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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 20, 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
J. Bilinkas)

SARA SENCER MC ARDLE, ESQ., (Law Office of Sara
Sencer McArdle, LLC)

JASON ALTERBAUM, ESQ.,
Attorneys for Defendant

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Recording Opr: Diane Gundlah

1 (Jury is not present)

2 THE COURT: There's one matter that you
3 wanted to take up before we bring the jury in.

4 MR. BILINKAS: Yes, Judge, if I -- if I may.
5 I'm specifically requesting that the cofiola(phonetic)
6 charge be read at -- at this time -- (noise drowns out
7 voice) -- but my belief that, in light of the unique
8 circumstances, a son testifying against his father and
9 these other state-of-mind witnesses --

10 THE COURT: Well, what -- what difference
11 would it make? It -- it would apply to any form of
12 testimony. It's not because it is a son testifying
13 against a father.

14 MR. BILINKAS: Well, just because it's --
15 it's introduced only for such a limited pur -- purpose.

16 THE COURT: But it would bring undue
17 attention to a specific charge. And, normally, it's
18 the Court's practice to do this at the end of the case
19 with the other charges.

20 MR. BILINKAS: Understood, Judge, and -- and,
21 again --

22 THE COURT: I -- I spoke to the Presiding
23 Judge, and, you know, just to try to get a sense of
24 where you were heading, but I know of no situation
25 where it's isolated in that manner.

1 We've had limiting instructions, but not to
2 read a charge -- for that matter, all of the other
3 charges in different forms can be read a second time.

4 For example, we give an expert witness
5 charge. At the time that the expert witness is
6 testifying, would we then be reading the expert witness
7 charge?

8 MR. BILINKAS: No.

9 THE COURT: That -- that testimony is
10 important. It's beyond the count of the juror. And,
11 to use your analogy, you have an exception, the
12 exception built upon the fact that the son is
13 testifying in essence against the father. Well, if you
14 have expert testimony, wouldn't you want to bring the
15 same attention to the expert testimony?

16 MR. BILINKAS: I wouldn't --

17 THE COURT: The argument would be raised
18 arguably the same, would it not?

19 MR. BILINKAS: It -- it could, Judge. And,
20 to be honest, I wouldn't have an objection to that, but
21 -- (noise drowns out voice) --

22 THE COURT: I want to be consistent.

23 MR. BILINKAS: Understood.

24 THE COURT: Okay? Your request is noted and
25 denied.

1 MR. BILINKAS: Thank you, Judge.

2 THE COURT: Are we ready to proceed?

3 MR. BILINKAS: Absolutely.

4 THE COURT: Bring in the jury.

5 MR. MELLO: I think I made a very good
6 argument there, Judge.

7 THE COURT: Yes, you did.

8 MR. MELLO: Thank you, Sir.

9 (Pause in proceeding)

10 COURT CLERK: Jury entering.

11 (Jury entering)

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

14 Madam Clerk, roll call.

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

16 THE COURT: The witness may return to the
17 stand.

18 (Pause in proceeding)

19 THE COURT: Mr. Scharf, you're still under
20 oath. Please have a seat.

21 Mr. Bilinkas?

22 MR. BILINKAS: Thank you, Judge.

23 CROSS EXAMINATION CONTINUED BY MR. BILINKAS:

24 Q Good morning, Mr. Scharf.

25 A Good morning. How are you?

1 Q Pretty good. Now, yesterday, you talked
2 about a mutual business arrangement with your dad,
3 correct, after your mom's death? Working on houses
4 together?

5 A Working on houses together. There was no legal
6 arrangement, but, yeah, we worked on houses. I worked
7 on h -- his houses with him; he worked on my house with
8 me.

9 Q Okay. And -- and -- and that was something
10 that was a mutual thing?

11 A Yeah, you know, a hobby obviously of his and it
12 became a hobby of mine. And I leveraged off, you know,
13 his knowledge of the business --

14 Q Okay. Isn't it a fact that the day before
15 your dad was arrested he worked on one of your houses
16 with him, correct?

17 A He was with me. He came to my -- the place I own
18 in Phillipsburg, yes.

19 Q And did help you -- (Noise drowns out voice)

20 A I mean, he was there. I mean, he wasn't really
21 doing all that much, but, yeah, he was there; he was --
22 we were talking and whatnot. I was doing the majority
23 of the stuff, but, yes, he was present with me.

24 Q Okay. Irrespective of whether you were doing
25 the majority, did -- did he do any physical labor on

1 that day? Clean up? Carry your tools? Anything along
2 --
3 A Yes, I'm -- yeah, he -- I'm sure he did something,
4 yes.
5 Q And -- and you agreed to work on his houses,
6 correct?
7 A I did, yes.
8 Q And -- and, after his arrest, didn't his wife
9 also help you with your house?
10 A She came out with me at one point, yes --
11 Q And --
12 A -- after his arrest.
13 Q And -- and she did some physical things to
14 help you with that house.
15 A Well, we went through the house, because I was
16 working to re-rent it for a new tenant, so.
17 Q Right. She cleaned up, things like that.
18 A And she -- yes.
19 Q Okay. And she even helped you find a tenant
20 for your new house, correct?
21 A She did, yeah.
22 Q And -- and, after she helped you in your
23 house, did physical labor, found a tenant for you,
24 isn't it a fact that, when she asked you to help with
25 her and Stephen's house, you refused?

1 A She never formally asked me to do anything
2 specific for the house. She said she was -- she needed
3 to get the place in Franklin rented out; she needed to
4 get the place in Phillipsburg fixed up, but she never
5 said, "We're going down to do this; can you come on
6 this date".

7 Q Well, she said that she needed to get the
8 place fixed up, correct?

9 A She did.

10 Q And you were the person in this arrangement
11 who was actually doing the fixing up, correct?

12 A There was no arrangement.

13 Q Well, didn't you say that --

14 A Yeah, but --

15 Q -- you would --

16 A -- there was no --

17 Q -- help your dad --

18 A -- there was no -- there was no legality to it.

19 Q Well --

20 A I wasn't an employee of my dad's corporation which
21 you've suggested existed. There is -- there is nothing
22 to it.

23 Q Okay.

24 A Father and son working on houses together.

25 Q All right. And -- and I'm not talking about

1 legality --

2 A Yeah, but you said --

3 Q -- I'm talking about --

4 A -- a business. A business has legality.

5 Q Okay.

6 A You know, this is a --

7 Q I'll rephrase --

8 A -- hobby, essentially.

9 Q Okay.

10 A You know.

11 Q However you want to describe it, your
12 arrangement was that -- and I think you said yesterday,
13 "You scratch my back; I'll scratch your's," correct?

14 A Yeah.

15 Q And you scratching your dad's back on his
16 properties was doing work, correct?

17 A Correct.

18 Q And -- and, after Tina Scharf, his new wife,
19 helped you, you never helped her, even though she was
20 eight months pregnant, fix up the house that she and
21 your father had, correct?

22 MR. MELLO: Judge, at this point I think, you
23 know, I've given Mr. Bilinikas great latitude in
24 deference to cross examination, but --

25 THE COURT: --

1 MR. MELLO: -- the fact of the matter is now
2 establishing this relationship has been done, what is
3 the relevancy to the issue at hand is my objection --
4 (voice trails)

5 MR. BILINKAS: Judge, he's the one who talked
6 about a relationship, about scratching each other's
7 back --

8 MR. MELLO: But he --

9 MR. BILINKAS: -- and I want to bring out the
10 fact that that was not the case.

11 MR. MELLO: Judge, that was premised on cross
12 examination on an issue that I think is far removed
13 from what's before the jury in this case, most
14 respectively.

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

16 BY MR. BILINKAS:

17 Q Isn't it a fact that, after Tina Scharf
18 helped you get your house ready and her house and your
19 father's house needed fixing up to do, you never helped
20 her, correct?

21 A The situation was Tina and I had had a
22 conversation about the situation my father was in,
23 being in the facility, and we got on a subject of my
24 mother, so Tina and I had a disagreement --

25 Q Okay, but --

1 A -- so I didn't -- I -- you know, we kind of just
2 parted ways after that.

3 No disrespect to her because she was pregnant. I
4 -- it had a lot to do with my personal feelings of what
5 she said.

6 Q Correct. So, at eight months pregnant, for
7 whatever reason you decided that you were not going to
8 help her with her and your dad's house, correct?

9 A She has brothers; she has family members that she
10 was working on the houses with. I mean, I wasn't the
11 sole pers -- I wasn't responsible for working on her
12 house per se.

13 I mean, originally, what we talked about before, I
14 was scratching my dad's back; I was scrat -- he was
15 scratching mine. He was no longer scratching anything,
16 so, I mean, there's just Tina and myself, so, I mean,
17 we had a disagreement and this is how it is. It has
18 nothing to do with her being pregnant, me being --
19 having a relationship with her. I was just -- I was
20 frustrated with what she said to me.

21 Q So will you agree with me that, once your
22 back was not being scratched, you were done so to
23 speak.

24 A I was insulted, so I was done.

25 Q Now, you testified yesterday that all these

1 statements after you denied various things came up
2 because you were afraid of your father, correct?

3 MR. MELLO: I'm going to just object --

4 MR. BILINKAS: I'll rephrase that --

5 MR. MELLO: Thank you.

6 MR. BILINKAS: --

7 MR. MELLO: Thank you.

8 BY MR. BILINKAS:

9 Q You said yesterday that you were afraid of
10 your father, correct?

11 A Afraid of what he might do, yes.

12 Q Do you remember being asked by the Bergen
13 County detectives in that official statement, on page
14 32 --

15 MR. BILINKAS: Do you have the copies so he
16 can look at that?

17 (Pause in proceeding)

18 MR. BILINKAS: Hand you S-275.

19 MR. MELLO: What page is that, Counsel?

20 MR. BILINKAS: Thirty-two.

21 MR. MELLO: Thank you.

22 (Pause in proceeding)

23 BY MR. BILINKAS:

24 Q Let's -- I'll refer you to the bottom of page
25 31. Isn't it a fact that you were asked a specific

1 Q Do you remember being asked the question,
2 page 37, "How was your relationship after that," and
3 your answer being, "Like I said, my dad ran a tight
4 ship in terms of treating me like I was a -- in the
5 military, so to speak. It was always like you're
6 always wondering what was going on to transpire in
7 terms of what he would feel, you know, the way to do
8 something, what plans he might have for me, or
9 whatnot".

10 You remember the detective then asking you,
11 "But that never jumped to -- to being physical," and
12 you responded, "No". And then he asks you again,
13 "Threats of any physical or no?". Your answer, "To me,
14 no". Do you recall telling that to the detectives?

15 A Yes.

16 Q And -- and they asked you that question over
17 and over again, correct?

18 A Yes, on that page. And I'll refer back to what I
19 said yesterday --

20 Q I don't think there's a --

21 A -- I -- well, yeah, but I referred --

22 Q -- there's not --

23 A -- I referred back to what I said yesterday. I
24 recanted what I said because I was embarrassed; I
25 didn't know these people; I didn't know what they were

1 doing; I hadn't heard about this case in 16 years.

2 Q And --

3 A So I'm just supposed to pour my heart out and put
4 all my experiences?

5 Some were embarrassing, you know, I didn't -- I
6 didn't feel that I was at a point where I was ready to
7 talk about certain things; I wasn't at a comfort level.
8 Once I reached that comfort level, it's a different
9 story.

10 Q Okay, now, are you done saying what you
11 wanted to say?

12 MR. MELLO: Objection, Judge --

13 THE COURT: All right. Counsel, ask the
14 question.

15 BY MR. BILINKAS:

16 Q Now, do you realize it is against the law to
17 give false statements to a Law Enforcement officer?

18 A I'm aware.

19 Q So you intentionally lied to the police,
20 according to your testimony, correct?

21 A I --

22 Q For whatever reason.

23 A Yes.

24 Q Now, did the Prosecutor at any point when you
25 had the epiphany and started telling the truth

1 according to you, did the Prosecutor ever tell you that
2 you were subjected to possible criminal charges for
3 lying in a homicide case?

4 A Yes, he said that you need to make sure that you
5 tell the truth always and make sure everything that
6 you've said previously is true. Hence, I went back
7 through what I said after deep thought and I gave that
8 amend -- or addendum.

9 Q Did he tell you that you were possibly facing
10 criminal charges for lying in a homicide case?

11 A No, we didn't speak to p--

12 Q He never even mentioned that, because you had
13 lied, that there may be a problem with what you --

14 A He said, if you lie, you would be committing --
15 committing perjury or s -- words to that effect, but we
16 weren't -- we didn't spend a lot of time on the
17 subject.

18 Q Okay, and -- and when did he say, "If you
19 lie, you're committing perjury"?

20 A When you're in court.

21 Q So did you take that to understand that it's
22 okay to lie out of court when you're giving an official
23 statement?

24 A No.

25 Q Are you worried about being charged for the

1 lies that you told in your 2008 statement?

2 A No.

3 Q Do you realize that, if you were charged
4 criminally, that could affect your licensing for your
5 business?

6 A I don't have any licenses and I'm not worried
7 about lying, because I'm not lying currently. I
8 explained to you why I said what I said.

9 Q Okay.

10 A You keep harping on the point.

11 (Pause in proceeding)

12 Q Now, did you testify in the grand jury in
13 this case?

14 A No.

15 Q Now, you testified yesterday that your mother
16 at the age of nine or ten confided in you with regards
17 to these various statements concerning her and your
18 dad; do you --

19 A Yes.

20 Q -- recall that testimony yesterday?

21 A Yes.

22 (Pause in proceeding)

23 MR. BILINKAS: May I approach?

24 THE COURT: You may.

25 BY MR. BILINKAS:

1 Q I'm going to show you State's exhibit 152.
2 Is this a picture of you at -- at the time of your
3 mom's death or thereabouts?

4 A I can't be sure, but it's a picture of me when I
5 was, you know, a young boy, so that would make sense.

6 MR. BILINKAS: -- problems with --

7 MR. MELLO: Not at all; we can move that into
8 evidence, Judge.

9 THE COURT: Into evidence.

10 MR. MELLO: State's 152.

11 (Pause in proceeding)

12 BY MR. BILINKAS:

13 Q It's your testimony that, at around this age,
14 your -- your mother was talking to you about the
15 relationship she had with your father, correct?

16 A She informed me of certain instances and --

17 Q For instance, you testified yesterday on
18 direct examination that she told you that she was
19 getting a divorce, correct?

20 A Yes.

21 Q And at some point in time she even asked you
22 whether or not you wanted to stay with her, as opposed
23 to your father, correct?

24 A Correct.

25 Q And did she talk about meeting with the

1 divorce lawyer?

2 A No, not specifically.

3 Q Did you talk about planning the case that she
4 anticipated going to court on?

5 A No.

6 Q Did she indicate to you that there may be a
7 custody battle for you?

8 A I mean, Monday Morning Quarterback would tell me,
9 I guess, if she was asking me who I wanted to live
10 with, but I -- we didn't really talk about that.

11 Q Okay, but you do recall that she did in fact
12 ask you and you said her, correct?

13 A Yes.

14 Q Now, she also told you things about your dad
15 and him dating other women, correct?

16 A Well, I was made witness to that by my father, as
17 well as my mother telling me, so it was confirmed on
18 both sides.

19 Q Okay, well, irrespective of what you saw with
20 your own eyes, you will agree with me that your mom was
21 telling you things also about your dad seeing other
22 women, correct?

23 A Do -- wanted to contradict what I saw with my own
24 eyes and --

25 Q No, no, no, I'm just asking you to recall --

1 A Yes --

2 Q -- whether --

3 A -- my mother -- my mother did speak of my dad's
4 relationships with other women.

5 Q And was that in the same conversation that
6 you had with her with regards to her getting divorced
7 and who you wanted to stay with?

8 A It may not have been in the same conversation, but
9 they were probably leading up to that.

10 Q Okay. And did she ever talk to you about the
11 men that she dated?

12 A No. I wasn't aware; I never had met any of the
13 men you say she had relationships with. She didn't
14 make me privy to that.

15 Q Well, did she ever tell you that or ask you
16 if you would have a problem with her dating other men?

17 MR. MELLO: May I ask at what time the ques

18 --

19 BY MR. BILINKAS:

20 Q At any time --

21 MR. MELLO: -- the question's referenc --

22 BY MR. BILINKAS:

23 Q -- in your entire life up to the age of ten,
24 did your mother ever ask you whether or not you would
25 mind her dating other men?

1 A I don't recall. She might have.

2 Q Can you look on page 32 of that 250-some page
3 document in front of you?

4 (Pause in proceeding)

5 Q Do you recall being asked the question, "What
6 -- what did she say as far as how do you feel about it;
7 did she say what was going on, what her plans were, or
8 what she wanted to do?"? Do you recall saying, "Well,
9 obviously --

10 MR. MELLO: I'm sorry, Mr. Bilinkas --

11 MR. BILINKAS: Page --

12 MR. MELLO: -- pardon me.

13 MR. BILINKAS: -- 31.

14 MR. MELLO: Thirty-one. Thank --

15 MR. BILINKAS: I apologize; I --

16 MR. MELLO: -- thank you.

17 MR. BILINKAS: -- I think I originally said
18 thirty --

19 UNIDENTIFIED: Yeah, you're fine.

20 MR. MELLO: Yeah, thank you.

21 BY MR. BILINKAS:

22 Q Page 31 please.

23 MR. BILINKAS: I apologize.

24 MR. MELLO: That's fine.

25 BY MR. BILINKAS:

1 Q Do you recall telling the Prosecutor's
2 detective in answer to that question I just read,
3 middle of the page, "Well, obviously she didn't say
4 anything that she want -- I guess she might have told
5 me she wanted me to know".

6 A Yeah, and I said to you pre -- she might have told
7 me. I don't really recall having, "John, I want to see
8 other people" or "I'm seeing other people; how do you
9 feel about that?". I don't remember really talking
10 about specifics, like having people put in front of me.

11 Q But -- but you recall the specifics of her
12 telling you about your dad.

13 A I do, yes.

14 Q Okay. And -- and so, when you said, "I don't
15 remember what I said to her, just probably said, 'Yeah,
16 fine'. I generally minded my business," what -- what
17 were you referring to when you said that in respond to
18 the statements concerning your mother telling you?

19 A Well, I generally tried to stay out of my(sic) way
20 of -- stay out of the way of my mother and father's
21 confrontations, just because, I mean, there's nothing I
22 could do about it obviously and I just -- if she had
23 said something to me, what would I have said in
24 response? I mean --

25 Q So --

1 A -- would she have done -- would she have changed
2 her mind? I don't know.

3 Q Okay, but --

4 A So I -- right here where I said -- I -- I might
5 have said. I don't remember saying it. I -- I'm
6 trying to put myself back in those shoes, remembering
7 16 years ago after --

8 Q A long time, correct?

9 A Correct.

10 Q And -- and -- and --

11 A And I'm trying to assume a conversation I may have
12 had with my mother I don't really recall having.

13 Q Okay, but -- but you do remember saying that
14 to the detectives that you -- you may have had the
15 conversation concerning your mom telling you that she
16 was going to date other men, correct?

17 A I may -- I may --

18 Q Now, with regards to this statement, we went
19 over yesterday numerous things that the Prosecutor told
20 you about, correct?

21 A Yes.

22 Q Did they indicate to you or show you any
23 statements of witnesses who had indicated that your mom
24 was dating other men?

25 A I don't believe I saw anything like that -- in

1 regards to that, no.

2 Q They did tell you about your dad dating other
3 women, correct?

4 A Yes.

5 Q And -- and so, as far as your recollection is
6 concerned, anything concerning your mother dating other
7 people was left out.

8 A They didn't really touch on those -- that subject
9 all that much.

10 (Pause in proceeding)

11 Q Now.

12 (Pause in proceeding)

13 Q You testified yesterday that your mother was
14 afraid of heights, correct?

15 A Yes.

16 Q And the only thing that you said yesterday
17 that formed the basis of that opinion, and correct me
18 if I'm wrong, was that your mother got on a ladder and,
19 when she came down, there was a problem.

20 A Yeah, that's bas -- my opinion.

21 Q Okay. And when was that?

22 A I was in First Grade, so six -- five, six years
23 old.

24 Q About four years younger than that, correct?

25 A Like I said before, I don't know exactly when that

1 picture was taken. Is there a date on the back of it?

2 I mean, I don't know.

3 MR. BILINKAS: Prosecutor, it's your

4 photograph, do you know --

5 MR. MELLO: --

6 MR. BILINKAS: -- the date?

7 THE WITNESS: I have no idea.

8 BY MR. BILINKAS:

9 Q You indicated that you -- you went to the
10 cliffs at some point, correct?

11 A I did.

12 Q Did a member of the Prosecutor's Office take
13 you to the cliffs?

14 A I asked a member of the Prosecutor's Office to
15 take me.

16 Q Did they -- before you asked, did they tell
17 you that they would take you to the cliffs?

18 A They did.

19 Q So, before you asked, they told you they
20 would take you to the cliffs, correct?

21 A That's true.

22 Q And that's Hornyak, Detective Hornyak,
23 correct?

24 A It was one of the detectives who told me that they
25 would be more than happy to show me.

1 Q And wasn't that the same person that told you
2 as far as he and all the investigators was concerned is
3 that your dad definitely pushed your mom off the cliff?

4 It was --

5 A I --

6 Q -- one of the same people.

7 A It was -- oh, yeah, it was one of the -- one of
8 the same people I spoke to that day.

9 Q And it was -- the visit to the cliffs was
10 after that statement, correct?

11 A Yeah, it was well after --

12 Q And, when they took you to the cliffs, did --
13 did they give you any commentary or -- or voice any
14 opinions with regards to certain things that you saw
15 there?

16 A Well, I wanted to go with them because they knew
17 exactly where the incident took place.

18 Q My que --

19 A -- I mean, I --

20 Q -- my que --

21 A -- I -- yeah, we -- we spoke to different, you
22 know, there's the fence and the trail to go down to the
23 -- the bluff where the incident happened, so, yeah.

24 Q Okay, now, to get to that fence, to that area
25 where -- where it happened, your mom was a pretty

1 athletic person, correct?

2 A I wouldn't say that. I didn't see her -- she
3 wasn't out exercising or jogging. I -- I don't -- I
4 don't characterize her as an athlete, no.

5 Q Well, again, not -- not compared to someone
6 of your caliber, but, from a woman of her age --

7 A I mean, do you want to say an example that I saw
8 her, you know, throw a ball with me one time or chase
9 me around? I never saw her put on a pair of Nikes and
10 run five miles or climb the side of a hill, so I don't
11 know what you mean by, "Athlete". I don't f -- I don't
12 find her an ath -- as an athlete, no.

13 I don't really see my father as an athlete either.
14 So, when you say she was athletic, I -- I don't see it.

15 Q Based on your -- your time with her, did --
16 is she the type of person that likes like hiking,
17 things like that?

18 A I don't recall going on any, you know, hiking or
19 camping with her. I mean, I did some camping with my
20 father, but I don't remember going anywhere specific
21 with my mother. I played some tennis with my mother,
22 but.

23 Q Well, when you say, "Playing tennis," did you
24 observe whether or not she had any athleticism at that
25 point?

1 A She's batting the ball around with a six, seven-
2 year-old, I mean, it doesn't take much to be a more
3 superior athletic to a seven-year-old, so I don't know.
4 It's hard to quantify how athletic she was.

5 Q Well, would it -- based on what you know,
6 would it have been a problem for her at all to traverse
7 that path leading to the -- the wire barrier, get
8 though it, and go beyond that point?

9 A I can't speak to that; I don't know. I don't
10 know.

11 Q Well, so there's no misunderstanding, this
12 barrier that you saw is just three lines -- almost like
13 a boxing ring, correct?

14 A Well, similar, but yeah.

15 Q I'm going to show you what has been marked,
16 "D-14" and "D-14A".

17 (Pause in proceeding)

18 MR. MELLO: Judge, I'm going to object at
19 this point to questioning on that document. This is a
20 document that -- (noise drowns out voice) -- unknown
21 and unknowable to the witness. It is a document that
22 is more appropriately --

23 THE COURT: Is it one document or more --

24 MR. MELLO: --

25 THE COURT: -- than one document?

1 MR. MELLO: -- two.

2 THE COURT: May I --

3 MR. BILINKAS: It's two doc --

4 THE COURT: -- see them?

5 MR. BILINKAS: Yes, Judge. And, Judge, for

6 --

7 MR. MELLO: The -- excuse me, I'm sorry. The

8 -- the basis of the objection is that these documents

9 must be identified by an appropriate witness, not this

10 witness. They are documents that purport to be of a

11 particular company.

12 MR. BILINKAS: Judge, I -- all I want --

13 MR. MELLO: I don't think the --

14 THE COURT: May I see --

15 MR. MELLO: -- foundation's appropriate.

16 THE COURT: -- the documents?

17 (Pause in proceeding)

18 MR. BILINKAS: Judge, for the record, all I

19 want to do is attempt to refresh his recollection with

20 these documents and not get into the specifics.

21 (Pause in proceeding)

22 MR. MELLO: And, by the way, Judge, with

23 respect to the documents, if Mr. Bilinkas chooses to

24 call a witness from that particular company, I

25 certainly have no problem examining that witness on

1 those documents.

2 THE COURT: Counsel?

3 (Pause in proceeding)

4 THE COURT: You might ask if the witness has
5 ever seen that document, but, beyond that question, I'm
6 going to sustain the objection. Or if the document
7 refreshes his recollection.

8 MR. BILINKAS: Okay.

9 MR. MELLO: Well, then, if that's limited to
10 that question, then I will not have an objection to
11 that question, Judge. Thank you.

12 BY MR. BILINKAS:

13 Q I'm going to show you D-14 and 14A, ask you
14 to look at these documents -- specifically to the
15 bottom, and ask if those documents refresh your
16 recollection as to whether or not your mother was
17 athletic and liked hiking.

18 A I've never seen these documents before; I'm -- I'm
19 not familiar with them.

20 Q Does that refresh your recollection as to
21 whether or not your mother liked hiking and was
22 athletic?

23 A No, I don't think -- I -- I don't remember any
24 instances that she did with me, because we spent a lot
25 of time together; I think I would recall specific

1 hiking or, you know. We had a pool in the
2 neighborhood, so she swam with me, but, I mean.

3 THE COURT: Next question.

4 (Pause in proceeding)

5 MR. MELLO: Judge --

6 MR. BILINKAS: Judge --

7 MR. MELLO: -- Mr. Bilinkas is about to show
8 the witness two photographs. I believe they are --

9 MR. BILINKAS: D-128 --

10 MR. MELLO: -- D-one twen --

11 MR. BILINKAS: -- and D-129. And Counsel and
12 I will stipulate to their admission into evidence --

13 MR. MELLO: Agreed.

14 (Pause in proceeding)

15 BY MR. BILINKAS:

16 Q Mr. Scharf, you indicated that, after seeing
17 the barrier that the detective showed you, with regards
18 to you not being able to speak whether or not your mom
19 could easily get through that barrier based on your
20 knowledge of her ability, so to speak, is D-28(sic) an
21 accurate description of that barrier?

22 A I believe so.

23 (Pause in proceeding)

24 Q I'd like to show --

25 MR. BILINKAS: That -- that's D-29(sic),

1 excuse me. I'll put on --

2 MR. MELLO: One -- one-twenty -- one-twenty

3 --

4 MR. BILINKAS: That one is -- that's on the
5 screen is 129.

6 MR. MELLO: 129?

7 MR. BILINKAS: I'm going to show him 128,
8 which -- which is a close-up of that barrier.

9 MR. MELLO: Thank you.

10 BY MR. BILINKAS:

11 Q Now, based on your recollection of your mom's
12 athletic ability, do you think she would be able to
13 easily get through those wires?

14 A Get through them? I guess. I -- I nev --

15 Q You guess?

16 A -- I had never seen her doing anything like that
17 before. I mean, can you get through those wires? I
18 don't know; I've --

19 Q Absolutely.

20 A -- never seen you do it before.

21 Okay, good. I mean, I've never seen you do it
22 though.

23 I mean, maybe she could. I assume she could have.
24 Could she have gotten over it? I don't think so, but I
25 don't know; I wasn't there. You're trying to ask me

1 something about a time that I wasn't present for.

2 (Pause in proceeding)

3 Q Now, you testified yesterday that -- and I
4 believe this was on direct, and correct me if I'm wrong
5 -- that the Prosecutor's detective never suggested any
6 answers during your taking of your official statement,
7 correct?

8 A Yeah, they never suggested like I say anything or
9 this is how it happened, don't you agree.

10 Q Well, can we look on page 26?

11 (Pause in proceeding)

12 Q When they were talking about whether or not
13 your father ever hit you, do you remember the detective
14 asking you this specific question: "You get yelled at,
15 you get smacked in the behind, or you get hit with a
16 two-by-four with nails in it, what, just normal stuff
17 like this, or, you know, I'm not -- that's happening in
18 ev -- in every house". Do you recall the detective
19 asking you that specific question?

20 A Yes.

21 Q And, as you sit here today, you don't think
22 that he's suggesting certain things?

23 MR. MELLO: I'm -- I'm sorry, Mr. --

24 THE WITNESS: I mean, these are my --

25 MR. MELLO: -- Bilinkas --

1 THE WITNESS: -- experiences; I went through
2 them.

3 THE COURT: Hold on --

4 MR. MELLO: --

5 THE COURT: -- there's an objection.

6 MR. MELLO: (Noise drowns out voice) -- that
7 question actually leads into the very next question, so
8 it's really a piece. Would you be kind enough to just
9 direct that particular examination?

10 See where -- where I'm referring to?

11 (Pause in proceeding)

12 MR. MELLO: Yeah, I think -- I think --
13 (speaking away from the microphone)

14 MR. BILINKAS: Yeah.

15 MR. MELLO: Thank you.

16 BY MR. BILINKAS:

17 Q First of all, do you recall the detectives
18 specifically asking you -- or strike that. In their
19 questions that they ask you, asking you things like:
20 Did you get hit with a two-by-four with nails in it,
21 and your -- do you recall them saying words to that
22 effect?

23 A Yes.

24 Q Okay, and -- and, again, the Prosecutor wants
25 me to read your response, "Yeah, so, yeah". And the

1 next question: "I mean, we're not looking to -- we're
2 not looking to try to paint a bad picture of anybody;
3 we're just asking you if it is what is, you know". And
4 you go, "Yeah".

5 And then the next question -- I'll go one
6 further -- "It's probably better to get smacked in the
7 behind than coddled," and your answer being in response
8 to the detective's question, "Yeah, I believe so".

9 (Pause in proceeding)

10 Q And the next question: "So corporal
11 punishment, like smacked in the behind or worse than
12 that or less than that?". And your answer being, "I --
13 I would say smacked in the behind is accurate".

14 Correct?

15 A Yes.

16 (Pause in proceeding)

17 Q Now, do you recall telling the Prosecutors in
18 this statement that your mother --

19 A --

20 Q -- was an independent lady, "You know, she
21 often did what she saw fit"; do you recall saying words
22 to that effect?

23 A Yes.

24 Q Do you recall telling the detectives, "If she
25 didn't want to go, she wouldn't have gone"; do you

1 recall saying that?

2 A I do.

3 Q Do you recall saying, "I have no idea why she
4 would go" and then saying, "I don't know, she was
5 trying to reconcile"?

6 A I think I also go into I think it had something to
7 do with me --

8 Q Okay, well --

9 A -- eventually.

10 Q -- irrespective of what else it had to do
11 with, didn't you in fact tell the Prosecutor that one
12 of the possible reasons was that she was attempting to
13 reconcile? You used the term, the exact word,
14 "Reconcile," correct?

15 A Yes, that's what I've been told my entire life.

16 (Pause in proceeding)

17 Q Was that a lie?

18 A No.

19 (Pause in proceeding)

20 Q Now, you testified to yesterday about the
21 insurance money, correct?

22 A Yes.

23 Q Do you recall telling the Prosecutor in
24 discussions with regards to that money that whatever
25 transpires, that you didn't think what transpired was

1 due to money?

2 A I do.

3 Q So you told the Prosecutor that the insurance
4 money had nothing to do with your mother's death in
5 your mind, correct?

6 A Yes.

7 Q So, if the Prosecutor's position is that --

8 MR. MELLO: Objection; that is inappropriate
9 cross examination to ask him a question about my
10 position. He can ask this witness questions about what
11 he --

12 THE COURT: Ask another question.

13 MR. MELLO: -- said or thought.

14 BY MR. BILINKAS:

15 Q In your mind, your belief, money had nothing
16 to do with your mother's death, yes or no?

17 A --

18 MR. MELLO: Objection; really, how would he
19 know that?

20 MR. BILINKAS: He made this statement. I'm
21 questioning --

22 MR. MELLO: And, even if --

23 MR. BILINKAS: -- him with regards to his
24 exact words.

25 MR. MELLO: I'm sorry, I -- I didn't finish

1 my -- and, even if he did make the statement --

2 MR. BILINKAS: Judge --

3 MR. MELLO: -- and that's the basis of my
4 objection, speculative.

5 BY THE COURT:

6 Q Can you answer --

7 MR. BILINKAS: And my --

8 BY THE COURT:

9 Q -- the question?

10 A I stated that I didn't think it had to do with
11 money; I mean, I didn't really know.

12 BY MR. BILINKAS:

13 Q When you say you didn't really know --

14 A They didn't break it down for me. No one said --

15 Q Well --

16 A -- this is why we got -- this is what happened.
17 They're asking me my opinion.

18 Q Y--

19 A I didn't know. So it could have, sure.

20 Q Now, when -- when you talked about -- strike
21 that. When they talked about the life insurance
22 policy, did they tell you -- and I'm not referring to
23 the accident portion of it -- did they tell you -- the
24 Prosecutor's Office tell you that it was gotten within
25 a year of her passing?

1 MR. MELLO: I'm sorry, the policy?

2 MR. BILINKAS: The policy.

3 MR. MELLO: Thank you.

4 BY MR. BILINKAS:

5 Q The insurance policy. Did they tell you that
6 it was gotten within a year of her policy(sic) -- or
7 passing?

8 A I don't remember specifically --

9 Q Look on page 67.

10 (Pause in proceeding)

11 THE COURT: Counsel, is there a question?

12 BY MR. BILINKAS:

13 Q Did they in fact tell you that the pol --

14 MR. MELLO: I'm sorry --

15 BY MR. BILINKAS:

16 Q -- the policy was taken out within less --
17 less of a year of her passing? Within a year of her
18 passing?

19 A The detective says, "I think it's within a year of
20 her passing, but don't quote me on that".

21 Q And -- and, when he -- when he said that to
22 you, did you have any doubt in your mind based on what
23 he told you, the investigator handling this case, that
24 it was gotten within less than a year?

25 A I didn't know, so I took his word.

1 Q You took his word. Do you have any idea why
2 they were telling you all these things when they were
3 asking you questions about what you knew about this
4 matter?

5 MR. MELLO: Objection; it calls for
6 speculation, Your Honor.

7 THE COURT: Sustained.

8 (Pause in proceeding)

9 BY MR. BILINKAS:

10 Q Now, you talked about yesterday you saying in
11 this statement that you told the investigators that you
12 never got any of that money, correct?

13 A Yes.

14 Q And, after you told the detectives that, do
15 you recall Detective Hornyak telling you --

16 MR. MELLO: --

17 (Pause in proceeding)

18 BY MR. BILINKAS:

19 Q Page 124, after your answer, "I paid for
20 everything," Captain Hornyak testifying, "Really,
21 sorry, sorry, all right. Well, do you know how much he
22 got". And then your answer's, "Yeah, probably with the
23 interest somewhere \$700,000".

24 (Pause in proceeding)

25 Q Do you remember Captain Hornyak saying later

1 on in that page, "Okay, the question, your mother, your
2 mother, Jody Ann Scharf, nothing, nothing for the death
3 of your mother? Nothing, nothing". And you
4 responding, "No". Do you recall that?

5 A Yes.

6 Q Do you recall Detective Hornyak saying,
7 "Okay, listen, I speak for myself; I got a couple
8 kids". Your answer, "No, you can(phonetic)". Captain
9 Hornyak, "Everybody does things differently". You
10 saying on the next page, 125, "Uh-huh". And then
11 Captain Hornyak telling you, "I'm not a saint; trust
12 me. Could they grow up without -- they grow up without
13 a mom?". And you said, "Uh-huh". And then he says, "I
14 think they're entitled. I think they're entitled to
15 something. So, listen, I'm going to leave you with
16 these guys, but basically your dad got away with --
17 your dad got away with -- for 16 years, all right?".
18 Do you recall him telling you that?

19 A Yes.

20 Q And do you recall later on him saying,
21 Captain Hornyak of the Prosecutor's Office, "There is
22 no doubt in my mind now. There is no doubt in my mind
23 back in 1992, along with the majority of the guys who
24 work here, worked in this case, that she -- that he
25 propelled her off the cliffs". And you responded, "And

1 it's just because of like the new technology you guys
2 used?". Do you recall that sequence of events?

3 A Yes.

4 (Pause in proceeding)

5 Q Yesterday, you -- you and I talked about a
6 check that your father sent to pay off your college
7 tuition, correct?

8 A Yes.

9 Q Did he also buy you a Chevy Blazer when you
10 were in college?

11 A He bought the car for himself. He let me use it.

12 (Pause in proceeding)

13 A Was my name on the title? I don't think it was.

14 Q Well, when you said he let you use it, did
15 you ever give it back to him?

16 A Yeah, I gave it back to him. He used it. Then we
17 eventually sold -- sold it to one of my friends.

18 Q And who got the money?

19 A Tina and Steve.

20 (Pause in proceeding)

21 A I never collected that money when they sold it.

22 Q And -- and how long did you get to use this
23 car while you were in college?

24 A Had it my Junior year, so like two years, maybe a
25 year-and-a-half, two years, on and off, like we

1 switched off; my dad used it; sometimes I used it.

2 (Pause in proceeding)

3 Q Now, that check I showed you yesterday --

4 (Pause in proceeding)

5 Q -- when did the Prosecutor's Office give you
6 a copy of that 250-page statement?

7 A Some time earlier this year. I don't know
8 specifically, but.

9 Q After your dad was arrested, did you ever
10 have a conversation with anyone from the Prosecutor's
11 Office that the Defense had given them the check that
12 we showed you in court after that statement? Did they
13 ever talk to you about that -- that check that we
14 talked about yesterday after the statement you said
15 your dad never paid for anything?

16 A I spoke with them about it, yes.

17 Q And who did you speak to; what was the
18 detective's name?

19 A I believe I spoke with a Detective Bordino about
20 it, but.

21 Q And, when you spoke to Detective Bordino, did
22 you tell him -- the previous statement I made is wrong?

23 A You're drawing the analogy that every dime my dad
24 ever spent on me post my mother's death, when he got
25 this sum of money, is -- must have come from this big

1 pot of money. I -- where it came from. Then again,
2 he's my father. I mean, he's allowed to spend money on
3 me. We had a relationship of -- you know, it was
4 distant, but we had a relationship. So I don't know
5 where it came from. Did it come from that pile of
6 money? I guess. And he paid off a loan that I was
7 supposed to pay him back and --

8 Q And --

9 A -- I didn't.

10 Q -- and isn't it a fact that you never said
11 that to anyone on the face of the earth until after the
12 Defense turned over that check and you talked to
13 Bordino?

14 A It really wasn't on the top of my conscience when
15 I was first talking to the Prosecutor's Office that day
16 in December.

17 (Pause in proceeding)

18 Q Now, yesterday, you testified that back when
19 you were ten years old that your mom and dad didn't
20 sleep in the same room, correct?

21 A Correct.

22 Q Do you recall on page 33 of your official
23 statement the specific question: "Did they sleep in
24 the same room," and your answer being, "I guess, I
25 mean, I really don't know; yeah, I think so. I think

1 it is -- I don't remember"; do you remember saying
2 words to that effect?

3 A Yes.

4 Q And -- and, as you sit here on direct
5 examination, your response to the jury is that you had
6 a specific recollection of them sleeping in separate
7 rooms, correct?

8 A Yes.

9 Q And can you tell us why -- strike that. Is
10 the same reason why you said, "I don't think so," back
11 then the same reason why you lied about other things?

12 A Do you remember your parents' sleeping habits when
13 you were ten, like do you remember all the intricate
14 details that went on in your life? I have actually no
15 idea at the time. I hadn't had a conversation about
16 it, hadn't thought about it. I had to spend a lot of
17 time reflecting upon questions that were asked about my
18 life 16 years before. I didn't have all the answers
19 right away.

20 Q Well --

21 A I mean, this was a shot(phonetic) from the past.
22 No one had brought it up. I wa -- I wasn't thinking
23 about it. I'd actually moved on. I was in a good
24 place in my life. Then all of a sudden start -- people
25 start asking me questions. I don't -- I don't

1 immediately remember.

2 (Pause in proceeding)

3 MR. BILINKAS: Judge, if I could have a
4 minute --

5 THE COURT: You may.

6 MR. BILINKAS: Getting close.

7 (Pause in proceeding)

8 BY MR. BILINKAS:

9 Q The last question: In your official
10 statement, the only one that was recorded, do you
11 recall telling the police and the Prosecutor, "I feel
12 like they both had, you know, when I say, 'Different
13 lives,' they were both" -- and I apologize for my
14 language -- "fucking seeing other people"; do you
15 recall telling them that?

16 A I do.

17 MR. BILINKAS: Nothing further.

18 THE COURT: Redirect?

19 MR. MELLO: Yes; thank you, Judge.

20 (Pause in proceeding)

21 MR. MELLO: Thank you.

22 REDIRECT EXAMINATION BY MR. MELLO:

23 Q John, let's talk about some basics. Fair to
24 say this is a very difficult experience for you?

25 MR. BILINKAS: Objection --

1 THE WITNESS: Yes.

2 MR. BILINKAS: -- leading.

3 THE COURT: It is leading.

4 BY MR. MELLO:

5 Q Is it --

6 A It's a dif --

7 Q -- a difficult experience --

8 A Yes, I would say this is a difficult experience
9 for me.

10 Q Does a discussion of topics in this case
11 bring back some very difficult memories for you?

12 MR. BILINKAS: Objection, leading again.

13 MR. MELLO: Judge, I can only ask the
14 question: Does it or doesn't it. He can say yes or
15 no.

16 MR. BILINKAS: It's leading.

17 THE COURT: Ask another question. Sustained.

18 BY MR. MELLO:

19 Q Can you tell us your thoughts on the
20 discussions that you've had in your testimony to this
21 point in terms of its effect on you?

22 A It's a very difficult subject for me to speak to.
23 I mean, any time you lose someone close to you, such as
24 your mother, it brings back all those, you know,
25 horrible memories that I went through when I was, you

1 know, ten years old, you know, feeling that I was alone
2 in the world.

3 Moreover, it's overly insulting that I have to sit
4 here and field questions that I have a financial motive
5 to, you know, attack my dad for whatever money he came
6 in to. I mean, I'm here for my mother. She doesn't
7 have a voice. She had a terrible life. Even after --
8 she had a terrible upbringing, suffered abuse her whole
9 life, and I feel horrible for her. And I'm here for
10 her; I'm here to, you know, give her a voice.

11 Q Are you here to tell the truth?

12 A Yes, sir.

13 Q With respect to the truth, you talk about the
14 horrible life and abuse that she suffered, did you see
15 that abuse?

16 A I did.

17 Q Did you see it at the hand of a particular
18 individual?

19 A Yes, at the hand of my father.

20 Q Now, yesterday, Mr. Bilinkas took you through
21 some things that your father did for you -- (noise
22 drowns out voice) -- with you, yes?

23 A Yes.

24 Q And he took you to a Yankee game, yes?

25 A Yes.

1 Q He loaned you a sum of money, yes?

2 A Yes.

3 Q And, at this point in time in the
4 examination, you said to him, "Would you like to hear
5 about the harm that he did to me," yes?

6 A Yes.

7 Q Now is your opportunity to finish that
8 answer. Tell us.

9 A My life was difficult, at best, when you're
10 growing up with my father. I was in constant fear of
11 getting yelled at or beat for, you know, just annoying
12 him for the simplest things. I was -- I mean, I
13 remember that was one of my constant responses, like,
14 "Am I making you mad?".

15 I got hit for various things, like getting "B"'s,
16 instead of "A"'s. I got yelled at, verbally abused.
17 If I didn't have success in sports, I was told I sucked
18 and I was, you know, that I wasn't trying hard enough
19 and I'm a waste. And corporal punishment was a part of
20 my life, been -- had fairing(phonetic) strips broken
21 over me. I've been hit with all sorts of different
22 objects. I mean, it's a very unpleasant experience,
23 but it doesn't speak to what my mother had to go
24 through with my father.

25 Q You said it in response to a question, a

1 question regarding she wanted to reconcile, and you
2 said, "I've been told that all my life"; do you recall
3 that question and answer?

4 A Yes.

5 Q So Mr. Bilinkas essentially asked you do you
6 say she wanted to reconcile, and you said, "I've been
7 told that all my life," correct?

8 A Correct.

9 Q Who told you all your life that your mother
10 wanted to reconcile with your father?

11 A My dad.

12 (Pause in proceeding)

13 Q Now, Mr. Bilinkas -- (noise drowns out voice)
14 -- asked you about things that the police discussed
15 with you during the course of your interview, correct?

16 A Correct.

17 MR. BILINKAS: Judge, I object to the form;
18 it was the Prosecutor's Office.

19 MR. MELLO: I'm sorry? I'm sorry, I didn't
20 get that.

21 MR. BILINKAS: I object to the form; it was
22 the Prosecutor's Office, not the police.

23 MR. MELLO: Okay.

24 BY MR. MELLO:

25 Q It was police officers in the Prosecutor's

1 Office to be perfectly precise that discussed these
2 matters with you, correct?

3 A Yes.

4 Q They were detectives, correct?

5 A Yes.

6 Q They were not prosecutors, lawyers; they were
7 detectives, police officers, correct?

8 A Yes.

9 Q All right. Now, apart from the specific
10 title, the point is that you had an extensive
11 discussion with those folks.

12 A Yes.

13 Q And those folks may or may not have shared
14 certain information with you, correct?

15 A Correct.

16 Q -- You're a graduate of Bucknell University,
17 aren't you?

18 A Yes.

19 Q You're studying for a Master's Degree --

20 A Yes.

21 Q -- aren't you? You work in something I don't
22 understand at all called, "Hedge Fund," yes?

23 A Yes.

24 Q Is there anybody in this world as you sit in
25 front of this jury, including me, that can suggest an

1 answer to any question to you?

2 A I'm capable of making my own decisions and forming
3 my own opinions.

4 Q And in any way did I ever suggest any answer
5 to you?

6 A No.

7 Q In fact, I did give you an instruction about
8 your testimony, didn't I?

9 A Yes.

10 Q Why don't you tell the jury what that
11 instruction was.

12 A Just tell the truth.

13 Q Now, let's talk about the truth. You talk
14 now in our last moments together about the abuse that
15 you suffered at the hand of your father, yes?

16 A Yes.

17 Q You talk now about the abuse, even greater
18 still, that your mother suffered at the hand of your
19 father, yes?

20 A Yes.

21 Q But you didn't upon interview immediately
22 discuss those realities with the police, the
23 Prosecutor's Office detectives, did you?

24 A I did not.

25 Q And I think you commented on something which

1 is to say your mother died on the 20th of September,
2 1992, yes?

3 A Yes.

4 Q The two greatest losses in life are a loss of
5 a parent or a child, would you agree with that?

6 A I would.

7 MR. BILINKAS: Judge, could I ask the
8 Prosecutor to ask questions and not testify --

9 MR. MELLO: I --

10 MR. BILINKAS: --

11 MR. MELLO: -- I believe I'm asking fair
12 questions, Judge. And this is redirect examination
13 premised on the cross. I gave --

14 THE COURT: Ask another question.

15 MR. MELLO: -- I gave Mr. Bilinkas complete
16 latitude --

17 MR. BILINKAS: I don't care what he asks,
18 Judge --

19 THE COURT: All right, could you ask another
20 question? Thank you.

21 BY MR. MELLO:

22 Q Now, up until the point at which you now meet
23 the Prosecutor's detectives, was this a part of your
24 life that you put in a distant past?

25 A Yes, I would agree with that.

1 MR. BILINKAS: Again, Judge, he's leading the
2 witness --

3 MR. MELLO: I'm asking --

4 MR. BILINKAS: -- No, every single --

5 MR. MELLO: Well, then --

6 MR. BILINKAS: -- question, he's suggesting
7 the answer, and then he's saying, "Correct". It's
8 leading; it's inappropriate.

9 THE COURT: Let's try it again.

10 MR. MELLO: He can recross --

11 THE COURT: Ask another --

12 MR. MELLO: -- and -- and --

13 THE COURT: -- question.

14 BY MR. MELLO:

15 Q Let me ask you this: Tell the jury -- tell
16 the jury, as you were being interviewed and asked
17 questions about abuse and so forth, tell them again why
18 you didn't -- why you weren't completely forthcoming.

19 A One in particular, it's -- it's a very
20 embarrassing subject to talk about. I -- I thought,
21 you know, I was able to move past the abuse and all
22 the, you know, different instances that, you know, my
23 mother and father together, the abuse, but -- me
24 suffering abuse. What was more prevalent in my mind at
25 the time is stuff I'd gone through as a teen, an

1 adolescent, and I wasn't immediately, you know, jumping
2 out of my seat to explain to total strangers that -- I
3 had really no idea why I was even there -- everything
4 that had gone on in my life. And I made a conscious
5 decision until I knew why I was there and what it had
6 to do with that there was no reason for me to go into
7 detail about what happened to me.

8 Q Now, regarding that reluctance to discuss
9 those issues completely with the detectives, you
10 referred to a certain fear that you had; tell the jury
11 what that was about, why you weren't forthcoming.

12 A Well, as -- as I grew up and, you know, got to
13 know my dad fairly well, I don't think there's anybody
14 who can say they know my dad as well as I do, I mean,
15 there was the const -- just a constant fear of
16 retribution for what he -- you cross him or something
17 like that or you don't get good grades, you're going to
18 get hit, or you don't do well in sports, you're going
19 to get hit. I had to suffer that as a youth.

20 As you get older and you see how, you know, he
21 handles himself and whatnot with, you know, different
22 women and --

23 MR. BILINKAS: Objection.

24 THE COURT: What is your objection.

25 MR. BILINKAS: I don't think it's responsive

1 to the question.

2 MR. MELLO: I think he's trying to respond
3 completely.

4 BY THE COURT:

5 Q Finish your response.

6 A I've seen just my dad to be condescending and a
7 bully. And I was coming from the perspective I can
8 handle all that. I'm at a point now where I'm not
9 concerned with what my dad may or may not do to me. I
10 mean, that's proof I've gotten past that point why, you
11 know, agreeing to have like a working relationship with
12 him and, you know, kind of finding some common ground.

13 But, from where -- from my perspective, I -- I
14 didn't want my, you know, my new family to be in any
15 way associated with that stuff that had gone on in the
16 past, so I, you know, I -- I was fear -- fearful of,
17 you know, anything my -- my dad might do, not to me,
18 but maybe to -- to my wife or something like that, in
19 terms of me speaking about the situation with my mother
20 and father.

21 (Pause in proceeding)

22 Q Now, I'm going to show you what you've seen
23 before; it's marked, "S-97" -- (noise drowns out voice)
24 -- Mr. Bilinkas questioned you about this yesterday.
25 I'd like you to take that out of that -- sleeve and

1 just take a look at it, and I'll have a couple of
2 questions for you.

3 (Pause in proceeding)

4 Q Now, Mr. Bilinkas asked you about a statement
5 that you made to the police, the Prosecutor's Office
6 detectives, regarding your parents sleeping in separate
7 bedrooms, correct?

8 A Correct.

9 Q Now, I'd like to direct your attention to
10 page three of that interview report. And on that page
11 does it indicate that you told the police at that time,
12 which would be September 22nd, 1992, two days after
13 your mother died, that they slept in separate bedrooms?

14 A Yes.

15 MR. BILINKAS: Judge, for the record, this is
16 the Prosecutor's interview memorandum of the
17 conversation that happened -- (voice trails)

18 MR. MELLO: It is.

19 BY MR. MELLO:

20 Q Have you reviewed that memorandum?

21 A Yes.

22 Q Is it accurate?

23 A Yes.

24 Q Now, in this interview, there's a discussion
25 between you and the detectives about whether or not you

1 saw your mother hit by your father, correct?

2 A Correct.

3 Q And Mr. Bilinkas questioned you about this
4 yesterday and asked you: Isn't it true that in that
5 interview you said that you had not seen your father
6 strike your mother.

7 A Correct.

8 Q When you told the police that at age ten, was
9 that true?

10 A It was not.

11 Q Can you tell us, when you were interviewed at
12 age ten and you said what you said, why you said what
13 you said?

14 A I was incredibly nervous. I felt, one, I had no
15 one -- I -- I spent years after the fact like having
16 just no one to -- talk to. But, specific to that date,
17 I was scared to say anything that would bring undue
18 harm to me. I -- I was fearful of my father; I was a
19 fear(phonetic) it would get back to him, and, if I said
20 anything that I witnessed, I was going to get hit or
21 punished. And, I mean, I felt kind of trapped and what
22 was I supposed to do; who was I going to, you know,
23 explain that to that, you know, anything would change.

24 So I -- I made the decision, because I was so
25 scared, to basically say, "No, I didn't see anything,"

1 just to hopefully stay in my father's good graces and
2 not get hit.

3 MR. BILINKAS: And, again for the record,
4 he's referring to the statements in 2008?

5 MR. MELLO: No, I'm referring.

6 BY MR. MELLO:

7 Q I think you have in front of you --

8 A Yeah.

9 Q -- your statement in 1992, on September 22nd,
10 two days after your mother's death. Am I accurate that
11 your --

12 A Yes.

13 Q -- answer is responsive to that interview?

14 A Yes.

15 Q And were you afraid of being completely alone
16 if you said any derogatory about your father?

17 MR. BILINKAS: Objection; leading.

18 MR. MELLO: I'll withdraw it.

19 THE COURT: Thank you.

20 (Pause in proceeding)

21 BY MR. MELLO:

22 Q Now, Mr. Bilinkas examined you on a number of
23 issues regarding the interview that you had in 2008
24 with the Prosecutor's Office detectives, and you told
25 us that you were not completely forthcoming and -- and

1 the reasons why. I -- I'd like to ask you this: There
2 came a point in time when you were actually given a
3 copy of a transcribed -- of the transcribed interview,
4 correct?

5 A Correct.

6 Q Now, after you got that copy -- and that's
7 some time distant from when you were interviewed,
8 correct?

9 A Correct; I think it was more than two years.

10 Q Did you begin to review that document and
11 reflect upon it?

12 A I reflected upon what I said every day from that
13 interview back in 2008, trying to, you know, remember
14 certain instances, like you'd hear something in a song
15 or you'd see somebody do something. And more and more
16 stuff would come back to me over time.

17 It's -- you know, this whole process has been an
18 amazing ability to me to see that, you know, when
19 something so negative and detrimental happens to you at
20 -- at such a young age, how you can have the
21 wherewithal to just pack that down into a tight space
22 and not think about it. Because I'm from the mind set
23 that, you know, I'm -- I don't like to dwell, I don't
24 like to sulk about things; I'm always trying to move
25 on.

1 MR. MELLO: I'll tell you why he didn't bring
2 it out on cross, you see, because the statements made
3 in the addendum are statements that are consistent with
4 his testimony. And, when you put in by cross
5 examination a prior inconsistent statement of the
6 witness, which is to say the witness said the car was
7 blue on the stand and, in a statement, he says, "The
8 car was red," then in rebuttal -- to -- I am permitted
9 to introduce a statement that is a prior statement
10 consistent with his testimony.

11 And I am not going to go into specific
12 instances of abuse, but I am going to, as a prior
13 consistent statement, say, in essence, after
14 reflection, this is the statement that he prepared and
15 that he addressed those issues in it. And that's --
16 that's -- that's Evidence Rule 101.

17 MR. BILINKAS: Judge, Evidence 101 says that
18 you could only bring out on redirect areas that cross
19 had touched on. The 25-some page statement that I
20 cross examined him on has the exact specific testimony
21 that he testified to --

22 COURT CLERK: Quiet -- please.

23 MR. BILINKAS: -- in court. All I did was
24 question him with regards to what he originally said in
25 that same segment(phonetic).

1 He also already indicated 50 times probably
2 now that, after he learned that the police had arrested
3 his father, he changed his mind and made these
4 incriminating statements. All those statements are the
5 same thing he testified to here.

6 For the Prosecutor to get into a third
7 statement that --

8 THE COURT: The --

9 MR. BILINKAS: -- wasn't touched on --

10 THE COURT: -- the third statement relates to
11 the prior statement.

12 MR. BILINKAS: Yes.

13 MR. MELLO: It's a prior --

14 THE COURT: Isn't there --

15 MR. MELLO: --

16 THE COURT: -- some sort of
17 completeness(phonetic) --

18 MR. MELLO: --

19 THE COURT: -- you had the opportunity --

20 MR. BILINKAS: It's two years later, Judge.

21 THE COURT: -- direct or cross and then you
22 have another statement. You'll have the opportunity
23 for recross.

24 MR. BILINKAS: Okay, but -- I just want to
25 put on the record it's a statement -- not -- not a

1 statement; it's some typed up thing that he didn't
2 swear to that he made over two years ago --

3 THE COURT: Well, you also have that
4 opportunity --

5 MR. MELLO: No, no, no --

6 THE COURT: -- to bring that up.

7 MR. MELLO: -- that's not -- that's not
8 accurate.

9 MR. BILINKAS: W --

10 MR. MELLO: He didn't make it over two years
11 ago. He's referring to the statement -- three years
12 ago. These are his -- this is --

13 MR. BILINKAS: When did he do this?

14 MR. MELLO: -- Mr. Bilinkas -- Mr. Bilinkas
15 calls this an official statement. You can call it
16 whatever you want, but, when you do this, that's a
17 statement. And --

18 MR. BILINKAS: W --

19 MR. MELLO: -- that's a prior consistent
20 statement.

21 MR. BILINKAS: When -- when did he --

22 MR. MELLO: --

23 MR. BILINKAS: No, no, no, no, no, no.

24 Before the Judge --

25 MR. MELLO: This was turned over --

1 MR. BILINKAS: -- allows you to --

2 MR. MELLO: -- in -- this year.

3 MR. BILINKAS: Okay, so over t --

4 MR. MELLO: So --

5 MR. BILINKAS: -- over two years --

6 MR. MELLO: --

7 MR. BILINKAS: -- ago. And, again, I -- I'd

8 like a hearing on this with regards to, you know,

9 whether -- whether or not it's something that the jury

10 should consider, Judge.

11 It was done over two years -- it was turned

12 over over two years, which kind of affects its

13 credibility --

14 THE COURT: Well, that'll be --

15 MR. MELLO: That's cross examination.

16 THE COURT: -- your opportunity for recross.

17 The objection is overruled.

18 (Sidebar concluded)

19 THE COURT: The objection is overruled. You

20 may proceed.

21 (Pause in proceeding)

22 BY MR. MELLO:

23 Q I think I was at that point where I asked you

24 if you had reflected on the statement that you gave in

25 2008 to the Prosecutor's Office detectives.

1 A Yes.

2 Q And you indicated that you'd done a great
3 deal of thinking about that.

4 A Yes.

5 Q And, with respect to the thinking that you
6 did about that, did you prepare some notes?

7 A I did.

8 (Pause in proceeding)

9 THE WITNESS: Thanks.

10 (Pause in proceeding)

11 MR. BILINKAS: Your Honor, could we have the
12 witness testify to this without looking at the
13 statements --

14 MR. MELLO: Well, I -- I have to have him
15 look at it to ask him to identify it.

16 MR. BILINKAS: I have no problems with that,
17 but he was starting to read it, Judge. If he -- if he
18 needs it to refresh his recollection, I have no
19 problem.

20 THE WITNESS: I can speak to it without.

21 BY THE COURT:

22 Q Do you need to review the document to refresh
23 your recollection?

24 A No.

25 THE COURT: Next question.

1 MR. MELLO: Thank you, Sir.

2 BY MR. MELLO:

3 Q Now, I believe it's S-99; do you recognize
4 that document?

5 A Yes.

6 Q What do you recognize that document to be?

7 A I wrote a series of amendments to statements I had
8 made in 2008 when I was originally interviewed by the
9 Prosecutor's Office.

10 Q And, in doing so, did you attempt to be as
11 complete and truthful as possible?

12 A Yes.

13 Q And can you tell us approximately when this
14 document was prepared?

15 A Earlier this year -- in January or February.

16 Q Now, I'm going to direct you to the first
17 page of that document. Mr. Bilinkas questioned you
18 about the incident that you described on direct
19 examination where your father took you in the backyard
20 and said, "Cry with me"?

21 A Correct.

22 Q And that you thought he was faking crying.

23 A Yes.

24 Q Regarding that document -- (someone coughs)
25 -- page one of that document, do you refer to that

1 particular subject matter?

2 A Yes.

3 Q And does it read, "Jonathan, your mother has
4 died" --

5 MR. BILINKAS: Objection to him reading it,
6 Judge.

7 MR. MELLO: Okay, why don't you tell us what
8 it says; why don't you --

9 MR. BILINKAS: Objection to him reading it --

10 BY MR. MELLO:

11 Q I'm going to ask you your words; you can tell
12 us your words. It's your life; you tell us.

13 A "Jonathan, your mother has died; cry with me".
14 And he proceeded to, you know, show some emotion. I
15 can't really re-describe that, but, if you're crying
16 and going -- (makes noise) -- and it just, the more and
17 more I thought about it, it was just so unsettling that
18 I -- I did not believe that he was sincere in that
19 emotion.

20 Q Now, with respect to the abuse that you've
21 testified to suffered by your mother at your father's
22 hand, I'd like to direct your attention to the third
23 page of that document please.

24 (Pause in proceeding)

25 Q Do you discuss that abuse in that document at

1 that page?

2 (Pause in proceeding)

3 Q And I'm specifically referring to your
4 references to page 38 of your prior transcript.

5 (Pause in proceeding)

6 A There were several occasions of my experiences
7 with my mother and father that I was witness to my
8 mother receiving abuse from my dad. One in particular
9 I spoke to a little bit yesterday I got my first bike
10 from the Rockaway Mall. I remember I was in the back
11 of the car with it and I remember --

12 MR. BILINKAS: Again, Judge, I --

13 THE WITNESS: -- my dad --

14 MR. BILINKAS: -- I object; it has nothing to
15 do with what he's being referred to.

16 MR. MELLO: I -- it's referring him to the
17 violence that he summarizes in this document.

18 MR. BILINKAS: But it's not contained in this
19 document.

20 MR. MELLO: Oh, I think it is.

21 BY MR. MELLO:

22 Q Do you --

23 A Do you want --

24 Q -- refer to --

25 A -- I can speak to the whole document without

1 looking at it; that's fine. It's --

2 Q Well, why don't --

3 A -- my thoughts.

4 Q -- you speak to it? Is -- is the doc -- the
5 incident about the bike --

6 A Yeah, the incident --

7 Q Is that in the document?

8 A Yes, yes.

9 Q Well, why don't you tell us again.

10 A Well, I remember I was excited I got my first bike
11 and we're in the car and I'm kind of sitting up in the
12 back because I stuffed the bike into the back of a
13 sedan. And I remember my mom saying something to my
14 dad and my -- because sh -- my mom was driving and my
15 dad just hitting her with the bottom of his fists. And
16 I was like begging him to stop doing it, which he did,
17 but it was just that that -- it was just a typical
18 event that I re -- I recall as a young kid.

19 Another when -- a similar situation, I was in the
20 car with my maternal grandmother and the same situation
21 happened that my -- my dad would just, you know, hit my
22 mom. And it's unsettling, especially bec -- since
23 you're a little kid, you can't do anything about it and
24 you feel so bad for your mother.

25 Other situations that I spoke -- or I -- I was

1 privy to was how my father treated my mother, I would
2 say that it wasn't a marriage as what you would think
3 of a marriage. I would -- I would say that my mom was
4 essentially like my dad's indentured servant, like
5 whatever my dad would just bark orders at her in terms
6 of: "Make me lunch, pack my car; I need to go to the
7 Army," and like my -- my mother's just bending over
8 backwards having to -- heeded all my father's words.
9 It was -- it wasn't a very comforting feeling to see my
10 mother go through something like that.

11 Q You testified I believe that you saw her
12 bruised.

13 A I did.

14 Q Did you note that in this document of
15 reflection?

16 A I did. I remember her showing me her bruises,
17 along the lines of conversations that, "You don't know,
18 you know, what your dad is capable of".

19 I remember one time in particular we had a -- we
20 had a wood coal-burning stove and it was not -- it was
21 supposed to -- my dad has wanted to always be lit
22 during the wintertime and it had gone out. I'm not
23 really sure if my mother knew how to actually work it.
24 For that matter, I'm not sure my father would even know
25 how to work it at the time. But, you know, my mother

1 and I -- if he wasn't there, my mother and I were
2 employed with making -- keeping it running and whatnot.
3 And it had gone out at some point. And I remember my
4 dad coming home, coming upstairs like while I'm
5 sleeping -- sleeping next to my mother in my bed and
6 him coming in and just -- just, "Why isn't the fire
7 lit. It -- what's" -- and like just hitting me, and my
8 mom jumped on top of me and took the blunt of the --
9 the abuse from my dad.

10 And it just, you know, another example just how
11 explosive like the experiences I've had, just --
12 constant fear of getting hit and just not doing enough
13 to avoid getting in trouble. And I loo -- I looked at
14 getting in trouble as, you know, physical violence. It
15 wasn't I was going to get yelled at and had to go sit
16 in a corner.

17 And that's tough for a -- especially, you know,
18 your mother confiding in you as you're her -- you're
19 essentially her friend, her -- one of her best friends,
20 because the relationship my dad had with my mother
21 essentially tied her -- kept her away from a lot of
22 people, kept her bottled-up. She didn't have many
23 people to explain what was going on. I'm a hundred-
24 percent sure that's why she confided in me about a lot
25 of things.

1 And a lot of things that she confided in me about
2 I was witness to; I saw with my own eyes.

3 Q You referred earlier to, in terms of your
4 reflection on these moments in your history, that
5 sometimes you might hear a word or song -- that jogs a
6 memory that is long buried.

7 A Yeah.

8 Q Do you have an example of that?

9 A I had -- I had heard -- I forget what I was
10 listening to, but I had heard a song and it -- and it
11 jogged my memory about -- it was something about
12 traveling or whatnot and that it -- I had -- instantly,
13 I remembered my mother having a conversation with me
14 when I was about six or seven years old in regards to
15 always to keep a bag packed in terms of like, you know,
16 incidentals, like, you know, shirt, shoes, something
17 like that, because you never know when we're going to
18 have to leave because -- and I asked her why, and she's
19 like, "Because of your father," you know. She was
20 scared of him, like really frightened by what he might
21 do to her.

22 MR. MELLO: (Noise drowns out voice)

23 RECROSS EXAMINATION BY MR. BILINKAS:

24 Q Mr. Scharf, this statement the Prosecutor's
25 just referred to you about, you did it January,

1 February of this year, correct?

2 A Yes.

3 Q Two years -- over two years after you gave a
4 250-page statement, correct?

5 A Yes.

6 Q And the case was about to come to trial you
7 were told, correct?

8 A I was aware, yes.

9 Q And when did you get a copy of this 250-page
10 statement?

11 A I wrote that subsequent to when I got the review
12 of the document, so the same time. I don't know the
13 date, January, February, somewhere in there.

14 Q So did the Prosecutor tell you you were going
15 to testify as a witness?

16 A Yes.

17 Q And did you go over that 250-page statement
18 and see some problems with it?

19 A I wanted to be clear in what I was going to say in
20 court. I didn't want to perjure myself. I wanted to
21 make sure I was accurate in depicting what had gone on
22 in my life.

23 Q Okay. Do you agree with me that, when you
24 reviewed this statement right before you wrote this
25 addendum in January or February, that you realized you

1 hadn't been truthful, correct?

2 A In the ori -- initial interview in 2008?

3 Q Correct.

4 A Yes.

5 Q And will you agree with me that this addendum

6 that you wrote, aside from the 2008 statement which has

7 numerous inconsistencies from the beginning to the end

8 --

9 A Mmm-hmm.

10 Q -- will you agree with me that this new

11 statement has 20, 30, maybe 40 inconsistencies with the

12 2008 statement? At least --

13 A Yeah, I --

14 Q -- 40.

15 A -- I -- I -- I cited pages where I commented on

16 certain things.

17 Q At least in --

18 A Yeah.

19 Q -- 40 or more instances, this statement says

20 something different than what your official taped

21 statement says to the Prosecutor, correct?

22 A Yes.

23 Q Now, you talked about when you were little,

24 ten years old, you being afraid of your father or

25 you're afraid of your father hitting you and so forth

1 --

2 A Yes.

3 Q -- correct? Now, when you gave the 2008
4 statement, you were no longer afraid of your father
5 hitting you, correct?

6 A Correct.

7 Q And do you recall them specifically asking
8 you: "You still feel intimidated with your dad," and
9 your answer being, "No, I haven't really since I guess
10 my Sophomore year in high school. I just haven't had a
11 -- it's kind of funny it worked out. It's a total just
12 like throws in a white flag. I brought it up to him
13 like Sophomore year as I like I can, you know, I can
14 get out of here. I spelled it out to him. I can
15 finally get out of here and something like I don't ever
16 need to talk to you again. I knew I could earn -- get
17 a scholarship, get the hell out of here". Did you say
18 something like that in response to them questioning you
19 as to whether or not you were still intimidated with
20 your father?

21 A Yes.

22 Q You even told them back then you don't need
23 to depend on him any longer, correct?

24 A Yes.

25 Q I mean, at some point in time you grew up,

1 correct?

2 A Yes.

3 Q And, when you played football, you're like,
4 what, 6'4", you were 270-some pounds, correct?

5 A When I played, yeah.

6 Q You're -- you're not afraid of your father
7 manhandling you at that point and hurting you, correct?

8 A I wasn't 6'4", 270 pounds as a Sophomore in high
9 school.

10 Q Okay, well, when -- when you got out of high

11 --

12 A I mean, I think I was that weight my Junior year
13 in college.

14 Q Okay, but you were always a big kid. When
15 could you take your father? You talk about that --

16 A Yeah.

17 Q -- in this statement.

18 A I think the relevance of what you're trying to say
19 is when I wasn't afraid of the retrib -- of being
20 physically harmed by --

21 Q When weren't you --

22 A -- my father.

23 Q -- afraid? Let's ask --

24 A Fifteen -- 15, 16 years old.

25 Q Fifteen, 16 years old. How old are you now?

1 A Twenty-eight.

2 Q Now, can -- is it a fair statement that,
3 irrespective of whatever happened to your mother, you
4 personally have a lot of let's call it baggage against
5 your father?

6 A I would s -- I am very --

7 MR. MELLO: Objection to the form, but --

8 THE WITNESS: -- frustrated for --

9 THE COURT: I'm sorry?

10 MR. MELLO: -- I don't have an objection to
11 the general line of question, just to the form of the
12 question.

13 THE COURT: Sustained.

14 BY MR. BILINKAS:

15 Q Independent of -- your mother, you personally
16 have certain issues with your father, correct?

17 A Yes, for how I was raised and whatnot.

18 Q And, irrespective of him forcing you to get
19 great grades or do well in athletics, you know, the way
20 he went about it, irrespective of what you achieved,
21 you have a problem with that, correct?

22 A Yes.

23 (Pause in proceeding)

24 A I think most people who have children would have a
25 problem with that. You have kids, did you handle it

1 the same way? No. No -- not -- most people didn't.

2 THE COURT: All right, there's no question
3 before you. Next question.

4 BY MR. BILINKAS:

5 Q Now, with regards to the statements
6 concerning your mom's sleeping in a different room, you
7 were showed a interview memorandum from a Prosecutor's
8 detective, correct?

9 MR. MELLO: At -- at what point? I'm sorry,
10 does it -- does that mean when I showed it to him or
11 some other?

12 THE COURT: What is the time reference.

13 BY MR. BILINKAS:

14 Q Prior to your 2008 statement.

15 A Do you have specifically -- I -- I'm not sure what
16 you're referring to.

17 Q Let me rephrase the question. The Prosecutor
18 just had you refer to someone else's report of what you
19 said over 18 years ago, correct?

20 A Yes.

21 Q And -- and, before you took the stand, you
22 don't recall exactly what you told that detective 18
23 years ago, do you --

24 A No, not --

25 Q -- the exact words?

1 A -- not word-for-word, no.

2 Q Okay, and so, when you looked at that report,
3 what someone else said you said, did it refresh your
4 recollection as a ten-year-old?

5 A It did.

6 Q And --

7 (Pause in proceeding)

8 Q -- were you shown that statement before your
9 2008 official statement?

10 (Pause in proceeding)

11 A I'm not sure I had never seen it. I believe I
12 might have seen something along the lines of it in my
13 past, but I wasn't shown specifically the statement by
14 the Prosecutor's Office.

15 Q When you s --

16 A I don't --

17 Q -- when you say you were shown a Prosecutor's
18 statement maybe in the past, when was that?

19 A I may have seen it. I mean, there's --

20 Q Well --

21 A -- stuff -- growing up and whatnot, I may have --
22 I may have been privy to it; I don't know. But the
23 point is I remember the majority of --

24 Q Okay, my -- my -- my point is you just told
25 this jury that you kind of remember seeing that

1 statement sometime in your past, correct? You just
2 said that.

3 MR. MELLO: No, he said he may have; he
4 doesn't remember.

5 BY MR. BILINKAS:

6 Q You may have seen that sometime in your past,
7 correct?

8 A Correct.

9 Q Now, your father never showed you a statement
10 from the Prosecutor's Office at any time before
11 your(sic) arrest -- his arrest, correct; he never
12 showed you that statement, correct?

13 A He had I believe a -- he had pieces of like the
14 prior investigation, like I think there w -- but there
15 was nothing in there specifically --

16 Q Regarding you. I'm talking about --

17 A Me? That statement?

18 Q -- the statement --

19 A No, I -- I don't think I'd seen it, so.

20 Q So, when you say you may have seen that
21 statement, will you agree with me that the only way you
22 could have seen that statement if someone from the
23 Prosecutor's Office gave it to you, correct?

24 A Yes.

25 Q Do you have any idea when that may have

1 happened?

2 MR. MELLO: Judge, he doesn't even know if it
3 happened.

4 MR. BILINKAS: I'm asking him --

5 MR. MELLO: How can he --

6 MR. BILINKAS: -- if he has any idea --

7 MR. MELLO: All this is is asking him could
8 it possibly -- well, the sun might not rise in the east
9 tomorrow, but you wouldn't want to take that bet.

10 THE COURT: All right.

11 MR. MELLO: We don't know what he says,
12 because he doesn't remember.

13 THE COURT: Ask a new question.

14 BY MR. BILINKAS:

15 Q So, before you gave your 2008 statement, you
16 don't recall seeing that original statement, correct?

17 A No. I can -- I can kind of remember making the --
18 the setting, but I don't remember seeing it (taps
19 witness stand).

20 Q Okay, so, with regards to the first part of
21 that 2008 statement, you didn't see that statement,
22 will you agree with me that, number one, you're no
23 longer ten years old or afraid of your father, correct?

24 A That's incorrect; I'm afraid of what my father
25 might do. That's the -- that's the difference between

1 being 15 and being 28. I know him very well and I -- I
2 was concerned with what he might do if I was to speak
3 about certain things.

4 Q And you weren't physically -- (noise drowns
5 out voice)

6 A No. I was more concerned about -- for my new
7 family. I mean, I didn't -- I didn't want that to be
8 an issue.

9 (Pause in proceeding)

10 Q And, when you gave that 2008 statement, it's
11 your testimony that you deliberately -- you made a
12 conscious decision to lie for the reasons you've
13 stated.

14 A Yes.

15 (Pause in proceeding)

16 MR. BILINKAS: No further questions.

17 THE COURT: Mr. Mello?

18 MR. MELLO: Not at all. Thank you.

19 THE COURT: All right. You may step down;
20 thank you.

21 (Witness is excused)

22 THE COURT: I think this would be a good time
23 to take a ten-minute break.

24 (Ten-Minute Break)

25 (Jury is not present)

1 (Sidebar)

2 THE COURT: Okay? We're on? Yes? Juror
3 number four seems to have indicated that she might know
4 Danielle Grootenboer in some respect -- my attention
5 just outside -- find out what, if any, relationship --

6 UNIDENTIFIED: --

7 THE COURT: --

8 MR. BILINKAS: I'm trying to remember which
9 one she is.

10 MR. MELLO: Before we do that, can I just
11 talk to Danielle -- maybe she can --

12 THE COURT: Okay.

13 MR. MELLO: --

14 THE COURT: Okay.

15 (Prosecutor leaves sidebar to talk with Danielle
16 Grootenboer)

17 THE COURT: It's number four, correct?

18 COURT CLERK: Yes.

19 (Pause in proceeding)

20 THE COURT: Good.

21 (Pause in proceeding)

22 THE COURT: -- what town?

23 (Pause in proceeding)

24 MR. BILINKAS: Do you mind if I sit --

25 THE COURT: No, go right ahead.

1 MR. BILINKAS: --

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

3 (Jury is not present)

4 COURT CLERK: Jury entering.

5 (Jury is entering)

6 (Jury is present)

7 THE COURT: Okay. Please be seated.

8 Counsel, sidebar?

9 (Pause in proceeding)

10 THE COURT: Juror number four, over here.

11 (Sidebar)

12 THE COURT: Okay. You brought to my
13 attention that you may know Danielle Grootenboer?

14 JUROR4: Right --

15 THE COURT: How do you know her?

16 JUROR4: She goes to the same church as me.

17 THE COURT: I'm sorry?

18 JUROR4: The same church, and we were on a --
19 years ago together.

20 THE COURT: Okay.

21 JUROR4: Are we friends? No. Do we keep in

22 --

23 THE COURT: Do you have any --

24 JUROR4: -- touch? No.

25 THE COURT: -- ongoing relationship; do you

1 speak with her?

2 JUROR4: No.

3 THE COURT: Anything that you know about her,
4 other than the fact that you recognize her?

5 JUROR4: Un-un.

6 THE COURT: Would that in any way affect your
7 ability to be fair and impartial?

8 JUROR4: No, I just wanted you to know,
9 because one of the questions was do you recognize
10 anyone --

11 THE COURT: Okay. And --

12 JUROR4: -- she wasn't here then. And then,
13 this morning when I came in, I had seen her --

14 THE COURT: Because we want to make sure
15 that, by virtue of -- it seems to be that, other than
16 church or in some passing way --

17 JUROR4: Mmm-hmm.

18 THE COURT: -- have no relationship with her
19 --

20 JUROR4: Yeah.

21 THE COURT: -- you recognized her.

22 JUROR4: Right.

23 THE COURT: Okay.

24 JUROR4: That's it.

25 THE COURT: To be clear, knowing this now,

1 can you still remain fair and impartial?

2 JUROR4: Yes.

3 THE COURT: Any follow-up questions?

4 MR. MELLO: No.

5 THE COURT: All right?

6 MR. BILINKAS: --

7 THE COURT: Have a seat.

8 UNIDENTIFIED: --

9 THE COURT: Please do not discuss this with
10 any of the jurors, all right?

11 JUROR4: Okay.

12 (Sidebar concluded)

13 THE COURT: Call your next witness.

14 MR. MELLO: Thanks, Judge --

15 (Pause in proceeding)

16 THE COURT: Face the court clerk.

17 COURT CLERK: Raise your right hand.

18 T H E R E S A S C H O F I E L D, STATE'S WITNESS,

19 SWORN

20 COURT CLERK: State your name for the record.

21 THE WITNESS: Terri Schofield.

22 THE COURT: Please have a seat. You may
23 begin.

24 MR. MELLO: Thank you, Sir.

25 DIRECT EXAMINATION BY MR. MELLO:

1 Q Good afternoon.

2 A Good afternoon.

3 Q I'm going to ask you if you would concentrate
4 on speaking in a loud, clear voice, try to concentrate
5 on speaking into the microphone. I think you can --

6 A I can move it?

7 Q Move it, yes.

8 A Okay.

9 Q And please concentrate on that so that the
10 jury and the Court and all parties can hear your
11 answers to any question, okay?

12 A Okay.

13 Q If you would, I'd like to just ask you a few
14 questions about yourself. Can you tell us where you
15 live?

16 A Staten Island, New York.

17 Q Can you tell us who you live with?

18 A My significant other, domestic partner.

19 Q And do you have any children?

20 A Yes, I do.

21 Q And how many do you have?

22 A Two children.

23 Q How old are they?

24 A Thirty-one and 28.

25 Q Now, I'd like to ask you if you are presently

1 employed.

2 A Yes, I am.

3 Q Can you tell us first by whom you are

4 employed?

5 A I am a private-duty nurse, so I work for a couple

6 of agencies.

7 Q Okay. And can you tell us the general nature

8 of what you do as a private-duty nurse?

9 A Sure. I do home care, taking care of primarily

10 quadriplegic patients.

11 Q Now, for purposes of our discussion today,

12 I'm going to ask you to discuss certain events that

13 took place ranging from 1989 or so to 1992, all right?

14 A Yes, sir.

15 Q Now, let's start out simply with 1989, all

16 right?

17 A Okay.

18 Q Can you tell us where you lived at that time?

19 A At that time I lived in Pompton Lakes, New Jersey,

20 which is Passaic County.

21 Q Can you tell us who you lived with at that

22 time?

23 A My two children, and Stephen lived there half the

24 week.

25 Q Now, by, "Stephen," do you mean --

1 A I'm sorry; Russ.

2 Q -- Stephen Scharf?

3 A Stephen Scharf, yes.

4 Q Now, let's go back in time to the summer of
5 1989, all right?

6 A Yes.

7 Q Now, in 1989, you lived with your two
8 children, correct?

9 A Yes.

10 Q And I'm going to ask you if it was in that
11 year that you had occasion to meet Stephen Scharf?

12 MR. BILINKAS: Again, Judge, I'm -- I'm going
13 to object to the continuing leading nature.

14 THE COURT: Ask another question.

15 MR. MELLO: I'm asking if she met him in
16 1989. That's a --

17 BY THE COURT:

18 Q Can you --

19 MR. MELLO: -- yes or a no.

20 BY THE COURT:

21 Q -- answer the question?

22 A Yes, I did meet him in 1989.

23 BY MR. MELLO:

24 Q Do you see Mr. Scharf in court?

25 A Yes, I do.

1 Q Would you point him out please?

2 A He's at the table right there.

3 MR. BILINKAS: I'll stipulate she's

4 identified --

5 THE COURT: Thank you.

6 MR. BILINKAS: -- my client.

7 BY MR. MELLO:

8 Q Can you tell us approximately when in 1989,
9 if you recall, that you met Mr. Scharf?

10 A Yes, it was August of 1989.

11 Q Do you recall the circumstances under which
12 you met Mr. Scharf?

13 A Yes, it was a blood drive.

14 Q Can you tell us specifically about that
15 encounter with Mr. Scharf at that blood drive in August
16 of 1989?

17 A Yes, he was my donor. At the time, I worked for
18 Community Blood Services. We were doing a blood drive
19 at his company and he was my donor. He came to my
20 station to donate a pint of blood.

21 Q Do you happen to recall first who he was
22 employed with at that time?

23 A Yes, GEC-Marconi.

24 Q And do you recall where that concern was
25 located?

1 A Yes, Wayne, Little Falls; I'm not sure; it was on
2 the border of Wayne or Little Falls.

3 Q And who did you work for at that time?

4 A I worked for Community Blood Services in Paramus,
5 New Jersey.

6 Q And the nature of your duties at that time
7 was what?

8 A We went to his company to collect units of blood
9 from employees.

10 (Pause in proceeding)

11 Q Now, can you tell us if you have a specific
12 memory of that meeting in August of 1989 at that blood
13 drive with Mr. Scharf?

14 A Yes.

15 Q Tell us.

16 A He was the last donor of the day and he came to my
17 station. He introduced him -- he walked over and --
18 which was kind of unusual; they don't usually introduce
19 themselves -- he introduced himself as, "Russ"; he
20 said, "Hi, I'm Russ," and handed me his registration
21 form and proceeded to get on one of the donor beds and
22 prepare for the donation.

23 I looked at the form, because that's part of the
24 job was to check out the registration form, and noticed
25 that his name was Stephen, so I questioned him on -- on

1 why he told me his name was Russ. And -- and his legal
2 name was Stephen, because they must show a legal
3 identification before they can donate blood, and he
4 said that Stephen was his legal name, but he went by
5 the name of Russ.

6 Q Now, at that time --

7 A Mmm-hmm.

8 Q -- was there anything else that you recall
9 about that particular meeting?

10 A Oh, yes, we -- the -- the process takes about ten
11 to 15 minutes, so part of my job is to talk to the --
12 the donor and make them feel comfortable. So we small-
13 talked. I noticed that he lived in Washington Township
14 in Morris County and I grew up in Washington Township
15 in Bergen County, so that was our conversation.

16 Unfortunately, I had my name -- my first and last
17 name we had to wear at the time, and he also noticed
18 that I didn't wear a wedding ring, so he asked if I was
19 -- he said, "I notice you don't have a ring on; are you
20 married," and I said, "No". At the time, I was
21 widowed.

22 Q And presumably then a donation of blood --

23 A Yes, he --

24 Q -- was made.

25 A -- we small-talked. He finished his donation and

1 he got up and another -- different, out-of-the-ordinary
2 thing is he actually -- he shook my hand and said,
3 "Thank you; nice to meet you," and -- and that was the
4 -- the end of the donation.

5 Q Now, after that meeting --

6 A Mmm-hmm.

7 Q -- did you have occasion to speak with him
8 again?

9 A Yes, approximately two weeks later, he called me
10 at my home. S -- if I could back up, somewhere during
11 that donation procedure, he learned what town I lived
12 in, because we were talking about towns, and I was
13 listed in the phone book, so he got my name and number
14 from the phone book and he called my home.

15 And at first I wasn't familiar -- I didn't
16 recognize him. He said, "Russ," "Steve," and then
17 said, "From GEC-Marconi, the blood drive". "Oh, yes,
18 okay". And then I recognized who he was.

19 Q And, with respect to that phone conversation,
20 other than it being ordinary small talk between --

21 A Mmm-hmm.

22 Q -- a man and woman, anything significant that
23 you remember or not from that conversation?

24 A Only that he had asked me if I'd meet him for a
25 drink sometime, and I said, "No".

1 Q Why did you say, "No"?

2 A Well, I felt just kind of uncomfortable because I
3 was -- went to his place of business and I -- I --
4 that's what I did every day, went to a different place
5 of business, and I didn't feel comfortable because I
6 had met him on his job working for my job and it -- it
7 just at the time for me I wasn't comfortable with it.

8 Q Okay. After that conversation and after you
9 declined his invitation, did you have occasion to speak
10 with him again?

11 A Uh -- excuse me, yes. He was pretty persistent.
12 He called, ooh, probably for the next eight -- a year,
13 actually, maybe two -- every two weeks, once a month
14 possibly, just: Did I change my mind, would I meet
15 him, et cetera, et cetera. I'd still say, "No".

16 Q Does there come a point in time when your
17 "No" becomes a "Yes"?

18 A Yes.

19 Q Can you tell the jury a little bit about
20 that?

21 A After about eight months to a year and he was
22 still calling me on a -- on a regular ba -- oh, again,
23 every week -- couple weeks or so, and I was speaking
24 with my girlfriends and they said, "Listen, you know,
25 if you think you want to go out with him; it's over a

1 year, you should -- it would be okay," so the next time
2 he called I agreed to meet him for a drink.

3 Q If you can, can you give us a sense (clears
4 throat) -- pardon me -- can you give us a sense of the
5 approximate time that you have agreed to meet Mr.
6 Scharf for a drink?

7 A From the beginning of the don -- you mean, from
8 the first I met him in August, you mean?

9 Q No.

10 A I'm sorry; I don't understand the question.

11 Q I -- I -- I'll try and ask it better. You
12 have now turned a "No" to a "Yes".

13 A Oh, okay; I'm --

14 Q And --

15 A -- sorry.

16 Q -- you've agreed to meet for a drink.

17 A Mmm-hmm.

18 Q What I'm trying to get to is do you have a
19 recollection of approximately when you would meet him
20 for that drink?

21 A It was approximate (clears throat) -- excuse me --
22 it was approximately June of 1990, so it wasn't quite a
23 year after he -- I --

24 Q Okay.

25 A -- he first phoned me.

1 Q Okay. Now, with respect to that meeting, do
2 you have a recollection of where you met?

3 A Yes, I met him at the Holiday Inn on -- there's a
4 pub at the Holiday Inn on Route 46 in -- again, not
5 sure if that's Wayne or Little Falls, but that's where
6 I met him.

7 Q And would it be fair to say that during the
8 course of that meeting with Mr. Scharf you passed a
9 nice evening with him?

10 A Yes, we had a few drinks, some conversation, and
11 we both went on our way.

12 Q Now, with respect to both of you going on
13 your way, did you have discussions about seeing each
14 other again?

15 A Um, not exactly sure; I can't recall if we did,
16 but I did -- I did end up seeing him a couple weeks
17 later.

18 Q Okay. Can you tell us what your recollection
19 is of how that came about and the circumstances under
20 which you would see him again?

21 A He -- he phoned. I mean, he was pleasant that
22 evening; we had a nice time, so he phoned within the
23 next couple of weeks or so. And the next date we -- we
24 went to the movies. And basically from there, a couple
25 weeks after that, and it just kind of progressed from

1 there.

2 Q Okay. By the way, how recent in time had you
3 been widowed?

4 A Um, my husband died in 1983, and I met Stephen in
5 1989.

6 Q And the children were of course small at that
7 time.

8 A Yes.

9 Q And, with respect to children -- well let me
10 ask another question. So, at -- at this point in time
11 as 1990 begins to roll to the summer forward, is it
12 fair to say that you got together with Mr. Scharf on a
13 number of occasions?

14 A Correct.

15 Q And I trust that all of those occasions were
16 pleasant and you continued to see each other.

17 A Yes, correct.

18 Q Now, it's also fair to say, is it not, that
19 you guys got to know each other?

20 A Yes.

21 Q All right. Well --

22 A Well --

23 Q -- what I'd like to --

24 A -- yes.

25 Q -- do is ask you about what you began to

1 learn about Mr. Scharf from Mr. Scharf, all right?

2 A Yes.

3 Q Now, I just mentioned that you had young
4 children at the time that you were seeing Mr. Scharf.

5 A Correct.

6 Q Was there any commonality with respect to
7 children between you and Mr. Scharf?

8 A Uh, yes, his son, Jonathan, was the same age as my
9 daughter.

10 Q With respect to his son, Jonathan, and Mr.
11 Scharf, did Mr. Scharf tell you whether or not he was
12 married?

13 A Actually, he said he was not married --

14 Q Did he tell you anything else about his
15 personal, for want of a better time, marital status or
16 not?

17 A He told me that he was married, but his wife had
18 died in a car crash approximately ten years prior to
19 1989, um, that he said a son, Jonathan, by a woman who
20 he was not married to and he didn't live with either.

21 Q Did he tell you who he was living with
22 besides Jonathan?

23 A Yes, he told me he lived with his sister and her
24 lesbian lover.

25 (Pause in proceeding)

1 Q By the way, did he tell you where his wife
2 had died in a car accident ten years prior?

3 A Yes; Georgia.

4 (Pause in proceeding)

5 Q Now, at the time did he tell you that
6 Jonathan lived with him or not?

7 A He said that they had joint custody, that
8 Jonathan's mother lived in the same complex as he did
9 and they shared joint custody.

10 Q Did he tell you anything else about the
11 mother of Jonathan?

12 A He said she was a career woman that didn't want to
13 get married, but wanted a child, and so they had a
14 child.

15 Q And I believe you said that he told you that
16 they had joint custody.

17 A Oh, yes, I'm sorry, yes, they had joint custody.
18 He actually -- it was a very amicable custody
19 arrangement.

20 Q And did he discuss the topic of alimony with
21 you?

22 A Um, he said he paid her -- he did say he -- not
23 dollars and cents, but he did pay her some money.

24 (Pause in proceeding)

25 Q Now, is it fair to say that, as 1990 now

1 turns into 1991, that your relationship with Mr. Scharf
2 was a good one?

3 A Yes.

4 Q Would it be fair to say that it deepened?

5 A Yes.

6 Q Okay. As 1991 arrives, in that general
7 period of time -- I'm -- I'm not asking to hold you to
8 a particular month, but that general period of time,
9 all right --

10 A Correct --

11 Q -- that 1991 --

12 A -- okay.

13 Q -- can you describe for the jury the nature
14 of your relationship with Mr. Scharf?

15 A Um, he basically -- he -- his --

16 Q Well, first I want -- I want to ask you how
17 is about the relationship; how would you describe the
18 relationship? And then I'll ask you about any other
19 living arrangements.

20 A It was a good relationship. As a matter of fact,
21 I even -- it -- it worked for me, because I had two
22 small children; I wasn't looking for anything long-
23 term, if you will, or more than what -- more than what
24 it was.

25 And, as a matter of fact, I even mentioned to my

1 girlfriend that it was a perfect relationship.

2 Q And now let me ask you -- I think you were
3 about to discuss this -- let me ask you does some sort
4 of living arrangement transpire between you and Mr.
5 Scharf?

6 A Uh, yes. Approximately six to seven months after
7 that initial first date, he -- I lived about 15, 20
8 minutes from where he worked. He lived about an hour-
9 plus from where he worked. So he phoned one night --
10 we were dating -- he phone one night and said could he
11 -- could he stay over because he was working late, and
12 this way he didn't have to go all the way home, come
13 all the way back in the morning. And so he did. And
14 then from there one night turned into two nights,
15 turned into three night, and so he was there on a
16 regular basis at least three nights a week.

17 Q Can you tell us, with respect to him being
18 there on a regular basis at least three nights a week,
19 what nights they might have been?

20 A Um --

21 Q Did they follow a pattern?

22 A -- always on Sunday, because he usually was coming
23 up from his Army business, so it was always Sunday, and
24 usually Thursday and then sometimes Fri -- more towards
25 the end of the week, but it varied because it depended

1 on -- or so he told me -- depended on the custody
2 arrangement or if his -- Jonathan's mom was working
3 late and he had to go home, *vice versa*, so. But it was
4 always Sunday night.

5 Q Okay. Now, I'm -- I'm sorry; you may have
6 said this -- with respect to him living there, did he
7 move clothing, personal --

8 A Yes.

9 Q -- property in?

10 A Yes, I had a -- a guest bedroom and he had all --
11 the -- the closet in that guest bedroom was full -- it
12 was all his things. He -- and then he also -- he had
13 purchased a -- a truck somewhere in 19 -- around the
14 summer of 1990. That was in my driveway. And then he
15 also purchased a boat that he kept in my -- my driveway
16 as well.

17 Q Now, you referred in some way to military.

18 A Yes.

19 Q Was -- at this time, was Mr. Scharf still
20 employed by Marconi?

21 A Yes.

22 Q And he was in fact an engineer with that
23 company?

24 A Correct.

25 Q Was he also in the military reserve at the

1 time you knew him?

2 A Yes.

3 Q And did you discuss his military reserve duty
4 with him at any time?

5 A Well, I knew that he -- or what he told me was
6 that he was there -- every other weekend, he was -- did
7 -- had military duty. So the opposite weekends is when
8 he had Jonathan.

9 Q Okay. And when would he be staying with you?

10 A Usually on Sunday nights when he came home from --
11 because he -- he -- he -- my house was sort of on the
12 way up from where he -- he lived -- excuse me -- where
13 he did his military duty, so he would usually always
14 come on Sunday nights so that it was easier to go to
15 work Monday morning.

16 (Pause in proceeding)

17 Q And would that arrangement continue
18 throughout 1991?

19 A Yes.

20 Q And again is it fair to say that, during the
21 course of that year and that relationship, that it was
22 in -- in all respects between you and Mr. Scharf a good
23 relationship as between the two of you?

24 A Yes.

25 (Pause in proceeding)

1 Q Now, I'd like to bring you into 1992, all
2 right?

3 A Okay.

4 Q Is it fair -- tell me if I'm mistaken -- is
5 it fair that, as 1992 now breaks, that the relationship
6 has gotten deeper and better?

7 A Correct.

8 Q Is there ever any mention or discussion about
9 marriage between the two of you?

10 A Um, Mr. Scharf had mentioned it probably I want to
11 say maybe 1990 -- somewhere 1991, maybe the beginning
12 of '92, he had spoken of marriage. He said he needed
13 to settle down and he even said, "Oh, Jonathan would be
14 his best man". But -- but that wasn't -- that's not
15 what I wanted.

16 And that -- the discussion went that kind of that
17 wasn't going to happen because there was no way I would
18 uproot my children from my home to out where he lived
19 and I knew -- well, I thought he had a very good
20 relationship with his son and his son's mother and
21 there was no way he would want to leave his son to come
22 that -- to come to my -- to my area either.

23 Q So that discussion kind of falls by the
24 wayside, so to speak.

25 A Correct.

1 Q Now, what I'd like to do is I'm going to ask
2 you if you would I'd like you to reflect with us on the
3 month of September in the year 1992, all right?

4 A Okay.

5 Q And is it a month and year of -- that you
6 recall?

7 A Very -- very well, yes.

8 Q Now, what I'm going to do now is I'm going to
9 ask you a series of questions that relate to September
10 of 1992 --

11 A Okay.

12 Q -- and in terms of September 1992, I'm going
13 to ask you a series of questions as it pertains to your
14 relationship with Mr. Scharf, all right?

15 A Okay.

16 Q And let me begin with the Labor Day holidays
17 of September of 1992, all right?

18 A Okay.

19 Q Can you tell us first do you have the
20 specific recollection of the Labor Day weekend of 1992
21 as it pertains to Mr. Scharf?

22 A Yes, I do.

23 Q Can you tell us, and tell us in your own
24 words, slowly, what you recall of your interaction with
25 Mr. Scharf at that time period, all right?

1 A Sure. Um, probably -- not probably, it was about
2 approximately, you know, a month before that weekend
3 and he mentioned that Jonathan was going to be with his
4 mother for the weekend and he didn't have Army, so he
5 said, "Let's do something".

6 So another gentleman that I worked with at the
7 time had a condo down at the Jersey Shore, so I rented
8 it for the weekend and my girlfriend, her husband, her
9 two children, and Stephen, myself, and my two children
10 were to go for the weekend.

11 Approximately -- it was eith -- I'm not sure if it
12 was Friday or Saturday, he called and said that he was
13 going to be late or he couldn't leave when we were
14 leaving, so he -- he'd meet me down there later. So I
15 gave him the address and off we went.

16 He came -- he arrived at two o'clock Sunday
17 morning is when he came in, something about having to
18 help someone. Obviously everybody was sleeping; there
19 was no time for discussion, so that was that.

20 Sunday morning, we got up. It was not a great
21 day, but we took all the kids to the beach. And he
22 asked -- he knew I was angry because he just had no
23 regard for -- for the weekend that we had planned, so
24 he -- he -- once we got on the beach, he asked if he
25 could -- if him and I could go for a walk so we could

1 chat.

2 So he -- because again he knew I was angry. And
3 he apol --

4 Q I'm going to stop you just -- just --

5 A Sure.

6 Q -- for a moment. Can you tell us -- you're
7 now on the beach; what do you -- what do you see; what
8 do you remember?

9 A Uh, the water. It was overcast that day. It had
10 rained all day on -- on Saturday, so it was -- there
11 was a ha -- not hazy, it was overcast -- it was an
12 overcast day. Not the greatest day for a beach, but
13 little kids, Labor Day weekend, we took -- it was okay
14 to go on the beach.

15 And we had walked down a little bit, probably just
16 out of ear -- not probably, it was out of earshot of
17 the -- of -- of my girlfriend, her husband, and the
18 four kids, so that we could talk.

19 Q Okay. Tell us the conversation you had on
20 that beach at that time.

21 A Um, he apologized for c -- for arriving so late,
22 and then said, "Well, I can't stay; I have to leave
23 anyway". So -- and he was all apologies: I'm sorry --
24 you know, et cetera, et cetera. And of course I was
25 angry; I said, you know, he's the one that mentioned

1 this -- doing something for the weekend and, you know,
2 I arranged it all; we were there, and again just he had
3 no regard for, in my opinion, no regard for my kids or
4 the weekend in itself.

5 He kept apologizing: I'm sorry, I'm sorry, I'm
6 sorry, and said to me that at the time he was under a
7 lot of stress, which was a -- a surprise to me. And --
8 at first he said stress from his job, and that was news
9 to me as -- because up to this point I had never -- he
10 had never mentioned any out-of-the-ordinary stress on
11 the job.

12 He then said that he also -- his -- Jonathan's
13 mother was fighting him for custody of Jonathan, that
14 she wanted total custody, and there was no way he
15 wanted -- he was going to give up Jonathan or wanted to
16 give up Jonathan, which was even a bigger surprise to
17 me because up to this point I had known it to be
18 nothing but amicable.

19 And again he was, "I'm sorry, I'm sorry, I'm
20 sorry". And I was like, you know what, like just
21 enough. And he said, "Please no," again all apologies,
22 "Just give me to the end of September and everything
23 will be okay, the stress will be -- a lot of the stress
24 will be gone".

25 Um, again, "Okay, yeah, whatever, just go". And

1 he left shortly thereafter.

2 (Pause in proceeding)

3 Q Now, after this conversation as you've
4 described it --

5 THE COURT: Mr. Mello?

6 MR. MELLO: I'm sorry?

7 THE COURT: Look for a place to break --

8 MR. MELLO: I think this --

9 THE COURT: -- for the lunch hour. All
10 right?

11 We'll recess until 1:30.

12 MR. MELLO: Thank you, Your Honor.

13 (Luncheon Break)

14 (Jury entering)

15 THE COURT: Welcome back, ladies and
16 gentlemen of the jury.

17 Madam Clerk, roll call.

18 (Roll call of jurors begins)

19 THE COURT: You may be seated.

20 (Roll call of jurors continues. All present.)

21 THE COURT: All right. The witness will
22 return to the stand.

23 Mr. Mello, you may proceed.

24 MR. MELLO: -- a moment.

25 (Pause in proceeding)

1 MR. MELLO: Thank you, Judge. That permitted
2 us to -- (voice trails)

3 (Pause in proceeding)

4 DIRECT EXAMINATION CONTINUED BY MR. MELLO:

5 Q All right, I think we broke at that point
6 where you had testified to the conversation on the
7 beach where Mr. Scharf asks you to give him until
8 September -- (noise drowns out voice) -- correct?

9 A Yes.

10 Q All right. Now, let's -- let's focus on that
11 period of time, all right?

12 A Okay.

13 Q And I'd like you to step back from that
14 period of time first.

15 A Okay.

16 Q And, apart from what you've told us about
17 Labor Day weekend, can you tell us, during the course
18 of the later part of your relationship with Mr. Scharf,
19 can you tell us how you and Mr. Scharf socialized, the
20 kinds of places you went to or --

21 A Um.

22 Q -- dined at, that kind of thing, if at all?

23 A Yeah, we -- movies; he would come to my house; I
24 -- I went to his company picnic; he came to a wedding
25 with me; things of that nature; was down to -- when he

1 was -- I believe it was Fort Dix is where he went for
2 his Army weekends -- was down there, once with him --
3 once or twice with him.

4 Q Were you ever -- did you ever attend a comedy
5 club with him?

6 A No. As a matter of fact, he told me he didn't
7 like them.

8 Q Did you get to know Jonathan during this
9 period of time?

10 A Yes, Jonathan stayed at my house maybe once or
11 twice. But one particular Saturday, Stephen took my
12 daughter, who as I mentioned was the same age as
13 Stephen(sic), they went into the city and to some -- to
14 a museum, but he -- he took her for the day with
15 Jonathan.

16 Q And I trust they all had a nice time.

17 A Yeah, yeah.

18 Q Okay. Now, I'm now going to take you forward
19 in time from the conversation you described, all right?

20 A Okay.

21 Q And I'd like you to tell us if you recall the
22 week that begins after Labor Day.

23 A Okay. Um --

24 Q And I'd like --

25 A Okay.

1 Q -- do you recall that?

2 A Yes, I do.

3 Q Okay. And I'd like to ask you if in the
4 middle part of that week you have any contact with Mr.
5 Scharf.

6 A Yes, I do.

7 Q Okay. Can you tell us what you recall being
8 the first contact with Mr. Scharf?

9 A It was Tuesday night, because we ended up staying
10 down the shore til Monday night. And he came over
11 Tuesday and again, "I'm sorry, I'm sorry, I'm sorry. I
12 was busy, did something with a friend, and, you know,
13 just give me -- again, just give me til the end of the
14 month, give me til the end of September and a lot of my
15 pressure will be off".

16 Q Now, that conversation is in the middle part
17 of the week?

18 A That was Tuesday night.

19 Q Okay.

20 A And then again Wednesday, he came back again
21 Wednesday.

22 Q Okay.

23 A Um, the -- the same -- having the same
24 conversation. And I was just like, "No, but just go --
25 go do what you have to do and whatever, I'll talk to

1 you whenever". So we --

2 Q Okay.

3 A Go ahead; I'm sorry. It --

4 Q So --

5 A -- was Tuesday, and -- and then he came back again
6 on Wednesday night.

7 Q So it's the same September conversation?

8 A Correct.

9 Q Okay. Now, at any time did Mr. Scharf ever
10 in any way suggest to you that he wanted to end his
11 relationship with you?

12 A No. As a matter of fact, that when af -- he -- I
13 saw him on Wednesday and I said, "Just go," whatever.
14 And Thursday at my job came a dozen yellow roses that
15 said, "Hell hath no women(sic) like" -- or "Hell hath
16 no fury like a woman scorned".

17 Q And was that regarding you're upset with him
18 about the Labor Day weekend?

19 A I -- I would assume, yes.

20 Q Now, does there come a point in time when you
21 are made aware of a death?

22 A Yes.

23 Q And the awareness of a death, did it involve
24 Stephen Scharf?

25 A I don't --

1 Q As to say --

2 A -- I don't --

3 Q -- did the -- that was a bad question. Let
4 me just ask you directly. I don't think Mr. Bilinkas
5 will --

6 MR. BILINKAS: I have no objection to him
7 leading --

8 MR. MELLO: Thank you.

9 MR. BILINKAS: -- this witness on.

10 MR. MELLO: Thank you.

11 BY MR. MELLO:

12 Q There comes a point in time when you learn of
13 a death, and that is the death of Jody Scharf.

14 A Yes.

15 Q And you learn of that how?

16 A My father. He read it in the newspaper. He read
17 of the accident in the newspaper and -- because he
18 lived in Bergen County. Again, I lived in Passaic
19 County. And he phoned me and -- and read the article
20 to me.

21 Q And do you, there and then, find out that Mr.
22 Scharf was in fact married?

23 A Yes, my fath -- actually, my father said, "He's
24 marr -- did you know he was married," and I said,
25 "Absolutely not". So he then proceed -- he actually

1 initially, because my family knew him as "Russ," asked
2 what his legal name was, and I said, "Stephen". And my
3 father and him made the connection because they both
4 lived in Washington Township in different count --

5 MR. BILINKAS: Objection, "Father and him
6 made a connection"?

7 MR. MELLO: Not -- not a problem, Judge, it's
8 not -- it's of no moment.

9 BY MR. MELLO:

10 Q So now you've learned that Jody Scharf is
11 dead and --

12 A Correct.

13 Q -- he is married to Jody Scharf -- or was
14 married to Jody Scharf.

15 A Correct.

16 Q Now, after that event, did you attempt to
17 contact Mr. Scharf?

18 A Yes, I -- my girlfriend lived across the street
19 and, after I had the conversation with my dad, I knew
20 she got the -- the "Bergen Record," so I went across
21 the street and asked her -- or told her what happened.
22 And we looked through her paper, different county, so
23 it wasn't there. And --

24 Q I want you to -- I want you to focus on -- on
25 this; I want you to focus on after you find out that

1 which you've testified to regarding the death of Jody

2 Scharf --

3 A Okay.

4 Q -- did you attempt to contact Mr. Scharf?

5 A Oh, yes; I'm sorry.

6 Q Okay.

7 A When --

8 Q Yes?

9 A Yes.

10 Q How did you attempt to contact him, in person

11 or by telephone?

12 A Telephone.

13 Q Okay. Were you able to contact him when you

14 first --

15 A No.

16 Q -- attempted to?

17 A No.

18 Q Did you leave a message with anyone when you

19 made that first phone call?

20 A Yes, I did.

21 Q Who did you leave a message with?

22 A Jonathan.

23 Q Did you leave a message with Jonathan to have

24 his father call you?

25 A Yes.

1 Q After that event, did you receive a phone
2 call from Mr. Scharf?

3 A Yes.

4 Q After that event.

5 A Oh, that -- that same time -- in that same time --
6 I'm sorry; I don't understand what you're asking me.

7 Q You've left a message --

8 A Correct.

9 Q -- for him to call.

10 A Correct.

11 Q Did he immediately call?

12 A No.

13 Q When he failed to call you, did you take any
14 action?

15 A Yes, the next -- yes.

16 Q What did you do?

17 A The next morning, I phoned his -- I phoned his
18 house.

19 Q Okay. Now, at that time, did you have a
20 conversation with Stephen Scharf?

21 A Not a conversation, no. I mean, he picked up the
22 phone and said, "How can I help you?". And, when I
23 said, "What the heck is going on; you're married," he
24 hung up the phone.

25 Q Just -- just back a little bit. When you

1 called him, did you tell him it was you who was
2 calling? Did he immediately recognize you?

3 A Yes, he recognized my voice.

4 Q And his words were, "How can I help you?"?

5 A Correct.

6 Q You said what in response to that?

7 A Probably used some profanity, but said, you know,
8 "What's going on; you're married?". And he hung up the
9 phone; he never answered.

10 Q And did you find that odd?

11 A Absolutely, because we had -- he was very
12 business-like, and we never -- that was -- just never
13 had a conversation like that before.

14 Q Now, up until this point in time, Mr. Scharf
15 had never in any way indicated he wanted to end his
16 relationship with you, correct?

17 A Absolutely not.

18 Q Is it true that, after the events that you've
19 testified to thus far, you saw Mr. Scharf again? Saw
20 him in person?

21 A Six months later.

22 Q That's -- that's my question.

23 A Yes, six months later.

24 Q Okay. Can you tell us about that
25 circumstance, where you saw him and in what manner?

1 A He still had quite a few -- his boat was still in
2 my driveway. He had all his personal effects still at
3 my house. And I had been in -- I reached out to him to
4 ask him what he was going to do with all this stuff, if
5 -- if he was going to take it or whatnot, and then also
6 for some closure, if you will, and maybe I would get
7 some answers. And he told me to come to his house for
8 dinner and we would discuss everything.

9 Q Did you go to his house?

10 A Yes, I did.

11 Q Did you discuss anything?

12 A No, we didn't.

13 Q Did you have occasion to see him again?

14 A Yes, I did.

15 Q Go ahead.

16 A I -- I didn't get any answers at that particular
17 -- that particular night, so I went back again I want
18 to say maybe two weeks later.

19 Q Okay.

20 A And --

21 Q And --

22 A I'm sorry?

23 Q Continue.

24 A He -- he left the house with Jonathan; he had to
25 take Jonathan somewhere, and so I started snooping and

1 I found some papers and some personal things on his
2 diningroom table and there were notes and cards
3 recently from other women, and then I also listened to
4 his answering machine and there were recent calls from
5 other women.

6 Q Fair to say that ended the relationship for
7 you?

8 A Yes, then I never saw him after that.

9 (Pause in proceeding)

10 MR. MELLO: Thank you, Ms. Schofield; nothing
11 further.

12 THE COURT: Cross examination.

13 (Pause in proceeding)

14 CROSS EXAMINATION BY MR. BILINKAS:

15 Q Good afternoon, Ms. Schofield.

16 A Hello.

17 Q You na -- never gave a formal written
18 statement to the Prosecutor, correct?

19 A I've made a formal statement to the detectives,
20 yes.

21 Q Was that statement taped to your knowledge?

22 A Honestly, I don't recall.

23 Q Was the statement recorded --

24 A It --

25 Q -- on a video to your knowledge?

1 A Not on a video; it was in my attorney's office.

2 Q Was the detective from the Prosecutor's
3 Office taking notes?

4 A Yes.

5 Q Now, it's been 18 years since you gave that
6 interview, correct?

7 A Correct.

8 Q And -- and, prior to your testimony today --

9 A Mmm-hmm.

10 Q -- have you met with the Prosecutor and gone
11 over your testimony?

12 A I've met with him, yes; correct.

13 Q Who did you meet with?

14 A Detective -- I'm sorry, I can never remember --
15 Detective Jim -- I'm -- and then, uh --

16 Q Mr. Mello.

17 A -- Mr. Mello; sorry.

18 Q How -- how many times have you met with him?

19 A Um, roughly maybe three times, roughly.

20 Q When was the first time?

21 A Oh, the first time was way back -- well, I
22 shouldn't say, "Way back" -- was in maybe 2009 -- I
23 think it was 2009, short -- right, shortly after he had
24 been arrested, at my job. That was just two detectives
25 came.

1 Q And did they take a statement from you in
2 2009?

3 A They were taking notes, yes.

4 MR. BILINKAS: Counsel, do you have any
5 statements from --

6 MR. MELLO: You have --

7 MR. BILINKAS: -- 2009?

8 MR. MELLO: -- you have the statement. You
9 have complete discovery, Counsel.

10 BY MR. BILINKAS:

11 Q So, in 2009 you recall meeting with the
12 detectives from the Prosecutor's Office and they were
13 taking notes and asking you questions, correct?

14 A Correct.

15 Q Now, prior to your testifying today, did you
16 see a memo of an interview with you and those
17 detectives back in 1992?

18 A Oh, in 1992?

19 Q Correct. Did they show you the
20 investigator's memo of your interview?

21 A Yes.

22 Q And -- and did they show that to you before
23 they questioned you?

24 A No.

25 Q When did they show it to you?

1 A After they had questioned me and --

2 Q Do you have any idea why they showed you --

3 A I ac --

4 MR. MELLO: Objection; that calls for
5 speculation I think, Counsel.

6 MR. BILINKAS: --

7 THE COURT: Sustained.

8 BY MR. BILINKAS:

9 Q Let me get the sequence of events.

10 A Mmm-hmm.

11 Q They first talked to you on September 29th,
12 1992, correct?

13 A Correct.

14 Q And now -- do you recall what day of the week
15 that was?

16 A I believe it was a Monday.

17 Q All right. And they next talked to you,
18 according to what you just said, was in 2009, correct?

19 A Correct.

20 Q And that was after my client was arrested?

21 A I believe so, yes; correct.

22 Q And you indicated that the detectives were
23 questioning you, correct?

24 A Correct.

25 Q The same detectives?

1 A From 1992?

2 Q Correct.

3 A No.

4 Q Who were the detectives in '92?

5 A I don't remember -- I only remember was Terry

6 Alvier(phonetic). I don't remember the second

7 detective's name.

8 Q And --

9 A And that's because -- I remember that because my

10 -- I'm Terry and he was Terry. That's the only reason

11 I remember his name.

12 Q Well, you just said that it wasn't the same

13 people that talked to you in '92, correct?

14 A I don't believe that's what you asked me. Or can

15 you re-ask me the question?

16 Q Okay. Were you in 19-9 -- two-thous -- 2009

17 --

18 A Mmm-hmm.

19 Q -- when you talked to them the second time,

20 correct?

21 A Correct.

22 Q Were the detectives you talked to in 2009 the

23 same detectives that you talked to back in 1992?

24 A No.

25 Q You're sure of that.

1 A I'm absolutely positive.

2 Q The detective in 19 -- strike that. The
3 detective in 2009, his last name was Terry
4 Alvers(phonetic), correct?

5 A In 19 --

6 MR. MELLO: Objection; that's -- that's
7 exactly not what she said. She said --

8 MR. BILINKAS: Let me ask it again, Judge.

9 MR. MELLO: -- they were not the same --

10 MR. BILINKAS: Let me ask her --

11 MR. MELLO: -- detectives.

12 MR. BILINKAS: -- again, Judge.

13 THE WITNESS: Okay, could you repeat that
14 please?

15 BY MR. BILINKAS:

16 Q In 2002(sic) -- strike that. In 1992, you
17 gave a statement, correct?

18 A Correct.

19 Q In 2009, the investigators from the
20 Prosecutor's Office talked to you again, correct?

21 A Correct.

22 Q Were the detectives that talked to you in
23 1992 the same detectives that talked to you in 2009?

24 A No.

25 Q In 2009, what was the name of the detectives?

1 A Mr. Bordino and then there was a -- I'm sorry, in
2 2009?

3 Q 2009.

4 A And I'm not sure of the woman -- there was a woman
5 detective with him as well.

6 Q So, in 2009, it was Bordino and a woman.

7 A Correct.

8 Q Okay. Now, did you ever see your memo from
9 1992 during that interview in 2009?

10 A No.

11 Q Okay. What did they ask you in 2009?

12 A They asked me to re -- go back and explain our
13 relationship and go from everyth -- basically what I
14 just testified to here. They w -- they wanted me to
15 explain my relationship with Stephen.

16 Q Okay, what -- what's the first thing they
17 asked you back in 2009?

18 A In 2009?

19 Q Right.

20 A If I knew him. I -- I don't understand that
21 question either.

22 Q They asked you in 2009 if you knew Stephen
23 Scharf?

24 A Well, sure; they wanted to be sure that I was the
25 right person, because they called me at my job.

1 Q Okay, did -- what did they ask you next?

2 A Then they -- they came to see me on my job.

3 Q Okay. And, after they came to see you on
4 your job, what's the first thing those investigators
5 said to you?

6 A They introduced themselves.

7 Q What did they say next?

8 A That they needed to speak to me regarding this
9 case.

10 Q And what's the first thing they asked you
11 about this case?

12 A If I could recall what happened -- or if I could
13 recall what tes -- or what my -- what statement I made
14 in 1992.

15 Q Okay. And -- and did you recall your
16 statement?

17 A Absolutely.

18 Q Eighteen years -- sixteen years later?

19 A Sir, it was very traumatic for me and my children.

20 Q And -- and you recall the exact conversations
21 you had with Stephen Scharf.

22 A Yes, I do.

23 Q Okay. What's the next thing those detectives
24 said in 2009? I mean, how did you explain this -- the
25 different parts of your statement?

1 A I don't understand that question either.

2 Q What's the first thing when they said, "Do
3 you recall what you said in your statement," what did
4 you say?

5 A I went back to when I -- we first met and I went
6 through the whole -- the whole story --

7 Q What --

8 A -- to them.

9 Q -- what did you tell them?

10 A That I met him in August of 1989 at my blood -- at
11 a blood drive at his company; that I didn't -- he -- we
12 kept in touch or he called me approximately two weeks
13 later; that he -- he asked me out that particular night
14 and I said, "No"; he pursued it for -- or pursued me
15 for approximately a year, give or take, and finally --
16 and, after speaking to my girlfriends, they said, "If
17 you really want to go out with him, then it's over a
18 year, you -- or almost a year, you should be fine". At
19 which point, the next time he called, I agreed to meet
20 him for a drink.

21 Q And what else did you say?

22 A Okay. We met for a drink in -- at the Holiday Inn
23 on Route 46 in Wayne or Little Falls; I'm not exactly
24 sure. There's a pub attached to that. We met there.
25 We had a few drinks, had some conversation and a

1 reasonable time; it was a nice time, and we went our
2 separate ways.

3 Approximately two weeks after that, he called
4 again and I believe we saw a movie. And, from that
5 point on, pretty much we were dating.

6 Q And?

7 A Okay. And that by about six months after, he --
8 we -- the original date, he called one evening and
9 asked if he could spend the night because he -- he
10 lived about an hour from his job; I only lived ten or
11 15 minutes from where he worked, so he was working
12 late, could he stay over so he didn't have to go all
13 the way home and then go back to work in the morning.
14 He did.

15 From that point on, it went from one -- one night,
16 two nights, to three nights.

17 He eventually -- all his personal -- or, not all,
18 but a lot of his personal belongings occupied my -- my
19 spare bedroom.

20 Q Now, let me stop you, if I could. And I
21 assume that the rest of your story would be almost
22 exactly the same as you testified to moments before on
23 direct?

24 A Correct.

25 Q And is it your testimony that you were asked

1 what you know and, without any prodding, you relayed
2 the exact same story to the investigators that you just
3 testified to?

4 A Yes, I did.

5 Q Sixteen years later.

6 A Yes, I did.

7 Q And it's your testimony that they never
8 showed you Detective Alver's interview 16 years ago.

9 A No, they did not.

10 Q And did you remember the exact days of the
11 week, Tuesday, Wednesday?

12 A Yes, I did.

13 Q Now.

14 (Pause in proceeding)

15 Q My client lied to you about his marital
16 status.

17 A Correct.

18 Q And, when you found out, is it safe to say
19 that you were extremely upset about that?

20 A Correct.

21 Q Angry.

22 A Correct.

23 Q Now, how many -- you're -- you're married
24 now, correct?

25 A No, single; I live with someone, but I'm not

1 married.

2 Q Okay, and -- and how many boyfriends have you
3 had in the last 16 years since being --

4 MR. MELLO: Objection, Judge; that's an
5 inappropriate question --

6 MR. BILINKAS: Just testing her --

7 MR. MELLO: --

8 MR. BILINKAS: -- memory, Judge.

9 MR. MELLO: No, no, no, no, no, no, no,
10 that's -- that's a -- that's not a -- first, you don't
11 have a memory test here and, second, that's an
12 inappropriate question to ask this woman about how many
13 boyfriends she has. And -- and Your Honor's aware --

14 THE COURT: Sustained.

15 MR. MELLO: -- of the -- (voice trails)

16 THE COURT: Ask another question to test her
17 memory.

18 (Pause in proceeding)

19 BY MR. BILINKAS:

20 Q Labor Day weekend --

21 A Yes.

22 Q -- when did you and Stephen Scharf make those
23 arrangements?

24 A Approximately in August sometime, a couple of
25 weeks prior to Labor Day.

1 Q Okay. And that was an important event for
2 you and your child, correct?

3 A Yeah. We were -- we were going away for the
4 weekend; yeah, I guess you could say that.

5 Q And -- and on that day he couldn't stay and
6 ruined those plans, correct?

7 A I don't know if that's the proper terminology. I
8 mean, we were -- I was disappointed, but he certainly
9 didn't ruin my weekend.

10 Q Did it stand out in your memory where you
11 would remember it 16 years later that there was a
12 problem with that weekend?

13 A Yes, because I made arrangements; I -- I rented a
14 condo. It was Labor Day weekend -- Labor Day weekend
15 and he showed up at two o'clock in the morning after
16 everybody was sleeping.

17 Q Now, during that weekend, did you tell him
18 that you didn't want to see him anymore because he
19 wasn't spending enough time with you?

20 A Not in those words, no.

21 Q Let me ask you if you said these exact words;
22 did you tell Mr. Scharf that you would not see him
23 anymore because he was not seeing you often enough?

24 MR. MELLO: Judge, there's no -- there's no
25 exact words there. That's a -- that's an interview

1 report. I think what would be permissible is Mr.
2 Bilinkas could show the witness the statement and ask
3 if it in any way refreshes her recollection. But
4 that's an interview report and more
5 appropriately(phonetic) examined.

6 MR. BILINKAS: It's the -- it's the oldest --

7 MR. MELLO: -- I don't have an objec --

8 THE COURT: Your response?

9 MR. MELLO: -- I don't have an objection --

10 MR. BILINKAS: --

11 MR. MELLO: -- to him showing the witness and
12 asking if it --

13 MR. BILINKAS: Judge, I'm -- as to
14 recollection. And, if she doesn't recall that, then
15 maybe I will show her then.

16 BY MR. BILINKAS:

17 Q Do you recall telling Stephen Scharf on that
18 Labor Day weekend words to the effect that you would
19 not see him any -- anymore because she -- you were not
20 seeing him enough?

21 A To words of that -- to word -- words to that
22 effect? Yes.

23 Q Okay, so you wanted to see him more than he
24 was seeing you, correct?

25 A No, incorrect.

1 Q Oh?

2 A For that weekend.

3 (Pause in proceeding)

4 A That -- I believe that has to do with that
5 weekend.

6 Q That's your recollection of the phrase that
7 you told Mr. Scharf that you would not see him anymore
8 because you were not seeing him often enough. The
9 word, "Often," did you use that word?

10 MR. MELLO: I'm sorry, that -- let's be
11 clear, that's not her words; that's a
12 recordage(phonetic), but with that in mind.

13 MR. BILINKAS: --

14 MR. MELLO: Sure.

15 BY MR. BILINKAS:

16 Q I show you what has been marked, "S-103"; is
17 this the report that you reviewed before you testified?

18 A Yes.

19 Q And did you tell the Prosecutor that
20 everything in this court report was it accurate as to
21 what you said back in 1992?

22 A Yes, it was accurate.

23 (Pause in proceeding)

24 Q I refer you to the fourth paragraph, the
25 bottom of the page, and will you agree with me that

1 that report which you said was accurate indicates that
2 at that time, she, meaning you --

3 A Mmm-hmm.

4 Q -- told Scharf that she would not see him
5 anymore because she was not seeing him often enough and
6 he was not staying over as frequently as she would
7 liked; did you say that to Detective Alvers?

8 A If it's here.

9 Q Well, I'm not ask --

10 A But -- but --

11 Q -- I'm not asking you --

12 A -- I --

13 Q -- if it's here. Do you recall --

14 A I recall having that conversation with -- I recall
15 saying that, but then Stephen wouldn't end the
16 relationship.

17 Q -- that point. Do you recall telling
18 Detective Alvers specifically at the time -- we're
19 talking about Labor Day -- you --

20 A Correct.

21 Q -- Stephen Scharf that you would not see him
22 anymore because you were not seeing him often enough
23 and he was not staying over as frequently --

24 A Correct.

25 Q -- as you would like.

1 A Correct, correct.

2 Q You said those words.

3 A Correct.

4 Q And so would you agree with me that that
5 wasn't referring to the Labor Day weekend?

6 (Pause in proceeding)

7 A Uh, I suppose so.

8 Q Okay. Do you recall whether or not it was,
9 18 years later?

10 A Eighteen years later, yes, it definitely had to do
11 with Labor Day weekend, absolutely.

12 Q So -- strike that. Staying over as
13 frequently as you would like.

14 A Ri -- correct.

15 Q You basically told him it was over at that
16 point, correct?

17 A No.

18 Q Well, when -- when you said, "I told him I
19 would not see him anymore," what did you mean by that
20 statement?

21 A I told him I didn't want to see him anymore,
22 because he had disregarded our whole Labor Day weekend.

23 Q Is there anything in that report that says
24 anything like that? Take a look.

25 (Pause in proceeding)

1 A I'm sorry; I don't understand your question.

2 MR. MELLO: That's -- that's the problem,
3 Judge, it's -- it's a report.

4 MR. BILINKAS: My point exactly.

5 MR. MELLO: I don't know what that means,
6 but, okay.

7 THE COURT: Is there another question?

8 MR. BILINKAS: Yes, Judge.

9 (Pause in proceeding)

10 BY MR. BILINKAS:

11 Q So, on Labor Day, did you or did you not tell
12 Stephen Scharf that you didn't want to see him anymore?

13 A Not on Labor Day, because he had already left.

14 (Pause in proceeding)

15 Q Now, at some point in time you tell Mr.
16 Scharf that you don't want to even talk to him,
17 correct?

18 A Correct.

19 Q And -- and when was that?

20 A Um, that was Sunday when we were -- when he was
21 talking to me on the beach apologizing for coming at
22 two o'clock in the morning and apologizing that he had
23 to leave shortly after we had that particular
24 conversation. And that's when I said, "Forget it, you
25 know, just go or I don't really want to talk to you

1 anymore".

2 Q And so you did tell him on Labor Day --

3 A No, that w --

4 Q -- that --

5 A -- that was Labor Day weekend; it wasn't Labor Day
6 per se. That was Sunday before Labor Day.

7 Q Okay, so sometime around Labor Day you told
8 him you didn't want to see him anymore, correct?

9 A Correct.

10 Q Okay, and at some time you told him you
11 didn't want to talk to him anymore, correct?

12 A Correct.

13 Q And -- and when did you tell him you didn't
14 want to talk to him?

15 A Um, he came by the house on Tuesday night; we had
16 that conversation, and then he returned again on
17 Wednesday.

18 Q Now, can you take a look at page three of
19 that --

20 A Mmm-hmm.

21 Q -- someone else's report as to what you said
22 to them; can you look at the third paragraph, page
23 three --

24 A Yes.

25 Q -- and tell me whether or not on that day,

1 the Tuesday evening, you ever mentioned to the
2 Prosecutor's detective that you told Stephen Scharf not
3 to call you anymore?

4 A Reading the third paragraph here?

5 Q Third paragraph which refers to Tuesday
6 night, September 8th, 1992, he came to your house. Is
7 there any reference with regards to the Tuesday time
8 that you saw him that you told them you never wanted to
9 talk to him again?

10 A Not in this statement there's no mention of that.

11 Q And -- and did you tell Detective Alvers that
12 back in 1992?

13 A Yes, I did. I --

14 Q --

15 A -- believe -- to the best of my knowledge I did.

16 Q It's not in this report, correct?

17 A It's not written here, no.

18 Q So, 18 years later, you recall having a
19 specific conversation with Stephen Scharf on Tuesday
20 night telling him you didn't want to talk to him
21 anymore.

22 A Correct.

23 Q Now.

24 (Pause in proceeding)

25 Q At some point in time, you get a call from

1 your father and he tells you about a news article
2 regarding Stephen Scharf's wife's death, correct?

3 A Correct.

4 Q And basically that's the first time you find
5 out that he's married.

6 A Yes.

7 Q And -- and would you agree with me that you
8 were very angry at that point?

9 A More shocked than angry.

10 Q Did it upset you at all?

11 A Yes.

12 Q You know, you were living with this man for a
13 considerable period of time, correct?

14 A Correct.

15 Q You had introduced him to your parents,
16 correct?

17 A Correct.

18 Q And, when you found that out, you reached out
19 for him, correct?

20 A Correct.

21 Q You wanted to confront him, correct?

22 A I wanted to -- yes, I wanted some answers.

23 Q Okay. And, again, you wanted to yell and
24 scream at him because you were angry, correct?

25 A No, incorrect.

1 Q Well, when -- when you talked to him a day or
2 so later, you indicated that you probably swore at him.

3 A H-E, double L. Pardon me, that -- I'm Irish
4 Catholic, grew up in a Catholic home; that's swearing
5 to me; sorry.

6 Q Okay, well, what exactly did you say?

7 A "What the hell is going on? What -- what -- what
8 the hell is going on; you're married?". That was the
9 extent of that, because he hung up the phone.

10 Q And, when -- when he hung up the phone, did
11 -- did that make you angry?

12 A It made me more -- it was totally out of character
13 for him in --

14 Q --

15 A -- my experience with him.

16 Q Your experience, he was kind?

17 A Correct.

18 Q He treated you well like a lady?

19 A Correct.

20 Q He was never abusive to you, correct?

21 A Not to me, no.

22 Q And, when you talked to the Prosecutor's
23 detective, did they tell you he was dating other women?

24 A In 19 --

25 MR. MELLO: What time?

1 BY MR. BILINKAS:

2 Q At any time --

3 MR. MELLO: I'm sorry -- I'm sorry.

4 BY MR. BILINKAS:

5 Q At any time, did the Prosec --

6 MR. MELLO: No, no, I -- I -- I think fairly

7 she -

8 MR. BILINKAS: I --

9 MR. MELLO: -- spoke to the Prosecutor a

10 couple -- Prosecutor's detectives a couple of times.

11 It seems to me that it would be appropriate to at least

12 say, "At this time, did you say," or "At that time,"

13 whatever.

14 BY MR. BILINKAS:

15 Q At any time --

16 MR. MELLO: Again --

17 BY MR. BILINKAS:

18 Q -- prior to your --

19 MR. MELLO: --

20 BY MR. BILINKAS:

21 Q -- testimony today, did the Prosecutors tell
22 you that Stephen Scharf was dating other women?

23 A The Prosecutor didn't tell me that; the detective
24 told me that back in 1992.

25 Q So, before you gave your statement, he told

1 you --

2 A While I was in the process of giving my statement.

3 Q He tells you that --

4 A B --

5 Q -- the person that you've been living with
6 was dating other women, correct?

7 A Correct.

8 Q Okay. And did that make you angry and upset?

9 A Not angry; shocked, disappointed.

10 (Pause in proceeding)

11 Q Now, you testified that six months after you
12 found out he was married, he was dating other women,
13 you agreed to meet with him, correct?

14 A That's incorrect.

15 (Pause in proceeding)

16 Q Six months -- and again I'm trying to recall
17 your direct, so, if I get it wrong, please correct me.

18 A Okay.

19 Q After you give the statement -- that was
20 right after Mrs. Scharf's death, correct?

21 A Correct.

22 Q You met with my client after that statement,
23 correct?

24 A Yes.

25 Q And so, when you met with him, you knew that

1 he had been married and lied to you, correct?

2 A Correct.

3 Q You knew based on what the detectives had
4 told you that he was dating other women when he was
5 going out with you, correct?

6 A Correct.

7 Q And you agreed to go to his house.

8 A Correct.

9 Q Now, I don't know how -- did you want to get
10 back to him -- back together with him?

11 A Absolutely not.

12 Q And, again, I don't know how to ask this any
13 more delicately, did you have intimate relationship
14 with him when you went over to his house?

15 A No.

16 MR. MELLO: Objection, Your Hon -- well, that
17 you for the answer, but that's --

18 THE COURT: I'll allow it.

19 MR. MELLO: -- that's just -

20 THE COURT: The question has been --

21 MR. MELLO: -- not appropriate.

22 THE COURT: -- answered. Next?

23 BY MR. BILINKAS:

24 Q Now, did you confront him at that point?

25 A Yes, I did -- actually, I called him and he said

1 he would speak to me if I came to his house and had
2 dinner with him.

3 Q So you went to his house and had dinner.

4 A Correct.

5 Q And -- and did you ask him about him being
6 married and --

7 A He --

8 Q -- dating other women?

9 A He wouldn't allow that conversation. Jonathan was
10 with us the entire time.

11 Q So you had dinner with him.

12 A Correct.

13 Q Him and Jonathan.

14 A Correct.

15 Q What did they serve?

16 A They barbequed on the grill. We ate outside on
17 his deck.

18 Q Okay, and --

19 A And, when I got there, Jonathan and him were
20 playing ball in the backyard.

21 Q And, when you had dinner, did you ever try to
22 talk to him or -- or find out why he didn't tell you
23 this or that?

24 A No, because he never -- of course I would have
25 liked to, but he never let Jonathan out of our sight.

1 Q Now, with regards to Jonathan, was he always
2 attentive to him?

3 A To what I witnessed, yes.

4 (Pause in proceeding)

5 Q You called him, correct?

6 A Correct.

7 Q Six months after you find all this stuff out
8 about, you reach out for him, correct?

9 A Correct.

10 Q And, for whatever reason, you agree to have
11 dinner with him, correct?

12 A Correct.

13 Q And, at some point while you were at his
14 house, you're snooping around, looking for evidence
15 that he saw other women?

16 A Correct.

17 Q And is there any reason why you had to
18 confirm that if detectives had already told you that?

19 A I needed closure on the relationship.

20 Q And so you -- you -- you went into his
21 bedroom, correct?

22 A No, the answering -- no, I never went into his
23 bedroom --

24 Q Where's the answering machine?

25 A The answering machine at that time was in

1 Jonathan's room, which I thought was strange.

2 Q The answering machine with other women's
3 calls was in Jonathan's room?

4 A Correct.

5 Q You never went into the bedroom?

6 A When?

7 Q The night you were snooping around trying to
8 get closure.

9 A No, that was during the day; it was in the
10 morning.

11 Q Irrespective of when it was --

12 A Not in his bedroom looking for --

13 Q Where --

14 A -- his --

15 Q -- where did you find the notes?

16 A On -- on his diningroom table.

17 Q Never went in the bedroom.

18 A Nope.

19 Q You never --

20 A No, sir.

21 Q -- checked -- you never --

22 A The answering machine -- yes, I checked the
23 answering machine.

24 Q You never checked the answering machine in
25 the bedroom.

1 A No, I checked the answering machine in Jonathan's
2 room.

3 Q And is there any reason why you would suspect
4 evidence of him dating other women on Jonathan's
5 answering machine?

6 A Because --

7 MR. MELLO: Objection. Objection.

8 BY MR. BILINKAS:

9 Q Okay, tell --

10 THE COURT: What is your objection?

11 MR. BILINKAS: I'll withdraw it, Judge.

12 UNIDENTIFIED: Thank you.

13 BY MR. BILINKAS:

14 Q Tell the ladies and gentlemen of the jury why
15 you would go into Stephen Scharf's -- how old was his
16 son at that point?

17 A Ten.

18 Q His ten-year-old son's room and check his
19 answering machine to see if he was dating other women.

20 A Because that's where the answering machine was,
21 which I thought was rather strange.

22 MR. BILINKAS: No further questions.

23 THE COURT: Redirect?

24 REDIRECT EXAMINATION BY MR. MELLO:

25 Q At any time did Mr. Scharf indicate to you

1 that your relationship with him was over?

2 A No.

3 MR. MELLO: Thank you.

4 THE COURT: Mr. Bilinkas?

5 (Pause in proceeding)

6 MR. BILINKAS: One other question.

7 RE CROSS EXAMINATION BY MR. BILINKAS:

8 Q When -- when you were snooping around, you
9 said you were there in the morning, correct?

10 A Correct.

11 MR. MELLO: Now, that's a little bit beyond
12 the scope, but --

13 MR. BILINKAS: I just --

14 MR. MELLO: -- I'll -- I'll -- I'll -- I'll
15 -- I won't object; ask whatever.

16 BY MR. BILINKAS:

17 Q Was that a different day than the date you
18 had dinner?

19 A Yes, that was about approximately two weeks later.

20 Q So you had dinner and then you went back two
21 weeks later in the morning?

22 A Correct.

23 Q And that's when you were snooping around,
24 then found the answering machine in Jonathan's?

25 A Correct.

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MR. BILINKAS: Nothing further.

RE-REDIRECT EXAMINATION BY MR. MELLO:

Q At any time did Mr. Scharf ever say to you he wanted to end the relationship?

A Never.

RE-RECROSS EXAMINATION BY MR. BILINKAS:

Q Did you spend Christmas with him in 1994, yes or no?

A No.

Q You're absolutely positive of that, 1994.

A I'm absolutely 150-percent positive.

MR. BILINKAS: Nothing further, Judge.

FURTHER RE-REDIRECT EXAMINATION BY MR. MELLO:

Q At any time did he ever say to you he wanted to --

MR. BILINKAS: Objection --

BY MR. MELLO:

Q -- end the relationship?

MR. BILINKAS: -- beyond the scope of --

THE WITNESS: Never.

MR. BILINKAS: -- re-cross.

MR. MELLO: Thank you.

THE COURT: Any other questions?

MR. MELLO: None.

1 THE COURT: Please step down.

2 (Witness is excused)

3 THE COURT: Call your next witness.

4 MR. MELLO: Thank you. Kathleen Scanlon.

5 (Pause in proceeding)

6 MR. MELLO: If I could just have a minute,

7 Judge, while the witness -- (voice trails)

8 (Pause in proceeding)

9 THE COURT: Please step up. Face the court

10 clerk.

11 COURT CLERK: Raise your right hand.

12 K A T H L E E N S C A N L O N, STATE'S WITNESS, SWORN

13 COURT CLERK: State your name for the record.

14 THE WITNESS: Kathleen Scanlon.

15 THE COURT: Please have a seat.

16 THE WITNESS: Thank you.

17 THE COURT: You may begin.

18 MR. MELLO: Thank you, Your Honor.

19 (Pause in proceeding)

20 MR. MELLO: I'll take that from you.

21 THE WITNESS: Do I need my glasses?

22 MR. MELLO: -- need your glasses? Okay --

23 THE WITNESS: Do I need them?

24 MR. MELLO: You may --

25 THE WITNESS: Okay.

1 UNIDENTIFIED: --

2 THE WITNESS: Thank you.

3 (Pause in proceeding)

4 THE WITNESS: Thank you.

5 UNIDENTIFIED: You're welcome.

6 (Pause in proceeding)

7 MR. MELLO: Okay?

8 THE WITNESS: Yes.

9 DIRECT EXAMINATION BY MR. MELLO:

10 Q Hi, good afternoon, Ms. Scanlon. Can you
11 start by telling us where you presently reside?

12 A I reside in Aberdeen, New Jersey. I've been there
13 11 years.

14 Q Can you tell us how you're presently
15 employed?

16 A I'm employed as an account manager for a company
17 called, "Vantage Apparel". They're a manufacturer of
18 clothing. We sell within the Promotional Products
19 industry.

20 Q I'd like to take you back in time, and that
21 time is in 1990 to start with, okay?

22 A Fine.

23 Q Now, at that time can you tell us where you
24 lived in 1990?

25 A Yes, I lived with my sister in Bricktown, New

1 Jersey.

2 Q And can you tell us your sister's name?

3 A Carmella Shizzle(phonetic).

4 Q At that time in 1990 when you lived in
5 Bricktown, can you tell us how you were employed?

6 A I was employed by a company called, "Puerto Rico
7 Marine," located in Raritan Center, New Jersey.

8 Q And how long did you remain employed by that
9 concern; how long were you employed by that concern?

10 A I started in July of 1990 through March of 1993.

11 Q Can you tell us the manner in which you were
12 employed by that particular concern?

13 A Yes, I was a publicist -- a communications
14 publicist.

15 Q Now, I'm going to now direct you to July of
16 1990, all right? That --

17 A Yes.

18 Q -- generally time-frame.

19 A Mmm-hmm.

20 Q I'm going to ask you if you know a man named,
21 Stephen Scharf.

22 A Yes, I do.

23 Q Do you see Mr. Scharf in court?

24 A Yes, I do.

25 Q Would you point him out please?

1 A He's --

2 MR. MELLO: Sir, would the --

3 THE WITNESS: -- to my left.

4 MR. MELLO: -- record reflect --

5 MR. BILINKAS: Stipu -- stipulate that she's

6 --

7 THE COURT: All right.

8 MR. BILINKAS: -- identified my client.

9 THE COURT: Thank you.

10 MR. MELLO: -- Counsel.

11 THE WITNESS: Okay.

12 BY MR. MELLO:

13 Q Now, I'd like to ask you do you recall when
14 you met Mr. Scharf?

15 A Yes, I do.

16 Q Can you tell us when that was?

17 A Early-July, around July 6th, 1990.

18 Q Can you tell us how it was that you met Mr.
19 Scharf?

20 A I responded to Mr. Scharf's personal ad in the
21 newspaper.

22 Q And what kind of personal ad are you
23 referring to?

24 A Ads for single dating.

25 Q Okay. Can you tell us how it was that you

1 first met Mr. Scharf after responding to this single's
2 ad?

3 A He responded to my ad by calling me on the phone.

4 Q So he responded to your ad?

5 A No, I'm so sorry; I responded -- I sent -- I
6 responded to his ad. He, in turn, called me on my
7 phone because the ad included my phone number.

8 Q Okay. Now, tell us how your contact with Mr.
9 Scharf develops.

10 A He called me on the phone and we spoke briefly and
11 then we arranged to meet.

12 Q And do you recall where you first met --

13 A Mmm-hmm.

14 Q -- Mr. Scharf?

15 A Yes, we met at a restaurant called, "McLoone's,"
16 in Long Branch, New Jersey.

17 Q And, with respect to that particular evening,
18 did you have occasion to I guess get to know each other
19 a bit?

20 A Yeah, we spoke briefly.

21 Q And I presume it was a pleasant --

22 A Yes.

23 Q -- enough evening?

24 A Very nice.

25 Q After that introductory meeting at that

1 particular Long Branch establishment, did you have
2 occasion to speak with him again?

3 A Yes, he would call me on my phone; we would have
4 con -- conversations.

5 Q And would he be calling on your home phone?

6 A Home phone.

7 Q How about work?

8 A Mostly home phone at that time.

9 Q Okay. So, if you would, and this is 1990,
10 correct?

11 A Yes.

12 Q Can you tell us, after the initial meeting
13 and the phone calls that you've referred to, now how
14 does the relationship develop between you and Mr.
15 Scharf?

16 A We spoke on the phone briefly. Within, you know,
17 a certain amount of time he was called to Fort Dix for
18 I guess maneuvers or something, so there was a little
19 lapse of time, a couple of weeks, where I didn't get to
20 talk to him much. And then when he got back he called
21 and we started to date.

22 Q Now, you mentioned Fort Dix, correct?

23 A Yes.

24 Q Did he tell you that he was in fact in the
25 military reserve?

1 A Yes, he did; he said he was a Major in the
2 military -- in the Army.

3 Q Did he tell you anything about his marital
4 status?

5 A He said he was divorced and had a son.

6 (Pause in proceeding)

7 Q Did you begin thereafter to date Mr. Scharf
8 periodically in 1990?

9 A Yes, we dated for roughly -- most of July and
10 August -- part of August.

11 Q With respect to that period of time, did Mr.
12 Scharf give you any other information about his marital
13 status?

14 A He told me towards the later part of August that
15 he was in fact married.

16 Q And what did he say about that marriage?

17 A The marriage was -- they didn't really share
18 intimacies. They had separate bedrooms. It really
19 wasn't -- they sort of lived separate lives, outside of
20 the marriage.

21 Q And did he speak to you in 1990 about
22 divorce?

23 A Yes, he said that he was definitely planning to
24 get a divorce.

25 Q Now, all that you've just testified to that

1 he has told you, you are referring to summer 1990.

2 A Summer of 1990.

3 MR. BILINKAS: Did you say, "Summer"?

4 MR. MELLO: Summer.

5 MR. BILINKAS: Summer.

6 THE WITNESS: Summer.

7 MR. MELLO: 1990.

8 MR. BILINKAS: Thank you.

9 BY MR. MELLO:

10 Q That's accurate, right?

11 A Yes.

12 Q Now, during this time-frame, did you receive
13 a phone call from Mr. Scharf where you would speak to a
14 woman?

15 A Yes.

16 Q Can you tell the jury about that event?

17 A Mr. Scharf wanted me to know that the relationship
18 was over between him and his wife, so he, in a
19 conversation that we were having from his home, asked
20 his wife to speak to me to confirm that they were no
21 longer in a marriage and that they were going to file
22 for divorce.

23 Q Did you speak to that woman?

24 A Yes, I did.

25 Q Did she identify herself by name?

1 A Yes, she said, "Jody".

2 Q What, if anything, did she say to you?

3 A She said the marriage was over, that we hadn't
4 occupied -- we had -- had separate bedrooms since 1989,
5 and that she said that he must care about you very
6 deeply in an order to ask for me to get on the phone
7 like this, and that she was only concerned about the
8 safety of her son, Jonathan, and that she wished me
9 luck and hoped that I would have a better life with him
10 than she did.

11 Q But that was not to be.

12 A Excuse me?

13 MR. BILINKAS: Objection to the form.

14 THE COURT: Sustained.

15 BY MR. MELLO:

16 Q Did there come a point in time when your
17 relationship with Mr. Scharf ended?

18 A Yes.

19 Q Can you tell us the specific point in time
20 the relationship ended?

21 A The relationship ended Labor Day of 1990.

22 (Pause in proceeding)

23 Q Can you tell the jury how and why the
24 relationship ended Labor Day of 1990?

25 A Because the gentleman was married.

1 (Pause in proceeding)

2 Q Thereafter, did you receive any communication
3 from Jody Scharf?

4 A Not that I recall.

5 Q Did you receive any correspondence of any
6 kind from her, any --

7 A Again, no --

8 Q -- letter?

9 A -- not that I recall.

10 Q After -- now, let me ask you this: It sounds
11 as if you ended the relationship, is that accurate?

12 A Yes, it is.

13 Q After you ended the relationship Labor Day
14 1990, did you hear from Scharf in 1990?

15 A Yes, I did.

16 Q Okay. Did you hear from him by telephone or
17 in person?

18 A Both -- no, I'm sorry, telephone only in 1990.

19 (Pause in proceeding)

20 Q Do you at that time enter into another
21 relationship with another person?

22 A Yes, I did.

23 Q What happens to your communication or contact
24 with Scharf after you enter into a relationship with
25 another fella?

1 A We communicated through my place of business; he
2 would call me there -- Stephen would call me there.

3 Q Does there come a point in time when that
4 will end, when it will end that he will stop contacting
5 you or you will tell him to stop contacting you?

6 A --

7 MR. BILINKAS: Objection; leading.

8 THE COURT: Sustained.

9 BY MR. MELLO:

10 Q Okay, can you tell us what happens in this
11 period of time, that being after you have ended the
12 relationship but he is still telephoning you at your
13 place of business?

14 A Basically, it's the later part of '90 and all of
15 '91 he's contacting me through phone calls at my place
16 of business.

17 Q Now, does there come a point in time when you
18 end the other relationship?

19 A Yes.

20 Q Can you tell us about when that relationship
21 ended?

22 A March 1992.

23 Q Do you have any contact in the early part of
24 1992 with Mr. Scharf?

25 A Yes.

1 Q Can you tell us what that contact was?

2 A In conversations with Stephen, he knew basically
3 what was going on with my relationship with Michael, so
4 he knew that it was coming to an end.

5 Q The relationship with Michael.

6 A Michael.

7 Q Tell us what else you discussed in that
8 connection.

9 A Afterward, after we separated, Michael and I,
10 Stephen asked if he could see me again.

11 Q Did he, when he asked to see you again,
12 discuss divorce with you?

13 A Yes.

14 Q What did he tell you?

15 A He said that at some point in 1991 that Jody was
16 going to file for divorce. Oh, I'm sorry, we're
17 already into '92; I'm sorry. He said that he -- she
18 was going to file for divorce. She still hadn't filed,
19 or at least as I know of she hadn't filed, and that he
20 promised that he was still going to get his divorce.

21 Q And of course everything about that topic you
22 know only from Mr. Scharf.

23 A Oh, yes.

24 Q Now, at this time do you begin to see Mr.
25 Scharf?

1 A Yes, on a regular basis.

2 Q Okay. Give us a sense of the time-frame when
3 you begin to see Mr. Scharf.

4 A We started seeing each other in April, May. And
5 then at some point that summer, I think it was July, he
6 came and showed me divorce papers.

7 MR. BILINKAS: Now, Judge, I didn't hear the
8 -- the date for the --

9 MR. MELLO: July.

10 MR. BILINKAS: July?

11 MR. MELLO: Mmm-hmm.

12 THE WITNESS: July.

13 MR. BILINKAS: --

14 MR. MELLO: And that's '92.

15 MR. BILINKAS: Thank you.

16 (Pause in proceeding)

17 BY MR. MELLO:

18 Q Now, can you, without being intimate, can you
19 describe your relationship at that time in terms of
20 your feelings for Mr. Scharf?

21 A Oh, yes, I was falling in love with him.

22 Q And did you believe he was falling in love
23 with you?

24 A Absolutely.

25 Q Now.

1 (Pause in proceeding)

2 Q Tell us how your relationship with Mr. Scharf
3 was in August of 1992.

4 A Serious. We were seeing each other on a regular
5 basis, speaking on the phone, going out to dinners.

6 (Pause in proceeding)

7 Q Did you see Mr. Scharf in September of 1992?

8 A Yes, I did.

9 Q Does the name, "Terry," mean anything to you?

10 A Yes, it was a friend of Stephen's.

11 Q In connection with Terry, the friend of
12 Stephen's, did he happen to mention to you a boat?

13 A Yes.

14 Q And did you, from him, learn where that boat
15 was kept?

16 A At Terry's house.

17 Q And did he describe what his relationship may
18 have been with her?

19 A Yes, he said he dated her right after we broke up,
20 so sometime around November of 1990, and he continued
21 to see her through 1991 and probably April or May of
22 1992.

23 Q Now, I'm going to ask you to focus
24 specifically on mid-September of 1992, all right?

25 A Fine.

1 Q Okay, I want you to tell the jury, in mid-
2 September of 1992, what was the state of your
3 relationship with Stephen Scharf?

4 A Serious. We -- we talked about being together and
5 the future, that type of thing.

6 Q Had you in these conversations discussed the
7 prospect of marriage?

8 A Briefly, yes.

9 Q And, as far as you were concerned, was that
10 something that you looked forward to, thought about?

11 A Thought about.

12 (Pause in proceeding)

13 Q Now, with respect to mid-September of 1992,
14 can you tell us, if you recall, the last time you were
15 in the company of Stephen Scharf, in September of 1992?

16 A Stephen came down to my house after work on
17 September 18th and planned to sleep over my --
18 actually, my sister's home -- and planned to sleep over
19 that night.

20 Q Did he in fact sleep over the night of
21 September 18 --

22 A Yes, he did.

23 Q -- 1992? On September 18, 1992 and now
24 September 19, '92, is all that you've told the jury
25 about the relationship you had with Stephen, which is

1 to say one of love, the same?

2 A Yes.

3 Q At any time on that weekend, did Mr. Scharf
4 discuss with you the desire that he had to end the
5 relationship with you?

6 A Absolutely not.

7 Q Did he leave your sister's home after
8 spending the evening of September 18, 1992?

9 A Yes, he left early on that Saturday morning to
10 head down to Fort Dix.

11 (Pause in proceeding)

12 Q Can you tell us, if you recall, the last time
13 you spoke to Stephen Scharf?

14 A The morning of September 19th -- woke up and he
15 said that he was going to head down to Fort Dix and
16 that he had maneuvers so he'd be gone most of the
17 weekend, but that he would be in touch, call me.

18 Q Do you recall speaking to him on the
19 telephone after he left for Fort Dix --

20 A No.

21 Q -- on that weekend?

22 A Not that weekend, no.

23 Q Okay. Did you speak to him after that
24 weekend on the telephone?

25 A Yes, Monday evening.

1 Q Can you tell us the conversation that you had
2 on the telephone with Stephen Scharf on Monday evening,
3 the 21st?

4 A He called me; he said he had some bad news. And I
5 said, "What's wrong?". And he said, "Jody's dead".
6 And I said -- I was upset, very upset, and I questioned
7 him. I said, "Impossible, what are you talking
8 about?". And I was confused. So he tried to explain
9 the situation that they had gone to dinner, that she'd
10 been drinking, and they decided to talk about the
11 divorce settlement, so he took her to the Palisades.

12 I questioned him, "What's -- what's there," not
13 being familiar with the area. He says, "Well, there's
14 -- there's an area up there that we used to go to when
15 we used to date and she felt very comfortable". And I
16 said, "Well" -- he said, "She fell". And -- and I
17 said, "Fell? Well, how could she fall? What is it?".
18 And she(sic) -- he says, "Well, there -- there's rocks
19 and -- and there's like a barrier of like a guard area
20 and we went beyond that and walked the rocks. And one
21 minute she was there and the next minute she was gone".

22 Q How did the conversation end?

23 A I got very upset, started to question him.
24 Basically, I didn't -- you know, I was confused and I
25 didn't know what had happened and I was out of my mind,

1 so to speak. He got kind of angry with me because I
2 was asking him a lot of questions and he proceeded to
3 basically say that he was going to gather some clothes
4 and go to his parents' house. And that was the end of
5 that conversation.

6 MR. MELLO: Thank you, Ms. Scanlon.

7 THE COURT: Cross examination?

8 CROSS EXAMINATION BY MR. BILINKAS:

9 Q What were the exact words Stephen Scharf said
10 with respect to how his wife died back in 1992?

11 A "Fell off a cliff".

12 Q Did he say anything else?

13 A "Slipped off the rocks".

14 Q Well, what exactly did he tell you?

15 A Exactly what I said. He said that she was -- that
16 he took her up there -- they can discuss the divorce
17 settlement; and that she fell off a cliff area. And I
18 asked him why he was there. He said, "We used to walk
19 beyond the barrier and onto the rocks when we were
20 dating and she felt comfortable".

21 Q That's his exact words that she --

22 A Yeah. Yes.

23 Q Can you tell me how you remember those exact
24 words 18 years ago?

25 A It doesn't take long. It -- you -- certain things

1 you will always remember and that type of statement you
2 can never forget.

3 Q And -- and, as you sit here today, those are
4 the exact words that you remember.

5 A That's the exact words I remember.

6 Q Do you ever remember telling the Prosecutor's
7 detective with regards to this very same question that
8 Stephen Scharf said that there was an accident; Jody
9 Ann was dead; that both he and Jody decided to go for a
10 ride to talk about the divorce settlement --

11 A Mmm-hmm.

12 Q -- they drove to the Palisades to a place
13 they used to walk together; they sat down on a rock;
14 Jody Ann got up; she was there, then she wasn't there.

15 A Yeah, that's what I just spoke to the Prosecutor.

16 Q Your -- your recollection is that statement
17 that I just read is exactly the same one that you just
18 told me right before that?

19 A I said she fell off the rocks. She -- he told me
20 he was walking on the rocks and that she was there and
21 then she wasn't.

22 Q Now --

23 (Pause in proceeding)

24 Q -- at some point in time, w -- on the third
25 date, Stephen Scharf admits to you that he's married,

1 correct?

2 A Correct.

3 Q That he -- at that point, you didn't have a
4 problem continuing to date him, at least for a period
5 of time, correct?

6 A It was a couple of weeks.

7 Q And can I assume that that started to bother
8 you?

9 A Yeah, it was a situation where I didn't feel
10 comfortable. I decided for -- for myself that, you
11 know, I should end it. I mean, there was a chance he
12 could get a divorce and we could see what happened
13 later on.

14 Q Okay, but at some point you actually talked
15 to his wife --

16 A Yes.

17 Q -- Jody Scharf, correct?

18 A Yes, on the phone.

19 Q And so is there any doubt in your mind, so
20 the jury understands this, that Jody Scharf knew that
21 he was dating other women, you in particular?

22 A No, she knew, yes.

23 Q And she didn't seem to have a problem with
24 that, did she?

25 A No, it --

1 Q They --

2 A -- seemed as if they had a re -- a -- some sort of
3 understanding in their marriage.

4 Q Like something like an open marriage; he
5 could date; she could date?

6 A Could be, yes.

7 Q And that's directly from her mouth, correct?

8 MR. MELLO: No, that's -- that's -- I'm
9 sorry.

10 MR. BILINKAS: Strike that.

11 MR. MELLO: The testimony was, "Could be".
12 She's being asked to speculate and that's --

13 THE COURT: Is that an objection?

14 MR. MELLO: -- that's not fair. That's --
15 that's the objection, Judge, yeah.

16 THE COURT: Sustained.

17 MR. MELLO: Thank you.

18 BY MR. BILINKAS:

19 Q That conversation that you had with him,
20 without a doubt you realized that she was aware of the
21 fact that you were dating Stephen Scharf, correct?

22 A Correct.

23 Q And she was okay with that, correct? She
24 even wished you luck.

25 A Yes, she did.

1 Q Now, Stephen Scharf also told you, during
2 some of these conversations that the Prosecutor has
3 asked you about, that his wife was dating other men,
4 correct?

5 A Correct.

6 Q And there were messages on her answering
7 machine from other men making dates, correct?

8 A Correct.

9 MR. MELLO: Is that -- is that -- I'm sorry,
10 is --

11 THE WITNESS: Oh.

12 MR. MELLO: -- that what he told her?

13 MR. BILINKAS: Yes.

14 BY MR. BILINKAS:

15 Q It's what he told her --

16 MR. MELLO: Thank you.

17 BY MR. BILINKAS:

18 Q -- correct?

19 A Yes.

20 Q And that was consistent, at least in certain
21 respects, with your conversation with her, correct?

22 MR. MELLO: Objection; that calls for
23 speculation I think still.

24 THE COURT: Sustained.

25 BY MR. BILINKAS:

1 Q Now, once you talked to his wife and she gave
2 you her blessing, so to speak, you continue to date
3 Stephen Scharf, correct?

4 A Just for a few weeks.

5 Q And, at some point in time, you try to get
6 back with someone that you previously dated, correct?

7 A Yes.

8 Q And what's that p --

9 A Michael.

10 Q -- what's that person's name?

11 A Michael.

12 Q Michael what?

13 A Burger (phonetic).

14 Q And where does he live?

15 A Mount Pleasant.

16 Q Now, you were concerned about him getting a
17 divorce, correct?

18 A Correct.

19 Q And he had told you back in, what, 1990 --

20 A Yes.

21 Q -- that he and his wife were talking about
22 getting a divorce, correct?

23 A Correct.

24 Q And you even had a conversation with the wife
25 about getting a divorce, correct?

1 A Correct.

2 Q And -- and that conversation, he was there
3 present, hearing his wife talk about that divorce,
4 correct?

5 A Yes.

6 Q And did he appear like angry or -- or
7 emotional at his wife talking about divorcing him?

8 A No.

9 Q He was okay with it, correct?

10 A Yes.

11 (Pause in proceeding)

12 Q He even told you he paid \$1,000 for a lawyer
13 to handle the divorce proceedings, correct?

14 A Yes, he did.

15 (Pause in proceeding)

16 Q Now, on September 18th, the Prosecutor asked
17 you questions about your time with Stephen Scharf, do
18 you recall those, September 18th, 1992?

19 A No. No, September 18th is the date that he came
20 to my house.

21 Q Okay, he came to your house and -- obviously
22 you -- you talked to him while he was there, correct?

23 A No, the -- the Prosecutor wasn't there that Friday
24 night.

25 Q No, no, no --

1 A What --

2 Q -- maybe I didn't word my question --

3 A Yeah, I don't think you did.

4 Q On -- on September 18th, 1992, Stephen Scharf
5 came to your house, correct?

6 A Yes.

7 Q And, at that time, at about ten o'clock at
8 night, he called home to speak to his son, Jonathan,
9 correct?

10 A Correct.

11 Q And Jonathan was ten years old at the time,
12 correct?

13 A Correct.

14 Q And was Jody Scharf home at that time or was
15 Jonathan alone?

16 A Alone.

17 Q And did you ever receive information about
18 Jonathan being left alone late at night while Jody was
19 out?

20 A Yes.

21 MR. MELLO: Objection; that calls for
22 hearsay.

23 THE COURT: I'm sorry?

24 MR. MELLO: That's a hearsay objection.

25 MR. BILINKAS: It has to do with the

1 conversations with my client --

2 MR. MELLO: Well, if --

3 THE COURT: Overruled.

4 MR. BILINKAS: --

5 THE COURT: Overruled.

6 MR. MELLO: I -- I have no objection if it's
7 her(sic) client -- his client telling her that, then I
8 have no objection.

9 BY MR. BILINKAS:

10 Q On September 18th, 1992, Stephen Scharf calls
11 home to check on his son, correct?

12 A Correct.

13 Q At ten o'clock at night, correct?

14 A Correct.

15 Q His wife isn't home and his son is left all
16 alone, correct?

17 A Correct.

18 MR. MELLO: That's what Mr. Scharf --

19 BY MR. BILINKAS:

20 Q Based on what he --

21 MR. MELLO: -- says?

22 BY MR. BILINKAS:

23 Q -- told you.

24 A Yes.

25 MR. MELLO: That's what Mr. Scharf says, yes?

1 THE WITNESS: Yes.

2 MR. MELLO: Okay.

3 BY MR. BILINKAS:

4 Q And he had previously told you that Jonathan
5 had been left alone many times by his wife, correct?

6 A That's what he told me, yes.

7 Q When she was out drinking and dating other
8 men, correct?

9 A Yes. Well --

10 Q That's what he told you at least.

11 A -- okay.

12 (Pause in proceeding)

13 Q And, with regards to all of your
14 conversations with my client concerning the divorce of
15 his wife, those conversations spanned a period of time
16 from 1990 all the way to 1992, correct?

17 A Yes.

18 Q And, in every instance, he really didn't have
19 a problem with getting a divorce from his wife,
20 correct?

21 A No.

22 (Pause in proceeding)

23 Q Even as far back as December of 1989, did
24 Stephen Scharf tell you --

25 MR. MELLO: I'm sorry -- maybe --

1 BY MR. BILINKAS:

2 Q -- that Jonathan --

3 MR. MELLO: I'm sorry, Mr. Bilinkas --

4 interrupt -- I don't b --

5 MR. BILINKAS: December of 19-8 --

6 MR. MELLO: -- I don't believe that Ms.

7 Scanlon met Mr. Scharf until July of 1990.

8 BY MR. BILINKAS:

9 Q Isn't it a fact that Stephen Scharf told you

10 that as far back as 1989 --

11 MR. MELLO: Okay.

12 BY MR. BILINKAS:

13 Q -- that both he and his wife were dating

14 outside of the marriage?

15 A Yes.

16 Q And that Jonathan had actually overheard the

17 mother's answering machine with males confirming dates

18 with her.

19 A Yes.

20 Q Have you ever talked to Terry Schofield?

21 A No.

22 (Pause in proceeding)

23 Q During this time did Stephen Scharf tell you

24 that his wife was an alcoholic and would drink every

25 night?

1 A Yes.

2 Q Did he tell you things like he would find
3 wine in her coffee cup and empty wine bottles in her
4 car?

5 A Yes.

6 Q Did you ever hear Jody Ann Scharf screaming
7 at Stephen Scharf when you were on the phone with him?

8 A Yes.

9 Q Now, you never went to the Rockefeller
10 Lookout with Stephen Scharf, correct?

11 A No.

12 Q Would you describe Stephen Scharf throughout
13 your entire relationship with him as romantic, loving,
14 thoughtful?

15 A Yes.

16 Q And isn't it a fact that, throughout your
17 time, there were no signs of any substantial mood
18 swings or serious arguments during your relationship?

19 A Yes.

20 (Pause in proceeding)

21 Q And, after his wife's death, you continued to
22 call him and -- and leave messages on his voicemail
23 asking him to call you, correct?

24 A That -- during that first few days of the week,
25 yeah, after she passed.

1 Q And he never called you back, correct?

2 (Pause in proceeding)

3 A Well, he did.

4 Q When?

5 A September 25th.

6 Q After the incident.

7 A 1992.

8 Q Now.

9 (Pause in proceeding)

10 Q Now, as far as the Prosecutor's Office is
11 concerned, they never took a recorded statement from
12 you, correct?

13 A They came to my place of business and took a
14 statement. As far as recorded --

15 Q Was it --

16 A -- I don't --

17 Q -- tape-recorded, videotaped?

18 A I -- no, I don't think so; no, it wasn't.

19 Q Did the Prosecutor show you a memo of that
20 proposed conversation?

21 A No. At the time -- no.

22 Q Before you testified today, did you see your
23 memo regarding --

24 A Oh, I -- well, I had my -- my actual statement.

25 Q When you say your actual statement, isn't it

1 a memo from a investigator in the Prosecutor's Office?

2 A Yes.

3 Q He's saying in that memo supposedly what you
4 told him, correct?

5 A Correct.

6 Q And when was the first time you saw that?

7 A Probably just a few weeks ago?

8 Q And --

9 A A month ago?

10 Q And did they prepare you for your testimony
11 here today?

12 MR. MELLO: Objection to the --

13 THE WITNESS: No.

14 MR. MELLO: -- form of the question. Well --

15 THE COURT: Your --

16 MR. MELLO: -- thank you.

17 THE COURT: -- your objection?

18 MR. MELLO: Withdrawn.

19 BY MR. BILINKAS:

20 Q Did they meet with you?

21 A Oh, yes.

22 Q And did they go over the questions that they
23 were going to ask?

24 A No; no, just -- just gave me the copy of the
25 statement and --

1 Q And told you to do what with the statement?

2 A Just familiarize yourself with your statement.

3 Just like the statement I gave you on September 25th in

4 the evening of 1992. Okay. Or did you forget that?

5 Q I was just about to get to that.

6 A Oh, okay.

7 Q You didn't give a statement to me; you gave a

8 statement to a lawyer in my office --

9 A Okay --

10 Q -- correct?

11 A -- that's exactly right, yes.

12 Q So, when you say you gave me a statement,

13 your recollection was a bit off. It was someone else

14 in my office, correct?

15 A Okay, but --

16 MR. MELLO: No, that -- that --

17 THE WITNESS: -- the questions --

18 MR. MELLO: -- she just said --

19 THE COURT: All right.

20 MR. MELLO: -- no. That's -- that would be

21 right --

22 THE COURT: Let -- let's ask the question,

23 okay?

24 BY MR. BILINKAS:

25 Q Did you -- did you talk to a guy named

1 Carlucci(phonetic) in the office and --

2 A I --

3 Q -- did he take an actual statement from you?

4 A There was a statement taken. I don't recall the
5 actual man's name, although there was a signature on
6 the statement. I think his name was Michael.

7 MR. BILINKAS: (Speaking softly)

8 (Pause in proceeding)

9 MR. BILINKAS: -- my exhibit, but --

10 MR. MELLO: You can make it your exhibit.

11 That's -- that's fine.

12 BY MR. BILINKAS:

13 Q I'm going to show you State --

14 MR. MELLO: That's fine.

15 BY MR. BILINKAS:

16 Q -- Exhibit S --

17 MR. MELLO: It is what it is.

18 BY MR. BILINKAS:

19 Q -- 278. Is this a copy of this -- a

20 voluntary statement that you gave back in --

21 A Yes, it is.

22 Q And, unlike the Prosecutor's memo about what
23 you supposedly said, is this an exact question and
24 answer?

25 A Yes, it is.

1 Q And --

2 (Pause in proceeding)

3 Q -- did they show you this statement, then ask
4 you if you're willing to actually sign the statement?

5 A Yes.

6 Q And I assume you've read this and all the
7 answers contained on this was accurate before you
8 signed it, correct?

9 A Correct.

10 Q And the person's name is a Michael -- it's
11 kind of hard to read, but --

12 A Michael, but I can't make out the last name.

13 Q Kind of looks like "Carlucci"?

14 A Could be, yes.

15 Q It was someone in my office 18 years ago,
16 correct?

17 A Yes.

18 Q And, during this statement, they asked you
19 whether or not you met with persons from the
20 Prosecutor's Office, correct?

21 A Yes.

22 Q And you told them that you met with a
23 Detective Terrence Alvers, correct?

24 A Correct.

25 Q And how long did you meet with him?

1 A It's hard for me to read that --

2 Q Two hours about?

3 A Okay, that's what -- whatever's there.

4 Q Okay, irrespective of whatever's there, did
5 -- did you meet with the detectives for approximately
6 two hours on the day you met with them; do you recall
7 that as you sit here today?

8 A Yes.

9 Q Now, before you met with them, when they came
10 to your work, did you ask the detective if your
11 supervisor could be with you when you were talking to
12 the Prosecutor's Office.

13 A Yes, I did.

14 Q And did that Detective Alvers tell you you
15 couldn't do that; you couldn't have someone in the room
16 that you felt comfortable with when you gave your --
17 the statement, correct?

18 A I -- he said it wasn't really necessary.

19 Q Did he say it would not be permitted?

20 A Mmm --

21 Q Do you --

22 A Okay.

23 Q -- recall? Do you recall saying with regards
24 to when you asked if your supervisor could be in the
25 room when you're being questioned by an investigator in

1 a homicide case, did you tell Mr. Carlucci back in 1992
2 that Alvers said, "No, it was not permitted"?

3 A That's what I put on my statement.

4 Q But you met with him alone, correct?

5 A Correct.

6 Q And, unlike this statement, there is no exact
7 recording as to what was this and what you said,
8 correct?

9 A Correct.

10 (Pause in proceeding)

11 Q Do you recall being specifically asked how
12 you were being questioned?

13 (Pause in proceeding)

14 Q In that statement to Parlucci(phonetic)?

15 A Yes.

16 Q And do you recall telling the lawyer at that
17 time that the investigator tended to be aggressive?

18 A Yes.

19 Q And what does this say about the death of his
20 wife?

21 A It's hard to read. A -- I can't read that.

22 Q W --

23 A I can't read it.

24 Q -- were -- were you upset when they were
25 talking to you?

1 A The detectives?

2 Q No, were you upset?

3 A Um --

4 (Pause in proceeding)

5 Q Do you recall saying, "I thought they were
6 trying to upset me, especially when they asked me how I
7 felt that I could possibly be involved with a woman or"

8 --

9 A I can't read that. With a something.

10 (Pause in proceeding)

11 A I cannot read that.

12 Q Okay, well, this was after the statement that
13 you gave to the Prosecutor, correct?

14 A The same day.

15 Q Do you recall exactly what you told a lawyer
16 in my office --

17 A Mmm-hmm.

18 Q -- with regards to -- and I know you can't
19 read this; I'm asking you to recall the exact words
20 like you've testified to here today -- what were the
21 exact words when you were questioned; were you upset at
22 the question? Can you tell this jury the exact words
23 that you told the lawyer in my office in response to
24 that exact question?

25 And I know it's 18 years, but your memory

1 seems to be pretty good; can you tell them what you
2 said?

3 A I was upset.

4 Q That was your --

5 A Basically --

6 Q -- exact words?

7 A No, I don't remember my exact words, but, you
8 know, I was a little -- I was upset somewhat.

9 Q And you were upset when the Prosecutor's
10 detective talked to you too, correct?

11 A I was -- I wasn't upset; I was nervous in both
12 situations.

13 Q Can you tell me why you remember the exact
14 words that you told Detective Alvers and you can't
15 remember the exact words that you told the lawyer,
16 which is closer in time?

17 A No, I don't.

18 Well --

19 A I think maybe it was -- I don't know; this
20 conversation was a little bit more brief --

21 Q That's your reason?

22 A No, I just don't recall, you know.

23 Q Do you recall the first question that you
24 were asked by the lawyer in my office?

25 A No, I don't.

1 Q Do you r -- do you recall what the topic was
2 even?

3 A Yes, the death of Jody.

4 Q More specific, do you recall the second area
5 that you were questioned about?

6 A My relationship with Stephen? How --

7 Q The third -- the third area?

8 A Our relationship, um how close we were.

9 Q You really don't remember the exact words of
10 a exact statement that you gave 18 years ago to my
11 detective, correct?

12 A I remember some of it, but not all of it.

13 MR. MELLO: --

14 BY MR. BILINKAS:

15 Q As you sit here today, can you please, from
16 your memory, tell me what questions were asked and what
17 answers you gave?

18 A Basically, he wanted to know about my relationship
19 --

20 Q No, what -- what specifically was asked?

21 A How I met him; when I met him. He wanted to know
22 where I worked. Um.

23 Q What else; how did it go? And I know it's 18

24 --

25 A No, I --

1 Q -- years --

2 A -- I -- well, I mean --

3 Q No, no, what specific questions and what
4 specific answers did you give the lawyer in my office?

5 A (mumbling) -- all the questions -- Basically, they
6 asked me about the questioning with the Prosecutor --
7 with the detectives that came to my office. Um --

8 Q Well, do you -- do you recall --

9 A That I recalled.

10 Q Do you -- do you recall anything else
11 specifically?

12 A Yeah, they asked me if he was capable of hurting
13 his wife.

14 Q And -- and you said, "Absolutely not,"
15 correct?

16 A Correct.

17 Q Because he was a man of good nature; he
18 wouldn't harm anyone, correct?

19 A That's what I put in my statement.

20 (Pause in proceeding)

21 MR. BILINKAS: Judge, if I can just go
22 through my notes, I'm -- I think I'm done.

23 (Pause in proceeding)

24 MR. BILINKAS: Nothing further, Judge. Thank
25 you. I apologize.

1 THE COURT: Redirect?

2 MR. MELLO: No, that's -- that's -- that's
3 fine. Very quickly.

4 REDIRECT EXAMINATION BY MR. MELLO:

5 Q Ms. Scanlon?

6 A Yes.

7 Q You were interviewed by Prosecutor's Office
8 detectives --

9 A Yes.

10 Q -- on the 25th of September 1992.

11 A Correct.

12 Q And you were thereafter interviewed by a
13 lawyer in Mr. Bilinkas's office on the same day,
14 September 25th, 1992.

15 A Correct.

16 Q And you reviewed the report of your interview
17 with the Prosecutor's Office detectives.

18 A Correct.

19 Q And you find that in all respects accurate.

20 A Yes.

21 Q And you reviewed the statement that you gave
22 to Mr. Bilinkas's associate on that same day.

23 A Correct.

24 Q And you find that to be accurate in all
25 respects.

1 A Yes.

2 MR. BILINKAS: Judge, can he stop leading the
3 witness --

4 MR. MELLO: Well --

5 MR. BILINKAS: -- and spoon feeding her --

6 MR. MELLO: -- this is -- this is -- this --

7 MR. BILINKAS: -- every single --

8 MR. MELLO: Judge, this is --

9 MR. BILINKAS: -- question.

10 THE COURT: Okay.

11 MR. MELLO: -- so simple.

12 THE COURT: Next question.

13 BY MR. MELLO:

14 Q Now, would you say that they are
15 substantially the same information?

16 A Yes.

17 Q And of course at this time you were deeply in
18 love with Mr. Scharf.

19 A Correct.

20 Q And, when you answered the question about
21 what you thought he was capable of, that was the
22 situation.

23 A Yes.

24 Q That was then.

25 A That was then.

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Q And everything that -- apart from the conversation that you told the jury about with Jody Scharf, everything about Jonathan or Jody or both you got from Mr. Scharf.

A Correct.

Q And I think Mr. Bilinkas asked you this, but it's -- it's September of 1992; it's September 18 of 1992, Mr. Scharf appeared, in his words, to be perfectly accepting of the concept of divorce, yes? In his words.

A Oh, yes.

Q And, inasmuch as he was perfectly comfortable with divorce, he never told you he wanted to leave you.

A Never.

MR. MELLO: Thank you.

THE COURT: Anything else?

MR. BILINKAS: One question.

RE CROSS EXAMINATION BY MR. BILINKAS:

Q Irrespective of how similar the Prosecutor's statement is to our statement, there are some differences, correct?

A Mmm, they're n --

Q For instance -- for instance, there's nothing in the Prosecutor's statement about Detective Alver's being aggressive with you, correct?

1 A In your statement? No.

2 Q No.

3 A In their -- sorry.

4 Q No, there is one in my statement.

5 A Yes, yes; sorry.

6 Q Okay. Now, can you tell me and tell the jury
7 how can you -- how you can remember the exact
8 statements in the Prosecutor's statement that you
9 testified to on direct and you don't remember the exact
10 words you gave to --

11 MR. MELLO: But --

12 BY MR. BILINKAS:

13 Q -- the lawyer in my office?

14 MR. MELLO: -- I'm going to object to that,
15 Judge, because she was asked questions to relate
16 events; she wasn't given a memory type of test where:
17 Tell me the first question, second question, third
18 question. If --

19 MR. BILINKAS: Yes, she was.

20 MR. MELLO: -- he asks the informational base
21 of the questions, maybe we'll get to the heart of the
22 matter.

23 MR. BILINKAS: I did ask those first
24 question, second question.

25 BY MR. BILINKAS:

1 Q Can you tell the jury how you can relay the
2 exact words in the Prosecutor's statement -- and -- and
3 correct me if I'm wrong -- when I asked you what you
4 told the lawyer in my office, you really couldn't give
5 me the exact words and sequence of events?

6 A But, sir, you actually re -- re -- you were
7 reading the statements from my statement and asked me
8 to verify them. I wasn't telling you exactly what was
9 written; you were telling me what was written and I was
10 telling you whether it was correct.

11 Q Okay.

12 A Okay?

13 Q Tell me exactly what you told the lawyer in
14 my office, from start to finish.

15 MR. MELLO: I'm going to object to that,
16 Judge, as -- as beyond the scope and we've --

17 THE COURT: Sustained.

18 MR. MELLO: -- been through it on cross.

19 THE COURT: Anything further?

20 MR. BILINKAS: No, Judge.

21 THE COURT: No further questions for this
22 witness. You may --

23 MR. MELLO: No, Judge.

24 THE COURT: -- step down.

25 MR. MELLO: Thank you.

1 THE WITNESS: Thank you.

2 (Witness is excused)

3 THE COURT: Any other witnesses this
4 afternoon?

5 MR. MELLO: No, Your Honor.

6 THE COURT: Okay. If we had taken the break,
7 it would have taken us to almost four o'clock, so I'm
8 going to excuse the jury at this time.

9 Please do not discuss the case with anyone.
10 Do not read or listen to any media account. Don't
11 watch any law-related programs. Don't have any
12 conversations of any nature. Understood?

13 Let the record reflect that the jury is
14 nodding in the affirmative.

15 You're excused until 9 a.m. tomorrow morning.

16 (Jury is excused)

17 (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 9:42:50 to 11:33:38, and from 11:54:54 to 11:56:56, and from 11:58:01 to 12:29:41, and from 13:50:12 to 15:36:55, 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

Date: January 14, 2013

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