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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 11CR1655-H
)
Plaintiff,) San Diego, California
)
vs.) Thursday,
) February 23, 2012
LAURA ELENA TREJO-MACIAS,) 9:00 a.m.
)
Defendant.)
VOLUME II

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE MARILYN L. HUFF
UNITED STATES DISTRICT JUDGE, and a jury

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>REXCROSS</u>
Laura Elena Trejo-Macias	1	16	24	--
Efren Lapuz	28	34	--	--
Brandon Tucker	38	--	--	--
Alfonso Logan	59	66	71	--

<u>EXHIBITS</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
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Defendant's

J Business card from one of Defendant's workers	17	17
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1 SAN DIEGO, CALIFORNIA THURSDAY FEBRUARY 23, 2012 9:00 AM

2 --oOo--

3 (Call to order of the Court.)

4 THE COURT: Welcome back. Nice to see you here.
5 We're ready to continue. Gremlins were attacking my
6 computer. And remember, we're trying to get the jury
7 instructions ready for you, so we're still working on that.

8 COURT: The Defendant is on the stand.

9 LAURA ELENA TREJO-MACIAS - DEFENDANT - PREVIOUSLY SWORN

10 THE COURT: Good morning. We remind you that
11 you're still under oath.

12 THE WITNESS (Through interpreter): Yes.

13 THE COURT: And then if you could move your mic so
14 it might be a little easier so you're not talking over each
15 other.

16 MR. RAHMANI: Thank you, your Honor.

17 (The following testimony is through an interpreter.)

18 CROSS EXAMINATION (Resumed)

19 BY MR. RAHMANI:

20 Q Ms. Trejo, good morning.

21 A Very good morning, sir.

22 Q You bought your Tahoe in Tijuana, correct?

23 A Yes, sir.

24 Q And you testified that it was a company car?

25 A Yes, sir.

1 Q And your employees used it?

2 A Yes, sir.

3 Q And they used it to drive in Mexico?

4 A Yes, sir.

5 Q But you employees never drove it in the United States?

6 A Yes, sir.

7 Q But you registered that car in the United States?

8 A Yes, sir.

9 Q And that's because it's easier to smuggle drugs into
10 the United States with a car that has United States plates.

11 A I don't understand.

12 Q Ms. Trejo, you own other cars, correct?

13 A Yes, sir.

14 Q You have the Tahoe, the drug car.

15 THE INTERPRETER: I'm sorry?

16 BY MR. RAHMANI:

17 Q You have the Chevy Tahoe, the drug car. You also have
18 a Ford F-150.

19 A Yes, sir.

20 Q And that's also a company car?

21 A Yes, sir.

22 Q And you have a Cadillac Escalade?

23 A Yes, sir.

24 Q And that's your personal car?

25 A Yes, sir.

1 Q And then you have a Jeep too?

2 A Correct, sir.

3 Q And that's also your personal car?

4 A Yes, sir.

5 Q You drove the Chevy Tahoe to San Ysidro to buy a tent
6 and other camping supplies?

7 A Correct, sir.

8 Q And you drove that Chevy Tahoe because you needed a big
9 car to fit all your camping supplies?

10 A Yes, sir.

11 Q But you could have driven the F-150.

12 A Yes, sir.

13 Q And that's a truck.

14 A Yes.

15 Q You could have driven the Escalade.

16 A No. Well, because those cars, I have to import them.
17 I still needed to pay for -- I was no longer paying license
18 plates for California. Uh-huh.

19 Q So you couldn't drive the Escalade into the United
20 States?

21 A No, not anymore. I was going to import it.

22 Q And what color is your Escalade?

23 A It's sand color.

24 Q What is the license plate number?

25 A I don't remember.

1 Q Does it have Mexican license plates?

2 A No. They're from California.

3 Q So is it your testimony that you've never driven your
4 sand-colored Escalade into the United States?

5 A No. The Escalade, no. I bought it in Mexico as well.

6 Q How about the Jeep? Could you have driven the Jeep
7 into the United States?

8 A No, because it was also -- it's owed on it, and it's
9 also going to be imported. And that already has the tires
10 to be off road.

11 Q So because it has off-road tires, you can't drive it
12 into the United States?

13 A No, not anymore. It was -- it was in the shop. The
14 transmission was being worked on.

15 Q Of all the cars, you chose to drive the Chevy Tahoe?

16 A Correct.

17 Q The one car that happened to be loaded with
18 methamphetamine?

19 A Correct. But I didn't know. I bought that car for
20 that reason.

21 Q Ms. Trejo, yesterday you testified that when you were
22 waiting in line to enter the United States and the officer
23 spoke to you, you were nervous because you were late.

24 MR. GELLER: Objection, your Honor. Misstates the
25 evidence.

1 THE COURT: Overruled.

2 Members of the jury, you're the judge of the
3 facts. If you remember the facts differently than the way
4 the lawyers have stated them, then your memory controls.

5 BY MR. RAHMANI:

6 Q Well, you had made arrangements with Alfredo Villa.

7 A Yes.

8 Q And you were nervous because you were late for your
9 meeting with Mr. Villa.

10 A Not because of a meeting with him, but because I was
11 going to be late for doing all my shopping and was going to
12 be -- it was going to be late by the time I was to go back.

13 Q So you were nervous because you were late?

14 A I was late -- I was not nervous. It's just you get a
15 little tired of waiting for so long.

16 Q You crossed into the United States several times a
17 week.

18 A Well, there may be times in which I crossed two to
19 three or four times a week. There will be other times in
20 which it will be weeks before I cross.

21 Q Even though you cross into the United States on a
22 regular basis, you were so nervous that your voice was
23 trembling and your hands were shaking.

24 A Well, I don't know. That is the testimony of one
25 person. I got nervous -- I did get nervous when I saw a lot

1 of people surrounding me.

2 Q Well, the truth is, you got nervous because you were
3 about to be caught with a large amount of methamphetamine.

4 A No, sir. No, sir.

5 Q Ms. Trejo, yesterday you testified that you had three
6 employees.

7 A Correct.

8 Q Alfredo Villa.

9 A Correct.

10 Q Marco Antonio Valeria (phonetic).

11 A Valeria.

12 Q Valeria. And Martin Sanchez Pinoco (phonetic).

13 A That's right, sir.

14 Q And all three of those employees drove your cars?

15 A They would drive all the cars, not just that one.

16 Q They drove the Chevy Tahoe, correct?

17 A Yes, yes. Well, once or -- one or two times. The
18 short amount of time that I had it with me.

19 Q Ms. Trejo, I understand you had the vehicle a short
20 period of time. My question is, when you owned the vehicle,
21 all three of your employees, Mr. Villa, Mr. Antonio Valeria
22 and Mr. Sanchez Pinoco, they all three drove your vehicle,
23 correct?

24 A No. No.

25 Q They did not drive your vehicles during your time that

1 you owned them?

2 A Not all of them, no. Only Mr. Villa.

3 Q So is your testimony now that, of your three employees,
4 Mr. Villa is the only one who drove the vehicle?

5 A Yes, sir.

6 Q None of your other employees drove the Tahoe?

7 A Not that I knew of. If they did without my consent, I
8 don't know.

9 Q So as far as you know, during the time that you owned
10 the vehicle, two people drove it, you and Mr. Alfredo Villa?

11 A Yes, sir.

12 Q And Mr. Villa drove it the night before you were
13 arrested?

14 A Yes, sir.

15 Q You never mentioned any of these three employees to
16 Agent Carr and Agent Logan when you spoke to them after you
17 were arrested.

18 A No, sir.

19 Q Instead you gave them a different story. You said that
20 you had three different employees with three different
21 names.

22 A No, because those individuals used to work for me.
23 Used to.

24 Q When did those three individuals stop working for you?

25 A Up until the time that this happened to me, a few days

1 before.

2 Q And just to clarify, we're talking about David Ledesma,
3 Christian Ledesma and Miguel Ricci (phonetic), correct?

4 A Uh-huh. Correct. And two other persons that used to
5 work.

6 Q And these workers painted your house?

7 A Uh-huh. They worked painting, correct.

8 Q You also testified that none of these people drove the
9 Tahoe, correct?

10 A Yes, sir.

11 Q But that's not what you told the special agents after
12 you were arrested.

13 A Correct. I told them that people that help me and work
14 for me also drove the vehicles, which is true.

15 Q Ms. Trejo, the agents asked you specifically about the
16 Chevy Tahoe.

17 A That's correct.

18 Q And you --

19 A At that moment, I wasn't thinking only about that car.
20 I thought that all the vehicles that were there.

21 Q Ms. Trejo, agents asked you specifically about the
22 Chevy Tahoe, and you told them -- you told them that David
23 Ledesma, Christian Ledesma and Miguel Ricci, they all had
24 access to the Chevy Tahoe.

25 A All of them have access to my vehicles. They're people

1 that work for me. But I wasn't just repairing that one
2 vehicle.

3 Q And you also told them that all three of those
4 individuals, David Ledesma, Christian Ledesma and Miguel
5 Ricci, all drove the Chevy Tahoe.

6 A I said that all the people that worked for me had
7 access to the vehicles. I never referred to that truck
8 only.

9 Q Ms. Trejo, why don't I try to help refresh your
10 recollection. You told the agents that David Ledesma drove
11 the Chevy Tahoe two days before you were arrested, on
12 Monday, March 7th.

13 A Two days. Monday, March 7th. He drove it on Monday.
14 He drove it on Monday or whoever it was, given that the keys
15 were right there in the office.

16 Q Ms. Trejo, you're the one that told the agents that
17 David Ledesma drove it on Monday, March 7th.

18 A I don't remember.

19 Q You also told the agents that Miguel Ricci also drove
20 the Chevy Tahoe on Monday, March 7th.

21 A No, no, no. No, I did not talk about that truck. I
22 always said -- always said that the people that worked for
23 me always drove the vehicles. I never -- I never referred
24 to just one truck because I told them the cars that I have
25 and that they drive.

1 Q You also told the agents that Christian Ledesma drove
2 the Chevy Tahoe on Saturday, March 5th.

3 A Saturday the 5th. Uh-huh. Yes. I went to make some
4 payments. I don't remember if he took the Tahoe or the
5 Escalade.

6 Q You told the agents he took the Tahoe.

7 A I am not sure, sir.

8 Q You were arrested on March 9th, correct?

9 A Correct.

10 Q And yesterday you testified that you bought the Chevy
11 Tahoe on March 2nd, correct?

12 A Correct.

13 Q You had this car for one week?

14 A Correct.

15 Q And during this one one-week period, four different
16 employees drove the vehicle?

17 A It was driven, but it wasn't the truck precisely that
18 was driven. They did drive the vehicles. Sometimes there
19 will be two people. I'll send them to -- one person to one
20 place, another one to another, and so each one would take a
21 different car.

22 Q You specifically remembered the employee who drove the
23 vehicle, the date they drove the vehicle, the day of the
24 week it was, but you don't remember what vehicle they drove?

25 A No. It's not that I don't remember which vehicle

1 because I send them. Sometimes they will take each of a car
2 and take them the keys, just go make the statement to this
3 thing, and they will just take whichever car.

4 Q And all of your employees had access to the keys to the
5 Chevy Tahoe?

6 A Yes, the keys. Yes, sir. Same as any other key. Not
7 just the Chevy Tahoe, but any other vehicle. Either the
8 Escalade or the pickup or the Tahoe.

9 Q So they had access to the keys to all your vehicles?

10 A Yes, sir.

11 Q And those keys are in a box sitting on the desk in your
12 office?

13 A Yes, sir.

14 Q And your house keys are also in that box?

15 A Yes, sir.

16 Q And your office door has a lock?

17 A Yes, sir.

18 Q But all of your employees have the key to your office
19 door?

20 A Correct. Correct, yes. Each one is handed a copy.

21 Q Yesterday you said you were a widower.

22 A Yes, sir.

23 Q On March 9th, 2011, did you have a boyfriend?

24 A When? No, sir.

25 Q Who is Miguel?

1 A Miguel is a person that I met years ago. He's -- how
2 can I explain it? I don't have a boyfriend. He's a person
3 that I like because I have known him for a very long time,
4 for many years. But no, I don't have a boyfriend. He is
5 not my boyfriend.

6 Q Do you live with Miguel?

7 A No, sir.

8 Q You live by yourself?

9 A Yes, sir.

10 Q What is Miguel's full name?

11 A Miguel. Miguel Ramirez.

12 Q What is his maternal name?

13 A Basuto (phonetic).

14 Q And when was he born?

15 A I just know it's in April. I don't remember the day.

16 Q How old is he?

17 A He must be around 31, 32 years old, thereabouts.

18 Q But you don't live with him?

19 A No, sir. No, sir.

20 Q You live by yourself?

21 A Yes, sir.

22 Q And you're a woman?

23 A Yes.

24 Q But all of these men have access to your house keys and
25 your car keys?

1 A Yes, sir.

2 Q Even though you don't know anything about these men.
3 You don't know their full names, you don't know their
4 addresses. You trust them inside your home, inside your
5 office and with your cars?

6 A Yes, sir.

7 Q Yesterday you testified that you don't know much about
8 Alfredo Villa.

9 A Yes, sir.

10 Q You don't know his full name?

11 A If he did say it to me, I don't remember it. I wasn't
12 paying attention. You always use the -- go by the first
13 last name.

14 Q You don't know his address?

15 A No, sir.

16 Q You don't know his date of birth?

17 A No.

18 Q But you and your attorney suspect that Mr. Villa put
19 drugs in your car?

20 A Well, we're suspicious because he was the last person
21 to use the car.

22 Q Well, do you believe he put drugs in your car or not?

23 A I am not sure because I did not see him.

24 Q But you're suspicious because he borrowed the car the
25 night before?

1 A Yes, sir.

2 Q Ms. Trejo, after you were arrested, you were detained.

3 Yes or no?

4 A Yes, sir.

5 Q And you made phone calls?

6 A Yes, sir.

7 Q And those phone calls were recorded?

8 A Yes, sir.

9 Q And you talked to Mr. Villa?

10 A Yes, sir.

11 Q And you talked to him six times in a one-week period,
12 from March 18th to March 25th.

13 A I don't know, sir. I don't remember the number of
14 times that I called.

15 Q Well, why don't I help refresh your recollection. On
16 March 18th, 2011, at approximately 9:13, you called Mr.
17 Villa. You asked --

18 A If it's -- if it's there, that's because I called.

19 Q And you asked Mr. Villa to send you money, to pay your
20 bills.

21 A To -- yeah, to support me, yes. I agree.

22 Q And that phone call lasted 16 minutes.

23 A I don't know how long it lasted.

24 Q Later that same day, on March 18th at approximately
25 8:31, you called Mr. Villa again.

1 THE INTERPRETER: I'm sorry, Counsel. Repeat the
2 time, please.

3 MR. RAHMANI: At 8:31 p.m.

4 THE WITNESS: Correct.

5 BY MR. RAHMANI:

6 Q And you asked Mr. Villa to deposit money into your
7 account?

8 A Yes. To please, yes.

9 Q And that phone call lasted over seven minutes.

10 A Okay.

11 Q March 23rd, 2011, at 2:41 p.m., you called Mr. Villa
12 again. You spoke to him for two minutes and 45 seconds.
13 March 24th, 2011 at 6:51 p.m., you called Mr. Villa again,
14 and you spoke to him for four minutes and 46 seconds. March
15 25th, 2011 at approximately 5:24 p.m., you called Mr. Villa
16 again and you thanked him for sending you the money.

17 A Yes.

18 Q Do you remember that?

19 A Yes.

20 Q That phone call lasted almost five minutes. During all
21 your phone calls with Mr. Villa, you never talked to him
22 about how he had driven the Tahoe the night before?

23 A No. I didn't talk to him because I didn't know
24 anything. I couldn't think.

25 Q Ma'am, it's a yes or no question. Did you or did you

1 not talk to Mr. Villa about what happened when you borrowed
2 the Chevy Tahoe the night before you were arrested?

3 A No, sir.

4 Q You never asked Mr. Villa if he put drugs in your car?

5 A No, sir.

6 Q Instead, you just asked Mr. Villa for money?

7 A Yes, sir.

8 Q And Mr. Villa gave you money?

9 A Yes, sir.

10 MR. RAHMANI: Nothing further at this time, your
11 Honor.

12 REDIRECT EXAMINATION

13 BY MR. GELLER:

14 Q Mrs. Trejo, can you explain why it's difficult today,
15 11 and a half months after you were arrested, to remember
16 specifically which of your employees drove which of your
17 cars in the two or three months prior to that?

18 A Well, just a little bit because I thought about many
19 things, and I don't -- I don't want to think or remember
20 anything about everything that I'm going through.

21 Q So it's been almost a year since you were arrested,
22 right?

23 A Yes, sir.

24 Q And is that part of the reason why you can't remember
25 who drove which car a year ago?

1 MR. RAHMANI: Objection. Leading.

2 THE COURT: Sustained. Rephrase.

3 BY MR. GELLER:

4 Q Is the passage of time important -- let's put it this
5 way. Other than the passage of time, is there another
6 reason that you can't recall who drove which specific car a
7 year ago?

8 A Because I don't want to -- I don't want to remember it.
9 I don't want to think about it. There's nothing I can do
10 anymore anyway.

11 Q Mrs. Trejo, I want to show you what has been previously
12 marked as Defense Exhibit J.

13 And can you describe what you see here?

14 A Yes. It's a business card from one of the workers.

15 MR. GELLER: Your Honor, I'd ask that Defense
16 Exhibit J be admitted into evidence at this time.

17 THE COURT: Any objection?

18 MR. RAHMANI: NO, your Honor.

19 THE COURT: It's received.

20 MR. GELLER: Can I show it to the jury?

21 THE COURT: You may.

22 MR. GELLER: You'll be able to take it into the
23 jury room later.

24 BY MR. GELLER:

25 Q Now, Exhibit J, is this Mr. Pinoco's business card?

1 A Yes, sir.

2 Q Do you know the names of Mr. Pinoco's wife and
3 children?

4 A No. As far as I knew, he wasn't married.

5 Q And do you allow him to drive your cars?

6 A Yes, sir.

7 Q In response to the prosecutor's questions, you
8 mentioned the name Marco Antonio Valeria.

9 A Correct.

10 Q Does he have a business card similar to the one that
11 Mr. Pinoco has?

12 A Yes, sir.

13 Q And he has a key to your office?

14 A Correct, sir.

15 Q Does he have a key to your house as well?

16 A Yes. Yes, sir.

17 Q And do you allow him to drive your cars?

18 A Yes, sir.

19 Q Do you know the name of his wife or children?

20 A No, sir.

21 Q Now, you testified that you don't know the names of Mr.
22 Villa's wife and children.

23 A No, sir.

24 Q Does he have a business card that's similar to the one
25 that is depicted in Exhibit J, Mr. Pinoco's business card?

1 A Yes, sir.

2 Q And besides Mr. Villa, who else drove the Tahoe in the
3 nine days you owned it or in the eight days you owned it?

4 A He drove it, and David also drove it on one occasion.
5 If somebody else drove it without my permission, I cannot --
6 I cannot -- that is, I cannot prove it because I did not see
7 it. They had access to whatever cars were there and the
8 keys.

9 Q Do you keep personal effects in any of your cars?

10 A I'm sorry?

11 Q Do you keep a lot of personal effects in your other
12 vehicles?

13 A No. Always I just have my briefcase and my handbag and
14 my phones.

15 Q Now, do you leave your briefcase, handbag and phones in
16 cars or do you take them out of the cars after you drive?

17 A They're always with me.

18 Q Can you explain to the jury why you only had one
19 ignition key in the Tahoe when you drove it across the
20 border on March 9th of last year?

21 A Yes, sir. I always took -- whatever car that I was
22 going to drive, I always took only the one key.

23 Q Now, on direct examination, do you recall the
24 prosecutor asking you if you saw signs at the border that
25 asked, among other things, whether you ever loaned the

1 vehicle to anyone?

2 A Yes, sir.

3 Q Do you recall seeing those signs?

4 A No, sir.

5 Q Do you recall at the port of entry whether any of the
6 agents specifically asked you whether you had loaned the
7 vehicle to anyone else in the past day?

8 A Yes, sir.

9 Q Did they ask you that?

10 A Well, they did ask me if I used the car, and I always
11 talk about all the vehicles. Yes. That the person that
12 works for me, they always -- all of them had access.

13 Q So you discussed with the agents after you were
14 arrested that you did loan your cars to other people?

15 A Yes. They used -- they drove my car. But I never was
16 referring to just one specific car. I mentioned all the
17 cars.

18 Q Were you honest with the agents?

19 A Yes, sir.

20 Q Now, did the agents ask you if you planned to meet
21 anyone after you crossed the border on March 9th?

22 A No. I don't remember. I don't remember.

23 Q You don't recall telling them that you did plan to meet
24 anyone?

25 THE INTERPRETER: I'm sorry, Counsel. Can you

1 repeat the question?

2 BY MR. GELLER:

3 Q Do you recall whether or not --

4 MR. RAHMANI: Objection, your Honor. Hearsay.

5 THE COURT: Sustained.

6 MR. GELLER: Strike that.

7 THE COURT: Sustained.

8 BY MR. GELLER:

9 Q When you were arrested on March 9 last year, almost a
10 year ago, at that time at the port of entry, did you have
11 any reason to believe that Villa loaded your car with
12 methamphetamine?

13 A No. Not him or anyone else.

14 Q And why is that?

15 A Because I just did not believe it.

16 Q Today, after it's been about a year, you've thought
17 about this some more. Did you change your mind?

18 A Well, yes. I have thought about it, and yes, maybe it
19 was the person that did the harm.

20 Q Now, when you talked to Villa in the week or two weeks
21 after you were arrested, at that time did you think that
22 Villa had loaded the methamphetamine into your car?

23 A No, sir. Once I did think about everyone, who would
24 have caused this harm to me, everyone who was around me. So
25 I thought of everyone. I blamed everyone and no one because

1 I had no proof against anybody.

2 Q Now, you called Villa from the jail right after you
3 were arrested. And you answered several questions --

4 A Yes, sir.

5 Q -- that the prosecutor asked you about that?

6 THE INTERPRETER: I'm sorry. Can you repeat the
7 question back.

8 BY MR. GELLER:

9 Q You answered several questions the prosecutor asked you
10 about your telephone calls to Mr. Villa?

11 A Yes, sir.

12 Q And you testified that he sent you money?

13 A Yes, sir.

14 Q What was the money for?

15 A To be able to remain in contact, to call.

16 Q So this was money that you got while you were in jail?

17 A Yes, sir.

18 Q And did you use the money for other things like
19 toiletries?

20 A Yes. Yes.

21 Q Now, you talked to him, as was described by the
22 prosecutor the first time, for quite some time. Did you
23 discuss paying bills that you had at the office as well?

24 A Yes. I asked him to please, as a favor, to pay for the
25 office services, phone, electricity, everything. And

1 whatever I was out of, it was -- that I would pay him.
2 Since everyone had access to all my things, to -- or to sell
3 a vehicle or something in order to help me. I don't have a
4 husband. I don't have any children.

5 MR. RAHMANI: Objection, your Honor. 403.

6 THE COURT: Just a second. Just a second.

7 MR. RAHMANI: Objection, your Honor. 403.

8 THE COURT: Sustained.

9 MR. GELLER: Your Honor, I'm going into -- Mr.
10 Rahmani asked her about --

11 THE COURT: Sustained.

12 BY MR. GELLER:

13 Q Did you discuss other business affairs?

14 MR. RAHMANI: Objection, your Honor. Calls for
15 hearsay.

16 THE COURT: She can answer that yes or no.
17 Overruled.

18 THE WITNESS: I'm sorry. Could you please repeat
19 the question.

20 BY MR. GELLER:

21 Q Yes. When you talked to Mr. Villa, this lengthy
22 telephone call that the prosecutor asked you about, did you
23 discuss business projects that you had?

24 A Yes.

25 MR. RAHMANI: Objection, your Honor. Calls for

1 hearsay.

2 THE COURT: She can answer yes or no.

3 THE WITNESS: Yes. Yes, to please keep an eye on
4 both offices.

5 THE COURT: Just a second. Just answer the
6 question yes or no.

7 BY MR. GELLER:

8 Q And your answer was yes?

9 A Yes.

10 MR. GELLER: Thank you.

11 RE CROSS EXAMINATION

12 BY MR. RAHMANI:

13 Q Ms. Trejo, on redirect you testified that David Ledesma
14 drove the Tahoe on one occasion?

15 A Yes, he did drive the truck.

16 Q So you first told the agents that four people drove the
17 vehicle, you, Christian Ledesma, David Ledesma, Miguel
18 Ricci, correct?

19 A No.

20 Q And when I first --

21 A I said that -- I said those people -- those four
22 individuals drove my vehicles. They had access to my
23 vehicles.

24 Q When I first asked you questions this morning, I asked
25 you how many total people drove the vehicle. I held up two

1 fingers. You said yourself --

2 THE INTERPRETER: I'm sorry.

3 MR. RAHMANI: I apologize.

4 BY MR. RAHMANI:

5 Q I held up two fingers, and you said that only yourself
6 and Mr. Villa drove the vehicle.

7 A No, sir, I didn't say that he was the only one that
8 drove it. What I'm saying is, only you drove that car. I'm
9 saying no, somebody else drove it. Everyone drove those
10 cars, but the last person who drove those cars were him and
11 I.

12 Q Ms. Trejo, maybe I'm not being clear. In the one week
13 that you owned the Chevy Tahoe, who drove it? Everyone.

14 MR. GELLER: Objection, your Honor. Misstates
15 what she testified to.

16 THE COURT: Overruled.

17 THE WITNESS: I'm sorry?

18 BY MR. RAHMANI:

19 Q Ms. Trejo, you only owned this vehicle for one week,
20 correct?

21 A Correct.

22 Q Please tell me every single person who drove that
23 vehicle during that week that you owned it.

24 A As far as I know, only three individuals. I don't know
25 if anybody else drove it when I was not there.

1 Q Ms. Trejo, I'm not asking about what you don't know.
2 I'm asking about what you do know. So you know three people
3 now.

4 A Yes. It was three of us.

5 Q You, Mr. Villa and David Ledesma?

6 A Yes, David did drive it.

7 Q And you're certain about that?

8 A Well, yes. I am not sure. How can I be sure?

9 Q Let me ask you this. Mr. Villa, during redirect, you
10 testified that you don't know the names of his wife and
11 children, correct?

12 A No, sir.

13 Q But you knew him well enough to call him from jail and
14 to ask him to borrow money?

15 A It's not because I know him so well, but he was part of
16 the team. And I felt that he would help me. I know if I
17 make the wrong choice, but I needed to ask someone for help.
18 I have no one else, sir.

19 Q Of all the people in the world, you called Alfredo
20 Villa, and you asked him to put money in your inmate
21 account?

22 A To do me that favor, yes.

23 Q The same person that you believe today put drugs in
24 your vehicle?

25 A I believe, but I'm not sure, sir. And at that time --

1 at that time, I didn't know. It never went through my mind.

2 Q But of everyone you could have called, you called Mr.
3 Villa?

4 A I did -- there was nothing else that I could do. He
5 was the only person that I felt that he could help me. But
6 he didn't help me only just the one or two weeks.

7 Q The only person that could help you at that time was
8 Mr. Villa?

9 A You mean the support? Yes. Yes, sir.

10 MR. RAHMANI: Nothing further, your Honor.

11 MR. GELLER: I have no further questions, your
12 Honor.

13 THE COURT: Thank you. You may step down.

14 (Pause.)

15 MR. GELLER: Your Honor, the Defense now calls
16 Efren Lapuz.

17 THE CLERK: Sir, would you raise your right hand.

18 EFREN LAPUZ - DEFENDANT'S WITNESS - SWORN

19 THE CLERK: Please take a seat.

20 Please state your name and spell your first and
21 last name for the record.

22 THE WITNESS: My name is Efren Lapuz. It's
23 E-F-R-E-N, L-A-P, as in Paul, U-Z.

24 THE CLERK: Thank you.

25 MR. GELLER: Good morning, Mr. Lapuz.

1 THE WITNESS: Good morning.

2 DIRECT EXAMINATION

3 BY MR. GELLER:

4 Q How are you employed?

5 A I'm a self-employed licensed California private
6 investigator.

7 Q Prior to the time that you became self-employed as a
8 private investigator working for yourself, what did you do?

9 A I was a drug enforcement agent.

10 Q And so you worked for the Drug Enforcement
11 Administration?

12 A Yes, I did.

13 Q And how long were you an agent with DEA?

14 A From August 1987 to December 2009.

15 Q And how long -- how many years was that?

16 A That's about 22 years and maybe five months.

17 Q And during that lengthy period of time could you
18 describe for the jury what your duties and responsibilities
19 were at the Drug Enforcement Administration?

20 A Primarily I was charged with enforcement of state and
21 federal drug laws.

22 Q Did you investigate crimes that involved
23 methamphetamine?

24 A Yes.

25 Q How often?

1 A Pretty often. I became an expert on methamphetamine
2 for the DEA.

3 Q And have you been qualified as an expert in this
4 courthouse previously?

5 A Yes, since 1989.

6 Q And since leaving the DEA have you had any contacts or
7 consultations with DEA or FBI agents or prosecutors?

8 A Yes.

9 Q And have you worked with Mr. Rahmani's office?

10 A The United States Attorneys Office, yes.

11 Q And about how many times have you testified for the
12 United States Attorneys Office -- for Mr. Rahmani's office?

13 A Through my entire career probably over 300 times.

14 Q And how many times have you been a defense witness?

15 A Just once in July of 2011.

16 Q So this is the second time that you've testified for
17 the defense?

18 A Yes.

19 Q But you have testified over 300 times for the
20 Government?

21 A Yes, I did.

22 Q And before you were a DEA agent what was your
23 occupation?

24 A I was an infantry and a military police officer for the
25 Marine Corps.

1 Q Now, I don't know if I mentioned this but what kind of
2 specific training on smuggling -- smuggling crimes have you
3 had?

4 A I received specialized training in border interdiction.
5 They include concealment methods, the courier methods. I've
6 also received training on highway interdiction and
7 commercial air interdiction during my stay with the DEA.

8 Q And beside what you've already told the jury, what kind
9 of other assignments have you had that deal with drugs in
10 your career?

11 A I've probably done just about everything from when I
12 was new undercover work. I did a lot of major conspiracies.
13 I worked in the intelligence group. I worked in
14 interdiction groups. I worked for the intelligence group.
15 I was a supervisor of a methamphetamine strike force in
16 Arizona for a couple of years. I was assigned to the FBI
17 twice as a liaison on the border corruption task force and
18 also the joint terrorism task force for a couple of years.
19 So I've had varied assignments within the DEA.

20 Q And about how many arrests have you been involved with
21 that have dealt with methamphetamine at the port of entry in
22 San Ysidro?

23 A Probably over 100.

24 Q And can you describe some of those circumstances?

25 A A lot of them are involving the crossing of -- illegal

1 crossing of methamphetamine via vehicles and also via human
2 carriers.

3 Q And in your experience do unwitting, or unknowing
4 people, sometimes get involved in drug trafficking?

5 A Yes.

6 Q And what factors in your experience and your training
7 do you consider in determining whether someone involved in
8 drug trafficking might or might not be an unknowing carrier?

9 MR. RAHMANI: Objection, your Honor, improper
10 expert testimony.

11 THE COURT: Sustained. Rephrase.

12 BY MR. GELLER:

13 Q What factors do you look to in your investigations?

14 A I look at several factors actually. And if you want me
15 to I can enumerate them.

16 Q Certainly.

17 A One of the biggest factors I look at is the person's
18 actions, speech, maybe demeanor and body language prior to,
19 during and after the arrest. I am also looking for any
20 statements made post-arrest after they been mirandized and
21 they continue to talk with the agents. I'm also looking for
22 any items of evidence found on the person's -- like in his
23 wallet, or within his reach, or her reach, or within his
24 control. I'm also looking for any statements that are made
25 by companions, co-conspirators. And also by witnesses that

1 are independent of what activity was going on. I'm also
2 looking for any evidence that's uncovered during the
3 followup investigation that include the execution of
4 warrants and things like that. I look also for the person's
5 criminal history to see if the person has had prior
6 involvement in smuggling, drug use. I also look for things
7 that I call communication related any prior wire taps, any
8 cell phone history on their person, any text messages, e-
9 mails. I'm also looking for any prior reports made by the
10 agency itself like debriefing of informants, debriefing of
11 cooperating witnesses and stuff like that. And when I was
12 still in I would also ask for opinions from my fellow agents
13 and supervisors as well.

14 Q Now, I hired you to give an expert opinion in this
15 case, is that right?

16 A Yes.

17 Q And what did you do in reviewing -- what did you review
18 in preparation for your testimony today?

19 A I received about 115 page transcript of the Defendant's
20 post-arrest interview. I received an analysis of I think it
21 is a vehicle crossing history on one of the vehicles
22 involving the Defendant. I think that was about a three or
23 five page report. I also received a resume from an ICE
24 agent, a resume from a chemist, a resume from an expert for
25 ICE involving I guess vehicles or radiators. I also

1 received a DMV information regarding a truck that was found,
2 or used to be owned by the Defendant.

3 Q And so based upon the information that you were able to
4 review prior to coming to court this morning, did you
5 analyze using factors that you told the jury about this
6 case?

7 A The information was actually incomplete, so I could not
8 come to any conclusion either way.

9 Q Okay.

10 A I don't have sufficient information to base any opinion
11 either way.

12 Q Why are prior -- why is a prior criminal history
13 significant to you?

14 MR. RAHMANI: Objection.

15 THE COURT: Sustained, 403.

16 BY MR. GELLER:

17 Q Well let me just ask you basically one question, do you
18 know what -- are you familiar with the term "blind mule?"

19 A Yes.

20 Q What does blind mule mean?

21 A A blind mule is a term referring to a person who
22 through trickery or deception unknowingly transports a
23 controlled substance, an illegal commodity, or product.

24 Q And from time to time there are such people that cross
25 the border without knowledge that they are transporting

1 controlled substances or drugs?

2 A In my experience, yes.

3 MR. GELLER: Thank you.

4 MR. RAHMANI: Mr. LaPuz, good morning.

5 THE WITNESS: Good morning.

6 CROSS EXAMINATION

7 BY MR. RAHMANI:

8 Q And how much are you being paid to testify here today?

9 A \$95.00 an hour.

10 Q That's your billing rate?

11 A Yes.

12 Q And how much have you billed to this case so far?

13 A Five hours.

14 Q And you mentioned that you testified as a defense
15 witness before?

16 A Just once, yes.

17 Q And it was in this very court house, correct?

18 A This courthouse, yes.

19 Q And that case also involved drug smuggling?

20 A Yes.

21 Q And you were hired by defense attorney Bob Boyce
22 (phonetic) to testify for the defense?

23 A Actually I was -- it was under the CJA, the Criminal
24 Justice Act.

25 Q And you took an oath to tell the truth?

1 A Yes.

2 Q Just like you did today?

3 A Yes.

4 Q And Mr. Boyce asked you a question about unknowing
5 couriers or blind mules. He asked you, "Why would a drug
6 trafficking organization use an unwitting or unsuspecting
7 individual versus recruiting someone?"

8 A Yes, I remember that question.

9 Q And your response was, "They're very rare. They're
10 very rare because drug traffickers like to have a straight
11 forward transaction. I pay you, you take the risk." Do you
12 remember saying that?

13 A Yes.

14 Q You also said, "Most people have that knowledge." Do
15 you remember saying that?

16 A Yes.

17 Q So is your testimony still that blind mules are very
18 rare?

19 A Yes.

20 Q You reviewed some of the evidence in this case,
21 correct?

22 A I wouldn't call it evidence because all I had was an
23 analysis of the crossing history. I did not even read the
24 arrest report, or how much meth was taken or seized. I did
25 not review a whole lot of stuff.

1 Q So your review of the file in this case was somewhat
2 limited?

3 A Yes, very limited.

4 Q You really don't know anything about this particular
5 Defendant, do you?

6 A Only -- I interviewed her for about an hour and a half
7 and got to know a little bit about her family history and
8 her work history. That's the extent of my interview with
9 her.

10 Q What did she tell you about the people that work for
11 her?

12 A Very little.

13 Q Did she talk to you about David Lidesma (phonetic)?

14 A I believe in the context of him being either -- I'll
15 rephrase that. She was unclear about their relationship,
16 either a co-worker or an employee. I could not determine
17 that during the short interview I had with her.

18 Q How about Christian (phonetic) Lidesma?

19 A I believe his name came up as a possible person that
20 was going to be used to register a vehicle or sold a vehicle
21 to. Again, it was unclear as to what his role was involving
22 a vehicle transaction.

23 Q How about someone named Alfredo Villa (phonetic)?

24 A No, that never came up.

25 Q She never mentioned the name Alfredo Villa?

1 A Not to me, no.

2 Q You talked about some of the factors that you consider
3 in investigating drug cases?

4 A Yes.

5 Q And one of those factors was actions, speech and
6 demeanor before arrest, correct?

7 A That's correct, yes.

8 Q If someone displayed signs of nervousness during pre-
9 primary inspection, is that a factor that you would
10 consider?

11 A Sure.

12 Q Statements made to witnesses and co-conspirators. If
13 the Defendant admitted to witnesses that she was a drug
14 smuggler, is that a factor that you would consider in your
15 analysis?

16 A Sure, sure.

17 MR. RAHMANI: No further questions, your Honor.

18 THE COURT: Anything further?

19 MR. GELLER: Nothing further, your Honor.

20 THE COURT: Thank you. You may step down.

21 MR. GELLER: The Defense rests at this time, your
22 Honor.

23 THE COURT: Thank you. And you renew your
24 motions?

25 MR. GELLER: I do.

1 THE COURT: All right. Rebuttal?

2 MR. RAHMANI: Yes, your Honor.

3 THE COURT: Let me check on the time. Okay.

4 Let's continue on.

5 Up here. This way.

6 THE CLERK: Sir, please raise your right hand.

7 BRANDON TUCKER - PLAINTIFF'S WITNESS - SWORN

8 THE CLERK: Please take a seat.

9 Sir, please state your name and spell your first
10 and last name for the record.

11 THE WITNESS: Brandon Tucker, B-R-A-N-D-O-N,
12 T-U-C-K-E-R.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MR. RAHMANI:

16 Q Mr. Tucker, good morning. How are you employed?

17 A I'm employed with the Federal Bureau of Prisons.

18 Q And where is your current assignment?

19 A At 808 Union Street.

20 Q And what facility is that?

21 A At the MCC San Diego.

22 Q And what does the MCC stand for?

23 A Metropolitan Correctional Center.

24 Q And what are your duties at the MCC?

25 A I'm a support -- or excuse me -- a supervisory

1 investigative support technician. I monitor the inmates'
2 phone calls, perform subpoenas, copy those recordings,
3 investigate protective custody inmates and also gang-related
4 stuff that occurs episodic.

5 THE COURT: We'll take a morning recess at this
6 time. We'll be in recess until 10:30. It's about 10:15
7 now. Please remember the admonition I gave to you earlier.

8 (Jury exits courtroom.)

9 THE COURT: We're outside the presence of the
10 jury. This is a rebuttal witness. Are there any motions?

11 MR. GELLER: I don't know if the Court wanted -- I
12 renewed my Rule 29 motion, so I would do that at this time.

13 THE COURT: All right. Anything else with respect
14 to this witness?

15 MR. GELLER: No, your Honor.

16 THE COURT: Normally we take great pains to assure
17 that the jury does not know that the Defendant is in
18 custody. And the witness just referenced gang-related
19 matters, which I think is highly prejudicial. And so
20 typically, the way the Court would handle recorded calls
21 would be to neutralize the witness's background, education
22 and experience and just say that he's -- that he's
23 monitoring calls or they take calls and not get into the
24 specifics of the Federal Bureau of Prisons and that he
25 monitored this call between the Defendant and so and so

1 between blank and blank.

2 So -- but since there's no objection to this, then
3 I don't think that the witness should be talking about gang-
4 related matters at all.

5 MR. GELLER: No. I agree. I didn't know how far
6 it was going to go. I was prepared to object at the next
7 question if it had anything to do -- other than did you
8 monitor a telephone call. So I didn't want to get into the
9 gang stuff.

10 THE COURT: So they may be questioning -- unless
11 they just assume, but why is -- why is she in custody?

12 MR. GELLER: Well, one thing that I think might be
13 good to explain is that this had to do with the -- her
14 custody two weeks right after her arrest. So whether or not
15 she's in custody today, she was arrested, and they recorded
16 the telephone calls. So I don't know any way we can --

17 THE COURT: So can you just do some leading
18 questions to just say, after the arrest of the Defendant
19 where they know she's -- after the arrest, then -- so you
20 can lead right directly into the calls?

21 MR. RAHMANI: Certainly, your Honor. And I
22 contacted Mr. Geller, and we spoke about this yesterday
23 evening, and I informed him that we intended to call someone
24 who had reviewed the recorded telephone conversations and
25 whether he would challenge their authenticity or whether the

1 Government would --

2 THE COURT: Right. I'm not talking about the
3 authenticity of the calls. I'm talking about the nature of
4 the witness's testimony about --

5 MR. RAHMANI: Certainly, your Honor.

6 THE COURT: -- being in prison and in custody.

7 MR. RAHMANI: Certainly.

8 THE COURT: So what you may want to do is just do
9 some leading questions and then get to the point to just
10 say, following the Defendant's -- you would have no --
11 following the Defendant's arrest in this case, did you
12 monitor some phone calls.

13 Are you challenging anything further on the
14 authenticity?

15 MR. GELLER: No. No, your Honor.

16 THE COURT: So I think we need to skip forward and
17 not emphasize the MCC and the prison setting and then just
18 get to the substance of the calls.

19 MR. RAHMANI: Yes, your Honor.

20 THE COURT: Okay. So then this is going to be
21 your last witness or are you also going to call the agent?

22 MR. RAHMANI: Your Honor, we will have two more
23 witnesses. One would be the agent who actually listened to
24 the recorded telephone calls. They're in Spanish. He would
25 testify to their substance. As well as the agent who sat in

1 the post-arrest interview.

2 MR. GELLER: Well, I didn't know you were going to
3 use -- I thought you were going to use this witness to talk
4 about the phone calls, that he had listened to them. I
5 thought that was the only person that he was going to have.

6 MR. RAHMANI: This one I don't believe speaks
7 Spanish, I don't believe fluently enough to testify to that.
8 This is just a foundational witness for authenticity, your
9 Honor.

10 THE COURT: All right.

11 MR. GELLER: Well, I would -- we'd stipulate to
12 the authenticity, and I would object to him testifying any
13 further.

14 THE COURT: All right. So you want to work in --
15 do you want -- does your client agree?

16 (Pause.)

17 MR. GELLER: That's acceptable with the Defendant,
18 your Honor.

19 THE COURT: All right. So what -- how do you want
20 the -- what do you want the Court to say, is the parties
21 have now entered into a stipulation?

22 MR. RAHMANI: Yes, your Honor.

23 THE COURT: And then what would the stipulation
24 say?

25 MR. GELLER: That telephone calls were made from

1 the jail in the week period before the -- these were all
2 made in the first week.

3 MR. RAHMANI: A couple weeks after the Defendant
4 was arrested. I believe March 18th to the 25th. She was
5 arrested on March 9th.

6 MR. GELLER: Well, I would object to going into
7 how long she was in custody. Instead I would ask the Court
8 or ask counsel to lay a foundation by saying shortly after
9 she was arrested, she was incarcerated and just leave it at
10 that. As to how long she was in custody, I think under
11 404(b), it doesn't have any probative value at all, and it
12 can prejudice the jury.

13 THE COURT: So how many phone calls are there and
14 what is the agent going to say?

15 MR. RAHMANI: There are six phone calls.

16 THE COURT: Is he not going to -- is he not going
17 to -- is there a transcript of the --

18 MR. RAHMANI: No, your Honor. She's just -- the
19 agent will just testify to the really bare bones facts, that
20 the Defendant in this case called Mr. Villa. This was the
21 date and the time of the phone call.

22 THE COURT: But we don't have the -- so he's
23 summarizing a phone call and we don't have a translation of
24 the phone call?

25 MR. RAHMANI: No, your Honor.

1 MR. GELLER: Well, I would object to that. I
2 thought we were going to have a translated version of the
3 phone call.

4 MR. RAHMANI: I'm happy to play --

5 MR. GELLER: If it's hearsay, it's hearsay, but
6 it's not what someone else --

7 THE COURT: I agree on that.

8 MR. GELLER: -- recalls was said.

9 THE COURT: So the agent can't summarize what the
10 substance of it is from his review of a phone call.

11 MR. RAHMANI: Your Honor, I'm happy to play the
12 recorded phone calls, the six recorded phone calls in their
13 entirety. Really what we would be getting at is just -- as
14 far as the hearsay issue, they're admissions of the
15 Defendant, but really that these calls were made. This was
16 their duration, and these were who they were made to.

17 MR. GELLER: I think that we've already
18 established that, or he did on cross examination of the
19 Defendant.

20 THE COURT: No. I mean, they can also play the
21 calls, but I don't know if the agent can talk about, well, I
22 reviewed these calls, and these are what they said.

23 MR. RAHMANI: Your Honor, just to move things
24 along, it would really be limited testimony, nonsubstantive,
25 and it would save a lot of time as opposed to playing these

1 calls in their entirety.

2 MR. GELLER: I would object to having an agent
3 summarize based upon his or her recollection of what she
4 remembers when he or she listened to the phone calls. They
5 don't have any notes. I would object to that.

6 MR. RAHMANI: Your Honor, this was all put in the
7 report, and it was produced to Defense counsel.

8 THE COURT: That doesn't matter whether it's put
9 in the report and produced to the Defense counsel. If it's
10 hearsay and there's an objection, there's an objection.

11 MR. RAHMANI: Your Honor, if that's the case, I'm
12 happy to play the phone calls in their entirety.

13 THE COURT: So are all of the phone calls --

14 MR. RAHMANI: They're all in Spanish.

15 THE COURT: Well, that doesn't matter to the
16 Court. Are they all admissions?

17 MR. GELLER: I don't think they are. I mean, some
18 of the phone calls -- I have a transcript of all the phone
19 calls that are translated and --

20 THE COURT: So let me see -- let me see the
21 transcript.

22 MR. RAHMANI: And your Honor, if I may. To the
23 extent they're not admissions, they're certainly
24 inconsistent, and they're impeachment evidence. They're
25 inconsistent with her testimony on direct examination.

1 MR. GELLER: But I think in some cases, your
2 Honor, under 404(b), that the prejudicial value of these --
3 for example, whether or not Mr. Villa was asked to put money
4 on the books as opposed to paying a bill outweighs the
5 probative value.

6 And if it's being used to impeach her as a prior
7 inconsistent statement, that's one thing. But to just go
8 into statements that she made that aren't admissions like
9 pay a bill, I don't know --

10 THE COURT: So what you'll need to do is edit
11 these down. And you can't just play all of them because
12 they're not all admissions and they're not all prior
13 inconsistent statements.

14 MR. GELLER: They aren't.

15 THE COURT: And you need to do that ASAP. You
16 can't just call an agent to say, well, I've summarized this,
17 and this is what I think -- I mean, that's -- under
18 Crawford, I don't think that that's permissible.

19 MR. RAHMANI: Your Honor, again, really this is a
20 third-party culpability defense. All I would elicit from
21 the agent was -- would be that the Defendant made these
22 phone calls to this person, Mr. Villa, who she is blaming
23 for loading the vehicle. These are the dates of the phone
24 calls, and this was the duration of the phone call.

25 THE COURT: All right. So you're talking about

1 the -- he would be testifying as a summary witness under
2 105?

3 MR. RAHMANI: Essentially, your Honor.

4 MR. GELLER: I don't have a problem --

5 THE COURT: So if it's just that without getting
6 into the substance --

7 MR. GELLER: If it's -- if it doesn't get into
8 the -- like there was a phone call made that was 30 minutes
9 long on such and such a date, a phone call that was 15
10 minutes long on such and such a date, I don't have a problem
11 with that.

12 THE COURT: Okay.

13 MR. GELLER: But if he asks what was said --

14 MR. RAHMANI: Your Honor, as long as I can
15 establish, one, that the phone call was made to Mr. Villa, I
16 wouldn't go into any further substance.

17 THE COURT: Okay.

18 MR. RAHMANI: And --

19 THE COURT: And then if you want to go into
20 substance or play a select portion, then you could find that
21 particulate one and play it as either a prior inconsistent
22 statement or an admission. So I'm not precluding you from
23 doing that, but you need to get the recordings here, and you
24 need to then dial into that number.

25 MR. RAHMANI: Certainly, your Honor.

1 And then one other just minor issue with Mr.
2 Tucker. I would like at least a stipulation to include that
3 these calls were properly recorded, the inmates know that
4 they're being recorded, and they weren't recorded illegally
5 or unlawfully.

6 MR. GELLER: I think she already testified. We
7 would stipulate, you know, that the --

8 THE COURT: Well, whatever -- so either -- the
9 Government is not required to accept a court stipulation.
10 I'm just concerned that typically we go to great lengths,
11 have the people dress out in regular clothes, not have any
12 reference to the fact that they're in custody.

13 And what struck the Court was when he was talking
14 about gangs. That's a whole other deal. And so I will have
15 the morning recess break, and we need to move this along.
16 So the parties can -- during the -- I'll give you 10
17 minutes. You can work out either a stipulation or continue
18 to ask your questions, knowing the Court's concerns.

19 Then with respect to the jury instructions, I gave
20 you a packet of them. Are there any additional ones?

21 MR. GELLER: No, your Honor.

22 MR. RAHMANI: No, your Honor.

23 THE COURT: All right. Thank you.

24 So it is now 10:25.

25 MR. GELLER: Just so the record is clear, I want

1 to make sure that there's an objection on the record to any
2 further testimony from this witness.

3 THE COURT: So what you can do is work out a
4 stipulation with counsel. And then you can keep your
5 objection. And then you may either accept the stipulation
6 or continue to ask questions. But he shouldn't be referring
7 to gangs. All right.

8 MR. GELLER: Thank you, your Honor.

9 MR. RAHMANI: Thank you, your Honor.

10 THE COURT: Thank you.

11 (Proceedings recessed briefly.)

12 THE COURT: Before we begin, have the parties
13 worked out -- we'll bring the Defendant out.

14 MR. GELLER: Yeah. I think we need to bring the
15 Defendant out.

16 THE COURT: Have the parties worked out a
17 stipulation?

18 MR. GELLER: Well, actually, maybe we should wait
19 until my client comes out so she can be party to what I want
20 to say.

21 (Pause.)

22 THE COURT: The Defendant is before the Court. Do
23 you want to put on your headphones. Good morning again.

24 Mr. Geller.

25 MR. GELLER: Thank you, your Honor.

1 During the recess, your Honor, I had a chance to
2 review the transcript that I provided the Court to look at.
3 So the Court saw how thick it was. But I've gone through it
4 numerous times previous to this morning, so I'm aware of
5 what's in it.

6 In my reviewing of the transcript, there are no
7 admissions. There are statements that she made to -- as she
8 testified on cross, to her employee, Mr. Villa, about
9 putting money on the books and about paying bills and things
10 of that nature, which aren't admissions.

11 And I saw nothing in the transcript that was a
12 prior inconsistent statement either with respect to the
13 testimony that was present this morning. And on that basis,
14 I think under Rule 403, that the prejudicial value of
15 playing these telephone calls or even describing what's in
16 the calls outweighs the probative value.

17 Additionally, if the Court allows the prosecutor
18 to go into the fact that one phone call was made on a
19 specific date and another phone call was made on another
20 specific date and they take place over a period of -- I
21 haven't gone through it exactly, but somewhere around five
22 weeks, I believe. Five or six weeks shortly after she was
23 first incarcerated at MCC and GEO (phonetic). And the Court
24 knows how people are moved from MCC and then later to GEO.

25 If the jury learns she's in one institution and

1 then she's transferred to another institution and phone
2 calls were recorded from MCC and then from GEO over a period
3 of six weeks, they're going to speculate, I believe, your
4 Honor, whether or not Ms. Trejo is in custody currently.

5 And the Court has already indicated that it would
6 be prejudicial to the Defense if the jury placed any
7 emphasis on the fact that she is or is not in custody at
8 this time or that she was in custody for a period of a week
9 or a month or two months, could make bail, couldn't make
10 bail. I don't think that that has anything to do with the
11 elements that are -- the elements of the offense that she is
12 alleged to have committed. So --

13 THE COURT: Well, that -- that we can take care of
14 by -- but what is the Government's response on whether or
15 not there's any admissions or prior inconsistent statements?

16 MR. RAHMANI: Your Honor, perhaps there's a
17 disconnect. The Government's position is this is
18 impeachment evidence. The Defendant testified first that
19 she didn't -- she was unable to contact Mr. Villa. And then
20 she testified that she didn't recall any of these phone
21 conversations.

22 So this is impeachment evidence. The Defendant
23 has testified -- as far as the later GEO phone calls and the
24 calls to other individuals that aren't Mr. Villa, we don't
25 intend to get into any of that. We intend to get into six

1 phone calls made in maybe in a one-week period from March
2 81th to March 25th.

3 THE COURT: But you can't play all of the phone
4 calls. No.

5 MR. RAHMANI: Your Honor, we're not going to play
6 any of the calls. We're not -- we're not going to get into
7 the substance.

8 THE COURT: All right.

9 MR. RAHMANI: I can --

10 THE COURT: So you're just saying, she said she
11 couldn't even contact this guy, and now she's talking to
12 another guy.

13 MR. RAHMANI: And now she's talking to Mr. Villa,
14 who is the crux of the third-party culpability.

15 THE COURT: All right. Thank you. So the Court
16 will permit you to do that.

17 MR. RAHMANI: And your Honor, would the Court like
18 me to lead the witness --

19 THE COURT: Yes.

20 MR. RAHMANI: -- through these questions?

21 THE COURT: Yes.

22 MR. GELLER: And then with respect to -- I don't
23 know the name of the witness who was on the stand when the
24 jury -- when we took a recess. I'd ask if we could enter
25 into a stipulation that this witness was unnecessary, and

1 the jury should disregard any --

2 THE COURT: No. No, the Court declines. Do you
3 want to do that stipulation?

4 MR. RAHMANI: No, your Honor.

5 THE COURT: No. I don't think -- well -- so --

6 MR. GELLER: So we'll just -- are we going to put
7 him back on the stand or just dismiss him?

8 MR. RAHMANI: Yes, your Honor. I can put Mr.
9 Tucker on the stand and go through it with him or I can --
10 if the Court prefers, I can go through it with the HSI
11 witness who listened to the phone calls.

12 THE COURT: No. You can --

13 MR. RAHMANI: Okay.

14 THE COURT: You may. I mean, there wasn't -- the
15 whole point of putting him on is that there was no
16 agreement. And so the only concern the Court has, when
17 we're starting to talk about gangs, that kind of goes over
18 the top.

19 MR. RAHMANI: Yes, your Honor. I certainly will
20 lead the witness through the relevant portions that we
21 discussed.

22 MR. GELLER: And the only other objection, I
23 think, is that we don't talk about specific dates as to when
24 these phone calls were made to give the jury the idea that
25 she was in custody for a lengthy period of time and may

1 still be in custody.

2 THE COURT: I think you can go into dates.

3 MR. RAHMANI: Your Honor, the Defendant was
4 arrested March 9th. This was shortly after her arrest. On
5 March 18th, she's calling the person who she's blaming.

6 THE COURT: Who she says that she cannot -- and
7 can't locate. So I think that's -- that's not -- it's not
8 like she's calling him a year later. So your objection on
9 that is overruled. You may continue to make objections in
10 front of the jury.

11 MR. GELLER: All right. Very well. Just so the
12 record is clear that we're making an objection both under
13 Rule 403 -- or under 403 on the grounds that I mentioned.

14 THE COURT: Thank you.

15 MR. GELLER: Thank you.

16 THE COURT: All right.

17 MR. RAHMANI: And your Honor, one other point.
18 This witness obviously doesn't speak Spanish, but I believe
19 he's comfortable if I lead him through the questions as to
20 when the phone calls were made, how long it was. And that
21 really the one issue is that it was to someone named Villa.

22 THE COURT: Yes. That's all right.

23 THE CLERK: Jury entering.

24 (Jury enters courtroom.)

25 THE COURT: Good morning and welcome back. I

1 apologize for our time. I had another matter that we had
2 tried to work around our morning -- what we intended to be
3 our morning recess, and then the lawyer that was in that was
4 in another court, so it -- and then so we were able to
5 resolve that matter. And so now we're back on your case,
6 and we're ready to continue.

7 We'll have the witness back on the stand.

8 We remind you you're still under oath.

9 BY MR. RAHMANI:

10 Q Mr. Tucker, the MCC records phone calls placed by
11 individuals who are detained there, correct?

12 A That's correct.

13 Q And before the call goes through, are these individuals
14 advised that their call is being recorded?

15 A Yes, they are.

16 Q And is it lawful for the MCC to record phone calls?

17 A Yes, it is.

18 Q And are you familiar with the phone calls placed by the
19 Defendant Laura Elena Trejo-Macias?

20 A Yes.

21 Q I'm going to ask you about some specific phone calls.
22 On March 18th, 2011 at approximately 9:13 a.m., did the
23 Defendant make a phone call?

24 A Yes.

25 Q And did the Defendant make a phone call to someone by

1 the name of Villa?

2 A Yes.

3 Q And did that phone call last approximately 16 minutes?

4 A That's correct.

5 Q Later that day on March 18th, 2011 at approximately
6 8:31 p.m., did the Defendant make another phone call?

7 A That's correct.

8 Q And did she call someone by the name of Villa?

9 A That's correct.

10 Q And did that phone call last approximately seven
11 minutes and 14 seconds?

12 A That's correct.

13 Q On March 23rd, 2011 at approximately 2:41 p.m., did the
14 Defendant make another phone call?

15 A Yes.

16 Q And did the Defendant call someone by the name of
17 Villa?

18 A Yes.

19 Q And did that phone call last approximately two minutes
20 and 45 seconds?

21 A Yes, it did.

22 Q On March 24th, 2011 at approximately 6:51 p.m., did the
23 Defendant make another phone call?

24 A Yes.

25 Q And did the Defendant call someone by the name of

1 Villa?

2 A Yes.

3 Q And did that phone call last approximately four minutes
4 and 46 seconds?

5 A Yes.

6 Q Later that same day on March 24th, 2011 at
7 approximately 9:09 p.m., did the Defendant make another
8 phone call?

9 A Yes.

10 Q And did the Defendant call someone by the name of
11 Villa?

12 A Yes.

13 Q And did that phone call last approximately three
14 minutes and 11 seconds?

15 A Yes.

16 Q On March 25th, 2011 at approximately 5:24 p.m., did the
17 Defendant make another phone call?

18 A Yes.

19 Q And did the Defendant call someone by the name of
20 Villa?

21 A Yes.

22 Q And did that phone call last approximately four minutes
23 and 47 seconds?

24 A That's correct.

25 Q The first call was on March 18th?

1 A Yes.

2 Q The last call was on March 25th?

3 A Yes.

4 Q And there were six calls during that one-week period?

5 A Yes.

6 MR. RAHMANI: Nothing further, your Honor.

7 THE COURT: Thank you.

8 Cross.

9 MR. GELLER: No, thank you, your Honor.

10 THE COURT: All right. You may step down. You're
11 excused.

12 THE CLERK: Sir, please raise your right hand.

13 ALFONSO LOGAN - PLAINTIFF'S WITNESS - SWORN

14 THE CLERK: Please take a seat.

15 Sir, please state your name and spell your first
16 and last name for the record.

17 THE WITNESS: Alfonso Logan, A-L-F-O-N-S-O,
18 L-O-G-A-N.

19 THE CLERK: Thank you.

20 MR. RAHMANI: Your Honor, may I approach with the
21 exhibit binder?

22 THE COURT: You may.

23 DIRECT EXAMINATION

24 BY MR. RAHMANI:

25 Q Agent Logan, good morning. How are you employed?

1 A I'm employed as a special agent with Homeland Security
2 Investigations.

3 Q And how long have you been employed by Homeland
4 Security Investigations?

5 A I was sworn in on January 28th, 2010.

6 Q Please briefly describe your duties as a special agent
7 with Homeland Security Investigations.

8 A Currently I'm assigned to a narcotics group in our Otay
9 Mesa office. I investigate narcotics-related cases, both of
10 which are importation of narcotics from Mexico into the
11 United States.

12 Q And were you on duty on March 9th, 2011?

13 A Yes, I was.

14 Q What was your assignment?

15 A That night or that day?

16 Q That morning.

17 A I was on duty, which means that we were expected to
18 respond to any narcotics seizures that were seized by the
19 Customs and Border Protection at any of three ports, Tecate,
20 Otay Mesa and San Ysidro.

21 Q And did you meet an individual named Laura Elena Trejo-
22 Macias that day?

23 A Yes, I did.

24 Q And do you see that person in the courtroom today?

25 A Yes, I do.

1 Q Would you please identify her by pointing to her and
2 describing an article of clothing she's wearing?

3 A She's sitting right over there, and she's wearing a
4 beige and pink jacket with a hearing device.

5 MR. RAHMANI: For the record, your Honor, the
6 Defendant?

7 THE COURT: Yes.

8 BY MR. RAHMANI:

9 Q And was the Defendant arrested that day for importation
10 of methamphetamine?

11 A Yes, she was.

12 Q And did you read her her Miranda rights?

13 A I did. Yes, I did.

14 Q And did you read them in English or in Spanish?

15 A I read them in Spanish.

16 Q And did the Defendant say she was more comfortable
17 speaking in Spanish?

18 A Yes, she did.

19 Q And did you read each of the rights on the -- listed on
20 the statement of rights form?

21 A I read them exactly as they read from the Miranda
22 rights form.

23 Q And did the Defendant agree to speak to you without an
24 attorney present?

25 A Yes, she did.

1 Q And did she also sign the waiver of rights form?

2 A Yes, she did.

3 Q And did you interview the Defendant?

4 A I interpreted the conversation between myself and
5 another agent in the room, yes.

6 Q And was that other agent Agent Roger Carr?

7 A Yes, he was.

8 Q And was that interview video-recorded?

9 A Yes, it was.

10 Q Did the Defendant admit to owning the Chevy Tahoe
11 that -- in which the methamphetamine was found?

12 A Yes, she did.

13 Q Did the Defendant tell you if anyone else drove that
14 Chevy Tahoe?

15 A She did name a few people that drove that Chevy Tahoe,
16 yes.

17 Q Who are the three people that she named that drove the
18 Chevy Tahoe?

19 A I believe one of them's name was Christian. I'm
20 actually foggy on the names. I know there were three
21 individuals. If I could refer to --

22 Q Would it refresh your recollection to review the
23 transcript of the interview?

24 A Yes, it would.

25 Q Please direct your attention to the document in that

1 binder that's been marked as Government's Exhibit 11-A for
2 identification only.

3 A Okay.

4 Q Turning your attention to page 97 or so. Let's turn to
5 page 88.

6 A I know she named -- 88?

7 Q Yes.

8 A Okay.

9 Q Does that refresh your recollection as to the
10 individuals that the Defendant identified as driving the
11 Chevy Tahoe?

12 A Yes, it does.

13 Q And who were those three individuals?

14 A She named David, Miguel. We asked who David was, and
15 she referred to him as David Ledesma.

16 Q Okay.

17 A She said Miguel. And we asked who Miguel was, and that
18 was Miguel Ricci. And then she said Christian. And we
19 asked his last name, and she said Christian Ledesma.

20 Q And did the Defendant say whether David Ledesma,
21 Christian Ledesma and Miguel Ricci -- did she say whether
22 they all drove the Chevy Tahoe?

23 A She said each one of them drove the Chevy Tahoe in the
24 eight days that she had owned it.

25 Q And did the Defendant also say whether David, Christian

1 and Miguel had access to the keys to the Chevy Tahoe?

2 A I believe she did.

3 Q And what was her response?

4 A I believe she said that they had access to the vehicle.

5 Q When did the Defendant say that David Ledesma last
6 drove the Chevy Tahoe?

7 A I'm going to have to refer to the notes. That's -- I
8 don't recall that specific --

9 Q I refer you to page 97 of the transcript.

10 A The question was asked, when was the last time David
11 drove it. And she responded, the day before yesterday and
12 again stated, the day before yesterday.

13 Q And the Defendant was arrested on March 9th?

14 A That's correct.

15 Q The day before yesterday, would that be March 7th,
16 2011?

17 A That's how I would interpret it, yes.

18 Q And did the Defendant also tell you when Miguel Ricci
19 last drove the Chevy Tahoe?

20 A That question was asked, and she responded, that was
21 the day before yesterday, because I sent them to pay, is
22 what she stated.

23 Q So that would also be Monday, March 7th, 2011?

24 A That's correct.

25 Q And did the Defendant tell you when Christian Ledesma

1 last drove the Chevy Tahoe?

2 A She said he took it on Saturday, but she -- Saturday.

3 Q Saturday. The Defendant was arrested on March 9th,
4 2011. Would Saturday be March 5th, 2011?

5 A I remember from her conversation that he only moved it.
6 He didn't drive it, according to her. Whether it was
7 Saturday -- I'm sure -- I assumed it would have been the
8 previous Saturday because she had it for eight days. So
9 that would have been just seven days prior.

10 But when she referred to Christian driving it, she -- I
11 remember her saying he just got it out of the way. He got
12 in it to get it out of the way and parked it.

13 Q If the Defendant was arrested on a Wednesday, would the
14 Saturday be a few days before her arrest?

15 A That would be the only Saturday that she had owned the
16 car. That would be the day that I would assume that he
17 would have driven it.

18 Q And when you were asking the Defendant -- you were
19 asking her about the Chevy Tahoe, correct?

20 A Yes.

21 Q Were you asking her about her other vehicles?

22 A No. But we did ask her about her other vehicles later
23 on in the interview, just to make sure that we were talking
24 about the same vehicle.

25 Q And did the Defendant ever tell you that someone by the

1 name of Alfredo Villa drove that Chevy Tahoe?

2 A I don't recall that name coming up during the entire
3 interview.

4 Q And did the Defendant ever tell you that she loaned the
5 vehicle to Alfredo Villa the night before she was arrested?

6 A No.

7 Q Did she tell you that someone by the name of Marco
8 Antonio Valeria worked for her?

9 A I never heard that name before today, before just now.

10 Q And did she tell you that Marco Antonio Valeria drove
11 the vehicle?

12 A No.

13 Q Did she tell you that someone by the name of Martin
14 Sanchez Pinoco worked for her?

15 A No.

16 Q And did she tell you that Martin Sanchez Pinoco drove
17 the Chevy Tahoe?

18 A No.

19 MR. RAHMANI: Nothing further at this time, your
20 Honor.

21 THE COURT: Cross.

22 CROSS EXAMINATION

23 BY MR. GELLER:

24 Q Mr. Logan.

25 A Yes.

1 Q You had your attention directed to page 99. Actually,
2 I think -- yeah, 99 of the transcript. There were questions
3 posed about Christian Ledesma, correct?

4 A I'm sorry. Yes.

5 Q And there was a discussion about him using -- using the
6 car and other people using cars.

7 A Correct.

8 Q You said she didn't talk about her other vehicles until
9 later in the interview.

10 A I believe so.

11 Q If you could turn the page to page 100, from 99 to 100.
12 Doesn't she explain to you that all of her employees don't
13 have cars, and she allows her employees to use her cars
14 whenever they want to?

15 A I believe so, yes.

16 Q So it was -- at the same time when you were discussing
17 who used the Tahoe that she discussed with you all of her
18 cars, that her employees use all of her cars; isn't that
19 true?

20 A Yes.

21 Q So it wasn't just the Tahoe that was talked about. It
22 was all four of her vehicles.

23 A All we asked were about the Tahoe. She might have
24 stated what other vehicles they drove, but when we were
25 talking to her, we were very specific that we were asking

1 who drove the Tahoe.

2 Q Right. But her answer were about her employees driving
3 all of her vehicles. You asked her about the Tahoe, but her
4 answers dealt with all of the vehicles, correct?

5 A I believe so.

6 Q So she didn't say in response to your question, these
7 people drove the Tahoe, and she didn't talk about the other
8 vehicles. She talked about all of the vehicles.

9 A Well, I can only assume -- what our specific questions
10 were, her responses were to those specific questions.

11 Q Right. But her response to those questions dealt
12 with -- she talked about all of her vehicles. You asked
13 about one, but she answered talking about all of them.

14 A And I apologize. I'd have to see where she made that
15 statement on 99 -- on page 100. Yeah, it was at this
16 portion where I actually specifically asked, how many other
17 cars do you have. And at that time, she referred to the
18 other cars she had.

19 Q Well, let's go back to page 99.

20 A Okay.

21 Q You asked about Christian, and she says that Christian
22 used a car on Saturday.

23 A He drove that car.

24 Q That car.

25 A That vehicle.

1 Q And then she goes on to explain in detail that all of
2 her employees have access to the keys to the cars, and
3 sometimes they use the various cars to go to the store for
4 their lunch, to buy things for their lunch, they use --

5 MR. RAHMANI: Objection, your Honor.

6 BY MR. GELLER:

7 Q -- the cars because they don't have cars --

8 MR. RAHMANI: Hearsay. Defense counsel is
9 testifying.

10 THE COURT: Sustained. Rephrase the question.

11 BY MR. GELLER:

12 Q Why don't I let you read to the jury --

13 A Okay.

14 Q -- what was said starting at --

15 MR. RAHMANI: Same objection, your Honor. Calls
16 for hearsay.

17 THE COURT: Let him finish the question. Then you
18 can impose your objection.

19 BY MR. GELLER:

20 Q Why don't you read her answers to the question starting
21 at -- you asked, and they have access to the keys to the
22 car. And what does she say? Down at the bottom of page 99.

23 THE COURT: Now, is there an objection or not?

24 MR. RAHMANI: Yes, your Honor. Hearsay.

25 THE COURT: Sustained.

1 BY MR. GELLER:

2 Q At any rate, she talked about -- in subsequent
3 discussions between you and her in answering questions, she
4 talked about all the cars, correct?

5 A Yes.

6 Q Now, you questioned her at the port of entry shortly
7 after she was arrested, correct?

8 A That is correct.

9 Q Approximately one hour from the time she was initially
10 stopped?

11 A I believe so.

12 Q You weren't completely honest with her, were you? Or
13 the agents weren't completely -- Agent Carr. And you were
14 translating for Agent Carr, but he wasn't completely honest
15 with Mrs. Trejo, was he?

16 A I have no idea what you would be referring to.

17 Q For example, she was told that you weren't going to
18 prepare a report; isn't that true?

19 A I'm sorry. I don't recall that. That I wasn't going
20 to prepare a report or that he wasn't going to prepare a
21 report?

22 Q That the Government or the agents weren't going to
23 prepare a written report. That was one of the statements
24 that was initially made. Do you recall that statement?

25 A No. Could you refresh my memory, please?

1 Q I'm looking for that spot here.

2 A It seems all we do is prepare reports.

3 Q Well, maybe I can come back to that later and change
4 subjects slightly.

5 You asked her when she purchased the Tahoe, correct?

6 A Yes.

7 Q She honestly told you when she purchased the Tahoe?

8 MR. RAHMANI: Objection, your Honor. Calls for
9 speculation.

10 THE COURT: Sustained.

11 BY MR. GELLER:

12 Q While you were questioning her, she received some
13 telephone calls, correct?

14 A I don't recall. I didn't have her phone on me.

15 Q If you look at the transcript -- did you have a chance
16 to review the transcript where it said the phone was ringing
17 and she was asked who the telephone calls were from?

18 A Did I ask that question?

19 Q Someone did, whether you did or Agent Carr did. But
20 you don't recall that either?

21 A I remember -- I remember the phone ringing sometimes
22 throughout the interview, yes.

23 Q And there was a discussion about who the individual was
24 that was calling?

25 A Okay, yes.

1 Q And did she tell you who the person was who was
2 calling?

3 A I can't recall who she said was calling.

4 Q Would it refresh your memory if you looked at the --

5 A Yes, it would.

6 Q -- transcript?

7 MR. RAHMANI: Objection, your Honor. Calls for
8 hearsay.

9 THE COURT: Sustained.

10 BY MR. GELLER:

11 Q Are you aware of an individual named Alfredo Villa?

12 A No.

13 Q You've never heard of him before?

14 A No.

15 MR. GELLER: NO further questions.

16 MR. RAHMANI: Briefly, your Honor.

17 REDIRECT EXAMINATION

18 BY MR. RAHMANI:

19 Q Agent Logan, towards the end of the interview, the
20 Defendant told you that three of her employees drive the
21 vehicle, correct?

22 A Correct.

23 Q And this is the Chevy Tahoe?

24 A Yes.

25 Q Did she give any different statements earlier in the

1 interview?

2 A Yes.

3 Q What did she tell you about who drives the Chevy Tahoe?

4 A Earlier in the interview, we specifically asked, who
5 drives the vehicle. And then she said, I do. And we asked,
6 are you the only one that drives this vehicle? And she
7 says, yeah, just me.

8 Q And later on she told you that three of her employees
9 also drive the vehicle?

10 A Yeah. Later on in the interview, she did say it was --
11 and then she -- that's when she gave us the three names.

12 Q So she changed her story?

13 A Yes.

14 MR. RAHMANI: Nothing further, your Honor.

15 THE COURT: Anything else?

16 MR. GELLER: One moment, please, your Honor.

17 No further questions, your Honor.

18 THE COURT: Thank you. You're excused.

19 MR. RAHMANI: The Government has no more rebuttal.

20 THE COURT: You rest?

21 MR. RAHMANI: Thank you. Yes.

22 THE COURT: Any sur-rebuttal?

23 MR. GELLER: No, your Honor.

24 THE COURT: All right. So now the evidence is
25 finished. The lawyers may now argue the case to you. You

1 may proceed.

2 MR. RAHMANI: If I could have the microphone, your
3 Honor.

4 THE COURT: And what we'll do is we'll go through
5 lunch, and then we'll be done. So then the case can be
6 submitted to you.

7 MR. RAHMANI: This Defendant smuggled almost nine
8 pounds of pure methamphetamine into our country valued at
9 over \$130,000. She knew full well she was smuggling drugs.
10 She even told David and Christian Ledesma that she was a
11 drug smuggler.

12 Ladies and gentlemen, thank you once again for
13 your time and your service as jurors in this case. When I
14 first spoke to you yesterday, I told you that the Defendant
15 rolled the dice. And sometimes when you roll the dice, you
16 get caught. Sometimes you run into Nina, the drug-sniffing
17 dog.

18 Officer Hersey told you that he and Nina were
19 walking through the vehicle pre-primary lane at the San
20 Ysidro port of entry on March 9th, 2011. Nina smelled drugs
21 in the engine compartment of the Chevy Tahoe that the
22 Defendant was driving. The Defendant was the driver, the
23 owner, the only person in that Tahoe. And when Officer
24 Hersey and Nina started circling the vehicle, the Defendant
25 held a newspaper up to her face to avoid looking at Officer

1 Hersey or Nina.

2 Officer Hersey called Officer Navarro over, and
3 Officer Navarro asked the Defendant to open the hood of the
4 vehicle. When officers started looking in the engine
5 compartment of the vehicle, the Defendant became nervous.
6 She knew the drugs were in there.

7 Officer Navarro asked the Defendant basic
8 questions. Where are you going? Where are you coming from?
9 The Defendant crosses, by her own admission, sometimes four
10 times a week. But she knew that the officers were close.
11 So when she answers, she's so nervous, her voice is
12 trembling.

13 When Officers noticed tampering around the
14 radiator of the vehicle, they asked the Defendant to turn
15 off the vehicle and hand over the key. And when the
16 Defendant does, her hand is shaking, she is so nervous.
17 They were close to finding the drugs, and the Defendant knew
18 it.

19 In the secondary inspection lot, Officer Woodring
20 took apart the two parts of the radiator. And there he
21 found the nine packages of methamphetamine. After the
22 cellophane packaging was removed, they weighed about one
23 pound each. And the Defendant stipulated to all of this.
24 And this will all be in the written stipulation that you'll
25 have with you in the jury room.

1 You also heard from Special Agent Andy Flood.
2 He's an expert on drug trafficking and has been
3 investigating drug smugglers for about 15 years. He talked
4 to you about the wholesale and retail values of
5 methamphetamine in the United States and Mexico and how the
6 methamphetamine doubles in price when it crosses the border.
7 Because of the risk of getting caught and because of the
8 demand in the United States. And he told you that that
9 seized methamphetamine was worth \$133,000. And that was a
10 conservative estimate.

11 You also heard from Russ Butler. He's an
12 automotive expert and has been doing it for 35 years. And
13 he told you how that compartment in the Defendant's vehicle
14 was built. There was a special heavy-duty radiator, more
15 than twice as thick as the one normally found in that Chevy
16 Tahoe. They needed that thicker radiator because they
17 needed room for the drugs.

18 They cut a compartment out of that radiator.
19 Eighty-six-percent of that radiator was filled with drugs.
20 All that was left was that outer shell. This took several
21 hours to do, and it took several hours to put that modified
22 radiator in the Defendant's vehicle.

23 That compartment was then loaded with drugs, and
24 the Defendant drove those drugs into the United States. And
25 that's all that car could be used for, to cross drugs. Mr.

1 Butler told you that so much of that radiator was blocked,
2 the cooling capacity of that radiator was so limited, that
3 the car would really have to rely on the cooling fluid, and
4 that if you didn't put the vehicle in neutral or you didn't
5 turn the vehicle off and on or you didn't put that vehicle
6 in park, that car could only go about five miles.

7 But that's all this Defendant needed. It's only a
8 few miles to cross the border. And that's what the car was
9 meant to do. It was a drug car. And because it was a drug
10 car, there were very few personal items in there. And the
11 Defendant didn't use the car for anything else. She didn't
12 use the car to run errands in Tijuana or drive around San
13 Diego because if she did, the car would have overheated a
14 long time before. The Defendant was smart. She bought the
15 car, had it modified, and was using it to cross drugs.

16 You also heard from David Ledesma, who told you
17 that he worked for the Defendant. He painted her house for
18 a few months. And the Defendant told him that she smuggled
19 illegal substances into the United States. The Defendant
20 even tried to recruit him to cross these substances as well.
21 And you heard from Christian Ledesma. He told you that the
22 Defendant admitted to smuggling drugs.

23 Now, as Judge Huff will tell you, in order to find
24 the Defendant guilty, the United States must prove certain
25 things to you. The law calls these the elements of the

1 crime. So let's go over them real briefly.

2 I apologize. It's not very clear. But the first
3 element -- and you'll have these instructions with you in
4 the jury room. The first element, if you can read it, is
5 the Defendant knowingly brought methamphetamine into the
6 United States from a place outside the United States. Well,
7 this isn't in dispute. The Defendant knowingly drove that
8 vehicle into the United States. This has been stipulated
9 to. There's no doubt. The San Ysidro port of entry, you
10 heard, even though there's Customs officers there, once you
11 reach the port of entry, you are in the United States. You
12 are not in the Republic of Mexico.

13 The second element. The Defendant knew the
14 substance she was bringing into the United States was
15 methamphetamine or some other prohibited drug. And it
16 continues, it does not matter if the Defendant knew the
17 substance was methamphetamine. It is sufficient that the
18 Defendant knew it was some kind of prohibited drug.

19 Well, again, the Defendant's vehicle contained
20 four kilograms of methamphetamine. And she knew she was
21 bringing those drugs into the United States. After all,
22 it's the Defendant's car. She has a hidden compartment in
23 that car. And you can only access that compartment by
24 opening the hood release from the inside.

25 The Defense is probably going to stand up here and

1 is probably going to talk to you about Alfredo Villa. Who
2 knows what Mr. Villa's involvement in this case is. But it
3 doesn't make this Defendant any less guilty of importation
4 of methamphetamine.

5 The United States is not arguing that the
6 Defendant cooked the methamphetamine in a lab in Mexico.
7 The United States isn't arguing that the Defendant was
8 responsible for processing that into crystal methamphetamine
9 or that the Defendant transported that methamphetamine to
10 Tijuana or that the Defendant packaged the methamphetamine
11 using the cellophane wrap or that the Defendant created the
12 compartment or that the Defendant loaded the drugs in the
13 compartment or that the Defendant would unload the drugs in
14 the United States or that the Defendant would sell those
15 drugs on the streets of San Diego.

16 The Defendant was a driver. Special Agent Flood
17 told you, her role was to drive the drugs from Point A to
18 Point B. That's why she's charged with importation of
19 methamphetamine. She's not charged with any other offense.
20 She's not charged with distribution of methamphetamine.
21 Those aren't the allegations in this case.

22 And as Agent Flood told you, in his experience,
23 drivers normally don't build the compartments. And drivers
24 normally don't place the drugs inside. And drivers normally
25 don't remove the drugs.

1 There are a lot of people involved in the drug
2 trafficking business. This Defendant is just one of them,
3 but she is responsible for her part, and she is guilty. The
4 involvement of the other folks, that's a question for
5 another case and another jury.

6 Now, when you go back to the jury deliberation
7 room, you're also going to have this verdict form. And I
8 apologize for the blurriness once again.

9 THE COURT: You can't dial in the --

10 MR. RAHMANI: Your Honor, if I zoom in --

11 THE COURT: I thought that you could -- I don't
12 think it's that. I think it's the clarity. I don't think
13 you're doing it right.

14 MR. RAHMANI: Your Honor, I apologize. This is
15 the best I've got.

16 Well, why don't I read it to you. You're going to
17 have hard copies of this in the jury deliberation room. But
18 there's two questions on this verdict form. The first
19 question is whether you find the Defendant guilty of
20 importation of methamphetamine as charged in the indictment.

21 As the Government has shown to you, the Defendant
22 knowingly brought methamphetamine into the United States,
23 and she knew that some prohibited drug was in that vehicle.
24 So I ask you to write guilty in this first line.

25 The second question is, if you find the Defendant

1 guilty, do you further find that the net weight of the
2 methamphetamine that the Defendant imported to be 500 grams
3 or more of a mixture and substance containing a detectable
4 amount of methamphetamine. So it's the weight of the drug.

5 Again, the Defendant has stipulated that 4.02
6 kilograms of methamphetamine were in her vehicle. You heard
7 Officer Woodring testify that he weighed the drugs. With
8 the packaging, it was 4.4 kilograms. I know some of us
9 haven't used the metric system in a while, but 500 grams,
10 that's one half of one kilogram.

11 We have four kilograms in this case. So that is
12 certainly more than the threshold of five kilograms. And I
13 ask you to check the box for yes for Question Number 2 in
14 the verdict form.

15 The Defendant knew exactly what she was doing on
16 the morning of March 9th and chose to do it anyway. I ask
17 you to return a guilty verdict.

18 THE COURT: Thank you. You want to pass the mic.

19 MR. GELLER: May it please the Court, Mr.
20 Prosecutor, ladies and gentlemen of the jury. This is the
21 only opportunity that I'll have as Mrs. Trejo's lawyer, as
22 the Defense attorney, to address you. When I sit down, when
23 I conclude my remarks, Mr. Rahmani will have another chance
24 to argue to you.

25 There's a reason for this. The reason is is that

1 the Government has the burden of proof. And the Government
2 has to prove all of the elements of this case to you beyond
3 a reasonable doubt. The Defense, on the other hand, Mrs.
4 Trejo and I, the Defense team, didn't have to put on any
5 evidence. And in any criminal case, the defense never has
6 to put on any evidence. The defense never has to call any
7 witnesses. The defense doesn't even have to raise a
8 reasonable doubt.

9 The Government, on the other hand, has to prove
10 every element beyond a reasonable doubt. So in other words,
11 if we didn't call any witnesses, if Mrs. Trejo didn't
12 testify, if we didn't have the DEA experts, if we didn't
13 cross-examine the witnesses that the Government put on, if
14 you said, gee, there's no fingerprint evidence, I can't be
15 sure beyond a reasonable doubt that the Defendant is not
16 guilty, you would have to -- the law requires you to render
17 a verdict of not guilty, even though we don't put on any
18 evidence in that regard.

19 So when we sit -- when I sit down, Mr. Rahmani
20 gets another chance to argue because that burden of proof is
21 so great.

22 It should be clear to you that Mrs. Trejo didn't
23 know that there was methamphetamine in her radiator. We did
24 stipulate or agree that the amount of methamphetamine that
25 was later found in her car, although she didn't know it when

1 she crossed the border, weighed a certain amount.

2 And the reason we did that is that there was
3 testimony in the form of pictures showing the weight of the
4 drugs when it was put on the scale. The Defense saw that
5 quite some time ago. And we're not disputing that the
6 methamphetamine didn't weigh as much as the agents stated it
7 weighed based upon the fact they weighed it.

8 Mrs. Trejo was unaware of that. Mrs. Trejo never
9 saw the methamphetamine. Mrs. Trejo bought the car, but she
10 didn't have the radiator modified. She had no knowledge
11 that the radiator was modified.

12 You heard -- and she didn't have to testify
13 either. Every defendant enjoys the Fifth Amendment right
14 not to testify, not to be called as a witness and not to be
15 subjected to cross examination. On the other hand, Mrs.
16 Trejo decided she wanted to tell you what really happened.
17 She was honest with you. She told you she purchased this
18 vehicle at the beginning of March, March 2nd of 2011, and it
19 was to replace another vehicle that wasn't working, that
20 this was a vehicle that she purchased for her business, that
21 she drove it. She had other people in -- that worked for
22 her drive it.

23 You saw the fact that she has a successful
24 business. You saw a business card -- one business card of
25 one her employees. She told you they all have business

1 cards. She told you they all have access to her cars. She
2 actually was honest with Agent Carr when she was questioned
3 following her arrest, and she talked about the fact that
4 three people drove the Tahoe, but all of the employees had
5 access to all of her cars, and they routinely drove all of
6 her cars. They had keys to her house and they had keys to
7 her office.

8 You saw where she keeps the keys, in a drawer in
9 the desk. You saw she has an office. You saw the office
10 looked clean. And you might use your common sense that if
11 there are desks and an office looks like that, most people
12 that have an office that looks like that have a car that
13 looks like that. They don't have a car that has wrappers on
14 the floor and all kinds of personal effects that many people
15 do when they go to college. They live out of their car.

16 She doesn't do that. She has a nice house. She
17 has a successful business. She didn't need to be involved
18 in drug smuggling. She has no prior record. She has --

19 MR. RAHMANI: Objection, your Honor.

20 THE COURT: Overruled.

21 MR. GELLER: And she had no reason to do this.
22 She had a very successful business. She employed people.
23 She had four cars.

24 So what happened? You heard the evidence
25 yourself. She purchased this car on March 2nd. She allowed

1 her employees to drive this car. She doesn't remember 11
2 and a half months ago who drove the car specifically on any
3 given day, but she does recall that one of her employees
4 drove it -- or two -- three of her employees drove it prior
5 to the time she was arrested.

6 And I think that that helps raise a reasonable
7 doubt because it signifies that three people had access to
8 this car, and one of the people she's now realized probably
9 was the individual that borrowed the car, had it modified.
10 She was going to meet him later, and he could have unloaded
11 the car.

12 You heard uncontroverted testimony that on March
13 8th, she loaned the car to Alfredo Villa. And as the
14 prosecutor told you, when she put her head on the pillow,
15 the car was still gone. So he had that car for quite some
16 time. Certainly enough time to modify the radiator, replace
17 the radiator.

18 The Government's expert said it would take two and
19 a half, three hours. And in response to the prosecutor's
20 question, it was clear that Villa had the car for more than
21 three hours. You also learned that the vehicle -- that the
22 methamphetamine could have been removed from the radiator in
23 as little as a half hour. And she had plans to meet Villa
24 on March 9th so he could help her load the car and put
25 things into the car that she was going to take to the Baja

1 500.

2 And at that time, he could have easily said that
3 he wanted to borrow the car and unload the car. And she let
4 him drive the car in the past. She even told you honestly
5 that he indicated he wanted to buy some goods too. And now
6 she has figured out that that's how the vehicle was going to
7 be unloaded.

8 Mrs. Trejo has never seen methamphetamine. She's
9 never used drugs. She's never been involved in any type of
10 illegal activity. There's been no evidence to show how she
11 became involved because she didn't become involved in this.
12 She had no idea that Villa was involved in drugs until she
13 figured out that he had disappeared after she called him.

14 Now, she did place several calls to him from the
15 jail. And you heard about them. And the reason she placed
16 these calls is she trusted this employee. And she asked
17 him, if necessary, if he could sell the car because she
18 needed money on her books so she could -- while she was in
19 custody, immediately following her arrest, she could buy
20 toiletries, she could make phone calls. She was desperate,
21 as she told you herself. So that's the reason she called
22 him.

23 She lost contact with him after that. There's no
24 evidence at all that after the first 10 days of her
25 incarceration more or less that she continued to have some

1 kind of dialogue with this individual Villa.

2 When she crossed the border, the Government makes
3 a big deal out of the fact that she was nervous. She
4 crosses the border all the time. Well, first of all, as she
5 told you, she brings -- she always buys the newspaper when
6 she's in line because she's aware of the lengthy wait. And
7 she bought the newspapers always, and she was reading the
8 newspaper.

9 Another key factor that the prosecution places a
10 great deal of emphasis on is the fact that this vehicle, the
11 way it was modified according to their expert Butler, should
12 have overheated, that it couldn't be driven more than five
13 miles. But it didn't overheat.

14 There were three Government agents that testified
15 that they inspected the vehicle immediately after she drove
16 it across the border on the 9th of March of last year, and
17 there was no evidence whatsoever that that vehicle
18 overheated, that the vehicle didn't drive properly. Butler,
19 on the other hand, didn't drive the vehicle and didn't even
20 inspect the vehicle until four months after Mrs. Trejo was
21 arrested.

22 You also learned that there was no direct evidence
23 found in the car that she had knowledge of the
24 methamphetamine that someone else had put into the car.
25 There was no wrappers in the car that confirmed

1 methamphetamine. There was nothing -- there was nothing in
2 the vehicle at all, no personal effects. So rather than
3 talk about what could have been in the car, there was
4 nothing.

5 No fingerprints were taken. Now, one of the
6 agents testified that they don't normally take fingerprints.
7 Remember, the burden of proof is proof beyond a reasonable
8 doubt. Fingerprints would be proof beyond a reasonable
9 doubt.

10 DNA evidence would be proof beyond a reasonable
11 doubt. You would say, I'm certain. You know, DNA is real
12 real scientific and, you know, you hear about DNA evidence,
13 you'd be morally certain if there was DNA evidence.

14 With fingerprints, everyone is fingerprinted. The
15 agent said so himself. It would have been very easy to lift
16 fingerprints from the hood of the vehicle, from the
17 radiator, from the packages. This wasn't done. I'd submit
18 these factors alone could raise and should raise a
19 reasonable doubt in your mind.

20 What is reasonable doubt? Reasonable doubt is
21 when you say I can't be sure because. Everything is
22 susceptible to some doubt, but if you say, I can't be sure
23 because, that's a doubt that's based on a reason. That's
24 what it's all about. If you say, I can't be sure because
25 there were no fingerprints, that's a reason for a doubt.

1 That's a reasonable doubt. I can't be sure because there
2 was no DNA evidence.

3 You heard Efren Lapuz talk about things that he
4 thought were important as a Government agent, as a DEA
5 agent. Now, he was a drug agent as opposed to -- today they
6 have Custom Border Protect. But DEA dealt only with drugs
7 back when he was a Government agent. And he developed a
8 whole bunch of things that he thought were important like
9 telephone calls that were made between a known drug dealer
10 and a defendant or wiretaps or prior associations with known
11 drug dealers.

12 There was no evidence of any of that. And he
13 found that those things were significant. Well, there are
14 definitely reasons for a doubt. There are definitely
15 reasons for a doubt. When you go into the jury room, you
16 have to go through all of the evidence and say, you know, I
17 have no doubt that I can think of why Mrs. Trejo is guilty.
18 You have to say, there aren't any reasons that I can place
19 my finger on to show that she's not guilty.

20 The Government has to prove that she actually knew
21 there was methamphetamine or some other prohibited drug in
22 that vehicle. She doesn't have to know it's
23 methamphetamine. It could be some other drug. But she has
24 to know that. And if you have a reason to doubt her
25 knowledge that there was some drug in the car, the law

1 requires you to find her not guilty.

2 And I think if you -- if you remember all the
3 evidence, you can look at your notes, view the exhibits,
4 you'll come up with a lot of reasons why you can't be
5 certain that she knew that there was methamphetamine in that
6 radiator when she crossed the border on March 9th.

7 Now, if she figured it out later that Villa duped
8 her, she's still not guilty. Hindsight isn't the test. On
9 March 9th, when she crossed the border, you have to find
10 beyond a reasonable doubt that she knew there was
11 methamphetamine found in that -- that there was
12 methamphetamine or another drug somewhere in that vehicle.
13 And I'd submit you should have strong doubts that she knew.
14 Thank you very much.

15 THE COURT: Thank you.

16 MR. RAHMANI: Ladies and gentlemen, this case
17 isn't about why the agents didn't fingerprint the drugs or
18 the compartment or why they didn't send the packages for DNA
19 testing. Agent Flood told you that it is standard practice
20 in hundreds of investigations not to fingerprint the drugs,
21 not to send them for DNA testing. Because in his years of
22 experience, drivers do not load the drugs themselves. They
23 are paid to drive. But that doesn't change the fact that
24 the Defendant knew there were drugs in that compartment.
25 She even bragged to David and Christian Ledesma that she was

1 a drug smuggler, and that's how she made her money.

2 The Defense also told you that the Defendant had
3 never been involved in criminal activity. Well, that's not
4 the testimony. The testimony was that the Defendant has no
5 criminal history in the United States. That's irrelevant.
6 She lives in Mexico. That's like me telling you Agent Carr
7 has no criminal history in Mexico.

8 The Defense -- Mr. Geller also talked to you a lot
9 about reasonable doubt, and he gave you his definition of
10 reasonable doubt. He told you that reasonable doubt is, I
11 can't be sure because. That was the definition he gave you.
12 But that's not the definition of reasonable doubt that Judge
13 Huff is going to give you.

14 I'm going to read it to you. A reasonable doubt
15 is a doubt based upon reason and common sense and not based
16 purely upon speculation. You will have this jury
17 instruction with you. That's the legal definition of
18 reasonable doubt. So there's three very important
19 principles there. Reason, common sense and not based purely
20 on speculation.

21 That's the framework that you should take when you
22 go back into that jury deliberation room. There's nothing
23 magical about the concept of reasonable doubt. It's used
24 every day in every state in every courtroom in this country.
25 All it requires is for you to apply your reason, your common

1 sense to the facts of this case and not purely speculate.

2 So don't get sidetracked about Mr. Geller's
3 definition of reasonable doubt. You should use the
4 definition given to you by the Court.

5 Now, Mr. Geller also told you that there was no
6 direct evidence that the Defendant knew there was drugs in
7 the vehicle. I just want to talk to you a bit about direct
8 and circumstantial evidence. Well, there is direct evidence
9 in this case. The Defendant told David Ledesma that she
10 smuggles illegal substances, and she told Christian Ledesma
11 that she smuggles drugs. That's direct evidence of the
12 Defendant's guilt.

13 But we also have circumstantial evidence in this
14 case. And the law allows you to consider both equally.
15 Here's an example. A few nights ago, I woke up in the
16 middle of the night at 3:00 a.m. My baby daughter was
17 crying. I go to her room, and she is sitting in her crib.
18 Her diaper is wet, and the crib mattress is wet.

19 I knew what had happened there. If I actually saw
20 her go to the bathroom, that would be direct evidence that
21 my daughter had an accident. But that's circumstantial
22 evidence. That's good enough. I don't have to actually see
23 her go to the bathroom in the middle of the night.

24 Now, what does that have to do with any of -- what
25 does any of that have to do with this case aside from you

1 knowing I didn't get much sleep a couple of nights ago? I
2 can't take this Defendant's head, crack it open and put her
3 brain on the table and tell you, you know what, ladies and
4 gentlemen? This part of her brain, this is her short-term
5 memory. And here's her long-term memory. That proves that
6 she knew. I can't do that.

7 Just like I don't know what's going on in a baby's
8 diaper in the middle of the night, I don't know and Customs
9 agents don't know what's going on down in Mexico. We can
10 only piece the pieces of the puzzle together after the fact.

11 In my daughter's case, it's her crib. She's the
12 only one sleeping there. The only reasonable conclusion is
13 that she had an accident. Sure, is it possible that our dog
14 opened the door, jumped in the crib, went to the bathroom in
15 the crib, jumped back out, closed the door and framed my
16 baby daughter? Sure. Anything is possible. Mr. Lapuz told
17 you anything is possible. But is that reasonable? Is that
18 a conclusion that makes sense or is that one that's based
19 purely on speculation?

20 Now, the Defense wants you to think that Alfredo
21 Villa set the Defendant up. So let's look at the two
22 possibilities. Here's the Defense possibility. First, Mr.
23 Villa would have to access the Defendant's car. He would
24 have to build a compartment. He would have to place that
25 compartment in the car. He would have to load it with

1 \$133,000 worth of methamphetamine, and then he would have to
2 give the car back to the Defendant, who would cross it into
3 the United States.

4 And to set her up, he would have to make
5 arrangements to help her with camping supplies. But somehow
6 while they're buying supplies together, Mr. Villa would have
7 to sneak away from the Defendant, take her car somewhere,
8 unload the drugs, leave her stranded at K-Mart.

9 And to get the car, he would have to either break
10 into it or have an extra key. Because you can only take
11 the -- open the hood from the inside. And you would have to
12 open the radiator compartment, take the drugs out of the
13 compartment. And remember, folks, she was arrested -- she
14 came to the port of entry at about 10:50 a.m., all of this
15 in broad daylight at a mall parking lot, without the
16 Defendant noticing, without anyone noticing that this is
17 going on.

18 And there's more. This wasn't just any car. This
19 was a special car. This was a car that would potentially
20 overheat. Now, the Defense is right, there's no evidence
21 that the car had overheated because the Defendant knew how
22 to drive it. She knew that that radiator had limited
23 cooling capacity.

24 So if you believe the Defense theory, what else
25 would have had to happen? The Defendant would have had to

1 drive not more than five miles. She wouldn't be able to go
2 on another errand, make a stop, drive further north.
3 Because what would happen? The car may overheat. The
4 Defendant may get stranded on the side of the road. What if
5 a good Samaritan stopped by? What if she called Triple A, a
6 tow truck, or worse of all a police officer stopping to help
7 her out.

8 They could have gone to all this trouble to set
9 the Defendant up, according to the Defendants, or they could
10 have simply just paid her. Pay her a thousand dollars,
11 \$2,000 to cross the drugs into the United States to a
12 predetermined location, tell her how that vehicle works,
13 make sure she doesn't drive any farther.

14 We're talking about \$133,000 worth of
15 methamphetamine. Wouldn't it make sense to pay someone some
16 money to ensure that that valuable product gets to where it
17 needs to go? Which would be safer if you're a drug
18 trafficker? Which makes sense?

19 Now let's go through some of the other reasons
20 that the Defendant knew. We already talked about how it's
21 her car, she's the driver, she's the only one in there. It
22 has a secret compartment. We did mention that there's just
23 the one key. There's no personal effects. Because again,
24 the Defendant knows it's her drug car. No reason to have
25 snacks and CDs in her drug car that you're only going to

1 drive a few miles, and someone else is going to take it and
2 load the drugs.

3 And again, she's sitting on \$133,000 worth of
4 methamphetamine. Who has woken up one day, gone to their
5 garage and found \$133,000 worth of drugs in their car? Does
6 anyone know anyone who has? It doesn't make sense.

7 And when she's talking to the officers, she's so
8 nervous, her voice is trembling. Her hands are shaking.
9 And more than that, that's only circumstantial evidence.
10 The direct evidence is, others knew as well. David and
11 Christian Ledesma, she told them that she's a drug smuggler.
12 She tried to recruit David to do the same.

13 Now, Mr. Geller told you that Ms. Trejo, the
14 Defendant, was honest on that witness stand. You shouldn't
15 believe anything that she told you. She's the only witness
16 who had a personal stake in this case, the only witness who
17 has every incentive to lie to protect herself. And that's
18 exactly what she did.

19 Let's talk about who drove the vehicle. When the
20 Defendant was first arrested, she told Agent Logan that no
21 one else drove the vehicle. Then later in the interview,
22 her story changed. She said, three of my employees drive
23 the vehicle, David Ledesma, Christian Ledesma, Miguel Ricci.
24 That's it.

25 But what happened? David and Christian Ledesma

1 show up to testify. They tell you that they've never driven
2 that vehicle. So what does the Defendant have to do? She
3 has to change her story once again. Mr. Villa never
4 mentioned to any of the officers, Officer Hersey, Officer
5 Navarro, Officer Woodring, Agent Carr, Agent Logan. Every
6 one of the agents and officers that the Defendant talked to
7 that day, she never mentioned Mr. Villa and the fact that he
8 had borrowed the vehicle the night before and that he had
9 driven the vehicle.

10 She came up with that story because Christian and
11 David came to testify. And even then, she changed her story
12 on the witness stand. First she said, myself and Mr. Villa,
13 we're the only two people that have ever driven the car. I
14 held up two fingers. She said yes, absolutely. Only two.
15 Then she said, no, no, no, no, David drives the car as well.
16 Her story keeps changing because she is not being honest
17 with you.

18 So the Defendant had to come up with someone to
19 blame. So she blamed her evil employee, Alfredo Villa. But
20 we don't know a lot about Mr. Villa. The Defendant herself
21 doesn't know a whole lot about Mr. Villa. But what do we
22 know? We know that the Defendant herself called Mr. Villa
23 six times shortly after she's arrested. And when she calls,
24 she doesn't say, Alfredo, what did you do with --

25 MR. GELLER: Objection, your Honor. There's been

1 no testify as to what was said.

2 THE COURT: Overruled. This is argument.

3 MR. RAHMANI: She doesn't say, Alfredo, what did
4 you do with my car the night before? You had it all night.
5 I drove it today. There were drugs in there. She didn't
6 tell him that. She didn't say, I need you to explain to me
7 what happened here. She didn't say that. Instead she said,
8 send me money, please. Please pay my bills.

9 Does that sound like the testimony of someone who
10 thinks that Villa set her up or is she just trying to come
11 up with someone because there's no one else left to blame?

12 It sounds like the Defendant is someone that knew
13 full well what she was doing. She's grasping at straws,
14 trying to find someone else to blame. The Defendant and Mr.
15 Villa may be working together, but it's not the construction
16 business. They're in the drug trafficking business.

17 There's only one verdict that's reasonable, one
18 verdict that makes sense and one verdict that's consistent
19 with the evidence, and that's a verdict of guilty. Thank
20 you.

21 THE COURT: Thank you. You want to pass the mic
22 back.

23 Members of the jury, now that you've heard all the
24 evidence, it is my duty to instruct you on the law that
25 applies to this case. A copy of these instructions will be

1 available in the jury room for you to consult.

2 It is your duty to weigh and to evaluate all the
3 evidence received in the case, and in that process to decide
4 the facts. It is also your duty to apply the law as I give
5 it to you to the facts as you find them, whether you agree
6 with the law or not.

7 You must decide the case solely on the evidence
8 and on the law and must not be influenced by any personal
9 likes or dislikes, opinions, prejudices or sympathy. You
10 will recall that you took an oath promising to do so at the
11 beginning of the case.

12 You must follow all these instructions and not
13 single out some and ignore others. They are all important.
14 Please do not read into these instructions or into anything
15 I may have said or done any suggestion as to what verdict
16 you should return. That is a matter entirely up to you.

17 The indictment is not evidence. The Defendant has
18 pleaded not guilty to the charge. It's a single charge of
19 importation of methamphetamine. The Defendant is presumed
20 to be innocent unless and until the Government proves the
21 Defendant guilty beyond a reasonable doubt.

22 In addition, the Defendant does not have to
23 testify or present any evidence to prove innocence. The
24 Government has the burden of proving every element of the
25 charge beyond a reasonable doubt. The Defendant has

1 testified. You should treat this testimony just as you
2 would the testimony of any other witness.

3 Proof beyond a reasonable doubt is proof that
4 leaves you firmly convinced that the Defendant is guilty.
5 It is not required that the Government prove guilt beyond
6 all possible doubt. A reasonable doubt is a doubt based
7 upon reason and common sense and is not based purely on
8 speculation. It may arise from a careful and impartial
9 consideration of all the evidence or from lack of evidence.

10 If, after a careful and impartial consideration of
11 all the evidence, you are not convinced beyond a reasonable
12 doubt that the Defendant is guilty, it is your duty to find
13 the Defendant not guilty. On the other hand, if after a
14 careful and impartial consideration of all the evidence you
15 are convinced beyond a reasonable doubt that the Defendant
16 is guilty, it is your duty to find the Defendant guilty.

17 The evidence you are to consider in deciding what
18 the facts are consists of the sworn testimony of any
19 witness, the exhibits received in evidence and any facts to
20 which the parties have agreed or stipulated.

21 In reaching your verdict, you may consider only
22 the testimony and exhibits received in evidence. The
23 following things are not evidence, and you may not consider
24 them in deciding what the facts are.

25 Questions, statements, objections and arguments by

1 the lawyers are not evidence. The lawyers are not
2 witnesses. Although you may consider a lawyer's question,
3 to understand the answers of a witness, the lawyer's
4 questions are not evidence.

5 Similarly, what the lawyers have said in their
6 opening statements, closing arguments and at other times is
7 intended to help you interpret the evidence, but it is not
8 evidence. If the facts as you remember them differ from the
9 way the lawyers state them, your memory of them controls.

10 Any testimony that I have excluded, stricken or
11 instructed you to disregard is not evidence. If evidence
12 was received only for a limited purpose where I have given
13 an instruction to do it -- to consider the evidence in a
14 limited way, you must follow that instruction.

15 And finally, anything that you may have seen or
16 heard when the court was not in session is not evidence.
17 You are to decide the case solely on the evidence received
18 at the trial.

19 Evidence may be direct or circumstantial. Direct
20 evidence is direct proof of a fact such as testimony by a
21 witness about what that witness personally saw or heard or
22 did. Circumstantial evidence is indirect evidence. That
23 is, it is proof of one or more facts from which you can find
24 another fact.

25 You are to consider both direct and circumstantial

1 evidence. Either can be used to prove any fact. The law
2 makes no distinction between the weight to be given to
3 either direct or circumstantial evidence. It is for you to
4 decide how much weight to give to any evidence.

5 In deciding the facts in this case, you may have
6 to decide which testimony to believe and which testimony not
7 to believe. You may believe everything a witness says or
8 part of it or none of it.

9 In considering the testimony of any witness, you
10 may take into account the witness's opportunity and ability
11 to see or hear or know the things testified to, the
12 witness's memory, the witness's manner while testifying, the
13 witness's interest in the outcome of the case, if any, the
14 witness's bias or prejudice, if any, whether other evidence
15 contradicted the witness's testimony, the reasonableness of
16 the witness's testimony in light of all the evidence, and
17 any other factors that bear on believability.

18 The weight of the evidence as to a fact does not
19 necessarily depend upon the number of witnesses who testify.
20 What is important is how believable the witnesses were and
21 how much weight you think their testimony deserves.

22 The Defendant is on trial only for the crime
23 charged in the indictment and not for any other activities.

24 The Spanish language has been used during the
25 trial. The evidence you are to consider is only that

1 provided through the official court interpreters or
2 translators. Although some of you may know the Spanish
3 language, it is important that all jurors consider the same
4 evidence. Therefore, you must accept the evidence presented
5 in the English interpretation or translation and disregard
6 any different meaning.

7 You've heard testimony that the Defendant made a
8 statement. It is for you to decide whether the Defendant
9 made the statement, and if so, how much weight to give to
10 it. In making those decisions, you should consider all the
11 evidence about the statement, including the circumstances
12 under which the Defendant may have made it.

13 You have heard testimony from persons who, because
14 of education or experience, were permitted to state opinions
15 and the reasons for their opinions. Such opinion testimony
16 should be judged just like any other testimony. You may
17 accept it or reject it and give it as much weight as you
18 think it deserves, considering the witness's education and
19 experience, the reasons given for the opinion and all the
20 other evidence in the case.

21 Certain charts and summaries have been shown to
22 you in order to help explain the facts disclosed by the
23 books, records and other documents which are in evidence in
24 the case. They are not themselves evidence or proof of any
25 facts. If they do not correctly reflect the facts or

1 figures shown by the evidence in the case, you should
2 disregard these charts and summaries and determine the facts
3 from the underlying evidence.

4 An act is done knowingly if the Defendant is aware
5 of the act and does not act through ignorance, mistake or
6 accident. The Government is not required to prove that the
7 Defendant knew that her acts or omissions were unlawful.

8 You may consider evidence of the Defendant's
9 words, acts or omissions along with all other evidence in
10 the case in deciding whether the Defendant acted knowingly.

11 The Defendant is charged in the indictment with
12 unlawful importation of a controlled substance, in violation
13 of Section 952 and 960 of Title 21 of the United States
14 Code. In order for the Defendant to be found guilty of that
15 charge, the Government must prove each of the following
16 elements beyond a reasonable doubt.

17 First, the Defendant knowingly brought
18 methamphetamine into the United States from a place outside
19 the United States, and second, the Defendant knew the
20 substance she was bringing into the United States was
21 methamphetamine or some other prohibited drug.

22 It does not matter whether the Defendant knew that
23 the substance was methamphetamine. It is sufficient that
24 the Defendant knew it was some kind of a prohibited drug.

25 If you find the Defendant guilty of the charge in

1 the indictment, you are then to determine whether the
2 Government proved beyond a reasonable doubt that the amount
3 of methamphetamine equaled or exceeded 500 grams. If you
4 find the Defendant not guilty, then this question does not
5 apply.

6 Your determination of weight must not include the
7 weight of any packaging material. Your decision as to
8 weight must be unanimous.

9 The Government does not have to prove that the
10 Defendant knew the quantity of the methamphetamine. Mere
11 presence at the scene of a crime is not sufficient to
12 establish that the Defendant committed the crime of
13 importation of methamphetamine. The Defendant must be a
14 participant and not merely a spectator. The Defendant's
15 presence may be considered by the jury along with other
16 evidence in the case.

17 When you begin your deliberations, you should
18 elect one member of the jury as your foreperson who will
19 preside over the deliberations and speak for you here in
20 court. You will then discuss the case with your fellow
21 jurors to reach agreement, if you can do so.

22 Your verdict, whether guilty or not guilty, must be
23 unanimous. Each of you must decide the case for yourself,
24 but you should do so only after you have considered all the
25 evidence, discussed it fully with the other jurors and

1 listened to the views of your fellow jurors.

2 Do not be afraid to change your opinion if the
3 discussion persuades you that you should, but do not come to
4 a decision simply because other jurors think it is right.

5 It is important that you attempt to reach a
6 unanimous verdict. But of course only if each of you can do
7 so after having made your own conscientious decision. Do
8 not change an honest belief about the weight and effect of
9 the evidence simply to reach a verdict.

10 Because you must base your verdict only on the
11 evidence received in the case and on these instructions, I
12 remind you that you must not be exposed to any other
13 information about the case or to the issues it involves.

14 Except for discussing the case with your fellow
15 jurors during your deliberations, do not communicate with
16 anyone in any way, and do not let anyone else communicate
17 with you in any way about the merits of the case or anything
18 to do with it.

19 This includes discussing the case in person, in
20 writing, by phone or electronic means, by e-mail, text
21 messaging or any internet chat room, blog, website or other
22 feature. This applies to communicating with your family
23 members, your employer, the media or press and the people
24 involved in the trial.

25 If you are asked or approached in any way about

1 your jury service or anything about this case, you must
2 respond that you've been ordered not to discuss the matter
3 and to report the contact to the Court.

4 Do not read, watch or listen to any news or media
5 accounts, if there are any, or commentary about the case or
6 anything to do with it, and do not do any research such as
7 consulting dictionaries, searching the internet or using
8 other reference materials, and do not make any investigation
9 in or in any way -- other way try to learn about the case on
10 your own.

11 The law requires these instructions to ensure the
12 parties have a fair trial based on the same evidence that
13 each party has an opportunity to address. A juror who
14 violates these restrictions jeopardizes the fairness of the
15 proceedings, and a mistrial could result that would require
16 the entire trial process to start over.

17 If any juror is exposed to any outside
18 information, please notify the Court immediately in a signed
19 writing.

20 Some of you have taken notes during the trial.
21 Whether or not you took notes, you should rely on your own
22 memory of what was said. There will be no written
23 transcript for you to consult. Notes are only to assist
24 your memory. You should not be overly influenced by the
25 notes or those of your fellow jurors.

1 The punishment provided by law for this crime is
2 for the Court to decide, if it gets to that point. You may
3 not consider punishment in deciding whether the Government
4 has proved its case against the Defendant beyond a
5 reasonable doubt.

6 A verdict form has been prepared for you. After
7 you have reached unanimous agreement on a verdict, your
8 foreperson shall fill in, complete the verdict form
9 according to your deliberations, sign and date it and advise
10 the clerk that you are ready to return to the courtroom.

11 If it is necessary during your deliberations to
12 communicate with me, you may send a note through the clerk
13 signed by any one or more of you. No member of the jury
14 should ever attempt to communicate with me except by a
15 signed writing, and I will respond to the jury concerning
16 the case only in writing or here in open court.

17 If you send out a question, I will consult with
18 the lawyers before answering it, which may take some time.
19 They go back to their offices and are doing other work, and
20 the Court may have other matters or other schedule issues.
21 So you may continue your deliberations while waiting for the
22 answer to any question.

23 Remember that you are not to tell anyone,
24 including me, how the jury stands numerically or otherwise
25 on the questions submitted to you, including the question of

1 the guilt of the Defendant, until after you have reached a
2 unanimous verdict or have been discharged.

3 Do you have the verdict form?

4 THE CLERK: Yes, your Honor.

5 THE COURT: I'll review the verdict form. It
6 says, we, the jury in the above-entitled cause, find the
7 Defendant, Laura Elena Trejo-Macias, blank for guilty or not
8 guilty, of importation of methamphetamine as charged in the
9 indictment.

10 If you find the Defendant not guilty, do not
11 answer the following question. Then sign and date the
12 verdict. If you find the Defendant guilty, do you further
13 find the net weight of the methamphetamine that the
14 Defendant imported to be 500 grams or more of a mixture and
15 substance containing a detectable amount of methamphetamine.
16 And answer yes or no. And then there's a place for the
17 foreperson to sign and date it.

18 So the verdict form -- this is the original. You
19 can have your foreperson sign this. And then on the jury
20 instructions, don't write on the original set of the jury
21 instructions. These are filed with the Court. But if you
22 want more copies of them, then send a note, and we'll make
23 more copies for you.

24 So at this point, now we're almost at the lunch
25 break. You've been good jurors, and we haven't had you

1 sequestered, so I'll let you go out to lunch on your own.
2 Don't discuss the case when you're out at lunch. And then
3 the only place that you can discuss the case is in the jury
4 room.

5 I'll have you go until 4:30 today. And then if
6 you haven't reached a verdict by that time, come back 9:00
7 o'clock here tomorrow. And the same process. You can punch
8 in and then come back. And then my bailiffs will then put
9 you in the jury room.

10 So we'll swear our bailiffs.

11 THE CLERK: Please raise your right hands.

12 You and each of you do solemnly swear that you
13 will keep the jury in some private and convenient place,
14 that you will not permit any person to speak to or to
15 communicate with them, nor do so yourself except by order of
16 the Court or to ask them if they have agreed upon a verdict,
17 and that you will return them into court when they have so
18 agreed or when ordered by the Court, so help you God?

19 THE BAILIFFS: I do.

20 THE COURT: So we'll -- here's the original
21 things.

22 You may now go into the jury room. The lawyers
23 will get the exhibits in there. And then if the two
24 alternates could remain, I'll speak with you.

25 Could the lawyers just check with your exhibits.

1 Yes, you should go into the jury room.

2 (Jury exits courtroom.)

3 THE COURT: And then Nate, if you want to come get
4 the exhibits.

5 So the lawyers have checked the exhibits, and only
6 the received exhibits are going into the jury room. And
7 we're keeping the stipulation out, unless the parties agree
8 to send it in.

9 MR. GELLER: That's fine, your Honor, that they
10 shouldn't get that.

11 THE COURT: It was read.

12 MR. RAHMANI: Okay, your Honor. No objection.
13 The Government exhibits are all acceptable.

14 THE COURT: Okay. So you may take them in. And
15 what I've asked is that my bailiffs can tell them, if they
16 wish, they can proceed to lunch now for an hour, or if they
17 prefer to deliberate first and then go later, that's up to
18 them. But it will be about an hour for lunch.

19 And then as to our alternates. We may need you
20 because you never know if somebody gets sick or otherwise
21 not able to proceed. We may need you. So I'm going to keep
22 you on call and also under your admonition not to talk about
23 the case with anyone.

24 My clerk will keep custody of your notebooks and
25 then have them available for you if we need them.

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1 You're to go across the jury and check out with
2 the jury and tell them that you're a juror on call. And
3 then my clerk, Steven, will also call you with the result.
4 If we do not need you, we will let you know what happened in
5 the case.

6 And I do -- and all the parties do want to thank
7 you for your service. And so give my clerk a phone number.
8 Since you're on call, you're free to go home or to work or
9 wherever you want, but we need to be able to reach you on a
10 cell or otherwise in case we need your service. So thank
11 you very much.

12 ALTERNATE JUROR: Thank you.

13 THE COURT: And Judge Bencivengo will take the
14 verdict tomorrow, if they haven't reached a verdict today.
15 And I'm available for any phone questions, if the jury has a
16 note.

17 MR. RAHMANI: Thank you, your Honor.

18 MR. GELLER: Thank you, your Honor.

19 MR. RAHMANI: I may be out of the district
20 tomorrow, but if so, I'll have a colleague available.

21 THE COURT: And who is it so my clerk knows?

22 MR. RAHMANI: I want to consult with them first.
23 It will probably be Seth Askins.

24 THE COURT: All right. So he'll assume that Seth
25 Askins will either appear or get somebody to appear.

1 MR. RAHMANI: Yes. Somebody else will appear
2 tomorrow.

3 THE COURT: Tomorrow.

4 MR. RAHMANI: But the rest of the day --

5 THE COURT: All right. So it's possible that they
6 come back today. And then it's also possible that they
7 continue on. Thank you very much.

8 MR. RAHMANI: Thank you, your Honor.

9 MR. GELLER: Thank you.

10 THE COURT: Anything further at this time?

11 MR. RAHMANI: No, your Honor.

12 MR. GELLER: No, thank you, your Honor.

13 THE COURT: All right. Thank you.

14 (Proceedings recessed to reconvene.)
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AFTERNOON SESSION

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THE COURT: The jury has a verdict. We'll bring out the jury. You can do it.

(Jury enters courtroom.)

THE COURT: Welcome back. I understand the jury has a verdict. Is that correct?

JURY FOREPERSON: That is correct.

THE COURT: Thank you. Could you hand it to the bailiff.

You may sit down.

THE CLERK: The United States District Court, the Southern District of California. The United States of America, Plaintiff, versus Laura Elena Trejo-Macias, Defendant. Case Number 11CR1655-H. Verdict. We, the jury in the above-entitled cause, find the Defendant Laura Elena Trejo-Macias guilty of importation of methamphetamine as charged in the indictment.

If you find the Defendant not guilty, do not answer the following question. If you find the Defendant guilty, do you further find the net weight of the methamphetamine that the Defendant imported to be 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine? Marked yes.

Dated February 23rd, 2012, San Diego, California.

1 Signed, foreperson of the jury.

2 Ladies and gentlemen of the jury, is this your
3 verdict as presented and read, the verdict of each of you,
4 so say you all?

5 JURY PANEL: Yes.

6 THE COURT: We'll poll the jury by number.

7 THE CLERK: Juror Number 1, is this your verdict
8 as presented and read?

9 JUROR BEATTIE: Yes.

10 THE CLERK: Juror Number 2, is this your verdict
11 as presented and read?

12 JUROR LOHMAM: Yes.

13 THE CLERK: Juror Number 3, is this your verdict
14 as presented and read?

15 JUROR CETNAR: Yes.

16 THE CLERK: Juror Number 4 is this your verdict as
17 presented and read?

18 JUROR MASCHAL: Yes.

19 THE CLERK: Juror Number 5, is this your verdict
20 as presented and read?

21 JUROR RIVERA: Yes.

22 THE CLERK: Juror Number 6, is this your verdict
23 as presented and read?

24 JUROR LYON: Yes.

25 THE CLERK: Juror Number 7, is this your verdict

1 as presented and read?

2 JUROR RICKARD: Yes.

3 THE CLERK: Juror Number 8, is this your verdict
4 as presented and read?

5 JUROR SKINNER: Yes.

6 THE CLERK: Juror Number 9, is this your verdict
7 as presented and read?

8 JUROR TRAPP: Yes.

9 THE CLERK: Juror Number 10, is this your verdict
10 as presented and read:

11 JUROR SIVIXAY: Yes.

12 THE CLERK: Juror Number 11, is this your verdict
13 as presented and read?

14 JUROR GAMBILL: Yes.

15 THE CLERK: And Juror Number 12, is this your
16 verdict as presented and read?

17 JUROR WOOD: Yes.

18 THE CLERK: Your Honor, the jury has been polled.

19 THE COURT: Thank you. It appears the jury is
20 unanimous. I do want to thank you for the time and
21 attention. I thought it was an interesting case. And so
22 the Court thanks you for your jury service.

23 Now your jury service is complete. You are done
24 this time. And so we'll look forward to seeing you maybe
25 another time on a different case. You're free to speak

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1 about the case with anybody, but whatever you say should be
2 truthful and honest. And you need to check out in the jury
3 lounge.

4 So you may leave. Thank you very -- across -- you
5 need to go across the street and check out. And then you're
6 done. Thank you very much.

7 I'll extend the time for filing post-trial motions
8 to three weeks before sentencing. And I'll set sentencing
9 for June 4, 2012 at 9:00 o'clock.

10 So could I have a date for the post-trial motions.

11 THE CLERK: Yes, your Honor.

12 MR. GELLER: What was that date again, your Honor,
13 June 4th?

14 THE COURT: June 4 at 9:00 o'clock.

15 Am I here?

16 THE CLERK: That's correct.

17 THE COURT: Okay. And then the motions would be
18 filed --

19 THE CLERK: By May 14th.

20 THE COURT: And we'll give two weeks for the
21 Government to respond.

22 THE CLERK: That will be, your Honor, May 21st.

23 THE COURT: All right. Anything further?

24 MR. GELLER: No, your Honor.

25 THE COURT: You need to keep your exhibits. Thank

