

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF CONNECTICUT

3

4 UNITED STATES OF AMERICA,)

5 Plaintiff,)

NO: 3:15CR119(MPS)

6 vs.)

7)

March 29, 2016

8 JOSE VASQUEZ, *also known*)

9 as Green Eyes,)

10 Defendant.)

SUPPRESSION HEARING

11 _____

Volume II

12

13 450 Main Street
14 Hartford, Connecticut

15

16 B E F O R E:

THE HONORABLE MICHAEL P. SHEA, U.S.D.J.

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18 A P P E A R A N C E S:

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28 Court Reporter:

Martha C. Marshall, RMR, CRR

29 Proceedings recorded by mechanical stenography, transcript
30 produced by computer.

1 THE COURT: Good morning. Please be seated.

2 We're going to continue the Motion to Suppress
3 hearing in United States versus Jose Vasquez. The case is
4 15CR119.

5 Let's have counsel state their appearances,
6 beginning with the Government, please.

7 MR. HALL: Good morning, Your Honor. Gordon Hall
8 for the Government.

9 THE COURT: Good morning.

10 MR. WILLSON: Good morning, Your Honor. Charles
11 Willson for the Federal Defender's Office. To my left is
12 Mr. Vasquez.

13 THE COURT: Good morning. I think the Government
14 rested at the end of the day last time, is that right, Mr.
15 Hall?

16 MR. HALL: Yes, Your Honor.

17 THE COURT: Mr. Willson, do you have some witnesses?

18 MR. WILLSON: I do have one, Your Honor. I ask
19 Elizabeth Vasquez to come forward.

20 THE COURT: Good morning, ma'am. If you could
21 please face the courtroom deputy. Raise your right hand.

22 E L I Z A B E T H V A S Q U E Z,
23 called as a witness by the Defendant, having been duly sworn
24 by the Clerk, was examined and testified on his oath as
25 follows:

1 THE CLERK: State your name, city and state, and
2 spell your last name.

3 THE WITNESS: Elizabeth Vasquez, Reading,
4 Pennsylvania.

5 THE COURT: Ma'am, if I could ask you to pull that
6 microphone nice and close so the court reporter can hear what
7 you're saying.

8 Mr. Willson, go ahead.

9 MR. WILLSON: Your Honor, as you may recall, there
10 were some exhibits that were admitted last time. I may
11 venture towards your deputy's desk because they're out front
12 there to get them as I need them with your permission.

13 THE COURT: Absolutely. You can approach her to
14 show her things.

15 DIRECT EXAMINATION

16 BY MR. WILLSON:

17 Q. Good morning, Mrs. Vasquez.

18 A. Good morning.

19 Q. I think you said you lived in Reading,
20 Pennsylvania?

21 A. Yes.

22 Q. How long have you lived there?

23 A. Most of my life.

24 Q. And you live there currently?

25 A. Yes.

1 Q. In the home that you're in, how long have you been
2 in that home?

3 A. Ten years.

4 Q. Who do you live there with?

5 A. My husband.

6 Q. How long have you been married?

7 A. Nine years.

8 Q. And what's your husband's name?

9 A. Jose Vasquez.

10 Q. And that's the defendant over there?

11 A. Yes.

12 Q. I want to take you to the summer of 2015. So just
13 last summer. Okay. Specifically, in July. At that point,
14 were you living with your husband?

15 A. We were separated. We were off and on.

16 Q. And where was he spending more of his time?

17 A. In Connecticut. He was back and forth.

18 Q. How often would you see him?

19 A. Maybe once, twice every two weeks I would come up.

20 THE COURT: I just didn't hear what you said.

21 A. I said once or twice every two weeks.

22 Q. July 15th, was he in Connecticut at that time?

23 A. Yes.

24 Q. And were you in Connecticut?

25 A. Yes.

1 Q. Where was he staying?

2 A. In an apartment in West Haven.

3 Q. Do you remember anything about the building?

4 A. Yes.

5 Q. Tell us about it.

6 A. It's a corner building, Washington Street. It was
7 third floor apartment. The building was vacant. The only
8 unit taken was the third floor.

9 MR. WILLSON: Your Honor, I'd like to just show her
10 a picture here.

11 THE COURT: All right.

12 Q. Do you see it on the screen in front of you
13 there?

14 A. Yes.

15 Q. And is that the building you were just talking
16 about?

17 A. Yes.

18 THE COURT: That's already in, Mr. Willson?

19 MR. WILLSON: That is, Your Honor. That was
20 Defendant's Exhibit A from the previous hearing.

21 THE COURT: Thank you.

22 Q. Do you recall how you would enter that building to
23 go to the apartment?

24 A. There was two entrances, but this is the one that I
25 came in through, right here on the left-hand side.

1 Q. So as we're looking at the picture, it's the one
2 between the yellow house and the blue house?

3 A. Yes.

4 Q. And what floor was the apartment on?

5 A. On the third floor.

6 Q. Do you recall how many bedrooms there were?

7 A. It was two bedrooms.

8 Q. Can you describe the rest of the space?

9 A. When you walked into the door, when you first came
10 in, it was a living room space. And then right off to your
11 right there's one bedroom, which that's where we slept at,
12 and right next to it it's another bedroom. And then if you
13 walk straight, you can see the kitchen, and the bathroom is
14 right off to the left. And then there's another door. If
15 you walk a little bit more, there's another door that that's
16 the back entrance.

17 Q. How many nights did you spend there?

18 A. I was there two nights.

19 Q. I'm going to show you another picture. This was
20 Defendant's Exhibit B from the previous day's hearing. Do
21 you recognize that?

22 A. Yes.

23 Q. And what is that?

24 A. That's the entrance to the bedroom from the living
25 room area.

1 Q. As we look to the right of the picture, there's a
2 door that's open and it's a little bit dark. Do you recall
3 where that door comes from?

4 A. That door comes from the entrance that I told you
5 between the two houses, that's the door.

6 Q. And a second ago you said there's a door to a
7 bedroom?

8 A. Right off of that to your left.

9 Q. And when you stayed off of there, do you recall
10 which bedroom you stayed in?

11 A. The front one where we can see the window.

12 Q. So it's the one in that picture there?

13 A. Yes.

14 Q. I want to put another picture in front of you,
15 Mrs. Vasquez, and ask if you remember that. It's been marked
16 for identification only so far as Exhibit D, Defendant's
17 Exhibit D. Do you recognize that picture?

18 A. Yes.

19 Q. And could you tell us what it is?

20 A. That's the bedroom.

21 Q. Now, we've heard some talk that there was carpeting
22 on the day in question?

23 A. Yes.

24 Q. Other than the carpeting, is that pretty accurately
25 what you recall of that bedroom?

1 A. There was an air mattress.

2 Q. There was different furnishings?

3 A. There was only an air mattress and a television.

4 MR. WILLSON: Your Honor, we'd offer that as a full
5 exhibit as Defendant's Exhibit D.

6 MR. HALL: No objection.

7 THE COURT: No objection?

8 MR. HALL: No objection.

9 THE COURT: Exhibit D will be full.

10 (Whereupon, Defendant's Exhibit D was marked in
11 full.)

12 Q. So looking at that picture, Mrs. Vasquez, you said
13 you were staying over and staying in that room. Do you
14 recall roughly where the air mattress was in the room?

15 A. Yes. It was coming from the wall on your left like
16 out like this. It was against -- it was like that. And then
17 the T.V. was right in front of the -- like stand in front of
18 the doors, the closet doors.

19 Q. We're going to try another picture here. I confess
20 it's a little dark. Do you recognize what's in that photo,
21 Mrs. Vasquez?

22 A. It's just the room.

23 Q. Same room?

24 A. Yes.

25 Q. All right. Different angle?

1 A. Yes.

2 Q. Again, does that picture seem to accurately capture
3 the room you stayed in aside from the carpet?

4 A. Yes.

5 MR. WILLSON: Your Honor, I'd offer that as Exhibit
6 E.

7 MR. HALL: If I could just really quickly, Your
8 Honor?

9 THE COURT: Yes.

10 BY MR. HALL:

11 Q. So that in Exhibit E that you're looking at now, if
12 you walked into the doorway of the room, as you described it,
13 would you be walking in toward those windows?

14 A. Yes.

15 Q. And the bed would be?

16 A. To the left.

17 Q. To the left?

18 A. Uh-huh. And then there's a closet there and a TV
19 right there.

20 Q. So the bed would be on the wall opposite the
21 closet?

22 A. Right.

23 Q. And the TV would be over by the closet?

24 A. Yes.

25 Q. And would the bed be coming out from the wall or

1 along the wall?

2 A. Out from the wall.

3 Q. So if you laid out on the bed, you'd be sort of
4 perpendicular to the wall?

5 A. Yes.

6 THE COURT: No objection?

7 MR. HALL: No, Your Honor.

8 THE COURT: Defendant's Exhibit E is full.

9 (Whereupon, Defendant's Exhibit E was marked in
10 full.)

11 BY MR. WILLSON:

12 Q. Mrs. Vasquez, you see in the picture there's what
13 looks like a matt in the corner there?

14 A. Uh-huh.

15 Q. So if we were to turn that matt and put it against
16 that wall by the socket that's way to the left, is that
17 roughly where the bed would have been?

18 A. Yes.

19 Q. Do you recall when you stayed there whether there
20 was air-conditioning?

21 A. Yes.

22 Q. There was an air-conditioner?

23 A. Yes.

24 Q. And was it a window unit?

25 A. A window unit.

1 Q. Was there an air-conditioner in that bedroom?

2 A. Yes.

3 Q. When you went to sleep at night, was the
4 air-conditioner running?

5 A. I had gotten up a little earlier and turned it off
6 because it got cold.

7 Q. We're going to get to that specific day. You may
8 have gotten ahead of me there. In general, when you went to
9 bed those two nights, do you remember it running that
10 night?

11 A. Yes.

12 Q. When you made the trip from Reading to West Haven,
13 do you remember what you brought with you?

14 A. My dogs, my three dogs, and just like my bag with,
15 you know, like clothes. Just personal things like that.

16 Q. Okay. Bags with your clothes or was there some of
17 Mr. Vasquez's?

18 A. There was some of my husband's clothes, because
19 when he left he was so upset he just left. So I brought some
20 clothes for him.

21 Q. And what did you use to carry the clothes?

22 A. I had a basket.

23 Q. What kind of basket?

24 A. Like a, you know, in a laundromat, a little
25 basket.

1 Q. Rectangular?

2 A. Yes.

3 Q. And is it the type of basket where there's openings
4 on the side or was it solid on the side?

5 A. No, it had little openings all around.

6 Q. And when you were staying in the room -- let me
7 know if the other picture is more helpful -- was that basket
8 in a certain spot?

9 A. Yes.

10 Q. Whereabouts was it, roughly?

11 MR. HALL: Could I just object to the form? Are we
12 talking about generally or on a particular day?

13 THE COURT: The question was when you were staying
14 in the room, was the laundry basket in a particular spot.
15 She said yes, it was in a particular spot.

16 Q. Can you tell us where that spot was?

17 A. Where this picture's taken from, it's taken from
18 the doorway. So right on the left-hand side of that wall, it
19 was right there.

20 Q. Just so I understand, so as you step into the room,
21 it would be immediately to your left?

22 A. Yes.

23 Q. And it would be sort of -- so if we're standing
24 here in this picture, let's say we're standing in the living
25 area, the living area where you first come in, would you be

1 able to see the laundry basket from there?

2 A. No.

3 Q. Am I right that it would be sort of tucked behind
4 that wall to the left that's sort of facing us?

5 A. Yes.

6 Q. So you said you probably stayed there two nights.
7 Do you recall staying there the night of July 14th into the
8 morning of July 15th?

9 A. Yes.

10 Q. All right. And when you went to bed that night,
11 was the air-conditioner running?

12 A. Yes.

13 Q. When you went to bed that night, do you remember
14 what you were wearing?

15 A. Shorts and a t-shirt.

16 Q. And do you remember what your husband was
17 wearing?

18 A. Boxers.

19 Q. Was there anyone else staying in the apartment?

20 A. Yes.

21 Q. Can you tell us who that was?

22 A. Carlos.

23 Q. Carlos. It was a man?

24 A. Yes.

25 Q. And were the dogs there?

1 A. Yes.

2 Q. You mentioned earlier that you brought your dogs
3 from Pennsylvania. How many dogs?

4 A. I have three dogs.

5 Q. What kind?

6 A. I have two Maltese and a Shih Tzu.

7 Q. Perfectly fine. How long have you had the dogs?

8 A. One of my dogs I had had already for 12 years, and
9 then the other one for 10. And the smallest one I had
10 maybe -- I had gotten it like November.

11 Q. The small one, do you know how old it is now?

12 A. Probably like seven or eight months.

13 Q. Seven or eight months?

14 A. Yeah, something like that.

15 Q. Can you tell us something about their personality,
16 how active they are?

17 A. They're very active. Especially my second Maltese,
18 she's all over the place, always barking, stuff like that.

19 Q. Is it the sort of situation where one dog barks,
20 the others chirp in?

21 A. Oh, yeah.

22 Q. Where do they sleep normally?

23 A. With us.

24 Q. In the bed?

25 A. Yes.

1 Q. When you were in West Haven, were they sleeping
2 with you in the bed?

3 A. Yes.

4 Q. Do they sleep at the foot of the bed or they fight
5 for the pillow?

6 A. One sleeps toward the foot of the bed, one sleeps
7 next to me, and the other sleeps in between me and my
8 husband.

9 Q. So let's go to the morning of July 15th. You
10 started to say something earlier about waking up and turning
11 off the air-conditioner. Can you tell us more about that?
12 What do you remember?

13 A. Well, I remember it was really cold so I got up to
14 turn the air-conditioner off and to use the bathroom.

15 Q. Where was the bathroom in relationship to the
16 bedroom again?

17 A. If you left the bedroom, the apartment's like long,
18 so you would go right through the living room and right in
19 the kitchen. Right in the kitchen, right there's the
20 bathroom.

21 Q. I'm going to put in front of you another photo.
22 This one has been marked as Defendant's Exhibit F. Ask you
23 to take a second to look at it. Do you recognize that
24 photo?

25 A. Yes.

1 Q. And can you tell us where you think it was taken?

2 A. That's taken from the kitchen.

3 Q. A second ago you talked about leaving the bedroom
4 to go to the bathroom?

5 A. Yes.

6 Q. In that picture, where in relationship?

7 A. The doorway right here on the right. That's the
8 bathroom.

9 Q. And then the bedroom is that far from us in this
10 photo?

11 A. Yes.

12 Q. Again, other than maybe carpeting having been on
13 the floor, is that a fair and accurate representation of the
14 apartment as you stayed there?

15 A. Yes.

16 MR. WILLSON: I'd offer that as a full exhibit.

17 MR. HALL: No objection.

18 THE COURT: Exhibit F is full.

19 (Whereupon, Defendant's Exhibit F was marked in
20 full.)

21 Q. So you had to cross the living area which is near
22 the entry door?

23 A. Yes.

24 Q. And then go to the bathroom. I'm going to ask you
25 a personal question. Do you remember if you went to the

1 bathroom with the door open or closed?

2 A. With my door closed.

3 Q. And at this point in the morning, was there
4 daylight starting to come in or was it dark?

5 A. It was still a little dark out.

6 Q. Do you remember checking or noticing the time
7 anywhere?

8 A. It was a little bit after five.

9 Q. And at that time did you hear anything unusual?

10 A. No, no.

11 Q. And so after you went to the bathroom, did you go
12 back to bed?

13 A. Yes.

14 Q. Into bed with the dogs?

15 A. Yes.

16 Q. Did you fall asleep again?

17 A. I started to doze off. I wouldn't say I was in a
18 deep sleep. I started to doze off.

19 Q. What's the next thing you remember happening?

20 A. I hear a bang, my dogs start barking. And right
21 after that I heard another bang and I heard DEA, DEA search
22 warrant. And they rushed into the apartment.

23 Q. So let's slow that down for one second. You said
24 you heard a bang?

25 A. Yes.

1 Q. Now, was it surprising?

2 A. Yes.

3 Q. And then you said you heard another bang?

4 A. Right.

5 Q. Any memory as to how long between the two bangs?

6 A. It was like right away. It was like banging and my
7 dogs started barking. It was like, you know, I got scared
8 and end up second banging and the door swung open.

9 Q. The door to the apartment or the door to the
10 bedroom?

11 A. Well, the door to the apartment.

12 Q. How do you know it was the door to the apartment?

13 A. Because I heard the door break and -- once the door
14 broke, I heard DEA, you know, DEA search warrant. And I
15 was -- and they rushed in, into the room.

16 Q. Someone came into the bedroom?

17 A. A couple of them came into the bedroom.

18 Q. Do you remember if the bedroom door was open or
19 closed?

20 A. It was like this.

21 Q. So a bit ajar?

22 A. It was open just a little bit.

23 Q. When they came into the room, where were you?

24 A. I was laying in the bed.

25 Q. And was your attire the same, still the shirt and

1 the shorts?

2 A. Yes.

3 Q. And where was Jose?

4 A. In the bed.

5 Q. Did you notice whether he was waking up?

6 A. Yeah, we got up. I mean, we heard the banging.

7 Q. And did the dogs stay with you or did they go to
8 see what was going on?

9 A. No. My dogs started barking, you know, they were
10 on the bed. So when they started barking I just like, you
11 know like -- and one jumped off the bed to see and one of the
12 agents said -- he asked if my dog would bite him. And I was
13 like no. Just don't hurt my dogs. They bark. They bark at
14 any little noise that they hear, they're going to bark.

15 Q. You mentioned the bed a few times. Describe the
16 bed for us.

17 A. It was an air mattress.

18 Q. No frame?

19 A. No. It wasn't anything like that.

20 Q. Did you sleep on it both nights?

21 A. Yes.

22 Q. You mentioned there was a TV, there was a laundry
23 basket. Was there any other furnishings or items in the
24 room?

25 A. No, there was nothing else. Like furniture wise

1 there was the television and the air mattress.

2 Q. The bags that you had brought with you, where were
3 those?

4 A. The basket was right on the right-hand side when
5 you walk into the room, and then I had like a little duffel
6 bag like this with like personal items like shampoo.

7 Q. Where was that?

8 A. Right next to -- if I was laying on the bed, it
9 would be right in front.

10 Q. Now a second ago you said the laundry basket was on
11 the right-hand side of the room?

12 A. Right.

13 Q. Is that from you sitting in the bed or is that as
14 you're entering?

15 A. No. If I'm standing in the doorway to the room,
16 it's right there. I'm sorry. On the left-hand side of the
17 room. I'm sorry.

18 Q. That's fine. So you said they come into the room.
19 Can you tell us about their appearance?

20 A. They were -- they had masks on, they had street
21 clothes on. They just kept yelling where's the guns, the
22 drugs, and the money.

23 Q. Do you remember how many people?

24 A. I want to say three or four of them went into the
25 room. One was standing like in the doorway.

1 Q. And you said their guns were drawn?

2 A. Yes.

3 Q. Do you remember anything about the guns?

4 A. One was a real big one with a light on it. That
5 was the bigger agent. He had the mask on. Like the ski
6 mask.

7 Q. And then the other agents or law enforcement,
8 whatever they were, were they wearing baseball hats?

9 A. They were in street clothes. They weren't like in
10 a uniform. They just had, you know, regular street clothes.
11 I remember one having like jeans and sneakers.

12 Q. And they were asking you questions. Did you
13 respond when they asked questions?

14 A. Yes.

15 Q. Do you remember anything about what you said?

16 A. When they came into the room I was -- and they kept
17 asking me where's the drugs and the money, and I'm like I
18 don't know what you're talking about. And then they just
19 kept yelling, you know, repeating the same thing just over
20 and over. And then they took me out of the bed.

21 Q. Let me stop you for one second. They were asking
22 where's the drugs. When you had gone to bed that night, do
23 you remember seeing anything that looks like drugs?

24 A. Nothing.

25 Q. So you didn't see anything that looked like drugs

1 out in the room?

2 A. No.

3 Q. Do you remember what the -- seeing any large
4 quantities of money out in the room?

5 A. No.

6 Q. The laundry basket, were there clothes in the
7 laundry basket?

8 A. Yes, there was.

9 Q. And were you using it to dump in dirty clothes or
10 to bring clean clothes?

11 A. No, that was clean clothes. It was neatly
12 folded.

13 Q. Who folded it?

14 A. I did.

15 Q. Had you folded it in Reading?

16 A. Yes.

17 Q. When you came to West Haven, you brought the
18 laundry basket in?

19 A. Yes.

20 Q. Did you make any changes to it while you were
21 there?

22 A. No.

23 Q. Whose clothes were in the laundry basket, do you
24 remember?

25 A. It was mine and some of my husband's.

1 Q. So they come into the room. Where's the drugs,
2 where's the money. Do you remember them saying anything
3 else?

4 A. The guns.

5 Q. Had you seen any guns?

6 A. No.

7 Q. What happens next?

8 A. They go -- one agent said to us like don't move.
9 Like we need to see your hands. And I remember the one agent
10 approached my husband and said to you, oh, Wilson. And I
11 looked at him and I'm like, that's not Wilson, you know. And
12 that's when they took my husband out of the bed and took me
13 out. They searched me. They searched my husband. They
14 handcuffed me and they took me to the living room.

15 Q. You said that's not Willson. Did you actually say
16 that out loud or was that something that went through your
17 mind?

18 A. No, I said that. But they were still yelling so I
19 don't know if he actually heard. But I said that's not
20 Wilson.

21 Q. Now, do you know a Wilson?

22 A. Yes.

23 Q. Who's that?

24 A. Wilson is my brother-in-law.

25 Q. Is that Jose's brother?

1 A. Yes.

2 Q. And are you aware of whether he has a case that's
3 pending in the Federal Court?

4 A. Yes.

5 Q. So they came into the room, they asked questions.
6 They tell you to show them your hands. How did they get you
7 out of the bed?

8 A. Well, I had my hands like this. He grabbed me by
9 my arm, put me on the ground, you know, and put the handcuffs
10 on me.

11 Q. When you had your hands like this, were you still
12 sitting in the bed or were you sitting up?

13 A. No, I was still in the bed. Because when they came
14 in yelling, you know, they were like don't move. And that's
15 exactly what we did. We didn't move.

16 Q. And when you say they put you on the ground, what
17 way were you on the ground?

18 A. Face down.

19 Q. And --

20 A. They handcuffed me.

21 Q. They handcuffed you behind?

22 A. Yes.

23 Q. How did they get you off the ground?

24 A. The agent grabbed me by my arm, through here, and
25 stood me up.

1 Q. Were you hurt in the process?

2 A. No.

3 Q. Uncomfortable?

4 A. Scared.

5 Q. Do you remember whether you were crying at this
6 point?

7 A. I think I was in shock with everything going on.
8 Like I didn't know what was going on. So, you know, I'm
9 still just in shock, just scared, you know, all types of
10 emotions, like what's going on.

11 Q. Did you feel like you were in charge of the
12 situation or they were in charge?

13 A. No, they were in charge of the situation since they
14 came in.

15 Q. As this is going on with you, were you able to see
16 anything that was happening with your husband?

17 A. Yes.

18 Q. What did you see?

19 A. They took us both out to the living room.

20 Q. We're going to get to that. You're in the room.
21 You're getting cuffed, put on the floor, the whole thing. Do
22 you see --

23 A. They searched my husband. He didn't have too much,
24 but boxers and --

25 THE COURT: I'm sorry, I didn't hear you. You said

1 they searched my husband and I missed the last thing.

2 THE WITNESS: Like he didn't have no other clothes
3 on but boxers.

4 THE COURT: He just had boxers on?

5 THE WITNESS: Yes.

6 Q. And do you remember how they got him out of the bed
7 or anything like that?

8 A. Same way.

9 Q. What do you mean, same way?

10 A. Well, they took him by his arm, you know,
11 handcuffed. When I seen them put his hands like this, that's
12 when they put me down to the floor so. And after that I --

13 Q. So when you're face down you don't see?

14 A. No, because they had me on one side of the bed and
15 they had him on the other side.

16 Q. Then you said they took you out of the room?

17 A. Yes.

18 Q. When they take you out of the room, where is Jose,
19 does he come with you?

20 A. Yes.

21 Q. When they take you out of the room, where do they
22 put you?

23 A. In the living room.

24 Q. So looking, again, at Defendant's Exhibit B. At
25 this point are you able to see into the bedroom?

1 A. Yes.

2 Q. So are you standing roughly where this photo is
3 taken, somewhere different?

4 A. A little bit over to your right there's a wall
5 there, just a little bit over right there. They had my
6 husband on the left-hand on that wall.

7 Q. Out in the living area?

8 A. Yes.

9 Q. So is it accurate to say that you were closer to
10 the entry door into the apartment or were you on the other
11 side?

12 A. If you're looking at this picture and you see the
13 doorway there, right off to the side there is two windows and
14 then there's another wall that comes like that like facing
15 the door.

16 Q. So is that where you are, by those windows?

17 A. Yes.

18 THE COURT: Mr. Willson, I'm confused. Maybe you
19 can clarify a little bit.

20 MR. WILLSON: I think I have another picture that
21 will help quite a bit.

22 Q. I'll put in front of you a photo that's been marked
23 as Defendant's Exhibit G. Ask you to take a second look at
24 that.

25 Do you recognize that photo?

1 A. Yes.

2 Q. What is it?

3 A. That photo is being taken from the living room
4 area.

5 Q. And as we look at that photo, can you give us a
6 sense of where the entry door is to the apartment or the
7 bedroom?

8 A. Well, it's -- there's an entry door there because
9 you can go in through the kitchen, but there's one -- from
10 where this picture is taken the door is directly, if you walk
11 straight back, it's the bedroom. And if you walk back but
12 over to your left, would be the main door to come into the
13 apartment.

14 Q. Okay. So as we look at this photo and we see a
15 window and a doorway that looks like it goes to a balcony.
16 The entry door to the apartment would be to the left?

17 A. There is one there.

18 Q. The entry door that we've talked about them
19 breaking in?

20 A. No, it's not on this picture.

21 Q. But it's to the left around that picture?

22 A. No, it's back. If I'm standing here in the living
23 room, if this is the living room and I'm taking this picture,
24 right here is the doorway that they broke in, and right here,
25 right behind me is the door for the bedroom.

1 THE COURT: Are you going to offer that?

2 MR. WILLSON: I'll offer it as a full exhibit. I
3 don't know if that will help.

4 Mr. Hall: No objection.

5 THE COURT: Defendant's Exhibit G is full.

6 (Whereupon, Defendant's Exhibit G was marked in
7 full.)

8 BY MR. WILLSON:

9 Q. So this is looking away from near the entryway door
10 that we discussed?

11 A. Yes.

12 Q. I'm going to try again with Exhibit B.

13 Mrs. Vasquez, to the right in the picture is the
14 entryway door that was broken in, correct?

15 A. Yes.

16 Q. So were you put on the wall that's just off the
17 right, to the right of that picture?

18 A. Right to this picture is windows, but there's
19 another -- like those are the windows and there's another
20 wall here. That's where I was at.

21 Q. Were you able to see into the bedroom from that
22 perspective?

23 A. Yes.

24 Q. And meanwhile, your husband was away from you?

25 A. On the other wall to the left.

1 Q. So when you're out in the living area, at this
2 point do you have any sense of how many people are in the
3 apartment?

4 A. There was, I want to say, five, five or six of
5 them.

6 Q. Five or six law enforcement?

7 A. Yes.

8 Q. Other than the guy with the long gun and the mask,
9 they're all dressed roughly the same?

10 A. They all had street clothes.

11 Q. While you're out in this area, are they still
12 asking you questions?

13 A. When they had me up at the wall, the one agent was
14 asking me when did I get here and like where's my vehicle.

15 Q. Where are the dogs at this point?

16 A. When they came in they first came -- when the DEA
17 first came in, then like a couple minutes later one came in
18 with a dog, and my little dog went running, you know, like
19 going towards the dog, and he pushed the dog back. And
20 that's when one of the DEA let me grab my dogs and put them
21 all in the bathroom and shut the door.

22 Q. Which door ran at the DEA dog?

23 A. My teacup Maltese, she's like three pounds. She
24 went over.

25 THE COURT: Suicidal. Sorry.

1 Q. It's a brave dog.

2 A. She is.

3 Q. At that point you put the dogs in the bathroom and
4 they're sort of out of the scene?

5 A. Right.

6 Q. Until that, from the point where the agents broke
7 into the apartment until you're over the wall and you scoop
8 them up and put them away, did the dogs calm down or are they
9 acting crazy?

10 A. No, they're still barking. Not as much because now
11 we're up and they're in there with us, but they're still
12 barking. Because now they're walking back and forth. And
13 the little one, like I told you, she's really feisty. And,
14 you know, they're walking, they're going into the bedroom,
15 they're coming back out, you know, the high voices. They're
16 not used to that. So she's out of whack and just barking.

17 Q. Are the other two more just staying with you and
18 your husband?

19 A. They'll stay right next to us, yes.

20 Q. You two are split when you're out in the living
21 area. Are they going back and forth or staying with you?

22 A. What, the dogs.

23 Q. Yes.

24 A. Well, the little one was right next to my husband.
25 When the officer or the agent whatever came in with his dog,

1 that's when she started running towards.

2 Q. And so they bring in a dog. Do you remember what
3 kind of dog it was?

4 A. It was a big dog. I would say like a German
5 shepherd.

6 Q. What did they do with the dog?

7 A. They took the dog -- he stood standing right there
8 holding the dog, and I told him let me put the dogs away.
9 And I went and I put the dogs in the bathroom. Then they
10 came in. He took the dog into the room.

11 Q. Into the bedroom?

12 A. Yes. And he took the dog into the bedroom and he
13 has the dog like this, and then I see when he went like this,
14 like move the door, the closet door, and there was some
15 marijuana and he threw it on the floor, like throw it on the
16 floor. And he was like get it -- he was staying something
17 because I was like smell it, I guess, and then kept going
18 with the dog.

19 Q. So the agent found some marijuana in the closet?

20 A. He opened the closet door and he took it and he
21 threw it on the floor.

22 Q. How long from when he opened the closet door until
23 he seemed to find the marijuana? Was it like that?

24 A. It was on the shelf.

25 Q. Did you see him reach up?

1 A. Yeah. He went like this, I see him, you know,
2 going and throwing. Then he was like, look, Sarge, I guess
3 his boss was there, I don't know.

4 Q. And you see him trying to do something with the
5 dog, but you're not a dog professional, right?

6 A. Very far from that.

7 Q. You don't train dogs or anything like that?

8 A. No.

9 Q. Did the dog seem to get excited or show any
10 reaction to anything else?

11 A. Well, the dog was just like his tail was going, the
12 dog's tail's going, and he's going like this and taking the
13 dog around like the room.

14 Q. And was there any point where the dog -- your
15 impression was that the dog had found something or did that
16 not happen?

17 A. No, the dog didn't -- the dog was smelling the
18 marijuana that was on the floor that he took from the closet
19 and threw on the floor, that's what the dog was smelling.
20 But there was nothing else.

21 Q. At some point did you see the dog leave the
22 apartment?

23 A. Yes.

24 Q. When was that?

25 A. After he did that he came out with the dog and came

1 into the living room through the bedroom, and then they took
2 the dog out.

3 Q. Did they ask you any questions about jewelry or
4 anything else?

5 A. Yes.

6 Q. What did they ask you?

7 A. They asked me -- he said to me, oh, wow, look at
8 all that jewelry. And I said to him it's not a lot of
9 jewelry. Those are my wedding bands and my watch.

10 Q. Did they ask you about anything else?

11 A. The one agent asked me if they were real.

12 THE COURT: If what were real?

13 THE WITNESS: If my diamonds on my rings were real.

14 Q. When they were asking you these questions, were you
15 in the bedroom or out in the living area?

16 A. In the living room.

17 Q. Could you hear any of the conversation or anything
18 that was being said with your husband?

19 A. Well, my husband was -- they took my
20 husband -- they were in the room. And I can see the one
21 agent and -- one agent that's standing right next to me, he
22 says to me, because my husband got upset, and he said to me
23 your husband needs to calm down or they're going to take you
24 too. I said, take me where? He said they were going to take
25 me too. I said, take me where? So I see him -- the only

1 thing that's there right next to the door when you first come
2 in on your left-hand side is the basket and I seen him in
3 there. So they call my husband -- before -- I'm sorry.
4 Before that, I see an agent and he says -- my husband had
5 like the boxer shorts thing. They said that my husband has
6 shorts on. That is he had shorts on, you know, his boxer
7 shorts on. So they said something about clothes. And my
8 husband's pants were on top of the basket and I see the agent
9 grab the pants, they were rolled up, and he grabbed them like
10 this and he started shaking them upside down.

11 Q. You said they were rolled up. What do you mean
12 they were rolled up, the pants?

13 A. Just -- well, you roll them and put them in the
14 basket.

15 Q. Were they hanging over the side of the basket?

16 A. No, they were in the basket.

17 Q. Rolling up the pants, is that something that your
18 husband normally does?

19 A. That's a habit that my husband has.

20 Q. So you're not the one that puts it like that?

21 A. No.

22 Q. So they unroll the pants, they get the pants upside
23 down, they're shaking them, that you remember?

24 A. Yes.

25 Q. And do you remember anything coming out of the

1 pants?

2 A. Yes.

3 Q. What do you remember coming out of the pants?

4 A. Money.

5 Q. Anything else?

6 A. Again, the Agent said, that was in the room doing
7 that, you know, shaking the pants he said, look, Sarge, it's
8 just money.

9 Q. Did he say anything else at that time?

10 THE COURT: Did he say anything else at that time?

11 THE WITNESS: No.

12 Q. Do you remember anything else falling out of the
13 pants?

14 A. No.

15 Q. As that's happening where the pants are being
16 unrolled, shaken, where is your husband?

17 A. They have him in the living room.

18 Q. So he's not in the bedroom?

19 A. No.

20 Q. The agent that's shaking the pants, is he the only
21 one in the room?

22 A. Him and another one was standing in the doorway
23 like off to the side. You know, he was in the room, but not
24 like --

25 Q. Looking at Exhibit B, is he --

1 A. He's standing like where the door is in the
2 bedroom, right there.

3 Q. So right in the doorway?

4 A. Right.

5 Q. And is there another agent that's right on his
6 shoulder looking over him?

7 A. No, no. Just the one -- the other one that was in
8 the room shaking the pants.

9 Q. There's an agent with you?

10 A. Yes.

11 Q. And is there an agent with your husband?

12 A. Yes.

13 Q. Is there a fifth agent wandering around
14 somewhere?

15 A. There was a gentleman, I want to say maybe he was
16 their boss or supervisor, because every time when he shook
17 the pants that the money came out he was like look, boss, I
18 found this.

19 Q. So he was brought over after that was found?

20 A. Yes.

21 Q. Before that was found, do you remember where he
22 was?

23 THE COURT: Where he?

24 Q. The guy that seemed like the boss was?

25 A. He was right there in the living room.

1 THE COURT: In the living room?

2 A. Yes, in the living room.

3 Q. Before that, did you notice them finding anything
4 else that seemed to generate some interest?

5 A. After he grabbed the pants and they were shaking
6 them, he was in the basket.

7 Q. What do you mean he was in the basket?

8 A. He was in the basket. I don't know what he was
9 looking for in the basket. But he was in the basket. He
10 pulled out something blue like this, like a little bag. I
11 wouldn't say it was a bag. It looked like something where,
12 you know, you keep pencils.

13 Q. Pencil case?

14 A. Yeah, something like that.

15 Q. And had you seen that blue bag on top of the
16 basket?

17 A. No, it wasn't on top of the basket. I didn't see
18 that.

19 Q. As best you recall, from the time they broke into
20 the apartment until this point of the story, do you have any
21 sense of how long that was time-wise, how much time had gone
22 by?

23 A. Like 20 minutes maybe. I'm not sure of the time
24 but...

25 Q. Going back to when they came into the apartment,

1 you said there was a bang, there was a bang, and then DEA,
2 DEA search warrant?

3 A. Uh-huh.

4 Q. Do you remember hearing any words before the
5 bangs?

6 A. No, there was no words. There was nothing. I
7 didn't hear no words. I didn't hear no noises of them coming
8 up the steps, because my dogs would have start barking right
9 away. Like I only heard when they hit the door.

10 Q. In between the two bangs, you made it sound like
11 bang, pause, bang. Do you remember hearing any words then?

12 A. No.

13 Q. And at this point the air-conditioner was off?

14 A. Yes.

15 Q. At any point did you -- did anyone ask you whether
16 they could search the apartment?

17 A. No.

18 Q. Okay. Do you remember anyone asking your
19 husband?

20 A. No.

21 Q. Go ahead.

22 A. What I heard was my husband was in the living room
23 and I was in the living room, and the one I guess they were
24 calling Sarge, he took my husband into the room and I hear my
25 husband get upset and I hear him say to my husband you need

1 to sign this. And my husband is what is it? He's like
2 permission for search warrant. My husband said get me out of
3 here, you don't have a search warrant. You have a body
4 warrant. Like they didn't have no search warrant. They
5 wanted my husband to sign the paper after they already had,
6 you know, went into the closets and went into that -- my
7 husband got upset. He was just like just get me out of
8 here.

9 Q. At that point your husband is saying just get me
10 out of here, did they stop looking around?

11 A. Yes.

12 Q. What happens next?

13 A. They take me -- two agents take me downstairs.

14 Q. Are you still in cuffs?

15 A. Yes.

16 Q. They take me downstairs and they're like what car
17 did you come in. And I said, I just came in this car. And I
18 showed them, you know, the Honda that I came in. And he
19 said -- when I showed him the car he was like where's the
20 secret compartment? And I'm like I don't know about no
21 secret compartments. There's no secret compartments. He
22 said there's a secret compartment in here and I'm going to
23 find it. I said okay. So they unlocked the car, two agents
24 went into the vehicle --

25 Q. Did you say go ahead and look into the car?

1 A. No, I never told them to search the car, because
2 they asked me what car did I come in. So, you know, I'm
3 thinking they brought me downstairs to see what car, you
4 know, I came in. I don't know -- I never been in a situation
5 like that so I didn't know. So I showed them the vehicle.
6 They open the car. I'm standing there. There's three
7 agents, because there was one downstairs. Two of them get in
8 the car, the other one takes everything out of the trunk, and
9 the one is still yelling at me there's a secret compartment
10 and I'm going to find it. And I'm like there is no secret
11 compartment.

12 Q. Did you actually say that out loud?

13 A. Yes. He's yelling at me to tell him where the
14 secret compartment is and I'm telling him there is no secret
15 compartment. I said, what are you talking about? And he got
16 like a little upset. And he was like, you know, don't play
17 dumb with me. You know what I'm talking about. And I'm
18 like -- now by this time I'm crying, because he wants me to
19 show him something that I don't know, you know, and I know
20 there's nothing wrong with the car. I just brought the
21 vehicle with me. The vehicle was with me. And he said to me
22 if I open the trunk of this car and there's anything in here,
23 you're going too. So they open the trunk and they start
24 searching.

25 Q. Did you say go ahead and open the trunk?

1 A. No, I didn't tell them nothing. I didn't say
2 anything. He said he was opening the car. They opened the
3 vehicle, they went into the vehicle. They searched the
4 vehicle. They found nothing in the vehicle beside like a
5 bunch of like junk. You know, stuff that I keep like
6 detergent and stuff like that in the trunk of the car, a shoe
7 here or there. Some dog food. That's basically what it was.
8 And he said to me, well, the car is gone.

9 Q. What did that mean?

10 A. That he was taking the car.

11 Q. Did he take the car?

12 A. He took the car. He said to me who owns it. By
13 this time from him being so, you know, yelling, like by this
14 time I wasn't scared anymore. I said to him the car is not
15 even ours. We owe the vehicle. He was asking me who owned
16 the car. And I said to him we owe the vehicle, like we're
17 making payments on it. And he said, well, the car is mines.
18 And that's it. They took me back upstairs.

19 Q. And they drove off with the car?

20 A. Yes.

21 Q. Did you ever get the car back?

22 A. I got the car back like maybe like a month -- maybe
23 a little bit longer than a month I got the vehicle back.

24 Q. And when you got it back, was the stuff still in
25 it, the random shoe, dog food?

1 A. Yes.

2 Q. Was anything taken out of the car, do you know?

3 A. The only thing that I didn't find was like the
4 registration and, you know, the proof of insurance card.
5 They gave me a copy of it, but they never gave me the
6 registration to the vehicle.

7 Q. Where's that car now, is it in Pennsylvania?

8 A. No, I have the vehicle with me.

9 Q. You used it to drive back to Connecticut to
10 court?

11 A. Yes.

12 Q. At the point where they're taking you outside, do
13 you know what's happening with your husband? Do you
14 remember?

15 A. When they took me outside they had him inside when
16 they took me downstairs. When they took me back upstairs, my
17 husband was still upstairs.

18 Q. Did you ever see them remove him from the
19 apartment?

20 A. Yes.

21 Q. Was it while all this stuff was going on with the
22 car or was that over with?

23 A. No. After everything went on with the vehicle that
24 they took me outside and they searched the vehicle, they took
25 me back upstairs. And by the time I got upstairs maybe they

1 were there like a couple of minutes and then they took my
2 husband. And the officer took the cuffs off of me and they
3 left.

4 Q. The agent that was searching the car -- how many
5 were searching the car?

6 A. Two.

7 Q. Did they give you any contact information about how
8 to follow-up on the car?

9 A. No. The one agent said to me that your husband
10 will be in court like around one o'clock. I don't remember
11 exactly the time, but that day he would be in court. But
12 they didn't give me no information on, you know, you can do
13 this to get the vehicle back or call this place, this is
14 where the vehicle will be at. Nothing.

15 Q. Do you remember the names of any of the agents that
16 morning?

17 A. No.

18 Q. Do you remember the name of the agent that you
19 dealt with later on trying to get the car?

20 A. I don't remember his name.

21 Q. Now, we were here about 10 days ago, 12 days ago
22 for a hearing. At that point you were pretty sick, right?

23 A. Yes.

24 Q. What was going on?

25 A. I had an abscessed tooth.

1 Q. And I don't know if -- were you able to recognize
2 any of the other people that were here that day for court?

3 A. Yes.

4 Q. Do you remember anybody in particular?

5 A. The shorter gentleman with his hair like to the
6 side. That really narrows it down. I'm sorry. I'm sorry.
7 I'm sorry.

8 Q. Whatever your best recollection is you were about
9 to say. Who do you recognize him as being?

10 A. One of the agents that was at the house.

11 Q. So just the one?

12 A. And the one that came in the suit. I'm sorry. You
13 know, that night before I was in the hospital so I had
14 medication and I was like really drowsy, but I remember, you
15 know, seeing one or two of them.

16 MR. WILLSON: Your Honor, if I could just have a
17 moment?

18 THE COURT: Sure.

19 Q. When did you get the dogs out of the bathroom?

20 A. After they left.

21 MR. WILLSON: I have nothing further, Your Honor.

22 THE COURT: Cross-examination.

23 MR. HALL: May I inquire, Your Honor?

24 THE COURT: You may.

25 CROSS-EXAMINATION

1 BY MR. HALL:

2 Q. Good morning.

3 A. Good morning.

4 Q. So you said, I think, that you and your husband had
5 been having some difficulties or something?

6 A. Yes.

7 Q. So that you were residing primarily in
8 Pennsylvania?

9 A. Yes.

10 Q. Reading?

11 A. Yes.

12 Q. And on July 15th, as of that morning when all these
13 happened that you just described for the court, obviously you
14 were in West Haven?

15 A. Yes.

16 Q. And you got to West Haven the day before that, is
17 that fair to say?

18 A. Right.

19 Q. So you stayed in that apartment the night of the
20 arrest, right?

21 A. Uh-huh.

22 Q. And then the night before that also?

23 A. Yes.

24 Q. And before that, what date -- how far before that
25 did you arrive in Connecticut?

1 A. The night that I stood there, I want to say this
2 happened the 15th. I got there the 14th. I came in, it was
3 like seven something in the evening.

4 Q. So that evening you got there at 7 p.m. and you
5 stayed overnight there, right?

6 A. Yes.

7 Q. And nothing happened?

8 A. No.

9 Q. And then the next night is when all these things
10 happened?

11 A. Yes.

12 THE COURT: Can I just really nail that down because
13 now I'm a little confused.

14 The arrest happens on the 15th?

15 THE WITNESS: Yes.

16 THE COURT: You arrive at 7 p.m. on the evening of
17 the 13th?

18 THE WITNESS: Yes.

19 THE COURT: Got it. Sorry, Mr. Hall.

20 MR. HALL: Thank you, Your Honor. That's helpful
21 actually for all of us.

22 BY MR. HALL:

23 Q. So before July 13th, when was the last time that
24 you were in Connecticut?

25 A. I want to say like a week before that I had came

1 out hoping to spend a couple of days with my husband and got
2 into an argument and went back home.

3 Q. So did you stay over on that visit?

4 A. I was there just for one night.

5 Q. And where did you stay that night?

6 A. In the hotel.

7 Q. Did your husband stay with you?

8 A. Yes.

9 Q. And you had an argument?

10 A. And I left.

11 Q. And then you left.

12 Okay. Before that one day that you were in
13 Connecticut with your husband, before that, when was the last
14 time that you were in Connecticut?

15 A. I don't remember specific dates.

16 Q. A week, two weeks, a month, two months?

17 A. No. Maybe like a week or two.

18 Q. Before July 13th, had you ever stayed in that
19 Washington Avenue apartment?

20 A. No.

21 Q. When did you learn that that apartment was
22 available for you and your husband to stay in?

23 A. When I got to -- when I got to -- when I came into
24 Connecticut that night.

25 Q. When you came to Connecticut that night, where did

1 you come to?

2 A. Well, the day that I got there I came to the
3 apartment. I went to the apartment. You know, I met up with
4 my husband. We had gotten something to eat. And I was -- we
5 got something to eat that day, we went to Wal-Mart, and I
6 thought we were going to the hotel.

7 Q. All right. Let me understand this. You said you
8 got to Connecticut at about 7:00, p.m. on the 13th, right?

9 A. Uh-huh.

10 Q. So where did you meet up with your husband?

11 A. At my mother-in-law's.

12 Q. And where's that?

13 A. In New Haven.

14 Q. Do you know the address?

15 A. Blatchley.

16 THE COURT: Blatchley Avenue?

17 A. Yes. I'm not sure.

18 THE COURT: I don't want to put words in your
19 mouth.

20 A. No, it was Blatchley Avenue.

21 Q. And that's the home of his mother?

22 A. Yes, my mother-in-law.

23 Q. So you got there around seven you say?

24 A. Yes.

25 Q. And after that you went and got something to eat?

1 A. Yes.

2 Q. Just the two of you?

3 A. Yes.

4 Q. Where did you go?

5 A. I want to say in West Haven when you're going to
6 the beach there's a place there. Chuck's -- what's it
7 called -- I don't know the name of it.

8 THE COURT: Chick's?

9 THE WITNESS: There you go.

10 THE COURT: Again, I don't want to put words in your
11 mouth.

12 THE WITNESS: I'm sorry, I'm not from here. Again,
13 I'm not from Connecticut.

14 Q. It's kind of a hot dog and fried seafood place?

15 A. Lobster roll. And then we went to Wal-Mart. And
16 then that's when I thought we were going to the hotel, that's
17 when I learned of the apartment.

18 Q. When you drove to your husband's mother's house
19 from Pennsylvania --

20 A. Yes.

21 Q. -- what were you driving?

22 A. 2010 Honda Accord.

23 Q. Is that the car that you said the agents took?

24 A. Yes.

25 Q. And to your knowledge, had that car been in

1 Connecticut before?

2 A. It was there before because I had drove in it.

3 When I was there the week before it was there.

4 Q. And between -- now you're not sure when the

5 time -- withdrawn.

6 You came on the 13th?

7 A. Uh-huh.

8 Q. You think you came about a week before?

9 A. Uh-huh.

10 Q. Did you come in that car at that time too?

11 A. Yes.

12 Q. But in between those two days, that car was with
13 you in Pennsylvania?

14 A. Yes.

15 Q. And then before that time around the 6th or so,
16 maybe?

17 A. I'm not sure of the dates.

18 Q. Somewhere around there, right?

19 A. Uh-huh.

20 Q. Before that, the car was with you in
21 Pennsylvania?

22 A. Yes.

23 Q. Was the car ever here in Connecticut with your
24 husband?

25 A. No.

1 Q. Without you?

2 A. No, not without me.

3 Q. That was your car?

4 A. Yeah.

5 Q. You owed it, but --

6 A. Yeah.

7 MR. WILLSON: Your Honor, a belated objection. To
8 say was it ever in Connecticut without her, there's no time
9 frame on that.

10 THE COURT: It's overruled.

11 BY MR. HALL:

12 Q. I asked was it ever. I meant what I said. And she
13 answered I think.

14 And did you drive, the time that you came on the
15 13th?

16 A. Uh-huh.

17 THE COURT: You've got to say yes or no, ma'am.

18 A. Yes.

19 Q. When you drove from Pennsylvania, did you have your
20 three dogs with you?

21 A. Yes.

22 Q. So when you drove over to your husband's mother's
23 house, the three dogs were in the car?

24 A. Yes.

25 Q. And when you went out to eat in West Haven, did you

1 bring the dogs with you?

2 A. Yes.

3 Q. So they were in the car?

4 A. They were in the car.

5 Q. So while you ate they were out in the car?

6 A. Uh-huh.

7 Q. Did you go straight from Chick's, if that's what it
8 was? Because there's another place with lobster rolls right
9 near there that's better than Chick's, cost more, but it's
10 better. But did you go straight to the apartment?

11 A. I had to stop at Wal-Mart.

12 Q. So you did stop at Wal-Mart. And the dogs were in
13 the car?

14 A. Yes.

15 Q. Did your husband come in with you at Wal-Mart?

16 A. Yes.

17 Q. So you guys left the dogs in the car?

18 A. Uh-huh.

19 Q. And then did you go straight to the apartment from
20 Wal-Mart?

21 A. Yes.

22 Q. Did you leave the dogs in the car?

23 A. No. The dogs came inside with me.

24 Q. And you had never seen this apartment before, is
25 that right?

1 A. No.

2 Q. And you indicated that what you found upstairs was
3 an air mattress?

4 A. Yes.

5 Q. Was there any other furniture?

6 A. A little maybe like a 23 inch little TV, plasma TV,
7 and an air-conditioner.

8 Q. And the air-conditioner?

9 A. That's it.

10 Q. Nothing else there?

11 A. Nothing else.

12 Q. Okay. And the night that you spent there on the
13 13th was uneventful? Nothing happened?

14 A. No, nothing happened.

15 Q. Where did the dogs sleep that night?

16 A. They sleep with me, always.

17 Q. And nothing disturbed them?

18 A. No.

19 Q. Did you get up and turn the air-conditioner off
20 that night?

21 A. Yes, because it gets cold.

22 Q. And the following day when you guys got up, what
23 did you all do that day?

24 A. On the 14th?

25 Q. Yes.

1 A. On the 14th, we got up because the landlord was
2 fixing the apartments downstairs and my dogs -- he must have
3 got there early, and my dogs got up, it was like seven maybe,
4 seven something, they heard a noise and they started barking.
5 We got up and took our shower, went to have breakfast.

6 Q. Did you go somewhere to have breakfast?

7 A. I don't know the name of the place, but I did.

8 Q. But you went somewhere?

9 A. Yes.

10 Q. You did not have food at the house, right?

11 A. No.

12 Q. Did you take the dogs?

13 A. No.

14 Q. Where did you put the dogs?

15 A. The dogs were in the apartment.

16 Q. So you left the dogs in the apartment?

17 A. Yes.

18 Q. And you went to someplace to get food?

19 A. Uh-huh.

20 Q. And you don't remember where?

21 A. Copely's, Cody's.

22 Q. Are you familiar with New Haven generally?

23 A. No.

24 Q. Cody's. And both of you went, you and your husband
25 went?

1 A. Yes.

2 Q. And you both went in the Honda Accord?

3 A. Yes.

4 Q. And after going to Cody's, where did you go?

5 A. We took my mother-in-law some coffee. We went to
6 my mother-in-law's house.

7 Q. On Blatchley?

8 A. Yes.

9 Q. And then where did you go?

10 A. We were there for a while.

11 Q. And then you left at some point, right?

12 A. Yeah, to C-Town.

13 Q. And that's a grocery store, right?

14 A. Yes.

15 Q. So the dogs are still at the apartment?

16 A. Yes.

17 Q. And you went to C-Town, and then where did you
18 go?

19 A. We went to C-Town and came back, because we were
20 cooking out outside of my mother-in-law's house.

21 Q. Is it fair to say that you spent most of the day at
22 your mother-in-law's house?

23 A. Yes.

24 Q. And did you go -- when you left your
25 mother-in-law's house for the day, do you know what time you

1 left, roughly?

2 A. No, I don't remember exactly.

3 Q. Did you have dinner there?

4 A. Yes.

5 Q. So early evening, would that be fair to say that
6 you left?

7 A. Probably.

8 Q. And where did you go from your mother-in-law's
9 house?

10 A. We went to the apartment.

11 Q. Directly?

12 A. Yes.

13 Q. And did you leave the apartment again that
14 evening?

15 A. No.

16 Q. So when you got back the dogs were still there?

17 A. Yes.

18 Q. And that evening at the apartment -- well,
19 withdrawn.

20 When you were at your mother-in-law's house, did
21 you have anything to drink like alcohol?

22 A. No.

23 Q. And when you went to the apartment afterwards for
24 the evening, did you have anything to drink there?

25 A. No.

1 Q. Did your husband?

2 A. No.

3 Q. Had your husband had anything to drink at his
4 mother's house?

5 A. No.

6 Q. Do you know what time you went to bed?

7 A. I don't remember the exact time, but my husband
8 usually falls asleep before me.

9 Q. Before midnight would you say?

10 A. He definitely was asleep before midnight. I
11 wasn't.

12 Q. When you say he falls asleep, would it be fair to
13 say he falls asleep in the bed watching TV?

14 A. Yes.

15 Q. And you'd be there with him with the dogs?

16 A. Right.

17 Q. After he fell asleep, would you close up the
18 apartment?

19 A. I double-check it. My husband's good with doing
20 that as soon as we walk in.

21 Q. But turn off the lights before you went to bed?

22 A. Right.

23 Q. And the dogs would then be with you and your
24 husband on the night on the 14th in that bedroom?

25 A. Yes.

1 Q. Now, the following morning you woke up you said to
2 go to the bathroom?

3 A. Yes.

4 Q. And on that trip to the bathroom, you turned off
5 the air-conditioner?

6 A. Yes.

7 Q. How long does it take you to get to the bathroom
8 from the bedroom?

9 A. Maybe a distance from where I'm sitting at to the
10 edge of this counter thing right there.

11 Q. Over here?

12 A. Probably, yeah.

13 Q. So like 20 feet, something like that?

14 A. Yes.

15 Q. A few steps, right?

16 A. Yes.

17 Q. If you had to get to the bathroom in a hurry, you
18 could get there very quickly, right?

19 A. Yes.

20 Q. And, in fact, the apartment itself is rather small,
21 isn't that so?

22 A. Yes.

23 Q. So to get from one room to another it's, again, a
24 matter of a couple of steps?

25 A. Right.

1 Q. And then you said that -- and then you went back to
2 sleep, right?

3 A. Yes.

4 Q. And you did fall asleep?

5 A. Started dozing off, yes.

6 Q. But you hadn't completely fallen asleep, is that
7 fair to say?

8 A. I wasn't in a deep sleep, no. I have problems
9 sleeping. So I wasn't really in a deep sleep, but my eyes
10 were closing, I was dozing off.

11 Q. It's fair to say that you were not wide awake at
12 that point?

13 A. Yes.

14 Q. And is that the point at which you heard the
15 banging?

16 A. Yes.

17 Q. And when you heard the banging, did you sit up in
18 the bed?

19 A. It happened so fast I was just like started to come
20 up, but by the time I started to sit up they were already in
21 the apartment, you know.

22 Q. Now, when you told the Judge what happened before
23 you said that there was a loud knock or bang, and then there
24 was silence, right?

25 A. It was bang, bang.

1 Q. It was bang?

2 A. Bang.

3 Q. No noise in between the two bangs?

4 A. No noise.

5 Q. And is it your testimony that you only heard these
6 guys, these agents who came into your apartment, you only
7 heard them yell police with a warrant or whatever it was that
8 they yelled, you only heard that after all the bangs were
9 done?

10 A. Once they were in the apartment.

11 Q. That's when you heard them say that?

12 A. Yes.

13 Q. Now, you remember making an affidavit in this case,
14 right?

15 A. Yes.

16 Q. And when you made the affidavit, was Mr. Willson
17 there? When you signed the affidavit that you made, was Mr.
18 Willson there?

19 A. I don't remember.

20 MR. WILLSON: Your Honor, the affidavit can speak
21 for itself.

22 THE COURT: Don't read it. Don't do that. Just
23 object. It's overruled. I want the questioning to
24 continue.

25 A. I don't remember.

1 Q. Do you know where you were when you signed it?

2 A. I want to say in Pennsylvania.

3 Q. Would it be fair to say that he mailed you a copy
4 of the affidavit or that someone did? Did you receive it in
5 the mail?

6 A. I didn't receive it in the mail. I want to say
7 maybe an email.

8 Q. An email?

9 A. Yes.

10 Q. So the first time that you saw the affidavit was
11 when you received it as an email?

12 A. Yes.

13 Q. And before you saw that affidavit, did you have
14 occasion to speak to anybody about it?

15 A. Yes.

16 Q. Did you understand the purpose of the affidavit?

17 A. He said to me it was just stating what had
18 happened.

19 Q. Right. So did he ask you to tell him what
20 happened?

21 A. Yes.

22 Q. And did you understand that what you were telling
23 him was important?

24 A. Yes.

25 Q. This was important to your husband's case, right?

1 A. Right.

2 Q. And so when you told him what happened, did you use
3 any notes or anything like that?

4 A. No.

5 Q. This was all right out of your memory, right?

6 A. Yes.

7 Q. But as you did it, did you try to tell him what
8 happened as best you could remember it?

9 A. Yes.

10 Q. And were there points, without getting into exactly
11 what he said to you, but were there points as you told him
12 what happened where he asked you questions, follow-up
13 questions?

14 A. Yes.

15 Q. Yes. And so he might ask for more detail on
16 something or other?

17 A. Yes.

18 Q. Might he have asked you whether you're sure about a
19 certain item?

20 A. He didn't say nothing to me about no item. He
21 just, you know, if he would ask me a question like, you know,
22 what was in the bedroom, you know, are you sure, something
23 like that he would say, yes.

24 Q. So he would from time to time ask you to clarify
25 what you were telling him?

1 A. Yes.

2 Q. Did you have an understanding that he was creating
3 for you an affidavit from what you were telling him?

4 A. Yes.

5 Q. And was it your understanding that he was going to
6 then send that affidavit to you so that you could sign it?

7 A. Yes.

8 Q. And that you would swear to the truth of everything
9 that was in the affidavit?

10 A. Yes.

11 Q. So you wanted to make sure that it was right when
12 you told him this stuff, right?

13 A. Right.

14 Q. And was this on the telephone?

15 A. When I spoke to him, yes.

16 Q. And how many times did you speak to him on the
17 telephone?

18 A. A couple of times.

19 Q. You think two?

20 A. Two, three, yes.

21 Q. Two or three?

22 A. Yes.

23 Q. Do you recall how long these conversations were?

24 A. Maybe five, ten minutes, if that.

25 Q. So two or three conversations, five, ten minutes a

1 piece?

2 A. Yes.

3 Q. Did you tell him, as best you could recall,
4 everything that happened the night of the 15th and the
5 morning of the 15th, you know, when all these things happened
6 to you, in the first conversation that you had with him on
7 the telephone?

8 A. Yes.

9 Q. And so in the second conversation, did he go back
10 over what you had already told him?

11 A. He asked me, you know, questions, you know, like,
12 oh, I forgot to ask you this, you know. Like, for example,
13 like the door. Like I had explained to him that they had
14 came in through the door that was in the living room that we
15 seen in the pictures. And he asked me about the other door
16 that's in the kitchen. That there's another entrance through
17 the side. Stuff like that.

18 Q. But he gave you an opportunity to provide more
19 information on the second conversation?

20 A. Basically what he was asking was the same questions
21 that he asked me the first time.

22 Q. So as I said in the first place, you went back
23 through it? You went back through the material in the
24 affidavit?

25 A. Yes.

1 Q. And when you were finished, did he -- well,
2 withdrawn.

3 Did he read you what was in the affidavit at that
4 point?

5 MR. WILLSON: Objection. At which point are we
6 talking about?

7 MR. HALL: During the second conversation at any
8 point.

9 MR. WILLSON: Objection, that's a compound question,
10 during the second conversation or at any point.

11 MR. HALL: Excuse me.

12 THE COURT: Withdraw the question. Try one more
13 time.

14 Q. At any point during the second conversation, did he
15 read the affidavit to you?

16 A. No.

17 Q. So at that point you still hadn't seen it or heard
18 what was in it?

19 A. No. He had said that he was going to send me, you
20 know, the email. He said if I had any questions or anything
21 to give him a call.

22 Q. And then after that second conversation, you may
23 have had a third conversation?

24 A. Yeah. I told him that I received it.

25 Q. Let me stop you there. So after the second

1 conversation, you received --

2 A. The email.

3 Q. The affidavit by email?

4 A. Yes.

5 Q. And did you read that affidavit?

6 A. Yes.

7 Q. And did it appear to you to be correct?

8 A. Yes.

9 Q. Did it appear to you to be complete?

10 A. Yes.

11 Q. And after that, did you speak to Mr. Willson about
12 the contents of the affidavit that you had in front of you
13 now?

14 A. Yes.

15 Q. How many times?

16 A. I spoke to him -- because I had had a problem with
17 my emails, told him that I had received the email and I had
18 to go in front of a notary.

19 Q. But how many times did you speak to him by phone
20 once you had a copy of the affidavit?

21 THE COURT: Up until today?

22 MR. HALL: Withdrawn. Fair enough.

23 Q. So you received a copy of the affidavit?

24 A. Uh-huh.

25 Q. Did you speak to him again on the telephone?

1 A. Yes.

2 Q. And what did you speak to him about?

3 A. He asked me if I received the email, and I told him
4 yes. And he said to read over it. And he said to me that I
5 needed to go to a notary to get it signed, you know, and I
6 told him okay.

7 Q. So after you received the affidavit, did you make
8 any changes to it?

9 A. No.

10 Q. So when you read it, it was complete and
11 accurate?

12 A. Yes.

13 Q. And then you signed it in front of a notary in
14 Pennsylvania?

15 A. Yes.

16 Q. Now, do you recall stating in your affidavit that
17 at 5:47 --

18 A. Yes.

19 Q. -- you awoke to a loud bang?

20 A. Yes.

21 Q. So based on what you swore to in your affidavit,
22 you were asleep when the banging started, right?

23 A. I was dozing. If that's what you want to call it,
24 sleeping. I was dozed off.

25 Q. Well, I'm asking because in your affidavit you said

1 you awoke.

2 MR. WILLSON: Your Honor, I object.

3 THE COURT: One person at a time. Let Mr. Willson
4 state his objection.

5 MR. WILLSON: She stated on direct, she stated on
6 cross that she went back to bed, she dozed off.

7 THE WITNESS: I was dozing off.

8 THE COURT: Wait, wait. I have to rule on the
9 objection, ma'am.

10 I'm going to overrule the objection. I understand
11 the point. I'm going to overrule the objection.

12 Continue your questioning.

13 Q. So at 5:47 you were asleep and then woke up,
14 right?

15 A. I wasn't in a deep sleep. I wasn't in a deep
16 sleep, because I had been up to use the restroom. I wasn't
17 in a deep sleep. Was I wide awake? No, I wasn't.

18 Q. How did you know it was 5:47?

19 A. Because I have a thing where I get up and the first
20 thing I do is I look at my cell phone.

21 Q. And where was your cell phone?

22 A. Next to me.

23 Q. Where?

24 A. On the floor.

25 Q. So is it fair to say then when you heard this loud

1 banging, the first thing you did was not to start to get up
2 in bed as you just told the Judge, but was to reach over to
3 the side of the mattress?

4 A. I looked -- no -- when I heard the banking -- when
5 I heard the banging I went. So when I looked, you know, my
6 phone's right there on the floor. So I can see my phone.
7 But by then, you know, it was like bang, bang. It was so
8 fast. It was fast. You know, the two bangs were fast. It
9 wasn't like I had enough time to be, okay, let me get up, the
10 bangs were fast and they were in there. And when I looked, I
11 seen my phone, I had it set up sitting up like that so I
12 could see the time, and it was 5:47 in the morning.

13 Q. So when you woke up the bangings were in
14 progress?

15 A. Yes. That's what woke me up. You know, that's
16 what got me up, like completely up when I heard the bang.

17 Q. But until the bang that woke you up, you were
18 asleep, right?

19 A. Okay. If that's what you want to say that I was
20 sleeping.

21 Q. I don't want to say anything. I'm asking you.

22 A. I said I wasn't in a deep sleep, but I wasn't fully
23 awake. So if he's going to call it sleeping, okay. You
24 know, I'm just --

25 Q. Do you recall saying in your affidavit that after

1 hearing those bangs you heard shouts of DEA, DEA, search
2 warrant?

3 A. Yes.

4 Q. And do you recall stating in your affidavit that
5 after that --

6 MR. WILLSON: Objection, that misstates what it
7 says.

8 THE COURT: Don't say what it says. He's going to
9 rephrase the question. So I'll sustain the objection. I'm
10 going to let him rephrase the question. Don't comment
11 further, please.

12 MR. WILLSON: Your Honor --

13 THE COURT: Don't comment further. Sit down.

14 MR. WILLSON: Well, I have another objection.

15 THE COURT: No. Sit down, Mr. Willson. I do not
16 want you talking about the affidavit.

17 I'll sustain the objection. Please rephrase the
18 question.

19 MR. HALL: Yes, Your Honor.

20 BY MR. HALL:

21 Q. Do you recall stating in your affidavit they banged
22 on doors two times, breaking through and went into the
23 apartment?

24 A. Yes.

25 Q. After you heard shouts DEA, DEA, search warrant --

1 MR. WILLSON: Objection, it mischaracterizes.

2 THE COURT: The objection's overruled. The question
3 that was asked was simply after you heard search warrant.
4 The question, so we're clear, does not relate to the
5 affidavit. The question simply is after you heard search
6 warrant. If you understand the question, you can answer it.
7 If you don't understand the question, let him know that.

8 A. After the two bangs I heard the door was broken, I
9 heard DEA, search warrant.

10 Q. And then you heard bangs after you heard DEA,
11 search warrant?

12 A. No. There was no DEA -- no voices, no noises were
13 made until they were in the apartment.

14 Q. Then do you recall -- I'm going to ask you again
15 because I'm not really understanding. Do you recall stating
16 in your affidavit that at 5:47, a.m. I awoke to loud
17 banging?

18 A. Yes.

19 Q. Do you recall stating in your affidavit then I
20 heard shouts of DEA, DEA, search warrant?

21 A. Uh-huh.

22 THE COURT: You've got to say yes or no, ma'am.

23 A. Yes.

24 Q. Do you recall stating they banged on doors two
25 times breaking through and into the apartment?

1 A. Yes.

2 THE COURT: Did you say yes to that?

3 A. Yes.

4 Q. And is that true?

5 A. Yes. But I heard DEA after the two bangs, they
6 were already in the apartment.

7 Q. I'm just asking you if what you said in your
8 affidavit was true?

9 A. Yes, it is.

10 Q. You said that one of the guys had a long gun?

11 A. Yes.

12 Q. Can you describe it?

13 A. It was just a big gun and it had like a little
14 light on it.

15 Q. What color was the light?

16 A. I don't know, red, blue. I don't remember. Red or
17 blue.

18 Q. Could it have been red?

19 A. Could have been.

20 Q. Could have been blue?

21 A. It could have been.

22 Q. Could it have been white?

23 A. No.

24 Q. It was red or blue?

25 A. Yes.

1 Q. And do you recall saying in your affidavit that
2 they came racing into the room with their guns drawn and
3 laser sightings pointing around the room?

4 A. Yes.

5 Q. And that's true, right?

6 A. Yes.

7 Q. And why did you call those lights laser sightings?

8 A. Because that's what it is, they're laser lights.

9 It's like one of those little laser lights.

10 Q. Have you ever used a firearm yourself?

11 A. Yes.

12 Q. Have you ever used a firearm with a laser sight?

13 A. No.

14 Q. Have you ever seen a firearm with a laser sight for
15 real aside from this one maybe?

16 A. No.

17 Q. So how did you know they were lasers?

18 A. I watch a lot of movies, action movies, you know,
19 that's how I know.

20 Q. Now, once the men were in your bedroom where you
21 and your husband were, you said that they got you out of bed,
22 right?

23 A. Yes.

24 Q. They put you on the floor?

25 A. Yes.

1 Q. And they cuffed you?

2 A. Yes.

3 Q. And then they brought you into the living room, is
4 that right?

5 A. Yes.

6 Q. And you said that they did the same with your
7 husband?

8 A. Yes.

9 Q. So there was no one left in the bedroom, right?

10 A. No. Just the two officers.

11 THE COURT: Give me one second, please. Give me one
12 second, I'm sorry.

13 We'll take a recess in about on two minutes but go
14 ahead, you can keep going.

15 MR. HALL: Thank you.

16 Q. So they had you and your husband both in the living
17 room?

18 A. Yes.

19 Q. Where was Carlos?

20 A. They had him in the doorway.

21 Q. What doorway?

22 A. In the doorway to the room. In the living
23 room -- I'm sorry. In the living room you see in the
24 pictures that they show you, when you show me the picture and
25 I said straight is the bedroom, right off of that to the left

1 there's a door there and that's the other bedroom. Like
2 literally you walk out and like turn like that and that's the
3 other bedroom from the bedroom we were at. He was there.

4 Q. So Carlos would be on his way into the kitchen
5 basically?

6 A. No, that would be the living room.

7 Q. I'm sorry, the living room.

8 These are all really close together?

9 A. Yes, that's right.

10 Q. You're in the living room and you can take three
11 steps and you're in the kitchen, right?

12 A. Yes.

13 THE COURT: Can I clarify just for my own mind. So
14 as I understand it, officers brought you and your husband
15 from the bedroom into the living room. At that point you saw
16 Carlos in the doorway between the other bedroom and the
17 living room.

18 THE WITNESS: Yes.

19 THE COURT: All right. We're going to take our
20 recess. 15 minutes.

21 (Recess.)

22 THE COURT: Be seated, please.

23 Mr. Hall, cross-examination, please.

24 CROSS-EXAMINATION (Continued)

25 BY MR. HALL:

1 Q. Showing you Defense Exhibit B. And that's a view
2 of the inside of the apartment, right?

3 A. Yes.

4 Q. And after you -- well, when they cuffed you, when
5 they put handcuffs on you, you were on the floor, is that
6 right?

7 A. Yes.

8 Q. Did they cuff you in front of you or behind your
9 back?

10 A. Behind my back.

11 Q. And you said earlier that they led you outside in
12 cuffs?

13 A. Yes.

14 Q. So between the time they cuffed you in the bedroom
15 and when you got outside, all the way outside of the
16 apartment, you were cuffed the whole time?

17 A. Yes.

18 Q. And when did they release you?

19 A. After we came from downstairs from them
20 being -- from us being downstairs where the car was, they
21 took me back upstairs and then they took the handcuffs off of
22 me upstairs. That's when they led my husband out.

23 Q. You said at one point -- well, withdrawn.

24 When you saw the police officer bring a dog in?

25 A. Yes.

1 Q. Were you in handcuffs or not?

2 A. Yes.

3 Q. So you had not gone outside yet, right?

4 A. No.

5 Q. And you said that your dogs, one of your dogs,
6 reacted to the police dog?

7 A. Yes.

8 Q. Kind of went over to it?

9 A. Yes.

10 Q. And you said you gathered them up and put them in
11 the bathroom?

12 A. Yes.

13 Q. While you had your hands cuffed behind your back?

14 A. That's when one of the agents helped me, then he
15 put the handcuffs here in the front. He put the handcuffs in
16 the front. Then he left them like that, you know, the rest
17 of the time. So I can grab my dogs so I could put help in
18 the bathroom.

19 Q. You gathered them up and put them in the
20 bathroom?

21 A. Yes.

22 THE COURT: Can I just get that. So first you were
23 cuffed behind your back?

24 THE WITNESS: Yes.

25 THE COURT: Then the German Shepherd comes?

1 THE WITNESS: Uh-huh.

2 THE COURT: Your dog is approaching?

3 THE WITNESS: Yes.

4 THE COURT: Then the agents take or an agent takes
5 off the cuffs and recuffs you in front?

6 THE WITNESS: He took one cuff off and put it here,
7 and I grabbed the dogs and I put them in the bathroom and I
8 shut down the door.

9 THE COURT: And then you were recuffed?

10 THE WITNESS: Yeah, I was recuffed. And I was right
11 there in the living room.

12 THE COURT: At that point the cuffs were behind your
13 back or in front?

14 THE WITNESS: No. After I put the dogs in the
15 restroom, the cuffs, they left them in the front.

16 THE COURT: Got it. Thank you.

17 Go ahead, Mr. Hall.

18 Q. They stayed in the front?

19 A. Yes.

20 Q. Now, showing you Defense Exhibit B. You said that
21 after you were cuffed you were led out of the bedroom,
22 right?

23 A. Yes.

24 Q. And were you led to the area that's over to the
25 right of this photograph?

1 A. Yes, to the wall, right behind.

2 Q. Would you be basically standing almost in the
3 doorway that they had breached?

4 A. No. Over more, because I could see directly into
5 the room.

6 Q. Over more which way, looking at the photograph?

7 A. If we're looking at the photograph, just say -- the
8 picture that we have here, it's right in front of me.
9 There's a wall there that has two windows and there's another
10 wall there, and I was on that wall.

11 MR. HALL: If I could just explore this for a
12 moment, Judge?

13 THE COURT: Yes, go ahead.

14 Q. Using this photograph as your point of reference.
15 Okay?

16 A. Yes.

17 Q. The door that they came in through is to the right,
18 correct?

19 A. Yes.

20 Q. Were you standing over in this area to the right?

21 A. No.

22 Q. Were you back a ways, almost as though you had
23 taken this photograph?

24 A. Right.

25 Q. So you'd be staring directly at that window, is

1 that right?

2 A. Right.

3 Q. So you're staring into the bedroom or you could be
4 if you wanted to?

5 A. Right.

6 Q. Staring into the bedroom you could see the
7 window?

8 A. Yes.

9 MR. HALL: Can I get this marked?

10 THE COURT: Go ahead. This would be Government's 12
11 for ID for the moment.

12 Q. Showing you Government's Exhibit 12 for
13 identification. Do you recognize that?

14 A. Yes.

15 Q. Is that the interior of the third floor apartment
16 at 112 Washington?

17 A. Yes.

18 Q. And does this show the door that the agents came in
19 through?

20 A. Yes.

21 Q. So does this photograph show the area where you
22 were standing that you were just trying to describe to me
23 right now?

24 A. No.

25 Q. And you were farther -- using the photograph here,

1 Government's Exhibit 12 for identification -- I'll offer it,
2 Judge.

3 THE COURT: Is there any objection to 12 for ID?

4 MR. WILLSON: No, Your Honor. I actually handed it
5 to Mr. Hall.

6 THE COURT: That will be full, Government's 12.

7 (Whereupon, Government's Exhibit Number 12 was
8 marked in full.)

9 THE COURT: Go ahead.

10 Q. You would have been standing to the left side of
11 this photograph, is that right?

12 A. Little bit to the left but, like I keep saying,
13 there's a wall. The living room, it's a box, the shape of a
14 box. When the door's right here, that's the windows that you
15 can see in the picture that you just took off. And then
16 there's another wall, and I'm against that wall there. I'm
17 sorry.

18 Q. It's okay. So going back to Defendant's Exhibit B,
19 the windows that you're talking about would be all the way to
20 the right of that picture, right?

21 A. Yes.

22 Q. And the wall that you're talking about would
23 be -- if you walked in the front door as depicted in Defense
24 Exhibit B, would you be looking at the wall that you're
25 talking about?

1 A. Yes.

2 Q. So your back would be to that wall, is that fair to
3 say?

4 A. Yes.

5 Q. And your husband was there also?

6 A. On the other wall.

7 Q. Let's stick with this one. So we got this wall,
8 your back is against it. Where's Carlos?

9 A. He's like in the doorway.

10 Q. Of the other bedroom?

11 A. Of the other bedroom, yes.

12 Q. And standing where you were, that would be sort of
13 off to your left and in front of you?

14 A. Yes.

15 THE COURT: Can I just ask. Is that doorway
16 something we see in the lower left-hand corner?

17 THE WITNESS: Yes.

18 THE COURT: Sorry to interrupt you.

19 MR. HALL: That's perfect, Your Honor.

20 Q. So that's where Carlos was?

21 A. Yes.

22 Q. And you testified earlier that you saw one of the
23 officers go into the closet in the bedroom?

24 A. Yes.

25 Q. And reach into the closet?

1 A. When I looked -- the door was closed, and he opened
2 the door to the closet.

3 Q. From where you were standing, as you just showed us
4 using Exhibit B, you could see through the doorway?

5 A. Yes.

6 Q. And the officer was inside the room?

7 A. Yes.

8 Q. And the officer was behind the door and to the wall
9 on the right?

10 A. No. You see where the door's open, if you walk a
11 couple foot steps more the closet's right there.

12 Q. On the right?

13 A. Yes, on the right.

14 Q. And in this photograph it's not visible, is it?

15 A. No.

16 Q. Could you see the closet door?

17 A. I could see because I was standing --

18 Q. Could you see the closet door from where you were
19 standing?

20 A. Yes.

21 Q. You could. Okay. And is it your
22 testimony -- withdrawn.

23 Is it your testimony then that you were standing in
24 such a way that you had an angle so that you could see
25 through the door and to the right?

1 A. Yes. I was standing -- there's like the doorway to
2 go to the kitchen. From the wall that we already narrowed it
3 down, that wall, there's a doorway there. So I was right
4 there. So I could see directly straight into the room.

5 Q. Straight into the room. But I'm asking you could
6 you see the wall that the closet was on?

7 A. Yes. It's right there on the right-hand side.

8 Q. On the right-hand side?

9 A. Yes.

10 Q. In this picture here, Exhibit B, you can't see the
11 wall, right?

12 A. No. But if you push the door back, if you would
13 push the door back, all the way back, you could see.

14 Q. You could see what?

15 A. You could see -- because the closet sits back just
16 a tiny built. If you were to push the door back completely,
17 like just say the door handle's hitting the wall, you could
18 see.

19 Q. Hit the door of the closet?

20 A. No, the door of the closets are not like that. The
21 doors of the closets are like sliding doors.

22 Q. So this door here in Exhibit B opens farther than
23 is shown?

24 A. Yes, it does.

25 Q. You can open it farther?

1 A. A little bit farther, yes.

2 Q. But you were standing in such a way that you had an
3 angle so that you could see to the right of the room and see
4 the closet, is that what you're saying?

5 A. Where I'm standing from because, the door was open
6 completely, I could see. I could see where the agent was. I
7 can see. He was right directly in front of me. I could see.
8 I could see the door to the closet.

9 Q. Okay. So you could see to the right of the open
10 bedroom door from where you're standing?

11 A. Right.

12 Q. You also said that at some point you saw one of the
13 officers doing something in the laundry basket?

14 A. Yes.

15 Q. Is it your testimony that from where you were
16 standing, so that you could see the right side wall in that
17 room, you could also see around the corner to the left? I
18 just want to ask you that, is that what you're saying?

19 A. No, that's not what I'm saying. That's not what
20 I'm saying.

21 Q. Are you saying that you could see the laundry
22 basket from where you were standing?

23 A. That's the only thing that was in there. In that
24 corner. There was nothing else there.

25 Q. Excuse me. Are you saying that you could see the

1 laundry basket from where you were standing?

2 A. I couldn't see the laundry basket, no.

3 THE COURT: You could or not know?

4 THE WITNESS: I could not see the basket.

5 THE COURT: Okay. Wait for a question now. He's
6 going to ask another question.

7 Q. So you couldn't see the basket?

8 A. No.

9 Q. So when you said that you saw an officer going
10 through the basket, you could not see the basket, right?

11 A. No.

12 Q. You could see the officer?

13 A. Uh-huh.

14 Q. Was he kneeling down?

15 A. Yes.

16 Q. Could you see what he was doing?

17 A. I seen his hands moving. There's nothing else
18 there but the basket.

19 Q. His hands were in the basket, right?

20 A. Yes.

21 Q. And you say you saw his hands moving?

22 A. No, no, no. I seen his hands moving because where
23 he's at, he's like kneeling down like this. I see his body
24 and the basket's right here. This is the doorway and the
25 basket's right there. There's nothing else there in the

1 apartment.

2 Q. So you assume that he was doing something in the
3 basket because the basket was the only thing there, right?

4 A. I didn't assume that. I knew he was in the basket
5 because that's where he pulled my husband's pants from.

6 Q. You saw him go into the basket to get your
7 husband's pants, is that right?

8 A. That's where my husband's pants were at.

9 Q. So you saw him at the laundry basket?

10 A. Uh-huh.

11 Q. Couldn't see exactly what he was doing, right?

12 THE COURT: Is that yes or no?

13 A. Yes.

14 Q. And he came up with the pants?

15 A. Yes.

16 Q. Then he shook the pants?

17 A. Yes.

18 Q. Stuff came out of them?

19 A. Yes.

20 Q. Was that in the kitchen or in the bedroom?

21 A. No, in the bedroom.

22 Q. Was it right in the doorway?

23 A. Yes. The basket was right there. Like, it's right
24 there. If you turn and the basket is right there at the
25 doorway.

1 Q. The basket is right around the corner from the
2 doorway, right?

3 A. Yes.

4 Q. He shakes the pant in the doorway and stuff falls
5 out of it?

6 A. Yes.

7 Q. I thought you testified that somebody went back to
8 the basket, is that right? Did you see an officer approach
9 that basket after the stuff came out of the pants?

10 A. When the money came out of the pants that he shook
11 them he said, look, Sarge. And then the other one went
12 towards the basket.

13 Q. And you were still standing in the same --

14 A. I'm still standing in the same place. The agents
15 are standing next to me. I'm handcuffed. I can't move
16 anywhere.

17 Q. And the guy with the pants is in the doorway, is
18 that fair to say?

19 A. He wasn't in the doorway. He was like this -- just
20 say this is the doorway, he's right there. He's right
21 there.

22 Q. Would that be inside the room slightly and a little
23 bit to the left?

24 A. When he stood up -- when he stood up he was like
25 this. When he stood up -- this is the doorway right here.

1 When he stood up and he stepped back, that's when he grabbed
2 the pants and he started shaking them.

3 Q. So he was in the doorway and you could clearly see
4 him?

5 MR. WILLSON: Objection. He's already said he
6 wasn't in the doorway although it sounds like he's close.
7 Rather than characterize the testimony.

8 THE COURT: I'll overrule it. I think it's
9 accurate, but I'll overrule it. Go ahead, you can ask the
10 question.

11 Q. So he was not right in the doorway, he was a little
12 bit in the room, is that fair to say?

13 A. Yes, he was in the room.

14 Q. But he was framed by the doorway, is that fair to
15 say? He's standing -- I'm trying to understand where he was
16 when he shook the pants.

17 A. He was in the room. Like right in the room. This
18 is the doorway and this is the doorway and I'm here. From
19 here to here. Like he's in the room. He's not standing like
20 this is the doorway, you know.

21 Q. He's not standing in the doorway, he's in the
22 bedroom?

23 A. Right.

24 Q. But looking at him from where you were standing,
25 you saw him through the doorway?

1 A. Yes.

2 Q. Right there in front of you through the doorway?

3 A. Yes.

4 Q. And where's the other one?

5 A. He's in the room.

6 Q. Where in the room?

7 A. I seen him there. I seen, you know, the officer
8 that got the pants to shake. The other one was in the room.
9 Must have been off some like, but he was in the room. I
10 didn't see him right there.

11 Q. So what did you see -- now, that officer,
12 did -- withdrawn. Withdrawn.

13 The guy with the pants, the officer with the pants,
14 after he shook them out, did you see him go back to the
15 basket?

16 A. He went back into the room to pick up the money
17 that was on the floor.

18 Q. And your testimony is there was nothing but
19 money?

20 A. On the floor, yes. That's what fell out of my
21 husband's pants.

22 Q. That's what you saw?

23 A. Yes. And change.

24 Q. You didn't see a little black bag?

25 A. No. I didn't see that fall out.

1 Q. And you didn't see any packaged heroin?

2 THE COURT: Pack of what?

3 Q. Packaged heroin.

4 A. I never seen drugs in there.

5 Q. Have you ever seen packaged heroin?

6 A. No.

7 Q. No?

8 A. No.

9 Q. So did you see anybody approach the laundry basket
10 after the pants were shaken?

11 A. The officer that was in the room.

12 Q. What did you see?

13 A. He was in the room. When the agent shook the pants
14 that that fell out, the money fell out and stuff, I seen the
15 other one there, that's when he said to the Sarge, look,
16 Sarge, you know. And then from there the other one bent
17 down, picked something up, but I didn't notice what it was,
18 and that's when he said to me, he started asking me about the
19 car.

20 Q. So when you say that -- you remember stating in
21 your affidavit I saw them start to search the basket as they
22 were removing me and my husband from the bedroom?

23 A. Yes.

24 Q. Who did you see start to search the basket?

25 A. The agent with the ski mask on, you know, because

1 one had a ski mask on.

2 Q. I thought you said all of them did.

3 A. No, not all of them.

4 Q. Just one?

5 A. That was the one with the real big gun. And
6 another one that was downstairs when they took me
7 downstairs.

8 Q. So the one that was in the room with the big gun
9 with the mask, you saw him search the basket?

10 A. Uh-huh.

11 Q. Where were you standing when that happened?

12 A. I was coming out of the room. When he approached
13 the basket -- when he approached the basket because he
14 noticed what my husband had on was like, you know, like
15 pajama shorts, real shorts and a tank top. He approached the
16 basket. That's when he handcuffed me, that's when he was
17 walking out.

18 Q. Correct me if I'm wrong, but I thought you
19 testified earlier that you were handcuffed before you were
20 led out of the bedroom, right?

21 A. Yes.

22 Q. And you were put in the kitchen or the living room
23 against that wall that we talked about a lot in Exhibit B,
24 right? Right?

25 A. Yes.

1 Q. And it was after that that you saw someone
2 searching the basket, is that right?

3 A. When they -- they led me out of the room first.
4 They had my husband was coming out, like they would bring him
5 out, and I seen one of the agents, you know, my husband's
6 pants were there.

7 Q. Right. You said that you were at that wall and you
8 saw through the doorway one of the agents kneel down in front
9 of where you knew the basket to be?

10 A. Right.

11 Q. You didn't see what he did in the basket?

12 A. No.

13 Q. But he came up with the pants?

14 A. Right.

15 Q. Which you knew were in the basket, right?

16 A. Right.

17 Q. You had seen them in the basket, right? Did you
18 put them there?

19 A. No, my husband did.

20 Q. He rolls up his pants and puts them where he wants
21 to put them, right?

22 A. Yes.

23 Q. So you saw that officer -- you didn't see him take
24 it off the basket, but you saw him shake the pants out,
25 right?

1 THE COURT: Is that a yes?

2 A. Yes.

3 Q. And after that you're saying -- tell me, is it your
4 testimony that you saw someone search the basket?

5 A. The other agent went into the basket. There's no
6 other reason for you to kneel down there. There's nothing
7 else there.

8 Q. Excuse me. I'm asking you what you saw.

9 A. I told you what I saw. I saw the one agent grab
10 the pants, shook them out. Then he yelled look, Sarge, you
11 know, the money's on the floor. And then the other one came
12 and went in the basket. Something fell. And then I'm still
13 standing there. And we were all standing in the living room
14 by then.

15 Q. And what I'm asking you is how do you know that
16 anyone else went into the basket if you couldn't see the
17 basket from where you were standing?

18 A. What do you think he would have been doing standing
19 in the corner? There's nothing there. It's different when
20 you visit someone and they have a lot of furniture. There
21 was a basket, an air mattress, and a TV. There's nothing
22 else there.

23 Q. I would have to assume, because I wouldn't be able
24 to see.

25 A. But I'm saying there was nothing else there.

1 There's nothing else, you know, there. It's just the basket,
2 the air mattress, and the TV. That's it.

3 Q. I get it. But are you saying that you did or did
4 not actually see someone --

5 A. I seen him go toward the basket. The basket was
6 there.

7 Q. Did you see anyone searching through the basket?

8 A. The one agent that took my husband's pants. The
9 agent that took my husband's pants.

10 Q. And he took the pants off what you said was the top
11 of the basket, right?

12 A. The top of the basket. It was in the basket.

13 Q. And then shook them out?

14 A. Shook it out.

15 Q. But after that, did you see anyone go through that
16 basket?

17 A. The other agent came towards where the basket was
18 at and kneeled down there.

19 Q. Yes. And did you see him go through the basket?

20 A. I seen him at the basket. That's where I seen
21 him.

22 Q. Did you see him go through the basket? Is that a
23 no?

24 A. No.

25 Q. Thank you. Now, you said that after all that

1 happened they brought the drug dog into that room?

2 A. Yes.

3 Q. Do you recall saying in your affidavit about the
4 dog, it did not leave the living room?

5 A. It went into the -- the officer that came in -- the
6 agent that came in with the dog, he went into the room.

7 THE COURT: Which room?

8 A. Into the bedroom we were at. And if you would have
9 pushed that door back a little more, you could see the doors
10 to the closet. He went there -- that's where I seen him
11 standing. He was like this with the dog and the other hand
12 he went like this. I know, I was looking straight at him.

13 Q. You told the Judge earlier that one of them brought
14 a police dog into the bedroom?

15 A. Uh-huh.

16 THE COURT: Is that a yes?

17 A. Yes.

18 Q. Do you recall stating in your affidavit about the
19 dog, the police dog?

20 A. Yes.

21 Q. It did not leave the living room?

22 A. No. The dog went into the room.

23 Q. So you were mistaken in your affidavit, is that
24 fair to say?

25 A. The dog went into the room because, like I said

1 earlier, he went into the room and the officer opened the
2 closet door, he found something small like this, which was
3 marijuana, and he threw it on the floor and he kept telling
4 the dog to smell it.

5 Q. It's not true that the dog did not leave the living
6 room, right?

7 A. The dog went into the room.

8 Q. Into the bedroom?

9 A. Yes.

10 Q. You didn't mention in your affidavit what you told
11 the Judge this morning about your three little dogs being
12 there. Why not?

13 A. What, that my dogs were there?

14 Q. Yes.

15 A. I don't know.

16 Q. You don't know?

17 A. I don't know. I didn't tell him about the dogs.

18 They didn't ask me. They asked me who was there. When
19 they asked me who was there, I said me, my husband, and
20 Carlos.

21 Q. No, no.

22 A. Is that what you're saying?

23 Q. No. When you made your affidavit, you didn't
24 mention your three little dogs were there. That's right,
25 right?

1 A. Right.

2 Q. You didn't mention that one of your dogs had kind
3 of an issue with the police dog?

4 A. Right.

5 Q. You didn't mention, did you, that you were recuffed
6 with your hands in front of you?

7 MR. WILLSON: Objection. Are we talking about in
8 the affidavit or in preparation for the affidavit?

9 MR. HALL: All in the affidavit.

10 MR. WILLSON: Just about what's in the affidavit.
11 Okay.

12 Q. You didn't mention that you got recuffed with your
13 hands in front of you so you could take care of your dogs,
14 right, that wasn't in your affidavit?

15 A. No.

16 Q. And in your affidavit you didn't say that the
17 police dog went into the bedroom, right?

18 A. Right. Yes.

19 Q. And you didn't say in your affidavit that you
20 couldn't actually see anybody searching through the laundry
21 basket, right?

22 A. Excuse me.

23 Q. You did not say in your affidavit that you could
24 not see anybody searching through the laundry basket,
25 right?

1 A. No.

2 Q. You did not?

3 A. No.

4 Q. The last time you were here was for a hearing in
5 this case, right, last time you were in this courtroom?

6 A. Yes.

7 Q. Between that time and today, did you discuss your
8 affidavit with anybody?

9 A. No.

10 Q. Nobody?

11 A. No.

12 Q. Didn't discuss it with Mr. Willson?

13 A. No.

14 Q. Not once?

15 A. No.

16 Q. After you received the affidavit from Mr. Willson
17 by email, did you discuss that affidavit with anybody?

18 A. No. I'm sorry, no.

19 MR. WILLSON: Is that other than me or?

20 THE COURT: I think the question was anybody. The
21 question was: After you received the affidavit from Mr.
22 Willson by email, did you discuss that affidavit with
23 anybody? And your answer was no. I'm sorry, No. Are you
24 satisfied with that answer?

25 THE WITNESS: No, just the day that he sent it, that

1 Mr. Willson sent it to me, you know, we spoke about that.

2 Q. Other than Mr. Willson, after you received that
3 affidavit from Mr. Willson, did you discuss it with anybody
4 except Mr. Willson?

5 A. No.

6 Q. You never discussed it with your husband?

7 A. No.

8 MR. WILLSON: Objection, Your Honor, to the extent
9 there's a spousal privilege, I don't know that this
10 circumstances would waive the conversation.

11 THE COURT: She said no.

12 MR. HALL: That was the question. Thank you.

13 MR. WILLSON: Before we go down that road.

14 Q. And after the hearing last time we were here, I
15 know you were sick so you really -- I'm glad you're better.
16 Did you discuss what happened at the hearing with your
17 husband?

18 A. No. I'm assuming I wasn't allowed to know
19 anything, because they didn't let me in the courtroom.

20 Q. So no?

21 A. No.

22 Q. Did you discuss what happened here last time with
23 Mr. Willson?

24 A. No.

25 Q. And you didn't say in your affidavit, did you,

1 anything about there being marijuana in the apartment?

2 A. No.

3 Q. And you didn't say in your affidavit, did you,
4 anything about a police officer sweeping marijuana off a
5 shelf so it went on the floor?

6 A. I didn't say nothing. I didn't use no words about
7 sweeping. I seen him open the closet, reach like that, and
8 then he threw, you know -- I know it's marijuana now. I
9 didn't know it was marijuana then.

10 Q. How do you know it's marijuana now?

11 A. Because you just -- we were talking about it
12 here.

13 Q. I think you brought it up on direct.

14 A. Right. When the -- exactly. When the officers
15 came in and he took the dog, he went into the room. He went
16 like that. I didn't know that the marijuana was there. I
17 didn't know that that was marijuana. You understand? I
18 didn't know what he had thrown on the floor.

19 Q. Then why did you describe it as marijuana?

20 A. Because then the officer said something. The
21 officer said to me and asking the money, when we were
22 downstairs he kept asking me where's the stash box. Is there
23 marijuana, is there drugs, is there money in the car too. He
24 kept asking me the same thing.

25 Q. Why did you decide that whatever he did that you

1 didn't see him do in the closet?

2 A. What do you mean I didn't see him do? I did see
3 him reach his hand into the closet.

4 Q. You saw his hand in the closet?

5 A. I seen his hand go into the closet.

6 Q. You saw his hand inside the closet? You saw his
7 hand?

8 A. Yes.

9 Q. From where you were standing?

10 A. Yes.

11 Q. Okay. And you saw him remove something?

12 A. Right. And throw it on the floor.

13 Q. Throw it on the floor. And instruct the dog to
14 smell it or something?

15 A. Uh-huh.

16 Q. And you told the Judge that was marijuana?

17 A. Uh-huh.

18 Q. How do you know that?

19 A. Because when the officers took me downstairs --
20 when the officer took me downstairs he said to me is there
21 drugs in this car. If there's drugs in this car, marijuana,
22 do you smoke -- he asked me too, he asked me if I do drugs.
23 And I said, no, I don't do no drugs. I said I drink
24 occasionally. He was asking me questions like that. And he
25 was like, well, you're sure you don't smoke marijuana because

1 we have, you know, he kept asking me. And I told him no. I
2 said why do you keep asking me. And he's like there's
3 marijuana. Are you telling me you didn't see the marijuana?
4 No, I didn't see it. My stuff was still, you know, in my
5 bag.

6 Q. Did anybody go through your bag?

7 A. No, not my bag.

8 Q. Why did you decide that whatever the officer
9 said --

10 A. Maybe I shouldn't have believed him then.

11 Q. Are you saying that the officer told you --

12 A. The officer said to me downstairs is there more
13 marihuana. And I said, what are you talking about. He kept
14 saying about the drugs. He said we found marijuana. You
15 know you have the good cop and the bad cop. Well, of course
16 the bad cop was telling me don't be dumb, you know what we
17 found.

18 Q. So your testimony is that you learned that there had
19 been marijuana in the closet --

20 A. When I went downstairs.

21 Q. From the police officers?

22 A. When I went downstairs. That's why he was asking
23 me if there was marijuana or drugs in the car.

24 Q. But you're saying that that's how you learned about
25 it?

1 A. Yes, that's how I found out that's what it was.

2 MR. HALL: I don't have anything further, Your
3 Honor.

4 THE COURT: Is there any redirect?

5 MR. WILLSON: Just a bit, Your Honor.

6 THE COURT: Before you proceed, just housekeeping.
7 Did we ever get a signed affidavit? I know originally it was
8 unsigned because you were rushing to get the motion filed. I
9 don't know if you actually filed the signed affidavit.

10 MR. WILLSON: Your Honor, my recollection is that I
11 did. And if I didn't, I certainly can correct that.

12 THE COURT: Do you have an extra one for me? It's
13 on the docket, Dan? Okay. Then forget it.

14 MR. WILLSON: I think I filed it.

15 MR. HALL: I have the one that's on the docket
16 because I printed it out from the docket and it's not a
17 signed affidavit.

18 THE COURT: The one that's attached to the motion is
19 not signed and that was indicated in the brief.

20 Dan, can you just check the docket for me.

21 You can proceed, Mr. Willson, we'll take it up
22 later.

23 REDIRECT EXAMINATION

24 BY MR. WILLSON:

25 Q. Mrs. Vasquez, just a couple of questions. You had

1 testified during cross-examination about how you had been
2 awoken the first morning by the landlord and a lot of
3 banging?

4 A. Right.

5 Q. When you woke up the second morning, was that the
6 first thing to come to mind?

7 A. I thought it might have been, you know, like the
8 landlord fixing the apartments. You know, the whole building
9 was empty.

10 Q. Is that why you checked your clock, to see what
11 time this crazy landlord was starting construction?

12 A. I got up to use the restroom. And when all the
13 stuff went on, I remember looking over and that's what it
14 was.

15 Q. About your dogs. If someone just knocks at the
16 door, do the dogs react?

17 A. My dogs react to a car door slamming, yes.

18 Q. How do you they react if the car door's slamming?

19 A. They go crazy. They start barking. Any noise.

20 MR. WILLSON: If I could just have a second?

21 THE COURT: Yes.

22 MR. WILLSON: Nothing further, Your Honor.

23 THE COURT: You can step down.

24

25

1 MR. WILLSON: Your Honor, it's okay if she stays in
2 the courtroom at this point?

3 THE COURT: Yes. So as I indicated last time --
4 and, Dan, we do have the signed affidavit on the docket?

5 THE CLERK: Yes.

6 THE COURT: As I indicated last time, we'd have some
7 argument on the cases. I've read them. I don't really have
8 a lot of questions, to be honest with you. I asked my law
9 clerk to email you one case from the Second Circuit called
10 *Weaver*, and there's a case from the First Circuit -- I think
11 there's actually two cases from the First Circuit that seem
12 to point the other way. And neither of those cases are cited
13 in the briefs as I recall. So I wanted to at least give
14 counsel a chance to address those cases.

15 Mr. Willson, would you like to start?

16 MR. WILLSON: Sure, Your Honor. I had a chance to
17 look at *Weaver* which is the D.C. case, *Pelletier* from the
18 First Circuit. There's another case I think called *Jones*
19 that might be the other one. And I have to agree they
20 definitely go in sort of opposite directions. The one thing
21 I noticed about *Pelletier* in particular was that it involved
22 the service of a warrant, I think on a parolee. And no
23 matter what circuit you're in, I think it's generally
24 understood that parolees have a lesser expectation of privacy
25 in their residences, in their cars, whatever it is that's

1 about to be searched. So I think that's an important factor.
2 Obviously, I like the *Weaver* case less. I don't think that's
3 a surprise. But I think the reason why it's more important
4 here is because of the timing of the events.

5 When we had, I believe it was Agent Bornstein (sic)
6 on the stand, he made some comment that I tried to follow up
7 on about how Mr. Vasquez was sort of acting like anyone
8 ordinarily would act at six in the morning or something like
9 that line, I'm paraphrasing. And I tried to follow-up on it
10 with the point being that if we're going to have searches
11 happen at 6:00 in the morning, that's a lot different than a
12 search that's done at 2:00, and it should create a different
13 set of expectations.

14 Now, first of all, there's no search warrant.
15 There's no dispute about that here. There's only an arrest
16 warrant which is probably the reason why I'm able to get away
17 from *Hudson* and *Acosta* and really have this, and a strong
18 reason for why we filed the motion. But when we look at
19 *Weaver*, and trying to balance our expectations of privacy,
20 how quickly can the law enforcement come in the door when
21 they have an arrest warrant, there has to be some
22 consideration given for the fact that these warrants are
23 being executed at 5:47, 6:00, a.m., whatever the exact time
24 might be, that when the door is knocked on, that even if
25 there was an announcement here, which we dispute, but even if

1 there was, there still has to be a reasonable period of time
2 that, frankly, is going to have to be longer if we're going
3 to allow people to bust down the door at 6:00 in the morning
4 just because they don't get a response.

5 You know, it's July 15th in this story. It's not
6 surprising that people are not dressed fully in a way to go
7 out into the world. So that's another factor to add into the
8 analysis. And I think a reason why I think if this was in
9 the D.C. Circuit, I'd be feeling supremely confident about my
10 chances. Now, from the research I've done, I don't see
11 anything so far from the 2nd Circuit that talks specifically
12 about this distinction. Maybe this case might wind up being
13 that. I think Your Honor has a decision to make when it
14 comes to that. But I have a lot of say about the facts and
15 the stuff we heard, but I don't know if you want to hear
16 about that now.

17 THE COURT: it's very fresh. But if you want to
18 emphasize a few points, go ahead.

19 MR. WILLSON: When I think about this situation
20 here, I'm brought to a Dagwood sandwich, which is the comic
21 strip Blondie -- I don't know if Your Honor is familiar with
22 it -- Dagwood is the husband which is usually the focus, and
23 he makes these sandwiches that are ridiculously filled with
24 stuff, all sort of things. This is a suppression hearing
25 where I think there are so many issues that I have this kind

1 of sandwich and reasons for the Court to be able to suppress
2 the narcotics that were found and anything else that was
3 found.

4 First of all, we have the entry into the apartment.
5 In the arrest report that was admitted into evidence last
6 time, there is no discussion about the announcement. Quite
7 frankly, in my review of the case and now preparing it when
8 things initially came in, that's the first thing that made me
9 think a motion to suppress is necessary here. It talks about
10 they entered the open door of the common stairwell, they
11 knocked on the door, there was no response. Trooper Walsh
12 heard movement. The door was then forcibly opened. There's
13 no mention of, hey, it's the police, hey, we have a warrant,
14 whatever type of warrant they might have referenced. That
15 announcement is critical to the case and to their ability to
16 come in the door in that situation or else, you know,
17 frankly, if they want to protect themselves, that's one of
18 the ways they're supposed to do it. So that way someone
19 doesn't think their home is just being invaded by some random
20 person they can defend themselves against. That's a critical
21 part of the case.

22 Mr. Hall, I think as expected, spent a lot of time
23 in the affidavit about trying to highlight things that might
24 have been a bit inconsistent today from what's in the
25 affidavit, like the location of the dog when the stuff was

1 taken off the shelf right near the end. I think if we're
2 going to start weighing papers against testimony, that
3 report, which the agent is bound to write based on all the
4 information that he has, he has to include all the important
5 things, if he files a false report, he himself could be
6 prosecuted. It was checked over by a supervisor. The
7 supervisor didn't testify, but I think we can all fairly
8 assume the supervisor knows that an announcement is
9 important. The fact that that's omitted there is
10 significant. So that's sort of the first part of the
11 sandwich here. It's all those things about the knock and
12 announce.

13 Now, let's say that there was an announcement.
14 Another layer of the sandwich is what was the period of time
15 between the knock and the entry. We heard from two agents
16 about that. I'm not going to talk about Mrs. Vasquez's
17 testimony because that obviously is so fresh.

18 The two agents, my recollection is that one said,
19 well, it was about 10 to 20 seconds. The second one I want
20 to say said about a minute.

21 THE COURT: Less than a minute.

22 MR. WILLSON: Less than a minute. Okay. And then
23 Agent Bornstein (sic) said he wasn't in the stairwell so he
24 really, frankly, doesn't know. So let's take the 10 to 20
25 seconds. There's law out there, some cases I had in a

1 footnote that said 5 seconds isn't enough. I think this is
2 one of those things where we get into the context of the
3 situation. If we're going to knock on a door at 6:00, a.m.
4 or 5:47, a.m., whenever it is exactly, is the Court going to
5 make a legal decision, frankly, that 10 seconds is a
6 reasonable period of time to wait. So I think that's another
7 part of how it works out.

8 Another aspect of this case is, frankly, there's a
9 lot of credibility issues going on here, which makes me
10 wonder, and probably going to suggest that a transcript needs
11 to be obtained in order to really weigh things out, because
12 I'm not going to tell you that my memory's perfect, but I'm
13 also going to suggest that no one's in the room is.

14 The first law enforcement officer, he didn't seem to
15 really remember a lot of stuff. He thought that there were
16 three of them in the stairwell. Agent Bornstein (sic) and
17 maybe somebody else was covering the other exits, that's how
18 I remember. He didn't think he was the guy with the ram, but
19 that was his general memory. And then he did testify, you
20 know, I did this, he did it very dramatically on the stand,
21 and this is what I would have said. Our position is that he
22 doesn't really remember it, given all the things he doesn't
23 remember. None of the agents talked about the dogs. I got
24 to tell you, I asked the question intentionally to each one
25 of them, do you remember anything else about what was there.

1 And, of course, I guess this is a credibility contest or
2 something, because Mrs. Vasquez I think was quite clear and
3 believable about testifying.

4 THE COURT: Is the presence of the dogs material?

5 MR. WILLSON: Is it material in terms of was
6 something in plain view or was there consent? It's not, you
7 know. It's not. There's no dog factor in the analysis. But
8 in terms of their ability to remember what happened, which
9 we're all relying on or, frankly, Your Honor, you have to
10 decide whether you can rely on it, I think it's very
11 important. That's, I would assume, something that sets this
12 case apart from others. Although there's probably lots of
13 dogs at lots of places. Maybe that's the way to respond to
14 that. But it's something that would set it apart, the fact
15 that the one dog that went after the German Shepherd or
16 friends with the German Shepherd, I would think that would be
17 memorable, especially to the dog handler. Although, I don't
18 think he testified. So I don't think he's one of the agents
19 that was here, even though it was the Government's burden to
20 prove. So I think that raises a whole other layer of things.

21 Then we have the issue that the fact that the first
22 agent testified that he shook the pants -- doesn't seem to be
23 any dispute about pants being shook. Shook the pants, out
24 fell a pouch, out fell a punch of money, and my memory is he
25 quite clearly said that the pouch was not open. And I think

1 that was a salient moment in his testimony from our
2 perspective. Now, obviously the second agent testified
3 differently. Said that some stuff spilled out. One of the
4 agents testified about the pants being shook and walked so
5 created like a trail. So while the second and the third
6 agent's testimony conflicted with the first one, there's
7 wasn't entirely cohesive either. So we have another
8 credibility issue there.

9 Then we have this issue about the pencil bag or
10 whatever you want to call it, which the agents apparently did
11 not seize from the crime scene because they don't actually
12 have the bag itself. Just in looking at the picture, the
13 Court may be able to draw some conclusions about how likely
14 it was to be popped wide open, if that's the type of bag that
15 would be open or if it would stay closed when it tended to be
16 left alone. There's conflicting testimony about whether it
17 was right on top, out, open, clear as day, you know, regular
18 in plain view. I think that's essentially what Agent
19 Rubinstein's testimony was, where as the other testimony
20 varied from that and, obviously, Mrs. Vasquez completely
21 contradicts it.

22 So we have that layering of an issue as well. What
23 we don't have here is we don't have consent. There's no
24 consent to search. It seems like there's no dispute about
25 that. We have Weaver that says if you come in the door in

1 the wrong way, as I read it, there could be a mountain of
2 heroin sitting in the room and you're not allowed to use that
3 as evidence. That's the way I read *Weaver*. Maybe I'm
4 stretching it. But it seemed like they came into the room,
5 some sufficient was pretty much in plain view, and the Court
6 said to exclude it.

7 So there's a lot of layers here. It's not a simple
8 suppression hearing. It's not just a gun that was found in
9 someone's waistband and that's the whole case. There's a lot
10 going on.

11 With that, if the Court wants to receive briefing,
12 we'd be more than willing to do it. I think if the the
13 Court's going to make some credibility determinations, the
14 transcript may be necessary to do that, and go from there. I
15 don't know if you have any questions.

16 THE COURT: I don't. Thank you.

17 MR. WILLSON: If I could just check in with
18 Mr. Vasquez, if I may.

19 Again, looking at the report, Mr. Vasquez raised a
20 good point with me.

21 THE COURT: Which report?

22 MR. WILLSON: The arrest report in paragraph five.
23 It doesn't talk about the pants having been shook, I don't
24 believe.

25 THE COURT: There doesn't seem to be a dispute about

1 that.

2 MR. WILLSON: It doesn't. But it raises the
3 reliability of the investigation, how the whole issue was
4 handled as an issue.

5 Also, as to the second item, it's unclear about the
6 extent to what they're doing. And one thing that struck me
7 as inconsistent in the testimony as well was the idea that
8 they wanted to give him pants, yet they wanted to give him
9 shorts, because he couldn't wear pants because it would
10 require a belt and you're not allowed to have a belt when you
11 go into custody for policy reasons. So I think that was
12 another inconsistency. So I think we have testimony by three
13 agents that don't ring consistently.

14 THE COURT: Where is the inconsistency there?

15 MR. WILLSON: My recollection, again, this is a bit
16 ago, was the one agent says I picked up the pants because he
17 seemed to nod towards them. But then I believe it might have
18 been Agent Bornstein (sic) that said something along the
19 lines, well, we weren't going to have him wear pants. But,
20 again, that's why I think the transcript may be necessary.
21 But the idea, no, we were going to have him wear shorts and
22 probably were shorts in the laundry basket.

23 THE COURT: I thought the testimony was that they
24 picked up the pants, they shook them. I thought he tried
25 them on and he needed a belt and that's when they concluded

1 he couldn't wear pants. That's what I recall. But you're
2 right, the transcript would tell us.

3 MR. WILLSON: With that, I don't think anything
4 further right now.

5 THE COURT: Thank you, Mr. Willson.
6 Mr. Hall.

7 MR. HALL: Yes, Your Honor, thank you.

8 First, on the *Weaver* thing. I cited to the *Hudson*
9 case just in a knee jerk really, frankly, a knee jerk
10 reaction to the motion being filed. In reading *Weaver*, I
11 wouldn't call myself a student really of the law, I'm a
12 practitioner and I use the parts of the law that suggest
13 themselves for me to use. So I don't consider myself a very
14 deep legal thinker necessarily.

15 THE COURT: But you're about to tell me why *Weaver*
16 is ill-conceived.

17 MR. HALL: I'm going to tell you that as a law
18 student even just reading it, it seemed -- this is a Fourth
19 Amendment violation being alleged. We're talking about a
20 remedy that has been developed and granted on to the Fourth
21 Amendment which is suppression. You know, if you have a
22 Fourth Amendment violation then you have suppression. If you
23 don't have something that rises to a violation of that
24 constitutional provision, then you don't have suppression.
25 Here the allegation is knock and announce was not done

1 properly. And I think that the majority in *Weaver* seemed to
2 me, you know, at the level at which I do these things, seemed
3 to me to be result oriented, seemed to be reaching, because
4 it -- I was going to say over-characterized -- it stretched
5 what the Court said in *Hudson*. And I think in the descent to
6 *Weaver* the Judge pointed that out. I think in the majority
7 opinion in *Weaver*, the Court made a lot of various interests
8 that are protected by the Fourth Amendment and by the knock
9 and announce rule.

10 THE COURT: Well, the Supreme Court has held that
11 the knock and announce rule is, in fact, an element of the
12 Fourth Amendment. There's also federal statute, but that it
13 is part of the Fourth Amendment in effect. So I'm not sure I
14 follow you when you say it seems to suggest that there's some
15 separation between the knock and announce rule and the Fourth
16 Amendment. That doesn't seem to be consistent with Supreme
17 Court precedent.

18 MR. HALL: Well, no. I think that *Weaver* read as
19 though *Hudson* says that the purpose of knock and announce is
20 to keep the prying eyes of the Government from the inside of
21 the apartment when, in fact, in *Hudson*, I think, and there
22 wasn't a lot of verbiage either, I think what the Court was
23 talking about was damage to property and the indignity that
24 the person can be subjected to by law enforcement officers
25 entering his apartment. It was not an issue of a person

1 having a right to be able to hide things from the prying eyes
2 of the DEA or the FBI or whatever, which the majority opinion
3 made it sound like *Hudson* said, which it didn't. And the
4 interest in the knock and announce rule, just going back to
5 common law, there was a *Wilson* case that goes through some of
6 the early English cases, the purpose of it was so that a
7 property owner who is in bed at night would know that when
8 somebody knocks on his door, the person's there for a
9 legitimate reason, the King's business or whatever, and they
10 have a legal basis for being there, and it's not that he's
11 being robbed or something.

12 THE COURT: But it's always so the person can get to
13 the door, too, right? Just thinking through that, the theory
14 if there's compliance with a knock and announce rule, then
15 there's time to get to the door to open it to prevent
16 property damage. And in a case where that would have
17 happened, that is to say, in a case where there was evidence
18 that had there been compliance, someone would have come to
19 the door and surrendered for arrest at the door. Would you
20 agree that at that point if that had happened then the agents
21 could not go into the apartment and look around?

22 MR. HALL: I would. And I would say based on their
23 testimony that they would have had no interest in doing so.

24 THE COURT: Okay. And so if the part of the
25 discussion in *Hudson* was about causation, right, that in the

1 search warrant context there really is no privacy interest
2 within the home that is being protected by the knock and
3 announce rule because whether or not there's compliance with
4 the knock and announce rule, the search warrant gives them
5 the right to be on the property and, therefore, whatever they
6 discover on the property would have been discovered anyway,
7 i.e., there's no causation. That cannot be said, I think,
8 based on what we just discussed, which is you agreed with me
9 I thought that if there is compliance with the knock and
10 announce rule, and if there is evidence that the person would
11 have come to the door and surrendered, then there would be no
12 need to go in the apartment and that would not have happened
13 and evidence would not have been discovered.

14 MR. HALL: I'm sorry, Your Honor. What I was
15 agreeing to was if someone had come to the door and opened
16 the door, then perhaps the agents, if it was Mr. Vasquez,
17 then the agents would not have entered the apartment. They
18 would have cuffed him up at the door and taken him away. If,
19 on the other hand, Mrs. Vasquez answered the door and they
20 said we have a warrant for your husband, and she said he's
21 inside, I think they would have gone in to get him and I
22 think they would have been right to do so.

23 THE COURT: I think I agree with you on that.

24 MR. HALL: And what would have happened then was he
25 would have been practically naked, he would have needed his

1 pants, he would have selected them, they would have picked
2 them up, they would have made sure they were safe, which they
3 weren't, and then they would have found those drugs and then
4 they would have found the drugs in the basket because they
5 were standing right there. I don't think it would have, you
6 know -- well, the reason it's hard for me to talk about is
7 because I think that, first of all, they did knock and
8 announce, because I think that was the clear testimony of the
9 agent who knocked and announced. There was a waiting period.
10 Perhaps too long. Perhaps too short. I mean, these guys are
11 supposed to be thinking what's going to happen to me. If I
12 wait here longer than a couple of beats or 20 seconds or less
13 than a minute or whatever it was, I agree with what you
14 remember, Your Honor, one of them said about 20 seconds and
15 one of them couldn't really come up with anything and then
16 said, well, it was less than a minute. I think that's what
17 Sergeant Burns said. This guys are thinking that this is not
18 a search warrant where they're going to be able to go into
19 the house even if nobody answers the door and nobody's home.
20 They're going to go in with a search warrant and do what they
21 need to do. This is an arrest warrant. They have reason to
22 believe there is a felon, a person who has just been charged
23 with a serious felony inside, and they have reason to know
24 what it was. And that business that they're in is the other
25 side of the business that Mr. Vasquez is alleged to be in

1 also which involves the distribution of heroin and tools of
2 the trade include guns --

3 THE COURT: But there's a Supreme Court case called
4 *Richards* from 1997 that effectively says there's no automatic
5 exemption to the knock and announce rule for drug cases.
6 And, as I recall, the agents here testified, understandably
7 because this was a big operation, you know, and guys -- I'm
8 not faulting them for this. But my recollection is they
9 candidly acknowledged they had no specific information --

10 MR. HALL: That's correct.

11 THE COURT: -- that there would be drugs in the
12 apartment, that Mr. Vasquez was dangerous, armed, et cetera.

13 MR. HALL: That's right. And they certainly had no
14 reason to want to search the apartment at all.

15 THE COURT: All I'm getting at is with regard to
16 that, do you agree with me that, based on this record, the
17 knock and announce rule applied. That is to say, there's
18 no -- I've actually not seen the warrant, but it's referenced
19 in the arrest report and there's no dispute that there was an
20 arrest warrant, but it wasn't no knock warrant.

21 MR. HALL: It was not, Your Honor. It was right off
22 an indictment.

23 THE COURT: That's right. And so here, from what I
24 can see based on the facts, they had to comply with the knock
25 and announce rule.

1 MR. HALL: I think they were instructed to do that
2 and that was their practice, as they both testified or two of
3 the three testified, the State Police officers, they've done
4 this hundreds of times together. So that's what they do and
5 that's what they would do, unless they were told you
6 shouldn't do it, here's why, whatever. So we don't claim
7 that this was an exempt situation. That's not the legal
8 claim that we're making. It's a factual claim which is that
9 they knocked, they announced, they waited, they heard
10 movement in the apartment which did not result in the door
11 opening immediately, so they made the decision, which I think
12 was within their discretion at that point, to open the door.
13 And that's what they did. Whether 20 seconds is a long
14 enough time to wait in an apartment that size, they were
15 familiar with this type of housing, too, although not knowing
16 what the floor plan was and or what the people inside might
17 be doing, they have to worry about their own safety and the
18 safety of the men standing on either side of them. There
19 were no women there I think. The men standing on either side
20 of them. As well, frankly, as the safety of whoever else
21 might be inside because they, of course, are armed to the
22 teeth. And they have their weapons out. They're ready to do
23 whatever has to be. So to avoid all that, which everybody
24 likes to do I think, they decided to breach the door after
25 there was not a response within somewhere between 20 seconds

1 and less than a minute, whatever that was. And the
2 Government's position would be that that was a reasonable
3 wait given that they heard something. I'm not going to touch
4 the situation where -- Sergeant Burns was farther down the
5 stack. He wasn't the guy right at the door. The guy right
6 at the door, Trooper Walsh, said he heard something and
7 that's why he breached the door.

8 It's interesting to me, I think I pointed out in a telephone
9 conference, I don't think that that is necessarily at odds
10 with the affidavit that Ms. Vasquez made. Because I think a
11 very fair reading of that affidavit indicates that she awoke
12 to loud banging. Now she said on direct here there was one
13 bang, and then another bang, and the door was down. But in
14 her affidavit she said she awoke to loud banging. I would
15 suggest that perhaps over time, as Mr. Willson is also
16 suggested, memories become clouded and maybe things, very
17 specific things aren't exactly remembered, but she claimed in
18 her affidavit that she was awakened by a loud banging. That
19 suggests more than one bang. It also includes the
20 possibility that the one that woke her up wasn't the first
21 one. I don't know. But the affidavit says that she was
22 awakened by loud banging followed by an announcement.

23 Now, the way she remembers it, DEA search warrant,
24 you know, that's what they says. The point of the announce,
25 to go back to the English common law stuff, is just to know

1 these guys are on the King's business, or whatever we call it
2 in a Republic. But they had official process and they were
3 lawfully executing that process. And so whether they said
4 search warrant, which I don't believe they probably would
5 have, or whether they said police with a warrant, which is
6 what I think the troopers would have said because that's what
7 troopers say because that's what they are, it doesn't really
8 matter. The people inside the apartment had reason to know,
9 based on that announcement, that you had law enforcement
10 officers with legal process banging on the door. And then
11 she says there was banging after that. Whether that's the
12 door coming down or whether it's further knocking, just based
13 on what she says in her affidavit. The time periods are not
14 set forth in the affidavit. It seems to me that that's
15 entirely consistent with what the troopers told you, Judge.
16 And I think there was nothing wrong with their knocking or
17 announcing and then entering under the circumstances that
18 they described to you. So I don't think there's a knock and
19 announce issue.

20 I would say that -- I don't think there's a knock
21 and announce issue really. If there is, I think that *Hudson*
22 governs. I think that *Pelletier* is right and *Jones*. And the
23 descent I think in *Weaver* really calls out the majority point
24 by point and makes what I think is a very good argument that
25 goes right back to *Hudson* and doesn't take matters out of

1 context the way I think the majority does. But, again, like
2 I said in the first place, I'm not a technician.

3 Now, Mr. Willson referred a couple of times to -- I
4 think he was talking about the report that was written by
5 Special Agent Rubinstein. It was a report. It wasn't an
6 affidavit. This was, as you just said, Judge, a large
7 operation. Special Agent Rubinstein did not participate in
8 the entry. He was a command person there, as he told you.
9 He was the guy in charge of that part of the operation, but
10 he wasn't one of the hands on guys. I don't think there was
11 testimony that he came in with his gun drawn. I think the
12 dramatics had already subsided by the time he went into the
13 apartment. The State Police entry team had done its job, had
14 secured the people inside the premises. Everybody was cuffed
15 up. I think that's what the testimony was.

16 So Special Agent Rubinstein also testified, I think,
17 that he wasn't involved in the underlying investigation in
18 this case except perhaps incidentally. That is to say, the
19 New Haven Resident Office, as I think he said, ran this
20 investigation. Other agents did it. And he undoubtedly ran
21 into people in the hallway or whatever, might have sat on the
22 wire once or twice, but the point is that wasn't his case.
23 He was brought into it with a whole bunch of other people to
24 run this entry team to execute an arrest warrant for one guy.

25 After this was done, as he testified to you, Judge,

1 he didn't have notes or anything. He tried to write up the
2 report. He called Walsh and Burns and went over what he was
3 thinking with them, made his report. Was the report perfect?
4 No. Are there things that are wrong in the report or left
5 out? Yes. Are there things that I would like to see or
6 would have liked to have seen in the report that it would
7 have made more sense to you, Judge, under these
8 circumstances. Yes. But do I think that the Agent
9 fabricated anything in the report or tried to hide anything
10 in the report? No. I think he did a report in somebody
11 else's case, he did the best he could with what he had, and
12 then that was it. He got it signed off on by a supervisor
13 who had nothing to do with any of this. Never was in the
14 house at all. Special Agent Schaffer I think actually is up
15 here now. And I don't know there's any testimony -- there
16 couldn't be any testimony that he was involved in the
17 underlying investigation. He was not. I don't remember if
18 Special Agent Rubinstein told you that or not. And so I
19 would claim that. But that's the way it is.

20 The paper that was prepared for Ms. Vasquez, though,
21 was not a report. It was an affidavit. And it was prepared
22 for this suppression hearing. I'm sure that great attention
23 to detail was paid both by its author, which I presume to be
24 Mr. Willson, and also by Ms. Vasquez who swore to its truth.
25 And there are a number of things that are absent from that

1 affidavit, which is a sworn affidavit for the purpose of this
2 hearing, that were not in the report of Special Agent
3 Rubinstein. What about the three little dogs? They're not
4 in the affidavit. I don't know if they're material either.
5 I don't. They're not in there. But more importantly, there
6 are a couple of things that she says in the affidavit, aside
7 from the knock and announce part of it, which again I think
8 is consistent with what Trooper Walsh testified to and is
9 consistent with there being no knock and announce violation.
10 But in addition, she said in the affidavit, and this is very
11 important, in paragraph 12, I saw them start to search the
12 basket as they were moving me and my husband from the
13 bedroom. That is entirely different from what she told you
14 here today, Judge. If I recall our telephone conference
15 correctly, that verbiage right there is the reason we're here
16 on a hearing. I mean, there may be others too, but that was
17 the thing that the Court, and I agree with the Court, and I'm
18 sure Mr. Willson did, too. That was the thing that we all
19 said that would trigger a suppression hearing, because they
20 started to search. I saw them start to search. Well, she
21 testified today finally that she didn't see anybody search
22 the basket. She presumed that the basket was being searched.
23 The testimony of the officers was the thing, the drugs, the
24 heroin, was right on the top of the basket once the pants
25 were removed. That's what their testimony was. There's

1 nothing that she testified to that contradicts that or even
2 calls it into question at all. And there's no indication
3 from anything that she said in her affidavit and anything she
4 said on the stand that she didn't presume to suggest that
5 anybody conducted a search of that apartment.

6 THE COURT: Say that last part again. I'm sorry.

7 MR. HALL: I'm a master of too many negatives.

8 Nothing she said in her affidavit except for that I
9 saw, you know, the search, and nothing that she said here
10 would support a finding directly that anybody searched
11 anything in that apartment. She presumed that somebody went
12 through the laundry basket. She did. She said in fact that
13 she didn't -- I mean, she got to admitting that all she could
14 see was the guy's back when he pulled the pants out and that
15 she didn't even see the other guy in the basket at all. He
16 was in the other room and, from where she was standing, she
17 had an angle through doorway to the right which she made very
18 clear because she said she could see an open closet door. I
19 don't know how she could have see that, frankly, from looking
20 at the picture. But she said she saw that. But to also be
21 able to see the angle to the left would be not likely. But
22 she admitted that she didn't see anything. So there was no
23 search anyway.

24 She puts the pants in the basket, just like the
25 agents do. Mr. Vasquez needed some pants to wear. As the

1 agent said, I don't think they said that he tried them on. I
2 think they said that it became evident that they were the
3 sort of pants they have a big waist so you can wear them a
4 certain way and would require a belt for them to keep them up
5 when he's handcuffed. I think that's what the agents were
6 saying. They didn't try them on him, I don't think,
7 according to their testimony, but they were unsatisfactory.
8 And so that's where the shorts came from. And I think that
9 was the testimony.

10 So I don't think there was a knock and announce
11 violation. I don't think that there was a search. I think
12 that as the trooper indicated, Mr. Vasquez needed some pants.
13 He indicated the pants on the top of the laundry basket which
14 is where they were according to the government witnesses as
15 well --

16 THE COURT: Give me one second, please. Sorry about
17 that. Go ahead.

18 MR. HALL: No, it's okay.

19 So they moved the pants for a legitimate law
20 enforcement purpose, which is sanctioned by the courts, to
21 clothe the man so that he could taken where he was going to
22 go. They needed to make his pants safe. They did. As the
23 trooper said, I'm not going to stick my hands into pockets in
24 that type of article because there could be needles, there
25 could be whatever. And so he didn't do that, he shook them

1 out. Ms. Vasquez said she only saw money. One of the
2 troopers said the black bag was closed, but that you could
3 see the drugs in it. One of the troopers said I saw the
4 black bag, I didn't see any drugs.

5 Again, these guys were there for an arrest. And
6 once the guy was arrested, their job was basically done.
7 This other stuff became mop up for them which really wasn't
8 part of their case at all. But I do think that -- I believe,
9 unless there's a suggestion that the agents dropped these
10 drugs there so that they could frame Mr. Vasquez, and there's
11 been no suggestion like that, there was heroin there.

12 So I think that there have not been any
13 inappropriate or illegal searches or entries. There is the
14 issue about the report. As I've indicated, I think, you
15 know, it was the best that the agent could do under the
16 circumstances.

17 THE COURT: The issue being the, I think, two
18 omissions Mr. Willson mentioned that you're talking about.
19 When you said the issue of the report, is that what you mean?

20 MR. HALL: There actually may be more omissions.
21 Some of the same omissions from the affidavit that
22 Ms. Vasquez made which may be immaterial matters. I don't
23 know. There's nothing about the dogs in the report, I would
24 certainly concede that, just like there was nothing in her
25 affidavit.

1 But I think that as far as the report goes, you
2 know, this guy Rubinstein, who was not really familiar with
3 the case, did the best that he could to get this report done,
4 and then that chain of documentation is complete and he's out
5 of it. People sometimes misremember or put together things
6 the wrong way when something happens where they were not
7 present at.

8 THE COURT: Isn't Rubinstein -- maybe I've got this
9 wrong -- isn't Rubinstein the case agent?

10 MR. HALL: No, he was the boss of this part of the
11 case, that's what he testified to. There's case agent and
12 then there's case agent. Case agent for the entire operation
13 was the blonde man who's sitting in the back, Mr. Cogan, who
14 brought the drugs for us that day. He wasn't going to
15 testify in this. He wasn't present.

16 THE COURT: He was in charge of the arrest/visit to
17 the apartment?

18 MR. HALL: This team. Yes, this was his one
19 assignment was to run the execution of the arrest warrant and
20 that's it.

21 Clerical mistakes or a scrivener's -- not
22 scrivener's mistakes, but clerical mistakes can be made and
23 not be a consequence. For example, Mr. Willson repeatedly
24 referred to an Agent Bornstein. I'm sure he took notes and
25 everything like that and he cross-examined somebody for like,

1 you know, half an hour or something, 45 minutes. There is no
2 Bornstein associated with this case period. It's just a
3 mistake and it doesn't matter.

4 The point is, again, if you look at what you have
5 before you, what the troopers told you, and even what
6 Ms. Vasquez admitted, it hangs together, Judge. These guys
7 didn't have an evil or nefarious purpose. They went in to
8 arrest this man. The reason they did it the way they did was
9 to protect themselves and the people in the apartment. They
10 did it very professionally. They did it quickly.

11 THE COURT: I can't remember. Does the arrest
12 report say anything about -- again, I'll have to look at the
13 transcript -- do you recall any testimony from the agents
14 about marijuana? Was there any?

15 MR. HALL: I don't recall whether I elicited that
16 from them. There was a little bit of marijuana at the
17 apartment. I have a photograph of it right here sitting on
18 the shelf in the closet.

19 THE COURT: Is that photograph in evidence?

20 MR. HALL: Pardon me?

21 THE COURT: Is that photograph in evidence?

22 MR. HALL: No.

23 THE COURT: The agents didn't testify to marijuana.
24 Does the arrest report -- does the arrest report have like an
25 inventory?

1 MR. HALL: It does. But the marijuana wasn't
2 seized. It was a baggy about the size of less than a
3 walnut.

4 THE COURT: So you don't dispute there was marijuana
5 found?

6 MR. HALL: No, sir. It was there. I would dispute
7 what she said about it.

8 THE COURT: I got you.

9 MR. HALL: Because she said that the dog guy went
10 into the room with the dog.

11 Anything else you have questions, Judge?

12 THE COURT: I don't.

13 All right, Mr. Willson, very briefly, please.
14 Rebuttal.

15 MR. WILLSON: First of all, for someone who claims
16 not to know the law, Mr. Hall is selling himself short, he
17 refers to the King's knowledge.

18 MR. HALL: If I could just correct the record. I
19 didn't say I don't know the law. I said I'm not a
20 technician.

21 THE COURT: You're a practitioner.

22 MR. WILLSON: If there's any stretching of *Hudson*
23 going on, the stretching of *Hudson* is to say that *Hudson*
24 applies to arrest warrant cases and not just search warrant.
25 My memory of *Hudson* is that there's repeated references to

1 the fact that there's a search warrant involved in the case.
2 So that clearly seems to be important. Will the law evolve
3 from there? Maybe. But it hasn't yet.

4 In terms of Mr. Hall's characterization of the
5 agents just kind of showing up at the door, just there to
6 arrest him, you know, and that's kind of it, and they're all
7 professional. I'm not doubting their professionalism, but I
8 believe there was testimony from at least one that he had
9 gone out to the car thinking they were going to search the
10 apartment and then got back and sort of it wasn't going to
11 happen and that was the end of the day. So the idea that
12 they just show up at the door just to pick up the guy and
13 take him down to court just doesn't ring true, frankly, in
14 any case I've seen, especially in this one.

15 There's the absence of the dogs in the affidavit.
16 There's the absence of the marijuana in the affidavit. To
17 get a hearing I recognize I need -- it's helpful to submit an
18 affidavit, although I would take the position it's not always
19 necessary, but there's no requirements about putting each and
20 every detail, nor can I foresee that three people are going
21 to come in and testify that there were no dogs there. Let me
22 take that back. I asked them, and I believe I asked each of
23 them, was there anything else in the apartment besides of
24 note. That was to see what they remembered. And none of
25 them mentioned it. And I got to believe that one of them

1 would have. But that didn't happen.

2 THE COURT: Why would the agents lie about that?
3 Why would Ms. Vasquez lie about that? I just don't
4 understand what the -- that's why I asked about materiality.

5 MR. WILLSON: The point is not that the agents lied
6 about it. It that they don't remember what happened. So
7 that their memory, we can't rely on that in deciding what are
8 the critical facts here that the Government has to prove.

9 I did ask the agent, I believe, the one who said he
10 had heard something, well, did you hear -- I tried to probe a
11 little more, well, what did you hear. If I remember
12 correctly, I asked him did he hear something being destroyed,
13 a gun being loaded, the kinds of things that would make you
14 want to break down the door and come raging in, and to all
15 that he indicated no.

16 THE COURT: I think he just said he didn't know,
17 right, or didn't recall or something like that?

18 MR. WILLSON: I thought I had a stream of good
19 questions.

20 THE COURT: I'm sure there were good questions. All
21 I remember is foot steps, foot steps. That's all I remember.

22 MR. HALL: I think, Your Honor, it was movement.

23 THE COURT: I'll go look at the transcript.

24 MR. WILLSON: Right.

25 And then finally, obviously the nature of my

1 objections is that the document says what it says. In terms
2 of Mrs. Vasquez's affidavit, a paragraph returned in the
3 middle of -- after the first sentence, in paragraph sentence,
4 perhaps makes that affidavit read a little bit differently,
5 which is that there had been two bangings, and then they had
6 come into the apartment. The bangings assume they had broken
7 down the door. When they entered the apartment that's when
8 they made the announcement.

9 Let me just see if there's anything else, otherwise,
10 I think -- just the last thing about the basket. I guess two
11 things about the basket. One, I think ultimately
12 Mrs. Vasquez indicated that she was testifying based on what
13 she could see in terms of the basket. The basket was on that
14 wall. That was sort of around from the doorway if you're
15 standing in the living area. That ultimately the officers
16 bent down and made some motions into the basket or towards
17 the basket. I think those are all very reasonable statements
18 for her to make. In the report it doesn't spell out what was
19 going on other than they were trying to get shirt and shorts
20 for Mr. Vasquez. And they don't use the words plain view,
21 which they all know how to use those words. And so I think
22 that report has consequences. And affidavit versus report, I
23 guess we can debate that.

24 THE COURT: Please don't.

25 MR. WILLSON: I'm not looking to. But since we rely

1 on those reports so significantly they got to be true or else
2 the system just doesn't work.

3 I have nothing else, Your Honor.

4 THE COURT: Thank you both. I'll take it under
5 advisement. We'll be in recess.

6 (Concluded.)

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C E R T I F I C A T E

I, Martha C. Marshall, RMR, CRR, hereby certify that the foregoing pages are a complete and accurate transcription of my original stenotype notes taken in the matter of UNITED STATES V. VASQUEZ, which was held before the Honorable Michael P. Shea, U.S.D.J, at 450 Main Street, Hartford, Connecticut, on March 29, 2016.

/s/Martha C. Marshall
Martha C. Marshall, RMR, CRR
Official Court Reporter