

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION THIRD DEPARTMENT

-----X
THE PEOPLE OF THE STATE OF NEW YORK,
ex rel. MIGUEL DE LOS SANTOS,

PETITION FOR A WRIT OF
HABEAS CORPUS
C.P.L.R. art. § 7001

Petitioner,

-against-

Index No.

JAIFA COLLADO, SUPERINTENDENT,
SHAWANGUNK CORRECTIONAL FACILITY,

Respondent(s).

-----X
TO THE SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION THIRD DEPARTMENT

Petitioner MIGUEL DE LOS SANTOS, alleges:

First: I am the above-named petitioner and I am familiar with the facts and circumstances of the case.

Second: Petitioner is incarcerated and restrained of his liberty at the Shawangunk Correctional Facility, located in the County of Ulster, by Jaifa Collado, Superintendent of Shawangunk Correctional Facility.

Third: The confinement of Miguel De Los Santos stands by virtue of a commitment order. (See Exhibit A).

Fourth: That a court or judge of the United States does not have exclusive jurisdiction to order the release of Miguel De Los Santos.

Fifth: That the cause or pretense of the imprisonment and restraint according to the best knowledge and belief of your petitioner, is certain commitment of the Supreme Court of the State of New York, County of New York, committing Miguel De Los Santos for preliminary examination pursuant to a warrant of arrest under accusatory instrument number 3444-2002, purporting to charge petitioner with the commission of murder in the second degree (P.L. § 125.25(3) [count two of the accusatory instrument]; based the underlying theory of kidnaping in the first degree (P.L. § 135.25(1) [count three of the accusatory instrument]; and two counts of unlawful Imprisonment (P.L. § 135.10) [counts four and five of the accusatory instrument].

Sixth: Relator's Constitutional right to petition for writ of habeas corpus. [Form: 120.4]. Constitutional right to immediate release upon the ground that the accusatory instrument filed with the justice (Judge) is insufficient to confer jurisdiction to issue a warrant of arrest. [Form: CPL 120.20]. Relator's habeas corpus was based upon 2018 Updated Criminal Procedure Law reviewed by Honorable Justice (Judge) Robert G. Bogle. He is the author of "Criminal Procedure in New York" (See Exhibit B).

Seventh: The Court is and was entirely stripped of jurisdiction and relator is entitled to immediate release. Relator is practically kidnaped in jail, without committing any crime, without being accused and indicted by a grand jury and relator was arrested illegally without a warrant of arrest ordered by a judge in violation of Constitutional Amendment, 4th. The accusatory instrument is insufficient to confer jurisdiction to issue a warrant of arrest C.P.L. § 120.20, the accusatory

instrument does not allege an offense known to the law and our constitution, that are missing most of the elements of the offense charged and therefore does not constitute a crime, and does not meet the constitutional requirements of C.P.L. § 70.10, which states that legally sufficient evidence “means competent evidence” which if accepted as true, would establish every element of an offense charged. That imprisonment of relator is illegal, in that aforesaid accusatory instrument number 3444-2002 (a copy of which is annexed as Exhibit C), fails to allege facts to show the commission of any crime, that only stated that relator did anything. As well as the Voluntary Disclosure Form (Bill of Particulars) stated no acts, no facts, no crime, that only stated that relator did anything (See Exhibit D) [The Voluntary Disclosure Form (Bill of Particulars)]. That fails to supply reasonable ground for belief that relator committed any crime and hence is insufficient as a matter of law to confer jurisdiction upon any justice or judge of the Supreme Court to issue a warrant of arrest and hold relator for examination. See C.P.L. § 120.20.

Eighth: If we have Law, have to be enforce, that where the language of the statute is clear and unambiguous, the Court must give effect to its plain meaning. The New York State Constitution Article 1, § 6, clearly states: “Punishable by death or life imprisonment. No person shall be held to answer for capital or otherwise infamous crime, unless on indictment of the Grand Jury. Relator was prosecuted without grand jury indictment. The court created a legal fiction case, where this case commenced without jurisdiction over the case, this is further proof that relator was not accused and indicted by a grand jury. The prosecution presented this case to the grand jury without court

authorization and unauthorized presentment to have the indictment remain sealed until the accused is produced. Relator was arrested eleven years after the accusatory instrument was allegedly filed. (See Exhibit C) [accusatory instrument, last page to review the date that was allegedly filed]; see also Exhibit D [The Voluntary Disclosure Form indicating the arrest date]. The only way the court can proceed against relator without relator having been arrested, is by a sealed indictment (C.P.L. § 210.10(3)), after the indictment is ordered filed as a sealed, then the warrant of arrest ordered by a judge. That alleged indictment number 3444-2002, is not sealed (See Exhibit E)[correspondence from the court, stating that the indictment is not sealed]; see also Exhibit F; June 3, 2013, arraignment transcript, page 3, states that there was no hold, no warrant of arrest against relator]. No judge ordered that the alleged indictment to be filed as sealed and no warrant of arrest was ordered by a judge pursuant to C.P.L. § 120.20. The grand jury refused to indict, because no grand jury action is legally possible, and the accusatory instrument is insufficient and does not meet the constitutional requirements of C.P.L. § 70.10, also that alleged indictment does not contain the grand jury foreman's signature in violation of C.P.L. 200.50(8), and therefore, is not a true bill, is only a prosecution information. Relator was prosecuted without a grand jury indictment and relator is entitled to immediate release.

Ninth: Relator was not accused and indicted by a grand jury and was arrested on Thursday, May 30, 2013 (see Exhibit D)[The Voluntary Disclosure Form, indicating the arrest date]. The Court failed to bring relator to Court during twenty-four (24) hour requirement by New York Law, in

violation of C.P.L. §120.90, right to prompt arraignment, because the court doesn't have any documents to show that relator was formally and properly accused in court, then relator was arraigned for the first time four days later on June 3, 2013, and anyway on that date as well as court could not produce any documents showing that relator was accused in court, and judge Bruce Allen stated that I'd like to find out what's going on here this case (See Exhibit F)[arraignment transcript, pg 3, to review when Judge Bruce Allen stated: "I'd like to find out what's going on because no body know in court's what going on with relator]. There was no felony complaint filed in court, no sealed and grand jury indictment filed in court (see Exhibit E)[Correspondence from the Court, showing that there was no sealed indictment and no criminal court papers]).

Tenth: Relator was arrested and extradited illegally, upon a fake warrant of arrest. (See Exhibit G)[Warrant of Arrest, signed by Flora Duffy and acting as a Supreme Court Justice]. Flora Duffy committed a crime when she illegally signed a warrant of arrest, she usurped the position as a justice judge of the Supreme Court. Flora Duffy illegally issued an arrest warrant out of the jurisdiction of the court, there was no proceeding upon a warrant of arrest in court, that the proceeding was illegal in the district attorney's office and was fake. (See Exhibit H) [Correspondence from the Court, stating that the proceeding was in the District Attorney's Office. Flora Duffy illegally signed an arrest warrant as a judge, without a judge authorization, without being neutral, without probable cause. See C.P.L. § 70.10, without seal and grand jury indictment (C.P.L. § 210.10(3), without any capacity to issue an arrest warrant. Flora Duffy was not a judge, she was only an associate court clerk

in 2002. (See Exhibit I)[Correspondence from the Chief Administrative Judge's Office]. Flora duffy illegally issued an arrest warrant even though no indictment was ordered filed as sealed and no warrant of arrest was ordered by a judge, because no grand jury action is legally possible and the accusatory instrument is insufficient to confer jurisdiction to issue a warrant of arrest. See C.P.L. § 120.20.

Eleventh: Even though the trial was illegal and unconstitutional, the judge and the prosecution illegally usurped the position and power of the grand jury when the jury was instructed upon a prosecution's theory, a theory that was not placed in the accusatory instrument, the prosecution's theory is and was out of context and was not proven (see Exhibit J)[Trial Transcript, pg 431, to review the prosecution's theory, which stated: "In this case it is the prosecution's theory that Manuel Gonzalez was kidnaped in order to compel Wilson Gonzalez to pay money for drugs that were allegedly purchased from Mr. De Los Santos. The prosecution's key witness Wilson Gonzalez totally contradicted the prosecution's theory. See pages 236-237, 239, to review Wilson Gonzalez's testimony at trial, which stated that he didn't have a phone or anything, that he was never threatened by relator, and that he never was involved in the drug business. Also see pages 431-433, instruction to the jury to review that element number five wasn't proven and the verdict was repugnant, also see page 146, to review that Manuel murder was an accident committed by another person, also see page 167, to review that relator is not a violent person that he was never seen in possession of a gun or knife and therefore the evidence established at trial that relator did not commit any crime that the facts

alleged by the prosecution does not constitute a crime charged (see Exhibit C)[The accusatory states no crime]; also see Exhibit D [The Voluntary Disclosure Form (Bill of Particulars, stated no acts, no facts, no crime]. There was no evidence ever presented before and after that illegal and unconstitutional trial. The only way the jury could find relator guilty was by a repugnant verdict, it's impossible to find relator guilty without the elements of the offenses charged (C.P.L. § 70.10).

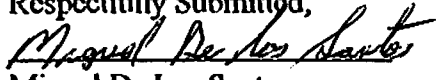
Twelfth: What happened in this case is unacceptable in our society and our democracy, all these fundamental constitutional rights were violated, no felony complaint filed in court, no sealed indictment filed in court, no warrant of arrest was ordered by a judge, and no grand jury indictment filed in court and no crime committed and therefore, the court is and was totally stripped of jurisdiction and relator is entitled to immediate release.

Thirteenth: That no previous application for this writ of habeas corpus relief sought herein has been made by relator or by anyone on his behalf. Regarding the previous application, relator claimed that relator's name was not in the accusatory instrument and the court lacked subject matter jurisdiction. However, relator's justification for a new application pertains to a different issue that requires immediate release, since the court is and was totally stripped of jurisdiction.

WHEREFORE, Your Petitioner prays that a Writ of Habeas Corpus be issued directed to Superintendent of Shawangunk Correctional Facility, Jaifa Collado commanding her to produce the petitioner before Honorable Justice Karen K. Peters, at her chambers in courthouse, located at 281 Wall Street, Kingston, New York 12401-3817, for a hearing and determination concerning the illegal

confinement of Miguel De Los Santos and why Miguel De Los Santos should not be given his liberty and why he should not have such other and further relief as to the Court may seem just and proper.

Dated: NOVEMBER 08, 2018
Wallkill, New York 12589

Respectfully Submitted,

Miguel De Los Santos
Petitioner pro se
Shawangunk Correctional Facility
Post Office Box 700
Wallkill, New York 12589

To: Jaifa Collado, Superintendent Shawangunk Correctional Facility
250 Quick Road
Wallkill, New York 12589

Clerk: Robert D. Mayberger
Capitol Station, P.O.Box 7288
Albany, New York 12402-1800

EXHIBIT A
COMMITMENT ORDER

STATE OF NEW YORK SUPREME COURT, COUNTY OF NEW YORK PRESENT: HON. R. PICKHOLZ

Court Part: 66 Court Reporter: D. Taylor Superior Ct. Case #: 3444-2002

Defendant information: The People of the State of New York vs Miguel DeLosSantos, Defendant. Includes sex, D.O.B., NYSID NUMBER, and CRIMINAL JUSTICE TRACKING NUMBER.

Accusatory Instrument Charge(s) table with columns for Charge, Law/Section & Subdivision, and Date(s) of Offense.

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED BY [] PLEA OR [X] VERDICT, THE MOST SERIOUS OFFENSE BEING A [X] FELONY OR [] MISDEMEANOR OR [] VIOLATION, IS HEREBY SENTENCED TO:

Sentence table with columns: Crime, Count No., Law § and Subdivision, SMF, Hate or Terror, Minimum Term, Maximum Term, and Post-Release Supervision.

**NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

Conditions of sentence section including checkboxes for concurrent/consecutive sentencing, probation, and various offender status options.

Fee schedule table with columns: Paid, Not Paid, Deferred, and Fee amounts for Mandatory Surcharge, Fine, DNA Fee, etc.

THE SAID DEFENDANT BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE: [X] NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law...

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS section for court notes.

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated. Includes Official Name and Shield No.

Pre-Sentence Investigation Report Attached: [X] YES [] NO. Amended Commitment: [] Amended Commitment. Original Sentence Date: 1/1/14. Signature of Norman Goodman, Senior Court Clerk.



EXHIBIT B
2018 UPDATED CRIMINAL LAW
HON ROBERT G. BOGLE

18 West's McKinney's Forms Criminal Procedure Law § 120:4

West's McKinney's Forms

February 2018 Update

Criminal Procedure Law

Hon. Robert G. Bogle

Article 120. Warrant of Arrest

By: Hon. Robert G. Bogle *

§ 120:4. Petition for writ of habeas corpus upon ground that accusatory instrument filed with justice (judge) is insufficient to confer jurisdiction to issue warrant of arrest [Form: CPL § 120.20]

Correlation Table References

[Title of court and cause]

PETITION

Index No. [index number]

TO THE SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF [NAME OF COUNTY]

The petition of [name of relator's attorney] for a writ of habeas corpus respectfully shows to this Court and alleges:

FIRST: That [helshe] is the attorney for the relator, [name of relator], the person on whose behalf this application is made.

SECOND: That the said [name of relator], is imprisoned and restrained of [his/her] liberty at [place of imprisonment], and the officer or person by whom [helshe] is so imprisoned or restrained is [title of officer].

THIRD: That the said [name of relator] is not committed or detained by virtue of any process or mandate issued by any court of the United States, or by any judge thereof; nor is [helshe] committed or detained by virtue of the final judgment or decree of a competent tribunal of civil or criminal jurisdiction, or the final order of such a tribunal made in a special proceeding instituted for any cause except to punish [him/her] for contempt; nor by virtue of any execution or other process issued upon such a judgment, decree or final order.

FOURTH: That the cause or pretense of the imprisonment and restraint, according to the best knowledge and belief of your petitioner, is a certain commitment of the [name of court] of [name of county] committing the said [name of relator] for preliminary examination pursuant to a warrant of arrest under [alan] [specification of accusatory instrument] purporting to charge [him/her] with the commission of the offense of [specification of offense] in violation of section(s) [designations of sections] of the Penal Law.

FIFTH: That based upon the aforesaid [specification of accusatory instrument] the relator was arrested on the [date of arrest], and was brought before [name of judge], a [Justice/Judge] of the [name of court], County of [name of county] who committed the relator as aforesaid.

SIXTH: That the imprisonment and restraint of the relator are illegal, in that the aforesaid *[specification of accusatory instrument]*, a copy of which is annexed hereto as "Exhibit *[designation of exhibit]*," fails to allege facts to show the commission of any crime or to supply reasonable ground for belief that the relator committed any crime, and hence is insufficient as a matter of law to confer jurisdiction upon the *[Justice/Judge]* of the *[name of court]* to issue the warrant of arrest and to hold the relator for examination.

SEVENTH: That no previous application for this writ or for the relief sought herein has been made by the relator or by anyone in *[his/her]* behalf. *[OPTIONAL: [Statement of facts regarding previous application and justification for new application].]*

WHEREFORE, your petitioner prays that a writ of habeas corpus issue, directed to *[name and title of officer]*, or whosoever has custody of *[name of relator]*, the relator herein, commanding *[him/her]* to produce the body of the said *[name of relator]* before this Court, Part *[part number]* thereof, the *[requested date of hearing]*, at *[requested time of hearing]* *[a.m./p.m.]* of said day, so that this Court may inquire into the legality of *[his/her]* detention.

Dated: *[Date of petition]*
[Name of city], New York

[Name of attorney]
Attorney for Defendant
[Bar number of attorney]
[Name of law firm]
[Address of attorney]
[Telephone number of attorney]
[Jurat]

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Footnotes

- * Robert G. Bogle is a Nassau County Court Judge and Acting New York State Supreme Court Justice. He is also the Supervising Judge of the Nassau County Town and Village Courts. He is an Adjunct Professor of Criminal Justice for graduate and undergraduate students at the C.W. Post Campus of Long Island University. He is a member of the New York State Advisory Committee on Judicial Ethics and is a lecturer for the Judicial Education Program for the Office of Court Administration. He is the author of "Criminal Procedure in New York" (4 volumes) and is co-author of "Village Towns and District Courts in New York", both published by Thomson Reuters. He served as Valley Stream Village Justice (1986–2016) and Acting Long Beach City Court Judge (1996–2015), as well as President of the New York State Magistrates Association (2004–2005) and the Nassau County Magistrates Association (1995–1996). In 2006, he received the New York State Magistrate of the Year Award and in 2008 he received the Frank Santagata Bar Association Award for service to the Nassau County Courts.
- He has also served as Chief Court Attorney for the Nassau County Court Law Dept. (1999–2015), Law Secretary to the Hon. Ira H. Wexner, Supervising Judge of the Nassau County District and County Courts (1988–1999) and Deputy Nassau County Attorney for the Appeals and Major Litigation Bureaus (1983–1988). He is a graduate of Hofstra University School of Law and Niagara University (BA Cum Laude) and attended Cornell University and George Washington University. He has two sons, James and Robert and is married to his wife Kathleen, to whom he dedicates this work.

EXHIBIT C
ACCUSATORY INSTRUMENT

CITY OF NEW YORK
COUNTY OF NEW YORK
CRIMINAL TERM: SPECIAL NARCOTICS PARTS
THE PEOPLE OF THE STATE OF NEW YORK

-against-

[REDACTED]
a/k/a CACHIE,
RAFAEL DE LOS SANTOS,
JUAN PILNE a/k/a PUNALADA,
and
ELLERMAN VALVERDE,

Defendants.

THE GRAND JURY OF THE SPECIAL NARCOTICS COURTS OF THE CITY
OF NEW YORK, by this indictment, accuses the defendants [REDACTED]

[REDACTED], RAFAEL DE LOS SANTOS,
JUAN PILNE a/k/a PUNALADA and ELLERMAN VALVERDE of the crime of
MURDER IN THE SECOND DEGREE, P.L. §125.25(3), committed as
follows:

The defendants, in the County of New York, City of New
York, on or about October 8, 1999, engaged in the attempted
commission and commission of the crime of burglary, and, in the
course of such crime, and in furtherance thereof, and of the
immediate flight therefrom, a participant in the crime caused
the death of Manuel Gonzalez, not a participant in the crime.

SECOND COUNT

AND THE GRAND JURY AFORESAID, by this indictment, accuses
the defendants [REDACTED]

VALVERDE of the crime of MURDER IN THE SECOND DEGREE, P.L. §125.25(3), committed as follows:

The defendants, in the County of New York, City of New York, on or about October 8, 1999, engaged in the attempted commission and commission of the crime of kidnapping, and, in the course of such crime, and in furtherance thereof, and of the immediate flight therefrom, a participant in the crime caused the death of Manuel Gonzalez, not a participant in the crime.

THIRD COUNT

AND THE GRAND JURY AFORESAID, by this indictment, accuses the defendants ~~_____~~

RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA and ELLERMAN VALVERDE of the crime of KIDNAPPING IN THE FIRST DEGREE, P.L. §135.25(1) in that:

The defendants, in the County of New York, City of New York, on or about October 8, 1999, abducted Manuel Gonzalez with the intent to compel a third person to engage in particular conduct.

FOURTH COUNT

AND THE GRAND JURY AFORESAID, by this indictment, further accuses the defendants ~~_____~~

~~_____~~ RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA and

FIRST DEGREE, P.L. §135.10, committed as follows:

Said defendants, in the County of New York, City of New York, on or about October 8, 1999, restrained Angelly Ortiz under circumstances which exposed the latter to a risk of serious physical injury.

FIFTH COUNT

AND THE GRAND JURY AFORESAID, by this indictment, further accuses the defendants [REDACTED]

[REDACTED] RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA and ELLERMAN VALVERDE of the crime of UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE, P.L. §135.10, committed as follows:

Said defendants, in the County of New York, City of New York, on or about October 8, 1999, restrained Carlos Ortiz under circumstances which exposed the latter to a risk of serious physical injury.

SIXTH COUNT

AND THE GRAND JURY AFORESAID, by this indictment, further accuses the defendants [REDACTED]

[REDACTED] RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA and ELLERMAN VALVERDE of the crime of BURGLARY IN THE FIRST DEGREE, P.L. §140.30(1), an armed felony, committed as follows:

Said defendants, in the County of New York, City of New York, on or about October 8, 1999, knowingly entered or remained

145th street, New York, New York, with intent to commit a crime therein, and when effecting entry and while in the dwelling and in immediate flight therefrom, while in the building, a participant in the crime was armed with a deadly weapon, to wit, a pistol.

SEVENTH COUNT

AND THE GRAND JURY AFORESAID, by this indictment, further accuses the defendant [REDACTED]

[REDACTED] of the crime of CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FIRST DEGREE, P.L. §220.43(1), committed as follows:

Said defendant, in the City of New York, on or about September 20, 1999, knowingly and unlawfully sold to Wilson Gonzalez and J.D. Rafael, one or more preparations, compounds, mixtures or substances containing a narcotic drug, to wit, cocaine, and the preparations, compounds, mixtures or substances were of an aggregate weight of two ounces or more.

EIGHTH COUNT

AND THE GRAND JURY AFORESAID, by this indictment, accuses the defendants [REDACTED],

RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA and ELLERMAN VALVERDE of the crime of CONSPIRACY IN THE SECOND DEGREE, P.L. §105.15, committed as follows:

The defendants, in the Counties of New York, Queens, Kings,

1999 to on or about October 8, 1999, with intent that conduct constituting the crimes of CRIMINAL SALE and POSSESSION OF A CONTROLLED SUBSTANCE IN THE FIRST DEGREE, said crimes being class A felonies, be performed, did knowingly and intentionally agree with each other and others, including J.D. Chacal, to engage in and cause the performance of such conduct as would constitute the above-mentioned class A felonies.

PREAMBLE

It was part of the conspiracy for [REDACTED] to direct the activities of a narcotics-trafficking organization operating in the New York City metropolitan area (the "DE LOS SANTOS Organization").

It was also part of the conspiracy for the DE LOS SANTOS Organization to receive and distribute kilograms of cocaine, and to collect, store, transmit, deliver and transport proceeds generated from such distribution or narcotics.

It was also part of the conspiracy for [REDACTED] to obtain kilograms of cocaine and give them to RAFAEL DE LOS SANTOS, who in turn would remit the proceeds of the sale of the kilograms of cocaine to MIGUEL DE LOS SANTOS.

It was also part of the conspiracy for RAFAEL DE LOS SANTOS to give amounts of cocaine to ELLERMAN VALVERDE, JUAN PILNE a/k/a PUNALADA, and others, including J.D. Chacal, to sell to customers.

DE LOS

SANTOS, ELLERMAN VALVERDE, and JUAN PILNE a/k/a PUNALADA to assist [REDACTED] in the collection of narcotics debts.

OVERT ACTS

In furtherance of said conspiracy, and to achieve the objects thereof, the following overt acts, among others, were committed:

1. On or about September 20, 1999, [REDACTED] [REDACTED], drove to a grocery in Kings County to meet Wilson Gonzalez and J.D. Rafael.
2. On or about September 20, 1999, [REDACTED] [REDACTED] negotiated the sale of five kilograms of cocaine to Wilson Gonzalez and J.D. Rafael.
3. On or about September 20, 1999, in the City of New York, [REDACTED] [REDACTED] delivered five kilograms of cocaine to Wilson Gonzalez.
4. On or about October 1, 1999, [REDACTED] [REDACTED] telephoned Wilson Gonzalez's brother in order to locate Wilson Gonzalez.
5. On or about October 5, 1999, [REDACTED] [REDACTED] asked RAFAEL DE LOS SANTOS to assist him in finding Wilson Gonzalez in order to collect payment for five

6. On or about October 6, 1999, [REDACTED] [REDACTED] went to 478 W. 145th Street, New York, New York, to meet Manuel Gonzalez.

7. On or about October 6, 1999, [REDACTED] [REDACTED] asked Manuel Gonzalez if he knew the whereabouts of Wilson Gonzalez.

8. On or about October 7, 1999, [REDACTED] [REDACTED] DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal met at an apartment at 514 West 135th Street, basement apartment.

9. On or about October 7, 1999, [REDACTED] [REDACTED], RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal agreed to abduct Manuel Gonzalez.

10. On or about October 7, 1999, [REDACTED] [REDACTED], RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal went to 478 W. 145th Street.

NINTH COUNT

AND THE GRAND JURY AFORESAID, by this indictment, accuses the defendants [REDACTED] RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA and ELLERMAN VALVERDE of the crime of CONSPIRACY IN THE SECOND DEGREE, P.L. §105.15, committed as follows:

from on or about October 7, 1999 to on or about October 8, 1999, with intent that conduct constituting the crimes of KIDNAPPING IN THE FIRST DEGREE, said crime being a class A felony, be performed, did knowingly and intentionally agree with each other and others, including J.D. Chacal, to engage in and cause the performance of such conduct as would constitute the above-mentioned class A felony.

OVERT ACTS

In furtherance of said conspiracy, and to achieve the objects thereof, the following overt acts, among others, were committed:

1. On or about October 7, 1999, [REDACTED] a [REDACTED] RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal discussed the logistics surrounding the abduction of Manuel Gonzalez.

2. On or about October 7, 1999, [REDACTED] a [REDACTED] RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal went to 478 W. 145th Street.

3. On or about October 7, 1999, [REDACTED] a [REDACTED] [REDACTED], entered apartment 33 inside 478 W. 145th Street, New York County.

4. On or about October 7, 1999, RAFAEL DE LOS SANTOS, entered apartment 33 inside 478 W. 145th Street.

5. On or about October 7, 1999, JUAN PILNE a/k/a PUNALADA

6. On or about October 7, 1999, ELLERMAN VALVERDE entered apartment 33 inside 478 W. 145th Street.
7. On or about October 7, 1999, J.D. Chacal entered apartment 33 inside 478 W. 145th Street.
8. On or about October 8, 1999, [REDACTED] a [REDACTED] RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal directed Manuel Gonzalez to make telephone calls to locate Wilson Gonzalez.
9. On or about October 8, 1999, [REDACTED] a [REDACTED], RAFAEL DE LOS SANTOS, JUAN PILNE a/k/a PUNALADA, ELLERMAN VALVERDE, and J.D. Chacal directed Manuel Gonzalez to dress in order to leave the apartment with them.
10. On or about October 8, 1999, J.D. Chacal struck Manuel Gonzalez in the face.

BRIDGET G. BRENNAN
Special Assistant District Attorney

3444-02

Counsel FEDERAL NARCOTICS GRAND JURY
DATE SIGNED - FILED JUN 13 2002
PART 70

PM-1 #10
No. N/A

Filed day of , 2002

Pleads

Adjourn Date
THE PEOPLE OF THE STATE OF NEW YORK

-against-

Bail

[REDACTED],² RAFAEL DE LOS SANTOS, ³ JUAN PILNE
a/k/a PUNALADA and ⁴ ELLERMAN VALVERDE,

Defendants.

INDICTMENT

MURDER IN THE SECOND DEGREE (2 counts)
KIDNAPPING IN THE FIRST DEGREE
UNLAWFUL IMPRISONMENT IN THE FIRST DEGREE
(2 counts)
BURGLARY IN THE FIRST DEGREE (armed
felony)
CONSPIRACY IN THE SECOND DEGREE (2 counts)
CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN
THE FIRST DEGREE (1 COUNT
MIGUEL DE LOS SANTOS)

P.L. \$125.25(3), P.L. \$135.25(1), P.L.
\$135.10, P.L. \$140.30(1), P.L. \$105.15,
P.L. \$220.43(1)

BRIDGET G. BRENNAN
Special Assistant District Attorney

A TRUE BILL

ADA SCHELLHAMMER/PART SIB
15/02

EXHIBIT D
VOLUNTARY DISCLOSURE
FORM/BILL OF PARTICULARS

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 45

THE PEOPLE OF THE STATE OF NEW YORK

-against-

MIGUEL DELLOSSANTOS,

Defendant.

PEOPLE'S
VOLUNTARY
DISCLOSURE FORM

Ind. No. 3334/2002

The People of the State of New York hereby voluntarily disclose to the defendant the following factual information pertaining to the above-captioned case:

A. BILL OF PARTICULARS

1. OCCURRENCE

Date: October 8, 1999
App. Time: 12:25 am
Place: 478 West 145th St., Apt 33

2. ARREST

Date: May 30, 2013
App. Time:
Place: 30th pct

B. NOTICES

1. STATEMENTS

If checked, notice is hereby served, pursuant to CPL §710.30(1)(a), that the People intend to offer at trial evidence of a statement made by defendant to a public servant. (Where a statement has been recorded on video, counsel should contact the assigned assistant district attorney to arrange a mutually convenient time for viewing the recording or should provide a blank DVD for copying.)

Statement Number: 1
Date: May 30, 2013
Approximate Time:
Location: Laguardia Airport
Individual Made To: Det Hall and Det Morales

Substance of Statement:

At Laguardia airport, after having been transported from North Carolina, defendant said, in substance, that in the past he had been thinking of turning himself in, but his friends talked him out of it. He said he was relieved, that now he could sleep at night, and that he could now use his true name. He also asked if he would be allowed to put his son Christian's name on his list of prison visitors, that he wanted to start relations with him.

2. IDENTIFICATION

If checked, notice is hereby served, pursuant to CPL §710.30(1)(b), that the People intend to offer at trial testimony regarding an observation of defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the indictment, to be given by a witness who has previously identified defendant.

Identification Number: 1
Type of ID: photo array
Date: October 12, 1999
Approximate Time:
Location: 30th pct
Number of Identifying Witnesses: 1

Although section 710.30(1)(b) notice has been given above, the People submit that the 'identification' was confirmatory and therefore a *Wade* hearing should be unnecessary.

Identification Number: 2
Type of ID: photo array
Date: March 29, 2002
Approximate Time:
Location: 80 Centre St.
Number of Identifying Witnesses: 1

Although section 710.30(1)(b) notice has been given above, the People submit that the 'identification' was confirmatory and therefore a *Wade* hearing should be unnecessary.

Identification Number: 3
Type of ID: photo array
Date: May 30, 2002
Approximate Time:
Location: 80 Centre St.
Number of Identifying Witnesses: 1

Although section 710.30(1)(b) notice has been given above, the People submit that the 'identification' was confirmatory and therefore a *Wade* hearing should be unnecessary.

C. DISCOVERY

1. ADDITIONAL STATEMENTS

If checked, the People hereby disclose written, oral or recorded statements of a defendant or of a co-defendant to be jointly tried, made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him, and which statements are not given in section B(1) above. CPL §240.20(1)(a).

2. GRAND JURY TESTIMONY

If checked, defendant or a co-defendant to be tried jointly testified before the Grand Jury relating to this criminal action. CPL §240.20(1)(b). *Such testimony is available upon payment of a stenographic fee.*

3. SCIENTIFIC AND MEDICAL REPORTS

If checked, the People hereby disclose written reports or documents or portions thereof, concerning a physical or mental examination or scientific test or experiment, relating to this criminal action, which were made by, or at the request or direction of a public servant engaged in law enforcement, or by a person whom the People intend to call as a witness of a trial, or which the People intend to introduce at trial. CPL §240.20(1)(c).

	Already Served	Attached	Will Be Provided
Autopsy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Ballistic reports	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

4. PHOTOGRAPHS AND DRAWINGS

If checked, there exist photographs or drawings relating to this criminal action which were made or completed by a public servant engaged in law enforcement, or which were made by a person whom the People intend to call as a witness at trial, or which the People intend to introduce at trial. CPL §240.20(1)(d). *(Counsel should contact the assigned assistant district attorney to arrange a mutually convenient time to examine this material.)*

5. INSPECTION OF PROPERTY

If checked, there exist photographs, photocopies or other reproductions made by or at the direction of a police officer, peace officer or prosecutor of property prior to its release pursuant to the provisions of Penal Law Section 450.10, irrespective of whether the People intend to introduce at trial the property or the photograph, photocopy or other reproduction. CPL §240.20(1)(e). *(Counsel should contact the assigned assistant district attorney to arrange a mutually convenient time to examine this property.)*

6.

OTHER PROPERTY

If checked, there exist other property obtained from the defendant, or a co-defendant to be tried jointly, CPL §240.20(1)(f), or from another source. *(Counsel should contact the assigned assistant district attorney to arrange a mutually convenient time to examine this property.)*

7.

TAPES AND ELECTRONIC RECORDINGS

If checked, there exist tapes or other electronic recordings which the People intend to introduce at trial, irrespective of whether any such recording was made during the course of the criminal transaction. CPL §240.20(1)(g). *(Counsel should contact the assigned assistant district attorney to arrange a mutually convenient time to listen to the tapes or provide a blank tape for copying.)*

8.

BRADY MATERIAL

If checked, there is material appended which the People are required to turn over pursuant to the United States or the New York State Constitution. The People are aware of their continuing obligation to disclose material exculpatory information to defendant and intend to satisfy that obligation as required by law. CPL §240.20(1)(h).

COMPUTER OFFENSES

If checked, discovery is hereby served pursuant to CPL §240.20(1)(j) of the time, place and manner of notice given pursuant to Penal Law §156.00(6), which governs offenses for Unauthorized Use of a Computer (Penal Law §156.05) and Computer Trespass (Penal Law §156.10).

10.

VEHICLE AND TRAFFIC LAW OFFENSES

If checked, the People hereby disclose written reports or documents or portions thereof, concerning a physical examination, a scientific test or experiment, including the most recent record of inspection, or calibration or repair of machines or instruments utilized to perform such scientific tests or experiments and the certification certificate, if any, held by the operator of the machine or instrument, which tests or examinations were made by or at the request or direction of a public servant engaged in law enforcement activity, or which was made by a person whom the People intend to call as a witness at trial, or which the People intend to introduce at trial. CPL §240.20(1)(k).

11.

SEARCH WARRANTS

If checked, a search warrant was executed during the investigation of this case.

D. DEMAND FOR NOTICE OF ALIBI

Pursuant to CPL §250.20, the People hereby demand that defendant supply the District Attorney with (a) the place or places where the defendant claims to have been at the time of the commission of the crime(s) and (b) the names, residential addresses, places of employment and addresses thereof of every alibi witness upon whom defendant intends to rely to establish his presence elsewhere than at the scene of the crime at the time of its commission, and of every witness in support of such defense. Within a reasonable time after the receipt of the information specified above, the District Attorney will submit a list of any rebuttal witnesses, their addresses, and employers.

E. RECIPROCAL DISCOVERY

Pursuant to CPL §240.30(1), the People hereby demand that defendant supply the District Attorney with (a) any written report or document, or portion thereof, concerning a physical or mental examination, or scientific test, experiment, or comparisons, made by or at the request or direction of the defendant, if the defendant intends to introduce such report or document at trial, or if defendant has filed a notice of intent to proffer psychiatric evidence and such report or document which relates thereto or if such report or document was made by a person other than defendant, whom defendant intends to call as a witness at trial; and (b) any photograph, drawing, tape, or other electronic recording which the defendant intends to introduce at trial.

NOTE: Any defense motion or request addressed to the above-captioned case should be directed to the attention of the assistant district attorney named below, who is assigned to this case.

Dated: New York, New York
June 26, 2013

David Drucker
Assistant District Attorney
(212) 335-9224

EXHIBIT E
COURT CORRESPONDENCE

Supreme Court
of the
State of New York



100 CENTRE STREET
New York, N.Y. 10013

Mr. Miguel de los Santos 14A5516
Auburn Correctional Facility
P.O. Box 618
Auburn, New York 13024

October 6, 2017

Re: Court Documents
Ind.# 03444-2002

Dear Mr. De los Santos:

I strongly suggest that you seek legal advise at the facility where you are housed so that if I have not been clear with you, they can better answer your questions. I have tried several times to explain to you and your family members that there is only one file in existence related to your case. Your family members already copied **ALL** the public documents in that file. I have also many times explained to you and your family that your case was not heard in Criminal Court. Your case started directly in Supreme Court. **There are no Criminal Court papers.** In your latest letter you refer to the "sealing" of your indictment. **Your Indictment is not sealed.** As far as different copies of the Indictment: we did not provide you with copies, your family members made the copies themselves. There is only one Indictment. **We have no other documents to provide you with.**

Respectfully yours,

A handwritten signature in black ink that reads "F. Parra".

Fernando Parra, SCC
Court Action Processing Unit
Supreme Court, Criminal Term

Encl.

EXHIBIT F
ARRIAGNMENT TRANSCRIPT
6/3/13

EXHIBIT F
ARRANGEMENT TRANSCRIPT
6/3/13

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK : CRIMINAL TERM : PART 45

3 THE PEOPLE OF THE STATE OF NEW YORK

4 -against- Indictment

5 MIGUEL DE LOS SANTOS, 3444/02

6 Defendant.

8 111 Centre Street
9 New York, New York

10 June 3, 2013

11 BEFORE:

12 HONORABLE JUSTICE BRUCE ALLEN

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

14 BRIDGET BRENNAN, ESQ.
15 Special Narcotics Prosecutor
16 New York County
BY: WESLEY CHENG, ESQ.
For the People

18 NORMAN WILLIAMS, ESQ.
19 For the Defendant

20 DIANA DAVILA-MONGE
21 Sr. Court Reporter

22
23
24
25

Proceedings

1 COURT CLERK: Calling number two on the
2 calendar Indictment Number 3444 of 2002 the People
3 of the State of New York against Miguel De Los
4 Santos.

5 The defendant, his attorney and the
6 assistant district attorney are present in the
7 courtroom.

8 Counsel, please state your appearance for
9 the record.

10 MR. CHENG: Wesley Cheng on behalf of the
11 Special Narcotics Prosecutor.

12 MR. WILLIAMS: Norman Williams appearing
13 on behalf of the defendant.

14 MR. CHENG: I would request a short
15 adjournment.

16 We just need to be able to pull the file
17 and get the voluntary disclosure form and the
18 indictment so we can arraign him properly on the
19 next date.

20 THE COURT: Has he been printed?

21 Do we have prints?

22 MR. CHENG: We don't have prints yet.

23 THE COURT: Are you going to take him to
24 do that?

25 When can we do this arraignment?

Proceedings

1 MR. CHENG: How long does it generally
2 take for prints?

3 THE COURT: One day, the same day.

4 MR. CHENG: I request two weeks, Judge,
5 to get it done in that time.

6 THE COURT: Two weeks.

7 MR. CHENG: That's also to get the
8 voluntary disclosure form and the indictment.

9 THE COURT: Mr. Williams.

10 MR. CHENG: Should we request a shorter
11 adjournment, Judge?

12 THE COURT: It's a very old case.

13 MR. CHENG: I can request a week, Judge.

14 THE COURT: I'd like to find out what's
15 going on.

16 MR. WILLIAMS: Depending on how quickly
17 you get the information together, I will probably
18 make a bail application.

19 THE COURT: Does he have a hold?

20 COURT OFFICER: There is no hold.

21 THE COURT: All right.

22 MR. CHENG: June 10th, Judge.

23 I will inform everyone.

24 THE COURT: 6/10 for a possible bail
25 application and arraignment.

Proceedings

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The defendant will be held until then.
The warrant is vacated.

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CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPTION OF
THE MINUTES TAKEN BY ME.



DIANA DAVILA MONGE
Sr. Court Reporter

EXHIBIT G
WARRANT OF ARREST

SUPERIOR COURT

Warrant of Arrest

SUPREME COURT OF THE CITY OF NEW YORK

Part:	Return Part:	County:	SUPREME COURT NUMBER/YEAR:
70	70	NEW YORK	03444-2002

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

To any Police Officer of the City of New York.

An Accusatory instrument having been filed with this Court charging

DELOSSANTOS, MIGUEL

the defendant in the criminal action herein, with the commission of the offense of

AND

PL12525F

The defendant not having been arraigned upon the accusatory instrument by which this criminal action against the defendant was commenced and this Court requiring the defendant's appearance before it for the purpose of arraignment.

The defendant having been arraigned upon the accusatory instrument by which this criminal action against the defendant was commenced and this criminal action being pending in the Court and this Court requiring the defendant's appearance before it.

The defendant having been convicted of and having been sentenced to and this Court requiring the defendant's appearance before it.

You are, therefore, commanded forthwith to arrest the defendant named above and bring him before this Court without unnecessary delay.

By Order of the Court:

FLORA DUFFY
JUSTICE OF THE SUPREME COURT

Bail Condition Violated:

Date of Warrant

6/13/2002

NCIC No:	DCJS No:	OCA No:
Defendant Name	DELOSSANTOS, MIGUEL	Sex: M
AKA:	Ht: 507	Wt: 165
Race: W	DOB:	Age: 55
Eyes: BRO	Hair: BLK	Skin Tone: UNK
Driver Lic No:	Yr Lic Exp:	Lic St:
SSN:		NYSID #
ADDRESS:		
Arrest Date:	1/1/0001	Precinct:
Charge	PL	Penal Law 12525
Dept/Agency	Command:	Arrest ID
Officer Name:		Crime Class F
		Tax Reg #
		Shield #

EXHIBIT H
COURT CORRESPONDENCE

Supreme Court
of the
State of New York
Encl.



100 CENTRE STREET
New York, N.Y. 10013

August 9, 2017

Mr. Miguel de Los Santos 14A5516
Shawangunk Correctional Facility
P.O. Box 700
Wallkill, NY 12589

Re: Court Documents
Ind.# 03444-2002

Dear Mr. De Los Santos:

In response to your request, we apologize that our response to your last letter went to Auburn by mistake. I am enclosing a copy of that letter.

Also, since we sent that letter, your relatives have been to the Clerk's Office in a couple of occasions and ordered the file and copied everything that was public in your file. One thing that we tried to make them understand and possibly you need to understand as well is that there is only one file in this court pertaining to your case. Your relatives were looking for documents from Criminal Court but your case never went to Criminal Court, therefore there are no Criminal Court documents.

We also explained to them that any document in your list that is not found among the documents that they copied in the Clerk's Office will have to be obtained from other agencies.

Warrants and information on warrants can only be obtained from the District Attorney's Office at One Hogan Place Room 732, New York, NY 10013. Your relatives were given the phone numbers for the Clerk's Office should they have any additional questions (646-386-4000), as well as the Reporter's Office (stenographer in your letter) (646-385-4400).

Respectfully yours,

A handwritten signature in black ink, appearing to read "F. Parra".

Fernando Parra, SCC
Court Action Processing Unit
Supreme Court, Criminal Term

encl.

EXHIBIT I
CORRESPONDENCE CHIEF
ADMINISTRATIVE COURT



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

JOHN W. McCONNELL
COUNSEL

January 16, 2018

Mr. Miguel de los Santos
14A5516
Shawangunk Correctional Facility
P.O. Box 700
Wallkill, New York 12589

Dear Mr. de los Santos:

In response to your correspondence, please be advised that Flora Duffy was employed as an Associate Court Clerk in 2002.

In the event you seek copies of official court records, including an arrest warrant regarding the presiding judge who ordered the warrant, please be advised that access to court records is governed by section 255 of the Judiciary Law. The clerk of the court where the matter was handled typically is the custodian of records, and as such, you should direct the section 255 request to the clerk, identifying the case name and indictment number, as well as the specific court record sought, to permit the clerk to conduct a search for any responsive existing record and assess the search, copy, and certification fees consistent with the fee schedules set forth in CPLR Article 80.

The Chief Clerk of the Supreme Court, New York County, Criminal Term is located at 100 Centre Street, New York, New York 10013.

You also may wish to contact the attorney who represented you in the 2002 criminal matter.

Very truly yours,

Shawn Kerby
Assistant Deputy Counsel

EXHIBIT J
TRIAL TRANSCRIPT

DIRECT/MULERO/PEOPLE

1 was like hysterical, like he was mad, he was telling Chacal
2 that, who told you to do that? Why you did that? We not
3 suppose to do that. We just went there to make a phone call,
4 you're not supposed to do that, why did you do that?

5 He said that was accident I am sorry.

6 Q. He said that was a what?

7 A. Accident.

8 Q. That's what Chacal said?

9 A. Yeah.

10 Q. Okay. And what else was done in the hotel, what else
11 happened that night in the hotel?

12 A. Chacal is staying in the hotel that night and we went
13 to our house or to the our -- I don't remember where we went
14 that night. I don't believe that was the house.

15 Q. And what happened with Chacal the next day?

16 A. Cachie told him that it's better to go to the
17 Dominican Republic for a little while until everything calm
18 down. So he buy the ticket for him and he flew to the
19 Dominican Republic.

20 Q. Who bought the ticket?

21 A. Cachie bought the ticket.

22 Q. For Chacal to go back to the Dominican Republic?

23 A. Yeah.

24 Q. And what did you and the defendant do in the
25 following days?

1 Q. Did you see any of these gentlemen there on the board
2 or Miguel with any weapons on that day before they went into the
3 building?

4 A. No.

5 Q. Did Miguel have any weapons on him on that day at all?

6 A. No, he's not a violent person.

7 Q. As far as you know have you ever seen Miguel in
8 possession of a gun or a knife or any other type of weapon?

9 A. Never. Never.

10 Q. Now, you said that in 2000 you were arrested and
11 charged with kidnapping, right?

12 A. Yes.

13 Q. Were there any other charges other than kidnapping that
14 you were accused of?

15 A. No. Conspiracy.

16 THE COURT: I'm sorry?

17 THE WITNESS: No, they accused me of kidnapping. Just
18 kidnapping.

19 Q. Did you have any other codefendants in that case other
20 than Ellerman?

21 A. Yes.

22 Q. Who was with you on the day during the events that led
23 up to your arrest of kidnapping, who was with you?

24 A. It was Wanda. Wanda Tavarez.

25 THE COURT: Who is she?

Lourdes Torres-Fuster, Senior Court Reporter

1 after.

2 Q. Before or after you went to the police?

3 A. That's what I don't remember.

4 Q. And did you speak to the police detectives in
5 Manhattan?

6 A. They went to get me in Connecticut.

7 Q. And did they tell you about what happened to Manuel,
8 your cousin Manuel?

9 A. Yes.

10 Q. And at any time before you went to the police were you
11 aware of the defendant trying to contact you either directly or
12 through people in your family?

13 MR. WILLIAMS: Objection. Asked and answered already,
14 your Honor.

15 THE COURT: I will allow it.

16 INTERPRETER: Could you repeat that last part, please.

17 Q. At any time before you went to the police were you
18 aware of the defendant trying to reach you?

19 A. No, because I didn't have a phone or anything.

20 Q. And you're not aware of any phone call to your brother
21 or to your father?

22 A. I don't remember. If I'm not mistaken I don't
23 remember. I was 20-years-old. That was 15 years ago.

24 Q. And, again, so it's clear, you first learned Manuel was
25 killed after you had gone, after you spoke to the police; is

1 that correct?

2 A. I don't remember. As I said, I can't remember.

3 Q. And soon after that did you leave the United States?

4 A. After I declared, I testified, I left the United
5 States. I went to Europe. Then I came back from Europe to
6 testify again. I testified again and here I am again
7 testifying.

8 Q. And you live in Europe now?

9 A. Yes.

10 Q. And you've been living there since 1999; is that
11 correct?

12 A. Yes, from '99.

13 MR. DRUCKER: No further questions.

14 CROSS-EXAMINATION

15 BY MR. WILLIAMS:

16 Q. Good afternoon, Mr. Gonzalez.

17 Have you ever been threatened by this man?

18 A. No.

19 Q. You testified earlier you said that he was never your
20 boss, correct?

21 A. No, he was never my boss.

22 Q. Now, he used to date your cousin Wendy, right?

23 A. Yes.

24 Q. Who met him first you or Wendy?

25 A. Wendy.

WILSON GONZALEZ / CROSS / MR. WILLIAMS

1 A. I don't understand, in what way?

2 Q. What do you do for work?

3 A. I had an accident. I fell from a fourth floor and I am
4 handicap now and I don't work.

5 Q. Before your unfortunate accident how were you
6 supporting yourself?

7 A. I worked in construction.

8 Q. Have you ever been involved in the drug business, Mr.
9 Gonzalez?

10 A. No.

11 MR. WILLIAMS: Thank you. Nothing further.

12 MR. DRUCKER: No questions.

13 THE COURT: Okay. Thank you.

14 (Witness is excused).

15 THE COURT: We're going to take just a five minute
16 break, jurors.

17 (Recess).

18 THE COURT: Mr. Drucker, who is your next witness?

19 MR. DRUCKER: Retired Detective Dimuro.

20 THE COURT: Jury in.

21 COURT OFFICER: Jurors entering.

22 THE COURT: Next witness.

23 MR. DRUCKER: People call retired Detective Gerard
24 Dimuro.

25 COURT OFFICER: Witness entering.

Lourdes Torres-Fuster, Senior Court Reporter

JURY CHARGE

1 the furtherance of that kidnapping caused the death of
2 Manuel Gonzalez. And that Mr. Gonzalez was not a
3 participant in that crime.

4 If you find that the prosecution has proven both of
5 these elements beyond a reasonable doubt then you must find
6 Mr. Dellos Santos guilty of murder in the second-degree in
7 this count.

8 On the other hand, if you find that the prosecution has
9 not proven either one or both of these elements beyond a
10 reasonable doubt then you must find him not guilty.

11 Now, the third count charges Mr. Dellos Santos with
12 kidnapping in the first-degree.

13 Again, a person is guilty of kidnapping in the first
14 degree when he abducts another person with the intent to
15 compel another person to engage in a particular conduct.

16 In this case it is the prosecution's theory that Manuel
17 Gonzalez was kidnapped in order to compel Wilson Gonzalez
18 to pay money for drugs that were allegedly purchased from
19 Mr. Dellos Santos.

20 I have already given you all of the definitions that
21 pertain to the legal definitions of abduct. And that
22 applies here.

23 In order for you to find Mr. Dellos Santos guilty of
24 kidnapping in the first-degree the prosecution must prove
25 not only that acting in concert with others he abducted Mr.

Lourdes Torres-Fuster, Senior Court Reporter

JURY CHARGE

1 Gonzalez but that he did so with the intent to compel a
2 third person to engage in certain conduct in this case in
3 order to compel Wilson Gonzalez to pay them.

4 In order for you to find Mr. Dellos Santos guilty of
5 kidnapping in the first-degree the prosecution is required
6 to prove from all the evidence in the case beyond a
7 reasonable doubt:

8 One, that on October 8, 1999 in New York Mr. Dellos
9 Santos acting in concert with others restricted the
10 movements of Manuel Gonzalez in such a manner as to
11 interfere substantially with his liberty by moving him from
12 one place to another or by confining him in the place where
13 the restriction began or to a place to which he had been
14 moved.

15 Two, that he did so without the consent of Mr.
16 Gonzalez.

17 Three, that he intended to do so.

18 Four, that the restriction of Mr. Gonzalez movements
19 were unlawful. And Mr. Dellos Santos knew that it was
20 unlawful.

21 Five, that Mr. Dellos Santos restrained Mr. Gonzalez
22 with the intent to prevent his liberation by using or
23 threatening to use deadly physical force. And that Mr.
24 Dellos Santos abducted Manuel Gonzalez with the intent to
25 compel Wilson Gonzalez to pay for drugs that were allegedly

Lourdes Torres-Fuster, Senior Court Reporter

JURY CHARGE

1 purchased for Mr. Dellos Santos.

2 If you find that the prosecution has proven each of
3 these elements beyond a reasonable doubt then you must find
4 Mr. Dellos Santos guilty of this count of kidnapping.

5 On the other hand, if you find that the prosecution has
6 failed to prove one or more of these elements then you must
7 find him not guilty.

8 Count 4, unlawful imprisonment in the first-degree.

9 This is regarding Angelly Ortiz.

10 Count 4 charges Mr. Dellos Santos with unlawful
11 imprisonment in the first-degree on the theory that acting
12 in concert with others he unlawfully imprisoned Angelly
13 Ortiz.

14 Under our law a person is guilty of unlawful
15 imprisonment in the first-degree when he restrains another
16 person under circumstances which exposed that other person
17 to a risk of serious physical injury.

18 I remind you that restrain means to restrict a person's
19 movements intentionally and unlawfully in such a manner to
20 interfere substantially with her liberty by moving her from
21 one place to another or by confining her either to the
22 place where the restriction commenced or in a place to
23 which she had been moved without her consent and without
24 knowledge that the restriction is unlawful.

25 In order for you to find Mr. Dellos Santos guilty of
Lourdes Torres-Fuster, Senior Court Reporter