

## 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?

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 forth 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.

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## SUMMATION/DRUCKER

1 (The jury was excused and exits the courtroom.)

2 MR. DRUCKER: One legal point on your charge.

3 THE COURT: Of course.

4 MR. DRUCKER: The first count is Kidnapping in  
5 the First Degree. The second count is the Felony Murder for  
6 Kidnapping. Kidnapping first degree involves abduction with  
7 other elements.

8 (Continued on next page.)

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Proceeding

1 CONTINUED BY

2 MR. DRUCKER:

3 Which I believe we've fully proven.

4 But, the Count 2, the felony murder kidnapping would  
5 not require.

6 THE COURT: I know.

7 MR. DRUCKER: Kidnapping first-degree.

8 THE COURT: We handled that.

9 MR. DRUCKER: Okay. Then I'll shut up.

10 THE COURT: Thank you.

11 Anything else anybody wants to tell me that's obvious?

12 MR. WILLIAMS: No, your Honor.

13 THE COURT: Thank you.

14 \*\*\*\*\*

15 (Proceedings were concluded until July 10, 2014)

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## 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.

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## 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

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## 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  
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## JURY CHARGE

1 this count the prosecution is required to prove beyond a  
2 reasonable doubt:

3 One, that on October 8, 1999 in New York Mr. Dellos  
4 Santos acting in concert with others restricted the  
5 movements of Angelly Ortiz in such a manner as to interfere  
6 substantially with her liberty by moving her from one place  
7 to another or by confining her either in the place where  
8 the restriction began or in a place to which she had been  
9 moved.

10 Two, that the movements of Ms. Ortiz were restricted  
11 without her consent.

12 Three, that Mr. Dellos Santos acted intentionally.

13 Four, that the restriction of Ms. Ortiz movements was  
14 unlawful. And that Mr. Dellos Santos knew that.

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15 Five, that Mr. Dellos Santos or one or more people  
16 acting with him restrained Ms. Ortiz under circumstances  
17 which exposed her to a risk of serious physical injury.

18 If you find that the prosecution has proven all of  
19 these elements to your satisfaction beyond a reasonable  
20 doubt then you must find Mr. Dellos Santos guilty of this  
21 count.

22 On the other hand, if you find that the prosecution has  
23 failed to prove one or more of these elements beyond a  
24 reasonable doubt then you must find him not guilty.

25 Count 5 charges Mr. Dellos Santos with unlawful

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## JURY CHARGE

1           imprisonment in the first-degree on the theory that acting  
2           in concert with others he unlawfully imprisoned Carlos  
3           Ortiz. It is the same as the last one. The same  
4           elements but this time you look at the action vis-a-vis  
5           Carlos Ortiz.

6           So, in order for you to find Mr. Dellos Santos guilty  
7           of Count 5 the prosecution is required to prove beyond a  
8           reasonable doubt that on October 8, 1999 in New York Mr.  
9           Dellos Santos acting in concert with others restricted the  
10          movements of Carlos Ortiz in such a manner as to interfere  
11          substantially with his liberty by moving him from one place  
12          to another or by confining him either in a place where the  
13          restriction began or in a place to which he had been moved.

14          Two, that his movements were restricted without his  
15          consent. That Mr. Dellos Santos acted intentionally.  
16          That the restriction was unlawful. And Mr. Dellos Santos  
17          knew that. And that Mr. Dellos Santos or one or more  
18          people acting in concert with him restrained Mr. Ortiz  
19          under circumstances which exposed him to risk of serious  
20          physical injury.

21          If you find that the prosecution has proven all of  
22          these elements beyond a reasonable doubt then you must find  
23          Mr. Dellos Santos guilty of this count of unlawful  
24          imprisonment.

25          On the other hand, if you find that the prosecution has  
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## JURY CHARGE

1 failed to prove one or more of these elements beyond a  
2 reasonable doubt then you must find him not guilty.

3 Count 6 charges Mr. Dellos Santos with burglary in the  
4 first-degree on the theory that he or someone acting in  
5 concert with him was armed with a deadly weapon while  
6 burglarizing Apartment 33 at 478 West 145 Street.

7 The penal law states a person is guilty of burglary in  
8 the first-degree when he knowingly enters unlawfully a  
9 dwelling with the intent to commit a crime. And when he  
10 uses or threatens the immediate use of a dangerous  
11 instrument. In this case a gun.

12 The term dwelling means a building which is usually  
13 occupied by a person who sleeps there at night.

14 Where a building consist of two or more units  
15 separately secured or occupied each unit is considered both  
16 a separate building in itself and part of the main  
17 building.

18 According to the law a person unlawfully enters a  
19 dwelling when he has no permission to do so. And he  
20 knowingly enters the dwelling unlawfully when he is aware  
21 that he doesn't have permission.

22 A person also enters a dwelling unlawfully when he  
23 enters by means of a trick or deception.

24 In addition, the prosecution must prove that at the  
25 time that Mr. Dellos Santos entered the building he

## PROCEEDING

1 comes in.

2 \*\*\* (DELIBERATIONS) \*\*\*

3 THE COURT: We have a note. I'm going to read to them  
4 the charge on murder in the second-degree and kidnapping.

5 MR. DRUCKER: Yes, your Honor.

6 COURT OFFICER: Jury entering.

7 MR. WILLIAMS: Your Honor, may we approach briefly?

8 THE COURT: Yes.

9 (Discussion at the bench was held off the record).

10 THE COURT: Okay. So you asked me for the instructions  
11 on the law regarding felony murder. Regarding the  
12 kidnapping. And I will do that.

13 The penal law states a person is guilty of murder in  
14 the second-degree when acting either alone or with one or  
15 more other persons he commits or attempts to commit a  
16 kidnapping and in the course of and in furtherance of the  
17 crime or of the immediate flight from the crime he or  
18 another participant causes the death of a person other than  
19 one of the participants.

20 Under our law a person is guilty of kidnapping in the  
21 second-degree when he abducts another person. To abduct  
22 means to restrain a person with the intent to prevent the  
23 person's liberation either by secreting or holding him in a  
24 place where he is not likely to be found or by using or  
25 threatening to use deadly physical force.

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## PROCEEDING

1           Restrain means to restrict a person's movements  
2 intentionally and unlawfully in such a manner as to  
3 interfere substantially with his liberty by moving him from  
4 one place to another or by confining him either in a place  
5 where the restriction began or in a place to which he has  
6 been moved without consent and with knowledge that the  
7 restriction is unlawful.

8           A person restricts another's movements intentionally  
9 when his goal, his conscious objective is to restrict that  
10 person's movement.

11           A person restricts another's movement unlawfully when  
12 he is not authorized by law to do so and when he is aware  
13 that the restriction is not authorized by law.

14           A person is moved or confined without consent when such  
15 is accomplished by physical force, intimidation or  
16 deception.

17           Intent means conscious objective or purpose.

18           Thus, a person acts with intent to prevent another's  
19 liberation either by secreting or holding him in a place  
20 where he is not likely to be found or by using or  
21 threatening to use deadly physical force when that person's  
22 goal or purpose is to do so.

23           Deadly physical force means physical force which under  
24 the circumstances in which it is used is readily capable of  
25 causing death or other serious physical injury.

          Lourdes Torres-Fuster, Senior Court Reporter

## PROCEEDING

1           In order for you to find Mr. Dellos Santos guilty of  
2           murder in the second-degree the prosecution is required to  
3           prove from all the evidence in this case beyond a  
4           reasonable doubt:

5           One, that on October 8, 1999 in New York Mr. Dellos  
6           Santos acting in concert with others committed a  
7           kidnapping.

8           And, two, that in the course of and in furtherance of  
9           the commission of that kidnapping Mr. Dellos Santos or  
10          another participant in the kidnapping caused the death of  
11          Manuel Gonzalez and Mr. Gonzalez was not a participant in  
12          the crime.

13          If you find that the prosecution has proven beyond a  
14          reasonable doubt both of these elements then you must find  
15          him guilty of murder in the second-degree as charged in  
16          this count.

17          On the other hand, if you find that the prosecution has  
18          not proven one or both of those elements beyond a  
19          reasonable doubt then you must find him not guilty.

20          I hope that helped you.

21          So bring the jury in to deliberate.

22          COURT OFFICER: Jurors.

23          THE COURT: Please, I want them to stay.

24          COURT OFFICERS: Yes.

25          (Jurors exit the courtroom).

          Lourdes Torres-Fuster, Senior Court Reporter