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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 12-60049-CR-ROSENBAUM

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-v-	)	
	)	
ROGERIO CHAVES SCOTTON,	)	
	)	
Defendant.	)	West Palm Beach, Florida
	)	December 19, 2013
	)	2:28 p.m.

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TRANSCRIPT OF EVIDENTIARY HEARING  
BEFORE THE HONORABLE WILLIAM MATTHEWMAN  
U.S. MAGISTRATE JUDGE

Appearances:

For the Government:	BERTHA MITRANI Assistant United States Attorney 500 East Broward Boulevard Fort Lauderdale, Florida 33301
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For the Defendant:	Pro se
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Standby Counsel:	JASON W. KREISS, ESQ. 1824 SE 4th Avenue Fort Lauderdale, Florida 33316
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Creole Interpreters Present.

Reporter:	Karl Shires, RPR, FCRR Official Court Reporter 701 Clematis Street, Suite 258 West Palm Beach, Florida 33401
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1 (Call to Order of the Court.)

2 THE COURT: Good afternoon, everybody.

3 THE COURTROOM DEPUTY: Calling United States of  
4 America versus Rogerio Chavez Scotton, Case Number  
5 12-60049-CR-Rosenbaum/Matthewman, second superseding.

6 THE COURT: All right. Let's get appearances from  
7 counsel starting with the government, please.

8 MS. MITRANI: Good afternoon, Your Honor. Bertha  
9 Mitrani on behalf of the United States. With me at counsel  
10 table is Special Agent Roy VanBrunt with the FBI.

11 THE COURT: Good afternoon, both of you.

12 And for the defendant? We have Mr. Scotton. Good  
13 afternoon, Mr. Scotton.

14 THE DEFENDANT: Good afternoon, sir.

15 THE COURT: We also have Mr. Kreiss, standby counsel.  
16 Good afternoon.

17 MR. KREISS: Good afternoon, Your Honor.

18 THE COURT: And we have also investigator  
19 Ms. Martinez. Good afternoon.

20 MS. MARTINEZ: Good afternoon, Your Honor.

21 THE COURT: All right. So this matter was set down  
22 today for a hearing, an evidentiary hearing, and on the  
23 defendant's motions at Docket Entries 218 and 220. And it was  
24 also set down for a hearing on the defendant's motion for  
25 Agent VanBrunt to turn over defendant's property at Docket

1 Entry 227.

2 Now, at the last minute I received from the defense --  
3 Mr. Scotton filed a motion, and it says sealed motion, motion  
4 to continue of evidentiary hearing over family loss.

5 Has the government -- Ms. Mitrani, have you seen a  
6 copy of that motion?

7 MS. MITRANI: Yes, Your Honor. Mr. Kreiss was kind  
8 enough to provide us with a copy.

9 THE COURT: Thank you.

10 All right. So, Mr. Scotton, I've read the motion, and  
11 my first question is: You have it that you seek to file it  
12 under seal. Why would this need to be a sealed document? In  
13 federal court everything is open to the public and nothing is  
14 sealed unless it would violate an attorney-client privilege of  
15 a defendant or a work product privilege or some other defense  
16 confidential matter.

17 I read this. I don't see that it's appropriate to be  
18 sealed. Is there some reason you feel it has to be sealed?

19 THE DEFENDANT: Your Honor, I thought it was because  
20 of the some of the personal. I thought it is something I don't  
21 have to share with everybody.

22 THE COURT: I understand, but it still is -- I think  
23 this is more appropriately filed publicly. So I will not order  
24 that it be sealed and it will be filed as a public motion.

25 Now, you indicate in this motion that you are seeking

1 to continue this evidentiary hearing; is that right?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. And that's because you say  
4 that your grandmother passed away and therefore your mother may  
5 not be able to be an adequate witness today. Is that the basis  
6 for it?

7 THE DEFENDANT: Yes, I'm not going to have -- you  
8 know --

9 (Defendant and standby counsel conferring sotto voce.)

10 THE COURT: I'm sorry?

11 MR. KREISS: May I just grab a tissue, Your Honor?

12 THE COURT: Of course.

13 All right. Mr. Scotton, was that the basis for the  
14 motion, that your mother may not be able to testify at this  
15 hearing because of the fact that her mother passed away?

16 THE DEFENDANT: Yeah, Your Honor. I don't think we --  
17 you know, either myself or so, I don't think I can put my  
18 mother through this today.

19 THE COURT: Right. When did your grandmother pass  
20 away?

21 THE DEFENDANT: This week sometime.

22 THE COURT: What day was that?

23 THE DEFENDANT: I'm not sure of the date. Either  
24 Monday or Tuesday.

25 THE COURT: Where did she live?

1 THE DEFENDANT: She live in Brazil.

2 THE COURT: And she passed away in Brazil. Is your  
3 mother going to the funeral?

4 THE DEFENDANT: No. Financially it is so hard. She  
5 can't afford to go there.

6 THE COURT: I see. When's the last time that you  
7 visited your grandmother?

8 THE DEFENDANT: 2008.

9 THE COURT: 2008?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay. All right. I tell you what, let me  
12 hear from the government.

13 MS. MITRANI: Your Honor, under normal circumstances  
14 the government wouldn't oppose a continuance of an evidentiary  
15 hearing of this nature, however these are not normal  
16 circumstance, Your Honor.

17 First, this hearing -- it took a lot of effort for all  
18 of the parties to be here. The government is here with  
19 witnesses. I would note that the defendant's mother and  
20 stepfather are here. We have a trial setting at the end of  
21 January. Mr. Kreiss is going to be unavailable the last two  
22 weeks of the year basically. I'm unavailable basically the  
23 first week of the year. So it's a very difficult circumstance.

24 Again, I don't think this will mean much to the  
25 defendant, but on behalf of the government, as a human being,

1 we are sorry for his loss as a human being. On the other hand,  
2 we're all here. The government would oppose any continuance of  
3 a hearing.

4 THE COURT: All right. I tell you what I'm going to  
5 do, Mr. Scotton. First of all, the Court also extends its  
6 condolences to you and your family for the loss of your  
7 grandmother. The problem we have here is this case is set for  
8 trial in January, and you have filed numerous speedy trial  
9 demands in this case and numerous motions, which you have a  
10 right to do, and we need to get them heard.

11 What I'm going to do is I am going to deny the motion  
12 to continue today's evidentiary hearing, but why don't we do  
13 this. When we get to the evidentiary hearing portion, why  
14 don't you call your stepfather and you can go through the  
15 testimony with your stepfather, and then at that point we can  
16 see if your mother is able to testify. Or perhaps the  
17 government might be willing to stipulate to what her testimony  
18 would be if she were going to testify here today based on the  
19 affidavit that she signed and that was filed previously.

20 So there may be ways to go ahead with the evidentiary  
21 hearing, it will be entirely up to you, which might obviate the  
22 need for your mother having to testify today and yet I hear all  
23 of the evidence in this the case. I think we should get the  
24 evidentiary hearing started and proceed, and then we'll see  
25 where we go from there because it has been difficult to get

1 everybody together. We have a Portuguese interpreter, which is  
2 not easy to get, that we have arranged at your request for your  
3 mother, subpoenas have been issued for some witnesses, and  
4 everybody is here to proceed today.

5           So I understand your loss and I offer my condolences  
6 for your loss, but we do need to proceed with this hearing and  
7 soldier on in this case and work to get this case resolved  
8 because you are entitled to get these matters heard, you're  
9 entitled to a trial, and the more these motions would get  
10 delayed it could have a potential of causing a delay in your  
11 trial. And with all of the requests for speedy trial you made,  
12 I think that's probably the last thing you want. So I'm going  
13 to deny the motion and see how the hearing goes this afternoon.

14           Now, I also just received a motion to quash certain  
15 subpoenas that apparently Mr. Scotton had issued and --

16           Do you have an extra copy of that motion there, Ken?

17           THE COURTROOM DEPUTY: I don't.

18           THE COURT: I know I have it somewhere.

19           MS. MITRANI: I have an extra copy, Your Honor.

20           THE COURT: Would you mind passing it up? I read it  
21 earlier, but I'm having a little trouble locating it here.

22           MR. KREISS: For the record, Your Honor, I provided  
23 Mr. Scotton with a copy.

24           THE COURT: Thank you, Mr. Kreiss.

25           MS. MITRANI: And, for the record, I gave Mr. Kreiss a



1 copy to give to Mr. Scotton just because in the certificate of  
2 service I stated I would effectuate hand-delivery.

3 THE COURT: All right. Thank you.

4 So it is Docket Entry 241, an emergency motion to  
5 quash subpoenas and protective order, and it deals with  
6 witnesses CF and RM. Is there any reason we cannot mention  
7 them in court at the hearing by name?

8 MS. MITRANI: No, Your Honor. There's no reason.  
9 Obviously, the government likes to protect its witnesses,  
10 particularly under the circumstances of this case.

11 THE COURT: All right. We certainly can refer to them  
12 as CF and RM. I have no problem with that.

13 Can you tell me if in the government's position -- I  
14 know you moved to quash it. Do they have any significance or  
15 relevance in the government's position to the limited issues of  
16 the evidentiary hearing that's set for today?

17 MS. MITRANI: No, they do not, Your Honor. That's set  
18 forth prominently at whichever paragraph it is set forth,  
19 Paragraph 6 -- Paragraph 6 and thereon. No, they have nothing  
20 to do.

21 As the Court knows, I'm not going to be repetitive  
22 because we all know why we are here today. It is for these  
23 alleged intimidation and harassment of the defendant's mother  
24 and stepfather, it is for the allegation that the government is  
25 spying on the defendant 24 hours a day and restricting his

1 e-mail and phone privileges at BOP. And that was part of the  
2 Court's December 1 order, and then -- excuse me, December 12  
3 order. And then subsequent to that the Court added on a  
4 hearing on whether there was a Rolex watch or an expensive  
5 watch in the defendant's car which the government possessed and  
6 which the defendant wants back. These two witnesses have  
7 absolutely nothing to do with those matters.

8 THE COURT: All right. And these two witnesses were  
9 subpoenaed not pursuant to Rule 17 as we had had a hearing on  
10 before. They must have been subpoenaed privately by the  
11 defendant.

12 Let me ask you Mr. Scotton, what relevance does CF or  
13 RM have to the limited issues we have set down for today?

14 THE DEFENDANT: Your Honor, first of all, I want to  
15 bring up to the Court that the prosecutor is not their lawyer.  
16 So if they're going to need a lawyer, they going to have to  
17 hire a lawyer on their own.

18 THE COURT: I'm sorry?

19 THE DEFENDANT: You know, I don't know why the  
20 prosecutor now try to become their lawyer. I mean, the  
21 prosecutor is not the lawyer for them.

22 THE COURT: No.

23 THE DEFENDANT: She acts as if she's their lawyer.

24 THE COURT: I understand that, but the prosecutor has  
25 a right and an obligation to file any appropriate motion in the

1 case, and I find that it is an appropriate motion. The  
2 prosecutor representing the United States and is bringing  
3 forward an issue regarding two witnesses. So I don't find that  
4 that objection is worthy. I'll deny that.

5 Why would you need CF and RM at this limited hearing,  
6 evidentiary hearing set for this afternoon?

7 THE DEFENDANT: Those two witnesses have been  
8 threatened also by this government, Your Honor. It's a bunch  
9 of FBI reports that has been complete outrage. One thing, you  
10 know, in the beginning of this case the report say one thing  
11 and now everybody seems to change their mind out of the blue  
12 because what the government has -- understand that both of  
13 them, of those people on this motion here, they have done some  
14 illegal activities.

15 This is -- Renata has engaged in a sham marriage. And  
16 Carla Filini's family has engaged in several real estate, you  
17 know, frauds. So because the scenario now seems to be  
18 everybody that used to be so close to me and they change their  
19 stories and they fabricating stories now that is not even true,  
20 so those people need to come and testify, Your Honor.

21 THE COURT: In other words, your argument is since  
22 they are testifying -- since they are offering evidence against  
23 you, you believe that they must therefore have been threatened  
24 by the government. Is that pretty much it?

25 THE DEFENDANT: They have no evidence against me, Your

1 Honor. But, you know, in the reports at the beginning of the  
2 case now they have reports made out up July of this year. One  
3 thing -- at the beginning of the case they say one thing.  
4 March 29 Carla Filini saying one thing. Now she's completely  
5 change the whole scenario thing. And false report has been  
6 made out to the sheriff's department that I stole her identity.

7 THE COURT: Has CF or RM told you that the government  
8 or their agents threatened them?

9 THE DEFENDANT: Yes.

10 THE COURT: They told that you?

11 THE DEFENDANT: They told my family.

12 THE COURT: No. No, sir. I asked you a simple  
13 question. Did CF or RM specifically tell you that they were  
14 threatened?

15 THE DEFENDANT: No, Your Honor. I'm in jail. I don't  
16 have any access to those people.

17 THE COURT: Well, you have access to a telephone. So  
18 I'm just asking. Did you hear from CF and RM directly that the  
19 government or their agents threatened them?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: All right. And it is not contained in the  
22 affidavit that was filed by Mr. Colon and your mother, is it?

23 THE DEFENDANT: I never seen the affidavit, Your  
24 Honor.

25 THE COURT: The affidavit was attached to the motion

1 that you filed.

2 THE DEFENDANT: No, it wasn't. Well, I never saw it  
3 because -- I mean, I filed the motion, but I never saw the  
4 affidavit.

5 THE COURT: How could you not see the affidavit if it  
6 was attached to a motion you filed?

7 THE DEFENDANT: Your Honor, I hand the affidavit to my  
8 investigator to mail for me. How can I have the affidavit when  
9 I'm sitting in jail? I have no contact with my family outside.

10 THE COURT: It's your testimony that before this  
11 hearing you have never read the affidavit that was filed by and  
12 signed -- was filed by you and it was signed by Mr. Colo and  
13 your mother? You haven't ever read that affidavit?

14 THE DEFENDANT: No. They mentioned to me what it was  
15 about, but I never saw it.

16 THE COURT: You don't have a copy of it with you?

17 THE DEFENDANT: No, Your Honor. I don't.

18 THE COURT: Okay. Tell me why it is that CF and RM  
19 would be witnesses as to the limited issues beyond anything  
20 that you've said already. Anything else you wish to add?

21 THE DEFENDANT: Renata used to work for me, Your  
22 Honor. She's one of my employees.

23 THE COURT: I'm sorry?

24 THE DEFENDANT: Renata used to work for me. She's my  
25 employee. For her to start making some reports, that doesn't

1 make any sense. Something is not right. She's change  
2 everything. At the beginning everybody seems to go into the  
3 house, helping to close the store, and now everybody change  
4 their stories and say things that is not even true.

5 THE COURT: So because of that you're assuming that  
6 she's been threatened?

7 THE DEFENDANT: I'm not assuming, sir. Nobody is  
8 going to change -- you know, same thing for Filini.

9 THE COURT: You're guessing then?

10 THE DEFENDANT: I'm not guessing, sir.

11 THE COURT: So what do you base it on that she has  
12 been threatened, that either CF or RM have been threatened?  
13 You haven't told me one thing yet to tell me directly --

14 THE DEFENDANT: Your Honor, Renata has broke the law.  
15 She married a guy to get a citizenship in this country. Not  
16 only she married this guy, she end up having a baby not long  
17 ago. She put the baby's name on the name of this guy, the same  
18 father that she has now. She engage in so much illegal things  
19 that now the impression had to help in this case. They knowing  
20 that she's --

21 I don't understand. Like people engage and do so much  
22 wrong things, and I'm the one here this jail. And everybody  
23 seems to change their stories now. She's definitely been  
24 pressured by the government. And they know. They have the  
25 knowledge that she committed a fraud.

1           THE COURT: Well, that's an easy statement to make,  
2 but you have no evidence to back that up, sir.

3           So I'm going to go ahead and grant the government's  
4 motion to quash the subpoenas. I find that they are not  
5 relevant to today's hearing. They may be relevant to your  
6 trial, I don't know. But if those witnesses are called by the  
7 government to testify, you can cross-examine them at trial and  
8 ask them whatever relevant questions you have. But I find that  
9 they are not relevant at all to the limited issue that is the  
10 purpose of today's hearing.

11           Now, I've read your motions in this case that you  
12 filed and we set down today as an evidentiary hearing. Do you  
13 wish to go ahead and call your first witness?

14           THE DEFENDANT: No, Your Honor. I'm not in a position  
15 to do this as I mentioned in my motion today.

16           THE COURT: I'm sorry?

17           THE DEFENDANT: I'm not in a position to do that  
18 today. I can't.

19           THE COURT: Well, sir, I'm telling you today is the  
20 day for your evidentiary hearing. You made a lot of  
21 allegations, you made a lot of complaints, you filed motions.  
22 And if you want to have an evidentiary hearing as you've  
23 requested on your motions, today is the day for it. So I'm  
24 asking you if you want to go ahead and call your first witness.

25

1 (Defendant and standby counsel conferring sotto voce.)

2 THE DEFENDANT: I'm going to go ahead and call the  
3 Agent VanBrunt.

4 THE COURT: You want to call Agent VanBrunt?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Well, are you going to call Mr. Colon or  
7 your mother?

8 THE DEFENDANT: I'm going to call Mr. Colon only. My  
9 mother is on medication. I don't think it is appropriate for  
10 her to be on the stand.

11 THE COURT: That's up to you. Are you going to call  
12 Mr. Colon?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Why would you be calling Agent  
15 VanBrunt before Mr. Colon? Because at this point I'm trying to  
16 hold an evidentiary hearing, but all I have seen so far are  
17 allegations. What is your intent here; to call Agent VanBrunt  
18 and then Mr. Colon?

19 THE DEFENDANT: Yes.

20 THE COURT: All right.

21 MS. MITRANI: Judge, we would object to that. The  
22 so-called affidavit talks about alleged intimidation to  
23 Mr. Colon and Mrs. Colon. If there is no evidence of Mr. or  
24 Mrs. Colon being intimidated, there's is no basis to call  
25 Agent VanBrunt.



1           THE COURT: Okay. You know, I tend to agree with  
2 that, Mr. Scotton. I think you have at least some burden here  
3 to come forward with some evidence to establish your claims,  
4 and I would like to hear from -- you know, the purpose of this  
5 evidentiary hearing was because you filed an affidavit which  
6 you say you now have never seen or read, which I find  
7 astonishing, but, nonetheless, the purpose of the hearing was  
8 to have the person who signed the affidavit, Mr. Colon, and/or  
9 your mother, come in here and testify so that the Court could  
10 consider some of the evidence that you wish to advance.  
11 Because if, in fact, your claim is accurate and you're making a  
12 valid claim, the Court wants to know about that.

13           So my question is: Do you want to call Mr. Colon?  
14           (Defendant and standby counsel conferring sotto voce.)

15           THE COURT: I'm not saying you can't call  
16 Agent VanBrunt. All I'm saying is that I would like to hear  
17 something from you -- from your witnesses that would establish  
18 a colorable claim as to why you believe that witnesses have  
19 been threatened. Then beyond that you may very well be  
20 permitted to call Agent VanBrunt.

21           THE DEFENDANT: I call Mr. Colon then.

22           THE COURT: Do me a favor, if you would. In addition  
23 to the issues that are addressed in my order, and I hope you  
24 have a copy of that with you because I want to keep it limited  
25 to that, you can also inquire into the issue regarding your

1 allegation that the government somehow stole or misappropriated  
2 your Rolex watch. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: That's the VanBrunt motion.

5 All right. You wish to call Mr. Colon at this time?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: If Mr. Colon would please come up. Do we  
8 need an interpreter for him?

9 THE DEFENDANT: At this point, Your Honor, any other  
10 witness that's going to testify I request the Court they can  
11 leave the courtroom at this point.

12 THE COURT: All right. First of all, let me ask you a  
13 question. Does Mr. Colon need a Spanish interpreter?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. Thank you.

16 Ms. Mitrani, is Agent VanBrunt the case agent?

17 MS. MITRANI: Yes, he is, Your Honor.

18 THE COURT: Aside from Agent VanBrunt is there anybody  
19 else that you would be call regarding any of these issues?

20 MS. MITRANI: There may be. So I'll excuse the  
21 special agent. But also I think Ms. Colon needs to be excused  
22 as well.

23 THE COURT: Right. Ms. Colon would have to go outside  
24 and any other agent that would testify. However, I'll make the  
25 exception for the case agent. The case agent is allowed to

1 stay in the courtroom to assist the prosecution. That's  
2 normally how it is done, Mr. Scotton.

3 MS. MITRANI: And I assume, Your Honor -- forget it.

4 THE COURT: All right. Let's go ahead and swear in  
5 the witness.

6 MS. MITRANI: Can I just have a moment?

7 THE COURT: Yes.

8 MS. MITRANI: If the interpreter can tell Ms. Marina  
9 Colon to step out.

10 THE COURT: Oh, right. The Portuguese interpreter.  
11 Yes. That's fine. Thank you.

12 CARLOS MANUEL COLON, DEFENDANT'S WITNESS, SWORN

13 THE COURTROOM DEPUTY: Please state your full name and  
14 spell your last name for the record.

15 THE WITNESS: Carlos Manuel Colon, C-O-L-O-N.

16 THE COURT: Mr. Colon, have a seat. Make yourself  
17 comfortable. And if you would just pull that microphone up to  
18 you so we can all hear you here in the courtroom and the court  
19 reporter can take down everything that you have to say.

20 All right. And, Mr. Scotton, do you wish to go ahead  
21 and proceed with your questioning of Mr. Colon?

22 DIRECT EXAMINATION

23 BY THE DEFENDANT:

24 Q. How are you doing, Carlos?

25 A. How are you?

1 Q. Let me ask you the first question. Have you taken any  
2 medication this morning?

3 A. Like everyday. I do.

4 Q. Okay. Are you feeling okay? You can go over this?

5 A. Yes, I believe so. I forgot something, I don't know,  
6 that's what I'm going to tell you, I don't know, I can't  
7 remember.

8 Q. Okay.

9 MS. MITRANI: Your Honor, Mr. Colon -- can you ask  
10 Mr. Colon to speak a little louder? I'm having some trouble  
11 hearing you. I apologize.

12 THE COURT: Mr. Scotton, if you could please speak a  
13 little louder into the microphone. And also, Mr. Colon,  
14 everybody in here needs to hear you, most importantly the court  
15 reporter, so that we can get a record of this hearing.

16 THE WITNESS: Can you hear now?

17 THE COURT: That's better.

18 THE WITNESS: Can you hear now?

19 THE COURT: That's fine.

20 BY THE DEFENDANT:

21 Q. Carlos, the day that I was arrest, you went to the location  
22 and you took possession of the car, correct?

23 A. Uhm, yes.

24 Q. The government explained here in the motion that they have  
25 returned to you the car with Citizen watch, 1,258 in cash, Hugo

1 Boss belt, Hugo Boss baseball cap, sunglasses, briefcase, and  
2 my laptop. That's correct? And two cell phones?

3 A. Yes, that's correct.

4 Q. You remember everything?

5 A. I don't remember everything, but it's written on a piece of  
6 paper. It say so.

7 Q. I need you to tell me them that you got all those things.

8 A. Yes, I did.

9 Q. The same day also around 7 o'clock in the nighttime he show  
10 up at the house?

11 A. Yes.

12 Q. And he -- as he's arriving, he show up in the house, he has  
13 more items to return to you?

14 A. I believe it was a belt. It was a belt that I had. I  
15 can't remember which one was it.

16 THE COURT: Mr. Scotton, when you say "he," who is  
17 "he"?

18 THE DEFENDANT: VanBrunt.

19 THE COURT: Who?

20 THE DEFENDANT: The agent.

21 THE COURT: But would you just clarify with Mr. Colon  
22 who the agent is.

23 BY THE DEFENDANT:

24 Q. The Agent VanBrunt?

25 A. Yes.

1 Q. Okay.

2 THE COURT: That was Agent VanBrunt?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right.

5 BY THE DEFENDANT:

6 Q. Did he return to you also my wallet and a cell phone?

7 A. Uhm, yes. I think it was.

8 Q. Okay. From that day he ask you to get out of the house and  
9 go downstairs with him to talk?

10 A. We meet in the parking lot. Yes.

11 Q. Okay. And I understand from you that you don't like the  
12 conversation that you had in the parking lot. What exact that  
13 you felt intimidated by VanBrunt?

14 MS. MITRANI: Your Honor, object to the form of the  
15 question. Just ask him what happened or what have you, but his  
16 narrative I object to.

17 THE COURT: Mr. Scotton, your question is what, if  
18 any, intimidation was lodged against him by Agent VanBrunt?

19 THE DEFENDANT: Yes.

20 THE COURT: Mr. Colon, if you could answer that  
21 question.

22 THE WITNESS: The way I feel intimidated was the way  
23 he keep repeating and repeating the same thing over and over.  
24 And one of the things that he told me was why don't you tell  
25 Rogerio to confess. You know he's guilty. I don't know he's

1 guilty. I don't know nothing about his life. But he was  
2 repeating and repeating those words. He tell me go talk to  
3 Rogerio and tell him that he's guilty, to confess. To confess  
4 what? To a crime that he hasn't commit? I don't know what  
5 he's been doing. But he keep repeating that. And it was about  
6 maybe half an hour that we was talking.

7 THE COURT: All right. Mr. Scotton.

8 BY THE DEFENDANT:

9 Q. So, Mr. Colon, you mention -- I understand you mention to  
10 my mother in -- I guess Carla has made a statement to you guys  
11 that if I don't plead guilty, it would be a bad thing for  
12 everybody else. Can you confirm that statement from VanBrunt?

13 A. I might hear it. I cannot say that I can remember exactly  
14 the words, but he was saying something like tell him to say  
15 that he's guilty or something will be wrong to his family or  
16 the whole family.

17 Q. So basically he's intimidated the family and found me  
18 guilty?

19 A. If that's the way people intimated, those are the words.

20 Q. Right. In one of those visitations VanBrunt went to the  
21 house. After he left the house my mother has call you. When  
22 you get to the house, what kind of situation did you find your  
23 wife in the home?

24 A. She was -- she wasn't happy. She was nervous like I was  
25 too. I never been in this situation before. I was concerned.

1 I was nervous and angry for myself because I don't know what --  
2 if I say something right or wrong or not. I didn't know. I  
3 didn't know how to act. I didn't know who to contact.

4 Q. How many times did Agent VanBrunt show up at your job?

5 A. Once after that.

6 Q. How many messages did your boss call you to let you know  
7 the FBI is after you?

8 A. Not my boss. Not my boss.

9 Q. Who is the person that told you that what's going on, why  
10 the FBI keeping coming here?

11 A. Not my boss.

12 Q. You mention to my mom one time that you're afraid of losing  
13 your job because they keeping come to your job.

14 A. The only came once over there.

15 Q. They come once?

16 A. Yes.

17 Q. And did you felt threat by them?

18 A. And he took -- he took him more than half an hour to say  
19 over and over and over and then handed me a subpoena.

20 Q. Okay. Several weeks ago three FBI guys show up at the  
21 house. I understand a couple days later another two FBI show  
22 up at the house.

23 A. Yes, that's what my wife told me.

24 Q. Right. Did you speak to those two agents that show up at  
25 the house?



1 A. The second time, yes.

2 Q. Right. Did you felt threat by them?

3 A. In a way, yes.

4 Q. Can you explain "in a way"?

5 A. My wife want to go with us, with me, and he said, no, this  
6 is personal, only concern him. And I was concerned. She's my  
7 wife. She should know everything what's happen between us.  
8 And he say it only concern you. And we just walk to the  
9 parking lot. We sit in the car. And it's one seat in the back  
10 seat, the other one in the front. As soon as we sit down in  
11 the car, he pull out a tape recorder and start recording  
12 whatever we was going to say.

13 THE COURT: Do you know the names of those two agents?

14 THE WITNESS: I believe -- do you mind if I pull his  
15 name out of -- I got a paper here that's got his name.

16 THE COURT: If you need to refresh your memory, you  
17 can look at your papers.

18 THE WITNESS: Yes, I remember only one, the one who  
19 left the card with my wife. Agent Kaelin.

20 THE COURT: How do you spell that?

21 THE WITNESS: I believe it's K-A-E-L-I-N.

22 THE COURT: Kaelin, K-A-E-L-I-N.

23 THE WITNESS: Yes.

24 THE COURT: All right. That was one of the two  
25 agents?

1 THE WITNESS: Yes. The other one didn't identify  
2 himself.

3 THE COURT: You're saying the interview was recorded?

4 THE WITNESS: Yes.

5 THE COURT: All right. Mr. Scotton, go ahead.

6 BY THE DEFENDANT:

7 Q. Did they accuse you of any crime?

8 A. They -- not really accuse. Well, they probably did accuse  
9 me of a crime, but I stop them right there. Because he was  
10 looking in his briefcase and he pull a paper saying, do you  
11 recognize this e-mail? It was a paper saying that I sent an  
12 e-mail to somebody name Pamela and has his -- Mr. VanBrunt,  
13 Roy's name, and his wife name, information that I get out of  
14 the internet. So she ask me for an e-mail. I sent it to her.  
15 And I tell the person, yes, I did send to her information out  
16 of the internet.

17 THE COURT: Let me make sure I have it straight. Your  
18 testimony is that they showed you an e-mail sent to some woman  
19 that was dealing with Agent VanBrunt and his wife?

20 THE WITNESS: That's what the -- that's what the  
21 e-mail said, his name and his wife name. And then this guy  
22 accuse me -- ask me if I know anything about a plot of killing  
23 them.

24 THE COURT: Of killing who?

25 THE WITNESS: Of these two persons mentioned in this

1 e-mail.

2 THE COURT: VanBrunt and his wife?

3 THE WITNESS: VanBrunt and his wife.

4 THE COURT: Who was this e-mail sent to?

5 THE WITNESS: To Ms. Pamela -- I can't remember her  
6 last name.

7 THE COURT: First name is Pamela?

8 THE WITNESS: Pamela. And I replied to him, no, I  
9 have no knowledge about this. And with the same token I just  
10 tell him I have been informed by a lawyer that he told me not  
11 to make any statement, not to talk, not to sign anything. And  
12 the lawyer that I spoke was Glantz Law, which I'm a member of  
13 this particular club called Legal Shield and they are -- the  
14 lawyers represent Legal Shield.

15 THE COURT: You said Glantz Law?

16 THE WITNESS: Glantz Law.

17 THE COURT: G-L-A-N-T-Z?

18 THE WITNESS: I thought I spelled it here, but I  
19 didn't.

20 THE COURT: All right. Thank you. Mr. Scotton.

21 THE WITNESS: Out of Fort Lauderdale.

22 THE COURT: Mr. Scotton, go ahead with your next  
23 question.

24 BY THE DEFENDANT:

25 Q. So basically accuse you that you try to conspire with me to

1 kill the FBI agent that arrest me?

2 A. That's correct.

3 Q. Right. Any knowledge why they threat you with that?

4 MS. MITRANI: Excuse me. I didn't hear the question.

5 THE COURT: I didn't hear the question either. If you  
6 could speak a little slower and enunciate clearly.

7 BY THE DEFENDANT:

8 Q. Any reason why they accuse of that?

9 A. Any reason? I don't know. They didn't show me anything  
10 else. The only thing they show me was this e-mail mentioning  
11 their two names. And he just asked me, do you have any  
12 knowledge of a plot of killing these two persons? I say, no, I  
13 have no knowledge.

14 Q. Can you explain to this Court why you can send the e-mail  
15 with name of VanBrunt and his wife?

16 A. Pamela was telling me she go to a place where she fix her  
17 hair and she thinks this lady is his wife. She wanted to know  
18 her name. And I just tell her, well, her name might be this  
19 one. And I just send her an e-mail with her name.

20 Q. Where did you meet Pamela?

21 A. Pamela?

22 Q. Where did you meet Pamela?

23 A. Pamela, I met here in -- visiting you.

24 Q. At FDC?

25 A. FDC, yes.

1 Q. And what Pamela doing at FDC?

2 A. Visiting her brother.

3 Q. Her brother is an inmate in FDC?

4 A. Yes.

5 Q. Right. Did you felt threat by those FBIs threatening you,  
6 I mean accusing you of killing the agent?

7 A. Of course I did. I have no knowledge of this. And then  
8 they just come and tell me something like this. I feel threat.

9 Q. The reason they send this e-mail to Pamela is to try to  
10 hurt someone, in any way hurt the FBI agent or his wife?

11 A. No. I just give her this lady's name and that's it. That  
12 was the only information I give her. And I took it out of the  
13 computer.

14 THE COURT: Mr. Colon, do you know how to spell  
15 Emilia?

16 THE WITNESS: Pardon?

17 THE COURT: The e-mail that you sent to Emilia, do you  
18 know how to spell Emilia?

19 THE WITNESS: Pamela.

20 THE COURT: Emilia? Is it E-M-I-L-I-A?

21 THE WITNESS: It's not Emilia. It's Pamela.

22 THE COURT: It's Pamela?

23 THE WITNESS: Pamela.

24 MS. MITRANI: Pamela, Your Honor.

25 THE WITNESS: Pamela.

1 THE COURT: Pamela. All right. So you were referring  
2 to Pamela? That's the person that you sent the e-mail to?

3 THE WITNESS: Pamela.

4 THE COURT: Okay.

5 BY THE DEFENDANT:

6 Q. Mr. Carlos, you remember the second lawyer that I have in  
7 this case Rob Abreu?

8 A. Out of Miami I think.

9 Q. Okay. I'm trying to see if I can help refresh your mind  
10 here. Abreu made a comment that possible my brother was  
11 involved back in the days with the FBI's wife and that's the  
12 reason why we start doing this investigation; is this correct?

13 A. He might did it. I can't recall when he did it, if he did  
14 it.

15 Q. Right. Out of the investigation Abreu did it in  
16 conversation with my brother. It's an assumption that my  
17 brother used to date the FBI's wife before they get married?

18 A. The way he put it, yes.

19 Q. And that's the reason you send e-mail to Pamela, Emilia,  
20 whatever her name is?

21 A. Pamela.

22 Q. Pamela.

23 But in no circumstance you try to hurt anybody, have  
24 you?

25 A. No. I have no reasons why.

1 Q. The day you show up in the house when your wife call you,  
2 she was recovering from surgery. What is the scenario that you  
3 find your wife in the house? Do you remember that day?

4 A. Wow. Trying to tell me -- trying to make me remember a  
5 surgery that she had. She had a couple this year. In January  
6 she have one what they put a -- what they calling a bursa  
7 colitis, and they cut part of her intestine. She have a bag  
8 outside.

9 Q. Colosto bag?

10 A. Yes, one of those bags now. And she was so sad and in pain  
11 that she got out of the bed and being legally blind is not easy  
12 to walk around with a bag like that to go to the bathroom or go  
13 do her stuff and that bag burst and she called me at work. I  
14 believe that's the situation you're trying to tell me. She  
15 called me at work and I had to get out of there right away and  
16 come and take care of her because we don't have a nurse to take  
17 care of her. It was a situation that it wasn't pretty. It  
18 wasn't good for nobody.

19 Q. And she end up in the hospital that day?

20 A. Yes, I had to take her back to the hospital.

21 Q. Because she felt afraid?

22 A. Uh-huh.

23 Q. Intimidated by this Agent VanBrunt?

24 A. I believe so.

25 Q. You believe so?

1 A. Yes, I believe, I believe it was that the way she felt.

2 Q. Couple months ago you went to a place in Pompano Beach. It  
3 is a print store. Do you recall that?

4 A. Yes, she went to that. She went there.

5 Q. Right. And you guys tried to go over there to get a copy  
6 of one receipt from Brazil Express USA Import/Export. Do you  
7 recall that?

8 MS. MITRANI: Your Honor, now I'm going to object.  
9 I'm going to object now. He's completely leading. But beyond  
10 that -- I realize he's pro se, but what is the relevance?

11 THE COURT: Right. And, Mr. Colon, were you present  
12 at this meeting where you went to some store or was it just  
13 your wife?

14 THE WITNESS: Just my wife.

15 THE COURT: All right. Then I would sustain the  
16 objection. If it was just him who went -- number one, he has  
17 no firsthand knowledge. And, number two, what is the relevance  
18 of getting a receipt from the store to what the limited issues  
19 are in this case?

20 THE DEFENDANT: Intimidation, Your Honor. And  
21 Mr. Colon was there because my mother, she's illegally blind,  
22 she can't drive. So if she went to the store, she only go with  
23 him.

24 THE COURT: Well, he just said he wasn't there. What  
25 is the relevance to the intimidation issues?



1 THE DEFENDANT: The people from the store told him  
2 they been intimidated from this agent, and they told they  
3 cannot help them any more.

4 THE COURT: Mr. Colon, do you recall being at the  
5 store that day with your wife or was it just your wife?

6 THE WITNESS: She went inside. I stay outside.

7 THE COURT: You don't have any personal knowledge of  
8 what was discussed inside?

9 THE WITNESS: Not really. No.

10 THE COURT: The objection is sustained. Go to your  
11 next question.

12 THE WITNESS: It was just her.

13 BY THE DEFENDANT:

14 Q. This last month when the agent show up at the house, my  
15 mother was by herself in the house. What exact she told you  
16 how that she felt intimidated for her life? What happened that  
17 day?

18 MS. MITRANI: Same objection, Your Honor. The mother  
19 is here. She can clearly testify to her own feelings.

20 THE COURT: I'll give him a little bit of leeway in  
21 light of the motion the defendant made earlier.

22 Do you understand what your wife told you about  
23 whether or not she felt intimidated and if so why?

24 THE WITNESS: What she was explaining to me was that  
25 she jump out of bed when they were banging the windows and

1 banging the door, making all this noise. I don't know why.  
2 Because there was knocking on the window in the kitchen and  
3 then banging on the door, on the front door. It's only one  
4 entrance and only one exit. And she just get excited and  
5 anxious, try to look through the peephole and try to find out  
6 who was it.

7           When she opened the door, she tell me there was three  
8 guys and they asked for me. And I believe she told them --  
9 they ask when I'm going to be home, and she said that I'm going  
10 to be home at 6 o'clock. And one of the agent, I believe it  
11 was Mr. Kaelin, give her a card, tell him to call me. Which I  
12 did. I called him afterwards. And that's when we meet the  
13 second time.

14           THE COURT: Go ahead, Mr. Scotton.

15 BY THE DEFENDANT:

16 Q. Does the door have a bell -- do you have a doorbell?

17 A. Yes, there's a doorbell.

18 Q. It is working?

19 A. It's working.

20 Q. So there was no need for anybody to kick in the door, kick  
21 in a window?

22 A. No.

23 Q. Okay. So --

24           THE COURT: Wait a minute. Mr. Colon, did anybody  
25 kick the door or window?

1 THE WITNESS: No, they just bang on it.

2 THE COURT: Go ahead, Mr. Scotton.

3 BY THE DEFENDANT:

4 Q. So basically the affidavit that's put it in, you guys been  
5 feeling intimidated, you guys afraid of your lives, of losing  
6 your job. Can you describe the Court what is your feeling by  
7 filing the affidavit?

8 A. Well, when I talked to the lawyers and I explain what was  
9 going, what went into that meeting with the agent in his car,  
10 he told me they still can arrest you. I said, for what? I  
11 haven't done anything. But he continue telling me they still  
12 can arrest you and they can put you through all of this system,  
13 all this process of taking you to detention and arrest you.  
14 And even if they don't charge you, if they charge you with  
15 whatever, then that's when we come in. I said, well, do you  
16 have, do you have to wait until I get arrested so you can  
17 prevent this? He say yes. So they cannot -- they not arrest  
18 you, we cannot do anything.

19 THE COURT: And that's a legal plan.

20 THE WITNESS: That's the legal plan.

21 THE COURT: So your attorney was telling you or the  
22 attorney from the Legal Plan was telling you they can't get  
23 involved unless you were to get arrested.

24 THE WITNESS: Correct.

25 THE COURT: Under the terms of the plan?

1 THE WITNESS: Yes.

2 THE COURT: All right. I understand.

3 Mr. Scotton, go ahead.

4 BY THE DEFENDANT:

5 Q. So you been threat to be arrest?

6 A. I was, I was concerned. I was looking over my shoulder  
7 every other day trying to figure out if somebody was watching  
8 me, yes, to be -- because there were cars all over the place in  
9 the parking lot that I didn't know who they were. I was  
10 concerned if they was looking for me. They might be somebody  
11 pulling me over and arrest me the same way they did to you. I  
12 don't know.

13 Q. Okay. At this point can you describe to the Court, to the  
14 judge how has been your life?

15 A. With the threats?

16 MS. MITRANI: Objection, Your Honor.

17 THE COURT: Hold on a second. I'm going to sustain  
18 the objection. Could you narrow the question? I'm not sure I  
19 understand.

20 BY THE DEFENDANT:

21 Q. How this has been affect your life, Mr. Colon.

22 THE COURT: Wait a minute. What was the question?

23 THE DEFENDANT: How this has been affect Mr. Colon,  
24 how the situation has affected his life.

25 THE COURT: Go ahead.

1           THE WITNESS: If affected my life, it affected the way  
2 I been dealing with the issue in the last few months. Well,  
3 being A and B student for the last couple of years, all of a  
4 sudden this semester all my grades were down to C. I haven't  
5 been able to concentrate to study. I haven't been able to  
6 concentrate and do my projects. I haven't been able to be a  
7 person that I used to be. And this is something that I  
8 believe. I don' know. If I'm wrong, I might be wrong, but  
9 this is something that is hurting my mental health, my  
10 condition, my health, and I'm not, I'm not as free as I used to  
11 be before. I can't say, well, I take off and I be free to do  
12 whatever I usually do, go traveling. And keep watching on my  
13 side who's next to me or who's going to be next to me the next  
14 time. Just afraid to be arrested. That's --

15 BY THE DEFENDANT:

16 Q. During that meeting with the agents in the house did you  
17 feel uncomfortable when they told you to get inside of the car?

18 A. They -- in a way, yes. But they don't want to -- we don't  
19 want to meet inside of the house because the way he explained  
20 to me was confidential, it wasn't for nobody else to know. And  
21 he recommend to go into -- I recommend to go into the parking  
22 lot. He recommend to go inside of the car.

23 Q. You made a statement to one of my attorneys that the  
24 prosecutor has -- Agent VanBrunt has told you that if no help  
25 to the prosecutor in testify on their behalf, you're going to

1 have some problems.

2 A. I cannot say that I remember exactly what I said, but it  
3 was something like that.

4 Q. Okay. And in your words can you explain what the threats  
5 was?

6 A. It's been kind of confusing the way -- because the way he  
7 was talking to me was repeating and repeating the stuff over  
8 and over, and I can't even remember exactly the words.

9 Q. You make a statement and the statement say that they want  
10 you guys to convince me to plead guilty otherwise you guys  
11 going to have charges brought up against you guys.

12 THE COURT: Hold on one second. I'm not sure that's  
13 what he said. Let's just ask a question.

14 You indicated there was a conversation in the car  
15 outside of the house; is that right?

16 THE WITNESS: Yes, it was.

17 THE COURT: All right. You've already described what  
18 that conversation was. Is there anything else that was  
19 allegedly of a threatening or intimidating nature that the  
20 agent said to you?

21 THE WITNESS: No. Because as soon as I mention that I  
22 have information, that I been talking to Glantz Law, they  
23 advise me not to say anything, not to make any statement, and  
24 not to sign anything, he just stopped right there and he didn't  
25 ask me anything else. And I said, that's it? I said -- and I

1 walk out, and I walk out of the car, and they take off.

2 BY THE DEFENDANT:

3 Q. Did you feel threat for your life right now?

4 A. Well, right now, no.

5 Q. Your freedom.

6 A. Of course, yes. The way the lawyer was putting the words  
7 that he was telling me, maybe they arrest me any time.

8 Q. Do you think those couple of times they approach you and  
9 your wife it is appropriate the way they been talking to you  
10 guys?

11 A. It's not right way. It could be a different way to do it.

12 Q. So you feel threat by them?

13 A. Yes.

14 THE DEFENDANT: Your Honor, I don't have no more  
15 questions.

16 THE COURT: Thank you, Mr. Scotton.

17 Ms. Mitrani, does the government have any questions?

18 MS. MITRANI: Yes, Your Honor.

19 THE WITNESS: Excuse me, Your Honor. Can I get some  
20 water?

21 THE COURT: Of course you can.

22 THE DEFENDANT: Your Honor --

23 THE COURT: Hold on a second. He needs to get some  
24 water. Could we have somebody go get him a cup of water?  
25 Let's not start until we get him some water.

1           THE DEFENDANT: Is there any way I can ask one of  
2 those ladies here to see how my mother feeling as to take the  
3 stand?

4           THE COURT: Sure. If the Portuguese interpreter  
5 wouldn't mind going out and making sure his mother is okay.

6           THE INTERPRETER: Sure.

7           THE COURT: And also -- hold on just one second. Do  
8 you want to ask her if she wants to take the stand?

9           THE DEFENDANT: Yes.

10          THE COURT: You will have to ask her that yourself.  
11 Once we finish with Mr. Colon we can bring her in and you can  
12 speak to her and ask her if she wants to take the stand. Do  
13 you want her to check to see if she is okay?

14          THE DEFENDANT: Yes.

15          THE COURT: If you don't mind, check to see if she is  
16 okay.

17          THE DEFENDANT: Thank you, Your Honor.

18          THE COURT: Let's wait until he gets some water and  
19 then you can start.

20          THE DEFENDANT: Your Honor, I don't know after this is  
21 there going to be anything else that we're going to be hearing,  
22 but I remember the last hearing we have we mention about the  
23 other investigator on this case.

24          THE COURT: Right. That's another -- that's a  
25 separate issue.





1 Q. Many, many years ago, right?

2 A. 1999.

3 Q. That's a long time.

4 You love Roger very much?

5 A. Yes, I do.

6 Q. And you love your wife Marina very much?

7 A. More than him.

8 Q. What?

9 A. More than him.

10 Q. No, you're not supposed to say that.

11 THE COURT: Hold on one second.

12 THE INTERPRETER: Your Honor, she said she is okay so  
13 far but that her blood pressure is not really -- she took the  
14 medication this morning, but she's feeling that something is  
15 not right, but she's hanging in there.

16 THE COURT: All right. If she needs any medical  
17 attention at all, tell her to contact one of the security  
18 officials or CSO.

19 THE INTERPRETER: I did.

20 THE COURT: Thank you. You may go ahead, Ms. Mitrani.

21 MS. MITRANI: Thank you, Your Honor.

22 BY MS. MITRANI:

23 Q. Your name is Carlos Manuel Colon Baez?

24 A. That's what it says on my birth certificate. Yes, ma'am.

25 Q. Okay. But you go by Mr. Colon because you were born in

1 South America, correct?

2 A. No, I was born in San Juan, Puerto Rico.

3 Q. I apologize.

4 A. Thank you.

5 Q. But it is the Latin custom to put the mother's name as the  
6 fourth name, but you go by Colon?

7 A. No, that's my father's name.

8 Q. Father's name.

9 A. Yes.

10 Q. Okay. Now we know who you are.

11 You never met me before, correct? This is the first  
12 time you met me?

13 A. It's the first time we spoke.

14 Q. Right. You've seen me --

15 A. I seen you.

16 Q. -- because you've been to other court proceedings?

17 A. Yes.

18 Q. But we never had a conversation?

19 A. That's correct.

20 Q. All right. And behind me that's Special Agent Roy  
21 VanBrunt?

22 A. Yes, it is.

23 Q. Do you recognize him?

24 A. Yes.

25 Q. You've seen him a couple of times?

1 A. Of course.

2 Q. You've always -- when you've spoken to him, you call him  
3 "Roy," right?

4 A. That's correct.

5 Q. And he calls you "Carlos"?

6 A. Yes.

7 Q. It's always been a friendly interaction?

8 A. As -- I just consider him as a coworker because he is a  
9 federal employee like me.

10 Q. Okay. And when I say everything has been friendly,  
11 needless to say you would prefer to not be contacted by the  
12 FBI? That would be your first choice, correct?

13 A. Definitely, yes.

14 Q. Probably your second and third, right?

15 A. Definitely.

16 Q. Okay. But to the extent that the FBI has had -- and let's  
17 just talk about Roy for right now, Roy VanBrunt. He's always  
18 been respectful to you?

19 A. Yes.

20 Q. He's always been dressed either in a suit and a tie or in  
21 plain clothing, correct?

22 A. Yes.

23 Q. He never had a like a SWAT vest on?

24 A. No, I haven't seen him with that type of dressing.

25 Q. Combat?

1 A. No.

2 Q. He's never brandished a weapon which is a fancy way of  
3 saying he's never taken out his gun, correct?

4 A. Not yet. No.

5 Q. Mr. Colon, you have no reason to think Agent VanBrunt would  
6 ever do that, do you?

7 A. No, I hope not.

8 Q. Well, he never has?

9 A. No.

10 Q. Okay. Now, the first time you ever heard of Agent VanBrunt  
11 was on March 15, 2012, correct? And I'll just tell you that is  
12 the day that Roger got arrested.

13 A. Maybe not. Maybe I got his name in some other incidents  
14 and situation that didn't related to this particular case.

15 Q. Well, tell me about that. When did you interact with Agent  
16 VanBrunt prior to March 15, 2012?

17 A. The application that I put for the FBI department.

18 Q. We'll talk about that. You did apply to become an FBI  
19 agent?

20 A. Not really.

21 Q. Actually, no, you're right. You applied to work with the  
22 FBI?

23 A. Yes.

24 Q. But did you interact with Agent VanBrunt during your  
25 application process?

1 A. No, he just contact me to find some information which I  
2 never did contact him back and -- but I know his name.

3 Q. Fair enough.

4 And, in fact, when you applied to the FBI, it was a  
5 lengthy application, correct?

6 A. Yes.

7 Q. And in that, in fact, they asked you where you lived,  
8 right, all your addresses?

9 A. Yes.

10 Q. And they asked you personal information like your date of  
11 birth, Social Security, et cetera?

12 A. Yes.

13 Q. They asked you about your employment, correct?

14 A. Some, yes.

15 Q. And you told them about your employment?

16 A. Some.

17 Q. And you told them that, in fact, you worked for Brazil  
18 Express, correct?

19 A. That's what I did, but it wasn't exactly correct because I  
20 really wasn't working for them. I was just as assessor. I  
21 never really was on payroll. I was doing like a  
22 (unintelligible), and that was it.

23 Q. You told the FBI when you applied that you worked for  
24 Brazil Express?

25 A. That's the reason why he called me which I tell him, no, I

1 didn't work for them as a --

2 THE DEFENDANT: I object to that, Your Honor. It has  
3 nothing do with the threats that we be talking about here.

4 THE WITNESS: But then --

5 THE COURT: Hold on just a second.

6 The objection is overruled. It goes to credibility  
7 and it's relevant to this proceeding. You may go ahead. I  
8 don't know if he finished his answer or not.

9 BY MS. MITRANI:

10 Q. Mr. Colon, I don't want to get into a big discussion about  
11 that now. There will be time for that. If I'm saying  
12 something that's not right, you correct me. But you did tell  
13 the FBI you worked for Brazil Express, right?

14 A. Yes.

15 Q. They didn't make that up?

16 A. No.

17 Q. You told them?

18 A. Yes.

19 Q. And you said that you work at Brazil Express at 7797 Golf  
20 Circle Drive?

21 A. Yes.

22 Q. And that is your address, sir, correct?

23 A. Yes.

24 Q. In Margate, Florida?

25 A. Yes.

1 Q. You told them that you worked from home contacting clients  
2 in response of inquiring to send packages out of the country by  
3 DHL making commercial invoices, airway bills, and making boxes  
4 and packages suitable for travel to different countries like  
5 South America and the Caribbean. You also said you contacted  
6 DHL to arrange for pickups and for all of the packages. Did  
7 you tell the FBI that?

8 A. I did. Yes.

9 Q. Okay.

10 A. I -- yes, I did. And I regret saying all of that because  
11 part was completely true, part wasn't. Now, like you said, you  
12 want to talk about that later. That's not -- it's -- you know,  
13 I really don't want to discuss.

14 Q. Well, you have to answer my questions. What you're saying,  
15 so we're clear, is that --

16 A. You know --

17 MS. MITRANI: Can I finish asking my question, Your  
18 Honor?

19 THE DEFENDANT: Beyond the scope, Your Honor. Beyond  
20 the scope of examination, Your Honor.

21 THE COURT: It's really not beyond the  
22 cross-examination, Mr. Scotton, because it goes to credibility.

23 THE COURT: Let me just tell you, sir, that if you  
24 believe that any answer to any question may incriminate you,  
25 you have the right under the constitution to refuse to answer



1 on the grounds that any response that you give may tend to  
2 incriminate you. Do you understand that?

3 THE WITNESS: Now I do.

4 THE COURT: Okay. Well, you've taken the stand  
5 voluntarily. You have been subpoenaed by your stepson and  
6 you've taken the stand voluntarily. But if there is a response  
7 to a question that you believe would tend to incriminate you,  
8 you could raise the objection that any response that you give  
9 might tend to incriminate you and violate your Fifth Amendment  
10 rights. Do you understand that?

11 THE WITNESS: Yes, now I do.

12 THE COURT: And the Court would rule on that.

13 THE WITNESS: Thank you.

14 THE COURT: You may go ahead.

15 MS. MITRANI: Thank you.

16 BY MS. MITRANI:

17 Q. So I'm going to move on. Like you had said before I was  
18 interrupted, you agree that you put that down on the  
19 application for employment and now you're saying some of it was  
20 true and some was not true; is that fair?

21 A. Yes.

22 Q. Now, March 15, 2012, you received a phone call from Agent  
23 VanBrunt, correct?

24 A. That's correct.

25 Q. He told that you Roger, Roger Scotton, Rogerio -- I don't

1 know what you call him -- he had been arrested?

2 A. Yes.

3 Q. And Agent VanBrunt told you that Roger Scotton had been  
4 arrested?

5 A. Yes.

6 Q. This was shocking to you, correct?

7 A. Definitely, yes.

8 Q. You didn't know he was going to be arrested?

9 A. No.

10 Q. You were upset?

11 A. Yes.

12 Q. And Agent VanBrunt explained to you that he was driving a  
13 car, an Infinity, correct?

14 A. Yes.

15 Q. In fact, that Infinity was leased to you, right?

16 A. Yes.

17 Q. It was under your name?

18 A. Yes.

19 Q. Do you know why it was leased to your name but Roger was  
20 driving it?

21 A. Uhm, I believe because his credit wasn't that great and he  
22 couldn't get the car put on his name and because my credit was  
23 better, I just sign for him and I put it on my name and he pay  
24 for it.

25 Q. And Agent VanBrunt told you that if you wanted, that agents

1 of the FBI would wait with that car and return it to you with  
2 certain items if you wanted to come and get it, correct? They  
3 gave you that option?

4 A. That's correct.

5 Q. And Agent VanBrunt explained to you the alternative was the  
6 FBI would have to tow it to the FBI headquarters in North Miami  
7 Beach? Did he explain that to you?

8 A. No, ma'am.

9 Q. Okay.

10 A. That wasn't.

11 Q. That wasn't explained to you?

12 A. No.

13 Q. But if that was explained to Roger, you would have no  
14 reason to dispute that?

15 A. No, because he was responsible for the car.

16 Q. And so you told Agent VanBrunt that, yes, you wanted to  
17 pick up the car, to give you a little bit of time because you  
18 were at work, you had to leave work, you had to make  
19 arrangements, correct?

20 A. That's correct.

21 Q. You couldn't drop everything?

22 A. No.

23 Q. And the agent said, that's fine. They didn't make you come  
24 right that second. In fact, they waited for you to arrive to  
25 pick up the vehicle?

1 A. That's correct.

2 Q. And by the time you picked up the vehicle Agent VanBrunt  
3 was no longer there, correct?

4 A. That's correct.

5 Q. And Roger Scotton was no longer there, correct?

6 A. That's correct.

7 Q. But the agent gave you back some property and gave you back  
8 the car?

9 A. That's correct.

10 Q. All right. Was it at that time that they gave you back a  
11 Citizen's watch? Did they give it to you at that time or later  
12 that night?

13 A. No, the watch -- I believe the watch was in the package.

14 Q. That you got when you got the car?

15 A. The money and -- there was a whole list. I can't remember.

16 Q. Right. In fact, I have in it in my motion. They also gave  
17 you money, approximately -- I don't have the exact amount in  
18 front of me, but approximately 1,000 to \$1,500, somewhere in  
19 that ballpark --

20 A. Yes.

21 Q. -- in cash?

22 A. Yes.

23 Q. And they returned it to you?

24 A. Yes.

25 Q. Later that day you had contact in person with Agent

1 VanBrunt, correct?

2 A. That's correct.

3 Q. Again, he was dressed in regular clothing?

4 A. Yes.

5 Q. He never raised his voice at you?

6 A. No.

7 Q. In fact, he wanted to return property to you?

8 A. Yes.

9 Q. And he did return property to you?

10 A. Yes.

11 Q. All right. And that interaction was pretty brief?

12 A. Well, if you call brief about half an hour, maybe. Yes.

13 Q. He explained to you a little bit about what Roger was being  
14 charged with?

15 A. Yes.

16 Q. This is all the same day of the arrest?

17 A. Yes.

18 Q. You're still in shock?

19 A. Yes.

20 Q. And you're still very upset?

21 A. Of course.

22 Q. And you're wife even more so?

23 A. More.

24 Q. Then you don't have any more interactions, face-to-face  
25 interactions with Agent VanBrunt until it was either May, June

1 or -- either June or July of that same year when he spoke to  
2 you at your place of employment, correct?

3 A. Yes.

4 Q. You may have seen him around in court, but you never had  
5 conversation with him between March 15, the day of the arrest,  
6 and the day he came to interview you at the VA, correct?

7 A. That's correct.

8 Q. And he never came to your house in that intervening period  
9 of time either --

10 A. No.

11 Q. -- as far as you know to speak to you?

12 A. Not when I was there.

13 Q. Not when you were there. Right.

14 So just so you know, everything that I'm asking is  
15 based upon what you know based on what you have seen yourself  
16 or heard yourself, not on others. Okay?

17 A. Yes.

18 Q. And when he spoke to you at the VA, again he was dressed in  
19 plain clothing?

20 A. Yes.

21 Q. He didn't brandished a weapon? He didn't pull out a  
22 firearm?

23 A. No.

24 Q. He called you "Carlos"?

25 A. Yes.

1 Q. You called him "Roy"?

2 A. Yes.

3 Q. He never raised his voice at you?

4 A. No.

5 Q. And he was asking you a lot of questions about the  
6 business, correct?

7 A. Yes.

8 Q. The business being he was asking you a lot of questions  
9 about Brazil Express, right?

10 A. Which I don't know. I keep telling him I don't know, I  
11 don't know, I don't know, I don't know.

12 Q. You told him -- but that's what he was asking you about?

13 A. More or less, yes.

14 Q. Okay.

15 A. And also -- yes, business, the Rogerio business which I  
16 don't know.

17 Q. But, of course, as far as Roy knew you had applied to the  
18 FBI and said you did work there?

19 A. Well, yes. He --

20 Q. Yes, you did?

21 A. Yes.

22 Q. It wasn't out of the blue that he's asking you questions  
23 about Brazil Express, because he had evidence that you worked  
24 for Brazil Express, right?

25 A. Yes.

1 Q. Okay. And he's asking you about business records, right?

2 A. He did.

3 Q. And you answered however you answered the questions?

4 A. Which I can't remember.

5 Q. All right. He also asked you about a lease, whether you  
6 had leased your apartment, whether you had ever leased your  
7 apartment to Roger?

8 A. A lease to my apartment?

9 Q. Agent VanBrunt asked you about that. I'm just covering  
10 very briefly the topics.

11 A. I can't recall about that.

12 Q. Okay. But if --

13 A. If he did, I don't know.

14 Q. You don't remember. You're not saying it didn't happen.

15 A. He might ask me, but I can't remember.

16 Q. But you can't remember. I have to slow down.

17 And he may have also asked you some personal questions  
18 about Roger Scotton, right?

19 A. He might.

20 Q. He might have asked you about other wives and wives that he  
21 had?

22 A. He might mention some names which I don't know.

23 THE DEFENDANT: Objection, Your Honor.

24 THE COURT: I'm sorry?

25 THE DEFENDANT: This is beyond the scope.



1 THE COURT: All right. I'll overrule that.

2 BY MS. MITRANI:

3 Q. And then the interview ended. Before the interview ended  
4 Agent VanBrunt handed you a subpoena?

5 A. Yes.

6 Q. He told you there was a trial scheduled August 2012?

7 A. Yes.

8 Q. And that subpoena asked for records?

9 A. Yes.

10 Q. A whole bunch of records?

11 A. A bunch of records, yes.

12 Q. And then the interview ended?

13 A. But before that he keep telling me why don't you tell Roger  
14 to confess, to say whatever is supposed to be -- to confess to  
15 a crime, which I don't know what crime he was trying to tell  
16 me. When he tell me to -- now I find out that he's been  
17 charged with mail fraud which I just read it, and I said, why?  
18 I don't know. I don't know if he is doing this or not. And  
19 then it ended.

20 Q. Now, are you sure that Agent VanBrunt told you to tell --  
21 what are you saying? Are you saying -- strike that.

22 Are you saying that Agent VanBrunt directed you, told  
23 you to tell Roger Scotton to confess?

24 A. He just ask me to tell him -- he just -- why don't you tell  
25 Roger to confess, to tell to tell the truth and say that he did

1 it.

2 Q. Is it possible that Agent VanBrunt told you I would advise  
3 you, I suggest that you tell Roger to tell the truth?

4 A. He didn't.

5 Q. Does that sound right?

6 A. He didn't mention --

7 Q. Did he tell you Roger should tell the truth?

8 A. He might tell me that. But he didn't say --

9 Q. Right. But he didn't say --

10 THE DEFENDANT: I object, Your Honor.

11 BY MS. MITRANI:

12 Q. He just said that Roger should tell the truth, correct?

13 THE COURT: Hold on. What's the objection?

14 THE DEFENDANT: She tried to put words in Mr. Colon's  
15 mouth. She tried to change his mind.

16 THE COURT: It's a leading question that is  
17 appropriate on cross-examination. Would you restate the  
18 question?

19 BY MS. MITRANI:

20 Q. Now, your memory, as you indicated earlier, is not a  
21 hundred percent, correct?

22 A. That's correct.

23 Q. It's not like a little tape recorder where you can say  
24 every single word -- you've got to let me finish -- every  
25 single word that Agent VanBrunt said and every single word that

1 you said?

2 A. That's correct.

3 Q. All right. Do you remember Agent VanBrunt telling you that  
4 he would advise or he suggests that your stepson just tell the  
5 truth, correct? That's what he said?

6 A. That he might say that, but I don't remember he saying  
7 that.

8 Q. He never told you to tell Roger to confess. What he told  
9 you was to tell Roger to be truthful. And then you took that  
10 to mean he should confess because you think that's what the FBI  
11 wants, right?

12 A. I guess so.

13 Q. You think that the FBI likes confessions, right?

14 A. Definitely.

15 Q. You think that's something important to the FBI?

16 A. If he mention it that's what he want.

17 Q. But maybe he didn't mention the word "confess." Maybe he  
18 mentioned the words "be truthful" and in your mind you thought,  
19 oh, I want him to confess. Is that possible?

20 A. It could be. Yes.

21 Q. So that's back in the summer, I think in June, and it may  
22 have been June or July, I don't -- that date doesn't matter.

23 In the summer of 2012 you had that meeting and got served with  
24 the subpoena, correct, to testify in Miami before Judge  
25 Williams in August of 2012, correct?

1 A. I believe it was correct. Yes.

2 Q. And then you found out that the case had been transferred  
3 from Miami to Fort Lauderdale to Judge Rosenbaum?

4 A. It was suspended.

5 THE DEFENDANT: Objection, Your Honor.

6 BY MS. MITRANI:

7 Q. You found out it was transferred?

8 THE COURT: Hold on a second. What was the objection?

9 THE DEFENDANT: Beyond the scope, Your Honor.

10 THE COURT: All right. I think she's just asking  
11 questions which are within the purview of the scope. So go  
12 ahead. You may ask the question and get an answer.

13 BY MS. MITRANI:

14 Q. You found that the case was continued, it was not going to  
15 be in Fort Lauderdale?

16 A. That it was canceled, yes.

17 Q. The trial was canceled and then it was moved to  
18 Fort Lauderdale?

19 A. Yes.

20 THE DEFENDANT: It's irrelevant, Your Honor.

21 THE COURT: All right. I'll overrule that. I believe  
22 she is leading up to her next question.

23 BY MS. MITRANI:

24 Q. And then you don't have any other interactions with Special  
25 Agent VanBrunt until August of 2013 when he served you with

1 another trial subpoena, correct?

2 A. That's correct.

3 Q. So about a year or maybe even more he didn't knock on your  
4 door --

5 A. No.

6 Q. -- that you saw, correct?

7 A. Not that I saw.

8 Q. He didn't call you?

9 A. No.

10 Q. He didn't come to your work?

11 A. No.

12 Q. Okay. Then in August of 2013 he served you with a subpoena  
13 for trial August 26, correct?

14 A. I believe that's correct.

15 Q. And he told you that he -- if you had the documents that  
16 were responsive, you were required to bring them to court on  
17 Monday morning, August 26, correct?

18 A. Either that or call him and give it to him before, before  
19 the trial, and which I don't have any records. I show up in  
20 court and he meet me at the door, and he said it has been  
21 canceled.

22 Q. Okay.

23 A. And he wrote on a piece of paper, on the same subpoena, for  
24 my supervisor, the judge will call again for this case,  
25 whatever. I can't remember the words, but he wrote on the same

1 subpoena to show it to my supervisor because I might be called  
2 again, which never happened.

3 Q. Okay. So he serves a subpoena, he gave you the option of  
4 calling him and not appearing on the 26th or appearing on the  
5 26th, right? He said you can call him also?

6 A. Yes.

7 Q. And then you did come as you were required by your  
8 subpoena? You did come Monday, August 26, correct?

9 A. I saw him in the -- I went to the court.

10 Q. Right. You went to the courthouse and Agent VanBrunt met  
11 you there?

12 A. In the front door. In the lobby. Just before entrance to  
13 the building. And he said the trial has been canceled. And he  
14 wrote in the same subpoena for my supervisor because it was  
15 canceled that I might be called again for that trial.

16 Q. Because of your concern for your job about missing time  
17 coming to court hearings?

18 A. Because -- yes, and I'm not in the freedom of saying, hey,  
19 I got to go. It's not my job. I'm responsible to some other  
20 people. It's not just me.

21 Q. I understand. And that's part of your concern, and you're  
22 testifying about before that you're concerned about your job  
23 because it seems that you're getting subpoenas, you got two  
24 subpoenas from Agent VanBrunt, and you got another subpoena  
25 from the United States marshal, correct?

1 A. Now I did.

2 Q. Right.

3 A. Which I did -- which my wife also receive.

4 Q. And when Agent VanBrunt met you at the courthouse to tell  
5 the trial had been canceled, he was respectful, correct?

6 A. Yes.

7 Q. He was courteous?

8 A. Yes.

9 Q. And he didn't engage you in a conversation? He didn't try  
10 to interview you or anything of that nature?

11 A. No.

12 Q. It was a brief interaction?

13 A. As soon as -- yeah, it was a matter of I saw him and I give  
14 him the subpoena and he just wrote on the piece of paper and I  
15 walk away.

16 Q. And he hasn't served you with any papers since then, since  
17 August of 2013?

18 A. No.

19 Q. And you haven't had any conversations with him since  
20 August 2013?

21 A. No.

22 Q. He hasn't come to your house when you've been there since  
23 August of 2013?

24 A. No.

25 Q. Now, in October, October 18, 2013, your wife told you that

1 three FBI agents had come to the house, correct?

2 A. That's correct.

3 Q. She told you that they had come there at a time when you  
4 were at work?

5 A. That's correct.

6 Q. And your wife told you that that FBI agent, Special Agent  
7 Kaelin wanted to speak with you, correct?

8 A. That's correct.

9 Q. And you called him back that very evening, correct?

10 A. Maybe the next day.

11 Q. Okay. Either that evening, Friday evening, or the next day  
12 Saturday; is that right?

13 A. I think it was Thursday that he went. Was it Thursday? I  
14 think I call him -- I call him Monday.

15 Q. You met with him on a Monday, correct?

16 A. Monday, yes.

17 Q. You didn't meet with him the same day he came to your  
18 house?

19 A. No.

20 Q. So if I represent to you that the first interaction was on  
21 a Friday, October 18, and then you met with him in the car on  
22 Monday, October 21, you have no reason to doubt that, correct,  
23 sir?

24 A. That is correct.

25 Q. All right. And then Agent Special Agent Kaelin told you



1 on -- when you spoke to him that Friday evening or that  
2 Saturday, he wanted to speak with you and then he would return  
3 to your house on Monday after you got home from work, correct?

4 A. Yes.

5 Q. So you were expecting him?

6 A. Yes.

7 Q. It wasn't a surprise when he returned on Monday?

8 A. Yes.

9 Q. And when he returned on Monday, he was dressed in plain  
10 clothing, correct?

11 A. Yes.

12 Q. He didn't have like a bulletproof vest or like army gear or  
13 SWAT gear or anything like that?

14 A. His partner was.

15 Q. I'm talking about Special Agent Kaelin.

16 A. No.

17 Q. His partner had a shirt on but didn't have a vest,  
18 bulletproof vest on?

19 A. It was camouflage.

20 Q. Nobody showed you a gun?

21 A. No. They did have them, but --

22 Q. You saw the gun because they're the FBI?

23 A. Yes.

24 Q. Okay. But you didn't see a gun?

25 A. They didn't point it at me, no.

1 Q. You didn't see a gun?

2 A. No.

3 Q. Special Agent Kaelin, he never yelled at you?

4 A. No.

5 Q. He said he wanted to speak to you when he came to the door?

6 A. Yes.

7 Q. He said he -- it was a private matter so he asked you to go  
8 to the car, correct?

9 A. Yes.

10 Q. And you agreed to go to the car and speak with him?

11 A. Yes.

12 Q. And then the two of you went to his car which was parked in  
13 front of your --

14 THE DEFENDANT: Objection, Your Honor.

15 BY MS. MITRANI:

16 Q. -- where you lived, your residence?

17 A. Yes.

18 THE COURT: Hold on. Mr. Scotton, what's your  
19 objection?

20 THE DEFENDANT: Beyond the scope, Your Honor.

21 THE COURT: I'll overrule that. This is precisely the  
22 cross-examination of what you brought up in direct. I will  
23 overrule that.

24 BY MS. MITRANI:

25 Q. And you voluntarily went with him?

1 A. Yes.

2 Q. And you sat in his car, right?

3 A. Yes.

4 Q. He didn't drive it anywhere?

5 A. No.

6 Q. So you weren't going in circles? He wasn't trying to  
7 confuse you or anything like that?

8 A. No.

9 Q. He said he wanted to speak to you about an investigation?

10 A. Yes.

11 Q. All right. And you sat with him in the front seat?

12 A. Yes.

13 Q. And the other agent sat in the back seat?

14 A. Yes.

15 Q. And then he started asking you some questions?

16 A. Yes.

17 Q. And I assume you felt pretty nervous, right?

18 A. Yes.

19 Q. You never want to interact with the FBI and now it seems  
20 that you've had a couple different ones, right?

21 A. Yes.

22 Q. All right. Special Agent Kaelin acted professionally,  
23 correct?

24 A. Yes.

25 Q. He spoke in a calm voice?

1 A. Yes.

2 Q. And one of the things he asked you about, he asked you  
3 about an e-mail that you had sent on May 14, 2013, to a Pamela,  
4 right?

5 A. That's correct.

6 Q. The e-mail that you were discussing when Roger was asking  
7 you questions is the e-mail we're talking about, the May 14 --

8 A. Yes.

9 Q. -- e-mail from you, Carlos Manuel Colon Baez, to Pamela at  
10 a Gmail address, correct?

11 A. Yes.

12 Q. And in that e-mail to Pamela you mentioned Agent VanBrunt's  
13 wife by name, right?

14 A. Yes.

15 Q. And how did you find out Agent VanBrunt's wife's name?

16 A. On the internet.

17 Q. On the internet? Why would you find out her name?

18 A. I just went into the internet and started looking for  
19 names, and I find his name and his wife name.

20 Q. That's how you found it. But why? Why did you have to  
21 find out the agent's wife's name?

22 A. Oh, she just asked me for.

23 Q. Who is "she"?

24 A. Pamela.

25 Q. Pamela, the stranger you met at FDC?

1 A. Yes.

2 Q. Do you know why she couldn't access the internet and find  
3 it herself?

4 A. I have no idea.

5 Q. You had only known her a very shored period of time?

6 A. Yes.

7 Q. You just on your own decided to find Agent VanBrunt's  
8 wife's name on the internet for this stranger, correct?

9 A. She just told me she may be the person who do her hair on a  
10 beauty parlor that she visit in Miami and she wanted to know if  
11 it was the same person.

12 Q. So if Pamela wanted to know if this was the same person,  
13 why couldn't Pamela ask the hairdresser herself?

14 A. Ask her.

15 Q. All right. Then Special Agent Kaelin then discussed some  
16 other matters with you concerning this e-mail and threats,  
17 right?

18 A. Whatever investigation that was happening.

19 Q. He mentioned something about threats because you said  
20 something about threats, right?

21 A. Yes.

22 Q. When you asked for an attorney or said you wanted to speak  
23 to an attorney at the end of the conversation, you didn't ask  
24 for an attorney?

25 A. No.

1 Q. All right. But this whole conversation ended -- it lasted  
2 approximately a half an hour, correct?

3 A. More or less.

4 Q. And when you wanted it to end, it ended?

5 A. When I tell him that I did spoke to an attorney already  
6 concerning this conversation, the attorney suggests or  
7 recommend me not to do sign any statement and not to sign any  
8 papers, not to sign any papers, and as soon as I tell him know  
9 that, he shut the tape recorder off, because he was recording  
10 the conversation, and I just walk away.

11 Q. He didn't lock you in the car or force you to speak or  
12 anything like that?

13 A. No.

14 Q. And did Special Agent Kaelin tell you that you had exposure  
15 in this matter? Do you understand what I mean by that?

16 A. No.

17 Q. Strike the question.

18 Did Special Agent Kaelin tell you that maybe you might  
19 be in trouble in terms of what he was investigating?

20 A. No.

21 Q. He never told you that?

22 A. No, but the lawyer did.

23 Q. The lawyer did. And so is that a reason why you're scared  
24 that the FBI might arrest you?

25 A. Yes.

1 Q. And you mentioned in your direct that you're looking over  
2 your shoulders because you're scared that the FBI might arrest  
3 you.

4 A. Yes.

5 Q. The FBI never told you it was going to arrest you, correct?

6 A. No.

7 Q. The FBI never told you it was going to arrest you if you  
8 didn't cooperate with the government, correct?

9 A. No.

10 Q. You're concerned that the FBI might arrest you because you  
11 had this interaction in October with Special Agent Kaelin,  
12 correct?

13 A. Yes.

14 Q. All right. And because he showed you this e-mail that has  
15 your name on it, correct?

16 A. Yes.

17 Q. That has nothing to do with -- strike that.

18 The FBI has never told you you can't travel?

19 A. No.

20 Q. The FBI never told you you can't go anywhere?

21 A. No.

22 Q. The FBI never told you you can't go about living your life  
23 as you always have?

24 A. No.

25 Q. Maybe you feel like you can't because Roger is in jail,

1 correct?

2 A. In a way, yes.

3 Q. And maybe you feel like you can't because now Special Agent  
4 Kaelin has come -- has spoken to you, correct?

5 A. Yes.

6 Q. But nobody has ever threatened you and told you if you  
7 don't do something, then you're going to get arrested?

8 A. That's correct.

9 Q. And you've never been handcuffed, correct?

10 A. No.

11 Q. All right. Special Agent VanBrunt never told you you had  
12 to testify in trial, correct?

13 A. No. Not yet. No.

14 Q. All right.

15 MS. MITRANI: Your Honor, can I have just a few  
16 minutes?

17 THE COURT: Sure. I just want to ask one question.

18 The e-mail sent to Pamela, did that contain an address  
19 of the agent?

20 MS. MITRANI: It contained the agent's name and his  
21 wife's name.

22 THE COURT: But not an address?

23 MS. MITRANI: No.

24 THE COURT: Okay. Thank you. Sure. Take a minute.

25 Yes, Ms. Mitrani.



1 BY MS. MITRANI:

2 Q. Mr. Colon, thank you for your responses.

3 MS. MITRANI: No further questions.

4 THE COURT: Thank you, Ms. Mitrani.

5 Mr. Scotton, you have a right to redirect examination  
6 of Mr. Colon if you would like limited to the areas that were  
7 covered by the prosecutor on cross-examination. Do you wish to  
8 ask any questions on redirect?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: All right. Go ahead.

11 REDIRECT EXAMINATION

12 BY THE DEFENDANT:

13 Q. So the prosecutor asked you if you ever been intimidated,  
14 and the document that you sent to the court pretty much you say  
15 that you've been intimidated. But are you confused because of  
16 medications or you felt you are intimidated or not intimidated?

17 MS. MITRANI: Objection, Your Honor. He's leading the  
18 witness in a sensitive area. The witness has given his  
19 responses.

20 THE DEFENDANT: Your Honor, let me go ahead and submit  
21 this to the Court. This is all of the medication that  
22 Mr. Colon take on a daily basis. So I want to submit that for  
23 the Court.

24 THE COURT: To what purpose, Mr. Scotton?

25 THE DEFENDANT: Your Honor, you can see he's having

1 problems remembering things.

2 THE COURT: Let me ask you, Mr. Colon, you've been  
3 answering questions very well today, are you clearheaded and  
4 able to proceed?

5 THE WITNESS: If I don't remember, I will tell you I  
6 don't remember.

7 THE COURT: Right. If any witness doesn't remember,  
8 they can tell you they don't remember. But are you clearheaded  
9 and ready to finish up your testimony?

10 THE WITNESS: I been taking medication all, all day  
11 long, but it is like so far if you ask me something that I  
12 remember, I will tell you.

13 THE COURT: All right. And the medication that you're  
14 taking, it doesn't affect your mental faculties, does it?

15 THE WITNESS: It will -- sometimes it does.

16 THE COURT: All right. How about today; is it  
17 affecting your mental faculties at all?

18 THE WITNESS: It might. I don't know.

19 THE COURT: If you don't mind, if you wish to disclose  
20 it you can, what type of medication do you take?

21 THE WITNESS: Oh. I don't even remember the name, but  
22 they're different names. But I'm taking medication for my  
23 bipolar disorder and I get anxious sometimes. I get depressed.  
24 And it could be either way.

25 THE COURT: All right. Mr. Scotton, yes, sir.

1           THE DEFENDANT: I have the paper here with all of his  
2 medication if the Court would like to see it.

3           THE COURT: All right. Have you shown that to the  
4 prosecutor?

5           THE DEFENDANT: No.

6           THE COURT: Pardon? Show it to the prosecutor.

7           MS. MITRANI: Thanks.

8           THE COURT: And do you wish to introduce that as an  
9 exhibit?

10          THE DEFENDANT: Yes, Your Honor.

11          THE COURT: After the government reviews it they can  
12 give me their position on whether they object or not to  
13 Mr. Scotton introducing the list of medications Mr. Colon is on  
14 as an exhibit.

15                   Any objection?

16          MS. MITRANI: No, sir.

17          THE COURT: All right. Mr. Colon, do you have any  
18 objection to your personal medicines being introduced in this  
19 case?

20          THE WITNESS: I show it to him not to present to the  
21 Court. But now that it's being presented to the Court, it's to  
22 your knowledge, which some of the medications are -- it could  
23 be interacting with my psychiatry medication. They might be  
24 doing a different affect.

25          THE COURT: You said you take medications for a

1 bipolar problem?

2 THE WITNESS: Yes, the last two on the list.

3 THE COURT: I'll tell you what I'll do. I'll go ahead  
4 and admit this as Defense Exhibit 1 at this hearing, but what  
5 I'll do is order that it be filed under seal to protect the  
6 privacy rights of Mr. Colon.

7 THE WITNESS: Thank you.

8 THE COURT: You're welcome sir.

9 (Received in evidence Defendant's Exhibit(s) 1.)

10 THE COURT: I don't know if there was a question  
11 pending or what your next question is, but whatever questions  
12 you have you can proceed.

13 BY THE DEFENDANT:

14 Q. You mentioned several times, and also I can see you  
15 mentioned FBI come to the house flashing badge on your face,  
16 have a handcuffs, having guns. Prosecutor asked the question  
17 you say they don't have any guns or any handcuffs, they never  
18 flash any badges. I mean, I'm trying to understand here  
19 because it seems to be you give completely different answer to  
20 the prosecutor. Which one is it?

21 A. Not when I'm home. They might do it when your mother was  
22 home, but not when I'm home. Don't forget I work all day, then  
23 I go to school.

24 Q. I'm just going to go through what you wrote to the Court.

25 A. Yes.

1 Q. That's what I'm trying to understand here. But you feeling  
2 threat. That's what I keep hearing over and over again.

3 THE COURT: Mr. Scotton, isn't that affidavit you're  
4 referring to signed by both Mr. Colon and your mother as well?

5 Mr. Scotton, isn't that affidavit you're referring to  
6 that you filed previously that you said you didn't have a copy  
7 of earlier to me?

8 THE DEFENDANT: I just got it from Jason just now.

9 THE COURT: I see. Let me ask you a question. Isn't  
10 that affidavit signed by both Mr. Colon and -- what's your  
11 mother's name?

12 THE DEFENDANT: Marina.

13 THE COURT: Maria what?

14 THE DEFENDANT: Marina Colon.

15 THE COURT: Isn't it signed by your mother Marina and  
16 also Mr. Colon?

17 THE DEFENDANT: Yes.

18 THE COURT: Mr. Colon has answered and has stated that  
19 at no time was he threatened. Now, it is possible that maybe  
20 your mother felt that way or maybe your mother wrote that.  
21 However, Mr. Colon has clearly stated here that he hasn't felt  
22 threatened, that nobody put guns to him or flashed badges with  
23 him. If you have any follow-up questions, you can. But you  
24 have to understand that's an affidavit signed by two people.  
25 You only have one person on the stand here.

1 BY THE DEFENDANT:

2 Q. Mr. Colon, you want to take a look at the affidavit? That  
3 might bring some recollection what you wrote.

4 MS. MITRANI: Objection, Your Honor. He's answered  
5 the question. There hasn't been any memory failure with  
6 respect to his interactions with the FBI.

7 THE COURT: Mr. Colon, do you have any reason to  
8 believe that reviewing the affidavit would in any way refresh  
9 your memory or is your memory as good as it is going to be?

10 THE WITNESS: I got the affidavit right here in front  
11 of me, and the way I feel threatened is when they go to my  
12 house and threaten my wife's safety or health the way  
13 unfortunately it happened the day the three agents went and  
14 knocked at the door. She was concerned. That's why she  
15 calling me more. Anxious and concerned about the way they did  
16 it. She is a sick person. It's not feeling -- is not well and  
17 with all of the health conditions that she have she was telling  
18 me maybe over expressing herself.

19 THE COURT: But you weren't present for that?

20 THE WITNESS: I wasn't present for that.

21 THE COURT: This is what she told you?

22 THE WITNESS: This is what she told me. And I feel  
23 threatened when this person, when this agent was telling me  
24 about this plot. Because when I asked my lawyer, like I said,  
25 before, the FBI could still arrest me for whatever reason they

1 have.

2 THE COURT: Right. That's what your lawyer told you.

3 THE WITNESS: That's what my lawyer told me.

4 THE COURT: I understand.

5 THE WITNESS: I'm sorry, but this is what is  
6 happening.

7 THE COURT: All right. Mr. Scotton, next question.

8 BY THE DEFENDANT:

9 Q. And the only point or so you made today is you been  
10 followed. I mean, wherever you guys going, you guys being  
11 followed by the FBI agents?

12 A. That's what my wife said.

13 Q. I'm asking you, Mr. Colon. I'm not asking about your wife.

14 A. I been feeling followed all the time. I don't know if it  
15 is the FBI or who is it or who is it, but I been being followed  
16 all the time. I keep my -- looking over my shoulder and  
17 speeding sometimes and go routes, different routes all of the  
18 time to wherever I go because that's the way I feel.

19 Q. Did you believe that the Agent VanBrunt obsessed with this  
20 case because I used to date his wife?

21 MS. MITRANI: Objection, Your Honor.

22 THE WITNESS: I don't know.

23 THE COURT: He answered he doesn't know.

24 THE WITNESS: I don't know.

25

1 BY THE DEFENDANT:

2 Q. The bottom line here, confirm for me if you feel threat or  
3 if you're feeling threat by this Agent VanBrunt. Are you  
4 feeling threat by Agent VanBrunt? Are you intimidated by Agent  
5 VanBrunt?

6 A. No.

7 Q. You're don't feel -- so you just file affidavit for no  
8 reason when you -- after you say you feeling intimidated by  
9 Agent VanBrunt, but now you say that you're not feeling threat  
10 by him?

11 A. Not by him because he didn't accuse me have doing nothing.  
12 It was the other FBI agent --

13 Q. Mr. Colon --

14 A. -- who was accusing me of doing something wrong.

15 Q. You mentioned that you feel threat by the agent when he  
16 told you if I don't plead guilty, you're going to have a  
17 problem. What is the reason to make that statement? Did you  
18 fell threat when he told you if I don't plead guilty, the whole  
19 family going to have a problem?

20 MS. MITRANI: Objection. Asked and answered, and he's  
21 recharacterizing and recasting the witness' testimony.

22 THE COURT: I will sustain the objection. I think  
23 that's an improper question. I think that was what his  
24 testimony was.

25



1 BY THE DEFENDANT:

2 Q. Just confirm here the day that he went to the house, 7  
3 o'clock in the nighttime, right?

4 A. Who?

5 Q. After my arrest.

6 A. The day you was arrested?

7 Q. Yes.

8 A. It was about 6:30, 7, 7 o'clock.

9 Q. Prosecutor mentioned he has a suit on, that he was dressed  
10 with a suit?

11 A. I can't remember. It might was.

12 Q. And he delivered to you my wallet and cell phone?

13 A. On that day, no. It was -- it wasn't the wallet and cell  
14 phone. It was a belt I think it was. Was it?

15 Q. I don't know. You tell me. Because prosecutor say that  
16 the belt and other items has been give to you at 10 o'clock in  
17 the morning they return to you my car.

18 A. Now I got confused. I know I got a list of the stuff that  
19 I got when I get the car, then he came back and at nighttime  
20 and give me something else. I can't remember if it was a belt  
21 or a hat or -- I don't think it was a phone.

22 THE DEFENDANT: Your Honor, can I show this two IDs to  
23 Mr. Colon to make him remember things?

24 THE COURT: Well, you can't make him remember  
25 anything, but what is it that you want to show him?

1           THE DEFENDANT: I just wanted to refresh his  
2 recollection. These are two IDs that was brought out together,  
3 my cell phone and my wallet, to the house that day.

4           THE COURT: Ms. Mitrani?

5           MS. MITRANI: Objection, Your Honor. He's not  
6 indicating that he doesn't remember. Relevance as to the scope  
7 of the hearing. Now we're talking about what property he got  
8 when.

9           THE COURT: Mr. Scotton, you can have those shown to  
10 Mr. Colon. If the CSO or marshal will hand them up to  
11 Mr. Colon. And those are, you said, your identifications,  
12 Mr. Scotton?

13           THE DEFENDANT: Yes, two different IDs. My army ID.

14           THE COURT: All right. What's your question?

15 BY THE DEFENDANT:

16 Q. Do you remember that now, that was delivered to you by  
17 Agent VanBrunt that day?

18 A. It was?

19 Q. Right.

20 A. I can't remember if I can say that -- I can say they were.  
21 I might -- he might give it to me. I can't remember.

22 Q. The same day I ask you if you went to the car if you  
23 remember getting my watch out of the glove compartment.

24 A. Which one? The Citizen or the Rolex?

25 Q. The Rolex.

1 A. No, I didn't find no Rolex.

2 Q. There was no Rolex in the glove compartment?

3 A. There was no Rolex. I got a Citizen's watch.

4 Q. My passport was not in the glove compartment either?

5 A. No, it was not.

6 Q. And we understand the FBI took the passport out of the  
7 glove compartment?

8 A. I guess.

9 Q. One more last question.

10 Do you feeling threat losing your job by all this  
11 situation?

12 A. Not really. I feel more threat with the stuff that the  
13 Agent Kaelin was telling me, than what Roy been telling me,  
14 about losing my job. Now, if they continue going to the job  
15 like the way he did that day, maybe my supervisor start getting  
16 to me and tell me, you know, take it outside or take it  
17 someplace else, but not at this time.

18 Q. Did you think it is, it is -- okay. Let me try to make you  
19 understand this question here.

20 The prosecutor mention that we shouldn't be bothering  
21 Carla Filini and Renata, but --

22 THE COURT: I'm sorry. I didn't get the question at  
23 all. What was the question?

24 BY THE DEFENDANT:

25 Q. The prosecutor just mentioned that we should not be, you

1 know, intimidating Carla Filini and Renata, my ex-girlfriend  
2 and my ex-wife.

3 THE COURT: But that dealt with a motion that has  
4 nothing to do with this witness' testimony. So I'm going to --  
5 Does the government have an objection?

6 MS. MITRANI: Yes, Your Honor.

7 THE COURT: I will sustain the objection. That has  
8 nothing to do with the testimony in this matter and has nothing  
9 to do with the cross-examination that Ms. Mitrani made of  
10 Mr. Colon. So it's outside of the scope, and I'll sustain that  
11 objection.

12 THE DEFENDANT: Your Honor, I have no more questions  
13 for Carlos Colon.

14 THE COURT: I have one question.

15 Did you ever see any FBI agent holding this alleged  
16 Rolex of Mr. Scotton?

17 THE WITNESS: No.

18 THE COURT: Did you ever see any government agent, FBI  
19 agent take an alleged Rolex out of the glove compartment of the  
20 car?

21 THE WITNESS: No.

22 THE COURT: All right. Any follow-up questions on  
23 that, Ms. Mitrani or Mr. Scotton?

24 MS. MITRANI: No, Your Honor.

25 THE COURT: None from Mr. Scotton?



1 A. Correct.

2 Q. Do you have a list of those items?

3 A. I do not.

4 Q. You don't have that? You don't recall what is the items  
5 was?

6 A. I don't have the list with me. My recollection is that  
7 everything was returned to Mr. Colon either at the time that he  
8 received the Infinity SUV or when I drove all the way back up  
9 to Margate to meet him in the evening and I returned everything  
10 in FBI custody but for your passport, a police identification,  
11 and I believe you were still wearing a pair of shoes and a belt  
12 that I subsequently returned to his, at the time, attorney  
13 Mr. John Howe at his initial appearance the following day.

14 THE COURT: Mr. John Howe?

15 THE WITNESS: Yes. H-O-W-E.

16 THE COURT: All right. Thank you.

17 MS. MITRANI: That was the first attorney in this  
18 case.

19 THE COURT: The first attorney in this case? Okay.

20 BY THE DEFENDANT:

21 Q. So you don't remember what the items that were returned  
22 back to the house that night?

23 A. I remember that I returned I believe your wallet which  
24 contained several credit cards. I believe you had some type of  
25 immigration identification in there. There were I believe

1 either cell phones or cell phone batteries, and there may have  
2 also been what I would describe as a flash drive or an external  
3 hard drive that you would plug into a computer. That's my  
4 recollection, but I don't have the property receipts here.

5 Q. You remember those IDs also being delivered together with  
6 the wallet?

7 A. They could have very well been, yes.

8 Q. This was inside the so-called police badge, right?

9 A. I don't know if they were in the police badge or not.

10 Q. Is any particular reason why you didn't left the property  
11 on the Broward Jail? I ask you to leave my property over there  
12 in the county jail. They say you need to take with yourself.

13 A. Which property are you referring to?

14 Q. My wallet, my so-called police badge.

15 A. My recollection is that I asked you if you wanted me to  
16 release or provide all of your credit cards and your wallet and  
17 whatever other property you had to the Broward Jail in light of  
18 the fact that the next morning myself and another FBI agent  
19 would have to return, take custody of Mr. Scotton, transport  
20 him to the marshals in Fort Lauderdale for his initial  
21 appearance. My recollection is that I told you if you wanted,  
22 I could take your personal property, drive it up to Margate to  
23 your stepfather's house, and return it to him and avoid the  
24 possibility of providing your valuables to the Broward County  
25 Jail and then have to reacquire them in the morning for you to

1 be processed. My recollection is that you requested that I  
2 drive them up to Carlos.

3 Q. So I requested you to drive them to Carlos?

4 A. Correct.

5 Q. Right. And then Carlos come later on back to Broward  
6 County Jail to come pick up my clothing?

7 A. I have no idea if Carlos returned to Broward County Jail.  
8 I know that I drove up to Margate the evening of your arrest  
9 and --

10 Q. This is --

11 THE COURT: Mr. Scotton, let the witness answer the  
12 question.

13 THE DEFENDANT: I thought he finished.

14 THE COURT: Let me talk before you interrupt me. And  
15 let the witness answer the question before you interrupt the  
16 witness. Okay?

17 THE DEFENDANT: Okay.

18 THE COURT: Were you answering the question?

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: Go ahead.

21 THE WITNESS: I drove up to Margate and returned all  
22 of property except for the belt that you were wearing and the  
23 shoes that you were wearing. The next morning when myself and  
24 another agent returned to the Broward Jail to take custody of  
25 you, you had been I believe given a pair of flip-flops and were



1 no longer wearing your belt, and those were the two pieces of  
2 property that we returned, that I returned to Mr. John Howe,  
3 Mr. Scotton's temporary attorney at the initial appearance. I  
4 don't know if Mr. Colon ever traveled.

5 THE COURT: All right. Go ahead with your next  
6 question.

7 BY THE DEFENDANT:

8 Q. Let me get this straight. When you came to Broward to pick  
9 me up, I'm already in the blue so you ask for the Broward  
10 people to get my property and return to the lawyer?

11 A. My recollection is that when I presented myself with  
12 another agent and told them I needed to transport you to the US  
13 Marshals for your initial appearance, they brought you down and  
14 I believe you had a brown paper bag which contained your shoes  
15 and I believe a belt.

16 Q. So they release to you without my authorization my property  
17 to you?

18 A. I don't know if it was with your authorization or not or if  
19 that's part of the standard procedures that when a federal  
20 prisoner is picked up in the morning for their initial  
21 appearance, all of their property is released to federal  
22 officers taking custody of them.

23 Q. Is it normal proceed of the FBI to go delivery property of,  
24 you know, of the arrest people they house?

25 A. No, I did it as a courtesy to keep Mr. Colon from having to

1 travel all the way from Margate, Florida, to North Miami Beach.

2 Q. You don't recall a Rolex inside of the glove compartment  
3 when you did illegal search my car, do you?

4 THE COURT: I didn't hear what the question was.

5 THE DEFENDANT: If they recall any Rolex in the glove  
6 compartment when they did the illegal search of my car.

7 THE COURT: Okay. Whether or not the search was legal  
8 or illegal is for a Court to decide. If you would like to ask  
9 the question in a different manner, you can ask the question.

10 BY THE DEFENDANT:

11 Q. Did you find any Rolex in the car?

12 A. No.

13 Q. You don't have any recollection of any watch sitting in the  
14 glove compartment, any broken watch?

15 A. No.

16 Q. So you delivered the cell phone to Carlos on that night  
17 with my wallet and some IDs?

18 A. Yes.

19 Q. Right. Prosecutor mentioned here that you guys delivered  
20 two cell phones to Carlos. 10 o'clock in the morning when you  
21 guys delivered. So it was two cell phones? So how come you  
22 deliver two cell phones 10 o'clock in the morning and 7 o'clock  
23 in the nighttime you come back to the house with another cell  
24 phone?

25 A. My recollection is that I asked Mr. Scotton if he thought

1 it might be helpful to have the cell phones that he normally  
2 uses in case he needed to contact someone of his family or  
3 contact someone else. I asked Mr. Scotton if he would like, we  
4 can make arrangements to bring the one or two phones that he  
5 thought most of his contact numbers would be in to the FBI  
6 office. In the course of his processing he asked that he be  
7 allowed to bring them. In the course of my processing of  
8 Mr. Scotton your phone rang several times. I allowed you to  
9 make phone calls from that, including a call to Renata  
10 requesting that she check on the condition of your mother. I  
11 also had you -- gave you permission to accept the phone call  
12 from someone who ultimately ended up being from Mr. John Howe's  
13 office.

14 So again, I in my discretion brought the phones with  
15 me as a courtesy and also to facilitate the processing as far  
16 as we ask what's the contact number for your next of kin, who  
17 is this person's address, things like that. So I asked you if  
18 you wanted to bring those as a courtesy.

19 Q. That's not the question I ask. The question I'm asking you  
20 is that prosecutor say that you guys return my car to my  
21 step-dad with all these items and two cellphones; that's  
22 correct?

23 A. Correct.

24 Q. And then we have another phone somewhere. So there are  
25 three phones altogether?

1 A. My recollection is there may have been a fourth phone.

2 Q. Fourth phone. Do you have any picture of those four  
3 phones? Can you prove there was a fourth phone?

4 A. I have no pictures of your phones.

5 Q. You don't? So you go back to the house with one phone,  
6 prosecutor returned two phones. I mean, I have three phones  
7 altogether.

8 MS. MITRANI: Objection, Your Honor. Now we're well  
9 beyond the scope of any matter before this Court now.

10 THE COURT: Mr. Scotton, you can ask questions of the  
11 witness, but no arguing with the witness. So whatever his  
12 testimony is, it is. And you can proceed with your next  
13 question.

14 THE DEFENDANT: I'm trying to understand the follow-up  
15 of all of the reports, Your Honor, because he went to the  
16 house. I want to understand the reason he went to the house to  
17 return some property that should be on Broward County Jail  
18 property. If the phone has been delivered to Carlos Colon at  
19 10 o'clock, so the agent has no business returning another  
20 phone that doesn't even exist. Yes, he has the phone during  
21 the interview with me, but now I got three phones. I never  
22 have three phones. I have two phones. So I'm trying to  
23 understand this whole visitation on 7 o'clock in the nighttime  
24 to bringing a phone to the house and they claim they already  
25 delivered two phones to Carlos at 10 o'clock in the morning.

1           THE COURT: All right. I think he's answered it. But  
2 if you would like to ask a question directly to try and  
3 clarify, you can. I think he answered that there may have been  
4 up to four phones. You may disagree with that, but that's the  
5 witness' testimony at this point.

6 BY THE DEFENDANT:

7 Q. Has the -- have you been monitoring my e-mails and phone  
8 from jail?

9 A. I have not listened to any phone calls or e-mail  
10 communications from you during your incarceration.

11 Q. Okay. My mother went to a graphic store to get something  
12 print out. Later on you show up in the same place asking  
13 people questions. You recollect that?

14           MS. MITRANI: Objection, Your Honor. Relevance,  
15 beyond the scope of the limited issues. He is asking about the  
16 agent's conversation with third parties, not with his mother.

17           THE COURT: I'll give him a little bit of leeway if  
18 you can answer the question. I'll overrule the objection.

19           THE WITNESS: Could you please repeat the question?

20 BY THE DEFENDANT:

21 Q. You follow my mother into the store. So is there any  
22 particular reason why she's being followed wherever she going?

23 A. I've never followed your mother.

24 Q. Then how you know that she went to the store?

25           MS. MITRANI: Objection, Your Honor. It's

1 investigative privilege.

2 THE COURT: I will sustain that. Your testimony is  
3 you never followed the mother.

4 THE WITNESS: Correct. I've never either followed  
5 Carlos or Marina or requested a surveillance unit follow them.

6 THE COURT: All right. Go ahead, Mr. Scotton. I  
7 think that clears up that issue.

8 BY THE DEFENDANT:

9 Q. Isn't a tracking device put in my mother's car by the FBI?

10 A. Not to my knowledge. I have never requested such a device  
11 be placed on Carlos Colon's vehicle or any property of your  
12 parents.

13 Q. It is. All my family members being intimidated by you.  
14 Any reason why? Friends, family?

15 A. I don't understand the question.

16 Q. Whatever my mother go, whatever people try to help my  
17 mother with the situation, people seems to come to the house to  
18 help. The next time, no, they call them, say that you be  
19 trying to intimidate them. Have you been intimidating other  
20 people besides my family?

21 A. I don't believe I have intimidated anyone that I've  
22 interacted with in this case.

23 Q. Do you think it's fun to go ahead and intimidate my mom at  
24 my house? You got any pleasure have my mom on the situation  
25 that you put her through a month ago?

1 A. A month ago?

2 Q. A month ago after arrest. You went to the house. You  
3 scared my mom. The bag has blowout. She is covered in -- Your  
4 Honor, I don't know even know how to put this -- po-po,  
5 whatever it is you want to call. Did you find yourself  
6 enjoying that kind of thing? That's the kind of behave the FBI  
7 trained you for?

8 MS. MITRANI: Objection, Your Honor.

9 THE COURT: I will overrule it. I think you can  
10 answer the question, agent.

11 THE WITNESS: The only time that I've been -- the only  
12 interactions I've had with your mother were when I served her  
13 with a subpoena, and both times our interactions were short,  
14 direct, and what I considered to be professional in light of  
15 the anxiety that I anticipated she would have by my appearance.

16 BY THE DEFENDANT:

17 Q. How -- is there any other agents follow my mom? How do you  
18 guys know where they're going if you don't listen to my  
19 conversation on the phone?

20 MS. MITRANI: Objection, Your Honor. There's no basis  
21 for this allegation.

22 THE DEFENDANT: Intimidation, Your Honor. I'm trying  
23 to get to the point here.

24 MS. MITRANI: Pure speculation.

25 THE COURT: I'll sustain the objection. At this point

1 there is no evidence, Mr. Scotton, that anybody is following  
2 your family or listening to your phone calls.

3 MS. MITRANI: With respect to this investigation.

4 THE COURT: With respect to this investigation.

5 BY THE DEFENDANT:

6 Q. Any other investigation, any reason why she is being  
7 followed?

8 MS. MITRANI: Objection, Your Honor. Agent VanBrunt  
9 testified he is not following his mother.

10 THE COURT: If there was another investigation,  
11 Mr. Scotton, there would be other agents involved and Agent  
12 VanBrunt could not testify as to that. Sustained.

13 BY THE DEFENDANT:

14 Q. So you come to the house, you drop some items, you don't  
15 recollect what the items is. So with all of the technology  
16 today, no picture has been take. You didn't make any other  
17 reports say what was the items delivered to my mother's house?

18 MS. MITRANI: Objection, Your Honor. That's not what  
19 the witness stated.

20 THE COURT: Go ahead.

21 THE WITNESS: I completed a property receipt which  
22 documents the items that were returned to Carlos Colon later on  
23 the evening of the day that you were arrested, and I don't have  
24 that property receipt in front of me so I don't recall with  
25 specificity what it was that was returned from the evening when



1 I met Carlos.

2 THE COURT: Ms. Mitrani, was the property receipt  
3 produced in discovery to Mr. Scotton?

4 MS. MITRANI: I'm sure it was, Your Honor.

5 THE COURT: All right. Agent, that property receipt  
6 would list that property that was returned?

7 THE WITNESS: Yes, Your Honor, and the Bates prefix on  
8 that document would be FBI.

9 MS. MITRANI: Your Honor, as I recall, there were at  
10 least three, there may have been more, at least three property  
11 receipts dealing with the events of March 15 as there was an  
12 interaction between the agent and the defendant, the agent and  
13 the father, and another set of agents and the father.

14 THE COURT: All right. Just for purposes of this  
15 hearing, is there any FBI property receipt form dealing with a  
16 alleged Rolex watch?

17 THE WITNESS: No, Your Honor.

18 THE COURT: All right. Go ahead, Mr. Scotton, if you  
19 have any more questions.

20 THE DEFENDANT: Yes, Your Honor.

21 BY THE DEFENDANT:

22 Q. So if you're not following my mother, what is the reason  
23 for you to go to the Brazilian store?

24 A. The reason why I went to Brazilian store is I was contacted  
25 by a witness who provided me information regarding efforts to

1 generate invoices in the name of a company named Brazil, Brazil  
2 Express, or Brazil Imports USA Express. I don't remember the  
3 name. But I was advised that your mother went to a Brazilian  
4 print shop up near Deerfield or Pompano in order to acquire  
5 these invoices. So I took it upon myself to contact multiple  
6 print shops in the area, identify myself, and try to gather  
7 information on whether any invoices in the name of Osvani  
8 Duarte or the company, whose name I don't recall, were actually  
9 generated. After contacting numerous print shops in the area I  
10 located the shop where your mother went into and ordered the  
11 invoices.

12 Q. Who is this person?

13 MS. MITRANI: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY THE DEFENDANT:

16 Q. If she is not being followed by you, someone is contacting  
17 out of the blue to say that my mother is going to Publix  
18 grocery store, to anyplace. So what's the reason --

19 MS. MITRANI: Objection, Your Honor.

20 BY THE DEFENDANT:

21 Q. -- for following my mother --

22 MS. MITRANI: Objection, Your Honor.

23 THE COURT: Sustained.

24 BY THE DEFENDANT:

25 Q. -- everything, my wife?

1 THE COURT: Is that a question, Mr. Scotton?

2 THE DEFENDANT: Yes, it's a question.

3 THE COURT: What is the question?

4 THE DEFENDANT: If he has intimidate my wife?

5 MS. MITRANI: Objection, Your Honor. Vague and  
6 misleading.

7 MR. KREISS: By name.

8 THE DEFENDANT: By name?

9 BY THE DEFENDANT:

10 Q. Eileen Molliendo.

11 THE COURT: How do you spell that?

12 THE DEFENDANT: Eileen Molliendo, M-O-L-L-I-N-E-D-O.

13 THE COURT: All right. Agent, did you intimidate that  
14 person?

15 THE WITNESS: No, Your Honor.

16 THE COURT: All right. Go ahead with your next  
17 question, Mr. Scotton.

18 BY THE DEFENDANT:

19 Q. But you haven't seen her on July of this year?

20 MS. MITRANI: I didn't understand.

21 BY THE DEFENDANT:

22 Q. You haven't seen Eileen this year?

23 THE COURT: I still don't understand the question.

24 BY THE DEFENDANT:

25 Q. Agent, did you went to see my wife this year?

1 MS. MITRANI: Objection, Your Honor. It's beyond the  
2 scope of this hearing.

3 THE COURT: That's sustained.

4 THE DEFENDANT: This goes to intimidation, Your Honor.

5 THE COURT: It doesn't fall within the scope of the  
6 evidentiary hearing that I've set.

7 THE DEFENDANT: Your Honor, I need one minute.

8 THE COURT: Sure.

9 (Defendant and standby counsel conferring sotto voce.)

10 THE COURT: All right. Ready to proceed, Mr. Scotton?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Go ahead.

13 BY THE DEFENDANT:

14 Q. The prosecutor mention about this e-mail potential sent to  
15 Mrs. Pamela, whatever her name is. Who sent the e-mail?

16 MS. MITRANI: Objection, Your Honor. That e-mail has  
17 nothing to do with this agent.

18 THE COURT: What was the question?

19 MS. MITRANI: He's talking about an e-mail that the  
20 other agent inquired of Mr. Colon that the defendant raised in  
21 his direct. The government did not raise it.

22 THE DEFENDANT: It goes about -- shows about they  
23 spying. They been spying on Ms. Colon's e-mail.

24 THE COURT: What was the question?

25

1 BY THE DEFENDANT:

2 Q. How they know that Ms. Colon sent the e-mail to Pamela?

3 THE COURT: Was that part of your investigation,  
4 agent?

5 THE WITNESS: No, Your Honor. I saw the e-mail for  
6 the first time about 20 minutes before court today.

7 THE COURT: All right. The objection is sustained.

8 BY THE DEFENDANT:

9 Q. Is there another agent involved in this case besides you?

10 A. Are you referring to the mail fraud case, false statement  
11 case?

12 Q. Yes.

13 A. No.

14 Q. Is anybody else besides from your office listening to my  
15 conversation or look at my e-mails from FDC?

16 MS. MITRANI: Objection, Your Honor. He can only  
17 speak to what Special Agent VanBrunt is doing in this  
18 investigation.

19 THE COURT: That's sustained. He can only testify  
20 about what he knows and what he's doing, sir. He can't testify  
21 about what anybody else in an organization the size of the FBI  
22 is doing.

23 MS. MITRANI: And if anybody in the FBI is doing  
24 anything else, I don't know. But that would be covered by  
25 investigative privilege.

1 THE COURT: The objection is sustained.

2 BY THE DEFENDANT:

3 Q. Do you know any other agents listening to my calls?

4 MS. MITRANI: Objection, Your Honor, with respect to  
5 this case that Agent VanBrunt's already testified that he is  
6 not listening to the defendant's phone calls.

7 THE DEFENDANT: That's not the question, Your Honor.  
8 I asked if other agents listen to the calls.

9 THE COURT: Mr. Scotton, I don't know if there's  
10 another investigation going on perhaps into the allegation  
11 that -- about the Colon e-mail. If there is, that's a separate  
12 investigation.

13 But as to the mail fraud, wire fraud, or the false  
14 statement, mail fraud case, are you, agent, listening to  
15 Mr. Scotton's phone calls or spying on his e-mail?

16 THE WITNESS: No, Your Honor.

17 THE COURT: Are you directing anybody else to do so?

18 THE WITNESS: No, Your Honor.

19 THE COURT: All right. Mr. Scotton, that answers the  
20 question.

21 THE DEFENDANT: Okay, Your Honor. Then I asked the  
22 question, but then the question is not answered then. When I  
23 specifically recall my mother from FDC and told her I had to  
24 try to get a copy of this receipt on this graph shop, someone  
25 out of the blue just follow my mom for no reason and advised

1 the FBI to go over there.

2 THE COURT: There's no evidence of that. So if you  
3 want to --

4 THE DEFENDANT: He just made the statement, Your  
5 Honor, that someone call him to let him know my mother went to  
6 the graph shop.

7 THE COURT: That doesn't mean he followed her and  
8 spied on her, sir. You need to ask a direct question, and the  
9 agent will give you a direct answer. If he doesn't, I'll make  
10 him do so.

11 THE DEFENDANT: He is not explaining if somebody else  
12 is spying related to this case.

13 THE COURT: I've heard no evidence of any spying in  
14 this case at all. If you want to ask any further questions,  
15 you can go ahead.

16 THE DEFENDANT: I'm trying to understand before I ask  
17 the question because I asked him the question already. So I'm  
18 trying to understand here my, you know, my mother go to a  
19 place, she is an old lady, out of the blue then the agent show  
20 up over there because someone called that my mother went to the  
21 store. So it doesn't make any sense, the answer. Every single  
22 time I try to ask the question, the prosecutor object me here.

23 But common sense here, she go to a store and out of  
24 the blue the agent show up over there and start asking people  
25 question. And the next day my mother go back to the store and

1 the people say like, listen, you know, we all afraid here  
2 because FBI was asking all bunch of questions here about you  
3 and your son and husband and everything. So to me it doesn't  
4 make any sense. So someone somehow is spying on my e-mails.

5 THE COURT: I understand that's your belief,  
6 Mr. Scotton, but the agent has testified that he's not spying  
7 on your e-mails, he's not listening into your phone  
8 conversations. This is the witness you have on the stand. So  
9 you need to move onto your next question.

10 THE DEFENDANT: It doesn't make any sense, Your Honor.  
11 I'm trying to understand the whole court proceeding here. If  
12 he's not spying -- I understand what he's saying, he's not  
13 spying. Then we got some other case on my mother now or have  
14 somebody else spying on my mom? I mean, what is the  
15 intentions? Someone call him to tell them my mom go to the  
16 grocery store.

17 BY THE DEFENDANT:

18 Q. Have you told somebody else to follow my mom?

19 A. I have never made a request that any surveillance teams or  
20 other agents on my squad conduct any surveillance on either of  
21 your parents.

22 Q. Then why you went to -- out of the blue to print shop then?

23 MS. MITRANI: Objection, Your Honor. This is beyond  
24 the scope of the issues in this case.

25 THE COURT: And it's also been asked and answered.



1 I'll sustain the objection, Mr. Scotton. He testified clearly  
2 why he went to the shop.

3 THE DEFENDANT: Your Honor, I'm going to have call my  
4 mom. I'm done with the agent. I'm going to have to talk to my  
5 mom.

6 THE COURT: You have no further questions?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: All right. Do you have any questions for  
9 Agent VanBrunt?

10 CROSS-EXAMINATION

11 BY MS. MITRANI:

12 Q. Special Agent VanBrunt, on the day of the arrest, March 15,  
13 2012, the arrest began as a vehicle stop, correct?

14 A. Correct.

15 Q. And you had other members of the FBI and maybe other law  
16 enforcement with you as part of an arrest team?

17 A. Correct.

18 Q. Okay. And did you request that your fellow agents conduct  
19 an inventory search on the Infinity?

20 A. Yes.

21 Q. And have you spoken with those agents since that time?

22 A. I spoke with one of those agents last week, yes.

23 Q. In preparation for today's hearing as well?

24 A. Yes.

25 Q. Okay. And did the agents who searched the vehicle find any

1 Rolex watch in the glove compartment or anywhere in the  
2 vehicle?

3 A. No Rolex was found.

4 Q. Okay. The only watch that you were aware of is the watch  
5 that the defendant had on his person which was returned to the  
6 defendant?

7 A. Correct.

8 Q. Now, there are at least three, maybe more, but at least  
9 three property receipts documenting the evidence that was taken  
10 from the defendant on the day of the arrest?

11 A. Correct.

12 Q. And you don't have a photographic memory so you don't know  
13 whether there were two, three, or four cell phones involved,  
14 correct?

15 A. Correct.

16 Q. However many cell phones were involved are documented in  
17 the property receipts which have been turned over in discovery,  
18 correct?

19 A. Correct.

20 MS. MITRANI: No further questions, Your Honor.

21 THE COURT: Thank you.

22 Mr. Scotton, did you have any further questions based  
23 on the cross-examination?

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REDIRECT EXAMINATION

BY THE DEFENDANT:

Q. Let's go back to the car situation.

MS. MITRANI: The what situation?

THE DEFENDANT: The car situation.

BY THE DEFENDANT:

Q. Is there any reason why you guys did a search of my car on that day?

A. We did an inventory search to document the property that we were returning to Carlos Colon or whoever your designee was who came and took custody.

Q. In the pursuit of doing -- searching the car without me present, is this the normal proceed?

A. After you initially exited the car and you were handcuffed, I put you in my vehicle and I explained to you the options regarding your car; whether it could be towed, whether we could make arrangements to let someone come pick it up since were in Pompano which I knew was close to where your family and most of your friends lived. I asked you for consent to search the car during the inventory to speed up the process. You gave me the verbal consent. I told you during our processing of you at our office there would be a consent form that I would ask you to execute, and you said no problem. Based on that the inventory search was done.

Q. I give you consent to search my car?

1 A. Yes.

2 Q. Do you have any proof that I give that consent?

3 A. Yes.

4 Q. What? The form that they make me sign down in Miami?

5 MS. MITRANI: Objection to the form of the question.

6 THE COURT: Agent, was there a consent form that  
7 Mr. Scotton signed?

8 THE WITNESS: Yes, Your Honor.

9 THE COURT: A consent to search form?

10 THE WITNESS: Yes, Your Honor.

11 BY THE DEFENDANT:

12 Q. So hours later after the arrest, somewhere around 1 o'clock  
13 2 o'clock in the afternoon, you present the form and you told  
14 me the form there was a confirmation that my step-dad has  
15 received the car and told me to sign, correct?

16 A. No. My recollection is I provided you the consent form  
17 earlier than 1 or 2 o'clock, but I don't recall the specific  
18 time.

19 Q. All right. This is the procedure. So you have to do  
20 inventory on the car. I'm also not present when you did the  
21 inventory on the car. So how you going to do inventory on the  
22 car without the owner of car present to prove what is inside of  
23 car, what is not inside of the car?

24 MS. MITRANI: Objection, Your Honor.

25 THE COURT: Overruled. You can answer that.

1           THE WITNESS: Well, you were driving the car. I  
2 believe that you had apparent authority to provide consent to  
3 search the car. I asked you for consent at the time of the  
4 arrest.

5 BY THE DEFENDANT:

6 Q. That's not the question.

7           THE COURT: Don't interrupt the agent. Let him answer  
8 the question.

9           THE WITNESS: It's not our policy to remove handcuffs  
10 from someone who's been arrested just so they can then be  
11 unhandcuffed and either participate or be involved in the  
12 inventory search. I explained to you the process that was  
13 going to go forward and the options that existed as far as  
14 arranging for your vehicle and most of your personal property  
15 to be returned. I asked you if agreed to that. You said you  
16 did. And based on your consent the inventory search occurred.

17 BY THE DEFENDANT:

18 Q. And based on that it just searched the car and the stuff  
19 they found in the car without me present?

20 A. Correct. You were not present at the vehicle at the time  
21 the inventory search was done. That's correct.

22 Q. That's the normal procedure of the FBI? So you do a list  
23 and whatever you sign at the bottom; that's the way it is?

24 A. We do the property receipt to document property that we're  
25 either taking into our possession, releasing, or returning.

1 Yes.

2 Q. Without me being present? I mean, the defendant should be  
3 present to at least see exactly and agree what the property  
4 inside of the car, don't you think so?

5 MS. MITRANI: Asked and answered.

6 THE COURT: The objection is sustained. It has been  
7 asked and answered. You can't argue with the witness,  
8 Mr. Scotton. He has given his answer. If you don't like it,  
9 that's up to you but you can't argue with the witness.

10 BY THE DEFENDANT:

11 Q. You got an e-mail from Mr. John Blosten?

12 MS. MITRANI: Objection, Your Honor. Beyond the scope  
13 of my cross which is solely limited to the --

14 THE DEFENDANT: I can rephrase the question.

15 MS. MITRANI: -- Rolex watch --

16 THE DEFENDANT: I'm trying to get to the point  
17 somehow.

18 MS. MITRANI: -- and the search.

19 THE COURT: The objection is sustained.

20 THE DEFENDANT: A police officer in Boca Raton  
21 remember and he has a recollection seeing my watch during the  
22 accident that I have on August 30 -- August -- August 28 -- I  
23 think it was August 29. I don't remember exactly. It was  
24 August 29. I had a car accident. During the car accident this  
25 watch was broke. This police officer saw me pick up the pieces

1 of the watch on the floor. He made a report. Martinez, my  
2 investigator, went and speak to this police officer about the  
3 watch, and he remembered everything about this watch.

4 THE COURT: That was the same day as your arrest?

5 THE DEFENDANT: No.

6 THE COURT: How far before your arrest was that?

7 THE DEFENDANT: Six-and-a-half months ago.

8 THE COURT: Six-and-a-half months before your  
9 arrest --

10 THE DEFENDANT: Yes.

11 THE COURT: -- he saw a broken Rolex watch in your  
12 car?

13 THE DEFENDANT: Yes.

14 THE COURT: All right. The objection is sustained.  
15 That's not relevant to this proceeding.

16 THE DEFENDANT: I have a receipt here, Your Honor, an  
17 e-mail from a company that has estimate. The company is  
18 J. Dunn, what they call. The reason that --

19 THE COURT: JR Dunn Jeweler?

20 THE DEFENDANT: Exactly, Your Honor. The reason I'm  
21 trying to explain here to the Court, Your Honor, is this.

22 MS. MITRANI: I'm sorry, Your Honor. May the witness  
23 be excused?

24 THE COURT: Right. Before we go to argument do you  
25 have any more questions for Agent VanBrunt?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: All right. Agent, you can step down.

3 THE WITNESS: Thank you, Your Honor.

4 (Witness was excused.)

5 THE COURT: Now, you were trying to make some sort of  
6 argument about JR Dunn Jewelers.

7 THE DEFENDANT: This is a watch, Your Honor, that I  
8 won during a race. I spoke to this lady. They, they  
9 authorized dealer for Rolex. And I explained the situation. I  
10 told them that I been involved in a car accident and I need to  
11 know how I'm going to present this to insurance company, who is  
12 going to pay, how am I going to recover that. She contact the  
13 Rolex makers. Rolex told me they cannot fix the Rolex, the  
14 watch, because the control quality has to be replaced.

15 So that day that I went and she took a look at the  
16 watch, she give me a bag. It was a crystal little bag, and  
17 watch was inside of that bag. I put the watch inside of the  
18 glove compartment because I was waiting for GEICO to pay for  
19 the watch.

20 So I have a picture here of the watch. I have  
21 pictures here of the e-mail of the company that -- and I have  
22 the e-mail from the police officer confirming that the watch  
23 exist.

24 THE COURT: Okay. I understand you have pictures that  
25 a Rolex watch exists, but this accident occurred six-and-a-half



1 months before your arrest, right?

2 THE DEFENDANT: Your Honor, it doesn't matter how many  
3 time was. The watch was inside of the glove compartment  
4 because I waiting for the claim to be paid.

5 THE COURT: That's your argument. Are you taking the  
6 stand on that?

7 THE DEFENDANT: No, Your Honor. You're not being  
8 fair.

9 THE COURT: I'm trying to be very fair with you.  
10 You're acting as your own attorney. As your own attorney you  
11 can make argument, but you can't present evidence as your own  
12 attorney. If you want to present evidence by testimony as to  
13 the watch and where it was and when it was there, you need to  
14 take the stand under oath, testify, and be cross-examined by  
15 the government.

16 If you wish to try to introduce a photograph of what  
17 you say is the watch, I doubt the government will even object  
18 to that, for the purpose of you establishing that at some point  
19 in time you owned a Rolex watch, but you can't act as an  
20 attorney and turn your argument as an attorney into testimony  
21 before the Court. Do you understand that?

22 THE DEFENDANT: Your Honor, the only thing I don't  
23 understand is my life has been turned upside down. Things  
24 seems to disappear, fabrication of things keep coming up, and I  
25 have no way to argue with this Court. I have no weight in this

1 Court. I'm not making up a story here. I have a picture here,  
2 shows that I won the race.

3 THE COURT: All right. Do you wish to introduce your  
4 picture of the Rolex watch or not, Mr. Scotton?

5 THE DEFENDANT: Say again?

6 THE COURT: Do you wish to introduce photographs of  
7 the watch?

8 THE DEFENDANT: Yes.

9 THE COURT: Does the government have any objection?

10 MS. MITRANI: No, Your Honor.

11 THE COURT: How many photographs?

12 THE DEFENDANT: Three.

13 THE COURT: All right.

14 MR. KREISS: Two photographs and an e-mail, Your  
15 Honor.

16 THE COURT: Okay. Do you have any objection to the  
17 e-mail, Ms. Mitrani?

18 MS. MITRANI: Not for purposes of this hearing.

19 THE COURT: For purposes of this hearing.

20 All right. What I have here is a photo of a Rolex  
21 watch, another photograph of two cups which I imagine was the  
22 2003 Rolex 24 at Daytona. Is that right, Mr. Scotton?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And then finally we have an e-mail dated  
25 September 8, 2011, to Roger Scotton re: an appraisal. And

1 that's back in 2011 on September 8. And that's regarding an  
2 appraisal of the Rolex watch. Is that right, Mr. Scotton?

3 THE DEFENDANT: Yes. Yes, Your Honor.

4 THE COURT: All right. Mr. Scotton, you've given me  
5 two photographs and one more e-mail. I understand you have  
6 another e-mail you may want to introduce.

7 THE DEFENDANT: Yes, Your Honor. I have an e-mail  
8 here from the police officer that was involved in the accident  
9 and he has spoke to the investigator a couple of days ago and  
10 he confirm.

11 THE COURT: The date of the accident was what?

12 THE DEFENDANT: Was -- hold on a second because I have  
13 the police report here. It was August 30 or August 28.  
14 August 30, 2011.

15 THE COURT: August 30, 2011. And you have an e-mail  
16 from a police officer who says that he saw your Rolex in your  
17 car on August 30, 2011?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Which is about six-and-a-half months  
20 before your arrest in this case?

21 THE DEFENDANT: Yes.

22 THE COURT: Any objection for this e-mail coming in?

23 MS. MITRANI: Just for purposes of this hearing.

24 THE COURT: All right. I will admit this and you can  
25 pass it up.

1 All right. So Defendant's Composite Exhibit 2 is  
2 going to be two photographs and two e-mails. The first e-mail  
3 being September 8, 2011, at 11:19 a.m. from Paige, P-A-I-G-E,  
4 looks like, Otte, O-T-T-E, to Mr. Scotton, Roger Scotton. The  
5 second e-mail is -- it looks like an e-mail from John Boylston,  
6 B-O-Y-L-S-T-O-N, who you say, Mr. Scotton, is a police officer  
7 of the Boca Raton PD?

8 THE DEFENDANT: Yes, Your Honor, it is.

9 THE COURT: All right. These will be introduced as  
10 Defendant's Composite Exhibit 2.

11 (Received in evidence Defendant's Composite Exhibit(s) 2.)

12 THE COURT: All right. Now, do you wish to present  
13 any other evidence or call any other witnesses?

14 THE DEFENDANT: Your Honor, can I have a minute and  
15 check, see how my mother doing outside, maybe see if she able  
16 to testify?

17 THE COURT: All right. Why don't we have her come in.  
18 If you can have -- maybe the Portuguese interpreter can go get  
19 her and ask her to come in.

20 THE INTERPRETER: Yes. Sure.

21 THE COURT: If the marshals would let Mr. Scotton's  
22 mother just sit behind him for a minute so he can have a  
23 conversation with her to see if she wishes to testify.

24 Yes, Mr. Scotton.

25 THE DEFENDANT: Your Honor, I'm going to call my

1 number to the stand. She really want to talk.

2 THE COURT: All right. Let's bring her up.

3 MARINA COLON, DEFENDANT'S WITNESS, SWORN

4 THE COURT: Would you state your name, please, ma'am.

5 THE WITNESS: Marina Colon.

6 THE COURT: All right. You're being assisted by the  
7 Portuguese interpreter. Are you understanding everything  
8 that's going on right here now?

9 THE WITNESS: I am.

10 THE COURT: And could the Portuguese interpreters  
11 please state their names for the record.

12 THE INTERPRETER: Patricia Marco, Your Honor.

13 THE INTERPRETER: Maria Carol Parmente, Your Honor.

14 THE COURT: Thank you both for being here.

15 All right. Mr. Scotton, you may proceed.

16 THE DEFENDANT: Your Honor, before we proceed, I feel  
17 I have to call my mom by her last name. So if the Court has  
18 any problem if I call her "mom"?

19 THE COURT: You can call her "mom." You can call her  
20 whatever name you normally refer to her.

21 THE DEFENDANT: Okay. Do I have to ask the question  
22 in English or ask in Portuguese?

23 THE COURT: No. Ask it in English and then the  
24 Portuguese interpreter will translate from English to  
25 Portuguese and then she answers in Portuguese and it's

1 translated back to English.

2 THE DEFENDANT: Okay.

3 DIRECT EXAMINATION

4 BY THE DEFENDANT:

5 Q. (Portuguese spoken.)

6 MS. MITRANI: Objection.

7 THE DEFENDANT: I'm sorry. My bad.

8 THE COURT: You'll need to speak in English.

9 THE DEFENDANT: Yes, exactly.

10 Let me take a moment, Your Honor, because this is  
11 going to be hard on me.

12 MS. MITRANI: Your Honor, I would just offer that the  
13 government's willing to enter into a stipulation to spare  
14 Ms. Colon of the necessity for this.

15 THE COURT: Mr. Scotton, what the government is  
16 proposing is that your mother has signed an affidavit that was  
17 filed with the Court and the government is prepared to  
18 stipulate that that would be her testimony if she testified  
19 here today and the Court can rely upon that. And that would  
20 obviate the need for you to have to put her on the stand and  
21 have her testify. If you would like to enter into that  
22 stipulation, the government indicated that they're willing to  
23 do that.

24 (Defendant and standby counsel conferring sotto voce.)

25 MS. MITRANI: Actually, Your Honor, it would be a more

1 limited stipulation. To the extent she's saying that --

2 THE COURT: Hold on. What would be the stipulation  
3 be?

4 MS. MITRANI: I would stipulate that on October 18,  
5 three agents came to her house.

6 THE COURT: Hold on one second.

7 (Defendant and standby counsel conferring sotto voce.)

8 THE COURT: I think Mr. Kreiss and Mr. Scotton are  
9 talking. I want to make sure he hears this.

10 Apparently it's a limited stipulation. So I want you  
11 to listen, Mr. Scotton, to the stipulation the government is  
12 proposing.

13 MS. MITRANI: The government would stipulate to the  
14 following which would obviate direct and cross as well. We  
15 would stipulate that on October 18, 2013, three law enforcement  
16 officials went to Ms. Colon's residence. We will stipulate  
17 that they went to the residence in the morning. We would  
18 stipulate that they knocked on her door. We would stipulate  
19 that her testimony might be that they banged on the door. We  
20 would stipulate that they tried to talk to her to find out  
21 about a Carlos Colon. We would stipulate that that made her  
22 feel very nervous. And we would stipulate that then they left  
23 after a very brief 30-second or two-minute interaction.

24 We would stipulate that Special Agent VanBrunt has  
25 served one subpoena on her at her house. We would stipulate

1 that he went to her house, knocked on the door and told her he  
2 had a subpoena for her. We would stipulate that that made her  
3 feel very nervous and maybe made her feel intimidated. We would  
4 stipulate that that interaction, however, was very brief,  
5 lasting maybe 30 seconds, maybe two minutes.

6 THE COURT: All right. Mr. Scotton, do you want to go  
7 ahead and accept that stipulation?

8 THE DEFENDANT: No, I'm going to ask my mother the  
9 questions.

10 THE COURT: All right. Go ahead.

11 BY THE DEFENDANT:

12 Q. A couple days ago you had been subpoenaed by the marshals;  
13 is this correct?

14 A. Yes.

15 Q. Did you felt threat by the marshals?

16 A. The three that came to my house?

17 Q. Mom, you can look at me here when I'm asking you a  
18 question. Mom, I'm trying to make a point.

19 MS. MITRANI: Objection to him making a point. He  
20 should be asking the witness questions and the witness should  
21 be able to look where the witness wants to look so the  
22 defendant doesn't signal to her in any way. I don't mean to be  
23 difficult about this, Your Honor, but it's a sensitive area.

24 THE COURT: Mr. Scotton, just ask your question.  
25 Don't add any narrative to it.



1 THE WITNESS: May I speak?

2 THE COURT: No. Hold on just one second, ma'am. You  
3 will be able to speak in response to a question. There is no  
4 question pending at this time. So I'm going to ask Mr. Scotton  
5 to lodge a proper question.

6 THE DEFENDANT: All right, Your Honor.

7 BY THE DEFENDANT:

8 Q. The marshal went to the house a couple of days ago?

9 A. About two days ago they came to serve me.

10 Q. Can you describe what happened the day when you opened the  
11 door?

12 A. When the three people came to my house?

13 Q. No. I'm talking about first the marshal.

14 A. You know that it's hard for me to tell the difference  
15 because I'm legally blind. So I can't see the face of the  
16 person who I actually talked to.

17 Q. Okay. The way the marshal was in the house was different  
18 from the three FBI that went to your house?

19 A. Yes, this last one, he was very different. He was very  
20 polite and he wasn't at all aggressive in any way. He just  
21 knocked on the door like this two times on the door.

22 Q. Can you describe to the Court the way the three FBI did it  
23 to your house when they went to the house?

24 A. First of all, they came to the house and they started  
25 knocking; knock, knock, knock. And because, you know, my

1 health problems -- I have been having health problems. My back  
2 problems, neck problems. I can't see very well. So I was not  
3 very able to just jump out of bed very quickly and go to the  
4 door. And they kept on banging on the door. And because they  
5 were not satisfied, they started banging even more firmly and  
6 strongly on the kitchen window. And I became terrified because  
7 in the development in which I live there have been many  
8 burglaries. It's a development for people older than 50 years  
9 old. And I became terrified because I'm 78 years old and I  
10 live by myself.

11 Q. Go on.

12 MS. MITRANI: Your Honor, there's no question.

13 THE COURT: Mr. Scotton, you'll need to ask the next  
14 question.

15 THE DEFENDANT: I thought she made a pause, Your  
16 Honor. I thought she made a pause for the interpreter.

17 THE COURT: No, I interpreted that she had finished  
18 her answer to your question. So you can follow up with another  
19 question if you would like.

20 THE WITNESS: I have answered already.

21 BY THE DEFENDANT:

22 Q. Is any reason why you feel intimidated by the Agent Roy  
23 VanBrunt?

24 A. Yes. Yes, because when he came over, yeah, there was,  
25 there was a reason because first he came two times over. Okay?

1 Because the second time he came over he also banged on the door  
2 as if I was deaf. I'm not deaf. I'm blind. There is a huge  
3 difference.

4 Q. Would you describe to the Court this banging on the door?

5 A. (Indicating).

6 Q. Do you have a doorbell in your house?

7 A. Yes, there is a bell. And also there is a handle that he  
8 could have used as well.

9 Q. Have the agent made any statement to you to make you feel  
10 intimidated?

11 A. No, because, first of all, I don't speak his language and  
12 also, you know, I just -- the only thing I did was to take the  
13 subpoena. Then I went back in.

14 Q. Did you mention that you have been followed --

15 A. Yes.

16 Q. -- by the agent?

17 A. Well, I don't know because I can't really see well. But  
18 wherever I go, you know, I'm being asked where am I going. You  
19 know, and even friends who are trying to help me set up my  
20 Facebook account, they ask me questions because it's very hard  
21 for me. I don't know how to do a computer at my age. I'm 78  
22 years old. So people would offer to help me, you know. And  
23 then it just started like they started going away, they  
24 wouldn't, you know, call me any more, they wouldn't leave me  
25 message any more. So I started wondering and asking myself the

1 question why, why would they not even, you know, return my  
2 phone calls or try to offer me a service that before they were  
3 offering me.

4 I went to a print shop because I needed to put an ad  
5 on the Brazilian paper asking the Brazilian citizen who live in  
6 the community if they ever had been in business with a sir by  
7 the name of Osvani.

8 MS. MITRANI: Your Honor, can I interrupt? Can you  
9 advise this witness also of her Fifth Amendment rights against  
10 self-incrimination and also of perjury? And I have a  
11 good-faith basis for saying that.

12 THE COURT: All right. I will.

13 Ma'am, Ms. Colon --

14 THE WITNESS: Yes.

15 THE COURT: -- good afternoon.

16 THE WITNESS: Good afternoon.

17 THE COURT: What I wanted to advise you at the request  
18 of the prosecutor, but I do want to advise you that -- first of  
19 all, I know your son has subpoenaed you for this hearing.  
20 However, you have the right to remain silent and you do not  
21 have to make any statement if you don't want to do so; that is,  
22 if you feel that any statement that you make or any answer that  
23 you give may tend to incriminate you, under your Fifth  
24 Amendment to the United States Constitution you have a right to  
25 refuse to answer. And if you say that you refuse to answer

1 because an answer may tend to incriminate you, the Court will  
2 consider that and rule on that.

3 So my point to you is, if you feel that anything that  
4 you say might incriminate you in any criminal action, then you  
5 can refuse to answer that question under the grounds of the  
6 Fifth Amendment.

7 Secondly, you are under oath at this proceeding and,  
8 therefore, your testimony must be truthful. And if you make a  
9 false statement or a perjurious statement -- I'm not saying  
10 that you have. But if you do, you could be subject to felony  
11 prosecution. I just want to let you know that.

12 Do you understand that, ma'am?

13 THE WITNESS: Yes, I understand. I just want to tell  
14 the truth.

15 THE COURT: All right. Do you have any questions for  
16 me about what I just told you?

17 THE WITNESS: No.

18 THE COURT: You understand everything?

19 THE WITNESS: I did.

20 THE COURT: All right. Thank you.

21 You may go ahead, Mr. Scotton.

22 MS. MITRANI: Thank you, Your Honor.

23 BY THE DEFENDANT:

24 Q. (Portuguese spoken.)

25 MS. MITRANI: Objection.

1 THE COURT: In English, Mr. Scotton.

2 THE DEFENDANT: Sorry, Your Honor.

3 THE COURT: It's natural, but you just need to speak  
4 in English.

5 THE DEFENDANT: I know. Sorry about that.

6 BY THE DEFENDANT:

7 Q. On the date that I was arrest, the agent went 7 o'clock at  
8 nighttime in the house. The next day you have another  
9 visitation from Carla Filini as well. Carla Filini ever  
10 mention that she been threat?

11 MS. MITRANI: Objection, Your Honor.

12 THE COURT: Mr. Scotton, you really -- I'm going to  
13 sustain that. You're giving a statement based on what you  
14 believe happened. You just need to ask this witness if she's  
15 been threatened or if she observed or heard the agents make  
16 threats to anybody else.

17 THE DEFENDANT: Yes, Your Honor.

18 BY THE DEFENDANT:

19 Q. Have Carla Filini tell you that she been threat?

20 MS. MITRANI: Objection, Your Honor. This is not  
21 about threats to Carla Filini. This is about threats to Mr.  
22 and Mrs. Colon.

23 THE COURT: I'll sustain that. That's outside of the  
24 scope of this hearing.

25

1 BY THE DEFENDANT:

2 Q. Just to correct here on the record, here a minute ago you  
3 say they have not feel intimidated. But you didn't feel  
4 intimidated by the marshals, correct?

5 Okay. Just to correct, if you say on the record -- I  
6 ask you a question and you say on the record that you have not  
7 feel --

8 MS. MITRANI: Objection, Your Honor.

9 BY THE DEFENDANT:

10 Q. -- you have not feel intimidated. It was by the FBI or the  
11 other marshal?

12 MS. MITRANI: Objection, Your Honor. Asked and  
13 answered, and he is leading and he is mischaracterizing the  
14 witness' testimony.

15 THE COURT: That's sustained. I believe it has been  
16 asked and answered.

17 BY THE DEFENDANT:

18 Q. Mom, have you been intimidated by the FBI agents?

19 A. Well, when they showed up at the house and I wanted to  
20 accompany Carlos, I remember that when the three of them came,  
21 one of them said to me, no. You? No, you can't come.

22 Q. Why? Why you feel intimidated by that?

23 A. I only feel intimidated because everywhere I go I'm being  
24 followed. I feel like I'm a terrorist or that I committed some  
25 crime. And then you turn around and you look behind you and

1 there is a car like following you and you don't know why, you  
2 don't know why people are following you, you have no idea who  
3 is following you.

4 Q. Why you trying to put an ad in the newspaper, mom?

5 A. Well, the ad I was actually going to put in the paper to  
6 ask the Brazilians who live here in the community if they have  
7 ever gone into business with Mr. Osvani, if they have ever sent  
8 any packages through the use of Mr. Osvani.

9           Yeah, but the problem is that this place that I went  
10 to, they would not print just one ad. It was a requirement  
11 that they print 300 ads. And I just needed to print one ad  
12 that was going to be published in the Brazilian newspaper to  
13 see whether any local Brazilian had ever used the services of  
14 sending packages through Osvani because -- and then because I  
15 already know and I had a feeling that I was being followed when  
16 I went to this print shop, I told them if anybody comes here  
17 later to ask what I was doing here, are you going tell them.  
18 And they said that they were not supposed to provide this type  
19 of information to anyone. And then I kept on asking them. And  
20 I said, but how about -- you know, because I knew that I was  
21 being followed by the FBI. How about if the police show up,  
22 shows up here, what are you going to do? And they said that  
23 they will never provide this type of information. What if the  
24 FBI shows up? They said, still said that they could not  
25 provide this type of information.



1 Q. Is there any reason why you end up not putting the ad in  
2 the newspaper?

3 A. Yes, because this was almost like, you know, the proof that  
4 I needed, a witness there. Because if the FBI actually went  
5 there to check on me, why would I need to do anything else?

6 Q. Did you feel intimidated by this action from the FBI going  
7 to the printer shop?

8 A. Yes. That wasn't the only place. There was another place  
9 as well.

10 Q. What is the other place?

11 A. Well, I had just been operated on and I had stitches on my  
12 stomach because I had just removed part of my intestines and I  
13 had a bag on the outside for my feces and --

14 Q. That's not the question. The question is: Why do you  
15 think that they went to other places intimidating you?

16 A. They went to other places because the person, actually, he  
17 confessed himself.

18 Q. Who is the person?

19 A. Renata.

20 MS. MITRANI: Your Honor, I'm going to object. We're  
21 far afield from the government's direct interactions with this  
22 witness which we're allegedly intimidating, and I would move to  
23 strike the last answer.

24 THE COURT: Mr. Scotton -- I'll deny the motion to  
25 strike. Why don't we keep this focused on the issues here

1 today which is threats she received, that she's overheard any  
2 government agent make to the family members or specific  
3 information that she knows that she's being followed or spied  
4 upon by the FBI.

5 THE DEFENDANT: Your Honor, several months ago --

6 MS. MITRANI: Well, Your Honor, this sounds like it's  
7 going to be a speech. Can the witness (sic) finish with his  
8 witness, let the government cross-examine?

9 THE DEFENDANT: I need a moment to explain something.

10 MS. MITRANI: Your Honor, I object.

11 THE COURT: Mr. Scotton --

12 THE DEFENDANT: Several months ago I have filed a  
13 motion. And this motion is, once again, some of the witnesses,  
14 people that I know being intimidated by the FBI.

15 THE COURT: Right. I understand that, Mr. Scotton.

16 THE DEFENDANT: The motion never made it to the Court.  
17 I don't know why.

18 THE COURT: I don't understand why either. I can't  
19 tell you that. But all I can tell you is that the issue for  
20 today is whether Mr. Colon and Mrs. Colon were allegedly  
21 threatened or intimidated. There's limited issues dealing --  
22 that we're dealing with today. This isn't a trial. You can  
23 bring out other issues if it's relevant at a trial. But for  
24 this purpose now you've already put on Mr. Colon. Now it's  
25 just whether a question of Mrs. Colon can give you testimony,

1 provide testimony as to concrete examples when she was either  
2 threatened, intimidated, or anything of that nature within the  
3 scope of today's hearing.

4           So I've heard what she's had to say. I'm listening to  
5 her carefully. She's already talked about the print shop. And  
6 she's talked about the agent's coming out to her house and  
7 knocking loudly on the house.

8           Are there any other areas you wish to inquire about  
9 those specific alleged threats or intimidation?

10           THE DEFENDANT: I guess this question was about they  
11 been intimidated to a point that even their friends walk away  
12 from them over the intimidation.

13           THE COURT: I understand. She testified to that and  
14 that may be her perception, but when you go beyond that and you  
15 ask if other people have told her that they have been somehow  
16 intimidated, that gets into the hearsay realm.

17           THE DEFENDANT: Right.

18           THE COURT: And that's really not appropriate for her  
19 to testify to.

20           THE DEFENDANT: Let's proceed, Your Honor.

21           THE COURT: I'm sorry?

22           THE DEFENDANT: I'm going to proceed then.

23           THE COURT: All right. Go ahead.

24 BY THE DEFENDANT:

25 Q. On the day that VanBrunt had show up to the house is the

1 day you end up have the accident of your bag explode and then  
2 you have to lay down for several hours for your husband to show  
3 up in the house. What exactly did VanBrunt done to you that  
4 day that cause you to end up going to the hospital?

5 A. He knocked on my door with a lot of force. So he knocked  
6 not only once. He knocked again and again. So I can't say  
7 here what I said to him, but I will say that it's equivalent to  
8 aren't you polite, don't you have any education?

9 Q. Can you describe why you felt intimidated by him?

10 A. Yes. The only thing that I don't have is peace and the  
11 only thing that I'm asking is give me peace. I want -- you  
12 know, I want them to stop following me, stop following my  
13 husband. Our life has become a hell. You know, I can't even  
14 come out of the house. I can't really see well. I've become  
15 paranoid with the situation. So please stop. You know, I am  
16 an American Citizen. I have the right to ask for peace.

17 THE COURT: Go ahead, Mr. Scotton. Do you have any  
18 more questions?

19 THE DEFENDANT: Yes, Your Honor.

20 BY THE DEFENDANT:

21 Q. Did you see if the agent has any guns on you? You guys  
22 mentioned something about guns at one point, that he show you  
23 IDs, badges? I mean, how they approach you when you open the  
24 door?

25 A. I'm sorry. I couldn't hear the translation.

1           THE COURT: All right. I think the question was from  
2 Mr. Scotton, did you see the agents show you any badges, guns,  
3 or anything of that nature?

4           THE WITNESS: Well, they did not show the gun. They  
5 did show the identification. But they had their hands on the  
6 waist. And for somebody who understands, it was like, you  
7 know, showing the gun off.

8 BY THE DEFENDANT:

9 Q. After that day you and Mr. Colon has mentioned that you  
10 guys fear for your life, you guys been intimidated, that the  
11 agents say that if you don't go ahead and help the prosecutor  
12 of this case, you guys going to go ahead and get charged.  
13 That's why you're feeling intimidated by them?

14 A. What happened is the first agent who went to take the  
15 things over said to my husband, tell Rogerio to confess because  
16 if not, it's going to be difficult for him and for his family.

17 MS. MITRANI: Objection.

18 THE COURT: Ma'am, were you present to hear that  
19 conversation?

20 THE WITNESS: If I was present?

21 THE COURT: Yes.

22 THE WITNESS: No, I was not present, but we did sign  
23 an affidavit and nothing is hidden between the two of us.

24 THE COURT: All right. But let me just clarify. This  
25 statement that was allegedly made by Agent VanBrunt to

1 Mr. Colon, you were not present yourself to hear that; is that  
2 true?

3 THE WITNESS: This -- that was said. It was said when  
4 they were downstairs, when the Agent VanBrunt was with my  
5 husband. They stayed a long time downstairs. And he said it  
6 repeatedly to my husband, the same thing to my husband. And  
7 there's nothing hidden between my husband and I.

8 THE COURT: All right. Ma'am, here is what I'm trying  
9 to clarify. Are you basing that statement on what Mr. Colon  
10 told you or what you heard the agent say with your own ears?

11 THE WITNESS: No, I did not hear. I was upstairs in  
12 my home. What I did -- I did not hear. I was not present.  
13 But I know that he was there with my husband for a very long  
14 time. And isn't it strange, though, that they took my son's  
15 stuff to my home. I find it strange. Because as you see with  
16 comments that are made and even in movies, the families go and  
17 pick up the belongings when somebody goes to jail.

18 THE COURT: All right. Thank you for clarifying that,  
19 Mrs. Colon.

20 Mr. Scotton, if you have any more questions, you can  
21 proceed.

22 BY THE DEFENDANT:

23 Q. The fact that you're not going to the church any more have  
24 anything to do with the FBI agent?

25 A. It does.

1 Q. Can you describe that to the Court?

2 A. Because I was followed even there.

3 Q. Is there any reason why you can say that to the Court?

4 A. Yes. You know, I prefer to stay home than being followed  
5 all over. And then the people are going to ask, what's going  
6 on, what is wrong? Because my life is my life and I don't have  
7 to be saying anything.

8 Q. Who told you they be followed?

9 MS. MITRANI: Objection, Your Honor.

10 THE COURT: I'll sustain the objection.

11 BY THE DEFENDANT:

12 Q. How you know they're being followed?

13 A. Well, the person said to us -- a person said to us when you  
14 came with your car, there was a car following your car very  
15 slowly and the lights were off.

16 Q. Anybody in the church say anything about agents, FBI  
17 looking for you at the church?

18 MS. MITRANI: Objection, Your Honor.

19 BY THE DEFENDANT:

20 Q. Or ask question about you at church?

21 MS. MITRANI: Objection, Your Honor.

22 THE COURT: Sustained.

23 THE WITNESS: May I ask you a question?

24 THE COURT: No, ma'am, you may not. It's not the  
25 witness's place to ask a question. It's only a witness' place

1 to answer a question.

2 BY THE DEFENDANT:

3 Q. If the agents asked any question about you at the church?

4 A. No, they didn't ask. But, you know, the people know, they  
5 follow us. The people know that they're following us. My  
6 son's picture came out in all of the newspapers.

7 Q. Because I'm good-looking, mom.

8 THE COURT: All right, Mr. Scotton. Is that about all  
9 of your questions?

10 THE DEFENDANT: Just one more question because I was  
11 trying to clarify whether they intimidated.

12 BY THE DEFENDANT:

13 Q. Many times you have complained to me, complained to other  
14 people being intimidated by the agents and your life has been  
15 destroyed. I'm just trying to understand why you guys feel so  
16 intimated by those agents.

17 MS. MITRANI: Your Honor, asked and answered.

18 THE COURT: I'll sustain the objection. I'll allow  
19 the one last question which is, do you feel intimidated by the  
20 agents and if so why?

21 MS. MITRANI: And which one?

22 THE WITNESS: I don't know who they are. I repeat  
23 again, I repeat again, I don't know who they are. These are  
24 people who follow me.

25 THE COURT: So you don't know if they're FBI agents or



1 not?

2 THE WITNESS: Of course they're from the FBI. Who  
3 else is going to follow me? I have no money. I didn't kill  
4 anybody. Who's following me? I have asked here. I'm asking.  
5 I'm going to ask again. Please leave me alone. My life has  
6 become hell and my life has been destroyed already. The little  
7 that I have left, let me live in peace.

8 THE COURT: All right. Thank you.

9 Any more questions, Mr. Scotton?

10 BY THE DEFENDANT:

11 Q. The final question, mom.

12 A. I have not finished.

13 THE COURT: Hold on a second. What else did you have  
14 to do to finish the answer to the question, ma'am?

15 THE WITNESS: My marriage is already over. I used to  
16 live very well. My husband has become a monster. He also has  
17 problems. When somebody knocks on the door at home, he does  
18 not answer. I have to go. He has tachycardia. He has  
19 medications. In other words --

20 THE COURT: All right. One minute, ma'am. Go ahead.

21 THE WITNESS: You know, he says something to me in the  
22 morning and at night it's something totally different. You  
23 know, so this has become harassment for us.

24 THE COURT: Okay. Thank you.

25 Anything else, Mr. Scotton?

1 BY THE DEFENDANT:

2 Q. Harassed from who? From Agent VanBrunt? From the FBI?  
3 From the agent that went to the house? Who?

4 MS. MITRANI: Your Honor, asked and answered.

5 THE COURT: Overruled.

6 Let me just ask the last question. Do you know,  
7 ma'am, from your own knowledge whether it is Agent VanBrunt who  
8 is following you?

9 THE WITNESS: Yes, I don't know what his name is. I  
10 don't know if it's a Maria, if it's a John, if it's a Peter. I  
11 have no idea. But if my son is so undesirable in this country,  
12 then let him go, let him go back to his country, and I'll go  
13 with him because I can't stand it any more. I'd rather have  
14 death than be in this situation. Give me peace.

15 THE COURT: All right. Thank you.

16 Is that it, Mr. Scotton?

17 THE DEFENDANT: Your Honor, you know, she's already  
18 stressing out so I'm not going to push it.

19 THE COURT: All right. No more questions?

20 THE DEFENDANT: No.

21 Mom, I'm sorry.

22 THE COURT: All right. Ms. Mitrani, do you have any  
23 questions?

24 MS. MITRANI: I do, Your Honor. I'll try to keep it  
25 real brief. I understand the hour is late.

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CROSS-EXAMINATION

BY MS. MITRANI:

Q. Good afternoon, Ms. Colon.

A. Good afternoon.

Q. First and foremost, I really want to extend my personal sympathies for the passing of your mother. It's just horrible, and I'm sorry you have to be here today.

Do you understand?

A. I understand.

Q. And the government did not subpoena you to be here today. You understand that?

A. But I prefer to be here in order to end this, have it over with.

Q. Okay. Very well.

Now, you're legally blind, Ms. Colon?

A. Yes. Yes, I am. Yes, I am legally blind. I have the certificate from Bascom Palmer in my purse. My right eye, I cannot see. My left eye, I see minimum. You know, I can hardly see.

Q. And I'm sorry for that.

Were you legally blind in March of 2012?

A. Yes, I am blind since 2002. I had a thrombosis and I'm hypertense. My two retinas hemorrhaged, and I didn't know I was hypertense.

Q. The affidavit that you have signed together with Mr. Carlos

1 Colon, who wrote that?

2 A. My husband.

3 Q. Did he translate it for you before you signed it?

4 A. Yes, because I would -- I would say what I wanted him to  
5 write and he was writing it down.

6 Q. You don't read or speak English, correct?

7 THE DEFENDANT: Your Honor.

8 THE WITNESS: Correct, but I do speak Spanish.

9 BY MS. MITRANI:

10 Q. But not English, correct?

11 A. Whenever it has to be translated to English, he is the one  
12 who does it.

13 THE COURT: One second. Yes, Mr. Scotton.

14 THE DEFENDANT: Can you please remember mom her  
15 rights, that she have the rights not to answer the question if  
16 she don't want to answer. She don't understand the proceeding.

17 THE COURT: I'm sorry?

18 THE DEFENDANT: Can you inform my mom has rights to  
19 answer question or not answer question because she don't know  
20 the proceedings.

21 THE COURT: I've explained it to her before, and I'll  
22 explain to you again. Ma'am, you have the right to remain  
23 silent. And if any question you believe is going to implicate  
24 your Fifth Amendment right against self-incrimination, in that  
25 case you can refuse to answer.

1           But I don't take that a question about her eyesight  
2 would implicate her self-incrimination rights, Mr. Scotton,  
3 unless I'm missing something.

4           If you believe any of your answers to any of the  
5 questions would implicate you under the Fifth Amendment, would  
6 incriminate yourself, then you can refuse to answer under the  
7 grounds of the Fifth Amendment, self-incrimination clause.

8           Do you understand that?

9           THE WITNESS: I understood.

10          THE COURT: All right. Ms. Mitrani, you can go ahead.

11 BY MS. MITRANI:

12 Q. You don't speak English either, right?

13 A. No.

14 Q. You have never had a conversation with Special Agent  
15 VanBrunt, correct?

16 A. No.

17 Q. Special Agent VanBrunt has never attempted to interview you  
18 with a translator either, correct?

19 A. No.

20 Q. You have seen Agent VanBrunt at your house a total of two  
21 times, correct? No. Three times?

22 A. No, twice because the one time he actually -- that he asked  
23 my husband to go downstairs in the parking lot, he didn't come  
24 up. I didn't see him.

25 Q. All right. Let me break this down. The first time you saw

1 Agent VanBrunt was the day your son was arrested, March 15,  
2 2012, when he came to your house in the evening to return some  
3 property, correct?

4 A. No.

5 Q. You did not see him when he came to return the property?  
6 You remained upstairs at all times?

7 A. No. Only when he went to bring the first subpoena.

8 Q. And he served you with a subpoena sometime in the summer of  
9 2012, correct?

10 A. I don't know if it was summer.

11 Q. He served you with a total of two subpoenas in this case,  
12 correct?

13 A. That's right.

14 Q. And when he served you with those subpoenas, he was dressed  
15 in either plain clothing, casually, or in a suit and tie,  
16 correct?

17 A. I don't know.

18 Q. All right. He wasn't wearing like a bullet --

19 A. I can't see.

20 Q. I'm sorry. I apologize.

21 Okay. But when he served you with the subpoenas, you  
22 had no conversation with him, correct?

23 A. No.

24 Q. Then a couple months ago, sometime in October, three people  
25 came to your house on a Friday morning, correct?

1 A. If it was Friday, I don't know but it was in the morning.

2 Q. There came a time when three people knocked on your door  
3 and you testified rather brusquely in the last couple of  
4 months, correct?

5 A. Yes.

6 Q. Nobody identified themselves to you as being Special Agent  
7 VanBrunt, correct?

8 A. One of them showed the badge, but none of them said their  
9 names.

10 Q. So you can't say whether Agent VanBrunt was there or not  
11 there? You don't know one way or the other?

12 A. I don't know because I can't figure out the face of the  
13 agent. I don't know. I'm telling you I'm blind. What is  
14 missing to believe that I'm blind? Do you think that I'm  
15 fooling around here, that I'm lying?

16 Q. Then one of the agents spoke to you in Portuguese, correct,  
17 or in Spanish?

18 A. Not in Portuguese.

19 Q. In Spanish.

20 A. They did not give their names. They came in and the  
21 Spanish was really a broken Spanish. And they came and they  
22 asked for Carlos Colon. And one of them did show the badge.

23 Q. And, ma'am, I don't mean to be disrespectful, but if you  
24 can just listen to my question and answer yes or no if you can.  
25 If you can't, that's okay. This might be a little -- it might

1 go a little quicker and a little bit easier.

2 After the agent with the broken Spanish told you that  
3 they wanted to speak to Carlos Colon, they left, correct?

4 A. They did.

5 Q. And your interaction with them lasted a few minutes at  
6 most, correct?

7 A. Yes.

8 Q. Then a few days later two agents came to your house, right?

9 A. Yes.

10 Q. And they spoke with Carlos Colon not in the house, outside  
11 of the house and outside of your presence, correct?

12 A. Yes.

13 Q. Nobody ever handcuffed you, correct?

14 A. No. Why would they do that?

15 Q. Nobody ever broke your windows or battered in your doors or  
16 anything of that nature, correct?

17 A. Not this time.

18 THE COURT: Are you okay, ma'am?

19 THE WITNESS: No, no.

20 THE DEFENDANT: Your Honor, Your Honor, give her a  
21 minute.

22 THE COURT: Are you okay, ma'am?

23 THE DEFENDANT: Mom.

24 MS. MITRANI: I can use a minute anyway.

25 THE DEFENDANT: Mom.



1           Your Honor, she is not okay. Your Honor, please.

2           Mom.

3           THE COURT: All right. Do you have any more  
4 questions?

5           MS. MITRANI: No.

6           THE COURT: You don't have any questions, right,  
7 Mr. Scotton?

8           THE DEFENDANT: No, Your Honor.

9           THE COURT: No more questions.

10          All right, ma'am. She is done testifying. Whenever  
11 you're ready, ma'am, we can help you down. Don't get up until  
12 you feel ready to go.

13          THE INTERPRETER: Is she done, Your Honor?

14          THE COURT: Yes. Are you okay to get up, ma'am? I  
15 know you were coughing there a little bit. Do you need some  
16 water?

17          THE INTERPRETER: She would like her husband to come  
18 and help her.

19          THE COURT: That's fine. Have Mr. Colon come in.

20          THE WITNESS: May I kiss at least? May I kiss my son  
21 once?

22          THE COURT: That's up to the discretion of the  
23 marshal.

24          THE WITNESS: May I say good-bye to my son?

25          THE COURT: Yes, you can do it as you're going out,

1 ma'am.

2 (Witness was excused.)

3 THE COURT: Mr. Colon, you may leave and so may your  
4 wife. You're excused.

5 All right. Mr. Scotton, do you have any more  
6 witnesses you wish to call?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: All right. And what I will do then is  
9 I'll take the matter under advisement. I heard the argument, I  
10 read the pleadings in the case, and the evidence portion of the  
11 hearing is closed.

12 Do we have another hearing scheduled on some ex parte  
13 matters?

14 THE COURTROOM DEPUTY: Monday.

15 THE COURT: Monday at what time?

16 THE COURTROOM DEPUTY: 1:30.

17 THE COURT: Our next hearing is Monday at 1:30. The  
18 government does not need to be present at that hearing. That's  
19 a hearing just dealing with defense issues. It's an ex parte  
20 sealed hearing.

21 MS. MITRANI: Thank you. Thank you for the Court's  
22 indulgence.

23 THE COURT: Thank you, Ms. Mitrani, Mr. Scotton,  
24 Mr. Kreiss. Thank you all for being here. The hearing is  
25 concluded, and I will take the matter under advisement and get

1 out a decision as soon as possible. Thank you.

2 MR. KREISS: Thank you, Judge.

3 (Proceedings concluded at 5:39 p.m.)

4

5 C E R T I F I C A T E

6 I, Karl Shires, Registered Professional Reporter and  
7 Federal Certified Realtime Reporter, certify that the foregoing  
8 is a correct transcript from the record of proceedings in the  
9 above-entitled matter.

10 Dated this 16th day of January, 2014.

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Karl Shires, RPR FCRR

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