

Ex. 58

THE FOREPERSON: Will you please raise your right hand.

JOSEPHINE MENDEZ,  
called as a witness, having been first duly sworn, responded to the oath and testified as follows:

THE WITNESS: I do.

BY MR. BRANCATO:

Q. In a loud voice, can you please tell us your name?

A. Josephine Mendez.

Q. And are you Myra Franza's mother?

A. Yes, sir.

Q. What is your -- what's your son-in-law's name?

A. Dominic Franza.

Q. Ms. Mendez, where do you live?

A. 485 West 187th Street, apartment 1 D. New York.

Q. Is that here in New York County?

A. Yes, sir.

Q. Back in July of 1990, did Myra come to live with you at your apartment here in Manhattan?

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KJ

A. Yes, sir.  
Q. And was this as a result of having problems with her husband?  
A. Correct.  
Q. Now, back on July 17, 1990, at your apartment, 1 D, located at 485 West 187th Street in Manhattan, were you in your apartment that night?

A. I was. With my daughter.

Q. And did there come a time that night that someone came and knocked on the door?

A. Yes, sir. A fellow, a young fellow came dressed in white with a white jacket with a box in his hands.

Q. Was the man wearing a cap on his head?

A. Yes, like a painter.

Q. And where was Myra when the man came and knocked on the door?

A. She was taking a shower.

Q. Did you open the door and speak to the man?

A. Yes, I did, I opened the door, and he didn't look at me.

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Q. Where was he looking as you were speaking to him?

A. He was looking at the box. And he wrote flowers for Myra Franza.

Q. And --

A. I did shut the door but I didn't close it.

Q. When you say you shut the door, did you -- did you push the door but not lock it?

A. I pushed the door. I didn't lock it. And I went to where my daughter was taking a shower, and I knocked at the door. And I said, "Myra, do you want the flowers?" And she closed the water and she says, "Mommy, what flowers?" I said, "There is a guy there with flowers."

Q. Okay and -- after Myra said this to you, did you then turn around --

A. I turned around. But then suddenly I knew something was wrong because I heard the front door -- you know -- like a noise like when somebody slam the door. Then I knew something was wrong.

Q. Okay, without telling us what you

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knew, you heard the door close?

A. Yes.

Q. And when you turned around was the man now in the apartment?

A. He was.

Q. Could you tell us what happened now?

A. I turned -- I stood right there, and I didn't move. He keep shooting (SIC) at me.

Q. Shooting at you?

A. He shot five times on me. He shot me on the face, on the right side. My jar was broken three times. He shot me in the arm.

Q. That's your left wrist?

A. My left wrist. He shot me twice on the arm and on the chest. I still have the bullet there.

Q. Okay, Ms. Mendez, let's just go over that. You indicated you were shot once in the jaw?

A. Um, hum.

Q. When you say that it was -- was it -- broken three times, do you mean it was

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broken in three places?

A. In three places.

Q. You indicated that you -- you were also shot on the left wrist?

A. Right.

Q. Your left wrist, am I correct?

A. Correct, in there.

Q. Can you close that hand now?

A. No.

Q. And you were also shot, you indicated, twice on your right arm?

A. On the right arm, one here and one over here.

Q. One about three or four inches above the wrist?

A. Ah, hah.

Q. And the other?

A. I still have the bullet right here.

Q. Okay, that's in your chest?

A. In my chest.

Q. At the time that the man was shooting at you, what were you doing?

A. I was trying to close the bathroom door from my -- so he wouldn't hurt

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XJ

my daughter. She opened it and I closed it. She opened it and I keep closing until I fell.

Q. So you were trying to pull the door closed?

A. Right.

Q. Were you taken to the hospital that night?

A. Yes. My daughter went to -- my daughter was shot on the face once. Then when I fell he ran. He ran. The guy ran. I was conscious then. And she went to the next room and called 911.

Q. Could you hear her calling 911?

A. Yes, I did.

Q. Now, did the man -- this man who had the delivery box, did he also have a knife with him?

A. Oh, yes, he had a dagger, like a bayonet or something. And he -- with one in the hand, he had the gun, and the other one he got the dagger. And he cut me here and here.

Q. You're indicating on your left cheek and on your left side of your throat?

A. On my neck.

2497 XJ

Q. After you were shot, did Myra come out of the bathroom?

A. She did.

Q. And did you see the man shoot at her?

A. I couldn't see. What -- I knew that what happened because when she goes like this he go bang and right away he left. Then --

Q. So you heard another shot?

A. Yes.

Q. Did she fall down?

A. She fell.

Q. Were you and your daughter taken to the hospital that night?

A. Yes.

Q. And how long were you in the hospital?

A. 17 days in coma. One of the bullet came out through here.

Q. You're indicating --

A. This one.

Q. You're indicating the back of your head on the right side?

A. The back of my head, yes.

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Q. Was that the bullet that had gone through your jaw?

A. Yes.

Q. Were you operated on while you were in the hospital?

A. I was operated, yes. And I have a tube through the mouth, so I could breathe because I suffered from asthma. And then I had a second operation.

Q. So you were operated on twice while you were in the hospital?

A. Twice.

Q. Had you seen this man before that day, the man who came into the apartment claiming he had a delivery for Myra?

A. Never. Never.

MR. BRANCATO: Oh, I have some additional questions for Ms. Mendez.

Q. Ms. Mendez, I am holding three Xeroxed pieces of paper. I am going to mark these as Grand Jury Exhibit Numbers, 1, 2, and 3. Please look at these three pieces of paper.

A. Okay.

Q. Now, I have some questions for

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you. Do those three Xeroxed pieces of paper contain Xeroxed copies of the two letters that were sent to your apartment in February of this year about February 5th, February 5th of this year?

A. Yes, sir. I took those -- they came in the mailbox and I took it upstairs.

Q. Okay, and are those copies that are on Grand Jury -- what's on Exhibit No. 1 for identification, is that a Xeroxed picture of the two envelopes that were sent to your address?

A. That's correct. This is from my son -- this is to my son and this is for Myra and for myself.

Q. And what's on Exhibit Number 2 for identification. Is this a copy of the letter that was placed in the envelope that was addressed to you?

A. Correct.

Q. And your daughter Myra?

A. That's correct, that's the letter.

Q. And is this also what's marked as Exhibit 3 for identification --

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A. That's from --

Q. Let me finish. Is that a copy of the letter that was sent to your son Nelson DeCosta?

A. That's correct.

Q. Did you open these letters?

A. I did.

Q. And did you give them to the Detective Georgio and Detective Ortiz of the 34th Precinct?

A. Right away.

MR. BRANCATO: I would move them into evidence at this time.

Ladies and gentlemen of the grand jury, there will be more testimony concerning this exhibit at a future date.

Q. But these are the letters along with the envelopes that were given to the detectives.

A. They are.

Q. And are these letters in Spanish, Ms. Mendez?

A. Spanish.

MR. BRANCATO: Okay, ladies and gentlemen of the grand jury, let me just break

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in at this point. There will be future testimony concerning these letters, but not at this time from this witness.

I have no further questions for Ms. Mendez.

Okay, Ms. Mendez, if you have a seat outside. Next we will call in Myra Franza.

(WITNESS EXCUSED)

1502

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THE FOREPERSON: Please raise your right hand.

MYRA FRANZA,  
called as a witness, having been first duly sworn, responded to the oath and testified as follows:

THE WITNESS: I do.

BY MR. BRANCATO:

Q. Ma'am, can you please tell us your name?

A. My name is Myra Franza.

Q. In a loud voice so we can hear you in the back, how old are you?

A. I am 27 years old.

Q. And are you married to Dominic Franza, the defendant in this case?

A. Yes, I am.

Q. When did you marry Dominic?

A. May 12, 1987.

Q. Can you please tell us where you and Mr. Franza were living back in 1988 and 1989?

A. 3320 Barker Avenue, Bronx, New York.

1503 KJ



Q. And what kind of an apartment was that, was that a private house or could you describe it?

A. It was a private house we were renting.

Q. You were renting the top floor?

A. We were renting the first floor.

Q. Now, briefly can you please describe your marriage over the past 18 months to the defendant? How would you term it, was peaceable or what?

A. We had frequent fights. He was physically violent and verbally.

Q. At some point during those 18 months, did you go to court and seek an order of protection from Mr. Franza?

A. Yes, I did.

Q. And where -- when was that?

A. I believe it was March 24, 1989 I acquired an order of protection.

Q. Where were you living when you got the order of protection?

A. 3320 Barker Avenue.

Q. Were you still living with him when you went to court or did you move out at

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some point?

A. No, I was with him when I went, then once I obtained it I moved out.

Q. And where did you go when you moved out?

A. I went to live with my mother and my brother.

Q. And where is that?

A. 485 West 187th Street.

Q. Here in New York City?

A. Manhattan.

Q. How long did you stay with your mother when you went to live with her after you got the order of protection?

A. About three weeks.

Q. Did Mr. Franza threaten to harm you in any way that caused you to go get the order of protection?

A. Yes, he did.

Q. What did he say?

A. He told me that he was going to kill me and bury me in the park and then take care of my parents.

Q. How long did you stay at your mother's after you got the order of

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protection?

A. About three weeks.

Q. And where did you go live then after those three weeks?

A. I went back with him on --

Q. So you made up then with your husband?

A. Yes.

Q. Now, when you went back to live with your husband, how did you -- how did you move back to the Bronx?

A. Well, he went back to my -- where my mother and brother lived and he -- he had to come and help me move my stuff out with his car.

Q. And so --

A. He backed up into the basement where I was.

Q. Is that where apartment 1 D is located?

A. No, that's my mother's apartment on the first floor. My brother's is in the basement.

Q. So your brother came -- I'm sorry, so Mr. Franza came to help you move

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your stuff from your parent's place back to his -- back to where you were living?

A. From my brother's back to where I was living.

Q. Did there come some time in June of 1990 that you moved out --

A. Yes.

Q. -- from living with Mr. Franza in the Bronx?

A. Yes.

Q. And when was that?

A. June 28, 1990.

Q. And what was it that caused to you move out then?

A. On June 25, 1990, he gave me a beating. And I called my father and my brother to that I wanted to move out on the 28th.

Q. Did you move out on the 28th?

A. Yes, I did.

Q. And this time when you moved out where did you go live?

A. I went back with my mother and my brother.

Q. On West 187th?

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1 A. On 485 West 187th.  
 2 Q. Did Mr. Franza say anything to  
 3 you, if you tried to leave him, back in June  
 4 of 1990?  
 5 A. Yes, he said that if I left him  
 6 he would find me no matter where I went even  
 7 Puerto Rico.  
 8 Q. Do you have family in Puerto  
 9 Rico?  
 10 A. Yes.  
 11 Q. Now, at that time, who was your  
 12 family in Puerto Rico?  
 13 A. My grandmother and my aunt.  
 14 Q. And, okay, let me direct your  
 15 attention to July 17, 1990, about 7:20 in the  
 16 evening, at your mother's apartment on West  
 17 187th Street. At that time were you at your  
 18 Mom's apartment?  
 19 A. Yes.  
 20 Q. And about 7:20 in the evening,  
 21 were you in the bathroom taking a shower?  
 22 A. Yes, I was.  
 23 Q. Now, did there come some point  
 24 that your Mom knocked on the door?  
 25 A. She knocked and she said "Myra,

1508 KJ

1 open the door. Somebody sent you flowers."  
 2 Q. Now, had Mr. Franza sent you  
 3 flowers before?  
 4 A. Yes, whenever we broke up that's  
 5 what he would do, send flowers.  
 6 Q. What kind of flowers?  
 7 A. Roses, red roses.  
 8 Q. And after your mother told you  
 9 that someone had sent you flowers, what  
 10 happened?  
 11 A. Seconds later I heard her  
 12 screaming. I heard five shots. And I was  
 13 trying to get the door open to the bathroom  
 14 but she kept holding on.  
 15 Q. Who was holding on?  
 16 A. My mother, on the other side. I  
 17 was trying to open the door to see what was  
 18 going on. When I finally got it open. She  
 19 was slumping down on the border of the door.  
 20 And the guy was standing there just -- and he  
 21 goes -- was surprised to see me and he just  
 22 raised his hand and he shot me in the face.  
 23 Q. Where did you get shot?  
 24 A. My left cheek.  
 25 Q. Could you please point to the

1509 KJ

1 jurors where the bullet hit you?  
 2 A. It hit me right here.  
 3 Q. On your right cheek?  
 4 A. And it went out the back of my  
 5 head.  
 6 Q. Where did it exit, the back of  
 7 your head?  
 8 A. Yes.  
 9 Q. What happened then, Ms. Franza?  
 10 A. I fell on the floor, and I made  
 11 believe I was dead so that I wouldn't get shot  
 12 anymore. I felt the guy was like standing  
 13 over me or something. I waited 'till he  
 14 left. I crawled to my mother because I heard  
 15 her coughing. She was gagging on her blood.  
 16 Then I crawled to the phone and I called 911.  
 17 And I went back to my mother.  
 18 Q. Did the police and ambulance  
 19 services arrive a short time after?  
 20 A. Yes.  
 21 Q. And were you taken to the  
 22 hospital?  
 23 A. Yes.  
 24 Q. How long were you in the  
 25 hospital?

1510 KJ

1 A. 'Till August the second -- from  
 2 July to August the second.  
 3 Q. I just have a few more questions,  
 4 Ms. Franza. Did your husband Dominic belong  
 5 to a shooting club or gun club?  
 6 A. Yes, he did.  
 7 Q. And would he go there to take  
 8 target practice with the gun?  
 9 A. Yes, he would go for target  
 10 practice.  
 11 MR. BRANCATO: At this time I have  
 12 no further questions for Ms. Franza. She will  
 13 be coming back in a couple of days. But why  
 14 don't you just remain seated.  
 15 (CONFERRING)  
 16 Q. Okay, Ms. Franza, two grand  
 17 jurors have the same question. They'd like to  
 18 know did you -- at that time that you opened  
 19 the door, did you recognize the person who was  
 20 in the apartment?  
 21 A. No.  
 22 Q. So had you seen him before that  
 23 day?  
 24 A. No.  
 25 Q. Ms. Franza, a grand juror has a

1511 KJ

question, when you say you got an order of protection, did you go to Family Court?

A. Yes.

Q. And was this an order for your husband to stay away from you for a specified period of time?

A. Yes.

MR. BRANCATO: Thank you, Ms. Franza, we will be calling you back later in the week.

(WITNESS EXCUSED)

1512

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FOREPERSON: Please raise your right hand.

G I L O R T I Z,

called as a witness, having been first duly sworn, responded to the oath and testified as follows:

THE WITNESS: I do.

FOREPERSON: Please be seated.

THE WITNESS: Thank you.

BY MR. BRANCATO:

Q. Detective, give us your name, shield number, and your command.

A. Gilbert Ortiz, shield number 1867, 34th Precinct Detective Squad.

Q. Detective Ortiz, let me direct your attention back to July 17, 1990 in the evening, were you working at the 34th Precinct here in New York County?

A. Yes, I was.

Q. And at that time did you along with other police officers of the 34th Precinct, specifically Detective Genairo (ph) or Jerry Georgio, as he's known, did you go to the residence of Ms. Josephine Mendez located at 485 West 187th Street here in New York

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County?

A. Yes, I did.

Q. When you got there could you please describe Ms. Mendez' condition as well as her daughter, Myra Franza?

A. They were both victims of gunshot wounds.

Q. Were they taken to the hospital that night?

A. Yes, they were, to Harlem Hospital.

Q. And did you along with Detective Georgio go into the place where this shooting occurred at 485 West 187th Street?

A. Yes, I did.

Q. When you went in there did you see a box of flowers, red roses in a box?

A. Yes, I did.

Q. And on top of that box was there a note?

A. Yes, there was.

Q. Now, the note, how was it affixed on to the box?

A. It was stapled on to the box.

Q. Was there any type on the note as

1514

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well?

A. Yes, there was.

Q. And the note, was it vouchered as evidence in this case?

A. Yes, it was.

Q. Was the note handwritten or was it typed out?

A. It was handwritten.

Q. Was it sent to the Police Laboratory for, to that section where handwriting analysis is done?

A. Yes, it was.

Q. Do you have a copy of the note here with you?

A. Yes, I do.

MR. BRANCATO: Okay, if you hand it to me I'll mark it as Grand Jury Exhibit Number 4 for identification.

Q. Is that a copy of the note that appears on the box of flowers that were found in the Mendez residence?

A. Yes, it is.

MR. BRANCATO: Okay, I would move it into evidence at this time.

Q. Now, Detective, looking at that

1515

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note could you first read line by line to the grand jurors what appears on that note?

A. Okay. The first line is R and R Florist, F T D order number 3792.

Q. Does that appear on the same line?

A. Yes, it is.

Q. Now, the next line, can you please tell us what's on the note?

A. The second line says person, Myra Franza.

Q. Anything else on that line?

A. No, there isn't.

Q. The next line, the third line, what's stated on the third line?

A. The third line says address, 485 West 187th Street apartment 1 D or, and that's the thing on this.

Q. And the fourth line, what does that state in the alternative to 485 West 187th Street apartment 1 D?

A. It states basement in the apartment in rear, ring bell in apartment to left.

Q. Okay. And is basement apartment

1516 STF

in rear, ring bell apartment 2, that all appears on the fourth line?

A. Yes.

Q. And on the fifth line does it say, left?

A. Left.

Q. L-E-F-T?

A. Yes.

Q. Is there a part below that that indicates to confirm delivery?

A. Yes, there is.

Q. And next to it does it like, like a line where someone is to sign with an X next to it?

A. Yes, there's an X and a space for signature.

Q. Did you and other police officers try to find out if there was an R and R Florist here in New York?

A. Yes, we did.

Q. Is there one?

A. No, there is not.

Q. Now, all the writing that appears on that, is that all handwritten or is there any printing, by that I mean machine type

1517 STF

printing on it?

A. No, it's handwritten.

Q. Did there come a time during the course of this investigation that detectives of the 34th Police Detective Unit, specifically Detective Jerry Georgio asked the defendant, Dominic Franza to give writing samples in connection with this case?

A. Yes, he did.

Q. And where was that done?

A. It was done at the 34th Precinct Detective Squad.

Q. And was the defendant asked to give approximately ten handwriting samples?

A. Yes, he was.

Q. And was he asked to give those samples the way the note that was found on the box indicated?

A. Yes, he was asked to copy the note.

Q. Was he given another note as a sample from which to take that information?

A. Yes, yes, he was.

Q. Okay, by that I mean did Detective Georgio write out sample notes and

1518 STF

ask the defendant to copy that note?

A. Yes, he did.

Q. Were those samples sent to the lab so that Detective John Breslin, B-R-E-S-L-I-N, could make a comparison as to how it compared to the note found on the box?

A. Yes, it was.

MR. BRANCATO: Okay, ladies and gentlemen, without going into the results of Detective Breslin's comparison let me just state at this time we expect Detective Breslin will be available tomorrow to provide live testimony in connection with this case.

Q. When you went to the apartment that night did you recover spent shells?

A. Yes, I did.

Q. And the spent shells that you recovered could you tell us something about them?

A. They were .38 caliber Wadcutter.

Q. .38 caliber Wadcutter?

A. Ammunition.

Q. Now, what is Wadcutter ammunition?

A. It's ammunition usually used for

1519 STF

range purposes.

Q. Is it used for target practice?

A. Yes, it is.

MR. BRANCATO: I'm going to mark this as Grand Jury Exhibit Number 5 for identification.

Q. Could you look at this photo.

Do you recognize the person who's in that photo?

A. Yes, I do.

Q. What is the name of the person in that photo?

A. Joseph, Joseph DeJesus.

Q. Joseph DeJesus?

A. Right.

Q. And did there come a point that Ms. Franza, Ms. Myra Franza was asked to look through mug shot books?

A. Yes.

Q. Of people who had been arrested on prior occasions and their photos taken on those occasions?

A. Yes.

Q. Did Ms. Franza have an opportunity to see that photo?

1520 STF

A. Yes, she did.

Q. Did she also have an opportunity to see a photo of the, of that person DeJesus that was taken back in 1983?

A. Yes, she did.

Q. So, that photo over there, when was that photo taken of that person?

A. It was taken in 1990.

Q. So, is it fair to say that Ms. Franza had an opportunity to see that photo of Mr. DeJesus that was taken in 1990 as well as another photo of him that was taken in 1983?

A. Yes, she did.

Q. Did you have a conversation with her concerning that photo?

A. Yes, I did.

Q. Did you attempt to find out where that person lives?

A. Yes, I did.

Q. And of the addresses that that man, DeJesus, had provided on prior occasions concerning his whereabouts, were some of those addresses bad addresses, by that I mean not valid addresses?

1521 STF

A. Yes, they were.

Q. Did you have one address of him that was a valid address?

A. Yes, I did.

Q. Now, where, where is that location?

A. The address is 332 East 122nd Street.

Q. You have a copy of the report that you got this out of?

A. Yes, I do.

Q. Okay. Now, you indicated 332 East 122nd Street?

A. Yes, I did.

Q. Between what avenues is that located?

A. Between Lexington Avenue and 2nd Avenue.

Q. Let me give you an address and ask you, pursuant to my request did you attempt to find out where 225 East 106th Street is located?

A. Yes, I did.

Q. Between what avenues is that located?

1522 STF

A. Between 3rd Avenue and 2nd Avenue.

Q. So, what is the distance then from 225 East 106th Street to the address of Mr. DeJesus that you related earlier?

A. It would be one block and one block, one avenue up and --

Q. From six to 122nd Street?

A. Twelve blocks, twelve blocks north; no, more than that.

Q. East 106th Street to 122nd Street do a little quick mathematics there.

A. Sixteen blocks.

Q. Okay.

A. Sorry.

Q. So, it's one block up and sixteen over?

A. Sixteen blocks.

MR. BRANCATO: I have no further questions for Detective Ortiz.

Okay, Detective, just remain seated.

(CONFERS)

Q. I have a couple of other questions for you before I finish.

1523 STF

Were you given some envelopes by, by Ms. Franza's mother, specifically what's now marked as Grand Jury Exhibit Number 1?

A. Yes, I was.

Q. And are those two envelopes?

A. Yes, they are.

Q. Were they, were those two envelopes vouchered as well as two letters, two typewritten letters?

A. Yes, they were.

Q. On those two envelopes, could you please tell us was there postage on the envelopes?

A. Yes, there was.

Q. And on each envelope did there appear a twenty-five cent stamp as well as two, three cent stamps?

A. Yes, they did.

Q. Were the envelopes and the stamps sent to the lab at the police academy?

A. Yes, they were.

MR. BRANCATO: I have no further questions for Detective Ortiz.

(WITNESS EXCUSED)

1524 STF

MR. BRANCATO: Next we'll call Myra Franza back in.

Mr. Foreman, since this is a new day why don't you re-swear her.

FOREPERSON: Okay.

Please raise your right hand.

MYRA

FRANZA,

called as a witness, having been first duly sworn, responded to the oath and testified as follows:

THE WITNESS: I do.

FOREPERSON: Please be seated.

BY MR. BRANCATO:

Q. Okay, Ms. Franza, continuing from your testimony from yesterday. After you got out of the hospital where did you go to live?

A. 2545 Valentine Avenue, I got my own apartment.

Q. So, you went from the hospital then to your own apartment?

Yes or no?

A. Yes.

Q. And your husband, Dominic, where did he continue to reside during this time?

A. I believe 3320 Barker Avenue in

1525 STF

the Bronx.

Q. Now, did your mother ever indicate to you that two letters came to the apartment sometime around February 6th, February 7th, February 8th of 1991?

A. Yes.

Q. Did you have an opportunity to see those letters before your mother gave them to police officers?

A. No.

Q. Have you had an opportunity since then to the present to look at those envelopes and letters?

A. Yes.

Q. Do you know a person by the name of Julio Ortiz?

A. Sounds like Dominic's apprentice, helper.

Q. When you say his apprentice, what do you mean his apprentice, what did your husband do for a living?

A. He was an electrician. And an apprentice is one who helps the electrician, the person who knows more about the job and teaches that person how to do the job.

1526 STF

Q. And did your husband at some point have an apprentice by the name of Julio Ortiz?

A. Yes.

Q. Does the address 750 West 181st Street have any significance to you?

A. That's six blocks away from where my mother lives, we pass by.

Q. So this is six blocks away from where the shooting occurred?

A. Yes.

Q. Were you asked at some point to go to that address to see whether or not you remembered it?

A. Yes.

Q. And did it have any special significance to you?

A. Not special except that I know for a fact there's a pawn shop there and it no longer is there.

Q. So at some point there was a pawn shop at that location?

A. Yes.

Q. Let me ask you to look at Grand Jury Exhibit Number 1, it's already in

1527 STF

evidence. Look at both envelopes.

Do you recognize the writing on that envelope, on those envelopes?

A. Yes, that's my husband handwriting.

Q. Does that appear to be your husband's handwriting?

A. It is, I'm certain.

Q. Have you seen your husband print on prior occasions?

A. Yes, I lived with him three and a half years I should know.

Q. Now, look at the two letters that are typewritten and there are, it is Exhibits 2 and 3. Your husband's name was Franza, what was his ethnic background?

A. He is half Puerto Rican and half Italian.

Q. Did your husband speak Spanish?

A. He spoke is very poorly, it was broken and he couldn't conjugate the verbs properly, put the proper hyphens when he would write it.

Q. Have you had an opportunity to read both of those letters since they were

2528 STF

turned over to the police?

A. Yes.

Q. And after reading those two letters could you please tell us how the Spanish that is written, that is, typed on Exhibits 2 and 3, how it compares in Spanish as your husband would speak it; by that I'm asking how did the grammar compare to what your husband would speak?

A. The grammar is poor like he would have wrote it, and the way he explains or he, he says things is the same way he speaks that broken Spanish.

So, I know for definite that's him, his way of his Spanish.

Q. Is it similar then to the way he would speak it?

A. Yes.

MR. BRANCATO: Okay, ladies and gentlemen, please disregard her comment that it's definitely him. You may consider if she says it's similar how he spoke it. You may not speak it definitely, you may consider it as similar.

Just bear with me, Ms. Franza,

1529 STF

for a second.

Q. Did you, before you moved out of the apartment back in July of 1990, did you purchase any three cent stamps?

A. When the price of stamps went up from twenty-two to twenty-five I had to -- I work in the post office, I'm a clerk there, and I purchased a sheet the stamps, three cent stamps, and I had that in my desk.

When I moved out I only took my clothes, I left everything in the desk.

Q. Now, please look at -- could you tell us, looking at Exhibit Number 2, do you speak Spanish?

A. Yes.

Q. Right Spanish?

A. Yes.

Q. Could you please tell us what that letter says.

A. You want me to read it?

Q. Read it line by line to yourself.

A. And translate it?

Q. And then tell us the English translation.

1530 STF

The first one, which is that sheet in front of you, read that first line and tell us what that first line reads in English.

A. Josephine and Myra don't speak with anyone, speak to your son, the next time both of you are going to die.

Q. Okay. The next sentence, could you please tell us what that sentence says.

A. Your husband can die too, he takes out the garbage, somebody's looking at him when he takes out the garbage on Tuesday at 1:00 o'clock in the morning, and I want to kill him, oh, I don't want to kill him.

Q. The next sentence.

A. The police can't help you, you are desperate; something else Myra, your husband, he's asking too many questions and investigating, I have to kill him.

Q. The next sentence.

A. Your son has disrespected.

Q. Now, that sentence your son has disrespected, is that proper, is that proper grammar in that sentence?

A. No, it's missing, it's missing a

1531 STF

word that you need for it to make sense.

Q. The next sentence, could you read the next sentence, the third from the bottom.

A. Says your husband throws out the garbage Wednesday at 1:00 o'clock in the morning, the other day was a mistake.

Q. The last sentence.

A. So that you know it's not a game I can kill your husband those, on both those times.

Q. And this was a letter that was addressed while, I'm sorry --

A. To my mother and to me.

Q. The next page, can you look at the next typewritten page.

And this is the one that's in evidence as the one that was sent to your brother?

A. Yes.

Q. What is your brother's name?

A. Nelson Dacosta.

Q. Your brother's name is Dacosta, do you and your brother have a different father?

A. Yes.

1532 STF

207

Q. How is your brother known in the neighborhood?

A. He's known by my father's name, Nelson Mendez.

Q. And how did your husband know your brother?

A. My husband knew him as Nelson Dacosta because he knows that he's not from this present marriage.

Q. Can you read that letter to us, again read the Spanish to yourself.

A. Says I'm going to kill all your family here and in Puerto Rico.

Q. Did your husband know -- okay, just breaking from the letter. Did your husband know you had family in Puerto Rico?

A. Yes.

Q. And who did he know from your family that lived in Puerto Rico?

A. My grandmother and my aunts.

Q. And what was your grandmother's last name?

A. Rosa Lamboy.

Q. And who is Roman, R-O-M-A-N?

A. That's my grandmother's married

1533

STF

name.

Q. How did your husband know your grandmother, by what name?

A. By married name, Ms. Rosa Ramon.

Q. Okay, continue, continue down, please read the next sentence.

A. I'm going to kill your family here and Puerto Rico, I'm going to send your grandmother a gift, I know.

Q. Okay. I'm going to send your grandmother a gift?

A. Yes.

Q. Did you have any other grandmother, well at that time that your grandmother lived in Puerto Rico, that's your mother's mother?

A. Yes.

Q. Your father's mother, was she alive or dead at this time?

A. Deceased.

Q. Okay. Continue to the third sentence.

A. I know where your family lives, I'm going to leave you for last so that you learn, so that -- because I desire for you to

1534

STF

211

feel this.

Q. Now, again this letter, could you compare the Spanish that is used to write this letter with the way that your husband would write it?

A. It sounds just like him, he wasn't able to talk in the proper, conjugate the verbs properly; that's why I'm having trouble reading this.

Q. Okay. The next sentence?

A. I'm going to leave you because I desire for you to suffer; you, you suffer anything that happens to your family and you will learn.

Q. The next sentence.

A. Your family, your -- I know your friends robbed a place of mine, your friends have to give, give my things back.

Q. The next line.

A. Your friends don't have that thing, they say you have it; I need it, I know all about your life.

Q. Now, the sentence that starts in Spanish yo no tiene, T-I-E-N-E, is that proper Spanish?

1535

STF



A. No.

Q. How should one use the word to be with yo?

A. Yo no tengo.

Q. T-E-N-G-O?

A. Yeah.

Q. How did your husband use yo in connection with the verb estar, E-S-T-A-R, to be?

A. Just like this, yo no tiene dinero.

Q. When it should be yo no tengo?

A. Yeah, yo no tengo.

Q. Okay, the next one, please go down.

A. I know all about your life, you can say that I can wait, you should bring this object to 175th Street and Audubon Avenue at 4:00 in the morning by yourself, put it in the garbage, somebody's going to be looking; I have a lot of money, you can't hide, I can find you wherever you go, I know everything.

Q. Just continue.

Is it finished?

A. Everybody's going to die one by

STF

1536

one, don't talk to the police, tell your family not to talk to the police, know everything I'm saying, and the police is going to find.

Q. Does it say what they'll find or just the police are going to find?

A. Just that the police -- it just says they're going to find something.

Q. But, it doesn't say what they're going to find?

A. No.

Q. The last line tu, and the last line, would you translate this line for us that starts with T-U?

What does that say?

A. You give it, give it on February 8th.

Q. On February the 8th?

A. In the morning, yeah.

Q. Does it say what the gift is that the person is going to send to Puerto Rico?

A. No.

Q. Okay. Just put down that exhibit. Did there come some point before you moved out that you gave your husband the

STF

1537

telephone number to your grandmother's in Puerto Rico?

A. Yes.

Q. And what was the purpose of giving him that number to your grandmother's?

A. My brother had passed away, one of them back in November of '89 I believe. And I went to Puerto Rico, so he needed to communicate with me.

Q. Why did you go to Puerto Rico when your brother passed away?

A. Excuse me?

Q. Why did you go to Puerto Rico when your brother passed away?

A. Why? To bring money to the family and help out with the arrangements.

Q. And did you give your brother the telephone number for your grandmother's -- did you give your husband the telephone number to your grandmother's in Puerto Rico back then?

A. Yes.

Q. And is that number 1 8 0 0, I'm sorry, 1 8 0 9 7 8 4 1 6 3 0?

A. Yes.

Q. Did you ever give him your, did

STF

1538

you ever give him your grandmother's address in Puerto Rico?

A. Yes.

Q. Okay. Now, from the time that you, from the time that, that you were shot in July of 1990 to February of 1991 could you please tell us what happened to your grandmother?

A. My grandmother passed away for Christmas.

Q. Of 1990?

A. Of 1990 and --

Q. Okay. Since you were living apart from your husband did you have any reason to tell him that your grandmother had passed away?

A. No, I had no communication whatsoever, everything was kept within the immediate family.

Q. So, the last time you spoke to your husband then your grandmother was still alive?

A. Yes.

MR. BRANCATO: Okay. Let me mark this as Grand Jury Exhibit 6 for

STF

1539

identification.

Q. Can you please look at that.

Could you, the attache case that is in that photo does look familiar?

A. Yes.

Q. Can you please tell us where you seen one like that?

A. It looks like the one we had in the pantry, in the closet.

Q. When you say we had it in the pantry, in the closet who are you referring to?

A. My husband and I, the old apartment where we used to live.

Q. Is that the one on Barker?

A. Yeah, 3320 Barker.

Q. When you moved out in July of 1990 was that box there or what?

A. The last time I saw it, to me it was still there.

MR. BRANCATO: Okay. I have no further questions for Ms. Mendez.

I have moved it into evidence -- I have no questions for Ms. Mendez, Ms. Franza, I'm sorry.

1540 STF

Ms. Franza, will you have a seat outside.

(WITNESS EXCUSED)

1541 STF

MR. BRANCATO: I next call Cesar Rodriguez.

C E S A R R O D R I G U E Z,  
called as a witness, having been first duly sworn, responded to the oath and testified as follows:

THE WITNESS: Yes.

FOREPERSON: Please be seated.

BY MR. BRANCATO:

Q. Okay, in a loud voice what's your name?

A. Cesar Rodriguez.

Q. And, Mr. Rodriguez, what do you do for a living?

A. I work for Federal Express as a customer service agent.

Q. And is that here in New York City?

A. Yes, it is.

Q. What do you do for Federal Express?

A. I'm a service agent. I take the packages in as customers bring them in.

Q. Back on February 4, 1991 did there come a point that day that someone

1542 STF

brought a package to be shipped on Federal Express?

A. Yes, I remember.

MR. BRANCATO: I'm going to mark these Grand Jury Exhibits 7 and 8.

Q. What's marked as Grand Jury Exhibit Number 7, please look at it.

Do you recognize it?

A. Yes, I do.

Q. And is that a photo of a receipt from Federal Express for the package that you received on February 4th?

A. Yes.

MR. BRANCATO: I would move it into evidence.

Q. Could you please tell us what address was this package to go to?

A. Okay. It was going to Pacel Agula (ph), 2629 Second Section, Levitown, Catano, C-A-T-A-N-O, Puerto Rico.

Q. And who was the package addressed to at that address?

A. Roman family.

Q. And was there a telephone number that was affixed to the bill for the Roman

1543 STF

family?

A. Yes.

Q. Read the number.

A. 1 8 0 9 7 4 1 6 3 0.

Q. Now, that number 7 8 4 1 6 3 0

who typed that number on there?

A. It came in like that with the air bill. It was already typed in.

Q. This bill, is that a Federal Express receipt, Federal Express bill that can be used to send something through Federal Express?

A. This is the air bill that you send something to Federal Express.

Q. Can people obtained those bills, fill them out at one location and then bring them to Federal Express to have them shipped?

A. Yes.

Q. When the person came in to ship that was that entire bill made out?

A. Yes, it was.

Q. Now, is there some sort of an address for the sender of that?

A. Yes.

Q. What was put on the box?

1544

STF

A. Okay. It's U.S.A. Electronics.

Q. U.S.A. Electronics?

A. Yes.

Q. And what address was given?

A. 750 West 181st Street.

Q. Was there a telephone number that was put on the top of the sender's address?

A. Yes.

Q. And what's the telephone number?

A. 2 1 2 7 9 5 0 0 1 1.

Q. In the lower left-hand part of the bill there appears to be a signature of a Julio Ortiz, was that signature on the, on the bill when you received it?

A. Yes, it was.

Q. Was it, was it signed before the man came in or did the man sign it in your presence?

A. No, it was signed like that when he came in.

Q. What is said to be the contents of that package?

A. Camera battery pack file, F-I-L-E.

Q. Now, there's a commercial invoice

1545

STF

which is in Grand Jury Exhibit Number 8 for identification, do you recognize that?

A. Yes, I do.

Q. Invoice --

A. Yes.

Q. What is that invoice?

A. This is a commercial invoice, this is for customers.

Q. And was that invoice filled out when the man brought in the package?

A. Yes, it was.

Q. There's a signature on the bottom of that invoice, was that signature put there when the man was in your store or was it done beforehand?

A. It was done before.

Q. How many times did the man come into the store to mail this package?

A. Okay, he came in, in the morning, then he left to get a money order and came back.

Q. Okay, when the man first came in did he attempt to pay by cash?

A. Yes, he was.

Q. What did you tell him, what is

1546

STF

the practice of Federal Express, do they accept cash?

A. We don't accept cash for security reasons today, get a check or money order or bring a credit card with him.

Q. Did the man then leave?

A. Yes, he did.

MR. BRANCATO: This is going to be marked Grand Jury Exhibit Number 9 for identification.

Q. Look at that, do you recognize it?

A. Yes.

Q. What do you recognize it to be?

A. This is the money order he brought back with him and then filled it out.

Q. Is there an identification number that you printed on that money order to correspond to the number that's on the receipt that the man had when he came in with the package?

A. Yes.

Q. Now, do you know if the man wrote that out in your presence or was it written out before he came in?

1547

STF

1 A. Okay, he wrote it in there, right  
2 in the presence.  
3 Q. And what name is on that money  
4 order?  
5 A. Julio Ortiz.  
6 Q. What address is given?  
7 A. 750 West 181st Street, New York,  
8 New York, 10033.  
9 MR. BRANCATO: I have no -- I  
10 move it into evidence.  
11 Q. Now, approximately a week later,  
12 February 11, 1991, did you go to the 34th  
13 Precinct?  
14 A. Yes.  
15 Q. And when you were there did you,  
16 were you asked to look at a lineup?  
17 A. Yes.  
18 Q. Did you recognize anyone in the  
19 lineup?  
20 A. No, not in that lineup.  
21 Q. Could you describe the man that,  
22 that you received the package from?  
23 A. Okay, he was dark complexion; he  
24 was like five, five; not heavy, not light; and  
25 Hispanic I think he was.

1548

STF

1 Q. Why do you say Hispanic, did he  
2 speak Spanish to you, why would you say  
3 Hispanic?  
4 A. Well, the way he was, he looks  
5 and his talk.  
6 Q. When was this package turned over  
7 to Federal Express?  
8 A. On the 4th, February 4th.  
9 MR. BRANCATO: I have no further  
10 questions for Mr. Rodriguez.  
11 Just remain seated.  
12 (CONFERS)  
13 Q. I'm sorry, what address do you  
14 work at?  
15 A. At that time it was 600 West  
16 160th Street.  
17 Q. And in relation to 225 West 106th  
18 Street, where is that?  
19 A. I really don't, I was just  
20 working there that day.  
21 MR. BRANCATO: Oh, Okay. Thank  
22 you, Mr. Rodriguez, have a seat outside.  
23 (WITNESS EXCUSED)  
24  
25

1549

STF

1 MR. BRANCATO: I next will call  
2 Officer Behan.  
3 C H R I S B E H A N,  
4 Called as a witness, was not  
5 sworn:  
6 MR. BRANCATO: Okay, ladies and  
7 gentlemen, there seems to be a horn that's  
8 going off outside, it seems to be disturbing  
9 one of the grand jurors.  
10 GRAND JUROR: Can we tell the  
11 Warden?  
12 MR. BRANCATO: I'll tell him.  
13 GRAND JUROR: It's disrupting the  
14 Court's business.  
15 MR. BRANCATO: I'm not going to  
16 be able to get it today, I know that.  
17 Agent Behan, will you please step  
18 out for a second.  
19 (WITNESS LEAVES CHAMBER, RETURNS  
20 SHORTLY THEREAFTER)  
21  
22  
23  
24  
25

1550

STF

1 FOREPERSON: Please raise your  
2 right hand.  
3 Do you solemnly swear that the  
4 evidence you shall give to the grand jury upon  
5 this complaint against Dominic Franza shall be  
6 the truth, the whole truth, and nothing but  
7 the truth, so help you god?  
8 THE WITNESS: I do.  
9 BY MR. BRANCATO:  
10 Q. Okay, can you please tell us your  
11 name, your shield number, your rank, and your  
12 affiliation?  
13 A. My name is Chris, C-H-R-I-S,  
14 Behan, B-E-H-A-N, I'm a special agent with the  
15 U.S. Treasury Department Bureau of Alcohol  
16 Tobacco and Firearms, and my shield number is  
17 208.  
18 Q. Now, back in February of 1991  
19 were you asked to assist in an investigation  
20 concerning a person by the name of Dominic  
21 Franza?  
22 A. Yes.  
23 Q. During the course of that  
24 investigation did you, did you become aware of  
25 an incendiary device, a bomb that was sent

1551

STF

from New York to a location in Puerto Rico?

A. Yes, I was.

Q. As part of the investigation was this bomb taken into custody?

A. Yes, it was.

Q. And do you have photos of it?

A. Yes, I do.

GRAND JUROR: Nine.

MR. SHEINDLIN: You're up to Number 9, this will be Number 9.

MR. BRANCATO: Okay, we're going to mark them as Grand Jury Exhibits Numbers 9 and 10.

Q. Is this a view above the bomb which is Grand Jury Exhibit Number 9?

A. Yes, it is.

Q. And what's in as Grand Jury Number 10, is that a side-view of it?

A. Yes, it is.

MR. BRANCATO: I would move them into evidence.

Q. Could you just hold it up so that the jurors can see them?

Now, you can put them down, please.

1552

STF

Now, that case that the bomb was placed in, what kind of a case is that?

A. It's a gun case, plastic; made to carry handguns.

Q. And was that bomb later transported to A T F, Alcohol Tobacco Firearm's laboratory in Rockville, Maryland?

A. Yes, it was.

Q. And was it subsequently assigned to Special Agent Cliff Lund to examine the contents of the bomb and the firing mechanism in the bomb?

A. Yes, it was.

MR. BRANCATO: Okay, ladies and gentlemen, I expect we'll have testimony from Officer Lund tomorrow. So, if you have any questions concerning that perhaps you'll wait to put that off until tomorrow.

This is in as Exhibits 7 and 8.

Q. What's in as 7, the Federal Express receipt, was that the address to which the package containing the bomb had been sent?

A. Yes, it is.

Q. Now, did you attempt to find out information concerning the sender of the bomb?

1553

STF

A. Yes.

Q. A.B. -- U.S.A. Electronics, where is that located?

A. There's a U.S.A. Electronics located on Boston Road in the Bronx.

Q. Did you go to that location after these events became known to you?

A. Yes, I did.

Q. Did you speak with someone by the name of Richard Engrassin, E-N-G-R-A-S-S-I-N?

A. Yes, I did.

Q. The address itself is U.S. Air Electronics located at the address that is indicated on the bill?

A. No, it's not.

Q. There's a telephone number for the sender, 7 9 5 0 0 1 1, did you attempt to find out where that number went to back in 1991, February 19th '91?

A. Yes, I did.

Q. Where does it go to?

A. 200 Cabrini Boulevard.

Q. And is that an apartment complex at that location?

A. I believe it is, yes.

1554

STF

Q. Did you, along with other officers, go to Mr. Franza's apartment that he rented on Barker Avenue?

A. Yes.

Q. And while you were there did you recover a sheet of partially used three cent stamps?

A. Yes, I did.

Q. Was that sheet of stamps vouchered?

A. Yes.

Q. Was it sent to the Police Laboratory so that they could compare the stamps recovered from the apartment with the three cent stamps that were put on to the envelopes?

A. Yes.

Q. Specifically the two envelopes sent to Ms. Mendez and her daughter Myra on February 6th of 1991, as well as the letter that was sent to Nelson Dacosta on that same date?

A. Yes, there were.

Q. This is Grand Jury Exhibit 1, the face of two envelopes. Was a request made for

1555

STF

the three cent stamps to be compared against the perforations of the three cent stamps on both envelopes?

A. Yes.

MR. BRANCATO: Ladies and gentlemen, we'll have testimony from that tomorrow from Detective Breslin who, if you have any questions considering that I would recommend you just postpone that till tomorrow.

Q. This is in, Grand Jury Exhibit Number 9, look at it. And what do you recognize that to be?

A. It's a photostatic copy of the American Express money order used to pay the freight charges for sending the package containing the bomb from New York to Puerto Rico.

Q. Did you find out who issued, what store issued that money order?

A. Yes, I did.

Q. And which store issued it?

A. It's a store called College Stationary, I believe it's 2951 Broadway.

Q. Between what cross streets?

1556 STF

A. 115th and 116th Streets.

Q. On Broadway?

A. Yes.

Q. Aside from finding out what -- that money order came from, from that store, were you ever able to find out who in the store issued the money order?

A. No, we were not.

Q. Did there come a time during your investigation that Agent Temple of your office, as well as another agent, went to Mr. Franza, Mr. Dominic Franza and asked him to give handwriting samples to that, whose samples could be compared to the writing on, on the money order, as well as to the writing that appeared on the front of these envelopes, which is in, as Grand Jury Exhibit Number 1, as well as comparison to write the name of Julio Ortiz to compare it to the writing as it appears on the Federal Express bill and the other, the other commercial invoice?

A. Yes, they did.

Q. And did Mr. Franza give handwriting samples?

A. No, he refused.

1557 STF

MR. BRANCATO: I have no further questions at this time.  
Okay, if you could just step out.  
(WITNESS EXCUSED)

1558 STF

MR. BRANCATO: Ladies and gentlemen, I'm just going to call back Ms. Franza for a few questions, then I'll be finished.

M Y R A F R A N Z A,  
recalled as a witness, further testified as follows:

BY MR. BRANCATO:

MR. BRANCATO: Okay, Ms. Franza, you're reminded that you're still under oath.

Q. Ms. Franza, umm, at some point during the course of this case did I request that you go to the vicinity of 200 Cabrini Boulevard?

A. Yes.

Q. And at that time were you asked to see whether you recognized anything in that area?

A. Yes.

Q. Did you then go to that location?

A. Yes, I did.

Q. Anything at the area of 200 Cabrini Boulevard look familiar to you?

A. That's Castel Hill Condominiums, my husband and I at one time had gone there to

1559 STF

look for a condo.

Q. Did you pass by that location with your husband on a previous occasion?

A. Yes.

Q. And did your husband indicate whether or not he ever did any business at that location?

A. He had mentioned that he had done some electrical work in one of those buildings.

Q. Does the company U.S.A. Electronics sound familiar to you?

A. Yes.

Q. What's familiar about that company name?

A. That's where my husband and I took our VCR's to get fixed.

Q. And when was that that you took them to be repaired?

A. About four months before I left, I left him.

Q. About four months before July?

A. Yeah.

MR. BRANCATO: Okay. Ladies and gentlemen, I have no other questions for

1560

STF

Ms. Franza.

Okay, Ms. Franza, have a seat outside.

Oh, one last question, I'm sorry.

Ms. Franza, just go right over there.

Q. Your husband, Mr. Franza, where do his parents live?

A. 225 East 102nd Street in Manhattan between --

Q. 102nd or 106th?

A. I mean 106th Street between 3rd and 2nd Avenue.

Q. That's here in New York County?

A. Yes.

MR. BRANCATO: Okay. Have a seat outside.

(WITNESS EXCUSED)

1561

STF

M Y R A F R A N Z A,

recalled as a witness, further testified as follows:

MR. BRANCATO: Okay. You're reminded that you're once again still under oath before this grand jury.

Q. Look at this photo, you recognize the person in the photo?

A. Yes.

Q. Who do you recognize that person to be, where did you see that person before?

A. He looks like the guy that shot my mother and I.

Q. Back in July of 1990?

A. Yes.

Q. Did you see another photograph of that person that was taken in 1983?

A. Yes.

Q. And did you see that man, did you know that man prior to July 17, 1990?

A. No.

MR. BRANCATO: I have no other questions.

Okay, I'm sorry, I just forgot to ask you that. If you would just step

1562

STF

outside.

(WITNESS EXCUSED)

1563

STF

JOSEPH LUND,  
called as a witness, having been first  
duly sworn, responded to the oath and  
testified as follows:

THE WITNESS: Yes, I do.

MR. BRANCATO: Okay, the record  
should reflect Mr. Sheindlin is in the Grand  
Jury.

BY MR. BRANCATO:

Q. Could you please tell us your  
name, your rank and your affiliation.

A. Joseph Clifford Lund, LUND and  
I'm an explosive enforcement officer with the  
Department of Treasury, Bureau of Alcohol,  
Tobacco & Firearms.

Q. Mr. Lund, if you can just speak  
up so we can hear you in the last row above  
the noise that is outside, please tell us what  
your duties are with Alcohol, Tobacco &  
Firearms?

A. I'm an explosive enforcement  
officer and my duties are to provide technical  
services and information to county, state and  
federal agencies in the matters relating to  
explosives, explosive devices.

1564 SS

how to disassemble bombs. I attended that  
school in 1975 and I have been back to that  
school since six different times to be  
recertified.

I attended the Bureau of Alcohol,  
Tobacco & Firearms Bomb Scene Investigator  
Seminar, the Advanced Explosive Technology  
Seminar. Of course, new agent training in  
relation to explosives. I've been certified  
as an explosives specialist by the Department  
of Treasury and recertified for that  
position.

I received training as a national  
response team member, Investigation of  
Explosives, Explosions and Arsons throughout  
the United States. I've attended the Federal  
Bureau of Investigations, FBI, as a bomb scene  
commander in 1978. I went back again for  
another week's training in 1980, 1981, '83,  
'84, '85, 1986, 1990. I attended the Crime  
Scene Specialist School for collection of  
evidence in 1985 and the Fort Meade Military  
School in -- also in 1985.

I am currently the first  
international director of the International

1566

SS

Bomb Squad and Technicians Association which  
covers the United States and any country  
that's not under communist dictatorship.

I attended the International  
Conference in 1978, 1979, 1980 --

Q. Okay, Mr. Lund, at this point let  
me ask you, you have other qualifications that  
you could go over, is that safe to say?

A. I have additional FBI navy  
training, been in the United States Air Force  
since 1958.

Q. If I could just break in with  
this question: Have you testified in court  
before as an expert witness in the field of  
explosives and incendiary devices?

A. Yes.

Q. Approximately how many times have  
you testified as an expert?

A. Since 1964.

Q. Approximately?

A. Well, in the last four and a half  
years in excess of probably forty-five to  
forty-seven times.

Q. Okay, and you've testified as an  
expert on those occasions?

1567

SS

A. Yes.

MR. BRANCATO: Okay, ladies and  
gentlemen, I would offer that you could accept  
this man's testimony as an expert in the field  
of explosives and incendiary devices.

Q. Agent Lund, let me hand you what  
is already in evidence as Grand Jury Exhibit  
Number 7, which is a Federal Express invoice,  
Grand Jury Exhibit Number 8 which is a  
commercial invoice, Grand Jury Exhibit Number  
10 which is a front view of a gun case and a  
pipe and other material in there, Grand Jury  
Exhibit Number 6, which is a view of the  
briefcase, the gun carrying case closed, and  
Grand Jury Exhibit Number 9 which is an  
overview of the gun carrying case and the pipe  
and other material in the case.

Can you please look at those five  
exhibits. Did there come some point earlier  
this year that you took custody of those items  
that are in those photos?

A. Yes.

Q. And did you perform any test on  
them?

A. Yes.

1568

SS



Q. An examination?

A. This evidence was received at the National Forensic Scientific Laboratory in Rockville, Maryland which is right outside Washington D.C. and we examine the materials submitted which consisted of the address, mailing labels and this black gun case. We examined for the internal components.

Q. And was that sent to ATF in association with the Puerto Rican Police Department?

A. Yes, sir, it was.

Q. Can you please tell us what you learned when you examined the carrying case, along with what was inside the case, tell us what you found out?

A. Well, this carrying case --

Q. That's the photo that shows it closed with a tape around it.

A. Right, this is a small gun case. When we examined this case, opens with the two hinges pushing up and it opens in half. Inside we found this pipe that was secured to the case with two blocks of wood screwed into the case. That kept the pipe inside the case

1569 SS

from moving back and forth.

The laboratory examination noted that the interior of this pipe had a quantity of explosives identified as black powder. Attached to this pipe, if you can see it from here, but is a brown tube with a wire.

Q. If I can just break in. Please stand closer to the jurors so they can see as you describe these facets of the photos.

And please speak loud enough so she can hear you.

A. So the wood in the left and the right is hollowed out in order to hold this pipe in position. The brown tube that you see here is attached by a wire and a second wire that's twisted together to form a longer wire. This tube is a commercial -- fuse lighter is used to light time fuse in commercial blasting. And it works like this:

A normal size fuse in commercial blasting is inserted in the open ends. To light the time fuse you merely pull on this little peg and pulling it out sharply creates a flame that lights the fuse.

In this instance this fuse

1570 SS

lighter with the second piece of wire attached was then attached to a very small three thirty seconds of an inch hobby fuse, a green hobby fuse that's sold in hobby shop for model aircrafts. That fuse was inserted through a hole in this pipe into the explosives.

Now, the wire here, the elongated wire was attached to the top of the gun case. So if we go back to the first photograph --

Q. That's the closed case?

A. This is the closed case. So now the case is closed, the wire is attached to the top. So when this unsuspecting victim would open this case pulling the case open, would pull this wire from the fuse lighter igniting the fuse with the spit of flame to that small piece of fuse at the hole where the explosives is. The burning fuse would then ignite the explosives inside of the pipe. And as the explosives burn very rapidly, the pipe fills with a gas pressure, the gas pressure overtakes the integrity of the pipe.

Q. Okay, what does that mean, it overtakes the integrity of the pipe?

A. The pipe cannot withstand the

1571 SS

pressure, something has to break. I always like to use the same as a pressure cooker. If you heat a pressure cooker too much, the valve at this top breaks and everything shoots up to the ceiling. Without that little rubber safety, you have an explosion.

In this case, there's no safety, this pipe swells, it actually swells to a point almost half its size. Then it breaks. When it breaks, there is a loud explosion. This pipe would then break into smaller pieces, it would fly in all directions like unaimed rifle shots, that's called fragmentation along with the tremendous heat and pressure, all at one time. You hear a loud explosion, glass if you're in a room would break and small pieces of pipe would go off almost in a circle causing serious injury or death to anyone close by when this explodes.

Q. You indicated that there was gunpowder, what kind of gunpowder was in there?

A. The term is called black powder.

Q. What's it commonly used for,

1572 SS

black powder?

A. Muskets, antique rifles, shotguns, black powder cannons for signalling. It's the type of explosive that you saw in the civil war reenactments on television not too long ago.

Q. Where can you purchase such black powder?

A. Just about any sporting goods store that sells antique firearms or weapons, it's widely used. Even now, dear season that people that like to go hunting you can use black powder rifles and black powder shotguns and black powder hand guns.

Q. You were talking about the pressure that would build up, approximately -- is there any sort of a ratio of the pressure to particle of gunpowder that we can somehow understand the pressure that would come out of such a --

A. Ton, three thousand pounds per square inch.

Q. And the amount of powder that was in there, was it a small amount, a large amount?

1573

SS

A. Fairly substantial amount of powder. I did not weigh it, the laboratory examination.

Q. As you stand here, are you aware of what the actual weight of the powder in the pipe was?

A. No, sir. The common term for this is a booby-trapped pipe bomb. This, in fact, is a pipe bomb. And the method of an initiation or ignition is by booby-trap action where most pipe bombs that we see someone lights the fuse and throws it. This one is designed that when someone unsuspectingly would receive this package and open it, it would explode in her face. You can probably equate this to two or three hand grenades going up at one time.

Q. That pipe bomb?

A. That pipe bomb.

MR. BRANCATO: Okay, can you please have a seat.

THE WITNESS: Sure.

(CONFERS)

Q. Mr. Lund, one of the grand jurors has a question and that is, after examining

1574

SS

that exhibit, the bomb wasn't exploded, am I correct?

A. That's correct.

Q. It wasn't taken out and blown up?

A. That's correct.

Q. Did it appear that the parts worked or were they damaged in anyway? A juror wants to know, could that bomb have gone off?

A. Yes.

Q. Nobody took it out though and brought it through to completion and pulled the fuse, is that --

A. In my opinion where this wire is attached to the fuse lighter, the wire is stretched slightly and it was attached to the top; in other words, you could have opened that case and saw that wire in there. When this came from Puerto Rico, the bomb squad came in contact with this and disarmed it. This was a live device that could function. But the bomb squad, when they received it, they unhooked the wire.

(CONFERS)

Q. A grand juror has a question.

1575

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Can you approximate for us the amount of time a person would have once the fuse had ignited to the time of the explosion?

I guess a grand juror wants to know you talked about how the pressure would build up, the grand juror would like to know would it be a matter of seconds or would it be minutes or, could you tell us that?

A. Depending about how much fuse was pulled out of the pipe prior, we're talking seconds. The ignition of black powder is almost instant. As soon as that flame hits that pipe, the explosion will have occurred. It's instant. It happens right now.

(CONFERS)

Q. A couple of the grand jurors, I believe three of them, in fact, have a question and I'm going to try to phrase it. Approximately how many -- well, you've indicated that you've been doing this for years. Could you tell us the type of -- is that a sophisticated bomb, is it a crude bomb?

Tell us, if you can answer this, a grand juror wants to know what type of

1576

SS

sophistication, what type of knowledge is needed in order to make such a bomb?

A. Mechanical ability. Someone that possesses some type of mechanical ability that can figure out a way that when you open a parcel, that in opening we can pull that fuse lighter out and start a flame in order to burn that fuse into that pipe. The normal method would be light the fuse and throw the bomb. But to do that you'd have to be close to your victim.

So, in other words, to remove yourself from your victim in sending this parcel, we need to have the parcel in front of our victim, and in opening the package, the bomb explodes. That's exactly how this is done.

Now, let me go back to sophistication. I always like to use sophistication as in a homicide case where the deceased has been shot with a \$19.95 revolver and the second homicide we have is a \$2,000 rifle. The sophistication is pulling the trigger and the bullet striking.

Not too long ago we investigated

1577 ss

a case --

Q. Okay.

A. I'm to show you -- I'm trying to explain sophistication of Judge Vance who was murdered in Georgia, the package he opened up used two pieces of pie plate for the fuse.

Q. I think another grand juror --

MR. BRANCATO: And you can consider his last comments on that which relates to the question of the three jurors.

Q. Another grand juror wants to know, those parts, are they expensive pieces to purchase? Could you break it down for us, what's used to put the pipe in there?

First of all, it is held by wood, am I correct?

A. Right, two pieces of wood with two bolts or screws.

Q. And the pipe itself, what kind of piping is that?

A. That's a common pipe nipple available at every hardware store with two end caps.

Q. And the powder, you indicated is black powder?

1578 ss

A. Black powder, gun shops, sporting good shops that sell antique weapons or sell the gun powder.

Q. And the --

A. Fuse lighter?

Q. Fuse lighter.

A. It is used in commercial blasting.

(CONFERS)

Q. The grand juror wants to know how much would such a blasting, such a fuse lighter cost?

A. Twenty cents.

(CONFERS)

Q. How did this package get into the custody of the bomb squad, ATF?

A. In Puerto Rico?

Q. Yes.

A. I don't know.

Q. But my question is you received it from the Puerto Rican authorities?

A. Yes.

Q. And was it turned over to the Puerto Rican authorities in Puerto Rico?

A. The Puerto Rican Bomb Squad

1579 ss

obtained the package, Department of Treasury was involved with the bomb squad. They took custody at that time and then it was shipped to us at the laboratory where it remained in our custody until it was returned.

(CONFERS)

Q. Are you aware if any prints were recovered off of that pipe bomb?

A. No, I'm not.

MR. BRANCATO: Okay, could you have a seat outside for a moment, please.

I need to address something with the Grand Jury and we'll be with you in two minutes.

(WITNESS EXCUSED)

1580 ss

JOSEPH LUND,  
recalled as a witness, further  
testified as follows:

BY MR. BRANCATO:

Q. The Grand Jury would like to know  
where did ATF get the bomb from?

A. From the Puerto Rican Bomb Squad.

Q. And how was it -- how did it come  
to get into their custody?

A. The Puerto Rican Bomb Squad  
examined this package and examined the package  
and they found it was a bomb.

Q. And what caused them to examine  
it?

A. There was some sort of suspicion  
about an unsolicited package to the family  
that received it.

(CONFERS)

MR. BRANCATO: Okay, thank you,  
Agent Lund.

If no one has any questions, he  
has an afternoon flight to catch, so thank  
you.

(WITNESS EXCUSED)

SS

MR. BRANCATO: Okay next we'll  
hear from Detective John Breslin.

JOHN BRESLIN,

called as a witness, having been first  
duly sworn, responded to the oath and  
testified as follows:

THE WITNESS: I do.

BY MR. BRANCATO:

Q. Can you please give us your name,  
shield number and your command.

A. It's Detective John F. Breslin,  
B-R-E-S-L-I-N, shield is 608 and I work in the  
Police Laboratory Document Unit.

Q. What are your duties and  
responsibilities at the Police Department  
Document Unit?

A. As a document examiner I deal  
with the identification and comparison of  
handwriting, handprinting, typewriting,  
obliterated writing, alterations that might  
appear on documents, photo -- different  
photocopy processes, the identification of  
photocopy machines, different printing methods  
that might exist, identification of those.  
And I develop latent fingerprints on paper

SS

products.

Q. Can you briefly state what  
training you've received in the field of  
questioned document examination?

A. For the first two years of my  
assignment to the police laboratory I worked  
under direct supervision of qualified document  
examiners, it was like an internship program  
where you work directly under court approved  
experts, and I've also attended courses at the  
FBI Academy, and typewriter examination,  
specialized photography and document  
examination.

I've attended John Jay College,  
Criminal Justice. I've attended a document  
course up there and then courses within the  
New York City Police Department in the  
questioned document area.

Q. Are you recognized by or do you  
belong to any professional societies or  
organizations?

A. I belong to the Northern  
Association of Forensic Scientists, the  
International Association for Identification.  
I'm also a Diplomat in the American Board of

SS

Document Examiners, that's -- it is a  
certification group that certifies document  
examiners that they are qualified to do this  
type of work. It's something along the lines  
of like the AMA or the Bar Association. We  
have to qualify where they will examine you,  
test you, they will give you tests and they  
recertify you every five years to see if you  
stay current in the field. They do maintain  
this -- you have to maintain this  
certification.

Q. Including your training period,  
how long have you worked in the police  
laboratory as an examiner of questioned  
documents?

A. Seventeen years.

Q. Have you previously testified as  
an examiner of question documents?

A. I've testified in all the New  
York State Courts in each of the boroughs;  
Manhattan, Bronx, Brooklyn, Queens and Staten  
Island. And I've testified in both the  
Eastern and Southern Federal Districts, United  
States courts there.

Q. And on those occasions were you

SS

qualified as an expert in the field of questioned documents?

A. Yes, sir, I have.

MR. BRANCATO: Okay, at this time I would offer Detective Breslin as an expert in the field of questioned documents.

Q. Detective Breslin, did there come some time in 1990 that you received a note from Detectives Georgio and Ortiz, a note that appeared on a box of roses?

A. Yes, sir.

Q. And could you please describe this note for us?

A. It's -- it seems -- it is a two-page slip of paper, if you will, with a carbon, carbon paper between it. It is white lined paper, it is white lined paper with writing on the front. Then there is carbon paper then the black carbon impressions on the last copy.

Q. What's on that note, what does it say on that note?

A. R & R florists, FTD, order number 3792. Person, a Myra Franza, address is 485 W. for West 187th Street, apartment 1 D or

SS

1585

basement apartment. In rear ring bell to apartment left. And it says confirm delivery. There is an X and a line.

Q. Now, is that a handwritten note?

A. Yes, sir.

Q. Did there come a point that Detective Georgio gave you ten exhibits that were written by Dominic Franza, the defendant in this case?

A. Yes, sir.

Q. And the information that was written on those exhibits, how does it compare to the note that was found on the box, was it the same wording that was put on the notes?

A. Well, Detective Georgio -- Detective Georgio made a model for the individual to copy the particular or to use as a guide to copy the note. And he submitted that and everything is consistent with this with the exception of where it says 485 West 187th Street, Detective Georgio where the street is, he did not draw a line in this particular area.

Q. That's underneath --

A. Under ST, yes, sir.

1586 SS

Q. So he changed his note from the one that was found on the box?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And have you had an opportunity to examine those notes that were written by Dominic Franza?

A. Yes, sir.

Q. Can you please tell us after examining them, did you compare them to the note found on the box?

A. Yes, sir.

Q. And what is the -- what is your conclusion after having examined them?

A. I identified the author of the known writings, these were submitted that they were known writings of this Dominic Franza and I identified the author of these as writing the questioned writing on these two slips of paper.

Q. That's to the note that was found on the boxes, the flowers?

A. That's correct.

Q. Now, you indicated that Detective

1587 SS

Georgio changed it a bit in that he didn't under line the ST?

A. That's correct.

Q. What did Mr. Franza do when he was asked to write out the information as it appeared on the box?

A. Well, he drew -- he put ST and he drew a line under it just like it appears in the questioned writing.

Q. And when you say that you identified his known documents, that's those ten copies that you're holding in your hand, are you saying that he did it based upon the fact that he underlined the ST, or what are you comparing here?

A. No, sir.

Q. Okay.

A. There were similar letter and letter combinations throughout the known writing that did appear in the questioned writing, the identifying features, individual identifying features. They were common to both, therefore, I could say that the same author did, in fact, write both.

Q. Can you give us an example of

1587a SS

some of the things that you compared?

A. You compare the size, the slant, the speed of the writing, the movement, how it corresponds to the next letter, how the placement is, its arrangement. You also look for introductory strokes, pen stops or pen twists in a particular area, the ending strokes, all right, pressure. There are some fifty-odd things we end up looking for when we attempt to make our examination.

And I found an enormous amount of corresponding identifying features in both. The questioned writing and in the other writing what led me to the ability of the -- it led me to the conclusion that the author of the known writing did, in fact, write the questioned writing.

Q. Can you give us -- can you step over to the blackboard for a second. Could you show us like where it says confirmed delivery, could you show us based upon Mr. Franza's example, how does he make his F's?

A. Wouldn't it be better to show the exhibits rather than -- should I take it four at a time?

1588

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Q. Yes, let's mark this.

MR. BRANCATO: I'll mark this piece of paper Grand Jury Exhibit Number 11. And the note that you're holding, just for the record, it's corresponding pieces is the note that's Grand Jury Exhibit Number 4, a copy that was introduced by Detective Ortiz yesterday.

Q. Why don't you hold it along with the note that was recovered and show it to the grand jurors.

I think probably the best thing is to first show it to them without saying anything and then going back and maybe just having it on the record one time.

The thing is anything that's said has to be said on the record, can you speak up.

A. Okay --

Q. Could you pass it around?

A. What I was gonna do is all four of you's, is that all right with you's? Okay, I was gonna go to each group?

GRAND JUROR: You could probably just pass the information around and speak to

1589 SS

all of us together.

A. Okay. Is that all right with everyone? How do you want to do it?

Q. Why don't you do that for the purposes of time. Just pass it in front of one then put it to another group.

A. Excuse me, sir, young lady says she doesn't know what to look for. May I explain what I do?

Q. Yes, why don't you tell us.

A. Again, we'll do four and go right around as quickly as I can.

What I do is I examine similar letters and letters -- I examine similar letters and letter combinations, all right. What I found here were things that correspond. You have to look at size, slant, speed. We don't have a stereo microscope where I can look at the writing where you can see most of this but I didn't have time to make an enlargement for court purposes, all right, but we'll do the best we can with what we got.

You can see confirm delivery, all right, it starts off here, this is

1590

SS

introductory tick on the top, it comes around, the O is made in the similar fashion here --

Q. I think it is creating somewhat of a problem for the reporter. She has to get it all down.

GRAND JUROR: Why can't he use the blackboard?

Q. We're going to try to do it so that the detective stands here in front of the Grand Jury and he shows both exhibits, that's the note that was recovered from the box as well as one of the samples written by the defendant. He'll stand here, he'll state it. If you can see it, fine. If not, what we will do is we'll then pass it around so that you can look at it at your place. But everything that is said has to be said on the record and that's what is creating a little bit of an inconvenience.

A. All right, we'll just take one portion of this, the bottom portion where it says confirmed delivery, all right. You see those two words? Okay. Again, the way this starts off this little introductory stroke on the top of the C, that's where it just starts

1591 SS

off with a little tick where the man starts then he makes his C, comes like this and makes a C, little spot right here. That's a little identifying spot.

Then we keep going on to other things. The slant of that C is in a similar manner, it's done in the same type of manner. Then it comes around and then there is this O that's made in this type of a motion, comes up around the type, then retrace around, comes up high and in the N in confirm, the N starts at the top high off the base line, comes down to an F that's made with a long stroke up.

And what takes place is it is made on this side of the cross bar coming down, it doesn't cross it, he comes up then down, he loops around and he goes into this I, the R is made in a C-like motion coming around the M, is made consistent three little hills and then -- and makes a stop.

The D has a long introductory stroke coming down, then it retraces up around to a little curl, a little S-type motion here where he comes back this way, makes the I again and L and another I E V E R -- excuse

1592 SS

me, R Y and the Y is made again like an I. It starts off as an I, comes up, is open where it comes back like an N, big loop on the bottom, okay.

Now, if you can -- that's just one of the particular words I looked at, very briefly gone over, all right. I spent a long time doing this. This is the question, these particular things --

Q. Okay, detective, the one in the plastic then is the one that was found on the box; is that correct?

A. Yes, that's the questioned document.

Q. And these are the ones that were written by Mr. Franza?

A. Yes.

MR. BRANCATO: It's already been marked Grand Jury Exhibit Number 11 and since there are four sheets, we'll mark it Exhibit 11-A, B, C and D.

GRAND JUROR: Can we see the model that he copied?

Q. Now, the piece of paper that you're holding in your hand, is that the model

1593 SS

that was written by Detective Georgio?

A. That's correct.

MR. BRANCATO: Let's mark this as Grand Jury Exhibit Number 12. And, ladies and gentlemen, the note is in plastic, please do not remove it, you can pass it around.

THE WITNESS: The chemical that's on is a carcinogenic so if we can leave it alone, everyone will appreciate that.

(CONFERS)

MR. BRANCATO: Okay, ladies and gentlemen, a grand juror has a question, it's a good question. She wanted to know about qualifying someone as an expert. And certain witnesses, based upon their training and their discipline, are allowed to testify in front of a jury as an expert witness.

Other people because of, because of perhaps their familiarity with a subject, and let me give you an example. Yesterday you heard from Ms. Franza and she testified that she, she recognized the writing on the envelope as her husband's.

The gentleman said, well, how can you measure that, how can you take that. You

1594 SS

can take it -- you can take it as a person testifying claims to be the husband -- the wife of the person, she claims to be familiar, she claims to recognize it.

The law says that you may consider this man's testimony as an expert in the field.

(CONFERS)

Q. Detective, one of the grand jurors has a question, it is a good question. They say that when you ask someone to give writing samples, do people sometimes try to disguise their writing?

A. Yes, sir.

Q. And what methods do you use in order to take such samples, is there anything that you can tell us, how does one usually go about taking samples?

A. Well, you could get normal course of business writings from an individual's job, where he works, his application for that job or bank records, any sort of business records that might take place or correspondence to regular people, or you can have someone sit down and write exactly what's in question.

1595 SS

That's what has taken place in this instance. And the best way to do that, again, which didn't happen in this case, I would have liked it to be fifteen samples, but -- or ten samples on separate sheets of paper, therefore, the individual doesn't have the ability to copy what's above them.

So by the time when he sits down and he writes down number one, we take that away from him, now we give him another piece of paper to write on and he writes again. By the time he gets to number fifteen, he doesn't know what he wrote on number one. It's tough to maintain that disguise over a period of time. So that would be the ideal situation.

(CONFERS)

Q. Are you aware if fingerprints were lifted from the note?

A. Yes.

Q. Were they of any value? By that I mean was there enough of the print on there where it could be matched against someone else's print?

A. Again, I received a report -- I processed the evidence for prints, I did get

1506 SS

what I thought to be fingerprints and I did send them down to the Latent Fingerprint Unit, there is an unit that just does that in the police department, they compare latent fingerprints, I develop them, they examine them and compare them to known fingerprint cards, I don't do that. They report it back to me that the prints were of no value.

Q. What is no value mean?

A. There weren't enough identifying features in the fingerprints that I sent down there to identify any particular individual. That's not my field of expertise.

(CONFERS)

MR. BRANCATO: Ladies and gentlemen, a grand juror has a question and that question this officer cannot answer. His question goes to why Mr. Franza was asked to write these samples. And for that you will be asking him to say what someone else was thinking. And what someone else was thinking would be guessing as to how he viewed a certain event.

The only thing that you have in front of you, you have that the note was

1507 SS

recovered, you have that he was asked to give handwriting samples, that he did and that they were compared. So do not speculate as to what someone else may have been thinking.

(CONFERS)

MR. BRANCATO: A grand juror wants to know why the -- a grand juror wants to know why the samples are being passed around if he's testifying as an expert witness. Perhaps we mistakenly thought that the Grand Jury just wanted to look at it. If that's the case give us the samples back and we'll be ready to go on.

GRAND JUROR: Is this a standard form that's used at the florist?

(CONFERS)

MR. BRANCATO: A grand juror wants to know if that note that was found on the box is the official form that's written by a florist in making a delivery.

Ladies and gentlemen, the only testimony you have in front of you is that the note was recovered from the box, that he was asked to give writing samples and that this is what the gentleman's determination is as to

1508 SS

who wrote the note.

You could look at it and I think that within your own common experience you could decide whether or not this is the type of note that you would normally find or whether it was written.

MR. BRANCATO: Okay, at this time Mr. Sheindlin is going to exit the Grand Jury.

Ladies and gentlemen, if you can just pass these exhibits around a little quicker. The detective has some more things to show the Grand Jury.

Q. Detective, this is in evidence, it's a Grand Jury exhibit, it's the Federal Express bill that is already in evidence.

Did you have an opportunity to look at the signature that appears on that bill purported to be a Julio Ortiz?

A. I -- I never examined the original of this particular document. I believe it is in Washington but I have another original, if you will, there are two of these documents that exist. This one is in Washington or in Rockville, Maryland in the

1509 SS



Alcohol, Tobacco & Firearms laboratory, this one is in my office here, or today in front of you. I examined this.

Q. Well, we'll deem that marked Grand Jury Exhibit Number 13. And is there a signature of a Julio Ortiz on that bill that you have, Exhibit Number 13?

A. This one?

Q. Yes.

A. Yes, sir, there is.

Q. Have you had a chance to compare that writing to known writing is of the defendant, Dominic Franza?

A. Yes, in addition to the known writing that was compatible to this questioned note --

Q. That's the note that was found?

A. The note, I was given other known writings, normal course of business writings from Mr. Franza and I made those -- I made a comparison between the known samples from Mr. Franza and this questioned signature on the bottom of this People's --

Q. Grand Jury's 13.

A. -- Grand Jury 13 and I arrived at

1600 ss

the conclusion that there were very strong similarities that existed between the known writings that I received and this questioned signature on Grand Jury's 13.

I also had asked that compatible writing be obtained, I would like Mr. Franza to sit down and write Julio Ortiz so I could make a comparison, a better comparison or a more -- so I can arrive at a more definite --

Q. Did you request additional writings?

A. Yes.

Q. Did you get them?

A. Not as yet.

Q. This is in evidence as Grand Jury Exhibit 1, 2 and 3, that's -- 1 is the two envelopes, number 2 is a letter that's typed in Spanish that starts Josephine and Myra and number 3 is a letter typed in Spanish that starts Yo.

Do you have the originals?

A. Yes, I do.

Q. And the letter that starts Josephine and Myra?

A. Yes.

1601 ss

Q. What envelope was that sent in?

A. I believe that was with the Myra Franza envelope.

Q. And the one that starts Yo, Y-O, in what envelope does that correspond to?

A. Nelson DaCosta D-A-C-O-S-T-A.

Q. Now, can you please tell us on top of those envelopes, each envelope -- you have the originals?

A. Yes.

Q. Could you please tell us -- at some point that you took those envelopes into your custody, did you attempt to lift the postage stamps that were used to post each envelope?

A. Yes.

Q. Could you tell the grand jurors the process that you used to lift the stamps off the envelope?

A. I --

Q. Did you just sit there and peel them back, tell us how you did that?

A. I put the two envelopes, there were three stamps on each of the envelopes; two Paul Dudley White, M.D., three cent stamps

1602 ss

and this one twenty-five cent American flag stamp, okay. There was two Dudley White three cent stamps and the flag stamp on each of the envelopes, all right.

What I did was put them in a humidity chamber for a couple of hours and just let the glue that was on the ink -- on the stamp moisten up again and I peeled them off, just like people steam open envelopes. This is something similar to that. It is just a scientific little chamber that we put this envelope in, a little humidity or water bath and it moistens them up.

Q. Did you have an opportunity to microscopically compare the stamps that were taken off of these envelopes with the sheet of three cent stamps that was recovered from Mr. Franza's apartment?

A. Yes, I did.

Q. And do you have that here with you?

A. Yes, sir.

Q. Did you prepare enlarged photos that show the stamps recovered to the stamps taken off of the envelopes?

1603 ss

A. I did. May we show them?

Q. Yes. Why don't you -- we'll deem this sheet of stamps Grand Jury Exhibit 14, is that an enlarged photo of the stamps that was recovered from the apartment together with the stamps that were recovered off of the envelope?

A. That's correct. This portion here, these 12, okay, they were, I believe they were taken from the -- Mr. Franza's apartment, from his desk drawer. I believe that -- from his apartment anyway. And these stamps, this Q 4 and this Q 4, this Q 4 number one, Q 4 number two, that was the first stamp, Q 4 number one. Q 4 number two is the second stamp on this particular letter, the Nelson letter.

Q. Okay, so the ones that you've just referred to, those are the two three cent stamps that were taken off of the envelope addressed to Nelson DaCosta?

A. Yes. The other three cent stamps, this Q 3 number two and Q 3 number one, they were taken off the Myra Franza questioned letter, the letter sent to her.

1604 SS

Q. Now, could you please tell us what you observed when you looked at them under microscope?

A. I looked under a microscope, stereo microscope, that enables you to see depth, from a photo we can't see depth, it is only two dimensional object, all right, so in the -- through the microscope I was able to see a little depth. And what I did was I jigsaw matched these together.

It is something similar to a jigsaw puzzle where the pieces fit together in some sort of way, all right, where they've been ripped on an angle and how now you can piece back together. Just like a jigsaw puzzle.

What I did was I matched where the perforations are. What happens is, it's like a haphazard tear that goes through the perforations, some of the perforations, you have the two circles or the circles, some will have a lot of the circle will go one way, sometimes it will go the other way, sometimes it will tear right in the middle, all right.

So what happens is a haphazard

1605 SS

tear through the paper, okay, and what's taken place is down here, in this area over here --

Q. Hold it up. Just turn so they can see.

A. In this particular area here we have the border of the stamp, it was quite easy. This portion of the stamp or this particular stamp would go down in this particular area, just like putting a puzzle back together. Where does this piece go, okay. All I did was try to match up the holes, see where they would fit. And this is where they fit.

In this particular area here, as you can see, the border and the holes go accordingly, okay. And then this is the stamp from the other envelope and this fits on the top of this and it also fits along up here. But it was tough to match due to the fact that I matched it to this one, okay, when the pieces are pulled apart, their fibers and stuff, I couldn't put them exactly back together again because of the -- the piece -- it's not that a piece is missing, but the fibers have distorted.

1606 SS

So to match it where you can look at something and fit them back together, okay, so I can show and demonstrate to you that it's a match, I couldn't put them exactly together again. This way I leave them a little apart and you, yourselves, make them match and fit them together. That's the reason for that, okay?

Q. So --

A. And in --

Q. Just to put it on the record then, this stamp that's marked Q-4-1, it had a little border below the holes?

A. Right.

Q. And when you put it next to the sheet of stamps, did that border match the border that was on the sheet of stamps?

A. Yes. The questioned stamp that appeared on the envelope did match the sheet of stamps that was submitted to me.

Q. If you can show the grand jurors on the other side.

A. Okay, again, this is the questioned area here -- known area here, these twelve stamps.

1607 SS

Q. That's the sheet of stamps?

A. Sheet of stamps.

Q. I'm only breaking this so we can get it on the record.

A. This particular stamp, the one that was on the envelope, this was one on an envelope, this was on an envelope and so was this.

Q. That's Q-4-1?

A. Q-3-2, Q-1 -- excuse me, Q-3-1 and Q-4-2. They were on the envelopes, four questioned stamps and matched them up with the knowns. As you can see in this particular area here where there is a border, there seems to be an easier match.

Q. That's Q-4-1?

A. Perforations and then in this area, I have a larger chart that might aid everybody if I can --

Q. Okay, you have an enlarged chart of that specific area?

A. Yeah.

Q. I'm losing counts of exhibits.

A. 15.

GRAND JUROR: 15.

1508 ss

Q. Okay, 15. Is that an enlarged chart of the area that you just referred to?

A. Yes.

Q. Okay, I move it into evidence.

A. This is Q-4-1, this is the known stamp, this is about eighteen times enlarged, okay, this is a one inch ruler that I laid next to it so approximately eighteen inches so it is eighteen times enlarged.

Okay, this is the particular area here that we saw on the other stamp, okay, this particular area here, enlarged.

Q. If you can just --

A. I'll do it over again. Right over here we can see where this comes across. In this area over here you can look, it is almost like a crown --

Q. That's the line from the bottom between the first and second holes.

A. Okay, you see how that would fit right into there, not only do we have this tear that's good, but the fibers were disturbed in this area in a V-like motion where this intersects and slides right in.

Q. That's between the first and

1509 ss

second holes.

A. Again, Q-1-4 and a known, this is across here, see how the fibers form like this V-like motion fits into this V-like motion and again going all the way up the line here, this is more paper on this side, there is less on this side.

Q. That's Q-4-1 meets the sheet of stamps.

A. Okay. And that's how we make the match, okay, accordingly, all right. And up here the same way, the match is made.

Q. So is it your opinion then that stamp came off of that sheet at that position?

A. Yes, sir, at one time they were one sheet of paper.

Q. Okay, now, let's just go back. This is Exhibit Number 14, it's the sheet of stamps along with the four that were recovered from the envelopes.

A. Yes, sir.

Q. Could you please step here, John, to the easel.

At Q-4-2 --

A. Yes, sir.

1510 ss

Q. -- that's one of the stamps that was taken off of the envelopes?

A. Yes, sir.

Q. At the point that Q-4-2 meets the sheet of stamps that were recovered from Mr. Franza's apartment, are all the holes at that position, are all of them torn, are all of them ripped?

A. This particular hole right here, okay, right in this area here, from the edge, that's one, two, three, fourth hole from the right-hand edge coming this way, all right, that hole is part of the known, part of this and this particular stamp Q-4-2 is missing that hole and it does fit, intersect perfectly.

Q. So is it your testimony then that of all the holes that connect Q-4-2 to the sheet of stamps, all of the holes with the exception of one was ripped, was torn, was that your testimony?

A. Yes.

Q. And when you looked at the -- at the Q-4-2, is it the corresponding hole that is missing on Q-4-2?

1511 ss

A. That's correct.

(CONTINUED ON NEXT PAGE BY HFT)

1612

SS

People vs Dominic Franza

Sixth October/November 1991 GJ

October 31, 1991

HFT rel. SS

BY MR. BRANCATO:

(Continued)

Q. Now, when you headed -- have you had a chance to look at them under a microscope?

A. Right, yes.

Q. Okay. Could you tell us what you observed when you looked under a microscope?

Would the definition be greater or less than you have in front of you?

A. Again, with the stereo microscope, you can see the depth, okay. With this flat -- flat photo or two dimensional object, you cannot see the depth. So I couldn't demonstrate that to you, okay.

It fits right on top of the hole, all right. Where the hole is missing, it fits together. But I can't demonstrate to you that in the photograph, or I can't attempt to -- it's just -- photographically I can't do it.

1613

HFT

If I had a microscope here, you could see it and lay the piece together yourselves and see how it fits. But it's dead on.

That's why I used the other photograph where I can demonstrate to you how they all intersect. That seemed to be the better one to demonstrate. But that again -- all four stamps, all four -- all four questioned stamps did come from the known sheet of stamps.

Q. Okay. Thank you, detective. Could you have a seat please.

MR. BRANCATO: Ladies and gentlemen, thanks for bearing with us in making this as easy as possible.

Q. Now, detective, have you had a chance to compare the type that was on the letter sent to Myra Franza and her mother as well as the type that was sent on the letter that was sent to Mr. Dacosta, D A C O S T A, to the Federal Express bill that was used in this case?

A. Yes, sir, I did.

Q. Okay, could you please tell us how do they compare? Do they compare?

1614

HFT

A. Each of the letters -- like the ones that starts off yo, the one that starts off Josephine, and this Federal Express billing sheet or routing sheet --

Q. Deemed 137

A. This manifest billing copy, they all have a similar typeface on them. I made comparisons and they all have a similar typeface on the documents.

Q. Okay. Thank you. Can you have a seat please.

MR. BRANCATO: Okay, I have no further questions for Detective Breslin. Just remain seated please.

(CONFERRING)

Q. Detective, a grand juror wants to know, when you say that it's similar typeface, could you please explain what you mean by that?

A. Okay, if Smith Corona, or let's say IBM, made a particular type style, this is a style, okay. And they put that on, as a number, let's call it one thousand typewriters or ten thousand typewriters, okay. The typeface on those ten thousand typewriters,

1615

HFT

1 okay, is similar, okay, to these typefaces  
2 that appears on these three, okay.

3 Do you understand that? It's  
4 similar typeface. I don't have the machine,  
5 okay, that I can say that that typeface came  
6 off a particular machine. That's still  
7 being investigated, I believe. But at this  
8 point, that's all I can say; that they all  
9 came off a similar typewriter, a typewriting  
10 machine, okay.

11 Q. Okay. Thank you, Detective  
12 Breslin.

13 MR. BRANCATO: Ladies and  
14 gentlemen, as the detective gets his stuff,  
15 what I intend to do is charge the grand jury  
16 on these counts.

17 THE WITNESS: Can I take the  
18 exhibits?

19 MR. BRANCATO: Yes, please.

20 THE WITNESS: Thank you.

21 (WITNESS EXCUSED)  
22  
23  
24  
25

1616

HPT