

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 2 IN AND FOR THE COUNTY OF MARICOPA
 3
 4 STATE OF ARIZONA,)
 5 Plaintiff,)
 6 vs.) NO. CR 91-10184
 7 DANIEL HAYDEN WILLOUGHBY,)
 8 Defendant)
 9

13 DEPOSITION OF YESENIA PATINO GONZALEZ

15 Nogales Sonora Mexico
16 February 24, 1997

21 THACKER & THACKER, INC.
 22 PREPARED FOR: 2020 North Central Avenue Suite 1080
 23 THE COURT Phoenix, Arizona 85004 (602) 279-4711
 24 REPORTED BY:
 25 (Original) JOHN P. LOPEZ
 Certified Court Reporter

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1 The deposition of YESENIA PATINO GONZALEZ,
 2 witness herein, was taken upon oral examination by the
 3 parties through their respective attorneys before
 4 John P. Lopez, a Notary Public in and for the County
 5 of Maricopa, State of Arizona, at the Sonora State
 6 Prison, Nogales, on the 24th day of February, 1997,
 7 commencing at 10:58 a.m. of said day. Further, this
 8 deposition was taken pursuant to the Arizona Rules of
 9 Civil Procedure.

10 COUNSEL APPEARING:

11 Mr. Gilbert H. Levy
 12 Law Offices of GILBERT H. LEVY
 13 Suite 200 Market Place Two
 14 2001 Western Avenue
 15 Seattle, Washington 98121
 16 Attorney for Defendant
 17 Mr. Steven Mitchell
 18 Mr. Paul McMurdie
 19 ATTORNEY GENERAL'S OFFICE
 20 1275 West Washington
 21 Phoenix, Arizona 85001
 22 Attorneys for Plaintiff

19 ALSO PRESENT:

20 Mr. Victor Ortiz
 21 Mr. Kay Lines
 22
 23
 24
 25

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1 MR. LEVY: This is the State of Washington --
 2 excuse me, I'm sorry guys -- State of Arizona versus
 3 Daniel Willoughby, Cause Number CR 91-10184. I'm
 4 Gilbert Levy. I'm counsel for Mr. Willoughby. This
 5 is a deposition which is a videotaped deposition which
 6 is being taken by -- taken pursuant to stipulation and
 7 court order.

8 Present at this time are counsel for
 9 Mr. Willoughby, myself, Mr. Izzy Urias, who is the
 10 court-appointed investigator for Mr. Willoughby.
 11 Counsel for the State are Mr. McMurdie
 12 and Mr. Mitchell. Also present for the State is
 13 Mr. Lines, who is an investigator with the Attorney
 14 General's Office, and a Mr. Ortiz is with the Santa
 15 Cruz County Sheriff's Office.

16 Before we get started, it's my
 17 understanding that we have agreed on the format for
 18 this videotaped deposition, which is that we have an
 19 Arizona certified court reporter who is administering
 20 the oath and will be taking the deposition.

21 We also have a video camera, and we're
 22 videotaping and tape-recording the deposition, and
 23 following conclusion of the deposition, which will be
 24 taken pursuant to the Rules of Civil Procedure, the
 25 court reporter will retain custody of both the

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1 transcript and of the original videotape and will make
2 copies of the transcript for both counsel and also
3 copies of the tape, and if and when the transcript is
4 filed with the court, the court will then also file
5 the original videotape.

6 Is that your understanding, Counsel?

7 MR. MCMURDIE: Yes.

8
9 YESENIA PATINO GONZALEZ,
10 having been first duly sworn upon her oath by the
11 Notary Public to speak the truth and nothing but the
12 truth, was examined and testified as follows:

13 EXAMINATION

14 BY MR. LEVY:

15 Q. Could you please state and spell your
16 name?

17 A. My name is Yesenia Patino Gonzalez,
18 Y-e-s-e-n-i-a P-a-t-i-n-o G-o-n-z-a-l-e-z.

19 Q. And how old are you, Ms. Gonzalez?

20 A. I was 40 on February 6th.

21 Q. And are you currently serving a term of
22 imprisonment in the state of Sonora, Mexico?

23 A. Yes.

24 Q. And what is the term of imprisonment

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1 A. Yes.

2 Q. Do you understand that if you don't tell
3 the truth, that you're subject to being prosecuted for
4 perjury?

5 A. Yes.

6 Q. It's been explained to you that I'm
7 going to question you for a while, then one of the
8 attorneys for the State is going to question you for a
9 while?

10 A. Yes.

11 Q. Do you understand that?

12 A. Uh-huh.

13 Q. You understand that you have to answer
14 all the questions that we ask you?

15 A. Yes.

16 Q. Now, what's going to happen, Ms. Patino,
17 is that after we take your deposition, Mr. Lopez, the
18 court reporter, is going to prepare a booklet, and if
19 you wish you'll have an opportunity to review that
20 booklet and make any changes that you may want to make
21 in your answers. You have a certain period of time
22 within which to do that.

23 But if you make changes in your answers,
24 either I can comment on that or Mr. Mitchell can
25 comment on that to show that maybe you're not telling

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1 that you're serving?

2 A. It's 35 years for first degree murder.

3 Q. And where are we today?

4 A. Well, I appealed to my sentence and they
5 confirmed my sentence to 35 years.

6 Q. This deposition is being taken today in
7 the Sonora State Prison in Nogales; is that correct?

8 A. Yes.

9 Q. And, Ms. Patino, do you speak English?

10 A. Yes.

11 Q. And are you ill today or under any kind
12 of medication or other substance which would prevent
13 you from clearly understanding my questions or the
14 questions of opposing counsel?

15 A. No.

16 Q. Ms. Patino, I just want to go over some
17 of the ground rules here. We're taking a deposition,
18 and this deposition is being taken where you've been
19 given an oath. You took an oath just a few minutes
20 ago.

21 A. Yes.

22 Q. Do you understand that?

23 A. Uh-huh.

24 Q. Do you understand that that oath means
25 that you have to tell the truth?

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1 the truth.

2 A. All right.

3 Q. So do you understand that it's important
4 for you to be as accurate in your answers today as you
5 can possibly be?

6 A. I'll try.

7 Q. From time to time while I'm asking
8 questions Mr. Mitchell may make objections, or when
9 he's asking questions I may make objections, and those
10 objections, since there's no judge here to rule on
11 those objections, will be ruled on by Judge Howe at a
12 later time. But if the attorneys make objections,
13 you're supposed to go ahead and answer the questions.

14 Do you understand that?

15 A. Yes.

16 Q. Could you -- where were you born,
17 Ms. Gonzalez?

18 A. I was born in Valle Hermoso, Tamaulipas.

19 Q. Could you spell that for Mr. Lopez,
20 please?

21 A. Okay. I'm going to abbreviate --

22 MR. MITCHELL: Would you keep your voice up a
23 little bit, Yesenia? I would appreciate it.

24 THE WITNESS: Can you hear me, Mr. Lopez?

25 Okay. V, as in valley, a, double l, e,

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- 1 H-e-r-m-o-s-o, T-a-m-a-u-t-t-p, as in Paul, a-s.
 2 Q. BY MR. LEVY: When did you come to the
 3 states?
 4 A. Around 1962.
 5 Q. How long had you lived in the United
 6 States before you met Mr. Willoughby?
 7 A. Roughly about 35 years.
 8 Q. At the time that you met Mr. Willoughby,
 9 what was your residence status in the United States,
 10 immigration status?
 11 A. An alien resident.
 12 Q. Since - after the trial of
 13 Mr. Willoughby, were you brought back here to Mexico?
 14 A. Yes.
 15 Q. Have you been incarcerated in the state
 16 of Mexico - in Mexico ever since the trial of
 17 Mr. Willoughby?
 18 A. I don't understand the question.
 19 Q. You've been in prison here in Mexico -
 20 A. Uh-huh.
 21 Q. - since right after Mr. Willoughby's
 22 trial; is that correct?
 23 A. No, before.
 24 Q. Okay.
 25 A. Because it took - it took about eight

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- 1 A. Yes.
 2 Q. And one of those television interviews
 3 was for a television station here in Mexico?
 4 A. Yes.
 5 Q. And the other one was for a television
 6 station in Florida?
 7 A. Yes.
 8 Q. Do you know the names of those
 9 television stations?
 10 A. Yes, it's - okay, the one in Hermosillo
 11 is Channel 12 Hermosillo, and the one from Hialeah,
 12 Florida, is Occuro Asl.
 13 Q. Since Mr. Willoughby's trial, have you
 14 written any letters to Judge Howe?
 15 A. Yes.
 16 Q. Have you made any telephone calls to an
 17 individual by the name of David Ochoa?
 18 A. Yes.
 19 Q. Why did you write the letter to Judge
 20 Howe?
 21 A. Because he's the one that has knowledge
 22 about this case, and I - in that letter I told
 23 Judge Howe what happened and why - why I testified
 24 against Dan Willoughby.
 25 Q. How many phone calls have you made to

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- 1 months - eight months for the state of Arizona to get
 2 the papers in order for me to be able to go to the
 3 United States and testify.
 4 Q. Okay. How soon after Mr. Willoughby's
 5 trial did you come back to Mexico?
 6 A. Thirty-two days after.
 7 Q. When you came back to Mexico, did you
 8 come here to Nogales?
 9 A. I don't understand the question.
 10 Q. Have you been in this prison here in
 11 Nogales ever since Mr. Willoughby's trial?
 12 A. No.
 13 Q. Where else have you been incarcerated?
 14 A. Caborca, Guaymas, Hermosillo, Nogales,
 15 Cumpas, and back in Nogales.
 16 Q. Since you've been incarcerated after
 17 Mr. Willoughby's trial, have you been interviewed by
 18 anybody?
 19 A. Yes.
 20 Q. Who have you been interviewed by?
 21 A. Martin Ruiz, a reporter for Channel 12
 22 of Hermosillo, and Rodrico Alonso from Hialeah,
 23 Florida, for Telemundo.
 24 Q. So you've given television interviews
 25 since you came back to Mexico?

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- 1 David Ochoa since the trial?
 2 A. I would say about - about two.
 3 Q. What was the purpose of your making
 4 those phone calls?
 5 A. Okay. The first one, right after the
 6 trial when I was back in Caborca, I called David Ochoa
 7 and I told him that - what I had testified there in
 8 Phoenix. I have said a lot of lies. That was the
 9 first time I called David Ochoa, right after my
 10 testimony.
 11 The second time I called was when I was
 12 here trying to find out if he - if he was - if he
 13 had Mr. Willoughby's case, or who was representing
 14 Mr. Willoughby in order for me to call that person and
 15 tell that person about what went on the date of the
 16 testifying.
 17 Q. Now, since you've been in prison after
 18 Mr. Willoughby's trial, have you met with and spoken
 19 with any representatives of the State of Arizona?
 20 A. After the trial?
 21 Q. Have you met with Debbie Schwartz?
 22 A. Yes, Debbie Schwartz, Kay Lines and
 23 Norma Martin, I believe is her name.
 24 Q. How many times did you meet with
 25 Ms. Schwartz since the trial?

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- 1 A. I believe once.
 2 Q. And how many times have you met with
 3 Mr. Lines and Mr. Mitchell?
 4 A. Twice with Mr. Kay Lines and once with
 5 Mr. Mitchell.
 6 Q. Have you spoken with Dan Willoughby
 7 since the trial?
 8 A. No.
 9 Q. Have you corresponded with
 10 Mr. Willoughby since the trial?
 11 A. I tried, but the letter I sent to
 12 Mr. Willoughby was returned to me. He never got it.
 13 Q. Has Mr. Willoughby written to you?
 14 A. No.
 15 Q. Has Mr. Willoughby given you anything,
 16 given you any money since the trial?
 17 A. No.
 18 Q. Has anybody on Mr. Willoughby's behalf
 19 given you any money?
 20 A. No.
 21 Q. Has Mr. Willoughby or any representative
 22 of Mr. Willoughby promised that they would do anything
 23 for you since the trial?
 24 A. No.
 25 Q. Have you met with either myself or

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- 1 A. The last time he was here I told him
 2 right away that if I'd known he was coming along I
 3 would have never -- I would have never want to see
 4 him.
 5 And he -- he told me that -- he said,
 6 "If you think, Yesenia, you can't be tried in the
 7 United States for murder, think about it twice.
 8 That's what Dan used to think, that because the murder
 9 was committed in Mexico, and look what happened to
 10 him. That could happen to you, too, and not just you,
 11 also your brother."
 12 When he told me that, I walked out of
 13 the room, and the director was there and he saw me,
 14 how I was, and he said to me --
 15 MR. MCMURDIE: Objection. This is
 16 nonresponsive to the question.
 17 Q. BY MR. LEVY: You can go ahead and
 18 answer.
 19 A. I saw the director and I --
 20 MR. MCMURDIE: Objection. There's no question
 21 before this witness.
 22 Q. BY MR. LEVY: Okay. What did
 23 Mr. Mitchell say to you? Let me back up.
 24 You had a conversation with Mr. Mitchell
 25 where Mr. Mitchell made some threats to you?

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- 1 Mr. Urias or any other attorney representing
 2 Mr. Willoughby since the trial?
 3 A. Yes.
 4 Q. And approximately how many times?
 5 A. Roughly around three times.
 6 Q. Where have those meetings taken place?
 7 A. Here.
 8 Q. Have you spoken on the telephone with
 9 either myself or Mr. Urias or Ms. Meyer?
 10 A. Yes.
 11 Q. Why have you spoken on the telephone
 12 with us?
 13 A. Well, because I -- I want -- I wanted to
 14 speed up this process as soon as possible so I can get
 15 this over with and be -- be at peace with myself.
 16 Q. Has anybody, any attorney representing
 17 Mr. Willoughby, made any promises or commitments to
 18 you as to what might happen to you as a result of your
 19 giving your testimony today?
 20 A. No.
 21 Q. Has anybody threatened you?
 22 A. Yes.
 23 Q. Who threatened you?
 24 A. Mr. Mitchell.
 25 Q. What did Mr. Mitchell say?

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- 1 A. Yes.
 2 Q. Can you tell us when that conversation
 3 took place?
 4 A. I don't remember, but it just happened,
 5 I would say, about -- I would say it's been -- it's
 6 been about a month.
 7 Q. And where did the conversation take
 8 place?
 9 A. Here.
 10 Q. When you say "here," do you mean here in
 11 the director's office?
 12 A. Right.
 13 Q. And at the time of the conversation,
 14 other than yourself, who else was present?
 15 A. Kay Lines. I can't remember the other
 16 person. Oh, Mr. McMurdie.
 17 Q. And can you tell us specifically what
 18 Mr. Mitchell said to you at that time which you
 19 interpreted as a threat?
 20 A. I think what he told me, that I could --
 21 that he was going to -- he was going to do all that's
 22 possible for me to be extradited in the United States
 23 and be tried in the United States, and that he would
 24 also see that my brother would do some time as well.
 25 Q. When you met with Mr. McMurdie and

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- 1 Mr. Mitchell on that occasion, did you tell them what
2 happened in Rocky Point on February 23rd?
3 A. Briefly.
4 Q. Did you tell them at that time that you
5 did the murder?
6 A. Yes.
7 Q. Did you tell them at that time that you
8 had testified untruthfully when you testified before
9 Judge Howe in Phoenix?
10 A. I don't recall if I -- I don't know if I
11 got -- if I got to be that far with him, because I do
12 remember that the conversation with Mr. Mitchell
13 wasn't that long of a conversation. So I don't recall
14 if I did tell him or not.
15 Q. Do you have an understanding now,
16 Ms. Gonzalez, as to whether or not you're subject to
17 prosecution in the state of Arizona?
18 A. Yes.
19 Q. What is your understanding?
20 A. My understanding is that I've been tried
21 and charged here in Mexico for first degree murder and
22 that there's no way I can be extradited to the United
23 States and be tried again for first degree murder.
24 Q. Has anybody discussed perjury with you?
25 A. Yes.

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- 1 Q. Wait a second. Let me wait until the
2 phone stops ringing.
3 Why have you agreed to give this
4 statement today? Why are you doing this?
5 A. I'm doing this because I want to be at
6 peace and let -- let the public know what really
7 happened, and I'll be -- I'll be much -- I'll be
8 better with myself if I do that, and that's why I'm
9 doing it.
10 Q. Do you recall the date of the murder?
11 A. Yes.
12 Q. What is your recollection of the date of
13 the murder?
14 A. February 23rd, 1991.
15 Q. Before February 23rd, 1991, had you ever
16 gone to Rocky Point, Mexico, with Mr. Willoughby?
17 A. Yes.
18 Q. On how many occasions had you gone to
19 Rocky Point, Mexico, with Mr. Willoughby?
20 A. About twice.
21 Q. Do you recall when you did that?
22 A. No, but it was before the murder.
23 Q. Do you recall how long before the murder
24 was your most recent visit to Rocky Point, Mexico?
25 A. About two weeks.

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- 1 Q. Who?
2 A. Norma Martins. I think she's a
3 public -- public safety -- works for the public safety
4 in some border town. I don't know if it's Lukeville
5 or Douglas, or somewhere around there she works for
6 the public safety department.
7 Q. And what, if anything, did she say to
8 you concerning perjury?
9 A. Well, when I told -- when I told Debbie
10 Schwartz and -- that I had lied, that I had lied when
11 I testified in Arizona, and why I had lied, and that's
12 when she said to me that was a serious offense and
13 that I could -- that was another charge against me for
14 perjury.
15 Q. Did she tell you that you could be
16 prosecuted for perjury in Arizona?
17 A. No.
18 Q. Do you have an understanding about that?
19 A. Yes.
20 Q. What is your understanding?
21 A. My understanding is that I could
22 probably -- after I do my time here, then the United
23 States could -- could try to extradite me to do their
24 time there in the United States prisons for perjury,
25 but not for first degree murder.

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- 1 Q. And the one before that, when was that?
2 A. Within a month.
3 Q. What was the purpose of your first visit
4 to Rocky Point, Mexico, with Mr. Willoughby?
5 A. Just to -- just to get away and to have
6 a good time, just party time.
7 Q. How long were you there?
8 A. Overnight.
9 Q. Where did you stay?
10 A. I don't remember.
11 Q. The second time that you went there with
12 Mr. Willoughby, how long were you there?
13 A. Just for the day.
14 Q. What did you do on that occasion with
15 Mr. Willoughby?
16 A. The second time he -- he told me that
17 there was this lady that lived in Arizona that had a
18 house up for rent in a nice area in Rocky Point, and
19 he asked me if I wanted to see it, and I said yeah.
20 I was -- I was -- I was anxious to see
21 the house because I was tired -- I was tired in --
22 staying in hotels.
23 So he took me to the house, and we got
24 off -- we got off his car and saw the house through
25 the outside, couldn't -- couldn't get in, had no keys,

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1 and he said, "Yesenia," he said, "I'm thinking of
2 bringing my wife and kids" -

3 Q. Let the phone stop ringing, please.

4 A. He said, "I'm thinking of bringing my
5 wife and kids for a short vacation and stay in this
6 house."

7 And I said, "No, Dan, you can't do
8 that."

9 He said, "Why not?"

10 "Because I want you to bring me first.
11 I want to be the first vacation in this house. I want
12 to be with you."

13 He says, "No, Yesenia, please bear with
14 me. I want to bring my wife and kids."

15 I said, "No, Dan, I want you to bring me
16 first."

17 I set my foot down and I said, "Me
18 first," and we left it like that. But when he - when
19 he come on to me and said that he have bought a
20 package for the whole family to go on vacation in
21 Rocky Point, I told him, I said, "Well, take me along.
22 I want to go, too," and -

23 MR. MCMURDIE: Objection. Is this the same
24 conversation or are we talking about a different time
25 frame now?

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1 there in Rocky Point where there's a lot of houses
2 there. But it's not very - it's not very busy in
3 that part of the town.

4 Q. Now, before the murder on February 23,
5 had Dan Willoughby ever discussed with you his
6 feelings towards his wife?

7 A. No.

8 Q. Had he ever discussed a desire on his
9 part to kill his wife?

10 A. No.

11 Q. Had he ever discussed insurance money
12 with you or any insurance policies that he might have
13 had on his wife?

14 A. No.

15 Q. When you testified at trial, do you
16 recall testifying that it was your understanding that
17 Dan Willoughby had insurance on his wife?

18 A. Yes. He briefly told me that but didn't
19 got in detail about the monies, about the insurance
20 policy. He told me that he had taken out a life
21 insurance policy on Trish. Whether it was just on
22 Trish or the whole family, I don't know.

23 And my understanding it was just that -
24 about the insurance policy, but not how much the
25 insurance policy was for.

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1 MR. LEVY: We're talking about conversations
2 that they may have had on the second trip to Rocky
3 Point. Do you want me to ask her another question?

4 MR. MCMURDIE: If you would clarify that, I
5 was curious as to whether or not we were talking about
6 the same time frame or she moved on to a different
7 conversation, so when that second conversation -

8 MR. LEVY: Okay.

9 Q. BY MR. LEVY: So we're talking about
10 conversations - do you remember - let me ask you
11 this:

12 On the second trip to Rocky Point, did
13 Mr. Willoughby discuss with you vacation plans that he
14 had with his family?

15 A. Uh-huh, yes.

16 Q. What did he say? And just talk about
17 the second trip.

18 A. Okay. He said that - there at the spot
19 he told me that he was thinking about bringing his
20 wife and kids on vacation in that house, and I object
21 to that and I said "No."

22 Q. Did you see the house?

23 A. From the outside.

24 Q. Where is the house?

25 A. It's Las Ollas. It's American section

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1 Q. Did you have an understand as to how
2 much the insurance was for?

3 A. No.

4 Q. When you testified at trial, you
5 testified - do you recall testifying that Dan
6 Willoughby talked about hiring the Mafia to kill his
7 wife?

8 A. Yes.

9 Q. Was that the truth?

10 A. No.

11 Q. Where did that - where did that story
12 come from?

13 A. Well, for that we have to go back, where
14 I got the idea that Dan was involved with the Mafia,
15 I could be wrong. I don't know, but that's where I
16 got the idea from.

17 When we - when we took the plane to go
18 to Cancun, coming back we landed in Los Angeles, had
19 about an hour layover, and we got in this lounge there
20 and we were having cocktails, and there was this big
21 mirror in front of us, and Dan said to me, "Yesenia,
22 do you see that couple behind us? Don't turn around,"
23 he said.

24 So I look up and I say, "Yes."

25 And he said, "Don't lose eyesight of

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1 them."
 2 I said, "Okay."
 3 - All of a sudden when I looked up I
 4 didn't see this couple again. This happened real
 5 fast. I see this guy, got close to Dan, and told Dan
 6 something on his ear and went on.
 7 Then Dan says to me, "Yesenia, I'll be
 8 right back."
 9 I said, "Where are you going?"
 10 He says, "I got to take care of some
 11 things that I - that I have to attend with these
 12 people."
 13 And I start crying because I - I didn't
 14 think I was ever going to see Dan again. And about
 15 15 minutes later he shows up and he said to me,
 16 "Yesenia, why are you crying?"
 17 I said, "Because I never thought - all
 18 these things went through my mind that I wasn't ever
 19 going to see you again, but now I'm happy that you're
 20 here with me again."
 21 At that time it was - they were
 22 announcing to board the plane, and just before we
 23 boarded the plane Dan start insulting me by telling me
 24 all kinds of things that I didn't know why he was
 25 telling me, and got in the plane.

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1 A. He's 39.
 2 Q. Did Tony go to Rocky Point with you on
 3 February 23rd?
 4 A. Yes.
 5 Q. Do you know why Tony went to Rocky Point
 6 on February 23rd?
 7 A. Because I told him to.
 8 Q. What - what did - when did you discuss
 9 with Tony the trip to Rocky Point on February 23rd?
 10 A. I would say about a couple days before I
 11 told Tony to bring me to Rocky Point.
 12 Q. What did you tell him was going to
 13 happen in Rocky Point?
 14 A. I told him that - that I needed him to
 15 bring me to Rocky Point because there was owed money
 16 to Dan that I was going to collect. Me being a
 17 Mexican citizen, it would be a lot easier to collect
 18 this money. And I told Tony that I will give him \$500
 19 for the cost to bring me to Rocky Point to collect the
 20 money. And that's how he agreed to come to Rocky
 21 Point.
 22 Q. Did you give him \$500?
 23 A. I remember I did, yes.
 24 MR. MITCHELL: I didn't hear your answer.
 25 What was it?

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1 When we got in the plane there was a
 2 gentleman sitting in the middle seat. Then Dan and I
 3 will have the window seat. Since - we had this
 4 argument just before we got into the plane, so I was
 5 really upset with Dan just because he insulted me,
 6 don't know why.
 7 When the plane took off, Dan got off his
 8 seat and went on the back part of the plane, and I -
 9 and I still didn't want to - I didn't look for him,
 10 what he was doing or nothing. I was just basically
 11 looking out the window.
 12 Before we landed in Phoenix I felt that
 13 he was right there sitting on his seat, but he didn't
 14 say a word to me, nor I didn't say a word to him. I
 15 just didn't know why he was insulting me, and I never
 16 find out why. That's how I told - I told the jury
 17 that he was involved with the Mafia.
 18 Q. Now, do you have any brothers and
 19 sisters?
 20 A. Yes.
 21 Q. How many brothers; how many sisters?
 22 A. Five brothers and two sisters.
 23 Q. Who is Tony Patino?
 24 A. My brother younger than I.
 25 Q. How old is Tony?

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1 THE WITNESS: Yes.
 2 Q. BY MR. LEVY: Where did you get the \$500
 3 from?
 4 A. From Dan. All my money was from Dan.
 5 Q. How did you go about getting Dan to give
 6 you the \$500?
 7 A. Well, that's - he was going to leave me
 8 for a weekend and going to bring his wife and kids to
 9 Rocky Point. So I told him, I said, "Well, I need
 10 some money to spend these few days that you're not
 11 going to be here."
 12 And when he asked me how much I needed,
 13 I said, "\$500."
 14 He says, "\$500? What do you want \$500
 15 for?"
 16 I said, "Well, that's how much I want,
 17 \$500."
 18 And he says, "Okay."
 19 Q. Did you tell Dan that you were going to
 20 go to Rocky Point that weekend?
 21 A. No, no. But he suspected that I would
 22 show up in Rocky Point, because at the beginning I
 23 told him that I didn't want him to go to Rocky Point
 24 with his wife.
 25 Q. So why do you think he suspected that

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- 1 you would be there?
 2 A. Because he knew -- he knew me pretty
 3 well, that I could -- how far I could go.
 4 Q. The weekend that Dan was going to go to
 5 Rocky Point, did you discuss your plans with him for
 6 that weekend? Did you tell him what you were going to
 7 do?
 8 A. To Dan?
 9 Q. Yes.
 10 A. No.
 11 Q. What type of vehicle did you and Tony go
 12 in to Rocky Point?
 13 A. I think it was a '67 short-bed pickup he
 14 drove.
 15 Q. Do you recall if Dan had ever assisted
 16 Tony in making any repairs on that vehicle?
 17 A. Yes, I think he did.
 18 Q. What was your understanding of that?
 19 A. I think Tony had asked Dan to help him
 20 out to -- for the lighting, put lighting on his truck,
 21 and I think that was -- I think Dan did that for Tony.
 22 I remember that.
 23 Q. Do you know if Dan gave any other
 24 assistance to Tony?
 25 A. No.

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- 1 heroin. But it's --
 2 MR. MCMURDIE: Hashish?
 3 Q. BY MR. LEVY: Hashish?
 4 A. Yeah, that.
 5 Q. BY MR. LEVY: When you used cocaine
 6 around the time of the murder, how did you ingest it?
 7 Did you smoke it, snort it, inject it?
 8 A. Inject.
 9 Q. And when you used -- did you testify
 10 that you used heroin on the day of the murder?
 11 A. No.
 12 Q. So the only controlled substances that
 13 you used on the day of the murder were hashish and
 14 cocaine?
 15 A. The day of the murder?
 16 Q. The day of the murder.
 17 A. No. It was heroin and coke.
 18 Q. When you --
 19 A. Before the murder I did hashish.
 20 Q. When you used heroin on the day of the
 21 murder, was that unusual for you?
 22 A. Yes.
 23 Q. And when you used -- when you used
 24 heroin on the day of the murder, how did you take it
 25 into your system?

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- 1 Q. Did he ever assist Tony in hiring a
 2 lawyer?
 3 A. No.
 4 Q. On or about February 23rd, the day of
 5 the murder, did you use any controlled substances?
 6 A. Yes.
 7 Q. What, if anything, did you use?
 8 A. I had intervein coke and heroin in my
 9 system.
 10 Q. At the time were you addicted to
 11 controlled substances?
 12 A. I don't know.
 13 Q. When I say at the time, I mean around
 14 the time of the murder.
 15 How frequently were you using controlled
 16 substances around the time of the murder?
 17 A. About three days a week.
 18 Q. What controlled substances were you
 19 using?
 20 A. Coke and hashish.
 21 Q. I'm sorry?
 22 A. Hashish.
 23 Q. Heroin?
 24 A. Well, no, heroin was the only time I
 25 used -- prior to the murder was the only time I used

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- 1 A. Very carefully.
 2 Q. Did you shoot it?
 3 A. I injected just like I do coke.
 4 Q. Did Dan Willoughby know about your drug
 5 use?
 6 A. Somewhat, yes.
 7 Q. How did he know?
 8 A. Because he would -- he would see me, and
 9 I would invite him to, not inject it, but snort.
 10 Q. And what was his reaction when he knew
 11 that you were using drugs?
 12 A. Kind of like -- like don't do it. He'd
 13 say, "You're hurting yourself," that kind of an
 14 attitude, like he didn't really like the idea of me
 15 having coke in my -- in my place.
 16 Q. At the time of the murder, did you use
 17 some kind of weapon or device to commit the crime?
 18 A. Yes.
 19 Q. What did you use?
 20 A. A steel ball.
 21 Q. Would you describe the steel ball for
 22 us, please?
 23 A. Well, there's nothing around here I can
 24 show you what it looks like. I thought Mr. Mitchell
 25 was bringing along the --

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- 1 Q. Was it a ball that had some sort of a
2 rope attached to it?
3 A. Yes. I can't remember if it was a
4 steel -- how would I say it? I don't remember the
5 attachment that was on the steel ball. If it was
6 metal or if it was solid rope, I don't know.
7 Q. What color was the ball?
8 A. Black.
9 Q. And was there some sort of ring attached
10 to the ball?
11 MR. MITCHELL: Objection; leading nature at
12 this point.
13 Q. BY MR. LEVY: Go ahead and answer.
14 A. As I recall, I believe it did have a
15 ring.
16 Q. Now, the -- there was something attached
17 to the ring; is that correct?
18 A. Yes.
19 MR. MITCHELL: Objection; leading.
20 Q. BY MR. LEVY: And what was attached to
21 the ring?
22 MR. MITCHELL: Objection; leading.
23 THE WITNESS: Some type of a string.
24 Q. BY MR. LEVY: How long was it?
25 A. About 12 inches long.

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- 1 the device?
2 A. About a week.
3 Q. Why did you acquire the device?
4 A. Because I -- it was cute. I thought it
5 was cute, the way it was made. And when I asked the
6 guy if I could have it, and when he said to me that I
7 could have anything I wanted, I said okay. So he
8 brought me home. I brought it with me, and I hide it
9 under the bed.
10 Q. Ms. Gonzalez, when you -- excuse me,
11 when you acquired the device, did you pay anything for
12 it?
13 A. No. Just a kiss. That's all I paid.
14 Q. When you acquired this device, did you
15 have any idea in your mind as to what you were going
16 to do with it?
17 A. Yes.
18 Q. What was that idea?
19 A. Struck Trish.
20 Q. You were going to strike Trish with the
21 device?
22 A. Uh-huh. Yes. I couldn't find a
23 silencer.
24 MR. MITCHELL: Objection.
25 Q. BY MR. LEVY: Go ahead.

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- 1 Q. What color?
2 A. I don't remember.
3 Q. Do you recall how thick?
4 A. Yes.
5 Q. How thick was it?
6 A. Oh, it's kind of hard to tell you how
7 thick it was, but it was -- it was about this big
8 around.
9 Q. Okay.
10 MR. MITCHELL: Indicating -- could I see that
11 again? Indicating a quarter to a half inch in
12 diameter.
13 THE WITNESS: It was about this big around.
14 MR. MITCHELL: Indicating, for the record,
15 about a quarter to a half inch in diameter?
16 THE WITNESS: Yes.
17 Q. BY MR. LEVY: Where did this device come
18 from?
19 A. From a friend of mine. El Capri, a
20 dance club -- a Mexican dance club where I used to
21 hang out.
22 Q. Do you recall the name of the friend?
23 A. No, I don't remember his name.
24 Q. Do you recall how long before the
25 murder -- how long before the murder did you acquire

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- 1 A. I couldn't find a silencer. So as much
2 hatred I felt toward her, it was the thing I used on
3 her.
4 Q. Ms. Gonzalez, am I correct in assuming
5 that at some point in time before February 23rd you
6 decided that you were going to kill Trish?
7 A. Yes.
8 Q. When did you decide that you were going
9 to do that?
10 A. The last time when -- when she -- one of
11 the times she come up to my apartment and saw me that
12 I was out swimming.
13 Q. Hold on, please.
14 Ms. Gonzalez, before the phone started
15 ringing you were telling us about a conversation that
16 you had with Trish. Do you recall telling us that?
17 A. Yes.
18 Q. When did this conversation take place in
19 relation to the murder?
20 A. About -- about three times -- about
21 three months before -- before the murder.
22 Q. And where did this conversation take
23 place?
24 A. It took place at Windamere Apartments.
25 Q. Did you reside at the Windamere

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1 Apartments?

2 A. Yes, for a while.

3 Q. How did Trish Willoughby come to arrive
4 at the Windamere Apartments?

5 A. One of the times that Dan brought the
6 kids over to my apartment complex and they were there
7 with me I showed pictures to Marsha, pictures of Dan
8 and I taken together, and she went and told Trish that
9 Dan was in this picture with me, and that's how Trish
10 start coming to my apartment and telling me -
11 insulting me.

12 Q. On the last occasion that Trish
13 Willoughby went to your apartment, what did she say to
14 you which you considered to be insulting?

15 A. Start calling me names, that I was a
16 sleazy Mexican woman that Dan didn't care for. And I
17 told her to wait, told her not to tell me more things
18 in front of my friends there.

19 So I wrapped myself with the towel, I
20 walked out of the pool, and I invited her to come to
21 my apartment to tell me what she felt. And she
22 started telling me, and I - I just listened to her.
23 I would never lose my control of all the things she
24 told me. But I was gathering it up, all the things
25 that she had told me, for some day I would - it'll be

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1 A. Like? Like what? I don't recall. I

2 just - I just had my heringen, my doses of coke and
3 heroin, a container of water, a ski mask and my gloves
4 and my alien card.

5 MR. MITCHELL: Your what card?

6 THE WITNESS: Alien card.

7 Q. BY MR. LEVY: Did you consider using any
8 other weapons besides the device?

9 A. Yes.

10 Q. What other weapons did you consider?

11 A. I considered to - to buy me a gun at
12 the black market and get a silencer, but I didn't
13 succeed in getting those things. So I - I went in
14 and got that.

15 Q. Did you attempt to purchase a gun?

16 A. No.

17 Q. Did you attempt to purchase a silencer?

18 A. Yes.

19 Q. What efforts did you make to purchase a
20 silencer?

21 A. I've - I had connections there at this
22 nightclub in Phoenix where I could get my drugs from,
23 and anything else that I could get I would pay the
24 price and get if it's possible. And the guy that I
25 would talk to, he - I asked him if he could give me

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1 my turn.

2 Q. How long after that conversation did you
3 decide that you were going to kill Trish Willoughby?

4 A. Well, right from the beginning when I
5 met Dan Willoughby, since I - I didn't want to share
6 him anymore. I want him to be - I wanted him to be
7 mine.

8 Q. Did you ever discuss your plans to kill
9 Trish Willoughby with Dan?

10 A. No, no.

11 Q. The device which you acquired, did you
12 ever show that to Dan?

13 A. No.

14 Q. Did you take that device with you to
15 Rocky Point when Tony drove you down?

16 A. Yes.

17 Q. How did you carry it?

18 A. Pardon me?

19 Q. How did you carry it to Rocky Point?

20 A. In my purse. I have this big purse that
21 I used to put over my shoulder.

22 Q. Other than acquiring the device, did you
23 make any other plans to kill Trish Willoughby before
24 you went down to Rocky Point, do anything else in
25 preparation?

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1 the gun. He says he can. I ask him if he could give
2 me a silencer. He said he was going to try.

3 When I went back to him, he said to me
4 that it was impossible to get a silencer. And I asked
5 him why, and he said because I thought it was going to
6 be easy to get a silencer from Mexico and I - my
7 understanding in Mexico that those things are
8 controlled.

9 Q. Did you discuss these plans with anyone?

10 A. No.

11 Q. Who is Jack Milkey?

12 A. My ex-husband.

13 Q. Did you discuss these plans with
14 Mr. Milkey?

15 A. No.

16 Q. When you went down to Rocky Point on the
17 23rd, when did you leave Phoenix?

18 A. The 23rd.

19 Q. What time of day?

20 A. Early in the morning. I was there
21 around 8:00.

22 Q. Do you recall the approximate time of
23 day you arrived in Rocky Point?

24 A. That same day, Saturday, around -
25 around 2:00 o'clock in the afternoon.

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- 1 Q. What did you do when you arrived at
2 Rocky Point?
3 A. I was looking -- I was looking for a guy
4 that hangs around Manny's, call him El Negro, that --
5 he used to -- he used to -- he used to give me the
6 drugs, my personal use. I used to get my personal use
7 from this guy in Rocky Point at Manny's.
8 Q. What's Manny's?
9 A. It's a restaurant, bar.
10 Q. Where is Manny's in relation to the
11 house where Trish Willoughby was killed?
12 A. I would say roughly around three miles.
13 Q. So how long did it take you to get from
14 Manny's -- well, let me ask you, did you see Dan
15 Willoughby?
16 A. Yes. I was happy to see him.
17 Q. Where did you see Dan Willoughby?
18 A. At Manny's.
19 Q. Had you previously arranged to meet Dan
20 Willoughby at Manny's?
21 A. No.
22 Q. Did you expect that he was going to be
23 there?
24 A. Yes.
25 Q. Why?

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- 1 him how much I loved him and told him that I wanted a
2 drink. And there at Manny's at that particular day it
3 was a holiday. They weren't serving no type of liquor
4 there.
5 So we went -- I told him, I said, "I
6 want to have a drink. Over at Vina del Mar they serve
7 beer and wine there. So I wanted to have a beer with
8 you before you go back, but I want to have a beer with
9 you."
10 He said, "Yesenia, I don't have time.
11 Yesenia, I got to go back."
12 I said, "No, Dan, don't leave me. I
13 want to be with you. Please, I want you to take me.
14 I want to have a couple of beers with you."
15 He looked at his watch and said, "Well,"
16 he said, "okay, I only have time for a beer and I got
17 to get home."
18 MR. LEVY: We're going to change the
19 tape now.
20 (Whereupon the audiotape was changed.)
21 Q. BY MR. LEVY: You were discussing the
22 conversation that you had with Dan.
23 A. With Dan, uh-huh. So we end up going to
24 Vina del Mar. He had a beer, and he said to me,
25 "Well, Yesenia, I will be seeing you tomorrow. Go

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- 1 A. Because when I asked him to give me
2 \$500, he looked at me and said, "Yesenia, what do you
3 want \$500 for? You have everything."
4 I said, "Dan, I want \$500. Don't ask me
5 why I want it for. I just want \$500," and he gives me
6 the \$500.
7 Q. Yesenia, can you keep your voice up,
8 please?
9 A. Can you hear me?
10 Q. I can hear you, but we just want to make
11 sure that they can record what you're saying.
12 Approximately what time of day was it
13 when you met Dan Willoughby at Manny's?
14 A. Around 4:00 o'clock.
15 Q. Do you recall what he was wearing?
16 A. Jeans.
17 Q. What were you wearing?
18 A. Jeans.
19 Q. When you met Dan Willoughby at Manny's,
20 where was Tony?
21 A. Away. He was walking loose and he left
22 me with Dan.
23 Q. After you met Dan Willoughby at Manny's,
24 what happened with you and Dan?
25 A. I hugged him, I kissed him, and I told

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- 1 back. Go back to Phoenix."
2 I said, "Okay."
3 So he -- we kissed goodbye. He takes
4 off. Then I had another beer. Then I told Tony, I
5 said, "Tony, I'll be right back."
6 Q. Okay. Hold on just a second. How long
7 were you and Dan Willoughby together that afternoon on
8 February 23rd?
9 A. About a half an hour.
10 Q. And you testified that you met him at
11 Manny's and then you went someplace else?
12 A. We went to Vina del Mar.
13 Q. Vina del Mar?
14 A. Uh-huh.
15 Q. How far away from Manny's is that?
16 A. Not very far.
17 Q. Did you drive or walk, or how did you
18 get there?
19 A. We drove.
20 Q. In what vehicle did you drive in to get
21 there?
22 A. Tony's.
23 Q. So then how did -- did you see Dan
24 arrive at Manny's in some kind of vehicle?
25 A. Yes.

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- 1 Q. What vehicle did he arrive in at
2 Manny's?
3 A. A van. Kind of like a maroon -- maroon
4 colored van.
5 Q. How long were you at Vina del Mar?
6 A. Just enough to have a beer with him. I
7 would say about 15 minutes.
8 Q. And then you drove him back to Manny's
9 in Tony's truck?
10 A. No, he drove back. He drove back to the
11 house in his van. Because when we went from Manny's
12 to Vina del Mar, Dan got in his van, drove to Vina del
13 Mar, and then Tony and I went in his truck and drove
14 also to Vina del Mar, and that's where we had a beer.
15 Q. When you saw Dan that afternoon, did he
16 discuss his plans with you for the rest of the day?
17 A. No.
18 Q. Did you have any idea as to what Dan was
19 going to do the rest of that afternoon?
20 A. Yes.
21 Q. What idea did you have?
22 A. Well, I thought that they were -- a
23 couple of things that they were going to do, either go
24 take a sightseeing of the city or take the kids and
25 the wife to a -- to a movie show.

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- 1 each.
2 I said, "Okay." Wash off like that, and
3 put my sleeves down, walked out and said, "Tony, let's
4 go."
5 Q. BY MR. LEVY: You testified earlier that
6 you thought that Dan might have plans to do something
7 with his family later that afternoon.
8 Was that your testimony?
9 A. Yes.
10 Q. Where did you get that impression?
11 A. I just -- I just made that up, just made
12 that up, that he was planning on taking -- taking the
13 family out for -- for sightseeing.
14 Q. Had he discussed that with you?
15 A. No.
16 Q. Now, did you see Dan drive off from
17 Manny's?
18 A. From Manny's we went to Vina del Mar. I
19 saw him drive off from Vina del Mar.
20 Q. What did you do after Dan drove off from
21 Vina del Mar?
22 A. I had another beer and shoot up my
23 doses.
24 Q. What did you do after that?
25 A. I told Tony, I said, "Tony, let's go."

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- 1 So after -- after I -- he takes off, I
2 have another beer. After I finish the second beer, I
3 told Tony, I said, "I'll be right back."
4 I go in the bathroom and I take out my
5 heringen, my spoon, and I will mix -- take out the
6 purified water, mix just a few drops in the spoon, put
7 a piece of cotton, tiny piece of cotton, insert the
8 contents --
9 VIDEOGRAPHER: Stop right there. I have to
10 change the tape.
11 (Whereupon the videotape was changed.)
12 Q. BY MR. LEVY: We're back on the record
13 now.
14 A. Okay. So I go in the bathroom and I
15 started mixing the coke with this water, piece of
16 cotton, and I would syringe into the heringen and I
17 would tie my upper arm and I would shoot up in this
18 inner vein. And I -- my ears started buzzing like
19 this, and I said, "Okay, okay, control yourself," I
20 thought.
21 So I take a knife. I unwrap this
22 heroin. I would smash it with the tip of the heringen
23 until I get it dissolved in this water, and I would do
24 the same thing with this cotton. I will serve it and
25 shoot it right after I shoot up my coke, \$50 worth

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- 1 and I -- I drove, and Tony said, "But, sis," he says,
2 "it's standard."
3 "I don't care, Tony. We're in Mexico."
4 Here it doesn't matter whether you're struggling to
5 get there. All that matters to get where we're
6 going.
7 I was -- the truck would die on me
8 because I would take the clutch fast, or I don't know.
9 So I manage to leave Tony. I says, "Tony, you're
10 going to wait for me. I'll be right back. I'm going
11 to go collect the money."
12 And he said, "Will you be okay?"
13 I said, "Yes."
14 "You won't have any problem?"
15 I said, "No." I said, "Dan's going to
16 be watching me. Dan's going to be watching me. Don't
17 worry about it. Everything's going to be fine."
18 He said, "Okay."
19 So I would -- managed to go to the
20 house, parked about a block away from the house, put
21 on my mask, kind of slide down like this so I won't be
22 seen, and I see the kids. They were playing outside
23 the house.
24 Then I -- I see Dan coming out of the
25 house, and I didn't see -- I didn't see Marsha.

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1 Q. Let me back up just a little bit for a
2 minute there.
3 What was your purpose in going to the
4 house after Dan left Vina del Mar? Why were you going
5 there?
6 A. To kill Trish.
7 Q. Did you discuss that with Dan?
8 A. No.
9 Q. Why did you decide to do it at that
10 particular time?
11 A. Because it was - I was very much
12 involved with his kids and played the main part of
13 their mom, as their second mom, and showed that I
14 cared for them, that I loved them, and I wanted to
15 make a family with Dan and his kids.
16 Q. When - how long did it take you to
17 drive from Vina del Mar to the house?
18 A. About 10 minutes.
19 Q. How did you know how to get to the
20 house?
21 A. We - that time that Dan took me there
22 and showed me the house and told me that he was
23 thinking of bringing his wife and kids to vacation
24 there, that time, and also two other times that I came
25 with my friend El Negro to get my drugs, I told him to

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1 house?
2 A. Uh-huh.
3 Q. Was there anything obstructing your view
4 of the house from where you were parked?
5 MR. MITCHELL: I'm going to ask the court
6 reporter to read back what she just said. I wasn't
7 paying attention, and I apologize, about where she
8 parked. Would you do that for me?
9 (Requested portion of record read.)
10 Q. BY MR. LEVY: Was there anything
11 obstructing your view of the house?
12 A. No.
13 Q. Were you parked in the street, or where
14 exactly were you parked? Can you describe the area
15 where the truck was parked?
16 A. It wasn't pavement. It was just a dirt
17 street, and I parked right aside of the house.
18 MR. MITCHELL: Keep your voice up.
19 THE WITNESS: Can you hear me?
20 MR. MITCHELL: Not very well. That's why I
21 asked you to keep your voice up.
22 THE WITNESS: I didn't - there wasn't too
23 much traffic where I parked.
24 Q. BY MR. LEVY: What were you wearing at
25 that time?

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1 take me there and reassure myself of the road that
2 lead me to the house.
3 Q. When you got to the house, where did you
4 park the truck?
5 A. About - about a block away from the
6 house.
7 Q. Was there some sort of a security gate
8 at the - at Las Ollas?
9 A. Yes.
10 Q. Did anybody stop you at the security
11 gate?
12 A. No.
13 Q. Was there anybody manning the security
14 gate at the time?
15 A. Yes.
16 Q. You didn't say anything to the person at
17 the security gate?
18 A. No, I just went by. I went by. I went
19 like that. I went on.
20 Q. Where did you park in relation to the
21 house?
22 A. The front part of the house. I was - I
23 had - I had - side of the front part of the house is
24 where I parked.
25 Q. So you could see the front part of the

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1 A. My mask, my jeans, a loose blouse type
2 of shirt. My gloves were handy, and I had all the
3 mace, my papers, the container of water. I believe
4 that's just about it in my purse.
5 Q. Could you describe the mask, please?
6 A. It was like - it was like a winter mask
7 that you put over your face. Kind of like - kind of
8 like a mask, but it's warm. It's - it was made out
9 of a warm material like wool or acrylic or something
10 like that.
11 Q. Did it have holes for the eyes -
12 A. Yeah.
13 Q. - and the mouth?
14 A. And the nose.
15 Q. Did you pull that all the way down over
16 your face?
17 A. Yes.
18 Q. Why?
19 A. Well, to disguise myself. I didn't want
20 nobody to see me, whether it was a man or a woman, or
21 nothing. So I put that on and nobody would know about
22 me.
23 Q. Approximately how long did you sit in
24 the truck before you entered the house?
25 A. About an hour.

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