

THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CRIMINAL ACTION
)	
WILFREDO MONTOYA-BAIRES,)	1:05 CR 478
)	
Defendant.)	
_____)	

REPORTER'S TRANSCRIPT

JURY TRIAL

VOLUME 8

Monday, September 25, 2006

BEFORE: THE HONORABLE T.S. ELLIS, III
Presiding

APPEARANCES: OFFICE OF THE UNITED STATES ATTORNEY
BY: PATRICK STOKES, AUSA
MORRIS PARKER, JR., AUSA
DAVID W. TOOKER, AUSA

For the Government

NINA J. GINSBERG, ESQ.
LANA MARIE MANITTA, ESQ.

For the Defendant

MICHAEL A. Rodriguez, RPR/CM/RMR
Official Court Reporter
USDC, Eastern District of Virginia
Alexandria, Virginia

1	<u>INDEX</u>				
2	PRELIMINARY PROCEEDINGS				3
3	<u>WITNESS (Government)</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
4	Wilson deJesus Munoz	20	32	60	---
5	(Continued)				
6	Frances P. Field	67	73	---	---
7	Gary C. Arntsen	76	105	117	---
8	(Review of exhibits)				
9	(Government rests)				
10	RULE 29 MOTIONS				126
11	FURTHER PROCEEDINGS				141
12	(Court recessed)				
13					
14		---			
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

1 ATTORNEY PARKER: Nothing further.

2 THE COURT: All right.

3 Thank you. You may step down.

4 (Witness excused)

5 THE COURT: Call your next witness.

6 ATTORNEY STOKES: Your Honor, the government
7 calls Gary Arntsen.

8 (Pause)

9 THE COURT: Come forward and take the oath,
10 please, sir.

11 (Witness sworn)

12 THE WITNESS: Good afternoon.

13 THE COURT: All right. You may proceed,
14 Mr. Stokes.

15 ATTORNEY STOKES: Thank you, your Honor.

16

17 GARY C. ARNTSEN, having been duly sworn, was
18 examined and testified as follows:

19

20 DIRECT EXAMINATION

21 BY ATTORNEY STOKES:

22 Q. Would you please introduce yourself to the jury.

23 A. Gary Charles Arntsen. I will spell my last name for
24 you: A-r-n-t-s-e-n.

25 Q. How where are you employed?

1 A. I'm a forensic scientist, employed by the Commonwealth
2 of Virginia in the Fairfax Forensic Laboratory.

3 Q. Where is that.

4 A. That is in Fairfax, Braddock Road.

5 ATTORNEY STOKES: You did say Fairfax. Thank
6 you, sir.

7 BY ATTORNEY STOKES:

8 Q. How long have you been doing that?

9 A. I have been employed in Fairfax Laboratory for the
10 last, approximately 14, 14 and a bit years.

11 Q. What do you do for the Fairfax Laboratory?

12 A. I deal mainly with the examination of firearms,
13 ammunition components, and various other items that are
14 submitted to the forensic laboratory for examination by
15 various agencies, government agencies within the
16 Commonwealth of Virginia.

17 Q. What sorts of things do you examine firearms for?

18 A. I examine firearms to determine whether they are in
19 mechanical operating condition; in other words, whether
20 those firearms are working properly.

21 I thereafter will test fire those firearms,
22 recover the components, the firing of the firearm -- in
23 other words, the cartridge cases and the bullets -- with a
24 view to later potentially comparing those fired components
25 that I know were fired in a particular firearm to questioned

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 items that have been submitted by the various agencies to
2 the laboratory.

3 Q. Prior to your work with the Fairfax Lab, where did you
4 work?

5 A. I was employed in South Africa. I have also worked in
6 various places throughout the world, including places such
7 as the BK, and Wiesbaden in Germany, as well as the
8 Metropolitan Police Department in London, and various other
9 agencies, East to West Coast of the United States.

10 Q. What did you do for those agencies?

11 A. Again, primary evaluation, firearm-type evaluation
12 with regard to firearms examination, whether that be
13 computer related, system analysis, and that type of
14 information.

15 Q. How long, in total, have you been involved in the
16 examination of firearms and ammunition?

17 A. For the last, approximately, 26 years.

18 Q. What's your education?

19 A. I have an equivalent bachelor's degree in police
20 science.

21 Q. Have you had any training in firearms and ammunition
22 examination?

23 A. Yes, I have. I have successfully completed the
24 Association of Firearm and Tool Mark Examiners Training
25 Manual, which is an in-depth, two-year course involving

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 firearms examination and the component examination, and
2 history of firearms; as well as, this examination -- this
3 training involves travel to various firearm and ammunition
4 manufacturing institutes, and I have done that for many
5 years.

6 Q. Have you visited firearms manufacturers within the
7 United States?

8 A. Oh, yes, a large number; the majority of the major
9 firearm manufacturing institutes. I have also visited
10 European companies, such as H&K, Sig-Sauer, and various
11 other firearms places throughout the world.

12 Q. Have you received any certifications in the
13 examination --

14 A. Yes.

15 Q. -- of firearms and ammunition?

16 A. I am certified by the Commonwealth of Virginia in this
17 particular field.

18 Q. And have you received any ongoing training in order to
19 maintain your certification?

20 A. Yes, I have.

21 Q. What sort of ongoing -- how frequently do you have to
22 go to ongoing training?

23 A. It involves yearly meetings, involving associations of
24 firearms examiners. And these are in various states
25 throughout the United States. We get together, discuss the

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 latest developments in the field, as well as attending major
2 trade shows where firearm, the newest firearm technology is
3 displayed and sold.

4 Q. And, sir, are you also a firearm enthusiast?

5 A. Oh, most definitely, yes.

6 Q. And have you -- what -- what have you done as an
7 enthusiast to expand your knowledge of firearms and
8 ammunition?

9 A. Well, clearly, I am involved in Department of Justice
10 type training of various police agencies throughout,
11 throughout the world. I have just recently returned from
12 Kosovo, where I was assisting in the establishment of a
13 forensic laboratory in Kosovo.

14 I have traveled to other European, eastern
15 European countries, to look at their forensic laboratories
16 and analyze their particular problems, and attempt to assist
17 them where I can.

18 Q. Have you written in this field?

19 A. Yes, I have.

20 Q. Have you been published?

21 A. Yes, I have.

22 Q. Now, sir, approximately how many firearms have you
23 examined for -- in the course of your 26 years, I believe
24 you said?

25 A. Yes. Many thousands of firearms. The total number is

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 just too many for me to remember, but definitely many
2 thousands of fire arms.

3 Q. How many bullets have you examined during that time?

4 A. Every firearm that I examine in the course of my work,
5 I will test fire. I will analyze those bullets, look at
6 those particular bullets or fired cartridge components under
7 the comparison microscope. So for every firearm that I
8 examine, I examine bullets and cartridge cases related to
9 those particular firearms.

10 Q. Now, in addition to firearm and ammunition, do you
11 also analyze objects with gouge marks on them?

12 A. Yes. I examine anything that could potentially be
13 contacted by a firearm or the ammunition components, whether
14 it be motor vehicles, drywall, wooden implements, the floor.
15 Anything that a bullet could pass through, I have, I've
16 general examined.

17 Q. Have you been qualified in the past, sir, as an expert
18 in firearm and tool mark examination?

19 A. Yes, I have.

20 Q. And approximately how many times in State Court?

21 A. Over a hundred times in State Court.

22 Q. How about federally?

23 A. More than a dozen.

24 ATTORNEY STOKES: With the assistance of the
25 court security officer, I would ask you to take a look at

1 binder two, Government's Exhibit 6-2.

2 THE WITNESS: (Complies).

3 BY ATTORNEY STOKES:

4 Q. What is that, sir?

5 A. This is a copy of my CV.

6 ATTORNEY STOKES: Your Honor, we would move 6-2
7 into evidence at this time.

8 ATTORNEY MANITTA: No objection, your Honor.

9 THE COURT: It's admitted.

10 ATTORNEY STOKES: Your Honor, at this time we
11 would tender Mr. Arntsen as an expert in the area of firearm
12 and ammunition examination.

13 ATTORNEY MANITTA: There is no objection.

14 THE COURT: All right.

15 Ladies and gentlemen, once again I am going to
16 permit this witness to be asked his opinion, his expert
17 opinion. However, the extent to which you accept him and
18 his opinions as expert opinions are matters left entirely to
19 you. And I'll give you further instructions at the end of
20 the case.

21 Proceed.

22 ATTORNEY STOKES: In that same binder, if you
23 would take a look at 7-20 and 7-21, please.

24 THE WITNESS: (Complied).

25

1 BY ATTORNEY STOKES:

2 Q. What is 7-20?

3 A. This is an illustration showing a cartridge and the
4 components of the firing of this particular cartridge. We
5 have the upper portion, which we call a bullet, which
6 is the --

7 ATTORNEY STOKES: If I could interrupt you just
8 for a second.

9 Your Honor, we would move 7-20 into evidence,
10 and ask to publish it for the jury.

11 THE COURT: Any objection?

12 ATTORNEY MANITTA: No objection.

13 THE COURT: All right. You may do so.

14 BY ATTORNEY STOKES:

15 Q. Sir, if you would -- looking at the screen next to
16 you, if you could identify the component parts of a
17 cartridge.

18 A. Yes. What we have is a bullet, over here
19 (indicating). This is the projectile that is propelled from
20 the muzzle of the firearm in the direction in which the
21 firearm is pointed.

22 We have the, in this particular case
23 (indicating), the cartridge case, this particular area over
24 here. And in the case of it being fired, we would call it a
25 fired cartridge case.

1 And in the case of a semiautomatic firearm, we
2 would have this particular cartridge case being ejected from
3 the ejection port of the firearm, and found in proximity of
4 the firing of the firearm.

5 The bullet would be propelled in the direction
6 in which the firearm was aimed, and the cartridge case would
7 be ejected from the ejection port of the firearm.

8 ATTORNEY STOKES: If you could press the lower
9 right-hand corner of that screen, to clear the screen, sir.

10 THE WITNESS: (Complies).

11 BY ATTORNEY STOKES:

12 Q. What is a primer?

13 A. The primer is this silver, silver part in the center
14 of this head of the cartridge case. It is the area we
15 have -- in this particular case, we have -- the primer is
16 marked "R-P," and we have "45 auto" underneath.

17 The primer is the center part of this
18 photograph, and it is the area which the firing pin strikes
19 the -- the firing pin of the firearm strikes this particular
20 area, the primer --

21 Q. Now, sir --

22 A. -- the initiator.

23 Q. Now, sir, this photograph of this cartridge, is this a
24 photograph of a cartridge you examined in this case, or is
25 this just illustrative?

1 A. This is just a demonstrative photograph.

2 ATTORNEY STOKES: Thank you.

3 If you would clear the screen, please.

4 THE COURT: Well, this 7-20 is just a
5 demonstrative evidence. It's not admitted in the record of
6 this case, is it?

7 ATTORNEY STOKES: Your Honor, we did move it
8 in, but it is a demonstrative exhibit. That's correct.

9 THE COURT: All right.

10 Move on.

11 BY ATTORNEY STOKES:

12 Q. What is 7-21?

13 Do you have 7-21 in front of you?

14 A. 7-21, yes; but there is nothing on the screen.

15 THE COURT: Go on.

16 BY ATTORNEY STOKES:

17 Q. Sir, what is 7-21?

18 A. 7 dash is a -- it's an illustration of a bullet, an
19 unfired bullet, together with a fired bullet, as well as a
20 picture looking down the barrel of a firearm.

21 In other words, if you look down the barrel of
22 a firearm that was rifled, you would see something that
23 looks similar to this, this particular illustration, of the
24 high and low spots of --

25 ATTORNEY STOKES: If I can interrupt you for a

1 second.

2 Let me first -- your Honor, may I publish this,
3 so --

4 (Simultaneous discussion).

5 THE COURT: Yes.

6 This --

7 ATTORNEY STOKES: -- the jury --

8 THE COURT: -- is demonstrative --

9 ATTORNEY STOKES: -- can follow --

10 THE COURT: -- as well.

11 ATTORNEY STOKES: Thank you.

12 THE COURT: It's not admitted into the record,
13 but it's a demonstrative piece of evidence.

14 You won't have this in the jury room with you.
15 It's just used to demonstrate or to illustrate the witness'
16 testimony about these matters.

17 Proceed.

18 BY ATTORNEY STOKES:

19 Q. Sir, if you could point out how a fired bullet differs
20 from an unfired bullet --

21 A. Yes. What we --

22 Q. -- on this exhibit?

23 A. If we look at this particular item, that is an unfired
24 bullet. In other words, it is rifled. It has been removed
25 from the cartridge case, but other than that it has not been

1 fired.

2 If we look at the bullet on the -- the fired
3 bullet on the right-hand side over here, we will see
4 markings on its surface. These particular markings are lands
5 and groove markings which would be imparted by the surface
6 of the barrel through which this bullet was fired.

7 ATTORNEY STOKES: If you could clear the
8 screen, please.

9 THE WITNESS: (Complies).

10 If we look at the barrel at this particular
11 illustration, we'll see -- we'll be looking down the barrel,
12 and in this particular case, this particular item is what we
13 call a lands. It would create a lands impression on the
14 bullet when it was fired. We have a groove, which would be
15 in this particular area, and it would create a groove
16 impression on the bullet, through which it had been fired.
17 These particular markings in the lower fired bullet
18 illustrative are the lands and groove markings on this
19 particular bullet.

20 Q. Why do firearm barrels have lands and grooves?

21 A. Well, as we can see from the illustration, bullets
22 themselves are elongated. They are not in the round,
23 ball-type form. So to keep them pointed forward and to
24 enable them to be fired accurately and maintain a
25 nose-forward profile, you are required to impart spin to

1 them.

2 And in this particular case, we have lans and
3 grooves in the rifle barrel of the firearm, which spiral.
4 And they spiral to the right-hand side in this particular
5 case. And when the bullet is fired down the barrel, it is
6 spun by these high and low spots, or lans and grooves, and
7 that maintains the bullet in an accurate, nose-forward
8 profile.

9 Q. Now, sir, when you conduct an analysis of a bullet,
10 how do you -- in a firearm, how do you determine whether a
11 bullet was fired from a particular firearm?

12 A. Primary -- the principle upon which I work is the
13 principle that each and every firearm that is manufactured
14 can produce unique and individual markings that are a common
15 to that particular firearm, and only that particular
16 firearm. In other words, the firearm has its own
17 fingerprints, or it may produce its own fingerprint on the
18 fired components that come into contact with the firing of
19 this fired cartridge case.

20 Q. What is a class characteristic?

21 A. A class characteristic would be a measurable feature
22 on the surface of the bullet that would enable me to
23 discriminate between that bullet and another bullet.

24 A class characteristic is generally common to a
25 number of firearms. First of all, we would look at the

1 caliber of that particular bullet, in other words, how big
2 it was.

3 If that particular bullet was a nine-millimeter
4 caliber bullet, then it wouldn't -- and it has rifling
5 characteristics on it that are normal, then it wouldn't have
6 been fired from a .45-caliber bullet (sic) or an
7 11-millimeter caliber firearm, because the bullet is of a
8 different size.

9 So the nine-millimeter caliber versus a .45
10 caliber is a class characteristic.

11 Now, if we look at the surface of the bullet,
12 the fired bullet, we have these lands and groove markings,
13 which have, when you view them through a microscope,
14 measurable features, and those measurable features are
15 land -- are what we call class characteristics.

16 They can also have an inclination, in other
17 words, a spiral. If the bullet is fired through a firearm
18 that has a right-hand twist, then the rifling markings on
19 the bullet would have a right-hand inclination. If the
20 spiral grooves that were cut into the surface of the barrel
21 were inclined to the left, in other words, they turned to
22 the left, then the markings on the bullet would have a
23 left-hand inclination.

24 The left versus right is a class
25 characteristic.

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 Q. And beyond the class characteristics, including the
2 lands and grooves, do you do -- do you conduct a microscopic
3 comparison of a bullet with the firearm?

4 A. Yes, I do.

5 The unique imperfections in the surface of the
6 barrel impart fine scratch marks to the surface of the
7 bullet. These fine scratch marks are unique to that
8 particular firearm. And those are the markings that I look
9 at to determine individuality.

10 Q. What do you look to, to determine whether a cartridge
11 case was fired in a particular firearm?

12 A. The fired cartridge case has come into contact with
13 various parts of the firearm. If you have a semiautomatic
14 firearm, you will have the firing pin coming into contact
15 with the primer. It leaves an impression in the primer
16 itself.

17 The bullet would be propelled from the muzzle
18 of the firearm, and fired cartridge case would be propelled
19 backwards against the portion of the firearm that retains it
20 within the chamber of the firearm.

21 This particular cartridge case, being softer
22 than the breech face of the firearm, would be impressed. In
23 other words, the breech face of the firearm would impress
24 itself against the fired cartridge case. Those are breech
25 face markings.

1 Other parts of the firearm that come into
2 contact with the fired cartridge case are the extractor,
3 which is the part of the firearm that pulls the cartridge
4 case from the chamber of the firearm, as well as the
5 ejector, the portion of the firearm that ejects the fired
6 cartridge case from the ejection port of the firearm.

7 You also have circumferential markings around
8 the body of the case, which we call chamber-type markings.

9 Any of those particular areas could be used to
10 establish identity of the fired component.

11 Q. Sir, in this case, did you examine a firearm,
12 cartridge cases and bullets?

13 A. Yes, I did.

14 ATTORNEY STOKES: And with the assistance of
15 the court security officer, would you Take a look at
16 Government's Exhibit 4-4.

17 THE WITNESS: (Complied) I have previously
18 gone through these exhibits before court, and, yes, this is
19 the 4-4 Exhibit, firearm, that I have previously examined.
20 It's also my Item Number 137.

21 BY ATTORNEY STOKES:

22 Q. And when you say -- by -- your item number, in other
23 words, do you keep a log of -- with your own item numbers in
24 your examination notes?

25 A. That is correct.

1 When the -- when the firearm or the components
2 are submitted to laboratory for examination, they are
3 required to be itemized and packaged in specific manners.
4 These items are allocated by the submitting agency. In
5 other words, they would demarcate those particular items
6 with an item number.

7 In this particular case, this particular
8 Exhibit 4-4 before the Court, was itemized as Item 137. And
9 I examined this particular firearm.

10 Q. What kind of gun is that?

11 A. Yes. It is a Star Fire -- Firestar class model. It
12 is chambered for the nine millimeter Luger cartridge, and
13 its serial number is 2130211, which is reflected, as well,
14 in my particular report with regard to it.

15 Q. Do you know where that gun was manufactured, sir?

16 A. Yes, I do. In this particular case, it's a Star, as I
17 have said, and it is made in Spain. It has unique markings
18 on it, which we call proof markings, which indicate country
19 of origin.

20 It also has markings on the firearm that
21 indicate that it was imported into the United States by
22 Interarms of Alexandria, Virginia. They are a company no
23 longer in business, but they were not far from us, just down
24 the road on the waterfront.

25 Q. Sir, did you test fire that weapon?

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 A. Yes, I did.

2 Q. Describe what happened.

3 I'm sorry, let me rephrase that.

4 Describe what you did.

5 A. What I did was load the magazine of the firearm with
6 test fires. In other words, those -- these particular test
7 fires no relationship to this particular firearm previously.

8 I loaded these into the magazine, inserted the
9 magazine into the butt of the firearm, and then closed the
10 firearm and fired this particular firearm into a water tank,
11 which allows me to recover the bullets, which are the
12 projectiles that are propelled from the muzzle, in an
13 undamaged form.

14 It also ejected cartridge cases from this part
15 of the firearm, which we call the ejection port, and I
16 recovered those components, as well.

17 The particular items, these particular tests
18 that I fired in the particular firearm are thereafter
19 recovered and used for comparative purposes.

20 Q. What did you use them to compare to?

21 I'm sorry.

22 What did you compare those test fires to?

23 A. I compared them to other items that had been submitted
24 to the laboratory for examination. There was Item 9, Item
25 10, as --

1 Q. Sir, I will go ahead and ask you to take a look at
2 those now, then.

3 If you would take a look at Government's
4 Exhibit 1-1.

5 A. Yes. This is -- this particular item and the box that
6 it was in bears my markings. I have previously looked at
7 it. It is also known as Item 9, and is the one fired
8 cartridge case.

9 Q. And, sir, did you compare what's contained within
10 Government's Exhibit 1-1 to a cartridge case that was
11 eject- -- one of the test-fire cartridge cases that you
12 fired?

13 A. That is correct. I compared it and found that it was
14 fired in this particular firearm -- in other words, Exhibit
15 4-4 before the Court -- and only this firearm. In other
16 words, this particular cartridge case was fired --
17 Exhibit 1-1 was fired in Exhibit 4-4.

18 ATTORNEY STOKES: Your Honor, we would move
19 1-dash -- I'm sorry. I believe 1-1 is already in evidence.

20 BY ATTORNEY STOKES:

21 Q. Would you take a look at Government's Exhibit 1-2,
22 please.

23 What is 1-2?

24 A. This is also a fired cartridge case which I have
25 previously examined. And it was submitted as Item Number

1 10. It has all my markings. And I have previously looked
2 at it inside the packaging, and determined that it is the
3 fired case that I previously examined.

4 Q. And, sir, did you make a determination as to whether
5 that cartridge case contained in 1-2, whether it was fired
6 from the handgun that's in Government's Exhibit 4-4?

7 A. Yes, I did.

8 Q. What did you determine?

9 A. I found that it was fired in 4-4, and no other
10 firearm.

11 Q. If you would take a look at Government's Exhibit 1-4,
12 please.

13 A. (Complied).

14 Q. What is that, sir?

15 A. It is one, another fired cartridge case. It is a
16 fired cartridge case that I have previously examined. And I
17 also found that it had been fired in Government's Exhibit
18 4-4, and no other firearm.

19 Q. If you would take a look at Government's Exhibit 1-5,
20 please.

21 A. This is also known as my Item Number 40, and it is a
22 further, fourth, fired cartridge case, which I found to have
23 been fired in Government's Exhibit 4-4, and no other
24 firearm.

25 Q. Now, sir, did you also compare bullets that were given

1 to you to in this case to the bullets that you test fired,
2 or recovered after the test fire?

3 A. Yes, I did.

4 Q. If you would take a look at Government's Exhibit 1-3,
5 please.

6 A. (Complies).

7 Q. What is 1-3, sir?

8 A. This is a nine-millimeter Luger fired bullet. It is
9 also known as my item Number 14. And I found that this
10 particular bullet was fired in Government's Exhibit 4-4, and
11 no other firearm.

12 Q. And, sir, I may have just missed this. What caliber
13 bullet is that?

14 A. It's a nine millimeter Luger, fired bullet.

15 Q. And the cartridge cases that you examined that you
16 just discussed, what caliber are those cartridge cases?

17 A. Those are Remington brand, nine millimeter Luger fired
18 cartridge cases, all four of them.

19 Q. Now, sir, did you make a determination of whether 1-3
20 was fired in the firearm that is Government's Exhibit 4-4?

21 A. As I have previously said, it was, and it was only
22 fired in this particular firearm.

23 Q. Did you make a -- were you able to make a
24 determination of whether the bullet in 1-3 was fired -- I'm
25 sorry -- came from one of the cartridge cases that you have

1 just discussed?

2 A. No. I am unable to do that. During the firing
3 process, the rifling markings generally obliterate all
4 evidence of the fired case's markings that could have
5 potentially marked the fired cartridge as it was drawn away
6 from the fired cartridge case.

7 So, no, I am unable to say that it was fired
8 from any one of the previous particular fired cartridge
9 cases, other than it is the type of bullet that is normally
10 loaded into those four fired cartridge cases that I have
11 previously spoken about.

12 Q. Now, with regard to this bullet in particular, in 1-3,
13 did you find any foreign substance on the bullet?

14 A. Yes, I did.

15 Q. What did you find?

16 A. In this particular case, to allow me to examine it, I
17 first of all document the bullet and look to see anything
18 that's abnormal.

19 In this particular case, I found white,
20 trace-type material, which is consistent with what I
21 normally see when bullets such as this would strike drywall
22 or a similar type item.

23 Q. If you would take a look at Government's Exhibit 1-6,
24 please.

25 A. (Complies).

1 Q. What is 1-6?

2 A. It's a further mutilated flat, flattened fired bullet.
3 It is -- it doesn't -- a bullet is made up of a core and a
4 jacket. And in this particular case, the jacket itself,
5 which is the exterior surface of the bullet, has been
6 partially ripped away. But there is still certain of it
7 remaining. It's very common, in the firing of a bullet,
8 that the bullet gets mutilated. In this particular case,
9 some of the jacket material is missing.

10 Q. And, sir, were you able to determine whether that
11 bullet was fired from Government's Exhibit 4-4?

12 A. Yes, I was.

13 Q. And what was --

14 A. It's my Item Number 49, and I determined that it was
15 fired from Government's Exhibit 4-4, and only that
16 particular firearm.

17 Q. Sir, if you would take a look at Government's Exhibit
18 1-7, please.

19 A. (Complied).

20 Q. And what is that?

21 A. This is a, also known as my Item Number 50, 50. It is
22 a further mutilated jacketed bullet, with attached lead
23 core, mutilated lead core.

24 Q. And, sir, was the bullet was in good enough condition
25 that you were able to determine whether or not it was fired

1 from 4-4?

2 A. Yes, I was. In this particular case, it was fired
3 from Item 4-4, and no other firearm.

4 Q. If you would take a look at Government's Exhibit 1-8,
5 please.

6 A. (Complied). It's also known as my Item 51. It is
7 comprised of a laminated wooden floor tile of tongue and
8 groove construction. It has a bullet hole in the particular
9 floor tile. And on the underside of this particular floor
10 tile I recovered a bullet jacket fragment, which was
11 attached to the floor tile itself.

12 Q. And sir, when you recovered that bullet fragment, were
13 you able to conduct a comparison to determine whether it was
14 part of a bullet that was fired from Government's Exhibit
15 4-4?

16 A. Yes, I was. I was able to determine that it was
17 fired -- this particular jacket fragment was fired from
18 Exhibit Item Number 4-4, and no other firearm.

19 Q. And, sir, within Government's Exhibit 1-8, how many
20 bullet holes did you find in that tile?

21 A. There was -- there is one bullet hole visible on the
22 right-hand -- well, on the tile, closer to the edge of the
23 tile, in this particular position, readily visible through
24 the plastic, above my laboratory number and Item number,
25 which is written in red on the tile itself.

1 Q. And, sir, if you would look at Government's Exhibit
2 1-10.

3 A. (Complied)

4 Q. What is it?

5 A. It is also known as my Exhibit Number -- my Item
6 Number 52. It is compromised of a lead core and a
7 fragmented bullet jacket.

8 Q. And, sir, were you able to -- based on the condition
9 of that bullet, were you able to determine whether it was
10 fired from the pistol which is Government's Exhibit 4-4?

11 A. In this particular case, the fragments that I observed
12 exhibited class characteristics common to this particular
13 firearm, Exhibit Number 4-4.

14 However, there were insufficient unique
15 individual microscopic markings which would enable me to say
16 conclusively that it was fired from this particular firearm.

17 Q. Based on your expert opinion, are you able to
18 determine that it was not fired from this firearm?

19 A. No. There is nothing to indicate that it was not
20 fired from this particular firearm.

21 However, as I have said, the unique individual
22 markings which are required in sufficient quality and detail
23 for me to effect an identification, in other words, say that
24 it was fired from a particular firearm, were not there.

25 Q. Sir, if you would take a look at Government's --

1 (Simultaneous discussion)?

2 THE COURT: Well --

3 BY ATTORNEY STOKES:

4 Q. -- Exhibit --

5 THE COURT: Well, let's --

6 Why were they not there?

7 THE WITNESS: In this particular case, as I
8 have said, it's an extremely mutilated bullet, and it has
9 clearly struck a hard object, and there was just
10 insufficient of these marking to enable me to say
11 conclusively that it was fired from this firearm.

12 THE COURT: Next question.

13 BY ATTORNEY STOKES:

14 Q. If you would take a look at Government's Exhibit 1-12,
15 please.

16 A. (Complies) It is a wood fragment, together with a
17 bullet jacket fragment.

18 Q. And, sir, what -- did you examine the fragment that's
19 contained with that -- the bullet fragment that's contained
20 with that to determine whether it was fired from the handgun
21 which is Government's Exhibit 4-4?

22 A. Yes, I did. In this particular case, it's also known
23 as my Item Number 54, and I found that this particular
24 jacket fragment was fired in Government's Exhibit 4-4, and
25 no other firearm.

1 Q. And, sir, the bullets, the mutilated bullets and
2 fragments that you have just examined, what caliber
3 ammunition or cartridge did those mutilated bullets and
4 fragments come from?

5 A. They are from the nine millimeter Luger or nine
6 millimeter Parabellum or nine-by-nineteen, or nine
7 millimeter Nato cartridge, as found in the Government's
8 Exhibits 1-1, 1-2, 1-4 and 1-5. Bullets -- nine millimeter
9 Luger bullets would normally be loaded into those particular
10 fired cartridge cases.

11 Q. Now, sir, a nine millimeter handgun and -- I'm sorry,
12 the ammunition, the nine millimeter ammunition for a nine
13 millimeter handgun, would any brand of nine millimeter
14 ammunition work in any brand of nine millimeter handgun?

15 A. Well, clearly, I would have to -- I would have to look
16 at that particular ammunition and see whether it falls
17 within the specification. However, nine millimeter Luger
18 ammunition or nine millimeter Parabellum ammunition or nine
19 millimeter Nato ammunition, or nine-by-nineteen millimeter
20 ammunition, is designed to be fired in Government's Exhibit
21 4-4.

22 So, as long as it meets that specification,
23 then it should -- you should be able to fire it in that
24 firearm, assuming that it wasn't defective.

25 Q. If you would take a look at Government's Exhibit 1-9.

1 A. (Complies).

2 Q. And what is that, sir?

3 A. These are fired -- I mean, these are cartridges that I
4 have previously examined. They have my Item Number 125,
5 written on them, and they are Remington brand nine
6 millimeter Luger or nine millimeter Parabellum or
7 nine-by-nineteen, or nine millimeter Nato cartridges.

8 Q. Are those cartridges capable of being fired in the
9 handgun that you examined at 4-4?

10 A. They are the type designed for use in a firearm such
11 as government Exhibit Number 4-4.

12 Q. If you would take a look at Government's Exhibit 2-1,
13 please.

14 A. (Complied).

15 Q. What is 2-1?

16 A. This is a UNC Remington brand box with the associated
17 black tray that would normally fit inside this box. And
18 within this black tray are unfired cartridges which I have
19 previously examined, and found to be the type designed for
20 use in the firearm such as Government's Exhibit 4-4.

21 Q. Now, sir, in this case were you asked to examine a
22 section of drywall with a gouge mark in it?

23 A. Yes, I was.

24 Q. And what did you do?

25 A. I examined the drywall to determine whether it

1 exhibited any markings which were consistent with bullet
2 markings.

3 I found a gouge mark consistent with an angled
4 bullet impact damage, having right to left direction, in the
5 direction of the front door as illustrated by the police
6 orientation arrows.

7 Q. And, sir, if you would take a look in binder two at
8 Government's Exhibit 6-9.

9 A. (Complies) Yes. It's a copy of a report that I have
10 completed with regard to the box of 32 cartridges,
11 Government's Exhibit 2-1, the 12 cartridges, Government's
12 Exhibit 1-9, and a piece of drywall.

13 Q. And --

14 ATTORNEY STOKES: Your Honor, we would move
15 Government's Exhibit 6-9, I believe that was, into evidence.

16 ATTORNEY MANITTA: There is no objection.

17 THE COURT: It's admitted.

18 ATTORNEY STOKES: The Court's indulgence.

19 (Pause).

20 ATTORNEY STOKES: No further questions, your
21 Honor.

22 THE COURT: Cross-examination.

23 ATTORNEY MANITTA: Yes, your Honor.
24
25

CROSS-EXAMINATION

BY ATTORNEY MANITTA:

Q. Good afternoon.

A. Good afternoon.

Q. I'm going to ask you if you could use Government's Exhibit 4-4 to demonstrate and answer some questions, if you would have it handy.

A. Sure.

It is, as you can see, unloaded. There is nothing in the barrel of the firearm, as well as it's been cable tied in the rearward position, the open position.

Q. How does the gun get into that open position?

A. Well, it can get into that position either when it is fired, in other words, and there is no ammunition in the magazine itself -- let me first explain a portion of the firearm.

(Indicating throughout)

This is what we call -- this particular lever on the left-hand side of the firearm, above the trigger, is what we called a hold-open device or a slide stop. This lever, when it is pushed up, it holds the slide -- which is this metal portion moving to the rear -- this particular slide is held open to the rear by this particular lever, which we call the hold-open or slide -- hold-open device or slide stop.

1 If the magazine is empty it is placed within
2 the firearm, then the top of the magazine, the part of
3 the -- this particular portion of the magazine, this
4 movable, spring-loaded piece, is what we call the follower.

5 That, the follower pushes up on this lever from
6 the inside. And if the firearm is emptied, then it is
7 designed to be held open in the rearward position.

8 You can also hold open the firearm just as I'm
9 doing, such as this, by using your thumb or finger to hold
10 the side open. It is a simple lever device holding the
11 slide to the rear. How it is manipulated is dependent upon
12 the person who is using it, as well as the magazine being
13 inserted into the firearm.

14 Q. And when it is open, the gun is not fireable; is that
15 accurate?

16 A. That is correct. The action or the slide has to be in
17 the forward position, closing the rear end of the barrel.
18 That is, the firearm is then in battery and ready to be
19 fired if the safety lever is in the "off safe" position, in
20 the fire position.

21 Q. So, tell me if this is accurate: If you are firing
22 the gun and it runs out of bullets --

23 A. Of cartridges.

24 Q. -- of cartridges, it will remain open and you know you
25 are out of cartridges?

1 **A.** I would -- I would expect that you could, or you
2 should realize that, if you are familiar with firearms, that
3 if the firearm is open and held in this position, that you
4 can't do anything more. The trigger is inactive. The
5 firearm looks different to when it is in this closed
6 position, which is in the normal "fire" position. It looks
7 different, and I would expect that a person would be able to
8 see that it was empty and open in this particular position.

9 **Q.** When the gun is fireable -- I'm not sure if you can
10 explain this. How sensitive is the trigger on that
11 particular firearm?

12 **A.** In this particular case, I measured the trigger pull.
13 I found it to be normal. It required an eight and
14 three-quarter pound pull on the trigger to discharge,
15 discharge a firearm.

16 In other words, you would have to manually load
17 the magazine, insert the magazine into the firearm, close
18 the action of the firearm. Thereafter, grip the firearm
19 properly, aim it in the direction you are intending to fire
20 the firearm, and pull the trigger. You would have apply
21 eight and three-quarters pounds of pressure to the trigger
22 before the hammer dropped.

23 In other words, if I apply eight and
24 three-quarters pounds of pressure to the trigger, then, if
25 the firearm is loaded with a round in the chamber, then when

1 I pull the trigger such as that, the firearm is designed to
2 discharge.

3 Q. In lay terms, is it easy or hard to pull the trigger
4 on that gun?

5 A. This is normal for this type of firearm. However, it
6 would in no way be regarded as a hair trigger or very light
7 trigger pull. Eight and three-quarters pounds is a
8 substantial amount of pressure that's required on the
9 trigger to discharge the firearm.

10 Q. Now, you analyzed the cartridge cases and bullet
11 fragments and bullets that were submitted to you. You
12 talked about Item Number 52, which could not be conclusively
13 identified as having been fired from that firearm; is
14 that -- (pause) --

15 A. That is correct. I was unable to determine that it
16 was fired from this firearm, and only this firearm.

17 Q. And --

18 A. It exhibited markings that were similar. However, I
19 couldn't conclusively say, due to damage to the particular
20 bullet, it just didn't -- I didn't -- I wasn't able to see
21 the microscopic markings that I am required to be able see
22 to effect an identification, or to say whether it was not
23 fired from that particular firearm.

24 Q. And conceivably, it could have come from a different
25 firearm.

1 A. I could not rule out that possibility.

2 Q. And your analysis of the various items that were
3 submitted to you cannot tell you the order that cartridges
4 were fire in; is that correct?

5 A. That is correct.

6 Q. Is it also accurate that you can't tell when these
7 items were fired?

8 A. That is correct. I cannot material you when they were
9 fired.

10 However, they exhibited no unusual
11 characteristics: rust, corrosion, erosion, which would tend
12 to indicate a long time lapse, or may indicate a long time
13 lapse. But the exact duration, I am unable to tell you when
14 it was fired, other than it was fired.

15 Q. What would be considered a long duration?

16 A. Oh, it would depend on the exposure level to -- in
17 terms of some rusting material that it was exposed to. We
18 could be, we could be talking about from days to weeks to
19 months.

20 But there is no indication that it was anything
21 unusual. There were no unusual markings on the cartridge
22 case which would enable me to say when it was fired.

23 Q. But these items could have been fired, for instance, a
24 day apart or a couple of days apart?

25 A. That is correct.

MICHAEL A. RODRIQUEZ, RPR/CM/RMR

1 Q. Up to weeks apart, perhaps?

2 A. Oh, could, could be weeks, as well, apart.

3 Q. Could it be even longer than that?

4 A. It could be. If they were, if they were fired and
5 then recovered in a friendly environment, which could not
6 cause those items to rust, it could be weeks, months, even
7 years apart.

8 But I would think that would be unlikely,
9 because years apart would, generally allow the blast
10 components to tarnish to corrode, and I see no major
11 indications of any tarnishing or change in those particular
12 items.

13 Q. I believe you also testified about some foreign
14 material found on Item Number -- I will use your item
15 number -- Item Number 14, I believe it was.

16 A. That is correct, which is court exhibit, Government's
17 Exhibit 1-3.

18 Q. Was that the only item that you found any foreign
19 material on?

20 A. No, not at all.

21 Q. Can you tell us what foreign material you found on all
22 of the others?

23 A. Yes.

24 In other words, there was -- if we look at
25 exhibit, Item Number 50, there was wood trace. There was,

1 in other words, wooden fragments attached to the mutilated
2 bullet. At least I made notes of these.

3 I don't rule out the possibility that there
4 could be something else, but there were clear wood traces
5 visible on Item Number 50.

6 If we look at the bullet jacket fragment found
7 in Item, my Item Number 51, which is court Exhibit Number
8 1-8, there was black tar-type traces, which I cleaned off
9 the base portion of this bullet jacket fragment.

10 If we look at the Item 52, which is court
11 Exhibit 1-10, there was also black-type tar traces, or which
12 could be tar-type traces on this mutilated bullet.

13 If we look at my Item Number 54, which was
14 court Exhibit 1-12, there was also black trace material on
15 the base bullet jacket fragment that I examined.

16 That's what I have noted in my notes with
17 regard to the examination of these particular bullets,
18 bullet fragments, that I analyzed.

19 Q. And so you have not noted any biological material on
20 these bullets and bullet fragments in your report.

21 A. No, I did not note that.

22 Q. And did you send these off for that sort of testing?

23 A. No, not at all.

24 Q. So, is it fair to say that you can't determine if any
25 of these bullets went through a person, I guess for lack of

1 a better way to put it.

2 A. It's not uncommon for me to get bullets that have
3 passed through some, some particular person, and we don't
4 have any trace material, such as blood, on the particular
5 bullet itself.

6 But that is correct. I cannot say
7 conclusively, because I did not examine it specifically to
8 look for blood trace on these particular fragments.

9 If I had been asked to do that, I could
10 potentially have, potentially have done it. But in this
11 particular case, I marked what was readily visible to me,
12 and there wasn't any blood trace that I readily. And I
13 didn't find that unusual.

14 Q. But just to clarify, you couldn't say which, or in
15 fact if any, of these bullets went into or through a person?

16 A. That is correct.

17 Q. Now, when a bullet does enter a human body, is it true
18 that it would slow down considerably?

19 A. It may or may not, depending on how much tissue,
20 flesh, bone, that it had to penetrate through.

21 I don't know what you mean by "considerably,"
22 but it would slow down, yes. If it passes through any
23 substantial target material, it will impart some energy to
24 it.

25 Q. A thicker, larger person, perhaps it might slow down

1 more than a small person?

2 A. It may or may not, depending on how the person, where
3 the person was struck, and depending on the initial velocity
4 of the particular bullet.

5 Bullets slow down when they pass through
6 things. I cannot tell you how much they slow down, but they
7 do slow down.

8 In this particular configuration that we have,
9 it's not bowl or military style, long jacketed, hollow point
10 ammunition, the bullets are not designed to mushroom or open
11 up, they are designed to pass through the particular object
12 that is being struck. And, depending on what they strike,
13 they may stay, stay within the particular target, or pass
14 through the particular target.

15 With nine millimeter Luger ammunition such as
16 this, it is very common that we get bullet passage
17 completely through the target, such as a person.

18 Q. Sir, would you be able to determine whether, if a
19 bullet did pass through a person, it would still have the
20 velocity to go through wooden tile?

21 Would you be able to make that determination,
22 or --

23 A. I would expect, with a nine millimeter Luger cartridge
24 such as this, that it would readily be able to pass through
25 somebody, without having struck big bone, and then pass

1 through a floor tile --

2 Q. And in fact --

3 A. -- such as what I examined. Such as what I examined.

4 Q. And we do have at least two that were in wood tile,
5 these fragments?

6 A. Well, there was a wooden fragment with my Item Number
7 54, which is court Exhibit 1-12, and that was just a small
8 wooden fragment, approximately seven and a quarter inches
9 long and of irregular shape. It wasn't a floor tile, but
10 rather a piece of something, of something that may have been
11 a floor tile.

12 So, it's just a small sliver of wood. If you
13 can show me the exhibit, I would be able to see clearly.

14 THE COURT: Do you have a question before this
15 witness?

16 If you have, I have lost track of it. Reask
17 your question.

18 Q. I was asking if there were, in fact, at least two
19 items that were fragments found in wood tile, or fragment of
20 wood tile.

21 A. There was a fragment that -- a bullet jacket fragment
22 that was attached to a wooden tile that I examined.

23 There is also a further small bullet jacket
24 fragment which has a, what appears to be a fragment of
25 wooden tile associated with it.

1 ATTORNEY MANITTA: Thank you.

2 BY ATTORNEY MANITTA:

3 Q. Do you know the age of this -- of the weapon, of Item
4 4-4, Exhibit 4-4?

5 A. In other words, when it -- exactly when it was
6 manufactured?

7 Q. Yes.

8 A. No, I can't tell you when it was -- all I know is it's
9 a good bit younger than I am. So, yes, it would definitely,
10 without doubt, be less than 20 years old.

11 Q. But we cannot tell within those two decades?

12 A. I did not make an attempt to do that. So, I can't
13 tell you, other than Interarms within Alexandria, Virginia,
14 went out of business, or at least importing firearms, at
15 least seven, eight, nine years ago, if my memory serves me
16 correctly.

17 So, as I said previously, this was marked with
18 an Interarms import marking, so it would be somewhere in
19 that range. I can't say. It clearly can be determined from
20 certain government records, when it was imported into the
21 country.

22 Q. On direct, you testified, and I believe you might have
23 demonstrated, that the cartridge casing comes out of the
24 firearm when it is fired.

25 A. Yes.

1 If we -- it is still --

2 (Simultaneous discussion)

3 THE COURT: Is the answer --

4 THE WITNESS: -- unloaded --

5 THE COURT: -- "yes"?

6 In the interest --

7 THE WITNESS: Yes --

8 THE COURT: -- of the finitude of life, the
9 answer is "yes."

10 Next question.

11 BY ATTORNEY MANITTA:

12 Q. Am I correct that the cartridge casing comes out the
13 top of the firearm?

14 A. Out of the ejection port of the firearm.

15 Q. And how far does it travel, with that particular
16 firearm?

17 A. It would be in close proximity to the firing of the
18 firearm.

19 Q. What do you mean by "close proximity"?

20 A. In other words, it wouldn't be -- if we were in a room
21 or something, something similar, it would be within a couple
22 of feet of where you had fired the firearm, assuming that it
23 hadn't been rolled, hadn't rolled away or been kicked away,
24 or moved.

25 Q. In your analysis of these items, did you find any

1 fingerprints on the magazine or cartridge casings?

2 A. It is -- it's not -- it's a function of other people
3 within the laboratory to --

4 THE COURT: The answer is, you didn't find any
5 because you weren't asked to look for any.

6 THE WITNESS: That is correct.

7 THE COURT: Next question.

8 BY ATTORNEY MANITTA:

9 Q. Do you know if anyone was asked to look for any?

10 A. I don't know for a fact. I can -- I can look at that.

11 ATTORNEY STOKES: Your Honor, I'm going to
12 object. This is based on hearsay. This witness is not a
13 fingerprint expert.

14 THE COURT: I will sustain it.

15 ATTORNEY MANITTA: Thank you, your Honor.

16 I have no further questions.

17 THE COURT: Any redirect?

18 ATTORNEY STOKES: Just briefly, your Honor.

19

20 REDIRECT EXAMINATION

21 BY ATTORNEY STOKES:

22 Q. In addition to examining a bullet's microscopic
23 markings, is the location where a bullet or a mutilated
24 bullet is found, is that also a factor that can be used to
25 determine whether it was fired from a particular gun?

1 A. Oh, definitely. If we have a single bullet hole
2 through a particular item, and we have bullet fragments
3 behind that particular item, there is clearly strong
4 indication that a single bullet passed through the
5 particular part and then fragmented on the other side, since
6 we -- if we find items on the other side, that's the only
7 explanation for it.

8 ATTORNEY STOKES: No further questions, your
9 Honor.

10 THE COURT: Any recross, based only on that?

11 ATTORNEY MANITTA: No, your Honor.

12 THE COURT: You may step down.

13 (Witness excused)

14 THE COURT: Call your next witness.

15 ATTORNEY STOKES: Your Honor, if we may examine
16 the, the admitted items, I believe that will be our last
17 witnesses.

18 THE COURT: All right.

19 THE WITNESS: May I be excused, your Honor?

20 THE COURT: Yes, you may.

21 ATTORNEY STOKES: Your Honor, I'm sorry; if I
22 may. There is one additional question, very brief question,
23 if I may ask the witness.

24 THE COURT: All right.

25 Return to the stand, Mr. Arntsen.

1 (Witness resumed stand)

2 ATTORNEY STOKES: Just to clear up one issue.

3

4 GARY C. ARNTSEN, having been previously duly
5 sworn, was examined and testified further as follows:

6 FURTHER REDIRECT EXAMINATION

7 BY ATTORNEY STOKES:

8 Q. Sir, do you know where the bullets -- the cartridge
9 cases you examined, do you know where those were
10 manufactured?

11 A. Yes. They were, they are marked as being manufactured
12 by Remington-Peters, within the United States.

13 Q. And do you know where Remington-Peters manufactures
14 ammunition?

15 A. Yes. In Lone Oak, outside the State of Virginia.

16 Q. And what was the name of that town you said?

17 A. Lone Oak. Lone Oak. Not Roanoke, Lone Oak.

18 ATTORNEY STOKES: Thank you, sir.

19 THE COURT: All right.

20 Ms. Manitta, do you have anything further --

21 (pause) --

22 ATTORNEY MANITTA: No --

23 THE COURT: -- based on that?

24 ATTORNEY MANITTA: -- your Honor.

25 THE COURT: That was outside the scope of your

1 cross and his direct. I allowed him to do it, so you may
2 cross-examine.

3 ATTORNEY MANITTA: I don't have anything.

4 THE COURT: You may step down.

5 (Witness excused)

6 THE COURT: All right.

7 Then, with the exception with the government's
8 checking for the exhibits, that concludes the government's
9 testimony and its case-in-chief?

10 ATTORNEY STOKES: Yes, it does, your Honor.

11 THE COURT: All right.

12 Let's me have counsel at the bench, quickly.

13 (Side-bar conference held as follows:)

14 THE COURT: All right. I show the following
15 exhibits. And I could do this -- yes.

16 (Pause)

17 THE COURT: On the "1" series, it's 1 through
18 1-12, 1-14 and -15, 1-25 through 1-35, and then 1-37 through
19 1-45, 1-47, 1-50 through -54, 1-55, 1-56, 1-57, and 1-61.

20 Now, have I omitted any on the "1" dashes?

21 ATTORNEY STOKES: I believe so, your Honor.
22 1-58.

23 THE COURT: Yes, that's admitted. That's
24 correct.

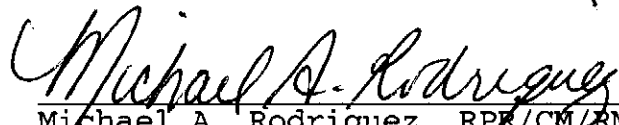
25 Have I omitted any others on the "1" series?

CERTIFICATE OF REPORTER

I, MICHAEL A. Rodriguez, an Official Court Reporter for the United States District Court, in the Eastern District of Virginia, Alexandria Division, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and evidence adduced upon the jury trial in the case of UNITED STATES OF AMERICA v. WILFREDO MONTOYA-BAIRES.

I further certify that I was authorized and did report by stenotype the proceedings and evidence in said jury trial, and that the foregoing pages, numbered 1 to 154, inclusive, constitute the official transcript of said proceedings, Volume 8, as taken from my machine shorthand notes.

IN WITNESS WHEREOF, I have hereto subscribed my name this 9th day of February, 2007.


Michael A. Rodriguez, RPR/CM/RMR
Official Court Reporter

MICHAEL A. RODRIGUEZ, RPR/CM/RMR