

1 Q What kind of file was the "basketball" case?

2 A The "basketball" case?

3 Q The Baskerville case; what kind of file was it? What kind
4 of case was it?

5 A I don't know. It could have been a drug case or it could
6 have been a homicide case, I really don't remember. I mean, I
7 looked through so many, I really don't remember.

8 Q Was it a federal or state case?

9 A I'm not sure.

10 Q Now, you testified that when you spoke to Mr. Curry,
11 correct, that he not only proposed 25 kilograms to you but he
12 asked you for 50 kilograms. Correct?

13 A Repeat that again.

14 Q You testified that not only does Mr. Curry tell you that he
15 needs 25 kilograms from you, but then he said that he needed
16 another 50 kilograms. Correct?

17 A He said if the deal goes through then he'll -- then there
18 will be 50 after that.

19 Q And that would be a million dollars, correct, after meeting
20 you and talking and having one conversation with you?

21 A It would be something like that.

22 Q And is that your testimony?

23 A Yeah, that is correct.

24 Q Now, you talked about your plea in Pennsylvania. Correct?
25 And that -- excuse me. You took the case to trial. Correct?

1 A Correct.

2 Q Isn't it a fact that you always professed your innocence,
3 saying that you didn't know that the cocaine was in the
4 luggage?

5 A Yes.

6 Q So it's not a matter of you beating the case or believing,
7 you claimed that you were innocent. Correct? That the cocaine
8 was in somebody else's luggage. Isn't that what you told me
9 and your sister; that you had no knowledge, that you were
10 innocent?

11 A I might have said that. I don't remember it though. I'm
12 not denying it, but like I said, I just don't remember.

13 Q You don't remember the case?

14 A I remember my case, I just don't remember telling you that,
15 or my sister that.

16 Q You always professed your innocence on that case. Correct?

17 A Yes, that's why I took it to trial.

18 Q And you believed that you were innocent. Correct?

19 A I didn't believe I was innocent, I believed that I could
20 have beat the case.

21 Q Didn't you just tell the jury ten seconds ago that you
22 professed your innocence and you agreed? Isn't that what you
23 just said? Isn't that the words that just came out of your
24 mouth, not mine?

25 A Well, if I'm going to trial I'm -- I'm going to still

1 continue to be -- you know, stick with my rights as being
2 innocent, but technically I wasn't innocent.

3 Q Do you know the difference between being innocent and
4 protecting your rights

5 A Well, you innocent until you proven guilty, ain't it?

6 Q Isn't it a fact that you just said a couple minutes ago
7 that you believed you were innocent because you had no
8 knowledge of the cocaine in the trunk of the car?

9 A I had knowledge of the cocaine being in the car.

10 Q Then why did you say that a couple of minutes ago in front
11 of this jury?

12 A I didn't say that.

13 Q Now, at the restaurant the only thing that you ever
14 observed, according to your testimony -- and, by that the way,
15 what month was this in, the meeting at the restaurant with
16 Changa?

17 A I do not recall.

18 Q You don't recall the month?

19 A No.

20 Q What year was it?

21 A Some time in 2003.

22 Q 2003?

23 A I think it's around 2003.

24 Q 2002?

25 A '3.

1 Q 2003. Early in 2003 or late in 2003?

2 A I don't recall. I don't remember.

3 Q The only thing, according to your testimony, and you
4 observed it from, according to you, across the street. Is that
5 what you were saying, as you walked toward?

6 A Correct.

7 Q So -- and Summer Avenue is a two-way street. Correct?

8 A Correct.

9 Q And there's cars parked on the sidewalk and usually cars
10 parked right in front of Isabella's. Correct?

11 A Correct.

12 Q And there's usually cars even double-parked. Correct?

13 A Correct.

14 Q And you could observe a meeting in the back of the
15 restaurant from across the street, across Summer Avenue going
16 two ways with cars parked on the curb, you could observe the
17 back of the restaurant. Is that what you're telling us?

18 A Well, at the time there wasn't no double-parked cars.

19 Q And you remember that now?

20 A I know that. I mean, I see your car clearly in the front
21 of the -- the restaurant.

22 Q My car was in front of the restaurant and you're across the
23 street, then my car is blocking your vision --

24 A No.

25 Q -- into the restaurant. Isn't that a fact?

1 A No.

2 Q Now, you could see all the way to the back of the
3 restaurant and you could see me back there from across the
4 street?

5 A Yes.

6 Q And you don't remember when this meeting occurred.
7 Correct?

8 A Correct.

9 Q Do you know what time it occurred?

10 A It occurred -- after hours.

11 Q And you're saying "after hours." Are you saying after
12 6:00, after 7:00?

13 A Yes, between that. Probably after 6:00.

14 Q And you testified that as you walked in the door, the first
15 thing that you saw is Hakeem Curry coming out. Correct?

16 A Correct.

17 Q So then you couldn't see me shaking hands with Hakeem Curry
18 if he's coming out of the door. Correct?

19 A Before I came through the door I seen you from a distance
20 shaking hands.

21 Q You just testified a couple of seconds ago that the first
22 thing that you observed was Hakeem Curry coming out of the
23 door. Isn't that the words that just came out of your mouth?

24 A As I coming in the restaurant.

25 Q Now, you saw me shaking hands with who?

1 A With Changa, Hakeem Curry.

2 Q And where did this occur?

3 A Back, towards the back of the restaurant.

4 Q And this is when you observe it from across the street.

5 Correct?

6 A Correct. As I'm walking to the restaurant, yes.

7 Q And then the next thing you know is you see Hakeem Curry
8 coming out of the door. Correct?

9 A Correct.

10 Q You had no conversation whatsoever. Right?

11 A None.

12 Q You don't know how long any of the parties had been there.
13 Correct?

14 A That is correct.

15 Q You don't even know if I just walked in, saw them and shook
16 their hands. Correct?

17 A Correct.

18 Q Yes?

19 A Yes.

20 Q Now, Isabella's had video. Correct?

21 A Correct.

22 Q Did you ever ask anybody to obtain the video for you?

23 A No.

24 Q And this is after hours, so approximately 7:00, 8:00
25 o'clock at night?

1 A I won't say 7:00 or 8:00 o'clock at night. I mean, I know
2 it was after hours. I don't recall the time.

3 Q And you don't recall the month, you don't know if it's dark
4 at night. Correct?

5 A It's a little dark.

6 Q It's a little dark?

7 A It's a little shady. You could see the lights is on, you
8 could see clearly.

9 Q From across the street?

10 As a matter of fact, you wear glasses, don't you?

11 A No.

12 Q Didn't you need glasses, Ramon? Are you telling us that
13 you never wore glasses?

14 A For reading, yes, but I never wore glasses.

15 Q Isn't it a fact that you need glasses for distance?

16 A Actually for reading, yes.

17 Q For distance my question is. Are you telling us that
18 didn't need glasses for distance?

19 A I don't know if I need glasses for distance now, but at the
20 time I needed glasses for reading.

21 Q Now, you said that you were in a very bad mood. Correct?

22 A Correct.

23 Q And you were very upset?

24 A That is correct.

25 Q You felt betrayed. Correct?

1 A That is correct.

2 Q Yet, you continued in to have a soda and to hang out there?

3 A I think -- I think -- I think -- I didn't -- my plan wasn't
4 to hang out. Like I say, my -- at the time I felt like
5 grabbing Changa and strangling him, just like that.

6 Q But you didn't?

7 A But I didn't.

8 Q And you didn't even have one word between you and Changa.
9 Correct?

10 A That is correct.

11 Q You proceeded --

12 A Well, not one word, I won't say one word, because he said
13 something to me, and I just tell said, pssssss, you know,
14 like -- I don't know if you call that a word, but...

15 Q And you didn't tell anybody about it, you just held it
16 inside yourself. Correct?

17 A Correct.

18 Q And it was your testimony that you met Alejandro Castro two
19 weeks later. Correct?

20 A I won't say two, exactly two weeks later, maybe in between
21 that.

22 Q So that it could have been less time?

23 A It could have been less time.

24 Q Then why did you tell jury that you met him two weeks later
25 through Changa?

1 A I didn't -- I don't -- I don't recall telling them two
2 weeks. I recall saying between a week, two, maybe a week and a
3 half.

4 Q So between one and a half weeks and two weeks you met
5 Alejandro Castro?

6 A Yes.

7 Q And you met him at the Players Club, according to your
8 testimony. Correct?

9 A Nope.

10 Q You met him at a bar. Excuse me.

11 A Correct.

12 Q Never having seen him in your life. Correct?

13 A Correct.

14 Q Never having been introduced to him in your life you met
15 him. Correct?

16 A (No response).

17 Q Who introduced you to Alejandro?

18 A Changa.

19 Q Here you're doing cocaine business with Changa, according
20 to your testimony. Correct?

21 A Correct.

22 Q And Changa is going to introduce you to somebody else so
23 that you do business with him and not Changa?

24 A That's how it went down.

25 Q Now, when you met Alejandro, you said you were drinking

1 with him in a bar. Correct?

2 A Correct.

3 Q And that was the first time that you met him. Right?

4 A Correct.

5 Q And then when did he propose to you doing multi-kilogram
6 cocaine deals?

7 A Who, Alejandro?

8 Q Alejandro.

9 A He didn't propose making deals with me, just told me that
10 if I needed anything as far as kilograms, if I needed anything,
11 let him know, he'll get it for me.

12 Q And that's not proposing a deal to you?

13 A Well, you said "multi-kilograms."

14 Q He said, whatever you need he'll get, according to you.
15 Correct?

16 A Correct.

17 Q As many kilograms as you need. Correct?

18 A Basically.

19 Q And this is right after meeting this guy named Alejandro,
20 correct, right after meeting Alejandro. Correct?

21 A That is correct.

22 Q And Alejandro knows nothing about you or your background.
23 Right?

24 A Well, I'm not sure if he knew anything about me or my
25 background, but I couldn't answer that.

1 Q Well, you had only spent a few -- not long with him.

2 Correct?

3 A Yes, but people have a habit to, you know, talk still.

4 Like even Changa, you know, Changa could have say something
5 about me, I don't know.

6 Q Well, he acted -- did he act like he knew you?

7 A He acted really friendly. I mean...

8 Q But he mentioned nothing about Changa mentioning anything
9 about you. Correct?

10 A Not that I recall.

11 Q And Changa was your supplier. Right?

12 A Correct.

13 Q So Changa was making money off of you. Right, Mr. Jimenez?

14 A Correct.

15 Q And you were giving Mr. Changa good business. Correct?

16 A That is correct.

17 Q And you were making a lot of money with Mr. Changa.

18 Correct?

19 A That is correct.

20 Q Then how come you couldn't afford a car?

21 A Changa was the one who gave me the car.

22 Q And that was an old beat up 2001 Mitsubishi, as you
23 testified to. Right?

24 A Right.

25 Q And isn't it a fact that you were having trouble paying

1 your rent for your family, that you had to live with your
2 mother in Yolanda's -- your sister's house?

3 A Absolutely.

4 Q And you're making all this money on kilograms like you just
5 testified, what a big supplier like Changa, according to you.
6 Correct?

7 A I wasn't making -- Changa was making a lot of money off of
8 me, I was making the peanuts.

9 Q Oh, so Changa is supplying you with all kinds of cocaine
10 and multi-kilograms and you're only making peanuts. Is that
11 what you're testifying to?

12 A That's exactly what I said.

13 Q So that you're going to take the risk of dealing
14 multi-kilograms of cocaine and you're only going to make
15 peanuts, according to you, to the point where you can't even
16 afford your own apartment, you have to live at home?

17 A I didn't say that I was making multi-kilograms with Changa.
18 I said I was making the peanuts with Changa. Changa was making
19 the money. Before I ever met E.T. Hak I was small time.

20 Q Isn't it a fact that change Changa only dealt in kilograms,
21 according to your testimony? Isn't that what you told this
22 jury, that - Changa --

23 A Changa --

24 Q Excuse me. Let me ask the question, please.

25 Isn't it a fact that you told the jury that Changa

1 deals only in multi-kilograms, he was a big drug dealer? Isn't
2 that what you told this jury under oath?

3 A Exactly, that's what I said.

4 Q So now you're telling us that you were dealing in small
5 amounts with Changa?

6 A If I -- if I -- if I needed 300 grams, I needed 200 grams,
7 I need a half -- if I needed five ounces, I get it from Changa.
8 Changa ain't got no problem breaking something down for me back
9 then. I wasn't moving a lot of keys like you explaining it
10 now.

11 Q Did you ever tell the FBI that you were moving 5 kilograms
12 a week for Changa? Isn't that what you said?

13 A Like, I said, I might have said that in the beginning.

14 Q Isn't that what you said to the FBI, that you were moving
15 at least 5 kilograms a week with Changa?

16 A I might have said that in the beginning but that was part
17 lie.

18 Q That would have meant a lot of trouble for Mr. Changa.
19 Right? If you're telling the FBI that this individual is
20 supplying you with multi-kilograms, 5 kilograms of cocaine
21 every week, correct, 10,000 grams a week, you tell them that,
22 he's facing a lot of trouble. Right?

23 A Might, might be facing a lot of trouble.

24 Q You're telling us that you don't know that?

25 A Might be facing a lot of trouble.

1 Q So you're trying to get Mr. Changa into trouble with the
2 FBI by saying that about him. Correct?

3 A No.

4 Q Then why did you tell them that?

5 A It's the truth.

6 Q It's the truth?

7 A That is the truth.

8 Q That you were moving 5 kilograms with Changa every week?

9 A No, that Changa is a drug dealer.

10 Q But you told the FBI that you, Ramon Jimenez, was moving 5
11 kilograms a week through Changa. Isn't that what you told
12 them? Isn't that the words that came out of your mouth, Ramon
13 Jimenez?

14 A I don't recall. I might have said that, I just don't
15 recall.

16 Q Would it refresh your memory if you were to read the report
17 on it?

18 A Yes, it will.

19 MR. BERGRIN: May I have one moment, your Honor?

20 THE COURT: Yes.

21 (There is a pause for Mr. Bergrin.)

22 MR. BERGRIN: Excuse me a second.

23 Your Honor, I'll move on.

24 THE COURT: Let us know if you have that 302 report.

25 Q Now, you kept getting cut out of deals. Correct?

- 1 A What you mean, "keep getting cut out of deals"?
- 2 Q Well, you got out of a deal with Changa. Correct?
- 3 A Correct.
- 4 Q You got cut out of a deal with Alejandro. Correct?
- 5 A Correct.
- 6 Q Everybody is cutting Ramon out of deals, is that your
- 7 position?
- 8 A I don't understand the question.
- 9 Q Now, the second time, the second time you meet Alejandro
- 10 Castro, he tells you -- second time or the third time at a bar,
- 11 the Players Club -- he tells you that he just got finished
- 12 doing a 25 kilogram deal. Correct?
- 13 A That is correct.
- 14 Q Was that the first time or the second time you had met?
- 15 A That is the second time we met at Players Club.
- 16 Q So the second time, this drug dealer meets Ramon Jimenez at
- 17 the Players Club -- correct?
- 18 A That is correct.
- 19 Q -- you have no knowledge as to the fact that he knows
- 20 anything about you. Right?
- 21 A We -- well, from the first time we hung out all night to
- 22 the next day, I mean we spoke a lot on the first day.
- 23 Q He knows nothing about your background other than meeting
- 24 you one time at a bar. Correct?
- 25 A From the beginning in the bar at Broadway and Verona?

1 Q Yes.

2 A I'm not sure if he did; I'm not sure if he didn't.

3 Q And he's going to reveal to you, not knowing you for a very
4 long time, that he just did a 25 kilogram, a 50 pound deal of
5 cocaine. Isn't what you're telling us under oath?

6 A Repeat that question, again, please.

7 Q Not knowing you for a long time, this big drug dealer is
8 going to reveal to Ramon Jimenez that he just did a 25
9 kilogram, 50 pound deal. Is that what you're telling us?

10 A Yes.

11 Q And you say to him -- he says with a black guy. Correct?

12 A Correct.

13 Q And you say to him the name.

14 What name did you say?

15 A Hak.

16 Q And he says he thinks that's it. Is that with what you're
17 telling us?

18 A That is the truth.

19 Q So the second time that you ever meet with this guy, you're
20 drinking with him and he's going to tell you about a 25
21 kilogram deal, and he's going to tell you who he sold the
22 kilograms of cocaine to?

23 A That's actually the -- yes, the second time that we went
24 out, yes. But technically it's the third time from the bar.
25 But without counting the bar it would be the second time, yes.

1 Q The second time. And he's going to tell you who his
2 customer is, a big drug dealer?

3 A Well, he wasn't too sure who he -- who he really was.

4 Q Well, he sold him 25 kilograms of cocaine, according to
5 you. Correct?

6 A Correct.

7 Q So that's at least a half a million dollar deal. Right?

8 A Correct.

9 Q And he's not sure about who he is, he's selling cocaine to
10 individuals for half a million dollars and doesn't know them?

11 A He went through Changa.

12 Q And where was Changa at the time?

13 A I'm not sure.

14 Q Changa was still around. Correct?

15 A Correct.

16 Q And according to you, Changa -- Hakeem Curry was Changa's
17 customer according to you. Correct?

18 A Repeat that again.

19 Q According to you, Changa was Hakeem Curry's customer, not
20 Alejandro Castro. Correct?

21 A Correct. That's -- I mean, that's -- later on that's
22 what -- that was my understanding.

23 Q Now, you said that you attended a meeting. I invited you
24 to a meeting between me and Hakeem Curry. Is that what you're
25 saying? Upstairs in my office when you were on the phone with

1 your wife.

2 A It wasn't no invitation. I was there.

3 Q You were there?

4 A I was there.

5 Q And in front of you, you hear me say: If there had been no
6 witness, there would be no case. Correct?

7 A Correct.

8 Q When did that -- when did that occur?

9 A When Hakeem came up and he asked you -- well, I'm not sure
10 of the time limit, I'm not sure how many minutes went by. When
11 he came in, he sat down and started talking to you. I was on
12 the phone. Got off the phone. The last thing I heard was you
13 saying that.

14 The reason I remember that, because of the Hakeem look
15 that he gave me that day.

16 Q And that was eight years ago that you remembered that.
17 Correct?

18 A Absolutely.

19 Q And for eight years you had said nothing to anybody.
20 Correct?

21 A Correct.

22 Q You kept it inside of you all these eight years. Right?

23 A There was nothing to think about. I mean, why would I want
24 to keep -- I mean, it was something that -- it wasn't something
25 that I wanted to remember, it was just something -- his face

1 made me remember certain things that day, that's it.

2 Q As a matter of fact, you had had at least four to five
3 meetings with the FBI prior to that memory being jogged.

4 Right?

5 A Repeat that again.

6 Q You had had at least four to five meetings with federal
7 agents trying to help yourself out and your sister out prior to
8 your memory being jogged, correct, and you remembering the "no
9 Kemo" -- excuse me -- the words: No witness, there would be no
10 case?

11 A Yes, that probably would be accurate.

12 Q And you had spent hours upon hours with them. Correct?

13 A Hours upon hours?

14 Hours? I don't know how many hours. I probably say
15 like two hours, two and a half hours.

16 Q Wasn't each meeting like three hours?

17 A I couldn't say three hours. I couldn't --

18 Q At least two hours. Correct? Is that fair?

19 A At least two hours.

20 Q So you had spent a lot of hours with them before your
21 memory was jogged. Correct?

22 A I -- I don't know if that's what I would say, but it would
23 be close to that.

24 Q Was the fact that you're a career criminal facing very
25 extensive periods in custody, maybe the rest your life, did

1 that jog your memory a little bit?

2 A Spending a lot of time in prison. I don't know about the
3 rest of my life.

4 Q Well, you were doing a five-year term at Midstate
5 Correctional Center. Correct?

6 A Correct.

7 Q For drugs. Correct?

8 A Correct.

9 Q And here you are, you were moving multi-kilograms,
10 according to your testimony. Correct?

11 A I won't say moving multi-kilograms. I mean, I know the
12 people that could supply me to move that type of weight, yes.

13 Q Well, you were moving heavy weight. Correct?

14 A What's "heavy weight" to you? I mean, I don't understand.

15 Q I'm asking you.

16 You were moving weight. Correct? You told the FBI
17 you were -- you told the FBI you were moving multi-kilograms.
18 Right?

19 A If -- if I -- if I could get somebody to buy
20 multi-kilograms and if I could get the multi-kilograms for
21 them, yes, I could move that for them.

22 Q You told the FBI that you were moving multi-kilograms of
23 cocaine, correct, with Changa?

24 A In the beginning I said a lot of things.

25 Q So you kept lying and lying and lying. Correct?

1 A I lied. I lied in the beginning, yes.

2 Q And you were facing a lot of time as the result of your
3 lies. Right?

4 A I was facing a lot of time --

5 Q Yes.

6 A -- for the --

7 Q You were a career criminal and you were telling the FBI
8 that you were moving multi-kilograms of cocaine.

9 A Yes, I told them that.

10 Q And also you had a parole sticker that you haven't even
11 started serving your parole violation in Pennsylvania. Right?

12 A Right.

13 Q And you're going to do at least, at least six years on
14 that. Correct?

15 A That's the max that I can do, six years.

16 Q With your record, isn't it a fact that you're going to max
17 out most likely?

18 A Yes, it's a possibility.

19 Q So you have the state time that you have to do, you have at
20 least the six years, five to six years in Pennsylvania.

21 Correct?

22 A Correct.

23 Q And now you have the federal drug case. Correct?

24 A Correct.

25 Q And on the federal drug case you pled out to at least, at

1 least 3.5 kilograms, but a lot more, correct, that you were
2 involved in?

3 A Correct.

4 Q So you're facing at least probably 10 to 15 years
5 federally. Correct? Realistically.

6 A Correct. Maybe -- I mean -- I don't -- that's -- fairly,
7 yes.

8 Q So you're facing at least another 25 years of your life.
9 Did that kind of jog your memory in reference to what you
10 heard?

11 A Yes, pretty much.

12 Q Now, you were visited by federal agents --

13 MR. BERGRIN: May I approach the witness with D-9 for
14 identification?

15 THE COURT: Yes.

16 MR. BERGRIN: Thank you very much, Judge.

17 MR. GAY: Could you just let us know what "J" number
18 it is?

19 MR. BERGRIN: I'm so sorry. It's J04032, please.

20 MR. GAY: Great, thank you.

21 MR. BERGRIN: Thank you.

22 May I approach, your Honor?

23 THE COURT: Yes. Is this Exhibit D-9?

24 MR. BERGRIN: It is, sir.

25 THE COURT: Thanks. Go ahead.

1 MR. BERGRIN: Thank you, your Honor.

2 Q I ask you to look at D-9 that's been marked for
3 identification. As a matter of fact, you can keep that in
4 front of you, Mr. Jimenez. Look, please, at the last sentence
5 and then you can turn it over to page 2, the first paragraph.
6 Okay?

7 MR. GAY: Which page were you on?

8 MR. BERGRIN: It's on page 2 -- page 1 the last
9 paragraph into page 2 the top of the paper, please.

10 MR. GAY: Thank you.

11 MR. BERGRIN: Thanks, Mr. Gay.

12 A What you want me to look at?

13 Q I want you to look at -- and I'll ask you the question
14 again: Isn't it a fact that you told the FBI that Changa was
15 your supplier and you were moving how many kilograms did you
16 tell the FBI per week?

17 A I don't see it on there. I'm lost. I mean, I use glasses
18 to read, I mean. I said that before.

19 Q I'm sorry. Excuse me.

20 Did you tell the FBI that you were involved with
21 Changa, last name unknown, a distant relative. Is that what
22 you said? Can you read that?

23 A Yes, I see that.

24 Q And Changa was providing Jimenez with approximately 5
25 kilograms a week for Jimenez to sell in the Newark area.

1 A Yes. I see that.

2 Q When you were visited by the FBI on this date of October
3 the 28th, 2010, did the FBI agents tell you to be honest,
4 truthful and open?

5 A Correct.

6 Q And did you agree to do that with the FBI?

7 A Correct.

8 Q And they told you that if you lied to them, you could be
9 charged with a federal offense. Correct?

10 A Correct.

11 Q And you understood what that meant. Right?

12 A Right.

13 Q And when the FBI came to you, they said that they are
14 investigating me, Paul Bergrin. Correct?

15 A Correct.

16 Q And that they are there to learn about Paul Bergrin and for
17 you to provide them information on Paul Bergrin. Correct?

18 A Correct.

19 Q So you knew when they came to you that they were looking
20 for help from you against me. Correct?

21 A Correct.

22 Q And they also told you that you could help yourself and
23 your charges and your cases and the time that you were facing
24 if you helped them. Correct?

25 A That is correct.

1 Q And when you talked to them, you were looking forward, you
2 were excited about being able to help yourself. Correct?

3 A At the time, yes.

4 Q So you wanted to give them as much information as humanly
5 possible about Paul Bergrin so that you could get out of doing
6 that six years that you have in State Prison in Pennsylvania.
7 Correct?

8 A Actually I don't remember giving them information about you
9 in the beginning, even when I lied.

10 Q Well, you gave them -- they asked you about me. Correct?

11 THE COURT: Mr. Bergrin, let me interrupt for a
12 moment. I don't know how much -- you probably have some time
13 to go. Correct?

14 MR. BERGRIN: Yes, sir.

15 THE COURT: All right. We should recess. I have a
16 conference call on another matter at 4:30 that I need to take.
17 So we'll recess and resume tomorrow morning, ladies and
18 gentlemen.

19 Please don't discuss the case with anyone. I'm going
20 remind you of a few things: Also, you're not to begin to
21 develop any predecisions on anything. You haven't heard this
22 whole case, there's a lot more to go. And I remind you also
23 not to read the newspapers, not to listen to any media. If you
24 hear something, put it aside. And not to do any independent
25 research, either on the internet or anything along that line.

1 Okay? You heard the instruction before but I want to remind
2 you all of all of that periodically. Okay?

3 thank you for your patience, and we'll see you
4 tomorrow morning, same time.

5 Thank you very much.

6 THE DEPUTY CLERK: Please rise for the Jury.

7 (The Jury leaves the courtroom.)

8 THE COURT: All right. The witness can be taken
9 downstairs then.

10 (Witness temporarily excused and escorted out of the
11 courtroom by the Marshals.)

12 THE COURT: Everyone, be seated, please.

13 Mr. Bergrin, I assume you have more time tomorrow.
14 Correct?

15 MR. BERGRIN: Yes, sir. I might even have almost half
16 a day. I have a lot to go, Judge. I'm sorry.

17 THE COURT: All right. All right. Then we'll have
18 another witness after that for tomorrow?

19 MR. GAY: Correct, Judge.

20 THE COURT: All right.

21 MR. LUSTBERG: Judge, we'll need a little time at some
22 point, whatever is good for the Court, to address this issue
23 that we discussed with your Honor earlier today.

24 THE COURT: All right. We'll have it on a break or
25 something I'm sure. We'll take a little longer break at some

1 point, or we can do it tomorrow morning at 9:15. I'm here, so
2 if you can all get here 9:15.

3 MR. GAY: That's fine. Absolutely.

4 MR. LUSTBERG: I think that would be good.

5 THE COURT: Why don't we do it then.

6 MR. LUSTBERG: Thank you, your Honor. Sure.

7 THE COURT: See you then. Thanks. We're in recess.

8 (At 4:28 p.m., an adjournment is taken to Friday,
9 October 21, 2011, at 9:15 a.m.)

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF NEW JERSEY
 Criminal No. 2:09-cr-00369-WJM

3 UNITED STATES OF AMERICA, :
 :
 4 v. :
 :
 5 PAUL W. BERGRIN, :
 :
 6 Defendant. :
 - - - - - - - - - - - - - - -x

7 Newark, New Jersey
 8 October 21, 2011

9 B E F O R E:

10 THE HONORABLE WILLIAM J. MARTINI,
 UNITED STATES DISTRICT JUDGE,
 11 And a Jury

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

14 A P P E A R A N C E S:

15 UNITED STATES ATTORNEY'S OFFICE

16 BY: JOHN GAY

 JOSEPH N. MINISH

 STEVEN G. SANDERS

17 Assistant U. S. Attorneys

 For the Government

18 PAUL W. BERGRIN, Defendant, Pro se

19 - and -

 GBBONS, PC

20 BY: LAWRENCE S. LUSTBERG, ESQ., Standby Counsel

 AMANDA B. PROTESS, ESQ.

21 for the Defendant

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

24 S/WALTER J. PERELLI

 WALTER J. PERELLI, CCR, CRR

25 Official Court Reporter

WALTER J. PERELLI, OFFICIAL COURT REPORTER, NEWARK, NJ

P2452

1 could I have some cocaine for my personal use? And they would
2 give it to you without charging you.

3 A No, it's not like that. It's not like that. It's not like
4 I just met you today and we bud/buddies. It's not like that.

5 Q Were you buddy/buddies?

6 A I won't call it buddy/buddies. I say associates.

7 Q Associates?

8 A Yes.

9 Q How close were you with these associates?

10 A Pretty close.

11 Q And how often would you buy from the Peruvians?

12 A It depends. It just depends.

13 Q Just depends?

14 A Yes, depends.

15 Q Now, you had filed an attorney ethics grievance against
16 your attorney. Correct?

17 THE COURT: Are you going to be a while longer?

18 MR. BERGRIN: Yes.

19 THE COURT: We should take a break for lunch.

20 All right, ladies and gentlemen, we'll be back in one
21 hour. Please don't discuss anything about the case or anything
22 about the matter. Enjoy your lunch and we'll see you back here
23 in about an hour.

24 Thank you very much.

25 THE CLERK: Please rise for the Jury.

1 (The Jury leaves the courtroom.)

2 THE COURT: Marshals, please have the witness back AT
3 20 of two and we'll get started promptly at 20 of two. Okay?

4 MR. GAY: Judge, before we adjourn for lunch can I
5 just say one thing?

6 THE COURT: Yes.

7 MR. GAY: It should not be in front of the witness.

8 THE COURT: Not in the front of witness?

9 MR. GAY: Not in front of the witness, please.

10 THE COURT: That's what I thought.

11 (Witness temporarily excused.)

12 (The Witness is escorted out of the courtroom by the
13 Marshals.)

14 THE COURT: All right, everyone can be seated. I'm
15 sorry.

16 MR. GAY: Judge, I don't want to be nitpicky about
17 this, but there is a proper procedure for either refreshing
18 recollection with a document or something like that, and I
19 think Mr. Bergrin is not following it. And the problem I have
20 is, Judge, is not so much he's not following it, but he's
21 confusing the witness and the jury I believe. The way it's
22 supposed to be done is if the witness -- he can ask a question:
23 Did you ever tell the FBI, whatever follows. If the answer is
24 "yes," that's the end of the question.

25 THE COURT: Yeah.

1 MR. GAY: If the answer is "no," that's the end of the
2 question. If he says, "I don't remember," then he can show him
3 the document. But that's not what's happening here. What he's
4 trying to --

5 THE COURT: Mr. Gay, quite candidly, this witness is
6 not terribly responsive to a lot of the questions, not all of
7 them. A lot of them he says, "I believe"; "I may have lied";
8 "I don't know"; "I" -- you know, so I have given Mr. Bergrin
9 more latitude than I customarily would, because this witness,
10 his memory is either very challenged, his willingness to answer
11 questions that are in FBI reports -- I'm assuming that these
12 FBI reports may be mistaken, you know, because he's saying, "I
13 don't recall I said that"; "I may have said it"; "I believe I
14 did; "yeah, I did it," after he's pressed three times. That's
15 why I asked the question on an area that is of somewhat
16 importance, by the way. Let's not make believe. What the
17 weather was on the day he remembers a conversation that took
18 place eight years ago when he's been challenged to remember
19 things that took place in July is of serious concern to me,
20 quite frankly.

21 MR. GAY: I understand that, Judge.

22 THE COURT: Anybody listening to this would be
23 somewhat concerned. That's why I asked the question. Either
24 the FBI report -- whoever took that report made a mistake; or
25 he gave them information then which he's now saying it could

1 have been the fall, it could have been the spring, it could
2 have been the summer. And we all know the time of year when
3 this alleged statement was made is of some importance to this
4 case.

5 MR. GAY: I do not --

6 THE COURT: So I'm giving him latitude.

7 We'll see you at 20 of two.

8 MR. LUSTBERG: Thank you, Judge.

9 MR. LUSTBERG: Thank you, Judge.

10 (A luncheon recess is taken.)

11

12 A F T E R N O O N S E S S I O N

13

14 (Trial are resumes - Jury not present.)

15 THE COURT: We're going to bring out the jury.

16 THE DEPUTY CLERK: Please rise for the jury.

17 (Jury present.)

18 THE COURT: All right, everyone, please be seated.

19 Welcome back.

20 Mr. Bergrin, let's proceed.

21 MR. BERGRIN: Thank you, reason.

22 CROSS-EXAMINATION CONTINUES

23 BY MR. BERGRIN:

24 Q Mr. Jimenez, I'm just going to ask you two short questions
25 on something I couldn't find before.

1 I asked you about a closing for Changa. Correct?

2 A Yes.

3 Q And you said that you had no knowledge whatsoever of me
4 ever doing a closing for Changa. Correct?

5 A That is correct.

6 Q And you said that you looked -- you looked for the file and
7 couldn't find the closing file on Changa after being given the
8 name by Gladys the receptionist. Is that correct?

9 A That is correct.

10 Q Did you ever tell the FBI on November the 22nd of 2010 that
11 Paul Bergrin did a closing for Changa for a house that he
12 bought in Florida?

13 A 2010?

14 Q Yes, sir. November 22nd, of 2010.

15 A I don't -- I don't recall. I might of have said it then in
16 the beginning.

17 Q Was that also a lie, just made up? Totally made up by --

18 A Towards beginning, if that's what I said then it was a lie.

19 Q And that wasn't the first meeting that you had with the
20 FBI. Correct?

21 A Correct.

22 Q That was the fourth meeting. Right?

23 A Correct.

24 Q Now, yesterday when you testified for Mr. Gay and the
25 prosecution under direct examination, he asked you to describe

1 the black male that was with Hakeem Curry. Correct?

2 A That is correct.

3 Q And before this jury you were able to give a description of
4 this black male. Correct, sir?

5 MR. GAY: Judge, could we say which incident this is
6 related to?

7 MR. BERGRIN: I'm sorry. I'll clear it up, Judge.

8 THE COURT: Go ahead, please.

9 Q This was in reference to the meeting, this supposed meeting
10 at Isabella's Restaurant with Hakeem Curry walking out the door
11 and you seeing us shaking hands from across the street.

12 MR. GAY: Objection, Judge, that's not what the
13 testimony was.

14 THE COURT: All right. Again, ladies and gentlemen,
15 it's your recollection of what his testimony was. And if Mr.
16 Bergrin misstates it, then it's up to you to correct it. Also
17 you should know, the questions of the lawyers, whatever the
18 lawyer says is not evidence. The evidence is what the
19 witnesses say from the witness stand. Okay?

20 Go ahead, Mr. Bergrin, you can restate the question.

21 Q Was there anybody with Hakeem Curry when you showed up at
22 the meeting at Isabella's Restaurant with Changa?

23 A I didn't see him showing up at the meeting. I just seen
24 him there. He was already there when I got there.

25 Q And this was this black male with Hakeem Curry?

1 A I said it -- I'll say it again. At the time I was asked if
2 there was anybody else with Hakeem Curry, I said there might of
3 have been. I'm not sure because I didn't -- you know, I wasn't
4 sure.

5 Q When you testified yesterday, did you give a description of
6 a black male?

7 A No.

8 Q Now, you filed an ethics complaint against your attorney.
9 Correct?

10 A Correct.

11 Q And this was approximately six days before you pled guilty.
12 Correct?

13 A Correct.

14 Q A short while before you pled guilty. Right?

15 A Right.

16 Q And who was your attorney at the time?

17 A John.

18 Q John who?

19 A Azzarello.

20 Q And when you filed the grievance, you knew the effects and
21 the consequences of what would happen to that attorney by
22 filing an attorney's ethics grievance complaint. Correct?

23 A What do you mean?

24 Q You know that he could be disciplined or punished for
25 unethical action?

1 A I know something like that, yes.

2 Q And this was back in September while you were a cooperating
3 witness. Correct?

4 A That is correct.

5 Q And you made allegations against him that he was in
6 conflict of interest along with Attorney General John Gay and
7 "Assistant Joe." Is that what you said?

8 A That's what I said.

9 Q As a matter of fact, you typed out -- you had the form
10 written and then you had statements that were typed. Correct?

11 A Correct.

12 Q Now, where did these statements come from, what the FBI
13 said and what you said?

14 A From my notes.

15 Q The notes that were destroyed?

16 A I'm not sure if they're all destroyed. Like I said, they
17 might some be destroyed, some might not.

18 Q By the way, you reference in that grievance form a letter
19 that you sent to Mr. Gay. Correct?

20 A Correct.

21 Q Where is that letter?

22 A Might be in the cell somewhere.

23 Q So you never sent the letter?

24 A I sent the letter. It was -- it was a copy.

25 Q A copy?

1 A Right.

2 Q A copy of the grievance, the attorney grievance form?

3 A I have a copy of that.

4 Q The letter that you sent to Mr. Gay, did you keep a copy of
5 it?

6 A Yes.

7 Q And what did that letter say?

8 A I couldn't -- I couldn't -- I can't tell you word for word
9 because I don't have it.

10 Q But this was back in September of 2011?

11 A I'm not sure of the date, but it could be.

12 Q It was when you sent the grievance form. Correct?

13 A Did I send it to Gay?

14 Q Yes.

15 A No.

16 Q When did you send the letter to John Gay?

17 A Way before all this happened.

18 Q "Way before," meaning when?

19 A Some time probably in early 2010.

20 Q Early 2010.

21 The first time you ever met whether the U.S.

22 Attorney -- excuse me -- with the FBI was on October the 28th
23 of 2010. Are you selling us that you sent a letter to John Gay
24 before that?

25 A It wasn't -- it wasn't directly to his office, it was

1 another address that I had. So I'm not sure if he did receive
2 it or if he received -- I'm not sure if he received it or not.

3 Q I'm not asking, you sir, if he received it or not.

4 When did you send -- you just testified that you
5 sent --

6 A I'm not sure of the date, the time, I'm not sure.

7 Q But it was early 2010?

8 A It was some time in 2010.

9 Q You just testified that it was early 2010. Is that
10 accurate or not?

11 A It's some time in 2010.

12 Q And what address did you send it to?

13 A I think it was some -- what's the back of that street?
14 Halsey Street? Somewhere just on Halsey Street. I'm not sure.

15 Q Did the letter ever come back to you?

16 A No.

17 Q Did you ever ask Mr. Gay when you met with him whether he
18 received a copy of your letter?

19 A No.

20 Q Now, when you filed the grievance against John Azzarello,
21 your attorney, you accused him and you accused Mr. Gay and Mr.
22 Joe, his assistant, correct, of being in conflict of interest
23 against you. Right?

24 A Right.

25 Q And you told -- you wrote the Ethics Committee against all

1 three of them. Correct?

2 A That is correct.

3 Q And in that letter you also quoted the FBI reference to
4 promises that they made to you. Right?

5 A That is correct.

6 Q And this was not even long, this was only a couple months
7 ago. Right?

8 A That is correct.

9 Q And what you did is you told them that this grievance is in
10 reference to your sister's case. Is that what you said?

11 A No.

12 Q So that would be false --

13 A That's what the letter says.

14 Q What's that?

15 A I said, that's what the letter says.

16 Q That's what the letter says?

17 A That's what the letter that I sent John -- John
18 Gates.

19 Q John "Gates"?

20 A I mean John -- John Gay.

21 Q So you're telling us that the letter that you sent to the
22 Ethics Committee had nothing to do with your sister. Correct?

23 A It had something to do with my sister, but that's how it
24 started.

25 Q Did you at all send a letter to the Ethics Committee in

1 reference to your sister, Yolanda Jauregui?

2 A Run that by me again.

3 Q Did you send a letter to the Ethics Committee in reference
4 to your sister, Yolanda Jauregui?

5 A The complaint was part of the letter. I mean, the letter
6 was part of the complaint. Against the attorney -- against my
7 attorney.

8 Q And isn't it a fact that you said that in reference to your
9 sister, your sister's case, Yolanda Jauregui?

10 A That's what the letter states.

11 Q This was only a couple of months ago, Mr. Jimenez. Are you
12 telling us you don't remember?

13 A The letter that I wrote -- the letter that I supposedly
14 wrote to John Gay, that's what the letter states that's in the
15 grievance.

16 MR. BERGRIN: May I approach the witness, your Honor,
17 and have an exhibit marked, please?

18 THE COURT: You may.

19 MR. BERGRIN: It would be D-14, your Honor. The
20 Attorney Ethics Grievance Form with all the attachments.

21 THE COURT: Okay.

22 MR. BERGRIN: May I approach this witness, please?

23 THE COURT: Yes.

24 MR. BERGRIN: Thank you very much.

25 Q I'm going to show you what has been marked D-14

1 collectively, and I'm going to ask you to look at this letter
2 that says Wednesday, 28, 2011, Cynthia S. Earl, Esq.,
3 Secretary, District III Ethics Committee, Morristown, New
4 Jersey.

5 A Right. Which part do you want me to read?

6 Q I want you to read the first couple of paragraphs.

7 (There is a pause for witness.)

8 A It states what I stated in the first -- in the letter that
9 I send to John Gates. That's what I'm stating in these
10 grievance right here. I'm starting from the beginning of how
11 it started of how I became involved with this case. That's
12 what it states in this letter.

13 Q My question to you, sir: Isn't it a fact that this says:
14 This is in reference to my sister Yolanda Jauregui's case?

15 A That's exactly what it says, but it's --

16 Q So when I asked you that question probably about two
17 minutes ago, you didn't remember that you wrote a letter in
18 reference to your sister's case? And doesn't it say exactly --

19 THE COURT: Wait. He didn't answer that question.

20 MR. BERGRIN: I'm sorry, sorry. so sorry, Judge.

21 THE COURT: You have to answer the question, Mr.

22 Jimenez.

23 A few moments ago when he asked you: Did you write a
24 letter in reference to your sister's case --

25 THE WITNESS: I was stating that I wrote the letter

1 but it's part of the grievance, it's not in the Ethic
2 Committee --

3 THE COURT: Okay.

4 THE WITNESS: -- that this is part of my sister's
5 case. I'm stating of how it started, how I started in this
6 case.

7 THE COURT: Okay.

8 Q The letter that you wrote and you signed is addressed to
9 Cynthia S. Earl, Esq., Secretary, District III, Ethics
10 Committee, Morristown, New Jersey. Correct?

11 A That is correct.

12 Q It starts out: "Sister case, Yolanda Jauregui. What I
13 stated in that brief letter was as follows:"

14 And then the next paragraph -- two paragraphs down,
15 excuse me, it says: "I am writing to you reference of my
16 sister's case, Yolanda Jauregui, Case Number 09-369."

17 Is that what you said?

18 A That's exactly what I said in the letter.

19 Q And doesn't it say, "I believe that I can be of help to you
20 as well as to my sister"? Is that what it says in there?

21 A That's what it says.

22 Q "If you're interested in hearing of what I have to say"; is
23 that what you said?

24 A That's what I said.

25 Q And that was addressed to the Ethics Committee. Right?

1 A Right.

2 Q And is that also the letter --

3 THE COURT: Mr. Bergrin, if I'm reading this
4 correctly, it would appear he's recounting to Ms. Earl of the
5 District Committee a letter that he wrote, a summary of a
6 letter that he wrote to Mr. Gay. And when he begins, "I'm
7 writing to you in reference to my sister's case," I believe
8 that he's -- that is what he's saying he wrote to John Gay.

9 Because if you go on and finish that paragraph, it
10 says: "I will be calling you early next Thursday 1:00 p.m. to
11 know if you are interested. I don't wish to speak to anyone
12 else but you or Joe."

13 So this paragraph you're making reference to, this is
14 an account, what he's telling Ms. Earl, of what he wrote to Mr.
15 Gay, and everything that follows is his best recollection of
16 what was in the letter that he wrote to Mr. Gay.

17 MR. BERGRIN: Yes, your Honor.

18 THE COURT: That's how I believe that letter --

19 MR. BERGRIN: I agree with you.

20 THE COURT: So there's no confusion here.

21 MR. BERGRIN: I agree with you 100 percent, Judge.

22 THE COURT: He starts off: My name is Ramon Jimenez.
23 I'm presently incarcerated in Mid-State. I would very much
24 like the opportunity to speak with you, and I'm appreciative of
25 your time in 'difference' to your busy schedule and I shall be

1 brief."

2 MR. BERGRIN: Yes.

3 THE COURT: And then he's relating to her what he
4 recollects to be what happened and what he believes or may have
5 said to or wrote to the Government and/or Mr. Gay.

6 So take it from there so there's no confusion as to
7 what this is.

8 MR. BERGRIN: Yes.

9 BY MR. BERGRIN:

10 Q And what you did is you recounted to the Ethics Committee
11 what you had wrote to Mr. Gay in your letter. Correct?

12 A That is correct.

13 Q But you sent it to the Ethics Committee to inform them of
14 what you had sent to Mr. Gay. Correct?

15 A That is correct.

16 Q Now, you're telling Mr. Gay in this letter that you wanted
17 to cooperate. Correct?

18 A That is correct.

19 Q And that you had that information for them, and this was
20 right after the meeting of October the 28th of 2011 -- 2010.
21 Correct?

22 A Wrong.

23 Q Well, in the letter to Mr. Gay that's attached to the
24 ethics complaint, you said that you were interviewed on October
25 the 28th of 2010. Correct?

1 A That I was interviewed?

2 Q Yes.

3 A No.

4 THE COURT: All right. Give him a copy of this letter
5 and let him have it in front of him.

6 MR. BERGRIN: Yes, Your Honor.

7 MR. GAY: Judge, we have no objection to entering this
8 into evidence if it will avoid confusion.

9 THE COURT: Let's see where the question goes, Mr.
10 Gay.

11 A I'm recounting everything that happened to the Ethics
12 Committee up to now.

13 Q But you're telling them --

14 A But this is not what I wrote -- this never -- the letter
15 happened first to Mr. Gay.

16 Q And then --

17 A Later on down -- later on, the same year two FBI agents
18 came to see me. The first meeting was in 2010, 10/28 from what
19 I see.

20 Q So you're telling us that you sent the letter to Mr. Gay
21 telling him that you're willing to cooperate before the October
22 the 28th meeting?

23 A Right.

24 Q But didn't you testify a little while ago that you wanted
25 to get out of that meeting on October 28th and you didn't want

1 to speak to the agents?

2 A Correct.

3 Q So then why do you send a letter to Mr. Gay telling him
4 that you want to cooperate and that you could help yourself and
5 your sister if you didn't want to be in the meeting?

6 A Because in the beginning I wanted to cooperate, but when I
7 put myself in that position, it was, like, now I wanted to get
8 out because the way the questioning was going.

9 Q But you do admit that you sent the first letter?

10 A Correct.

11 Q So when the FBI agents came to see you, then why did you
12 tell them that you have no idea as to why they were there to
13 see you?

14 A Because that's -- I never requested to speak to any FBI
15 agents.

16 Q Oh. You wanted to speak directly to the U.S. Attorney?

17 A Right.

18 THE COURT: Can I see you at sidebar, please?

19 (At the sidebar.)

20 THE COURT: Mr. Bergrin, I don't know if it's your
21 intent to confuse or what, but this Ethics Committee Grievance
22 Form is dated Wednesday the 28th. I assume that's September
23 28th, 2011.

24 MR. GAY: Yeah. Well, the front page is dated --

25 THE COURT: What's that?

1 MR. GAY: The front page is dated, so I assume it's
2 the same thing.

3 MR. LUSTBERG: Yeah.

4 THE COURT: I'm assuming that.

5 And this is his written account of events that have
6 occurred. It would appear to me, I don't think -- it would
7 appear to me, he starts off here -- and I think you know this
8 but I just -- some time last year I wrote a brief letter to the
9 Attorney General John Gay, last year being October or some time
10 in 2010.

11 (Reading) In reference of my sister Yolanda, what I
12 stated in that brief letter was as follows:"

13 This is the letter that he apparently wrote to -- or
14 his best account of a letter that he says he wrote. This is
15 reconstruction of the letter that he wrote.

16 MR. BERGRIN: Yes, your Honor.

17 THE COURT: That he wrote recently.

18 MR. BERGRIN: But the problem is, he still sent it to
19 the Ethic Committee as part of the grievance.

20 THE COURT: Yeah, sure.

21 MR. BERGRIN: So I mean, my position is that we had no
22 clue until we received this yesterday that he had first
23 contacted the U.S. Attorney's Office before the FBI agents came
24 to him. Because when they came to him, as his testimony says,
25 he said he had no idea as to why they were there.

1 How could he could have no idea as to why they were
2 there if he asked to speak to --

3 THE COURT: Okay. I don't know if it's coming across
4 that way, that's all. Because even I --

5 MR. LUSTBERG: It's confusing.

6 THE COURT: Even I was -- you know, I think what you
7 have to do is: This was the grievance, and he was recounting a
8 letter. And then this is -- from here --

9 MR. BERGRIN: Okay.

10 THE COURT: This was his best recollection of the
11 letter he sent Mr. Gay. And in that letter he -- and I was
12 trying to tell you this -- in that letter he said something: I
13 will be calling you early next Thursday and wish to speak -- I
14 don't want to speak to anyone else but you. And then the FBI
15 agents showed up. Okay? And this is what they said here.

16 MR. BERGRIN: I'll clarify it.

17 THE COURT: But I think you have to go through this.
18 I'm not going to allow you to just confuse everything here --

19 MR. BERGRIN: No problem.

20 THE COURT: -- with the dates and the everything else.
21 Okay?

22 (In open court.)

23 THE COURT: The witness is asking -- Mr. Gay, would
24 you just step forward? Mr. Gay, the witness is referring to
25 something. Could I see --

1 THE WITNESS: It starts here. It's confusing --

2 MR. GAY: No, no, that's not for me, that's for Mr.
3 Bergrin and the Court.

4 THE COURT: Go ahead. Go ahead.

5 BY MR. BERGRIN:

6 Q Before the FBI ever came to see you, did you send a letter
7 to John Gay?

8 A Correct.

9 Q How did you get John Gay's name?

10 A Through library, the law library upstairs.

11 Q How did you get his assistant, Joe's name?

12 A The same way.

13 Q And when you were in the law library, what were you looking
14 up?

15 A I had the paralegals there, they have librarians upstairs
16 that pull out books. You tell them what you need. They go
17 straight to it. And they said this is the Attorney General --
18 this is the Attorney General's address.

19 Their names I already had from my family, but the
20 address I had looked up. The Attorney General's address, on --
21 I think it's Halsey Street, I'm not sure. It's a Halsey Street
22 address, I remember Halsey Street, not the address but I know
23 it's Halsey Street, a P.O. Box.

24 Q So you asked -- I'm sorry.

25 A It's a P.O. Box address. I don't remember the exact number

1 but I know it's somewhere on Halsey Street.

2 Q So your questioning your family in reference to who the
3 prosecutors are in this case?

4 A My family tells me who's the prosecutor. I mean, they
5 talked about it, they said that it's a guy name John and a guy
6 named Joe.

7 Q And based upon that you sent them a letter, correct,
8 telling that you want to cooperate for you and your sister.
9 Correct?

10 A No. I just kept on talking to my family and we spoke. I
11 spoke to my wife. My wife came out -- my wife found out that
12 it was John, the last name, Gay. I forget Joe's last name. I
13 didn't even use his last name. But that's when I sent the
14 letter.

15 Q And you were the first to contact them before the FBI ever
16 came to see you. Correct?

17 A That is correct.

18 Q And when the FBI came to see you, you didn't want to talk
19 to them, right, according to your testimony?

20 A I talked to them.

21 Q But you were -- you testified that you didn't want to talk
22 to them, you just wanted to get out of it, that's why you were
23 lying to them and telling them things. Right?

24 A Well, when I sat down and I started talking to them, I
25 didn't like the questioning was going in the beginning, because

1 in the -- well the beginning wasn't that bad. It was just
2 later on down -- down the road it was like -- it was getting
3 too...

4 Q Now, you testified today that you didn't know how long they
5 met with you the first time. Correct?

6 A I said, I could estimate like two hours. Maybe two hours,
7 a little more.

8 Q In the letter that you sent to the grievance committee, you
9 said they met with you from -- and you had a specific time --
10 from 10 o'clock a.m. to 1:30. Correct?

11 A That's what I got from the officer in the correction -- in
12 the Mid-State.

13 Q So that when you testified before this jury, you knew
14 exactly how many hours they met with you. They met with you
15 for three and a half hours. Right?

16 A Personally I didn't know, I just wrote down what the
17 officer told me how long I had been gone, how long it took for
18 me to get back. That's what I used.

19 Q You were asked on the witness stand if you knew how much
20 time you spent with the FBI, and you said "no." Isn't that
21 what you testified to?

22 A Exactly.

23 Q And you said it might have been one hour, it might have
24 been two hours. That was the testimony that came out of your
25 mouth. Correct?

1 A That's what I said.

2 Q It was actually three and a half hours. Right?

3 A Again --

4 THE COURT: Did you put in your letter, in this
5 grievance report that "I was interviewed by two FBI agents by
6 the names of Mike and Shawn at Mid-State Prison from 10:00 a.m.
7 to 1:30 p.m."? Did you write that?

8 THE WITNESS: Right, because that's -- that's what the
9 officer --

10 THE COURT: Okay.

11 THE WITNESS: -- that is the time the the officer give
12 me. But personally me, I didn't know the time.

13 THE COURT: Okay. Next question, Mr. Bergrin.

14 MR. BERGRIN: Yes, your Honor.

15 Q Did you tell the grievance committee in your typed
16 statement that the FBI told you: "We need a witness and we are
17 looking at that witness"?

18 A Correct.

19 Q Did you tell them -- did they also tell you that we are not
20 look to arrest or charge you?

21 A Correct.

22 Q But they did arrest you and they did charge you with this
23 offense. Correct?

24 A Correct.

25 Q Did you tell the grievance committee that they talked to

1 you about the fact that you are facing a parole violation and
2 they could work something out with you in Pennsylvania?

3 A Correct.

4 Q And that was for your parole that was being held over your
5 head. Correct?

6 A Correct.

7 Q Now, when they came to see you, you knew exactly how much
8 time you were facing, right, in parole?

9 A Yes.

10 Q And they also told you that you hold the fate of your
11 sister, Yolanda, in your hands, it's up to you, correct, or
12 words to that effect? It's up to you?

13 A Something to that effect.

14 Q That you could save your sister. Is that the words that
15 they used?

16 A No.

17 Q What words did they use?

18 A I'm not sure -- I don't recall. If I look at the report, I
19 mean, where you -- to recollect my mind.

20 Q When you spoke to them and you spoke to the FBI, they told
21 you that they had built a drug case against you. Correct?

22 A When was this?

23 Q According to your grievance form, did you tell the
24 grievance committee that the FBI promised you that although
25 they have a drug case against you, that they're not going to

1 charge you?

2 A Although they have a drug case against me?

3 I don't remember writing that, but...

4 Q Did they tell that you they would take care of you?

5 A Possibly they might have said that. I'm not -- I mean, if
6 you could direct me to where it's at, I mean maybe I could
7 remember.

8 Q Did they tell you that they are not here exactly to charge
9 or investigate you?

10 A Yes.

11 Q And at that time did you know that you were facing serious
12 charges?

13 A At that time did they tell me that I'm facing serious
14 charges?

15 Q Did you know that you were facing serious drug charges?

16 A Well, I had a little feeling but I wasn't too sure.

17 Q Did they tell you that we're only here to see if you could
18 be a witness against Paul Bergrin?

19 A Run that by me again.

20 Q Did they tell you exactly, according to your grievance
21 form, that we are only here to see if you could be a witness
22 against Paul Bergrin?

23 A Correct.

24 Q And did they tell you to trust them?

25 A Correct.

1 Q And that they will support you?

2 A Correct, something like that.

3 Q And when you heard that on October the 28th, you felt that
4 they're there to help you. Correct?

5 A Well, I wasn't too sure still, so, you know, it's a
6 little -- I couldn't trust it that much at the time.

7 Q Did you ask them about John Gay?

8 A Not personally, no.

9 Q Isn't it a fact that you told them, me, how do I know or
10 what guarantee do I have that John Gay is not going to charge
11 me if he doesn't want to give me immunity? Did you use those
12 words exactly?

13 A I used those words exactly but --

14 Q So then you did ask them about John Gay?

15 A They asked me. They told me first about John Gay, that
16 they work for John Gay and that's how I -- that's how the
17 conversation -- that's how that conversation came about.

18 Q Then you talked to them about John Gay. Correct?

19 A Yes.

20 Q And as a matter of fact, they told you that John Gay is a
21 very good friend of theirs. Right?

22 A Right.

23 Q And that he always -- that they worked cases together.
24 Right?

25 A Right.

1 Q And they make sure that their witnesses are well protected.
2 Correct?

3 A Correct.

4 Q And that they'll stand by you a hundred percent. Correct?
5 Correct?

6 A Yes.

7 Q And they gave you the impression that you didn't have to
8 worry about the Pennsylvania parole, right, that they were
9 going to help you out with it and help your sister out? That's
10 the impression that you got in your mind. Correct?

11 A Yes, yes.

12 Q Now, when you were appointed the attorney, John Azzarello,
13 did he ever interrogate you or intimidate you?

14 A At one point I felt like he was interrogating me.

15 Q As a matter of fact, you told the Ethics Committee that on
16 April of 2011, that John Azzarello was intimidating you and
17 questioned you for over 30 minutes back-and-forth in the
18 presence of the Assistant U.S. Attorney, John Gay. Correct?

19 A Correct.

20 Q And that he kept asking you the same questions over and
21 over and over again. Right?

22 A Let me re -- let me rephrase that.

23 Q But can you --

24 MR. BERGRIN: Your Honor, can you please just instruct
25 him to answer the question?

1 MR. GAY: Judge, that's what he's trying to do.

2 THE COURT: No.

3 Answer the -- well, go ahead, Mr. Bergrin. Restate
4 that question.

5 Q Did you tell the Ethics Committee that John Azzarello, your
6 attorney, in a room next to John Gay, questioned you
7 back-and-forth for 30 minutes and kept asking you the same
8 questions over and over and over again about Paul Bergrin?

9 A I don't see it, but --

10 Q Do you remember saying that -- do you remember writing
11 that? Excuse me.

12 A I remember saying something to that effect but I don't
13 think --

14 THE COURT: Did you write that in the grievance?

15 THE WITNESS: I wrote -- I wrote that. I wrote that
16 in the grievance but I don't remember using John Gates' name in
17 there --

18 Q Let's talk about --

19 THE COURT: Wait, wait.

20 This is your written grievance. Correct?

21 THE WITNESS: Right.

22 THE COURT: You wrote -- and you made reference to a
23 letter to John Gay. Correct?

24 THE WITNESS: Right.

25 THE COURT: Okay. And this was with regard to a

1 meeting that was taken -- that was held on November 30th, 2010
2 in the U.S. Attorney's Office, according to your own written
3 typed letter?

4 THE WITNESS: Correct, correct.

5 THE COURT: Correct?

6 THE WITNESS: Right.

7 THE COURT: And you were saying at that meeting, Mr.
8 Azzarello was going in and out of the meeting with Mr. Gay?

9 THE WITNESS: Correct.

10 THE COURT: And talking to you, coming back out every
11 15 minutes or so, and started interrogating you about what you
12 knew about Paul Bergrin. Correct?

13 THE WITNESS: That's correct.

14 THE COURT: And that was going back-and-forth for a
15 half hour or so?

16 THE WITNESS: Correct.

17 THE COURT: And then at some point -- go ahead, Mr.
18 Bergrin. At some point you did what?

19 BY MR. BERGRIN:

20 Q And as a matter of fact, you told the Ethics Committee that
21 John Azzarello, as he was going back-and-forth to Mr. Gay, was
22 asking me the same question about Paul Bergrin only in a
23 different form for about 30 minutes. Correct?

24 A That's correct.

25 Q And this was back in November of 2010, right, when Mr.

1 Azzarello was appointed as your attorney?

2 A That's correct.

3 Q And that is the truth, isn't it, that he was asking you the
4 same question about me over and over and over again for 30
5 minutes. Correct?

6 A That is correct.

7 Q And did you also tell the Ethics Committee that in the
8 meetings that you had with the U.S. Attorney, with the
9 Government, with your attorney, with the FBI and with these
10 prosecutors on April 6th of 2011, April 25th of 2011 and May
11 the 12th of 2011, that they were confrontational and
12 intimidating to you?

13 A Correct.

14 Q And that's true also, isn't it, Mr. Jimenez?

15 A Yes, it is.

16 Q They were intensely cross-examining you, asking you the
17 same questions over and over and over again, and to you it was
18 intimidating. Correct?

19 A Yes.

20 Q Now, there came a time when you entered into a plea
21 agreement. Correct?

22 A Correct.

23 Q And in the cooperating plea agreement and your plea
24 agreement you pled guilty to narcotic trafficking. Correct?

25 A Correct.

1 Q Between 500 grams of cocaine -- excuse me -- approximately
2 3.5 kilograms of cocaine or more. Correct?

3 A That is correct.

4 Q And you're facing five years and up to 40 years
5 imprisonment?

6 A Correct.

7 Q But you're also facing a minimum of at least five years.
8 Correct?

9 A Correct.

10 Q And the only way that you could get out of that minimum of
11 that five years is through the United States Government.
12 Correct?

13 A Correct.

14 Q And they have to send a letter to the judge asking that you
15 not be sentenced to the minimum term of imprisonment. Correct?

16 A Correct.

17 Q And they have to also send a letter if you want less time
18 than what you're facing saying that you cooperated. Correct?

19 A That is correct.

20 Q And it's the United States Government that makes the
21 determination whether you're telling the truth or not.
22 Correct?

23 A Not only up to them, I mean -- from my understanding it's
24 also up to the judge.

25 Q So that it's your -- isn't it a fact that the United States

1 Attorney makes the determination whether you have cooperated
2 substantially, and they send the letter to the judge?

3 A Yes.

4 Q Wasn't that explained to you?

5 A Yes, that was explained to me.

6 Q So they determine whether you're telling the truth and then
7 the judge decides what your sentence is. Correct?

8 A Correct.

9 Q I just want to clear up a few things with you, Mr. Jimenez.

10 The meeting at Isabella's Restaurant that you showed
11 up when Hakeem Curry was walking out the door, you stayed for
12 about you said -- how long did you stay for, five minutes, two
13 minutes; very quickly?

14 A It was real quick.

15 Q Just grabbed a soda and left. Correct?

16 A About maybe three, four minutes maybe.

17 Q And you've kept inside of you -- you never spoke to anybody
18 about that meeting. Correct? You kept it inside of yourself?

19 A Yes.

20 Q You just let it be. Correct?

21 A I let it be. I spoke to Changa about it one time but it
22 wasn't nothing like, I wasn't trying to make bad blood, you
23 know?

24 MR. BERGRIN: I have no further questions, your Honor.
25 Thank you.

1 THE COURT: Could I see you at sidebar, please?

2 (At the sidebar.)

3 THE COURT: I just have a question for myself right
4 now because I just -- is the first he ever mentions this phone
5 call July of 2011?

6 MR. GAY: I'm sorry. The phone call? Which phone
7 call is that, Judge?

8 THE COURT: The phone call that he testified to that
9 he overheard Mr. Bergrin make, "no witness, no case."

10 MR. GAY: Oh, that's not a telephone call, Judge,
11 that's a --

12 THE COURT: No, the first time he overheard --

13 MR. GAY: -- statement, it's a live statement.

14 MR. LUSTBERG: Yes.

15 THE COURT: It's a live statement.

16 Was it July of this year, 2011?

17 MR. BERGRIN: Yes.

18 THE COURT: That's what the -- I think that's what the
19 record establishes.

20 MR. GAY: That was the first time he says it to the
21 Government, Judge.

22 THE COURT: Right.

23 MR. GAY: But my understanding is that he -- well, I
24 know for a fact he said it to his lawyer first because his
25 lawyer called me on the phone and said: You've been

1 questioning him about all this drug stuff --

2 THE COURT: When did he say this to Mr. Azzarello?

3 MR. GAY: I guess I can ask Mr. Azzarello, but it was
4 shortly -- it was significantly before that meeting.

5 THE COURT: It was probably somewhat before that
6 meeting in July, and that meeting in July was in preparation
7 for testimony --

8 MR. GAY: No, absolutely not. No, that's not what
9 happened, Judge.

10 THE COURT: What was it? He had already pled --

11 MR. GAY: He had not.

12 THE COURT: -- in July of --

13 MR. GAY: July.

14 THE COURT: No, he pled three weeks later.

15 MR. GAY: He doesn't plead --

16 MR. LUSTBERG: He pled on October 6th I believe.

17 THE COURT: Yeah, he just pled.

18 MR. GAY: -- not for a significant amount of time
19 after.

20 Just so we are clear on this, what happens is -- and
21 this is what I'm going to hopefully try to clear up on
22 redirect, is that, first of all, we never get that letter on
23 when the FBI shows up to talk to him. It's not an
24 I'm-going-to-cooperate-and-let's-take-care-of-this, it's
25 confrontational. And for the three times after that it's the

1 same thing: The FBI is trying to elicit information from him,
2 he's dodging them and that's the way it is.

3 He gets a lawyer. And the lawyer comes in, there's
4 back-and-forth with the lawyer for a little while, too. He
5 finally decides he wants to come in and tell the truth. He
6 does so. He tells the truth. He understands he's going to get
7 charged, and this thing is what he has always been concerned
8 about is the protection of his family.

9 THE COURT: Okay.

10 MR. GAY: But I think this is important, Judge,
11 because it goes directly to what happens here.

12 Then what happens is, we think we have this thing
13 worked out, but then when the -- when we can't get his daughter
14 into WITSEC, the whole thing blows up. He writes this letter
15 saying, Azzarello screwed me.

16 And then after that he learns that the -- that his
17 daughter is going to get back into WITSEC, and then he's back
18 on board again. Because all he's really scared about is that
19 his family is going to be protected, and that's how this whole
20 thing went. And I think in order to explain that --

21 THE COURT: How do you -- how do you corroborate that
22 he overheard this conversation?

23 MR. GAY: Judge, I don't.

24 THE COURT: You say to determine whether he's telling
25 the truth or not. How do you corroborate that?

1 MR. GAY: Well, I don't have another witness to
2 testify they were there for it.

3 THE COURT: No. So up until he said that, was he
4 going to be available to cooperate, if he had not made that
5 statement?

6 MR. GAY: Absolutely, Judge.

7 THE COURT: Well, wait a second, Mr. Gay. It appears
8 from his grievance thing that he was being intimidated and --
9 you know, about Paul Bergrin.

10 MR. GAY: Judge, I don't know --

11 THE COURT: No, wait.

12 MR. GAY: I'm sorry.

13 THE COURT: I'm concerned about this, okay? It
14 appears that Azzarello is doing his job, going back-and-forth
15 from you to him for 30 minutes; what do you think, you know,
16 about that? What do you know about Paul Bergrin? What do you
17 know about Paul Bergrin?

18 And at that point there was no cooperation agreement
19 agreed to yet.

20 MR. GAY: No. There was a proffer letter that --

21 THE COURT: There was a proffer letter. So the
22 Government's position may have been -- I don't know -- may have
23 been: That's not enough.

24 MR. GAY: Absolutely that's not what happened.

25 THE COURT: You don't have to answer. I don't even

1 want an answer.

2 MR. GAY: That's not what happened -- sorry.

3 THE COURT: We know more about Paul Bergrin. What do
4 you know about Paul Bergrin?

5 And unless and until he gave up Paul Bergrin he wasn't
6 getting that cooperation agreement, and that's how I see this
7 series of events.

8 MR. GAY: Then that's fine, Judge.

9 THE COURT: No, I'm just saying. I'm saying that's
10 me, that's not the jury.

11 But I'm troubled by it, because this letter from him
12 would appear that he was saying, my lawyer was in conflict
13 because he was -- his impression is, he was working with you
14 guys, and they kept asking him right from the beginning: We're
15 here for you to be a witness against Paul Bergrin. Not what
16 the truth is, not, you know, what the whole thing is. We need
17 a witness against Paul Bergrin. And in April 2010 the
18 Indictment had already come down at that point against him --

19 MR. GAY: Yes.

20 THE COURT: -- making these allegations about "No
21 Kemo, no case."

22 So the world knew that was in that indictment, you
23 know? And it would appear for a year he didn't say a word
24 about this conversation that he allegedly overheard, no
25 corroboration about it, and he doesn't give it up until --

1 well, he doesn't give it up. And when he gives it up he gets
2 his deal. That's when he gets his deal.

3 MR. GAY: Well, that's absolutely --

4 THE COURT: Tell me where I'm wrong on the sequence of
5 events.

6 MR. GAY: You're wrong on the sequence of events as
7 follows, Judge: He came in on -- he first comes in and he lies
8 to the FBI.

9 THE COURT: He lied for a year.

10 MR. GAY: No. I understand they go to him. I don't
11 know if it's a year. He lies to the FBI about certain things,
12 he's telling half truths, half lies. We obviously have other
13 information about Mr. Bergrin's drug-trafficking activity, we
14 are not going to sign him to an agreement related to Mr.
15 Bergrin's drug activity until we knew he was telling us the
16 truth. We got that in place. We believed we were going to
17 have a deal. At that point he tells us, oh, in addition, I've
18 got something else. This is what I have.

19 THE COURT: As far as your other information?

20 MR. GAY: But --

21 THE COURT: Wait, wait. As far as your other
22 information about drug activity of Mr. Bergrin, prior to the
23 Kemo --

24 MR. GAY: Judge, you have to understand, this is
25 not -- this is limited to this trial before Kemo. When we were

1 talking to him, it was about all Mr. Bergrin's activity.
2 There's significantly more activity that he and Mr. Bergrin
3 were involved in related to drugs that we knew about.

4 THE COURT: After, after the Kemo case. After the
5 Kemo case.

6 MR. GAY: Oh, I agree with that, sure.

7 THE COURT: Okay. What I'm getting at is, if I recall
8 the first indictment, the conspiracy to do drugs did not go
9 back before the Kemo case.

10 MR. GAY: The first indictment, you're right.

11 THE COURT: Yeah, it started much later. You went
12 back, got a Superseding Indictment largely based on probably
13 him, maybe Yolanda, all of whom were cooperating by that point,
14 all of whom by that point gave you more information about this
15 alleged drug-dealing prior to the Kemo case. That's your
16 evidence on that. Don't tell --

17 MR. GAY: Correct. No, that's correct.

18 THE COURT: Yeah. So that you didn't have any
19 evidence before the Kemo murder about a drug conspiracy
20 involving Mr. Bergrin?

21 MR. GAY: No. No, that's not true, Judge, we did
22 have -- we did not have sufficient evidence to charge him,
23 that's for sure.

24 THE COURT: Right, you didn't charge him.

25 MR. GAY: But that's different, Judge. We don't

1 charge people. I'm not going to say -- perhaps we should -- I
2 may talk too loud.

3 THE COURT: We'll take a recess. I don't know if I
4 want to do this with the whole -- everybody here, that's why I
5 did it at sidebar.

6 MR. GAY: I'm okay with that. I just don't want to
7 say something that's so loud. I'm trying to keep my voice down
8 a little.

9 THE COURT: I don't want to do it with the media here.

10 MR. GAY: I'm okay doing it at sidebar, Judge. I
11 think I can keep my voice down so that the media won't hear.

12 THE COURT: That's what I see, Mr. Gay.

13 MR. GAY: Yes.

14 THE COURT: And that's the fair import of what he's
15 testified to.

16 MR. GAY: Well --

17 THE COURT: He didn't get his deal until he gave them
18 something on Paul Bergrin. That's when when he got his deal.
19 And I'm alerting you to this because who are you going to bring
20 in --

21 MR. GAY: I mean, I understand that that might be the
22 interpretation as currently presented. I'm hoping to clarify
23 that on redirect.

24 THE COURT: No, I may not let you.

25 What other evidence --

1 MR. GAY: Not with other evidence, Judge, no, no, no,
2 it's going to be all through him. It's going to be --

3 THE COURT: My concern now that I'm hearing this case,
4 okay, my concern is the first indictment never had any
5 allegations of drug-dealing before this murder.

6 MR. GAY: Correct.

7 THE COURT: It was only after you got Yolanda and this
8 guy to cooperate that you got some evidence from it. Hearing
9 how it came forth from him is troubling, because for a year
10 he's not telling them anything. Okay?

11 MR. GAY: That's not really true.

12 THE COURT: About Paul Bergrin.

13 MR. GAY: That's not really true. I can -- if you
14 look back -- and again, I understand Mr. Bergrin did a very
15 good job of confusing the issues on cross --

16 THE COURT: Oh, I don't think he did confusion at all,
17 frankly.

18 MR. GAY: Well, but again, I'd like the opportunity so
19 I can probably -- so I can try to explain this to the Court and
20 then perhaps I'll be able to get testimony out through this
21 witness that will explain it to the jury.

22 But what you're -- the Court's impression of what
23 happened is absolutely, categorically wrong. And I'm not just
24 saying, Judge -- not that that's --

25 THE COURT: How much more knowledge does he have about

1 Paul Bergrin prior to the Baskerville or the Kemo murder about
2 drugs?

3 MR. GAY: No, Judge --

4 THE COURT: Firsthand.

5 MR. GAY: This what he testified to here today.

6 THE COURT: Yeah, so that's it?

7 MR. GAY: Correct.

8 THE COURT: Right?

9 MR. GAY: Yeah.

10 THE COURT: Now, what he knows after the fact, I told
11 you in my severance motion, I'm not interested in it.

12 MR. GAY: I understand you're not interested in that,
13 Judge, but I guess we're talking past each other because I
14 think I'm addressing a different issue than what you are.

15 THE COURT: Okay.

16 MR. GAY: The issue that I think I'm addressing is
17 that the Court has concerns that we somehow did something
18 improper to get him to cooperate and say something that's not
19 true. And what I'm trying to explain to the Court is that that
20 is not what happened.

21 THE COURT: I didn't mean to suggest you.

22 MR. GAY: No, I know. But with the circumstances --

23 THE COURT: This guy is not stupid. He's been through
24 this system before. These guys are street smart. He may
25 not -- they're street smart. And he for whatever reasons for a

1 year, he held out.

2 MR. GAY: And we will explain the reason for that,
3 Judge. That hasn't been explained yet. We'll explain the
4 reason for it. That's what redirect is going to be about.
5 He's going to explaining he didn't -- why he held out.

6 And part of the reason -- it's really twofold: He may
7 be a street smart guy, but he's never cooperated before. He
8 doesn't trust the Government. When he first gets in there he's
9 saying half-truths because he's saying, look, I'm going to give
10 a little of this because I think it's going to appease them but
11 I don't want to tell them this whole thing.

12 He wants to keep some stuff in his back pocket for a
13 couple of reasons: One is that he doesn't want to give them
14 Paul because he's loyal to Paul still; the second thing is that
15 he feels like if he gives his whole thing up without getting an
16 agreement that he's going to get immunity, he's not going to
17 have a card to play anymore. So he's playing this game
18 back-and-forth with the FBI for a little while.

19 THE COURT: All right.

20 MR. GAY: He is giving some information about drug
21 involvement. But I can tell you that we had evidence of Mr.
22 Bergrin's drug involvement prior to the Kemo murder from
23 another witness.

24 THE COURT: Okay.

25 MR. GAY: And that witness was not somebody that we

1 to him, if you want us to go to WITSEC, we will. And as I said
2 yesterday, the problem is that he has a daughter whose
3 immigration status is not clear.

4 THE COURT: You told me.

5 MR. GAY: And that was the whole position. So he was
6 on board, he was ready to go.

7 He had the May 12th meeting in which he came clean
8 except for -- I know Mr. Bergrin -- he's not charged with a
9 crime until after that. After he's charged with a crime he
10 still comes on board and is cooperating. And then it's not
11 until he learns that his daughter is not going to get into
12 WITSEC or that we can't guarantee the daughter is going to get
13 into WITSEC, that's when Mr. Azzarello informs him of that. He
14 says, forget about this.

15 THE COURT: That was a week ago?

16 MR. GAY: No, it was whatever the -- right before the
17 28th.

18 MR. LUSTBERG: September 28th.

19 THE COURT: Okay. A few weeks ago before the trial?

20 MR. GAY: A few weeks ago, yeah.

21 So then he says to Mr. Azzarello: I do not want to do
22 this anymore.

23 THE COURT: All right.

24 MR. GAY: I don't want to cooperate anymore. I'm just
25 going to to take my time because my family is at risk, and I'm

1 not going to put my family at risk, I'll just take the time and
2 that's it.

3 And then he filed this -- I'm almost done -- he files
4 this letter with Mr. Azzarello. After that happened we learned
5 that his daughter was going to be able to get into the Witness
6 Protection Program. We informed the lawyer, he informed him.
7 And he said, okay, now you guys have delivered on what I care
8 about most which is the protection of my family, I'm willing to
9 come back on board again. And that's what happened, and then
10 he plead guilty.

11 In the meantime, Judge, he filed this letter, but he
12 never informed his counsel of it, and it came as a surprise to
13 all of us when this happened, including John of course.

14 THE COURT: I know. I know that. You don't have to
15 repeat that.

16 MR. GAY: So when he spoke to John after that, he was
17 like, oh, yeah, I kind of forget I filed that thing. I'm
18 sorry, but everything is fine.

19 MR. LUSTBERG: Judge, to be fair, we were on notice
20 that that was what his motivation was. The one thing I would
21 say though is that I don't think Mr. Gay should pull open that
22 door. I don't think Mr. Gay should be able to lead him. If he
23 wants to ask him a question about what his motivation is,
24 that's fine. And the reason I say that, Judge, is just so you
25 know, there is in one of the 302s, he mentions that he was not

1 afraid. So there's contrary evidence as to his fear. I
2 understand that was earlier.

3 MR. GAY: I can say this --

4 MR. BERGRIN: It was in May.

5 MR. LUSTBERG: It was in May actually.

6 MR. GAY: -- I have no problem with that. One of the
7 things we did discuss potentially with this was that I was
8 going to lead him through this. And if you don't want me to
9 I'm fine without leading him through and you can get up and
10 recross.

11 THE COURT: Don't lead on it for now. If I suggest
12 you do, go ahead with it.

13 Let's get some more time in before we break.

14 MR. GAY: I'm sorry. Did I intend to address this as
15 my first question. I was going to go through this right away
16 because I think it's the most important thing to redirect on.

17 THE COURT: Okay.

18 (In open court.)

19 MR. GAY: May I inquire, your Honor.

20 THE COURT: Yes, you may.

21 REDIRECT EXAMINATION

22 BY MR. GAY

23 Q Mr. Jimenez, you testified about an October 28th, 2010
24 meeting with the FBI?

25 A Correct.

1 Q That was the first time you met with the FBI?

2 A Correct, yes.

3 Q Had you ever cooperated with the Government in any matter
4 prior to that?

5 A Never.

6 Q When the FBI called you down, did you expect that they were
7 going to be there? Did you know who it was you were going down
8 to see when they called you down?

9 A Absolutely not.

10 Q When they came down, what was your attitude towards them
11 initially?

12 A I was taken back. I was surprised a little bit.

13 Q Why were you surprised?

14 A Because I wasn't expecting no FBI to come and see me.

15 Q And did the FBI question you at that time?

16 A Correct.

17 Q And did they question you extensively at that time?

18 A Correct.

19 Q During that meeting, that discussion you had with the FBI,
20 did your attitude change at all?

21 A Yes.

22 Q How did your attitude change?

23 A I felt uncomfortable answering a lot of questions, and I
24 just didn't feel -- I didn't feel secure, I didn't feel right
25 after I said a few things that I, you know, that I said.

1 Q And what were the things that you said?

2 A Things that was incriminating me in the drug case.

3 Q Now, when you wrote the letter to Mr. Gay, to me, you
4 indicated you were going to -- you wanted to help out your
5 sister. Is that correct?

6 A That is correct.

7 Q And your sister was charged at that time?

8 A Correct.

9 Q So when the FBI came to speak to you -- well, let me
10 rephrase the question. You thought somebody was going to come
11 and speak to you at some point. Right?

12 A That's correct.

13 Q And you hoped somebody would?

14 A (No response).

15 Q And what did you expect you were going to be talking about
16 when somebody came to meet with you then?

17 A I was suspecting John Gay or Joe.

18 Q Did you think you were going to be talking about your
19 sister's case or your case?

20 A My sister's case.

21 Q So the FBI came to see you on the 28th, and did they ask
22 you about your sister's case or your own activity?

23 A About my sister's case.

24 Q Did they also ask about your own activity?

25 A Correct.

1 Q And when they started asking you about your own activity,
2 how did you feel about that?

3 A I felt uncomfortable a little bit.

4 Q And at that point did you tell them the truth about your
5 own activity, the complete truth about your own activity?

6 A Correct.

7 Q You told them the truth at that time about you --

8 A I told them part truth about my own activity, but then I
9 exaggerated a little bit and I looked at their face, and I say,
10 I didn't want to get in too deep, so I exaggerated on a lot of
11 things.

12 Q And why did you do that?

13 A Because if they was to investigate it, like I said, if they
14 was to investigate what I was telling them this was going to
15 come back with no good information if they was trying to
16 confirm it. And I didn't think that I could be charged for
17 lying or exaggerating.

18 Q Now, at that point during the questioning, were you trying
19 to cooperate?

20 A I was.

21 Q So why is it that you lied then?

22 A Because I was -- at the time I asked for the immunity thing
23 I wasn't being reassured that I was going get that, so that's
24 why I started lying. I wanted to get up out of there. And I
25 gave them what basically would probably convince a lot of other

1 people, you know?

2 Q Let me see if I got this straight. You first go down, talk
3 to the FBI and you're surprised that's the FBI that you see.

4 That's correct?

5 A That's correct.

6 Q They start questioning you?

7 A Correct.

8 Q And you start giving them information?

9 A Correct.

10 Q At some point the FBI begins to question --

11 MR. BERGRIN: Objection, your Honor, as to the manner
12 of the questioning. These are all leading questions.

13 THE COURT: I didn't even hear the question yet. But
14 go ahead.

15 Q At some point -- at some point the FBI begins to question
16 you about your own activity. Isn't that what you just
17 testified to?

18 A That is correct.

19 Q And you then become uncomfortable. Is that what you just
20 testified to?

21 A That is correct.

22 Q And that's when you begin to think about immunity for
23 yourself. Is that correct?

24 A That is correct.

25 Q And at that point had the FBI promised you whether or not

1 they would give you immunity?

2 A No.

3 Q What did they say?

4 A They said that they would have to speak to the Attorney
5 General because they just don't give out immunity to everybody.
6 It just depends on the -- the cooperating information that I
7 give to them, they'll take back and they will see if they can
8 give me immunity.

9 Q So hearing that, what did you think?

10 A I thought, you know, that it was a bunch of crap really.
11 The first time I just said, that's a bunch of bull, because,
12 you know, if I was to say something now, how am I going to be
13 reassured later on you ain't going to come back and charge me?

14 Q So is it at that point that you begin to tell partial lies
15 to the FBI?

16 A Exactly.

17 Q And what was the reason you told partial lies to the FBI at
18 that point?

19 A I wanted to get up out of there.

20 Q Because they weren't going to give you immunity?

21 A Right, I wasn't being reassured.

22 Q Now, during the next meeting that took place with the FBI,
23 is that also in prison?

24 A Correct.

25 Q And at that point had the FBI told you they would give you

1 immunity?

2 A No.

3 Q And at that point, what was your attitude towards speaking
4 to the FBI?

5 A I told them, why is they avoiding the immunity thing? If
6 they want me to become a witness why can't you just give me
7 immunity and then we could just talk?

8 And they kept on telling me other things, I don't
9 remember every single word. But I still felt uncomfortable.
10 So --

11 Q So at that point did you tell the FBI the complete truth
12 without getting a guarantee of immunity?

13 A Absolutely not.

14 Q Let's talk about the next meeting you had with if FBI.

15 On the third meeting, did the FBI guarantee you any
16 kind of immunity?

17 A Nope.

18 Q And what was your attitude during the third meeting with
19 the FBI?

20 A The same attitude; kept on lying and felt uncomfortable.
21 Then I stated that I need -- I want a lawyer.

22 Q And at that point did you get a lawyer?

23 A Yes, I did.

24 Q So the next meeting you had, was it still in jail?

25 A No.

1 Q Did you come up to court and get a lawyer appointed to you?

2 A Correct.

3 Q Did you speak with your lawyer?

4 A Correct.

5 Q And after speaking to your lawyer, did you still have
6 concerns about immunity?

7 A Correct.

8 Q So what happened then? Did you speak to the Government
9 immediately after that, if you recall?

10 A Yes.

11 Q And is that -- during that period of time, is that when you
12 said in your grievance letter that you and your lawyer were,
13 for lack of a better word, going back-and-forth about things?

14 A Correct.

15 Q And at that point did you trust that the Government was
16 going to provide what you had asked; immunity or anything like
17 that?

18 A At that point, somewhat.

19 Q Now, were there any other concern besides immunity that you
20 had relating to cooperation?

21 A My family.

22 Q Can you explain that, please?

23 A I was concerned of my family being protected, my wife and
24 my kids.

25 Q Protected from what?

- 1 A From harm's way.
- 2 Q Harm's way from whom?
- 3 A From Paul Bergrin and people he knows.
- 4 Q Okay. Was there also as part of what you were talking to
- 5 the FBI about, were you talking about Changa at that point?
- 6 A Correct.
- 7 Q Were you also talking about Alejandro at that point?
- 8 A That's correct.
- 9 Q And did you know them to also be dangerous people?
- 10 A Correct.
- 11 Q And were you concerned for your safety and your family's
- 12 safety relating to the information you gave about them?
- 13 A Absolutely.
- 14 Q And at that point had the Government assured you that you
- 15 would be -- you and your family would be protected?
- 16 A Absolutely.
- 17 Q They assured you of that?
- 18 A Absolutely.
- 19 Q Okay. At some point did you learn that all of your family
- 20 members may not qualify for Government protection?
- 21 A Absolutely.
- 22 Q Who was that at that time that you felt would not qualify
- 23 for Government protection?
- 24 A My stepdaughter.
- 25 Q Now, during this time frame when you spoke to the

1 Government next with your lawyer, would that have been on May
2 12th, 2011?

3 A Correct.

4 Q If you recall?

5 A That's the last meeting. Mid-State?

6 Q No, this would have been the first meeting you had with
7 your lawyer I believe, when your lawyer was present.

8 A The first meeting?

9 Q Yes.

10 A Yes.

11 Q Now, at that point had you been charged with a crime, the
12 first meeting with your lawyer?

13 A No.

14 Q Do you remember when you were charged with a crime
15 specifically?

16 A Probably some time in June, I'm not sure.

17 Q Okay. I'm going to show you -- is this marked?

18 MR. GAY: I apologize, Judge. Okay. That's 7002.

19 Q I'm going to show you Government Exhibit 7002 and ask you
20 whether you recognize that?

21 A Yes.

22 Q Okay. What is that?

23 A It's a complaint.

24 Q That is the complaint charging you?

25 A Correct.

1 Q What date is that signed. You can see at the bottom.

2 A May 20, 2011.

3 Q Thanks.

4 So was that the date -- does that refresh your memory
5 about the date you were charged in Federal Court?

6 A Yes.

7 Q And what date was that?

8 A May 20, 2011.

9 Q Now, so you would have a meeting prior to that, May 12th,
10 2011, before you were ever charged in which it was you and your
11 lawyer. Is that correct?

12 A That's correct.

13 Q And also with the Government?

14 A That's correct.

15 Q And then after that date, after the 12th and after you were
16 charged, you had another meeting with the Government. Is that
17 correct?

18 A Correct.

19 Q And that would have been on June 22nd of 2011, if you
20 recall?

21 MR. GAY: If I may show something to refresh memory.

22 THE COURT: Yes.

23 Q Does that document refresh your memory about what date the
24 meeting was with the Government and your lawyer, the next date?

25 A 7/21/2011.

1 Q Thank you.

2 THE COURT: What exhibit was that, Mr. --

3 MR. GAY: I'm sorry. Oh, I guess we'll make this,
4 Judge, 7003. I apologize, I didn't want --

5 THE COURT: That's all right. Is it a 302 report?

6 MR. GAY: It's a 302 report, yes.

7 MR. LUSTBERG: The J number?

8 MR. GAY: It's J04086.

9 MR. LUSTBERG: Thank you.

10 Q Now, after this meeting on the 22nd, do you recall whether
11 or not you learned that your daughter would not be accepted
12 into the WITSEC program, into the protection program?

13 A Correct.

14 Q And did you -- how did you get informed of that?

15 A Through my lawyer and John Gay.

16 Q And when you were informed of that by your lawyer, how did
17 you feel?

18 A I felt like -- I felt like shit, man. I mean, I felt bad.

19 Q Why did you feel like shit?

20 A Because I was putting my family under -- you know, I was
21 putting my family in danger just by me taking the stand.

22 Q And you had initially believed that the Government would be
23 able to provide protection for all of your family. Is that
24 correct?

25 A Correct.

1 Q And now you learned that -- or you believed at that
2 point --

3 MR. BERGRIN: Objection as to leading questions, your
4 Honor.

5 THE COURT: All right. Go ahead.

6 Q What did you believe at that point after you learned that?

7 A At that point I believed that, you know, I got to start,
8 you know, either minimizing it, pull back a little bit because
9 I can't go through with it.

10 Q Okay. And is that the time when you filed the Attorney
11 Ethics Grievance Form?

12 MR. GAY: And I'm going to mark this Exhibit 7004?

13 Q Is that when you filed the Attorney Ethics Grievance Form
14 against your lawyer?

15 A That is correct.

16 Q And what was the reason you did that at that time?

17 A My attorney told me clearly that she won't be able to -- my
18 daughter, my stepdaughter won't be able to get?

19 So I said, well, if she can't be able to get in, then
20 there's no need for me to talk to them anymore.

21 Q And why did you ask for a new lawyer at that point and file
22 that against your lawyer?

23 A Because I wanted to speak to somebody new to see if he
24 could make something happen for that.

25 Q "Make something happen," meaning what?

1 A Get my daughter in.

2 Q Okay. Now, is this -- I'm going to show you 7004 again.

3 Is that the Attorney Ethics Grievance Form that you filled out
4 against your lawyer?

5 A That is correct.

6 Q And is your signature on that? It may be on the next page.

7 A Yes.

8 Q Is your signature on the second page?

9 A Correct.

10 MR. GAY: Judge, I'd ask that this be admitted into
11 evidence at this time.

12 THE COURT: All right. There's no objection, it will
13 be in evidence.

14 (Government exhibit 7004 is received in evidence.)

15 MR. LUSTBERG: No objection.

16 Q Now, Mr. Jimenez, I'm going to show you 7004. Now, in this
17 ethics complaint I'm going to start off from the beginning.
18 Initially the first few paragraphs, what are you talking about
19 there?

20 A The first few paragraphs I'm talking about the letter that
21 I sent to John Gay.

22 Q And this would be relating to what? What do you say in
23 that letter, or what do you say about that letter in this
24 document?

25 A I'm referring to my sister's case, that I would like --

1 that I have some information. If you interested about the
2 information, I would be calling you on that Thursday.

3 Q So at this point when you sent this letter you were trying
4 to help your sister out?

5 A Correct.

6 Q And then you talk about a meeting that you have with the
7 FBI on 10/28 of 2010. Is that correct?

8 A That's correct

9 Q You talk about the agents telling you that they were here
10 because they wanted a witness against Paul Bergrin. Is that
11 correct?

12 A That is correct.

13 Q Did the FBI agents give you any information about Paul
14 Bergrin at that time or tell you specifically any facts about
15 Paul Bergrin at that time?

16 A Absolutely not.

17 Q I'm going turn to the second page.

18 Did you say to the FBI agents: "Everything that you
19 know can help us in the case will be helpful." You see that?

20 A Yes

21 Q What are you referring to there?

22 You may have to look back at the prior page to get
23 your question first for that response.

24 Let me --

25 A I asked them, what is it that they need to know about Paul

1 Bergrin.

2 Q And what was their summons?

3 A Their response: "Everything that you know can help -- can
4 help us in the case would be helpful."

5 Q And did you then ask for immunity?

6 A Correct.

7 Q Did you also ask for protection for your wife and kids?

8 A Correct.

9 Q And what did the FBI tell you in response to those two
10 requests by you?

11 A We can give you -- we can give you -- we can give your
12 family -- we can give your family and you all the protection --
13 all the protection, but we cannot give you immunity privilege
14 right at this moment because that's not the way -- that's not
15 way it works.

16 Q So at that point you believed that your wife and family
17 would -- could be protected?

18 A Correct.

19 Q But that you would not have immunity?

20 A Correct.

21 Q And at that meeting you then did not tell the entire truth
22 to the FBI. Is that correct?

23 A That is correct.

24 MR. GAY: Sorry, Judge. I think I'm missing a page in
25 this.

1 All right. I'm sorry, Judge, I appear to be missing a
2 page on this.

3 Q Can I see 7004 real quick to make sure it's a full
4 duplicate?

5 MR. GAY: And I apologize, your Honor.

6 Q Okay. This one does have it. I'm going to ask a couple of
7 questions off of this.

8 No, never mind, enough with that exhibit now.

9 Okay. Mr. Jimenez, let's go back to the initial
10 meeting that you had, the 10/28 meeting. And this was, again,
11 before you had thought you were going to get immunity and
12 before you were telling the FBI the entire truth.

13 Do you remember telling them anything about you
14 setting up, trying to set up this deal between Hakeem Curry and
15 Changa?

16 A On 10/28?

17 Q The first meeting. You need something to refresh your
18 memory?

19 A Yes.

20 MR. GAY: I'm not sure which defense exhibit this is,
21 if you can help me out.

22 MR. LUSTBERG: D-9.

23 MR. GAY: Okay? D-9.

24 Q If you could read the first highlighted portion and the
25 second -- well, the first highlighted portion.

1 (There is a pause for the witness.)

2 A Okay.

3 Q Okay. Does that refresh your memory about whether or
4 not -- if I could have it back -- during the first meeting, the
5 one where you were not telling the FBI the entire truth, did
6 you tell them that you tried to set up a deal between Hakeem
7 Curry and Changa?

8 A Correct.

9 Q Do you recall telling the FBI at the first meeting anything
10 about a meeting at a restaurant after that?

11 A No.

12 Q I'm going to show you this --

13 MR. GAY: What is it, D what? The same document?

14 MR. LUSTBERG: 9.

15 Q I'm going to show you D-9 again?

16 A The second paragraph?

17 Q Correct.

18 (There is a pause for the witness.)

19 A Correct.

20 Q Does that refresh your memory about whether or not you told
21 the FBI anything about a meeting at Isabella's?

22 A Correct.

23 Q Does that meeting, is that meeting related to the drugs
24 transaction between E.T. Hak and Changa?

25 A Correct.

1 Q And did you tell the FBI at that point anything about Mr.
2 Bergrin relating to that meeting, if you recall?

3 A If I said anything about Bergrin?

4 Q Yes.

5 A Yes.

6 Q And what did you say?

7 A I said that he showed up.

8 Q You said he was at the meeting?

9 A Right.

10 Q Now, do you recall telling the FBI anything about, at the
11 first meeting, the tracking device, a tracking device found in
12 Hakeem Curry's car?

13 A At the first meeting? Might of have, I'm not sure.

14 Q Okay. Let me show you D-9 again, and I'll point up out to
15 the third paragraph. Does that refresh your recollection after
16 reading it? Just let me know, yes or no.

17 A Yes.

18 Q And did you tell the FBI at the first meeting about the
19 tracking device?

20 A Yes.

21 Q And what did you tell them about the tracking device?

22 A That Hakeem Curry came to the office with a tracking
23 device.

24 Q And did you mention anything about Mr. Bergrin at that time
25 relating to the tracking device?

1 A I believe I did.

2 Q Do you need to refresh your memory again?

3 A Yes.

4 THE COURT: Leave it in front of him.

5 MR. GAY: Okay, sure.

6 Q Yes, third paragraph.

7 A Yes, I did.

8 Q And what did you say?

9 A I said that Bergrin said that's a tracking device, that's
10 feds. Get that out of my office, put I back up underneath your
11 car. Get it up out of here.

12 Q And you said that on the first meeting with the FBI?

13 A I said exactly that, Bergrin said something to the effect
14 that now --

15 Q Okay. I know what you testified to, Mr. Jimenez, I'm not
16 asking you about that.

17 A Okay. Yes.

18 Q What I'm asking you is to confirm: Was that during your
19 first meeting you had with the FBI?

20 A Correct.

21 Q Okay. I'll take that back.

22 Now let's talk about the second meeting you had with
23 the FBI, November 22nd of 2010.

24 Do you remember whether you ever told the FBI that
25 Paul Bergrin was upset when he found out that you were selling

1 drugs to Hakeem Curry?

2 A Correct.

3 Q And what was that in relation to? Can you describe what
4 you were telling the FBI about when you made that statement?

5 A That was in relation to when I approached Hakeem Curry at
6 the conference room, and we never got to make the deal, but
7 that was reference to that.

8 Q And was that -- well, this is a reference now, you said you
9 told them about Paul Bergrin being upset. What was Paul
10 Bergrin being upset a reference to?

11 MR. BERGRIN: Objection, your Honor. He doesn't know,
12 he can't tell my state of mind.

13 MR. GAY: Judge, I'm talking about when he was telling
14 this to the FBI, what did he mean when he said that? That's
15 the question. I apologize if I didn't make that clear.

16 Q When you referred to Paul Bergrin being upset, when you
17 said that to the FBI on November 22nd, what were you referring
18 to?

19 A To Paul Bergrin's attitude.

20 Q About what?

21 A About me approaching Hakeem Curry.

22 Q And can you describe when it was that that attitude -- when
23 was he upset? Describe the circumstances of that incident.

24 A He -- he was upset because I was talking to Hakeem Curry
25 about making a deal with drugs. So he said that I cannot go

1 through his client but I can confirm something with him.

2 Q And you said that to the FBI -- or at least you said Mr.
3 Bergrin was upset on November the 22nd, 2010?

4 A Correct.

5 Q Now, do you recall whether you said anything about --
6 anything more about the deal at that point that was supposed to
7 happen between E.T. Hak and Changa during the 11/22 meeting?

8 A Do I recall saying anything about the deal?

9 Q Yes.

10 A Might of have said something. I'm not -- I can't recall.

11 Q Do you recall whether or not you said you spoke to E.T. Hak
12 in Paul Bergrin's office in anticipation of that deal. First,
13 yes or no. Do you remember that?

14 A I don't remember that.

15 Q Okay. Is that report -- if the report refreshes your
16 recollection, let me know. If not, please let me know that,
17 too.

18 (There is a pause for the witness.)

19 A Yes.

20 Q Okay. And did you tell the FBI on November 22nd that you
21 had tried to set up a deal with Hakeem Curry for kilograms of
22 cocaine and that you had spoken to him in Paul Bergrin's
23 office?

24 A Correct.

25 Q Now, you were questioned before about whether or not you

1 ever told the FBI that you were aware that Mr. Bergrin may have
2 closed a house for Changa. Is that correct, you remember that
3 testimony before?

4 A Right.

5 Q I'm going to refer you to the 11/22 --

6 MR. GAY: Which one is this, Larry, I'm sorry? It's
7 not D-9. Is it D-10? 11/22--

8 MR. LUSTBERG: I think it's D-10.

9 MR. GAY: Okay. D-10.

10 Q The second paragraph, highlighted portion.

11 A Yes.

12 Q Does that refresh your memory about whether you told the
13 FBI about any kind of a closing that Mr. Bergrin would have
14 done with respect to Changa?

15 A Not that I see.

16 Q Not that you see? Okay. That's fine.

17 That spot -- is it clear you're looking at that
18 section there? I'm just asking whether it refreshes. I may
19 not have pointed to the right spot.

20 A Yes. Oh, yes, I see it now.

21 (Mumbling/reading) Yes.

22 Q And do you recall what you said about the date of that
23 closing?

24 A No, not really.

25 Q Okay. Refresh your memory, if it does.

1 (There is a pause for the Witness.)

2 Q If it doesn't refresh your memory, that's fine, Mr.

3 Jimenez. It doesn't refresh --

4 THE COURT: Next question.

5 Q Now, Mr. Jimenez, you also testified that prior to being
6 charged, but after you got a lawyer, you met with the
7 Government on May 12th, 2011. Is that correct?

8 A That is correct.

9 Q Do you recall whether you had any discussions on that date
10 about the drug deal between Hakeem Curry and Changa?

11 A It might of have, I'm not sure.

12 Q Let me show you --

13 MR. GAY: This is the...

14 (Counsel confer off the record.)

15 Q Let me show you D-12 and ask you whether that refreshes
16 your memory about whether you told the FBI about any drug deal
17 between Hakeem Curry and Changa.

18 A Yes.

19 Q And do you recall what you told them?

20 A Yes.

21 Q What did you tell them?

22 A I told them approximately about six months I decided to
23 approach Hakeem Curry in the office, bring him into the
24 conference room and spoke to him about the drugs.

25 Q Do you recall whether you told him about an amount of drugs

1 that you and Hakeem Curry negotiated for during that session?

2 A Yes.

3 Q What did you say?

4 A I told him if he was interested in some weight.

5 Q All right. And what was -- ultimately was there an amount
6 that was agreed upon?

7 A Twenty keys.

8 Q And that's what you told the physician --

9 A Correct.

10 Q In that May -- may I see that back, please?

11 Did you also tell them what you did after that at the
12 May 12th meeting?

13 A Correct.

14 Q What did you tell them?

15 A That I contacted Changa.

16 Q And what did you tell them after that? You contacted
17 Changa and did what?

18 A And we came to an agreement that he would provide the 25
19 keys at the price at 20 and I would add the 21.

20 Q Do you remember telling the FBI at this May 12th meeting
21 anything about Mr. Bergrin at that point?

22 A No.

23 Q I'm going to show you the same exhibit, D-12, and highlight
24 that paragraph there.

25 (There is a pause for the Witness.)

1 A What was the question?

2 Q I'm asking first whether that refreshes your memory about
3 whether you told the FBI anything about Mr. Bergrin on that May
4 12th, 2011 meeting with your lawyer, you, and the Government?

5 A I mean, I did say something about Paul Bergrin.

6 Q Okay. And do you remember what it was that you said?

7 Well, let me rephrase the question. Do you recall
8 saying anything to anybody about a meeting you had with Mr.
9 Bergrin in his office relating to your attempting to sell drugs
10 to Hakeem Curry?

11 A Correct.

12 Q And what did you tell the FBI?

13 A That Bergrin called me upstairs to his office, closed the
14 door behind me and he told me that if I had spoken to any -- to
15 any of his clients about making a deal.

16 I say yes.

17 And we was referring to E.T. Hak. So after I said
18 that, he said that before I talk to any of his clients I got to
19 go through him.

20 Q And that happened on the May 12th 2011 meeting. Is that
21 correct?

22 A That's correct.

23 THE COURT: Do you have much more on redirect?

24 MR. GAY: A lit bit, yeah, Judge. Do you want to take
25 a break?

1 THE COURT: We'll stay here for a while.

2 THE REPORTER: Judge, May I have just a minute to
3 change my paper?

4 THE COURT: Ladies and gentlemen, we'll recess for
5 about 10 or 15 minutes and we'll be back here in that amount of
6 time.

7 Please don't discuss anything about the case.

8 THE DEPUTY CLERK: Please rise for the Jury.

9 (The Jury leaves the courtroom.)

10 THE COURT: Mr. Jimenez, do you have to use the men's
11 room?

12 THE WITNESS: No.

13 THE COURT: Mr. Bergrin, do you have to use the men's
14 room?

15 MR. BERGRIN: No, Judge.

16 THE COURT: All right. Then we'll just stay here and
17 we'll start in ten minutes, that way the Marshals don't have to
18 bring you down and bring you up, and we'll probably go to 4:15,
19 4:30.

20 I'd like to wrap up this witness today.

21 MR. GAY: I will do my best, Judge.

22 MR. MINISH: May I ask before you leave, will we be
23 getting to a second witness today, another in addition?

24 THE COURT: I don't know, that's Mr. Gay's redirect
25 and I don't know if Mr. Bergrin has any limited recross.

1 MR. BERGRIN: Yes, Judge, I do.

2 THE COURT: Well, it will be limited, and also
3 redirect should be limited to what it has been. But let's keep
4 it limited to what you opened up.

5 MR. GAY: Yes, I will, Judge.

6 THE COURT: Okay. We'll be back -- I'll be back in
7 six, seven, eight minutes, that's all.

8 (There is a pause in the proceedings.)

9 THE CLERK: Please rise for the Jury.

10 (Jury present)

11 THE COURT: if everybody would please be seated,
12 thanks.

13 Go ahead.

14 MR. GAY: Thank you, your Honor.

15 BY MR. GAY

16 Q Mr. Jimenez, again, we're discussing the May 12th, 2011
17 meeting you had with the Government, your lawyer and yourself.
18 Do you recall whether or not you told the Government anything
19 about a meeting at Isabella's on that occasion?

20 A I believe I did.

21 Q Do you recall whether or not you said anything about how
22 you learned of the meeting at Isabella's?

23 A Correct.

24 Q And what did you tell the FBI as far as you remember on the
25 May 12th, 2011 meeting about that subject?

1 A I overheard Paul Bergrin on the phone, that he would be at
2 Isabella's meeting certain individuals.

3 Q Mr. Jimenez, I'm sorry to interrupt, but if you could pull
4 your chair up and speak into the mic so everybody can hear you.

5 A I overheard Paul Bergrin on the phone. I don't know who he
6 was talking to, but -- exactly who he was talking to, but I
7 overheard him say that he would be in the restaurant to meet
8 these individuals.

9 Q And who were those individuals?

10 A E.T. Hak and Changa -- I mean, yeah, Changa.

11 Q And do you remember telling the FBI anything about what you
12 did after learning that information? Again, this is back on
13 May 12th, 2011.

14 A That after that I just went in, I was trying to finish up
15 what I had to do in the office. I just tried to hurry up and
16 get to the restaurant?

17 Q Do you recall telling the FBI anything about being
18 suspicious when you heard Mr. Bergrin setting up the meeting --

19 A Yes.

20 Q -- at Isabella's?

21 Do you remember whether you said anything about
22 actually going to the restaurant?

23 A Yes.

24 Q Do you remember what you told the FBI at that point?

25 A That he would be there? It was a certain time that he

1 said, I just don't remember the time that he said that he would
2 be there, and that he will meet Changa there at the restaurant.

3 Q And what happened? Did you tell them anything about what
4 happened when you got there?

5 A No.

6 Q You don't remember?

7 A Oh, did I say anything to Paul when I got there?

8 Q No, no. Did you say anything to the FBI -- let me be clear
9 on this.

10 On the May 12th, 2011 meeting, you testified you
11 discussed the meeting at Isabella's?

12 A Right.

13 Q I'm now asking you questions about what you told the FBI on
14 May 12th, 2011 about what you observed at Isabella's.

15 A Correct.

16 Q Do you remember what you said to the FBI about what you
17 observed at Isabella's at that meeting?

18 A I was coming up -- as I was driving up to the restaurant
19 coming up Elliot Street, the restaurant is right in front of
20 me, you could see right -- you could see clearly inside the
21 restaurant when you get to the corner. The top of the corner,
22 you see clearly inside of the restaurant. I seen Paul Bergrin,
23 Changa and I believe it was E.T. Hak at that time, but --

24 Q Okay. And that's what you believed, it was, E.T. Hak,
25 because at that point you were far away?

1 A Right.

2 Q Or relatively far away.

3 Did you tell them anything else about what happened
4 after that?

5 A Parked the car. As I'm walking -- I'm on the street. So
6 I'm walking towards the restaurant and I still could see inside
7 the restaurant.

8 They shook hands. As I'm going in through the doors,
9 E.T. Hak is coming out. I'm passing him. Go straight to the
10 back, pass Paul, pass Changa.

11 Q Did you tell them anything about what you observed the
12 individuals doing inside the restaurant when you saw them?

13 A Correct.

14 Q And what did you tell them?

15 A They shaking hands.

16 Q Did you say anything about whether or not you were angry at
17 observing this meeting?

18 A Correct.

19 Q And did you tell them why you were angry?

20 A Correct.

21 Q Do you recall what it was you said about why you were angry
22 about observing this meeting?

23 A Betrayal, betrayed.

24 Q Do you remember telling them anything about specifically
25 what it was --

1 A \$25,000. I was being cut out of \$25,000.

2 Q Did you tell the FBI on May 12th, 2011 anything about why
3 you believed you had been cut out of a deal, if you recall?

4 A I believe that --

5 Q Do you need something to refresh your memory?

6 A Correct.

7 Q I'm going to show you D -- I believe it's 12. If you could
8 take a look at that paragraph there (indicating).

9 (There is a pause for the witness.)

10 A What was the question?

11 Q The question is: Does that refresh your memory about
12 whether or not you told the FBI anything about why you believed
13 you had been cut of the deal -- of a deal.

14 If it doesn't refresh your memory, sir, that's fine,
15 I'm just asking whether it refreshes your memory.

16 A No. I believe that -- I don't know.

17 Q Well, does it refresh your memory first? Yes or no.

18 A No.

19 Q Okay. That's fine.

20 Do you remember whether you told the FBI anything on
21 May 12th, 2011 about meeting Alejandro Castro?

22 A When I was -- come back again.

23 Q Do you remember whether or not you told the FBI anything on
24 May 12th, 2011 about meeting Alejandro Castro, when you met
25 Alejandro Castro?

1 A Correct.

2 Q And do you recall what you said to them?

3 A Castro at the meeting? Oh --

4 Q When you met Castro. Do you recall --

5 A Yeah, I recall meeting Castro, and I told the FBI that I
6 met Castro at -- at Broadway and Verona, the corner bar with --

7 Q Do you recall whether you told the FBI about any other
8 conversations you had with Mr. Castro after that?

9 A Correct.

10 Q What did you tell them?

11 A I told them that me and Castro was at Players Club, went
12 out on the thing, I believe it's Friday or Saturday, one of
13 those two days.

14 Q Did you tell them anything about any conversations you had
15 with Mr. Castro at that time?

16 A Yes.

17 Q What did you tell them --

18 THE COURT: Mr. Gay, can I see you and the attorneys
19 at sidebar?

20 MR. GAY: Sure.

21 (At the sidebar.)

22 THE COURT: To move this along, do you have any
23 objection if he were to lead instead, you know, just say --

24 MR. GAY: That's fine. I'm more than happy to do it.

25 THE COURT: You can follow through the 302 and see if

1 it's in there or not, and if you can summarize: Did you tell
2 the FBI at this time the following. This is all related to May
3 12th --

4 MR. LUSTBERG: We have no problem with that. The
5 thing I did not want him to lead on was the thing he did not
6 lead on on the security issue.

7 THE COURT: You know what, do you know what I mean?
8 Didn't you say? Didn't you say? And if it's not in there,
9 then object.

10 MR. LUSTBERG: Okay.

11 THE COURT: It will move things faster.

12 MR. GAY: That's great. Not a problem.

13 (In open court.)

14 MR. GAY: May I continue, your Honor?

15 THE COURT: Yes, go ahead.

16 BY MR. GAY:

17 Q Mr. Jimenez, do you recall telling the FBI at the May 12th
18 meeting that you had met Castro at the Players Club?

19 A Correct.

20 Q And do you recall telling the FBI that Castro told you he
21 was a drug dealer?

22 A Correct.

23 Q And do you recall telling the FBI that Castro said he had
24 just completed a deal for 25 kilos and that they were about to
25 do a 50 kilo deal?

1 A That is correct.

2 Q And do you recall telling the FBI that you asked -- that
3 you inquired about whether he had done the deal with somebody
4 named Hak?

5 A Correct.

6 Q And that Castro had said indeed he did?

7 A Correct.

8 MR. BERGRIN: Objection, Judge, it doesn't say that.
9 It does not say that.

10 Q Okay. Then I'll read it word for word here.

11 Do you recall telling the FBI that you asked Mr.
12 Castro if Hak had done -- if -- do you recall telling the FBI
13 that Castro told you he had recently done a deal with someone?

14 A Correct.

15 Q Did Castro -- do you recall telling the FBI that Castro
16 stated the name of the person, but you could not hear it?

17 A Yes, it might have been that.

18 Q And do you recall telling the FBI that Castro told you he
19 got to meet Hak.

20 A Correct.

21 Q And that was in relation to the 25 kilo deal?

22 A Correct.

23 Q And the 50 kilo deal that he was about to do?

24 A Correct.

25 Q Now, it wasn't until after this meeting on the 12th that

1 you signed the cooperation agreement. Is that correct?

2 A That is correct.

3 Q Did you sign the cooperation agreement on October 6th of
4 2011?

5 A Correct.

6 Q I'm going to show you Exhibit 7000.

7 Now, between May 12th, 2011 and the time you signed
8 the cooperation agreement, you met with the FBI on another
9 occasion at least. Right?

10 A Correct.

11 Q And that was with your lawyer?

12 A Correct.

13 Q And did you tell the truth on that occasion?

14 A Correct.

15 Q Some time after that meeting but before you signed this
16 cooperation agreement, is that when you learned that your
17 daughter would not be going into the WITSEC program?

18 A That is correct.

19 Q And that is when you decided not to cooperate anymore.
20 Right?

21 A That is correct.

22 Q That is when you filed that grievance letter?

23 A That is correct.

24 Q At some time after that you learned that your daughter
25 would be accepted into the WITSEC program. Is that correct?

1 A That is correct.

2 Q And thereafter you signed the cooperation agreement. Is
3 that correct?

4 A That is correct.

5 Q And you're testifying here today pursuant to this
6 agreement?

7 A That is correct.

8 Q And what is your understanding of what's going to happen to
9 you if you do not tell the truth for any question that I ask?

10 A There's no agreement.

11 Q And what is your understanding of what happens to the
12 agreement if you tell a lie to any question Mr. Bergrin asks
13 you?

14 A Same, no agreement.

15 MR. GAY: No further questions.

16 THE COURT: Is it just some limited recross?

17 MR. BERGRIN: Yes, Judge.

18 THE COURT: All right. Keep it to the redirect.

19 MR. BERGRIN: Thank you very much.

20 RECROSS-EXAMINATION

21 BY MR. BERGRIN:

22 Q And as a matter of fact, Mr. Jimenez, it's the Government
23 that determines whether you're telling the truth. Correct?

24 A Correct.

25 Q Now, you testified that you had fear and safety concerns.

1 Right?

2 A Correct.

3 Q And that's why you weren't telling the truth, that you were
4 lying. Right?

5 A Part of it.

6 Q Isn't it a fact that on May the 12th of 2011, you were
7 asked specifically, May the 12th, 2011, after you had had an
8 attorney, after you had multiple meetings, you were asked the
9 specific question by Mr. Gay if you had any safety concerns,
10 and you replied "no"?

11 A He was talking about myself.

12 Q Oh, you were talking about yourself.

13 You were asked if you had any safety concerns, and you
14 said "no"?

15 A I still believe he was talking about myself. We already
16 had established about the family thing.

17 Q Now, your family -- your cooperation means you getting out.
18 Correct?

19 A That is correct.

20 Q And your cooperation means you getting a house that you
21 can't afford. Correct?

22 A I'm not sure of all the procedures.

23 Q You're not sure of the benefits that you're going to gain?

24 A I was -- I was only concerned about the protection of my
25 family, I wasn't concerned about all that.

1 Q So protective that you even want your sister-in-law to come
2 with you. Correct?

3 A If it was possible, because she was staying with my -- with
4 my wife. She was living with my wife as -- as of today. I
5 mean -- not today, but to the time whenever it took place.

6 Q And besides your sister-in-law you want your mother-in-law.
7 Correct?

8 A They were still living with my wife at the time.

9 Q And you wanted money from the Government. Correct?

10 A No.

11 Q And you wanted a house from the Government. Correct?

12 A No.

13 Q Now, the grievance that you filed, it was filed on
14 September the 28th. Correct?

15 A Yes, some time there.

16 Q Only a few short months ago. Right?

17 A Right.

18 Q And in that grievance you outlined clearly that on April
19 6th of 2011, April 25th of 2011 and on May the 12th of 2011 you
20 were confronted in a confrontational interrogation. Correct?

21 A That's correct.

22 Q And you were intimidated. Isn't that a fact?

23 A That's correct.

24 Q And the attorney that was representing you was appointed by
25 the Government. Correct?

1 A That's correct.

2 Q And he got paid by the Government. Correct?

3 A That is correct.

4 Q And you said that they, for 30 minutes during these three
5 occasions, went back-and-forth to you, screaming, intimidating
6 and threatening you in a confrontational manner about Paul
7 Bergrin. Correct?

8 A I won't say screaming. It was -- it was just direct
9 interrogation type --

10 Q Direct interrogation and direct intimidation. Right?

11 A Somewhat.

12 Q And that's what the attorney, Mr. Azzarello, going back and
13 forth with the prosecutor, John Gay, and then coming back in to
14 you and intimidating and confronting you. Correct?

15 A At the time I felt that way, yes.

16 Q Well, you sent the letter only a few short months ago.
17 Correct?

18 A Correct.

19 Q So it must have been fresh in your memory. Right?

20 A Right, because it was -- that -- that was a moment that it
21 was real "tensive" for me. It was like, something that you
22 ain't never going to forgot, like, you know.

23 Q You're never going to forget the way you were treated with
24 questions and threats and intimidation over and over and over,
25 the same question, Paul Bergrin did this, Paul Bergrin did

1 that. Right? Correct?

2 A I mean, it was questions about, yeah, Paul Bergrin but --

3 Q And as a matter of fact, up until that point, to May 12th,
4 you had said absolutely nothing about me in that phone call or
5 that conversation -- excuse me -- that you overheard with me
6 and Hakeem Curry. Isn't that a fact, sir?

7 MR. GAY: Which --

8 MR. BERGRIN: Please let me finish the question.

9 THE COURT: Wait. What's the objection, Mr. Gay?

10 MR. GAY: Can he clarify which conversation he's
11 talking about?

12 THE COURT: Okay. Up until -- go ahead, rephrase the
13 question. Up until?

14 Q Even up through, up and through May the 12th, eight months
15 into your cooperation or meetings with the Government, multiple
16 meetings, you had said absolutely nothing in reference to
17 hearing my and Hakeem Curry or me say to Hakeem Curry if there
18 wasn't any witness there would be no case. Correct?

19 Isn't that a fact? You had never told the Government
20 that?

21 A I'm not sure when I said it. I mean, on what exact date
22 that I said it on, but I know that I had it.

23 Q Now, you were even with an attorney on April 6th, April
24 25th and May the 12th, correct, Mr. Azzarello?

25 A Right.

1 Q And you said nothing to the Government in reference to that
2 statement. Correct?

3 A The only -- during through one of those meetings I did say
4 something. I mean, like I said, I'm not sure, I'm not sure
5 when.

6 Q Isn't it a fact, Mr. Jimenez, that the first time that you
7 make any mention of that is on July the 21st of 2011?

8 A Then that's the date. Because I don't remember the date, I
9 just know that I said it.

10 Q And by that time you believed that you were getting witness
11 protection, correct, for you and your family?

12 A Mainly for my family.

13 Q For you also, Mr. Jimenez. Correct?

14 A Me also yes, but my main concern was my family.

15 Q So you were getting out of jail. Isn't that right? Your
16 time was being reduced and you weren't worried about -- you
17 thought that they weren't going to charge you federally for all
18 the offenses that you committed. Right?

19 A That's correct.

20 Q And not only that, you had had that confrontational three
21 sessions with Mr. Azzarello before that. Correct?

22 A Correct.

23 Q And the first time you make any mention whatsoever, and you
24 hear nothing at all in reference to the conversation, only the
25 words "If there wasn't any witness, there wouldn't be any

1 case." That's the only thing you hear in that whole
2 conversation. July, after all these meetings, all these
3 conversations, all these sessions with the Government. Isn't
4 that a fact, sir?

5 A Yes, it is.

6 Q And you had been with your attorney at least, at least four
7 meetings with the Government prior to that. Correct? At
8 least.

9 A Possible. I'm not sure.

10 Q And as you sit here today under oath before this jury in
11 this courtroom, are you telling us that you didn't read any
12 newspaper articles and had no idea about the allegations in
13 this case against me?

14 A Absolutely.

15 Q You had no idea?

16 A I had an idea -- I mean, it ain't that I had an idea, it's
17 that the family -- my family already knew what was your case.
18 I personally didn't know who was involved in your case, only my
19 sister, my father, and, you know --

20 Q But you knew the allegations, correct, against me?

21 A I know about the drug allegations.

22 Q You knew the allegations in the Kemo case, too, didn't you?

23 A In the Kemo?

24 Q You knew the allegations in the witness case also?

25 A Right. But that's -- that's -- I know about that when me

1 and you -- when I was working for you over there.

2 Q So you knew about it back in 2004. Correct?

3 A No, you only spoke about it briefly to me one time. I
4 mean, you spoke -- you told me briefly one time, they trying to
5 get me for tampering with a witness or something like that.
6 That's what you said to me.

7 Q So you knew about the allegation in the case. Correct?

8 A I didn't know this whole facts of the case, I didn't know
9 no names, I didn't know faces. You know that, Paul. Come on.

10 Q You knew the allegations in this case because you had read
11 about it and it had been talked about in the office between me
12 and the partners and everybody else. Correct?

13 A No.

14 Q Now, you testified in reference to the tracking device, and
15 your statement of October the 25th of 2005, correct, to the
16 FBI?

17 A Absolutely.

18 Q And you said that when Hakeem Curry brought in the tracking
19 device, isn't it a fact that you were upset?

20 A That I was upset?

21 Q Yes, you were upset.

22 A I wasn't upset.

23 Q Well, then why did you tell the FBI that you were upset,
24 because at that time for the first time you informed me that
25 you had been dealing drugs to Hakeem Curry?

1 A You said that I was upset because Hakeem Curry came with a
2 tracking device.

3 Q Didn't you tell the FBI on October the 28th that you were
4 upset about the tracking device because you told me for the
5 first time that Hakeem Curry and you had engaged in narcotic
6 transactions? Aren't those the words that came out of your
7 mouth, Mr. Jimenez, to the FBI?

8 A What day was that?

9 Q October the 28th of 2010 during the first meeting with the
10 FBI.

11 A That was a lie.

12 Q And you continued to lie to them throughout the entire
13 meetings. Correct?

14 A Yes, to some point, yes.

15 Q And you're telling this jury in this courtroom that you
16 lied to them about something simple like the tracking device,
17 but gave heavy testimony against your sister and involvement in
18 a narcotic trafficking scheme? Is that what you're telling us?
19 You'd lie about simple things but go after your own sister,
20 your own flesh and blood about her involvement in heavy
21 narcotic trafficking?

22 A I never, I never, I never did implicated my sister from
23 hand-to-hand doing trafficking of narcotics.

24 Q You said that your sister was involved in dealing drugs
25 because of the easy money. Correct?

1 A I said there was a possibility that she could be involved
2 because of the easy money and because of Alejandro was the --
3 was always with her.

4 Q On October the 28th, Mr. Jimenez, isn't it a fact that you
5 told the FBI that Jauregui, meaning Yolanda, your sister, did
6 become involved with the drug business through Alejandro
7 Castro? Isn't that a fact? Didn't you say that?

8 A If I said that, it must have been a lie because I don't
9 remember it.

10 Q And you also said Jimenez believed that Castro used
11 Jauregui to deal with drug clients because she spoke English
12 and he did not. Isn't that a fact, sir?

13 A I said that.

14 Q So you're lying to the FBI about your sister being involved
15 in heavy drug-trafficking without Alejandro Castro, is that
16 what you're telling us? You made that up about your sister?

17 A Part of it was made of, up, part of it was true.

18 Q Instead of protecting your sister, you're lying to hurt
19 her?

20 THE COURT: All right, Mr. Bergrin, do you have much
21 more?

22 MR. BERGRIN: Five minutes, Judge, please.

23 THE COURT: All right.

24 Q Now, you testified in reference to the November the 16th
25 -- Mr. Gay kept referring to as the November 22nd -- FBI