

PROCEEDING

1 THE COURT: Anything?

2 MR. WILLIAMS: No.

3 THE COURT: Okay. You're excused, ma'am.

4 (Witness is excused).

5 THE COURT: All right.

6 MR. DRUCKER: You want argument now, your Honor?

7 THE COURT: Yes.

8 MR. DRUCKER: We argue that there is truly an
9 independent source for the Court to allow the witness to
10 identify the defendant in court untainted by the photo
11 arrays she was shown.

12 Again, I know it is very difficult for the Court since
13 you were not there for the Wade hearing and what I will say
14 about it will not be contested and the minutes are
15 available if the Court--

16 THE COURT: I looked at them.

17 MR. DRUCKER: Okay. Great. Initially, the witness knew
18 the defendant prior to the incident. She saw him for an
19 extended time during the incident. She clearly knew of the
20 people during the crime which one was Pedro and in terms of
21 how much she was tainted by the photo arrays she viewed
22 photographs, the lineups from many years ago, and I think
23 it is common sense that she remembers today the incident
24 where her husband was killed over an extended period of
25 time, not one or two, among many photos, she was shown 12,

Lourdes Torres-Fuster, Senior Court Reporter