

*RUBEN HERNANDEZ - October 5, 2011  
Direct Examination by Mr. Baldassano*

1                                   **RUBEN HERNANDEZ,**  
2   having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4   *BY MR. BALDASSANO:*

5           Q.    Okay.  State your name for the record.

6           A.    Senior Investigator Ruben Hernandez.

7           Q.    Same person that was testifying a few minutes  
8 ago?

9           A.    Yes, sir.

10          Q.    We were talking about red flags, and you had  
11 stated -- or I was asking about the red flags that you  
12 saw in the investigation at the point we're at,  
13 somewhere in March of 2009.  Can you tell the jury the  
14 red flags that you saw?

15          A.    Yes, sir.  Red flags were that the defendant  
16 made a phone call to notify someone of the fire.  The  
17 other red flag is that doctor had 1.3 -- or at least the  
18 defendant's carboxyhemoglobin was 1.3 percent.  That is  
19 a very, very low percentage.

20          Q.    Is that from the EMT report?

21          A.    That's from the offense report.

22          Q.    Okay.  All right.  And is that based -- does  
23 the EMTs do that?  When you're a paramedic, do you check  
24 for that?

25          A.    EMTs do not do that.

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1 Q. All right.

2 MR. BALDASSANO: May I approach the  
3 witness, Judge?

4 THE COURT: You may.

5 Q. (By Mr. Baldassano) And tell me about -- tell  
6 us about any other red flag that you saw.

7 A. Okay. The other red flag, the defendant was  
8 interviewed by Garcia. His statement was inconsistent  
9 with what was at the fire scene.

10 Q. What do you mean by that?

11 A. The defendant stated that he rolled up the  
12 door, too much fire. That's not consistent. There was  
13 not any fire by his roll-up door.

14 MR. BALDASSANO: May I approach the  
15 witness, Judge?

16 THE COURT: You may.

17 Q. (By Mr. Baldassano) Let me show you what's  
18 labeled State's Exhibit No. 27 and ask you if you could  
19 identify State's 27?

20 A. Yes.

21 Q. And did you have a hand in creating State's  
22 Exhibit 27?

23 A. Yes.

24 Q. And is that an accurate depiction of not only  
25 the layout of the scene, but also the distances as

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1 actually measured of the scene?

2 A. Yes, sir.

3 Q. Did you do these measurements?

4 A. Yes, sir.

5 MR. BALDASSANO: Judge --

6 Q. (By Mr. Baldassano) Would this help the jury  
7 understand the actual distances and the layout of the  
8 scene?

9 A. Yes, sir.

10 MR. BALDASSANO: State would offer State's  
11 Exhibit 27 and tender same to defense for his  
12 inspection.

13 THE COURT: Okay. Any objections to  
14 State's 27, Counsel?

15 MR. BARROW: No, Your Honor.

16 THE COURT: Okay. State's 27 is admitted.

17 Q. (By Mr. Baldassano) And what is State's  
18 Exhibit 27? Can you see that?

19 A. Yes, sir.

20 Q. I'm going to give you this little thing that  
21 works about half the time, if you wish. You had just  
22 mentioned some inconsistencies that you felt was a red  
23 flag in the case.

24 Tell us, with looking at State's Exhibit  
25 27, you thought the defendant's statement was

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1 inconsistent with the facts at the scene.

2 A. Okay. Fire near his roll-up door. That's not  
3 consistent. Being that the defendant was at 7209  
4 Rampart. This is his roll-up door. The fire was  
5 confined to this area. There was no fire beyond this  
6 point.

7 Q. And about -- you have it marked off how many  
8 feet away?

9 A. That is fifty-eight feet from the Sienna van,  
10 one of the vehicles of origin.

11 Q. Okay. Now this is back somewhere in March of  
12 2009. Tell us what -- the next thing you did on the  
13 case, on this particular case.

14 A. July 19th, 2010, I went and revisited 7203  
15 Rampart.

16 Q. Now there is some gap between March of 2009 and  
17 July of 2010. Without getting into any specifics, but  
18 what were you working on then, just generally?

19 A. Other arson fires.

20 Q. Okay. In that area?

21 A. Yes, sir, in that area.

22 Q. All right. Okay. Tell us about July of 2010.  
23 What date did you --

24 A. July 2010, I revisited 7203 Rampart.

25 Q. What day was that?

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1           A.    I'm sorry, correction.  That was July 19th,  
2  2010.  And I spoke to Mr. Efrain Mendoza.

3           Q.    All right.  And was he the same person that  
4  testified that you dealt with before?

5           A.    Yes, sir.

6           Q.    Was there anybody else there when you talked to  
7  Efrain?

8           A.    Yes, there was.

9           Q.    Who else was there?

10          A.    Alfredo Mendoza.

11          Q.    And did you learn something new when talking  
12 with Efrain and Alfredo Mendoza that day on July 19,  
13 2010, that you hadn't heard before?

14          A.    Yes, sir, something very vital.

15          Q.    Did you take statements, audio statements from  
16 those two individuals, Efrain and Alfredo?

17          A.    Yes, sir.

18          Q.    And explain to the jurors how you take a  
19 statement from two separate people.

20          A.    I separate the individuals to take an interview  
21 or a statement from one person alone so their stories  
22 are not the same.  They have their individual stories.

23          Q.    They're not listening to each other's  
24 audiotape?

25          A.    Correct.  They're not seeing each other.

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1 Q. So about how long do you spend with the  
2 witnesses, Alfredo and Efrain, outside there on  
3 July 19th of 2010?

4 A. I'd say a couple of hours.

5 Q. And in the couple of hours, are you able to get  
6 more detail than you can get a couple -- in a couple of  
7 minutes?

8 A. Yes, sir.

9 Q. Is that common? That is, if you spend more  
10 time with people, sometimes you learn new things and  
11 details that are important?

12 A. Yes, sir.

13 Q. And did that happen here?

14 A. Yes, it did.

15 Q. Now have you, for trial, been sort of helping  
16 serve subpoenas on people to get them into court?

17 A. Yes, I have.

18 Q. Okay. And did you subpoena several, almost all  
19 of -- not -- or maybe even the fire people -- did you  
20 subpoena most of the people that are in court; that is,  
21 a Court-ordered subpoena that you hand out?

22 A. Yes, I did.

23 Q. And did you -- have you served a subpoena on  
24 Alfredo Mendoza?

25 A. Yes, I did.

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1 Q. Okay. Did Alfredo Mendoza actually come to  
2 court once and testify in this case?

3 A. Yes, he did.

4 Q. Did you try to get Alfredo Mendoza to come to  
5 court this --

6 MR. BARROW: Your Honor, I'm going to  
7 object to this. May we approach?

8 THE COURT: You may.

9 (At the bench)

10 MR. BARROW: Judge, I'm going to object to  
11 Mr. Baldassano letting the jury know this case has been  
12 tried once before.

13 THE COURT: That objection is sustained.

14 MR. BARROW: And I'm going to move for a  
15 mistrial at this point.

16 MR. BALDASSANO: Well, this is why, Judge.  
17 In criminal cases, testimony that was given as a witness  
18 at another hearing of the same or different proceeding,  
19 if a party against him, the testimony is now offered,  
20 had an opportunity and similar motive to develop the  
21 testimony by direct, cross and redirect in criminal  
22 cases, they use depositions controlled by Chapter 39.

23 I'm trying to prove up that he's  
24 unavailable and that I'm going to offer Alfredo's  
25 testimony in evidence. That's why I'm doing it. So I

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1 think under the Rule -- it's, for the record, 804(b) --  
2 it's a hearsay exception to allow prior -- as long as  
3 the other side has had the same motive and ability to  
4 cross-examination, and the witness is unavailable. I'm  
5 talking to this witness as the subpoena server. He says  
6 this person is unavailable. And that's why we're doing  
7 it. That's the offer.

8 *THE COURT:* What's the --

9 *MR. BALDASSANO:* That would be State's  
10 Exhibit 28.

11 *THE COURT:* -- response?

12 *MR. BARROW:* We object, Your Honor. I  
13 mean, unless he goes in further as to what attempts he  
14 made to get to Mr. Mendoza here, whether he located him  
15 or actually served a subpoena on him, or whether  
16 Mr. Mendoza simply refused to come to Court.

17 *MR. BALDASSANO:* Well, that's what I was  
18 developing when the objection happened.

19 *THE COURT:* Okay. Do you know why he's  
20 not here?

21 *MR. BALDASSANO:* He's in El Paso. He's  
22 working in El Paso, and he's tried to get him here. He  
23 couldn't. He's showed in the past that he was willing  
24 to come, but he's just not available. He's out of town  
25 in El Paso.



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1           The guy's, you know, kind of a worker kind  
2 of guy. And that's where he is, in El Paso. He's tried  
3 to get him here. He's talked to him. He's tried to  
4 serve him. He knows about it, but he's unavailable.

5           And, you know, Michael Barrow has had the  
6 opportunity, as I have to, put this guy on in testimony  
7 and, you know, fully flush out what he said. And  
8 that's -- I think the jury has a right to see that,  
9 because I also feel that on final argument one of the  
10 big points is going to be, where is Alfredo? And it's  
11 going to make it look like we ditched the guy because we  
12 didn't like what he had to say, and that's going to be  
13 possibly a likely argument. It would be if I was the  
14 defense.

15           And so, I don't think that's a fair  
16 argument, when he's already been here and he's already  
17 testified and we have his record here and we both had an  
18 opportunity to ask him questions about the exact same  
19 issue. And that's what the Rule, you know, says, that  
20 it would be crazy not to let something like this in when  
21 you're trying to get the whole story out. Because this  
22 guy was available, and he did testify. And both sides  
23 had the -- it was the same lawyers, had the same  
24 opportunity in the same case to talk to the guy.

25           And I think, you know, his transcript is

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1 here. It's marked State's Exhibit 28. And, you know,  
2 that's why I'm developing this testimony, because it's a  
3 clear hearsay exception.

4 MR. BARROW: Well, I would certainly hope  
5 Mr. Baldassano, then, would go into the reasons why  
6 Mr. Mendoza is not here. They've obviously contacted  
7 him. He's aware of the subpoena. He does not want to  
8 come because he's too busy working.

9 State's flown witnesses in from California  
10 before. El Paso is in the State of Texas. They know  
11 where he is. They could have made him available. He  
12 simply refuses to come. That's the bottom line.

13 MR. BALDASSANO: I think refusing to come  
14 is being not available. He's 800 miles from here.

15 THE COURT: Okay. I'll tell you what.  
16 I'll let it in, and you can develop that on cross.

17 MR. BARROW: Thank you, Your Honor.

18 (Continuing in jury's hearing)

19 Q. (By Mr. Baldassano) Did you contact Alfredo  
20 Mendoza?

21 A. Yes.

22 Q. By telephone?

23 A. Yep.

24 Q. Did you tell him about the court date?

25 A. Yes, I did.

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1 Q. Was he available to come to court?

2 A. No, sir.

3 Q. Where is he?

4 A. El Paso, Texas.

5 Q. And when did you contact him?

6 A. Last weekend.

7 Q. Has he been available before to come to court?

8 A. Yes.

9 Q. Has he, in fact, come to court when he was in  
10 town?

11 A. Yes, he has.

12 MR. BALDASSANO: Judge, at this time I  
13 would offer under Rule 804(b) State's Exhibit No. 28 and  
14 tender same to defense for his inspection.

15 THE COURT: Okay.

16 MR. BARROW: Note our prior objection,  
17 Your Honor. We have a copy. Thank you.

18 THE COURT: Your objection is noted for  
19 the record, and it is admitted.

20 MR. BARROW: Thank you, Your Honor.

21 MR. BALDASSANO: May I approach the  
22 witness, Judge?

23 THE COURT: Yes.

24 Q. (By Mr. Baldassano) Mr. Hernandez, could you  
25 just, without going into that, tell us what State's

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1 Exhibit 28 is?

2 A. It's Alfredo Mendoza's testimony.

3 Q. Okay. Now you talked about -- I think you said  
4 you spent several hours taking the audio statement, and  
5 you separated the two. Did you do anything else out  
6 there on July 19th of 2010 to talk to and investigate  
7 the case with Alfredo and Efrain Mendoza?

8 A. On that particular day, no, sir.

9 Q. And what's the next thing you did on the case  
10 and when?

11 A. After learning what I did on July 26th, 2010, I  
12 ordered the medical records and received those.

13 Q. And did the medical records have the same thing  
14 that you had said earlier about the carbon monoxide  
15 level and things like that?

16 A. Yes, they did.

17 Q. Did you notice anything else in the medical  
18 records that was of some interest to you?

19 A. Yes, sir.

20 Q. What was that?

21 A. Singed chest hair.

22 Q. Have you seen that as a firefighter before,  
23 people being close to a fire getting their hair burned?

24 A. Yes, I have.

25 Q. And what is a typical situation, based on your

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1 experience as a firefighter and an arson investigator,  
2 that people would get their hair burned?

3 A. Very close to the flame.

4 Q. And would a person walk into a flame that hot  
5 that would burn their hair, based on your experience; or  
6 how would that happen, that singed chest hair?

7 A. The singed chest hair would only occur, without  
8 affecting the skin, would be a flash fire. That's the  
9 only way you can get singed chest hair and not get  
10 burned. Fire has a component of time.

11 So, you could have a hot fire. Everyone  
12 has put their hand over a burner really quick, and you  
13 don't get burned. But if you leave your hand there, you  
14 will get burned.

15 Q. Have you seen any fire started in your work  
16 using an accelerant?

17 A. Yes, sir.

18 Q. And when an accelerant is used, is that  
19 something like lighter fluid, gasoline, kerosine, things  
20 like that?

21 A. Yes, it is.

22 Q. And is there a possibility in a fire like that  
23 that there is an actual flash like we were talking  
24 about?

25 A. Yes.

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1 Q. Have you seen that before in your investigation  
2 as an arson investigator?

3 A. Yes, I have.

4 Q. After seeing that in the medical records, after  
5 learning what you learned from Alfredo and Efrain,  
6 what's the next thing you did in the investigation?

7 A. On August the 4th, 2010, I located an occupant  
8 at 7203 Rampart.

9 Q. All right. And who was that?

10 A. Juan Delsid.

11 Q. And did you interview him?

12 A. Yes, I did.

13 Q. And after interviewing him, was -- did he  
14 become any kind of suspect for you?

15 A. No.

16 Q. And after interviewing him, did any of the  
17 other three guys that were in the same place that he was  
18 staying with the Mendozas, were any of them a suspect in  
19 any way?

20 A. No.

21 Q. What else did you do other than locate and  
22 interview Juan Delsid?

23 A. In August I spoke to the 911 caller, Lucy  
24 Fernandez.

25 Q. Okay. And what else did you do in the case?

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1 A. On February 2nd, 2011, I located Miguel  
2 Sanchez.

3 Q. Is that the same Miguel Sanchez that was, I  
4 guess, the second witness on Monday.

5 A. Yes. He was another occupant at 7203 Rampart.

6 Q. All right. And did you do anything else?

7 A. That same day I got cell phone records for  
8 Efrain Mendoza's phone.

9 Q. And after getting the phone records for Efrain  
10 Mendoza, did that -- was that consistent or inconsistent  
11 with what you understood his information to be?

12 A. Very consistent.

13 Q. Okay. And what else did you do?

14 A. February 24th, I located the nurse who actually  
15 documented the singed hair on the medical reports.

16 Q. After getting the statement from the Mendozas,  
17 getting the medical records, getting the phone records,  
18 looking at the defendant's story, looking at the EMT,  
19 reading the reports, did you end up then filing the case  
20 with the District Attorney's Office?

21 A. Yes, I did.

22 Q. And what date was that?

23 A. That was -- I don't have that date in front of  
24 me.

25 Q. Was the case filed as an arson case against the

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1 defendant, John Morin?

2 A. Yes.

3 Q. Did you ever have any other suspects? In all  
4 the work you did, in all the material you read, and  
5 interviews, did you have any other viable suspects other  
6 than this defendant, John Morin?

7 A. No.

8 Q. Did you see anybody else with any other motive  
9 that you ran across based on your examination of the  
10 evidence?

11 A. No.

12 MR. BALDASSANO: I'll pass the witness,  
13 Judge.

14 THE COURT: Okay. Your cross.

15 MR. BARROW: Thank you, Judge.

16 **CROSS-EXAMINATION**

17 BY MR. BARROW:

18 Q. Senior Investigator Hernandez, in your  
19 experience, are people's memories better closer to the  
20 date of the event or three years later?

21 A. Better.

22 Q. Better closer to the events, right?

23 A. Uh-huh.

24 Q. And Efrain and Alfredo Mendoza spoke to arson  
25 investigators how many times over a three-year period?



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1           A.     Numerous times.

2           Q.     Numerous times.  And never once, until July the  
3 19th, 2010, did they ever mention this significant  
4 information that you received from them on that day,  
5 correct?

6           A.     Correct.

7           Q.     And they had ample opportunity to tell not only  
8 you, but Investigator Hicks, Investigator Garcia and  
9 numerous other people from the Arson Division about that  
10 wonderful information that you received three years  
11 after the fact?

12          A.     Correct.

13          Q.     And did they ever explain to you why they never  
14 told anybody about any of that?

15          A.     Yes.

16          Q.     And what did they tell you?

17          A.     Efrain told me that he believed in his heart  
18 that John was responsible, but he could not accuse  
19 anyone who he didn't see start the fire.

20          Q.     So he held back that information that John had  
21 made some type of threats about burning the cars, which  
22 is exactly what happened -- he held that information for  
23 three, almost three-and-a-half years, because it wasn't  
24 in his heart to tell you.

25                     And so when you went out on Tuesday, March

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1 the 30th, 2009, over a year before you received this  
2 information -- and you spoke with Efrain Mendoza,  
3 correct?

4 A. Correct.

5 Q. And he didn't tell you a word about that, did  
6 he?

7 A. No.

8 Q. And how long did you spend with him on that  
9 occasion?

10 A. Couple of hours.

11 Q. Couple of hours. And never once during that  
12 conversation did it come up about all his suspicions  
13 about John Morin, correct?

14 A. Correct.

15 Q. As a matter of fact, he told you he didn't have  
16 any problems with John Morin, other than John was kind  
17 of a grumpy worker and he was a little jealous about  
18 Efrain having a lot of lady friends, right?

19 A. Correct.

20 Q. And that was it --

21 A. Correct.

22 Q. -- right? And when you tell the jury that you  
23 got the 9 -- that you got the medical records in July of  
24 2010, how long had those medical records been available  
25 to somebody in the Arson Bureau?

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1 A. Since the defendant was taken to the hospital.

2 Q. Since October the 19th, 2007, correct?

3 A. Correct.

4 Q. So it took you three years to go to Memorial  
5 Hermann Hospital and get some records. And in every one  
6 of these reports it talked about Mr. Morin going to  
7 Memorial Hermann Hospital, but the Arson Bureau took  
8 three years to get the records?

9 MR. BALDASSANO: Judge, I object to asked  
10 and answered.

11 THE COURT: Overruled. The witness can  
12 answer.

13 A. Yes.

14 Q. (By Mr. Barrow) Okay. And where did you  
15 interview Mr. Juan Delsid back in August of 2010?

16 A. At the Newton County Jail.

17 Q. And Mr. Delsid is actually the brother of  
18 Alberto, right?

19 A. Alvaro, Delsid, yes.

20 Q. And are their names in some of these reports?

21 A. Garcia, correct, correct.

22 Q. But somewhere else it was Delsid?

23 A. Correct.

24 Q. What was Mr. Delsid doing in the Newton County  
25 Jail?

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1 MR. BALDASSANO: Objection, Judge.

2 THE COURT: What's your objection,  
3 Counsel?

4 MR. BALDASSANO: My objection is it's  
5 irrelevant. And it's irrelevant that he's even in jail,  
6 but he got into that. I'm objecting that it's  
7 irrelevant for whatever he was in jail for unless it's  
8 some kind of prior -- he's not even a witness. He's  
9 trying to impeach a guy that's not here through this  
10 defendant -- this witness.

11 THE COURT: Your objection is sustained.

12 Q. (By Mr. Barrow) Now, the red flags. Defendant  
13 made phone calls. The defendant made phone calls to  
14 more than one person, didn't he?

15 A. Correct.

16 Q. Defendant actually called Sonny Haig, the owner  
17 of the place that he lived in, correct?

18 A. Yes, sir.

19 Q. Did you get those phone records?

20 A. Those were --

21 Q. Excuse me. My question is, did you get those  
22 phone records?

23 A. No, sir.

24 Q. Thank you. The carbon -- amount of carbon in  
25 the hemoglobin --

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1 A. Uh-huh.

2 Q. -- right?

3 A. Yes, sir.

4 Q. Did you know that Mr. Morin was intubated with  
5 pure oxygen on the way to the hospital?

6 A. Would you let me answer that?

7 Q. Did you know whether or not he was --

8 A. Yes.

9 Q. And did you know that a doctor testified  
10 earlier in this trial -- or to your medical knowledge,  
11 do you know when you're intubated with pure oxygen, it  
12 tends to clear out your lungs?

13 A. Yes, sir.

14 Q. The inconsistent statement that the defendant  
15 made, according to Investigator Garcia. Now,  
16 Investigator Garcia didn't do any audio recordings, did  
17 he?

18 A. No, sir.

19 Q. As a matter of fact, Mr. Garcia didn't even  
20 take down what he put in his notes for a good extensive  
21 period of time, correct?

22 A. You have to ask Investigator Garcia. Yes, sir.

23 Q. Well, they weren't available to you until then,  
24 right?

25 A. They were available to me.

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1 Q. And when did you review that?

2 A. When I talked to Investigator Garcia, when he  
3 briefed me about the case.

4 Q. When was the first time that you did talk to  
5 Investigator Garcia about the case?

6 A. In March, 2009.

7 Q. Okay. Because that's when you -- I mean,  
8 Investigator Garcia was with you when you went out --

9 A. Yes, sir.

10 Q. -- right? And Investigator Garcia had spoken  
11 to the Mendozas before, hadn't he?

12 A. He had spoken to Efrain Mendoza.

13 Q. He had spoken to Efrain before you; and he  
14 spoke to him on March the 30th, right?

15 A. Yes.

16 Q. Let me ask you this: What language did y'all  
17 speak?

18 A. He speaks both English and Spanish.

19 Q. I think -- but my question is, when you were  
20 speaking to Efrain Mendoza -- you speak Spanish, don't  
21 you?

22 A. I can get by.

23 Q. Investigator Garcia speaks Spanish?

24 A. Yes, he does.

25 Q. As a matter of fact, during one of the

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1 conversations, Alfredo Mendoza -- Investigator Garcia  
2 had to translate, didn't he? Alfredo Garcia, when you  
3 spoke with Alfredo, what language did Alfredo use?

4 A. Alfredo speaks English.

5 Q. Do you recall when Alfredo was here at the  
6 prior trial, there was an interpreter when he testified?  
7 Do you remember that?

8 A. I remember.

9 Q. Thank you.

10 A. Uh-huh.

11 Q. Singed chest hair?

12 A. Uh-huh.

13 Q. Do you see --

14 MR. BARROW: May I approach, Your Honor?

15 THE COURT: You may.

16 Q. (By Mr. Barrow) Let me show you what's been  
17 admitted into evidence as State's Exhibit No. 18 and  
18 State's Exhibit No. 19 and ask you if you recognize  
19 those?

20 A. Yes, sir.

21 Q. Okay. And those are pictures of John Morin in  
22 the hospital, correct?

23 A. Yes, sir.

24 Q. Okay. And where is the singed chest hair?

25 A. Based on the information I received --

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1 Q. So you're claiming around these nipples --

2 MR. BARROW: May I publish?

3 THE COURT: You may publish.

4 Q. (By Mr. Barrow) -- that around the nipples of  
5 Mr. Morin, that's where the singed chest hair is, right?

6 A. Based on the information I received, yes, sir.

7 Q. And actually, these pictures show that  
8 Mr. Morin has quite an abundant amount of chest hair,  
9 doesn't he?

10 A. Yes, sir.

11 Q. And it runs all the way down to his stomach,  
12 right?

13 A. Yes, sir.

14 Q. Now when you mention flash fires -- and you  
15 talk about if you put your hand over a fire and you move  
16 it away, you're not going to get burned, right?

17 A. Correct.

18 Q. But if I put my arm and I've got hair on my arm  
19 and I put my whole forearm in there, it's going to singe  
20 all the hair on my arm, isn't it?

21 A. Correct.

22 Q. And those pictures don't show chest hair that's  
23 singed all over Mr. Morin's body, does it?

24 A. No, sir.

25 Q. As a matter of fact, you only pointed out two



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1 little areas where there was some singed chest hair, and  
2 the nurse testified earlier that there was a shave mark.  
3 So maybe some of the singed hair was there, as well,  
4 correct?

5 A. Possibly.

6 Q. But a flash fire that you're talking about,  
7 wouldn't that singe of chest hair singe almost all the  
8 chest hair on him?

9 A. Not completely.

10 Q. Why not?

11 A. Depends on the duration of the flash fire.

12 Q. Depends on how hot the fire is and how close  
13 you are to it, doesn't it?

14 A. Yes, sir.

15 Q. Did it raise a red flag that you spoke to the  
16 911 caller?

17 A. No, sir.

18 Q. Well, you know, earlier you testified that the  
19 defendant made a phone call. This was a red flag. It  
20 didn't red flag you that somebody else actually called  
21 the fire into the fire department?

22 MR. BALDASSANO: Judge, objection,  
23 repetitive.

24 THE COURT: Sustained.

25 Q. (By Mr. Barrow) Your testimony today,

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1 Investigator Hernandez, is basically that when you  
2 picked up the case, the ball got rolling, right?

3 A. Yes, sir.

4 Q. And that, basically, Investigators Hicks and  
5 Garcia just dropped the ball?

6 A. There could have been more.

7 Q. Could have been more done between October,  
8 2007, and March, 2009, when you got the case?

9 A. Could have been more.

10 MR. BARROW: Pass the witness.

11 MR. BALDASSANO: Nothing further, Judge.

12 THE COURT: All right. May this witness  
13 be excused?

14 MR. BALDASSANO: Judge, before he's  
15 excused, I do have -- I would like to read, because the  
16 jury hasn't heard yet, State's Exhibit No. 28. And can  
17 I use this witness to kind of introduce that exhibit by  
18 asking, I guess, the questions and having him answer it?

19 THE COURT: You may do so.

20 MR. BALDASSANO: Okay. Just for the  
21 record, I'm reading from State's Exhibit 28, the  
22 transcript of Alfredo Mendoza. And I'll be asking the  
23 questions both as myself and also the cross-examination  
24 questions by the defense.

25 THE COURT: Okay.