

1 (PAUSE IN PROCEEDINGS.)

2 THE COURT: PLEASE BE SEATED. YOU MAY  
3 PROCEED.

4 MR. DAAR: THANK YOU, YOUR HONOR.

5 (WHEREUPON, COUNSEL FOR THI VAN DO GAVE  
6 HIS CLOSING ARGUMENT.)

7 MR. DAAR: GOOD MORNING LADIES AND  
8 GENTLEMEN OF THE JURY. IT'S THE SECOND AND LAST  
9 TIME I GET AN OPPORTUNITY TO ADDRESS YOU.

10 I WANT TO MAKE SOME SORT OF GENERAL  
11 COMMENTS FIRST ABOUT WHY WE'RE ALL HERE AND WHAT  
12 THIS IS ALL ABOUT.

13 I'D LIKE TO MAKE A FEW GENERAL COMMENTS  
14 ABOUT THE GOVERNMENT'S CASE, AND THEN I WANT TO GO  
15 THROUGH THE TESTIMONY WITH YOU SLOWLY AND CAREFULLY  
16 AND I WANT TO TAKE VARIOUS EVIDENTIARY ITEMS AND  
17 PUT THEM IN CERTAIN CATEGORIES SO YOU CAN AT LEAST  
18 SEE THE CASE FROM MY PERSPECTIVE AND TRY TO SEE THE  
19 CASE CLEARLY ONLY AS IT RELATES TO THI DO, BECAUSE  
20 EVEN THOUGH EVERYONE IS ON TRIAL TOGETHER, IT'S  
21 REALLY EIGHT SEPARATE TRIALS THAT THIS JURY IS  
22 CONDUCTING BECAUSE EACH PERSON IS OBVIOUSLY AN  
23 INDIVIDUAL HUMAN BEING AND THEY'RE SEPARATE  
24 DEFENDANTS AND THEY'RE ENTITLED TO SEPARATE  
25 CONSIDERATION.

1 SO I HOPE WHEN YOU LISTEN TO ME, WHEN YOU  
2 THINK ABOUT THE CASE, WHETHER YOU WRITE IT DOWN OR  
3 COMPARTMENTALIZE IT IN YOUR BRAIN, MAKE A SECTION  
4 FOR THI DO. MAKE A LITTLE SECTION. WRITE IT DOWN  
5 AND PUT IT IN YOUR BRAIN AND, AS GOVERNMENT  
6 EVIDENCE RELATES TO THI DO, PUT IT IN THAT BOX.  
7 EVIDENCE I PRODUCE, PUT IT IN THAT BOX.

8 BUT WHEN YOU ANALYZE THE CASE AT THE END,  
9 JUST LOOK AT THAT BOX. DON'T LET THE EVIDENCE  
10 RELATING TO OTHER PEOPLE SPILLOVER INTO THI'S BOX  
11 AND TALK ABOUT WHEN YOU DELIBERATE, SPEND TIME ON  
12 THI AS AN INDIVIDUAL. SEPARATE HIM FROM EVERYONE  
13 ELSE. SEPARATE THE FACTS FROM HIM AS THEY RELATE  
14 TO EVERYBODY ELSE.

15 SO NOW WE'RE SIX WEEKS INTO THIS AND  
16 YOU'VE ALL BEEN LISTENING AND TAKING NOTES AND YOU  
17 SEEM TO BE A VERY ATTENTIVE JURY. IT'S UNUSUAL.

18 USUALLY AT THIS POINT YOU TAP SOMEONE ON  
19 THE SHOULDER AND SAY JUROR NUMBER SIX IS ASLEEP.

20 THE JUDGE HAS PAID CLOSE ATTENTION TO THE  
21 PROCEEDINGS. THERE HAS BEEN A LOT OF EVIDENCE PUT  
22 ON AND TIME AND MONEY IN THIS CASE.

23 YOU HAVE SEEN ALL OF THE AGENTS IN AND  
24 OUT OF THE COURTROOM, THE EXHIBITS, THE NUMBER OF  
25 LAWYERS AND YOU'VE TAKEN TIME OUT OF YOUR LIVES.

1 THIS IS A PRETTY SIGNIFICANT EVENT.

2 WHY? WHY ARE WE GOING THROUGH ALL OF  
3 THIS? WHY ARE WE HERE? WHY DO WE GO THROUGH THIS  
4 ELABORATE COMPLICATED PROCESS? WHY?

5 THE JUDGE, WHEN YOU WERE FIRST PICKED FOR  
6 THE JURY AT THE BEGINNING OF THE CASE, ADDRESSED  
7 THAT ISSUE AND HE TALKED ABOUT HOW THE FOUNDING  
8 FATHERS OF THIS COUNTRY DECIDED THAT WE COULD NOT  
9 LEAVE THE JOB OF DETERMINING GUILT OR INNOCENCE UP  
10 TO THE STATE, THAT WE WERE NOT GOING TO LIVE IN A  
11 SOCIETY WHERE THE STATE MADE THOSE DECISIONS.  
12 HENCE, WE HAVE THE JURY SYSTEM; HENCE, YOU'RE HERE.

13 NOW, LET'S CUT RIGHT TO THE CHASE. VERY  
14 SIMPLE. TWO OFFICERS SAID THAT MR. THI DO  
15 CONFESSED.

16 MR. THI DO DENIED THE QUESTIONING.

17 IF YOU BELIEVE THE OFFICERS BEYOND A  
18 REASONABLE DOUBT, THE CASE IS OVER. IT'S ENDED.  
19 GO HOME. END THE CASE.

20 BUT I URGE YOU, BEFORE AND IF YOU REACH  
21 THAT PLACE, TO LISTEN TO ALL OF THE EVIDENCE AND  
22 LOOK AT EVERYTHING WHICH TELLS US WHO IS TELLING  
23 THE TRUTH.

24 NOW, YOU KNOW, AS WE SAT HERE DURING THE  
25 SIX WEEKS, ALL OVER THE UNITED STATES OF AMERICA

1           THERE WERE HUNDREDS OF THOUSANDS OF FBI AGENTS,  
2           POLICE OFFICERS, COURT PERSONNEL DOING THEIR JOB,  
3           RISKING THEIR LIVES, ARRESTING CRIMINALS,  
4           PROSECUTING CRIMINALS, CONVICTING CRIMINALS.

5                       EVERY DAY THAT WE'RE HERE THAT WENT ON.  
6           AND I FIRMLY BELIEVE THAT THE VAST, VAST MAJORITY  
7           OF THOSE OFFICERS ARE GOOD, HONORABLE MEN AND  
8           WOMEN.

9                       THEY'RE ALSO ADVOCATES FOR, FOR THEIR  
10          BELIEFS WHEN THEY INVESTIGATE A CASE. SOMETIMES  
11          THEY TEND TO MAKE THE CASE FIT THEIR PRESUMPTION  
12          ABOUT THE CASE AND IT'S UNFORTUNATE AND IN TERRIBLE  
13          CASES OFFICERS STEP OVER THE LINE.

14                      THEY DON'T STEP OVER THE LINE BECAUSE  
15          THEY'RE EVIL, SADISTIC, PSYCHOTIC PEOPLE. THEY'RE  
16          DOING A REAL HARD JOB OF TRYING TO GET PEOPLE  
17          CONVICTED.

18                      AND SOMETIMES THEY REACH A POINT AND SAY,  
19          GEE, IF I JUST CUT THIS A LITTLE BIT THIS WAY, IF I  
20          JUST SAY THAT MR. SMITH CONSENTED TO THE SEARCH,  
21          ALL OF THAT HEROIN I FOUND WON'T BE THROWN OUT.

22                      I KNOW HE'S GUILTY. ALL I HAVE TO SAY IS  
23          HE CONSENTED.

24                      AND AT SOME POINT VERY FEW OFFICERS, THEY  
25          CROSS THAT LINE. FOR INSTANCE, JUST A LITTLE BABY

1 STEP.

2 BUT ONCE THEY HAVE TAKEN THAT STEP,  
3 THERE'S NO GOING BACK.

4 THIS HAPPENED IN ORANGE PARK IN LOS  
5 ANGELES. NOT ONLY WERE OFFICERS TESTIFYING --

6 MS. CHOI: OBJECTION, YOUR HONOR.

7 THE COURT: SUSTAINED.

8 MR. DAAR: THERE ARE EXAMPLES THROUGHOUT  
9 THE SOCIETY OF RARE INSTANCES WHERE POLICE OFFICERS  
10 HAVE CROSSED THAT LINE.

11 THAT BRINGS US BACK TO WHY WE'RE HERE.

12 IF THEY'RE ALWAYS TELLING THE TRUTH, THEY  
13 HAVE A CONFESSION, THEY HAVE ALL OF THIS EVIDENCE,  
14 WHAT DO WE NEED A JURY FOR? WHAT DO WE NEED A  
15 TRIAL FOR? WHY BOTHER HAVING THIS LONG COMPLICATED  
16 PROCESS? WHY BOTHER TAKING YOU SIX WEEKS OUT OF  
17 YOUR LIVES?

18 THE REASON WE BOTHER IS BECAUSE MISTAKES  
19 HAPPEN BECAUSE INNOCENT PEOPLE ARE CHARGED WITH  
20 CRIMES AND THAT IS WHY YOU'RE HERE. YOU'RE HERE TO  
21 DO THE BEST JOB YOU CAN AND TO PROTECT AGAINST THAT  
22 HABIT.

23 IF THEY'RE RIGHT ALL OF THE TIME, WE  
24 DON'T NEED A JURY. IF THE PEOPLE THEY ARREST WERE  
25 ALL GUILTY, WE DON'T NEED A JURY.

1                   BUT THAT'S NOT THE CASE.   AND  
2                   UNFORTUNATELY THE HARDEST JOB, HARDER THAN THE  
3                   POLICE, HARDER THAN THE JUDGE, FALLS ON YOU BECAUSE  
4                   YOU'RE THE ONES THAT HAVE TO SAVE THAT INNOCENT  
5                   PERSON CHARGED BY THE SYSTEM.

6                   YOU'RE THE ONES WHO HAVE TO LIVE WITH  
7                   YOUR DECISION THE REST OF YOUR LIVES.   THE DECISION  
8                   YOU MAKE HERE TODAY WILL REMAIN WITH YOU FOR THE  
9                   REST OF YOUR LIVES AND YOU HAVE TO LIVE WITH THAT.

10                  YOU ARE THE ONES WHO ARE DOING THE HARD  
11                  WORK.

12                  I'M AN ADVOCATE FOR MY CLIENT AND THEY'RE  
13                  AN ADVOCATE FOR THE GOVERNMENT'S POSITION, BUT  
14                  YOU'RE THE ONES WHO HAVE TO MAKE THE DECISION.

15                  I'LL QUOTE THE JUDGE AGAIN.   HE DESCRIBED  
16                  YOUR ROLE AS HEROES.   WHAT IS A HERO?   A HERO IS  
17                  SOMEONE THAT STANDS UP AGAINST OVERWHELMING ODDS OR  
18                  CIRCUMSTANCES AND DOES THE RIGHT THING, DESPITE THE  
19                  CONSEQUENCES FOR THEMSELVES.

20                  AND I SAY TO YOU TODAY THAT BY RESCUING  
21                  AN INNOCENT MAN FROM THE GRIPS OF THIS SYSTEM IS  
22                  HOW YOU BECOME A HERO.

23                  NOW I JUST WANT TO MAKE A FEW COMMENTS  
24                  ABOUT THE GOVERNMENT'S CASE AND I'LL JUMP TO  
25                  SPECIFICS AND THERE'S A LOT OF TIME AND A LOT OF

1           LAWYERS AND A LOT OF EVIDENCE.

2                   WHAT IS GOING ON? DO YOU SEE THE TABLE?  
3           A LOT OF HANDGUNS. WHY ARE THEY EVIDENCE? WHY ARE  
4           THEY SITTING HERE FACING YOU?

5                   LET'S THINK ABOUT IT. ONE, WE KNOW  
6           NOBODY HAS CONTESTED THE FACT OF THE OKI ROBBERY.  
7           THERE'S NO EVIDENCE -- NO ONE SAID IT DIDN'T  
8           HAPPEN. NOBODY. NO ONE SAID THAT THE PEOPLE THAT  
9           ROBBED OKI WEREN'T ARMED. AN UNDISPUTED FACT.

10                   THE GUNS TELL US NOTHING ABOUT WHO DID  
11           THIS CRIME.

12                   SO WHY ARE THEY SO PROMINENTLY FEATURED  
13           HERE IF THEY DON'T HELP YOU ANSWER YOUR QUESTION?

14                   BECAUSE THE GOVERNMENT IS HOPING THAT  
15           THESE GUNS WILL HAVE YOU ACT ON PASSION AND  
16           PREJUDICE RATHER THAN LOGIC.

17                   YOU'LL SEE GUNS THAT KILL PEOPLE.  
18           THEY'RE UGLY. THEY'RE METAL. THEY'RE VILE.  
19           THEY'RE WRONG.

20                   THAT DOESN'T TELL US ANYTHING ABOUT WHO  
21           THEY DEPICT, BUT THEY'RE OUT THERE TO GET THAT KIND  
22           OF REACTION.

23                   ONE OTHER THING THAT HAS TO BE SAID.  
24           EVERYONE CHARGED, AND THIS IS LIKE THE WHITE  
25           ELEPHANT, NO ONE WANTS TO TALK ABOUT IT AND I DON'T

1 BRING THIS UP SAYING MY CLIENT DESERVES SPECIAL  
2 TREATMENT OR ANY PEOPLE DESERVE SPECIAL TREATMENT,  
3 BUT I DO BRING IT UP BECAUSE IT'S HERE IN THE  
4 COURTROOM WITH US AND ONLY BY TALKING ABOUT IT CAN  
5 WE ADDRESS OUR OWN FEELINGS AND OTHER FEELINGS  
6 ABOUT IT.

7 THERE ARE EIGHT VIETNAMESE MEN SITTING  
8 THERE. THEY'RE ALL VIETNAMESE.

9 MS. CHOI: OBJECTION.

10 THE COURT: OVERRULED.

11 MR. DAAR: MOST OF THE WITNESSES HAVE  
12 BEEN VIETNAMESE. THEY ARE DIFFERENT PHYSICALLY  
13 THAN YOU OR I. THEY'RE IN SOMEWAY DIFFERENT.

14 AND I DON'T THINK THE GOVERNMENT HAS IN  
15 ANY WAY USED RACE AS A MEANS OF CONVINCING YOU, AND  
16 I DON'T BELIEVE ANY OF YOU WOULD DO THAT, BUT I DO  
17 BELIEVE IT'S IMPORTANT THAT WE KIND OF CONFRONT OUR  
18 OWN FEELINGS ABOUT THIS AND SAY THESE PEOPLE ARE  
19 HUMAN BEINGS AND THE SAME OF US.

20 THEY'RE NOT GUILTY BECAUSE THEY'RE  
21 VIETNAMESE. THEY'RE NOT GUILTY BECAUSE THEY'RE  
22 DIFFERENT.

23 THINK ABOUT THEM AS INDIVIDUALS AND JUST  
24 LOOK INSIDE YOURSELF AND SAY, COULD THIS BE  
25 AFFECTING THE WAY I'M THINKING ABOUT THIS CASE?



1           COULD THIS CAUSE ME TO SEE THEM AS A GROUP INSTEAD  
2           OF AS INDIVIDUAL PEOPLE? MY SISTER, MY BROTHER, MY  
3           FATHER, MY SON.

4                   THESE ARE INDIVIDUAL PEOPLE. YOU MUST  
5           LOOK AT THEM THAT WAY. YOU MUST PROTECT THEM THE  
6           WAY YOU PROTECT YOUR FAMILY MEMBERS.

7                   IF THE GOVERNMENT HASN'T PROVED THEIR  
8           CASE TO YOU BEYOND A REASONABLE DOUBT, YOU MUST  
9           REACH OUT AND PROTECT THESE PEOPLE, MY CLIENT, FROM  
10          CONVICTION.

11                   THERE'S ONE QUESTION, A VERY SIMPLE  
12          QUESTION, AND HOPEFULLY IT GOES ON THE TOP OF YOUR  
13          THI DO BOX. WHICH THI DO COMMITTED THE OKI  
14          ROBBERY? THAT'S THE ONLY QUESTION FOR THI DO IN  
15          THIS CASE.

16                   NOW I'M GOING TO DO TWO THINGS. I'M  
17          GOING TO, ONE, FAIRLY QUICKLY GO THROUGH THE  
18          WITNESSES WITH YOU AND I'M GOING TO HIGHLIGHT TO  
19          YOU WHAT IS IMPORTANT AND WHAT I THINK CONTRIBUTES  
20          TO ANSWERING THAT QUESTION, WHICH IS WHICH THI DO  
21          COMMITTED THIS ROBBERY?

22                   ONCE I'M DONE WITH THAT, I WANT TO TRY TO  
23          SEPARATE OUT THE FACTS THAT NO ONE HAS DISPUTED TO  
24          THE FACTS THAT ARE DISPUTED TO AT LEAST MAKE A  
25          MENTAL OR PHYSICAL LIST.

1 ALL OF THESE FACTS ARE GIVEN. THERE'S NO  
2 EVIDENCE DISPUTING THAT.

3 AND THEN WORKING FROM THOSE FACTS THAT  
4 ARE UNDISPUTED BACK TO TRY AND RESOLVE THE DISPUTED  
5 FACTS AND MAKE A DECISION AS TO HIS GUILT OR  
6 INNOCENCE.

7 NOW, IN THE END THERE'S REALLY ONLY THREE  
8 SIGNIFICANT FACTS IN DISPUTE WITH RESPECT TO THI  
9 DO.

10 DID HE CONFESS? BIG ONE.

11 DID HE SIGN THE REGISTRATION? BIG ONE.

12 WAS HIS ALIBI CRIMINAL? BIG ONE.

13 THOSE ARE THE BIG QUESTIONS. THOSE ARE  
14 THE BIG THINGS IN DISPUTE. EVERYTHING ELSE MAY  
15 HELP US.

16 THREE PEOPLE IN THE CONFESSION, THE  
17 POLICE OFFICERS AND NOBODY ELSE IS THERE. THERE'S  
18 NO RECORDING AND NO WRITTEN STATEMENT AND THERE'S  
19 NO SIMPLE, DIRECT ANSWER TO WHAT HAPPENED IN THAT  
20 ROOM.

21 YOU'RE GOING TO HAVE TO RELY ON THE  
22 DEMEANOR OF THE WITNESSES AND LOOK AT ALL OF THE  
23 OTHER EVIDENCE NOT IN DISPUTE AND SEE HOW IT  
24 AFFECTS YOUR JUDGING WHAT HAPPENED THERE.

25 SIGNATURE AND REGISTRATION. IF HE SIGNED

1 IT, HE DID OKI. EASY.

2 THE HARD PART FOR YOU, IS IT HIS  
3 SIGNATURE? YOU'RE GOING TO HAVE TO LOOK AT KNOWN  
4 EXAMPLES OF HIS SIGNATURE AND COMPARE IT TO UNKNOWN  
5 AND COMPARE IT TO THIS SIGNATURE AND DECIDE.  
6 YOU'RE GOING TO HAVE TO DECIDE THAT.

7 ALIBI. WERE ALL SIX OF THOSE PEOPLE UP  
8 THERE TELLING A COMPLICATED CORROBORATED STORY THAT  
9 WAS PERJURY? DID THEY ALL LIE TO YOU? DID EVERY  
10 LAST ONE LIE? OR IS WHAT THEY'RE TELLING YOU THE  
11 TRUTH?

12 IF YOU THINK THAT THEY'RE TELLING YOU THE  
13 TRUTH, YOU HAVE TO ACQUIT HIM. IF YOU CAN'T SAY  
14 BEYOND A REASONABLE DOUBT THAT THEY COMMITTED  
15 PERJURY, YOU MUST ACQUIT HIM.

16 THE GOVERNMENT'S CASE WENT ON FOR ABOUT  
17 FOUR WEEKS IN MY COUNT. THEY ADMITTED HUNDREDS OF  
18 PAGES OF DOCUMENTS. WE HEARD FROM 25, 30 WITNESSES  
19 ABOUT THIS CASE. WE HAVE SEEN THEIR GIANT CHARTS.

20 LET'S FOCUS NOW ON WHAT PART OF THEIR  
21 CASE RELATED TO THI DO. THAT'S, THAT'S THE  
22 QUESTION YOU HAVE TO ANSWER FOR THI DO.

23 AND WE'LL START OUT, YOU KNOW, NAM PHAM,  
24 SASHI KUMAR, ALL OF THESE PEOPLE HAD NOTHING TO DO  
25 WITH HIM. NOTHING, NOTHING, NOTHING, NOTHING,

1           NOTHING, NOTHING, NOTHING, NOTHING.

2                   THE FIRST EVIDENCE THAT COMES IN THE CASE  
3           THAT MENTIONS THI DO'S NAME IS THACH TRAN.

4                   WHAT DO WE KNOW ABOUT THACH TRAN? WELL,  
5           IT STARTS OUT, MOST SIGNIFICANTLY, LET'S START OUT  
6           WITH THE MOST SIGNIFICANT THING.

7                   I DON'T KNOW HOW MANY OF YOU REALIZE  
8           THIS, BECAUSE I'M NOT ALLOWED TO ARGUE IN THE  
9           MIDDLE OF THE CASE. THACH TRAN IS SITTING UP  
10          THERE. THEY ASK ABOUT DEFENDANT NUMBER ONE. BLAH,  
11          BLAH, BLAH.

12                   WAS HE AT OKI? YEAH.

13                   DO YOU SEE HIM IN THE COURTROOM? YEAH.

14                   WHICH ONE IS HE? HE'S THAT ONE.

15                   WOULD YOU HAVE THE DEFENDANT STAND UP?  
16          THAT'S HIM.

17                   IT DIDN'T HAPPEN FOR THI DO. HE DID NOT  
18          IDENTIFY THI DO.

19                   HE SAID GEE, IT'S 2001, I PROBABLY  
20          FORGOT.

21                   HE DIDN'T IDENTIFY THI DO IN 1997 WHEN HE  
22          WAS INTERVIEWED BY THE FBI. HE'S NOT A STUPID MAN.  
23          THAT, I THINK, IS CLEAR TO EVERYONE. HE'S A VERY  
24          INTELLIGENT MAN, FAR MORE, I ARGUE TO YOU, THAN HE  
25          ACTED.

1                   BUT EVEN BASED ON HOW HE ACTED, HE'S A  
2 SMART GUY. HE'S A SMART GUY. HE'S IN BIG TROUBLE,  
3 BIG TROUBLE.

4                   HE'S CONNECTED TO STRATACOM WHERE THE  
5 GUARD IS HURT AND A GUY IS HURT. AND HE'S IN BIG  
6 TROUBLE AND HE'S A SMART GUY AND IN A DANGEROUS  
7 SITUATION.

8                   DOES HE KNOW WHO THI DO IS? WELL, HE  
9 KNOWS SOMEBODY NAMED THI DO BECAUSE, ACCORDING TO  
10 THE GOVERNMENT, HE GAVE THEM A NAME. SO HE  
11 DEFINITELY KNOWS SOMEBODY BY THE NAME OF THI DO.

12                   LET'S SEE. HAS THERE BEEN AN OPPORTUNITY  
13 FOR HIM TO RECOGNIZE THI DO, TO SPEND TIME WITH THI  
14 DO, TO RECOGNIZE THI DO'S FACE?

15                   WELL, FROM HIS OWN TESTIMONY, NOW, HE HAD  
16 NO REASON TO LIE ABOUT THI DO. THI DO IS A NOBODY.  
17 HE'S NOT AFRAID OF THI DO. THERE'S NO REASON IN  
18 THE WORLD FOR HIM NOT TO IDENTIFY THI DO EXCEPT  
19 ONE: THE GUY SITTING NEXT TO ME, THIS THI DO,  
20 WASN'T THERE AND THE THI DO THAT HE MET IS ONE OF  
21 HOANG LE'S RUNNING PARTNERS. THAT'S THE ONLY  
22 EXPLANATION.

23                   HE WAS SHOWN 57 PHOTOGRAPHS. HE  
24 IDENTIFIED 20 PLUS PEOPLE OUT OF THOSE PHOTOGRAPHS.  
25 HE KNEW WHEN HE WAS DOING IT THAT THE MORE PEOPLE

1 HE IDENTIFIED, THE BETTER HIS DEAL WAS WITH THE  
2 GOVERNMENT.

3 HE SAYS HE KNEW THAT THE GOVERNMENT  
4 WANTED THE OKI ROBBERS. YOU KNOW, THAT'S THE --  
5 THAT'S THE REAL APPLE, YOU KNOW, THAT HE HANDS THE  
6 GOVERNMENT.

7 SAYING THAT HE KNOWS MRS. JONES, HE'S  
8 FRIENDS WITH MR. SMITH DOESN'T REALLY HELP.

9 BUT WHAT REALLY HELPS, AND HE SAID THIS  
10 ON THE STAND, WAS GIVING HIM THE OKI ROBBERS.

11 AND HE GAVE THEM A BUNCH OF NAMES, OKI  
12 THIS PERSON, OKI THIS PERSON. HE IDENTIFIED  
13 EVERYONE, ACCORDING TO HIM, THAT WAS AT OKI WHO HE  
14 HAD SEEN BEFORE THE ROBBERY EXCEPT THI DO.

15 NOW, WHY WOULD HE HAVE AN INABILITY TO  
16 RECOGNIZE THI DO? WELL, WE KNOW, ACCORDING TO HIM,  
17 HE GOES TO THI DO'S HOUSE AT SOME POINT PRIOR TO  
18 THE SUNRISE EXPANSION BURGLARY IN SEPTEMBER, AT  
19 SOME POINT.

20 NOW, HE'S CONNECTED -- IN THACH TRAN'S  
21 MIND IT'S UNCLEAR -- AND THIS IS THE HOUSE NEAREST  
22 SUNRISE EXPANSION.

23 REMEMBER THACH SAYS THEY'RE OUT DRINKING  
24 AND THEY DECIDE AS A HOBBY TO BREAK IN AND THEY GO  
25 IN AND SEE NOTHING IS THERE AND THEY DECIDE TO GIVE

1 IT AS A PRESENT TO HOANG LE AND THEY GO OUT TO THIS  
2 APARTMENT NEAR BY ALLISON WAY.

3 NOW, THACH TRAN IS UNCLEAR WHO LIVES  
4 THERE. DO YOU THINK HOANG LE LIVES THERE OR THI DO  
5 LIVE THERE? HE'S NOT EVEN SURE.

6 BUT WE KNOW FROM OTHER EVIDENCE THAT  
7 HOANG LE WAS THERE MOST OF THE TIME DURING THE  
8 MONTHS OF SEPTEMBER AND OCTOBER IN 1993.

9 SO THACH TRAN SAYS, BEFORE SUNRISE I WENT  
10 TO THI DO'S HOUSE AND I MET THI DO AND THAT'S THE  
11 FIRST TIME AND I MET HIM WITH HOANG LE.

12 NOW, HE COULD HAVE MET THE REAL THI DO,  
13 MY CLIENT, OR HE COULD HAVE MET ONE OF HOANG LE'S  
14 BUDDIES THAT WAS USING THI DO'S NAME. WE DON'T  
15 KNOW.

16 BUT WE DO KNOW HAD HE SEEN THI DO, MY THI  
17 DO, THIS THI DO, IT WOULD HAVE GIVEN HIM AN  
18 OPPORTUNITY TO LEARN THE FACE.

19 THEN WHAT DOES HE DO? THEY GO ON A  
20 BURGLARY TOGETHER, THACH TRAN AND THE PERSON THAT  
21 HE CALLS THI DO.

22 IF THAT PERSON WAS MY CLIENT, THERE WOULD  
23 BE ANOTHER OPPORTUNITY TO SEE HIM.

24 THEN THEY GO UP TO OKI AND YOU KNOW WE  
25 HAVE BEEN THROUGH IT A HUNDRED TIMES, YOU KNOW,

1           THEY GET UP THERE AND THEY'RE AT SEPARATE HOTELS,  
2           THEY RUN INTO EACH OTHER AT BREAKFAST AND THAT GOES  
3           ON FOR AN HOUR OR TWO AND THERE'S SOME CONFUSED  
4           EVIDENCE AS TO WHETHER OR NOT THERE'S A LUNCH THAT  
5           SAME DAY AND THEY'RE ALL TOGETHER.   THEY'RE  
6           TOGETHER IN THE PARK AND THEY'RE READY TO GO TO THE  
7           VAN.

8                         AT ONE POINT THACH AND TWO OTHER PEOPLE,  
9           ACCORDING TO THACH, GO TO THI DO AND DUNG LE'S  
10          HOTEL ROOM AND SHOW HIM THE MAP AND HAVE A MEETING  
11          WITH HIM.

12                        THEN THEY SEE EACH OTHER AGAIN AT THE  
13          REST AREA ALL AT THE ROBBERY.

14                        HERE'S A GUY WHO IDENTIFIED 20 OUT OF 57  
15          PEOPLE.   HE SPENT ALL OF THIS TIME WITH A THI DO  
16          BUT HE COULD NOT, DID NOT IDENTIFY MY CLIENT HERE  
17          IN COURT.

18                        HE DID NOT IDENTIFY MY CLIENT WITH, WITH  
19          A LIFE SENTENCE HANGING OVER HIS HEAD, AND THERE'S  
20          NO REASON THAT THE GOVERNMENT CAN TELL YOU, NONE,  
21          AS TO WHY HE WOULD BE AFRAID TO IDENTIFY THI DO.

22                        THEY CAN SAY, WELL, IT WAS A LONG TIME,  
23          THERE'S CONFUSION, HE FORGOT, YOU KNOW, A PERSON  
24          WASN'T SURE.   LET'S GIVE HIM THE BENEFIT OF THE  
25          DOUBT.



1                    HUH-UH. IF HE KNEW THAT WAS THI DO, HE  
2                    WOULD SHOW THEM THE PICTURE. HE WAS THERE ON THE  
3                    STAND FOR TWO DAYS AND ON THE STAND AND THI DO WAS  
4                    RIGHT THERE. IT WAS LIKE THE WHITE ELEPHANT OF THE  
5                    MOMENT. NEVER IDENTIFIED.

6                    THEN WE HAVE HOANG LE, H-O-A-N-G L-E,  
7                    THE BAD ROOMMATE.

8                    WHAT DO WE KNOW ABOUT HOANG LE? WE KNOW  
9                    FROM THACH TRAN THAT HE HAS KNOWN HOANG LE SINCE  
10                    1989 FROM SAN FRANCISCO. HUNG OUT IN THE CLUBS AND  
11                    COFFEE HOUSES AND IN THE TENDERLOIN. HUNG OUT WITH  
12                    GANG MEMBERS. OWNED A COFFEE SHOP.

13                    AND HE'S THE ONE THAT GAVE THE ADDRESS TO  
14                    THACH TRAN TO COME AND GET SOME HELPERS FOR  
15                    SUNRISE, MY THI DO'S ADDRESS WHERE HE WAS LIVING,  
16                    HE GAVE THAT ADDRESS OUT. WE KNOW ALL OF THAT.

17                    WE LEARN FROM SPECIAL AGENT HINKLE THAT  
18                    ACCORDING TO HER, ACCORDING TO HER, HOANG LE  
19                    PARTICIPATED IN SMART MODULE. SHE TESTIFIED. HE'S  
20                    NOT HERE. HE'S NOT HERE AT ALL.

21                    BUT THAT PUTS HOANG LE COMMITTING A  
22                    BURGLARY 1990. WE KNOW FROM AGENT HINKLE, SHE  
23                    SAID, IN ESSENCE, THIS GUY IS HEAVY, AND THE WORD  
24                    SHE USED WAS VERY CRIMINALLY INCLINED, EXTENSIVE  
25                    TIES IN ASIAN CRIMINAL ORGANIZATIONS IN OAKLAND,

1 SAN FRANCISCO AND SAN JOSE. A REAL GOOD GANGSTER.  
2 THIS GUY IS HEAVY. HE'S THI'S ROOMMATE. HE WENT  
3 AND DID OKI.

4 WE KNOW ALL OF THAT. THE QUESTION IS WHO  
5 DID HE GO WITH?

6 THE OTHER PERSON THAT COMES UP IN THE  
7 TESTIMONY IS CHINH PHAM, C-H-I-N-H P-H-A-M. HE'S  
8 ALSO IN SPECIAL AGENT HINKLE'S TESTIMONY.

9 WHAT DO WE KNOW ABOUT HIM? HE LIVES AT  
10 THI DO'S HOUSE WITH HOANG LE. HE'S THE GUY THAT  
11 BROUGHT HOANG LE THERE. UNDISPUTED EVIDENCE.

12 WHAT ELSE DO WE KNOW? WE KNOW IN 1995  
13 THACH TRAN BOUGHT FROM HIM \$600,000 WORTH OF STOLEN  
14 COMPUTER PARTS. THESE ARE HEAVY PLAYERS.

15 WE KNOW THAT FROM THE GOVERNMENT'S  
16 WITNESS, NOT FROM MY WITNESSES, BUT FROM THE  
17 GOVERNMENT'S WITNESSES. THE GOVERNMENT'S WITNESS  
18 PUTS HOANG LE AT MY CLIENT'S HOUSE. LET'S MOVE ON.

19 I THINK IT WAS SERGEANT MILLER WHO  
20 TESTIFIED, AGAIN, I'M TRYING TO TOUCH ANY OF THE  
21 EVIDENCE THE GOVERNMENT PRESENTED THAT PERTAINS TO  
22 MY CLIENT.

23 SERGEANT MILLER TESTIFIED, AND IF YOU  
24 RECALL, HE HAD TWO BITS OF AREAS OF INFORMATION TO  
25 PROVIDE TO YOU. ONE WAS HE TAUGHT A CLASS ON

1           CONFESSIONS, CONFESSIONS AND OBTAINING STATEMENTS,  
2           AND HE INFORMED YOU THAT THE SAN JOSE POLICE  
3           DEPARTMENT HAS ROOMS EQUIPPED TO RECORD PEOPLE,  
4           THAT THEY HAVE MEANS TO TAKE STATEMENTS AND THEY  
5           HAVE MEANS TO WRITE OUT STATEMENTS, THEY HAVE MEANS  
6           TO MAKE PEOPLE WRITE OUT STATEMENTS, THEY HAVE  
7           MEANS TO MAKE PEOPLE SIGN STATEMENTS. ALL OF THAT  
8           WAS AT THEIR DISPOSAL.

9                       WHAT IS THE GOVERNMENT'S RESPONSE TO  
10           THAT? WELL, THERE'S TWO RESPONSES. ONE IS WE WERE  
11           TOO BUSY. EVEN THOUGH THIS GUY CONFESSED, EVEN  
12           THOUGH HE WAS THE ONLY ONE ARRESTED THAT, THAT  
13           WASN'T POSITIVELY IDENTIFIED, WE WERE TOO BUSY TO  
14           RECORD IT. WE WERE TOO BUSY TO GET A TAPE  
15           RECORDER. WE WERE TOO BUSY TO WRITE IT DOWN AND  
16           HAVE HIM SIGN IT.

17                      WE HAD ENOUGH TIME FOR HIM TO SIGN THE  
18           WAIVER FORMS, BUT WE WERE TOO BUSY TO HAVE HIM SIGN  
19           THE STATEMENT EVEN THOUGH HE WAS FULLY COOPERATIVE.

20                      AGENT HINKLE GIVES HIM A VERY INFORMED  
21           ANSWER AS TO WHY SHE DIDN'T RECORD THE STATEMENT.  
22           AGENT HINKLE, WHY DIDN'T YOU RECORD THE STATEMENT?  
23           BECAUSE WE DON'T RECORD STATEMENTS. THAT'S OUR  
24           POLICY.

25                      SO AS A CONSEQUENCE OF THEIR POLICY,

1 YOU'RE LEFT WITHOUT ANY EVIDENCE OTHER THAN THEIR  
2 NAKED TESTIMONY.

3 THEY'RE MAKING YOU MAKE THE HARD DECISION  
4 BECAUSE THEY DIDN'T DO THEIR JOB.

5 MS. CHOI: OBJECTION, YOUR HONOR.

6 THE COURT: OBJECTION IS OVERRULED.

7 MR. DAAR: THE OTHER THING SERGEANT  
8 MILLER ADDS IS THAT THEY GO TO THIS MEETING AT THI  
9 DO'S PREVIOUS ATTORNEY'S OFFICE, AND THE GREAT  
10 EVIDENTIARY SIGNIFICANCE OF THIS IS THAT A MAN WHO  
11 IS ARRESTED FOR SOMETHING HE DIDN'T DO, HE CONSENTS  
12 TO THE SEARCH OF HIS HOUSE AND HE SAYS, I'LL MAKE A  
13 STATEMENT. I DIDN'T DO THAT.

14 HE WINDS UP BEING INCARCERATED AND WINDS  
15 UP GIVEN A PIECE OF PAPER SAYING I CONFESS.

16 THEY HAVE -- THE SAME AGENT MEETS WITH  
17 HIM AT HIS ATTORNEY'S OFFICE WITHOUT HIM KNOWING  
18 IT, THAT SOMEHOW HE DIDN'T VOLUNTEER TO THE AGENT,  
19 THAT THAT WAS A FALSE CONFESSION BECAUSE HE DIDN'T  
20 CONFRONT AGENT HINKLE IN HIS ATTORNEY'S OFFICE.

21 THINK ABOUT THI DO AND AGENT HINKLE. DO  
22 YOU REMEMBER THE FIRST AFTERNOON SHE WAS ON FOR  
23 ABOUT 15 MINUTES AND MR. BROOKLIER SAID, HE STARTED  
24 ASKING THE QUESTION, AND SHE SAID WHO ARE YOU?

25 SHE CAN BE TOUGH WHEN SHE WANTS TO. SHE

1 TONED DOWN HER DEMEANOR THE NEXT DAY, BUT YOU SAW A  
2 GLIMPSE OF THE ANN HINKLE THAT THI DO SAW IN THAT  
3 SMALL ROOM.

4 YES THERE WERE WINDOWS IN IT, BUT IF YOU  
5 LOOK AT THE PICTURE, THERE ARE ALSO SHADES ON THE  
6 WINDOWS. WE'RE NOT SAYING HE WAS BEATEN UP.

7 BUT HE'S SUPPOSED TO NOW CONFRONT, YOU  
8 KNOW, AGENT HINKLE AND YOU'RE SUPPOSED TO DECIDE  
9 THAT HE'S GUILTY BECAUSE HE DIDN'T? HUH-UH.

10 SERGEANT FAGALDE, SAN JOSE PD. YOU  
11 RECALL HE HAD A WEST CHIP, ROBBERIES, BURGLARIES,  
12 HIGH-TECH CRIME TEAM. HE WORKED WITH AGENT HINKLE  
13 EXTENSIVELY.

14 IN 1998, BEFORE THE ARREST OF THI DO IN  
15 THIS CASE, HE KNEW ABOUT OKI. EXCUSE ME. HE KNEW  
16 ABOUT 101 AND HE KNEW ABOUT PRAGMATECH, SMART  
17 MODULE AND SUNRISE. THIS GUY WAS UP ON WHAT WAS  
18 GOING ON.

19 HE WAS EVEN INVOLVED IN THE DEBRIEFINGS  
20 OF THACH TRAN, A COUPLE OF THEM THAT OCCURRED  
21 BEFORE THI DO'S ARREST.

22 STRANGELY, WHEN ASKED ABOUT THE 57 PHOTO  
23 PACK AND HE SAID WE NEVER DO THAT. WE ONLY SHOW  
24 LINE-UP PHOTOS.

25 AND THEN LATER HE SAID MAYBE SHE DID SHOW

1 HIM PHOTOS. I'M NOT SURE.

2 BUT BEFORE THI DO IS ARRESTED, SERGEANT  
3 FAGALDE AND SPECIAL AGENT HINKLE, THEY HAD WHAT IS  
4 BEFORE YOU, AND IT'S INCRIMINATING.

5 THEY HAD THE HOTEL REGISTRATION. THEY  
6 HAD THE FACT THAT THE BROTHER-IN-LAW'S ISUZU WAS UP  
7 THERE. THEY HAD THE PHONE CALLS TO ALLISON WAY.  
8 THEY HAD THEIR MAN.

9 I'M NOT TRYING TO SAY TO YOU THEY TRIED  
10 TO FRAME AN INNOCENT MAN. I'M TELLING YOU THEY'RE  
11 BENDING THE RULES TO GET SOMEONE.

12 BUT THE PURPOSE OF ANALYZING THE  
13 CONFESSION, THEY KNEW ALL OF THAT BEFORE THEY  
14 TALKED TO THI DO. THEY KNEW IT ALL FROM THACH  
15 TRAN.

16 THIS WHOLE THING ABOUT THEM NOT HAVING  
17 ENOUGH TIME AND THIS CONFESSION WAS SO  
18 INCONSEQUENTIAL, WELL, WE HAD TO GET ON WITH THE  
19 BOOKING AND ASK BIOGRAPHICAL QUESTIONS AND WE HAD  
20 TO FEED THEM LUNCH AND THESE ARE THE REASONS THEY  
21 DIDN'T RECORD MY CLIENT'S STATEMENT. THESE ARE THE  
22 REASON THAT YOU ARE STUCK WITH NAKED TESTIMONY  
23 INSTEAD OF SOMETHING THAT CAN YOU LOOK AT. HUH-UH.

24 SERGEANT FAGALDE SAID HE KNEW WITH A  
25 TELEPHONE CALL HE COULD GET THE ARRAIGNMENT

1 POSTPONED. THIS IS THE ONLY PERSON THAT WAS  
2 ARRESTED THAT NO ONE COULD IDENTIFY AND THEY'RE  
3 ACTING LIKE IT'S NO BIG DEAL. HE CONFESSED AND  
4 WE'LL CATCH IT LATER AND SEE YOU LATER, GOOD-BYE.

5 HIS NOTES, HE DOESN'T KNOW WHERE THEY  
6 ARE. HE DOESN'T REMEMBER.

7 THEY BOTH SAY MY CLIENT IS COMPLETELY  
8 COOPERATIVE.

9 YOU KNOW, THEY WALK IN THE ROOM. DID YOU  
10 DO ANYTHING? YES. AND HE TELLS THEM WHAT HE DID.

11 HE NEVER, ACCORDING TO EITHER OF THE  
12 OFFICERS, LIED, NEVER REFUSED TO ANSWER ANY  
13 QUESTIONS. HE WAS COMPLETELY COOPERATIVE.

14 IF THAT WAS THE CASE, WHY DIDN'T THEY  
15 HAVE HIM SIGN HIS WAIVER OF RIGHTS? WHY DIDN'T HE  
16 SIGN THE BOTTOM OF THE REPORT? WHY DIDN'T THEY  
17 HAVE HIM WRITE OUT A STATEMENT? WHY DIDN'T THEY DO  
18 THAT? TOO BUSY.

19 FAGALDE KNEW, HE'S IN A SAN JOSE PD ROOM  
20 WITH A RECORDER IN IT. WHY WOULDN'T THEY WANT TO  
21 RECORD THIS THING?

22 NOW, LET'S LOOK AT, FOR A MOMENT, THE  
23 STATEMENT THAT FAGALDE TAKES. I ARGUE TO YOU  
24 THERE'S A SIGNATURE IN THERE, A TALE, IF YOU WILL,  
25 THAT TELLS US THAT THE STATEMENT THAT THI DO

1 SUPPOSEDLY MADE IS REALLY THACH TRAN'S STATEMENT.  
2 AND HOW CAN WE GO THERE?

3 WELL, AN INTERESTING FACT. WHEN THACH  
4 TRAN WAS ON THE STAND, I ASKED HIM A LOT OF  
5 QUESTIONS ABOUT SUNRISE EXPANSION.

6 AND THE JUDGE TOLD ME TO MOVE ON AND SO  
7 ON, BUT I ASKED HIM A LOT OF QUESTIONS.

8 AND ONE OF THE AREAS I WAS QUESTIONING IN  
9 WAS WHETHER HOANG LE, THE BIG BAD GUY THAT THACH  
10 TRAN KNEW, WHETHER HE PARTICIPATED IN THE BURGLARY.  
11 I ASKED HIM A LOT OF QUESTIONS ABOUT THAT.

12 IN THE END HE SAID I'M NOT REALLY SURE  
13 WHETHER HE PARTICIPATED OR NOT. KIND OF ODD. WHY  
14 WOULD HE BE UNSURE ABOUT WHETHER HIS FRIEND HOANG  
15 LE PARTICIPATED? MAYBE HE'S TRYING TO PROTECT  
16 HOANG LE AND HAVE HIM BOTH WAYS.

17 I TOLD YOU HE WASN'T SURE. MAYBE THAT'S  
18 WHAT HE'S DOING. I DON'T KNOW WHY HE DID IT, BUT  
19 HE DID IT.

20 AND WHEN THEY TALKED TO HIM HE SAID, I'M  
21 NOT SURE IF HOANG LE WAS THERE.

22 ON THE STAND, I'M NOT SURE IF HOANG LE  
23 WAS THERE.

24 NOW, LET'S GO BACK. SERGEANT FAGALDE IS  
25 INTERVIEWING THI DO. HE TAKES THE STATEMENT.



1 I ASKED SERGEANT FAGALDE, WAS HOANG LE AT  
2 THE BURGLARY? DID THI DO TELL YOU THAT HOANG LE  
3 WAS AT THE BURGLARY?

4 FAGALDE SAYS, I'M NOT SURE. I'M NOT  
5 SURE. I DON'T THINK -- I DON'T RECALL HIM SAYING  
6 ANYTHING ABOUT THAT. IT WAS UNCLEAR WHETHER HOANG  
7 LE PARTICIPATED OR NOT.

8 NOW, IF THI DO DID THE SUNRISE BURGLARY,  
9 HE'S FULLY CONFESSED AND HE'S FULLY COOPERATING,  
10 WHY WOULD HE SHARE THE SAME CONFUSION ABOUT HOANG  
11 LE THAT EXISTED IN THACH TRAN'S CONFESSION? WHY?

12 HOANG LE WAS WEARING A MASK. HOANG LE  
13 WAS THERE OR WASN'T THERE. THAT'S A SIGNATURE.  
14 THAT'S SOMETHING THAT TELLS YOU THAT WHAT THEY SAY  
15 THI DO SAID CAME FROM THACH TRAN. THERE'S NO OTHER  
16 EXPLANATION.

17 FAGALDE KNEW HOANG LE SAID THE SAME THING  
18 AS HINKLE, BIG TIME OPERATOR, EXTENSIVE CRIMINAL  
19 HISTORY, MAJOR PLAYER, BIG SHOT.

20 TALK ABOUT MAJOR PLAYER, YEAH, MAJOR  
21 PLAYER. WELL, THE GOVERNMENT SHOWED YOU THIS CHART  
22 AT THE BEGINNING OF THE CASE. THEY'VE GOT WHO THEY  
23 SAY IS THE BIG GUYS UP HERE, ONE, TWO, THREE, FOUR,  
24 AND THEY HAVE THE LITTLE CONNECTIONS TO OKI UP  
25 HERE.

1                   AND LOOK AT THIS.   LITTLE OLD HOANG LE AT  
2                   THE BOTTOM, RECRUITED BY THI DO AS A CRIMINAL TO  
3                   PARTICIPATE.   WHY IS IT LIKE THAT?

4                   HERE THEY, YOU KNOW, THEY PUT HIM DOWN  
5                   HERE, BUT OVER HERE IT'S THI DO, WE'RE PUTTING  
6                   HOANG LE.   IT'S NOT THE CASE AND NEVER WAS THE CASE  
7                   AND NEVER WILL BE THE CASE.

8                   SERGEANT FAGALDE, I ALSO ASKED HIM, WELL,  
9                   THERE MUST HAVE BEEN SPECIFICS ABOUT THE OKI  
10                  ROBBERY?   WHAT HAPPENED UP THERE THAT THI DO  
11                  PROVIDED YOU AND HE CONFESSED THAT YOU HADN'T KNOWN  
12                  BEFORE?

13                  NO.   NO.   SAME GENERAL STORY AS THACH  
14                  TRAN TOLD.   NOTHING REALLY THAT DIFFERENT AND THAT  
15                  NEW.

16                  THEY DIDN'T ASK HIM ANY QUESTIONS THAT  
17                  WOULD PROVE THAT HE HAD KNOWLEDGE.

18                  OH, WHO DID YOU CALL THAT DAY, AND WHAT  
19                  TIME DID YOU CHECK INTO SHILOH AND THOSE KINDS OF  
20                  QUESTIONS.   THEY DIDN'T ASK HIM ANY QUESTIONS.

21                  AGENT HINKLE.   WE LEARNED FROM AGENT  
22                  HINKLE IT'S IMPORTANT THAT THERE ARE CALLS ON  
23                  OCTOBER 25TH AND 26TH THAT ARE NOT IN ANY OF THE  
24                  GOVERNMENT CHARTS OR ANY OF THE GOVERNMENT  
25                  EXHIBITS.

1                   THERE ARE CALLS FROM A CELL PHONE  
2                   CONNECTED WITH PERSONS ALLEGED TO HAVE BEEN THE  
3                   LEADERS IN THIS CONSPIRACY AND A CAFE V-I-V-I, VIVI  
4                   CAFE.

5                   AND THE SIGNIFICANCE OF THOSE CALLS IS  
6                   THAT'S A CAFE THAT HOANG LE HANGS OUT AT AND THAT'S  
7                   AN INDICATION THAT SOMEBODY IS TRYING TO FIND HOANG  
8                   LE.

9                   A LITTLE MORE ABOUT AGENT HINKLE. SHE --  
10                  AT ONE POINT THEY'RE DEBRIEFING HUY, H-U-Y, ONE OF  
11                  THE COOPERATING WITNESSES, AND THEY SHOW HIM  
12                  PICTURES OF THE COVER ALLS AND THE DUCT TAPE AND  
13                  THEY ASK HIM, DO THESE COVER ALLS MATCH OR LOOK  
14                  LIKE THE ONES YOU WORE IN A ROBBERY?

15                 AND HE SAYS YES.

16                 SO AGENT HINKLE SAYS, I WANT YOU TO SIGN  
17                 THE BACK OF THE PICTURE TO PROVE, AND TO HAVE  
18                 CORROBORATION, THAT YOU MADE THIS IDENTIFICATION.  
19                 SO HE DID.

20                 SHE HAD HIM SIGN A PICTURE OF COVER ALLS,  
21                 BUT SHE DIDN'T BOTHER TO HAVE MY CLIENT SIGN A FULL  
22                 CONFESSION. IT'S RUBBISH.

23                 CHINH PHAM, THE OTHER BAD ROOMMATE AND  
24                 BAD GUY. REMEMBER SHE COULDN'T REMEMBER A LOT AND  
25                 SHE HAD TO LOOK AT HER NOTES A LOT? I'M NOT SURE

1 ABOUT THAT. LET ME LOOK AT MY NOTES.

2 I SHOWED HER THE EXHIBIT 501. IT DOESN'T  
3 HAVE HIS NAME ON IT. CHINH PHAM, LIKE THAT. HE'S  
4 A MAJOR PLAYER. \$600,000 DEAL WITH THACH TRAN.

5 LASTLY I SAID IS HE -- I SAID TO AGENT  
6 HINKLE, DID YOU -- DID THI DO GIVE YOU ANY  
7 INFORMATION THAT YOU COULD LATER CORROBORATE WITH  
8 SOME OF THE INITIAL EVIDENCE, WHERE THE BAG WAS IN  
9 THE WOODS, YOU KNOW, WHERE THE REST AREA WAS? DID  
10 YOU RECEIVE -- DID YOU CALL HOME FIVE TIMES? HOW  
11 MANY TIMES DID YOU CALL HOME?

12 ANYTHING SO THAT YOU WOULD KNOW THAT THI  
13 DO IS TELLING THE TRUTH AND THAT HE KNEW SOMETHING  
14 ABOUT THE CASE THAT THEY COULD INDEPENDENTLY  
15 CORROBORATE?

16 SHE SAID THERE'S NOTHING.

17 LET'S GET SOME WATER.

18 OTHER THAN THOSE WITNESSES, THAT'S THE  
19 ONLY WITNESS THAT'S THE GOVERNMENT HAS SPENT THE  
20 FOUR OR FIVE WEEKS HAVING ANYTHING TO DO WITH THI  
21 DO.

22 THE ONLY OTHER EVIDENCE IN THE  
23 GOVERNMENT'S CASE IS THE HOTEL RECEIPT AND THE  
24 INFORMATION CONTAINED ON IT AND PHONE CALLS.  
25 THAT'S IT. THAT'S THE WHOLE CASE.

1                   THERE IS NOTHING ELSE, NOTHING.

2                   LET ME TALK A LITTLE BIT ABOUT THE  
3 DEFENSE CASE.

4                   FIRST UP, WE'LL GO QUICKLY THROUGH THIS,  
5 THE WOMAN FROM DMV WILL TELL THEM TWO THINGS: ONE,  
6 MY CLIENT APPLIED FOR A LICENSE IN JULY OF 1993;  
7 TWO, SHE IDENTIFIES A LICENSE THAT IS A DUPLICATE  
8 THAT HE KEPT WITH HIM.

9                   IT'S IN EVIDENCE. WE HAVE A POSTER THAT  
10 SHOWED IT AND IT'S UNDISPUTED.

11                   THEN THI DO'S YOUNG SISTER-IN-LAW, AHN,  
12 WHO IS PRESENT IN THE COURTROOM, SHE TESTIFIED.

13                   SHE WAS A 13 YEAR OLD GIRL AT THE TIME.  
14 AS FAR AS THE EVIDENCE IS CONCERNED, SHE'S A GOOD  
15 YOUNG WOMAN. SHE'S MAJORED IN PSYCHOLOGY AT  
16 BERKELEY AND FLAWLESS CHARACTER AND FLAWLESS PAST.  
17 SHE'S A FAMILY PHOTOGRAPHER.

18                   NOW, SHE, SHE REMEMBERED ALL OF THE  
19 HALLOWEENS. SHE IDENTIFIED THE PICTURES. SHE TOOK  
20 THESE PICTURES, EXHIBIT 507. SHE TOOK THESE  
21 PICTURES. SHE REMEMBERS TAKING THESE PICTURES.

22                   YOU'LL HAVE THE ACTUAL PHYSICAL PICTURES  
23 IN YOUR POSSESSION AND YOU'LL SEE ON THE BACK THAT  
24 THEY'RE STAMPED NOVEMBER OF 1993.

25                   NOW, THE GOVERNMENT HAS NOT OFFERED ANY

1 EVIDENCE, AND I KIND OF DOUBT THAT THEY'RE GOING TO  
2 ARGUE THAT THESE PICTURES ARE FORGERY.

3 SO SHE CLEARLY SAYS SHE TOOK THE PICTURES  
4 ON HALLOWEEN.

5 NOW, DID THEY SAY -- OH, WE KNOW FROM THE  
6 CELL PHONE RECORDS OF THE ALLEGED COCONSPIRATORS  
7 THAT THEY GET BACK IN SAN JOSE 3:00, 4:00, 5:00 OR  
8 SO IN THE AFTERNOON, AROUND THAT TIME, DEPENDING ON  
9 HOW FAST THEY DRIVE FROM PORTLAND.

10 THE TESTIMONY IS THAT THE ROBBERY IS  
11 COMPLETED ABOUT 3:45 OR 4:00 A.M., AND THERE'S BEEN  
12 DIFFERENT TESTIMONY, BUT ANYWHERE FROM 12 TO 14  
13 HOURS DEPENDING ON HOW YOU DRIVE, WHICH WOULD PUT  
14 MR. DO, HE COULD SNEAK IN THERE ABOUT 3:30 OR 4:00.

15 BUT SHE SAID SHE TOOK THE PICTURE AT  
16 5:30. SHE DIDN'T SAY THEY TOOK THE PICTURE AT 2:00  
17 O'CLOCK. SHE SAID SHE TOOK THE PICTURE AT 5:30.

18 SHE REMEMBERS THE COSTUME FROM THAT DAY.  
19 SHE REMEMBERS HER NEPHEW'S AND NIECE'S COSTUMES.  
20 SHE REMEMBERS THE COSTUMES FROM THE YEARS BEFORE.

21 NOW, HOW DO THEY REMEMBER WHAT HAPPENED  
22 IN 1993? YOU KNOW, HOW DO YOU DO THAT? YOU DO  
23 THAT WITH A PICTURE. YOU'RE ALLOWED TO THINK IN  
24 YOUR LIFE OF EXAMPLES WHERE YOU KNOW SOMETHING  
25 HAPPENED AT A VAGUE PERIOD OF TIME.

1                   YOU LOOK AT THE PICTURE AND IT HAS A DATE  
2                   ON IT, AND AS YOU LOOK AT THE PICTURE IT BRINGS  
3                   BACK THE EVENT. THAT'S THE TIME THAT JOHNNY FELL  
4                   INTO THE POOL, OR THAT'S THE TIME THAT THE POTATO  
5                   SALAD WAS BAD AND EVERYBODY GOT STOMACH POISONING.

6                   WHAT DAY WAS IT? I DON'T KNOW.

7                   BUT HERE WE HAVE COSTUMES AND WE HAVE  
8                   PICTURES AND THAT'S THE BASIS BY WHICH PEOPLE HAVE  
9                   RECALLED WHAT HAS OCCURRED.

10                  SHE REMEMBERS THEM SPECIFICALLY COMING  
11                  OVER AT 1:00 O'CLOCK IN THE AFTERNOON BECAUSE HER  
12                  MOM AND HER ARE IN THE KITCHEN AND BECAUSE THEY  
13                  HAVE BEEN IT IN THE PAST AND THEY'RE MAKING THE  
14                  COSTUME. WE HAVE A PICTURE OF THEM IN 1994, OF  
15                  THEM MAKING THE COSTUME. SHE HAS A VERY SPECIFIC  
16                  RECOLLECTION.

17                  SHE REMEMBERS THAT HIS SISTER, THI'S  
18                  SISTER SARA COMES LATE THAT YEAR AND THEY'RE ALL  
19                  TRYING TO GET OUT OF THE HOUSE TO GO TRICK OR  
20                  TREATING AND THEY HAVE TO WAIT TO TAKE THE FINAL  
21                  PHOTO THAT SARA IS IN UNTIL ABOUT DUSK, THEREBY  
22                  ELIMINATING THE PHOTOGRAPH OF THE FIRM ALIBI.

23                  THI'S MOTHER-IN-LAW, SHE WAS THE NEXT  
24                  WITNESS. IF YOU REMEMBER WHEN THI'S WIFE TALKED  
25                  ABOUT THE HOME INVASION, AND YOU REMEMBER YOU COULD

1 FEEL HOW IT IMPACTED HER TO THIS DAY.

2 SHE SAID A VERY TELLING COMMENT ABOUT HER  
3 MOTHER-IN-LAW, AND I MEAN NO DISRESPECT. SHE -- I  
4 SAID, WHY DIDN'T YOU GO TO YOUR MOTHER-IN-LAW'S?

5 AND SHE SAID BECAUSE MY MOTHER-IN-LAW  
6 WOULDN'T HAVE ME. MY MOTHER, THI'S MOTHER WOULDN'T  
7 HAVE THEM BACK IN THE HOUSE EVEN AFTER THIS  
8 TERRIBLE THING HAD HAPPENED.

9 NOW, THEY WEREN'T MARRIED AND I DON'T  
10 KNOW WHAT IT WAS. BUT DID THAT WOMAN, THE WOMAN  
11 WHO DIDN'T LET HER DAUGHTER BACK IN THE HOUSE AFTER  
12 A BRUTAL ASSAULT, NOW COME IN HERE AND JUST COMMIT  
13 BLATANT PERJURY? NOT SO.

14 SHE HAS A MEMORY. THE PROSECUTION  
15 POINTED OUT SHE DIDN'T REALLY REMEMBER CLEARLY WHAT  
16 IT WAS AND WHAT COSTUME UNTIL AFTER SHE SAW THE  
17 PICTURES.

18 TRUE.

19 BUT SHE REMEMBERS MAKING HER DAUGHTER'S  
20 COSTUME THAT YEAR AND THE PICTURES HELP HER  
21 REMEMBER IT.

22 AND HAS SHE COMMITTED BLATANT PERJURY?  
23 NO. SHE REMEMBERS ALL OF THE EVENTS.

24 THE AGENT VISITED HER AND TRIED TO GET  
25 HER TO RECANT AND SHE DIDN'T. SHE'S SCARED OF THE



1 POLICE. SHE WAS SCARED OF THE POLICE BECAUSE THEY  
2 WENT TO HER HOUSE TO ARREST HER SON-IN-LAW WITH 20  
3 GUNS.

4 WHAT DID SHE SAY? SHE SAID I HAVE TO  
5 TELL THE TRUTH.

6 DID SHE SIT UP THERE AND COMMIT PERJURY?

7 THEN WE HAVE VU, THE BROTHER, KIND OF A  
8 GREGARIOUS GUY AND AT EASE WITH HIMSELF, AND HE HAS  
9 TO BE FOR A COMMERCIAL REAL ESTATE BROKER AND HE  
10 WORKED VERY HARD TO GET THERE.

11 HE KNOWS IF HE COMMITS PERJURY HERE HE  
12 LOSES HIS LICENSE. HE GOT UP AND TOLD THE TRUTH.  
13 HE SAID I WASN'T THERE HARDLY AT ALL, BUT I WAS  
14 THERE IN '91 AND '93.

15 HOW DO YOU KNOW YOU WERE THERE IN '93?

16 I WENT BACK AND TOOK SOME SEMESTERS OFF  
17 SCHOOL AND THAT'S HOW I DETERMINED I WAS THERE.

18 AND THEN LATER HE RECOGNIZED HIS KNEE --  
19 I DON'T HAVE THE PICTURE HERE. THERE'S A BIG FAT  
20 KNEE AND HE SAID THAT'S ME, THAT'S MY BIG FAT KNEE.

21 AS HE LOOKS AT THE PICTURE. HE REMEMBERS  
22 A SARCASTIC COMMENT HE MADE TO THI'S SON. THI'S  
23 SON IS IN THE NOT ROBINHOOD, BUT THE ROBIN COSTUME.

24 AND HE REMEMBERS SAYING GEE, WHY NOT  
25 BATMAN?

1                   AND THE SON HAD A WISE ANSWER. IT  
2                   ESCAPES ME BACK HERE. AND HE SAID IT'S BATMAN'S  
3                   DAY OFF OR SOMETHING.

4                   IT CAME BACK TO HIM. THAT'S REAL. THOSE  
5                   ARE REAL THINGS. THESE ARE NOT CONTRIVED. THAT'S  
6                   NOT SOME LONG, ELABORATE COMPLICATED FOR THE JURY'S  
7                   TESTIMONY.

8                   HE ALSO REMEMBERS BECAUSE THE AUNT IS  
9                   PREGNANT. HE REMEMBERS -- HE REMEMBERS ALEX WAS  
10                  GOOFY. THIS IS VIVIAN'S CHILD AND THIS IS THI'S  
11                  CHILD, ROBIN.

12                  HE REMEMBERS THAT HIS AUNT WAS PREGNANT  
13                  AND DIDN'T WANT TO COME OVER EARLY BECAUSE SHE WAS  
14                  TIRED AND SO FORTH.

15                  AND REMEMBERS THAT ALEXANDER WAS BROUGHT  
16                  THERE EARLY IN THE AFTERNOON TO PLAY WITH THI'S SON  
17                  WHILE THEY GOT THE COSTUMES READY.

18                  HE ALSO REMEMBERS WHAT HAPPENED AT  
19                  ALLISON WAY AND THAT'S THE PLACE OF BAD MEMORIES.  
20                  AND THEY TALK ABOUT IT AND THEY REMEMBER THAT THESE  
21                  PEOPLE ALIENATED THI FROM THE REST OF HIS FAMILY  
22                  AND CREATED A SITUATION WHERE HE'S TERRORIZED.

23                  THE REASON I BROUGHT TO YOU THE EVIDENCE  
24                  OF THE HOME INVASION WAS NOT TO MAKE YOU FEEL SORRY  
25                  FOR THI OR HIS FAMILY.

1                   IT WAS BROUGHT TO YOUR ATTENTION SO YOU  
2 UNDERSTAND HOW THEY LET THIS GO ON AS LONG AS YOU  
3 DID, SO YOU UNDERSTAND THE MENTALITY OF  
4 HELPLESSNESS AND FEELING VICTIMIZED BY THESE PEOPLE  
5 IN HIS HOUSE AND THI'S UNWILLINGNESS TO CONFRONT  
6 THEM ONCE HE WAS REBUFFED INITIALLY, AND THAT'S WHY  
7 WE ADMITTED THAT INFORMATION, JUST SO YOU WOULD  
8 UNDERSTAND THAT.

9                   SO WHAT DOES VU SAY? HE SAYS I STOPPED  
10 COMING TO THE HOUSE BECAUSE THESE GUYS ARE STARING  
11 ME DOWN AND SO I STOP VISITING. BAD GUYS.

12                   THEN WE HAVE ONE OF THE GOVERNMENT'S  
13 MAJOR PIECES OF EVIDENCE IN THE CASE. WE HAVE THE  
14 ISUZU THAT BELONGS TO VU, AND THIS IS THE CAR THAT  
15 APPEARS ON THE SHILOH REGISTRATION.

16                   THE GOVERNMENT ARGUED TO YOU THAT SINCE  
17 THI DO HAD ACCESS TO THE CAR, THE CAR IS EVIDENCE  
18 THAT HE WAS THERE.

19                   BUT WE HAVE PRESENTED UNDISPUTED EVIDENCE  
20 TO YOU, ONE, THAT THE CAR WAS BEING SOLD AND WAS  
21 SOLD TO CHINH PHAM; TWO, CHINH PHAM USED THE CAR  
22 WITHOUT PERMISSION. THE KEYS WERE ON THE MICROWAVE  
23 IN THE KITCHEN.

24                   BUT YOU DON'T HAVE TO BELIEVE MY  
25 WITNESSES ABOUT THAT BECAUSE, LO AND BEHOLD, ON

1           OCTOBER 13TH, 1993 THE CAR IS STOPPED, ATTEMPTED TO  
2           BE STOPPED BY THE POLICE. THEY SEE FOUR YOUNG MEN  
3           IN THE CAR AND THEY ALL GET OUT AND RUN AND THE CAR  
4           IS ABANDONED IN THE STREET.

5                         AND THEY SAY, WHAT IS YOUR CAR DOING  
6           HERE? WHAT IS YOUR CAR DOING HERE?

7                         VU SAID THAT THI IS HONEST TO HIS  
8           DISADVANTAGE AS FAR AS HIS CHARACTER.

9                         NOW, SARA CAME IN, THE SISTER. DO YOU  
10          REMEMBER HER? SHE HAD A HARD TIME. SHE PAUSED A  
11          LONG TIME BEFORE HER ANSWERS AND THINGS SEEMED TO  
12          COME SLOWLY TO HER. BUT SHE ALSO APPEARED TO BE  
13          THOUGHTFUL.

14                        HER DAUGHTER IS THE BUMBLE BEE. SHE  
15          SAYS, I CAME OVER BEFORE DARK. SHE DOESN'T SAY, I  
16          CAME OVER BEFORE 2:00 O'CLOCK. SHE DOESN'T GIVE AN  
17          ALIBI. SHE TELLS THE TRUTH. I CAME OVER BEFORE  
18          DARK.

19                        SHE RECALLS A CONVERSATION WITH THI, SHE  
20          SAYS, THE SAME DAY BEFORE THEY GO TO THE IN-LAW'S  
21          HOUSE OR THE DAY BEFORE ABOUT TRYING TO PUT  
22          TOGETHER A COSTUME FOR VIVIAN'S FIRST HALLOWEEN AND  
23          THI PROVIDES A SOLUTION, WHICH IS THE BUMBLE BEE  
24          COSTUME THAT HIS SON WORE IN 1991.

25                        WELL, WHAT IS THE SIGNIFICANCE OF THE

1 CONVERSATION? WELL, IF IT'S THE DAY BEFORE HE'S  
2 NOT AT OKI. IF IT'S THE MORNING OF, HE'S NOT AT  
3 OKI.

4 AND DID SHE MAKE THAT UP AND TRY TO TELL  
5 YOU THE TRUTH WHEN SHE CAME IN?

6 SHE TELLS YOU, AND I GOT IN TROUBLE FOR  
7 REPETITIVE TESTIMONY, BUT I NEEDED YOU TO VIEW  
8 THESE WITNESSES, TO GIVE YOU THEIR VIEW OF WHAT  
9 HAPPENED EVEN THOUGH THEIR VIEW IS THE SAME, THEIR  
10 VIEW IS THE SAME BECAUSE THEY'RE TELLING YOU THE  
11 TRUTH.

12 SHE DESCRIBED THE WHOLE ROOMMATE  
13 SITUATION, THE NEIGHBORS COMPLAINING, THE LOUD  
14 CARS, THE MUSIC, THE PEOPLE OVER AT ALL TIMES OF  
15 DAY OR NIGHT.

16 SHE SAID SHE NEVER SAW THI OUT OF THE  
17 HOUSE WITH ANY OF THOSE PEOPLE. SHE REMEMBERS  
18 CHINH AND SHE REMEMBERS HOANG.

19 SHE REMEMBERED WHEN THI'S WIFE TOOK CARE  
20 OF HOANG FOR SEVERAL DAYS WITH THE CHICKEN POX  
21 BECAUSE HER DAUGHTER GOT IT.

22 THEN WE COME TO VU PHAM, AND THAT'S MY  
23 CLIENT'S BEST FRIEND, SCOUTMASTER, HAS KNOWN HIM  
24 SINCE 1992.

25 HE DOESN'T ADD ANYTHING TO THE ALIBI, BUT

1 WHAT HE DOES TELL YOU IS THAT HE SUPPORTS  
2 EVERYONE'S TESTIMONY ABOUT THE HARD WORKING NATURE  
3 OF MY CLIENT. AND HE DESCRIBES FAMILY CAMPING  
4 TRIPS IN 1993.

5 HE ALSO HAS A VIVID MEMORY OF THE  
6 ROOMMATES SHOWING UP. THI'S HOUSE WAS LIKE A  
7 SECOND ROOM TO HIM.

8 AND ONCE THE ROOMMATES TOOK OVER, HE WAS  
9 DRIVEN AWAY BY THEM. THEY SCARED HIM DOWN AND MADE  
10 HIM NERVOUS.

11 THI REPORTS THAT HE HAD A GLASS EYE AND I  
12 DIDN'T NOTICE THAT, BUT THEY STARTED MAKING  
13 COMMENTS ABOUT THE GLASS EYE.

14 I ASKED HIM, TO HIS KNOWLEDGE, HAS THI  
15 EVER SPENT ONE NIGHT AWAY FROM HIS WIFE EVER TO HIS  
16 KNOWLEDGE? NO.

17 THE PROSECUTION SAYS YOU DON'T REALLY  
18 KNOW BECAUSE YOU WEREN'T REALLY THERE?

19 AND HE SAID, TRUE, BUT IF THI EVER FAILED  
20 TO SHOW UP, I KNOW DONNA. HIS WIFE WOULD HAVE  
21 CALLED.

22 IN THE END HE SAID THI WAS LIKE A  
23 BOYSCOUT, DEPENDABLE, TRUSTWORTHY AND HARD WORKING.

24 HIS WIFE TESTIFIED. SHE TALKED ABOUT  
25 THEIR RELATIONSHIP. SHE TALKED ABOUT THE HOME

1 INVASION AND WHAT IMPACTED THAT HAD ON HER.

2 SHE KEPT THE FAMILY BOOKS. SHE TOOK CARE  
3 OF THE MONEY.

4 SHE DESCRIBES THE ROOMMATE THING PRETTY  
5 MUCH THE SAME AS EVERY OTHER WITNESS DESCRIBED IT.

6 SHE SAID THEY USED THE PHONE SO MUCH,  
7 THEY USED THE PHONE SO MUCH THAT THEY PAID THE  
8 BILL. THEY WERE GETTING CALLS THERE ALL OF THE  
9 TIME, ESPECIALLY AT NIGHT.

10 SHE TALKS ABOUT A GUY FROM OAKLAND WAVING  
11 A GUN AROUND.

12 SHE TALKS ABOUT HER HUSBAND AND HER  
13 SITTING DOWN AND HAVING THESE PAINFUL  
14 CONVERSATIONS, WHAT ARE WE GOING TO DO?

15 SHE'S AFRAID TO PUT HER HUSBAND AT RISK,  
16 BUT SHE WANTED TO BE PROTECTED.

17 HE WANTS TO PROTECT HIS FAMILY, BUT HE'S  
18 AFRAID TO END UP A VICTIM AGAIN.

19 WHAT DO THEY DO? THEY PAINFULLY DECIDE  
20 THAT THE PASSIVITY AND WAITING UNTIL THE END OF THE  
21 LEASE AND HOPING THIS PROBLEM GOES AWAY IS THE BEST  
22 SOLUTION. THEY WERE, IN ESSENCE, TRAPPED IN THEIR  
23 OWN HOUSE BY FEAR.

24 AND WE KNOW THESE ARE BAD GUYS. THERE'S  
25 NO DISPUTE ABOUT THAT. THERE'S SOME REALLY BAD

1 GUY'S LIVING IN THEIR HOUSE.

2 SHE TALKS ABOUT HALLOWEEN AND HER  
3 REMEMBRANCES. SHE TALKS ABOUT GOING TO THE STORE  
4 AND BUYING FABRIC. SHE TALKS ABOUT MAKING THE  
5 CAPE, ALL OF THAT. SHE HAS A SPECIFIC MEMORY. SHE  
6 HAS A MEMORY OF THI PICKING UP ALEXANDER AND SHE  
7 REMEMBERS THAT ALEXANDER'S FATHER HADN'T GOTTEN YET  
8 ALEXANDER A HALLOWEEN COSTUME, SO THI GOES BACK TO  
9 HIS HOUSE AND GRABS GOOFY TO GIVE TO ALEXANDER.

10 SHE ALSO DESCRIBES WHAT HAPPENED TO THESE  
11 BAD ROOMMATES AFTER HALLOWEEN.

12 NOW, THE JUDGE TALKED ABOUT THE AWESOME  
13 POWER OF THE GOVERNMENT. THEY DIDN'T PRESENT ANY  
14 EVIDENCE DISPUTING THE FACT THAT HOANG LE, AFTER  
15 THE ROBBERY, GOES OUT AND BUYS A BRAND NEW 5 SERIES  
16 BMW, GOLD IN COLOR, THAT HOANG I GUESS OUT OF  
17 GRATITUDE OR WHATEVER IT IS, GOES UP TO DONNA AND  
18 SAYS, HEY, YOU KNOW, WE KIND OF MISSED YOUR  
19 BIRTHDAY AND I WANT TO THROW YOU A BIG PARTY WITH A  
20 HALL AND A BAND AND SHE DECLINED.

21 CHINH, AFTER WEEKS OF TALKING ABOUT THE  
22 ISUZU, 3,000 IN CASH GIVES HIS TO HIS DAD AND HE  
23 SHOWS UP WITH A 3 SERIES BMW ALL OF THE SUDDEN.

24 THESE GUYS ARE SLEEPING ON THE COUCH ONE  
25 MINUTE AND BUYING A 5 SERIES BMW THE NEXT.



1 WE FIND OUT THAT THE THIRD ROOMMATE BUYS  
2 AN ACURA LEGEND. SHE MADE A MISTAKE, ACCORDING TO  
3 HER HUSBAND. SHE THOUGHT THEY USED THE COLLEGE  
4 FUND THAT SHE HAD GOTTEN FROM THE ACCIDENT TO PAY  
5 FOR THE CATERING TRUCK THAT HE BUYS IN JUNE OF  
6 1994.

7 I DON'T KNOW IF THE PROSECUTION IS GOING  
8 TO ARGUE OH, MAN, THAT \$6,000 SPENT IN JUNE REALLY  
9 CAME FROM THE ROBBERY.

10 THI AT LEAST HAD THE HONESTY TO GET UP  
11 AND SAY NO, THIS IS HOW I REMEMBER IT HAPPENED. I  
12 REMEMBER WORKING IT OFF.

13 DID SHE MAKE A MISTAKE? IS SHE A HUMAN  
14 BEING? YES.

15 DOES THAT MEAN IS SHE LYING AND  
16 PERJURIOUS? NO.

17 THE WHOLE ISSUE BROUGHT UP BY THE  
18 PROSECUTION ABOUT THE BLACK BMW IN 1992, COME ON.  
19 HOW MUCH TIME DID THEY SPEND ON THE BLACK BMW IN  
20 1992? YOU WOULD THINK THIS WAS AN AUTO THEFT CASE.

21 WHETHER THI HAD BEEN TO GARDEN CITY OR  
22 NOT, OH-HO, THERE MAY HAVE BEEN ONE TIME HE WAS  
23 THERE. OH MY GOD, THAT'S SIGNIFICANT, ISN'T IT?

24 SHE TALKED ABOUT HAVING SEEN TRAI DUC NGO  
25 IN CONNECTION TO THE BMW IN 1992 AND IT'S A

1 DISPUTE. IT'S A DISPUTE BETWEEN TRAI DUC NGO AND  
2 THI AND HIS WIFE.

3 THEY BROUGHT THIS INTO THIS CASE. WHAT  
4 DOES IT TELL US? IT TELLS US IT WAS HARDLY LIKELY  
5 HE WAS ENLISTED BY TRAI DUC KNOW TO COMMIT THE OKI  
6 ROBBERY.

7 THE LAST BIG POINT OF THE GOVERNMENT IS  
8 WHEN THEY HAD THIS MEETING, WHY DIDN'T SHE SAY, WE  
9 HAVE ALIBI, YOU WERE LYING ABOUT MY HUSBAND. HE  
10 NEVER CONFESSED. WHY DIDN'T SHE CONFRONT HIM?

11 I DON'T THINK -- YOU DON'T NEED ME TO  
12 ANSWER THAT QUESTION. I MEAN, WHY DIDN'T DONNA  
13 HERE TAKE ON AGENT HINKLE AND SERGEANT MILLER?

14 THERE'S A VERY GOOD ANSWER TO THAT. THE  
15 DOOR WAS SHUT. NO ONE WAS GOING TO BELIEVE THEM,  
16 AND IN ORDER TO BELIEVE THEM, THEY WOULD HAVE TO  
17 ADMIT THEMSELVES THAT THEY WERE WRONG.

18 THERE'S NO RATIONAL BASIS FOR HER COMING  
19 FORWARD AND CALLING THE FBI. THE GUY IS  
20 PROSECUTED.

21 THI DO. YOU'VE GOT TO WATCH HIM AND  
22 YOU'VE GOT TO LISTEN TO HIM. HE, IN ANTICIPATION  
23 OF THE GOVERNMENT ASKING HIM ALL OF THE QUESTIONS  
24 FROM HIS WIFE ABOUT WHERE DID HE WORK IN 1991 AND  
25 WHAT TIME DID HE LEAVE THAT JOB AND WHAT TIME DID

1 HE START THAT JOB AND, YOU KNOW, WHERE DID HE WORK  
2 IN 1994, IN ANTICIPATION OF THAT, THI TOLD YOU HIS  
3 ENTIRE WORK HISTORY.

4 HE TOLD YOU EVERYWHERE HE WORKED. HE  
5 GAVE YOU THE NAMES OF THE PEOPLE HE WORKED FOR, THE  
6 NAMES OF THE COMPANY.

7 IF HE DIDN'T HAVE A STREET ADDRESS, HE  
8 WOULD SAY IT'S ON JACKSON AND 8TH. HE WENT THROUGH  
9 EVERY POSSIBLE DETAIL A REASONABLE HUMAN BEING  
10 COULD PROVIDE ABOUT HIS ENTIRE LIFE WORK HISTORY.

11 AND THEY DIDN'T BRING IN ANYONE TO  
12 IMPEACH A SINGLE THING HE SAID, NOT ONE SINGLE  
13 THING ABOUT HIS WORK HISTORY.

14 YOU KNOW, IF THEY COULD, YOU KNOW THE FBI  
15 AGENTS WENT OUT THERE AND TALKED TO EMPLOYERS.  
16 MAYBE THEY DIDN'T BOTHER BECAUSE THEY BELIEVED HIM.  
17 I DON'T KNOW.

18 BUT WE DO KNOW THAT WHAT HE TOLD THIS  
19 JURY ABOUT HIS WORK HISTORY IS UNIMPEACHED,  
20 UNDISPUTED. THERE'S NO EVIDENCE TO DISPUTE IT.

21 HE TELLS YOU ABOUT WORKING ON THE FOOD  
22 TRUCK. RIGHT -- RIGHT -- RIGHT BEFORE THIS ROBBERY  
23 DURING THE TIME HE DOES SUNRISE EXPANSION, HE'S  
24 WORKING ON THE FOOD TRUCK.

25 HE'S GETTING UP EVERY DAY AT 4:00 IN THE

1 MORNING. YOU HEARD IT. YOU WORK UNTIL 4:00 OR  
2 2:00 IN THE AFTERNOON AND HE MAKES 150 OR 100  
3 DOLLARS A DAY BUSTING HIS BUTT. SIX BUCKS AN HOUR.

4 SO IN THE MIDST OF ALL OF THIS,  
5 SUPPOSEDLY IN SEPTEMBER AFTER THACH TRAN AND HIS  
6 FRIENDS ARE OUT DRINKING ALL NIGHT AND DECIDE TO DO  
7 A BURGLARY, WELL, LET'S GO GET, LET'S GO GET THI  
8 DO. HE'S PROBABLY UP AND ABOUT.

9 AND THEY WAKE HIM UP TO DO THE BURGLARY  
10 AND HE GETS UP THE NEXT MORNING AND GOES TO WORK.  
11 HUH-UH. NO.

12 HE SAID TO YOU, HE NEVER MISSED A SINGLE  
13 DAY OF WORK ON THE FOOD TRUCK. HE GAVE YOU THE  
14 NAME OF THE OWNER OF THE FOOD TRUCK. HE GAVE YOU  
15 THE LOCATION OF THE FOOD TRUCK WHERE IT WAS PARKED  
16 EVERY MORNING.

17 THE GOVERNMENT HAS NOT PRODUCED ANYTHING  
18 TO DISPUTE THAT EVIDENCE. AND BELIEVE ME, IF THEY  
19 COULD, THEY WOULD.

20 AGAIN, I WON'T BELABOR IT, BUT HE TELLS  
21 IT -- WHAT HE EXPLAINS ABOUT THE ROOMMATE IS  
22 CONSISTENT WITH WHAT EVERYONE ELSE TOLD YOU.

23 HE PERSONALLY TALKED TO YOU ABOUT HIS  
24 FEELINGS OF HELPLESSNESS AND FEAR. HE TOLD THEM  
25 WHEN HE WENT TO TALK TO THEM SOMETIMES THEY SAID,

1 YOU'RE A NOBODY. I DO WHAT I WANT TO DO.

2 THE ONLY PLACE THAT COULD GO FROM THAT  
3 PLACE WAS TO VIOLENCE, AND THI WAS NOT PREPARED TO  
4 TAKE THAT ON.

5 THE LICENSE, THE LOST LICENSE. I GOT MY  
6 NEW JOB. HE TELLS YOU WHEN HE GOT HIS NEW JOB.  
7 SUBJECT TO CONFIRMATION.

8 I LOOKED IN MY WALLET AND THE LICENSE WAS  
9 NOT THERE. I GOT A NEW ONE.

10 HE TALKS ABOUT HALLOWEEN CONSISTENT. HE  
11 TALKS ABOUT PICKING HIM UP AT 1:00 O'CLOCK.

12 OBVIOUSLY IF YOU FIND ANY SINGLE DETAIL  
13 IS DIFFERENT AND YOU FIND IT'S PERJURY, THEN IT  
14 BECOMES SIGNIFICANT.

15 BUT I DON'T THINK THAT IN THE END THAT  
16 THAT'S WHAT YOU'RE GOING TO BE DOING.

17 THE BOTTOM LINE IS UNLESS ALL OF THESE  
18 WITNESSES GOT TOGETHER AND TOLD YOU THE MOST  
19 CONVOLUTED TESTIMONY THAT YOU HAVE EVER SEEN, ARE  
20 THEY TELLING YOU THE TRUTH? THEY DON'T NEED TO  
21 STRETCH THE DETAILS BECAUSE THEY DON'T REVEAL  
22 ANYTHING. AND THEY'RE CONSISTENT.

23 NOW, THE GOVERNMENT IS GOING TO SAY,  
24 WELL, EIGHT YEARS AGO ALL OF THESE LITTLE DETAILS  
25 ARE PRETTY MUCH CONSISTENT BETWEEN ALL OF THESE

1 PEOPLE, THEREFORE, THE ONLY EXPLANATION IS THEY GOT  
2 TOGETHER AND MADE THE STORY UP. THAT WOULD EXPLAIN  
3 WHY EVERYTHING FITS.

4 I HAVE ONE QUESTION FOR THE GOVERNMENT,  
5 AND ONE QUESTION FOR YOU: IF THAT HAPPENED, IF ALL  
6 OF THESE PEOPLE GOT TOGETHER, ALL RIGHT, WE'VE GOT  
7 A GREAT ALIBI FOR THI DO, LET'S SEE, THE ROBBERY  
8 WOULD HAVE BEEN HOME AT 4:00 IN THE AFTERNOON, SO  
9 WE'VE GOT TO GET HIM HERE AT 1:00 O'CLOCK.

10 MOM, YOU SAY YOU'RE IN THE KITCHEN WITH  
11 THE SEWING MACHINE, AND WIFE, YOU SAY THIS, AND  
12 THI, YOU SAY THIS, AND SISTER, YOU SAY THIS, AND  
13 VU, YOU SAY THIS AND THEY CONCOCTED THIS WHOLE  
14 ELABORATE LIE, LET'S JUST SAY THAT'S THE  
15 GOVERNMENT'S POSITION.

16 IF THAT'S SO, TAKE A LOOK. DO YOU SEE  
17 ANY CLOCKS IN THIS PICTURE? DO YOU SEE ANY SIGNS  
18 OF WHAT TIME THE PICTURE WAS TAKEN? THERE WAS NO  
19 TIME ON THE PROCESSING. THINK ABOUT IT. THEY HAVE  
20 THE PICTURE. THI IS IN THE PICTURE.

21 IF THEY'RE MAKING UP A LIE, WHY WOULD  
22 THEY SAY THE PICTURE WAS TAKEN AT 5:30? WHY NOT  
23 SAY IT WAS TAKEN AT 3:00 O'CLOCK, 2:00 O'CLOCK OR  
24 1:00 O'CLOCK?

25 BECAUSE THEN IF YOU BELIEVE THEM, THE

1 PICTURE SUPPORTS THEM. IT'S NOT POSSIBLE.

2 YET THEY ALL SAY THE PICTURE WAS TAKEN AT  
3 DUSK, THEREBY MINIMIZING HIS ALIBI. HOW DID THEY  
4 DO THAT?

5 THEY'RE GOING TO SAY THEY'RE DOING THAT  
6 BECAUSE KIDS DON'T TRICK OR TREAT IN THE AFTERNOON.

7 IF YOU'RE GOING DOWN THE PERJURY ROAD, WE  
8 HAVE AN AFTERNOON PARTY BECAUSE THE KIDS ARE SO  
9 YOUNG WE DON'T GO OUT AT NIGHT.

10 YOU HAVE TO REALLY THINK ABOUT IT.  
11 THERE'S NO EXPLANATION OTHER THAN THEY'RE TELLING  
12 YOU THE TRUTH BECAUSE THE TESTIMONY ABOUT THIS  
13 PICTURE HURTS THE GOVERNMENT. WHY WOULD THEY MAKE  
14 UP SOMETHING TO HURT THE GOVERNMENT?

15 THEN WE HAVE THE MOVING VIOLATION EARLY  
16 1994, LATE '93.

17 YOU WERE SPEEDING IN ALHAMBRA AND WE'RE  
18 GOING TO SUSPEND YOUR LICENSE AND YOU HAVE A  
19 FAILURE TO APPEAR.

20 AND HE SAYS, WHEN HAVE I NEVER BEEN TO  
21 ALHAMBRA?

22 AND HE GOES DOWN WITH HIS FATHER AND  
23 CLEARS UP THE TICKET.

24 HAVE THEY PRESENTED YOU WITH ANY  
25 EVIDENCE? HAS THE FBI FOUND SOME EVIDENCE THAT THI

1 WAS A LIAR ABOUT THAT? NO, THEY HAVEN'T.

2 THE STABBING SIX MONTHS LATER AT THE  
3 HOSPITAL. WE'VE GOT THE MEDICAL RECORDS. A GUY  
4 GOES IN THERE A STAB WOUND WITH A SEVEN INCH BLADE  
5 BLEEDING ALL OVER THE PLACE AND THEY RUSH HIM TO  
6 SURGERY. HIS GIVES HIS NAME AS THI VAN DO. DATE  
7 OF BIRTH, 5-22-72, SAME AS THI DO. ADDRESS, HE  
8 GIVES THE BREEZYGLEN INSTEAD OF THE BRUSHGLEN  
9 ADDRESS.

10 SIGNIFICANT. THE BRUSHGLEN IS THE  
11 MOTHER-IN-LAW'S HOUSE, AND BREEZYGLEN IS A PLACE  
12 THAT HE LIVED THAT IS NEAR THE MOTHER-IN-LAW.

13 THE GOVERNMENT WENT THROUGH GREAT PAINS  
14 TO SHOW YOU THAT THI DO LIED TO THE DMV WHEN HE  
15 GAVE HIS MOTHER-IN-LAW'S ADDRESS AS HIS ADDRESS  
16 INSTEAD OF HIS MAILING ADDRESS AS IF THAT IS  
17 SUPPOSED TO CARRY YOU SOME WEIGHT.

18 AND HE SAYS THAT'S THE PERMANENT ADDRESS  
19 AND I'M MOVING AROUND EVERY SIX MONTHS AND THAT'S  
20 HOW I RECEIVE THINGS. IT DOESN'T MEAN HE'S HIDING.

21 BUT THERE ARE TWO FACTS, A RECORD THAT  
22 TELLS US WHAT WAS GOING ON WAS MERELY MORE THAN A  
23 LOST LICENSE.

24 ONE OF THOSE FACTS IS, ONE, HIS SOCIAL  
25 SECURITY NUMBER IS IN THERE. IT'S NOT ON HIS



1 LICENSE. IT'S ONE DIGIT OFF, BUT THAT'S A TYPO.  
2 IT'S IN THERE.

3 SECOND, HIS ACTUAL ADDRESS IS IN THERE AS  
4 OPPOSED TO THE ADDRESS ON THE LICENSE.

5 SOMEBODY IS TRYING TO CREATE AN IDENTITY.  
6 SOMEBODY USED THAT IDENTITY TO GET TREATMENT AT THE  
7 HOSPITAL, NOT TO AVOID PAYMENT OR TO AVOID BEING  
8 ARRESTED AND INVESTIGATED FOR THE STABBING.

9 THE POLICE COMES TO HIS HOUSE AND CHECK  
10 HIM FOR WOUNDS. THE GOVERNMENT HAS STIPULATED,  
11 IT'S IN EVIDENCE, THAT THESE MEDICAL RECORDS DO NOT  
12 RELATE TO THI DO.

13 LASTLY, THE CONFESSION. AGAIN, THERE'S  
14 NO EVIDENCE OTHER THAN WHAT THE THREE PEOPLE SAY.  
15 THERE'S NOTHING.

16 THAT'S THE HARD PART OF THIS CASE FOR  
17 YOU.

18 WE KNOW THAT WHEN HE'S ARRESTED HE'S  
19 ARRESTED AT GUN POINT WITH 20 AGENTS AND WE KNOW  
20 THAT HIS MOTHER IS WITH HIM AND HE'S WORKING AT THE  
21 FOOD TRUCK.

22 AND THE FIRST THING HE DOES IS CONSENT TO  
23 SEARCH OF HIS HOUSE. AND WHEN YOU SEE PEOPLE  
24 CONNECTED TO A ROBBERY, SOMETIMES THEY FIND  
25 EVIDENCE IN THE HOUSE.

1                   THEY DON'T FIND ANYTHING CONNECTED WITH  
2 ANYONE HERE IN THIS HOUSE, AND HE CONSENTED. HEY,  
3 SEARCH MY HOUSE.

4                   YOU'RE GOING TO BE CHARGED WITH ROBBERY.  
5 I'LL TALK TO YOU. I DIDN'T DO IT, AND LET ME TELL  
6 YOU.

7                   AND THEN YOU HEARD WHAT HAPPENED. HE'S  
8 HANDCUFFED TO THE TABLE AND HE WAS TOLD REPEATEDLY,  
9 AND THE AGENTS BELIEVED IT, I MEAN, THE AGENTS WERE  
10 SURE THAT HE HAD DONE IT AND THEY WERE SURE THAT HE  
11 WAS LYING.

12                   THEIR MINDS WERE CLOSED AND NOT OPEN, AND  
13 THAT EXPLAINS WHY THERE WAS NO WAY FOR THAT TO HAVE  
14 HAPPENED AND TO WHAT HE ASKED QUESTIONS TO  
15 CORROBORATE INFORMATION.

16                   HOW MANY TIMES HAVE YOU CALLED YOUR WIFE?  
17 I WANTED TO CALL HER FOUR TIMES.

18                   WELL, THAT WOULD BE PRETTY TELLING. THEY  
19 DID A CLASSIC GOOD COP, BAD COP.

20                   SHE SLAMS THE TABLE WITH A CLIPBOARD  
21 RIGHT IN FRONT OF HIS FACE.

22                   BUT FAGALDE WAS ASKED THE QUESTIONS BY  
23 THE PROSECUTION, DID SHE HIT HIM?

24                   NO.

25                   DID SHE PUT HER HANDS ON HIM?

1 NO.

2 DID SHE SLAM THE CLIPBOARD ON THE TABLE?

3 I DON'T REMEMBER. NOT THAT I REMEMBER OR  
4 SOMETHING LIKE THAT.

5 SHE DID. SHE DID SLAM THE CLIPBOARD.  
6 SHE DIDN'T BEAT HIM WITH IT. SHE SLAMMED IT ON THE  
7 TABLE.

8 FAGALDE LOOKED OVER AND WHISPERED IN THE  
9 EAR, YOU'RE GOING TO HAVE TO ASK ME. I DON'T KNOW  
10 HOW LONG I CAN HOLD HER AT BAY.

11 CLASSIC GOOD COP, BAD COP.

12 IF HE WAS SO COOPERATIVE, WHY ARE YOU  
13 LEFT WITHOUT A SIGNED CONFESSION? WHY ARE YOU LEFT  
14 WITHOUT A TAPE RECORDED CONFESSION? ARE THEY BUSY?  
15 IT'S NOT THEIR POLICY.

16 IN CROSS-EXAMINATION OF MY CLIENT, THEY  
17 SPENT ABOUT THREE MINUTES ON THE OKI ROBBERY. ZERO  
18 TIME ON HIS ALIBI. THEY SPENT ZERO TIME ON HIS  
19 ROOMMATES.

20 THEY SPENT THEIR TIME TRYING TO IMPEACH  
21 HIM AND MAKE HIM LOOK BAD TO DECIDE THIS CASE.

22 THEY SHOWED A DECLARATION WHICH WAS  
23 PREPARED IN WHICH HE SAID HE REPEATEDLY DIDN'T  
24 UNDERSTAND THE WORDS AND IN HIS TESTIMONY HE SAID  
25 SOMETIMES.

1                   DOES THAT MAKE HIM GUILTY OR MAKE HIM A  
2                   PURGER?

3                   THEY SAID THAT HE DIDN'T DENOUNCE HIS  
4                   CONFESSION.

5                   AND THEN GARDEN CITY.   THEY INTRODUCED  
6                   EVIDENCE THAT HE MAY HAVE BEEN OUTSIDE OF GARDEN  
7                   CITY ON ONE OCCASION.

8                   STRANGELY ENOUGH, IT WAS WHEN HE WAS 19  
9                   YEARS OLD AND THAT WAS IN 1992 AND THAT WAS A BIG  
10                  FACT.

11                  AND THAT OH NO, NOW THEY'VE GOT HIM THERE  
12                  ONE TIME BEFORE THE OKI ROBBERY, THERE'S NO  
13                  PATTERN. NO ONE SAYS HE HUNG OUT THERE. NO ONE  
14                  SAYS HE WAS THERE.

15                  IT'S A RED HERRING AND THEY SPENT HALF AN  
16                  HOUR OF OUR TIME ON A RED HERRING.

17                  THE BLACK BMW, IT WAS BLACK. HOW DOES A  
18                  BLACK BMW TELL YOU WHETHER HE CONFESSED OR NOT?  
19                  HOW DOES A BLACK BMW TELL YOU WHETHER HE WAS AT OKI  
20                  OR NOT? IT DOESN'T.

21                  IT'S A SMOKE SCREEN.

22                  THE I.N.S. ISSUE. IT'S NOT CLEAR WHETHER  
23                  HE UNDERSTOOD FROM HIS TESTIMONY THE DIFFERENCE  
24                  BETWEEN BEING CONVICTED OF A CRIME AND BEING  
25                  CHARGED WITH A CRIME.

1                   AND IS THAT -- IT'S THAT, THE LACK OF  
2                   RESCISSION AND UNDERSTANDING THAT CAUSED THE  
3                   PROBLEM TO OCCUR WITH THE APPLICATION.

4                   THERE'S NO QUESTION IN THE APPLICATION  
5                   THAT SAYS ARE YOU PRESENTLY BEING CHARGED WITH A  
6                   CRIME, AND IT'S CLEAR THAT THI DO DID NOT FULLY  
7                   UNDERSTAND THE DIFFERENCE WITH HIM BEING CHARGED  
8                   AND BEING CONVICTED.

9                   DOES THAT MEAN HE LIED ABOUT EVERYTHING?  
10                  NO.

11                  DOES THAT MEAN HE LIED ABOUT OKI? NO.  
12                  DOES THAT MEAN HE CONFESSED? IT DOES  
13                  NOT.

14                  WOULD PEOPLE LIKE A TWO-MINUTE STRETCH?  
15                  NO? OKAY.

16                  OKAY. NOW I'D LIKE TO SOMEHOW DEAL WITH  
17                  THIS CATEGORY OF EVIDENCE. FIRST WE HAVE THE  
18                  UNDISPUTED GOVERNMENT EVIDENCE. WHEN I SAY IT WAS  
19                  UNDISPUTED, IT MEANS EVIDENCE WAS GIVEN TO YOU. NO  
20                  ONE HAS ARGUED OR OFFERED AN ALTERNATIVE. IT'S A  
21                  FACT NOT UNDER DISPUTE.

22                  WHEN YOU START DELIBERATING, WHEN YOU  
23                  START WITH THE UNDISPUTED FACTS, YOU'RE ON THE SAME  
24                  PAGE. EVERYONE AGREES THAT XYZ HAPPENED.

25                  YOU TAKE THAT FROM THE RAW AREA AND THEN

1 YOU TAKE THE DISPUTES FACTS AND IT'S A SUGGESTION  
2 SINCE THE FACTS ARE COMPLICATED.

3 ALL RIGHT. WHAT ARE THE UNDISPUTED  
4 FACTS? ONE, WE HAVE PHONE CALLS FROM CELL TO  
5 ALLISON AND FROM SHILOH TO ALLISON. THIS IS THE  
6 GOVERNMENT'S UNDISPUTED EVIDENCE.

7 TWO, WE HAVE THE HOTEL RESERVATION. THAT  
8 HAS THE CBL NUMBER, ADDRESS, AND IT HAS A VEHICLE  
9 THAT IS VU'S.

10 THAT'S, IN ESSENCE, THE UNDISPUTED  
11 EVIDENCE THAT, YOU KNOW, I GUESS NUMBER THREE IS  
12 OKI. THAT'S THE UNDISPUTED EVIDENCE FROM THE  
13 GOVERNMENT. THERE'S REALLY NOTHING ELSE. THERE'S  
14 REALLY NOTHING ELSE. IT'S VERY SIMPLE.

15 LET'S LOOK AT THE EVIDENCE AS WE  
16 PRESENTED IT TO NUMBER THREE. THESE ARE AIDS TO  
17 FIGURE OUT THE STUFF THAT IS NOT CLEAR.

18 ONE IS THI'S WORK HISTORY IS UNDISPUTED.  
19 THERE'S NO EVIDENCE SHOWN HERE.

20 TWO, HIS VICTIMIZATION OF THE HOME  
21 INVASION.

22 THREE, LOST LICENSE 7-29-93,  
23 UNCHALLENGED.

24 FOUR, ISUZU 10-13-93, AND THAT'S WHEN IT  
25 WAS STOPPED BY THE POLICE.

1                    THEN UNDISPUTED IS HOANG LE.    WHAT IS  
2                    UNDISPUTED IS BAD GUY 1990 WITH THACH TRAN, SMART  
3                    MODULE EXTENSIVE CRIMINAL TIES, UNDISPUTED.

4                    THEN IT'S UNDISPUTED THAT CHIN PHAM 600K  
5                    DEAL WITH T.T. PAST CRIMINALITY.    APPARENTLY AGENT  
6                    HINKLE REMEMBERED HER PICTURES LIKE THAT.    A BAD  
7                    GUY.

8                    THEN IT'S UNDISPUTED THAT THEY LIVED AT  
9                    ALLISON WAY IN OCTOBER OF '93.    UNDISPUTED.

10                   IT'S UNDISPUTED -- WHATEVER NUMBER I'M UP  
11                   TO HERE.

12                   EIGHT.    IT'S UNDISPUTED THAT HOANG  
13                   COMMITTED OKI WITH SOMEBODY USING THE NAME THI DO,  
14                   THI DO'S NAME AND THE BROTHER-IN-LAW'S CAR.    RIGHT,  
15                   UNDISPUTED?

16                   NUMBER NINE.    IT'S UNDISPUTED THAT  
17                   THERE'S NO CELL PHONE RECORDS OF THI DO OR CREDIT  
18                   CARD USE BY THI DO THAT CONNECTED HIM TO OKI IN THE  
19                   WAY THAT HAS BEEN ALLEGED FOR SOME OTHERS.

20                   TEN.    WHERE DID THE MONEY GO IF HE'S  
21                   WORKING ON THE FOOD TRUCK?

22                   SO THERE'S NO EVIDENCE OF ANY  
23                   POST-ROBBERY CONTACT WITH COCONSPIRATORS.

24                   THERE'S NO DISPUTE THAT A DIFFERENT THI  
25                   DO GOT STABBED AND TREATED IN 6-94.

1                   THERE'S NO DISPUTE THAT THACH TRAN I.D.'D  
2                   20 OUT OF 57, AND DESPITE NUMEROUS CONTACTS WITH  
3                   THI DO, DIDN'T I.D. THI DO THEN AND DIDN'T I.D. THI  
4                   DO NOW.

5                   THERE'S NO DISPUTE THAT ANY OF THE OTHER  
6                   COOPERATING EYE WITNESS, THERE'S NO IDENTIFICATION.  
7                   HINKLE SAID I SHOWED PICTURES TO EVERYONE, NO  
8                   IDENTIFICATION.

9                   AND WE GO TO THE ARREST AND THERE'S NO  
10                  DISPUTE AS TO CONSENT TO SEARCH.   THERE'S NO  
11                  DISPUTE THAT THI WAS THE ONLY PERSON ARRESTED THAT  
12                  WAS NOT IDENTIFIED BY COCONSPIRATORS.

13                  IT'S UNDISPUTED THAT THI WAS THE ONLY  
14                  PERSON ARRESTED WHO GAVE A STATEMENT ABOUT OKI.

15                  IT'S UNDISPUTED THAT THERE WERE ROOMS  
16                  AVAILABLE TO RECORD THE STATEMENT.

17                  IT'S UNDISPUTED THAT THACH TRAN'S  
18                  STATEMENTS PREARREST AND FAGALDE'S VERSION OF THI'S  
19                  CONFESSION SHARE THE SAME CONFUSION ABOUT HOANG LE.

20                  AND JUST AS A SIDE NOTE, THEY HAVE FOUR  
21                  DIFFERENT VERSIONS ABOUT OKI, SO MAKING IT FIT THEY  
22                  HAD MINH, THEY HAD THACH TRAN, AND THEY HAD THE  
23                  WOMAN, AND THE ONLY INFORMATION THEY HAD ABOUT  
24                  SUNRISE CAME FROM TWO PEOPLE, THACH TRAN AND THI  
25                  DO.



1                   AND I THINK THAT HIGHLIGHTS THE FACT THAT  
2 THIS CONFUSION EXISTED AND SHOWED THAT THEY USED  
3 THACH TRAN'S STATEMENT.

4                   THERE'S NO DISPUTE THAT THE PHOTOS WERE  
5 TAKEN ON HALLOWEEN AND THERE'S NO DISPUTE THAT THIS  
6 FAMILY HAD A TRADITION.

7                   SO ALL OF THESE ARE PIECES TO THE PUZZLE,  
8 AND BELIEVE ME, IF THE PROSECUTION THINKS I  
9 MISREPRESENTED SOMETHING, THEY'LL GET A CHANCE TO  
10 RAISE IT.

11                   BUT WHEN YOU GO TO THE JURY ROOM, THIS IS  
12 A GOOD PLACE TO START. EVERYONE AGREES THAT THESE  
13 VARIOUS THINGS OCCURRED.

14                   NOW, WHAT WE HAVE TO DO IS WE HAVE TO  
15 TAKE THESE THINGS AND FIGURE OUT HOW THEY IMPACT  
16 THE HARD PART, THE CONFESSION VERSUS ALIBI AND  
17 VERSUS SIGNATURE.

18                   LET'S LOOK AT THE CASE FROM THE  
19 GOVERNMENT'S POINT OF VIEW, IN OTHER WORDS, THI DO,  
20 MY THI DO DID THIS ROBBERY.

21                   SO I GUESS WITH RESPECT TO HIS WORK  
22 HISTORY, HE'S LUCKY OR HE'S CAREFULLY DISGUISED THE  
23 FACT OR WAS LYING ABOUT HIS WORK HISTORY BECAUSE HE  
24 WOULD HAVE MISSED TWO DAYS OR AT LEAST ONE DAY. HE  
25 WOULD HAVE MISSED ONE DAY OFF OWE OF WORK AND HE

1 SAID HE DIDN'T MISS ANY WORK.

2 SO EVEN THOUGH THE PERSON WHO WOULD TALK  
3 ABOUT HIS WORK IS NOT AVAILABLE OR SOMETHING, HE  
4 FIGURED THAT OUT.

5 TWO, HE LOST HIS LICENSE.

6 WE'RE ARGUING TO YOU THAT SOMEONE STOLE  
7 HIS IDENTITY.

8 THEY'RE ARGUING TO YOU THAT HE'S AN OKI  
9 ROBBER.

10 ONE IS HE HAD A PLAN AND THAT AT OKI HE  
11 SOMEHOW LOSES HIS LICENSE AS A WAY OF AVOIDING  
12 RESPONSIBILITY OF SOMETHING.

13 WELL, IN THE ALTERNATIVE, IT'S A  
14 COINCIDENCE. HE JUST HAPPENED TO LOSE HIS LICENSE  
15 IN JULY. JUST A COINCIDENCE. IT JUST HAPPENED TO  
16 OCCUR AND HAPPENED TO BE CONSISTENT WITH HIS  
17 DEFENSE OF STOLEN IDENTITY.

18 THE ISUZU. IT JUST SO HAPPENS TWO WEEKS  
19 BEFORE HALLOWEEN AND IN A CAR THAT WAS USED BY  
20 HOANG LE IS STOPPED AND EVERYBODY RUNS OUT.

21 WAS THI IN THE CAR AND HE RAN? WAS THE  
22 WHOLE THING A SET UP SO THEY COULD EXPLAIN WHY THE  
23 CAR WAS IN OKI?

24 DID HE SAY, GO USE MY CAR AND GET STOPPED  
25 BY THE POLICE SO I CAN THEN SAY OTHER PEOPLE WERE

1 USING MY CAR, OR IS THAT WHAT HAPPENED?

2 OR IS IT A LUCKY COINCIDENCE WITH THI  
3 THAT EVEN THOUGH HE'S A ROBBER AND HE USES HIS OWN  
4 CAR, HIS CAR GETS PULLED OVER AND THAT OTHER PEOPLE  
5 USED IT TWO WEEKS BEFORE THE ROBBERY, LUCKY BREAK?

6 A COINCIDENCE THAT HOANG LE, A BAD GUY,  
7 IS AT HIS HOUSE? HUH-UH.

8 A COINCIDENCE THAT THEY USED THE PHONE?

9 THI DO COVERED UP THE MONEY REAL GOOD  
10 BECAUSE THERE'S NONE OF IT ANYWHERE AND HE AVOIDED  
11 POST-ROBBERY WITH EVERYONE.

12 AND THEN PART OF THE CASE, HE GOT SOMEONE  
13 ELSE TO ASSUME HIS IDENTITY AND SOMEBODY GOT  
14 STABBED SO THAT I COULD ARGUE TO YOU IT'S NOT HIM.

15 YOU SEE, THAT'S EITHER A COINCIDENCE OR  
16 HE'S INNOCENT OR THERE'S SOME DIABOLICAL PLAN TO  
17 FOOL YOU.

18 HOW MANY COINCIDENCES IS IT GOING TO TAKE  
19 TO CONVINCING YOU THAT IT'S NOT COINCIDENCES? ALL OF  
20 THESE FIT WITH HIS IDENTIFICATION STORY.

21 THERE'S INDEPENDENT PROOF OF ALL OF THESE  
22 THINGS AND THEY'RE NOT IN DISPUTE.

23 THE LAST GREAT COINCIDENCE, HERE'S THIS  
24 GUY WHO, WHO CLAIMS IT'S NOT HIM AND HE CLAIMS  
25 SOMEONE ELSE IS USING THE IDENTIFICATION AND IT

1 HAPPENS THAT, OH, HE GETS A SPEEDING TICKET IN  
2 ALHAMBRA. IT HAPPENS THAT SOMEONE GETS STABBED AND  
3 NOT HIM. IT HAPPENS SOMEONE IS USING THE CAR, BUT  
4 NOT HIM.

5 AND THEN LO AND BEHOLD, THE MAIN WITNESS  
6 HAPPENS NOT TO IDENTIFY HIM AFTER PICKING EVERYONE  
7 ELSE OUT OF 20 PICTURES.

8 WHAT A REMARKABLE COINCIDENCE. HE HAS TO  
9 BE THE LUCKIEST OKI ROBBER IN THE WORLD BECAUSE  
10 HE'S GETTING ALL OF THESE BREAKS. HE DIDN'T  
11 IDENTIFY HIM.

12 DO YOU THINK THACH TRAN IS AFRAID OF THI  
13 DO? ANOTHER COINCIDENCE ACCORDING TO THE  
14 GOVERNMENT. MR. FAGALDE, HE'S LUCKY IT HAPPENED  
15 THAT WAY.

16 THE OTHER THREE COOPERATING WITNESSES  
17 DIDN'T IDENTIFY HIM EITHER. PERHAPS A COINCIDENCE.  
18 THEY DIDN'T SEE EVERYONE. JUST A COINCIDENCE.

19 THEN THE CONFESSION. IT'S A REMARKABLE  
20 COINCIDENCE THAT THE ONLY GUY THEY ARREST THAT DAY,  
21 THE ONLY GUY THEY ARREST THAT DAY DOES IS  
22 IDENTIFIED BY THE INFORMANTS OR HASN'T HAD HIS  
23 PICTURE PICKED OUT, THE ONLY ONE.

24 THI DO DOESN'T KNOW, IF HE'S THE OKI  
25 ROBBER, WHEN HE'S ARRESTED THAT THEY HAVEN'T PICKED

1 HIS PICTURE OUT.

2 SO IT'S ANOTHER REMARKABLE COINCIDENCE  
3 THAT THEY ARREST 13 PEOPLE, 12 WHO HAVE BEEN  
4 IDENTIFIED AND THE ONE PERSON WHO WASN'T  
5 IDENTIFIED, AH, HE CONFESSED. A COINCIDENCE. IT'S  
6 ANOTHER COINCIDENCE.

7 THE CONFUSION ABOUT WHETHER HOANG LE  
8 PARTICIPATES. WELL, MAYBE THEY WERE BOTH CONFUSED.  
9 THAT'S ANOTHER COINCIDENCE.

10 COINCIDENTALLY, THEY WERE BOTH CONFUSED  
11 ABOUT HOANG LE'S PARTICIPATION. THAT'S AN  
12 EXPLANATION FOR THAT.

13 THE PHOTO, WELL, THEY WERE, I GUESS, WHAT  
14 CAN YOU SAY ABOUT THE PHOTO? THEY CELEBRATED  
15 HALLOWEEN ANYWAY AND THEY WERE LUCKY TO SAVE THE  
16 PHOTO, BUT THEY DIDN'T BOTHER TO CREATE A TIME  
17 STAMP ON IT SO THEY HAVE AN ALIBI.

18 IT'S ALSO A COINCIDENCE, JUST ANOTHER  
19 LITTLE COINCIDENCE THAT JUST SO HAPPENED THAT HE  
20 DIDN'T SIGN ANYTHING AND IT JUST SO HAPPENED IT  
21 WASN'T RECORDED.

22 LET'S GO TO THE SIGNATURE. THE  
23 GOVERNMENT HAS INTRODUCED MANY EXHIBITS WITH THI  
24 DO'S SIGNATURE IN AN ATTEMPT TO DETERMINE WHETHER  
25 OR NOT HE'S THE ONE THAT SIGNED, THAT SIGNED THE

1 HOTEL REGISTRATION.

2 WHAT I DID IS I TOOK THESE SIGNATURES  
3 FROM THE DEPARTMENT OF MOTOR VEHICLES WHERE HE  
4 APPLIED FOR THE LICENSE BECAUSE THEY'RE IN  
5 EVIDENCE. YOU WILL HAVE ALL OF THESE.

6 AND THEN I HAVE BLOWN UP THE SIGNATURES  
7 AND, AS YOU NOTICE, THEY'RE IN '91, '93 AND '97.

8 NOW, EVERYONE'S SIGNATURE CHANGES A  
9 LITTLE BIT OVER THE YEARS AND IT GOES FROM BAD TO  
10 WORSE.

11 THI'S SIGNATURE IS CONSISTENT. BUT THE  
12 BEST SIGNATURE WOULD BE IN 1993, BECAUSE THIS  
13 SIGNATURE IS MADE WITHIN FIVE MONTHS OF THIS  
14 SIGNATURE.

15 SO GOING FIRST, WE LOOK AT THIS AND YOU  
16 SEE HERE NOW, THAT'S THE FUNDAMENTAL QUESTION, WHY  
17 WOULD SOMEONE FAKE A SIGNATURE?

18 IT'S A SIMPLE ANSWER. SOMEONE IS  
19 PRESUMING HIS IDENTITY AND THEY'RE PRESENTING HIS  
20 LICENSE WHICH CONTAINS HIS SIGNATURE AND IT'S NOT A  
21 GOOD IDENTITY IF YOU SIGN SOMETHING PERTINENT IN  
22 THE LICENSE. SO THEY WOULD ATTEMPT TO DO IT WELL.

23 SO IF YOU LOOK HERE, THERE'S A SPACE  
24 BETWEEN THE T AND THE H. IT'S THE SPACE ABOUT THE  
25 SAME SIZE AS THE I. SPACELESS, SPACELESS,

1 SPACELESS.

2 THEN LOOK AT THE D. LOOK AT THE D. IT  
3 IS COMPLETELY DIFFERENT THAN THIS T.

4 AND LOOK AT THE CONSISTENCY ON THE D'S.  
5 DO YOU SEE THAT? THE LINES GOING DOWN, THE LINES  
6 GOING DOWN. THE LINES GOING DOWN, AND IT'S MORE  
7 LIKE AN OVAL OR SQUARE.

8 HERE IT'S ALMOST A COMPLETE CIRCLE AND  
9 THE LINE IS GOING HORIZONTAL ACROSS TO THE O.

10 THEN YOU GET TO THE O. YOU CAN SEE IN  
11 THIS ONE AND THIS ONE WHERE THE BUMP IS AND THIS  
12 ONE WHERE THE O BEGAN AND WHERE THE O ENDS LIKE  
13 THAT. THIS ONE IS LIKE THAT.

14 BACK ONE STEP. LOOK AT THAT. THEY'RE  
15 KISSING. THEY'RE RIGHT UP AGAINST EACH OTHER AND  
16 THEY'RE KISSING.

17 LOOK OVER HERE, AND IT'S LIKE A BRIDGE  
18 GOING ACROSS A BIG EMPTY SPACE FROM THE D TO THE O.

19 AND THEN THE O IS FORMED FROM THE TOP  
20 DOWN AT THE 12:00 O'CLOCK POSITION OFF THE STRAIGHT  
21 LINE. COMPLETELY DIFFERENT THAN THIS VERSION.

22 THIS IS NOT THE DO'S SIGNATURE. THERE'S  
23 BEEN NO EXPERT TESTIMONY. IT'S UP TO YOU TO GO IN  
24 AND LOOK AT THESE THINGS.

25 CALL OUT THE DMV FROM 1993 AND COMPARE IT

1 TO THE SHILOH REGISTRATION. YOU TELL ME THAT THERE  
2 ARE NOT FIVE DIFFERENCES IN THOSE SIGNATURES.

3 LET'S SWITCH HATS A BIT. WHAT IS OUR  
4 RESPONSE TO THE GOVERNMENT'S UNDISPUTED FACTS? I'M  
5 GETTING CLOSE TO DONE. HANG WITH ME.

6 ONE, WE'VE GOT THE PHONE CALLS.

7 NOW, THE PHONE CALLS ARE FROM A CELL  
8 PHONE TO ALLISON WAY. WE KNOW ALLISON WAY. IT'S  
9 UNDISPUTED THAT HOANG AND CHINH LIVED THERE AND  
10 USED THE PHONE.

11 SO ALL OF THE PHONE CALLS TELL US THAT  
12 SOMEONE FROM A CELL PHONE CALLED AND SOMEBODY FROM  
13 SHILOH CALLED. IT DOESN'T TELL US THEY CALLED THI  
14 DO. THE GOVERNMENT LIKES SAYING THI DO, BUT WE  
15 DON'T KNOW THAT.

16 LET'S LOOK AT THE CALLS AND SEE WHAT WE  
17 CAN FIGURE OUT.

18 ONE, WE KNOW THAT THE CELL PHONE IS USED  
19 ON OCTOBER 25TH AND OCTOBER 26TH TO TRY AND CONTACT  
20 HOANG AT THE VIVI CAFE, APPARENTLY WITH NO SUCCESS.

21 THEN THERE ARE CALLS ON 10-27 FROM THE  
22 CELL, WHICH IS ALL IN EVIDENCE, FOUR TIMES AT 5:30,  
23 9:40, 10:40 AND 11:50. THEY'RE ALL ABOUT ONE TO  
24 TWO MINUTES.

25 SO WHAT IS THIS SECOND SET? HERE WE HAVE



1 A COCONSPIRATOR TRYING TO CONNECT TO HOANG.

2 AND WHAT DO WE TELL FROM THIS? EASY. HE  
3 DIDN'T REACH HOANG. HE DIDN'T REACH HOANG.

4 SO THE NEXT DAY HE -- THIS PERSON USING  
5 THE CELL PHONE WAS ORGANIZING THE ROBBERY, HE'S  
6 TRYING TO GET HOANG. THAT EXPLAINS THE CALLS. THE  
7 CARRYING TIMES. HE'S GOT THERE, THERE, THERE,  
8 THERE, AND THERE.

9 AND NOW, IS THI NOT HOME? IS THI OUT  
10 GALLIVANTING AROUND AT 9:50 AT NIGHT ON A WORK DAY  
11 AND LEFT HIS WIFE AND KID AND SHE'S NOT ANSWERING  
12 THE PHONE?

13 HUH-UH. THIS CALL, THEY START LOOKING  
14 FOR HOANG.

15 BUT THEY DIDN'T LOOK FOR HIM UNTIL 5:30  
16 BECAUSE THAT'S THE TIME HE GETS UP.

17 AND THEY'RE TRYING TO CONNECT WITH HOANG  
18 LE TO INVOLVE HIM IN THE ROBBERY.

19 THEY'RE NOT CONSISTENT WITH SOMEONE  
20 CONTACTING THI DO WITH A REGULAR WORKING GUY WITH A  
21 WIFE AND KIDS WHO DOESN'T GO OUT AT NIGHT BECAUSE  
22 HE WOULD BE HOME. IT'S ANOTHER COINCIDENCE THAT  
23 HE'S HOME? ANOTHER COINCIDENCE?

24 THEN WE GO UP TO SHILOH ON 10-28. THEN  
25 THERE'S CALLS FROM SHILOH TO THE CELL PHONE, WHICH

1 MEANS THAT THE PEOPLE IN THE ROOM WERE TALKING  
2 ABOUT THE COCONSPIRATOR. THAT DOESN'T TELL WHO  
3 THEY CALL. AND THAT'S TO BE EXPECTED.

4 SO LET'S LOOK AT THE CALLS FROM SHILOH TO  
5 ALLISON, BECAUSE THAT'S THE CONNECTION THAT THE  
6 GOVERNMENT IS TRYING TO MAKE.

7 WELL, LET'S LOOK AT THESE CALLS. THEY  
8 START AT 9:51, 11:27, 12:22 TO 12:55. THOSE ARE  
9 THE CALLS FROM THE SHILOH TO THI AND WHERE THE  
10 OTHERS LIVE.

11 IS THIS SOMEONE WHO IS TRYING TO REACH  
12 HIS WIFE? I MEAN, WHAT IS GOING ON HERE? WHY  
13 WOULD THI HAVE TO CALL HIS WIFE, I THINK ITS  
14 THERE'S ACTUALLY IN AN EARLIER CALL, MAYBE NOT,  
15 ONE -- FIVE TIMES? WHY WOULD HE CALL? DO YOU HAVE  
16 A ROBBERY? HI DEAR, WE HAVEN'T STARTED THE  
17 ROBBERY?

18 I MEAN, WHAT IS GOING ON? DID I WAKE YOU  
19 UP? IT'S 12:30 IN THE MORNING.

20 DOES THIS LOOK LIKE SOMEONE CALLING HIS  
21 WIFE, OR DOES THIS LOOK LIKE SOMEONE TRYING TO  
22 CONTACT ONE OF THE ROOMMATES THAT ARE UP ALL NIGHT  
23 AND FAILING BECAUSE THEY'RE OUT PARTYING SOMEWHERE?

24 I WOULD SUBMIT TO YOU THAT THESE PHONE  
25 CALLS, RATHER THAN TENDING TO PROVE THAT THE PERSON

1 UP IN THE ROOM WAS THI DO, THEY PROVE IT WASN'T THI  
2 DO.

3 MAYBE TWICE, WHEN ARE YOU COMING HOME?  
4 I'LL CALL YOU BACK, WHO KNOWS.

5 AND CALLS BACK AND WHERE IS MY WIFE?  
6 SHE'S AT THE STORE WITH THE KID IF THEY'RE FROM MY  
7 CLIENT TO THI DO TO HIS WIFE.

8 THE HOTEL REGISTRATION, YOU DECIDE ABOUT  
9 THE SIGNATURE. WE KNOW THE INFORMATION AVAILABLE  
10 WAS ON THE LICENSE. NO QUESTION ABOUT THAT.

11 THE ISUZU, ONCE AGAIN, I MEAN, THE ISUZU  
12 REALLY IS PROOF THAT THI DO DID NOT USE IT. IT'S  
13 REALLY PROOF THAT SOMEONE ELSE USED THAT VEHICLE.

14 THERE'S NO EXPLANATION FOR THE ROBBERY  
15 THE TWO WEEKS BEFORE, THE PEOPLE RUNNING FROM THE  
16 VEHICLE.

17 THI HAS A CAR. WHY WOULD HE TAKE THE  
18 ISUZU? WAS IT JUST LUCK?

19 AND CHINH PHAM ADMITTED THAT HE WAS THE  
20 ONE IN THE CAR.

21 REMEMBER THE WIFE-TO-BE THAT WAS  
22 TESTIFYING, AND DONNA SAID A COUPLE OF WEEKS AFTER  
23 HE GOT BACK FROM THE PLACE, CHINH KIND OF SAT DOWN,  
24 GEE, I'M SORRY WE TOOK OUT YOUR CAR WITHOUT  
25 PERMISSION AND GOT PULLED OUT WITH THE POLICE AND

1 WITH HIS HEAD DOWN.

2 WE DON'T HAVE ANY WAY OF KNOWING AND WITH  
3 HOANG LE, THI HAS NO WAY OF KNOWING. CHINH PHAM,  
4 SCOTT, SOMEBODY ELSE, WE DON'T KNOW.

5 BUT THAT'S NOT OUR JOB. OUR JOB IS TO  
6 PRESENT TO YOU WHAT WE KNOW FROM OUR WITNESSES AND  
7 WHAT HAPPENED. IT'S THEIR JOB TO PROVE TO YOU  
8 BEYOND A REASONABLE DOUBT THAT THI DID THIS.

9 SO IN THE END I THINK YOU HAVE TO TAKE  
10 ALL OF THESE UNDISPUTED FACTS AND SEE HOW THEY  
11 INFORM YOU ABOUT THE CONFESSION. LOOK FOR IN THE  
12 CONFESSION, LOOK FOR SOME SIGN OR SOMETHING IN THE  
13 EVIDENCE THAT MAKES YOU THINK THAT THAT TESTIMONY  
14 IS RELIABLE, SOMETHING, SOMETHING. I DON'T THINK  
15 THERE IS, BUT LOOK FOR IT. SEE IF THERE IS  
16 SOMETHING.

17 I THINK THERE ARE MANY THINGS THAT ARE IN  
18 THE EVIDENCE THAT SAYS THAT THIS CONFESSION DID NOT  
19 HAPPEN, THAT THI DID NOT FALSELY CONFESS, THAT THI  
20 DID NOT DO OKI.

21 LOOK AT THOSE ALIBI WITNESSES. ARE THEY  
22 ALL PERJURERS? THEY'RE ALL SITTING HERE NOW.  
23 THEY'RE SITTING HERE IN THE COURTROOM.

24 ARE THEY ALL PERJURERS? DID THIS WHOLE  
25 FAMILY GET TOGETHER AND PERJURE THEMSELVES TO YOU?

1 DID THEY FORGET TO INCLUDE THEIR PICTURE IN THE  
2 PERJURY? YOU FEEL THAT IN YOUR HEART. REMEMBER,  
3 LOOK AT THEM AND FEEL WHAT YOU FELT WHEN THEY  
4 TALKED TO YOU.

5 IN THE END, THE CASE FOR ME IS ABOUT THI  
6 DO'S INNOCENCE. HE'S AN INNOCENT MAN AND THERE'S  
7 SUBSTANTIAL EVIDENCE TO POINT TO HIS INNOCENCE.

8 THERE'S EVIDENCE THAT HE COULD NOT  
9 CREATE. IT'S EVIDENCE THAT CONSISTED INDEPENDENTLY  
10 OF HIM, AND OTHER THAN SAYING HE'S A REAL LUCKY GUY  
11 AND ALL OF THESE COINCIDENCES OCCUR AND GIVE HIM A  
12 DEFENSE WHEN HE'S REALLY GUILTY, THEY START  
13 POINTING AT THE INNOCENT.

14 BUT THAT'S NOT THE ISSUE FOR YOU. THE  
15 ISSUE FOR YOU IS WHETHER THE GOVERNMENT HAS  
16 PRESENTED YOU WITH ENOUGH FACTS SO THAT YOU ARE  
17 COMFORTABLE MAKING THIS DECISION THAT WILL LAST THE  
18 REST OF YOUR LIVES, YOU'RE COMFORTABLE MAKING THAT  
19 DECISION TO A STANDARD BEYOND A REASONABLE DOUBT.

20 YOU HAVE TO DECIDE -- IF YOU HAVE TO FIND  
21 MY CLIENT GUILTY, YOU HAVE TO FIND BEYOND A  
22 REASONABLE DOUBT THAT EVERY ONE OF THOSE PEOPLE  
23 LIED TO YOU. NOT THAT THEY MAY HAVE OR COULD HAVE,  
24 BUT THAT THEY LIED BEYOND A REASONABLE DOUBT.

25 YOU SEE, IT'S NOT A CREDIBILITY CONTEST,

1 50 PERCENT HERE AND 50 PERCENT HERE. THEY HAVE TO  
2 TAKE A LOAD. THEY HAVE TO BRING IT TO YOU. THEY  
3 HAVE TO CONVINCING YOU BEYOND A REASONABLE DOUBT THAT  
4 ALL OF THE ALIBIS OF THE MAJORS, AND THEN THEY HAVE  
5 TO CONVINCING YOU BEYOND A REASONABLE DOUBT THAT ALL  
6 OF THE FACTS ARE UNDISPUTED, ARE CIRCUMSTANTIAL AND  
7 COINCIDENTAL, AND THEY HAVE TO PROVE TO YOU BEYOND  
8 A REASONABLE DOUBT THAT THE CONFESSION ACTUALLY  
9 OCCURRED.

10 I SUBMIT TO YOU THAT THEY CAN NOT.

11 IN ENDING MY ARGUMENT, I AGAIN WANT TO  
12 SAY THANK YOU, AND I WANT TO SAY, TO TAKE A  
13 SEPARATE MOMENT FOR THING DO IN THAT ROOM AND  
14 CONSIDER HIM AS AN INDIVIDUAL AND CONSIDER HIM AS A  
15 HUMAN BEING AND CONSIDER HIM AS YOUR BROTHER OR  
16 SISTER CAUGHT IN SOME TERRIBLE CIRCUMSTANCE.

17 AND LASTLY, EVEN IF YOU WIND UP SOMEWHERE  
18 IN THE MIDDLE, I, I DON'T KNOW I'M TROUBLED BY  
19 THIS, BECAUSE OF THIS, AND THIS, AND YOU'VE GOT TO  
20 ACQUIT IN THAT STATE OF MIND.

21 THAT'S WHAT THE LAW SAYS. THE LAW SAYS  
22 THAT WHEN THERE'S DOUBT, WHEN THERE'S REASONABLE  
23 DOUBT, WE, WE WILL ACQUIT.

24 AND THAT OUR FOUNDING FATHERS DECIDED YOU  
25 MUST REACH THAT STANDARD BEFORE YOU DEPRIVE SOMEONE

1 OF LIFE AND LIBERTY.

2 AND SO IF ANY OF YOU HAVE DOUBTS, I WANT  
3 YOU TO PULL THE GOVERNMENT TO ITS TASK TO UTTERLY  
4 CONVINCED YOU, BECAUSE THE STANDARDS REALLY PROTECT  
5 YOU BECAUSE YOUR DECISION YOU LIVE WITH, AND IT'S  
6 ONLY BY REACHING THE STATUS OF BEYOND A REASONABLE  
7 DOUBT IN ESSENCE TO GIVE YOU COMFORT AND STRENGTH  
8 THAT YOU WAIVE YOUR RIGHT.

9 ANY DOUBT THAT IS AT ALL REASONABLE YOU  
10 MUST ACQUIT.

11 THANK YOU.

12 THE COURT: VERY WELL. MEMBERS OF THE  
13 JURY, WE'RE ACTUALLY A LITTLE AHEAD WHEN WE  
14 NORMALLY BREAK FOR LUNCH, BUT WE'RE GOING TO DO  
15 THAT NEVERTHELESS. IT'S A QUARTER TO NOON AND  
16 WE'LL COME BACK AT 1:30 AND BE ON TIME AND WE'LL  
17 START AT 1:30.

18 (WHEREUPON, THE LUNCH RECESS WAS TAKEN.)

19 MS. CHOI: YOUR HONOR, I THINK MR. DAAR  
20 WAS GOING TO COLLECT HIS DEMONSTRATIVE EXHIBITS  
21 FROM THE JURY.

22 THE COURT: YES. YOU WERE GIVEN CERTAIN  
23 DOCUMENTS DURING THE COURSE OF THE ARGUMENT WHICH  
24 SHOULD BE PASSED BACK.

25 (WHEREUPON, COUNSEL FOR DEFENDANT DZUNG