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R E P O R T E R ' S R E C O R D

VOLUME 34 OF 53 VOLUMES

TRIAL COURT CAUSE NO. 380-80047-01

THE STATE OF TEXAS)	IN THE DISTRICT COURT
)	
VS.)	COLLIN COUNTY, TEXAS
)	
IVAN ABNER CANTU)	380TH JUDICIAL DISTRICT

DISTRICT CLERK
COPY

JURY TRIAL

COPY

On the 8th day of October, 2001, the following proceedings came on to be heard in the above-entitled and -numbered cause before the Honorable Charles F. Sandoval, Judge Presiding, held in McKinney, Collin County, Texas.

Proceedings reported by Computerized Machine Shorthand.

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 COLLIN COUNTY, TEXAS
 CLERK OF DISTRICT COURT
 [Signature]

1 REPORTER'S RECORD 1
 2 VOLUME 34 OF 53 VOLUMES
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 RICK MYER 236 241 - - - -
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1 PROCEEDINGS:
 2 (Open court, defendant present, no jury.)
 09:04 3 THE COURT: We are on the record in the
 09:04 4 Cantu case. He's here with his attorneys, and the State
 09:04 5 is here with its three attorneys. Did we get all the
 09:04 6 exchanging done that we needed to do on Friday?
 09:04 7 MS. FALCO: We did, Your Honor. But
 09:04 8 before we recall Detective Winn for cross-examination,
 09:04 9 we have one witness who has a flight schedule for this
 09:04 10 afternoon that we actually scheduled for Saturday. We
 09:04 11 thought we'd get to him Friday and we didn't. We
 09:04 12 postponed it until today at 4:00, that we'd like to call
 09:04 13 out of order with the consent of the defense,
 09:04 14 Mr. High and Mr. Goeller.
 09:04 15 MR. GOELLER: That's true, Your Honor.
 09:04 16 THE COURT: Let's do that. Let me get the
 09:04 17 jury back in, and I'll tell them that.
 09:07 18 (Open court, defendant and jury present.)
 09:07 19 THE COURT: Good morning, ladies and
 09:07 20 gentlemen. On Friday, Detective Winn was on the stand,
 09:07 21 and he was being cross-examined or about to be
 09:07 22 cross-examined. He was in the middle of
 09:07 23 cross-examination.
 09:07 24 We have a witness that we're going to call
 09:08 25 at this time out of order because the witness has a

09:08 1 scheduling conflict, so the defense has graciously
09:08 2 agreed to defer for a while the cross-examination of
09:08 3 Detective Winn. We'll take up the next witness, and
09:08 4 then we'll go back to Detective Winn. All right. Go
09:08 5 ahead.

09:08 6 MS. FALCO: Thank you, Your Honor. The
09:08 7 State calls Jeff Boettcher.

09:08 8 THE COURT: You have been sworn in?

09:08 9 MS. FALCO: He's not been.

09:08 10 THE COURT: Raise your right hand.

09:08 11 JEFF BOETTCHER,
09:08 12 being first duly sworn, testified as follows:

09:08 13 THE COURT: Ms. Falco?

09:08 14 DIRECT EXAMINATION

09:08 15 BY MS. FALCO:

09:08 16 Q. Would you state your name for the jury.

09:08 17 A. Jeff Boettcher.

09:08 18 Q. And spell your last name, please.

09:08 19 A. B-O-E-T-T-C-H-E-R.

09:09 20 Q. How old are you, Mr. Boettcher?

09:09 21 A. 20.

09:09 22 Q. And what state are you currently living in?

09:09 23 A. Minnesota.

09:09 24 Q. Mr. Boettcher, do you know Amy Boettcher?

09:09 25 A. Yeah.

09:09 1 A. From Arkansas.

09:09 2 Q. And where in Texas did you move?

09:09 3 A. Euless.

09:10 4 Q. Do you remember what day you moved?

09:10 5 A. August 23rd.

09:10 6 Q. And how do you remember that day?

09:10 7 A. I just arrived and that's my sister's birthday,
09:10 8 and I got together with her.

09:10 9 Q. Why did you move to Euless?

09:10 10 A. Because there's more opportunities to make
09:10 11 money, bigger town.

09:10 12 Q. Was your sister, Amy, already living here?

09:10 13 A. Yeah.

09:10 14 Q. And when you moved down to Euless, who did you
09:10 15 move in with?

09:10 16 A. Her friends, Julie and Denny.

09:10 17 Q. And was Amy living there, as well?

09:10 18 A. Yeah.

09:10 19 Q. How long did you live there with Julie and
09:10 20 Dennis?

09:10 21 A. Probably a couple months, a month.

09:10 22 Q. When you moved down here in August, did you
09:10 23 ever meet the defendant Ivan Cantu?

09:10 24 A. Yeah.

09:10 25 Q. When did you meet Ivan Cantu?

09:09 1 Q. And who is Amy Boettcher?

09:09 2 A. My sister.

09:09 3 Q. And I'm going to get you to speak up loud
09:09 4 because the courtroom is circular, and your voice kind
09:09 5 of gets lost, so everyone can hear you. Amy is your
09:09 6 sister?

09:09 7 A. Yeah.

09:09 8 Q. Is she your older sister or younger sister?

09:09 9 A. My older sister.

09:09 10 Q. Do you have any other brothers or sisters?

09:09 11 A. No.

09:09 12 Q. Are your parents married or are they divorced?

09:09 13 A. Divorced.

09:09 14 Q. Where does your dad live?

09:09 15 A. Minnesota.

09:09 16 Q. Where does your mom live?

09:09 17 A. Arkansas.

09:09 18 Q. Have they both remarried since they divorced
09:09 19 each other?

09:09 20 A. Yeah.

09:09 21 Q. Jeff, I want to take your attention to last
09:09 22 August of 2000. Where were you living last August of
09:09 23 2000?

09:09 24 A. I just moved to Texas.

09:09 25 Q. From where?

09:10 1 A. August 23rd.

09:10 2 Q. The day you moved down here?

09:10 3 A. Yeah.

09:10 4 Q. Where did you meet him?

09:10 5 A. At a hotel.

09:11 6 Q. And for what purpose did you meet him at the
09:11 7 hotel?

09:11 8 A. Just we were meeting -- that was where we were
09:11 9 meeting him.

09:11 10 Q. And what did you do with Mr. Cantu that
09:11 11 evening?

09:11 12 A. Went and hung out.

09:11 13 Q. Do you see Mr. Ivan Cantu in the courtroom
09:11 14 today?

09:11 15 A. Yeah.

09:11 16 Q. Can you point to him and identify something
09:11 17 he's wearing?

09:11 18 A. A maroon shirt.

09:11 19 MS. FALCO: Your Honor, may the record
09:11 20 reflect that he's identified the defendant Ivan Abner
09:11 21 Cantu.

09:11 22 THE COURT: All right. The record will so
09:11 23 reflect.

09:11 24 Q. (BY MS. FALCO) Where was the defendant Ivan
09:11 25 Cantu living at the time you met him?

09:11 1 A. With this guy named Bobbitt.
 09:11 2 Q. Is Bobbitt his last name?
 09:11 3 A. Yeah.
 09:11 4 Q. Do you remember what his first name was?
 09:11 5 A. No.
 09:11 6 Q. Everyone just called him Bobbitt?
 09:11 7 A. Yeah.
 09:11 8 Q. After you -- during that time that you were
 09:11 9 living at Julie and Dennis's house, did you see Ivan
 09:11 10 Cantu on a regular basis?
 09:11 11 A. Yeah.
 09:11 12 Q. Was there a relationship between Ivan Cantu and
 09:12 13 your sister, Amy?
 09:12 14 A. Yeah.
 09:12 15 Q. And what was that relationship?
 09:12 16 A. Well, at first friends but later boyfriend and
 09:12 17 girlfriend.
 09:12 18 Q. And did you hang out with them, as well?
 09:12 19 A. Yeah.
 09:12 20 Q. After you lived at Julie and Dennis's for about
 09:12 21 a month, where did you move?
 09:12 22 A. I moved in with Ivan.
 09:12 23 Q. Where?
 09:12 24 A. At Bobbitt's house.
 09:12 25 Q. Who all was living at Bobbitt's house?

10

09:12 1 A. My sister, me, Ivan, Bobbitt, and this girl
 09:12 2 named Kadine.
 09:12 3 Q. How long did you live at Bobbitt's house?
 09:12 4 A. Probably a month, around that, a month or
 09:12 5 longer.
 09:12 6 Q. And at the time you moved into Bobbitt's house,
 09:12 7 what was the relationship between your sister, Amy, and
 09:12 8 the defendant?
 09:12 9 A. Still friends at that time.
 09:12 10 Q. At what point did they become
 09:12 11 boyfriend-girlfriend?
 09:12 12 A. Oh, around when we were still living there.
 09:12 13 Q. At Bobbitt's house?
 09:12 14 A. Yeah.
 09:12 15 Q. At some point did they start talking about
 09:13 16 getting engaged?
 09:13 17 A. Yeah.
 09:13 18 Q. Do you remember when that was?
 09:13 19 A. That was probably after we moved out of
 09:13 20 Bobbitt's.
 09:13 21 Q. Did they ever talk about engagement rings?
 09:13 22 A. Yeah.
 09:13 23 Q. Were you ever with them when they were looking
 09:13 24 for engagement rings?
 09:13 25 A. Yeah.

09:13 1 Q. Do you remember where you went?
 09:13 2 A. Some mall.
 09:13 3 Q. Did you actually see Ivan and Amy talking about
 09:13 4 engagement rings?
 09:13 5 A. Yeah.
 09:13 6 Q. And picking them out?
 09:13 7 A. Yeah.
 09:13 8 Q. During this time that you were living at Julie
 09:13 9 and Dennis's house and at Bobbitt's house, were you
 09:13 10 working?
 09:13 11 A. No.
 09:13 12 Q. Did you ever hold a job while you were down in
 09:13 13 Dallas?
 09:13 14 A. For about two weekends I worked for Tivo.
 09:13 15 Q. What were you doing for Tivo?
 09:13 16 A. Go to like Best Buy and just represent Tivo.
 09:13 17 Q. And you just worked for two weekends?
 09:13 18 A. Yep. Two Saturdays.
 09:13 19 Q. Did you ever pay any rent?
 09:13 20 A. No.
 09:13 21 Q. Did you ever pay for food?
 09:14 22 A. No.
 09:14 23 Q. Who would pay for the rent and the food for
 09:14 24 you?
 09:14 25 A. It was in the house, Bobbitt or Ivan or --

12

09:14 1 Q. It was just there, and nobody asked you to pay?
 09:14 2 A. Yeah.
 09:14 3 Q. After you moved out of Bobbitt's house, where
 09:14 4 did you move to?
 09:14 5 A. We went to Ivan's mom's house.
 09:14 6 Q. Is that Sylvia Cantu?
 09:14 7 A. Yeah.
 09:14 8 Q. How long did you live with Sylvia Cantu?
 09:14 9 A. Probably a couple weeks.
 09:14 10 Q. Who all was living at Ms. Cantu's house?
 09:14 11 A. Me and my sister and Ivan.
 09:14 12 Q. You said you lived there for a couple of weeks?
 09:14 13 A. Yeah.
 09:14 14 Q. After you moved out of Sylvia Cantu's house,
 09:14 15 where did you move?
 09:14 16 A. We stayed in a hotel for about three days.
 09:14 17 Q. Who stayed in the hotel?
 09:14 18 A. My sister, me, and Ivan.
 09:14 19 Q. For about three days?
 09:14 20 A. Yeah.
 09:14 21 Q. Do you remember where the hotel was?
 09:14 22 A. No. It was in Dallas, so...
 09:14 23 Q. Why were you living in a hotel?
 09:14 24 A. Because we were trying to find a place to live.
 09:15 25 Q. Did you all eventually find a place to live?

09:15 1 A. Yeah.
 09:15 2 Q. Where was that?
 09:15 3 A. Bent Tree Lane, Dallas.
 09:15 4 Q. Was it a house or an apartment?
 09:15 5 A. Apartment.
 09:15 6 Q. How many bedrooms?
 09:15 7 A. One.
 09:15 8 Q. And did you all move into that apartment
 09:15 9 approximately October 15th?
 09:15 10 A. Yeah, I believe so. I don't know the dates.
 09:15 11 Q. Sometime in October?
 09:15 12 A. Yeah.
 09:15 13 Q. This is of last year, 2000?
 09:15 14 A. Yeah.
 09:15 15 Q. And who all moved into that apartment on Bent
 09:15 16 Tree?
 09:15 17 A. My sister, Ivan, and me.
 09:15 18 Q. How long did you live in that apartment?
 09:15 19 A. A couple weeks, maybe longer.
 09:15 20 Q. Not very long?
 09:15 21 A. No.
 09:15 22 Q. During all this time, when you lived at Julie
 09:15 23 and Dennis's, Bobbitt's, Sylvia Cantu's, the hotel, now
 09:15 24 the apartment, other than the two weekends you worked
 09:15 25 for Tivo, did you ever have a job?

09:16 1 A. Yeah. I got a job when we moved into the
 09:16 2 apartment. I got a job at a gas station.
 09:16 3 Q. What were you doing at the gas station?
 09:16 4 A. Just a clerk.
 09:16 5 Q. Is it fair to say during this time that you
 09:16 6 were doing a lot of drugs?
 09:16 7 A. Yeah.
 09:16 8 Q. What kind of drugs were you doing?
 09:16 9 A. Cocaine, speed, marijuana, mushrooms.
 09:16 10 Q. Were you paying for any of that?
 09:16 11 A. No.
 09:16 12 Q. How about your sister, Amy? Is it fair to say
 09:16 13 she was doing a lot of drugs during this time?
 09:16 14 A. Yeah.
 09:16 15 Q. What kind of drugs was she doing?
 09:16 16 A. Same.
 09:16 17 Q. Was Amy working while you were living down here
 09:16 18 in Dallas with her?
 09:16 19 A. No.
 09:16 20 Q. She never had a job while you were here?
 09:16 21 A. When I first got here -- she quit her job when
 09:16 22 I first got there.
 09:16 23 Q. Where had she been working?
 09:16 24 A. Some apartment complex.
 09:16 25 Q. And after she quit that job, did she ever get

09:16 1 another job while you were here?
 09:17 2 A. No.
 09:17 3 Q. And how frequently would you say you were doing
 09:17 4 drugs during that time?
 09:17 5 A. Almost every day.
 09:17 6 Q. How about Amy?
 09:17 7 A. Same.
 09:17 8 Q. And how often were you around the defendant
 09:17 9 Ivan Cantu?
 09:17 10 A. Often.
 09:17 11 Q. When you and Amy were doing drugs, were you
 09:17 12 with the defendant Ivan Cantu?
 09:17 13 A. Yeah.
 09:17 14 Q. I'm going to take you to the time that you
 09:17 15 moved into that apartment on Old Bent Tree Lane -- first
 09:17 16 of all, prior to that, had you ever seen the defendant
 09:17 17 with a gun?
 09:17 18 A. Yeah.
 09:17 19 Q. Do you know what the gun looked like?
 09:17 20 A. It was chrome with a black handle.
 09:17 21 MS. FALCO: Your Honor, may I approach?
 09:17 22 THE COURT: Yes.
 09:18 23 Q. (BY MS. FALCO) Mr. Boettcher, I show you
 09:18 24 what's admitted as State's Exhibit 76B. Do you
 09:18 25 recognize that gun?

09:18 1 A. Yeah.
 09:18 2 Q. And is that the same gun you'd seen the
 09:18 3 defendant with?
 09:18 4 A. Yep.
 09:18 5 Q. On how many occasions did you see the defendant
 09:18 6 with that gun?
 09:18 7 A. Every day.
 09:18 8 Q. Did he ever tell you why he kept a gun or
 09:18 9 carried a gun?
 09:18 10 A. Protection.
 09:18 11 MR. GOELLER: Judge, that would call for a
 09:18 12 hearsay response.
 09:18 13 THE COURT: Sustained.
 09:18 14 MS. FALCO: Your Honor, I'm asking what
 09:18 15 the defendant said, being a party-opponent admission.
 09:18 16 THE COURT: All right. Overruled. And in
 09:18 17 fact, I believe he had answered before the objection.
 09:18 18 Q. (BY MS. FALCO) Just to repeat your answer, why
 09:18 19 did he say he had the gun?
 09:18 20 A. Protection.
 09:18 21 Q. Where did he keep the gun?
 09:18 22 A. In his jacket pocket.
 09:18 23 Q. Did he ever show you what type of bullets he
 09:18 24 kept in that gun?
 09:18 25 A. Yeah.

09:18 1 Q. What kind of bullets were they?
 09:19 2 A. Like cop killers, they were called.
 09:19 3 Q. Who called them cop killers?
 09:19 4 A. The defendant.
 09:19 5 Q. Did he say why they were called cop killers?
 09:19 6 A. Because they will go through a bulletproof
 09:19 7 vest.
 09:19 8 Q. Did he actually show you the bullets?
 09:19 9 A. Yeah.
 09:19 10 Q. Was there anything unusual about the bullet?
 09:19 11 A. It was like a hollow bullet, the tip.
 09:19 12 MS. FALCO: Your Honor, may I approach?
 09:19 13 THE COURT: Yes.
 09:19 14 Q. (BY MS. FALCO) I show you what's inside 76C.
 09:19 15 Does that look familiar?
 09:19 16 A. Yeah.
 09:19 17 Q. Are these the same type of bullets the
 09:19 18 defendant showed you?
 09:19 19 A. Yeah.
 09:19 20 Q. And these are the bullets that he called cop
 09:19 21 killers?
 09:19 22 A. Yeah.
 09:19 23 Q. Did he say why he bought cop-killer bullets?
 09:19 24 A. No. He just said that they go through
 09:20 25 bulletproof vests.

09:20 1 Q. Did you ever have a conversation with the
 09:20 2 defendant about how easy it would be to kill somebody?
 09:20 3 A. Yeah.
 09:20 4 MR. GOELLER: Your Honor, I'm going to
 09:20 5 object at this point. Number one, it's hearsay. Number
 09:20 6 two, the Court's previously ruled on 404(b) material.
 09:20 7 MR. SCHULTZ: A moment, please, Judge?
 09:20 8 THE COURT: Yeah.
 09:20 9 MS. FALCO: Your Honor, first of all, it's
 09:21 10 not hearsay. It's party-opponent admission. And
 09:21 11 secondly, under 404(b), anything that's offered to show
 09:21 12 intent, lack of mistake, scheme, or plan obviously is
 09:21 13 admissible under that.
 09:21 14 MR. GOELLER: And my response is they are
 09:21 15 nowhere near that. There is no linkage. There's no
 09:21 16 nexus. There's no time and date. They just want to
 09:21 17 bring up some -- apparently some alleged conversation in
 09:21 18 an attempt to taint this jury.
 09:21 19 MS. FALCO: Additionally, Your Honor,
 09:21 20 conversations are not criminal acts unless it's criminal
 09:21 21 in nature, but a conversation is just a conversation.
 09:21 22 It's not an act like he's talking about 404(b).
 09:21 23 THE COURT: Overrule the objection. Do
 09:21 24 you remember the question?
 09:21 25 THE WITNESS: No. Can you repeat it?

09:21 1 Q. (BY MS. FALCO) Do you recall having a
 09:21 2 conversation with the defendant Ivan Cantu regarding how
 09:21 3 easy it would be to kill somebody?
 09:21 4 A. Yeah.
 09:21 5 Q. Do you remember when that conversation
 09:22 6 occurred?
 09:22 7 A. I don't know a date, but it was in the
 09:22 8 Bobbitt's house in the bathroom.
 09:22 9 Q. So it was when you were living with Bobbitt?
 09:22 10 A. Yeah.
 09:22 11 Q. What did the defendant say regarding how easy
 09:22 12 it would be to kill somebody?
 09:22 13 MR. GOELLER: Renew my objection, Your
 09:22 14 Honor. Now, I object as to time and place. I object
 09:22 15 under 404(b) and ask the Court at this time to allow
 09:22 16 this evidence to conduct a balancing test under 403.
 09:22 17 THE COURT: I tell you what, if you would,
 09:22 18 if you could firm up the time. Otherwise the objection
 09:22 19 is overruled.
 09:22 20 Q. (BY MS. FALCO) Mr. Boettcher, you said you
 09:22 21 moved to Dallas approximately August 23rd of 2000,
 09:22 22 correct?
 09:22 23 A. Uh-huh.
 09:22 24 Q. I need you to answer out loud.
 09:22 25 A. What's that?

09:22 1 Q. I need you to answer out loud.
 09:22 2 A. Yes.
 09:22 3 Q. And then you moved in with Julie and Dennis,
 09:22 4 and how long did you live there?
 09:22 5 A. Approximately a month or two.
 09:23 6 Q. And then where did you go from Julie and
 09:23 7 Dennis's house?
 09:23 8 A. To Bobbitt's.
 09:23 9 Q. And do you know approximately what month it was
 09:23 10 when you were living at Bobbitt's?
 09:23 11 A. July.
 09:23 12 Q. If you moved here August 23rd, would it have
 09:23 13 been before you moved down here?
 09:23 14 A. Oh, no. It was after.
 09:23 15 Q. So if you moved here August 23rd and you lived
 09:23 16 with Julie and Dennis for about a month, did you then go
 09:23 17 to Bobbitt's house?
 09:23 18 A. Yeah.
 09:23 19 Q. So when would that have been?
 09:23 20 A. I'm not positive.
 09:23 21 Q. If you moved here August 23rd and you moved in
 09:23 22 with Julie and Dennis and were there for about a month,
 09:23 23 would this be approximately mid-September?
 09:23 24 A. Yeah, around there.
 09:23 25 Q. How long did you live at Bobbitt's house?

09:23 1 A. Probably for a couple weeks or a month.
 09:23 2 Q. So you would have lived with him from
 09:23 3 mid-September to sometime in October?
 09:23 4 A. Yeah.
 09:24 5 Q. This is of 2000?
 09:24 6 A. Yeah.
 09:24 7 Q. Was it at that time that you had this
 09:24 8 conversation with the defendant?
 09:24 9 A. Yes.
 09:24 10 Q. And what did the defendant tell you with regard
 09:24 11 to how easy it would be to kill somebody?
 09:24 12 MR. GOELLER: Renew my objection. Your
 09:24 13 Honor, 404(b) improper impeachment, character
 09:24 14 assassination under 405 based on the -- that's -- those
 09:24 15 are my objections right now, Judge. And then I'll have
 09:24 16 another request depending on how the Court rules.
 09:24 17 THE COURT: Overruled.
 09:24 18 MR. GOELLER: Based on the State's
 09:24 19 elicited testimony that this young man was on cocaine,
 09:24 20 speed, mushrooms, and marijuana on a daily basis, I
 09:24 21 request to take the witness on voir dire and test
 09:24 22 personal knowledge and ability to recall the events.
 09:24 23 THE COURT: I'll let you cross-examine
 09:24 24 him.
 09:24 25 MR. GOELLER: Yes, sir.

09:24 1 Q. (BY MS. FALCO) And what did the defendant say?
 09:25 2 A. About?
 09:25 3 Q. About how easy it would be to kill someone?
 09:25 4 A. He said he would just walk up to them and
 09:25 5 (shooting sound) shoot them. That's how easy.
 09:25 6 Q. What did you think when he told you that?
 09:25 7 A. I thought, that's not too easy.
 09:25 8 Q. Did you ever look at the defendant's gun or
 09:25 9 watch him load the gun?
 09:25 10 A. Well, I looked at it, yeah.
 09:25 11 Q. Do you know whether or not he kept it loaded or
 09:25 12 unloaded?
 09:25 13 A. Not for a fact but it was always bullets in the
 09:25 14 clip.
 09:25 15 Q. Now, when you moved into the apartment on Bent
 09:25 16 Tree Lane, that was sometime in October?
 09:25 17 A. Yeah.
 09:25 18 Q. And you said you got a job at a gas station?
 09:25 19 A. Yeah.
 09:25 20 Q. During that time did the defendant have a car?
 09:25 21 A. No.
 09:26 22 Q. What happened to his car?
 09:26 23 A. His mom took it.
 09:26 24 Q. And during that time, if the defendant needed
 09:26 25 to go somewhere, how did he get somewhere?

09:26 1 A. I had my car.
 09:26 2 Q. And you would take him?
 09:26 3 A. Yeah.
 09:26 4 Q. And do you recall, during that time in October
 09:26 5 of 2000, giving the defendant a ride when another
 09:26 6 conversation came up about killing somebody?
 09:26 7 A. Yep.
 09:26 8 Q. Where were you taking the defendant?
 09:26 9 A. To his work.
 09:26 10 Q. Where was his work?
 09:26 11 A. I don't know where it was, but it was -- I'm
 09:26 12 trying -- I forget the name of his job, Country Homes or
 09:26 13 something.
 09:26 14 Q. Do you remember what kind of work it was?
 09:26 15 A. Real estate.
 09:26 16 Q. And on the way -- first of all, did you take
 09:26 17 him out there?
 09:26 18 A. Yeah.
 09:26 19 Q. Did he stay or did you -- did he just get
 09:27 20 something and you take him home? What happened?
 09:27 21 A. He just grabbed a few things, and then I gave
 09:27 22 him a ride back home.
 09:27 23 Q. And on the ride back home, did a
 09:27 24 conversation --
 09:27 25 MR. GOELLER: Objection, Judge. I'm sorry

09:27 1 to interrupt, but this is just blatant leading this
 09:27 2 witness.
 09:27 3 THE COURT: Well, let me hear the question
 09:27 4 first.
 09:27 5 Q. (BY MS. FALCO) On the way home, did a
 09:27 6 conversation come up regarding killing someone?
 09:27 7 MR. GOELLER: Renew my objection.
 09:27 8 THE COURT: Objection sustained.
 09:27 9 Q. (BY MS. FALCO) What did you talk about on the
 09:27 10 way home?
 09:27 11 MR. GOELLER: Objection as to hearsay.
 09:27 12 THE COURT: Overruled.
 09:27 13 THE WITNESS: Can you repeat the question?
 09:27 14 Q. (BY MS. FALCO) What did you and the defendant
 09:27 15 Ivan Cantu talk about on the way home from Countrywide?
 09:27 16 A. On the way home, nothing, but when we got home.
 09:27 17 Q. What happened when you got home?
 09:27 18 A. We were still in the car, and he asked me --
 09:27 19 MR. GOELLER: Objection as to hearsay,
 09:27 20 Your Honor. Nonresponsive to the question.
 09:27 21 THE COURT: Overruled.
 09:27 22 Q. (BY MS. FALCO) Go ahead.
 09:27 23 A. He asked me if I could help him do something.
 09:28 24 Q. Did he say what it was he wanted you to help
 09:28 25 him do?

09:28 1 A. Clean up.
 09:28 2 Q. Clean up what?
 09:28 3 A. After he goes and kills someone.
 09:28 4 MR. GOELLER: Objection, Your Honor. I
 09:28 5 object to hearsay, 404(b), 405. I object to this
 09:28 6 witness even being able to testify. He's an admitted
 09:28 7 mushroom user every day. He couldn't recall what
 09:28 8 happened yesterday, I'd submit to the Court.
 09:28 9 THE COURT: All right. That wasn't a
 09:28 10 proper objection; therefore, I'll overrule it.
 09:28 11 Q. (BY MS. FALCO) Did he say who it was he was
 09:28 12 going to kill?
 09:28 13 A. James.
 09:28 14 MR. GOELLER: Same objection, Your Honor.
 09:28 15 THE COURT: Overruled.
 09:28 16 Q. (BY MS. FALCO) Who did he say he was going to
 09:28 17 kill.
 09:28 18 A. James.
 09:28 19 Q. When he said he wanted you to clean up, what
 09:28 20 did he say?
 09:28 21 A. Go in there and clean up after I kill him,
 09:28 22 clean up the mess.
 09:28 23 Q. Did he say why he wanted to kill James?
 09:28 24 MR. GOELLER: Renew my objections, Your
 09:29 25 Honor, 404(b), 405, hearsay.

09:29 1 THE COURT: Overruled.
 09:29 2 THE WITNESS: He just said that there was
 09:29 3 like two kilos of cocaine and a couple pounds of
 09:29 4 marijuana and \$13,000 in cash.
 09:29 5 Q. And did he say anything to you regarding those
 09:29 6 items?
 09:29 7 A. He wanted them.
 09:29 8 Q. What did you say when he told you that?
 09:29 9 A. I said, yeah, sure, whatever.
 09:29 10 Q. Did you believe him?
 09:29 11 A. No.
 09:29 12 Q. Why didn't you believe him?
 09:29 13 A. Because he was always talking about robbing
 09:29 14 banks and stuff, and I thought he was just blowing
 09:29 15 smoke.
 09:29 16 MR. GOELLER: Judge, I'm sorry. I'm going
 09:29 17 to object again. Now, we're getting into conversations
 09:29 18 about robbing banks. It's clearly 404(b). That is --
 09:29 19 I'm going to ask the Court to conduct a balancing test
 09:29 20 under 403 now. Object to hearsay. Object to 404(b).
 09:29 21 Object to 405.
 09:30 22 THE COURT: Overruled.
 09:30 23 MR. GOELLER: Yes, sir.
 09:30 24 Q. (BY MS. FALCO) During this time you had this
 09:30 25 particular --

09:30 1 MR. GOELLER: Excuse me, I'm sorry,
 09:30 2 Ms. Falco. I don't mean to interrupt. I'd ask the
 09:30 3 Court to, at this time, to conduct a balancing test
 09:30 4 under 403 as to all this evidence. Especially his last
 09:30 5 comment about bank robbing when we have no times, dates,
 09:30 6 places.
 09:30 7 THE COURT: Overruled.
 09:30 8 MR. GOELLER: Yes, Your Honor.
 09:30 9 Q. (BY MS. FALCO) During the time you had this
 09:30 10 conversation with Ivan Cantu, on this particular day had
 09:30 11 you been doing drugs?
 09:30 12 A. No, ma'am.
 09:30 13 Q. How do you know on this particular day you were
 09:30 14 not doing drugs?
 09:30 15 A. Because I was going to take a physical.
 09:30 16 Q. And was a urine test part of that physical?
 09:30 17 A. Yeah.
 09:30 18 Q. When the defendant told you that, you stated
 09:30 19 you did not believe him?
 09:30 20 A. Yeah.
 09:31 21 Q. Did you ever tell anybody about this
 09:31 22 conversation?
 09:31 23 A. No, not that I recall.
 09:31 24 Q. Why not?
 09:31 25 A. Well, he said, "Don't tell nobody." And I

09:31 1 just -- I blew it off like, you know, I thought he was
 09:31 2 just saying it, you know, like robbing banks, you know.
 09:31 3 He would say it but he never would do it.
 09:31 4 Q. How long did you live there at that apartment
 09:31 5 after that conversation?
 09:31 6 A. Probably about two weeks.
 09:31 7 Q. Were you living in that apartment when James
 09:31 8 Mosqueda and Amy Kitchen were murdered?
 09:31 9 A. No.
 09:31 10 Q. Where were you living at that time?
 09:31 11 A. Minnesota.
 09:31 12 Q. How did you end up back in Minnesota?
 09:31 13 A. My dad was going to bring my furniture down to
 09:31 14 the apartment, and I just went back with him.
 09:31 15 Q. Did you say why you wanted to go back?
 09:31 16 A. I was going to join the Army.
 09:32 17 Q. What did you think of the lifestyle you were
 09:32 18 living while you were here in Dallas?
 09:32 19 A. Well, it wasn't good but, you know, it was
 09:32 20 crazy.
 09:32 21 Q. Were you going to try to straighten out your
 09:32 22 life?
 09:32 23 A. Yeah.
 09:32 24 Q. Did you ever say anything to Amy Boettcher
 09:32 25 about what the defendant told you?

09:32 1 A. Not that I recall.
 09:32 2 Q. And you said you moved back to Minnesota. Is
 09:32 3 that where your dad lives?
 09:32 4 A. Yeah.
 09:32 5 Q. Prior to you leaving for Minnesota, had you
 09:32 6 heard the defendant and Amy talking about a trip to
 09:32 7 Arkansas?
 09:32 8 A. Yeah.
 09:32 9 Q. And why was there a trip to Arkansas planned?
 09:32 10 A. To visit my mom.
 09:32 11 Q. Did you go on that trip with them to Arkansas?
 09:32 12 A. No.
 09:32 13 Q. Did you hear from your sister and the defendant
 09:32 14 while they were in Arkansas?
 09:33 15 A. Yeah.
 09:33 16 Q. How did you hear from them?
 09:33 17 A. Either they called there or I called.
 09:33 18 Q. And did you talk to Amy?
 09:33 19 A. Yeah.
 09:33 20 Q. Did you ever talk to the defendant while he was
 09:33 21 in Arkansas on the phone?
 09:33 22 A. Yeah.
 09:33 23 Q. And you recognized the voice to be Ivan
 09:33 24 Cantu's?
 09:33 25 A. Yeah.

09:34 1 Q. Did you ever look at the papers or the
 09:34 2 headlines?
 09:34 3 A. No.
 09:34 4 Q. Was that the last time you talked to the
 09:34 5 defendant Ivan Cantu?
 09:34 6 A. Yeah.
 09:34 7 Q. When's the next time you talked to Amy or heard
 09:34 8 from Amy?
 09:34 9 A. Well, I got a message on the machine like a
 09:34 10 panic message saying, "Jeff, this is Amy. Give me a
 09:34 11 call," and it sounded as if she was running.
 09:34 12 Q. How did she sound in her voice?
 09:34 13 A. Scared, panicked, frightened.
 09:35 14 Q. Were you able -- did you talk to her that day
 09:35 15 you got the message?
 09:35 16 A. No. I tried to contact her, and I couldn't
 09:35 17 find her.
 09:35 18 Q. How did you try to contact her?
 09:35 19 A. I called the apartment and then I called my
 09:35 20 mom's, and then I called Sylvia.
 09:35 21 Q. Sylvia Cantu?
 09:35 22 A. Yeah.
 09:35 23 Q. And what did she say?
 09:35 24 A. She said --
 09:35 25 MR. GOELLER: Objection as to hearsay,

09:33 1 Q. And when you talked to the defendant on the
 09:33 2 phone, what did he tell you?
 09:33 3 MR. GOELLER: Objection as to hearsay,
 09:33 4 Your Honor.
 09:33 5 THE COURT: Overruled.
 09:33 6 A. He said, "Did you check out the paper? The
 09:33 7 Dallas paper?" And I said, "No." And he said, "Well,
 09:33 8 you should read the front page," meaning there's two
 09:33 9 dead, the ones that he was talking about earlier to me.
 09:33 10 Q. (BY MS. FALCO) Did he specifically say
 09:33 11 anything about them being dead?
 09:33 12 A. He was just like, yeah, check out the paper.
 09:33 13 Check it out, you know.
 09:33 14 Q. How did he say that? What was his demeanor?
 09:33 15 A. Like, like, I told you so. You know, like,
 09:34 16 check it out.
 09:34 17 Q. What did you think at that time he told you
 09:34 18 that?
 09:34 19 A. It's like I don't know, wow. The guy's --
 09:34 20 Q. Did you know anything about the murders at that
 09:34 21 time?
 09:34 22 A. No.
 09:34 23 Q. When you talked to Amy, had she said anything
 09:34 24 about the murders?
 09:34 25 A. Well she said, "James and Amy are dead."

09:35 1 Your Honor.
 09:35 2 THE COURT: Sustained.
 09:35 3 Q. (BY MS. FALCO) Were you finally able to talk
 09:35 4 to your sister?
 09:35 5 A. Yeah.
 09:35 6 Q. Where was she when you finally were able to
 09:35 7 talk to her?
 09:35 8 A. In Arkansas.
 09:35 9 Q. At your mom's house?
 09:35 10 A. Yeah.
 09:35 11 Q. Mr. Boettcher, do you have a job now?
 09:35 12 A. Yeah.
 09:35 13 Q. What are you doing now?
 09:35 14 A. I work for Flow International.
 09:35 15 Q. What are you doing for them?
 09:35 16 A. I build docks and trailers.
 09:35 17 Q. Are you trying to straighten up your life a
 09:35 18 little bit?
 09:35 19 A. Yeah.
 09:36 20 MS. FALCO: Thank you, Mr. Boettcher.
 09:36 21 Pass the witness.
 09:36 22 THE COURT: All right. Mr. Goeller?
 09:36 23 MR. HIGH: Can we have just a moment, Your
 09:36 24 Honor?
 09:36 25 THE COURT: Yes.

CROSS-EXAMINATION

09:36 1
 09:36 2 BY MR. HIGH:
 09:36 3 Q. Good morning, Mr. Boettcher. Did you review
 09:36 4 any statements prior to testifying here this morning?
 09:36 5 A. What's that?
 09:36 6 Q. Did you review anything in writing before you
 09:36 7 testified here this morning?
 09:37 8 A. No.
 09:37 9 Q. You didn't review anything at all?
 09:37 10 A. I went over my statement with Gail.
 09:37 11 Q. Okay. You gave a statement?
 09:37 12 A. Yeah.
 09:37 13 Q. Okay. Is it in writing?
 09:37 14 A. I gave it to her over the phone.
 09:37 15 Q. Okay. And it was reduced to writing, and then
 09:37 16 you reviewed that earlier this morning?
 09:37 17 A. Not this morning.
 09:37 18 Q. When did you review it?
 09:37 19 A. Thursday.
 09:37 20 Q. All right. And you used that so that you could
 09:37 21 kind of refresh your memory before you testified this
 09:37 22 morning?
 09:37 23 A. Well, yeah. I knew what I know, you know.
 09:37 24 Q. I understand.
 09:37 25 MR. HIGH: Your Honor, at this time, we'd

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09:37 1 ask that that statement be provided to us.
 09:37 2 MS. FALCO: Your Honor, if I could ask
 09:37 3 some clarifying questions of this witness.
 09:37 4 THE COURT: All right.
 09:37 5 VOIR DIRE EXAMINATION
 09:37 6 BY MS. FALCO:
 09:37 7 Q. Mr. Boettcher, you never actually wrote
 09:37 8 anything in your own handwriting, did you?
 09:37 9 A. No.
 09:37 10 Q. When you say you gave me a statement over the
 09:37 11 phone, you talked to me over the phone?
 09:37 12 A. Yeah.
 09:37 13 Q. And then you and I met a couple nights ago and
 09:37 14 talked again?
 09:37 15 A. Yeah.
 09:37 16 Q. Did you ever write anything down?
 09:37 17 A. No.
 09:37 18 Q. You just saw me making notes while I was
 09:38 19 talking to you?
 09:38 20 A. Yeah.
 09:38 21 Q. But I didn't show you my notes?
 09:38 22 A. No.
 09:38 23 MS. FALCO: Pass this witness, Your Honor.
 09:38 24 THE COURT: All right.
 09:39 25 MR. HIGH: We still ask for the statement.

09:38 1 That's a statement that was written or adopted by him.
 09:38 2 He reviewed it prior to testifying here today.
 09:38 3 MS. FALCO: Your Honor, that's my work
 09:38 4 product, any notes I made while interviewing the
 09:38 5 witness, and I never gave it to him to review or to look
 09:38 6 at.

09:38 7 THE COURT: Yeah, I tell you what, I'll
 09:38 8 deny the request.

CROSS-EXAMINATION (CONT'D)

09:38 9 BY MR. HIGH:
 09:38 10 Q. What did you tell Ms. Falco?
 09:39 11 A. Who is Ms. Falco?
 09:39 12 Q. You know, Gail, the prosecutor.
 09:39 13 A. Oh. The same thing you've heard today.
 09:39 14 Q. Did you tell her anything in addition to that?
 09:39 15 A. Just how we were living.
 09:39 16 Q. How you were living?
 09:39 17 A. Just moving back and forth and how I knew the
 09:39 18 defendant and --
 09:39 19 Q. Okay. You guys were having a hard time
 09:39 20 surviving here in Dallas?
 09:39 21 A. Well, finding a place to live, yeah.
 09:39 22 Q. Because you weren't from here, and you didn't
 09:39 23 have any family here?
 09:39 24 A. Yeah.
 09:39 25

36

09:39 1 Q. And Mr. Bobbitt and Mr. Cantu helped you out,
 09:39 2 correct?
 09:39 3 A. Yeah.
 09:39 4 Q. And how long did you guys survive here in
 09:39 5 Dallas altogether?
 09:39 6 A. Until I moved.
 09:39 7 Q. Just give us an idea. How long did you and Amy
 09:39 8 survive here? How many months or years?
 09:39 9 A. Well, my sister lived here for two years prior
 09:39 10 to me moving down, and I survived until I moved.
 09:40 11 Q. So how long were you here, altogether?
 09:40 12 A. I'm not exactly sure. I would say a couple
 09:40 13 months or more.
 09:40 14 Q. That's it?
 09:40 15 A. Yeah. It was maybe two to four months.
 09:40 16 Q. Between two and four months?
 09:40 17 A. Yeah. I'm not real good on dates.
 09:40 18 Q. Any longer than that? Any longer than four
 09:40 19 months?
 09:40 20 A. No. Not -- no.
 09:40 21 Q. Okay. Any less than two months?
 09:40 22 A. No.
 09:40 23 Q. Maybe just a few weeks?
 09:40 24 A. No.
 09:40 25 Q. Okay. So you feel pretty good between two and

09:40 1 four months?
 09:40 2 A. Yeah.
 09:40 3 Q. You are from Minnesota?
 09:40 4 A. Yeah.
 09:40 5 Q. And did you grow up in a family with Amy?
 09:40 6 A. Yeah.
 09:40 7 Q. One-parent or two-parent home?
 09:40 8 A. Two.
 09:40 9 Q. Did they raise you all the way through high
 09:40 10 school?
 09:40 11 A. Yeah.
 09:40 12 Q. You are not much of a drinker, are you?
 09:40 13 A. No.
 09:41 14 Q. You don't drink alcohol too much?
 09:41 15 A. Well, I drink it but not every day or nothing.
 09:41 16 Q. Okay. You don't have a problem with it?
 09:41 17 A. No.
 09:41 18 Q. And you don't -- you don't have much of a drug
 09:41 19 problem either, do you?
 09:41 20 A. Not no more.
 09:41 21 Q. You did?
 09:41 22 A. Yep.
 09:41 23 Q. When did you have the drug problem?
 09:41 24 A. For a couple years, just with marijuana.
 09:41 25 Q. Was that before you moved down here?

09:42 1 buy it?
 09:42 2 A. I bought it.
 09:42 3 Q. You didn't have a car down here?
 09:42 4 A. Yeah.
 09:42 5 Q. You did?
 09:42 6 A. Yeah.
 09:42 7 Q. What kind of car did you have?
 09:42 8 A. Black Oldsmobile, same one I bought.
 09:42 9 Q. So you brought it from Minnesota down here?
 09:42 10 A. I brought it from Arkansas.
 09:42 11 Q. When you grew up with your sister, Amy, did you
 09:42 12 guys have a good relationship?
 09:42 13 A. Yeah.
 09:42 14 Q. Did she do drugs, too?
 09:42 15 A. Yeah.
 09:42 16 Q. What did she do?
 09:42 17 A. She was doing cocaine -- I don't know. I
 09:42 18 wasn't with her all the time, you know.
 09:42 19 Q. She was older than you, right?
 09:43 20 A. Yeah.
 09:43 21 Q. So did she introduce you to drugs?
 09:43 22 A. No.
 09:43 23 Q. But you guys would do drugs together, right?
 09:43 24 A. Yeah.
 09:43 25 Q. When you got to Dallas, you kept doing drugs

09:41 1 A. Yeah.
 09:41 2 Q. So you did marijuana pretty steady in
 09:41 3 Minnesota?
 09:41 4 A. Yeah.
 09:41 5 Q. And then when you got to Dallas, you kept doing
 09:41 6 marijuana?
 09:41 7 A. Yeah.
 09:41 8 Q. And then you got into some other things too
 09:41 9 like cocaine, mushrooms?
 09:41 10 A. I only did mushrooms one time when I was down
 09:41 11 here.
 09:41 12 Q. Okay. Anything else, any ecstasy?
 09:41 13 A. Ecstasy.
 09:41 14 Q. You did some -- did you do some heroin?
 09:41 15 A. No.
 09:41 16 Q. Did you do any crack?
 09:41 17 A. No.
 09:42 18 Q. When you were in Minnesota, did you have your
 09:42 19 own place?
 09:42 20 A. No.
 09:42 21 Q. You lived with your parents up there?
 09:42 22 A. Yeah.
 09:42 23 Q. Did you have a car up there?
 09:42 24 A. Yeah.
 09:42 25 Q. Did you buy it yourself, or did your parents

09:43 1 together?
 09:43 2 A. Yeah.
 09:43 3 Q. Your sister, she didn't -- she didn't have a
 09:43 4 job while she was here in Dallas?
 09:43 5 A. She did, but the day I got down, she told me
 09:43 6 she quit the day before. So August 22nd or so.
 09:43 7 Q. So the whole time you lived here, she didn't
 09:43 8 work?
 09:43 9 A. No.
 09:43 10 Q. Okay. And you worked just a little bit?
 09:43 11 A. Yeah.
 09:43 12 Q. Have you always looked up to your sister, Amy?
 09:43 13 A. Yeah.
 09:43 14 Q. Okay. It's kind of easy to look up to an older
 09:43 15 sister, isn't it?
 09:43 16 A. Yeah.
 09:43 17 Q. Does she really think through things before she
 09:44 18 makes a decision to do something?
 09:44 19 A. Oh, yeah.
 09:44 20 Q. What about yourself?
 09:44 21 A. Yeah.
 09:44 22 Q. Does she usually surround herself with good,
 09:44 23 credible people in your opinion?
 09:44 24 A. Yeah.
 09:44 25 Q. Do you respect your older sister, Amy?

09:44 1 A. Yeah.
 09:44 2 Q. Has she always been there for you?
 09:44 3 A. Yeah.
 09:44 4 Q. And have you always been there for her?
 09:44 5 A. Yeah.
 09:44 6 Q. Would you do anything for her?
 09:44 7 A. What do you mean?
 09:44 8 Q. I mean, would you protect her and --
 09:44 9 A. Well, yeah.
 09:44 10 Q. -- help her out --
 09:44 11 A. Yeah.
 09:44 12 Q. -- and assist her any way you could?
 09:44 13 A. Uh-huh.
 09:44 14 Q. Has she ever lied to your parents?
 09:44 15 A. Maybe about stupid stuff, you know.
 09:45 16 Q. Okay. So she has?
 09:45 17 A. Well, yeah, you know. I didn't break the lamp,
 09:45 18 you know.
 09:45 19 Q. I understand. And I take it you have, too?
 09:45 20 A. Too what?
 09:45 21 Q. You've lied to your parents?
 09:45 22 A. Well, yeah, about -- oh, yeah.
 09:45 23 Q. And I suppose if she lied and you knew about
 09:45 24 it, you backed her up on that, right?
 09:45 25 A. Yeah.

09:45 1 Q. You sure didn't want to tell on her or --
 09:45 2 A. Well, when we were younger I did.
 09:45 3 Q. Okay. When you were younger you did?
 09:45 4 A. Yeah.
 09:45 5 Q. But as you got older and got closer, then it
 09:45 6 was kind of the rule, the unbroken, the unspoken rule
 09:45 7 that you guys kind of take up for each other, right?
 09:45 8 A. Oh, yeah.
 09:45 9 Q. Do you know whether or not Amy's ever lied to
 09:45 10 you?
 09:45 11 A. I'm sure she has, you know.
 09:45 12 Q. You are sure she has?
 09:45 13 A. I'm not positive, but...
 09:45 14 Q. As you think about that, does anything come to
 09:45 15 mind, what she lied about?
 09:46 16 A. Well, you know, probably like: Did you eat the
 09:46 17 last candy bar? No. You know, stupid stuff like that.
 09:46 18 Q. And you realize that when people lie, they lose
 09:46 19 some of their credibility? You realize that?
 09:46 20 A. Uh-huh.
 09:46 21 Q. Prior to moving to Texas, did you guys do drugs
 09:46 22 together up there in Minnesota?
 09:46 23 A. No. I really didn't hang out with her much in
 09:46 24 Minnesota.
 09:46 25 Q. But she was doing drugs, right?

09:46 1 A. She wasn't for a while. Not that I -- you
 09:46 2 know, she wouldn't --
 09:46 3 Q. But she testified that she was, right?
 09:46 4 A. Yeah.
 09:46 5 Q. And you were doing drugs?
 09:46 6 A. Yeah.
 09:46 7 Q. You guys lied about that, right?
 09:46 8 A. Lied about doing drugs?
 09:46 9 Q. Yeah.
 09:46 10 A. No.
 09:46 11 Q. Did your parents ask you about that?
 09:46 12 A. Oh, yeah.
 09:46 13 Q. You lied about it?
 09:47 14 A. Yeah.
 09:47 15 Q. And you kept it from your parents, right?
 09:47 16 A. Yeah.
 09:47 17 Q. And I suppose they were suspicious about it,
 09:47 18 weren't they?
 09:47 19 A. Well, yeah.
 09:47 20 Q. And I suppose they asked you direct questions
 09:47 21 about it, didn't they?
 09:47 22 A. Uh-huh.
 09:47 23 Q. And yet you didn't tell them the truth?
 09:47 24 A. No.
 09:47 25 Q. Okay. And I suppose when you moved down here

09:47 1 to Dallas, they asked you about the drugs and wondered
 09:47 2 what was going on down here in Dallas, and you didn't
 09:47 3 tell them the truth about that either, did you?
 09:47 4 A. No.
 09:47 5 Q. Because it might hurt them, right?
 09:47 6 A. Yeah.
 09:47 7 Q. It might hurt you, too. I mean, it might hurt
 09:47 8 your relationship with your parents, and it might keep
 09:47 9 you from doing what you want to do, right?
 09:47 10 A. Yeah.
 09:47 11 Q. Who is Neddy?
 09:47 12 A. One of my sister's good friends from Minnesota.
 09:47 13 Q. What kind of work did she do?
 09:48 14 A. I don't know exactly.
 09:48 15 Q. Are you sure?
 09:48 16 A. Yeah.
 09:48 17 Q. What do you think she did?
 09:48 18 A. Through the grapevine I heard she was a -- a, I
 09:48 19 don't know exactly what you call it, but a --
 09:48 20 Q. Hooker?
 09:48 21 A. Well, yeah.
 09:48 22 Q. Prostitute?
 09:48 23 A. Yeah, professional.
 09:48 24 Q. Was Neddy married or was she single?
 09:48 25 A. She was married -- actually, I'm not sure she

09:48 1 was married. I knew she was planning on it or
 09:48 2 something.
 09:48 3 Q. Okay. And what did you know about her husband?
 09:48 4 A. Nothing.
 09:48 5 Q. Did you know that he was a male prostitute?
 09:48 6 A. I heard.
 09:48 7 Q. That was Amy's good friend?
 09:48 8 A. Yep.
 09:48 9 Q. Neddy and her husband, a male prostitute?
 09:48 10 A. Yeah.
 09:48 11 Q. How long had they been friends?
 09:48 12 A. Years.
 09:48 13 Q. Good friends?
 09:49 14 A. Yeah.
 09:49 15 Q. Did your parents know about Amy's friendship
 09:49 16 with Neddy?
 09:49 17 A. I don't know.
 09:49 18 Q. Did Amy keep that from your parents?
 09:49 19 A. I don't know.
 09:49 20 Q. Your parents sure didn't ask you about it, did
 09:49 21 they?
 09:49 22 A. Ain't my friend.
 09:49 23 Q. That's not my question. I understand what you
 09:49 24 are saying. But your parents, apparently, didn't know
 09:49 25 about Neddy. They never mentioned it to you, did they?

09:49 1 A. Well, no. Why would they?
 09:49 2 Q. That's fair enough. You said that your sister
 09:49 3 thinks through her decisions before she makes them,
 09:50 4 right?
 09:50 5 A. Yeah.
 09:50 6 Q. You know of an instance where she met some guys
 09:50 7 in a bar in Minnesota and moved to Texas with them that
 09:50 8 same night?
 09:50 9 A. Yeah.
 09:50 10 Q. And that happened, didn't it?
 09:50 11 A. Yeah. I don't know if it was the same night.
 09:50 12 Q. Next day?
 09:50 13 A. Yeah. It was close.
 09:50 14 Q. She met some guys. And the next thing you know
 09:50 15 she's moving several thousand miles?
 09:50 16 A. Yeah.
 09:50 17 Q. And what did your parents think about that
 09:50 18 decision?
 09:50 19 A. She was old enough to make her own, you know.
 09:50 20 Q. The guy that she moved to Texas with, his name
 09:50 21 was Chris Rushberg; is that correct?
 09:50 22 A. Yeah.
 09:50 23 Q. And because she moved to Texas and she didn't
 09:50 24 have a job and she didn't have any money, Chris Rushberg
 09:51 25 had to foot the bill for everything, right?

09:51 1 A. Well, I'm assuming. I don't know if you are
 09:51 2 saying his last name correctly, though.
 09:51 3 Q. Okay. Maybe I'm not. Is it Ruberg?
 09:51 4 A. It sounds better. I think that's it.
 09:51 5 Q. Okay. And basically she shacked up with
 09:51 6 Mr. Chris Ruberg?
 09:51 7 A. Yeah.
 09:51 8 Q. And Amy was the older sister in the family?
 09:51 9 A. Yeah.
 09:51 10 Q. You have a younger sister named Tiffany, right?
 09:51 11 A. She's older, but she's an old stepsister, you
 09:51 12 know.
 09:51 13 Q. Okay.
 09:51 14 A. They are divorced now, so she ain't my
 09:51 15 stepsister.
 09:51 16 Q. Is she older or younger than you?
 09:51 17 A. She's older.
 09:51 18 Q. But younger than Amy?
 09:51 19 A. No. I think she's the oldest one.
 09:51 20 Q. Well, after Amy was shacking up with Chris for
 09:51 21 a while, she invited Tiffany to come down and move in,
 09:51 22 right?
 09:51 23 A. Yeah, with this other guy that Tiff met.
 09:51 24 Q. Huh?
 09:52 25 A. With this other guy that Tiff met.

09:52 1 Q. Do you recall his name?
 09:52 2 A. No.
 09:52 3 Q. Wasn't Amy able to set Tiff up with one of
 09:52 4 Chris Ruberg's friends named Brad?
 09:52 5 A. Yeah, that's it, Brad.
 09:52 6 Q. But he goes by Lips, right?
 09:52 7 A. Yeah.
 09:52 8 Q. Do you know Lips?
 09:52 9 A. Yeah, I know who you are talking about.
 09:52 10 Q. I'm sorry?
 09:52 11 A. Yeah, I know who you are talking about.
 09:52 12 Q. Didn't you think it's a little bit odd for both
 09:52 13 of your sisters to move to Texas with two guys they
 09:52 14 didn't even know?
 09:52 15 A. Well, yeah, but --
 09:52 16 Q. Kind of irresponsible?
 09:52 17 A. You could say.
 09:53 18 Q. Now, what started the fight between you and
 09:53 19 your father prior to him moving to Arkansas? Did he
 09:53 20 move over to Arkansas?
 09:53 21 A. Him?
 09:53 22 Q. Yeah.
 09:53 23 A. No.
 09:53 24 Q. Did you move to Arkansas?
 09:53 25 A. Yeah.

09:53 1 Q. When did you move to Arkansas?
 09:53 2 A. I'm not sure.
 09:53 3 Q. But you did?
 09:53 4 A. Yeah.
 09:53 5 Q. Was that after being here in Dallas?
 09:53 6 A. No. It was before.
 09:53 7 Q. So you moved from Minnesota to Arkansas and
 09:53 8 back to Minnesota and then to Texas?
 09:53 9 A. I moved from living in Minnesota, moved to
 09:53 10 Arkansas, moved to Texas, and moved back to Minnesota
 09:53 11 and then back to Arkansas, and now back to Minnesota.
 09:53 12 Q. Okay. Well, somewhere in there you were going
 09:53 13 to move to Arkansas, and you had a fight with your dad,
 09:53 14 right?
 09:53 15 A. Yeah.
 09:53 16 Q. What was that about?
 09:53 17 A. More with my stepmom.
 09:53 18 Q. More with your stepmom?
 09:53 19 A. Yeah.
 09:53 20 Q. What was that about?
 09:53 21 A. Well, I wasn't an angel or nothing, and me and
 09:53 22 her didn't get along good. And she gave him an
 09:54 23 ultimatum: Either I leave or he leaves. And I'm still
 09:54 24 young and my dad's not. I said, "Well, why you don't
 09:54 25 you stay. I'll leave," you know, and I moved down with

50

09:54 1 my mom.
 09:54 2 Q. And she lived over in Arkansas?
 09:54 3 A. Yeah.
 09:54 4 Q. And when you got down to Arkansas and moved in
 09:54 5 with your mom, you didn't get along with her, did you?
 09:54 6 A. Yeah.
 09:54 7 Q. You did get along with her?
 09:54 8 A. (Moving head up and down.)
 09:54 9 Q. What about Richard, Dick Kremer? Who is that?
 09:54 10 A. My stepdad.
 09:54 11 Q. So that's her new husband?
 09:54 12 A. Yeah.
 09:54 13 Q. Did you get along with him?
 09:54 14 A. Yeah, but we'd have our days.
 09:54 15 Q. What do you mean by that?
 09:54 16 A. Well, you know, you'd argue over stupid stuff
 09:54 17 or something.
 09:54 18 Q. Did you sometimes break things?
 09:54 19 A. Me? No.
 09:54 20 Q. No. I understand that you don't have much
 09:54 21 respect for property or authority. Have you heard that
 09:55 22 before from other folks?
 09:55 23 A. No.
 09:55 24 Q. And I take it that Dick Kremer, your mom's --
 09:55 25 stepdad, he's a retired police officer, is he not?

09:55 1 A. Yeah.
 09:55 2 Q. And while you were over there in Arkansas,
 09:55 3 isn't it true that you would take your car and drive
 09:55 4 through cornfields and completely ruin them for the
 09:55 5 farmers over there? You did that a few times, didn't
 09:55 6 you?
 09:55 7 A. No. (Laughing) No.
 09:55 8 Q. You didn't do that?
 09:55 9 A. No.
 09:55 10 Q. It's amusing to you, though, isn't it?
 09:55 11 A. Well, I don't understand why I would drive
 09:55 12 through a cornfield.
 09:55 13 Q. Did you ever drive through the fields and ruin
 09:55 14 some crops over there?
 09:55 15 A. No.
 09:55 16 Q. If somebody were to say that, that wouldn't be
 09:55 17 true?
 09:55 18 A. No.
 09:55 19 Q. Your mom got you a job over there?
 09:55 20 A. Yeah.
 09:55 21 Q. Where was that?
 09:55 22 A. Crown Point Resort.
 09:56 23 Q. What were you doing for them?
 09:56 24 A. Maintenance.
 09:56 25 Q. And was it a good job?

52

09:56 1 A. Yeah.
 09:56 2 Q. You liked working there?
 09:56 3 A. Yeah.
 09:56 4 Q. What happened with that job?
 09:56 5 A. Well, I got laid -- fired.
 09:56 6 Q. You got fired?
 09:56 7 A. Yeah.
 09:56 8 Q. How come?
 09:56 9 A. Well, this girl at work there also had some
 09:56 10 downers, and I took some and I fell asleep.
 09:56 11 Q. So you were taking drugs on the job?
 09:56 12 A. Well, I did, yeah.
 09:56 13 Q. And then the consequence of taking drugs is you
 09:56 14 don't have a job anymore, right?
 09:56 15 A. Yeah.
 09:56 16 Q. And I suppose now you can see that a drug
 09:56 17 problem is a pretty serious thing, right?
 09:56 18 A. Yeah.
 09:56 19 Q. Did it cause you to lose other jobs?
 09:56 20 A. No.
 09:56 21 Q. That's the only one?
 09:56 22 A. Yeah. Well, I failed a pee test, you know, or
 09:57 23 something.
 09:57 24 Q. Where was that? Where did you fail a pee test?
 09:57 25 A. Babich, it's called, I believe, down here in

09:57 1 Dallas or over by Euless. I tried to get a job there.
 09:57 2 Actually I worked there for like two days, and then they
 09:57 3 called and said, "Don't come back."
 09:57 4 Q. Because they found out you were a drug user?
 09:57 5 A. Yeah.
 09:57 6 Q. Or abuser?
 09:57 7 A. Yeah.
 09:57 8 Q. And it costs money to have drugs or do drugs,
 09:57 9 doesn't it?
 09:57 10 A. Yeah.
 09:57 11 Q. Back in Arkansas after you lost this job
 09:57 12 because of the drug incident, did that cause some
 09:57 13 pressure and stress with your mom and your stepdad, Dick
 09:57 14 Kremer?
 09:57 15 A. Well, yeah.
 09:57 16 Q. Because they didn't like that, right?
 09:58 17 A. No.
 09:58 18 Q. I'm sure you didn't really tell them right away
 09:58 19 that it was because of the drugs on the job. I'm sure
 09:58 20 they had to find that out some other way, right?
 09:58 21 A. No. I had them in my pocket.
 09:58 22 Q. You had them in your pocket?
 09:58 23 A. And the cop found them.
 09:58 24 Q. But you -- didn't you go to the hospital,
 09:58 25 though?

09:58 1 A. Yeah.
 09:58 2 Q. So did they come to the hospital to check on
 09:58 3 you, and there you were with a drug overdose?
 09:58 4 A. They were right there next to me at work.
 09:58 5 Q. Okay. So -- so you really didn't get a chance
 09:58 6 to tell them. I mean, they -- they found out?
 09:58 7 A. Uh-huh.
 09:58 8 Q. Back to Texas with Tiffany and Amy, they are
 09:58 9 living with those two guys. Didn't Tiffany move away
 09:59 10 from this fellow we mentioned earlier?
 09:59 11 A. Yeah.
 09:59 12 Q. Rhubarb?
 09:59 13 A. No, not rhubarb, Lips or --
 09:59 14 Q. Lips, yeah. Where did she move to when she
 09:59 15 left Lips?
 09:59 16 A. I believe she came back to Minnesota. Me and
 09:59 17 her don't have a close relationship.
 09:59 18 Q. She also do drugs?
 09:59 19 A. No.
 09:59 20 Q. She into prostitution or anything like that?
 09:59 21 A. No.
 09:59 22 Q. You don't know? Do you know why she moved away
 09:59 23 from Euless?
 09:59 24 A. Not exactly.
 09:59 25 Q. Do you know why Chris Ruberg, Mr. Lips, broke

09:59 1 up with Amy? Do you know why they broke up?
 09:59 2 A. No.
 09:59 3 Q. But they did and this forced Amy out to buy her
 09:59 4 own place, correct?
 10:00 5 A. Yeah, but they were always still hanging out
 10:00 6 and in contact and everything.
 10:00 7 Q. Okay. But now he wasn't fronting everything.
 10:00 8 He wasn't her --
 10:00 9 A. Well, he never really was.
 10:00 10 Q. -- sugar daddy anymore?
 10:00 11 A. She got a job. It was probably, you know, both
 10:00 12 paid the rent.
 10:00 13 Q. That job was as a topless dancer, wasn't it?
 10:00 14 A. I believe so. I'm not for sure.
 10:00 15 Q. Okay. Which club was that?
 10:00 16 A. I don't know.
 10:00 17 Q. Okay. But you are aware that your sister, Amy
 10:00 18 Boettcher, was a topless dancer?
 10:00 19 A. In the past, I believe.
 10:00 20 Q. Now, Amy moved in with a girl she knew named
 10:00 21 Julie, right?
 10:00 22 A. Yeah.
 10:00 23 Q. And where did she meet Julie? Was that at the
 10:00 24 club?
 10:00 25 A. I couldn't tell you the truth. I don't know.

10:00 1 They just were good friends when I came down here last
 10:00 2 year on her birthday or the year before.
 10:01 3 Q. Do you know if they did drugs at their new
 10:01 4 residence, Amy and Julie?
 10:01 5 A. I think they did.
 10:01 6 Q. When you moved to Texas, where was Amy living?
 10:01 7 A. With Dennis and Julie.
 10:01 8 Q. Okay. What, did Dennis come later?
 10:01 9 A. No. He lived with Julie.
 10:01 10 Q. Okay. And so that's where you moved first?
 10:01 11 A. Yeah.
 10:01 12 Q. And of course your sister, Amy, she didn't have
 10:01 13 a car, right?
 10:01 14 A. No, she didn't.
 10:01 15 Q. So she was kind of depending on you to get her
 10:01 16 around in your car?
 10:01 17 A. No. Because she got around fine for two years
 10:01 18 that I wasn't here.
 10:01 19 Q. What -- kind of schlepping with other friends,
 10:02 20 getting a ride, bumming a ride from other folks?
 10:02 21 A. I suppose.
 10:02 22 Q. She didn't have a driver's license, did she?
 10:02 23 A. No.
 10:02 24 Q. In fact, she had lost it because she was on
 10:02 25 probation for something, right?

10:02 1 A. Yeah.
 10:02 2 Q. Okay. What was she on probation for?
 10:02 3 A. I think a DWI. I'm not for sure but I believe
 10:02 4 that's it.
 10:02 5 Q. When you left Arkansas and you came down here
 10:02 6 to Texas, did you bring any money with you?
 10:02 7 A. Yeah.
 10:02 8 Q. And was that money supposed to hold you over
 10:02 9 until you got a job?
 10:02 10 A. Yep.
 10:02 11 Q. Isn't it true that the very first evening that
 10:02 12 you arrived in Texas you and Amy went over and purchased
 10:02 13 speed from a guy named Metal?
 10:03 14 A. Yeah.
 10:03 15 Q. You blew that money?
 10:03 16 A. No.
 10:03 17 Q. You spent some of it on the speed, right?
 10:03 18 A. No.
 10:03 19 Q. So somebody -- it was somebody else's money?
 10:03 20 A. Yeah.
 10:03 21 Q. You know whether or not there was some sleeping
 10:03 22 around going on in that house where you were living?
 10:03 23 A. What do you mean "sleeping around?"
 10:03 24 Q. Was your sister sleeping around with Jacob?
 10:03 25 A. I don't know. They were going out before I

10:03 1 moved there.
 10:03 2 Q. In fact, that was Julie's son, right?
 10:03 3 A. Yeah.
 10:03 4 Q. How old was he?
 10:04 5 A. At the time I don't know. He was like 22,
 10:04 6 though.
 10:04 7 Q. And Amy was how old?
 10:04 8 A. I don't know at the time. She's 25.
 10:04 9 Q. And how old is Julie?
 10:04 10 A. I don't know for a fact, but I'm guessing late
 10:04 11 40s, early 40s.
 10:04 12 Q. What about Dennis?
 10:04 13 A. Same.
 10:04 14 Q. And was Amy paying rent to Julie?
 10:04 15 A. Yeah.
 10:04 16 Q. But quite often she didn't have the rent,
 10:04 17 right?
 10:04 18 A. Well, no, because she quit her job.
 10:04 19 Q. The dancing job?
 10:04 20 A. No. The leasing-out-apartment job.
 10:04 21 Q. Do you know if Julie, Jacob, and Dennis used
 10:04 22 drugs?
 10:04 23 A. I believe so, yeah.
 10:04 24 Q. What kind?
 10:05 25 A. I know Jacob smoked marijuana, and I think

10:05 1 Julie and Dennis would do cocaine every once in a great
 10:05 2 while.
 10:05 3 Q. This was at a two-bedroom apartment, right?
 10:05 4 A. Yeah.
 10:05 5 Q. And so there was four there, and you made five;
 10:05 6 is that right?
 10:05 7 A. Yep.
 10:05 8 Q. And you and Amy and Jacob all shared a one-
 10:05 9 bedroom, correct?
 10:05 10 A. No. He slept in the living room.
 10:05 11 Q. Did you ever use drugs with Jacob?
 10:05 12 A. Yeah.
 10:05 13 Q. That's how you know about the pot?
 10:05 14 A. Yeah.
 10:05 15 Q. Did you ever do any cocaine with him?
 10:05 16 A. No.
 10:05 17 Q. Did you ever do any drugs with Dennis or Julie?
 10:05 18 A. No. Well, I might have smoked pot with Dennis.
 10:06 19 He smoked pot, too.
 10:06 20 Q. That's kind of easy to forget, isn't it?
 10:06 21 That's kind of routine and regular?
 10:06 22 A. Yeah.
 10:06 23 Q. And you've done drugs on many occasions with
 10:06 24 your sister, Amy, correct?
 10:06 25 A. Yeah.

10:06 1 Q. And what did you and Amy -- what kind of drugs
 10:06 2 did you typically do together?
 10:06 3 A. Well, just speed. She don't smoke pot.
 10:06 4 Q. Does she like those amphetamines?
 10:06 5 A. Yeah, I guess you could say.
 10:06 6 Q. So was it her idea to go over to Lips's
 10:06 7 house -- I mean, Metal's house that night and get the
 10:06 8 speed?
 10:06 9 A. Yeah.
 10:06 10 Q. Let me ask you something: Did you feel like
 10:06 11 you were picking up the slack for Amy once you got to
 10:06 12 town?
 10:06 13 A. When I got to town?
 10:06 14 Q. Yeah.
 10:06 15 A. No.
 10:06 16 Q. I mean --
 10:06 17 A. We were in it together.
 10:06 18 Q. I mean, you were the only one around that had
 10:07 19 money and a car, right?
 10:07 20 A. Yeah.
 10:07 21 Q. And I suppose she began to ride with you quite
 10:07 22 frequently at that point, right?
 10:07 23 A. Uh-huh.
 10:07 24 Q. And I suppose, since you had money and it came
 10:07 25 from your parent and stepparent, that she felt like she

10:07 1 could spend some of it, too, right?
 10:07 2 A. No, not necessarily. You know, like you said,
 10:07 3 we're in it together. I'll help her out.
 10:07 4 Q. You tried to help her out?
 10:07 5 A. Yeah. She had money, too, though.
 10:07 6 Q. Do you have any idea where she got her money?
 10:07 7 A. From her job.
 10:07 8 Q. From time to time would Amy drive your car?
 10:07 9 A. She has. I think most of the time I was in it.
 10:07 10 Q. Okay. But she didn't have a driver's license,
 10:07 11 right?
 10:07 12 A. No, she didn't.
 10:07 13 Q. And you -- and I don't suppose she had any
 10:08 14 insurance, did she?
 10:08 15 A. No.
 10:08 16 Q. But you let her drive your car without a
 10:08 17 license and without insurance?
 10:08 18 A. Yeah.
 10:08 19 Q. I take it, if -- if you want to do something,
 10:08 20 you just do it; is that right?
 10:08 21 A. Well, yeah, but I look at the consequences
 10:08 22 first.
 10:08 23 Q. Well, the consequences, had she had an
 10:08 24 accident, would have been an uninsured accident,
 10:08 25 correct?

10:08 1 A. Yeah.
 10:08 2 Q. So I don't suppose you looked at that, did you?
 10:08 3 A. Well, I did, but she needed to use it.
 10:08 4 Q. She needed to use it; she needed to use it,
 10:08 5 right?
 10:08 6 A. Uh-huh.
 10:08 7 Q. Now, you admit that once you moved to Eules,
 10:08 8 Amy never worked again, did she?
 10:08 9 A. No.
 10:09 10 Q. And in fact, the whole time you were in Texas,
 10:09 11 whether it was two months or four months, she never
 10:09 12 worked one day, right?
 10:09 13 A. That's correct.
 10:09 14 Q. While you were here, did you and Amy ever go to
 10:09 15 look for another place to live by yourselves?
 10:09 16 A. Yeah. Well, Kadine was with --
 10:09 17 Q. Who?
 10:09 18 A. Kadine.
 10:09 19 Q. Who is Kadine?
 10:09 20 A. A friend she met that lived with Bobbitt, also.
 10:09 21 Q. And how did she know Kadine?
 10:09 22 A. They -- I think she met her through Ivan.
 10:09 23 Q. How old was Kadine?
 10:09 24 A. Sav. 19. I'm not for sure, but I believe so.

10:09 1 Q. Was she a party girl, too? Liked to do drugs
 10:09 2 and do dope?
 10:09 3 A. The only thing she would do was smoke
 10:10 4 marijuana -- oh, and ecstasy.
 10:10 5 Q. Oh, she liked ecstasy, too?
 10:10 6 A. Yeah.
 10:10 7 Q. So Kadine went with you-all on this apartment
 10:10 8 hunt?
 10:10 9 A. Yeah.
 10:10 10 Q. How were you guys going to get an apartment
 10:10 11 when neither one of you had a job?
 10:10 12 A. I don't know.
 10:10 13 Q. When you worked for Tivo, you say you only
 10:10 14 worked a couple weekends?
 10:10 15 A. Yeah. I believe it was only two Saturdays.
 10:10 16 Q. Okay. And you were getting some marijuana
 10:10 17 there, weren't you?
 10:10 18 A. Uh.
 10:10 19 Q. And so were the other guys that were working
 10:10 20 for Tivo?
 10:10 21 A. Yeah.
 10:11 22 Q. Why didn't you work any more for Tivo?
 10:11 23 A. Well, it was just, you know, you introduce the
 10:11 24 product for so long.
 10:11 25 Q. What were you doing?

10:11 1 A. Just standing by the door, passing fliers out
 10:11 2 and sending them to the back where my -- where the other
 10:11 3 guy would introduce it and show how it works.
 10:11 4 Q. Eventually they laid you off, right?
 10:11 5 A. Well, you could say that.
 10:11 6 Q. Why did they lay you off?
 10:11 7 A. Because, you know, you can only introduce a
 10:11 8 product for so long, I'm supposing. Probably I was only
 10:11 9 going to do it for another weekend.
 10:11 10 Q. Your drug problem didn't get in the way of
 10:11 11 that, did it?
 10:11 12 A. No.
 10:11 13 Q. You weren't smoking too much marijuana or
 10:11 14 taking too many pills?
 10:11 15 A. No.
 10:11 16 Q. Now, you couldn't pay -- neither one of you had
 10:11 17 a job, and you couldn't pay Julie her rent. So
 10:12 18 basically you had to move out of Julie's apartment,
 10:12 19 right?
 10:12 20 A. Well, that wasn't the reason. She was -- from
 10:12 21 day one she said she would help me out, you know, until
 10:12 22 I got my feet on the ground. And they were going to
 10:12 23 look for a new place, too, you know, and they were even
 10:12 24 telling Jacob to look for a place, their own kids, you
 10:12 25 know.

10:16 1 A. Well, yeah.
 10:16 2 Q. But you didn't really like that? You didn't
 10:16 3 like hustling; you didn't like waiting on people?
 10:16 4 A. No. I liked hustling. I just didn't like
 10:16 5 waiting on people.
 10:16 6 Q. So how long did you have that job?
 10:16 7 A. I would say about maybe two days, not even. I
 10:16 8 might have worked only one day there.
 10:16 9 Q. Do you recall Ivan getting you an interview
 10:16 10 with Discount Tire?
 10:16 11 A. Not an interview, application.
 10:16 12 Q. He went by and picked up an application and
 10:16 13 brought it to you?
 10:16 14 A. And a card and said, "Call this guy."
 10:16 15 Q. And you never went in and talked with him,
 10:16 16 right?
 10:16 17 A. No.
 10:16 18 Q. Why not?
 10:17 19 A. I don't know. I was enjoying the free ride.
 10:17 20 Q. So was Amy, right?
 10:17 21 A. Why, yeah, I guess. Well, she was told not to
 10:17 22 get a job.
 10:17 23 Q. Isn't it true that once you and Amy moved in
 10:17 24 with Brad and Ivan, neither one of you ever had any
 10:17 25 money?

10:17 1 A. Well, besides that Tivo check I got.
 10:17 2 Q. So that's true, right, other than the Tivo
 10:17 3 check?
 10:17 4 A. And then the money I came down with.
 10:17 5 Q. But other than that, you didn't have any other
 10:17 6 source of funds?
 10:17 7 A. No.
 10:17 8 Q. And after that money ran out and the Tivo money
 10:17 9 ran out, Brad and Ivan paid for your food and everything
 10:17 10 that you and Amy needed to survive; isn't that correct?
 10:17 11 A. Just food.
 10:17 12 Q. He helped you with gas in your car?
 10:17 13 A. Well, yeah, but I was also driving other people
 10:18 14 around.
 10:18 15 Q. But, I mean, he helped put gas in your car?
 10:18 16 A. Yeah.
 10:18 17 Q. Did you ever have any work done on your car,
 10:18 18 any automotive work, brakes or anything like that,
 10:18 19 tires?
 10:18 20 A. No.
 10:18 21 Q. He helped you with your car insurance?
 10:18 22 A. No.
 10:18 23 Q. Did you have car insurance?
 10:18 24 A. Yeah.
 10:18 25 Q. And still, while you were in Texas and with

10:18 1 this assistance that he gave you, you never did get on
 10:18 2 your feet, right? You never did get a job and get out
 10:18 3 and get your own place to live, did you?
 10:18 4 A. No. I was starting to when we got our own
 10:18 5 place. See, we were moving so much that, you know, I
 10:18 6 was -- I didn't want to work because I would move the
 10:18 7 next day. And I didn't know my way around this place,
 10:18 8 so I wanted to get in a stable living environment, you
 10:18 9 know.
 10:18 10 Q. Also, as we mentioned earlier, it was awfully
 10:18 11 hard for you to pass through an interview process
 10:18 12 because you couldn't pass a pee test, right?
 10:19 13 A. Yeah.
 10:19 14 Q. Because you were doing so much drugs at the
 10:19 15 time?
 10:19 16 A. Well, yeah.
 10:19 17 Q. Did you all go to parties with Ivan and Brad?
 10:19 18 A. Yeah, but most -- not really. There would be
 10:19 19 parties at Brad's house.
 10:19 20 Q. So Brad was the one throwing the parties?
 10:19 21 A. Yeah, or go on the boat.
 10:19 22 Q. I'm sorry. I couldn't hear.
 10:19 23 A. Or go on the boat, Brad's boat.
 10:19 24 Q. Brad had a boat?
 10:19 25 A. Yeah.

10:19 1 Q. Where was that?
 10:19 2 A. I don't know. But we'd go -- it was in the
 10:19 3 front yard, but we'd go to Lewisville Lake.
 10:19 4 Q. And that was a pretty wild time, wasn't it?
 10:20 5 A. Yeah.
 10:20 6 Q. Drugs flowed freely on the party boats on
 10:20 7 Lewisville Lake, right?
 10:20 8 A. You could say.
 10:20 9 Q. Also girls, lots of girls?
 10:20 10 A. Yeah.
 10:20 11 Q. And Amy participated, right?
 10:20 12 A. Yeah.
 10:20 13 Q. And I'm sure there was alcohol out there on
 10:20 14 these boats?
 10:20 15 A. Yeah.
 10:20 16 Q. And I'm sure that there was lots of
 10:20 17 relationships and carrying on, that sort of thing,
 10:20 18 right?
 10:20 19 A. Not that I seen.
 10:20 20 Q. Was James ever out there partying with you-all,
 10:21 21 James Mosqueda, partying with you out there on the boat?
 10:21 22 A. No. I never met the guy.
 10:21 23 Q. Was he ever out there partying with you at Brad
 10:21 24 Bobbitt's apartment?
 10:21 25 A. No.

10:21 1 Q. Never met him?
 10:21 2 A. No.
 10:21 3 Q. Have you ever sold any drugs?
 10:21 4 A. Years ago.
 10:21 5 Q. Okay. And in fact you said that you've
 10:21 6 admitted that you've sold them up in Minnesota, right?
 10:21 7 A. Yeah.
 10:21 8 Q. Paid some of your living expenses up there?
 10:21 9 A. Yeah.
 10:21 10 Q. You've admitted that you've sold drugs to put
 10:21 11 leather furniture in your apartment? You've admitted
 10:21 12 that, haven't you?
 10:21 13 A. No.
 10:21 14 Q. You never told anybody that?
 10:21 15 A. No. The furniture was given to me.
 10:21 16 Q. I see. So by a prior customer, somebody that
 10:21 17 bought drugs from you?
 10:21 18 A. No. My father.
 10:22 19 Q. What kind of drugs were you selling before you
 10:22 20 moved to Arkansas?
 10:22 21 A. Just marijuana.
 10:22 22 Q. That's it?
 10:22 23 A. Maybe speed once in a while.
 10:22 24 Q. Somebody needed a hit, you were the man?
 10:22 25 A. Yep.

10:22 1 Q. Now, you admit then that you are a drug dealer,
 10:22 2 correct?
 10:22 3 A. Was.
 10:22 4 Q. And you are also a drug addict, correct?
 10:22 5 A. Was.
 10:22 6 Q. Once you are an addict, you are always an
 10:22 7 addict, aren't you?
 10:22 8 A. No.
 10:22 9 Q. Didn't you first start drinking at the age of
 10:22 10 15?
 10:22 11 A. No.
 10:22 12 Q. You didn't?
 10:22 13 A. No.
 10:23 14 Q. Is your father an alcoholic?
 10:23 15 A. He used to be. I mean, not an alcoholic. He
 10:23 16 would have a problem with drinking.
 10:23 17 Q. He still does, doesn't he?
 10:23 18 A. No. He's cut back.
 10:23 19 Q. Huh?
 10:23 20 A. He has cut back. He might have one or two.
 10:23 21 Q. He drinks every day, doesn't he?
 10:23 22 A. No.
 10:23 23 Q. Another job here, you were a cashier at a
 10:24 24 convenience store. What's that about?
 10:24 25 A. I used to work at Super America in Minnesota.

10:24 1 Q. When was that?
 10:24 2 A. '97 to '99, maybe. I'm not quite sure on that.
 10:24 3 Q. Okay. Were you a cashier ever down here in
 10:24 4 Dallas?
 10:24 5 A. Yeah.
 10:24 6 Q. Where was that?
 10:24 7 A. Right down the road from where Bent Tree Lane
 10:24 8 was, and I don't remember the name of it. I forget the
 10:24 9 name of it.
 10:24 10 Q. How long did you work there?
 10:24 11 A. Probably about maybe a week.
 10:24 12 Q. At least not long enough to remember where it
 10:24 13 was, right?
 10:24 14 A. Well, the name will pop right in my head, you
 10:24 15 know, but I can't think of it right now.
 10:24 16 Q. Okay. And did Ivan here help you get that job,
 10:24 17 too?
 10:24 18 A. Well, yeah, he just showed me where it was. He
 10:24 19 didn't help me.
 10:24 20 Q. Ivan was always good to you, wasn't he?
 10:25 21 A. Yeah.
 10:25 22 Q. Would he lend you clothes sometimes to go on
 10:25 23 your -- looking for a job?
 10:25 24 A. Yeah.
 10:25 25 Q. And if you needed money, he gave it to you?

10:25 1 A. Yeah.
 10:25 2 Q. And you had some tooth pain at one point, did
 10:25 3 you not?
 10:25 4 A. Yeah.
 10:25 5 Q. And Ivan was there to get you to the doctor and
 10:25 6 get you the prescription, right?
 10:25 7 A. No doctor.
 10:25 8 Q. No doctor?
 10:25 9 A. No.
 10:25 10 Q. How did he help you with that issue?
 10:25 11 A. He called someone on the phone, and next thing
 10:25 12 you know he had some Valium. I believe it was Valium.
 10:25 13 Q. Okay. No more pain?
 10:25 14 A. No.
 10:25 15 Q. Now, Amy, your sister, discussed marriage at
 10:26 16 the apartment where you and Ivan and Brad, where you-all
 10:26 17 lived, the Midway apartment?
 10:26 18 A. I heard something about it.
 10:26 19 Q. This was Amy's idea? Amy wanted to marry Ivan?
 10:26 20 A. No. I think it was the other way around.
 10:26 21 Q. Ivan wanted to marry Amy?
 10:26 22 A. Yeah.
 10:26 23 Q. Whatever came of that, anything?
 10:26 24 A. Just talk.
 10:26 25 Q. And you testified that they became engaged,

10:26 1 right?
 10:26 2 A. I didn't testify to that, no.
 10:26 3 Q. An hour ago?
 10:26 4 A. I heard they were, but --
 10:27 5 Q. Huh?
 10:27 6 A. I heard they were.
 10:27 7 Q. You heard they were engaged?
 10:27 8 A. Yeah.
 10:27 9 Q. Okay. What about this picking out engagement
 10:27 10 rings?
 10:27 11 A. Yeah. We went to a mall, and they were looking
 10:27 12 at engagement rings.
 10:27 13 Q. Okay. Did they tell you that they were
 10:27 14 engaged?
 10:27 15 A. No. They were still talking about it as far as
 10:27 16 I knew. I don't keep too close on my sister's love
 10:27 17 life.
 10:27 18 Q. But y'all went and looked at some engagement
 10:27 19 rings, nonetheless, right?
 10:27 20 A. Yeah.
 10:27 21 Q. Prior to Ivan moving out of Brad -- Brad's
 10:27 22 apartment, wasn't your sister pressuring Ivan to marry
 10:27 23 her?
 10:27 24 A. Not that I'm aware of, no.
 10:27 25 Q. You don't know anything about that?

10:28 1 A. Huh-uh.
 10:28 2 Q. You say you never met James Mosqueda?
 10:28 3 A. True.
 10:28 4 Q. What about Amy Kitchen?
 10:28 5 A. No.
 10:28 6 Q. Did you ever go to their house over on Gibbons?
 10:28 7 A. Yeah.
 10:28 8 Q. And did you ever go inside the house?
 10:28 9 A. No.
 10:28 10 Q. You waited out in the car?
 10:28 11 A. Yep. I was told to.
 10:28 12 Q. And Amy and you went inside -- I mean, Amy and
 10:28 13 Ivan went inside?
 10:28 14 A. Yeah.
 10:28 15 Q. What was that about?
 10:28 16 A. I think they were looking for some marijuana.
 10:28 17 Q. Okay. And they figured they could get it over
 10:28 18 in James's house?
 10:28 19 A. Yeah.
 10:28 20 Q. James, he had the stuff?
 10:28 21 A. Yeah. I didn't know the guy, so I don't know.
 10:28 22 Q. But he was always good for stuff, right?
 10:28 23 A. No. I don't know.
 10:28 24 Q. How many times did you go over to James's house
 10:28 25 to buy drugs?

10:29 1 A. That was the first and last.
 10:29 2 Q. This was the first week that you moved to
 10:29 3 Texas, correct?
 10:29 4 A. If I recall, yeah.
 10:29 5 Q. Did you ever meet a young man named Carlos
 10:29 6 Gonzalez?
 10:29 7 A. Yeah.
 10:29 8 Q. And where did you meet him?
 10:29 9 A. At Frisco.
 10:29 10 Q. Out there at Bow Court at his house?
 10:29 11 A. Yeah. I don't know if it's Bow Court, but
 10:29 12 yeah.
 10:29 13 Q. Pretty nice house?
 10:29 14 A. Yeah.
 10:29 15 Q. On a golf course?
 10:29 16 A. Yeah, I think it was. There was a pool in the
 10:29 17 backyard.
 10:29 18 Q. Yeah, nice house. Nice place to be, right?
 10:29 19 A. Yeah.
 10:29 20 Q. And who all went over to Carlos's house?
 10:29 21 A. Well, first time I met him, just me and Ivan.
 10:29 22 Q. And what did you -- what did you do over there?
 10:29 23 A. Just BS; try to fix his pool.
 10:30 24 Q. And was this the same evening that Carlos and
 10:30 25 Ivan traded cars?

10:30 1 A. I don't recall.
 10:30 2 Q. Do you recall that?
 10:30 3 A. I don't recall.
 10:30 4 Q. Didn't they switch out cars?
 10:30 5 A. We came in Ivan's car, and we left in his car.
 10:30 6 Q. And you left in his same car?
 10:30 7 A. Yeah.
 10:30 8 Q. Do you recall driving to Carlos' house with
 10:30 9 Carlos's red Z28?
 10:30 10 A. Yeah.
 10:30 11 Q. Huh?
 10:30 12 A. Yeah.
 10:30 13 Q. And then there was something about a black
 10:30 14 Corvette?
 10:30 15 A. I don't know. The car we got in was red.
 10:30 16 Q. So you rode in the Z28 over there, and you rode
 10:30 17 back in a Z28?
 10:30 18 A. I believe so, yeah. We left --
 10:30 19 Q. Were you on drugs that night?
 10:30 20 A. Yeah.
 10:30 21 Q. You were stoned, right?
 10:30 22 A. No. We got ecstasy.
 10:30 23 Q. Okay. So that's kind of affecting your ability
 10:30 24 to remember that?
 10:31 25 A. Well, yeah, probably.

10:31 1 Q. Is this -- do you recall meeting a young man
10:31 2 that night named Anthony Fonseca?
10:31 3 A. No. I met a couple Anthonys -- I don't
10:31 4 remember their last name.
10:31 5 Q. Okay. But you were doing ecstasy that night?
10:31 6 A. Well, we all were.
10:31 7 Q. What about Carlos?
10:31 8 A. Yeah.
10:31 9 Q. What about Anthony? The Anthonys that you met?
10:31 10 A. Yeah. Everyone there was.
10:31 11 Q. Do you recall Ivan owning a Honda Accord?
10:31 12 A. I think that's what it was. It was a Honda.
10:31 13 Q. What do you mean; the car that he owned?
10:31 14 A. Yeah, it was a Honda.
10:32 15 Q. And Carlos had a Z28?
10:32 16 A. I believe.
10:32 17 Q. And Ivan's Honda was there that night; do you
10:32 18 remember that?
10:32 19 A. Yeah.
10:32 20 Q. Now, didn't Ivan and Amy leave suddenly from
10:32 21 Carlos' house to go somewhere?
10:32 22 A. Yeah.
10:32 23 Q. Do you recall where that was?
10:32 24 A. I think they were going to the store. Yeah,
10:32 25 they were going to the store.

10:32 1 Q. And they went there about two o'clock in the
10:32 2 morning?
10:32 3 A. I didn't look at the watch, but yeah, probably
10:32 4 around that time. It was late.
10:32 5 Q. Okay. And why were they going to the store?
10:33 6 A. I don't know why, but they came back with some
10:33 7 glow sticks and a CD.
10:33 8 Q. Okay. Because when --
10:33 9 THE COURT: Mr. High, if you would just
10:33 10 remember where you are, and we'll take a 15-minute
10:33 11 recess at this time.
10:33 12 THE BAILIFF: All rise.
10:33 13 (Break.)
10:55 14 THE COURT: Please be seated.
10:55 15 Mr. Boettcher, you are still under oath, sir.
10:55 16 Mr. High, go ahead.
10:55 17 MR. HIGH: Thank you, Your Honor.
10:55 18 Q. (BY MR. HIGH) Are you the same Jeff Boettcher
10:55 19 that was testifying before we took our morning break?
10:55 20 A. Yeah.
10:55 21 Q. And you understand you are still under oath,
10:55 22 and we'll continue with your testimony.
10:55 23 A. Yeah.
10:56 24 Q. When we -- right before we broke, we were
10:56 25 talking about being over at Carlos Gonzalez's house in

10:56 1 Frisco. And there was some folks over there, Anthony
10:56 2 Fonseca and -- or there was some Anthonys over there,
10:56 3 and Ivan and Amy. And I had asked you: Do you recall
10:56 4 them leaving about two o'clock in the morning?
10:56 5 A. Yeah. I don't know if it was two o'clock but
10:56 6 they left.
10:56 7 Q. And they went somewhere to -- where did they
10:56 8 go? Do you know?
10:56 9 A. No. But they came back with a CD and glow
10:56 10 sticks.
10:56 11 Q. Okay. What's the reason for the glow sticks?
10:56 12 A. You dance with them when you are on ecstasy.
10:56 13 Q. When you are high?
10:56 14 A. Yeah.
10:56 15 Q. It kind of intensifies the effect of the drug?
10:56 16 A. You could say.
10:56 17 Q. Some people like it and other people don't,
10:56 18 right?
10:56 19 A. Yeah.
10:56 20 Q. Do you like that? Do you like to have the glow
10:56 21 sticks when you are on ecstasy?
10:56 22 A. It don't matter.
10:56 23 Q. You don't really care for it?
10:57 24 A. No.
10:57 25 Q. But Carlos liked it, right?

10:57 1 A. Yeah.
10:57 2 Q. Can you describe what that looks like, using a
10:57 3 glow light?
10:57 4 A. Well, even when you're sober, you know, if you
10:57 5 do it real fast, it looks like a calyx. And it just
10:57 6 looks cool. You just look at the light.
10:57 7 Q. And Amy and Ivan went to get them, right?
10:57 8 A. Yeah.
10:57 9 Q. So Amy must have liked that, too?
10:57 10 A. Yeah.
10:57 11 Q. Do you recall how long they were gone?
10:57 12 A. A couple hours or more.
10:57 13 Q. And did anything out of the ordinary happen to
10:57 14 them when they went to the store?
10:57 15 A. Yeah. They claim they ran out of gas.
10:57 16 Q. It took them a long time to get back?
10:57 17 A. Yeah.
10:57 18 Q. So that left you with some time alone with
10:57 19 Carlos and these other folks, right? Anthony and
10:57 20 whoever?
10:57 21 A. Yeah.
10:57 22 Q. While they were gone, what did you-all talk
10:57 23 about?
10:58 24 A. Nothing really. Just listening to music and
10:58 25 BSed, you know.

10:58 1 Q. Did you talk about a way for you to make some
 10:58 2 extra money?
 10:58 3 A. No.
 10:58 4 Q. You didn't talk about that?
 10:58 5 A. No.
 10:58 6 Q. Didn't Carlos approach you and say, hey, look,
 10:58 7 I've got an idea for you to make some extra money?
 10:58 8 A. Not that I recall.
 10:58 9 Q. Was Carlos running Ivan down that night,
 10:58 10 talking bad about him?
 10:58 11 A. Not that I recall, no.
 10:58 12 Q. Were you upset with Amy and Ivan for leaving
 10:58 13 you alone there at Carlos's house?
 10:58 14 A. Well, for the amount of time it took them,
 10:58 15 yeah, because I didn't know nobody.
 10:58 16 Q. Did you talk with this -- one of those Anthonys
 10:58 17 while Ivan and Amy were gone? Did you have a
 10:58 18 conversation with an Anthony?
 10:58 19 A. I don't know. I could have. I was talking to
 10:59 20 whoever was there, you know.
 10:59 21 Q. Anybody else talking bad about Ivan that night,
 10:59 22 that you recall?
 10:59 23 A. No.
 10:59 24 Q. Was Carlos and Anthony or a group of them
 10:59 25 trying to recruit you to make some money?

10:59 1 A. No.
 10:59 2 Q. You don't recall that?
 10:59 3 A. No.
 10:59 4 Q. Didn't you tell Amy that they did?
 10:59 5 A. I don't know. You got to remember this
 10:59 6 conversation was however so long ago.
 10:59 7 Q. That's right. And you were also -- what do you
 10:59 8 call it, stoned? What are you when you are on ecstasy?
 10:59 9 A. High, I don't know.
 10:59 10 Q. What's the right term? I want to use the right
 10:59 11 term.
 10:59 12 A. I suppose you could say high. I always knew
 10:59 13 what I was doing, though.
 11:00 14 Q. Do you recall how Ivan and Amy finally got back
 11:00 15 to Carlos's house that night?
 11:00 16 A. Yeah. If I recall, they walked.
 11:00 17 Q. Did Carlos seem upset when Ivan and Amy got
 11:00 18 back?
 11:00 19 A. Yeah.
 11:00 20 Q. How come? Any idea?
 11:00 21 A. Because they were gone for so long, and I don't
 11:00 22 know. I think he had his car.
 11:00 23 Q. In fact, Ivan was driving the red Z28?
 11:00 24 A. Yeah. So I think that's what else made him
 11:00 25 upset, you know. He had his car.

11:00 1 Q. Because the Z28 is somewhere out there, out of
 11:00 2 gas, right?
 11:00 3 A. Yeah.
 11:00 4 Q. Now, a day or two later after this, didn't you
 11:00 5 witness Ivan making a call to his mother, Sylvia?
 11:00 6 A. Well, I witnessed many calls to his mom.
 11:01 7 Q. And when he called his mother, didn't he say
 11:01 8 that he wanted to get away from the party scene and just
 11:01 9 come home?
 11:01 10 A. I can't say for sure.
 11:01 11 Q. He might have. You just don't remember?
 11:01 12 A. I didn't listen to his conversations all the
 11:01 13 time.
 11:01 14 Q. And do you recall him saying, "Look, Mom says I
 11:01 15 need to get a U-Haul truck and move on back home"? Do
 11:01 16 you recall that taking place?
 11:01 17 A. Well, we were -- yeah, we got a U-Haul because
 11:01 18 we had nowhere else to go.
 11:01 19 Q. Okay. And as a result, you and Amy and Ivan
 11:01 20 packed up the U-Haul and moved to Sylvia's house?
 11:01 21 A. Yeah.
 11:01 22 Q. And, in fact, she was kind enough to allow you
 11:01 23 and Amy to stay there, along with Ivan?
 11:01 24 A. Yeah.
 11:02 25 Q. But you didn't really like that too much

11:02 1 because Sylvia then, after you were there a day or two
 11:02 2 or three, she wanted you to get a job, right?
 11:02 3 A. Yeah.
 11:02 4 Q. And, in fact, she wanted Amy to get a job too,
 11:02 5 didn't she?
 11:02 6 A. Yeah.
 11:02 7 Q. Didn't Sylvia try to get you a job with Delta
 11:02 8 Air Lines, but you didn't even go to the job interview?
 11:02 9 A. No. She just was, you know, helping me look
 11:02 10 for a job.
 11:02 11 Q. But do you recall Delta?
 11:02 12 A. Yeah, or -- yeah, I think it was an airline,
 11:02 13 yeah. She knew somebody.
 11:02 14 Q. And she had an interview, and you didn't go to
 11:02 15 it, right?
 11:02 16 A. Yeah.
 11:02 17 Q. And even where Sylvia worked, there was a job
 11:02 18 that she could have gotten you, but you didn't want it,
 11:02 19 either. Do you remember that?
 11:02 20 A. Yeah.
 11:03 21 Q. You've admitted that Ivan gave you money, gave
 11:03 22 you a place to live. He's now giving you his mother --
 11:03 23 his mother's place to live. He tried to get you jobs.
 11:03 24 His mother tried to get you jobs. He had a big heart,
 11:03 25 didn't he? He tried to help you, didn't he?

11:03 1 A. You could say.
 11:03 2 Q. And he certainly wasn't going to let you and
 11:03 3 Amy suffer, right? If you had a need, he met it, right?
 11:03 4 A. Yeah.
 11:03 5 Q. You and Amy didn't have any money or anyplace
 11:03 6 to go, and Ivan and his family opened up their homes to
 11:03 7 you, didn't they?
 11:03 8 A. Yeah.
 11:03 9 Q. And once you were at Sylvia's house a while,
 11:03 10 didn't Ivan's brother, Eric, didn't he open up his house
 11:04 11 to you, his apartment?
 11:04 12 A. Well, just for one night.
 11:04 13 Q. And then you've testified about going to a
 11:04 14 hotel room, along with Ivan, and y'all were -- y'all
 11:04 15 were doing that. You were now looking for an apartment
 11:04 16 again, right?
 11:04 17 A. Yeah.
 11:04 18 Q. And who paid for that hotel room?
 11:04 19 A. I think Ivan did.
 11:04 20 Q. Now, wasn't your uncle going to send you and
 11:04 21 Amy a thousand dollars so you could get back on your
 11:04 22 feet again?
 11:04 23 A. No. We were going to call my stepbrother.
 11:04 24 Q. Oh, and ask him for the thousand dollars?
 11:04 25 A. Yeah.

11:04 1 Q. What, did that not come through?
 11:04 2 A. No. We never did it.
 11:04 3 Q. Did you just not get around to doing it?
 11:04 4 A. No. I could have done it. I just -- I don't
 11:04 5 like borrowing money from him.
 11:04 6 Q. Huh?
 11:04 7 A. I didn't like borrowing money.
 11:05 8 Q. You didn't like borrowing money. You just like
 11:05 9 somebody giving you money?
 11:05 10 A. Well, no. But yeah.
 11:05 11 Q. It's easier if somebody just gave it to you and
 11:05 12 you didn't have to pay it back, right?
 11:05 13 A. Well, see, I always wanted a job, but, you
 11:05 14 know, a week later my address would change. And I told
 11:05 15 my sister and Ivan and his mother that I ain't going to
 11:05 16 get a job until I get a stable environment to live in.
 11:05 17 Q. Now, when did you get the apartment, after
 11:05 18 living in the hotel?
 11:05 19 A. Well, we stayed in the hotel for -- I think it
 11:05 20 was three days. And then we got a hotel -- I don't
 11:05 21 recall -- or an apartment. I don't recall the dates,
 11:06 22 though.
 11:06 23 Q. It was over at Bent Tree, right?
 11:06 24 A. Yeah.
 11:06 25 Q. And whose name was the apartment in?

11:06 1 A. My sister's.
 11:06 2 Q. In fact, she filled out the lease and signed
 11:06 3 it, right?
 11:06 4 A. Yeah.
 11:06 5 Q. But didn't Ivan put up the deposit and the
 11:06 6 first month's rent?
 11:06 7 A. Yeah.
 11:06 8 Q. Because your sister didn't have any deposits.
 11:06 9 She didn't have any rent money, did she?
 11:06 10 A. No.
 11:06 11 Q. Now, the first day that you guys moved into
 11:06 12 that apartment on Bent Tree, isn't it true that you went
 11:06 13 to Metal's house that day to buy some more speed?
 11:06 14 A. I don't know if it was the first day. I mean,
 11:06 15 we went there a couple times, you know.
 11:06 16 Q. Pretty soon after moving into that new
 11:06 17 apartment?
 11:06 18 A. Yeah.
 11:06 19 Q. And you don't know Metal's real name, do you?
 11:06 20 A. No.
 11:06 21 Q. But you know him? You know Metal, right?
 11:07 22 A. Yeah.
 11:07 23 Q. You dealt with him on several occasions?
 11:07 24 A. Well, I didn't deal with him personally, but I
 11:07 25 knew him.

11:07 1 Q. Now, you knew Metal because Amy told you about
 11:07 2 Metal, right?
 11:07 3 A. Yep.
 11:07 4 Q. Because Amy had been doing some deals with
 11:07 5 Metal, right?
 11:07 6 A. Yep.
 11:07 7 Q. Now, you've been over there how many times?
 11:07 8 A. Two, maybe. Maybe three.
 11:07 9 Q. House in Arlington?
 11:07 10 A. Yeah, if that's where it was.
 11:07 11 Q. Okay. Because this is a big place to you, I'm
 11:07 12 sure, being from Minnesota?
 11:07 13 A. Yeah. I go to the gas station and get lost.
 11:07 14 Q. I understand. His house is a very interesting
 11:07 15 place because it's got all sorts of high-tech security
 11:07 16 around it, correct?
 11:07 17 A. Well, I wouldn't say high tech, just a few
 11:07 18 cameras.
 11:07 19 Q. Surveillance cameras?
 11:07 20 A. Yeah.
 11:07 21 Q. Outside the house?
 11:07 22 A. Yeah.
 11:07 23 Q. So that he can see who all is driving up and
 11:07 24 walking around in the front yard and coming up to the
 11:08 25 door and that sort of thing?

11:08 1 A. Yeah.
 11:08 2 Q. I mean, he's a high-tech drug dealer, wouldn't
 11:08 3 you say?
 11:08 4 A. Well, yeah, I suppose.
 11:08 5 Q. And you agree that that's not normal, right,
 11:08 6 for a guy to have surveillance cameras all around his
 11:08 7 house?
 11:08 8 A. Yeah.
 11:08 9 Q. And have you been in his house?
 11:08 10 A. No. Just the garage.
 11:08 11 Q. Okay. He had some weapons back there, right?
 11:08 12 A. Not that I seen.
 11:08 13 Q. But Amy's been in his house, hadn't she?
 11:08 14 A. Not that I'm aware of. The garage.
 11:08 15 Q. She's aware of the weapons that he has over
 11:08 16 there, isn't she?
 11:08 17 A. Not that I'm aware of.
 11:08 18 Q. When you purchased the speed from Metal, you
 11:08 19 and Amy, where did you get the money?
 11:08 20 A. I had it or she had it.
 11:08 21 Q. Where did y'all get that money?
 11:08 22 A. My Tivo check.
 11:08 23 Q. Huh?
 11:08 24 A. My Tivo check.
 11:09 25 Q. But we've already talked about two transactions

11:09 1 where you went over to Metal's house to buy speed,
 11:09 2 right? You still had some of that money left over from
 11:09 3 your Tivo check?
 11:09 4 A. Well, I came down here with money, too.
 11:09 5 Q. Okay. So the money that you spent to buy
 11:09 6 drugs, that was your money? That wasn't Ivan's money or
 11:09 7 Sylvia's money?
 11:09 8 A. No. The two times I went over there, it was my
 11:09 9 money.
 11:09 10 Q. So I take it you bought drugs with your money,
 11:09 11 but you lived -- got your groceries from Ivan and got
 11:09 12 your gas from Ivan?
 11:09 13 A. Well, when I got paid, I also helped out. When
 11:09 14 I had money, I'd give it to them. I even offered, you
 11:09 15 know, if either one of them didn't have money in their
 11:09 16 pocket, I would say, "You guys want some money?"
 11:10 17 Q. Didn't walk around Ivan and Brad's apartment
 11:10 18 and pick up loose change on the floor?
 11:10 19 A. No.
 11:10 20 Q. No?
 11:10 21 A. Well, no. I mean, if I saw a quarter, I'd pick
 11:10 22 it up. Who wouldn't, you know?
 11:10 23 Q. And stick it in your pocket?
 11:10 24 A. Yeah. Flip it on the counter or whatever.
 11:10 25 Q. And you knew that wasn't your money, right?

11:10 1 A. No.
 11:10 2 Q. I mean it was Ivan's --
 11:10 3 A. It could have been.
 11:10 4 Q. -- or it was Brad's, right?
 11:10 5 A. No. It could have fell out of my pocket.
 11:10 6 Q. Now, when y'all were living at this new
 11:10 7 apartment that was now in Amy's name on Bent Tree, you
 11:10 8 were pretty low because you hadn't been able to keep a
 11:11 9 job. You couldn't find a job. You didn't want a job.
 11:11 10 And you were doing these drugs, and your life was kind
 11:11 11 of going downhill, wasn't it?
 11:11 12 A. Well, not -- well, yeah, but when we got the
 11:11 13 place, I got a job because, you know, it was under my
 11:11 14 sister's name. And I knew we had to stay there because
 11:11 15 it was a lease.
 11:11 16 Q. Was that the job at Quick Way?
 11:11 17 A. Yeah. That's it, Quick Way.
 11:11 18 Q. But you only stayed there about a week, right?
 11:11 19 A. Yeah.
 11:11 20 Q. Not even long enough for you to remember the
 11:11 21 name, right? I had to remind you of the name right now.
 11:11 22 A. True.
 11:11 23 Q. What happened with that job at Quick Way?
 11:11 24 A. I just -- you know, the way I looked at it, I
 11:11 25 left Minnesota working at a gas station. And then I

11:11 1 move up here, and it's two years later, and I'm still
 11:11 2 working at a gas station for a dollar less. So it
 11:11 3 didn't make sense to me. I ought to do something with
 11:11 4 my life.
 11:11 5 Q. Because you are taking two -- one step forward
 11:11 6 and two steps back, right?
 11:11 7 A. Yeah.
 11:11 8 Q. And that didn't make any sense to you?
 11:11 9 A. No.
 11:11 10 Q. And you weren't going to put up with it, right?
 11:12 11 A. Correct.
 11:12 12 Q. So you might as well just quit it and wait for
 11:12 13 something better to come along, right?
 11:12 14 A. No. I was going to go back to Minnesota and
 11:12 15 study to go to the Army.
 11:12 16 Q. But you -- didn't Ivan make the suggestion to
 11:12 17 you about going to the Army, that the Army would be the
 11:12 18 best choice for you?
 11:12 19 A. Well, we always talked about it, and he threw
 11:12 20 his input in.
 11:12 21 Q. Okay. And he said, look, you probably need
 11:12 22 some discipline. You probably need to -- you need to do
 11:12 23 something with your life.
 11:12 24 A. Yeah.
 11:12 25 Q. And while you guys were having these talks,

11:12 1 didn't he tell you to go back home and go back to
 11:12 2 school?
 11:12 3 A. No.
 11:12 4 Q. He didn't tell you that?
 11:12 5 A. No. He didn't --
 11:12 6 Q. Let me remind you, didn't Ivan tell you that
 11:12 7 your best option was to follow your father back to
 11:12 8 Minnesota and go to school? Didn't he tell you that?
 11:13 9 A. Not that I recall.
 11:13 10 Q. He might have. You just don't remember it?
 11:13 11 A. Yeah. But he said, you know, I can do what I
 11:13 12 want.
 11:13 13 Q. I mean, he talked about the Army with you?
 11:13 14 A. Yeah. He said that was a good option, you
 11:13 15 know.
 11:13 16 Q. Yeah. And going to school was a good option?
 11:13 17 A. Yeah. Well, supposedly I was going to get sent
 11:13 18 to school.
 11:13 19 Q. I'm sorry.
 11:13 20 A. I said, supposedly I was going to get sent to
 11:13 21 school by Ivan.
 11:13 22 Q. Did he offer to send you to school?
 11:13 23 A. Yeah.
 11:13 24 Q. How come that didn't come to fruition?
 11:13 25 A. Because I think he was just blowing smoke.

11:13 1 Q. But he'd given you everything thus far, right?
 11:13 2 A. Yeah.
 11:13 3 Q. He had given you money and groceries and
 11:13 4 gasoline and a place to live?
 11:13 5 A. Well, I said I'll go to school, but it never
 11:13 6 happened.
 11:13 7 Q. Okay. Prior to helping Amy move into her new
 11:13 8 apartment, didn't you take Ivan to go meet Anthony
 11:14 9 Fonseca at Frankford and the Tollway?
 11:14 10 A. I gave him a ride somewhere.
 11:14 11 Q. Fair enough. Do you recall why you guys did
 11:14 12 that?
 11:14 13 A. I don't know. When we were living there I had
 11:14 14 to give him a ride. And I stopped at another complex,
 11:14 15 and he said he'll be right back. And he came back with
 11:14 16 a car.
 11:14 17 Q. A car?
 11:14 18 A. Yeah.
 11:14 19 Q. And that was a red Ford Mustang, right?
 11:14 20 A. Yep.
 11:14 21 Q. And after he picked up that red Ford Mustang,
 11:14 22 he followed you back to the hotel, right?
 11:14 23 A. Yeah, that was right. We were staying in the
 11:14 24 hotel, yeah.
 11:14 25 Q. And in fact he borrowed that Mustang from

11:14 1 Anthony so that he could get you and Amy moved into the
 11:14 2 new apartment, right?
 11:14 3 A. I don't know why he borrowed it. We all moved
 11:15 4 to the hotel in one car.
 11:15 5 Q. But you used the Mustang to move everything
 11:15 6 from the hotel over to the apartment?
 11:15 7 A. Well, we threw some -- equaled out, threw some
 11:15 8 stuff in each car.
 11:15 9 Q. Now, you guys got into this new apartment, and
 11:15 10 wasn't there several keys to the apartment?
 11:15 11 A. I believe I had one and Ivan had one.
 11:15 12 Q. And didn't he put his key on the Ford Mustang
 11:15 13 key ring?
 11:15 14 A. I don't know.
 11:15 15 Q. Do you know anything about that?
 11:15 16 A. I don't know.
 11:15 17 Q. Because as y'all were moving in, you were using
 11:15 18 the Mustang, and you were using that other car, your
 11:15 19 car, right?
 11:15 20 A. I wasn't using the Mustang.
 11:15 21 Q. But you were using your car?
 11:15 22 A. Yeah.
 11:15 23 Q. And you guys had the two keys, and so I assume
 11:15 24 your key went on your key ring?
 11:15 25 A. Yeah.

11:15 1 Q. And that other key went on -- do you know where
 11:15 2 it went?
 11:15 3 A. Don't know. Don't have a clue where it went.
 11:15 4 Q. Do you know anything about it being left on the
 11:15 5 key ring that was returned back to Anthony Fonseca?
 11:15 6 A. No.
 11:15 7 Q. So you don't know if it was or it wasn't?
 11:15 8 A. I'm not sure.
 11:15 9 Q. It might have been. You just don't know?
 11:15 10 A. I knew where my key was.
 11:15 11 Q. If it was accidentally given to Anthony, you
 11:15 12 can't help us out with that at all?
 11:15 13 A. No. I knew where my key was, and that's all
 11:15 14 that mattered.
 11:15 15 Q. Fair enough. Do you recall Ivan calling
 11:15 16 Anthony asking for the key? Look, I messed up. I left
 11:15 17 the apartment key on your key ring. Do you recall a
 11:15 18 conversation or call like that?
 11:15 19 A. No, I don't.
 11:15 20 Q. Now, you need to think about it. Didn't he
 11:15 21 constantly call him, call Anthony?
 11:15 22 A. Well, which Anthony?
 11:15 23 Q. You don't know the last names, do you?
 11:15 24 A. I just know an Anthony Gambino.
 11:15 25 Q. Okay. What about -- what about a -- getting

11:17 1 his key to the apartment back, though? Do you recall
 11:17 2 him calling to try to get a key back?
 11:17 3 A. No, I don't. It's not like I sat by the phone
 11:17 4 and listened to what everyone was saying.
 11:17 5 Q. I'm sure you didn't. I'm sure you didn't.
 11:17 6 What actually prompted you to move back to Minnesota?
 11:17 7 A. Well, I was going to join the Army. But I
 11:17 8 think -- I don't know. I still to this day do not know
 11:17 9 why I moved. I just woke up and I said, "I got to get
 11:17 10 out of here." I do not have a reason.
 11:17 11 Q. Too much drugs?
 11:17 12 A. Could have been. I don't know. I just --
 11:17 13 Q. Too much drinking, too much partying?
 11:17 14 A. I don't know what it was, to this day. You
 11:17 15 know, I enjoyed that stuff, but I just had to go.
 11:17 16 Q. Did your father approve of Ivan? Him living
 11:17 17 with you and your sister?
 11:17 18 A. He only met him for, what, a half hour, hour.
 11:17 19 Or actually we went out to dinner, so he just knew him
 11:18 20 over dinner.
 11:18 21 Q. Okay. You don't know whether or not he
 11:18 22 approved of him?
 11:18 23 A. He didn't know him well enough.
 11:18 24 Q. He came to Dallas, didn't he?
 11:18 25 A. Yeah.

11:19 1 A. Yeah.
 11:19 2 Q. Any idea?
 11:19 3 A. I think hunting was starting. So it was closer
 11:19 4 to the end of September because November hunting starts.
 11:19 5 Q. When you got back to Minnesota, you started
 11:19 6 drinking every day, didn't you?
 11:19 7 A. No, but I drink. Not every day.
 11:19 8 Q. I mean, you called back -- you called back to
 11:19 9 Amy. You called back to Ivan and said, "Look, I just
 11:19 10 can't stop this drinking. I've got a problem." Didn't
 11:19 11 you do that?
 11:19 12 A. I don't recall saying, "I've got a problem." I
 11:19 13 was strictly on a steady basis there, you know. I was
 11:19 14 only allowed to have a beer or so.
 11:19 15 Q. Where did you get the alcohol?
 11:19 16 A. My father.
 11:19 17 Q. Okay. Did he give it to you?
 11:20 18 A. Yeah.
 11:20 19 Q. Or did you sneak it out of his cabinet?
 11:20 20 A. He gave it to me.
 11:20 21 Q. Do you recall calling Amy and Ivan from
 11:20 22 Minnesota?
 11:20 23 A. Yeah.
 11:20 24 Q. Did you sometimes leave messages on the
 11:20 25 machine?

11:18 1 Q. Why did he come to Dallas?
 11:18 2 A. To drop off my furniture.
 11:18 3 Q. Into the apartment there?
 11:18 4 A. Yeah.
 11:18 5 Q. That leather furniture we talked about earlier?
 11:18 6 A. Yeah.
 11:18 7 Q. And what -- did you just leave that furniture
 11:18 8 here, or did you take it back with you?
 11:18 9 A. I just left it for my sister.
 11:18 10 Q. And then after y'all went to dinner, you
 11:18 11 followed your father back to Minnesota?
 11:18 12 A. Yeah. Or the next morning.
 11:18 13 Q. The next morning?
 11:18 14 A. Right.
 11:18 15 Q. You guys drove? Did he ride with you, or did
 11:18 16 you take two vehicles? How did that work?
 11:18 17 A. I followed him in my car, or he followed me,
 11:18 18 one or the other.
 11:18 19 Q. And when was it that you got back to Minnesota?
 11:18 20 A. I think it was two days later.
 11:18 21 Q. Okay. And when exactly was that? Was that
 11:18 22 before these murders evidently took place?
 11:18 23 A. Yeah.
 11:18 24 Q. So would that have been in September, October
 11:18 25 sometime?

11:20 1 A. Yeah.
 11:20 2 Q. Did you sometimes leave threatening messages on
 11:20 3 the machine?
 11:20 4 A. No.
 11:20 5 Q. No?
 11:20 6 A. I don't see why I would.
 11:20 7 Q. That never happened? That's your testimony
 11:20 8 under oath?
 11:20 9 A. That I recall, no. But, you know, I did drink.
 11:20 10 Q. So you were drinking?
 11:20 11 A. I don't see why I would leave a threatening
 11:20 12 message to my sister's apartment.
 11:20 13 Q. I'm not asking you that. But you were drinking
 11:20 14 and you were calling back to the apartment, right?
 11:20 15 A. Yeah.
 11:20 16 Q. Do you get angry when you drink?
 11:20 17 A. No. Unless you provoke me.
 11:20 18 Q. So you can if you get provoked?
 11:20 19 A. Just as well as if you are sober.
 11:20 20 Q. When you moved back to Minnesota, were you
 11:20 21 upset with Ivan for some reason?
 11:20 22 A. No.
 11:20 23 Q. No?
 11:20 24 A. (Moves head from side to side.)
 11:20 25 MR. HIGH: Can I have just a moment, Your

11:21 1 Honor?

11:22 2 THE COURT: All right.

11:22 3 Q. (BY MR. HIGH) You like your sister, don't you?

11:22 4 A. Uh-huh, yes. I'm sorry, did you say like or

11:22 5 lie?

11:23 6 Q. Like.

11:23 7 A. Yeah, I do.

11:23 8 Q. You've told Ivan before that you wanted to have

11:23 9 sex with your sister, haven't you?

11:23 10 A. No.

11:23 11 Q. That's not true?

11:23 12 A. That is not true. That's sick.

11:23 13 Q. You were jealous of other men having -- or

11:23 14 dating your sister, right?

11:23 15 A. No.

11:23 16 Q. Isn't it true that you called the "Jerry

11:23 17 Springer Show" and you told them that you were sexually

11:23 18 attracted to your sister?

11:23 19 A. No.

11:23 20 Q. Oh, you didn't?

11:23 21 A. No. No, I didn't.

11:23 22 Q. Wasn't there an occasion where both of you

11:23 23 slept with each other?

11:23 24 A. No.

11:23 25 Q. When you were doing ecstasy?

11:23 1 A. No.

11:23 2 Q. That didn't happen?

11:23 3 A. No.

11:23 4 Q. And if you told somebody that you did it, you

11:23 5 were lying?

11:23 6 A. Well, yeah. But I wouldn't even think about

11:23 7 saying that.

11:23 8 Q. The real truth is you were calling back to the

11:24 9 apartment in Dallas while you were drinking because

11:24 10 there was another man living with your sister, right?

11:24 11 A. No. I was just seeing how they were doing or

11:24 12 whatever.

11:24 13 Q. You were mad about it, right?

11:24 14 A. No. I could care less.

11:24 15 Q. I'm getting it from you that you want to work

11:24 16 the perfect job, right? It pays you a lot of money, but

11:24 17 you really don't want to have to work at it, right?

11:24 18 A. No.

11:24 19 Q. And you'd rather somebody give you money than

11:24 20 have to earn it?

11:24 21 A. No.

11:24 22 Q. Right?

11:24 23 A. That's not correct.

11:24 24 Q. Okay. Well, I mean --

11:24 25 A. As I told you before --

11:24 1 Q. That's your testimony proven thus far.

11:25 2 A. Yeah, that but also --

11:25 3 Q. That's proven that, hadn't it?

11:25 4 A. Yeah, but I also said that I just needed --

11:25 5 Q. You only tell --

11:25 6 MS. FALCO: Your Honor, I'm going to

11:25 7 object. He's arguing with this witness and not allowing

11:25 8 the witness to answer.

11:25 9 THE COURT: Sustained.

11:25 10 Q. (BY MR. HIGH) You only tell the truth when it

11:25 11 benefits you, correct?

11:25 12 A. No.

11:25 13 Q. And you do drugs a lot, right?

11:25 14 A. I did.

11:25 15 Q. And you deal drugs?

11:25 16 A. I did.

11:25 17 Q. And you drink a lot of alcohol?

11:25 18 A. I'm not an alcoholic.

11:25 19 Q. And you'd rather drink and do drugs than work,

11:25 20 right?

11:25 21 A. No.

11:25 22 Q. You'd rather sponge off of people than work,

11:26 23 right?

11:26 24 A. No.

11:26 25 Q. You've done just about every kind of drug:

11:26 1 marijuana, cocaine, speed, mushrooms, ecstasy, haven't

11:26 2 you?

11:26 3 A. Yeah.

11:26 4 Q. You've been in trouble yourself, haven't you?

11:26 5 A. Yeah.

11:26 6 Q. What kind of trouble have you been in?

11:26 7 A. Just --

11:26 8 MS. FALCO: Your Honor, I'm going to

11:26 9 object. This is improper impeachment. This lawyer

11:26 10 knows, unless you have a felony or a crime of moral

11:26 11 turpitude, you can't just blatantly ask him if he's ever

11:26 12 been in trouble before. And I ask you to admonish this

11:26 13 lawyer to do it in proper form.

11:26 14 THE COURT: Objection sustained.

11:26 15 Q. (BY MR. HIGH) And you've been reluctant to

11:26 16 take physicals because you felt like you wouldn't pass

11:26 17 the pee test, right?

11:26 18 A. True. Could you repeat that?

11:26 19 Q. You've been reluctant to take physicals because

11:26 20 you wouldn't pass the pee test; is that right?

11:27 21 A. What's reluctant?

11:27 22 Q. What was that?

11:27 23 A. What's reluctant?

11:27 24 Q. You'd rather not. You'd rather not take a

11:27 25 physical?

11:27 1 A. Well, if I was dirty, no.
 11:27 2 Q. I understand. You've done drugs with your
 11:27 3 sister, right?
 11:27 4 A. Yeah.
 11:27 5 Q. And you know that she was working in a topless
 11:27 6 joint?
 11:27 7 A. Before I got down here, I heard about it.
 11:27 8 Q. Her best friend was a prostitute?
 11:27 9 MS. FALCO: Your Honor, I'm going to
 11:27 10 object to this being repetitive.
 11:27 11 THE COURT: Sustained.
 11:27 12 Q. (BY MR. HIGH) Do you know whether or not your
 11:27 13 sister has sold drugs?
 11:27 14 A. No, she didn't.
 11:27 15 Q. But she knows a lot of drug dealers, right?
 11:27 16 A. I only met the one.
 11:27 17 Q. Okay. And did you know whether or not James
 11:27 18 Mosqueda was a drug dealer?
 11:27 19 A. No, I didn't.
 11:27 20 Q. But you did go over to his house one night to
 11:28 21 buy drugs?
 11:28 22 A. According to Ivan, yeah.
 11:28 23 Q. So that would make him a drug dealer, wouldn't
 11:28 24 it?
 11:28 25 A. I don't know the guy.

11:28 1 Q. Huh?
 11:28 2 A. I said I don't know the guy. I can't say.
 11:28 3 Q. Well, I mean, you bought drugs out of his
 11:28 4 house?
 11:28 5 A. We didn't get it.
 11:28 6 Q. You didn't get it that night?
 11:28 7 A. No.
 11:28 8 Q. I see.
 11:28 9 MR. HIGH: Your Honor, I'll pass the
 11:28 10 witness.
 11:28 11 THE COURT: All right. Ms. Falco?
 11:28 12 REDIRECT EXAMINATION
 11:28 13 BY MS. FALCO:
 11:28 14 Q. Mr. Boettcher, you said you only went over to
 11:28 15 James Mosqueda's house one time; is that correct?
 11:28 16 A. That's correct.
 11:28 17 Q. Why did Ivan want to go over there?
 11:28 18 A. Claimed we could get some weed.
 11:29 19 Q. Was he able to get any there?
 11:29 20 A. No.
 11:29 21 Q. Did you all go somewhere else after you left
 11:29 22 Mr. Mosqueda's house?
 11:29 23 A. Yeah.
 11:29 24 Q. Where did you go?
 11:29 25 A. Down the road to this apartment building.

11:29 1 Q. And what did you do there?
 11:29 2 A. We got a bag of weed.
 11:29 3 Q. So you weren't able to get it at James
 11:29 4 Mosqueda's, but you could get it somewhere else?
 11:29 5 A. Yeah.
 11:29 6 Q. Who paid for that marijuana?
 11:29 7 A. Ivan.
 11:29 8 Q. And other than the two times you've talked
 11:29 9 about it at Metal's where you paid for it, I mean, you
 11:29 10 pretty much almost had a daily habit; is that fair to
 11:29 11 say?
 11:29 12 A. Well, yeah. If it was there, I would do it.
 11:29 13 Q. And other than the two times you bought it at
 11:29 14 Metal's, who was paying for the drugs?
 11:29 15 A. Ivan.
 11:29 16 Q. And you talked about the one time that you had
 11:29 17 a toothache or a tooth pain; you never went to the
 11:29 18 doctor or the dentist?
 11:29 19 A. No.
 11:29 20 Q. Do you know who Ivan called?
 11:29 21 A. I think his aunt. I ain't sure.
 11:29 22 Q. But he called somebody?
 11:30 23 A. Yeah. He said there was a doctor in the
 11:30 24 family.
 11:30 25 Q. When he came back, he had some Valium?

11:30 1 A. Yeah. I had to go get it from the drugstore.
 11:30 2 Q. Whose idea was it -- you said you stayed at
 11:30 3 Sylvia Cantu's one week?
 11:30 4 A. Yeah. It was a short time.
 11:30 5 Q. And whose idea was it to leave her house?
 11:30 6 A. Ivan's.
 11:30 7 Q. He didn't want to live there with her anymore?
 11:30 8 A. No. Plus his mom was going to tell us to
 11:30 9 leave -- all three of us.
 11:30 10 Q. She didn't even want Ivan living there?
 11:30 11 A. No.
 11:30 12 Q. And then you went to Eric's for one night?
 11:30 13 A. Yeah.
 11:30 14 Q. And that's Ivan's brother?
 11:30 15 A. Yeah.
 11:30 16 Q. And how come you were only there for one night?
 11:30 17 A. Because his brother didn't want us there.
 11:30 18 Q. Did he want Ivan there?
 11:30 19 A. No.
 11:30 20 Q. His own brother didn't want him living there?
 11:30 21 A. No.
 11:30 22 MR. HIGH: Objection. She's leading the
 11:30 23 witness. Argumentative, Your Honor.
 11:30 24 THE COURT: Sustained.
 11:30 25 Q. (BY MS. FALCO) Mr. Boettcher, you said that

11:30 1 Ivan talked to you about going to school?
 11:30 2 A. Yeah.
 11:30 3 Q. That he'd pay for your school?
 11:31 4 A. Yeah, that him and his people.
 11:31 5 Q. What did he say about the school? What kind of
 11:31 6 school was it?
 11:31 7 A. He was going to send me to school to be able to
 11:31 8 change your identity with makeup, to make you look like
 11:31 9 a, you know, an 80-year-old woman or something.
 11:31 10 Q. He wasn't talking about college or anything
 11:31 11 like that?
 11:31 12 A. No. Just this school to change your identity.
 11:31 13 Q. And whose idea was that to send you there?
 11:31 14 A. Ivan's.
 11:31 15 Q. Did Ivan ever tell you some story about his dad
 11:31 16 being kidnapped?
 11:31 17 A. Yeah.
 11:31 18 Q. What did he tell you about that?
 11:31 19 A. He said he had to go to Mexico because his
 11:31 20 father got kidnapped, and he was the only one that could
 11:31 21 go save him.
 11:31 22 Q. Do you remember where you were living when he
 11:31 23 told you that story?
 11:31 24 A. At his mom's. And that's why she kicked us out
 11:31 25 because he didn't want to go.

11:32 1 Q. With regard to Amy's drugs, obviously you
 11:32 2 testified she didn't have a job while you were living
 11:32 3 there. And who was paying for her drugs?
 11:32 4 A. Ivan.
 11:32 5 Q. And as best as you recall, did Ivan -- when you
 11:32 6 moved into that apartment on Old Bent Tree, did Ivan
 11:32 7 have a key to the apartment?
 11:32 8 A. Yeah. I think me and him were the only ones
 11:32 9 with the key.
 11:32 10 Q. Amy didn't have a key?
 11:32 11 A. No.
 11:32 12 Q. She didn't have a key to an apartment that had
 11:32 13 her name on the lease?
 11:32 14 A. I don't think so. Because at the time I would
 11:32 15 leave to go to work, you know, and I was the only
 11:32 16 transportation.
 11:32 17 Q. And Ivan kept the key instead of Amy?
 11:32 18 A. I believe so.
 11:32 19 MS. FALCO: One moment, please, Your
 11:32 20 Honor.
 11:33 21 THE COURT: All right.
 11:33 22 Q. (BY MS. FALCO) Mr. High indicated that you had
 11:33 23 lied to benefit yourself. Do you remember him saying
 11:33 24 that?
 11:33 25 A. To benefit myself?

11:33 1 Q. Did you hear him ask you that question?
 11:33 2 A. Oh, yeah.
 11:33 3 Q. Well, you certainly haven't made yourself look
 11:33 4 like a Boy Scout up there, have you?
 11:33 5 A. Excuse me?
 11:33 6 MR. HIGH: Object. It's argumentative,
 11:33 7 Your Honor.
 11:33 8 THE COURT: Sustained.
 11:33 9 MR. HIGH: Ask the jury to disregard that
 11:33 10 comment of counsel.
 11:33 11 THE COURT: Deny the request.
 11:33 12 MR. HIGH: Thank you.
 11:34 13 MS. FALCO: I pass the witness.
 11:34 14 MR. HIGH: No questions, Your Honor.
 11:34 15 THE COURT: All right. Mr. Boettcher, you
 11:34 16 may step down.
 11:34 17 MS. FALCO: Your Honor, we ask that since
 11:34 18 he does live out of state, that since he has a flight
 11:34 19 this afternoon, that he be excused, finally excused.
 11:34 20 MR. HIGH: Judge, that's fine with us,
 11:34 21 provided that if we have to get him back, and I don't
 11:34 22 think that we will, that we know where to find him and
 11:34 23 we can get in touch with him.
 11:34 24 THE COURT: Just a minute, Mr. Boettcher.
 11:34 25 Just stick around for a second. Yeah, just stay right

11:34 1 where you are.
 11:35 2 MR. HIGH: Is everybody looking at me?
 11:35 3 THE COURT: Yeah. Are you finished?
 11:35 4 MR. HIGH: Yeah. Your Honor, I do have a
 11:35 5 couple more questions.
 11:35 6 THE COURT: Okay. Stand right there and
 11:35 7 ask them right there.
 11:35 8 RE CROSS EXAMINATION
 11:35 9 BY MR. HIGH:
 11:35 10 Q. All right. Mr. Boettcher, have you ever been
 11:35 11 questioned by the FBI or any other law enforcement
 11:35 12 agency regarding any organized crime connections
 11:35 13 involving Ivan or your sister?
 11:35 14 A. No.
 11:35 15 Q. No?
 11:35 16 A. No.
 11:35 17 Q. Nobody has ever talked to you about that?
 11:35 18 A. No.
 11:35 19 Q. And you did live with your sister, and you
 11:35 20 lived with Ivan shortly before these alleged murders
 11:35 21 occurred?
 11:35 22 A. Yeah.
 11:35 23 Q. Anybody ever call you requesting an interview
 11:36 24 with you?
 11:36 25 A. Not an interview, just Gail and Jerry Johnson.

11:36 1 Q. Okay. Nobody from the FBI ever called you and
 11:36 2 left a message?
 11:36 3 A. No.
 11:36 4 Q. Okay. What about from the Texas Department of
 11:36 5 Public Safety, Special Crimes Division?
 11:36 6 A. Only Gail and Jerry Johnson.
 11:36 7 MR. HIGH: That's all I have, Judge. I
 11:36 8 pass the witness.
 11:36 9 THE COURT: They've asked for him to be
 11:36 10 finally excused.
 11:36 11 MR. HIGH: Well, Judge, we're going to
 11:36 12 agree that he can be released. He can go back. We
 11:36 13 don't imagine that we're going to have any more
 11:36 14 questions for him. I think I've exhausted all of my
 11:36 15 questions. All I'm asking is that we can get in touch
 11:36 16 with him in the event something arises later in the
 11:36 17 trial. That's all I'm asking.
 11:36 18 THE COURT: Well, let me tell you
 11:36 19 something. He's either excused or he's not excused.
 11:36 20 MR. HIGH: Well, then I guess you could
 11:36 21 say that, you know, we're not fully agreeing to him
 11:36 22 being finally excused at this point.
 11:36 23 THE COURT: Well, you either agree or you
 11:36 24 don't agree. So you don't agree?
 11:36 25 MR. HIGH: We don't agree.

11:39 1 A. Good morning.
 11:39 2 Q. Are you one and the same Anthony Winn that's
 11:39 3 previously been sworn and given testimony in this case?
 11:39 4 A. Yes, sir.
 11:39 5 Q. Detective Winn, in your scope as the lead
 11:39 6 investigator, detective into this case, did you ever
 11:39 7 have any meetings with any officials from the Federal
 11:39 8 Bureau of Investigation, the FBI, Texas Department of
 11:39 9 Public Safety, any type of federal organized crime task
 11:39 10 force or anything of that nature in connection with this
 11:39 11 investigation?
 11:39 12 A. I spoke with a DPD detective that's assigned to
 11:39 13 a federal task force.
 11:39 14 Q. Okay. Who was that?
 11:39 15 A. I believe his name is detective -- his name
 11:39 16 slips my memory right now. But he is a DPD narcotics
 11:39 17 detective. I can't think of his name right now.
 11:40 18 Q. Okay. What was that in reference to? Because
 11:40 19 I think you testified earlier something about that.
 11:40 20 A. That was in reference to an anonymous tip that
 11:40 21 he received. And I was calling him to see if he had any
 11:40 22 intelligence information regarding this particular
 11:40 23 person.
 11:40 24 Q. Okay. That anonymous tip that you received,
 11:40 25 were you able to confirm the identity of some of the

11:36 1 THE COURT: All right.
 11:36 2 MS. FALCO: Your Honor, in that case then
 11:37 3 we ask for at least a day or two's notice so he can go
 11:37 4 back to Minnesota and work. And then if we need him, we
 11:37 5 can make arrangements for him to come back.
 11:37 6 MR. HIGH: All right. That's fair enough.
 11:37 7 THE COURT: All right. Then we'll do it
 11:37 8 that way.
 11:37 9 (Witness excused.)
 11:37 10 THE COURT: All right. Call your next
 11:37 11 witness, please.
 11:37 12 MS. FALCO: Your Honor, I believe we can
 11:37 13 go back to Detective Winn, and I believe he was on cross
 11:37 14 at that point.
 11:37 15 THE COURT: Is he -- do you want to get
 11:37 16 him?
 11:37 17 THE BAILIFF: Yes, Your Honor.
 11:38 18 THE COURT: Detective Winn, you are still
 11:39 19 under oath.
 11:39 20 THE WITNESS: Yes, sir.
 11:39 21 THE COURT: Take a seat. Mr. Goeller?
 11:39 22 MR. GOELLER: Thank you, Your Honor.
 11:39 23 CROSS-EXAMINATION (CONT'D)
 11:39 24 BY MR. GOELLER:
 11:39 25 Q. Good morning, sir

11:40 1 individuals named in the anonymous tip?
 11:40 2 A. The detective knew of the person that the name
 11:40 3 that was given, but --
 11:40 4 Q. What name was that?
 11:40 5 A. Royce, I believe. I don't remember. I would
 11:40 6 have to refresh my memory on the --
 11:40 7 Q. Mario Rojas?
 11:40 8 A. That's the name, Mario Rojas.
 11:41 9 Q. And another name Johnny Mojica?
 11:41 10 A. Yes.
 11:41 11 Q. Do any of those guys have murder raps?
 11:41 12 A. I do not know.
 11:41 13 Q. Did any of those individuals -- well, what was
 11:41 14 the gist of the tip? Was the gist of the tip that James
 11:41 15 Mosqueda was heavily involved in drug --
 11:41 16 MS. FALCO: Your Honor, I'm going to
 11:41 17 object to hearsay at this point. This officer is not
 11:41 18 the one that heard the tip. And if he can't identify
 11:41 19 who the caller was, it's hearsay.
 11:41 20 MR. GOELLER: I'm not offering at this
 11:41 21 time for the truth of the matter asserted, Your Honor.
 11:41 22 It's to see what action he took.
 11:41 23 THE COURT: I understand. Who got the
 11:41 24 tip?
 11:41 25 THE WITNESS: Another detective received

11:41 1 the tip. Detective Labota received the tip in our
 11:41 2 office.
 11:41 3 THE COURT: Okay. All right. Go ahead,
 11:41 4 Mr. Goeller.
 11:41 5 Q. (BY MR. GOELLER) And you -- he forwarded that
 11:41 6 information on to you. In fact, he typed it up, a
 11:41 7 couple pages, and gave it to you, correct?
 11:42 8 A. That's correct.
 11:42 9 Q. Was the gist of the tip that James Mosqueda
 11:42 10 owed a lot of people a lot of money for a lot of drugs?
 11:42 11 A. I have not reviewed that note. So I do not
 11:42 12 remember.
 11:42 13 Q. Okay.
 11:42 14 MR. GOELLER: May I approach the witness,
 11:42 15 Your Honor?
 11:42 16 THE COURT: Yes.
 11:42 17 Q. (BY MR. GOELLER) You are Detective Anthony
 11:42 18 Winn, right?
 11:42 19 A. That's correct.
 11:42 20 Q. If you could just read that to yourself for a
 11:42 21 second, sir.
 11:42 22 A. Okay.
 11:42 23 Q. And let me know when you are done.
 11:43 24 A. Okay.
 11:43 25 Q. Okay. You've seen that document before, right?

11:43 1 A. Oh, yes, sir.
 11:43 2 Q. That's out of your files, right?
 11:43 3 A. Yes, sir.
 11:43 4 Q. The tipster talked about Mosqueda and his drug
 11:43 5 dealing, right?
 11:43 6 MS. FALCO: Your Honor, I object again to
 11:43 7 hearsay.
 11:43 8 THE COURT: Overruled. I'll give him a
 11:43 9 limiting instruction, if you want.
 11:44 10 MS. FALCO: Yes, sir.
 11:44 11 THE COURT: All right. This is testimony
 11:44 12 that is being offered, not for the truth of that
 11:44 13 testimony itself, not for the truth of what was said,
 11:44 14 but for other purposes. And I assume that it's being
 11:44 15 offered to show why this officer did what he did?
 11:44 16 MR. GOELLER: Yes, Your Honor.
 11:44 17 THE COURT: All right. And so you should
 11:44 18 view it in that light, to show why this officer did
 11:44 19 whatever he did next or whatever he didn't do. All
 11:44 20 right.
 11:44 21 Q. (BY MR. GOELLER) Were you given some
 11:44 22 information that several people were talking in a pool
 11:44 23 hall or billiards hall down in Oak Cliff about this
 11:44 24 case?
 11:44 25 A. Yes, sir.

11:44 1 Q. Okay. Were you given information that a Mario
 11:44 2 Rojas may have been involved because Mosqueda owed him a
 11:45 3 lot of money?
 11:45 4 A. Yes, sir.
 11:45 5 Q. Okay. Specifically for -- although they said
 11:45 6 snow -- no, I'm sorry, white stuff, everybody in the
 11:45 7 business knows that's cocaine, right?
 11:45 8 A. Yes, sir.
 11:45 9 Q. Did you take any action on that call,
 11:45 10 November 5th of 2000, did you go down to Oak Cliff and
 11:45 11 try to find a pool hall where folks were talking?
 11:45 12 A. No, sir.
 11:45 13 Q. Do you know where James Mosqueda apparently had
 11:45 14 some rent houses?
 11:45 15 A. In Oak Cliff.
 11:45 16 Q. Okay. When you said you made a call, you
 11:45 17 talked to somebody in DPD narcotics. Was that in
 11:45 18 connection with the individuals named, the tip caller
 11:45 19 calling in?
 11:45 20 A. Yes.
 11:45 21 Q. Rojas and Mojica?
 11:45 22 A. Yes, sir.
 11:45 23 Q. If I'm pronouncing that correctly. You were
 11:45 24 able to -- the tipster actually told you he was wanted
 11:46 25 by the Dallas police, right?

11:46 1 A. Yes, sir.
 11:46 2 Q. And it turns out y'all are looking for this
 11:46 3 guy. DPD records revealed "currently wanted"?
 11:46 4 A. Yes, sir.
 11:46 5 Q. Okay. And you ran -- you ran criminal
 11:46 6 histories on these guys, right?
 11:46 7 A. That's correct.
 11:46 8 Q. Drug dealers?
 11:46 9 A. I don't recall what the criminal history was.
 11:46 10 Q. Okay. Were some of them wanted by U.S. Marshal
 11:46 11 Service, do you recall?
 11:46 12 A. No, sir.
 11:47 13 MR. GOELLER: May I approach? I'm sorry.
 11:47 14 THE COURT: Sure.
 11:47 15 Q. (BY MR. GOELLER) Let me direct your attention
 11:47 16 somewhere down in here, and this is kind of a law
 11:47 17 enforcement computer lingo. I'm not -- can you make
 11:47 18 sense out of that where it says, U.S. Marshal Service?
 11:47 19 A. Yes, sir. It says -- yes, sir, I do. Yes, I
 11:47 20 can.
 11:47 21 Q. Was he wanted by the U.S. Marshal Service?
 11:47 22 A. If this is the correct birthday on him, yes,
 11:47 23 sir, he is.
 11:47 24 Q. Okay. Okay. You confiscated a computer, I
 11:48 25 believe, out of the Gibbons Drive, Mosqueda's home; is

11:48 1 that correct?
 11:48 2 A. Yes.
 11:48 3 Q. Did you have that analyzed by a professional
 11:48 4 computer forensics lab?
 11:48 5 A. The FBI task force would have DPD officers
 11:48 6 assigned to this computer analysis team, and they
 11:48 7 analyzed it for us.
 11:48 8 Q. Okay. Do you know what Mr. Mosqueda's user
 11:48 9 name was for his net zero account?
 11:48 10 A. No, sir, I do not.
 11:48 11 Q. Would anything refresh your memory?
 11:48 12 A. If it was on a sheet, I do not know.
 11:48 13 Q. Okay. I'm sorry.
 11:49 14 A. No, no problem.
 11:49 15 Q. What was his user name for that one account?
 11:49 16 A. It looks -- appears to be James High, James
 11:49 17 something High.
 11:49 18 Q. James Am High or James Aim High?
 11:49 19 A. Yes, sir.
 11:49 20 Q. Did you -- did you find a -- apparently these
 11:49 21 folks at these forensic computer jobs, is that -- you
 11:49 22 say -- is that an FBI shop?
 11:49 23 A. It's an FBI shop, yes, sir, and there's some
 11:49 24 DPD officers assigned to it.
 11:49 25 Q. Apparently they can pull up -- get a computer

11:49 1 and figure out every time the thing's ever been turned
 11:49 2 on and any mail and all sorts of stuff, right?
 11:49 3 A. That's correct.
 11:49 4 Q. Did you find it odd that somebody was trying to
 11:49 5 find out about cocaine and nasal maladies for nose
 11:49 6 problems with cocaine?
 11:49 7 A. I'm sorry. Repeat your question.
 11:49 8 Q. Did you find it odd that that computer in that
 11:49 9 home had a hit related to a search, a medical search or
 11:50 10 a nursing search for nasal maladies, nose problems from
 11:50 11 cocaine?
 11:50 12 A. No, sir.
 11:50 13 Q. You didn't find that odd?
 11:50 14 A. No, sir.
 11:50 15 Q. Okay. Okay. Okay. You -- you ended up
 11:50 16 getting reports and information from some of Mosqueda's
 11:50 17 family, correct? Gladys and Gilbert Tamez?
 11:50 18 A. Yeah.
 11:50 19 Q. Would it be fair to say that they wanted no
 11:50 20 dealings with James Mosqueda?
 11:50 21 MS. FALCO: Your Honor, I'm going to
 11:50 22 object to hearsay.
 11:50 23 THE COURT: Sustained.
 11:50 24 Q. (BY MR. GOELLER) Do you know if Gilbert and
 11:50 25 Gladys Tamez associated with James Mosqueda?

11:51 1 A. I believe that was his sister. So, yes, sir, I
 11:51 2 believe.
 11:51 3 Q. Okay.
 11:51 4 MR. GOELLER: May I approach?
 11:51 5 THE COURT: Yes.
 11:51 6 Q. (BY MR. GOELLER) Kind of just, if you would,
 11:51 7 Detective, just refresh your memory and read these two
 11:51 8 first paragraphs.
 11:52 9 A. Okay.
 11:52 10 Q. Did the deceased sister and his brother-in-law
 11:52 11 seem to have a close relationship with Mr. Mosqueda?
 11:52 12 A. Not a close relationship.
 11:52 13 Q. Why -- why -- why did that -- his sister and
 11:52 14 his brother-in-law not want to be around James Mosqueda?
 11:52 15 MS. FALCO: Objection, hearsay, Your
 11:52 16 Honor. Speculation.
 11:52 17 THE COURT: Sustained.
 11:53 18 Q. (BY MR. GOELLER) Have you investigated that?
 11:53 19 A. I'm sorry. I don't understand.
 11:53 20 Q. If you are the lead detective working on a
 11:53 21 homicide case, and you come across information that a
 11:53 22 deceased's own family don't want to be near the guy, you
 11:53 23 would obviously follow that up. I know you would; any
 11:53 24 detective would, right?
 11:53 25 A. Yes, he would. But it also depends on if it

11:53 1 has anything to do with the case that you are
 11:53 2 investigating.
 11:53 3 Q. Well, what if -- what if the deceased was a
 11:53 4 drug dealer and you are trying to figure out what's
 11:53 5 going on? You would certainly track that lead down. I
 11:53 6 mean, if you got a dead guy that his own sister and
 11:53 7 brother-in-law don't want to be around him, you would
 11:53 8 check that out thoroughly, I bet?
 11:53 9 A. I would check into it, that's correct.
 11:53 10 Q. And you did so in this case, correct?
 11:53 11 A. I believe that information was related to my
 11:53 12 sergeant, the reason why they chose not to be
 11:53 13 together -- to a sergeant, I'm sorry, not to hang
 11:54 14 around.
 11:54 15 Q. For Detective Winn?
 11:54 16 A. That's correct.
 11:54 17 Q. Did you follow up on that?
 11:54 18 A. No, sir, I did not.
 11:54 19 Q. Based on the totality of your investigation,
 11:54 20 including the crime scene, your interviews with family
 11:54 21 and friends and suspects and other police officers, have
 11:54 22 you pretty much formed the conclusion that Mr. Mosqueda
 11:54 23 was a drug dealer?
 11:54 24 A. Yes, sir.
 11:54 25 Q. Okay. Do you know a guy named -- excuse me

11:54 1 just a moment. Ray Sanchez?
 11:55 2 A. Yes. The name sounds familiar.
 11:55 3 Q. Okay. Did you ever hear of any -- after the
 11:55 4 death of Mosqueda, did you ever hear of any other folks
 11:55 5 under him getting involved in a fight over who is going
 11:55 6 to take over the dope business?
 11:55 7 A. I don't recall.
 11:55 8 Q. I don't mean a physical fight, but some kind of
 11:55 9 disagreement about who is going to inherit the James
 11:55 10 Mosqueda drug dealing business?
 11:55 11 A. I don't recall.
 11:55 12 Q. Okay. Did you hear about some guy that moved
 11:55 13 in with Mosqueda and Amy Kitchen about three weeks prior
 11:55 14 to this?
 11:55 15 A. Yes, sir.
 11:55 16 Q. Who is that?
 11:56 17 A. I believe his name was Frank Perez.
 11:56 18 Q. Okay. Where did he come from, do you know?
 11:56 19 A. I don't remember exactly where he came from,
 11:56 20 no, sir.
 11:56 21 Q. Okay. Did you find that a bit odd? This guy
 11:56 22 kind of out of nowhere just shows up and starts living
 11:56 23 there for three weeks?
 11:56 24 A. No, sir.
 11:56 25 Q. Did you investigate why he was living there?

11:56 1 A. I spoke with him, yes, sir.
 11:56 2 Q. What did he tell you?
 11:56 3 A. He was assisting Mr. Mosqueda in the mortgage
 11:56 4 business.
 11:56 5 Q. And where was he from?
 11:56 6 A. I don't remember where he was from.
 11:56 7 Q. Did you make inquiry into his background,
 11:56 8 education, you know, all that kind of thing to verify
 11:56 9 his story?
 11:56 10 A. No, sir.
 11:56 11 Q. You know now he was helping him with his drug
 11:56 12 business, right, based on your other conversations with
 11:57 13 some witnesses?
 11:57 14 A. I don't recall his name coming up in any drug
 11:57 15 deals.
 11:57 16 Q. How about -- how about a guy named Chris Head?
 11:57 17 Does he sound familiar to you?
 11:57 18 A. Yes, sir.
 11:57 19 Q. Okay. In your investigation did you find out
 11:57 20 that James Mosqueda and a guy named -- I think it's
 11:57 21 Chris Head and another guy all went to West Mesquite
 11:57 22 High School, and they all grew up together?
 11:57 23 A. I don't remember what high school they attend.
 11:57 24 I knew they had been friends, but I don't remember what
 11:57 25 high school they attend.

11:57 1 Q. Anthony Fonseca. You know him, don't you?
 11:58 2 A. Anthony, yes, sir.
 11:58 3 Q. In fact, I think you testified you were out in
 11:58 4 Frisco at the Bow Court address, and it was you and
 11:58 5 Carlos Gonzalez and Anthony Fonseca, maybe some others.
 11:58 6 Do you recall that testimony?
 11:58 7 A. Yes, sir.
 11:58 8 Q. Did you all place handcuffs on Fonseca and drag
 11:58 9 him out of there under arrest?
 11:58 10 A. No. He was arrested but we did not drag him
 11:58 11 out.
 11:58 12 Q. I didn't mean literally, kind of figuratively
 11:58 13 speaking. But what did you arrest him for?
 11:58 14 A. He was wanted on some drug charges.
 11:58 15 Q. Now, you have learned, through the course of
 11:58 16 your investigation, that Fonseca, Gonzalez and Mosqueda
 11:58 17 were all distribution partners in narcotics, correct?
 11:58 18 A. Yes, sir.
 11:58 19 Q. Okay. And we're not talking nickel-dime stuff,
 11:59 20 we're talking major quantities, correct?
 11:59 21 A. Yes, sir.
 11:59 22 Q. How much -- did you ever do any time in
 11:59 23 narcotics?
 11:59 24 A. No, sir.
 11:59 25 Q. Do you have any working knowledge of street

11:59 1 prices for cocaine?
 11:59 2 A. No, sir.
 11:59 3 Q. Ballpark?
 11:59 4 A. No, sir.
 11:59 5 Q. Okay. Okay. Now, this Chris Head, he -- when
 11:59 6 did you first meet him in connection with this case?
 11:59 7 A. I never met Chris Head. The day that we
 11:59 8 executed the search warrant, other detectives went out
 11:59 9 and spoke with him.
 11:59 10 Q. Wasn't there something about he wanted to talk
 11:59 11 to you, but he couldn't do it with other people around?
 11:59 12 Do you know what I'm talking about?
 11:59 13 A. I don't recall.
 11:59 14 Q. Something about he would meet you somewhere
 11:59 15 else, but he didn't want to talk where anybody could
 11:59 16 possibly, I guess, think he was a rat or knew too much
 12:00 17 or something like that?
 12:00 18 A. I don't recall anything like that.
 12:00 19 Q. Okay. Outside of distributing major quantities
 12:00 20 of cocaine, did you also find out that Mosqueda was
 12:00 21 responsible for the major distribution of marijuana, as
 12:00 22 well?
 12:00 23 A. I'm not -- no, sir.
 12:00 24 Q. You never received information that he
 12:00 25 distributed up to 200 pounds of a clip of pot?

12:00 1 A. No, I don't recall.
 12:00 2 MR. GOELLER: May I approach the witness?
 12:00 3 THE COURT: Yes.
 12:00 4 Q. (BY MR. GOELLER) Just this section highlighted
 12:00 5 right there?
 12:00 6 A. Okay. (Reading) Okay.
 12:00 7 Q. Okay. Was he involved in the large-scale
 12:01 8 distribution of marijuana as well?
 12:01 9 A. Yes, sir.
 12:01 10 Q. Okay. Did your investigation lead you to form
 12:01 11 any opinions about how this distribution network with
 12:01 12 Mosqueda at the top actually worked?
 12:01 13 MS. FALCO: Your Honor, I object to
 12:01 14 assuming facts not in evidence and object to relevance.
 12:01 15 THE COURT: Overruled.
 12:01 16 A. I'm sorry, would you repeat that?
 12:01 17 Q. (BY MR. GOELLER) You know, let me back up with
 12:01 18 another question. Did you work closely with narcotics,
 12:01 19 either state, local or federal in this case?
 12:01 20 A. No, sir, I did not.
 12:02 21 Q. Okay. Did you learn the hierarchy of the
 12:02 22 Mosqueda narcotics distribution business?
 12:02 23 A. No, sir. I don't think I did.
 12:02 24 Q. Okay. Did you check him out, Mosqueda, that
 12:02 25 is, for -- well, let me back up and ask another

12:02 1 question.
 12:02 2 I guess when you are dealing with people,
 12:02 3 you have the ability through your communications
 12:02 4 department or dispatch or records -- I'm not quite sure
 12:02 5 what it's called, but to backtrack and see what kind of
 12:02 6 emergency telephone calls were placed or 9-1-1 or
 12:02 7 officers in assistance. Do you know what I'm talking
 12:02 8 about?
 12:02 9 A. Yeah.
 12:02 10 Q. What are you talking about?
 12:02 11 A. 9-1-1 system.
 12:02 12 Q. Yeah. And a call, like every time an officer
 12:02 13 goes to a location, there's something done. May not be
 12:03 14 a 9-1-1.
 12:03 15 A. It's a call sheet.
 12:03 16 Q. Call sheet, call sheet. Did you do any call
 12:03 17 sheets for related hits on Mosqueda or Amy Kitchen?
 12:03 18 A. I'm sorry. Related hits?
 12:03 19 Q. Yeah. In other words, a police log of call
 12:03 20 sheets regarding that location or somebody by that name,
 12:03 21 James Mosqueda?
 12:03 22 A. No, sir.
 12:03 23 Q. Okay. Did you ever learn whether the primary
 12:03 24 distribution, point of distribution was the Gibbons
 12:03 25 Drive address or these quote, unquote mortgage

12:03 1 brokeraging offices?
 12:03 2 A. No, sir.
 12:04 3 Q. Did you -- did you employ, say, financial
 12:04 4 experts or forensic financial folks to explore the
 12:04 5 legitimacy or lack thereof of these mortgage deals that
 12:04 6 Mosqueda was involved in?
 12:04 7 A. You mean hire someone? Is that what you are
 12:04 8 asking me?
 12:04 9 Q. Or -- I'll bet in a department as big as
 12:04 10 Dallas, you've got economic crimes detectives or
 12:04 11 analysts, you know. People that go through books and
 12:04 12 look at a standard of living and, you know -- for
 12:04 13 example, I mean, if somebody is declaring so much
 12:04 14 income, but they got new Corvettes and new Mercedes and
 12:04 15 big houses and boats. And you know how narcotics
 12:04 16 officers and folks in law enforcement will get a profile
 12:05 17 of a person to verify whether what they are claiming on
 12:05 18 their 1040 is legit and where other money may be coming
 12:05 19 from. Do you know what I'm talking about? Did you do
 12:05 20 any of that in this case?
 12:05 21 A. No.
 12:05 22 Q. You know, you know the DPD financial crime
 12:05 23 folks? I think they are -- what, are they down there by
 12:05 24 Bachman Lake?
 12:05 25 A. No.

12:05 1 Q. They used to be?
 12:05 2 A. They used to be.
 12:05 3 Q. But you know who those folks are?
 12:05 4 A. Yes.
 12:05 5 Q. Did you employ them in this case at all or ask
 12:05 6 them for their help?
 12:05 7 A. No, sir.
 12:06 8 MR. GOELLER: May I approach, Your Honor?
 12:06 9 THE COURT: Yes, sir.
 12:06 10 Q. (BY MR. GOELLER) Did anybody ever bring you, I
 12:06 11 think, a napkin or maybe a napkin or piece of paper with
 12:06 12 some kind of cryptic, cryptic gang. I don't want to
 12:06 13 call it gangs, I don't know, but something weird?
 12:06 14 A. Yes. This was faxed to me.
 12:06 15 Q. That was faxed to you from who?
 12:06 16 A. I don't remember who faxed it, but it was at
 12:06 17 the day of the funeral. I don't remember who faxed it.
 12:06 18 Q. Did you investigate this document?
 12:06 19 A. Yes, sir, I did.
 12:06 20 Q. What did you learn?
 12:06 21 A. I contacted our gang unit, and they didn't know
 12:06 22 anything about it.
 12:06 23 Q. But that's what you thought? Was that your
 12:06 24 first impression, too? It looks like gang kind of
 12:06 25 stuff?

12:06 1 A. Yes.
 12:06 2 Q. Did you find out who the three people on it
 12:07 3 are?
 12:07 4 A. No.
 12:07 5 Q. Okay. Did you -- this was actually passed on
 12:07 6 to you from who?
 12:07 7 A. I have to review my notes. I don't remember --
 12:07 8 Q. Could you --
 12:07 9 A. -- who faxed it to me.
 12:07 10 Q. Could you --
 12:07 11 A. You have everything there.
 12:07 12 Q. I have all your notes?
 12:07 13 A. I think you took my --
 12:07 14 Q. No. They got it?
 12:07 15 A. Okay.
 12:07 16 THE COURT: Well, I tell you what. We're
 12:07 17 going to give you a chance to take a look, and the rest
 12:07 18 of us are going to go to lunch. So let's -- let's come
 12:07 19 back from lunch at about 1:30.
 12:07 20 And I want to admonish you, once again,
 12:07 21 not to discuss the case among yourselves or with anyone
 12:07 22 else until it's finally submitted to you in the trial,
 12:07 23 and we'll see y'all at 1:30.
 12:07 24 THE BAILIFF: All rise.
 12:08 25 (Lunch recess.)

12:08 1 (Open court, defendant present, no jury.)
 13:31 2 MR. GOELLER: Judge, before you bring in
 13:31 3 the jury, if I could ask the -- if the court reporter
 13:31 4 has it handy -- what the last question was before the
 13:31 5 break?
 13:31 6 THE COURT: All right.
 12:07 7 THE REPORTER: "QUESTION: Okay. Did
 12:07 8 you -- this was actually passed on to you from who?
 12:07 9 "ANSWER: I have to review my notes. I
 12:07 10 don't remember --
 12:07 11 "QUESTION: Could you --
 12:07 12 "ANSWER: -- who faxed it to me.
 12:07 13 "QUESTION: Could you --
 12:07 14 "ANSWER: You have everything there.
 12:07 15 "QUESTION: I have all your notes.
 12:07 16 "ANSWER: I think you took my --
 12:07 17 "QUESTION: No. They got it.
 12:07 18 "ANSWER: Okay."
 12:07 19 THE COURT: Is that all right, or do you
 12:07 20 need anymore?
 13:33 21 MR. GOELLER: I think that's perfect,
 13:33 22 Judge, thank you.
 13:33 23 MS. LOWRY: If I could address the Court.
 13:33 24 We'd like to request that anytime a person comes in the
 13:33 25 courtroom, that is, a new person that we don't know who

13:33 1 they are, that it be asked who they are and make sure
 13:33 2 that they are not a witness that needs to be placed
 13:33 3 under the Rule.
 13:33 4 THE COURT: Okay. I'll write Billy a
 13:33 5 note.
 13:33 6 THE BAILIFF: All rise.
 13:33 7 (Open court, defendant and jury present.)
 13:34 8 THE COURT: Please be seated.
 13:34 9 Mr. Goeller?
 13:34 10 MR. GOELLER: Thank you, Your Honor. May
 13:34 11 I approach the witness?
 13:34 12 THE COURT: Yes.
 13:34 13 Q. (BY MR. GOELLER) Detective Winn, let me show
 13:34 14 you what I've marked as Defendant's Exhibit No. 7 and
 13:34 15 ask if you've ever seen that, or can you identify that?
 13:34 16 A. Yes, sir.
 13:34 17 Q. And what is that?
 13:34 18 A. This is a faxed copy of words that was left on
 13:34 19 vehicles at the day of Mr. Mosqueda's funeral.
 13:35 20 Q. And do you know where the original is?
 13:35 21 A. No. That's a faxed copy.
 13:35 22 Q. Okay. Okay. Did you look into that?
 13:35 23 A. I contacted our gang unit because I was under
 13:35 24 the impression that that was some type of gang activity
 13:35 25 or gang writing.

13:35 1 Q. Did you ascertain who -- who the King and Phone
 13:35 2 and James were?
 13:35 3 A. No.
 13:35 4 Q. Have you ever come across any information that
 13:35 5 Phone was the nickname for Anthony Fonseca?
 13:35 6 A. No, sir.
 13:35 7 Q. The King was Carlos Gonzalez?
 13:35 8 A. No, sir.
 13:35 9 Q. And James was James Mosqueda?
 13:35 10 A. I assume that's who James was, was
 13:35 11 Mr. Mosqueda.
 13:35 12 Q. Underneath the S in James and lives, there are
 13:36 13 three dots in a triangle. Do you know -- did your gang
 13:36 14 folks have any indication what that may have meant?
 13:36 15 A. No, sir.
 13:36 16 Q. Now, there's some other writings on this.
 13:36 17 Terri, look at this, Shannon. Do you know who those
 13:36 18 folks are?
 13:36 19 A. No.
 13:36 20 Q. Or napkin -- written on a 7-Eleven napkin
 13:36 21 written in red marker. Do you know what that is? Who
 13:36 22 wrote that, or Officer Brian, or anything like that?
 13:36 23 A. They called an officer out to the scene, is
 13:36 24 going to be Officer Brian. This was on a 7-Eleven
 13:36 25 napkin and -- that writing was.

13:36 1 MR. GOELLER: I'd offer Defendant's
13:36 2 Exhibit 7.
13:36 3 MS. FALCO: Your Honor, we object at this
13:36 4 time just to relevance since the detective doesn't know
13:37 5 where it came from other than over the fax and to
13:37 6 hearsay.
13:37 7 THE COURT: Could I take a look?
13:37 8 MR. GOELLER: Yes.
13:37 9 THE COURT: Say, if I could make it
13:37 10 clear -- this was the note that was left on the car?
13:37 11 THE WITNESS: On the car, that's correct,
13:37 12 sir.
13:37 13 THE COURT: James's car?
13:37 14 THE WITNESS: No, sir. Several cars the
13:37 15 day of the funeral.
13:37 16 THE COURT: Okay. There were several cars
13:37 17 that had these on them?
13:37 18 THE WITNESS: Yes, sir.
13:37 19 THE COURT: Tell me the relevance.
13:38 20 MR. GOELLER: I anticipate that there will
13:38 21 be testimony that these three individuals made up the
13:38 22 core of Mr. Mosqueda's distribution operation for
13:38 23 narcotics, Your Honor. Phone -- there will be evidence
13:38 24 that Phone is the street name, dealer name for Anthony
13:38 25 Fonseca. Carlos Gonzalez was the King.

13:38 1 THE COURT: Okay. I'll overrule the
13:38 2 objection. Admit No. 7 into evidence.
13:38 3 (Defendant's Exhibit No. 7 admitted.)
13:38 4 MR. GOELLER: Publish to the jury, Your
13:38 5 Honor?
13:38 6 THE COURT: All right.
13:38 7 Q. (BY MR. GOELLER) Detective Winn, did -- was
13:38 8 there any investigation further into that, what was the
13:39 9 original note or napkin that the jurors have now? Was
13:39 10 anything done with that?
13:39 11 A. Besides contacting the gang, there's nothing
13:39 12 else, sir.
13:39 13 Q. There was no indication that Ivan Cantu was
13:39 14 connected with any New York crime family or other crime
13:39 15 families out there?
13:39 16 A. Not to my knowledge, no, sir.
13:39 17 Q. Okay. If such an allegation or connection were
13:39 18 made, that would be a very important piece of
13:39 19 information to pass on, correct?
13:39 20 A. Yes, sir.
13:39 21 Q. And you would -- you would know -- you would
13:40 22 know the folks to call? I mean, you know, I'm trying to
13:40 23 think of, certainly U.S. attorneys and Justice
13:40 24 Department people, something like if there were any kind
13:40 25 of connect there, right?

13:40 1 A. Possibly.
13:40 2 Q. You would certainly pass it on to your
13:40 3 superiors, correct?
13:40 4 A. Of course.
13:40 5 Q. Now, you were never debriefed or questioned by
13:40 6 the FBI or any other law enforcement agency, state,
13:40 7 local, federal regarding any crime family connection
13:40 8 between Ivan Cantu and crime families or mob bosses and
13:40 9 all that kind of thing, were you?
13:40 10 A. No, sir.
13:40 11 Q. All right. Actually, there's one more thing I
13:40 12 wanted to ask you. Do you recall something about --
13:41 13 what was that? Something about a Mark Kitchen saw
13:41 14 somebody acting strange. A person that showed up at the
13:41 15 house either the day of or the day after the -- the
13:41 16 bodies were found and walking around opening up doors in
13:41 17 the house, not touching it. Do you know what I'm
13:41 18 talking about? Did Mr. Kitchen relay any information
13:41 19 that there was some kind of strange person that ended up
13:41 20 in one of the houses?
13:41 21 A. I don't recall, no, sir.
13:41 22 Q. Okay. What time do you believe -- what time do
13:42 23 you believe the first family or next of kin, or whoever
13:42 24 they were, entered the house after the crime scene had
13:42 25 been secured?

13:42 1 A. I believe it had to be past between 11:30 and
13:42 2 midnight after we released it.
13:42 3 Q. Okay. Do you recall having any correspondence
13:42 4 or message from a Mark Kitchen about missing money?
13:42 5 Money that was in -- in the form of money orders that
13:42 6 was missing the next day after the family had gone in
13:43 7 the house? Do you remember anything like that?
13:43 8 A. No, sir. I don't recall anything like that.
13:43 9 Q. Okay.
13:43 10 MR. GOELLER: May I have just a second,
13:43 11 Judge?
13:43 12 THE COURT: Yes.
13:44 13 Q. (BY MR. GOELLER) Did you ever get any
13:44 14 information, Detective Winn, that in the course of your
13:44 15 investigation that Mosqueda only sold usually in large
13:44 16 quantities and only sold to people that he knew very,
13:44 17 very well?
13:44 18 A. I was aware of the large quantities but not
13:44 19 people he knew very, very well.
13:44 20 Q. Not to people he knew and trusted?
13:44 21 A. No. Just mainly large quantities.
13:44 22 Q. But that usually goes with -- that's how you --
13:44 23 usually big dopers usually operate. They are not going
13:44 24 to sell to just anybody. They usually want to know
13:44 25 their -- their suppliers and their sources.

13:44 1 A. I really don't know. I've never worked
 13:44 2 narcotics. I really don't know.
 13:45 3 MR. GOELLER: Okay. Thank you. Thank you
 13:45 4 very much, sir. I'll pass the witness, Your Honor.
 13:45 5 THE COURT: Ms. Falco?
 13:45 6 REDIRECT EXAMINATION
 13:45 7 BY MS. FALCO:
 13:45 8 Q. Detective, just to go back to the crime scene,
 13:45 9 when you were in the crime scene, did you have Detective
 13:45 10 Whitsitt or any of your physical evidence people take a
 13:45 11 sample of the blood off of the walls or the ceiling?
 13:45 12 A. No. There was no samples taken.
 13:45 13 Q. And why not?
 13:45 14 A. Because of the amount of blood that was on the
 13:45 15 bed and the position of Mr. Mosqueda, we assumed that
 13:45 16 that was his blood on the walls and on the ceiling.
 13:45 17 Q. With regard to the crime scene, did this look
 13:45 18 like a drug deal gone bad to you?
 13:45 19 A. No, it did not. As my experience as a homicide
 13:45 20 detective, there would have been signs of maybe someone
 13:45 21 ransacking the home in this case. It did not appear
 13:45 22 that way at this time.
 13:45 23 Q. And other than the small amount of marijuana in
 13:45 24 the drug scales found in the victim's home, were there
 13:45 25 any other drugs or drug paraphernalia found in the home?

13:46 1 A. No, ma'am.
 13:46 2 Q. Did you find any large quantity of money in the
 13:46 3 home?
 13:46 4 A. No, ma'am.
 13:46 5 Q. And based on the way the victims were dressed,
 13:46 6 did it appear that they were expecting company other
 13:46 7 than someone they would be very familiar with?
 13:46 8 A. That's correct.
 13:46 9 Q. Now, during the course of your investigation,
 13:46 10 as far as your evidence, you did -- an arrest was
 13:46 11 eventually made; is that correct?
 13:46 12 A. Yes, sir.
 13:46 13 Q. And who was arrested for the offense?
 13:46 14 A. Ivan Cantu.
 13:46 15 Q. And that is taking into consideration all the
 13:46 16 tips, all the information that you received?
 13:46 17 A. That is correct.
 13:46 18 Q. And why did you arrest Ivan Cantu?
 13:46 19 A. Based on witnesses' information, based on the
 13:46 20 search warrants that were executed, based on the
 13:46 21 automobile being found in the apartment complex, we felt
 13:47 22 like there was enough evidence. Including, when I say
 13:47 23 evidence found in the apartment, including the jeans as
 13:47 24 well as the bloody socks, we felt like we had enough
 13:47 25 there to issue a warrant for Mr. Cantu.

13:47 1 Q. Now, with regard to -- you also at that point
 13:47 2 heard that defendant's conversation with Carlos Gonzalez
 13:47 3 over the phone?
 13:47 4 A. That is correct.
 13:47 5 Q. And is it your understanding that this
 13:47 6 defendant had called Carlos Gonzalez a number of times
 13:47 7 after the murder?
 13:47 8 A. That is correct.
 13:47 9 Q. And after the defendant was arrested, did you
 13:47 10 continue to receive information that all pointed to Ivan
 13:47 11 Cantu?
 13:47 12 A. Yes, ma'am.
 13:47 13 Q. What type of information would that have been?
 13:47 14 A. That and a few -- his girlfriend,
 13:47 15 Ms. Boettcher. And I obtained a written affidavit from
 13:47 16 her.
 13:47 17 Q. Did you also locate the murder weapon?
 13:47 18 A. Yes, ma'am, I did.
 13:47 19 Q. Did you eventually obtain the results of any
 13:47 20 fingerprinting done of the murder weapon?
 13:48 21 A. Yes, ma'am, we did.
 13:48 22 Q. And whose prints were those?
 13:48 23 A. Mr. Cantu's print came back on the murder
 13:48 24 weapon.
 13:48 25 Q. Now, with regard to that anonymous tip

13:48 1 Mr. Goeller was talking about, about Mario Rojas.
 13:48 2 A. Yes, ma'am.
 13:48 3 Q. That unanimous tip came to another detective
 13:48 4 approximately November 5th?
 13:48 5 A. That's correct.
 13:48 6 Q. And that was before the defendant was arrested,
 13:48 7 correct?
 13:48 8 A. That is correct.
 13:48 9 Q. Did that person give their name?
 13:48 10 A. No, ma'am.
 13:48 11 Q. Did they want to give their name?
 13:48 12 A. No, ma'am.
 13:48 13 Q. Did the detective give you a description of the
 13:48 14 caller with regard to sex, race, potential age?
 13:48 15 A. Yes, ma'am.
 13:48 16 Q. And what was that?
 13:48 17 A. I believe it was a male, and I believe he gave
 13:48 18 me between 20 and 25.
 13:48 19 Q. And what about race?
 13:48 20 A. I'm not -- I believe -- I want to say it was a
 13:48 21 Latin male, I believe, is what he said.
 13:48 22 Q. Did he say anything about whether or not that
 13:48 23 person had a good command of the English language?
 13:48 24 A. I don't remember.
 13:48 25 MS. FALCO: Your Honor, may I approach?

13:49 1 THE WITNESS: Yes, ma'am.
 13:49 2 THE COURT: Yes.
 13:49 3 Q. (BY MS. FALCO) I'm going to direct your
 13:49 4 attention to that second paragraph. Just read that to
 13:49 5 yourself.
 13:49 6 A. Okay.
 13:49 7 Q. Does that refresh your memory as to what the
 13:49 8 detective stated about the caller?
 13:49 9 A. Yes, ma'am.
 13:49 10 Q. And with regard to what he said about the
 13:49 11 caller, what description did he give?
 13:49 12 A. He said that he was a Hispanic male, possibly
 13:49 13 20 to 30, with a good command of the English language.
 13:49 14 Q. And, again, this is prior to the defendant
 13:50 15 being arrested?
 13:50 16 A. Yes, ma'am.
 13:50 17 Q. And that fits the defendant's description,
 13:50 18 doesn't it?
 13:50 19 A. Yes, ma'am.
 13:50 20 Q. Could it have been the defendant that called?
 13:50 21 A. It's possible.
 13:50 22 Q. And with regard to the computer user name or
 13:50 23 that e-mail address, James Aim High, are you aware of
 13:50 24 what the victim James Mosqueda's mortgage company's name
 13:50 25 was?

13:50 1 A. No, ma'am.
 13:50 2 Q. Have you ever heard the word AIM being
 13:50 3 Advantage Investors Mortgage?
 13:50 4 A. No, ma'am.
 13:50 5 Q. Did you ever investigate what his mortgage
 13:50 6 company's name was?
 13:50 7 A. No, ma'am.
 13:50 8 Q. And as far as his business dealings, did you --
 13:50 9 were you ever made aware that a lot of his business came
 13:50 10 from the defendant's mother, Sylvia Cantu?
 13:50 11 A. No, ma'am.
 13:51 12 MS. FALCO: Thank you, Detective. We pass
 13:51 13 this witness.
 13:51 14 THE COURT: Mr. Goeller, anything else?
 13:51 15 RECROSS EXAMINATION
 13:51 16 BY MR. GOELLER:
 13:51 17 Q. Just so the record is clear, Ms. Falco asked
 13:51 18 you, did you find the fingerprint of Ivan Cantu's on the
 13:51 19 weapon? Was it on the weapon, or was it on the clip?
 13:51 20 A. It was on the clip.
 13:51 21 Q. Okay. You don't recall anything about when the
 13:51 22 female deceased's brother was in the house after the
 13:51 23 relatives were allowed to go in the house? You don't
 13:51 24 recall any information that money or moneys were missing
 13:51 25 during that period of time, that the relatives see money

13:52 1 in envelopes and then get word to you that, well, next
 13:52 2 time you go back in, it's gone. Anything like that? Do
 13:52 3 you recall anything like that from Mark Kitchen?
 13:52 4 A. No, sir, I don't.
 13:52 5 Q. Okay. I might have it wrong. Okay.
 13:52 6 MR. GOELLER: Okay. Thank you, sir.
 13:52 7 THE COURT: Okay. Thanks, sir.
 13:52 8 MS. FALCO: No further questions.
 13:52 9 THE COURT: All right. You may step down.
 13:52 10 THE WITNESS: Thank you, Judge.
 13:52 11 (Witness excused.)
 13:52 12 THE COURT: Call your next witness,
 13:52 13 please.
 13:52 14 MS. LOWRY: Your Honor, State of Texas
 13:52 15 calls Detective William Pepsis.
 13:52 16 THE COURT: Sir, you were sworn in?
 13:53 17 THE WITNESS: Yes, sir.
 13:53 18 WILLIAM L. PEPSIS,
 13:53 19 being first duly sworn, testified as follows:
 13:53 20 THE COURT: You may be seated. Ms. Lowry?
 13:53 21 DIRECT EXAMINATION
 13:53 22 BY MS. LOWRY:
 13:53 23 Q. Please introduce yourself to the jury.
 13:53 24 A. William L. Pepsis, P-E-P-S-I-S.
 13:54 25 Q. And how are you employed?

13:54 1 A. I am a detective with the City of Dallas Police
 13:54 2 Department.
 13:54 3 Q. And how long have you been employed by Dallas
 13:54 4 Police Department?
 13:54 5 A. As of last week, 21 years.
 13:54 6 Q. And how long have you been a detective for the
 13:54 7 Dallas P.D.?
 13:54 8 A. Since 1988.
 13:54 9 Q. As a detective for the Dallas P.D., what is
 13:54 10 your main assignment?
 13:54 11 A. I'm a detective assigned to the crime scene
 13:54 12 response section. And since this incident has occurred,
 13:54 13 as of January, I'm now the training officer for that
 13:54 14 unit. And I'm responsible for training the 21
 13:54 15 detectives and 19 civilian evidence technicians.
 13:54 16 Q. And as a detective in the crime scene section,
 13:54 17 what are your main duties? I guess, what are your jobs?
 13:54 18 Explain for the jury what you do.
 13:54 19 A. On a -- not a routine crime. On a reported
 13:54 20 crime scene, it would be my job to respond to that
 13:54 21 location. Of course, the first person we'd want to make
 13:54 22 contact with would be the initial responding patrol
 13:55 23 officer. See what they know about the location.
 13:55 24 We do a walk-through with that officer.
 13:55 25 Take what he knows along with what I would see. At that

13:55 1 time I'd make an evaluation about maybe which evidence
13:55 2 would need to be processed, possibly seized for forensic
13:55 3 analysis, all in the hopes of determining whether an
13:55 4 offense had or had not occurred.

13:55 5 Q. Do you also do, I guess, follow-up work if they
13:55 6 have to do search warrants? If they -- things like
13:55 7 that?

13:55 8 A. Yes. Sometimes you are not the primary crime
13:55 9 scene detective. And depending on when things are
13:55 10 discovered while a homicide detective is making an
13:55 11 interview or something, you might be called in to do
13:55 12 some secondary follow-up work, which I did on this case.

13:55 13 Q. And I want to direct your attention back to
13:55 14 November of 2000. Specifically, November 5th, 2000, is
13:55 15 when you first became involved in this case; is that
13:55 16 correct?

13:55 17 A. That's correct.

13:55 18 Q. And on that date -- is that the date that you
13:56 19 went out to the location where the Corvette had been
13:56 20 found?

13:56 21 A. Yes. 4753 Old Bent Tree.

13:56 22 Q. What was your -- or what were your duties that
13:56 23 day as far as what you were supposed to do?

13:56 24 A. I met with Detective Winn from homicide, and
13:56 25 they had located a 2001 black Chevrolet Corvette. And

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13:56 1 he had asked me to take exterior photos of that vehicle
13:56 2 and also exterior photos of apartment 1004.

13:56 3 Q. And those photos had previously been admitted
13:56 4 into evidence. After you left the apartment, did you
13:56 5 have any other involvement on that date with this case?

13:56 6 A. Not -- not on that date, no.

13:56 7 Q. Were you asked to do any actual processing of
13:56 8 the vehicle or the apartment or fingerprints, anything
13:56 9 like that, on that date?

13:56 10 A. No. There was no access to the apartment when
13:56 11 I was there, and it had rained earlier, and that vehicle
13:56 12 was wet. So it was taken to our processing building and
13:56 13 allowed to dry.

13:56 14 Q. Now, I want to move forward to November 29th of
13:57 15 2000. What was your involvement with this case on that
13:57 16 date?

13:57 17 A. I got called back to 4753 Old Bent Tree there
13:57 18 at the Pear Ridge Apartments. And, again, Detective
13:57 19 Winn was at that location. And this time he asked me if
13:57 20 I could attempt to recover a possible spent projectile
13:57 21 from the wall of apartment 1004.

13:57 22 MR. GOELLER: Excuse me, Judge, at this
13:57 23 time I'm going to object that there's no probable cause
13:57 24 for this illegal search and seizure into my client's
13:57 25 habitation. There's been no search warrant or affidavit

13:57 1 produced for the Court.

13:57 2 We've alleged that this violates Texas
13:57 3 Constitution, Article I, Section 9 and Section 19.
13:57 4 United States Constitution, 4th Amendment, 6th
13:57 5 Amendment, 14th Amendment. Code of Criminal Procedure,
13:57 6 Article 1.04, 1.06, 3823, Texas Exclusionary Rule prior
13:57 7 to any testimony regarding any entry or recovery of
13:58 8 evidence from apartment 1004.

13:58 9 THE COURT: All right. Overruled.

13:58 10 MR. GOELLER: Thank you, Your Honor.
13:58 11 Judge, may I have a running objection on those grounds
13:58 12 to any testimony from this officer in the form of oral
13:58 13 testimony or physical items seized from this search and
13:58 14 seizure from my client's apartment?

13:58 15 THE COURT: Yes, you may.

13:58 16 MR. GOELLER: Your Honor, I'd further
13:58 17 object that there's been no showing that the crime scene
13:58 18 or apartment 1004 necessitated a relinquishment of
13:58 19 control by law enforcement after the first illegal
13:58 20 search and seizure. And we, therefore, object to a
13:58 21 further search warrant on those grounds.

13:58 22 THE COURT: Okay. Overruled.

13:58 23 MR. GOELLER: Thank you, Your Honor.

13:58 24 THE COURT: All right.

13:58 25 Q. (BY MS. LOWRY) Did you have -- what was your

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13:58 1 understanding regarding whether or not a search warrant
13:58 2 had already been executed on that apartment, apartment
13:58 3 1004?

13:59 4 A. I don't know particulars. All I do is verify
13:59 5 with the detective at the scene: Do we have a consent
13:59 6 to search or a warrant to make entry into the apartment.

13:59 7 Q. And was it your understanding that they had
13:59 8 already executed a search warrant on an earlier date and
13:59 9 found the bullet hole or did you know?

13:59 10 A. I had knowledge that a possible bullet hole had
13:59 11 been observed in that apartment but not of a warrant,
13:59 12 no.

13:59 13 Q. Upon entering that apartment, apartment 1004,
13:59 14 how did you begin to retrieve a possible bullet in
13:59 15 that -- in that wall?

13:59 16 A. I had Detective Winn with me which made it
13:59 17 easy. So we made entry into the apartment. I advised
13:59 18 him if photographs had already been taken of the
13:59 19 interior of that apartment. And specifically, the
13:59 20 possible defect in the wall, and he advised that it had
13:59 21 been. So I did not take any photographs.

13:59 22 Looking from that main living room towards
13:59 23 the west front wall, there is an obvious visible hole,
14:00 24 and what we call the defect in our business to that
14:00 25 wall. And at that point I had started to cut out that

14:00 1 drywall.
 14:00 2 MS. LOWRY: May I approach, Your Honor?
 14:00 3 THE COURT: Yes.
 14:00 4 Q. (BY MS. LOWRY) I'm showing you what's been
 14:00 5 marked as State's Exhibit 74. Do you recognize that?
 14:00 6 And also State's Exhibit 75.
 14:00 7 A. Yes.
 14:00 8 Q. And what are those photos pictures of?
 14:00 9 A. Can I hold them up?
 14:00 10 Q. Yes.
 14:00 11 A. This is going to be tough for you-all. But
 14:00 12 right in the center of this photograph -- and that's a
 14:00 13 point of procedure for us. When in doubt you center the
 14:00 14 object you are trying to look for. You'll see a little
 14:00 15 dark dot right below my finger, and that's the defect or
 14:00 16 a hole in the drywall. And then you follow that up with
 14:01 17 a larger photograph showing more definition, and you can
 14:01 18 plainly see that there is a hole in the drywall.
 14:01 19 Q. And is that the hole that you are referring to
 14:01 20 that was this suspected bullet hole?
 14:01 21 A. Yes, ma'am.
 14:01 22 Q. Also State's Exhibit No. 72, is that a photo
 14:01 23 that you were describing earlier of the apartment 1004?
 14:01 24 A. Yes, it is.
 14:01 25 Q. What precaution or what did you need to do to

14:01 1 get that bullet out of the wall?
 14:01 2 A. One thing you have to remember when you are
 14:01 3 dealing with any possible spent projectile is not to
 14:01 4 introduce your own scrapes or scratches or what we use
 14:01 5 the term tool marks to that projectile. So I make a
 14:01 6 point of making a very large hole by cutting out that
 14:01 7 section of the interior wall and seeing what I'm dealing
 14:01 8 with.
 14:01 9 When I remove that first section of
 14:01 10 drywall, you could plainly see that this projectile had
 14:01 11 passed through an on-width -- like, if my hand was
 14:02 12 facing you, it passed through that two-by-four, and then
 14:02 13 I knew that it had to be behind it.
 14:02 14 Q. Were you concerned about structural damage, or
 14:02 15 had they been concerned about structural damage prior to
 14:02 16 you getting there to retrieve it?
 14:02 17 A. No. There was no structural damage problem
 14:02 18 with this.
 14:02 19 Q. Could you tell that just by looking at the wall
 14:02 20 or just by looking at the hole?
 14:02 21 A. Once I got the drywall up, that was assurance
 14:02 22 of what I was dealing with.
 14:02 23 Q. But --
 14:02 24 A. All the inside damages were consistent with a
 14:02 25 projectile that had moved at a high rate of speed.

14:02 1 Q. Now, earlier you said that it was important to
 14:02 2 make sure that you didn't make any of your own tool
 14:02 3 marks on the projectile?
 14:02 4 A. That's correct. We all see television and
 14:02 5 movies. And it's so easy for these television
 14:02 6 detectives to whip out that old, trusty knife and start
 14:02 7 prying in there. The only problem is, when the point of
 14:02 8 that knife or any kind of tool touches that projectile,
 14:03 9 which has a brass casing on it or just a lead bullet,
 14:03 10 you are actually scratching it yourself and creating
 14:03 11 your own tool marks. So we're trying to preserve the
 14:03 12 integrity of the lands and grooves and all the rifling.
 14:03 13 Q. Why is that important to preserve the lands and
 14:03 14 grooves?
 14:03 15 A. If you can come up with another projectile or
 14:03 16 the gun that that projectile was fired from, then test
 14:03 17 rounds will be fired through that particular firearm or
 14:03 18 that recovered projectile from another location that can
 14:03 19 be placed side by side under a microscope and actually
 14:03 20 match those tool marks up to see if they came from one
 14:03 21 and the same weapon.
 14:03 22 Q. And is that procedure similar to comparing
 14:03 23 fingerprints?
 14:03 24 A. It would be on the same basis, yes.
 14:03 25 Q. How exactly did you get the projectile out of

14:03 1 where it had been lodged?
 14:03 2 A. Once I realized that it had passed through this
 14:04 3 two-by-four, it was either cut out that section of
 14:04 4 two-by-four, which may create structural damage to the
 14:04 5 apartment at that time, or go to the reverse side. And
 14:04 6 I noticed there was not an exit defect.
 14:04 7 So all that was involved was the pulling
 14:04 8 out of the clapboard siding, at which time I could see
 14:04 9 the end of the projectile was stuck in the exterior-
 14:04 10 grade drywall. And then I pulled up that clapboard a
 14:04 11 little bit more, and you could actually see where the
 14:04 12 round end of the bullet had actually struck it and made
 14:04 13 an indentation, but it did not have sufficient force to
 14:04 14 penetrate through.
 14:04 15 Q. What did you do next?
 14:04 16 A. I went ahead and cut out that little section of
 14:04 17 exterior-grade drywall, and the projectile was mine.
 14:04 18 Q. I want to show you what's been marked as
 14:04 19 State's Exhibit No. 110. Do I recognize that?
 14:04 20 A. Yes, I do.
 14:04 21 Q. What is that?
 14:04 22 A. This is a brown manila envelope written in my
 14:04 23 handwriting with a service number, my initials, badge
 14:05 24 number, dates that I had, and the homicide, the tag
 14:05 25 number, and what the contents would be.

14:05 1 Q. And who put the projectile in that folder and
 14:05 2 sealed it?
 14:05 3 A. I did. Also on the backside of this manila
 14:05 4 envelope is some blue DPD evidence tape. And on that
 14:05 5 evidence tape are my initials, my badge number, and the
 14:05 6 date that I sealed this envelope.
 14:05 7 Q. What did you do with this projectile after you
 14:05 8 sealed it in this envelope?
 14:05 9 A. It's then placed in our secured property room,
 14:05 10 and it's sent to SWIFS for forensic analysis.
 14:05 11 Q. And how did it get to SWIFS? Did you actually
 14:05 12 take it, or does another detective take it?
 14:05 13 A. You have to look at the chain of custody.
 14:05 14 Q. Okay. Let me ask you about that, the chain of
 14:05 15 custody. When you are talking about looking at the
 14:05 16 chain of custody, is there actually a page on there that
 14:05 17 shows whose hands it's been in?
 14:06 18 A. Yes.
 14:06 19 Q. And is that attached to all evidence that goes,
 14:06 20 I guess, out to SWIFS or out to be tested?
 14:06 21 A. Yes, it is. The chain of custody is simply a
 14:06 22 way of maintaining an accurate record of who has handled
 14:06 23 this particular item.
 14:06 24 Q. And can you open that for me?
 14:06 25 A. (Complying) Now, a unique thing is, y'all will

14:06 1 notice, as I open this, my seal has not been broken. My
 14:06 2 seal is still intact.
 14:06 3 Q. How does -- once you send it off for testing,
 14:06 4 how does the agency that is going to do the testing get
 14:06 5 into it, and why is it that your seal is not broken?
 14:06 6 A. Again, to maintain the integrity of the
 14:06 7 evidence and knowing who has handled it, this envelope
 14:06 8 will be opened in another location. And in this
 14:06 9 particular case you can see that it was opened down here
 14:07 10 in this corner, and that's to make sure that my seal
 14:07 11 shows to remain intact.
 14:07 12 And then when they are done and they place
 14:07 13 it back in, then it's resealed, and this particular
 14:07 14 person initials it and dates it. And this -- this
 14:07 15 envelope is completely sealed and unopened right now.
 14:07 16 Q. Are there any other openings other than where
 14:07 17 you have it sealed, where it was open when you put the
 14:07 18 projectile in there and the one that was used whenever
 14:07 19 SWIFS took it out, tested it, and then put it back in
 14:07 20 there?
 14:07 21 A. We appear to have two openings. One is a --
 14:07 22 appears to be a DPD evidence blue tape like we use. And
 14:07 23 the red tape is SWIFS tape or Southwest Institute of
 14:07 24 Forensic Sciences.
 14:07 25 Q. Can you open that package now for me.

14:07 1 A. (Complying) It's good tape. Bear with me.
 14:08 2 Q. Can you tell us what was inside that package?
 14:08 3 A. Again, you can see the blue DPD evidence tape.
 14:08 4 And this, again, has my initials, badge number and the
 14:08 5 date that I sealed it. It's in a clear, plastic Ziploc
 14:08 6 bag. And in my handwriting is the same basic
 14:08 7 information that you saw on the front of the brown
 14:08 8 manila envelope. On this particular case, that we know
 14:08 9 that this was opened by a SWIFS person because it's been
 14:08 10 resealed with red SWIFS tape.
 14:08 11 Q. Is there anywhere on here that -- best to put
 14:08 12 this down here on the bottom, the sticker.
 14:08 13 A. Yeah. Just put it on his initials.
 14:09 14 Q. I'm marking this as State's Exhibit 110A. Can
 14:09 15 you identify what's actually in that bag, in the Ziploc
 14:09 16 bag?
 14:09 17 A. There's one, small caliber, spent projectile.
 14:09 18 Q. Do you recognize that?
 14:09 19 A. I recognized it in the fact that it is a small
 14:09 20 object and because of those tool marks we've talked
 14:09 21 about. I cannot mark with an etch here my initials and
 14:09 22 badge number on this projectile because I may obliterate
 14:09 23 something.
 14:09 24 So on an object this small, it is just
 14:09 25 placed into a container this small and then sealed by my

14:09 1 hand. And with the integrity and the chain of custody
 14:09 2 that we know that this is the same projectile that I
 14:09 3 placed into this envelope.
 14:09 4 Q. And is that the same projectile that you placed
 14:09 5 in the envelope on November 29th, 2000?
 14:09 6 A. Yes, it is.
 14:09 7 Q. And that is the projectile that was retrieved
 14:09 8 from the wall of 4753 Old Bent Tree, Apartment 1004?
 14:09 9 A. That's correct.
 14:10 10 MS. LOWRY: Your Honor, at this time the
 14:10 11 State would offer State's Exhibits 110 and 110A.
 14:10 12 MR. GOELLER: Judge, we'd renew our same
 14:10 13 objections on our running objection.
 14:10 14 THE COURT: Let me stop you for just a
 14:10 15 second, if I could. And I could be wrong on this.
 14:10 16 Because -- but I just take my own notes. I've got
 14:10 17 No. 110 as being a bracelet. And I don't remember what
 14:10 18 kind of bracelet that was.
 14:10 19 MS. LOWRY: Then I'll change these to 111
 14:10 20 and 111A.
 14:10 21 THE COURT: Okay. Whatever. Does that
 14:10 22 sound right?
 14:10 23 MS. LOWRY: Yes, sir.
 14:10 24 THE COURT: So we're looking at 111 and
 14:10 25 111A.

14:10 1 MS. LOWRY: Yes, sir. For the record, 111
 14:10 2 is the large brown manila envelope that was packaging
 14:10 3 this smaller Ziploc bag, which is 111A that contains the
 14:10 4 spent projectile.
 14:10 5 THE COURT: I'm sorry. Did you say
 14:10 6 something?
 14:10 7 MR. GOELLER: Yes, sir.
 14:10 8 THE COURT: Go ahead.
 14:10 9 MR. GOELLER: I'd like to renew my
 14:10 10 objections to that evidence on the specific grounds to
 14:11 11 which I had a running objection granted earlier.
 14:11 12 THE COURT: All right. The objection is
 14:11 13 overruled.
 14:11 14 MR. GOELLER: Thank you, Your Honor.
 14:11 15 THE WITNESS: This would be considered
 14:11 16 part of the envelope.
 14:11 17 THE COURT: And just to make it clear, 111
 14:11 18 and 111A are admitted.
 14:11 19 MS. LOWRY: Thank you.
 14:11 20 (State's Exhibit Nos. 111 & 111A
 14:11 21 admitted.)
 14:11 22 Q. (BY MS. LOWRY) Detective, did you have any
 14:11 23 further involvement in this case after this?
 14:11 24 A. No, ma'am.
 14:11 25 MS. LOWRY: Pass the witness.

14:11 1 THE COURT: All right.
 14:11 2 CROSS-EXAMINATION
 14:11 3 BY MR. HIGH:
 14:11 4 Q. Detective Pepsis, what day was it that you went
 14:11 5 out there and took the photographs of the Corvette?
 14:11 6 A. November the 5th.
 14:12 7 Q. Would that have been a Saturday or a Sunday?
 14:12 8 THE WITNESS: Without looking at my own
 14:12 9 report, Your Honor, I wouldn't be sure of the exact
 14:12 10 date.
 14:12 11 Q. It's fine with me. You can go ahead and look.
 14:12 12 THE WITNESS: Is that okay?
 14:12 13 THE COURT: Yes.
 14:12 14 THE WITNESS: That would be a Sunday.
 14:12 15 Q. (BY MR. HIGH) So Saturday was the 4th, and
 14:12 16 Friday was the 3rd, Sunday is the 5th?
 14:12 17 A. I don't have a calendar. I mean, that would be
 14:12 18 logical, yes, sir.
 14:12 19 Q. And was it your understanding that this offense
 14:12 20 took place on the 4th or did you know?
 14:12 21 A. I have no knowledge of the offense at all.
 14:13 22 Q. And what time did you take these pictures on
 14:13 23 that Sunday?
 14:13 24 A. I arrived at approximately 10:18 a.m. And
 14:13 25 after discussing with Detective Winn, the pictures would

14:13 1 have been taken within five or ten minutes of my arrival
 14:13 2 time.
 14:13 3 Q. Okay. So it would have been taken before
 14:13 4 10:30 a.m.?
 14:13 5 A. That would be a good possibility, yes.
 14:13 6 MR. HIGH: May I approach the witness?
 14:13 7 THE COURT: Yes.
 14:13 8 Q. (BY MR. HIGH) Have you seen those pictures
 14:13 9 today?
 14:13 10 A. No, sir. Just the three that she's already
 14:13 11 handed me.
 14:13 12 Q. Okay. Pardon me. While I'm looking for them,
 14:13 13 do you recall if it was raining that morning, drizzling?
 14:13 14 Do you recall what kind of day it was?
 14:14 15 A. I remember it was a cloudy day. The Corvette
 14:14 16 definitely had standing water on it. I can't say
 14:14 17 whether it was raining at that particular time when I
 14:14 18 was there.
 14:15 19 Q. Okay. Just so we're clear, this is State's
 14:15 20 Exhibit 4 and State's Exhibit 5. And it looks like
 14:15 21 there's a van in the back of State's Exhibit 5. Is that
 14:15 22 your van or somebody else's van?
 14:15 23 A. No. That would be my van.
 14:15 24 Q. So it looks like there's light outside that
 14:15 25 day?

14:15 1 A. Yes, sir. Now, I also take all of my
 14:15 2 photographs with a fill flash. So whether it's
 14:15 3 daylight, dusk, whatever the light condition, my flash
 14:15 4 is operating all the time.
 14:15 5 Q. And you are sure that was a Sunday morning?
 14:15 6 A. Yes, sir.
 14:16 7 Q. That's a black Corvette convertible. I think I
 14:16 8 know the difference. It's not a coupe; it's a
 14:16 9 convertible, right?
 14:16 10 A. I'm not that big of a car nut, so I honestly
 14:16 11 don't know.
 14:16 12 Q. I don't suppose you know who any of these other
 14:16 13 cars in the background of State's Exhibit 5 is, do you?
 14:16 14 A. No, sir. I was only asked to take the
 14:16 15 photographs of that vehicle.
 14:16 16 Q. Okay. That's fair enough. Is this the new one
 14:16 17 we just admitted into evidence?
 14:16 18 A. Yes, sir.
 14:19 19 Q. I have a question about your property tag here.
 14:19 20 On the upper left-hand corner it's got a date, November
 14:19 21 4th, 2000.
 14:19 22 A. Yes, sir.
 14:19 23 Q. Why was that date chosen?
 14:19 24 A. That's the original date of the offense.
 14:19 25 Q. But that's not the date that you retrieved this

14:19 1 item?
 14:19 2 A. No, sir. Down at the bottom would be my name,
 14:19 3 badge number, and the date and time.
 14:19 4 Q. This says: Date, November 29th, 2000,
 14:19 5 4:30 p.m.?
 14:19 6 A. Yes, sir.
 14:19 7 Q. November 29th, same as this on this package
 14:19 8 right here?
 14:19 9 A. Yes, sir.
 14:19 10 Q. And I take it that's the projectile right
 14:19 11 there?
 14:19 12 A. Yes, sir.
 14:19 13 Q. Now, with respect to these pictures that we
 14:19 14 talked about earlier, State's Exhibit -- I can't read
 14:20 15 that. Do you know what State's Exhibit that is? Is
 14:20 16 that 8 or 5, or it must be 5?
 14:20 17 A. Two people with old eyes. How about State's
 14:20 18 Exhibit 74, look on the back.
 14:20 19 Q. Okay. Thank you. State's Exhibit 74 and
 14:20 20 State's Exhibit 75. Okay. Good. I appreciate that.
 14:20 21 These -- by looking at that, when you first saw -- this
 14:20 22 is what you saw, I guess, on those -- did you -- did you
 14:20 23 go in the apartment on November the 4th?
 14:20 24 A. No, sir.
 14:20 25 Q. Okay. So you were only there on the 29th?

14:20 1 A. Yes, sir.
 14:20 2 Q. When you took your first look at that,
 14:20 3 Detective Pepsis, did you know what kind of weapon we
 14:20 4 were talking about?
 14:20 5 A. No, sir.
 14:20 6 Q. You couldn't tell if it was a .45 or a .9
 14:20 7 millimeter, or what other kinds of weapons do you have?
 14:20 8 A. With my experience I can look at a hole and
 14:21 9 tell you that that hole was not made by a .45, which
 14:21 10 would be a quite large defect.
 14:21 11 Q. Okay.
 14:21 12 A. So it was definitely a mid- to small-caliber
 14:21 13 weapon.
 14:21 14 Q. Okay. But you wouldn't be able to get any more
 14:21 15 specific than that?
 14:21 16 A. No, sir.
 14:21 17 Q. You would be able to take a look at that hole
 14:21 18 and say, my goodness, we've got a .380 automatic hole?
 14:21 19 A. No, sir.
 14:21 20 Q. I mean, that -- somebody that looks at the hole
 14:21 21 right there and says, I can tell you that hole is made
 14:21 22 by a .380 automatic. That would be preposterous,
 14:21 23 wouldn't it?
 14:21 24 A. Not preposterous. If you got a scale out and

14:21 1 definitely get a close caliber. But it's like I did; I
 14:21 2 can easily eliminate a .45 caliber because it's much too
 14:21 3 big.
 14:21 4 Q. Uh-huh.
 14:21 5 A. But, yeah, if you would have got out and
 14:21 6 measured it, you could put it within a range of
 14:21 7 calibers.
 14:21 8 Q. That's right. I figured you'd say that because
 14:21 9 I probably couldn't have done that myself, either. I
 14:22 10 probably wouldn't be able to tell you about the .45,
 14:22 11 that's for sure. But after you retrieved this, which is
 14:22 12 obviously a .380 projectile, spent projectile, then you
 14:22 13 can go back and you can say, yeah, I can see how that --
 14:22 14 how that hole would be made by a .380. You knew it was
 14:22 15 a .380, right?
 14:22 16 A. No, sir, I did not. When I retrieved the
 14:22 17 projectile, it is sent on to SWIFS, where a firearms
 14:22 18 examiner examines that projectile. And they make the
 14:22 19 determinations because they are the firearms experts.
 14:22 20 Q. Okay. But you now know that it -- that this is
 14:22 21 a .380, at least with the help of your experts. Do you
 14:22 22 know that, or do you not know that?
 14:22 23 A. Without looking at the SWIFS report, I don't
 14:22 24 even know that.
 14:22 25 Q. Okay. Fair enough. Let me let you look at

14:22 1 that because I think it's attached here. I'm going to
 14:22 2 keep all this together for you. Okay?
 14:23 3 A. Yes, sir.
 14:23 4 Q. I think it's item 11. Am I right about that?
 14:23 5 A. The SWIFS calls it item 45.
 14:23 6 Q. Okay. Maybe I misread it. Let me look at it
 14:23 7 with you.
 14:23 8 A. Detective O'Pry submitted this on December 1st,
 14:23 9 one fired bullet. They assigned it item 45.
 14:23 10 Q. Okay.
 14:23 11 A. Item 45 is consistent with a .380 caliber
 14:23 12 bullet having six land-and-groove impressions with a
 14:23 13 left twist.
 14:23 14 Q. Okay. Okay. Fair enough. Now that -- now
 14:24 15 that you have that report, now you can say, hey, since
 14:24 16 the experts are telling you this is a .380, it's a .380,
 14:24 17 right?
 14:24 18 A. I can say that the experts say it's a .380,
 14:24 19 yes, sir.
 14:24 20 Q. Okay. And then you can, obviously you -- you
 14:24 21 are in a court of law, and you want to make sure it's
 14:24 22 exactly right. So now that you've looked at the report
 14:24 23 and know the experts say it's .380, now you can go back
 14:24 24 and look at that picture, the defect in the wall, and

14:24 1 caused by a .380 caliber pistol. Is that fair to say?
 14:24 2 A. Again, common sense and logic would tell me
 14:24 3 that if this is the projectile that I recovered from the
 14:24 4 wall and the progression that I followed, this would
 14:24 5 have been the projectile that made the defect in the
 14:24 6 wall and then ended up stopping at the exterior
 14:24 7 clapboard.
 14:25 8 Q. Okay. I appreciate your thoroughness, and I
 14:25 9 think you are exactly right. But you are not real quick
 14:25 10 to say by just looking at the picture it's a .380 hole.
 14:25 11 You want to make sure that the experts have examined it,
 14:25 12 and that's the exact same hole we're talking about,
 14:25 13 right?
 14:25 14 A. I know that this is the projectile that I got
 14:25 15 from behind that hole, yes, sir.
 14:25 16 Q. Okay. Fair enough. That's all I got.
 14:25 17 MR. HIGH: Pass the witness, Judge.
 14:25 18 THE COURT: All right.
 14:25 19 MS. LOWRY: May I have just a moment,
 14:25 20 Judge?
 14:25 21 THE COURT: Yes.
 14:25 22 REDIRECT EXAMINATION
 14:25 23 BY MS. LOWRY:
 14:25 24 Q. You were asked earlier to look at the testing
 14:25 25 report from SWIFS. Can you tell me what item No. 21 is

14:26 1 from SWIFS?
 14:26 2 A. Item 21 shows to be one colt .380 auto, mark 4
 14:26 3 series 80 pistol. Model, Mustang; Serial No. Michael
 14:26 4 Sam 21397 with magazine.
 14:26 5 Q. And from that report can you tell if item 45,
 14:26 6 that they call it the spent projectile that you
 14:26 7 retrieved was compared to a test fire that came from
 14:26 8 item 21, the pistol?
 14:26 9 A. Yes, I can.
 14:26 10 Q. And what were the results of that?
 14:26 11 A. Tests from item 21 pistol were microscopically
 14:26 12 compared with item 45. There were significant,
 14:26 13 individual markings present to identify the item 45
 14:26 14 bullet as having been fired through item 21 pistol.
 14:27 15 MS. LOWRY: Pass the witness.
 14:27 16 MR. HIGH: No questions.
 14:27 17 THE COURT: All right. You may step down.
 14:27 18 MS. LOWRY: Your Honor, may this witness
 14:27 19 be released?
 14:27 20 MR. HIGH: That's fine.
 14:27 21 THE COURT: All right. You are finally
 14:27 22 excused. Thank you.
 14:27 23 (Witness excused.)
 14:27 24 THE COURT: Call your next witness,
 14:27 25 please.

14:27 1 MS. FALCO: Frank Perez.
 14:28 2 THE COURT: Raise your right hand, please.
 14:28 3 FRANK J. PEREZ,
 14:28 4 being first duly sworn, testified as follows:
 14:28 5 THE COURT: Put your hand down and have a
 14:28 6 seat right here, please.
 14:28 7 Ms. Lowry? Ms. Falco? All right. Go
 14:28 8 ahead.
 14:28 9 DIRECT EXAMINATION
 14:28 10 BY MS. FALCO:
 14:28 11 Q. Mr. Perez, could you state your name for the
 14:28 12 jury.
 14:28 13 A. Frank John Perez.
 14:28 14 Q. What is your occupation?
 14:28 15 A. Mortgage banking.
 14:28 16 Q. And how long have you been in mortgage banking?
 14:28 17 A. Since November of last year.
 14:28 18 Q. November of 2000?
 14:29 19 A. Yes, ma'am, that's correct.
 14:29 20 Q. And prior to being in mortgage banking, what
 14:29 21 did you do for a living?
 14:29 22 A. I was a car manager, finance manager. And in
 14:29 23 Corpus Christi, used cars, new cars, that type of thing.
 14:29 24 Q. How long were you in the car business?
 14:29 25 A. A total of almost 14 years.

14:29 1 Q. Did you know the victims in this case, James
 14:29 2 Mosqueda and Amy Kitchen?
 14:29 3 A. Yes, I did.
 14:29 4 Q. How did you know them?
 14:29 5 A. Met them many years back, back in '92 or '93,
 14:29 6 in that time frame, through the car business. Came in
 14:29 7 and bought a vehicle.
 14:29 8 Q. Who did you meet first, James or Amy?
 14:29 9 A. James.
 14:29 10 Q. And so you've known James since when?
 14:29 11 A. Since early '90s.
 14:29 12 Q. And how about Amy Kitchen?
 14:29 13 A. I met Amy shortly after they started dating.
 14:29 14 After -- I couldn't tell you what year.
 14:29 15 Q. And how did you meet James Mosqueda?
 14:29 16 A. Through a friend of the car business. He
 14:29 17 bought a vehicle from me. One of the managers
 14:29 18 introduced me to him.
 14:29 19 Q. And where were you working at that time?
 14:30 20 A. Baillargeon Ford.
 14:30 21 Q. And where is Baillargeon Ford?
 14:30 22 A. In Richardson.
 14:30 23 Q. Does it now have a new name?
 14:30 24 A. North Central Ford, I believe. They just got
 14:30 25 bought out again.

14:30 1 Q. How long did you work at Baillargeon Ford?
 14:30 2 A. A little over five and a half years, I believe.
 14:30 3 Q. You also stated you had worked in Corpus
 14:30 4 Christi?
 14:30 5 A. Yes, ma'am.
 14:30 6 Q. When did you work in Corpus Christi?
 14:30 7 A. I was born and raised in Corpus. In the car
 14:30 8 business from '91 up until about '94. I opened up some
 14:30 9 restaurants, then I sold them. And from '90 on, worked
 14:30 10 here in Dallas.
 14:30 11 Q. When did you go back to Corpus?
 14:30 12 A. Shortly after the murder. I would venture to
 14:30 13 say, third week of November, December time frame.
 14:30 14 Q. What was your relationship with James Mosqueda?
 14:30 15 A. We were pretty good friends. Real good
 14:31 16 friends, I would say.
 14:31 17 Q. When you first met Mr. Mosqueda, what type of
 14:31 18 business was he in?
 14:31 19 A. He owned tanning salons.
 14:31 20 Q. Do you know how many he owned?
 14:31 21 A. At the time I think he had two. One for sure,
 14:31 22 and I believe he had a second one, if I'm not mistaken.
 14:31 23 Q. Do you know the defendant in this case, Ivan
 14:31 24 Cantu?
 14:31 25 A. Yes, I do.

14:31 1 Q. When did you meet Mr. Cantu?
 14:31 2 A. I couldn't tell you what year, but James
 14:31 3 introduced us.
 14:31 4 Q. And where did you meet Mr. Cantu?
 14:31 5 A. If I'm not mistaken, at the tanning salon. It
 14:31 6 was something, either at his apartment or at the tanning
 14:31 7 salon. I believe it was a tanning salon.
 14:31 8 Q. Was Mr. Cantu in the tanning salon business
 14:31 9 with James Mosqueda?
 14:31 10 A. Not that I know of.
 14:31 11 Q. Do you see Mr. Cantu in the courtroom today?
 14:31 12 A. Yes, I do.
 14:31 13 Q. Could you point to him and identify something
 14:31 14 he's wearing?
 14:31 15 A. The gentleman in the burgundy sweater.
 14:31 16 MS. FALCO: Your Honor, may the record
 14:31 17 reflect that he has identified the defendant Ivan Abner
 14:31 18 Cantu.
 14:31 19 THE COURT: It will so reflect.
 14:32 20 Q. (BY MS. FALCO) When did James go into the
 14:32 21 mortgage business from the tanning salon business?
 14:32 22 A. He started off processing. I would -- I think
 14:32 23 he was in a total of four years, four or five years.
 14:32 24 Four years, I'm going to say, prior to --
 14:32 25 Q. Pardon me?

14:32 1 A. Prior to me going to work for him.
 14:32 2 Q. And did you eventually go to work for him?
 14:32 3 A. Yeah. It took about a year of his convincing,
 14:32 4 but he finally got me into it.
 14:32 5 Q. When was it that you went to work for James
 14:32 6 Mosqueda?
 14:32 7 A. I left Corpus the first day of November and
 14:32 8 started that very next working day. It was something we
 14:32 9 had planned for some time.
 14:32 10 Q. And when you say it took a year of convincing,
 14:32 11 what do you mean by that?
 14:32 12 A. I was doing fairly well in the management end
 14:32 13 of the car business. And I had -- and I had quite a few
 14:32 14 friends, obviously, in Corpus. And he -- I just wasn't
 14:32 15 sure that I wanted to do that, start something new.
 14:32 16 And he had -- after showing me his
 14:33 17 paychecks and showing me the amounts of money he was
 14:33 18 depositing and the type of business he had. And every
 14:33 19 time I came into -- I came into Dallas about once a
 14:33 20 month or once every other month to visit my friends and
 14:33 21 just finally talked me into it.
 14:33 22 Q. When you say he showed you paychecks, what do
 14:33 23 you mean by that?
 14:33 24 A. Well, he would -- James's way of convincing me
 14:33 25 in a big way was by saying, look, I made this much money

14:33 1 this month and that type thing, and substantial funds
 14:33 2 were being generated out of his office.
 14:33 3 Q. What type of paychecks did he show you?
 14:33 4 A. Well, he got paid through a corporation called
 14:33 5 AIM.
 14:33 6 Q. What is AIM?
 14:33 7 A. AIM mortgage. AIM is advantage mortgage,
 14:33 8 Investors Advantage Mortgage. And he would have checks
 14:33 9 anywhere from ten to thirteen, fifteen thousand dollars,
 14:33 10 you know, his end of it, so...
 14:33 11 Q. Was that the name of James's business?
 14:33 12 A. That was our underwriter, was Advantage. A-I-M
 14:33 13 for short. AIM, that's correct.
 14:33 14 Q. And did he show you paychecks from AIM?
 14:34 15 A. Oh, yeah.
 14:34 16 Q. How much would those paychecks be?
 14:34 17 A. They would vary anything from, like I said, I
 14:34 18 think the lowest I saw was maybe 11,000 and on up. I've
 14:34 19 seen as much as 17, 18,000.
 14:34 20 Q. And what part of the mortgage business did
 14:34 21 James do?
 14:34 22 A. We were brokers, mortgage brokers. We were the
 14:34 23 middle people between the customer and the underwriter.
 14:34 24 Q. And AIM was the underwriter that James worked
 14:34 25 for?

14:34 1 A. Worked through, that's correct.
 14:34 2 Q. Through. And when did James start talking to
 14:34 3 you about coming on-line with his business?
 14:34 4 A. Almost a year, sometime.
 14:34 5 Q. And what was the eventual plan?
 14:34 6 A. We were to -- because of my Spanish abilities,
 14:34 7 speaking abilities, we would branch out to San Antonio,
 14:34 8 Austin, and eventually Corpus Christi.
 14:34 9 Q. Did you market to a specific group?
 14:34 10 A. Yeah. Spanish speaking or people with low --
 14:35 11 not low income, poor credit. We would work on the
 14:35 12 credit and get it repaired so they could go on to buy a
 14:35 13 home.
 14:35 14 Q. When you started working for James Mosqueda --
 14:35 15 or immediately prior to that, where were you living?
 14:35 16 A. In Corpus Christi.
 14:35 17 Q. And what were you doing in Corpus?
 14:35 18 A. Again, I was in the car business.
 14:35 19 Q. And how long had you been in Corpus?
 14:35 20 A. Most of my life. I was born and raised.
 14:35 21 Q. How long were you in Dallas in the car
 14:35 22 business?
 14:35 23 A. Almost -- well, from '90 through '98. I went
 14:35 24 home for a couple years. My mom had gotten real sick.
 14:35 25 Q. So '98 you moved back to Corpus Christi?

14:35 1 A. Yeah. My mom had gotten deathly ill, and all
 14:35 2 my family was married or have responsibilities. They
 14:35 3 just couldn't leave and I could. So I went home to take
 14:35 4 care of her.
 14:35 5 Q. Did you stay there until James asked you to
 14:35 6 come on?
 14:35 7 A. That's correct.
 14:35 8 Q. When you -- when did you move to Dallas, do you
 14:36 9 recall?
 14:36 10 A. Initially?
 14:36 11 Q. To work for James?
 14:36 12 A. To work for James. In November. I mean, I
 14:36 13 moved in -- when I got here in town, I went straight to
 14:36 14 his office. In fact, I didn't even go to my friend's
 14:36 15 house. I went straight to his office. He showed me
 14:36 16 where I would be working. He said, "Okay. When can you
 14:36 17 start?" And I said, "Now." But I think I started the
 14:36 18 next day, actually.
 14:36 19 Q. The murders happened November 3rd. When did
 14:36 20 you move back here in relationship to that?
 14:36 21 A. About three weeks prior to.
 14:36 22 Q. Would that be October?
 14:36 23 A. Yeah. I'm sorry, that's correct. I apologize.
 14:36 24 Q. When you moved up here, and that's October of
 14:36 25 last year?

14:36 1 A. That's correct.
 14:36 2 Q. When you moved up here, where did you live?
 14:36 3 A. During the weekdays, James and I had an
 14:36 4 arrangement where I would stay with him during the days,
 14:36 5 during the weekdays, because it was easier. The people
 14:36 6 I stayed with were in -- just outside of Sherman in a
 14:36 7 small town called Dorchester about four miles south of
 14:36 8 Sherman, and he wanted us there by 9 a.m. Because of
 14:36 9 traffic and things like that, we decided -- he figured
 14:37 10 that it would be best for me to stay in town and stay at
 14:37 11 his house during the week, during the weekdays.
 14:37 12 Q. And where was the office, this mortgage
 14:37 13 business?
 14:37 14 A. Excuse me? Pardon me?
 14:37 15 Q. Where was his office?
 14:37 16 A. His office was just down the street a couple
 14:37 17 miles. It was off of the toll road.
 14:37 18 Q. And how many people did he have working for
 14:37 19 him?
 14:37 20 A. Excuse me. Including myself there was four of
 14:37 21 us total.
 14:37 22 Q. And who all was working for him?
 14:37 23 A. A gentleman by the name of Ray Sanchez, and I
 14:37 24 can't think of his last name now. Rick -- I can't
 14:37 25 pronounce his last name.

14:37 1 Q. Alcalá?
 14:37 2 A. Yes, ma'am.
 14:37 3 Q. And do you know who else was working for him?
 14:37 4 A. That was it. When I got there, that was, that
 14:37 5 was all there was.
 14:37 6 Q. Are you aware of whether or not the defendant
 14:37 7 and James Mosqueda had ever been in business together?
 14:37 8 A. Well, he worked for James for a little bit,
 14:37 9 from what I understood.
 14:38 10 Q. Mr. Cantu did?
 14:38 11 A. Yes.
 14:38 12 Q. Which business was Mr. Mosqueda doing that the
 14:38 13 defendant worked?
 14:38 14 A. Mortgage.
 14:38 15 Q. Was it for the same company that you were
 14:38 16 working for?
 14:38 17 A. That's correct.
 14:38 18 Q. Did you want to work there while the defendant
 14:38 19 was working there?
 14:38 20 A. No. That was one of the conditions of me
 14:38 21 coming down.
 14:38 22 Q. When you said James wanted you there at
 14:38 23 nine o'clock, tell me what you mean by that.
 14:38 24 A. Well, most mortgage companies and banks don't
 14:38 25 really get started until 10:00 or 10:30. And we were

14:38 1 both of the same mind. You got to get there early to
 14:38 2 get things started, to get your first phone calls in.
 14:38 3 That's when people are fresh, and they tend to -- tend
 14:38 4 to think better, I think.

14:38 5 It was an ongoing joke with us, who got
 14:38 6 there first. The loser had to buy the coffee and
 14:38 7 doughnuts and stuff. So it was an ongoing thing with
 14:38 8 us.

14:38 9 Q. When you say you stayed with him during the
 14:39 10 week so you could be to work on time --

14:39 11 A. Yeah.

14:39 12 Q. -- where did you stay on the weekends?

14:39 13 A. With a friend of mine in Dorchester again. The
 14:39 14 Myer residence, very good, close friends of mine.

14:39 15 Q. What are their first names?

14:39 16 A. Rick and Lurae.

14:39 17 Q. Rick and Lurae Myer?

14:39 18 A. Yes, ma'am.

14:39 19 Q. And how do you know Rick and Lurae Myer?

14:39 20 A. I met Rick through the car business when I
 14:39 21 worked at North Central.

14:39 22 Q. And why did you stay with them on the weekends?

14:39 23 A. We were very close and they want me to -- I'm
 14:39 24 kind of like an adopted son, I think. We were very
 14:39 25 close.

14:39 1 Q. How many weekends had you stayed with them
 14:39 2 prior to the murder, do you know?

14:39 3 A. Almost every week. Well, every weekend. I
 14:39 4 stayed with James during the weekdays and them on the
 14:39 5 weekends.

14:39 6 MS. FALCO: Your Honor, may I approach the
 14:39 7 witness?

14:39 8 THE COURT: Yes.

14:39 9 Q. (BY MS. FALCO) Are you okay?

14:39 10 THE COURT: We can get you a glass of
 14:39 11 water.

14:39 12 THE WITNESS: Yeah.

14:39 13 Q. (BY MS. FALCO) I'll show you what's marked as
 14:39 14 State's Exhibit 112. Do you recognize that?

14:40 15 A. Oh, yeah.

14:40 16 Q. What is that?

14:40 17 A. Those are our business cards.

14:40 18 Q. In particular, whose business card is this?

14:40 19 A. That's James's business card.

14:40 20 Q. What's the company name on the business card?

14:40 21 A. AIM Mortgage.

14:40 22 MS. FALCO: We offer State's Exhibit 112.

14:40 23 MR. GOELLER: No objection, Your Honor.

14:40 24 THE COURT: 112 is admitted.

14:40 25 (State's Exhibit No. 112 admitted.)

14:40 1 Q. (BY MS. FALCO) Did James have a motto that he
 14:40 2 put on his business card?

14:40 3 A. To be honest with you, yeah. There's one right
 14:40 4 here.

14:40 5 Q. What is that?

14:40 6 A. Excuse me. I am sorry; I have a cold this
 14:40 7 morning. "Moving to the Next Level of Success."

14:40 8 Q. Moving who?

14:40 9 A. Excuse me, "Moving People to Their Next Level
 14:40 10 of Success."

14:41 11 Q. Do you know how long the defendant worked for
 14:41 12 James in the mortgage business?

14:41 13 A. No, I don't. I was told it was a short period
 14:41 14 of time, but I've forgotten what time it was.

14:41 15 Q. Do you know what the relationship is between
 14:41 16 James and Ivan? Are they related?

14:41 17 A. They are family, that's correct.

14:41 18 Q. Do you know how they are related?

14:41 19 A. Aunt and uncle type thing. I mean, his mother
 14:41 20 is James's aunt.

14:41 21 Q. So they are cousins?

14:41 22 A. Yes, ma'am.

14:41 23 Q. When you stayed with James and Amy, which room
 14:41 24 would you stay in?

14:41 25 A. As you come in, he had a former room that he

14:41 1 had turned into a weight room. And the room that I
 14:41 2 stayed in was the one to the right, first bedroom to the
 14:41 3 right.

14:41 4 MS. FALCO: Your Honor, may I approach?

14:41 5 THE COURT: Yes.

14:41 6 Q. (BY MS. FALCO) Showing you a diagram. If you
 14:41 7 can orient yourself to the diagram of State's Exhibit
 14:42 8 No. 7, a diagram of James and Amy's house, could you
 14:42 9 point out where your bedroom was?

14:42 10 A. This being the front door, right here.

14:42 11 Q. Okay. Was there a spare bed in there for you
 14:42 12 to sleep in?

14:42 13 A. Yes, ma'am.

14:42 14 Q. Did you actually have things at their house?
 14:42 15 Did you live there, or did you -- how did you live if
 14:42 16 you were going back and forth?

14:42 17 A. Well, I initially -- I didn't bring a lot with
 14:42 18 me. I brought a couple of bags. And I hated to -- I
 14:42 19 hate to put Amy to a lot of trouble because she was the
 14:42 20 type that would really like to clean and make sure I had
 14:42 21 what I needed, so I would take things with me to Rick's
 14:42 22 house and wash them there. I had a couple duffel bags
 14:42 23 and hangers.

14:42 24 Q. So on the weekend you kind of loaded up your
 14:42 25 bags and left?

14:42 1 A. And would wash them over there and hang out
 14:42 2 with the kids and whatever.
 14:43 3 Q. Approximately how long would you say you worked
 14:43 4 for James before he was killed?
 14:45 5 A. Three weeks while I was employed, maybe four,
 14:43 6 or three weeks, if I'm not mistaken.
 14:43 7 Q. And at that point were you still learning the
 14:43 8 business?
 14:43 9 A. That's correct.
 14:43 10 Q. During those three weeks, did the defendant
 14:43 11 call the mortgage business looking for James?
 14:43 12 A. Several times.
 14:43 13 Q. And how would you say the frequency was from
 14:43 14 when you first got there leading up to the murder?
 14:43 15 A. Initially, not very often. But the last week,
 14:43 16 give or take a couple days, it was several times.
 14:43 17 Q. Specifically with regard to that, the last
 14:43 18 couple of days that James was alive, do you recall the
 14:43 19 defendant calling the office?
 14:43 20 A. Yes, ma'am.
 14:43 21 Q. Who was he looking for?
 14:43 22 A. James.
 14:43 23 Q. Did you talk to the defendant before you turned
 14:43 24 the phone over to James?
 14:43 25 A. When James didn't talk to him, yeah. There was

14:44 1 times that he called and James was there, but he told me
 14:44 2 he didn't want to talk to him.
 14:44 3 Q. Did he say why he didn't want to talk to him?
 14:44 4 A. It was an ongoing joke because just a pain and
 14:44 5 he wanted money.
 14:44 6 Q. Did you have a conversation with the defendant
 14:44 7 about why he was calling?
 14:44 8 A. Yes, ma'am.
 14:44 9 Q. Did he tell you why he was calling?
 14:44 10 A. Yes, ma'am.
 14:44 11 Q. Why was he calling?
 14:44 12 A. He wanted money to go into a business for
 14:44 13 himself.
 14:44 14 Q. What kind of business, do you know?
 14:44 15 A. Mortgage.
 14:44 16 Q. Was it to compete with James's business?
 14:44 17 A. Well, no. I think his intention was to branch
 14:44 18 out.
 14:44 19 Q. And open up a branch of James's?
 14:44 20 A. That's what I assumed.
 14:44 21 Q. Do you know how much money the defendant was
 14:44 22 wanting?
 14:44 23 A. 20,000.
 14:44 24 Q. I'm sorry.
 14:44 25 A. 20,000.

14:44 1 Q. Why was he calling James for that money?
 14:44 2 A. James was probably the only one that he knew
 14:44 3 that had that kind of cash.
 14:44 4 Q. Did James give it to him?
 14:44 5 A. No.
 14:44 6 Q. Did he want to give it to him?
 14:44 7 A. No, ma'am.
 14:44 8 Q. Specifically on Friday, November 3rd, was that
 14:45 9 the last day you saw James alive?
 14:45 10 A. Yes, ma'am. Yes, ma'am.
 14:45 11 Q. Did the defendant call the office on that day?
 14:45 12 A. Yes, he did.
 14:45 13 Q. How many times did he call the office?
 14:45 14 A. Twice, if I'm not mistaken.
 14:45 15 Q. And who was he wanting to talk to?
 14:45 16 A. James.
 14:45 17 Q. And did he tell you why?
 14:45 18 A. Money.
 14:45 19 Q. Still wanting the 20,000?
 14:45 20 A. Or money, at that time. The amount wasn't
 14:45 21 discussed.
 14:45 22 Q. Do you know if James ever talked to Ivan that
 14:45 23 day at work?
 14:45 24 A. That day? I screened most of the calls and
 14:45 25 while I screened them, no. I don't know if he called

14:45 1 and I missed a call. I'm not sure about that.
 14:45 2 Q. Did you work with James all day that day?
 14:45 3 A. Yes, ma'am, from 9 a.m. on.
 14:45 4 Q. And how was he acting that day?
 14:45 5 A. Pretty good, pretty good. We had a lot of fun.
 14:45 6 In fact, that day we even practiced putting in the
 14:45 7 office. We had a good day that day. We had a lot of
 14:46 8 clients, and we set up an appointment. A good day.
 14:46 9 Q. Did he seem nervous or scared?
 14:46 10 A. No. We were -- a lot of fun. We had a good
 14:46 11 time.
 14:46 12 Q. Was he acting like somebody was after him?
 14:46 13 A. No, ma'am.
 14:46 14 Q. How late did you all work that day, Friday, the
 14:46 15 3rd?
 14:46 16 A. I was the last to leave. They worked -- I
 14:46 17 couldn't be specific. Between 5:30 and 6 o'clock was
 14:46 18 when they left, he and Ray left. And Rick and I stayed
 14:46 19 a little longer because I had to prepare for an
 14:46 20 appointment the next morning.
 14:46 21 Q. Tell me about the appointment the next morning.
 14:46 22 A. James and I were to meet up at the office at
 14:46 23 9 a.m. because we had to be in Fort Worth by 10:00. We
 14:46 24 were signing up some clients that I had newly acquired.
 14:46 25 Q. When you say signing them up, what do you mean?

14:46 1 A. Whenever somebody buys a house, as I said,
 14:46 2 there are disclosures and applications that they have to
 14:46 3 sign and initial and help fill out, and that's what I
 14:46 4 meant by that.
 14:46 5 Q. And this was -- who was supposed to be there at
 14:46 6 9 o'clock a.m. on Saturday?
 14:47 7 A. Just James and I. We were going to go in his
 14:47 8 car to the client's -- or to the agent's office.
 14:47 9 Q. Do you know who Sylvia Cantu is?
 14:47 10 A. Sylvia Cantu?
 14:47 11 Q. Yes.
 14:47 12 A. No, not offhand.
 14:47 13 Q. Do you know about the housing development in
 14:47 14 Vista Real?
 14:47 15 A. Yes, ma'am.
 14:47 16 Q. What is that?
 14:47 17 A. Vista Real housing apartments?
 14:47 18 Q. Yes.
 14:47 19 A. It's an apartment complex, as far as I know.
 14:47 20 Q. Do you know the housing development?
 14:47 21 A. There's a housing development, that's correct.
 14:47 22 We were looking into that. He was trying to purchase
 14:47 23 homes and rent them and condos.
 14:47 24 Q. James?
 14:47 25 A. Oh, yes.

14:47 1 Q. First of all, how did Amy Kitchen keep her
 14:47 2 house?
 14:47 3 A. Immaculate. It was kind of a joke with us at
 14:47 4 times. Well, with me at least. James didn't. He knew
 14:47 5 not to tease her.
 14:47 6 Q. With regard to the bedroom where you stayed,
 14:48 7 how did you keep that room?
 14:48 8 A. Same as the house, as clean as I possibly
 14:48 9 could.
 14:48 10 Q. And when you would leave in the morning, did
 14:48 11 you leave the bed unmade? Did you make the bed?
 14:48 12 A. No, ma'am. I made it every morning. I felt
 14:48 13 bad if Amy had to go in there and clean up after me.
 14:48 14 Q. And that Thursday morning -- I guess -- I'm
 14:48 15 sorry, that Friday morning, November 3rd, before you
 14:48 16 left the house, did you make that bed?
 14:48 17 A. Yes, ma'am.
 14:48 18 MS. FALCO: Your Honor, may I approach?
 14:48 19 THE COURT: Yes.
 14:49 20 Q. (BY MS. FALCO) I show you what's been marked
 14:49 21 as State's Exhibit No. 15. Do you recognize the
 14:49 22 bedroom?
 14:49 23 A. That's the room I stayed in.
 14:49 24 Q. Did you leave the bed like that when you left
 14:49 25 Friday morning, November 3rd?

14:49 1 A. No, I did not.
 14:49 2 Q. Do you know whether or not Amy and James used
 14:49 3 pillows from that room in the master bedroom?
 14:49 4 A. Not while I was there.
 14:49 5 Q. While you were in there, all the pillows were
 14:49 6 there that were supposed to be there?
 14:49 7 A. Yes, ma'am.
 14:49 8 Q. That Friday -- what time did you say James left
 14:49 9 for work?
 14:49 10 A. We both left at the same time or just a few
 14:50 11 minutes before 9:00 because we wanted to be at the
 14:50 12 office at 9:00 a.m.
 14:50 13 Q. I'm sorry, that Friday evening.
 14:50 14 A. Oh, that Friday evening?
 14:50 15 Q. Yes.
 14:50 16 A. It was just before 5:00. I mean, before 6:00
 14:50 17 or at 6:00. It was between 5:30 and 6:00. It was
 14:50 18 pretty early in the day. In fact, that was the fairly
 14:50 19 few times he left early.
 14:50 20 Q. Who did he leave with?
 14:50 21 A. He was going home because he had to prepare for
 14:50 22 dinner, and Ray and he left the same time.
 14:50 23 Q. And that's Ray Sanchez?
 14:50 24 A. Yes, ma'am, Mr. Sanchez.
 14:50 25 Q. And what was your understanding of what James

14:50 1 was doing that evening?
 14:50 2 A. He had dinner with his father-in-law.
 14:50 3 Q. Amy's dad?
 14:50 4 A. Amy's dad. They weren't legally married, but
 14:50 5 he felt that they were. He kept saying, my
 14:50 6 father-in-law, so...
 14:50 7 Q. What was your understanding of when you were
 14:50 8 supposed to see James again?
 14:50 9 A. The next morning at 9:00 a.m.
 14:50 10 Q. How late did you stay at work that Friday
 14:50 11 night?
 14:50 12 A. I stayed for some time. I left before 7:00,
 14:50 13 but I couldn't tell you exactly what time. It was still
 14:51 14 daylight, and I went to have dinner.
 14:51 15 Q. Where did you go when you left work?
 14:51 16 A. Humperdinks down the street.
 14:51 17 Q. Why did you go to Humperdinks?
 14:51 18 A. They made great hamburgers.
 14:51 19 Q. For dinner?
 14:51 20 A. Yeah.
 14:51 21 Q. How long were you at Humperdinks?
 14:51 22 A. I couldn't tell you; dinner, a couple of
 14:51 23 drinks. I had to be -- I wanted to get back to Rick's
 14:51 24 house early because I knew I had to be up early. So I
 14:51 25 couldn't be specific in time what time I left

14:51 1 Humperdinks.
 14:51 2 Q. When you left Humperdinks, where did you go?
 14:51 3 A. Straight to Rick's house.
 14:51 4 Q. And that's in Dorchester?
 14:51 5 A. Yes.
 14:51 6 Q. About how far is that from Dallas?
 14:51 7 A. How far from Dallas? I'm not sure, but I do
 14:51 8 know it's four miles outside of Sherman, south of
 14:51 9 Sherman, that's correct.
 14:51 10 Q. South. Did you stay there, spend the night
 14:51 11 there at Rick Myer's house?
 14:51 12 A. That's correct.
 14:51 13 Q. Did they have a guest room for you, as well?
 14:51 14 A. Yes, ma'am. In fact, they made one up for me.
 14:52 15 Q. The next day, Saturday the 4th, where did you
 14:52 16 go in the morning?
 14:52 17 A. Saturday morning I got up my usual time about
 14:52 18 7:00, 7:15. Shower, clean up, on the road by 8:00, and
 14:52 19 at the office by 9:00. He gave me -- he had given me a
 14:52 20 key my first day of employment there, so I was able to
 14:52 21 get in and out.
 14:52 22 Q. And you were at the office at 9:00. Was anyone
 14:52 23 else there?
 14:52 24 A. No, ma'am.
 14:52 25 Q. Did you wait for James?

14:52 1 A. Oh, yeah.
 14:52 2 Q. How long did you wait?
 14:52 3 A. Until after -- after 10:00, 11:00. I mean,
 14:52 4 we -- I finished. I went -- 10:30, maybe 11:00 at the
 14:52 5 latest, I stayed there.
 14:52 6 Q. When James didn't show up at nine o'clock, did
 14:52 7 you think that was unusual?
 14:52 8 A. Very unusual.
 14:52 9 Q. Why is that?
 14:52 10 A. Because, again, as I said, it was an ongoing
 14:52 11 bet with us. The loser pays for coffee and doughnuts or
 14:52 12 coffee or whatever we were going to have for breakfast.
 14:52 13 So I was calling prior to me arriving at the office and
 14:53 14 shortly after at the office. I kept calling his house
 14:53 15 and telling him to hurry up, that type of thing.
 14:53 16 Q. Did you ever get any answer?
 14:53 17 A. Answering machine. Both on his voice mail at
 14:53 18 home and his phone, cell phone.
 14:53 19 Q. Did you ever go to Fort Worth?
 14:53 20 A. No. We conducted our business over the phone.
 14:53 21 Q. After you did that, did you still think it was
 14:53 22 odd that James hasn't shown up?
 14:53 23 A. Yes, ma'am.
 14:53 24 Q. What did you do based on that?

14:53 1 didn't put much emphasis in it because James would have
 14:53 2 called me. I figured -- he always does. He always
 14:53 3 returned my calls when he was ready for me to come over
 14:53 4 or work, whatever the case may be.
 14:53 5 Q. Do you know if he had plans for Saturday after
 14:53 6 the meeting?
 14:53 7 A. After our meeting?
 14:53 8 Q. Yes.
 14:53 9 A. I do know that Amy had a lunch with his mother
 14:53 10 but -- with her mother. Other than that, I don't know
 14:53 11 what he had planned.
 14:53 12 Q. After you conducted your business meeting over
 14:53 13 the phone, what did you do for the rest of the day?
 14:54 14 A. I ate and visited different friends at
 14:54 15 different car lots, car dealerships.
 14:54 16 Q. Why did you do that?
 14:54 17 A. I have some pretty good friends here. I have
 14:54 18 been real lucky living here. I have met some very,
 14:54 19 very, very nice people, and just visiting. Saying hi,
 14:54 20 that type of thing.
 14:54 21 Q. When did you find out about James and Amy?
 14:54 22 A. After I left Bob Thomas Ford in McKinney, I
 14:54 23 went to the house. And shortly after arriving there, I
 14:54 24 got a phone call from a mutual friend that said
 14:54 25 something had happened, and I flew back to the house.

14:54 1 Q. When you said you arrived at the house and you
 14:54 2 received a phone call, which house?
 14:54 3 A. The Rick -- the Myer residence. I arrived
 14:54 4 there. I'm talking within minutes I was there. I
 14:54 5 didn't have time to get comfortable, when my cell phone
 14:54 6 rang, and I was told.
 14:54 7 Q. I'm sorry.
 14:54 8 A. And I was told. So I flew back to the house.
 14:55 9 Q. Do you know approximately what time that was?
 14:55 10 A. 6:00, give or take a little bit. The Myer
 14:55 11 children were just sitting down for dinner. So I
 14:55 12 couldn't be specific, but I do know she feeds them right
 14:55 13 around that time frame.
 14:55 14 Q. And who was it that you got the phone call
 14:55 15 from?
 14:55 16 A. From a mutual friend of ours, a gentleman by
 14:55 17 the name of Dino Manery. I had just left his office,
 14:55 18 actually.
 14:55 19 Q. His office where?
 14:55 20 A. In McKinney, Bob Thomas Ford. He was a finance
 14:55 21 manager at the time.
 14:55 22 Q. And when you were at Bob Thomas Ford talking to
 14:55 23 Dino, did anything come up about James?
 14:55 24 A. While we were there?

14:55 1 A. I know he asked me how I was doing, and how is
 14:55 2 the business and that type thing. And is James doing
 14:55 3 cool? Meaning is he all right and that type of thing.
 14:55 4 Stuff like that.
 14:55 5 Q. But at that point neither one of y'all knew?
 14:55 6 A. No, no.
 14:55 7 Q. How long did it take for y'all to get to Bob
 14:55 8 Thomas's home?
 14:55 9 A. From Bob Thomas to Dorchester?
 14:55 10 Q. Yes.
 14:56 11 A. I guess about 30 minutes, give or take, 30, 35
 14:56 12 minutes.
 14:56 13 Q. Did you go straight from Bob Thomas to the
 14:56 14 Myers' house?
 14:56 15 A. That's correct.
 14:56 16 Q. What did you do after you got that phone call?
 14:56 17 A. Shortly after I freaked out. I got on the road
 14:56 18 and got there.
 14:56 19 Q. And where is there?
 14:56 20 A. To the James's home.
 14:56 21 Q. Who all was there when you arrived?
 14:56 22 A. Police, reporters, just a bunch of people.
 14:56 23 Neighbors all hanging out.
 14:56 24 Q. Did they let you go inside the house?
 14:56 25 A. No.

14:56 1 Q. Why not?
 14:56 2 A. I don't know. They just restrained me when I
 14:56 3 told them. When I first arrived at the scene, I saw
 14:56 4 Mr. Sanchez was already there. Ray Sanchez, and we
 14:56 5 hugged. And he was telling me what happened, and he was
 14:56 6 crying and pretty emotionally shocked. Then I went up
 14:56 7 to the -- to the garage over by where the officers were
 14:56 8 standing and looking at -- at the Mercedes. And I gave
 14:56 9 them my name, and I told them I lived there. And
 14:56 10 that's -- that's when I announced myself. They did not
 14:56 11 let me in the house, no.
 14:56 12 Q. Did you go anywhere at that time?
 14:56 13 A. No. I stayed there in the front yard with
 14:56 14 everybody else.
 14:56 15 Q. How long did you stay in the front yard?
 14:56 16 A. I couldn't be specific. One of the officers --
 14:56 17 I was pretty shaken up. And Mr. Sanchez and I was
 14:56 18 pretty shaken up, and one of the officers came up to me
 14:56 19 and asked if I was okay. And he wanted me -- I guess
 14:56 20 keep me away from the press or wanting me to sit down.
 14:56 21 I'm not sure what the motive was. But they put me in
 14:56 22 the police car, so I could. I was pretty shaken up. I
 14:56 23 had trouble standing. I was pretty shook-up.
 14:56 24 Q. Did you eventually go down to the police
 14:56 25 station that evening?

14:57 1 A. Yes, ma'am. They took me down and took a
 14:57 2 statement.
 14:57 3 Q. And for what purpose did they take you down to
 14:57 4 the police station?
 14:57 5 A. To take my statement.
 14:57 6 Q. Did you give a statement?
 14:57 7 A. Yes, ma'am.
 14:57 8 Q. Did you cooperate with the police?
 14:57 9 A. Yes, ma'am, definitely.
 14:57 10 Q. After you gave your statement to the police,
 14:58 11 did they bring you back?
 14:58 12 A. Yes, they did.
 14:58 13 Q. To the --
 14:58 14 A. Back to the home, that's correct, James's home.
 14:58 15 Q. Were you eventually allowed to go inside the
 14:58 16 home?
 14:58 17 A. Yes, ma'am.
 14:58 18 Q. When you went inside the home, where did you go
 14:58 19 and what did you do?
 14:58 20 A. I went in with the family. And James's mother
 14:58 21 was pretty distraught, and we were just sitting there
 14:58 22 talking in the living room at first.
 14:58 23 Q. Did you gather or collect anything from the
 14:58 24 home while you were in there?
 14:58 25 A. I picked up the company -- there was some check

14:58 1 stubs and some receipts and checks for the company.
 14:58 2 That I opened the door, and I knew where they had held
 14:58 3 them. And I asked James's mother if I could take those
 14:59 4 with me. And she said she didn't care, so I took them
 14:59 5 with me.
 14:59 6 Q. Why did you want to take those with you?
 14:59 7 A. I didn't want anybody to steal them because
 14:59 8 there was a bunch of people coming in and out of the
 14:59 9 house that we didn't know.
 14:59 10 Q. What happened to James's mortgage company?
 14:59 11 A. It's been disbanded.
 14:59 12 Q. Did you continue working in the mortgage
 14:59 13 business?
 14:59 14 A. Yes, I did.
 14:59 15 Q. What about Ray Sanchez?
 14:59 16 A. I believe so, to this day.
 14:59 17 Q. What about Rick Alcalá? Do you know?
 14:59 18 A. I don't know if he's still there now, but as of
 14:59 19 a couple months ago he was, yes.
 14:59 20 Q. Working with Ray Sanchez?
 14:59 21 A. That's correct.
 14:59 22 Q. Did James ever talk to you about salary and the
 14:59 23 money you could make in the mortgage business?
 14:59 24 A. That, oh, yeah. That was part of the reason
 14:59 25 why I came down. That's why he showed me the amount of

14:59 1 money he had made.
 14:59 2 Q. What was your understanding of how much money
 14:59 3 you could make?
 14:59 4 A. If you worked honestly and treated people
 14:59 5 pretty good, that you'll find that he -- over 200,000 a
 14:59 6 year.
 14:59 7 Q. Do you know how much James was making in the
 15:00 8 mortgage business?
 15:00 9 A. Yes, I do.
 15:00 10 Q. How much?
 15:00 11 A. He was at -- up to that point the last check
 15:00 12 stub I saw, he was at 178,000, I believe.
 15:00 13 Q. When you say check stub, what's he showing that
 15:00 14 made you believe that's how much money he was making?
 15:00 15 A. He showed it to me. That was his way of
 15:00 16 motivating me.
 15:00 17 Q. In the form of a check? In the form of a bank
 15:00 18 statement? How was he showing it to you?
 15:00 19 A. Well, he would go deposit the moneys during the
 15:00 20 day. And then that evening, whenever we got together or
 15:00 21 talked, he would show me the check stub.
 15:00 22 Q. Was he depositing large amounts of cash, or was
 15:00 23 it in check and paper form?
 15:00 24 A. No. They paid us in checks. Everything was in
 15:00 25 checks or money orders. We didn't -- he didn't want any

15:00 1 actual cash in the building.
 15:00 2 Q. And to the best of your knowledge, was there
 15:00 3 any cash in the building?
 15:00 4 A. Not in our office, no.
 15:00 5 Q. Prior to AIM, Advantage Investors Mortgage,
 15:01 6 were you ever at a company called Star Net Mortgage?
 15:01 7 A. He was. I was not.
 15:01 8 Q. Was that a -- was that also an underwriter that
 15:01 9 James worked with?
 15:01 10 A. That's correct.
 15:01 11 Q. Where was your office located? What street?
 15:01 12 A. Dallas Parkway, right off the toll road.
 15:01 13 Q. Do you remember the address?
 15:01 14 A. If I'm not mistaken, it was 1700 or 17,000,
 15:01 15 something like that.
 15:01 16 THE COURT: Do you need some more water?
 15:01 17 THE WITNESS: I got some. Thank you, sir.
 15:01 18 Excuse me. I'm trying to hold it down.
 15:01 19 Q. (BY MS. FALCO) With regard to disbanding the
 15:02 20 mortgage company, whose decision was that?
 15:02 21 A. We really didn't -- I wanted to keep it
 15:02 22 together in memory of, but we really didn't. AIM didn't
 15:02 23 give us much of a choice because we weren't broker
 15:02 24 licensed. I mean, we were using his license.
 15:02 25 Q. James's license?

15:02 1 A. That's correct. I stayed with AIM a little bit
 15:02 2 longer through another source, but that particular
 15:02 3 branch had -- had dissolved.
 15:03 4 Q. Did you ever see James and Ivan Cantu fight or
 15:03 5 say harsh words to each other?
 15:03 6 A. A fist fight?
 15:03 7 Q. Yes.
 15:03 8 A. No. Never violence, nothing like that.
 15:03 9 Q. How about just regular fights? Did they get in
 15:03 10 regular fights?
 15:03 11 A. Ivan would say something pretty ridiculous at
 15:03 12 times, and James would make fun of him and laugh at it.
 15:03 13 But I don't think I've ever actually seen them cuss each
 15:03 14 other out, cuss or fist fight, no.
 15:03 15 Q. Did James care about his cousin?
 15:03 16 A. A great deal.
 15:03 17 Q. Did he take care of him whenever he could?
 15:03 18 A. Better than most of us wanted him to.
 15:03 19 Q. Give him a job opportunity when other people
 15:03 20 wouldn't?
 15:03 21 A. Oh, yes, ma'am.
 15:03 22 Q. As part of the mortgage business, I guess as
 15:03 23 you were learning under James and eventually learned,
 15:03 24 did you all send out what are called prequalification
 15:03 25 letters to let people know that they had qualified for a

15:03 1 loan?
 15:03 2 A. We ran several advertisement type things,
 15:04 3 that's correct. There was that and commercials, radios,
 15:04 4 TV. We had just finished our very first TV commercial,
 15:04 5 which he was really proud of.
 15:04 6 MS. FALCO: Your Honor, may I approach the
 15:04 7 witness?
 15:04 8 THE COURT: Yes.
 15:04 9 Q. (BY MS. FALCO) I show what's marked as State's
 15:04 10 Exhibit No. 113. Do you recognize James's signature at
 15:04 11 the bottom?
 15:04 12 A. Yes, ma'am.
 15:04 13 Q. Is that James's signature?
 15:04 14 A. Yes, ma'am.
 15:04 15 Q. Are those the type of letters that you would
 15:04 16 send out to let people know they were qualified for a
 15:04 17 loan?
 15:04 18 A. Yeah. He was in charge of that. So, I
 15:04 19 would -- I have seen a draft of it. I never saw the
 15:04 20 finished item.
 15:04 21 Q. That's his signature at the bottom?
 15:04 22 A. Yes.
 15:04 23 MS. FALCO: We offer State's Exhibit 113.
 15:05 24 MR. GOELLER: May I take the witness on
 15:05 25 voir dire?

15:05 1 THE COURT: Yes.
 15:05 2 VOIR DIRE EXAMINATION
 15:05 3 BY MR. GOELLER:
 15:05 4 Q. Mr. -- is it Perez?
 15:05 5 A. Yes, sir.
 15:05 6 Q. What -- what is this letter? Have you
 15:05 7 personally seen this letter before?
 15:05 8 A. I saw some drafts and things we talked about,
 15:05 9 but I didn't see the finished product.
 15:05 10 Q. You don't have any personal knowledge of this
 15:05 11 letter?
 15:05 12 A. That particular letter?
 15:05 13 Q. Yes.
 15:05 14 A. No. I know of it, but I never saw it.
 15:05 15 MR. GOELLER: Objection to the hearsay,
 15:05 16 Your Honor.
 15:05 17 THE COURT: Overruled. 113 is admitted.
 15:05 18 (State's Exhibit No. 113 admitted.)
 15:06 19 MS. FALCO: One moment, Your Honor.
 15:06 20 THE COURT: All right.
 15:06 21 DIRECT EXAMINATION (CONT'D)
 15:06 22 BY MS. FALCO:
 15:06 23 Q. That last week that James was alive, leading up
 15:06 24 to Friday, November 3rd, did any people that you didn't
 15:06 25 know or anyone unusual come to the house at night

15:28 1 THE COURT: Yes. You did say it aloud.
 15:29 2 That was admitted. And I'm sure it wasn't for the truth
 15:29 3 of the content, but just to show that there was a
 15:29 4 business there, and there was a business letter, and I
 15:29 5 thought it was okay. All right. Should we bring the
 15:29 6 jury in?
 15:29 7 THE BAILIFF: Yes, sir.
 15:29 8 (Open court, defendant and jury present).
 15:30 9 THE BAILIFF: All rise.
 15:30 10 THE COURT: Please be seated.
 15:30 11 Mr. Goeller?
 15:30 12 MR. GOELLER: Thank you, Your Honor.
 15:30 13 CROSS-EXAMINATION
 15:30 14 BY MR. GOELLER:
 15:30 15 Q. Sir, what is your legal name?
 15:30 16 A. My legal name?
 15:30 17 Q. Yeah.
 15:30 18 A. Frank John Perez.
 15:30 19 Q. I'm sorry, say again?
 15:30 20 A. Frank John Perez.
 15:31 21 Q. Okay. Is your date of birth November 19th of
 15:31 22 1962?
 15:31 23 A. That's correct.
 15:31 24 Q. Are you one and the same Frank Perez that was
 15:31 25 arrested and pled guilty to aggravated assault on a

15:06 1 looking for James?
 15:06 2 A. Never.
 15:06 3 Q. You said you were doing most of the phone call
 15:06 4 screening, I guess, being the new guy. Was that kind of
 15:06 5 your job?
 15:06 6 A. Yeah. They paid me a little bit of a salary,
 15:06 7 and he said, I had to do all the dirty work.
 15:06 8 Q. And screening the phone calls that week was he
 15:06 9 getting any phone calls from anyone that seemed unusual
 15:06 10 or anyone that you didn't know that was not related to
 15:06 11 the mortgage business?
 15:06 12 A. Not that I remember.
 15:07 13 MS. FALCO: Thank you, Mr. Perez. Pass
 15:07 14 the witness.
 15:07 15 THE COURT: All right. Ms. Falco, if you
 15:07 16 have any Gaskin material, if they still call it Gaskin
 15:07 17 material, will you give it to the defense. And we'll
 15:07 18 take a 15-minute recess and come back for the last
 15:07 19 portion at about 3:25.
 15:07 20 THE BAILIFF: All rise.
 15:11 21 (Break.)
 15:28 22 (Open court, defendant present, no jury.)
 15:28 23 MS. FALCO: For clarification purposes my
 15:28 24 last exhibit was marked 113. I don't know if that's
 15:28 25 what I said aloud or not.

15:31 1 peace officer in Dallas County?
 15:31 2 A. No. We pled no contest and they gave me
 15:31 3 deferred.
 15:31 4 Q. Oh, I'm sorry. You pled no contest to
 15:31 5 aggravated assault --
 15:31 6 A. And they gave us deferred, that's correct.
 15:31 7 Q. Just listen to me. Wait until I finish my
 15:31 8 question, and then I'll give you an opportunity to
 15:31 9 answer. Okay? Why are you shaking your head no?
 15:31 10 A. I'm having trouble breathing, sir. I'm not
 15:31 11 shaking no, just trying to breathe.
 15:31 12 Q. You are having trouble breathing? Do you
 15:31 13 want --
 15:31 14 A. I'm all right, sir.
 15:31 15 Q. -- some water?
 15:31 16 A. I got some, thank you.
 15:31 17 Q. So you pled no contest to aggravated assault
 15:31 18 upon a peace officer, and is that what you did?
 15:31 19 A. I'm not sure how they termed it. No, sir, I'm
 15:31 20 not, but something to that effect.
 15:31 21 Q. But you were guilty of it?
 15:31 22 A. No, sir.
 15:31 23 Q. So you pled no contest to a crime you didn't
 15:31 24 commit?
 15:31 25 A. Yes, sir.

15:31 1 Q. Okay. And then a Dallas district judge had to
 15:32 2 deal with you after that and did whatever?
 15:32 3 A. Gave us deferred.
 15:32 4 Q. Okay. So you went up there. You pled no
 15:32 5 contest, and how many years was that deferred?
 15:32 6 A. Five.
 15:32 7 Q. Five years. And you had substantial fines,
 15:32 8 didn't you?
 15:32 9 A. No, sir. No fines.
 15:32 10 Q. You had to report to a probation officer once a
 15:32 11 month?
 15:32 12 A. Yes, sir.
 15:32 13 Q. So what else did you have to do?
 15:32 14 A. I think the Judge gave us the minimum of
 15:32 15 everything. Five years deferred and I forget, some
 15:32 16 community service hours.
 15:32 17 Q. Have you used about six other different aliases
 15:32 18 in your life?
 15:32 19 A. No, sir.
 15:32 20 Q. That's not you, then?
 15:32 21 A. No, it's not.
 15:32 22 Q. Was the officer that you assaulted, was that a
 15:32 23 Garland police officer?
 15:32 24 A. He was a security. Well, turned out to be an
 15:32 25 officer. He was a --

15:32 1 Q. He was a peace officer, right?
 15:32 2 A. We found out later, that's correct.
 15:33 3 Q. Yeah. How old a man are you now?
 15:33 4 A. Pardon me?
 15:33 5 Q. How old a man are you now?
 15:33 6 A. I'm 38.
 15:33 7 Q. Are you 38 years old? And did you say you were
 15:33 8 in the car business most of your life?
 15:33 9 A. A big chunk of it.
 15:33 10 Q. What year -- did you go to college?
 15:33 11 A. Took some courses, but no, I did not finish.
 15:33 12 Q. How does your career start off as a younger
 15:33 13 man? What did you get into?
 15:33 14 A. My first job?
 15:33 15 Q. Yeah.
 15:33 16 A. I was a captain of a football and track team,
 15:33 17 and I had to get a part-time job to pay for -- some of
 15:33 18 my stuff. We came from a family that didn't have a lot
 15:33 19 of money at the time.
 15:33 20 Q. And then what did you do after that?
 15:33 21 A. Car business. When I graduated a friend of
 15:33 22 mine thought I'd be good at it.
 15:33 23 Q. Thought you would be good in the car business?
 15:33 24 A. That's correct.
 15:33 25 Q. Car sales or service?

15:34 1 A. Car business.
 15:34 2 Q. Car business. Sales, service, what?
 15:34 3 A. Sales.
 15:34 4 Q. Sales. Okay. How long were you in that job?
 15:34 5 A. Pardon?
 15:34 6 Q. How long were you in that job?
 15:34 7 A. Exactly four years to the day.
 15:34 8 Q. From what year to what year?
 15:34 9 A. From graduation to '94. And I went to work for
 15:34 10 the corporate division for the credit bureau doing some
 15:34 11 legal work and contract work for them.
 15:34 12 Q. In 1990 -- well, give me the years that you
 15:34 13 were in the car business. From what year to what year.
 15:34 14 A. I graduated in '81. From '81 -- I couldn't
 15:34 15 tell you what month.
 15:34 16 Q. That's okay. I don't need the month.
 15:34 17 A. Through '94.
 15:34 18 Q. '81 to '94?
 15:34 19 A. I believe. It's been some time ago, but I
 15:34 20 believe that's the time frame.
 15:34 21 Q. So you spent about 13 years in the car
 15:35 22 business, right?
 15:35 23 A. 13, 14, something like that.
 15:35 24 Q. And what car dealerships did you work for?
 15:35 25 A. In Corpus? I worked for -- it was Trademan's

15:35 1 Ford at the time, I think. And it's been sold since or
 15:35 2 changed its name since and Cross Town Ford.
 15:35 3 Q. Is that in Corpus, too?
 15:35 4 A. No, it's not.
 15:35 5 Q. Where?
 15:35 6 A. Here in Dallas.
 15:35 7 Q. Cross Town Ford?
 15:35 8 A. I'm sorry, that is incorporated. They changed
 15:35 9 their name from Trade Winds Ford to Cross Town, and I
 15:35 10 worked for them. And North Central Ford here in Dallas,
 15:35 11 and then I --
 15:35 12 Q. Who was your immediate supervisor at North
 15:35 13 Central Ford?
 15:35 14 A. General, general sales manager was John Brown.
 15:35 15 Q. You were terminated from that job for cocaine
 15:35 16 use, correct?
 15:35 17 A. No.
 15:35 18 Q. Okay.
 15:35 19 A. I wasn't terminated.
 15:35 20 Q. How many Ford dealerships have you worked for
 15:35 21 in this area?
 15:35 22 A. Baillargeon's for five and a half years. I
 15:36 23 believe it was called Westway when I first moved in town
 15:36 24 for about 10 months, 11 months. That's what I remember
 15:36 25 at this point.

15:36 1 Q. Are you married?
 15:36 2 A. No, sir.
 15:36 3 Q. Do you have any children?
 15:36 4 A. Yes.
 15:36 5 Q. Where are your children living?
 15:36 6 A. My son lives in Corpus Christi.
 15:36 7 Q. Okay. How old is that child?
 15:36 8 A. He's 10.
 15:36 9 Q. Now, did you testify that you came up here and
 15:36 10 started working for Mosqueda November 1st?
 15:36 11 A. James, you mean? Yes, sir. Well, I'm not sure
 15:36 12 which month it was. I don't remember the exact date but
 15:36 13 about three weeks prior to the murder.
 15:36 14 Q. And after this incident took place, you had the
 15:36 15 occasion to be in his home and remove receipts, correct?
 15:36 16 A. The day of the -- or the night that I went
 15:37 17 there.
 15:37 18 Q. Okay.
 15:37 19 A. The day of that, that they let us in there.
 15:37 20 Q. Yeah. I think you testified there were a lot
 15:37 21 of family members there?
 15:37 22 A. When I got back to the house?
 15:37 23 Q. Yeah.
 15:37 24 A. What part, sir?
 15:37 25 Q. I think you testified there were a lot of

15:37 1 family members there.
 15:37 2 A. No, I didn't. I said there were a lot of
 15:37 3 people there.
 15:37 4 Q. A lot of people. Family members?
 15:37 5 A. When I got there, no. I don't remember, to be
 15:37 6 honest with you.
 15:37 7 Q. Were you the -- well, the police were there,
 15:37 8 right?
 15:37 9 A. Yeah.
 15:37 10 Q. Okay. And you don't recall seeing family
 15:37 11 members of either Mr. Mosqueda or Ms. Kitchen there?
 15:37 12 A. Mr. Mosqueda's, I remember them showing up, but
 15:37 13 I don't remember if they were there. I don't think they
 15:37 14 were there when I got there. A lot of family, friends,
 15:37 15 neighbors, police. I was pretty shocked. I was pretty
 15:37 16 distraught.
 15:37 17 Q. Yeah. I'll bet you were. And in any event,
 15:38 18 though, a guy that's worked for him three weeks sees fit
 15:38 19 to remove receipts from a business inside that home.
 15:38 20 Not taking them for -- well, I think you testified that
 15:38 21 you didn't want people stealing them. Were the police
 15:38 22 just allowing anybody in that house?
 15:38 23 A. They were gone by that time.
 15:38 24 Q. Okay.
 15:38 25 A. Everybody was -- the only people that were

15:38 1 left --
 15:38 2 Q. The house was turned over to who, family
 15:38 3 members?
 15:38 4 A. His mother.
 15:38 5 Q. Okay. Okay. Dino Manery, you mentioned his
 15:38 6 name, I think, didn't you?
 15:38 7 A. Yes, sir.
 15:38 8 Q. What kind of gentleman do you think he is?
 15:38 9 A. He's always been nice to me.
 15:38 10 Q. Yeah. He's a dope dealer too, isn't he?
 15:38 11 A. Too?
 15:38 12 Q. Yeah.
 15:38 13 A. Not that I know of.
 15:38 14 Q. So you -- you can tell those 12 folks over
 15:38 15 there, Dino Manery is a man of outstanding character --
 15:39 16 A. I didn't say that.
 15:39 17 Q. -- in this community?
 15:39 18 A. I didn't say that. I said he's been nice to
 15:39 19 me.
 15:39 20 Q. Yeah. He sure has, hasn't he? Tell the jury
 15:39 21 how Mr. Dino Manery has been nice to you.
 15:39 22 A. Well, we worked together at North Central Ford,
 15:39 23 and we came up through the -- he was promoted to
 15:39 24 management, and I was on his management team.
 15:39 25 Q. He was terminated from there?

15:39 1 A. Not while I was there, sir. Shortly -- I was
 15:39 2 gone long before that.
 15:39 3 Q. Okay. But he got canned there for dope too,
 15:39 4 right?
 15:39 5 A. I don't know the reason, sir. I didn't ask.
 15:39 6 It wasn't my business.
 15:39 7 Q. Okay. Good friend of yours came up through the
 15:39 8 ranks. In fact, that's how you met James Mosqueda. You
 15:39 9 met him through Dino Manery?
 15:39 10 A. His last name is Mosqueda. And yes, sir,
 15:39 11 that's correct.
 15:39 12 Q. And so we've got this little connect here. And
 15:39 13 the guy gets terminated, and you don't ask no questions?
 15:40 14 A. That was several years after I was gone, so I
 15:40 15 don't know.
 15:40 16 Q. Okay. Now, James Mosqueda, you testified
 15:40 17 you -- I guess you met him through Dino Manery, correct?
 15:40 18 A. Yeah. He was coming in to purchase a vehicle,
 15:40 19 and Mr. Manery introduced me to him to be his salesman.
 15:40 20 Q. Say that again.
 15:40 21 A. He came in to purchase a vehicle, and
 15:40 22 Mr. Manery introduced me to him and told me to sell him
 15:40 23 a vehicle.
 15:40 24 Q. Do you know if those two had a dope connection,
 15:40 25 too?

15:40 1 A. Too?

15:40 2 Q. Yeah.

15:40 3 A. I don't know about that, sir.

15:40 4 Q. You wouldn't know?

15:40 5 A. What?

15:40 6 Q. I'm sorry?

15:40 7 A. They are friends.

15:40 8 Q. Yeah. And would you say you were better

15:40 9 friends with Dino Manery or James Mosqueda?

15:40 10 A. I think for several years, for some time

15:40 11 equally. Then shortly afterwards, better with James.

15:41 12 Q. Now, did you tell the jury that Mosqueda had

15:41 13 attempted to lure you up here to get you in this

15:41 14 mortgage business for about four years?

15:41 15 A. No, sir. I did not.

15:41 16 Q. Well, then refresh my memory.

15:41 17 A. He didn't lure me up here. We were -- he

15:41 18 was -- for about a year or so, he wanted me to come work

15:41 19 for him. He knew my work habits, and he wanted --

15:41 20 Q. He knew your work habits?

15:41 21 A. Yes, sir. We worked well. I liked -- I

15:41 22 enjoyed business. I take my job seriously, and he

15:41 23 thought it would make a good partnership.

15:41 24 Q. And I'm sure he -- for example, he called North

15:41 25 Central Ford and all these places and got references on

15:41 1 you, right?

15:41 2 A. Oh, I doubt it.

15:41 3 Q. I doubt it, too.

15:41 4 A. We were pretty good friends, sir.

15:41 5 Q. Yeah. And how about a guy named Fonseca,

15:42 6 Anthony Fonseca? You know him, don't you?

15:42 7 A. I've met him several times.

15:42 8 Q. What do you think about him? Is he a pillar of

15:42 9 his community?

15:42 10 A. I didn't hang out with him, so I don't know.

15:42 11 Q. I didn't ask you if you hung out with him. I'm

15:42 12 just asking you what you think about him.

15:42 13 A. That's the only way that I could figure -- come

15:42 14 to that conclusion, sir, is if I knew him personally.

15:42 15 Otherwise, I would have no opinion at all.

15:42 16 Q. Okay. But you knew James Mosqueda well, didn't

15:42 17 you?

15:42 18 A. I would like to --

15:42 19 Q. Yeah. I mean.

15:42 20 A. I would like to think so.

15:42 21 Q. You didn't come up from Corpus Christi to work

15:42 22 for him, did you or did you?

15:42 23 A. Yes, I did.

15:42 24 Q. I mean, you've got a 10-year-old son in Corpus.

15:42 25 That's where you are from. And to just pack up, move up

15:43 1 to Dallas and start working for a guy, you must have

15:43 2 felt very comfortable?

15:43 3 A. I go home every month and visit. I have a

15:43 4 house there still.

15:43 5 Q. Where?

15:43 6 A. Corpus.

15:43 7 Q. Yeah. You must have felt very comfortable with

15:43 8 Mr. Mosqueda being a boss, an employer, correct?

15:43 9 A. One of the best I've worked for.

15:43 10 Q. Yeah. You would say he's a -- I think you said

15:43 11 he was a very honest businessman?

15:43 12 A. When it came to our business and with me, yes.

15:43 13 Q. Was there a time when he wasn't?

15:43 14 A. Well, as long as I've known him, he's always

15:43 15 been the same.

15:43 16 Q. Good reputation?

15:43 17 A. Me?

15:43 18 Q. No. Mr. Mosqueda?

15:43 19 A. With me.

15:43 20 Q. With you. Okay. Did you know his reputation

15:43 21 in the community?

15:43 22 A. Never asked. I judge a man or a person by how

15:43 23 they treat me.

15:44 24 Q. Yeah. And tell me what went into your decision

15:44 25 to pack up and come north and start working for a guy.

15:44 1 A. I trusted him.

15:44 2 Q. Okay.

15:44 3 A. And the money involved.

15:44 4 Q. Good money?

15:44 5 A. Yes, sir.

15:44 6 Q. Big money?

15:44 7 A. Well, good money.

15:44 8 Q. Okay. And you've known him, I think you

15:44 9 testified, for eight years?

15:44 10 A. Approximately.

15:44 11 Q. Did you -- so you must have known him when he

15:44 12 wasn't in the mortgage banking or brokerage business,

15:44 13 correct?

15:44 14 A. That's correct.

15:44 15 Q. And how was Mosqueda employed when you first

15:44 16 met him?

15:44 17 A. He owned some tanning salons.

15:44 18 Q. Some tanning salons?

15:44 19 A. Or a tanning salon for sure.

15:45 20 Q. Was that his only source of income during those

15:45 21 years, the tanning salon or salons?

15:45 22 A. I didn't ask.

15:45 23 Q. I'm sorry.

15:45 24 A. I never asked.

15:45 25 Q. The job you held immediately prior to coming to

15:45 1 Dallas to work for this mortgage business, what were
 15:45 2 your job duties in that job?
 15:45 3 A. I was what they called -- what the general
 15:45 4 manager called a floating manager.
 15:45 5 Q. Okay. And where was that at?
 15:45 6 A. Corpus.
 15:45 7 Q. I'm sorry?
 15:45 8 A. Corpus.
 15:45 9 Q. Corpus Christi? Okay. What were your job
 15:46 10 responsibilities? What did you do every day in that
 15:46 11 job?
 15:46 12 A. Whenever a manager was out, vacation, sick,
 15:46 13 whatever, errands, whatever, was able to cover their
 15:46 14 desk and sell at the same time.
 15:46 15 Q. Sell what?
 15:46 16 A. I don't understand.
 15:46 17 Q. I thought you said "sell"?
 15:46 18 A. Sell, that's correct.
 15:46 19 Q. Sell what?
 15:46 20 A. Cars.
 15:46 21 Q. Did you feel that you had gotten pretty good in
 15:46 22 the 13 years you spent in that industry?
 15:46 23 A. I would like to think so.
 15:46 24 Q. Would you consider yourself a very close friend
 15:47 25 of Mr. Mosqueda?

15:47 1 A. If I'm lucky, yeah.
 15:47 2 Q. Did you ever buy dope from him?
 15:47 3 A. We -- I didn't smoke pot, and he was --
 15:47 4 Q. Well, sir, let me stop you. I -- once again,
 15:47 5 maybe we're having a little bit of a communication
 15:47 6 problem. I didn't ask you if you smoked pot. We'll get
 15:47 7 to that a little bit later. My question to you was:
 15:47 8 Did you ever buy dope from Mosqueda?
 15:47 9 A. No.
 15:47 10 Q. Okay. All right. Now, you go ahead with your
 15:47 11 answer. You never smoked pot, but...
 15:47 12 A. That's it.
 15:47 13 Q. Continue from the but.
 15:47 14 A. That's it.
 15:47 15 Q. Oh, that was your answer?
 15:47 16 A. (Moving head up and down.)
 15:47 17 Q. So I ask you: Have you ever bought dope from
 15:47 18 Mosqueda, and your answer was: "I've never smoked pot"?
 15:47 19 A. That's correct.
 15:47 20 Q. But you were pretty close to him, right?
 15:47 21 A. Yes, sir.
 15:47 22 Q. You felt comfortable in the caliber and quality
 15:48 23 of man he was to pack up and come north and become an
 15:48 24 employee of his?
 15:48 25 A. I would say so.

15:48 1 Q. Okay. How would you characterize the
 15:48 2 relationship between Mr. Manery and James Mosqueda?
 15:48 3 A. They were friends before I knew James.
 15:48 4 Q. Okay. Close, tight, good friends?
 15:48 5 A. You'd have to ask him, sir. I don't know.
 15:48 6 Q. I'd have to ask who? Mr. Manery, Dino?
 15:48 7 A. I'm guessing. I don't know how close they
 15:48 8 were. I know they were friends.
 15:48 9 Q. Well, Dino was the one that hooked you up with
 15:48 10 Mosqueda?
 15:48 11 A. That's right, in the car business.
 15:48 12 Q. And that's been over eight years ago. And he's
 15:48 13 known him longer than you have, Mosqueda, correct, Dino?
 15:49 14 A. I would think, yes, sir.
 15:49 15 Q. Okay. I guess you said you lived in -- well,
 15:49 16 you came up, and you stayed or lived with them for about
 15:49 17 three weeks, Mosqueda and Kitchen?
 15:49 18 A. Amy and James?
 15:49 19 Q. Yeah.
 15:49 20 A. That's correct.
 15:49 21 Q. Anything unusual about you staying at that
 15:49 22 residence on Gibbons Drive during those three weeks?
 15:49 23 A. He pretty much insisted.
 15:49 24 Q. I'm sorry?
 15:49 25 A. He insisted. That way I can minimize my outlay

15:49 1 in cash.
 15:49 2 Q. I'm sorry. You lost me again. I asked you,
 15:49 3 "Anything unusual during your stay there?" And then you
 15:49 4 say, "He insisted."
 15:49 5 A. Yeah.
 15:50 6 Q. You and I are having trouble communicating, I
 15:50 7 think.
 15:50 8 A. Okay.
 15:50 9 Q. Anything unusual during your stay on the
 15:50 10 Gibbons Drive property?
 15:50 11 A. No.
 15:50 12 Q. Didn't see a lot of people coming?
 15:50 13 A. No.
 15:50 14 Q. Didn't see narcotics transactions?
 15:50 15 A. No.
 15:50 16 Q. Because that certainly wasn't the James you
 15:50 17 knew. You knew him to be the honest businessman with a
 15:50 18 great reputation, a pillar of the community?
 15:50 19 A. I didn't say that. I didn't say all that. I
 15:50 20 just told you he was a good man.
 15:50 21 Q. Wait a minute. I thought the prosecutor was
 15:50 22 showing a business card, and honesty and integrity and
 15:50 23 reputation and, you know, come broker your loan through
 15:50 24 us because we're honest. Did I miss something?
 15:50 25 A. No. That's what she showed me.

15:50 1 Q. Okay. All right. But you are saying now, as
15:50 2 far as his reputation for being an honest businessman
15:50 3 and a pillar of his community and we're good people and,
15:50 4 you know, our reputations are just great, you are saying
15:51 5 that you don't know that to be a fact?

15:51 6 A. I didn't say all that, sir.

15:51 7 Q. Okay.

15:51 8 A. I said he was a good businessman. He treated
15:51 9 his customers fairly. He treated me fairly. And with
15:51 10 me he was a good man.

15:51 11 Q. Did he treat his dope customers fairly, you
15:51 12 think?

15:51 13 A. I don't know anything about -- you'd have to
15:51 14 ask them, sir. I don't know what you are talking about.

15:51 15 Q. You don't know what I'm talking about?

15:51 16 A. I -- no, sir, I don't. I try to mind my own
15:51 17 business for the most part.

15:51 18 Q. Who else was working over there at AIM where
15:51 19 you and Mr. Mosqueda were working?

15:51 20 A. AIM is a very large corporation. We were just
15:51 21 a branch of --

15:51 22 Q. How about -- we'll start with the branch. Tell
15:51 23 me who worked there.

15:51 24 A. Just myself, James, Ray, and Rick.

15:51 25 Q. Ray Sanchez?

15:51 1 A. That's correct.

15:52 2 Q. Okay. And you kind of knew what was going on
15:52 3 over there, didn't you?

15:52 4 A. In the business office, sure did.

15:52 5 Q. What about maybe in the backroom?

15:52 6 A. There was no backroom, sir.

15:52 7 Q. Okay. Just one room?

15:52 8 A. No. There are offices.

15:52 9 Q. Okay. Are you -- getting back to your work
15:52 10 history, you were -- you were in Corpus from '81 to '94?

15:52 11 A. A little longer than that. I was born and
15:52 12 raised there, sir.

15:52 13 Q. I'm sorry?

15:52 14 A. I was born and raised there.

15:53 15 Q. I mean in the car business. I'm trying to
15:53 16 figure out what happened after '94. Where did you go
15:53 17 then?

15:53 18 A. I worked in the corporate division for the
15:53 19 credit bureau.

15:53 20 Q. Where was that located?

15:53 21 A. The corporate office is in Houston, but it's a
15:53 22 worldwide company.

15:53 23 Q. Okay. And the corporate office you worked at
15:53 24 was located in what city?

15:53 25 A. I worked out of a branch office in Corpus

15:53 1 Christi.

15:53 2 Q. Okay. And when did that job cease to be?

15:53 3 A. I opened up some restaurants or a restaurant at
15:53 4 the time.

15:53 5 Q. And what year was that?

15:53 6 A. I don't know offhand, '96, I believe, give or
15:53 7 take a few months.

15:53 8 Q. So you kind of went from the car business to
15:53 9 the credit union business to the restaurant business
15:53 10 around '96? What time do you think you got out of the
15:53 11 restaurant business?

15:53 12 A. I sold my last one in '90, I believe, '89.
15:54 13 Late '89, early '90.

15:54 14 Q. Okay. Well, moving forward after the cars and
15:54 15 then the credit bureau or credit union, where did you go
15:54 16 then?

15:54 17 A. Car business.

15:54 18 Q. Back to the car business? Dallas or Corpus?

15:54 19 A. Dallas.

15:54 20 Q. Dallas? And who was your first employer?

15:54 21 A. I believe it was either -- I believe it was
15:54 22 Westway Ford, if I'm not mistaken. I worked briefly for
15:54 23 a dealership in Mesquite. I can't think of the name
15:54 24 offhand.

15:54 25 Q. That big dealership, 635, out there, Town East?

15:54 1 A. Yeah.

15:54 2 Q. Town East Ford? What other dealerships after
15:54 3 that? Large one, we know that.

15:55 4 A. Yeah.

15:55 5 Q. And Bob Thomas Ford?

15:55 6 A. No.

15:55 7 Q. You never worked there?

15:55 8 A. No.

15:55 9 Q. What other -- what other Ford dealers after
15:55 10 Baillargeon?

15:55 11 A. None. I went to Corpus after that.

15:55 12 Q. Back to Corpus in the car business?

15:55 13 A. Well, no. Initially, I didn't work for a few
15:55 14 months. I helped -- my mother was severely ill, excuse
15:55 15 me, was ill, and I helped there for a few months before
15:55 16 I went back to work.

15:55 17 Q. Okay. Would you occasionally come -- while you
15:55 18 are living in Corpus all those years, would you come up
15:55 19 to visit Mosqueda?

15:55 20 A. Amongst other people.

15:55 21 Q. What kind of things would you-all do? Did you
15:55 22 go to the lake?

15:55 23 A. Huh-uh. Play Nintendo, dinners, that type
15:56 24 thing.

15:56 25 Q. Okay. Did you meet most of his running

15:56 1 buddies?
 15:56 2 A. No, not really. James -- I met some people,
 15:56 3 but James is pretty private.
 15:56 4 Q. Pretty private guy?
 15:56 5 A. Yeah. We would eat dinner, and that was really
 15:56 6 about it for the most part, drink a few beers.
 15:56 7 Q. Carlos. You certainly met Carlos, Carlos
 15:56 8 Gonzalez?
 15:56 9 A. No, sir, I'm sorry.
 15:56 10 Q. Anthony Fonseca?
 15:56 11 A. I've met Anthony before, that's correct.
 15:56 12 Q. He was one of James's good buds, wasn't he?
 15:56 13 A. I've met him. I don't know how close they
 15:56 14 were.
 15:56 15 Q. James's primary interest in you was -- well,
 15:56 16 you are bilingual, right?
 15:57 17 A. Pardon me?
 15:57 18 Q. Are you bilingual?
 15:57 19 A. Yes, sir.
 15:57 20 Q. And you have friends down in the Valley, don't
 15:57 21 you?
 15:57 22 A. Do I have friends in the Valley?
 15:57 23 Q. Yeah.
 15:57 24 A. I have a cousin out there, I think.
 15:57 25 Q. You think?

15:57 1 A. Yeah. The last time I heard he was living in
 15:57 2 the Valley.
 15:57 3 Q. Okay. Okay. Sir, are you under the influence
 15:57 4 of any controlled substances right now?
 15:58 5 A. No.
 15:58 6 Q. Okay. When was the last time you used any
 15:58 7 illegal drug?
 15:58 8 A. I don't.
 15:58 9 Q. That's not you?
 15:58 10 A. Well, I did when I was younger, yeah.
 15:58 11 Q. Were you hopped up when you whipped up on that
 15:58 12 police officer?
 15:58 13 A. No, sir. It was at an apartment complex, and
 15:58 14 it was outside my apartment, and I thought he was
 15:58 15 attacking us. He was in shorts and T-shirt.
 15:58 16 Q. And you were -- your mind was functioning just
 15:58 17 properly on that occasion, right?
 15:58 18 A. Sure was, sir.
 15:58 19 Q. Okay. Okay. Okay. Thank you, Mr. Perez.
 15:58 20 MR. GOELLER: I'll pass the witness, Your
 15:58 21 Honor.
 15:58 22 THE COURT: All right.
 15:58 23 MS. FALCO: No further questions, Your
 15:58 24 Honor.
 15:58 25 THE COURT: All right. You may step down.

15:58 1 MS. FALCO: May he be released, Your
 15:58 2 Honor?
 15:58 3 THE COURT: Hold on a second, please. Is
 15:59 4 he excused by both sides?
 15:59 5 MR. GOELLER: Subject to the typical
 15:59 6 three-hour recall. I know they are not typical. They
 15:59 7 put a lot of people on three-hour recall. If you could
 15:59 8 let Mr. Johnson know where he might be reached.
 15:59 9 THE WITNESS: I'm in Dallas. I can be
 15:59 10 here within an hour. My house is on the lake.
 15:59 11 THE COURT: That's good. We'll keep it on
 15:59 12 that status.
 15:59 13 THE WITNESS: Yes, sir.
 15:59 14 THE COURT: Thank you, sir. All right.
 15:59 15 Call your next witness, please.
 15:59 16 MS. LOWRY: Your Honor, the State of Texas
 15:59 17 calls Rick Myer.
 15:59 18 (Witness excused.)
 16:00 19 THE COURT: Do you know whether or not
 16:00 20 he's been sworn?
 16:00 21 THE BAILIFF: He has not been sworn in,
 16:00 22 Judge.
 16:00 23 THE COURT: Raise your right hand.
 16:00 24 RICK MYER,
 16:00 25 being first duly sworn, testified as follows:

16:00 1 THE COURT: Ms. Lowry?
 16:00 2 DIRECT EXAMINATION
 16:00 3 BY MS. LOWRY:
 16:00 4 Q. Would you introduce yourself to the jury,
 16:00 5 please.
 16:00 6 A. My name is Rick Myer.
 16:00 7 Q. And spell your last name for the record.
 16:00 8 A. M-Y-E-R.
 16:00 9 Q. And, Mr. Myer, what is your occupation?
 16:00 10 A. I'm a used car director at Bankston Lincoln
 16:00 11 Mercury.
 16:00 12 Q. How long have you been employed in that
 16:00 13 capacity?
 16:00 14 A. I have been at this store since May the 7th.
 16:00 15 Q. Mr. Myer, do you know a James Mosqueda?
 16:00 16 A. Uh-huh, yes, I do.
 16:00 17 Q. How long did you know James Mosqueda?
 16:01 18 A. Since '98.
 16:01 19 Q. How did you meet James Mosqueda?
 16:01 20 A. He was my mortgage -- he handled my mortgage
 16:01 21 when I bought my house.
 16:01 22 Q. How did you -- I guess, how did you find him to
 16:01 23 be your mortgage broker?
 16:01 24 A. He was introduced to me from two gentlemen when
 16:01 25 I worked at North Central Ford. They were friends with

16:01 1 James, and they introduced me to James.
 16:01 2 Q. Do you know Frank Perez?
 16:01 3 A. Yes, I do.
 16:01 4 Q. How do you know Frank Perez?
 16:01 5 A. I worked with him since '95.
 16:01 6 Q. And how long have you known him?
 16:01 7 A. Yes. Since 1995.
 16:01 8 Q. Has he ever come to your house?
 16:01 9 A. Absolutely.
 16:01 10 Q. When is the last time he was at your house?
 16:01 11 A. Last weekend.
 16:01 12 Q. I want to take you back now to November of
 16:01 13 2000. Was Frank Perez coming to your house at that
 16:01 14 time?
 16:01 15 A. When? I'm sorry.
 16:01 16 Q. Back in November of 2000.
 16:01 17 A. Yes.
 16:01 18 Q. And, well, I guess, late October, early
 16:02 19 November of 2000?
 16:02 20 A. Yes, ma'am.
 16:02 21 Q. How often was he coming to your home?
 16:02 22 A. Every weekend.
 16:02 23 Q. And what was the purpose of him coming to your
 16:02 24 home on the weekend?
 16:02 25 A. He was learning how to get in the mortgage

16:03 1 Frank got a phone call.
 16:03 2 MR. HIGH: Objection. Hearsay.
 16:03 3 THE COURT: Overruled.
 16:03 4 Q. (BY MS. LOWRY) Go ahead. What were the
 16:03 5 circumstances?
 16:03 6 A. My wife called and said Frank got a phone call,
 16:03 7 and he left out of the house all freaked out or, you
 16:03 8 know, real worried and mumbled something and she
 16:03 9 couldn't understand. She told me to get ahold -- see if
 16:03 10 I could get ahold of him and try to find out what was
 16:03 11 going on, and I called Frank on his cell phone.
 16:03 12 Q. Did you get him on his cell phone?
 16:03 13 A. Uh-huh.
 16:03 14 Q. Describe his demeanor when you first started
 16:03 15 speaking with him.
 16:03 16 A. He was freaking out. He was just all
 16:04 17 hysterical. Not knowing what was going on. He -- he
 16:04 18 had said something that, something was going on with
 16:04 19 James. He didn't know what was going on. He was going
 16:04 20 down to his house to find out what was happening, and I
 16:04 21 talked to him the whole way. I was telling him. I was
 16:04 22 asking: Where are you now? Where are you now? Just
 16:04 23 calm down. It will be okay. You know --
 16:04 24 Q. At any point in that conversation, did his
 16:04 25 demeanor change?

16:02 1 business, and his primary home was in Corpus. And so,
 16:02 2 in an effort to help a friend out, I told him he could
 16:02 3 stay with us during that process.
 16:02 4 Q. Do you know where he stayed during the week?
 16:02 5 A. At James's house.
 16:02 6 Q. Specifically on November 3rd of 2000, it was a
 16:02 7 Friday, do you know if Frank Perez came to your home?
 16:02 8 A. Yes, he did.
 16:02 9 Q. About what time did he get there?
 16:02 10 A. It was sometime after supper. As to what time,
 16:02 11 I'm not sure, but it was after supper.
 16:02 12 Q. Did he ever leave again that evening?
 16:02 13 A. No.
 16:02 14 Q. When was the next time he left your house?
 16:02 15 A. Saturday morning at about 7:00.
 16:02 16 Q. What was your understanding as to where he was
 16:02 17 going?
 16:02 18 A. That he was going to meet James.
 16:03 19 Q. When is the next time that you spoke with Frank
 16:03 20 Perez?
 16:03 21 A. Probably -- don't quote me on the time, but
 16:03 22 sometime late afternoon on Saturday.
 16:03 23 Q. What was -- what were the circumstances
 16:03 24 surrounding you talking to him at that time?
 16:03 25 A. I was at work, and my wife called and said that

16:04 1 A. No. He was -- he was -- he was hysterical the
 16:04 2 whole time down there. And I think I calmed him down a
 16:04 3 little bit, telling him.
 16:04 4 MR. HIGH: Objection. Nonresponsive, Your
 16:04 5 Honor.
 16:04 6 THE COURT: Sustained.
 16:04 7 Q. (BY MS. LOWRY) At the point that you are
 16:04 8 talking to him, did he calm some as he was driving?
 16:04 9 Were you able to calm him down any?
 16:04 10 A. A little.
 16:04 11 Q. Did you know when he turned the corner and
 16:04 12 could see James and Amy's house?
 16:04 13 A. Yes.
 16:05 14 Q. How did you know that?
 16:05 15 A. Because he said, oh, my God. Oh, my God.
 16:05 16 Something's going on.
 16:05 17 Q. And was he telling you what he was seeing?
 16:05 18 A. He said there were cop cars, lights going
 16:05 19 everywhere. People going everywhere.
 16:05 20 Q. Did you ever find out at that time what had
 16:05 21 happened?
 16:05 22 A. No. He said he had to go, and he hung up.
 16:05 23 Q. And is that the last that you spoke to him that
 16:05 24 day?
 16:05 25 A. No. I called him. I kept trying to call him

16:05 1 back, call him back. But then I finally did get through
 16:05 2 to him, and he told me what had happened.
 16:05 3 Q. What was his demeanor like when he was telling
 16:05 4 you what had happened?
 16:05 5 A. By that time he was in -- he just -- he was in
 16:05 6 disbelief.
 16:06 7 Q. And the day that you are describing, that you
 16:06 8 spoke to Frank on the phone, that would have been
 16:06 9 Saturday, November 4th?
 16:06 10 A. That's correct.
 16:06 11 Q. And then the night before, Friday night is the
 16:06 12 night that he came to your house sometime after dinner
 16:06 13 and spent the night?
 16:06 14 A. That's correct.
 16:06 15 MS. LOWRY: Pass the witness, Your Honor.
 16:06 16 THE COURT: All right.
 16:06 17 CROSS-EXAMINATION
 16:06 18 BY MR. HIGH:
 16:06 19 Q. Now you, Mr. Myer, you and Frank have been
 16:06 20 friends since '95?
 16:06 21 A. Yes, sir.
 16:06 22 Q. Okay. And you've known James Mosqueda since
 16:06 23 '98?
 16:06 24 A. That's correct.
 16:06 25 Q. I'm sure Frank has told you that he's -- he's

16:06 1 been in the car business, too. He's told you that,
 16:06 2 hasn't he?
 16:06 3 A. Yeah. He and I worked together.
 16:06 4 Q. You what?
 16:06 5 A. Frank and I worked together.
 16:06 6 Q. When was that?
 16:06 7 A. In '95.
 16:06 8 Q. And where was that?
 16:06 9 A. North Central Ford.
 16:06 10 Q. Okay. And is that the one that's now or used
 16:06 11 to be Baillargeon Ford?
 16:06 12 A. Yeah. Now it's back to North Central Ford.
 16:07 13 Q. Was it North Central Ford then?
 16:07 14 A. Uh-huh.
 16:07 15 Q. Oh, okay. It was that, switched to
 16:07 16 Baillargeon, and came back to North Central Ford?
 16:07 17 A. Right.
 16:07 18 Q. I wasn't aware of that.
 16:07 19 A. Baillargeon sold it.
 16:07 20 Q. Why was Frank terminated from North Central
 16:07 21 Ford?
 16:07 22 A. I couldn't tell you.
 16:07 23 Q. Was it drug use?
 16:07 24 A. Sir, I couldn't tell you. I don't know.
 16:07 25 Q. Okay. You can't deny that, can you?

16:07 1 MS. LOWRY: Your Honor, I'm going to
 16:07 2 object. Just asked and answered.
 16:07 3 THE COURT: Sustained.
 16:07 4 Q. (BY MR. HIGH) You know he's used drugs over
 16:07 5 the years?
 16:07 6 A. Sir, I don't know.
 16:07 7 Q. Did you know Dino Manery?
 16:07 8 A. Yes, sir.
 16:07 9 Q. He works up here at Bob Thomas Ford, doesn't
 16:07 10 he?
 16:07 11 A. Last time I spoke to him, yes.
 16:07 12 Q. When was that? When was the last time you
 16:07 13 spoke with him?
 16:07 14 A. I don't recall. It's been eight months
 16:07 15 probably, six months.
 16:07 16 Q. Are you not close with him?
 16:07 17 A. No.
 16:08 18 Q. Are you aware of his reputation?
 16:08 19 A. As a finance manager?
 16:08 20 Q. Yeah. Okay. What about as a drug dealer?
 16:08 21 A. I don't have a clue.
 16:08 22 Q. What about James Mosqueda? Are you aware of
 16:08 23 his reputation?
 16:08 24 A. No, sir, I don't.
 16:08 25 Q. Do you know he was a drug dealer?

16:08 1 A. No, sir. He was a mortgage broker to me.
 16:08 2 Q. Okay. I don't suppose after you worked with
 16:08 3 Frank at North Central Ford you decided to put him back
 16:08 4 to work at Bankston, did you? I mean, you are the used
 16:08 5 car director there?
 16:08 6 A. That's correct.
 16:08 7 Q. Why didn't you put him back to work at Bankston
 16:08 8 with you?
 16:08 9 A. He didn't ask.
 16:08 10 Q. I see. He didn't want to get back in the car
 16:08 11 business?
 16:08 12 A. Sir, I don't -- if he did, he didn't ask me.
 16:08 13 Q. How long you have been a used car director at
 16:08 14 Bankston?
 16:09 15 A. Since May 7.
 16:09 16 Q. Of this year?
 16:09 17 A. Uh-huh.
 16:09 18 Q. And you do the hiring and firing?
 16:09 19 A. Yes, sir.
 16:09 20 MR. HIGH: That's all I have, Judge. I'll
 16:09 21 pass the witness.
 16:09 22 THE COURT: Anything else?
 16:09 23 MS. LOWRY: No, Judge. May this witness
 16:09 24 be finally released?
 16:09 25 THE COURT: Is he excused?

16:09 1 MR. HIGH: Yes.
 16:09 2 THE COURT: You are finally excused. Call
 16:09 3 your next witness.
 16:09 4 (Witness excused.)
 16:09 5 MS. FALCO: Gladys Tamez.
 16:11 6 THE COURT: Raise your right hand.
 16:11 7 GLADYS TAMEZ,
 16:11 8 being first duly sworn, testified as follows:
 16:11 9 THE COURT: Put your hand down and have a
 16:11 10 seat right here, please. Ms. Falco?
 16:11 11 DIRECT EXAMINATION
 16:11 12 BY MS. FALCO:
 16:11 13 Q. Would you state your name for the jury.
 16:11 14 A. Gladys Kelly Rene Tamez.
 16:11 15 Q. And spell your last name, please.
 16:11 16 A. T-A-M-E-Z.
 16:11 17 Q. Ms. Tamez, are you married?
 16:11 18 A. Yes.
 16:11 19 Q. Who is your husband?
 16:11 20 A. Gilbert Ray Tamez.
 16:11 21 Q. Do you have any children?
 16:11 22 A. Yes.
 16:11 23 Q. Who are they?
 16:11 24 A. I have three children. Taylor is 10, Travis is
 16:12 25 7, and Alison is 2.

16:12 1 Q. Ms. Tamez, do you know James Mosqueda?
 16:12 2 A. Yes.
 16:12 3 Q. Who is James?
 16:12 4 A. My brother.
 16:12 5 Q. Do you have any other brothers or sisters?
 16:12 6 A. No, that's all.
 16:12 7 Q. That's your only brother?
 16:12 8 A. Uh-huh.
 16:12 9 Q. Do you also know Amy Kitchen?
 16:12 10 A. Yes.
 16:12 11 Q. How do you know Amy?
 16:12 12 A. Amy was my brother's fiance, and she was going
 16:12 13 to be my sister-in-law.
 16:12 14 Q. When did they get engaged?
 16:12 15 A. They got engaged July 29th, I think that week,
 16:12 16 2000.
 16:12 17 Q. When were they planning on getting married?
 16:12 18 A. They were going to get married after she
 16:12 19 graduated from nursing school which, I believe, would
 16:12 20 have been May 2001.
 16:12 21 Q. This past May?
 16:12 22 A. Yes.
 16:12 23 Q. Do you know the defendant Ivan Cantu?
 16:12 24 A. Yes.
 16:12 25 Q. How do you know him?

16:12 1 A. He's a cousin.
 16:12 2 Q. He's your cousin?
 16:12 3 A. My cousin, James's cousin.
 16:12 4 Q. How is he related to you?
 16:12 5 A. Ivan is the son of my mother's brother. So my
 16:13 6 mother and his brother are -- I mean, my mother and his
 16:13 7 father are brothers and sisters, just like me and James.
 16:13 8 Q. And how many siblings are there on your mom's
 16:13 9 level?
 16:13 10 A. There's three. Three uncles, three males and
 16:13 11 five sisters. So, three boys and five girls.
 16:13 12 Q. Growing up, did you spend much time around Ivan
 16:13 13 Cantu?
 16:13 14 A. Growing up I did until -- well, maybe until I
 16:13 15 was about 7, 8 years old. I spent time growing up with
 16:13 16 him then, but his parents were divorced like over 20
 16:13 17 years ago. So once that happened I never saw Ivan again
 16:13 18 until maybe about ten years ago.
 16:13 19 Q. And when his parents got divorced -- who is his
 16:13 20 mom?
 16:13 21 A. His mother is Sylvia Cantu.
 16:13 22 Q. And who did Ivan live with after the divorce?
 16:13 23 A. Ivan went to live with his mother and his
 16:13 24 brother, Eric. And he was raised by his mother. So,
 16:14 25 you know, his father was a part of our family. And we

16:14 1 never stayed in touch with Ivan after that until -- I
 16:14 2 think it was after he graduated high school when he
 16:14 3 started coming around again.
 16:14 4 Q. And when you say he started coming around
 16:14 5 again, what was the nature of that?
 16:14 6 A. He was with James. That's the only time I
 16:14 7 would see Ivan, was with James. I probably saw Ivan
 16:14 8 four times since 1990, up until December on Christmas of
 16:14 9 '98, was the last time I saw him. And I guess because
 16:14 10 him and James were the same age and because they were
 16:14 11 cousins, and James didn't have a brother. He just saw
 16:14 12 Ivan as his brother. They just kind of acted like
 16:14 13 brothers. James just took him in that way.
 16:14 14 Q. Did James include him in family events and
 16:14 15 invite him to things when other family members didn't?
 16:14 16 A. Yes. He was the only one out of our entire
 16:14 17 family who called on Ivan to come over for Christmas Day
 16:14 18 or Thanksgiving or birthday dinners or anything like
 16:15 19 that.
 16:15 20 Q. Did they ever work together?
 16:15 21 A. Yes.
 16:15 22 Q. Where did they work together?
 16:15 23 A. They -- I believe started working together at
 16:15 24 Ten-Minute Tan, a tanning business that James owned and
 16:15 25 operated. And that was around '94, '95. I believe. And

16:15 1 Ivan worked with James then. And then after the tanning
16:15 2 business -- that only lasted a couple years, I think.
16:15 3 James started being a loan officer, and he worked at
16:15 4 Star Net Mortgage.

16:15 5 He worked at another mortgage company
16:15 6 before that, which Ivan wasn't a part of. But then
16:15 7 James worked at Star Net, and he hired Ivan. Then they
16:15 8 changed their name to Advantage. And I believe Ivan was
16:15 9 fired by James then, sometime around spring, I think, of
16:15 10 2000.

16:15 11 Q. When they were working together in the tanning
16:15 12 salon business, did Ivan work for James?

16:16 13 A. Yes. He worked there. When I would go tan, I
16:16 14 would see Ivan there.

16:16 15 Q. Ivan didn't own any of his own salons?

16:16 16 A. No.

16:16 17 Q. How many tanning salons did James own?

16:16 18 A. He had only two. One on Garland Road and one
16:16 19 on Preston Road in Dallas.

16:16 20 Q. And after he would -- did he sell the tanning
16:16 21 salons? What happened with those?

16:16 22 A. He sold them.

16:16 23 Q. When he sold them, did he keep one of the
16:16 24 tanning beds for his home that he was living in on
16:16 25 Gibbons?

16:16 1 A. Yes. He kept a tanning bed and gave it to his
16:16 2 fiance as a gift because she liked to tan.

16:16 3 Q. You said he worked at one time for a company
16:16 4 called Star Net Mortgage?

16:16 5 A. Uh-huh.

16:16 6 Q. Do you know when that was?

16:16 7 A. He worked at Star Net in 2000. They just
16:16 8 changed their name over to Advantage Investors Mortgage.
16:16 9 But he -- I don't know how long he worked there. He was
16:16 10 there for a while. I would say maybe, you know, a year
16:17 11 to two years.

16:17 12 Q. How long total was your brother in the mortgage
16:17 13 business?

16:17 14 A. He's been a loan officer since they sold the
16:17 15 tanning beds. And I'm thinking -- I know for sure '97.
16:17 16 He was -- he started that, I know for sure, in '97. I
16:17 17 don't know if he did that in '96, also. That may have
16:17 18 been around the time that he was selling the tanning
16:17 19 business; around '94 to '96 is when I remember him
16:17 20 having it.

16:17 21 Q. And when did Ivan and your brother work
16:17 22 together in the mortgage business?

16:17 23 A. They worked together, I know for sure, in 2000
16:17 24 and probably '99. Maybe even in '98, too.

16:17 25 Q. Do you know what the nature of that working

16:17 1 relationship was? Did Ivan work for James? Did they
16:17 2 work together?

16:17 3 A. They worked together. Ivan worked for James,
16:17 4 but Ivan -- or my brother James made Ivan, like, a loan
16:18 5 officer or helped him get his credentials to become a
16:18 6 loan officer. But they were -- they were about equal, I
16:18 7 guess. My brother was on top just because he owned the
16:18 8 branch.

16:18 9 Q. And when you say he owned the branch, describe
16:18 10 how the business was set up, Investment Mortgage?

16:18 11 A. He had some offices off of Dallas Parkway, off
16:18 12 the tollway in Dallas. Just a leased building that he
16:18 13 rented each month. And he probably had five or six
16:18 14 offices with, you know, five or six desks. And each one
16:18 15 was occupied by a loan officer. And they -- Ivan's
16:18 16 mother, Sylvia, is a Realtor. And she would give all
16:18 17 the business to my brother, James. So all the homes
16:18 18 that she sold like in new divisions and stuff, he would
16:18 19 do the closings on them.

16:18 20 Q. When did that business relationship start up
16:18 21 between Sylvia Cantu and your brother?

16:19 22 A. I believe they've had it for about two years,
16:19 23 '98 to about 2000.

16:19 24 Q. Was there any particular housing development
16:19 25 that Sylvia Cantu was working?

16:19 1 A. She was working on one in Dallas. It was close
16:19 2 to Oak Cliff because I remember James told me it was
16:19 3 Dallas but, you know, he called it Oak Cliff. Because
16:19 4 my grandparents live in Dallas, but it's Oak Cliff. So
16:19 5 he said it was a new subdivision over in Oak Cliff.

16:19 6 Q. How would she work with your brother as far as
16:19 7 getting him business?

16:19 8 A. All the houses that she would sell, they needed
16:19 9 a loan officer to do the closing paperwork on it, so he
16:19 10 would get all her business.

16:19 11 Q. What about Ivan? Did she give any business to
16:19 12 her son?

16:19 13 A. Not that I know of, no. She always told
16:19 14 James -- I mean, she would tell Ivan that he should be
16:19 15 more like James.

16:19 16 Q. Did you hear her say that?

16:19 17 A. No. James would tell me that.

16:19 18 Q. Did a lot of James's business come from that
16:19 19 housing development where Sylvia was working?

16:20 20 A. Yes. The whole division -- I don't know if it
16:20 21 was like maybe 200 homes. The whole division would come
16:20 22 to him for closing.

16:20 23 Q. After the name of the company of Star Net, did
16:20 24 it get changed to something else?

16:20 25 A. Yes.

16:20 1 Q. What did it get changed to?
 16:20 2 A. Advantage Investors Mortgage.
 16:20 3 Q. Did they call that AIM?
 16:20 4 A. AIM.
 16:20 5 Q. For short? How long did the defendant work
 16:20 6 with your brother?
 16:20 7 A. I'm not sure how long they worked together. I
 16:20 8 just know that Ivan worked with James in the year 2000.
 16:20 9 And maybe between '98 to 2000 because that is, you know,
 16:20 10 when I would see Ivan with my brother.
 16:20 11 Q. And why did Ivan stop working for your brother?
 16:20 12 A. My brother fired Ivan.
 16:20 13 Q. Do you remember when that was?
 16:20 14 A. I believe it was around, either between spring
 16:20 15 and summer of 2000. I don't know what month or what day
 16:21 16 or anything like that.
 16:21 17 Q. And after your brother fired Ivan, did your
 16:21 18 brother, James, continue to get business from Sylvia
 16:21 19 Cantu?
 16:21 20 A. Yes. They were very close. Sylvia and my
 16:21 21 brother.
 16:21 22 Q. Did that relationship remain that way up until
 16:21 23 your brother's death?
 16:21 24 A. Yes.
 16:21 25 Q. With regard to James's business, did he also

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16:21 1 own some rent homes?
 16:21 2 A. Yes. He owned two on 12th Street in Dallas or
 16:21 3 Oak Cliff.
 16:21 4 Q. When did he purchase those?
 16:21 5 A. He purchased -- the second one, he had just
 16:21 6 purchased like October because his first payment was due
 16:21 7 December 1st of 2000, a month before this happened. And
 16:21 8 the other one he had just purchased maybe a couple
 16:21 9 months before that because he was working on the tile
 16:21 10 and getting, you know, a carpet and things like that,
 16:22 11 so.... Well, no, I'm sorry. That was the second one
 16:22 12 that he was working on. The first one had just been
 16:22 13 leased for just a few months.
 16:22 14 Q. Do you know who he leased it to?
 16:22 15 A. I don't know the person personally or anything
 16:22 16 like that. I believe his last name was Hernandez. I
 16:22 17 don't know them.
 16:22 18 Q. And with regard to the second home, do you know
 16:22 19 what stage it was at, whether it was ready to be rented
 16:22 20 or there was a potential renter?
 16:22 21 A. He was going to have the tile installed on
 16:22 22 Monday, November 6th, right after this happened, and he
 16:22 23 was waiting actually for the tile guy to finish my
 16:22 24 house. We were using the same tile man, and he was
 16:22 25 finishing my house. And he just -- he needed just maybe

16:22 1 a week or two before he finished, you know, was finished
 16:22 2 to be rented out.
 16:22 3 Q. Do you know whether or not your brother kept a
 16:22 4 receipt book for the renter that had moved into the
 16:23 5 first house?
 16:23 6 A. Yes. He had receipts for everything.
 16:23 7 Q. Did your family ultimately get the receipt book
 16:23 8 back from the Dallas Police Department?
 16:23 9 A. Yes.
 16:23 10 MS. FALCO: Your Honor, may I approach?
 16:23 11 THE COURT: Yes.
 16:23 12 Q. (BY MS. FALCO) Ms. Tamez, I show you what's
 16:23 13 been marked as Defendant's Exhibit 2.
 16:23 14 A. Uh-huh.
 16:23 15 Q. And the yellow inserts inside. With regard to
 16:23 16 the yellow inserts inside -- first of all, are they
 16:23 17 numbered at the top corner?
 16:23 18 A. Yes. They are numbered in numerical order.
 16:23 19 Q. Did you see these yellow receipts get removed
 16:23 20 from Defendant's Exhibit No. 2?
 16:23 21 A. Yes.
 16:23 22 Q. Who removed them?
 16:23 23 A. My mother removed them at my house.
 16:23 24 Q. Why did she remove them?
 16:23 25 A. She was going to bring -- we were asked for

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16:23 1 receipts. So she -- this was a brand-new book he had
 16:23 2 just started. So she was just going to keep the book
 16:23 3 and use it, continue using it for the rent houses and
 16:24 4 turned in just the pages that you would need.
 16:24 5 Q. So when she thought receipts, she thought we
 16:24 6 just needed the yellow things, and she tore them?
 16:24 7 A. Because she started this one, that one was
 16:24 8 hers. She just -- when you said receipts, she just
 16:24 9 brought the ones that he had written himself.
 16:24 10 Q. And with regard to the insert, the yellow pages
 16:24 11 inside Defendant's Exhibit 2, the first receipt at the
 16:24 12 top, 589201, the name Eric Hernandez. Do you know if
 16:24 13 that was the renter in the first rent home?
 16:24 14 A. In the first rent home, yes.
 16:24 15 Q. And with regard to the second receipt, 589202,
 16:24 16 Joe Dominguez, who was Joe Dominguez?
 16:24 17 A. Him and his wife were renting the second home
 16:24 18 that was going to be ready in a few weeks.
 16:24 19 Q. Had they moved in yet?
 16:24 20 A. No.
 16:24 21 Q. And with regard to that 589202, did your
 16:24 22 brother, James, collect money?
 16:24 23 A. Yes.
 16:24 24 Q. From Mr. Dominguez?
 16:25 25 A. Yes.

16:25 1 Q. What was the money for?
 16:25 2 A. It was for a deposit and also the first month's
 16:25 3 rent.
 16:25 4 Q. Now, with regard to this receipt book, does it
 16:25 5 work based on carbon?
 16:25 6 A. Yes.
 16:25 7 Q. And the actual receipt, I guess the white copy,
 16:25 8 does that go to the renter?
 16:25 9 A. Yes. The renter gets the white one, and the
 16:25 10 landlord, I guess, keeps the yellow.
 16:25 11 Q. Now, with regard to these receipts, again, you
 16:25 12 said they are numbered sequentially?
 16:25 13 A. Uh-huh.
 16:25 14 Q. And with the second page starting with 205?
 16:25 15 A. Right.
 16:25 16 Q. Does it appear that they might have bled -- if
 16:25 17 someone wrote on that, it might have bled down into the
 16:25 18 copies underneath?
 16:25 19 A. Yes. It looks like it may have needed like a
 16:25 20 plastic or maybe this carbon pulled over, but it was not
 16:25 21 pulled over. And when we found it, it was just like
 16:25 22 that.
 16:25 23 Q. And in looking at the second page of the yellow
 16:25 24 receipts that have been torn out, does it appear to have
 16:25 25 the writing plus some other writing?

16:25 1 A. Yes.
 16:26 2 Q. Is that what appears to have bled down from the
 16:26 3 receipt on top of it?
 16:26 4 A. Yes. They are all bleeding through because the
 16:26 5 carbon hasn't been used or the plastic, I guess.
 16:26 6 Q. To keep it from writing onto the next receipt?
 16:26 7 A. Right.
 16:26 8 Q. And with regard, specifically, to this receipt
 16:26 9 No. 589207, does that appear to have extra writing on it
 16:26 10 that might have bled onto it?
 16:26 11 A. Yes.
 16:26 12 Q. And that was the receipt for November 3rd for
 16:26 13 Eric Dominguez?
 16:26 14 A. Correct.
 16:26 15 Q. And specifically, at the top where it says 600
 16:26 16 Dallas, do you know where that came from?
 16:26 17 A. That was the rent that was being collected from
 16:26 18 my mother's rent house.
 16:26 19 Q. Did your mom make that entry?
 16:26 20 A. Yes.
 16:26 21 Q. And she accidentally wrote on the yellow
 16:26 22 copies?
 16:26 23 A. Uh-huh. The same writing as this, \$600.
 16:26 24 Q. Now, with regard to that rent house, did your
 16:26 25 mom also have some rent houses?

16:27 1 A. She has one. She has one, and one of James's
 16:27 2 was in her name, so two.
 16:27 3 Q. And with regard to the one that was in her and
 16:27 4 James's name, I show you what's been marked as State's
 16:27 5 Exhibit No. 103.
 16:27 6 A. Uh-huh.
 16:27 7 Q. And on the second page do you recognize the
 16:27 8 signatures? Other than Eric Hernandez, do you recognize
 16:27 9 the other signature?
 16:27 10 A. It's James's writing.
 16:27 11 Q. Even where it says Gladys Mosqueda?
 16:27 12 A. That's James's writing.
 16:27 13 Q. When it came to the rental house business, did
 16:27 14 he sign your mother's name?
 16:27 15 A. Yes.
 16:27 16 Q. Did he have her permission to do that?
 16:27 17 A. Yes.
 16:27 18 Q. After James was murdered, did your mom keep
 16:27 19 those rent houses?
 16:27 20 A. She did for just a few months. That's all.
 16:27 21 She only kept them for a couple months, and then they
 16:27 22 just let them foreclose.
 16:28 23 Q. And with regard to Joe Dominguez, did he ever
 16:28 24 get a chance to move into his rent house?
 16:28 25 A. No, he did not.

16:28 1 Q. Do you know if he tried to get his deposit
 16:28 2 money back?
 16:28 3 A. Yes. He mailed a letter to my father, and he
 16:28 4 asked for the money back. I think it was between a
 16:28 5 thousand to \$2,000 that he's asking back for refund.
 16:28 6 Q. Now, you said the last time you saw Ivan Cantu,
 16:28 7 and I'm assuming that was before today, that was
 16:28 8 Christmas of '98?
 16:28 9 A. Christmas Day '98.
 16:28 10 Q. Where did you see him?
 16:28 11 A. I saw him over at James and Amy's house. They
 16:28 12 had just got their house August '98, and they wanted to
 16:28 13 have their first Christmas there.
 16:28 14 Q. And was that the house on Gibbons Drive?
 16:28 15 A. Yes.
 16:28 16 Q. Who all was there for Christmas Day?
 16:28 17 A. It was me and my two kids at the time, and my
 16:28 18 grandmother, two aunts, an uncle, and another cousin,
 16:29 19 couple of cousins were there. Amy and her mother and
 16:29 20 her grandmother were there, and Ivan was there.
 16:29 21 Q. And did James and Amy welcome Ivan into their
 16:29 22 home?
 16:29 23 A. Yes. He was always welcome there.
 16:29 24 Q. And did they exchange Christmas gifts with
 16:29 25 Ivan?

16:29 1 A. Amy and James bought Ivan Christmas gifts. I
 16:29 2 didn't see Ivan give anyone a Christmas gift.
 16:29 3 Q. If it weren't for James, would Ivan have even
 16:29 4 been at that Christmas celebration?
 16:29 5 A. No. When I walked in, I was wondering what he
 16:29 6 was doing there. But I knew that, through James, he was
 16:29 7 there for that reason.
 16:29 8 Q. Were you and your brother close?
 16:29 9 A. Yes.
 16:29 10 Q. How often would you see him?
 16:29 11 A. About once a month. We saw each other once a
 16:29 12 month. We saw each other on birthdays. We would have
 16:30 13 dinner together. We saw each other on my kids' -- three
 16:30 14 of my kids' three birthdays. And he would come on the
 16:30 15 weekends to my kids' soccer games and baseball games.
 16:30 16 Q. What city were you living in?
 16:30 17 A. Mesquite.
 16:30 18 Q. Would he bring Amy, too?
 16:30 19 A. Sometimes he would bring Amy, and a lot of
 16:30 20 times Amy would stay home because she was studying or
 16:30 21 doing tests. But sometimes if he didn't bring Amy, he
 16:30 22 would bring her niece.
 16:30 23 Q. Were your kids close to James?
 16:30 24 A. Yes.
 16:30 25 MR. GOELLER: Objection, Your Honor. We

16:30 1 need to approach sidebar.
 16:30 2 THE COURT: All right.
 16:30 3 (Bench conference.)
 16:32 4 Q. (BY MS. FALCO) Ms. Tamez, when was the last
 16:32 5 time you saw your brother?
 16:32 6 A. I saw him on Labor Day weekend 2000. It was
 16:32 7 the Sunday before Labor Day. I think it was around
 16:32 8 September 3rd or the 4th, whatever that Saturday was.
 16:32 9 Q. And on November 4th of 2000, is that when you
 16:32 10 found out about James and Amy?
 16:33 11 A. Let's see; that was on Saturday. Yes, I did,
 16:33 12 on Saturday, November 4th.
 16:33 13 Q. How did you find out?
 16:33 14 A. Sylvia Cantu, Ivan's mother, called to tell me.
 16:33 15 Q. What time did Sylvia Cantu call you?
 16:33 16 A. She called me around 6:30 p.m. on Saturday,
 16:33 17 between 6:30 and 7:00. I think it was about 6:30.
 16:33 18 Q. What did she tell you?
 16:33 19 A. She just asked me if I was home alone, and I
 16:33 20 told her no, because my husband and my kids were there
 16:33 21 and so were my in-laws. And she told me --
 16:33 22 MR. GOELLER: Objection, Judge, as to
 16:33 23 hearsay.
 16:33 24 A. -- to sit down.
 16:33 25 MR. GOELLER: I don't know if this is

16:33 1 admissible. It's rank hearsay.
 16:33 2 THE COURT: Ma'am, if there's an
 16:33 3 objection, as soon as he stands up, don't say anything.
 16:33 4 THE WITNESS: Okay.
 16:33 5 THE COURT: Sustained.
 16:33 6 Q. (BY MS. FALCO) Were you alone when you got the
 16:33 7 phone call?
 16:33 8 A. No.
 16:33 9 Q. And as you were talking to Sylvia Cantu, where
 16:33 10 did you go?
 16:33 11 A. Where did I go?
 16:33 12 Q. In your house.
 16:33 13 A. I was in my bathroom when I answered the phone.
 16:34 14 And then I dropped the phone, and my husband came in to
 16:34 15 the bathroom because he heard the whole conversation on
 16:34 16 the answering machine. I didn't pick up the phone in
 16:34 17 time, so the answering machine came on.
 16:34 18 Q. What was Sylvia's demeanor when she was telling
 16:34 19 you about James?
 16:34 20 A. She was -- I mean, she was just calm. I
 16:34 21 thought maybe something had happened to Ivan's father.
 16:34 22 She just, you know, said she had something to tell me.
 16:34 23 MR. GOELLER: Objection to hearsay, Your
 16:34 24 Honor. Rank hearsay.
 16:34 25 THE COURT: Sustained.

16:34 1 Q. (BY MS. FALCO) Even as she was telling you
 16:34 2 about James and Amy, what was her demeanor?
 16:34 3 A. She was calm.
 16:34 4 Q. How long did your conversation with Sylvia
 16:34 5 last?
 16:34 6 A. Probably about, just two or three minutes.
 16:34 7 Q. And you say your husband overheard the
 16:34 8 conversation on the answering machine?
 16:34 9 A. My husband and my in-laws, and I believe my
 16:34 10 boys did, too.
 16:35 11 Q. What did you do after you received that phone
 16:35 12 call?
 16:35 13 A. I dropped the phone and turned the news on, and
 16:35 14 it was on the news.
 16:35 15 Q. Did you then begin to contact your own family?
 16:35 16 A. My husband did. I was too upset.
 16:35 17 Q. Did your husband contact your mom?
 16:35 18 A. Yes. He -- he called her on the phone, on her
 16:35 19 cell phone. Asked her to come over. He had something
 16:35 20 to tell her.
 16:35 21 Q. And did she ultimately find out from someone
 16:35 22 else before she got to your house?
 16:35 23 A. Yes. She wanted to know what was so important
 16:35 24 that she had to come over because she was in the middle
 16:35 25 of something. And he just said it was very important,

16:35 1 that she needed to come over right away. And she
 16:35 2 finally agreed that she would come over.
 16:35 3 And in the meantime, she started calling
 16:35 4 other family members asking if we were okay. If I was
 16:35 5 okay and the kids, and she was told we were. But then
 16:36 6 when she called my aunt's house, my cousin answered the
 16:36 7 phone.

16:36 8 MR. GOELLER: Judge, I've got to start
 16:36 9 objecting to hearsay within hearsay at this point.

16:36 10 THE COURT: Sustained.

16:36 11 Q. (BY MS. FALCO) Did your husband contact your
 16:36 12 father, as well?

16:36 13 A. No. Sylvia called my father. He already knew.

16:36 14 Q. Did you go to James and Amy's house that night?

16:36 15 A. No.

16:36 16 Q. Who in your family went?

16:36 17 A. My mother went straight there after she heard.
 16:36 18 And my aunt and uncle, I don't know if you want them by
 16:36 19 name. Astrid and Michael Sabilar were there. My father
 16:36 20 drove straight there from Mineral Wells, two hours,
 16:36 21 because he couldn't believe it. And, let's see, my
 16:36 22 parents, my aunt and uncle, and I think another Aunt
 16:36 23 Elaine was there also.

16:36 24 Q. Do you have several aunts that are in the
 16:36 25 dental business?

16:37 1 A. Three of them work in the same office. They
 16:37 2 make up the whole staff besides the dentist.

16:37 3 Q. And what dentist is that?

16:37 4 A. Dr. Richard Sayklay in Dallas.

16:37 5 Q. And have they always, or were they working for
 16:37 6 him back in November of 2000?

16:37 7 A. Yes.

16:37 8 Q. With regard to the funeral and the funeral
 16:37 9 arrangements, were James and Amy's funerals together?

16:37 10 A. Yes.

16:37 11 Q. And aside from the actual funeral, were there
 16:37 12 other visitations or other ways to pay your respect on
 16:37 13 different days?

16:37 14 A. Yes. They had a wake that was together in the
 16:37 15 same church or whatever at Restland on Wednesday before
 16:37 16 the funeral which was Thursday.

16:37 17 Q. Was there anything on Tuesday, November 7th?

16:37 18 A. On Tuesday it was visiting for the family only.

16:37 19 Q. And was that for James and Amy?

16:37 20 A. Yes.

16:38 21 Q. Did you ever see Ivan Cantu at that visitation?

16:38 22 MR. GOELLER: Judge --

16:38 23 A. No.

16:38 24 MR. GOELLER: -- I'm going to object.
 16:38 25 We're getting into the same area I talked about at

16:38 1 sidebar. I got a ruling from the Court previously.

16:38 2 THE COURT: Okay. Well, I tell you what.

16:38 3 I remember -- I think I remember the question and the
 16:38 4 sidebar. And my understanding is that it was okay to
 16:38 5 come on up. Yeah, come on up to sidebar.

16:38 6 MR. GOELLER: Okay.

16:38 7 (Bench conference.)

16:40 8 THE COURT: All right. Would you -- would
 16:40 9 you ask the question again, please.

16:40 10 Q. (BY MS. FALCO) With regard to the family
 16:40 11 viewing on Tuesday, November 7th, did you see Ivan Cantu
 16:40 12 there?

16:40 13 A. No. He was the only one not there.

16:40 14 Q. Did you see James Mosqueda on a frequent-enough
 16:40 15 basis to notice jewelry that he wore?

16:40 16 A. Yes.

16:40 17 MS. FALCO: Your Honor, may I approach the
 16:40 18 witness?

16:40 19 THE COURT: Yes.

16:40 20 Q. (BY MS. FALCO) I show you what's been marked
 16:40 21 as State's Exhibit 110. Do you recognize that?

16:40 22 A. Yes.

16:40 23 Q. What is State's Exhibit 110?

16:40 24 A. James's bracelet. He wore it on his right
 16:40 25 wrist.

16:41 1 MS. FALCO: I pass this witness.

16:41 2 THE COURT: All right.

16:41 3 MR. GOELLER: Thank you. Your Honor.

16:41 4 CROSS-EXAMINATION

16:41 5 BY MR. GOELLER:

16:41 6 Q. Ms. Tamez, am I pronouncing that correctly?

16:41 7 A. Tamez.

16:41 8 Q. Tamez. I've just got a few questions for you.

16:41 9 Do you recall, ma'am, speaking with a Sergeant L. A.
 16:41 10 Lewis of the Dallas Police Department on November 5th at
 16:41 11 about 8:30 a.m.?

16:41 12 A. Yes.

16:41 13 Q. Okay. I think you've testified here today that
 16:41 14 you've had pretty frequent contact or you had frequent
 16:41 15 contact with your brother?

16:41 16 A. Yes.

16:42 17 Q. Okay. Have you ever given a slightly different
 16:42 18 statement along those lines?

16:42 19 A. No.

16:42 20 Q. Okay. In fact, your husband's name is Gilbert
 16:42 21 Tamez, right?

16:42 22 A. Right.

16:42 23 Q. And you were -- you were both interviewed the
 16:42 24 same morning at the same place, correct?

16:42 25 A. I was never interviewed. I never spoke to a

16:42 1 police in person. I've only talked to them on the
 16:42 2 phone.
 16:42 3 Q. Yeah. I mean, and that was Sergeant Lewis,
 16:42 4 November 5th, 8:30 a.m., correct?
 16:42 5 A. I talked to several police officers that
 16:42 6 weekend, yes.
 16:42 7 Q. I know this is very difficult for you, ma'am,
 16:42 8 but I have to ask you: Did you and your husband try to
 16:42 9 shield your family from your brother and his associates?
 16:42 10 A. Not from my brother. I saw him a lot.
 16:43 11 Q. Okay.
 16:43 12 A. I allowed him to come to my children's birthday
 16:43 13 parties and games and things on the weekends. So, no,
 16:43 14 that's not correct.
 16:43 15 Q. Would your husband actively attempt to keep his
 16:43 16 family away from your brother? And let me -- I should
 16:43 17 be specific: James Mosqueda, Anthony Fonseca, Francisco
 16:43 18 and Ray. Do you know who those folks are?
 16:43 19 A. Yes. I know who they are.
 16:43 20 Q. Okay. Is it your testimony that you and your
 16:43 21 husband were just absolutely more than happy to be
 16:43 22 around your brother when he was with those people?
 16:43 23 A. I was only around my brother. I was never
 16:43 24 around the people that you named.
 16:43 25 Q. Okay. Do you know those people?

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16:43 1 A. I know -- you say. Who did you say?
 16:43 2 Q. Anthony Fonseca.
 16:43 3 A. I know who Anthony Fonseca is, yes.
 16:44 4 Q. Is he somebody that you'd like around your
 16:44 5 children?
 16:44 6 A. I don't really know him that well, but no.
 16:44 7 Q. How about Carlos Gonzalez?
 16:44 8 A. I didn't meet Carlos until the funeral. I had
 16:44 9 never even seen or heard his name before.
 16:44 10 Q. Based on what you know about him now, would you
 16:44 11 like him around your children?
 16:44 12 A. I don't really know anything about him.
 16:44 13 Q. Okay. Do you know who Francisco is?
 16:44 14 A. I met him also at the funeral.
 16:44 15 Q. Would you like your children around him?
 16:44 16 A. I don't know him.
 16:44 17 Q. How about Ray? Is that Ray Sanchez?
 16:44 18 A. He was James's -- I guess he worked --
 16:44 19 coworker. The only reason I know his name is because he
 16:44 20 answered the phone every time I called James at work.
 16:44 21 Q. Was your husband trying to shield you and the
 16:44 22 children away from these guys?
 16:44 23 A. Not away from my brother. And the other people
 16:44 24 we really didn't know that well except for Anthony. We
 16:44 25 know him, but...

16:44 1 Q. Let me ask you if you were present when this
 16:45 2 statement was made. This is November 5th. You know
 16:45 3 Detective Winn, right?
 16:45 4 A. I met him on Friday outside this room. I never
 16:45 5 met him before.
 16:45 6 Q. This past Friday?
 16:45 7 A. Or Thursday or Friday, whichever.
 16:45 8 Q. Of last week?
 16:45 9 A. Uh-huh. First time I've seen him.
 16:45 10 Q. "Tamez stated, did not associate with this
 16:45 11 group, and kept his family away --
 16:45 12 MS. FALCO: Object as reading from a
 16:45 13 document not admitted into evidence.
 16:45 14 MR. GOELLER: I'm just asking her if she
 16:45 15 was present when this statement was made. Whether if --
 16:45 16 I had written it down in my notes. I'm not offering the
 16:45 17 statement, Your Honor. I'm just asking if she was
 16:45 18 present when the statement -- anybody made this
 16:45 19 statement.
 16:45 20 THE COURT: It doesn't purport to be her
 16:45 21 statement?
 16:45 22 MR. GOELLER: Yes, it does.
 16:45 23 THE COURT: All right. Well, all right.
 16:45 24 MS. FALCO: Your Honor, it's stating
 16:45 25 Gilbert Tamez, and it's referring to he. It's not her

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16:45 1 statement. So our objection would be hearsay.
 16:46 2 THE COURT: Could I see it?
 16:46 3 MR. GOELLER: Yes, sir.
 16:47 4 THE COURT: Let me ask you to step down
 16:47 5 for about five minutes. And then we'll come back and
 16:47 6 have about another five minutes of court.
 16:47 7 THE BAILIFF: All rise.
 16:47 8 (Break.)
 16:48 9 THE COURT: Please be seated.
 16:48 10 (Open court, defendant present, no jury.)
 16:48 11 THE COURT: I've read the statement, and I
 16:48 12 suppose you tried to impeach her with a prior
 16:48 13 inconsistent statement. And I'm wondering, you know,
 16:48 14 can you impeach someone with a prior inconsistent
 16:48 15 statement if it wasn't their statement, but they were
 16:48 16 present when it was made and didn't say anything, or
 16:48 17 something related to that?
 16:48 18 So let's do this: Just ask her whatever
 16:48 19 you want to ask her, and let me hear whatever she has to
 16:48 20 say, and I'll decide what I'm going to do with it.
 16:48 21 Q. (BY MR. GOELLER) Were you present, ma'am, when
 16:48 22 either, I'm not quite clear, either you or your husband
 16:48 23 said you did not associate with this group and kept his
 16:48 24 family away. I guess that's your husband.
 16:48 25 "When asked why, he stated he believed the

16:49 1 group was dealing drugs. I asked him how he knew this.
 16:49 2 He stated that Mosqueda's success was too vast and that
 16:49 3 his, parentheses, Tamez' sister was into drugs and told
 16:49 4 them that they were."

16:49 5 Were you present when any of that was
 16:49 6 spoken?

16:49 7 A. No. I wasn't present during that phone
 16:49 8 conversation. I imagine it was because I know my
 16:49 9 husband has never talked to them in person, either.

16:49 10 Q. Really? Oh, okay. Because he talked to him on
 16:49 11 the phone?

16:49 12 A. To the police. He has never seen them. On the
 16:49 13 phone, maybe, probably. I don't know. Because we're
 16:49 14 not on the phone at the same time if we ever talked to
 16:49 15 the police.

16:49 16 Q. But do you recall talking to Sergeant Lewis on
 16:49 17 November 5th at 8:30 in the morning?

16:50 18 A. I talked to Sergeant Lewis quite a few times
 16:50 19 that weekend.

16:50 20 Q. Okay.

16:50 21 THE COURT: I tell you what, if she
 16:50 22 hasn't -- to use your term "adopted it as her own
 16:50 23 statement," then she can't be impeached with it.

16:50 24 THE WITNESS: That's not my statement.

16:50 25 THE COURT: And it doesn't appear that she

16:50 1 adopted it either by silence or in court here today. So
 16:50 2 perhaps you can use it on somebody else, but not this
 16:50 3 witness.

16:50 4 Q. (BY MR. GOELLER) Are you still married to
 16:50 5 Gilbert Tamez?

16:50 6 A. Yes.

16:50 7 Q. And what's your address?

16:50 8 A. I don't know if I want to give that here in
 16:50 9 front of Ivan Cantu.

16:50 10 Q. It don't matter. You are going to give it
 16:50 11 anyhow.

16:50 12 MS. FALCO: Your Honor, I'm going to
 16:50 13 object to an argument with the witness and the relevance
 16:50 14 of her specific address and clearly the statement he is
 16:50 15 using in trying to impeach a phone number and gives a
 16:50 16 phone number.

16:50 17 MR. GOELLER: What's your address, ma'am?
 16:50 18 I'm sorry.

16:50 19 MS. FALCO: Your Honor --

16:51 20 THE WITNESS: I'm not giving it.

16:51 21 MR. GOELLER: I didn't know there was an
 16:51 22 objection on the floor.

16:51 23 MS. FALCO: Objection to relevance, Your
 16:51 24 Honor.

16:51 25 THE COURT: Yeah. Tell me the relevance.

16:51 1 MR. GOELLER: Well, if she's going to deny
 16:51 2 any knowledge of the contents of the phone conversation
 16:51 3 with Lewis -- well, actually can I ask her one more
 16:51 4 question?

16:51 5 Q. (BY MR. GOELLER) Did you and your husband talk
 16:51 6 about what he told the sergeant?

16:51 7 A. No.

16:51 8 Q. Could you hear them? Could you hear your
 16:51 9 husband talking? Was it just one phone, I take it,
 16:51 10 right?

16:51 11 A. One phone line in our house. We have more than
 16:51 12 one phone, but I wasn't on the other line whenever he
 16:51 13 talked to Lewis, I guess.

16:51 14 Q. Yeah.

16:51 15 A. I haven't heard him talk to any police, no. I
 16:51 16 haven't been in the room with him while he was talking
 16:51 17 to someone. I was probably trying to keep the kids
 16:51 18 quiet in another room if he was on a business call or a
 16:51 19 phone call.

16:51 20 THE COURT: All right. So I won't let you
 16:51 21 go into this with her, but who knows about the future.
 16:52 22 Let's -- anything else?

16:52 23 Q. (BY MR. GOELLER) What is your husband's
 16:52 24 address?

16:52 25 A. It's the same as mine.

16:52 1 Q. And what is that?

16:52 2 MS. FALCO: Your Honor, again, I'm going
 16:52 3 to object to the relevance.

16:52 4 MR. GOELLER: I can certainly ask a
 16:52 5 witness where they live, Your Honor. The State, I
 16:52 6 think, does it with every witness.

16:52 7 THE WITNESS: We live in Mesquite. I have
 16:52 8 been there for 31 years.

16:52 9 THE COURT: You have been at the same
 16:52 10 address for 31 years?

16:52 11 THE WITNESS: No. The same address for
 16:52 12 four years.

16:52 13 THE COURT: Yeah. Just go ahead. I'll
 16:52 14 order you to answer the question. What's your address?

16:52 15 THE WITNESS: 2207 Stillwater Drive.

16:52 16 Q. (BY MR. GOELLER) Could you say that a little
 16:52 17 slower.

16:52 18 A. 2207 Stillwater Drive.

16:52 19 THE COURT: Let's bring the jury back in.
 16:52 20 And I'll order you not to go into that thing with her.

16:52 21 MR. GOELLER: Yes, sir.

16:52 22 THE COURT: All right.

16:52 23 (Open court, defendant and jury present.)

16:53 24 THE COURT: Please be seated. All right.

16:54 25 Mr. Goeller, go ahead.

16:54 1 MR. GOELLER: Thank you.
 16:54 2 Q. (BY MR. GOELLER) Ma'am, does your -- does your
 16:54 3 husband, Gilbert, does he have a sister that --
 16:54 4 A. He has two sisters.
 16:54 5 Q. Okay. Do you know what sister may be referred
 16:54 6 to in some of the documents we've been talking about?
 16:54 7 A. I don't know why my husband's sister would have
 16:54 8 anything to do with this trial, so, no.
 16:54 9 Q. Okay.
 16:54 10 A. They both knew James.
 16:54 11 Q. Right.
 16:54 12 A. It could be either one of the two.
 16:54 13 Q. Do you know which one of them may have some
 16:54 14 more particular insight into James's pastimes, hobbies?
 16:54 15 A. No.
 16:54 16 Q. Okay. How many brothers and sisters were in
 16:55 17 your family? It was you and James and anybody else?
 16:55 18 A. Me and James. That's all.
 16:55 19 Q. Were you pretty familiar with his livelihood,
 16:55 20 his business dealings, his business associates, what he
 16:55 21 did for a living?
 16:55 22 A. Yes.
 16:55 23 Q. Okay. Was he a legitimate businessman?
 16:55 24 A. Yes.
 16:55 25 Q. He would never mess around and deal dope or

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16:56 1 anything like that, would he?
 16:56 2 A. No. I would say no. He never told me he did,
 16:56 3 and I never suspected anything, so no.
 16:56 4 Q. And you have, there was no family -- I mean,
 16:56 5 obviously your husband knows him?
 16:56 6 A. Knows James?
 16:56 7 Q. Right.
 16:56 8 A. He's known James since 1984.
 16:56 9 Q. Did your husband have any reservations about
 16:56 10 your brother?
 16:56 11 A. No.
 16:56 12 Q. Not at all?
 16:56 13 A. He -- not that I know of. You'll have to ask
 16:56 14 him.
 16:56 15 Q. Okay.
 16:56 16 A. He welcomed him just like it was his brother.
 16:56 17 Q. And it's your belief that your husband more
 16:56 18 than welcomed his brother-in-law around his own
 16:56 19 children, correct?
 16:56 20 A. Yes, he did. Because we were always together
 16:57 21 on numerous occasions at different places.
 16:57 22 Q. Okay. So as far as you know, having obviously
 16:57 23 known him his whole life, knowing most of his friends,
 16:57 24 growing up in the same area, it's your opinion that your
 16:57 25 late brother was nothing but a legitimate businessman.

16:57 1 Period.
 16:57 2 A. That is all I know.
 16:57 3 Q. Okay. Okay. Now, you've testified a little
 16:57 4 bit, ma'am, about Ivan. I think you started off with
 16:57 5 there was a divorce between Ivan's mom and dad, Sylvia
 16:57 6 and Abner?
 16:57 7 A. Yes.
 16:57 8 Q. Do you remember about when that was?
 16:57 9 A. I don't know what year. It was --
 16:57 10 Q. A long time?
 16:57 11 A. -- over 20 years ago.
 16:57 12 Q. Okay. And how old were -- do you recall the
 16:57 13 divorce?
 16:58 14 A. No. Very vaguely but no, not really. I mean,
 16:58 15 I used to spend the night at Ivan's house with my Aunt
 16:58 16 Sylvia at the time and Uncle Abner. But I was probably
 16:58 17 7 or 8 years old.
 16:58 18 Q. Around the time of the divorce?
 16:58 19 A. I believe so. That's the last time I remember
 16:58 20 staying over there, and then they separated after that.
 16:58 21 Q. Okay. And Ivan's -- Ivan's father, that was
 16:58 22 your family?
 16:58 23 A. Ivan's father was my family, yes, my uncle.
 16:58 24 Q. Okay. What kind of -- what kind of father was
 16:58 25 Abner?

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16:58 1 A. He was a good father when he was able to see
 16:58 2 Ivan. But Ivan's mother kept Ivan away from him a lot.
 16:58 3 Q. He was a man that provided for his children?
 16:58 4 A. He provided more than his child support each
 16:58 5 month.
 16:58 6 Q. So the family never had to run around, chasing
 16:58 7 him down, asking for money or anything?
 16:58 8 A. They asked him for money, extra money. He gave
 16:58 9 his child support. And then Sylvia would ask for him to
 16:58 10 buy their school clothes, their school shoes and things
 16:58 11 like that.
 16:58 12 Q. What was he paying in child support, do you
 16:58 13 recall?
 16:58 14 A. That was a long time ago. Child support was
 16:58 15 not as expensive as it is now. I -- probably guess
 16:58 16 maybe.
 16:58 17 Q. Don't probably guess.
 16:58 18 A. Four, five hundred dollars.
 16:58 19 Q. The Judge will get mad at me if I let you do
 16:58 20 that.
 16:58 21 A. I think a few hundred dollars a month.
 16:58 22 Q. A couple hundred dollars?
 16:58 23 A. No. More than that. Double that, I bet. He
 16:58 24 had two kids.
 16:58 25 Q. You bet. What did he do for a living? What

16:59 1 did Abner do for a living?
 16:59 2 A. Abner is in the restaurant business.
 16:59 3 Q. Was he a waiter?
 16:59 4 A. He was a waiter, I believe, yes.
 16:59 5 Q. Was he pretty much a kind of a -- well, just a
 16:59 6 professional waiter. I mean, that's what he did?
 16:59 7 A. Yes.
 16:59 8 Q. It wasn't a side job. That was his -- where
 17:00 9 did he work?
 17:00 10 A. Where did he work?
 17:00 11 Q. Yeah. Abner.
 17:00 12 A. He worked at restaurants in Dallas. I don't
 17:00 13 know the names of them.
 17:00 14 Q. Was he -- did you have much contact with Ivan
 17:00 15 and Eric as they were growing up after the divorce?
 17:00 16 A. I would still see them at my grandparents'
 17:00 17 house because Abner would bring them over on his
 17:00 18 weekends. And we lived there with my grandparents, so I
 17:00 19 did see them.
 17:00 20 Q. You are pretty close with Sylvia, aren't you?
 17:00 21 A. No.
 17:00 22 Q. Were you ever?
 17:00 23 A. When I was 7 or 8 years old, I was close to her
 17:00 24 because she treated me like her daughter since she
 17:00 25 didn't have a daughter.

17:00 1 Q. Was your brother, James, was he pretty close
 17:00 2 with your Aunt Sylvia?
 17:00 3 A. Yes.
 17:00 4 Q. Do you know why that was?
 17:01 5 A. Sylvia thought that James had a good head on
 17:01 6 his shoulders. And she just thought of him as a
 17:01 7 successful person who had accomplished a lot and just
 17:01 8 thought highly of him.
 17:01 9 Q. Sylvia threw him a lot of business, in other
 17:01 10 words?
 17:01 11 A. Yes.
 17:01 12 Q. That's why your brother really liked her
 17:01 13 because it was --
 17:01 14 A. They threw each other business.
 17:01 15 Q. So it was more than just a blood relationship.
 17:01 16 It was -- it was money involved. Like many things in
 17:01 17 life, that's significant, correct?
 17:01 18 A. Yes.
 17:01 19 Q. But you, I suppose, after the divorce, and you
 17:01 20 were growing up, you didn't -- you didn't care for
 17:01 21 Sylvia much anymore?
 17:01 22 A. I never saw her, no.
 17:01 23 Q. Okay. And the man she divorced, that was
 17:01 24 blood?
 17:01 25 A. Right correct

17:02 1 Q. Okay. So you really fell out of contact with
 17:02 2 Ivan and his brother, Eric?
 17:02 3 A. Yes.
 17:02 4 Q. Did they have a pretty steady environment
 17:02 5 growing up, or was it house to house and apartment to
 17:02 6 apartment, staying with people, or did you keep up?
 17:02 7 A. I didn't keep up, no. I just knew that they
 17:02 8 lived in Plano while he was in high school. He went --
 17:02 9 THE COURT: Mr. Goeller, I'm going to ask
 17:02 10 you to remember where you are.
 17:02 11 MR. GOELLER: Yes, sir.
 17:02 12 THE COURT: And we're going to break for
 17:02 13 the day. And as you know, you are instructed that it is
 17:02 14 your duty not to converse among yourselves or with
 17:02 15 anyone else on any subject connected with the trial or
 17:02 16 to form or express any opinion thereon until the cause
 17:02 17 is finally submitted to you. And we'll see you at
 17:02 18 nine o'clock in the morning.
 17:02 19 THE BAILIFF: All rise.
 17:02 20 (Court adjourned.)
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1 REPORTER'S CERTIFICATE
 2 THE STATE OF TEXAS
 3 COUNTY OF COLLIN
 4 I, Barbara L. Tokuz, CSR, RMR, CRR, Deputy Official
 5 Court Reporter in and for the 380th Judicial District
 6 Court of Collin County, State of Texas, do hereby
 7 certify that the above and foregoing contains a true and
 8 correct transcription of all portions of evidence and
 9 other proceedings requested in writing by counsel for
 10 the parties to be included in this volume of the
 11 Reporter's Record, in the above-styled and -numbered
 12 cause, all of which occurred in open court or in
 13 chambers and were reported by me.
 14 I further certify that this Reporter's Record of the
 15 proceedings truly and correctly reflects the exhibits,
 16 if any, offered by the respective parties.
 17 WITNESS MY OFFICIAL HAND this the 11th day of
 18 February, 2002.
 19
 20 *Barbara Tokuz*
 21 Barbara L. Tokuz, CSR #4615, RMR, CRR
 22 Deputy Official Court Reporter
 23 Expiration Date: 12/31/2002
 24 1855 Wind Hill Road
 25 Rockwall, Texas 75087
 Telephone: 972-771-2312