

1 (Court resumed) (witness resumed stand)

2 THE COURT: The if the jury is ready, we will bring  
3 the jury in.

4 (Jury now present)

5 Be seated, please.

6 THE COURT: The jury is present, the defendant and  
7 counsel. Mr. Santos is still on the stand, still under oath.  
8 Mr. Carnesi.

9 MR. CARNESI: Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 **BY MR. CARNESI:**

12 Q Good afternoon, Mr. Santos, my name is Charles Carnesi,  
13 and I represent Mr. Vernace.

14 A Good afternoon.

15 Q A few moments ago you were asked about the conditions of  
16 your cooperation agreement, you remember that?

17 A Yes.

18 Q Okay. Now, you are familiar with the agreement you  
19 signed, you went over it with your lawyer, right?

20 A Yes.

21 Q And you told us that you entered into this agreement in  
22 the expectation, the hope, that you were going to receive some  
23 kind of leniency at your sentencing, right?

24 A Yes.

25 Q And in your mind what you're hoping for is basically no

1 jail time?

2 A Yes.

3 Q Would you call that a pass?

4 A A pass?

5 Q Yes, to receive a pass on these criminal acts that you  
6 don't get any -- that you are not sentenced to any jail time?

7 A Yes, I consider that a pass.

8 Q You would refer to that as a pass, right?

9 A Yes.

10 Q Now, do you understand that as part of the cooperation  
11 agreement that you signed, that the prosecutor's office has to  
12 make a certain determination as to the extent of your  
13 cooperation; do you understand that?

14 A Yes.

15 Q What do you understand that determination to be?

16 What is it that they have to decide about your  
17 cooperation in order for you to receive the desired benefit?

18 A Whether I was truthful or not.

19 Q And anything else?

20 A That's what I am required to do, to be honest, truthful.

21 Q Aren't you required to provide substantial assistance in  
22 the investigation or prosecution of somebody else?

23 A Yes.

24 Q So you don't have to be -- you don't only have to be  
25 truthful, you have to provide information that is of

1 assistance to the prosecutors in their attempt to prosecute or  
2 investigate somebody else, right?

3 A Yes.

4 Q If your information is not helpful in their desire to  
5 prosecute somebody else, you don't get a benefit, right?

6 A That's not true. Maybe you should make it a little  
7 clearer to me.

8 Q Sure.

9 Let me ask you if you recall this paragraph in your  
10 cooperation agreement (reading):

11 It is understood that should this office -- you know  
12 who that is?

13 A Yeah.

14 Q Who is that?

15 A The U.S. Attorney.

16 Q Determined that either Mr. Santos has not provided  
17 substantial assistance in an investigation or prosecution, do  
18 you understand those words?

19 A Yes.

20 Q And if they decide that you have not provided that or  
21 that Mr. Santos has violated any provision of the agreement,  
22 such a determination will release this office from any  
23 obligation to file a motion pursuant to section 5k1 of the  
24 sentencing guidelines, but will not entitle Mr. Santos to  
25 withdraw his plea once it has been entered.

1 Do you understand that?

2 A Yes.

3 Q Do you understand that that means that if in the  
4 discretion -- the sole discretion of the prosecutors, they're  
5 the only ones that decide -- get to decide -- they decide that  
6 your testimony hasn't been helpful to them, you get no  
7 benefit; do you understand that?

8 A Yeah. The only way they would decide it hasn't been  
9 helpful to them is if I made things up or lied.

10 Q Well, what if you just didn't have anything that helped  
11 them? What if you didn't know anything? What if you didn't  
12 have a story about being sent to go and beat somebody else up?

13 A Then I guess they'd never approach me.

14 Q Did they approach you or did you approach them?

15 A The FBI approached me.

16 Q When was that?

17 A That was in 2009.

18 Q And how did that come about, how did they approach you?

19 A They asked me attorney if we'd be willing to have a  
20 proffer session.

21 Q Let me show you what I have as 3500-HS-6. Do you remember  
22 meeting with the prosecutors and agents in an attempt to get a  
23 cooperation agreement?

24 A Yes.

25 Q And do you remember, roughly, when that was?

1 A Roughly, June of 09.

2 Q Okay. And do you remember advising the prosecutors and  
3 agents at that time that you desired to undertake certain  
4 actions, including separating in monitored and recorded  
5 telephone conversations and meetings?

6 A Yes.

7 Q Do you recall discussing that with them at that time?

8 A Yes.

9 Q Now, at the time these discussions were going on you  
10 didn't have a cooperation agreement, right?

11 A No.

12 Q You did, however, discuss with agents and prosecutors  
13 information that you believed they would be interested in,  
14 right?

15 A Yes, only because they offered me immunity.

16 Q Oh. What did you understand immunity to mean?

17 A That anything I spoke about at the meeting could be used  
18 against me.

19 Q You spoke about certain things, but it didn't end there.

20 They didn't tell you, okay, we're happy to give you a  
21 cooperation agreement based on what you just told us, did  
22 they?

23 A No, it didn't end there. We had another one or two more  
24 meetings before we finally came to an agreement.

25 Q And before they would give you an agreement, you had

1 agreed to go out and record conversations, correct?

2 A Not at first.

3 What I offered them was to go do three years, come  
4 out, and then wear a wire for them, but they suggested to me  
5 that I didn't have to do that, that I can wear the wire now,  
6 and not possibly not have to do the whole time that I was  
7 facing.

8 Q Okay. So they wanted you to wear a wire right away?

9 A Right.

10 Q And at that time did you have a cooperation agreement  
11 when you were having those discussions?

12 A No.

13 Q Now, you had a number of meetings with prosecutors and  
14 agents before you actually got a cooperation agreement, right?

15 A Right.

16 Q And they made it clear to you and to your attorney that  
17 the initial conversations you were having with them, before  
18 you were wearing a wire, would not be considered a cooperation  
19 agreement; right?

20 A Right.

21 Q Do you remember when it was in the course of the  
22 conversations you were having with the government when you  
23 first received the recording device?

24 A Can you repeat that?

25 Q Sure.

1           When was it in the process of having these  
2 conversations with the government that you received a  
3 recording device?

4           How many meetings did you have before then where you  
5 got this device?

6   A    Approximately, maybe three, the most.

7   Q    And how did you get the recording device?

8   A    I met with FBI Agent Robert Herbster (ph) and he gave me  
9 the recording device.

10   Q   And did he explain to you how to use the device?

11   A    Yes.

12   Q   And did he explain to you how to shut it on and off?

13   A    Yes.

14   Q   And did he tell you who to go about recording these  
15 conversations with?

16   A    Not -- he told me who he would like for me to have  
17 conversations with, yeah.

18   Q   And you and he participated in some -- essentially  
19 strategy as to how you would go about using this recording  
20 device, right?

21   A    Right.

22   Q   Okay. And do you recall whether or not he actually gave  
23 you a list of people that he wanted you to record?

24   A    No, he never gave me a list.

25   Q   A written list or even orally gave you a list of people?

1 A No, basically he wanted me to record all my friends.

2 Q He never singled out anybody?

3 A He never singled -- you know I can never honestly say he  
4 never singled out anybody because there was a lot of people he  
5 wanted me to target.

6 Q How do you know that?

7 How do you know it was a lot of people he wanted you  
8 to target, did he discuss anybody with you?

9 A Well, when I first got locked up and I was going through  
10 the system getting fingerprinted and whatnot, you know, the  
11 agents were telling me that my friends -- they going down,  
12 they going down from everything -- from gambling to murder,  
13 and he mentioned names. So, you know, I pretty much knew who  
14 he wanted me to have conversations with.

15 Q You knew who they wanted your assistance with?

16 A Right.

17 Q Now, did he give any instruction as to who to meet on a  
18 given day and what to discuss with these people, or was that  
19 left up to you when you were going to wear the recorder?

20 A No, what it was is if I was going to go -- stop by a  
21 certain place, I would let him know I'm going there, and you  
22 know, he knew I was going there, and when I was done I would  
23 give him a call and we'd either meet then or the next day, but  
24 you know, he pretty much knew where I was at all times.

25 Q So is it your recollection that any time that you



1 intended to go to a meeting, you contacted him beforehand to  
2 say this is where I'm going to go and this is who I'm going to  
3 meet?

4 A Most of the time I'd tell him, yeah, I'm on my way to  
5 Hillside, or I'm on my way to Al's apartment or I'm on my way  
6 to Bobby's cafe.

7 Q Were there any other times that you can specifically  
8 recall when you didn't tell him where you were going?

9 A Yeah, I'm sure there was times when I didn't tell him.

10 Q Was there any reason why you chose to tell him sometimes  
11 and not other times?

12 A Because I might started out somewhere where I told him  
13 where I was going and I didn't have to tell him exactly where  
14 I was going.

15 Q So that's the question.

16 A And what I'm saying is, like, if I go by Al's apartment  
17 and he's, like, all right come on, let's go take a ride by  
18 Bobby's cafe and then we leave Bobby's cafe and we go to a  
19 strip club or something, you know, I don't have -- I can't  
20 call him then.

21 Q And who decides when the recorder is on or off?

22 A I do.

23 Q Now, at any time in the course of your wearing this  
24 recording device you wore it, approximately, six months; is  
25 that right?

1 A Approximately.

2 Q Sounds right?

3 A Sounds about right.

4 Q From roughly June of 09 into the end of the year December  
5 sometime?

6 A Yes.

7 Q Would you also meet with agents and prosecutors during  
8 those nine months to discuss the recordings that you were  
9 turning in?

10 A I definitely met with Agent Robert Herbster. I'm just  
11 trying to remember right now if I met with any prosecutors.

12 Q You remember meetings with Agent Herbster alone?

13 A Most of the time.

14 Q And tell me about those meetings, what would take place  
15 at those meetings?

16 A I will meet him. I'd tell him what was on the recording  
17 device, what my plans might have been for this day or joke  
18 about something that happened during the night before or early  
19 that day. I'd give him the recording device. I'd give him a  
20 briefing of what I thought might be important on the device  
21 and he'd give me a new one.

22 Q And were there other meetings where he would discuss with  
23 you things that had been on the recording that you had turned  
24 in earlier?

25 A Yes.

1 Q And would he tell you at that time, okay, you got this  
2 far in this recording with this individual, see if you can go  
3 back out and follow up that conversation, things along those  
4 lines?

5 A No, I don't remember him -- I mean there was some -- some  
6 -- I don't remember him saying, you know, go specifically --  
7 see the understanding was, first of all, we were trying to  
8 solve a murder. So, obviously, I was supposed to have  
9 conversations where I can get someone to admit to a murder,  
10 you know, talk about a murder.

11 Q Certainly there were certain topics that you would  
12 discuss with Agent Herbster or with the prosecutors?

13 A Right certain topics --

14 Q And you were told -- I'm sorry, I didn't mean to cut you  
15 off, but basically what were you told is, okay, if you are  
16 telling this information about this murder, see if you can go  
17 out and get something recorded regarding that murder; is that  
18 right?

19 A That's right.

20 Q The tape was supposed to be used to corroborate or  
21 support what you were telling him, right?

22 A Right.

23 Q And do you recall any specific instruction, other than  
24 about the murder, regarding any other individual you were  
25 recording?

1 A You know, I mean I met with him so many times that I --  
2 you know, I don't remember any -- you know, want me to  
3 remember specific things. I mean, pretty much from the first  
4 day we met I knew what I had to go out and do and what kind of  
5 information I was supposed to get.

6 Q Now, you told us on direct examination that you had  
7 reported over a hundred conversations; is that right?

8 A I believe so.

9 Q And did you listen to any of those recordings after they  
10 were recorded?

11 A Yes.

12 Q You sat down with the agents and you went over the  
13 recordings and explained them to them?

14 A Yes.

15 Q And based on what you had recorded and the explanations  
16 you gave the agents, they would sometimes give you  
17 instructions again to go and follow up on those conversations,  
18 right, see what else you can get?

19 A Yes.

20 Q Now, of those hundred conversations that you recorded  
21 from June to December of 09, how many conversations did you  
22 record with Mr. Vernace?

23 A I would say two, three the most.

24 Q Well, we have heard one, what other conversations do you  
25 recall recording with him?

1 A Let me see. There was one -- there was the one that we  
2 heard that was outside, and I believe there was another one  
3 inside the cafe, so it was two.

4 Q Do you know when that conversation was, and where the  
5 tape of that conversation might be?

6 A I don't remember when it was and I don't remember where  
7 it is. Maybe it -- I mean there was a few times when stuff was  
8 inaudible or didn't record. I don't know if that was one of  
9 the times.

10 Q In preparation for your testimony here and, you did  
11 prepare with the prosecutors testifying, did they play this  
12 tape you are referring to now?

13 A I don't -- I don't think so. I don't remember -- I  
14 remember having a conversation with -- oh, wait a second. Wait  
15 a second.

16 Q Take your time.

17 A Yeah. I did hear the other tape, the tape that's inside.

18 Q When did you hear that?

19 A That was -- I have I've heard these tapes numerous times,  
20 and I think I remember hearing the tape when we're talking  
21 about him getting a job for -- we're talking about Vito Love  
22 and Nicky Shakes. Yeah, that was a different conversation.  
23 That was inside the cafe.

24 Q When did you last hear that tape?

25 A The last time I was listening to the tapes was maybe

1 about a -- the time before coming here.

2 Q I'm just asking you the last time you heard this tape.

3 A Couple of days ago.

4 Q You heard it a couple of days ago?

5 A Yeah.

6 Q Where did you hear it?

7 A In the office.

8 Q Whose office?

9 MR. TOOSI: Can we be specific about which tape we  
10 are talking about because we are talking about two  
11 different --

12 MR. CARNESI: Well --

13 Q We knows the tape we heard today?

14 A Right.

15 Q And what you're telling me is that you heard a different  
16 tape, right?

17 A I've heard a whole bunch of tapes.

18 Q No. We are specifically talking about Mr. Vernace, you  
19 told me that you heard a separate recorded conversation,  
20 right.

21 A I believe so, yes.

22 Q Do you believe so or do you remember?

23 A I remember making another tape -- two tapes and I  
24 remember on the tape that you're asking me about that we  
25 didn't hear, there was a discussion, and we were just talking

1 about guys sitting at the table in the cafe. I don't believe  
2 it was anything of substance.

3 Q Okay. When did you last hear that tape?

4 A I'm not sure. Could have been, like, three months ago,  
5 four months ago.

6 Q Do you remember where you were when you heard that tape?

7 A I was in the Witness Protection Program.

8 Q Well, was there somebody that brought you the tape?

9 A Yes, my marshal.

10 Q Not an FBI agent?

11 A No.

12 Q Not anybody from the prosecutor's table?

13 A No.

14 Q How many tapes did the marshal bring you on that  
15 occasion?

16 A Probably all of them.

17 Q When you say, "all of them," about how many recorded  
18 conversations do you believe you listened to at that time?

19 A Well, I mean I got a lot of tapes. You're looking for me  
20 to tell you exactly how many tapes I had that day?

21 Q Approximately how many tapes were delivered to you on  
22 that occasion that you say the marshal brought them to you?

23 A It's a stack about (indicating) this big.

24 Q About eight inches or so?

25 A Yeah.

1 Q And do you know how many of those recordings you actually  
2 did listen to?

3 A I listened to all of them.

4 Q How long did it take you?

5 A Took me about a good week.

6 Q Do you have any idea as to how many hours of recorded  
7 conversations you listened to?

8 A We had them marked on which parts were, you know, of  
9 substance. I mean I wasn't going to sit there and listen to a  
10 card game for three hours. So, you know, I speed up to the  
11 parts that were marked as, you know, conversations of  
12 substance so I wouldn't --

13 Q But you just said a little while ago that that second  
14 Vernace tape was not a tape of substance, yet you recall  
15 listening to that tape on that occasion?

16 A Yeah, in the beginning -- in the very beginning. Like,  
17 in, I think, it was February of 2010, maybe.

18 Q Now, again, the purpose of your making these recordings  
19 was to corroborate what you were saying, what information you  
20 were given, and to gather evidence of the various crimes that  
21 were being committed?

22 A Right.

23 Q Now, you told us as part of your direct examination that  
24 Mr. Vernace was involved with loansharking with various  
25 individuals, right?



1 A Correct.

2 Q Can you tell me where on the tape that was just played  
3 for us you bring up the topic of loansharking with any of  
4 these individuals?

5 A Nowhere.

6 Q You told us on the direct examination that on two  
7 occasions you claimed that you personally got a loan from  
8 Mr. Vernace, right?

9 A Got an okay for one, and on the other got a personal loan  
10 and that was before I was wearing a device.

11 Q Right. But now, you went out there with the device to  
12 corroborate what you were saying, to get evidence of what you  
13 were saying, where on tape did you bring up any conversation  
14 relating to your getting loans directly from Mr. Vernace now?

15 A Well, I mean I could only go to a certain extent in  
16 getting in getting information. I can't -- I wasn't the type  
17 of guy to just go and you know, making up conversations about  
18 loansharks and specific amounts of money. The guy was the  
19 boss now. I'm not going to talk to him like that. That's out  
20 of line in my world.

21 Q So the answer is, no, nowhere on that tape?

22 A No, that would raise eyebrows. I was out on bail. If I  
23 start inquiring about too many things, that would look  
24 suspicious.

25 Q Why were you wearing a tape during the conversation,

1 wasn't that the whole point?

2 A When I went and spoke to Bobby, it was basically just to  
3 let him do the talking. I could just put ideas in his head and  
4 maybe spark a conversation and whatever came out of it was  
5 whatever he said.

6 Q How about since, according to you, I think you told us  
7 that Mr. Colon came to you because he knew that you had this  
8 good relationship with Mr. Vernace and you could talk to  
9 Mr. Vernace, right?

10 A Right.

11 Q Why didn't you ask him for a loan?

12 A Why didn't I ask him for a loan?

13 Q Sure. You told us you'd done it before, why didn't you do  
14 it then?

15 A I wasn't -- I wasn't a loanshark at that time.

16 Q Were you a loanshark on the other occasions when you  
17 asked for loans?

18 A I actually on the other occasion, I wasn't a loanshark  
19 either. I was made a proposition by one of my crew members to  
20 borrow. He wanted to borrow 10,000 to buy some pot and he  
21 said he'd pay back 1500. So I went to Bobby and I told him  
22 that's Zappala (ph) wanted to borrow 10,000 and he wanted to  
23 pay 1500.

24 Q Let me cut you off for a second because we are going to  
25 discuss that. All right?

1 A Yeah.

2 Q But my question to you is, again, you knew that you were  
3 wearing the recorder, you knew what you were trying to do, the  
4 purpose of wearing the recorder?

5 A Yes.

6 Q Why didn't you ask him for a loan?

7 Why didn't you get into a topic with him having to  
8 do with any kind of criminal activity that you now tell us he  
9 was involved?

10 A Well, first of all, he is an extremely smart person. He'd  
11 be able to know if I was talking differently than the way I  
12 usually talk. Second, we didn't have -- I was pulled off the  
13 street abruptly. I didn't get enough time to finish what I  
14 was doing.

15 Q You had six months. In six months we've only learned of  
16 one recorded conversations played in this courtroom?

17 A Correct.

18 Q You just heard it?

19 A Correct.

20 Q Whose choice was it to only meet with Mr. Vernace once in  
21 the six month period?

22 A Mine.

23 Q Whose choice was it to have the recorded conversation  
24 with Mr. Vernace for purposes of gathering evidence and not  
25 talk about any criminal activity that you claim he was

1 involved the in?

2 A Can you repeat that?

3 Q Sure.

4 Whose choice was it to have that conversation with  
5 Mr. Vernace wearing the recorder and not talk about any  
6 criminal activity that you said he was involved in?

7 A Well on that particular day it wasn't my plan to even  
8 speak to Bobby. I was there to meet Louis Mastrangelo and in  
9 the interim Bobby showed up, and then we sat down, and that's  
10 how the conversation occurred. So I didn't even expect to see  
11 him that day.

12 Q And when you fortuitously ran into him while you happened  
13 to be wearing the recorder it was your choice not to bring up  
14 the topic of loansharking with Mr. Dolphin, Mr. Barsh (ph),  
15 any of those people, you don't bring that topic up with him at  
16 all, right?

17 A Right.

18 Q And that's your choice?

19 A Right.

20 Q You don't bring up any loans that you say you either got  
21 from him or attempt to get a new loan?

22 A Right.

23 Q Right?

24 A Right.

25 Q Okay. Now, there's nothing on the tapes about any

1 assaults or any orders or instructions that you claim  
2 Mr. Vernace had given you in the past, right?

3 A No.

4 Q These are the things that you are telling the prosecutors  
5 in order to get your deal, your pass, but when you have the  
6 opportunity to record a conversation to corroborate any of  
7 that, you don't do it, do you?

8 A Well, some guys you got to be careful with. You can't  
9 just come out and start talking about things you normally  
10 don't talk to them about, and at the time I was only stopping  
11 by Bobby's every couple of weeks, every month because the main  
12 target was Alphonse Trucchio's crew. So, you know, anything I  
13 got from Bobby was like gravy from the case.

14 Q Oh, at the time you didn't think the prosecutors were  
15 interested in accessing --

16 A I'm sure they were interested in him but I was with  
17 Alphonse Trucchio's crew, so that's who I was concentrating  
18 on.

19 Q Did you consider the risk in recording a conversation  
20 with Mr. Vernace where you would ask for a loan and he would  
21 tell you what are you talking about, did you consider the  
22 possibility of recording anything like that?

23 A He would never say that.

24 Q You don't know, you didn't record that conversation, did  
25 you?

1 A I didn't ask him.

2 Q Right?

3 A Yeah.

4 Q Okay. In that entire one conversation that you chose to  
5 record with him during -- or that we heard during that six  
6 month period, there's no talk of any criminal activity other  
7 than your involvement with Mr. Corozzo and some -- what is it  
8 -- car service?

9 A Yes.

10 Q And then trying to collect the money from, right?

11 A Right.

12 Q Mr. Vernace wasn't part of that, right?

13 A No.

14 Q There's mention of card game, right, that somebody else  
15 was going to run, and I think Mr. Vernace said, yeah, he was  
16 going to give me money, I never got a dollar, right? Other  
17 than that did you bring up the topic of any card games, did  
18 you claim Mr. Vernace was involved in?

19 A As a matter of fact, I did.

20 Q Okay. Where in the tape is that?

21 A When I told him about the game that he came to play at  
22 that I had on Woodhaven Boulevard, I told him that I wasn't  
23 trying to have big stake games, I didn't -- you know, I didn't  
24 want to be greedy.

25 Q Okay. Mr. Santos, maybe I wasn't clear. Are you telling

1 me about a game he came to play at?

2 A Right, yeah, a game that he came to play at.

3 Q Okay.

4 A He knew I had.

5 Q That he knew you had?

6 A Yeah, there's a part in there where I'm telling him.

7 Q About your game?

8 A I was trying to make a couple of dollars at the game --  
9 at my game.

10 Q And that's a game where he played, right?

11 A He came to play, as a friend.

12 Q Now, you did listen to these tapes prior to being in the  
13 courtroom today, right?

14 A Yes.

15 Q Did you review the transcripts as well to determine  
16 whether or not they were accurate?

17 A Yeah.

18 Q How many times did you listen to the tape involving  
19 Mr. Vernace before you were able to determine that the voice  
20 you were hearing in part of that tape wasn't Mr. Vernace's?

21 A Are you talking about that part in the beginning where it  
22 was Louie Mastrangelo?

23 Q Yes.

24 A That was a mistake on their part. I would never mistake  
25 Bobby's voice for Louie Mastrangelo's.

1 Q You heard the tape twice, you heard it the first time?

2 A Right.

3 Q That was played here in court, right and, you told us --  
4 in fact, you gave us an explanation initially as to what  
5 Mr. Vernace was saying, and then you had tape played for you a  
6 second time, and it was at that point that you realized, wait  
7 a second, that's not Mr. Vernace's voice, right?

8 A Well, when I was listening to it -- listening to the  
9 voices and reading, I was under the assumption that it was  
10 just me and him, so I wasn't looking on the left where it  
11 said, you know, BV and H something. And then I realized it  
12 when -- you know, he started talking about it, that's when I  
13 realized it, but when I go over these, and we do corrections  
14 on them, they -- they do the corrections, but then there's a  
15 whole process where they were -- they have to get reprinted  
16 out, and there's absolutely no way I would mistake  
17 Louie Mastrangelo's voice for Bobby Vernace's. I grew up with  
18 them since I was, like, 15 years old.

19 Q Who -- when the transcript is in the process of being  
20 created, who is it who identifies the voices in the  
21 transcript, was that you, or was that an agent who presented  
22 it to you that way?

23 A I -- I -- I identify voices.

24 Q So, at least initially, you misidentified that voice,  
25 right?



1 A No, I knew who it was. I just didn't know it was supposed  
2 to be Bobby Vernace speaking when we were listening to it.

3 Q Did you ever listen to the tape while you had the  
4 transcript?

5 A Yes.

6 Q Okay. And when you listened to the tape with the  
7 transcript, is it your testimony you didn't notice that that  
8 voice attribution was being assigned to Mr. Vernace  
9 mistakenly?

10 A On this, well, I didn't get a chance -- yeah, I guess --  
11 I guess on this one, no. I don't know how that mistake  
12 happened to be honest with you.

13 Q In your direct examination I think you told us that at  
14 various points in time you had used drugs; is that right?

15 A That's correct.

16 Q Okay. And can you tell me what type of substances did you  
17 use and when?

18 A When I was younger I tried Angel Dust a couple of times.

19 Q When you say younger -- again I don't mean to interrupt  
20 you?

21 A I mean like in my 13, 14, 15 years old.

22 Q What else?

23 A Marijuana, cocaine.

24 Q When did you use marijuana?

25 A When I was younger also. Believe it or not, I happen to

1 be one of those guys that don't like marijuana. Just letting  
2 know that. Makes me paranoid.

3 Q I wasn't going to offer any, but go ahead.

4 A Cocaine, Ecstasy, pain killers.

5 Q Again, let's go step-by-step. Cocaine?

6 A Okay.

7 Q How often did you use cocaine?

8 A Probably used cocaine every time I went out and had  
9 drinks with the fellas.

10 Q And what period of time would that be? You said you are  
11 in your 40s now?

12 A Yes.

13 Q Were you using cocaine that way in your 20s?

14 A Yeah.

15 Q Thirties?

16 A Yes.

17 Q Forties?

18 A Yeah.

19 Q And you'd be out with fellows a few nights a week, right?

20 A Sometimes.

21 Q And would you generally use cocaine a few times a week?

22 A Depends. If we went out a few times a week, yes, but  
23 usually after a night of going out it was very rough to go out  
24 the next night.

25 Q Would the cocaine help you?

1 A No. It would help me not be able to move the next day.

2 Q How much cocaine did you use?

3 A From the time I started?

4 Q In general, when you would use cocaine on a given night,  
5 how much cocaine would you use?

6 A Maybe half a gram, a gram. I don't know. You know, you  
7 wouldn't keep track.

8 Q Did you use it more than once in the night or a day?

9 A Yes.

10 Q How often in any given day might you use cocaine?

11 A I only used cocaine when I was drinking. I never used it  
12 -- I never even thought about it when I was sober.

13 Q That doesn't really help me. How many times?

14 A It helped me.

15 Q How much times would you use it?

16 A How many times would I use it any given day?

17 Q Yes.

18 A When I was out drinking?

19 Q Yes.

20 A During the course of the night, probably like every half  
21 hour, 40 minutes we'd go and do a little bit.

22 Q You continue to use it into your 40s?

23 A Yes.

24 Q When was last time?

25 A I had -- the last time was in 2009.

1 Q And that was sometime after you began your cooperation  
2 agreement, right?

3 A Correct.

4 Q Now, when you began, well -- withdrawn.

5 Let me go back to the drugs for a minute. We  
6 covered marijuana, cocaine, you said Ecstasy.

7 A Yeah Ecstasy back in my gray (ph) days.

8 Q When did you stop using Ecstasy?

9 A When we -- probably stopped in my middle 30's. Something  
10 like that. Give or take.

11 Q Anything else?

12 A What?

13 Q Any other drugs? Did you ever use Oxycodone, anything  
14 like that?

15 A That didn't start until later. That started in my 40s.

16 Q And how often would you use those?

17 A In the beginning it would be like every weekend, then  
18 started becoming every day.

19 Q Eventually you got addicted to that, didn't you?

20 A Yeah, I tried to stop. You know, I just decided I wasn't  
21 of going to do any more and I got physically ill. I had no  
22 choice but --

23 Q When did you, if you did it at all, finally stop taking  
24 them?

25 A In 2008.

1 Q How did you quit taking it?

2 A I began to take Suboxone.

3 Q What is Suboxone?

4 A It's an opium antagonist. If you try to take pain  
5 killers while you on are on Suboxone it would make you sick.  
6 It wouldn't work, and it kept you from feeling the withdrawal  
7 symptoms.

8 Q And that was a drug that was prescribed to you by a  
9 doctor?

10 A I had it prescribed to me, yes, but it was also a drug  
11 that I was able to get on the street at times, but yes, I had  
12 it prescribed to me.

13 Q Are you still taking Suboxone?

14 A Yes, I do.

15 Q Is it prescribed from a doctor at this point?

16 A Absolutely.

17 Q Taking any other drugs?

18 A Yes, I take Zoloft?

19 Q What is that for?

20 A Because I'm crazy. No, my depression. Zoloft, Vistaril  
21 for high blood pressure, Syntonin (ph), Zanax for anxiety.

22 Q How long have you been taking Zanax and Zoloft?

23 A I've been taking Zoloft for, roughly, about maybe a year  
24 and a half now, or a year, something like that, and Zanax I've  
25 been taking since 2007.

1 Q I know you laughed when you said you take Zoloft because  
2 you're crazy but --

3 A Well, that's what people think. They think people take  
4 medication for being depressed, they're crazy.

5 Q Did you ever tell anybody that you take Zanax because it  
6 keeps you calm, because I'm high strung other, otherwise I  
7 would be looking to kill everybody?

8 A Yeah, I know what you're talking about.

9 Q Sounds pretty crazy.

10 A Yeah. You know, I was a pretty crazy guy, but that's not  
11 what I meant.

12 Q Now, you told us about an individual by the name of Benny  
13 Misquita(ph)?

14 A Yes.

15 Q And you shot Benny Misquita, right?

16 A Yes.

17 Q When was that?

18 A That was -- what year was that -- 1990. In the early  
19 90s.

20 Q You remember what year it was?

21 A I got a pretty good idea. I believe it was 1992 maybe.

22 Q What makes you think it was '92?

23 A I'm trying to go by the car I was driving.

24 Q That's the only frame of reference you have?

25 A Pretty much, yeah, because the car I was driving was

1 after the Lincoln and it was before I went to jail on the gun  
2 charge.

3 Q How did this problem with Benny Misquita start?

4 A We got into argument in a night club.

5 Q You and he?

6 A Yeah.

7 Q And anybody else involved in the argument?

8 A I was with a friend, and he was with a friend, but me and  
9 him basically had the argument.

10 Q All right. Now, at that time, 1992, were you an  
11 associate of the Gambino family?

12 A Yes.

13 Q And what, if anything, did this argument between you and  
14 Benny Misquita that have to do with the Gambino family?

15 A Base if you let somebody get away with leaving you for  
16 dead in an alley, you get no respect. Nobody wants a dog  
17 around them.

18 Q Let me ask you, maybe you didn't understand me, I'm  
19 talking about the initial argument between you and  
20 Benny Misquita?

21 A No, no, that had nothing to do with the Gambino family.  
22 You said 1990 -- I didn't have the argument with Ben Misquita  
23 until 1990, before '92. That was earlier. Like, two years  
24 earlier. Something lining that.

25 Q Okay. So your best recollection now is that the initial

1 argument was in 1990?

2 A Yeah, I didn't get him back, like, two years later.

3 Q Again, I don't mean to interrupt but --

4 A No problem. Just want to make sure you understand.

5 THE COURT: One at a time, please.

6 THE WITNESS: Okay.

7 THE COURT: She can't take you both.

8 Q In 1990 what was the incident that you had with  
9 Benny Misquita?

10 A We had -- we had an argument because he thought I was  
11 giving him a dirty look, right. You want me to explain the  
12 incident from beginning to end, how I wound up in the street?

13 Q Just get me to the point where you are in the street.

14 A When I am in the street?

15 Q Yes.

16 A Okay. We get into the argument in the nightclub. We leave  
17 the nightclub. With me and my friend Mike Morrow (ph), and we  
18 spot Benny Misquita and his friend in the car, so we start  
19 following them. They turn down a street off of Cooper, and I  
20 got out of the car and began hitting Benny Misquita and his  
21 friend with a baseball bat. And my friend got scared and  
22 didn't come to help me. And eventually Benny Misquita was able  
23 to get the baseball bat from me, and him and his friend Joe  
24 beat me in the head until they left me unconscious in the  
25 street, and a guy with a pickup truck was driving by, and I



1 was able to hop in the back and go to the hospital after a  
2 while.

3 Q How long were you in the hospital for?

4 A A week.

5 Q When was the next time after you that incident that you  
6 saw Benny?

7 A Probably about two years later.

8 Q And where was it that you saw him?

9 A I saw him in Remington's.

10 Q Now, at that time did you have a gun?

11 A Not on me.

12 Q When you say, "not on you" what do you mean?

13 A I didn't actually have the gun in my waist or my pocket.

14 Q Did you have a gun in your car?

15 A No, I didn't have the gun -- I owned the gun, but I  
16 didn't have it with me that night. I borrowed my friend's  
17 gun.

18 Q And what did you do after you got the gun, did you return  
19 immediately to where you had seen Benny?

20 A Yeah. And it looked like he wasn't there. And so, I  
21 figured maybe he might have saw me and left. So I went  
22 outside and approached the car. The driver of the car backed  
23 up when he saw the pistol in my hand, and said take it easy,  
24 Howie. So when he backed up I leaned over on the driver's  
25 side and asked Benny if he remembered me, and I shot him in

1 his chest.

2 Q Who was the driver of the car?

3 A I don't have no idea.

4 Q He knew you?

5 A He knew me. I guess Benny must have told him, hey,  
6 that's got guy beat up with the baseball bat.

7 Q Now, when you shot Benny the chest was it your intention  
8 to kill him?

9 A Yes.

10 Q How many times did you shoot?

11 A I fired once and he flew out of the car. So when I was  
12 going back around to shoot him again, I saw a cop car coming  
13 up that way.

14 Q What did you do when you saw the cop car, you left?

15 A I -- yeah, I went back inside. I handed over the pistol  
16 to a couple of friends of mine and I left, and I went on the  
17 lam.

18 Q When was the next contact you had with anybody concerning  
19 that incident?

20 A The shooting?

21 Q Yes.

22 A The next day --

23 Q On the lam?

24 A Well, I was getting prepared but I found out he didn't  
25 die.

1 Q So you didn't actually go on the lam?

2 A Well, I went to Vinny Marino's (ph) house, and I slept  
3 there just in case the guy died, then I was going to really  
4 hit the lam. I don't want to be home.

5 Q So anyway somebody contacts you the next day about this  
6 incident?

7 A Right.

8 Q Who was that?

9 A I don't remember. Everybody knew about it. There was  
10 million people out there. They said he didn't die so.

11 (Continued on next page)

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(In open court.)

CROSS-EXAMINATION

BY MR. CARNESI:

Q Now, you told us that according to your recollection --

A Right.

Q -- you believed that you met with Benny's father; is that right?

A Right.

Q Okay. Where did that take place?

A That took place in a club on Rockaway Boulevard, like around 106th Street, somewhere around there.

Q Whose car?

A I believe -- I believe it had something to do with the LaBarcas, maybe Louie Mastrangelo's club. I'm not sure which club it was, to tell you the truth.

Q You don't know?

A I don't know.

Q Can you describe the club?

A I think, from what I remember, you walked in the doorway and then you made a quick right maybe and then a left and you are in the club. And there was like a -- like a table there, with chairs.

Q Had you ever been in this club before?

A No.

1 Q Okay. How did you -- well, when you went to the club,  
2 who was present, if anybody, inside the club when you arrived?

3 A When I got to the club Bobby Vernace, JoJo Corozzo, Benny  
4 Mosquito, and his father were present.

5 Q That's all, just Benny and his father, besides  
6 Mr. Corozzo and Mr. Vernace?

7 A Well, I was brought in. Louie Mastrangelo brought me  
8 there, so he wasn't there. He wasn't there before I got  
9 there, but he was present.

10 Q Before you got there had you spoken to anyone other than  
11 Louie Mastrangelo about going to this meeting?

12 A No.

13 Q Not Mr. Vernace, not Mr. Corozzo, not to anybody?

14 A No. I was very surprised.

15 Q Okay. Now, you say you have been an associate of the  
16 Gambino crime family, you met certain people at a very early  
17 age, around 14, 15.

18 A Correct.

19 Q All right. How old were you at the time of that meeting?

20 A What, I was 25, 24?

21 Q So you have been around those people for close to ten  
22 years at least, right?

23 A Yeah.

24 Q And you have continued to be around them until at least  
25 2009, right?

1 A Right.

2 Q Okay. You used the term sit-down?

3 A Right.

4 Q That term has a specific meaning in the world of  
5 organized crime, doesn't it?

6 A Right.

7 Q Okay. What is a sit-down?

8 A A sit-down is when a group of people sit down to solve a  
9 problem or discuss it, come to an agreement.

10 Q Well, when you say a group of people --

11 A A group of wiseguys.

12 Q A group of wiseguys?

13 A Or associates.

14 Q Well, let's go step by step.

15 A Okay.

16 Q Let's start with a captain.

17 A Right.

18 Q Okay. Let's say we have got a captain who is related to  
19 one family, right?

20 A Right.

21 Q And now there is a dispute with a different family,  
22 right?

23 A Right.

24 Q Does that captain sit down with an associate?

25 A Technically, he doesn't have to.

1 Q Generally speaking, it's -- at a sit-down an associate of  
2 one side may sit down with an associate of another side,  
3 right?

4 A Right.

5 Q People of equal rank, right?

6 A Well, at that time the only made guy was JoJo Corozzo.

7 Q I see that, and that's why I'm asking you.

8 A Okay.

9 Q Okay. Generally speaking --

10 A Right.

11 Q -- associates sit down with associates, right?

12 A You know, it all depends. I mean, you know, a captain,  
13 if he wants to be technical, if a soldier from another family  
14 wants to speak to him, he's got to bring his captain with him.

15 Q That's right. Because it's got to be people on the same  
16 level. You know that?

17 A Right, but we know nobody follows the rules.

18 Q Do bosses sit down with associates?

19 A If the associate is a very close friend of his.

20 Q Well, they are on opposite. In our example we are  
21 talking about people from different families. That's why  
22 there is a dispute.

23 Does the boss of one family sit down with an  
24 associate of another family?

25 A I will be honest with you, I have only been to a couple

1 of sit-downs, so I couldn't tell you how everybody conducts  
2 their sit-downs.

3 Q Okay. Let's go through this then to determine whether or  
4 not this was a sit-down or a group of people who were trying  
5 to resolve a problem.

6 You said that Joseph Corozzo, JoJo Corozzo, was  
7 there, and at that time what was his position?

8 A It might have been a soldier still. Maybe the captain --  
9 no. He was a captain by that time.

10 Q That's pretty high up, right?

11 A Yeah.

12 Q Benny Mosquito -- Mosquita, he is there with his father?

13 A Right.

14 Q Who is his father, what organized crime family was his  
15 father with, and what rank did he hold?

16 A I don't know what organized crime family his father was  
17 with, if he was with any, but in that life regular people from  
18 the neighborhood always went to wiseguys for help.

19 Q But that's not a sit-down, right?

20 A Well, this was a sit-down.

21 Q Then I'm going to ask you again.

22 What family, if any, do you know Benny Mosquita's  
23 father to be with?

24 A I didn't know him.

25 Q Okay.



1 A He didn't even speak English.

2 Q That's right. He didn't speak a word of English to you,  
3 right?

4 A As far as I know. Well, he didn't speak to me.

5 Q Okay. Did Joe Corozzo, to your knowledge, speak  
6 Sicilian?

7 A No.

8 Q Mr. Vernace did speak Sicilian, right?

9 A Right.

10 Q And Mr. Vernace was there essentially interpreting what  
11 Mr. Mosquita was saying, what Benny's father was saying,  
12 right?

13 A Right.

14 Q And the outcome of this meeting that you told us about  
15 was essentially the father didn't want you to hurt his son  
16 anymore, and he was saying and my son is not going to hurt  
17 you, we are going to quash this thing right here and now,  
18 right?

19 A Right.

20 Q Anybody get paid any money?

21 A Not that I know of.

22 Q Okay. Now, you told us that subsequent to that you ran  
23 into this other individual Joe, right?

24 A Right.

25 Q And Joe was a guy who you stabbed, right?

1 A Right.

2 Q And you stabbed him outside of an establishment that you  
3 told us you came to learn Mr. Corozzo was involved in, right?

4 A No, that I knew he was involved in.

5 Q Okay. You knew it even before you stabbed the  
6 individual, right?

7 A Right.

8 Q When you stabbed him anyway, over there, right?

9 A Right. I stabbed him down the block. It's a long story.

10 Q When Mr. Corozzo found out that you had stabbed this  
11 individual at that location, did he praise you for being a  
12 tough guy?

13 A No.

14 Q In fact, he cracked you in the mouth and knocked out a  
15 tooth, right?

16 A Right.

17 Q Now, the plea agreement that you signed covered a  
18 multitude of crimes ranging from sometime in the 1980s all the  
19 way through to 2009, right?

20 A Right.

21 Q They covered attempted murders, conspiracy to murder?

22 A Right.

23 Q They covered narcotics trafficking?

24 A Right.

25 Q What kind of narcotics did you traffic in?

1 A Marijuana.

2 Q Anything else?

3 A Cocaine.

4 Q Anything else?

5 A Ecstasy, and I think that's it.

6 Q Did you get about 8,000 pills at one time and try to sell  
7 them?

8 A Those were Ecstasy pills. I said Ecstasy.

9 Q You did say Ecstasy.

10 A All right.

11 Q Robberies, how many robberies did you do?

12 A Too many to count, to be honest with you.

13 Q You don't remember every robbery you did?

14 A I don't remember every robbery.

15 Q You told us that some of these robberies that you used  
16 different disguises.

17 A Oh, you mean armed robberies?

18 Q Yeah.

19 A I thought you meant like commercial burglaries.

20 Q Burglaries, we will get to that separately.

21 A Oh, no. Robberies, only -- one -- I would say three for  
22 sure that I remember. Maybe four, five. I don't know.

23 Q How would the robberies go generally?

24 Were they armed robberies for the most part?

25 A Depending, yeah, for the most part, yeah, it was. If a

1 gun was used it was armed robbery.

2 Q On these robberies did you generally carry a gun?

3 A Most of the time, depending what my role was in the  
4 robbery.

5 Q In the course of these robberies, did you and your  
6 co-conspirators use disguises of any kind?

7 A Yes.

8 Q What kind of disguises did you use?

9 A My disguise was wearing a baseball cap with like state  
10 trooper sunglasses, where you couldn't see your eyes, and  
11 that's pretty much what the other guys wore, except for one  
12 guy. He used to wear a wig and a phoney beard at times.

13 Q Didn't you guys also use false law enforcement  
14 identification?

15 A Yes. We had badges, clothing, like dark blue  
16 windbreakers that look like law enforcement. We would print  
17 out fake warrants and stuff like that.

18 Q Anybody ever pretend to be delivering flowers?

19 A Yes. We have done -- we have pretended to deliver  
20 flowers also.

21 Q Do you remember that robbery?

22 A Yes.

23 Q Tell me about it.

24 A We got a tip from Jack Valenti about this Russian lady  
25 who was holding one of the Vicks -- I don't know which Vick,

1 from one of the organized crime families, I don't remember  
2 which one it was that he said -- was holding his money in a  
3 safe in her basement, and she owned a restaurant in Brighton  
4 Beach. So, to make a long story short, we sat on -- we sat on  
5 the house and watched her leave the house every day at 9:30 in  
6 the morning; and we knew she had a maid and that's all that  
7 was going to be home.

8 So when we decided to do the job, on that day we had  
9 guns on us and, you know, like burglary tools. So we didn't  
10 sit and watch to see if she left, and on that day Murphy's Law  
11 kicked in and she happened to be home. And my associate, John  
12 Cipolla, got out of the van and had flowers in his hands and  
13 rang the bell, and the maid answered the door; and when she  
14 opened the door he grabbed her and him and Frank Boehme  
15 subdued her, and then Frank Boehme --

16 Q When you say subdued, what do you mean?

17 A Got her to stay still.

18 Q How?

19 A By holding her. We weren't looking to hurt her. And  
20 then we left her with Frank Boehme. He was supposed to be  
21 tying her up or taping her up.

22 And we went upstairs, and Cipolla found the lady  
23 hiding in the closet. She was on the phone with 911. So we  
24 took her out of the closet and made her sit down on the bed.  
25 I got on the phone. I said who is this -- no, they said who

1 is this. I said to her, this is the police, and I hung up.

2 We told -- one of the guys found the safe inside the  
3 closet. So now we know she was on the phone with 911, so we  
4 are just working on the clock. I'm waiting and listening for  
5 that.

6 On this robbery I didn't have a gun. I had the  
7 scanner in my hand and a walkie-talkie, and I'm just listening  
8 to wait for the call to come over. In the meantime, they find  
9 the safe in the closet of her bedroom. So they made her -- it  
10 opened with a key. They made her open the safe.

11 The call came over, we packed up everything that was  
12 in the safe, and we hopped in the van and we left.

13 Q How much money did you get?

14 A Like 46,000 in jewelry, but we missed the big one. There  
15 was supposed to be 800,000 in the safe in the basement.

16 Q You never got to the basement?

17 A No.

18 Q Was that the only robbery that you did where people were  
19 restrained in some way, homeowners were restrained?

20 A No.

21 Q Okay. Do you remember doing one in -- well, withdrawn  
22 for a moment.

23 It's your testimony that during that robbery the  
24 only two people in the house was a woman and a maid, right?

25 A Right.

1 Q You don't remember an elderly man?

2 A And elderly man?

3 Q Yeah.

4 A No.

5 Q Okay. Was anybody's mouth covered with tape during the  
6 course of this robbery?

7 A Frankie didn't have enough time to finish tying up the  
8 maid and putting the tape over her mouth before we came  
9 running down the stairs and had to leave.

10 Q How about the woman who was restrained before you even  
11 got upstairs, somebody put tape over her mouth?

12 A The maid at the door was restrained. The woman upstairs,  
13 she was -- nobody, you know, did anything to her. She  
14 listened, so she basically just sat on the bed.

15 Q Now, do you remember doing a robbery in the mid to late  
16 1990s in Westchester County?

17 A Yes.

18 Q Tell me about that one.

19 First of all, what kind of a disguise was used?

20 A I was wearing a suit. I was wearing a suit with  
21 sunglasses, and we made believe we were, I believe, federal  
22 agents.

23 Q Okay.

24 A I think the guy's name was Krinsky something, Eli  
25 Krinsky.

1 Q How many people were home in the house?

2 A Two.

3 Q Who were they?

4 A Eli Krinsky and his wife.

5 Q Did they come to the door, you identified yourself as  
6 federal agents, and then what?

7 A We grabbed Eli Krinsky, subdued him, and we tied his wife  
8 to the chair. And we took Eli Krinsky downstairs and made him  
9 open his safe.

10 Q Well, let's start with the wife.

11 You tied her to a chair?

12 A Well, not me personally, but she was tied to a chair.

13 Q Was her mouth covered with tape?

14 A I believe so, yeah.

15 Q While all this is going on, of course somebody, if not  
16 you, somebody in the group is armed and menacing them with a  
17 gun, right?

18 A Oh, I was -- we were pretty much all armed and.

19 Q Now, when you say you forced the husband in the basement,  
20 or to open the safe --

21 A Right.

22 Q -- how did you go about doing that?

23 A We walked him down.

24 Q At gunpoint?

25 A Yeah, at gunpoint.



1 Q How old was this gentleman, roughly?

2 A Probably about, I don't know, maybe 60.

3 Q Okay.

4 A You know, I'm not the best with ages.

5 Q Now, you forced him to the safe.

6 Where was the safe located?

7 A It was in his basement.

8 Q So did you take him down to the basement alone, or were  
9 there other people with you?

10 A No, there was other people. There was -- one, two -- I  
11 think there was only three of us.

12 Q Did you threaten this man in any way in order to get him  
13 to open the safe?

14 A Well, I think -- I don't remember like saying anything to  
15 him. I mean I thought, you know, I guess the guns were good  
16 enough. At one point, but I did think that he was making  
17 believe he didn't know the combination and I tapped him on the  
18 head with the gun.

19 Q You tapped him?

20 A Yeah. I didn't want to knock him out. He wouldn't have  
21 been able to open the safe.

22 Q Okay. Did you threaten his wife at all?

23 Did you tell him you were going to hurt his wife if  
24 he didn't open the safe?

25 A I didn't tell him that.

1 Q Who did?

2 A I have no idea.

3 Q After you tapped him, did the gentleman remember the  
4 combination to the safe?

5 A Yeah.

6 Q How much money did you take from the safe?

7 A It was empty.

8 Q There was nothing in the safe?

9 A (Shook head.)

10 Q You got nothing during the course of that robbery?

11 A No cash at all.

12 Q Did you restrain the husband when you left the house?

13 A Yes.

14 Q How did you do that?

15 A I believe we duct taped him.

16 Q Covered his mouth as well?

17 A I didn't tape him up, so I can't tell you whether his  
18 mouth was covered.

19 Q Did you ever learn whether or not the individual, the  
20 husband, suffered any injuries as a result of that incident?

21 A No.

22 Q You say you got no cash. Did you take anything else?

23 A We took some jewelry. The guy was -- the reason why we  
24 even went there was because the guy was -- the guy who bought  
25 Nicky the Pig's gold, that, you know, they call it melt. And

1 he was supposed to be holding a large amount of melt,  
2 according to Nicky the Pig, and it turned out not to be true.  
3 Or maybe he brought it to wherever he was going to bring it to  
4 before we got there.

5 Q So you didn't recover any of the gold?

6 A We got a little bit. It was really nothing. I don't  
7 even remember how much it was.

8 Q Now, do you recall a robbery at an apartment in Queens,  
9 again, in the mid to late 1990s.

10 A Right.

11 Q Do you remember that robbery?

12 A Which one?

13 Q Queens, an apartment.

14 A An apartment where?

15 Q In Queens.

16 A What part of Queens?

17 Q I don't know. You tell me.

18 How many did you do in Queens?

19 A There was two, I believe, in Queens.

20 Q Okay. Both of them in apartments?

21 A One was in an apartment building, and the other one was  
22 in a house.

23 Q Okay. This is in an apartment?

24 A Oh, yeah. And there was -- oh, yeah. There was another  
25 two in the building in like Jamaica, Queens.

1 Q Okay. Can you tell me approximately when this was? Can  
2 you fix a better date than just sometime in the mid to 1990s?

3 A The mid to late 1990s. Which one?

4 Q The one in the apartment in Queens.

5 A The house?

6 Q The apartment. Do you know the difference between an  
7 apartment and a house?

8 A The building?

9 Q Yes.

10 A High-rise building on Woodhaven Boulevard?

11 Q Sounds about right.

12 A Okay. A fellow by the name of Louis the Disco said that  
13 a man living in that apartment had shoeboxes full of money.  
14 So I passed that information on to Frank Boehme and John Car.  
15 He proceeded to say that the guy was in a wheelchair. So I  
16 passed the information on to Frank Boehme and John Car, and  
17 they said that they were willing to do it.

18 So I sat outside. Frank Boehme and John Car went  
19 upstairs, knocked on the guy's door, and the guy answered the  
20 door standing up. He began to wrestle with Frank Boehme, and  
21 they were fighting on the floor.

22 John Car didn't have a gun with him. So he put his  
23 finger to his head and told him don't move, and the guy  
24 stopped moving. So they were able to tie him up and go in his  
25 closet and see if the money was there.

1 But there was only \$12 there.

2 Q They stole \$12 from this man in his apartment?

3 A That's all was there.

4 Q You said the man was standing up. You thought he was in  
5 a wheelchair.

6 A Yeah. He had his prosthetic leg on.

7 Q Was there also one in Queens, another apartment where you  
8 posed as cops who pretended to have a search warrant?

9 A The drug dealers you are talking about?

10 Q You tell me. Mid to late 1990s, an apartment in Queens,  
11 you posed as cops wearing guns and you pretend to have a  
12 search warrant.

13 Do you recall doing that more than one time?

14 A Yeah. We have done it a lot of times.

15 Q A lot?

16 A Yeah, more than once.

17 Q Okay.

18 A There was two, one that I went in on and one that I  
19 didn't go in on in these buildings on 179th Street and  
20 Hillside Avenue. Is that what you want to know about?

21 Q Yeah, let's do that one.

22 A Those were supposed to be drug dealers. Okay. And Frank  
23 Boehme used to work in that building, and he knew the doorman.  
24 So we had information that the drug -- that there was -- the  
25 first one, that the guy was a big-time drug dealer, and the

1 doorman gave us a key to an apartment to look at the parking  
2 lot and see when he pulled in, when he got home.

3 So when he pulled up, we went in the hallway, stood  
4 by the elevator, and waited for him to come out; and then we  
5 did our police routine, turn around, put your hands behind  
6 your back, and we walked him into his apartment and searched  
7 the apartment for drugs, money, and jewelry.

8 Then the second one, I didn't go inside. I just sat  
9 out as a lookout. That was a Dominican guy that was supposed  
10 to be a drug dealer.

11 They were both two tips that didn't work out. There  
12 was nothing there either.

13 (Continued on the next page.)  
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1 CROSS-EXAMINATION

2 BY MR. CARNESI: (Continuing)

3 Q Okay. Go ahead, I don't mean to interrupt you.

4 A And then, there was another one on 71st Street, I  
5 believe, 71st Street, between Central and Cooper Avenue, in  
6 Glendale, Queens, where Neil Riley and Frank Boehme approached  
7 this chubby guy that came out of the apartment at a certain  
8 time. That was the, that was the robbery that Jack Valenti  
9 gave us as a tip. That one, and the one in, with the lady and  
10 the maid, those tips came from Jack Valenti.

11 Q Okay. Did you ever have a Rolex?

12 A Yeah.

13 Q Did you ever have a Rolex that you acquired during the  
14 course of a robbery?

15 A Yes.

16 Q Tell me about that robbery.

17 A That was the one with the drug dealer in the building.

18 Q Okay. I didn't hear you mention that you stole a Rolex  
19 during that robbery.

20 A Oh, I didn't say what we got out of there, oh. We didn't  
21 find any drugs or money, but I found a Rolex.

22 Q Did you ever break into an apartment belonging to a  
23 fellow by the name of Angelo the Painter?

24 A Oh, yes.

25 Q Okay. Tell me about that.

1 A That was, that was straight burglary. Vinny Mineo, a guy  
2 from the neighborhood, borrowed money from Angelo the Painter  
3 and he said that he saw Angelo the Painter's steel chest, it  
4 was like a steel tool chest or something like that, full with  
5 money wrapped in plastic.

6 So, Chris Colon approached me and told me about what  
7 Vinny Mineo saw and I discussed it with my partner, John  
8 Cipolla, and we decided to burglarize the house. And we did  
9 and there was nothing there.

10 Q You didn't find anything at all?

11 A No.

12 Q Was there anybody inside the house?

13 A No.

14 Q Okay. Now, did you also do a burglary in Upstate  
15 New York?

16 A Yes.

17 Q Tell me about that, if you would. When did it happen?

18 A In 1996-ish? 1996, Tommy Hilfiger outlet, is that what  
19 you're talking about?

20 Q It's somebody looking for a large amount of marijuana?

21 A Oh, oh, yeah, yeah. That was a different one.

22 Q Okay. Well let's do the one you started to tell me  
23 about.

24 A I went to jail for that one, that I was just talking  
25 about.



1 Q Okay. Tell me about it.

2 A That was a Tommy Hilfiger outlet in Elmira, Upstate  
3 New York. It was, exactly what it was, an outlet. It was a  
4 burglary. We took all the merchandise out, out of the place.  
5 We took down the alarm system, took all the merchandise,  
6 filled up a truck and were spotted by a lady walking the dog  
7 and the cops came. And I happened to get away that night, but  
8 I got arrested later on.

9 Q Now, again, you told me that there was a different one in  
10 Upstate New York involving a search for a large amount of  
11 marijuana?

12 A Yes.

13 Q Do you recall when that was?

14 A Excuse me?

15 Q When was that?

16 A That one was about 1999 maybe, yeah, around that  
17 time, '99.

18 Q What do you remember about it? What was your role in it?

19 A My role was to -- well. Me, Cipolla, Joe Albano, Neil  
20 Riley, we were going to approach the house and rob the guy at  
21 first. But then, we got the information that the marijuana  
22 was in his barn. So, instead, we just went and robbed his  
23 barn and we got a bunch of rifles out of there, but Cipolla  
24 kept the rifles, so we didn't get anything.

25 Q Okay. Now, those are a few of the burglaries that you

1 committed. Do you know how many burglaries you actually  
2 committed?

3 And you know what you mean by burglaries now,  
4 burglary's a different situation than when there's actually a  
5 person on the premises that you threaten.

6 A Right.

7 Q Burglaries are break-ins, let's say. How many burglaries  
8 do you think you might have done?

9 A Twenty-five.

10 Q Okay. Now --

11 A Wait a second. Maybe more.

12 Q Maybe more than 25?

13 A Yeah. I was just thinking back in the '90s.

14 Q Okay. You did 25 in the '90s?

15 A Probably, yeah.

16 Q All right. Overall, how many you think you might have  
17 done?

18 A Maybe 50.

19 Q Fifty, okay. Now, you testified on direct examination I  
20 believe that you did dozens of robberies and burglaries;  
21 right? Now we're up to 50, not counting the robberies.

22 But what you also said is not all of them were for  
23 organized crime, some of them were secret. Do you remember  
24 saying that?

25 A Yes.

1 Q Okay. When, in your mind, did you become an associate of  
2 the Gambino crime family?

3 A When I was 15 years old.

4 Q Okay. And you're now, let's use as of 2009. How old  
5 were you then?

6 A In 2009?

7 Q Yeah?

8 A Forty-one.

9 Q Okay. So, we're talking about roughly 26 years or so?

10 A Yeah.

11 Q Okay. And in those 26 years, you recall doing 50  
12 burglaries, a lot of robberies and as you said, not all of  
13 them were for the Gambino crime family or had anything to do  
14 with organized crime; right?

15 A Right.

16 Q So, is it fair to say that although you've considered  
17 yourself continuously throughout that time to be an associate  
18 of the Gambino crime family, that you also committed crimes  
19 that had nothing to do with the Gambino crime family; right?

20 A Right.

21 Q Okay. And those were crimes that you did for your own  
22 motivations to put money in your own pocket?

23 A That's correct.

24 Q Okay. And those were crimes that you made an effort, a  
25 conscious effort, to keep secret from other associates or

1 soldiers or whatever you want to call them in the Gambino  
2 crime family; right?

3 A Well, I didn't really keep it a secret from, you know, I  
4 mean there was, there was, I mean, Alphonse Trucchio, Tony  
5 Moscatiello, Mike Rock, they knew what I was doing. They knew  
6 we were robbing electronics stores.

7 Q Well, correct me if you would, then. Didn't you tell us  
8 on direct examination that these crimes were kept secret --

9 A Not all of them.

10 Q Well, let me finish my question if you would, please?

11 A Go ahead.

12 Q And then we'll come to an understanding.

13 A All right.

14 Q Some of these crimes were kept secret and your motivation  
15 in keeping them secret was that you wanted to keep the money;  
16 right?

17 A Right.

18 Q You also, your plea also included extortions; right?

19 A Extortions?

20 MR. CARNESI: This is fine, thank you.

21 THE COURT: So, we will stop for the day.

22 Members of the Jury, please remember my admonitions;  
23 do not discuss the case, keep an open mind.

24 We will see you tomorrow.

25 THE COURTROOM DEPUTY: All rise.

1 (Jury exits at 5:01 p.m.)

2

3 (In open court.)

4 THE COURT: All right, if there's nothing that you  
5 want to discuss, we are adjourned for the evening.

6 MR. TOOSI: Nothing from the Government,  
7 Your Honor, thank you.

8 THE COURT: Before we stop, the jurors have  
9 requested to work until 2:00 on Holy Thursday of next week.

10 MR. CARNESI: That's fine.

11 THE COURT: So, I don't think anybody -- well,  
12 whether you have an objection or not, we're going to stop at  
13 2:00 on Holy Thursday.

14 MR. CARNESI: But it's nice to be asked.

15 THE COURT: All right.

16 (Defendant remanded.)

17

18 (WHEREUPON, the proceedings were adjourned to  
19 March 21st, 2013, at 9:30 a.m.)

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WITNESS

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BY MR. TOOSSI

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H O W A R D   S A N T O S

DIRECT EXAMINATION

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BY MR. CARNESI

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EXHIBITS

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Government's Exhibit 82

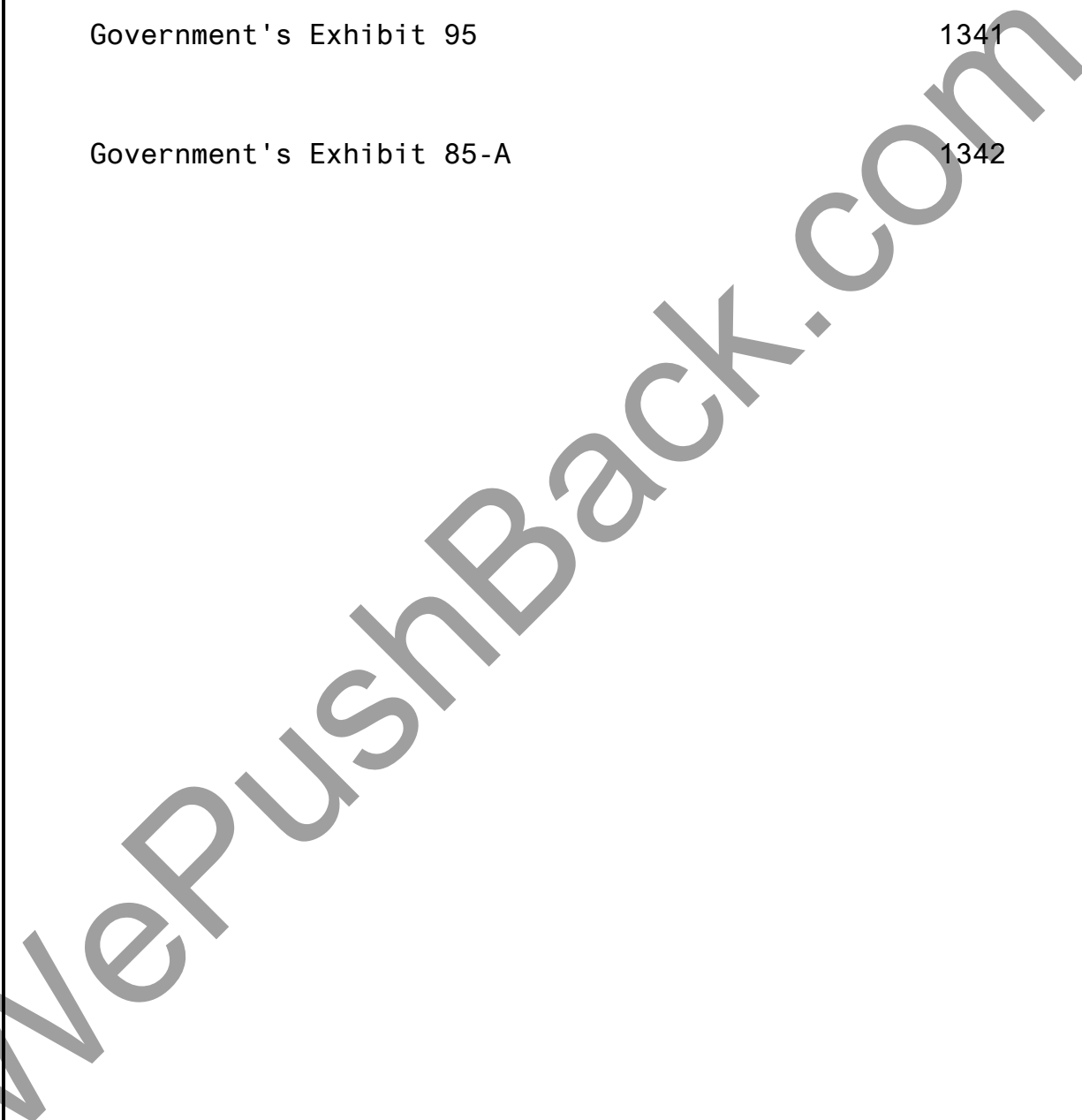
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Government's Exhibit 95

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Government's Exhibit 85-A

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, : 11-CR-00005(SLT)

-against- : United States Courthouse  
: Brooklyn, New York

BARTOLOMEO VERNACE, : Thursday, March 21, 2013  
: 9:30 a.m.

Defendant.

- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL  
BEFORE THE HONORABLE SANDRA L. TOWNES  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

For the Government: LORETTA E. LYNCH, ESQ.  
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## A P P E A R A N C E S: (Continued)

For the Defendant: JOSEPH DIBENEDETTO  
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BY: JOSEPH DIBENEDETTO, ESQ.

ALSO PRESENT: Special Agent Paul Tambrino  
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**VButlerRPR@ao1.com**

Proceedings recorded by mechanical stenography, transcript  
produced by Computer-Assisted Transcript.

1 (In open court.)

2 (The following occurs outside the presence of the  
3 jury.)

4 (Judge SANDRA L. TOWNES enters the courtroom.)

5 THE COURTROOM DEPUTY: All rise.

6 THE COURT: Be seated, please.

7 (Defendant enters the courtroom.)

8 THE COURT: Today we have to stop at 4:45 because of  
9 a Marshals issue.

10 (Witness enters and resumes stand.)

11 THE COURT: All right, we'll bring the jury in.

12 THE COURTROOM DEPUTY: Yes, Judge.

13 (Pause in the proceedings.)

14  
15 (In open court.)

16 THE COURTROOM DEPUTY: All rise.

17 (Jury enters at 10:01 a.m.)

18 THE COURT: Please, be seated.

19 Good morning.

20 THE JURY: Good morning.

21 THE COURT: The jurors are all present, the  
22 defendant, Counsel, and the witness is still on the stand and  
23 still under oath.

24 Mr. Carnesi.

25 MR. CARNESI: Thank you, Your Honor.

1 H O W A R D S A N T O S ,

2 called as a witness, having been previously duly

3 sworn, was examined and testified as follows:

4

5 CROSS-EXAMINATION

6 BY MR. CARNESI: (Continued)

7 Q Good morning, Mr. Santos.

8 A Good morning, Mr. Carnesi.

9 Q Yesterday you told us about an occasion where you met an  
10 individual who you knew was Benny Mosquita's father; right?

11 A Correct.

12 Q Can you describe that individual that you met?

13 A An older guy, olive complexion, short hair, dark.

14

15 (Continued on following page.)

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1 CROSS-EXAMINATION CONTINUED

2 MR. CARNESI:

3 Q Was he tall, thin, short, fat?

4 A He looked -- he didn't look overly thin but he wasn't  
5 fat.

6 Q Anything else you remember about him?

7 A He was wearing what looked like a black coat.

8 Q Any facial hair, beard, mustache?

9 A That I don't remember.

10 Q Now, your plea agreement covered extortion as well,  
11 right?

12 A Correct.

13 Q What crimes did you commit involving extortion?

14 A Kew Gardens Car Service.

15 Q What did you do there?

16 A I got them to agree to pay 10,000 every Christmas.

17 Q How did you get them to agree to do that?

18 A I explained to them that, because they kept getting into  
19 problems and JoJo having to help them, that it was the right  
20 thing to do.

21 Q Who else did you extort? Do you recall?

22 A I'm trying to think of something that falls into that,  
23 you know, into that extortion type of situation.

24 Q Did you do any loansharking?

25 A Yes.

1 Q Did you threaten people in order to get them to repay?

2 A Yes.

3 Q That would fall into that category, right?

4 A Right, yeah.

5 Q What else?

6 A Bookmaking, threaten people.

7 Q Again, I'm sorry, I don't mean to cut you off, on the  
8 topic of extortion do you remember any other extortions that  
9 you were involved in?

10 A That's what I'm saying. If a person bet with me and  
11 didn't have the money to pay, I would threaten them to pay me.

12 Q In either the loansharking or the bookmaking collections  
13 that you were making, did you ever have to get physical with  
14 anybody?

15 A Yes.

16 Q Tell me about that.

17 A There was one person that I hit with a nightstick.

18 Q Was that a loansharking debt or bookmaking debt?

19 A That was an loansharking debt.

20 Q Your plea agreement also covered arsons; is that right?

21 A Right.

22 Q How many arsons did you commit?

23 A Four.

24 Q Let's go through those, if you would. When did you commit  
25 the first one?

1 A On the Long Island Expressway and Woodhaven Boulevard.

2 Q What did you burn?

3 A Construction machinery.

4 Q Do you remember when that was?

5 A That was in the early -- late 80s, early 90s, around that  
6 time.

7 Q Can you be more specific?

8 Can you remember whether the was the 80s or the 90s,  
9 if you can?

10 A I would say, late 80s.

11 Q The second one?

12 A Was another construction machinery in Brooklyn.

13 Q At a different location?

14 A At a different location, yes.

15 Q And when did you set those fires?

16 A That was probably within a couple of days after the first  
17 one.

18 Q And were you paid to do those?

19 A No.

20 Q How about the third one?

21 A The third one was trying to burn out a Chinese restaurant  
22 that was opening up close to the club on First Avenue.

23 Q All right. What type of structure was that, what type of  
24 building?

25 A It was like a one level commercial type of, you know,

1 like, storefront type of deal.

2 Q When did you do that?

3 A Late 80s.

4 Q And you said there was fourth also?

5 A Yes, that was Giovanni's on Woodhaven Boulevard.

6 Q That's a restaurant?

7 A Yeah, restaurant-bar.

8 Q And what type of structure is that?

9 A Building. Corner building. No -- no -- just -- no -- no  
10 apartments or anything above it. It was just that restaurant.  
11 That's it.

12 Q But it was couple of levels?

13 A No, I don't think there was more than one level. No,  
14 just one level.

15 Q Do you remember when did you that?

16 A That was -- that was in the 90s. I would say, closer to  
17 the middle 90s.

18 Q Do you have any specific recollection of what year it  
19 was, other than general range?

20 A It could have been around 1993 maybe.

21 Q Now, the plea also covered extortionate extensions of  
22 credit, that is loansharking, right?

23 A Right.

24 Q Okay. How many times did you make extortionate loans, do  
25 you recall?



1 A Maybe ten times.

2 Q Maybe ten?

3 A (Nodded)

4 Q Generally, you recall the amount of money that you were  
5 lending out?

6 A Yes.

7 Q What type of money would you lend out, how much money in  
8 general?

9 A The biggest amount was 10,000. Then the others were  
10 2,000; 1,000; 3,000.

11 Q How would that work, was this your money?

12 A No. This was Jojo Corozzo's money.

13 Q And what type of interest were you charging on the money  
14 you were lending out?

15 A Anywhere from three to five percent. Five points --  
16 three to five points.

17 Q How did you determine how much interest you would charge?

18 A Through his larger amount. Then I would probably charge  
19 three points. If it was a smaller amount, I'd charge five  
20 points.

21 Q You also in your plea agreement covered something called  
22 acts or threats involving illegal gambling, is that the  
23 collection of gambling debts that we talked about?

24 A Yes.

25 Q And on how many occasions would you say that you had to

1 either physically assault someone or threaten to assault them  
2 in relation to gambling debts?

3 A Anywhere between seven to ten times.

4 Q Now, were these bets that were placed with you?

5 A Most of the time, yes.

6 Q Now, you told us that on direct examination that you  
7 operated something called a half sheet; is that right?

8 A Yeah.

9 Q Would you tell me again, how does that work?

10 A I get 50 percent of the winnings. I mean, let's say I  
11 have ten play years and all my players lose, so I would have  
12 to give 50 percent of the winnings to Bobby Vernace, and if my  
13 players won and I'd have to pay them let's say 10,000. I had  
14 to pay out 10,000 between all of them, Bobby Vernace would  
15 give me the 10,000 and then until that 10,000 came back to the  
16 office in the winnings from the players, we didn't split any  
17 profits.

18 Q Is it your understanding that a bookmaker makes money  
19 based on wins and losses?

20 A A bookmaker could also make money just on the -- just,  
21 you know, wins and losses.

22 Q Well, go ahead, I'm sorry. I don't mean to cut you off.

23 A You know, if a guy's got a real, real huge business I  
24 mean he can set it up to where he can't lose. He'll just win  
25 the vig because like on a football game you got to bet 55 to

1 win 50.

2 Q So a bookmaker -- the difference between a bookmaker and  
3 player is that the player has an interest in the outcome of  
4 the game, right, he bets on a specific team to win?

5 A Right.

6 Q Right?

7 A Right.

8 Q Okay. The bookmaker, ideally if he had the same number of  
9 wagers on, let's say -- let's say the Yankees and an equal  
10 number of wagers on the Red Socks, he makes money, right? Even  
11 if the bets cancel out each other, right?

12 A Right.

13 Q What money does he make that equal amounts, wins cancel  
14 out the losses, how does the bookmaker make money?

15 A In that situation he makes money on the vig.

16 Q And in that situation if I have more money wagering on the  
17 Yankees than the Red Socks, right?

18 A Right.

19 Q I have to hope that the Red Socks win, right?

20 A Right.

21 Q I'm like a player, I lose money if I'm backing the wrong  
22 team, right?

23 A Right.

24 Q So on the half sheet situation that you described to me,  
25 if the wagers were higher on the winning team, the wages by

1 people that you were dealing with than on the losing team, you  
2 lost money, right?

3 A Most of the time, yes.

4 Q All the time, wouldn't you?

5 A That would all depend on what the difference was between  
6 you. I mean you could have a team that has more bets on them  
7 and lose and then teams -- I mean win, and then the teams that  
8 lose, you know, the vig may absorb some --

9 Q One loss may set off another. I'm not asking you that.  
10 I'm asking you again equal positions -- let's start out with  
11 equal positions, same amount of bets on the Yankees as on the  
12 Red Socks, they are playing each other?

13 A Right.

14 Q Is the bookmaker going to make money?

15 A Yes.

16 Q Okay. The Yankees higher bets, Red Socks lower. The  
17 Yankees win, is the bookmaker making money or is he losing on  
18 this game?

19 A Repeat that.

20 Q Sure.

21 More money is being wagered on the Yankees than the  
22 Red Socks, okay, on your sheet?

23 A Right.

24 Q Is it a good thing for you if the Yankees win or are you  
25 rooting for the Red Socks?

1 MR. NORRIS: Objection. More vague in terms of  
2 terms of the context of the questions. Can we have a little  
3 more specificity as to more money.

4 A Baseball is different than football, also.

5 Q Do you want to talk about football?

6 A Yes. I mean that's little bit more simple because  
7 sometimes you have to lay more money -- there's different ways  
8 of taking bets on baseball. It's not just as simple as betting  
9 55 to win 50.

10 Q Let's talk about the Giants and the Forty-niners.

11 A Okay.

12 Q Whatever the spread is, it is. You got more money bet on  
13 the Giants than is bet on the Forty-niners, right, you're the  
14 bookmaker, you got your half sheet.

15 A Right.

16 Q Who are you hoping wins in order to benefit financially?

17 A I'm hoping the team with the most money bet on them  
18 loses.

19 Q Right.

20 A Right.

21 Q Okay. So at that point in that situation you have a  
22 financial interest in hoping that the Forty-niners win, right?

23 A Correct.

24 Q You also pled guilty to stolen property, right?

25 A Right.

1 Q What was that about, what did you do there?

2 A We'd robbed -- the majority of them was warehouses  
3 electronic, you know, Best Buys, Circuit Cities. We'd rob  
4 warehouses with -- back then using CDs. We made a lot of  
5 money off film, clothes. Anything that --

6 Q Could be resold?

7 A Right.

8 Q And you did this quite often throughout your years of  
9 involvement, right?

10 A Yes.

11 Q From 14 to 42 how much money do you think you made  
12 dealing in stolen property?

13 A I have no clue. You are talking about years.

14 Q You're talking about a lot of money, though, right?  
15 Hundreds of thousands of dollars?

16 A Yeah, yeah, yeah.

17 Q There was also something about involving access -- an  
18 access device, fraud; is that something to do with credit  
19 cards?

20 A Right.

21 Q What did you do?

22 A I also sold credit cards.

23 Q How did you get credit cards?

24 A I got the credit cards from a fella by the name of  
25 Anthony Pipola, Piccolo (ph), and he got the credit cards from

1 the postman.

2 Q And what would you do with the credit cards that you got?

3 A I would sell them for ten percent of whatever the credit  
4 card was for. If it was for 7,000 I'd sell it for 700.

5 Q How did you determine the value for the limits on the  
6 credit cards?

7 A Back then you were able to call up to see what the limit  
8 was.

9 Q Do you know how much money you accumulated dealing in  
10 credit cards?

11 A I can't give an exact number but I would say, probably,  
12 more than 100,000.

13 Q How long a period of time were you doing that?

14 A Probably two years, maybe.

15 Q Do you remember what two years?

16 A I did it for a good part of -- I did it between, like,  
17 1990 to, you know -- I want to say '92, maybe '93 'cause I'm  
18 -- once Piccolo was arrested that was it. I couldn't get any  
19 more credit cards.

20 Q You only got them through this individual Piccolo?

21 A Yeah.

22 Q Your plea agreement also covered mail fraud, wire fraud,  
23 bank fraud, do you know what that was about?

24 A Yes.

25 Q What was that?

1 A That was doing -- buying a property using someone else's  
2 credit to resell for a profit, approaching people.

3 Q Let's go one by one. All right. Buying property, how  
4 would you go about doing that -- using someone else's  
5 identity?

6 A I'd offer them 5, 10,000 use their identity to buy a  
7 house, and we would get the full amount. We'd mortgage the  
8 house for the full amount and --

9 Q Again, I don't mean to be interrupting you, but I'm  
10 trying to understand it piece by piece. You would approach  
11 somebody and say I want to buy a piece of property, I don't  
12 want to buy it in my name, I want to buy it in your name; is  
13 that right?

14 A Right.

15 Q The individual, you were taking 5, \$10,000 and then how  
16 would acquire this property, these properties you were buying  
17 at auction, these properties you'd be buying real estate, how  
18 were you getting them?

19 A Could have been real estate broker. Could have been  
20 something we found on the MLS. We never went to an auction.

21 Q Okay. Now, did you buy these properties for cash, full  
22 value?

23 A We took -- well, we took the loan out for the full value.

24 Q You had to take a mortgage out?

25 A Right.



1 Q And in taking out the mortgage you had to fill out,  
2 certainly, an application for the mortgage, right?

3 A Right.

4 Q And when you filled out that application for the  
5 mortgage, obviously, you didn't fill it out in your name,  
6 right?

7 A Right.

8 Q You filled it out in the name of this identity that you'd  
9 acquired?

10 A Right.

11 Q And the reason you did that is because you never had any  
12 intention of repaying the mortgage, right?

13 A Not -- yeah but -- no, in the not in all cases, but some  
14 cases it worked out that way. I'm not trying to downplay it.  
15 I'm just being honest. Some of the deals we actually, you  
16 know, tried to sell, and you know, to get the money back that  
17 we made, so we can continue using the person that we're paying  
18 to use his credit. We don't want to burn him out, and not have  
19 him any more.

20 Q So you could continue to use that identity?

21 A Right.

22 Q And then you would go about trying to sell these  
23 properties --

24 A -- Right --

25 Q -- once you acquired them.

1           How often did you do that, on how many different  
2 properties do you think?

3 A       That was only about three or four, maybe.

4 Q       Are you sure? It could have been a little bit more?

5 A       If it was a little bit more, then it was maybe two more.

6 Q       Okay.

7 A       It wasn't a lot of them, that's for sure.

8 Q       During what period of time?

9 A       That was between 2004 to, like, 2007.

10 Q       And do you know how much money you made as a result of  
11 that activity?

12 A       I made, ballpark, maybe around 100,000. In that area.  
13 That was my end.

14 Q       How much money was made as a result of that?

15 A       I would say, a little bit more than double that.

16 Q       Little bit more than double?

17 A       Double. Hundred -- over 200.

18 Q       Okay. Now, you pled guilty when?

19 A       I pled guilty 2009.

20 Q       In 2009.

21           I think on direct examination you said that you  
22 haven't made or been required to pay any kind of restitution  
23 for all this money that you had taken?

24 A       That won't be determined until I get sentenced.

25 Q       Right. So from 2009 until today you have not paid back a

1 single dollar?

2 A Correct.

3 Q Of any of that money, right?

4 A Right.

5 Q And you haven't had to forfeit any property to go towards  
6 the restitution, right --

7 A -- right --

8 Q -- have you?

9 A Right, no. I didn't own any property.

10 Q You don't own anything?

11 A No.

12 Q You don't have any bank accounts?

13 A At the time I didn't.

14 Q Okay. Since 2009 has any money gone in the other  
15 direction, have you received any money as a result of your  
16 plea agreement?

17 A Yes.

18 Q How much money -- when did you start receiving money?

19 A Since I began cooperating.

20 Q So that's even before you pled guilty, right?

21 A Right.

22 Q And how much money did you receive initially in the  
23 beginning?

24 A In the beginning?

25 Q Yes.

1 A Around -- could have been anywhere from 2400 to 4,000 per  
2 month.

3 Q Per month.

4 How did you receive that money, how was it given to  
5 you.

6 A The FBI agent gave it to me.

7 Q What did he give you a check in the name of Howard  
8 Santos?

9 A No.

10 Q How did you get it?

11 A Cash.

12 Q He gave you cash?

13 A Yeah.

14 Q And how often were these cash payments made to you?

15 A Every month.

16 Q For how long a period of time?

17 A Four to six months until they took me off the street --  
18 -- no, a little bit more than six months. Maybe eight months.

19 Q So we're talking from June of 2009 until sometime in  
20 2010, right?

21 A Right.

22 Q January, February 2010?

23 A Right, until I went into WITSEC.

24 Q Do you remember when that was?

25 A When I went to WITSEC?

1 Q Yes.

2 A Approximately May -- now that I think about it, May of  
3 010.

4 Q So at least right up until that time you were collecting  
5 this monthly stipend that you were being given, right?

6 A Right.

7 Q Now, did you file tax returns for the year 2009?

8 A No.

9 Q When was last time you filed tax returns?

10 A I think maybe 2000. The year 2000.

11 Q Okay.

12 A Maybe.

13 Q Do you have a specific recollection of when, or you're  
14 just estimating?

15 A Well, I mean if you're going to hold me to it, I'm just  
16 estimating.

17 Q Well, you're under oath so I want you to tell me the --

18 A I very rarely paid taxes and if I did I could probably  
19 count them on one hand.

20 Q That's since you were --

21 A That's since I was --

22 Q Eighteen, 19 years old?

23 A Probably since I was born.

24 Q Now, after you were taken off the street, did you  
25 continue to receive money?

1 A Yes.

2 Q And how did that come about, how much money were you  
3 receiving at that time?

4 A That time I was receiving -- goes according to where I  
5 was living, according to the --

6 Q I'm not interested in where you were living?

7 A No, I know.

8 Q But after you go back into the program?

9 A I was receiving those couple of months -- before I went  
10 into WITSEC I was receiving 1900 month.

11 Q Now, you go into WITSEC, do you continue to receive  
12 money?

13 A Yes.

14 Q The 1900 a month, that was paid for you the same way, in  
15 cash?

16 A In WITSEC the amount changes.

17 Q We didn't get to that yet. You told me at some point it  
18 went from 2400 to 4,000 to --

19 A No, that was all before. That was pre WITSEC, and that  
20 was for living expenses, gambling expenses, you know, to  
21 continue living the way I was -- I always lived so no one  
22 would, you know -- think, just to be normal, because I wasn't  
23 allowed to commit crimes to make money, so I needed -- they'd  
24 give me the money.

25 Q So they supplemented you?

1 A They supplemented me, yeah.

2 Q You went into WITSEC?

3 THE COURT: Excuse me. WITSEC.

4 MR. CARNESI: WITSEC, I think.

5 THE WITNESS: WITSEC. Witness Protection Program,  
6 they call it WITSEC.

7 Q So now you're are in the Witness Protection Program?

8 A Right.

9 Q All right. We will call it that. Are you receiving any  
10 money at that point?

11 A I received money.

12 Q How often would you receive money?

13 A Am I allowed to talk about what goes on -- talk about  
14 what goes on in WITSEC?

15 Q You are allowed to say whether you got money or not?

16 A Oh, okay. I got money, yes.

17 Q How often would you get money?

18 A Every month.

19 Q How much money did you get every month?

20 THE WITNESS: Am I'm allowed to talk about that?

21 THE COURT: Yes, you can.

22 THE WITNESS: Okay.

23 A I got, I believe it was, 2375.

24 Q Almost 2400 again. And you got that on a monthly basis?

25 A Correct.

1 Q How did you get the money -- if it was check I don't know  
2 I don't want to know who the check was made out to, did you  
3 get a check or cash?

4 A In the beginning I was getting in cash, then he started  
5 to give me a check once I opened up a bank account.

6 Q And are you still today receiving money?

7 A Yes.

8 Q As of today?

9 MR. TOOSI: Can we have a side-bar.

10 THE COURT: Yes.

11 (Continued on next page)

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W e P u s h B a c k . c o m

1 (The following took place in open court)

2 (Continued on next page).

3 THE COURT: Members of the jury, we have to take a  
4 five minute recess. Please remember my admonitions, do not  
5 discuss the case. Keep an open mind.

6 (Whereupon, the jury exited)

7 THE COURT: Counsel, I don't know whether -- did you  
8 want to go into the other room?

9 MR. CARNESI: I think first they want to speak to  
10 Mr. Santos.

11 THE COURT: Okay.

12 MR. NORRIS: We can just confer here, Your Honor,  
13 just take a few minutes.

14 THE COURT: I'm going to leave the courtroom.

15 (Court recessed)

16 (Continued on next page )

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1 (In open court.)

2 (Judge SANDRA L. TOWNES enters the courtroom.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Be seated, please.

5 MR. NORRIS: Your Honor, so what we would propose to  
6 do is as follows: The basic issue, just so the Court is aware  
7 and as I've explained to defense counsel is the witness, while  
8 he was in the program. He had a disagreement with his  
9 handler, with the marshals.

10 The substance of it was they wanted him to have a  
11 job and hold down a job and he would point out continually  
12 that it was difficult for him to keep a job because of his  
13 obligations with the Southern District and being debriefed and  
14 getting ready to testify and being on the telephone and  
15 traveling to do that and so, they had a disagreement about  
16 that.

17 The characterization of the marshals is what's in  
18 some reports that we have where clearly, the conflict got  
19 heated. There's nothing physical or anything like that, but  
20 they would characterize him as being irate or hostile and  
21 there's a series of memos as they're having this same  
22 discussion, essentially over and over again, culminating in  
23 his decision to leave the program after consultation with FBI  
24 and the AUSA in the Southern District.

25 What we'd like to do and we propose to do, given the

1 timing of this, is we don't think -- there's not much to  
2 disclose here but we do think, in an abundance of caution, we  
3 should disclose it to Defense and we are prepared to do that.  
4 Normally, because of the manner in which these reports are  
5 kept, we would make the disclosure in some separate form, in a  
6 letter memorializing it.

7 THE COURT: Yes.

8 MR. NORRIS: Because we don't have the luxury of  
9 that time here, of course, we propose to give a copy of it to  
10 defense counsel and give defense counsel whatever time they  
11 need to review it, and we would just ask that at the  
12 conclusion of proceedings with this witness, that that that be  
13 given back and just sealed as part of the Court file for any  
14 future need for it, rather than leaving a copy with defense  
15 counsel.

16 THE COURT: All right.

17 MR. NORRIS: Just because of the sensitive nature.

18 MR. CARNESI: I have no problem, Judge. I'm not  
19 concerned about that.

20 THE COURT: All right.

21 MR. CARNESI: I am concerned that it's going to take  
22 a little while to go through this and make notes.

23 THE COURT: Yes.

24 MR. CARNESI: I don't know what else, I don't know  
25 how to deal with that, but.

1 THE COURT: You have to have time to review it.

2 MR. CARNESI: Yes.

3 THE COURT: And how much time do you think you need?

4 MR. CARNESI: Given the volume of paperwork here,  
5 Judge, can I check back in with you about 11:30?

6 THE COURT: Yes.

7 MR. CARNESI: Okay.

8 THE COURT: I am going to have Ms. Frullo tell the  
9 jury that we just have to wait and they will just have to wait  
10 to come back into the courtroom. But we're meeting and it has  
11 nothing to do with them, okay?

12 MR. CARNESI: Good, thank you.

13 MR. NORRIS: We are sorry for detaining the Court,  
14 Your Honor.

15 (Recess taken.)

16

17 (In open court.)

18 (Judge SANDRA L. TOWNES enters the courtroom.)

19 MR. CARNESI: Judge, I'm sorry, there's a lot of  
20 material here, I'm probably good until 12:00.

21 (Pause in the proceedings.)

22

23 (Continued on following page.)

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1 (In open court.)

2 THE COURT: On the record.

3 MR. NORRIS: Just so your Honor is clear,  
4 Mr. Carnesi and Mr. DiBenedetto have asked a couple of  
5 follow-up questions. So Mr. Toossi is trying to get that  
6 information from the marshal service, with the hope we will  
7 have that by the end of lunch. I don't know for certain, but  
8 that's what we are endeavoring to do. So if Mr. Carnesi wants  
9 to continue.

10 MR. CARNESI: Judge, there are other topics that I  
11 think would take up until 1 o'clock.

12 THE COURT: All right, but you have had an  
13 opportunity to review what you have?

14 MR. CARNESI: Yes, judge, and that's led to a few  
15 other questions, which we are trying to resolve.

16 THE COURT: All right. And we can, if you are  
17 prepared to go ahead, we will bring the jury in and continue  
18 with Mr. Santos.

19 MR. CARNESI: As I said, judge, I have a number of  
20 other topics. I think I will probably be able to go until  
21 1 o'clock with those. If not, then we will break at ten to  
22 1:00, but at least we can get something else done in the  
23 meantime.

24 THE COURT: Yes.

25 MR. NORRIS: It will be after the break is when we



1 will tell Mr. Santos to be ready, that other types of  
2 questions may be coming. We haven't spoken to him yet.

3 THE COURT: So you are not going to bring this up at  
4 all?

5 MR. CARNESI: No.

6 THE COURT: Okay. All right. We will bring the  
7 defendant in, and you need to get the witness, also.

8 (Defendant enters the courtroom.)

9 (Mr. Santos enters the courtroom.)

10 THE COURT: We will bring the jury in, please.

11 THE CLERK: Yes.

12 (Continued on the next page.)  
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1 (Jury enters.)

2 THE COURT: Please be seated. The jurors are all  
3 print, the defendant, counsel, and Mr. Carnesi.

4 MR. CARNESI: Thank you.

5 THE COURT: I'm sorry. I didn't mean to say that.  
6 Mr. Santos is still on the stand, under oath.

7 Mr. Carnesi, you may continue.

8 MR. CARNESI: Thank you.

9 CROSS-EXAMINATION

10 BY MR. CARNESI (continuing):

11 Q Mr. Santos, you told us that at one time when you were  
12 operating what you referred to as a half sheet that you were  
13 placing bets for yourself on that sheet, right?

14 A Right.

15 Q When you would place bets for your own purposes, for  
16 yourself, how did you indicate that on the records that you  
17 were keeping of the wagers being made?

18 Do you understand?

19 A How would I keep a record of it for myself?

20 Q When you turned in this half sheet did you indicate on  
21 the sheet that these were your bets, for you personally?

22 A No. When I called them in I would give a fictitious  
23 name.

24 Q You would make up a name to cover?

25 A Yeah, I would say this is 115, make a bet, and this is

1 for John Doe.

2 Q Is that what's referred to sometimes as a phantom better?

3 Have you ever heard that expression?

4 A No.

5 Q But in any event, the code was something that you created  
6 to hide your identity?

7 A Right.

8 Q Okay. Now, at some point it's discovered that these are  
9 your wagers, right?

10 A Yes.

11 Q How did that come about? Did you tell someone, listen,  
12 those bets, they are my bets?

13 A How it came about was I lost like 70,000 and couldn't  
14 come up with the money. So I wind up owing Bobby Vernace  
15 56,000.

16 Q First off, let me back up for a second.

17 When you say you lost \$70,000 --

18 A Right.

19 Q -- as far as anybody looking at those wagers or at that  
20 tally, they don't know it's you at that point, right? They  
21 know it's this fictitious code name that you were using,  
22 right?

23 A Well, there was a couple real players.

24 Q Right.

25 A Right.

1 Q But those bets that you lost --

2 A Right.

3 Q -- at some point I imagine someone saying, okay, did you  
4 collect the money from whatever the code was that you would  
5 give it.

6 A Right.

7 Q Okay. And at that point did you say, listen, I made it  
8 up, that's really me, I owe the money?

9 A Yeah. I mean, right away I admitted it was me.

10 Q Now, you said you ended up owing about 70?

11 A No. I lost like 40,000 one week, 30,000 the next, or  
12 vice versa; and because of the other players -- how -- I  
13 forget how it worked out, but I only -- oh, right. Because I  
14 had to get -- because I put in the bets through my half sheet  
15 I only had to give the house 56,000.

16 Q Okay. I'm sorry?

17 A Because the purpose of me doing that was if I lost I  
18 wouldn't be responsible for all the money because with a  
19 fictitious player, if he loses, Bobby gets half and I get the  
20 other half. So obviously I would just have to pay him his  
21 half, and I wouldn't get anything because I was the one who  
22 lost the money.

23 Q Now, when you say Bobby, you are talking about  
24 Mr. Vernace, right?

25 A Correct.

1 Q But isn't it a fact that it was Mr. Corozzo who you owed  
2 the money to, didn't you say that when you were being  
3 debriefed?

4 A Well, Bobby Vernace was -- was in charge of running  
5 Corozzo's sports business.

6 Q Who did you owe the money to?

7 A I owed the money to Bosch, Bobby Vernace.

8 Q Didn't you tell the agents or the FBI during any of the  
9 briefings that you began placing bets on your own half sheet  
10 and that eventually you owed about \$56,000?

11 A Right.

12 Q And that Mr. Corozzo took away your half sheet?

13 A Right.

14 Q Did you also tell them that in order to recoup some of  
15 the money that was lost that Mr. Corozzo arranged to do what  
16 you refer to as an insurance job on your car?

17 A Right, and he took my Rolex watch.

18 Q He took your watch too?

19 A Yeah.

20 Q Mr. Corozzo?

21 A No. He sent Louie Mastrangelo and John Setaro.

22 Q To take the watch?

23 A Right, that I later saw Bobby Vernace wearing.

24 Q You saw him wearing --

25 A Yeah.

1 Q -- the Rolex watch?

2 A Yeah.

3 Q And you identified it as your watch?

4 A Yeah, I knew it was my watch.

5 Q Did you continue to place bets while you were in jail?

6 A At a later date.

7 Q At that time were you placing the bets?

8 A Not with -- not with Bobby Vernace. Totally separate.

9 It was with Alphonse Trucchio and Ronnie One Arm's office.

10 Q Now, they are father and son. Ronnie is the father?

11 A Right.

12 Q Alphonse was the son?

13 A Right.

14 Q Was that still Mr. Corozzo's bookmaking operation, if you  
15 know?

16 A I would imagine it wasn't. It was Ronnie's and his son,  
17 but, you know, at that point JoJo Corozzo is the consigliere.

18 So the money gets kicked upstairs, the boss, the underboss,  
19 consigliere, they split the money. I'm sure they were  
20 receiving tribute from that office.

21 Q Did you ever see Ronnie Trucchio or Alphonse Trucchio  
22 give Joseph Corozzo or anybody else money?

23 A No.

24 Q Now, there came a time when you were involved with an  
25 assault with a guy by the name of Joe Vince; is that right?

1 A Yeah.

2 Q How did that come about?

3 A He said a couple of disrespectful things behind my back.  
4 So I went in the bar and beat him up, and he stabbed me in my  
5 leg.

6 Q When was that?

7 A That was 2008 maybe, around there.

8 Q Were you hospitalized as a result of this?

9 A I went to -- I went to the emergency room, get a couple  
10 of stitches, but that's it.

11 Q Do you know whether he was hospitalized or not?

12 A He wasn't hospitalized, no.

13 Q And did there come a time when that situation, the  
14 hostility between you and Joe Vince, was resolved?

15 A Correct.

16 Q How did that come about?

17 A Alphonse Trucchio told me that Blaze Corozzo had reached  
18 out to him in reference to the Joe Vince incident and that he  
19 wanted to sit down with me, and Alphonse told me that I didn't  
20 have to accept any deals if I didn't want to.

21 So do you want me to finish the story?

22 Q Yeah.

23 A Okay.

24 Q Just if I can interrupt you for a moment.

25 Who is Blaze Corozzo again?

1 A That's JoJo Corozzo's brother.

2 Q Okay.

3 A Right. He is a soldier in the Gambino family.

4 Q Did he tell you that?

5 A Who?

6 Q Blaze Corozzo, did he ever tell you that he was a  
7 soldier, or is this information that you gathered from  
8 speaking to other people?

9 A He never told me that personally, but I was told by, I  
10 believe -- I believe Tony Moscatiello might have been  
11 straightened out at the same time as Blaze Corozzo.

12 Q Okay. You never heard it from him though?

13 A No, I never --

14 Q You heard from somebody else?

15 A Yeah, I never heard it from him.

16 Q Okay. Go ahead.

17 A So I go to Al's club, Blaze comes, he says Joe Vince has  
18 been a friend of our families for 30 years and the reason why  
19 he, you know, stabbed you was because he couldn't breathe and  
20 he thought you were going to kill him, and, you know, just  
21 basically trying to squash it.

22 Q As a result did it get squashed?

23 A Yeah, it got squashed.

24 Q That was the end of the problems; you two guys agreed?

25 A Yeah, I agreed to let it go, and that was it.



1 Q Okay. Did you ever do an armed bank robbery?

2 A I was part of an armed bank robbery, yes.

3 Q And do you recall when that was?

4 A That was 1996.

5 Q And who were you involved with in that robbery? Who  
6 participated?

7 A Eddie Caligari, a guy Val Nucci, Kevin Antonucci, Jamie  
8 Carr, this other guy named Victor.

9 Q Val Nucci was one of the people involved in the robbery?

10 A Yeah.

11 Q And did you say Kevin Gentile as well?

12 A Kevin Antonucci.

13 Q Do you know a Kevin Gentile?

14 A Gentle?

15 Q Gentle.

16 A Yeah.

17 Q Okay. Were you ever involved in a bank robbery with him?

18 A Well, he was supposed to be on that bank robbery, but he  
19 didn't wake up that day.

20 Q But my question is: Were you ever involved in a bank  
21 robbery where Kevin Gentile was a participant in the robbery?

22 A No.

23 Q The bank robbery that you are talking about was in  
24 Lindenwood; is that right?

25 A Right.

1 Q Tell me about that. What did you do?

2 A The way the bank was set up was there was a big -- 84th  
3 Street in Lindenwood, the bank was here and then there was a  
4 big, long parking space area, something like that.

5 I sat here in a car with a walkie-talkie, and the  
6 other participants were parked by the entrance where the  
7 people that worked there entered at a certain time, at 8:30 in  
8 the morning every day. And my job was to let them know when  
9 that door was opened; and I let them know, and they jumped out  
10 of the van and ran inside the bank and robbed it.

11 Q Were they armed at that time?

12 A Yes.

13 Q Were you armed?

14 A No.

15 Q What did you steal from the bank, how much?

16 A I got about -- I would say about 65,000, my end, so.

17 Q That was just your end?

18 A That was just my end, yeah.

19 Q Do you have any idea in total how much money was stolen  
20 from the bank?

21 A Well, I got about 5,000 extra from the new money that  
22 wasn't split up because it was like, you know, in sequence  
23 serial numbers, and none of the -- they didn't split that with  
24 everyone because they didn't want anybody going out and  
25 spending it in the wrong spot. It would get traced back. So

1 I would say everybody made about 60,000 a piece.

2 So what was there -- one, two, three, four, five,  
3 six -- six times six, 360,000 maybe.

4 Q Okay. And that's not counting the new money?

5 A Right.

6 Q Okay. Do you know how much that was, what you --

7 A I don't remember the exact figure of the new money, but I  
8 got about 10,000 from it.

9 Q And how did -- whose idea was it not to divide up the new  
10 money?

11 A Did I say I got 10,000 from it?

12 Q I think you did.

13 A No, I got 5,000 from it.

14 Q Whose idea was it that it was not safe to divide up the  
15 new money?

16 A That was -- that was Eddie Caligari and Jerry Bruno's  
17 idea.

18 Q Okay. And what was done with the new money at that  
19 point?

20 A The new money was taken by Jerry Bruno, Eddie Caligari,  
21 Todd LaBarca and Richie LaBarca, and they went to the track  
22 and specific places to try to spend the money and change it  
23 over.

24 Q When Eddie Caligari came up with this idea not to  
25 distribute the so-called new money, were you concerned at all

1 about what his real motives were?

2 A That's why when I found out what he was going -- that he  
3 wasn't going to give -- they took the real -- the new money  
4 and they were going to, you know, figure something out with  
5 it, and everybody at first was under the impression they were  
6 going to get something from it; but when I found out that no  
7 one was going to get anything out of it, I approached him and  
8 told him that that wasn't going to sit well with me, and  
9 that's why I got another 5,000.

10 Q So when Caligari says I'm going to hold onto this money  
11 because it's not safe for me to give it to you guys, did you  
12 believe he was being honest, or did you believe he was  
13 scamming you to cheat you out of that money?

14 A I believed, yeah, most likely it was scamming. That's  
15 why I stayed on top of it.

16 Q In your experience in the streets, committing different  
17 crimes, associating with different people, was that unusual  
18 for you -- for one guy to try and scam another fellow out of  
19 money?

20 A Was that unusual occurrence?

21 Q Yes.

22 A Absolutely not.

23 Q It happened all the time, didn't it?

24 A All the time.

25 Q One guy would lie to another guy to try to benefit

1 himself, to cheat him out of other moneys?

2 A Always.

3 Q Did you ever do that?

4 A Yeah.

5 Q Quite frequently, right?

6 A Quite frequently.

7 Q Did you know a guy by the name of John Baretta?

8 A Baretta or Borelli?

9 Q Again, maybe I can't read my handwriting, but it's John  
10 Buretta, an individual that got struck with a baton?

11 A You are talking about Joe Ferragamo?

12 Q No. This is somebody that you beat up with a baton.

13 Do you remember that?

14 A Oh, no, no, no. Joe Baretta you mean.

15 Q I had it as John. If it's Joe, okay.

16 A Yeah.

17 Q Okay. What was that about?

18 A Joe Baretta had knocked -- had punched Chris Colon out of  
19 a nightclub the night before, or two nights before, and  
20 knocked him to the ground; and so Chris -- I mean Chris Colon  
21 asked me for my help in getting even with the guy, and I  
22 helped him. So we went to his office, and I hit the guy with  
23 the baton and --

24 Q When you say "baton," what was it?

25 A It was like one of those -- it starts out about this big

1 and then you go like that, it comes out to like three times  
2 the length, and it's like a hard metal.

3 So Chris Colon had brought somebody else. Let me  
4 see if I remember his name. I don't remember his name right  
5 off the top of my head. But anyway, he brought someone else,  
6 and we went to Joe Baretta's office and proceeded to beat him  
7 up, and then Chris Colon stabbed him.

8 Q Do you know an individual by the name of Indian Joe  
9 Burella?

10 A Yes.

11 Q Did you ever assault him?

12 A I didn't assault him, but I was there part of -- we went  
13 there to collect money, and we got into an argument with these  
14 guys, and Indian Joe got punched in the eye by Johnny Danca,  
15 and I shot his brother -- not his brother, I forgot which  
16 Borelli that was. Oh, John Borelli.

17 Q Do you know if you hit him or not?

18 A No, I missed.

19 Q Now, you told us that you had committed this bank robbery  
20 with a guy by the name of Val Nucci, right?

21 A He was one of the guys.

22 Q Had you committed any other crimes with him?

23 A No.

24 Q How did you know him?

25 A I just met him that day really.

1 Q The day of the bank robbery?

2 A Yeah. He was friends with Eddie Caligari and Jerry  
3 Bruno. They are a few years younger than me.

4 Q Did there come a time when Nucci went to jail?

5 A I believe so, yes.

6 Q Did you ever participate in a burglary of Nucci's  
7 apartment, or his girlfriend's apartment?

8 A Yes.

9 Q And tell me about that.

10 When did that happen?

11 A That was about 19 -- I would say 1999-ish, around that  
12 time.

13 Q What did you do?

14 A Todd LaBarca said that -- I forgot the girl's name -- was  
15 holding Val Nucci's money in her house. So he asked me if I  
16 wanted to go with him to burglarize the house and steal the  
17 money.

18 So at first me, him, and Cipolla went to do it but  
19 got postponed for whatever reason, and me, Todd LaBarca, and  
20 Robert Geccho wound up robbing the money.

21 Q How much money?

22 A We got 17,000 apiece.

23 Q Do you know what the total amount was?

24 A Ten, 20, 30, 44, 51.

25 Q Where did you find the money?

1 A I didn't go inside. They found the money in a closet.

2 Q Do you know an individual by the name of Ronnie  
3 Galliano, Gialonzo?

4 A Yes.

5 Q Who is that?

6 A He is a captain in the Bonanno Family now.

7 Q Did you know him in the late 1980s?

8 A Yes.

9 Q Did you ever have any incident with him?

10 A Yes.

11 Q What did you do?

12 A Well, him and -- him and his -- him, Vinnie Asaro and  
13 Jerry Asaro beat up my friend Neil Reilly. So me, Neil  
14 Reilly, Joe King, Todd Sigarra, sat on Ronnie Giavenzo, and we  
15 were going to give him a beating. We followed him.

16 He pulled over by a friend's house in Howard Beach.  
17 We got out of the car to give him a beating. He jumped out  
18 with a baseball bat. I pulled out a pistol and fired a couple  
19 of shots at him.

20 Q Were you able to hit him?

21 A No.

22 Q Do you know an individual by the name of Shawn Dunn?

23 A Yes.

24 Q How do you know him?

25 A We grew up together.



1 Q Do you know if he is in the drug business?

2 A Yes.

3 Q Did you ever participate with him in the drug business?

4 A Yes.

5 Q What did you do?

6 A I on occasion sold him pot.

7 Q Did you ever extort any money from him?

8 A Yes, you can say that.

9 Q What did you do?

10 A He was having problems with Vinnie Gotti, and Scott  
11 Shulman. They were trying to force him to buy pot from them,  
12 and the pot wasn't good. So me, Todd LaBarca, Jerry Bruno, we  
13 loaded up with pistols and sat by Shawn's house waiting for  
14 them to show up.

15 In the meantime, I said to myself let me go talk to  
16 Ronnie, maybe we can straighten this out without having to  
17 have something serious happen. So I went to Ronnie, I told  
18 him what happened. He said he would straighten it out.

19 And the first figure that it was agreed upon was  
20 that Shawn to give 5,000 every Christmas. I relayed that to  
21 Shawn. He was okay with it. He paid it, and that was how he  
22 became with Ronnie.

23 Q Now, you mentioned Vinnie Gotti.

24 Is this the gentleman you are talking about  
25 (indicating)?

1 A Yeah.

2 Q Okay, and on direct examination you referred to the term  
3 of or as being "put on the shelf."

4 Do you remember that?

5 A Put on a shelf?

6 Q Yeah, or shelved?

7 A I believe so, yeah.

8 Q Are you familiar with that term?

9 A Yes.

10 Q What does it mean?

11 A It means you get -- well, if you are a wiseguy that means  
12 you get like stripped of your rank and you are not part of the  
13 family any more.

14 Q Well.

15 A It's like getting laid off.

16 Q Okay, but just so we are clear on exactly what you are  
17 saying, you get laid off, you get rehired?

18 A You can get retired.

19 Q Once you are an inducted member --

20 A Right.

21 Q -- of an organized crime family, if you get shelved is it  
22 your understanding that you are no longer a member?

23 A It's my understanding that that person did something  
24 wrong, and he is shelved for now.

25 Q What "shelved" means in general is no one involved in

1 organized crime is really supposed to interact with him,  
2 right, while he is shelved?

3 A Well --

4 Q He is not supposed to be involved in organize crime  
5 business, is he?

6 A He is just not recognized as a wiseguy any more.

7 Q Do you know whether or not Vinnie Gotti, Vincent Gotti,  
8 was ever shelved?

9 A I heard a rumor that he was.

10 Q Well, when you say you heard a rumor, you have been  
11 testifying for two days about what other people in organized  
12 crime told you, right?

13 A Well, on the Vinnie Gotti situation I'm not a hundred  
14 percent sure.

15 Q You are not a hundred percent sure who you heard it from?

16 A Right.

17 Q Due --

18 A I didn't really, you know, I didn't spend a lot of time  
19 talking about Vinnie Gotti. So I really wasn't interested. I  
20 heard a rumor. I didn't care about it. Maybe we talked about  
21 Vinnie Gotti once in five years.

22 Q Did anyone in organized crime ever tell you that Vinnie  
23 Gotti being shelved was the result of his being involved in a  
24 shooting?

25 A I don't remember, no. Nobody told me that.

1 Q All right. You also testified you mentioned a guy by the  
2 name of Salvatore Gambino.

3 A Yes.

4 Q Who is Salvatore Gambino?

5 A He is a Gambino soldier, grew up under JoJo Corozzo.

6 Q Whose crew was he in?

7 A JoJo Corozzo's.

8 Q Do you -- were you ever involved in a burglary of a yacht  
9 club?

10 A Yes.

11 Q Tell me about that.

12 A A guy by the name of Cliff, who was a member of the yacht  
13 club, and he came to me and told me that there was 15,000 in  
14 the safe and that he had the keys to the place because he was  
15 a member there, and he asked me if I could rob the 15,000. So  
16 me, Cipolla, while he looked out, was a lookout, went in the  
17 yacht club and we burn the safe open, we torched it open, and  
18 we took the 15,000.

19 Q Okay. When you say "we," who was involved in that?

20 A Me, Cipolla, and Cliff.

21 MR. CARNESI: Okay. Judge, this would be a good  
22 time.

23 THE COURT: Well, I told Ms. Frullo when she comes  
24 back up to let us know.

25 MR. CARNESI: Okay. I will go on for a little bit

1 then. Thank you.

2 THE COURT: I mean unless you are saying --

3 MR. CARNESI: No. I can go on to other topics.

4 That's fine.

5 THE COURT: All right.

6 BY MR. CARNESI:

7 Q You told us on direct examination about an individual by  
8 the name of Chris Colon, right?

9 A Yes.

10 Q You remember him, and who is he again?

11 A He's a member of Alphonse Trucchio's crew.

12 Q Now, I just want to be clear that I understood your  
13 direct examination.

14 You told us that at some point Chris Colon had a  
15 loan that he wanted to sell, right?

16 A Right.

17 Q And you said that you approached Mr. Vernace, right --

18 A He asked --

19 Q -- about purchasing that loan?

20 A He asked me if I would talk to Mr. Vernace.

21 Q Chris Colon did?

22 A Yeah.

23 Q Did Mr. Vernace purchase this loan?

24 A He directed --

25 Q Just answer my question, if you can, and then we will go

1 on to whatever explanation you would like to give.

2 A Okay.

3 Q But did he purchase that loan?

4 A No.

5 Q Now, I think you told us on direct examination that he  
6 suggested to you that you go see --

7 A Not me. He suggested to Chris Colon.

8 Q Did Chris Colon have a discussion with him, or did you?

9 A I did, but Chris Colon was right next to us.

10 Q So he suggested go see -- was it Vito?

11 A Yeah.

12 Q And Vito will speak to Salvatore Gambino, right?

13 A Right.

14 Q And Salvatore Gambino is in whose group?

15 A JoJo Corozzo.

16 Q In any event, neither Salvatore Gambino nor Mr. Vernace  
17 ever purchased that loan, right?

18 A Right.

19 Q Now, you told us about a time when you yourself went to  
20 Mr. Vernace to borrow some money, right?

21 A Right.

22 Q Okay. Do you remember when that was?

23 A 1999.

24 Q Is there a reason why you remember that year in  
25 particular?

1 A Because I just got out of jail.

2 Q And you didn't have a lot of money, did you?

3 A No.

4 Q You were pretty well down and out at the time, just  
5 trying to get back into things?

6 A Yeah.

7 Q And you went to Mr. Vernace and you asked him if he could  
8 give you \$10,000, right, or lend you \$10,000?

9 A I explained to Mr. Vernace that John Cipolla wanted to  
10 borrow 10,000 for a couple of weeks, and that he would pay  
11 1500 on it.

12 Q That was going to be a chance for you to make some money,  
13 having just come out of jail, right?

14 A Right.

15 Q Mr. Vernace gave you \$10,000, right?

16 A Right.

17 Q You went and you gave it to -- well, who did you give the  
18 money to?

19 A John Cipolla.

20 Q You gave it to John Cipolla, and John Cipolla purchased  
21 marijuana with the money, right?

22 A Right.

23 Q And Mr. Vernace confronted you, and he said to you don't  
24 ever come to me for money like that again, right?

25 A No.

1 Q He didn't tell you he doesn't want to give anybody money  
2 to buy drugs, that it's crazy, that you are going to get in  
3 trouble?

4 A What he told me was he said you keep the whole 1500, but  
5 I'm not going to -- I'm not going to lend you the money no  
6 more because it's just a matter of time before he gets pinched  
7 and loses the money.

8 Q Now, you keep the whole 1500, that's the so-called  
9 interest or profit on the loan, right?

10 A Right.

11 Q So Mr. Vernace wanted no money from that loan, right?

12 A Right.

13 Q He told you to keep it?

14 A Right.

15 Q In your experience as a loan shark, did you often tell  
16 people you keep the interest, I don't want it?

17 A No.

18 Q Beyond that did you ever go to Mr. Vernace again to ask  
19 for money?

20 A No.

21 MR. CARNESI: Judge, I'm ready to go on to the other  
22 subject now.

23 THE COURT: Okay. Members of the jury, we are going  
24 to take our luncheon recess.

25 Please remember my admonitions; do not discuss the



1 case keep and keep an open mind.

2 (Jury exits.)

3 THE COURT: Five after 2:00 we will start again.

4 MR. NORRIS: Thank you, your Honor.

5 (Lunch recess.)

6 (Continued on the next page.)

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1 AFTERNOON SESSION

2 (In open court.)

3 (The following occurs outside the presence of the  
4 jury.)

5 (Judge SANDRA L. TOWNES enters the courtroom.)

6 THE COURTROOM DEPUTY: All rise.

7 THE COURT: Please, be seated.

8 If you could go get the witness.

9 MR. NORRIS: So Your Honor is aware of where we are,  
10 there's been follow-up with Defense Counsel.

11 We have given Defense Counsel some additional  
12 information that they had requested and we are going to make  
13 an additional disclosure to them, momentarily, just in  
14 writing.

15 I think they've got what we have, but there's  
16 certain pieces of paper that we just don't have yet.

17 THE COURT: So, I don't want to bring the witness  
18 in.

19 MR. NORRIS: We do.

20 THE COURT: Okay.

21 (Defendant enters the courtroom.)

22 MR. NORRIS: We do. I have spoken to Counsel.  
23 We've given them what we think is everything, but we don't  
24 have all the paperwork back from the Marshals. Defense  
25 Counsel understands that.

1 To my understanding, Mr. Carnesi just wants to  
2 continue.

3 MR. CARNESI: Judge, I'm ready to go. I accept the  
4 representations that have been made to me.

5 THE COURT: Okay.

6 MR. CARNESI: If for any reason there's something of  
7 a documentary nature that they discover subsequent to that,  
8 I'm going to ask to have him made available.

9 THE COURT: Okay.

10 MR. CARNESI: So that we can continue the cross at  
11 that time.

12 THE COURT: All right. Yes, we'll do that.

13 MR. CARNESI: Thank you.

14 MR. NORRIS: I think that's a fair way of  
15 proceeding.

16 THE COURT: Okay, we'll bring the jury in.

17 (Witness resumes stand.)

18 MR. NORRIS: Your Honor, I'm just going to quickly  
19 tell the witness, as we had discussed earlier, some questions  
20 might be coming.

21 THE COURT: All right.

22 (Pause in the proceedings.)

23

24 (In open court.)

25 THE COURTROOM DEPUTY: All rise.

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(Jury enters at 2:34 p.m.)  
THE COURT: Please, be seated.  
All jurors are present, the defendant, Counsel.  
Mr. Santos is still on the stand, still under oath.  
Mr. Carnesi.  
MR. CARNESI: Thank you, Your Honor.

(Continued on following page.)

1   H O W A R D   S A N T O S ,

2           called as a witness, having been previously duly  
3           sworn, was examined and testified as follows:

4

5   CROSS-EXAMINATION

6   BY MR. CARNESI: (Continuing)

7   Q    Good afternoon, Mr. Santos.

8   A    Good afternoon, Mr. Carnesi.

9   Q    Now, we've talked a number of times about money that you  
10   received from either the FBI or Witness Protection Program.

11           Do you have any idea in total how much money has on  
12   expended on you sense you began cooperating?

13   A    I have no idea.

14   Q    If I were to tell you approximately \$275,000, would that  
15   comport with your memory at all?

16   A    You wouldn't lie to me, would you?

17   Q    Not at all.

18   A    Okay. I guess that's what it was.

19   Q    Okay. And I don't want you to lie to me.

20   A    Okay. I'm not.

21   Q    I asked you a little while ago whether or not at the time  
22   that you entered into your cooperation agreement whether you  
23   had any assets.

24           Do you remember that?

25   A    Say that again? Assets?

1 Q Yeah, assets?

2 A Oh.

3 Q And then we talked about if you owned any property.

4 A Oh, I did? Oh, wait, I owned a car, yeah, that's it.

5 Q Do you remember me asking you if you had a bank account?

6 A Yes.

7 Q And?

8 A And I said I didn't.

9 Q And did you?

10 A Eventually, I got one.

11 Q And did you have money in the bank when you entered into  
12 the Witness Protection Program?

13 A Yes.

14 Q How much money did you actually have?

15 A I think it was around 19, 19-5.

16 Q Could it have been over 25,000?

17 A That was after the car was sold. I didn't receive the  
18 balance of that until later.

19 Q Where did that money come from?

20 A That was my life savings.

21 Q So, again, at the time when you went into the program,  
22 you did have money.

23 You hadn't put it into the bank, I guess is what  
24 you're telling me; right?

25 A Well, when you said assets I thought you meant like if I

1 had yachts, houses, and stuff like that.

2 Q So, we're in agreement you did have money somewhere?

3 A Yes.

4 Q Where was it?

5 A It was in the bank before I left. Before that, it was in  
6 my mattress.

7 Q What's a get out of jail card, a get out of jail free  
8 card?

9 A That's something in the game Monopoly.

10 Q Did you ever use that expression relating to something  
11 having to do with court cases?

12 A I've never used it.

13 Q Do you recall having a conversation yourself, Tony  
14 Moscatiello, Al Trucchio, Mike Roccaforte, discussing in  
15 October of 2009 a trial that was going on in the Southern  
16 District of New York involving John Gotti, Junior?

17 A Can you repeat that?

18 Q Sure. Do you recall having a discussion with Tony, Al,  
19 and Rock, about a trial that was going on in the Southern  
20 District of New York involving John Gotti, Junior in  
21 October of 2009?

22 A I have had many discussions about that.

23 Q In that discussion that you had, you were wearing a  
24 recorder; were you not?

25 A Correct.

1 Q And you were discussing the fact that there had been a  
2 particular individual who was testifying at that time for the  
3 defense. Do you remember that?

4 A I remember there was a few --

5 Q Right?

6 A -- individuals.

7 Q Do you remember saying at that time I tell you the truth,  
8 it kind of surprised the hell out of me, he got an F-ing get  
9 out of jail free card and he's F-ing testifying for the  
10 defense. Do you remember making that comment?

11 A Not really, but I guess I did if it's there.

12 Q What do you mean that the individual who you were  
13 discussing had been offered a get out of jail free card? What  
14 were you talking about?

15 A Getting out of jail for free?

16 Q Yes. What did you mean by that?

17 A He's getting out of jail.

18 Q How was he going to get out of jail? What was the get  
19 out of jail free card? Who was offering him a get out of jail  
20 free card, or who did you think was offering him a get out of  
21 jail free card?

22 A The Government.

23 Q And you were commenting at the time that gee, you were  
24 shocked, you were surprised that this guy would turn down a  
25 get out of jail for free card and would testify for the



1 defense; right?

2 A Right.

3 Q That's what you were saying, yeah?

4 A Right.

5 Q Didn't make sense to you, you'd take the get out of jail  
6 free card; right?

7 A Say that again?

8 Q It didn't make any sense to you. You would have taken  
9 the get out of jail free card; right?

10 A Right.

11 Q Okay. Now, what I'd like to discuss with you at this  
12 time is your behavior, if you will, after you entered your  
13 cooperation agreement; all right?

14 Okay, now initially -- and again, I don't want to  
15 discuss where -- but initially you were placed into the  
16 Witness Protection Program at a specific location, right?

17 A Right.

18 Q Okay. And you were told that the whole reason for the  
19 Witness Protection Program is so that no one, other than those  
20 authorized by the program would know your new identity and  
21 your location; right?

22 A Right.

23 Q And there were all kind of measures put in place so that  
24 your identity, your location, would remain a secret; right?

25 A Yes.

1 Q You were also told that you couldn't disclose your  
2 identity, your new name or your location, not even to members  
3 of the prosecution team or to FBI agents; right?

4 A It wasn't a hundred percent clear to me that I couldn't  
5 discuss anything with my agent.

6 Q I'm not talking about anything. We're talking about your  
7 new identity and your new location.

8 A Well, at first, I didn't know that I wasn't able to  
9 discuss that with my agent.

10 Q Well, when you were going to have conversations with  
11 either the agents or the prosecutor over the telephone,  
12 certain precautions were taken; right?

13 A Right.

14 Q Okay. And those precautions were taken so that they  
15 wouldn't, the agents or the prosecutors, again wouldn't be  
16 able to tell what your new location was; right?

17 A Like I told you the first time, I thought that only went  
18 for the general public, the people who might be looking for  
19 me. I didn't know that I had -- I know what you're getting  
20 at.

21 I told the agent where I was and after that, they  
22 relocated me to another spot. So, that was, that was the  
23 mistake that I made. I told the one person in the world that  
24 I trust my life with from the beginning where I was and that  
25 was a mistake.

1 Q Okay.

2 A So, they relocated me.

3 Q And the person that you told inadvertently because you  
4 didn't understand that that was the regulation, was an FBI  
5 agent; right?

6 A Correct.

7 Q Was there also a prosecutor or two as well?

8 A I didn't speak to a prosecutor personally.

9 Q Okay. Now, you told us just now that this was just an  
10 innocent mistake on your part, you didn't understand?

11 A Correct.

12 Q Okay. But there came a time when somebody from the  
13 program confronted you and you discussed with them that this  
14 agent did know your new location; right? And your new name?

15 A Right.

16 Q And you told them --

17 A Right.

18 Q -- yourself that he did; right?

19 A Right.

20 Q And then they asked you, this other representative of the  
21 Government asked you, well how did he learn this, did you tell  
22 him? And you denied it; right?

23 A Denied what?

24 Q Denied that you were the one who told the agent your new  
25 name or identity.

1 A That's not true.

2 Q No?

3 MR. CARNESI: Judge, I'm sorry, can we just have a  
4 moment.

5 THE COURT: Yes.

6 (Pause in the proceedings.)

7 Q Okay. Mr. Santos, just so we're perfectly clear, it's  
8 your position that you never denied passing that information  
9 to Special Agent Robert Herbster and that information is your  
10 new location or identity, is that what you're telling me?

11 A I'm not denying saying that to him.

12 Q No?

13 A Right.

14 Q But you are denying that when you were initially  
15 confronted with having done that, that you told them no, you  
16 didn't do it?

17 A Absolutely not.

18 Q Okay. You remember when it was that you told  
19 Agent Herbster where you were and exactly what you told him?  
20 And again, I'm not asking for your location, but did you give  
21 him a name and a location?

22 A Did I give him a name and a location?

23 Q Yes.

24 A Yeah.

25 Q Okay. As a result of that, you had to be moved; right,

1 to a new location?

2 A Right.

3 Q They give you new name as well?

4 A Right.

5 Q Okay. Now, when you went into the Witness Protection

6 Program, they gave you what's called a Memorandum of

7 Understanding?

8 A Right.

9 Q And told you the conditions of the program required that  
10 you follow certain rules and regulations; right?

11 A Right.

12 Q Are you presently in the Witness Relocation Program?

13 A No.

14 Q Why is that? Whose choice was that?

15 A That was my choice.

16 Q Now, you would meet periodically with representatives  
17 from the program; would you not?

18 A Right.

19 Q You would meet with them to get funding and to discuss  
20 other matters that may have come up?

21 A Right.

22 Q How often would you meet with them, do you know?

23 A The majority of the time -- in the beginning I met with  
24 them often and then, after we got everything situated, we met  
25 about once a month.

1 Q Now, do you remember from the Memorandum of Understanding  
2 and from discussions that you had with the individuals  
3 supervising you, that one of the conditions was that you were  
4 supposed to go out and find employment?

5 A Correct.

6 Q Okay. And do you remember from pretty early on in your  
7 dealing with them, being instructed on a number of occasions  
8 that you had to go and look for employment?

9 A Correct.

10 Q Do you remember telling them for what, what benefit is  
11 that for me?

12 A Correct.

13 Q You resisted getting any kind of gainful employment at  
14 that time; right?

15 A Right. Because I was going to school.

16 Q Okay. Well, the reason you gave them at that time was  
17 that you would seek out employment as soon as you obtained  
18 documentation. Is that what it was or is it because you were  
19 going to school?

20 A That could have been a reason, yeah.

21 Q Okay. Do you remember raising your voice and getting  
22 hostile with the supervisor as he pressed you about your  
23 employment or getting employment?

24 A Yeah, I remember the supervisor breaking the rules.

25 Q Well, we'll get to that and you can explain to me how --

1 A Yeah.

2 Q -- he broke the rules, not you.

3 Did you tell him that you were too busy making phone  
4 calls related to your cooperation in order to seek out a job?

5 A Yeah, I was, I told him I was too busy with confidence  
6 calls and neutral sites and going to school.

7 Q And did he tell you everybody in the program is in the  
8 same situation, but you're still required to go look for  
9 employment?

10 A What he was telling me was the total opposite of what the  
11 first Marshal told me.

12 Q And you challenged him on that; right?

13 A I didn't challenge him on it.

14 Q Well, did you tell him --

15 A I yessed him and until he became arrogant and, and, and  
16 began to yell at me and use words that he wasn't supposed to  
17 use.

18 Q Did you ever remember telling him no, I'm not going to  
19 put up with your attitude?

20 A I probably said that.

21 Q Okay. Do you remember telling him you just go and get my  
22 money. Do you remember telling him that?

23 A Yeah.

24 Q Had you ever used those words before? Have you ever told  
25 anybody you just go and get my money?

1 A Yeah. What are you saying, I extorted the marshal?

2 Q What?

3 A What are you saying, I extorted the marshal?

4 Q I'm saying you used the expression sometimes we gorilla  
5 people. Is that what you --

6 A You're going to give me an opportunity explain --

7 Q Absolutely.

8 A -- how, how, how that program works and how much of a  
9 gray area it is?

10 Q What I'm going to give you an opportunity to explain is  
11 whether you said that or you didn't say it, you just get me my  
12 money.

13 A Yeah, yeah I already told that you.

14 Q Okay. Now, February 21st, that was February 21st -- I'm  
15 sorry, February 23rd.

16 You had a follow-up meeting once again and the  
17 subject of employment would come up; right?

18 A Right.

19 Q And were you still resistant to the idea of getting  
20 employment? Of working?

21 A Right.

22 Q Do you remember him telling you that you had three  
23 options, to obtain a job on your own, that you if you didn't  
24 get a job on your own that he would get a job for you, or just  
25 to sign out of the program. Do you remember him giving those



1 options?

2 A Yeah, but when he said he'd get a job for me, he said I  
3 wouldn't like it.

4 Q Did you get excited and agitated with him during that  
5 meeting, too? Was that the tone of the meeting?

6 A Probably. I, I, you know, I had a lot of run-ins with  
7 him.

8 Q You had a meeting with him at the end of March, about a  
9 month later. Had you secured any employment in that month?  
10 Did you find a job?

11 A In March?

12 Q Yeah.

13 A No.

14 Q In April, you had a meeting with him and you told him you  
15 needed some dental work and you needed \$12,000 for the dental  
16 work?

17 A Correct.

18 Q Okay. So, you asked him to cover the cost of the dental  
19 work. Did eventually the Government give you the \$12,000?

20 A Yes.

21 Q Had you found a job or obtained any interviews to a job  
22 up until that point?

23 A Well, the dental work issue was way before the  
24 falling-out part. That was already, that was understood when  
25 I was in Washington.

1 Q Okay. Let me, in case my question wasn't clear.

2 THE COURT: Excuse me.

3 Let me say to you, don't name locations.

4 Q In February you're being asked to go out and find  
5 employment, to do something to get a job. Now we're into  
6 April. Between February and April, had you found a job?

7 A No. I still haven't found a job.

8 Q Okay. Do you remember having that discussion with the  
9 supervisor in April and telling the supervisor that you were  
10 just too busy to go and look for a job?

11 A Too busy doing, doing my responsibility. Too busy with  
12 my responsibility to the Government.

13 Q Okay. But you were too busy to find a job?

14 A Right. Between school and my obligation to the  
15 Government, it just didn't make sense.

16 Q Okay. Once again, in April, did he tell you that if you  
17 were having trouble finding a job, that they would secure a  
18 job for you, that they'd find you a job?

19 A No, he didn't.

20 Q Do you remember telling him that, or was it your belief  
21 at the time, that the Marshals Service was supposed to be  
22 paying for all your needs, that you didn't need a job? Did  
23 you ever discuss that with him?

24 A Well, my belief was the reason why they are subsidizing  
25 you is because of your obligation with the Government because

1 you cannot hold down a steady job because when the Government  
2 calls, you have to go. You might have to pack up and take a  
3 flight somewhere for a week. You might have to make  
4 conference calls during the day. It's impossible to hold down  
5 a steady job when you have these obligations on top of going  
6 to school.

7 Q And yet, they told you that that was a condition of your  
8 being in the program; right? That you were supposed to have a  
9 job. Even if it was a part-time job; right? They did tell  
10 you that; right?

11 A Yes. He told me that.

12 Q And you disagree.

13 A Right.

14 Q Okay. And in May you still haven't gotten a job and do  
15 you remember telling them at that time that you were too busy,  
16 you had a lot of things going on, that you had to think dually  
17 about the case. Do you remember saying that?

18 A Yeah, I remember saying that.

19 Q Okay. Do you remember complaining to him that before, in  
20 the other location, the people supervising you weren't  
21 pressuring you to get a job and that they told you, the first  
22 people, the only thing you needed to worry about is assisting  
23 the Government. Is that what you told them?

24 A Right.

25 Q The people at your new location?

1 A Right.

2 Q Okay. The gentleman who was supervising you at the time  
3 told you that just to get a job in any field doing anything  
4 and that you flat-out refused to work? Did he ever tell you  
5 that, that you could get a job just doing anything, but you  
6 had to work?

7 A Yes.

8 Q Okay. Now, at that time, when he was telling you that,  
9 you had \$25,000 or more in the bank. Now, that would be  
10 May of 2011; right?

11 A Right.

12 Q That's when you had the money; right? Did you ever tell  
13 them that your testimony, your work with the Government, was  
14 too important, you didn't have time to get a job?

15 A How many times you going to ask me the same question?

16 Q Every time you say it, from month to month.

17 A Yeah.

18 Q Okay. Did you ever tell him that, the supervisor, you  
19 felt that he was being unfair to you, that he was pressuring  
20 you unfairly, creating special rules for you?

21 A Yeah.

22 Q Did you ever tell him that you were unhappy with the fact  
23 that it was sometimes taking two months to get you your  
24 funding, your stipend from the Government?

25 A Right because, because I had money, I was able to lay out

1 for certain, for certain expenses that I was supposed to get  
2 reimbursed for or, if I didn't have the money, I would have to  
3 go to him and get it from him. So, I was basically doing him  
4 a favor.

5 Q You felt you were doing him a favor --

6 A No, I was doing him a favor. Not that I felt. I was.

7 Q You were doing him a favor.

8 A Correct.

9 Q By laying out the money so that they could reimburse you.

10 A Right, so he didn't have to come meet me two, three times  
11 a week to give me the money for the necessities that I was  
12 entitled to in the program.

13 Q Okay. Did you ever tell him that you felt like you were  
14 under intense supervision and that you didn't deserve to be  
15 under such supervision?

16 A Right. Remember, I'm a free man at that point.

17 Q You're a free man --

18 A Yeah.

19 Q -- who pled guilty to an awful lot of crimes.

20 A Yeah, I'm a free man, I'm not on probation, he's not my  
21 probation officer.

22 Q Did you tell him that what you were doing, I'm in this  
23 for me, I'm not here to jump through hoops for you or your  
24 supervisors, I'm here to better my future?

25 A Right. The guy didn't like the idea I was getting money

1 from the Government to help with my expenses until I fulfilled  
2 my duties. He was one of those type of guys.

3 Q Did you tell him that you do have a job and that you're  
4 not refusing to work and when he asked you what your job was  
5 you told him you work for the Government?

6 A Yeah.

7 Q Is that what you were doing, you were working for the  
8 Government at the time?

9 A That's what I said to him.

10 Q Do you remember meeting with him again around May 23rd of  
11 2011 on an occasion where they, meaning the supervisors who  
12 were arranging for your funding, told you they wanted to come  
13 to your apartment? Do you remember that?

14 A He told me he wanted to come to my apartment?

15 Q Yes.

16 A I know the day you're talking about.

17 Q Okay.

18 A Yeah.

19 Q And you got very upset. You got, you kind of exploded at  
20 them?

21 A Yeah, they have to give me two days notice.

22 Q You told them you're not coming to my F-ing apartment,  
23 what's up, what's changed, what the F is going on, you have to  
24 give me notice that you're coming over, you're not F-ing  
25 coming to my apartment.

1           Do you remember having that -- being upset that they  
2 wanted --

3 A     You're only playing one side of that conversation.

4 Q     That's all I've got.

5 A     You don't know how the guy was talking to me. You don't  
6 know how he treated me from day one. You don't know how he  
7 made wisecracks and made me feel beneath him and treated me  
8 like I was scum.

9 Q     Do you remember having an argument with him during that  
10 time about items that you claim you hadn't been reimbursed for  
11 and telling him you're not going to lay down and get dinged by  
12 this?

13 A     Right. Because now he was sticking it to me.

14 Q     Okay.

15 A     Things that another marshal with a level head would  
16 reimburse you for.

17 Q     Did you ever go to another Marshal to complain about the  
18 way you were being treated or address it with an Assistant  
19 U.S. Attorney or the FBI or anybody --

20 A     I've spoken --

21 Q     -- or did you just argue with him?

22 A     I've spoken and I've expressed my feelings to a lot of  
23 people and they all, they all agreed that it wasn't right,  
24 what was being done to me. And they just were, they just  
25 were, they just said just hang in there. Yeah, they didn't

1 feel it was right the way he was treating me.

2 Q Okay. Do you remember telling him, your supervisor  
3 during that time, that you're not going to work at a gas  
4 station pumping gas or in any other field but the field that  
5 you want to work in.

6 Did you have that discussion with him? Did he ever  
7 suggest to you that he had some kind of a job for you at a gas  
8 station?

9 A He never suggested to me that he had a job. When he was  
10 belittling me he says I don't care if you go get a job pumping  
11 gas.

12 Q And you felt that was beneath you, he was belittling you?

13 A The way he was saying it, yes.

14 Q Okay. Do you remember telling him during these  
15 discussions that you're in this for yourself and that you  
16 planned on being funded by the Government for four or five  
17 years?

18 A No, no.

19 Q Do you remember --

20 A I explained, listen to me.

21 Q Go ahead. I'll let you finish your answer.

22 THE COURT: All right. One at a time, though,  
23 please.

24 THE WITNESS: Okay.

25 A I was explained to by the first Marshal, that so long as



1 you have cases that you might be testifying at, okay, that you  
2 are not employable, okay. And I, what you're trying to say I  
3 said was that I might be working on cases for three, four  
4 years.

5 Q Okay. Are you done?

6 A But I don't know, I don't know how long I'm going to be  
7 doing it. I'm just saying it could be that long.

8 Q But the Memorandum of Understanding that you signed when  
9 you went into the program, specified that you were going to  
10 have to find employment; right?

11 A At some point.

12 Q Do you remember telling your supervisor that you were  
13 busy writing down the last 30 years of your life, trying to  
14 prepare for this case? Did you tell him that?

15 A That I was busy what?

16 Q That you were busy writing down the last 30 years of your  
17 life trying to prepare for your case.

18 A I didn't say writing down.

19 Q You didn't say anything about writing down?

20 A No.

21 Q Did you ever write anything down about your testimony?

22 A Me? No.

23 And just for the record, I've been in school since  
24 day one. I'm in college now since day one. I went and got my  
25 GED and I've been in college for full-time. There has been no

1 breaks. I've been in school the whole time.

2 Q No breaks at all?

3 A Unless it was between semesters.

4 Q Okay.

5

6 (Continued on following page.)

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1 (In open court.)

2 CROSS-EXAMINATION

3 BY MR. CARNESI (continuing):

4 Q Did you ever tell the supervisors that you felt  
5 threatened during a discussion with them in the car?

6 A Yeah. He had another marshal hiding in the back seat.

7 Q And you felt threatened by the presence of those two  
8 marshals?

9 A Yeah, because they both, they had it in for me. They  
10 were trying to catch me -- and furthermore, I never was kicked  
11 out of the program. So evidently, I didn't break the rules.

12 Q Did you complain to them about the way you were getting  
13 funded and reimbursed?

14 A Correct.

15 Q Did you tell them that they should be paying for all the  
16 vehicle maintenance, the registration, on the car and other  
17 items?

18 A That -- that was the way it was with the other marshal,  
19 and they were just funding me for my rent and food. If my car  
20 breaks down, I don't have the money for that.

21 Q How did you get the car?

22 A They give you a certain amount to buy a car.

23 Q Okay. And did you buy a car with the amount of money  
24 they gave you?

25 A Yeah.

1 Q You didn't add to it?

2 A Oh, yeah, I added 2600 of my own money.

3 Q You had special wire rims on the car, tinted glass?

4 A Wire rims? No. That was back in the '80s, wire rims.

5 Q What kind of rims did you pay for on this car?

6 A I bought Torin rims.

7 Q Touring?

8 A Torin. That's the name, Torin.

9 Q You paid for that separately over what the marshals gave  
10 you for the car?

11 A Yeah. I paid \$700 for them.

12 Q You paid to have the windows tinted too, right?

13 A Right.

14 Q Okay. Now, you got 10,000 and change for dental work  
15 back in May or so, and in July did you again request another  
16 \$10,000 for dental work?

17 A Correct.

18 Q Now, once again, as of July you hadn't found any kind of  
19 employment, right?

20 A Right. I was in school.

21 Q Okay. And the \$10,000 for the dental work, did you  
22 eventually have the work done?

23 A Correct.

24 Q And did the government pay for that dental work?

25 A Correct.

1 Q Did you lay out the money for the dental work, or you  
2 were waiting for the government advance you the money?

3 A I waited for the government to advance me the money.

4 Q Did you find work or look for work in July?

5 A No.

6 Q Now, you told us you were in school.

7 Who paid for the school?

8 A Me, myself, and I.

9 Q Did the government ever reimburse you for any of that  
10 money?

11 A They didn't reimburse me, no.

12 Q Did they tell you that they would not reimburse you  
13 unless you worked a minimum of 20 hours a week?

14 A That was after they told me they would reimburse me for a  
15 year's worth of college, and then when things went south, then  
16 that was their new reasoning for it, that they weren't going  
17 to give me the money for school until I got a job, to stick it  
18 to me, knowing full well I'm going to school full time and  
19 it's almost impossible to hold a job down.

20 And I'm not going to go sweep floors and pump gas  
21 and make my life harder just because this guy feels I have to  
22 do something to earn the money that I get from the witness  
23 protection program to start a new life. It's not his money.  
24 Why does he have to begrudge me?

25 Did they tell you that he said this wasn't no gravy

1 train?

2 Q Did you think it was?

3 A It never entered my mind. It entered his.

4 Q Did you remember having a conversation in January?

5 A And that's what he said right from the start.

6 Q Do you remember having a conversation in January of 2012  
7 about being too busy to attend school and you had too many  
8 upcoming cases related to items to be able to devote any time  
9 to school? Do you remember telling him that?

10 A When was that?

11 Q That was in January of last year, 2012.

12 A That might have been -- I don't remember there being a  
13 point where I said that I wasn't going -- there was never a  
14 time where I said I wasn't going to school. I mean if I had a  
15 bunch of neutral sites that I had to fly out of state and go  
16 to another state for meetings, maybe I might have waited  
17 another semester before I went back so I wouldn't have to take  
18 days off from school.

19 Q Well, let me show you what's been provided to me as a  
20 report of that interview on January 20, 2012, and just -- you  
21 can read the bracketed area -- you can read the whole thing if  
22 you like, but you can read the bracketed area and tell me if  
23 that refreshes your recollection about telling them you were  
24 too busy to go to school.

25 A Oh, yes, I remember this. This was after I had already

1       been in school. This person here was making an appointment  
2       with me, but he was still thinking I had the same schedule as  
3       before. So I told him no, no, I don't have school right now.  
4       You can meet me at, you know, at a different time because I  
5       have a possible trial and a bunch of meetings to go to, so I'm  
6       not going to enroll until the following semester.

7       Q       So that's what you told him, you were too busy to go to  
8       school?

9       A       Yeah, too busy.

10      Q       Do you remember having a discussion with your supervisors  
11      about needing money for prescriptions, prescription  
12      medication?

13                   Do you remember having that discussion?

14      A       Needing money?

15      Q       Yeah. In other words, you wanted him to advance you the  
16      money.

17      A       No. But it -- no. Wait. What it was is I was laying  
18      out the money because, unfortunately, due to his mistake I was  
19      unable to get health coverage because he sent me to a doctor  
20      before I applied for health coverage, and the health insurance  
21      companies wouldn't take me because I had preexisting  
22      conditions.

23                   So as a part of the responsibility of the marshal  
24      service, the witness protection program, they paid for my  
25      medication. So I was laying out the money for my medication

1 to make things easier for him.

2 He had begun to make things hard for me. So I told  
3 him that I could no longer lay out the money, that he would  
4 have to give it to me in advance.

5 Q That's what I'm asking.

6 A Correct.

7 Q So you had a conversation with him that you had a  
8 doctor's appointment and that you had prescriptions to pick  
9 up, all right, and that you didn't have the money.

10 You were asking him for the money, right?

11 A Right.

12 Q Okay. And that was on March 27, and he -- do you  
13 remember him telling you at that time we just funded you, we  
14 just gave you money March 23, what happened to that money? Do  
15 you remember that?

16 A No, but I guess he probably said that.

17 Q Okay. Do you remember telling him that your money was  
18 tied up?

19 A Oh, yeah, I remember that.

20 Q And he asked you what do you mean tied up?

21 Do you remember telling him that your money was  
22 currently tied up in investments?

23 A That's none of nobody's business.

24 Q It's my business. I'm asking you the question.

25 Did you tell him that or not?



1 A Yeah.

2 Q Did you tell him that it's his job to pay for your bills  
3 when he is requested to and not make you wait for the money?

4 A That was a long time ago.

5 Q Did you have a heated discussion with him where you were  
6 yelling, and he was telling you you are required to get a job,  
7 you have to get a job?

8 A Are you talking about the same argument?

9 Q I'm talking about a continuing argument, yeah?

10 A Oh, yeah. We argued about that all the time.

11 Q Do you remember telling him that he was only giving you a  
12 hard time about reimbursing you for the money because he knew  
13 you came into the program with money?

14 A Correct.

15 Q Now, after these continuing attempts for him to have you  
16 get a job you decided to sign yourself out from the program,  
17 right?

18 A No. I would have signed out a year before, if they  
19 didn't ask me to stick it out, meaning the government.

20 Q But you --

21 A I would have signed out right away, as soon as I saw what  
22 type of guy he was. I stayed in there for the government.

23 Q But you did eventually decide to sign yourself out?

24 A Yes, when it was a good time.

25 Q Do you remember when that was?

1 A February of last year?

2 Q '12. Weren't you in the program up until October of last  
3 year?

4 A So maybe it was October. I don't know. It was somewhere  
5 around there.

6 Q When you actually went to meet the supervisor to sign  
7 yourself out of the program, sign the paperwork, did you go  
8 there in a different car than they had purchased for you?

9 A Yes.

10 Q Where did that car come from? How did you acquire that  
11 car?

12 A I bought it.

13 Q Again, I don't want to know the make or model of the car,  
14 but was it a new car or a used car?

15 A It was a used car. That was a rather pretty civil  
16 conversation because at that point I was no longer his  
17 prisoner.

18 Q Right.

19 A He was very cordial to me.

20 Q You were happy to be away from each other at that point,  
21 right?

22 A Yeah, I guess so, but when we saw each other we kind of  
23 laughed about it.

24 Q Okay. You took the last shot at him though, didn't you?

25 A What shot was that?

1 Q Didn't you tell him at that time that you still don't  
2 work but that the FBI is now giving you money?

3 A Come on. You trying to make it like I said it as a zing?

4 Q Yeah.

5 A Well, why don't you quote my conversation saying that  
6 when I met with him that, you know, he was pretty civil and  
7 everything was pretty, you know, okay now.

8 Q Let me show you --

9 A I know what you are going to show me. You are going to  
10 make it sound like I said it as a zing. I didn't say that.  
11 He asked me, so what are you doing now, and I told him. I  
12 didn't tell him like I was zinging it to him.

13 Q You had a different tone, but you told him you don't work  
14 and now you are going to collect?

15 A Now you are talking about the time when I met him to give  
16 me my -- for him to give me my birth certificate when I was  
17 out of the program.

18 Q Okay.

19 A Right.

20 Q Those were pretty much the last words --

21 A That's why I went to meet him, yeah.

22 Q Those were pretty much the last words you said to him,  
23 right?

24 A No, those weren't the last words. The last words were he  
25 said, well, take care, good luck. And I said, yeah, take it

1 easy, good luck; and those were the last words.

2 MR. CARNESI: Okay. Thank you. I have no further  
3 questions, judge.

4 MR. TOOSI: Can we take a --

5 THE COURT: Members of the jury, we have to take a  
6 recess.

7 Please remember my admonitions: Do not discuss the  
8 case, keep an open mind.

9 (Jury exits.)

10 THE COURT: All right.

11 (Recess.)

12 THE COURT: Mr. Toossi, are you ready?

13 MR. TOOSI: Yes, your Honor.

14 THE COURT: Can we bring the jury in?

15 MR. TOOSI: Yes, your Honor.

16 THE COURT: All right. Bring the jury in, please.

17 (Jury enters.)

18 THE COURT: Be seated, please.

19 The jurors are all present, the defendant, counsel.

20 Mr. Santos is still on the stand, still under oath.

21 Mr. Toossi.

22 MR. TOOSI: Thank you, your Honor.

23

24 REDIRECT EXAMINATION

25 BY MR. TOOSI: