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I N D E X

PROSECUTION WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
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(NONE)

DEFENSE WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
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(NONE)

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E X H I B I T S

PEOPLE'S EXHIBIT
(NONE)

FOR
IDENTIFICATION

RECEIVED

DEFENSE EXHIBIT
(NONE)

FOR
IDENTIFICATION

RECEIVED

1 (SANTA ANA, CALIFORNIA - FRIDAY, FEBRUARY 6, 2015)

2 (AFTERNOON SESSION.)

3 * * * * *

4
5 THE COURT: ON THE RECORD IN THE CASE OF PEOPLE
6 VERSUS KEVIN ROJANO.

7 MS. BOKOSKY: WHITNEY BOKOSKY FOR THE PEOPLE.

8 MR. PUTHAWALA: ERFAN PUTHAWALA FOR MR. ROJANO.

9 THE COURT: I KNOW THERE ARE FAMILY MEMBERS HERE
10 AND INTERESTED PARTIES FROM BOTH SIDES. THE COURT WOULD
11 LIKE TO WELCOME YOU AND ASK YOU TO COMPLY WITH ALL THE
12 RULES OF COURT AND CONDUCT YOURSELVES APPROPRIATELY DURING
13 THE HEARING. I KNOW THERE ARE A LOT OF EMOTIONS INVOLVED
14 IN THE CASE. I PRESIDED OVER THE JURY TRIAL. YOU ARE
15 WELCOME TO STAY HERE, BUT BE SURE YOU RESPECT ALL OF THE
16 COURT PROTOCOL.

17 I ASSUME YOU SPOKE WITH YOUR FAMILY MEMBERS,
18 MR. PUTHAWALA?

19 MR. PUTHAWALA: YES.

20 THE COURT: AND MISS BOKOSKY?

21 MS. BOKOSKY: YES.

22 THE COURT: THE MATTER IS SET HERE FOR SENTENCING
23 TODAY. THE DEFENDANT HAVING BEEN CONVICTED OF THE CRIMES
24 INVOLVED IN THIS CASE, THE 288.7(A) AND 288(A). THE COURT
25 PRESIDED OVER THE JURY TRIAL. THE MATTER WAS SENT OUT FOR
26 PROBATION AND SENTENCING REPORT AND ALSO FOR A PSYCHOLOGY

1 REPORT, AND THE MATTER WAS CONTINUED UNTIL TODAY'S DATE FOR
2 SENTENCING.

3 FIRST THE COURT WANTS TO CONFIRM THAT YOU HAVE ALL
4 THE DOCUMENTS. I DID THIS OFF OF THE RECORD, BUT I WILL
5 CONFIRM IT ON THE RECORD THAT YOU HAVE EVERYTHING. FIRST
6 IS DR. FLORES DE APODACA'S FORENSIC CLINICAL PSYCHOLOGY
7 REPORT DATED JANUARY 24, 2015, APPROXIMATELY 13 PAGES.

8 HAVE YOU RECEIVED YOUR COPY, MISS BOKOSKY?

9 MS. BOKOSKY: YES.

10 THE COURT: AND MR. PUTHAWALA?

11 MR. PUTHAWALA: YES, YOUR HONOR.

12 THE COURT: HAVE YOU HAD A CHANCE TO GO OVER THIS
13 WITH YOUR CLIENT?

14 MR. PUTHAWALA: NO, YOUR HONOR.

15 THE COURT: BUT YOU HAVE RECEIVED THAT?

16 MR. PUTHAWALA: I HAVE.

17 THE COURT: AND THE COURT ALSO RECEIVED THE
18 PEOPLE'S SENTENCING BRIEF. THANK YOU FOR THAT,
19 MISS BOKOSKY.

20 HAVE YOU RECEIVED THAT COPY, MR. PUTHAWALA?

21 MR. PUTHAWALA: YES, YOUR HONOR.

22 THE COURT: AND YOU INDICATED AT LEAST AT THIS
23 TIME THAT THE DEFENSE WILL NOT BE FILING A SENTENCING
24 BRIEF, AND YOU ARE MAKING YOUR ARGUMENTS ORALLY.

25 MR. PUTHAWALA: THAT'S CORRECT, YOUR HONOR.

26 THE COURT: LASTLY, THE COURT HAS READ AND

1 REVIEWED THE ENTIRE PROBATION AND SENTENCING REPORT,
2 APPROXIMATELY 14 PAGES, BY D.P.O. KRISTEN FUSSELL, AND
3 ATTACHED TO THAT WAS THE STATIC 99 SCORING RESULTS, AND
4 ALSO A 5 PAGE HANDWRITTEN LETTER BY MR. ROJANO ATTACHED TO
5 MY COPY, AND THEN SOME INTERESTED PARTIES' REFERENCE
6 MATERIALS ON BEHALF OF MR. ROJANO FROM HIS AUNT,
7 STEP-SISTER, AND UNCLE.

8 HAVE YOU RECEIVED YOUR COPY OF THAT, MISS BOKOSKY?

9 MS. BOKOSKY: YES.

10 THE COURT: AND MR. PUTHAWALA?

11 MR. PUTHAWALA: YES.

12 THE COURT: HAVE YOU HAD A CHANCE TO GO OVER THE
13 P & S REPORT WITH YOUR CLIENT AND SHOW THAT TO HIM?

14 MR. PUTHAWALA: I HAVE NOT REVIEWED THAT DOCUMENT.

15 THE COURT: MR. ROJANO HAS NOT HAD A CHANCE TO SEE
16 EITHER THE P & S REPORT OR THE DR. FLORES DE APODACA'S
17 REPORT?

18 MR. PUTHAWALA: THAT'S CORRECT.

19 THE COURT: IN ADDITION, ON PAGE 4 OF THE
20 PROBATION AND SENTENCING REPORT IN THE VICTIM STATEMENT
21 INFORMATION THE PROBATION DEPARTMENT INDICATED THERE WAS
22 WRITTEN CORRESPONDENCE SENT TO THE VICTIM'S FAMILY IN THIS
23 CASE AND ALSO TELEPHONIC CONTACT WAS ATTEMPTED, BUT THERE
24 WAS NO SUCCESS.

25 YOU HAVE SINCE REPRESENTED, MISS BOKOSKY, THAT THE
26 FAMILY MEMBERS WANTED TO RESERVE THEIR COMMENTS AND MAKE AN

1 1191 VICTIM IMPACT STATEMENT HERE IN COURT; IS THAT
2 CORRECT?

3 MS. BOKOSKY: YES.

4 THE COURT: THE COURT INDICATED TO BOTH COUNSEL
5 THAT THE SENTENCING IS GOING TO BE CONTINUED IN THIS MATTER
6 FOR REASONS I WILL STATE ON THE RECORD SHORTLY. HOWEVER,
7 THE COURT KNOWS IT TAKES A LOT OF COURAGE TO COME DOWN TO
8 COURT AND MAKE A VICTIM IMPACT STATEMENT, SO I WOULD BE
9 HAPPY TO HEAR FROM WHOEVER YOU WISH TO SPEAK PER 1191 OF
10 THE PENAL CODE, MISS BOKOSKY.

11 AND YOU INDICATED THAT THE VICTIM'S MOTHER AND HER
12 HUSBAND WOULD LIKE TO ADDRESS THE COURT?

13 MS. BOKOSKY: YOUR HONOR, JUST JANE DOE'S FATHER,
14 MR. AREVALO.

15 THE COURT: IT'S MY UNDERSTANDING THAT JANE DOE'S
16 MOTHER HAD WRITTEN A STATEMENT, AND THE FATHER IS GOING TO
17 READ THAT STATEMENT AND ADDRESS THE COURT.

18 MS. BOKOSKY: I BELIEVE IT'S A JOINT STATEMENT.

19 THE COURT: THAT IS FINE.

20 SIR, WHEREVER YOU FEEL COMFORTABLE SITTING OR
21 STANDING, WHATEVER YOU DO IS FINE. CAN YOU STATE YOUR NAME
22 AND SPELL IT FOR THE RECORD?

23 MR. AREVALO: LUIS, L-U-I-S, AREVALO,
24 A-R-E-V-A-L-O.

25 THE COURT: MA'AM, WILL YOU STATE YOUR NAME?

26 MS. NIETO: JUDITH NIETO.

1 THE COURT: N-I-E-T-O, CORRECT?

2 MS. NIETO: YES.

3 THE COURT: MR. AREVALO, YOU'RE GOING TO PROCEED,
4 CORRECT, SIR?

5 MR. AREVALO: YES. THIS IS A LETTER THAT I HELPED
6 MY WIFE PIECE TOGETHER.

7 YOUR HONOR, MY NAME IS JUDITH NIETO, AND I AM THE
8 MOTHER OFF KEVIN JONAS ROJANO-NIETO. HE IS MY THIRD BORN
9 CHILD. I LOVE KEVIN VERY DEARLY AS I LOVE ALL MY CHILDREN.
10 WHILE A MOTHER'S LOVE IS NOTHING LESS THAN UNCONDITIONAL, I
11 AM CLEARLY AWARE OF THE GRAVITY OF MY SON'S ACTIONS AND THE
12 INEVITABLE DISCIPLINE THAT HE MUST NOW CONFRONT. IT HAS
13 BEEN NOT ONLY EXTREMELY DIFFICULT, BUT UTTERLY DEVASTATING
14 FOR ME AND MY FAMILY TO FULLY COME TO TERMS WITH THE EVENTS
15 THAT TOOK PLACE. IT HAS ROCKED THE VERY FOUNDATION OF MY
16 FAMILY TO THE CORE. ALTHOUGH MY HUSBAND WAS ABLE TO MAKE
17 HIS PEACE WITH KEVIN, I HAVE NOT HAD THE STRENGTH NOR THE
18 COURAGE TO DIRECTLY TALK TO HIM ABOUT THE SUBJECT.

19 I HOWEVER WAS EXTREMELY HAPPY TO LEARN FROM KEVIN
20 THAT HE HAS ALLOWED GOD INTO HIS HEART AND HAS COMMITTED
21 HIMSELF TO GOD'S GUIDANCE. LEARNING THIS HELPED ME GAIN
22 INSIGHT INTO WHAT WE NEED AS A FAMILY. I AM NOT REFERRING
23 TO A SPECIFIC DEITY OR BELIEF, BUT IN GENERAL THE HEALING
24 PROCESS HAS TO BEGIN WITH PRACTICING AT ACCEPTANCE AND
25 EXERCISING FORGIVENESS, BOTH TOWARDS OTHERS AND TOWARDS
26 OURSELVES. FOLLOWING KEVIN'S EXAMPLE WILL ALLOW US TO TIE

1 THE LOOSE ENDS AND TO STOP THE DEVASTATING RIPPLE EFFECTS
2 OF THIS TRAGEDY.

3 DESPITE HIS CHILDHOOD HARDSHIPS WHEN HE WAS RIPPED
4 AWAY FROM ME, KEVIN BECAME A HAPPY AND CARING YOUNG MAN
5 THIS LAST COUPLE OF YEARS LIVING WITH US. HE WAS ABLE TO
6 OVERCOME HIS INITIAL ANXIETY BY BONDING WITH MY HUSBAND.
7 EVENTUALLY HE LEARNED TO CONFIDE IN HIM AND EVEN STARTED
8 REFERRING TO HIM AS FATHER. KEVIN IS KIND-HEARTED AND
9 LOVING BY NATURE.

10 MY POINT IS, YOUR HONOR, THAT I KNOW IN MY HEART
11 THAT KEVIN UNDERSTANDS THE GRAVITY OF HIS ACTIONS AND THAT
12 HE LAMENTS HIS MISTAKES. HIS DECISION TO TURN TO GOD
13 DURING THIS HARDSHIP IS A DIRECT ATTEMPT TO SEEK HELP.
14 KEVIN IS A GOOD PERSON THAT HAS ENDURED CHILDHOOD TRAUMAS.
15 HE REQUIRES REHABILITATION THAT FOCUSSES ON PSYCHOLOGICAL
16 HEALING AS A PREVENTIVE MEASURE, AND NOT SOLELY ON
17 RETRIBUTION FOR HIS TRANSGRESSIONS.

18 A GENTLEMAN NAMED FRANK WOLF ONCE WROTE, WE CAN'T
19 JUST RAIL AGAINST CRIME. WE MUST SPEAK OF THE ROOT
20 PROBLEMS, DEVASTATING FAMILY BREAKUP AN INSIDIOUS CULTURE
21 OF VIOLENCE THAT CHEAPENS HUMAN LIFE, AND RECOGNIZE THAT
22 THERE IS A SOCIETAL ROLE IN REHABILITATION AND RESTORATION.

23 IN ORDER TO ACHIEVE OUR HEALING TO ITS MAXIMUM
24 POTENTIAL IT'S NECESSARY THAT WE RECEIVE HELP TOGETHER.
25 THIS WILL HELP US TO GAIN THAT LACKING STRENGTH AND COURAGE
26 NECESSARY TO MOVE FORWARD INTO AN EMOTIONALLY AND

1 PSYCHOLOGICALLY HEALTHY LIFE. I WOULD LIKE TO KINDLY
2 REQUEST THAT YOU CONSIDER PLACING KEVIN SOMEWHERE NEARBY
3 WHERE HE CAN HAVE ACCESS TO SUCH REHAB PROGRAMS IN WHICH WE
4 MAY BE ABLE TO SUPPORT HIM SO THAT WE CAN MAKE AMENDS AND
5 HEAL AS A FAMILY. IN THE END THE SUCCESSFUL RESULT OF THIS
6 APPROACH WILL BE THE MOST BENEFICIAL NOT ONLY TO KEVIN AND
7 TO OUR FAMILY AS A WHOLE, BUT TO SOCIETY AT LARGE.

8 MY WIFE WANTS TO ASK FOR FORGIVENESS FOR KEVIN'S
9 TRANSGRESSIONS AND FOR THE OPPORTUNITY TO HAVE A SECOND
10 CHANCE AT LIBERTY, AND THAT SHE COMPROMISES HERSELF TO GO
11 WITH HIM TO THERAPY SO THAT HE CAN GET BETTER. HE IS NOT A
12 BAD PERSON. IF HE WAS A BAD PERSON, SHE WOULD BE THE FIRST
13 ONE TO ADMIT THAT HE WOULD BE BETTER OFF IN A CELL, BUT HE
14 IS NOT A BAD PERSON, AND SHE BELIEVES THAT HE CAN BECOME
15 BETTER.

16 THE COURT: SINCE I DON'T HAVE A CERTIFIED COURT
17 INTERPRETER HERE, I AM RELYING ON YOU, MR. AREVALO, TO
18 TRANSLATE MY STATEMENTS TO YOUR SPOUSE MISS NIETO.

19 MR. AREVALO: YES.

20 THE COURT: I HAVE BEEN DOING THIS A LONG TIME,
21 AND THE CIRCUMSTANCES OF THIS WHOLE SITUATION ARE VERY
22 TRAGIC. AS YOU SAID, THEY ARE HEARTBREAKING AND UPROOT
23 FAMILIES. I KNOW THERE ARE TENSIONS INVOLVED WITH BOTH
24 SIDES. THAT LETTER YOU JUST READ TO ME IS PROBABLY ONE OF
25 THE MOST HEARTFELT I HAVE HEARD IN A LONG TIME IN TERMS OF
26 YOUR ABILITY TO WANT TO FORGIVE AND MOVE FORWARD. I

1 BELIEVE IT'S VERY SINCERE.

2 WE ARE NOT GOING FORWARD WITH THE SENTENCING TODAY
3 FOR REASONS THAT I THINK WERE EXPLAINED TO YOU BY THE
4 DISTRICT ATTORNEY, BUT I WILL PUT THEM ON THE RECORD. I
5 CAN GIVE YOU MY ASSURANCE THAT I WILL INCORPORATE YOUR
6 THOUGHTS THAT YOU JUST READ TO ME IN YOUR VICTIM IMPACT
7 STATEMENT ON BEHALF OF YOUR DAUGHTER JANE DOE. THAT I WILL
8 GIVE YOU THE BENEFIT OF MY FULL ANALYSIS AND USE ALL OF MY
9 JUDICIAL EXPERIENCE AND MY EXPERIENCE IN HUMANITY TO TRY TO
10 FASHION A SENTENCE WHICH IS APPROPRIATE.

11 NO MATTER WHAT HAPPENS YOU WILL STILL HAVE TO
12 RECONCILE THE FAMILY STRESS AND STRIFE THAT THIS INCIDENT
13 HAS CAUSED, AND I THINK THAT LETTER THAT YOUR HUSBAND JUST
14 READ TO ME GOES A LONG WAY IN THE HEALING PROCESS. SO I
15 CERTAINLY AM IMPRESSED BY THAT. I HAVE NEVER HAD A
16 SITUATION BEFORE LIKE THIS WHERE A MOTHER IS THE MOTHER OF
17 THE VICTIM OF THE CRIME AND THE MOTHER OF THE DEFENDANT WHO
18 WAS CONVICTED OF THE CRIME. IT'S VERY RARE IN THESE
19 SITUATIONS. SO I KNOW IT MUST BE VERY DIFFICULT FOR YOU.
20 SO I COMMEND YOUR COURAGE, AND I THANK YOU.

21 MR. AREVALO: THANK YOU, YOUR HONOR.

22 THE COURT: ANYTHING ELSE, MR. AREVALO?

23 MR. AREVALO: NO.

24 THE COURT: WOULD ANY OTHER FAMILY MEMBERS LIKE TO
25 ADDRESS THE COURT, MISS BOKOSKY, TO YOUR KNOWLEDGE?

26 MS. BOKOSKY: NO, YOUR HONOR.

1 THE COURT: LET ME MEMORIALIZE ON THE RECORD WHAT
2 THE COURT BRIEFLY DISCUSSED WITH COUNSEL IN CHAMBERS PRIOR
3 TO US COMING OUT. THE COURT RECEIVED THE REPORT BY
4 DR. FLORES DE APODACA, AND THEN ALSO THE PROBATION AND
5 SENTENCING REPORT IN THIS CASE, AND THEN THE SENTENCING
6 BRIEF BY THE PEOPLE WHICH MANDATES AS IT STATES RIGHT NOW,
7 AND I BELIEVE MISS BOKOSKY IS CORRECT, THAT THE MINIMUM
8 SENTENCE STATUTORILY THAT MR. ROJANO FACES IS 25 YEARS TO
9 LIFE IN STATE PRISON. MEANING HE WOULD HAVE TO SERVE 25
10 YEARS ON COUNT 1 BEFORE HE IS EVEN ELIGIBLE FOR PAROLE.

11 IF THE COURT DECIDED TO SENTENCE CONSECUTIVE ON
12 COUNSEL 2, THAT COULD BE A MAXIMUM OF AN ADDITIONAL 8 YEARS
13 FOR A TOTAL MAXIMUM SENTENCE THAT MR. ROJANO IS FACING OF
14 33 YEARS TO LIFE IN PRISON, BUT A MINIMUM OF 25 YEARS TO
15 LIFE IN PRISON.

16 ONCE THE COURT READ ALL THE INFORMATION, AND OF
17 COURSE I PRESIDED OVER THE TRIAL, I HAVE SOME REAL CONCERNS
18 WHETHER OR NOT THE CONSTITUTION COMPELS REDUCTION OF THE
19 PUNISHMENT IN THIS CASE BECAUSE AN ISSUE ARISES AS TO
20 WHETHER OR NOT THE PUNISHMENT IS DISPROPORTIONATE TO THE
21 DEFENDANT'S INDIVIDUAL CULPABILITY IN THIS PARTICULAR CASE.
22 I HEARD ALL THE FACTS IN THIS PARTICULAR CASE. I AM AWARE
23 OF A LOT OF THE CIRCUMSTANCES, AND I BECAME AWARE OF A LOT
24 MORE WHEN I REVIEWED THE P & S REPORT AND THE PSYCHOLOGICAL
25 REPORT.

26 SO I DID NOT WANT TO GO FORWARD WITH THE

1 SENTENCING UNTIL I GAVE BOTH SIDES AN OPPORTUNITY TO
2 ADDRESS THAT ISSUE BECAUSE IT'S SOMETHING THAT CONCERNS ME,
3 ESPECIALLY WHEN YOU LOOK AT THE STATUTORILY PRESCRIBED
4 MINIMUM PUNISHMENT IN THIS CASE OF 25 YEARS TO LIFE IS THE
5 SAME PUNISHMENT AS WHAT WE GIVE SOMEONE CONVICTED OF FIRST
6 DEGREE PREMEDITATED MURDER, AND IT'S MORE THAN WHAT IS
7 PRESCRIBED FOR SOMEONE WHO IS CONVICTED OF SECOND DEGREE
8 MURDER, OR ATTEMPTED MURDER WITH PREMEDITATION AND
9 DELIBERATION, OR FORCIBLE RAPE, OR A NUMBER OF VIOLENT
10 CRIMES WHICH MAY NOT RISE TO THIS LEVEL OF INDIVIDUAL
11 CULPABILITY.

12 I HAVE NOT DONE THIS BEFORE, BUT I HAVE CONCERNS
13 REGARDING WHETHER OR NOT THIS PUNISHMENT AS PRESCRIBED
14 WOULD FALL INTO THE ARENA OF CRUEL AND UNUSUAL PUNISHMENT
15 AND HAVE CONSTITUTIONAL RAMIFICATIONS UNDER THE 8TH
16 AMENDMENT. THOSE ARE MY CONCERNS, AND I HAVE DONE SOME
17 INITIAL RESEARCH CONCERNING THAT. I WILL PROVIDE SOME
18 CITATIONS TO COUNSEL SO THAT YOU CAN ADEQUATELY LOOK INTO
19 THAT YOURSELVES ON BEHALF OF YOUR RESPECTIVE POSITIONS.

20 I KNOW THIS IS A VERY RARE SITUATION. IT DOESN'T
21 COME UP VERY OFTEN. AS I INDICATED, I HAVE NOT DONE IT
22 BEFORE OR BEEN INVOLVED IN A SITUATION CONCERNING THIS
23 BEFORE. I DON'T KNOW IF EITHER COUNSEL HAVE, BUT I DID NOT
24 WANT TO JUST SURPRISE YOU. I WANTED TO GIVE YOU AN
25 OPPORTUNITY TO BRIEF THE MATTER AND PROVIDE GUIDANCE TO THE
26 COURT, ANY GUIDANCE YOU MIGHT FEEL WOULD BE APPROPRIATE ON

1 THIS ISSUE.

2 THAT BEING STATED, THE COURT INDICATED THAT I FELT
3 IT WOULD BE BEST IF WE CONTINUED THE SENTENCING FOR
4 APPROXIMATELY 30 DAYS OR SO OR HOWEVER LONG YOU FEEL YOU
5 WOULD NEED TO ADEQUATELY ADDRESS THESE ISSUES. I GAVE YOU
6 AN OPPORTUNITY TO DISCUSS THAT AND LET THE FAMILY MEMBERS
7 KNOW WHAT THE COURT'S CONCERNS WERE, MISS BOKOSKY.

8 DID YOU GET A CHANCE TO DO THAT?

9 MS. BOKOSKY: YES, YOUR HONOR. WE WERE THINKING
10 ABOUT MARCH 20TH, AND IF WE COULD ALSO DO A P.M. SETTING.

11 THE COURT: YES, P.M. WOULD BE BEST.

12 YOU HAD A CHANCE TO DISCUSS THAT WITH YOUR CLIENT,
13 MR. PUTHAWALA?

14 MR. PUTHAWALA: NO. I WOULD LIKE A MOMENT TO LET
15 MR. ROJANO KNOW WHAT IS GOING ON.

16 THE COURT: YES. HE HAS THE RIGHT TO BE SENTENCED
17 TODAY, BUT IT'S THE COURT'S REQUEST TO PUT THIS OVER FOR
18 APPROXIMATELY FOUR TO SIX WEEKS TO GIVE THE PARTIES A
19 CHANCE TO PROVIDE POINTS & AUTHORITIES TO THE COURT.

20 MR. PUTHAWALA: YES, YOUR HONOR.

21 THE COURT: TAKE A MOMENT AND SPEAK WITH
22 MR. ROJANO.

23 MR. PUTHAWALA: THANK YOU.

24 THE COURT: YOU WANT TO TAKE A MOMENT AND MAKE
25 SURE THE DATE IS FINE WITH THE FAMILY, MISS BOKOSKY?

26 MS. BOKOSKY: YES. THANK YOU.

1 THE COURT: I WANT TO MAKE SURE EACH OF YOU HAS
2 ENOUGH TIME TO ADEQUATELY RESEARCH THIS COMPLEX ISSUE.

3 MR. PUTHAWALA: YOUR HONOR, I HAD THE OPPORTUNITY
4 TO SPEAK WITH MR. ROJANO. THANK YOU.

5 THE COURT: IS YOUR CLIENT AGREEABLE TO CONTINUING
6 THE SENTENCING?

7 MR. PUTHAWALA: YES, YOUR HONOR.

8 THE COURT: WHAT DATE? IS THE 20TH STILL GOOD?

9 MS. BOKOSKY: YES.

10 MR. PUTHAWALA: YES.

11 THE COURT: AT 1:45?

12 MS. BOKOSKY: YES.

13 THE COURT: CERTAINLY THE FAMILY MEMBERS HAVE A
14 CHANCE TO ADDRESS THE COURT AGAIN IF THEY WISH. YOU CAN
15 EXPLAIN THAT TO THEM AT THAT TIME.

16 MS. BOKOSKY: OKAY.

17 THE COURT: I WOULD JUST REQUEST THAT YOU EXCHANGE
18 ANY WRITTEN POINTS & AUTHORITIES OR MATERIALS WITH ONE
19 ANOTHER AND GIVE THE COURT AT LEAST A WEEK TO REVIEW YOUR
20 WRITTEN POSITIONS IF YOU ARE GOING TO SUBMIT WRITTEN PAPERS
21 ON THIS.

22 MR. PUTHAWALA: WOULD ALL PARTIES AGREE TO SERVICE
23 BY E-MAIL?

24 MS. BOKOSKY: THAT IS FINE.

25 THE COURT: LOOKS LIKE THE TWO OF YOU HAVE ALREADY
26 DONE THAT ON OTHER THINGS. IF BOTH PARTIES ARE IN

1 AGREEMENT, THAT IS FINE.

2 MR. PUTHAWALA: THANK YOU.

3 THE COURT: YOU CAN EVEN E-MAIL YOUR DOCUMENTS TO
4 THE COURT.

5 MR. PUTHAWALA: THANK YOU, YOUR HONOR.

6 THE COURT: IF YOU WANT TO SUBMIT THOSE VIA E-MAIL
7 FOR ME TO REVIEW, THAT IS FINE.

8 YOU HAVE THE RIGHT TO BE SENTENCED TODAY OR WITHIN
9 A REASONABLE TIME OF TODAY'S DATE, MR. ROJANO. YOU
10 UNDERSTAND THAT, SIR?

11 THE DEFENDANT: YES, SIR, YOUR HONOR.

12 THE COURT: YOUR LAWYER IS REQUESTING TO CONTINUE
13 THE SENTENCING TO FRIDAY, MARCH 20TH, WHICH IS
14 APPROXIMATELY SIX WEEKS FROM TODAY'S DATE AT 1:45 IN THE
15 AFTERNOON. YOU CAN HAVE YOUR SENTENCING ON THAT DAY OR
16 WITHIN A REASONABLE TIME OF THAT DAY. ALL INDICATIONS ARE
17 THAT WE WOULD GO FORWARD ON THAT DAY WITH YOUR SENTENCING.

18 DO YOU UNDERSTAND AND AGREE TO DO THAT?

19 THE DEFENDANT: YES.

20 MR. PUTHAWALA: COUNSEL JOINS.

21 THE COURT: ANY OBJECTION BY THE PEOPLE?

22 MS. BOKOSKY: NO.

23 THE COURT: I WOULD JUST FOR COUNSEL'S BENEFIT
24 INDICATE THAT IN MY BRIEF INITIAL RESEARCH ON THE MATTER I
25 WILL CITE THREE CASES TO COUNSEL ON WHETHER OR NOT THE
26 CONSTITUTION COMPELS REDUCTION OF THE PUNISHMENT UNDER THE

1 8TH AMENDMENT CRUEL AND UNUSUAL PUNISHMENT. PEOPLE VERSUS
2 FELIX 108 CAL. APP. 4TH 994. ALSO WHETHER A PUNISHMENT IS
3 CONSTITUTIONALLY IMPERMISSIBLE IF IT'S DISPROPORTIONATE TO
4 THE DEFENDANT'S INDIVIDUAL CULPABILITY, PEOPLE VERSUS
5 DILLON 34 CAL. 3D 441. AND A CASE CITED FOR THE TOTALITY
6 OF THE CIRCUMSTANCES WITH THE THREE-PRONG TEST, THE THREE
7 PRONGS INVOLVED WHEN DETERMINING WHETHER CRUEL AND UNUSUAL
8 PUNISHMENT EVEN APPLIES, PEOPLE VERSUS RHODES 126 CAL. APP.
9 4TH, 1389.

10 OBVIOUSLY, I WILL LEAVE IT TO COUNSEL TO DO THEIR
11 OWN RESEARCH ON THE MATTER AND PROVIDE THE COURT WITH ANY
12 GUIDANCE IT CAN. I WOULD APPRECIATE THAT. IT'S
13 ANTICIPATED I WILL BE PREPARED TO GO FORWARD ON MARCH 20TH.

14 I GUESS I WOULD ALSO INDICATE, AND THE COURT IS
15 NOT SAYING THAT IT'S GOING TO DO THIS, BUT IF IT WAS TO
16 OCCUR THAT THE COURT FINDS THAT THE 8TH AMENDMENT DOES
17 APPLY AND IT'S CONSTITUTIONALLY IMPERMISSIBLE, THIS
18 SENTENCE, I WOULD LIKE YOU TO BRIEF WHAT YOU FEEL ARE THE
19 COURT'S SENTENCING OPTIONS IF THAT WAS TO OCCUR.

20 I WOULD CITE TO YOU PENAL CODE SECTION 18
21 REGARDING DEFAULT PUNISHMENTS IF THE COURT FELT THAT WAS
22 APPROPRIATE. SO I WOULD LIKE YOUR POSITIONS ON THAT.

23 MR. PUTHAWALA: THE COURT SAID PENAL CODE SECTION
24 18?

25 THE COURT: 18.

26 MR. PUTHAWALA: THANK YOU.

1 THE COURT: ANYTHING ELSE ON BEHALF OF YOUR
2 CLIENT, MR. PUTHAWALA?

3 MR. PUTHAWALA: NOTHING AT THIS TIME, YOUR HONOR.

4 THE COURT: ON BEHALF OF THE PEOPLE, MISS BOKOSKY?

5 MS. BOKOSKY: NO.

6 THE COURT: ANY QUESTIONS, MR. ROJANO?

7 THE DEFENDANT: NO, SIR.

8 THE COURT: OKAY, SIR. SEE YOU BACK ON MARCH 20TH
9 ABOUT SIX WEEKS FROM NOW.

10 THE DEFENDANT: THANK YOU, SIR.

11 THE COURT: THANK YOU TO THE FAMILY MEMBERS. IT'S
12 THE COURT'S HOPE YOU CAN COME BACK ON MARCH 20TH.

13 MR. PUTHAWALA: THANK YOU, YOUR HONOR.

14 (END OF PROCEEDINGS.)

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REPORTER'S CERTIFICATE

I, JEANETTE A. GILLICK, CSR NO. 7961, OFFICIAL COURT REPORTER IN AND FOR THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ORANGE, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES, AND IS A FULL, TRUE AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.

DATED THIS 7TH DAY OF APRIL, 2015.

Jeanette A Gillick

JEANETTE A. GILLICK, CSR NO. 7961
OFFICIAL COURT REPORTER