January 14th, 2005.

17 THE WITNESS: This is Mr. Bergrin's January 14th.

18 MR. LUSTBERG: Thank you.

19 Q. Now, I'm going to direct your attention, sir, to the
20 bottom of that report, if you could read that to yourself.

21 A. The bottom?

22 Q. Yeah, the last paragraph.

23 A. After the call?

24 Q. You can just read it to yourself.

25 A. Yes.

1 Q. Do you recall the type of vehicle Mr. Bergrin drove to
2 the meeting you had where you say he said No Kemo, no case?

3 A. A black Mercedes.

4 Q. Had you seen Mr. Bergrin in that vehicle before?

5 A. Yes.

6 Q. Do you recall the size of the vehicle? A big
7 Mercedes, small Mercedes?

8 A. Two-door.

9 Q. Do you have the two transcripts up there from the
10 William Baskerville trial, specifically, the April 17th one?

11 A. Yes, sir.

12 Q. There's a 13th and 17th. You have both of them?

13 A. Just the 17th, Mr. Bergrin's.

14 Q. Here's the 13th, so you have both of them.

15 Now, Mr. Bergrin asked you a series of questions
16 about what you thought Agent Brokos wanted to hear with
17 respect to telling the truth; right?

18 A. Yes.

19 Q. Okay. I'm going to direct your attention to lines
20 seven through 11 on page 4645 of the April 17th transcript.

21 A. 4645?

22 Q. Correct.

23 A. Yes.

24 Q. Now, Mr. Bergrin had you read lines seven through 11;
25 correct?

1 A. I don't remember exactly what lines, but --

2 Q. All right. Well, let's go to the lines prior to that.

3 A. Which line?

4 Q. Four.

5 A. Okay.

6 Q. All right. Now, were you asked the question: "And
7 you tell -- Shawn Manson tells you we need to know the
8 truth, right?"

9 Were you asked that question?"

10 A. Yes.

11 Q. And this was during a cross-examination by Mr.
12 Baskerville's attorney; correct?

13 A. Yes, sir.

14 Q. And what was your answer?

15 A. I say "Yes."

16 Q. Now, you were also asked some questions about when
17 Ray-Ray was involved; is that right?

18 A. I was asked plenty of times, and I told him plenty of
19 times, but I don't remember exactly when.

20 Q. So I'm going to direct your attention to the April
21 13th, now, the other transcript, page 4307. Do you have
22 that sir? Do you have the transcript up there?

23 A. Yes. 4370?

24 Q. 4370, yes.

25 A. I have it.

1 Q. Now, I'm going to direct your attention down to line
2 18, please.

3 A. Yes, sir.

4 Q. Now, were you asked this question, and this time, it
5 was by myself asking you the questions, right?

6 A. Yes, it say Direct.

7 Q. Line 18: "Now, so the jury understands, who exactly
8 is in this group looking for Kemo?"

9 Were you asked that question?

10 A. Yes, sir.

11 Q. Now, down to line 20, can you tell the jury what your
12 answer was?

13 A. I said "Me, Rakim Baskerville, Jamal Baskerville,
14 Jamal McNeil and a guy by the name of Ray-Ray."

15 Q. And then were you asked the question, "And is Hakeem
16 Curry involved?"

17 A. And I say "Yes."

18 Q. So you had stated that Mr. -- Ray-Ray was involved;
19 correct?

20 A. Yes, sir.

21 Q. Now, going forward to the -- there was a lot of
22 questions about the payment for the murder. I'm going to
23 keep you in the same transcript book, April 13th, and direct
24 your attention this time to page 4362.

25 A. I have it.

1 Q. Okay. And now, at the very last line, line 25, did I
2 ask you a question that said, "Did anybody speak about any
3 payment to take care of Kemo?"

4 A. Yes.

5 Q. Was that question asked of you?

6 A. Yes.

7 Q. And flip over to the next page. And what was your
8 answer?

9 A. "Yes."

10 Q. And was there a follow-up question, "okay. Tell the
11 jury what happened with respect to that conversation."

12 And what was your answer?

13 A. "Well, they asked me and Jamal McNeil."

14 Q. "QUESTION: Who is he?"

15 And what was your answer?

16 A. My answer, well, right here say "Rakim Baskerville,
17 Hakeem Curry."

18 Q. And then there was -- well, it's not really a question
19 but it's a statement, okay, and what was the next statement
20 you made?

21 A. The answer was "Who wanted to get paid \$15,000 to kill
22 Kemo."

23 Q. And then there was a question: "And how was the
24 payments going to be made?" Right?

25 A. Yes.

1 Q. And what was the answer?

2 A. "Through Hakeem Curry and Rakim Baskerville."

3 Q. And then on line 18 there's a question: "Who was
4 going to put up the money?"

5 A. Yes.

6 Q. And what was the answer?

7 A. Hakeem, 7,500 and Rakim, 7,500.

8 Q. Now, staying with that same topic, I want to move you
9 forward to page 4378.

10 A. I have it.

11 Q. Now, it's specifically down to line seven. Were you
12 asked the question: "Did you have any conversation with
13 Hakeem Curry before you left for the All-Star game?"

14 What was your answer?

15 A. "Yes."

16 Q. And then the question was, "Tell the jury what you
17 talked about." What was your answer?

18 A. My answer was, "I told him I needed some extra money
19 to go to the All-Star game, and he gave me 7,500."

20 Q. And then were you asked the question: "And did he
21 make any comments about the 7,500?"

22 A. Yes.

23 Q. And what was your answer?

24 A. I said, "He said if I was the one to kill Kemo, that I
25 could keep the 7,500. If not, I got to give it back.

1 MR. MINISH: Judge, at this time, I just want to
2 read a very brief stipulation with defense counsel.

3 THE COURT: Okay. What is it?

4 MR. MINISH: Stipulation number 16: "It is hereby
5 stipulated and agreed by and between the United States of
6 America, Paul J. Fishman, United States Attorney, Steven G.
7 Sanders, Assistant U. S. Attorney, and Defendant Paul
8 Bergrin that Government's Exhibits 2276A through 2276T are
9 true and accurate copies of business records and therefore
10 are authentic within the meaning of Federal Rule of Evidence
11 902(11) and are records of regularly conducted activity,
12 thus satisfying the requirements of Federal Rule of Evidence
13 803(6)."

14 And we'd like to move in these documents in
15 evidence.

16 THE COURT: All right. The defense has agreed to
17 that?

18 MR. LUSTBERG: Can I see the documents, please?

19 THE COURT: Take a look at it.

20 MR. MINISH: Sure.

21 MR. LUSTBERG: No objection.

22 THE COURT: What type of records are they?

23 MR. LUSTBERG: Travel documents.

24 MR. MINISH: These are travel documents relating
25 to the All-Star game, Judge.

1 THE COURT: Okay. All right.

2 All right. Ladies and gentlemen, as I explained
3 to you before, a stipulation is when the parties agree on
4 the admissibility of some documents, and the parties have
5 agreed on the admissibility. They're not taking issue with
6 the admissibility of the documents that are related in that
7 stipulation. Okay?

8 MR. MINISH: We don't need to discuss it. The
9 jury will have them, Judge, so I'll move on.

10 THE COURT: Fine.

11 (Government Exhibits 2276A through 2276T marked in
12 evidence)

13 BY MR. MINISH:

14 Q. Mr. Bergrin asked you questions about Jamal McNeil,
15 putting the murder on Jamal McNeil; right?

16 A. Yes, sir.

17 Q. Was Jamal McNeil part of the drug gang?

18 A. Yes.

19 Q. Okay. Was he part of your clique?

20 A. Yes.

21 Q. Was he one of the members or one of the individuals
22 who was searching for him?

23 A. Yes.

24 Q. Was he a potential actual shooter of Kemo?

25 A. If I wouldn't have been a shooter, he would have got

1 paid to do it.

2 Q. And on the day that Kemo was killed, was he there?

3 A. Yes.

4 Q. And what was his job?

5 A. To sit in the van, lookout, and after Kemo was killed,
6 to look at him and make sure everything went right.

7 Q. Okay, and to act as a lookout?

8 A. Yes.

9 Q. Now, you said something about you gaining an
10 understanding of whether or not you were a lookout, you
11 would be held responsible. You learned that in jail, you
12 said. Could you explain that to the jury?

13 A. I'm not understanding your question, sir.

14 Q. I apologize.

15 Immediately before you said you came in and said,
16 I don't know anything, I wasn't there, you said there was a
17 reason why, that you had learned something. I don't want to
18 put words in your mouth. If you could just explain that to
19 the jury.

20 A. Oh. You asked me why did I come to the proffer
21 session and say I wasn't there at all.

22 Q. Yes.

23 A. Because I learned in Hudson County, regardless if you
24 were sitting four, five blocks away, you could be sitting
25 around the corner or wherever, as long as you was part of

1 the conspiracy, you carry life in prison like everybody
2 else.

3 Q. And in the actual version of what happened, was
4 Mr. McNeil part of the conspiracy?

5 A. Yes.

6 Q. Now, I'm going to direct your attention, I'm sorry, to
7 page 4616, which I believe is the April 17th transcript.

8 Do you have that in front of you, sir?

9 A. Yes, sir.

10 Q. Tell me when you get to that page.

11 A. I got it.

12 Q. Now, you read a number of lines on that page before;
13 correct?

14 A. Yes. It's the 17th? Yes.

15 Q. Okay. But -- I'm sorry, 4616.

16 A. 4616, yes, but it's the 17th of --

17 Q. Oh, I'm sorry, yes. The number of transcript, yes.

18 But you didn't read certain lines. I want to
19 direct you to specific lines.

20 A. Okay.

21 Q. I want to direct you to line 17. Okay? Have you got
22 that?

23 A. Give me a minute, please.

24 Q. Now, starting on line 17, and again, this is a
25 cross-examination question; correct?

1 A. I'm on line what?

2 Q. Seventeen.

3 A. I see it.

4 Q. Were you asked the question: "Whose fault was it you
5 lied to the F.B.I. for a year and a half?"

6 A. Yes.

7 Q. And what was the answer you gave?

8 A. I said it was my responsibilities.

9 Q. And then were you asked a question in line 20: "It's
10 not Mr. Feinberg's responsibility, is it?" Were you asked
11 that question?

12 A. Yes, sir.

13 Q. And what was the answer you gave?

14 A. I said "Well, if he would have came and sit in the
15 first day and says tell the truth, I would have told the
16 truth" the first day.

17 Q. Sir, do you have the October 27th transcript from this
18 trial?

19 A. No, sir.

20 Q. Sir, it's the October 27th, 2011, and I'm directing
21 you specifically to page 189.

22 All right. You see that page?

23 A. Yes, sir.

24 Q. And that's your testimony; right?

25 A. Yes.

1 Q. I'm going to direct your attention to line 9 on that
2 page.

3 A. Yes, sir.

4 Q. You were asked a number of questions by Mr. Bergrin
5 and read a number of things with respect to where the gun
6 was when you killed Mr. McCray; right?

7 A. Yes.

8 Q. Okay. Can you read what's at line nine on that page?

9 A. The question was, "So they're half -- halfway between
10 20th and 19th?"

11 Q. Okay.

12 A. That's what you asked me.

13 Q. And what was the answer?

14 A. I say "Yes."

15 Q. And what was the next question?

16 A. "So what I do is, I come off the steps, got my hands
17 in my pocket, I got the gun in my hand, both hands in my
18 pocket."

19 Q. I just want to make sure I get any -- I apologize.
20 What line was that up to?

21 A. That was nine and 10.

22 Q. Okay. All right. And then the question is, in line
23 13: "In your left hand?" Is that the question you were
24 asked?

25 A. Yes, sir.

1 Q. And then for the record, I said, "I'm saying for the
2 record he was holding it in his left hand." Is that right?

3 A. Yes.

4 Q. And what was your answer?

5 A. "I got the gun in my pocket, I got my head low and
6 start walking towards them, both of them."

7 Q. Okay. Thank you.

8 Now, you were asked about a number of meetings
9 that you had or how many meetings you had with members of
10 law enforcement; correct?

11 A. Yes.

12 Q. Now, I know you don't have a number, an exact number,
13 so my question's a little different.

14 After the meeting, you have the initial phone call
15 with the F.B.I. when you first call them; right?

16 A. That's the first day.

17 Q. And you have a phone conversation with Agent Brokos;
18 is that correct?

19 A. Yes.

20 Q. And then you have a face-to-face meeting with Agent
21 Brokos; correct?

22 A. Yes.

23 Q. Then after that, there is a series of meetings.

24 A. Yes.

25 Q. During that series of meetings, did you provide

1 additional information that you had not previously provided
2 to the F.B.I.?

3 A. A lot more.

4 Q. Mr. Bergrin asked you about the decision with respect
5 to getting a reduction in time, that ultimately the
6 Government is the one who controls writing the letter;
7 correct?

8 A. Yes, sir.

9 Q. Did you explain to the jury your understanding of how
10 the process is going to work for you if a letter is written?
11 What happens after?

12 A. Well, if a letter is written, it goes to my judge --
13 this from my understanding from my attorney, meeting with
14 them -- it goes to my judge with my testimony from this
15 trial. He reads it, and he make a decision if he want to
16 give me one day, if he don't want to give me nothing, or if
17 he want to give me two to five years. It's up to him. It's
18 his decision.

19 Q. And the reason a transcript goes is because
20 Judge Martini is not the sentencing judge for you, right?

21 A. No, sir.

22 Q. And last time you testified, it was in front of the
23 same judge, your sentencing judge; correct?

24 A. Yes, sir.

25 MR. MINISH: Judge, as a last thing, I just wanted

1 to direct the -- if we can go back, if the jury can take out
2 their transcript books and flip to page -- okay, on 51.

3 If I can direct everyone's attention to page 50,
4 there is a series of back and forth where the recording is
5 going to start is at the last "Anthony Young" at the bottom,
6 so it's Hassan Miller and Anthony Young if we're starting
7 from the bottom there, and then the recording is going from
8 there to the next page.

9 Everybody there?

10 We can press the button.

11 (The recording was played.)

12 (Playback stopped)

13 MR. MINISH: I have nothing further, Judge.

14 THE COURT: All right.

15 Is there any recross?

16 MR. BERGRIN: There is, Judge.

17 THE COURT: All right. Go ahead. We'll try and
18 wrap it up today.

19 RE CROSS EXAMINATION

20 BY MR. BERGRIN:

21 Q. Looking at that transcript on page 51, you're telling
22 Mr. Miller that the F.B.I. and the Government when they're
23 questioning you is telling him, Paul -- the F.B.I. is
24 telling you, Paul said this, Paul said that, Paul did this,
25 Paul did that, correct? Is that what you're saying? Are

1 those the words that come out of your mouth, sir?

2 A. I say I'm telling them that.

3 Q. And you're saying they're saying this, right? Did he
4 say this, did he say that, did he do this, did he do that?
5 Did like this? They're saying words to you and you're
6 saying words back; correct, Mr. Young?

7 A. Because I told Ms. Manson everything that -- well,
8 mostly stuff that happened, so when I went to the proffer
9 session, she and the U.S. Government was reasking me the
10 questions that I told her.

11 Q. And they're asking you and telling you information
12 within that question; isn't that a fact?

13 A. No, they're not giving me information, sir. I'm
14 giving them information.

15 Q. And you can make allegations about Paul is buying a
16 new Corvette; right?

17 A. Yeah, because that's what I heard, again, that's what
18 I heard.

19 Q. And you had absolutely no evidence to verify that or
20 no fact of that; correct?

21 A. No, just the person that told me, that's it.

22 Q. And you even say Paul got Hak money.

23 Paul never had Hak's money. Hak is an individual
24 who kept things to himself; correct?

25 A. You know that I know that you have some of his money.

1 Q. I never had any of his money, and you know that for a
2 fact.

3 A. Mr. Bergrin, you know I know.

4 Q. You know for a fact, Mr. Young, that I never had any
5 of Hak's money. It's the last thing Hak would do is give a
6 lawyer his money.

7 A. A good friend.

8 Q. Now, you also say that -- in that conversation that
9 Paul's going to turn state evidence on Hak, right, to save
10 his career.

11 A. I said you would, yes.

12 Q. And then that's when you make the statement about the
13 daughter's car and fucking his daughter and helped him
14 through college; correct?

15 A. Yes, sir.

16 Q. And you know that's a complete lie that Anthony Young
17 made up out of his whole imagination; right?

18 A. Again, that's what my boy told me.

19 Q. But you have no facts whatsoever, evidence of that
20 whatsoever, but you're saying it like it's a fact, correct,
21 to Mr. Miller.

22 A. Me and Mr. Miller having a -- a nigger conversation, a
23 'hood conversation. That's what I'm saying.

24 Q. A 'hood conversation.

25 A. Yeah.

1 Q. You're telling him blatant lies that you have no
2 evidence and no facts to support.

3 A. That's what I heard.

4 Q. Isn't that a fact, Mr. Young?

5 A. That's what I heard, Mr. Bergrin. That's all I can
6 tell you.

7 Q. You talked about in redirect examination about
8 Rasheeda Tarver and going to the F.B.I. on January the
9 14th -- or, excuse me, speaking to the F.B.I., Mr. Gale;
10 correct?

11 A. What page, sir?

12 Q. Well Mr. Minish showed you -- look at the January 14th
13 statement.

14 A. Yes.

15 Q. And that's in reference to Rasheeda Tarver; right?

16 A. What, this right here?

17 Q. You say that -- you say that you want protection for
18 you and your girlfriend. Who's your girlfriend then?

19 A. Well, at the time, sir, me and her wasn't even
20 speaking. I was with a girl named Stella.

21 Q. And you say that you want protection for your
22 girlfriend, meaning Rasheeda Tarver, correct, and you're not
23 even speaking to her.

24 A. Well, again, I had another girlfriend named Stella.

25 Q. But you are lying to the F.B.I. and saying that you

1 need protection for Rasheeda Tarver -- listen to my question
2 and answer my question. Stop volunteering information.

3 You're saying that you need protection for
4 Rasheeda Tarver; right?

5 A. I don't think I was talking about Rasheeda Tarver.

6 Q. Well, your girlfriend Stella didn't need protection;
7 right?

8 A. If she was gonna go with me.

9 Q. Your girlfriend Stella's life wasn't at stake, right?

10 A. Well, they know that I messing with her, and I be
11 messing with her for years.

12 Q. Rasheeda Tarver was your fiancée at the time; right?

13 A. And Stella was my girlfriend, yes.

14 Q. And you were talking to Mr. Gale about Rasheeda Tarver
15 when you talked to him about protection. Isn't that a fact?

16 A. I couldn't have been when the police was looking for
17 me for Rasheeda Tarver.

18 Q. Now, Rasheeda Tarver was the one that you supposedly
19 told the information to about Jamal Baskerville and Jamal
20 McNeil; right?

21 A. That's what I'm saying, I wasn't speaking to her, yes.

22 Q. And she's supposedly the one that went to Jamal
23 Baskerville's wife and Jamal Baskerville and told them about
24 what you supposedly said; correct?

25 A. Yes, sir.

1 Q. So Rasheeda Tarver's the one that would need the
2 protection; right?

3 A. No, she wouldn't need protection. She's helping them.

4 Q. You never spoke to Rasheeda Tarver about protection;
5 right?

6 A. No.

7 Q. Isn't that a fact?

8 A. I asked Stella would she go in with me if I had to
9 leave.

10 Q. And you never asked Rasheeda Tarver if she's going
11 with you; right?

12 A. No.

13 Q. On January the 18th, Mr. Minish talked to you about
14 payments and money. On January 18th of 2005, you told Shawn
15 Manson that no payment of any type was expected; right?

16 A. Yeah, because I was untruthful with her at that time.

17 Q. And you were untruthful with her for a year and a half
18 after that; right?

19 A. Again, yes.

20 Q. Curry and Baskerville have never been charged with any
21 contract murder, correct, or hiring you or hiring McNeil to
22 do anything; right?

23 A. Not at that time.

24 Q. Not at any time, not even now; isn't that a fact?

25 A. Mr. Baskerville?

1 Q. Rakim Baskerville and Hakeem Curry.

2 A. Oh, no, not that I know of.

3 Q. Now, you testified that you needed extra money for the
4 All-Star game; right?

5 A. Exactly.

6 Q. Sitting on 50,- \$60,000 in your account and in your
7 house, you needed extra money; right?

8 A. I said there's never enough spending money.

9 Q. In the mind of Anthony Young; right?

10 When you pled guilty, Mr. Young --

11 (Off the record discussion)

12 Q. Mr. Minish asked you questions about conspiracy and
13 conspiracy to murder a witness and conspiracy to retaliate
14 on an informant; correct?

15 A. Yes, sir.

16 Q. Isn't it a fact that when you pled guilty before
17 Judge Pisano on January the 24th of 2007, you never even
18 mentioned the name of Jamal McNeil, Malsey. Isn't that a
19 fact, Mr. Young?

20 A. I don't remember what I said to Your Honor and how
21 long I talked to him, so I can't -- I can't say it's a fact.

22 Q. We're going to refresh your memory, okay, Mr. Young?

23 I'm going to show you a copy of the transcript of
24 your guilty plea of January 24th of 2007.

25 I'm going to ask you to look at page 41, lines

1 seven through 10.

2 MR. BERGRIN: May I approach the witness, Your
3 Honor?

4 THE COURT: Yes.

5 Q. Excuse me. I'm going to ask you to start at line four
6 and read that to line 10 to the jury. Read that, Mr. Young,
7 please.

8 A. "I'm going to direct your attention to the period of
9 time between November of 2003 and March of 2004 in Hudson
10 County and Essex County." And it say, "Do you know
11 individuals named William Baskerville -- " -- this is
12 somebody asking me a question, I guess -- " -- Do you know
13 individuals named William Baskerville, Rakim Baskerville,
14 Jamal Baskerville, Horatio Joines -- " -- which is Ray-Ray
15 -- " -- and Hakeem Curry?"

16 Q. Any mention of Mr. McNeil, Jamal McNeil or Malsey?

17 A. Well, whoever was asking me this question, no.

18 Q. Can I have the transcript back for a second?

19 And that's on page 41, right?

20 I'm now going to take you to page 42 and ask you
21 to read lines 20 to 25, okay?

22 Read that out loud, Mr. Young.

23 A. Somebody asking a question.

24 Q. That's Judge Pisano asking you questions; correct?

25 A. Oh. I didn't know. Now you told me, yes.

1 Q. Please read it.

2 A. My Judge asking me a question.

3 "On March 2nd, '04, in furtherance and in order to
4 achieve the purpose of those two conspiracies, did you,
5 Hakeem Curry, Rakim Baskerville, Jamal Baskerville, Horatio
6 Joines, and some other people who were members of this
7 conspiracy, did you folks meet and plan to murder Kemo
8 Deshawn McKay in Newark?"

9 And I answered yes."

10 Q. Does it mention Jamal McNeil, Malsey, who you allege
11 is a major player in this?

12 A. He didn't say Jamal McNeil. He said "others."

13 Q. Does he mention Jamal McNeil, Malsey?

14 A. No.

15 MR. BERGRIN: May I approach, Your Honor?

16 THE COURT: Yes.

17 MR. BERGRIN: Thank you.

18 Q. As a matter of fact, you know what? You can hold on
19 to that.

20 Isn't it a fact that nowhere in that transcript
21 does it mention Malsey doing anything, Jamal McNeil?

22 A. I don't know. I just read what you told me to read,
23 sir.

24 Q. Can you read it very quickly?

25 A. I can't read all that that quickly, Mr. Bergrin.

1 Q. Isn't it a fact that you never ever mentioned Malsey,
2 there's no questions asked to you about Malsey?

3 A. No questions asked to me? No, not so far as I read,
4 no.

5 Q. Now, you said that you accepted responsibility and you
6 didn't place the responsibility on Mr. Feinberg about not
7 being truthful and lying for a year and a half; right?

8 A. No, I didn't -- I didn't blame him for lying, no, I
9 put it on myself.

10 Q. Well, didn't you say if Mr. Feinberg had sat in, you
11 would have told the truth?

12 A. I said if he would have came and sat in with me and
13 sat down with me and said, Anthony, you need to tell the
14 truth, yes, I probably would have.

15 Q. And didn't you tell us when I cross-examined you that
16 if Mr. Feinberg had told you to tell the truth, you would
17 have taken his advice and told the truth?

18 A. I just said again, probably yes.

19 Q. No, not probably. You said you would have done that;
20 isn't that a fact?

21 A. Most likely, I would have. I would have been
22 listening to the attorney, yes.

23 Q. And if Melissa Hawkins Taylor had told you to tell the
24 truth in front of the agents or in front of the Government
25 and the prosecutors, even privately, then you would have

1 told the truth, of course; right, Mr. Young?

2 A. Maybe.

3 Q. Now, how cold was it outside on March 2nd?

4 A. I couldn't tell you how cold it was. That's
5 impossible.

6 Q. Freezing?

7 A. Cold.

8 Q. Cold. You remember that just like it was yesterday;
9 right?

10 A. March in Newark?

11 Q. Now, you testified in reference to giving the F.B.I.
12 additional information; right?

13 A. Yes.

14 Q. Now, one of the additional information you gave them
15 was that the shooter was left-handed; right?

16 A. Yes, sir.

17 Q. One of the additional information that you gave them
18 was that you melted the gun a day after the incident;
19 correct?

20 A. I said the day of, sir. That's what I said.

21 Q. And the F.B.I. report it says the day after; right?

22 A. I don't write the report, sir.

23 Q. That's what the F.B.I. report says, right?

24 THE COURT: You covered this, Mr. Bergrin.

25 MR. BERGRIN: I might be finished, Judge. I'm

1 just checking. Could I just have one moment, please, to
2 consult with Mr. Lustberg?

3 (Off the record discussion)

4 Q. Mr. Young --

5 A. Yes, sir?

6 Q. -- the entire reason from day one you contacted the
7 F.B.I. and as you testified here today was for the benefit
8 of Anthony Young; correct?

9 A. Right now, yes, my benefit.

10 Q. And to gain Anthony Young's freedom; correct?

11 A. Well, I know I ain't going home, Paul. That ain't
12 happening.

13 Q. To gain Anthony Young's freedom and to reduce Anthony
14 Young's time; right?

15 A. Yes.

16 MR. BERGRIN: I have no further questions.

17 THE COURT: Any redirect, or any re-redirect?

18 MR. MINISH: No, Judge.

19 THE COURT: All right. Thank you.

20 All right. Ladies and gentlemen, we're going to
21 conclude for the day.

22 Again, let me just remind you, please don't read
23 anything about the case if there is anything reported about
24 it, and, of course, don't listen to any news accounts on the
25 radio or television and certainly not on the Internet.

1 Don't go searching around the Internet to find anything.

2 That would be a violation of your sworn oath.

3 And we're moving along as I think we anticipated,
4 so just in case you were wondering. Okay?

5 But that's why we're having long days, too.

6 So we'll be here tomorrow morning, nine o'clock.

7 Please allow for more time tomorrow in case they're still
8 filming here in Newark. I think they are. Okay?

9 Thank you for your cooperation in getting here on
10 time, and we'll see you tomorrow at nine.

11 THE COURT CLERK: Please rise for the jury.

12 (The jury exits)

13 THE COURT: All right. Marshals, thank you very
14 much. The witness is excused.

15 (Witness excused)

16 THE COURT: Mr. Gay, tomorrow, you'll have a line
17 of witnesses, I hope?

18 MR. GAY: Yes.

19 THE COURT: Okay. Who do you expect to call?

20 MR. GAY: We're going to be calling Special Agent
21 William Gale, Devon Jones, Abdul Williams. We think that
22 should take the balance of the day, but I will have another
23 person available, Judge, to testify as well.

24 THE COURT: I don't know. Doesn't sound like they
25 will take all day.

1 MR. GAY: No, the first two will not be long, but
2 I think Mr. Williams -- I'm expecting fairly lengthy cross,
3 but I'll double-check. We've have another witness
4 available.

5 THE COURT: Please do. And then you'll have more
6 witnesses on Monday, of course.

7 MR. GAY: Absolutely.

8 THE COURT: All right. We'll see you in the
9 morning. Thanks very much.

10 (Matter adjourned until Friday, November 4, 2011,
11 commencing at 9 a.m.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No.
 : 09-cr-369-DMC
 v. :
 : TRANSCRIPT OF
 PAUL W. BERGRIN, : TRIAL PROCEEDINGS
 :
 Defendant. : VOLUME 9
 -----x

Newark, New Jersey
February 1, 2013

BEFORE:

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

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

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

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

CHARLES P. McGUIRE, C.C.R.

P2099

1 THE WITNESS: Thank you, sir.

2 (Witness excused)

3 THE COURT: Next witness.

4 MR. GAY: The Government calls Eric Dock.

5 THE COURT: Up here, sir.

6 Just remain standing and be sworn.

7 THE COURT CLERK: Placing your left hand on the
8 bible, raising your right hand:

9 E R I C D O C K, called as a witness on behalf of the
10 Government, and having been duly sworn, testified as
11 follows:

12 THE COURT CLERK: Please be seated.

13 Please state your name, spelling it for the
14 record.

15 THE WITNESS: My name is Eric Dock. First name is
16 E-r-i-c, last name is Dock, D-o-c-k.

17 THE COURT: Just keep your voice up, sir.

18 THE WITNESS: Okay.

19 MR. GAY: May I inquire, Your Honor?

20 THE COURT: Yes.

21 DIRECT EXAMINATION

22 BY MR. GAY:

23 Q. Mr. Dock, how old are you?

24 A. Fifty-two.

25 Q. Where were you born?

1 A. Timmons ville, South Carolina.

2 Q. At some point, did you move to New Jersey?

3 A. Yes.

4 Q. And again, approximately how old were you when you
5 moved to New Jersey?

6 A. Maybe about one.

7 Q. One years old?

8 A. Yes.

9 Q. And did you spend most of your life in the State of
10 New Jersey?

11 A. Yes.

12 Q. Any particular part of New Jersey?

13 A. Paterson, New Jersey.

14 Q. What is the highest grade you completed in school?

15 A. Eleven.

16 Q. Now, in 1982, were you sentenced to five years for
17 committing three burglaries?

18 A. Yes, I was.

19 Q. And did you also spend -- oh, I'm sorry. In March of
20 1983, did you receive six months for false swearing to the
21 Paterson police department about an incident in which a man
22 was beaten and robbed and that man ultimately died?

23 A. Yes.

24 Q. Did you spend some time in California in the later
25 1980's?

1 A. Yes.

2 Q. During that time, in 1989, did you receive a six-month
3 sentence for providing false identification to a police
4 officer, transporting drugs, and possessing drugs for sale?

5 A. Yes.

6 Q. Also in California in December of 1988, did you
7 receive a 45-day sentence for providing false identification
8 to a police officer?

9 A. Yes, I did.

10 Q. Finally, in California, in November of 1992, were you
11 arrested -- were you sentenced, excuse me, to five years for
12 possession and purchase of drugs for sale?

13 A. Yes.

14 Q. Now, I want to move forward to April of 2002.

15 Were you arrested and charged in Federal Court in
16 New Jersey with conspiracy to distribute drugs and using
17 identification to commit -- with intent to commit bank
18 fraud?

19 A. Yes, I was.

20 Q. And were you detained in jail on those charges?

21 A. Yes.

22 Q. Do you recall where, initially, were you detained in
23 jail?

24 A. Passaic County Jail, Paterson, New Jersey.

25 Q. And at that time, did you meet an individual named

1 Troy Bell?

2 A. Yes, I did.

3 MR. GAY: Okay. If we could show the witness only
4 on his screen Exhibit 3071.

5 Q. Do you recognize that individual?

6 A. Yes. That's Troy Bell.

7 Q. And is that a fair and accurate description of Troy
8 Bell?

9 A. Yes.

10 Q. And that's the person you knew about in the Passaic
11 County Jail is that correct?

12 A. Yes.

13 MR. GAY: Judge, I'd ask that this be entered into
14 evidence at this time.

15 THE COURT: Any objection?

16 MR. BERGRIN: No, Judge.

17 THE COURT: Into evidence.

18 (Government Exhibit 3071 marked in evidence)

19 MR. GAY: If you could publish that.

20 Q. Did you know by Mr. Bell by any other names,
21 nicknames?

22 A. Yes. He had a nickname. We called him Self.

23 Q. Did you and Mr. Bell become friendly in the Passaic
24 County Jail?

25 A. Yes.

1 Q. Did you later get transferred to the Hudson County
2 Jail?

3 A. Yes, I did.

4 Q. And did Troy Bell also later get transferred to the
5 Hudson County Jail?

6 A. Yes.

7 Q. At some point while you were in the Hudson County
8 Jail, did you meet another individual named William
9 Baskerville?

10 A. Yes, sir.

11 Q. Okay.

12 MR. GAY: If we could show 2255, which I believe
13 is already in evidence.

14 Q. Do you recognize the individual in that photograph?

15 A. Yes, I do.

16 Q. Who is that?

17 A. That's Baskerville.

18 Q. William Baskerville?

19 A. Yes.

20 Q. Now, do you remember approximately when it was that
21 you met Mr. Baskerville in the Hudson County Jail?

22 A. Sometime in January.

23 Q. Of? Do you remember the -- was it 2004?

24 A. Yeah, I think it was 2004, yes.

25 Q. And were you already in the Hudson County Jail when he

1 arrived?

2 A. Yes, I was.

3 Q. Did you have any conversations with Mr. Baskerville in
4 the Hudson County Jail?

5 A. Yeah. We had one conversation. Actually --

6 Q. Well, actually, Mr. Dock, let me just ask you -- I'll
7 go through this in a little more specifically breaking it
8 down, but just the first question is, did you have any
9 conversations with Mr. Baskerville while you were in jail
10 with him?

11 A. Yeah, he -- he asked us -- asked me could --

12 MR. BERGRIN: Objection. That wasn't the
13 question. The question was, did you have any conversations,
14 and it's a yes or no answer, Judge.

15 THE COURT: Correct.

16 Q. Okay.

17 A. Yes.

18 Q. Okay. So now we're going to discuss those
19 conversations.

20 Mr. Dock, do you -- by the way, before we go
21 further, at this point, did there come a time at some point
22 when you actually made a written log of some of the
23 conversations you had with Mr. Baskerville?

24 A. Yes, I did.

25 Q. Okay. And -- so let's go back, now, to the

1 conversation.

2 Do you recall anything about the first
3 conversation you had with Mr. Baskerville, if you remember?

4 A. Yeah, the first conversation, me and Troy Bell was
5 talking about conspiracy, and Baskerville asked us could we
6 -- could he be indicted in a conspiracy by himself, and we
7 told him yes, if the Government planned on superceding his
8 indictment.

9 Q. Now, did you ever have any conversations with
10 Mr. Baskerville about an informant?

11 A. I asked him did he know who the informant was. He
12 said that when he got his complaint, he had an idea, but he
13 wasn't sure. He said after he talked to another guy named
14 Rick that they figured out they had the same informant and
15 the same agents.

16 MR. GAY: Okay. And if we could put up 3067, which
17 is not in evidence yet, so just for the witness.

18 Oh, it is? Okay.

19 I think this might be in evidence already.

20 Okay. It is. All right. Never mind, this is in
21 evidence.

22 Please put up 3067.

23 Q. Do you recognize that person?

24 A. Yeah. That's Rick.

25 Q. That's Rick?

1 A. Um-h'm.

2 Q. Is that the same person you were discussing before
3 that Mr. Baskerville told you he and Rick found out that
4 they had the same informant?

5 A. Same person.

6 Q. Okay, and do you know Rick's full name?

7 A. I think it's Rick Holter (sic) or something like that.

8 Q. And was Rick an individual who you also met in the
9 Hudson County Jail?

10 A. Yes.

11 Q. Was he in jail along with you and Mr. Baskerville and
12 Mr. Bell?

13 A. Yes.

14 Q. Now, with respect to the informant, did
15 Mr. Baskerville -- do you recall having any other additional
16 conversations with Mr. Baskerville about the informant in
17 his case?

18 A. Yeah. He said he -- he said he went to a legal visit,
19 and he came back, and he said --

20 Q. Okay. Mr. Dock, I'm just going to interrupt you and
21 ask you this question because I don't want to go forward to
22 that -- to other conversations.

23 During the conversation that you just discussed in
24 which he told you about Rick and Will getting together and
25 determining who the informant was, do you remember whether

1 there was any other discussion he had during that
2 conversation about the informant? During that particular
3 conversation.

4 A. I have a general memory about this.

5 Q. Is there anything that might help refresh your memory?

6 A. Yes. I wrote a log about it.

7 Q. Okay. So I'm going to show you the log here and ask
8 you if you could take a look at the bottom of page one --
9 actually, I guess really the middle of page two, and ask
10 whether that refreshes your memory about what, if anything,
11 Mr. Baskerville told you during that conversation that you
12 just discussed.

13 THE COURT: This is Government's Exhibit for
14 identification 2317?

15 MR. GAY: Yes, Judge. Sorry if I forgot that.

16 A. Yes, I recall it.

17 Q. Okay. Does that refresh your memory about what if any
18 other -- what, if anything else, Mr. Baskerville discussed
19 with you relating to his informant during that first
20 conversation?

21 A. Yes.

22 Q. And what did he tell you?

23 A. In one of the conversations, he said after he talked
24 to Rick, he said he called his brother, he told him who the
25 informant was.

1 MR. BERGRIN: I have to object to what he was told
2 by Hosten, Your Honor.

3 MR. GAY: No, no, no, this is -- I'll clarify
4 that.

5 Q. Is this Mr. Baskerville talking to you?

6 A. Yes, this is Baskerville.

7 MR. BERGRIN: Okay. I'm sorry.

8 MR. GAY: That's okay.

9 Q. So go ahead. I apologize if that wasn't clear. This
10 is now -- what I'm asking about, Mr. Dock, is conversations
11 between you and Mr. Baskerville.

12 A. Yes.

13 Q. Okay. So please continue. What did he say?

14 A. He said he called his brother and told his brother who
15 the informant was, and he said they was out there trying to
16 put a hole in his melon.

17 Q. Okay. A hole in whose melon?

18 A. The informant.

19 Q. Okay. And what did you understand hole in his melon
20 to mean?

21 A. It's a head shot. Shoot a person in the head.

22 Q. Now, do you recall whether or not you had any
23 additional conversations with Mr. Baskerville relating to
24 the informant?

25 A. If I could refer to my notes again.

1 Q. Okay. Well, you know what I'll do, Mr. Dock? I'll
2 just leave this up here, if that's okay, so we don't have to
3 keep on going back and forth.

4 Okay. And Mr. Dock, I'm also going to ask you if
5 you could keep your voice up and speak into the microphone
6 as best you can.

7 Now, Mr. Dock, you recall having any discussions
8 with Mr. Baskerville about Mr. Baskerville getting visits
9 from any agents?

10 A. Yeah. They was probably about two conversations. In
11 one conversation, he said the agents came to see him. He
12 said the agents told him if he cooperated with them, he'd
13 probably would have got about two years. He said the agents
14 told him that now you're facing something you could get the
15 death penalty for, you know?

16 Q. Okay. And what, if anything, did he say in addition
17 to that, if you recall?

18 A. He said -- he just basically said they just mad and
19 trying to scare him.

20 Q. Now, during any of your conversations with
21 Mr. Baskerville, did he discuss his drug business?

22 A. Yeah. He said -- he ran the block in Newark called
23 Avon Ave., and on Avon Ave. It's like maybe 10, 12 people
24 involved.

25 Q. Okay. And did he discuss any names of anybody?

1 A. Yeah. Off the top of my head, I could think of
2 probably -- it's a guy named Pooh, a guy named Norman,
3 Herman. It's -- it's -- it's quite a few of them.

4 Q. Okay. Do you know, was there anything that would
5 refresh your memory about that?

6 A. Yes. It's in my log somewhere. I wrote it.

7 Q. Okay. If you could just take a brief look through and
8 --

9 MR. GAY: I might be able to assist in this
10 process, Judge, with the permission of the Court.

11 THE COURT: Yes.

12 Q. If you could please take a look at I guess what would
13 be page 12. Actually the next page after 12, I believe.

14 The next page?

15 A. Okay.

16 Q. Okay. So what, if anything, did Mr. Baskerville tell
17 you about his drug operation at that time?

18 A. He said it's -- he said it's about 12 of them. He
19 said it's -- he said Jarvis, Sheik, Norman, Pooh, Herman,
20 Jahaad -- it's about 12 of them. His brother Rak, and a
21 another guy named Hakeem.

22 Q. Okay, and did he tell you anything about this Hakeem?
23 Did he mention anything about what Hakeem's position was in
24 the organization?

25 A. Hakeem was his brother. He was like a --

1 Q. Let me make sure I'm saying, asking clearly. I'm not
2 saying Rakim, I'm saying Hakeem.

3 A. Hakeem. Oh, Hakeem, that's his cousin. Hakeem is the
4 boss.

5 Q. Okay. The boss of what?

6 A. Everything. He run everything. He runs it.

7 Q. Now, did he mention anything about whether or not
8 Hakeem had any partners in the business?

9 A. Yeah. He said Hakeem got three partners. Sheik is
10 Hakeem's partner. I think he said Sheik was in jail for
11 murders. Jarvis is his partner, and a guy named Jahaad.

12 Q. Now, just so we're clear, Mr. Dock, are you -- you're
13 from Paterson; is that correct?

14 A. Yes.

15 Q. Were you at that time familiar with Newark or the
16 Newark drug business at that point?

17 A. No.

18 Q. So any of these names that Mr. Baskerville is giving
19 you, were they people that you had heard of before?

20 A. No.

21 Q. Now, do you remember any conversations about any
22 arrests that Mr. Baskerville told you about, specifically,
23 any arrests of Mr. Curry or any of his group?

24 A. Yeah. One time he said his brother got busted with
25 about five keys of coke. He said a guy named Pooh set him

1 up, and everybody knew he set him up. There was Hakeem,
2 there was two brothers named -- go by the name The Twins, I
3 think, and somebody named Herman.

4 Q. Do you recall any conversations that you had with
5 Mr. Baskerville about a man named Black or Malik?

6 A. Yeah. He said that Hakeem Curry had a guy named Malik
7 looking for the informant, and Rak.

8 Q. So Rak was who, if you know?

9 A. Rak was Will's brother.

10 Q. Now, at some point, did you also meet an individual
11 named Joey Merlino?

12 A. Yes.

13 MR. GAY: And if we could put up -- this one is
14 not in evidence yet, but 2313.

15 A. Joey Merlino.

16 Q. Do you recognize that person?

17 A. Yes.

18 Q. Is that a fair and accurate depiction of Joey Merlino?

19 A. Yes.

20 Q. Who is Joey Merlino?

21 A. He is a mob guy out of Philly.

22 Q. Was he in jail with you in Hudson County?

23 A. Yes.

24 MR. GAY: Judge, I'd ask this be moved into
25 evidence at this time.

1 THE COURT: Any objection?

2 MR. BERGRIN: No, Judge. Into evidence.

3 (Government Exhibit 2313 marked in evidence)

4 Q. Okay. Now, did there come a time, Mr. Dock, in which
5 you saw a newspaper article?

6 A. Yes.

7 Q. And can you talk about the circumstances of how you
8 got that newspaper article?

9 A. There's a guard at the Hudson County Jail, he brung
10 the newspaper article in, and the newspaper article,
11 everybody was whispering about it, but, you know --

12 MR. BERGRIN: Objection, Judge. That's not the
13 question. He has to be responsive to the question, with all
14 due respect.

15 THE COURT: Well, first of all, responsive to the
16 question is his objection, not yours. You have no right to
17 do that.

18 MR. GAY: Okay.

19 THE COURT: Let me have the question.

20 (Record read)

21 THE COURT: No, I'll allow it.

22 Q. So, Mr. Dock, please continue. You said the guards
23 had the newspaper. What happened from there?

24 A. The guard -- the guard brought the newspaper in. It
25 had two articles in it. One was a couple people got

1 murdered in Newark, and the other one was Joey Merlino's
2 trial.

3 MR. BERGRIN: Objection.

4 THE COURT: What's the objection?

5 MR. BERGRIN: At this point, the content of the
6 article.

7 MR. GAY: Judge, it's not admitted for the truth.
8 This is what we discussed at sidebar previously. It's to
9 discuss why he took the next steps he took.

10 THE COURT: All right, but why do we have to get
11 into the content? Why do we have to get into what it says?
12 He saw an article and something in it triggered him to do
13 something else.

14 MR. GAY: Okay.

15 Q. Without getting into the content of the article at
16 this time, Mr. Dock, did you read an article?

17 A. Yes.

18 Q. And based on reading that article, what, if anything,
19 did you do?

20 A. Well, after reading the article, I knew that some of
21 the people that I had been talking with Baskerville about
22 was in that paper, you know? So I just took the steps to
23 write a letter to the U. S. Attorney's Office.

24 Q. Okay. Now, specifically, what had Mr. Baskerville
25 told you about that you read in the paper that caused you to

1 take those actions, if you recall? And if you need a copy
2 of the article to refresh your memory, I have it to refresh
3 your memory if you need it.

4 A. It was just some of the people's names in the paper
5 that we had been talking about.

6 Q. Okay.

7 A. So I kind of knew Baskerville wasn't somebody that was
8 just talking, he was kind of like the real deal. So that's
9 why I wrote the letter.

10 Q. Okay. So these names, and was there anything in
11 particular in the article about what these individuals had
12 done that caused you to believe Mr. Baskerville was the real
13 deal?

14 A. It was basically the informant being killed.

15 Q. Okay. Informant, or informants?

16 A. Informants being killed, two.

17 Q. Okay. And based on that, who -- who was named in the
18 article what were some of the names in the article? And
19 again, Mr. Dock, if you need your --

20 A. Yes, let me see it.

21 Q. -- the article -- take a look at it. Start from the
22 bottom here. It goes on to the next page.

23 MR. LEVY: Objection, Your Honor.

24 THE COURT: What's the objection?

25 MR. LEVY: Well, you sustained the objection as to

1 content. It's now coming in through different means.

2 THE COURT: How about it?

3 MR. GAY: Judge, this is, again, to explain why he
4 took the steps he took. It makes no sense without the
5 context of this article.

6 THE COURT: Well, except you've already had him
7 testify that he learned certain names from Baskerville. He
8 now sees those similar names in here, and he told why it
9 caused his interest. Why do we now have to get into the
10 article itself? I don't think it's appropriate to be
11 getting into the article. It's a newspaper.

12 MR. GAY: I will try to be -- if I can be a little
13 -- ask a couple of questions that will be a little more
14 surgical, then.

15 MR. BERGRIN: Judge, could we have an instruction?
16 I think the jury might be inferring that I'm in the article
17 in any way whatsoever.

18 MR. GAY: There's absolutely no indication that
19 Mr. Bergrin's in article.

20 THE COURT: Nobody said that, Mr. Bergrin.

21 MR. BERGRIN: All right, Judge.

22 THE COURT: He's talking about the people where
23 these drug dealers were -- Baskerville.

24 Q. Was Hakeem Curry mentioned in the article?

25 A. Yes.

1 Q. Were other members of Hakeem Curry's organization
2 mentioned in the article?

3 A. Yes.

4 Q. And were those individuals that Mr. Baskerville had
5 told you about?

6 A. Yes.

7 Q. Was there a discussion of an informant being killed?

8 A. Yes.

9 Q. One of them on South 19th Street?

10 A. Yes.

11 Q. And another one in another location?

12 A. Yes.

13 Q. And had Mr. Baskerville previously been discussing
14 with you Mr. Curry's organization?

15 A. Yes.

16 Q. Members that were discussed in the article and the
17 fact that he was out -- he had members of the organization
18 out looking to kill his informant?

19 A. Yes.

20 Q. Okay. After you read this article, did you have any
21 discussions with Mr. Baskerville about the article?

22 A. He just said -- he just said the Government was mad
23 and, basically, F- 'em.

24 Q. Okay. Do you remember whether or not he said anything
25 about whether one of the informants mentioned in the article

1 was in any way related to him?

2 A. Yeah, he said one of them was his informant.

3 Q. Okay. And do you remember him saying anything else
4 about the second informant that was mentioned in the
5 article?

6 A. He just said he was around setting people up.

7 Q. Okay. Do you remember anything specific about any
8 discussions you had with him about what, if anything,
9 members of the organization were doing to locate either one
10 or both of these informants?

11 A. Early on --

12 Q. Do you have a specific memory of it, Mr. Dock?

13 A. A specific memory is, early on, they was looking for
14 him, and they thought the Government had him in hiding.

15 Q. Okay. Anything else you can remember specifically at
16 this time?

17 A. If I can refer to my notes again. It's been a long
18 time.

19 Q. I'm going to actually refer you to a specific part of
20 the notes, and it's, again, I guess, page 11, or maybe it's
21 10. It's got an X on the top.

22 The next one.

23 Next one.

24 One more.

25 That one there.

1 And if you could look down towards the bottom of
2 that, Mr. Dock, read it and tell me whether it refreshes
3 your memory.

4 A. Yeah, I recall now.

5 Q. Okay. So what if anything did Mr. Baskerville tell
6 you about what was going on with the various informants?

7 A. He said his brother was out looking for the informant,
8 and they didn't -- they didn't have no physical evidence and
9 -- Hak and some guy named Malik.

10 Q. Was it your understanding they were referring to one
11 informant or two informants --

12 A. Two.

13 Q. -- in that conversation?

14 A. Two.

15 Q. Okay. So with respect to his brother, who was his
16 brother looking for?

17 A. His brother was looking for Will's informant.

18 Q. And what about Malik? Who was Malik looking for?

19 A. He was looking for the other one.

20 Q. And what, if anything, did he say about whether or not
21 he was concerned about being caught up or being charged in
22 that?

23 A. He said that they didn't have no physical evidence,
24 they couldn't prove nothing.

25 Q. Now, did he discuss anything with you generally about

1 any vehicles or how they used vehicles, if you recall?

2 A. Yeah. He said -- he said Newark was the kind of
3 place, you know, you can't just ride around. He said, you
4 have to have a -- first, he said that they have a few cars,
5 these cars have what you call like secret compartments,
6 stash box, where you can transport guns, drugs, and if you
7 need to do a hit, you could ride up to a person in broad
8 daylight and just shoot him, flee the scene, leave the gun
9 in the stash box and just go to the next car.

10 Q. Now, did he mention anything to you about Hakeem
11 Curry, do you recall?

12 A. He said Hakeem Curry was the boss. He ran the -- some
13 apartment complex somewhere in Newark.

14 Q. And did there ever come a time when you actually saw
15 Mr. Curry?

16 A. Yes.

17 Q. And can you describe that?

18 A. Well, that's kind of -- kind of -- a guy came to the
19 unit in the section we locked in, and everybody was running
20 around quiet and hush-hush, and they went to a particular
21 cell and put a towel over the window. So we was curious to
22 who this person was.

23 Now, in this facility, the section we in has an
24 inmate like a block captain. Now, this block captain, he
25 gives out supplies and he keep track so what cell people

1 live in and who lives in that cell. So we went to -- on the
2 back of his cell door is a list of the locations of
3 everybody where they live at and they name. So we looked up
4 on it, and the guy' name was Hakeem Curry. They were trying
5 to hide him.

6 Q. Now, if you saw Mr. Curry again, would you recognize
7 him, do you think?

8 A. I believe so, yes.

9 MR. GAY: Okay. If you could put up.

10 (Government Exhibit 2258 displayed_

11 Q. For the record, it's Government Exhibit 2258.

12 A. That's him.

13 Q. That's Mr. Curry?

14 A. Yes.

15 Q. Okay. Now, Mr. Dock, all these conversations that you
16 talked about; did they occur when you were in the Hudson
17 County Jail?

18 A. Yes.

19 Q. Okay. Now, let's talk about, you mentioned that you
20 -- after you read this article -- by the way, do you recall
21 the date of the article?

22 A. I think it was early March.

23 Q. Okay. Of 2004?

24 A. Yes.

25 Q. Okay. Now, after you read this article, you said that

1 you believed Mr. Baskerville was the real deal, I think is
2 the word you used.

3 A. Yeah, that's the word I used.

4 Q. So what, if anything, did you do after that?

5 A. Me and Troy Bell went to the -- his cell and we were
6 sitting down talking, and we kind of knew that Baskerville,
7 you know, he was a gangster for real. So we decided after
8 we seen the article, there was a -- a U.S. Attorney's name
9 in the article that was handling the case, that name was
10 John Gay. So we sat down, and Troy Bell wrote the letter,
11 and I looked out the cell window so nobody didn't come up to
12 the cell to see what was we was doing, and we wrote the
13 letter saying we had information, we believed, pertaining
14 to, you know, the article.

15 Q. Okay. And was there anything else you did besides
16 simply write the letter at that time?

17 A. Yeah. Since we was talking with Baskerville since
18 January and now we were in March, we had a lot of
19 conversations with him, so I went back and the best I could
20 tried to remember most all the conversations. That's how
21 the log came about, come into existence.

22 Q. Okay. Now, when you say the log, is that what you're
23 referring to, this exhibit --

24 A. Yes.

25 Q. -- 2217?

1 A. Yes.

2 Q. And describe what the purpose of the log was.

3 A. Just to try to remember what was being said.

4 Q. Okay. So, now, were some entries in the log things
5 that you wrote down that you had remembered from
6 conversations prior to March?

7 A. Right.

8 Q. Early March?

9 A. The log -- the log started this way. Like, our first
10 conversation started with him in January, so what we did, we
11 just wrote the date down in January what we believed the
12 take it to be and tried to remember most of that
13 conversation, and then we went from January and came all the
14 way back to March.

15 Q. Okay. And then after March, were there additional
16 entries in the log?

17 A. Yeah.

18 Q. And what -- describe how those entries were made.

19 A. Like, we'd have conversation today, and -- like, I
20 live in -- first, you have to understand that you live in
21 two-man cells, so you can't be writing this kind of stuff in
22 the cell, so you just wait till late night and you go in
23 your cell and you remember the conversation that you had
24 that day and you write it down and you put it in the log.

25 Q. Now, at some point, did you meet with people in the

1 United States Attorney's Office or F.B.I. agents?

2 A. Yes, but the first person they came to see was Troy
3 Bell. They didn't come see me first. Troy Bell told them
4 to come see me. Then they finally came and they seen me.

5 Q. If you know, why did they go to see Troy Bell first?

6 A. Because actually his name and my name was on the
7 letter, and I guess 'cause his name was on the letter, they
8 came to see him first.

9 Q. At some point, did you -- without getting into what
10 you told the F.B.I., at some point, did you talk to the
11 F.B.I.?

12 A. Yes.

13 Q. And at some point after that, did you agree to plead
14 guilty to the charges that were facing you and that you were
15 in Hudson County Jail for?

16 A. Yes.

17 Q. And as part of your plea agreement, did you also agree
18 to cooperate with the Government?

19 A. Yes.

20 Q. And as part of that, did that involve telling --
21 truthfully testifying at trial?

22 A. Yes.

23 Q. I'm going to show you Government Exhibit 7017 and
24 7016, and ask you, first, with respect to 7017, you
25 recognize that?

1 A. Yes, I do.

2 Q. And what charge does that relate to? You said you
3 were in on two charges; is that correct?

4 A. Yeah. I believe this is the conspiracy.

5 Q. For the drugs.

6 A. Yes.

7 Q. Okay. Now I'm going to show you 7016 and ask you
8 whether you recognize that. And what does that relate to?

9 A. To the fraud case.

10 Q. Okay. Now, what was your understanding of what you
11 were supposed to do, what you were required to do in
12 connection with the cooperation agreement?

13 A. Tell the truth.

14 Q. Tell the truth where?

15 A. Everywhere.

16 Q. Did it also include testifying at trial?

17 A. Yes.

18 Q. And what was your understanding of what the Government
19 was going to do for you pursuant to that agreement?

20 A. If the Government felt that I told the truth, they
21 would write a letter detailing whatever I did, and it would
22 be up to the judge what happened from there.

23 Q. Okay. And do you recall what sentence you were facing
24 prior to your -- at that time when you pled guilty,
25 approximately?

1 A. I think around 17, maybe 15 years, somewhere in there.

2 Q. And that would be on both charges?

3 A. Yeah.

4 Q. Did you eventually testify at a trial against William
5 Baskerville?

6 A. Yes.

7 Q. And what was your understanding of what would have
8 happened to you if you told a lie during the prosecution's
9 questions at that trial?

10 A. The plea agreement would be rejected.

11 Q. And what would that mean as far as your sentence?

12 A. I'd get 17 years, probably.

13 Q. And what was your understanding of what would happen
14 to you if you told a lie during the defense attorneys'
15 questioning at that trial?

16 A. Same thing.

17 Q. Now, the case, the William Baskerville case was before
18 a different judge; is that correct?

19 A. Yes.

20 Q. And you said you ultimately did testify in connection
21 with that case; is that correct?

22 A. Yes.

23 Q. And as a result of your testimony in that case, do you
24 know whether or not the Government wrote a motion for you
25 requesting a reduction in your sentence?

1 A. Yes.

2 Q. And did you receive a reduction in your sentence
3 ultimately after your cooperation?

4 A. Yes.

5 Q. Do you recall what it was that you -- what sentence
6 you received after your truthful testimony at the William
7 Baskerville trial?

8 A. Time served.

9 Q. And how long, approximately, had you served at that
10 time?

11 A. Just about five years.

12 Q. And so you were released after you were sentenced; is
13 that correct?

14 A. Yes.

15 Q. And since that time, have you committed any crimes?

16 A. No.

17 MR. GAY: Just one second, Judge.

18 I have no further questions at this time, Judge.

19 THE COURT: Mr. Bergrin.

20 MR. BERGRIN: Thank you, sir. Thank you very
21 much, Judge.

22 CROSS-EXAMINATION

23 BY MR. BERGRIN:

24 Q. Good morning, Mr. Dock.

25 Now, before you sat in this seat today, how many

1 hours did you spend with the prosecutor going over your
2 testimony for today?

3 A. None. I just came in and sat outside.

4 Q. You just came in? You didn't meet with them before
5 you testified today?

6 A. They gave me a notice, telling me I had to come to
7 court.

8 Q. You didn't meet with them yesterday? You didn't meet
9 with them the day before?

10 A. Yesterday -- the day before, no. Yesterday, I came
11 over here and I sat outside till about four o'clock, and
12 they told me come back tomorrow.

13 Q. And nobody talked to you.

14 A. They told me that I'd be testifying.

15 Q. And they didn't talk to you about your testimony.

16 A. No. It's already on the record. It's already there.

17 Q. Before you testified in 2011, did you meet with the
18 prosecutors to go over your testimony and review it?

19 You understand you're under oath, subject to
20 perjury, right?

21 A. I'm trying to understand what you're asking me.

22 Q. You're telling us that you didn't meet with the
23 prosecutor in this case, or the F.B.I. agent.

24 A. Yes, I met with them. Previously, yes.

25 Q. And how much time did you spend with them, Mr. Dock?

1 A. I don't know.

2 Q. How many days did you spend with them?

3 A. Well, do you mean -- I don't know how to answer that.

4 You mean in the beginning of the case, or --

5 Q. No, I'm talking about in preparation for your
6 testimony in court.

7 A. Probably --

8 MR. GAY: Judge, just so we're clear, he's
9 testified -- this is now the third time he testified.

10 MR. BERGRIN: Correct.

11 MR. GAY: If we could be more clear on the time
12 he's talking about.

13 Q. Let's talk about the testimony today, in court today.
14 Are you telling us that the F.B.I. agent or no agents for
15 the Government talked to you prior to you taking the witness
16 stand?

17 A. Yes, they did talk to me, but what they did was, they
18 gave me the testimony, asked me to review it, asked me to
19 review my logs --

20 Q. Okay. Wait a second. You just testified that they
21 gave you notice and you just walked into court. Now you're
22 saying that they gave you your testimony, correct?

23 A. No, they didn't give me my testimony.

24 MR. GAY: Judge, I'm going to object.

25 THE COURT: Hold it. What's the objection?

1 MR. GAY: His initial question was, did they speak
2 to him today. So he's asking a different question now and
3 trying to imply that Mr. Dock is --

4 THE COURT: Okay. Okay. Wait. The jury heard
5 the questions.

6 First of all, Mr. Bergrin wants to know whether or
7 not you prepared your testimony with the prosecutors.
8 That's what he's talking about today.

9 So, Mr. Bergrin, ask the questions pertaining to
10 that.

11 MR. BERGRIN: Thank you, Your Honor.

12 BY MR. BERGRIN:

13 Q. Before you came in to testify a few minutes ago, what
14 kind of documentation were you given by the prosecutors and
15 the U.S. Attorneys?

16 A. My log.

17 Q. Anything else?

18 A. And the transcripts from the previous testimony.

19 Q. And when were you given those?

20 A. I believe two or three days ago.

21 Q. And where did they give it to you?

22 A. Right here in the building.

23 Q. In this building, or at the U. S. Attorney's Office
24 across the street?

25 A. I got the logs from the agent at the U. S. Attorney's

1 Office, correct.

2 Q. And when you were at the U. S. Attorney's Office, what
3 did you discuss with the agent?

4 A. My memory about my logs, review them, take them home,
5 read them so you can refresh your memory.

6 Q. So you talked about your memory of the logs; correct?

7 A. Right.

8 Q. And you talked about your memory of your prior
9 testimony; correct?

10 A. Yes.

11 Q. And they gave you a copy of your logs as well as your
12 prior testimony; correct?

13 A. Yes.

14 Q. And that was two or three days ago.

15 A. Something like that, yeah.

16 Q. Now, did you also speak to the prosecutor in the case
17 two or three days ago?

18 A. Yeah, he was there.

19 Q. And how much time did you spend with the agents and
20 the prosecutor?

21 A. Well, I had my little niece with me. Probably about
22 maybe a hour.

23 Q. About an hour.

24 A. Probably that.

25 Q. So you didn't just walk into court and take the

1 witness stand; correct?

2 A. This morning, I did.

3 Q. This morning.

4 Now, isn't it a fact that as the prosecutor -- and
5 you've testified to this previously. It's the prosecutor
6 who makes the decision whether you're truthful, correct? In
7 their sole discretion, they make the decision whether you're
8 truthful. Did you respond yes in prior testimony?

9 A. I think I did, but if I did, I didn't understand what
10 I was saying if I did, but I think so.

11 Q. You didn't understand what you were saying. What
12 didn't you understand about that question, isn't it a fact
13 that the prosecutor makes the decision whether you're
14 truthful. What didn't you understand?

15 A. I thought the prosecutor made the decision whether or
16 not you cooperated truthful and whether he write a letter.
17 That's what I thought.

18 Q. You were asked a simple question: Isn't it a fact
19 that the prosecutor decides whether you're truthful. And
20 isn't the fact under oath after putting your hand on the
21 bible and sitting in that witness stand you decided yes,
22 that's correct.

23 MR. GAY: Could wet get a reference to what J
24 number you're talking about, Paul?

25 MR. BERGRIN: It's 10144.

1 MR. GAY: Which one?

2 MR. BERGRIN: It's transcript dated 11/7/11.

3 MR. GAY: And I'm sorry, Paul, which page again?

4 MR. BERGRIN: It's page 177, sir, and specifically
5 at line nine.

6 MR. GAY: Thanks.

7 MR. BERGRIN: You're welcome, very welcome.

8 Q. You answered yes, they make the decision.

9 They have the sole discretion, correct, that's
10 what it says in your plea agreement, to make the decision
11 whether you're telling the truth or not; correct?

12 A. Yes.

13 Q. The judge does the sentencing; correct?

14 A. Yes.

15 Q. But before you get to the judge and before you're
16 accepted as a cooperator, it's up to the prosecutor;
17 correct?

18 A. Yes.

19 Q. Now, the prosecutor writes a letter for you, correct,
20 called the 5K1.1 letter to reduce your sentence; right?

21 A. Yes.

22 Q. And without getting that letter, there's no reduction
23 of sentence; correct?

24 A. Correct.

25 Q. Now, you testified a few minutes ago and you said that

1 William Baskerville referred to Malik Lattimore as looking
2 for another informant, but not the informant in his case.

3 Did those words actually come out of your mouth?

4 A. I believe so. If you want to show me.

5 Q. No, I'm asking you what you testified to a couple of
6 minutes ago. Did you say that? Did those words come out of
7 your mouth, subject to perjury, taking the oath?

8 A. Repeat it again for me? Repeat it again for me?

9 Q. Did you say and tell this jury that William
10 Baskerville told you that Malik Lattimore was looking for a
11 witness in another case, but not the informant against
12 William Baskerville?

13 A. That's --

14 Q. You're under oath.

15 A. Yeah, but you --

16 Q. Let me just -- let me just finish my question.

17 THE COURT: Let him answer the question. He knows
18 he's under oath.

19 MR. BERGRIN: Thank you. Okay, Judge.

20 THE COURT: Can you answer the question? Go
21 ahead. Answer the question.

22 A. I testified to -- that William Baskerville told me
23 that his brother was looking for his informant, and the guy
24 named Malik was looking for the other one. That's what I
25 testified to.

1 Q. Now, you had been asked this question many times
2 before, almost the exact same question, in reference to who
3 was looking for William Baskerville's informant, the one
4 that we're talking about, Mr. Kemo McCray, the informant in
5 William Baskerville's case; correct? You had been asked
6 that --

7 A. Yes.

8 Q. -- at a grand jury, correct, when you testified under
9 oath?

10 A. Yes.

11 Q. You had been asked that in a prior trial in 2007;
12 correct?

13 A. Yes.

14 Q. And you had been asked that question in 2011,
15 November, when you testified; correct?

16 A. Yes.

17 Q. And isn't it a fact that each and every time, other
18 than the fact today when you walked into court after
19 coincidentally meeting with the prosecutor and the agent in
20 this case, you had said -- and I'll quote you, and I'll
21 point Mr. Gay to the page, first starting -- the trial of --
22 I'm going to go through all your testimony -- April 23rd,
23 2007, page 5282, Jencks 18231.

24 You said, and these words came out of your mouth:

25 "He said that his brother Rak and Malik had been

1 looking for his informant since January."

2 You're shaking your head.

3 A. Yes.

4 Q. Please respond to me.

5 A. That's correct.

6 Q. And you had told that to the grand jury also; correct?

7 A. Correct.

8 Q. And you had told that to a jury in 2011; correct also,
9 right?

10 A. Yes.

11 Q. And you wouldn't lie under oath to the grand jury;
12 correct?

13 A. No.

14 Q. You wouldn't lie under oath in 2007; right?

15 A. No.

16 Q. And you wouldn't lie under oath in November of 2011;
17 correct?

18 A. No.

19 Q. Mr. Dock, you took an important oath today. Who told
20 you to say -- and I want you to admit on the stand -- in
21 preparation, three days ago, when you met with the agent,
22 Brokos, in this case, isn't it a fact that she told you to
23 say that Malik Lattimore is looking for the other informant?

24 I want the truth out of you.

25 A. I'm going to tell you.

1 If you reviewed my log, right, William Baskerville
2 told me about the informants on numerous occasions, and
3 there are a number of entries in that log about it.

4 Q. And isn't it a fact that the logs referred to the
5 informant in his case, and he's told you specifically that
6 Malik Lattimore -- or you referred to him as Malik and you
7 knew him as Malik Lattimore and his brother Rakim were
8 looking for the informant in his case.

9 A. If you review the log -- and I'll say it again --

10 Q. We'll go through your log.

11 THE COURT: Were you finished with your answer?

12 THE WITNESS: Yeah, I guess.

13 THE COURT: Next question.

14 Q. Now, before you became a cooperating witness with this
15 office, the U. S. Attorney's Office, you had attempted to
16 cooperate --

17 MR. BERGRIN: I'm sorry.

18 MR. GAY: I'm sorry, Paul, I didn't mean to
19 interrupt you.

20 Q. -- you had attempted to cooperate on at least two
21 prior occasions, and it didn't work out; correct?

22 A. I guess -- that's fair. That's fair, yeah.

23 Q. And you tried cooperating in a robbery and a murder
24 case back in 1982; correct?

25 A. No, I did not cooperate. I chose not to.

1 Q. Well, isn't it a fact that you were brought in for
2 questioning on the murder of a shoe repairman that was
3 killed in a robbery in Paterson, New Jersey?

4 A. No, I wasn't brought in for it, no.

5 Q. And you gave multiple statements?

6 A. No, I gave one statement, and I decided not to be
7 involved with it, so I walked away from it.

8 Q. Are you sure about that?

9 A. That's my memory of it.

10 Q. Are you sure about that?

11 A. That's my memory of it. That's how it happened.

12 Q. Now, do you remember testifying in prior proceedings
13 in reference to that, in reference to whether you attempted
14 to cooperate in two other cases, at least two other cases
15 before you became a cooperating witness in this case?

16 A. I thought you was talking about the shoe repairman.

17 Q. The shoe repairman. Start with the shoe repairman.

18 MR. GAY: I'm sorry, I don't know if I understand
19 what the question is.

20 THE COURT: I don't think there's a question
21 pending.

22 MR. GAY: Okay.

23 MR. BERGRIN: Thank you.

24 Q. What are the two cases prior to you cooperating
25 against Baskerville did you try to cooperate in?

1 400,000 up to a million dollars in fraud. That's what it
2 was. Now, I don't recall -- and it could have been, I'm not
3 saying you're wrong, it could have been. I don't recall
4 like, 49 victims. I don't recall that.

5 Q. Now, Mr. Gay asked you about your prior record. In
6 California, you were convicted in 1988 of obstructing
7 justice, correct, providing false information to police
8 officers, law enforcement officers?

9 A. Yeah, I told them a different name. They asked me my
10 name, and I gave them another name.

11 Q. And again in California in 1992, you were convicted of
12 a drug offense and sentenced to five years in state prison?

13 A. Yes.

14 Q. And you were also convicted of false swearing, lying
15 under oath; correct?

16 A. You mean about my name? Yes.

17 Q. And the reason you left New Jersey to actually go to
18 California is because you were facing a parole violation,
19 correct, going back to state prison.

20 A. Yes.

21 Q. Now, you have been involved in the system for the
22 last, what, 30 years?

23 A. Probably most of my life, to be honest with you.

24 Q. Most of your life?

25 A. Yes, unfortunately.

1 Q. And based upon your experience, you know how to get
2 the benefits of cooperation; correct?

3 A. Do I know how to get the benefits of cooperation...

4 I --

5 Q. You're familiar with the system and how to get the
6 benefits of cooperation; right?

7 A. How to get the benefits of cooperation?

8 Q. Yes. How to get your time reduced and how to walk out
9 of jail like you did in this case.

10 A. Yeah, you have to be willing to -- to tell. It's just
11 simple.

12 Q. Now, you also know based upon your experience in the
13 Hudson County Jail there are cooperators who make up facts
14 and say they've learned it from individuals; correct?

15 A. You asked me that last time.

16 Q. And you said yes last time under oath; correct?

17 A. I told you I imagine anything happens, but I don't
18 know anybody that done that.

19 Q. You're saying you imagine anything happens.

20 A. Yeah, in jail, most anything can happen, I guess. I
21 don't know.

22 Q. When I asked you the question last time, you said yes;
23 correct?

24 A. I don't even recall if I said yes.

25 Q. Well, do you have a copy of your -- what transcript do

1 you have in front of you?

2 A. Not that one. I don't have that one.

3 MR. BERGRIN: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes.

6 Q. I'm going to show you a transcript from November 7th
7 of 2007, page 136, J-10123, and ask you to look at line 10
8 through 13, Mr. Dock.

9 A. Okay.

10 Q. What was the question, Mr. Dock? I know you read
11 well.

12 A. I said yes. You're right.

13 Q. Now, in order for you to be a cooperating witness, one
14 thing that you know is that you have to plead guilty;
15 correct?

16 A. Yes.

17 Q. And in your particular case, you pled guilty and you
18 went before a United States District Court, a Federal judge;
19 right?

20 A. Yes.

21 Q. And did you ever make a statement to the effect of,
22 you pled guilty to facts as part of the fraud even though
23 you didn't do it?

24 A. Yes. I made that statement. But you understand what
25 that means, right? That means --

1 Q. Well, I understand what it means, but that's not my
2 question. I asked you a simple question. You could answer
3 my question.

4 A. I am answering your question.

5 Q. You pled guilty; correct?

6 A. I pled guilty.

7 Q. And when you pled guilty, you admitted to facts that
8 you said you were not guilty of to get the plea agreement,
9 so you'd get the cooperation; correct, Mr. Dock?

10 A. No, that's misleading. That's misleading.

11 MR. GAY: May I have the page? What page are we
12 talking about, Paul?

13 MR. BERGRIN: It's 5362 to 5363, Mr. Gay.

14 THE COURT: We can't have too much talking going
15 on.

16 MR. GAY: I'm sorry. He's referring to an
17 exhibit, Judge.

18 THE COURT: And your answer to that was what?

19 A. He's misleading it, because, when you plead to the
20 conspiracy, you plead to your role in the conspiracy and
21 everybody else in the conspiracy. It's like in for a penny,
22 in for a pound. That's what I was trying to tell you when
23 you asked me that before.

24 Q. Well, that's not what you testified to --

25 A. That's -- that's what I meant.

1 Q. Let me ask my question. That's not what you testified
2 to back in 2007 under oath with other lawyers questioning
3 you; correct, Mr. Dock?

4 A. With other lawyers questioning me?

5 Q. Yes, when other lawyers were questioning you. Didn't
6 you say, didn't the words come out of your mouth:

7 "Actually, the fraud was somebody else's program. I was
8 just really there, really like a participant, yes."

9 A. That's -- that's correct.

10 Q. So you testified that you were merely there and that
11 you didn't know the extent of the entire fraud, of the
12 fraud; isn't that a fact?

13 A. I didn't say I didn't know the entire extent of the
14 fraud. I was trying to admit to what my role in the fraud
15 was. But it don't work that way. You have to admit
16 everything, and everything everybody else done. That's what
17 I meant.

18 Q. You're telling me you have to admit everything
19 everybody else does even if you didn't know what they were
20 doing?

21 THE COURT: Wait, we have to be fair here. He
22 didn't say he didn't know. He said he knew, but --

23 MR. BERGRIN: I'll move on to another area, Judge.

24 Q. Now, you and Mr. Bell, known as Self, you met him the
25 first time at the Passaic County Jail?

1 A. Yes.

2 Q. And you became good friends?

3 A. Yes.

4 Q. You talked about your case and his case together?

5 A. Yes.

6 Q. You discussed each other cases?

7 A. Yeah, a little bit, yeah. That's accurate.

8 Q. When you got to the Hudson County Jail, you remained
9 friends with Mr. Bell; correct?

10 A. Yes.

11 Q. And isn't it a fact that people would come to you for
12 information based upon your experience and you being part of
13 the system for so long --

14 A. No.

15 Q. -- as well as Mr. Bell?

16 A. No.

17 Q. Are you telling us that you weren't known as
18 essentially the paralegals of the unit?

19 A. I'm telling you no, I wasn't.

20 Q. Now, William Baskerville spoke to you; correct?

21 A. Yes.

22 Q. And Mr. Baskerville came to both you and bell;
23 correct?

24 A. Yeah, but he only came 'cause he heard us talking
25 about conspiracy, and he asked a question, and that's how

1 that started, not 'cause we was paralegals.

2 Q. So based upon you speaking to Mr. Baskerville, it was
3 your understanding that Mr. Baskerville didn't know the law
4 of conspiracy; correct?

5 A. At that moment, I guess, yes.

6 Q. Now, the first time that he came to you was about two
7 weeks before Christmas in December 2003; correct?

8 A. December, before Christmas...

9 I think more like January. I'm not sure.

10 Q. So January of 2004?

11 A. Yeah.

12 Q. Now, he asked you questions such as whether a person
13 could be indicted by himself for conspiracy, as you
14 testified; correct?

15 A. Yes.

16 Q. And he also was asking you a question about whether he
17 could be charged with conspiracy with an informant; correct?

18 A. Yes.

19 Q. When William Baskerville told you that he didn't
20 really understand the law of conspiracy, nobody explained it
21 to him; right?

22 A. He never said that, no.

23 Q. He said he didn't understand the conspiracy, and he
24 came to you --

25 A. No, he never said that.

1 Q. -- for help.

2 A. No.

3 Q. Now, William Baskerville told you that he received his
4 criminal complaint; correct?

5 A. Yes.

6 Q. And that he said that when he first got arrested, he
7 didn't know who the informant was, he wasn't sure; correct?

8 A. No, he said the exact opposite. He said he had an
9 idea who the informant was, but he wasn't sure, and after
10 talking to Rick, another guy that was with us, they figured
11 out they had the same agents and the same informant.

12 Q. And he was able to figure out who the informant was,
13 correct, after talking to Rick.

14 A. Yes.

15 Q. And after receiving this complaint; right?

16 A. I believe he said it, right.

17 Q. Now, William Baskerville also told you that he had
18 figured out who had set him up; correct?

19 A. Eventually, he said it, yeah.

20 Q. Do you remember when that was that he told you that?

21 A. Not right offhand, no.

22 Q. But you do remember that approximately the first time
23 you ever conversed with William Baskerville or he talked to
24 you about the conspiracy was in January of 2004; is that
25 your testimony?

1 A. Yes.

2 Q. Now, when William Baskerville talked to you, he also
3 made a statement that he's going to tell his brother who the
4 informant was; right?

5 A. At some point, he said -- after he figured out who the
6 informant was, he made his brother understand who the
7 informant was by telling them, it's in the log, by telling
8 him that, remember this guy that kept coming at you, kept
9 coming to see you, trying to get drugs, and he said his
10 brother remembered.

11 Q. So it was William Baskerville who had to essentially
12 explain to his brother -- and his brother was Rakim
13 Baskerville; right?

14 A. Yes.

15 Q. He had to explain to his brother, Rakim Baskerville,
16 who the informant was and essentially describe the
17 informant's conduct in setting him up; correct? To explain
18 who the informant was. Is that a fair statement?

19 A. Yeah, that sounds fair.

20 Q. Now, when William Baskerville talked to you, he said
21 that his brother Rakim did not know who the informant was;
22 correct?

23 A. I don't recall that conversation.

24 Q. Well, do you remember testifying that William
25 Baskerville told you and Bell that his brother did not know,

1 his brother Rakim did not know who the informant was and
2 that it was he, William Baskerville, who had to explain who
3 the informant was?

4 A. Do I remember testifying to that?

5 Q. Yes, under oath.

6 A. I don't -- I don't -- something to that effect. I'm
7 not sure.

8 Q. Well, I'm going to ask and show you page 5263 of your
9 testimony.

10 A. Okay.

11 MR. GAY: This is of the Baskerville trial, Paul?

12 MR. BERGRIN: Yes, sir.

13 Q. And back in 2007, when you testified, your memory was
14 better than it is today, of course; correct?

15 A. Yeah, that's a long time ago.

16 Q. Okay. Thank you.

17 I'm going to show you A2060, it's page 5263. I'm
18 going to ask you to look at essentially lines 18 -- excuse
19 me, 11 through 21.

20 A. Eleven through 21?

21 Q. Yes. And then just read line 22 and 23, because I'm
22 going to ask you some questions on that.

23 Please let me know when you've finished, sir.

24 A. Okay.

25 Q. Is it fair to say that William Baskerville explained

1 to you at the Hudson County Jail in approximately January of
2 2004 that his brother Rakim Baskerville did not know who the
3 informant was and that William Baskerville had to explain to
4 his brother who the informant was?

5 A. Yeah, he made me realize who it was. I testified to
6 that just now.

7 Q. And as a matter of fact, William Baskerville had to
8 explain to his brother that it was the guy that kept coming
9 back to me for drugs.

10 A. That's in the log. Correct.

11 Q. And that's in your sworn testimony; correct?

12 A. Correct.

13 Q. And then he also made a statement to you that he had
14 to explain it to -- he asked his brother to explain it to
15 Hakeem Curry, too; correct?

16 A. He said to tell Hak who it is. Let me make sure --

17 Q. To tell Hak who it is.

18 Yes, sir. You can just answer my question. You
19 don't have to look at your log.

20 A. Well, if you don't mind.

21 He said to make sure he tell Hak who it is, who
22 the informant is.

23 Q. And that was in approximately January of 2004;
24 correct?

25 A. I think, yeah.

1 Q. So it's William Baskerville who's explaining to his
2 brother who is the informant, and William Baskerville
3 telling his brother, Rakim Baskerville, to tell Hakeem Curry
4 who the informant is; correct?

5 A. Yes.

6 Q. Now, you have never heard William Baskerville mention
7 the name Fat Ant or Anthony Young; correct?

8 A. No.

9 Q. Now, did there come a point in time at the Hudson
10 County Jail that William Baskerville went to the law library
11 with you?

12 A. No.

13 Q. Did you ever see William Baskerville go to the
14 library?

15 A. Eventually, he -- eventually, he went a few times,
16 yes.

17 Q. And William Baskerville would do research on legal
18 issues and come back and talk to you about what he found
19 out?

20 A. Some -- sometime, yeah. Sometime, yeah.

21 Q. Now, isn't it a fact that William Baskerville told you
22 that he handled communicating with Hak or his brother by
23 himself through three-way calls?

24 A. Yes.

25 Q. And that it was he that wanted to communicate with

1 them?

2 A. Say that again?

3 Q. It was William Baskerville who told you that he was
4 the one who wanted to speak to Hakeem or his brother by
5 yourself; correct?

6 A. I don't know if I understood that.

7 Q. It was William Baskerville that told you that he is
8 the one who communicated with either Hakeem Curry or Rakim
9 Baskerville, his brother; correct? His brother, correct?

10 A. The way I understood it, he communicated with them by
11 three-way, the lawyer, three-way, and that's how he did it.
12 So --

13 Q. And you diaried the fact that William Baskerville
14 called his brother in January 2004 to handle the informant
15 for him; correct?

16 A. Yes.

17 Q. Because the informant set him up; right?

18 A. Something to that effect is in the log, correct.

19 Q. Something to that effect. And you would not have put
20 that in the log, of course, if William Baskerville didn't
21 told you that; correct?

22 A. Correct.

23 Q. So it was William Baskerville who told his brother to
24 handle it; correct?

25 A. Yes. That's -- that's accurate.

1 Q. Now, isn't it a fact that William Baskerville made
2 statements to the effect that his brother and Malik had been
3 looking for the informant since January of 2004? He said
4 since January, but you knew it's January 2004. Isn't that
5 words that you documented in your --

6 A. Yeah. That's almost the -- yeah, that sounds about
7 right.

8 Q. And isn't the fact further that William Baskerville
9 told you and made it clear to you, looked you in the eyes
10 and told you that Hakeem Curry did not know the informant or
11 who the informant was?

12 A. Will never told me anything like that.

13 Q. Well, are you sure about that?

14 A. At least I don't recall it. You could show it to me.

15 Q. I'm going to show you page 5287 of your testimony.

16 A. Okay.

17 Q. Would it refresh your recollection if you were to see
18 the testimony?

19 A. Yes.

20 Q. And the words that came out of your mouth?

21 A. Yes.

22 MR. BERGRIN: Just looking for the quote, Judge.

23 I'm sorry.

24 I'm sorry, Judge. I was mistaken on that.

25 I'll move on to the next question. I'm sorry.

1 Q. Now, did you ever meet Malik Lattimore?

2 A. I don't know him.

3 Q. And you met Hakeem Curry at the Hudson County Jail;
4 correct?

5 A. No, I didn't meet him.

6 Q. You've never met Hakeem Curry in your life?

7 A. I just seen him.

8 Q. You've never had a conversation with Hakeem Curry in
9 your life.

10 A. No. No.

11 Q. Now, you talked about this Star-Ledger article;
12 correct?

13 A. Yes.

14 Q. And isn't it a fact that after you had seen The
15 Star-Ledger article, you had a conversation with William
16 Baskerville; correct?

17 A. Yes.

18 Q. And William Baskerville told you that the article was
19 a lie; correct?

20 A. No.

21 Q. Did William Baskerville tell you that one of the
22 individuals in the article was his informant?

23 A. Eventually, yes.

24 Q. Now, you talked about William Baskerville going down
25 to a meeting, correct, a legal visit; right?

1 A. Yes.

2 Q. And when he went down for a legal visit, he told you
3 that it wasn't his lawyer, but members of the F.B.I.;
4 correct?

5 A. Yes.

6 Q. And he told you that they talked to him about wanting
7 to cooperate. He told you that he's facing the death
8 penalty and murder charge; right?

9 A. Yes.

10 Q. And he told you when he came back that he would never
11 testify and never cooperate with anyone; correct?

12 A. Yeah, pretty much, yeah.

13 Q. And he said, as you testified, the words, he said fuck
14 them; correct?

15 A. That's his favorite word. Yes.

16 Q. Now, you didn't see him turn white as a ghost or he
17 didn't show any type of fear; correct?

18 A. Actually, he was white as a ghost, if you tell the
19 truth about it. Yeah, he was.

20 Q. He was white as a ghost?

21 A. He was -- he was -- yeah, he was a little shook up,
22 yeah.

23 Q. A little shook up.

24 A. Yeah.

25 Q. Now, did you ever tell anybody he was white as a

1 ghost?

2 A. I might have. I don't -- I don't know. It's a long
3 time ago. I might have.

4 Q. Did you ever speak to Agent Brokos about it?

5 A. I don't recall that name, but I believe so.

6 Q. Agent Manson.

7 A. Yes.

8 Q. You know her as Manson; correct?

9 A. Yes.

10 Q. You spoke to her, and you used the words white as a
11 ghost also; correct?

12 A. Yes. Yes. Yes.

13 MR. BERGRIN: Just shooting through, Judge, so I'm
14 not redundant. I'm sorry, Judge.

15 Q. Now, William Baskerville told you that he had been
16 working on his own motions; correct? His own legal work?

17 A. No, I think he said the lawyer was working on a motion
18 to get his state convictions reduced.

19 Q. Well, didn't he tell you that he decided himself, your
20 exact words, to put in a motion to change his status as a
21 career offender, and that --

22 A. Yes.

23 Q. -- William Baskerville was doing his own research?

24 A. Yes. Yes, he did say that. That's correct.

25 Q. And you said that you talked to him at that time about

1 a crew; correct? And about organization; right?

2 A. Yes.

3 Q. And he never mentioned Anthony Young or Fat Ant ever
4 being a member of any kind of crew or organization; correct?

5 A. Everybody he mentioned was -- had nicknames. I don't
6 know those names.

7 Q. But he never mentioned, you never heard him make
8 mention of the name Fat Ant or Ant; correct?

9 A. No.

10 Q. And you have nothing in your log whatsoever that those
11 words ever came out of -- that name ever came out of William
12 Baskerville's mouth; correct?

13 A. No, I don't.

14 Q. Now, did you wear a wire or recording device in the
15 jail?

16 A. Yes.

17 Q. And what was your purpose in wearing a recording
18 device?

19 A. To basically see if he wants to continue to talk.

20 Q. And one thing William Baskerville talked to you about
21 is his option of pleading guilty on the drug case; correct?

22 A. Meaning in his case?

23 Q. Yes, in his case.

24 A. No.

25 Q. Are you sure about that?

1 A. I don't remember him telling me he was going to plead
2 guilty. I don't remember.

3 Q. You said you prepared a -- did you have a chance ever
4 to read a copy of the transcript of the recorded
5 conversation that you made?

6 A. Not really. I seen it, but I ain't -- I ain't go over
7 it.

8 Q. When did you see it?

9 A. Today.

10 Q. Not two days ago, when you met with --

11 A. No.

12 Q. -- Manson?

13 A. No.

14 Q. So are you telling us that you never had a chance to
15 read it?

16 A. No, just -- excuse me -- a few minutes ago, I read it.

17 Q. Did you ever have a discussion with William
18 Baskerville about -- a recorded conversation discussion at
19 the Hudson County Jail about --

20 A. I recall --

21 Q. -- William Baskerville possibly pleading guilty and
22 using the services of an expert in sentencing?

23 A. Yeah, I remember something vaguely about that, yeah.

24 Q. Something vaguely. So you did discuss with William
25 Baskerville --

1 A. In the moment -- in that moment, you're talking about
2 over at least 10 years ago, so -- and it was never relevant
3 far as my testimony, so I never thought about it after that.

4 Q. So now as you think about it, you do remember William
5 Baskerville talking to you about pleading guilty and hiring
6 a sentencing expert consultant; correct?

7 A. Yeah, I recall something like that, yeah.

8 Q. That's something they didn't review with you, correct,
9 a couple of days ago when you met with them; right?

10 A. No.

11 Q. When you had a discussion with William Baskerville and
12 recorded it, who else was present there?

13 A. First it was just me and him, and at some point, Troy
14 Bell came in the cell.

15 Q. Did the United States Attorney's Office put you before
16 a Federal grand jury?

17 A. Yes.

18 Q. And when you testified before the Federal grand jury,
19 did you testify truthfully?

20 A. Yes.

21 Q. Now, when you testified before the Federal grand jury,
22 did you tell them that it was William Baskerville who gave
23 the informant's identity to Rakim Baskerville?

24 A. I believe so. You could show me, though, so that we
25 can clarify it.

1 Q. I ask you to look at page 27, line three.

2 A. I don't have it.

3 Q. I'm going to give it to you.

4 A. Page 27?

5 Q. Yes. I'm going to open it up for you.

6 MR. GAY: Judge, I'm not sure what the purpose of
7 this is. It doesn't appear to be inconsistent with what is
8 said here.

9 MR. BERGRIN: I'll move on, Judge, for time
10 purposes. Mr. Gay is right.

11 THE COURT: Okay. I want it clear that I didn't
12 stop you. But go ahead.

13 MR. BERGRIN: I understand, Judge.

14 Q. And Mr. Baskerville, you testified to also, told you
15 that Malik Lattimore handles his work; correct?

16 A. Say that again?

17 Q. Did William Baskerville ever tell you that Malik
18 Lattimore handles his work?

19 A. Handles his work?

20 Q. Yes. Or words to that effect, similar to that.

21 A. You want to show me that? Because I remember
22 something similar to that. I don't want to say it if it
23 ain't so. But I remember something similar to that, though.

24 Q. What do you remember?

25 A. You have to show me.

1 Q. But what do you -- I'm asking you what you remember.

2 A. 'Cause it's, like I said, it's a long time ago. I
3 remember something to that effect, you know, but I don't,
4 you know --

5 Q. He never mentioned anything about Anthony Young
6 handling his work; correct?

7 A. I don't know who Anthony Young is.

8 Q. Okay. That's fair.

9 Now, when you spoke and testified before the
10 Federal grand jury, were you asked questions about Malik
11 Lattimore?

12 A. No.

13 Q. Are you sure about that?

14 A. If -- who was I asked by? What --

15 Q. Were you asked questions -- my question to you is,
16 were you asked questions at the Federal grand jury about
17 Malik Lattimore?

18 A. I'm not sure. I don't think so. But you can show me,
19 we'll clarify it.

20 Q. I'm going to show you page 17, specifically lines 11
21 through 14.

22 A. Eleven through 14.

23 Q. Tell me when you're finished reading that.

24 That is your sworn testimony before a Federal
25 grand jury; correct?

1 A. Could I read it first?

2 Q. Just identify the document first. That's your sworn
3 testimony before a Federal grand jury?

4 THE COURT: Does it say on the front page, maybe?

5 A. Yes, it is.

6 Q. And what date did you testify?

7 A. The date is Wednesday, February 2nd, 2005.

8 That's correct.

9 MR. GAY: Judge, I don't understand what the
10 relevance of this is. It doesn't appear to be inconsistent,
11 so I don't know what the relevance is.

12 THE COURT: I don't either.

13 MR. BERGRIN: I just want to confirm his
14 testimony, Your Honor.

15 A. That's correct.

16 MR. GAY: Judge, but confirming testimony --

17 THE COURT: We could be here all day long asking
18 did you testify to this, did you testify to that. Usually
19 this is used to impeach him.

20 MR. BERGRIN: I understand, Judge.

21 Q. And again, I just want to make it very, very clear,
22 isn't it a fact that --

23 MR. GAY: Judge, again, this is not impeachment
24 material. What's the relevance of this? He can't just
25 simply ask --

1 THE COURT: Well, let me hear the question.

2 MR. BERGRIN: Of course I can, Judge.

3 Q. Isn't it a fact that you swore before a Federal grand
4 jury on that date of February 2, 2005, when things were
5 fresh in your mind, that William Baskerville informed you
6 that Rakim and Malik, Malik Lattimore, have been looking for
7 his informant since January?

8 A. That sounds accurate, yeah.

9 Q. Now, William Baskerville told you that he's going to
10 -- he was looking for a new lawyer; correct?

11 A. Was he looking -- told me he was looking for a new
12 lawyer...

13 Q. Look in page 10 of your log.

14 Isn't it a fact that William Baskerville told you
15 that he was seeking more money from Hakeem Curry and his
16 brother to hire himself a new lawyer?

17 A. Yeah. He said -- he said he was looking for -- he was
18 trying to get more money to get a new lawyer because his
19 lawyer was full of crap. Yeah.

20 Q. And his lawyer was Paul Bergrin; right?

21 A. Yes.

22 MR. BERGRIN: I have no further questions, Judge.

23 MR. LEVY: Judge, if I could just approach Mr.
24 Bergrin for one second.

25 (Off the record discussion between defense counsel)

1 MR. BERGRIN: May I have one minute, Judge, I'm
2 sorry, to find the spot?

3 THE COURT: Yes.

4 MR. BERGRIN: Thank you.

5 BY MR. BERGRIN:

6 Q. Now, I asked you questions about the recording that
7 you made, and you said it was about 10 years ago, and your
8 memory isn't great on it; correct?

9 A. Correct.

10 Q. And that was a recording that you made of July 14th of
11 2004 at the Hudson County Jail, and William Baskerville and
12 you were talking, and you were recording him; correct?

13 A. Correct.

14 Q. And there was another individual by the name of Mark
15 Joseph there?

16 A. I don't know anybody by the name of Mark Joseph.

17 Q. Do you know if there was another inmate there?

18 A. I think so.

19 Q. And do you remember William Baskerville telling you
20 that he's not telling Paul shit, or words to that effect?

21 A. Not offhand, no.

22 MR. BERGRIN: May I approach, Your Honor, the
23 witness?

24 THE COURT: Yes.

25 Q. I show you 07055, the transcript dated July 14th of

1 2004.

2 You can look at page eight, the last question --

3 A. Okay.

4 Q. -- and then read up to, "Shit, I ain't telling him
5 nothin'."

6 THE COURT: And you're asking him whether he said
7 that? Is that the question?

8 MR. BERGRIN: Yes, does he remember saying that.

9 MR. GAY: What page is this again, Paul?

10 MR. BERGRIN: Page nine.

11 Let me know when you're ready, sir.

12 A. Yeah, he said that. He was talking about some
13 retainer, though.

14 Q. He was talking about his case; correct?

15 A. Yeah, he was -- no, he was talking about retainer. I
16 think it was money he was talking about.

17 Q. And hiring somebody else, correct, to handle this
18 case.

19 A. No. Uh-uh.

20 Q. Doesn't that refer to that? He's talking about, "I'm
21 not telling Paul shit," about me going to hire the
22 consultant on his case?

23 A. No. Uh-uh.

24 Q. Then what is he talking about?

25 A. Hold on. Let me -- let me make sure, because --

1 Q. Take your time.

2 A. He was talking about some lady he was going to hire to
3 help him do research, and he was saying that he wasn't going
4 to tell his lawyer nothing about the lady that was going to
5 do the research for him. That's what he was talking about.

6 Q. And he used the exact word, "I ain't telling Paul
7 shit," correct?

8 A. Yeah, nothing about her. She wasn't gonna be his
9 lawyer, though, it was like a --

10 Q. She was going to help him out on the case; correct?

11 A. It's like everybody in the jailhouse kind of like go
12 to them. They just do research for you. They're not your
13 lawyer. And if you got money, that is. That's what he was
14 talking about.

15 MR. BERGRIN: Thank you very much.

16 I have no further questions.

17 THE COURT: Any redirect?

18 MR. GAY: Yes, Judge.

19 REDIRECT EXAMINATION

20 BY MR. GAY:

21 Q. Now, Mr. Bergrin asked you some questions about some
22 of your prior testimony relating to what Mr. Baskerville had
23 said about Malik Lattimore. Do you remember those
24 questions?

25 A. Yeah.

1 Q. Okay. Now, did you have a number of conversations
2 with Mr. Baskerville about the murder of his informant?

3 A. Quite a few.

4 Q. Okay. And during one of those conversations, did he
5 discuss how his brother and Malik were out looking for his
6 informant since January?

7 A. Yes, he did.

8 Q. This was one conversation.

9 A. That's correct.

10 Q. And there was another conversation in which he said
11 that his brother was the one looking for his informant, and
12 that Hak sent Malik to get the other informant.

13 A. That's also correct.

14 Q. So those were two separate conversations?

15 A. Yes.

16 MR. BERGRIN: What is Mr. Gay referring to, Your
17 Honor?

18 MR. GAY: Right here.

19 MR. BERGRIN: What page is this.

20 MR. GAY: Page X.

21 MR. BERGRIN: Page X?

22 (Off the record discussion between counsel)

23 Q. So when you testified earlier on the Government's
24 examination, you were testifying about this second
25 conversation; is that correct?

1 A. Correct.

2 Q. But the other conversation he had, which was earlier,
3 was that Malik and his brother were out looking for Will
4 Baskerville's informant.

5 A. Correct.

6 Q. It was the later conversation in which he said Hak,
7 Hakeem Curry, had sent Malik Lattimore for the second
8 informant.

9 A. Yes.

10 Q. Is that correct?

11 A. That's correct.

12 Q. Two separate conversations.

13 A. Two separate conversations.

14 Q. Okay.

15 Now, Mr. Bergrin asked you some questions about
16 Mr. Baskerville's use of the phones and how he communicated
17 with people on the outside, indicating that Mr. Baskerville
18 told you he didn't use his lawyer. Do you recall that line
19 of questioning?

20 A. Yes.

21 Q. Do you recall whether Mr. Baskerville ever said
22 anything about communicating using his lawyer, Paul Bergrin,
23 to other individuals on the outside?

24 A. Yes.

25 Q. What was it that he said, if you remember?

1 A. One of the conversations was about, the lawyer told
2 him that they're monitoring his phone calls, and tell
3 everybody to stop using they phones 'cause the Government's
4 probably listening. It was several of them. They're all in
5 the log.

6 Q. Okay. I'm going to specifically refer you to this
7 page here, it's page 12, at the bottom --

8 THE COURT: What's this of?

9 MR. GAY: This is of his log, Judge. I'm sorry.

10 Q. You can read the bottom, highlighted portion, and tell
11 me whether that refreshes your recollection specifically
12 about what Mr. Baskerville told you regarding Mr. Bergrin
13 and communicating with people on the outside.

14 A. He told me -- he said when his lawyer come see him, he
15 told him to tell everybody to get rid of they cell phones
16 'cause the Government was listening.

17 Q. Okay. So in other words, it's Mr. Baskerville telling
18 Paul to tell Hak and everybody else to dump their phones, to
19 get rid of them.

20 A. Yes.

21 Q. So he's communicating that message through his lawyer,
22 Paul Bergrin, according to what he told you?

23 A. Yes.

24 Q. Is that right?

25 A. Right.

1 Q. Did he also indicate whether or not Mr. Bergrin
2 relayed that message to Hak?

3 A. Yes.

4 Q. I'm going to refer you to the next page if you don't
5 remember that. The top of the next page.

6 A. He said Paul relayed the message.

7 Q. Now, Mr. Bergrin asked you some questions about that
8 conversation, the one in which Mr. Baskerville was
9 discussing his conversation with his brother Rakim in which
10 he was discussing who the informant was; is that correct?

11 A. Correct.

12 Q. Now, you had that conversation as far as you recall
13 with Mr. Baskerville in January; is that correct?

14 A. Correct.

15 Q. Do you have any idea or did Mr. Baskerville tell you
16 when it was he had that conversation with his brother? And
17 I don't want you to assume. I want you to know. Did
18 Mr. Baskerville specifically tell you when he had that
19 conversation with his brother?

20 A. Not that I can recall, no.

21 Q. So you don't know when he had that conversation;
22 correct?

23 A. No, I don't.

24 Q. You just know when he had that conversation with you.

25 A. Correct.

1 Q. Do you recall any other conversations that
2 Mr. Baskerville had with you relating to messages conveyed
3 through Mr. Bergrin?

4 A. He had -- he had a -- he had a few of them. I can't
5 recall them right offhand, but he had a few of them.

6 Q. I'm going to ask you, do you remember if this
7 refreshes your recollection, the top here?

8 MR. BERGRIN: What page is that?

9 MR. GAY: It is -- what page is it?

10 (Off the record discussion)

11 MR. GAY: I believe it's page three, Paul. It
12 doesn't have -- it's -- since it's on every other page, it's
13 the one after page three, I believe.

14 Q. If you could take a look at that.

15 A. Yeah, I recall -- I recall that conversation.

16 Q. Okay. And what do you recall about --

17 A. He said he called his -- his wife and, three way,
18 Paul, and Paul told him that Hak was in Federal custody.

19 Q. Okay. Mr. Dock, is your copy of the log up there with
20 you, or --

21 A. I think you just took it.

22 MR. GAY: Mr. Bergrin, did you take a copy of the
23 log, Mr. Dock's copy of the log ?

24 Sorry, Judge, I just need to --

25 Q. Okay. I want to refer your attention to --

1 specifically, it's now --

2 MR. GAY: Paul, it's page four and five, it says
3 on the top, it begins at the bottom of that, proceeds on to
4 the next page.

5 Q. -- and ask you, do you recall any conversations in
6 which Will Baskerville discussed anything else about Paul
7 Bergrin specifically in relation to any arrests of the other
8 individuals?

9 A. Yeah, it's a little vague. I'm a' have to --

10 Q. Okay. I'm going to show you your log, starting at
11 page four and five and moving on down. Just start at the
12 bottom here, Mr. Dock, and then go to about the middle of
13 the following page.

14 Okay. Does that refresh your memory about --

15 A. Yes.

16 Q. -- what, if anything, Mr. Baskerville told you about
17 Mr. Bergrin?

18 A. He said -- Will came back from a visit, again it was
19 the agents, and the agents was telling him that Paul was
20 gonna sell him out to protect a guy named E. T. Hak, and
21 Will said he called the lawyer, Paul, and he told Paul what
22 the agents were saying. Will told me that when he told
23 Paul, Will said Paul told him that he can't represent Hak,
24 it would be a conflict of interest. He said, if anything,
25 Will, I'll come in here with you and fight my case from the

1 inside.

2 That was part of the conversation.

3 Q. Okay. Now, Mr. Dock, let me just see if we can
4 provide a little context for this conversation.

5 This occurred on March 8th, 2004; is that correct?

6 A. Correct.

7 Q. So this -- as far as you understood, had Hakeem Curry
8 and members of his organization already been arrested?

9 A. Yes.

10 Q. And was this discussion relating to that topic --

11 A. Yes.

12 Q. -- how Mr. Bergrin had gotten lawyers for other
13 people?

14 A. Yeah, Will said he got lawyers for everybody.

15 Q. Okay, and did he say that -- did Will Baskerville tell
16 you that he was concerned and that Paul Bergrin told him he
17 would not do that to him?

18 A. Yeah, Will said --

19 Q. Did he also say Paul told him that the Feds are just
20 mad because I represented all of you, and Paul said, I don't
21 care if they charge me, if they do, I'll just come in here
22 with you and fight my shit, and I got lawyers just in case
23 they decide to charge me with anything?

24 A. That's exactly what he said, yes.

25 Q. And that was coming -- what he told you, Paul Bergrin

1 told him; correct?

2 A. Correct.

3 THE COURT: Is that it?

4 MR. LEVY: Your Honor, I realize it's a little
5 belated, but objection to the double hearsay that was just
6 recited.

7 MR. GAY: Well, Mr. Bergrin raised this issue,
8 Judge, so I'm just --

9 THE COURT: All right. Are you finished?

10 MR. GAY: Yes. I just have one further question,
11 Judge.

12 Q. Mr. Dock, you testified about prior times when you met
13 with the F.B.I. --

14 A. Yes.

15 Q. -- and also with the United States Attorney's Office;
16 is that correct?

17 A. Yes.

18 Q. Did anyone at any time ever tell you what to say?

19 A. No.

20 MR. GAY: No further questions.

21 THE COURT: Anything further, Mr. Bergrin?

22 MR. BERGRIN: Yes, I have one really important
23 question Mr. Gay failed to ask this witness.

24 THE COURT: Go ahead.

25 RECROSS EXAMINATION

1 BY MR. BERGRIN:

2 Q. Isn't it a fact that William Baskerville told you that
3 I asked him does he know -- does he think that Hakeem had
4 anything to do with the death of the witnesses?

5 A. Say it again?

6 Q. Isn't it a fact that William Baskerville told you that
7 I asked him, do you think Hakeem Curry had anything to do
8 with the death of the informant or the witnesses?

9 A. I'm not -- I'm not sure. I'm not sure.

10 MR. BERGRIN: I'm just looking for that part in
11 the log, Judge, if you will give me a minute.

12 If I may have one second, Judge.

13 May I have a couple minutes, Judge? I just want
14 to find that --

15 THE COURT: How long are we going to be here? We
16 should have these things down. We've got our lunch here
17 now.

18 MR. BERGRIN: Can we do it after lunch, Judge?

19 THE COURT: Well, how much longer are you going to
20 be with the witness?

21 MR. BERGRIN: Maybe five minutes.

22 THE COURT: Let's do it.

23 MR. BERGRIN: I found it, Judge.

24 THE COURT: Okay. Go ahead.

25 MR. GAY: Which page, Paul?

1 MR. BERGRIN: It's page eight of 24.

2 MR. GAY: On? What document are we talking about?

3 The log?

4 MR. BERGRIN: Yes.

5 May I approach the witness, Your Honor?

6 THE COURT: Yes.

7 MR. BERGRIN: Thank you.

8 Q. Isn't it a fact that you have in your log that Paul
9 said, exact words, "Paul asked Will did he think Hak had
10 anything to do with those murders?

11 "Will said he told him he don't know."

12 A. Can I read it?

13 Q. Yes.

14 THE COURT: What page was that, Mr. Bergrin?

15 MR. BERGRIN: Page eight, sir.

16 MR. GAY: I thought he said page eight.

17 MR. BERGRIN: Eight. Eight of 24.

18 MR. GAY: Oh, oh, I see. I see. I know what
19 you're talking about. Okay.

20 A. That's correct. You're right.

21 Q. Now, you've had attorneys, you've been part of the
22 system almost your whole life; right?

23 A. I had what?

24 Q. You've had attorneys as part of the system your whole
25 life; correct?

1 A. You said I had attorneys?

2 Q. Yes, you've had lawyers representing you; correct?

3 A. Public Defenders.

4 Q. Public Defenders?

5 A. If you want to call them lawyers.

6 Q. At any time, did any Public Defender not tell you,
7 Don't talk about your case, don't talk on the phones?

8 A. My Public Defenders ain't never tell me that. No.

9 Q. You've never heard that advice: Don't talk on the
10 phone, don't talk about your case, don't trust anybody, if
11 anybody comes to see you, invoke your rights and call your
12 lawyer and don't say anything? You telling me that's not
13 standard advice for somebody?

14 A. I don't know what's standard. I'm telling you my
15 Public Defenders ain't never tell me that.

16 Q. So your Public Defender advised you to talk on the
17 telephones and talk about things --

18 A. For starters --

19 Q. -- on the cell phone?

20 A. For starters --

21 MR. GAY: Judge, I object.

22 THE COURT: There's too many people talking. If
23 there's an objection --

24 What's the objection?

25 MR. GAY: He's mischaracterizing, Judge.

1 THE COURT: No, it's not mischaracterizing. This
2 witness is handling himself. He was just about to answer.

3 What's the question, Chuck?

4 (Record read)

5 A. In my case, the Public Defender came to the
6 arraignment, and I think I seen him the next time I was
7 going to plead guilty, and when you call his office, you
8 never get through. That's my experience.

9 Q. Based upon your knowledge and your experience of all
10 the time and all the years you spent in incarceration,
11 speaking to other inmates and dealing with other inmates,
12 isn't it a fact that you don't know any attorney that would
13 ever advise his client to talk on the phones, to talk to
14 other people about his case, to talk about anything of any
15 substance on the phone or communicate in any way?

16 A. It's been my experience if you don't have money for a
17 lawyer, your Public Defender, you're probably going to see
18 him once, maybe twice, and you only gonna talk to him when
19 you're in court. That's my experience.

20 Q. I'm talking about advice.

21 THE COURT: Okay. But wait a second. This isn't
22 a lawyer.

23 MR. BERGRIN: All right. No problem, Judge.

24 I have no further questions.

25 THE COURT: Anything further, Mr. Gay?

1 MR. GAY: Nothing, Judge.

2 THE COURT: Okay. Ladies and gentlemen, we're
3 going to have our lunch now.

4 Please don't discuss the case.

5 Forty-five minutes.

6 Thank you, sir. You may step down.

7 (Witness excused)

8 THE COURT CLERK: All rise.

9 (The jury exits)

10 (Luncheon recess taken)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
Criminal No. 2:09-cr-00369-WJM

UNITED STATES OF AMERICA, :
: TRANSCRIPT OF PROCEEDINGS
v. : - Trial -
:
PAUL W. BERGRIN, :
:
Defendant :
- - - - -x

Newark, New Jersey
October 26, 2011

B E F O R E:

THE HONORABLE WILLIAM J. MARTINI,
UNITED STATES DISTRICT JUDGE,
and a Jury

A P P E A R A N C E S:

UNITED STATES ATTORNEY'S OFFICE

BY: JOHN GAY

JOSEPH N. MINISH

STEVEN G. SANDERS

Assistant U.S. Attorneys

For the Government

PAUL W. BERGRIN, Defendant, Pro Se

- and -

GIBBONS PC

BY: LAWRENCE S. LUSTBERG, ESQ., Standby Counsel

AMANDA B. PROTESS, ESQ.

For Defendant Paul W. Bergrin

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

S/WALTER J. PERELLI

WALTER J. PERELLI, CCR, CRR

OFFICIAL COURT REPORTER

WALTER J. PERELLI, C.S.R., OFFICIAL COURT REPORTER, U.S.D.C.

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
JUNAID R. SHAIKH				
By Mr. Gay	4		57	
By Mr. Bergrin		41		60
RICHARD HOSTEN				
By Mr. Gay	63		92	
By Mr. Bergrin		83		-
GEORGE SNOWDEN				
By Mr. Gay	94		161	
By Mr. Bergrin		138		
ALBERT CASTRO				
By Mr. Minish	183		-	
By Mr. Bergrin		213		-

E X H I B I T S

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1 THE COURT: All right. Detective, you're excused.

2 Thank you.

3 (Witness excused.)

4 THE COURT: Call the next witness. Do we have to
5 address something?

6 MR. GAY: Yes.

7 MR. MINISH: Yes, Judge.

8 THE COURT: Ladies and gentlemen, we'll have to ask
9 you to step into the jury room for a few minutes, probably 15,
10 20 minutes, and then we'll get started. Thank you very much.

11 THE DEPUTY CLERK: Please rise for the Jury.

12 (The Jury leaves the courtroom.)

13 THE COURT: All right, everyone, please be seated.

14 The next witness is Alberto Castro. Is that correct?

15 MR. MINISH: Yes, Judge, Albert Castro.

16 THE COURT: Right. All right. Let me hear -- I think
17 it's the Government's application. Correct?

18 MR. SANDERS: Your Honor, it sort of depends, but I'm
19 happy to step in.

20 Our application is this, your Honor: First of all, we
21 need to know, number one, what are the facts on this issue,
22 right? And so far we just have a proffer --

23 THE COURT: Let's first -- for the record, let's
24 address what the issue is. The issue is that in his opening
25 Mr. Bergrin made some arguments -- and I have it -- on page 51

1 and 52 I think it is, that he was an individual, Mr. Castro was
2 an individual who attempted under Mr. Bergrin's representation
3 to have his daughter, Jennifer McGrath, plead guilty to an
4 incident in which apparently the evidence was more directly
5 related to Mr. Castro. That's the import of what he argued.
6 That Mr. Castro was attempting to his daughter to take the
7 weight for a certain crime. That's what he argued on page 51
8 and 52. And that he refused to allow him to do that, and the
9 evidence will show because of that -- that's what -- the issue
10 is whether or not he'd be allowed to examine Mr. Castro about
11 that. Correct?

12 MR. SANDERS: Yes.

13 THE COURT: Okay. I just wanted to define what the
14 issue is so we know.

15 Mr. Bergrin, you made these statements in your opening
16 What proof do you have of that? In other words, you
17 made these statements in your opening that this is what
18 happened. You know, before you would be allowed to get into
19 that, we'd have to have some indication as to the foundation
20 for that.

21 MR. BERGRIN: Yes, your Honor.

22 THE COURT: Go ahead.

23 MR. BERGRIN: During my representation of Albert
24 Castro, he had a co-defendant who was his daughter, Jennifer
25 McGrath. Essentially a factual dissertation of the case is the

1 following, your Honor:

2 Police officers, pursuant to a search warrant from the
3 Essex County Prosecutor's Office as well as a Joint Task Force,
4 conducted a search of Mr. Castro's home as well as his
5 daughter, Jennifer McGrath. They arrested Mr. Castro and
6 charged him with a -- about a 41-count indictment, your Honor.
7 Among the offenses was first degree attempted murder of a
8 police officer. The allegation was that he put a 9 millimeter
9 handgun underneath a police officer's vest and attempted to
10 shoot him, but the gun did not discharge, as well as multiple
11 narcotic alleged offenses.

12 They then searched his next door -- his house which
13 was next door which his daughter was living in, and they found
14 multiple kilograms of cocaine in the house.

15 Dana Scarillo, who is an attorney in Newark, New
16 Jersey, represented his daughter, Jennifer McGrath, your Honor.
17 Jennifer McGrath and her mother, along with Dana -- and the
18 mother's name is Laura McGrath -- came to my office and
19 informed me that Albert Castro was putting extraordinary
20 pressure on his daughter to essentially perjure herself, say
21 that the cocaine, the kilograms of cocaine found in his
22 daughter's -- in the daughter's house were hers and that she
23 should try to exculpate her father.

24 It was done in front of me, Ms. Scarillo, the mother
25 Laura McGrath, as well as the daughter. And the allegation is

1 that Albert Castro wanted to do it based upon the fact that she
2 had no prior record wherein he was a career criminal with a
3 very extensive record, including narcotic distribution, robbery
4 and a whole multitude of other offenses.

5 The bottom line is, your Honor, that after hearing
6 that from Ms. McGrath and her mother, Laura McGrath, I
7 confronted Albert Castro on multiple occasions, Dana Scarillo
8 was present, we did it in the cell block and we did it at the
9 Essex County Jail, and Albert Castro essentially said that's
10 what I want done. It wasn't done.

11 He also made allegations that there was approximately
12 a million dollars in cash seized from a safe -- from I believe
13 a safe deposit box. He made allegations that he said he's
14 going to fabricate and tell the FBI and the prosecutor's office
15 that the police stole approximately \$200,000, a little over
16 \$200,000 from the safety deposit box, which he knew was false,
17 to put pressure on the police so he could get a better deal.

18 THE COURT: Who was there when he made that statement?

19 MR. BERGRIN: Dana Scarillo was there, his wife was
20 there. Because what happened was, he got released on bail and
21 came in with his family to speak to me.

22 THE COURT: That conversation took place in your
23 office?

24 MR. BERGRIN: It took place at the Essex County Jail
25 initially, your Honor, and then my office.

1 THE COURT: I'm talking about the money thing.

2 MR. BERGRIN: Yes. And then at the office, your
3 Honor.

4 THE COURT: And what was your response, first to the
5 daughter taking --

6 MR. BERGRIN: My response was, how can her father ever
7 even think about or contemplate sending a daughter with no
8 record to New Jersey State Prison?

9 THE COURT: And that response, that made in whose
10 presence?

11 MR. BERGRIN: It was made in the presence of his
12 daughter and in the presence of the daughter's attorney, Dana
13 Scarillo.

14 THE COURT: Will Ms. Scarillo be a witness here?

15 MR. BERGRIN: Yes, your Honor. We've subpoenaed her.

16 THE COURT: Well, have you had --

17 MR. LUSTBERG: We have not heard back.

18 THE COURT: But subpoenas have been issued to her?

19 MR. LUSTBERG: I'm going to check on that. But if
20 they haven't been, they're about to be.

21 THE COURT: What about McGrath, the daughter and/or
22 the mother?

23 MR. LUSTBERG: We have not subpoenaed her.

24 MR. BERGRIN: We don't know their location. We
25 haven't even attempted to locate them because from what I

1 understand, Mr. Castro is in a secured program so we didn't
2 even try to attempt to locate her.

3 THE COURT: What if -- well, what if this -- well, go
4 ahead, Mr. Sanders.

5 MR. SANDERS: Our concern here is several fold. But
6 first off, if the daughter had counsel and Mr. Castro had
7 counsel, it sounds like they had a joint defense arrangement
8 even if it wasn't reduced to writing. And I mean, the
9 conversations among them were supposed to remain privileged and
10 not disclosed. And beyond that, I don't think what I'm
11 hearing -- so that's privileged. I don't think that -- and Mr.
12 Minish will correct me -- I mean, our version of the facts may
13 be different. But assuming for the sake of argument that
14 proffer is true, I don't think that a lawyer dissuading a
15 client from doing an illegal activity, which as we said in our
16 brief, is a basis for finding that the crime-fraud exception
17 applies. It's not seeking advice for the purpose of executing
18 or furthering a crime of fraud, it's a client at most being
19 told: You can't do that. That allegedly, that's illegal.
20 That's what lawyers are supposed to do, if that's what
21 happened.

22 THE COURT: Well, you're -- yeah, I'm not -- if he
23 said, you know, I want my daughter to take responsibility for
24 this because I'm a career offender and she's not and my penalty
25 is going to be a lot worse, that may be -- it may be a crime,

1 it may be -- it may be a communication in furtherance of a
2 crime. The crime would be to obstruct justice.

3 MR. SANDERS: Well --

4 THE COURT: If that's how it was related.

5 MR. SANDERS: But here's the issue. It's the
6 privilege holder, right, who has the privilege. It's Mr.
7 Bergrin who disclosed this information and is trying pierce
8 with these arguments. I know he's not now claiming that it's
9 not privileged at all. But the question whether the attorney
10 or the daughter who has been subpoenaed, I don't understand, it
11 may be relevant for a hearing, it certainly shouldn't be
12 relevant for a defense case. Because as I understand it, if
13 this is being done solely for purposes of impeachment, then
14 there's no reason why it would be proved up later with
15 extrinsic evidence. So if there was --

16 THE COURT: There's no reason why it would what?

17 MR. SANDERS: That he could prove it up later with
18 extrinsic evidence. I assume Mr. Bergrin says they're under
19 subpoena, so he can bring them in and if the witness denies
20 this --

21 THE COURT: First I wanted to get a proffer from him
22 as to what the foundation is for this inquiry to begin with.

23 MR. SANDERS: Right.

24 THE COURT: He's made some proffer. I don't know how
25 much more he could have made, quite frankly, but he's now got

1 the daughter's attorney under subpoena or at least -- do you
2 know if she's even in the area?

3 MR. LUSTBERG: Yes, she is.

4 THE COURT: Okay.

5 I mean, he's now at least made that.

6 So in the event he were to ask -- if he were permitted
7 to ask Mr. Castro about this, he's making arguably a good faith
8 representation as to with what occurred and he's telling the
9 Court he's now in the process of serving a subpoena on this
10 attorney.

11 If Mr. Castro denies all of this and says: I never
12 said this, in fact, you were the one -- he may say, in fact,
13 you were the one who suggested this.

14 I mean, I don't know what he's going to say. You
15 probably know better what he might say in this area --

16 MR. SANDERS: We know better.

17 THE COURT: Do you want to make a proffer on it?

18 MR. MINISH: I'm sorry, Judge?

19 THE COURT: Do you want to make a proffer as to what
20 Mr. Castro will say if he's asked about this?

21 MR. MINISH: That what Mr. Bergrin said is untrue,
22 that he never had the discussion with Mr. Bergrin, to his
23 knowledge, about this. That there was some discussion about
24 who would take the weight. But Mr. Bergrin was not involved
25 nor did he talk anybody out of anything.

1 And, Judge, the one thing Mr. Bergrin left out of his
2 factual scenario which should be very clear to the Court, what
3 actually did happen was the exact opposite: Mr. Castro ended
4 up taking the weight for his daughter and he pled guilty to
5 everything. So the --

6 THE COURT: Well, we know that. But go ahead.

7 MR. MINISH: But what the import of that is, Judge, is
8 that at the end of this, what Mr. Bergrin will be seeking to do
9 will be to cross-examine this witness to say: You were going
10 to do something bad that I know you ultimately didn't do
11 because I'm being corrupt. And all this really is, is a
12 self-serving way to make Mr. Bergrin look good. It's not
13 really anything to make this witness look bad. I mean, this
14 witness may have considered doing something, thought about
15 doing something, even perhaps wanted to do something, but
16 ultimately did not. He did the absolute opposite.

17 THE COURT: When did you first find out that Mr.
18 Castro was approached by Mr. Bergrin to go out and try to find
19 Kemo and kill Kemo? When did you first find that information
20 out? What's the date the Government first learned about that?

21 MR. MINISH: Give me one second, Judge, I'll give you
22 a date.

23 THE COURT: I assume you were going to ask him these
24 questions, Mr. Minish. No?

25 MR. MINISH: I'm looking for the date.

1 THE COURT: I thought you would have known that date.

2 THE COURT: Okay.

3 MR. MINISH: I believe it was March 31st, of 2009.

4 THE COURT: March 31st when?

5 MR. MINISH: 2009, I believe.

6 THE COURT: March 31st?

7 MR. MINISH: 2009.

8 THE COURT: And what was the context in which this
9 came up?

10 MR. MINISH: How he ended up in front of us?

11 THE COURT: Yeah, and how he ended up in front of you
12 making this allegation this is what he's going testify to?

13 MR. MINISH: It's my understanding, Judge --

14 THE COURT: What do you mean, "your understanding"?
15 You're going to ask him questions in about two minutes.

16 MR. MINISH: Well, it's my understanding based on what
17 I've been told.

18 THE COURT: Okay.

19 MR. MINISH: What he -- Mr. Bergrin represented Mr.
20 Castro on the case that Mr. Bergrin was just talking about, the
21 Essex County case. Over the course --

22 THE COURT: When was that? When did that case --

23 MR. MINISH: I think it was '08.

24 THE COURT: That case was in '08?

25 Okay.

1 MR. MINISH: I believe the original arrest --

2 THE COURT: I'm sorry. Keep your voice up and use the
3 microphone, please.

4 MR. MINISH: I'm sorry.

5 THE COURT: Okay. Go ahead.

6 MR. MINISH: And during the course of this
7 representation there was a fallout between Mr. Bergrin and Mr.
8 Castro. Mr. Castro then got a new attorney, Mr. Richie
9 Roberts --

10 THE COURT: You're talking about during the course of
11 the investigation about him and his daughter and the possession
12 of the narcotics and all that?

13 MR. MINISH: Right, the state case. During the
14 pendency of the state case.

15 THE COURT: There was a fallout?

16 MR. MINISH: Yes, not related to --

17 THE COURT: Well, you don't -- yeah, okay. Not
18 related to what?

19 MR. MINISH: Again, Judge, you're asking me to make a
20 proffer.

21 THE COURT: Okay.

22 MR. MINISH: And not related to this; related to Mr.
23 Bergrin not representing him in the manner in which he wanted.
24 Coming to see him; making allegations that Mr. Bergrin was
25 making unwarranted advances to his daughter, and that Mr.

1 Bergrin stole money from him. So three things, again, that
2 he'll testify to that are certainly contrary to what Mr.
3 Bergrin has represented.

4 He is angry, he knows he has this information, he's a
5 big time drug dealer --

6 THE COURT: He knows he has the information that he
7 was approached by Mr. Bergrin to be a hitman?

8 MR. MINISH: Yes. I mean, he's had this information
9 he's held. He's angry at Mr. Bergrin. He makes contact --

10 THE COURT: It's admissible.

11 MR. MINISH: I'm sorry?

12 THE COURT: Based on your own representation, I'm
13 going to allow him to examine Mr. Castro on this.

14 You just told me, he's angry, he's annoyed, he's upset
15 with Mr. Bergrin, he gets a new lawyer. And now all of a
16 sudden he remembers that Mr. Bergrin approached him about being
17 a hitman.

18 That may go to his motivation as to why he all of a
19 sudden came up with this alleged: I'm going to testify Mr.
20 Bergrin approached me to be a hitman.

21 You just said it.

22 Go ahead, Mr. Sanders, let me hear you.

23 MR. SANDERS: I think we're confusing two different
24 issues.

25 I mean, Judge, his motive he can certainly get into.

1 That's not what we're talking about here. I don't understand
2 how an arrest for -- and Mr. Bergrin included in his opening
3 the fact that he allegedly tried to pull a trigger on a police
4 officer -- how did --

5 THE COURT: I didn't say that part, Mr. Sanders, we're
6 talking about the -- what he was suggesting his daughter to do,
7 okay? That, you know, that incident about his daughter taking
8 the weight on this case.

9 What I'm hearing is, Mr. Bergrin is representing him
10 on that charge. Whether you're version is true or his version
11 is true, I don't know, and you don't know, quite frankly. You
12 probably got a witness here that you say you believe, but we
13 don't know. There's a falling out. The falling out could very
14 well have been -- it was enough of a falling out that he went
15 and got a new lawyer on that case. Correct?

16 MR. MINISH: Yes.

17 THE COURT: The falling out could very well have been
18 consistent with Mr. Bergrin's version. Mr. Bergrin didn't want
19 to have anything to do with his daughter taking the heat. He
20 wasn't happy with that. He went and got a new lawyer, and he
21 wasn't happy about Mr. Bergrin for some other reasons, because
22 you just told me, Mr. Minish, he was angry at Mr. Bergrin.

23 MR. MINISH: Yes.

24 THE COURT: And it was in that context at some point
25 after that, that he all of a sudden tells somebody: Mr.

1 Bergrin approached me and offered me \$10,000 to go kill
2 somebody.

3 That's the context in which this occurred. Correct?

4 MR. MINISH: Yes.

5 THE COURT: How could you stand there and say: His
6 examination of this man on that issue is not probative of this
7 man's motive as to why he may have come up with this statement
8 about a hitman, to be a hitman?

9 MR. SANDERS: I don't think anybody said it's not
10 probative of it, your Honor. What we're saying is, if it's
11 based on a violation of the attorney/client privilege he
12 shouldn't be able to exploit it.

13 THE COURT: That's regarding -- Mr. Sanders, regarding
14 the attorney/client privilege, if in fact Mr. Bergrin asked him
15 and he said -- he didn't say that, then it's not protected.
16 Because in my mind that would be this man's effort to
17 circumvent the system and to try to get someone he knew was not
18 responsible for this crime to take the weight, and I'm going to
19 allow it. Okay?

20 If for no other reason, fundamental fairness would
21 permit this information to be in front of the jury. You're
22 putting forth a witness who is saying: At some point Mr.
23 Bergrin said out of the blue, seven years, six years later, he
24 approached me to be a hitman. And you just admitted, you know,
25 he's angry at him. And he's angry at him partially because

1 they had some falling out, which you've told me they did. He
2 went and got a new lawyer.

3 I know what that's like. When a client leaves a
4 lawyer to go get a new lawyer on a criminal case, having
5 practiced criminal law, I know what that means: They had a
6 major falling out over something, either a fee or disagreement
7 as to how the case should proceed.

8 And the jury is entitled to know that. They're
9 entitled to know what happened between Mr. Bergrin and your
10 witness which led, as you say, into him being angry and then a
11 statement being made that is totally uncorroborated. Correct?
12 I assume. His statement about being approached by Mr. Bergrin.
13 There's no other witness. Correct?

14 MR. MINISH: That's correct.

15 THE COURT: No tape?

16 MR. MINISH: That's correct.

17 THE COURT: It's his March 31st, 2009, just before
18 this indictment was returned I guess. Correct?

19 MR. MINISH: Yes, Judge.

20 THE COURT: All right. All right. And was he
21 cooperating at this point with a cooperation agreement?

22 MR. MINISH: No, there's no agreement with the
23 Government.

24 THE COURT: He had no agreement with anyone?

25 MR. MINISH: No.

1 THE COURT: He just came forth out of the blue and
2 came to the Government and told them this?

3 MR. MINISH: Yes.

4 THE COURT: Is that the context in which this came up?
5 I'm asking.

6 MR. MINISH: Yes.

7 THE COURT: He just one day walked into the FBI or to
8 you?

9 MR. MINISH: Well, Judge, there's a series of steps.
10 He's incarcerated to get him there, so I don't want to say he
11 literally walked in. But, yes.

12 THE COURT: And he got no benefit for this?

13 MR. MINISH: No. He is hopeful that he will get a
14 letter from us to the Essex County to get a -- which we
15 informed the defendant of, sort of the same idea as a Rule 35.

16 THE COURT: Right.

17 MR. MINISH: From us to them. And that is what --

18 THE COURT: So he's cooperating?

19 MR. MINISH: Well, Judge, you were asking me whether
20 he was cooperating at the time he came in

21 THE COURT: At the time he came in and he made that
22 offer, was there a discussion at all? Who did he make the
23 first approach to?

24 MR. MINISH: The first person in the Government he
25 spoke to, I was present for that meeting. And we had a proffer

1 agreement. But he -- well, again, Judge, it's a series of
2 things. But there was no discussions of offers, there was no
3 discussions of any context. He decided he did not want to
4 speak at the time.

5 THE COURT: Oh.

6 MR. MINISH: He had gotten cold feet. Then he decided
7 to come back, and he said, I will explain what happened, and he
8 decided that he wanted to provide the information.

9 THE COURT: But in between when he decided not to say
10 anything and he said -- someone said to him, you know, if you
11 cooperate or if you have information, we'd be interested and we
12 could probably help you. Isn't that --

13 MR. MINISH: There was no discussion, Judge, just
14 because it didn't get to the point -- we weren't going to have
15 a discussion and make offers until he will tell us something.
16 We don't make offers -- because we don't even know what he was
17 going to say. We had no idea what he was going to say at that
18 time. So I understand, your Honor, how --

19 THE COURT: Who else was that there, Mr. Minish,
20 besides you?

21 MR. MINISH: Agent Brokos?

22 THE COURT: No, I want --

23 MR. MINISH: Not just me certainly, Judge.

24 THE COURT: I want to be careful. I don't want you in
25 the middle --

1 MR. MINISH: I'm not making myself a witness, no,
2 Judge.

3 THE COURT: Go ahead, Mr. Sanders. I'm sorry.

4 MR. SANDERS: If this is the road we are going to go
5 down, we're going to ask for -- we won't ask for it when cross
6 is going on, but we're going to ask for and propose an
7 instruction that will be given with the final charge, and we're
8 also going to be mindful when it gets to time for closings
9 about the proper use and the misuse of this evidence. And I'm
10 going to have a further submission your Honor that if we're
11 able to demonstrate that the statement Mr. Bergrin made in his
12 opening are, in fact, false, we're going to ask you to instruct
13 the jury that they can consider it as consciousness of guilt
14 evidence.

15 THE COURT: All right. Mr. Sanders, you know, listen,
16 I respect -- believe me I do respect your legal abilities.
17 Your memos have been good, I've read them all. But the context
18 in which this statement eventually comes up, in this Court's
19 opinion, it's very relevant what happened between him and Mr.
20 Castro that led him to come in to want to say something. And I
21 think even you, even you with your good legal skills would have
22 to agree that that would be very relevant to understanding
23 whether his version is the true version or whatever Mr. Castro
24 says is the true version.

25 Because for a man to be motivated to come in to say

1 something at some point, he's either doing it because he's
2 going to get something in his favor; or he's doing it because
3 he's really angry at the guy he's doing it; or its true. You
4 know, any one of those three scenarios.

5 But when it's such critical evidence that you're
6 offering, uncorroborated, the jury is entitled to have the full
7 picture here. And in this Court's opinion, as far as relying
8 on the attorney/client privilege, I don't believe it's
9 privileged information, in my opinion. If the version is as
10 the Defendant proffers, that kind of effort by him would not be
11 privileged, in this Court's opinion.

12 MR. LUSTBERG: Judge, just for the record, we just
13 have been checking -- it's a good thing about having e-mail
14 here in the courtroom -- I cannot represent to the Court that I
15 know for certain that Ms. Scarillo has been served already with
16 the subpoena. But I just wanted that to be clear. I don't
17 know what role that plays, but --

18 THE COURT: Has a subpoena been drafted?

19 MR. LUSTBERG: Yes.

20 THE COURT: Had the effort being made?

21 MR. LUSTBERG: Absolutely.

22 THE COURT: Was it being made before I made this
23 inquiry 15 minutes ago?

24 MR. LUSTBERG: Oh, yes. Oh, no, for sure, for several
25 days.

1 THE COURT: All right.

2 MR. MINISH: Judge, and then -- I'm sorry.

3 THE COURT: Go ahead, Mr. Minish.

4 MR. LUSTBERG: She may have been served; I just don't
5 know.

6 MR. MINISH: Just so I'm clear though on the Court's
7 ruling. If Mr. Bergrin says: Isn't it true that you told me,
8 you know, some version of you told me that you wanted your
9 daughter to take the weight and I said no, and the witness'
10 answer is "no," that should end the inquiry. Not a series of
11 follow-up cross-examination questions along that same line.

12 THE COURT: We'll see. I'll see how the question is
13 asked, Mr. Minish. It's an area which, based on your own
14 representations just now which you represented to the Court
15 that this man was angry at Mr. Bergrin, that he left his -- you
16 know, he fired him basically on that case and he was angry
17 about him for other reasons, too, you said, and that's the
18 context in which this alleged statement was made. I'm going to
19 play it by ear and listen to the questions asked and see.

20 And Mr. Bergrin, you know, is hearing me now. We'll
21 see how the questions are asked, we'll see what answer is
22 elicited and I'll determine then as to how we're going to
23 proceed.

24 It's a very important -- in this Court's mind it's a
25 very important area, and I'm glad I asked the basis on which --

1 how this all developed, frankly.

2 Are we all set?

3 MR. MINISH: I just need five minutes myself but, yes,
4 the witness is probably here.

5 THE COURT: You don't need to speak to the witness
6 now?

7 MR. MINISH: No.

8 THE COURT: You're not going to speak to him?

9 MR. MINISH: No.

10 THE COURT: We'll take a five-minute quick break and
11 we'll be right back.

12 (A recess is taken.)

13 (Proceedings resume - Jury not present.)

14 THE DEPUTY CLERK: Remain seated.

15 THE COURT: All right. We're going to bring in the
16 jury.

17 (Prospective Witness Albert Castro is escorted into
18 the courtroom by the Marshals.)

19 THE DEPUTY CLERK: Please rise for the Jury.

20 (Jury present.)

21 THE COURT: All right, everyone, please be seated.

22 All right. Mr. Minish, call your witness, please.

23 MR. MINISH: Judge, at this time the Government calls
24 Albert Castro to the stand.

25

1 A L B E R T C A S T R O, called as a witness, having been
2 first duly sworn, is examined and testifies as follows:

3

4 THE DEPUTY CLERK: Please state and spell your name
5 for the record.

6 THE WITNESS: Albert Castro. A-l-b-e-r-t;
7 C-a-s-t-r-o.

8 THE DEPUTY CLERK: Thank you. You may be seated, sir.
9 Just talk into the microphone.

10 DIRECT EXAMINATION

11 BY MR. MINISH:

12 Q Mr. Castro, if you could slide your seat forward and move
13 the microphone towards your mouth.

14 Sir, where were you born?

15 A Newark.

16 Q And did you spend most your life in Newark, or have you
17 spent most of your life in Newark?

18 A Yes.

19 Q Did you live anywhere else besides Newark?

20 A No. I lived in Elizabeth for about two years.

21 Q Besides that?

22 A No.

23 Q Could you give the jury the benefit of how far you got in
24 the school system?

25 A Ninth grade.

1 Q And what did you do after ninth grade?

2 A Quit school, started stealing, getting high selling drugs.

3 Q During the course of your life have you held any legitimate
4 jobs?

5 A Yes.

6 Q Can you tell the jury briefly what those were?

7 A Worked in a gas station, drove a truck, drove a roll-off.

8 Q What's a roll off?

9 A It's a truck that drops containers off.

10 Q Now, as you've already stated, you at some point in your
11 life got involved in criminal activity. Is that correct?

12 A Yes.

13 Q And spent time in jail as a result of that?

14 A Yes.

15 Q Okay. Now specifically, back on August 31st of 1988, were
16 you convicted of possessing cocaine?

17 A Yes.

18 Q And did you receive a Conditional Discharge for that once?

19 A Yes, I did.

20 Q And so the jury understands, did you spend any jail time?

21 A No.

22 Q And then moving forward to the following year, were you
23 charged and pled guilty to receiving stolen property on June
24 25th of 1989?

25 A Yes.

1 Q And did you receive a sentence, a jail sentence for that?

2 A No.

3 Q How about further along in 1989, were you charged with
4 possessing marijuana?

5 A Yes.

6 Q Was that charge dismissed?

7 A Yes, it was.

8 Q But did you actually have the marijuana?

9 A Yes.

10 Q Moving further along, in 1989 were you charged and
11 convicted of possession with intent to distribute cocaine?

12 A Yes, I was.

13 Q And did you receive a sentence of three years?

14 A Yes.

15 Q Moving ahead to 1990, specifically January 15th, were you
16 convicted of a robbery?

17 A Yes, I was.

18 Q And did you receive a sentence of seven years?

19 A Yes.

20 Q Moving forward to 1997, were you convicted on January 21st,
21 1997 of possession with intent to distribute drugs in a school
22 zone?

23 A Yes, I was.

24 Q And did you receive a sentence for that?

25 A Yes.

1 Q And what was that sentence?

2 A Three years.

3 Q Was it three years with one year of parole ineligibility?

4 A Yes.

5 Q Who was your lawyer on that case?

6 A Paul Bergrin.

7 Q Moving forward to now March 3rd of 2007, did you get
8 convicted of harassment?

9 A Yes, I did.

10 Q Did you do any jail time?

11 A No.

12 Q Who represented you on that case?

13 A Paul Bergrin.

14 Q More recently, in May of 2008, were you charged in Essex
15 County with offenses related to drugs and guns and
16 drug-trafficking?

17 A Yes.

18 Q And who at least initially represented you on that case?

19 A Paul Bergrin.

20 Q Was there a time when you got out on bail on that case?

21 A Yes, there was.

22 Q And how long were you out on bail before you were arrested
23 again?

24 A Six days.

25 Q And during that time, when you got picked up again, were

1 you arrested and charged with another robbery?

2 A Yes.

3 Q And who represented you at least initially on that case?

4 A Paul.

5 Q And when you say "Paul," you mean --

6 A Paul Bergrin, correct.

7 Q So the jury is clear, could you identify him in court
8 today? Do you see him in court?

9 A He's sitting in the front table, first person.

10 MR. BERGRIN: I would stipulate the identification,
11 your Honor.

12 THE COURT: All right. The identification has been
13 made.

14 Q All right. And as of today, sir, are you, in fact,
15 incarcerated?

16 A Yes, I am.

17 Q You made mention initially that at some point in your life
18 you started using drugs. Could you explain to the jury about
19 when that was?

20 A In the '80s.

21 Q And what did you do, what sort of drugs?

22 A Smoked weed, sniffed coke.

23 Q And did that result in any time --

24 A -- and crimes --

25 Q -- or incarceration?

1 A Burglaries, stealing.

2 Q And as a result of that, did --

3 A No, no time.

4 Q So besides the ones we've gone through, there are other
5 crimes in your life you've committed?

6 A Yes.

7 Q Did there come a time when you did go to jail while you
8 were a drug user?

9 A No, not while I was a user.

10 Q Explain to the jury how you transitioned from a drug user
11 to a drug distributor.

12 A My last time I went -- the first time I went to prison,
13 when I came home I sniffed a couple grams of coke, said never
14 again, and I started selling.

15 Q So when you said never again, you mean never again what?

16 A Using drugs.

17 Q So it wasn't never again committing crimes?

18 A No, not committing crimes.

19 Q And when you say "coke," if you could explain to the jury,
20 do you mean crack or powder coke?

21 A Powder cocaine.

22 Q When you initially start as a dealer, how old are you, or
23 the years that you started?

24 A My late 20's.

25 Q Okay. Do you remember when that was? How old are you now?

1 A 41.

2 Q Okay. So can you approximate for the jury when that would
3 have been?

4 A Probably about 25, 26.

5 Q No. Okay. Was it into the '90s?

6 A Yes.

7 Q And during that time, if you can explain to the jury how
8 you got your drugs and what you did with them.

9 A I'd just go to New York, pick it up, bag it, and drop off.
10 Phone ring, call me, I go drop it off.

11 Q So you would buy cocaine in New York?

12 A Yes. Bring it back here, bag it up and distribute it.

13 Q I'm sorry, sir, you have to speak up.

14 A I would go to New York, buy it, bring it back here, bag it
15 up and distribute it.

16 Q Okay. When you say "bag it up," what do you mean by that?

17 A Put it in little bags.

18 Q So the larger bag you'd break into smaller bags?

19 A Yes.

20 Q And where did you sell these drugs?

21 A In the Ironbound section of Newark.

22 Q And why there?

23 A That's where I'm from.

24 Q So you sold in the area where you lived?

25 A Yes.

1 Q And did that continue for years?

2 A Yes, it did.

3 Q And during the course of that time did you become a larger
4 scale drug distributor?

5 A Yes.

6 Q Okay. Explain to the jury what happened, or how that
7 happened.

8 A Well, I just bought little quantities, and then it
9 progressed, and then I bought more, and I just kept progressing
10 buying more coke and became bigger than what I was.

11 Q So you would -- you started to have more customers?

12 A Yes.

13 Q Okay. And actually selling more cocaine?

14 A Yes.

15 Q Which led you to be able to buy more cocaine?

16 A More cocaine and distribute it more.

17 Q Now, before you got -- you got arrested in 2008, and that's
18 what you've been incarcerated for.

19 A Yes.

20 Q By the time, from the '90s when it started to 2008, from
21 the time in which you were arrested, how much money do you
22 think you were making a week as a drug dealer?

23 A About 50,000 a week.

24 Q And did you buy anything that would -- how did you spend
25 your money?

1 A Cars, jewelry, property.

2 Q What kind of cars?

3 A Mercedes, Bentleys, trucks.

4 Q Now we're going to get to this period of time in a minute,
5 but you said in 2008 you're making about \$50,000 a week. In
6 2003, about how much were you making a week?

7 A About 20,000, average.

8 Q Average you said?

9 A Yes, about 20 grand, 20, 25.

10 Q Now, were you making money during this period of time by
11 any other illegal activity besides selling drugs?

12 A Yeah, stolen property.

13 Q Okay. Would you explain to the jury how you did that.

14 A I was buying construction equipment or trading off for
15 drugs, and reselling it.

16 Q Were you the one actually stealing?

17 A No, I was just buying it and reselling it.

18 Q Now, at some point your operation grew beyond just you
19 personally being involved?

20 A Yes.

21 Q Okay. Would you explain to the jury what happened or how
22 that happened?

23 A As far as --

24 Q How did your operation expand, your drug-trafficking
25 operation?

- 1 A Just more clientele and buying more coke.
- 2 Q Let me ask it this way: Who else worked with you in your
- 3 drug-trafficking?
- 4 A Me and my daughter and a couple of friends.
- 5 Q Okay. And which daughter?
- 6 A Stephanie Castro.
- 7 Q And who were the friends?
- 8 A One was that her boyfriend, another friend was Anthony;
- 9 Michael.
- 10 Q Anybody else?
- 11 A No, that's -- my kid's mother.
- 12 Q And what's your kid's mother's name?
- 13 A Laura McGrath.
- 14 Q Now you say they assisted in the operation. What exactly
- 15 did they do?
- 16 A Deliveries.
- 17 Q Deliveries.
- 18 A Phone rang, they went dropped off.
- 19 Q Again, if you could just make sure, if you can explain to
- 20 the jury what that means: "Phone call, dropped off." What
- 21 exactly is that?
- 22 A People called, told us where to meet them, and they went
- 23 and dropped it off.
- 24 Q And "it" being cocaine?
- 25 A Yes.

1 Q Did there come a time -- well, ultimately, can you tell the
2 jury when you first met Paul Bergrin?

3 A '96 or '97 with for my drug conviction, when I got caught
4 with drugs.

5 Q And you've already discussed the times he's represented
6 you. Did you ever direct other individuals to Mr. Bergrin for
7 representation?

8 A Yes.

9 Q Okay. Were there any people involved with drugs?

10 A Yes.

11 Q Okay. Could you tell us who they were?

12 A Carmen DeSilva; I believe Miguel Sorreno; and my daughter's
13 boyfriend. It was a few people. I don't remember names exact,
14 but...

15 Q Was Stephanie ever sent there -- sent to him? I'm sorry.

16 A I believe Stephanie went to him but Dana Scarillo
17 represented her.

18 Q How about Laura?

19 A Paul represented Laura.

20 Q And were those related to drug-trafficking?

21 A Yes. I believe Paul represented Laura.

22 Q Now, why did you send these individuals or recommend Mr.
23 Bergrin to these individuals?

24 A Because he was a good lawyer, had a lot of respect in the
25 courthouses, a lot of pull. My only opinion is, maybe you give

1 one today -- get a conviction today, tomorrow you let the guy
2 go.

3 Q And is that the only reason?

4 A Yes.

5 Q Did there come a time where that charge that you said you
6 had pending, Mr. Bergrin was representing you in 2008 in Essex
7 County, did there come a time when you had a falling out with
8 Mr. Bergrin?

9 A Yes.

10 Q And this was during the time when he was representing you
11 on that case.

12 A Yes.

13 Q Could you explain to the jury what happened?

14 A I don't think he defended me in a proper way. He didn't
15 subpoena a lot of surveillance and stuff for me to win my case.
16 He tried sleeping with my daughter, and took some money from
17 plea.

18 Q What do you mean, took some money from you?

19 A I got a check back from the state. He said it was a
20 mistake. He kept the money.

21 Q Okay. And were you happy with those things?

22 A No.

23 Q So you were angry?

24 A Yes.

25 Q And as a result of being angry, what did you do?

1 A Fired him and hired another attorney. And I got in touch
2 with the -- Joe Minish.

3 Q Well, let's not skip too many steps ahead.

4 You got another attorney. Who was that attorney?

5 A Richard Roberts.

6 Q And did you have discussions -- without telling us what it
7 was -- did you have discussions with your attorney about your
8 case?

9 A Yes.

10 Q And did you ultimately make a decision that you wished to
11 come to speak to the Federal Government?

12 A Yes, sir.

13 Q And you went through your counsel?

14 A Yes.

15 Q And did there come a time when you actually did come to
16 have a meeting at the U.S. Attorney's Office?

17 A Yes, I did.

18 Q And present at that meeting was myself and Agent Shawn
19 Brokos?

20 A Yes.

21 Q Now, I'm going to show you, sir, on that day, were you
22 given any document to review by members of law enforcement?

23 A Just the proffer.

24 Q Okay.

25 MR. MINISH: Judge, I'm showing the witness what's

1 been marked J01603 through 04. I think there's a copy on the
2 Court's bench.

3 Q Do you recognize what that is, sir?

4 A Yes.

5 Q Okay. Would you tell the jury what that is?

6 A It's a proffer. The only thing I'm to do is tell the truth
7 and nothing could be used against me. If I lie to you I get
8 charged for perjury. So I'm here to tell the truth.

9 Q Okay. So that's an agreement you reviewed on that day?

10 A Yes.

11 Q And did you sign that agreement?

12 A Yes, I did.

13 Q And did you have the opportunity to speak with your lawyer
14 about that agreement?

15 A Yes.

16 Q And when you were talking, was there anybody in the room
17 besides you and your lawyer?

18 A No.

19 Q When members of law enforcement came back into the room,
20 did you tell us anything on that day?

21 A No, I got cold feet.

22 Q And why did you get cold feet?

23 A A little scared, nervous.

24 Q Scared and nervous about what?

25 A Because of Paul.

1 Q You have to -- can you explain that to the jury?

2 A I was scared he would have came after me, so I didn't do
3 anything that specific day.

4 Q Did there come a time when you came back again to the U.S.
5 Attorney's Office?

6 A Yes, there was.

7 Q And again, did you come with your counsel?

8 A Yes.

9 Q Do you recall how much time after that first meeting it
10 was?

11 A If I can recall, probably a couple of weeks.

12 Q Okay. Does March 31st sound about right?

13 A I'm not too sure, but it was a couple of weeks afterwards.

14 Q But it was 2009?

15 A Yes.

16 Q And did you, in fact, speak on that day and provide
17 information to members of law enforcement?

18 A Yes.

19 Q Prior to that time, to whatever you were going to tell the
20 jury, had any member of law enforcement told you we were
21 looking for information about Paul Bergrin?

22 A No.

23 Q Had you told us anything about what you were going to
24 ultimately provide us?

25 A Not at that specific time I don't believe.

1 Q Ultimately, yes --

2 A Yeah.

3 Q -- but I'm talking about at that time.

4 A No.

5 Q Can you tell the jury what you told us on that day?

6 A That I was called into Paul's office. He wanted to speak
7 to me. He offered me ten grand to do a hit.

8 I asked him who?

9 And he told me a guy named Kemo.

10 I thought it was all a joke because I don't -- I never
11 killed anybody. I did drug selling, stolen property.

12 So later on into the conversation he told me Kemo made
13 a sale or something and Paul was arrested.

14 So I basically told him it was a joke -- I thought it
15 was a joke. I never had no other conversation with him after
16 that.

17 Q So if we could just break that down.

18 You say you got a call from Mr. Bergrin or you called
19 him?

20 A No, he called me, told me to come and speak to me.

21 I go into the office. I sit down.

22 Q Okay, sorry. Could we just do it sort of step-by-step?
23 You have to wait for a question.

24 A Okay. I'm sorry.

25 Q Where was the meeting held?

1 A In his office.

2 Q And when you say "his office," you mean his personal office
3 or somewhere in the law firm?

4 A In his office, his personal office.

5 Q And who was that at that meeting?

6 A Me and him. Me and Paul.

7 Q Anybody else? Anybody else?

8 A No.

9 Q All right. Was the door opened or closed when you had that
10 meeting?

11 A It was open when I went in. He closed it after I was in.

12 Q And where did you sit down?

13 A On the other side of his desk.

14 Q And where did Mr. Bergrin sit?

15 A In the front of his desk.

16 Q In front of his desk or behind his desk?

17 A Well, he sat on one side of his desk, I sat on the other.

18 Q Was there any small talk?

19 A No. It was just, you know, how are you doing, Paul? How
20 are you doing? That was it.

21 Q Do you recall when this meeting occurred?

22 A About the second week in December.

23 Q How is it you are able to remember that?

24 A Because my daughter's birthday is December 19th, so it was
25 before that. I don't know the exact date, but it was before

1 that. So around the second week.

2 Q Why did you go down to the office just because Mr. Bergrin
3 asked you?

4 A To see what he wanted, see what it was about.

5 Q So after the small talk, as best as you can remember, what
6 is the first thing related to a hit that Mr. Bergrin said to
7 you? Exact words.

8 A If I wanted to make \$10,000.

9 Q Okay. And --

10 THE COURT: No, Mr. Minish. Why don't you just ask
11 him what he remembers was said, that's all. We don't need
12 to...

13 You know, you sat down. Tell us what was said. I
14 think you did already, but tell us what was said?

15 THE WITNESS: I was offered ten grand to put a hit on
16 somebody. I asked him who.

17 He told me the guy's name, Kemo.

18 Later on I found out it was because he made a
19 transaction or a sale and he was arrested.

20 BY MR. Minish:

21 Q Okay. And who told you that?

22 A Paul.

23 Q And what specifically did he tell you?

24 A That he made a transaction, a drug deal to E.T. Hak or a
25 member --

1 Q A member of what?

2 A E.T. Hak's crew.

3 Q And who was E.T. Hak?

4 A I believe he was a kingpin.

5 Q Okay.

6 A A big drug dealer.

7 Q You believe that, why?

8 A Because his name was well-known.

9 Q Prior to that conversation with Mr. Bergrin or because of
10 what Mr. Bergrin said?

11 A No, prior to the conversation. All drug dealers basically
12 hear of each other. If I'm selling drugs -- not necessarily
13 know each other but, if I'm selling, you're selling, we all
14 know of each other.

15 Q Had you ever met -- or have you ever met E.T. Hak?

16 A No.

17 Q Now, after Mr. Bergrin said this to you, what was your
18 answer?

19 A I never killed anybody, and I thought it was a joke, and
20 that was the end of the conversation.

21 Q Did you say anything to him about the money --

22 THE COURT: Don't lead anything in this area. Don't
23 lead in this area. That was a leading question. As far as I'm
24 concerned that's a leading question.

25 MR. MINISH: Okay, Judge. And again, I don't want to

1 say anything in front of the witness that the Court doesn't
2 want, but I think if we're heard briefly --

3 THE COURT: No.

4 MR. MINISH: Okay.

5 Q Was there anything else discussed that you provided --

6 THE COURT: That's all. That's a good question.

7 Was there anything else discussed that you recall?

8 THE WITNESS: Just that I made 20 to \$25,000 a week
9 and I didn't need the money.

10 BY MR. MINISH:

11 Q Now, I apologize and I don't mean to be repetitive, I know
12 you said the second week in December, but do you recall the
13 year?

14 A 2003.

15 Q After you rejected the offer, what happened?

16 A I left. I left his office.

17 Q Was it amicable?

18 A Excuse me?

19 Q I'm sorry. Was it -- was there an argument or did you just
20 get up and leave?

21 A No, I just left.

22 Q Now, if you had wanted at that time in your life to make a
23 hit happen, could you have?

24 A Yes.

25 Q And how could you have had that done? Would you have done

1 it personally?

2 MR. LUSTBERG: Objection.

3 THE COURT: I'll see you at sidebar on this whole
4 area.

5 (At the sidebar.)

6 THE COURT: You object?

7 MR. LUSTBERG: Yes, we object to that.

8 THE COURT: Okay. Where are you going, Mr. Minish?

9 MR. MINISH: I'm not sure what the basis of the
10 objection is.

11 THE COURT: I want to know where you're going, I
12 stopped you.

13 MR. MINISH: Oh, well, okay. If the Court wants to
14 know, certainly.

15 The area we're going into is that he could have made
16 this happen. He was not just some slob out on the street. He
17 could have made this happen.

18 THE COURT: That may be appropriate for redirect if
19 Mr. Bergrin were to imply that, you know -- he already said he
20 never made a hit before. Right? He's never made a hit.

21 MR. MINISH: Yeah. And this further explains --

22 THE COURT: What is he going to explain? What is he
23 going to say?

24 THE WITNESS: That based on my stature in this
25 community and the people I know, if I needed to have this done,

1 I could have it done. Nothing more than that.

2 THE COURT: Go ahead.

3 MR. LUSTBERG: But that's not relevant unless Mr.
4 Bergrin knew that. He'd have to be -- in other words, he would
5 is have to explain that that was something that Mr. Bergrin
6 knew, otherwise it's not relevant.

7 MR. MINISH: Well, I can certainly go into areas that
8 Mr. Bergrin would have knowledge of the amount of money he was
9 making, the amount of drugs he was making. I was trying to
10 avoid that because I thought that would be objectionable to go
11 into, walking in to Mr. Bergrin and talking about be Bentleys
12 and offering --

13 THE COURT: I'm not going to let you get into that
14 now. If Mr. Bergrin gets into that area and starts to imply
15 that, you know, he didn't have the ability or anything to do
16 that, then I'll let you do it on redirect.

17 MR. MINISH: Okay. I think broader though, Judge,
18 anything that questions his credibility on this would allow him
19 to bring this in. Because I mean, the whole point --

20 THE COURT: It may, it may. I'm saying it may.

21 MR. MINISH: That's fine.

22 THE COURT: We're getting very speculative. Could he
23 have done it? Who could he have gone to? Do you know people
24 on the street? I believe I could have called somebody. But
25 then there's risks involved with that. He would have to go

1 tell somebody else: Do you want to do a hit with me? I
2 mean...

3 MR. MINISH: That's certainly --

4 THE COURT: Let's see if Mr. Bergrin gets into it.

5 MR. MINISH: Okay.

6 THE COURT: You can then -- I may allow some redirect
7 In area. But we're getting far afield and there's no evidence
8 yet that Mr. Bergrin would have known if he would have been
9 able to do a hit. There's nothing in his record that shows he
10 did anything of violence I don't think.

11 MR. MINISH: Well, there were, Judge -- there's a
12 number of gun cases.

13 THE COURT: Okay.

14 MR. MINISH: And Mr. Bergrin represented him.

15 THE COURT: Okay.

16 MR. MINISH: I have to go back in time. I don't know
17 if it was at that time. I have to go back and look so I don't
18 overstate what Mr. Bergrin knew.

19 But again, I was trying to avoid, because I thought it
20 might be objectionable, the sort of: What did Mr. Bergrin know
21 about your drug-dealing ability and your power and authority?
22 And I assumed that was going to be objected to. But I'm happy
23 to go into that.

24 THE COURT: I'm pretty certain he'll get into that.
25 So you'll probably have a chance to get into some of this on

1 redirect based on his opening.

2 MR. MINISH: That's largely how --

3 THE COURT: So you'll be able to. It would be more
4 appropriate on redirect.

5 MR. LUSTBERG: Just before we leave, before the
6 examination we were asked whether we would get into the fact
7 that this witness was in the Witness Protection Program, and we
8 said we wouldn't. But now on direct examination the Government
9 has elicited that he's afraid of Mr. Bergrin and so forth. And
10 that was the reason why we didn't want to get into the Witness
11 Protection Program issue in the first place, because that opens
12 the door to say he's afraid of him. But he certainly said
13 that. So I'm not saying we necessarily are going to, but I
14 just want to let you know that we may.

15 THE COURT: I don't know why you would.

16 MR. LUSTBERG: He already elicited he's afraid of him.
17 There's no doubt about it. So now it's a Government benefit.

18 THE COURT: It's up to you. Okay.

19 MR. MINISH: Then, Judge, based on that, I'm going to
20 go into it. I mean, if they're saying now that they won't, I
21 certainly don't want to do anything improper. But if they're
22 saying they're considering it, I think we have the ability to
23 bring it out on direct.

24 THE COURT: Don't go into it yet. You didn't bring it
25 out in your question, he brought it out. So it wasn't any

1 fault of the Government.

2 MR. LUSTBERG: No.

3 THE COURT: They didn't seek to bring it out.

4 MR. LUSTBERG: Agreed.

5 THE COURT: He said he was afraid, so leave it like
6 that right now.

7 MR. LUSTBERG: We haven't decided what we're going to
8 do.

9 THE COURT: I don't imagine you're going to go into
10 it. But if you do, then you could always on redirect say: We
11 put you in. You know, it's no big deal. It will come out one
12 way or the other if it comes out. Okay?

13 (In open court.)

14 THE COURT: All right. You can proceed, Mr. Minish.

15 BY MR. MINISH:

16 Q Sir, I apologize,

17 Now, did you also meet with the Government on one
18 other occasion fairly soon after the meeting, the story you
19 just told the jury?

20 A Yes.

21 Q And was your lawyer present for that?

22 A Yes.

23 Q And during this time, was that state charge that you
24 discussed with the guns and the drugs and robbery, was that
25 still pending?

1 A No.

2 Q 2255?

3 A No.

4 Q Do you know who that is?

5 A No, I don't.

6 Q 2263?

7 A No.

8 Q You don't know who that is?

9 A No, I don't.

10 Q 3066. Do you know who that is?

11 A No.

12 Q And finally, 3073.

13 A No.

14 Q Now, sir, so the jury is clear, have you faced any federal

15 charges in your life?

16 A No, I haven't.

17 Q And you've already been sentenced on the state charge.

18 Correct?

19 A Yes.

20 Q And that's the 15 with five?

21 A Yes, it is.

22 Q And during this process of speaking with the Government,

23 you've always had access to an attorney?

24 A Yes.

25 Q Now, what is your -- you started to explain to the jury