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Index #: _____ Date Filed:

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Assigned Justice: _____

	File No.:
Dominic M. Franza	
	Plaintiff(s)/Petitioner(s)
vs. The State of New York	
The State of New York	
· · · · · · · · · · · · · · · · · · ·	Defendant(s)/Respondent(s)
STATE OF New York , COUNTY OF ALBANY SS.:	
, being duly sworn deposes and says: Do of age and resides in New York. On Thursday, June 20, 2019 at	10:50 AM
at 242 State Street (Justice Building), Albany, NY 12210	deponent served the within
Verified Application for a Conditional Pardon with Exhibits to Gov. And re	ew M. Cuomo of the State of New York
on: Hon. Andrew Cuomo, The State of No	ew York
Defendant therein named.	
Belendant	
CORPORATION By delivering to and leaving with <u>James Finke, authorized clerk</u> and tha authorized agent of the corporation, and said person stated that he/she was auth	
A description of the Defendant, or other person served, or spoken to on behalf o	
DESCRIPTION Sex: Male Color of skin: White Color of hair: White 2 X Weight: 220 Other Features: Version of the second seco	e Age:60 Height:6'1"
(use with #1, 2 or 3)	
	the recipient
3 WIT. FEES \$ the authorized witness fee and / or traveling expenses were paid (tendered) to	the recipient.
#4 OTHER	
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Sworn to before me on this 12th day of July 2019	
	la lassa
	James Perone
Notary Public, State of New York No. 01MO6261464	James Perone
Qualified in Albany County Commission Expires May 14, 2020	Job # S1825129
Servico, Inc., P.O. Box 871, Albany, N	

DOMINIC M. FRANZA 92A3659 FISHKILL CORRECTIONAL FACILITY P.O. BOX 1245 BEACON, N.Y. 12508

5/6/2019

Hon. Andrew M. Cuomo Governor of New York Executive Chamber State Capitol Albany, N.Y. 12224

<u>APPLICATION FOR A</u> CONDITIONAL PARDON

I, Dominic M. Franza, make this Verified application for a <u>Conditional Pardon</u> to your Honor, pursuant to <u>N.Y. State Const.</u> <u>Art. 4, §4</u> and <u>Executive Law Article 2-a §15</u>.*

What I bring to your Honor's attention warrants the immediate grant of a Conditional Pardon, that only your Honor can Constitutionally and Statutorily grant under the circumstances herein as your Honor has un-fettered discretionary power, which the N.Y. State Board of Parole does not as they are governed by Executive Law \$259-i(2)(c)(A)(not allowing for а reconsideration of a conviction as a basis for parole release / bound by the official record). This is evidenced by the fact the N.Y. State Board of Parole has continuously denied me parole several times based upon the serious nature of my alleged crimes, in spite of my showing that my conviction was procured by false evidence and false testimonies, wishing me well in my legal endeavors to seek my freedom (Attached hereto and marked "1" [4/25/2019 Parole Exhibit Board Release Decision as Notice]). Thus, only your Honor can remedy my situation.

*- Besides serving your Honor with numerous applications, inclusive of my Full Pardon application, served on 10/3/2014, which was still pending in 2018 as acknowledged in my 2018 Board of Parole interview, to date it is still pending.

2. Before going into the facts and evidence which will unquestionably prove I am totally worthy of an immediate grant of a Conditional Pardon, it should be noted, the evidence mentioned herein was admitted by the N.Y. County D.A.'s office Court to been "indeed" their in Federal have discoverv materials. Never taking issue with the non-discovery materials as well (Ex. "2" [Federal Writ of Habeas Corpus]: pp. 17-25, 29-30; Ex. "3" [Affirmation in Opposition to my Motion for Discovery]: ¶5; Ex. "4" [Answering Affirmation]: ¶16; Ex. "5" [Memo of Law in Support]: p. 5).² & 3

3. It should be further noted as well, A.D.A. Brancato (who prosecuted me along with Gregory Sheindlin) in opposition to my 2005 <u>CPL §440.10</u> motion never disproved the discovery materials in support of my motion, nor the non-discovery materials as well (Ex. "6" [A.D.A. Brancato's Opposition to my CPL §440.10 Motion]; Ex. "7" [2005 CPL 440.10 motion]: p. 8 fl's 20-21 / p. 15 fl's 44-45 / p. 16 fl's 46 & 48 / p. 17 fl 49 / p. 19 fl's 58-60 / p. 21 fl's 64-65 / p. 22 fl's 68-70 / p. 23 fl's 71-73 / p. 24 fl 78 / p. 25 fl's 79-81 / p. 26 fl's 82 & 84 / p. 27 fl's 85-88 / p. 28 fl's 89-92 / p. 29 fl's 93-96 / p. 30 fl's 97-100 / p. 33 fl 110 / p. 34 fl 114 / p. 36 fl's 118-119 / p. 37 fl's 121 & 124 / p. 38 fl 127 / p. 39 fl 129 / p. 40 fl 135 / p. 42 fl's 140-141 / p. 43 fl 144 / p. 44 fl's 146-147 / p. 52 fl 174 / p. 54 fl's 178-180 / p. 58 fl 192 / p. 59 fl 196 / p. 60 fl 199).⁴

4. In sum, this application is supported with evidence which was admitted and not contested.

2- All the exhibits mentioned herein are attached to this application in paper form or on C.D.'s. If a C.D. is damaged have me contacted right away for a replacement.

3- After you have read this application you will be wondering why didn't the Federal Judge grant a Writ of Habeas Corpus to me, instead of adopting the Federal Magistrate's ridiculous and unfounded factual finding within his Report & Recommendation for denial. <u>Franza v. Stinson</u>, 58 F.Supp.2d 124, 151-157). The answer will be apparent to your Honor.

4- Once again, you will be wondering why didn't the Supreme Court Justice grant my CPL §440.10 motion. Once again, the answer will be apparent to your Honor.

CONDUCT

5. I was convicted for conduct - purportedly sending a phoney floral delivery man to murder my Wife Myra Franza, and my Mother-In-Law Josephine Mendez, when it was two rogue Detectives with badges who shot them. As well, my having another man prepare and mail a pipebomb to Puerto Rico, in an attempt to kill Myra's Grandmother, Josephine's Mother, the man fitting the description of one of the Detectives. It should be noted, there was no direct evidence linking me to the crimes, only claimed circumstantial evidence which will be proved to have been fabricated (Ex. "8" [Trial Transcript pp. 1-2001]: 1917-1918).

6. It is noteworthy to mention, I took three polygraph examinations which revealed Ι had no involvement in the "9" shooting's of Myra or Josephine (Ex. Polygraph Examinations]).

7. As well, it is noteworthy to mention, as for my conduct throughout the entire investigation, I did nothing else but cooperate with all the request of the Detectives. The only time I did not cooperate was the day of my arrest, and that's because I had enough of their abusive conduct toward me (Ex. "10" [Pre-Trial Transcript]: 127-135, 138-157, 171-173, 176-179, 226-228, 234-235, 237-243, 250-253, 273-275, 277-278, 350-362).

FACTS AND EVIDENCE

8. In 1987, Myra Mendez (Mrs. Franza) lived with her Parent's at 485 West 187th Street, Apt. 1-D, in Manhattan (Washington Heights). Mrs. Franza had three Brothers, Nelson Dacosta, Carlos Dacosta, and Wilfred Dacosta. I met Myra Mendez through Miss Maribel Matos, a co-worker of Nelson Dacosta's common law wife, Ruthie Bless. Myra and I were wed in May of 1987 (Miss Matos was my former girlfriend of two years and was Myra's Maid of Honor at the wedding). Mrs. Mendez encouraged the marriage. During the marriage helping Myra's Parent's with their debts, and giving gifts (Ex. "8" [Mendez]: 220-223, [Franza]: 287-288 [all

9. In March or April of 1989, Myra claimed I beat her up for picking up the station wagon at the repair shop, and for paying \$197.00 for a muffler. That I threatened her with her life, and that of her Parent's, if she left me. Myra thereafter left and moved in with he Brother Carlos Dacosta in his basement apartment at 495 West 187th Street. Myra came back to me within a week or two (it was really three days later), and that I helped her move out of her Brother's basement apartment.⁵ Myra claimed I sent her Red Roses⁶ (Ex. "8" [Mendez]: 236-237, [Franza]: 290-305, 327-328, 342-343, 380-381, 393).

10. Once again, Myra claimed I beat her up on <u>June 25th of</u> <u>1990</u>, for talking to a co-worker (male) by the subway steps outside of her place of employment, when she was there to wait for my Father. Once again, threatening her with her life if I ever caught her cheating on me. That I would find her even if she went to Puerto Rico.⁷ Myra thereafter moved out on <u>June 28th</u> <u>of 1990</u>, and once again going to her Brother's basement apartment (Ex. "8" [Mendez]: 231-232, 236, 254, [Franza]: 305-313, 357-358, 369-370).

11. However, while Myra stated the beating occurred on <u>June</u> <u>25th of 1990</u>, on cross Myra remembered in June of 1990 my Mother (Gladys Franza) was in the Hospital the entire day and night,

5- My knowledge of the basement apartment was used in the development of a fabricated floral delivery note claimed to have been used by an alleged floral delivery man to gain entry into the apartment in order to shoot Myra and Josephine, as the floral delivery note mentioned the basement apartment as an alternate address for Myra, which I was claimed to have written, thereby connecting me to the shooter. This will be proved to be a lie as it was Detectives that shot them.

6- This claim was also used in the development of the fabricated floral delivery note, in order to further connect me to the shooter, who was claimed to have left the floral delivery note and the box of Red Roses at the scene of the shooting's. Once again, a lie as they were shot by Detectives.

7- This threat formed the alleged motive for wanting to have sent a pipebomb to Puerto Rico, because Myra left me.

that she and I took her. Later saying she was not sure if I was there the entire night. Myra was shown the Hospital Bill for my Mother and acknowledged my Mother received the Medical attention on <u>June 25th of 1990</u>. In spite of the Hospital Bill Myra still asserted the beating occurred on <u>June 25th of 1990</u> (Ex. "8" [Franza]: 359-361, 364; Ex. "11" [Hospital Bill]).

12. Prior to Myra leaving me, <u>on June 28th of 1990</u>, Ruthie Bless, Nelson Dacosta's common law wife, <u>left Nelson and took</u> <u>the Children to Chicago</u> (Ex. "8" [Dacosta]: 1609-1619).

13. On <u>July 8th of 1990</u>, ten days after Myra left me, Nelson Dacosta, a drug user, on defense direct, stated he reported to Police that he received a threatening phone call. The Police officer taking the report was P.O. Aponte. However, denying the person threatened to kill him or his Family. On cross, admitting he indeed told P.O. Aponte there was a threat made against his life and Family, but claimed it was a lie (Ex. "8" [Aponte]: 152, 163-173, [Dacosta]: 1609-1610, 1616-1620).⁸

14. On July 16th of 1990, eight days later, at 7:15 p.m., Josephine answered a knock at her door, it being two men claiming to be Police Officers, showing badges, asking for Nelson Dacosta. Josephine did not open the door, stating one of the men was short, dark skinned, Husky, and having a canvas bag. An observation made through the peephole of her door, and upon seeing the men outside leaving the building. Josephine informed Nelson of the visit who denied any involvement with these men. Telling, as well, Mrs. Debbie Dacosta (Carlos Dacosta's Wife), and Myra about the incident. A Det. Giorgio being later informed after the shooting's of Myra and Josephine (Ex. "8" [Mendez]: 257-265, [Franza]: 382, [Giorgio]: 660-666, 668, 729-730, [Dacosta]: 1615).

8- On <u>August 11th of 1990</u>, a pipebomb was recovered in front of Nelson's apartment door, which was disarmed. The device having a firecracker as a detonator (Ex. "8" [Giorgio]: 601-602, 666-667, 731, [Raymond]: 772-774, 785, 788-789, [Herbert]: 824, [Sadowy]: 1031-1046, [Dacosta]: 1615).

15. It should be noted, Mrs. Debbie Dacosta reported to Police that Josephine informed her the men stated they were Detectives, holding up possible badges, and that <u>one of the men</u> <u>had a knap sack on his back</u>. <u>The men saying they would be back</u> (Ex. "12" [P.D. Report]).

16. The very next day, <u>July 17th of 1990</u>, Josephine while looking out the window saw a floral delivery man holding a box of flowers with a red ribbon, thinking the flowers were for Myra. The man looking at building numbers who walked away. The man <u>wearing a large white jacket</u>, <u>sneakers</u>, <u>white pants</u>, <u>and</u> <u>having a cap on his head</u> (Ex. [Mendez]: "8" 271-273).

17. John Lantigua reported to Police he saw the floral delivery man at <u>7:15 p.m.</u>, describing him <u>as a light skinned</u> <u>Hispanic male</u>, <u>20-25 years of age</u>, <u>wearing a white shirt and</u> <u>white pants</u>, <u>white painter's cap</u>, carrying a white box of flowers with a red ribbon, <u>who walked into 485 West 187th</u> <u>Street</u>, not seeing the man leave the building (Ex. "13" [P.D. Report]).

18. After seeing the floral delivery man Josephine answered a knock on her door, at 7:15 p.m., it being the same floral delivery man all dressed in white having a possible mustache, who stated he had flowers for Myra. She proceeded to the rear of the apartment to ask Myra if she wanted the flowers, who was showering at the time. That the floral delivery man entered the apartment and encountered her at the rear of the apartment, in front of the bathroom door, with a gun in one hand and a dagger in the other. The man then shooting her at a distance while she was holding on to the bathroom door, sustaining five gunshot wounds with a bullet still in her chest, being cut two times during a struggle. Myra stated when she opened the bathroom door the man being surprised to see her, shooting her one time, playing dead while the man hovered over her, the man thereafter leaving (Ex. "8" [Mendez]: 222-231, 233-234, 248, 265-273, 281-285, [Franza]: 313-314, 323-325, 327). It will be hereafter and

later proven this whole scenario was a total fabrication.

19. Mrs. Theis who lived with her Mother, Mrs. Ferreira, due to hearing <u>running</u>, screaming, <u>and three to four loud bangs</u>, as a vast part of Josephine's apartment is directly above their apartment, including the bathroom, called Josephine's neighbor, Mr. Diaz, and asked him to check on Josephine. Finding the door open he went in, seeing a naked woman who was totally unrecognizable crying for help. That he could not tell if it was Myra or Josephine. The woman on her hands and knees, <u>full of</u> <u>blood</u>, <u>bleeding allot</u> (Ex. "8" [Theis]: 102-107, [Ferreira]: 127, 130, [Diaz]: 211-215, [Franza]: 314-315).

20. Strangely, in light of Josephine's bathroom being directly above Mrs. Ferreira's bathroom, who was taking a shower at the time of the shooting's heard absolutely nothing, with all the claimed commotion going on directly above. Being told by her Daughter Mrs. Theis of the noises above when she came out of the shower (Ex. "8" [Theis]: 102-105, [Ferreira]: 127-129). It will be later proven the reason why is because the shooting's did not occur at the rear of the apartment.

21. Mr. Lazaro Benitez, at 7:20 p.m., was in the street outside of 485 West 187st Street, after hearing three loud bangs and fifteen seconds later he saw two men running out of 485 West 187th Street. The taller man 6' and somewhat clean shaven, a light black or dark Hispanic, wearing a florescent orange baseball cap with a black bill. The other male being 5'6" or 5'7", a light skinned or black Hispanic, black curly hair, having a mustache, wearing a black and white striped shirt, and clutching a canvas bag. Josephine's apartment was on the first floor which is why he heard what he heard (Ex. "8" [Benitez]: 79-87, 92-96, [Mendez]: 271, [Giorgio]: 661-662). It is abundantly clear, Myra and Josephine were shot by these two rogue Detectives who were there the day before, the knap sack being the tell tale sign. Josephine lied saying it was a floral delivery man that shot them. What happened here was these Detectives saw the floral delivery man and decided to use this

approach to gain entry into the apartment, and it worked.

22. Further proof of the above is as follows. Mr. Benitez reported he believed he saw the two men just prior to the incident. believing the taller male <u>was carrying the knap sack</u> (Ex. "14" [P.D. Report]). It will be further proven later that indeed there were two men involved in the shooting's.

23. The farce further escalates. Myra stated she called 911 from a bedroom and tended to Josephine, <u>at the rear of the apartment</u>, in extreme graphic fashion. <u>Thereafter crawling to the front of the apartment for help</u> (Ex. "8" [Mendez]: 229-230, [Franza]: 313-314, 325). Another lie as will be proven herein.

24. The farce further escalates. When the Police arrived, it was claimed Myra was found at the hallway entrance to the apartment, bleeding profusely. Myra stating she could not stop the blood from coming out of her mouth. Writing in a pad and on the wall, telling Police Ι sent the shooter. Giving a description of the shooter, white, white tank shirt, mustache, and afro. The paramedics arriving three to five minutes later (Ex. "8" [Aponte]: 140-151, 158, [Alexander]: 176-180, [Franza]: 314-315; Ex. "15" [Myra's Handwritten Notes, see Ex. "7" p. 30]). It is abundantly clear, Myra's description is drastically at odds with Mr. Benitez's description (¶ 21 herein). This is what happens when one lies, attempting to conceal the fact she was shot by rogue Detectives, as Josephine. As well, it will be later proven Josephine was shot at this location.

25. The farce further escalates. Det. Giorgio stated, when he arrived he saw Josephine being wheeled out of the apartment by E.M.S.. Thereafter seeing Myra receiving Medical attention, and her writing in a pad. Det. Bourges seeing Myra writing on a wall. All a Lie. Mrs. Theis recognized Josephine as being the second person taken out of the apartment. The identification of Josephine being the second person taken out of the apartment was confirmed by Mrs. Ferreira, who has known Josephine for 6 to 7 years (Ex. "8" [Theis]: 115-116, [Ferreira]: 128, 133-134, [Bourges]: 416-418, [Giorgio]: 562). It should be noted, Det.

Giorgio stated in the first Grand Jury presentation, when he entered the building Myra was being wheeled out on a stretcher (Ex. "16" [First Grand Jury Presentation]: 23). The lies don't stop.

26. The farce further escalates. Det. Giorgio stated, he first saw Nelson Dacosta when Josephine was being removed from the apartment. A lie again. Mrs. Theis stated, when Nelson arrived at the shooting scene he was screaming, who broke free from Police and entered the apartment. This being after Josephine and Myra were taken to the Hospital (Ex. "8" [Theis]: 117, [Giorgio]: 614). The lies don't stop.

27. The farce further escalates. At the Hospital Myra stated nine Doctors were trying to bring Josephine back to life, in extreme graphic fashion (Ex. "8" [Franza]: 315-316). A lie which will be later proved by Josephine's Medical records.

28. The farce further escalates. Josephine stated her left hand is not used anymore, not being able to hold anything (Ex. "8" [Mendez]: 248). Another lie which will be later proved by Josephine's Medical records.

29. The farce further escalates. Josephine stated she was in the Trauma Unit for seventeen days, in bad shape (Ex. "8" [Mendez]: 230-231). During the first Grand Jury presentation she stated she was in a coma for seventeen days (Ex. "16" [Mendez]: 20). Another lie which will be later proved by Josephine's Medical records.

30. It should be noted, Mrs. Ferreira called my apartment and left a message on my answering machine for Myra informing something happened to Josephine and to come over right away, not knowing Myra was one of the victims. After hearing the message I called back and said I was on my way. I went to Josephine's apartment right away, arriving in a <u>black car with New Jersey</u> <u>plates</u>, with a black male later identified as Tracy Jenkins, and that I was the passenger in the vehicle (Ex."8" [Theis]: 111-

112, 118-124, [Ferreira]: 131-132, 134-137, [Aponte]: 151-153, [Giorgio]: 568-569).

31. The farce further escalates. Det. Osborn, of the crime scene unit, arrived at the shooting scene. Observing blood upon entering the apartment. Recovering only two bullets in the apartment which he claimed were in the positions as photographed, one in the bathroom the other in the rear hallway. Also, recovering a floral box with a red ribbon and a floral delivery note that were on a chair. Taking twenty photos of the apartment. Packaging each recovered item separately, and giving such to P.O. Alexander to voucher. These items were entered into evidence. Det. Osbourn typed up a report on everything done, and what he recovered, also revealing the order of photo taking, and the time he arrived at the crime scene, 1940 hrs. Det. Giorgio claiming to have seen the floral delivery note at the scene of the shooting's (Ex. "8" [Alexander]: 180-185, [Osborn]: 515-529, 532-533, [Giorgio]: 580, 641; Ex. "17" [Floral 525, Delivery Note, see Ex. "2" p. 13 & Ex. "7" p. 15]; Ex. "18" [Forensic Report & Handwritten Notes, see, Ex. "2" p. 15 & Ex. "7" pp. 16, 20]; Ex. "19" [Crime Scene Photos 1-20, see Ex. "2" pp. 12-14, 18-23 & Ex. "7" pp. 16-18, 20-21, 24-30]). Det. Giorgio stated in the first Grand Jury presentation he took the floral delivery note into his care and custody (Ex. "16" p. 25). The lies don't stop. As previously stated, it will be proven every item recovered were fabrications, the crime scene being recreated, beyond all doubt.

32. However the above, contrary to Det. Osborn's claim that he packaged the floral box with the red ribbon and the floral delivery note separately, amazingly P.O. Alexander stated when she walked into the Property Clerk's office to voucher the items the floral box and the floral delivery note were still attached to one another. Not recalling if they were taped or stapled together (Ex. "8" [Alexander]: 181-182, 193-195). It should be noted, Det. Gilbert Ortiz (my arresting Detective) stated during the second Grand Jury presentation, he saw the floral delivery

note and that it was stapled to the box. However, at trial he stated he saw them separated at the Pct., and that the floral box did not have staple marks (Ex. "8" [Ortiz]: 1478-1480; Ex. "20" [Second Grand Jury Presentation]: 30). This is what happens when people lie.

33. Once again, contrary to Det. Osborn's claim that he saw the floral box with the red ribbon with the floral delivery note on top on a chair when he arrived at the shooting scene, amazingly P.O. Alexander stated she was one of the first to arrive at the shooting scene, and that she observed the floral box on a kitchen table, not on a chair. Further stating, the top of the box being sort of opened, seeing <u>Red Roses</u> inside. Observations made before the crime scene units arrival (Ex. "8" [Alexander]: 176, 177, 190-195, [Osborn]: 515-516).

34. In spite of P.O. Alexander's account, her partner P.O. Aponte (a name that keeps on coming up) amazingly stated she saw the box of flowers with the red ribbon on a chair right after her arrival (Ex. "8" [Aponte]: 158-159).

35. Both Myra and Josephine stated, the crime scene photos shown reflected the state of the apartment the day of the shooting's: Where the lone shooter was standing at the rear of the apartment; where they were shot and fell at the rear of the apartment. Such photos were entered into evidence (Ex. "8" [Mendez]: 232-234, [Franza]: 316-325; Ex. "19" Photos 11, 14-15, 17). All a lie as will be later proven.

36. P.O. Aponte, P.O. Alexander, Det. Giorgio, and Det. Osborn, stated the crime scene photos shown reflected the state of the apartment the day of the shooting's: Where the floral box with the floral delivery note were on a chair; where the lead bullet was on the bathroom floor; where Myra was found at the front of the apartment; where the wall is that Myra wrote on at the front of the apartment; the flowers in the sink which were put there by Det. Osborn. Such photos were entered into evidence (Ex. "8" [Aponte]: 153-158, [Alexander]: 185-186, [Osborn]: 516-

518, 523-524, 532, [Giorgio]: 563; Ex. "19" Photos 3, 6, 18-20). All a lie as will be proven.

37. On August 24th of 1990, Det. Giorgio provided me with a sample copy of the alleged floral delivery note in his writing, and asked me to provide handwriting exemplars, which I did. Det. Giorgio (a name that keeps on coming up) asked Det. Breslin (NYPD Document Examiner) to compare the original floral delivery note against my exemplars. It should be noted, Det. Breslin claimed he received the floral delivery note on July 18th of 1990 (day after the shooting's). After his examination, Det. Breslin concluded my handwriting matched the handwriting on the floral delivery note, thereby, connecting me to the floral delivery man shooter. A claimed shooter that did not shoot Myra or Josephine, it being the two rogue Detectives. The sample copy and my exemplars were entered into evidence (Ex. "8" [Giorgio]: 580-596, 600, 676-680, 742, [Breslin]: 1197-1211, 1327, 1329, 1442-1443; Ex. "17" [Floral Delivery Note; Ex. "21" [Sample Copy & My Exemplars, see Ex. "7" p. 17]). Go ahead and look at Ex. "17" and "21" and see for yourself if they match, you will be astounded at what you will see. As previously stated, the two bullets, floral box and the floral delivery note, will be proven to have been fabrications, revealing I gave exemplars to a floral delivery note that did not exist, the crime scene recreated.

38. In light of all the foregoing, A.D.A. in opening statement and closing argument, pertaining to the shooting incident, condemned me for sending a floral delivery man to shoot Myra and Josephine, vouchering for the credibility of Det. Breslin's conclusions claiming I wrote the floral delivery note, fully knowing such were untrue, as it was the two rogue Detectives that did the shooting, not a floral delivery man (Ex. "8" [Brancato]: 32-47, 1813-1906).

39. A highlight of the fraudulent nature of A.D.A. Brancato's summation was his intentional misrepresentation, as follows. He outlined the testimonies of Mr. & Mrs. Francis (my neighbor's)

and Mrs. Ferreira: That Mrs. Ferreira called my residence on July 17th of 1990, leaving a message for Myra on the answering machine, apprising something happened to Josephine and for her to come over right away; that in the evening of July 17th of 1990 I told Mr. Francis that I received a message on the answering machine, me saying Myra was shot, and Mrs. Francis stating I said something happened to Myra. Information I was not suppose to have know at the time (Ex. "8" [Ferreira]: 131-132, 134-137, [Mrs. Francis]: 440-446, [Mr. Francis]: 460-469, [Brancato]: 1867-1873). Fully knowing his representation was completely false and misleading as proven below.

40. When Mr. & Mrs. Francis said the above, it was thereafter stated by them I left in my car a Red Mustang, parked behind Mr. Francis's car, and that they did not see my friend Tracy Jenkins. As previously mentioned (¶ 30 herein), I arrived at the crime scene in a black car with New Jersey plates, with a black male later identified as Tracy Jenkins, and that I was the passenger in the vehicle. It was further testified that Det.'s Ortiz and Bourges took me home the night of the shooting's, observing me get into my car in a garage area which I rented, and drive off. Mrs. Francis upon further questioning stated she believed she received the information on what happened the next day, A.D.A. Brancato placing her credibility in question. Det.'s Giorgio and Ortiz visiting Mr. & Mrs. Francis seven months after the shooting incident, why wait seven months when memories fade, I told them the next day. It is beyond question this was an intentional misrepresentation by A.D.A. Brancato "8" (Ex. [Bourges]: 421-424, [Mrs. Francis]: 439-453, 455-457, Mr. Francis]: 459-476, [Giorgio]: 632-633, 654-655).

41. It will now be proven as previously stated, by A.D.A. Brancato's and A.D.A. Sheindlin's very own discovery material, and the non-discovery materials, that the crime scene scenario, crime scene photos, two bullets, floral box with the red ribbon, and the floral delivery note, were all fabrications, the crime scene being recreated to conform with the fabricated

testimonies, which will further prove Myra and Josephine were "indeed" shot by the two Detectives, evidence which was never revealed before the jury.

42. As previously mentioned, Josephine stated she was shot at a distance at the rear of the apartment, sustaining five gunshot wounds, with a bullet still in her chest, and Myra stating she sustained one gunshot wound at the rear of the apartment, making a total of six gunshot wounds sustained between the two of them (¶ 18 herein). Det. Osborn stating he <u>recovered only two</u> <u>bullets, a floral box and a floral delivery note</u>, all reflected in the crime scene photos. P.O. Alexander stating she vouchered these items (¶ 31 herein). Det. Breslin stating my handwriting matched the handwriting on the floral delivery note (¶ 37 herein). All a lie as proven below.

43. Josephine's Certified Medical records prove, she sustained well over five gunshot wounds. The gunshot wounds ranging from .5cm to 1.cm, evincing two guns were used, one clearly with a silencer as only three to four shots were heard (¶'s 19, 22 herein). A simple counting of the gunshot wounds mentioned proves what is said. Further, proving all of Josephine's gunshot wounds were through and through, when she stated she still had а bullet in her chest (Ex. "22" [Certification & Delegation of Authority for Josephine's Medical Records, see, Ex. "2" pp. 19, 25 & Ex. "7" p. 19]; Ex. "23" [Gunshot Wounds Mentioned, see Ex. "2" pp. 19, 25 & Ex. "7" p. 19]; Ex. "24" [Through & Through Gunshot Wounds, see Ex. "2" pp. 19, 25 & Ex. "7" p. 19]).

44. Myra's Certified Medical records proved, <u>she sustained</u> one gunshot wound from a small caliber weapon, and that her gunshot wound was also a through & through (Ex. "25" [Certification & Delegation of Authority for Myra's Medical Records, see Ex. "2" p. 13 & Ex. "7" p. 19]; Ex. "26" [Gunshot Wound Mention, see Ex. "2" p. 13 & Ex. "7" p. 19]; Ex. "27" [Through & Through Gunshot Wound, see Ex. "2" p. 13 & Ex. "7" p. 19]).

45. It is proven, the crime scene scenario, two bullets, floral delivery box with the red ribbon, floral delivery note which I was claimed to have written, and the crime scene photos revealing the evidence recovered, were all fabrications, the scene redone crime /recreated, as it was a physical impossibility for only two bullets to have been recovered as the Medical records conclusively prove. Certified This is inescapable direct evidence proving the crime scene was recreated / redone to coincide with the fraudulent testimonies. The jury never saw any of this evidence, which defense counsel had and did not use.

46. Further proving the above, <u>nowhere in the fabricated</u> <u>crime scene photos do they reflect ballistic damage or blood</u> <u>splatter on any walls</u>, <u>once again a physical impossibility</u>, <u>after all the bullets were all through and through</u> (Ex. "19" [Crime Scene Photos 1-20).

47. While the above conclusively proves false evidence and false testimonies were knowingly and intentionally used against me, the evidence below further proves the crime scene scenario was a fabrication, and that it was the two Detectives that shot Myra and Josephine.

48. As previously mentioned, Josephine stated she was shot at the rear of the apartment, by the floral delivery man (¶ 18 herein). As well, Myra stated she was shot at the rear of the apartment (¶ 18 herein). Myra crawling to the front of the apartment, where she was claimed to have been found by Police (¶'s 21, 24 herein). All a lie as proven below.

49. A C.A.T.C.H. Unit report, dated two months after the shooting's, proved Josephine gave descriptions for two perpretrator's for the shooting incident. One Hispanic, 25-30 years of age, 5'6" or 5'7". The other male, 35-40 years of age, 5'9". No floral delivery man shot Myra and Josephine, it was the two Detectives who shot them (Ex. "28" [C.A.T.C.H. Unit Report, see Ex. "2" p. 24 & Ex. "7" p. 23]).

50. Four NYPD reports dated 7/18/90, 8/16/90, 8/28/90, and 2/6/91, prove two men were being sought in connection with the shooting's. In particular the 8/16/90 report:

Decosta further explained that he [] was told by his mother, that on or about July 16, 1990 two men came to her apartment (at 485 West 187th Street, Manhattan) asking for him. The two men claimed to be police officers wanting to question him... DeCOSTA recounted, that the day after the incident 7/17/1990 two men came to his mother's apartment. He was not sure whether they were the same two from the day before. He said they gained access by using the ruse of delivering flowers to his sister Myra. It was at this time that his mother and his sister Myra, were both shot.

it was not a floral delivery man that shot Myra and Josephine, it was the same two from the day before who said they would be back, they sure did (¶'s 15, 19-20 herein) (Ex. "29" [7/18/90 Report]; Ex. "30" [8/16/90 Report]; Ex. "31" [8/28/90 Report]; Ex. "32" [2/6/91 Report]; see Ex. "2" p. 24 & Ex. "7" p. 23).

51. Myra's Crime Victim Board application proved, she stated someone said flowers, <u>and when Josephine opened the door that</u> <u>they pushed her into the apartment and shot her</u>, and that when she came to the rescue being shot, point blank. The number of times Josephine being shot incorrect. It should be noted, P.O. Alexander stated, when she responded, standing by the door in the hallway, <u>they</u> were face up (Ex. "33" [Crime Victim Board Application, see Ex. "2" p. 24 & Ex. "7" p. 22]). By Myra's own words Josephine was shot at the front of the apartment, not the rear of the apartment, by two men.

52. А Puerto Rico P.D. report proved, Miss Lamboy. Josephine's Sister, stated Josephine and Myra told her someone said flowers and when Josephine opened the door shots were fired (Ex."34" [P.R.P.D. Report, see Ex. "2" 24 & Ex. "7" pp. 23, 32]). Once again, Josephine was shot at the front of the apartment, not the rear of the apartment.

53. A D.A. Data sheet proved, when Josephine opened the door she was shot, and Myra being shot when she was exiting the bathroom (Ex. "35" [D.A. Data Sheet, see Ex. "2" p. 24 & Ex. "7" p. 23]).

54. My arraignment transcripts, dated 2/12/91, prove A.D.A. Lorenzo stated when Josephine opened the door a claimed floral delivery man started firing at her, shooting Myra as she was exiting the bathroom (Ex. "36" [2/12/91 Transcript, see Ex. "7" p. 23]).

55. A Federal search warrant affidavit and Federal arrest warrant affidavit proved, Josephine was shot when she answered the door. The shooter proceeding to the rear of the apartment shooting Myra. The information coming from Det.'s Giorgio and Ortiz. The number of times Josephine was shot being incorrect (Ex. "37" [Federal Search Warrant & Affidavit]; Ex. "38." [Federal Arrest Warrant & Affidavit]; Ex. "39" [Pre-Trial Transcript 1-474]: [Raffa]: 55; see Ex. "2" pp. 23-24 & Ex. "7" p. 22).

56. As previously mentioned, Josephine stated she was shot at a distance (¶ 18 herein). However, her Certified Medical records proved, <u>she had carbon particles surrounding the wound on her</u> <u>left hand</u>. Such proved she was shot at an extreme close range. Being pushed into the apartment she clearly put her hand up in defense (Ex. "40" [Carbon Particles, see Ex. "7" p. 21]).

57. It should be noted, A.D.A. Brancato stated, in opening, Myra was at the rear of the apartment when the Police arrived, completely contrary to what was testified too, amazing (¶'s 21, 24 herein) (Ex. "8" [Brancato]: 39-40).

58. Once again, it is abundantly clear, the shooting scenario was a total fabrication made to coincide with the bogus crime scene photos, as the photos reflect the shooting's to have ocurred at the rear of the apartment (Ex. "19" [Crime Scene Photos 11, 14-17, see Ex. "2" pp. 12-14 & Ex. "7" pp. 16-18, 20-

21, 24-30). Josephine was clearly pushed into the apartment by the two Detectives and shot at the front of the apartment, not the rear of the apartment. What happened here was the two Detectives saw the floral delivery man (\P 's 16-17 herein) and decided to use his approach to gain entry into the apartment, and it worked as Josephine saw the floral delivery man outside thinking it was him she opened the door when he mentioned flowers. After all she did not open the door for them the day before (\P 14 herein). The jury never saw this evidence.

59. While the above conclusively proves false evidence and false testimonies were knowingly and intentionally used against me, further evidence proved that Myra and Josephine lied, once again. Once again, the jury never saw this evidence.

60. As previously mentioned, Myra stated at the Hospital nine Doctors were trying to bring Josephine back to life, in graphic fashion (¶ 27 herein). A total lie. Josephine's Medical records proved, she was assessed as having a 98% Trauma Survival Rate score when she arrived at Hospital, being fully awake and responsive at all times (Ex. "41" [Trauma Score & Medical Record Page, see Ex. "2" p. 25 & Ex. "7" p. 21]).

61. As previously mentioned, Josephine stated she was in the Trauma Unit for seventeen days, in bad shape, and in the Grand Jury stating she was in a coma for seventeen days (¶ 29 herein), as well stating she can't use her left hand anymore. All a total lie. Josephine's Medical records prove, she was fully awake and responsive at all times, upon arrival to discharge. Proving she was agitated and combative. Threatening to kill herself and choke herself if she was not allowed to call her Husband, and if anybody came near her. Pulling out her I.V. lines resulting in her being placed in two point restraints. Lastly that she sustained no gross motor or sensory loss. Her lungs being clear, no respiratory distress, and a low risk for cardiac arrest. "42" Moving all extremities well (Ex. [Awake, Responsive, Combative Behavior, Extremities Functioning, Medical Record Pages]).

62. Once again, while the above conclusively proves these false testimonies were knowingly and intentionally used against me, which the jury never saw, further evidence, the crime scene photos themselves, will prove physical impossibilities beyond imagination. Certified Weather related material will prove there was daylight outside at 8:14 p.m, however, the crime scene photos reveal it to be nighttime outside. Items missing and changed from one photo to another, blood missing. Once again the jury never saw this.

63. The photos of the street outside of 485 West 187th Street proved there is un-obstructed open sky above the low building. The Certified report from the U.S. Naval Observatory, prepared by the Chief Astronomer, proved on <u>July 17th of 1990</u> (day of shooting) <u>Sunset was at 8:24 p.m.</u>. The Certified Weather Data reports from the National Climatic Data Center proved there was good weather over New York City on <u>July 17th of 1990</u>. A Com-Pu Weather report, reviewing the documentation held, <u>on July 17th of 1990, at 8:14 p.m., ten minutes before Sunset, there was still daylight outside</u> (Ex. "43" [Photos Of Street Outside Of 485 West 187th Street, see Ex. "7" p. 24]; Ex. "44" [Certified U.S. Naval Observatory Report, see Ex. "2" pp. 17-18 & Ex. "7" p. 25]; Ex. "45" [Certified National Climatic Data Center Reports, see Ex. "2" p. 18 & Ex. "7" p. 25]; Ex. "46" [Com-Pu Weather Report]).

64. Crime scene photo 13 reveals a radio clock with the time <u>8:14</u> on a table. Det. Osborn stated after he arrived he talked to a Detective and then proceeded to photograph the apartment (Ex. "8" [Osborn]: 516). As previously mentioned, his Forensic report stated he arrived at <u>1940 hrs</u> (7:40 p.m.). However, contrary to the Weather related documents, crime scene photos 12, 9, 7, 4, going backwards to earlier photos taken, <u>reveal it</u> <u>to be totally dark outside</u>, <u>a physical impossibility</u>. <u>It is</u> <u>clear the crime scene photos were not taken the day of the</u> <u>shooting's</u>. <u>A pure fabrication</u> (Ex. "19" [Crime Scene Photos 12, 9, 7, 4, see Ex. "2" pp. 18-19, 21-22 & Ex. "7" pp. 18, 25-26,

28-29]; Ex. "47" [Blow-Up Of Photo 13 Revealing The Radio Clock, see Ex. "2" p. 18 & Ex. "7" p. 25).

65. In light of the fact there was daylight outside at 8:14 p.m., crime scene photo 9 barely reveals a man standing in the street, who should have been fully illuminated. A blow-up of photo 9 is needed to make out the male in the street somewhat clearer. Further proof the crime scene photos were not taken the day of the shooting's. The crime scene photos being taken in late fall or early spring when it is darker outside (Ex. "19" [Photo 9, see Ex. "2" pp. 18-19 & Ex. "7" pp. 25-26]; Ex. "48" [Blow-Up Of Photo 9, see Ex. "2" p. 18 & Ex. "7" pp. 26]).

66. Crime scene photos 14, 11, 5, 3-2, reveal the path Myra would of had to of crawled across to get to the front of the apartment, where she was claimed to have been found, bleeding profusely, as Myra stated herself (¶ 24 herein). However, the photos do not reflect any extreme amounts of blood down her claimed path, especially where she was found, where there should have been allot of blood according to the testimonies (Ex. "19" [Crime Scene Photos 14, 11, 5, 3-2, see Ex. "2" pp. 12-14, 20-23 & Ex. "7" pp. 17-18, 20-21, 24, 26-30]).

67. Crime scene photo 19 reveals, the wall where Myra was claimed to have written on at the front of the apartment according to Det. Bourges and P.O. Alexander "8" (Ex. [Alexander]: 178-179, [Bourges]: 416-418 (a lie see ¶ 25 herein). There being blood and pencil writing on the wall. However, crime scene photos 2-3 reveal the pencil writing is gone (Ex. "19" [Crime Scene Photos 19, 2-3, see Ex. "2" pp. 13, 20-23 & Ex. "7" pp. 18, 24, 26-28, 30]).

68. Crime scene photos 2-3 reveal, the area where Myra was claimed to have been found, and where she was claimed to have written in a pad (\P 24 herein). Crime scene photo 3 reveals blood on the wall from Myra's hand. However, Myra's handwritten notes, from the pad, do not reveal any blood stains on them, <u>a</u> physical impossibility (Ex. "19" [Crime Scene Photos 2-3, see

Ex. "2" pp. 13, 20-23 & Ex. "7" pp. 18, 24, 26-28, 30]).

69. Crime scene photo 14 reveals, the area where Josephine lied about being shot (¶ 18 herein). However, there are no footprints in the blood by E.M.S. as they allegedly tended to her at this location (Ex. "19" [Crime Scene Photo 14, see Ex. "2" pp. 12, 21-23 & Ex. "7" pp. 17, 20-21, 27-29]).

70. Crime scene photo 20 reveals, a bullet on the bathroom floor. The bullet Det. Osborn stated was in that position when he first noticed it (\P 31 herein). However, crime scene photos 14-15, earlier photos taken, reveal the bullet is gone. A rug in the location where the bullet was (Ex. "19" [Crime Scene Photos 14-15, 20, see Ex. "2" pp. 12, 14, 21-23 & Ex. "7" pp. 17, 20-21, 27-29]).

71. Crime scene photo 15 reveals, right center of the rug there is a small white object covering the grout tile line. However, crime scene photo 14 reveals the white object is gone (Ex. "19" [Crime Scene Photos 14-15, see Ex. "2" pp. 12, 21-23 & Ex. "7" pp. 17, 20-21, 27-29]).

72. Crime scene photo 5 reveals, there is a black box under the table. However, in crime scene photo 8 the black box is gone (Ex. "19" [Crime Scene Photos 5, 8, see Ex. "2" pp. 14, 21-23 & Ex. "7" pp. 27-29]).

73. Crime scene photo 11 reveals, a lamp and table inches away from the wall having the two blood stains. However, crime scene photo 13 reveals the lamp and table are gone, the two blood stains being visible (Ex. "19" [Crime Scene Photos 11, 13, see Ex. "2" 12, 18, 21, 23 & Ex. "7" pp. 16-18, 20, 25, 27-30]).

74. Crime scene photo 4 reveals, a white object draped over the back rest of the chair. However, crime scene photo 2 reveals the white object is gone (Ex. "19" [Crime Scene Photos 2, 4, see Ex. "2" pp. 18, 21-23 & Ex. "8" pp. 24-25, 28-29]). 75. Crime scene photo 8 reveals, three objects on the table next to the lamp. Two black and one silver. However, crime scene photo 7 reveals, the closest black object next to the lamp is gone (Ex. "19" [Crime Scene Photos 7-8, see Ex. "2" pp. 18, 21 & Ex. "7" pp. 25, 28-29]).

76. Crime scene photo 11 reveals, a blood stain in the shape of an "S" or "5" on a piece of linen on the floor. However, crime scene photo 14 reveals the blood stain is changed (Ex. "19" [Crime Scene Photos 11, 14, see Ex. "2" pp. 12, 21-23 & Ex. "7" pp. 16-18, 20-21, 27-30]).

77. Crime scene photo 6 reveals, a chair containing the floral box with the red ribbon with the floral delivery note on top. The chair butted tight front against the stereo cabinet. The blue garment covering the side of the stereo cabinet. However, crime scene photo 4 reveals, the chair was considerably move back as the side of the stereo cabinet can be seen (Ex. "19" [Crime Scene Photo 6, see Ex. "2" pp. 13-14, 18, 21-22 & Ex. "7" pp. 16, 18, 28-29]).

78. Crime scene photos 14-15 reveal, no ballistic damage on the bathroom door, or bathroom tiles, or blood splatter on such, from the through and through gunshot wounds. After all, Josephine stated she was holding the bathroom door closed while being shot (Ex. "8" [Mendez]: 225; Ex. "19" [Crime Scene Photos 14-15, see Ex. "2" pp. 12, 21-23 & Ex. "7" pp. 17, 20-21, 27-29; ¶ 18 herein]).

79. Crime scene photo 6 reveals, the fabricated floral box and floral delivery on the chair. However, crime scene photo 4 reveals a substantial portion of the right side of the floral box, revealing the floral delivery note is gone (Ex. 19" [Crime Scene Photos 4, 6, see Ex. "2" pp. 13-14, 18, 21-22 & Ex. "7" pp. 16, 18, 25, 28-29]).

80. Crime scene photos 1 and 3 reveal, a porcelain picture on the wall in the same location, at different sides. However, the

top and bottom of the frames are different from one another for pictures in the same location (Ex. "19" [Crime Scene Photos 2-3, see Ex. "2" pp. 13, 20, 22-23 & Ex. "7" pp. 18, 24, 26-27, 30]).

81. The blow-up of crime scene photo 1 reveals, a black inlay that goes all the way to touch the left side of the frame. However, the blow-up of crime scene photo 3 reveals, below the left figurine's left hand (facing the photo) and to the left there is an open space which is gold colored in the area where it was black in the other photo. So what we have here are two photos in the same area that are different from one another when the photos were claimed to have been taken the same day (Ex. "49" [Blow-Up of Crime Scene Photo 1, see Ex. "2" p. 20 & Ex. "7" p. 27]; Ex. "50 [Blow-Up of Crime Scene Photo 3, see Ex. "2" p. 20 & Ex. "7" p. 27)]).

82. While the crime scene photos themselves conclusively proved they are fabrications, and the evidence reflected therein, the below evidence further proved none of the fabricated evidence was vouchered. A fact unknown to the jury.

83. As previously mentioned, P.O. Alexander stated she vouchered the floral box with the red ribbon and the floral delivery note (Ex. "8" [Alexander]: 181-182 ¶ 31 herein). As well, Det. Giorgio stated he vouchered his sample copy of the floral delivery note and my exemplars (Ex. "8" [Giorgio]: 581-582; ¶ 37 herein).

84. However, the vouchers mentioned above reveal the property clerk never signed for these items. Amazing. (Ex. "51" [Voucher For Det. Giorgio's sample copy & My Exemplars]; Ex. "52" [Voucher For Floral Box & Floral Delivery Note]).

85. Out of all the evidence presented, including the Puerto Rico pipebomb incident which will be hereinafter outlined and proven to be a farce as well, during deliberations the jury's sole testimonial read back request was for Det. Breslin's initial analysis concluding my handwriting matched the

handwriting on the floral delivery note, thereafter convicting me (Ex. "8" [Deliberations]: 1966-1967, 1989-2001). This was a travesty of justice, as it is conclusively proven, the crime scene scenario, crime scene photos, bullets, floral box with the red ribbon, and the floral delivery note were all fabrications. No floral delivery man shot Myra and Josephine, it was the two Detectives or Police Officers, who said they would be back, they sure did the next day at the same time (¶15 herein). Ruthie Bless knew something which is why she left Nelson Dacosta (¶ 12 herein). Wonderful, the jury decided my faith based upon a fraudulent floral delivery note.

86. Based upon all the forgoing, it is more than clear allot of energy was expended and money spent to cover up the fact Myra and Josephine were shot by two rogue Detectives, creating a diversion by suborning perjury of willful witnesses. Prosecuting attorneys A.D.A. Brancato and Sheindlin clearly knew all the above, evidenced by their very own discovery materials and still persisted to present the charges before a Grand Jury and the trial court. Allowing the jury to reach verdicts of guilty on all counts, fully knowing the indictment and verdicts were based upon false evidence and false testimonies, as defense counsel. Most clearly, these prosecuting attorneys were involved in these fabrications. This whole affair is disgusting and has cost me 28 years of my life and counting, the parole board many times denying me parole based upon crimes procured by false evidence and false testimonies, disgusting !!!!!!!!!!!!!!! The courts failing to grant me my freedom.

87. I will now go into the facts and evidence pertaining to the Puerto Rico incident, which were a total farce as well.

88. In November of 1989, Myra went to Puerto Rico for her Brother's funeral, Wilfred Dacosta, without me (I had a broken right leg). Prior to leaving she claimed she gave me her Grandmother's phone number and address, 2629 Paseo Aguilla, Levittown, Catano, Puerto Rico, in case I needed to get a hold of her. Also, giving me the phone number of her Aunt in Rio-

Predrias, Puerto Rico (Ex. "8" [Mendez]: 280-281, [Franza]: 288, 334-336). Myra gave me the phone numbers but no address, where was I going as I had a broken leg. It will be proven she lied.

89. The farce escalates. Myra stated, she thought her Grandmother's name was <u>Rosa Lamboy Roman</u> (Josephine's Mother), because Josephine's maiden name was <u>Roman</u>. This claim in spite of Josephine's younger Sister being named <u>Evelyn Lamboy</u>. Amazing (Ex. "8" [Mendez]: 246, [Franza]: 310, [Lamboy]: 754, 757).

90. The farce further escalates. Miss Lamboy stated her Mother's name was <u>Rosa Matos</u>. Josephine stated her Mother's name was <u>Rosa Lamboy</u>. Amazing (Ex. "8" [Mendez]: 244, [Lamboy]: 756).

91. The farce further escalates. Miss Lamboy stated, <u>she has</u> <u>lived at 2629 Paseo Aguilla for 26 years</u> and that <u>her Mother</u> <u>has lived with her all of her life</u>. Josephine stated <u>her Mother</u> <u>lived at 1826 Paseo Agillla with her Sister Evelyn</u>. Amazing (Ex. "8" [Mendez]: 245-246, [Lamboy]: 754-757).

92. The farce further escalates. Myra stated, her Grandmother lived with <u>Angeles Evelyn</u>, <u>Evelyn Norris</u>, having two names. However, Miss Lamboy stated <u>her other Sister's name is Angeles</u>. Josephine stated her Mother lived with <u>Evelyn Norris-Figueroa</u>, <u>Figueroa being her last name</u>. Miss Lamboy stated <u>her name is</u> <u>Evelyn Norris-Figueroa Lamboy</u>. Amazing (Ex. "8" [Mendez]: 245-246, [Franza]: 335, [Lamboy]: 757).

93. The farce further escalates. Unbelievably, Josephine stated, she told Myra for the first time that her Mother never married her Father, <u>in the presence of A.D.A. Brancato</u>. Amazing how convenient (Ex. "8" [Mendez]: 244-245).

94. All the above are classic examples of lying, people forgetting their lines. Out of this mess spawned the inference that I too knew Myra's Grandmother's name as <u>Roman</u>, after all Myra was my Wife, imputed knowledge. This mess was done in order to connect me to the pipebomb sent to Puerto Rico which was claimed to have gone to the <u>Roman Family</u>, a complete lie. It

will be proved the pipebomb did not have the name Roman as the recipient, the package having an incorrect recipient address, and having a telephone number that was not the Grandmother's telephone number as claimed.

95. On February 4th of 1991, six months after the shooting's, Mr. Cezar Rodriguez for Federal Express, testifying for the defense, stated he accepted a package for shipment from a <u>5'6"</u> <u>dark skinned male having a Hispanic accent</u> (Ex. "8" [Rodriguez]: 1719-1720). This description fitting one of the Detectives, just like I said (¶'s 5, 19, 49-50 herein).

96. Mr. Rodriguez did not pick me out in a line up, or at trial as the person above. The man wanting to pay cash for the shipment, and telling him cash was not accepted. Directing the man to a store where he could purchase a money order, who returned $2\frac{1}{2}$ hours later. The farce further escalates. Mr. Rodriguez stated, the man came in with the Federal Express Airways Bill already filled out with the name "Julio Ortiz", and the money order already filled out. However, at the Grand Jury he stated the man filled out the money order in his presence, the trial court precluding impeachment (Ex. "8" [Giorgio]: 619, 688-689. [Behan]: 942, [Colloquy]: 1499-1524, 1528-1546, [Rodriguez]: 1525-1528, 1716-1725). Clearly, the prosecution was to of called Mr. Rodriguez to sustain the chain of custody, however not calling him because it would have destroyed Det. Breslin's credibility as he held my handwriting matched the handwriting on the Federal Express Airways Bill and money order used in connection with the shipment. Det. Breslin just can't stop lying as will be proven (¶ 37). It will be further proven Mr. Rodriguez's testimony was tampered with.

97. The next day, on February 5th of 1991, Miss Lamboy <u>received a notification slip from Federal Express</u> placed on her gate, informing <u>she</u> had a package, <u>having her name and address</u>, <u>2629 Paseo Aguilla</u>, and <u>phone number</u> (Ex. "8 [Lamboy]: 759).

98. In spite of Miss Lamboy's testimony, A.T.F. Special Agent Chris Behan stated the package was addressed to the ROMAN Family, sent via Federal Express. The signature "Julio Ortiz" appearing on the Federal Express Airway Bill. Recognizing the Airways Bill and the American Express money order used to pay for the shipment of the package. Both documents were entered evidence. Further stating, into the sender was U.S.A. Electronics, and that during a Federal search of my apartment yielding a business card for U.S.A. Electronics, which was entered into evidence. Myra stated we took VCR's to get fixed at U.S.A. Electronics in the Bronx, and that "Julio Ortiz" worked with me (Ex. "8" [Franza]: 335, 337-339, [Behan]: 840-841, 856-858, 883-885, 889-891, [Julio Ortiz]: 1733-1742; Ex. "53" [Federal Express Airways Bill, see Ex. "2" p. 27 & Ex. "7" pp. 36, 40, 48-49;]; Ex. "54" [American Express Money Order, see Ex. "2" p. 28 & Ex. "7" p. 36]). It will be proven there was a manipulation of the Federal Express Airway Bill to reflect this information in order to connect me to this document. As for the American Express money order, it will be proven such was tampered with in order to connect me to this document.9

99. Thomas Sullivan, for Federal Express, was shown the Airways Bill, and also the <u>Package Tracking Inquiry</u>. Explaining, <u>the Package Tracking Inquiry reveals where this package has</u> <u>been, this document was never entered into evidence</u>. Further stating, Airway Bills are mailed to their offices, and each Airways Bill being serialized in sequences of eleven, one after the other. That Airway Bills before and after the Airways Bill shown revealing they were mailed from One Fordam Plaza in the Bronx. However, he did not check other numbers to see where they were mailed from (Ex. "8" [Sullivan]: 1104-1126; Ex. "55" [Package Tracking Inquiry, see Ex. "2" pp. 28-29 & Ex. "7" p. 39]). The reason why the Package Tracking Inquiry was not 9- Its' amazing how things I've done in the past, like sending red roses to Myra, seem to come up appearing in fabricated evidence, in order to connect me to the crimes, as will be proven. Now, its a business card and a friend of mine, Julio Ortiz.

put into evidence is because it destroys the prosecutions case, as will be proven.

100. A.D.A. Brancato tried to establish through Miss Rose Marie Gonzalez where One Fordam Plaza was in relation to where I lived. Trying to imply I am the one who picked up the Federal Express Airways Bill (Ex. "8" [Gonzalez]: 1593-1598).

101. On February 6th of 1991, Josephine received two letters from a <u>Julio Ortiz</u>. One addressed to Myra and herself, stating Nelson lacks respect. Making threats against them and Mr. Cecilio Mendez (Josephine's Husband), and their Family in Puerto Rico. Mentioning two attempts on my life due to me investigating and asking questions. Det.'s Giorgio and Ortiz picking up the letter and envelope from Josephine. These items being entered into evidence (Ex. "8" [Mendez]: 237-244, [Court Interpreter]: 510-511, [Giorgio]: 607-613, 667-668, 729; Ex. "56" [Letter & Envelope, see Ex. "7" p. 34).

102. The other letter to Nelson Dacosta, threatened to kill his Family here and in Puerto Rico if he did not return what he took. Knowing where his Family lives in Puerto Rico. <u>Mentioning</u> <u>a gift was sent to his Grandmother</u>, for him to suffer. As well, this letter and envelope were picked up by Det.'s Giorgio and Ortiz. These items were placed into evidence (Ex. "8" [Mendez]: 237-244, 274-277, [Court Interpreter]: 510-511, [Giorgio]: 607-613, 667-668, 729; Ex. "57" [Letter & Envelope, see Ex. "7" p. 34]).

103. With respect to the letters A.D.A. Brancato stated:

Our theory is by sending the letter threatening to send something to the grandmother in Puerto Rico, that something being sent to the grandmother in Puerto Rico and proving that it came from the defendant in this case that we can prove that the defendant is the one who caused this bomb to be sent to the grandmother (Ex. "8" [Brancato]: 701).

Our theory is the defendant is the cause of this letter going to Josephine Mendez'

house and that in light of this evidence that I told you before, this forms part of the crime and the people's evidence of that crime (Ex. "8" [Brancato]: 704).

104. Each envelope had one .25¢ stamp and two .03¢ stamps having a bald man with glasses. During the Federal search .03¢ stamps were found, which were given to Det. Breslin. These stamps were entered into evidence (Ex. "8" [Franza]: 375-376, [Behan]: 846-848, 855-856; Ex. "58" [Stamps, see Ex. "7" p. 53).

105. Thereafter, on <u>February 8th of 1991</u>, Miss Lamboy received the package from her neighbor, who she left a check with to pay for the package, as an arrangement was made with Federal Express by Miss Lamboy. The package containing a black case. Opening the package an inch or two, seeing wires and a pipe inside. The Police were called who disarmed the device (Ex. "8" [Lamboy]: 762-767, [Garcia]: 1063-1102).

106. Miss Lamboy looked at a photo of the black case, and stated the photo fairly and accurately depicted the black case. The photo being entered into evidence (Ex. "8" [Lamboy]: 767).

107. As well, Myra looked at the photo above and claimed, it looked familiar, like the one in the pantry of our apartment. This testimony was elicited contrary to the court's ruling, and was completely leading in nature (Ex. "8" [Franza]: 331-333, 344-352).

108. Two days later, <u>February 10th of 1991</u>, Josephine and Myra informed Det. Giorgio that a pipebomb was sent to Puerto Rico. Giving him the names of two people, <u>Angeles and Elba</u>, who he could contact for information. Giving him the number for <u>Angeles</u> in Rio-Predrias, 809-765-4792 (Ex. "8" [Giorgio]: 619, 623).

109. The next day, <u>February 11th of 1991</u>, <u>seven months</u> after the shooting incident, and <u>six months</u> after my handwriting was claimed to have matched the fraudulent floral delivery note, I met Det.'s Raymond and Herbert at One Police Plaza, who were

going to take me for a polygraph examination pertaining to the Nelson Dacosta pipebomb incident (Fn. 8 p. 5 herein), which I volunteered to take. The Detectives informed me that the Detectives at the 34th Pct. wanted to see me, thereafter taking me to see them. At the 34th Pct. I was placed under arrest as I refused to cooperate anymore (¶ 7 herein). Det. Giorgio found on me a piece of paper having telephone numbers for Myra's Family in Puerto Rico for Levittown and Rio-Predrias, 809-765-4792 809-784-1630 [Levittown]. Det. [Rio-Predrias] and Giorgio recognized the Rio-Predrias telephone number as the number being given to him by Josephine and Myra, not finding it unusual for me to have this information. Giving such piece of paper to A.T.F. Special Agent Chris Behan (Ex. "8" [Giorgio]: 619-620, 623-624, 688-689, 728-733, [Raymond]: 772, 783-784, 786-788. [Herbert]: 817-818, 825; Ex. "10" pp. 195-198, 270-272).

110. S.A. Behan stated, he was at the 34th Pct. on <u>February</u> <u>11th of 1991</u>, and that he indeed received the piece of paper from Det. Giorgio. This piece of paper was entered into evidence. Seeing me at the Pct. and was present at my lineup viewed by Mr. Cesar Rodriguez. <u>Most Importantly</u>, <u>stating he</u> <u>spoke to Mr. Rodriguez who related to him what he saw</u>, <u>heard and</u> <u>did in relation to the shipment of the pipebomb going to Puerto</u> <u>Rico</u> (Ex. "8" [Giorgio]: 619-620, [Behan]: 840-845, 942).

111. The farce escalates. In <u>October of 1991</u>, Det. Breslin having over one hundred pages of my handwriting, taken during the Federal searches, <u>could not</u> connect my handwriting to the handwriting on the Federal Express Airway Bill nor the American Express money order. However, on <u>November 6th of 1991</u>, after receiving my exemplars from Det. Giorgio to have compared against the Federal Express Airways Bill and the American Express money order, he claimed my handwriting <u>matched</u> the handwriting on the documents. In particular the name "<u>Julio</u> <u>Ortiz</u>" (Ex. "8" Giorgio]: 615-619, [Breslin]: 1211-1236, 1330-

1356, 1416-1417, 1420-1421, 1453-1455; Ex. "59" [Breslin's No I.D. Report, see Ex. "7" p. 37]; Ex. "60" [Breslin's I.D. Report, see Ex. "7" p. 37]; Ex. "61" [My Exemplars Given, see Ex. "7" p. 37]).

112. It will now be proven, by A.D.A. Brancato's and A.D.A. Sheindlin's very own discovery materials and the non-discovery materials, Myra did not give me her Grandmother's address, the package going to the wrong address having the wrong phone number for the Grandmother, and having the name of Miss Lamboy as the recipient, proving the Federal Express Airways Bill was tampered with to reflect the correct address and telephone number, as well Mr. Rodriguez's testimony, all in order to connect me to the shipment. Det. Breslin striking again with a bogus analysis.

113. As previously mentioned, Mr. Rodriguez stated, <u>the</u> <u>person mailing the package being a 5'6" dark skinned male</u>, <u>having a Hispanic accent</u> (¶ 95 herein)(matching the description for one of the Detectives [¶'s 14, 19 herein]). That the man came in with the Federal Express Airways Bill already filled out (¶ 96 herein). Det. Breslin stating my handwriting matched the handwriting on the Federal Express Airways Bill (¶ 111 herein).

114. Previously mentioned, as well, S.A. Behan stated <u>on</u> <u>February 11th of 1991</u>, <u>he spoke to Mr. Rodriguez at the Pct. who</u> <u>related to him what he saw, heard and did, in relation to the</u> <u>shipment of the package</u> (¶ 110 herein).

115. A handwritten FAX from S.A. Behan containing the imputed information above, <u>dated February 12th of 1991</u>, proved verbatim, "<u>Package shipped by male who signed Julio Ortiz on the shipping label</u>" (Ex. "62" [Fax, see Ex. "7" p. 42]).

116. As well, a Federal Investigation report, prepared by S.A. Behan, <u>dated February 20th of 1991</u>, stated verbatim, "The Package had been sent from the federal express office on 116st, New York, N.Y. on 2/4/91, <u>by an unknown male who signed the name</u> "Julio Ortiz" to the airbill" (Ex. "63" [Fed. Investigation Report, see Ex. "7" p. 42]).

117. It is beyond question, Mr. Rodriguez imputed this information to S.A. Behan <u>seven days</u> after he received the package for shipment. This proved Det. Breslin's analysis claiming I wrote the name "Julio Ortiz" on the Federal Express Airways Bill was bogus, further proving the document was tampered with to match my exemplars, evidence the jury never knew about. Equally such documents prove Mr. Rodriguez's testimony was tampered with as he changed his story (¶ 96 herein), as well in the second Grand Jury presentation (Ex. "20" p. 60-61). Det. Breslin just can't stop lying.

118. Further proving Det. Breslin is a liar, as previously mentioned Det. Breslin in his October of 1991 report stated he had hundreds of pages of my handwriting and could not connect my handwriting to the Federal Express Airways Bill nor the American Express money order. It wasn't until he received my November of 1991 exemplars that he could make a match. However, in making the assessment he claimed he also made a match with the with which documents he previously could not (Ex. "59" [Breslin's No I.D. Report]; Ex. "60" [Breslin's I.D. Report]; ¶ 111 herein). Amazing, there is more.

119. As previously mentioned, Det. Breslin stated my handwriting matched the handwriting on the Federal Express Airways Bill. His finding was based on observations made using a stereo microscope, seeing retraces, introductory strokes, connecting strokes, pen twist, pen stops, and downward motions (Ex. "8" [Breslin]: 1212-1226).

120. However the above, A.T.F. Special Agent Raffa stated, there are numerous copy's in an Airways Bill. The new Federal Express Airway Bill proves there are "indeed" numerous copy's: (1) Senders copy; (2) manifest billing copy; (3) origin copy; (4) customs copy; (5) destination copy, and;(6) recipient copy (Ex. "64" [New Federal Express Airways Bill]; Ex. "10" pp. 313-314).

121. Viewing the Federal Express Airways Bill in question (Ex. "53") proves it is a carbonless copy, not the first copy

(Senders Copy) bearing the inked writing (Julio Ortiz). Such proving Det. Breslin based his analysis on a carbonless copy which bears no ink writing to see pen twist, etc. Most surely a carbonless copy can be tampered with, an eraser does the trick. Clearly, Det. Breslin just can't stop lying. Now, it will be further proven below that the Federal Express Airways Bill was tampered with.

122. As previously mentioned, Myra stated she gave me her Grandmother's address, <u>2629 Paseo Aguilla</u>, <u>and phone number</u>, out of the mess outlined (¶'s 88-94 herein). As well, Miss Lamboy stated the notification slip had her <u>name and address</u>, <u>2629</u> <u>Paseo Aguilla</u>, <u>with her phone number</u> (¶ 97 herein), which S.A. Behan contradicted saying the package was addressed to the <u>Roman</u> <u>Family</u> (¶ 98 herein), and Det. Breslin stating my handwriting matched the handwriting on the Federal Express Airways Bill (¶ 111 herein). The indisputable proof below proved they all lied in varying degrees.

123. As Mr. Sullivan stated the <u>Package Tracking Inquiry</u> reveals the status of the package. The <u>Package Tracking Inquiry</u> proved the package had an incorrect recipient address with the wrong Zip Code as well, when the package was claimed to have gone to the right address with the proper information revealed on the Federal Express Airways Bill (Ex. "55" [Package Tracking Inquiry]). Direct proof Myra and S.A. Behan lied, Miss Lamboy's claim the notification slip had her name and address being truthful for the reasons explained later on. Now you know why the Package Tracking Inquiry was not put into evidence, as it would of destroyed the prosecutions case (¶ 99 herein).

124. A Puerto Rico P.D. report, prepared by two investigators revealed, Sergeant Pagan, assigned to the Levittown Pct., was in charge of the crime scene and informed them of the artifact (Ex. "34" p. 1).

125. Puerto Rico Newspapers proved, Sgt. Pagan informed the press the package was addressed to 2615 Paseo Aguilla where the

Pantoja Family reside. The package having Miss Lamboy's name, not having a return address. The Pantoja's willing to pay for the package in order to bring it to its owner. Miss Lamboy informing the press that she does not know the origin of the Roman Family, and that no one by that name ever living at her residence, and that she has lived alone at 2629 Paseo Aguilla for many years, didn't she say she lived with her Mother all of her life, stating her Mother passed away in November of 1991 (Ex. "8" [Lamboy]: 757; ¶91 herein) (Ex. "65" [2/9/1991 Newspaper El Vocero, see Ex. "2" p. 29 & Ex. "7" p. 38]; Ex. "66" [2/9/1991 Newspaper El Nuevo Dia, see Ex. "2" p. 29 & Ex. "7" p. 38]; Ex. "67" [2/10/1991 Newspaper, see Ex. "2" p. 29 & Ex. "7" p. 40]). If no Roman lived at 2629 Paseo Aguilla, then how did the Pantoja's know who the package belonged too, it had Miss Lamboy's name that's how, this explains how the notification slip had Miss Lamboy's address, direction given.

As well, various Puerto Rico reports proved, Mrs. 126. Pantoja was asked to abandon her residence for her safety. Also proving, Miss Lamboy called Mr. Pantoja asking him to come over to view the contents of the package. As well, proving Miss Lamboy's telephone number being different than what she stated was her's (Ex. "8" [Lamboy]: 757 (809-784-1630); ¶ 97 herein), and reflected on the Federal Express Airways Bill, as well on the notification slip (tampering) (Ex. "53" [809-784-1630]) (Ex. "34" [809-786-1923]; Ex. "68" [P.R.P.D. Report, 809-786-1923, see Ex. "2" p. 29 & Ex. "7" p. 39). It is obvious the package addressed to was 2615 Paseo Aguilla which explains the involvement of the Pantoja's, why else.

127. Amazingly, while all the above reveals the true state of the package, there are instances within the documents where it is claimed the package was sent to the Roman Family at 2629 Paseo Aguilla, having a return address. This is what happens when people tell half truths, contradicting themselves, why the Pantoja's involvement if they had nothing to with the package.

128. Regardless of the above, the true state reveals Myra did not give me the address of her Grandmother proven by the Package Tracking Inquiry and other documents, the package going to the Pantoja Family at 2615 Paseo Agullla. And, the Grandmother not living with Miss Lamboy as claimed, by Miss Lamboy's own words. And, most importantly the documents proving I did not write on the Federal Express Airways Bill, the Federal Express Airways Bill being tampered with to reflect Roman Family, 2629 Paseo Aguilla, 809-784-1630 in order to connect me to the package, my exemplars were clearly used to fabricate a connection (¶ 111, 118 herein). Further evincing Mr. Rodriguez's testimony was tampered with as well. Myra's assertions being used to further the tampering creating a connection (¶'s 98, 113-121). Once again, Det. Breslin strikes again. The jury never saw any of this evidence.

129. The farce escalates. With respect to the American Express money order, it should be obvious Det. Breslin's connecting analysis falls into the same vacuum as his analysis revolving around the Federal Express Airways Bill (¶ 118 herein). There was also tampering with the money order and Mr. Rodriguez's testimony, as outlined below.

130. As previously mentioned, Det. Breslin claimed mv handwriting matched the handwriting on the American Express money order (¶'s 111, 118 herein). Mr. Rodriguez stated the man came in with the money order already filled out, and at the Grand Jury stating the man filled out the money order in his presence. Just as Mr. Rodriguez testified the man came in with the Federal Express Airways Bill already filled out, tampered testimony as proven by S.A. Behan's Fax and Investigation report (¶'s 113-117 herein), so too was he told to change his testimony as it would of destroyed Det. Breslin's analysis proving he was making another bogus connection. But there is more below.

131. The American Express money order at the very top says: "THIS DOCUMENT CONTAINS AN ERASURE SENSITIVE FACE, ATTEMPTED ALTERATIONS WILL APPEAR WHITE" (Ex. "54"). A viewing of the money order proves the background of the handwritten areas are

white, as well other areas. The money order was tampered with. This was never revealed to the jury. There is more.

132. The money order at the very top below the "Y" of the word money, there is a "02" the "0" being slanted. Right after the "2" is a hyphen then another slanted "0". The number to the right of this "0" being handwritten, not machined as the other numbers. The handwritten number appearing to be a sloppy "2" or "7". The money order date clearly being tampered with (Ex. "54"). This was never revealed to the jury. There is more.

133. A viewing of the endorsement side of the money order proved the letters "UPNB" or "UPN8" appear. However, Federal Express by its letter, dated 1/5/2009, informed such designations are not used to identify Federal Express offices, domestically or internationally (Ex. "69" [Federal Express Letter]). The jury never saw this evidence. Det. Breslin strikes once again, my exemplars being used to make a connection (Ex. "61").

134. Once again, the voucher for the American Express money order reveals the Property Clerk never signed for the item (Ex. "70" [Voucher]). Amazing. The jury never saw this evidence.

135. The farce further escalates. With respect to the $.03\phi$ stamps found in my apartment, Det. Breslin compared the .03¢ stamps against the .03¢ stamps on the envelopes containing the threatening letters (Ex. "56" and "57"; ¶'s 101-104), and claimed the stamps on the envelopes came from the stamps found apartment (Ex. "8" [Breslin]: 1264-1303; "58" in mv Ex. [Stamps]). However, in spite of a claimed connection, he stated a stamp is out of alignment, being higher. That he moved the stamps off center as people's eyes tend to match them or fill in the gaps. That people can make their own alignment (Ex. "8" [Breslin]: 1295-1296). Amazing, Det. Breslin strikes again. A viewing of the stamps prove they don't match, the connections being egg shaped not round.

136. Once again, the voucher for the stamps, as well for the Federal Express Airways Bill, reveal the Property Clerk never signed for these items (Ex. "71" [Voucher]). Amazing. The jury never saw this evidence.

137. The farce escalates. Det. Breslin claimed he raised indented writing from a paper taken during the search of my apartment. Such paper having personal information on Nelson Dacosta, raising the word <u>shoot</u>, <u>which he believed he saw</u>. However, he could not tell how many pages were before this paper. Noticing the indented writing when the Sunlight hit the paper, while with A.D.A. Brancato in Brancato's office, unbelievable (Ex. "8" [Breslin]: 1241-1243, 1257-1263, 1424-1426). A.D.A. Brancato drawing a negative inference against me before the jury (Ex. "8" [Brancato]: 1834-1840). Det. Breslin just does not stop.

138. Lastly, with respect to Det. Breslin's analysis pertaining to the envelopes containing the threatening letters, he claimed my handwriting exemplars, which were given to him on November 6th of 1991 as well (Ex. "51"; ¶ 111 herein) bore strong similarities to the handwriting on the threatening letters, no conclusive finding. However, finding both letters match one another (Ex. "8" [Breslin]: 1263-1266, 1303-1306, 1428-1429, 1444-1455).

139. With respect to the Federal searches of my apartment, while an abundance of papers were taken and other items, also, many items were taken from my landlord's basement. As well, there were many items taken from the garage I rented from Mr. & Mrs. Francis (my neighbor's). All of these items were subjected to examinations in an attempt to connect the items to the pipebomb sent to Puerto Rico and the pipebomb left at Nelson Dacosta's door. The testing's revealed there were no conclusive finding exclusively linking the items to the pipebombs. It should be noted, all the A.T.F. Experts where flown in from Maryland to testify, and some were flown in to assist in later

searches, all at great expense to taxpayers (Ex. "8" [Items taken during the first search]: [Raymond]: 777-780, 792-795, 810-813, 815-816, 1133-1134, [Herbert]: 820-823, 826-829, 834-837, [Behan]: 846-855, 858-868, 873, 894-895, 927-929, 937-938, 1710-1711; [Items taken during second search]: [Raymond]: 812-813, 1133-1136, [Behan]: 868-869, 874-883, 929, 939-940; [Items taken from basement]: [Behan]: 886-889, 897, 913-914, 930-933, 940; [Items taken from garage]: [Behan]: 1708-1709; [Testing done]: [A.T.F. Chemist, Gregory P. Czarnopys]: 951-1021, [N.Y.P.D. Bomb Squad Det. Sadowy]: 1026-1060, [A.T.F. Explosive Technology Branch, Joseph C. Lund]: 1148-1181, [A.T.F. Firearms & Tool Mark Examiner, Carlos J. Rosati]: 1651-1711; Ex. "37"; Ex. "72" [Second Search Warrant & Affidavit]).

140. In fact A.T.F. Chemist Czarnopys stated, <u>there was a</u> whole lot of stuff that did not relate to anything (Ex. "8" [Czarnopys]: 987). The gunpowder found in my apartment, as I reload my own ammo to use at the range, not matching the gunpowder used in the pipebombs (Ex. "8" [Franza]: 328-331, 352-353, 376-377, [Bourges]: 423, 432-433, [Giorgio]: 657-658, [Raymond]: 811-812, 815-816, [Behan]: 865, 894-895, 924-925, [Czarnopys]: 958-966, [Gonzalez]: 1588-1590).

141. With respect to a handwritten list found in my apartment containing topics on gunsmithing, silencers, special weapons, and various topics on explosives, including WWI & WWII, none of the book mentioned were found in my apartment. This list was entered into evidence to draw the inference that I made the pipebombs (Ex. "8" [Behan]: 850-855, 921-923, [Lund]: 1155-1160; Ex. "37" [List]). It should be noted, S.A. Behan did not even investigate to find out if I ever purchased or owned any of the books in the list (Ex. "8" [Behan]: 1696-1697, 1699-1702). A.T.F. Lund stated the books in the list were available to the general public (Ex. "8" [Lund]: 1172-1174).

142. As for the firecrackers found in my apartment, it was claimed such were similar to the one used as a detonator in the Nelson Dacosta pipebomb. Chemist Czarnopys did not investigate where the firecrackers were manufactured or sold. These firecrackers were entered into evidence (Ex. "8" [Behan]: 875-876, 879-880, 941, [Sadowy]: 1040, [Czarnopys]: 982-984, 994-995). Most assuredly I am not the only one who has such. I lived in a two Family house, I rented the first floor. My landlord had three very young Sons, and one very young Daughter. I always brought fireworks to set off for them on July 4th, its like heaven to a Child, remember. I was like a big brother to them.

143. In light of all the foregoing, A.D.A. Brancato in opening statement and closing argument, pertaining to the Puerto Rico incident condemned me for having sent a pipebomb to Puerto Rico in an attempt to kill Myra's Grandmother, Josephine's Mother, fully knowing it was untrue (Ex. "8" [Brancato]: 25, 31, 49-53, 67-68, 1819-1829, 1881, 1904-1906).

144. At sentencing, A.D.A. Sheindlin condemning me in graphic fashion, fully knowing he presented false evidence and false testimonies against me before the Grand Jury and before the jury, asking that I be given 100 years, unbelievable. The court being swayed by A.D.A. Sheindlin, condeming me, ran all of the verdicts consecutive to eachother, amounting to 28 to 84 years (Ex. "74" [Sentencing Transcript pp. 1-21]).

145. Once again, <u>based upon all the foregoing</u>, it is more than clear allot of energy was expended and taxpayer money spent to fabricate the false evidence and false testimonies herein. Prosecuting attorneys A.D.A. Brancato and Sheindlin clearly knew what they did, evidenced by their very own discovery material and still persisted to present the charges before a Grand Jury and before the trial court. Allowing the Grand Jury to hand down an indictment and allowing the jury to render verdicts of guilty on all counts, fully knowing such were based upon false evidence and false testominies, as defense counsel. Most clearly, these prosecutors were involved in these fabrications, even knowing there was no probable cause for my arrest, as outlined below.

146. A viewing of the Pre-Trial transcript proves the only evidence presented for probable cause was Det. Breslin's report stating my handwriting matched the handwriting on the floral delivery note, <u>that's it</u>, which was conclusively proven to have been a fabrication. Minus this fabricated assertion there was no probable cause to arrest me, probable cause created to arrest me (Ex. "10" [Pre-Trial Transcript]: [Giorgio]: 182-183, 254-270, 279-283, 299-300).

147. This false basis to arrest me, and the mention of my arrest within the Federal Search Warrant Affidavits, and my Arrest Warrant Affidavit, were the linchpin's in securing such. Without these mentions the warrants would of not issued, which is why I was arrested to create probable cause for the warrants to issue (Ex. "'36"; Ex. "37"; Ex. "72").

149. Once again, this whole affair is disgusting and has cost me 28 years of my life and counting, the parole board many times denying me parole based upon crimes procured by false evidence and false testimonies. The courts failing to grant me my freedom !!!!!!!!!!!

149. These prosecutors totally destroyed my Parent's (may they rest in peace) who most definitely wondered what was to become of me on their death beds, robbing the rest of my Family of me, so disrespectful. Especially, a woman who had stood by my side since 1990, knowing her in 1982. This suffering must stop, <u>and only your Honor can make it stop</u>. No Family should be subjected to such abuse. No man/woman be he/she guilty or innocent, should be accused and tried based upon false evidence and false testimonies. These prosecutors cannot be trusted with telling the truth, I can only imagine the lies, and false evidence, they will spew and provide to your Honor, in order to appear innocent. They are guilty for what they have done, totally perverting the law, creating a horrendous miscarriage of justice.

WHEREFORE, based upon <u>all</u> the foregoing I ask your Honor to <u>immediately grant a Conditional Pardon</u> to me, and to set my release conditions, or in the alternative allow the Board of Parole to set my release conditions as they see fit under the circumstances. I remind your Honor that my Full Pardon application is still pending before your Honor.

Most Respectfully

minin M. Fran

VERIFICATION

State of New York) s.: County of Dutchess)

Dominic M. Franza, being duly sworn, deposes and says: I am the maker of the application for a conditional pardon above named; I have read the forgoing application to Gov. Cuomo and know its contents; the same is true to my own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

Dominic M.

92A3659

Subscribed to and sworn to before

me this 6 day of May, 2019

Notary

DINKINS SAMONE L NOTARY PUBLIC. STATE OF NEW YORK Registration No. 01D16367200 Qualified in Orange C 12021 Commission Expires IM