

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA  
3 CASE NO. NO. 20-CV-24294-KMM-LOUIS

4 RAQUEL CAMPS, in her capacity as the ) Pages 1-262  
5 personal representative of the )  
6 ESTATE OF ALBERTO CAMPS, )

7 EDUARDO CAPPELLO, in his individual ) Miami, Florida  
8 capacity, and in his capacity as the )  
9 personal representative of the ESTATE )  
10 OF EDUARDO CAPPELLO, ) June 28, 2022  
11 8:00 A.M.

12 ALICIA KRUEGER, in her individual  
13 capacity, and in her capacity as the  
14 personal representative of the ESTATE  
15 OF RUBEN BONET,

16 and, MARCELA SANTUCHO, in her  
17 individual capacity, and in her  
18 capacity as the personal  
19 representative of the ESTATE OF ANA  
20 MARIA VILLARREAL DE SANTUCHO,

21 Plaintiffs,

22 vs.

23 ROBERTO GUILLERMO BRAVO,

24 Defendant.

25 TRANSCRIPT OF JURY TRIALPROCEEDINGS  
BEFORE THE HONORABLE LAUREN FLEISCHER LOUIS  
U.S. MAGISTRATE JUDGE

APPEARANCES:

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08:15AM 1 THE COURT: Good morning. Please be seated.

08:15AM 2 THE COURTROOM DEPUTY: Calling Case No. 20-CV-24294,

08:15AM 3 Raquel Camps vs. Bravo.

08:15AM 4 Counsel, please state your appearances beginning with the

08:15AM 5 plaintiff.

08:15AM 6 MR. KRISHNAN: Good morning, Your Honor, Ajay Krishnan

08:15AM 7 from Keker, Van Nest & Peters, for the plaintiffs.

08:16AM 8 THE COURT: Good morning, Mr. Krishnan.

08:16AM 9 MR. MUZZIO: Good morning, Your Honor. Franco Muzzio,

08:16AM 10 also for plaintiffs.

08:16AM 11 THE COURT: Good morning, Mr. Muzzio.

08:16AM 12 MS. SABHARWAL: Good morning, Your Honor. Neha Sabharwal

08:16AM 13 also for the plaintiffs.

08:16AM 14 THE COURT: Ms. Sabharwal.

08:16AM 15 MS. VARGAS: Good morning, Your Honor. Claret Vargas for

08:16AM 16 the Center For Justice & Accountability, for the plaintiffs.

08:16AM 17 THE COURT: Thank you, Ms. Vargas.

08:16AM 18 MR. DAVIS: Good morning, Your Honor. Steven Davis on

08:16AM 19 behalf of the defendants.

08:16AM 20 THE COURT: Thank you, Mr. Davis.

08:16AM 21 MR. SLADE: Roger Slade, on behalf of defendant Bravo.

08:16AM 22 THE COURT: Mr. Slade.

08:16AM 23 MR. SONNETT: Good morning, Your Honor. Neal Sonnett on

08:16AM 24 behalf of the defendant, Roberto Bravo.

08:16AM 25 THE COURT: Good morning, Mr. Sonnett. All right. I'm

08:16AM 1 not going to mislead you, I have not read the cases cited in the  
08:16AM 2 1:00 A.M. brief. I did read the brief. I want to first address a  
08:16AM 3 piece of evidence that we didn't get to yesterday from yesterday's  
08:16AM 4 brief. I didn't ask for your response yesterday, defense team. I  
08:16AM 5 don't know who is taking this, but the plaintiffs' challenge to  
08:17AM 6 Mr. Bravo's ability to update his finances without having  
08:17AM 7 disclosed same to you, who will be presenting that? I figure we  
08:17AM 8 are going to get to that today.

08:17AM 9 MR. DAVIS: Good morning, Your Honor.

08:17AM 10 THE COURT: Good morning.

08:17AM 11 MR. DAVIS: I'll be handling it. I don't have the two  
08:17AM 12 documents in front of me, but I know what the issue is. I think I  
08:17AM 13 can explain it. Mr. Bravo has a claim against him for punitive  
08:17AM 14 damages, so he provided them with discovery approximately a year  
08:17AM 15 ago around the time of his deposition, I would say March of '21 --  
08:17AM 16 I'm going off memory -- when that was provided. In fact I think  
08:17AM 17 Your Honor presided over some of the discovery hearings related to  
08:17AM 18 that. We received an inquiry from opposing counsel, Mr. Muzzio,  
08:17AM 19 asking about our client's net worth, and we updated his net worth,  
08:17AM 20 and we provided a document.

08:17AM 21 Chanel, do you have a copy of the document that we could  
08:18AM 22 have -- we provided it, a different document. I can hand it up to  
08:18AM 23 the Court.

08:18AM 24 MS. SABHARWAL: Your Honor, we have copies of the  
08:18AM 25 materials at issue, if that would be helpful to the Court.

08:18AM 1 THE COURT: Okay. That would be fine.

08:18AM 2 MS. SABHARWAL: May we approach?

08:18AM 3 THE COURT: Yes, thank you.

08:18AM 4 MR. DAVIS: And essentially, Your Honor, the two changes  
08:18AM 5 in it would have been a reduction in cash and a reduction in  
08:18AM 6 market value on his annuity account, and we updated it, I believe  
08:18AM 7 the date -- I'm going off memory now because I don't have it in  
08:18AM 8 front of me -- but June 22nd which would have been last week.  
08:18AM 9 This will be the updated of his financials at that point. They  
08:18AM 10 asked for it, we provided them the information, and so that's what  
08:18AM 11 it is, and they can inquire of him. I obviously don't intend to  
08:18AM 12 elicit any testimony about his net worth from me, but they --  
08:18AM 13 because they have the claim, they have the right to present  
08:18AM 14 evidence of his net worth to the jury, and they can say you  
08:19AM 15 produced this in March of 2021 reflecting his net worth, and then  
08:19AM 16 he has an updated statement. So I would probably on whatever it  
08:19AM 17 would be, cross or redirect, if I wanted to deal with that issue,  
08:19AM 18 I would lay out the -- you know the changes of his -- in his net  
08:19AM 19 worth. So that's all that that is, Your Honor.

08:19AM 20 THE COURT: Okay. So this document -- the first one --  
08:19AM 21 let me just confirm that I know what I'm looking at because it  
08:19AM 22 looks like there's multiple copies but of the same document,  
08:19AM 23 right? These aren't supposed to be different in any way, meaning,  
08:19AM 24 I have two documents here?

08:19AM 25 MR. SLADE: Yes. I apologize, Your Honor, I didn't give

08:19AM 1 Mr. Davis a copy.

08:19AM 2 MR. DAVIS: I've seen the documents.

08:19AM 3 MR. SLADE: It's the original, and then it's the new one  
08:19AM 4 that we received Friday before.

08:19AM 5 THE COURT: Okay. That much I understand. I just wanted  
08:19AM 6 to not spend a lot of time going over the pages if they're  
08:20AM 7 duplicative. So one is marked with both Exhibit 5 and 4, I assume  
08:20AM 8 that's 4 for the deposition and 5 for purposes of trial?

08:20AM 9 MR. SLADE: Yes, Your Honor.

08:20AM 10 THE COURT: Another one bears no document number, and it  
08:20AM 11 looks like a document that was generated by someone and for the  
08:20AM 12 purpose of trial, is that fair, Mr. Davis? This is not the  
08:20AM 13 document that was kept, right?

08:20AM 14 MR. DAVIS: Correct.

08:20AM 15 THE COURT: So there was backup produced for this or not?  
08:20AM 16 I'm sorry. When I say this right now, I'm referring --  
08:20AM 17 because I know the record does not have eyes. I'm referring to  
08:20AM 18 the one that bears no exhibit number that was just produced last  
08:20AM 19 week.

08:20AM 20 MR. DAVIS: The June 2022 statement, Your Honor. No, we  
08:20AM 21 just gave the summary information, we did not produce any backup  
08:20AM 22 or anything like that.

08:20AM 23 THE COURT: It is my recollection, though I admit I did  
08:20AM 24 not go back and look at the transcript from last year, that we had  
08:20AM 25 not only disputes over whether or not the defendant had produced

08:21AM 1 documents but what documents he had to produce in order to  
08:21AM 2 substantiate his wealth. Am I right to understand that there was  
08:21AM 3 backup materials provided to substantiate what is Plaintiffs'  
08:21AM 4 Exhibit 5?

08:21AM 5 MR. DAVIS: I don't know the details of all the backup on  
08:21AM 6 the discovery hearings. I know that there are tax returns and  
08:21AM 7 other documents that were inquired about in the deposition of Mr.  
08:21AM 8 Bravo.

08:21AM 9 THE COURT: Right.

08:21AM 10 MR. DAVIS: That counsel has.

08:21AM 11 THE COURT: So the plaintiffs have had an opportunity to  
08:21AM 12 challenge the numbers that have been entered on Plaintiffs'  
08:21AM 13 Exhibit 5?

08:21AM 14 MR. DAVIS: Yes.

08:21AM 15 THE COURT: But not so for the unnumbered document that  
08:21AM 16 was produced last week?

08:21AM 17 MR. DAVIS: The June 2022 document has not been the  
08:21AM 18 subject of any discovery or inquiry or anything like that, Your  
08:21AM 19 Honor.

08:21AM 20 THE COURT: Okay.

08:21AM 21 MR. DAVIS: And just from listening -- I mean, it would  
08:22AM 22 be any -- any witness who had money in the stock market, the last  
08:22AM 23 six months had been a bad time to have your money in the stock  
08:22AM 24 market. So part of that is a reflection of that, but others are  
08:22AM 25 expenditures of cash.



08:22AM 1 THE COURT: Well, in fairness, Mr. Davis, it does depend  
08:22AM 2 on what industry you had your money in. I don't mean to be glib.  
08:22AM 3 My point is that I don't think it's -- I don't think it's a  
08:22AM 4 foregone conclusion that backup isn't needed to see from the  
08:22AM 5 comments and standpoint that these numbers are obviously right or  
08:22AM 6 that they moved in this direction.

08:22AM 7 Let me get to the point of: What do you intend to do  
08:22AM 8 with this document? You disclosed it because they asked but you  
08:22AM 9 intend to make no use of it.

08:22AM 10 MR. DAVIS: Other than -- no, correct. I don't intend to  
08:22AM 11 use the document at all other than if they put in -- Exhibit 5.

08:22AM 12 MR. SLADE: Exhibit 5.

08:23AM 13 MR. DAVIS: If they put in Exhibit 5 -- if they put in  
08:23AM 14 his financial statement from last year, I would merely be asking  
08:23AM 15 the witness whether or not that remains to be accurate, and he  
08:23AM 16 would describe the two reductions that I just disclosed to you.

08:23AM 17 THE COURT: And tell me why he should be permitted to  
08:23AM 18 testify about an undisclosed change? Meaning, he won't have by  
08:23AM 19 that time disclosed the backup. We're two days into trial. I'm  
08:23AM 20 trying to, again, understand your position on his testimony.  
08:23AM 21 Okay. So let me try not to just think out loud.

08:23AM 22 His last disclosure was March 27th of last year,  
08:23AM 23 meaningfully with backup?

08:23AM 24 MR. DAVIS: Yes.

08:23AM 25 THE COURT: You would agree this is something on which he

08:24AM 1 had an obligation to update should new documents that are relevant  
08:24AM 2 and responsive and that you are likely to rely on in trial,  
08:24AM 3 information or documents, you had an obligation to supplement your  
08:24AM 4 production?

08:24AM 5 MR. DAVIS: We have the obligations under the Federal  
08:24AM 6 Rules of Civil Procedure, Your Honor, so... I joined the case in  
08:24AM 7 April, and I'm trying to catch up. That being said, Your Honor,  
08:24AM 8 you -- counsel asked, I provided the information and did the best  
08:24AM 9 I could.

08:24AM 10 THE COURT: I know. I appreciate that fully. I guess  
08:24AM 11 what I also need here is for the plaintiff to make a very specific  
08:24AM 12 ask. Is this yours, Ms. Vargas? No, it's not Ms. Vargas. Sorry.

08:24AM 13 MS. SABHARWAL: Yes, Your Honor, we request the Court  
08:24AM 14 preclude Mr. Bravo from arguing any changes in his net worth since  
08:25AM 15 his deposition of last year.

08:25AM 16 THE COURT: Okay. Well, how do -- I'm really resisting  
08:25AM 17 putting words in your mouth. But it seems to me that the relief  
08:25AM 18 may be limited to precluding him from making affirmative use of  
08:25AM 19 evidence that he has obtained after March of 2021 that he has not  
08:25AM 20 disclosed.

08:25AM 21 MR. KRISHNAN: Yes, Your Honor, and let me just say I'll  
08:25AM 22 be questioning Mr. Bravo, and I only intend -- the question I will  
08:25AM 23 ask him is that you produced this document as of the time of your  
08:25AM 24 deposition and this was your net worth, and I'm not going to talk  
08:25AM 25 about anything that happens afterwards.

08:25AM 1 THE COURT: Okay.

08:25AM 2 MR. KRISHNAN: And I'd just ask that they not be able to  
08:25AM 3 talk about anything afterwards either.

08:25AM 4 THE COURT: Mr. Davis, your response.

08:25AM 5 MR. DAVIS: Well, he says what was your net worth in  
08:26AM 6 March of 20 -- whatever April of 2021. I would say what's your  
08:26AM 7 net worth today, and how has it changed? I would think that that  
08:26AM 8 would be an appropriate question. Given that the jury instruction  
08:26AM 9 would be if they obviously can consider his net worth in assessing  
08:26AM 10 punitive damages.

08:26AM 11 THE COURT: I understand. And for me, there is a tension  
08:26AM 12 here that I'm not hearing an answer from the defendant, and I'm  
08:26AM 13 looking to you for guidance on candidly. The jury has to --  
08:26AM 14 sorry.

08:26AM 15 The jury is permitted to consider the wealth of the  
08:26AM 16 defendant as a factor for punitive damages, but that is  
08:26AM 17 information that is uniquely in the defendant's control. And so  
08:26AM 18 where I have a Rule 26 violation, and I do because it's  
08:26AM 19 information that you're proffering you will make affirmative use  
08:26AM 20 of, so we agree you had an obligation to disclose it but didn't.  
08:26AM 21 So for me, there is a tension between how do I reasonably instruct  
08:26AM 22 the jury with respect to what information it can rely on meaning  
08:27AM 23 his current wealth versus his wealth a year ago if it wasn't  
08:27AM 24 timely and properly disclosed? That's -- that is candidly  
08:27AM 25 what I'm not hearing guidance on.

08:27AM 1 MR. DAVIS: The guidance -- the only guidance I can give  
08:27AM 2 the Court is the fact that financial information by its very  
08:27AM 3 nature would be fluid. His financial net worth would have changed  
08:27AM 4 just under the passage of time.

08:27AM 5 THE COURT: Which I could have seen --

08:27AM 6 MR. DAVIS: And --

08:27AM 7 THE COURT: Sorry, Mr. Davis, but I can see that as a  
08:27AM 8 very reasonable argument if you had updated over the course of the  
08:27AM 9 year and now shortly before trial and with the information --  
08:27AM 10 that's the other problem is that these are just numbers on a page.  
08:27AM 11 And so while even under normal circumstances, the plaintiffs would  
08:27AM 12 have the ability to cross and say, how do you know that this is  
08:28AM 13 confident, but the problem is it is issued incomplete for these  
08:28AM 14 purposes, right? The defendant wants to advance that my cash has  
08:28AM 15 gone from 800,000 to under 100,000, so says I. It doesn't even  
08:28AM 16 include the information that it sounds like you would want the  
08:28AM 17 jury to rely on, meaning as a matter of fact, there is information  
08:28AM 18 elsewhere that says that my net worth has dropped precipitously  
08:28AM 19 over the last year.

08:28AM 20 I don't -- I'm not hearing a legal basis to overcome the  
08:28AM 21 discovery violation that would permit you to advance evidence that  
08:28AM 22 wasn't disclosed and for which you had the duty to supplement;  
08:28AM 23 specifically, the financial information that you relied on in this  
08:29AM 24 what I'm calling a disclosure, the June 2022 disclosure.

08:29AM 25 I understand the significance though of the evidence, and

08:29AM 1 you did not have a meaningful opportunity to respond in writing,  
08:29AM 2 if you find case law that would support your position -- and I  
08:29AM 3 think you would have -- I suggest that it might arise specifically  
08:29AM 4 in the context of punitive damages in what the jury would or  
08:29AM 5 should hear, I invite you to bring it to me, but I think we're  
08:29AM 6 going to need it by lunchtime is my forecast.

08:29AM 7 Which reminds me, and I also want to make a record of the  
08:29AM 8 fact that the parties were notified last night that the district  
08:29AM 9 court judge who had become unavailable and the parties were  
08:29AM 10 accordingly asked their position to consent to magistrate judge  
08:30AM 11 jurisdiction in the event circumstances required, has become  
08:30AM 12 available. Accordingly, the parties were asked if they wished to  
08:30AM 13 essentially vacate their consent and resume trial with the  
08:30AM 14 district court judge, and that would occur only if both parties  
08:30AM 15 consented. As the record may be able to pick up from the sound of  
08:30AM 16 my voice, the indication was that both sides did not so consent to  
08:30AM 17 have that vacated but rather expressed continued consent for  
08:30AM 18 magistrate judge jurisdiction. So I remain on the case. It  
08:30AM 19 remains assigned as a magistrate judge case. It happened by  
08:30AM 20 e-mail. So for record document, I needed to make that clear.

08:30AM 21 MR. DAVIS: Do you need us to say on the record now that  
08:30AM 22 we consent?

08:30AM 23 THE COURT: Yes. Mr. Davis, go ahead.

08:30AM 24 MR. DAVIS: We consent all -- and I told Mr. Muzzio last  
08:30AM 25 night, it's probably the first time and may be the last time in

08:31AM 1 your career that you'll have orders on consecutive nights about --  
08:31AM 2 saying: Who do you want to be the judge tomorrow?

08:31AM 3 THE COURT: I sure hope so. I will say that if the  
08:31AM 4 circumstances had been unusual, everything -- I understand about  
08:31AM 5 how we have proceeded throughout the pandemic has been unusual.  
08:31AM 6 Anyway, Mr. Krishnan.

08:31AM 7 MR. KRISHNAN: Likewise, Your Honor, plaintiffs continue  
08:31AM 8 to consent to your jurisdiction.

08:31AM 9 THE COURT: Okay. I'm sorry. As a matter of  
08:31AM 10 housekeeping, I had intended to do that first.

08:31AM 11 Then we have two other evidentiary issues. The first  
08:31AM 12 that I am going to take up -- I'm going -- it's my intention to  
08:31AM 13 deal with equitable tolling last this morning, because I think it  
08:31AM 14 is our weightiest and most significant and unbriefed issue. So I  
08:31AM 15 tell you that so that you can know that I am going to deal with  
08:31AM 16 the 80319 argument discreetly. Meaning, yesterday I expressed to  
08:32AM 17 you and I maintain and I don't see it differently after reading  
08:32AM 18 your brief, that the hearsay exception would permit you to advance  
08:32AM 19 evidence through your plaintiff, who was not alive at the time of  
08:32AM 20 his uncle's passing, that is analogous to those that are expressly  
08:32AM 21 enumerated in the rule. His date of birth -- his death, and I  
08:32AM 22 know that you have relied heavily on circumstances of his death.

08:32AM 23 The testimony yesterday was designed to elicit the  
08:32AM 24 circumstances of his life, describing the persecution that the  
08:32AM 25 family experienced and the -- to tell the story of the family,

08:32AM 1 that -- I maintain my position that that vastly exceeds what 80319  
08:32AM 2 permits.

08:32AM 3 So I do not see that hearsay exception as an acceptable  
08:33AM 4 vehicle for him to talk about what the family discussed about his  
08:33AM 5 uncle's life and the tragedies that occurred and his experiences  
08:33AM 6 or that story. And the cases that were cited didn't persuade me  
08:33AM 7 otherwise.

08:33AM 8 Notwithstanding, there is some set of information that I  
08:33AM 9 think probably does come out, but either way would be viable under  
08:33AM 10 that exception and I think squarely fall within the -- these are  
08:33AM 11 circumstances that the family or related by blood reliably knew  
08:33AM 12 and discussed in front of him pertaining to his life and death.  
08:33AM 13 But they're much more limited than a description of the events  
08:33AM 14 that transpired or the aftermath.

08:33AM 15 Now -- let me think. There's two others and the  
08:34AM 16 apostille. Okay. So before we go too far down the apostille  
08:34AM 17 path, the defendant's brief represents the de facto of Document  
08:34AM 18 142, there is an indication that the signature needed to be  
08:34AM 19 corrected. I could not find that on 142, and it wasn't responded  
08:34AM 20 to in the plaintiffs' brief. Can you show me what you're looking  
08:34AM 21 at?

08:34AM 22 MR. SLADE: Your Honor, I respectfully could not find it  
08:34AM 23 either.

08:34AM 24 THE COURT: Okay. That's very normalizing.

08:34AM 25 It seems to me that there is -- from the defense

08:34AM 1 argument, a bit of a disconnect between authentication and  
08:34AM 2 competency. I could be wrong. But it would help me understand  
08:34AM 3 your argument if I'm right, so just bear with me for a moment as I  
08:34AM 4 repeat what I think your argument is, and you can tell me if I'm  
08:34AM 5 wrong. Particularly with respect to your challenge that the  
08:35AM 6 apostille in this -- for some of these documents related to an  
08:35AM 7 entire file as opposed to documents therein, it seems to me that  
08:35AM 8 the file was maintained, at least that's what the certification  
08:35AM 9 suggests and the briefing seems to suggest as one thing.

08:35AM 10 They may -- or the parties may characterize it as a file,  
08:35AM 11 but if anyone were to pull pages out of it, I think fairly someone  
08:35AM 12 would cry, foul. This was -- this file is how it was maintained.  
08:35AM 13 And in the eyes of the Argentine government that gave the  
08:35AM 14 apostille for it, viewed it as a document certifying nothing at  
08:35AM 15 all about its contents. That's expressly part of the ruling, what  
08:35AM 16 it says on the apostille.

08:35AM 17 For your argument to break it into separate documents, I  
08:35AM 18 would assume to some degree at least that contrary to the  
08:36AM 19 certification that this has nothing to do with the contents, the  
08:36AM 20 certifying government actually did look page by page or document  
08:36AM 21 by document to assess whether or not it is one thing or not, that  
08:36AM 22 that's how they maintained it as one file.

08:36AM 23 MR. SLADE: Your Honor, they withdrew their request to  
08:36AM 24 have admitted 203 and 204, which were the large -- that's off the  
08:36AM 25 table. So that would be a benefit of taking 203 and 204 and



08:36AM 1 chopping it into little pieces. But what we're saying and what we  
08:36AM 2 put in our papers is that the certification that came from the  
08:36AM 3 Argentine government which lists what they're certifying does not  
08:36AM 4 match the apostille is the page numbers don't add up. Not only  
08:36AM 5 that, they're not Bates numbered, so we really can't tell what  
08:36AM 6 they are. These documents -- their argument that they're  
08:36AM 7 self-authenticating, but I don't see the requisite certifications  
08:36AM 8 have been made.

08:36AM 9 So it's unclear -- I mean, it would have been a better  
08:37AM 10 practice to take the apostille and put it on the front of each  
08:37AM 11 page and have the certification there for the exhibits that they  
08:37AM 12 seek to admit rather than having it done in blunderbuss with  
08:37AM 13 fashion 203 and 204. Like for example, one section of the  
08:37AM 14 certification from the government says there's 1871 pages. But  
08:37AM 15 when you look at Ms. Gutierrez certification from the court in  
08:37AM 16 Argentina, it lists a significantly lower amount of pages. In  
08:37AM 17 fact, it only adds up that she's certified 896 pages.

08:37AM 18 So there is a disconnect in between and among the  
08:37AM 19 documents they're seeking to admit, and that's in our brief on  
08:37AM 20 page 4, and that's how our analysis of 204 when it was originally  
08:37AM 21 constituted, that's how it came to be.

08:37AM 22 Now, it's unclear, to me anyway, looking at these  
08:37AM 23 documents what exactly Ms. Gutierrez is certifying as being part  
08:38AM 24 of the Argentine file that are now part of these other exhibits.  
08:38AM 25 So we are contesting admissibility on that basis.

08:38AM 1 THE COURT: Let me pause here. The response from the  
08:38AM 2 plaintiff as I understood it was that the certification process  
08:38AM 3 has nothing to do with page numbers. Your response to that?

08:38AM 4 MR. SLADE: Well, this is the authentication process. I  
08:38AM 5 think they have to authenticate all the pages from the Argentine  
08:38AM 6 government.

08:38AM 7 THE COURT: Give me an example. Just pick a document and  
08:38AM 8 a certification that we can look at together that falls into this  
08:38AM 9 category of the page number challenge.

08:38AM 10 MR. SLADE: Well, I have -- I'm looking at PX203A and  
08:38AM 11 204A, page 4, talks about documentary blocks of 1871 pages.

08:38AM 12 THE COURT: Okay.

08:38AM 13 MR. SLADE: If you flip to Bravo 5393 --

08:38AM 14 THE COURT: I don't. What I have is --

08:38AM 15 MS. PLA: We could display it.

08:39AM 16 THE COURT: That would be fine. What I have is the trial  
08:39AM 17 exhibits that they intend -- they being plaintiffs intend to  
08:39AM 18 advance, which as you have noted are pieces of those files,  
08:39AM 19 discrete sections.

08:39AM 20 MR. SLADE: I am looking at the apostille and Plaintiffs'  
08:39AM 21 Exhibit 203A and 204A. It's a seven-page document.

08:39AM 22 THE COURT: Alex, can you turn the monitors on?

08:39AM 23 MR. SLADE: I apologize, Your Honor. I thought you had  
08:39AM 24 it.

08:39AM 25 THE COURT: Like I said, I have the trial exhibits. If

08:39AM 1 it wasn't advance, if it wasn't with them, I don't have it.

08:39AM 2           Could I just have the whole document, please? So for  
08:39AM 3 context, this apostille relates to which of plaintiffs' trial  
08:39AM 4 exhibits?

08:39AM 5           MR. SLADE: For the record, Your Honor, we are talking  
08:40AM 6 about 203A and 204 A?

08:40AM 7           THE COURT: Right. But my question is, as you just  
08:40AM 8 noted, that they're not advancing 203 or 204, but, rather, pieces  
08:40AM 9 thereof that have been numbered as separate trial exhibits.

08:40AM 10          MR. SLADE: That's true.

08:40AM 11          THE COURT: I think it's 40, am I wrong?

08:40AM 12          MR. SLADE: There's separate numbers that they're looking  
08:40AM 13 at as it is listed in the first page of our Brief 36, 38, 78, 79,  
08:40AM 14 142. So what I'm saying is that the certification that comes from  
08:40AM 15 the Argentine court, the number of pages that are identified on  
08:40AM 16 here do not match. I'm talking about 203A. For the record, it's  
08:40AM 17 Bravo 5390, which refers to a documentary block of 1871 pages  
08:40AM 18 basically certified by Ms. Gutierrez. But when you turn to the  
08:41AM 19 actual translation of Ms. Gutierrez's work, you can see that there  
08:41AM 20 is a significantly lower amount.

08:41AM 21          THE COURT: I don't know where you're looking. I'm  
08:41AM 22 sorry.

08:41AM 23          MR. SLADE: Apologies, Your Honor. 5393 which is page 7  
08:41AM 24 of Exhibit 203A.

08:41AM 25          THE COURT: The document I am looking at has been

08:41AM 1 trimmed, so I don't see that indication, and I don't see the  
08:41AM 2 numbers you're referring to. If you would leave the whole  
08:41AM 3 document up while counsel is talking, that would be super helpful.

08:41AM 4 MR. SLADE: Yes. Respectfully, Your Honor, it's on the  
08:41AM 5 screen.

08:41AM 6 THE COURT: Now I see it.

08:41AM 7 MR. SLADE: Do you see it now?

08:41AM 8 THE COURT: I do. But where are you drawing numbers  
08:41AM 9 from? I see the Bravo 5393. Now tell me where you get the page  
08:41AM 10 count?

08:41AM 11 MR. SLADE: I am getting my page count from 5393 in which  
08:41AM 12 there are separate notifications of notarial pages of text. So  
08:41AM 13 you have -- and if you add the numbers up, there's 141 pages, and  
08:41AM 14 highlight that, Mr. Smith, 137 pages.

08:41AM 15 MS. PLA: I think you have the wrong page.

08:42AM 16 MR. SLADE: I have 5393. Anyway, what I'm trying to tell  
08:42AM 17 Your Honor -- I don't want to take up too much of the Court's time  
08:42AM 18 on this, but the numbers don't match.

08:42AM 19 THE COURT: I understood that much. Until I see it  
08:42AM 20 myself, it was hard to follow which numbers should match up and  
08:42AM 21 what they mean. The plaintiffs have proffered, because I haven't  
08:42AM 22 seen it, I don't -- I can't grab on to the argument that your  
08:42AM 23 reliance on certification with respect to a number of pages is  
08:42AM 24 misplaced because that is not what the certification means as I  
08:42AM 25 understood the plaintiffs' argument. And because they filed it

08:43AM 1 after you, I haven't heard a response to that point; that the  
08:43AM 2 certification essentially means, this is the document they pulled  
08:43AM 3 out at your request. That's all it is. I don't know what this  
08:43AM 4 document is. I don't know what its contents are. But this is the  
08:43AM 5 version that I found in my files, and so it's difficult for me to  
08:43AM 6 try to -- okay.

08:43AM 7 So your point is that if we add up the pages, the page  
08:43AM 8 count on this last document, that it ends up being different than  
08:43AM 9 the total number of pages that were produced to you, that's the  
08:43AM 10 point?

08:43AM 11 MR. SLADE: Correct, Your Honor. In our brief, we total  
08:43AM 12 up the pages. This is in our memo that we filed on last night on  
08:43AM 13 page 4, when we're dealing with 2047 basically, which is basically  
08:43AM 14 where this all comes from. It shows that Ms. Gutierrez is only  
08:43AM 15 certifying or identifying 896 pages, but it's hard to tell which  
08:44AM 16 pages are being certified and the total number of pages is -- that  
08:44AM 17 is identified here is 1871. That's our argument with respect to  
08:44AM 18 that.

08:44AM 19 THE COURT: Okay. But the next line says: Sum.  
08:44AM 20 Separate copies 601 in total.

08:44AM 21 MR. SLADE: Yes, and we added up all those numbers, and  
08:44AM 22 it still comes to -- if you look at our brief on page 4, which is  
08:44AM 23 our identification first with respect to 204, it says that the  
08:44AM 24 total of the numbers on Plaintiffs' Exhibit 204A is 896 pages.

08:44AM 25 THE COURT: Is this the only document that -- for which

08:44AM 1 you received an apostille that includes a description like this  
08:44AM 2 meaning a page count?

08:44AM 3 MR. SLADE: I believe so, but I'm not certain.

08:44AM 4 THE COURT: I think I understand now and better  
08:44AM 5 plaintiffs' position that your reliance on this singular  
08:45AM 6 explanation of pages may be misplaced; meaning, we don't -- if  
08:45AM 7 that is not typically provided, I think we're not in a position to  
08:45AM 8 know why it was provided on this one or --

08:45AM 9 MR. SLADE: We want to make sure the documents are  
08:45AM 10 trustworthy.

08:45AM 11 THE COURT: And that's why there is a signature. I mean,  
08:45AM 12 that's the purpose of the process.

08:45AM 13 MR. SLADE: What I'm saying is Ms. Gutierrez at least in  
08:45AM 14 the translation is not certifying all of this. We want to make  
08:45AM 15 sure that the documents come from the right place. We want to  
08:45AM 16 make sure that they're certified by the court and the governmental  
08:45AM 17 authorities in Argentina. And there's no reason why these numbers  
08:45AM 18 shouldn't be matching if they're certifying that all those files  
08:45AM 19 which they have now taken from 203 and 204 and broken down into  
08:45AM 20 separate exhibits. Further, there is no reason why these things  
08:45AM 21 shouldn't be matching. That's our point, that's our challenge to  
08:46AM 22 admissibility of these documents. And we could take this up I  
08:46AM 23 suppose when the Court determines -- there is no subscribing  
08:46AM 24 witnesses for these documents. I think they're putting them in as  
08:46AM 25 self-authenticating documents. I think that's what they are

08:46AM 1 saying they are doing.

08:46AM 2 THE COURT: That's helpful to know. Isn't the autopsy,  
08:46AM 3 the second autopsy related to an apostille issue as well?

08:46AM 4 MR. SLADE: No, Your Honor.

08:46AM 5 THE COURT: It's not, okay.

08:46AM 6 MR. SLADE: They are citing in their papers this morning  
08:46AM 7 which I just read, 103 evidence is self-authenticating, and you  
08:46AM 8 these are foreign public documents as it says here. What they're  
08:46AM 9 saying is they should be admitted under that exception. Then it  
08:46AM 10 says -- 9023, which is what they rely upon, basically says the  
08:46AM 11 certification may be made by secretaries of the United States  
08:46AM 12 Embassy or location, by general counsel, vice counselor, or  
08:46AM 13 counselor agent of the United States, or by diplomatic or  
08:46AM 14 counselor officer of the foreign country assigned or credited to  
08:47AM 15 the United States.

08:47AM 16 I don't -- I don't see that either, and there's a lot of  
08:47AM 17 documents flying around in this case. So if I missed it, I  
08:47AM 18 apologize. But I don't see that among the documents that are in  
08:47AM 19 here that would qualify as being self-authenticating as they  
08:47AM 20 identified in their brief that they filed at 1:00 o'clock in the  
08:47AM 21 morning.

08:47AM 22 THE COURT: Understood. I want to hear the plaintiffs'  
08:47AM 23 response though. I'm also mindful that the rules of evidence that  
08:47AM 24 apply particularly to these foreign documents do not encourage  
08:47AM 25 much looking behind the certification for purposes of

08:47AM 1 authentication, and that is what this challenges. So I think  
08:47AM 2 consistent with the rules, the -- I understand your argument, but  
08:47AM 3 I also think there is a limit to how much the court is supposed to  
08:47AM 4 fly check -- flyspeck?

08:48AM 5 MR. SLADE: Flyspeck.

08:48AM 6 THE COURT: -- these foreign documents before making a  
08:48AM 7 determination, the plaintiff has demonstrated their admissibility  
08:48AM 8 because of their authentication process.

08:48AM 9 But with respect to the page count discrepancy, the  
08:48AM 10 response is?

08:48AM 11 MR. MUZZIO: Yes, Your Honor. There are a lot of blank  
08:48AM 12 pages in 203 and 204. It's what the ministry of foreign affairs  
08:48AM 13 in Argentina sent us, and we provided everything to them. The  
08:48AM 14 discrepancy appears to be that there is just some blank pages that  
08:48AM 15 weren't included in the page count.

08:48AM 16 But it's really a nonissue because, as Your Honor noted,  
08:48AM 17 we're not seeking to admit 203 and 204 in their entirety. We're  
08:48AM 18 seeking to admit individualized exhibits that were authenticated  
08:48AM 19 within those documents.

08:48AM 20 THE COURT: That doesn't address or cure the  
08:48AM 21 authentication problem.

08:48AM 22 MR. MUZZIO: Yes, Your Honor. I'm getting to that issue.

08:48AM 23 THE COURT: Okay.

08:48AM 24 MR. MUZZIO: We attached an exhibit to our brief last  
08:48AM 25 night. It identifies each individualized exhibit that we seek to



08:48AM 1 admit. It identifies the Bates numbers for those exhibits as they  
08:49AM 2 have been individualized on our exhibit list, and it identifies  
08:49AM 3 the corresponding Bates numbers in 203 and 204, so you can see  
08:49AM 4 that every page of every individualized exhibit that we are  
08:49AM 5 seeking to admit has been certified and apostilled through the 203  
08:49AM 6 and 204 exhibit. And I just want to use one example to show Your  
08:49AM 7 Honor, because it is an exhibit that we intend to use today, and I  
08:49AM 8 think this will clarify this problem very quickly.

08:49AM 9 THE COURT: Go ahead.

08:49AM 10 MR. MUZZIO: Ms. Lind, could you pull up PX34T?

08:49AM 11 MR. SLADE: Your Honor, respectfully, I don't think I  
08:49AM 12 have that exhibit that was attached to your brief. Maybe my  
08:49AM 13 printer ran out of paper.

08:49AM 14 MR. MUZZIO: You should have the exhibit itself.

08:49AM 15 MR. SLADE: Oh. I thought you were talking about --

08:49AM 16 MR. MUZZIO: So PX31T is referenced in the exhibit chart  
08:49AM 17 that's attached to the brief. We need to be given access to the  
08:50AM 18 screen.

08:50AM 19 THE COURT: Did I lose my courtroom deputy? Okay. Do  
08:50AM 20 you have the -- there we go.

08:50AM 21 MR. MUZZIO: Ms. Lind, could you go to page 12 of this  
08:50AM 22 exhibit?

08:50AM 23 MR. SLADE: The exhibit, they attached a schedule to  
08:50AM 24 their brief, but I have the brief. I printed it out this morning.

08:50AM 25 MR. MUZZIO: May I proceed with the explanation?

08:50AM 1 THE COURT: Yes.

08:50AM 2 MR. MUZZIO: So this is the first page of a survivor's  
08:50AM 3 statement provided by Alberto Camps. It was given to the military  
08:50AM 4 investigator in 1972 immediately after the shootings.

08:50AM 5 Defense counsel has stipulated to the admission of two  
08:51AM 6 other documents exactly like this for completeness. We'd like to  
08:51AM 7 also admit the third survivor statement by Mr. Camps. It's been  
08:51AM 8 Apostilled, and the way we know that it's been Apostilled is if  
08:51AM 9 you look at the schedule that's attached to our motion, you will  
08:51AM 10 see that this document is Bates stamped at the bottom, and then if  
08:51AM 11 you go to PX203 and 204, and pull up Bravo 5553, it's the same  
08:51AM 12 document, and this document has the seal, it has the signature,  
08:51AM 13 and it was apostilled.

08:51AM 14 THE COURT: Okay. I apologize, but I was looking at the  
08:51AM 15 chart, and can you tell me when you say it's the same document, it  
08:51AM 16 has two sources? Will you just repeat, please, what you mean when  
08:51AM 17 you tell me the same document as X and Y?

08:51AM 18 MR. MUZZIO: I'm sorry, Your Honor.

08:51AM 19 THE COURT: It's not your fault. It's mine.

08:52AM 20 MR. MUZZIO: Yes. There is the individualized exhibit,  
08:52AM 21 which we pulled out, we produced as soon as we had it, and then  
08:52AM 22 there is the Apostille version, which the only difference is one  
08:52AM 23 was Apostilled by the ministry of foreign affairs and it was  
08:52AM 24 certified by the court, and then there is the non-Apostilled  
08:52AM 25 version, but it's the same document. This is just how we're

08:52AM 1 authenticating it. It's what the ministry of foreign affairs sent  
08:52AM 2 us.

08:52AM 3 MR. SLADE: I'm not following this. First of all, these  
08:52AM 4 documents are in Spanish, so I can't even really understand what  
08:52AM 5 they're saying. Mr. Muzzio has indicated that there's lots of  
08:52AM 6 blank pages, but it doesn't explain -- I mean, there must be --  
08:52AM 7 the difference between 1871 pages and 896 pages, that's an awful  
08:52AM 8 lot of blank pages. I don't think that's what Apostille means.

08:52AM 9 MR. MUZZIO: We're not seeking to admit blank pages, Your  
08:52AM 10 Honor. What we're seeking to admit is the individualized exhibits  
08:52AM 11 which have the stamp on them, and they have been certified, and  
08:53AM 12 the Apostille provides the guarantee that that signature and stamp  
08:53AM 13 authenticated the document.

08:53AM 14 THE COURT: I understand the plaintiffs' argument.  
08:53AM 15 Mr. Slade, to the extent that challenge would go to whether or not  
08:53AM 16 what plaintiff produced to you and perhaps even what the Argentine  
08:53AM 17 government sent to plaintiff is, in fact, what was maintained  
08:53AM 18 because there is a different description on that last page than  
08:53AM 19 the page count that was received by the American parties. And the  
08:53AM 20 point the plaintiff is making is: The pieces of it that they wish  
08:53AM 21 to advance have individually been authenticated under the rule,  
08:53AM 22 even if the entire file has not been. With the certifications on  
08:54AM 23 each page, that that is how they were maintained by the  
08:54AM 24 governmental agency or entity in Argentina. That's how I  
08:54AM 25 understand their argument.

08:54AM 1 MR. SLADE: I understand that's their argument, but I  
08:54AM 2 don't understand that because 203 and 204 where we started this  
08:54AM 3 are blunderbuss, big, you know, like a court file is what I think  
08:54AM 4 what they're saying. So now they've broken it down and said we've  
08:54AM 5 certified each page, but it all goes back to the source, Ms.  
08:54AM 6 Gutierrez. It doesn't add up.

08:54AM 7 So I think there is a lack of trustworthiness with  
08:54AM 8 respect to that, and we ask that the documents be excluded based  
08:54AM 9 upon a defective certification and notice which was a gross  
08:54AM 10 disparity in the number of pages. I mean, it's simple math. I am  
08:54AM 11 not good at math, but I can add that.

08:54AM 12 THE COURT: Okay. I am -- you have indicated that there  
08:54AM 13 may or may not be some additional time for you to advance more  
08:55AM 14 argument. I would encourage you to -- I now understand the  
08:55AM 15 plaintiffs' argument and would agree that this is probably  
08:55AM 16 authenticated, but I want to make sure that you have a chance to  
08:55AM 17 digest -- I know the brief was filed at 1:00 o'clock -- and to  
08:55AM 18 meaningfully respond if you think that I still have not understood  
08:55AM 19 your argument or that you have meaningfully responded to theirs.  
08:55AM 20 So I am not inclined at this point to sustain the objection to  
08:55AM 21 authentication, but I'll give you another chance to think about it  
08:55AM 22 because we have five minutes and another issue that we really --

08:55AM 23 MR. SLADE: Yes, Your Honor, I appreciate that. If there  
08:55AM 24 is more argument we would like to make, we will let you know at  
08:55AM 25 break.

08:55AM 1 THE COURT: I appreciate it. There is something we truly  
08:55AM 2 have to address. I don't know -- is the jury all here, my seven?  
08:55AM 3 Would you check for me?

08:56AM 4 All right. We're still out two jurors. We have  
08:56AM 5 breathing room. But much of what I anticipate will be at issue  
08:56AM 6 today or for the remainder of trial will have to do with the  
08:56AM 7 applicable tolling, and it's difficult because it is unbriefed.  
08:56AM 8 And so while I have the benefit of what you have advanced with  
08:56AM 9 your proposed jury instructions, we haven't meaningfully had  
08:56AM 10 argument on this.

08:56AM 11 So there was -- particularly, it came out yesterday first  
08:56AM 12 with the expert. I can see it continuing with Mr. Cappello. What  
08:56AM 13 is relevant in -- I mean, it's been characterized so far as the  
08:56AM 14 affirmative defense, which would toll a separate tolling and the  
08:56AM 15 defendant's burden to demonstrate that claims have been tolled.  
08:57AM 16 If I understood the plaintiffs' position, whether it was in  
08:57AM 17 opening, I can't remember, but at some point, Mr. Krishnan, I  
08:57AM 18 would swear I heard you say that the plaintiff didn't have to file  
08:57AM 19 the claim at any point; meaning that equitable tolling is  
08:57AM 20 indefinite for these plaintiffs. Is that your position?

08:57AM 21 MR. KRISHNAN: Let me be just very clear about what that  
08:57AM 22 referred to, Your Honor. So one of the tolling factors is  
08:57AM 23 reasonable reliance on domestic accountability regimes. So if  
08:57AM 24 there is a Truth and Reconciliation Commission in Rwanda, and a  
08:57AM 25 victim of genocide in Rwanda wanted to pursue the path through the

08:57AM 1 Truth and Reconciliation Commission there, they don't -- during  
08:57AM 2 that period under the TVPA, there is tolling. That victim does  
08:57AM 3 not simultaneously have to come to the United States and file  
08:58AM 4 their lawsuit while they're pursuing a domestic remedy.

08:58AM 5 THE COURT: Do you have a case for that proposition?

08:58AM 6 MR. KRISHNAN: Yes. I think we have several, and they're  
08:58AM 7 in our jury instructions. But it's a separate tolling factor from  
08:58AM 8 fear. It's the pursuit and reliance on domestic remedies. And if  
08:58AM 9 I could have my colleague Ms. Matthews who does this for a living  
08:58AM 10 to address that, that might be more helpful for the Court.

08:58AM 11 THE COURT: Okay. It will also be helpful though to know  
08:58AM 12 from these plaintiffs' position as a matter of fact, having gone  
08:58AM 13 through now all of their depositions what preceding it is that  
08:58AM 14 they contend they were relying on.

08:58AM 15 MR. KRISHNAN: Yes. So it's the criminal process that  
08:58AM 16 was ongoing against the perpetrators of the Trelew Massacre in  
08:58AM 17 Argentina. So first the investigation began in 2005.

08:58AM 18 THE COURT: So it would be your position -- I'm sorry to  
08:58AM 19 cut you off, but I'm trying to watch the clock -- that so long as  
08:58AM 20 Mr. Bravo hasn't been extradited to answer criminally that the  
08:59AM 21 statute of limitations still has not lapsed?

08:59AM 22 MR. KRISHNAN: Yes. It's a reasonable -- that is  
08:59AM 23 correct -- well, I think that at some point there is a question as  
08:59AM 24 to whether the reliance is still reasonable.

08:59AM 25 THE COURT: Well, I notice that the word reasonable was

08:59AM 1 not included in your proposed jury instruction. I'm glad you  
08:59AM 2 raised that.

08:59AM 3 MR. KRISHNAN: Well, I may be speaking out of turn  
08:59AM 4 because I believe that Ms. Matthews is really the expert on this.  
08:59AM 5 She does these cases all the time.

08:59AM 6 THE COURT: Okay.

08:59AM 7 MS. MATTHEWS: I was about to say that the reliance needs  
08:59AM 8 to be reasonable. I think that's a characterization.

08:59AM 9 THE COURT: Okay. So object is really where I was  
08:59AM 10 headed.

08:59AM 11 MS. MATTHEWS: A reasonable reliance process.

08:59AM 12 THE COURT: Okay. I will tell you that as I listened to  
08:59AM 13 and fielded the objections yesterday in particular, what one issue  
08:59AM 14 that I was grappling with was whether the plaintiffs are advancing  
08:59AM 15 something that is entirely subjective or the extent to which it  
08:59AM 16 needs to be subjectively proven and the extent to which this is  
09:00AM 17 objective. I know that your theory depends on the -- you had a  
09:00AM 18 term that I have now forgotten, like country culture.

09:00AM 19 MR. KRISHNAN: That's a completely separate tolling  
09:00AM 20 factor. Country conditions and fear. The fear element is  
09:00AM 21 subjective. In the reliance piece, the reasonable reliance I  
09:00AM 22 believe that the reliance piece is subjective. It has to be  
09:00AM 23 reasonable, but they also need to show the jury that they relied.

09:00AM 24 THE COURT: And I appreciate that you just acknowledged  
09:00AM 25 sort of the two pieces, because at least your jury instructions

09:00AM 1 would suggest that it's your position that the statute of  
09:00AM 2 limitations would otherwise have ended in 2002, but for the  
09:00AM 3 equitable tolling.

09:00AM 4 MR. KRISHNAN: I don't believe -- Your Honor.

09:00AM 5 THE COURT: Ten years after the statute was passed, but  
09:00AM 6 that it's tolled for your plaintiffs from that point.

09:00AM 7 MR. KRISHNAN: I see. So.

09:00AM 8 THE COURT: Which raises for me a question about the  
09:00AM 9 relevance of the facts that have been advanced on equitable  
09:01AM 10 tolling prior to 2002 and that country culture -- you had a  
09:01AM 11 different term.

09:01AM 12 MR. KRISHNAN: Country conditions.

09:01AM 13 THE COURT: Country conditions, so I think that there is  
09:01AM 14 going to be a fair number of evidence presented and potentially  
09:01AM 15 objections raised, and I want to have some proffer from the  
09:01AM 16 plaintiff about what it is that you think you have to prove and  
09:01AM 17 what you intend to prove.

09:01AM 18 MR. KRISHNAN: Certainly. And let me address the latter  
09:01AM 19 one first because I think it may be more helpful. So our position  
09:01AM 20 is that fear of persecution took our plaintiffs from 1972 all the  
09:01AM 21 way until at least 2005.

09:01AM 22 THE COURT: One last question. You agree that it has to  
09:01AM 23 be individual. Each plaintiff is going to have to demonstrate  
09:01AM 24 this?

09:01AM 25 MR. KRISHNAN: I don't --



09:01AM 1 MS. MATTHEWS: Your Honor, actually Fourth Circuit recent  
09:02AM 2 -- well, last year decided that the standard does not have to  
09:02AM 3 apply to the individual plaintiff, because that would mean that  
09:02AM 4 they would have to put themselves in danger in order to pursue  
09:02AM 5 remedies, and so actually just showing that that was something  
09:02AM 6 that was happening and generally people were afraid. I think we  
09:02AM 7 do have evidence here that the individual plaintiffs feared.

09:02AM 8 THE COURT: I am mindful of the plaintiff, who wasn't  
09:02AM 9 born yet, and his ability to even rely on fear of persecution.  
09:02AM 10 That's why it obviously stands out to me as: How does this relate  
09:02AM 11 in your case, when you seem to really have two periods of time?  
09:02AM 12 And maybe --

09:02AM 13 But you seem to disagree that the tolling is legally  
09:02AM 14 applicable from 2002 forward.

09:02AM 15 MR. KRISHNAN: Yes. So let me just make a couple of  
09:02AM 16 things clear. From 1992, all of our clients were of the age that  
09:03AM 17 they could -- I mean, they might not have -- some may have still  
09:03AM 18 been minors but teenagers at that point.

09:03AM 19 And some of them -- one is 78 now. So she was married to  
09:03AM 20 Mr. Bonet at the time of the massacre. Our position is that fear  
09:03AM 21 and country conditions that gets us from 1972 to at least 2005  
09:03AM 22 when the criminal investigation began in Argentina. We are also  
09:03AM 23 saying that the inability to find Mr. Bravo which is a separate  
09:03AM 24 issue. It's a separate extraordinary circumstance beyond their  
09:03AM 25 control that the cases recognize. That independently gets us from

09:03AM 1 1972 to 2008. And in 2008, that was when Interpol told the  
09:03AM 2 Argentine prosecutors where Mr. Bravo was, and there was press  
09:03AM 3 coverage in Argentina as to who he was. And so either through  
09:03AM 4 fear or through the inability to find Mr. Bravo, we get to the  
09:04AM 5 2005 and 2008 period. At which point, they were engaged and fully  
09:04AM 6 relying upon a criminal process that has had peaks and valleys but  
09:04AM 7 has been ongoing, and we contend there has been reasonable  
09:04AM 8 reliance on that from the 2005 period up until now.

09:04AM 9 It's still ongoing. Extradition is pending, and so when  
09:04AM 10 I said that they didn't even need to file yet, it's because -- I  
09:04AM 11 mean, extradition is fully submitted, and if they were just to  
09:04AM 12 wait until it actually happened either it was denied or granted,  
09:04AM 13 and if it was denied, I think we would say that that was when the  
09:04AM 14 statute would actually start tolling -- start running.

09:04AM 15 THE COURT: Okay. Then we agreed statute of limitations  
09:04AM 16 wasn't running before the statute was passed.

09:04AM 17 MR. KRISHNAN: (Nodding.)

09:04AM 18 THE COURT: Then it seems to me that your equitable  
09:05AM 19 tolling arguments relate to this criminal trial, and I am thus  
09:05AM 20 trying to appreciate the relevance of the fear of persecution  
09:05AM 21 because that has nothing to do with the circumstances that you  
09:05AM 22 contend -- meaning accepting that the fear of persecution tolled  
09:05AM 23 up to 2005 or 2008.

09:05AM 24 MR. KRISHNAN: It was a small point, Your Honor.

09:05AM 25 THE COURT: But that wouldn't -- meaning if it tolled in

09:05AM 1 2005, 2008, the claim is untimely if that was -- meaning if that's  
09:05AM 2 what you were traveling on.

09:05AM 3 MR. KRISHNAN: Yes, you're right. It only gets us to  
09:05AM 4 2005, 2008, and we filed in 2020. So unless we get reasonable  
09:05AM 5 reliance on the criminal proceeding, then we have a problem. But  
09:05AM 6 the one thing I want to say is I think fear gets us to at least  
09:05AM 7 2005, and I say at least because -- it's just a minor point --  
09:06AM 8 that there was actually reasons for being fearful even after 2005,  
09:06AM 9 and that was the only point of that testimony. That if there was  
09:06AM 10 any concern -- the question in the jury's mind that in 2004 maybe  
09:06AM 11 it was okay -- maybe you weren't fearful at that point, our point  
09:06AM 12 is simply that reasons for fear continue until this day in  
09:06AM 13 Argentina. And so they have been engaged in the criminal process,  
09:06AM 14 but we think we're entitled to pursue multiple bases for tolling,  
09:06AM 15 and we think the jury could easily find that fear takes them well  
09:06AM 16 past 2005.

09:06AM 17 THE COURT: Okay. Ms. Matthews, I know that you wanted  
09:06AM 18 to be heard.

09:06AM 19 MS. MATTHEWS: I would just say that there is a second  
09:06AM 20 affirmative defense that these acts are also relevant to. The  
09:06AM 21 exhaustion of local remedies defense has been advanced by the  
09:06AM 22 defendant, and the fact the plaintiffs were unable to pursue  
09:07AM 23 remedies in Argentina because of the fear of retaliation and  
09:07AM 24 repression is also relevant to that defense, and that goes through  
09:07AM 25 the entire time period also.

09:07AM 1 THE COURT: Ms. Matthews, will you give me the cite on  
09:07AM 2 the Fourth Circuit case you just relied on.

09:07AM 3 MS. MATTHEWS: Warfa v Reali, and I can get you the  
09:07AM 4 number.

09:07AM 5 MR. DAVIS: I didn't hear the first.

09:07AM 6 MS. MATTHEWS: W-A-R-F-A v R-E-A-L-I. The number is 1 F  
09:07AM 7 44289.

09:07AM 8 THE COURT: Sorry. Do it again for me. 1 --

09:07AM 9 MS. MATTHEWS: 1 F 42889.

09:08AM 10 THE COURT: Okay. I want to take a look at that. I  
09:08AM 11 recognize that based on your jury instructions and your  
09:08AM 12 anticipated brief, Mr. Davis, that you mentioned at the calendar  
09:08AM 13 call that you intend to file that the parties disagree on the law  
09:08AM 14 with respect to the equitable tolling. The point Ms. Matthews  
09:08AM 15 makes with respect to the other affirmative defense though is  
09:08AM 16 interesting, and I don't know that you've had an opportunity to  
09:08AM 17 respond to that. I will tell you with respect to that affirmative  
09:08AM 18 defense, I have -- I would like a proffer of what it is you're  
09:08AM 19 going to demonstrate were the administrative remedies that these  
09:08AM 20 plaintiffs failed to exhaust.

09:08AM 21 MR. DAVIS: It's one of the affirmative defenses that  
09:08AM 22 plaintiffs were factually relying on statute of limitations as you  
09:09AM 23 know from our position. You know the -- frankly, it's their  
09:09AM 24 burden and I think to show what they've done and to pursue to  
09:09AM 25 these claims, and they're not going to be able to satisfy that it

09:09AM 1 was timely done. In fact, I think what counsel said -- to proffer  
09:09AM 2 now would be tantamount to admitting they're not going to be able  
09:09AM 3 to toll statute of limitations because in 2008 once every  
09:09AM 4 conceivable item of suspending the claims is ended by 2008 where  
09:09AM 5 they admit that they knew where Mr. Bravo was, where they admit  
09:09AM 6 that the process is going, when they admit that they're pursuing  
09:09AM 7 it, that that would have been the very absolute last day -- I  
09:09AM 8 think the statute started running far before that -- where they  
09:09AM 9 would have any kind of colorable argument to say the statute  
09:09AM 10 hasn't run. So that means that they're out of court, Your Honor,  
09:09AM 11 because if -- the case was filed in October of 2020. But we will  
09:09AM 12 have our brief submitted. We'll finalize it now and get it on  
09:10AM 13 file as soon as possible so you can see what our law is as to the  
09:10AM 14 exhaustion of remedies. Long answer.

09:10AM 15 THE COURT: Yes.

09:10AM 16 MR. DAVIS: We could submit a brief on that as well  
09:10AM 17 putting out the facts, but it's really the fact that they -- these  
09:10AM 18 plaintiffs got, you know, compensation within Argentina based upon  
09:10AM 19 what we have heard and from the two only -- only two of the  
09:10AM 20 plaintiffs had deposition taken. Two have not. From what we  
09:10AM 21 understand, that they have received compensation.

09:10AM 22 THE COURT: Forgive me. I didn't understand that. So  
09:10AM 23 would it be your position that the affirmative defense applies  
09:10AM 24 only in the absence -- or to the extent that any of these  
09:10AM 25 plaintiffs did not seek the compensation from the government of

09:10AM 1 Argentina?

09:10AM 2 MR. DAVIS: Yes.

09:10AM 3 THE COURT: Okay. So with that at least with respect to  
09:10AM 4 Ms. Krueger and Ms. Santucho, both those you know they did seek  
09:11AM 5 that; is that right?

09:11AM 6 MR. DAVIS: There is some testimony to that, yes.

09:11AM 7 THE COURT: Okay. Do I understand your position then  
09:11AM 8 that you would withdraw the affirmative defense with respect to  
09:11AM 9 those two?

09:11AM 10 MR. DAVIS: I will -- if I may -- give me till tonight to  
09:11AM 11 answer that question, Your Honor.

09:11AM 12 THE COURT: Because it seems to me if the affirmative  
09:11AM 13 defense is withdrawn as to them, then that would negate your need  
09:11AM 14 to prove fear of persecution for the purpose you just advanced,  
09:11AM 15 Ms. Matthews, to at least those two plaintiffs. So I think it is  
09:11AM 16 important for us to know, again, what is at issue and what the  
09:11AM 17 parties intend to advance. To the extent then likewise the other  
09:11AM 18 two plaintiffs testify to having exhausted a remedy the defense  
09:11AM 19 concedes would be sufficient to take their affirmative defense off  
09:11AM 20 the table. Again, that would negate the need for more  
09:11AM 21 specifically in legalese relevance advancing it for that purpose.

09:12AM 22 So -- all right. Well, this was at least constructive  
09:12AM 23 for me to understand where it is that you think you need to go so  
09:12AM 24 that I can hear if that's in fact where you're going.

09:12AM 25 Do I have seven? I have seven.

09:12AM 1 Oh, so that you know -- I know that this is going to seem  
09:12AM 2 early. There was one hearing I could not reschedule because it  
09:12AM 3 involved an inmate. It is going to occur at 10:00. It is by  
09:12AM 4 Zoom. It will be minutes. So instead of taking normally our  
09:12AM 5 break at 10:15, I'm going to stop at 9:59. So whoever is  
09:12AM 6 questioning just be cognizant that if you don't look, I may  
09:12AM 7 interrupt you at 9:59 and do a very quick Zoom while you all are  
09:12AM 8 taking your morning break, and then we will just take up in  
09:12AM 9 15 minutes, but now you know. Okay. All right.

09:12AM 10 Mr. Cappello is here? I don't see Mr. Cappello. Mr.  
09:13AM 11 Krishnan, do you have your client? I don't see him. Oh, there he  
09:13AM 12 is.

09:13AM 13 MS. VARGAS: He's right outside.

09:13AM 14 MR. KRISHNAN: Would you like him on the stand?

09:13AM 15 THE COURT: Yes, thank you.

09:13AM 16 (Jury in at 9:13 A.M.)

09:14AM 17 THE COURT: Good morning, and welcome back. I understand  
09:14AM 18 that the Miami-Dade traffic was its usual friendly self this  
09:14AM 19 morning. Hopefully, it will be nicer to us the rest of the week,  
09:14AM 20 but we're all here now. Is everyone ready to resume?

09:14AM 21 JURY: Yes.

09:14AM 22 THE COURT: Mr. Cappello is still on the stand. Counsel,  
09:14AM 23 you may be seated.

09:14AM 24 MS. VARGAS: Thank you, Your Honor.

09:14AM 25 Good morning, Mr. Cappello.

09:14AM 1 THE COURT: Just a moment to let the -- one second.

09:14AM 2 Mr. Cappello, I will remind you that you remain under

09:14AM 3 oath.

09:14AM 4 Now, counsel.

09:14AM 5 EDUARDO CAPPELLO, A PLAINTIFF, PREVIOUSLY SWORN

09:14AM 6 DIRECT EXAMINATION

09:14AM 7 BY MS. VARGAS:

09:14AM 8 Q. Good morning, Mr. Cappello. And may I ask you that you  
09:14AM 9 respond to my questions as briefly as possible?

09:15AM 10 A. Okay.

09:15AM 11 Q. Mr. Cappello, without telling any details, can you tell me the  
09:15AM 12 reasons why you didn't file a lawsuit against Bravo earlier?

09:15AM 13 A. Honestly, we did not know where Bravo was until 2008. The  
09:15AM 14 truth is that before that date, my family was living under a lot  
09:15AM 15 of fear. And it is also true that we had very little information  
09:16AM 16 as to what had taken place, because the navy never provided us  
09:16AM 17 with any information as to what had happened.

09:16AM 18 Q. Mr. Cappello, speaking of fear, specifically fear you felt,  
09:16AM 19 not your family, but you specifically, when was the time -- the  
09:16AM 20 first time you felt afraid in this context?

09:16AM 21 MR. DAVIS: Objection. Relevance, Your Honor.

09:16AM 22 THE COURT: Overruled.

09:16AM 23 THE WITNESS: I believe that was in 1986.

09:17AM 24 BY MS. VARGAS:

09:17AM 25 Q. Can you very briefly say why?



09:17AM 1 A. That was the year where -- when two laws were enacted in  
09:17AM 2 Argentina, one of them called Full Stop and Due Obedience. And  
09:17AM 3 this law prohibited the government from investigating or trying  
09:17AM 4 the military.

09:18AM 5 I -- in light of that event, then my grandmother and I had a  
09:18AM 6 discussion where we talked about -- she told me that if the  
09:18AM 7 military were to be back in power, then we would be forced to  
09:18AM 8 leave the country.

09:18AM 9 MR. DAVIS: Your Honor, it's not responsive -- I move to  
09:18AM 10 strike. It's not responsive to the question that was asked. It's  
09:18AM 11 also not relevant. This witness is now talking about laws that --  
09:18AM 12 you know, they have legal experts that they intend to proffer  
09:18AM 13 here, so it would be outside of anything -- this witness could not  
09:18AM 14 talk about laws.

09:18AM 15 THE COURT: Overruled on the basis that he has spoken  
09:18AM 16 with any legal expertise as opposed to identifying the passage of  
09:18AM 17 that law as the explanation for his answer about 1986.

09:18AM 18 BY MS. VARGAS:

09:19AM 19 Q. And at that moment when your grandmother related to you the --  
09:19AM 20 pardon me. Strike that.

09:19AM 21 At that moment, did you understand why your grandmother felt  
09:19AM 22 that you might need to leave the country?

09:19AM 23 MR. DAVIS: Objection. Hearsay, Your Honor.

09:19AM 24 THE COURT: Sustained.

09:19AM 25 BY MS. VARGAS:

09:19AM 1 Q. Mr. Cappello, why did you believe you had to leave the  
09:19AM 2 country?

09:19AM 3 MR. DAVIS: Objection, Your Honor. Time frame.

09:19AM 4 THE COURT: Overruled.

09:19AM 5 THE WITNESS: Because our family had been persecuted and  
09:19AM 6 murdered, and that could happen again.

09:20AM 7 BY MS. VARGAS:

09:20AM 8 Q. Did you and your family speak about Eduardo's death?

09:20AM 9 A. Yes, frequently. Almost daily.

09:20AM 10 Q. Who in your family spoke with you about Eduardo's death?

09:20AM 11 A. My grandfather Jorge and my grandmother Soledad.

09:20AM 12 Q. And what feelings did your knowledge of Eduardo's death cause  
09:20AM 13 when you were a child?

09:20AM 14 THE DEFENDANT: Object. Hearsay, Your Honor.

09:20AM 15 THE COURT: Overruled.

09:20AM 16 THE WITNESS: It is likely that when I was a child, I was  
09:21AM 17 not able to fully comprehend what those conversations meant. But  
09:21AM 18 as time went by, when you're older and you look back and you start  
09:21AM 19 thinking about all the things that were told to you, the things  
09:21AM 20 that I could and could not say in public, I came to understand  
09:21AM 21 that I had been living in fear throughout the entire time.

09:22AM 22 BY MS. VARGAS:

09:22AM 23 Q. What are the things --

09:22AM 24 You just said that there were things you could and couldn't  
09:22AM 25 say in public. What are the things you couldn't say in public?

09:22AM 1 MR. DAVIS: Objection. Relevance.

09:22AM 2 THE COURT: Overruled.

09:22AM 3 THE WITNESS: Well, my feelings were because I was being  
09:22AM 4 told this by my grandparents that I could not publicly speak about  
09:22AM 5 the fact that my uncle had been murdered and my parents had been  
09:22AM 6 disappeared.

09:23AM 7 MR. DAVIS: Your Honor, I'd move to strike. He was -- he  
09:23AM 8 wasn't asked a question about what his grandmother said.

09:23AM 9 THE COURT: I'm going to deny the motion to strike and  
09:23AM 10 instruct the witness to listen carefully to the question that the  
09:23AM 11 attorney asked you. In this example, she had asked you what you  
09:23AM 12 couldn't say in public, and limit your answers to the question  
09:23AM 13 that's asked. Okay?

09:23AM 14 THE WITNESS: Okay.

09:23AM 15 BY MS. VARGAS:

09:23AM 16 Q. Without telling me what you know, the specifics, the content,  
09:23AM 17 without telling me that, do you know if your family ever did  
09:23AM 18 anything to seek justice for Eduardo's death? Do you know, yes or  
09:24AM 19 no, if your family did anything to seek justice?

09:24AM 20 A. Yes, they did.

09:24AM 21 Q. What is your understanding of what your family did?

09:24AM 22 THE COURT: Counsel, lay a foundation first how he knows.

09:24AM 23 BY MS. VARGAS:

09:24AM 24 Q. How do you know?

09:24AM 25 A. I found a copy of a lawsuit that had been filed back in 1974.

09:24AM 1 Q. And without telling me what was said, did you ever discuss  
09:24AM 2 with your grandmother or grandfather this lawsuit?

09:24AM 3 A. Yes, I did.

09:25AM 4 Q. With grandmother or grandfather or both?

09:25AM 5 A. With both of them, but more in-depth with my grandmother.

09:25AM 6 Q. When did they have discussions -- these discussions with you?

09:25AM 7 A. I could not tell you a specific time. This was throughout my  
09:25AM 8 childhood and --

09:25AM 9 Q. What is -- what did your grandparents -- do you know what  
09:26AM 10 happened with the case?

09:26AM 11 MR. DAVIS: Objection. Lack of foundation.

09:26AM 12 THE COURT: Overruled.

09:26AM 13 THE WITNESS: The case did not move forward in the legal  
09:26AM 14 system. And my grandparents did not try to drive it forward.

09:26AM 15 BY MS. VARGAS:

09:26AM 16 Q. Did your grandparents discuss with you the reasons for not  
09:26AM 17 driving the case forward?

09:26AM 18 A. Yes, they did.

09:26AM 19 Q. What is your understanding of why they stopped driving forward  
09:26AM 20 the case?

09:26AM 21 MR. DAVIS: Objection. Hearsay.

09:26AM 22 THE COURT: Response?

09:26AM 23 MS. VARGAS: Your Honor, this is about his understanding  
09:26AM 24 at the time of his conversation with his grandparents of why that  
09:27AM 25 case was stopped, and it is relevant -- the reasons for stopping

09:27AM 1 that case may be relevant to plaintiffs' feelings of insecurity  
09:27AM 2 and fear.

09:27AM 3 THE COURT: The response to the hearsay objection though?

09:27AM 4 MS. VARGAS: It is about -- this is not for the truth but  
09:27AM 5 for the effect it had on Mr. Cappello.

09:27AM 6 THE COURT: Overruled.

09:27AM 7 BY MS. VARGAS:

09:27AM 8 Q. What is your understanding of why they stopped moving the case  
09:27AM 9 forward?

09:27AM 10 A. The reason is fear, feeling their lives were at risk.

09:27AM 11 Q. Did your grandparents ever discuss with you this sense of fear  
09:28AM 12 in the context of that lawsuit?

09:28AM 13 MR. DAVIS: Objection. Hearsay, Your Honor.

09:28AM 14 THE COURT: Overruled.

09:28AM 15 BY MS. VARGAS:

09:28AM 16 Q. Yes or no? Just yes or no?

09:28AM 17 A. Yes.

09:28AM 18 Q. Did they ever tell you about their sense of fear at the time  
09:28AM 19 that they were feeling that fear when discussing this lawsuit.

09:28AM 20 MR. DAVIS: Objection. Hearsay, Judge.

09:28AM 21 BY MS. VARGAS:

09:28AM 22 Q. Yes or no --

09:28AM 23 THE COURT: Overruled.

09:29AM 24 THE WITNESS: Yes.

09:29AM 25 BY MS. VARGAS:

09:29AM 1 Q. Did anything that your grandparents told you cause -- about  
09:29AM 2 that lawsuit cause you fear?

09:29AM 3 MR. DAVIS: Objection. Hearsay. Irrelevance.

09:29AM 4 THE COURT: Overruled on both.

09:29AM 5 THE WITNESS: I was very young at the time and within the  
09:30AM 6 context of the period of this lawsuit was filed, but I came to  
09:30AM 7 understand it later.

09:30AM 8 BY MS. VARGAS:

09:30AM 9 Q. When your grandparents started raising you -- pardon me.

09:30AM 10 First, after your parents were disappeared, who raised you?

09:30AM 11 A. My grandparents, Jorge and Soledad.

09:30AM 12 Q. And when your grandparents started raising you, where did you  
09:30AM 13 all live? What city?

09:30AM 14 A. We lived in Buenos Aires.

09:30AM 15 Q. Did you live in Buenos Aires all your life?

09:31AM 16 A. No, only my early years.

09:31AM 17 Q. Where did you live after those early years?

09:31AM 18 A. In a town called Villa Gesell.

09:31AM 19 Q. Where is Villa Gesell?

09:31AM 20 A. It is 400 kilometers south of Buenos Aires.

09:31AM 21 Q. How big is that town?

09:31AM 22 A. At that time, it was a very small town. The population was  
09:31AM 23 less than 10,000.

09:32AM 24 Q. How old were you when you moved?

09:32AM 25 A. Three years old, three years old.

09:32AM 1 Q. Did your grandparents -- without telling me what you  
09:32AM 2 discussed, did your grandparents ever discuss with you the reasons  
09:32AM 3 why you moved to Villa Gesell?  
09:32AM 4 A. Yes, they did.  
09:32AM 5 Q. How many times did you discuss this?  
09:32AM 6 A. Many times.  
09:32AM 7 Q. What is your understanding of why you moved to Villa Gesell?  
09:33AM 8 A. They moved out of fear because they were being threatened and  
09:33AM 9 because they understood that the best way to protect me was to  
09:33AM 10 live in hiding.  
09:33AM 11 Q. You say you understood that they felt threatened. Do you have  
09:33AM 12 an understanding of what made them feel threatened?  
09:33AM 13 MR. DAVIS: Objection, Judge. Hearsay. Calls for  
09:33AM 14 speculation.  
09:33AM 15 MS. VARGAS: Your Honor, let me try and lay one more  
09:33AM 16 foundation question before we start.  
09:34AM 17 BY MS. VARGAS:  
09:34AM 18 Q. When you -- when you heard or when you understood that your  
09:34AM 19 grandparents felt threatened, how did that make you feel?  
09:34AM 20 MR. DAVIS: Objection. Relevance, Judge.  
09:34AM 21 THE COURT: Overruled.  
09:34AM 22 THE WITNESS: Sadness, concern, fear.  
09:34AM 23 BY MS. VARGAS:  
09:34AM 24 Q. And how old were you when you first recall having these  
09:34AM 25 feelings?

09:34AM 1 A. 11 or 12 years old.

09:34AM 2 Q. How old were you when you found out -- or, rather, when did  
09:34AM 3 you find out that your parents had been disappeared?

09:35AM 4 A. Around that same age, 11, 12 years old.

09:35AM 5 Q. Going back to the feeling of being threatened, what was your  
09:35AM 6 understanding of why your grandparents felt threatened?

09:35AM 7 MR. DAVIS: Objection. Hearsay, Judge.

09:35AM 8 THE COURT: Overruled.

09:35AM 9 THE WITNESS: The families associated with Trelew were  
09:36AM 10 persecuted and many of them had to go into exile.

09:36AM 11 In my case, my parents were detained and disappeared.  
09:36AM 12 And the attorneys representing my grandparents disappeared as  
09:36AM 13 well.

09:36AM 14 BY MS. VARGAS:

09:36AM 15 Q. Let's speak specifically about the reasons for your -- that  
09:36AM 16 you felt as a child -- let's speak specifically about the reasons  
09:36AM 17 for feeling under threat of your grandparents that provoked the  
09:36AM 18 sense of fear in you. Is there anything that, aside from -- and I  
09:36AM 19 realize this is a bit callous -- but aside from your parents'  
09:37AM 20 disappearance, is there anything that your grandparents -- is  
09:37AM 21 there anything that happened that made your grandparents feel  
09:37AM 22 under threat?

09:37AM 23 MR. DAVIS: Objection. Calls for hearsay, speculation.

09:37AM 24 THE COURT: Let me make sure I understand. The question  
09:37AM 25 is did anything else happen?



09:37AM 1 MS. VARGAS: Yes.

09:37AM 2 THE COURT: If he knows.

09:37AM 3 MS. VARGAS: May I restate it so there is a proper  
09:37AM 4 translation and clear translation?

09:37AM 5 THE COURT: Yes.

09:37AM 6 BY MS. VARGAS:

09:37AM 7 Q. My question is whether anything else happened to your family  
09:38AM 8 that created these feelings of feeling threatened, to your family?

09:38AM 9 MR. DAVIS: Your Honor -- well, it should be a yes or no  
09:38AM 10 answer. I didn't know where he was going to go.

09:38AM 11 BY MS. VARGAS:

09:38AM 12 Q. Please, just yes or no?

09:38AM 13 A. Yes. Excuse me.

09:38AM 14 Q. Can you just tell me one, one event that happened to your  
09:38AM 15 family briefly without describing the details that elicited  
09:38AM 16 feelings of being threatened?

09:38AM 17 THE COURT: In him?

09:38AM 18 BY MS. VARGAS:

09:38AM 19 Q. Pardon me. In you particularly as you heard the stories from  
09:39AM 20 your grandparents -- no. I'm sorry. Let me state the question  
09:39AM 21 shorter.

09:39AM 22 Can you just tell me one story, and very briefly, of  
09:39AM 23 something that happened to your family that elicited these  
09:39AM 24 feelings in you specifically?

09:39AM 25 A. Yes. On one occasion in August of 1976, a military group went

09:39AM 1 into my grandparents' home. I was with them at the time. And  
09:39AM 2 they were held for 36 hours waiting for my father to come by and  
09:40AM 3 pick me up.

09:40AM 4 Q. How did you feel knowing that this happened to your family?

09:40AM 5 MR. DAVIS: Objection, Judge. The witness didn't even  
09:40AM 6 see the incident as I understand it.

09:40AM 7 THE COURT: No. He -- overruled. For the interpreter,  
09:40AM 8 please repeat the question. Thank you.

09:40AM 9 BY MS. VARGAS:

09:40AM 10 Q. And how did you feel knowing that this happened to your  
09:40AM 11 family?

09:40AM 12 A. Terrorized.

09:40AM 13 Q. Did Argentina return to democracy at some point?

09:40AM 14 A. Yes, in 1983.

09:41AM 15 Q. And again without explaining or giving details, did you feel  
09:41AM 16 safe after that?

09:41AM 17 A. No.

09:41AM 18 Q. Can you explain briefly why?

09:41AM 19 A. Because often -- actually, all the time, there were situations  
09:41AM 20 that came about which demonstrated that the military continued to  
09:41AM 21 hold power.

09:41AM 22 Q. When you say situations demonstrated, demonstrated to whom?

09:42AM 23 A. I understand that it was society at large, but in particular,  
09:42AM 24 those of us who had suffered under state-sponsored terrorism.

09:42AM 25 Q. And were there -- just giving a yes or no answer, were there

09:42AM 1 concrete situations that made you feel unsafe after democracy  
09:42AM 2 returned? Just yes or no?  
09:42AM 3 A. Yes.  
09:42AM 4 Q. Can you relate one example of a situation that you learned  
09:42AM 5 that made you feel unsafe?  
09:43AM 6 MR. DAVIS: Objection, Judge. This is now for sure  
09:43AM 7 calling for hearsay. This is a situation he learned of.  
09:43AM 8 THE COURT: Go ahead and lay a predicate. Sustained.  
09:43AM 9 BY MS. VARGAS:  
09:43AM 10 Q. Mr. Cappello, without saying what, did you at any point learn  
09:43AM 11 of a particular situation that made you feel unsafe after  
09:43AM 12 democracy?  
09:43AM 13 A. Yes.  
09:43AM 14 Q. When, without again saying what it was, when did this  
09:44AM 15 situation -- when did you learn of this situation?  
09:44AM 16 A. In 1992.  
09:44AM 17 Q. And how did you learn of this situation?  
09:44AM 18 A. It was a situation that was politically very public.  
09:44AM 19 Q. Without telling what it is, was this a situation or an event  
09:44AM 20 that was important to the country?  
09:44AM 21 A. Yes, it was.  
09:44AM 22 Q. What was it?  
09:45AM 23 A. These were the amnesty laws.  
09:45AM 24 Q. How did the amnesty laws affect your feelings of fear?  
09:45AM 25 A. That amnesty law meant that military -- members of the

09:45AM 1 military who had been tried and convicted would now be able to be  
09:45AM 2 able -- to be released. And that all came about at the same time  
09:45AM 3 when I was in the process of making a decision as to pursuing my  
09:46AM 4 university education. And for me, that would have represented the  
09:46AM 5 fact that I had to go back to Buenos Aires which was the location  
09:46AM 6 where all the events that I have related took place. This was a  
09:46AM 7 very difficult decision that we made within the family because it  
09:46AM 8 was unknown at that time after these laws were enacted what  
09:46AM 9 reaction society would have towards those of us or the individuals  
09:46AM 10 who had suffered under the state-sponsored terrorism.

09:46AM 11 Q. Mr. Cappello, can you explain very briefly how your sense of  
09:47AM 12 fear, your sense of fear at that moment, what you're describing  
09:47AM 13 right now, when you say it was not clear how society would react  
09:47AM 14 to knowing that you might be a childhood disappeared, how did that  
09:47AM 15 fear manifest or affect you?

09:47AM 16 THE INTERPRETER: I'm sorry, counsel. Would you mind  
09:47AM 17 repeating the question, please?

09:47AM 18 BY MS. VARGAS:

09:47AM 19 Q. When you say that this was a moment of fear, this was an  
09:47AM 20 event -- pardon me -- that you did not know how society would  
09:47AM 21 react to knowing that you might be -- that you were a child of the  
09:47AM 22 disappeared, can you just explain how exactly did that fear  
09:48AM 23 manifest itself? What kind of actions? I'm just trying to  
09:48AM 24 understand how it affected your life, this fear?

09:48AM 25 MR. DAVIS: Objection, Judge. It's irrelevant as to the

09:48AM 1 issues raised in this case. It's also speculation.

09:48AM 2 THE COURT: Overruled.

09:48AM 3 THE WITNESS: Well, there were situations where I  
09:49AM 4 couldn't say who I was.

09:49AM 5 BY MS. VARGAS:

09:49AM 6 Q. Why couldn't you?

09:49AM 7 A. Because we understood or we knew that that would be an  
09:49AM 8 aggravating situation for me, or that could put me at risk.

09:49AM 9 Q. And just to be clear, when you say I couldn't say who I was,  
09:49AM 10 what -- what do you mean by that?

09:49AM 11 A. That I couldn't mention my uncle had been murdered in Trelew  
09:49AM 12 or that my parents had been disappeared.

09:49AM 13 Q. Did the government -- strike that.

09:50AM 14 Did the government of Argentina ever create any reparations  
09:50AM 15 for victims of the military?

09:50AM 16 A. Yes, they did.

09:50AM 17 Q. Did those reparations apply to your family with regard to  
09:50AM 18 Eduardo -- pardon --

09:50AM 19 Were those reparations available to you with regard to  
09:50AM 20 Eduardo's murder?

09:50AM 21 A. They were available to my family but not to me; to my  
09:51AM 22 grandmother.

09:51AM 23 Q. Did your grandmother seek those reparations?

09:51AM 24 A. Yes, she did.

09:51AM 25 Q. Did she receive them?

09:51AM 1 A. Yes.

09:51AM 2 Q. Did you personally seek any of these benefits?

09:51AM 3 A. No, they didn't -- I was not entitled to them. My family --

09:51AM 4 if my grandmother had already received them.

09:51AM 5 Q. So if I'm understanding correctly, you did not personally seek

09:51AM 6 these because your grandmother had already received them, and you

09:51AM 7 could not seek them again? Yes?

09:52AM 8 A. Yes, that's what I meant.

09:52AM 9 Q. Did there ever come a time when you, you personally, began to

09:52AM 10 participate in a proceeding against the perpetrators of the Trelew

09:52AM 11 Massacre in Argentina? Pardon me. Let me rephrase the question

09:52AM 12 so the translation is accurate.

09:52AM 13 Did there ever come a time when you began to participate

09:52AM 14 in -- participate in a proceeding that existed against the

09:52AM 15 perpetrators of the Trelew Massacre?

09:52AM 16 A. Not -- not I directly, no.

09:53AM 17 Q. Did anyone in your family?

09:53AM 18 A. Yes, my grandmother.

09:53AM 19 Q. How did she participate -- pardon me.

09:53AM 20 What proceedings are we talking about?

09:53AM 21 A. We are talking about the trial against the perpetrators of the

09:53AM 22 Trelew Massacre.

09:53AM 23 Q. How exactly did your grandmother participate?

09:53AM 24 A. She was one of the plaintiffs.

09:54AM 25 Q. Is -- just to help me understand -- was this a criminal or a

09:54AM 1 civil case?

09:54AM 2 A. Criminal.

09:54AM 3 Q. And did you support this criminal proceeding?

09:54AM 4 A. Yes, correct. I accompanied Soledad in the whole process.

09:54AM 5 Q. Were you -- in the process of accompanying Soledad in the

09:54AM 6 process, did you become aware of the developments of the case,

09:54AM 7 without telling me what they were?

09:55AM 8 A. Yes, I did.

09:55AM 9 Q. Do you know if Mr. Bravo was investigated as part of this

09:55AM 10 criminal investigation?

09:55AM 11 A. Yes, Bravo was part of the investigation.

09:55AM 12 Q. Around that same -- when -- what year did this investigation

09:55AM 13 begin?

09:55AM 14 A. In 2005.

09:56AM 15 Q. In 2005, did you seek to file a lawsuit against Mr. Bravo in

09:56AM 16 the United States?

09:56AM 17 A. No.

09:56AM 18 Q. Why not?

09:56AM 19 A. Because we didn't know where he was. We didn't know that he

09:56AM 20 was in the United States.

09:56AM 21 Q. Was it your understanding in 2005 that -- strike that.

09:56AM 22 When did you find out where Bravo was?

09:56AM 23 A. In 2008.

09:57AM 24 Q. How did you find out?

09:57AM 25 A. My grandmother received a call from the attorneys, and they

09:57AM 1 stated that they had finally been able to locate him and that he  
09:57AM 2 was in the United States.

09:57AM 3 Q. When your grandmother received that phone call, were you with  
09:57AM 4 her?

09:57AM 5 A. Yes. It was a very important moment for the family.

09:58AM 6 Q. Why was it an important moment for the family?

09:58AM 7 A. Because it gave us the possibility of him being tried in  
09:58AM 8 Argentina through the possibility of being extradited.

09:58AM 9 Q. And is it your understanding that the -- his extradition was  
09:58AM 10 sought?

09:58AM 11 A. The extradition was requested in 2010.

09:58AM 12 Q. Did Bravo get extradited and go back to Argentina to stand  
09:59AM 13 trial?

09:59AM 14 A. No, unfortunately not.

09:59AM 15 Q. What happened to the trial in Argentina after Mr. Bravo  
09:59AM 16 didn't -- one moment. When -- strike my question.

09:59AM 17 When did you -- why was he not extradited?

09:59AM 18 MR. DAVIS: Objection, Judge. That calls for a legal  
09:59AM 19 conclusion.

09:59AM 20 MS. VARGAS: Let me restate the question. I'm not asking  
09:59AM 21 for a legal conclusion. I'll restate it.

09:59AM 22 THE COURT: Sustained.

09:59AM 23 BY MS. VARGAS:

09:59AM 24 Q. Did you at some point find out that he would not be  
09:59AM 25 extradited?



10:00AM 1 A. Yes.

10:00AM 2 Q. When?

10:00AM 3 A. I think it was toward the end of 2010, beginning of 2011.

10:00AM 4 MS. VARGAS: Your Honor, I can take a pause here for you.

10:00AM 5 THE COURT: Thank you so much, but I don't think it's  
10:00AM 6 necessary. I will explain later. If the jury is okay, we'll go  
10:00AM 7 for maybe another 15 or 20 minutes before we take our midmorning  
10:00AM 8 break? I see nodding heads. Okay. You have the floor.

10:00AM 9 MS. VARGAS: Thank you.

10:00AM 10 BY MS. VARGAS:

10:00AM 11 Q. So around the time when you found out that Mr. Bravo would not  
10:00AM 12 be getting extradited, after that, what happened to the criminal  
10:00AM 13 trial in Argentina?

10:01AM 14 MR. DAVIS: Objection, Judge. It's calling for a  
10:01AM 15 narrative about what happened. I didn't hear what his answer was,  
10:01AM 16 but it seems to me -- you know, they have the documents. It would  
10:01AM 17 be inappropriate for the witness just to comment on the legal  
10:01AM 18 proceedings.

10:01AM 19 THE COURT: I'm sorry, there's no pending question, so  
10:01AM 20 I'm trying to understand your objection.

10:01AM 21 MR. DAVIS: I understood she -- she asked him to say what  
10:01AM 22 happened in the criminal proceedings in Argentina maybe -- maybe I  
10:01AM 23 was reading in the question, and it didn't come through.

10:01AM 24 THE COURT: Let's go question by question. Thank you.  
10:01AM 25 Go ahead, counsel.

10:01AM 1 MS. VARGAS: May I repeat the question, or may we hear  
10:01AM 2 the translation through the answer?

10:01AM 3 THE COURT: There wasn't a question pending.

10:01AM 4 THE INTERPRETER: I'm sorry, Your Honor, the answer was  
10:01AM 5 pending translation or interpretation.

10:01AM 6 THE COURT: I didn't see a question. I'm sorry. Can you  
10:01AM 7 repeat the question then because I didn't understand there to be  
10:02AM 8 one pending?

10:02AM 9 MS. VARGAS: Pardon me.

10:02AM 10 BY MS. VARGAS:

10:02AM 11 Q. So after you found out that Mr. Bravo was not getting  
10:02AM 12 extradited, do you have an understanding of what happened to the  
10:02AM 13 case, not his case, but the criminal investigation at large that  
10:02AM 14 you were participating in?

10:02AM 15 MR. DAVIS: That was a yes or no.

10:02AM 16 MS. VARGAS: That's fine. I can.

10:02AM 17 BY MS. VARGAS:

10:02AM 18 Q. Can you limit it to yes or no?

10:02AM 19 A. Yes.

10:02AM 20 Q. And without saying any description of the results, can you  
10:02AM 21 tell me if the trial continued or not?

10:02AM 22 A. Yes, it did continue.

10:03AM 23 Q. Did it continue without Mr. Bravo?

10:03AM 24 A. That's correct.

10:03AM 25 Q. Before the criminal prosecution began, what did you know about

10:03AM 1 the perpetrators of the Trelew Massacre?

10:03AM 2 A. Very little.

10:03AM 3 Q. Can you again very briefly elaborate on what did you know?

10:03AM 4 What little did you know?

10:03AM 5 A. We knew of some last names, for example Sosa and Bravo and not

10:04AM 6 much more than that.

10:04AM 7 Q. Did you have an idea of what country Mr. Sosa was in? Pardon

10:04AM 8 me. Strike that. Did you have an idea of what country Mr. Bravo

10:04AM 9 was in?

10:04AM 10 A. I'm sorry. At what point?

10:04AM 11 Q. Before the criminal prosecution began.

10:04AM 12 A. No, we didn't know.

10:04AM 13 Q. Did you know before the criminal prosecution began what -- did

10:05AM 14 you know whether there were -- strike that.

10:05AM 15 Before the criminal prosecution began, did you have any

10:05AM 16 information about potential witnesses regarding the Trelew

10:05AM 17 Massacre?

10:05AM 18 A. No, we did not know.

10:05AM 19 Q. And did you personally know?

10:05AM 20 A. No.

10:05AM 21 Q. And before the criminal prosecution began, did you have -- did

10:05AM 22 you have any information about whether there were documents about

10:05AM 23 the Trelew Massacre?

10:05AM 24 A. Official documents, no. We had some information from public

10:06AM 25 sources but no official documents.

10:06AM 1 Q. Once extradition was denied for -- Mr. Bravo's extradition was  
10:06AM 2 denied around as you said 2010, 2011, why didn't you go to the  
10:06AM 3 U.S. to sue Mr. Bravo?

10:06AM 4 A. Well, by that time the criminal process in Argentina was  
10:07AM 5 undergoing, and we knew that criminal process needed to finish  
10:07AM 6 before we made the next move.

10:07AM 7 Q. Why is that?

10:07AM 8 A. Because we knew that if we were to obtain a conviction to our  
10:07AM 9 favor, that would be a strong help to request the extradition  
10:07AM 10 again. We always, then and now, were convinced and are convinced  
10:07AM 11 that Bravo needs to be tried in Argentina.

10:08AM 12 Q. Did you get a favorable result? Was there a conviction of the  
10:08AM 13 other perpetrators in the trial in Argentina?

10:08AM 14 A. Yes, there was.

10:08AM 15 Q. And, again, just yes or no, and after that, was an extradition  
10:08AM 16 requested again by the Argentine government for Mr. Bravo?

10:08AM 17 A. Yes, it did.

10:08AM 18 Q. What's the status of that extradition?

10:08AM 19 A. It is currently before a judge in the United States who will  
10:08AM 20 decide if it will move forward or not.

10:09AM 21 Q. Mr. Cappello, how has the loss of your uncle affected you, you  
10:09AM 22 personally?

10:09AM 23 A. I think that my uncle's murder marked a turning point before  
10:09AM 24 and after in my family. Definitely Eduardo's death marked the  
10:10AM 25 beginning of a series of tragedies that included the disappearance

1 of my father, my mother, and my brother.

2 MR. DAVIS: Move to strike as nonresponsive, Judge.

3 THE COURT: Granted.

4 Mr. Cappello, your attorney's question was about how it  
5 affected you personally. Do you understand the question?

6 THE WITNESS: I think -- the thing is that I think -- I'm  
7 convinced that the death of my uncle affected my family and  
8 generated everything that happened to my family and to me also.

9 BY MS. VARGAS:

10 Q. Let's speak more specifically about your personal feelings  
11 regarding your uncle's death considering you were not born yet  
12 when he died.

13 A. Well, I just said that during my life, there were moments  
14 where I couldn't say who I was, I had to hide my own identity, and  
15 that is a very painful process. In addition to that, if I were to  
16 say who I was, the risk to my life was high.

17 Q. I want you to try and put aside for a moment the disappearance  
18 of your parents and brother, and tell me how Eduardo's death  
19 affected you and affects you today?

20 A. Well, first of all, my name is Eduardo Adolfo Cappello. I  
21 feel a great commitment toward Eduardo. And I -- definitely his  
22 death implied that I lost the possibility of someone to relate to.  
23 When my grandparents were older, it was just me who was able to be  
24 with them. I believe that if Eduardo had been alive, I would have  
25 had someone to lean on.

10:14AM 1 Q. Mr. Cappello, if you could say anything to Eduardo today, what  
10:14AM 2 would you say --

10:14AM 3 MR. DAVIS: Objection, Your Honor. She's asking -- if he  
10:14AM 4 could say anything for his --

10:14AM 5 MS. VARGAS: -- to Eduardo today.

10:14AM 6 MR. DAVIS: Relevance.

10:14AM 7 MS. VARGAS: Your Honor, this --

10:14AM 8 THE COURT: Overruled.

10:14AM 9 THE WITNESS: I would tell him that I hope that he would  
10:15AM 10 be just as proud of me as I am of him; that it took us 50 years to  
10:15AM 11 get here, but that we never gave up, and that I am quite sure that  
10:15AM 12 after we conclude this proceedings that we're involved in, the  
10:15AM 13 world will be just a little bit more just than what it used to be.

10:15AM 14 MS. VARGAS: Thank you. No further questions, Your  
10:15AM 15 Honor.

10:15AM 16 THE COURT: Mr. Davis, would you like to take the  
10:15AM 17 midmorning break before you begin your cross?

10:15AM 18 MR. DAVIS: Yes, Your Honor.

10:15AM 19 THE COURT: Okay. All right. Ladies and gentlemen, if  
10:15AM 20 we can keep it -- come back at 10:30. It's just shy of  
10:15AM 21 15 minutes, but let's see if we can't do that, okay.

10:16AM 22 (Jury out at 10:16 A.M.)

10:16AM 23 THE COURT: Counsel, as a quick housekeeping, somebody's  
10:16AM 24 phone was on vibrate during the testimony. I know that one, but  
10:16AM 25 there was -- I could hear a second one. I don't know if you

1 notice, but I have a microphone. It projects everything that  
2 happens at your microphones. So I hear it up here, and I think  
3 the court reporter does. If your phone is not on airplane mode,  
4 please put it on airplane mode when you're in the courtroom. And  
5 is there anything that we need to take up before our midmorning  
6 break?

7 Oh, my Zoom hearing was a no-show, so I didn't need to  
8 interrupt you. I was getting live updates from my other folks.  
9 So is there anything else that we need to take up before you take  
10 your midmorning break?

11 MR. KRISHNAN: Your Honor, let me just give you a little  
12 heads-up of where we're going, because I think there might be one  
13 ruling that we might want.

14 THE COURT: Do you want to sit down while you do so, does  
15 everyone else want to sit down while you do so?

16 MR. KRISHNAN: Thank you, Your Honor.

17 THE COURT: Should I excuse Mr. Cappello for this?

18 MR. KRISHNAN: It doesn't -- oh, you might as well,  
19 that's fine.

20 THE COURT: Go ahead and take your break. We'll see you  
21 back in 15. Thank you.

22 MR. KRISHNAN: So we're -- after the cross and all that,  
23 I think that we would move on to the deposition testimony of  
24 Alicia Krueger. And then at that point, I think the next thing we  
25 would like to do is read in the statement of Mr. Camps this is --

10:17AM 1 it's Apostille related, because I think there are altogether three  
10:18AM 2 statements. Two of them are already -- have been already  
10:18AM 3 admitted, and the third one is one that -- it's in the same, you  
10:18AM 4 know, it's functionally --

10:18AM 5 THE COURT: So if I understand you right, you need a  
10:18AM 6 ruling on the Apostille.

10:18AM 7 MR. KRISHNAN: Yes, as to Mr. Camps.

10:18AM 8 THE COURT: So two questions to the defense. I told  
10:18AM 9 Slader --

10:18AM 10 MR. SLADE: Slade.

10:18AM 11 THE COURT: Slade -- that you would have the opportunity  
10:18AM 12 to rephrase the objection, and I told you that would happen around  
10:18AM 13 noon. We're not there yet.

10:18AM 14 Mr. Davis, how long would you estimate you need for  
10:18AM 15 cross.

10:18AM 16 MR. DAVIS: Half an hour or so. It might be longer with  
10:18AM 17 the translation and all that, it might be longer. So I would say  
10:18AM 18 max an hour.

10:18AM 19 THE COURT: Okay. So then with the midmorning break, I  
10:18AM 20 still intend to turn back to Mr. Slade as promised after this  
10:18AM 21 witness comes off. You have heard that at this point I have not  
10:18AM 22 agreed to sustain this objection, but that I would give him the  
10:19AM 23 last opportunity to argue based on the timing of when they were  
10:19AM 24 able to receive and digest the brief. So we're still in the  
10:19AM 25 posture of -- the ball is in their court to present any further



10:19AM 1 evidence -- argument that would change that.

10:19AM 2 MR. SLADE. Thank you, Your Honor.

10:19AM 3 MR. KRISHNAN: Just so you know, I had mentioned this  
10:19AM 4 during the calendar call. This is -- we propose reading the brief  
10:19AM 5 by having a colleague of ours -- not a lawyer, but a friend of the  
10:19AM 6 legal team take the stand and read it. We would explain to the  
10:19AM 7 jury that this is Mr. Camps, and we would have the lawyer here --

10:19AM 8 THE COURT: When you say brief, you meant statement?  
10:19AM 9 There is not a separate brief, right? You said you would have his  
10:19AM 10 brief read. Are you referring to the statement?

10:19AM 11 MR. KRISHNAN: I'm sorry. I said brief. I meant the  
10:19AM 12 Camps survivor statement.

10:19AM 13 THE COURT: All right. So we're going to finish with Mr.  
10:19AM 14 Cappello and go into Ms. Krueger?

10:19AM 15 MR. DAVIS: Yes. Krueger's deposition, which I think is  
10:20AM 16 48 minutes, and then do the reading of the Camps statement.

10:20AM 17 THE COURT: Logistically are you going to put your  
10:20AM 18 calendars on at this same time, or in your case in chief?

10:20AM 19 MR. DAVIS: We are going to put on our case in chief is  
10:20AM 20 what we had discussed with them before, but I think they're ready  
10:20AM 21 to go. It's your pleasure, Judge.

10:20AM 22 THE COURT: No. I just didn't want to turn to you  
10:20AM 23 briefly in front of the jury if that's not what you intended to  
10:20AM 24 do, so I just wanted to know what your plan was.

10:20AM 25 Okay. Take your now -- sorry -- ten-minute break.

10:20AM 1 MR. KRISHNAN: Thank you, Your Honor.

10:20AM 2 (Recess at 10:20 A.M.)

10:33AM 3 THE COURT: Ready for the jury. You're missing a member  
10:33AM 4 of your team. Is it okay if we start?

10:33AM 5 MR. KRISHNAN: Yes, we're fine.

10:33AM 6 THE COURT: Okay.

10:34AM 7 MS. VARGAS: Your Honor, should he?

10:34AM 8 THE COURT: Yes. Go ahead. Thank you.

10:34AM 9 Okay. Welcome back, everybody, from the break.

10:35AM 10 Mr. Davis, are you ready?

10:35AM 11 MR. DAVIS: Yes, Your Honor.

10:35AM 12 THE COURT: Mr. Cappello, you remain under oath.

10:35AM 13 THE INTERPRETER: Just a minute, Your Honor.

10:35AM 14 (Jury came back at 10:35 A.M.)

10:35AM 15 THE INTERPRETER: Go ahead, Mr. Davis.

10:35AM 16 MR. DAVIS: You're ready?

10:35AM 17 THE INTERPRETER: Yes.

10:35AM 18 MR. DAVIS: Okay.

10:35AM 19 CROSS-EXAMINATION

10:35AM 20 BY MR. DAVIS:

10:35AM 21 Q. Good morning, Mr. Cappello. My name is Steve Davis. I  
10:35AM 22 represent Roberto Bravo.

10:35AM 23 A. Good morning, sir.

10:35AM 24 Q. I'm going to be asking you some questions today, and I will be  
10:35AM 25 trying to be as clear as possible. But if my question is not

1 clear or you do not understand it, please ask me to explain it.

2 A. Okay.

3 Q. Can you -- yesterday you told us you work in human resources.

4 Could you just briefly tell me what your educational background

5 is?

6 A. I have a five-year bachelor's degree in international

7 relations. I also have a master's degree in communications

8 management, and I also have a postgraduate or I have done

9 postgraduate work in human resources.

10 Q. What years did you get those degrees?

11 A. I received my bachelor's degree in international relations and

12 the other two degrees were in 2001 and 2006.

13 Q. And when -- I didn't hear the year for the bachelor's degree.

14 What year was that?

15 THE INTERPRETER: For the record, the actual degree is

16 Licenciado, which is the equivalent to a five-year bachelor

17 program in the United States, and that was in 1998.

18 BY MR. DAVIS:

19 Q. And during the times that you weren't going to school, were

20 you working full-time?

21 THE INTERPRETER: For the interpreter, the question,

22 please. Could you repeat the question. I believe I turned it

23 around.

24 MR. DAVIS: That's okay. I'll reask it. That's fine.

25 BY MR. DAVIS:

10:38AM 1 Q. You have -- you've just told us that you have three college  
10:38AM 2 degrees, a bachelor's and two master's degrees, and you gave us  
10:38AM 3 the years. I want to know other than the times you were going to  
10:38AM 4 school, were you working full-time?

10:38AM 5 THE INTERPRETER: Change it. We can continue.

10:39AM 6 THE WITNESS: I always went to school and worked at the  
10:39AM 7 same time.

10:39AM 8 BY MR. DAVIS:

10:39AM 9 Q. Is 2006 the last time you attended school of any kind?

10:39AM 10 A. Yes, my formal education, yes.

10:39AM 11 Q. And since that time, from 2006 to the present, I know you said  
10:39AM 12 you're working in HR today. Take us high-level through what kind  
10:39AM 13 of jobs you've done?

10:39AM 14 A. Yes. I have always worked in the human resources field, both  
10:40AM 15 in national and international companies, small companies, as well  
10:40AM 16 as larger ones. And during the last five years, I have been  
10:40AM 17 working with government agencies.

10:40AM 18 Q. So at all times since -- really I guess from the time from  
10:40AM 19 your going to school all the way through today, you've been  
10:40AM 20 working full-time?

10:40AM 21 A. Not the entire time, but a great deal of the time, yes.

10:40AM 22 Q. And in this -- as part of what you've worked, have you ever  
10:41AM 23 been involved -- other than what we've talked about this morning  
10:41AM 24 -- we're going to talk about that -- have you ever been involved  
10:41AM 25 in the Argentine justice system?

10:41AM 1 A. No, I have not.

10:41AM 2 Q. You told us on your direct, you were talking about your  
10:41AM 3 grandmother, and you said that she made a claim for compensation  
10:41AM 4 for your uncle's death. Do you recall that testimony?

10:41AM 5 A. Yes, I remember.

10:41AM 6 Q. And do you remember in -- well, let me back up.

10:42AM 7 As I understood your direct testimony, she made a claim for  
10:42AM 8 compensation in connection with your uncle's death?

10:42AM 9 A. Yes, that's correct.

10:42AM 10 Q. And you were not allowed to do that because only your  
10:42AM 11 grandmother would have had the legal right in Argentina to make  
10:42AM 12 that claim?

10:42AM 13 MS. VARGAS: Objection. Calls for a legal conclusion.

10:42AM 14 THE COURT: Sustained.

10:42AM 15 BY MR. DAVIS:

10:42AM 16 Q. Did you have any legal right to make the claim for  
10:42AM 17 compensation with the Argentine government?

10:42AM 18 MS. VARGAS: Same objection.

10:42AM 19 THE COURT: Overruled.

10:42AM 20 MS. VARGAS: Same objection.

10:42AM 21 THE COURT: Overruled.

10:42AM 22 THE WITNESS: A claim based on what or whom?

10:43AM 23 BY MR. DAVIS:

10:43AM 24 Q. On your direct testimony, you talked about your grandmother  
10:43AM 25 receiving compensation from the -- from Argentina in connection

10:43AM 1 with your uncle's death. Do you remember that?

10:43AM 2 A. Yes, that's correct.

10:43AM 3 Q. So I'm asking about you: You did not assert a claim for

10:43AM 4 compensation for your uncle's death; correct?

10:43AM 5 A. That's correct.

10:43AM 6 Q. And I understood your direct testimony to say you did not have

10:43AM 7 the right to seek such compensation?

10:43AM 8 A. That is correct.

10:44AM 9 Q. What year did your grandmother receive that compensation?

10:44AM 10 A. I don't recall exactly, but my understanding is that it was

10:44AM 11 somewhere around the 1998 or 1999.

10:44AM 12 Q. Did your grandmother make any other claims for compensation

10:44AM 13 with the Argentine government after 1998 or 1999?

10:44AM 14 A. Not on behalf of my uncle, no.

10:44AM 15 Q. I'm sorry. Not on behalf of who?

10:44AM 16 THE INTERPRETER: Not on behalf of my uncle.

10:44AM 17 MR. DAVIS: Oh, I'm sorry. Thank you.

10:45AM 18 BY MR. DAVIS:

10:45AM 19 Q. How -- what year did your grandmother pass away?

10:45AM 20 A. 2016.

10:45AM 21 Q. And until 2016, your grandmother would have been the closest

10:45AM 22 relative to your uncle; correct?

10:45AM 23 A. Yes, that's correct.

10:45AM 24 Q. And to be clear, I meant the closest living relative to your

10:45AM 25 uncle?

10:45AM 1 A. Of course, yes, that's correct.

10:45AM 2 Q. And as far as you're aware -- so let me back up.

10:45AM 3 From 1998 or 1999 when your grandmother received the  
10:46AM 4 compensation from the Argentine government until 2016, were there  
10:46AM 5 any other relatives besides your grandmother that were -- had a  
10:46AM 6 closer relationship to your uncle than you? Any other living  
10:46AM 7 relatives?

10:46AM 8 A. I was the only one.

10:46AM 9 Q. Did your grandmother ever tell you why she did not sue in the  
10:47AM 10 United States in 2005?

10:47AM 11 A. Yes. Because we did not know that Bravo was located in the  
10:47AM 12 United States.

10:47AM 13 Q. And you told us on your direct you knew -- in 2008, when  
10:47AM 14 Interpol told the Argentine government, you were informed;  
10:47AM 15 correct?

10:47AM 16 A. That is correct.

10:47AM 17 Q. When you learned where Mr. Bravo was located, what efforts did  
10:47AM 18 you take to look into Mr. Bravo -- excuse me -- in 2008? Sorry.

10:48AM 19 A. The criminal case was already ongoing in Argentina at that  
10:48AM 20 time, so we requested the Argentine judiciary to request his  
10:48AM 21 extradition.

10:48AM 22 Q. Did you do anything to look up -- did you personally do  
10:48AM 23 anything to look up Mr. Bravo at that time?

10:48AM 24 A. Informally, yes. Formally, no.

10:48AM 25 Q. What did you do informally?

10:48AM 1 A. I researched public information.

10:49AM 2 Q. So did you use the Internet?

10:49AM 3 A. Yes, that's correct.

10:49AM 4 Q. And you found out that Mr. Bravo was living and working in

10:49AM 5 Miami?

10:49AM 6 A. Yes.

10:49AM 7 Q. And you knew that he owned houses here?

10:49AM 8 A. No.

10:49AM 9 Q. You knew he had a business called RGB?

10:49AM 10 A. I don't recall whether I knew the exact name; however, I did

10:49AM 11 become aware that he owned some businesses.

10:49AM 12 Q. How many businesses did you find out that he owned in 2008?

10:49AM 13 A. I don't remember, but I believe it was one.

10:50AM 14 Q. You said you did some informal looking into Mr. Bravo's

10:50AM 15 background.

10:50AM 16 Other than looking on the Internet and finding out that he

10:50AM 17 had a company and was living in Miami, what else did you find out?

10:50AM 18 A. Not much more. What I was interested in was in finding his

10:50AM 19 whereabouts, where he lived, what he was doing, things related to

10:50AM 20 his life.

10:50AM 21 Q. But did you do any research to find out what homes he owned?

10:51AM 22 A. No, I did not.

10:51AM 23 Q. Did you hire an investigator to look into Mr. Bravo's

10:51AM 24 background?

10:51AM 25 A. No.



10:51AM 1 Q. Did you tell your grandmother about -- withdraw that.

10:51AM 2 Did your grandmother do research into Mr. Bravo?

10:51AM 3 A. No, she did not.

10:51AM 4 Q. Did you contact a lawyer in the United States looking to see  
10:51AM 5 what you could do as to Mr. Bravo?

10:51AM 6 THE INTERPRETER: For the interpreter, a lawyer or the  
10:51AM 7 lawyer?

10:51AM 8 MR. DAVIS: You're giving me a good reason to rephrase my  
10:51AM 9 question. So thank you.

10:52AM 10 BY MR. DAVIS:

10:52AM 11 Q. Did you or your grandmother contact a lawyer to do -- to look  
10:52AM 12 into what you could -- what action you could take against Mr.

10:52AM 13 Bravo in 2008 when you learned he was living in Miami?

10:52AM 14 A. Could you repeat the question?

10:52AM 15 Q. I can, and I will.

10:52AM 16 You told us in 2008 you learned that Roberto Bravo was  
10:52AM 17 living in the United States in Miami. You learned that; correct?

10:52AM 18 A. Yes.

10:52AM 19 Q. You then told us that you did some research, you looked him up  
10:53AM 20 on the Internet, and you found out he owned a company -- had owned  
10:53AM 21 a company at least and looked into his background; correct?

10:53AM 22 A. Yes, that's correct.

10:53AM 23 Q. And so my next question was: Did you look to a lawyer to  
10:53AM 24 explore your right against Mr. Bravo, a United States lawyer, in  
10:53AM 25 2008?

10:53AM 1 A. No.

10:53AM 2 Q. Did you look to an Argentine lawyer to explore your rights  
10:53AM 3 against Mr. Bravo in Argentina or the United States in 2008?

10:53AM 4 A. Not in the U.S. but in Argentina, we did have representation;  
10:54AM 5 that is, legal representation, because we were part of the  
10:54AM 6 complainants in the case.

10:54AM 7 Q. In fact, there was a -- sorry -- there are a group of folks,  
10:54AM 8 families who -- that are family members who were at Trelew who  
10:54AM 9 worked together; correct?

10:55AM 10 THE INTERPRETER: Kept together; right?

10:55AM 11 MR. DAVIS: (Nodding.)

10:55AM 12 THE WITNESS: In our case, that is, the Cappello family,  
10:55AM 13 we were individual complainants.

10:55AM 14 BY MR. DAVIS:

10:55AM 15 Q. But you met with -- well, let me back up. Did your  
10:55AM 16 grandmother meet with families of other -- withdraw that.

10:55AM 17 Did your grandmother meet with the families of other people  
10:55AM 18 who were at Trelew?

10:55AM 19 A. Yes.

10:55AM 20 Q. Did you take part in those meetings?

10:55AM 21 A. Several.

10:55AM 22 Q. And those meetings were throughout -- from 1995 and continue  
10:55AM 23 to this day?

10:56AM 24 A. No. The date is not 1995.

10:56AM 25 Q. What's the first date that you remember that your grandmother

10:56AM 1 was meeting with other family members?

10:56AM 2 A. 2006, 2007.

10:56AM 3 MR. DAVIS: Your Honor, I have a document I would like to  
10:56AM 4 show the witness. It's on the Plaintiffs' Exhibit list. It's not  
10:57AM 5 in evidence. I'd like to see if I could show this to refresh his  
10:57AM 6 recollection. I just want to know the electronic -- because I  
10:57AM 7 know the jury can't see it -- the electronic way in which we have  
10:57AM 8 to do that.

10:57AM 9 THE COURT: To limit to showing the witness and not the  
10:57AM 10 jury?

10:57AM 11 MR. DAVIS: Yes. You're not going to let me show the  
10:57AM 12 jury unless it's in evidence.

10:57AM 13 THE COURT: Mr. Davis, I don't -- either form.

10:57AM 14 THE COURTROOM DEPUTY: The monitors are not on for the  
10:57AM 15 jurors. It's just the attorneys.

10:57AM 16 THE COURT: If -- you could walk it to him.

10:57AM 17 MR. DAVIS: Yes. It's 128T.

10:57AM 18 THE COURT: Alex, is the monitor on over here if he needs  
10:57AM 19 to do it that way?

10:57AM 20 (Brief pause.)

10:57AM 21 THE COURT: Apparently, the monitor is on over for just  
10:58AM 22 the witness if you want to do it that way.

10:58AM 23 MR. DAVIS: I'll give you this, Judge, so you will have  
10:58AM 24 even more paper, and I'd like to show this to the witness as well.

10:58AM 25 THE COURT: Okay. And you've shown plaintiffs' counsel?

10:58AM 1 MR. DAVIS: Yes, I have.

10:58AM 2 BY MR. DAVIS:

10:58AM 3 Q. Mr. Cappello, there is a document that is not in evidence, but  
10:58AM 4 it's marked as Plaintiffs' Exhibit 128T, and I guess 128 would be  
10:58AM 5 the Spanish version of it, and I would like you to look at this  
10:58AM 6 letter to see if you see your grandmother's signature on the  
10:58AM 7 original copy that's in Spanish?

10:59AM 8 A. Yes, that's right.

10:59AM 9 MS. VARGAS: Your Honor, how does this refresh his  
10:59AM 10 recollection if he's just recognizing his grandmother's signature?

10:59AM 11 THE COURT: Yes. Mr. Davis, I'm waiting for a question  
10:59AM 12 that asks if this refreshes his recollection of something that he  
10:59AM 13 hasn't indicated that he had forgotten?

10:59AM 14 BY MR. DAVIS:

10:59AM 15 Q. Well, I'm going to ask you, sir, this letter is dated  
10:59AM 16 August 24, 2005, I would ask that if that refreshes your  
10:59AM 17 recollection that at least by August 24, 2005, your grandmother  
10:59AM 18 was working with other family members from Trelew?

11:00AM 19 MS. VARGAS: Your Honor, he can't be describing a  
11:00AM 20 document that's not in evidence.

11:00AM 21 THE COURT: I'll remind the jury that the attorney's  
11:00AM 22 statement is not in evidence, and it's only the answer that the  
11:00AM 23 witness provides that's in evidence, and his answer here is to the  
11:00AM 24 question if it refreshes his recollection.

11:00AM 25 THE INTERPRETER: Judge?

11:00AM 1 THE COURT: Go ahead.

11:00AM 2 THE WITNESS: Yes, my grandmother's signature is on the

11:00AM 3 document.

11:00AM 4 BY MR. DAVIS:

11:00AM 5 Q. As well as other -- and you probably don't know all the other

11:00AM 6 signatures, but as of other family members from individuals who

11:00AM 7 were at Trelew?

11:00AM 8 MS. VARGAS: Your Honor --

11:00AM 9 THE COURT: Sustained.

11:01AM 10 BY MR. DAVIS:

11:01AM 11 Q. Does that refresh your recollection that as of August 24,

11:01AM 12 2005, your grandmother was working with other survivors?

11:01AM 13 A. Yes, that is correct. And this basically just corrects really

11:01AM 14 minimally what I stated before. Before I said 2006 and this is

11:01AM 15 2005.

11:01AM 16 Q. How much earlier than August 24, 2005, was your grandmother

11:01AM 17 working with the other families?

11:01AM 18 A. I don't have exact information.

11:02AM 19 Q. But I know on your direct you were saying you talked to your

11:02AM 20 grandmother about this a lot; correct?

11:02AM 21 MS. VARGAS: Your Honor, that -- withdrawn.

11:02AM 22 THE COURT: Go ahead.

11:02AM 23 THE WITNESS: Yes, yes, that's correct.

11:02AM 24 BY MR. DAVIS:

11:02AM 25 Q. And did -- when is the first time you met any of the other

11:02AM 1 family members?

11:02AM 2 A. 1993, 1994 probably.

11:02AM 3 Q. So when you started meeting with these family members, were

11:02AM 4 you looking to see what remedies you could pursue in connection

11:03AM 5 with your uncle's death?

11:03AM 6 A. No. What we were seeking was for the possibility of actually

11:03AM 7 having a criminal trial.

11:03AM 8 Q. When did you first look to seek civil remedies for your

11:03AM 9 uncle's death, you or your grandmother?

11:03AM 10 A. I believe it was about that time, back in the early '90s, '93,

11:04AM 11 '94.

11:04AM 12 Q. Because you already told us your grandmother received

11:04AM 13 compensation from the Argentine government in 1988 -- excuse me --

11:04AM 14 in 1998, 1999, so during this time in 1995, you were also

11:04AM 15 exploring civil remedies for the loss of your uncle?

11:04AM 16 MS. VARGAS: Objection. Foundation.

11:04AM 17 THE COURT: Overruled.

11:05AM 18 THE WITNESS: Well, the paperwork and the procedure to

11:05AM 19 request these reparations began back in '93, '94, but these things

11:05AM 20 take some time, so it didn't really come to happen until 1998 or

11:05AM 21 1999.

11:05AM 22 BY MR. DAVIS:

11:05AM 23 Q. Have you always lived in Argentina?

11:05AM 24 A. Yes.

11:05AM 25 Q. And I know that there's been testimony about the fear you had

11:05AM 1 in the '70s and '80s.

11:05AM 2 In your complaint, you write -- it's written -- let me back  
11:05AM 3 up.

11:05AM 4 Did you see the complaint that was filed in this case?

11:06AM 5 A. In this case.

11:06AM 6 Q. Yes?

11:06AM 7 A. Yes, yes.

11:06AM 8 Q. And are you able to read English?

11:06AM 9 A. With some difficulty. However, I do understand the general  
11:06AM 10 sense of -- sense of it.

11:06AM 11 Q. And in the complaint, it's alleged that the democracy returned  
11:06AM 12 to Argentina in 1983. And do you agree with that?

11:06AM 13 A. Yes, correct, correct.

11:06AM 14 Q. And I know you said you still had some fears from your direct  
11:06AM 15 testimony. But by 1994, when you're looking to explore remedies  
11:06AM 16 with the Argentine government, had those fears ended?

11:06AM 17 A. No, no way. Not at all.

11:07AM 18 Q. But you were actively pursuing claims with the Argentine  
11:07AM 19 government in order to seek compensation for your uncle. Were you  
11:07AM 20 worried that the government was going to take action against you  
11:07AM 21 for seeking those reparations?

11:07AM 22 A. First of all, any claim was not against the Argentine  
11:08AM 23 government. The government made available the possibility of  
11:08AM 24 seeking reparations.

11:08AM 25 Q. And you said that that was pursued by your grandmother; yes?

11:08AM 1 A. Yes, that's correct.

11:08AM 2 Q. And it was pursued to the extent that you actually received --  
11:08AM 3 your grandmother actually received money?

11:08AM 4 A. That is correct.

11:08AM 5 Q. And that money you said was paid in 1998 or 1999; correct?

11:08AM 6 A. That's correct.

11:09AM 7 Q. And we just -- would you agree that by 2005 you are actively  
11:09AM 8 seeking the help of the Argentine government to prosecute Roberto  
11:09AM 9 Bravo and others in connection with Trelew?

11:09AM 10 A. In 2005, my grandmother was actively working for a trial to be  
11:09AM 11 initiated against those who had committed genocide.

11:10AM 12 Q. My question was about -- so she was actively -- was she  
11:10AM 13 actively working to seek -- seeking the government to prosecute  
11:10AM 14 the military personnel at Trelew?

11:10AM 15 A. That is what I said.

11:10AM 16 Q. Insofar as the actions that -- let me back up.

11:10AM 17 After 2016 when your grandmother passed away, did you step  
11:10AM 18 into her shoes or take her place on behalf of the family trying to  
11:10AM 19 move forward with seeking compensation for your uncle's death?

11:11AM 20 A. Immediately in 2016 after my grandmother died, it is true that  
11:11AM 21 I took her place, but the goal now was to achieve Bravo's  
11:11AM 22 extradition.

11:12AM 23 MS. VARGAS: Your Honor, may I request a translation  
11:12AM 24 check. I did not hear him say the goal now.

11:12AM 25 THE INTERPRETER: Did not hear what?



11:12AM 1 MR. DAVIS: She requested a translation check.

11:12AM 2 THE COURT: I understand. So there is an objection to

11:12AM 3 the translation. I'm just going to ask the witness to repeat his

11:12AM 4 answer about 2016.

11:12AM 5 You stepped into your grandmother's shoes; is that right?

11:12AM 6 MR. DAVIS: Are you asking me, Judge?

11:12AM 7 THE COURT: No. I'm asking the witness.

11:12AM 8 MR. DAVIS: Sorry.

11:12AM 9 THE COURT: Mr. Cappello, I'm just going to ask you to

11:12AM 10 repeat your answer to the question. In 2016, you stepped into

11:12AM 11 your grandmother's shoes. Can you repeat your answer?

11:12AM 12 THE WITNESS: I did say that I took her place in the work

11:13AM 13 that my grandmother had been carrying out in order to achieve

11:13AM 14 Bravo's extradition to Argentina.

11:13AM 15 BY MR. DAVIS:

11:13AM 16 Q. Let me back up a little bit.

11:13AM 17 As you were growing up, you learned about what happened at

11:13AM 18 Trelew; correct?

11:13AM 19 A. Correct.

11:13AM 20 Q. And you learned at some point that Roberto Bravo was one of

11:13AM 21 the officers involved?

11:13AM 22 A. Yes, of course, that's correct.

11:14AM 23 Q. And your grandmother probably -- told you that Roberto Bravo

11:14AM 24 was involved?

11:14AM 25 A. My grandmother told me that Bravo had been involved in the

11:14AM 1 matter. I did not know his name.

11:14AM 2 Q. Well, did you ever do research though when you found out that

11:14AM 3 the name was Roberto Bravo it was the officer who was at Trelew

11:14AM 4 who was involved in this incident?

11:14AM 5 A. Yes. I believe I answered that I did.

11:14AM 6 THE INTERPRETER: Just a moment.

11:15AM 7 MR. DAVIS: Ready?

11:15AM 8 BY MR. DAVIS:

11:15AM 9 Q. And you learned that Roberto -- you were born in 1975, sir; is

11:15AM 10 that right?

11:15AM 11 A. Yes, yes.

11:15AM 12 Q. And by the time you were 15, say 1990, you knew that the name

11:15AM 13 was Roberto Bravo?

11:15AM 14 A. No, I did not know.

11:15AM 15 Q. Well, you knew there was a lot of things published about the

11:15AM 16 incident in Argentina; isn't that correct?

11:15AM 17 A. Yes, that is correct.

11:15AM 18 Q. And the name Roberto Bravo was well known in connection with

11:15AM 19 Trelew?

11:15AM 20 THE INTERPRETER: I'm sorry, counsel.

11:15AM 21 MR. DAVIS: I'll start over. My apologies.

11:16AM 22 BY MR. DAVIS:

11:16AM 23 Q. You knew the name Roberto Bravo was well known in connection

11:16AM 24 with the incident at Trelew?

11:16AM 25 A. No, I did not know that.

11:16AM 1 Q. So you did not -- when did you -- so when did you first learn  
11:16AM 2 that it was Roberto Bravo versus Bravo?

11:16AM 3 A. Once the criminal proceeding started, I don't know exactly  
11:16AM 4 when, but it was after 2005 for sure.

11:16AM 5 Q. In connection with your uncle's life, did you know that he  
11:17AM 6 escaped from the Rawson Prison?

11:17AM 7 MS. VARGAS: Your Honor, we object on the basis of  
11:17AM 8 foundation, please.

11:17AM 9 THE COURT: The question is, do you know. He's laying  
11:17AM 10 the foundation. Overruled.

11:17AM 11 You can answer the question, Mr. Cappello.

11:17AM 12 THE WITNESS: Yes, I did know.

11:17AM 13 BY MR. DAVIS:

11:17AM 14 Q. And you knew he was with a group of 25 other prisoners who  
11:17AM 15 escaped from Rawson?

11:17AM 16 MS. VARGAS: Objection. Your Honor, this is part of the  
11:17AM 17 propensity evidence that is barred. Maybe I need to listen to the  
11:18AM 18 question again, but --

11:18AM 19 THE COURT: Overruled.

11:18AM 20 THE WITNESS: Yes, I know that 25 people escaped from the  
11:18AM 21 penitentiary.

11:18AM 22 BY MR. DAVIS:

11:18AM 23 Q. And you know that 19 of those prisoners ended up in Trelew?

11:18AM 24 MS. VARGAS: Objection, Your Honor. Foundation.

11:18AM 25 THE COURT: Overruled.

11:18AM 1 THE WITNESS: At the airport, in Trelew, yes.

11:18AM 2 BY MR. DAVIS:

11:18AM 3 Q. And they were captured at the airport in Trelew and taken to

11:18AM 4 the naval base; correct?

11:18AM 5 MS. VARGAS: Your Honor, these same foundation questions

11:19AM 6 were sustained as to us.

11:19AM 7 THE COURT: Overruled.

11:19AM 8 THE WITNESS: I don't know if there is a difference as

11:19AM 9 far as the legal term, but they were not captured; they

11:19AM 10 surrendered.

11:19AM 11 BY MR. DAVIS:

11:19AM 12 Q. They turned themselves in to the authorities?

11:19AM 13 A. Yes, voluntarily.

11:19AM 14 Q. And the other six that were at the airport, they went on an

11:19AM 15 airplane to Chile?

11:19AM 16 MS. VARGAS: Objection, Your Honor. Foundation and

11:19AM 17 relevance. What is the relevance about those six?

11:19AM 18 THE COURT: Mr. Davis, your response?

11:19AM 19 MR. DAVIS: Just going to what he knows about the

11:19AM 20 incidents, Your Honor.

11:19AM 21 THE COURT: What about the other six?

11:19AM 22 MR. DAVIS: I couldn't understand you.

11:19AM 23 THE COURT: But about the other six?

11:19AM 24 MR. DAVIS: Yes.

11:19AM 25 THE COURT: What's the proffer of relevance?

11:20AM 1 MR. DAVIS: The proffer of relevance is to note -- is  
11:20AM 2 just to know that six people escaped in a plane to Chile.

11:20AM 3 MS. VARGAS: Your Honor, objection. This actually falls  
11:20AM 4 within the order from June 17th.

11:20AM 5 THE COURT: Here's what we're going to do, I'm going to  
11:20AM 6 have to end up taking argument outside the presence of the jury.  
11:20AM 7 Mr. Davis?

11:20AM 8 MR. DAVIS: I'll move on.

11:20AM 9 THE COURT: Thank you. Hold this space in your outline,  
11:20AM 10 and then we'll return to this after we've heard argument.

11:20AM 11 MR. DAVIS: Okay. Thank you, Judge.

11:20AM 12 BY MR. DAVIS:

11:20AM 13 Q. Now, in the complaint that was filed in this case, it alleges  
11:20AM 14 that the extradition proceedings against Mr. Bravo were started in  
11:20AM 15 2009. Do you agree with that?

11:21AM 16 A. There are two extradition requests. One started in 2009.

11:21AM 17 Q. Thank you. And when it was started in 2009, you were -- you  
11:21AM 18 or your grandmother were contacted by the Argentine government  
11:21AM 19 that that proceeding was being initiated?

11:21AM 20 A. Yes.

11:21AM 21 Q. And when you got that information, did you look to -- or your  
11:21AM 22 grandmother look to hiring a lawyer in Miami, Florida, because you  
11:21AM 23 knew Roberto Bravo was living in Miami at that time?

11:21AM 24 A. No. I believe I already answered that we didn't.

11:22AM 25 Q. Did you at that point do any additional -- because I talked to

11:22AM 1 you about an earlier date when you first learned about Roberto  
11:22AM 2 Bravo being in Miami. Now I'm talking about when the extradition  
11:22AM 3 started. So I am trying to differentiate those two points. And  
11:22AM 4 when the extradition was initiated, what additional steps or  
11:22AM 5 actions or research did you or your grandmother take with respect  
11:22AM 6 to locating or finding out about Roberto Bravo?

11:23AM 7 A. No, we did not.

11:23AM 8 Q. When is the first time you learned the address for Roberto  
11:23AM 9 Bravo?

11:23AM 10 A. No. I never had access to that information.

11:23AM 11 Q. Well, sir, do you understand that that's -- do you understand  
11:23AM 12 that that's publically available information in the United States?

11:23AM 13 A. No, no, I didn't know.

11:23AM 14 Q. Have you ever visited the United States before this visit?

11:23AM 15 A. Yes.

11:24AM 16 Q. And you know that the United States as a free democracy keeps  
11:24AM 17 a lot of records about its people?

11:24AM 18 A. I -- I don't know it for sure, but I suppose, yes.

11:24AM 19 Q. And there's real estate records that are publically available,  
11:24AM 20 are you aware of that, sir?

11:24AM 21 MS. VARGAS: Your Honor, this is a foundation objection.

11:24AM 22 THE COURT: Overruled. If you know the answer, Mr.  
11:24AM 23 Cappello.

11:24AM 24 THE WITNESS: No, I did not know that.

11:25AM 25 BY MR. DAVIS:

11:25AM 1 Q. Are real estate records public in Argentina?

11:25AM 2 A. I'm not an expert, but my understanding is that they are not.

11:25AM 3 Q. You have the Internet; correct? Currently you use the

11:25AM 4 Internet?

11:25AM 5 A. Yes, I could.

11:25AM 6 Q. When did you first start using the Internet? In 2000?

11:26AM 7 A. Probably.

11:26AM 8 Q. Maybe even earlier?

11:26AM 9 A. Not much before that, but around that time.

11:26AM 10 Q. And the Internet is a place where you can find information;

11:26AM 11 correct?

11:26AM 12 A. Correct.

11:26AM 13 Q. And we're all better today, but I assume you used the Internet

11:26AM 14 to find information when you had access to it?

11:26AM 15 A. Yes.

11:26AM 16 Q. As you sit here today, do you have the right to seek money

11:27AM 17 from the Argentine government for reparations in connection with

11:27AM 18 your uncle's death?

11:27AM 19 A. No, I do not have it.

11:27AM 20 Q. Is that because when your grandmother received it, she

11:27AM 21 received all the benefits that anyone related to your uncle was

11:27AM 22 entitled to receive?

11:27AM 23 A. Correct.

11:27AM 24 Q. Insofar as looking at bringing this lawsuit, when did you

11:27AM 25 first contact the lawyers in connection with bringing this

11:28AM 1 lawsuit?

11:28AM 2 A. I don't remember exactly, but it must have been 2018, 2019.

11:28AM 3 Q. And who were the lawyers you contacted?

11:28AM 4 A. We got in touch with the attorneys from CJA.

11:28AM 5 Q. What is CJA? Is that the Center For Justice & Accountability?

11:28AM 6 A. Correct.

11:28AM 7 Q. Ms. Vargas?

11:28AM 8 A. Claret Vargas; correct.

11:29AM 9 Q. And did you contact any lawyers in Argentina in connection

11:29AM 10 with seeking to bring a claim against Mr. Bravo?

11:29AM 11 A. Yes. It was the attorneys who represented us during the trial

11:29AM 12 that gave us this opportunity.

11:29AM 13 Q. This would be the 2012 trial?

11:29AM 14 A. Yes, correct.

11:29AM 15 Q. And did you contact -- when did you contact them?

11:29AM 16 A. No. They reached out to us, and it was around the same time.

11:29AM 17 Q. So the lawyers in Argentina contacted you?

11:30AM 18 A. Yes. The Center For Legal and Social Studies in Argentina,

11:30AM 19 yes.

11:30AM 20 Q. And that is -- that is a group of lawyers in Argentina?

11:30AM 21 A. Yes, who usually focus on matters of human rights.

11:30AM 22 MR. DAVIS: Your Honor, if I may have a moment? I'm

11:30AM 23 close to done.

11:30AM 24 THE COURT: Yes, sir.

11:30AM 25 (Brief pause to confer with cocounsel.)



11:30AM 1 BY MR. DAVIS:

11:30AM 2 Q. Just a couple questions more. Did you ever read any books  
11:30AM 3 that were written about -- actually, I withdraw that.

11:31AM 4 MR. DAVIS: Your Honor, I have no further questions. And  
11:31AM 5 on the area that counsel objected to, I'm not going to pursue it.

11:31AM 6 THE COURT: Oh, okay. All right, then. Then that  
11:31AM 7 concludes our cross for Mr. Cappello.

11:31AM 8 Are you ready for your redirect?

11:31AM 9 MS. VARGAS: Yes, Your Honor.

11:31AM 10 THE COURT: All right.

11:31AM 11 REDIRECT EXAMINATION

11:31AM 12 BY MS. VARGAS:

11:31AM 13 Q. Mr. Cappello, you said that in 2005 your grandmother and you  
11:31AM 14 were participating in the criminal investigation into the Trelew  
11:31AM 15 Massacre; is that correct?

11:31AM 16 A. Yes.

11:31AM 17 Q. Do you know if the government offered any kind of protection  
11:31AM 18 for victims and witnesses in that -- in that criminal prosecution?

11:32AM 19 A. Yes. There was like a program to provide security for the  
11:32AM 20 victims.

11:32AM 21 Q. Had such security been offered or provided to the families of  
11:32AM 22 Trelew before?

11:32AM 23 A. No. That was the first time.

11:32AM 24 Q. You said you found out in 2008 -- or you testified that they  
11:32AM 25 found Mr. Bravo in 2008, that you found out -- sorry. Strike

11:32AM 1 that.

11:32AM 2 What year did you know what country Mr. Bravo was in?

11:33AM 3 A. 2008.

11:33AM 4 Q. Before -- before that, were there any news or other kind of  
11:33AM 5 coverage about his location that you had read?

11:33AM 6 A. No, we did not have access to that information before.

11:33AM 7 Q. And after it was known that Mr. Bravo was in the United  
11:33AM 8 States, were there news reports about his -- about him and his  
11:34AM 9 location?

11:34AM 10 A. Yes. It became public, and it began -- there were news  
11:34AM 11 reports about that, and it became public.

11:34AM 12 MS. VARGAS: No further questions, Your Honor.

11:34AM 13 THE COURT: Okay. All right. Thank you, Mr. Cappello.  
11:34AM 14 You can step down.

11:34AM 15 (The witness is excused.)

11:35AM 16 THE COURT: Counsel, are you ready for your next witness?

11:35AM 17 MR. KRISHNAN: Your Honor, next we would call Alicia  
11:35AM 18 Krueger, one of our clients by deposition.

11:35AM 19 THE COURT: Okay. Are you all set?

11:35AM 20 MR. MUZZIO: Yes, Your Honor.

11:35AM 21 THE COURT: So we need the monitors at the jury box  
11:35AM 22 turned on?

11:35AM 23 MR. KRISHNAN: And, Your Honor, we have a one-sentence  
11:35AM 24 neutral statement to explain the deposition to the jury if that's  
11:35AM 25 acceptable.

11:35AM 1 THE COURT: I don't know what it is. I don't know what  
11:35AM 2 the statement is. What is it you would advance?

11:35AM 3 MR. DAVIS: I haven't seen it.

11:35AM 4 THE COURT: Exactly.

11:35AM 5 MR. DAVIS: I would be okay with the first sentence. I  
11:36AM 6 would not be okay with the last two sentences.

11:36AM 7 THE COURT: I don't know the propriety or the necessity  
11:36AM 8 of this. But since it's unopposed, the first sentence, you're  
11:36AM 9 welcome to read it to the jury.

11:36AM 10 MS. MATTHEWS: We're now going to play the deposition  
11:36AM 11 video of Alicia Krueger, who is also known by the name Alicia  
11:36AM 12 Bonet.

11:36AM 13 THE COURT: The monitors are on for you.

11:36AM 14 (Video played.)

11:36AM 15 THE COURT: They're not seeing it, and I'm not seeing it  
11:36AM 16 up either. Is it only audio, or are you going to play video?

11:36AM 17 MS. LIND: Interpol told the Argentine -- no, it's video.

11:36AM 18 THE COURT: Okay.

11:37AM 19 MR. MUZZIO: She has it off.

11:37AM 20 THE COURT: No. I meant it came up. That was my  
11:37AM 21 concern. We could hear it but not see it. The jurors are shaking  
11:37AM 22 their heads.

11:37AM 23 MR. MUZZIO: Right. We see an arrow that --

11:37AM 24 (Video deposition of Alicia Krueger played.)

12:21PM 25 Your Honor, I believe that concludes the deposition

12:21PM 1 testimony of Alicia Krueger.

12:21PM 2 THE COURT: And I think that is probably a good place to  
12:21PM 3 take our lunch break.

12:21PM 4 Ladies and gentlemen of the jury, I'll see you back at  
12:21PM 5 1:30.

12:21PM 6 (Jury out at 12:21 P.M.)

12:22PM 7 What, if anything, do we need to take up?

12:22PM 8 MR. KRISHNAN: Your Honor, I think the one issue is the  
12:22PM 9 Apostille issue with regard to the Camps statement.

12:22PM 10 THE COURT: From the defense on that?

12:22PM 11 MR. SLADE: Your Honor, just my understanding is Exhibit  
12:22PM 12 36 -- Plaintiffs' Exhibit 36 has been withdrawn. Let me confirm.  
12:22PM 13 Is that the case?

12:22PM 14 MR. MUZZIO: No, it's 34. It's the Camps statement. 36  
12:22PM 15 has been withdrawn.

12:22PM 16 MR. SLADE: 36 has not been withdrawn?

12:22PM 17 MR. MUZZIO: I want to confirm that. But, in any event,  
12:22PM 18 what we are seeking to admit and read into the record is 34.

12:23PM 19 MR. SLADE: So it's not 36? 36 is the one on the  
12:23PM 20 Apostille.

12:23PM 21 We just renew our objection, Your Honor, to the  
12:23PM 22 trustworthiness of these documents based upon the certification of  
12:23PM 23 different page numbers; and the fact that under Rule 902, we do  
12:23PM 24 not see a certification made by the requisite counselor official.

12:23PM 25 But 34, which I was told was being withdrawn, does not

12:23PM 1 contain an Apostille -- I'm sorry. 36.

12:23PM 2 THE COURT: Well, it being withdrawn, the objection to 36  
12:23PM 3 would be moot.

12:23PM 4 The exhibits that are going to be advanced, Mr. Muzzio,  
12:23PM 5 are?

12:23PM 6 MR. MUZZIO: It's 31T, 41T, and 34T. And by the T, it  
12:23PM 7 just means that it includes the translation.

12:24PM 8 THE COURT: The translation, right.

12:24PM 9 MR. SLADE: As long as they have the Apostilles --

12:24PM 10 MR. MUZZIO: I'm sorry.

12:24PM 11 MR. SLADE: There is no objection as long as we have all  
12:24PM 12 the Apostilles on the documents.

12:24PM 13 THE COURT: And those do have the Apostilles on those  
12:24PM 14 particular documents.

12:24PM 15 Okay. The ruling remains then, that to the extent there  
12:24PM 16 was an objection on the authentication, overruled.

12:24PM 17 So where does that leave you? That's what you're going  
12:24PM 18 to do next is just read those in?

12:24PM 19 MR. MUZZIO: I -- I believe so, yes, Your Honor.

12:24PM 20 THE COURT: Okay. And then from there, are you calling  
12:24PM 21 Mr. Bravo?

12:24PM 22 MR. KRISHNAN: No, Your Honor. I think the next thing  
12:24PM 23 would be then to actually read -- sorry. Is that what you're  
12:24PM 24 asking?

12:24PM 25 After the Camps statement is read in, yes, we will call

12:24PM 1 Mr. Bravo.

12:24PM 2 THE COURT: And these are scheduling questions, not  
12:24PM 3 commitments.

12:24PM 4 Your estimated time for direct with Mr. Bravo?

12:24PM 5 MR. KRISHNAN: Hour and a half.

12:24PM 6 THE COURT: Okay. All right. We may conclude with Mr.  
12:24PM 7 Bravo today. So you do have your other expert, he is your next  
12:25PM 8 live witness here; but you would probably fill in with testimony  
12:25PM 9 from the depo designation.

12:25PM 10 That was your intention; right?

12:25PM 11 MR. KRISHNAN: That's correct, Your Honor. The one thing  
12:25PM 12 I'll say is that I -- my understanding from counsel -- and I'm  
12:25PM 13 just saying this as a scheduling matter based on something counsel  
12:25PM 14 has indicated -- it may be that redirect is longer than one might  
12:25PM 15 normally expect. I know there was the question of going beyond  
12:25PM 16 the scope of cross.

12:25PM 17 THE COURT: Oh, right. Your redirect will be  
12:25PM 18 functionally your cross as well so that we have him once on the  
12:25PM 19 stand.

12:25PM 20 That was what the parties agreed and you anticipated;  
12:25PM 21 right?

12:25PM 22 MR. KRISHNAN: Exactly. My point was I was thinking an  
12:25PM 23 hour and a half would be the first time I examined him. After the  
12:25PM 24 cross, there may be more.

12:25PM 25 THE COURT: We were on the same page.

12:25PM 1 Then if there's nothing else, then enjoy your lunch  
12:25PM 2 break, and I'll see you back in an hour and five minutes.

12:25PM 3 MR. SLADE: Thank you, Your Honor.

12:25PM 4 THE COURT: Thank you.

12:25PM 5 (Lunch recess 12:25 P.M. to 1:30 P.M.)

01:33PM 6 THE COURT: Perfect. Welcome back. Thank you for being  
01:33PM 7 here on time, and have a seat.

01:34PM 8 Mr. Krishnan, Mr. Muzzio, are you ready for our next?

01:34PM 9 MR. MUZZIO: Yes, just very quickly, Your Honor, our  
01:34PM 10 colleague, Brian Booth, is here to read the part of Alberto Camps  
01:34PM 11 from the statements.

01:34PM 12 We neglected to say his name during voir dire. I wanted  
01:34PM 13 to confirm that none of our jurors know him.

01:34PM 14 THE COURT: Oh, I appreciate that, Mr. Muzzio. Would you  
01:34PM 15 repeat the name?

01:34PM 16 MR. MUZZIO: Brian Booth.

01:34PM 17 THE COURT: Brian Booth, okay. I don't see a glimmer of  
01:34PM 18 familiarity on any juror's face.

01:34PM 19 Mr. Booth, do you want to come on up. And I understand  
01:34PM 20 you're going to be reading something for us.

01:34PM 21 MR. MUZZIO: We're going to put the statement up on the  
01:34PM 22 screen, Your Honor, and the portions that we will be reading will  
01:34PM 23 be highlighted.

01:34PM 24 THE COURT: Now, ladies and gentlemen, you understand  
01:34PM 25 that Mr. Camps -- I'm sorry -- Mr. Booth is not a witness, but he

01:35PM 1 is just going to read this to you. This is not his own statement.

01:35PM 2 Mr. Muzzio, just as a housekeeping matter, have you moved  
01:35PM 3 for the admission of those documents? Do you want to give me  
01:35PM 4 those numbers, please.

01:35PM 5 MR. MUZZIO: Yes, Your Honor. It is PX41T, PX34T, and  
01:35PM 6 PX31T, and I would also ask for the admission of the originals  
01:35PM 7 which are the same numbers.

01:35PM 8 THE COURT: Can I read that back just to make sure I got  
01:35PM 9 it right. PX41, 34, 31?

01:35PM 10 MR. MUZZIO: Correct, Your Honor.

01:35PM 11 THE COURT: And their equivalent with the T.

01:35PM 12 MR. MUZZIO: Yes.

01:35PM 13 THE COURT: Mr. Slade noted a prior objection which is  
01:35PM 14 preserved for the record. Any other objection to their  
01:35PM 15 admissibility at this time?

01:35PM 16 MR. SLADE: No, Your Honor.

01:35PM 17 THE COURT: They will be admitted, and you can publish.

01:35PM 18 MR. MUZZIO: Thank you, Your Honor. Can you pull up 41T?  
01:36PM 19 And just for absolute clarification, these are question and  
01:36PM 20 answers. So I will read the part of the questioner. Mr. Booth  
01:36PM 21 will read the part of Mr. Camps.

01:36PM 22 Declaration of Alberto Camps:

01:36PM 23 On August 23, 1972, the investigator judge and acting  
01:36PM 24 secretary went to the recovery area of Puerto Belgrano Naval  
01:36PM 25 Hospital where Mr. Alberto Miguel Camps was receiving medical



01:36PM 1 care. He was asked his name, his last name, age, marital status,  
01:36PM 2 nationality, profession or occupation, identification data and  
01:36PM 3 domicile.

01:36PM 4 A. I am Alberto Miguel Camps, Argentinian, single, 24  
01:36PM 5 years old, with domicile at 350 Pasteur, Federal Capital.

01:37PM 6 I'm a medicine student. I was born on February 12, 1948.

01:37PM 7 Q. Tell us about the event in which you were shot. Would you  
01:37PM 8 tell the police the opportunity, the circumstances, and the people  
01:37PM 9 involved?

01:37PM 10 A. On Tuesday, August 15th, 1972, our group of 19 people, after  
01:37PM 11 escaping Rawson Prison, surrendered in the airport of Trelew to  
01:37PM 12 the forces commanded by Captain Sosa in the presence the federal  
01:37PM 13 judge of Rawson, lawyers, and journalists, and prior confirmation  
01:37PM 14 of our perfect health status. From there, we were taken by bus to  
01:37PM 15 the naval air station of Trelew. We were accommodated in ten  
01:37PM 16 prison cells that open to a passageway, one end of which was  
01:37PM 17 closed by a wall, and the other end open to an entrance hall where  
01:37PM 18 a reinforced sentry guarded us constantly.

01:38PM 19 This sentry usually included an officer and many  
01:38PM 20 noncommissioned officers. The former were armed with 45-caliber  
01:38PM 21 pistols, and the latter with PAMs, Spanish acronym for pistol  
01:38PM 22 machine gun or submachine gun.

01:38PM 23 During the days, we were there, we were treated properly  
01:38PM 24 although with military strictness. The food was good, and they  
01:38PM 25 gave us mattresses and blankets at night. The only person who

01:38PM 1 treated us with unjustified harshness was a man who I believe was  
01:38PM 2 an officer, since he had a badge with a circle and two small bars  
01:38PM 3 on his cap and on his uniform label. His last name was Bravo. He  
01:38PM 4 was about 1.8 meters, 5-foot-11, blond, white skinned with a  
01:38PM 5 mustache, and he usually carried a light brown pouch with the  
01:38PM 6 letters U.S. on the lid, and a command-type knife with a red hand  
01:38PM 7 grip and metallic colored hand guard. The unjustified harshness  
01:38PM 8 of said Officer Bravo was evident in the repressive disciplinary  
01:39PM 9 measures, such as stress positions, et cetera, which he adopted  
01:39PM 10 with us for no valid reasons.

11 In the early hours of Tuesday the 22nd, around 0300 hours, I  
12 was woken up, just as my companions were, by the shouts and  
13 insults of Captain Sosa and Officer Bravo coming from the  
14 passageway. I remember they were yelling something like, "Now  
15 you'll know what anti-terror repression is." Immediately  
16 afterwards, they made us open the cell doors and come out to make  
17 two lines in the passageway. Since my cell was number 10, I mean,  
18 the last one at the closed end of the passageway, I made the line  
19 at the end, against the end wall of the passageway, that is, at  
20 the other end of the hall where the guard was normally posted.

21 As soon as we formed in the passageway, amidst the insults  
22 yelled by those I mentioned, Captain Sosa and Officer Bravo, I  
23 heard bursts of gunfire from automatic weapons and saw some of my  
24 companions fall wounded to the floor. I immediately threw myself  
25 to the floor inside my cell, and my cell companion Alberto Delfino

1 did the same thing. In this position, I heard again several  
2 bursts of gunfire, and then isolated shots. I think these  
3 isolated shots were made not with automatic weapons but with short  
4 weapons, 45-caliber pistols.

5 Instants later, the above Officer Bravo arrived at my cell  
6 door wielding a 45-caliber pistol in his right hand and ordered us  
7 to stand up, which my mate Delfino and I did. Officer Bravo  
8 immediately asked me if I was going to answer all the questions of  
9 the interrogations. I said, "No." Officer Bravo reacted to this  
10 by shooting his 45-caliber pistol at point-blank range, wounding  
11 me at the level of the stomach. Let me clarify that the distance  
12 at which he shot me was about a meter [3.28 feet]. Let me also  
13 clarify that all the lights were on from the very start of this  
14 episode, from the instant they woke us up.

15 Immediately after shooting me, Officer Bravo shot my mate  
16 Delfino once, just as he had shot me. Both Delfino and I fell to  
17 the floor. As I didn't lose consciousness, I saw Officer Bravo go  
18 to the cell in front of mine and saw him shoot my mate Del Rey who  
19 had fallen, wounded I guess, on the floor. For a while, I kept  
20 hearing isolated shots. I remained in that situation for a while  
21 until they moved me to a hospital.

22 After some hours they flew us, I think Haidar and me, by  
23 plane to this hospital of the Puerto Belgrano Naval Station. In  
24 this hospital, I was treated and operated on.

25 Q. He was asked, try to clarify what you mean by "et cetera," in

01:42PM 1 your prior statement, in the paragraph where you said the  
01:42PM 2 unjustified harshness of said Officer Bravo was evident in  
01:42PM 3 repressive disciplinary measures such as getting dropped, et  
01:42PM 4 cetera, which he adopted with us for no valid reasons?

01:42PM 5 A. Taking one's clothes off and placing one's hands on the wall  
01:42PM 6 with the cell window opened, lying flat on the ground facedown  
01:42PM 7 with our hands on our nape; the same thing, but faceup.

01:42PM 8 Q. How did you make a line in the passageway after having been  
01:42PM 9 woken up that same day, and where did you leave blankets and  
01:42PM 10 mattresses?

01:42PM 11 A. Guard personnel passed by and told us to wake up and fold our  
01:42PM 12 mattresses. The doors of all the cells were opened, and we were  
01:42PM 13 ordered to leave the mattresses in their usual place, the  
01:42PM 14 occupants of each cell doing it one at a time. Then, we had to go  
01:42PM 15 back into the cell. Afterwards, they gave the order to make a  
01:43PM 16 line in the passageway, each by their cell, in two lines facing  
01:43PM 17 the entrance to the passageway and looking at the floor, as  
01:43PM 18 instructed. When I said my previous declaration, happened  
01:43PM 19 instants after making the line.

01:43PM 20 Q. He was asked: According to you, why did the shooting start?

01:43PM 21 A. Urges of a personal order.

01:43PM 22 Q. He was asked: Whose urges?

01:43PM 23 A. Of the officers named Sosa and Bravo.

01:43PM 24 MR. MUZZIO: I will now pull up Exhibit PX34, and we'll  
01:43PM 25 read another statement from Mr. Camps.

01:43PM 1 Q. He was asked: Do you remember the station medic sought --

01:44PM 2 MR. MUZZIO: I apologize.

01:44PM 3 Q. He was asked: Do you remember if a station medic saw you  
01:44PM 4 before you were evacuated?

01:44PM 5 A. Somebody saw me, yes, and determined that I was injured, but I  
01:44PM 6 don't know if he was a doctor.

01:44PM 7 Q. He was asked: Who woke you all up on the night of the event?

01:44PM 8 A. The shouts, the banging on the doors and the insults uttered  
01:44PM 9 by -- I don't know if they did it in all cells, but they did it in  
01:44PM 10 mine -- Sosa and Bravo.

01:44PM 11 Q. He was asked: Once the shooting began, when you sought  
01:44PM 12 shelter in your cell, were you injured or unharmed?

01:44PM 13 A. Unharmed.

01:44PM 14 Q. He was asked, in your last declaration, you said I saw some of  
01:44PM 15 my companions injured and falling to the floor, did you while  
01:44PM 16 seeing this see who was firing at your companions before you threw  
01:44PM 17 yourself on the floor of your cell?

01:45PM 18 A. I didn't see who was shooting.

01:45PM 19 Q. He was asked, did you lose consciousness at some point after  
01:45PM 20 being injured and until you were taken from the site to the  
01:45PM 21 hospital?

01:45PM 22 A. I didn't lose consciousness at any point during that period.

01:45PM 23 MR. MUZZIO: We will now read PX31. But before we do,  
01:45PM 24 there is a drawing in this exhibit from Mr. Camps that I would  
01:45PM 25 like to show to the jury. It's the last page. Okay. If we can

01:45PM 1 go back to the first page. Mr. Booth will read this next Camps  
01:46PM 2 statements on his own.

3 MR. BOOTH: During meals, officers would order guards to  
4 point their weapons at them, weapons with ammunition in the  
5 chamber and without the safety switch on, and orders included  
6 shooting them at the slightest movement. The previously mentioned  
7 periods of lying on the ground would last an hour or an hour and a  
8 half, depending on the criterion of the officer ordering it. To  
9 go to the bathroom, detainees were taken one by one with their  
10 hands on their head, followed by an armed soldier in the  
11 conditions previously described. He clarifies that the same  
12 treatment was reserved for women as for men. They received death  
13 threats directly, especially from Officer Bravo.

14 For example, in one of the meals, the deponent heard the  
15 aforementioned officer say to a subordinate that instead of  
16 killing them, they were feeding them. He clarifies that what was  
17 meant was that they should kill them instead of feeding them.  
18 When he heard this, he was eating alone, and he thinks it was  
19 dinnertime.

01:47PM 20 On the early morning of the 22nd day of August, they were  
01:47PM 21 woken up with shouts, which also happened in previous daybreaks  
01:47PM 22 when they were subjected to interrogations. Captain Sosa was  
01:47PM 23 ordering them to fold their blankets and mattresses while  
01:47PM 24 insulting them and telling them that now they would find out what  
01:47PM 25 anti-guerrilla terror was, and telling them to look downward.

01:47PM 1 In the circumstances described, they were ordered by  
01:47PM 2 Captain Bravo to leave the cells and stand by them, looking at the  
01:47PM 3 floor and facing the place marked with the letter A in the plan.  
01:47PM 4 After one or two minutes had passed since the detainees had made a  
01:47PM 5 line outside the cells, and without any triggering element or  
01:47PM 6 event whatsoever, the detainees were fired at with machine guns or  
01:47PM 7 automatic guns that shot bursts of fire from point A in the plan.  
01:48PM 8 The deponent cannot specify the number of people who opened fire  
01:48PM 9 from that end.

01:48PM 10 Delfino and the deponents went back to their cell when  
01:48PM 11 they heard the shots and weren't reached by any shot, and they lay  
01:48PM 12 flat on the floor while they kept hearing bursts of machine guns.  
01:48PM 13 A few minutes later, those gun bursts ceased, and he heard voices  
01:48PM 14 saying "this one is still alive" followed by a bang. He doesn't  
01:48PM 15 know whose voice that was and believes the bang came from a  
01:48PM 16 short-range weapon. He then went on hearing isolated shots until  
01:48PM 17 Officer Bravo appeared at the door of the deponent's cell and  
01:48PM 18 ordered its occupants to stand up.

01:48PM 19 This officer was carrying a short-range weapon, a .45  
01:48PM 20 pistol, and he asked them if they would answer in an  
01:48PM 21 interrogation. They replied, no. He immediately shot the  
01:48PM 22 deponent and then Mario Delfino. Both fell. The former, the  
01:48PM 23 first one shot, was hit in the abdomen, left side, from a distance  
01:49PM 24 of 1.5 meters. And the second one from another later shot that  
01:49PM 25 the deponent heard from the floor, and that left Delfino totally

01:49PM 1 motionless. The deponent didn't hear Delfino groan after the shot  
01:49PM 2 either. He adds that the deponent stayed in that position 30 or  
01:49PM 3 45 minutes and that, during the first five or ten minutes, he went  
01:49PM 4 on hearing isolated bangs.

01:49PM 5 Then the bangs stopped, and he heard voices but didn't  
01:49PM 6 understand what they were saying. The deponent tried not to move  
01:49PM 7 or moan to avoid what he understood was happening to the rest,  
01:49PM 8 that is, they were being finished off. Approximately 30 minutes  
01:49PM 9 later, two nurses showed up, turned him around, and took his  
01:49PM 10 pulse. Five or ten minutes later, he was removed from there in a  
01:49PM 11 stretcher and taken to the base infirmary where the deponent says  
01:49PM 12 he saw Polti, Haida, Astudillo, or Bonet. Then he say Berger  
01:50PM 13 brought in. There they put a gauze on his wound, and he received  
01:50PM 14 an injection, and then he lost consciousness or fell asleep.

01:50PM 15 He answered that between the aforementioned base in  
01:50PM 16 Trelew, he estimates the distance is four or five kilometers and  
01:50PM 17 between the base and Rawson, about 20 kilometers.

01:50PM 18 MR. MUZZIO: Thank you, Your Honor, that completes the  
01:50PM 19 reading.

01:50PM 20 THE COURT: Thank you, Mr. Booth.

01:50PM 21 Let me make sure that the ladies and gentlemen of the  
01:50PM 22 jury understand that while portions of the exhibit were just  
01:50PM 23 published, the entire exhibit is in evidence.

01:50PM 24 Okay. The next witness, Mr. Krishnan.

01:50PM 25 MR. KRISHNAN: Thank you, Your Honor. Plaintiffs now



01:50PM 1 call defendant Mr. Bravo.

01:51PM 2 THE COURTROOM DEPUTY: Sir, please raise your right hand.

01:51PM 3 (The witness is sworn.)

01:51PM 4 THE WITNESS: I do.

01:51PM 5 THE COURTROOM DEPUTY: Perfect. Have a seat, please.

01:51PM 6 Please state your full name for the record and spell it.

01:51PM 7 THE WITNESS: My name is Alberto Guillermo Bravo. B, as  
01:51PM 8 in boy, R-A-V, as in Victor, O.

01:51PM 9 MR. KRISHNAN: Your Honor, before we proceed, I just  
01:51PM 10 wanted to clarify my understanding of how questioning will  
01:52PM 11 proceed.

01:52PM 12 MR. DAVIS: Your Honor, Mr. Bravo has an interpreter with  
01:52PM 13 him. He is going to do this in English as best he can. In case  
01:52PM 14 of a problem because English is not his first language, and this  
01:52PM 15 is very important. Basically, it is his right. But he is going  
01:52PM 16 to try to do all of this in English.

01:52PM 17 THE COURT: Agreed.

01:52PM 18 MR. KRISHNAN: It's fine with me, Your Honor.

01:52PM 19 THE COURT: Everyone, understand that Mr. Bravo is going  
01:52PM 20 to respond as he is comfortable in English. And to the extent he  
01:52PM 21 looks to the interpreter, then you will follow the interpretation  
01:52PM 22 as it's provided. And that's the version that you should listen  
01:52PM 23 to when it comes from the interpreter, okay.

01:52PM 24 MR. KRISHNAN: Thank you, Your Honor. May I proceed?

01:52PM 25 THE COURT: Yes.

01:52PM 1 ROBERTO BRAVO, THE DEFENDANT, SWORN

01:52PM 2 CROSS-EXAMINATION

01:52PM 3 BY MR. KRISHNAN:

01:52PM 4 Q. Good afternoon, Mr. Bravo.

01:52PM 5 A. Sir.

01:52PM 6 Q. On August 22, 1972, you were at the Almirante Zar Naval Base  
01:52PM 7 in Trelew Argentina; right?

01:52PM 8 A. I'd like to say something before that.

01:52PM 9 THE COURT: No, I'm sorry, Mr. Bravo.

01:53PM 10 THE WITNESS: (Speaking Spanish.)

01:53PM 11 THE COURT: I'm sorry. Let me just make sure that we  
01:53PM 12 understand. The way this format works is that when the attorney  
01:53PM 13 asks a question, then if you can, you provide a responsive answer  
01:53PM 14 to that question, okay.

01:53PM 15 THE WITNESS: Yes, ma'am.

01:53PM 16 THE COURT: And that's all.

01:53PM 17 THE WITNESS: Thank you, Your Honor. Yes, sir.

01:53PM 18 BY MR. KRISHNAN:

01:53PM 19 Q. Okay. And just to make sure that you were answering the  
01:53PM 20 question there when you said, yes, sir, the question was: On  
01:53PM 21 August 22, 1972, you were at the Almirante Zar Naval Base in  
01:53PM 22 Trelew Argentina, right?

01:53PM 23 A. Yes.

01:53PM 24 Q. And you were involved in an incident where 19 prisoners were  
01:53PM 25 shot, right?

01:53PM 1 A. It was an exchange of fire, yes.

01:53PM 2 Q. And it was 19 prisoners who were shot, right?

01:53PM 3 A. In an exchange of fire.

01:53PM 4 THE COURT: Okay. Let me stop again. Mr. Bravo, if the

01:53PM 5 question calls for a yes or no, I want your answer -- if it is

01:53PM 6 appropriate, to include the yes or the no. Okay?

01:53PM 7 THE WITNESS: Thank you. Yes, sir.

01:54PM 8 BY MR. KRISHNAN:

01:54PM 9 Q. Yes, you were involved in an incident where 19 prisoners were

01:54PM 10 shot; right?

01:54PM 11 A. Yes.

01:54PM 12 Q. And you were responsible for the 19 prisoners; right?

01:54PM 13 A. Yes.

01:54PM 14 Q. The shootings occurred at the prisoner cellblock, right?

01:54PM 15 A. Yes.

01:54PM 16 Q. And before you were at the cellblock, you were at the

01:54PM 17 officers' dining area, right?

01:54PM 18 A. Yes.

01:54PM 19 Q. And that's sometimes called the mess?

01:54PM 20 A. Yes.

01:54PM 21 Q. The officers' mess or the officers' dining area?

01:54PM 22 A. That is correct.

01:54PM 23 Q. And there's alcohol there, right?

01:54PM 24 A. At dinnertime, yes.

01:54PM 25 Q. And you were drinking earlier that night, right?

01:54PM 1 A. With my dinner, yes.

01:54PM 2 Q. And you say you think you only had two glasses of wine at

01:54PM 3 dinner; right?

01:54PM 4 A. I was sure.

01:54PM 5 Q. You were sure? You know at your deposition you said you think

01:54PM 6 you had two glasses of wine?

01:54PM 7 A. That was my custom, yes.

01:55PM 8 Q. So is it you think or you're sure?

01:55PM 9 A. I had to -- I'm sure.

01:55PM 10 Q. You're sure? So while you said you think at your deposition,

01:55PM 11 now you're saying you're sure?

01:55PM 12 A. I have to insist that was my custom, so I -- I would say yes,

01:55PM 13 I am sure.

01:55PM 14 Q. Okay. And dinner was at about 10:00 P.M., you said?

01:55PM 15 A. I ended about that time, started at 9:00.

01:55PM 16 Q. Okay. And no one can corroborate how much you had to drink

01:55PM 17 that night; fair?

01:55PM 18 A. I don't think so.

01:55PM 19 Q. And now you believe Mr. Sosa was drinking that night too,

01:55PM 20 right?

01:55PM 21 A. I don't know.

01:55PM 22 Q. Didn't you say at your deposition that you guess that he was

01:55PM 23 drinking that night?

01:55PM 24 A. Yeah, I said that. I guessed, but I didn't say that he did.

01:56PM 25 Q. Right. And why did you guess that?

01:56PM 1 A. Because at dinnertime, it's customary at dinner to drink wine  
01:56PM 2 or have wine.

01:56PM 3 Q. You're aware that Mr. Sosa did drink regularly at dinner,  
01:56PM 4 right?

01:56PM 5 A. I normally see the bottle of wine at the dinner table and  
01:56PM 6 other officers.

01:56PM 7 Q. And was Mr. Sosa known to drink significantly or to excess?

01:56PM 8 A. Not that I know of.

01:56PM 9 Q. Not that you know of. Okay. Between 3:00 A.M. and 3:30 A.M.,  
01:56PM 10 you and three other officers show up at the cellblock area; right?

01:56PM 11 A. Yes.

01:56PM 12 Q. And those officers who came with you were Captain Sosa,  
01:56PM 13 Lieutenant Del Real, and Lieutenant Herrera; right?

01:56PM 14 A. That is correct.

01:56PM 15 Q. When you got to the cellblock, there was a corporal there  
01:56PM 16 named Marandino; right?

01:56PM 17 A. It was one of two.

01:57PM 18 Q. You're saying that there was another corporal there as well;  
01:57PM 19 right?

01:57PM 20 A. That is correct.

01:57PM 21 Q. At your deposition, you testified that Mr. Marandino was  
01:57PM 22 there, and there may or may not have been another corporal there;  
01:57PM 23 right?

01:57PM 24 A. What I said at my deposition, that was my recollection at the  
01:57PM 25 time of the deposition.

01:57PM 1 Q. So since your deposition, are you now saying that you're sure  
01:57PM 2 that there was another corporal there?

01:57PM 3 A. Yes.

01:57PM 4 Q. And at your deposition, you didn't know the name of that other  
01:57PM 5 corporal?

01:57PM 6 A. That is correct.

01:57PM 7 Q. Do you now know the name of that other corporal?

01:57PM 8 A. I learned the name. Yes. Marchan. That was the last name.  
01:57PM 9 I don't know the first name.

01:57PM 10 Q. You learned the name since your deposition?

01:57PM 11 A. Yes.

01:57PM 12 Q. How did you learn the name?

01:57PM 13 A. In reading the other proceedings, in reading the -- I don't  
01:57PM 14 remember, reading the paperwork that was generated by these  
01:58PM 15 proceedings.

01:58PM 16 Q. Okay. So you read the paperwork generated by these  
01:58PM 17 proceedings, other evidence, and based on that other evidence, you  
01:58PM 18 now are changing your testimony as to your knowledge of that  
01:58PM 19 person's name; correct?

01:58PM 20 A. Yes, that is correct.

01:58PM 21 Q. Okay. And that's something you've done before in this case;  
01:58PM 22 right? You have read, for instance, the trial proceedings in  
01:58PM 23 Argentina, and based on that, changed your testimony; right?

01:58PM 24 A. I don't recall exactly what part of the testimony I read or  
01:58PM 25 you are referring to.

01:58PM 1 Q. You don't recall at your deposition coming back after lunch  
01:58PM 2 and then changing your testimony as to who was holding which gun?

01:58PM 3 A. Yes, that I remember.

01:58PM 4 Q. And do you remember at your deposition you said the reason why  
01:58PM 5 you changed your testimony is because you remembered that the  
01:58PM 6 trial court proceedings in Argentina had different people holding  
01:58PM 7 the guns; do you remember that?

01:58PM 8 A. No, I didn't say that exactly. First of all, regarding the  
01:59PM 9 second corporal -- when the second corporal was mentioned and I  
01:59PM 10 saw the name Marchan, then I remembered. I remembered that as  
01:59PM 11 soon as I arrived there, he asked me permission to leave because  
01:59PM 12 he was unwell. He didn't feel well. So then that was -- that  
01:59PM 13 disappeared from my mind. I didn't recall it. Then I read it,  
01:59PM 14 and I remembered that there was another corporal.

01:59PM 15 Q. But the change in testimony over lunch was based on your  
01:59PM 16 recollection of the Argentine trial court proceedings; correct?

01:59PM 17 A. Oh, no, no, no, no, no, no, no. In that period, I just tried  
01:59PM 18 to reach back in my mind to see exactly what was going on and what  
01:59PM 19 wasn't because I hadn't recalled seeing that contest in 50 years.  
02:00PM 20 So I was trying to -- I was trying to remember.

02:00PM 21 Q. At your deposition, didn't you say during, this break, I was  
02:00PM 22 recalling where I read in the proceedings from the Argentine  
02:00PM 23 trials, and then I was trying to recall my recollection of events?  
02:00PM 24 Didn't you say that when you changed your testimony?

02:00PM 25 A. I didn't say I read it. I said that I remembered.

02:00PM 1 Q. Okay. You remembered. So it was your memory of the Argentine  
02:00PM 2 trial court proceedings --

02:00PM 3 A. That is correct.

02:00PM 4 Q. -- that caused you to change your testimony at your  
02:00PM 5 deposition; right?

02:00PM 6 A. On the name and the presence of another corporal there, that  
02:00PM 7 is correct.

02:00PM 8 Q. Now, the Argentine military has officers and enlisted people;  
02:00PM 9 right?

02:00PM 10 A. At that time, there was officers enlisted and conscripts.

02:01PM 11 Q. I see. Thank you. That's very helpful. Generally, officers  
02:01PM 12 manage enlisted people; is that right?

02:01PM 13 A. Any chain of command, officers are in charge, and normally  
02:01PM 14 they have subordinates at lower rank. Lower rank could be same  
02:01PM 15 officers, or it could be an enlisted officer, meaning  
02:01PM 16 noncommissioned officer.

02:01PM 17 Q. Fair enough.

02:01PM 18 A. Conscripts.

02:01PM 19 Q. I'm sorry. Fair enough. The officers generally have higher  
02:01PM 20 ranks than the enlisted people; fair?

02:01PM 21 A. Yes.

02:01PM 22 Q. Okay. And you, Sosa, De l Real, and Herrera were all officers;  
02:01PM 23 right?

02:01PM 24 A. That is correct.

02:01PM 25 Q. And Marandino who was the person that was at the cellblock



02:01PM 1 area when you arrived, he was a corporal; right?

02:01PM 2 A. Yes.

02:01PM 3 Q. And was he an enlisted person?

02:01PM 4 A. We call it noncommissioned officer.

02:01PM 5 Q. Noncommissioned officer?

02:01PM 6 A. Enlisted could be also called, yes.

02:02PM 7 Q. Then are conscripts below that?

02:02PM 8 A. Conscripts are drafted people in order to -- they are serve

02:02PM 9 the nation one year or two years.

02:02PM 10 Q. Fair enough. So at this time in Argentine history, there was

02:02PM 11 mandatory military service; correct?

02:02PM 12 A. That is correct.

02:02PM 13 Q. And so young men I assume at a certain age, maybe 18 to 21 or

02:02PM 14 something like that, have to serve one or two years in the

02:02PM 15 military; is that right?

02:02PM 16 A. Correct.

02:02PM 17 Q. So there were actually -- so knowledge of weapons and military

02:02PM 18 at least military basics were widely known amongst young men in

02:02PM 19 Argentina; fair?

02:02PM 20 A. No. In our generation, only the young people of Argentina --

02:02PM 21 the young people that went into the military in Argentina.

02:02PM 22 Q. Are you saying that some people avoided military service?

02:02PM 23 A. That is correct.

02:02PM 24 Q. So at least for those people who didn't avoid the military

02:02PM 25 service, they would have been familiar with usage of guns and

02:02PM 1 other military basics; right?

02:03PM 2 A. Yes.

02:03PM 3 Q. Now, when you arrived at the cellblock area, Corporal

02:03PM 4 Marandino was ordered to let all of the prisoners out of their

02:03PM 5 cells; right?

02:03PM 6 A. To open the cells first, yes.

02:03PM 7 Q. Okay. And then after he opened the cells, was he ordered to

02:03PM 8 let the prisoners out of the cells?

02:03PM 9 A. No. After -- he didn't open -- he unlocked them.

02:03PM 10 Q. He unlocked them. Okay.

02:03PM 11 A. And then the order was given by Captain Sosa to the already

02:03PM 12 closed doors but unlocked to all the prisoners to come out and

02:03PM 13 they stay on the outside of the cell.

02:03PM 14 Q. Okay. So Marandino was ordered to unlock the cells?

02:03PM 15 A. Yes, yes.

02:03PM 16 Q. And then Sosa ordered the prisoners to come out?

02:03PM 17 A. Yes.

02:03PM 18 Q. Okay. Now, let's talk about the guns you had.

02:04PM 19 A. Okay.

02:04PM 20 Q. Some of you had machine guns, and some of you had pistols;

02:04PM 21 right?

02:04PM 22 A. Well, specifically the two corporals that were there used

02:04PM 23 submachine gun only. The only officer that had pistols were

02:04PM 24 Captain Sosa and myself.

02:04PM 25 Q. Okay.

02:04PM 1 A. The other two officers didn't have any weapon at all.

02:04PM 2 Q. Okay. So your testimony now is that the corporals had

02:04PM 3 submachine guns, and the officers, two of the officers, you and

02:04PM 4 Captain Sosa had pistols; right?

02:04PM 5 A. Yes. But not now. I already told you that before in the

02:04PM 6 deposition.

02:04PM 7 Q. Fair enough. Okay.

02:04PM 8 MR. KRISHNAN: I'd like to show the witness an exhibit,

02:04PM 9 Your Honor.

02:04PM 10 THE COURT: Is it in evidence?

02:04PM 11 MR. KRISHNAN: It is not in evidence. I'm showing it to

02:04PM 12 him for authentication purposes.

02:04PM 13 THE COURT: The number?

02:04PM 14 MR. KRISHNAN: PX83.

02:04PM 15 THE COURT: And you're showing defense counsel?

02:04PM 16 MR. KRISHNAN: Yes. May we approach please, Your Honor?

02:05PM 17 THE COURT: Yes.

02:05PM 18 THE WITNESS: Thank you.

02:05PM 19 BY MR. KRISHNAN:

02:05PM 20 Q. Mr. Bravo, could I please ask you to turn to page 13 of PX83,

02:05PM 21 which is the last page?

02:05PM 22 A. Yes, page 13.

02:05PM 23 Q. And do you recognize what you see there?

02:05PM 24 A. Yes. Submachine gun model PAM-1 -- 2.

02:05PM 25 MR. KRISHNAN: Thank you.

02:05PM 1 Your Honor, I'm going to offer into evidence at this time  
02:05PM 2 -- through a later witness, we'll offer the entire exhibit. But  
02:05PM 3 at this time, I would just offer page 13 so I can at least publish  
02:06PM 4 it to the jury.

02:06PM 5 THE COURT: Any objection to 83?

02:06PM 6 MR. DAVIS: No objection.

02:06PM 7 THE COURT: Let me ask this. I understand the  
02:06PM 8 conditional nature of the offer, but is there any objection to the  
02:06PM 9 admissibility of the entire exhibit?

02:06PM 10 MR. DAVIS: No.

02:06PM 11 THE COURT: Okay. 83 is admitted. You can publish  
02:06PM 12 page 13.

02:06PM 13 MR. KRISHNAN: Thank you, Your Honor. May I then move  
02:06PM 14 the entire exhibit into evidence?

02:06PM 15 THE COURT: I accepted the whole exhibit.

02:06PM 16 MR. KRISHNAN: I didn't hear you.

02:06PM 17 THE COURT: Am I on?

02:06PM 18 MR. KRISHNAN: You are. I just missed it. Thank you,  
02:06PM 19 Your Honor.

02:06PM 20 (Plaintiffs' Exhibit 83 received.)

02:06PM 21 MR. KRISHNAN: Could we please show page 13?

02:06PM 22 BY MR. KRISHNAN:

02:06PM 23 Q. And, Mr. Bravo, this is what you described as a PAM-1 machine  
02:06PM 24 begun; is that right?

02:06PM 25 A. Really PAM-2.

02:06PM 1 Q. Sorry. This is PAM-2?

02:06PM 2 A. Yes.

02:06PM 3 Q. And the difference between PAM-2 and PAM-1 is?

02:06PM 4 A. Is the one that the safety mechanism works, and I recognize

02:06PM 5 that this is No. 2.

02:07PM 6 Q. So you're saying that because you can see a safety on this,

02:07PM 7 this is a PAM-2?

02:07PM 8 A. That is correct.

02:07PM 9 Q. Okay. And this is also something you referred to as a

02:07PM 10 submachine gun?

02:07PM 11 A. That's how they call it, yes.

02:07PM 12 Q. A submachine gun, okay. Now, this is an automatic weapon,

02:07PM 13 right?

02:07PM 14 A. It is.

02:07PM 15 Q. And so that means when you pull the trigger, all of the

02:07PM 16 bullets will keep -- the bullets will continuously come out of the

02:07PM 17 gun until you either release the trigger or the magazine is empty;

02:07PM 18 right?

02:07PM 19 A. Yes, yes.

02:07PM 20 Q. What were you -- what were the PAM machine guns that the

02:07PM 21 conscripts -- sorry -- that the corporals were holding that night?

02:07PM 22 Were those PAM-1 or PAM-2?

02:07PM 23 A. We only had PAM-2 only. But I know there are PAM-1, and I

02:07PM 24 know the difference, and this was a PAM-2.

02:08PM 25 Q. Is a PAM-2? Okay. And what was the size of the magazine?

02:08PM 1 How many bullets?

02:08PM 2 A. 30, 32.

02:08PM 3 Q. Thank you.

02:08PM 4 A. Nine millimeters ammunition.

02:08PM 5 MR. KRISHNAN: Can we get PDX 3, please -- actually, r

02:08PM 6 PDX4.

02:08PM 7 Your Honor, I wanted permission to show a demonstrative

02:08PM 8 exhibit that I was going to use with one of our experts later to

02:08PM 9 the witness in order to just ask him if he recognizes it. I don't

02:08PM 10 know if there is an objection to that.

02:08PM 11 THE COURT: I don't either. Have you asked Mr. Davis?

02:08PM 12 MR. DAVIS: I just -- I think the witness would need to

02:08PM 13 establish the basic predicate.

02:08PM 14 MR. KRISHNAN: I would ask the witness.

02:08PM 15 MR. DAVIS: Yes.

02:08PM 16 THE COURT: I'm sorry. So what's the position from the

02:08PM 17 defense?

02:08PM 18 MR. DAVIS: He was going to let him tie up the predicate

02:08PM 19 with the witness, and I would be okay with it.

02:08PM 20 THE COURT: All right.

02:09PM 21 BY MR. KRISHNAN:

02:09PM 22 Q. Mr. Bravo, and you mentioned the officers at least you and

02:09PM 23 Mr. Sosa had pistols; right?

02:09PM 24 A. Captain Sosa and myself were marines. The rest of the other

02:09PM 25 officers were naval officers, ship officers, not marines. Captain

02:09PM 1 Sosa and I were wearing fatigues, green. The rest of the officers  
02:09PM 2 were dressed in the naval blue routine.

02:09PM 3 Q. Okay. Fair enough. That wasn't quite what I was asking. I'm  
02:09PM 4 just asking you and Officer Sosa had handguns; right?

02:09PM 5 A. That's what I'm trying to explain. Only marines carry  
02:09PM 6 handguns.

02:09PM 7 Q. I see. Okay.

02:09PM 8 MR. DAVIS: I'm just going if -- Mr. Bravo, would you  
02:09PM 9 bring the mic closer to your mouth?

02:09PM 10 MR. KRISHNAN: Thank you.

02:09PM 11 BY MR. KRISHNAN:

02:09PM 12 Q. Now, the -- sometimes you called them handguns, and sometimes  
02:09PM 13 you called them pistols; is that fair?

02:10PM 14 A. A revolver is a handgun. A pistol is another handgun. In  
02:10PM 15 order to so generalize the description of the weapon as a  
02:10PM 16 difference of machine gun or submachine gun, and there is a  
02:10PM 17 handgun. They were operated by hand; not by two arms.

02:10PM 18 Q. Okay. Fair enough. Here is what I'm asking. Let me start  
02:10PM 19 with this question.

02:10PM 20 A. Okay.

02:10PM 21 Q. Do you recognize the type of gun that you see in PDX4?

02:10PM 22 A. Yes. It's a 45 pistol.

02:10PM 23 Q. Okay. And were you holding Colt 45s that night, you and  
02:10PM 24 Officer Sosa?

02:10PM 25 A. Yes, yes.

02:10PM 1 Q. And is this roughly -- I understand this is not a picture of  
02:10PM 2 the gun you were actually holding. But is this the type of gun  
02:10PM 3 that you were holding, a Colt 45?

02:10PM 4 A. Similar model, yes.

02:10PM 5 MR. KRISHNAN: May I publish it to the jury, Your Honor,  
02:10PM 6 as a demonstrative?

02:10PM 7 MR. DAVIS: No objection.

02:10PM 8 THE COURT: Yes.

02:10PM 9 MR. KRISHNAN: Thank you.

02:10PM 10 Could we please publish it? Thank you.

02:11PM 11 BY MR. KRISHNAN:

02:11PM 12 Q. So -- now, this is a Colt 45; right?

02:11PM 13 A. It is a 45, and it's a Colt. There are many models of 45, but  
02:11PM 14 this one is a Colt.

02:11PM 15 Q. Okay. Now, when you referred to the handguns that you and  
02:11PM 16 Officer Sosa were using or had that night, sometimes you referred  
02:11PM 17 to that gun, this type of gun, the Colt 45 as a handgun, sometimes  
02:11PM 18 you referred to it as a pistol; right?

02:11PM 19 A. Yes, yes.

02:11PM 20 Q. That's all I was asking.

02:11PM 21 A. I can refer -- you choose, and from now on, I will call it the  
02:11PM 22 way you decide it.

02:11PM 23 Q. No, no. I just wanted to clarify whenever you used the term  
02:11PM 24 pistol or handgun, both of them apply to this type of gun; right?

02:11PM 25 A. Okay.



02:11PM 1 Q. Okay.

02:11PM 2 Now, you gave orders to shoot all of the prisoners; right?

02:11PM 3 A. I do not accept the word order.

02:12PM 4 Q. You don't accept the word order?

02:12PM 5 A. Order. I said fire when I see all of them coming to us.

02:12PM 6 Q. So you said fire?

02:12PM 7 A. I said fire twice; fire, fire.

02:12PM 8 Q. Okay. And when you said fire, your intention was to have the

02:12PM 9 soldiers shoot all of the prisoners; right?

02:12PM 10 A. No. The purpose was to stop their coming to us.

02:12PM 11 Q. Okay. Let's put aside the underlying purpose. I just want to

02:12PM 12 nail down who it is you wanted them to fire at.

02:12PM 13 When you said fire, did you want the soldiers just to fire

02:12PM 14 at a particular prisoner or all of the prisoners?

02:12PM 15 A. Everyone in front of us. There was a bunch of human bodies

02:12PM 16 coming toward us, not individuals. It was a mass of human bodies

02:12PM 17 coming to us.

02:13PM 18 Q. So what I'm asking is: Was your intention to have the

02:13PM 19 soldiers, when you said fire, shoot all of the prisoners that were

02:13PM 20 there in the cellblock area that night?

02:13PM 21 A. Shoot whatever is coming to us.

02:13PM 22 Q. Okay. Your intention when you were firing your gun was to

02:13PM 23 shoot all the prisoners; right?

02:13PM 24 A. I just answered the question.

02:13PM 25 Q. No, no, no. You just said you wanted your soldiers to shoot

02:13PM 1 everyone that was coming towards you. What I'm asking you is:  
02:13PM 2 You were trying to shoot all of the prisoners, all of them; right?  
02:13PM 3 A. I didn't have time to think. That was an instant where my  
02:13PM 4 adrenaline was very high. I didn't have time to think. The  
02:13PM 5 people were -- someone is picking up a gun and shooting at me, and  
02:14PM 6 I really didn't know what was happening. I said, fire, fire, in  
02:14PM 7 order to stop -- they are coming. So I didn't think individual  
02:14PM 8 bodies separate that I had to kill or neutralize. I had to stop  
02:14PM 9 that thing.  
02:14PM 10 Q. Mr. Bravo, didn't you testify at deposition that you saw every  
02:14PM 11 single one of the prisoners move?  
02:14PM 12 A. When?  
02:14PM 13 Q. At the time you shot them?  
02:14PM 14 A. I didn't say I saw every one. I saw a mass of individuals  
02:14PM 15 because it was a very narrow passageway where they really hardly  
02:14PM 16 fit everyone in a column. And when they just made one step  
02:14PM 17 forward and the guy on my right, the prisoner on my right in front  
02:14PM 18 of me shot me -- or mean shot in my direction, I saw the flame, I  
02:14PM 19 don't know exactly where he was aiming because he was moving --  
02:14PM 20 attacking another officer, and everyone moved forward. I just  
02:15PM 21 said, fire, fire. I want to stop them. I didn't see bodies, I  
02:15PM 22 saw -- at that time, it was very difficult for me to analyze the  
02:15PM 23 situation. It was my instinct. I really -- I think it was a  
02:15PM 24 tragedy, but I couldn't -- I didn't have time to think. I had to  
02:15PM 25 stop them. They could have run away from a high security prison,

02:15PM 1 but they were not going away from our base.

02:15PM 2 Q. All right. Thank you, Mr. Bravo. I just want to be clear

02:15PM 3 here.

02:15PM 4 You're saying that at your deposition you never said that

02:15PM 5 you were trying to shoot all the prisoners?

02:15PM 6 A. I don't remember exactly what was my wording at my deposition.

02:15PM 7 Q. Okay. You were the first to shoot of the soldiers who shot;

02:15PM 8 right?

02:15PM 9 A. Yes.

02:15PM 10 Q. And you discharged your whole magazine? You were holding a

02:16PM 11 PAM; right?

02:16PM 12 A. Yes.

02:16PM 13 Q. And you discharged all 30-something bullets?

02:16PM 14 A. Yes.

02:16PM 15 Q. That would have been 30 to 32 bullets?

02:16PM 16 A. Yes.

02:16PM 17 Q. And the prisoners couldn't advance more than two feet; right?

02:16PM 18 A. Yes.

02:16PM 19 Q. You stood in place as you were shooting them?

02:16PM 20 A. Yes.

02:16PM 21 Q. You don't remember any of the prisoners moving away from the

02:16PM 22 gunfire, right?

02:16PM 23 A. No. That is right, I don't remember.

02:16PM 24 Q. Right. So you recall all of the prisoners running towards

02:16PM 25 you; right?

02:16PM 1 A. Not running; moving forward, it was an instant.

02:16PM 2 Q. So --

02:16PM 3 A. It was not running. There were -- they were just getting --

02:16PM 4 making one step forward.

02:16PM 5 Q. Okay. So they took one step forward?

02:16PM 6 A. One and a half, yeah.

02:16PM 7 Q. One, one and a half steps forward, and that's what caused you

02:16PM 8 in the split second to shoot them all?

02:16PM 9 A. That is correct, to shoot at them; not to shoot them all.

02:17PM 10 Q. Well, you saw them all moving forward; right?

02:17PM 11 A. Yes.

02:17PM 12 Q. Okay. And you were trying to shoot everyone that moved;

02:17PM 13 right?

02:17PM 14 A. I was trying to stop that -- those -- that movement forward of

02:17PM 15 them.

02:17PM 16 Q. Okay. Mr. Bravo, at your deposition, do you remember being

02:17PM 17 asked, so you were trying to shoot all of them, correct?

02:17PM 18 MR. DAVIS: Line and page, Your Honor.

02:17PM 19 MR. KRISHNAN: Yes. It's page 111 to 112.

02:17PM 20 THE COURT: I don't think I have a copy of the

02:17PM 21 transcript.

02:17PM 22 MR. KRISHNAN: Let me get one for you, Your Honor. I

02:17PM 23 apologize.

02:17PM 24 THE COURT: Thank you, no worries. Thank you so much.

02:17PM 25 You said page 111?

02:18PM 1 MR. KRISHNAN: Yes. Thank you, Your Honor. Page 111,  
02:18PM 2 line 22.

02:18PM 3 THE COURT: Give defense counsel a chance to catch up.

02:18PM 4 MR. KRISHNAN: May I proceed, Your Honor? I'm sorry.

02:18PM 5 THE COURT: I'm sorry. Is it your intention to read  
02:18PM 6 that?

02:18PM 7 MR. KRISHNAN: My intention is to ask the witness whether  
02:18PM 8 he remembers testifying starting at page 111, the bottom of  
02:18PM 9 line 22, to page 112, line 3, leaving out the colloquy.

02:18PM 10 THE COURT: Then just show it to him.

02:18PM 11 And the question, you understand, Mr. Bravo, is whether  
02:18PM 12 or not this refreshes your recollection?

02:19PM 13 THE WITNESS: What page, please?

02:19PM 14 THE COURT: 111.

02:19PM 15 THE WITNESS: Thank you.

02:19PM 16 THE COURT: At line 20.

02:19PM 17 MR. KRISHNAN: Line 22.

02:19PM 18 THE COURT: Thank you.

02:19PM 19 To yourself, Mr. Bravo. To yourself.

02:19PM 20 THE WITNESS: Thank you.

02:19PM 21 THE COURT: And on to this next page. Then, counsel,  
02:19PM 22 I'll give you the floor back.

02:19PM 23 BY MR. KRISHNAN:

02:19PM 24 Q. When you're finished reading up to line 3 of the next page,  
02:19PM 25 could you let me know, Mr. Bravo?

02:19PM 1 A. Yes.

02:19PM 2 Q. Did you testify at deposition --

02:19PM 3 THE COURT: Counsel, ask him if it refreshed his  
02:19PM 4 recollection. I disagree with where you're heading with the  
02:20PM 5 impeachment.

02:20PM 6 MR. KRISHNAN: Okay.

02:20PM 7 BY MR. KRISHNAN:

02:20PM 8 Q. Does this refresh your recollection as to how you testified at  
02:20PM 9 deposition?

02:20PM 10 A. This --

02:20PM 11 Q. I'm just asking if it refreshes your recollection as to how  
02:20PM 12 you testified at deposition?

02:20PM 13 A. I cannot argue against that because here is my recalling, so  
02:20PM 14 this is what I said.

02:20PM 15 Q. So now my question to you is this: Did you shoot at  
02:20PM 16 everything that moved?

02:20PM 17 A. Yes.

02:20PM 18 Q. And I think you just testified that you thought that everyone  
02:20PM 19 was moving; right?

02:20PM 20 A. I cannot -- I cannot determine, I cannot say that everyone.  
02:20PM 21 The two individuals in the front or the four individuals in the  
02:20PM 22 front covered the rest behind. So I just saw a mass moving  
02:20PM 23 forward. I didn't count at that time. I just shoot at the body  
02:20PM 24 of people coming forward, so.

02:20PM 25 Q. When you stopped shooting, all of the prisoners were on the

02:21PM 1 floor; right?

02:21PM 2 A. I don't know all the prisoners. There were bodies on the  
02:21PM 3 floor. There was -- that was a terrible sight, it is in my mind  
02:21PM 4 since then, and I didn't count them. Yeah.

02:21PM 5 MR. KRISHNAN: Your Honor, I'd like to play page 94,  
02:21PM 6 lines 10 to 15.

02:21PM 7 THE COURT: 94 what?

02:21PM 8 MR. KRISHNAN: Lines 10 to 15.

02:21PM 9 THE WITNESS: Yes.

02:21PM 10 THE COURT: Any position from the defense?

02:21PM 11 MR. DAVIS: I think he asked -- there is no deposition  
02:21PM 12 designation on this portion. Obviously, he can use it for  
02:22PM 13 impeachment. He's not asked anything about this portion of the  
02:22PM 14 testimony, so.

02:22PM 15 MR. KRISHNAN: Let me repeat the question. I'm sorry.

02:22PM 16 MR. DAVIS: I would object. It's improper impeachment.

02:22PM 17 THE COURT: Mr. Krishnan, you wanted to ask a different  
02:22PM 18 question?

02:22PM 19 MR. KRISHNAN: I want to ask exactly what I asked before  
02:22PM 20 because I think it is proper impeachment.

02:22PM 21 BY MR. KRISHNAN:

02:22PM 22 Q. So my question is, Mr. Bravo, when you stopped shooting, all  
02:22PM 23 of the prisoners were on the floor; right?

02:22PM 24 A. Let me read what I said.

02:22PM 25 Q. I'm not asking --

02:22PM 1 THE COURT: No, no, no, Mr. Bravo. Please answer  
02:22PM 2 counsel's question.

02:22PM 3 THE WITNESS: I, no -- no, I don't recall having said all  
02:22PM 4 the prisoners were on the floor, because I didn't count them when  
02:22PM 5 they were on the floor.

02:22PM 6 MR. KRISHNAN: Now may I play the clip, Your Honor?

02:22PM 7 THE WITNESS: And if I said all, that would be my  
02:22PM 8 impression because there were a lot of bodies, but I didn't count  
02:22PM 9 them.

02:22PM 10 THE COURT: I just -- I don't think that impeaches the  
02:23PM 11 testimony he's giving here.

02:23PM 12 MR. KRISHNAN: Which is...

02:23PM 13 THE COURT: The answer is no, Mr. Krishnan.

02:23PM 14 MR. KRISHNAN: Okay. Okay.

02:23PM 15 BY MR. KRISHNAN:

02:23PM 16 Q. Within minutes, other soldiers arrived; right?

02:23PM 17 A. Yeah, we called --

02:23PM 18 Q. I'm just asking you within minutes --

02:23PM 19 A. Yes.

02:23PM 20 Q. -- other soldiers arrived? Okay. Thank you.

02:23PM 21 And you don't recall how quickly; right?

02:23PM 22 A. No, no, not the position.

02:23PM 23 Q. You don't really recall the time intervals; right?

02:23PM 24 A. I don't recall the time frame of those events.

02:23PM 25 Q. Now, Mr. Bravo, you're currently the subject of extradition



02:23PM 1 proceedings; right?

02:23PM 2 A. Yes.

02:23PM 3 Q. And specifically, both the Argentine government and the United

02:23PM 4 States government have been trying to get you extradited back to

02:23PM 5 Argentina; right?

02:23PM 6 A. Yes.

02:23PM 7 Q. And that's so that you can face criminal charges in Argentina

02:23PM 8 for the shootings in Trelew; right?

02:24PM 9 A. Yes.

02:24PM 10 Q. Two of your fellow officers at the shootings were Lieutenant

02:24PM 11 Sosa -- sorry -- Captain Sosa and Lieutenant DeI Real; right?

02:24PM 12 A. Yes.

02:24PM 13 Q. And they have been convicted of murder in Argentina; right?

02:24PM 14 A. Yes.

02:24PM 15 Q. That was ten years ago in 2012 that they were convicted;

02:24PM 16 right?

02:24PM 17 A. Yes.

02:24PM 18 Q. And that was a three-judge court; right?

02:24PM 19 A. Yes.

02:24PM 20 Q. But you weren't tried as part of that case because you were

02:24PM 21 here in the U.S., right?

02:24PM 22 A. Yes.

02:24PM 23 Q. And you've known about the charges against you since at least

02:24PM 24 2008; right?

02:24PM 25 A. Yes.

02:24PM 1 Q. Now, I want to talk to you about why you showed up at the  
02:24PM 2 cellblock area at around 3:00 A.M. that night. You had been at  
02:24PM 3 the officers' dining room; right?

02:24PM 4 A. Yes.

02:24PM 5 Q. And you claim that someone came into the officers' dining room  
02:25PM 6 to give you a message; right?

02:25PM 7 A. Yes.

02:25PM 8 Q. And do you know who that person is?

02:25PM 9 A. No. It was a sailor for the main guard of the base.

02:25PM 10 Q. It was a sailor from the main guard of the base?

02:25PM 11 A. It was a sailor. It was not a marine.

02:25PM 12 Q. So let's call -- just for the sake of my questioning, can we  
02:25PM 13 call that person "the sailor"?

02:25PM 14 A. Okay.

02:25PM 15 Q. Okay. So the sailor reported to you that the corporals  
02:25PM 16 watching the cellblock were worried that something was wrong;  
02:25PM 17 right?

02:25PM 18 A. Yes.

02:25PM 19 Q. And the sailor also reported to you that the corporal watching  
02:25PM 20 the cellblock had heard the prisoners chatting; right?

02:25PM 21 A. I don't remember if he said that. I know that the corporals  
02:25PM 22 with the guards told me that. I think that the sailor -- I mean,  
02:25PM 23 the sailor told me that the corporals who were on guard wanted to  
02:26PM 24 see me because they were uncomfortable with the prisoners. They  
02:26PM 25 were doing -- I don't remember exactly how they were wording.

02:26PM 1 Q. And did the sailor also tell you that the corporals watching  
02:26PM 2 the prisoners reported that the prisoners were using hand signals?

02:26PM 3 A. No.

02:26PM 4 Q. Okay.

02:26PM 5 MR. KRISHNAN: Your Honor, may I refresh the witness'  
02:26PM 6 recollection with his deposition?

02:26PM 7 THE COURT: Page and line? I mean, you can approach him  
02:26PM 8 and draw his attention to page and line.

02:26PM 9 MR. KRISHNAN: It's page 54, lines 2 to 18.

02:26PM 10 BY MR. KRISHNAN:

02:26PM 11 Q. And, Mr. Bravo, thank you. If you could also go to that page,  
02:27PM 12 page 54, lines 2 to 18.

02:27PM 13 A. Yes. That's what I said. I said that the --

02:27PM 14 THE COURT: Hold on, Mr. Bravo, wait for a question.

02:27PM 15 THE WITNESS: I'm sorry.

02:27PM 16 THE COURT: Go ahead, Mr. Krishnan.

02:27PM 17 BY MR. KRISHNAN:

02:27PM 18 Q. Did that refresh your recollection as to what the sailor told  
02:27PM 19 you?

02:27PM 20 A. No. It refreshed my recollection of what I said in the  
02:27PM 21 deposition.

02:27PM 22 Q. I'm not interested in that right now. What I'm interested in  
02:27PM 23 is your memory?

02:27PM 24 A. No, I don't recall that.

02:27PM 25 Q. You don't recall what the sailor told you?

02:27PM 1 A. No, not now. Maybe at the time of the deposition in building  
02:27PM 2 up my memory, I -- I said what I said.

02:27PM 3 Q. Okay. But now you don't remember?

02:27PM 4 A. I don't -- I don't like to make any statement in a way. That  
02:28PM 5 was 50 years ago. They told me that they were uncomfortable, and  
02:28PM 6 then whatever is there if it's there, that's what I remembered at  
02:28PM 7 the moment of the deposition.

02:28PM 8 Q. Okay. Because of this sailor, you go to the cellblock area;  
02:28PM 9 right?

02:28PM 10 A. Yes.

02:28PM 11 Q. And you don't know the name of the sailor; right?

02:28PM 12 A. No.

02:28PM 13 Q. You understand that Mr. Marandino was deposed in this case;  
02:28PM 14 right?

02:28PM 15 A. Yes.

02:28PM 16 Q. Corporate Marandino?

02:28PM 17 A. Corporal Marandino.

02:28PM 18 Q. Yes. You understand he was deposed in this case?

02:28PM 19 A. Yes.

02:28PM 20 Q. He sat for a deposition to give testimony?

02:28PM 21 A. I saw a video of the deposition if that is something that you  
02:28PM 22 like to hear from me.

02:28PM 23 Q. So Mr. Marandino was the person that was on duty that night;  
02:28PM 24 right?

02:28PM 25 A. With a Corporal Marchan who left, yes.

02:28PM 1 Q. Okay. Fair enough. And Mr. Marandino never mentions Corporal  
02:29PM 2 Marchan, does he?

02:29PM 3 A. I don't remember.

02:29PM 4 Q. And Mr. Marandino certainly disputes the idea that the  
02:29PM 5 prisoners were doing anything wrong that night; right?

02:29PM 6 A. I don't remember that.

02:29PM 7 Q. You don't remember whether Mr. Marandino disputed that?

02:29PM 8 A. No.

02:29PM 9 Q. Okay. So your entire justification for showing up at the  
02:29PM 10 cellblock area that night is based on this sailor telling you to  
02:29PM 11 go there; right?

02:29PM 12 A. They told me to go there, conveying a message from my  
02:29PM 13 corporals, yes.

02:29PM 14 Q. And you have no idea who this sailor is; right?

02:29PM 15 A. No.

02:29PM 16 Q. Okay. And in the last 50 years, you're not aware of anyone  
02:29PM 17 identifying who this sailor is that caused you to go to the  
02:30PM 18 cellblock area that night; right?

02:30PM 19 A. No, no.

02:30PM 20 Q. Okay. When you got to the cellblock area, by the way, did you  
02:30PM 21 hear whispering or suspicious noises coming from the cells?

02:30PM 22 A. No.

02:30PM 23 Q. No, okay. Now, at the cellblock area, you say that Corporal  
02:30PM 24 Sosa ordered -- I'm sorry -- Captain Sosa ordered Corporal  
02:30PM 25 Marandino to let all of the prisoners out of their cells; right?

02:30PM 1 A. After a certain exchange of words of ordering and  
02:30PM 2 conversation, yes.

02:30PM 3 Q. The exchange of words between?

02:30PM 4 A. Captain Sosa, Marandino, yeah.

02:30PM 5 Q. And you were surprised that Mr. Sosa ordered Corporal  
02:30PM 6 Marandino to let the prisoners out of their cells; right?

02:30PM 7 A. Yes.

02:30PM 8 Q. Why were you surprised?

02:31PM 9 A. Because the narrowness of the corridor or hallway, the dangers  
02:31PM 10 that these individuals represented for their previous action, and  
02:31PM 11 having them all together, and knowing myself because at that time,  
02:31PM 12 I felt at that time that was something that put me in a very  
02:31PM 13 uncomfortable position.

02:31PM 14 Q. So I just want to break that down. You said only yourself?  
02:31PM 15 Weren't you there with five other people?

02:31PM 16 A. With guns. Perhaps if you allow me, I can give you a little  
02:31PM 17 bit more of the details of the little movements.

02:31PM 18 Q. Let me just do it a little bit more quickly. You're saying  
02:31PM 19 that only you and a couple of other people had guns, or only you  
02:31PM 20 had a gun?

02:31PM 21 A. No. There were two PAMs only and two pistols.

02:31PM 22 Q. Okay.

02:31PM 23 A. The pistols in the holsters, mine and Captain Sosa, and the  
02:31PM 24 PAM submachine gun in the hands of the corporal. One left,  
02:32PM 25 Marchan left and left the machine gun on a table in a room that we

02:32PM 1 had behind. So when I saw the machine gun there, I took it, a  
02:32PM 2 person there and the gun loose anywhere is not a safe measure, so  
02:32PM 3 I took it.

02:32PM 4 When I took it, Captain Del Real -- Lieutenant Del Real told  
02:32PM 5 me: Give me your pistol. I gave the pistol to him.

02:32PM 6 Q. I'm sorry, Mr. Bravo. I think I get the point, and you've  
02:32PM 7 answered my question. So I want to get to why you thought it was  
02:32PM 8 dangerous for Captain Sosa to let all of the prisoners out of  
02:32PM 9 their cells?

02:32PM 10 A. I had to paraphrase for myself -- I just told you that it's  
02:32PM 11 dangerous because the individuals, they were not Boy Scouts.

02:32PM 12 THE COURT: Hold up, Mr. Bravo. I want to just make sure  
02:32PM 13 that you are mindful of the Court's prior rulings in the motion in  
02:33PM 14 limine.

02:33PM 15 THE WITNESS: Yes.

02:33PM 16 THE COURT: Okay. Please continue your answer.

02:33PM 17 BY MR. KRISHNAN:

02:33PM 18 Q. Okay. They weren't Boy Scouts. I got that.

02:33PM 19 A. Okay.

02:33PM 20 Q. What else?

02:33PM 21 A. What else?

02:33PM 22 Q. Why else was it dangerous for Sosa to let all the prisoners  
02:33PM 23 out at once?

02:33PM 24 A. Because a few days ago, they had escaped from a high security  
02:33PM 25 prison.

02:33PM 1 Q. Okay. Let's go on to the next reason.

02:33PM 2 MR. DAVIS: Judge. He's allowed to finish his answer.

02:33PM 3 THE COURT: I'm sorry. Mr. Bravo, have you finished your  
02:33PM 4 answer? Go ahead.

02:33PM 5 THE WITNESS: They escaped from the high security prison,  
02:33PM 6 and they were armed, and they would -- they had escaped the high  
02:33PM 7 security prison with help from the outside. So we didn't know if  
02:33PM 8 they have also help outside the base. That was a situation where  
02:33PM 9 it could be an opportunity to really be (unintelligible) and very  
02:34PM 10 upsetting situation. It's a risk. It's a high risk.

02:34PM 11 BY MR. KRISHNAN:

02:34PM 12 Q. Okay. So it sounds like Captain Sosa was creating a high-risk  
02:34PM 13 situation by letting all of the prisoners out of the cells; right?

02:34PM 14 A. That was my thought, yes.

02:34PM 15 Q. Also, I think you were alluding to the fact that there were 19  
02:34PM 16 of them and only maybe four of you with guns, was that part of it?

02:34PM 17 A. Yes.

02:34PM 18 Q. Okay.

02:34PM 19 A. Two machines, yes, two pistol in holsters and two machines,  
02:34PM 20 yes.

02:34PM 21 Q. They outnumbered you?

02:34PM 22 A. Yes.

02:34PM 23 Q. And they had already broken out of another place, and so they  
02:34PM 24 could break out of here too?

02:34PM 25 A. Yes.



02:34PM 1 Q. So it was a dangerous thing to do?

02:34PM 2 A. Yes.

02:34PM 3 Q. Now, you did not tell Captain Sosa at the time, hang on,

02:34PM 4 Captain Sosa, this seems very dangerous; right?

02:34PM 5 A. No.

02:34PM 6 Q. You said that you didn't dare or you didn't dare to express

02:35PM 7 that type of opinion to your commanding officer; right?

02:35PM 8 A. Well, that was the general in my mind. But, really, I didn't

02:35PM 9 have time to do anything.

02:35PM 10 Q. You didn't have time while they were unlocking eight or nine

02:35PM 11 different cells, you didn't have time to think that this was a

02:35PM 12 very dangerous situation?

02:35PM 13 A. In my recollection, also everything happened so fast that it

02:35PM 14 was really my -- the only thing that I received as a feedback for

02:35PM 15 this action was that my adrenaline was in a very high level and

02:35PM 16 I -- and Captain Sosa was moving fast and doing what he was doing,

02:35PM 17 and, no, I didn't have time to think and -- on what I should do.

02:35PM 18 Q. Well, let's just get this straight here.

02:36PM 19 A. Yes.

02:36PM 20 Q. You said that it was Marandino who opened all the cells;

02:36PM 21 right, unlocked them?

02:36PM 22 A. Yes.

02:36PM 23 Q. Okay. So Marandino is unlocking, what, seven, eight, nine

02:36PM 24 different cells? How many cells?

02:36PM 25 A. Five or four, but I saw a graph that had more than that, ten.

02:36PM 1 Q. Is that fair to say seven to nine different cells he was  
02:36PM 2 unlocking?

02:36PM 3 A. Yes.

02:36PM 4 Q. Okay. So one person is unlocking seven to nine different  
02:36PM 5 cells?

02:36PM 6 A. Yes.

02:36PM 7 Q. And then at some point later, Sosa orders everybody out of  
02:36PM 8 their cells, and during all that time, you didn't have time to  
02:36PM 9 think that this is extraordinarily dangerous?

02:36PM 10 A. Well, everything happened faster than the way that you  
02:36PM 11 describe it.

02:36PM 12 Q. Okay. Fair enough. Let's keep going. But you didn't say  
02:36PM 13 anything to Sosa about it; right?

02:36PM 14 A. Say again.

02:36PM 15 Q. You didn't say anything to Sosa about it; right?

02:36PM 16 A. No, no, no, no, no.

02:36PM 17 Q. Okay. And as far as you know, this had never happened at  
02:36PM 18 Almirante Zar Naval Base before that they had let all the  
02:37PM 19 prisoners out of the cells; right?

02:37PM 20 A. As far as I know, I never knew that there were prisoners  
02:37PM 21 there.

02:37PM 22 Q. Okay. But you'd certainly never known of releasing all the  
02:37PM 23 cells -- the prisoners at once; right?

02:37PM 24 A. As I just told you, I never knew there were even prisoners in  
02:37PM 25 their cells.

02:37PM 1 Q. Okay. Fair enough. Isn't it true, Mr. Bravo, that it was you  
02:37PM 2 and not Captain Sosa who ordered Marandino to let all of the  
02:37PM 3 people out of their cells?

02:37PM 4 A. I was not. It was Captain Sosa.

02:37PM 5 Q. You understand that Corporal Marandino when he testified in  
02:37PM 6 this case said it was you?

02:37PM 7 A. Yes, I remember he said that, in the latest deposition.

02:37PM 8 Q. Now, I'd like to go to an exhibit.

02:37PM 9 MR. KRISHNAN: Could we get DX2, please? Is that on the  
02:38PM 10 -- let's take it down for a second. I assume there's not going to  
02:38PM 11 be any objection. Okay. Actually, this is in evidence, isn't it?

02:38PM 12 MR. DAVIS: It's stipulated.

02:38PM 13 MR. KRISHNAN: It's stipulated.

02:38PM 14 MR. DAVIS: Your Honor, there is not an issue. It's  
02:38PM 15 stipulated as an exhibit.

02:38PM 16 THE COURT: I thought I heard you say PX2. The document  
02:38PM 17 I have here has no number on it.

02:38PM 18 MR. KRISHNAN: DX 2.

02:38PM 19 THE COURT: Oh, D.

02:38PM 20 MR. KRISHNAN: Defense Exhibit 2.

02:38PM 21 MR. DAVIS: Yes, it should be DX 2.

02:38PM 22 THE COURT: Thank you, sir. Okay. DX 2 admitted.

02:38PM 23 (Defendant's Exhibit DX2 received.)

02:38PM 24 THE COURT: You can publish.

02:38PM 25 MR. KRISHNAN: Thank you, Your Honor.

02:38PM 1 BY MR. KRISHNAN:

02:38PM 2 Q. Now, you have DX 2 in front of you, Mr. Bravo?

02:38PM 3 A. Yes.

02:38PM 4 Q. And DX 2 is -- contains what we have been calling the Auditor  
02:39PM 5 General's Report; right?

02:39PM 6 A. Yes.

02:39PM 7 Q. And let's go --

02:39PM 8 A. A translation of it.

02:39PM 9 Q. Fair enough. A translation of the Auditor General's Report.

02:39PM 10 Now, this is a document that you approve of; right?

02:39PM 11 A. I don't have to approve it. It was done by my superiors.

02:39PM 12 Q. Okay. But you believe that this document finds you to be --  
02:39PM 13 to have acted appropriately; right?

02:39PM 14 A. Yes.

02:39PM 15 Q. Okay. And you believe that this document is fair; right?

02:39PM 16 A. Well.

02:39PM 17 Q. I'm just asking you if you believe this document is fair?

02:39PM 18 A. Yes, I believe.

02:39PM 19 Q. And you believe that this document is very thorough; right?

02:39PM 20 A. No.

02:39PM 21 Q. No?

02:39PM 22 A. No, no, no, no, no. Let me rephrase.

02:39PM 23 I don't know. It might be in my opinion -- not in my  
02:40PM 24 opinion. The only thing I read was the last statement where I was  
02:40PM 25 exonerated and the phrase where they say who is working and I mean

02:40PM 1 who is doing it, and that was enough for me. I didn't go into the  
02:40PM 2 details of what was the full content of the document.

02:40PM 3 MR. KRISHNAN: Your Honor, may I play from Mr. Bravo's  
02:40PM 4 deposition?

02:40PM 5 THE COURT: Page and line?

02:40PM 6 MR. KRISHNAN: Page 180, lines 21 to 23.

02:40PM 7 THE COURT: Sorry. 20?

02:40PM 8 MR. KRISHNAN: 21.

02:40PM 9 THE COURT: Yes. Go ahead.

02:40PM 10 MR. KRISHNAN: To 23. May I play them?

02:40PM 11 THE COURT: Yes, you may.

02:40PM 12 (Deposition played.)

02:40PM 13 BY MR. KRISHNAN:

02:40PM 14 Q. Did you give that testimony at deposition? We didn't hear the  
02:41PM 15 answer.

02:41PM 16 A. The answer was yes.

02:41PM 17 Q. The answer was yes. So at your deposition at least, you  
02:41PM 18 testified that the Auditor General's Report was very thorough;  
02:41PM 19 right?

02:41PM 20 A. Yes.

02:41PM 21 Q. Do you stand behind that testimony now, or you no longer?

02:41PM 22 A. I trust it. So I assume it was my belief that it was  
02:41PM 23 complete, it was perfect.

02:41PM 24 Q. It was perfect. You thought it was accurate; right?

02:41PM 25 A. I think that was -- that it was correct. I didn't analyze the

02:41PM 1 details. I cannot say that I analyzed every paragraph or phrases.  
02:41PM 2 I just told you.  
02:41PM 3 Q. Fair enough.  
02:41PM 4 A. When they mentioned that the analysis of ballistics, analysis  
02:41PM 5 of chemical or whatever analysis that have been done there, that  
02:41PM 6 was enough for me.  
02:41PM 7 Q. Okay. Now, even this Auditor General's Report that you  
02:42PM 8 thought was perfect, very thorough, fair, it says that you were  
02:42PM 9 the one --  
02:42PM 10 A. Okay.  
02:42PM 11 Q. -- that let -- that ordered Marandino to let -- to unlock all  
02:42PM 12 the doors for the prisoners; right?  
02:42PM 13 MR. DAVIS: Objection. He should at least identify the  
02:42PM 14 part of the document that he's referring to.  
02:42PM 15 MR. KRISHNAN: Let's put it up. I will -- let's actually  
02:42PM 16 put that up. So on DX2, we are on page 2, and let's look at that  
02:42PM 17 second paragraph, please.  
02:42PM 18 BY MR. KRISHNAN:  
02:42PM 19 Q. Okay. And do you see on the screen there is an expanded part  
02:42PM 20 of that second paragraph, Mr. Bravo? It starts from the analysis  
02:42PM 21 of the evidence on record?  
02:42PM 22 A. I'm reading that, yes.  
02:43PM 23 Q. Let me just read it along with everyone, and I'll ask you some  
02:43PM 24 questions. So.  
02:43PM 25 MR. DAVIS: Judge, can he read the entire paragraph?

02:43PM 1 He's going to take something -- I think it provides a context.

02:43PM 2 MR. KRISHNAN: I'll do it fairly enough for cross, and if  
02:43PM 3 on redirect they wish to bring out more, they're welcome to.

02:43PM 4 THE COURT: Precisely. So it's published, ladies and  
02:43PM 5 gentlemen, and it's in evidence, the entire document for you to  
02:43PM 6 look at. Right now, plaintiffs' counsel is publishing a portion  
02:43PM 7 for his examination.

02:43PM 8 Go ahead, Mr. Krishnan.

02:43PM 9 MR. KRISHNAN: Okay.

02:43PM 10 BY MR. KRISHNAN:

02:43PM 11 Q. Now, I'm going to start on that second sentence -- second  
02:43PM 12 line, near the end where it says, on August 22nd. Do you see  
02:43PM 13 where I'm starting, the second line of the paragraph, on  
02:43PM 14 August 22nd?

02:43PM 15 A. Yes.

02:43PM 16 Q. I'm going to start there.

02:43PM 17 On August 22nd of this year, at approximately 0300 hours,  
02:43PM 18 Corvette Lieutenant Roberto Guillermo Bravo assumed guard duty  
02:43PM 19 over the extremists housed in the cells on the naval air base  
02:43PM 20 which contained members of that group with marine corporals --  
02:44PM 21 marine corps corporal second class, MR333.046, Carlos Amadao  
02:44PM 22 Marandino; and MR327.189, Juan Epolito Marchan, both armed with  
02:44PM 23 several PAM machine guns.

02:44PM 24 Are you with me so far, Mr. Bravo?

02:44PM 25 A. Yeah. But I already found a mistake there, even in that

02:44PM 1 report.

02:44PM 2 Q. So you're saying there is a mistake in the part that's

02:44PM 3 highlighted -- in that I just read, there is a mistake?

02:44PM 4 A. It's a typo, important typo.

02:44PM 5 Q. What's the important typo?

02:44PM 6 A. It said both and with several submachine guns. They were

02:44PM 7 armed with one.

02:44PM 8 Q. Fair enough. That's a good point. So you're saying that they

02:44PM 9 were armed each with PAM machine guns?

02:44PM 10 A. Yes.

02:44PM 11 Q. Now, it goes on to say, said officer explained, and when it

02:44PM 12 says said officer, you're the only one of the three folks

02:45PM 13 mentioned here who is an officer; right?

02:45PM 14 A. Yes.

02:45PM 15 Q. Okay. Said officer explained that he had heard whispering and

02:45PM 16 suspicious noises coming from the cells. Now, do you see that on

02:45PM 17 the document?

02:45PM 18 A. Yes.

02:45PM 19 Q. Okay. Now, but you just testified earlier today that you

02:45PM 20 didn't hear whispering or suspicious noises coming from the cells;

02:45PM 21 right?

02:45PM 22 A. Yes.

02:45PM 23 Q. So this is contrary to how you testified today; right?

02:45PM 24 A. Yes.

02:45PM 25 Q. Okay. Then it goes on to say, and for that reason, he decided



02:45PM 1 to order the detainees to come out of the cells where they were  
02:45PM 2 housed. That's talking about you, isn't it?

02:45PM 3 A. It is, and they're mistaken.

02:45PM 4 Q. Okay. So this Auditor General's Report that was perfect and  
02:45PM 5 very thorough is mistaken in at least three ways so far?

02:45PM 6 A. When I said perfect, I mean that it seems to be perfect. I  
02:46PM 7 didn't say it was perfect.

02:46PM 8 Q. You thought the outcome was perfect?

02:46PM 9 A. I thought because I recently read some details -- first of  
02:46PM 10 all, the first paragraph, who is it coming from. Then the last  
02:46PM 11 paragraph, it had to be exonerated, that was good, and they did  
02:46PM 12 analysis of different effects on the PAM. And so I thought: Oh,  
02:46PM 13 that's perfect. That is, I mean, it seems to be complete. I  
02:46PM 14 called that perfect, okay. My mistake. It was not perfect. But  
02:46PM 15 that was what I meant when I said that it appears to me to be  
02:46PM 16 complete, concise, and precise.

02:46PM 17 Q. Mr. Bravo, you understand that this document attributes to you  
02:46PM 18 the decision that you just called dangerous and high risk of  
02:46PM 19 letting all the prisoners out of the cells; right, okay?

02:46PM 20 A. (Nodding.) And I insist that they are mistaken.

02:47PM 21 Q. Fair enough.

02:47PM 22 A. Okay.

02:47PM 23 Q. And you're saying Mr. Sosa did it; right?

02:47PM 24 A. Yes.

02:47PM 25 Q. And Mr. Sosa is dead now; right?

02:47PM 1 A. Well, the other two generals are dead.

02:47PM 2 Q. So he can't -- Mr. Sosa can't contradict what you just said,

02:47PM 3 right?

02:47PM 4 A. And the other two generals either.

02:47PM 5 Q. So both?

02:47PM 6 MR. DAVIS: Your Honor, I'm sorry.

02:47PM 7 Can you pull the mic closer to your mouth? It's hard to

02:47PM 8 hear you.

02:47PM 9 BY MR. KRISHNAN:

02:47PM 10 Q. So you understand that both Corporal Marandino who testified

02:47PM 11 in this case, and the Auditor General's Report -- we see here,

02:47PM 12 both of those says that it was you, not Sosa who let the prisoners

02:47PM 13 out of the cells; right?

02:47PM 14 A. Yes, that's what it said there.

02:47PM 15 Q. And you don't have -- other than your own word, you don't have

02:48PM 16 any documents or witnesses who say it was Sosa; right?

02:48PM 17 A. Give me a minute, please. May I say something?

02:48PM 18 Q. Please.

02:48PM 19 A. In the paragraph from the analysis, first of all, yes, I am

02:48PM 20 going to put it in -- I doubted the perfection as you call it of

02:48PM 21 this document because this document was created based on the

02:48PM 22 investigation of the ad hoc investigating officer who took

02:49PM 23 declarations from many people, and he took mine. I didn't say

02:49PM 24 what is written here, okay, so.

02:49PM 25 Q. I'm sorry, Mr. Bravo. I thought you were going to say

02:49PM 1 something in response to my question. My question to you was:  
02:49PM 2 You don't have any witnesses or documents --  
02:49PM 3 A. No.  
02:49PM 4 Q. -- that say it was Sosa that let the prisoners out of the  
02:49PM 5 cells; right?  
02:49PM 6 A. I don't recall to have documents.  
02:49PM 7 Q. And there aren't any other witnesses who are going to back you  
02:49PM 8 up on this; right?  
02:49PM 9 A. That is correct.  
02:49PM 10 MR. KRISHNAN: Now I'd like to show the witness PX2.  
02:49PM 11 MR. DAVIS: P?  
02:49PM 12 MR. KRISHNAN: P. Your Honor, may I proceed?  
02:50PM 13 THE COURT: Yes.  
02:50PM 14 BY MR. KRISHNAN:  
02:50PM 15 Q. Mr. Bravo, do you recognize PX2 as an exhibit from your  
02:50PM 16 deposition?  
02:50PM 17 A. Yes.  
02:50PM 18 Q. And this reflects your recollection of where people were  
02:50PM 19 positioned in the cellblock area before any shooting began; right?  
02:50PM 20 A. Yes. This is not a scale, but the symbols are fine.  
02:50PM 21 MR. KRISHNAN: Your Honor, we'd like to move PX2 into  
02:50PM 22 evidence.  
02:50PM 23 THE COURT: Any objection?  
02:50PM 24 MR. DAVIS: No objection, Your Honor.  
02:50PM 25 THE COURT: So admitted.

02:51PM 1 (Plaintiffs' Exhibit PX2 received.)

02:51PM 2 MR. KRISHNAN: Could we please publish it?

02:51PM 3 THE COURT: Go ahead.

02:51PM 4 BY MR. KRISHNAN:

02:51PM 5 Q. Now, PX2, do you see it on your screen, Mr. Bravo?

02:51PM 6 A. Yes.

02:51PM 7 Q. And just so everyone understands, we started with just the  
02:51PM 8 black-and-white drawing which was from a magazine article; right?

02:51PM 9 When you first saw this exhibit at your deposition, it was just  
02:51PM 10 the black and white stuff on this exhibit; right?

02:51PM 11 A. You mean the positions on the right of the photo?

02:51PM 12 Q. When you first saw this exhibit at your deposition, there was  
02:51PM 13 no color on it; right? The color was added at your deposition?

02:51PM 14 A. Oh, yes, yes.

02:51PM 15 Q. And just so everyone understands, the black and white circles  
02:51PM 16 and dotted line and language, that came from a magazine article;  
02:51PM 17 right?

02:51PM 18 A. I don't know.

02:51PM 19 Q. Sorry?

02:51PM 20 A. I don't know.

02:51PM 21 Q. You don't know.

02:51PM 22 MR. KRISHNAN: Well, I'd like to show the witness a  
02:52PM 23 demonstrative which is PDX 3. I'm sorry, Your Honor. I don't  
02:52PM 24 think it was PDX 3. It's PDX 5, Your Honor. Sorry.

02:52PM 25 THE COURT: And it's been shown to defense counsel?

02:52PM 1 MR. KRISHNAN: We're still getting it to them. Sorry.

02:52PM 2 THE COURT: Okay.

02:53PM 3 THE WITNESS: Thank you.

02:53PM 4 MR. DAVIS: I have no objection to showing the witness

02:53PM 5 this or publishing it to the jury.

02:53PM 6 THE COURT: Thank you, Mr. Davis.

02:53PM 7 MR. KRISHNAN: Thank you, Your Honor.

02:53PM 8 BY MR. KRISHNAN:

02:53PM 9 Q. Mr. Bravo, you see what we've done with PDX 3? We've just

02:53PM 10 taken out the black and white portions which had come from the

02:53PM 11 magazine article. So PDX 3 just reflects your recollection of

02:53PM 12 where people were and how they were moving; right?

02:53PM 13 A. Yes, close enough.

02:54PM 14 Q. Now, we're just trying to get it a little bit bigger so

02:54PM 15 everyone can see it. But while that's happening, there are two

02:54PM 16 red lines in the corridor; right?

02:54PM 17 A. Yes.

02:54PM 18 Q. And those red lines reflect your recollection as to where the

02:54PM 19 prisoners were lined up; right?

02:54PM 20 A. Yes.

02:54PM 21 Q. And you said that they were roughly equal numbers on either

02:54PM 22 side, either nine on one side or ten on the other side; right?

02:54PM 23 A. Yes. It seemed to be that way, yes.

02:54PM 24 Q. And we see here, and unfortunately, I don't think the screens

02:54PM 25 are very clear in terms of the words that are under the circles,

02:54PM 1 but there is a yellow circle, and that says, Sosa; right?

02:54PM 2 A. Uh-huh.

02:54PM 3 Q. And that circle reflects where Sosa was standing before he

02:55PM 4 walked up and down the corridor; right?

02:55PM 5 A. Yes.

02:55PM 6 Q. And the yellow arrows represent Mr. Sosa's walk down the

02:55PM 7 corridor and back up it; right?

02:55PM 8 A. Just as a type of icon because the back and forth was on the

02:55PM 9 same line, it was not coming in let's say closer to one cell and

02:55PM 10 then come back next to the other cell, no. It was only one, one

02:55PM 11 line of walking.

02:55PM 12 Q. I see what you're saying. He walked up and back but probably

02:55PM 13 on the same actual part of the floor?

02:55PM 14 A. No probably. For sure, yes.

02:55PM 15 Q. Now, some of the other circles we have on PX3 -- and the paper

02:56PM 16 in front of you may be a little clearer than the screen. I can't

02:56PM 17 see it very well on the screen. Next to Sosa in dark blue is

02:56PM 18 Herrera; right?

02:56PM 19 A. Yes.

02:56PM 20 Q. And then above him in a lighter blue is Del Real?

02:56PM 21 A. Yes.

02:56PM 22 Q. And the green circle is Mr. Marandino; right?

02:56PM 23 A. Yes.

02:56PM 24 Q. You're the red circle near the right side of the picture?

02:56PM 25 A. Yes.

02:56PM 1 Q. And then above you there is a corporal in magenta color?

02:56PM 2 A. Yes.

02:56PM 3 Q. And that you now believe is Corporal Marchan?

02:56PM 4 A. Yes. Can I make a clarification here?

02:56PM 5 Q. Yes, please.

02:56PM 6 A. Corporal Marchan, the one on the top right, left before

02:56PM 7 Captain Sosa started moving.

02:56PM 8 Q. Okay. Thank you. We'll get to that point.

02:57PM 9 A. Okay.

02:57PM 10 Q. Now, I want to talk about what happened next. So I know that

02:57PM 11 your story is that when -- by the time Mr. Sosa got back down to

02:57PM 12 the mouth of the corridor, he is attacked by Pujadas, right?

02:57PM 13 A. Yes.

02:57PM 14 Q. And that's what caused all the shooting; right?

02:57PM 15 A. Yes.

02:57PM 16 Q. And you say that Corporal Marandino was there in the room

02:57PM 17 shooting; right?

02:57PM 18 A. Corporal Marandino, I must confess that after -- I mean after

02:58PM 19 these proceedings or along the development of these proceedings,

02:58PM 20 my memory was adjusting or looking for correct answers, so I don't

02:58PM 21 want to conflict with what I said. You're asking me now I have to

02:58PM 22 tell you what I ask -- what I remember now or what I think now.

02:58PM 23 Q. That's right.

02:58PM 24 A. But I don't want any conflict with what I said now with what I

02:58PM 25 did in the deposition.

02:58PM 1 THE COURT: Mr. Krishnan, I don't think he was finished.  
02:58PM 2 Let's make sure that we're not stepping on each other's toes.  
02:58PM 3 MR. KRISHNAN: I apologize.  
02:58PM 4 THE COURT: Mr. Bravo, if you had something else you were  
02:58PM 5 finishing, please finish your answer.  
02:58PM 6 THE WITNESS: Yes, Your Honor. I'm sorry.  
02:58PM 7 THE COURT: No, sir. If there was more to your answer  
02:58PM 8 that you didn't get a chance to finish, please finish your answer.  
02:58PM 9 THE WITNESS: Yes, Your Honor. So.  
02:58PM 10 THE COURT: I'm sorry. I interrupted your train of  
02:59PM 11 thought.  
02:59PM 12 THE WITNESS: No. For example, now after the  
02:59PM 13 recollection of the reinforcement of my memory or perhaps just  
02:59PM 14 fishing, Herrera and Del Real were not in that position but they  
02:59PM 15 were inside shoulder to shoulder not like here up and down. It  
02:59PM 16 was in not in the position in this graph. On this -- at the  
02:59PM 17 height of the corporal with no name on the top right but in the  
02:59PM 18 center.  
02:59PM 19 BY MR. KRISHNAN:  
02:59PM 20 Q. Okay. So you're saying -- and just to be clear here, what I'm  
02:59PM 21 asking you is it's your testimony that Mr. Marandino stayed in the  
02:59PM 22 cellblock area and was part of the shooting; right?  
02:59PM 23 A. That was my first impression, but when -- I got confused  
03:00PM 24 myself in my recollection when I said that Marandino has a machine  
03:00PM 25 gun, but I do recall, and that I recall, and that I am seeing



03:00PM 1 going to open the doors to have left the submachine gun in order  
03:00PM 2 to open the doors, so he was unarmed going and unlocking every  
03:00PM 3 door.

03:00PM 4 Q. I'm sorry. Please finish.

03:00PM 5 A. What I'm trying to get at is that when Marandino comes unarmed  
03:00PM 6 and having myself lend my pistol to Del Real and the doors start  
03:00PM 7 being unlocked, I stepped forward, and I didn't say anything else.  
03:00PM 8 I know Marandino came, Del Real had my pistol, and I don't see  
03:01PM 9 anything else. I see only those people then coming out of the  
03:01PM 10 cells, and Sosa doing that, I don't know really, when I finished  
03:01PM 11 my rounds, a couple more bursts from my right, and also I lost  
03:01PM 12 hearing because of that was Del Real with a submachine gun a  
03:01PM 13 little bit behind me. So Del Real had a submachine gun, when I  
03:01PM 14 gave a pistol, I don't know. So maybe he picked up the machine  
03:01PM 15 gun when Marandino went to open the cells. So it's something  
03:01PM 16 really -- I don't have it subject to speculation, but really it is  
03:01PM 17 what is in my mind.

03:01PM 18 Q. Okay. You're saying a lot there, and I just want to focus on  
03:01PM 19 one very specific issue.

03:01PM 20 A. Okay.

03:01PM 21 Q. Was Marandino in the room shooting? And that's the only  
03:01PM 22 question I'm asking. Based on your recollection right now, was  
03:01PM 23 Marandino in the room shooting when the shooting began?

03:02PM 24 A. My recollection right now, no.

03:02PM 25 Q. No?

03:02PM 1 A. I don't -- I don't have perception who was behind me.

03:02PM 2 Q. Okay. Now, at deposition you testified at length that

03:02PM 3 Mr. Marandino was there and shooting; right?

03:02PM 4 A. Yes.

03:02PM 5 MR. DAVIS: Objection, Your Honor, and I may need to take  
03:02PM 6 this sidebar with you.

03:02PM 7 THE COURT: Objection to the question about the  
03:02PM 8 deposition?

03:02PM 9 MR. DAVIS: Yes. I need to show you something and that's  
03:02PM 10 why --

03:02PM 11 THE COURT: Can you show me -- tell me what line?

03:02PM 12 MR. DAVIS: Yes.

03:02PM 13 THE COURT: Go ahead.

03:02PM 14 MR. DAVIS: Page 186, line 21, and the testimony  
03:02PM 15 thereafter.

03:02PM 16 THE COURT: Line 21?

03:02PM 17 MR. DAVIS: Yes, Your Honor.

03:02PM 18 THE COURT: And so again, I just want to make sure that  
03:02PM 19 you object to the question. I have forgotten the question.

03:03PM 20 Sorry. Mr. Krishnan?

03:03PM 21 MR. DAVIS: He corrected it in the deposition, the  
03:03PM 22 testimony. That's what this is.

03:03PM 23 THE COURT: I understand, but the objection was to Mr.  
03:03PM 24 Krishnan's -- which I assume you would go into on cross. But Mr.  
03:03PM 25 Krishnan's question you object to?

03:03PM 1 MR. DAVIS: Right. Because it made it sound like it  
03:03PM 2 wasn't corrected in the deposition, and I think it's -- yes, I  
03:03PM 3 object to the question.

03:03PM 4 THE COURT: I missed it. I tried to -- go back.

03:03PM 5 MR. DAVIS: Improper impeachment.

03:03PM 6 MR. KRISHNAN: Your Honor, the question is: You  
03:03PM 7 testified at length at your deposition that Mr. Marandino was  
03:03PM 8 there during the shooting? That was my question.

03:03PM 9 THE COURT: Okay.

03:03PM 10 MR. DAVIS: Improper impeachment. It's corrected later  
03:03PM 11 in the same deposition.

03:03PM 12 THE COURT: Sustained.

03:03PM 13 MR. KRISHNAN: Your Honor --

03:03PM 14 THE COURT: But not for that basis, but rather the form  
03:03PM 15 of the question as regarding what he previously testified to.

03:03PM 16 MR. KRISHNAN: Okay.

03:03PM 17 THE COURT: So you understand it's sustained as to form,  
03:04PM 18 Mr. Krishnan? You know what, I have an idea. It's already after  
03:04PM 19 3:00 o'clock. This is clearly something we need to discuss  
03:04PM 20 outside of the presence of the jury. Why don't we give you  
03:04PM 21 15 minutes, and we'll talk after that.

03:04PM 22 (Jury out at 3:04 P.M.)

03:04PM 23 THE COURT: Have a seat. Maybe I'm reading too much into  
03:04PM 24 both the question and the objection, but it is my understanding  
03:04PM 25 that Mr. Davis is --

03:04PM 1 MR. KRISHNAN: Your Honor, may I approach? Should we do  
03:05PM 2 this in the presence of the witness?

03:05PM 3 THE COURT: I wasn't going to offer anything that would  
03:05PM 4 poison the well but really just deal with the evidentiary nature  
03:05PM 5 of the objection. But if you would prefer to let Mr. Bravo take  
03:05PM 6 his 15 minutes break --

03:05PM 7 MR. DAVIS: That's fine.

03:05PM 8 THE COURT: -- I'm fine with that.

03:05PM 9 Mr. Bravo, why don't you go ahead and take your afternoon  
03:05PM 10 break. We'll see you back in 15. You do remain under oath. You  
03:05PM 11 cannot discuss your testimony with anyone during this break. Do  
03:05PM 12 you understand.

03:05PM 13 THE WITNESS: Yes, Your Honor.

03:05PM 14 THE COURT: We'll see you back in 15.

03:05PM 15 So that I understand both of your objections, yours I  
03:05PM 16 think is that because he corrected it -- I'll just wait for Mr.  
03:05PM 17 Bravo.

03:05PM 18 (Mr. Bravo exited the courtroom.)

03:05PM 19 THE COURT: So let me take it from the top. As I  
03:05PM 20 understand the defense objection, Rule 613 permits you to impeach  
03:05PM 21 him with a prior inconsistent statement as long as he's given an  
03:06PM 22 opportunity to explain or adjust it, and there's been a couple of  
03:06PM 23 times that the phrasing of the question -- I know you can't hear  
03:06PM 24 me, Mr. Krishnan.

03:06PM 25 MR. KRISHNAN: No, I can hear you. I am paying attention

03:06PM 1 to you because I gleaned that there's something about my  
03:06PM 2 impeachment style that you don't like.

03:06PM 3 THE COURT: No. It's not so much -- I promise I have few  
03:06PM 4 preferences. But the point being that you have asked him about  
03:06PM 5 his prior deposition, it is my impression, before having fairly  
03:06PM 6 given the opportunity to reveal that there is an inconsistency in  
03:06PM 7 the prior testimony. That is at least my impression of the  
03:06PM 8 defense objections by phrasing it and telling him that he  
03:06PM 9 previously testified differently as opposed to simply gleaning  
03:06PM 10 what the statement is here today and then impeaching him on a  
03:06PM 11 prior inconsistent statement. Am I wrong about the fact that  
03:06PM 12 that's the defense objection?

03:06PM 13 MR. DAVIS: Close.

03:06PM 14 THE COURT: Oh. I can accept that.

03:06PM 15 MR. DAVIS: But with respect to this, it's that in the  
03:07PM 16 deposition, he gave testimony about Marandino that he was asked  
03:07PM 17 about, and he realized that it was somebody else, and he corrected  
03:07PM 18 it in the deposition and on the record, which is the one I just  
03:07PM 19 handed Your Honor, the part of that. And it's a little unfair and  
03:07PM 20 misleading to the jury to make it sound like, well, you said it  
03:07PM 21 was Marandino before and today you change your testimony today to  
03:07PM 22 this. Sure, there is something I can rehabilitate him on. But  
03:07PM 23 when it's corrected on the record in the deposition, which is what  
03:07PM 24 the law would want a witness to do, if somehow the witness thought  
03:07PM 25 their memory was wrong and corrected it and not reference it, I

03:07PM 1 think is very unfair impeachment. Especially with someone -- you  
03:07PM 2 see how he's struggling with the language, and I just find that to  
03:07PM 3 be very, very unfair.

03:07PM 4 THE COURT: So just to unpack it, it hasn't been my  
03:07PM 5 impression that he's struggling with the language. But I don't  
03:07PM 6 think -- and I will give you the chance to tell me I'm wrong --  
03:07PM 7 that the rule treats differently an inconsistent statement that is  
03:07PM 8 internally contradicted by later testimony within that same  
03:08PM 9 statement. I think 613 contemplates that if he previously and  
03:08PM 10 under oath made a statement that's inconsistent with what he said  
03:08PM 11 here, and in fairness, it seems to me that you should be able to  
03:08PM 12 illustrate the fact that it was -- you know, that there were  
03:08PM 13 statements that -- to complete it, but I'm not sure that portion  
03:08PM 14 makes it improper impeachment.

03:08PM 15 MR. DAVIS: I just think that a witness goes on the  
03:08PM 16 record to correct testimony at the deposition, not something, you  
03:08PM 17 know, five months later or something like that, I think that  
03:08PM 18 that -- it's unfair for him to characterize a question in the  
03:08PM 19 fashion making it seem like that's all he said at a deposition.

03:08PM 20 THE COURT: I likewise thought that the characterization  
03:08PM 21 that quantified it in some way. These statements are -- in my  
03:08PM 22 impression of 613 is that each statement consistent or  
03:08PM 23 inconsistent to impeach him with to characterize them sort of en  
03:09PM 24 masse was my -- that's what I thought the defense was concerned  
03:09PM 25 about, and I thought it was a fair observation that that was not a

03:09PM 1 proper use of 613.

03:09PM 2 MR. KRISHNAN: Thank you, Your Honor, and I'll modify the  
03:09PM 3 question and the way I approach it if you'd like. But if I could  
03:09PM 4 just say, and with all the respect to Mr. Davis, I think that this  
03:09PM 5 is a stretch. And at some point, you may have to look at this.  
03:09PM 6 He testified at length that Mr. Marandino was there shooting. He  
03:09PM 7 has another exhibit where he's drawn Mr. Marandino there shooting.  
03:09PM 8 And this question and answer has nothing to do with taking that  
03:09PM 9 back. It has to do with changing his testimony as to who was  
03:09PM 10 holding which gun, but you don't need to rule on anything like  
03:09PM 11 that now.

03:09PM 12 THE COURT: No. I understand. And I -- again, perhaps  
03:09PM 13 I'm reading too much into the preview that perhaps it is your  
03:09PM 14 intention to impeach him with each of those prior inconsistent  
03:09PM 15 statements. You all will have to make a strategy call about how  
03:10PM 16 much bang you're getting for that buck with these particular  
03:10PM 17 details. But I will, as you said, take them up as they come up  
03:10PM 18 before any of it gets cumulative. But we'll see.

03:10PM 19 Is there anything else we need to take up before you all  
03:10PM 20 get your afternoon break?

03:10PM 21 MR. KRISHNAN: No.

03:10PM 22 THE COURT: When you come back, Mr. Krishnan, if you all  
03:10PM 23 could come in just a couple of minutes early. Did I tell the jury  
03:10PM 24 a specific time, or did I just say 15? So that would put us at  
03:10PM 25 3:20? Or if you could come in -- just bang on at 3:20, please.

03:10PM 1 I'm thinking about a preview of just knowing how much more you  
03:10PM 2 expect in cross, if you know, after talking to your team so we can  
03:10PM 3 plan the day. Okay.

03:10PM 4 MR. KRISHNAN: Thank you, Your Honor.

03:10PM 5 THE COURT: See you back at 3:20.

03:10PM 6 (Recess at 3:10 P.M.)

03:23PM 7 THE COURT: Mr. Krishnan, what do you think your estimate  
03:23PM 8 is?

03:23PM 9 MR. KRISHNAN: Your Honor, I am embarrassed to say, but I  
03:23PM 10 think another hour and a half.

03:23PM 11 THE COURT: Okay. All right. Well, I appreciate that  
03:23PM 12 you've told me that. All right. Are they ready?

03:23PM 13 MR. DAVIS: Judge, I did not -- my client is in our room.  
03:23PM 14 I didn't talk to him or anything.

03:23PM 15 THE COURT: Would you bring him in -- oh, Mr. Bravo,  
03:23PM 16 would you come on back up? Thank you.

03:24PM 17 (Jury in at 3:24 P.M.)

03:24PM 18 THE COURT: Welcome back, ladies and gentlemen.  
03:24PM 19 Everyone, have a seat. Mr. Krishnan, you're still up.

03:24PM 20 MR. KRISHNAN: Thank you, Your Honor. I'd like to hand  
03:24PM 21 up to the witness and to the Court both PX3 and PX6.

03:24PM 22 THE COURT: Mr. Davis, is there objection to the  
03:24PM 23 admission of PX3?

03:25PM 24 MR. DAVIS: There is not, Your Honor.

03:25PM 25 THE COURT: Admitted without.



03:25PM 1 (Plaintiffs' Exhibit PX3 received.)

03:25PM 2 THE COURT: And have you seen the demonstrative?

03:25PM 3 MR. DAVIS: I have, and he can show it to the witness and  
03:25PM 4 publish to the jury.

03:25PM 5 THE COURT: No objection to publication.

03:25PM 6 MR. KRISHNAN: Could we first please put up PX3?

03:25PM 7 BY MR. KRISHNAN:

03:25PM 8 Q. Now, Mr. Bravo, you see PX3; right?

03:25PM 9 A. Yes.

03:25PM 10 Q. And this was a later drawing from your deposition after the  
03:25PM 11 one we just saw, PX2; right?

03:25PM 12 A. All right.

03:25PM 13 Q. And PX2 was before the shooting started, and PX3 depicts the  
03:25PM 14 shooting; right?

03:25PM 15 A. I'm confused. On the left Exhibit 2, on the right Exhibit 3.

03:26PM 16 Q. I'll just explain that to you. The 2 B, that's the exhibit  
03:26PM 17 number from your deposition. It's the 3, Plaintiffs' Exhibit 3 on  
03:26PM 18 the right, that's the sticker that matters.

03:26PM 19 A. Okay.

03:26PM 20 Q. But this PX3 from your deposition, that's what was how you  
03:26PM 21 depicted the time of the shooting; right?

03:26PM 22 A. If that was the deposition, that's what it is.

03:26PM 23 Q. And then I just want to take now -- publish PDX6, which is  
03:26PM 24 just the colored portion, so just your recollection without the  
03:26PM 25 black and white circles. And it might be easier to look at the

03:26PM 1 paper. For whatever reason, the computer screens are less clear  
03:26PM 2 than the paper demonstrative.

03:27PM 3 A. I have both of those.

03:27PM 4 Q. So is PDX6 a fair version of PX3 with just your recollection  
03:27PM 5 reflected in it?

03:27PM 6 A. Yes. Allow me to remind you that the corporal at the top  
03:27PM 7 right, he wasn't there.

03:27PM 8 Q. Fair enough. But other than now you're saying the corporal on  
03:27PM 9 the top right wasn't there, is there a fair recollection -- a fair  
03:27PM 10 representation of PX3 with just your recollection as of the time  
03:27PM 11 of your deposition?

03:27PM 12 A. Yes. And now I think I just told you a few minutes ago that  
03:27PM 13 the two blue circles, the Del Real and Herrera were not one --  
03:27PM 14 were east to west -- no. They were not in the vertical position  
03:28PM 15 in the graph but they were in --

03:28PM 16 (Cell phone going off.)

03:28PM 17 JUROR: Sorry.

03:28PM 18 (Laughing.)

03:28PM 19 THE WITNESS: The position of Del Real and Herrera  
03:28PM 20 instead of being -- let me graph with my hands. They were there  
03:28PM 21 like this (indicating).

03:28PM 22 BY MR. KRISHNAN:

03:28PM 23 Q. I see. So you're saying that the two blue circles, your  
03:28PM 24 recollection now, instead of those two blue circles being  
03:28PM 25 vertical, you would have them horizontal?

03:28PM 1 A. Yes. That's what I have in my mind now.

03:28PM 2 Q. But the thing I want to focus on is Mr. Marandino. I want to  
03:28PM 3 stay on this questioning about Mr. Marandino and whether he was  
03:28PM 4 shooting.

03:28PM 5 A. Okay.

03:28PM 6 Q. This PDX6, which is modified version of PX3, from your  
03:28PM 7 deposition, shows Mr. Marandino shooting at the prisoners; right?

03:29PM 8 A. That's what it shows. That graph shows that.

03:29PM 9 Q. Okay. And at your deposition, let's pull back up PX3, this  
03:29PM 10 was what we actually used at your deposition, it also shows  
03:29PM 11 Marandino shooting at the prisoners, and, you know, the screen  
03:29PM 12 here -- I think may be a little off because I think the paper  
03:29PM 13 shows the arrow coming directly from Mr. Marandino. So there may  
03:29PM 14 be something wrong with how it's digitally shown. But your paper  
03:29PM 15 may be more accurate.

03:29PM 16 But my question, Mr. Sosa (sic), is at your deposition, this  
03:29PM 17 was the exhibit that was used, and you had testified at your  
03:29PM 18 deposition that Mr. Marandino was one of the people shooting, and  
03:29PM 19 that's what's drawn with the green arrow; right?

03:30PM 20 A. Well, I'd like to see that part of the deposition or read it  
03:30PM 21 because the only thing that I remember about Marandino was with  
03:30PM 22 the pistol -- when I say shooting, yes. I was describing where  
03:30PM 23 the position of the individuals were, but I don't -- I don't  
03:30PM 24 recall the shooting itself. I remember him having a pistol on my  
03:30PM 25 left.

03:30PM 1 Q. So you don't recall --

03:30PM 2 A. I'm confused. May I add something else, please?

03:30PM 3 Q. No. I really want to stay on this line of questioning.

03:30PM 4 A. Okay. Go ahead.

03:30PM 5 Q. So, Mr. Bravo, isn't it true that at your deposition you

03:30PM 6 approved of this drawing that had Mr. Marandino shooting?

03:30PM 7 A. I don't know if I said shooting. I said what the position was

03:30PM 8 with a pistol, perhaps. But I don't remember if I said that,

03:30PM 9 okay, that's what I said. But I don't remember saying he was

03:31PM 10 shooting from there.

03:31PM 11 Q. Doesn't every single arrow in this drawing, PX3, represent

03:31PM 12 shooting?

03:31PM 13 A. The green? You mean the red lines and the green line?

03:31PM 14 Q. Yes.

03:31PM 15 A. I would say that the red lines are pretty precise, I -- I -- I

03:31PM 16 don't remember Marandino shooting. I saw him with a pistol, but

03:31PM 17 also I think I clarified later Marandino was with a pistol only

03:31PM 18 revising the cells -- I mean, verifying that if there is any

03:31PM 19 alive, but he couldn't go any further than first. I remember him

03:31PM 20 having him with the pistol, say: I cannot do this. I cannot do

03:32PM 21 this. I'm afraid. He said: I am afraid. Tengomiedo.

03:32PM 22 Q. I'm afraid?

03:32PM 23 A. I'm afraid. And he came back, gave the pistol to Del Real,

03:32PM 24 and left.

03:32PM 25 Q. Okay. So let's take down the exhibit for a second.

03:32PM 1 Mr. Bravo, what is your testimony now? Is it that  
03:32PM 2 Mr. Marandino was in the room shooting, or is it that he wasn't in  
03:32PM 3 the room, or is it that you don't remember?  
03:32PM 4 A. If I had to be very concise, I don't remember because I've  
03:32PM 5 lost sight of who was behind me when I advanced a couple feet.  
03:32PM 6 Q. Now, you know that in Mr. Marandino's testimony in this case,  
03:32PM 7 Mr. Marandino says that you asked him, you, Mr. Bravo, asked him  
03:32PM 8 to unlock the cell doors and then leave the cellblock area; right?  
03:33PM 9 A. He said that?  
03:33PM 10 Q. I'm asking you. Do you know that he testified that way?  
03:33PM 11 A. No, I don't remember.  
03:33PM 12 Q. You don't remember?  
03:33PM 13 A. No, I don't remember.  
03:33PM 14 Q. Okay. Mr. Sosa (sic), your deposition took place last year,  
03:33PM 15 right?  
03:33PM 16 A. May 2021, yes.  
03:33PM 17 Q. So about 13 months ago?  
03:33PM 18 A. Yes.  
03:33PM 19 Q. And the deposition is a formal proceeding that takes place in  
03:33PM 20 this case; right?  
03:33PM 21 A. Okay.  
03:33PM 22 Q. And you were under oath when you testified there; right?  
03:33PM 23 A. Yes, I testified to everything I remember.  
03:33PM 24 Q. Okay. And the purpose of the deposition is for us to be able  
03:33PM 25 to get your story under oath before trial; right?

03:33PM 1 A. That is correct.

03:33PM 2 Q. Okay. And so at your deposition, you tried to give your best

03:33PM 3 recollection; right?

03:33PM 4 A. Yes.

03:33PM 5 Q. Okay. Now, have you -- have you told the plaintiffs at any

03:33PM 6 point prior to today since the time of your deposition that you no

03:34PM 7 longer remember whether Mr. Marandino was in the room or not?

03:34PM 8 A. I was not asked that question.

03:34PM 9 Q. Okay. So you were not. But the question is: Have you told

03:34PM 10 the plaintiffs at any point between your deposition 13 months ago

03:34PM 11 and today, that you don't remember whether Mr. Marandino was in

03:34PM 12 the room and shooting or not?

03:34PM 13 A. I was not asked that question, so I didn't say that.

03:34PM 14 Q. I just need a clear answer. You haven't told the plaintiffs

03:34PM 15 at any point in the last 13 months up until today that you don't

03:34PM 16 remember whether Mr. Marandino was in the room or not; correct?

03:34PM 17 MR. DAVIS: Objection. It's asked and answered, Judge.

03:34PM 18 THE COURT: Overruled. Answer the question, Mr. Bravo.

03:34PM 19 THE WITNESS: Yes, I don't remember. I didn't -- I

03:34PM 20 didn't say anything to the plaintiffs.

03:34PM 21 BY MR. KRISHNAN:

03:34PM 22 Q. Okay.

03:34PM 23 A. Regarding that.

03:34PM 24 Q. Now, Mr. Marandino's testimony was taken after your testimony;

03:34PM 25 right?

03:34PM 1 A. Yes.

03:35PM 2 Q. Right. So about six or more months later, after your  
03:35PM 3 deposition comes Mr. Marandino's deposition; right?

03:35PM 4 A. I don't know the time frame.

03:35PM 5 Q. But you certainly didn't know how Mr. Marandino was going to  
03:35PM 6 testify when you testified at your deposition; right?

03:35PM 7 A. That is correct.

03:35PM 8 Q. But now you do know; right?

03:35PM 9 A. Yes, I'm trusting what you are saying.

03:35PM 10 Q. Mr. Bravo, isn't it true that you're changing your testimony,  
03:35PM 11 because after you testified at deposition, you watched  
03:35PM 12 Mr. Marandino's deposition, and you're now trying to conform your  
03:35PM 13 story to the other evidence and testimony that he provided?

03:35PM 14 A. If you are asking me if I changed deposition today because of  
03:35PM 15 that or I changed deposition --

03:35PM 16 Q. Today. Aren't you changing your position today because since  
03:35PM 17 the time of your deposition, you were able to see Mr. Marandino's  
03:35PM 18 testimony?

03:35PM 19 A. No.

03:35PM 20 Q. Okay. Now, let's go on to Mr. Marchan.

03:36PM 21 A. Okay.

03:36PM 22 Q. Now, Mr. Marchan is the other corporal that you say was there  
03:36PM 23 at the cellblock area when you showed up that night; right?

03:36PM 24 A. No. He was there when we arrived.

03:36PM 25 Q. That's what I meant. Mr. Marchan was there with Mr. Marandino

03:36PM 1 when you arrived; right?

03:36PM 2 A. (Nodding.)

03:36PM 3 Q. Okay. And you're now saying that Mr. Marchan left the

03:36PM 4 cellblock area before the shooting started; right?

03:36PM 5 A. As soon as we arrived.

03:36PM 6 Q. He left the cellblock area as soon as you arrived?

03:36PM 7 A. As soon as I arrived, he greeted me asking me to leave.

03:36PM 8 Q. He asked you if he could leave?

03:36PM 9 A. Yes.

03:36PM 10 Q. Okay.

03:36PM 11 A. As soon as I arrived, that's the first words.

03:37PM 12 Q. This is the first time I'm hearing about that; right? You

03:37PM 13 haven't testified that way in the past; right?

03:37PM 14 MR. DAVIS: Objection. Improper impeachment.

03:37PM 15 THE WITNESS: I think --

03:37PM 16 THE COURT: Hold up, Mr. Bravo. Let me rule on the

03:37PM 17 objection.

03:37PM 18 THE WITNESS: I'm sorry.

03:37PM 19 THE COURT: Overruled. Go ahead, Mr. Bravo, you can

03:37PM 20 answer.

03:37PM 21 THE WITNESS: Please repeat the question, sir.

03:37PM 22 BY MR. KRISHNAN:

03:37PM 23 Q. This is the first time you have told the plaintiffs that

03:37PM 24 Mr. Marchan came up to you and asked you to leave as soon as you

03:37PM 25 arrived; right?



03:37PM 1 A. I think I did in my deposition in May 2021.

03:37PM 2 Q. Okay. We'll see if that's -- if that happened, but?

03:37PM 3 A. Yes.

03:37PM 4 Q. What did Mr. Marchan ask you?

03:37PM 5 A. He said -- sir, I don't feel well, and I touched his body that

03:37PM 6 I need to -- I need to leave. Something like that. I feel sick.

03:37PM 7 He said from --

03:37PM 8 THE INTERPRETER: I feel sick.

03:37PM 9 BY MR. KRISHNAN:

03:37PM 10 Q. So Mr. Marchan comes up as soon as you arrive, says, I feel

03:38PM 11 sick, and you give him permission to leave?

03:38PM 12 A. Yes.

03:38PM 13 Q. And it was you who gave him permission to leave as opposed to

03:38PM 14 Sosa or someone else?

03:38PM 15 A. Yes, I was.

03:38PM 16 Q. Okay. So did that happen before or after Mr. Sosa ordered

03:38PM 17 according to you Corporal Marandino to open -- unlock the cells?

03:38PM 18 A. What?

03:38PM 19 Q. That Marchan came to you and asked to leave. Did that happen

03:38PM 20 before or after Sosa ordered Marandino to unlock all the cells?

03:38PM 21 A. Sosa, Del Real, and Herrera were behind me about 30 feet. As

03:38PM 22 soon as I arrived I confronted two corporals, Corporal Marchan

03:39PM 23 asked me, please, sir, I don't feel well, I need to leave, I won't

03:39PM 24 be -- I cannot be here today.

03:39PM 25 Q. I'm sorry. Did you say that Sosa and Del Real were behind you

03:39PM 1 by 30 feet?

03:39PM 2 A. Yes, 20, 25, yeah, very close.

03:39PM 3 Q. Did you provide that information at your deposition?

03:39PM 4 A. I don't remember.

03:39PM 5 Q. Okay. So you're saying that you were the first to show up at

03:39PM 6 the cellblock area of the officers, and Sosa and Del Real were

03:39PM 7 30 feet behind?

03:39PM 8 A. Yeah, 30, 30, yeah.

03:39PM 9 Q. And Marchan comes up to you first thing and asked you if he

03:39PM 10 can leave because he doesn't feel well before the other two

03:39PM 11 officers even arrive?

03:39PM 12 A. That is correct.

03:39PM 13 Q. Okay. Let's go back to the Auditor General's Report. DX2.

03:39PM 14 MR. KRISHNAN: If we can put that up, it's the same page

03:40PM 15 as before, it's marked 2 at the bottom. Page before that, please.

03:40PM 16 Thank you.

03:40PM 17 And let's go back to the -- this is the second and third

03:40PM 18 paragraphs. Could we blow those up, please. Yeah. That's just

03:40PM 19 the second -- actually, let's have the second and third, please.

03:40PM 20 BY MR. KRISHNAN:

03:40PM 21 Q. So we had already read on the top paragraph that starts with,

03:40PM 22 from the analysis of the evidence, this paragraph says that you

03:40PM 23 ordered the prisoners out of the cells, and you disagreed with

03:41PM 24 that; right?

03:41PM 25 A. Yes.

03:41PM 1 Q. Now, we go on to the next paragraph, it starts -- and if we  
03:41PM 2 could highlight here; before the detainees finished forming a  
03:41PM 3 line, marine corps Corvette Captain Luis Emilio Sosa, second  
03:41PM 4 commander of the Marine Corps Battalion No. 4, officer in charge  
03:41PM 5 of guarding the prisoners, had entered the premises followed by  
03:41PM 6 Navy Lieutenant Emilio Jorge Del Real, and a few moments later by  
03:41PM 7 Corvette Captain Juan Carlos Antonio Herrera. Do you see that?

03:41PM 8 A. Yes.

03:41PM 9 Q. Did I read it correctly?

03:41PM 10 A. Yes.

03:41PM 11 Q. So this says that you had already ordered the detainees out of  
03:42PM 12 their cells before Sosa even got there; right?

03:42PM 13 A. Yes.

03:42PM 14 Q. So -- okay. Let's now go to the next paragraph. So at this  
03:42PM 15 point, the document has told us that you ordered the prisoners out  
03:42PM 16 of the cells, then Sosa and Herrera and Del Real show up, and now  
03:42PM 17 if we go to the paragraph that starts, under these  
03:42PM 18 circumstances --

03:42PM 19 MR. KRISHNAN: If we could blow up those -- really the  
03:42PM 20 paragraph that starts, under these circumstances.

03:42PM 21 BY MR. KRISHNAN:

03:42PM 22 Q. It says, under these circumstances Lieutenant Bravo gave  
03:42PM 23 permission for Corporal Marchan to go to the bathroom leaving  
03:42PM 24 Corporal Marandino as the only auxiliary personnel. Do you see  
03:43PM 25 that?

03:43PM 1 A. Yes.

03:43PM 2 Q. So what this document is telling us is that you've already let

03:43PM 3 all of the prisoners out of the cells, and then you let

03:43PM 4 Mr. Marchan go to the bathroom; that's what it says; right?

03:43PM 5 A. Yes, and it's wrong.

03:43PM 6 Q. So that's wrong too?

03:43PM 7 A. It is wrong.

03:43PM 8 Q. Okay. And, of course, it would be certainly even more

03:43PM 9 dangerous once all the prisoners are out of the cells to let one

03:43PM 10 of the soldiers that's remaining to go to the bathroom; right?

03:43PM 11 A. I agree.

03:43PM 12 Q. You agree. So this really makes no sense why anyone would do

03:43PM 13 this; right?

03:43PM 14 A. That is correct.

03:43PM 15 Q. But this is again the document that you previously called very

03:43PM 16 thorough and accurate; right?

03:43PM 17 A. Don't put words in my mouth. I said that it appears to be so,

03:43PM 18 please.

03:44PM 19 Q. So it's now your testimony that the only people that you know

03:44PM 20 to have been in the cellblock area while the shooting happened

03:44PM 21 were officers; right?

03:44PM 22 A. It was me, an officer, on my behind was -- on the right was

03:44PM 23 Del Real, another officer, and on my left was Marandino. And Sosa

03:44PM 24 was walking with Galliot (phonetic), so I only -- so I'm only

03:44PM 25 aware that I was the one only really with a submachine gun and Del

03:45PM 1 Real the pistol, but Del Real had a submachine gun. I cannot give  
03:45PM 2 you a yes or no answer. I have to give you some sort of  
03:45PM 3 description what is in the cloud of my memory.

03:45PM 4 Q. Just, please, the question I'm asking is --

03:45PM 5 A. Yes.

03:45PM 6 Q. -- you know that there were other officers in the block with  
03:45PM 7 you, the cellblock area; right?

03:45PM 8 A. Yes, yes.

03:45PM 9 Q. You don't know --

03:45PM 10 A. Two officers.

03:45PM 11 Q. -- and you know that Marchan was gone at the time of the  
03:45PM 12 shooting; right?

03:45PM 13 A. Yes.

03:45PM 14 Q. And you're not sure whether Marandino was there; right?

03:45PM 15 A. I know he was there, but I don't know exactly what he was  
03:45PM 16 doing at that particular instance.

03:45PM 17 Q. Sorry. Are you saying that Marandino was in the room or not  
03:45PM 18 in the room?

03:45PM 19 A. Last time that I remember, he was behind me; when I advanced,  
03:45PM 20 he was there. I don't know if he left.

03:45PM 21 Q. Okay. So Marandino may have been in the room or not?

03:45PM 22 A. Yes, correct.

03:46PM 23 Q. Now, you're saying now that at the time of the shooting who  
03:46PM 24 was behind you?

03:46PM 25 A. Del Real and Marandino.

03:46PM 1 Q. You're saying De1 Real was behind you on the right, Marandino  
03:46PM 2 was behind you on the left?

03:46PM 3 A. Yes. May I go to --

03:46PM 4 MR. KRISHNAN: Let's go to -- sorry -- PX3.

03:46PM 5 BY MR. KRISHNAN:

03:46PM 6 Q. So here PX3 from your deposition, De1 Real isn't behind you at  
03:46PM 7 all; he's in front of you; right?

03:46PM 8 A. Yes.

03:46PM 9 Q. He's significantly in front of you; you should be able to see  
03:46PM 10 him; right?

03:47PM 11 A. Yes.

03:47PM 12 Q. So now you're changing the position of De1 Real?

03:47PM 13 A. First of all, this is -- this is not the moment that the  
03:47PM 14 exchange of fire happened. This is a depiction of the movements  
03:47PM 15 of the shooting, the coup d'etat. I really have -- I hate -- I am  
03:47PM 16 ashamed that I don't recall more, but I remember that when  
03:47PM 17 Marandino went to open the locks, he left the machine gun, the  
03:47PM 18 machine gun was taken by De1 Real. So De1 Real, that was initial  
03:47PM 19 position. He had moved to pick up the gun that was on the right,  
03:47PM 20 and Marandino on the left.

03:47PM 21 Q. So you're saying now that PX3 does not reflect the time of  
03:47PM 22 shooting?

03:47PM 23 A. That is correct.

03:47PM 24 Q. These two red arrows that were coming out of your -- of the  
03:48PM 25 circle that represents you, those two red arrows, that go all the

03:48PM 1 way down the hallway, that doesn't represent gunfire?

03:48PM 2 A. No, it does.

03:48PM 3 Q. It does?

03:48PM 4 A. The one from the one is mine, the one is from Del Real. And

03:48PM 5 it really remains in that position, that I remember at the end of

03:48PM 6 the shooting, he was there in the center of the hallway.

03:48PM 7 Q. We'll come back to that in a little bit. Let's go back to now

03:48PM 8 the time of the attack, you say Sosa walked up and down the

03:49PM 9 hallway. He gets attacked by Pujadas; right, at the end of the

03:49PM 10 hallway; right? The mouth of the hallway -- the mouth of the

03:49PM 11 corridor?

03:49PM 12 A. Right.

03:49PM 13 Q. Okay.

03:49PM 14 MR. KRISHNAN: Actually, I'm sorry. Could we please put

03:49PM 15 back up PX3?

03:49PM 16 BY MR. KRISHNAN:

03:49PM 17 Q. And we have Pujadas in purple and Sosa in yellowish orange

03:49PM 18 there; do you see that?

03:49PM 19 A. Yes.

03:49PM 20 Q. And that's right at the moment of the attack; right?

03:49PM 21 A. Yes. There is another connection perhaps, perhaps, not it is

03:49PM 22 really necessary to make this more accurate. The sides of the

03:49PM 23 circle point of the individuals three, three individuals

03:49PM 24 vertically should occupy the hallway.

03:49PM 25 Q. Okay. Fair enough. By the way, Mr. Bravo, that purple arrow,

03:50PM 1 the one that says direction of Pujadas is shot, that one certainly  
03:50PM 2 reflects the time of the shooting; right, in PX3?

03:50PM 3 A. Yes. I thought that they shot to me, but maybe it went to the  
03:50PM 4 right.

03:50PM 5 Q. I'm just asking does this reflect the time of the shooting?  
03:50PM 6 Does PX3 reflect the time of the shooting?

03:50PM 7 A. Del Real was where -- first of all, my position, Bravo here,  
03:50PM 8 should be about in the center of the hallway because I advanced a  
03:50PM 9 couple of feet, one step forward -- there is no way that you can  
03:50PM 10 set up so I can draw it?

03:50PM 11 Q. I think I'm going to let your lawyer do that. I'm sure you'll  
03:50PM 12 have an opportunity to do that.

03:50PM 13 A. All right. All right.

03:50PM 14 Q. But the point here is this: In this picture, Del Real is in  
03:51PM 15 front of you. Now you're saying he is behind you; right?

03:51PM 16 A. At the shooting, yes, at the moment that the shooting starts,  
03:51PM 17 yes.

03:51PM 18 Q. Now, let's go back to the attack. Pujadas is attacking Sosa?

03:51PM 19 A. Yes.

03:51PM 20 Q. By the way, when Sosa is walking up and down the hallway, his  
03:51PM 21 gun is holstered; right?

03:51PM 22 A. (Nodding.)

03:51PM 23 Q. Okay. So you say that Pujadas attacks Sosa, takes his gun,  
03:51PM 24 fires at you or the other soldiers, and everybody moves forward at  
03:51PM 25 once, and that happens all at once; right?



03:51PM 1 THE COURT: Hold up. That's a pretty compound question.  
03:51PM 2 I'm going to ask you to break that down.

03:51PM 3 MR. KRISHNAN: Okay.

03:51PM 4 BY MR. KRISHNAN:

03:51PM 5 Q. So let's talk about the attack, Mr. Pujadas' attack on Sosa.  
03:51PM 6 You say that that involves him somehow knocking him -- knocking  
03:51PM 7 Sosa to the ground, taking his gun, and firing at you; right?

03:51PM 8 A. I would like to have the chance to show you myself how the  
03:52PM 9 movement of the body went.

03:52PM 10 Q. Okay. But at this point, I just need a verbal description.  
03:52PM 11 Is your testimony that Pujadas knocked Sosa down, took his gun,  
03:52PM 12 and then fired at you?

03:52PM 13 A. He did something. I don't know what type of act or something  
03:52PM 14 that he did that Sosa didn't fall forward, not backwards, not  
03:52PM 15 side. He fell vertically like bend -- the knees bent, came down,  
03:52PM 16 and Pujadas was with his left hand on his -- on the shoulder of  
03:52PM 17 Sosa like pushing him down. And at the same time, having grabbed  
03:52PM 18 the pistol, cocked it, and shot from that position, probably the  
03:52PM 19 position of his waistline, about the size of -- the height of the  
03:52PM 20 head of Sosa at that moment.

03:53PM 21 Q. So Pujadas knocked Sosa to his knees?

03:53PM 22 A. He bent the knees, he came vertically.

03:53PM 23 Q. Right. I'm saying -- when I say Pujadas knocks Sosa to his  
03:53PM 24 knees, I mean Pujadas knocks Sosa so Sosa's knees were on the  
03:53PM 25 ground?

03:53PM 1 A. No, before he -- Sosa hits the ground -- how do you wish to  
03:53PM 2 show?

03:53PM 3 MR. KRISHNAN: Your Honor, I don't have any objection to  
03:53PM 4 Mr. Bravo demonstrating.

03:53PM 5 THE COURT: Mr. Bravo, do you want to stand up and show  
03:53PM 6 us what you're describing?

03:53PM 7 THE WITNESS: Yes. This is the passageway, come this way  
03:53PM 8 vertical, here was Pujadas, and here was someone else, someone  
03:54PM 9 else, Sosa came, and this is discipline, blah, blah, blah, Pujadas  
03:54PM 10 received this type of move or something that bent the knee and  
03:54PM 11 came down. As one came down, Pujadas was behind, grabbed the gun,  
03:54PM 12 cocked it, and shoot. And then before -- after that, Sosa fell  
03:54PM 13 completely to the ground, but not on his knees. Bent the knees,  
03:54PM 14 and then forward. At that moment, when he got in that position,  
03:54PM 15 the lower position, that's when I had -- I said, fire, fire, and I  
03:54PM 16 know that would kill Sosa, but that would be collateral damage,  
03:54PM 17 but I had to stop it.

03:54PM 18 Q. Thank you, Mr. Bravo. So you just described the attack by  
03:55PM 19 Pujadas on Sosa, right?

03:55PM 20 A. Yes.

03:55PM 21 Q. And at the same time as that attack, you saw all of the  
03:55PM 22 prisoners moving forward?

03:55PM 23 A. Yes.

03:55PM 24 Q. At once, right?

03:55PM 25 A. Yes, I didn't see all because they were so compact that I

03:55PM 1 didn't see all. I see everyone in the front, the ones that were  
03:55PM 2 in the front moving forward like taking advantage of that  
03:55PM 3 situation.  
03:55PM 4 Q. Okay.  
03:55PM 5 A. That was my perception at that time.  
03:55PM 6 Q. And you -- as a result of everyone that you sawing moving  
03:55PM 7 forward and Pujadas attacking Sosa, you ordered -- you said, fire,  
03:55PM 8 and you shot -- even though Mr. Sosa was right there and you  
03:55PM 9 understood that he might have gotten hurt, you said, fire, and you  
03:55PM 10 started shooting?  
03:56PM 11 A. Yeah. But you -- respectfully, you failed to mention the  
03:56PM 12 thing that I mentioned, that you just said, that also Pujadas made  
03:56PM 13 the shot.  
03:56PM 14 Q. Okay. So let's talk about Pujadas making that shot.  
03:56PM 15 A. Okay.  
03:56PM 16 Q. You had your machine gun trained on the soldiers at the time  
03:56PM 17 that Mr. Sosa was walking up and down the hallway; right?  
03:56PM 18 A. There was --  
03:56PM 19 Q. I'm sorry. You had your machine gun trained on the prisoners  
03:56PM 20 at the time that Sosa --  
03:56PM 21 A. Trained on the prisoners. What do you mean? I don't  
03:56PM 22 understand trained on the prisoners.  
03:56PM 23 Q. Pointed at them.  
03:56PM 24 A. Yes.  
03:56PM 25 Q. You had your machine gun pointed at the prisoners --

03:56PM 1 A. Yes.

03:56PM 2 Q. -- at the time that Mr. Sosa was walking up and down the

03:56PM 3 hallway?

03:56PM 4 A. That is correct.

03:56PM 5 Q. And your safety was off; right?

03:56PM 6 A. Yes.

03:56PM 7 Q. So you were ready to shoot with your safety off?

03:57PM 8 A. Yes.

03:57PM 9 Q. And before you could fire, Pujadas was able to push or kick

03:57PM 10 down Sosa, unholster his gun, take the safety off his gun --

03:57PM 11 A. No.

03:57PM 12 Q. -- and shoot at you?

03:57PM 13 A. Sorry.

03:57PM 14 Q. Before you could get a shot off; right?

03:57PM 15 A. I don't agree with the way that you construct the question,

03:57PM 16 because you said: before you shoot. No. Before you shoot, I was

03:57PM 17 just aiming. I -- everything happened after Pujadas shot. After

03:57PM 18 Pujadas shot, I ordered: Fire.

03:58PM 19 Q. I guess the question -- the point that I'm trying to get at,

03:58PM 20 Mr. Bravo --

03:58PM 21 A. Okay.

03:58PM 22 Q. -- is that from the time that you saw Pujadas attack Sosa, he

03:58PM 23 was able to remove Sosa's gun from the holster?

03:58PM 24 A. Yes, uh-huh.

03:58PM 25 Q. Take the gun out of the holster?

03:58PM 1 A. Uh-huh.

03:58PM 2 Q. Take the safety off?

03:58PM 3 A. There was no safety off, no need for safety off.

03:58PM 4 Q. You know whether Sosa's gun had a safety or not?

03:58PM 5 A. I know he had one, but we carried the gun always with the

03:58PM 6 safety off.

03:58PM 7 Q. So he's walking around with a gun in his holster and the

03:58PM 8 safety off?

03:58PM 9 A. That is correct.

03:58PM 10 Q. So Pujadas was able to knock down Sosa, take his gun out of

03:58PM 11 the holster, and shoot?

03:58PM 12 A. He had to cock it first.

03:58PM 13 Q. Let me just finish.

03:58PM 14 A. I'm sorry. There was no safety, but a pistol in order to be

03:58PM 15 able to shoot, it has to have the hammer which is a device that

03:59PM 16 hits the bullet, the ammunition, and ready to move forward when

03:59PM 17 hit ammunition. So he had only to cock it and shot, and he did

03:59PM 18 that.

03:59PM 19 Q. In what position was Sosa when you started firing?

03:59PM 20 A. At the end of the hallway like I described here.

03:59PM 21 Q. I'm sorry. In what body position was he? Was he already --

03:59PM 22 A. He was walking.

03:59PM 23 Q. At the time you started firing?

03:59PM 24 A. Oh, he was falling down.

03:59PM 25 Q. He was falling down?

03:59PM 1 A. Almost on the floor.

03:59PM 2 Q. Now, the -- how many -- how many bullets did Mr. Pujadas get

03:59PM 3 off during his -- let me rephrase.

03:59PM 4 How many bullets did Mr. Pujadas shoot when he took Sosa's

04:00PM 5 gun?

04:00PM 6 A. Two.

04:00PM 7 Q. Two.

04:00PM 8 A. And that is something that I regret because I should have

04:00PM 9 fired myself before -- after -- rather the first, not the second.

04:00PM 10 Q. Okay. Thank you.

04:00PM 11 A. It took me a second to react. Many seconds.

04:00PM 12 Q. Now, let's talk about what you could see at the time of your

04:00PM 13 shooting.

04:00PM 14 Could you see all 19 prisoners?

04:00PM 15 A. No.

04:00PM 16 Q. Okay. But you shot all 19 prisoners; right?

04:01PM 17 A. I shot the bulk of people that were together and moving

04:01PM 18 literally forward.

04:01PM 19 Q. Mr. Bravo, you know that when the firing ended all of the

04:01PM 20 prisoners were shot; right?

04:01PM 21 A. No, I didn't know that.

04:01PM 22 Q. You didn't know that?

04:01PM 23 A. No.

04:01PM 24 Q. You didn't check after the -- whether any prisoners weren't

04:01PM 25 shot?

04:01PM 1 A. No, I didn't check. We were afraid that there was someone at  
04:01PM 2 the end of the hallway, I mean, the last cell on the right, I saw  
04:01PM 3 a couple of legs out on the passageway on the hallway, meaning the  
04:01PM 4 rest of the body was inside. And there was a lot of blood, and  
04:01PM 5 there were people -- several people on top of each other in the  
04:01PM 6 beginning, like they were falling as they were advancing, and  
04:01PM 7 there was a stench of smoke, powder, very horrible, and when I saw  
04:02PM 8 that, we thought that maybe -- we didn't know what would happen  
04:02PM 9 next. We don't know if there are more people doing something.  
04:02PM 10 Really, we were lost, we didn't know --- we were improvising there  
04:02PM 11 upon whatever may happen. So after I saw that and for a few  
04:02PM 12 seconds there was no movement, I called the guards that was on my  
04:02PM 13 right there. I called the guards, guards to come.

04:02PM 14 Q. Mr. Bravo, we're going to be here for a very long time if I  
04:02PM 15 ask a question and you give me a minute-long answer. So I'm just  
04:02PM 16 asking you: Do you at least know now that every single prisoner  
04:02PM 17 was shot?

04:02PM 18 A. Yes, now I know, yes.

04:02PM 19 Q. Okay. And not a single one of the officers was hurt; right?

04:02PM 20 A. That is correct.

04:02PM 21 Q. And so even though you couldn't see all of the prisoners,  
04:03PM 22 you -- meaning all of the soldiers ended up shooting all of the  
04:03PM 23 prisoners; right?

04:03PM 24 A. Please repeat the question.

04:03PM 25 Q. Even though you couldn't see all of the prisoners, you ended

04:03PM 1 up shooting all of the prisoners; right?

04:03PM 2 A. There were two submachine guns.

04:03PM 3 THE COURT: Mr. Bravo? The question, again, Mr.

04:03PM 4 Krishnan.

04:03PM 5 BY MR. KRISHNAN:

04:03PM 6 Q. Even though you couldn't see all the prisoners, you ended up

04:03PM 7 shooting all the prisoners; right?

04:03PM 8 A. Yes.

04:04PM 9 Q. Mr. Bravo, I'd like you to take a look at your deposition,

04:04PM 10 page 82, lines 17 to 19.

04:04PM 11 A. Uh-huh, yeah. I recall that now.

04:04PM 12 Q. Okay. At your deposition, you testified that Pujadas couldn't

04:04PM 13 get off more than one shot; right?

04:04PM 14 A. That is correct.

04:04PM 15 Q. Okay. But now you're saying that he got off two shots?

04:04PM 16 A. Yeah, I have, yes, but -- yeah.

04:05PM 17 Q. And in fact, your lawyer during opening statements said that

04:05PM 18 he got off two shots; right?

04:05PM 19 A. I don't remember what he said.

04:05PM 20 Q. Okay.

04:05PM 21 A. But --

04:05PM 22 Q. But you're changing your testimony on this as well?

04:05PM 23 A. Yes. I said one -- two flames, yes.

04:05PM 24 Q. I want to talk about -- I'm going to move off now the topic of

04:05PM 25 the shooting itself and the incident itself.



04:05PM 1 During -- strike that.

04:06PM 2 The prisoners, the 19 prisoners, those were at the naval  
04:06PM 3 base for about a week, right?

04:06PM 4 A. From the 15th to 22nd, yes.

04:06PM 5 Q. Right. So they were brought after they surrendered to the  
04:06PM 6 naval base on August 15th; right?

04:06PM 7 A. Yes.

04:06PM 8 Q. And the shooting happened on August 22nd; right?

04:06PM 9 A. Yes.

04:06PM 10 Q. So they were at the naval base for a week; right?

04:06PM 11 A. Yes.

04:06PM 12 Q. And during the time that they were at the base, you never  
04:06PM 13 spoke to the prisoners; right?

04:06PM 14 A. I did not.

04:06PM 15 Q. And the night of the shootings, it was only Sosa who spoke to  
04:06PM 16 the prisoners; right?

04:06PM 17 A. Exactly, yes.

04:06PM 18 Q. So the entire time those prisoners were at the base, you never  
04:06PM 19 asked them any questions; right?

04:06PM 20 A. Correct.

04:06PM 21 Q. You never interrogated them?

04:06PM 22 A. No, never, it was not our function.

04:07PM 23 Q. And you never had any orders to get any information from them;  
04:07PM 24 right?

04:07PM 25 A. Correct.

04:07PM 1 Q. Now, after the shootings, you were sent to the United States;  
04:07PM 2 right?

04:07PM 3 A. Six months later, or four months later, yes.

04:07PM 4 Q. So still within 1972, you were sent to the United States;  
04:07PM 5 right?

04:07PM 6 A. Yes. I had to finish my term in that unit. So after the end  
04:07PM 7 of the year in December, it was time for me to move on to another  
04:07PM 8 unit, go somewhere else.

04:07PM 9 Q. And Sosa was also sent to the United States; right?

04:07PM 10 A. Yes.

04:07PM 11 Q. You actually traveled here on the same plane; right?

04:07PM 12 A. Yes.

04:07PM 13 Q. With your families?

04:07PM 14 A. Yes.

04:07PM 15 Q. And so at least in the case of you and your family, you never  
04:07PM 16 went back to Argentina after that; right?

04:07PM 17 A. Yes. I came in 1995 for a vacation one month.

04:08PM 18 Q. So there was a vacation in 1995 --

04:08PM 19 A. Yes.

04:08PM 20 Q. -- but other than that vacation, you've never been back to  
04:08PM 21 Argentina; right?

04:08PM 22 A. And I went also in 1997 because my mother was dying.

04:08PM 23 Q. So you've been back to Argentina twice in the '90s, and that's  
04:08PM 24 all you have been?

04:08PM 25 A. One in '97 and one in '95.

04:08PM 1 Q. I just need to finish my question so that it's clear for the  
04:08PM 2 record.

04:08PM 3 A. Okay.

04:08PM 4 Q. You visited Argentina twice in the '90s. But other than that,  
04:08PM 5 you have never been back to Argentina; right?

04:08PM 6 A. Yes.

04:08PM 7 Q. And the 1990s was before the criminal investigation into the  
04:08PM 8 Trelew incident began, which was in 2005; right?

04:08PM 9 A. Yes.

04:08PM 10 Q. Mr. Marandino was also sent to the United States shortly after  
04:08PM 11 the incident; right?

04:08PM 12 A. I don't know if it was shortly after, but he was.

04:08PM 13 Q. When do you understand him to have come to the United States?

04:09PM 14 A. I don't know. He came after the -- we came at the end of the  
04:09PM 15 year, so he probably did the same.

04:09PM 16 Q. Okay. So your understanding is that within the year, three of  
04:09PM 17 you were sent to the United States?

04:09PM 18 A. Yes.

04:09PM 19 Q. Now, you say you may have been transferred to the United  
04:09PM 20 States so that no one could take revenge against your family;  
04:09PM 21 right?

04:09PM 22 A. You are paraphrasing my answer, but yes.

04:09PM 23 Q. But that's been your belief, right?

04:09PM 24 A. Initially, I thought I was sent by my merits, my own merits  
04:09PM 25 because I have good qualifications, and that was the year that I

04:09PM 1 was promoted to the next rank up as a -- and the next rank up  
04:09PM 2 which is first lieutenant. I had to attend a special school,  
04:09PM 3 professional, in Argentina or anywhere else. So I was sent to the  
04:09PM 4 United States, and I took that course in the United States.

04:10PM 5 Q. I'm really just trying to ask here: It was your belief at  
04:10PM 6 some point that --

04:10PM 7 A. Yes, at some point, yes.

04:10PM 8 Q. -- that you were moved to the United States so that no one  
04:10PM 9 could take revenge on your family; right?

04:10PM 10 A. Yes. Later on I had to realize that that was the reason I was  
04:10PM 11 sent here.

04:10PM 12 Q. And the idea of no one being able to take revenge on your  
04:10PM 13 family is that you would be hard to find in the United States;  
04:10PM 14 right?

04:10PM 15 A. That's speculation. I -- I -- it would be difficult to find  
04:10PM 16 in Argentina, but not here.

04:10PM 17 Q. I mean, it's not speculation, Mr. Bravo. I'm asking you, I  
04:10PM 18 mean, part of the reason why you felt you'd be safer in the United  
04:10PM 19 States is you would be harder to find so people couldn't take  
04:10PM 20 revenge on you?

04:10PM 21 MR. DAVIS: Objection. The question is argumentative,  
04:10PM 22 Your Honor.

04:10PM 23 THE COURT: Hold up, Mr. Bravo. When there is an  
04:10PM 24 objection, you've got to give me a second.

04:10PM 25 THE WITNESS: I'm sorry.

04:10PM 1 THE COURT: Mr. Krishnan, I do want you to rephrase that.

04:10PM 2 BY MR. KRISHNAN:

04:10PM 3 Q. Part of the idea behind getting you to the United States so  
04:10PM 4 that no one could take revenge on you is that you'd be harder to  
04:11PM 5 find; right?

04:11PM 6 A. I concluded that that was the case, yes.

04:11PM 7 Q. Now, the country of Argentina has been pursuing criminal  
04:11PM 8 charges against either you or your fellow officers such as Captain  
04:11PM 9 Sosa and Lieutenant DeI Real continuously since 2008; right?

04:11PM 10 A. I think that the procedure started in 2005, is the first --  
04:11PM 11 the first action -- legal action in that direction.

04:11PM 12 Q. I'm sorry. You're right. The country of Argentina has been  
04:11PM 13 pursuing criminal charges against either you or your fellow  
04:11PM 14 officers continuously since 2005; right?

04:11PM 15 A. Yes.

04:11PM 16 Q. And, actually, also Corporal Marandino; right?

04:11PM 17 A. Yes.

04:11PM 18 Q. Corporal Marandino was convicted along with Sosa and DeI Real,  
04:12PM 19 right?

04:12PM 20 A. Yes.

04:12PM 21 Q. Now, you've known since at least 2008 that Argentina would  
04:12PM 22 like to extradite you based on the criminal charges against you;  
04:12PM 23 right?

04:12PM 24 A. Yes.

04:12PM 25 Q. And those extradition proceedings began against you in 2010;

04:12PM 1 right?

04:12PM 2 A. 2009, I think.

04:12PM 3 Q. 2009. And they were denied in 2010; is that right?

04:12PM 4 A. I think so, so yes.

04:12PM 5 Q. The extradition request was denied in 2010?

04:12PM 6 A. Yes.

04:12PM 7 Q. Now, when fighting extradition back in 2010, you argued that

04:12PM 8 you were already acquitted by the military; right?

04:12PM 9 A. By the?

04:12PM 10 Q. By the Auditor General's Report?

04:13PM 11 A. By the justice system at the time.

04:13PM 12 Q. Right. All I'm trying to say is that when you were fighting

04:13PM 13 extradition in 2010 --

04:13PM 14 A. Yes.

04:13PM 15 Q. -- one of the arguments you made to the court was that because

04:13PM 16 of the Auditor General's Report, you could not be tried or

04:13PM 17 convicted in Argentina; right?

04:13PM 18 A. That is correct.

04:13PM 19 MR. DAVIS: Objection. That's legal argument in another

04:13PM 20 proceeding.

04:13PM 21 THE COURT: I understood the question to ask what his

04:13PM 22 position was, what position he advanced as a matter of fact. So I

04:13PM 23 will overrule that objection.

04:13PM 24 Mr. Bravo, do you understand the question to be, did you

04:13PM 25 advance that position? Is that what you argued in your

04:13PM 1 extradition proceedings?

04:13PM 2 THE WITNESS: You are asking me if I know that because of  
04:13PM 3 the Auditor General's Report I was -- that was a factor for the  
04:14PM 4 denying extradition; right?

04:14PM 5 BY MR. KRISHNAN:

04:14PM 6 Q. Whether you argued that.

04:14PM 7 A. Well, that was one of the factors.

04:14PM 8 Q. So you did argue that?

04:14PM 9 A. Yes.

04:14PM 10 Q. And another thing you argued was that you were entitled to  
04:14PM 11 amnesty in Argentina; right?

04:14PM 12 A. Yes.

04:14PM 13 Q. And you won on both of those two points in 2010; right?

04:14PM 14 A. Those two -- there were two major points, but those two were  
04:14PM 15 part of the argument, yes.

04:14PM 16 Q. And the court agreed with you on those two points; right?

04:14PM 17 A. Yes.

04:14PM 18 Q. Okay. But even though you believed you were entitled to  
04:14PM 19 amnesty, and even though you believed that the Auditor General's  
04:14PM 20 Report had acquitted you and your fellow soldiers, they still got  
04:15PM 21 convicted in 2012; right?

04:15PM 22 A. Yes.

04:15PM 23 Q. Okay. So it turned out that the decision denying you amnesty  
04:15PM 24 was wrong?

04:15PM 25 MR. DAVIS: Objection, Judge. He can't comment on --

04:15PM 1 objection. Asks for a legal conclusion and to speculate on  
04:15PM 2 another court's decision.

04:15PM 3 THE COURT: Mr. Krishnan, I'm going to give you an option  
04:15PM 4 to either withdraw that question or have me revisit the order on  
04:15PM 5 this topic that was made pretrial.

04:15PM 6 MR. KRISHNAN: Okay. I'll withdraw the question.

04:15PM 7 BY MR. KRISHNAN:

04:15PM 8 Q. So your fellow soldiers in Argentina were --

04:15PM 9 MR. KRISHNAN: Actually, let me do one thing real quick.  
04:15PM 10 Could we please get --

04:16PM 11 BY MR. KRISHNAN:

04:16PM 12 Q. Mr. Bravo, I'm just trying to get a date, and I don't know  
04:16PM 13 that you're going to remember it. Do you remember the date that  
04:16PM 14 extradition was denied for you in 2010?

04:16PM 15 A. I think it was February -- no, no, I don't remember.

04:16PM 16 MR. KRISHNAN: Your Honor, may I show him a document to  
04:17PM 17 refresh his recollection?

04:17PM 18 THE COURT: Can you tell us for the record what that  
04:17PM 19 document is by number?

04:17PM 20 MR. KRISHNAN: It's the order denying extradition.

04:17PM 21 THE COURT: The exhibit number.

04:17PM 22 MR. KRISHNAN: Oh, it's not an exhibit. It's simply a  
04:17PM 23 document.

04:17PM 24 MR. DAVIS: It is actually part of Defendant's  
04:17PM 25 Exhibit 70, Your Honor.



04:17PM 1 THE COURT: Okay.

04:17PM 2 THE WITNESS: Thank you.

04:17PM 3 BY MR. KRISHNAN:

04:17PM 4 Q. Mr. Bravo, do you have the court's order -- the 2010 court  
04:17PM 5 order denying the extradition request?

04:17PM 6 A. Document 62, isn't it?

04:17PM 7 Q. Yes.

04:17PM 8 A. Yes.

04:17PM 9 Q. Does that help -- I'm sorry. Does that help refresh your  
04:17PM 10 recollection as to the date on which extradition was denied?

04:17PM 11 A. I have to read it here, and I will find out. November 1st,  
04:18PM 12 2010.

04:18PM 13 Q. Is that your recollection that November 1st, 2010, is when  
04:18PM 14 extradition was denied?

04:18PM 15 A. I don't recall. I'm seeing it here.

04:18PM 16 Q. Do you have any reason to believe that November 1st, 2010, was  
04:18PM 17 not the date on which extradition was denied?

04:18PM 18 A. I don't know about the date. I think this is the date.

04:18PM 19 Q. Okay. Thank you.

04:18PM 20 Now, after the 2012 conviction of your fellow soldiers, that  
04:18PM 21 conviction was upheld by an Argentine appellate court in 2014;  
04:18PM 22 right?

04:18PM 23 A. I think so.

04:18PM 24 Q. And then it was upheld by the Argentine Supreme Court in 2020,  
04:18PM 25 right?

04:18PM 1 A. That, I don't know.

04:18PM 2 Q. That, you don't know, okay.

04:19PM 3 Now, in 2014, the Argentine government began extradition  
04:19PM 4 proceedings against you; right? I'm sorry. Let me rephrase that.

04:19PM 5 In 2014, Argentina began the process to try to extradite you  
04:19PM 6 again; right?

04:19PM 7 A. I found out about that when I was picked up by the authorities  
04:19PM 8 here on -- on October 2019. I don't know when that request was  
04:19PM 9 done.

04:19PM 10 MR. KRISHNAN: I'm going to show the witness a document  
04:19PM 11 from the extradition docket from 2019 that I assume is also part  
04:20PM 12 of DX --

04:20PM 13 (Brief pause.)

04:20PM 14 MR. SLADE: Are you looking for a date?

04:20PM 15 MR. KRISHNAN: So the document is Docket 34 from the 2009  
04:20PM 16 extradition proceedings that I'd like to show the witness to  
04:20PM 17 refresh his recollection.

04:20PM 18 THE COURT: He didn't indicate he didn't remember.

04:20PM 19 BY MR. KRISHNAN:

04:20PM 20 Q. Mr. Bravo, didn't you argue to the court in the context of the  
04:20PM 21 2019 extradition process that Argentina began the process to try  
04:20PM 22 to extradite you in 2014?

04:20PM 23 A. I don't remember. Maybe if I continue my answer.

04:21PM 24 Q. Well, let's wait -- oh, you weren't finished with your answer?

04:21PM 25 A. Yes. If I say that is correct, it could have been only

04:21PM 1 because at the moment that I was detained here, I wanted to find  
04:21PM 2 out how this originated, so I found out that -- what you just told  
04:21PM 3 me.

04:21PM 4 Q. So why don't we give you the document?

04:21PM 5 A. Okay.

04:21PM 6 MR. KRISHNAN: The witness has Docket 34 from the 2019  
04:21PM 7 extradition proceedings.

04:21PM 8 BY MR. KRISHNAN:

04:21PM 9 Q. And could you please take a look at Footnote 1, Mr. Bravo?

04:21PM 10 A. Yes.

04:21PM 11 Q. Now, Mr. Bravo, you reviewed the papers that your attorney  
04:21PM 12 filed in opposition to the extradition proceeding right before  
04:21PM 13 they were filed?

04:21PM 14 MR. DAVIS: Objection, Your Honor.

04:21PM 15 THE WITNESS: Most of it, yes.

04:21PM 16 MR. DAVIS: Objection on foundation grounds first. Then  
04:21PM 17 we'll get into what counsel argues on his behalf is a different  
04:21PM 18 issue.

04:21PM 19 THE COURT: The question was whether or not he reviewed  
04:22PM 20 the pleadings filed on his behalf. Is there an objection to that  
04:22PM 21 question?

04:22PM 22 MR. DAVIS: I'll withdraw it.

04:22PM 23 THE COURT: Answer the question, Mr. Bravo. Did you  
04:22PM 24 review the pleadings?

04:22PM 25 THE WITNESS: I reviewed the pleadings.

04:22PM 1 BY MR. KRISHNAN:

04:22PM 2 Q. Okay. And do you see Footnote 1, Mr. Bravo?

04:22PM 3 A. Yes.

04:22PM 4 Q. Now, did the brief that you submitted to the court say that --

04:22PM 5 THE COURT: Mr. Krishnan, I'm sorry. I'm going to cut  
04:22PM 6 that off. Ask a different one.

04:22PM 7 MR. KRISHNAN: Your Honor.

04:22PM 8 THE COURT: I'm not going to have you read this document  
04:22PM 9 through a question in that manner. If there is a different  
04:22PM 10 question you want to ask, go right ahead.

04:22PM 11 MR. KRISHNAN: Okay. The one thing I wanted to say, Your  
04:22PM 12 Honor, is that the document is an admission.

04:22PM 13 MR. DAVIS: Is what?

04:22PM 14 THE COURT: An admission.

04:22PM 15 MR. KRISHNAN: It's a statement of the party because it's  
04:22PM 16 a legal proceeding, it's a legal statement of the party. It's an  
04:23PM 17 admission. It's a statement to a court from a party.

04:23PM 18 THE COURT: I'm not going to have you read it for that  
04:23PM 19 reason either.

04:23PM 20 MR. KRISHNAN: Okay. Fair enough.

04:23PM 21 BY MR. KRISHNAN:

04:23PM 22 Q. Mr. Bravo, did you argue to the court in 2019 that Argentina  
04:23PM 23 had began -- begun extradition proceedings -- extradition process  
04:23PM 24 against you in 2014?

04:23PM 25 A. This is the footnote that you asked me to read?

04:23PM 1 Q. Yes. I'm asking did you argue to the court in 2019 that  
04:23PM 2 extradition pro -- that extradition process against you had begun  
04:23PM 3 by Argentina in 2014?

04:23PM 4 A. If it's here, I did. My attorney did, with my consent, and I  
04:24PM 5 don't remember the discussion on it.

04:24PM 6 Q. As far as you're aware, there have been continuous efforts in  
04:24PM 7 Argentina to pursue criminal charges against you for the last  
04:24PM 8 14 years; right?

04:24PM 9 MR. DAVIS: Objection.

04:24PM 10 THE WITNESS: Yes.

04:24PM 11 MR. DAVIS: Objection. Lack of predicate.

04:24PM 12 THE WITNESS: I already answered.

04:24PM 13 MR. KRISHNAN: I want to move on to a different subject  
04:24PM 14 now, the damages that my clients are seeking. I'd like to show  
04:24PM 15 the witness PX5.

04:25PM 16 THE WITNESS: Thank you.

04:25PM 17 BY MR. KRISHNAN:

04:25PM 18 Q. Do you have PX5 in front of you, Mr. Bravo?

04:25PM 19 A. Wasn't this document to be private information?

04:25PM 20 THE COURT: Mr. Bravo, the question was: Do you have PX5  
04:25PM 21 in front of you? Yes or no.

04:25PM 22 THE WITNESS: Yes, I have. Sorry, Your Honor.

04:25PM 23 THE COURT: That's okay.

04:25PM 24 BY MR. KRISHNAN:

04:25PM 25 Q. And do you recognize what it is?

04:25PM 1 A. Yes.

04:25PM 2 Q. It's a statement of your assets that you produced in this

04:25PM 3 case; right?

04:25PM 4 A. Assets and liabilities, yes.

04:25PM 5 MR. KRISHNAN: And we offer it into evidence, PX5.

04:25PM 6 THE COURT: Mr. Davis?

04:25PM 7 MR. DAVIS: I have no objection.

04:25PM 8 THE COURT: So admitted.

04:25PM 9 (Plaintiff's Exhibit PX5 received.)

04:25PM 10 MR. KRISHNAN: May we publish it to the jury, Your Honor?

04:25PM 11 THE COURT: Yes.

04:25PM 12 BY MR. KRISHNAN:

04:25PM 13 Q. Now, this PX5 was signed by your accountant; right?

04:25PM 14 A. Yes, and also a notary.

04:26PM 15 Q. I'm sorry?

04:26PM 16 A. And also a public notary.

04:26PM 17 Q. Also the public notary, okay. So, yeah, let's just first talk

04:26PM 18 about the title, it's Roberto G. Bravo statement of assets and

04:26PM 19 liabilities as of March 27, 2021. Do you see that?

04:26PM 20 A. Yes.

04:26PM 21 Q. Okay. And you agree that this is in fact a statement of your

04:26PM 22 assets and liabilities as of March 27, 2020?

04:26PM 23 A. Yes, 2021, yes.

04:26PM 24 Q. And let's go down there to the bottom and starting with the

04:26PM 25 stamp all the way to the bottom of the page?

04:26PM 1 A. Four?

04:26PM 2 Q. We're just going to blow it up, if we can -- there we go.

04:26PM 3 Perfect, okay. So we're now looking at a blowup of the bottom of

04:26PM 4 the page, and it says in all caps and very small letters, the

04:26PM 5 above facts are true and correct to the best of my knowledge and

04:27PM 6 belief, signed Keith D. Jared. Do you see that?

04:27PM 7 A. That's correct, yes.

04:27PM 8 Q. And there is a signature there under -- over Mr. Jared's name?

04:27PM 9 A. Yes.

04:27PM 10 Q. And who is Mr. Jared?

04:27PM 11 A. He was my accountant.

04:27PM 12 Q. Your accountant. So your accountant signed this document for

04:27PM 13 you for purposes of this litigation?

04:27PM 14 A. That is correct.

04:27PM 15 Q. And this shows your total liabilities and equity at

04:27PM 16 6.86 million or 6.859 million?

04:27PM 17 A. That is total liability and equity.

04:27PM 18 Q. Fair enough. Your net worth is 6.792 million; right, in this

04:27PM 19 document?

04:27PM 20 A. 6.792, 63,360, yes.

04:27PM 21 Q. Let's now just zoom out, please.

04:28PM 22 So that 6.79 million included your \$1.6 million house;

04:28PM 23 right?

04:28PM 24 A. I have to correct my previous response, please. You asked me

04:28PM 25 if this was the official of my net worth.

04:28PM 1 Q. Sorry?

04:28PM 2 A. You asked me if this shows your net worth. You asked me about

04:28PM 3 that.

04:28PM 4 Q. Yes.

04:28PM 5 A. That is incorrect. This is the work of my wife and I, 50/50.

04:28PM 6 Q. So you're saying that when your accountant signed this

04:28PM 7 document that says, the above facts are true and correct to the

04:28PM 8 best of my knowledge and belief, your accountant was wrong?

04:28PM 9 MR. DAVIS: Objection, Judge. That's not what he

04:28PM 10 testified to.

04:28PM 11 THE COURT: Sustained.

04:28PM 12 BY MR. KRISHNAN:

04:28PM 13 Q. Mr. Bravo, the statement says at the beginning, Roberto G.

04:28PM 14 Bravo statement of assets and liabilities; right?

04:29PM 15 A. Yes.

04:29PM 16 Q. And the accountant signed it saying, the above facts are true

04:29PM 17 and correct to the best of my knowledge and belief; right?

04:29PM 18 A. Right. So you are asking me why my wife is not there?

04:29PM 19 Q. I'm not asking you that question. I've just asked you the

04:29PM 20 questions I was going to ask you.

04:29PM 21 A. Okay.

04:29PM 22 Q. Now, this statement includes -- that 6.79 million includes

04:29PM 23 \$1.6 million for your house; right?

04:29PM 24 A. Yes.

04:29PM 25 Q. 780,000 in cash; right?



04:29PM 1 A. Yes, at that time.

04:29PM 2 Q. 150,000 in cars?

04:29PM 3 A. Yes.

04:29PM 4 Q. \$100,000 in your boat?

04:29PM 5 A. Yes.

04:29PM 6 Q. And \$4.2 million in your annuity; right?

04:29PM 7 A. Yes.

04:29PM 8 Q. Now, you can take money out of the annuity when you want;

04:29PM 9 right?

04:29PM 10 A. Yes.

04:29PM 11 Q. Now, one of the things that you've been doing in this case is

04:29PM 12 to try to make yourself seem less wealthy than you are; right?

04:30PM 13 A. No.

04:30PM 14 MR. DAVIS: Objection.

04:30PM 15 BY MR. KRISHNAN:

04:30PM 16 Q. You haven't tried to do that?

04:30PM 17 THE COURT: Whoa, whoa. Hold. There was an objection on

04:30PM 18 the basis of?

04:30PM 19 MR. DAVIS: Just one of the things you're trying to do in

04:30PM 20 this case. I mean, he should ask him about his financial

04:30PM 21 condition which is a factual question.

04:30PM 22 THE COURT: Rephrase the question, Mr. Krishnan.

04:30PM 23 Argumentative is how I'm going to hear that objection.

04:30PM 24 MR. KRISHNAN: Okay.

04:30PM 25 BY MR. KRISHNAN:

04:30PM 1 Q. Have you -- at various points during your deposition, you  
04:30PM 2 tried to make yourself seem wealthy than you are; right?

04:30PM 3 A. No, wrong.

04:30PM 4 Q. Not true, okay. PX5, this exhibit, it doesn't actually  
04:30PM 5 include all of your assets; right?

04:30PM 6 A. It does.

04:30PM 7 Q. It doesn't account for the value of all your personal  
04:30PM 8 possessions; does it?

04:31PM 9 A. No, not for the contents of the house, but I think I stated  
04:31PM 10 that somehow when I uploaded this document.

04:31PM 11 Q. But, Mr. Bravo, your accountant signed it and said that the  
04:31PM 12 above facts are correct to the best of my knowledge, and your net  
04:31PM 13 worth here does not reflect your personal possessions; right?

04:31PM 14 A. Right. But he's not right, because he says, to the best of my  
04:31PM 15 knowledge, and the best of his knowledge is everything that's  
04:31PM 16 documented. I don't have documented watches, VCRs, or computers,  
04:31PM 17 so.

04:31PM 18 Q. So.

04:31PM 19 A. To the best of his knowledge, perfect.

04:31PM 20 Q. So this is only the documented net worth that your accountant  
04:31PM 21 knew about; right?

04:32PM 22 A. Yes.

04:32PM 23 Q. Okay. There could be other wealth that you have not reflected  
04:32PM 24 here; right?

04:32PM 25 A. Other than personal belongings, no.

04:32PM 1 Q. You were involved in a business called One Fountainhead  
04:32PM 2 Center; right?

04:32PM 3 A. Yes.

04:32PM 4 Q. It closed in 2013 or 2014; right?

04:32PM 5 A. Yes.

04:32PM 6 Q. You received compensation from the business when it closed;  
04:32PM 7 right?

04:32PM 8 A. Yes.

04:32PM 9 Q. And you don't know whether the compensation you received when  
04:32PM 10 the business closed was more than 10 million, 30 million, or \$100  
04:32PM 11 million; right?

04:32PM 12 A. Or \$1. I don't know.

04:32PM 13 Q. You don't know?

04:32PM 14 A. No.

04:32PM 15 Q. It could have been 100 million?

04:32PM 16 MR. DAVIS: Judge, objection. It calls for speculation.  
04:32PM 17 He's asking what the witness knows about the value.

04:32PM 18 MR. KRISHNAN: I'm trying to probe with a range.

04:32PM 19 THE COURT: Mr. Bravo, you understand that the questions  
04:32PM 20 are asking you what you know, right?

04:33PM 21 THE WITNESS: Absolutely.

04:33PM 22 THE COURT: Okay.

04:33PM 23 THE WITNESS: I'd like to provide the plaintiff with my  
04:33PM 24 -- what my response is and document it. We provided to the  
04:33PM 25 plaintiff our returns.

04:33PM 1 THE COURT: Hold up, Mr. Bravo, because that explanation  
04:33PM 2 doesn't actually answer the question.

04:33PM 3 Mr. Krishnan, I want to ask you to refocus this line of  
04:33PM 4 direct and give him a question that he can answer, please.

04:33PM 5 MR. KRISHNAN: Okay.

04:33PM 6 BY MR. KRISHNAN:

04:33PM 7 Q. You don't know how much you received in compensation from the  
04:33PM 8 sale of One Fountainhead Center; right?

04:33PM 9 A. I do not remember, but that includes that transaction or that  
04:33PM 10 event is in the tax return that we provided to you. We provided  
04:33PM 11 four years of tax returns to you. So your analysis only came once  
04:33PM 12 which includes the reports for every associate company or  
04:33PM 13 enterprise that was associated with us.

04:34PM 14 Q. Do you remember whether the compensation you received due to  
04:34PM 15 the sale of One Fountainhead Plaza was more than \$30 million?

04:34PM 16 A. No, it was not.

04:34PM 17 Q. It was not. So you're saying definitively now that it was  
04:34PM 18 not?

04:34PM 19 A. It was not, it was not. But I really don't know any closer  
04:34PM 20 number to the figure. If you look at the tax return, you are  
04:34PM 21 going to find the answer there. So I don't remember what I put in  
04:34PM 22 my tax return.

04:34PM 23 Q. If we go to your deposition at page 212, lines 3 to 7, Mr.  
04:34PM 24 Bravo, at your deposition, you didn't remember whether the  
04:34PM 25 compensation you received from One Fountainhead Plaza was more

04:34PM 1 than \$30 million; isn't that true?

04:34PM 2 A. Okay. All right.

04:34PM 3 Q. Isn't that true?

04:34PM 4 A. If that is in the deposition, then it's true.

04:35PM 5 Q. Now, in 2018 -- so another company you were involved with was

04:35PM 6 a real estate investment company called Braggio, LLC; is that

04:35PM 7 correct?

04:35PM 8 A. That is correct.

04:35PM 9 Q. And in 2018, the company sold an office building in the Miami

04:35PM 10 design district for \$10.1 million; right?

04:35PM 11 A. That is correct.

04:35PM 12 Q. Now, on your tax returns, you reported only a \$2.6 million

04:35PM 13 gain from selling Braggio; right?

04:35PM 14 A. That is correct.

04:35PM 15 Q. And you claim that you gave away most of the \$2.6 million from

04:35PM 16 Braggio; right?

04:35PM 17 A. I don't remember exactly. But if it is in my deposition, it

04:35PM 18 is.

04:35PM 19 Q. Okay. Well, you gave away at least \$1.5 million of the

04:35PM 20 proceeds from Braggio to each of your sons; right?

04:36PM 21 A. No. 1.5 to the three of them.

04:36PM 22 Q. I apologize. You're right. You gave away at least \$500,000

04:36PM 23 each from the Braggio money to your three sons; right?

04:36PM 24 A. For the record, I gave a lot of more money to many other

04:36PM 25 places that I am not going to disclose.

04:36PM 1 Q. Okay. Now, this money that you gave away to your sons, they  
04:36PM 2 have been happy to pledge back to you when you've needed it;  
04:36PM 3 right?

04:36PM 4 A. We haven't tried that yet.

04:36PM 5 Q. You haven't tried that yet?

04:36PM 6 A. No.

04:36PM 7 Q. In your 2019 extradition proceeding, didn't each of your three  
04:36PM 8 sons after having received the \$500,000 gift, pledge several  
04:36PM 9 hundred thousand dollars in equity in their home for your bond?

04:36PM 10 A. Yes. But they could have done that without my donation. But  
04:37PM 11 they did not need my money or the money that we gave -- our money  
04:37PM 12 that we gave in order to -- they already would have done it  
04:37PM 13 without it. They would have done it.

04:37PM 14 MR. KRISHNAN: I don't have any further questions, Your  
04:37PM 15 Honor.

04:37PM 16 THE COURT: Redirect?

04:37PM 17 MR. DAVIS: Do you want me to start?

04:37PM 18 THE COURT: Redirect, Mr. Davis?

04:37PM 19 MR. DAVIS: Your Honor, may I just ask, will the Court's  
04:37PM 20 schedule be essentially the same? I have several hours of exam,  
04:37PM 21 so just tell me what would be.

04:37PM 22 THE COURT: Yes. We'll still break at 5:00. So let's  
04:37PM 23 just make use of the time that we have to begin your -- I said  
04:38PM 24 redirect -- your examination, which will -- for the benefit of the  
04:38PM 25 jury, so that Mr. Bravo is not recalled -- will include both cross

04:38PM 1 and what the defendant would have otherwise done on direct  
04:38PM 2 examination. So we won't complete it today. But, Mr. Davis, if  
04:38PM 3 we could just make use of the last few minutes.

04:38PM 4 DIRECT EXAMINATION

04:38PM 5 BY MR. DAVIS:

04:38PM 6 Q. Mr. Bravo, Roberto, you were asked a lot of questions about  
04:38PM 7 what happened in Trelew in 1972 in your direct examination or  
04:38PM 8 cross-examination. That was 50 years ago; right?

04:38PM 9 A. Yes, sir.

04:38PM 10 Q. Have you tried to answer those questions as best as you can?

04:38PM 11 A. Yes, sir.

04:38PM 12 Q. And I'd like to ask you when you moved to the United States in  
04:38PM 13 1973 or you came to the United States, would you give the jury a  
04:39PM 14 little bit of the flavor of what you did when you came here?

04:39PM 15 A. The first thing that I did was to prepare myself for the  
04:39PM 16 transition to the schooling that I was assigned to. That was the  
04:39PM 17 infantry officers advanced course in Fort Benning, Georgia, where  
04:39PM 18 I spent almost two years. So the first thing that I did was -- I  
04:39PM 19 didn't know at the time how long it would take me to go to Georgia  
04:39PM 20 for the assignment. So I get the driver's license from Virginia  
04:39PM 21 in order to move around, and that was because it was a transition  
04:39PM 22 in Georgia, they allowed me to work in Georgia with -- or drive  
04:39PM 23 with a Virginia driver's license. After a course of airborne or  
04:39PM 24 paratrooper, I took another course for Pathfinder it's called. If  
04:40PM 25 necessary, we will give a description. But then I was transferred

04:40PM 1 to the Marine Corps. Because in my rank, I need to have those --

04:40PM 2 Q. Well, let's slow down and break it up a little bit.

04:40PM 3 A. Yes.

04:40PM 4 Q. And first I want to, you know, just ask a couple more basic

04:40PM 5 questions, and then we'll get back into the places you served in

04:40PM 6 the United States. Are you married?

04:40PM 7 A. Yes. 55 years March 4th.

04:40PM 8 Q. And you're almost 80 years old; correct?

04:40PM 9 A. If I continue to be healthy, next week I will be.

04:40PM 10 Q. What city were you born in Argentina?

04:40PM 11 A. I was born in Buenos Aires City.

04:40PM 12 Q. And I know we said you've been married for 55 years?

04:40PM 13 A. Yes.

04:40PM 14 Q. How many children do you have? How many sons do you have?

04:40PM 15 A. I have three children, 53, 52, and this month -- next month

04:40PM 16 51 years old.

04:41PM 17 Q. And do you have any grandchildren?

04:41PM 18 A. I have three grandchildren, 18, 11, and 15. I'm sorry, the

04:41PM 19 other is --

04:41PM 20 Q. And when you were growing up in Argentina, where did you live?

04:41PM 21 A. I lived -- I lived in the city or neighborhood or town that

04:41PM 22 was closer to the infantry unit to which I was assigned.

04:41PM 23 Q. But I'm talking about when you were a child though. I was

04:41PM 24 going any further back than that, so.

04:41PM 25 A. I spent my first 15 years in the City of Cordoba in the center



04:41PM 1 of the country.

04:41PM 2 Q. How far is that from Buenos Aires?

04:41PM 3 A. About -- I think it's 600 kilometers, about 400 miles, 450.

04:42PM 4 Q. And when you were at age 15, did you move back to Buenos

04:42PM 5 Aires?

04:42PM 6 A. I moved back to Buenos Aires and continued my secondary

04:42PM 7 education high school.

04:42PM 8 Q. Did you want to join the military?

04:42PM 9 A. I wanted to join the navy because I like to sail. But I'm

04:42PM 10 young, 12, 13 years old. I like the sea air, I like the water. I

04:42PM 11 like the boating, sailing mostly, and that was the obvious choice

04:42PM 12 to get more of what I like.

04:42PM 13 Q. So did you pursue a career in the military?

04:42PM 14 A. Yes.

04:42PM 15 Q. Tell us what you did to pursue that career?

04:42PM 16 A. Before ending my secondary schooling in the one year before, I

04:42PM 17 was accepted in the navy school, the naval school, but I was not

04:42PM 18 ready, so I spent one year in 1960, but I didn't progress on that.

04:43PM 19 I was not ready for the challenge. But a couple of years later, I

04:43PM 20 fell in love. I was working odd jobs, and my wife decided,

04:43PM 21 Roberto, other than what I was doing, and the navy was also my

04:43PM 22 attraction. So I took it, accelerated course that they provided

04:43PM 23 me with the opportunity to become an officer in two years, which I

04:43PM 24 had to pay the difference in having one more year in the lower

04:43PM 25 rank.

04:43PM 1 Q. Please explain what you mean by that one more year in each  
04:43PM 2 rank?

04:43PM 3 A. Normally at that time, at that time -- let me call the ranks  
04:43PM 4 by the equivalent in the United States or European. The first  
04:43PM 5 rank normally is two years, and I had to do three. The second  
04:43PM 6 rank is second lieutenant is three, I had to do four. And the  
04:43PM 7 third rank is third lieutenant, it's three years, and I had to do  
04:44PM 8 four too. So that is the type of recalling for having taken a  
04:44PM 9 shorter course through schooling, and I chose infantry instead of  
04:44PM 10 navy, navy -- I mean we call that navy navy, because big ships,  
04:44PM 11 because it was more adventurous. I would know more of the country  
04:44PM 12 instead of once a year, two years going to a foreign country in  
04:44PM 13 the navy.

04:44PM 14 Q. And did you serve in different parts of Argentina while you  
04:44PM 15 were in the military?

04:44PM 16 A. Yes. I spent the first three years as a platoon leader in the  
04:44PM 17 city of -- there is a city close to the south of Buenos Aires  
04:44PM 18 called -- closer to Bahia Blanca, close to base called -- the  
04:45PM 19 largest base of the navy, and I spent one year marine battalion 2,  
04:45PM 20 my first year, another year in marine battalion 1, and the third  
04:45PM 21 year I was moved to marine battalion 5 in Trelew, but I served my  
04:45PM 22 third year as a platoon leader in Ushuaia where it was a detached  
04:45PM 23 company that I took care of.

04:45PM 24 Q. And give the jury a sense of the type of work that you did in  
04:45PM 25 the military up until the time that you were transferred to the

04:45PM 1 Almirante Zar Naval Base in 1971?

04:45PM 2 A. Yeah. Except in the three years that I spent in the last two  
04:45PM 3 years in Tierra del Fuego, I was in the platoon leader, mortar  
04:45PM 4 section leader.

04:45PM 5 But when I was transferred to Almirante Zar because my --  
04:46PM 6 with my rank and my experience, even if I was a second lieutenant,  
04:46PM 7 I was assigned not to a combat position and not to a staff  
04:46PM 8 position. Let me explain the staff position. I'm sorry.

04:46PM 9 Q. No. It's okay. I just want to focus the testimony on kind of  
04:46PM 10 the jobs that you were doing.

04:46PM 11 So when you got to the naval base I'm going to call it, what  
04:46PM 12 was the -- what were the duties you were doing for the --  
04:46PM 13 Argentine --

04:46PM 14 Marines or navy?

04:46PM 15 A. Marine. Marines. I was assigned to be part of the commanding  
04:46PM 16 officer staff. Commanding officer staff consists of four areas.  
04:46PM 17 The areas are personnel, intelligence, operations, and logistics,  
04:46PM 18 and I was assigned the area of logistics for the commanding  
04:47PM 19 officer. So I don't have contact with troops or anything.

04:47PM 20 Q. So you called it a staff job. So that's -- for lack of a  
04:47PM 21 better word -- it's an office job?

04:47PM 22 A. It was be like a minister for a president.

04:47PM 23 Q. And what were your specific responsibilities in logistics?

04:47PM 24 A. In logistics, you had to be sure that the unit it has all the  
04:47PM 25 resources to operate, meaning resources and supplies from vehicles

04:47PM 1 to fuel and meals and calories and everything that the unit itself  
04:47PM 2 and the individual components need to perform.

04:47PM 3 Q. And we will come back to the specific events later, but we  
04:47PM 4 were talking -- we began with saying when you first came to the  
04:47PM 5 United States, do you remember the day you came to the United  
04:48PM 6 States, the approximate time?

04:48PM 7 A. Yes. I came on about May 15, one thousand -- '73.

04:48PM 8 Q. And you -- did you do training at Fort Benning, Georgia?

04:48PM 9 A. Yes.

04:48PM 10 Q. What was the specific training that you did that?

04:48PM 11 A. I'm sorry to -- infantry officer advanced course in Fort  
04:48PM 12 Benning, airborne in Fort Benning, and then I took a course as a  
04:48PM 13 recon in the Marines, reconnaissance is the proper name.

04:48PM 14 Q. Did there come a time that you transferred to Camp Lejeune in  
04:48PM 15 North Carolina?

04:48PM 16 A. Yes. That was with the Marines and fuel recon.

04:48PM 17 Q. And how long did you stay at Camp Lejeune?

04:48PM 18 A. Three months, only for the course.

04:48PM 19 Q. Did you ever return to --

04:48PM 20 Well, where did you go after Camp Lejeune?

04:49PM 21 A. I went to Washington D.C. area where I took a course in one of  
04:49PM 22 my -- I took a course in electronic engineering and technology,  
04:49PM 23 for a year and a half or two years, and then I decided to retire  
04:49PM 24 almost.

04:49PM 25 Q. So when did you retire from the marines Argentine, the navy --

04:49PM 1 the marines were a part of the navy; correct?

04:49PM 2 A. Yes, sir.

04:49PM 3 Q. So when did you retire from the navy?

04:49PM 4 A. I decided to retire in '77, but I mean, I decided to resign  
04:49PM 5 not retire but they didn't allow me to -- they did not allow me.

04:49PM 6 They told me that they don't want me to retire -- I mean, to

04:49PM 7 resign, and they gave me a retirement. As a part of the

04:49PM 8 retirement, there are six months of leave in order to prepare for

04:50PM 9 the next life, I guess, which I took to find out how to become a

04:50PM 10 resident of the United States.

04:50PM 11 Q. So was the actual retirement date then in 1978?

04:50PM 12 A. Yes, around there. I don't recall exactly. 15 years. I have

04:50PM 13 15 years of service.

04:50PM 14 Q. And where were you living at that time?

04:50PM 15 A. We lived in the outskirts of Washington, D.C., South 95, close

04:50PM 16 to a city called Woodridge in a township called Dade City.

04:50PM 17 Q. And that's in Virginia?

04:50PM 18 A. Yes, Virginia.

04:50PM 19 Q. When you retired -- when you retired from the navy, then did

04:50PM 20 you pursue becoming a United States citizen?

04:50PM 21 A. Yes. It was not easy to find an attorney because -- but I had

04:51PM 22 some acquaintances, and finally I got the proper authority, the

04:51PM 23 proper attorney to help me and to do the procedure.

04:51PM 24 Q. And I didn't ask this earlier, but when you came up here in

04:51PM 25 1973, did your wife and your sons come with you?

04:51PM 1 A. They came, and that was the reason I had to stay -- I mean, we  
04:51PM 2 decided to stay because after having been in Fort Benning, North  
04:51PM 3 Carolina, Virginia, my wife and the kids were having a good  
04:51PM 4 life -- a normal life, a city, nice life, and they didn't want to  
04:51PM 5 come back because the times in Argentina were very rough. There  
04:51PM 6 was a really very -- it was -- I don't find the proper word in  
04:51PM 7 Spanish or English. It was not a proper country to have a happy  
04:52PM 8 life.

04:52PM 9 Q. So did you make a decision that in the best interest of your  
04:52PM 10 family, you wanted to take roots in the United States?

04:52PM 11 A. Yeah, I cried a lot, but I did it. This is my homeland now.

04:52PM 12 Q. How long did it take you to become a resident of the United  
04:52PM 13 States?

04:52PM 14 A. It took several months to find an attorney. But then after I  
04:52PM 15 found an attorney, only three months I become a resident. I had a  
04:52PM 16 green card.

04:52PM 17 Q. Did there come a time when you decided to move to Miami or  
04:52PM 18 South Florida?

04:52PM 19 A. Yes, after my -- I became a resident, I had a couple of jobs,  
04:52PM 20 always in the electronic field, and -- but I was -- I was -- it  
04:52PM 21 was not the career path, there was nowhere looking for -- it was  
04:52PM 22 something like living day-to-day, commission to commission, so I  
04:53PM 23 decided to really started a new life and had a more -- in a nicer  
04:53PM 24 place instead of -- it's not under the Christmas tree -- I'm sorry  
04:53PM 25 -- I didn't mean to.

04:53PM 1 Q. It's okay. I'll break that up for you.

04:53PM 2 A. And the sailboat was my --

04:53PM 3 Q. And I just ask you to slow down a touch with your answers.

04:53PM 4 When you came to Miami, did you have any difficulty getting

04:53PM 5 work?

04:53PM 6 A. Yes, I have.

04:53PM 7 Q. Why is that?

04:53PM 8 A. Because I was concentrating on my electronic field, and I had

04:53PM 9 to do -- I had to -- well, spread out and broadcast and hand in

04:53PM 10 resume trying to get the job. I had to -- I must confess, I was a

04:53PM 11 busboy, and sometimes I was promoted to waiter until I found a job

04:54PM 12 that was more relatable to what I wanted. I had jobs in the

04:54PM 13 electronic industry in the service business.

04:54PM 14 Q. Did there come a time -- you worked as a busboy and a waiter

04:54PM 15 and then in electronics? Did there come a time that you wanted to

04:54PM 16 go to school? Or decided to go to school?

04:54PM 17 A. Yes. At the stage where I got the job after being -- working

04:54PM 18 in restaurants, I quickly had a couple of jobs and always quickly

04:54PM 19 grew in the job in positions in the job, because I was -- it was

04:54PM 20 easy for me, but then I found out that they couldn't hire until I

04:54PM 21 knew more, and I realized that I had to know more about

04:54PM 22 accounting. I had to know more about business in general, so I

04:54PM 23 decided to go to school.

04:54PM 24 Q. Where did you go to school?

04:54PM 25 A. I went to Saint Thomas University in 1987, business

04:55PM 1 administration. I took all the exams and all the summers -- and  
04:55PM 2 all the summers, and I'm proud that I had a --

04:55PM 3 Q. Did you go to school in the daytime, or did you go to school  
04:55PM 4 at night?

04:55PM 5 A. No. I had two jobs during the day, and I went to school at  
04:55PM 6 night.

04:55PM 7 Q. What year did you graduate from Saint Thomas?

04:55PM 8 A. 1990.

04:55PM 9 Q. And did you get a degree in -- what did you get a degree in?

04:55PM 10 A. Business administration.

04:55PM 11 Q. Did you have any kind of honors?

04:55PM 12 A. Yes (unintelligible).

04:55PM 13 Q. And during this time, did you become an American citizen, a  
04:55PM 14 United States citizen?

04:55PM 15 A. Yes.

04:55PM 16 Q. How did you accomplish that?

04:55PM 17 A. Excuse me?

04:55PM 18 Q. How did you do that?

04:55PM 19 A. Well, my kids were growing, and I had a very good job, and I  
04:56PM 20 had education, but I was going to get an education, so I decided  
04:56PM 21 to get citizenship, and I got citizenship in 1987 while I was in  
04:56PM 22 my first year in Saint Thomas, and yes.

04:56PM 23 Q. Did your wife and sons become citizens too?

04:56PM 24 A. My wife with me, yes, but I don't want to give you the  
04:56PM 25 situation to my kids, because I want them to decide. I don't want



04:56PM 1 me to decide it, and they did it when they were 18 years old.

04:56PM 2 THE COURT: Is this a good breaking point, Mr. Davis?

04:56PM 3 MR. DAVIS: Yes, Your Honor. I was going to look up to  
04:56PM 4 you at some point, but --

04:56PM 5 THE COURT: Okay. All right.

04:56PM 6 Ladies and gentlemen of the jury, thank you for your  
04:56PM 7 timeliness and rapt attention all day. We will pick it up where  
04:56PM 8 we have left off, and I will see you tomorrow morning, hopefully  
04:56PM 9 by 8:45 so that we can start at 9:00 together. Okay. Have a good  
04:56PM 10 evening. Remember my instruction that you cannot speak to anyone,  
04:57PM 11 including each other about the case yet.

04:57PM 12 (Jury out at 4:57 P.M.)

04:57PM 13 THE COURT: Go ahead and have a seat. So there is a  
04:57PM 14 matter of a couple of housekeeping items. Defendants, I don't  
04:57PM 15 have a proposed verdict from you yet.

04:57PM 16 MR. DAVIS: We have one prepared. I will submit it to  
04:57PM 17 the Court tonight.

04:57PM 18 THE COURT: Just if you would e-mail please copying all  
04:57PM 19 counsel in Word form.

04:57PM 20 MR. DAVIS: Yes.

04:57PM 21 THE COURT: And I want to talk about remaining witnesses  
04:58PM 22 for two reasons. Generically for scheduling, and also the  
04:58PM 23 defendants have filed an objection with respect to your witness  
04:58PM 24 Anderson. We need to put aside time to both do jury instruction,  
04:58PM 25 charge, and take up that argument. So for planning purposes, I

04:58PM 1 feel like I've asked this before, so be patient with me. But  
04:58PM 2 after Mr. Bravo, it is your intention to then call Mr. Pregliasco.

04:58PM 3 MR. KRISHNAN: It is, Your Honor; however, I think that  
04:58PM 4 there is going to be a few depositions in between Mr. Bravo and  
04:58PM 5 the beginning of Dr. Pregliasco.

04:58PM 6 THE COURT: Okay. All of them or just to fill space?

04:58PM 7 MR. KRISHNAN: It's not just to fill space, it's  
04:58PM 8 depositions that I think are particularly relevant.

04:58PM 9 THE COURT: Okay. And I didn't mean to --

04:58PM 10 MR. KRISHNAN: Understood.

04:58PM 11 THE COURT: Okay. Really, all I was trying to do was  
04:58PM 12 figure out how flexible your current projected lineup is or if  
04:59PM 13 there is a strategy and you know thus that you want to present  
04:59PM 14 them. So the depositions that you want to do before you call your --  
04:59PM 15 that next expert are who?

04:59PM 16 MR. KRISHNAN: So I think it's Marandino.

04:59PM 17 THE COURT: Okay. And the estimated time on that one?

04:59PM 18 MR. KRISHNAN: 15 minutes.

04:59PM 19 THE COURT: Okay.

04:59PM 20 MR. KRISHNAN: Marileo.

04:59PM 21 THE COURT: And the time on that one?

04:59PM 22 MR. KRISHNAN: 20 minutes.

04:59PM 23 THE COURT: Okay.

04:59PM 24 MR. KRISHNAN: And Celi.

04:59PM 25 THE COURT: Got it, time?

04:59PM 1 MR. KRISHNAN: 15 minutes, and then we have a portion of  
04:59PM 2 an exhibit of his that we want to read in that might add five.  
04:59PM 3 The only thing that I'll add, Your Honor, is that -- as I say this  
04:59PM 4 now, I worry a little bit about jury attention giving them an hour  
04:59PM 5 of video in a row. So it might be that we do two of them and do  
04:59PM 6 Pregliasco who would be live.

04:59PM 7 THE COURT: For -- my perspective is not any better than  
05:00PM 8 yours. But they looked very attentive to me when they watched the  
05:00PM 9 video, but entirely your lineup. I just want us to have enough  
05:00PM 10 notice. Defense counsel of course is going to want to prepare for  
05:00PM 11 who your next live witness is.

05:00PM 12 MR. KRISHNAN: It would be Pregliasco, and he will be  
05:00PM 13 after either two or three depositions, which I think I will  
05:00PM 14 probably assess based on how it goes.

05:00PM 15 THE COURT: So tomorrow morning.

05:00PM 16 MR. KRISHNAN: Yes.

05:00PM 17 THE COURT: So we're going to see him tomorrow morning  
05:00PM 18 and then have some presentation of deposition which is, as you  
05:00PM 19 just said, about an hour's worth of deposition testimony.

05:00PM 20 And then who is after Pregliasco?

05:00PM 21 MR. KRISHNAN: Your Honor, did you say Pregliasco would  
05:00PM 22 be tomorrow morning?

05:00PM 23 THE COURT: I would expect that, yes. Not lead off. I  
05:00PM 24 understand we have to finish Bravo.

05:00PM 25 MR. DAVIS: I believe, just for timing -- and we've

05:00PM 1 discussed it -- I probably have an hour and a half left with my  
05:00PM 2 client.

05:00PM 3 THE COURT: I imagine so. I would expect -- I know you  
05:01PM 4 warned me that the redirect would be longer than a usual one.

05:01PM 5 MR. KRISHNAN: Much shorter.

05:01PM 6 THE COURT: Much shorter. I mean say less about it. But  
05:01PM 7 we don't need that degree of repetitive questioning on redirect.  
05:01PM 8 It's going to be tighter.

05:01PM 9 MR. KRISHNAN: Thank you, Your Honor.

05:01PM 10 THE COURT: So who comes after Pregliasco for you?

05:01PM 11 MR. KRISHNAN: Anderson.

05:01PM 12 THE COURT: Okay. So then we have to take the objections  
05:01PM 13 up in somewhat short measure, possibly tomorrow morning after  
05:01PM 14 defendants may or may not have seen the paperless order that  
05:01PM 15 followed their filing after the parties confer. There is no  
05:01PM 16 certificate of conferral on the motion, and you'll have to discuss  
05:01PM 17 that before we bring it up. But, okay. And then those are the  
05:01PM 18 issues that I know we need to take up from an evidentiary  
05:01PM 19 standpoint. After Anderson, who are you presenting?

05:01PM 20 MR. KRISHNAN: There's one amendment, Your Honor, which  
05:02PM 21 is that U11a is another deponent, and that will probably precede  
05:02PM 22 Anderson.

05:02PM 23 THE COURT: Oh, okay. How do you say it?

05:02PM 24 MR. KRISHNAN: U11a.

05:02PM 25 THE COURT: How much time on U11a?

05:02PM 1 MR. KRISHNAN: 20, 25 minutes.

05:02PM 2 THE COURT: So we're up to about an hour and a half  
05:02PM 3 before you get to Anderson; right?

05:02PM 4 MR. KRISHNAN: Yes.

05:02PM 5 THE COURT: Okay. All right. And then -- all right.  
05:02PM 6 Well, then does that only leave Santucho as the remaining  
05:02PM 7 deposition to be played?

05:02PM 8 MR. KRISHNAN: I believe so.

05:02PM 9 THE COURT: Okay.

05:02PM 10 MR. KRISHNAN: And then we have Langer, another expert,  
05:02PM 11 and we have Ms. Camps, our client.

05:02PM 12 THE COURT: All right. Tomorrow is Wednesday. I would  
05:02PM 13 anticipate that we'll get through probably everything except Ms.  
05:02PM 14 Camps tomorrow, and that she will be Thursday morning. Okay,  
05:02PM 15 which means that we have to have a charge conference tomorrow if  
05:03PM 16 we're going to be, you know, going to the jury soon.

05:03PM 17 So on that note, I have a question that I want you to at  
05:03PM 18 least think about, and then we have to figure out when we're going  
05:03PM 19 to talk about it. I know at your calendar call, Judge Moore had  
05:03PM 20 asked and you all had had a short discussion, but not something  
05:03PM 21 that had been fleshed out with the benefit of briefing, whether or  
05:03PM 22 what would go to the jury. The specific question I remember him  
05:03PM 23 raising was whether or not a question would be advisory; meaning  
05:03PM 24 whether or not this would be decided as a matter of law.

05:03PM 25 As I'm looking at your jury instructions on equitable

05:03PM 1 tolling, I very much hope that we are going to be getting that  
05:03PM 2 briefing that has been described from the defense but I haven't  
05:03PM 3 seen yet on their position on whether or not any of this goes to  
05:04PM 4 the jury and there is going to be a jury instruction on it. It's  
05:04PM 5 -- right now it's just a question that I have -- not one I think I  
05:04PM 6 anticipate putting you to the task of answering right now -- but  
05:04PM 7 if you know the timing of that brief, I think it would helpful to  
05:04PM 8 me and plaintiffs.

05:04PM 9 MR. DAVIS: We will be done tonight. But it was actually  
05:04PM 10 substantially done on Friday, but we, you know, saying it's going  
05:04PM 11 to be filing it in connection with the motion for a directed  
05:04PM 12 verdict in light of the Court's --

05:04PM 13 Well, anyway, we're going to file it very quickly.

05:04PM 14 THE COURT: Understood. Okay. No. I understand the  
05:04PM 15 posture. You're waiting for the evidence to be finished. I don't  
05:04PM 16 want to tell you how to structure your case. I will just tell you  
05:04PM 17 that that response will be helpful for -- okay. Anything else  
05:04PM 18 that we need to take up today, because I anticipate that you might  
05:04PM 19 want to bring your lunches, because we might have to send the jury  
05:04PM 20 out for an extra 15 or so minutes and at least have some initial  
05:04PM 21 charge conference. Maybe we can do that in two steps.

05:05PM 22 You have provided very fulsome explanations of your  
05:05PM 23 respective positions on the jury instructions. So I don't -- I'm  
05:05PM 24 not starting from scratch, and for that I thank you. But there  
05:05PM 25 will be an initial dialogue where I give you my reaction to your

05:05PM 1    respective positions, hear your argument, and then we, meaning me  
05:05PM 2    and my staff, will turn around what I'll call the Court's initial  
05:05PM 3    proposed set of instructions. And then we will have a final  
05:05PM 4    charge conference where you have the opportunity to once again  
05:05PM 5    lodge any objection to the Court's proposed instructions and  
05:05PM 6    advance language that you think is better. You will at that point  
05:05PM 7    have the benefit of knowing what I think the instruction should be  
05:05PM 8    on it, and we will finalize the set from there. Okay.

05:05PM 9            But I think we may end up needing to do that. I mean,  
05:06PM 10    maybe it's better if we end at the end of the day, finish  
05:06PM 11    testimony at 4:30 tomorrow and do the charge conference, because  
05:06PM 12    it might take us a little while.

05:06PM 13            That's my thought at least, and so I wanted to have an  
05:06PM 14    idea of where we were headed. It looks like we're going to have  
05:06PM 15    to take up argument on -- sorry. I'm trying to anticipate.  
05:06PM 16    Anderson might not get called until late in the day.

05:06PM 17            MR. MUZZIO: Yes, Your Honor.

05:06PM 18            MR. KRISHNAN: And we haven't seen the brief yet, so I'm  
05:06PM 19    not sure.

05:06PM 20            MR. MUZZIO: Yes, we haven't seen it.

05:06PM 21            THE COURT: I appreciate that is what I meant to say.  
05:06PM 22    Okay. I'm just trying to figure out if we can reasonably do it in  
05:06PM 23    the morning or if we should try and do it in the lunch break.

05:06PM 24            Is there anything else evidentiary that you were  
05:06PM 25    anticipating raising tomorrow morning?

05:06PM 1 MR. MUZZIO: Yes, Your Honor, we may be able to do it  
05:06PM 2 quickly now as I don't think there is much argument left to be had  
05:06PM 3 on these. At least one of the --

05:07PM 4 We would move the two autopsies from the Bonet deposition  
05:07PM 5 testimony -- or we would seek to admit them at this point.

05:07PM 6 On 71, the Court had previously ruled that it was  
05:07PM 7 admissible but defendants could renew their objections based on  
05:07PM 8 how the evidence came in, and Ms. Krueger has now submitted her  
05:07PM 9 deposition testimony, and there's no other testimony that is going  
05:07PM 10 to be relevant to this deposition. So for 71, we would ask for a  
05:07PM 11 ruling now.

05:07PM 12 MR. DAVIS: And I think -- I know the decision has been  
05:07PM 13 made. The Court made its -- Judge Moore -- the Court I guess --

05:07PM 14 THE COURT: Fair characterization. I did adopt Judge  
05:07PM 15 Moore's orders. So I appreciate the position you're in, but yes.

05:07PM 16 MR. DAVIS: And so we maintain the objection, but I read  
05:07PM 17 the order, so.

05:07PM 18 THE COURT: Understood. There is not a new or different  
05:07PM 19 objection. Let me just clarify for the record.

05:07PM 20 MR. DAVIS: Correct.

05:07PM 21 THE COURT: Thus, 71 is admitted.

05:08PM 22 (Plaintiffs' Exhibit 71 received.)

05:08PM 23 Mr. Muzzio, was there anything else?

05:08PM 24 MR. MUZZIO: Thank you, Your Honor. The one issue that  
05:08PM 25 remained is the cover. We have redacted the image of the guns at



05:08PM 1 the feet which we believe is propensity evidence and should be  
05:08PM 2 excluded under 403, and I have copies of the redacted version and  
05:08PM 3 the unredacted version if Your Honor would like to view them.

05:08PM 4 THE COURT: I can see them from there. The defense  
05:08PM 5 position?

05:08PM 6 MR. DAVIS: We object to it for the reasons we stated.  
05:08PM 7 He wasn't allowed to use them in the opening. That's the actual  
05:08PM 8 image they're putting -- I do believe in -- if they're putting  
05:08PM 9 this document in, they have to put in the whole thing. What they  
05:08PM 10 listed to us pretrial, they need to put the whole thing into  
05:08PM 11 evidence, and I don't think that that is appropriate to redact it  
05:08PM 12 at this point.

05:08PM 13 THE COURT: Sustaining the objection.

05:08PM 14 MR. MUZZIO: Understood.

05:08PM 15 THE COURT: Was there anything else?

05:08PM 16 MR. MUZZIO: Yes, the Lesgart autopsy which Ms. Krueger  
05:09PM 17 also testified to, we would ask for the admission of that autopsy  
05:09PM 18 as well.

05:09PM 19 THE COURT: The exhibit number?

05:09PM 20 MR. MUZZIO: It is 72.

05:09PM 21 MR. DAVIS: And do you want to hear from me?

05:09PM 22 THE COURT: Yes, Mr. Davis. Sorry. To you.

05:09PM 23 MR. DAVIS: We object to that on the basis that that  
05:09PM 24 witness is not -- that autopsy is not of someone who is one of the  
05:09PM 25 claimants in this case. Again, there is no foundation set with

05:09PM 1 Ms. Krueger to be able to lay the predicate to allow that to come  
05:09PM 2 in.

05:09PM 3 THE COURT: Let me make sure that I understand that  
05:09PM 4 objection, because the -- it's my understanding -- and tell me if  
05:09PM 5 you see it differently -- that the predicate was laid by her  
05:09PM 6 deposition. Let me say that differently, because I'm not asking  
05:09PM 7 you to agree that that was a sufficient predicate; but rather that  
05:09PM 8 as a matter of fact, that is that predicate that the plaintiffs  
05:09PM 9 are advancing, and it's already come in?

05:09PM 10 MR. DAVIS: Yes, Your Honor.

05:09PM 11 THE COURT: But your position is that that predicate is  
05:10PM 12 insufficient to do what?

05:10PM 13 MR. DAVIS: As to her husband, she talked about how she  
05:10PM 14 herself drew the injuries, how she had had a copy of it, how she  
05:10PM 15 saw the actual autopsy report, and then she finds a copy in a  
05:10PM 16 book, and then that's why it's allowed to be in. There is nowhere  
05:10PM 17 near the predicate of that for the Lesgart autopsy report, and  
05:10PM 18 that's why I have that objection.

05:10PM 19 THE COURT: So the objection goes to the authenticity of  
05:10PM 20 the Lesgart autopsy?

05:10PM 21 MR. DAVIS: No. No. It goes to the sufficient --

05:10PM 22 THE COURT: It's okay, Mr. Davis, because I'm going to  
05:10PM 23 tell you that I wanted to hear the argument on the Lesgart autopsy  
05:10PM 24 in the morning. So I am going to wait until we're a little bit  
05:10PM 25 more refreshed and ask you to come in. That's why I was asking if

05:10PM 1 there was anything else we needed to cover, because if not, we  
05:10PM 2 could start at 8:45 to address just the Lesgart autopsy, and we  
05:10PM 3 will take up the defendant's objection if one remains after  
05:11PM 4 conferral. I will just ruin the surprise for you. I have entered  
05:11PM 5 a paperless order instructing you to confer because it is my  
05:11PM 6 understanding that the objection is based on experts' disclosure,  
05:11PM 7 and it is often as a practical matter that a party doesn't advance  
05:11PM 8 everything that is in the report. And so there may or may not be  
05:11PM 9 disagreement about what they don't want you to bring in and your  
05:11PM 10 intention to bring it in.

05:11PM 11 So you two have to confer first and then find out if  
05:11PM 12 there is in fact a meaningful dispute here for me to decide which  
05:11PM 13 we will do tomorrow morning at 8:45.

05:11PM 14 MR. DAVIS: Thank you. And we have had calls at night to  
05:11PM 15 talk about this, and if you're ready tonight, we can talk about  
05:11PM 16 it. So but I'll let you read the brief, and then we can discuss  
05:11PM 17 it.

05:11PM 18 THE COURT: Thank you, Mr. Davis.

05:11PM 19 MR. KRISHNAN: Your Honor, just a quick clarification on  
05:11PM 20 the last item, the Bonet autopsy which has now come in with the  
05:11PM 21 photo on the front cover. I understand that Your Honor's and  
05:12PM 22 Judge Moore's motion in limine ruling with respect to propensity  
05:12PM 23 evidence and such is still in place and so that there would be  
05:12PM 24 still some restriction on counsel from arguing propensity based on  
05:12PM 25 the book cover.

05:12PM 1 THE COURT: Mr. Krishnan, I'm glad that you brought it  
05:12PM 2 up. I think you should be cognizant that that ruling precluded  
05:12PM 3 evidence from being presented to the jury because it was deemed,  
05:12PM 4 on one level at least, as a primary problem not relevant. There  
05:12PM 5 have been questions and testimony specifically solicited from the  
05:12PM 6 plaintiff that is getting very close to opening that door, and  
05:13PM 7 that is precisely what I meant when I said, do you want to  
05:13PM 8 withdraw that question, or do you want me to revisit the ruling.

05:13PM 9 Now, that particular question and answer if memory serves  
05:13PM 10 actually went to the exoneration motion in limine, but the same  
05:13PM 11 has happened with respect to documents and testimony that is  
05:13PM 12 bringing the precise evidence that the Court has previously ruled  
05:13PM 13 could not be presented to this jury in.

05:13PM 14 So -- you look very confused.

05:13PM 15 MR. KRISHNAN: Yes.

05:13PM 16 THE COURT: But to the extent that the door is opened by  
05:13PM 17 the plaintiff, it will not continue to enjoy the benefit of the  
05:13PM 18 defendant not being able to fairly answer testimony that the  
05:13PM 19 plaintiff has elicited.

05:13PM 20 MR. KRISHNAN: Your Honor --

05:13PM 21 THE COURT: So the short answer to your question is that  
05:13PM 22 the motion in limine is currently still good, and I don't think  
05:13PM 23 it's affected by the cover of the book. But I do think that --  
05:14PM 24 meaning that putting that cover of the book in does not open the  
05:14PM 25 door for the defendants to go through there, but I would at least

05:14PM 1 caution you that there's been some moments today where I'm very  
05:14PM 2 concerned that you're opening the door.

05:14PM 3 MR. KRISHNAN: Your Honor, I completely appreciate the  
05:14PM 4 import of what you're saying. I honestly just candidly am not  
05:14PM 5 sure what Your Honor is referring to.

05:14PM 6 THE COURT: Then maybe you see --

05:14PM 7 MR. KRISHNAN: I would like to stay away from that door.

05:14PM 8 THE COURT: I hear you. So you may see it differently,  
05:14PM 9 and I perhaps invite you to correct me, but the most recent  
05:14PM 10 example arose from the questioning on the auditor's report. And  
05:14PM 11 there is a description in there that is focused on -- and I think  
05:14PM 12 your questions related to, why this -- that moment where Sosa  
05:14PM 13 orders everybody out of the cell, why he perceived it to be so  
05:15PM 14 dangerous, why Bravo perceived it to be so dangerous.

05:15PM 15 MR. KRISHNAN: I understand now, and I'll tell you it  
05:15PM 16 was -- it was not intended to do that. I understand in light of  
05:15PM 17 how the questions came in, I understand the point there.

05:15PM 18 THE COURT: Okay.

05:15PM 19 MR. KRISHNAN: And that was certainly not my intention.  
05:15PM 20 I had a more narrow idea in mind which probably wasn't apparent,  
05:15PM 21 but I was trying to do something a lot more narrow, and I'll just  
05:15PM 22 say in candor, the testimony in the deposition sort of focused on  
05:15PM 23 -- this question focused on something else entirely, just that  
05:15PM 24 they were outnumbered 19 to 4, which had nothing to do with what  
05:15PM 25 happened earlier. So I wasn't anticipating the response. I was

05:15PM 1 anticipating a particular answer.

05:15PM 2 THE COURT: Good. I appreciate that. But I would say  
05:15PM 3 that moments like that, I would say that what's good for the  
05:15PM 4 gander is good for the goose.

05:15PM 5 MR. KRISHNAN: I understand, Your Honor.

05:15PM 6 THE COURT: Okay.

05:15PM 7 MR. KRISHNAN: Thank you.

05:15PM 8 THE COURT: So I think I answered your question with  
05:15PM 9 respect to the cover. It does not affect. Besides, it's not you  
05:16PM 10 opening the door. I'm saying you can't have it the way you want  
05:16PM 11 it.

05:16PM 12 With that, is there anything else? All right. 8:45 we  
05:16PM 13 will talk about the autopsy report. We'll take Anderson, and  
05:16PM 14 we'll schedule time for the jury instructions.

05:16PM 15 MR. DAVIS: Your Honor, I'm looking forward to tasting  
05:16PM 16 that coffee that you said is so good at the Constitution Cafe.

05:16PM 17 THE COURT: You need a law clerk to go to seven.

05:16PM 18 (Recess at 5:16 P.M.)

19 C E R T I F I C A T E

20 I certify that the foregoing is a correct transcript from  
21 the record of proceedings in the above-entitled matter.

22  
23 June 29, 2022

/s/ Vernita Allen-Williams

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