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I think that I would ask for a mistrial.

THE COURT: Refused.

* * *

(Whereupon, the discussion held at sidebar was concluded.)

* * *

DIRECT EXAMINATION

BY ATTORNEY KELLEY:

Q Could you state your name for the record?

A Esther Roldan Soto.

Q Could you spell your first and last name?

A E-s-t-h-e-r, S-o-t-o.

Q Do you know the Defendant who is seated in Court today?

A Yes.

Q And how do you know the Defendant who is sitting in Court today?

A He used to go to my store.

Q And your store is what? What is the name of your store?

A Esther's Grocery.

Q And where is Esther Grocery located?

A 457 South Queen Street.

Q Esther, you speak English; is that correct?

A A little bit.

1 Q You and I have actually conversed in the past in
2 English?

3 A What?

4 Q Didn't you and I talk before in English?

5 A Yep.

6 Q Okay.

7 Now, I want to refer you back to April of 1998,
8 specifically, April 18th of 1998, and ask you whether the
9 Defendant had occasion to be at your store on April 18th,
10 1998.

11 A Yes.

12 Q And did you know the Defendant's former
13 significant other, Miriam Ascencio?

14 A No.

15 Q Had Miriam or anyone who said that she was the
16 Defendant's girlfriend or wife ever come to your store
17 before?

18 A No.

19 * * *

20 THE COURT: I'm sorry. Mr. Kelley, what
21 date was that?

22 ATTORNEY KELLEY: April 18th, 1998.

23 * * *

24 BY ATTORNEY KELLEY:

25 Q You did indicate that the Defendant was at your

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store on April 18th, 1998; is that correct?

A Yes.

Q Did you overhear a telephone conversation he had --

* * *

ATTORNEY RENDINE: Objection. I'll wait for the question.

THE COURT: Ms. Soto, do not answer the question until I hear what the objection is.

* * *

BY ATTORNEY KELLEY:

Q Did you overhear a telephone conversation that he had on that date?

* * *

THE COURT: He, meaning the Defendant?

ATTORNEY KELLEY: Yes.

ATTORNEY RENDINE: Leading question.

THE COURT: Objection overruled. You may answer.

THE WITNESS: No.

* * *

BY ATTORNEY KELLEY:

Q You did not?

A No.

Q Is your answer then that you did not overhear a

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conversation that the Defendant had on April 18th, 1998, on the telephone?

A No.

Q Now, the day, April 18th, 1998, was there anyone else with the Defendant at all during the course of that day at your store?

A Yes.

Q And who was that other person or other persons who were with the Defendant?

A The Italian.

Q And is the Italian or the person who you know as the Italian, is that the Defendant's brother?

A I don't know.

Q Was there anyone else with the Italian and the Defendant in your store on that day?

A His wife.

Q The Italian's wife or the Defendant's wife?

A The Italian's wife.

Q The Italian's wife.

At that time was she pregnant?

A Yes.

Q And she's got blond hair, is that correct?

A I don't know. Reddish.

Q She has bleach-blond hair?

A I don't know.

1 Q But you're sure she was pregnant at the time?

2 A Yes.

3 Q And how long were the Defendant, the Italian, and
4 this -- the Italian's girlfriend who was pregnant at your
5 store on that day?

6 A What?

7 Q How long were they at your store that day?

8 A I don't know.

9 Q Was it more than five minutes, more than an hour,
10 more than two hours?

11 A I don't know because I was working at the store.
12 I didn't have time.

13 Q And during the course of them staying there for
14 however long it might have been, did you ever hear any
15 of the three of those people make any threats to
16 anyone?

17 * * *

18 ATTORNEY RENDINE: Objection, Your Honor.
19 It's a leading question.

20 THE COURT: Sustained.

21 * * *

22 BY ATTORNEY KELLEY:

23 Q Did you hear anything that the three of those
24 people were speaking about?

25 A Can I answer that now?

1 Q Yeah.

2 A What was the question?

3 Q Did you hear what any of the three of them people
4 were speaking about?

5 A No. No, I didn't hear anything.

6 Q Now, referring to the next day, the day after the
7 Italian and his wife and the Defendant were at your store,
8 did you have occasion to see the Defendant at your home in
9 Lancaster?

10 A Would you repeat the question?

11 Q The day after they were at the store, the three
12 of them, did the Defendant show up at your home in
13 Lancaster?

14 A Yes, they went to my home.

15 Q Was it the same three people that you said were
16 at your store the previous day?

17 A Yes.

18 Q What time did they show up at your home?

19 A I don't know what time.

20 Q Okay.

21 What time do you normally leave for work?

22 A I always open the store at 7 in the morning.

23 Q So it was before you left for work?

24 A Yes.

25 Q Okay.

1 So does that refresh your memory as to whether or
2 not it was before 7:00 a.m.?

3 A I don't know.

4 Q Okay.

5 Now, when the Defendant and those two other
6 people, the Italian and his wife, showed up at your house,
7 what happened?

8 A Nothing. They knocked on the door. My husband
9 opened the door. They came to say farewell, and they
10 left.

11 Q Who said farewell?

12 A The three.

13 Q The Defendant?

14 A Yes.

15 Q What is the Defendant's name?

16 A His brother and his wife.

17 Q Okay.

18 So the Defendant, his brother and his wife said
19 good-bye to you?

20 look A Yes.

21 Q Okay.

22 So you remember that the person who you
23 identified as the Italian was the Defendant's
24 brother?

25 A I don't know that.

1 Q Didn't you say that the Defendant and his
2 brother?

3 A I didn't know that they were brothers. I knew
4 they were friends, but I didn't know they were
5 brothers.

6 Q Okay.

7 But you identified the persons who said good-bye,
8 and you said the Defendant, his brother, and his brother's
9 wife. You used the word brother twice.

10 * * *

11 ATTORNEY RENDINE: I would object to the
12 argumentative question to this witness.

13 THE COURT: Overruled.

14 * * *

15 BY ATTORNEY KELLEY:

16 Q You referred to the other person as the
17 Defendant's brother and the woman as his brother's
18 wife.

19 A Would you repeat that?

20 Q You referred to the other person, the Italian, as
21 the Defendant's brother and you referred to the girl as his
22 brother's wife?

23 A I don't know if they were brothers. They knocked
24 at the door. I thought they were friends. They came in.
25 They said good-bye, the three of them, and they left. I

1 didn't know they were brothers.

2 Q Okay.

3 Did you know what the other guy, the Italian's
4 wife's name was?

5 A No.

6 Q Do you know what the Defendant's name is?

7 A Milton.

8 Q What is his middle name?

9 A I don't know.

10 Q What is his last name?

11 A I don't know.

12 Q So these three people, two of whom you don't even
13 know their names, and the other person you know his first
14 name, stopped by your house before you left for work to say
15 good-bye?

16 A I know that the one that was with Milton was the
17 Italian. He has always been known as the Italian. And
18 Milton I know because he used to go to my store and that is
19 his name. And the wife, I never knew her name.

20 And they said good-bye in my house and
21 left.

22 Q Did they say anything else to you at that
23 time?

24 A No. They didn't say anything to me. They came
25 in and said good-bye and left.

1 Q Now, would you agree that your recollection of
2 what happened those two days, the 18th and 19th, was
3 fresher back close to the event than it is today?

4 A What do you mean?

5 Q Like wouldn't you have recalled it closer to when
6 it happened than you would today?

7 A I didn't know what was going on. When they went
8 to my house and said good-bye to me, I didn't know
9 anything. I was at home with my family.

10 Q Do you recall speaking to Detective Camacho in
11 English?

12 A Yes.

13 Q On -- hold on one second. On December 12th,
14 1998?

15 A Yes.

16 Q And that tape -- that conversation was, in fact,
17 tape-recorded; is that correct?

18 A Yes, it was taped --

19 Q Do you recall telling Detective Camacho that, in
20 fact, Milton and the Italian were at your store on the 18th
21 of April of 1998?

22 * * *

23 ATTORNEY RENDINE: I would object to him
24 interrupting the witness's answer and I would like to have
25 the witness's answer transcribed.

1 THE COURT: Objection overruled.

2 * * *

3 BY ATTORNEY KELLEY:

4 Q This is a yes or no question.

5 A Yes, I remember.

6 Q Do you recall talking to Detective Camacho that,
7 in fact, Miriam had been in your store before Milton and
8 the Italian got there?

9 A Yes. She went to the store and asked for
10 him.

11 Q Okay.

12 But then you recall making that statement
13 even though today you said Miriam never came into your
14 store?

15 * * *

16 ATTORNEY RENDINE: I would object. I don't
17 recollect her testifying negatively as to that.

18 THE COURT: I don't either.

19 ATTORNEY RENDINE: And I would also object
20 to the method. If we want to go to sidebar, I would go to
21 sidebar concerning how this is being done.

22 THE COURT: Okay. Come to sidebar.

23 * * *

24 (Whereupon, the following discussion was
25 held on the record at sidebar:)

1 ATTORNEY RENDINE: I understand that she's
2 not testified the same as in her statement, but I believe
3 the proper procedure is to show her, her statement and ask
4 her if it refreshes her recollection or if this is the
5 statement she gave before he does this question by
6 question.

7 THE COURT: Did she give a written
8 statement?

9 ATTORNEY KELLEY: She gives a taped
10 statement, Your Honor. And, in fact, I'm not refreshing
11 her recollection right now. I am impeaching her; and under
12 the rules, I can impeach my own witness and it comes in
13 substantively.

14 ATTORNEY RENDINE: I don't have an argument
15 for that.

16 ATTORNEY KELLEY: I would like the record
17 read back. I'm certain she indicated in the negative when
18 I asked about the wife and she said nope, never came in and
19 didn't know who the wife was.

20 ATTORNEY RENDINE: My recollection is that
21 it was the other woman.

22 ATTORNEY KELLEY: I want the record read
23 back.

24 THE COURT: I don't recall her saying
25 whether she did or did not come in that day. I recall her

1 saying she did not know Miriam Ascencio.

2 ATTORNEY KELLEY: And I asked her whether or
3 not -- I prefaced that by, Did the Defendant's significant
4 other or someone who you knew as his wife or girlfriend
5 ever come in the day --

6 THE COURT: I don't remember that question
7 being asked.

8 ATTORNEY KELLEY: If Karla could look in the
9 record?

10 THE COURT: Okay. Esther stays in
11 custody.

12 * * *

13 (Whereupon, the discussion held at sidebar
14 was concluded.)

15 * * *

16 THE COURT: Ladies and gentlemen, there is
17 some testimony we have to have Karla check on, testimony
18 from this witness a little bit earlier.

19 So we figure it's a good time to take a
20 lunch break now while she checks on that and gets that
21 information for both attorneys.

22 So I'm going to excuse you now for lunch.
23 You know my directive to you continues, that you do not
24 discuss this case with anyone.

25 And we will see you back in the jury room at

1 about 20 after 1 this afternoon so we can get started
2 as close to 1:30 as possible. We'll see you back
3 there.

4 * * *

5 (Whereupon, the jury left the courtroom.)

6 * * *

7 ATTORNEY RENDINE: When Mr. Kelley asked the
8 witness whether -- Mr. Kelley asked whether the witness
9 recalled making that statement to Detective Camacho -- he
10 asked her whether she remembered making that statement.

11 She gave a reply in Spanish which was not
12 translated at which time Mr. Kelley said a word in
13 English.

14 My understanding of her answer was that I
15 recall Detective Camacho forced me to make that statement
16 Without knowing what she said, I would assume you will
17 overrule my objection. I suggest to the Court that was a
18 responsive answer to Mr. Kelley's question that should
19 be -- that answer that she gave should be told to this
20 jury.

21 THE COURT: I've made my ruling, Mr.
22 Rendine. You have the opportunity to cross examine her on
23 anything you want to that comes up.

24 * * *

25 (Whereupon, the Court Reporter read back the

1 referred-to testimony to Attorney Kelley and to Attorney
2 Rendine.)

3 * * *

4 (Whereupon, the luncheon recess was taken.)

5 * * *

6 (Whereupon, the jury returned to the
7 courtroom.)

8 * * *

9 THE COURT: Okay. Good afternoon.
10 Mr. Kelley, you may continue direct
11 examination.

12 * * *

13 (Whereupon, Esther R. Soto
14 resumed the witness stand, having previously been duly
15 sworn according to law, and continued testifying as
16 follows:)

17 * * *

18 ATTORNEY KELLEY: Your Honor, I want
19 to refer to the last couple of questions before we
20 broke.

21 * * *

22 DIRECT EXAMINATION (Cont'd.)

23 * * *

24 (Whereupon, the Court Reporter read back the
25 referred-to testimony.)

* * *

1
2 BY ATTORNEY KELLEY:

3 Q And your response was yes?

4 A No.

5 Q But before we broke to lunch, your answer to that
6 question was yes?

7 A I didn't understand the question.

8 Q So you do not recall telling Detective Camacho
9 that Miriam had been in your store before the Defendant and
10 the Italian were there?

11 A I didn't understand what you said.

12 Q Let me ask you this: Do you recall when you
13 spoke to the detective December 12th, 1998?

14 A Yes.

15 Q Okay.

16 And that conversation was taped, right?

17 A He taped it.

18 Q Okay.

19 And do you recall when you were asked the
20 following question: "Let's go back, just tell me in your
21 own words how you first came to know Milton, okay, and his
22 brother Noel and tell me about the day that Miriam was
23 killed."

24 Do you remember that question?

25 * * *

1 ATTORNEY RENDINE: What page are you on,
2 Mr. Kelley?

3 ATTORNEY KELLEY: Page 2 of 18.

4 * * *

5 BY ATTORNEY KELLEY:

6 Q Do you remember that question? Yes or no?

7 A What question?

8 Q The question I just read to you.

9 A Repeat it.

10 Q "Let's go back, just tell me in your own words how
11 you first came to know Milton, okay, and his brother Noel
12 and tell me about the day that Miriam was killed."

13 A I met the Italian first. He went by my business
14 just like everyone else did. And after the Italian, I met
15 Milton as a friend of the Italian's.

16 Milton was the kind of person that never was out
17 of respect for me.

18 Q Let me stop you right there, if I could. Is that
19 answer that you just gave yes, I remember having that
20 question asked to me or no, I don't remember that
21 question?

22 * * *

23 ATTORNEY RENDINE: Objection to the form of
24 the question.

25 THE COURT: Pardon me?

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ATTORNEY RENDINE: Most respectfully, I object to the form of the question.

THE COURT: Objection sustained.

* * *

BY ATTORNEY KELLEY:

Q When I asked you a question about your previous statement, I'm asking you so you can answer either yes or no.

A You asked me how I had met him and his brother, so I'm answering you.

Q I did not. I asked you, do you remember Detective Camacho asking you that question?

A No, I don't remember.

Q You don't remember that question. Okay.

So you don't recall your answer to that question: "Okay, I know him, Milton and his brother, because they go to the store."

A If I know him, yes, I know him because he went to the store.

Q But your response in English was, "Okay, I know him, Milton and his brother, because they go to the store."

* * *

ATTORNEY RENDINE: Judge, I'm going to object to what her response was. The proper question is,

1 does she recall the response.

2 THE COURT: Objection sustained. It's a
3 statement. It's not a question.

4 * * *

5 BY ATTORNEY KELLEY:

6 Q So do you recall answering the detective, "Okay,
7 I know him, Milton and his brother, because they go to the
8 store."

9 A Yes.

10 Q So you remember that as your answer?

11 A Um-hum.

12 Q Later on in the statement, do you recall being
13 asked the following question:

14 * * *

15 ATTORNEY RENDINE: Can you tell me what page
16 you're on?

17 ATTORNEY KELLEY: Page 4 of 18.

18 * * *

19 BY ATTORNEY KELLEY:

20 Q "Okay. Milton was in the back of the store
21 talking on your cellular phone to Miriam, right, his
22 wife?"

23 Yes or no?

24 A No.

25 Q You don't recall that question?

1 A No.

2 Q So you do not recall that your answer to that
3 question was yes?

4 * * *

5 ATTORNEY RENDINE: I would object to the
6 form of the question.

7 THE COURT: Objection sustained.

8 * * *

9 BY ATTORNEY KELLEY:

10 Q Do you recall being asked whether or not
11 Milton was arguing with his wife on the phone? On page 4
12 of 18.

13 A I do know he was talking on the phone, but I
14 don't know what they were talking about because I wasn't
15 there.

16 Q You said in response, I know that they were
17 talking on the phone but I don't know what they were
18 talking about.

19 What they are you talking about? Milton and
20 who?

21 A Milton was talking to her, but I don't know what
22 they were talking about.

23 Q When we first started talking, on your
24 examination, I asked you whether or not Milton spoke to his
25 wife at all on the phone that day and your response was

1 no.

2 A Because I didn't remember.

3 Q So now you remember that Milton was speaking on
4 the phone with his wife that day?

5 A He was talking on the phone with her.

6 Q Okay.

7 Do you recall being asked the following
8 question: Talking to his wife and arguing with her,
9 question mark?

10 A I don't know.

11 Q Do you recall answering that question, Yeah,
12 yeah, in English?

13 A No, I don't remember. No.

14 Q Do you recall being asked the following question,
15 again on page 4 of 18: "Okay, Noel was there with his wife
16 and you heard him say that she knows a lot of information
17 about us."

18 Do you recall that question?

19 A No, I don't remember that.

20 Q Did your answer refresh your recollection, your
21 answer being, Yeah?

22 A What?

23 Q Does your answer refresh your recollection when
24 your answer was yeah on the taped statement?

25 A No.

1 Q Do you recall being asked, meaning him and
2 Noel, him and Milton, right, and she can't go on living;
3 right?

4 * * *

5 ATTORNEY RENDINE: I object to that
6 question. And the prosecutor is not reading that question
7 right because that is not the witness's answer. That is
8 the Detective Camacho leading the witness.

9 ATTORNEY KELLEY: I indicated this was a
10 question, Your Honor.

11 THE COURT: Yes, he did. Objection
12 overruled.

13 * * *

14 BY ATTORNEY KELLEY:

15 Q Again, I'll reask the question.

16 And you were asked by Detective Camacho after you
17 said yeah, he said, "Meaning him and Noel, him and Milton,
18 right, and that she can't go on living, right?"

19 A No. I didn't say that.

20 Q I'm saying the detective said that.

21 A I don't know.

22 Q Do you recall -- would this answer refresh your
23 recollection? Your answer was yeah.

24 A No.

25 Q Okay.

1 And let me move onto a little bit later on page 5
2 of 18 pages when you were asked the following question:
3 And it was right after you talked about what I just
4 questioned you about.

5 The detective asked you, "Okay. Then what
6 happened?" And your response was, "Then when he finished,
7 Milton finished, to talk to her, then Milton Saylor that he
8 going to kill her. Okay. But then the brother say no,
9 that he going do it."

10 Do you recall that exchange?

11 A I don't remember anything.

12 Q And the next question that you were asked was by
13 the detective, the detective said, "Milton said, I'm going
14 to kill her." And your response was, Yeah?

15 A No, I don't remember. I didn't say that.

16 Q And do you recall the detective then saying,
17 "Okay and then Noel said, You're not going to do it, I'm
18 going to do it?"

19 A No.

20 Q A little further on -- on page 5 of 18,
21 counsel -- you were asked -- do you recall this, ma'am?
22 Okay. What happened the rest of that night?

23 And your response was, "Well, they was all day
24 there and they was talking and we was talking about, you
25 know, about the store and this and this and all that

1 stuff."

2 Do you recall that being said by you and the
3 detective?

4 A I don't remember that.

5 Q And the next question by the detective was,
6 Okay. And then your response was, "So you know we don't
7 pay attention about that."

8 Do you recall that?

9 A No, I don't remember anything.

10 Q Do you recall a little farther down you said, "So
11 it was like 11:00, 11:00 in the night. My husband, kids,
12 they was there, you know, his kids. They was there and all
13 that stuff. It's like 11:50 or 12:00. Okay. Well, we
14 closed the store. They was outside. My kids, they left
15 first. And well, we said bye, see you because it was so
16 late."

17 Do you recall that being said to you?

18 A I don't remember.

19 Q Do you recall being asked, specifically, by the
20 detective about what happened at your house at 7:00 or
21 before 7:00 the next morning?

22 A They came and knocked on the door. They said
23 good-bye. They said good-bye to us and left.

24 Q Do -- do you recall this question and your answer
25 when you talked to the detective: "Okay. About 7:00 in

1 the morning what happened?"

2 And your response was, "Well, around like 7:00
3 somebody was knocking on the door. So my husband went down
4 there. Okay. And when he opened the door, he saw Milton
5 come first and then Noel come second."

6 Do you recall that?

7 A They came and knocked on the door. My husband
8 opened the door. I was there. They said good-bye to us
9 like friends of ours, and they left.

10 Q Okay.

11 And your -- the next question asked to you was
12 only by the detective and he said, "Right."

13 And your response, "Noel's wife, she stay in the
14 van."

15 Do you recall that?

16 A I don't remember that.

17 Q And you were asked, "Now whose van were they in?"
18 And your response was, "Milton's van."

19 A I don't remember.

20 Q Do you recall being asked by the detective, "And
21 Milton was there?"

22 And your response was, "It was in front of mine,
23 my house."

24 A No.

25 Q Do you recall that statement?

1 A I don't remember.

2 Q And you were asked next, Do you recall this?
3 "And they were parked in front of your house?" And your
4 response was, Yeah?

5 A No. No, I don't remember anything like
6 that.

7 Q Do you recall being asked by the detective the
8 following about the conversation you had with the Defendant
9 on that date?

10 A With whom?

11 Q The conversation you were present for with the
12 Defendant on that date at 7:00 in the morning, do you
13 recall that?

14 A What do you mean?

15 Q Okay.

16 Do you recall telling the detective about what
17 the Defendant said when he came to your house at 7:00 in
18 the morning?

19 A No remember anything.

20 Q Do you recall telling the detective about the
21 circumstances that were related to you or you were present
22 for hearing of Miriam Ascencio being killed?

23 A Please repeat.

24 Q Do you recall telling Detective Camacho
25 about some of the facts you knew about the

1 homicide?

2 * * *

3 ATTORNEY RENDINE: Objection, Your Honor, to
4 the form of the question. That is not a question or an
5 answer asked in this particular --

6 THE COURT: Objection sustained.

7 ATTORNEY KELLEY: Okay. I'll move straight
8 on into it.

9 * * *

10 BY ATTORNEY KELLEY:

11 Q You were asked about what Milton and the
12 Italian said to you when they came to your house at 7:00,
13 right?

14 A Who asked me?

15 Q Detective Camacho.

16 A No.

17 Q He didn't? Okay.

18 Do you recall the following exchange occur? The
19 question was put to you --

20 * * *

21 ATTORNEY RENDINE: Where, Mr. Kelley?

22 ATTORNEY KELLEY: On page 8 of 18.

23 ATTORNEY RENDINE: Okay.

24 * * *

25 BY ATTORNEY KELLEY:

1 Q Actually, I'll just start it, "Okay."

2 And your response was, "And I'm so, I'm nervous
3 and my husband told him why are you nervous."

4 And your -- that was your answer to a question,
5 and then the --

6 A Who was nervous?

7 Q That is your response. Do you recall that
8 response being made by you?

9 A No. No, I don't remember anything.

10 Q And then the question is by Detective Camacho,
11 "Right."

12 And your response to that is, "Oh, because we
13 killed, we, he say, we killed my wife."

14 Do you recall that?

15 A No. No, I don't remember anything.

16 Q And then the question by Detective Camacho is,
17 Okay, and your answer is, Yes.

18 Do you recall that being made?

19 A No, I don't remember.

20 Q You don't recall making either of those
21 statements?

22 A No.

23 Q And then the question is, the detective asked,
24 "Him and Noel?"

25 And your response was, Yeah?

1 A What?

2 Q The question asked -- the detective asked you,
3 "Him and Noel?" And your response is, Yeah.
4 Because you're referring to who is the we.

5 A I don't remember anything.

6 Q And then farther on, on page 9 of 18, the
7 detective says, "Okay." And your answer is, "And then he
8 say that he knocked the door on her house. Okay. She was
9 having a towel."

10 Do you recall that being said by you? Do you
11 recall him saying she had a towel around her and your
12 response was yeah?

13 A No. I didn't say that.

14 Q And then the next question, Do you recall this
15 being said: "Okay." And your response is, "And she opened
16 the door and Milton go inside the apartment."

17 Do you recall that?

18 A I don't remember that.

19 Q Okay.

20 And then again the detective says, "Okay." And
21 your response is, "He pushed her."

22 A No.

23 Q You don't recall that?

24 A No.

25 Q And then the question again by the detective is,

1 "Okay. Then you say, "When Milton see the guy, Milton
2 went to the guy and Italiano, Noel, when he take the knife
3 and cut her."

4 A No, I didn't say that.

5 Q And the question then by the detective again is,
6 "Okay." And you say, "You know he garganta cut her."

7 A No, I didn't say that. I don't remember.

8 Q What is a garganta?

9 * * *

10 ATTORNEY RENDINE: Objection, Your Honor.

11 She said she doesn't remember.

12 THE COURT: He's just asking her what a
13 garganta is. Objection overruled.

14 * * *

15 BY ATTORNEY KELLEY:

16 Q So you don't recall saying that to the detective,
17 And then he cut her neck?

18 A No. No. No remember anything, anything.

19 Q And do you recall this question being asked of
20 you: "He cut her throat?"

21 And your response was, "Yeah, and he kicked
22 her."

23 A No.

24 Q And the question by Detective Camacho was, "He
25 kicked her?" And your response was, "You know, he, he

1 broke, you know, her arm and el me dijo que que, yo no se.
2 You know, he put the knife in her eyes or something like
3 that."

4 A I don't remember having said that.

5 Q Was that said to you by the Defendant or his
6 brother Noel when they came to say good-bye?

7 A I don't remember anything.

8 Q Well, let me -- let me move on at this
9 point.

10 Do you remember testifying at a preliminary
11 hearing in this case in front of another Judge?

12 A The last time, right. Yes, I remember.

13 Q And before you testified, you raised your right
14 hand?

15 A Yes.

16 Q And you swore to tell the truth, is that
17 correct?

18 A Yes.

19 Q Now, at that point, you were under oath in front
20 of a Judge in Court testifying; right?

21 A I remember that.

22 * * *

23 THE COURT: Mr. Kelley, let's refer to them
24 as district justices so we don't confuse the jury.

25 * * *

1 BY ATTORNEY KELLEY:

2 Q A district justice in the little Court. Do you
3 remember that?

4 A Yes, I remember.

5 Q And the Defendant was present at that time?

6 A Yes, he was present.

7 Q Okay.

8 Now, when you raised your right hand at that
9 point and swore to tell the truth, did you tell the truth
10 after that?

11 A I would like to say something.

12 Q Ma'am, yes or no? Did you tell the truth?

13 A No.

14 Q You did not tell the truth?

15 A Do you know why I didn't tell the truth?

16 Because --

17 Q Are you going to testify in English now?

18 ~~dark~~ A No.

19 Because, first, it's my family and me. And
20 Detective Camacho made me say and take that. Because if I
21 didn't take what he said, my business would be closed and I
22 would go to jail and I wouldn't see my kids.

23 So he put me in a state of nerves when I had not
24 done anything. I don't know anything, and he forced me to
25 say that.