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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CRIMINAL PART
BERGEN COUNTY
INDICTMENT NO.: 09-08-1485
A.D. # A-3447-10T3

STATE OF NEW JERSEY,)
)
vs.) TRANSCRIPT
) OF
) TRIAL
STEPHEN F. SCHARF,)
)
Defendant.)

Place: Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601-7699

Date: April 19, 2011

BEFORE:

HONORABLE PATRICK J. ROMA, J.S.C. and JURY

TRANSCRIPT ORDERED BY:

HELEN GODBY, ESQ. (Assistant Deputy Public
Defender)
Office of the Public Defender, Appellate Section

APPEARANCES:

WAYNE L. MELLO, ESQ., (Assistant Prosecutor)
Attorney for the State of New Jersey

EDWARD J. BILINKAS, ESQ., (law Offices of Edward
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TRANSCRIPTIONIST NOTE: Due to a loud buzzing noise
throughout the audio, when attorneys are giving opening
statements, certain portions were not picked up by the
microphone.

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1 (Jury is not present)

2 (Sidebar)

3 UNIDENTIFIED: Judge, just -- shackled --
4 appropriate in -- in the courtroom. And everything
5 else, I have no problems with, but.

6 THE COURT: Prosecutor -- (loud buzzing sound
7 drowns out voice)

8 UNIDENTIFIED: I -- is there any way he can
9 be unshackled before you -- before you bring him out?

10 THE COURT: -- for security reasons --

11 UNIDENTIFIED: -- request that -- (loud
12 buzzing sound drowns out voice)

13 THE COURT: -- instructions in a few minutes

14 --

15 UNIDENTIFIED: --

16 THE COURT: No. This is something that you
17 can check into --

18 (Pause in proceeding)

19 THE COURT: -- for example -- might -- don't
20 need to -- proceeding -- decision.

21 (Sidebar concluded)

22 (Pause in proceeding)

23 COURT CLERK: Jury entering.

24 (Jury entering)

25 (Jury is present)

1 THE COURT: Welcome back, ladies and
2 gentlemen of the jury; you may be seated.

3 Madam Clerk, roll call.

4 (Roll call of jurors taken. All present.)

5 THE COURT: Out of an abundance of caution,
6 let me just say that I want to thank you for being
7 here.

8 Each of you has a copy of the schedule which
9 projects the number of days that will be necessary to
10 complete this trial, okay. We went through quite a bit
11 of questioning. You were pre-screened. And basically
12 each and one of you have indicated that, not only can
13 you be fair and impartial, but you can be here for the
14 remainder of this trial. That's correct, yes?

15 JURORS: (In unison) Yes.

16 THE COURT: Okay. That being the case, Madam
17 Clerk swear in the jury panel.

18 (Jury sworn)

19 THE COURT: Please be seated. You may be
20 seated.

21 Ladies and gentlemen of the jury, you have
22 been selected as the jury in this case. As you know,
23 this is a criminal case and to assist you in better
24 understanding your functions and duties, I will tell
25 you how the case will proceed.

1 You are the sole judges of the facts. Your
2 determination of the facts is to be based solely upon
3 the evidence submitted during the course of the trial.

4 When I use the term, "Evidence," I mean the
5 testimony of witnesses who will testify and any
6 exhibits which may be marked into evidence and which
7 may be taken into the jury room for your review at the
8 end of the case.

9 First order of business will be the
10 Prosecutor's opening statement. In the opening
11 statement, the Prosecutor will present the State's
12 contentions and will outline what he expects to prove.

13 Following that, Defense Counsel, if he
14 chooses, will make an opening statement. If Defense
15 Counsel chooses not to make an opening statement, which
16 is his right, no adverse inference should be drawn.

17 What is said in an opening statement is not
18 evidence. The evidence will come from the witnesses
19 who will testify and from whatever documents or
20 tangible items that are received in evidence.

21 During the trial, the attorneys may make
22 objections as evidence is offered or they may address
23 motions to me. They have a right and indeed a duty to
24 make objections and motions when it seems to them to be
25 proper to do so.

1 I have a duty to rule upon any objections and
2 motions based upon the law. If you hear me say that an
3 objection is overruled, that means I am ruling against
4 the attorney making the objection. If I say the
5 objection is sustained, I am ruling in favor of the
6 attorney making the objection.

7 Anything excluded by me is not evidence and
8 must not be considered by you in your deliberations.

9 Sometimes these evidence questions or legal
10 questions will be heard in your presence in open court;
11 other times at a sidebar; or you may be excused and go
12 into the jury room so that we can discuss the issue in
13 open court.

14 I realize that being confined in the jury
15 room for any length of time is not very pleasant, but I
16 ask your indulgence and patience as these legal
17 arguments must be heard outside of your presence.

18 (Pause in proceeding)

19 You should not conclude that because I rule
20 one way or another that I have any feelings about the
21 outcome of the case; I do not. But, even if I did, you
22 would have to disregard them since you will be the sole
23 judges of the facts.

24 During the trial, from time to time, there
25 shall be recesses. During any of those recesses, I

1 direct that you not discuss the case among yourselves.
2 And, when we recess overnight, you must not discuss the
3 case or the testimony with any members of your family
4 or any other persons.

5 The reason, of course, is that you should not
6 begin any deliberations until the entire case has been
7 concluded; for example, until you have heard all of the
8 witnesses, the final arguments of counsel, and my
9 instructions as to the law.

10 It would be improper for any outside
11 influence to intrude upon your thinking. If anyone
12 should attempt to discuss the case with you, you should
13 report the fact to me or my staff immediately.

14 During the trial, you are not to speak to or
15 associate with any of the attorneys, the witnesses, or
16 the Defendant, nor are they to speak to or associate
17 with you. The separation should not be regarded as
18 rudeness, but rather as a proper precaution to ensure
19 fairness to both sides.

20 If anyone connected with this case or any
21 other person approaches you or attempts to influence
22 you in any way, do not discuss it with the other
23 jurors, simply tell the Sheriff's Officer and I will be
24 notified immediately.

25 Your deliberations should be based on the

1 testimony in the case without any outside influence or
2 opinions of relatives or friends.

3 Additionally, I must instruct you not to read
4 any newspaper articles pertaining to this case. I do
5 not know if there will be any newspaper or other media
6 coverage of the trial, but you are instructed to
7 completely avoid reading or listening to any newspaper
8 or media accounts or listening to anyone else discuss
9 them.

10 I am sure that you can understand why this
11 instruction is so important. Newspaper and media
12 accounts are not evidence. They're often based on
13 second or thirdhand information, purely hearsay, not
14 always accurate, and not subject to examination by the
15 attorneys.

16 I've indicated to you also that there are a
17 number of television shows and movies whose plots
18 involve criminal cases, investigations, and trials.
19 Out of an abundance of caution, I would direct that you
20 not watch any of those programs as the subject matter
21 might parallel the case that we're hearing.

22 We don't want anything to intrude upon your
23 thinking. You have to understand that T.V. is
24 entertainment and what happens in a 60 or 90-minute
25 program is not what happens in a courtroom over a six

1 or seven-week period.

2 I have no way to monitor you in this area,
3 but must rely upon your good faith and the fact that
4 you have been sworn to comply with the instructions of
5 the Court so that both sides receive a fair trial.

6 Because this instruction is so important, it
7 is my duty to remind you of it at the end of each day's
8 proceedings.

9 Since you are the sole judges of the fact,
10 you must pay close attention to the testimony. It is
11 important that you carry with you to the jury room, not
12 only a clear recollection of what the testimony was,
13 but also a recollection of the manner in which it was
14 given.

15 It will be your duty to pay careful attention
16 to all of the testimony. If you are unable to hear any
17 witness, I ask that you indicate this to me by raising
18 your hand so that I may instruct the witness to speak
19 louder and/or more clearly.

20 As jurors, you will be required to pass upon
21 all the questions of fact, including the credibility or
22 believability of the witnesses.

23 You are not permitted to visit the scene of
24 the alleged incident, do your own research, or
25 otherwise conduct your own investigation. Your verdict

1 must be based solely on the evidence introduced in this
2 courtroom.

3 While jurors may be permitted to take notes,
4 experience has shown that note-taking is distracting.
5 It is better to depend upon the combined recollection
6 of all of the jurors. Basically, I'm going to prohibit
7 you from taking notes and you will rely upon your
8 combined recollection.

9 At the conclusion of the testimony, the
10 attorneys will speak to you once again in summation.
11 At that time, they will present to you their final
12 arguments (clears throat) -- excuse me -- based upon
13 their respective recollections of the evidence. Again,
14 this is not evidence, but their recollection as to the
15 evidence. It is your recollection as to the evidence
16 presented that is controlling.

17 Following summations, you will receive your
18 final instructions on the law from me and you will then
19 retire to consider your verdict.

20 You are not to form or express an opinion on
21 this case, but are to keep an open mind until you have
22 heard all of the testimony, have heard summations, have
23 had the benefit of my instructions as to the applicable
24 law, and have been instructed to begin your
25 deliberations.

1 It is your duty to weigh the evidence calmly
2 and without bias, passion, prejudice, or sympathy, and
3 to decide the issues upon the merits.

4 You as jurors should find your facts from the
5 evidence educed during the trial. Evidence may be
6 either direct or circumstantial. Direct evidence means
7 evidence that directly proves a fact without an
8 inference and which in itself if true conclusively
9 establishes that fact.

10 On the other hand, circumstantial evidence
11 means evidence that proves a fact from which an
12 inference of the existence of another fact may be
13 drawn. An inference is a deduction of fact that may
14 logically and reasonably be drawn from another fact or
15 group of facts established by the evidence.

16 It is not necessary that facts be proved by
17 direct evidence; they may be proved by circumstantial
18 evidence or by a combination of direct and
19 circumstantial evidence.

20 Both direct and circumstantial evidence are
21 acceptable as a means of proof. Indeed, in many cases,
22 circumstantial evidence may be more certain,
23 satisfying, and persuasive than direct evidence. In
24 any event, both circumstantial and direct evidence
25 should be scrutinized and evaluated carefully.

1 therefore credible, you may take into consideration the
2 following: The appearance and demeanor of the witness;
3 the manner in which he or she may testify; the
4 witness's interest in the outcome of the trial, if any;
5 his or her means of obtaining knowledge of the fact;
6 the witness's power of discernment, meaning their
7 judgment, their understanding; his or her ability to
8 reason, observe, recollect, and relate; the possible
9 bias, if any, in favor of the side for whom the witness
10 testifies; the extent to which, if at all, each witness
11 is either corroborated or contradicted, supported or
12 discredited by other evidence; whether the witness
13 testified with an intent to deceive you; the
14 reasonableness or unreasonableness of the testimony the
15 witness has given; and any and all other matters in the
16 evidence which serve to support or discredit his or her
17 testimony to you.

18 During your deliberations, you may ask what
19 is more reasonable, the more probable, or the more
20 logical version.

21 Inconsistencies or discrepancies in the
22 testimony of a witness or between the testimony of
23 different witnesses may or may not cause you to
24 discredit such testimony.

25 Two or more persons witnessing an incident

1 may see or hear it differently. An innocent
2 misrecollection, like failure of recollection, is not
3 an uncommon experience.

4 In weighing the effect of a discrepancy,
5 consider whether it pertains to a matter of importance
6 or an unimportant detail and whether the discrepancy
7 results from innocent error or willful falsehood.

8 Stephen Scharf stands before you on an
9 indictment found by the grand jury charging him with
10 committing the crime as follows: That Stephen Scharf,
11 on or about September 20th, 1992, in the borough of
12 Englewood Cliffs, in the County of Bergen, and within
13 the jurisdiction of this Court, did purposely and/or
14 knowingly cause the death or serious bodily injury
15 resulting in the death of Jody Ann Scharf, contrary to
16 the provisions of NJSA 2C:11-3A(1) and NJSA 2C:11-3A(2)
17 and against the peace of the State, the Government, and
18 dignity of the same.

19 The indictment is not evidence of the
20 Defendant's guilt on the charge. An indictment is a
21 step in the procedure to bring the matter before the
22 Court and jury for the jury's ultimate determination as
23 to whether the Defendant is guilty or not guilty on the
24 charge stated in it.

25 The Defendant has pleaded not guilty to the

1 charge. The Defendant on trial is presumed to be
2 innocent and, unless each and every essential element
3 of the offense charged is proved beyond a reasonable
4 doubt, the Defendant must be found not guilty of that
5 charge.

6 The burden of proving each element of the
7 charge beyond a reasonable doubt rests upon the State
8 and that burden never shifts to the Defendant. It is
9 not the obligation or the duty of the Defendant in a
10 criminal case to prove his innocence or offer any proof
11 relating to his innocence.

12 The Prosecution must prove its case by more
13 than a mere preponderance of the evidence, yet not
14 necessarily to an absolute certainty. The State has
15 the burden of proving the Defendant guilty beyond a
16 reasonable doubt.

17 Some of you may have served as jurors in
18 civil cases where you were told that it is necessary to
19 prove only that a fact is more likely true than not
20 true. In criminal cases, the State's proof must be
21 more powerful than that; it must be beyond a reasonable
22 doubt.

23 A reasonable doubt is an honest and
24 reasonable uncertainty in your minds about the guilt of
25 the defendant after you have given full and impartial

1 consideration to all of the evidence.

2 A reasonable doubt may arise from the
3 evidence itself or from a lack of evidence. It is a
4 doubt that a reasonable person hearing the same
5 evidence would have.

6 Proof beyond a reasonable doubt is proof for
7 example that leaves you firmly convinced of the
8 defendant's guilt.

9 In this world, we know very few things with
10 absolute certainty. In criminal cases, the law does
11 not require proof that overcomes every possible doubt.
12 If, based on your consideration of the evidence, you
13 are firmly convinced that the Defendant is guilty of
14 the crime charged, you must find him guilty. On the
15 other hand, if you are not firmly convinced of the
16 Defendant's guilt, you must give the Defendant the
17 benefit of the doubt and find him not guilty.

18 You will note that a jury of 16 has been
19 drawn in this matter. At the conclusion of all of the
20 evidence and the charge of the Court, there will be a
21 random selection in which four jurors will be selected
22 to act as alternates. The 12 remaining jurors will
23 then deliberate and return a verdict.

24 At this point, we don't know who the
25 alternates will be and whether or not their services

1 will be utilized. Thus, I direct that all jurors
2 should pay equal attention to the evidence as it is
3 presented and to the Court's rulings which are
4 applicable to the case.

5 The order of opening statements will be the
6 Prosecutor first, the Defense second, which order is
7 reversed for closing arguments.

8 Prosecution may begin.

9 MR. MELLO: Thank you, Judge.

10 (Pause in proceeding)

11 MR. MELLO: There is no statute of
12 limitations on murder. In Bergen County, the book on
13 murder does not close until it is closed by a jury such
14 as yourself.

15 Truth is forever; it is eternal. The finding
16 of truth sometimes -- difficult -- long journey, but it
17 is the finding of truth that is at the heart of the
18 collective deliberation of a jury in this State in
19 every State in this Union.

20 And it is not the time that it takes to bring
21 a prosecution that is significant -- it is the quantum
22 of proof that is presented for your consideration, for
23 your evaluation, for your ultimate decision as a jury
24 of --

25 Now begins the final moments of the finding

1 of truth in the matter of the State of New Jersey
2 versus Stephen Scharf.

3 You know by a reading of the indictment by
4 the Court that the Defendant is charged with the murder
5 of his wife on September 20th, 1992 in the borough of
6 Rock(sic) -- of Englewood Cliffs in Bergen County, New
7 Jersey.

8 As September 20th, 1992 dawns, an abused,
9 apprehensive, fearful Jody Ann Scharf has determined
10 and decided that her marriage to the Defendant, Stephen
11 Scharf, is at an end. She seeks to make a new life for
12 herself and her ten-year-old son, Jonathan. She has
13 served the Defendant with a complaint for divorce. The
14 complaint for divorce has been served on September 8th,
15 1992.

16 The Defendant has taken out an insurance
17 policy on her life. He is the named primary
18 beneficiary. The amount is \$300,000.

19 There is an additional accidental death
20 benefit, which is to say, if the insured, Jody Ann
21 Scharf, dies of an accident, an additional \$200,000
22 shall be paid to the named beneficiary.

23 You should know that for purposes of
24 insurance, perhaps oddly to you, that murder is an
25 accident, unless the beneficiary is the --

1 (Pause in proceeding)

2 And now it is September 20th, 1992. At eight
3 minutes past 8 p.m. on September 20th, 1992, police of
4 the Palisades Interstate Parkway Police Department are
5 dispatched to the Rockefeller Lookout in Englewood
6 Cliffs, New Jersey, on a report by a motorist that a
7 woman has fallen from the Palisades cliffs.

8 Rockefeller Lookout lies along the stretch of
9 road known as the Palisade Interstate Parkway
10 Northbound. It is a scenic location. It has a view of
11 the Hudson River and New York.

12 This is a most unusual case. And, in this
13 most unusual case, Judge Roma has authorized a view by
14 you the jury of this particular location. And that
15 view will take place and will I am sure enhance your
16 understanding of the evidence that will be developed
17 during the State's case in chief and in your ultimate
18 deliberative decision.

19 But for now let us begin at 8:08 p.m. A
20 tragedy has been report. Police emergency personnel
21 are dispatched. The Galackary(phonetic) Police
22 Officers of the Palisade Interstate Park Police
23 immediately respond to the Rockefeller Lookout.

24 The first of those police officers to arrive
25 will be Police Officer Paul Abbott. Paul Abbott will

1 arrive in his patrol vehicle, enter the lookout south
2 to north. As he enters the lookout, he will see a man.
3 That man is the Defendant.

4 The Defendant, soon to be identified by name
5 as Stephen Scharf, flags down the police officer.
6 Immediately, the police officer asks for the location
7 where this woman fell.

8 Scharf is now put into that patrol vehicle.
9 Abbott takes Scharf from the southern to mid part of
10 that lookout, drives to the northern part of the
11 lookout where now he will be joined by a second police
12 officer, Lowell Tamao(phonetic).

13 Abbott, Scharf, and Tamao will now enter a
14 wooded area in the northern part of Rockefeller
15 Lookout. It is dark. Mind you, there are no
16 artificial lights at Rockefeller Lookout. It is
17 September 20, 1992. Foliage is completely full.

18 Scharf indicates that he and his wife entered
19 a wooded -- wooded area in the northern part of the
20 lookout where they traversed a path which will lead to
21 a restraining fence. The restraining fence is meant to
22 restrain people from crossing its boundary to the
23 immediate precipice of the cliff edge that is just feet
24 beyond.

25 At that point, Scharf, having told the first

1 police officer on scene, Abbott, the simple statement,
2 "My wife fell off the cliff," now points to the precise
3 location where she fell. That location is at the very
4 edge of the cliff.

5 You will find and you will see that at this
6 particular location, the natural formation of the stone
7 creates in effect a -- sea of rock.

8 At that time, he has told police that they
9 traversed the wooded path, that they went through the
10 restraining fence, that they went to the rock ledge
11 where she -- (noise drowns out voice)

12 Abbott and Tamao now call out into the abyss,
13 into the darkness, "Jody, Jody, Jody". There is no
14 response.

15 Abbott will get down and carefully look over
16 that precipice. About ten feet below that edge is a
17 rock-ledge formation. It's some three feet plus six
18 feet long. And there he will see a woman's pocketbook.

19 The calls go unanswered. Though there is a
20 pocketbook on the ledge beneath the precise point that
21 the Defendant has indicated his wife fell, there is no
22 sign -- there is no sign of any other evidence at that
23 point, that ledge.

24 Units are now beginning to respond to that
25 location. Obviously, we know that they will be

1 emergency police, fire, rescue units.

2 In this precarious situation, police
3 officers, namely Tamao, will now escort the Defendant
4 back to the parking lot.

5 At this point in time, what they have before
6 them would appear to be a tragic accident, and rescue
7 efforts will now be begun.

8 Tamao escorts Scharf back to the parking lot.
9 And he will ask this simple question -- and I will now
10 begin to ask you as you listen to this statement and as
11 you listen to the evidence that comes before you to pay
12 particular and careful attention to the words of the
13 Defendant, especially those words that are said before
14 the opportunity -- (voice fades) -- What happened?
15 This is what is said by the Defendant: He and his wife
16 were sitting on the bench seat rock by the cliff's
17 edge, hugging and kissing, when he stood up intending
18 to return to their car to retrieve a blanket and some
19 water. He claimed that, when he got up, he turned
20 around and then noticed his wife is gone.

21 (Pause in proceeding)

22 A woman who has just in his words fallen
23 tragically off the Palisades does not utter a sound as
24 she falls into that abyss of darkness and -- (noise
25 drowns out voice)

1 His demeanor is marked as perhaps nervous and
2 controlled. There are no histrionics; there are no
3 swings of emotion.

4 (Pause in proceeding)

5 Shortly, another member of Law Enforcement
6 will arrive; that is Officer Walter Siri(phonetic).
7 Siri's first job by way of superior instruction is to
8 clear the lookout. There had been persons, cars in the
9 lookout. That area is cleared, and the next assignment
10 he receives is to transport Mr. Scharf to police
11 headquarters. The last thing the police want is either
12 another tragedy or any interference with that rescue --
13 (voice fades)

14 The Defendant has no objection to leaving
15 that scene. He is again marked by Siri in terms of
16 demeanor as controlled -- in control of his emotions,
17 and he offers no resistance to leaving that scene.

18 In route to Headquarters, the Defendant
19 offers the following -- listen carefully to the
20 testimony you will hear; quote: We were walking -- we
21 were walking and she said -- she said for me to go back
22 to the car and get the blanket and she slipped and I
23 didn't see her anymore -- the shades -- (noise drowns
24 out voice) --

25 (Pause in proceeding)

1 Mr. Scharf is now at Headquarters.

2 Obviously, the police need certain pertinent
3 information relative to this tragic incident.

4 Detective Ronald Karnick will be called into
5 Headquarters and he will ultimately at Headquarters
6 meet with the Defendant, Mr. Scharf.

7 Mr. Scharf now at about -- (voice fades) --
8 what is now 10 p.m., some two hours or so later, will
9 give this version of events -- (voice fades). He will
10 tell police at this time that he and his wife were in
11 route to a comedy show in New York. On their way -- on
12 their way, they decided to stop at the Rockefeller
13 Lookout. He claims that this was a special place for
14 them. They walk to the cliff edge. His wife sat on
15 his lap on that bench seat of stone. They began to
16 kiss and hug.

17 He now says that he said to his wife he
18 wanted to go back to the car to retrieve a blanket and
19 wine. She protested; she stood up and she passively
20 fell forward over -- (voice fades).

21 He will provide -- that Defendant will
22 provide Detective Karnick with the following
23 handwritten statement: Jody and I were kissing and
24 hugging on the flat rock by the trail overlooking the
25 river about 7:30 and I was uncomfortable. When I asked

1 Jody -- or told her I was going to get the blankets and
2 the wine. She said, "No, don't go". As I got up to
3 get the wine and blankets, she got up, then fell
4 forward. I didn't see her anymore. She didn't answer
5 me.

6 While the events that I have described for
7 you are taking place, a massive rescue effort has begun
8 to -- (voice fades). All manner of police, fire,
9 rescue units have been dispatched to the scene.

10 You will hear from the two most significant
11 members of that rescue effort, Sergeant Nelson Pagan of
12 the Palisade Interstate Parkway Police and now Chief
13 Michael Cioffi of the Englewood Cliffs Police
14 Department.

15 Both of these individuals, in addition to
16 their ordinary duties as police officers in their
17 respective jurisdictions, are also rescue personnel.
18 They are exceedingly experienced repellers. They are
19 exceedingly experienced at rescue and recovery efforts
20 at the Palisades.

21 Both Pagan and Cioffi will now let down
22 repelling ropes and they will begin a descent at the
23 point that the Defendant has said to police his wife
24 fell.

25 Obviously at this point in time the single

1 This is an extremely dangerous place, and
2 even experienced rescue personnel like Pagan and Cioffi
3 are in a precarious position. It will take them a
4 considerable amount of time.

5 At approximately 9:30 p.m., Pagan observes
6 the body of Jody Ann Scharf. She is wedged face down
7 between a tree and a large rock. She is wearing a
8 striped shirt, blue t-shirt, striped shorts, and
9 pantyhose. Though the environ is searched, they cannot
10 find her shoes.

11 She has suffered massive head injuries and
12 there is a large gaping hole in her chest. It is clear
13 that what was a rescue effort is now unfortunately and
14 tragically a recovery effort, for she who was the
15 person, the living human being of Jody Ann Scharf is
16 dead. A child age ten has lost -- (noise drowns out
17 voice) --

18 Two things -- note -- that will prove to be
19 of great significance in this case: One, in the
20 darkness of the bottom of those cliffs in that rugged
21 terrain in that area of full foliage forest, the tree
22 where she is found is estimated by Pagan to be some 30
23 feet from the cliff beds. She is nowhere near the
24 cliff base which, had she fallen passively from the
25 point at which the last person to see her alive --

1 (voice fades) -- are --

2 Secondly, Pagan and Cioffi will see something
3 on the trail that leads to the unmistakable conclusion
4 that she struck that tree, she struck that tree with
5 incredible force, that she did not in any wise fall
6 passively and somehow roll. There is no rolling on the
7 cliffs at that location. There are boulders the size
8 of these tables -- (voice fades) -- forever.

9 This is the second thing I want you to
10 remember: Six to seven feet up the tree there is a
11 blood smear, a blood smear where tissue of what was a
12 living human being can be observed and the blood smear
13 runs down.

14 (Pause in proceeding)

15 The dead body of Jody Ann Scharf is now taken
16 from the place where she -- (voice fades) -- down to a
17 scenic service road where she will be pronounced
18 officially -- (voice fades) -- at about 11 --

19 (Pause in proceeding)

20 Back to Headquarters. Scharf has remained at
21 Headquarters. There is no indication that at any time
22 he is either histrionic, emotional, or anything of the
23 kind. He is always measured and controlled. He may
24 appear a bit nervous -- let you think about that.

25 At about 1:20 a.m., Karnick will now ask the

1 Defendant for two forms of consent: One will be
2 consent to photograph his body. And the Defendant will
3 consent to same, two photographs, Polaroids will be
4 taken. You will see them. It is a view of his upper
5 torso. His shirt is not removed. And it is true that
6 no marks, bruises, scratches of any kind are observed
7 on his person by Karnick -- (voice fades).

8 He is also asked for a consent to search his
9 car. The Defendant consents to a search of his car.
10 The car is photographed. Once it is photographed, it
11 will be searched. Amongst the items that are in the
12 car, which is a white Ford Taurus -- you will see
13 photographs of that car, you will see photographs of
14 its location, you will see photographs of the inventory
15 of that car -- but suffice it to say that there is a
16 cooler in the back seat, there's an empty bottle,
17 Bartles & Jaymes wine cooler, there is a full bottle
18 Bartles & Jaymes, there's a glass, wine -- box of
19 crackers, and a blanket on the floor, nothing terribly
20 interesting at that.

21 But another observation is made. On the rear
22 seat is a red nylon bag. Inside that red nylon bag is
23 a blue nylon bag. Now, what is inside that blue nylon
24 bag is very interesting. There's a blanket, a candle,
25 corkscrew, bottle of wine, a jewelry box containing a

1 small cross, and at the very bottom of what you will
2 find to be this extraordinary -- (noise drowns out
3 voice) -- is a claw hammer which begs the question: Of
4 all the places that a hammer might be, what is it doing
5 in that car at that time at that place in that bag
6 inside another bag with a bottle of wine and a gold --
7 (voice fades). Not in the trunk, not in the toolbox --
8 not even on the floor.

9 You start to ask yourself -- remember what he
10 has said -- (noise drowns out voice) -- edge -- what is
11 the blanket and the wine doing in the car? Why does he
12 not have it with he and his wife for what he suggests
13 is a romantic interlude in the context of what you will
14 find is anything but a romantic relationship now in its
15 death throws --

16 (Pause in proceeding)

17 Shortly following the events that I've
18 described thus far, a relative of Mr. Scharf will take
19 Mr. Scharf back to his home county of Morris. -- what
20 is now September 21st, the morning of, he will return
21 to Palisade Interstate Park Police Headquarters. The
22 car that I described to you that was searched will be
23 turned over to him. He will be asked to present for an
24 interview the following day, which is the 22nd.

25 Upon that same September 21st, an autopsy

1 will be performed on the body of Jody Ann Scharf. A
2 very young at that time Medical Examiner, Mary Ann
3 Clayton, conducts the postmortem. The following
4 injuries are noted: Multiple skull fractures, multiple
5 facial fractures, a gaping laceration of the chest
6 wall, multiple rib fractures, fractures of the mid-
7 sternum, a slight compression fracture of the T-6
8 thoracic vertebrae. Remarkably, the significant
9 injuries are at the mid to upper -- broken fingers --
10 broken toes -- (noise drowns out voice) -- It appears
11 as you will hear evidence to be what may be termed a
12 massive single impact injury.

13 Not at this time, but thereafter, a
14 toxicological examination will be made. The
15 significance of the findings of that examination for
16 your purposes will show that the blood alcohol reading
17 of Jody Ann Scharf was .12 -- give you some point of
18 reference that I think you are all familiar with, at
19 that time the legal limit, if you w -- in terms of
20 driving a motor vehicle would be .10. It is now .08,
21 but it was -- (noise drowns out voice) -- in excess of
22 those values.

23 And you will find -- and let's remember
24 divorce complaint 8 -- 20 -- let's remember who took
25 her to that location and let's see who and how --

1 (noise drowns out voice)

2 On September 22nd, morning of, a very
3 significant interview or series of interviews will take
4 place. A significant time has passed since the tragic
5 accident of the early-evening of the 20th of September.

6 In this interview, the Defendant begins to
7 tell this version of events. He will say to police:
8 Look here, Saturday, the 19th -- Saturday, the 19th,
9 Jody and I planned to go to a comedy show, planned to
10 go to the city, planned to have dinner in Fort Lee --
11 which is very close to Englewood Cliffs, in fact
12 borders Englewood Cliffs and is very close to -- (voice
13 fades) -- but Jody had a migraine. She slept -- slept
14 til about 11:30 p.m., when she and I and son went out
15 to dinner in Hackettstown -- the family resided at 27
16 Knob Hill Road in Washington Township, Morris County,
17 Hackettstown.

18 (Pause in proceeding)

19 He refers -- (noise drowns out voice) --
20 conversation to the lookout. The plan to New York does
21 not obviously occur. He will now tell police that on
22 Sunday ever the dutiful husband he began to garden or
23 some such thing and was a continued plan to go to New
24 York City, to go to a comedy show.

25 He mentions some talk of perhaps going to a

1 Rascals, a comedy club in West Orange, but he didn't
2 like the particular comedian that was appearing there.
3 Also, West Orange is nowhere near or in the direction
4 of Rockefeller Lookout, but New York City conveniently
5 is. Then he says: Well, now the plan is comedy show
6 New York City, 8:30 show, dinner somewhere in Fort Lee.

7 Now, he now tells police that they left
8 Morris County at 5, 6 p.m. The timing of the leaving
9 of Morris County is not terribly significant -- but was
10 is significant is he will tell police that they arrived
11 at the lookout at dusk, at dusk.

12 I want you to step back, process just a bit
13 of what I've told you. This marriage is over. She is
14 fearful and apprehensive -- A divorce complaint has
15 recently been served. Ostensibly, they are going to
16 New York City.

17 Do you recall how she was dressed? I cannot
18 tell you her shoes because they were not found, but I
19 can tell you she was wearing hose, not exactly the
20 attire for a walk through the woods that are completely
21 enfoliated(phonetic), in the dark, to a fence which you
22 must go through or over -- see -- where just ahead,
23 just ahead is forever the edge of the Palisades.

24 (Pause in proceeding)

25 But what he says is, en route to an 8:30

1 show, they make a major left and go up the Palisade
2 Interstate Parkway to the lookout, to, quote, their
3 spot, where they will now hug and kiss and drink -- I'm
4 sorry, not, "They will drink," she will drink in the
5 car. And, ever the romantic, he will suggest perhaps
6 we should take a walk.

7 He doesn't take the wine or cheese --
8 ostensibly are for a bit of a picnic -- but at dusk,
9 now turning dark, they enter the woods and traverse the
10 path to the fence and -- (voice fades) -- that's what
11 he says.

12 (Pause in proceeding)

13 He will now say that they sat on the bench
14 seat rock. He will say now that the victim, Jody, sat
15 between his legs facing south, Hudson River to the
16 east, facing south. And, here, he says they, quote,
17 made out, et cetera.

18 He stood up because he was sitting on his
19 wallet which made him uncomfortable. He also needed to
20 zip his pants. He told his wife he was going back to
21 retrieve the blanket and wine which were left in the
22 car. She said, "No, don't go". She stood up. She
23 tripped, fell to her knees, and simply rolled over --
24 (voice fades) -- to what we now know -- (voice fades).
25 She neither screamed nor cried out.

1 If you walk down the street, stub your toe on
2 a crack in the sidewalk, you will utter a sound of some
3 kind. She went off a cliff into the darkness of death
4 and he says not a -- . He was about two to three feet
5 from her when she fell over the cliff.

6 He says he flagged down a motorist and
7 requested that motorist -- police. The motorist --
8 (noise drowns out voice)

9 Now, the police will question him about that
10 claw hammer. And I will tell you -- I will tell you
11 that claw hammer, as you might expect, was sent to a
12 laboratory for analysis to determine if any substance
13 might be on it. And there was a negative finding,
14 which is to say there was no foreign substance, no
15 blood on that hammer.

16 But that remarkable hammer left in that
17 remarkable place is a subject of interest for the
18 police and must be for you. He will say when asked
19 about the claw hammer that it just happened to be on
20 this particular night of all nights he fixed a kitchen
21 drawer. He forgot -- he forgot to put the hammer in
22 the garage.

23 Now, he didn't toss it in the house; he
24 didn't toss it in the drive -- driveway; he didn't put
25 it in the garage; he didn't put it in the trunk; he

1 didn't even put it on the rear floor. It ended up in
2 that strange -- (noise drowns out voice)

3 When asked about the state of his marriage,
4 he acknowledges that he had been recently served with
5 divorce papers; he acknowledges infidelity; he says
6 he's been with 50 to 60 women; and he says and claims
7 that he and his wife had, quote, an open marriage, that
8 she too sought other persons, and that he had received
9 the divorce complaint some two weeks prior, but that he
10 was aware of it from earlier -- (voice trails).

11 He claims at that time to be involved with
12 two particular women. You will hear their testimony.
13 One is named, Abby Scanlan(phonetic); one is named
14 Terri Schofield(phonetic). He says he last saw
15 Schofield on Labor Day. Oddly enough, he last saw
16 Scanlan on the 18th of September, 1992. And he
17 suggests to police that the purpose of him seeing each
18 of those women was to tell each of them on those
19 respective dates that the relationships were over. And
20 he claims that this trip to Rockefeller Lookout was an
21 attempt to reconcile with his wife.

22 You should know that during the course of
23 this interview he will also be interviewed by now
24 Captain Joseph Hornyak of this Bergen County
25 Prosecutor's Office, where he will say, amongst other

1 things, that at the significant moment in time he stood
2 up, his wife rolled onto her side, got into a squatting
3 position, tripped forward and fell off the edge of the
4 cliff, yet another --

5 He will be asked to execute a consent to
6 search his home, which he will in fact sign. Bergen
7 County police officers respond to his home at 27 Knob
8 Hill Road in Morris County, Washington Township. They
9 will be joined by other police officers. And, when a
10 search of this kind is conducted by one Law Enforcement
11 Agency outside of their jurisdiction, there's protocol
12 to notify the local jurisdiction and protocol for the
13 local jurisdiction to send a presence to that residence
14 from their own department, and so much is done in this
15 case --

16 So on September 22nd during the evening
17 hours, we now have at 27 Knob Hill Road: Mr. Scharf,
18 three Bergen County police officers: Officer Lynam,
19 from Palisade Interstate Park Police, Investigator
20 Alver, Investigator Hernest, from the Bergen County
21 Prosecutor's Office, and they will be joined by two
22 Morris County police officers: One of them is Ted
23 Ehrenburg, then a lieutenant, the former chief of that
24 department; and one of them is Sergeant Billy
25 Gundersdorf, then Captain Gundersdorf of that same

1 department.

2 Now a remarkable little vignette occurs.
3 Investigator Hernest, who you will hear from, is in the
4 company of Mr. Scharf when suddenly -- and Hernest has
5 been brought into this and doesn't really know much
6 about all of the events that have transpired, but is
7 assisting in this search process -- Hernest will tell
8 you all of a sudden the Defendant, he will say, this
9 guy, suddenly starts to talk about this kitchen drawer.

10 Now, Hernest at this time has no idea about
11 the hammer, has no idea about the hammer and the story
12 about fixing the kitchen drawer, when he remembers all
13 these years later what stuck in his mind so indelibly
14 was this incredibly strange volunteering of
15 information, "You see that drawer, I was fixing that
16 drawer". Hernest, perplexed, notes it, never forgets
17 it, and leaves it at such.

18 The search progresses and Ehrenburg and
19 Scharf strike up a conversation. And you'll hear the
20 testimony of - of Ehrenburg and Gundersdorf, and you'll
21 hear Ehrenburg describe that to you. And it appears
22 that, perhaps because they are a local presence in that
23 part of this investigation, there's a certain cord
24 that's struck with the Defendant between he and
25 Ehrenburg.

1 And Ehrenburg, we will find and he will tell
2 you, being a spiritual man, begins to talk about his
3 concept of religion, saying the squaring of the ledger
4 as it were when one departs this life, this hope that
5 when he leaves he'll leave it with the balance struck
6 as -- (voice trails).

7 Scharf, on his own, without being asked any
8 question about the investigation, says to this police
9 officer, not part of this investigation, "You don't
10 believe me, do you".

11 Ehrenburg and Gundersdorf -- I believe it was
12 an accident; it was, wasn't it? Head bowed, Scharf
13 says, "No. No, it wasn't". His head is bowed. He
14 says he thinks maybe he should talk to -- (voice
15 trails)

16 Within a moment, Bergen County Authorities,
17 the investigating officers, now come into the room.
18 And Ehrenburg and Gundersdorf will tell you -- (voice
19 trails) -- the entire demeanor of Scharf changes.
20 There is no further conversation -- (voice trails)

21 (Pause in proceeding)

22 At this point, what I'd like to do is
23 introduce you to that body of evidence that will have
24 to do with certain relationships of the Defendant --
25 and persons who knew Jody Scharf who will talk to you

1 about her state of mind -- (noise drowns out voice)

2 Scanlan will appear before you and she will
3 tell you that, contrary to the Defendant's assertion
4 that he was ending their relationship, she in fact
5 stayed with him at her sister's home on September 18th,
6 1992, that there was no suggestion by the Defendant, or
7 she for that matter, that the relationship was ending.

8 Schofield will tell police that in fact she
9 and the Defendant lived together at her residence part-
10 time throughout 1991 or the end of 1991 into 1992, that
11 he in fact kept a boat there. I think he may have kept
12 a truck there. He kept clothing there. He lived there
13 part-time. He told her that his wife had died ten
14 years earlier tragically in an auto accident and that
15 he had had a son by another woman -- who didn't want --
16 (voice trails)

17 Friends of the victim are interviewed. You
18 will hear their testimony. And they will begin to
19 recount for you the state of mind of a very frightened
20 and very fragile young woman. They will discuss with
21 you her fears, her fears of her husband, and his
22 control at his hand of her life, and her desire to end
23 that relationship forevermore; that she had in fact, as
24 we will see, filed for divorce to create a better life
25 for herself and her ten-year-old son, Jonathan.

1 Shortly, you will hear from Jonathan -- be
2 the first witness I present -- (voice trails) -- listen
3 carefully to his words, listen carefully to his
4 remembrances.

5 (Pause in proceeding)

6 One -- last witness will testify in this
7 particular area, that will be Patricia Teague.
8 Patricia Teague is a clinical social worker, a
9 therapist. She began to treat Jody in 1990. She will
10 tell you that she treated her --

11 MR. BILINKAS: Objection.

12 MR. MELLO: -- I'll -- I'll -- I'll --

13 THE COURT: Thank you.

14 MR. MELLO: -- I'll move from that point.

15 Within the course of her treatment, you will
16 hear the testimony of Patricia Teague regarding the
17 state of mind of Jody Ann Scharf as she entered the
18 last days of her life; that she was afraid of the
19 Defendant -- afraid and reluctant to spend time with
20 him.

21 She will tell you and you will hear from her
22 son that she had a fear of heights. She will also tell
23 you, amongst other things, this remarkable piece of
24 information, and it occurs in August of 1992, just
25 weeks before her death, she, Teague, will tell you that

1 Jody told her in session that the Defendant had said to
2 Jody that he wanted to take her to the Palisades for a
3 picnic, that she was encouraged in fact to bring wine
4 -- (noise drowns out voice) -- a romantic interlude --
5 that he had found an opening in the fence along the
6 Palisades that afforded a view of --. She tells her
7 therapist she will never do that.

8 (Pause in proceeding)

9 Jody Ann Scharf in this next body of evidence
10 -- (voice trails) -- Jody Ann Scharf began the process
11 of divorce some time distant from -- (voice trails)

12 In the Spring of 1991, she went to see one
13 Ben Michel; Ben Michel, a partner in a rather large law
14 firm in Morris County, known as Riker Danzig. And it
15 is in the Spring of 1991 that she begins the process of
16 unwinding the relationship that she wanted out of.

17 At about the same time you will find that she
18 is seeing Ben Michel for the purpose of unwinding that
19 relationship that she -- (noise drowns out voice) no
20 longer -- at about that same time -- see, what he's
21 doing at this time is -- you remember that insurance
22 policy? You remember the jury questions -- so 16
23 months, or should I say the Spring of 1991, the time
24 that Jody Ann Scharf begins the divorce process, he --
25 (noise drowns out voice) -- he is the -- (noise drowns

1 out voice) -- beneficiary. Note for purposes --
2 secondary beneficiary -- (voice trails)

3 (Pause in proceeding)

4 On or about April of '91, inquiries are made
5 by Scharf of U.S.A.A., United Services Automobile
6 Association, and he makes certain inquiries regarding
7 life insurance -- past inquiry, this is what he does --
8 on or about May of 1991, an application is submitted to
9 U.S.A.A. by Scharf for an insurance policy insuring the
10 life of his wife, Jody, in the amount of 300,000 with a
11 very interesting -- (voice trails) -- a \$200,000
12 accidental death benefit should she die by accident,
13 she is worth \$500,000 -- (voice trails), unless that
14 accident is murder and it is committed by his hand.

15 The policy becomes effective in June of 1991.
16 Now, it is September of 1992. Jody has died. Jody has
17 died, according to the Defendant, by accident. He is
18 the primary beneficiary of a 500k policy.

19 He has a ten-year-old son. For all of you
20 who are parents, for all of you -- for all of you just
21 -- (voice trails) -- ordinary common sense, you got a
22 ten-year-old boy you've got to feed, clothe, educate,
23 care for, take through life, and you don't have a
24 mother for that child.

25 Now, you know what insurance is for.

1 Insurance is about loss -- insurance is about economic
2 loss. Insurance is about replacement of economic loss.
3 That's what it's about. That's what we try to do as we
4 go through this difficult life; we try to hedge our
5 bets; we try our best to smooth out the rough edges of
6 life. Isn't that what we do? And most of all what we
7 do is we take care of our children. That is the most
8 awesome responsibility of this life.

9 When my son falls and scrapes his knee, he
10 comes to me because I am his father, his protector, and
11 everything in his life is a function of my care for
12 him, what I owe him. He owes me nothing.

13 (Pause in proceeding)

14 Interestingly enough, though an initial
15 inquiry is made regarding this rather extraordinary
16 policy, no claim is perfected -- let me say that again
17 -- no claim is perfected, no claim is made.

18 I submit to you by the end of these
19 proceedings you will say that there is no good answer
20 to that -- (voice trails)

21 Now what happens? -- insurance -- (voice
22 trails) -- have certain duties, obligations created by
23 statute. In this particular case, years now have
24 passed, and, as the years pass and they now number
25 five, those funds not claimed now pass into a reserve

1 fund. But you see insurance carriers cannot keep those
2 funds in reserve forever. There are statutes which
3 govern the disposition of such properties. And, as
4 another five years pass, those funds considered
5 abandoned now will be transferred to the Unclaimed
6 Property Trust Fund of New Jersey.

7 Now, the principal, \$500,000, plus interest
8 now amounting to in excess of \$700,000, that sum now
9 passes from carrier to Unclaimed Property Trust Fund.

10 Unclaimed Property Trust Fund, in receipt of
11 such funds, in receipt of advice that there is a
12 beneficiary, one Stephen Scharf, now will notify Mr.
13 Scharf that there is a sum in excess of \$700,000 to be
14 claimed at his whim upon proper proof of only
15 identification. That's it -- in now 2003, Mr. Scharf
16 completes the requisite form. The claim is processed.
17 And, in 2003, now the child now grown, now the case now
18 long old(phonetic), Mr. Scharf picks up his check for
19 some \$770,000.

20 Now, the case may have been cold, but I have
21 said to you and you know there is no statute of
22 limitations on murder; the book on murder does not
23 close until you close it.

24 This case -- (voice trails) -- a case --
25 years -- stops and starts -- cold case -- (noise blocks

1 out voice) -- witnesses are again interviewed, facts
2 are checked, evidence is reviewed, fresh perspectives
3 are brought to the plate -- experts now are asked to
4 join in for the forensic review of this case.

5 And the two significant experts that you will
6 hear from from the State will be: One, Mary Ann
7 Clayton, now the Medical Examiner in the County of
8 Bergen, now not so young, now 20 years more experienced
9 -- ; and another -- and that is Dr. Michael Baden. And
10 I won't at this point belabor his qualifications,
11 because they are absolutely -- (voice trails). He is
12 in every sense of the word, in short for purposes of my
13 opening statement, a world-class forensic expert. I
14 want you to listen to him detail his qualifications and
15 his studies.

16 And, as part of this review(phonetic), the
17 immense talent of both Clayton, now matured, now 20
18 years later, and Baden, clearly a world-class expert,
19 are brought to the -- .

20 And it will be the conclusion of both Baden
21 and Clayton that this is a case of homicide. And I am
22 not going to ask you to believe those conclusions
23 because either I said so or because they are superbly
24 qualified individuals. No. What I will suggest to you
25 now and what I will ask you in summation to reflect

1 upon is the following: Listen to the testimony of an
2 expert and, when that testimony makes sense, here in
3 your gut, in your mind, in your very soul, then you
4 captured the truth. Listen to what they will tell you
5 and say does this make sense to me here --

6 (Pause in proceeding)

7 Remember as you listen to that testimony the
8 following: A medical examiner doesn't reach opinion
9 simply based on the postmortem of the body. There is
10 much more that goes into the mix. And absolutely
11 critical to a medical examiner's understanding of the
12 death of a human being is where it happened. This
13 happened on the cliffs.

14 What both Clayton and Baden will do will be
15 they will climb up the cliffs from the service road
16 where the body of Jody Scharf was brought and they will
17 climb up that ragged(sic) -- rugged terrain. They will
18 consult with the persons who recovered the body. They
19 will note the location of the recovery of the body.
20 And what they will tell you is this: That that tree
21 with the blood smear six to seven feet up the tree
22 running down, some 52 feet from the cliff base, given
23 that terrain, that area of the cliffs, that tree, that
24 distance from the base of the cliffs, that blood smear
25 on that tree, those injuries sustained by this poor

1 woman, none of that is consistent with the story told
2 by the Defendant of a passive fall.

3 If he has lied, he is guilty.

4 (Pause in proceeding)

5 -- the 17th of December 2008, the Defendant
6 is arrested, charged with murder. And subsequently the
7 indictment that is read to you by the Court -- return
8 by the Bergen County grand jury.

9 What I will say to you in closing that,
10 although police investigation -- (noise drowns out
11 voice) -- I think in the end you will find that it's
12 really the cliffs, not the police, the cliffs
13 versus (phonetic) Scharf. I think you will find in the
14 end that those magnificent -- those eternal and forever
15 -- (voice trails) -- it is the cliffs that will tell
16 you he has lied and he is therefore guilty of the
17 murder of his wife on the 20th of September 1992.

18 Thank you.

19 (Pause in proceeding)

20 THE COURT: Thank you, Mr. Mello. Mr.
21 Bilinkas?

22 MR. BILINKAS: Judge, I need a brief m--
23 break --

24 THE COURT: I'm sorry?

25 MR. BILINKAS: I need a -- break before --

1 THE COURT: All right. Ten minutes, all
2 right?

3 (15-Minute Break)

4 (Jury entering)

5 (Jury is present)

6 THE COURT: Welcome back, ladies and
7 gentlemen of the jury. You may be seated.

8 Mr. Bilinkas, are you ready to proceed?

9 MR. BILINKAS: Yes, Judge.

10 (Pause in proceeding)

11 MR. BILINKAS: With great respect to this
12 Court, Counsel, ladies and gentlemen of the jury, my
13 name is Edward Bilinkas. It's my pleasure after 18
14 years to finally be able to represent Stephen Scharf in
15 a court of law.

16 Before I start with my opening statements,
17 I'd like to thank you for your sacrifice. I can't
18 imagine what you have to go through with -- for six
19 weeks to hear this case. Jury service is the
20 cornerstone of our system. Without you, there is no
21 justice. Only through you will justice prevail.

22 I'll ask you to assume, as the law requires,
23 that my client, Stephen Scharf, is innocent. And I
24 hope you understand my responsibility. I hope, if --
25 if I get a little too exciting or I raise my voice in a

1 heat of passion, you'll forgive me.

2 This trial, like every criminal trial, is
3 about the truth. On September 20th, 1992, Jody Scharf
4 fell off a cliff. She left behind a husband and a
5 small child; a tragic death.

6 This case, ladies and gentlemen, is a tragedy
7 built on a tragedy. The first tragedy is that a young
8 woman's life was cut short. The second tragedy -- the
9 second tragedy is that, after 16 years, my client,
10 Stephen Scharf, has been wrongfully charged with her
11 death.

12 As the Prosecutor told you, and he mentioned
13 it a number of times, the grand jury indicted my client
14 and charged him with a crime. As the Judge instructed
15 you, the indictment is not evidence of guilt; it's
16 really a vehicle that brings this case before you.

17 In a grand jury, they only hear the
18 Prosecutor's side of the story. The Defense is not
19 there to question their witnesses or challenge their
20 case. You are the people that get to do that.

21 You'll learn, ladies and gentlemen, that two
22 different county prosecutors before the current
23 Prosecutor reviewed and investigated that ca -- this
24 case and decided not to arrest my client, decided not
25 to convene a grand jury.

1 You'll also learn, ladies and gentlemen,
2 that, with regards to all of the evidence, I submit,
3 except the expert which I will address later in my
4 summation, existed from the original investigation,
5 '92, '93. Ninety-five percent of what the Prosecutor
6 told you in his opening, all of that existed way back
7 when.

8 We're not talking about some new scientific
9 breakthrough or some forensic process that now
10 implicates my client; we're talking about the same old
11 facts and circumstances which, when put before you, are
12 riddled -- riddled with doubt.

13 You'll also learn that this Prosecutor waited
14 16 years before he arrested my client. He arrests my
15 client two weeks before Christmas, shortly before him
16 and his new wife are about to have their first child.

17 The Prosecutor then waits another six, seven
18 months to even present the case to the grand jury. Why
19 now, Mr. Prosecutor, is a question that you should be
20 continually asking yourself throughout this case, why
21 now?

22 The Prosecutor has said in his opening that
23 he's going to prove to you that -- that my client
24 planned to murder his wife, that he took her to this
25 secluded area and then pushed her off the cliff.

1 He also suggested numerous possible
2 readen(sic) -- reasons that he wants you to consider,
3 possible motives. He -- he throws a number of things
4 at you: Insurance, other women, maybe jealousy. He
5 can't decide. He wants you to figure out the reason
6 why.

7 I submit, ladies and gentlemen, that what the
8 Prosecutor told me is not what the evidence will be.

9 So there is no misunderstanding when my
10 defense is here, I'm going to tell you exactly where I
11 am coming from. My client, Stephen Scharf, is not
12 guilty. He's innocent. He did not throw his wife off
13 the cliff. And I submit to you, ladies and gentlemen,
14 that the evidence will bear that out.

15 The evidence will show that on the day in
16 question the Scharfs made reservations to go to a -- a
17 -- a comedy club. You'll learn that the wife, not my
18 client, dropped their son off at a neighbor's and told
19 them exactly where they were going the -- in that --
20 that evening.

21 She indicated to the neighbor that she
22 dropped her son off to where they would be going and
23 said that she would be spending the night with her
24 husband.

25 You'll learn that they were planning on going

1 to a comedy club. You'll learn that, before going to
2 the club, they stopped at the Rockefeller Lookout
3 mentioned by the Prosecutor. You'll learn that, after
4 arriving there, they went to their favorite spot which
5 is a rock ledge overlooking a spectacular view of the
6 Hudson River and the city.

7 You'll learn, and what the evidence will
8 show, and something the Prosecutor didn't bring out
9 during his opening, what the evidence will show is that
10 exact spot, that natural stone seat, is a spot that's
11 frequented by many people. It's not some secluded area
12 in the woods; it's a spot that's frequented by many
13 people.

14 And what the evidence will show, and Defense
15 will introduce pictures to prove to you beyond a shadow
16 of a doubt of this fact, you'll see pictures of a well-
17 worn path from the parking lot leading right to this
18 area. You'll see pictures, ladies and gentlemen, of
19 numerous, countless beer bottles, you know, beer cans,
20 food containers that people threw over the edge who
21 were sitting there. You'll see so many items down
22 below, so to speak, that there will be absolutely no
23 doubt in your minds that this is not a secluded spot;
24 it is someplace that is constantly frequented by a lot
25 of people and I submit will prove was frequented by my

1 client and his wife.

2 You'll learn, ladies and gentlemen, that on
3 that day when they were sitting enjoying the view, at
4 some point in time my client gets up to go back to the
5 car to get a blanket and some wine. You'll learn, when
6 he gets up and turns to leave, his wife gets up and she
7 falls over the side of that ledge.

8 You'll learn, ladies and gentlemen,
9 irrespective of the Prosecutor's statements regarding
10 his demeanor noted, you'll learn that as soon as she
11 falls over the cliff he frantically runs up to the
12 parking lot; he gets a flashlight from the car and runs
13 back; he frantically looks for his wife, calling out
14 her name. And then, when he can't find her, he can't
15 -- doesn't hear her, he immediately -- immediately runs
16 back up and flags down a passing motorist to get help
17 for his wife, to bring attention, rescue, police to the
18 area, immediately.

19 And, just as an aside, when you talk about my
20 client's demeanor, that exact moment when he flagged
21 down that driver seeking help for his wife is the
22 person who I submit could tell you exactly what his
23 initial reaction was. That person, ladies and
24 gentlemen, even though he went to the police station,
25 even though he talked to Sergeant Pagan and was right

1 there, has vanished. The police never took his name,
2 never took a statement from him. That person is gone,
3 ladies and gentlemen.

4 You'll also learn that all the people that
5 were at the Rockefeller Lookout Center -- and -- and a
6 number of officers will testify that there were six,
7 seven different cars there at the time, all parked near
8 where my client was parked, walking around enjoying the
9 great view, the view of -- of eternity -- all those
10 people were never talked to, never questioned, never
11 even identified by the local police.

12 So the people who could actually tell you:
13 Did you see her(sic) carrying him(sic) -- carrying her
14 over your shoulder; did you see her(sic), you know,
15 with a hammer in his hand, you know, dragging her off
16 to this secluded area, all those people are gone. And
17 I submit that that's something important that you
18 should take into consideration. Because you will find,
19 ladies and gentlemen, throughout this case, there are
20 many numerous things that the police, the medical
21 examiner, and the Prosecutor did not do properly. And
22 I submit that that's going to affect their testimony.

23 And I submit that, when you listen to the
24 testimony, think about what they should have done, what
25 would you have liked to have seen or heard. Judge

1 whether or not those things should affect their
2 testimony, like if someone screwed up and they're
3 saying things that really don't seem quite right or
4 remembering things 18 years later that he never put in
5 a report or has no notes on. I ask you to consider
6 whether or not, because he may have screwed something
7 up, is he trying to, you know, build a stronger case?
8 You be the decide -- you be the one to decide.

9 What I can tell you, ladies and gentlemen,
10 for 18 years my client has been waiting for the truth
11 to be told; my client has been waiting for this cloud
12 that has been hanging over his head for 18 years to be
13 finally lifted. He wants his day in court.

14 From day one, moments after this incident,
15 the police, the Prosecutor, Washington Township, had
16 certain suspicions. You'll learn, ladies and
17 gentlemen, I submit what this case is really about,
18 what the Proser(sic) didn't -- Prosecutor didn't tell
19 you in his opening, this case is about the Prosecutor
20 and the police doing an incomplete, an incompetent
21 investigation. It's about the police and the
22 Prosecutor attempting to twist facts, slant the truth,
23 and pollute(phonetic) witnesses to get a conviction.

24 This case is about the Prosecutor waiting 16
25 years until critical witnesses have died, physical

1 evidence has been destroyed, much of which I submit
2 would prove my client's innocence. A criminal case is
3 normally about evidence. This case is about the lack
4 of evidence.

5 Let me talk briefly about some of the things
6 the Prosecutor said he intended to prove, the -- the
7 evidence he intends to put before you.

8 The fact that there's a divorce, he kept
9 mentioning over and over again September 8th. He's
10 drilling in your mind a short period of time. Well,
11 what the evidence will show is that my client received
12 the complaint in the mail months and months before.
13 You'll learn, as he indicated, that Jody Scharf was
14 talking about divorce years before this. The evidence
15 will show that they talked about divorce, separating,
16 and getting back together.

17 You'll learn, ladies and gentlemen, that
18 divorce has absolutely nothing to do with Jody Scharf's
19 death. People get divorced every day; it doesn't mean
20 that my client killed his wife.

21 Let me address the references about the wife
22 being afraid of my client. The Prosecutor said that
23 numerous times in his opening, "She's afraid of him,"
24 and you'll hear this -- you'll hear that. I ask you to
25 look at the evidence. They're living together,

1 sleeping in the same room. What the Prosecutor didn't
2 tell you is that the night before, the very night
3 before this incident, they went out to dinner, her,
4 him, and the son, and had a family dinner together.

5 You'll learn that on the day of the incident
6 they had planned to go to a comedy club. That will be
7 established with regards to the wife dropping off the
8 son. My client didn't drop off the son and -- and --
9 and drag his wife to this area. The wife drops off the
10 son and basically tells the neighbor where they were
11 going. She ad -- admits -- she -- she indicates to
12 them that she's going to be spending alone time with my
13 client. They would be driving together in a car a
14 considerable distance alone with my client. The son is
15 even going to testify that he was told they were going
16 to a comedy club. So it's not like anybody forced her
17 in the car; it's not like anybody put a gun to her head
18 and -- and -- and made her go out with my client. This
19 was something that was planned, and that will become
20 evident throughout this case.

21 You'll learn, ladies and gentlemen, that,
22 before the wife gets in the car to leave with my
23 client, that she stopped at a local land(phonetic) and
24 had a number of drinks. When she was with my client,
25 she had a number of drinks. Does that sound like

1 someone, ladies and gentlemen, who's on guard, who's
2 afraid to be alone with my client? I submit not and I
3 submit that the evidence will not bear the Prosecutor's
4 position out.

5 How about the Prosecutor's statement -- and
6 he did this, I submit, in a very subtle way to you, but
7 it was done in a way, I submit, to prejudice you
8 against my client -- he said my client is going with --
9 going out with other women; you'll hear from two of
10 those women; you cad; how could you do that to your
11 wife? It stows(phonetic) like these -- emotions in
12 people when you hear that a spouse is cheating on
13 another spouse.

14 Let me address that issue. The Scharf's
15 marriage was not like most. They had what some would
16 call an open marriage. And the Prosecutor alluded to
17 it. You'll learn that over the years they drifted
18 apart. They -- they -- they both started seeing other
19 people. They stayed together for their son.
20 Unbelievable? Crazy? You decide.

21 You'll learn over the years they talked about
22 divorce, separating, reconciling. With regards to this
23 issue, the evidence, the uncontroverted evidence, will
24 show you that both my client and his wife were dating
25 other people. Each knew about it and agreed to this

1 arrangement. While not conventional, while not morally
2 acceptable by most, it was agreed to and accepted by
3 both. You may not agree with the manner in which him
4 and his wife behaved, but that doesn't make him a
5 murderer.

6 The evidence will show that my client didn't
7 hide anything from her. He had an answering machine in
8 the bedroom. These women would call and leave
9 messages. He even had some of these women talk to his
10 wife. The Prosecutor never mentioned that in his
11 opening. The wife knew that he was dating other women,
12 agreed to it and accepted it.

13 Defense will introduce -- and correct me if
14 I'm wrong, but I don't think the Prosecutor mentioned
15 this in his opening statement -- the Defense will
16 introduce evidence that the wife was dating other
17 people and that she didn't hide that from him.

18 Listen carefully to all the evidence before
19 you make a determination here, like the Judge
20 instructed you you're required to do. Don't let the
21 Prosecutor exploit this circumstance or create a false
22 impression. The Prosecutor wants you to think that
23 Stephen Scharf is a bad guy, that this was a one-side
24 relationship. Not so.

25 What the evidence will show is that this

1 Prosecutor's Office over the last 18 years talked to
2 virtually every single person that my client dated,
3 talked to, even gave a second look to. I don't have a
4 problem with that. We're searching for the truth;
5 remember that?

6 What Defense does have a problem with and
7 what the evidence will show is that the Prosecutor
8 turned a blind eye to the wife's behavior. Everything
9 here is one-sided.

10 You will find, ladies and gentlemen, that
11 over the last 18 years, even after my client a day or
12 so after this incident said there was an open marriage,
13 my wife was dating, you'll even find that they were
14 made aware of the fact that the wife was using a dating
15 service, that they never identified, talked to one
16 single male that she was dating. Outrageous.

17 You'll learn that up to about a month ago,
18 after my client was indicted, the Prosecutor just
19 became aware of the fact that the wife was using a
20 dating service called, "Matchmaker International". The
21 Defense will introduce two profiles that'll clearly
22 prove that the wife was dating. Those were found by
23 the Defense after 18 years and were turned over to the
24 Prosecutor.

25 The problem, ladies and gentlemen, that,

1 after 18 years -- and you'll hear when we subpoenaed
2 Matchmaker International to give you the full story
3 with regards to my client's and his wife's relationship
4 -- those records have been destroyed, so we'll never
5 really know now, 18 years later, the full extent of
6 this relationship. They turned a blind eye to the
7 wife's behavior.

8 I can't imagine what impression would have
9 been created in your minds had those records -- two
10 profiles that beyond a shadow of a doubt prove that the
11 wife was also dating at that time would have been
12 created.

13 You'll learn, ladies and gentlemen, that, in
14 the grand jury, the detective who testified on behalf
15 of the Prosecutor told that grand jury that they
16 interviewed all these people and that there was no
17 other dating relationship on the wife's side. Does
18 that offend anyone? Is that outrageous? You decide.

19 The evidence will show that my client was
20 doing the same thing the Prosecutor's going to con --
21 contry(sic) -- is trying to condemn my client for. The
22 dating profile, the -- the two that we do have after 18
23 years, will show that the wife was lying about her
24 marital status to her perspective suitors. The
25 Prosecutor's going to make a big deal about my client

1 lying to the women he dated. Let's get the whole
2 story.

3 The problem, ladies and gentlemen, that I
4 submit is that, if you don't see the other side, if you
5 don't get the whole truth, then you'll never be able to
6 determ -- determine what the truth is.

7 The Prosecutor is portraying Jody Scharf as a
8 victim regarding the relationship circumstance. There
9 is no victim here.

10 Ask yourself throughout this case when these
11 other people are testifying with regards to having
12 relationships with my client, why didn't the
13 Prosecutor, once they were made aware of the other half
14 of the relationship, investigate the wife's behavior.

15 How about the question with regards to
16 insurance? And -- and the Prosecutor says that there
17 is no answer to -- to this, that -- and, before I
18 finish my opening, I'm going to give you an answer --
19 the Prosecutor says that the evidence will show that my
20 client got life insurance for Jody Scharf and that he
21 was the primary beneficiary. The evidence is going to
22 show that the insurance was gotten for legitimate
23 reasons. And it wasn't gotten shortly before the
24 incident. Sixteen months -- sixteen months before this
25 incident.

1 And another thing the Prosecutor didn't
2 mention to you -- and -- and, if you want to know the
3 whole story, Stephen Scharf had a life insurance policy
4 on himself, and his wife was the primary beneficiary.
5 He had numerous policies of life insurance where his
6 wife was the beneficiary.

7 The evidence will show that the insurance was
8 gotten for legitimate reasons. The evidence will show
9 that both the wife and my client were working. They
10 talked about buying a new condo, the boat, the truck
11 that the Prosecutor alluded to; legitimate reasons.

12 And -- and what's important to note is that
13 the wife agreed to this, irrespective of whether she's
14 talking to a divorce lawyer, she agreed to it. And why
15 do we know that? How -- how can I even make that
16 statement 18 years later? Well, she got a medical
17 exam, an extensive medical exam, in order to get that
18 policy.

19 And let me throw this out in response to the
20 Prosecutor's remarks regarding her being afraid of him:
21 If she consented to this policy, knowing she was
22 getting or talking to a divorce lawyer, do you really
23 think she was afraid of him? A \$300,000 policy, she
24 consented; she knew about it. Does that sound like
25 someone who's afraid of you?

1 The Prosecutor is suggesting something
2 sinister about not claiming the -- the policy or
3 collecting it years later from New Jersey Unclaimed
4 Funds. Did you hear what he said? Does the phrase,
5 "I'm damned if I do; I'm damned if I don't," ring a
6 bell?

7 The Prosecutor said there is no evidence.
8 Why wouldn't he collect this policy after his wife fell
9 off the cliff? Well, this is the answer -- and this is
10 what the evidence is going to show you -- the evidence
11 is going to show from day one the police, the
12 Prosecutor's Office were trying to railroad Stephen
13 Scharf. They weren't looking for the truth. All they
14 wanted to do was arrest him and charge him with his
15 wife's murder. This is the answer. This isn't about
16 money. I don't care about that life insurance policy,
17 the hell with it, the hell with it.

18 We'll find out years later -- and I'll
19 comment on this in my summation -- lo and behold the
20 funds are turned over to New Jersey Unclaimed Funds.
21 Who gets those funds at that point if my client doesn't
22 submit his -- form, the State of New Jersey?

23 After all those years had gone by, New Jersey
24 Unclaimed Funds contacts him and he puts in a claim; he
25 signs the form and he gets those funds. And you'll

1 learn, ladies and gentlemen, what he did with those
2 funds. And, when you talk about your son -- and I'll
3 get to the son in a little bit -- you'll learn that he
4 paid for part of the son's college; he -- he entered
5 into a business with his son building or -- or
6 renovating houses; started up a corporation; took a lot
7 of that money and -- and bought appliances and -- and
8 renovation expenses.

9 (Pause in proceeding)

10 He did what he thought was right.

11 (Pause in proceeding)

12 I submit, ladies and gentlemen -- and there's
13 more to this discussion -- there's a reasonable
14 explanation, and that will become obvious throughout
15 this trial.

16 Let me comment on the -- the Prosecutor's
17 remarks concerning this hammer. Did anyone get the
18 impression that he was attempting to think that the
19 hammer had something to do with Jody Scharf's death? I
20 may be wrong, but it kind of sounded like that. Well,
21 you'll hear, ladies and gentlemen, this hammer had
22 nothing to do, absolutely nothing to do with Jody
23 Scharf's death.

24 And -- and why do I say that? The Prosecutor
25 -- and he almost had to tell you this because I'm

1 certainly going to say it now, they find a hammer and,
2 geez, did this have something to do with the death?
3 They -- death -- they send it to the lab; no blood, no
4 tissue; there's nothing to indicate that it was used to
5 strike his wife. And, with all the forensic techniques
6 now, you know damn well whether or not it had something
7 to do with that fall; you know damn well, ladies and
8 gentlemen.

9 You'll also hear, ladies and gentlemen, that
10 they question my client about that hammer. And what
11 did he say? He said: Hey, that day, I was fixing a
12 drawer. He packed a cooler in the kitchen. He said he
13 put it down; he must have taken it when he left with
14 the items from the kitchen; there's a blanket; there's
15 -- there's wine. You're going to find out he went out
16 and bought actual cheese.

17 And I'd like to ask the Prosecutor now, and
18 I've been -- I've been thinking about this from the
19 beginning, where's the cheese? What does the hammer
20 have to do with this? You'll learn that there was a
21 streak knife in that same cooler. And, if you look at
22 the steak knife, you'll see something that looks like
23 cheese on it. Why not use the knife to, you know,
24 bring her to the edge? Why not -- you know, what does
25 the hammer have to do with this?

1 You'll also learn that these two experts, the
2 medical examiner and the famous Michael Baden, never
3 even mentioned the hammer in their official reports,
4 never mentioned that this hammer is consistent with
5 this injury, that injury, never even discussed it in
6 their reports. I guarantee that, when they come in now
7 18 years later, they may try to say something, but look
8 to the original reports. They knew about the hammer;
9 they had it available to them; it's got nothing to do
10 with this case.

11 My client -- and this is what I submit is
12 also outrageous -- tells the police and the
13 Prosecutor's Office exactly why he had that hammer.
14 And he -- he bent over backwards to cooperate with
15 them. How many statements did he give? Seven, eight,
16 nine different statements? They ask him about the
17 hammer; he gives them a plausible, a reasonable
18 explanation as to why he had that hammer.

19 The day after the incident, he takes them to
20 his house. You'll learn that he, because he was
21 questioned about it -- it's kind of odd conversation
22 topic -- they question him about that hammer. He
23 points out to one of the police officers, "This is the
24 drawer. This is the drawer that I used the hammer on".

25 The Prosecutor knew that, the police knew

1 that; did they take the drawer, send it to the FBI lab
2 and say, "Hey, this drawer's never been dro(sic) --
3 broken. This drawer has never been fixed. Ah-ha, we
4 have you in a lie. Case closed," according to the
5 Prosecutor. They never took the drawer; they never
6 asked for the drawer.

7 Does that bother you? Look at the facts
8 here. My client points the drawer out the day after to
9 make a statement about the hammer and why he had it
10 with him. He draws their attention to the drawer.
11 Obviously, I submit to you, the people there, everyone
12 there were satisfied with his explanation or they would
13 have taken the drawer; they would have seized the
14 drawer and put it in evidence.

15 (Pause in proceeding)

16 Remember what the Prosecutor said this case
17 is about, okay, and you'll see the absurdity of the
18 hammer argument. The Prosecutor's whole case is that
19 my client pushed his wife off the ledge. He says that
20 all the injuries were caused when she hit the tree
21 below way far away, he keeps saying. There is no
22 evidence, nothing to suggest that there was a struggle
23 or, you know, any violence on top of that ledge.

24 You'll hear -- and the Prosecutor never
25 mentioned this either -- that the wife's fingernails

1 were scraped by the medical examiner to see if there
2 was any, you know, scratch marks or skin tissue, blood,
3 anything under the fingernails of the wife. Nothing.
4 Nothing.

5 You'll learn that my client consented. He
6 didn't lawyer-up. "Here, look at me". They looked at
7 his hands, his face, his body. No scratches, no marks.
8 And the Prosecutor wants you to say the hammer has
9 something to do with this. It's like all the other
10 evidence; smoke screens, prejudicial statements.

11 How about the Prosecutor's witnesses? He's
12 going to put on a number of witnesses, he said, who are
13 going to say that my client or his wife made various
14 damaging statements concerning my client.

15 Let -- let's talk about the client first, Mr.
16 Scharf, and all his statements. Well, I submit to you,
17 ladies and gentlemen, that his statements aren't really
18 that different. They may vary here or there. I
19 submit, if they were exactly the same, the Prosecutor
20 would be arguing that it was scripted; it was something
21 that was well planned out. Because his position is is
22 that my client did plan on murdering his wife and
23 that's why he took her there. That was what he said,
24 isn't it?

25 Listen to the statements. The problem is,

1 ladies and gentlemen, is that there's only one written
2 statement, even though even back in 1992 the police had
3 tape recorders and video cameras, even in the
4 Prosecutor's Office. You could understand right at the
5 scene obviously or, you know, maybe even at police
6 headquarters things are rushed, but when he gave two
7 statements to the County Prosecutor's Office, those sta
8 -- those statements were not taped or recorded.

9 You're going to hear the testimony from
10 witnesses 18 years later -- recall what they say
11 happened. And -- and I'm sure they're going to refer
12 to the reports and does that refresh your recol --
13 yeah, yeah, that -- this is what he said; that's what
14 he said. You know, why didn't the Prosecutor take
15 taped statements? You certainly wouldn't be able to
16 question what my client said.

17 And you'll find out that some of these
18 reports weren't done right after the fact; they were
19 done later, maybe after the Prosecutor found out that
20 things were kind of screwed up on the day of the
21 incident.

22 I ask you to remember, remember that,
23 irrespective of the relationship he had with his wife,
24 she had just fallen off a cliff. It's a traumatic
25 event. Even if I don't know someone or care for

1 someone and I'm there when they go over a cliff, that's
2 going to traumatize me. He's upset, and people will
3 say that. He's confused, and people will say that.
4 There's even an officer that's going to say that he was
5 in shock. And the Prosecutor says over and over again
6 his demeanor was noted; he's in control.

7 Well, you'll learn that on the night of this
8 incident after he gave all these statements and he
9 consented to this search, that search, he tried to
10 cooperate with the police, that he was picked up by a
11 family member, the name is Dolly(phonetic). And that
12 person, who's not associated with Law Enforcement,
13 could have told you exactly how he reacted, what his
14 demeanor was, because she knew him. People react to
15 things differently. Oops, Dolly is dead; we'll never
16 hear from Dolly.

17 You'll learn that my client is trying to
18 cooperate over and over again. You'll learn -- and
19 things that the Prosecutor didn't say in his opening
20 that he was asking about his wife; he was saying her
21 name; he was praying -- kneeling down and praying by
22 one of the police officer's cars; he had his hands over
23 his face mumbling, demeanor noted.

24 You'll learn that he tried to cooperate; he
25 tried to give them as much information as he could.

1 You'll learn, ladies and gentlemen, that the
2 police didn't want to hear the truth. You'll learn,
3 ladies and gentlemen, that they interpreted things the
4 way they wanted to interpret them for their case.

5 You'll learn that he was with the police for
6 15-and-a-half hours, never requested a lawyer, talked
7 to anybody who would try to talk to him. You'll learn
8 that he asked if the paramedics were on their way,
9 whether or not there were people on their way down to
10 -- to find his wife.

11 (Pause in proceeding)

12 You want the whole story. You want the
13 truth, the whole truth.

14 (Pause in proceeding)

15 The other witnesses, a couple girlfriends --
16 God, I'd -- I'd love to identify some of the boyfriends
17 -- but you're going to hear from two of my client's
18 girlfriends, guys(phonetic) that he went out with.

19 You're also going to hear from the -- the --
20 the friends of the wife, Jody Scharf's friends.
21 They're going to say some damaging things with regards
22 to my client.

23 I submit these friends, girlfriends, and
24 other people that the Prosecutor's going to put on,
25 before you decide whether or not I should believe them,

1 look at what the relationship was to Jody Scharf and my
2 client. Make a determination as to whether or not they
3 have an ax to grind, a hidden agenda. Look, ladies and
4 gentlemen, if they've ever changed their story. Judge
5 them like you would anyone else.

6 What the evidence will show is that the wife
7 had filed for divorce. God, I heard that enough in the
8 opening. You'll learn that the wife, through these
9 witnesses, was concerned about losing custody of her
10 son. She was concerned about being portrayed as an
11 unfit mother, an alcoholic, someone who didn't take
12 care of her son, who left him alone while she went out
13 drinking or dating with other men.

14 I submit to you that the wife was building
15 her divorce case. She was badmouthing my client behind
16 his back. She was setting up, lining witnesses for her
17 divorce case. Is that such an outrageous suggestion?
18 Have -- have you ever heard in your wildest dreams
19 someone making things up in a divorce case?

20 What I submit will really offend you, will
21 take things I hope to your -- to your sense of justice,
22 to the core of your soul. You'll see, ladies and
23 gentlemen, how both the police and the Prosecutor
24 polluted these witnesses. You're going to learn that
25 they lied to these witnesses about the facts. They

1 misled them with regards to the circumstances
2 concerning Jody Scharf's death. They even suggested --
3 suggested answers that they should give.

4 You'll learn also -- and I don't think the
5 Prosecutor mentioned this in his opening -- that, not
6 only is the Bergen County Prosecutor's Office
7 investing(phonetic) this case, interviewing witnesses,
8 looking for the truth, you'll find out also that the
9 insurance company investigators were working this case
10 with the Prosecutor's Office; that the Prosecutor was
11 giving them information; they were giving the
12 Prosecutors information. The Prosecutor's Office in a
13 murder case, a homicide investigation, is letting
14 insurance investigators question these witnesses who
15 are going to come before you. Have you ever heard of
16 something like that?

17 What was said to these witnesses by the
18 insurance company investigator? Well, the problem
19 again is that no one ever took any recorded statements,
20 not the insurance company, not the Prosecutor's Office.

21 So what's going to happen? The Prosecutor's
22 going to put these witnesses on the stand. They're
23 going to look at the Prosecutor's detective's report
24 about what they told them 18 years ago or the insurance
25 company investigator's report as to what he says they

1 said 18 years ago, and testify as if it happened
2 yesterday. I guarantee it. You'll be amazed at the --
3 the ability of these people to recall the events.

4 When they're testifying, think back 18 years
5 ago an important conversation you had. Can you recall
6 the exact words? I can't remember what I did last
7 week, what I said, you know, let alone 18 years ago.

8 And -- and listen to the police officers, the
9 one who screwed things up from the beginning: I have a
10 specific recollection; I remember this; he said that;
11 and, you know, it was like it was yesterday; I remember
12 it like it was, you know, just yesterday. You decide
13 the credibility.

14 There is one statement that was recorded and
15 that's the statement of my client's son. And, although
16 that statement is heartwrenching to a father, it is
17 what will open your eyes with regards to how this case
18 has been prosecuted.

19 You'll see in that statement -- and let me
20 transgress; that statement was taken after my client's
21 arrest in 2008 -- the ten-year-old boy was interviewed
22 by the Prosecutor's Office right after the incident.
23 There's a report on it. That little boy is asked
24 questions: Did you ever see your -- your dad, you
25 know, abuse your mother, hit your mother? And -- and

1 what does that ten-year-old boy say? She wasn't with
2 him; she was with Dolly, the aunt. No reason to lie.
3 From a child, the truth is spoken.

4 And back then in '92, he says this: My dad
5 never hit my -- my mom. And then he says: Geez, there
6 was -- there was an instance where he threw coffee in
7 her face, but then he says, well, I'm not sure if it
8 actually happened or -- or maybe I was dreaming it.
9 That's what the boy says at ten.

10 Eighteen years -- excuse me -- sixteen years
11 go by and the Prosecutor when they're swooping down on
12 my client are following the son who has nothing to do
13 with the homicide. You'll learn that they take him and
14 bring him to the Prosecutor's Office.

15 And this is all on tape, ladies and
16 gentlemen. I'm not making this up. This isn't
17 something that I can't prove. I -- I wish to God I had
18 the tapes of the other witnesses' statements, because
19 the tapes don't lie.

20 You'll see that, when they first question the
21 son, he said the same thing he basically said 16 years
22 ago: He never saw any, you know, violence, never saw
23 his dad strike his mom. Dad's a, you know, an okay
24 guy; he's not the father of the year.

25 And then what happens? Five different

1 investigators start drilling the son, lying to him with
2 regards to this case, showing them(sic) -- showing him
3 things, telling them(sic) that these witnesses have
4 said your mother was beaten, abused. They tell him
5 that this accidental life insurance, \$200,000 addendum,
6 was gotten right before the accident, tells him that
7 the policy was, you know, a year or so, but that this
8 \$200,000 accident indemnity clause was purchased right
9 before, within a few months of this incident.

10 They start playing on the kid's emotion. The
11 kid is telling them: I feel like I'm responsible, like
12 I feel a certain amount of guilt, if -- if I didn't go
13 over to my friend's house, then maybe my mom wouldn't
14 have gone out with my dad on that day, maybe my mom
15 would be alive.

16 And what do the investigators do? They play
17 on that emotion; they say, "We are here for your
18 mother. We are trying to help your mother. Help us".
19 And they say other things, outrageous things, ladies
20 and gentlemen. And, in the first 50 pages of that
21 statement, he says what he said before. And, once they
22 show him things, they make these statements for the
23 next -- I'm terrible with math -- close to 200 pages,
24 they're pulling stuff out, they're suggesting stuff.
25 He's saying no, this or that. They're asking him

1 specific questions. He says, "No, I never saw that".
2 They ask him again. They tell him something about his
3 mother and then they ask him again. It's disgusting.
4 But it is what you can take I submit to the bank. And
5 you'll know why these other witnesses weren't recorded
6 with videotape. Thank God -- thank God that one
7 recording is.

8 Irrespective of all this stuff I've said, I
9 submit to you, ladies and gentlemen, without a doubt
10 something that will be absolutely clear to you, all of
11 these facts were in possession of the Prosecutor's
12 Office in '92, '93.

13 The therapist, God, I can't wait til she
14 takes the stand. She's a friend of Jody's. She feels
15 responsible for her death. She's going to say whatever
16 she can to help the Prosecutor's case.

17 Look at her statements -- oop -- look at the
18 Prosecutor's memo concerning her statements. The first
19 one changes dramatically from the second. Oddly
20 enough, this therapist who was treating Jody Scharf
21 weekly has no notes, not one note. Have you ever heard
22 of something, someone's treating, trying to help you, a
23 therapist, use your common sense, where are these
24 notes?

25 She says she doesn't have them at first and

1 then the second statement, ten years later, she says,
2 well, yeah, I think I do have notes; I may have notes.
3 She's going to take the stand now and say there are no
4 notes. I submit there were notes. I submit that those
5 notes would not have helped the Prosecutor's Office and
6 that's why they don't exist. You decide; you judge her
7 credibility.

8 It's also important to bring up that, while
9 she's seeing this woman, she's also seeing the divorce
10 lawyer. And, just like I said with these other
11 witnesses -- part of her plan, she's building her case
12 -- you'll see what she's concerned about. It's so
13 powerful, why wasn't my client arrested when she gave
14 her first statement? And I know there's no statute of
15 limitations on murder, but doesn't it seem odd to you,
16 ladies and gentlemen, doesn't it bother you to the
17 slightest?

18 Well, let's talk about the State's whole
19 case. The only thing really different is Michael
20 Baden. The State's expert, I submit, is the State's
21 whole case.

22 And, again, I'm not going to get into his
23 qualifications. He was one of the defense experts in
24 O.J. Simpson's case. And we all know how justice
25 prevailed there. He's the famous HBO celebrity expert.

1 Michael Baden is going to come in here and say Jody
2 Scharf could not have accidentally fall -- fallen. She
3 had to have been -- and this is his words -- forcibly
4 propelled. He's going to say there is no way that she
5 falls from point A and lands at point B without being
6 pushed.

7 He also says -- and this is very, very
8 important -- that her flight from A to B was unimpeded;
9 she didn't hit anything. He also says, and the
10 Prosecutor mentioned this, that she died from a single
11 blunt-force injury when she hit the tree -- nothing up
12 top -- when she hit the tree at the bottom of the
13 cliff.

14 To break it down into laymen's terms, she
15 couldn't have landed where she did unless she was
16 pushed. The body didn't hit anything on the way down.
17 All the injuries were caused when she hit the tree at
18 the bottom. That's what the Prosecutor's come up with
19 in the last 18 years.

20 You'll learn that Baden did no real
21 scientific or quantitative analysis, something else
22 that the Prosecutor didn't mention to -- and he alluded
23 to some problems which I'll address, but he never told
24 you that, prior to this Michael Baden being hired, that
25 the State's regular expert, that Clayton woman, the

1 medical examiner, the person the Bergen County
2 Prosecutor's Office normally uses as an expert on that
3 stand in a murder case, who -- who did the actual
4 autopsy here hands on, who investigated the case on
5 behalf of the State and the Prosecutor's Office, after
6 she did her investigation -- she had all the time in
7 the world -- she puts in the death certificate, and I
8 quote, cause of death could not be determined, could
9 not be determined.

10 You'll learn that 15 years later, after she
11 meets with Baden, she changes her death certificate to
12 a homicide. Both her and Baden are going to come in
13 here and say, well, we looked at new evidence; we did
14 this; we did that. Everything that they looked at was
15 either in existence or available to them in '92. Don't
16 let them sugarcoat it. Don't let Michael Baden, you
17 know, tell you that things are -- are different and you
18 take them at face value. Look at exactly what he's
19 saying he looked at.

20 And the Prosecutor alluded to the medical
21 examiner being very young there. Is he trying to say
22 that she made some mistakes? Is he trying to say she
23 screwed up the investigation, that her original opinion
24 was wrong? Let's hear from him in his closing, all he
25 mentioned was that she was young back then. Twenty

1 years later, she's got all this experience and, you
2 know, let's -- let's see what she's going to say.

3 Well, you're going to see what she did back
4 then and you're going to judge her credibility.

5 What -- what I submit to you you'll find odd
6 is that Baden was hired in 2004. He doesn't render his
7 report until 2008. He meets with the medical examiner,
8 Clayton. I have documentation that'll say at least
9 one, but I kind of suspect that they were talking
10 frequently. We'll ask him on the stand.

11 The medical examiner changes her death
12 certificate in 2007, after she meets with Baden, the
13 State's expert. So, when the medical examiner, the
14 State's own expert, cannot substantiate a criminal
15 charge, the evidence will show that they went out and
16 did some expert shopping. They bring in a celebrity
17 expert; he comes in; he gets the medical examiner to
18 change her report. Fifteen years later? And now
19 they're both going to take that stand and say that this
20 is definitely a homicide.

21 I submit to you, ladies and gentlemen, that
22 Baden's opinion will be so absurd that you'll disregard
23 it on your own. You won't need a medical or an
24 engineering background to do so. It just doesn't make
25 sense.

1 Now, if any of you may have some lingering
2 doubts after he testifies, the Defense is going to put
3 on two highly-respected experts who are more qualified
4 and -- going to base their opinions on sound
5 engineering and medical principles. They actually
6 apply the law of physics and medicine to their
7 opinions. Their opinion is not speculation or fantasy.

8 I submit that the Defense experts will, not
9 only dispute, but they will totally destroy the
10 Prosecutor's theory.

11 You'll first hear from a Steven
12 Sure(phonetic), a licensed engineer. You'll learn,
13 ladies and gentlemen, that he climbed up this 300-foot
14 cliff face with a \$250,000 laser digital scanner. He
15 took laser measurements of the entire cliff face, top
16 to bottom.

17 He did mathematical calculations based on the
18 exact measurements of both the top and the bottom of
19 the cliff. He's going to testify that the State's
20 theory defies the law of physics. He will say it's
21 physically impossible, physically impossible, there is
22 no way a body can be pushed hard enough or thrown off a
23 cliff and reach the area where the body landed unless
24 it hits something. The body must have hit something on
25 the way down which pushed it further away from the

1 cliff face.

2 The Defense is going to show you numerous
3 photographs. You'll see the path that Jody Scharf
4 took. You'll see the rocks, the treetops, the branches
5 she had to have hit on the way down. Those items
6 clearly would have pushed her out and away from the
7 cliff face.

8 If that's not enough, Defense is going to put
9 on one of the top forensic pathologists in the country.
10 The Prosecutor describes his guy as world class, well
11 this guy is better than him. He's done such cases as
12 John F. Kennedy, Robert Kennedy assassination, Elvis
13 Presley, JonBenet Ramsey. I submit that his testimony
14 will totally destroy Baden's theory.

15 Wecht is going to use sound medical and
16 forensic principles. He's going to compare, ladies and
17 gentlemen -- and this is the key here -- specific types
18 of injuries with the physical characteristics of the
19 cliff. He will testify that all the injuries are
20 consistent with an accidental fall. You'll see exactly
21 how she fell, what she hit. And I submit to you the
22 State's theory will, not only defy the laws of physics,
23 but the medical evidence as -- as well.

24 You'll hear, ladies and gentlemen, that she
25 fell over head first and, within a second -- and that's

1 important -- within a second, she becomes impaled --
2 her chest, that deep gaping chest wound -- becomes
3 impaled on a rock ten feet below, that the force of her
4 body, the downward motion, and her being impaled on
5 that rock, causes her to flip over, that her head then
6 strikes two rocks, two sharp rocks, and she falls feet
7 first through the tree tops, the branches, and comes to
8 a final resting place.

9 The State's theory that Jody Scharf did not
10 hit anything on the way down and died from a single
11 blunt-force injury will not be supported by the
12 evidence.

13 The Prosecutor is going to want you to
14 believe, Baden, Clayton, that she fell over 200 feet,
15 didn't hit anything, and that her head hit that tree.
16 You don't have to be a doctor to know that it would
17 have exploded. You'll see that there is no significant
18 brain damage to the head. Although there's some
19 fractures, those will be explained. Think about it for
20 a second, point A to tree with your head, you'll see
21 the head fully intact.

22 (Pause in proceeding)

23 By the time the Prosecutor gets done with
24 their smear campaign, their character assassination,
25 you may not like my client. Despite his shortcomings,

1 this case should be about evidence; it should be about
2 the Prosecutor's burden of proving guilt beyond
3 reasonable doubt.

4 For the last 18 years, the Prosecutor, the
5 Detectives -- and you'll hear this -- have been
6 attempting to build a case against my client. When
7 they're unable to find any credible evidence, they went
8 out of the way to try to put him in a bad light; they
9 went out of the way to pollute everyone around him,
10 including his own son. When there was no physical
11 evidence to support their position, when their own
12 expert didn't call this a homicide, they went out and
13 shopped for a celebrity expert to try to save their
14 case. Don't be fooled. Don't let them pollute you.

15 Once you hear all the evidence, once the
16 entire story unfolds before you, I submit you will
17 return a verdict of not guilty. Thank you.

18 THE COURT: Thank you, Mr. Bilinkas.

19 We'll be in recess until two o'clock. The
20 jury is instructed not to have any conversations with
21 anyone, including any conversations between each of
22 you. The jury is excused until two o'clock.

23 (Jury is excused)

24 (Off the record. Back on the record.)

25 (Jury entering)

1 THE COURT: Welcome back, ladies and
2 gentlemen of the jury; you may be seated.

3 Madam Clerk, roll call.

4 (Roll call of jurors taken. All present)

5 THE COURT: Is the State ready to proceed?

6 MR. MELLO: Yes, Sir.

7 THE COURT: Call your first witness.

8 MR. BILINKAS: Judge, if we -- may we be
9 heard at sidebar very quickly?

10 (Sidebar)

11 MR. BILINKAS: --

12 THE COURT: Okay.

13 (Pause in proceeding)

14 MR. BILINKAS: The State's witness is -- is
15 Jonathan Scharf, my client's son. And I expect him to
16 testify with regard to some statements my client made
17 -- I would ask that the -- charge be given at this time
18 before this witness testifies.

19 THE COURT: Do you -- do you have a copy of
20 the charge that you have agreed upon?

21 MR. MELLO: No. And my -- my position is
22 that the -- charge should be given as part of the jury
23 instructions, not after each witness that testifies to
24 statement --

25 THE COURT: -- the charge would be given at

1 the end as part of the substandard charges and other
2 miscellaneous charges.

3 MR. BILINKAS: Judge, it's my understanding
4 that it's given when the witness testifies -- proposed
5 charge -- papers.

6 MR. MELLO: Well, it -- it may be Mr.
7 Bilinikas's understanding, but it's been my
8 understanding --

9 THE COURT: Can I see the charge that you
10 have proposed?

11 MR. MELLO: -- at the conclusion --

12 MR. BILINKAS: Judge, I believe Ms. Sencer
13 has our -- our legal papers -- Prosecutor has them or
14 --

15 MR. MELLO: I don't have your papers.

16 MR. BILINKAS: Yeah. The clerk has the ones
17 we submitted.

18 MR. MELLO: Yeah, the clerk has them, but I
19 don't have them with me here.

20 MR. BILINKAS: Judge, we could start his tes
21 -- testimony --

22 THE COURT: Okay.

23 MR. BILINKAS: -- and get it.

24 THE COURT: If you can locate the paperwork,
25 we'll go over it again.

1 (Sidebar concluded)

2 (Pause in proceeding)

3 THE COURT: Call your witness.

4 MR. MELLO: Thank you. Jonathan Scharf.

5 (Pause in proceeding)

6 THE COURT: Watch your step. Step up here,
7 face the court clerk.

8 COURT CLERK: Raise your right hand.

9 J O N A T H A N S C H A R F, STATE'S WITNESS, SWORN

10 COURT CLERK: State your name for the record.

11 THE WITNESS: Jonathan Scharf.

12 THE COURT: Please have a seat. Try to keep
13 your voice up and use the microphone. Prosecutor --

14 THE WITNESS: Sir.

15 THE COURT: -- you may begin.

16 DIRECT EXAMINATION BY MR. MELLO:

17 Q Thank you, sir. Mr. Scharf, may I call you
18 John for purposes of these proceedings?

19 A Yup.

20 Q Thank you. John, you are the son of Jody Ann
21 Scharf and Stephen Scharf, are you not?

22 A I am.

23 Q Do you see your father in court?

24 A I do.

25 Q Would you point him out please?

1 A Right there.

2 MR. MELLO: Sir, would the record indicate
3 that he has identified the Defendant, Mr. Scharf?

4 THE COURT: All right.

5 MR. BILINKAS: I'll stipulate to that, Judge.

6 THE COURT: Thank you.

7 BY MR. MELLO:

8 Q If you would, John, what I'd like to do is
9 first have you discuss the bitter(phonetic) background
10 with the jury, all right? And, if you would, could I
11 ask you to first tell us the date of your birth?

12 A 8/30/1982.

13 Q Can you tell us something about your early
14 years, let us say ages up to five, six, seven, that
15 area, where did you live, who did you live with?

16 A The first house I lived in was in North Arlington,
17 239 Coupe Place, I believe was the address. I lived
18 with my father and my mother.

19 When I was I believe three, we moved to Long
20 Valley, New Jersey, and we lived in the residence 27
21 Knob Hill Road.

22 Q And would that be your residence for a number
23 of years as you approached young adulthood?

24 A Yes.

25 Q Now, if you would, could you tell us where

1 you were educated, beginning with let us say your years
2 in Long Valley and then take us forward?

3 A Long Valley Middle School, which is located in
4 Long Valley, New Jersey. From there, I graduated and
5 went to West Morris Central High School. In 2000, I
6 graduated. I went to Bucknell University, graduated in
7 '04 and currently am attending graduate school at
8 Fordham University.

9 Q Can you tell us what degree you achieved at
10 Bucknell University?

11 A Bachelor of Arts in Economics.

12 Q Can you tell us what course of study you are
13 presently undertaking in graduate school?

14 A I'm studying for my MBA.

15 Q Can you tell us if you are presently
16 employed?

17 A I am.

18 Q Can you tell us how you are so employed?

19 A I work for Zack H. Bacon(phonetic)
20 Campton(phonetic) Capital. It is a hedge fund located
21 at 515 Madison Avenue, 14th Floor, Suite B.

22 Q Can you tell us what you do in your employ
23 with that particular company?

24 A I'm a trader; I would trade commodities, foreign
25 exchange. We deal with equity NC's, so basically I'm

1 the liaison between the portfolio manager and everybody
2 else.

3 Q (Mic not picking up voice) -- bit of
4 background -- during your high school and college
5 career, did you have occasion to play sports --

6 A I did.

7 Q -- at school? Can you tell us the sport you
8 played?

9 A I played football. I played throughout high
10 school. I played throughout college. So roughly nine,
11 ten years of my life I was playing football.

12 (Pause in proceeding)

13 Q I'd like to ask you if you would share with
14 us remembrances of your mother, all right?

15 A All right.

16 Q Can you tell us something about your
17 relationship with your mother and your remembrances of
18 her?

19 MR. BILINKAS: Judge, I'm going to object to
20 the form and ask that the Prosecutor be a little more
21 specific.

22 THE COURT: Ask another question; sustained.

23 BY MR. MELLO:

24 Q What I -- what I'd like you to do is give the
25 jury a sense of your relationship with your mother as a

1 youngster.

2 A As a young boy, I spent a lot of time with my
3 mother, whether it be my father had other stuff going
4 on in terms of his military duty and whatnot. I know
5 he was going back to school. Whatever it may be, I
6 spent a great deal of my childhood with my mother,
7 whether it be on weekends, after school, taking me to
8 different events, so I spent numerous hours.

9 I would say she -- me and her were essentially
10 like, you know, best friends. I was -- we -- she was
11 always there for me. She was outwardly concerned for
12 my well-being. And we'd spend -- we did a lot of stuff
13 -- a lot of my first things I can remember, like first
14 ice cream cone I got with my mother. I remember her
15 trying to sign me up for basketball, when I had rec
16 basketball, when I was in the third grade, because I
17 was big enough obviously, but they told me I -- you
18 know, I had to wait another year. I remember just her
19 always be -- being there for me. We just -- I spent
20 endless hours just, you know, hanging out with her,
21 just because she was my sole caregiver.

22 (Pause in proceeding)

23 Q John, your mother died on September 20, 1992,
24 correct?

25 A Yes.

1 Q I'm going to ask you to go back to that
2 unfortunate time, and what I'd like to first discuss
3 with you are your remembrances of September 19, 1992,
4 all right?

5 A All right.

6 Q If you would, can you tell us about September
7 19, 1992?

8 A September 19th, it was Sunday and I recall my
9 father asking my mother if they -- or if she wanted to
10 go out, and my mother responded, "If I wanted to go out
11 with you, I wouldn't be divorcing you".

12 And, later on, shortly after that conversation, I
13 -- I went up to my mother and I was like, "Oh, you guys
14 are going out? You know, I can -- I can go stay at my
15 friend's house. It'll be great". I was very excited
16 to go see my friend, C.J. And I don't know if that had
17 anything to do with her changing her mind, but whether
18 -- whatever the case was, my father and her proceeded
19 to go out. They had plans to go to dinner and a comedy
20 club, Rascals, in New York City.

21 Q Now, you mentioned that they --

22 MR. BILINKAS: Just -- just so the record is
23 clear, that's the 19th he's just testified to.

24 MR. MELLO: I'm going to -- I'm going to ask
25 a question --

1 THE COURT: Okay.

2 MR. MELLO: -- okay?

3 THE COURT: Thank you.

4 BY MR. MELLO:

5 Q The day that you're referring to where you
6 had the conversation with your mother where she said,
7 "If I wanted to go out with you," et cetera, that was a
8 Sunday.

9 A Yes.

10 Q And you're talking about staying at a
11 friend's house, and that friend would be C.J.

12 A Yes.

13 Q All right. What I want to ask you about is
14 Saturday --

15 A Oh, the day before, excuse me; I'm sorry.

16 The night before, my parents -- or my dad wanted
17 to go out to dinner with my mother. And my mother did
18 -- didn't want to go. I know she mentioned to me she
19 didn't want to go. And I -- she wanted me to accompany
20 her, you know, and I asked her why and she said that
21 she didn't want to be alone with my father.

22 The -- we, all three of us, proceeded to go to the
23 Town Crier, which is a local restaurant in Hackettstown
24 around like 9, 9:30 at night.

25 Q Now, that would be Saturday, the 19th, of

1 September.

2 A Correct.

3 Q Your mother would die Sunday, the 20th.

4 A Correct.

5 Q You went to dinner with both of your parents
6 on Saturday, the 19th, in Hackettstown.

7 A Yes.

8 (Pause in proceeding)

9 Q You've testified that your mother did not
10 want to go to dinner with your father alone.

11 A Correct.

12 MR. BILINKAS: Judge --

13 MR. MELLO: I want to ask this question.;

14 MR. BILINKAS: I'd ask the Prosecutor not to
15 continue to lead the witness.

16 THE COURT: Sustained; ask another question.

17 BY MR. MELLO:

18 Q I want to ask this question: Did anyone
19 suggest that to you; did anyone suggest that testimony
20 to you?

21 A No.

22 (Pause in proceeding)

23 A It's my life; I experienced it myself.

24 Q And, throughout your testimony, are you here
25 to testify to events that took place in your life?

1 A I am; I'm here for my mother.

2 Q Did any police officer, any police detective,
3 any prosecutor, in any way attempt to suggest what
4 answers you should give?

5 A Absolutely not.

6 (Pause in proceeding)

7 Q What I'd like to ask you is about September
8 20 -- Sunday, September 20, 1992. Would you revisit
9 that day with us?

10 A (No verbal response)

11 Q What conversation did you have with your
12 mother that you alluded to earlier?

13 A I had a conversation of my mom regarding me having
14 the opportunity to go hang out with my friend, C.J.,
15 because my parents were proceeding, to my knowledge, to
16 go out for the night, and I thought it was a good
17 opportunity for me to hang out with him.

18 Q Now, what was your mother's initial reaction
19 to going out that night with your father?

20 A She obviously didn't want to, from what she said.

21 Q And what did she say?

22 A She said, "If I wanted to go out with you, I would
23 not be divorcing you" -- excuse me -- "If I wanted to
24 go out with you, I wouldn't be divorcing you".

25 (Pause in proceeding)

1 Q But there comes a point in time when plans
2 are made between your mother and father for that
3 evening, correct?

4 A Correct.

5 Q With respect to those plans, what do your
6 parents do with you?

7 A They take me to my friend's house, C.J. Jackson.

8 Q And do you recall where C.J. Jackson lived?

9 A Well, where we -- where 27 Knob Hill is located,
10 it's basically at the -- the top of a mountain, on
11 Inlaw(phonetic) Valley, so C.J.'s house is down in the
12 valley -- like a 15-minute ride from my house, so --
13 took a, you know, trip in the car.

14 MR. BILINKAS: Judge, for the record, could
15 we have him identify who "They" is?

16 THE COURT: Mr. Mello?

17 MR. MELLO: Sure.

18 THE WITNESS: Um.

19 BY MR. MELLO:

20 Q How did you get to C.J.'s house, if you
21 recall?

22 A I got in the car with my mother and my father.

23 (Pause in proceeding)

24 Q Have you finished your answer?

25 A Yes.

1 Q Okay. Your recollection is your mom and dad.

2 Now, what was the plan as it pertained to
3 you; were you going to be picked up that evening?

4 A Yes, they were going to go out and they were going
5 to come back and they, my mother and my father, were
6 going to come pick me up and take me home, because
7 obviously I had school the next day.

8 Q Now, if you would, can you tell us the
9 sleeping arrangements that you recall in your house at
10 that time, which would be September 20, 1992?

11 A Sleeping arrangements between my mother and
12 father?

13 Q Yes.

14 A All right. My mother and father did not share a
15 bedroom at the time. They stayed in separate bedrooms.
16 My mother stayed on the couch on the first floor. She
17 stayed in my bed with me. But they definitely did not
18 share a bedroom.

19 Q At that time, namely September 20, 1992, were
20 you aware of any other relationships with other women
21 that your father had?

22 A I was aware of my father being around other women.
23 He'd introduce me to other women he was seeing at the
24 time.

25 MR. BILINKAS: For the record, can I have a

1 time-frame?

2 MR. MELLO: As of September 20, 1992 was the
3 question.

4 BY MR. MELLO:

5 Q Now, can you tell us if you ever -- you were
6 made aware or saw your mother with other men?

7 A I was never in the presence of another male
8 companion of my mother's. She never talked to me about
9 any relationships she might be carrying on. So, no, I
10 don't know of any.

11 Q Now, at this particular point in time,
12 September 20, 1992, your parents are going out for the
13 evening. Can you tell us whether it was common or not
14 for them to socialize on Sunday?

15 A The only time I can recall traveling on Sunday
16 with both my parents would be if we were coming from
17 maybe dinner with my grandparents who live in -- who
18 lived in Dumont or going to visit relatives around
19 there, but never a social event on a Sunday. I was --
20 I was regularly home, you know, ready -- bed to go to
21 school the next day.

22 I mean, there was a couple -- I can think of a
23 couple -- events as a young child, like going to a
24 football game with my friends. Obviously they're --
25 the Jets and Giants play on Sunday, so I was traveling

1 back to -- on a Sunday. But not -- not on a regular
2 basis do I remember ever going anywhere with my mother
3 and father, other than a relative's house on a Sunday
4 night.

5 Q At this time, were you aware -- and "This
6 time," I'm referring to September 20, 1992 -- were you
7 aware of any divorce proceeding between your mother and
8 father?

9 A Yes.

10 Q Can you tell us about that?

11 A Um, shortly before my mother's death, I -- well, I
12 -- I don't have an exactly date, maybe three months or
13 so, my mother approached me about how she was going --
14 she was planning to file for divorce. We spoke -- we
15 spoke about my feelings about that and she asked me,
16 you know, who I wanted to live with. And I
17 emphatically told her it was her. I kind of had an
18 idea why she was filing for divorce from stuff she had
19 mentioned to me --

20 Q What did she tell you?

21 A She told me that she was suffering from abuse --

22 MR. BILINKAS: Objection.

23 (Pause in proceeding)

24 MR. MELLO: (Voice isn't picked up by
25 microphone) -- Court's ruling.

1 THE COURT: Sidebar.

2 (Sidebar)

3 UNIDENTIFIED: -- witness -- able to testify
4 -- state of mind evidence. This is absolutely --
5 ruling of the Court that they can testify to
6 generalized abuse. And, more than that -- Mr. Bilinkas
7 went on and on about Jonathan -- that the mother
8 suffered at the hands of her husband -- so I'm not --

9 THE COURT: Okay. What is your response?

10 MR. BILINKAS: -- my objection is to -- with
11 regards to -- talking -- abuse -- three months --

12 THE COURT: I'm sorry?

13 MR. BILINKAS: Three months prior to this
14 incident. It's not close in time; it's not what -- the
15 Court's ruling is -- the Court's ruling has to do with
16 the state of mind -- close in time and -- and all the
17 arguments made by --

18 MR. MELLO: -- have to do with specific
19 instances --

20 MR. BILINKAS: Close in t -- time.

21 MR. MELLO: Not -- not specific instances --

22 THE COURT: Not specific; generalized.

23 MR. MELLO: -- generalized abuse and the
24 relevant -- the relevant time-frame --

25 THE COURT: I think --

1 MR. MELLO: --

2 THE COURT: -- objection as to the specific
3 events. That's how it became generalized.

4 MR. MELLO: Exactly.

5 THE COURT: Overruled; I'll allow it.

6 (Sidebar concluded)

7 THE COURT: The objection is overruled. The
8 witness may answer the question.

9 (Pause in proceeding)

10 BY MR. MELLO:

11 Q What did your mother tell you --

12 A That my --

13 Q -- was the reason she was divorcing your
14 father?

15 A That my dad was hitting her, abusing her, and
16 seeing other people.

17 (Pause in proceeding)

18 A And she couldn't take it anymore.

19 (Pause in proceeding)

20 Q Did you discuss plans where you would live?

21 A Yes.

22 Q What did she tell you?

23 A She said that we were going to live in California
24 with her brother, my Uncle John.

25 (Pause in proceeding)

1 Q Now, I'd like to go back to September 20 and
2 the evening of September 20; is it fair to say that you
3 spent the evening at C.J.'s house on September 20 --

4 (voice fades)

5 A Yes.

6 Q Did there come a point in time when either
7 your mother or father picked you up?

8 A No.

9 Q When no one picked you up, did you do
10 anything?

11 A I remember being startled thinking how odd it was.
12 I was -- I think it was like 11:45 at night and I had
13 -- had spoken to my friend's dad and -- kind of weird
14 that I haven't been picked up yet. And I remember
15 calling home and asking my mother, you know, to come
16 pick me up. And I believe I left a message on the
17 machine, obviously, because they weren't there, my
18 mother and my father. Calling, even though -- even as
19 a little kid, calling, knowing that I wasn't forgotten
20 about.

21 Something -- I mean, it was just an unsettling
22 feeling, because I, you know, my mother in particular
23 was always concerned of where I was and wouldn't let me
24 -- wouldn't be comfortable knowing -- not knowing where
25 I was. So for them to not send word, you know, that I

1 received, where they were and didn't come pick me up, I
2 was, you know, a little shaken, couldn't -- couldn't
3 really like sleep. But I ended up staying over at my
4 friend's house until the -- til the next day.

5 Q What happens the next day, the 21st of
6 September, 1992?

7 A Um, it's -- around eight o'clock, well past when I
8 would have gone to -- already have gone to school, my
9 father and my great aunt -- her name is Dolly -- came
10 to my friend's house to pick me up.

11 Nothing much was said. It was -- it was, "Come
12 on, John," you know, "let's go". So I got in the back
13 of the car -- or my aunt's car. My aunt drove and Dad
14 sat in the passenger seat. And --

15 Q By the way, is that your aunt on your mother
16 or father's side?

17 A It's my great aunt on my father's side, so it's
18 actually his aunt, my grandmother's sister.

19 Q All right, please continue.

20 A All right. So we proceeded to go from my friend's
21 house back to 27 Knob Hill Road, the residence where I
22 was, you know, where I lived with my mother and father.
23 And we came into the house and my dad proceeded to lead
24 me outside into the backyard, telling me he had
25 something to tell me.

1 Q Tell us what happened at that point.

2 A And, from there, we go into the center of the
3 backyard and he tells me that, you know, your mother
4 has died, "Cry with me," and then kind of tries to
5 console me and that's how I found out how my mother
6 died.

7 Q And what was your observation about your
8 father at that moment?

9 A Very unsettling feeling, knowing full well how
10 little kids interact, I remember thinking, you know, I
11 hear people whine and cry all the time, and like my dad
12 just, it -- it didn't sound like somebody who was
13 showing any emotion, like very forced. It made me feel
14 even more uncomfortable. One, my -- my sole protector
15 in the world is not here and, secondly, I'm trying to
16 digest at such a, you know, young age, like my father
17 -- me interpreting him not, you know, not -- you know,
18 faking crying. It didn't seem real to me.

19 (Pause in proceeding)

20 Q Did your father tell you how your mother
21 died?

22 A He did.

23 Q What did he tell you about that?

24 A He told me that they were hugging and kissing on a
25 ledge and he got up to get -- get something, wine or --

1 and blankets, and he turned around and my mother was
2 gone. That was immediately after, you know -- he -- he
3 told me that -- that, you know, after he told me that
4 she had -- she had died.

5 Later, it was the day of the funeral, it came up
6 in conversation again, and he said that she had slipped
7 and fell. And that's essentially what I knew about
8 what happened to my mother for 16 years.

9 (Pause in proceeding)

10 MR. MELLO: Your Honor, for the record, S-189
11 in evidence.

12 THE COURT: Any objection?

13 MR. BILINKAS: No objection.

14 MR. MELLO: May I approach?

15 THE COURT: You may.

16 (Pause in proceeding)

17 BY MR. MELLO:

18 Q John, I'm going to ask you to look at an
19 exhibit; it is marked, "S-189," in evidence, and ask if
20 you recognize that which is depicted in that
21 photograph.

22 A I do.

23 Q What do you recognize that photograph to be?

24 A It's over the fireplace in 27 Knob Hill, the place
25 where I grew up. It's my mother's urn. There's a

1 picture of me from high school -- I believe that's high
2 school graduation, as well as playing football.

3 And there's a -- it looks like a piece of
4 palm(phonetic) on top of the urn, a Bucknell football
5 hat -- it's not mine -- and then obviously a picture of
6 my mother and father.

7 Q In addition to the palm, is there a crucifix?

8 A There is.

9 Q Were either your mother or father
10 particularly religious?

11 A Not to my knowledge, no.

12 MR. MELLO: Sir, 189 to the jury please?

13 (Pause in proceeding)

14 BY MR. MELLO:

15 Q John, have you been to the scene of your
16 mother's death?

17 A I have.

18 Q Had you as a family ever been to such a
19 scene?

20 A No, I had never heard of Englewood Cliffs in the
21 context of taking trips there or going there, ever
22 being there. Even into my teenage adult years, never
23 heard of it outside a, you know, knowing where my
24 mother had actually died, I didn't. And I had gone
25 there and I saw the scene, it -- it's unbelievable for

1 me to think my mother would ever go to such a place,
2 considering she had such a fear of heights.

3 Q Can you give us an example of how you know
4 she had that fear of heights?

5 A I remember one time in particular when I was
6 young, it was First Grade, in the house I grew up in,
7 there, in the -- there's a back porch, sliding glass
8 doors going into the outside, and above the door was
9 skylights, there was a -- there were hooks so you could
10 hang plants and whatnot. Mother, she was a tall lady,
11 but she still couldn't reach the hooks, so she went and
12 got a stepladder so she could go and actually hang a
13 potted plant or what-have-you. And she got up the
14 ladder and she looked ghostly pale and like I thought
15 something was wrong; I immediately asked her what's the
16 matter, what's the matter. She -- she feels
17 lightheaded, she told me. She -- she told me she was
18 sick and she had a fear of heights. And that was about
19 like four feet off the ground at the most.

20 So, knowing that and visiting the site of my
21 mother's death, I can't see her going there.

22 Q John, does there come a point in your life
23 when you are made aware that your -- your father
24 received a sum of money from the State of New Jersey in
25 excess of \$700,000?

1 A Um, it was in 2003, Spring of my Junior year at
2 college. He called me up and -- and told me about it.

3 Q Now, let me ask you this: You attended
4 Bucknell University.

5 A Yes.

6 Q Can you tell us how that education was
7 financed?

8 A I earned I believe it was like \$25,000 a year in
9 grants to play football.

10 Q And would that be an amount sufficient to
11 cover complete tuition or would there be a balance left
12 that had to be paid?

13 A I still had to take loans, Stafford loans, out for
14 an additional, you know, \$7,000. It gradually went up
15 over the four-year period of time, because tuition went
16 up, but the majority of that was financed through a
17 grant, so I -- the rest was taken out by Stafford
18 loans, so I'd say maybe, you know, maybe a quarter of
19 it, at the most.

20 Q With respect to student loans and so forth,
21 did you receive any assistance from your father?

22 A My father, I -- when I graduated, my father and I
23 were having a conversation about the student loan that
24 I had took out and how I owed the money and I was just
25 paying the interest. And he lent me the money,

1 \$23,000, to pay off the loans. And it was something I
2 was supposed to pay back to him. So I never did and --

3 MR. BILINKAS: Judge, I didn't hear that last
4 answer.

5 THE WITNESS: I never did.

6 (Pause in proceeding)

7 THE WITNESS: But I was repeatedly asked to
8 do it by him and my, I guess -- or his wife.

9 BY MR. MELLO:

10 Q That would be his present wife.

11 A Yes.

12 Q And that would be Tina Scharf?

13 A Yup.

14 Q Did your father, in the context of the sum of
15 money he had received, tell you that it represented
16 proceeds from an insurance policy on your mother's
17 life?

18 MR. BILINKAS: Objection; leading.

19 THE COURT: Sustained.

20 BY MR. MELLO:

21 Q What did he tell you?

22 A He didn't tell me the whereabouts of it.

23 Q Okay.

24 A I mean, we didn't really discuss it.

25 Q Did you ever discuss insurance with him? And

1 that would be an insurance policy on your mother's
2 life.

3 A Never discussed an insurance policy upon my
4 mother's life. We have spoken about the proceeds that
5 he collected on my mother's life.

6 (Pause in proceeding)

7 Q Did he ever tell you that there was a policy
8 on your mother's life?

9 A I knew of it. I'm not sure if I learned of that
10 specifically from my father. I remember heard
11 something about that in -- in -- as a youth, you know,
12 when -- after the -- my mother died and the
13 investigation, what-have-you. Shortly thereafter, I
14 remember hearing about it, but I never talked about the
15 specific insurance policy with my dad.

16 Q Did you talk to him about a claim by him with
17 respect to a policy?

18 A I did w -- my Junior year when he called me up to,
19 you know, tell me about this sum of money he was coming
20 into from the insurance policy of my mother. And that
21 was when I learned in detail what the insurance policy
22 was.

23 Q And what did he tell you about that in
24 respect to making a claim on that money?

25 A He told me that the State was basically forcing

1 him to take the payout. And I asked him like why
2 didn't you ever claim it when I was a little kid,
3 definitely could have used it. And he said it would
4 have been a motive to make him, you know, look guilty.

5 MR. MELLO: Nothing further.

6 THE COURT: Cross examination?

7 CROSS EXAMINATION BY MR. BILINKAS:

8 Q Mr. Scharf, have you ever told a police
9 officer or an investigator that your dad told you that
10 he didn't collect the life insurance policy because it
11 would be a motive? Did you ever tell that, let's start
12 off with your first statement that you gave to the
13 police when you were ten years old in 1992?

14 A Well, I know I didn't speak about life insurance
15 at that first 1992 conversation.

16 Q How about in 2008 after your dad was
17 arrested, do you recall telling the detectives who
18 questioned you for eight hours that you had a
19 conversation with your father and that the reason why
20 he says he didn't collect the life insurance policy was
21 because it would be considered a motive?

22 A Yes, I remember having that conversation.

23 Q You remember specifically saying that to the
24 detectives?

25 A I remember having a conversation saying that the

1 State forced him to take the money.

2 Q That's not what I'm asking you. I'm asking
3 you did you ever tell them in that eight-hour statement
4 that your father told you the reason why he didn't
5 collect the life insurance policy was because it would
6 be considered a motive? That specific statement did
7 you tell the police?

8 A No, I did not.

9 Q So for the first time you're telling this
10 jury that specific statement, correct?

11 MR. MELLO: That is not accurate and Counsel
12 knows it. That is absolutely not accurate. I'd like
13 to --

14 MR. BILINKAS: I'm asking him a speci --

15 MR. MELLO: -- approach. I'd like to
16 approach.

17 MR. BILINKAS: I'll withdraw the question.

18 MR. MELLO: I'd like to approach, Your Honor.

19 MR. BILINKAS: I'll withdraw the question,
20 Judge.

21 BY MR. BILINKAS:

22 Q When did you first tell someone from Law
23 Enforcement that your father told you the reason he
24 didn't collect the life insurance policy was because it
25 would be considered a motive; when was the first time

1 you recall saying that specific comment?

2 A When I was able to go back and look at the
3 interview that I originally had with the detectives, I
4 looked at certain points that I didn't elaborate on; we
5 didn't cover every piece of information that the
6 detectives talked about in great detail, so this gave
7 me an opportunity to go over and speak about certain
8 instances, one being the life insurance money.

9 Q Okay, so you'll agree with me, in that eight-
10 hour taped statement, you never said what you just told
11 this jury, correct?

12 A Correct.

13 Q And, when you said you never went over that
14 specific statement, you -- you were with them for
15 approximately eight hours on that day, correct?

16 A Yes.

17 Q And they questioned you extensively with
18 regards to life insurance, correct?

19 A Yes.

20 Q They specifically asked you if you got any
21 money, correct?

22 A Yes.

23 Q And they specifically asked you whether or
24 not any of the money from the life insurance policy was
25 used to pay your education, correct?

1 A Yes.

2 Q And isn't it a fact that you told the
3 investigators that you paid for your college education?

4 A I did tell them that, yes.

5 Q You never mentioned that your dad gave you
6 \$30,000 for your college education --

7 MR. MELLO: Objection; that is not accurate;
8 that is not the testimony. It was \$23,000, and --

9 THE WITNESS: -- see --

10 MR. MELLO: -- it was a loan.

11 THE WITNESS: -- that other 7,000.

12 THE COURT: All right, ask another question.

13 BY MR. BILINKAS:

14 Q Well, let's -- let's clear up this point.

15 A I -- I --

16 Q How much money did your father give you for
17 college?

18 (Pause in proceeding)

19 A My father give me for college?

20 Q Well, he wrote a check to you; how much did
21 he write the check for?

22 A Are you referring to the loan? That loan --

23 Q However you want --

24 A -- I paid back?

25 Q -- however you want to describe it.

1 A I mean, like that's tot -- paying for college is
2 --

3 Q Well --

4 A -- very ambiguous. Did he -- are you talking
5 about the -- I don't know what you're talking about.

6 Q Well, let's -- let's address this issue.

7 When you consider a loan -- you're in financing,
8 correct?

9 A Yes, sir.

10 Q A loan is something that you pay back,
11 correct?

12 A Correct.

13 Q Do you have any tension(sic) -- intentions of
14 paying your father back the money that he gave you for
15 college? As you sit here today.

16 MR. MELLO: Objection to relevancy.

17 MR. BILINKAS: He's calling it --

18 THE COURT: I'll -- I'll allow it; overruled.

19 BY MR. BILINIKAS:

20 Q Do you have any intentions as you sit here
21 today to pay your father back for the money that he
22 gave you?

23 A For that loan, no.

24 Q You're going to stiff your old m -- your own
25 father, correct?

1 MR. MELLO: Objection to the comment.

2 THE COURT: Sustained.

3 BY MR. BILINKAS:

4 Q You have -- you have no intentions of paying
5 your father back, correct?

6 A No.

7 Q And how long have you been out of college?

8 A About six years.

9 Q And, before he was arrested, before you
10 talked to the Prosecutor, did you make any payments on
11 that money that he said was a loan?

12 A No, I received deposit tickets from him and Tina
13 to pay it back, but I never did.

14 Q Did you have any intentions of paying it
15 back, before his arrest, before you talked to the
16 Prosecutor?

17 A Um, I never really thought about it. I didn't
18 have a plan, a scheduled payment series or anything. I
19 may have, I don't -- I didn't give it much thought.

20 Q So, when they -- when his wife asked you for
21 that money, you didn't think about paying him back
22 then?

23 A No.

24 Q And -- and isn't it a fact, John, that you
25 really had no intentions ever, either before or after

1 your dad was arrested, of paying that money back?

2 A I didn't plan to, no.

3 (Pause in proceeding)

4 Q Now, you testified under oath that your dad
5 wrote you a check for how much?

6 A It was 23,000, something like that.

7 Q And what's your Social Security number?

8 MR. MELLO: Objection.

9 THE COURT: I --

10 MR. MELLO: Inappropriate.

11 THE COURT: -- suggest that there's a
12 different way of -- of handling this.

13 BY MR. BILINKAS:

14 Q I'm going to show you what I've marked --
15 Defense has marked, "D-222".

16 MR. BILINKAS: May I approach, Judge?

17 THE COURT: You may.

18 BY MR. BILINKAS:

19 Q And ask you if you recognize the number on
20 the top of this check.

21 A (No verbal response)

22 Q Can you tell them what that number reflects?

23 A It refers to my Social Security number.

24 Q And is there something written in the memo of
25 this check?

1 A College loan payoff.

2 Q And was this a check that your dad -- and who
3 signed this check?

4 A My dad.

5 Q And -- and was this a check that was written
6 to you -- or written for your college fund payoff?

7 A It was written to pay off the loan.

8 Q The loan --

9 A The loan for college, the Stafford loans, yes.

10 Q And -- and everything else -- you got a
11 scholarship, correct?

12 A Or a grant, however you want to term it, yes.

13 Q However I want to term it.

14 A Yeah.

15 Q The bottom line is you didn't have to pay a
16 dime for your college, correct?

17 A No, I earned it.

18 Q You what?

19 A Sweat equity, you know, the scholarship, I mean.

20 Q Okay, well, let's talk about some sweat
21 equity. After your mom died, do you recall your dad
22 taking you to the gym?

23 A I do.

24 Q Do you recall your dad enrolling you in these
25 -- these sports clinics, like Koresi(phonetic)?

1 A I do.

2 Q And those people trained you to become a
3 better athlete, correct?

4 A Yes.

5 Q And your dad paid for that, correct?

6 A I assume so. I mean, it --

7 Q Well --

8 A -- wasn't free.

9 Q When you say you assume so --

10 A I -- I'm telling you I didn't pay for it, so --

11 Q And --

12 A -- he paid.

13 Q -- and your mom was not around --

14 A Mom was not around to pay for it.

15 Q So will you agree with me that there's no
16 doubt in your mind that your dad paid for your -- your
17 athletic training?

18 A For Koresi and different sporting camps and
19 whatnot, yes.

20 Q And will you agree with that -- with me that
21 those helped you develop your athletic skills, correct?

22 A I would agree, yeah.

23 Q They made you a better football player,
24 correct?

25 A Yes.

1 (Pause in proceeding)

2 Q So we're clear on this point, when you were
3 first talked to by the Bergen County detectives, you
4 told them that you paid for your college, correct?

5 A That's right.

6 Q And -- and you basically said that your dad
7 didn't pay anything, correct?

8 A That's right.

9 Q And that was not true, correct?

10 A No, it was not entirely true.

11 Q Well, when you say, "Not entirely true," I
12 want to clarify that point, your father did pay for a
13 portion of your education, correct?

14 A Yes, for a portion.

15 (Pause in proceeding)

16 Q And, after your mom's death, your dad went to
17 a number of your sporting events, correct?

18 A Correct.

19 Q He was there all the time supporting you,
20 correct?

21 A He came to a number of my sporting events.

22 Q In high school?

23 A He did, yes.

24 Q At Bucknell?

25 A Yes.

1 Q Did he go to your high school graduation?

2 A Yes.

3 Q Did he take pictures of you and your

4 girlfriend at the prom?

5 A He took pictures of my girlfriend at the time and

6 myself at my girlfriend's parents' house, but I told

7 him that he wasn't invited to follow me along to the

8 prom. So, not at the prom, but, yes, he took pictures.

9 Q And, when you talk about college and sweat

10 equity, he also used to read with you after your mom's

11 death, correct?

12 A Yeah, he'd -- he would make me read the Science

13 Times from -- the New York Times. That sticks out in

14 my head. Different -- different books, whatnot, yeah.

15 Q And he would teach you vocabulary when you

16 were studying for the SAT, correct?

17 A He really wasn't around when I was studying for

18 the SAT; he was in Bosnia.

19 Q Well, do you ever recall him teaching you

20 vocabulary words?

21 A I do recall him teaching me some words, yes.

22 Q And you mentioned that he -- he was in

23 Bosnia.

24 A Right.

25 Q Numerous times, he was away for military

1 service, correct?

2 A Yes.

3 Q And a lot of times he was at school trying to
4 educate himself further, correct?

5 A Yeah, especially when I was younger, yeah. I
6 believe he was pursuing his Masters at William
7 Patterson.

8 Q Was he at your wedding?

9 A Was my father at my wedding?

10 Q Yes.

11 A No.

12 (Pause in proceeding)

13 Q Now, do you recall giving a statement to
14 members of the Bergen County Prosecutor's Office back
15 on Sebu(sic) -- September 25th, 1992?

16 A I'm familiar with the document, yes.

17 Q Well, I'm not asking you if you're familiar
18 with the document. You've testified to your
19 recollection concerning conversations that you had with
20 your mom and your dad --

21 A In my aunt's house in the presence of my
22 grandfather, that document?

23 Q I'm asking you if you recall --

24 A Yeah -- yes.

25 Q -- the conversation with the detectives.

1 A I do.

2 Q Okay, and what's -- what's the first thing
3 the detective asked you with regards to any knowledge
4 you had on that day?

5 A We started off talking about my name, where I go
6 to high school -- or, excuse me, at the time going to
7 middle school. And then we start -- we go into where I
8 was being taken to, my friend C.J.'s house, which --
9 spoke to earlier, because my parents were going out.

10 Q Do you recall exactly how you were questioned
11 on that day?

12 (Pause in proceeding)

13 A Can you be more specific?

14 Q I want you to relay to this jury exactly how
15 that interview took place back in 1992, if you can.

16 A Well, it took place in my Great Aunt Dolly's house
17 in the presence --

18 Q Let me stop you. Is Dolly dead now?

19 A Yes.

20 Q She passed away.

21 A Yes.

22 Q Okay. Dolly was there, the interview was at
23 her house.

24 A Correct.

25 Q Your dad wasn't present, correct?

1 A No.

2 Q And what was the first thing the detective
3 asked you when he started to interview you?

4 A He asked me about my parents relationship.

5 Q Okay. And do you have a specific
6 recollection of that exact question?

7 A He asked me if they stayed in the same bedrooms --
8 same bedroom. And I responded that they didn't.

9 (Pause in proceeding)

10 Q Now, the Prosecutor provided you with certain
11 documents before you testified, correct?

12 A Yes.

13 Q You looked at the Prosecutor's Investigator's
14 report of your interview, correct?

15 A Yes.

16 Q And did he also give you a copy of that 200-
17 and-almost-50-page statement that you gave them after
18 your dad's arrest?

19 A Yes.

20 Q And did you look at any other documents prior
21 to your testifying here today?

22 A I've seen the -- the interview, that 250-page
23 interview. I've seen the --

24 Q Did they let you take that home with you?

25 A No, I didn't see -- I didn't see that and get a

1 copy of that til long after that interview, maybe two
2 years. This -- I believe it was this year actually.

3 Q Who sent you a copy of your interview this
4 year?

5 A I believe I got -- I got it from the Prosecutor's
6 Office --

7 Q Did you ask for it?

8 A I had made mention that I wanted to see some of
9 it, but I didn't specifically ask for the interview,
10 the whole pack -- 250 pages, no.

11 (Pause in proceeding)

12 Q I'm going to show you a copy of your
13 statement that you said you reviewed prior to your
14 testimony; it's marked, "S-97". It's -- it's only two-
15 and-a-half pages. Can you look through that and tell
16 me where in that statement you told the Prosecutor's
17 detectives that your mom and dad didn't sleep in the
18 same room. Go ahead and look at it.

19 (Pause in proceeding)

20 A The last page, "Jonathan stated that for
21 approximately the past six months his parents slept in
22 separate bedrooms".

23 Q Okay, and -- (speaking away from the
24 microphone) -- can you read the next --

25 A "He -- he advised that his parents had a fight

1 that consisted of some yelling at each other -- at some
2 yelling at each other on one occasion recently".

3 Q And did you describe to them that your
4 parents' mag(sic) -- marriage was up and down with a
5 slip here and there?

6 A Yes.

7 Q Now, did you ever tell the Prosecutor's
8 detective a few days after your mother's death that
9 your mom had said your father had hit her?

10 A No.

11 Q Well, they asked you about the relationship
12 on that day, correct?

13 A That's true, yes.

14 (Pause in proceeding)

15 Q Did they specifically ask you whether or not
16 you ever saw your father hit your mother?

17 A Yes.

18 Q And what did you tell them?

19 A I said --

20 Q Without -- without looking on that --

21 A Oh. I said I hadn't.

22 Q You told the detectives, right after your
23 mother's death, to that specific question that you
24 never saw your father hit your mother --

25 A That's --

1 Q -- correct?

2 A -- yeah.

3 Q And then you talk about the coffee incident,
4 correct?

5 A Yes.

6 Q And, with regards to that coffee incident,
7 did you tell them whether or not you actually saw that?

8 A I stated that I think I saw it or I might have
9 dreamt it. I mean, I can find it and read it. I know
10 I said, if not the words, to that effect.

11 Q Do you recall telling the Prosecutor's
12 detective right after your mom's death with regards to
13 the coffee incident that you added that you were not
14 sure if he saw his father do that or if he was -- or
15 that he just dreamt it?

16 A Yes, I said that.

17 Q Do you recall telling them that?

18 A I do.

19 Q Now, in that subsequent statement, 16 years
20 later, do the police ask you about that coffee
21 incident?

22 A Yes.

23 Q And, during that statement, do you have a
24 specific memory of actually seeing that incident?

25 A I do.

1 Q And that's how many years after this
2 statement?

3 A Seventeen.

4 (Pause in proceeding)

5 Q Now, you testified on direct examination that
6 your mother and father dropped you off on September
7 20th at your friend's house, correct?

8 A Yes.

9 Q Can you look at that statement before you and
10 tell the jurors what you told them 18 years ago?

11 (Pause in proceeding)

12 A I told them my mother dropped me off at my
13 friend's -- my friend's house.

14 Q Not your mother and father as you testified
15 here, correct?

16 A Correct.

17 Q Now, as you sit here today, do you have a
18 specific recollection as to who dropped you off on that
19 day?

20 (Pause in proceeding)

21 A From that day, I remember many details, in
22 particular I wasn't sure who drove me down at the time.
23 When I went back and I -- started thinking about it, so
24 I misspoke.

25 Q Well, as -- as you sit here today, my

1 question is do you have a specific recollection 18
2 years later who dropped you off at your friend's house
3 on that night?

4 A Yes, I remember being dropped off; I remember
5 going into the house; I remember seeing my friend and
6 his dad.

7 Q Do you remember who was in the car with you
8 driving you to your friend's house on that night? As
9 you sit here today, can you recall that detail?

10 A I can remember the ride. I don't remember, you
11 know, specifically my mother driving the car.

12 Q Well, can you --

13 A Her -- yeah.

14 Q -- tell me why when the Prosecutor asked you
15 that question you told the jury that it was your mom
16 and dad?

17 A I misspoke. I have a very fairly sharp memory,
18 but I'm recanting(phonetic) inti(sic) -- intricate
19 details from almost two decades ago.

20 Q Understood. Understood. Now, irrespective
21 of what you recall as you sit here today, you'll agree
22 with me that back then right after your mother's death,
23 along with your aunt and y -- and the Prosecutor, you
24 told them your mother dropped you off, correct?

25 A Yes.

1 Q And you testified to some conversation with
2 regards to the mother not wanting to go?

3 A Right.

4 Q Irrespective of that conversation, she
5 obviously did decide to go, correct?

6 A Yes.

7 Q And, according to what you told the
8 detectives back then, she's the one that drove you to
9 your friend's house, correct?

10 A Yes.

11 Q And she told you that they had made
12 reservations at a comedy club that night, correct?

13 A I knew that they were going to -- I don't know if
14 they had specific reservations.

15 Q And, when you say you knew that they were
16 going, would you agree with me that, back right after
17 this incident in response to questionings from a
18 prosecutor's detective, you indicated that you had
19 heard your parents, mom and dad, talking about
20 reservations to go to a comedy club --

21 A Right.

22 Q -- correct? Correct?

23 A Yeah.

24 Q And -- and, as you sit here today, do you
25 recall that conversation between your father and your

1 mother on that night?

2 A I do. I remember specifically that one quote.
3 You tend to remember bigger items in your life, you
4 know, not the, you know, not small details, but, I
5 mean, I remember the majority -- the crux of the
6 conversation that my mother had with my father --

7 Q --

8 A -- before I moved on to get ready to go wherever I
9 was getting dropped off at.

10 Q Where -- where did that conversation take
11 place?

12 A In the livingroom of 27 Knob Hill.

13 Q And -- and who mentioned the word, "Comedy
14 club"?

15 (Pause in proceeding)

16 A I believe my dad.

17 Q And who mentioned the word, "Reservation"?

18 (Pause in proceeding)

19 A As I recall, my dad was talking to my mom, "We're
20 going to go to Rascals, get reservations," and that led
21 into the quote my mom made, "If I wanted to go out with
22 you, I wouldn't be divorcing you".

23 Q All right. And -- and, again, your mom and
24 your dad talked about the divorce many times, correct?
25 It wasn't the only time that she mentioned divorce in

1 front of your father, correct?

2 A I never talked about it in front of my dad too. I
3 never -- we never talked about it.

4 Q No, no, my question is --

5 A Did they --

6 Q -- your m --

7 A -- talk about it --

8 Q Yeah --

9 A -- in front of me?

10 Q -- you heard your mom and dad talking about
11 divorce on other occasions, other than this one time,
12 correct?

13 A Not to my recollection. I remember this specific
14 instance.

15 Q Okay. And, irrespective of what you recall
16 her saying --

17 A Mmm-hmm.

18 Q -- she decided to go with him, correct?

19 A Yes.

20 Q And -- and she was going to drive in a car
21 alone with him, correct?

22 A (No verbal response)

23 Q She wasn't going to drive and meet him there
24 to your knowledge, correct?

25 A -- yeah, I don't -- I don't know how they -- they

1 got there. I don't know what their plans were to go
2 there. I'm assuming they were traveling together.

3 Q Now, so I'm clear on this point, on direct
4 you originally said that the conversation that you
5 recall so vividly here regarding the comedy club
6 occurred on Saturday.

7 A Right.

8 Q You made a mistake, correct?

9 A I did.

10 Q Now, do you recall you, your mother, and your
11 father going out to dinner the night before?

12 A I do.

13 Q --

14 (Pause in proceeding)

15 Q Not only did she agree to go out with him to
16 a comedy club on the day in question, she agreed to go
17 out with him to dinner the night before, correct?

18 A She agreed to go out to dinner because I came with
19 her.

20 Q All right, well, when you say because you
21 came with her, you weren't going with her on Sunday,
22 correct?

23 A No.

24 Q She dropped you off at your friend's house,
25 correct?

1 A That's true.

2 Q Now, as you sit here today, do you feel any
3 guilt for having gone to your friend's house?

4 MR. MELLO: Objection to relevancy, Judge.

5 THE COURT: I'll allow it; overruled.

6 THE WITNESS: Yeah, as a young kid, after
7 what happened, I -- I feel tremendous guilt. I begged
8 my mother to take me to my friend's house and then I
9 never saw her again.

10 BY MR. BILINKAS:

11 Q Okay. And, when you talked to the
12 prosecutors after your dad's arrest, did you discuss
13 that guilt feeling with them?

14 A I believe I mentioned it.

15 Q And do you recall them at any point in time
16 telling you that they're doing this to help your
17 mother?

18 A Yes.

19 Q And they were asking you to help your mother,
20 correct?

21 A Yes.

22 Q And that was right after the conversation
23 with regards to you having these guilt feelings,
24 correct?

25 A With -- like you said, it was an eight-hour

1 period, so within the realm, yes.

2 Q --

3 (Pause in proceeding)

4 Q So there's no misunderstanding here, from the
5 time your mom passed away to the time your dad was
6 arrested, you remained in contact with him, correct?

7 A Yeah, I lived with him.

8 Q Okay. And, when you left the house and even
9 got married, you still remained in contact with him,
10 correct?

11 A When I left the house and I moved on from living
12 at home, yeah, we still had a relationship.

13 Q For instance, you used to email him
14 frequently.

15 A Yeah, we talked.

16 Q You and he started a business together.

17 A Never started a business. We both had equal
18 interest in real estate, and I thought, since my dad
19 was somewhat knowledgeable in the field, I was going to
20 leverage off his knowledge, because it's something I
21 wanted to do. So we found -- we had found an equal
22 footing, something we both had an interest in, and it
23 worked out well.

24 Q Okay. And -- and you and him started buying
25 houses or condos, correct?

1 A Well, not together. I mean, I don't own anything
2 together jointly with him.

3 Q Well, when you say you don't own anything
4 jointly, would -- would you agree with me that, not
5 only did your dad help you with regards to his
6 expertise regarding real estate, he also helped you
7 financially?

8 A Financially in regards to?

9 Q For instance, did he ever buy any materials
10 for any renovations on the properties that you were
11 involved in?

12 A He did. And I returned that as sort of a I
13 scratch his back, he scratched my back in terms -- a
14 relationship. It was good to have that sort of contact
15 in terms of he was a lot closer to the piece of
16 property that I owned, so that's -- we had -- working
17 relationship; it wasn't bad.

18 Q And can -- can you tell me how you scratched
19 his back?

20 A Any time they needed to work on one of his
21 properties, call me and I would go and work on the --
22 whatever needed to be done. And it was reciprocal with
23 mine.

24 Q At any time you needed his help, he -- he
25 would respond, correct?

1 A Him or Tina.

2 Q For instance, he bought materials, correct?

3 A He did, but, I mean, I bought materials for his
4 place too, so.

5 Q Okay.

6 A Yeah.

7 Q -- I'm not trying to infer that this was a --

8 A Yeah, I'm --

9 Q --

10 A -- just trying to explain it's like a, you know.

11 Q And he bought appliances, correct?

12 A Yes.

13 Q And -- and was that money from the proceeds
14 of the insurance to your knowledge?

15 A I would imagine maybe it was. I don't -- I didn't
16 ask him specifically where -- what checking account he
17 took it from.

18 Q Okay. And did you ever ask him to put \$3,000
19 in one of your accounts for an IRA?

20 A He -- we had a conversation about retirement
21 accounts and how I should be investing in 401k's. And
22 I basically explained to him I'll handle my retirement,
23 but don't you worry about it. And it was like, "If
24 you're so concerned, why don't you open up an IRA for
25 me". And that's how the conversation started. And,

1 yeah, I got an IRA from -- the \$3,000 check --

2 Q Irrespective of --

3 A How? Yes.

4 Q -- how the conversation --

5 A -- full disclosure on this -- telling the story.

6 Q You asked for \$3,000 for a retirement
7 account; he gave you \$3,000 for a retirement account,
8 correct?

9 A (No verbal response)

10 Q Correct?

11 A Yes, I got \$3,000.

12 Q And -- and weren't there occasions when you
13 were asking him to pay medical bills?

14 A In regards to what specifically?

15 Q Some decompression procedure regarding your
16 spine, did you ever ask him to, you know, pay thousands
17 of dollars for that?

18 A I don't remember; maybe I did; maybe I -- did --
19 can you show me? I don't -- I don't recall.

20 Q Well, did you ever go to a Yankee game with
21 him?

22 A I did.

23 Q Ever go to a Jet game with --

24 MR. MELLO: Judge --

25 THE WITNESS: I did.

1 MR. MELLO: -- at this point, it's --

2 THE WITNESS: I mean, he's my father. I mean

3 --

4 MR. MELLO: -- far afield. I'm going to --

5 THE WITNESS: -- we have -- I have a --

6 MR. MELLO: -- object to relevancy.

7 THE WITNESS: -- relationship with him as my
8 father.

9 THE COURT: Are there any other questions in
10 this area?

11 MR. BILINKAS: No, Judge.

12 (Pause in proceeding)

13 BY MR. BILINKAS:

14 Q Now --

15 (Pause in proceeding)

16 Q Now, do you ever recall telling the
17 Prosecutor's Office after your da -- after your mom
18 passed away that, with regards to your parents'
19 relationship, that your mom and dad were both doing
20 their own thing, or words to that effect?

21 A I think I spoke som -- words to that effect, yes.

22 (Pause in proceeding)

23 Q Do you ever recall telling the Prosecutor's
24 detective that with regards to them fighting or arguing
25 they were often like little kids fighting with each

1 other in terms of not physically fighting with each
2 other, but things are calm and civil as well; do you
3 recall saying something to that effect?

4 A I do recall saying that, yes.

5 Q Now, with regards to this fighting, when you
6 were first interviewed right after Mom's death you said
7 that you never saw your dad hit your mother, correct?

8 A That is correct, yes.

9 Q And would you agree with me that, when you
10 were first questioned by the Prosecutor's detective in
11 the video statement, you were also specifically asked
12 if you ever saw your father hit your mother and you
13 answered you did not?

14 A I did.

15 Q Now, with regards to these fights or
16 squabbles that your parents had, did you ever tell the
17 Prosecutor that the fights usually had to do with my
18 mother tended to drink, or words to that effect?

19 A I believe I spoke to my mother enjoyed drinking
20 wine and my father didn't condone it.

21 Q Okay. And -- and will you agree with me that
22 your mom drank almost every day?

23 A I know she liked to drink; I can't speak to the
24 frequency of --

25 Q And -- and --

1 A -- how much she consumed.

2 Q Was -- was she working at the time of her
3 death?

4 A -- yeah, because I called her office that -- the
5 morning after she died just out of -- not to -- I -- I
6 already knew the outcome, but I called anyway to see if
7 she was there.

8 Q Okay. And what time -- strike that. You
9 were usually left with a babysitter after school,
10 correct?

11 A Yes, because both my parents worked.

12 Q Okay. And can you tell the jury what time
13 your mom would pick you up from the babysitter?

14 A I'd be picked up late from the babysitter fr -- by
15 my mother --

16 Q W -- say --

17 A -- late, like, I don't know, eight o'clock, nine
18 o'clock, at times --

19 Q Eight o'clock, nine o'clock at --

20 A I'd been picked up --

21 Q -- night, correct?

22 A Well, I had been picked up late by my mother at
23 those times. I'd been picked up at seven o'clock, I
24 mean. My dad picked me up at five o'clock and six
25 o'clock and seven o'clock too, but I can remember

1 instances specifically where my mom picked me up later.

2 Q And can you tell the jury when your mom
3 normally got off work?

4 A I think she got off around seven o'clock, I
5 believe, but, I mean, I would have to base that on when
6 I got picked up, so, I mean.

7 Q So --

8 A Yeah.

9 Q -- so, as you sit here today, you have no
10 specific reco -- specific recollection of when your mom
11 actually got off work.

12 A We never spoke to her hours.

13 Q And -- and, when she picked you up late, did
14 you smell alcohol on her breath?

15 A I don't recall any one instance that she was, you
16 know, reeking of alcohol, but she may have -- I know
17 she drank. I mean, I know she drank and mixed it with
18 grapefruit juice and whatnot, so.

19 Q All right. Now, it -- you -- you testified
20 on direct that you have a specific recollection of your
21 -- you dad faked crying.

22 A I do.

23 Q Correct?

24 A I do, yeah.

25 Q Okay. And did you ever see Dad -- your dad

1 show emotion with regards to your mom's death?

2 A Well, I saw that instance. Um --

3 Q That was a fake one though, according to you,
4 correct?

5 A Correct, yes.

6 Q Okay. Do you ever recall telling the Bergen
7 County Prosecutor's Office in your official statement
8 that your dad was upset and distraught; he was, um, you
9 know, he was very emotional, like, you know, he was
10 real upset; I mean, it's something you never seen your
11 -- your parent cry; he was bawling like a little kid.
12 I mean, I haven't seen him, that's the only time I've
13 even seen him show significant emotion. Do you recall
14 telling that to the Bergen County detective in an
15 official statement after your father was arrested?

16 A I do.

17 Q So did you lie then or are you lying in court
18 now?

19 MR. MELLO: Object --

20 THE WITNESS: I told --

21 MR. MELLO: -- to the form of the question.

22 THE COURT: I'm sorry?

23 MR. MELLO: I object to the form of the
24 question.

25 THE COURT: I'll allow it; overruled.

1 THE WITNESS: I told it in the context that
2 I've gotten to a place in my life where I wasn't so
3 concerned with what happened to me -- what happens to
4 me is, now being married, what might happen to say my
5 wife or something like that.

6 And I know -- I know my dad; I know his
7 personality; I know him very well. And I was, you
8 know, worried in regards to retribution he might, you
9 know, withhold on me for saying something, you know,
10 out of character in terms of, you know, that he hit my
11 mother or something just that demeaned him. I -- I was
12 concerned for, you know, basically Dana(phonetic). I
13 mean, I'm not -- I have a lot to worry about now.

14 I had heard about this case for 16 years, so
15 I wasn't sure -- there was no reason for me to upset my
16 life -- I wasn't going out of my way to do anything
17 until I knew my dad was incarcerated or for -- or in
18 jail, I felt that I could, you know, explain everything
19 that I knew without fear of repercussions.

20 BY MR. BILINKAS:

21 Q Okay, now -- now that you've said what you
22 wanted to say, can you answer my question? Would you
23 like me to repeat it?

24 A Please.

25 Q On direct examination, you said when your dad

1 told you about your mom's death that he was faking
2 crying, correct; do you --

3 A Yeah.

4 Q -- recall that?

5 A --

6 Q I had asked you, when you talked to the
7 detective, after he was arrested and locked up and they
8 questioned you, specifically: Okay, how about after
9 all this happened, mmm, what was his -- when he came to
10 you and told you, what was his effect, how did he seem?
11 And you responded: Upset and, uh, distraught; he was,
12 mmm, you know, upset; you know, he was very emotional,
13 like, you know, he was real upset; I mean, it's
14 something you never seen your parent cry; he was
15 bawling like a little kid; I mean, I haven't seen him;
16 that's the only time I ever seen him show significant
17 emotion.

18 A When --

19 Q My question is --

20 A Mmm.

21 Q -- what's true, what you testified here today
22 or what you told the detectives in an official police
23 report after your dad was arrested?

24 A I clarified that official report. Is that before
25 or after the detectives talked to me about him being

1 arrested?

2 (Pause in proceeding)

3 A Going back to my previous statement --

4 MR. MELLO: (Speaking softly) -- page
5 reference.

6 THE WITNESS: -- that's why I made that
7 statement.

8 (Pause in proceeding)

9 MR. MELLO: Page reference please?

10 MR. BILINKAS: Page reference is -- it starts
11 on page 35. It continues on the top of page 36.

12 (Pause in proceeding)

13 BY MR. BILINKAS:

14 Q Listen to my question. I --

15 UNIDENTIFIED: --

16 THE WITNESS: Thanks.

17 BY MR. BILINKAS:

18 Q I'm not asking you why you said what you did.
19 I'm asking you, when you told the detectives in your
20 official statement that your dad was very upset, crying
21 like a baby, did you lie to them; yes or no?

22 A In the context of what I said previously, I
23 clarified what I said.

24 Q Well, I'm not asking you to clarify. When
25 you say he was --

1 A But there was a reason why I said it. I mean,
2 you're -- you're taking it out of context.

3 Q Okay. And I don't mean to do that.

4 A But you are. I'm trying to tell you I said what I
5 said for fear of retribution from my father on behalf
6 of my wife. I didn't want to deal with that. And then
7 I explained my -- my -- my feelings about the situation
8 when I know that I don't have to worry about
9 retribution.

10 Q Okay, so does that mean for whatever reason
11 you lied to the Prosecutor's detective when you made
12 the statement regarding him crying like a baby; he was
13 very upset?

14 A Yes.

15 Q Is -- is that the only time? So I'm certain
16 on this point, is that the only time that you lied in
17 the official Prosecutor's statement, or are there
18 others?

19 A Until the point where I'm under the impression or
20 I know that I don't have to worry about any retribution
21 from my father --

22 Q You were lying about everything, correct, is
23 that --

24 MR. MELLO: Objection; that's not what he
25 said.

1 BY MR. BILINKAS:

2 Q Were you lying about --

3 THE COURT: Do you have --

4 BY MR. BILINKAS:

5 Q -- major --

6 THE COURT: If you have a specific question,

7 ask it. Sustained.

8 BY MR. BILINKAS:

9 Q Before you found out that your dad was

10 arrested, did you lie?

11 A Yes.

12 Q And did you lie more than once?

13 A Yes.

14 Q Can you tell the jury how many times you lied

15 before you started to tell the truth?

16 A I'm not sure in terms of how many times I skated

17 around questions from the Prosecutor's Office, not

18 knowing the whole situation. I can't quantify.

19 Q Is it -- is it your testimony that you didn't

20 start telling the truth until after they informed you

21 that your dad had been arrested?

22 A Yes.

23 Q And how -- how did it come about that they

24 talked to you?

25 A About?

1 Q About this interview. Were they following
2 you for instance?

3 A I -- on the day of -- I'm assuming you mean the
4 day of that -- interview?

5 Q Yes.

6 A All right. I was going through my normal routine
7 of going to work to leave my house -- or, excuse me, my
8 condo in Hoboken to go into the city around like
9 quarter-to-seven in the morning and, as I was walking
10 towards the PATH Train on my -- or I walking down my
11 block, I got approached by Prosecutor's Office
12 detectives.

13 Q Detectives?

14 A Multiple, yes.

15 Q And you -- you didn't commit any crime to
16 your knowledge, correct?

17 A True, I didn't.

18 Q And -- and how many Prosecutor's detectives
19 approached you initially?

20 A There was one in particular who approached me and
21 did all the talking, and I believe there was four in
22 total?

23 Q And -- and where did they take you back to?

24 A The Prosecutor's Office. They asked me if I would
25 accompany them to the Prosecutor's Office to speak

1 about or cons -- speak about an incident concerning my
2 mother.

3 Q Okay, and isn't it a fact that on the way to
4 the Prosecutor's Office they told you that your dad was
5 arrested?

6 A (No verbal response)

7 Q Think hard.

8 (Pause in proceeding)

9 A I don't remember them telling me that.

10 Q Okay. And, when you get to the Prosecutor's
11 Office, did they talk to you about their beliefs
12 regarding how your mother died?

13 A We started talking about my situation in terms of
14 how I got to this point in my life and they brought up
15 different, you know, situations, instances that, you
16 know --

17 Q Not to get specific, but --

18 A But.

19 Q -- isn't it a fact that they told you about
20 certain things concerning this investigation, correct?

21 A Yes.

22 Q Now, they didn't just ask you what you knew,
23 correct? They showed you and told you about certain
24 things concerning their 16-year investigation, correct?

25 A Yes, I saw some --

1 Q Okay.

2 A -- documents --

3 Q Okay.

4 A -- pictures.

5 Q All right. Now, they also told you -- and
6 correct me if I'm wrong, if I'm mischaracterizing --
7 that -- that, as far as all of them were concerned,
8 your dad had pushed your mom off the cliff, correct?

9 They --

10 A Yes.

11 Q -- told you that. Five detectives basically
12 telling you that they believed that this is what
13 happened, correct?

14 A They spoke to they didn't believe what my father
15 said happened.

16 Q Okay. And they specifically told you that,
17 you know, as far as they're concerned, you know, your
18 dad pushed your mom off the cliff, correct?

19 A Yes.

20 Q Okay. And they talked to you about that life
21 insurance policy, correct?

22 A Correct.

23 Q And they told you that a short time prior to
24 your mother's death that your dad got a accident
25 indemnity clause, correct?

1 A Yes.

2 Q Within a month or two, two months, correct?

3 A Right.

4 Q And -- and were you aware of the fact that
5 the life insurance policy, as where(sic) -- as well as
6 that accident clause, was part of the original policy
7 which had been in effect for over 16 months?

8 A I wasn't aware of specific details about it.

9 (Pause in proceeding)

10 Q Are you aware of the fact that you are the
11 secondary beneficiary?

12 A No, I -- I really wasn't.

13 (Pause in proceeding)

14 Q Did you originally tell the detectives in
15 your official statement that your dad did not get
16 physical with you?

17 MR. MELLO: Can I -- can I have a page
18 reference please?

19 MR. BILINKAS: Page 38.

20 BY MR. BILINKAS:

21 Q Do you recall telling them that?

22 A I do recall telling them that.

23 Q And at some point in time you changed that
24 answer and -- and indicate to them that your dad had
25 hit you before --

1 A Yes.

2 Q -- correct? So, when you told them with
3 regards to your dad not getting physical with you
4 initially, that was another lie, correct?

5 A --

6 Q Correct?

7 A I will reference my previous statement; I
8 clarified everything I said before, what, page 114, by
9 I was concerned for well-being of my family from
10 retribution from my dad from speaking in bad light of
11 past experiences with my mother and father. So that
12 occurred on what, I didn't hear what you said, page 38?

13 Q Page 38.

14 A Yes.

15 Q W -- when did you turn --

16 A When I knew --

17 Q -- you know, and start --

18 A -- when I knew that my dad was being held and I
19 didn't have to fear repercussions or whatnot from him,
20 I felt free to discuss incidences or incidents from my
21 life, you know, concerning my mother and father in
22 different situations.

23 Q Okay. I'm just trying to clarify the number
24 of times that you lied before you started telling the
25 truth. We have the reference with regards to your dad

1 never hitting your mother, correct?

2 A Correct.

3 Q That's one lie.

4 A Mmm-hmm.

5 Q We have the reference where you said he never
6 hit you; that's like number two, correct?

7 A Correct.

8 Q Then we have lie number three with regards to
9 your dad not paying for any of your college, correct?

10 A I think --

11 Q --

12 A -- I think you're stretching that.

13 Q I'm not going to go any further, but you
14 already talked about your dad paying -- money and you
15 not paying him back --

16 A I could pay him back right now and then there
17 wouldn't be -- we wouldn't have -- be having this
18 conversation. So but you're saying he paid for
19 college. He -- he paid off the loan and I didn't pay
20 him back. It's still withstanding. That's --

21 Q --

22 A -- the debt is still out there. I could still
23 service it at any point.

24 Q Right, but you already told the jury you have
25 no intentions of paying that, correct?

1 A But, I mean, I -- I could. But your saying
2 that, you know, it almost offends me. I earned that.

3 Q Wait, wait, wait --

4 A It offends me that you're telling me that somebody
5 else paid for me to go to school when, if you broke it
6 down proportionately, I don't know, this 23 grand out
7 of whatever the total tuition was. I mean --

8 Q Okay, but he helped you with your athletic
9 career, correct?

10 A To an extent, yes.

11 Q He helped you with your -- your studies to
12 get into Bucknell, correct?

13 A To an extent.

14 Q No one else was around --

15 A He wasn't around.

16 Q He was around on many occasions.

17 A But was he around on majority of the occasions? I
18 mean, quantify that. I mean, I can.

19 Q Okay. Well, we've already gone over the
20 things he did to help you, correct?

21 A Do you want to go over the things he did to cause
22 me harm?

23 Q All right, well --

24 MR. MELLO: Yes, I'd like to hear that,
25 Judge.

1 THE COURT: You'll have your opportunity.

2 (Pause in proceeding)

3 BY MR. BILINKAS:

4 Q Now, before your dad was arrested, you were
5 concerned about getting what you thought was rightfully
6 your's regarding any inheritance, correct?

7 A We got on the subject of inheritance and whatever
8 money he came into, more specifically when he decided
9 to get remarried and --

10 Q And did you ask him to draft a will leaving
11 you the inheritance?

12 A I asked him to draft a will because the executor
13 of his will was one of his ex-girlfriends that he asked
14 me to continue a relationship with so in case something
15 happened, instead of just changing the will himself.
16 That was the reason why I pushed, because at the end of
17 the day I still, you know, regardless of what happened
18 when I was a youth, I wanted some semblance of family.
19 I mean, I really did.

20 And, I mean, I didn't wish -- in my adult years, I
21 have a different relationship with my dad than I did as
22 a youth, so I -- that was one situation where I was
23 actually trying to help him.

24 Q Did you ask your father in that will to leave
25 you the inheritance that he got from the unclaimed

1 funds?

2 A I don't specifically remember asking for any sum
3 of money.

4 Q Did you expect a sum of money?

5 A I wasn't really sure. I mean --

6 Q When he got --

7 A -- 'cause he -- when he got remarried and whatnot,
8 I didn't -- I didn't know -- I mean, I -- we didn't
9 talk specifically about his finances.

10 Q When he got remarried and his wife got
11 pregnant, were you concerned that you would be left out
12 of the will?

13 A I was more concerned that she might be taking
14 advantage of him from that perspective. I mean, I just
15 --

16 Q And -- and --

17 A -- I wasn't really concerned about me being in the
18 will or not. I mean, my conversations about the will
19 were writing the will, not what to exactly put in it.
20 To my -- to -- what I recall.

21 Q And, when you say that you were concerned
22 that she was going to take advantage of him concerning
23 the money, that would mean that you didn't get any
24 money, correct?

25 A Yes.

1 (Pause in proceeding)

2 Q Did you have a good relationship with his new
3 wife?

4 A I don't have -- I don't -- wouldn't say we're good
5 friends, but we had, you know, a working relationship
6 as well. I mean, she was nice to me. She helped me
7 study for the GMAT, the math portion of it, because
8 she's smart and whatnot. So, yeah, we had -- and I
9 especially recall working on the different real estate
10 ventures with her more than my dad, so, yeah, we had a
11 great working relationship.

12 Q Now, you testified on direct examination that
13 your dad made various statements with regards to how
14 your mom died, do you recall those?

15 A Yes.

16 Q Do you recall telling the detective that you
17 honestly don't know what happened; I mean, I have no
18 idea.

19 MR. BILINKAS: Page 11, Counsel.

20 MR. MELLO: Thank you.

21 (Pause in proceeding)

22 BY MR. BILINKAS:

23 Q Do you recall --

24 A Yes --

25 Q -- saying that?

1 A -- I remember saying that, yes.

2 Q Okay. And do you recall also on that same
3 page saying -- or asking, "Didn't she slip and fall and
4 I guess die; I think -- isn't that the story? I mean,
5 honestly, I don't know". Do you recall saying that?

6 A I think I repeated that earlier in my direct
7 testimony. I -- I don't know; I wasn't there. I can
8 only go by what my dad told me.

9 Q Now, did the detectives show you your dad's
10 handwritten statement that he wrote concerning the fall
11 on the night in question?

12 A I saw one of his -- he made a few st -- I saw one
13 of the statements he made.

14 Q Well, when you say you saw a few statements,
15 are you aware of the fact that he only gave one
16 official handwritten statement?

17 A I didn't know which one was official or not
18 official, but, yeah. I mean, I saw -- I saw what they
19 put in front of me, yes.

20 Q All right, so they were showing you different
21 things about their investigation, correct?

22 A Yes.

23 Q And did they make any comments with regards
24 to how short that statement was and -- or words to the
25 effect that that's all he had to say about your

1 mother's life, or words to that effect?

2 A Yes.

3 Q And did that upset you when they made that
4 statement and they showed you that brief narrative in
5 his own handwriting; you were upset, correct?

6 A Yes.

7 (Pause in proceeding)

8 Q Now, did they tell you that they had
9 interviewed people that had said that your mom was
10 abused?

11 A Yes.

12 Q And did that upset you?

13 A It started bringing back memories of stuff I
14 witnessed and was a part of, so again it made me more
15 upset, but it brought me back to my early childhood.

16 Q And, during those statements, did they
17 continually tell you that they were trying to help your
18 mom, correct?

19 A Yes.

20 Q And -- and they were asking you for your
21 help, correct?

22 A They were asking me to contribute what I knew
23 about my parents' relationship and different instances.

24 (Pause in proceeding)

25 Q When you say, "Specific instances," do you

1 recall them asking you: Have you seen anything
2 physical? Maybe you would suspect at some point, hey,
3 did it get physical. And you responded: I didn't see
4 my mom with a black eye, a broken jaw, or something.

5 MR. MELLO: May I have a page reference
6 please?

7 (Sound of water being poured)

8 THE WITNESS: Thanks. I appreciate it.

9 MR. BILINKAS: Page 38.

10 MR. MELLO: Page 38?

11 MR. BILINKAS: Yes.

12 MR. MELLO: Mmm-hmm.

13 BY MR. BILINKAS:

14 Q The detective then asks you: Any bruises on
15 her arms, her legs? And you said, "No".

16 A I mean, this isn't the most comfortable
17 conversation to have with complete strangers that you
18 just met three hours ago, so, I mean, I had a -- a big
19 wall I put up and, if I wasn't comfortable -- until I
20 reached that point of comfort, I mean, I'm not going to
21 talk about, you know, receiving beatings, watching my
22 mom get hit, and certain things until I reached a level
23 of comfort. My level of comfort was knowing my dad was
24 being held and there was no fear of retribution.

25 Q Okay, well, would you agree with me that this

1 statement was before you felt comfortable?

2 A Yes.

3 Q And would you agree with me that this

4 statement is lie number four?

5 A Yes.

6 Q Now, do you recall them asking you whether or

7 not you ever had a conversation with her, and you

8 responded, page 39, "She's not having a conversation

9 with a peer; she's talking to an eight-year-old. She

10 wouldn't say that. She said, 'I got to get out of

11 this; I can't do this anymore'". And then them asking

12 you on page 40: It's possible for something like that

13 physical violence leading to. "I never heard anything

14 correlating to what happened". Do you recall saying

15 those words?

16 A Yes.

17 Q And was that before you decided -- strike

18 that. Was that before you got comfortable?

19 A Right.

20 Q Lie number five, correct?

21 A (No verbal response)

22 Q Correct?

23 A Yeah.

24 (Pause in proceeding)

25 Q Now, would you agree with me that, on page 80

1 -- strike that. Would you agree with me that, on page
2 180 of your statement, you've already started to feel
3 comfortable.

4 A Yeah.

5 Q They told you that your dad was arrested,
6 correct?

7 A Correct.

8 Q Do you recall on page 180 being asked
9 specifically, after you felt comfortable: So you never
10 saw your father hit your mother. And your answer
11 being, "No, honestly; I honestly didn't"?

12 A I remember, yeah.

13 Q That's -- and so there's no misunderstanding
14 --

15 MR. BILINKAS: Do you have that marked as an
16 exhibit?

17 (Pause in proceeding)

18 BY MR. BILINKAS:

19 Q I'm going to ask you to look at page 180 on
20 S-275, top of the page, after you were comfortable,
21 after you were instructed that your dad was arrested,
22 and ask you if you told the Bergen County Prosecutor's
23 Office that you honestly never saw your dad hit your
24 mother?

25 A I said it.

1 Q Is that a lie?

2 A You tend to black out things that were tough times
3 in your life, anything; anybody goes through it. I
4 needed -- I was thrown -- a lot was thrown at me that
5 day, and I -- I couldn't think of any specific
6 instance. The more and more I thought about it,
7 obviously things started coming back. You have
8 memories up in a box that you don't ever want to think
9 about or revisit.

10 Q You -- you mean like the coffee incident?

11 A No, I mean like getting my first bicycle --

12 Q Right.

13 A -- and sitting in the back of the car and watching
14 my dad beat the hell out of my mom while she's driving.
15 I mean, I needed to get back --

16 Q Wait, wait, wait, wait, wait.

17 (Pause in proceeding)

18 Q On page 80 (phonetic) --

19 A Right.

20 Q -- when you were asked: So you never saw
21 your father hit your mother, and you answered, "No,
22 honestly; I honestly didn't," was that a lie; yes or
23 no?

24 A It wasn't the truth, no.

25 Q Was it a lie?

1 A It wasn't the truth. I'm going back to my
2 previous statement; I said --

3 Q Well, can you tell me, after you felt
4 comfortable, why did you lie this time?

5 A It didn't come to -- it didn't shoot into my
6 brain. This happened 18 years ago -- or, at the time,
7 16 years ago. It wasn't on the four, five(phonetic) --
8 actually moved past all that stuff that had gone on.
9 It wasn't on the forefront of my brain. I wasn't
10 thinking about it day in and day out. I needed some
11 time to actually gather my thoughts.

12 Q Well --

13 A Like you said, I was --

14 Q -- did you forget or did you intentionally
15 lie on page 180?

16 A Nothing came to me at the time.

17 Q And -- and so, after -- and this was, what,
18 six, seven hours of questioning by five detectives?

19 A It was well into the interview, yeah.

20 Q After you initially said over and over again
21 that you never saw your dad hit your mom, after you
22 felt comfortable on page 180 towards the end of the
23 interview, you're asked again and nothing came to mind,
24 correct?

25 A Correct.

1 (Pause in proceeding)

2 Q Now, have you been made aware of the fact
3 that proceeds from unclaimed funds have been frozen by
4 the State?

5 MR. MELLO: Objection. Objection, Your
6 Honor.

7 MR. BILINKAS: Has to do with --

8 THE COURT: Your -- your objection?

9 MR. MELLO: Not relevant.

10 MR. BILINKAS: It has to do with his motive
11 and his credibility.

12 THE COURT: I will allow it; overruled.

13 MR. MELLO: Okay.

14 BY MR. BILINKAS:

15 Q Have you been made aware of the fact that all
16 of those assets, \$730,000, have been seized and frozen
17 pending this case; you know that, correct?

18 A I know there's assets frozen. I am aware of
19 certain accounts that are frozen and mortgages. I
20 don't know what they total.

21 Q Who told you about that?

22 A The Prosecutor's Office.

23 Q Do you -- did they also tell you that, if
24 your dad is convicted, that that money goes to you?

25 MR. MELLO: Objection, Your Honor.

1 THE WITNESS: I mean, they didn't speak
2 specifically to that --

3 THE COURT: Hold on a second.

4 THE WITNESS: -- they spoke -- they spoke --

5 THE COURT: Do you have an objection? What
6 is the objection?

7 MR. MELLO: This is a forfeiture action that
8 he is not a party to. It has nothing to do with him.

9 MR. BILINKAS: I'm asking for his --

10 MR. MELLO: It's a for --

11 MR. BILINKAS: -- understanding, Judge --

12 MR. MELLO: -- and Counsel knows it. It --

13 MR. BILINKAS: -- his --

14 MR. MELLO: No.

15 MR. BILINKAS: -- understanding as to --

16 MR. MELLO: Judge, Counsel knows -- pardon
17 me, Mr. Bilinkas --

18 MR. BILINKAS: Judge, I don't want any
19 speeches. Let's go to --

20 MR. MELLO: That --

21 MR. BILINKAS: -- sidebar.

22 MR. MELLO: -- that's fine.

23 (Sidebar)

24 THE COURT: There's two -- two different
25 things going on here: There's a forfeiture proceeding,

1 I think --

2 MR. BILINKAS: Correct, yes.

3 THE COURT: -- which I was not aware of what
4 the status was --

5 MR. BILINKAS: It's --

6 THE COURT: -- but --

7 MR. BILINKAS: -- pending this case.

8 THE COURT: -- but also a statutory
9 proceeding as to who the property might go to --

10 MR. BILINKAS: Right.

11 THE COURT: -- in the absence of a will. So
12 what -- what are we talking about --

13 MR. BILINKAS: Judge, we're talking about
14 what this witness's perception -- and -- and it -- it
15 would affect his --

16 THE COURT: Perception --

17 MR. BILINKAS: -- he --

18 THE COURT: -- understanding.

19 MR. BILINKAS: If he thinks that this money
20 is going to him, then I think that's a fair question.
21 It would affect his credibility. I just -- I'm asking
22 him what his understanding is.

23 MR. MELLO: This is -- this is a forfeiture
24 action to which he is not a party. He has nothing to
25 do with it. He can ask him: Has anyone made any

1 promises or anything of the kind, but that's all.

2 MR. BILINKAS: Judge -- goes to him --

3 MR. MELLO: The money doesn't go to him.

4 MR. BILINKAS: Where does go to? He's the
5 secondary beneficiary. It doesn't go to the -- to the
6 State.

7 MR. MELLO: The State has frozen assets that
8 is a forfeiture proceeding. And that money, under a
9 forfeiture proceeding, doesn't go to --

10 THE COURT: If it wasn't a forfeiture
11 proceeding, I would agree with you, because --
12 secondary beneficiary -- (speaking softly) -- but -- I
13 -- beneficiary --

14 MR. BILINKAS: Judge --

15 MR. MELLO: The State of New Jersey is --

16 MR. BILINKAS: No --

17 MR. MELLO: -- the party to the action.

18 THE COURT: -- issues that quite frankly I
19 agree that questions of this nature, if they have a
20 proper foundation, would go to interest.

21 MR. BILINKAS: And that's why I asked him is
22 he aware of that. You told him that. And I asked him
23 what his understanding as to who gets that money.

24 MR. MELLO: -- he gets that money. This is a
25 forfeiture action --

1 THE COURT: Well, let me ask you something;
2 suppose -- I'm not saying they do -- but, if he would
3 ask the question: Has anyone ever told you that, if
4 your father is convicted, that you would get the money
5 --

6 MR. MELLO: That's fair.

7 THE COURT: Okay?

8 MR. MELLO: But that's all.

9 (Sidebar concluded)

10 THE COURT: Ask another question.

11 MR. BILINKAS: Sure.

12 BY MR. BILINKAS:

13 Q You indicated that you're aware of the fact
14 that your dad's assets have been frozen.

15 A Correct.

16 Q And that that fact was told to you by the
17 Prosecutor's Office, correct?

18 A Correct.

19 Q And they told you that that money was in
20 proceeds related to the policy, correct?

21 A They told me that his assets were frozen. I don't
22 remember if he said it was related to -- I know there
23 was action -- they spoke to the insurance policy. I
24 don't know if it was all tied together, but.

25 Q Okay --

1 A I was -- it's not my main reason for being here.

2 Q -- that's --

3 MR. MELLO: That's the question I thought was
4 going to be asked, Your Honor.

5 THE COURT: Thought.

6 MR. MELLO: I thought that was the question,
7 Your Honor.

8 MR. BILINKAS: I don't think I asked the
9 question --

10 THE COURT: Well, we discussed a question --

11 MR. BILINKAS: Right.

12 THE COURT: -- at sidebar.

13 MR. BILINKAS: Right.

14 THE COURT: I was anticipating that question.

15 MR. BILINKAS: Right, I was just
16 backtracking, Judge, to ask that question.

17 THE COURT: Well, if you have to backtrack,
18 you could ask the question directly.

19 BY MR. BILINKAS:

20 Q You're -- you're -- you're in finance,
21 correct?

22 A Yes, or --

23 THE COURT: That -- that wasn't --

24 MR. MELLO: That --

25 THE COURT: -- the question.

1 MR. MELLO: -- that's not the question.

2 THE COURT: Let's just ask the question and
3 get it over with, all right?

4 MR. BILINKAS: Okay.

5 BY MR. BILINKAS:

6 Q Who do you think that money goes to?

7 MR. MELLO: Objection; that's not the
8 question --

9 THE COURT: That's not the question either.

10 MR. MELLO: -- and it's an improper question.

11 BY MR. BILINKAS:

12 Q Did anyone tell you or is it your
13 understanding that the money goes to you if your dad is
14 convicted?

15 A I learned about it from my uncle, not the
16 Prosecutor's Office didn't say --

17 Q Who -- whose the money go to?

18 A It goes to me.

19 MR. BILINKAS: Judge, this would be a good
20 place to stop today. I have some more --

21 THE COURT: Okay.

22 MR. BILINKAS: -- cross tomorrow.

23 THE COURT: We'll continue tomorrow. Once
24 again, you could step down.

25 No conversations of any nature. Don't listen

1 to or read any news accounts. Don't have any
2 discussions of any nature. No law-related programs.

3 I will see you in the morning at 9 a.m.

4 Thank you. Have a good evening.

5 (Jury is excused)

6 (Trial adjourned for the day)

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CERTIFICATION

I, Sonia Undseth, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on Video CD No. 1, from index number 9:13:04 to 11:03:36, and from 11:20:31 to 12:36:44, and from 14:07:57 to 16:10:08, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded.

Sonia Undseth
Sonia Undseth AOC # 590

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